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PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

SENATE—*Friday, July 13, 1973*

The Senate met at 8:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, our Father,
"New every morning is the love
Our wakening and uprising prove;
Through sleep and darkness safely brought,
Restored to life and power and thought."

—JOHN KEBLE.

With thanksgiving for past mercies and for rest, we beseech Thee to endow us with fresh vigor for the toiling hours of this day. May we heed the judgments of Thy commandments and respond to the love of the cross. Strengthen our weakness, calm our anxieties, quiet our tempers, replace cynicism with faith and in decisions of these demanding days make us worthy of the heritage of free men.

In Thy holy name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of yesterday, Thursday, July 12, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns today, it adjourn until the hour of 10 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 2101 AND S. 440 TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the morning business tomorrow the Senate turn to the consideration of Calendar No. 262, S. 2101.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. And that, after disposition of S. 2101, the Senate turn to the consideration of S. 440, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. I ask unanimous consent that they remain the pending business before the Senate the remainder of the day, and that the unfinished business be laid aside tomorrow until those two bills are disposed of, and that if those bills are not disposed of by the end of the day tomorrow that the Senate return to the consideration of the unfinished business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be permitted to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

WISHES FOR PRESIDENT'S SPEEDY RECOVERY

Mr. MANSFIELD. Mr. President, I wish to say that I was surprised and disturbed and distressed when I received a call from the White House on yesterday, about a quarter to 9 in the evening, informing me that the President of the United States, Richard Nixon, had been sent to Bethesda Hospital with viral pneumonia.

I can well understand the strain which the President has been under, for a variety of reasons. I just want to state for the record that I wish him well, that I hope he recovers expeditiously, but that he does not leave the hospital until he has fully recovered.

He has been carrying on his responsibilities on a daily basis, under great stress and strain, but he has been carrying them on; and I know that I speak for all Members of the Senate, both Democratic and Republican,when I express our distress at this turn of events and that we all wish him a speedy recovery.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MANSFIELD. I am delighted to yield.

Mr. ROBERT C. BYRD. Mr. President, I wish to share the expression of distress and concern by the majority leader that the President has been forced to go to the hospital. It is my understanding that he worked during the day on yesterday in his office.

I join with my distinguished majority leader in expressing the hope that the President will remain in the hospital until he has fully recovered, but that he will have a speedy recovery and will soon be back at his desk.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Utah (Mr. Moss) is recognized for not to exceed 15 minutes.

The Senator from Utah.

THE REPORT OF THE NATIONAL WATER COMMISSION

Mr. MOSS. Mr. President, in a floor statement on January 11, I expressed my concern over a number of the recommendations which were included in the review draft of the report of the National Water Commission. I urged the Commission at that time to consider the comments of western water authorities in compiling its final report. I commented upon a number of contentions made in the review draft which I did not believe adequately reflected all of the important policy considerations of Federal water resource development.

On June 14, 1973, the National Water Commission transmitted its final report to the President and the Congress. I was dismayed to find that the final report differed from the review draft in only a very few instances. The pervasive critical attitude of the report toward nearly all Federal support for water resources development remains unchanged. I will not repeat my earlier discussion; however, one aspect of the report deserves particular attention in view of the evidence of events since the review draft was released.

THE NEED FOR IRRIGATED AGRICULTURE

The National Water Commission has been particularly critical of Federal support for water resources programs which provide irrigation water supplies to agricultural lands in the arid West. The Commission has remarked that the Federal reclamation program has contributed to excess productive capacity in U.S. agriculture and that there is no need in the foreseeable future for any continued Federal interest in irrigation.

The Commission concludes that all of

the increased demands for U.S. agricultural production can, and should, be met by intensified management on available farmlands in nonarid regions. The report goes so far as to suggest that nonagricultural water needs in the arid West can easily be provided for by a substantial reduction in irrigated agriculture.

The principal basis for these cavalier conclusions about the easy availability of agricultural production is a report which was prepared for the Commission by Iowa State University in 1971.[1] This study made projections of alternative future agricultural situations using a large-scale linear programing model.

Of course, the reliability of computer analyses are no better than the assumptions made in constructing the model. In this case, the assumptions involved future governmental farm policies, export situations, advances in agricultural technology, and pricing arrangements for both inputs and products of farm operations. Each of these factors clearly requires broad judgmental estimates of future conditions. Experts might be expected to have honest differences of opinion concerning any number of the assumptions. In fact, a number of authorities have questioned the assumptions ever since the study was released.

AGRICULTURAL SHORTAGES

It is not necessary, however, to examine the more esoteric technical assumptions of the Commission's studies to cast doubt upon its predictions of abundant farm production from a reduced agricultural land base. The predictions have already proven to be tragically wrong. On June 13 President Nixon addressed the Nation on economic controls. Regarding price increases the President said:

> The greatest part of this increase is due to rising food prices. This has been caused in large measure by increased demand at home and abroad, by crop failures abroad and by some of the worst weather for crops and livestock here in America that we have ever experienced.

He stated further:

> The key to curb food prices lies in increasing supplies.

These comments highlight the fallacy of judging the adequacy of agricultural production in terms of short-term surpluses, good crop-year production levels, and current demands. It demonstrates the uncertainties of agricultural production and the risks of concentrating farming in one or a few regions.

Droughts, floods, frost or blights can all too easily wipe out a year's farm production over a major region of the Nation. Regional diversity and capability to produce in excess of domestic needs are not national burdens, as the Water Commission contends. They are insurance against some of the worst disasters a nation can experience.

The President also stressed the significance of American agricultural capability to the world market. He said:

> One of the major reasons for the rise in food prices at home is that there is now an unprecedented demand abroad for the products of America's farms. Over the long run, increased food exports will be a vital factor in raising farm income, in improving our balance of payments, and in supporting America's position in the world.

Unfortunately, however, American agricultural production is presently incapable of meeting even domestic demands. At a time when our farmers should be producing exports to balance our trade deficits in petroleum and other imported products, we are unable to produce the necessary surpluses. The President in his message announced:

> In the short term, however—when we have shortages and sharply rising prices of food at home—I have made this basic decision: In allocating the products of America's farms between marketings abroad and those in the United States, we must put the American consumer first.
>
> Therefore, I have decided that a new system for export controls on food products is needed—a system designed to hold the price of animal feed-stuffs and other grains in the American market to levels that will make it possible to produce meat and eggs and milk at prices you can afford.

A particularly ironic note has been sounded in the earliest restrictions on agricultural exports. The National Water Commission report suggested that soybean and other vegetable protein might be a desirable substitute for meat in the future. The Commission reasoned as follows:

> The reason that the substitution of vegetable protein for animal protein in the diet would require far less land and water is, very simply, that cattle and other meat animals are very inefficient converters of plant to animal protein. Beef cattle require many pounds of plant protein to produce one pound of meat protein. If human beings consume the vegetable protein directly, instead of through the beef cycle, they increase their efficiency of food utilization several times.[2]

The United States now produces most of the world's soybeans, but delays in planting, because of wet weather this spring along with the increasing world demands have resulted in present shortages and near panic price increases in soybean futures. Once again, the United States is unable to take advantage of a potentially valuable export situation.

Mr. President, the Nation should take an important lesson from these unfortunate developments. Transitory crop surpluses and utopian predictions of future agricultural efficiency should no longer be used as excuses for nearsighted budget cutting. It is a paradoxical situation when the President has identified agricultural shortages as a critical national problem at the same time that the executive agencies curtail reclamation development which could provide increased, reliable, and diversified production.

It is discouraging when a prestigious national commission bases its conclusions upon projections which have been shown to be deficient before the report was even released.

I urge the Congress to exert some badly needed leadership in this area of policy. The reclamation program is an attractive Federal investment.

River basin developments, taken as a whole, repay to the Treasury much of their costs by direct revenues. Their water supply for both municipal and industrial purposes, for recreation, fish and wildlife conservation, hydroelectric power, and flood control functions afford great social and economic benefits to the rural and metropolitan regions served by the project and return the Federal investments to the Nation many times in increased taxes.

The most widely criticized aspect of reclamation development, increased irrigated agriculture, has now been clearly shown to be a valuable national resource. I urge the Senate to reaffirm its policy of support for the reclamation program. That support is justified by the program's past accomplishments and the Nation's present and future needs.

ORDER OF BUSINESS

The **ACTING PRESIDENT** pro tempore. At this time, under the previous order, the Senator from Kentucky (Mr. Cook) is recognized for not to exceed 15 minutes.

PROGRESS REPORT ON PRESIDENT NIXON'S HEALTH

Mr. COOK. Mr. President, I and everyone else was distressed to learn that the President was ill and had to be admitted to Bethesda Hospital.

I was very pleased to receive a report this morning that there are no complications and that he is reported to be well.

I know that I join with my colleagues as well as the people of the country and of other nations of the world in wishing him a speedy recovery.

INTRODUCTION OF A BILL

(The remarks Senator Cook made at this point on the introduction of S. 2167, to establish a Federal Research and Development Trust Fund, and the ensuing discussion of the subject are printed in the morning business section of the Record under Statements on Introduced Bills and Joint Resolutions.)

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

The **ACTING PRESIDENT** pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 1081, which the clerk will state.

The legislative clerk read as follows:

> S. 1081, to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

The Senate resumed the consideration of the bill.

The question is on agreeing to the Mondale amendment, No. 240.

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[1] Heady, Earl O. et al., Iowa State University, agricultural water demands, National Technical Information Service, Springfield, Va., 1971.

[2] National Water Commission, Water Policies for the Future, Washington, U.S. Govt. Printing Office, 1973, p. 138.

Mr. STEVENS. Mr. President, I wish to raise a point or two concerning the Mondale amendment, which I hope we can get to at a later time in terms of colloquy with the Senator from Minnesota.

I have again studied the amendment offered by the Senator from Minnesota, during the recess since last evening, and I do not find anything in the amendment as presented that will in fact stop the litigation. There is a direction or congressional finding that it is the will of Congress to avoid the uncertainties of continued litigation and facilitate the delivery of North Slope resources, if and when that will serve the best environmental, economic, and national security needs of the Nation. But nowhere in this amendment is there anything that would affect the court cases that are pending now—and would, of course, be pending—by either the proponents of the Alaska line or the Canadian line, depending upon the decision that might be made should the approach suggested by the Senator from Minnesota be adopted.

There is merely a direction to the Secretary of the Interior to issue the necessary rights-of-way for the transmission of oil from the North Slope of Alaska pursuant to the congressional mandate that would be made, assuming that the Senator from Minnesota's approach would be adopted. After that mandate had been made, we would be right back in court. We are in court today because of action by environmental extremists in the United States.

If Congress, in its wisdom, should decide to select the Canadian route, we would be in court in both Canada and the United States, by virtue of the fact that the Alaskan people who oppose the Canadian route would certainly challenge that congressional decision; and the Canadian environmental extremists who do not want the Canadian route would take the matter to court in the sovereign nation of Canada.

I really cannot find in the amendment of the Senator from Minnesota the language to support the contention that I understood had been made here in the past 2 days—that this amendment would terminate the litigation. We have an amendment that would, in fact, terminate the litigation, but nothing in this amendment would do so. I am hopeful that someone who supports the amendment will come forward and explain it.

I also hope, Mr. President, that as this matter is discussed this morning by the proponents of the Mondale amendment, we would have a better understanding of what the duties of the National Academy of Sciences would be. As I reread the amendment, I found that the burden on the National Academy of Sciences in the proposed amendment is a rather fantastic one, when we consider that it took more than 100 man-years for us to complete the environmental analysis of the Alaska pipeline route.

This amendment would require that the National Academy of Sciences study the Alaska land and maritime route in the Department of the Interior's environmental impact statement and also examine the corridor from the North Slope of Alaska across Canada.

The interesting thing is that no route has been set forth across Canada. There are several potential routes. I think that the National Academy of Sciences would have to examine several potential routes. There is one in the Mackenzie River Valley, there is one that comes down the Alaska Highway, and there is another that could go down the so-called Rocky Mountain Trench into the State of Montana. Even a railroad was once proposed along that corridor.

Under the Senator from Minnesota's amendment, the National Academy of Sciences would have to have some direction. I cannot see that within 240 days the Director could determine whether the Mackenzie River route was the best or the Alaska Highway route was the best or the Rocky Mountain trench route was the best, then analyze the preferred route through Canada, and then compare the preferred route through Canada to the preferred route through Alaska, which has already been selected by virtue of the trial and error in the drilling process of thousands and thousands of core holes which have been drilled in order to get the environmental data that we have in this environmental impact statement.

I hope that, somehow, the Senator from Minnesota would set forth in the record what route he is talking about. Certainly, it is unreasonable to expect the National Academy of Sciences, in 240 days, to study three routes through Canada, and then analyze the one route that is selected in the environmental impact statement through Alaska, and compare the two, and prepare a report containing all the detailed information, the actual and potential effects on the environment, the environmental impact, with adverse impacts on the relationship between local short-term effect on man's environment and long-term productivity, the effect on the national interest, including national security, and the overall economic effects on the consumer, the effects on the balance of payments. All these factors are involved.

Mr. President, I see my good friend from Washington here. I am waiting for him to seek the floor. I have other comments and questions I would like answered later, but I do not know when we will have the opportunity.

Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield such time to the Senator from Alaska as he may require.

Mr. STEVENS. Mr. President, yesterday the Senator from Minnesota and I had an exchange concerning the comment I had made the day before that it would take $1 billion to convert the refineries of the Midwest to use North Slope crude; that is, to refine North Slope crude oil. The Senator from Minnesota (Mr. MONDALE) challenged that statement. I have again conferred with the people who are associated with the Alyeska Pipeline Co., and I have another statement to make concerning that matter.

Senator MONDALE apparently is utilizing two unrelated pieces of data in contending that a large number of Midwest refineries are equipped to handle North Slope crude.

Senator MONDALE said that some Alberta crude oil is high in sulfur—1.9 percent—and by inference implied that the Midwest refineries were operating on that crude oil. Senator MONDALE is correct in his statement that there is some high sulfur Alberta crude, but the fact is that it exists in only very minor pools. The crude oils reaching the U. S. Midwest from Alberta through the interprovincial pipeline are of two types—and only two types—Canadian sweet and Canadian sour.

Both of these crudes are very light and easy to process. By simple distillation they have high yields of gasoline material, and heating oil, and very low yields of heavy fuel. The Canadian sweet crude has only 0.2 to 0.3 percent sulfur and the Canadian sour only 0.4 percent sulfur. Thus, the investment in equipment for removal of sulfur and for converting heavy fuel to the lighter, more desirable products, is minimal.

By contrast, North Slope crude is a medium weight crude. It has a relatively low gasoline yield and high yield of heavy fuel oil. The sulfur content of the North Slope crude is 0.94 percent—or 2.5 to 5 times that of the Alberta crudes—and is classified as a high nitrogen crude.

In contrast to a refinery built for processing Alberta crude, a refinery for North Slope crude would have to make much more extensive use of stainless steel and other expensive alloys in resisting corrosion attack by the sulfur compounds, and the refinery for North Slope crude must be equipped with a much higher investment in facilities to remove sulfur, remove nitrogen, and to convert the much higher yield of heavy fractions to gasoline and heating oil.

The statement that a typical major Midwest refinery would have to invest roughly $50 million in order to efficiently process North Slope crude is true and cannot be wished away by quoting Alberta crude data out of context.

Every west coast refinery—and I emphasize that—is already equipped to run North Slope crude oil by virtue of the similarity of North Slope oil to the California crudes for which the west coast refineries were designed and equipped.

One further item: The Midwest, PAD II—that is import district 2—is far less dependent on Eastern Hemisphere crude than is either the northeast or the west coast. Essentially, all of the Midwest crude oil deficit is made up from PAD III—Gulf Coast—and from Canada.

It would cost an extra $1 billion to

modify the Midwest refineries to handle the Alaskan crude oil whereas no similar expenditure would be required in California.

If North Slope crude goes to California then district II will need:

More crude from Canada—no modifications;

More crude from district—no modication; and

More crude from Mideast/or more product from gulf coast refineries.

And the refineries in the Midwest will not have to spend $1 billion to convert to use crude from any one of those three sources.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Abourezk). On whose time?

Mr. STEVENS. Charged equally to both sides, under unanimous consent. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Abourezk). Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HASKELL. Mr. President, I doubt whether much more can be said on the Mondale-Bayh amendment, but briefly I should like to summarize from my viewpoint.

First, there has not been a useful evaluation of the benefits to the country of the possible alternative routes. There is no use describing them; they have been described at length. The Department of the Interior itself, as has been said on the floor of the Senate many times, admits that there is no testimony concerning the relative weaknesses or national benefits.

Second, it occurs to me that when we are talking of an asset of the size of the North Slope oil, and when we are talking in terms of what will be a long-term dependence on imported oil from the Mideast and elsewhere, we should use this asset to the best interests of the Nation. This asset, incidentally, is at least one-fifth of the present U.S. reserves; and as the senior Senator from Alaska (Mr. Stevens) said the other day, additional discoveries may increase the size of that asset. Therefore, the Mondale-Bayh amendment proposes an impartial study within a very limited period of time and further provides that Congress, at the end of that limited period of time, shall make the determination.

Let us talk about time. It has been said on one side that the Mondale-Bayh amendment will expedite matters. It has been said on the other side that the Mondale-Bayh amendment will delay matters. There is no question at all that if the study determines that the Valdez route is the preferable route, the matter will be expedited. The reason for that is that when Congress acts, that is the end of NEPA litigation. There can be no NEPA litigation. The senior Senator from Alaska said that NEPA litigation would go on for a year. In my view, it would go on for 4 years. If we eliminate the NEPA litigation, and if Valdez is the selected route, there is no question that the delivery of oil to the lower 48 States—if the oil goes to the lower 48—will have been speeded up.

Yesterday, in talking with the junior Senator from North Dakota (Mr. Burdick), he argued that I could not possibly be right in saying that NEPA litigation would be the cutoff, and he was so forceful or persuasive that I felt it was necessary to get an outside opinion on the subject. For that reason, my office called the law firm of Berlin, Roisman & Kessler, lawyers for the plaintiffs in the NEPA litigation, and asked them the question. I have received an opinion from that law firm which states that if the Mondale-Bayh amendment is adopted, that will, in fact, eliminate any litigation under NEPA.

Mr. President, I ask unanimous consent that the letter be printed in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Exhibit 1

Berlin, Roisman & Kessler,
Washington, D.C. July 12, 1973.

Senator Floyd K. Haskell,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

Dear Senator Haskell: As I believe you know my firm represented the Canadian Wildlife Federation and the Hon. David Anderson in the Alaska pipeline litigation which has precipitated the present debate over S. 1081. We have also represented public interest organizations, in numerous other environmental suits, including *Calvert Cliffs'*, which have resolved disputed interpretations of the National Environmental Policy Act.

As the litigants in the Alaska pipeline case have testified before both the Senate and House Interior Committees they support the Mondale-Bayh amendment to S. 1081, which we know that you also support.

It has come to my attention that questions have been raised about the legal status, under NEPA, of the decision which Congress is to reach on the Canadian-versus-the-Alaskan route after completion of a National Academy of Sciences study and negotiations with Canada, if the Mondale-Bayh Amendment is passed. Such a Congressional decision, which is called for in Section 208 of the Amendment, would not of course even fall under the provisions of the National Environmental Policy Act. Section 102(2)(C) of that statute, requiring preparation of an environmental impact statement, applies only to "major Federal actions", i.e., the actions of a Federal agency, department, commission, etc. There is no question in my own mind that NEPA does not, and could not, apply to specific actions of the Congress itself, i.e., directing the Secretary of the Interior to grant rights-of-way for whichever route is chosen. For this reason, the Congressional decision does not fall under NEPA and is not subject to the procedural requirements of NEPA.

Of course, the Amendment does incorporate the basic principles of NEPA by requiring that the National Academy of Sciences study cover, among a number of other matters, the same subjects which would have to be discussed in a NEPA impact study. But again, that is a matter of Congress choosing to have such information included in the study, rather than being obligated to do so by the provisions of NEPA.

In short, NEPA, is as a legal question, irrelevant to the Congressional decision mandated by Section 208 of the Mondale-Bayh Amendment since NEPA applies *only* to actions of the executive branch of the Federal government and the Amendment contemplates a decision to be made by the Congress itself as an independent exercise of its legislative function under the Constitution.

Cordially yours,

Gladys Kessler.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. HASKELL. I yield.

Mr. MONDALE. As the Senator knows, that is the central point of the Mondale-Bayh amendment, to comply with the National Environmental Policy Act through these studies and through these diplomatic negotiations, but followed by a specific target date for action which would dispose of the issues now encompassed within the purview of the National Environmental Policy Act, and make that decision from that standpoint court-proof. The letter from the lawyers who have opposed the trans-Alaska pipeline, I think, confirms that this is precisely what is involved.

In the alternative, if the committee report language is adopted, there is no doubt in my mind that litigation could go on, possibly for years, to test the issues of the National Environmental Policy Act. As a matter of fact, the court of appeals, in very precise language, pointed out that the district court had not taken testimony on the factual issues, that no witness ever testified except through deposition. The court stated that "we do not have the trial court's views," and in order to facilitate prompt appellate review, the appellate court declined to issue detailed findings of fact; it issued only broad legal conclusions. Then it followed finally by saying it would require testimony and cross-examination of witnesses and other incidents of judicial factfinding.

In other words, the circuit court in this case has directed that this matter go back to the district court to take broad-ranging testimony on such things as the reasonable alternatives, which would include the Canadian pipeline as well as the trans-Alaska pipeline, and all the requirements of the National Environmental Policy Act.

It took 4 years to litigate the 50-foot wide easement strip; is it not the opinion of the Senator from Colorado that it might take at least that long to litigate these other issues, under the present posture of the case?

Mr. HASKELL. I would agree with the Senator from Minnesota.

Mr. JACKSON. Mr. President, will the Senator yield? I have to go to a hearing; I will be back at approximately 10:30.

Mr. HASKELL. Certainly.

Mr. JACKSON. Having listened to this colloquy it is my understanding that it is the intent of the Mondale-Bayh amendment, to waive NEPA?

Mr. MONDALE. No, that is wrong. It is clear that this administration has no intention of complying with NEPA. One of the two essential elements is the consideration of reasonable alternatives. As the committee's own report admits, the administration has failed to fully study the trans-Canadian alternative. It is quite clear that they have no intention of doing it. Therefore, in that predicament and under those circumstances, in order to comply with the spirit of NEPA, we have established this alternative, an independent National Academy of Sciences study and congressional action.

Several Senators addressed the Chair.

Mr. MONDALE. So this is the only way of complying, I might say to the Senator from Washington.

Mr. JACKSON. I think there is confusion here——

Mr. MONDALE. No, there is not. There is no confusion.

Mr. JACKSON. The Senator from Colorado just offered for the RECORD a legal opinion. I will let him comment.

Mr. MONDALE. No, let me comment first. As I have said, this administration refuses to comply with NEPA. This whole amendment is designed to comply with the intentions of NEPA, and that is what the Senator from Colorado is getting at. I will yield to the Senator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HASKELL. May I reply to what the Senator from Minnesota has said? I would like to call the attention of the Senator from Washington to the second page of this opinion letter. It is the first full paragraph.

The Senator from Washington, I would say, is in part correct in that the NEPA process will not be gone through in the courts, but let us read the first full paragraph on page 2 of the letter sent by the lawyers who actually litigated for the plaintiffs. This says:

> Of course, the Amendment does incorporate the basic principles of NEPA by requiring that the National Academy of Sciences study cover, among a number of other matters, the same subjects which would have to be discussed in a NEPA impact study.

So I say to the Senator from Washington that the Senator is correct, in the sense that NEPA will not be litigated in the courts, but I think the Senator errs if he says NEPA will be disregarded, because the environmental lawyers themselves say that the subjects to be discussed in a NEPA impact study will be covered by the National Academy of Sciences.

Mr. JACKSON. Will the Senator yield?

Mr. HASKELL. I yield.

Mr. JACKSON. I do not think the Senator can have it both ways. The whole basis of section 102 of the National Environmental Policy Act is that the decisions that are made and the Federal actions that are taken are subject to judicial review. That has been established; that is the law. You cannot say this action by Congress is going to be final, and then say it is not subject to litigation.

Mr. MONDALE. To the contrary, I think the only way you can possibly comply with the spirit of NEPA, with this administration, is to do what we are doing: Require the studies by an independent source, and then require Congress to take it into its own hands, because this administration has made it as clear as they possibly can, and the committee's own report language confirms what I am about to say, that they have no intention of complying with NEPA. So that is what we are trying to do: Make NEPA work.

Mr. JACKSON. Section 209 of the Senator's amendment is clearly subject to litigation.

Mr. MONDALE. No.

Mr. JACKSON. It is not?

Mr. MONDALE. No.

Mr. JACKSON. Under what theory?

Mr. MONDALE. This is the whole argument we had before the committee. It is distinction between ministerial and discretionary acts. Once the Congress has decided that the permit shall issue, the only lawsuit would be the very thin one as to whether the Secretary has complied with congressional intentions; and, as the lawyers for the plaintiff point out, that would dispose of the lawsuit.

Mr. JACKSON. Will the Senator yield? Any time Congress directs the construction of a dam, unless we specifically exempt it from NEPA, it is subject to NEPA. Would the Senator point out to me wherein his amendment specifically exempts the action from section 102 of the National Environmental Policy Act?

Mr. MONDALE. We have the opinion of the lawyers themselves.

Mr. JACKSON. Where is the language?

Mr. MONDALE. The lawyers themselves have stated——

Mr. JACKSON. There are many lawyers in the United States. You and I are lawyers. But where in the amendment can the Senator point it out?

Mr. MONDALE. There is no doubt about it. That is the whole idea of the legislation. The Senator from Washington is trying to dream up a phantom, because he knows his amendment, if adopted, will be held up for years in court. That is why the Senator from Washington is trying to dig up this red herring.

Mr. JACKSON. Now the Senator is admitting that the right of judicial review prevails. I say you cannot have it both ways.

Mr. MONDALE. On the Senator's bill, that is correct. The Senator's bill assumes that this administration is going to comply with NEPA, and I do not think there is any basis for that assumption, and for that reason it will go back into court for years before any Alaskan or Canadian pipeline is built.

Mr. JACKSON. Mr. President, I have only one other statement.

Mr. MONDALE. Mr. President, whose time are we on?

The PRESIDING OFFICER. On the time of the Senator from Minnesota.

Mr. MONDALE. Mr. President, I yield the floor.

Mr. JACKSON. Mr. President, I yield myself 1 minute.

The Senator from Minnesota cannot have it both ways. He says that under my amendment, or under the pending bill, the matter will be in the courts for years, but his proposal will avoid that without violating NEPA.

I am the author of the act and at my left is the general counsel who drafted it. I think I know a little bit about this; I have spent years on the problem.

I say to the Senator that section 102 contemplates the right of any citizen to go into court and ask for judicial review. He cannot stand up here and say both that we will not have judicial review in your case and at the same time say you are complying with NEPA. That is all I have to say, Mr. President.

Mr. HASKELL. Mr. President, I do not know who has the time——

Mr. MONDALE. I yield 1 minute to the Senator from Colorado.

Mr. HASKELL. I might point out to the Senator from Washington that the status, as I see it, and as the litigants see it, is that if the Mondale-Bayh amendment is adopted, there will be no NEPA litigation. I say to the Senator from Washington, that does not mean there cannot be litigation of some other kind, but not NEPA litigation.

Mr. JACKSON. If there cannot be NEPA legislation, you are waiving section 102 of the act——

Mr. HASKELL. In a sense, the Senator is correct, but——

Mr. JACKSON. All right.

Mr. HASKELL (continuing). But one thing I would point out, if I may, is that the Mondale-Bayh amendment directs the National Science Foundation to give Congress exactly the kind of information that is required in a NEPA State.

Mr. JACKSON. The point is, that under section 102—and this is the point I want to make clear—we provide for the right of all citizens to come and exercise their rights in court——

The PRESIDING OFFICER (Mr. (ABOUREZK). The 1 minute of the Senator from Colorado has expired.

Mr. JACKSON. I yield myself 1 additional minute to determine whether or not there has been compliance with the requirements of an environmental compact. We are in this difficult situation, wherein we try on the one hand to see how fast we can move and, on the other hand, to meet the requirements of the National Environmetal Policy Act.

I am opposed to a waiver. I do not care how you look at it. There is an intended waiver of NEPA here based on the colloquy we have had. That is clearly the intent of the author of the amendment.

Mr. MONDALE. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. MONDALE. Do I correctly understand that the distinguished floor manager of the bil lintends to oppose the pending Gravel-Stevens amendment?

Mr. JACKSON. Yes; I am sure that the Senator is familiar with my statement on the floor.

Mr. MONDALE. I concur with the Senator in this judgment since the Gravel-Stevens amendment would, in effect, obliterate NEPA and just declare immediately that the trans-Alaska line would be built, on the theory that the environmental study has already been completed.

Mr. STEVENS. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. Perhaps I could complete my statement first. I concur in that judgment. What our amendment stems from is the basic belief, which I think is strongly supported in the RECORD, that there is no hope of causing this administration to comply with NEPA. I strongly believe in NEPA. That being true, and it also being——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JACKSON. I yield 1 more minute.

Mr. MONDALE. We need to have early finality here. Everyone wants to get the oil out of the ground. We have constructed an amendment which we think fully complies with the spirit of NEPA. Not only that, this is the only way to comply with the spirit of NEPA under the present predicament that we face.

Mr. JACKSON. I think we have said what we want to say. I stand by my statement. We cannot go both ways. We cannot deny a citizen from going into court in connection with an environmental impact statement and at the same time, say that we are complying with NEPA. If we say that we are complying with NEPA, we cannot cut litigation off.

Even the language—and this is my concluding point—whatever that section is, 209—is subject to litigation. It does not say that 209—I ask the Senator, as a good lawyer, is it subject to litigation?

Mr. MONDALE. Not under NEPA.

Mr. JACKSON. That is not my point. You can go into court and tie it up. It is subject to litigation.

Mr. MONDALE. Not under NEPA. That is the point.

Mr. STEVENS. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield to the Senator from Alaska such time as he may need.

Mr. STEVENS. Mr. President, I am most disturbed to hear colloquy such as this purported opinion from a law firm involved in this litigation and the statement of my good friend from Minnesota (Mr. MONDALE) concerning the interpretation of our amendment which I had a great deal to do with drafting. We must understand that the amendment we have offered does not waive NEPA at all. There has been compliance. If the Senator from Minnesota could make that finding in connection with the Canadian route, I am sure he would do so, but we have spent $12 million to meet NEPA requirements for the Alaska line and we have complied with NEPA in fact. Concern over litigation on the Canadian route includes the question of alternative routes for the same project. The project in question is the pipeline project. A question was raised as to the alternative for that project. There are other alternatives to the pipeline project, one of which was the Manhattan project, to use tankers through the Northwest Passage, and another one was to drill on the North Slope. That was explored in the impact statement. Another would be to use a railroad to bring the oil down. We could also use tank trucks to bring the oil down through Alaska. But to have NEPA jeopardized to the point we are talking about, alternative routes for the project, and say we have not complied with the NEPA act, because we do not investigate every route for the proposed pipeline project, is ludicrous. It is also ludicrous to have a law firm that has raised this question time and time and time again in court, and then come in and give a letter to a Member of the Senate which states that NEPA would not apply if the Mondale-Bayh amendment passed, is beyond me.

The Senator from Washington is absolutely correct, that once the congressional mandate was followed, the matter would be subject to review in the courts unless Congress specifically directed that it would not be subject to review. This is what the Senator from Minnesota has been unwilling to do; that is, he has been unwilling, really, to bite the bullet. If he wants litigation stopped, he should say so. But if the Mondale-Bayh amendment is passed and Congress decides that the Canadian route is the proper route, after the 2-year delay, the Secretary of the Interior would be directed to issue a pipeline permit and before he could do it he would have to have an environmental impact study to comply with NEPA. That took up to 3 years to do and it would take at least another 3 years to comply with the NEPA law. There is no way, in the Mondale-Bayh amendment, that NEPA is not suspended. If you are going to get to the situation where you want to suspend it, and I hope he would, or you want to suspend the court's review, and I would hope he would, it would improve his amendment. At that point he would be demonstrating the desire to have something accomplished, if his amendment is adopted, and not impose on the transportation of Alaskan oil an interminable delay. That is what the Mondale-Bayh amendment amounts to—interminable delay.

It should be demonstrated to the Senate that here is a letter from those people involved in litigating for the purpose of delay, now, for 3 years. There is no question that they are the environmental extremist lawyers. They are the people who now support the Mondale-Bayh amendment. So if you want to delay the transportation of Alaskan oil, this is a clear indication of how to do it; namely, just play along with the lawyers who have already delayed it from 3½ to 4 years.

Mr. President, I yield the floor.

QUORUM CALL

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. FANNIN. To be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. GRAVEL. Mr. President, I should like to point out that, based on the presentation of my colleagues from the Midwest and the north-central part of the United States on the case they have tried to make here, I do not think this is a real effort to satisfy the national energy needs, mainly because what they in fact will be causing will be a delay in satisfying the total energy needs of this country. If they are successful in getting a pipeline constructed through Canada, this would delay a gas pipeline through the same part of the United States. A gas pipeline would not be built through any other part of the United States, so that the availability of gas and oil to the entire United States would not be available to the people of this country. So there would be a net loss in satisfying the total energy needs of the Nation.

When we speak of fairness across the board, I think it is eminently fair to build an oil pipeline to satisfy the oil deficiencies of the west coast, to build a gasline through Canada, to satisfy the gas deficiencies of the north-central part of the United States; but to have one area of the country try to grab both of them, and as a result deny the availability of gas for a period of 2 to 3 years, is grossly unfair.

Let me address myself to what I think is the end result of this amendment, and that is just sheer delay. The desire to have a study performed by somebody else, to then give Congress the facts and tell us how to vote, is ludicrous, because we have already spent in excess of $400 million studying this issue; and the desire for additional study is only a realization that one is not prepared to make a judgment.

That, of course, is the position of the environmentalists. They have opposed the Jackson bill, and this is merely a tactic to continue to delay construction of the Alaska pipeline.

Let me illustrate how that will take place. A good deal of what is attributed to Canada is grossly unfair; because my colleagues from Minnesota and Indiana are assuming that what is happening in Canada is going to be a good deal different from what has happened here. I will read from Minister Yurko's statement with respect to the views on Canada. The only intelligent assumption we can make as to the course of action in Canada would be to measure what has happened here.

It should be borne in mind that we do not have the negotiations locked in to this scale; and, as my colleague points out, we are talking about a 14-month or 1-year negotiating period to even come to that decision. Let us not even put on that year. Let us start from the fact that the Canadians developed their energy policy, which is just in the beginnings right now, and that would take a year, by any intelligent consideration. So we would have a year, and that would take us to 1974. We have not developed a policy situation in this country, so we do not even consider that comparison.

Some studies would have to be made. We already have the studies with respect to Alaska, and there is no question that much of that is transferable to the Canadian pipeline. It took us 4 years. Let us say that with what we have already collected it could be done in 3 years, because the same technology would be used, but it would have to be applied to the Canadian area in question.

After the 3-year period, you have the satisfaction of the Canadian land claims. The land claims took 4 years in the legislative process in this country. They have taken a good deal longer than that. We do not know in which direction they will go in Canada. But we can assume that if they follow the same process, they will take 4 more years. But let us be conservative and say that we can run some of this concurrently and that the Canadians will take only 3 years to satisfy native land claims, and that brings it to 1980. With respect to environmental suits and delays—and we are still stuck in that morass in this country today—that is 3 years for the United States. That may be 4 or 5 years, depending upon the actions in the Senate and in Congress.

Suppose we do have the wisdom to make a decision next Tuesday in the affirmative. Then we can get on with the construction this year. So we would be talking about a 3-year delay, but it could be a 4- or 5-year delay, as has been predicted by the Senator from Colorado and the Senator from Minnesota.

We do not attribute anything to the Canadians in that regard, because we do not know what can happen. But, at a minimum, we can say that they are as environmentally conscious as we are about their land, so we can experience delays.

Next we come to the estimates of construction time. Here is a line that is at least twice the size of the line that would go through Alaska.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAVEL. I yield myself an additional 4 minutes.

I think it would be fair to put 1 year on that. We can say that would be 4 years. That is a total of 11 years, and that would give us a Canadian alternative by 1984. That is a 4-, 5-, or 6-year delay before the American people begin to get their energy shortages satisfied by domestic sources.

Every day that transpires from this delay amounts to $6 million in balance of payments. This balance-of-payments problem affects jobs in Minnesota, Indiana, and every other part of this country. It affects the solvency of this country.

Mr. Yurko, in a statement with respect to the energy policy, stated:

> The ability of the Canadian political process to establish sound energy policies was criticized recently by Senator Jackson of the United States . . . when he referred to our process as a political quagmire. His vantage point is no doubt somewhat similar to my own.
>
> Therefore . . . without hesitancy . . . I would state that if there is confusion and political cowardice in Canada in regard to formulating energy policies in the national interest . . . our guilt must surely pale when compared to the situation in the Senator's own country.

He is right. This is the debate we put forth here and realize how mixed up we are, and then if we turn around and assume that they are going to be able to solve our energy problems by causing inflation and building pipelines through Canada, then our ignorance does pale beyond comparison.

Minister Yurko, in Canada, on June 8, made the statement that what he feels should take place is that the Alaskans—the United States—should build the line through Alaska so that the Canadians could seriously undertake the consideration of the application that has already been placed relative to a gasline through Canada.

I can only say that if this amendment is adopted it will only mean additional delays. It will inure to the detriment of the Members of Congress, because I think the American people are fed up. They do not want any more delays; they do not need any more delays. As the wounds begin to emerge with respect to an energy crisis and with respect to the financial disaster that looms around the corner, we do not have the good sense and brains to pick up the tourniquet that exists to address ourselves to this problem, and that would be to begin construction of the Alaska pipeline.

I think that my colleagues, in their sincerity, want to do a disservice to the energy needs of their area and to this Nation and place this Nation in total jeopardy with respect to the financial horrors that will be visited upon us as a result of the increase in the imported amounts of energy that will be required to meet our needs. As these horrors are visited upon the American people, the people who vote today on this subject will rue the day politically, because this vote and the vote on Tuesday will be looked upon as the Tonkin Gulf votes of the energy crisis which will be with us for the next 15 to 20 years.

Mr. President, it is obvious that those advocating a trans-Canadian oil pipeline from Prudhoe Bay have not discussed their preference with the appropriate Canadian government officials.

In a speech on June 8, 1973, before the Canadian Natural Gas Processing Association and the Canadian Natural Gas Processing Supply Men's Association, the Honorable W. J. Yurko, Alberta's Minister of the Environment specifically stated that he favored a trans-Alaska oil pipeline bringing oil from the North Slope to Valdez and from there shipped by tankers to the United States as making "the most sense from political, economic, and technical considerations."

I ask unanimous consent to have the full text of Minister Yurko's address printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

The Politics of Energy and Environment

It appears customary to blame the environmentalists for the energy crisis which now exists in North America.

In fact . . . Rawleigh Warner, Jnr., Mobil Oil, Chairman of the American Petroleum Institute . . . recently stated that . . . "The oil industry in this country (U.S.A.) is being delayed or prevented from doing many things that would increase secure energy supplies—most of these delays can be traced largely to actions taken or threatened by environmentalists".

As a politician . . . who has now functioned for almost two years at the interface between industrialists and environmentalists . . . I find such a premise unacceptable.

It is certainly true that the environmentalist has illuminated the disregard for environment and aesthetics formerly displayed by some industrialists . . . but rarely wielded the power of final decision.

Such decisions . . . in the ultimate . . . were almost entirely political.

The energy crisis is the result of political confusion and cowardice.

It is becoming increasingly obvious that the politics of energy in North America resulted in short-term policies of convenience and accommodation . . . rather than policies based on the realization that energy is the centre of gravity of the industrial society.

Justifiably . . . there is some hesitancy and apprehension . . . and perhaps even sheer ignorance . . . in regard to the establishment of national energy policies in Canada.

The complexity of such policies is immense and the decisionmakers are abviously reluctant.

However . . . it is almost incomprehensible that the national government has not as yet arrived at a policy in regard to the development of the world's largest hydrocarbon energy resource . . . the alberta tar sands.

Even though some form of economic incentive would indeed be welcomed . . . to stimulate the development of these vast proven resources . . . the Canadian Government has thus far failed to even acknowledge these reserves as proven sources of fossil fuel energy.

Furthermore . . . many Canadian authorities readily allude to the irrationality of a national energy policy which permits the importation of over fifty percent of Canada's crude oil consumption.

This is in spite of the fact that Canada is the only industrialized nation in the free world today that is self-sufficient in energy.

The ability of the Canadian political process to establish sound energy policies was criticized recently by Senator Jackson of the United States . . . when he referred to our process as a political quagmire.

His vantage point is no doubt somewhat similar to my own.

Therefore . . . without hesitancy . . . I would state that if there is confusion and political cowardice in Canada in regard to formulating energy policies in the national interest . . . our guilt must surely pale when compared to the situation in the Senator's own country.

I have recently had occasion to reach back into history to study the United States document . . . "Resources for Freedom" . . . a report prepared for the President by the President's Materials Policy Commission and published in 1952.

In this report the soundness of suggested energy policies to 1975 is noteworthy.

But . . . what is also interesting now is that these suggested policies were subsequently victimized by adverse political decision.

For example . . . let me list the main objectives of long-range policies on natural gas . . . as suggested in the document:

1. Encourage maximum economic discovery and recovery of the Nation's natural gas resources;
2. Derive the greatest economic advantage from these resources while they last; and
3. Minimize the costs and dislocations of the eventual shift from natural gas to other forms of energy.

The establishment of artificially low natural gas prices and inadequate planning was in direct contradiction to these suggested policies.

In Canada we should learn from our neighbor's mistakes.

In Alberta we are very cognizant of the soundness of these policies advocated as early as 1952.

The environmentalist is but a recent advisor to the political process . . . in regard to formulating energy policies.

The failure of past energy policies cannot be blamed on him.

His effect thus far has been scarcely a ripple.

It is perhaps unfortunate that he did not appear as an earlier contributor . . . because if he had . . . the present North American energy crisis may well have been averted.

I hope today to touch briefly on the politics of energy supply and pricing . . . and the relationship of such matters to environmental concerns.

There is an increasing realization that the major and as yet untapped reserves of oil and gas on the North American continent are:

(a) The oil and gas reserves on the North Slope of Alaska;

(b) The gas reserves of the Mackenzie Delta and the Arctic islands;

(c) The bitumen of the Alberta tar sands; and

(d) Possibly the Eastern Canada offshore reserves.

A major task before industry and Government is to tap these resources and bring them to hungry markets in an economical manner.

Several proposals are being examined in this regard.

It is not my intent to review these proposals in detail . . . as they are too complex.

However . . . much of the data thus far generated has been available for our perusal.

At this time it appears to me that the following proposals make the most sense . . . from political . . . economic . . and technical considerations.

1. A trans-Alaska oil pipeline . . . bringing oil from the North Slope to Tidewater at Valdez . . . and from there shipped by tankers to United States ports.

In other words . . . I'm of the opinion that the "taps" proposal should become a reality in due course.

In fact . . . I believe that Canada should actually support this proposal

2. A natural gas line down the Mackenzie corridor . . . with a possible branch line to the North Slope of Alaska.

In my opinion . . . a strong case against the Mackenzie corridor line only has not thus far been made.

3. An eventual railway down the Mackenzie corridor for bringing Canadian nationhood to the north . . . as well as for transporting mineral and natural resources to the south.

One can readily envision a massive terminal point in Northern Alberta . . . for the movement of men . . . oil . . materials . . . and minerals . . . by rail and water . . . as well as by air.

4. Major development of Alberta's tar sands on an accelerated scale.

I am confident that the next decade will prove that the economics of bitumen extraction and refining will make this vast resource of over three hundred billion barrels of recoverable oil a favoured source of carbonaceous fuel.

Time hardly permits me to dwell in depth upon the reasons for my choice of the alternatives I have mentioned . . . and their environmental implications.

I do . . . however . . wish to speak briefly on the Alaska hot oil line-tanker alternative . . . as well as to highlight several points regarding the Mackenzie Valley gas line.

Also . . . I will touch base briefly on Alberta's gas pricing policy.

In regard to the trans-Alaska oil line . . . it is expected that this line will eventually transport some two million barrels of oil per day.

This amount of oil will no doubt have national security ramifications for the U.S.A.

If such a line were to be built through Canada . . . this Nation would no doubt have to guarantee the sceurity of supply of such a quantity of oil.

This could only be done through some degree of sovereignty loss . . . as control of the line . . right of way . . labour . . and management . . would be under total or partial foreign control.

If such was not the case initially . . . it would soon become so.

The interruption of American oil on Canadian soil . . . caused by inadvertent Canadian bungling . . . would be a serious incident.

There are a number of additional reasons for not actively supporting a hot oil line through northern Canada at this time.

First . . . the environmental effects of a hot oil line are not adequately known . . . and . . .

Second . . . Alaska needs the economic development generated by such facilities.

There are some Canadian opponents who argue that the Mackenzie pipeline would have less adverse environmental effects than the "taps" pipeline and the oil tankers to United States west coast points.

Of particular concern is the possibility of major oil spills from oil tankers operating in the Straits of Juan de Fuca . . . destined for the Cherry Point refinery just south of the Canadian-United States border.

However . . . there is some comfort in statements recently made by Jack Davis . . . the Federal Minister of Environment . . . on this matter.

He recently stated that the Canadian Government hopes to convince the United States that its oil tankers should feed Alaskan oil to refineries further down the California coast . . . with Cherry Point being supplied by trans-mountain pipeline from Alberta.

We in Alberta support Mr. Davis strongly in this regard.

Such a proposal makes a great deal of sense . . . as the tankers once loaded would not incur much greater unit costs in delivering their cargo further down the coast.

Furthermore . . . the pipeline route would have behind it the vast resources of the Alberta tar sands.

Canadians are not without some leverage in convincing the U.S.A. of the soundness of such oil supply management . . . particularly so if the Mackenzie corridor is used to transport the gas from Prudhoe Bay to the American markets.

It appears that two entirely separate systems of oil delivery to the United States would permit greater security against hostile action than an integrated pipeline system.

There seems little doubt that the Arctic gas pipeline will become a reality.

The only matter in doubt is the timing . . . which in itself is a highly significant consideration.

"Bunching" of major Canadian resource projects must of course be avoided.

The environmental aspects of the Arctic gas line are complex . . . but are being researched and managed in a most comprehensive manner.

Millions of dollars have thus far been expended by Canadian Arctic gas study limited and by governments . . . to determine and minimize the environmental consequences.

This is noteworthy.

Several possible routes through Alberta are being examined.

However . . . it is expected that later this year the Alberta government will commission a detailed study of its own . . . on the social . . . economic . . . and environmental aspects of the chilled gas pipeline corridor.

No doubt the Alberta government will be playing a significant role in determining the corridor to be followed through this province.

New government legislation will be imposing stringent environmental requirements during construction and post-construction phases.

Final authorization may very well require a separate act of the Alberta legislature . . . with the widest possible debate on the matter.

There seems to be increasing political pressures in Canada to begin judging the true relative values of energy sources.

There is increasing national and provincial pressure for establishing a three-price structure for commodity natural gas.

Such temptations . . . if realized . . . would promote relative source energy price distortions . . . which in effect would then produce energy use pattern distortions.

In other words . . . clean natural gas would be used as a source of fuel and feed stock . . . in cases which other energy sources would normally fill.

The present disastrous American experience would eventually be reproduced in Canada.

If there is to be a two-price system for natural gas in Canada . . . then it should only take the form of a free market commodity price . . . with a rebate structure as is being contemplated in Alberta and has been enunciated by Premier Lougheed.

Such a system lends itself to flexibility and minimized distortion in the energy use-price mix.

It is true that in Alberta's case the refund structure will be related to the royalty revenue . . . such that the rebate financing structure is self-sustaining and doesn't in fact overly disrupt provincial government fiscal policies.

The same such rebate structure can be used by any province . . . and in fact the Federal Government.

Any government can readily rebate a portion of the fuel bill to its domestic natural gas users . . . or for that matter . . . subsidize petrochemical feed stocks and fuel for selective industries.

It is nothing less than a form of tax reduction . . . or tax incentive plan.

The Federal Government is piloting legislation to reduce corporate income taxes by nine percent . . . to increase international competitiveness of Canadian industry.

But . . . it can very readily accomplish much the same effect by rebating part of the energy bill of all Canadian industry.

For example . . . the petrochemical industry in Sarnia would no doubt be overjoyed to receive increased subsidization of its carbonaceous feed stocks.

What the eastern provinces and Ottawa are wont to do is to subsidize eastern industry and domestic consumers at the expense of giving western producers and owners . . . (Albertans) . . . less than fair north American value for their energy resources.

This is unacceptable in terms of national unity . . . in terms of national equity . . . and in terms of national energy resource development.

Premier Lougheed is fighting for a just cause in demanding fair value for Alberta natural gas.

There are some that cry that the main beneficiaries of a higher gas price will be the multi-national corporations.

One must be aware of both the short and long term realities of the Alberta Government policies on natural gas pricing.

May I just briefly apprise you of five considerations in this regard.

A) First . . . the environmental requirements in Alberta are placing an increasing financial burden upon the sour gas industry.

New conservation and environmental guidelines brought into effect in November 1971 . . . imposed an additional capital investment of approximately fifty five million dollars . . . as well as increased operating costs.

Maximum source emission standards presently being contemplated may impose an additional fifty to sixty millions of dollars of capital investment on the industry . . . as well as additional operation and maintenance costs.

It should be remembered that all such capital outlays and operating expenses generate jobs in Alberta . . . and stimulate the economy.

There is a direct monetary return to Albertans resulting from the imposition of stringent environmental standards and controls on the sour gas industry.

B) Secondly . . . there is an increasing realization that virtually all of the major gas fields in Alberta have been tapped . . . except perhaps the Suffield block.

The remaining gas to be found and produced relates to more costly pockets to be found . . . as well as to more costly methods of production because of the marginal characteristics of such finds.

Therefore . . . Alberta's natural gas reserves will be increased substantially only if the price is substantially escalated upwards . . . to meet these increasing exploration and production costs.

Any such program reflects in substantial job generation in Alberta . . . and a revitalization of this sector of the economy.

C) Thirdly . . . a substantial increase in provincial natural gas royalty is only practical if the natural gas wellhead price is substantially increased.

The industry in total is just now reaching an economic break even point.

A substantial royalty hike without upward price revision could be crippling to some producing fields.

Any increased royalty needs therefore to be primarily at the expense of the user . . . rather than the producer.

D) Fourthly . . . we in Alberta realize more and more that because of freight rate, financing, and marketing inequities . . . it is only possible to generate a substantial petrochemical secondary industry through major economic incentives or subsidies

The pretrochemical industry . . . because of recent traumatic experiences in regard to availability of feed stocks and price stability . . . is increasingly desirous of locating where such feed stocks are assured . . . both as to supply and competitive price.

As a result . . . suitable economic incentives can only be offered for locating secondary petrochemical industry in Alberta if the margin of royalty available for rebate is large enough.

The higher the price of natural gas . . . the greater the possible incentive available for attracting secondary industry to Alberta.

Can eastern Canadians deny the west its only weapon in the West's desire to reconstruct the Canadian map by building a sound western industrial matrix?

E) Fifthly . . . because Alberta is a multiple source of energy forms . . . it becomes axiomatic that it promote the development of all its energy sources upon some form of equitable basis.

Therefore . . . the various energy sources must of necessity bear an equitable price relationship on the basis of fuel value.

It is not easy to promote the construction of fifty year life coal fired base load electric power stations . . . when natural gas carries an equivalent B.t.u. price substantially below that of coal.

In conclusion . . . the scope and latitude of my subject . . . "The Politics of Energy and Environment" . . . has permitted me to make a number of observations which may not represent official Alberta Government policy . . . and which may in fact be questionable.

I trust that you will accept these observations in the spirit in which they are given.

Thank you.

Mr. GRAVEL. Mr. President, I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The proponents have 30 minutes remaining, and the opponents have 10 minutes remaining.

Mr. MONDALE. Mr. President, I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. HART. Mr. President I have indicated earlier, I support the amendment offered by my colleagues, Senators Mondale, Bayh, and 16 others, which would allow for an expeditious and dispassionate study of the best route and method to bring Alaskan oil to the lower 48 States.

The Antitrust and Monopoly staff has been studying the economics and ownership structure of both the Alaskan oil and proposed pipeline and has presented a whole new dimension as to why the pipeline is being built where it is. They have raised some serious questions, in my mind, as to whether Alaskan oil would go to California rather than the Midwest if free market forces were the basis of the decision. In my judgment, if they are right, Alaskan oil would be going to the Midwest, not California, but for the structure of the petroleum industry.

To the extent that California cannot use the incremental supply from Alaska—and there is every indication that there will be a substantial surplus—Japan is the logical customer for Alaskan oil, and the oil companies have indicated that profit maximization will determine whether surplus Alaskan oil is exported to Japan.

Prudhoe Bay production will be about 2 million barrels per day. California production is now about 900,000 barrels per day. Thus, Prudhoe Bay contains more than twice the amount of California's proved reserves, will produce twice as much crude, and will create a significant surplus.

In the Midwest, however, over 2 million barrels a day now must be imported from Canada and other U.S. regions.

The Federal Trade Commission and the Chief of the Federal Power Commission's Office of Economic Studies have reported to the Antitrust and Monopoly Subcommittee that the petroelum industry structure in many respects may be responsible for the present shortages and high prices. The industry is highly concentrated. It is vertically integrated from reserve ownership through production, transportation, refining, and marketing which allows for virtually complete control of supply, price, and other conditions for receiving product. It operates through a myriad of joint ventures, marketing, and operating arrangements to effectively preclude whatever little competition might otherwise exist.

What is the structure of these firms in terms of Alaska's oil and the pipeline?

Leases owned or controlled by British Petroleum cover about 55 percent of the Prudhoe Bay formation reservoirs;

Atlantic Richfield controls 20 percent;

Exxon controls 20 percent; and

The remaining 5 percent is controlled by others.

Thus, three companies control leases covering 95 percent of Prudhoe Bay formation reservoirs. Additionally, agreements exist whereby these companies share equally, among others, essentially all leases, exploratory data, and decisions on rate and amount of production. If anyone desires to sell his interest, the others must first be offered the opportunity to buy.

These same three companies own 81.7 percent of the Alaskan pipeline. Mobil owns 8.68. Thus, four firms own over 90 percent of the pipeline.

From the end of the line at Valdez, the oil must, of course, be carried by tanker to the west coast. Such a tanker service has already been announced by Exxon.

For the bigger picture, Prudhoe Bay proved reserves, about 10 billion barrels, account for about 28 percent of total U.S. reserves. Besides, they are dominant in many "lower 48" markets.

The Midwest pays between $3.85 and $4.20 per barrel. Alaskan oil delivered to the Midwest—where it is vitally needed—is estimated to cost about the same as delivery to California.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HART. Mr. President, will the Senator yield to me for 3 additional minutes?

Mr. MONDALE. I yield.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. HART. Mr. President, it is estimated that the total cost of oil delivered from Prudhoe Bay to California is about $1.20 per barrel before royalties and taxes. Presently, the price in California for crude similar to Prudhoe crude ranges from $2.90 to $3.25 per barrel. But, Alaska crude will be sold in California at about $4 per barrel.

Obviously, in a free market, it would be advantageous to bring Alaskan oil to the Midwest where it is needed, where the price would be higher, and where delivered cost would be the same. It is not to the advantage of the three companies controlling the Alaskan crude and the pipeline to supply the Midwest, however. And, because of their dominant position, they have the power to elect not to serve the Midwest. It is to their advantage to supply California. By controlling the pipeline to California, they will determine who else can ship to California, at what prices, to whom, and in what amounts. Profits can be maximized and excess supply can be sold elsewhere at higher prices through facilities controlled by the same companies. Alaskan oil to the Midwest, however, would be by pipeline through Canada—which means that these companies could not restrict or control the flow of oil. By easing deficiencies in the Midwest, prices would go down. Profits would not be maximized. The companies could not charge $4 for oil, costing $1.20—before royalties and taxes and which may add as much as 50 additional cents.

Also, by not controlling the pipeline, significant revenues will be lost by these firms. Because of tax laws and regulatory effect, the three companies would pay cost for transportation via rebates, whereas competitors using the pipeline would pay full tariff rates.

In conclusion, Mr. President, I do not impugn the motives or interest of any company or do I guarantee that every figure used is precise. They have been put together under pressure, but they are in the ball park. I am convinced, however, of the principle involved; namely, that:

In a free market, Alaskan oil would be flowing to the Midwest—not California;

The pipeline is being built to serve California because of significant anticompetitive factors.

But for these factors, we would not be here today debating where the oil should flow.

Mr. President, if the potential harm from the pipeline exists because of anticompetitive factors, I think it is a tragedy for this body to act without all the facts. I urge enactment of the 11-month study to assess the impact of the pipeline. Within this period, I will ask for a full report from FTC and Justice on the antitrust considerations.

If free market forces dictate the Midwest as the choice, then this should not be changed because of the influence of the few but powerful oil companies.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. HART. I am glad to yield.

Mr. MONDALE. As I understand the thrust of the remarks of the Senator from Michigan, it should be observed that he is the chairman of the Antitrust and Monopoly Subcommittee of the Committee on the Judiciary, with more experience than any other Member of the Senate in the antitrust field. As I understand his remarks, there is a serious shadow which is cast over this Alyeska consortium of large oil companies in terms of compliance with the competitive requirements of the antitrust laws. Is that the thrust of the Senator's remarks?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MONDALE. I yield myself 1 additional minute.

Mr. HART. Yes. I think, in paraphrase, it is. What I am suggesting is that the concentration level of the ownership—both of the Alaskan reserves and the pipeline—overwhelm the force of free market factors. I am not suggesting there is a violation of antitrust laws involved. I am suggesting the economic consequences are such that the influence of a free market decision have been vitiated and we are asked to rescue them.

Mr. MONDALE. I thank the Senator from Michigan for those most worthy observations in another area that I feel has not been fully explored as part of a responsible discussion.

Mr. STEVENS. Mr. President, the economic arguments presented to support the Mondale amendment have been answered many times. I ask unanimous consent to have printed in the RECORD the succinct answers already given.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY BY THE HONORABLE WILLIAM E. SIMON, DEPUTY SECRETARY OF THE TREASURY, BEFORE THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, THURSDAY, MAY 3, 1973, 10 A.M., E.D.T.

ECONOMIC COMPARISONS

Opponents of the Alaska pipeline have asserted that a Canadian route would provide greater economic benefits to the Nation. Our studies indicate the opposite. To avoid confusion we have adopted a methodology similar to that of Mr. Charles T. Cicchetti, an economist whose studies suggest that a Canadian pipeline route is economically superior. We have defined the benefits of an Alaska or Canadian line as the resource cost of the alternate sources of supply, less the resource cost of North Slope crude oil delivered to the same market. Resource costs are defined as the costs of goods and services required to bring North Slope or foreign oil to United States markets. Transfer payments to other Americans, royalty payments to the United States or Alaska, profits in excess of capital costs, and United States taxes are not included in resource costs. Royalty payments and taxes paid to foreign countries, capital costs, and operating expenses are included among the costs of goods and services.

Recent projections made at Treasury indicate that the delivered resource cost of Middle East crude oil in 1975 will be approximately $3.08 per barrel on the West Coast and approximately $3.38 per barrel in Chicago. By 1980, such costs will likely increase $1.50 per barrel, or more, although this is speculation. Bear in mind that these are resource costs, not total costs. United States profits and transfer payments have been excluded. Future market prices will be higher. Our projections indicate delivered resource costs of North Slope crude oil of $1.30 per barrel in Los Angeles and $1.60 per barrel in Chicago. The difference between the delivered resource cost of foreign crude and the delivered resource cost of North Slope crude represents the net benefit to the U.S. economy from producing North Slope crude oil. Our projections indicate a net benefit of $3.28 per barrel in 1980 for either the Alaska or Canadian pipeline route.

Our analysis differs from Mr. Cicchetti's analysis primarily in that we assumed that any North Slope production would displace foreign oil in either market whereas Mr. Cicchetti assumed that it would replace a 50/50 mixture of domestic crude and foreign crude on the U.S. West Coast, and an 83/17 mixture of domestic and foreign crude in the Chicago area. We have also assumed more up-to-date cost estimates. With the United States now producing at peak capacity and imports rising rapidly, it is unrealistic to assume that North Slope oil would displace domestic crude oil rather than imports.

Our analysis indicates that on a barrel per barrel basis, there is essentially no economic difference in the benefit accruing to the Nation from either pipeline route. What is significant is the indicated difference in net benefits, considering that a pipeline through Canada would deliver U.S. crude at a later date and, initially, at much lower volumes for whatever additional time period is required to loop the Canadian line and increase its throughput.

Completion of the Alaska pipeline should yield a net benefit to the economy starting at $1 billion per year, and increase to $2.4 billion annually by 1980, when we estimate that it will reach its full capacity of 2 million barrels per day. In contrast, a Canadian pipeline would yield yearly benefits of only $600 million initially, increasing to $1.4 billion when the line reaches full capacity. The difference is due to the Canadian Government reserving a portion of the pipeline's capacity to carry its own crude.

During the interval between completion of the Alaska pipeline and the earliest completion date of a Canadian pipeline, the average net benefit from the Alaska pipeline should be about $1.9 billion, assuming an average throughput rate of 1.6 million barrels per day for the period. Following the time when a Canadian pipeline could be completed, the Alaska pipeline would still yield net benefits of $1 billion more per year than would accrue from a Canadian pipeline with the same capacity.

If we assume that a Canadian line would not be completed for five years following the completion of the Alaska pipeline, and that it would not be looped to allow North Slope production equal to the capacity of the Alaska pipeline for another five years, then accumulated net benefits from the Alaska pipeline over and above those of a Canadian pipeline for the 10 years would be $14.5 billion.

In our analysis we have made assumptions regarding future oil prices, the cost of the Alaska pipeline and a Canadian pipeline, and the probable timing of completion of both routes. We have attempted to be realistic, but where there was uncertainty we have chosen to err in a manner to minimize the differences between the benefits of the two pipeline routes. For instance, we chose to utilize the cost estimates for a Canadian pipeline prepared by the Mackenzie Valley Pipeline Research, Limited, rather than the much higher estimates of the Interior Department, or others. Consequently, our projections are probably on the low side.

Actually the numbers used are not critical. It is really immaterial to the basic argument whether the net benefits from the Alaska pipeline would be $2.4 billion in 1980, or only ⅓ of that amount. It is immaterial whether we assume a two-year delay for completion of a Canadian pipeline compared to the Alaska pipeline, or a five-year delay. It is immaterial whether we assume a $3.00 price for foreign crude oil in 1980, or a $5.00 price. It is immaterial whether we assume that a pipeline through Canada would cost $4 billion, or $7 billion. The point is that under any set of realistic assumtpions an analysis will indicate advantages for the Alaska pipeline over a Canadian pipeline amounting to hundreds of millions of dollars a year.

In fact, the only way that you can show an economic benefit for a Canadian pipeline comparable to the Alaska pipeline is to assume that each pipeline would carry equal volumes of North Slope crude oil (which is not a valid assumption), or to assume that the North Slope crude oil would displace domestic crude oil with appreciably different values in different markets, rather than foreign crude oil. This Committee should not be misled by analyses purporting to show an economic superiority for a Canadian pipeline when these analyses are based on both of the fallacious assumptions I have just mentioned.

The facts are that the Alaska pipeline will yield substantially greater economic benefits to this Nation than a pipeline through Canada with an equivalent capacity.

Mr. MONDALE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator has 21 minutes remaining, and the opponents have 10 minutes remaining.

Mr. MONDALE. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MONDALE. Mr. President, this debate is now drawing to a close. In short, we ask for a vote on the amendment which we think both complies with the National Environmental Policy Act and brings finality within a year to the question of where the pipeline may be built in a way that makes it court-proof from the standpoint of the National Environmental Act.

The alternative is the Jackson proposal, which in effect throws the whole thing back into the courts, to be litigated, and I think almost endlessly, in those courts, in order to take evidence concerning compliance with the National Environmental Policy Act. The circuit court has directed the District court to take this testimony. Certainly the plaintiffs will insist that it be taken. Perhaps that is why the distinguished floor manager of the bill the other day in Seattle said:

> I don't believe we can allow this delay to go beyond next May or June. Unless we do that, we'll find ourselves in desperate straits.
>
> This is a matter that affects the public in such a strong way that if this is going to be snarled in the courts, I would move to have the Government build and operate the line or set a cutoff on litigation.

In other words, the Senator recognized that it could well be snarled in court and said:

> I would move to have the government build and operate the line or set a cutoff on litigation.

Now, what makes more sense? To use this intervening period, which would otherwise probably be absorbed in fruitless litigation, in the light of this Government's refusal to comply with NEPA, or to use this time for a responsible study, for essential negotiations with Canada, for the purpose of bringing all the factors to bear that are essential for a congressional decision, for a final decision on one route or another in a year?

The other alternative is the Gravel-Stevens amendment, which the Senator from Washington (Mr. JACKSON) opposes, and I think rightly, on the grounds that it totally vitiates the thrust of the National Environmental Policy Act. It simply insists on building it regardless of the violations of that provision.

So the first conclusion, I believe, is that there is one amendment that both respects the integrity of the National finality to the decision, and that is the pending amendment.

The second point is that there is only one amendment which, in my opinion, provides a national solution to the question, and that is the pending amendment. If the trans-Canadian pipeline is built, it connects at Edmonton with the one transcontinental system that is delivering oil in the country today. The oil that departs from Edmonton goes by one spur west over the transmountain route to Seattle, which is in place, delivering oil today. It has another line which flows east from Edmonton all the way to Buffalo, N.Y. So that, coming from Edmonton, the oil can be sent where it is needed most, in a flexible, national way.

To the extent that oil reaches the Midwest and the East more completely, the Gulf systems already in place can change the flow of the oil elsewhere in the East and South where it is most needed.

Compare that with the trans-Alaskan line, which comes to Valdez. The oil is trans-shipped by water to Japan or to the west coast. The studies by the Interior Department, a study recently completed by a professor of geology at the University of Washington, and others, have shown the west coast will not be able to use the 2 million barrel production out of the trans-Alaska pipeline until 1988. There will thus be a surplus of possibly 5 to 6 hundred thousand barrels a day that must be sold to Japan and to points west, outside of our boundaries, for the simple reason that there is no reasonable way of transporting oil delivered west of the Rockies in surplus, east through any existing pipeline. The Transmountain pipeline from Edmonton flows west on gravity flow. The other pipeline, which runs from southern California to Texas, is an old, outmoded 16-inch pipeline.

Also, the tankers which will be carrying oil from Valdez cannot go through the Panama Canal; they are too large.

So that the trans-Alaska pipeline should more properly be called the trans-Alaska-Japan pipeline, because I think vast quantities of that oil—indeed it has almost been admitted here—will be delivered outside the boundaries of the United States.

So, in my opinion, our proposal is the only truly balanced approach to the equal distribution of oil in these critical times.

Next, our amendment is offered on the theory that the vast holdings of Alaskan oil should help solve America's energy crisis and its total net production should be an additional increment to the power supplies of our country. There has been substantial debate on this. There has been no question—as a matter of fact, the amendment that was defeated yesterday proves—that the basic economics of the trans-Alaska pipeline assume that a substantial proportion of that oil will be sold to Japan and elsewhere. How ironic it would be, indeed, if in the midst of this crisis in energy, we were to sell oil to the west of our shores, to Japan and elsewhere, and to that extent become increasingly dependent on the Middle East, which is the basis of the problem in the first place.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. ABOUREZK. First of all, I want to commend the Senator for having proposed the amendment to delay the construction of the Alaska pipeline for 14 months until a study has been made. I have been in this oil energy problem in my own State of South Dakota ever since I have been in the Senate, which is just a few months now. There is a serious shortage of oil in that part of the country. There is a shortage of fuel.

I have maintained on more than one occasion that it is due to the contrived purpose of the major oil companies, who in an effort to achieve their purposes are trying to get the environmentalists off their backs and get authority to build the Alaska pipeline. This has been one of the results of their objectives—to bring pressure to bear, to pass a law allowing immediate construction of the Alaska pipeline, so that the American people will be faced with this shortage and with this crisis and will not want to protest or delay the construction until such time as a study can be made.

I think this happens to be one of the most pernicious things that the major oil companies have done among many other pernicious things that have been done, and I personally support the amendment of the Senator from Minnesota and the Senator from Indiana and urge its enactment.

Mr. MONDALE. I thank the Senator from South Dakota.

Mr. CRANSTON. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield such time as he may require to the Senator from California. I will limit that, if I may, to 3 minutes, because I have to limit the time.

Mr. CRANSTON. It will be very difficult to do it in 3 minutes. Could I have 5 minutes?

Mr. JACKSON. I yield 5 minutes to the Senator from California.

Mr. CRANSTON. Mr. President, I rise to announce my opposition to the amendment offered by Senators MONDALE and BAYH and my support for the general approach embodied in S. 1081, the Federal Lands Right-of-Way Act of 1973.

I want first to pay tribute to the work that has been done by the Senator from Washington (Mr. JACKSON) on this bill. He has dealt with a very intricate problem, and has managed it very wisely.

While the central focus of S. 1081 is the establishment of a comprehensive national policy and procedure for the granting of rights-of-way across the Federal lands for transportation and transmission purposes, the central focus of the Senate debate on this bill is how best to transport North Slope oil to the lower 48. Environmental, economic and national security issues are at the heart of this debate.

Basically, there are two major alternative routes by which the North Slope oil could be transported to the lower 48. The first is the so-called trans-Alaska pipeline which would traverse some 789 miles across the State of Alaska from Prudhoe Bay to the Port of Valdez in the Gulf of Alaska. From the Port of Valdez, the oil would be transported by supertanker to three major west coast ports: Puget Sound, San Francisco and Los Angeles.

The second route would move North Slope oil to the lower 48 entirely by overland pipeline that would stretch from Prudhoe Bay in the State of Alaska through Canada to the midwestern United States. The exact route such a pipeline would follow is not certain, but the two major proposals include a route that would generally follow the Alaska Highway and a route that would generally follow the Mackenzie River Valley, with the later being the more frequently discussed alternative.

Senators Mondale and Bayh propose that the decision on which route is superior should be made by Congress but that Congress does not now have the information necessary to make a wise and informed decision on the question. Accordingly, their amendment would prohibit the Secretary of Interior from issuing a right-of-way permit for the trans-Alaska pipeline and would postpone a congressional decision on the matter for 14 months. During this period, negotiations with the Canadian Government would be initiated with a view toward arriving at a satisfactory agreement for a trans-Canada pipeline. Simultaneously, the National Academy of Sciences would have 11 months to complete a comparative study of the environmental and national security impact of each route. At the end of 14 months, Congress would enact a law giving the green light to one or the other pipeline route.

While I was initially leaning in favor of this proposal as the most expeditious vehicle for settling the controversy and getting North Slope oil to where it is needed most, I am now persuaded that this approach is unwise for two reasons. First, providing Congress with the responsibility for making the final decision carries with it the danger that such decision may be made on the basis of regional self-interest rather than on environmental grounds. The courts, being insulated from political pressures, are more likely, in my opinion, to make a decision based on sound environmental considerations required by law.

Because of the many concerns previously expressed by those desiring to insure maximum protection of the environment and because of the substantial review that has resulted, the plans for the trans-Alaska pipeline are now considerably more satisfactory from the point of view of environmental protection than when first proposed. It can now benefit from the stricter environmental stipulations, redundant safety systems, contingency planning and better engineering standards that have been imposed. Even with these improvements, serious environmental questions are yet to be resolved. Congress is much less likely to be the place to resolve these questions on an issue like the pipeline which has become laden with so many regional economic and political considerations.

Second, the Mondale-Bayh amendment would exempt the pipeline from the procedures of the National Environmental Policy Act and therefore from judicial review. This shortcircuiting of NEPA would, in my opinion, establish a very bad precedent that could lead to other statutory exemptions from the rigorous requirements of the act. On this point, I ask unanimous consent that part of an editorial from the New York Times of July 12 be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

But to forestall lawsuits at the end of the 14-month period, based on the alleged inadequacies of the Interior Department's environmental impact statement that is now required by law, the Mondale-Bayh amendment would exempt the pipeline from the procedures of the National Environmental Protection Act and therefore from judicial review.

Even though the intent is to substitute the judgment of the respected National Academy of Sciences for the requirements of the Environmental Protection Act, we believe that such exemption could set a dangerous precedent. Any highway, dam, barge, canal or other porkbarrel assault on the environment could be similarly shielded from the requirements of NEPA by statutory exemption of this sort, or by the substitution of review by some designated agency. This potentially mischievous provision should be removed from the Mondale-Bayh amendment. Even if that resulted in its rejection, the worst that could happen would be that the present environmental lawsuits would follow their judicial course, with the possibility that the courts, rather than Congress, would require a more thorough study of the Canadian alternative than has yet taken place.

Mr. CRANSTON. Mr. President, even more questionable for the future of NEPA is the approach embodied in the amendment offered by Senators Gravel and Stevens. This amendment contains an express congressional declaration that the pipeline has satisfied the requirements of NEPA.

Consequently, I am opposed to both attempts to circumvent the possibility of further judicial review of the pipeline controversy.

I would like to say at this point that while I disagree with his proposed amendment I do think that the Senator from Alaska (Mr. Gravel) has done a tremendous job in behalf of the pipeline. The many improvements that have been made in the plan are, in part, due to his efforts. If and when it is built, it will be a monument to his leadership and his very effective work in the Senate. And in a bipartisan spirit, I would like to pay tribute to the Senator from Alaska (Mr. Stevens), whose work has been very diligent and most effective on this legislation.

The approach that can best resolve the remaining environmental issues, in my opinion, is that of the Jackson bill, S. 1081, which will encourage the controversy to be settled in the courts. The most drastic result would be that the environmental lawsuits would follow their judicial course, with the possibility that the courts would require a more thorough study of the Canadian alternative. On this point, I would like to remind the Senate that title II of S. 1081 authorizes and requests the President to initiate negotiations with the Canadian Government. If Canada indicates a willingness to proceed with an oil pipeline over Canadian soil, the President would be directed to provide for the necessary studies and agreements that could grease the way for the expeditious development of such a pipeline. Presumably, then, these negotiations would be underway regardless of the status of any litigation that may challenge the legality of a permit for a pipeline right-of-way across Alaska. Consequently, in the event that the construction of the trans-Alaska pipeline were stopped by the courts pending more thorough consideration of the Canadian alternative, we would not be starting from scratch in making that consideration.

Based on these assumptions, I am convinced that allowing the pipeline controversy to follow its judicial course will not result in any more delay of the development and delivery of North Slope oil than is written into the Mondale-Bayh amendment.

Mr. President, I would appreciate it if the chairman of the committee would comment on the validity of these assumptions as he understands them.

Mr. JACKSON. Mr. President, the Senator from California is correct.

Section 202 authorizes the President and the Secretaries of State and Interior to enter into negotiations with the Government of Canada to secure agreement on a trans-Canada oil pipeline.

Section 203 authorizes the President and Federal agencies to even prepare and submit a formal application to Canada in the event no private group is prepared to do so.

The Senator is correct that title II of S. 1081 is designed to pursue every course of action to secure Canadian approval, to initiate needed studies, and to work out necessary agreements or treaties.

I ask unanimous consent that the relevant section-by-section analysis from the committee report—pages 50–52—be printed at this point in the Record.

There being no objection, the section-by-section analysis was ordered to be printed in the Record, as follows:

Title II—Pipelines for Alaska North Slope Oil and Gas

Title II authorizes and requests the President to undertake necessary negotiations and other actions leading to the possibility of building and operating pipelines across Canada to deliver Alaska North Slope oil and gas to markets in the Lower 48. This authority is granted without prejudice to the pending application of the Alyeska Pipeline Service Company to build a crude oil pipeline from the Prudhoe Bay field to Valdez, Alaska.

SECTION 201

Section 201(a)

Section 201(a) states the findings of Congress upon which the provisions of Title II are based, regarding the national interest in the early delivery of North Slope oil and gas, the desirability of two transportation routes for the crude oil, the advanced status of the Trans-Alaska pipeline proposal, and the national interest in early negotiations concerning an overland route through Canada. The background to these findings is set out in the "Major Issues" section of this Report.

Section 201(b)

Subsection (b) declares that it is the purpose of Title II to authorize and request the President to initiate negotiations with the appropriate officials of the Government of Canada for the purposes set forth in sections 202 through 204.

While the trans-Alaska-maritime transportation system would have the capacity to transport all crude oil produced from North Slope reserves that have been proven to date as well as from a substantial amount of any future additions, nevertheless the potential is very good for discoveries over and above the capacity of that system in amounts which could justify another transportation system on an overland route through Canadian territory. To facilitate the construction of such a system as soon as sufficient additional reserves are known to make it feasible, the resolution of complex problems between the United States and Canada relating to national policy, environmental, legal and regulatory, and technical requirements will be necessary, however time-consuming they may prove to be.

SECTION 202

Section 202 authorizes and requests the President, using the services of the Secretaries of State and Interior to negotiate with the Government of Canada regarding that Government's attitude toward possible transportation systems across Canadian territory for Alaskan Arctic oil and gas; the need for international understandings, agreements or treaties; the desirability of joint studies; and throughput guarantees.

SECTION 203

Section 203 provides that, if the Canadian Government is willing to entertain an application leading to construction of transportation facilities for Alaska crude oil, but no appropriate private entities have made or are pursuing such an application, the President is authorized and requested to direct the appropriate federal entities to cooperate with the Canadian government as private entities in the steps necessary to prepare such application, and to enter into specific negotiations regarding authorization of construction, certification and regulation.

This Section does not authorize the Federal government to construct and operate a pipeline, nor to become a partner in such a venture. By authorizing, however, participation in "studies, negotiations, engineering design and consultations," it does contemplate the involvement of federal agencies, but only if necessary, in roles that might normally be filled by private enterprise, to take the steps required preparatory to making necessary applications to the Canadian government.

SECTION 204

Section 204 requires a report to the Interior Committees of both Houses within one year, regarding the progress achieved under the title, and recommendations for further action, either by the Executive branch or by Congress.

SECTION 205

Section 205 states that the title is not to be construed as a judgment by Congress in favor of a Trans-Canada pipeline over the Trans-Alaskan pipeline. The intention of the title is that progress on both pipelines be prosecuted as rapidly as practical and lawful; the expectation of Congress, however, is that, because preparations to build the Trans-Alaska pipeline are at an advanced stage, that pipeline would be built first. The Committee explicitly rejected a motion that authorization of a right-of-way for the Trans-Alaska pipeline await the results of further study of the two routes. The Committee also adopted language explicitly stating that in making such a right-of-way grant the Secretary is not required to "await the results of negotiations with the Canadian Government provided for in this title . . ."

Section 205 is intended to make clear that the requirements of this Title are to have no effect upon the Secretary's decision with respect to the pending application for a trans-Alaska-maritime oil transportation system. In taking action with respect to such a proposed system, the Secretary must comply with the provisions of the National Environmental Policy Act of 1969 (NEPA). However, the requirements of this Title shall not be construed as creating any additional requirements under NEPA, and the Secretary is not required to await the results of negotiations with the Canadian Government or any other actions taken pursuant to this Title, in order to comply with NEPA or, should he determine to do so, to grant the pending applications for a trans-Alaska pipeline.

SECTION 206

Section 206 authorizes the appropriation of funds necessary to implement the provisions of the title.

Mr. CRANSTON. Mr. President, I thank the Senator from Washington.

I would now like to turn to several of the issues surrounding the relative merits of a trans-Alaska and a trans-Canada pipeline.

One of the major economic and regional questions is whether or not the west coast will need the oil from Alaska's North Slope or whether the delivery of North Slope oil will result in a surplus of crude oil on the west coast. It has been suggested that in the event of a surplus, Alaska oil would have to be exported since economic and physical barriers prevent its transport to the midwestern and eastern regions of the United States.

I believe that the west coast—PAD District V—will be able to absorb the 1.5 million to 2 million barrels per day that would reach the Pacific northwest and California via a trans-Alaska and maritime oil transportation system. California, in particular, needs the low-sulfur crude oil that will come from the North Slope field. California's own reserves are extremely high in sulfur content, and the burning of high-sulfur fuels would contribute to a worsening of California's already serious air pollution problems. Just 2 days ago, Southern California Edison Co. testified before the California Public Utilities Commission that because of dwindling supplies of low-sulfur fuel, they will be forced to apply for a suspension of the restrictions on the use of high sulfur fuels or there will be power shortages in their service area next year. High sulfur fuel has not been used in the South Coast Air Basin since 1969 when it was banned because of serious air pollution problems that result from its burning.

Since 1969, Los Angeles and Orange Counties have had a 0.5 percent sulfur limitation on fuel burned. The fuel that Edison would now be forced to use and for which it would have to seek a variance, would range in sulfur content from 1 to 1.7 percent. The impact on air quality of such an increase would be significant. According to one recent study, Los Angeles County powerplants emit about 250 tons per day of sulfur dioxide gas using the 0.5 percent sulfur fuel. Using fuel of 1 percent sulfur would increase that to about 500 tons per day. Moreover, the Federal Clean Air Act of 1970, establishes strict limits on the amount of sulfur dioxide that can be found in the air. Therefore, even if the sulfur content variance were granted, sulfur emissions from other sources in the area would have to be reduced to be in compliance with the act.

Southern California has one of the worst air pollution problems in the Nation. A continuing stable supply of low-sulfur crude is thus of tremendous importance to the maintenance of environmental quality.

In addition, many of the calculations that have been made to suggest a possible west coast crude oil surplus are based on the assumption that California's offshore reserves will be developed right away. The people of California, however, have established a clear policy that they do not desire rapid development of these offshore reserves. Since 1955, the State has enacted laws establishing 10 marine sanctuaries prohibiting oil, gas, and other mineral development. Some 5.7-billion barrels of oil are locked up in these protected State tidelands. Some of the most beautiful stretches of California coastline are protected by these 10 State sanctuaries, including the tidelands of San Diego and Orange Counties, stretching north to protect the desolate grandeur of the Big Sur shoreline and the wild, redwood lands of Humboldt and Mendocino Counties.

In addition, there is the critical question of the proved reserves in the Santa Barbara Channel. The U.S. Geological Survey has indicated that 2.3 billion barrels of proved reserves exist in the channel. I intend to reintroduce in the next several weeks a revised form of my Santa Barbara Channel legislation to prohibit the development of this oil until we have a more advanced technology for its extraction. Navigational and environmental hazards make immediate production of this channel oil an impractical and dangerous undertaking.

Finally, the economic impact of construction of a trans-Alaska pipeline on California, while difficult to assess, is likely to be significant. The San Francisco shipyards, for example, will surely benefit from the 73,000 man-years of employment estimated to be necessary to build 27 tankers for the fleet that would transport North Slope oil from Valdez to the west coast. This prospect of employment is especially attractive since the Department of Defense announcement in April that 5,000 jobs at Hunters Point, an area of high minority population, will be shut down. It has also been estimated that 3,800 permanent jobs will be created because of the tanker fleet operation and maintenance, with most of these jobs being located in California. In addition, if the Canadian pipeline were to take another 5 years to build, it would cost the United States $2.5 to $3 billion a year extra against the balance of payments.

In short, Mr. President, the oil from Alaska's North Slope must be developed and transported to the lower 48 as expeditiously as possible, consistent with environmental protection laws. The oil from the North Slope can be absorbed by the west coast and, in fact, is badly needed in California if we are to avert either major power and energy shortages or a worsening air pollution problem in southern California.

I am convinced that the best way to meet these objectives is to pass S. 1081 without the Mondale-Bayh amendment and without the Gravel-Stevens amendment, so that the environmental issues can be resolved expeditiously by the courts.

I urge my colleagues to support this position.

Mr. JACKSON. Mr. President, I reserve my time.

Mr. MONDALE. Mr. President, I yield 5 minutes to the Senator from Indiana.

Mr. BAYH. Mr. President, I have listened with a great deal of interest to the discussion in the last few days. It is very evident that those on both sides feel very strongly about their positions. I do not wish to impugn the motives of anyone. However, it is possible to look at the same facts and reach different conclusions. Feeling very strongly on this point, I would at least like to have one last glimpse at some of these facts clearly, the Senator from Minnesota, the Senator from Indiana, and other Senators involved must look at the facts, as we see them.

We, in 10 or 15 minutes, will be making a decision that will be critical with relation to the long-range use of our national energy.

When we pick up a paper or look at any magazine today we are reminded about the critical energy crisis that exists.

We have never even examined the figures advanced by my good friend, the Senator from Alaska, who talks about constructing the pipeline by 1977. Even if his figures are accurate, that is not going to open up one service station, keep one tractor going, or keep an industry from laying off the third and maybe part of the second shift.

None of these things will help us solve our problem by opening up America to unlimited amounts of foreign crude, which should have been done a long time ago.

The Senate ought to make a determination, but not base it on the false assumption that we are going to be able to provide immediate relief to our constituents. None of our proposals—not the proposal of the Senators from Alaska or the Senator from Minnesota or the Senator from Washington—will do that.

None of us, unfortunately, have come to grips with the problem of facing this sad fact.

It seems to me that we have to take a prudent, long-range look at what is in the best interest of our country over the next several years. Should we not be absolutely certain that this very valuable resource in the form of Alaskan oil be used in the most prudent manner and should we not be certain that it is going to be used in the United States? Should we not see to it that it is distributed in this country in an equitable manner to those areas in which it is needed the most, and at the same time distributed through a system that has the least amount of environmental problems?

I suggest that none of us really has the answers to the questions. The Senator from Minnesota and I and some other Senators, I think, have made a strong case for the trans-Canadian route and have rather strongly answered the questions I have posed. However, none of us is certain.

As we look at the committee report, it seems the committee is not certain either.

Mr. President, I just want to read into the RECORD language which I think is a very compelling reason to go ahead with the study for the next 8 months. Originally it was to be 11 months. It is now 8 months. We should find the answers, because the report from the Committee on Interior and Insular Affairs states:

> The Committee on Interior and Insular Affairs did not regard any of the foregoing arguments or any group of them as conclusive in favor of either of the competing pipeline proposals.

That conclusion was reached after a full study had been made of the Alaskan route. No study has been made of the trans-Canadian route.

If we get a committee report on the benefits of one pipeline proposal, and only one of them has been studied, should we not in good conscience have a study at least for 8 months of the other alternative?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BAYH. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. BAYH. Mr. President, I think the need to be absolutely certain before building a pipeline that it is the right decision is imperative and is a strong reason to support the Mondale-Bayh amendment.

Also, I do not see how the argument of delay can be persuasive, inasmuch as even the strong opponents of our amendment realize and have stated very honestly that we really do not know how long it will, but that we are going to have a rather strenuous battle in the courts.

While this issue is before us, why do we not find some of the facts necessary to lay a court battle to rest? One of the fundamental criteria of NEPA is that alternative proposals be studied. I do not know how we are ever going to look a judge, a jury, or an opposing lawyer in the eye and say, "We have met the requirements of studying alternatives," unless we study the alternatives. The Mondale-Bayh proposal provides for an 8-month crash study, so that we will not only have the facts to make a prudent decision, but will meet this fundamental ingredient of NEPA.

One last point.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. BAYH. May I have 1 more minute?

Mr. MONDALE. Yes.

Mr. BAYH. Mr. President, I think 1 minute is enough to deal with this unfortunately specious argument of two pipelines.

There may have been a time when you could pick up the newspapers and believe the full-page ads of these oil companies who say it is possible to have a two-pipeline policy. But if we are going to understand the need to have Canadian cooperation, the two-pipeline alternative goes right out the window. The Canadians have said unequivocally, in the questions which we finally managed to drag out of the State Department kicking and screaming just in the last couple of days, and which I put in the RECORD yesterday, that the Canadians do not want any part of a pipeline unless we take them in on the ground floor.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. BAYH. So the only possibility of any kind of a trans-Canadian pipeline is to consider this as an initial thrust, not as a stepchild at some future date.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JACKSON. Mr. President, in his remarks yesterday, my good friend the Senator from Indiana (Mr. BAYH) referred several times to the savings that midwestern and eastern consumers would enjoy if the trans-Canada pipeline were built. The Senator has also circulated among his colleagues a table which claims or purports to show the amounts of these savings.

Yesterday I asked a knowledgeable energy economist to look into these figures. He is, incidentally, an economist who has written several articles which are sharply critical of some of the claims of the oil companies and the administration regarding the economics of the trans-Alaska pipeline.

I ask unanimous consent that his memorandum be printed at this point in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To Senator HENRY M. JACKSON.
From Arlon R. Tussing, Staff Economist.
Re Senator BAYH's Estimates of Fuel Cost Savings.

Senator Bayh's cost calculations are based, according to his table, upon figures on page 92 of *Alaskan Oil: Alternative Routes and Markets*, by Charles J. Cicchetti, Visiting Associate Professor of Economics at the University of Wisconsin (Baltimore: Johns Hopkins University Press for Resources for the Future, Inc., 1972). A copy of Senator Bayh's table and pages 91–93 of Professor Cicchetti's book are attached.

Cicchetti's calculations are invalid, both in principle and in his specific numbers, for several reasons. He assumes explicitly or implicitly.

(1) That market demand prorationing in Texas and Louisiana effectively limits crude oil production in those States and supports oil prices East of the Rocky Mountains;

(2) That the absence of market demand prorationing in California and Alaska, plus a different method of determining import quotas maintains lower crude oil prices on the West Coast than in the rest of the United States;

(3) That the prices of foreign oil landed in the United States are much lower than domestic prices, and that the latter are protected by import quotas;

(4) That the average price of crude oil in each market is equal to its marginal cost; and

(5) That the price elasticity of demand for crude oil is unity (1.0).

The first three assumptions are not true now and will not be true in the foreseeable future, though they were at least in part valid in 1971 when Cicchetti wrote his book. Without production limitations in Texas and Louisiana, without import quotas, and without discrimination in import policy between the West Coast and the rest of the United States, crude oil prices on the West Coast, the Gulf Coast and the North Atlantic Coast will all tend to converge toward the landed price of Persian Gulf imports.

The Northeast may still suffer some price disadvantage if the Gulf and West Coast have deepwater ports so they can accommodate VLCC's supertankers and the North Atlantic does not have such ports, so that the latter must receive its oil in smaller, less efficient tankers or by pipeline from the Gulf Coast.

In each case, including the upper Midwest, nevertheless, the ruling price will be the Persian Gulf price plus applicable transportation charges.

Cicchetti's fourth error is unworthy of a sophomore economics student. It is not the *average cost* in any market that determines price but the *highest* (marginal) *cost*. This fallacy of the author obscures the fact that it is the highest cost oil (almost certainly imported oil) that will determine the price in each market, not the average cost. Alaskan oil will be cheaper *to its owners* in any U.S. market to which it is delivered, but those owners would be foolish indeed to sell it for a price less than buyers would have to pay for the oil with which it competes.

The "cost" of North Slope oil will have nothing whatever to do with the price. To repeat, the price of oil in all U.S. markets will be determined by the price of imports, regardless where North Slope oil is delivered.

Cicchetti's fifth assumption—that the price elasticity of demand is 1.0—is both arbitrary and incredible. It implies that a rise in crude oil prices by a given percentage results in a proportional decrease in consumption.

Price elasticities are notoriously hard to measure, and I do not have at hand any authoritative estimates. Some simple reflection is convincing that 1.0 is ridiculously high, however: The price of crude oil in the United States is in the general vicinity of 10 cents per barrel, so that the contribution of crude oil prices to the price of petroleum products (gasoline, diesel, jet fuel, fuel oil, etc.) is likewise about 10 cents per barrel.

A fall of crude oil prices by half (that is, by 5 cents) would result in a fall in petroleum prices by about 5 cents on the average. According to Cicchetti's elasticity assumption, however, this price reduction would result in a *doubling* of crude oil consumption. Is it reasonable to believe that consumers would buy *twice* as much of *any* major petroleum product in response to a 5 cent per gallon reduction?

Cicchetti's book does not explain his calculations or the significance of the elasticity estimate in those calculations, but my reconstruction of his reasoning suggests that this error biases his numbers in favor of the Trans-Canada alternative.

My reconstruction of the argument is this: (1) Alaska crude is lower cost than Texas crude; (2) because of Cicchetti's marginal cost-average cost fallacy, plus Texas prorationing, Alaska crude both backs out some Texas crude and lowers consumer prices; (4) at lower prices consumers increase their purchases significantly (because of the allegedly high price elasticity of demand); and (5) higher consumption and domestic (Texas plus Alaska) production cause the quota system to permit a larger volume of low price imports than would otherwise be the case. Result: higher consumption and lower prices than would prevail with a lower and more believable elasticity assumption. I set out this reasoning advisedly, but whatever the influence of the elasticity assumption, it would impeach Cicchetti's results.

In summary, the factual foundation of Cicchetti's calculations is outdated, and his method is flawed. I would not take his numbers seriously. The best current judgment would be that consumer prices in different U.S. markets will be totally unaffected by the destination of Alaskan oil.

FUEL COST SAVINGS, CALCULATED FOR SENATOR BAYH

State	1971 per capita consumption of oil products in barrels, source: U.S. Interior Department[1]	Per capita savings of Canadian line versus Alaskan line based on projection of economist C. J. Cicchetti of 32 cents per barrel savings in Midwest and 33 cents per barrel savings in East[2]	Average annual savings of Canadian line versus Alaskan line for family of 4[3]	Annual savings for entire State of Canadian line versus Alaskan line in millions of dollars[4]
North Dakota	28.4	$9.08	$36.32	$5.7
South Dakota	27.2	8.70	34.80	5.8
Nebraska	23.2	7.42	29.68	11.2
Kansas	23.1	7.39	29.56	16.7
Oklahoma	21.5	6.88	27.52	18.0
Minnesota	23.9	7.64	30.56	29.7
Iowa	22.5	7.20	28.80	20.5
Missouri	21.0	6.72	26.88	31.9
Wisconsin	20.1	6.43	25.72	28.8
Illinois	20.4	6.52	26.08	73.0
Michigan	18.7	5.94	23.92	53.4
Indiana	24.3	7.77	31.08	41.0
Kentucky	19.3	6.17	24.68	20.2
Tennessee	17.5	5.60	22.40	22.3
Ohio	16.6	5.31	21.24	57.2
Maine	40.9	13.49	56.96	13.5
Vermont	26.8	$8.84	$35.36	$4.0
New Mampshire	29.3	9.66	38.64	7.4
Massachusetts	35.6	11.74	46.96	67.6
Rhode Island	31.2	10.29	41.16	9.9
Connecticut	30.0	9.90	39.60	30.5
New York	24.8	8.18	32.72	150.4
Pennsylvania	21.0	6.93	27.72	82.3
New Jersey	31.0	10.23	40.92	74.7
Delaware	38.2	12.60	50.40	7.0
Maryland	23.6	7.78	31.12	31.1
West Virginia	19.2	6.33	25.32	11.1
Virginia	27.3	9.00	36.00	42.4
North Carolina	20.6	6.79	27.16	35.0
South Carolina	14.2	6.33	25.32	16.6
Georgia	21.6	7.12	28.48	33.2
Florida	27.3	9.00	36.00	63.4

[1] U.S. Energy Fact Sheets by States and Regions, Interior Department, February 1973.

[2] Per barrel savings from Alaskan Oil: Alternative Routes and Markets by Charles J. Cicchetti, p. 92, figures are per capita consumption times savings.

[3] Per capita savings multiplied by 4 for family with 2 children.

[4] Per capita savings multiplied by 1971 state population in Statistical Abstract.

Note: Consumption and dollar figures are all 1971.

[Excerpt from Alaskan Oil: Alternative Routes and Markets, by Charles J. Cicchetti (Baltimore: Johns Hopkins University Press for Resources for the Future, Inc.) pp. 91–93]

EQUITY AND CONSUMER SURPLUS CONSIDERATIONS FOR U.S. CONSUMERS OF CRUDE OIL

In chapter 3, I restricted my consideration of the benefits of various pipeline alternatives to the average costs of domestic and foreign oil in the markets on the West Coast and east of the Rockies. The equity effects and consumer surplus benefits of each pipeline alternative were omitted. While care must be taken to avoid double counting, these additional issues are quantitatively significant and should be considered.

Table 27 shows the present prices for crude oil of comparable quality on the West and East coasts and in the Midwest. In chapter 3 I used these relative price differentials as a measure of the relative domestic *average* (*presumed to equal marginal*) *cost* differentials in each part of the country. Greater costs per barrel at the margin are partly due to higher transportation and production costs.

Some part of the price differences shown in the first line of table 27 is due to *domestic* (*state prorationing*) and *foreign* (*import quota*) supply restrictions. The benefits of state prorationing restrictions fall in favor of the taxpayers of producing states and the owners of oil companies. At the same time, some of the costs of such "conservation" practices are passed on in the form of higher prices to the consumers of oil who reside in states that do not produce oil.

TABLE 27.—SOME EQUITY EFFECTS OF ROUTE SELECTION

[Dollars per barrel]

	West coast	Midwest	East coast
Prices now	3.17	[1] 3.81	4.06
Prices if Alaska pipeline is built [2]	2.38	[1] 3.81	4.06
Prices if a Canadian pipeline is built [2]	3.17	[3] 3.49	[3] 3.73

[1] Prices in the Midwest normally should be 25 cents per barrel lower than on the east coast because of increased transportation costs to the east.

[2] Assuming that the price elasticity is unity and that half of the price decrease is passed on and, in the case of TAP, that all the oil is supplied to the west coast, District V.

[3] Assuming that half the oil from the north slope—1,000,000 barrels per day—would be shipped to the east coast.

Similarly, the national security benefits associated with restricting foreign oil affect all Americans equally. But the price differentials shown in table 27 indicate that all Americans are not paying equally in the form of similar crude oil prices for this national security benefit. The delivered price of crude oil from the Persian Gulf is approximately equal on the U.S. West and East coasts, yet there is a price differential of approximately 90¢ per barrel for oil similar in quality to North Slope crude.[7] Therefore, an additional economic basis for a comparison of alternative pipeline routes is to determine the effects of each route on the present inequities in crude oil prices in the United States.

Assume that the *price elasticity of demand is equal to unity*. To measure the effect of an additional 2 million barrels per day (full capacity of either TAP or TCP alternatives) on the quantity of oil supplied at the 1971 equilibrium prices and quantities, assume that the supply of crude oil is restricted in domestic markets to its present levels. Further assume that since oil companies both buy and sell oil half of any price change would be passed on to consumers.

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[7] If lighter weight crudes, such as 30° API were used, this differential would fall to approximately 60¢ per barrel.

The prices that would result in the three reference markets under these assumptions are shown in table 27. This comparison leads to the conclusion that if TAP were built instead of TCP the inequities that now exist in the form of higher relative prices paid by oil consumers in non-producing Midwest and East Coast states would be significantly increased. On the other hand, the construction of a TCP system would begin to redress these present inequities, and while prices are not expected to actually decline in either market, a reduced relative rate of price increases should favor Midwest consumers. In the future, therefore, remaining price differentials might be attributed in large part to transportation cost differences from domestic sources of supply rather than to present domestic and foreign supply constraints.

A precise measurement of the equity effects of each alternative is impossible without a more completely defined social welfare function. Since these equity effects, however, serve only to reinforce the conclusions based on the productive efficiency benefits determined in chapter 3, it is obvious that the advantages of the TCP alternatives are understated when such equity differentials are excluded, because they also favor the TCP alternatives.

Whether the present inequities between oil consumers in District V and oil consumers in the Midwest or on the East Coast would actually increase depends on several additional factors that I will discuss in the next chapter, since such price adjustments would also reduce profits. Clearly, however, these inequities would become worse, other things remaining the same, if TAP were built, and from that standpoint alone a route through Canada is preferable to TAP.

In this discussion I have first assumed institutional rigidities in the Mandatory Oil Import Quota Program east of the Rockies. Second, I have assumed for the purpose of this demonstration that *domestic demand and supply do not change over time*—a highly unrealistic assumption but one that allows me to keep the analysis simple. Furthermore, as I will show later, changes in this assumption tend to affect TAP adversely relative to the TCP alternatives. Finally, I implicitly assumed—perhaps naively—that alternatives other than price competition would not be used in the future if excess supply occurred, but later I will consider the equity issues raised by some of these alternatives. (Emphasis added.)

Mr. JACKSON. On the basis of the review by this economist I can state categorically that the destination of North Slope crude oil will have no effect one way or the other upon consumer prices for petroleum products east of the Rockies.

The calculations of the Senator from Indiana depend, as his table of alleged savings makes clear, upon a book by Prof. Charles Cicchetti of the University of Wisconsin. Two factual assumptions about crude oil prices are absolutely essential to Professor Cicchetti's analysis. Neither of these assumptions is valid today, and neither of them will be valid when North Slope oil begins to flow to markets in the lower 49 States.

The two fundamental propositions upon which Professor Cicchetti and the Senator from Indiana base their claims about consumer savings are these:

First, that prorationing in Texas and Louisiana restricts domestic production east of the Rockies, and thereby supports prices in that part of the United States above world market prices, and above prices west of the Rockies, where prorationing does not exist.

Second, that oil import quotas keep domestic oil prices in both parts of the United States far above the price of imported oil, and also divide the oil market in the two parts of the country into two hermetically isolated units.

Professor Cicchetti's book has become the Bible of the trans-Canada pipeline advocates, but since 1971, when he made his calculations, Texas and Louisiana have removed their restrictions upon crude oil production and the oil import quotas have been abolished. Even more important, the success of OPEC plus the devaluation of the dollar have wiped out the price difference between imported and domestic oil.

The two changes together will soon wipe out most of the differences between prices on the west coast, the gulf coast, and the Northeast. These facts are absolutely crucial to a calculation of the price effects of North Slope oil.

In 1980 we expect at least half of our total oil supply to be imported. Half of that amount, almost all our increase in imports, and almost all our increase in total supply, will come from the Persian Gulf. It is likely in fact, that every drop of the increase in U.S. oil supply which does not come from Alaska will come from the Persian Gulf.

In view of the last 2 years' events, it would be foolish to predict the price of imported oil in 1980 or 1985. But one thing I can say with confidence—foreign oil will not be cheaper than domestic oil of equal quality.

The high price of imported oil, and its predominance in the growth of our national energy supply, make Professor Cicchetti's conclusions inoperative today and for the foreseeable future.

Consumers do not pay one price for gasoline or fuel oil refined from Texas crude, another price for products of Alaska crude, and a third price for products of Arabian crude. The price of crude oil in the East and Midwest will be the price of Persian Gulf oil plus its transportation cost.

Any oil for Alaska that reaches the Midwest or the east coast will be sold for the highest price it can command, whether it comes by a trans-Canada pipeline or a more roundabout route. That price will be the Persian Gulf price plus transportation cost.

Let me repeat. The calculations of Professor Cicchetti and the Senator from Indiana are out of date, useless, and misleading. The destination of Alaska crude oil will have absolutely no effect upon consumer prices for oil in the East and Midwest. The price of oil in each market will be determined by Persian Gulf prices.

I have a final thought for Midwest consumers, however. The costs for gasoline and fuel oil throughout the United States will be affected in three ways by the way we vote today.

First, to the extent that America shows its determination and ability to develop its own energy our bargaining power will be increased.

Second, reserves in some exporting countries like Venezuela and Libya are rapidly being depleted, and others, like Kuwait and very possibly Saudi Arabia, may deliberately restrict production. To the extent that we can hold our oil import requirements down by energy conservation and by developing our domestic energy sources like the North Slope, we limit the upward pressure of world demand upon world oil prices.

Finally, we do not know how much oil and gas exists in Northern Alaska. But we do know that the Arctic is the world's most promising frontier for petroleum exploration outside the Middle East. If there will ever be an oil discovery of Middle Eastern magnitude within our national borders, or even another producing province like Texas was for two generations, it will be in Northern Alaska.

It is absolutely certain that there is much more oil and gas on the North Slope than has been developed so far. And there is a significant possibility that a real oil bonanza could turn our energy picture entirely around—a bonanza that would bring the United States another era of cheap fuels, and vastly enhance our security and our balance of payments.

Congress has in its hand the ability to revive the massive exploration of the American Arctic for oil and gas. There are two things we must do.

The first hurdle we can overcome is to permit the oil that has already been discovered to go to market, to provide private enterprise with an incentive to start drilling again on the leases outstanding on the North Slope. The Senate's contribution to this task is to pass S. 1081 without delaying amendments.

The other obstacle we must overcome is to open up for exploration the 26 million acre naval petroleum reserve on the North Slope. I have offered, together with Senator RANDOLPH and Senator MAGNUSON, S. 1586, which would create a system of usable strategic reserves for the United States.

As one part of that system, the bill directs the Secretary of the Interior and the Secretary of the Navy to conduct a program of exploration for the naval petroleum reserves, and authorizes $120 million for that purpose over 3 years.

The Interior Committee has already had 1 day of hearing on this bill, and has scheduled further hearings later this month. I hope to report this bill to the Senate shortly after the August recess.

If new exploration programs on either the existing State and Federal leases, or on naval petroleum reserve No. 4 are more than marginally successfully, the trans-Alaska pipeline will have to be supplemented by another oil transportation system. The most direct and effective way to advance both the addition of new reserves is:

First, to remove the obstacles to building the trans-Alaska pipeline;

Second, to start the difficult and long process of negotiating with Canada regarding a second overland pipeline; and

Third, to begin exploration of the naval petroleum reserve.

S. 1081 accomplishes the first and second of these steps. S. 1586 will accomplish the third.

Mr. NELSON. Mr. President, I would like to take this opportunity to speak on behalf of the amendment by Senators MONDALE and BAYH to the Alaska pipeline bill. Along with 17 other Senators, I have joined as a cosponsor of this proposal.

I support the Mondale-Bayh amendment because I believe it would assure that Alaska's oil resources are developed in the best interests of the American people and will expedite this crucial energy decision.

This amendment provides for an 11-month independent study by the National Academy of Sciences to obtain and weigh all the facts on the main alternatives for bringing out the Alaska North Slope oil and make a recommendation on the best oil delivery route. The two alternatives which would be studied are a trans-Alaska pipeline and shipping route to the U.S. west coast and a trans-Canadian pipeline to the U.S. Midwest.

To further determine the feasibility of the trans-Canadian route, the amendment directs negotiations during the study period between the U.S. Secretary of State and the Canadian Government on the dates and conditions for such a route.

The amendment then provides for a congressional decision clearing the way for a pipeline for the Alaska oil within 3 months after the National Academy of Sciences report.

In sum, adoption of this amendment today would bring an independent study and conclusions on all the questions involved in the Alaskan oil pipeline issue and clear the way for a go-ahead on either the trans-Alaska or the trans-Canada pipeline within 14 months.

No legislation or amendment before us today represents an entirely satisfactory solution to the Alaskan oil issue. But I believe the Mondale-Bayh amendment represents the fairest, most effective and most expeditious approach in the circumstances to the difficult issue of how best to bring out the Alaskan oil.

It has been evident for years that there was no easy answer in the Alaska oil development issue. It is a complex matter of great national import involving vital questions that affect all Americans.

As has traditionally been the case in this country with energy and other resource matters, a few large private interests have attempted to force a public decision on the choice of a pipeline route for the Alaska oil not on the basis of broad public considerations but on the basis of their more narrow, profitmaking concerns.

Nearly 4 years ago, I raised this issue of the public versus the private interest in the Alaskan oil issue in a colloquy with Judge Russell Train, Chairman of the President's Council on Environmental Quality, at a Senate Interior Committee hearing. Quoting from that colloquy, I said:

> Now it seems to me we have a situation here where the private sector has made some decisions, but the big controlling decision is still in the hands of the Federal government, since there are public lands that they have to go across . . . The question that bothers me is: How long are we going to permit the private sector to decide these issues, which have great ecological ramification?

Yet to this day, energy, economic and environmental factors of great public concern in the Alaska oil issue have not been fully and comprehensively considered by the oil industry or the U.S. Government.

Instead, the facts have been clouded and confused by a massive oil industry propaganda campaign designed to scare Congress and the public into rubber-stamping the Alaska pipeline, granting energy fuels price increases, and permitting a stronger industry monopoly.

Even now, the industry tactics and policies in our energy affairs are the subject of investigations by the Federal Trade Commission, the Department of Justice, the Cost of Living Council, and several congressional committees. As amendments to this bill, I have proposed a special commission to study the role of the energy fuel industry in our energy problems and policies and to examine the options for restructuring the industry to better serve the public interest, and the establishment of a data bank in the General Accounting Office to collect for the first time the information from the oil industry on its reserves, and to coordinate the myriad other facts that are essential for better energy policy decisions.

In short, the whole history of the Alaskan oil pipeline proposal is a classic study of how not to make an intelligent, publicly responsive energy policy decision.

Despite strong evidence that a trans-Canadian pipeline would deliver Alaska's oil where this country needs it most, in Midwest and Eastern U.S. markets, at less cost to the consumer, the Alaskan oil consortium has pushed doggedly ahead for a trans-Alaska route.

According to a study for Resources for the Future by Economist Charles Cicchetti, a trans-Canadian pipeline would not only offer important cost and supply advantages to hard-pressed consumers in the Midwest and East, but would also help make available over the long run oil from untaped sources such as the tarsands of Alberta, Canada, a 100-billion-barrel reserve.

The area of this country east of the Rockies, which would receive the Alaskan oil directly if a trans-Canadian line were built, will account for more than 80 percent of the Nation's oil consumption in 1980–85, according to recent estimates. There is wide agreement that the Midwest and the east coast are faced with rising prices and a possibly severe shortage of domestic oil supplies. Already, Midwestern and Eastern oil prices have risen to $1.10–$1.15 per barrel higher than the price for west coast oil, in spite of the recent removal of oil import quotas.

A trans-Alaskan pipeline would deliver the North Slope oil to the west coast, an area where oil prices have historically been lower and where the Cicchetti analysis shows that the Alaskan oil would bring an actual oversupply under present rates of growth in demand and supply. Furthermore, since the President's energy message, the availability of two additional sources of west coast supply has become evident. First, the President has encouraged the Secretary of the Interior to speed up offshore oil development in the Gulf of Alaska, a reserve which some analysts have indicated has even greater potential than the Prudhoe Bay fields in Alaska. Second, a recent report indicates that California, which is producing about 80 percent of west coast—district V—oil production can more than double its production by further development of available resources.

With the farms, schools, consumers, businessmen, and cities of the Midwest and East suffering a fuel squeeze from one season to the next, why should Alaskan oil be shipped to the well-supplied west coast instead of being delivered by a Canadian route directly to the neediest areas of the country?

The oil companies have selected the trans-Alaska route not on the basis of any benefits that might accrue to U.S. consumers, but because of the industry's international profitmaking plans, according to the Cicchetti analysis. The sale of surplus Alaskan oil to Japan or shipping oil to the Virgin Islands to be refined then sold at higher prices on the U.S. east coast have been cited as possible schemes to build profits from a trans-Alaska pipeline-ocean tanker route.

Although the recent lifting of U.S. oil import quotas has removed much of the incentive for the international profit plans for the North Slope oil, according to Cicchetti, the Alaska pipeline proponents still push ahead.

Ironically, while Alaska pipeline supporters have argued that a Canadian oil route was not feasible, a United States-Canadian consortium has announced plans for a trans-Canada natural gas pipeline from Alaska to the Midwest and intends to make application to the Canadian Government shortly for a permit.

Despite strong expressions of interest in a trans-Canadian oil route as well by the Canadian Government, the U.S. Government has refused to seriously negotiate on the feasibility of a Canadian alternative.

On March 12, 1971, Canadian Minister of Energy, Mines and Resources, Joe Greene told the House of Commons:

> I think we can assure the United States oil companies and the United States government that there will be no unnecessary roadblocks at the Canadian end and the Canadian governmental side.

On March 18, 1973, current Canadian Minister of Energy, Mines, and Resources Donald MacDonald said in a television interview:

> If the Americans came back and said to us, look, we've had second thoughts on that Trans-Alaska pipeline, we would like to take you up on your willingness to entertain an application about the oil line through the Mackenzie route, I think the interests of the West Coast (of Canada) would dictate that the government of Canada would enable that kind of application to go ahead.

In response, the U.S. Department of the Interior position was that the scope of its work is to deal with "the applications on our desk"; that is, the industry proposal for a trans-Alaska oil line.

Again, I ask the question: How long are we going to leave it up to the private sector to decide these issues which have enormous implications for the interests of the entire country? The complex energy problems that have mushroomed, because of our past neglect can now be met only with a full and responsible partnership of the public concern with the private interest, and it is not too late for the public's role to be asserted in the key issue of Alaskan oil.

On another important consideration, the environmental impact, even the Department of the Interior's comparison of the Alaska and Canadian pipeline alternatives concluded that neither route had an overall advantage.

If maximum protection of the marine environment is desired, then the overland, trans-Canadian route would be preferable to the trans-Alaska pipeline-ocean tanker route, the Interior Department pointed out. If minimum terrain and terrestrial habitat disruption is desired, the trans-Alaska route would be preferable, the report argued. If maximum avoidance of earthquake threats is the aim, the report acknowledged that the trans-Canada route would be better.

Furthermore, the environmental impact of a trans-Canada pipeline laid alongside the natural gas pipeline that is already planned would be far less than the total impact of a gas route in Canada and an oil route in Alaska.

Confronted with these serious challenges to the energy, economic, and environmental grounds for a trans-Alaska route, the Alaska pipeline proponents are now charging that any further consideration of the pipeline issue will greatly delay delivery of the North Slope oil and damage America's balance-of-payments situation.

Yet 2 months ago, the chairman of the board of Exxon Corp., a major partner in the trans-Alaska pipeline consortium, gave late 1978 as the earliest estimate for completion of the Alaska pipeline.

By comparison, several sources, including the Canadian Government, estimate that it would be feasible to complete both an oil and a gas pipeline through Canada's Mackenzie Valley by 1979.

Early this year, a consortium of major American and Canadian companies, including several who have invested in the Alaska pipeline project, released a report which included a time estimate for a trans-Canada route of 4 years: 1½ to obtain approval, complete planning and make other arrangements for construction and 2½ for actual construction.

Even if S. 1081, the bill settling the right of way issue for an Alaska pipeline, is passed, it will take a year or more of litigation to settle the remaining questions involved in the Alaska route, a fact which was acknowledged by Secretary of the Interior Rogers Morton in April.

By contrast, the independent study, Canadian negotiations and final congressional action provided for in the Mondale-Bayh amendment would remove the justification for further court action and provide for a pipeline go-ahead within 14 months.

Further, the study and negotiations with Canada directed by the Mondale-Bayh amendment would help clarify any differences of opinion as to the time it would take to build a trans-Canada pipeline as opposed to a trans-Alaska line, and would help clarify any other uncertainties.

No one would deny that bringing Alaska's oil to U.S. markets will help our Nation's oil supply situation and help offset our dependence on foreign oil. But it would be misleading to think that the North Slope oil will be the solution to either of these long-range and complex problems. The Alaskan oil reserves will be providing only 8 percent of this country's expected 25 million barrel a day oil demand in 1985, and massive amounts of foreign oil will still have to be imported to fill the gap between our total demand and our domestic oil resources. Further, in recent congressional testimony, Economist A. Myrick Freeman pointed out that the net dollar outflow attributable to building a trans-Canada route rather than a trans-Alaska line will be a small fraction of 1 percent of the total volume of U.S. expenditures abroad.

In a final effort to get approval for the Alaska pipeline over a Canadian route, the trans-Alaska pipeline consortium has tried to blame environmentalists for its frustrations.

In fact, the responsibility for the delay on the pipeline issue lies squarely on the back of the oil industry, which either through arrogance or incompetence has been creating its own delays. Every step of the way, the Alaskan oil consortium has tried to get a Government go-ahead without full consideration of the alternatives and in spite of a Federal court ruling 3 years ago that the proposed right-of-way for the pipeline across Federal lands in Alaska was wider than the maximum permitted under the law.

It is time to stop looking for scapegoats and start looking for answers to this Nation's energy problems. As one important step in establishing a national policy to effectively and expeditiously meet our national energy needs, we should require the independent analysis of the pipeline alternatives, the negotiations with Canada, and the final congressional decision, as provided by the Mondale-Bayh amendment.

Mr. President, I ask unanimous consent that two thoughtful editorials on the Alaska pipeline issue, one from the Washington Post and one from the Green Bay Press-Gazette, be printed in the Record at this point.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Washington Post]

Oil From Alaska: Where or When?

The real issue in the Alaska pipeline fight, as we see it, is whether the long-term national interest would be better served by transporting the North Slope's oil by pipeline across Alaska and then by tankers from Valdez to the West Coast—or by bringing the oil by pipeline across Canada to the Midwest. Champions of the Alaskan route see it differently. To them the central issue is not where but when the oil starts flowing to the lower 48 states. "Time is critically important," Interior Secretary Rogers C. B. Morton wrote in a letter to the editor which appears on the opposite page today. Time is the single factor making the Alaskan route "clearly preferable," the Senate Interior Committee recently found. Sen. Henry Jackson (D-Wash.), opposing delays of any kind, put it dramatically last Monday: "Will Alaska oil be kept in the ground while the American people are running short? Will the nation be forced to rely indefinitely on oil imports from insecure foreign sources?"

This formulation has a number of flaws. The first is that it is hard to say with certainty that the Alaskan route would be more expeditious because it is impossible to say when either pipeline could be finished. Mr. Morton has often said the trans-Alaska project "is ready to be built as soon as present legal obstacles are cleared away," but those obstacles are hardly the sort which can be easily or quickly brushed aside. In barring construction of the Alaskan pipeline last winter, the Court of Appeals ruled on the "very simple point" that the proposed right-of-way across public lands would be wider than the maximum permitted under present law. That problem would be remedied by the right-of-way bill now before the Senate. But the court expressly reserved judgment on the substantial environmental issues involved in the suit, finding those "not ripe for adjudication at the present time." In other words, if and when the right-of-way laws are modernized, the matter will go right back into the courts and could remain there for some time—unless Congress should be stampeded into giving the project an environmental exemption, which would be unwarranted and unwise.

Comparing this prospect with the outlook for a trans-Canadian pipeline amounts to comparing the unpredictable with the unexplored. Because the oil companies and the administration fastened so quickly on the Alaskan route, they have never undertaken an objective assessment of the engineering, environmental, economic and diplomatic factors involved in a Mackenzie Valley undertaking. The greatest single factor, the Canadian government's attitude, is not so much imponderable as it is unprobed. Secretary Morton's description of one key exchange in May 1972 suggests how earnestly Canadian expressions of interest have been entertained. Barely one week after the Canadian energy minister, Donald S. Macdonald, wrote him "a detailed letter" outlining the possible advantages of the Mackenzie Valley way and proposing joint studies, Mr. Morton "forthrightly" replied that the U.S. had decided to go through Alaska instead. Since that official rebuff, the State Department claims to have found "no strong current interest" in a Mackenzie Valley route in Ottawa. This is hardly surprising but it is like complaining about not being invited to dinner—after one has announced that he wouldn't come.

Given all the uncertainties about the courts and the Canadians, it is sheer speculation to claim that the trans-Alaska pipeline could be completed "at least 3 to 5 years and perhaps 7 to 10 years earlier" (State Department) or "2 to 6 years earlier" (Interior Committee) or "5–7 years sooner" (Atlantic Richfield). And when the issue of relative time disappears in the fog, there is little left to justify hurtling ahead in Alaska. Indeed, if one discounts the excitement about the "energy crisis"—a crisis which Alaskan oil will not solve—and looks specifically at where that oil could make the most difference, there is every reason to start serious talks with the Canadians in the morning. The trans-Canadian route would, after all, bring North Slope oil directly to the Midwest, a region which is perennially fuel-poor and more dependent on oil from those "insecure foreign sources" than the well-fueled West Coast. That is a consideration which ought to have substantial weight.

So far, the pipeline fight has been a textbook example of how not to resolve such a complex question. This week Sens. Walter Mondale (D-Minn.) and Birch Bayh (D-Ind.) are offering the Senate a way to obtain some real perspective and arrive at a firm decision at a definite time. The Mondale-Bayh amendment would (1) direct the Secretary of State to conduct serious negotiations with the Canadian government and report to Congress within eight months, (2) authorize the National Academy of Sciences to make a comprehensive 11-month review of both pipeline alternatives, and (3) provide for a congressional decision within 90 days after the completion of both studies. This is how the issue should have been handled from the start. As Secretary Morton wrote, "Open-ended delays make for open-ended difficulties." That was not intended as an argument for the Mondale-Bayh amendment, but it is an excellent reason why the amendment should be approved.

[From the Green Bay Press Gazette]

Oil From Alaska

Arizona Rep. Morris Udall has introduced "a third approach which will be loved by no one" in the deadlock over building an oil pipeline across Alaska to the Pacific or building a pipeline across Canada to the American Middle West.

Udall's point is that the oil is badly needed and that enough time has been wasted. He agrees there are legitimate concerns about the line going over the Alaskan perma-frost subject to earthquakes and of oil spillage from tankers. But he says the conservation movement could become a scapegoat for the coming petroleum shortage. Then, there are arguments about what section of the United States needs the oil the most and about whether the Canadian pipeline would throw American balance of payments further out of balance.

The Udall bill would direct a study on these hard points by the Office of Technology Assessment, a new research arm of Congress, direct American-Canadian negotiations and require an up or down vote by Congress within 60 days after getting the reports.

The bill also would make the decision final, not subject to judicial review. That might be a little too much to expect. But the Udall outline for researching the facts and for coming up with a strong recommendation should be followed.

Mr. JACKSON. Mr. President, before the President went to the hospital yesterday, he sent me a letter supporting the trans-Alaska pipeline. I ask unanimous consent that the letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The White House,
Washingon, D.C., July 12, 1973.

Hon. Henry M. Jackson,
U.S. Senate,
Washington, D.C.

Dear Mr. Chairman: As the Senate moves toward final consideration of the legislation to remove the present legal impediment to the construction of the proposed Trans-Alaska Pipeline created by the judicial interpretation of the Mineral Leasing Act of 1920, I want to share with you my view that construction of this pipeline is integral to the national interest of the United States.

As you know, the oil discoveries on the North Slope of Alaska represent our largest untapped domestic source of crude oil. As I stated in my Energy Message to the Congress on April 18 of this year, I believe that it is crucial in meeting the energy challenge of the coming decades that we take immediate and responsible steps to increase our domestic energy resource base. I believe that the two million barrels a day of domestic oil that we can expect to realize through the Trans-Alaska Pipeline is the cornerstone of this strategy and can make an irreplaceable contribution to both our economic well-being and our national security interests.

By virtue of the unprecedented thoroughness with which the Department of the Interior had addressed the environmental effects of the pipeline, I am firmly convinced that we can realize these benefits while fully protecting environmental values.

I therefore urge that the Senate give its approval to this needed legislation without further delay and permit construction of the pipeline as soon as practicable.

Sincerely,

Richard Nixon.

Mr. MONDALE. Mr. President, the question is whether the Jackson or the Mondale proposal will deliver oil from the North Slope faster to the consumers of the country. I think that one reasonable conclusion based on the debate is that if we are eager to bring a decision swiftly to bear as to how to move that oil into the United States, Senators should vote for the Mondale-Bayh amendment.

The Senator from Washington (Mr. Jackson) cannot deny that if his proposal becomes law, without any doubt the plaintiffs will take this case back to court and litigate it for 2, 3, 4, or 5 years before a single length of pipe can be laid anywhere in the country. The Senator knows that he cannot deny that. The Senator said that if the case is taken back to court—which I think is a certainty—he would introduce a bill to cut off litigation.

Our proposal requires a responsible study—fulfilling the intentions and purposes of the National Environmental Policy Act—of the economic, environmental and all other aspects concerning the consumer interests with respect to alternative lines.

The trans-Alaska pipeline—and I think the evidence proves this point without any dispute at all—is intended not to serve only U.S. markets, but also markets in Japan and elsewhere outside the borders of the United States with a surplus of 500,000 or 600,000 barrels a day of much needed oil that should otherwise go to the United States.

Our proposal is for a study to be made of a trans-Canadian pipeline that would come to Edmonton, and from there go to any point in the United States.

Compare that with what would happen to the surplus coming from the Alaska pipeline of 500,000 to 600,000 barrels. There are no pipelines leading east. The tankers which carry that oil cannot go through the Panama Canal. The only thing we can do is to sell that oil to Japan and elsewhere and make us more dependent upon Middle East oil.

The PRESIDING OFFICER (Mr. Clark). All time on the amendment is now expired.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the Mondale-Bayh amendment.

The question is on agreeing to the amendment of the Senator from Minnesota (Mr. Mondale), No. 240, as modified.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BUCKLEY (when his name was called). Present.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Washington (Mr. Magnuson). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. Hartke), is necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee), the Senator from Washington (Mr. Magnuson), and the Senator from Alabama (Mr. Sparkman) are absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

Mr. SCOTT of Pennsylvania. I announce that the Senator from Michigan (Mr. Griffin) is absent on official business.

The Senators from Maryland (Mr. Beall and Mr. Mathias) are necessarily absent to attend the funeral of Honorable Simon E. Sobeloff, former chief judge of the U.S. 4th Circuit Court of Appeals.

On this vote, the Senator from Maryland (Mr. Beall) is paired with the Senator from Maryland (Mr. Mathias). If present and voting, the Senator from Maryland (Mr. Beall) would vote "nay" and the Senator from Maryland (Mr. Mathias) would vote "yea."

The result was announced—yeas 29, nays 61, as follows:

[No. 284 Leg.]

YEAS—29

Abourezk
Bayh
Biden
Brooke
Case
Chiles
Church
Clark
Fulbright
Hart
Haskell
Hathaway
Hughes
Humphrey
Kennedy
McGovern
McIntyre
Metcalf
Mondale
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Ribicoff
Stafford
Stevenson
Williams

NAYS—61

Aiken
Allen
Baker
Bartlett
Bellmon
Bennett
Bentsen
Bible
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Goldwater
Gravel
Gurney
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Long
McClellan
McClure
Montoya
Moss
Nunn
Pastore
Pearson
Randolph
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

ANSWERED "PRESENT"—1

Buckley

NOT VOTING—8

Beall
Griffin
Hartke
Magnuson
Mathias
McGee
Sparkman
Stennis

So Mr. MONDALE's amendment (No. 240), as modified, was rejected.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I can think of no greater public service than that of adequately, and accurately, informing our citizenry. The news media has long been the most effective means of disseminating the news, clarifying the issues, and reporting on the activities of the leaders of our country.

Much has been said, particularly during the past 6 months, about the critical energy shortage and what the governmental leaders are going to do about it.

On June 25 Mr. John Chamberlain wrote a very timely article on the energy question and the ongoing issue of the trans-Alaska pipeline. While it substantiates my concern for the Nation and my arguments for the trans-Alaska pipeline, it is an excellent report to the people as to what the problem is all about.

I ask unanimous consent to have Mr. Chamberlain's column printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FUELING A PIPE DREAM

(By John Chamberlain)

Speaking of the energy crisis, as everybody seems to be doing these days, that oil from the North Slope of Alaska languishes in the ground because nobody can break the legal impasse that keeps a pipeline from being built across the Arctic tundra to a warm-water port on the Pacific. That oil would be enough to supply one-eighth of our total daily gasoline and oil consumption, saving us $1.3 billion a year on the balance-of-payments drain that permits foreigners to gang up on the U.S. dollar.

The figures come from Senator Mike Gravel of Alaska, and what they tell us is that the contemporary gas shortage can be directly laid to the more fanatic environmentalists who have kept $100 million worth of oil company pipe rusting on the tundra while motorists in the "lower forty-eight" states wonder how they will manage to visit their own favorite wilderness spots on their summer vacations.

THE IMPACT OF "SUFFICIENCY"

The whole business would be ridiculous if it were not tragic. The National Environmental Policy Act of 1969, a good act in itself if you believe that human beings can't be trusted to behave, requires that a "sufficient" environmental impact statement be made before anyone can alter the landscape in any significant way. Well, the Department of the Interior spent two years and $9 million on an impact study. This was in addition to some $400 million spent by the Aleyeska Pipeline Service Company, the State of Alaska, a dozen universities and research institutions, and a number of Federal agencies, on related engineering and environmental matters.

Senator Gravel gets really eloquent in describing the "sufficiency" of the Department of the Interior specifications. The Arctic coast of Alaska represents the distance roughly between New York City and Omaha, Nebr. Men are lost in the immensity, and there are no distinguishing features to guide a bush pilot to his designation wherever it may be. A pipeline cutting through the terrain would, to quote Mike Gravel, be "as inconspicuous as a line of sewing thread on a golf course extending from the first to the eighteenth holes."

The greater part of the 789 miles of pipe would be underground even where it crosses three mountain ranges and 350 rivers and streams. In the few places where the line shows, there would be ramps and underpasses for caribou, moose and bears. The experience at the northern Prudhoe Bay end of the projected pipe shows that "caribou are indifferent to man's presence and use passageways readily." The pipeline will not cross major wildlife breeding areas, and it will not interfere with the customary migratory patterns of two herds of 400,000 caribou.

Practically everything is being set to make the pipeline foolproof. A computer control center in Valdez, the southern terminal of the line, will monitor the system electronically, applying automatic stops to leaks that would be pinpointed immediately. Under the river beds the line will be buried five feet deep and encased in thick concrete to prevent any heating of the water that might hurt fish-spawning activity. Some 40 species of quick-growing grass will be seeded wherever the tundra has been disrupted by the pipeline construction.

A DUBIOUS HONOR

With such a "sufficient" environmental impact case, what is keeping the oil companies from bringing motorists and home owners in the "south forty-eight" states relief from the shortage threats? At this point it is not the fanatic environmentalists who are holding things up. That dubious honor goes to an almost forgotten clause in the 1920 Mineral Leasing Act that stipulates pipelines over Federal lands must be limited to 25 feet on each side of a four-foot line itself. The gravel bed used for the Alaska line would exceed the 54-foot limitation. The law, until the judges dug it up, had become a dead letter; if it were to be applied universally it would stop domestic oil transportation practically everywhere in the U.S.

This week, Senator Henry Jackson of the State of Washington plans to introduce a bill that would break the deadhand grip of the judges on the building of the pipeline. The bill isn't quite enough, in Senator Gravel's estimation. Accordingly he plans his own amendment to it that would permit Congress, not the courts, to pass immediately on the "sufficiency" of the Department of the Interior's impact study.

The Congress and the environmentalists willing, we should be free of the fear of rationed gasoline and unheated homes sometime after 1975. Until then, the earmuff market promises a whacking profit.

Mr. GRAVEL. Mr. President, it is heartening to know that Alaska is not the only State whose Governor is concerned about the national energy crisis and is trying to do something about it. Mr. John Chamberlain's column of May 28 concerns the Honorable Meldrim Thomson, Jr., Governor of New Hampshire, and his efforts to respond to the needs of his State.

Mr. Chamberlain also refers to the trans-Alaska pipeline and what the delay has meant—increased imports from Middle East and a mounting national balance-of-payments deficit. Certainly, the situation is going to worsen and the longer construction is delayed for the trans-Alaska pipeline the more untenable will be our situation.

I ask unanimous consent to have Mr. Chamberlain's article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THESE DAYS

(By John Chamberlain)

A GOVERNOR ANTICIPATES THE ENERGY CRISIS

A State governor, Meldrim Thomson of New Hampshire, has taken the bit between his teeth in an attempt to solve the energy crisis. Angered by the delays caused by the environmentalists in hearings on a proposed nuclear power plant before a Site Evaluation Committee, the governor has (1) said he would do everything he can to help atomic power plants get into action both in his own state and in neighboring Maine and Vermont and (2) he has re-emphasized a pledge to bring an oil refinery into New Hampshire with connecting deep water offshore facilities to import bulk fuel from the Middle East.

The Thomson attitude is in marked contrast to that of other politicians, who have yet to comprehend the revulsion that is bound to ripple through a fuel-dependent nation when its homes go unheated for a winter and when the price of gasoline has jumped to 60 or 70 cents a gallon. Thomson may not have heard about the anti-ecologist bumper sticker that is blossoming in some places: "Let the bastards freeze in the dark." But when it crops up in New Hampshire he will not be surprised.

A SERIES OF TIME BINDS

The nation as a whole needs a few more foresighted Meldrim Thomsons if it is to get through the next decade. The attempt to accommodate our needs for ecological purity to our urgent demands for heat, light, transportation and industrial power is up against a series of time binds that will have everybody hopping long before the decade of the Seventies is out.

Bind Number One: the so-called Muskie amendments to the Clear Air Act cannot possibly be met by 1975–76, which was the original deadline set for getting 97 per cent of the hydrocarbons, 96 per cent of carbon monoxide, and 93 per cent of oxides of nitrogen out of all our car motors. The Japanese can meet such standards in the 8 per cent of their Mazda car production runs that are exported to the U.S., but they can't do it for the 92 per cent of the autos intended for home usage. The Ford Motor Company, putting the pressure on, might meet the Muskie purity standards for 8 per cent of its own runs, but it would take the U.S. machine tool industry 12 years to create the capital goods needed to produce relatively clean Wankel engines for the totality of Detroit's production.

Bind Number Two: With the exception of Governor Thomson's New Hampshire, our Northeastern states (or their political representatives, at any rate) can't summon the will to break the deadlock between the ecologists and the oil importers. It now takes 16 small tankers to bring the amount of oil into the Linden, N.J., area that might be transported by one jumbo tanker if there were only a deep water oil transfer spigot 16 miles out to sea. The 16 small tankers, maneuvering close to shore, are all potential collision hazards. A jumbo tanker, discharging its cargo well out to sea, is a collision hazard, too. But oil spilled 16 miles from the coast is less of a menace than oil spilled in close proximity to New York and Newark bays. The use of jumbo tankers and deepwater unloading would also save us a lot of dollar exchange now going for expensive transport.

WHAT OTHER NATIONS ARE DOING

Bind Number Three: We have talked so long about the oil pipeline in Alaska and the possibility of drilling productive wells on the continental shelf off New England, not to mention new refineries on the East Coast, that the Arabs now have a ten-year period in which they can either hold us up for unconscionable crude oil prices or blackmail us out of our efforts to solve the mid-East crisis without letting Israel down. Meanwhile, other nations have no compunctions about building deep water oil ports or offshore transfer spigot stations; and the British, the Norwegians and the Dutch hardly waited a single minute before drilling for oil and gas in the North Sea. If there are spills in the tempestuous outer North Sea, the British and the Norwegians will learn how to cope with them as they go along. Meanwhile, they won't be freezing in the dark in Aberdeen, Scotland, or in Norway's Oslo.

The gas stations in New England are already limiting new customers to ten gallons at the pump. If it's this way in May, what will it be in August, when people are really trying to get out of the city for a breath of air or a look at the mountains? Governor Thomson of New Hampshire is the first prophetic voice in a high administrative place, and the country will be hearing more of him as the energy crisis grows worse.

Mr. STEVENS. Mr. President, recently I received a letter from the United Brotherhood of Carpenters and Joiners of America. This supported the trans-Alaska pipeline and S. 1081, the bill the Senate will soon be considering to permit wider rights-of-way for pipelines and other energy transmissions.

Also enclosed was a fact sheet on the trans-Alaska pipeline. I would like to quote some of the most important points:

The trans-Alaska route means jobs for Americans.

26,000 pipeline construction jobs.

73,000 man-years of tanker construction work.

770 man-years of work on board and maintaining the U.S. tankers.

On the other hand, Canadians will be given employment preference if the pipeline must go through Canada.

These and the other enumerated reasons clearly indicate in a concise form the reason the trans-Alaska pipeline must be built now.

I request unanimous consent that the letter and fact sheet on the trans-Alaska pipeline be printed in the RECORD at this point.

There being no objection it is so ordered.

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA.
Washington, D.C., June 20, 1973.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR STEVENS: The Senate will soon consider Sen. Henry Jackson's bill (S. 1081) to allow the Secretary of the Interior to grant a right of way for construction of the Alaska oil pipeline. We urge you to support this bill.

We believe that construction of the Alaska pipeline is vital. It will do a great deal to help us with our energy shortage and will provide an economic boost to the nation. We favor consideration of an additional route through Canada, but construction of the Alaska route can and should start now. The environmental objections to the pipeline, we believe, have been satisfied.

Sen. Jackson's bill will remove one of the last legal obstacles to construction. The present energy crisis demonstrates the urgent need for the pipeline. We hope you will support the Jackson bill.

Additional information concerning the pipeline is enclosed.

Sincerely yours,
JAMES F. BAILEY,
Legislative Advocate.

FACTS ON THE TRANS-ALASKA PIPELINE

OIL SUPPLY

Five years ago, the largest North American oil discovery in history was made on the North Slope of Alaska.

If this source was available today, it could provide two million barrels of oil a day, which would equal one-third of our present imports.

OIL PIPELINE

Permit to construct the Alaska Pipeline was first sought in 1969 by a group of oil companies.

Proposal was to carry Alaskan oil 789 miles southward to the Alaskan Port of Valdez.

Oil at Valdez would be loaded on U.S.-flag tankers and carried to American ports.

Environmental impact statement and an economic and national security study stressed the need for this oil and the pipeline.

Lawsuits have blocked construction of the pipeline, and latest court rulings bar major pipeline construction on Federal lands anywhere in the U.S. until Congress removes the narrow width limitations in the Mineral Leasing Act of 1920.

The Congress is presently considering the changes necessary to allow construction. (The Jackson bill, S. 1081, would provide the Secretary of the Interior with the authority to grant wider pipeline rights-of-way.)

TRANS-ALASKA VERSUS TRANS-CANADIAN PIPELINE

Trans-Alaska route superior environmentally:

Covers less territory.

U.S. tankers safer than foreign vessels that will carry oil imports if North Slope oil is not available.

Trans-Alaska route means jobs for Americans:

26,000 pipeline construction jobs.

73,000 man-years of tanker construction work.

770 man-years of work on board and maintaining the U.S. tankers.

Canadians will be given employment preference if the pipeline goes through Canada.

Trans-Alaska route means no huge dollar outflow to a foreign country and, thereby, no worsening of our balance of payments.

Carrying this American oil through an American pipeline and on American ships would do much to ease the drain on the dollar, strengthen the economy and aid in our battle against inflation.

Alaska's oil can supply 10 to 12 percent of our needs by 1985, easing our dependence on foreign supply.

The Trans-Alaska pipeline can be built within three years and can begin then to strengthen our energy posture.

The Trans-Canada pipeline is still a general concept, with no detailed plans or studies having been made. It could not be completed in a timeframe consistent with our energy needs.

The Trans-Canada line would still require U.S. right-of-way legislation, and impact statement.

No one has offered to build a Trans-Canada line.

There is strong opposition in Canada to a pipeline that would serve the U.S.

The Canadian Government has no commitment to a pipeline.

There is grave doubt that financing would be available for a Trans-Canada line.

Canadian nature claims have not been settled, while U.S. claims of Alaska's Eskimos, Indians and Aleuts have been settled by the Congress.

In terms of U.S. national needs and interest, the considerations in favor of the Trans-Alaska line far outweigh those of the highly speculative, unsettled Canadian alternative.

ADDITIONAL FACTS CONCERNING THE ALASKA PIPELINE

1. Aside from the requirements of the Alaska pipeline, right-of-way width limits imposed by the 1920 Mineral Leasing Act are seriously out of date and need to be updated as proposed in the Jackson Bill (S. 1081). A good many pipelines now in use are in violation of the 1920 Act and are subject to legal attack.

2. Enactment of the Jackson Bill would make possible the construction of a natural gas pipeline to traverse the Prudhoe Bay-Valdez, Alaska, route which would make available liquefied natural gas to West Coast and Hawaii consumers.

3. The Jackson Bill would clear the way for early start of construction on the Alaska route while feasibility and engineering studies are proceeding on the trans-Canada route. This would reduce the time lag for delivery of oil to the West Coast to the earliest possible date while at the same time proceeding toward providing a means for relieving Middle West shortages.

4. On the environmental question, it is well to bear in mind that a Canadian pipeline would cross 1,500 miles of permafrost compared to less than 300 miles for the Alaska route. The overall length of the Canadian line would be about 2,700 miles compared to 789 miles for the Alaska route.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1672) to amend the Small Business Act, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H.R. 2990) to provide for annual authorization of appropriations to the U.S. Postal Service, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 2990) to provide for annual authorization of appropriations to the U.S. Postal Service, was read twice by its title and referred to the Committee on Post Office and Civil Service.

FEDERAL LAND RIGHT-OF-WAY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska (Mr. GRAVEL) is recognized to call up his amendment.

AMENDMENT NO. 226

Mr. GRAVEL. Mr. President, I call up my amendment No. 226, as modified.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The legislative clerk proceeded to read the amendment.

Mr. GRAVEL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment, as modified, will be printed in the RECORD.

The amendment, as modified, is as follows:

At the end of the bill add a new title III as follows:

TITLE III—AUTHORIZATION FOR TRANS-ALASKAN PIPELINE

SHORT TITLE

SEC. 301. This title may be cited as the "Trans-Alaskan Pipeline Authorization Act".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds and declares that:

(a) The early delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest.

(b) Transportation of oil by pipeline from the North Slope to Valdez, and by tanker from Valdez to domestic markets, will best serve the immediate national interest.

(c) A supplemental pipeline to connect the North Slope with a trans-Canadian pipeline may be needed later and it should be studied now, but it should not be regarded as a substitute for a trans-Alaskan pipeline that does not traverse a foreign country.

(d) Actions of the Secretary of the Interior and all other Federal agencies and officers heretofore taken on behalf of the executive branch with respect to the proposed trans-Alaskan oil pipeline shall be regarded as satisfactory compliance with the provisions of the National Environmental Policy Act of 1969 and all other applicable laws.

RIGHTS-OF-WAY AND PERMITS

SEC. 303. (a) The Congress hereby grants and the Secretary of the Interior and all other Federal agencies and officers are hereby authorized and directed to issue, without further action under the National Environmental Policy Act of 1969 or any other law, and notwithstanding the provisions of any law other than this title, such rights-of-way, leases, permits, approvals, and other authorizations of any kind that they deem necessary for the construction, operation, and maintenance of a trans-Alaska oil pipeline system, a State of Alaska highway, and no more than three State of Alaska airports, all in accord with applications on file with the Secretary on the date of this Act.

(b) The route of the trans-Alaska oil pipeline system shall follow generally the route described in applications pending before the Secretary of the Interior on the date of this Act: *Provided*, That the Secretary may approve amendments to said applications if he deems it appropriate.

(c) At any time he complies with the Act by performing the ministerial acts of issuing a right-of-way, lease, permit, approval, or other authorization required under subsection (a) of this section, the Secretary shall make such action subject to the terms and conditions of the stipulations contained in volume 1 of the final Environmental Impact Statement on the proposed trans-Alaskan pipeline issued by the Secretary on March 20, 1972, prepared by him to prevent or mitigate any adverse environmental impact.

(d) No right-of-way, permit, or other form of authorization which may be issued; nor any other action taken by the Secretary of the Interior or by any other Federal agency with respect to the construction of such pipeline system; no public land order or other Federal authorization with respect to the construction of such highway; nor any lease or permit granted by the Secretary of the Interior for such airports shall be subject to judicial review.

PUBLIC ROADS AND AIRPORTS

SEC. 304. A right-of-way or permit granted under this title for a road or airport as a related facility of the trans-Alaskan pipeline system may provide for the construction of a public road or airport.

ANTITRUST LAWS

SEC. 305. The grant of a right-of-way, lease, permit, approval, or other authorization pursuant to this Act shall grant no immunity from the operation of the Federal antitrust laws.

Mr. GRAVEL. Mr. President, I yield to the Senator from Missouri.

The PRESIDING OFFICER. Under the previous order, the Gravel amendment will be temporarily laid aside and will remain in a laid-aside status until the amendment of the Senator from Missouri (Mr. EAGLETON) and S. 1083 are disposed of, or until the close of business today, whichever is earlier.

Under the previous order, the Senator from Missouri is recognized to call up an amendment.

AMENDMENT NO. 323

Mr. EAGLETON. Mr. President, I call up my amendment at the desk, No. 323.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 32, line 7, immediately after "must", insert "(1)".

On page 32, line 10, immediately before the period, insert a comma and the following: "and (2) submit a report to the Congress containing such findings. Such crude oil may be exported on the basis of such finding that such exports are in the national interest and are in accord with the provisions of the Export Administration Act of 1969, as contained in such report, after the date of expiration of a period of sixty calendar days of continuous session of the Congress following the date on which such report is submitted to the Congress, unless during such period there is passed by either the Senate or the House of Representatives a resolution stating in substance that the Senate or House of Representatives, as the case may be, does not approve the export of such oil, in which case such export shall not be made. For the purposes of this subsection, in the computation of the sixty-day period, there shall be excluded the days on which either the Senate or the House of Representatives is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die. The provisions of section 910–913 of title 5, United States Code, shall apply to the procedure to be followed in the Senate and House of Representatives in the exercise of their respective responsibilities under this subsection in the same manner and to the same extent as such provisions apply to the procedure followed in the case of reorganization plans; except that references in such provisions to a 'resolution with respect to a reorganization plan' shall be deemed for the purposes of this subsection to refer to a resolution of disapproval under this subsection.".

On page 32, strike out all following line 13 and substitute in lieu thereof the following:

"TITLE II—PIPELINES FOR ALASKA NORTH SLOPE OIL AND GAS

"SEC. 201. (a) The Congress hereby finds—

"(1) That facilitating the early delivery of the oil and gas available on Alaska's North Slope to domestic markets is in the national interest.

"(2) That full development and delivery of Alaska's proved and potential oil and gas may best be attained by utilizing the most feasible, economic, and environmentally sound systems.

"(3) That while a specific proposal for the transportation of Alaska's North Slope crude oil over a route that does not traverse any foreign country is at an advanced stage, and proposals for transportation of North Slope natural gas are currently being prepared, it is nevertheless in the long term national interest to initiate early negotiations with the Canadian Government to determine the feasibility of transporting North Slope crude oil on an overland route across Canadian territory.

"(b) The Congress declares that it is the purpose of this title to authorize and request the President to initiate negotiations with the appropriate officials of the Government of Canada and the Secretary of the Interior to undertake studies for the purposes set forth in sections 202 through 205.

"SEC. 202. (a) The 'Academy' means the National Academy of Sciences.

"(b) The 'Academy President' means the President of the National Acedemy of Sciences.

"(c) A 'corridor' means an all-land trans-Alaska-Canada utility corridor, including any pipelines contained therein, for the delivery of North Slope Alaska oil to markets in the forty-eight contiguous States of the United States.

"SEC. 203. (a) The President of the United States is authorized and requested, utilizing the services of the Secretary of State, to enter into negotiations with the appropriate officials of the Government of Canada immediately upon enactment of this Act to ascertain within sixty days from the date of enactment of this Act:

"(1) the willingness of Canada to receive applications for the construction of a corridor, and

"(2) should such willingness exist, the route which would be preferred by the Canadian Government for the Canadian sector of a corridor (hereinafter, the 'preferred Canadian route').

"(b) If, as a result of the preliminary negotiations authorized under subsection (a) of this section, no preferred Canadian route is determined within sixty days after enactment, the Academy shall designate a preferred Canadian route for purposes of the study to be undertaken pursuant to section 205 of this title.

"(c) The Secretary of State is directed to report to the Interior and Insular Affairs Committees of the House and Senate within seventy days from the date of passage of this Act the results of the preliminary negotiations authorized under subsection (a) of this section.

"(d) For purposes of determining the feasibility of construction, operation, and maintenance of a corridor, the President of the United States is authorized and requested, utilizing the services of the Secretary of State, to enter into negotiations with the appropriate officials of the Government of Canada immediately upon the conclusion of the preliminary negotiations undertaken pursuant to subsection (a) of this section.

"(e) Within two hundred and forty days from the date of passage of this Act, and based on the negotiations conducted pursuant to subsection (d) of this section, the Secretary of State shall submit to the Interior and Insular Affairs Committees of the House and Senate, his findings on—

"(1) the need for understandings, agreements, or treaties to protect the interests of the Governments of Canada and the United States and any party involved with construction, operation, and maintenance of a corridor;

"(2) the estimated costs of construction and operation of an oil pipeline in a corridor;

"(3) the estimated feasible date for commencement and completion of construction of an oil pipeline within a corridor;

"(4) the quantity levels of oil from the North Slope of Alaska which the Government of Canada would guarantee through a corridor;

"(5) the willingness of the Government of Canada to increase its exports of oil to the United States during the period of time before a corridor is in operation;

"(6) the ownership, financing, and regulation of the Canadian sector of a corridor; and

"(7) any other results of the negotiations which he may deem relevant.

"SEC. 204. Within thirty days following passage of this Act, the Director of the National Science Foundation shall contract with the Academy President for the performance by the Academy of a study in accordance with the requirements set forth in section 205 of this title.

"SEC. 205. (a) The Academy shall undertake a comparative study of the following means for the delivery of North Slope Alaskan oil;

"(1) an Alaskan land and maritime route, as outlined in the Department of the Interior's final environmental impact statement on the trans-Alaska pipeline system, and

"(2) a corridor from the North Slope area of Alaska across land in the State of Alaska, connecting with the preferred Canadian route to the Canadian-American border, and then to Seattle and Chicago.

"(b) The study of the Academy shall include, for each of the routes in subsection (a) above, a detailed statement on:

"(1) the actual and potential effects on the environment, including, but not limited to—

"(A) the environmental impact of the proposed route;

"(B) any adverse environmental effects which cannot be avoided should the proposal be implemented;

"(C) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

"(D) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

"(2) the effects of such a route or routes on the national interests of the United States, including, but not limited to—

"(A) effects on national security;

"(B) overall economic effects, including effects on consumers; and

"(C) effects on American balance of payments.

"(3) Such other factors as the Academy may deem relevant.

"(c) The Academy, for each of the factors above, shall analyze and compare the relative advisability and feasibility of transporting North Slope Alaskan oil through either or both the routes studied under this section.

"(d) For purposes of this study, the Secretary of State is authorized and requested to periodically inform the Academy President of the progress and interim results of the negotiations authorized by section 203 of this title.

"(e) In carrying out the study, the Academy—

"(1) is directed to solicit and take full account of relevant views of and materials from members of the public, government agencies, citizen groups, and all others concerned with the delivery of North Slope oil to the forty-eight coterminous States of the United States and the effects thereof;

"(2) is authorized to use to the extent deemed advisable the Department of the Interior's final environmental impact statement on the trans-Alaska pipeline system for describing and evaluating the route described in subsection (a)(1) of this section;

"(3) is authorized and requested to cooperate, and develop and exchange appropriate information, with public and private bodies in Canada with a view toward insuring that the environments of both nations are protected, legal and regulatory uncertainties are reduced, and the energy requirements of the people of the United States and the people of Canada are adequately met;

"(4) is directed to utilize to the maximum extent feasible information currently available for purposes of describing and evaluating the route described in subsection (a)(2) of this section;

"(5) is directed, when describing and analyzing the routes in subsection (a) of this section, to consider the relationship of environmental, economic, and other effects of a projected natural gas pipeline from the North Slope of Alaska through Canada for markets in the forty-eight coterminous States of the United States to the factors set forth in subsection (b) of this section.

"(f) Within three hundred and thirty days after passage of this Act, the Academy President shall submit simultaneously to the Director of the National Science Foundation, the President of the Senate, the Speaker of the House of Representatives, and the House and Senate Committees on Interior and Insular Affairs, the study of the Academy, together with his findings and conclusions based thereon, pertaining to the relative advisability and feasibility of transporting North Slope Alaskan oil through either or both of the routes studied under this section.

"SEC. 206. (a) In conducting the study pursuant to section 205 the Academy President is authorized to enter into contracts and other agreements with such persons, institutions, or agencies as he may determine necessary and appropriate to carry out the purposes of this title.

"(b) The Academy President is authorized to secure from any department, agency, or instrumentality of the Federal Government any information he deems necessary to carry out his functions under this title. Upon request of the Academy President, the head of any Federal department, agency, or instrumentality is authorized—

"(1) to furnish the Academy President such information as may be necessary for carrying out his functions to the extent it is available to or procurable by such department, agency, or instrumentality, and

"(2) to detail to temporary duty with the Academy President, on a reimbursable basis, such personnel within his administrative jurisdiction, as the Academy President requests, each such detail to be without loss of seniority, pay, or other employee status.

"SEC. 207. (a) Within thirty days of receipt of the study provided for under section 205 of this title, and after determining, based on the results of said study, and results of the negotiations provided for under section 203 of this title, which delivery system or systems for North Slope oil will best serve the overall national interest, the House and Senate Committees on Interior and Insular Affairs shall report legislation to the full House or Senate, as the case may be, authorizing and directing the Secretary to take such action as may be required to implement the results of said study, including the granting or revoking of rights-of-way for the transmission of oil.

"(b) Legislation reported under subsection (a) of this section shall be highly privileged in each House. It shall be in order at any time after the third day following the day on which such legislation is reported to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(c) Debate on such legislation shall not exceed ten hours, which shall be divided equally between those favoring and those opposing the legislation. Debate on amendments shall not exceed five hours, divided equally between those favoring and those opposing the amendment. A motion further to limit debate is not debatable. A motion to recommit the legislation is not in order, and it is not in order to move to reconsider the vote by which the legislation is agreed to or disagreed to.

"(d)(1) Motions to postpone, made with respect to the consideration of legislation reported pursuant to subsection (a) of this section, and motions to proceed to the consideration of other business, shall be decided without debate.

"(2) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such legislation shall be decided without debate.

"(e) If, prior to the passage by one House of legislation pursuant to section 207(a) of this title, that House receives from the other House legislation of such other House passed pursuant to said section, then—

"(A) the procedure with respect to the legislation of the first House shall be the same as if no legislation from the other House had been received; but

"(B) on any vote on final passage of the legislation of the first House, the legislation of the first House shall be voted on as an amendment in the nature of a substitute to the legislation received from the other House.

"(f)(1) There shall be a conference of the two Houses to resolve any differences between the legislation as passed by each House.

"(2) A conference report shall be highly privileged in each House. It shall be in order at any time after the third day after which such conference report is reported to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and shall not be debatable. An amendment to the motion shall be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(g) Debate on the conference report shall be limited to four hours, which shall be divided equally between those favoring and those opposing the conference report. A motion to recommit the conference report shall not be in order and it shall not be in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(h) Motions to postpone, made with respect to the consideration of such conference report and motions to proceed to the consideration of other business, shall be decided without debate.

"(i) Appeals from decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such conference report shall be decided without debate.

"(j) (1) The provisions of this section are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply; and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(2) Any rule provided in this section may be waived or suspended by the Senate or the House of Representatives only by a vote of two-thirds of the Members voting, a quorum being present.

"(3) If a point of order is made in either the Senate or the House of Representatives, and sustained by the Presiding Officer of that House, that any bill, resolution, amendment, motion, or other matter is not in order by reason of any rule provided in this title, the decision of the Presiding Officer may be overruled only by a vote of two-thirds of the Members voting, a quorum being present.

"SEC. 208. This title shall not be construed to reflect a determination of the Congress regarding the relative merits of alternative transportation systems for North Slope crude oil or regarding the merits or legality of a grant by the Secretary of a right-of-way to construct a crude oil pipeline within Alaska from the vicinity of Prudhoe Bay to Valdez, nor to prohibit such a grant, nor to render moot any actions commenced under the National Environmental Policy Act (Public Law 91–190) with respect to such a grant, nor to require that the Secretary in the execution of any of his statutory duties await the results of the negotiations with the Canadian Government or the conduct of the study provided for in this title before making such a grant.

"SEC. 209. Such funds are hereby authorized to be appropriated as are necessary to implement the provisions of this title."

The PRESIDING OFFICER. There is 1 hour of debate on this amendment. Who yields time?

Mr. EAGLETON. I yield myself such time as I may consume.

Mr. President, I send to the desk a modification of amendment No. 323.

Mr. NELSON. Mr. President, may we have order in the Senate? I cannot hear the Senator.

The PRESIDING OFFICER. The Senator will suspend until Senators take their seats and the Senate is in order.

Mr. EAGLETON. Mr. President, I have sent a modification——

Mr. NELSON. Mr. President, the Senate is not in order.

Mr. EAGLETON. Mr. President, I can hear the Senator from Wisconsin.

The PRESIDING OFFICER. Senators will please take their seats.

Mr. NELSON. Mr. President, the Senate is not in order.

Mr. EAGLETON. Mr. President, to whom is this time being charged?

The PRESIDING OFFICER. The time is not being charged. The time is being charged to the Chair.

Mr. EAGLETON. Mr. President, I have sent to the desk a modification of amendment No. 323.

The PRESIDING OFFICER. The amendment will be so modified.

The modified amendment is as follows:

S. 1081

Intended to be proposed by Mr. EAGLETON to S. 1081, a bill to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment, viz:

On page 32, strike out all following line 13 and substitute in lieu thereof the following:

"TITLE II—PIPELINES FOR ALASKA NORTH SLOPE OIL AND GAS

"SEC. 201. (a) The Congress hereby finds—

"(1) That facilitating the early delivery of the oil and gas available on Alaska's North Slope to domestic markets is in the national interest.

"(2) That full development and delivery of Alaska's proved and potential oil and gas may best be attained by utilizing the most feasible, economic, and environmentally sound systems.

"(3) That while a specific proposal for the transportation of Alaska's North Slope crude oil over a route that does not traverse any foreign country is at an advanced stage, and proposals for transportation of North Slope natural gas are currently being prepared, it is nevertheless in the long term national interest to initiate early negotiations with the Canadian Government to determine the feasibility of transporting North Slope crude oil on an overland route across Canadian territory.

"(b) The Congress declares that it is the purpose of this title to authorize and request the President to initiate negotiations with the appropriate officials of the Government of Canada and the Secretary of the Interior to undertake studies for the purposes set forth in sections 202 through 205.

"SEC. 202. (a) The 'Academy' means the National Academy of Sciences.

"(b) The 'Academy President' means the President of the National Academy of Sciences.

"(c) A 'corridor' means an all-land trans-Alaska-Canada utility corridor, including any pipelines contained therein, for the delivery of North Slope Alaska oil to markets in the forty-eight contiguous States of the United States.

"SEC. 203. (a) The President of the United States is authorized and requested, utilizing the services of the Secretary of State, to enter into negotiations with the appropriate officials of the Government of Canada immediately upon enactment of this Act to ascertain within sixty days from the date of enactment of this Act:

"(1) the willingness of Canada to receive applications for the construction of a corridor, and

"(2) should such willingness exist, the route which would be preferred by the Canadian Government for the Canadian sector of a corridor (hereinafter, the 'preferred Canadian route').

"(b) If, as a result of the preliminary negotiations authorized under subsection (a) of this section, no preferred Canadian route is determined within sixty days after enactment, the Academy shall designate a preferred Canadian route for purposes of the study to be undertaken pursuant to section 205 of this title.

"(c) The Secretary of State is directed to report to the Interior and Insular Affairs Committees of the House and Senate within seventy days from the date of passage of this Act the results of the preliminary negotiations authorized under subsection (a) of this section.

"(d) For purposes of determining the feasibility of construction, operation, and maintenance of a corridor, the President of the United States is authorized and requested, utilizing the services of the Secretary of State, to enter into negotiations with the appropriate officials of the Government of Canada immediately upon the conclusion of the preliminary negotiations undertaken pursuant to subsection (a) of this section.

"(e) Within two hundred and forty days from the date of passage of this Act, and based on the negotiations conducted pursuant to subsection (d) of this section, the Secretary of State shall submit to the Interior and Insular Affairs Committees of the House and Senate, his findings on—

"(1) the need for understandings, agreements, or treaties to protect the interests of the Governments of Canada and the United States and any party involved with construction, operation, and maintenance of a corridor;

"(2) the estimated costs of construction and operation of an oil pipeline in a corridor;

"(3) the estimated feasible date for commencement and completion of construction of an oil pipeline within a corridor;

"(4) the quantity levels of oil from the North Slope of Alaska which the Government of Canada would guarantee through a corridor;

"(5) the willingness of the Government of Canada to increase its exports of oil to the United States during the period of time before a corridor is in operation;

"(6) the ownership, financing, and regulation of the Canadian sector of a corridor; and

"(7) any other results of the negotiations which he may deem relevant.

"SEC. 204. Within thirty days following passage of this Act, the Director of the National Science Foundation shall contract with the Academy President for the performance by the Academy of a study in accordance with the requirements set forth in section 205 of this title.

"SEC. 205. (a) The Academy shall undertake a comparative study of the following means for the delivery of North Slope Alaskan oil;

"(1) an Alaskan land and maritime route, as outlined in the Department of the Interior's final environmental impact statement on the trans-Alaska pipeline system, and

"(2) a corridor from the North Slope area of Alaska across land in the State of Alaska, connecting with the preferred Canadian route to the Canadian-American border, and then to Seattle and Chicago.

"(b) The study of the Academy shall include, for each of the routes in subsection (a) above, a detailed statement on:

"(1) the actual and potential effects on the environment, including, but not limited to—

"(A) the environmental impact of the proposed route;

"(B) any adverse environmental effects which cannot be avoided should the proposal be implemented;

"(C) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

"(D) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

"(2) the effects of such a route or routes on the national interests of the United States, including, but not limited to—

"(A) effects on national security;

"(B) overall economic effects, including effects on consumers; and

"(C) effects on American balance of payments.

"(3) Such other factors as the Academy may deem relevant.

"(c) The Academy, for each of the factors above, shall analyze and compare the relative advisability and feasibility of transporting North Slope Alaskan oil through either or both the routes studied under this section.

"(d) For purposes of this study, the Secretary of State is authorized and requested to periodically inform the Academy President of the progress and interim results of the negotiations authorized by section 203 of this title.

"(e) In carrying out the study, the Academy—

"(1) is directed to solicit and take full account of relevant views of and materials from members of the public, government agencies, citizen groups, and all others concerned with the delivery of North Slope oil to the forty-eight coterminous States of the United States and the effects thereof;

"(2) is authorized to use to the extent deemed advisable the Department of the Interior's final environmental impact statement on the trans-Alaska pipeline system for describing and evaluating the route described in subsection (a)(1) of this section;

"(3) is authorized and requested to cooperate, and develop and exchange appropriate information, with public and private bodies in Canada with a view toward insuring that the environments of both nations are protected, legal and regulatory uncertainties are reduced, and the energy requirements of the people of the United States and the people of Canada are adequately met;

"(4) is directed to utilize to the maximum extent feasible information currently available for purposes of describing and evaluating the route described in subsection (a)(2) of this section;

"(5) is directed, when describing and analyzing the routes in subsection (a) of this section, to consider the relationship of environmental, economic, and other effects of a projected natural gas pipeline from the North Slope of Alaska through Canada for markets in the forty-eight coterminous States of the United States to the factors set forth in subsection (b) of this section.

"(f) Within two hundred and forty days after passage of this Act, the Academy President shall submit simultaneously to the Director of the National Science Foundation, the President of the Senate, the Speaker of the House of Representatives, and the House and Senate Committees on Interior and Insular Affairs, the study of the Academy, together with his findings and conclusions based thereon, pertaining to the relative advisability and feasibility of transporting North Slope Alaskan oil through either or both of the routes studies under this section.

"Sec. 206. (a) In conducting the study pursuant to section 205 the Academy President is authorized to enter into contracts and other agreement with such persons, institutions, or agencies as he may determine necessary and appropriate to carry out the purposes of this title.

"(b) The Academy President is authorized to secure from any department, agency, or instrumentality of the Federal Government any information he deems necessary to carry out his functions under this title. Upon request of the Academy President, the head of any Federal department, agency, or instrumentality is authorized—

"(1) to furnish the Academy President such information as may be necessary for carrying out his functions to the extent it is available to or procurable by such department, agency, or instrumentality, and

"(2) to detail to temporary duty with the Academy President, on a reimbursable basis, such personnel within his administrative jurisdiction, as the Academy President requests, each such detail to be without loss of seniority, pay, or other employee status.

"Sec. 207. (a) Within thirty days of receipt of the study provided for under section 205 of this title, and after determining, based on the results of said study, and results of the negotiations provided for under section 203 of this title, which delivery system or systems for North Slope oil will best serve the overall national interest, the House and Senate Committees on Interior and Insular Affairs shall report legislation to the full House or Senate, as the case may be, authorizing and directing the Secretary to take such action as may be required to implement the results of said study, including the granting or revoking of rights-of-way for the transmission of oil.

"(b) Legislation reported under subsection (a) of this section shall be highly privileged in each House. It shall be in order at any time after the third day following the day on which such legislation is reported to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(c) Debate on such legislation shall not exceed ten hours, which shall be divided equally between those favoring and those opposing the legislation. Debate on amendments shall not exceed five hours, divided equally between those favoring and those opposing the amendment. A motion further to limit debate is not debatable. A motion to recommit the legislation is not in order, and it is not in order to move to reconsider the vote by which the legislation is agreed to or disagreed to.

"(d)(1) Motions to postpone, made with respect to the consideration of legislation reported pursuant to subsection (a) of this section, and motions to proceed to the consideration of other business, shall be decided without debate.

"(2) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such legislation shall be decided without debate.

"(e) If, prior to the passage by one House of legislation pursuant to section 207(a) of this title, that House receives from the other House legislation of such other House passed pursuant to said section, then—

"(A) the procedure with respect to the legislation of the first House shall be the same as if no legislation from the other House had been received; but

"(B) on any vote on final passage of the legislation of the first House, the legislation of the first House shall be voted on as an amendment in the nature of a substitute to the legislation received from the other House.

"(f)(1) There shall be a conference of the two Houses to resolve any differences between the legislation as passed by each House.

"(2) A conference report shall be highly privileged in each House. It shall be in order at any time after the third day after which such conference report is reported to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and shall not be debatable. An amendment to the motion shall be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(g) Debate on the conference report shall be limited to four hours, which shall be divided equally between those favoring and those opposing the conference report. A motion to recommit the conference report shall not be in order and it shall not be in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

"(h) Motions to postpone, made with respect to the consideration of such conference report and motions to proceed to the consideration of other business, shall be decided without debate.

"(i) Appeals from decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such conference report shall be decided without debate.

"(j)(1) The provisions of this section are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply; and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

"(2) Any rule provided in this section may be waived or suspended by the Senate or the House of Representatives only by a vote of two-thirds of the Members voting, a quorum being present.

"(3) If a point of order is made in either the Senate or the House of Representatives, and sustained by the Presiding Officer of that House, that any bill, resolution, amendment, motion, or other matter is not in order by reason of any rule provided in this title, the decision of the Presiding Officer may be overruled only by a vote of two-thirds of the Members voting, a quorum being present.

"Sec. 208. This title shall not be construed to reflect a determination of the Congress regarding the relative merits of alternative transportation systems for North Slope crude oil or regarding the merits or legality of a grant by the Secretary of a right-of-way to construct a crude oil pipeline within Alaska from the vicinity of Prudhoe Bay to Valdez, nor to prohibit such a grant, nor to render moot any actions commenced under the National Environmental Policy Act (Public Law 91–190) with respect to such a grant, nor to require that the Secretary in the execution of any of his statutory duties await the results of the negotiations with the Canadian Government or the conduct of the study provided for in this title before making such a grant.

"Sec. 209. Such funds are hereby authorized to be appropriated as are necessary to implement the provisions of this title."

Mr. EAGLETON. Mr. President, at the outset, I should like to explain the modification for the benefit of Senators who have on their desks a copy of the printed amendment.

We strike the entirety of the first page, lines 1 through 7, and almost the entirety of page 2, lines 1 through 23, those matters dealing with export restrictions, and so forth, which have already been the subject of amendments and votes in the Senate.

The second modification occurs on page 9 of amendment 323, line 22, wherein we strike the words "330 days" and make it 240 days. So the report, study, and negotiations with the Canadian Government all have to take place and be brought together in 8 months or 240 days.

Mr. President, this amendment represents a conscious effort to bridge the differences that exist between those favoring a trans-Alaskan pipeline and those favoring a trans-Canadian line as an alternative.

As a Senator from the Midwest, quite naturally I would prefer a line which would bring crude oil into the midwestern parts of the country where fuel shortages are most severe.

However, I am acutely conscious of the national dimensions of our energy crisis and the undesirability of excessive dependence on foreign oil supplies—considerations which incline me to favor the pipeline that can be constructed at the earliest date consistent with environmental protection. Senator JACKSON's bill, as reported by the committee, would expedite the process of tapping the North Slope oil resources by authorizing the immediate grant of right-of-way for a trans-Alaska pipeline and allowing the court to resume consideration of the environmental aspects of such a line.

So I am less than comfortable, Mr. President, with the choice that confronts us:

First. Either we commit ourselves now to the construction of a trans-Alaskan pipeline without a full exploration of the feasibility of a route across Canada that would bring fuel directly into the Midwest; or

Second. We delay construction of the trans-Alaskan pipeline in favor of the possibility of a Canadian route, but in so doing we insure additional delay in tapping the great fuel resources of the North Slope—a delay we can ill afford in view of the energy shortage facing the Nation.

The amendment we are introducing today seeks to avoid this dilemma. It is grounded on the undisputed premise that work on the trans-Alaskan pipeline will be delayed for at least a year pending resolution of litigation brought under the National Environmental Policy Act testing the environmental impact of this line. At the same time, this environmental litigation cannot be disposed of until a right-of-day for the trans-Alaskan pipeline is granted.

Thus, my amendment would have the following effects:

First. It leaves unchanged the authorization for the Secretary of the Interior to grant an expanded right-of-way—exactly as provided in Senator JACKSON's bill—which is necessary before the courts will resume consideration of the environmental aspects of the trans-Alaskan Pipeline case.

To state it another way, the right-of-way which is granted under the JACKSON bill for the trans-Alaskan pipeline would be unaffected by the Eagleton amendment. That right-of-way would go forward.

Second. It adopts, for the most part, the language of the Mondale-Bayh amendment calling for the initiation of negotiations with the Canadian Government and commissioning an 8-month study of the feasibility of a trans-Canadian route. It departs from the Mondale-Bayh amendment in that the Alaskan and Canadian routes are not presented as mutually exclusive and there is no prohibition against a grant of right-of-way for the Alaskan route pending the study of the Canadian prospect. The Mondale-Bayh language providing for an expedited action by Congress at the conclusion of the Canadian study is retained.

Third. It makes clear the congressional intention that the litigation regarding the environmental impact of the trans-Alaskan line shall continue. Once the Secretary grants a right-of-way for the trans-Alaskan pipeline, the court will have before it a live question with respect to the environmental impact of that line regardless of the pendency of the Canadian study and the possibility that Congress will take another look at the matter 8 months hence.

Fourth. Finally, the amendment opens up the study to a consideration of three possible findings: First, to proceed with the Alaskan line only; second, to proceed with a trans-Canadian line only; or third, to proceed with both lines.

This approach to the question avoids any further delay in the court's consideration of the Alaskan case while at the same time preserving the option of Congress, 8 months from date of enactment of this bill, to make a final judgment on whether to change the route or supplement the trans-Alaskan route with a trans-Canadian route. Most importantly, the judgment would be based on solid facts both with regard to the economic and environmental feasibility of a trans-Canadian line and the willingness of the Canadian Government to enter into an agreement.

Mr. President, to summarize the thrust of the amendment, the right-of-way across Alaska is granted and thus the pending court suit that has been hung up on the question of right-of-way can go forward under the National Environmental Policy Act. I am a believer in that act. I think it was significant, forward-looking and progressive when it was enacted in 1969 and I believe it is now. Thus, I did not like that portion of the Mondale-Bayh amendment which foreclosed action under NEPA and placed a lid on the pending litigation. I like the National Environmental Policy Act and I want it utilized. I think the litigants are entitled to a judgment.

Mr. NELSON. Is there a time limitation on the amendment?

The PRESIDING OFFICER. One-half hour to a side.

Mr. EAGLETON. Does the Senator wish me to yield.

Mr. NELSON. No, I have to go to a markup. I just wish to say that the Senator from Missouri has drafted a very important, useful, and effective proposal that, if it is understood by the Senate, should draw the support of everyone. I commend the Senator from Missouri.

Mr. EAGLETON. I thank the Senator from Wisconsin.

Mr. President, I ask unanimous consent that the names of the junior Senator from Connecticut (Mr. WEICKER) and the senior Senator from Massachusetts (Mr. KENNEDY) may be added as cosponsors of the Eagleton amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that two members of my staff, Messrs. Murphy and Lewis, may be granted the privilege of the floor during the debate on the Alaskan pipeline bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I was reiterating the key difference in the approach between the amendment we have just voted on, the Mondale-Bayh amendment, and my amendment. I was trying to explain why I could not support the Mondale-Bayh amendment but why I can support, obviously, my own amendment.

Under my amendment, the right-of-way is granted but the National Environmental Policy Act is not compromised, short circuited, or otherwise circumvented. I think NEPA is a landmark piece of legislation, and it should stand on its own two feet and not be tinkered with by Congress.

Further, I wish to make clear that after the 8-month study is completed, as provided in my amendment, any action Congress takes based on those findings would be subject to court litigation under the National Environmental Policy Act. Having enacted NEPA, Congress should see that it is lived up to and not short circuited. NEPA is not compromised, jeopardized, or thwarted insofar as my amendment is concerned.

The other differences between my amendment and the Mondale-Bayh amendment have been mentioned and I think adequately covered.

Mr. President, I am looking for someone—perhaps this amendment is going to be accepted by acclamation. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. EAGLETON. Mr. President, this is unusual, but I suggest the absence of a quorum, with the time to be charged to opponents of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BROCK. Mr. President, reserving the right to object, what was the request?

The PRESIDING OFFICER. The unanimous-consent request was that there be a quorum call with the time to be charged to the opponents.

Mr. FANNIN. I object. The time should be equally divided.

Mr. EAGLETON. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I feel very keenly about this amendment. We have every reason to oppose the amendment on the basis of what has already transpired regarding the Mondale amendment. I have indicated that the same subject matter is involved in this amendment as was in the amendment on the last vote. This is just a rerun of the Mondale amendment. Yes, there are changes made, but they are of little consequence.

I would like to refer to the testimony that was received before the Interior and Insular Affairs Committee in regard to the national energy research and development bill, S. 2183, and particularly the testimony of John Partridge, chairman of the board and chief executive officer of the Columbia Gas System, Wilmington, Del. He also is Chairman of the American Gas Association Research and Development Executive Committee.

I bring this up again because it illustrates the necessity of building the Alaskan pipeline to Valdez at the very earliest possible time.

Here we have the Columbia Gas System speaking out for the Alaskan pipeline. If they had determined that it would have been more advantageous for them, they would have expressed favor for the Canadian line. They want to get the product into this country and want the assurance that it would be coming in at the earliest possible time, before they favor the trans-Alaskan line.

Here we have a company that serves in its retail markets 3,600 industries in different States and provides reliable gas service to 4 million homeowners in 7 States. They have been advised by its nonaffiliated customers that they serve over 7,000 industrial customers, which employ literally hundreds of thousands of people. This company and the American Gas Association's research and development committee have given careful consideration to this issue and decided to support the trans-Alaskan line.

Just to give Senators an idea of what has been done as an example of this company's efforts to increase gas supplies, Columbia is participating in joint venture exploratory drilling programs in the Gulf of Mexico and seismic exploratory efforts in the Atlantic outer continental shelf. It is presently engaged in construction of a liquid natural gas facility at Cove Point, Md., and a liquid hydrocarbon gasification plant in Ohio. It is a member of the Canadian Gas Arctic Study Group, a consortium of 24 companies seeking to build a trans-Canada gas pipeline, a project which will be greatly enhanced by congressional action to permit construction of the trans-Alaska oil pipeline. It is participating in the coal gasification research program undertaken jointly by the American Gas Association and the Department of Interior.

I emphasize that because these companies are interested in providing gas supplies.

Mr. President, we are talking about programs that are vital to this Nation, but the most important factor is that we get something underway. It is costing us at least $5 million a day, and before many years it will cost $10 million a day in our balance of payments if the pipeline is not built.

Mr. EAGLETON. Mr. President, will the Senator yield for a question?

Mr. FANNIN. I will be pleased to yield to the Senator on his time.

Mr. EAGLETON. Does the Senator realize that under my amendment the case continues? It goes right on just as it does under the Jackson bill. So with respect to the expeditious resolution of this dilemma, my amendment does the same thing as the Jackson bill, because it leaves that part of the bill unaffected.

Mr. FANNIN. I will comment on the Senator's proposal——

Mr. EAGLETON. On the Senator's time.

Mr. FANNIN. If the Senator wants me to talk about his proposal, I will be glad to. The Eagleton amendment would call for consultations with Canada regarding a trans-Canadian route, followed by a report to the House and Senate Interior Committees within 70 days of enactment. Within 240 days of enactment, the Secretaries of State and Interior would provide followup reports to the same committees.

It calls for a National Academy of Sciences' comparative study of the Alaskan and Canadian routes to be completed within 240 days after enactment.

It calls for the House and Senate Interior Committees to report legislation on a pipeline system for North Slope crude within 30 days of receipt of the National Academy of Sciences' study.

It also provides for procedures for expeditious consideration of such legislation.

That is the essence of the Eagleton amendment but it should be opposed for the following reasons:

It is a mere rehash of the Mondale amendment.

It would delay commencement of construction of both the Alaskan and Canadian lines for at least 1 year. Even under the best of circumstances, there still would be a delay which would result in increased imports of crude into the United States, with consequent adverse impact on our balance of payments and jeopardy to national security.

It could risk dependence on the Canadian Government—I do not think the Senator would disagree with this—with attendant national security problems such as increased curtailment of Canadian crude to U.S. markets and the imposition of other terms and conditions on the construction of a Canadian route more economically favorable to Canada than the United States.

It would cost U.S. taxpayers and consumers more money for 1 year's study.

I think it has been pointed out previously that millions of dollars have been spent, and I was referring to what has been spent by the companies themselves as well as the Government. If they thought additional gas supplies would have been provided by a Canadian route, they would not have wanted a delay, but they knew it could not be done. That is why they are still spending this tremendous amount of money to build a trans-Alaskan route.

I will go on to further arguments against the Eagleton amendment.

If a Canadian route were adopted, it would result in the export of dollars to Canada for construction of the Canadian pipeline and other expenses, with consequent loss of U.S. jobs, including those of Alaskan Natives.

It would prohibit Alaskan Natives and the State of Alaska from receiving royalties from production of North Slope crude for at least an additional year, and, in my opinion, it could be as much as 10 years.

Construction of a Canadian route would be more expensive and take 7 to 10 years longer than construction of an Alaskan route, even under the best of conditions.

I believe it would be an absolute catastrophe if the Eagleton proposal were adopted.

The amendment would merely change the time period in which the Mondale amendment was offered. There is very little change. We still have the same undesirable features of that earlier amendment. Thus, the Eagleton amendment would still provide for a further delay of 1 year.

The arguments offered against the Mondale amendment, which the Senate has already voted upon, are applicable here.

We cannot be sure that the Canadians will negotiate in good faith. There is no way of knowing the Canadians will negotiate at all. I personally have talked with some of them in meetings.

The time constraints of this amendment are nonsense, since we cannot dictate to the Canadians even if they wished to negotiate.

Mr. President, I ask unanimous consent that at the conclusion of my remarks, the statement of the chairman of the board and chief executive officer of the Columbia Gas System be printed in the RECORD.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

(See exhibit 1.)

Mr. FANNIN. We cannot say that we have a sufficient study of a Canadian route because a sufficient study has not been made. Environmental studies have been going forward on the trans-Alaska route. Millions of dollars have been spent on it. The companies have spent their stockholders' money for these purposes and wish to start seeing a return on their investment.

With regard to the Canadian route, on the other hand, we do not even know that the equipment is available to build a line across Canada. We have no assurance as to how it would be financed. I have never heard an explanation from any of the proponents of the program as to how a Canadian line would be financed.

Mr. President, in summary, I oppose the Eagleton amendment. It is just as devastating as the Mondale amendment. It would be a tremendous expense for the people of this Nation, and it would mean again that we would be further aggravating our imbalance of payments. We cannot afford to have that happen.

Mr. President, I reserve the remainder of my time.

EXHIBIT 1

TESTIMONY: SENATE INTERIOR AND INSULAR AFFAIRS, S. 1283, NATIONAL ENERGY RESEARCH AND DEVELOPMENT, JULY 12, 1973

Mr. Chairman, my name is John Partridge. I am Chairman of the Board and Chief Executive Officer of The Columbia Gas System, Inc., of Wilmington, Delaware. I am also Chairman of the American Gas Association's Research and Development Executive Committee. I appear here today on behalf of the American Gas Association and the Columbia Gas System. Accompanying me today are two members of the A.G.A. staff, G. H. Lawrence, Senior Vice President, Public Affairs, and Douglas King, Vice President, Research and Engineering.

The American Gas Association is a national industry association composed of some 300 distribution and transmission companies. These companies deliver about 92% of the natural gas consumed by 150 million people in this nation. Natural gas provides one-third of the nation's total energy requirements, including some 43% of that used by industry. When energy for transportation is excluded, natural gas accounts for 43% of our national stationary energy needs as compared with 27.5% for oil, 23% for coal, and 6.5% for hydropower and nuclear.

The Columbia Gas System is responsible for providing reliable gas service to 4 million homeowners in the seven states of Kentucky, Maryland, Ohio, Pennsylvania, New York, Virginia, and West Virginia, as well as the District of Columbia. Columbia also serves in its retail markets directly 3,600 industries and has been advised by its non-affiliated customers that they serve over 7,000 industrial customers, which employ literally hundreds of thousands of people.

Gas service to Columbia's residential, commercial, and industrial customers required last year approximately 1.5 trillion cubic feet of gas. For some time, in the large retail service area of the Columbia Gas System, there has been a complete freeze on serving new customers—no homes, commercial establishments, or industries are being attached for gas service. Unfortunately, this is a situation duplicated in many other gas company service areas throughout the country. This is not good for our nation's consumers, for the nation's economy, and—since natural gas is our cleanest fuel—for an improved environment.

Therefore, the critical natural gas supply problem and proposals for its solution are matters in which the Columbia Gas System and the American Gas Association have an abiding interest.

We appreciate this opportunity to testify on S. 1283, the "National Energy Research and Development Policy Act of 1973." This Committee's investigations of the energy crisis through the S. 45 proceedings have made a major contribution toward focusing national attention on this critical situation as well as preparing the Committee for forthcoming essential policy decisions including the vital ones on energy research. This is evident in that the concept of greatly expanded government energy research to develop domestic resources, which S. 1283 addresses, is fundamental to solution of our nation's most serious energy problems. The Committee's timely consideration of this matter is most commendable, and it is interesting and helpful that the Administration's energy research proposal, quite similar in concept to S. 1283, was issued not long after announcement of these hearings. Efforts to expand realistic and effective government-industry relationships in areas of vital energy research are, in my opinion, foremost in the public interest. So let me express sincere appreciation to the sponsors of S. 1283 as a major stride toward that goal, and I say that in full light of the fact that we will take issue with some of the specifics in the bill.

The facts of the energy shortage facing this nation have been well-documented, not only before this Committee but also before numerous other Congressional committees. Also, the principal requirements for solution have been presented in extensive detail by various spokesmen for both the public and private sectors. I will not dwell on these facts, only to add that the situation is worsening day by day.

As an example of my own company's efforts to increase gas supplies, Columbia is participating in joint venture exploratory drilling programs in the Gulf of Mexico and seismic exploratory efforts in the Atlantic OCS; we are presently engaged in construction of an LNG facility at Cove Point, Maryland, and a liquid hydrocarbons gasification plant in Ohio; we are a member of the Canadian Gas Arctic Study Group, a consortium of 24 companies seeking to build a Trans-Canada gas pipeline, a project which will be greatly enhanced by Congressional action to permit construction of the Trans-Alaska oil pipeline; and we are participating in the coal gasification research program undertaken jointly by A.G.A. and the Department of the Interior.

This latter program is a most significant effort in creating a domestic energy supply because it is an essential step in permitting utilization of our nation's vast coal reserves in a manner fully compatible with our national environmental goals.

This joint research effort was formalized in August of 1971, when the Department of the Interior and the American Gas Association executed an agreement for "The Cooperative Coal Gasification Research Program." A copy of the agreement is attached to my statement as Exhibit A. That agreement provides for a joint Interior/A.G.A. program of pilot plant research into coal gasification, funded two-thirds by the Federal Government and one-third by A.G.A. There are presently eight separate processes being studied. Attached to my statement as Exhibit B is a copy of the fourth of our Quarterly Progress Reports which are prepared for the subscribing member companies. It will give you a brief description of the various processes under study and the status of each.

As A.G.A. stated earlier this year in testimony before both the Senate and House Appropriations Committees, the state-of-the-art is such that right now we cannot predict what process, or combination of processes, will offer the best prospects for a successful demonstration plant. Also, we cannot say at this time just how much Federal assistance will be required to construct and operate a demonstration plant. We do feel certain, however, that it will be necessary to have significantly more Federal funding as we move into this more advanced stage of coal gasification research. The cost of such a demonstration plant can be as much as $400 million and it appears doubtful that industry by itself can finance such a project. As we noted in our May 10 statement to this Committee on the President's April 18 Energy Message, "Government research funds will be essential."

However, as members of this Committee and the sponsors of S. 1283 well recognized, Coal Gasification Research is not the only area which will require government funding. Yet, at this time there is no coordinated Federal approach to energy research and development, and present efforts are widely scattered throughout the various agencies and departments. The right form of centralized coordination and control is necessary to assure that further fuels and energy research is pursued expeditiously and efficiently. Also, the proper structure of the organizations which will construct, operate, and maintain demonstration plants for coal gasification and other areas of research should be resolved.

Thus, it is most timely to consider the provisions of S. 1283 and analyze them along with the subsequent proposals of the President's statement on Energy of June 29 as set forth in the recommended enabling legislation, H.R. 9090.

Before proceeding with these specifics, I would like to discuss the ongoing joint Government-industry pilot plant research program.

THE INTERIOR DEPARTMENT (OCR)—A.G.A. PILOT PLANT RESEARCH

As noted earlier, the Interior Department and the American Gas Association have an agreement for "The Cooperative Coal Gasification Research Program." This is a 4-year program with a scheduled funding of $30 million per year—$20 million by Government and $10 million by industry. The intent of this program is to provide pilot plants for the eight most promising high Btu coal gasification processes. Its goal is to choose from the pilot results the process or processes or best components thereof that should be incorporated into a demonstration plant or plants. Results to date confirm that this joint Government-industry funded and managed project is working. As the project enters its third year, there are two pilot plants in operation and a third under construction. The first of these pilot plants to go on stream, the HYGAS plant in Chicago, recently completed 100 successive hours of operation converting coal to high Btu, pipeline quality gas. Also, the CO_2-Acceptor pilot plant in Rapid City has recently completed over 100 successive hours of operation converting char to synthesis gas.

As this program was discussed and negotiated with Administration officials and at appearances before Appropriations Committees of Congress, the question was repeatedly raised, "Could you obtain better results faster with more money?" We answered no. That was as fast as we were programmed to spend the money efficiently. Now after two years of actual operation and the experience gained therefrom, because of a recognized need for certain unique equipment development, and because of inflating costs of construction and engineering, the program is projected to proceed in a most optimum and efficient manner with the additional expenditure of about $11 million per year beginning in Fiscal 1974.

The President's Message of June 29 stated that an additional $100 million for energy research was earmarked for Fiscal 1974 with at least $50 million of this for coal research. This, of course, includes all coal research—the high Btu gas project in which we are engaged, low Btu gas programs, coal liquefaction, improved combustion and mining techniques. In view of the facts (a) that the Interior-A.G.A. program is a tangible example of Government/industry cooperation, (b) that it is an ongoing program with visible, significant results, (c) that its expenditures have been and are rigorously scheduled at a prudent level, and (d) that its timely conclusions are essential to proceed with the demonstration plant phase in the most efficient manner, this program should be entitled to first consideration in allocating that additional $50 million in Fiscal 1974 and we will so contend to the Administration and to the Appropriations Committees. By today's standards for research expenditures, an additional $11 million per year is a modest amount. However, for the reasons set out above, we submit that it is an expenditure of the highest priority. We would urge this Committee's support in obtaining it.

I strongly emphasize that regardless of whatever energy research legislation is finally enacted, that extreme caution be exercised that nothing in the legislation could in any way slow down this essential and realistic program. I have concern that in the transition phase of some of the proposals, inadvertently something might creep in that would adversely affect the OCR–A.G.A. project. This must not happen.

Now let me turn to certain of the specific provisions of S. 1283 and H.R. 9090, a comparative analysis of which is attached as Exhibit C. The recent Administration proposal included the establishment of a new Department of Energy and Natural Resources (DENR), a matter not addressed in

S. 1283. We believe the DENR to be a desirable step toward consolidation of the quite splintered Federal Government energy responsibilities, and an acknowledgement that sound energy policies are an absolute must if our national well-being and the health, comfort and standard of living of our citizens are to be preserved. Therefore, A.G.A. supports early Congressional approval of the DENR. We consider it to be entirely consistent with the purposes of S. 1283.

Title I of S. 1283 establishes an Energy Research Management Project as the centralized agency to direct fuels and energy research and development. Titles II through VI establish joint Government-industry corporations for the construction, operation and maintenance of demonstration plants for a variety of energy research efforts including a coal gasification corporation in Title II. H.R. 9090, Part B, would have all research efforts coordinated by a new Energy Research and Development Administration. There are elements of both bills which have merit and the overall objectives are substantially similar, and commendable.

We would like to specifically comment on two major areas of importance—Organization and Functions and structures to implement commercial-size projects for demonstration purposes.

As to the first, we believe the proposed Energy Research and Development Administration (ERDA) as prescribed in H.R. 9090 is preferable to that proposed by S. 1283 and it should be established simultaneously with the DENR. Our reasons are:

1. H.R. 9090 provides centralization of all Federal Government energy research while S. 1283 continues for the time being the present proliferation of such efforts. H.R. 9090 calls for a permanent agency of the type ultimately envisioned by S. 1283.

2. An Administrator in full charge is preferable to the collegial approach of the Energy Research Management Project, members of which have full-time Government positions and who not only lack the time to devote to this effort but who would also not have the accountability for results. The agencies designated in the S. 1283 management approach are always available for consultation as needed.

3. H.R. 9090 calls for a full-time staff experienced in energy research, while S. 1283 would rely on a small technical budget staff and the respective staffs of the various agencies which contribute representatives to the Energy Research Management Project, who, like their principals on the Management Project, have existing full-time duties.

Other comments on organization and functions are:

1. We endorse the transfer of the Office of Coal Research and certain Bureau of Mines functions to ERDA. However, we strongly oppose the alternate proposal by the Administration to transfer these functions to the Atomic Energy Commission in the event Part A of H.R. 9090, the DENR, is passed by Congress and Part B, the ERDA, is not passed. One of the problems in Federal Government research efforts to date has been the disparity between the emphasis on nuclear research and that on fossil fuel research. Transferring and absorbing coal research efforts into an existing AEC is not an encouraging prospect for correcting this imbalance. For example, such a move could have devastating effect on the current OCR–A.G.A. Pilot Program. The answer is, of course, that the ERDA provision should be passed thus establishing a permanent independent agency to coordinate all energy research of the type envisioned by S. 1283.

2. While A.G.A. does not take issue with the Federal Government directing the energy R&D activities of those entities receiving Federal funding, we object to such intervention and direction where no Federal funds are involved. Both A.G.A. and my own company, Columbia, as well as numerous other gas companies, are also engaged in numerous research projects which do not receive Federal assistance. In these cases, we believe Federal direction, as provided for in Section 102(f) is unnecessary and unwarranted. We urge modification of this provision of S. 1283 to assure that such intervention will not take place.

3. We endorse the concept that the considerable expertise available in the various scientific, industrial, environmental organizations and groups in the broad field of energy research and development should be utilized as advocated by S. 1283 and the President's Message. A.G.A. recommends establishment of a formal Scientific, Industrial and Environmental Advisory Group, composed of appropriate industry representatives, academic groups and organizations. This Advisory Group could meet regularly at specified times each year with the ERDA Administrator and his staff for the consultation and exchange of ideas and information. The gas industry would wlecome participation in such a group and in light of our extensive history in coal gasification, shale oil gasification and other basic research, we believe that we could make a significant contribution. I now turn to the second major area of importance—structures to implement commercial-size projects for demonstration purposes. With certain minor technical changes and the addition of one new section, the provisions of Title II are identical to the provisions of S. 1846, on which we testified before this Committee in 1971. That testimony is attached to this statement as Exhibit D.

At that time, A.G.A. endorsed establishment of a Coal Gasification Development Corporation "as a vehicle to perform the essential, final step in the long and rigorous research efforts which will result in a vital new coal gasification industry." Culmination of the joint OCR/A.G.A. program of pilot plant evaluations will lead to the Coal Gasification Corporation as a suitable organization to perform the next logical step—namely "to design, construct, operate and maintain . . . a full-scale commercial-size facility to manufacture substitute natural gas from coal." Thus, creation of a Coal Gasification Corporation is entirely compatible with the present OCR/A.G.A. research program. It is important that the Coal Corporation be established and organized now so that the demonstration commercial project can start promptly upon completion of the pilot plant phase.

For example, much of the demonstration plant design and engineering can be accomplished during the later stages of the pilot plant testing. We are confident that A.G.A. member companies will be among "the private entity or entities . . . to participate in the carrying out of such purposes and functions, including the furnishing of financial assistance." In this connection, we recommend deletion of the provision in S. 1283 limiting appropriations to not more than 60% of costs to the Coal Corporation. We believe that rather than fixing a percentage at this time that flexibility is required so that the board of the Corporation can set the percentage according to the circumstances existing at the time of the start of a given project.

Funding flexibility becomes even more important in connection with our next recommendation, which is to consolidate all coal research into one Coal Research Corporation.

The suggestion was made in the June hearings on S. 1283 that all the coal related research provisions in this bill—Coal Gasification (Title II), Advanced Power Cycle Development (Title IV), and Coal Liquefaction (Title VI), as well as mining developments—can be consolidated into a single Corporation. This would enable the assembly in one entity of the best available coal research personnel and most important would provide the most desirable close liaison on all coal research. So many areas of coal research interrelate and overlap that great efficiencies should be achieved by consolidation. Also, the overheads of one corporation should be considerably lower than the total of several corporations. This would be most compatible with the proposed move of OCR into ERDA in that their broad expertise in all phases of coal research could be best utilized.

A.G.A. offers the following recommendations for other changes in Title II of S. 1283:

1. *Section 202(d):* In view of our support for the ERDA as discussed above, we would recommend that the Administrator rather than the General Services Administration, should be "authorized to enter into contractual arrangements." This would also permit utilization of the long-standing experience and expertise of the Office of Coal Research. The General Services Administration would still be available for appropriate assistance such as auditing and other administrative services, and could serve as the repository for patent rights. However, the more substantive, decision-making authority should be vested in the Federal office with the direct research responsibilities as well as the most knowledge in the field. Further, with the Office of Coal Research serving the key role in the current pilot research there is greater assurance of continuity in progressing from the pilot to the demonstration plant phase without duplication of effort of expenditures. We believe this is a persuasive point in obtaining both future Federal appropriations and industry financial commitments.

2. *Section 203(2):* The Corporation is directed to select "the two or more most technically, environmentally, and economically feasible methods" for manufacture of substitute natural gas from coal. However, the joint O.C.R./A.G.A. program could well produce results which would permit selection of a single process or one combination of processes. Hopefully, this would obviate the requirement to proceed initially with more than one demonstration plant. A.G.A. now estimates that a single demonstration plant could cost as much as $400 million, and with a cost of this magnitude we believe there should be no statutory requirement to build two or more such plants.

A.G.A. recommends that Section 203(2) be revised to provide flexibility to the Coal Research Corporation to determine the number of methods that would be directed toward demonstration plants.

3. *Section 206:* The bill requires dissolution of the Corporation ten years after date of enactment. We believe this should be changed to require dissolution ten years after initial construction of the demonstration plant. This would permit the Corporation to be created and the Board of Directors and other officers appointed during the remaining years of the O.C.R./A.G.A. program, and would still permit the Corporation up to ten years to conduct its principal business of initiating commercial-size demonstration plant operations.

4. *Section 208:* This is the new section of the bill to which we referred earlier. It directs the Secretary of the Interior to make available to the Corporation Federal lands under his jurisdiction which contain coal which the Corporation determines it needs, provided the coal is extracted in an environmentally acceptable manner. This is a desirable provision and should be incorporated into H.R. 9090.

The Committee has before it A.G.A.'s statement and subsequent letter on certain of the provisions of S. 425, Surface Mining Reclamation, about which we are concerned. Among those concerns is the provision calling for issuance of surface mining permits for five-year periods, subject to one-year renewals. If that bill is enacted as presently written, it could have disastrous effects on the ability of the natural gas industry to finance coal gasification plants, since these plants depend on long-term financing. We are pleased to see Section 208 of S. 1283, but must express our concern that provisions of S. 425, as presently written could conflict with Section 208 and we would hope that this apparent conflict can be resolved.

A.G.A. supports the formation of the remaining two Corporations, namely Geothermal Energy Development (Title V) and Shale Oil Development (Title III). The function of the latter should be amended to include the converting of oil shale directly to high Btu gas, a program in which the gas industry has great interest.

A.G.A. research on hydrogasification of oil shale began at the Institute of Gas Technology in 1959 under a program which closely paralleled its then ongoing work on hydrogasification of coal. This work has led to the development of a novel process which can produce either high Btu gas or middle distillate oil (or both as desired).

A.G.A. has near completion a program to identify near and long term research needs and opportunities for the gas industry encompassing exploration, supply, transmission, distribution, and utilization together with a planning process for periodically examining the priorities. We believe this study will provide valuable input to ERDA in assessing research programs.

CONCLUSIONS

In summary, the principal points discussed above may be restated as follows:

1. Efforts to expand realistic and effective government-industry relationships in areas of vital energy research are foremost in the public interest. S. 1283 represents a timely major stride toward that goal;

2. S. 1283 and H.R. 9090 are similar in concept. Analysis indicates that portions of each should be incorporated into the final bills;

3. The Energy Research and Development Administration (ERDA) as proposed in H.R. 9090 (with modifications detailed in the text) is preferable to that in S. 1283.

4. Titles II–VI of S. 1283 (with modifications detailed in the text) are essential to the success of the program, with the major modification that Titles II, IV, & VI all having to do with coal should be combined into one entity—the Coal Research Corporation; and

5. The ongoing two-year-old Interior Department (OCR)–A.G.A. Pilot Plant Research program is an example of a realistic government-industry research effort with visible significant results. Prudent funding of it should be assured. Caution must be exercised that nothing in any way slow down this advanced program.

Again, we commend this Committee for its abiding interest in the energy problem and steps necessary for its solution, and we appreciate this opportunity to express our views.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, amendment 323, I am constrained to say, incorporates within it the worst features of amendment 240 and the weakest features of S. 1081.

It provides at the same time that:

First. Congress shall study both the trans-Alaska pipeline route and the trans-Canada pipeline route. This will entail at least 1 year.

Second. The court litigation in Wilderness Society against Morton which is presently in the U.S. District Court for the District of Columbia must proceed uninterrupted and unaffected by this legislation. This will also probably delay the pipeline construction at least 1 year. In other words, this amendment will then build in 1 more year's delay in obtaining North Slope oil.

In my good friend from Missouri, Senator EAGLETON's Dear Colleague letter of July 12, he indicates that—

> It is generally conceded that even with resolution of the right-of-way problem, the court will be *at least a year and probably longer* in finally deciding the environmental aspects of the Alaskan pipeline case. That being the situation, there would be ample time to complete the negotiations and study called for by my amendment and for Congress to make a final judgment over the best route or combination of routes.

Thus the Senator from Missouri does not profess that amendment 323 will shorten the delay. This was, I believe, the chief defect in the trans-Canada route and amendment 240 that the Senate has just rejected earlier today. Amendment 323 will not cure that defect. In fact, it will lengthen the delay.

Most of us in the Senate are lawyers. My colleagues will, I am sure, remember the judicial doctrine of "ripeness"—in this case an application of the constitutional requirement in article III that a lawsuit must be a "case or controversy" before it is justiciable in the Federal court system. The U.S. District Court would be well within its judicial prerogatives and, I would argue, be acting unconstitutionally were it not to stay the proceedings until the completion of the required year's study and enactment of new Federal legislation under amendment 323.

Mr. President, what I am saying is this. There would be no assurance that Congress would enact legislation favoring a trans-Alaska pipeline route. I believe Congress should enact such a route and that it ultimately will do so. But no court of law could say with any certainty, were amendment 323 adopted, that this would be the case. Therefore, prior to the enactment of any legislation any judicial opinion on the present case—Wilderness Society against Morton—involving a trans-Alaska pipeline, might only be an "advisory opinion" were Congress eventually to enact legislation favoring a trans-Canada route.

I do not believe the Federal district court would, as the Senator from Missouri postulates, proceed until Congress had actually legislated a trans-Alaska pipeline route. Therefore, the case would lie on the docket in the Federal district court until legislation favoring a trans-Alaska pipeline route were enacted by Congress. Only then would we be to the point we are now—where the litigation can proceed. And now, we are faced with a year's delay in the litigation should it go to the U.S. Supreme Court as it most certainly will.

Of course, under amendment 323 were Congress to enact a trans-Canada route, there is no assurance a new lawsuit would not be filed. And I have every reason to suspect it will be, either on the Alaskan portions of the route or on the Midwest portions thereof.

Of course, a lawsuit might also be filed in Canadian courts. I have explained this elsewhere and will not repeat it now.

Suffice it to say that this amendment builds in an extra year's delay. It does not cure the defects in either approach—amendment 240 or S. 1081 unamended. It does not bypass NEPA as amendment 240 would have. It requires a year's delay pending completion of the congressional study and enactment of additional legislation. This S. 1081 would not do. Amendment 323 would do both.

Amendment 226 proposed by my colleague from Alaska (Mr. GRAVEL), the Senator from Texas (Mr. TOWER), the distinguished Senator from Oklahoma (Mr. BARTLETT), and the distinguished Senator from Virginia (Mr. SCOTT), and myself would do both. Amendment 226 would bypass NEPA and would legislate one route—the trans-Alaska pipeline route—now. Congress should vote on this issue now. We have studied the matter. The Department of the Interior has studied the matter. The American public has studied the matter.

The whole country is looking to us for leadership. Amendment 323 would build in 1 more year's vacillation. This is what the American public does not want.

Congress must assert itself on this issue. The American people have a right to get a decision from Congress on this issue now.

Mr. President, I wanted the Senator from Missouri to understand my problem. I would do anything I could to accelerate the consideration required by the committee bill of a second pipeline.

I tell my friend, the Senator from Missouri, that I feel that we must open up Naval Petroleum Reserve No. 4 and the 14 billion or 15 billion barrels of oil that are there. That oil will, in fact, support a second pipeline. And that oil exceeds the reserves in the Prudhoe Bay area, the 10 billion barrels of oil, that supports the trans-Alaskan pipeline proposal.

Mr. EAGLETON. Mr. President, will the Senator yield for a question?

Mr. STEVENS. Mr. President, I yield for a question.

Mr. EAGLETON. Mr. President, I am not sure that the Senator from Arizona realizes, but I ask the Senator from Alaska if he realizes that the right-of-way under the Jackson bill is left intact and untouched by my amendment. Is the Senator aware of that?

Mr. STEVENS. I am aware of that.

Mr. EAGLETON. Is the Senator also aware that section 208 of the amendment, on page 15, states:

> "SEC. 208. This title shall not be construed to reflect a determination of the Congress regarding the relative merits of alternative transportation systems for North Slope crude oil or regarding the merits or legality of a grant by the Secretary of a right-of-way to construct a crude oil pipeline within Alaska from the vicinity of Prudhoe Bay to Valdez, nor to prohibit such a grant, nor to render moot any actions commenced under the National Environmental Policy Act (Public Law 91–190) with respect to such a grant, nor to require that the Secretary in the execution of any of his statutory duties await the results of the negotiations with the Canadian Government or the conduct of the

study provided for in this title before making such a grant.

Mr. STEVENS. Mr. President, I am not worried about our case being moot. I am worrying, before acting on it, if Congress indicates in language which is unfortunately familiar in view of my long study of the Mondale amendment, that the Canadian route is needed.

Mr. EAGLETON. Section 208 is not from the Mondale-Bayh amendment.

Mr. STEVENS. I understand that. However, much of the language in the amendment is.

Mr. EAGLETON. What is similar to the Mondale amendment is the 8-month study to be undertaken by the National Academy of Sciences, a study of the feasibility of a trans-Canada route. After that study is done, Congress would still enjoy a whole range of alternatives, including that of doing nothing. And if it does nothing, the Alaska line proceeds as it is, because it is going through the courts.

Mr. STEVENS. In the Mondale-Bayh amendment language which the Senator from Missouri has incorporated in his amendment, there is a directive that the Academy undertake a study of the Alaskan land and maritime routes.

Mr. EAGLETON. On a comparative basis. It will also consider both.

Mr. STEVENS. They are to study both and then compare them.

Mr. EAGLETON. The Senator is correct.

Mr. STEVENS. Any court looking at this, if it is agreed to, would have to say that Congress is still considering the trans-Alaskan pipeline environmental impact statement made by the Interior Department and that, therefore, it would have to enjoin the Wilderness Society against Morton suit.

Mr. EAGLETON. Mr. President, I would have to disagree with my friend.

Mr. STEVENS. Mr. President, I hate to disagree with my friend, the Senator from Missouri. We are talking about whether it is right for decision, and I do not think it would be if this language from the Mondale amendment were agreed to by the Congress.

Mr. EAGLETON. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. EAGLETON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Missouri has 18 minutes remaining.

Mr. BAYH. Mr. President, will the Senator from Missouri yield me 3 or 4 minutes?

Mr. EAGLETON. Yes, I yield to the Senator from Indiana.

Mr. BAYH. I compliment my friend from Missouri for his efforts to try to move along the direction that some of the rest of us have been trying to move along relative to a sane, considered, and equitable solution to the present energy crisis.

I direct this question to my friend from Missouri: It is my understanding that if the Eagleton amendment is adopted, the court test which everyone recognizes will be necessary if the Jackson bill is passed can proceed, and that every month that passes will be a month closer to a final resolution of the judicial process on the requirements of NEPA and other requirements that can be tested in court. Is that correct?

Mr. EAGLETON. The Senator is precisely correct.

Mr. BAYH. Furthermore, am I correct in assuming that for the first time we will have a procedure in the law to study an alternative to the Alyeska pipe line route?

Mr. EAGLETON. Yes, a very meaningful study; and if I may elaborate just a bit on that answer, I will make this prediction to the Senator from Alaska: That the day will come when the Senator from Washington (Mr. JACKSON) and the Senators from Alaska (Mr. STEVENS and Mr. GRAVEL) and the others will wish they had this study.

What do I mean by that? I think down the line, in the NEPA litigation on the Alaska line, the Wilderness Society case that is already in court, it is entirely possible that the court will say, "We need a detailed, fairly comparative study between the Alaska line and the trans-Canadian line before we can make a final determination in this case."

So I say I think we are doing the proponents of the Alaska pipeline a favor, insofar as the litigation is concerned, by bringing this study to an expeditious conclusion within 8 months.

Mr. BAYH. Some of us who supported the Mondale-Bayh amendment have been suggesting that very thing: suggesting that NEPA does require, as I believe it does, that one of the factors that must be dealt with is the study of alternative routes, alternative vehicles, pipelines, or whatever it may be.

Mr. EAGLETON. Unquestionably.

Mr. BAYH. I have searched high and low and have not found one scintilla of a study going into other alternatives. All we have is preparations for the pipeline—pipe purchased, and everything in gear except the right-of-way and NEPA.

I want to salute the Senator from Missouri on his continuation of this fight to find out the facts as to what we will do with 10 billion barrels of American oil in Alaska, that we have all the facts before we rush out and adopt a solution, and that we not adopt a solution just because a lot of people read these expensive full-page ads paid for by a group of companies that have only one interest in the solution of this critical problem; a problem of concern to millions of Americans.

Mr. EAGLETON. I thank the Senator for his valuable contribution, because he is unquestionably correct beyond any doubt that a part of a proper NEPA analysis has to be the comparison of alternative routes, and I believe there is, to use his words, not one scintilla of a study of a Canadian route.

I believe we are doing a favor for this litigation that has been in court because of a lack of right-of-way—we are getting rid of the right-of-way problem now, and the Eagleton amendment does not touch that. We also would be doing a favor for the State of Alaska by requesting this study, because, like the Senator from Indiana, I believe the time will come when the court will insist upon such a study, and then they will have to delay the litigation while it is done.

Mr. BAYH. Mr. President, if the Senator will yield further, I would like to make one further observation, which I made relative to the debate on the amendment of the Senator from Minnesota and the Senator from Indiana: The report of the Committee on Interior and Insular Affairs which recommends the construction of the Alaskan pipeline says, in very clear English, that the committee does not have sufficient evidence to be able to judge which of the two routes, the Alaskan route or the trans-Canadian route, is preferable.

It only makes commonsense to me that if the committee that is charged with this responsibility, having all the information available relative to the Alaskan route and none of the information relative to the Canadian route, still comes down in a neutral position on the relative merits, that is even more reason to say, "Let us wait a minute; let us give ourselves a little time to study the situation, time during which the court proceedings can go ahead and be completed."

Mr. EAGLETON. So that the record will be clear, we give time for a study, of course, 8 months under the Eagleton amendment. At the same time, we do not hold up the litigation already in court. This study, like that encompassed in the Mondale-Bayh amendment, might not only reveal that we need the trans-Canadian route, but that we need both. There are some indications that potential reserves on the North Slope could justify the construction of both lines.

So for whatever purpose, whether comparing the Alaskan and Canadian routes or looking at a combination, I say having the study made is not harmful. In fact, I think it could be enormously beneficial, and will be found to be indispensable, insofar as the environmental litigation is concerned, in connection with the Alaskan route.

Mr. President, I yield the floor.

Mr. JACKSON. Mr. President, I rise in opposition to the amendment. The language of the amendment is essentially the same as that contained in the Mondale amendment which was just voted down in this body by a vote 61 to 29.

Section 207 of the amendment contemplates that the Congress would, after today's vote, vote once again on this issue 30 days after receipt of an 8-month study of the Canadian alternative by the National Science Foundation and the National Academy of Sciences.

Mr. President, providing for further congressional action, after having decided the issue, only confuses the matter. It invites delay and creates uncertainty. It flies in the face of the facts about Canadian attitudes, laws, and procedures.

The provisions of the amendment changing Senate and House rules, and seeking to commit Congress to a vote on this matter at a date in the future is a bad precedent. It is a unique procedure which, in effect, seeks to adopt into law a unanimous consent agreement to limit the right of debate on a set of facts which may have drastically changed in 9 months.

Finally, can my good friend, the Senator from Missouri, tell me what the impact of this amendment would be on the pending litigation? Would the courts defer action pending a further congressional decision on this matter?

Clearly, it places a cloud over the whole process of litigation.

I certainly appreciate the Senator's concern on this matter and I regret that I am unable to support his amendment. I do, however, assure him that as chairman of the Interior and Insular Affairs Committee I will take any action within my power to insure an aggressive and fair negotiation with Canada as mandated by title II of S. 1081.

I am, however, convinced that the amendment would create uncertainty, its net effect would be to delay, and keep Alaska oil in the ground.

Finally, Mr. President, I am prepared in the future, if we are not in a position to move the oil from Alaska by reason of litigation or other action, to introduce legislation authorizing the Federal Government to build the line. Time is of the essence and there comes a time when we can no longer defer for endless litigation.

I am prepared to introduce that legislation at an appropriate time in the future. In the meantime, as the author of the National Environmental Protection Act, I feel that it is sensible legislation to require that environmental impact statements be submitted by those applicants who are involved in any activity involving, in turn, a major Federal undertaking.

I believe that this is the sensible route to follow, that it will bring oil to the other 49 States a lot faster, and a lot faster if we follow the provisions of S. 1081, rather than to go off now on a diversion which can only have as its impact further litigation and further delay.

I do not know how the courts will interpret this language. I think they will probably say, "We cannot very well litigate this matter because Congress has reserved the right, 8 months hence, to review it all over again." In looking at the bill, the court will look at this particular provision in the Eagleton amendment and they will defer litigation. What I want to see is that the provisions of section 102 of NEPA are implemented.

Mr. President, you implement it finally by a final adjudicatory process involving the use of the courts. It seems to me that that is the wise course to follow. We cannot delegate responsibility to third parties. Certainly Congress ought not to create a precedent, which I think would be bad and dangerous, that is, that we are going to oppose environmental studies, that we are going to adjudicate these matters.

Obviously, no matter whether it involves such overriding national interests as the economic conservation of the United States, Congress in its prudence may well have to make a decision such as that which I have suggested, namely to have the Federal Government build the line if there is no other way in which we can move the oil to the rest of the United States.

Mr. President, I reserve the remainder of my time. I am prepared to yield back my time whenever the Senator from Missouri is prepared to yield back his time.

Mr. EAGLETON. Mr. President, I have some brief remarks; then I shall, indeed, be prepared to yield back my time.

By reason of my amendment, there is a subsequent right of Congress to render moot the present case. I suggest to the Senator from Washington that he runs the same risk; in the words of the Senator from Alaska, his amendment could make the case nonripe.

I bring the attention of the Senator from Washington to section 208 of our amendment, wherein we say:

> Nor to render moot any actions commenced under the National Environmental Policy Act with respect to such a grant, nor to require that the Secretary in the execution of any of his statutory duties await the results of negotiations with the Canadian Government or the conduct of the study provided for in this title before making such a grant.

Nothing in your bill's right-of-way provision is tampered with. All that the court will have to decide on is the adequacy of the existing environmental impact statement.

Even if we pass the Senator's bill, Congress, 20 years from now, could repeal it and revoke the right-of-way. It has been foreclosed from considering that action now. We have considered the right-of-way question, and we have resolved it.

Mr. JACKSON. Section 106 of S. 1081 refers to the right of the Secretary to terminate a right-of-way permit or right-of-way permits where there is a violation.

Mr. EAGLETON. But that is a contingency. A court might say, "I don't know what Senators are going to do. No one can figure out what those fellows are going to do or what the Secretary of the Interior is going to do under section 106."

I happen to disagree with the Senator's rationale.

Mr. JACKSON. I disagree with the rationale no matter whose it may be. Section 106 does not affect retention.

Mr. EAGLETON. It no more affects retention than does my amendment.

Mr. JACKSON. The trouble with the Senator's amendment, as I see it, is that it casts a cloud over the whole procedure, because it raises the question that a court, in going through the process, could say in effect, 8 months from now, after we have gone all through this, "Congress can turn around and come back and undo the whole process."

Mr. EAGLETON. Suppose the bill passes the Senate tomorrow, is passed by the House on Monday, and is signed by the President on Monday. On Friday someone else could submit the Bayh amendment or could come in with a new amendment. Something might sail through. What would happen then? Congress can always act.

Mr. JACKSON. But the point is that we would have written into the law that 8 months hence this matter comes back to Congress. In fact, a date is fixed. I do not know why we should amend the rules of debate for both the House and the Senate by such a procedure. Suppose Senators insist on wanting to go into this matter in more detail, with hearings and so forth? Obviously, Congress cannot be bound in the future, but by this amendment we would be changing the rules of the Senate.

Mr. EAGLETON. This is the so-called Ervin procedure.

Mr. JACKSON. I do not care whose procedure it is. The fact is that debate would be limited on a specific measure before the Congress before any determination could be made on the nature of the measure.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. STEVENS. I do not know of any investor or company that would put up the money to construct the Alaska pipeline, if the right-of-way permit were issued, so long as this study and this further decision by Congress were even considered to be the proper course by Congress.

Mr. EAGLETON. That is true under the committee bill itself.

Mr. STEVENS. That is not correct.

Mr. EAGLETON. If the committee bill becomes law, and that case is still in court, does the Senator think they are doing to start digging on that right-of-way?

Mr. STEVENS. No, but the committee bill ends the question of the one pipeline through Canada and deals with the two-pipeline concept. I have an amendment to insure that the pipeline would start in September.

Mr. EAGLETON. I have heard of that.

Mr. STEVENS. I can assure the Senator that it would start in September very quickly.

That is a matter to be discussed later, and it will come up Tuesday morning. But this amendment would destroy any confidence of the investing public in the current Alaska pipeline, even if we won the case in court.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were not ordered.

Mr. WEICKER. Mr. President, I am pleased today to cosponsor the compromise amendment offered by the distinguished junior Senator from Missouri (Mr. EAGLETON) that recognizes the paramount national concern to utilize our vital Alaskan oil reserves.

I do not believe the litigation over the proposed trans-Alaskan pipeline route should be further delayed. I, therefore, support this amendment to adopt the right-of-way provisions of the Jackson bill, S. 1081, thereby allowing the court to proceed with consideration of the environmental aspects of the case.

Although I have voted against the Bayh-Mondale proposal, I see no reason why a feasibility study of the trans-Canada route should not proceed, provided that litigation involving the Alaskan pipeline is not impeded. This amendment does authorize preliminary negotiations and a feasibility study of the trans-Canada pipeline and insures the Congress that it will be presented with the full facts surrounding this controversial issue.

By adopting this commonsense approach, the Congress will allow all viable alternatives to be fully considered, thereby insuring that the critical North Slope oil resources will be tapped in the quickest and most environmentally sound manner. Mr. President, I urge the Senate to adopt this essential compromise.

Mr. EAGLETON. Mr. President, I have a few more remarks, and then I will be prepared to yield back the remainder of my time and vote.

I voted against the Mondale-Bayh amendment for reasons which were compelling to me—that it would further delay the litigation on the Alaskan pipeline question and that those litigants in the suit, the plaintiffs and the respondents, in my judgment, were entitled to have their day in court and were entitled to have their case proceed to culmination under NEPA. Thus, when the Mondale-Bayh amendment, which still postponed that litigation because it refused to grant the right-of-way, was not amended, I was compelled to vote against it.

The amendment I have offered in no way, in my judgment, jeopardizes the litigation, impedes it, thwarts it, sidetracks it, or renders it moot. The litigation will go forward, as it properly should. It is unfortunate that it has not been completed by now. It is unfortunate that the proponents of this measure did not realize what any freshman law student would realize—that the right-of-way question had to be resolved. The law was crystal clear. Apparently, someone in the Interior Department or someone in Alaska forgot to read the law. That is part of the reason for the great dilemma today—someone forgot to read a statute that on its face is so clear as not to be susceptible of varying interpretations.

In any event, here we are, and I would like to see the case go forward.

Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. EAGLETON. I would like to see the Alaskan case go forward. At the same time, I would like to see an intelligent, in-depth study made of the so-called trans-Canada route to determine whether we need one or the other or some combination.

The PRESIDING OFFICER. All time of the Senator from Missouri has expired.

Mr. JACKSON. Mr. President, I yield the Senator 1 additional minute.

Mr. EAGLETON. Finally, I repeat my prediction: The day will come in this litigation with respect to the Alaskan pipeline when proponents might very well wish they had the benefit of a study such as that recommended in this amendment.

I thank the Senator from Washington for his courtesy. I have no time to yield back.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BUCKLEY (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Iowa (Mr. Clark), and the Senator from Indiana (Mr. Hartke) are necessarily absent.

I further announce that the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), and the Senator from Alabama (Mr. Sparkman) are absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

On this vote, the Senator from Iowa (Mr. Clark) is paired with the Senator from Washington (Mr. Magnuson).

If present and voting, the Senator from Iowa would vote "yea," and the Senator from Washington would vote "nay."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Michigan (Mr. Griffin) is absent on official business.

The result was announced—yeas 33, nays 58, as follows:

[No. 285 Leg.]

YEAS—33

Abourezk
Bayh
Biden
Brooke
Burdick
Case
Chiles
Church
Eagleton
Fulbright
Hart
Haskell
Hathaway
Hughes
Humphrey
Kennedy
Mansfield
Mathias
McGovern
McIntyre
Metcalf
Mondale
Muskie
Nelson
Packwood
Percy
Proxmire
Ribicoff
Stafford
Stevenson
Symington
Weicker
Williams

NAYS—58

Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Byrd, Robert C.
Cannon
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Gravel
Gurney
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Javits
Johnston
Long
McClellan
McClure
Montoya
Moss
Nunn
Pastore
Pearson
Pell
Randolph
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Stevens
Taft
Talmadge
Thurmond
Tower
Tunney
Young

ANSWERED "PRESENT"—1

Buckley

NOT VOTING—8

Byrd, Harry F., Jr.
Clark
Griffin
Hartke
Magnuson
McGee
Sparkman
Stennis

So Mr. Eagleton's amendment (No. 323), as amended, was rejected.

UNANIMOUS-CONSENT AGREEMENT ON AMENDMENT NO. 320 AND ON S. 426 AND HOUSE JOINT RESOLUTION 512

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—having been authorized by the distinguished majority leader to do so and having cleared the matter with the distinguished manager of the bill (Mr. Jackson) and with the distinguished ranking minority member (Mr. Fannin) that amendment No. 320 by Mr. Bartlett be laid before the Senate at the close of business today and made the pending question; that the Gravel amendment be temporarily laid aside for that purpose; and that a vote occur on the Bartlett amendment tomorrow at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized tomorrow, the Senate resume the consideration of the unfinished business, and that amendment No. 320 be the pending question before the Senate at that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have been authorized by the majority leader—and this has been cleared with the other side of the aisle—to ask unanimous consent that at such time as S. 426, a bill to regulate interstate commerce by requiring premarket testing of new chemical substances and for other purposes, is called up and made the pending business before the Senate, there be a time limitation thereon of 1 hour, to be equally divided between the Senator from California (Mr. Tunney) and the minority leader or his designee; that time on any amendment, debatable motion, or appeal be limited to one-half hour; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Missouri.

Mr. President, I ask unanimous consent that at such time as House Joint Resolution 512, relating to insurance of loans and mortgages, and so forth, is called up and made the pending business before the Senate, there be a time agreement thereon as follows: that time for debate be limited to 4 hours, the time to be equally divided between the distinguished majority leader or his designee and the distinguished minority leader or his designee; that time on any amendment be limited to 1 hour; that time on any debatable motion or appeal be limited to 30 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER (Mr. Johnston). Without objection, it is so ordered.

The texts of the unanimous-consent agreements are as follows:

S. 426

Ordered, That, during the consideration of S. 426, the Toxic Substances Control Act of 1973, debate on any amendment, debatable motion, or appeal shall be limited to ½ hour, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from California (Mr. Tunney) and the Senator from Pennsylvania (Mr. Scott) or his designee: *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

H.J. RES. 512

Ordered, That, during the consideration of H.J. Res. 512, a joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, to extend authorizations under laws relating to housing and urban development, and for other purposes, debate on any amendment shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill, and that debate on any debatable motion or appeal shall be limited to ½ hour, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 4 hours, to be equally divided and controlled, respectively, by the majority leader and the minority leader, or their designees: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

AMENDMENTS OF 1973 TO FEDERAL LAW RELATING TO EXPLOSIVES

The **PRESIDING OFFICER** (Mr. CHILES). Under the previous order, the Senate will now proceed to the consideration of S. 1083, which the clerk will state by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 1083) to amend certain provisions of Federal law relating to explosives.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as "Amendments of 1973 to Federal Law Relating to Explosives".

SEC. 101. Section 845(a) of title 18 of the United States Code (relating to exemptions from certain provisions of Federal law relating to explosives) is amended by striking out paragraph (5) and inserting in lieu thereof the following new paragraph:

"(5) commercially manufactured black powder, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in section 921(a) (16) of title 18 of the United States Code, or in antique devices as exempted from the term 'destructive device' in section 921(a)(4) of title 18 of the United States Code; and".

SEC. 102. Section 921(a)(4) of title 18 of the United States Code is amended by inserting after the word "sporting" in the last sentence the following: ", recreational or cultural".

The **PRESIDING OFFICER**. Debate on this bill is limited to 2 hours, with the time being divided equally between the Senator from New York (Mr. JAVITS) and the Senator from Indiana (Mr. BAYH).

Who yields time?

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill which has just been called up be temporarily laid aside and that the Senator from New York (Mr. BUCKLEY) be recognized to call up an amendment to the Alaska pipeline bill, and that the explosives bill then be laid before the Senate upon disposition of the amendment of the Senator from New York.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

Mr. BUCKLEY. Mr. President, I call up my amendment No. 308.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 33, between lines 6 and 7, insert the following new paragraph:

"(4) That the purpose of the Alaska Native Claims Settlement Act was to provide for a speedy and just settlement of the claims of Alaska Natives and Native groups and delay in the construction of a pipeline for the delivery of North Slope oil will prevent timely realization of the revenue sharing benefits of the Native claims settlement."

On page 35, between lines 20 and 21, insert the following new section:

"SEC. 206. (a) The Congress realizes that the delay in construction of a pipeline to transport North Slope crude oil will delay payment into the Alaska Native Fund of revenues resulting from the revenue sharing scheme provided by section 9 of the Alaska Native Claims Settlement Act (Act of December 18, 1971, 85 Stat. 688), and the Congress therefore authorizes a sum of $7,500,000 to be paid from the United States Treasury into the Alaska Native Fund every six months beginning July 1, 1976, as advance payments against the revenues to be received under section 9 of the Alaska Native Claims Settlement Act, until such time as the delivery of North Slope crude oil to a pipeline is commenced.

"(b) Section 9 of the Alaskan Native Claims Settlement Act is amended by striking the language in subsection (g) thereof and substituting the following language: 'The payment required by this section shall continue only until a sum of $500,000,000 has been paid into the Alaska Native Fund less the total of advance payments paid into the Alaska Native Fund pursuant to section 206(a) of the Federal Lands Right-of-Way Act of 1973. Thereafter, payments which would otherwise go into the Alaska Native Fund will be made to the United States Treasury as reimbursement for the advance payments authorized by section 206(a) of the Federal Lands Right-of-Way Act of 1973. The provisions of this section shall no longer apply, and the reservation required in patents under this section shall be of no further force and effect, after a total sum of $500,000,000 has been paid to the Alaska Native Fund and to the United States Treasury pursuant to this subsection.'."

On page 35, line 21, strike "SEC. 206." and insert in lieu thereof "SEC. 207.".

Mr. BUCKLEY. Mr. President, I yield myself such time as I may require.

Almost 2 years ago, this body took a historic step in treating America's original inhabitants with justice and fairness. In 1971, this body passed the Alaska Native Claims Settlement Act to settle the longstanding land claims of the Alaska Native people. That act provided for fair and just compensation through grants of land and money for the extinguishment of the Natives' land rights.

The act was wisely drafted to share the burdens of compensation between the United States and the State of Alaska. An important part of the compensation was a 2-percent royalty on mineral revenues to be paid to the Alaska Natives up to a ceiling of $500 million. This payment would come almost entirely from the State of Alaska and was predicated on an assumption that the North Slope oil would provide the bulk of the royalty income.

In 1971, we expected passage of land claims would eliminate a major hurdle which had stalled production on the North Slope. We, consequently, anticipated that the oil would soon begin to flow and that the Alaska Natives would soon begin receiving royalty income. Our optimism has proven incorrect. Today, nearly 2 years after passage of that act, the Alaska Natives have still not received royalty income from North Slope production.

The amendment I propose would adopt a reasonable means of insuring that excessive delays in production of North Slope oil would not unduly burden the Alaska Native people by postponing indefinitely the compensation provided by the Claims Settlement Act. My amendment provides that if production on the North Slope has not commenced by July 1, 1976, the United States will advance money to the Alaska Natives in the amount of $7,500,000 each 6 months until North Slope production begins. These advances would be paid back by the State of Alaska from mineral royalty income after the Alaska Natives had received the promised total royalty income of $500 million. My amendment would do two things. It would provide cash to the Alaska Natives rather than further postponing fulfillment of the Settlement Act. Second, it would provide this payment without cost to the

United States since the advance payments would ultimately be repaid by the State of Alaska. The Alaska Natives would receive the promised $500 million and we would insure that the money was received with reasonable promptness as we anticipated when the Settlement Act was passed.

Mr. President, I have discussed this amendment with the distinguished chairman of the committee, and I believe he is prepared to accept it.

Mr. JACKSON. Mr. President, I yield myself such time as I may require.

I commend the Senator from New York for bringing to our attention an important human consequence of the delay in production of the North Slope oil. I share his concern and endorse his amendment. I believe the approach he has suggested is a just and reasonable one. However, I feel the Senator's approach could be significantly improved by two minor amendments.

When the Native Claims Settlement Act was enacted, the Interior Committee calculated that the $500 million royalty income had a then present value of only $187 million. This difference resulted from the fact that the royalty income would be spread over an anticipated period of almost 30 years. In fact that schedule has itself been delayed nearly 2 years since passage of the Settlement Act. The Alaska Natives have pointed out to me that each year's delay in receipt of the royalty income is an effective economic loss of $15 million in lost interest alone. In other words, even if the production of North Slope oil began next year and the Natives received every cent of the promised $500 million they would already have effectively lost $30 million because of the 2-year delay. Based on this fact, the Natives have urged that the advance payments provided by the Buckley amendment should not be deducted from future royalty income, but should instead be outright grants of Federal funds.

While the Natives' arguments are economically sound, they seem to me to ask the Federal Government to bear the entire cost and risk of delay. I think this delay was an inherent possibility in the Settlement Act and should, to a great extent, not be borne exclusively by the Federal Government. However, the Natives' argument does show that they have already lost many millions in anticipated income from investment of the $500 million royalty payment. Accordingly, I propose that the Buckley amendment be further amended to provide that the advance payments begin in fiscal year 1975, rather than in July 1976. This amendment would simply recognize the fact that the Alaska Natives are already suffering to a great degree from the delay of the production of North Slope oil.

Moreover, it has come to my attention that beginning in 1977 an annual advance payment of $15 million would be far less than the present estimates of the State of Alaska on anticipated royalty income. According to July 1973 figures of the Alaska Native Foundation based on projected royalty payments prepared by the Alaska Department of Community and Regional Affairs, production of North Slope oil is anticipated to produce roughly $50 million annually in royalty payments to the Alaska Native fund beginning in calendar 1977. This fact indicates that if production of the North Slope oil is delayed beyond December 31, 1976, the advance payments provided by the Buckley amendment would not be sufficient to provide an equivalent income based on today's projections of expected oil production. Accordingly my amendment would provide that in the event production of North Slope oil has not commenced by December 31, 1976, the loans provided by the Buckley amendment would be forgiven in recognition of the fact that further delays would diminish the value of the Settlement Act far below even today's depreciated values.

Mr. President, I again commend my colleague from New York and urge this body to adopt his amendment together with my own proposed modifications. I share Senator BUCKLEY's view that this approach is a just and reasonable means of fulfilling our promise to the Alaska Native people and insuring fair and honorable delays with our country's first citizens.

Mr. President, I ask unanimous consent to call up my amendments as an amendment to the Buckley amendments. They are at the desk.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

On page 2, line 11, strike the words "beginning July 1, 1976" and insert "of each fiscal year beginning with the fiscal year ending June 30, 1975".

On page 2, line 15, strike the period and insert ": *Provided*, That if such delivery has not commenced by December 31, 1976, such payments shall not be deemed advance payments under this section for purposes of section 9 of the Alaska Native Claims Settlement Act, as amended.".

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered.

There is 15 minutes to the side. Who yields time?

Mr. JACKSON. Mr. President, I believe that the Senator from New York is in a position to accept the amendments.

Mr. BUCKLEY. Mr. President, I am grateful to the Senator from Washington. The amendments of the Senator from Washington totally wipe out the inequity in the present situation, and I gladly accept them.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JACKSON. Mr. President, I yield such time as he may require to the Senator from Alaska.

Mr. STEVENS. Mr. President, I am indebted to the Senator from New York for his concern, and the Alaskan Native people will be grateful to him for his concern over their rights under the Alaskan Native Land Claims Act.

I had heard of this amendment previously, and had it been offered before the Mondale amendment or the Eagleton amendment was voted on, I would have opposed it strenuously.

I do not wish to question the motives of my good friend, the Senator from New York. However, I would say that the amendment assumes that there will be delay. We have an amendment that would eliminate the delay.

Mr. BUCKLEY. My amendments refer to the delay in the future.

Mr. STEVENS. The delay we have suffered is being suffered by all Alaskans. And if we could get the Alaskan pipeline started now, I doubt that the Alaskan Native people would object to the delay that has already occurred.

Mr. President, this assumes that there will be further delay and it assumes that the Alaskan Native people are suffering because of this. I agree with that. However, the problem is that all Alaskans are suffering, because of this delay.

Mr. President, I have a letter from the Alaska Federation of Natives which was addressed to the chairman of the committee, the Senator from Washington (Mr. JACKSON). I would hope that the Senator from Washington would agree that we could have this letter printed in the RECORD at the conclusion of my remarks so as to show their feelings about this matter.

Mr. JACKSON. That is perfectly all right.

Mr. STEVENS. Mr. President, I ask unanimous consent that the letter be printed in that RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. They are not opposing the Buckley amendments. However, they firmly state that their interest, together with the interest of all Alaskans, is to get a pipeline. And if this measure should be used by anyone who seeks to delay the pipeline and assumes that it is irrelevant to the great human interest in the Alaskan pipeline and the development of the North Slope oil, I think it would be unfortunate to include such amendments in the bill.

I will have an amendment later which I hope that the Senator from Washington will consider.

Mr. President, as we have viewed the budgets that have been presented since the Alaskan Native Claims Act was passed, the payment of the money by the Government has appeared in the budget of the Bureau of Indian Affairs. This was first in the amount of $12.5 million. It is now $70 million. It appears in the BIA budget, and people will look at it and say that the budget has gone up and that we are giving this to the Alaskan people. It should not be there at all. It is no different from an award by the Court of Claims. It is an award by the Congress for the Indian claims.

As such, I think we should add another $15 million to it now, since the Senator from Nevada knows that we are dealing with $85 million annually in the BIA budget. Otherwise, the people will say:

> Look at all the money the Alaskan Natives are getting. They don't need any more money for schools or any of the other related functions of the Federal Government to carry out our trust and responsibilities to the Alaskan Native people.

Again, I say to my good friend, the Senator from New York, that I appreciate his concern that we protect the Alaskan Native people. We have done our best to do this.

I point out that through the Senator from Nevada (Mr. BIBLE), as chairman of the Subcommittee on Interior Appropriations, we included last year $12.5 million advance to the Alaskan Native fund, and $500,000 to each regional corporation. We added $1 million. This year the bill as marked up would make available an additional $500,000 for each regional corporation and an additional $1 million differential for allocation by the Secretary of the Interior for the losses they are suffering because of the delay in the pipeline.

Mr. President, I am not going to object to the amendments, because they have merit. However, who will take care of the interest that is being paid on the $1.5 billion by the oil companies on the Alaskan pipeline, the $9.5 million they have paid, and the money they paid for the pipe and the Valdez dock? Who will pay that? And who will pay the businesses that went bankrupt, because of the wilderness lawsuit?

Company after company went bankrupt, because they had to buy trucks and pipeline and equipment that would be necessary to carry out the letters of the intent given to them by the pipeline company that they would proceed as a result of the contract that was issued.

The Alaskans have lost millions of dollars, because of the foolishness involved in this delay.

The Senator from New York is doing a good thing in saying that we will prevent the Alaskans from suffering by reason of a longer delay. I hope that the Senator from New York will join with me in providing that there will be no delay.

This is discrimination in reverse. Twenty percent of our people will be held harmless and 80 percent of our people will suffer great financial losses.

I am not sure if this is the right step to take, particularly if anyone in the House or Senate wishes to have a further delay of the Alaskan pipeline bill.

A pipeline will solve the problem. The Alaskan people will receive 6 cents a barrel on every barrel of oil that goes through that pipeline, and that 6 cents a barrel that the Alaskan people will receive will amount to over $43 million annually without any question.

No one that I know of can say that they have that direct interest; 65,000 to 70,000 people have that interest in the proposal before the Senate.

I will not object to the amendments. However, I wish that the Senator from New York would help me get the pipeline started. If he does, this will cost the taxpayers of the United States nothing; if not, a delay for every year will add $15 million to the cost to the taxpayers to make up the shrinkage in the fund.

EXHIBIT 1

ALASKA FEDERATION OF NATIVES, INC.,
Anchorage, Alaska, July 11, 1973.
Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN JACKSON: In view of Senator Buckley's amendment No. 308, I believe I should advise you and, through you, the members of your Committee and the Senate, of the views of the Alaska Federation of Natives, Inc., concerning the trans-Alaska route for the transport of North Slope crude oil.

Preliminarily but of the utmost importance to our people, is the absolute necessity of assuring that those Alaska Natives who may be damaged by reason of the construction or operation and maintenance of any pipeline, whatever its route, be afforded prompt and sure compensation. For that reason, our first concern has been to secure the inclusion in any right-of-way permit of a stipulation protecting the Natives. In its report on S. 1081, your Committee has recognized the peculiar exposure of Alaska Natives to damage that might occur by reason of a pipeline. The Committee included in S. 1081 as reported out a directive to the Secretary of the Interior to incorporate the necessary stipulation in favor of the Alaska Natives in any pipeline permit that is issued to transport North Slope oil, and the Committee specifically endorsed the specific stipulation we proposed.

With the assurance afforded by the necessary permit stipulation, we turn to the question of routing.

The trans-Alaska route affords the greatest opportunity for economic benefit to Alaska Natives and their regional and village corporations as well as to the economy of Alaska generally. Many more economic benefits would accompany the development of a pipeline route running the length of the State of Alaska than would be the case with any alternate route. Accordingly, on the premise that a pipeline permit includes the stipulation which Alaska Natives must have for their protection, we unhesitatingly support the trans-Alaska route.

Turning to the Buckley amendment itself, it should first be noted that it would be applicable to delays in the initiation of the flow of North Slope oil whatever the pipeline route.

The Buckley amendment should be judged on its own merits. It does not, either in its present form or modified, as we believe it should be, constitute an acceptable trade-off, so far as we are concerned, for the trans-Alaska route.

The principle of the Buckley amendment is sound. However, the $15 million annually which it would provide for delay in initiation of North Slope oil transport beyond July 1976 would simply be an advance, ultimately to be deducted from the $500 million royalty payments provided for by the Alaska Native Claims Settlement Act. Therefore, in its present form it falls considerably short of the mark of making up the shrinkage in the real value of those royalty payments which has been the inevitable consequence of the delay in pipeline construction.

In reporting out the Alaska Native claims settlement legislation in the Ninety-First Congress, this Committee estimated the $500 million royalty segment of the compensation to be paid to the Alaska Natives for the extinguishment of their aboriginal land claims as having a present value of approximately $188 million, using a 6-percent discount rate. That present value has shrunk substantially by reason of delay in initiation of the pipeline needed to transport North Slope crude to market. Inflation has added to the shrinkage.

The 1970 present value estimate of $188 million would return $15 million annually at the current 8-percent discount rate. In other words, to keep the $188 million from shrinking further, a $15 million annual return would be required. But that $15 million would be a return on capital, whereas the $15 million per year provided for in the Buckley amendment would be a return of capital, since it would be deducted from royalties.

The principle of the Buckley amendment is that the delay in pipeline construction should not be at the expense of the compensation intended by Congress to be paid to the Alaska Natives as partial compensation for the extinguishment of their aboriginal rights. That principle is sound. But to accomplish that objective, the payment cannot be deducted from royalty payments accruing under the Alaska Native Claims Settlement Act. We would hope that the Buckley amendment would be revised accordingly and adopted.

In summary, then, our position, is:

1. We support the principle of the Buckley amendment but in view of the delays that have already occurred and delays that may yet occur, the full measure of compensation intended by Congress to be accomplished by the $500 million royalty payments provided for in the Alaska Native Claims Settlement Act can only be realized if the annual payments provided for in the Buckley amendment are made without offset against royalty payments accruing under the Settlement Act.
2. The Buckley amendment is not, in our view, an acceptable trade-off for the earliest possible construction of a pipeline using the trans-Alaska route under a permit containing the stipulation necessary to protect Alaska Natives.
3. The stipulation to protect Alaska Natives, endorsed by this Committee in its report on S. 1081, is essential.
4. With that stipulation, we favor the earliest possible initiation of the trans-Alaska route, since it offers the greatest benefits to Alaska Natives and to Alaska.

Sincerely yours,
WILLIAM L. HENSLEY,
President, Alaska Federation of Natives, Inc.

Mr. JACKSON. Mr. President, I yield to the Senator from New York such time as I have remaining.

Mr. BUCKLEY. Mr. President, I appreciate the eloquence and the strength of the sentiments expressed by the Senator from Alaska. I do believe that there is a reason to differentiate between what happens to businessmen when they take their risks and what happens to Natives who, after long negotiations, have been promised certain funds after a period of time.

I believe the figures cited by the Senator from Alaska as to the much larger benefit that will accrue to the Natives when the oil is on stream are assurance enough that my amendment will not affect, one way or the other, the outcome of this debate.

I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendments of the Senator from Washington (Mr. JACKSON) to the amendments of the Senator from New York (Mr. BUCKLEY).

The amendments were agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendments of the Senator from New York (Mr. BUCKLEY) as amended.

The amendments, as amended, were agreed to.

TIMING IS IMPORTANT

Mr. STEVENS. Mr. President, timing is another very important factor which must be considered when alternatives to the trans-Alaska route are discussed.

The construction of the trans-Alaska pipeline will take approximately 3 years. Approval and construction of the trans-Canada pipeline would take 9 to 10 years. The additional 6 to 7 years would be broken down as follows: probably 2 to 3 years for approval, legislation, and litigation plus 3 to 5 years for additional construction and engineering.

The delay would be the inevitable result of the need to prepare a detailed design and route analysis, longer construction time, and a desire on the part of the Canadian and Provincial governments, to review proposals, to consider alternatives, and to determine stipulations for construction and operation. All these are the same kinds of reviews and analyses that have already been completed for the trans-Alaska route.

Having suffered from shortages of heating fuel in the winter and now facing a summertime squeeze on gasoline supply, the Midwest is feeling the effects of an oil shortage probably more seriously than the west coast of our country. Yet in contrast to what might appear on the surface to some to be commonsense, a trans-Canadian oil pipeline to Chicago will not help to relieve the mounting energy problem of the Midwest while a trans-Alaska pipeline carrying oil from Alaska's North Slope to the west coast ports will.

Proceeding with a trans-Canada pipeline would not only delay delivery of much needed Alaskan oil for many years, it would delay the time when natural gas from Alaska's North Slope can be delivered to the Midwest. During the first years of oil production at Prudhoe Bay, natural gas will be reinjected in order to insure recovery of the maximum amount of oil. Only after that will gas be available for shipment through a trans-Canadian gas line.

If a trans-Alaskan oil pipeline is built within the next 3 or 4 years, allowing Prudhoe Bay production to begin, natural gas will be available for the Midwest at the time construction of a trans-Canadian gas line is completed. Otherwise, Alaskan natural gas would not be produced until after Prudhoe Bay oil production began, following the completion of a trans-Canadian oil line in the 1980's.

Getting back to why proceeding with a Canadian oil pipeline would delay delivery of Alaskan oil, this has probably been the most discussed topic in comparing the two routes. Because of this I will not dwell on these reasons today. Let me just summarize them very briefly:

First. The corporate entity must be formed and the proper documents and agreements negotiated. The proper route must be determined and analyzed, a governmental and environmental impact statement must be drafted, hearings held and the Canadian executive agencies must comment.

To enlarge on this, those companies interested in constructing a Canadian oil pipeline must come forth and must agree on a basic project. They must then engage in extensive "consultations" with various agencies of the Canadian Government to determine what requirements the Government will impose on the project. At this stage, international negotiations between the United States and Canada would be held on throughput volumes and other matters, and social and environmental impact statements would have to be developed and an agreement reached on Canadian conditions for financing.

The project would have to be modified to conform to the requirements of the various governmental agencies. Then a formal application would be made to the Canadian National Energy Board, which would review it, hold hearings and approve or dismiss it. If the application is dismissed, an amended application might be filed. The board would recommend an approved application to the Canadian cabinet, which would review it for consistency with national policy considerations. After cabinet approval, opponents of a pipeline might well raise legal challenges that would have to be resolved before construction could begin.

Mr. President, I am addressing matters which would take several years to resolve.

Second. The Canadian Native claims must be resolved.

Reports, during the past few months, confirm the seriousness of the Canadian land claims. It is apparent that Canada's northern natives have launched an all-out drive to establish their right to land. The key element of this drive is native opposition to government approval of construction of a Mackenzie Valley pipeline. With the cry of "no settlement, no pipeline"—the Financial Post, Toronto, April 15, 1973—Canada's natives have raised this issue, which the United States has just taken 15 years to resolve. The Prime Minister of Canada has recently agreed to negotiate treaty claims with the Indians for a cash land settlement, including perpetual royalties on natural resources. Moreover, Mr. Trudeau at the same time refused to say definitely that aboriginal rights exist legally. These treaties involve nearly 7,000 Indians in the territories; 13,000 Eskimos have no treaties, nor do 5,000 Metis, living side by side with the Indians in the Mackenzie area. In any event, the Indians want to do more than just negotiate their treaty claims, and rightfully so. They are organizing with the Eskimos and Metis to settle their aboriginal land claims. It took this country 5 years to settle Alaska's Native claims. Canadian natives have watched Alaska's 60,000 Natives win a $962.5 million cash and royalty payments settlement plus title to 40 million acres of land. Any major proposed trans-Canada pipeline from Alaska to the lower 48 would have international repercussions that the Canadian natives could rightfully use to gain additional leverage. By the same token, such Canadian native land claims would doubtless delay the construction of any trans-Canada pipeline.

In his testimony before the Joint Economic Committee, Mr. Donald Wright, the president of the Alaskan Federation of Natives, stated:

> We have learned from hard experience that it is imperative to settle the question of aboriginal land rights prior to the construction of any pipeline. The resolution of this issue in Canada is still in its early stages and nothing should be done to undermine its opportunity for successful resolution. To advocate a trans-Canada pipe-line must include as its premise a fair settlement of Canadian Indian land claims prior to any construction taking place. Based on our experience in the United States, this will require a number of years of careful and thorough negotiation, perhaps even litigation.

Third. Engineering and construction would take 3 to 5 additional years.

It is certain that the construction of a 3,200-mile trans-Canada oil pipeline would, simply due to its greater length, take much longer to build than would a 789-mile trans-Alaska route. This estimate of additional time is supported by a recent detailed analysis of the trans-Canadian route by the Standard Oil Co. Their analysis shows that it will take approximately 6 years from the time a Canadian permit is granted until the first oil would reach Chicago markets.

I am sure that opponents of a trans-Alaska pipeline will argue about the extent of the delay which will occur if a trans-Canadian route were used to transport Alaskan oil. However, I am more positive that no one will disagree that Alaskan oil will reach U.S. markets much more quickly if an Alaskan route is used. Each year of delay brings these consequences:

One. A continuing dependence on foreign imported oil, especially from the Middle East;

Second. The delay of North Slope gas deliveries to the Middle West;

Third. A continuation and magnification of Alaska's financial problems;

Fourth. A continuing dollar drain to foreign countries for oil purchases;

Fifth. A delay in reduction of the Alaska Native claims settlement;

Sixth. A cessation of domestic oil and gas exploration in Alaska; and

Seventh. A loss of jobs in Alaska for the construction and maintenance of the pipeline coupled with a loss of jobs in the shipbuilding industry.

ENVIRONMENTAL CONCERNS

Mr. President, let us talk about environmental concerns for a moment. The proponents of a Canadian route state that it is environmentally superior to a trans-Alaska route.

The facts I have show no such environmental superiority, all things considered, in a Canadian route. First of all, the environmental impact statement prepared in connection with the Alaska route considered various possible Canadian routes, and from the information available it is possible to make a judgment about the relative environmental merits of the various Canadian routes and the proposed Alaska route. The Alaska and Canadian routes were found to be equal in terms of their effect on land based wildlife and on surface and ground water. However, it is clear that any pipeline through Canada would involve more unavoidable environmental damage than the Alaska route. Because the Canadian route is over twice as long, it would affect more wilderness, disrupt more wildlife habitat, cross almost twice as much permafrost, and necessitate the use of at least twice as much gravel that has to be dug from the earth; and it would obviously use about twice as much land.

The potential environmental damage of these alternatives was found to be more difficult to assess. The two routes are approximately equivalent with respect to risks from slope failure and permafrost. A Canadian route would also cross seismically active terrain. The Canadian route would not have a marine leg, but it would involve many more large river crossings which are a major hazard to pipelines. It is generally the rule that the wider the river, the greater the risks.

The environmental risks in the Alaska route are not insurmountable and they will be guarded against. Indeed the amount of technical planning and the extent of environmental studies undertaken in preparation for the Alaska pipeline are unprecedented. Since its inception the participants in this project have spent many millions of dollars in research, engineering, design, and planning for the construction and operation of the system.

For instance, the pipeline is designed to withstand the largest earthquake that has ever been experienced in Alaska; it will be constructed more carefully than many buildings in known earthquake zones, such as Los Angeles and San Francisco.

Much has been said about the danger of oil spills on the Alaska route, particularly on the sea leg. Regarding marine oil spills, again very careful study has been given to this and I am convinced that stringent requirements for deballasting ships at Valdez, new ships built with the latest structural design, and stringent operational procedures to avoid collisions and groundings will all contribute to virtually eliminating oil losses at sea.

Opponents of the trans-Alaska pipeline know that every safeguard is being taken to protect the environmental quality of our waterways. For instance, the ballast treatment plant at Valdez is being designed to produce an effluent of 10 parts per million of oil, which is the environmental standard. Second, assuming a maximum pipeline throughput of 2 million barrels per day, the ballast from the ships required to carry this oil would result in a treatment plant effluent of only four barrels of oil per day.

Some of the operational procedures to be enforced are as follows. Checklists are being developed for the terminal tanker operation on an individual ship basis, and the checkout between the dock and the ship will be confirmed to the terminal supervisor before loading starts. All ballast from the cargo tanks will be piped to the Valdez ballast treating plant and each shipmaster will be required to sign an affidavit to the effect he has not discharged oil at sea during his voyage to the terminal. This affidavit will be confirmed by an inspection of the ship's oil record log book. All tankers will take aboard a State pilot in Prince William Sound and all pilotage laws will be observed. Alyeska will provide tugs at Port Valdez and all docking and undocking will be tug assisted.

Thirty-five U.S. tankers will be used to haul oil from Valdez and 27 of them are yet to be constructed. In this regard, the Secretary of Interior in June 1972, made this statement to the Joint Economic Committee:

> NEW AMERICAN INITIATIVE
>
> Nonetheless, I am convinced that we must seize this opportunity to set new and exacting standards to govern the marine transport of American oil. This goal is worth accomplishing by itself; but if our standards can set an example for solving the broader problems of international oil movements, we will have accomplished a task of long range significance for mankind. I have discussed this matter with Secretary Volpe, and we are now studying the implementation of the following steps:
>
> All tankers, foreign and domestic, operating in the TAPS trade will be prohibited from discharging oil into the ocean, including oil contaminated ballast, tank cleaning waste, or bilge effluent. The facilities at Port Valdez will not be allowed to deliver oil to tankers that have violated this prohibition. Newly constructed American flag vessels carrying oil from Port Valdez to United States ports will be required to have segregated ballast systems, incorporating a double bottom, which will avoid the necessity for discharging oily ballast to the onshore treatment facility. All other tankers will be required to discharge oily wastes into the treatment facility at Port Valdez. That facility will be required to eliminate as much oil from these wastes as technologically practicable. In no instance will the discharge exceed 10 ppm of oil, and the standard will be upgraded as improved technology becomes available.
>
> Vessel Traffic Systems will be required for Port Valdez and the West Coast ports. These systems will incorporate traffic separation schemes and will be geographically situated so as to avoid the fishing grounds and ecologically sensitive areas off Canada, Alaska and our West Coast. The Coast Guard will increase its staff and equipment as necessary to implement these schemes. Aids to navigation will also be modified as required to implement these systems.
>
> New United States flag vessel designs will be evaluated, looking toward improving their maneuverability with regard to stopping distance and turning characteristics.
>
> All accidental discharges during loading and unloading will be eliminated to the fullest extent possible and if they occur, will be subject to substantial penalties. Coast Guard regulations scheduled to become effective late this summer are being reviewed to assure their adequacy for Alaskan operations. Construction specifications and required manning and equipment standards are also being reviewed to provide further insurance against accidental discharges during loading and unloading operations.
>
> Contingency plans for cleaning up oil spills must be continually reviewed and proven to minimize the damage in the event any accidents occur. These will be kept current in the light of new technology to assure their maximum effectiveness. The Coast Guard will augment its personnel and equipment to insure a maximum capability in this regard.
>
> A continuing environmental monitoring system will be required during the lifetime of oil movement in American coastal waters.

In June 1973, the Secretary of Interior reaffirmed the initiatives in this statement and has assured the Congress of the continued cooperation of the Department of Transportation and the Coast Guard. Progress has been made in implementing the steps outlined in the statement. However, many of the actions to be taken hinge on the outcome of an International Marine Pollution Conference this fall. Until that conference is held, the question of what construction standards will apply to tankers remains open. It is my belief that a strong, comprehensive, and enforceable convention will provide the necessary controls to insure environmental protection.

In considering an Alaskan versus a Canadian route, it is clear to me that the environmental and technical stipulations built into the plans for the Alaska pipeline will guard against environmental risk; but the United States cannot insist on such stipulations for a Canadian route.

ALASKAN PIPELINE—JOBS

Mr. President, another often ignored factor entering into the economic considerations governing a choice of pipeline routes is the benefits associated with the construction of the Alaskan pipeline and the tankers necessary for the transport of the oil. Twenty-six thousand jobs will be created in Alaska in connection with pipeline construction and a gross payroll of $800 million will be generated. Expenditures for materials, supplies, and transportation will total $1.5 billion, a major portion of which will be distributed throughout the lower 48 States.

In addition, 27 tankers will be built for oil transportation which will cost about $1.6 billion. This will generate 73,480 man-years of shipyard employment in addition to 3,800 permanent jobs for operation and maintenance of the tanker fleet.

The construction trade unions, recognizing the job opportunities available through the construction of the trans-Alaska pipeline, have by and large adopted strong positions to support it. One such union is the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada.

Last year the Joint Economic Committee held hearings on the trans-Alaskan pipeline. At that time, Mr. Martin J. Ward, general president of UA, submitted an official letter stating the position of the UA to the chairman, Senator PROXMIRE, on behalf of the 323,000-member union.

Only this past month the official publication of UA published a major article on the trans-Alaskan pipeline. The article was entitled "Congress Must End Impasse—Alaska Will Carry Oil to a Fuel-Hungry Nation."

This article discusses the difficulties that have beset the pipeline thus far. It states:

> Against this background, it seems reasonable to ask Congress to end the current impasse over the construction of the pipeline. It is becoming daily more urgent that the Alaska oil be made available to combat the energy crisis we are embroiled in. . . .
>
> The Alaska oil fields are our best hope for increasing domestic production. It is esti-

mated that at least 10 billion barrels of oil can be produced from the North Slope reserves. That's as much as reserves in Louisiana, Oklahama, Kansas, and half of Texas combined.

Let me reiterate, the loss to the U.S. economy is not simply 26,000 jobs in Alaska. The loss encompasses the spending related to these 26,000 jobs and the other demands for U.S. goods and services which the trans-Alaska construction would entail, as well as the spending that would be engendered on the part of those who provide these goods and services. For instance, the Alaska pipeline offers perhaps the greatest single opportunity for new cargoes and new jobs that the American fleet has ever had.

Studies done with the Wharton long-range econometric model at Atlantic Richfield put the cumulative GNP loss to the U.S. economy as of 1980 at 19 billion 1973 dollars if a trans-Canadian pipeline is built. By itself, this constitutes a persuasive argument in favor of TAPS.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 1191 AND ON BUCKLEY AMENDMENT TO THE ALASKA PIPELINE BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1191, a bill to establish a National Center on Child Abuse and Neglect, is called up and made the pending question before the Senate, there be a time limitation agreement thereon of 1 hour on the bill, to be equally divided between and controlled by the distinguished majority leader and the distinguished minority leader or their designees, the time on any amendment, debatable motion, or appeal to be limited to 30 minutes, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment by Mr. Bartlett tomorrow the Senate proceed to the consideration of S. 1191; and that the unfinished business be temporarily laid aside and remain in a temporarily laid aside status until the disposition of S. 1191 on tomorrow or the close of business, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that on Monday, at the hour of 1:30 p.m., the Chair recognize the distinguished Senator from New York (Mr. Buckley) for the purpose of his calling up amendment No. 309 to the Alaska pipeline bill, and that a vote occur on the Buckley amendment on Monday at the hour of 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. It is my understanding that our amendment would become the pending business somewhere along the line, and I want to make certain when that is, so that my colleague, Mr. Gravel, and I may be prepared to be here. Can the Senator from West Virginia tell me when that will be?

Mr. ROBERT C. BYRD. Yes. The distinguished Senator from Alaska has asked a pertinent question. The amendment by Mr. Gravel and Mr. Stevens will be the pending question before the Senate when we go back on the Alaska pipeline bill this afternoon, but it will be temporarily laid aside immediately following morning business today to take up the bill dealing with explosives, on which there is a time limitation agreement, and upon the disposition of that bill the Senate will revert back to the Gravel-Stevens amendment.

Mr. STEVENS. And it will be the pending business also tomorrow morning and Monday, until disposed of, subject to the unanimous-consent agreement?

Mr. ROBERT C. BYRD. On tomorrow morning the pending question when the Senate goes into session will be on agreeing to the amendment by the Senator from Oklahoma (Mr. Bartlett), and there will be a vote on that amendment tomorrow morning at 11 o'clock. Upon the disposition of that amendment tomorrow, the Senate will proceed to the consideration of S. 1191, a bill to establish a National Center on Child Abuse and Neglect. On the disposition of that bill tomorrow, the Senate will resume the consideration of the amendment by the distinguished Senators from Alaska (Mr. Gravel and Mr. Stevens).

Mr. STEVENS. I thank the Senator.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Will the Senator request the floor in his own right? Then I shall be happy to yield.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

ORDER FOR YEAS AND NAYS

Mr. BARTLETT. On my amendment tomorrow morning, would it be possible now, by unanimous consent, to get the yeas and nays ordered?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the amendment by Mr. Bartlett at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays with one show of seconds at any time on the Buckley amendment (No. 309), to be voted on on Monday, and on the passage of S. 1191.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the amendment by Mr. Bartlett, on the amendment by Mr. Buckley (No. 309), and on the passage of S. 1191.

The yeas and nays were ordered.

The text of the unanimous-consent agreement reads as follows:

S. 1191

Ordered, That, during the consideration of S. 1191, the Child Abuse Prevention and Treatment Act, debate on any amendment, debatable motion or appeal shall be limited to ½ hour, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the majority and minority leaders, or their designees: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion or appeal.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

REPORT ON AGRICULTURAL EXPORT ACTIVITIES UNDER PUBLIC LAW 480—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Chiles) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Agriculture and Forestry. The message is as follows:

To the Congress of the United States:

I am pleased to transmit to the Congress the 1972 annual report on agricultural export activities carried out under Public Law 480. This program has once again demonstrated the desire of the people of the United States to help those in other countries who are less fortunate than ourselves and stand in need of our assistance.

Through food donations and concessional sales of agricultural commodities, the Public Law 480 program in 1972 helped alleviate immediate problems arising from inadequate food supplies, and helped to lay the basis for new agricultural production in many countries throughout the world. A major impact of this program came through our assistance to the distressed victims of war and natural disasters in Bangladesh.

Other principal recipient countries of development and emergency assistance included Korea, Vietnam, Israel, Pakistan, India and Indonesia. By assisting such countries, the Public Law 480 program also helps to offset threats to internal stability and contributes to our objective of reducing the level of international tensions.

RICHARD NIXON.

THE WHITE HOUSE, *July 12, 1973.*

REPORT ON WORLD WEATHER PROGRAM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce. The message is as follows:

To the Congress of the United States:

Through the World Weather Program, man is acquiring a means not only to cope with his atmosphere and its vagaries but also to understand and assess the impact of his activities on the quality of the global atmosphere.

As a result of recent technological improvements, we are continuing to show substantial progress in furthering the goals of this program:

- Operational geostationary satellites will soon provide a nearly continuous view of storms over a large part of the earth's surface, strengthening our ability to predict and warn of potential natural disasters. Polar-orbiting satellites making vertical measurements of the global atmosphere are already an important aid to weather forecasting.
- Significant advances in computer science are now helping to extend the range, scope and accuracy of weather predictions and to assess the impact of pollution on climate and weather.
- Intensive planning is nearing completion for a large-scale international experiment to be conducted in 1974 in the tropical Atlantic. This experiment will seek a better understanding of the effects of the tropics on global weather patterns. As a result, we expect to gain new insight into the life cycle of hurricanes that affect the coastal areas of the United States.
- Nations are planning to combine their resources in 1977 to observe the entire earth's atmosphere for the first time as a single physical system.

The World Weather Program is a distinctive example of what nations of the world are capable of achieving when united in a common purpose. A recent United Nations Conference on the Human Environment acknowledged the vital contributions of this program. It is most heartening that a program which means so much to the safety and well-being of the American people can at the same time assist in providing these same assurances to other peoples.

In accordance with Senate Concurrent Resolution 67 of the 90th Congress, I am pleased to transmit this annual report describing the current and planned activities of Federal agencies participating in the World Weather Program.

RICHARD NIXON.

THE WHITE HOUSE, *July 12, 1973.*

REPORT OF NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. CHILES) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

I herewith transmit the Seventh Annual Report of the National Advisory Council on Extension and Continuing Education. The Council is authorized by Public Law 89-329.

The Council's study covers the impact of Federal continuing education, extension and community service programs. I especially commend its analysis of the problems and shortcomings which have resulted from too many fragmented programs operating under various narrow legislative authorities. This study lends further support to a better approach to higher education which would permit academic communities to pursue excellence and reform in the fields they choose and by the means they choose.

The new Fund for the Improvement of Postsecondary Education provides a way to support development of effective programs in continuing education, extension, and community service. Because of the wide range of support possible under the Fund's broad mandate, I shall continue to recommend the termination of other less flexible programs.

RICHARD NIXON.

THE WHITE HOUSE, *July 12, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. CHILES), laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session for action on nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of nominations favorably reported today by the Committee on the Judiciary.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the following nominations:

Harlington Wood, Jr., of Illinois, to be a U.S. district judge for the southern district of Illinois;

Thomas G. Gee, of Texas, to be a U.S. circuit judge, fifth circuit;

William H. Webster, of Missouri, to be a U.S. circuit judge, eighth circuit;

John F. Nangle, of Missouri, to be a U.S. district judge for the eastern district of Missouri;

Prentice H. Marshall, of Illinois, to be a U.S. district judge for the nothern district of Illinois.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATION FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

Report of Board of Trustees of Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund

A letter from the Secretary of the Treasury, Secretary of Labor, Secretary of Health, Education, and Welfare, and Acting Commissioner of Social Security, transmitting, pursuant to law, the 1973 annual report of the board of trustees of the Federal old-age and survivors insurance trust fund and the Federal disability insurance trust fund (with an accompanying report). Referred to the Committee on Finance.

Proposed Legislation From U.S. Tariff Commission

A letter from the Chairman, U.S. Tariff Commission, transmitting a draft of proposed legislation to amend section 330(B) of the Tariff Act of 1930 to provide for holding over a Commissioner in office after his term has expired until his successor is appointed and shall have qualified; with an accompanying paper). Referred to the Committee on Finance.

Reports of Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "U.S. Assistance for the Economic Development of the Republic of Korea," dated July 12, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Progress and Problems of U.S. Assistance for Land Reform in Vietnam," Agency for International Development. Department of State, dated June 22, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 2323. An act to continue until the close of June 30, 1974, the suspension of duties on certain forms of copper (Rept. No. 93–313);

H.R. 2324. An act to continue until the close of June 30, 1975, the existing suspension of duties for metal scrap (Rept. No. 93–314); and

H.R. 6394. An act to suspend the duty on caprolactam monomer in water solution until the close of December 31, 1973 (Rept. No. 93–315).

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 6676. An act to continue until July 1, 1976, the existing suspension of duty on manganese ore (Rept. No. 93–316).

By Mr. CRANSTON (for Mr. Hartke), from the Committee on Veterans' Affairs, with an amendment:

S. 2087. A bill to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans (Rept. No. 93–317).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Harlington Wood, Jr., of Illinois, to be a U.S. district judge for the southern district of Illinois;

Thomas G. Gee, of Texas, to be a U.S. circuit judge, fifth circuit;

William H. Webster, of Missouri, to be a U.S. circuit judge, eighth circuit;

John F. Nangle, of Missouri, to be a U.S. district judge for the eastern district of Missouri; and

Prentice H. Marshall, of Illinois, to be a U.S. district judge for the northern district of Illinois.

By Mr. SYMINGTON, from the Committee on Armed Services:

John L. McLucas, of Virginia, to be Secretary of the Air Force.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on Armed Services:

General George S. Brown (major general, Regular Air Force), U.S. Air Force, to be appointed as Chief of Staff, U.S. Air Force.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations in the Army of Lt. Gen. Charles A. Corcoran to be placed on the retired list of that grade, Maj. Gen. Francis Hollingsworth to be lieutenant general, Gen. Alexander Meigs Haig, Jr., to be placed on the retired list in that grade, Lt. Gen. Claire E. Hutchin, Jr., to be placed on the retired list in that grade, Lt. Gen. Richard G. Stilwell to be general; and 61 for promotion in the Army (31 to the grade of brigadier general and 30 to major general); in the Air Force Lt. Gen. Eugene B. LeBailly to be placed on the retired list in that grade; and in the Navy Adm. William F. Bringle for appointment to the grade of admiral when retired. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, in addition, there are 911 for promotion in the grade of colonel and below (includes four Reservists), 984 in the grade of colonel and below, and 1,160 in the Air Force Reserve in the grade of colonel and below; and in the Navy 160 permanent promotions in the grade of captain and commander. Since these names have already appeared in the Congressional Record, in order to have the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Terry P. Kloss, and Thomas M. Stanley, for promotion in the Regular Air Force;

Russell F. Brown, Jr., and William D. Steck, for reappointment to the active list of the Regular Air Force;

Jerry L. Abel, and sundry other officers, for appointment in the Regular Air Force;

Brig. Gen. John A. Wickham, Jr., Army of the United States (lieutenant colonel, U.S. Army), and sundry other officers, for temporary appointment in the Army of the United States;

Eugene William Albrecht, and sundry other reserve officers of the U.S. Navy, for permanent promotion in the Navy;

Jack Ables, and sundry other officers, for promotion in the Air Force Reserve; and

Byron A. Abbott, and sundry other officers, for appointment in the Regular Air Force.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. COOK (for himself, Mr. Robert C. Byrd, and Mr. Baker):

S. 2167. A bill to authorize the Secretary of the Interior to conduct research, development, and demonstration projects in the fields of energy sources and technologies. Referred to the Committee on Interior and Insular Affairs.

By Mr. HATFIELD (for himself and Mr. Packwood):

S. 2168. A bill to authorize the Secretary of the Interior to establish the John Day Fossil Beds National Monument in the State of Oregon, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PROXMIRE:

S. 2169. A bill to provide for the direct financing of low- and moderate-income housing programs under sections 235 and 236 of the National Housing Act. Referred to the Committee on Banking, Housing, and Urban Affairs.

S. 2170. A bill to amend the United States Housing Act of 1937 to require that 20 per centum for new units in public housing projects be available for occupancy by large families. Referred to the Committee on Banking, Housing, and Urban Affairs.

S. 2171. A bill to encourage low rise construction in public housing and elderly housing projects. Referred to the Committee on Banking, Housing, and Urban Affairs.

S. 2172. A bill to require that funds be made available for replacement housing in connection with certain highway programs. Referred to the Committee on Finance.

By Mr. DOLE:

S. 2173. A bill to amend the Act of August 31, 1965, commemorating certain historical events in the State of Kansas. Referred to the Committee on Interior and Insular Affairs.

By Mr. FONG:

S. 2174. A bill to amend the civil service retirement system with respect to the definitions of widow and widower. Referred to the Committee on Post Office and Civil Service.

By Mr. BROOKE:

S. 2175. A bill to amend section 24 of the Federal Reserve Act to simplify, consolidate, and improve the law relating to the investment in mortgages and residential real estate by national banks, and to enable the Federal Reserve banks to extend credit to member banks on any sound collateral at a uniform rate of interest. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JACKSON (for himself, Mr. Magnuson, Mr. Randolph, Mr. Abourezk, Mr. Bible, Mr. Buckley, Mr. Church, Mr. Haskell, Mr. Hatfield, and Mr. Moss):

S. 2176. A bill to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes. Referred to the Committee on Interior and Insular Affairs; and then to the Committee on Commerce for not to exceed 60 days, if and when reported from the Committee on Interior and Insular Affairs, by unanimous consent order.

Mr. JOHNSTON (for himself and Mr. Long):

S. 2177. A bill to establish the Allen J. Ellender Memorial Library. Referred to the Committee on Rules and Administration.

By Mr. LONG (for himself and Mr. Johnston):

S. 2178. A bill to name the United States courthouse and Federal office building under construction in New Orleans, La., as the "Hale Boggs Federal Building," and for other purposes. Referred to the Committee on Public Works.

By Mr. WILLIAMS:

S. 2179. A bill to establish a demonstration program to provide direct financing of housing for the elderly under section 236 of the National Housing Act. Referred to the Committee on Banking, Housing, and Urban Affairs.

S. 2180. A bill to provide for increased security and protection for certain federally related housing projects. Referred to the

Committee on Banking, Housing and Urban Affairs.

S. 2181. A bill to amend the National Housing Act to provide further assistance to public and private nonprofit corporations for the conversion of existing single family housing for occupancy by elderly persons of low or moderate income. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COOK (for himself, Mr. Robert C. Byrd, and Mr. Baker):

S. 2167. A bill to authorize the Secretary of the Interior to conduct research, development, and demonstration projects in the fields of energy sources and technologies. Referred to the Committee on Interior and Insular Affairs.

Mr. COOK. Mr. President, on Tuesday, July 10, I was pleased to join with my colleagues in a colloquy on the energy problems which this Nation faces. I believe most sincerely that in addition to focusing attention on these problems, we also have to come forward with sensible and workable solutions.

At the conclusion of my statement I again expressed my belief that we must solve our problem by the production and use of our domestic resources. I proposed that we expend every effort to improve our research and development efforts to a degree that we are no longer dependent on a foreign power for our energy fuels. In so doing we could insure our status as a world power.

I referred to the President's second energy statement as well as various pieces of legislation before the Congress.

The President has now concluded that the present program for funding energy R. & D. is not adequate. There are many of us who have held this view for some time and I am pleased to see this new approach the President is now taking. His announcement that $10 billion should be funded for energy R. & D. over the next 5 years beginning in 1975 follows very closely the proposal contained in Senator Jackson's bill, S 1283, of which I am a cosponsor.

S. 1283 would establish a national program for Research, Development and Demonstration in Fuels and Energy and for the coordination and financial supplementation of Federal energy research and development. The bill would cost $20 billion over a 10-year period.

Mr. President, regardless of the course we decide to follow I believe that the objective can be achieved only if there is assured financing over a continuing period. If we permit the R. & D. program to be dependent on an annual appropriation we most certainly risk attainment of our goal. The question then arises as to how this assured and continued funding can best be provided.

In 1956, when the decision was made to undertake the construction of 40,000 miles of super interstate highways we recognized that in so doing we were tackling the greatest construction project in the history of man. We recognized further that to achieve our goal that we must have assured funding over a continuing period. We realized that we must remove the uncertainties inherent in dependence on annual appropriations. The decision was made by the 84th Congress and President Eisenhower to establish a Highway Trust Fund for this purpose. Public Law 627 came into being. The fund derived its assets from taxes paid on fuels, tread rubber, tires, tubes, buses, trucks, and other highway use sources. In this way the user paid the cost of the highway. We now enjoy a highway network which I question would exist had we not created this fund. As we seek the best solution to funding required R. & D. programs for energy. I think we would do well to consider our previous action.

The requirement exists for assured and continuous funding of our R. & D. program. What better way to provide this funding than the creation of a Federal Energy Research and Development Trust Fund. This fund could act as a repository for funds of a prescribed amount and expenditure could be made from the fund to meet requirements as they occurred over a continuous time period. I suggest a sum of $2 billion would be paid into the fund annually. I would not restrict or require that a specific amount be expended over any fiscal year and would permit the administration to expand the available funds over a continued period to meet requirements. Experience has shown that R. & D. projects usually begin with small initial funding requirements and their requirements over succeeding periods are dictated by their success or failure.

In suggesting $2 billion as an annual sum I realize that this amount is a quantum jump in R. & D. expenditure. For the period fiscal year 1970; fiscal year 1974 only $2.753 billion was funded. These figures were included in the President's first energy message, and I ask unanimous consent that a copy be printed in the Record.

There being no objection, the tables were ordered to be printed in the Record, as follows:

FEDERAL ENERGY R. & D. FUNDING

	Agency	Fiscal year 1970	1971	1972	1973	1974
Coal:						
Resources development		30.4	49.0	73.5	94.5	119.9
Production and utilization R. & D. including gasification, liquefaction, and MHD.	DOI, OCR	13.5	18.8	30.3	43.5	52.5
	DOI, BOM	13.2	15.4	14.7	19.8	18.1
Mining health and safety research	DOI, BOM	3.7	14.8	28.5	31.2	28.3
Interior central fund (part)	DOI					21.0
Petroleum and natural gas		8.8	11.5	12.9	12.8	9.1
Petroleum extraction technology	DOI, BOM	2.7	2.7	3.2	3.1	3.1
Nuclear gas stimulation	AEC	3.7	6.1	7.1	7.2	4.0
Oil shale	DOI, BOM	2.4	2.7	2.6	2.5	2.0
Nuclear fission		283.4	295.2	358.0	412.0	475.4
Liquid metal fast breeder reactor	AEC	144.3	167.9	236.0	269.0	320.0
	TVA			.2	3.0	3.0
Other civilian nuclear power	AEC	108.5	96.6	86.8	98.0	90.5
Nuclear materials process development.	AEC	30.6	30.7	35.0	42.0	61.9
Nuclear fusion		37.5	42.2	52.8	65.5	88.5
Magnetic confinement	AEC	34.3	32.2	33.3	39.6	47.3
Laser	AEC	3.2	10.0	19.5	25.9	41.2
Solar energy	NSF			1.7	4.2	12.2
Geothermal energy		.2	.2	1.4	3.4	4.1
	NSF			.7	.7	1.4
	DOI-GS	.2	.2	.7	2.5	2.5
	DOI-BOM				.2	.2
Electrical generation, transmission and storage.			1.3	2.2	4.9	4.1
	NSF		.5	1.3	2.4	.9
	DOI		.8	.9	1.0	1.0
	AEC				1.5	2.2
Control technology (stationary sources).				28.6	38.1	47.5
Air pollution control technology	EPA	19.8	17.4	24.5	29.5	21.5
SOX removal	TVA			1.1	3.0	18.0
Thermal effects	EPA	.8	.6	.7	1.0	1.0
	AEC	1.5	1.8	2.3	4.6	7.0
Miscellaneous				6.3	6.9	11.0
Systems and resource studies	NSF			4.4	5.3	5.3
Energetics research	NSF			1.9	1.6	1.7
Interior central fund (part)	DOI					4.0
Total research and development		382.4	419.2	537.4	642.3	771.8
AEC		326.1	345.3	420.0	487.8	574.1
EPA		20.6	18.0	25.2	30.5	22.5
NSF			.5	10.0	14.2	21.5
DOI		35.7	55.4	80.9	103.8	132.7
TVA				1.3	6.0	21.0

Agency codes: AEC—Atomic Energy Commission; DOI, BOM—Department of the Interior, Bureau of Mines; DOI, GS—Department of the Interior, Geological Survey; DOI, OCR—Department of the Interior, Office of Coal Research; NSF—National Science Foundation; TVA—Tennessee Valley Authority.

Mr. COOK. In analyzing these figures it is interesting to note that $2.110 billion or 76.6 percent of this total was funded for atomic energy. The remaining sum—$642 million—was divided over all other R. & D. projects related to energy.

I take no issue with the amount funded for atomic energy as I believe that we will benefit from this important program. I do regret the paucity of funds—$642 million—which has been shared over the past 5 years by programs related to: coal, oil, gas, geothermal, solar, and other miscellaneous systems. We must correct this deficiency. I believe that the establishment of a fund in the amounts suggested will meet this requirement.

Let us consider the source of these funds. I again suggest the user approach. However, rather than revenue from the tax placed on the user I suggest that we utilize the revenue from the assets of the user. In this instance the user is most certainly the public—you and I. And the asset of which I speak is our public land and more specifically that public land which lies on the Outer Continental Shelf—OCS. For many years we had these assets but we did not consider them to be of any great value because the supply far exceeded the demand.

Today we find that these OCS assets have indeed increased in value. The irony in this increase is that it has come about by an energy shortage, particularly oil and gas, which threatens to destroy many of our much more tangible and recognizable assets.

The revenue comes to us through the lease bonuses paid by the energy industry for permission to explore for and produce oil and gas from our public land. The use of funds collected by the Government in our interest from the energy industries for the use of our land would seem to me to be a most logical source of funds for Government funded R. & D. programs to solve our energy problem. Projections for the adequacy of such funds seem most favorable.

I have received information concerning the OCS lease sales and request that it be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

OUTER CONTINENTAL SHELF LEASE SALES

Year	Leased tracts	Acres	Bonus (millions)	1st-year rentals (millions)
1968	197	934,167	$1,346	$3.0
1969	40	114,283	112	1.1
1970	136	591,040	944	2.1
1971	11	37,222	96	.4
1972	178	826,195	2,251	2.5
1973[1]	104	600,000	1,598	1.8
Total	666	3,102,907	6,347	10.9

[1] Preliminary estimates. O & G Journal, June 25, 1973. In addition a lease sale of about 800,000 acres is scheduled for December 1973.

Mr. COOK. If we take the period of calendar year 1968–72 and the first few months of 1973 we find that $6.347 billion have been collected in lease bonus payment by the energy industry. This is considerably more than was expended for the R. & D. during a similar period. I also remind the Congress that the President has announced his intention to increase by threefold our previous lease sales and has announced one additional lease sale of considerable size for December of this year. Judging from the acreage involved the revenue from this sale could well exceed $1 billion. This total sum for this year would be over one-half billion in excess of that required to support the funding for the proposed trust fund.

Mr. President, on July 10, 1973, I announced my intention to propose legislation to provide the necessary funds for energy research and development. I am today introducing a bill for Senator BAKER of Tennessee, Senator ROBERT C. BYRD of West Virginia, and myself to establish in the Treasury of the United States a trust fund to be known as the "Federal Energy Research and Development Trust Fund" and ask unanimous consent that the text be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. COOK. Commencing with the year ending June 30, 1974, and each fiscal year thereafter, all revenues up to $2 billion except as otherwise obligated, due and payable during each such fiscal year to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act shall be credited to the Fund. In the unlikely event the leasing program does not generate sufficient funds: sufficient funds would be authorized as necessary to make the annual income of the Fund $2 billion.

In announcing his cosponsorship of this bill Senator BAKER suggested that an attempt be made to broaden the base of contributions to this Fund and that one possible method might be incorporated in a user's utility tax. He further stated that he intends to offer something concrete along these lines in the near future. I welcome Senator BAKER's suggestion as I believe that it has considerable merit. It follows very closely the intent of the bill in that the Fund would be supported by the user. I believe that this matter could be considered in detail by the committee to which it is referred, and I so recommend. Certainly we would want to make an ample provision for the necessary funds.

It is my intent that the Secretary of the Interior or, if the Congress so chooses, the Secretary of the Department of Energy and Natural Resources, would use the Fund to conduct research, development, and demonstration projects.

I might suggest at this point, Mr. President, that it might even be considered, in the event the trust were to be established to the full extent, that if it were necessary, the Federal Government could even go into the business, as we did in the atomic energy crisis and as we did in the NASA crisis, as we did prior to World War II and during the course of World War II, and that if it is necessary it might even be considered that it would be prudent to the extent that the Federal Government would go into the business of the establishment of refineries, the establishment of pipelines, or whatever was necessary to solve and create a logical energy program for the United States, so that we would not be dependent on foreign sources.

Therefore, Mr. President, on this basis, the Government could enter into contracts and agreements with any person for conduct by such persons of these projects in all fields of energy sources and technologies.

Mr. President, the 93d Congress is making progress in solving our energy problems. I urge that it continue this progress and support the passage of this bill.

EXHIBIT 1

S. 2167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized, utilizing moneys in the Fund established by section 2 of this Act, to conduct research, development, and demonstration projects in, and to enter into agreements with any person for the conduct by such person of research, development, and demonstration projects in, the fields of energy sources and technologies. In carrying out the provisions of this Act, the Secretary of the Interior is authorized to make grants, and to enter into contracts, leases, or other arrangements.

(b) As used in this section, the term—

(1) "energy sources" includes fossil fuels, geothermal energy, nuclear energy, and solar energy, tidal energy, and unconventional sources of energy; and

(2) "person" includes any individual, association, institution, corporation, or other entity, any State or political subdivision, or agency or institution thereof, and any Federal department or agency.

SEC. 2. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the "Federal Energy Research and Development Trust Fund" (hereafter referred to in this section as the "Fund"). The Fund shall consist of such amounts as may be appropriated or credited to it as provided in this section. Moneys credited or appropriated to the Fund pursuant to this section are hereby made available to the Secretary of the Interior for carrying out the purposes of this Act without fiscal year limitations.

(b) Commencing with the fiscal year ending June 30, 1974, and each fiscal year thereafter, all revenues (except so much thereof as may be obligated under the provisions of section 2 (c)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5)) due and payable during each such fiscal year to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act shall, up to $2,000,000,000, be credited to the Fund.

(c) In addition to the moneys credited to the Fund pursuant to subsection (b) of this section, there is authorized to be appropriated to the Fund, for the fiscal year ending June 30, 1974, and each fiscal year thereafter, such amount as is necessary to make the income of the Fund $2,000,000,000 for each such fiscal year.

(d)(1) It shall be the duty of the Secretary of the Treasury to manage the Fund and (after consultation with the Secretary of the Interior) to report to the Congress not later than the first day of March of each year on the financial condition and the results of the operations of the Fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter. Such report shall be printed as a Senate document of the session of the Congress to which the report is made.

(2) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price, or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance

at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(3) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(4) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. ROBERT C. BYRD. Mr. President, I congratulate my distinguished friend from Kentucky (Mr. Cook) on the foresight that he is demonstrating in introducing this legislation.

We in this country have been living in an energy-cheap era. We have been wasteful, we have been thoughtless, and we have lacked the vision and foresight that we should have shown, and are paying for it dearly now and will continue to do so. For too long administrations—Democratic and Republican—have failed to budget sufficient moneys for energy research, and particularly in connection with coal. The problems we are having in the 1970's derive in great measure from the fact that we failed to act in the 1960's to provide adequate funds for coal, oil, and gas research.

As a member of the Senate Appropriations Committee, for 15 years I have sought to secure increased appropriations for coal research. When I was a Member of the other body, and served there with my distinguished friend the junior Senator from Montana (Mr. Metcalf)—who is now presiding over this august body—we sought to establish an Office of Coal Research and after several years of persistent efforts, Congress enacted legislation to provide such an office. But the administrations, as I say, both under Democratic leadership and under Republican leadership, have in my judgment failed over the years to provide the necessary funding requests to adequately deal with the energy problem through research.

It is true, as the distinguished Senator from Kentucky pointed out, there has been a considerable amount of money spent in the nuclear energy field, but coal, the most bountiful fossil fuel resource we have in this country, has consistently come up on the low end of the totem pole. There has long been a serious imbalance in funding for research in the energy field. Over the years, I have tried to add moneys for coal research in appropriation bills. It has been like trying to wring water out of a dry towel—a drop here and a drop there—we get a little money from the subcommittee, and then the full committee. It comes to the Senate. It goes to conference and there it gets cut in half. It has been a severe trial to try to add moneys for coal research when the administration fails to request sufficient funds for such in the budget. The very best we can do is too little.

I believe that the able Senator from Kentucky has come up with an idea here which, patterned after the highway trust funds which have been so successful and without which we would not today have the broad network of excellent interstate highways in this country, will provide adequately for the funding of energy research. I want to congratulate him. I appreciate his adding my name as a cosponsor. I trust that we will have the support of other Senators for the legislation.

I hope that the legislation the Senator from Kentucky has introduced will receive speedy hearings and expeditious action.

Mr. COOK. Mr. President, I want to thank the distinguished Senator from West Virginia. Through the efforts of the distinguished Senator from West Virginia in his position as a Senator from West Virginia and his position on the Appropriations Committee, the funds for the Office of Coal Research this year are $113 million, which is almost twice the amount the administration requested.

The point I am trying to make is that the Senator from West Virginia has helped me ever since I came here. The Institute for Surface Mining, established at Berea College in Kentucky, is the only institute of its kind in the United States. We have been able, by hard work, to get it funded at an approximate level of $300,000 a year, yet it has been used in almost every coal State in the United States, including the State of the distinguished Senator from Montana (Mr. Metcalf), now the Presiding Officer of the Senate.

I might also say that it was through the efforts of the senior Senator from West Virginia, in approximately 1955 or 1956, that the first money was put in the budget for coal gasification and the institute was established and started work on coal gasification. Yet because it was a budget item that had to be renewed on a year-to-year-to-year basis, within 2 years it was dropped from the budget. The project was stopped. We lost all that time between 1956 and now on coal gasification, coal liquefication, and desulfurization of coal.

Look where we are now. I might say that both Senators from West Virginia (Mr. Randolph and Mr. Robert C. Byrd) have been working on this matter far longer than I have. So that I can only say there is only one way to get rid of this frustration that we have to fight every year, and that is by the establishment of a trust so that we know there can be continuing and ongoing funds available, so that we do not have to fight every year for coal research to try to solve the various problems that need to be faced in the energy field.

Mr. ROBERT C. BYRD. I again compliment the Senator from Kentucky. It has indeed been frustrating to try to squeeze out a dollar here and a dollar there for coal research. I was able through great effort to secure moneys to establish a pilot plant to produce high-octane gasoline at Cresap, in Marshall County, W. Va. It was a pilot plant, costing $10 million to $12 million. Its purpose originally was to conduct research in the effort to produce high-octane gasoline from coal. I think we achieved our goal. At least it was proved that such gasoline can be produced from coal at prices that are almost competitive with other fuels. But the plant has been in mothballs now for some time. Yet, the country needs a low-sulfur-content fuel oil and this plant could be utilized for that purpose. The Department of the Interior is supporting the use of this plant for that purpose. I feel that it soon will be put to that use.

But we continue to spend billions of dollars for oil coming to our country from overseas which affects our balance of payments adversely, which affects our balance of trade adversely, whereas if we could spend a comparatively few pennies here, if we had spent a comparative few dollars 10 years ago, a few dollars in comparison with the high cost of importing oil coming into this country now, we would not now have this trade deficit, we would not now have such a balance-of-payments deficit, and we would not have to lean on other countries for the energy so important to our security. We would not have the problems in our own country with respect to blackouts, brownouts, and the other energy shortages that we are confronted with today and which we will be increasingly confronted with for awhile.

I congratulate the Senator from Kentucky again. He has demonstrated tremendous foresight and I hope that the Senate will act favorably and soon on this legislation.

Mr. COOK. May I associate myself with the remarks of the Senator from West Virginia.

Mr. President, it is an amazing situation we find ourselves in in this country that 6 percent of the world's population is now using between 35 percent and 40 percent of the world's fossil fuel resources. We now use 5 million barrels a day of imported crude oil. It does not take anyone long to figure out that a 42-gallon barrel—all we have to do is take a 42-gallon barrel and multiply it 5 million times, and if we continue at the rate we are increasing now, and we are increasing our utilization by 4.5 percent a year, that means that unless we do something between now and 1985, we will be importing into this country 15 million barrels of crude oil a day.

We cannot let that happen to this Nation. We have got to have a program. It is amazing that we have watched the increase in prices of various fuels and various items of fuel, yet we find out that one of the increases is a direct result of the competitive element of bidding for leases from the U.S. Government and one of the major costs that has to be put on the books by the companies is the fantastic result of the millions and millions of dollars that they have to bid for the leases and the money goes into the Treasury instead of into a trust fund to solve our energy problems.

Mr. ROBERT C. BYRD. It is a repetition of the old story, "For want of a nail, the shoe was lost. For want of a shoe, the horse was lost. For want of a horse, the rider was lost."

Mr. COOK. I thank the Senator from West Virginia.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. STEVENS. Mr. President, I have a feeling that one of the reasons we have the opposition to the offshore drilling is that the States that are on the shore with the proposed activity have no interests. I have not seen the Senator's proposal and I wonder whether it contains any concept of payments to the States affected by the increased activity offshore as we do in connection with the development of public lands or development of the forests in counties where they are located.

Mr. COOK. To answer the Senator's question bluntly, it does not. But we gave that serious consideration, and I would hope that the Senator from Alaska would pursue it. If he feels that there should be a particular percentage, because of the tug of war that has gone on through the years between the Federal Government and the respective States relative to offshore drilling, I hope he would collaborate with this Senator at least, in trying to find a percentage or trying to find a formula by which a percentage of the trust would be utilized for the State of Alaska, the State of Florida, the State of Louisiana, the State of Texas, the respective eastern shore States and western shore States, to resolve the problem that the Senator from Alaska presents.

Mr. STEVENS. I would be happy to work with the Senator from Kentucky on that.

In connection with the developments of the offshore drilling in the Cook Inlet, where there are now a series of platforms that are producing oil and gas from under the Cook Inlet, we can demonstrate fully the impact of those operations on both the State and what we call the borough, and what the Senator would call the county governments, and the city governments in the area; the cost of schools; increased roads, docks, and everything else associated with that development—all of which comes out of those local governments—and they have no associated income if the drilling is outside the State's jurisdiction. I would be pleased to work with the Senator on that.

I do not think Maryland or the east coast is going to allow drilling off the east coast until they can see that it is in their financial interest to do so, because of the fantastic cost associated today in connection with environmental protection.

I think the Senator has a good proposal, and I am happy that I was here when he presented it. But I think we are going to have to do something to protect the interests of the States and local governments involved.

Mr. COOK. I thank the Senator from Alaska for raising the point, because we did raise it in our discussions. At that stage of the game, we had the information we really wanted for the establishment of the trust. I say to the Senator that we had no way of pinpointing a percentage. We had no way of determining logically and with sound reasoning an equitable formula. I think we can move in that direction, and we should. I am delighted that the Senator from Alaska raised that point.

Mr. STEVENS. I thank the Senator.

By Mr. HATFIELD (for himself and Mr. Packwood):

S. 2168. A bill to authorize the Secretary of the Interior to establish the John Day Fossil Beds National Monument in the State of Oregon, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, I rise today to introduce legislation to authorize the Secretary of the Interior to designate the John Day Fossil Beds National Monument in the State of Oregon.

This monument would include a very unique area which clearly deserves further protection. Specimens of the four geological epochs are contained in the proposed monument grounds.

It is necessary for Congress to act now to preserve this area. The National Park Service has completed a preliminary study of the proposed monument, including a total park acreage of 7,300 acres. Three sections would be included: Sheep Rock in Grant County, Oreg.; and Painted Hills and Clarno State Parks in Wheeler County, Oreg. All three involve existing park sites.

Congressman Al Ullman has introduced identical legislation in the House of Representatives and Senator Bob Packwood is cosponsoring the bill I am introducing today. This bill also enjoys strong support at the local level. I ask unanimous consent that the letters from the mayors of John Day, Monument, Dayville, Mount Vernon, and Long Creek, and from the Grant County Court, be printed in the Record, as well as an article which appeared in the Blue Mountain Eagle.

There being no objection, the material was ordered to be printed in the Record, as follows:

The City of John Day,
John Day, Oreg., June 29, 1973.

Senator Mark Hatfield,
Old Senate Office Building,
Washington, D.C.

Dear Senator Hatfield: As Mayor of John Day I urge your support of the proposed John Day Fossil Bed National Monument. The unusual scenic values of the area are worthy of development and the John Day Fossil Beds are in need of protection to preserve the resource for future generations.

The basic plan of the National Park Service is excellent. The private lands that will be needed are of low value and will have minimal impact on county tax revenue.

Sincerely yours,

Charles Steele, *Mayor.*

City of Monument, Oreg.,
June 29, 1973.

Hon. Mark Hatfield,
U.S. Senator,
Salem, Oreg.

Dear Senator: Your support of the bill to establish the John Day Fossil Beds National Monument in the Painted Hills, Clarno and Thomas Condon Fossil Bed area is requested.

This action will have these beautiful and educational sites for the future good and at the same time will benefit the residents of the area.

Sincerely,

Jack Sweek, *Mayor.*

City of Dayville, Oreg.,
June 29, 1973.

Hon. Mark Hatfield,
U.S. Senator,
Salem, Oreg.

Dear Senator: Compared to the costs and benefits conferred by other public recreation projects, the National Monument Program must be one of the most rewarding projects. It is so readily available to so many people. In the case of the proposed Monument in the Wheeler-Grant County area, establishment would also be a boon to the local communities since the economic input of a predicted substantial increase in tourism would help expand job opportunities, ease the tax burden, and provide more need for small business.

I am, therefore, asking on behalf of the citizens of Dayville for your support of this National Monument.

Sincerely,

Paul Grindstaff, *Mayor.*

City of Mount Vernon,
Mount Vernon, Oreg., June 29, 1973.

Senator Mark Hatfield,
Old Senate Office Building,
Washington, D.C.

Dear Senator Hatfield: The John Day Fossil Beds National Monument is a project that should be completed in the near future. Steps should be taken to conserve and protect the fossil beds and the beauty of Picture Gorge. This is some of the outstanding scenery in Oregon that should be favorably called to the attention of more tourists.

The proposed plan for the national monument by the National Park Service will adequately (serve this) incorporate all of these resources in their management.

The economic impact of additional tourism will be helpful in planning the future of small communities such as ours.

We respectfully ask your help in obtaining a national monument for this deserving area.

Sincerely yours,

Herman L. DeSouza, *Mayor.*

Town of Long Creek,
Long Creek, Oreg., June 29, 1973.

Senator Mark Hatfield,
Old Senate Office Building,
Washington, D.C.

Dear Senator Hatfield: Long Creek is a small town in eastern Oregon. Our only income is derived from cattle, lumber and tourists. We have studied the proposed John Day Fossil Beds National Monument and find the plan to be compatible to the cattle and lumber industries. We feel that the National monument would add to our tourist income.

Of equal importance would be that the area involved would be properly managed by the National Park Service for the enjoyment of all our people.

We therefore ask your assistance in establishing the John Day Fossil Beds National Monument.

Sincerely yours,

Orville Allen, *Mayor.*

Grant County,
Canyon City, Oreg., June 29, 1973.
Senator Mark Hatfield,
Old Senate Office Building,
Washington, D.C.

Dear Senator Hatfield: Our Court wishes to urge you to lend support to the establishment and fiscal support of the proposed John Day National Fossil Beds Monument here in Grant and Wheeler counties. I have viewed the preliminary plans of the Park Service, and feel they have done an excellent job in selecting areas of beauty and scientifically rich exhibits to be included in this proposed National Monument.

I feel all Oregonians should muster in this cause to preserve and protect these areas described in the proposed monument.

Sincerely,

Francis F. R. Cole,
Grant County Judge.

[From the Blue Mountain (Oregon) Eagle Feb. 15, 1973]

Fossil Beds Monument Needs Congress' Action

If all goes well, development of the John Day Fossil Beds National Monument would occur over a five-year period from its authorization by Congress, two National Park Service officials told a local group last week.

Land acquisition is impossible before Congress acts, they noted. The remainder of the time would be devoted to development of interpretation facilities and other improvements.

Attending the meeting, held Thursday evening at the Courthouse in Canyon City, were about two dozen agency officials, ranchers who reside in the Dayville-Kimberly area and others interested. Jack Steiwer and Herb Wright, two Wheeler County residents very interested in the project, also were present.

Dan Buroughs, a retired National Park Service officer who now works in consulting roles for the NPS, answered questions about the project, assisted by Ernest Borgman, manager of the Greater Lake Lava Beds near Klamath Falls, a NPS facility.

Referring to the fossil beds area, Buroughs said, "This type of area is not designed for recreation primarily; it's for education and enjoyment." In answer to questions by Ralph Denney, Oregon Game Commission game biologist for this area, Buroughs said there could be no public hunting within the fossil beds area.

Planning for the national monument was instigated in 1965 by Congressman Al Ullman, who urged the National Park Service to take steps to protect the well-known fossil resources.

The NPS preliminary study now completed indicates a total park acreage of 7,300 acres, plus scenic easements on additional land. Buroughs said the actual land taking will involve very little bottom land. Grazing, he added, would be phased out on the acquired acreage over a 10-year period.

The monument would consist of three sections, of which the Sheep Rock section in Grant County would be the largest. Also involved are the Painted Hills and Clarno state parks in Wheeler County and lands around them. All three sections involve existing state park sites. Ten private landowners, under the preliminary plan, would lose acreage to the enlargement of the Sheep Rock section in Grant County.

Buroughs said a developed campsite of 75 to 80 spaces would be installed at the Painted Hills section. A small boat launching facility is envisioned in the Turtle Cove area of the Sheep Rock section. However, the NPS official said, it would be designed primarily for rubber rafts and not power boats.

Buroughs, asked by OGC fish biologist Errol Claire how the project would affect game angling, said he could see no effect at all.

Buroughs said no camper facilities were planned in Grant County on the expectation that the surrounding communities would provide meal and overnight accommodations.

The national monument, Buroughs added, is strictly a "proposal." Until Congress acts, he added, neither land nor scenic easements can be obtained.

He said it is important to preserve the geology of the Sheep Rock area since it contains specimens of three of the world's four geological epochs. The fourth, he added, is present at Clarno.

Asked about buffer zones or possible designation of a NPS recreation area around the fossil beds, Buroughs said NPS requires a minimum acreage of 20,000 acres for recreation areas. The Oregon Dunes Recreation Area is the only designation of this kind in Oregon, he added.

Buroughs told Denney, who expressed concern about game buildup on the protected area, that the two—a natural area, such as the fossile beds project, and a recreation area—could not be combined.

The boundaries of all three sections are "movable," Buroughs said. There will be a public hearing at the proper time and if one is not scheduled, area residents should ask for one.

Mr. PACKWOOD. Mr. President, it is with great pleasure that I join with Senator Hatfield today in introducing a bill to establish the John Day Fossil Beds National Monument in the State of Oregon. The area is justly famous for its incredible assortment of fossils comprising a unique geologic formation, a priceless treasure house of natural history within the State. The town of Fossil and the surrounding area have become a magnet for casual rock hunters and more serious geologic students alike.

The monument area would consist of the John Day Fossil Formations, the Painted Hills State Park, and the Clarno State Park, thereby uniting three separate marvels of the Oregon wilderness into a single paradise. The Clarno section, once a bountiful garden, has yielded many specimens of tropical fruits, nuts, and leaves, and has been found to be particularly rich in invaluable samples of the two-toed, three-toed, and four-toed horse, remains of the beasts which roamed this land millions of years before the faint beginnings of mankind. Yet another natural wonder of the area are the pastel rock formations known as the Painted Hills. Bands and splotches of color were deposited by volcanic eruptions during formation of the Cascade Mountains, resulting in the formation of this scenic wonder.

Thomas Condon was responsible for discovering the famous fossil beds north of Dayville along the John Day River just inside Grant County. He was the State's first and great geologist, one of the great forgotten heroes of our Nation, a geological genius whose tireless hunt among the fossil beds first brought them to national attention. John Day himself was an explorer, and a number of landmarks in Oregon bear his name. The John Day Fossil Beds are said to be the second largest fossil repository in the world and their discovery in 1862 gave Thomas Condon his well-deserved title of the founder and father of Oregon geology. The entire region is a treasure trove of geologic history and holds within it the secrets of a boundless past that stretches back more than 75 million years. Flowing north through central Oregon's vast Columbia River basalt plateau, the John Day River has exposed some of the world's most productive fossil beds, including the John Day mammal beds and the Clarno nut beds. The region itself abounds in rugged scenery and is a veritable Eden for rockhounds and deer hunters alike. These fossil beds expose relics of a far-off tropical period, a time when ancestors of present-day animals traveled over the land. Hardy sagebrush now thrives in place of the ancient flora and fauna. After the tumultuous and earth-shaking upheaval that caused formation of the Coast Range, volcanic eruptions laid a thick cloak of lava and ash over the earth. Then came the great icecap over the north country, and, later, the great deluge of its melting during which some of Oregon's chief rivers were formed. As these rivers, including the John Day, cut down through the crust accumulated through the ages, they revealed the deposits that tell the story of the land's prehistoric past. Certainly, this area has great fascination and would be a source of endless learning and pleasure for even those who are not students of its history. Through this legislation, we hope to preserve the area for the enjoyment of all Oregonians and those others who visit the region.

The bill to establish the John Day Fossil Beds National Monument represents a continuation of the efforts first begun by Congressman Ullman in the 92d Congress and is parallel to the measure he introduced earlier this year in the House. Support for the monument is becoming increasingly evident within the State and the National Park Service has indicated that it is ready to go ahead with legislative proceedings. In light of this overall support, I would hope that we can expect enactment of the legislation in the near future.

By Mr. PROXMIRE:

S. 2169. A bill to provide for the direct financing of low- and moderate-income housing programs under sections 235 and 236 of the National Housing Act. Referred to the Committee on Banking, Housing and Urban Affairs.

BILL TO PROVIDE DIRECT FINANCING OF LOW- AND MODERATE-INCOME HOUSING PROGRAMS, $4 TO $5 BILLION SAVINGS

Mr. PROXMIRE. Mr. President, I introduce and ask for appropriate reference a bill which provides for the direct financing of low- and moderate-income housing programs. The estimates of the Comptroller General and of the Joint Economic Committee is that such a provision could save from $4 to $5 billion in the cost of financing the low- and moderate-income housing needed to meet the Nation's housing goals as established by the 1968 Housing Act.

DOUGLAS COMMISSION RECOMMENDATION

At the end of 1968, when the Douglas Commission made its final report entitled "Building the American City," it proposed that low- and moderate-income housing be financed directly through Government rather than private borrowing.

It pointed out that it costs the Government from 1.5 to 2 percent more to borrow funds from the private sector to build housing than it would cost the Government to borrow the funds directly. This is especially true of the section 235 and section 236 programs where the funds are borrowed privately and the interest rate subsidized.

GOVERNMENT UNWILLING TO DO IT

Traditionally the Bureau of the Budget has refused to support direct financing. Due to the nature of existing Federal Government budget practices, the amount expended for a housing unit has to be written off in 1 year as a charge against that year's budget.

This is a silly way to budget. No private business does it. But the Federal Government does it. And that has kept them from financing housing by direct borrowing. Instead of writing off the costs of a $25,000 housing unit over the 25 to 30 year life of the asset through equal annual payments, the entire $25,000 is a charge against the Federal Government's budget in the year it is provided.

Private business would not and does not do this. They would consider that they had a $25,000 expenditure which was offset on the asset side of the ledger by a $25,000 house secured by a mortgage. This would be a blue chip asset which pays back both interest and principal and which would probably appreciate in value over time. To treat that as a $25,000 liability and write it off a company's books in one year as the Federal Government does, would be and is looked upon as fiscal insanity by private business.

The Government therefore pays out vast sums of money needlessly for Government supported housing because of its ridiculous bookkeeping methods.

As I say, the Douglas Commission proposed in 1968 that the Government borrow the funds directly and said that these direct payments "can be the least costly and most effective" method of subsidizing housing.

COMPTROLLER GENERAL RECOMMENDATION

The Comptroller General, Mr. Elmer Staats, himself a former Deputy Director of the Budget Bureau under three administrations, recommended direct financing of subsidized housing in his testimony before my Subcommittee on Priorities and Economy in Government of the Joint Economic Committee last December.

His estimates of savings based on use of the long term interest rate for Government borrowing was $1 billion for section 235 and $1.2 billion for section 236.

But if the "average" Government interest rate is used, in the calculation, the savings would be double that amount or between $4 and $5 billion according to the testimony of the Comptroller General and his staff last December.

In its report following these hearings, the subcommittee recommended that subsidized housing be financed by direct Government borrowing.

These are savings which can not and should not be pushed under the rug. We should not let some traditional method of accounting—purely an accounting procedure—stand in the way of a $4 to $5 billion savings in Government expenditures.

I have therefore drafted a bill which I believe will do the job and which I am introducing today so that it can be considered by the Senate Banking, Housing, and Urban Affairs Committee at its hearings during this week and next week.

WHAT THE BILL DOES

First of all the bill would provide a national subsidized housing loan fund which would be established through Government borrowing. This fund would be used to finance section 235 and section 236 housing instead of borrowing the funds from the private sector at interest rates 1.5 percent to 2 percent higher than the Government can borrow them. The amount of the fund would be determined by the committee.

Second, offsetting the payments made from the fund would be the house, the land, and the mortgage on the housing unit. The fund would receive principal and interest on the loans made from the fund which was repaid by the mortgagors.

Third, each year the Appropriations Committees of the Congress would appropriate the difference between the amount of interest paid on the obligations which are issued and the amount of interest paid by the mortgagors. This is exactly what is now done under sections 235 and 236. It represents the interest rate subsidy now paid between what the homeowner or tenants can afford to pay and the higher cost of the mortgage. But in this case, the interest payments would be lower by 1.5 to 2 percent than they are now.

Fourth, only the subsidy or the amount of the appropriated funds, would be a charge against the budget. That is a proper charge and represents the cost of the program. But the principal amounts borrowed for the fund would be outside the budget on grounds that they are backed by a blue chip asset namely, land, a housing unit, and a mortgage which pays both principal and interest.

CONGRESS KEEPS CONTROL

Fifth, in order to prevent this from becoming an open-ended or back-door method of financing, two safeguards are provided. They are:

First. The number of units built each year would have to be authorized by the Congressional Banking, Housing, and Urban Affairs Committees.

Second. The Appropriations Committees of the House and Senate would provide limits on the amount of loans, and hence the number of units subsidized, made under the Act in each fiscal year.

In this way the public gets the benefit of the Government's ability to borrow at a rate much lower than is now paid privately without the abuses which in the past have come from open-ended or back-door methods of financing. Both the authorization and Appropriation's Committees would remain in control of the program. They would control the number of units authorized and the amount of the annual subsidy, which in effect means the number of units which could be built each year. This is exactly what happens now under the section 235 and section 236 programs.

NO ADVERSE EFFECTS ON MONEY MARKET

Some may argue that this would have an adverse effect on the money markets. I do not see how that could happen.

If at the present time the private market makes $1 billion available to finance section 235 and section 236 housing, substituting Government borrowing for the private borrowing would have no net effect on the total amount of debt in the economy. But it would have a tremendous effect on the cost of subsidized housing. It would reduce that cost by $4 to $5 billion over the life of the program established under the Housing Act of 1968 that the Government provide 6 million subsidized units over a 10-year period.

WHY IT IS IMPORTANT

We have a housing goal both for total housing and subsidized housing. At the present time over half the people in the United States cannot afford to buy a new home. They just do not have the income.

The average family income is now a little over $11,000 a year. Using the rule of thumb of 2½ times annual income as the amount one should pay for a house, this means that half the families in the country cannot afford a unit costing $27,500 or more.

There are very few family housing units now built at $27,500 or less. They just do not exist.

The only way, therefore, that the housing goals can be met is to reduce housing costs. Half the taxpayers in the United States cannot end up subsidizing the other half of the taxpayers. That will not work.

But if through a series of programs, with special emphasis on reducing the cost of money, housing costs can either be reduced or prevented from going up as fast as increases in income, then we can meet the housing goals.

$4 TO $5 BILLION NOT TO BE SNEEZED AT

Mr. President, a $4 to $5 billion savings in the cost of subsidized housing programs should not be sneezed at.

That is a lot of money. And the Government of the United States is simply crazy to continue a system of budgetary financing for housing which no private industry, including the most fiscally conservative private industry, would ever follow.

It is time to make a change. This bill will help.

By Mr. PROXMIRE:

S. 2170. A bill to amend the U.S. Housing Act of 1937 to require that 20 percent of new units in public housing projects be available for occupancy by large families. Referred to the Committee on Banking, Housing and Urban Affairs.

BILL TO PROVIDE THAT 20 PERCENT OF NEW PUBLIC HOUSING UNITS PROVIDE THREE BEDROOMS OR MORE

Mr. PROXMIRE. Mr. President, under the public housing program in this country in recent years that virtually no housing was built for the large poor family in the central cities of the United States.

Almost 50 percent of the units have

been for housing for the elderly. These have been efficiency or one-bedroom units.

Most of the remainder of public housing has been one- or two-bedroom units. The reason for this is that the Secretary of Housing or HUD itself has established a unit cost which just did not allow for more than two bedrooms in most cases.

DOUGLAS COMMISSION STUDY

In a study done for the Douglas Commission entitled "The Large Poor Family: A Housing Gap" by Walter Smart, Walter Rybeck, and Howard E. Shuman who is now my administrative assistant, it was established that 80 percent or more of the need for housing by poor families was totally unmet through the public housing program. In city after city which was studied—Washington, D.C., San Francisco, Calif., and others—virtually no public housing with more than two bedrooms was being built.

ELDERLY PREFERRED OVER FAMILIES

There are many reasons for this. One major one is that communities do not want to build public housing for poor families. They much prefer the elderly. The units cost less. No new schools have to be built. City services for the elderly cost far less than for a growing family.

HUD, representing the prejudices of the society as a whole, failed to provide for the poor families to any degree at all.

I agree that there is a limit to the amount of subsidized housing that can be or should be provided for large families. But a three-child family is not a large family—it is about the average family—but almost no housing units with three bedrooms were provided under public housing, and that many bedrooms are needed as a minimum in a family of three children with children of both sexes.

TWENTY PERCENT FOR FAMILIES

My bill provides, therefore, that in the future at least 20 percent of the public housing units shall have at least three bedrooms. I think that is necessary and appropriate not only for the future but to make up for the deficiencies of the past.

I introduce the bill and ask for its appropriate referral. I intend to bring up this matter in the hearings before the Senate Banking, Housing, and Urban Affairs Committee in its housing hearings during the next 2 weeks.

By Mr. PROXMIRE:

S. 2171. A bill to encourage low rise construction in public housing and elderly housing projects. Referred to the Committee on Banking, Housing and Urban Affairs.

INTRODUCTION OF A BILL TO ENCOURAGE LOW RISE CONSTRUCTION OF PUBLIC HOUSING AND ELDERLY HOUSING UNITS

Mr. PROXMIRE. Mr. President, I am introducing today a bill to encourage the construction of low rise public housing and housing for the elderly units instead of the high rise construction which has been all too prevalent in the past.

LOW RISE CHEAPER

High rise construction costs far more than low rise construction. High rise is only justified, in my opinion, where land costs are so high that low rise construction is out of the question. This, in practice, is limited to the areas of very high land costs in the largest metropolitan centers of the United States. In almost every other case, low rise construction is far less costly and provides far better housing. It certainly gets away from the Pruitt Igoe's and other high rise disasters of the recent past which have crowded and concentrated the poor into huge high rise apartment projects.

IRONIES OF HOUSING FOR ELDERLY

The best public housing is scattered site housing and leased housing. That is the way it is done by the best housing officials and housing agencies.

But one of the ironies of housing for the elderly is that in small town after small town scattered across this country, where there has never before been a high rise building, the housing for the elderly project is inevitably a high rise building.

That makes no sense at all. Land costs are low. Scattered site or individual units would cost less. There is more air space, trees, and grass in low rise buildings. Building high rise units in the small towns of America is nothing more or less than bureaucratic stupidity. Some HUD bureaucrat in Washington, New York, or Chicago has the mistaken view that every place in the country is like these major cities.

Because of this stupidity, the high rise for the elderly units dot the prairies rivalling only the grain elevators next to the railroad sidings.

PROPOSAL

My bill proposes, therefore, that in cases of projects located in communities of less than 500,000 in population, there can be no high rise construction for elderly or public housing projects. And the simple reason is that virtually without exception it is cheaper to build low rise than high rise units in such areas.

By bill also provides that in cases of projects located in communities with a population in excess of 500,000, high rise construction can only take place upon a showing that the costs of high rise are lower than low rise construction would be.

In general that would be true only where land costs were exceedingly high and would offset the very high added costs of high rise construction over low rise construction.

CONSIDERED BY SENATE BANKING COMMITTEE

I am introducing this and other bills today so that they can be considered by the Senate Banking, Housing and Urban Affairs Committee during its hearings on housing in the next 2 weeks.

Mr. Lawrence Katz, former director of the Federal Housing Administration Office in Milwaukee, Wis., suggested that this be done in testimony before the Joint Economic Committee last December.

No man has had more general experience in housing programs than Mr. Katz and no one exceeds his contribution to the programs. Most people think he was the best director in the country.

I am pleased, therefore, to put his suggestion into legislative form for consideration by the Senate Banking, Housing and Urban Affairs Committee.

By Mr. PROXMIRE:

S. 2172. A bill to require that funds be made available for replacement housing in connection with certain highway programs. Referred to the Committee on Finance.

INTRODUCTION OF BILL TO PROVIDE THAT THE HIGHWAY TRUST FUND MUST PAY FOR HOUSING CONDEMNED OR DESTROYED BY CONSTRUCTION OF A FEDERAL-AID HIGHWAY

Mr. PROXMIRE. Mr. President, I introduce and ask for appropriate reference a bill to provide that any House or dwelling unit condemned or destroyed in connection with the construction of a Federal-aid highway, must be replaced through a payment from the highway trust fund.

My bill provides that the Secretary of the Treasury shall pay out of the Highway trust fund to the Secretary of Housing and Urban Development an amount equal to the average construction cost of a three-bedroom public housing unit.

There is good reason to do this. The Douglas Commission found in 1968 that more housing in this country had been destroyed by public action than had been built by public action. The units destroyed by highway construction, by code enforcement, by so-called equivalent demolitions, by urban renewal and slum clearance, and other public actions exceeded those built by public housing, moderate-income housing, and State subsidized housing programs many times over.

The most devastating destruction has been due to highways. Great swaths have been cut through our central cities—Baltimore, Chicago, and Washington, D.C., to name only a few.

Generally speaking, in fact in almost every case, the houses destroyed were the houses of the poor. The well to do had the political clout to make certain that the highways did not come through their well-groomed neighborhoods.

Consequently there is a public interest in tapping the highway trust fund for the cost of the housing units that highway construction destroys.

I am going to propose this as an amendment to whatever housing bill comes out of our hearings and actions in the Banking, Housing, and Urban Affairs Committee which start on July 16.

By Mr. BROOKE:

S. 2175. A bill to amend section 24 of the Federal Reserve Act to simplify, consolidate, and improve the law relating to the investment in mortgages and residential real estate by national banks, and to enable the Federal Reserve banks to extend credit to member banks on any sound collateral at a uniform rate of interest. Referred to the Committee on Banking, Housing and Urban Affairs.

MORTGAGE INVESTMENT ACT OF 1973

Mr. BROOKE. Mr. President, I rise today to discuss a matter of great importance not only to this Nation's housing industry, but also to the vast number of families who seek decent housing at a reasonable cost. The growth of our housing stock—and hence our ability to satisfy the ever-expanding needs of low-income families and others—depends in large part on the housing industry's access to credit.

National banks have long served as a significant source of capital for both businesses and consumers; however, they have been needlessly hindered from investigating in real estate by outmoded and cumbersome statutes such as section 24 of the Federal Reserve Act. Although this statute has been amended several times, it still contains restrictions which must be removed if we are to facilitate the orderly development of unimproved real estate and the construction of a sufficient number of dwelling units to meet our national housing goals.

The bill which I am introducing today expands the powers of national banks by permitting them to make real estate loans against unimproved property; establishing realistic amortization requirements; liberalizing restrictions on the granting of construction loans; treating those loans which are guaranteed by Government agencies differently from other loans; eliminating the requirement that real estate loans be secured by first liens only; and other provisions which lend greater flexibility to the investment statutes.

Section 3 of this legislation provides that real estate loans would be eligible as collateral for advances to member banks from the Federal Reserve at the same rate of interest that applies to loans secured by Government securities. At present, the Federal Reserve Act requires that the rate of interest on an advance secured by home mortgages must be at least one-half percent higher than the rate the lending Reserve Bank charges on loans secured by governments.

For several years the Board of Governors has favored permitting member banks to borrow from the Reserve banks on security of any sound assets without paying such a "penalty" rate of interest whenever technically ineligible paper is presented. The need to remove this "penalty" has increased as member banks have reduced their holdings of Government securities and broadened the scope of their lending in order to meet the expanding credit demands of their customers. As a result, many of these loans cannot qualify as security for Federal Reserve advances except at the "penalty" rate of interest, although their quality may be equal to that of presently "eligible" paper.

The removal of this "penalty" provision from section 10(b) of the act is necessary to avoid penalizing those uses of credit that generate sound paper that is not "eligible" under existing law.

Therefore, Mr. President, this legislation which I introduce today will permit member banks to borrow from the Reserve banks on security of any sound assets without paying such a "penalty" rate of interest. Moreover, I believe that the enactment of this provision will further buttress and compliment the provisions of this bill regarding real estate lending by national banks. Together, it is my hope that these provisions will stimulate our national banks to become a significant source of mortgage credit for our beleaguered housing markets.

I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mortgage Investment Act of 1973".

Sec. 2. Section 24 of the Federal Reserve Act is amended to read as follows:

"REAL ESTATE LOANS BY NATIONAL BANKS

"Sec. 24. (a) (1) Any national banking association may make real estate loans secured by liens upon unimproved real estate, upon improved real estate, including improved farmland and improved business and residential properties, and upon real estate to be improved by a building or buildings to be constructed or in the process of construction, in an amount which when added to the amount unpaid, upon prior mortgages, liens, and encumbrances, if any, upon such real estate does not exceed the respective proportions of appraised value as provided in this section. A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by a mortgage, trust deed, or other instrument which shall constitute a lien on real estate in fee or, under such rules and regulations as may be prescribed by the Comptroller of the Currency, on a leasehold under a lease which does not expire for at least ten years beyond the maturity date of the loan, and any national banking association may purchase or sell any obligations so secured in whole or in part. The amount of any such loan hereafter made shall not exceed 66-2/3 per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by off-site improvements such as streets, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. If any such loan exceeds 75 per centum of the appraised value of the real estate or if the real estate is improved with a one to four family dwelling, installment payments shall be required which are sufficient to amortize the entire principal of the loan within a period of not more than thirty years.

"(2) The limitations and restrictions set forth in paragraph (1) shall not prevent the renewal or extension of loans heretofore made and shall not apply to real estate loans (A) which are insured under the provisions of the National Housing Act, (B) which are insured by the Secretary of Agriculture pursuant to title I of the Bankhead-Jones Farm Tenant Act, or the Act of August 28, 1937, as amended, or title V of the Housing Act of 1949, as amended, or (C) which are guaranteed by the Secretary of Housing and Urban Development for the payment of the obligations of which the full faith and credit of the United States is pledged, and such limitations and restrictions shall not apply to real estate loans which are fully guaranteed or insured by a State, or any agency or instrumentality thereof, or by a State authority for the payment of the obligations of which the faith and credit of the State is pledged, if under the terms of the guaranty or insurance agreement the association will be assured of repayment in accordance with the terms of the loan, or to any loan at least 20 per centum of which is guaranteed under chapter 37 of title 38, United States Code.

"(3) Loans which are guaranteed or insured as described in paragraph (2) shall not be taken into account in determining the amount of real estate loans which a national banking association may make in relation to its capital and surplus or its time and savings deposits or in determining the amount of real estate loans secured by other than first liens. Where the collateral for any loan consists partly of real estate security and partly of other security, including a guaranty or endorsement by or an obligation or commitment of a person other than the borrower, only the amount by which the loan exceeds the value as collateral of such other security shall be considered a loan upon the security of real estate, and in no event shall a loan be considered as a real estate loan where there is a valid and binding agreement entered into by a financially responsible lender or other party either directly with the association or which is for the benefit of or has been assigned to the association and pursuant to which agreement the lender or other party is required to advance to the association within sixty months from the date of the making of said loan the full amount of the loan to be made by the association upon the security of real estate. Except as otherwise provided, no such association shall make real estate loans in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of 70 per centum of the amount of its time and savings deposits, whichever is greater: *Provided,* That the amount unpaid upon real estate loans secured by other than first liens when added to the amount unpaid upon prior mortgage, liens, and encumbrances shall not exceed in an aggregate sum 20 per centum of the amount of the capital stock of such association paid in and unimpaired plus 20 per centum of the amount of its unimpaired surplus fund.

"(b) Any national banking association may make real estate loans secured by liens upon forest tracts which are properly managed in all respects. Such loans shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other such instrument; and any national banking association may purchase or sell any obligation so secured in whole or in part. The amount of any such loan, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, if any, shall not exceed 66⅔ per centum of the appraised fair market value of the growing timber, lands, and improvements thereon offered as security and the loan shall be made upon such terms and conditions as to assure that at no time shall the loan balance, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, if any, exceed 66⅔ per centum of the original appraised total value of the property then remaining. No such loan shall be made for a longer term than three years; except that any such loan may be made for a term not longer than fifteen years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the principal of the loan within a period of not more than fifteen years and at a rate of at least 6⅔ per centum per annum. All such loans secured by liens upon forest tracts shall be included in the permissible aggregate of all real estate loans and, when secured by other than first liens, in the permissible aggregate of all real estate loans secured by other than first liens, prescribed in subsection (a), but no national banking association shall make forest-tract loans in an aggregate sum in excess of 50 per centum of its capital stock paid in and unimpaired plus 50 per centum of its unimpaired surplus fund.

"(c) Loans made to finance the construction of a building or buildings and having maturities of not to exceed sixty months where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building or buildings, and loans made to finance the construction of residential or farm buildings and having maturities of not to exceed sixty months, may be considered as real estate loans if the loans qualify under this section, or such loans may be classed as commercial loans whether or not secured by a mortgage or similar lien on the real estate upon which the building or buildings are being constructed at the option of each national banking association that may have an interest in such loans: *Provided*, That no national banking association shall invest in, or be liable on, any such loans classed as commercial loans under this subsection in an aggregate amount in excess of 100 per centum of its actually paid-in and unimpaired capital plus 10 per centum of its unimpaired surplus fund.

"(d) Notes representing loans made under this section to finance the construction of residential or farm buildings and having maturities of not to exceed nine months shall be eligible for discount as commercial paper within the terms of the second paragraph of section 13 of this Act if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.

"(e) Loans made to any borrower (i) where the association looks for repayment by relying primarily on the borrower's general credit standing and forecast of income, with or without other security, or (ii) secured by an assignment of rents under a lease, and where, in either case described in clause (i) or (ii) above, the association wishes to take a mortgage, deed of trust, or other instrument upon real estate (whether or not constituting a first lien) as a precaution against contingencies, and loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred or guaranteed basis under the Small Business Act shall not be considered as real estate loans within the meaning of this section but shall be classed as commercial loans.

"(f) Any national banking association may make loans upon the security of real estate that do not comply with the limitations and restrictions in this section, if the total unpaid amount loaned, exclusive of loans which subsequently comply with such limitations and restrictions, does not exceed 10 per centum of the amount that a national banking association may invest in real estate loans. The total unpaid amount so loaned shall be included in the aggregate such that such association may invest in real estate loans.

"(g) Loans made pursuant to this section shall be subject to such conditions and limitations as the Comptroller of the Currency may prescribe by rule or regulation."

SEC. 3. "The last sentence of Section 10(b) of the Federal Reserve Act (12 U.S.C. 347b) is repealed."

By Mr. JACKSON (for himself, Mr. MAGNUSON, Mr. RANDOLPH, Mr. ABOUREZK, Mr. BIBLE, Mr. BUCKLEY, Mr. CHURCH, Mr. HASKELL, Mr. HATFIELD, and Mr. MOSS):

S. 2176. A bill to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes. Referred to the Committee on Interior and Insular Affairs; and then to the Committee on Commerce for not to exceed 60 days, if and when reported from the Committee on Interior and Insular Affairs, by unanimous consent order.

NATIONAL FUELS AND ENERGY CONSERVATION ACT

Mr. JACKSON. Mr. President, I am today introducing the proposed National Fuels and Energy Conservation Act.

This act is designed to set in motion a serious and sustained energy conservation effort by the Federal Government. It recognizes that we cannot continue our reckless waste of energy; that we cannot sustain the adverse social, economic, and environmental impacts of that waste; and that we can, through effective conservation programs, minimize these adverse impacts and reduce energy demand.

In brief, the act sets forth a congressional declaration of national policy to "foster and promote comprehensive national fuels and energy conservation programs and practices."

It makes energy conservation the responsibility of every Federal agency.

It provides a statutory basis for the Office of Energy Conservation in the Interior Department.

It mandates a series of energy conservation actions by Federal agencies including development of proposed standards for motor vehicle fuel use and mandatory labeling on appliances to show energy efficiency and operating costs.

It establishes energy conservation research and development programs to stimulate new and improved manufacturing and industrial processes, better building construction and more efficient production and transmission of electric energy.

It requires several significant studies on such subjects as utility rate structures and motor vehicle size to lay the groundwork for later congressional action.

Mr. President, I ask unanimous consent that the text of the National Fuels and Energy Conservation Act, and an outline of its principal provisions be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibits 1 and 2.)

Mr. JACKSON. Mr. President, this act is in effect an action-forcing device to stimulate Executive action on a broad-scale energy conservation program. We have waited too long for evidence that this administration is committed to serious energy conservation.

In his first energy message in 1971, the President referred briefly to the need to use energy wisely. The emphasis of that message was on the price mechanism as a means of reducing energy use and on voluntary efforts by consumers.

In his second energy message last April, the President established an Office of Energy Conservation, but again sidestepped the development of an aggressive conservation program, stating his conviction that conservation "can be undertaken most effectively on a voluntary basis."

In a third Presidential energy statement in June, the discussion of energy conservation is more serious reflecting the administration's growing concern with fuel shortages. But there is still no commitment to fundamental changes in existing patterns of energy use. The emphasis is primarily on short-term voluntary measures to avert shortages, with Presidential appeals to the public to drive at reduced speeds, requests for cooperation from State and local governments and directives to Federal agencies to reduce energy use.

The record suggests, Mr. President, that the administration is taking the "quick fix" approach to energy conservation. But a nation that is using one-third of the world's energy and squandering much of it must do more than pay lipservice to the concept of energy conservation.

The familiar figures on energy demand in the United States should be compelling evidence of the urgent need to make conservation a keystone of national energy policy. Per capita energy consumption rose from the equivalent of 33 barrels of oil per person a year in 1940 to 60 barrels per person a year in 1970. The demand for energy in the United States between 1973 and 1980 is expected to increase by 37 percent—the equivalent of 13 million barrels of oil a day.

We have become all too accustomed to accepting the unacceptable in terms of annual increases in energy use. Our consumption of electricity is increasing at an annual rate of about 7 percent—but we are talking about 7 percent of the highest level of consumption in our history.

As Dr. Jerome B. Wiesner, president of MIT, warned the Interior Committee last month:

> We are victims of a rather deep human perceptual failing, our inability to perceive intuitively the power of exponential growth. That is, the important idea that a phenomena that increases at a fixed rate will one day grow explosively. Five percent of a million gallons is 50,000 gallons; five percent of 10 million gallons is 500,000 gallons, five percent of 100 million gallons is 5 million gallons. We all know this. But we have not learned how to anticipate the consequences of exponential growth.

Mr. President, we are going to pay a high price for our failure to recognize and anticipate the impact of exponential growth in energy demand. Already, it is too late to forestall such consequences as gasoline and heating oil shortages and heavy dependence on foreign imports to meet our energy requirements. But it is not too late to build a national energy policy that restores us to energy self-sufficiency.

We cannot hope to achieve any real degree of self-sufficiency in the next generation merely by working to satisfy energy demand. That is, quite clearly, a losing battle. Until we start questioning the legitimacy of the demand, until we start challenging the reckless waste of energy resources, we cannot expect to satisfy our basic energy requirements in economically and environmentally acceptable ways.

Mr. President, I am convinced that Congress must now take the initiative to assure that energy conservation plays a central role in national energy policy.

The National Fuels and Energy Conservation Act is a significant first step toward that goal.

Mr. President, several sections of the proposed act deal with subject matter within the jurisdiction of the Commerce Committee. I wish to make clear that the legislation will be rereferred at the appropriate time for consideration of these sections by the Committee on Commerce.

Mr. President, I ask unanimous consent that the bill which I have just introduced be referred to the Senate Committee on Interior and Insular Affairs and, when reported by the committee, that it be rereferred to the Commerce Committee for a period of not to exceed 60 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

Exhibit 1

S. 2176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Fuels and Energy Conservation Act of 1973".

PURPOSE

Sec 2. The purposes of this Act are: to declare a national policy of conserving fuels and energy resources through more efficient conversion and use; to make energy conservation an integral part of all ongoing programs and activities of the Federal Government; to establish an Office of Energy Conservation in the Department of the Interior to promote energy conservation efforts through specific directives to agencies of the Federal Goverment and sectors of private industry; and to provide for the development of additional energy conservation programs pursuant to the policy set forth in this Act.

STATEMENT OF FINDINGS AND POLICY

Sec. 3. (a) The Congress recognizes: (i) that adequate supplies of energy at reasonable cost are essential to the growth of the United States economy and the maintenance of a high standard of living; (ii) that the availability of low-cost energy has stimulated energy consumption and waste through inefficient use; (iii) that expanding increases in energy consumption in the United States, which already uses almost one-third of the world's energy with only one-sixteenth of its population, cannot be maintained indefinitely; (iv) that the finite nature of energy resources and diminishing reserves of such fuels pose major questions of domestic and international policy; (v) that increasing dependence on energy supplies imported from foreign sources has created serious economic and national security problems; (vi) that a continuation of the present unrestrained demand for energy in all forms will have serious adverse social, economic, political, and environmental impacts; and (vii) that the adoption at all levels of government of laws, policies, programs, and procedures to conserve energy and fuels could have an immediate and substantial effect in reducing energy demand and minimizing such adverse impacts.

(b) The Congress hereby declares that it is in the national interest for, and shall be the continuing policy of, the Federal Government to foster and promote comprehensive national fuels and energy conservation programs and practices in order to assure adequate supplies of energy and fuels to consumers, reduce energy waste, preserve natural resources, and protect the environment.

(c) Every agency of the Federal Government shall have the continuing responsibility of implementing the policies set forth in this Act. Each such agency shall, where its proposed programs and policies will substantially affect energy consumption, consider and adopt feasible alternatives for conserving energy. Each agency shall review its present statutory authority, regulations, policies, procedures, and programs in order to determine what changes may be required to assure conformity with the policies and purposes of this Act and shall report the results of its review, together with recommendations for necessary changes, to the President and the Congress within one year from the date of enactment of this Act.

OFFICE OF ENERGY CONSERVATION

Sec. 4. (a) There is hereby established in the Department of the Interior the Office of Energy Conservation (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other officers and employees as may be required. The Director shall have such duties and responsibilities as the Secretary of the Interior may assign.

(c) The Secretary of the Interior, acting through the Office, shall—

(1) work with the Council on Environmental Quality in developing new energy conservation initiatives for the Federal Government;

(2) cooperate with private industry in developing energy conservation programs in industry;

(3) provide assistance to State governments in developing State energy conservation programs;

(4) conduct educational programs to foster public awareness of energy conservation needs and opportunities;

(5) conduct a continuing study of, and maintain current statistics on patterns of energy consumption; and

(6) prepare an annual report to the President and the Congress on his activities and the activities of other Federal agencies in implementing the purposes and objectives of this Act. The report shall also review progress on energy conservation for major categories of energy use, and recommend additional energy conservation measures for each such category.

RESEARCH AND DEVELOPMENT

Sec. 5. (a) The Director of the National Science Foundation shall coordinate the energy conservation research and development programs of the Federal Government, identify energy conservation research and development opportunities, and make recommendations to the President and the Congress for additional research and development programs necessary to achieve the purposes of this Act.

(b) The Secretary of Commerce is authorized to establish within the National Bureau of Standards an energy conservation research and development program to stimulate, through process testing, field demonstrations, and other means, new or improved manufacturing and industrial processes, better building construction, materials, and techniques; and to foster more efficient methods of managing energy use.

(c) The Secretary of the Interior is authorized to establish, utilizing existing facilities of the Federal Government for the production and transmission of electrical energy, one or more electrical equipment testing and development centers for the purpose of developing and testing more efficient equipment for the production and transmission of electric energy. The programs of such center or centers shall be coordinated to the fullest extent possible with existing governmental and industrial research and development programs.

(d) For the purposes of subsection (b) and subsection (c) of this section, there are authorized to be appropriated $8,000,000 and $4,000,000, respectively, for each of the first three fiscal years following the enactment of this Act.

FEDERAL BUILDING AND PROCUREMENT POLICIES

Sec. 6. (a) The Administrator of the General Services Administration is authorized and directed in the design, construction, and operation of all Federal buildings to utilize to the fullest extent possible equipment, methods of construction, and management policies which make the maximum efficient use of energy. The factors to be considered by the Administrator in implementing this section shall include but are not limited to—

(1) design of buildings for life cycle cost rather than initial cost;

(2) design of buildings to be as self-contained as possible;

(3) possible use of exhaust air to precondition incoming air and use of waste heat from utility sources;

(4) reduced illumination levels;

(5) provision for sufficient zones of temperature control within buildings; and

(6) location of buildings near existing or planned mass transit facilities.

(b) The Administrator is authorized to carry out demonstration projects to test and demonstrate methods, policies, and techniques developed pursuant to this section.

(c) The Administrator shall appoint an advisory committee of experts, including architects, engineers, economists, and builders, to advise him in implementing the requirements of this section.

(d) The Administrator is authorized and directed to develop, publish, and implement energy conservation guidelines for all Federal procurement. These guidelines shall be designed to assure that efficient energy use becomes a major consideration in all Federal procurement and shall be followed by all Federal agencies.

(e) The provisions of subsection (a) and subsection (b) of this section shall apply, to the extent consistent with the requirements of national security, to all the construction and procurement policies of the Department of Defense.

BUILDING STANDARDS AND CODES

Sec. 7. (a) The Secretary of Housing and Urban Development is authorized and directed to develop, in cooperation with the National Bureau of Standards and the General Services Administration, improved design, lighting, and insulation standards to promote efficient energy use in residential, commercial, and industrial buildings.

(b) The Secretary is authorized and directed to prepare, in cooperation with the National Bureau of Standards and the General Services Administration, model building codes for different types of classes of buildings, incorporating the most practicable standards possible for efficient energy use in differing regional environments. Such codes shall, to the extent possible, specify the energy conservation which may be achieved by adopting the practices recommended therein.

(c) Within six months from the date of enactment of this Act, the Secretary shall review and revise the existing minimum property standards of the Federal Housing Administration to incorporate therein the most advanced practicable standards for efficient energy use and include minimum standards for heating and cooling equipment and major appliances. Such standards shall thereafter be reviewed and where necessary revised not less than once every three years to include new or improved techniques for more efficient energy use.

APPLIANCE EFFICIENCY DISCLOSURE

Sec. 8. (a) The Secretary of Commerce is authorized and directed, acting through the National Bureau of Standards, to develop standard test procedures and measurement methodologies for determining the efficiency of major electrical appliances and equipment with respect to the use of electricity. Using such procedures, the Secretary, acting through the National Bureau of Standards, shall establish average and best available standards of efficiency for each type or class of appliances and equipment. Such standards shall be published within twelve months of the date of enactment of this Act and may be revised from time to time thereafter when warranted by the results of further testing.

(b) Within eighteen months from the date of enactment of this Act, the Federal Trade Commission shall by rule on the record after opportunity for a public hearing promulgate standards, which shall become effective within 90 days thereafter, for labeling major electrical appliances and equipment. Such standards shall include the requirement that labels contain clear statements, in nontechnical language designed to facilitate comparative shopping, of (i) the efficiency and operating costs of such appliances and equipment in using electricity, and (ii) how such efficiency compares with the average and best available standards of efficiency for appliances and equipment of the same type or class established pursuant to subsection (a) of this section.

(c) No manufacturer, distributor, wholesaler, or retailer of electrical appliances and equipment shall sell or offer for sale in, or in any manner affecting, interstate commerce any electrical appliance or equipment after the effective date of a standard promulgated by the Federal Trade Commission under subsection (b) of this section applicable to such appliance or equipment unless such appliance or equipment is labeled in accordance with the requirements of that standard.

(d) No manufacturer, distributor, wholesaler, or retailer of electrical appliances or equipment shall advertise or cause to be advertised any such appliance or equipment for sale through any communications medium unless that advertisement contains a statement in accordance with the requirements of the standard promulgated pursuant to subsection (b). This subsection shall become effective six months after the effective date of such standard.

(e) The act of selling or offering for sale (including causing an advertisement to be published or broadcast) any electrical appliance in violation of the provisions of this section constitutes an unfair or deceptive act or practice in commerce in violation of the provisions of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45) (a)(1)).

(f) Any person who knowingly violates the provisions of subsection (c) or (d) of this section shall be subject to a civil penalty not to exceed $5,000 for each violation. A violation of such subsections shall constitute a separate offense with respect to each electrical appliance or equipment involved. The maximum penalty under this subsection shall not succeed $1,000,000 for any related series of violations.

(g) Any individual officer, director, or agent of a corporation who knowingly and willfully authorizes, orders, or performs any act constituting a violation of subsection (c) or (d) of this section shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under subsection (f) of this section.

(h) The United States district courts shall have jurisdiction to restrain any violation of subsection (c) or (d) of this section. Such actions may be brought by any aggrieved person or by the Federal Trade Commission (with the concurrence of the Attorney General) or by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

MOTOR VEHICLE FUEL USE STANDARDS

Sec. 9. (a) The Secretary of Transportation is authorized and directed to prepare and submit to the Congress within twelve months from the date of enactment of this Act proposed minimum standards for the average number of miles a vehicle is propelled for each unit of fuel consumed, hereinafter referred to as the degree of fuel use, for all motor vehicles sold in or for use in the United States after such standards take effect.

(b) In order to prepare such standards, the Secretary of Transportation, in cooperation with the National Bureau of Standards and the Environmental Protection Agency, shall develop and utilize standard testing procedures to ascertain the degree of fuel use for all types and classes of motor vehicles produced in the model year during which this Act becomes effective. Such procedures shall include a driving cycle utilizing a representative combination of urban and interurban driving conditions.

(c) The standards prepared pursuant to subsection (a) shall be designed to achieve a substantial increase in the degree of fuel use by all motor vehicles not in compliance with such standards within three years from the enactment of such standards by the Congress, with all motor vehicles being required to meet such standards within five years from the date of their enactment.

(d) The standards prepared pursuant to subsection (a) shall, to the extent possible, take account of all factors affecting directly or indirectly the degree of fuel use, including such factors as vehicle size and weight, accessory equipment, engine and fuel types, safety, environmental controls, and costs to consumers.

(e) In the preparation of such standards, the Secretary of Transportation shall consult with the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the motor vehicle manufacturers, and other increased parties.

(f) Every manufacturer of motor vehicles shall establish and maintain such records, make such reports, conduct such tests, and provide such materials and information (including the supplying of vehicles or equipment for testing pursuant to subsection (b)) as the Secretary of Transportation may reasonably require for the purpose of establishing standards pursuant to this section. Such manufacturers shall make available all such material and information in accordance with such reasonable rules as the Secretary may prescribe for this purpose. Vehicles and equipment for testing shall be made available under this section at a negotiated price that does not exceed the manufacturer's cost.

(g) Not later than eighteen months from the date of enactment of this Act, all motor vehicles sold or manufactured in the United States shall bear a label stating in nontechnical language the degree of fuel use of such vehicles ascertained in accordance with the standard testing procedures developed pursuant to subsection (b) of this section. No such vehicles may be advertised for sale through any communications medium unless that advertisement states the degree of fuel utilization of such vehicle.

(h) Any person who knowingly violates the provisions of subsection (g) of this section shall be subject to civil penalties not to exceed $1,000 for offering for sale an unlabeled or improperly labeled motor vehicle and not to exceed $50,000 for each advertisement of motor vehicles which does not properly state the degree of fuel use of such vehicles.

UTILITY CONSERVATION REPORTS

Sec. 10. Within six months from the date of enactment of this Act, the Federal Power Commission shall by rule on the record after opportunity for a public hearing promulgate regulations requiring electric and gas public utilities to submit to the Commission annual reports on energy conservation policies. The Commission shall make such reports readily available for public inspection. Each such report shall include—

(1) an indication of the problems the utility is encountering in implementing an energy conservation program, such as regulatory or rate restrictions;

(2) a description of the utility's research effort directed toward the conservation of energy;

(3) an evaluation of the role of the utility's wholesale and retail rate structures in achieving conservation of energy;

(4) disclosure of system inefficiencies, including energy loss during transmission; and

(5) such other relevant information as the Commission may require.

RATE STUDIES

Sec. 11. Each agency of the Federal Government engaged in the sale of electrical energy, including the Tennessee Valley Authority, is authorized and directed to prepare and submit to the Congress within twelve months from the date of enactment of this Act a comprehensive study of the impact of the rate structure of such agency on the consumption and conservation of energy. Each such study shall include—

(1) an analysis of the rate structure within the area served by the agency;

(2) an indication of how marginal cost pricing might affect consumption within the area served by the agency;

(3) an evaluation of the impact various rate changes might have on energy consumption, energy conservation, and the economy of the area served by the agency.

REGULATION OF ADVERTISING AND PROMOTION

Sec. 12. (a) Within six months from the date of enactment of this Act, the Federal Trade Commission shall by rule on the record after opportunity for a public hearing promulgate regulations for the advertising and promotion of energy and fuels. Such regulations shall be designed to prohibit the advertising or promotion of energy or fuels by any person or corporation at a time when such person or corporation is unwilling or unable to meet the requirements for such energy or fuels of existing or prospective customers. Such regulations shall generally prohibit advertising and promotional practices which are calculated or likely to result in unnecessary energy consumption.

(b) The act of causing an advertisement to be published or broadcast in violation of regulations issued pursuant to this section constitutes an unfair or deceptive act or practice in commerce in violation of the provisions of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)).

(c) Any person who knowingly violates regulations issued pursuant to this section shall be subject to civil penalties not to exceed $50,000 for each violation.

(d) The United States district courts shall have jurisdiction to restrain any violations of this section. Such actions may be brought by the Federal Trade Commission (with the concurrence of the Attorney General) or by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

STUDIES BY COUNCIL ON ENVIRONMENTAL QUALITY

Sec. 13. (a) The Council on Environmental Quality shall prepare and submit to the Congress within one year from the date of enactment of this Act a report evaluating the impact on fuel consumption of national and regional systems of freight transportation. Such report shall include—

(1) an evaluation of the relationship between existing patterns of freight transportation and energy use;

(2) an evaluation of the role of Government transportation policies in creating and maintaining existing patterns of freight transportation;

(3) an evaluation of the role of Federal rate regulation in encouraging freight transportation practices which are inefficient in terms of fuel use; and

(4) specific recommendations for changes in Federal statutes, regulations, policies, and procedures to conserve fuels used in freight transportation.

(b) The Council on Environmental Quality shall prepare and submit to the Congress within eighteen months of this Act a comprehensive study of the relationships between motor vehicle size, the needs of motor vehicle users, and the public interest. Such study shall include consideration of such subjects as—

(1) the relationship between motor vehicle size and—

(A) environmental pollution;

(B) consumption of the Nation's supply of petroleum, metals, and other finite resources;

(C) the congestion of urban roadways and shortage of parking facilities in many urban areas;

(D) the feasibility of motor vehicle powerplants other than internal combustion engines;

(E) the status of the motor vehicle manufacturing industry and the various industries and businesses which supply services and goods required for the manufacture, operation, and maintenance of motor vehicles;

(2) whether a reduction of motor vehicle size would be in the public interest; and

(3) possible alternatives for reducing the size of motor vehicles, including the various costs and benefits of each such alternative.

APPROPRIATIONS

SEC. 14. In addition to the sums authorized to be appropriated by section 5(d) of this Act, there are authorized to be appropriated each fiscal year such sums as may be necessary to carry out the provisions of this Act.

EXHIBIT 2

OUTLINE OF NATIONAL FUELS AND ENERGY CONSERVATION ACT

DECLARATION OF POLICY

The Act contains a Congressional declaration of national policy to "foster and promote comprehensive national fuels and energy conservation programs and practices in order to assure adequate supplies to consumers; to reduce energy waste, to preserve natural resources and to protect the environment."

AGENCY RESPONSIBILITIES

The Act imposes on every Federal agency the responsibility of implementing the policies of the Act. Where proposed programs and policies will substantially affect energy consumption, agencies are to consider and adopt feasible alternatives for conserving energy.

OFFICE OF ENERGY CONSERVATION

The Act creates an Office of Energy Conservation in the Department of the Interior, headed by a director subject to Senate confirmation. The functions of the Office include development of new energy conservation initiatives, cooperation with industry and state governments on conservation programs and preparation of an annual energy conservation report.

ENERGY CONSERVATION R. & D.

The Act establishes energy conservation research and development programs to stimulate new or improved manufacturing and industrial processes, better building construction and more efficient production and transmission of electric energy.

FEDERAL BUILDINGS AND PROCUREMENT

The Act directs the Administrator of the General Services Administration to maximize the efficiency of energy use in the design, construction and operation of all Federal buildings and develop and implement energy conservation guidelines for all Federal procurement.

BUILDING STANDARDS AND CODES

The Act directs the Secretary of Housing and Urban Development to develop improved design, lighting and insulation standards to promote efficient energy use in buildings; to develop model building codes incorporating standards for efficient energy use; and to revise the FHA Minimum Property Standards to include the most practicable standards for efficient energy use.

APPLIANCE LABELING REQUIREMENTS

The Act requires the Federal Trade Commission to promulgate standards for labeling major electrical appliances and equipment to show the comparative efficiency and operating costs: failure to label in accordance with such standards is made an unfair trade practice in violation of the FTC Act.

MOTOR VEHICLE FUEL USE LABELING

The Act directs the Secretary of Transportation to prepare and submit to Congress proposed minimum standards for the degree of motor vehicle fuel use (the average number of miles a vehicle is propelled for each unit of fuel consumed). The standards would be designed to achieve a substantial increase in the degree of fuel use by all vehicles not in compliance within three years of the enactment of such standards. Full compliance would be required within five years of the date of enactment.

MOTOR VEHICLE FUEL USE LABELING

The Act requires, within 18 months from the date of its enactment, that every new motor vehicle be labelled to show the average number of miles the vehicle is propelled for each unit of fuel consumed.

UTILITY CONSERVATION REPORTS

The Act requires the Federal Power Commission to prepare regulations requiring utilities to submit annual reports to the Commission on energy conservation policies. Such reports would include data on the role of rate design in conservation and disclosure of system inefficiencies contributing to energy waste.

RATE STRUCTURE STUDIES

The Act requires Federal agencies selling electricity to submit to the Congress studies on the impact of the rate structure on the consumption and conservation of energy.

REGULATION OF ADVERTISING AND PROMOTION

The Act requires the Federal Trade Commission to promulgate regulations governing the advertising and promotion of energy and fuels. The regulations are to be designed generally to prohibit advertising and promotional practices which encourage unnecessary energy consumption. They would prohibit advertising or promotion of energy or fuels by a company unwilling or unable to provide for the needs of existing or prospective customers.

STUDIES BY COUNCIL ON ENVIRONMENTAL QUALITY

The Act requires the Council on Environmental Quality to prepare a report evaluating the impact on fuel consumption of existing freight transportation systems, with specific recommendations for changes in Federal statutes and policies to conserve fuel used in freight transportation.

The Council is also required to prepare a study of the relationships between motor vehicle size, the needs of motor vehicle users and the public interest. This study would consider such factors as the relationship between vehicle size and environmental pollution, resource depletion and urban congestion and evaluate alternatives for reducing the size of motor vehicles.

By Mr. JOHNSTON (for himself and Mr. LONG):

S. 2177. A bill to establish the Allen J. Ellender Memorial Library. Referred to the Committee on Rules and Administration.

ALLEN J. ELLENDER MEMORIAL LIBRARY

Mr. JOHNSTON. Mr. President, together with my senior colleague, Senator LONG, I am today introducing legislation to authorize the construction of the Allen J. Ellender Memorial Library at Nicholls State University in Thibodaux, La.

Allen Ellender served Louisiana and his Nation with complete dedication for many years, and this library will be a fitting memorial in every way.

Nicholls sits in the area that was his home, and his special affection for Nicholls is evidenced by the fact that his files and official papers were given to Nicholls. Those papers are strong testament to his devoted service in the Senate, and they will offer a rich vein of fact and perspective on the activities of Senator Ellender and his contemporaries spanning nearly four decades of our history.

The esteem in which Allen Ellender was held at home can quickly be measured by the enthusiasm which many people in Louisiana have demonstrated for this proposed library. Among many with whom we have discussed the library, we are particularly grateful to Mayor Warren Harang of Thibodaux, State Senator Harvey Peltier, and Dr. Vernon Galliano, the president of Nicholls.

We are very hopeful and optimistic that the Congress will authorize this construction at an early date.

By Mr. WILLIAMS:

S. 2179. A bill to establish a demonstration program to provide direct financing of housing for the elderly under section 236 of the National Housing Act. Referred to the Committee on Banking, Housing and Urban Affairs.

DEMONSTRATION LOAN PROGRAM FOR THE ELDERLY

Mr. WILLIAMS. Mr. President, I introduce today for appropriate reference a bill to establish a demonstration program of direct Government loans for low- and moderate-income housing for the elderly. In the past, direct loans have been disfavored because of their heavy impact on the Federal budget as direct outlays. This program will avoid that disadvantage by establishing a National Elderly Housing Loan Fund operating outside the regular Federal budget and financed by U.S. Treasury notes.

The funds made available by the Treasury will then be loaned by the Secretary of Housing and Urban Development to eligible sponsors upon the same terms and conditions applicable to private mortgages under the section 236 program. The rate of interest paid on each loan will be equal to the rate of interest the borrower would pay if subject to the 236 program. Appropriations will be necessary to make up the difference between the interest paid by the borrower and the interest rate paid on the Treasury notes.

Throughout 1973 we have witnessed a great uncertainty in the field of housing because of the ill-advised moratorium imposed by the administration. I think it is essential to resolve that uncertainty, especially for the elderly.

For older Americans, housing is their No. 1 expense. They pay, on the average, 34 percent of their income for housing, while younger households pay about 23 percent. Additional factors—such as fixed incomes, inflation, rising property tax rates, and severe rent increases—have intensified the housing problems of the elderly.

Over the years the development of multifamily housing projects for older persons has been extremely successful. And the demand for additional units has reached an all-time high. A survey done by my Subcommittee on Housing for the Elderly revealed that, as a very minimum, one elderly person was on a waiting list for every unit currently occupied. And this, I might add, represents only the tip of a very large iceberg.

Prior to the moratorium, the section 236 interest-subsidy program and public housing were the main vehicles for the production of housing for the elderly. The section 236 program has come under strong attack, and it is now under review by the Department of Housing and Urban Development. Weaknesses were clearly evident in this program, and I heartily endorse congressional review of its merits. Hopefully this action can lead to improvement of section 236. And if this is not feasible, then the program should be replaced.

As the Congress continues to reexamine our housing policies, I feel it is essential to consider all approaches. It is for this reason that I introduce today a bill to create a demonstration program of direct loans.

Because this approach to housing has not been tried before, I am presenting this program as a demonstration limited to housing for the elderly. Over the years housing programs for older Americans have a good production record, especially under an earlier direct loan program.

If this demonstration program then proves successful, it can be extended to cover additional housing needs.

Good precedent can be found for a direct loan housing program for the elderly in the section 202 program which still exists today, but has been left idle by the administration in favor of the section 236 approach. Despite the unparalleled success of 202, it was scuttled because of the impact that direct loans had on the annual Federal budget.

I must emphasize what to me is the most compeling reason for exploring this new approach to housing finance. Very simply, it will save a great deal of money.

The savings inherent in the direct loan approach as compared to the section 236 interest-subsidy program has been well established. Two years ago my Subcommittee on Housing for the Elderly heard ample testimony outlining the cost savings that were possible under direct loans. More recently, that testimony has been reaffirmed by the Government Accounting Office—GAO.

It is also very important to point out that payments of principal and interest made by borrowing sponsors to the Government will go back into the loan fund and be available again for further loans. This "revolving fund" concept will provide further savings, and the fund itself will grow each year as the program continues.

With the cost of new housing so high today, there appears to be no alternative to deep subsidies if we are to provide needed housing for low- and moderate-income people. Since we must face that economic fact of life, I feel that the direct loan approach provides a method, far less costly to the Federal Government, that should be examined carefully and tested to determine its worth. Therefore, I recommend the speedy adoption of this legislation.

Mr. President, I ask unanimous consent that the text of ths bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

STATEMENT OF PURPOSE

Section 1. It is the purpose of this Act to establish a demonstration program to provide direct loans from the Federal Government for the acquisition of land and construction thereon of low- and moderate-income housing for the elderly and handicapped at minimum cost to the United States.

ESTABLISHMENT OF FUND

Sec. 2. (a) There is established in the Treasury of the United States a trust fund to be known as the "National Elderly Housing Loan Fund" (hereinafter in this section referred to as the "fund"). The fund shall consist of—

(1) amounts repaid by mortgagors as principal and interest on loans from the fund;

(2) proceeds credited to the fund under subsection (c);

(3) payments authorized under section 236 (i) (4) of the National Housing Act; and

(4) receipts from any other source.

(b) Amounts in the fund shall be available to the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") for the purpose of making direct mortgage loans to any limited profit or nonprofit sponsor or public agency approved by the Secretary for the provision of projects designed primarily for occupancy by elderly or handicapped families upon the same terms and conditions that are applicable to private mortgages under section 236(j) of the National Housing Act. A loan made under this section shall bear interest at a rate determined by the Secretary to be equal to the effective rate of interest the borrower would pay if the mortgage loan were subject to section 236 of the National Housing Act and if interest reduction payments computed under subsection (c) of such section were being made with respect to such loan.

(c) To carry out the purposes of this section, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not to exceed $50,000,000 in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(d) The receipts and disbursements of the fund shall not be included in the total of the Budget of the United States Government and shall be exempt from any limitation on annual expenditure or net lending.

(e) To the maximum extent practicable, the Secretary shall use the services and facilities of the private mortage industry in originating and servicing mortgage loans made under this section.

CONFORMING AMENDMENT

Sec. 3. Section 236 (i) of the National Housing Act is amended by adding at the end thereof the following new paragraph:

"(4) Of the sums appropriated under this subsection, not more than $5,000,000 shall be available in any fiscal year for payment to the National Elderly Housing Loan Fund. The amount of any payment to such Fund with respect to a project shall be determined as the difference between (A) the borrowing costs sustained by such Fund in financing the project, and (B) amounts actually received by the Fund as payment of principal and interest from the sponsor of such project."

LABOR STANDARDS

Sec. 4. All laborers and mechanics employed by contractors or subcontractors on projects which are undertaken by approved sponsors under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall not make any loan under this Act for any project without first obtaining adequate assurance that these labor standards will be maintained on the construction work; except that compliance with such standards may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their service without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the sponsor undertaking the project. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

By Mr. WILLIAMS:

S. 2180. A bill to provide for increased security and projection for certain federally related housing projects. Referred to the Committee on Banking, Housing and Urban Affairs.

HOUSING SECURITY ACT OF 1973

Mr. WILLIAMS. Mr. President, I am introducing today legislation to improve the safety and security for many citizens who are frequently the helpless victims of crime and vandalism. The name of my bill is the Housing Security Act of 1973. Its purpose is to provide funding earmarked for planning and implementing security programs for the protection of persons and property in multifamily housing financed by the Department of Housing and Urban Development—HUD.

Over the last 2 years my Subcommittee on Housing for the Elderly has held hearings which have clearly demonstrated that many persons are living in daily fear of crime. It has become so bad in some housing projects that people are terrified to leave their apartments at day or night. Many of these same people are vulnerable to crime even when they are in their apartments behind closed and locked doors.

It is not my intention today to deliberate at length on the nature of this critical problem. The record is available for all to read. Instead, I wish to introduce to the Senate a bill which I feel will strike directly at the heart of this problem and produce results.

Unlike many problems faced by Congress, the issue of crime and lack of security in multifamily housing has available many solutions that have already proven successful. In short, the problem here is not one of finding answers, but of paying for the elements of the answer to make them work. Throughout the country witnesses have told us that they do not lack solutions; they simply cannot afford them. This is especially true in public housing, where the denial of adequate operating subsidies from the administration has forced several local housing authorities to the brink of bankruptcy.

As one witness in Boston told us:

> One of the most frustrating experiences is to hold well documented security needs in one hand, and intelligent security suggestions as to how those needs could be met in the other hand, while all the time fully realizing that the authority has no funds to pay for an adequate security system.

The bill I introduce today will create at HUD an Office of Security under the Assistant Secretary for Housing Management. This office will administer funding authorized by my bill to plan and implement security programs in HUD-assisted housing. In particular, this money will be used to pay for capital improvements such as remodeling, better lighting, better locks and other hardware. It will also pay for vitally needed security personnel and their equipment.

The case for legislation earmarking funding for security is especially compelling in light of the failure of the Department of Housing and Urban Development to take an active role in the matter. HUD's approach has consistently been to insist that the primary responsibility for security lies with the local police force, and only under "abnormal conditions" should supplemental protective service be needed. Many housing authorities faced with rising maintenance costs and insufficient operating subsidies from the administration have found themselves unable to squeeze an adequate security program out of their greatly overstretched budgets. As a result, these authorities have been forced to seek outside sources of funding for security.

In a very real sense, the need for security resources is much more serious today than 6 months ago because many of these outside sources so successfully utilized in the past are now being phased out by the administration. Specifically, the HUD Modernization program is to be suspended on June 30, 1973, and the Model Cities Program and the Emergency Employment Act are not to be refunded. All three of these programs have served as sources of support for security programs in several cities. Nevertheless, in a recent draft of a HUD Handbook entitled "Security Planning for Multi-Family Housing" the Department suggests that local authorities look for help from these very outside sources which the administration is eliminating. If this is the best that HUD can do, I feel that my bill is the only solution.

In closing, I would like to reemphasize that this critical problem of crime at federally assisted housing projects can be drastically reduced. The expertise is available and well-developed; the major obstacle has been funding.

Last December I visited the Bronx in New York City to see the Clason Point Houses. This is a relatively old public housing project—1943—made up of 400 units of two-story walkups. The crime rate here used to be very high. With $1 million of HUD modernization funds several changes were made. Outer walls were resurfaced with individual colors; back yards were fenced in making them semiprivate; more lighting was put in; play areas were clearly defined and expanded; and the front yards were redesigned as nonpublic. The results have been dramatic. Felonies are down 80 percent and all crimes are down 67 percent.

The Clason Point example is indicative of what can be done. It shows clearly that successful results can be achieved if the money is available.

It is the purpose of my bill to provide the funding for more successes like Clason Point. I urge the speedy adoption of this important legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Housing Security Act of 1973".

ESTABLISHMENT OF OFFICE OF SECURITY

SEC. 2. (a) There is established in the Department of Housing and Urban Development an Office of Security which shall be headed by the Assistant Secretary for Housing Management.

(b) The Office of Security shall—

(1) make grants and enter into contracts in accordance with section 3;

(2) serve as a clearinghouse for information relating to the physical security of Federally-related housing projects and to Federal assistance for improved security of such projects; and

(3) cooperate and coordinate with the Law Enforcement Assistance Administration in developing improved methods for providing housing security.

GRANTS AND CONTRACTS

SEC. 3. The Secretary, acting through the Office of Security, is authorized to make grants and enter into contracts with sponsors of Federally-related multifamily housing projects in order to finance—

(1) the planning and development of a security program for the project;

(2) capital improvements, such as design modification or remodeling or the installation of electronic security systems, improved lighting in common areas, and hardware, to improve the security of the project;

(3) the maintenance and equipment of a security force for the project, including salaries and benefits of security personnel and training programs, uniforms, weapons, and other equipment for such personnel; and

(4) research and technical assistance relating to project security.

As used in this section the term "sponsor" includes a mortgagee or sponsor of a multifamily housing project under a mortgage insured under any provision of the National Housing Act and a public housing agency operating a project under the United States Housing Act of 1937.

AUTHORIZATION

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provision of this Act.

By Mr. WILLIAMS:

S. 2181. A bill to amend the National Housing Act to provide further assistance to public and private nonprofit corporations for the conversion of existing single family housing for occupancy by elderly persons of low or moderate income. Referred to the Committee on Banking, Housing and Urban Affairs.

INTERMEDIATE HOUSING FOR THE ELDERLY AND HANDICAPPED ACT

Mr. WILLIAMS. Mr. President, I introduce for appropriate reference the Intermediate Housing for the Elderly and Handicapped Act.

"Intermediate housing" is not just a theoretical concept or an idea on the drawing board. It is already operating effectively at the Philadelphia Geriatric Center.

As chairman of the Subcommittee on Housing for the Elderly for the Special Committee on Aging, I have had an opportunity to observe firsthand the outstanding achievements of this extraordinarily successful prototype program. To my way of thinking, this pilot project has clearly demonstrated an innovative approach for providing essential housing and social services to enable the infirm elderly to live independently, rather than being institutionalized in a nursing home.

Briefly stated, this program has operated in the following way. Nearby single family dwellings are purchased by the Philadelphia Geriatric Center; they are then converted into efficiency apartments—ordinarily three for each dwelling. A congregate living room is available for all the tenants, but each aged occupant has his own bathroom, kitchen, and bedroom. Tenants are carefully screened to insure compatibility.

However, the distinguishing feature of the Philadelphia Geriatric Center's intermediate housing program is the wide range of services for the elderly, including:

Counseling;

A hotline for emergency care;

Delivery of frozen meals for the aged to warm up for dinner; and

Access to all health facilities and cultural events at the center.

These services have greatly enhanced the overall outlook and well-being for persons moved to these intermediate housing units. Preliminary findings show remarkable improvement in their activity and health.

Mr. President, we do not need any more proof that this pilot program is a smashing success. What is needed now is a genuine national commitment to build upon the successful efforts of the Philadelphia Geriatric Center.

This is a major reason why I introduce today the Intermediate Housing for the Elderly and Handicapped Act—to provide the legislative wherewithal to convert the intermediate housing demonstration project into a permanent, ongoing national program to benefit aged and disabled Americans all over the United States. My Proposal would accomplish this objective through the use of Federal interest subsidies to assist project sponsors in purchasing existing housing to be converted into multifamily intermediate housing for the elderly and handicapped.

For most older Americans, housing is the number one expenditure. They spend about 34 percent of their total income for shelter, in contrast to about 23 percent for younger persons.

It is no wonder then that many elderly persons find themselves in an impossible situation when it comes to housing. Rapidly rising property taxes and maintenance costs are driving them from their homes. Yet, suitable alternative rental units at prices they can afford are frequently scarce or nonexistent. For the infirm elderly, these problems are greatly intensified.

But, intermediate housing offers a sound and sensible solution for the acute housing and service requirements for aged Americans suffering from failing health. It can enable those individuals to continue to live independently and at a substantially cheaper cost to the public than if they were institutionalized. Moreover, it can provide pleasant housing and at reasonable prices.

Our housing programs for older Americans must be more than just "bricks and mortar"—especially for the infirm elderly. And my Intermediate Housing for Elderly and Handicapped Act would help to provide this comprehensive approach for their total shelter and service needs.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intermediate Housing for the Elderly and Handicapped Act."

SEC. 2. Title II of the National Housing Act is amended by adding at the end thereof the following new section:

"LOW AND MODERATE INCOME HOUSING FOR THE ELDERLY AND SUPPORTIVE SERVICES"

"SEC. 244. (a) As used in this section—

"(1) The term 'elderly family' means any single person who is sixty-two years of age or over or who is handicapped and any married couple either of whom is sixty-two years of age or over, or handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have a physical impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions.

"(2) The term 'sponsor' means a nonprofit organization or public agency which agrees to carry out a program which meets the requirements of this section, and such term includes any such organization or agency which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which is approved for receiving the benefits of this section.

"(3) The term 'existing housing' means single or double family housing units which may be converted into multifamily efficiency units through the addition of kitchen and bathroom facilities.

"(4) The term 'supportive services' means any service which enables an elderly person to continue to reside outside an institution, as determined by the Secretary. Such term may include transportation, meals-on-wheels, homemaker services, legal aid, and home health care.

"(5) The term 'mortgage insurance premium', as used in this section in relation to a project financed by a loan under a State or local program, means such fees and charges, approved by the Secretary, as are payable by the mortgagor to the State or local agency mortgagee to meet reserve requirements and administrative expenses of such agency.

"(6) The terms 'mortgage', 'mortgagee', and 'mortgagor' have the same meaning as in section 201.

"(b) For the purpose of assisting sponsors in purchasing existing housing, converting such housing into dwelling units suitable for occupancy by elderly families, and reducing rentals for elderly families of low and moderate income, the Secretary is authorized to make and to contract to make periodic interest reduction payments on behalf of the sponsor, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section.

"(c)(1) Interest reduction payments with respect to a project shall only be made during such time as the project is operated as a rental project and is subject to a mortgage which meets the requirements of and is insured under subsection (f) of this section, except that such payments may be made where the mortgage has been assigned to the Secretary.

"(2) The interest reduction payments to a mortgagee by the Secretary on behalf of a sponsor shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the sponsor as a mortgagor is obliged to pay under the mortgage and the monthly payment for principal and interest such sponsor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per anum.

"(3) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

"(d)(1) As a condition for receiving the benefits of interest reduction payments, the sponsor: (A) shall be providing through its own program and through working arrangements with other community programs, a fully comprehensive system of supportive services for the elderly as defined by the Secretary which may include such services as counseling, homemaker service, transportation, meals-on-wheels, information and referral, legal services, health clinic services, and other such programs designed to help the older person remain in independent living; and (B) shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenant incomes at intervals of two years (or at shorter intervals where the Secretary deems it desirable).

"(2) For each dwelling unit there shall be established with the approval of the Secretary (A) a basic rental charge determined on the basis of operating the project with payments of principal and interest due under a mortgage bearing interest at the rate of 1 per centum per annum; and (B) a fair market rental charge determined on the basis of operating the project with payments of principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage covering the project. The rental for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge, as represents 25 per centum of the tenant's income.

"(3) The sponsor shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected in excess of the basic rental charges. Such excess charges shall be deposited by the Secretary in a fund which may be used by him as a revolving fund for the purpose of making interest reduction payments with respect to any rental housing project receiving assistance under this section, subject to limits approved in appropriation Acts pursuant to subsection (e). Moneys in such fund not needed for current operations may be invested in bonds or other obligations of the United States or in bonds or other obligations guaranteed as to principal and interest by the United States or any agency of the United States, except that such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

"(4) In addition to establishing the requirements specified in paragraph (1), the Secretary is authorized to make such rules and regulations, to enter into such agreements, and to adopt such procedures as he may deem necessary or desirable to carry out the provisions of this section.

"(e)(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make interest reduction payments under contracts entered into by the Secretary under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $______ per annum prior to July 1, 1973, which maximum dollar amount shall be increased by $______ on July 1, 1973.

"(2) Not more than 20 per centum of the total amount of interest reduction payments authorized to be contracted to be made pursuant to appropriation Acts shall be contracted to be made with respect to families, occupying rental housing projects assisted under this section, whose incomes at the time of the initial renting of the projects exceed 135 per centum of the maximum income limits which can be established in the area, pursuant to the limitations prescribed in sections 2 (2) and 15 (7) (b) (ii) of the United States Housing Act of 1937, for initial occupancy in public housing dwellings, but the income of such families at the time of the initial renting of the projects shall in no case exceed 90 per centum of the limits prescribed by the Secretary for occupants of projects financed with mortgages insured under section 221 (d) (3) which bear interest at the below-market interest rate prescribed in the proviso of section 221 (d) (5). The limitations prescribed in this paragraph shall be administered by the Secretary so as to accord a preference to those families whose incomes are within the lowest practicable limits for obtaining rental accommodations in projects assisted under this section. The Secretary shall report semiannually to the Committee on Banking and Currency of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate with respect to the income levels of families living in projects assisted under this section.

"(f) (1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of this section. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as he may prescribe.

"(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements specified in subsections (d) (1) and (d) (3) of section 221, except as such requirements are modified by this section.

"(3) A mortgage to be insured under this subsection shall—

"(A) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market; and

"(B) provide for complete amortization by periodic payments within such term as the Secretary may prescribe.

"(4) The property or project shall—

"(A) comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of the property for mortgage insurance and may include such nondwelling facilities as the Secretary deems adequate and appropriate to serve the occupants and the surrounding neighborhood.

"(B) include three or more dwelling units; and

"(C) be designed primarily for use as a rental project to be occupied by low or moderate income elderly families.

"(g) The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make periodic interest reduction payments as approved in appropriation Acts under subsection (e).

"(h) The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make interest reduction payments subject to all the terms and conditions specified in this section and in rules, regulations and procedures adopted by the Secretary under this section, with respect to all or a part of a project covered by a mortgage insured under this section. Any funds provided by a State or agency thereof for the purpose of making interest reduction payments shall be administered, disbursed, and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified therein. Before entering into any agreements pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of interest reduction payments for the full period specified in the interest reduction contract."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 782

At the request of Mr. Tunney, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 782, to amend the antitrust laws of the United States, and for other purposes.

S. 1148

At the request of Mr. Cranston, the Senator from California (Mr. Tunney) was added as a cosponsor of S. 1148, a bill to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

S. 1416

At the request of Mr. Long, the Senator from Connecticut (Mr. Ribicoff) was added as a cosponsor of S. 1416, the Catastrophic Illness Insurance Act.

S. 1610

At the request of Mr. Moss, the Senator from Ohio (Mr. Taft) was added as a cosponsor of S. 1610, a bill to require the installation of airborne, cooperative collision avoidance systems on certain civil and military aircraft, and for other purposes.

S. 1637

At the request of Mr. Bayh, the Senator from Kansas (Mr. Dole) was added as a cosponsor of S. 1637, to discourage the use of painful devices in the trapping of animals and birds.

S. 1725

At the request of Mr. Dominick, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 1725, the Fair Labor Standards Amendments of 1973.

S. 2029

At the request of Mr. Williams, the Senator from Connecticut (Mr. Ribicoff), the Senator from Michigan (Mr. Hart), the Senator from Nevada (Mr. Bible), and the Senator from California (Mr. Cranston) were added as cosponsors of S. 2029, to provide assistance for Vietnamese children.

S. 2087

At the request of Mr. Robert C. Byrd, the Senator from Wyoming (Mr. Hansen), the Senator from Georgia (Mr. Talmadge), the Senator from West Virginia (Mr. Randolph), the Senator from California (Mr. Cranston), the Senator from South Carolina (Mr. Thurmond), the Senator from Vermont (Mr. Stafford), and the Senator from Idaho (Mr. McClure) were added as cosponsors of S. 2087, to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans.

S. 2107

At the request of Mr. Dominick, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 2107, to amend the National Labor Relations Act so as to make it an unfair labor practice for a labor organization to impose sanctions against its members for exceeding production quotas.

S. 2109

At the request of Mr. Dominick, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of S. 2109, to make it an unfair labor practice to require a person who conscientiously objects to membership in a labor organization to be a member of such organization as a condition of employment.

SENATE JOINT RESOLUTION 124

At the request of Mr. Nelson, the Senator from Michigan (Mr. Hart), the Senator from Iowa (Mr. Hughes), and the Senators from Rhode Island (Mr. Pastore and Mr. Pell) were added as cosponsors of Senate Joint Resolution 124, to establish a Joint Committee on Individual Rights.

AMENDMENT OF FAIR LABOR STANDARDS ACT OF 1938—AMENDMENTS

AMENDMENTS NOS. 333 THROUGH 335

(Ordered to be printed, and to lie on the table.)

Mr. BUCKLEY submitted three amendments, intended to be proposed by him, to the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.25 an hour, to provide for an 8-hour workday, and for other purposes.

AMENDMENT NO. 336

(Ordered to be printed, and to lie on the table.)

Mr. BUCKLEY (for himself, Mr. Bennett, Mr. Curtis, Mr. Eastland, Mr. Thurmond, Mr. Tower, and Mr. Scott of Virginia) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 1861, supra.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—AMENDMENT

AMENDMENT NO. 337

(Ordered to be printed, and to lie on the table.)

Mr. MOSS. Mr. President, I am submitting this amendment to Senate bill 1081 to cure a curious and anomalous development in the administration of the Robinson-Patman Act. That statute prohibits discriminations in price which lessens competition, tends to create a monopoly or injures and destroys competition. It was originally passed in 1914 to prevent predatory primary line price discrimination and was amended in 1936 to cover secondary line price discrimination and limit the buying power of integrated chains in competition with small local independent businesses. In jurisdictional terms the statute is limited to Congress control of interstate commerce.

Some courts have begun to interpret the commerce standards of the Robinson-Patman Act in restrictive terms, rather than the realities of modern day commerce. In *Belliston* v. *Texaco, Inc.*, 1972 trade cases (¶37, 837), the 10th circuit reversed a $2.5 million plus verdict on behalf of 15 Utah Texaco dealers on the grounds that Texaco's discriminatory sales in that case did not cross State lines. Texaco was selling gasoline to its branded dealers and a favored jobber-retailer from a refinery operated by American Oil Co., in Salt Lake City. Since none of the gasoline in the discriminatory sales physically moved across State lines, the court held that the commerce requirements of the Robinson-Patman Act were not met. The result is strange since the crude oil moved across State lines; production from the refinery moved across State lines; American Oil and Texaco are international major integrated oil companies; and many of the customers of the injured Texaco retailers crossed State lines. Indeed, the only thing which did not cross State lines were the injured Texaco retailers being supplied gasoline by Texaco under the nationally advertised Texaco brand name from a Salt Lake City refinery operated by American Oil Co.

In States like Utah the Belliston decision leads to anomalous results. We have oil refineries in Utah and local retailers do not enjoy the protection of the Robinson-Patman Act if their supply comes from those refineries. Retailers in sister States without refineries and supplied by the Utah refineries are protected by the act. Retailers in Utah supplied by product from outside the State, like Conoco's retailers, are protected by the act. Even in Utah, therefore, the act is applied unequally since Conoco dealers may sue if they are the victims of price discrimination by their supplier, but Texaco dealers may not. A retailer's rights under the Robinson-Patman Act should not be made to depend upon the accident of where his supply comes from. Nor should the practical uniform application of Federal law be destroyed by artificially created limitations having the effect of making Federal law applicable in one State and not in another. That is the effect of this erroneous reading of section 2(a) of the Robinson-Patman Act in the Belliston case.

This result is, indeed, anomalous and contrary to the purpose of the Robinson-Patman Act. That act was designed to protect the small independent businessman from the economic clout of integrated national marketers, yet the Belliston interpretation creates an umbrella where lawless price discrimination may be used to destroy the very businesses Congress sought to protect. Other courts have rejected such an interpretation, see *Little John* v. *Shell Oil Co.*, 1972 Trade Cases 73, 897 (5th Cir. 1972) (on motion for hearing en banc), and the prospects for splits in the circuits and an extensive waste of court time in rectifying the issue is very real. It is in this light that I offer this amendment; not to rectify what Congress has failed to do, but to clarify what Congress has done so that the courts will not continue to be misled as in Belliston. Consequently, my offering of this amendment at this time should not be relied upon as evidence of legislative intent confirming the Belliston interpretation of "in commerce." It is designed to clarify the standard so that future interpretations like Belliston do not recur and the essential purpose of the Robinson-Patman Act is realized.

We cannot afford the luxury of waiting for the courts to resolve this issue by the long process of judicial review. Many hundreds of small local retailers have been driven out of business during the current gasoline shortage—be it real, contrived or imagined. If their problems have been caused by the undue market power of large integrated oil companies engaging in discriminatory practices outlawed by the Robinson-Patman Act, they are entitled to protection of the Federal law despite the physical trail of their supply. Otherwise, the very beneficiaries of the Robinson-Patman Act will be the victims of an interpretation denying the fundamental purpose of that statute.

For the convenience of my colleagues, the amended language of section 2(a) would read as follows:

> It shall be unlawful for any person engaged in commerce either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination affect commerce, where such commodities are sold for use, consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefits of such discrimination, or with customers of either of them. . . .
>
> *And provided further*, that nothing herein contained shall prevent persons engaged in interstate commerce and selling goods, wares or merchandise from selecting their own customers in bona fide transactions and not in restraint of trade.

AMENDMENT NO. 338

(Ordered to be printed, and to lie on the table.)

Mr. HATHAWAY. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment. I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 338

On page 35, between lines 20 and 21, insert the following:

"SEC. 206. (a) Notwithstanding the provisions of section 104(d) or any other provision of this Act or other law, the holder of any rights-of-way granted pursuant to this Act for the construction of a trans-Alaska pipeline for transporting oil and natural gas resources of the North Slope area of the State of Alaska to the other States of the United States, and the owner or operator of a terminal or tanker engaged in transporting such oil or gas transported by means of such pipeline, shall, except when caused solely by an act of war, be liable for damages and injuries resulting from their activities in connection therewith, irrespective of fault or wrong-doing.

"(b) Nothing in this section shall be construed to bar any holder of such right-of-way, or any owner or operator of such terminal or tanker, from recouping said damage under applicable law."

On page 35, line 21, strike out "SEC. 206." and insert "SEC. 207.".

SENATE CONCURRENT RESOLUTION 40—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO CERTAIN VOCATIONAL AND CAREER STUDENT ORGANIZATIONS

(Referred to the Committee on Labor and Public Welfare.)

Mr. BROCK. Mr. President, I am today submitting a concurrent resolution expressing the sense of the Congress with regard to the value of an outstanding group of student organizations which promote the goal of career development in America's young people.

Seven specific organizations are named. They are:

The Distributive Education Clubs of America.

The 4-H Clubs of America.

The Future Business Leaders of America.

The Future Farmers of America.

The Future Homemakers of America.

The Office Education Association, and

The Vocational Industrial Clubs of America.

Together, these organizations represent and promote a broad spectrum of vocational opportunities in our country. By their activities, they have encouraged the values of both citizenship and workmanship, which are the foundations of the American experience.

The training they have provided has been of tremendous value, both to the individual persons affected, and to the country itself, as those individuals have made their own contributions to America's strength.

Literally millions of our people have benefited from association with these organizations down through the years, and we all have a stake in their continued success and good works.

I believe that it is important for the Congress to express its support for these often underrecognized groups, and this concurrent resolution does just that.

In addition, it expresses the sense of the Congress that the several States should strive to assure the continued vitality of career and vocational education by providing financial assistance to these student organizations.

By integrating academic learning experiences with occupational and vocational learning experiences, these organizations serve the vital need of preparing individuals to enter, progress, and find satisfaction in the various fields of endeavor.

They represent that part of the total educational experience which equips the individual to investigate, explore and select occupations and career fields of his own choice, while providing the instruction and supportive services necessary to enter useful employment and advance in his career.

The inestimable value to the Nation of this function can scarcely be doubted, and I would urge each of my colleagues to support this effort at giving recognition to the outstanding job being done by the student career development organizations.

I ask unanimous consent that the text of this concurrent resolution be printed in the RECORD at the conclusion of my remarks.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 40

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the following organizations provide outstanding experience for the career development of America's young people:

(1) The Distributive Education Clubs of America;

(2) The 4-H Clubs of America;

(3) The Future Business Leaders of America;

(4) The Future Farmers of America;

(5) The Future Homemakers of America;

(6) The Office Education Association; and

(7) The Vocational Industrial Clubs of America.

SEC. 2. It is further the sense of the Congress that each State should provide financial assistance to support the vocational and career student organizations set forth in the first section of this concurrent resolution active within that State.

SENATE RESOLUTION 142—SUBMISSION OF A RESOLUTION RELATIVE TO EX OFFICIO MEMBERS OF THE COMMITTEE ON APPROPRIATIONS

(Referred to the Committee on Rules and Administration.)

Mr. PELL (for himself, Mr. HATFIELD, Mr. JAVITS, and Mr. WILLIAMS) submitted the following resolution:

S. RES. 142

Resolved, That paragraph 6(a) of rule XVI of the Standing Rules of the Senate is amended by adding at the end of the table therein the following:

"Committee on Labor and Public Welfare.	For the Department of Labor, the Department of Health, Education, and Welfare, the National Science Foundation, the Office of Economic Opportunity, the National Foundation on the Arts and the Humanities, and health and safety in mines."

NOTICE OF HEARINGS ON BILLS TO CODIFY, REVISE, AND REFORM THE FEDERAL CRIMINAL LAW

Mr. McCLELLAN. Mr. President, I wish to announce for the information of the Members of the public that the Subcommittee on Criminal Laws and Procedures will hold open hearings on July 18 and 19, 1973, to continue the study of S. 1 and S. 1400, bills to codify, revise, and reform the Federal criminal laws. The hearings will commence each day at 10 a.m. in room 2228, Dirksen Senate Office Building. Subjects to be covered on these days include tax law, firearm, insanity, and general codification provisions.

Additional information on these and further hearings is available from the staff in room 2204-DSOB, telephone 202-225-3281.

NOTICE OF HEARINGS ON H.R. 4771, THE DISTRICT OF COLUMBIA RENT CONTROL ACT OF 1973

Mr. TUNNEY. Mr. President, on July 24, the Subcommittee on Public Health, Education, Welfare and Safety of the District of Columbia Committee will hold public hearings on H.R. 4771, the District of Columbia Rent Control Act of 1973, in room 6226, Dirksen Senate Office Building, at 9:30 a.m.

Persons wishing to present testimony at these hearings should contact Mr. Andrew E. Manatos, Associate Staff Director of the District of Columbia Committee, room 6222, Dirksen Senate Office Building, by July 20, 1973.

ANNOUNCEMENT OF A NOMINATION HEARING

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Public Welfare has scheduled a hearing on the nomination of Alvin J. Arnett, of Maryland, to be Director of the Office of Economic Opportunity, on Friday, July 20, at 10 a.m., in room 4232.

Those interested in presenting testimony on this nomination may contact the committee counsel, Robert Nagle, room 4233, Dirksen Office Building—225-7664.

NOTICE OF HEARINGS ON SENATE JOINT RESOLUTION 40 AND S. 1319

Mr. PELL. Mr. President, I would like to announce that the Subcommittee on Education is planning to hold hearings on the following dates.

July 24, 1973, hearings on Senate Joint Resolution 40, pertaining to a White House Conference on Libraries.

July 25, July 31, and August 1, 1973, we will resume our ongoing hearings on general education. On July 25, 1973, we will be discussing the categorical programs pertaining to elementary and secondary education.

The hearings on July 31 and August 1, 1973, will be held at the specific request of the administration on S. 1319, the special revenue sharing proposal, and we will hear witnesses suggested by them.

Anyone wishing to testify at these hearings should contact Mr. Stephen J. Wexler, counsel to the Subcommittee on Education, at 225-7666.

ADDITIONAL STATEMENTS

EPA REGULATIONS A THREAT TO FREEDOMS AND ECONOMY

Mr. FANNIN. Mr. President, in recent weeks the Environmental Protection Agency has revealed some startling and frightening proposals to reduce air pollution around America.

Our States, counties, and cities are being told that they will be required to limit fuel sales, restrict parking drastically, and take other extraordinary measures to deprive our citizens of the use of automobiles.

The regulations which are being proposed are a threat to our traditional freedoms and a danger for our economy.

Mr. President, last Sunday the Arizona Republic carried an editorial which expresses the alarm and anger that many Americans feel when they see the EPA edicts. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BIG BROTHER HAS ARRIVED

The fairyland formula the Environmental Protection Agency laid down last week to purify Arizona's air had all the majesty and logic of an Alice in Wonderland fantasy.

Presumably, EPA is prepared to call out the National Guard to enforce what amounts to a senseless and destructive bureaucratic dictum.

EPA, which has become the darling of the instant-cure crowd, is not satisfied that the impossible takes time to achieve. EPA's answer is to sit down and write a regulation, and—presto!—get its way.

Here's what EPA proposes for Arizona:

Limit gasoline sales to present levels for the next four years.

Reduce off-street parking by 20 per cent.

Limit construction of new public parking facilities.

Create exclusive traffic lanes for car pool vehicles and buses.

Restrict motorcycle sales.

Computerize car pool riders and drivers.

An elementary logician can scan that roster of police-state edicts and come to the same conclusion as the trained observer.

To wit, EPA wants to forcibly stop the sale and use of passenger vehicles, and become the Big Brother arbiter in when, how and where Arizonans go.

If carried out, the rules would effectively curb Arizona's natural growth, at a minimum.

That is, not a single new car could expect to enter the state, since there will be 20 per cent less parking and obviously not another gallon of fuel available for the newcomers if sale levels are held to the current volume.

If EPA thus envisions the answer to its prayers for clean air, it also must add to that vision the sight of a state immobilized and its citizens' economy paralyzed.

Perhaps the most abusive of the edicts is reducing parking spaces by 20 per cent, and restricting new parking. Obviously, no sizeable office building or hotel or restaurant could even get a building permit if parking is to be reduced.

This alone cuts severely across several economic areas—construction, mortgage finance and the ability of Arizona to attract prestigious new business institutions who would want to build headquarters edifices here.

What EPA has done is not whip together a tough law. It is a law which seizes unto EPA's bosom the foulest and most repugnant form of dictatorship.

It is not a law authored by the Congress, nor approved by the President nor tested by the courts.

Spineless congressmen who have been whipsawed by the back-to-nature lobby to do its bidding might well ponder how EPA has seized power of the legislative branch to control the movement, free choice and inherent rights of the American people.

EPA is running amok.

Who, pray, will defang the monster before it spreads terror across the land?

THE PLIGHT OF POLITICAL PRISONERS IN SOUTH VIETNAM

Mr. ABOUREZK. Mr. President, 2 weeks ago before the Senate Foreign Relations Committee, I stated that I was deeply concerned with the continued plight of political prisoners in South Vietnam. We have no choice but to accept some responsibility for the activities of Saigon's National Police Force, to the extent that we have helped establish it as an instrument of political coercion and repression. It is too easy to argue that the policies and practices of the Thieu regime are no concern of ours, and an "internal affair" in South Vietnam. We have been deeply involved in the creation of the entire system, and we are still paying the bills. It is also too easy to argue that the Vietcong are just as guilty as Saigon in its treatment of prisoners; to my knowledge no one has ever suggested that we are funding their operation.

Justification for U.S. assistance to Saigon's police and prisons has always been presented in the most benign terms. AID officials tell us that the objective of U.S. public safety programs has been to help the Saigon government develop a more humane correctional system. However, in the case of the Con Son Island tiger cages, it took two U.S. Congressmen to "discover" the atrocious conditions there, in spite of the fact that U.S. AID prison advisers had been present on the island since as early as 1963. A 1963 memorandum from one of them describes the tiger cages and mentions the practice of shackling inmates to the floor. Even after the disclosure, one public safety adviser told a volunteer in Vietnam that there had been nothing wrong with the cages; he acknowledged and defended the throwing of caustic lime powder on inmates as a necessary measure of "prisoner control."

Mr. President, the evidence indicates that many of AID's justifications for aid to Thieu's police force and prisons have been nothing more than hollow rhetoric designed for Congress. I cannot see how the continuation of such a program can possibly have much humanitarian benefit for the people of South Vietnam. Within the context of Vietnamese politics, I can see no other purpose in such a program than to help consolidate President Thieu's power and squash his political opposition.

It has long been my conviction that we in Congress have been the victims of a monumental pile of contradictions, denials and obfuscations regarding the public safety program in Vietnam—and no doubt public safety programs elsewhere. If public safety is an honest, forthright program, one which Members of Congress would wholeheartedly support, then it is hard to understand why the administration seems to be going to such lengths to cover it up.

We need not question the right of the Government of South Vietnam to deal firmly with those within their country who violated the laws and committed serious criminal acts. This is the right and responsibility of every sovereign nation. But it would be a grave mistake to turn our heads on the thousands of innocent Vietnamese citizens who are still being imprisoned and tortured as political prisoners under programs which we helped initiate and continue to maintain in that country. The millions of dollars which the United States continues to supply to the GVN for repression of journalists, students, and concerned citizens whose only "crime" was to disagree with their government must be stopped.

This country has continued to demonstrate its abhorrence to the repressive internment policies such as these in other countries many times in the past. In Rhodesia, in Pakistan, and in countries of the Eastern Bloc we point to the cruelty of such policies as contrary to the basic rights of man and condemn the torture of these prisoners as gravely inhumane. There is no better way to encourage the end of South Vietnam internment policy than to cut off our funding for these programs. As we help South Vietnam return to a period of stability and peace, both internally and externally, it is vitally important that serious and considerable attention be given to this matter.

I have, therefore, submitted three amendments dealing with these grave injustices to the Senate Foreign Relations Committee on S. 1171, the administration's bill to amend the Foreign Assistance Act.

Only by reevaluating our present foreign aid policy toward those countries holding political prisoners, especially South Vietnam, can we ever hope to undo the policies which we had a hand in initiating.

Mr. President, I ask unanimous consent that the text of my amendments be printed in the Record.

There being no objection, the amendments were ordered to be printed in the Record, as follows:

AMENDMENTS

On page 19, strike out lines 8 through 14 and insert in lieu thereof:

"Sec. 821. General Authority.—The President is authorized to furnish assistance for refugee relief, health needs, child care, aid to war victims, and reconstruction of South Vietnam, Cambodia, and Laos, in conformity with the provisions of the Agreement on Ending the War and Restoring Peace in Vietnam, signed January 27, 1973, the Laos agreement of February 21, 1973, and any such agreement as may be entered into with respect to Cambodia."

On page 19, strike out lines 15 through 20 and insert in lieu thereof:

"Sec. 822. Authorization.—There are authorized to be appropriated to the President to carry out the purposes of this chapter, in addition to funds otherwise available for such purposes, the following sums:

"(A) For South Vietnam not to exceed $172,272,000, which sum shall be allocated and made available for that country for each of the following purposes and not in excess of the amount specified for each purpose:

(1) Refugee relief and social welfare	$40,000,000
(2) Orchards and plantations	5,000,000
(3) Crop production	500,000
(4) Animal production	309,000
(5) Scholarship program	131,000
(6) Statistical services	79,000
(7) National Institute of Administration	92,000
(8) Dredging	41,000
(9) USAID technical support	6,000,000
(10) Commercial import program	60,000,000
(11) Narcotics control	1,000,000
(12) Unexploded ordnance disposal	2,000,000
(13) Return-to-village facilities	15,000,000
(14) Health facilities	3,000,000
(15) Education	2,000,000
(16) Provincial health assistance	177,000
(17) Public health assistance	411,000
(18) Medical and dental health education	1,372,000
(19) Health logistics support	3,014,000
(20) National Rehabilitation Institute	300,000
(21) Population (family planning)	685,000
(22) Public health general support	474,000
(23) Irrigation assistance	687,000
(24) Reconstruction projects	30,000,000;

"(B) For Cambodia, not to exceed $32,500,000, which sum shall be allocated and made available for that country for each of the following purposes and not in excess of the amount specified for each such purpose:

(1) Refugee relief	$4,000,000
(2) Return-to-village facilities	3,000,000
(3) Reconstruction and development	$5,000,000
(4) Commodity import program	10,000,000
(5) Multilateral stabilization program	9,500,000
(6) Technical support and participate training	1,000,000;

"(C) For Laos, not to exceed $27,358,000, which sum shall be allocated and made available for that country for each of the following purposes and not in excess of the amount specified for each such purpose:

(1) Agricultural development	$2,000,000
(2) Development of national roads	2,000,000
(3) Maternal and child health	910,000
(4) Public health development	2,648,000
(5) Education development	1,000,000
(6) Development of rural economy	2,000,000
(7) Refugee relief and resettlement	4,000,000
(8) Public administration development	700,000
(9) Mekong Vientane dike	2,000,000
(10) General technical support	2,000,000
(11) Stabilization fund	4,000,000
(12) Narcotics control	2,100,000

"(D) For the Southeast Asian Regional Development Program, not to exceed $2,400,000; and

"(E) For Indochina Interregional Support Costs. not to exceed $6,500,000."

On page 19, between lines 15 and 16, insert the following:

"Sec. 17. Part III of the Foreign Assistance Act is amended by adding at the end thereof the following new section:

"Sec. 659. Limitations on Authorized Funds.—None of the funds made available to carry out this or any other Act, and none of the local currencies accruing under this or any Act, shall be used to provide training or advice, or provide any financial support, for police, prisons, or other internal security forces of any foreign government or any program of internal intelligence or surveillance on behalf of any foreign government. This section shall not apply to any amounts obligated, or any agreement entered into, prior to the date of enactment of this section."

On page 18, line 17, strike out "Sec. 17." and insert in lieu thereof "Sec. 18."

On page 20, line 4, strike out "Sec. 18." and insert in lieu thereof "Sec. 19."

On page 18, between lines 15 and 16, insert the following:

Sec. 17. Part III of the Foreign Assistance Act is amended by adding at the end thereof the following new section:

"Sec. 660. Prohibiting Assistance to Foreign Governments Holding Political Prisoners.—No funds authorized by this or any other act shall be used to provide economic or military assistance to the government of any foreign country which practice the internment or imprisonment of that country's citizens for political purposes. Such determination of ineligibility for assistance may be made at any time by either the House Committee on Foreign Affairs or the Senate Committee on Foreign Relations or both; and if such determination is made, it shall become immediately effective."

On page 18, line 17, strike out "Sec. 17." and insert in lieu thereof "Sec. 18."

On page 20, line 4, strike out "Sec. 18." and insert in lieu thereof "Sec. 19."

LAND USE TYRANNY

Mr. HANSEN. Mr. President, all of us are aware of the yeoman's service performed by the Senator from Arizona (Mr. Fannin) to insure that the Senate carefully consider aspects of the Land Use Policy and Planning Act (S. 268) passed recently by this body.

A number of us have felt that despite the Senator's effective effort to cover all bases on the bill, the committee workloads of quite a few Members prevented their being present in the Chamber to benefit from all of the Arizona Senator's enlightening remarks. Therefore, we are hopeful the House of Representatives, in its deliberations on this legislation, will explore the areas that were not developed in the Senate consideration.

In keeping with this line of thought, I ask unanimous consent that an editorial from the June 11 Phoenix Gazette commenting on the work of the Senator from Arizona be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Land Use Tyranny

For all that land use planning has to recommend it, Arizona and every other state would be better off with no planning at all than with planning directed from Washington that would usurp local control and all but confiscate private lands.

With Washington having bungled so much on so many local scenes, it is surprising indeed that the majority of the Senate Interior Committee would report out legislation that would make Uncle Sam a czar over land use everywhere in the country. Yet that is precisely what has happened.

To his great credit, Arizona's Sen. Paul Fannin, who cosponsored the bill with the hope of providing federal assistance and cooperation for local planning is blowing the whistle on the version that came out of the committee.

Sen. Fannin says the Land Use Policy Act as it reads now "would do great violence to our traditional American rights," certainly an accurate description. If Washington gets to decide on land use, the states, other local governments and the people will have no say in the destinies of their neighborhoods and communities.

In effect, property owners would be reduced to landless serfs beholden to the lord of the manor in Washington. With Washington controlling use, titles to property would become worthless scraps of paper in a modern system of feudalism.

Under the Land Use Policy Act, areas of "critical environmental concern" would be subject to severely limited uses. According to Sen. Fannin, that provision is so broad that it "is not folly to say that in some states every square foot of private and state land could fall within such a limitless definition."

Oddly enough, lands owned by the federal government, which in Arizona at least are threatened by very real environmental hazards, would be exempt from designation as areas of critical concern. What sort of foolishness is that?

Because the bill provides no compensation to land owners whose property values would be reduced or even demolished by the environmental provisions, the measure very likely may be unconstitutional. The Constitution provides that private property shall not be taken for public use without compensation.

If it becomes law, however, the courts would be left with the sticky question of deciding when a restriction becomes "taking" of land. Litigation on that issue could continue for years, during which property owners might lose investments, and the results could be disappointing.

All in all, S. 268, the Land Use Policy Act, is a dangerous piece of legislation that promises to do little good for Americans but could do a lot to destroy their rights.

SUPPORT FOR S. 775—RESEARCH ON AGING ACT

Mr. CHURCH. Mr. President, as chairman of the Senate Committee on Aging, I enthusiastically endorse the act of the Senate in passing S. 775, which would establish a National Institute on Aging at the National Institutes of Health.

This new institute would be responsible for conducting and supporting biomedical, social, and behavioral research and training relating to the aging process, as well as diseases and other special problems of the elderly.

Last year Congress passed a similar bill, but this measure was later pocket vetoed by President Nixon—even though it had overwhelming bipartisan support.

S. 775 is almost identical to that proposal with one exception: the provision for staffing and construction of community mental health centers has been deleted.

Research in the field of aging is now conducted by a number of governmental agencies, with the National Institute of Child Health and Human Development sustaining the largest percentage.

However, gerontological research has occupied a low priority in NICHD. In fact, only about 11 percent of the total NICHD budget is allocated for aging. Moreover, the administration's budgetary request for fiscal 1974 is almost $700,000 below the fiscal 1972 appropriation.

Today research on the aging process is not only funded at a low level; it is also fragmented among Federal agencies. This diffusion of responsibility has resulted in duplication of efforts, lack of coordination, and gaps in our overall approach.

But the Research on Aging Act, I strongly believe, can help to reverse this trend. In addition, S. 775 can establish the essential commitment for a systematic approach for research in aging.

Important but still unanswered questions about growing old present compelling reasons for obtaining accurate information about the physical changes accompanying the aging process.

Unfortunately, we know far too little about this phenomenon, even though it accounts for a substantial portion of our health care costs.

Today there are 21 million persons aged 65 and above—1 out of every 10 Americans. During the next 30 years, between 45 and 50 million individuals will celebrate their 65th birthday. In terms of sheer numbers, then, we, as a nation, should be vitally concerned about the aging process.

Health care costs can also be reduced because of new discoveries in dealing with advancing age. With this body of knowledge, greater emphasis can be placed upon preventive medicine, rather than waiting until disease becomes quite serious.

Moreover, research conducted by the National Institute on Aging can help many people to live more productively for longer periods.

Finally, this new Institute can provide a coordinated approach and concentrated effort for solving many of the special problems of the aged. Additionally, the Institute on Aging could help to build bridges with other agencies, and thus avoid the duplication of efforts which currently exists.

All Americans—whether they be young or old—have a direct stake in understanding and learning to cope with the inevitable aging process.

For these reasons, I reaffirm my strong support for S. 775, a bill which I have cosponsored with the Senator from Missouri (Mr. Eagleton).

OPEN LETTER FROM MOBIL OIL CORP.

Mr. FANNIN. Mr. President, on Tuesday of this week Mobil Oil Corp. sponsored a paid advertisement in the Arizona Republic under the heading of "An Open Letter on the Gasoline Shortage to: Senator Paul J. Fannin and Representative John B. Conlan."

This open letter very effectively sums up the causes of the current fuel shortage in America and what we must do to alleviate it.

It points out that the fuel shortage is the result of a series of political decisions over which the oil companies had no control. These political decisions included the prohibition of offshore drilling in certain areas, the environmental protection laws which have increased fuel consumption, restrictive price regulations, and developments in foreign nations.

This article also points out that although North Slope oil was discovered in Alaska more than 5 years ago, construction of a pipeline to bring this needed fuel to us remains stalled.

Mr. President, this article should be of interest to everyone concerned about our current fuel shortages, and I ask that it be printed in the Record.

There being no objection, the advertisement was ordered to be printed in the Record, as follows:

[Advertisement in the Arizona Republic, July 10, 1973]

An Open Letter on the Gasoline Shortage to: Senator Paul J. Fannin and Representative John B. Conlan

We are publishing this letter in your hometown newspaper, and in those of the other Members of Congress, because we want you and your constituents to have the facts about the gasoline shortage as we see them. We are doing this because many people are being misled by the absolute nonsense, totally unsupported charges, and outright lies being spread around by a variety of people. For example:

"There are sufficient supplies available to the oil industry so that there need be no serious shortage of gasoline or any other petroleum product for any purpose in this nation."

"But the fact is, much of the so-called energy crisis is being concocted in the board rooms and public relations offices of the nation's major oil companies."

"I suggest that circumstantial evidence supports the conclusion that the major oil companies are using the fuel shortage they helped create to drive out their competition."

What these and other such statements boil down to is a series of charges that the shortage is contrived. That it is a hoax perpetrated by oil companies to raise prices and drive unbranded marketers out of business. That it is a massive conspiracy, a price gouge to end all price gouges.

Not one of these charges is true. All are based on misinformation. Some are outright lies. Here are the facts.

I. GASOLINE PRODUCTION IS AT AN ALL-TIME HIGH

When they hear the word "shortage," many people think the industry must be supplying *less* than before. Far from it.

The U.S. oil industry is making *more* gasoline than ever before—5% more than last year. That translates into an increase of 13,700,000 gallons a day above 1972—*which would have been more than enough to meet the demand growth of almost any previous year in history*. The problem is that with gasoline production up 5% over last year, demand is up about 6.2%. The shortages, which may come and go due to temporary swings in demand and supply, have shown up in the fact that some service stations occasionally run out of gasoline, and many dealers have chosen to operate on shorter hours and to close on Sundays.

II. POLITICAL DECISIONS HAVE PRODUCED THE SHORTAGE

The following factors, *all essentially resulting from political decisions,* have produced today's shortage:

(1) While potentially large oil reserves are believed to lie off the U.S. East and West Coasts—our most promising oil province, since the onshore U.S. has been more heavily drilled-up than any other part of the world—these offshore areas are barred to exploration, and U.S. crude production is dropping. *Oil companies had no control over this.*

(2) Over five years after the largest oil field ever discovered in North America was found on the North Slope of Alaska, construction of a pipeline to bring this oil to market is still stalled. *Oil companies had no control over this.*

(3) The United States is short of refining capacity, and will be critically short in a year or two, as a result of erratic government import policies, environmental constraints, and inability to bring the largest, most economical tankers into U.S. ports. *Oil companies had no control over this.*

(4) In terms of volumes, demand for gasoline is growing well over twice as much as it did during the 1960s, with pollution-control equipment and convenience devices such as air-conditioners accounting for a large part of this year's increase. *Oil companies had no control over this.*

(5) The shortage of natural gas caused by ill-advised government regulatory policies has forced industrial users to use large quantities of heating oil, which has caused a shortage of that product for the consumer. *Oil companies had no control over this.*

(6) Two of the major oil-exporting countries in the Middle East and North Africa have reduced crude oil production. *Oil companies had no control over this.*

(7) Price controls are impeding the importation of higher-priced oil products into our country. *Oil companies had no control over this.*

III. IS THERE A CONSPIRACY? IS THE SHORTAGE CONTRIVED?

If there was ever an industry in which it would be impossible to conspire, it's oil. Conspiracy requires secrecy. If you stop to think of all the bodies of government—in every branch of government, at every level—that have long involved themselves in our business, you'll realize we couldn't conspire if we wanted to. We operate in a fishbowl.

Dozens of agencies of the federal government, a horde of Congressional committees, and agencies of the 50 states and various municipalities regulate, investigate, or monitor the oil industry's activities.

Further, oil companies—even the largest ones—are so widely divergent in their size, their interests, their needs, their opportunities, and their views that it would be impossible to put a conspiracy together. Oil is one of the least-concentrated major industries in the world. No oil company supplies as much as 9% of the U.S. gasoline market.

IV. THE "INDEPENDENT" MARKETERS

You have doubtless seen charges that "the major oil companies" are cutting off gasoline supplies to non-major-brand ("independent") marketers to drive them out of business.

You should know that the overwhelming majority of service station dealers in this country are independent businessmen, whether they sell under the Mobil brand name or the brand of one of our major competitors or under their own private brand. All these dealers set their own retail prices, their working conditions, and usually their hours of operation.

Many non-major-brand marketers have in the past chosen to rely on day-to-day purchases of gasoline from oil companies instead of entering into long-term supply arrangements. This policy worked to their advantage as long as supplies were adequate, and especially when there were surpluses. Now that the surplus has disappeared, they are having difficulty obtaining gasoline.

As for Mobil, we have established an allocation system to ensure fair treatment of our customers. We believe this system will enable us to supply these customers at least as much gasoline and other refined products this year as last year.

V. WHERE DO WE GO FROM HERE?

It's going to take several years to remedy the situation. A pipeline has to be built to move the oil discovered over five years ago on the North Slope of Alaska. The outer continental shelf off the U.S. East and West Coasts has to be opened to exploration for new reserves of oil and natural gas. Superports have to be built. Oil companies must be enabled to obtain satisfactory sites for new refineries. Massive research and development programs have to be undertaken to make the production of non-conventional oil and gas from oil shale and coal economically feasible and environmentally safe. Construction of nuclear power plants to generate electricity must be accelerated. All of these require long lead times, and they can't be accomplished by the oil industry alone.

This is why Mobil has been running newspaper ads across the country, and doing a good many other things, to urge people to conserve gasoline and to use all energy more efficiently. As a further step in this direction, we have totally eliminated our gasoline advertising and are focusing our efforts on providing greater public information on how our country can tackle its energy problems rationally and equitably.

VI. WHY THIS LETTER

Our intention is not to get into a posture of charges and counter-charges, but rather to accomplish two things:

(1) To set the record straight on the gasoline shortage and to put the lie to the charge of conspiracy; to help people understand the shortage is real and will be with us for some while, and to suggest practical ways to cope with it.

(2) To try to elicit from you and your constituents a national effort, such as our country has not seen since World War II, to use wisely the energy resources available to us and to establish new policies to alleviate energy problems in the years just ahead.

Mobil Oil Corp.

SENATOR EASTLAND SPEAKS TO MISSISSIPPI HIGH SCHOOL GRADUATES

Mr. WILLIAMS. Mr. President, on May 24 of this year our distinguished colleague and President pro tempore of the Senate, Senator James O. Eastland, spoke at the graduation exercises of the Iuka High School, in Iuka, Miss. On this evening, he chose to remind these young graduating seniors of the important role which they play as citizens of their State and Nation.

He wanted to make clear to them that it is they who will inherit the future of America and it is they alone who will control the directions of American government.

Senator Eastland emphasized in his address the fact that all forms of American government have been structured—at every level—to avoid concentration of power in the hands of the very few. He pointed out that the heart of our continuing governmental structure is that no part of that system depend on any single individual or small group and that, in his own words:

> The indestructable nature of America's institutions is the best protection which can be afforded to free people. This is true—of course—because no Mayor—or Governor—or Senator—or President owns his office. He holds it in trust for the citizens who elected him. He holds it for a limited period of time—at the pleasure of his constituents—and returns it to the office's rightful owners—the people.

Mr. President, I commend this speech to the reading of my colleagues, for Senator Eastland has summed up so well the faith we must continue to have in the fabric of this Nation. I ask unanimous consent that the text of Senator Eastland's remarks be printed in the Record.

There being no objection, the text of the remarks was ordered to be printed in the Record, as follows:

Remarks by Senator James O. Eastland

It was good of you to allow me to have a part in this once-in-a-lifetime experience for our graduating seniors.

I commend each of them for having successfully completed a vital chapter in their unfolding lives.

I would bring a brief message to them today.

It is this:

You go forth from this splendid school not only to face the future. All of the tomorrows will be yours to shape and fashion. That is the cardinal rule of liberty. It is the burden and the glory of freedom.

My young friends—you are very important people. Indeed—you are indispensible to our state and nation. Without you—and others like you across Mississisppi and America—the United States cannot continue to exist—and the freedom we all cherish will vanish from the earth.

You have been told that the future is in your hands. I am going a long step further—I am saying that you—each of you—*is* the future.

You do not leave this school to take up a role assigned you by others. Nor are you shackled today—or tomorrow—or ever—to a station in life.

You are Mississippians and Americans. It is your right to choose your role and to aspire to any station. And—it is your solemn duty to protect and preserve and expand those rights and choices.

Almost 2 centuries ago a Frenchman said: "The right to command is no longer a privilege to be transmitted by nature like an inheritance. It is the fruit of labor—the price of courage."

He was saying—of course—that the time of kings—the era of emperors—the day of the dictator was over in France.

That time—that era—that day—thank God—has never come in America.

Through all the years leading up to this day—your parents and their predecessors have paid the price of courage. They paid even on those dark days when the price was blood and the cost was lives.

The fruit of their unceasing labors—spanning the decades—is your right to command yourselves—and to select those who govern in your name—from the courthouse in the smallest town to the White House in our Nation's Capital.

For example—I serve as President pro tem of the U.S. Senate—not by an accident of birth into a royal family—nor through appointment by an all-powerful official—but by the generosity of the people of Mississippi and the votes of men elected to the Senate from every corner of our country.

Because our government has always belonged to the people—as it always will—it must be what we say it is—a government of law and not of men.

Think with me about how carefully our government was structured—at every level—and how it trends away from one man rule—or the concentration of power in a few hands.

Our towns and cities are led by mayors and commissioners—or by mayors and boards of aldermen. Our county system is built around a 5 member board of supervisors.

On the state and national level, checks and balances are our foundation. In Jackson—and in Washington—the operation includes a chief executive—a Senate and a House of Representatives—and a Supreme Court.

Even in our judicial apparatus, the appeal process takes us beyond one man decisions and before multimember courts.

Now—here is the heart of our on-going structure no part of the system depends on any individual—or small group.

Office holders—local, State and national—come and go. Only the law remains—constant as the North Star.

The law—and the institutions created by law are beyond the grasp of the dangerously ambitious. They endure—through the years—the decades—the centuries. The indestructable nature of America's institutions is the best protection which can be afforded to free people. This is true—of course—because no mayor—or governor—or Senator—or President owns his office. He holds it in trust for the citizens who elected him. He holds it for a limited period of time—at the pleasure of his constituents—and returns it to the office's rightful owners—the people.

Our institutions—in and of themselves—are good. They cannot fail because the law does not fail. When there is a failure in the structure it is always traceable to men—to men who were weak—or greedy—who were corrupt or grasping for power.

Even when bad men damage the apparatus—the damage is temporary and easily reparable because the office—the institution—the structure continues—as sound and strong as the day it was launched almost 200 years ago.

Graduates and friends—men can and will fail us and themselves. But—I ask you to hold this faith in your heart—your institutions are strong enough to withstand the occasional failure—strong enough to endure human frailty—strong enough to support freedom here at home—and around the world—in our time and * * *

There are instances when we hear that an official or an office holder did wrong—but—that he meant well—that he was reaching for power in a good cause.

This is not new—it is an ill that has been with us almost from the beginning. It has been cured before—and will be again.

As an illustration—listen to the words of the great orator and U.S. Senator—Daniel Webster. Long years ago, he said:

"Good intentions will always be pleaded for every assumption of power. It is hardly too strong to say that the constitution was made to guard the people against the dangers of good intentions. There are men in all ages who mean to govern well—but they mean to govern. They promise to be good masters—but they mean to be masters."

You and I know that there are no masters in this Nation—nor will there be—because the Constitution is still there to guard the people.

You and I know—also—that Government exists for the purpose of protecting—and serving—and promoting the welfare of our citizens.

Occasionally, an office holder—or official—or employee of government—national, state or local—develops the dangerous and mistaken notion that he *is* the government—and, that he is—somehow—above the law.

This is not new, either.

In 1927, Supreme Court Justice Brandeis wrote eloquently on this vital subject. His opinion said:

"Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this court should resolutely set its face."

America has resolutely set her face against any action by a public official which would betray her trust or wrong her people. We can all rest assured that decency, security and liberty will continue to abide with all Americans.

Finally, let us face and answer a question central to our lives.

Can the United States fail? Can our constitution collapse and our institutions disintegrate? Can the dream of the founders of this republic disappear into the dust of history?

I want to answer that question with all the conviction and sincerity I can command.

It can collapse only if you and I violate the trust handed us by our fathers and mothers—only if we disdain the sacrifices of the millions who preceded us—only if you and I take the greatest governmental system ever devised by men—and throw it away.

We will not do those weak and evil things—you and I—and those who will follow us—and so this land will remain—for all the years to come—the last, best hope of earth.

Graduating seniors—remember—for your parents, loved ones and teachers—and for me, if you will—that while humans are frail and fallible—this nation you are inheriting has all of the combined strengths of two hundred million free people.

Remember that we cannot doubt our institutions without doubting ourselves.

Remember—as you finish your work at this fine school and assume the place you are entitled to in our society—that you do not ever have to go in search of America—she is part of you—even as you are part of her.

I know you are fit for the burden and the glory of freedom. You and your home-land are well matched.

As I leave you, I ask the Lord to bless your country—and each of you.

Thank you so much.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES CONFERENCE

Mr. STEVENS. Mr. President, a few weeks ago the American Federation of Government Employees held a legislative conference and rally here in Washington, D.C. A number of the Members of Congress had the opportunity and the pleasure to speak before this event. At this conference of May 30–June 1, a number of legislative goals of the AFGE were presented. These following proposals I feel deserve the attention of my colleagues.

Mr. President, I ask unanimous consent to have the proposals printed in the RECORD.

These being no objection, the proposals were ordered to be printed in the RECORD, as follows:

CONTRACTING OUT

AFGE takes for granted that all those Government services in which employees legally and financially bind the Federal government, or carry out civilian functions related to national sovereignty and security or to the collection and disbursement of funds must continue to be carried out solely by Federal employees. It also assumes that those so-called technical and support services directly related to the protection of Federal property and persons in Federal custody for any reason whatsoever, Federal officials will be discharged by Federal employees.

In addition, the AFGE agrees with the February 1973 resolution passed by the AFL–CIO Executive Council that all other directly related to the protection of Federal postal, state, county and municipal employees continue to be discharged by government employees at the appropriate level.

This means that when AFGE speaks of "contracting out" it is not speaking of purchases for construction of facilities and for major repairs. Nor are we interested in contracting for goods, including hardware, office equipment, etc. Our concern regards solely "contracting out" of these so-called technical or support services encompassed by the AFL–CIO resolution. We oppose this type whether it is in the form of a direct contract for hire or by having military personnel perform normal civilian work.

We contend that "contracting out" is indeed a more expensive means of performing work rather than using "in house labor largely because of a number of hidden or indirect costs involved in contracting out. An example of these hidden costs is utilization of Federal facilities, tools, equipment, machinery and even the services of Federal personnel in the performance of his work. In reality, "contracting out" provides no savings to the tax payer.

"Contracting out" has a detrimental effect on the position and morale of Federal employees. It was one of the causative elements behind the "grade de-escalation" program The grade "creep" was the result of a statistical effect produced primarily by decimation of the lower grades by RIF's and contracting out. The damage to Federal employment is in no way justified by the illusion of savings which the OMB would have us believe.

AFGE has for years advocated that all contracts for technical and support services be let only by rigorous legal standards, that they be deposited in a central agency; and that they be properly monitored by a central authority for compliance. The central repository agency should submit a report to Congress as to the total amounts involved; the numbers and categories of personnel employed by the contractors by agency and department; the pay, including range of pay by job classification; and the relationship of fringe benefits to pay rates, as well as establish a single definition for the term "prevailing rate" so that all contracts can be unambigously interpreted, analyzed and evaluated.

Prior to letting any technical or support service contract, exceeding $10,000 the agency should be required to make an estimated payroll run of what the contract would cost if performed by Federal employees. If the cash payment to the contractor is larger than the payroll run, the contract could be let only with specific approval of the next higher echelon of government with a justification forwarded to the central repository.

RIF PROGRAMS

AFGE is on record advocating the suspension of all relocations and reductions-in-force that affect Federal employees. We further proposed that in the event it was not possible to suspend all relocations and reductions-in-force, that the President instruct the Office of Management and Budget, the Civil Service Commission and all department and agency heads that, on a nation-wide basis, all recruitments to fill current or ensuing Federal civilian vacancies be limited to Federal employees affected by reductions-in-force.

Furthermore, we are in support of measures which would require the heads of the respective agencies to provide Congress with advance notice of certain planned organizational and other changes or actions which would affect Federal civilian employment.

We urge strict adherence to the prescribed procedures for reductions-in-force. There are too many instances in which competitive levels are so numerous and so narrow as to render seniority and other job retention rights meaningless. This must cease. In cases where RIF's are unavoidable they must be run with the utmost of fair play.

Often directly related to RIF's are contracting out and usage of military to perform civilian functions. We feel that it is highly inappropriate that contracting out goes on at the same time as RIF's are in progress or pending. This practice cannot even be justified on the basis of economy. Too often these contracts are in actuality a more expensive means of performing a job than if "in house" Federal labor were used and the "savings" from reducing the Federal payroll are more than negated.

LABOR-MANAGEMENT RELATIONS

For the last eleven years the Federal labor-management relations program has been based on an Executive Order. We have come to the conclusion that this approach must be scrapped and we must seek a statutory basis for this relationship. Our number one legislative priority is such a statute.

There are many problems in having to rely on an Executive Order. The Executive Order is extremely tenuous—it is given by the pen and can be changed and revoked by the pen. This leaves Federal employees at the mercy of parties and interests who have access to, or are within, the Administration. The courts are disinclined to accept jurisdiction over matters only in an Executive Order; a fact which considerably diminishes the legal recourse available to Federal employees in these matters.

Under the Executive Order the scope of collective bargaining is highly limited and we have to resort to a variety of alternative means to achieve what in the private sector is done at the bargaining table. This scattering of forces is hardly conducive to meaningful labor participation in a labor-management relationship.

We have not received much hope from the manner in which the current order has been administered and interpreted. One of our chief complaints with E.O. 10988 had been the absence of any third parties and centralized administration. Provisions for these were incorporated in E.O. 11491 but we have found them to be slow and cumbersome. Their operations have negated much of the benefit which we had hoped would derive from their inclusion in the program.

The labor-management relations program under the Executive Order has not progressively developed as we had expected. In reality, improvements have almost invariably been accompanied by serious faults and regressive measures. This has resulted in preventing the program from advancing very far from the point at which it was eleven years ago. It has become clear to us that a new approach is necessary. In our judgment, the best approach is legislation such as H.R. 13 and S. 351.

RETIREMENT

There are a number of reforms that we are seeking in the Federal retirement system.

We support legislation which would permit *voluntary* retirement with full annuity upon achievement of any combination of age and service which equals 80 years. We are also advocating changing the base for the annuity formula from high 3 years to high 1 year. Another measure we seek is establishment of a minimum of $100 per month for annuities.

We have sought to broaden voluntary hazardous duty retirement (present requirements are age 50 and 20 years of service) to include Federal law enforcement personnel; certain categories of prison service and building guard personnel; officers and staff of the District of Columbia Juvenile Court; civil pilot instructors; air traffic controllers; fire fighters; nurses in psychiatric wards; couriers and handlers of classified or controlled materials. We have urged incorporation of a "catch-all" provision allowing inclusion of all Federal employees who are required to carry a gun or other weapon in the performance of their duties.

We would like to see abolition of the language in section 8336(c), title 5, United States Code requiring the recommendation by the Agency head and Civil Service Commission approval of the recommendation before a hazardous duty retiree may receive an annuity. We feel that application by an eligible employee should be honored and the Agency head and the Commission should have no functions other than to take note of the application for retirement and to determine whether the applicant is eligible according to his record and length of service.

We stress the voluntary nature of these liberalized eligibility provisions. No employee who is still able to produce and desires to continue to work should be forced out at the relatively youthful age of 50. While the employee should have the option to retire at an earlier age, his freedom of choice in the matter must be protected.

HATCH ACT

The Hatch Act needs major revision. Federal employees must be emancipated from second-class citizenship and given the same political rights as their fellow Americans. Federal employees must be free to run for any elective public office they desire and to participate fully in every other political action which is lawful for other citizens.

The only legislation which is needed is legislation which protects government employees in their rights to freedom in the political area without fear of reprisal. The protection which the public needs is legislation which prevents the establishment of a spoils system within the governmental apparatus, built on political favoritism. Such a spoils system can exist only if government employees are subject to reprisals.

At the minimum we seek the following immediate changes in the Hatch Act:

(1) Section 9 of the Hatch Act should be amended to provide that when the Civil Service Commission finds that a violation does not warrant removal, a lesser penalty of not more than 30 days suspension be imposed; further, that in any first-time violation a reprimand be the penalty where the violation does not warrant removal.

(2) All bona fide and recognized trade unions whose membership consists of employees covered by the Hatch Act and by other similar statutes should be permitted to actively engage in political activities during meetings of such trade unions.

(3) Elected and appointive officers, who are on official leave to conduct union business or other such activities of such recognized unions, should be exempt automatically from the provisions of the Hatch Act.

(4) Such unions should be permitted to encourage, and to collect, contributions to civic and political education bodies of unions, such as, for example, COPE.

It should be emphasized that these are the *minimal* changes necessary to alleviate the most glaring deficiencies and injustices now found in the Hatch Act. What we really desire are the revisions listed in the first two paragraphs.

HEALTH BENEFITS

Our current emphasis in improving the Federal Employees Health Benefits Program is to increase the government contribution towards employee health insurance premiums. We hope eventually to see this raised to 100%; however, we recognize that this may have to be done in a graduated program of increases. We do not feel that 100% is excessive.

Today many private enterprise employers are already paying 75% of employee premiums and some, especially the larger employers, are paying 100%. It was the intent of Congress in the legislation establishing the Federal Employees' Health Benefit system that the Federal government should offer employee benefits programs comparable to those of other large employers. Insofar as health benefits goes, the government and its 40% contribution are not living up to Congressional or employee expectations.

In addition to bringing Federal contribution into line with current private enterprise practice, we are interested in improving coverage. In this vein, we would like to see provisions made for dental and optical coverage.

Generally, we have been happy with the performance of the Bureau of Retirement, Insurance and Occupational Health of the Civil Service Commission. However, we feel that there are three areas in which improvements would be made which would be highly beneficial to the general operation of the Federal Employees' Health Benefits Program. These three areas are:

1) regular, systematic supervision and auditing of all programs, especially the Service Benefit Plan;

2) education of the Agencies regarding the administration of the FEHB;

3) equal treatment of all programs regarding guaranteed charges.

INDEPENDENT SYSTEM OF APPEALS AND REVIEW

The present adverse actions system is unduly complex, results in protracted proceedings, denies employees' fundamental due process and does not serve the ends of justice.

AFGE seeks a system which is simple, direct and just. It should provide for a prior hearing before any adverse determination is reached, a decision on the record by an independent decision maker and a single level of appellate review on the record as established. Such a system should be administered by the Civil Service Commission only if it is made truly independent in its adjudicatory roll by legislation. Otherwise, the system should be established as an independent agency in the Executive Branch, responsible to the Congress for its performance.

ENERGY AND CUTBACK

Mr. BIDEN. Mr. President, on June 29, 1973, the President announced to the American people his new program to alleviate the impending energy crisis. Whereas his previous energy message in April emphasized the benefits of technology, the expansion of supplies and the possibilities of new resources, his latest announcement focuses on the conservation of energy. In the July 2, 1973, Christian Science Monitor editorial, "Energy and Cutback," the voluntary conservation approach is evaluated. Noting that public cooperation is indeed an important factor, the editorial stresses that conservation cannot be the entire answer:

> As with wage and price controls and economic crisis, a voluntary conservation program will not prove the long run answer to the energy crisis. Other factors are involved, such as the burgeoning energy needs of Europe and Japan and world competition for existing supplies.

A closer look at alternate conservation forms, a tax on autos by weight or horsepower, an evaluation of appliances in regard to their real need and the amount of energy they consume, a lowering of speed limits and a reduction of airline schedules, are all worthy of consideration.

The editorial concludes:

> America's holding back on energy use is a helpful step if it implies a more sober attitude toward energy waste, a new impulsion toward developing new energy resources, and a new willingness to adopt less energy intensive life styles.

The President's emphasis on conservation and cutbacks is an important step in a many faceted attempt to solve the energy crisis. Many perplexing problems remain, however, for the President and the Congress to resolve.

I ask unanimous consent that the text of the Christian Science Monitor editorial of July 2, 1973, "Energy and Cutback," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ENERGY AND CUTBACK

The President struck a welcome chord when he announced his latest energy crisis steps at the weekend.

Whereas his previous energy message, earlier this spring, stressed expansion of supplies, his new message stresses energy conservation. Mr. Nixon has asked the public to consume 5 percent less energy this year—by driving 15 miles per weck less, for example—while imposing a 7 percent cutback in government energy use.

We will take up the shortcomings of this voluntary approach in a moment. But its appeal is worth noting.

Already we have begun to detect many Americans deciding against long auto-trip vacations, or voluntarily holding down their highway speed by 10 or 15 m.p.h., not out of fear of any energy shortage but simply because they thought it the right thing to do. In times of shortage, unnecessary consumption becomes something of an antisocial act. This response, before the President's request, indicates a healthy desire among people to cooperate in national goals. It is the same kind of cooperation the public showed in backing wage and price controls.

But as with wage and price controls and economic crisis, a voluntary conservation program will not prove the long-run answer to the energy crisis. Other factors are involved, such as the burgeoning energy needs of Europe and Japan and world competition for existing supplies.

The President indicated an interest in another form of energy conservation—a tax on autos by weight or horsepower. General Motors president Richard Gerstenberg was quick to indicate he didn't like the idea, raised earlier in the week by Federal Research Board chairman Arthur Burns. There is more profit on large cars than on small cars, and such a tax would represent yet another level of government interference in the auto industry, so Mr. Gerstenberg's reaction could have been anticipated. Yet if America is going to be short on fuel for several years, then a tax on engine size or vehicle weight may prove a better form of conservation than merely letting the price of gasoline soar. Given the related problem of air pollution, further encouraging the trend toward smaller vehicles would be a help.

There were several possible steps the President did not promote in his voluntarist pitch to Americans to conserve fuel. * * * More energy may be saved in not buying a frivolous or unneeded product than in cutting back 15 miles in one's driving in a week.

The message did not deal with mass transportation. The President has appointed a new White House energy czar in Colorado Gov. John Love. We hope his duties will include the development of a truly comprehensive transportation energy plan. It will not be enough to ask states to curb speed limits or airlines to reduce schedules and air speeds and not genuinely strive to curb the wasteful ebb and flow of city-suburb workday auto traffic.

It is true that Americans use a disproportionate amount of energy. While only one in 17 persons on the globe lives in America, the United States accounts for a third of man's current energy consumption.

Conservation must mean more than cutback, however. After all, other nations are anxious to consume as much energy as America now does, to attain its life style. Breakthroughs will have to come in other forms of power.

Just this week in Paris a conference on solar energy is being held. Proponents of solar power say half the energy now needed for residential and commercial use in equipping two-thirds of America's housing units with solar power receivers could generate more energy than is now being produced by America's electric power.

We mention solar power only as an illustration of the untapped energy resources that could fuel man's continuing technological progress. Heat from the earth's interior, as well as the short-run better use of coal deposits, could likewise provide additional fuel. And research in nuclear fusion could help provide energy for a technologically more advanced global population. Mr. Nixon's proposal to spend $10 billion in energy research—though but half of what some congressmen propose, and not broad enough in the kinds of research planned—should help in this vital energy exploration.

America's holding back on energy use is a helpful step if it implies a more sober attitude toward energy waste, a new impulsion toward developing new energy sources. * * *

Mr. BIDEN. Mr. President, although the President's message is good as far as it goes, I am disappointed that the President's message does not include the announcement of a mandatory fuel allocation program. Of further concern is Governor Love's reported opposition to such a program. In my letter of congratulations to Governor Love on his appointment as Director of the Energy Policy Office, I expressed my reasons for considering the implementation of a mandatory fuel allocation program essential for an equitable and effective distribution of the available fuel supplies. I hope that he will reevaluate his position and exercise his new responsibilities to implement a mandatory allocation program.

I ask unanimous consent that my letter to Governor Love on July 5, 1973 be printed in the RECORD at this point in my remarks:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 5, 1973.

Hon. JOHN A. LOVE,
Assistant to the President, for Energy, The White House, Washington, D.C.

DEAR GOVERNOR LOVE: Congratulations on your appointment as Assistant to the President for Energy.

I think the President was well-advised to take the steps which he has to coordinate our national energy efforts. What remains to be seen is how effective the new organizational structure and personnel will be in dealing with the difficult energy problems we are facing. In this respect, I am distressed by your reported opposition to a mandatory fuel allocation program. As a member of the Senate Banking, Housing and Urban Affairs Committee which reported the legislation giving the authority for an allocation program and has held hearings on the fuel shortages, I consider the implementation of a mandatory allocation program essential for an equitable and effective distribution of fuel.

Through the unfortunate experiences of some of my constituents, I have become acutely aware of the limitations of the voluntary program. Although the voluntary program has clear guidelines as to how the crude oil and products should be distributed, the Office of Oil and Gas (OOG), charged with the responsibility for implementing the program, can only "jawbone" the companies involved. If a company refuses to voluntarily comply, the OOG is helpless to enforce the guidelines. The inability of the OOG to enforce its directives has made a mockery of the voluntary program and has already led to the closing of several fuel distributors in my state and many others will have a similar fate if a mandatory program does not go into effect soon.

In fact, many of the companies which have been complying with the voluntary program have only been doing so because of the threat of a mandatory program. Such pressure can remain effective only for a limited time, however. The Phillips Petroleum Company's threatened withdrawal from the Northeast and Atlantic Coast market is a case in point. Through the efforts of Mr. Simon, Chairman of the Oil Policy Committee, and Congressional and public pressure, Phillips has agreed to serve the market area until July 15, 1973. If Phillips does not remain beyond that date, several important distributors in my state will be without fuel to supply to their many high priority agricultural and state and municipal customers. It is becoming clear that a mandatory allocation program will be necessary to deal with this and other serious situations.

As you know, the Senate has already passed S. 1570 to require the implementation of a mandatory fuel allocation program. The hearings Mr. Simon has conducted have led him to the same conclusion—a mandatory program is needed. I urge you to promptly implement the results of these deliberations.

Governor Love, you are assuming your new responsibilities at a critical juncture in our nation's effort to provide adequate and equitable supplies of fuel for all of its citizens. I do hope that you will take the initiative in fulfilling the Federal government's responsibility in this important area.

Please be assured that I fully realize that yours is a difficult and exacting assignment—in the fulfillment of which I wish to support you as best I can.

With best wishes, I am,

Sincerely yours,

Joe Biden
U.S. Senator.

VIETNAMESE CHILDREN

Mr. WILLIAMS. Mr. President, on June 19, the National Broadcasting Co., televised a 1-hour documentary, "The Sins of the Fathers," which focused on the problems encountered by Vietnamese children of American fathers. This program pointed out with devastating clarity the severe difficulties which exist for most of these children of South Vietnam, where half the population is 14 years old or younger.

To produce the documentary, Mr. Shad Northshield and his staff spent months researching the material and filming the show throughout South Vietnam. "The Sins of the Fathers" commands attention to a story which our Government and the South Vietnamese Government have tried to ignore and it tells that story in realistic terms that expose the full scope of this tragic situation.

No holds were barred in producing this provocative film. Throughout the hour, Mr. Northshield emphasized the tremendous problems facing half-American children, but he also stresses that hundreds of thousands of full Vietnamese children also face growing up in atmospheres where there is neither the time nor energy to give love and affection, let alone adequate food and shelter. One excerpt from this program revealingly sums up the existing situation:

Vietnam has many problems. Those of the racially-mixed children are far down the list of priorities.

That's understandable.

Unless you are one of them.

A zoo that's well-stocked offers a spectator a wide array of representative species.

This is the Go Vap orphanage in Saigon.

It's a zoo. A visitor can see starving children, maimed and crippled children, dying children, far too many children.

They got here the hard way. Most of their fathers were killed in the war that has destroyed nearly a generation of Viet Nam's young men. Many of their mothers were killed, too. But an appalling number of them got here by being lost from their mothers, abandoned by them. It was the easiest way for the mothers to handle the shame of their motherhood. There are 700,000 orphans or half-orphans in the Republic of Viet Nam. If the United States had the same percentage of its population in that condition, there would be 10 million American children without parents, without homes, without hope. Go Vap is the largest orphanage of more than 130 here. It's neither the best nor the worst. There are about 12 hundred little people here and only 12 nuns to take care of them. Taking care has come to mean keeping alive.

Success is limited.

If they survive, most of these people will remain penned here until they are adults.

They are symbols of the apocalypse, especially of an awful famine. They are starving for love.

Much of the staff of life comes from the United States aid program, through the Ministry of Social Welfare of the Government of Viet Nam. It amounts to five cents worth a day for each child.

Every day, new babies are born and abandoned to places like this. Many of them die here . . . 70 percent of those who come here, usually in the first few weeks, sometimes more slowly. Most of them die of malnutrition. They are under-nourished in every way.

The opposite of love is not hate; it's indifference. Indifference, even unavoidable indifference, is a cause of death.

A mere discussion of this film necessarily understates its message. Its visual content was a vital integral part of the total story. Nonetheless, I think the narrative transcript provides valuable insights which will be of interest to the Senate, especially as we consider our proper role in helping to resolve, or at least ease, some of the social consequences of American involvement in South Vietnam.

I commend Mr. Northshield, his staff, and NBC for presenting such a moving and timely documentary.

Mr. President, I ask unanimous consent that the full transcript of "The Sins of the Fathers" be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

"The Sins of the Fathers"

Northshield. This place, Viet Nam, is like most of the world. It is more involved in surviving than in living, more committed to mere existence than to enjoyment. Like most of the people of the world, those who live here have black hair, black eyes and terrible hungers. But Viet Nam is special too. It's a scar on the conscience of all men. It's a junk pile where old weapons rust and new little people rot. Among all the debris the very worst thing to be is one of these.

(Over back toddler).

Northshield. She is a citizen of Viet Nam because she was born here, in the place her mother lives. Her father has gone home . . . to the United States.

She is healthy and altogether normal.

She is in very big trouble.

(Over meat market).

Northshield. The mothers and potential mothers have been here for centuries. From time to time, armies of fathers and potential fathers have invaded or visited. Those here most recently were Americans.

They were friendly to the friendly natives.

The friends could get together at this gate to the world's largest Army base, a place called Long Binh. It had an *American* name, too.

It was called The Meat Market.

(Over Long Binh).

Northshield. Now the Americans are gone. They have left the world's largest Army base and tons of debris. There are no friends here now, just relics and remembrances of past triumphs, of mistakes and expenditures.

(Over wreckage).

Northshield. There were billions of dollars worth of goods, hundreds of thousands of people sent here. What is left behind is wrecked and used and dead.

(Baby in crib).

Northshield. Except for this—also left behind—but doomed to live.

(Over freeze of birth).

Northshield. All babies are born naked, soiled, protesting, shocked.

(Action begins).

Northshield. Most of them get over it.

(Before dissolve to Quang Tri).

Northshield. But to be born in Viet Nam is to begin where the apocalypse has just ended. This is what remains of Quang Tri city, the way it was when we filmed there in February 1973.

This is the place where the four horsemen rode.

They were called Plague, War, Famine and Death.

(Over cemetery).

Northshield. To live in the presence of death is common and even necessary here. This place, in the heart of Saigon, is a cemetery. But refugees began living among the tombstones 20 years ago. Now the grave markers are houseposts and lamposts and playground toys.

Few in Viet Nam can remember a time when there was no war.

(Just before incubator).

Northshield. It is not a promising place to begin living.

(On incubator).

Northshield. For those who survive the apocalypse, who get to breathe of the cleansed air . . . *more* trouble may lay ahead.

It has been written that "the sins of the fathers shall be laid upon the sons."

It matters very much who the fathers are.

It is important to know that the Vietnamese are racists.

They have always been.

Northshield. All these people are refugees from the war in Viet Nam but they are segregated by an old Vietnamese concept. Over in the solid buildings are Vietnamese refugees. On this side of the road are people of a different color. They live in hot filthy tents far from home. They are a very subjugated minority.

(On Montagnards).

Northshield. These people are called Montagnards. That's a French word that supposedly pertains to people from the mountains. But it doesn't. As part of the language of the Vietnamese majority, it is applied to any of the 33 aboriginal tribes, those who look different and live differently.

A Montagnard is as Vietnamese as a Navaho is American.

In Vietnamese—Montagnard is a very dirty word. About like "nigger."

(Montagnard Camp, just before dissolve to mixed children).

Northshield. So Viet Nam had a special feeling for different-looking people before they ever were born. And if your mother is Vietnamese and your father American . . . any color American . . . you are aware of that feeling. It is almost certain that you have no father around. It is likely that you will be segregated from the rest of the community, possibly in an orphanage.

(In orphanage).

Northshield. In the whole population of Viet Nam, there aren't very many of them.

Gardner Munro. U.S. aid mission. The Minister of Social Welfare has reached, a, determined a figure of ten to fifteen thousand racially-mixed children, most of them living in the extended community or with their families with a few hundred living in orphanages. We certainly support this figure.

Northshield. And when you speak of ten to fifteen thousand racially-mixed, are most of those by American fathers?

Munro. Well, there's no way of knowing, of course, how many are by American fathers or fathered by any other foreign nationals, but we would assume that the large increase in the number over the last six or seven years has been as a result of American troops being here. But I have to make the point that there have been many other troops here also, and many civilians.

Phan Ngoc Quoi. Ministry of Social Welfare. Up to this time we consider the mixed blood children in Viet Nam Vietnamese children. I do realize their needs might be different sometimes but a, as a whole, the majority of the Vietnamese people think they belong to this country.

Northshield. What problems will a mixed blood child, particularly a half-black child, face in later years?

Phan Ngoc Quoi. Well, if their families are needy families, if their mothers and relatives cannot take care of them—by taking care of them I mean providing a good education for them—loving them and so on—they might have problems, a, in the neighborhood, in school, because they don't have the necessary help they need at home.

Michelle Wentzell, volunteer social worker. The mothers who have these children are discriminated against. They cannot get jobs in the normal Vietnamese society. Now when there were large concentration of foreigners here, especially American troops, they were employing thousands of these women.

You didn't ask a woman when you employed her if she had any mixed kids. You employed her. Vietnamese will not hire a woman who has mixed children to work for them in any capacity except the very, the most menial imagineable: part-time fill-in for their maid when she goes on vacation—that sort of thing. If the mother has not stashed away some money, she's in trouble. She can't even feed the child, let alone give it the extras that she would like to.

Quoi. If the families love them enough I think they have a chance to grow up in this country like other children. Probably sometimes people might see that they are different.

(Over black child walking.) They might have difficulties like other people who have some kind of a handicap of those who are underprivileged.

Wentzel. Now picture a child, all right, going to school. A little boy, a little girl, and everybody saying to him "you're an American child, you're an American child you're this or that," and, from the time he can understand his language, he's being told that he isn't what his mother is and what his friends are and there's something wrong with him and he doesn't know why.

Northshield. What's wrong with him is that he's just a small statistic.

Munro. The position that the United States government has taken, and particularly my office, is that the best way to help the racially-mixed child is to strengthen the services across the board in Viet Nam for all children because after all, the Vietnamese government sees these children as Vietnamese children and there are many other children besides racially-mixed kids that have special needs.

(Over babies in cribs.) So we have focused more on what it is we can do to help children in Viet Nam, and within this, the racially-mixed children may be one group of kids with special problems.

Northshield. Viet Nam has many problems. Those of the racially-mixed children are far down the list of priorities. That's understandable. Unless you are one of them.

Northshield. A zoo that's well-stocked offers a spectator a wide array of representative species. This is the Go Vap orphanage in Saigon. It's a zoo. A visitor can see starving children, maimed and crippled children, dying children, far too many children.

(Go Vap portraits).

Northshield. They got here the hard way. Most of their fathers were killed in the war that has destroyed nearly a generation of Viet Nam's young men. Many of their mothers were killed, too. But an appalling number of them got here by being lost from their mothers, abandoned by them. It was the easiest way for the mothers to handle the shame of their motherhood. There are 700,000 orphans or half-orphans in the Republic of Viet Nam. If the United States had the same percentage of its population in that condition, there would be 10 million American children without parents, without homes, without hope. Go Vap is the largest orphanage of more than 130 here. It's neither the best nor the worst. There are about 12 hundred little people here and only 12 nuns to take care of them. Taking care has come to mean keeping alive.

Success is limited.

If they survive, most of these people will remain penned here until they are adults.

They are symbols of the apocalypse, especially of an awful famine. They are starving for love.

(Eating.)

Northshield. Much of the stuff of life comes from the United States aid program, through the Ministry of Social Welfare of the government of Viet Nam. It amounts to five cents worth a day for each child.

(Dying area.)

Northshield. Every day, new babies are born and abandoned to places like this. Many of them die here . . . 70 per cent of those who come here, usually in the first few weeks, sometimes more slowly. Most of them die of malnutrition. They are undernourished in every way.

The opposite of love is not hate; it's inindifference, is a cause of death.

Quoi. I understand and I realize that our abandoned and orphaned children don't have a family or a home of their own. That is why voluntary agencies as well as the government try to do our best to provide them a home. It can be an orphanage but we try to help them.

Wentzell. An orphanage in Viet Nam is not physically equipped to handle all of the orphans that exist here. It isn't financially equipped, it isn't equipped with sufficient personnel and it isn't equipped with the emotional stability that the average family has, not even an exceptional family. The average family can give a child so much more than the most fantastic institution.

(Slums).

Northshield. Maybe. The average family here is not only hungry but large. There are about 15 million people in the country and half of them have been refugees at one time or another. One of seven still is. That's nearly a million.

Northshield. The city is where most Vietnamese people huddle now, trying to hide from a war that hasn't ended, trying to find work and food and some spirit of survival.

Quoi. Our country has borne the greatest responsibility and damage and we have allies who come here and help us. If we consider the orphans and the abandoned children are victims of the war and if we say this war is not our war alone, I feel our allies would have some responsibiilty to help us in helping these children.

(Doctor Wertz).

Northshield. They used to help a lot. Doctor Wertz used to come to an orphanage on his time off from patching up helicopter pilots. Now he's home and so are most of his patients. But the little ones he helped are still in DaNang, still needing him and not getting him.

(GI's).

Northshield. A couple of million Americans came here on a military mission. 46 thousand of them were killed here. It changed American history, and spread tragedy through American society. It changed this society, too.

There were other things these giants brought along with their guns and tanks and bombs.

Now all the Americans are gone. They took with them much of the compassion and caring these children ever knew.

They took with them a show of charity and wealth the children never will know again.

They cared but they had to leave.

There is a generosity gap that cannot be filled.

Quoi. We would be grateful to any help given to us to help these children. But I do not want them to be singled out because we never know who is their father and we don't want to feel that they are different or they are better or they are worse than other children.

(Blind).

Northshield. To be blind, black and orphaned in this place is to be very special. A disproportionate number of the children here are half-black. That's because they are the ones most apt to be abandoned, to be left in orphanages. The Vietnamese feel that it's not as bad to be half-white so children of white fathers often are kept by their mothers. There aren't more black children, just more of them in orphanages.

That's where they wait, grateful for tiny favors, hopeful and doomed.

(Hudson at Sacred Heart).

Northshield. Captain Hudson used to be a helicopter pilot based at DaNang. At Sacred Heart Orphanage he met a little girl and chose her to be his daughter. From among the many, he selected this one and she is part of an American family. Captain Hudson is home in the state of Washington now and so is she.

(Over orphanage scenes).

Northshield. When you sit in an American living room and watch a television program, it is likely that you feel that adoption of these abandoned children is the clear solution to a simple problem.

It seems apparent that almost any American home is better than an orphanage or an alley or a jungle. But while the problem is simple, the solution is not. Antiquated, complicated laws govern adoptions in Viet Nam. The American laws are not much more helpful. The orphanages are generally reluctant to put themselves out of business by giving up their children. And many of the orphanages are operated by religious groups that insist on very sectarian placements.

Vigorous attempts within the Congress of the United States to make adoptions more simple and American responsibility more obvious haven't worked. In large numbers, the children wait and grow. In much smaller numbers, people work to make adoption the answer.

Wentzell. I don't think the orphanage

should be the last stop, I think it should go beyond that. I think it should go to a family. I think every child has a right to a family and there are families, there are families in the United States and Europe who want these children and I think that's where they should be going.

(Over N.Y. adoption).

Northshield. A few get out. Now there are international organizations beginning their work with the government of South Viet Nam to make successful adoptions more likely. But the laws and ideas are old and cumbersome. For each baby brought happily to a waiting American family, there are dozens unhappily growing up in orphanages far away.

(Over black baby Cu).

Northshield. And there is another question: where does each child belong?

Quoi. Adoption is a very good solution for abandoned and homeless children, but overseas adoption is a very difficult process. I think a few of our children need overseas adoption and among these I think many of the mixed blood children might benefit from overseas adoption but I don't think that if a child is mixed he necessarily needs overseas adoption.

I feel people who want to adopt children should be people who feel that they are able to provide a loving home, a good home for the child. At the present time many people feel compelled to adopt Vietnamese children because they feel that they have some resonsibility for that. So you might consider, call it a guilty complex, and I feel that in adopting children these things should be ruled out.

(On trucking shot of cribs).

Northshield. Miss Quoi must question motivations because she has a single-minded motivation herself. She must be concerned with *nothing* but the welfare of each child.

(On walk).

Northshield. Most of the adoptions come from orphanages but sometimes Miss Wentzell must search further.

(Over walking shot).

Wentzell. I've found that there are many different types of orphanages and many different types of mothers, of children with problems in this country. There are many different situations, and each one has to be looked at for what it is.

Wentzell. It's too big a problem for the country to handle alone. It's our responsibility, too, and we want to help them. I want to help them, there are a lot of people who want to help them. The people who are trying to adopt want to help them. They want to take a life and bring it into their home and make something beautiful out of a child's life that would have been very sad here despite the most desperate efforts of orphanages and mothers and even the government. They just can't handle the problem. One has to help them.

(On weeping woman).

Northshield. This woman has had four children by American fathers. One has been adopted. She is pregnant with a fifth.

(French children).

Northshield. France used to own this place. In its last years here, the French Army fathered a great many children, lost a war and got out.

Those remaining children, under French law, were afforded French citizenship and a free education in France, if their mothers chose to send them.

There is no precedent for this in the American experience. Indo-China never was a colony of the United States, the Vietnamese never were connected to America through citizenship or occupation.

The mothers of these children of French fathers still send their children off to France to school and a different life. They gather at Tan Son Nhut airport to say "adieu."

Literally.

Of nearly 7 thousand children sent to Europe, only 10 ever have returned to Viet Nam.

(Pullback to Victor).

Northshield. The United States, through aid programs, with much food and money and effort, supports all the social welfare programs of the Republic of Viet Nam. The Pearl Buck Foundation specifically helps the racially-mixed children. And so does a tiny, new organization called the Vietnamese-American Children's Fund. It aids in adoptions and orphan care from an apartment in Saigon.

Victor Srinivasan. Vietnamese-American Children's Fund. I have more or less about sixteen kids under my personal care at the moment. Three of them are totally abandoned. The parentage could not be established, but I think one of my little girls is half-Cambodian and another girl is fathered by a black American and the boy also, I believe, a boy, the features I'm talking about, was fathered by a black American. These three children are staying with me right under my, under our roof, and we are taking care of them, me and my wife. Apart from them, I have a few more children who stay with the mothers, but I help these children go to school, to a boarding school, and I pay the school fees. They stay in the school where they have their education, food and everything, and on weekends, every Saturday, the mothers go to the school, take the child to her home and bring the child back to the school on Sunday evening.

(Mother and children in market).

Northshield. However many half-American children there are in Viet Nam, most are with their mothers. Each lives the same fatherless difficult life as any other half-orphan. But they are young and so is the incipient feeling here of anti-Americanism. Both the children and the feeling of hostility can be expected to mature.

Misfortune takes many forms, more here than in most places. This woman, for instance, was married to an American soldier. Their three children have U.S. passports. But they can't use them because they don't know where to go to join their father. He left a year and a half ago and sent money to his family here for nine months. For the last nine months, he has sent none. He's a black man in America and no doubt has problems of his own.

Srinivasan. I do definitely recognize a special problem with these mixed-blood children because of their parentage. When they grow, they're definitely going to encounter some kind of embarrassing situations in the society, especially the black ones. I'm quite sure they'll be the odd-balls in the society and the white ones . . . they're liked by most of the Vietnamese people.

But even then, sometimes or other a crude remark can be passed about how the child was born, you know, somebody can call them a bastard or something like that.

Robert G. Trott, Regional Director, Care. In terms of the black child in particular, I think that patrimony might be one way of assisting these children. In other words, these children have been fostered by American soldiers so therefore they should be given the opportunity at some point in life to opt for an American citizenship. Now this would give them the opportunity to either stay in Viet Nam or at some point in their life opt to leave for the United States where there's a possibility the conditions would be much better for their acceptance in the society. Because I believe in Viet Nam this: it's going to be a very, very difficult thing for them to become fully integrated in the society.

Srinivasan. I was separated from my father when I was about two years old, I believe, I didn't know that, and I lost my mother when I was ten years old. That means I became a totally abandoned child when I was ten years old. And I know what I missed, and I know what these children are missing: the love, the care and the personal attention. So it's a sort of personal thing for me that I want to give to these children what I missed when I was young.

Trott. I know myself in terms of my life, you find yourself ostracized. You find yourselves being referred to as, say, as "nigger." But here it probably would be a much stronger term. Your mother would be called a prostitute, and you'd be referred to in various derogatory terms and these are the sorts of things that really get home to you.

(Over orphanage scenes).

Trott. One must always think in terms of "where do I fit, where do you belong and how do I fit into any particular setting or situation?" So the individual must be able to, in his own terms, evaluate his own situation and be able to figure out how he fits in what particular setting and, but the conditions are such that we're not always able to be free.

Northshield. Freedom's just another word for nothin' left to lose, according to a song still popular. Freedom also has been defined as the possession of choices. There are very few choices if you're the wrong color in a place where color matters.

It's critically important for everyone to determine where he belongs.

It's somewhat more simple to know where he doesn't belong.

It's even more difficult to know where you belong if you're not sure what you are: half-black, half-brown; or half-brown, half-white: if you've brutally been told and shown how different you are.

To know where you don't belong is difficult.

To know where you do belong is essential.

Not to know is not to live.

(China beach family).

Northshield. One day, a year ago, the man went home. The woman thought he had promised to arrange for her to follow and become his wife. She still waits near the empty Marine Corps base where she worked and lived. She waits and the three children wait and the community shuns them.

It's beautiful here. And lonely.

For the children, there are few friends.

But they do have a mother.

And love.

(In Hamlets).

Northshield. This is another fortunate child. She has a mother. Her father is an unknown soldier, somewhere else. Her mother used to have eight children and a husband. The husband has been dead for seven years and so are three sons who were killed in the war. This daughter was born after the woman worked at a U.S. Army Base. This one is lucky, too. She has a mother and a grandfather. Her father probably doesn't know she exists. Surely she doesn't know that he ever did. These people are in hamlets in the scarred countryside of South Viet Nam. In years past, many of the young girls went to the cities, where the Americans were, where the jobs were. They worked as maids or bargirls or prostitutes. Now they are back. Most of them with babies have kept them and kept hope and trust.

(Birth).

Northshield. From now on, almost every new person born in Viet Nam can enter his country, sure of his race. He, like each of us, will begin naked, soiled, protesting and shocked. But he will not be racially-mixed in a place where that's important.

(Orphanages).

Northshield. Soon there will be no more half-American children born here. But there still will be at least 25,000 of them resting unwanted, waiting.

The governments of the United States and of the Republic of Viet Nam agree that there are fewer than 25,000. Responsible social workers know there are more. Whatever the number, each small person is unique and each is in trouble.

The two governments also agree that the

racially-mixed children must not be separated, must not be helped in special ways that accentuate their differences.

The two governments agree that something must be done about speeding up the adoption process. They agree but there has been no acceleration.

The war is over—for everybody else.

(Singer).

NORTHSHIELD. The most popular songwriter in South Viet Nam writes only about war. He's against it. So the government and the Viet Cong—equally—consider him dangerous. Only the people love him.

This is what Trinh Cong Son has written:

I pass to you a mother's gift
A sad Viet Nam, a mother's gift
A thousand years of Chinese reign
A hundred years of French domain
Full twenty years of civil war,
A mother's gift: a heap of bones
A mother's gift: a hill of tombs

Full 20 years of civil war,
A mother's gift is barren land
A mother's gift is burning hands
A mother's gift is half-breed men.
A mother's gift is two-faced men.

(Over black child freeze frame).

NORTHSHIELD. An Ernest Hemingway short story begins with this sentence:

"In the fall, the war was always there but we did not go to it any more."

The title of the story is "In Another Country."

THE FARMER SEEN IN A NEW LIGHT

Mr. DOLE. Mr. President, recently I have been calling attention to the essential need for American agriculture to have adequate and timely supplies of fuel in order that maximum production of food and fiber can be assured. I have given particular emphasis to the importance of agriculture in maintaining our domestic standard of living and have also pointed out the unique role which agriculture can be expected to pay in our international economic policy and in contributing to America's strength in the international marketplace.

Today's Washington Post contains an article by Stephen S. Rosenfeld entitled "Foodstuffs and Foreign Policy" which highlights the point I have been making about the importance of our farm products as exports. Mr. Rosenfeld concluded by saying:

> It is scarcely too soon to broaden and popularize the discussion of what has been regarded until now as an arcane side issue of slight general interest.

Coming as I do from Kansas and having served on the Agriculture Committees in both the Senate and the House for 13 years now, I certainly do not feel this growing recognition of agriculture's importance has come a minute too soon. I ask unanimous consent that this article be printed in the Record at this point, for it deserves close study as Congress proceeds to consider the domestic farm program and the upcoming trade reform legislation.

There being no objection, the article was ordered to be printed in the Record, as follows:

Foodstuffs and Foreign Policy

(By Stephen S. Rosenfeld)

A State Department official happened to be talking to a reporter on the phone about something else last Tuesday afternoon when a copy of the Agriculture Department's latest report on American crop production was put into his hand. He broke off the conversation, instantly checked the corn figure (projecting a 6 per cent increase), and whistled in relief at the happy prospect of large export sales.

It was as concise an example as one is likely to get of the emerging relationship between agriculture and diplomacy—a relationship which has traditionally concerned specialists and, of course, farmers and traders, but which is now becoming, and which is coming to be seen as, central to the foreign as well as the domestic interests of the United States.

No doubt it is presumptuous, and typical, for someone to sound off on the subject who wouldn't know a soybean if one walked in the front door. The rush of events, however, is forcing many of us who long conceived of foreign policy mostly in political, military or broadly economic terms to look more closely at farmers and their markets.

Our education perhaps began getting serious a year ago when the sudden huge Soviet grain purchases sensitized many people to the impact of agricultural trade on, at once Soviet-American relations and American food prices—an historically new connection whose effects are still far from absorbed on either the diplomatic or food-price front.

The second "lesson" was perhaps given earlier this year when the United States was asked to help Bangladesh and a number of nations in West Africa escape the threat of grave famines. This is a role which our great productive capacity had allowed our diplomacy to perform on a grand scale since World War II, but we discovered embarrassingly that we did not have the "surpluses" left to respond in the old generous way.

A third lesson was administered last June 27, the day the United States decided that considerations of domestic price and supply required it to prevent exporters from fully honoring negotiated contracts to sell soybeans to the Japanese and Europeans, and others. A kind of agricultural "Skybolt" affair, this decision put Washington in the position of undercutting major customers and allies who had based vital policies of their own on the reliability of the American word.

Now, agriculture is prone to at least as many variables and accidents as diplomacy, starting with the weather, and the political constituencies affected by agriculture surely are a good deal broader and more powerful—especially in times of warming East-West relations. One suspects that President Nixon, for one, has learned this rather to his sorrow in the last year. He at any rate is a politician and, as such, required to cope with farm and food policy. The same can hardly be said of his principal foreign policy adviser, Henry Kissinger.

It is as revealing as it is ironic to read in the brief economic section of the President's latest report on "United States Foreign Policy for the 1970's": "The majority of the world's people, in all nations, will benefit from more open agricultural trade and the resulting lower cost and increased availability of farm products. It is particularly important to the United States to remove the barriers which stand in the way of expanded agricultural trade."

Perhaps, as some feel, the particular global farm and weather developments which produced the year's confrontations of American agriculture and diplomacy were only one-shot or short-term matters. In that event, it might be just as well to sigh and send out apologetic notes and tell the would-be foreign consumers of American food to wait for more rain. This does not seem too unfair a way to characterize current American policy, ad hoc, uncoordinated and domestically shaped as it has been.

Quite another situation obtains, however—a very difficult situation and one which policy makers seem understandably reluctant to acknowledge—if the world food situation as a whole has fundamentally changed. If, that is, demand will henceforth consistently outrun supplies by a considerable margin and if the United States is unable to maintain the surpluses which have been the basis for export sales and emergency doles and for relative world price stability (and for expanding domestic consumption) over the last generation. Some experts believe this is in fact the prospect.

In the circumstances, the relationship between food production and foreign policy cannot fail to become of extreme concern to most governments and people in the world. It is scarcely too soon to broaden and popularize the discussion of what has been regarded until now as an arcane side issue of slight general interest.

FOREIGN TRADE—A CRITICAL ISSUE FOR THE CONGRESS

Mr. BIDEN. Mr. President, in my judgment, the foreign trade legislation is one of the most important issues to come before the Congress in this session because it touches upon serious domestic and foreign concerns. In the past the United States benefited from large trade surpluses which enabled us to promote free trade as a contribution to both improved international relations and the development of foreign markets for our domestic economic production. Thus, our long-range foreign policy goals and our domestic needs were in concert.

Today we face new problems and limitations which challenge our ability to reconcile our broader international concerns with our pressing national interests. Clearly we cannot totally sacrifice one for the other, but yet the choices are difficult.

Brendan Jones, writing in the New York Times on July 5, 1973, discusses the issue and the debate on the trade legislation before the Congress. I ask unanimous consent that the text of his article, "U.S. Trade Policy Faces New Airing in Congress," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

U.S. Trade Policy Faces New Airing in Congress

(By Brendan Jones)

With the voting on the Administration's proposed Trade Reform Act, expected in the House of Representatives in the next few weeks, one of the oldest issues in American history—that of trade policy—will get a fresh shaking out.

In the past, the trade-policy was comparatively simple—a battle between low-tariff and high-tariff factions, the liberal traders and the protectionists.

Since the inception of the Cordell Hull reciprocal trade agreements program in the nineteen-thirties, liberal policies generally have prevailed and have set the pattern for progressively freer world trade.

The issue now is vastly more complex. Other countries—Japan and those of Western Europe—have become far more potent trading competitors.

The United States in the last two years has experienced its first trade deficits of this century—$2-billion in 1971 and $6.4-billion in 1972—and its international payments deficit is even higher.

With continuing deficits, dollar devaluations, the need to import more fuel and to control food exports, trade policy has become a matter of greater anxiety than it was a few years ago. Then the famous Kennedy Round of substantial tariff cuts had just been completed. The United States was riding high on large trade surpluses. The dollar was strong. America, it was felt, could afford to be magnanimous on trade concessions.

While the Administration and the trading community now want to move ahead with other countries in a new round of trade-barrier-reductions, opposition is being raised chiefly by organized labor.

Instead of freer trade, unions and protectionist groups such as the textile, steel and shoe industries, want to restrict imports and foreign investment through the Burke-Hartke bill.

Most labor leaders, who used to be advocates of freer trade, contend that imports and foreign plant investment, primarily by multinational corporations, have combined to export American jobs on an increasing scale.

Some freer-trade advocates feel that the United States gave more than it got in past trade bargaining and now must be tougher in the coming negotiations with other countries.

In large measure, the Administration trade bill, with its emphasis on "reform," is an attempt to bridge the gap between free-trade and protectionist policies. It asks new authority for the President to reduce tariffs. But it also asks some broad and rather different powers for the President to raise tariffs and to restrict imports with quotas as part of administering trade policy.

The trade-restricting powers presumably are to be used in cases of sudden, "disruptive" upsurges of imports and when other countries are considered to be "unfairly" restricting American exports. In effect, the Administration bill presents a kind of hybrid policy—one that might be characterized as "liberal protectionism."

C. Fred Bergaten, a senior fellow of the Brookings Institution, recently observed that "the Administration trade bill, which would have been regarded as drastically protectionist a decade ago, now represents the liberal wing of the Congressional debate."

The trade bill is expected to be reported out shortly by the House Ways and Means Committee. The committee chairman, Wilbur D. Mills, Democrat of Arkansas, has given it his approval, thus seeking to make it a bipartisan measure. He has predicted that it will be enacted before Congress recesses Aug. 3.

While it is likely, in view of the increased opposition to Presidential powers, that some limits may be placed on Mr. Nixon's trade negotiating or trade regulating authority, however, the bill is expected to be on the lines proposed by the Administration.

No sharp battle is expected in the House, nor is the Burke-Hartke bill being considered at this stage. The House vote, however, will be a test of whether even a modified liberal policy is to continue. Protectionist forces are expected to make their main bid in the Senate to splice a good part of Burke-Hartke onto the trade measure. This promises to be a close fight.

THE BACKGROUND

In sending his trade bill to Congress in April, President Nixon stressed that the United States was no longer the dominant world economic power and needed a trade policy that would be "equal to the challenges of our times."

He linked the remodeling of trade policy also with the need to work out new trading and monetary systems with the European Economic Community, Canada, Japan and other United States trading partners.

In the field of trade, Administration officials have asserted that the United States especially wants a new round of trade negotiations, not only for a further reduction of tariffs but also of nontariff barriers. The latter include especially qualitative, or quota, restrictions on imports, notably those applied to agricultural products by the European Community.

But at the same time, the Administration has stressed the need for new "trading rules" that would allow temporary import restrictions to deal with situations of the kind provided for in the trade bill.

The main argument here is that many countries, such as Japan, now have a productive capacity by which they can achieve a sudden outpouring of exports that would disrupt other countries' economies.

The import-restrictive provisions of the trade bill have consequently been described simply as "safeguards" against the hazards and possibly the "unfair" practices of a changed world economy. The Administration also has said that it needs the two-edged powers to limit as well as expand trade in order to give it a stronger bargaining position in coming trade negotiations.

A main practical purpose of the trade bill is to authorize United States participation in these trade agreement discussions which begin formally in Tokyo on Sept. 12. The trade talks, under the General Agreement on Tariffs and Trade, is to extend over the next two years.

House-approval of the trade bill is considered both desirable and essential before formal start of the talks. Complete enactment with Senate approval is confidently hoped for by the Administration before the end of the year. The start of negotiations, in a sense, may serve to increase pressure for approval since failure of Congress to authorize United States participation would be a major embarrassment, if nothing else.

New authority is needed since the old trade-negotiating authority granted the President expired in June, 1967, along with the Trade Expansion Act under which the Kennedy round was conducted.

In addition to the trade bill the Administration has also submitted a bill to limit tax deferrals on foreign investment. In its final version, this is expected to be much less restrictive than the Burke-Hartke restrictions.

The Administration generally has rejected the charge that foreign investment is harmful to domestic employment and has maintained that tax deferral is necessary to give American multinational corporations the same advantages as their foreign competitors hold.

THE PROPONENTS

The Administration trade program generally has won the support of all the groups that have come under the liberal trade label. These include the major foreign trade organizations, such as the National Foreign Trade Council and the American Importers Association.

The proponents include also organizations that represent the multinational corporations, such as the Emergency Committee for American Trade, the United States Council of the International Chamber of Commerce and the United States Chamber of Commerce.

Spokesmen for some of these groups, however, such as the importers, have expressed anxieties over the import restriction provisions of the bill. Along with voicing their concern, they have said that they hoped the import curbs would be used sparingly or not at all.

THE OPPONENTS

If not in the House, the main opposition to any kind of legislation designed to reduce tariffs and trade barriers will come in the Senate from supporters of the Burke-Hartke bill.

These consist primarily of the American Federation of Labor-Congress of Industrial Organizations and some of their leading affiliated unions. At the same time, groups that have sought to curb imports during recent years, notably those of the textile industry, may push for restrictive amendments of the trade bill in the Senate.

But by incorporating its own import-restrictive provisions in the trade bill and also offering a bill to modify tax treatment of multinational corporations, the Administration appears to have neutralized traditional protectionist groups to some extent.

However, some version of the Burke-Hartke bill is still likely to gain support in the Senate.

In testifying recently at House Ways and Means hearings, I. W. Abel, head of the United Steelworkers of America, urged Congress "to slow the massive flood of imports that are sweeping away jobs and industries in wholesale lots."

Mr. Abel, who is chairman of the A.F.L.-C.I.O.'s economic policy committee, declared that failure to enact the Burke-Hartke bill "will assure the decline of the standard of living which has made America the world's foremost industrial and economic power and leave this nation a fourth-rate industrial society."

An opposite view was taken by the Nobel Prize-winning economist of the Massachusetts Institute of Technology, Prof. Paul A. Samuelson. Writing recently on Americans' fears about the rise of competition and technology in other countries, Professor Samuelson concluded:

"Even if the most dire pessimists are correct in their belief that much of existing American industry can be preserved in its present form only by universal protective quotas of the Burke-Hartke type, it is a pitiful delusion to believe that such measures will enhance rather than lower the real standard of living of the American people."

THE ABORTION CULTURE

Mr. BUCKLEY. Mr. President, the July 9 issue of Newsweek contains an article by columnist Nick Thimmesch that summarizes in a superb manner the full ethical consequences that will follow on the easy acceptance of abortion. He warns against "the creeping utilitarian ethic in medicine that impinges on human dignity," a utilitarianism that is now being used to advocate euthanasia not only for terminal patients, but for the mentally ill as well; a utilitarianism that will allow experimentation on human beings; a utilitarianism that has already unfolded the horrors of psychosurgery on unruly children and violence-prone prisoners, and the sterilization of troublesome welfare recipients.

Mr. President, I urge our colleagues to read Mr. Thimmesch's article, and ask unanimous consent that it be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ABORTION CULTURE

(By Nick Thimmesch)

A journalist often gets caught up in events flaring into instant print and broadcast—a Watergate, feverish inflation, a fretful fuel crisis. We grab at these, try to make some sense out of it all and soon turn to what's next. Occasionally we come on to something that strikes the core and won't go away. For me, it has been the question of the value of human life—a question embracing abortion, letting the newborn die, euthanasia and the creeping utilitarian ethic in medicine that impinges on human dignity. It's all reminiscent of the "what is useful is good" philosophy of German medicine in the '30s—a utilitarianism that sent 275,000 "unworthy" Germans to death and helped bring on the Hitler slaughter of millions of human beings a few years later.

Now super-abortionists and others who

relish monkeying around with human life cry that this is scare stuff inspired by hysterical Catholics waving picket signs. Not so. There is growing concern among Protestant and Jewish thinkers about "right to life" and the abortion-binge mentality.

Fetal life has become cheap. There were an estimated 1,340,000 legal and illegal abortions in the U.S. last year. There were a whopping 540,245 abortions in New York City in a 30-month period under the liberalized state abortion law. The abortion culture is upon us. In one operating room, surgeons labor to save a 21-week-old baby; in the next, surgeons destroy, by abortion, another child, who can also be reckoned to be 21 weeks old. Where is the healing?

PLASTIC BAGS

Look beyond the political arguments and see the fetus and what doctors do to it. An unborn baby's heartbeat begins between the 18th and 25th day; brain waves can be detected at seven weeks; at nine to ten weeks, the unborn squint, swallow and make a fist. Look at the marvelous photographs and see human life. Should these little human beings be killed unless it is to save the mother's life?

Other photos show this human life aborted, dropped onto surgical gauze or into plastic-bagged garbage pails. Take that human life by suction abortion and the body is torn apart, becoming a jumble of tiny arms and legs. In a D and C abortion, an instrument slices the body to pieces. Salt poisoning at nineteen weeks? The saline solution burns away the outer layer of the baby's skin. The ultimate is the hysterotomy (Caesarean section) abortion. As an operation, it can save mother and child; as an abortion it kills the child. Often, this baby fights for its life, breathes, moves and even cries. To see this, or the pictures of a plastic-bagged garbage can full of dead babies, well, it makes believers in right-to-life.

It's unfair to write this way, cry the super-abortionists, or to show the horrible photos. But Buchenwald and Dachau looked terrible, too. Abortions are always grisly tragedies. This truth must be restated at a time when medical administrators chatter about "cost-benefit analysis" factors in deciding who lives and who dies.

THE "GOOD DEATH"

The utilitarian ethic is also common in the arguments of euthanasia advocates at work in six state legislatures. Their euphemisms drip like honey (should I say, cyanide?) just as they did in Germany—"death with dignity," the "good death." Their legal arguments fog the mind. Their mentality shakes me. One doctor, discussing the suicide-prone, wrote: "In such instances, positive euthanasia—a nice, smooth anesthetic to terminate life—appears preferable to suicide." Dr. Russell Sackett, author of the "Death With Dignity" bill in Florida, said: "Florida has 1,500 mentally retarded and mentally ill patients, 90 per cent of whom should be allowed to die." The German utilitarians had concluded the same when they led the first group of mental patients to the gas chamber at the Sonnestein Psychiatric Hospital in 1939. It bothers me that eugenists in Germany organized the mass destruction of mental patients, and in the United States pro-abortionists now also serve in pro-euthanasia organizations. Sorry, but I see a pattern.

Utilitarianism isn't all abortion or euthanasia. Utilitarians ran the experiment in which syphilitic black men died through lack of penicillin. There are also experiments on free-clinic patients, students, the institutionalized. Senate hearings revealed that two experimental birth-control drugs were used on the "vulnerable" for purposes other than those approved by the Food and Drug Administration.

This monkeying around with people is relentless. Some medics would like to sterilize institutionalized people from here to breakfast. Psychosurgery is performed on hundreds of Americans annually, not to correct organic brain damage, but to alter their behavior. This chancy procedure, a first cousin of the now discredited prefrontal lobotomy that turned 50,000 Americans into human vegetables, is performed on unruly children and violence-prone prisoners.

Experimenters produce life outside the womb—combining sperm and ovum—and dispose of the human zygotes by pouring the solution down the sink drain. Recently scientists debated guidelines for experimenting with the live human fetus. To those considering the fetus as an organ, like, say, a kidney, Dr. Andre Hellegers of Georgetown University pointed out that fetuses have their own organs and cannot be considered organs themselves. How does one get consent from a live fetus? he asked. Or even from its donors—the parents who authorized the abortion?

Once fetal experimentation is sanctioned, are children to be next? Farfetched? No. In the New England Journal of Medicine, Dr. Franz Ingelfinger recently advocated removing the World Medical Association's absolute ban on experimenting with children and mental incompetents.

We can brake the tendencies of technocratic-minded doctors and administrators coldly concerned with "cost-benefit analysis." There was no such brake in Germany. After the first killings at Sonnestein, respected German doctors, not Nazi officials, killed 275,000 patients in the name of euthanasia. Many were curable. Eventually the doomed "undesirables" included epileptics, mental defectives, World War I amputees, children with "badly modeled ears" and "bed wetters."

UTILITARIAN ETHIC

The worst barbarisms often have small beginnings. The logical extension of this utilitarian ethic was the mass exterminations in slave-labor camps. In "A Sign for Cain," Dr. Frederic Kertham tells how death-dealing technicians from German state hospitals (and their equipment) were moved to the camps in 1942 to begin the big job.

Could the "what is useful is good" mentality lead to such horror in the U.S.? Not so long as I am allowed to write like this—which German journalists couldn't. Not so long as right-to-life Americans can dispute—which Germans couldn't. The extremes of the utilitarian mentality rampaging today through medicine, the drug industry and government will be checked by our press, lawmakers and doctors, lawyers and clergymen holding to the traditional ethic. The Germans weren't blessed that way.

(Nick Thimmesch is a syndicated columnist for the New York newspaper Newsday. He is based in Washington.)

UNDERSTANDING WHAT IS MEANT BY "GENOCIDE"

Mr. PROXMIRE. Mr. President, I spoke yesterday on which groups were expressly covered by the Genocide Convention. The definitions of these groups constitute the first of two parts of the proposed implementing legislation that would be passed after the treaty is ratified. Section 2 deals in explicit terms with the question of what will be considered a genocidal act:

§ 1092. Genocide

"(a) Whoever, being a national of the United States or otherwise under or within the jurisdiction of the United States, willfully without justifiable cause, commits, within or without the territory of the United States in time of peace or in time of war, any of the following acts with the intent to destroy by means of the commission of that act, or with the intent to carry out a plan to destroy, the whole or a substantial part of a national, ethnic, racial or religious group shall be guilty of genocide:

"(1) kills members of the group;

"(2) causes serious bodily injury to members of the group;

"(3) causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members;

"(4) subjects the group to cruel, unusual, or inhumane conditions of life calculated to bring about the physical destruction of the group or a substantial part thereof;

"(5) imposes measures calculated to prevent birth within the group as a means of effecting the destruction of the group as such; or

"(6) transfers by force the children of the group to another group, as a means of effecting the destruction of the group as such.

Some of the confusion concerning the convention arises from a lack of understanding exactly who is covered by the treaty and what acts are genocidal. This implementing legislation clears up any such misunderstandings. Consequently, there is no need for further delay in acting on the Genocide Convention.

GRAIN FOR BANGLADESH

Mr. SAXBE. Mr. President, on June 20, 1973, I along with 39 of my colleagues urged President Nixon and General Secretary Brezhnev to divert a large quantity of grain under the United States-Soviet grain agreement to Bangladesh. The letter and speech in support thereof can be found in the July 9 CONGRESSIONAL RECORD on page 22780. I wish to commend to the attention of my colleagues an article appearing in the Washington Post on July 11 and an editorial from the July 12 New York Times. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the article and editorial were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 11, 1973]

DACCA SEEKING UNITED STATES-RUSSIAN LOAN OF WHEAT

(By Ronald Koven)

Bangladesh has appealed to the Soviet Union to divert some of the wheat it is buying from the United States to help avert a severe food shortage.

According to high Bangladesh sources in Washington, Dacca has pledged that it will reimburse the Soviets next year with a surplus they expect to get from the United States under the Food for Peace program.

Such an arrangement would amount indirectly to joint Soviet-American aid for Bangladesh.

When Soviet Communist Party chief Leonid I. Brezhnev was in Washington three weeks ago, a bipartisan group of 39 senators led by Sen. William B. Saxbe (R-Ohio) sent a letter to President Nixon asking him to request the Soviet leader to divert 500,000 tons of his American wheat to Bangladesh.

A White House spokesman refused to say whether President Nixon had brought the proposal up during his talks with Brezhnev.

Bangladesh has since made its own direct appeal to the Kremlin for 200,000 tons to be delivered in the critical period before the start of the Bengali harvests in late November, Bangladesh diplomats here said. The initial Soviet reaction was not unfavorable, according to a report from the Bangladesh ambassador in Moscow.

The Soviet Union contracted last year for 11 million tons of U.S. wheat and more than 6 million tons of feed grains. Much of this grain is still in the pipeline. Transfer of the Soviet-owned wheat to Bangladesh would simply involve changing the destination of grain ships now loading in Texas ports.

Bangladesh diplomats say they consulted beforehand with the U.S. government about the appeal to Moscow. The Americans said they would be willing to consider the idea if the Soviets go along.

The appeal to Moscow was made necessary by the shortage of American grain surpluses after the $1 billion U.S. sale to the Soviet Union.

Only yesterday, Bangladesh bought, with a U.S. aid grant, 100,000 tons of American wheat at the open market price of about $145 a ton delivered in Bangladesh. It is part of a total of 280,000 tons Washington agreed on Friday to provide for delivery during July, August and September—200,000 in direct grants and 80,000 under the Food for Peace program (PL 480).

Bangladesh officers say they are very pleased with Friday's U.S. commitment, which almost means their request of 300,000 tons for the current quarter. But the Americans have been noncommittal about the total Bangladesh request of 1.5 million tons for all of fiscal 1974—850,000 tons under PL 480 and the rest in aid grants.

Officials at the Food for Peace program say they are only making commitments on a quarter-by-quarter and even a month-by-month basis until the size of the American fall and spring harvests is known.

U.S. crop acreage has been vastly expanded this year, and, barring a weather calamity, Washington should have more PL 480 surpluses available for Bangladesh and other food aid recipients later on. Bangladesh ranks with India as the major beneficiary of Food for Peace.

The United States has provided Bangladesh with a total of 1.5 million tons of wheat and rice in the 18 months since it achieved its independence in December 1971—an amount equal to what the country is asking for in the current fiscal year.

But, starting with the current fiscal year, all PL 480 grain for Bangladesh will be under provisions of the law that provide for payment in local currencies. The money is spent in the country for U.S. embassy and other U.S. local expenditures. Bangladesh had received all its previous PL 480 surpluses as outright gifts.

There seems to be no immediate prospect that Bangladesh can become self-sufficient in food, and the United States, as the world's principal donor, will most probably be called upon to help it for some years. Bangladesh government plans foresee self-sufficiency in three to five years at the earliest.

[From the New York Times, July 12, 1973]

HELP FOR BANGLADESH

An appeal from Dacca to the Soviet Union to divert some of the wheat it is buying from the United States to help avert a severe food shortage in Bangladesh suggests a fruitful new area for constructive Soviet-American cooperation.

Bengali sources say they have pledged to reimburse the Soviets next year with "surplus" wheat they expect to get from the United States under the Food for Peace program. This arrangement would enable the United States, currently short of gift wheat because of its large sales to the Soviets earlier this year, to continue its generous food shipments to Bangladesh at a time when they are most desperately needed. It should cause the Soviets no inconvenience since they are reported to be now receiving more wheat than their ports can efficiently absorb.

Few Americans would object to reimbursing the Russians next year from an expected bumper crop if an emergency loan of stocks from this year's Soviet purchases can help avert starvation in a hungry land. But the image of Soviet-American cooperation in a humanitarian cause would be more real if Moscow would volunteer to share the cost of any diverted wheat. The Kremlin, after all, had a good deal more to do with the creation of the Bengali nation than did the United States. It is time the Soviets assumed a more equal share of the burden of helping to keep the Bengalis alive.

RESOLUTIONS OF DISABLED AMERICAN VETERANS OF DELAWARE

Mr. BIDEN. Mr. President, in the past the Disabled American Veterans in Delaware has been active in promoting the interests of our returning disabled veterans, and in so doing has promoted the interests of our Nation.

At their recent convention, this organization unanimously passed three resolutions concerning the celebration of Veterans Day, reforms in State taxes, and the establishment of a convalescent home for Delaware veterans.

Mr. President, I ask unanimous consent that these three resolutions of the Disabled American Veterans in Delaware be printed in the RECORD.

There being no objection the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION—VETERANS DAY

Whereas, by presidential decree Federal Government has set the fourth Monday of October as Veterans Day and discontinued November 11th as Armistice Day, and

Whereas, 18 States of these United States have changed the fourth Monday of October called Veterans Day back to November 11th and renamed it Armistice Day.

Be it resolved, by the Disabled American Veterans, Department of Delaware, Inc., in State Convention assembled at Wilmington, Delaware, June 2, 1973, that we whole-heartedly endorse the changing and renaming of Veterans Day from the fourth Monday of October to Armistice Day, November 11th, and

Be it further resolved, that we request the Governor, Senate and House of Representatives of the State of Delaware to act forth with to make November 11th once again Armistice Day, and

Be it further resolved, that a copy of this resolution be sent to William V. Roth, Jr., U.S. Senator; Joseph R. Biden. Jr., U.S. Senator; Pierre S. duPont, U.S. Congressman; and Sherman W. Tribbitt, Governor of the State of Delaware, Members of the Senate and House of Representatives of Delaware, the Commander of the American Legion, Veterans of Foreign Wars, Jewish War Veterans, Paralyzed Veterans of America, Veterans of World War I and Disabled American Veterans National Headquarters.

RESOLUTION—STATE TAX REFORM

Whereas, veterans of all wars have given of themselves in the defense of our country and because of this have been rated 100% by the Veterans Administration for disability, and

Whereas, the monthly compensation given to them is so very small that many have to depend on charity of others to exist.

Be it resolved, by the D.A.V. Department of Delaware, Inc. in State Convention, June 2, 1973, at Wilmington, Delaware do petition the Governor, Senate and House of Representatives of the State of Delaware to take action to pass laws exempting these 100% rated veterans from all State Income Tax and Real Estate Taxes on their owned real estate that they live in.

Be it further resolved, that a copy of this resolution be sent to William V. Roth, Jr., U.S. Senator, Joseph R. Biden, Jr., U.S. Senator, Pierre S. duPont, U.S. Congressman, and Sherman W. Tribbitt, Governor of the State of Delaware, members of the Senate and House of Representatives of Delaware, the Commander of the American Legion, Veterans of Foreign Wars, Jewish War Veterans, Paralyzed Veterans of America, Veterans of World War I and Disabled American Veterans National Headquarters.

RESOLUTION—CONVALESCENT HOME FOR DELAWARE VETERANS

Whereas, the State of Delaware does not have a Convalescent, Nursing or Rest Home for veterans who are in need of such services, and

Whereas, the Veterans Administration does send veterans and pay for such services for veterans, to private nursing homes, and

Whereas, it has been the experience of these veterans that they are not allowed to enjoy the services needed and due them.

Be it resolved, by the D.A.V. Department of Delaware, Inc., in State Convention assembled at Wilmington, Delaware, June 2, 1973, that they petition the Governor, Senate and House of Representatives of the State of Delaware to set aside a parcel of land and/or building, to serve as a convalescent, nursing or rest home to veterans, and

Be it further resolved, that a copy of this resolution be sent to William V. Roth, U.S. Senator, Joseph R. Biden, U.S. Senator, Pierre S. duPont, U.S. Congressman, and Sherman W. Tribbitt, Governor of the State of Delaware, the Commander of the American Legion, Veterans of Foreign Wars, Jewish War Veterans, Paralyzed Veterans of America, Veterans of World War I and Disabled American Veterans National Headquarters.

JUDGE SIMON E. SOBELOFF

Mr. MATHIAS. Mr. President, fame may illuminate a career, but obscure the man. We may think we know the great lawyer, the wise judge or the high official of government, but yet know very little of the personality behind the title and the prestige. The human spirit, in such cases, is not big enough to survive material success.

Simon E. Sobeloff was no such man. Whether he was practicing law, or serving as a legal officer or as a judge, he was always himself. He brought his own warmth, compassion and humor to every situation in which he found himself. He never lost a sense of exact justice whether that required punishment of an offender or redress of the wrongs of the oppressed and the aggrieved.

In order to do all that he did in a single lifetime, Judge Sobeloff was a busy man. But he was never too busy to contribute time to any public or private cause that appealed for his help. Young lawyers who sought his advice and help found his door open.

I knew Judge Sobeloff for many years. We saw each other many times under many different circumstances. But, he never changed his wise, witty, humane approach to each new situation and to life itself. He was my friend and I shall miss him.

I ask unanimous consent that the accounts of Judge Sobeloff's death which appeared in the Baltimore Sun, the Washington Post, and the Star-News on July 12, 1973, be included in the Record, together with an editorial from the Sun.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Baltimore Sun, July 12, 1973]

Judge Sobeloff Dies at Age 78

Judge Simon E. Sobeloff, who rose to a seat on the second highest bench in the Federal courts from a post as baliff in the Baltimore Courthouse, died yesterday at University Hospital after an illness of several months.

Judge Sobeloff, who was 78, capped a 59-year legal career by serving as chief judge of the United States Court of Appeals for the Fourth Circuit from 1958 untli 1964.

His career also included service as chief judge of the Maryland Court of Appeals, solicitor general of the United States, Baltimore city solicitor and as an adviser to Theodore R. McKeldin, former mayor and governor.

The first member of his faith to sit on the Maryland Court of Appeals and only the fifth to head such a state court, he was active in Jewish affairs both locally and nationally.

When Mr. McKeldin was elected Mayor in 1943, Mr. Sobeloff somewhat reluctantly took the post of city solicitor and served through that administration and into the first six months of Thomas D'Alesandro, Jr.'s first term in 1947.

Even after Mr. D'Alesandro replaced him as head of the city law department, the Democrat retained Mr. Sobeloff as his labor-relations consultant, a post he kept until 1952.

Mr. Sobeloff, involved as he was in politics and with politicians all his life, never sought elective office himself and stayed clear of the brand of partisanship which so often marks the relations between opposing politicians.

A profile of him written a few years ago remarked in this regard:

"One remarkable aspect of his career is that he seems to have escaped most of the obloquy that is the normal lot of persons in public life. A review of voluminous newspaper articles and editorials reveals almost nothing of a censorious nature."

Governor McKeldin hamed him seventeenth chief judge of the state's highest court, the Court of Appeals, in December, 1952.

Fifteen months later he resigned to become solicitor general. President Eisenhower nominated him as a member of the Circuit Court of Appeals in July 1955, but confirmation by the Senate was delayed for a year by Southern senators concerned over his possible attitude toward school segregation.

Judge Sobeloff was sworn as a member of that court July 19, 1956, and became chief judge by seniority March 19, 1958.

Throughout his career, as advocate, prosecutor and jurist, ran the thread of concern for the rights and privileges of the individual.

Abstract principles of law were grist in his daily mill, especially in his years as an appellate judge, but he never lost sight of the individual whose troubles were at the root of the legal controversy.

A determined advocate of fundamental human rights, Judge Sobeloff found himself at various points in his career at the center of some of the most profound social and political disputes of his time.

Most recent and most spectacular were a series of cases dealing with the end of racial segregation in the schools.

As solicitor general, the federal government's chief trial lawyer, he presented the government's arguments on implementation of the Supreme Court's decision in May, 1954, which outlawed segregation in the public schools.

And as a member of the Circuit Court of Appeals whose jurisdiction covered six Southern states, he helped decide many of the bitterly fought cases which broke the back of "massive resistance."

The qualities he brought to the bench were evident almost from the start of his public career, along with his faculty for being on or near the contemporary political or social hot spot.

His first experience with peaceful political upheaval was the historic filibuster which broke the almost dictatorial power of Speaker Joseph G. Cannon over the House of Representatives in 1910. The 15-year-old Sobeloff was then a page in the House.

As United States attorney here, he was called upon to prosecute—or decide when not to prosecute—violators of the federal prohibition laws, a social experiment with which he was not in sympathy.

During the Depression years, although a Republican, Judge Sobeloff was a leading figure in municipal and state efforts to draft legislation easing the hardships of unemployment, a matter never before thought a concern of government in this country.

While still the federal prosecutor in the early Thirties, he was drawn into another pioneering field, labor arbitration. He was named first impartial arbitrator, with czar-like powers, of the Baltimore clothing industry.

He became solicitor general while the nation was rent by the frequently conflicting demands of protection against subversion and the preservation of civil liberties.

In one instance Judge Sobeloff declined to be associated with the Government's side in an appeal of a security-risk case taken to the Supreme Court. It was a decision, his friends believe, for which he was later penalized politically.

Running through all his life there was the same thread. In the words of one of those who knew him best, Mr. McKeldin, Judge Sobeloff was "a champion of the underdog."

The judge himself put it a little differently. Repeatedly, in addresses to legal groups around the country, he expressed his concern over how a judge can dispense "equal justice under law."

"If [judges] are to perform their duty intelligently, they must penetrate beneath the surface of things," Judge Sobeloff said in one speech.

"Theirs is the function of infusing the law with the quality of common sense and fairness. . . . What, after all, is the fundamental purpose of any legal system? Is it not to bring order and fair dealing into society? . . .

"Judging is no merely mechanical process; it requires sensitivity and the tincture of common sense, without which the judicial process will produce at best merely an anemic semblance of justice and at the worst a perversion of justice."

This was the philosophy which controlled not only his conduct on the bench but also his conduct of such diverse offices as federal prosecutor, solicitor general and an influential figure in the Republican party in Maryland.

He was from the first to the last in the forefront of the movement to keep his party's principles abreast of the changing social and political developments of a turbulent period of American history.

In an important sense he spoke through the voice of Mr. McKeldin, one of the most vocal of the liberal or "modern" Republicans, during the time control of the GOP was wrested from the conservatives led by the late Senator Robert A. Taft.

"He refined my points of view," is the way Mr. McKeldin credited Judge Sobeloff, a McKeldin adviser and close friend from the time they both were starting their long public careers.

Judge Sobeloff was, in fact, one of the major architects of the McKeldin speeches, including the then Governor's address which nominated Dwight D. Eisenhower for the presidency in 1952.

Of medium build, with thinning gray hair and a close-clipped mustache, Judge Sobeloff's outstanding physical feature was probably the warm humor of his brown eyes.

The sense of humor it revealed has spiced all his works in a profession not noted for its wit.

When Judge Sobeloff was United States attorney, Federal Judge W. Calvin Chesnut described his performance with these words in open court:

"Never in my memory has that office been conducted with greater effectiveness or with finer discrimination, and, I might add, with a better sense of humor."

No less notable was his erudition in subjects far afield from the law. He did not have the benefit of what is considered today a liberal education, yet he was capable, in a single speech, of quoting Georges Clemenceau, Lord Bowen, a British jurist, John Wesley and Dr. Samuel Johnson.

An addict and expert practitioner of the colorful and pertinent anecdote, he frequently quoted in a brief or argument a case in point taken from his vast storehouse of nonlegal reading.

On one occasion he quoted the great Tory British prime minister, Benjamin Disraeli, in support of public housing.

Born in East Baltimore December 3, 1894, Judge Sobeloff first came to public attention just thirteen years later.

Legend had it that he made political speeches for the Republicans on street corners at that age. The judge himself said he delivered only one oration for the cause at that age, and it was in the old Princess Theatre on East Baltimore street.

His activity caught the attention of John Kronmiller, Republican Congressman from the Third district, who had the youth appointed a page in the Sixty-first Congress before he had quite finished his course at City College.

It was that Congress which, behind the leadership of Republican insurgents like George W. Norris, reduced the great power held to that time by the Speaker of the House.

In later years, reminiscing about that battle with another former page, Judge Sobeloff recalled how "on the third night, exhausted by emotion and loss of sleep, I stretched out and slept in one of the alcoves at the north entrance to the House chamber."

Returning to Baltimore two years later, young Simon obtained a job as a $1.50-a-week clerk. He was shortly appointed to a similar job in the office of the then state's attorney, William F. Broening.

While still attending the University of Maryland Law School, not yet 21 years old, he became bailiff and then secretary to Morris A. Soper, then chief judge of the Supreme Bench and the man Judge Sobeloff was to succeed on the Circuit Court of Appeals.

Judge Sobeloff was admitted to the bar in 1914, a year before his graduation from law school, a practice which was permissible in those days.

With the advent of a Republican administration in the city in 1919, he was named assistant city solicitor by Mr. Broening, the Mayor.

Republican fortunes received a setback in the next election, and Judge Sobeloff returned to private practice until the second Broening administration in 1927.

It was in this term as deputy city solicitor that he first met Mr. McKeldin, Mayor Broening's secretary, and formed the friendship and close association which was to influence both men's careers greatly in the years to come.

In the closing months of the last Broening administration, Judge Sobeloff was named federal prosecutor here and took over the post on Lincoln's birthday, in 1931.

Among the primary tasks of the United States attorney in those days was the prosecution of prohibition law violators, a task for which he had no taste but which he carried out with vigor seasoned with discretion.

When federal prohibition agents were assaulted by a mob incensed over a raid on their neighborhood speakeasy, an angry Mr. Sobeloff warned city and state officials that he would not tolerate such conduct.

His distaste for censorship was made clear the same year when he ordered customs authorities to release a copy of Aristophanes's "Lysistrata," which federal authorities had labeled obscene.

In 1964, when he reached the age of 70, he stepped down as chief judge and in 1970 was placed on "senior status," remaining active in court affairs until his final illness.

In addition to the many civic posts he held, he was an officer or active member of many Jewish charitable organizations and social welfare and professional groups.

He was the recipient of five honorary doctorates from various schools and was honored by numerous religious, civic and professional groups.

In 1918, he married the former Irene Ehrlich, who died in December, 1972. Most recently, he had been living in the Highfield House Apartments, 4000 North Charles street.

Funeral services will be held at 10 A.M. tomorrow at the Har Sinai Temple, 6300 Park Heights avenue.

He is survived by two daughters, Mrs. Victor Mayer, of Bethesda, Md., and Mrs. Samuel Vale, of Santa Monica, Calif.; two brothers, Isadore and Harry N. Sobeloff, both of Los Angeles; two sisters, Mrs. Goldie Zemil, of Washington, and Mrs. Florence Glick, of Baltimore, four grandchildren and two great-grandchildren.

[From the Washington Post, July 12, 1973]

Appeals Judge Simon Sobeloff Dies

(By Jean R. Hailey)

Judge Simon Ernest Sobeloff, 78, of the Fourth U.S. Circuit Court of Appeals, a central figure of many years in school desegregation cases, died yesterday at University Hospital in Baltimore.

At one time chief judge of the court, he had gone into partial retirement as a judge in 1971 but continued to sit in cases until several months ago, when he suffered a series of ailments that hospitalized him intermittently.

Judge Sobeloff had served in many top judicial positions over a long career although he was never elected to an office.

He was appointed U.S. solicitor general by President Eisenhower in 1954, while he was serving as Chief Justice of the Maryland Court of Appeals.

A year later, he was called on to present the federal governments case before the U.S. Supreme Court when the highest court was hearing arguments on how to implement its 1954 decision that segregation in public schools was unconstitutional.

Although Judge Sobeloff, acting for the government as a "friend of the court," strongly backed the desegregation decision, he offered "a counsel of moderation with firmness" and rejected extremes on both sides.

Despite his moderate stand, the fact that he had spoken out for school desegregation brought repercussions later that same year when Mr. Eisenhower nominated him to the Fourth Circuit Court of Appeals.

Southern Senators, led by Olin D. Johnston of South Carolina, James O. Eastland of Mississippi and Sam J. Ervin of North Carolina, vociferously opposed the nomination and Judge Sobeloff was not confirmed until a year later.

The Washington Post noted editorially then that there had been a year of "purposeless delay" in the confirmation of a judge whose "qualifications are exceptionally high. He served with distinction as chief judge of the Maryland Court of Appeals and he bought real luster to the solicitor generalship. The poise and patience with which he bore his long confirmation ordeal have served to augment his already high reputation for judicial balance and statemanship."

Although as solicitor general, Judge Sobeloff had advocated gradualism in desegregation, in later years as a member of the circuit appellate court, he showed some impatience with prolonged delays.

He upheld lower court rulings that forced Warren County in Virginia to reopen its only high school at Front Royal, which had been closed to avoid admitting Negroes.

He denied further desegregation stays in Norfolk and Alexandria and stood up firmly for desegregation in cases brought by Charlottesville, Va., and Charlotte, N.C.

The Fourth Judicial Circuit covers Maryland, Virginia, West Virginia, North Carolina and South Carolina.

Judge Sobeloff's home base was Baltimore, where he was born and where he still lived at the time of his death.

He received his first political appointment at the age of 12, when he became a page at the U.S. House of Representatives.

He entered Loyola College in Baltimore at the age of 17 and a year later transferred to the law school of the University of Maryland in College Park, working at the same time as a clerk in the U.S. attorney's office in Baltimore.

Judge Sobeloff received his law degree in 1915 and started in private law practice. In 1920 he was named assistant city solicitor of Baltimore and later was deputy city solicitor.

President Hoover named Judge Sobeloff U.S. attorney for Maryland and he served in that capacity from 1931 to 1934, when he returned to private practice.

A liberal Republican who had served as a special appointee of the Circuit Court of Baltimore in bankruptcy proceedings, Judge Sobeloff during this period became friends with another Maryland Republican, Theodore R. McKeldin.

When McKeldin became mayor of Baltimore in 1943, he named Judge Sobeloff as city solicitor. McKeldin's successor, a Democrat, retained Judge Sobeloff in 1947 in a newly created position of special counsel of the Baltimore City Housing Commission.

In 1952, after McKeldin was elected Govnor of Maryland, he named Judge Sobeloff chief judge of the Maryland Court of Appeals. His appointment as solicitor general came two years later.

Herbert Brownell Jr., who was then U.S. Attorney General, said of Judge Sobeloff:

"As solicitor general, Mr. Sobeloff deals with problems that invite the most mature judgment and expert advocacy of some of our society's most vital and delicate issues. In this position as in others, he has displayed profound insight into the basis for social tension, a keen sensitivity to our great traditions, an unusual knowledge of our history and struggle for freedom.

"He has deep faith in our constitutional institutions, and in their power of adaptability to cope with and provide for any contingency, however difficult or novel. We admire him in our daily contact in the Department of Justice, because of his abiding interest and concern as to how we can best devise new methods of meeting human needs; how we can most judiciously uplift the dignity of man; how we can most wisely reconcile the needs of an ordered society with the rights of the individual. As he continues his search to realize the spiritual values of life, he is never unmindful of its realities."

Judge Sobeloff was concerned with many aspects of the importance of responsibility, including that of the press.

While still solicitor general, he told a conference of editorial writers, which also was attended by eight justices of the Supreme Court, that "the American press holds a unique responsibility."

The press, he said, "provides and must continually man the watchtowers from which to observe the operations of the courts and other public agencies. Fraud, corruption and dishonesty, in and out of government, would go undiscovered in many instances but for the vigilance of the press."

He added that the judge and the editor enjoy "special status" and are set apart "only that they may act as guardians of other men's liberties."

Judge Sobeloff held many honors, includincluding honorary doctorate from the University of Maryland, Morgan State College, the New School for Social Research and the Hebrew Union College.

He was active both locally and nationally in Jewish affairs, serving as an officer in the American Jewish Congress, the Board of Jewish Education in Baltimore, the National Association of Jewish Education, B'nai B'rith, the Baltimore Jewish Council, the Zionist Organization of America and the National Foundation for Jewish Culture.

He also was active in the Prisoners' Aid Association, the Baltimore Urban League, the American Judicature Society, the American, Federal and Maryland State Bar Associations and the Bar Association of Baltimore City.

He had received awards as "Man of the Year" from the Independent Order Brith Sholom and the Advertising Club of Baltimore, and awards also from the National Conference of Christians and Jews, the Federal Bar Association, the Junior Chamber of Commerce and the Trial Lawyers of the City of New York, among many others.

Judge Sobeloff had been called on to speak before professional and civic organizations in all parts of the country.

His wife, Irene Sobeloff, also a leader in Baltimore civic and Jewish affairs, died last December.

He is survived by two daughters, Ruth Mayer, of Bethesda, and Evva Vale, of Santa Monica, Calif.; two brothers, Isadore and Harry Noah, of Los Angeles, four grandchildren and two great-grandchildren.

[From the Washington Star-News, July 12, 1973]

Simon E. Sobeloff Dies; Judge of Federal Court

(By Rebecca Leet)

Judge Simon E. Sobeloff, 78, former U.S. solicitor general and former chief judge of the U.S. 4th Circuit Court of Appeals, died in Baltimore yesterday after a long illness.

As a judge, he was instrumental in enforcing school desegregation in his court's jurisdiction, which includes Virginia, Maryland, West Virginia and the Carolinas.

Warm, easy-going and uncontentious, Judge Sobeloff led the way to moderate but firm enforcement of school integration during his 17 years on the appeals court.

He was partially retired from the appellate bench, which meant that he sat irregularly.

He became a federal appellate judge in 1956 and the court's chief judge in 1958. He stepped down as chief judge in 1964 as required by law because of his 70th birthday.

Judge Sobeloff was born in Baltimore on Dec. 3, 1894, the son of immigrants from Russia. The father sold leather cushions for the seats in Baltimore courthouses, where his son was to begin his career as a jurist.

Judge Sobeloff did not always find himself on popular legal ground.

Many of Virginia's early efforts at avoiding desegregation, including its "massive resistance" strategy—were thwarted by decisions from his court.

Despite the frequent unpopularity of his desegregation rulings, he contended his intent was to impose the court's orders "with sympathetic consideration of the human element on both sides."

He once said:

"If I must make a choice between a judge who is completely orthodox and applies without imagination or feeling a rigid rule, and another judge who is perceptive of the justice and common sense of the case, even at the expense of some harmless departure from the strictness of the legal formula, I prefer the latter."

He was solicitor general of the United States when President Eisenhower nominated him to the appeals court. The nomination was held up for almost a year by Southern senators who charged he favored integration.

He was solicitor general when the Supreme Court handed down its famous Brown decision on school desegregation although the previous solicitor general had argued the case before the court.

Sobeloff later advised the court to steer a middle course in enforcing the decision and side neither with those demanding immediate and full desegregation nor with those demanding that localities be allowed to set desegregation timetables.

"The thing for government officials and their legal advisers to remember," he said, "is that they are not engaged in a mechanical process, but are dealing with people and people's rights."

When he was 12 years old, a local congressman heard him give a speech and granted him his first public appointment—as a page in the House of Representatives.

Judge Sobeloff graduated from the University of Maryland Law School in 1915 and went into private practice while continuing his job as clerk to Chief Judge Morris Soper of the Baltimore City Supreme Bench.

It was Soper's seat that Judge Sobeloff later filled on the 4th Circuit Court.

Interspersed with private practice, Judge Sobeloff served as assistant city solicitor and deputy solicitor in Baltimore during the 1920s. In 1931 he was named U.S. attorney for the district of Maryland.

As such, he testified at a Senate Judiciary Committee hearing and pleaded for a federal anti-lynching law.

He returned to private practice in 1934 and in 1943 was named city solicitor by Baltimore Mayor Theodore McKeldin. He was a speechwriter in McKeldin's successful bid for governor in 1950.

Gov. McKeldin, a Republican, named Judge Sobeloff to head a 12-member Commission on Administrative Reorganization of the State of Maryland, a post he relinquished in 1952 when he was named chief judge of the Maryland Court of Appeals.

He was chief judge of the state's highest appellate court until 1954, and solicitor general from 1954 until 1956.

Judge Sobeloff was active nationally and in Baltimore in Jewish charitable causes.

He leaves two daughters, Mrs. Ruth Mayer of Bethesda and Mrs. Evva Vale of Santa Monica, Calif.; four grandchildren and two great-grandchildren. His wife, Irene, died in December.

Services will be held at 10 a.m. tomorrow in the Har Sinai Temple in Baltimore.

[From the Baltimore Sun, July 12, 1973]

SIMON E. SOBELOFF

It has been seven years since Simon E. Sobeloff stepped down as chief judge of the United States Court of Appeals for the Fourth Circuit. The move was in accord with the demands of the law: he had reached the mandatory retirement age of 70 but was permitted to continue as one of the five circuit court judges. In a sense, the step down ended a public career in the legal profession that spanned his adult life and ranged from legal representatives for local, state and federal governments to chief judgeships on state and federal courts. In between his periods of public service, Judge Sobeloff returned to private practice in his profession. But it was his service in the public interest for which he will be remembered and which marked the highlights in his career.

His most controversial service came when he was chief judge of the Fourth Circuit Court of Appeals. While some civil rights backers regarded him as too much a gradualist, he was committed to liberal views as was proven in his school desegregation opinions involving situations in Virginia. Earlier as Solicitor General in the Eisenhower Administration he had supported desegregation cases before the Supreme Court. His positions have left a mark the validity of which now stands without question.

Locally and by those with long memories, Judge Sobeloff's legal and advisory services during the Broening, McKeldin and D'Alesandro mayoral administrations will be recalled; in each case the public interests were well served. Judge Sobeloff's activities reached beyond his profession. He will be missed as a lawyer, a judge, an able adviser to high public officials and as a man who served the public's interests.

THE AMERICAN FIELD SERVICE INTERNATIONAL SCHOLARSHIPS

Mr. HUMPHREY. Mr. President, I would like to call to the attention of the Senate and others the fact that some 2,200 students, under the sponsorship of the American Field Service program, are here in Greater Washington this week. These students, from 63 countries around the world, are visiting area families and this Nation's Capital prior to their return home at the end of this week.

This visit to Washington, D.C., concludes their year in the United States as guests in American homes under the AFS program. They are staying in some 65 communities in or around Washington, D.C., and they have just returned from a 2-week bus trip to dozens of communities throughout the community.

These students will have their final get-together at Walt Whitman High School in Bethesda on July 12. Many of the students will be visiting individual offices of Members of Congress and I had the pleasure of meeting with a number of these students myself this week.

The American Field Service international scholarships program is dedicated to bringing together people of different cultures in order that they may learn from each other. Thus when participants return to their own country, they should have a greater understanding and awareness of themselves, their own culture, and the oneness of mankind. It is hoped that the student participants and their host families will learn to accept and appreciate each other's different customs and values, and the forces which played a part in shaping these differences.

The AFS international scholarships program grew out of a fine heritage. The AFS was first organized in 1914 as a voluntary ambulance service to assist France in the care of its wounded soldiers. It was later revived and expanded in services during World War II, with dreams of helping to create a more peaceful world.

In two of its major programs, AFS offers an opportunity for students between the ages of 16 and 18 to live for a year or a summer with selected families of different cultures, to attend school, and to participate fully in the lives of their new communities. Beyond the necessities of life, the host family, which freely provides a home, is neither selected nor rejected on the basis of financial income, social position, race, or creed. The human quality of the family and the student is the critical factor. AFS seeks out participants who are concerned individuals exhibiting warmth, flexibility, humor, and other qualities which show them to be persons who can handle the challenge of experiencing and adapting to a new way of life.

These major programs, since 1946, have sponsored American students abroad, as well as foreign students in the United States. In the past year AFS has developed a domestic exchange program which sends U.S. high school students to live with families for 6 months in other parts of our country, while also attending local high schools. The purpose of this program is to extend the AFS goal of understanding among all peoples of the world to the varied groups which comprise the population of the United States. It has found that both the students and their host families have been gaining new perspectives and understanding of their own cultures and environments.

I am pleased to be able to serve as a member of the board of such a fine, worthwhile organization as the AFS, and am equally pleased that the people of Minnesota have strongly supported American Field Service international scholarships since the earliest days of its operation as an exchange program. In 1948, a young woman from France lived in Wayzatta and a New Zealander lived in Minneapolis. Since that time, over 2,600 AFS'ers from over 60 participating AFS countries have stayed in the State. For the school year just past, 143 Minnesota families shared their lives with AFS students from other countries.

The first students from the State who went overseas were both from Rochester. In 1953, two young women went to France and Germany, respectively. The next year, 22 young people lived with families for a summer in Belgium, Greece, France, the Netherlands, or Germany. Of these, 12 lived in Germany—helping to rebuild personal understanding and friendship among people who only a few years before had been considered enemies. Nearly 1,500 Minnesotans have now been AFS American abroad students including 119 young people in the last year.

Additionally, Minnesota is one of the first seven States to participate in domestic programs initiated in January. DP is designed to expose American students to different areas and environments within their own country for periods of 2 to 6 months.

In the fall of 1972, AFS began a teachers' exchange program with the U.S.S.R. And once again, AFS in Minnesota was in the forefront of implementing AFS programs. A teacher of English from Moscow, spent part of her stay in the United States at St. Paul Academy and Summit School.

Currently there are 149 AFS chapters composed of volunteers who recruit families, raise funds, and counsel AFS students in the State. Over 150 secondary schools support AFS. In 1972, the Minnesota area was selected as one of three locations in the United States to have a regional field office. Staffed by five professionals this office is located in Richfield.

I am sure Senators join me in wishing our visitors well as they return home, and in congratulating AFS for its fine program.

THE BOMBING IN CAMBODIA

Mr. THURMOND. Mr. President, the deadline for ending the bombing in Cambodia is rapidly approaching. As it nears, prospects for self-determination and peace in Southeast Asia are dimming.

I recently noticed an editorial which captures the essence of the so-called compromise that led to the bombing deadline. Unfortunately, the conclusions reached in this editorial would seem valid.

Mr. President, I ask unanimous consent that the editorial entitled "A Congressional Mistake," which appeared in the Greenville News of Greenville, S.C., July 8, 1973, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A Congressional Mistake

The "compromise" between President Nixon and Congress to end bombing in Cambodia by August 15 is a severe setback for the cause of a lasting, just peace in Southeast Asia. Congress, which forced the issue by tying anti-bombing amendments to essential federal appropriations acts, was shortsighted, to say the least.

Unless a diplomatic miracle occurs in behind-the-scenes negotiations involving the United States, the Soviet Union and Red China, there is little chance for a cease-fire agreement in Cambodia. American leverage on North Vietnam, the source of the Cambodian fighting, has been all but wiped out by the bombing deadline. The only leverage left is some sort of trade-off with the USSR and China, at what cost to American interests elsewhere it is impossible to know at this time.

There is the distinct possibility that nothing will be negotiated and that the North Vietnamese and Cambodian insurgents will launch an all-out attack on the weak Cambodian army when the bombing ceases. The insurgents and invaders can overwhelm the country.

If that threatens, there is every possibility that South Vietnam, recognizing the dire danger of being virtually surrounded by Communist forces, will launch an attack against the Reds inside Cambodia. If that happens, the Paris Peace Agreement is down the drain and Southeast Asia will be fully aflame with all-out warfare.

To prevent that, President Nixon and Dr. Henry Kissinger obviously will be making every effort to arrange some sort of accommodation on Southeast Asia with the two big Communist powers which have supported the whole show from the beginning. A reasonably stable peace in the region is essential for America's foreign policy position in other areas of the world. It is necessary in order to preserve this country's credibility with allies and potential enemies alike.

Therefore, the United States may be forced to yield to Communist demands on other fronts in order to get out of Southeast Asia with some skin left.

The outlook is uncertain. Obviously a great many Congressmen and Senators were looking at short-range political considerations at home rather than at the long-range worldwide picture when they voted for the bombing cutoff amendments. Some of them probably will be among the first to protest when the results of their mistake start showing up.

NEED FOR WORLD FOOD RESERVES AND INCREASED FOOD PRODUCTION

Mr. HUMPHREY. Mr. President, a recent article in the Christian Science Monitor and an editorial in the Washington Post deal with the severe food shortages in West Africa and Bangladesh in light of the worldwide shortfalls in food production. Because of these shortfalls and because of inadequate mechanisms for predicting and preparing for famine, the international community is dangerously close to not being able to feed the world's starving.

There is much that we can and must do to prevent such crises from recurring in the future.

We must develop a more effective system for monitoring world food production and predicting severe shortages. U.S. weather satellites could be of tremendous value in such a system.

We must make certain that our emergency relief programs, both nationally and internationally, are fully responsive to early warnings of famine. Too often these programs are geared toward reacting after disaster has struck. Earthquakes, floods, civil wars cannot be predicted. But famine can. We must develop institutions that can respond to hunger before it becomes starvation.

We must support the FAO's proposals for world food reserves. Nations with the capacity to produce surpluses should contribute to reserves which can be used when some countries—such as the six West African nations that have suffered 4 years of drought—can produce nothing. All nations must be encouraged to contribute to these reserves in times of plenty so that there will be food enough for all in times of shortage.

This world food reserve program, which I have long supported, has received only lukewarm support in the international community. Perhaps the lessons of this year, combined with vigorous U.S. leadership, will convince other countries that this is a goal indeed worth pursuing. For such a program to work, we will need the full cooperation of all the nations of the world, both in contributions and in full reporting of each country's food supplies.

Finally, the surpluses of the United States and other developed countries are being rapidly diminished. The world demand for food is growing at phenomenal rates. Increasing demands for food due to growing prosperity in the wealthier nations have been added to the steadily increasing demands resulting from population growth in the poorer nations. U.S. consumption of grains is still growing—and will soon reach a level of 1 ton per person each year. Grain consumption in Western Europe is growing at even faster rates. With consumption there now at the level of the United States in 1940, demand for food in these prosperous countries can be expected to grow at ever-increasing rates for some time.

In short, the wealthier nations will in the future be able to supply less of the surpluses needed to feed those who are starving and will, indeed, make ever-increasing demands on the food production of the rest of the world. There are tremendous resources in the less developed countries which have not been developed. If the growing demand for food is to be met, if famines are to be avoided, the United States and other developed countries must contribute all we can to increasing food production in the less developed countries.

I believe that we can and must build more effective systems for monitoring world food supplies and avoiding catastrophic famine. We have the technology, the technical skills, and the agricultural research facilities to greatly increase the world's production of food. This problem of world food shortage is not an unsolvable one. What is needed most now is a realization of the magnitude of the problem and the determination to use all the resources at our disposal to solve it.

Articles such as these, in calling attention to the tragic situations in West Africa and Bangladesh and to the fact that these are part of a long-term food shortage problem, help meet this need to focus our attention on the world's food supplies.

I ask unanimous consent that the Christian Science Monitor article and the Washington Post editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

Starvation in West Africa and Bangladesh

In West Africa and Bangladesh, people are starving by the millions, and in Washington, officials are scratching to find quite small amounts of spare food—food not committed to be sold—for relief. This represents a stunning turnabout from the postwar American practice of fighting world hunger and malnutrition. As Lester Brown says in the current New Leader magazine, "For the past 25 years it has been American policy to intervene with our food resources anywhere that famine threatens. Suddenly there is the possibility that we may be abandoning that." Such is the result of the world food squeeze, a condition greatly aggravated in the last year by Soviet grain purchases on a scale which all but erased the United States' (and other exporters') "surpluses." For it was on these "surpluses" that humanitarian food programs had been built.

It could not have happened at a crueler time for the six countries of West Africa being affected now by accumulated years of drought, or for Bangladesh, a grotesquely overpopulated country beset by additional hideous problems arising from its recent turbulent birth as an independent nation. They have had to cope with staggering relief requirements; if these are met, they will then have to face longer-term recovery and development needs even more difficult to contemplate.

Worse yet, there is doubt about whether the relatively modest amounts of food available from the United States will reach West Africa and Bangladesh in a timely fashion. The $20 million worth (156,000 tons) committed in the 1973 fiscal year to the African nations, whose populations total perhaps 25 million, has been almost all delivered. But no decision has yet been made on how much to send in fiscal 1974. American officials, required by law to sell as much food as possible before starting to give away "surpluses," have not yet determined what amounts may be available. Of 700,000 tons of grain pledged to Bangladesh last spring, 200,000 have been delivered and another 100,000 allocated. However, delivery of the rest is uncertain. It should be regarded as unthinkable for the United States to default on any part of that pledge to Bangladesh, or to delay shipments past the period of greatest need. The proposal of Senator Saxbe (R-Ohio) and 38 other senators to divert grain bought by Russia offers one effective way for the United States to do its international duty in this regard.

In the whole area of food exports, humanitarian as well as commercial, American policy appears to be haphazard and careless. Short-range commercial and political considerations have been allowed to undermine the American tradition of helping feed the hungry. No coherent statement has been made which reflects an awareness of all the different values and interests at play. As the possessor of unrivaled agricultural resources in land, technology and related skills, the United States has a commensurate responsibility to assert world leadership in planning the production and distribution of food. Millions of people around the world should not be wasting and starving in 1973.

[From the Christian Science Monitor]

Famine

(UN food experts are ringing warning bells: People are starving in sub-Saharan Africa and in India. But the warnings echo beyond these two areas. Severe food shortages are forecast for the entire planet within a year if American and Canadian grain crops falter this summer.)

(By David Willey)

Rome.—This year's drought and famine in sub-Saharan Africa and in India have given timeliness to the alarm bells being rung here by the world's top food experts.

At the United Nations Food and Agricultural Organization (FAO)—which has its headquarters in Rome—there are private forecasts by men who ought to know that the entire world is in for a severe food shortage. Even the FAO's Director General of the United Nations Agency, Adeke Boerma, of the Netherlands, who is not given to alarmist statements, has this month been using such phrases as "ominous," "dismaying," and "precarious" to describe the situation.

Speaking before the governing council of FAO, Dr. Boerma said that there will be insufficient wheat and rice available to meet world demand during the next season and that if there is a further serious deterioration in crop conditions in North America or the Far East there could well be a worldwide grain shortage.

"The period from now until the end of September is the critical one, during which we shall be living in an atmosphere of troubled uncertainty assuming that uncertainty is not cut short by sudden disaster," Dr. Boerma said.

GRAIN STOCKS VANISHING

Prospects for the American and Canadian wheat crop are uncertain and grain stocks, now at their lowest level for 20 years, will be drawn down still further. Meanwhile the world's population has grown by 50 percent in 20 years and areas stricken by famine will be unable to call on the surpluses which used to be held in North America. They simply do not exist any longer.

Rice export supplies are going to be about 2 millions tons short of requirements. A marginal failure of a crop in a major area would lead to a world food crisis, while a marginal improvement in output is not going to relieve the situation. That is the measure of the gravity of the present crisis, according to Dr. Boerma.

In six west African countries south of the Sahara, starvation is already taking its toll. Five successive years of drought have brought some 30 million Africans living in one of the poorest regions of the world to the brink of disaster. Millions of head of cattle, the region's only natural wealth, have perished from hunger and thirst.

WORLD RESPONDS TO APPEAL

There have been vast internal movements of population in search of fresh pastures and some six million people are actually threatened with famine. An emergency airlift has ben organized by the FAO to try to get new seed to the disaster area for planting for next season's crops but most of the seed has already been eaten by the hungry.

An international appeal for funds has resulted in the donation of some $6 million in cash and supplies. Now the problem is to move the food which has already been shipped to West African ports into the landlocked interior where seasonal rains make ordinary road transport virtually impossible for the next few months.

The President of Upper Volta, Sangoule Lamizana, whose country is one of those worst hit by the drought, addressed the Council meeting of FAO in Rome and told delegates—including for the first time representatives from Peking—how his countrymen had been squeezing mud to extract a few drops of water for drinking and how the only privileged ones were now the vultures, grown fat on the carcasses of cattle.

The food situation in India has also been causing some concern after scattered reports of minor famine. The Indian Government is unduly sensitive to famine scares since Prime Minister Indira Gandhi won her reputation for making India self-sufficient in food grains. There were optimistic reports earlier in the year of a good Indian wheat crop but the latest unofficial estimates put production several million tons below the earlier estimate of 30 milion tons.

Athough production of wheat in India has increased enormousy over the past 10 years, this has not been the case with rice. The new high-yielding varieties of rice depend on plentiful water and fertilizer and there is still a lack of controlled irrigation and a shortage of fertilizer in India.

FACTS ALWAYS ELUSIVE

The Indian Government's nationalization of the wholesale grain trade has also been of doubtful value at the present time, observers in Rome believe. But so far India has sounded no alarm bells and it is not up to FAO to start taking action unless requested by member governments.

In fact FAO has always been hampered by the obstructionism of governments. China, the most populous country in the world with an ancient history of famine disaster, has only just joined the United Nations agency and has hitherto been excluded from its statistical analyses, which must have considerably distorted the total world picture. China used to be treated by the food experts rather as if it were on another planet.

The Soviet Union is still not a member of FAO and is also cagey on statistical information, although contacts do take place with the Russians through the Committee on Agricultural Problems of the United Nations Economic Commission for Europe, of which they are members. Russian grain purchased during the past year to make up for the failure of their last year's crop have been largely responsible for the upsets in the world's agricultural commodity markets and rising world prices. (China, India, and the Soviet Union—in that order—are the three most populous countries in the world. Consequently when they have food shortages at the same time, or when accurate statistics and forecasts are not forthcoming from them, dealing with the world food problem as a whole is made enormously more difficult.)

Wheat export prices generally are now 75 percent above last year's figure. Indeed, it is difficult to find a commodity in which prices have not shot up similarly.

DEMAND PART OF THE PROBLEM

It is partly a question of rising demand, increasing living standards and incomes, but also partly due to the increasing uncertainty in the world food markets over the opening up of trade with China and the Soviet Union. Because of the closed nature of their economies and the lack of available statistics you can never guess what types of purchases the two Communist giants will make nor how large they will be. The recent Soviet purchase of a huge quantity of surplus butter from the European Common Market, for example, was totally unexpected, as the Russians are traditionally butter exporters.

Another factor that has aggravated the international agricultural commodity market is the world currency crisis. When speculators, and indeed governments, buy food as a currency protection measure, getting out of money into commodities, this is bound to disturb the traditional picture of supply and demand. And the losers always tend to be those countries that are least well adapted to new situations.

The recent boycott of meat purchases by housewives in the United States due to rising prices drew attention to the increasing world demand for this staple food. The long-term demand for meat is rising faster than production—people want meat and are prepared to pay what they have to for it. Demand is elastic—and expanding in proportion to living standards.

In Italy, for example meat consumption has approximately doubled from 26½ to 50¾ pounds per person per annum in a little more than a decade. Even in big meat-eating countries like France and West Germany, consumption is increasing. Increased demand coupled with inflation has meant higher prices even in the big meat-exporting areas such as Latin America and Australia. The rising demand for beef led to greater production of lamb, pork, and poultry. But then these, too, grew short.

BEEF DEFICIT SOARING

The world's beef eaters face a deficit of 1,600,000 tons in 1975 and nearly two million tons by 1985, according to an OECD survey. Production in Latin America, which has the highest population growth rate in the world, is not expected to keep pace with rising domestic demand, let alone export requirements.

The world is thus living from hand to mouth for its immediate food supplies with no comfortable buffer stocks as an insurance for future lean years. To quote Dr. Boerma again: "It is intolerable that in this last third of the twentieth century, the world should find itself almost entirely dependent on a single season's weather and crop conditions for its basic food supplies."

Dr. Boerma has suggested that responsibility for keeping adequate food stocks should be spread around both developing and developed nations now that the world's main grain reserves—accumulated more or less unintentionally—in North America no longer exist. But his proposals have met with only lukewarm support from governments curious to know how accurate information about the world food situation is to be pooled when so many countries are reluctant for reasons of national pride or state security to tell the truth about their food supply situation.

As FAO food experts anxiously scan the forecasts of the coming season's harvests all over the world, it is obvious that the world food situation has sharply deteriorated and that we are back to the crisis of the mid-nineteen-sixties when there were grave fears of famine in India and Pakistan.

The "green revolution" has shown that it is technically possible to improve world food supplies, but population growth still seems to gobble up increases in good production, especially in the critical developing areas where most of the world's poor and hungry live.

CORPORATE CITIZENSHIP

Mr. MONDALE. Mr. President, it is my pleasure to bring to the attention of the Senate two outstanding examples of corporate citizenship in the community of Minneapolis. In the first case, Investors Diversified Services, Inc. recently donated a 500-year lease, valued at $678,000 for the Minnesota Orchestral Association's concert hall project. A second example was the announcement by Honeywell, Inc. that it will continue its housing rehabilitation program in south Minneapolis. Honeywell for 2 years has bought and repaired houses for resale to low income families with some assistance from the Federal Government. Although the administration has suspended housing subsidies, Honeywell recently decided to continue its program without Federal support.

Each of these actions in my judgment provides a good illustration of the important contributions individual companies can make in attempting to improve the quality of life in our communities.

Mr. President, I ask unanimous consent that a recent editorial from the Minneapolis Tribune describing the two actions be printed in full in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Two Corporate Actions

It was indeed a "truly significant contribution" to the Minnesota Orchestral Association concert-hall project, as John Pillsbury Jr., chairman of the orchestral association, said. The gift, by Investors Diversified Services, Inc., was its 500-year lease on a half-block of property where the concert hall and adjoining park will be located in downtown Minneapolis. The lease is valued at $678,000.

On the same day that the IDS gift was announced, it was reported that Honeywell, Inc., will continue its housing-rehabilitation program in south Minneapolis. For two years, Honeywell has been buying and repairing older homes in the neighborhood of the company's headquarters and reselling them to low-income families under federal subsidies. The company was losing about $1,000 on each home, but did it "as part of a program to make a visible impression on the neighborhood."

The government has suspended the subsidies program, but Honeywell will continue its own program. It will buy one home a month through December. Because the subsidies program is suspended, the buyers are expected to be in the middle-income range (Honeywell still expects to lose about $1,000 on each house).

Neighborhood reconstruction and the concert hall are projects of long-range benefit to Minneapolis. These two Minneapolis-based corporations, like many other local firms, are providing examples of good corporate citizenship at the community level.

COURT RESTORES BALANCE

Mr. THURMOND. Mr. President, during the Presidential campaign of 1968, Richard Nixon told me he thought the greatest accomplishment of his Presidency would be to appoint strict constructionists to the Supreme Court. He has appointed four outstanding men so far, and their conduct has made his promise a reality.

An editorial reviewing the Court's actions recently appeared in a South Carolina newspaper and it accurately portrays the renewed constitutional vitality of the Court under President Nixon. I would like to share it with my colleagues.

Mr. President, I ask unanimous consent that the editorial entitled "Court Restores Balance," which appeared in the Greenville News of Greenville, S.C., July 6, 1973, be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Court Restores Balance

The Supreme Court of the United States, which recently closed out its 1972-73 term, has become the balanced, non-activist judicial tribunal promised by President Nixon in his 1968 campaign. It is a strict constructionist court, thanks to the four Nixon appointees.

The court's latest term, with only one glaring exception, generally followed a course which pleases constitutionalists and makes activist liberals most unhappy. The one exception was the abortion case in which the court in effect decided unborn children are not entitled to the protection of the Constitution at certain stages and to only limited protection from then until birth. That activist position opens up a whole new political, judicial and moral thicket which will produce controversy for years to come.

Aside from that the so-called Burger Court stuck pretty close to solid constitutional law and came out with a remarkably balanced set of decisions. Its pornography ruling was a classic example of non-activism. So were two decisions relating to reapportionment of state legislatures. In numerous criminal rights cases the court moved to a balanced view of individual rights versus the rights of society.

The court has yet to come up with a definitive decision as to how far schools must go to desegregate. It has yet to determine whether school districts must be combined in order to achieve racial balance in schools.

In general the court seems to be saying that a great many decisions can be and should be decided at state and local levels without recourse to "national" standards or guidelines. In a sense the sanctity of state law has been restored as the law of the land.

A check of the approximately 150 cases handled by the court during the recent terms shows some decisions which could be labeled liberal, some conservative. It is impossible, therefore, to place a strictly ideological label upon the Burger Court.

That is exactly as it should be. The Supreme Court must be an impartial tribunal, guided strictly by the Constitution of the United States. It should leave political decisions to the Congress and the State Legislatures.

With so much social, political and moral instability rampant in the land, much of it directly attributable to the instability of the old Warren Supreme Court, it is good to see the court return to a position of balanced wisdom and stability.

RURAL TRANSPORTATION CRISIS

Mr. HUMPHREY. Mr. President, soaring food prices in our supermarkets, overcrowded conditions in our larger cities, high rates of unemployment and underemployment, particularly for the young, in rural areas and small communities, and rail lines clogged with grain shipments, are all symptoms of the inadequate attention that has been given to the transport needs of rural America.

As the newspapers feature stories about the "Northeast Rail Crisis," let us not forget the "Rural Rail Crisis" that we are facing. Both of these are critical problems that require congressional action to be alleviated. For 30 years this Nation has seriously neglected its rural transportation system. It is no wonder that the problem we face today is of such dangerous proportion.

Railroad abandonments have cut off many rural areas of the country from their markets. Freight car shortages have seriously delayed, and in some cases actually prevented, delivery of agricultural commodities from the farm to our urban population centers. Inadequate farm-to-market roads prevent large enough trucks from delivering fertilizer and other items farmers need to produce our food at economically competitive prices. Of course, the same high transportation costs exist for shipping farm products to market.

Our transportation system is the economic lifeline of rural America. As it deteriorates, so does the rural economy which it sustains. We must take action immediately to reverse the decline in our rural transportation system.

For this reason, I introduced on May 2, 1973, Senate Joint Resolution 103 calling for a detailed study of our rural transportation system. I then offered and had accepted an amendment to the Agriculture Appropriations Act which provides $100,000 for a 1-year study of our rural transportation problems with specific recommendation to Congress on what must be done to eliminate them.

I hope that the House and Senate conferees on the Agriculture Appropriations bill will agree to accept this amendment in the final legislation.

I ask unanimous consent that an excellent article dealing with this problem, which appeared in Construction News, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Real Transportation Crisis

RISING FOOD PRICES, CLOGGED GRAIN MOVEMENTS ARE SYMPTOMS OF OUR INADEQUATE RURAL TRANSPORTATION SYSTEM WHICH HAS BEEN NEGLECTED FOR 30 YEARS

Sandwiched between other national crises plaguing the U.S. is another potential debacle which until recently has been lost in the shuffle. And yet its reverse impact on the economy could unless checked in time, be the most harmful of all our current and impending problems.

At a time when we are matter-of-factly producing space hardware to explore the moon and orbit the earth, the paradoxical truth is that this nation doesn't have adequate transportation wherewithal—rail, highway or waterway—to get its bulk farm commodities to the marketplace.

An immediate, housewife-documented consequence is higher food prices. Perhaps even more serious, in the long run, is our inability to efficiently move millions of tons of wheat, feed grains and soybeans to our ports for overseas shipment. This is crucial because agricultural exports offer the best and perhaps last hope for achieving a more favorable balance of trade and rejuvenating the U.S. dollar.

No one questions the capability of our farmers to raise the crops. And the government can and has put millions of set-side acres back into production for the stated purpose of hiking agricultural exports from the present $8.1-billion annual level to as much as $18-billion by 1980. But, as long as our transport facilities remain in disrepair and disarray, this productive potential is at least partially academic.

Helping focus national attention on this problem was testimony submitted to the Congress last March by Associated Construction Publications.

Ray Metzger Jr., publisher of Construction News, and Construction Digest editor Art Graham told the House Transportation Subcommittee that there is a direct and obvious link between skyrocketing food prices and (a) abandonment of thousands of miles of rail trackage serving rural areas and (b) hundreds of thousands of miles of deteriorating primary, secondary and farm-to-market roads suffering from 30 years of accumulated neglect.

Since then there has been a rapidfire series of developments:

On April 5, Transportation Secretary Claude S. Brinegar announced establishment of a full-time DOT task force to deal with the freight car shortage. "Outside of the northeast," he explained, "the most serious railroad problem is the shortage of freight cars—especially for grain loading. We are very much aware of the difficulties this poses for shippers trying to move grain to meet contractural commitments."

Concurrently, The Road Information Program (TRIP) launched a press media campaign to explain the impact of inadequate roads on the cost of transporting farm commodities and, ultimately, on retail food prices.

At the invitation of Gov. Dan Walker of Illinois farm and transportation leaders from 12 states participated in a Mid-American Agricultural Rail Transportation Crises Conference at Chicago April 9–10. "Farmers have been asked by the Nixon administration to put millions of additional acres into grain production, but what good will this do if they can't get the grain they've already produced to market?" Walker asked, adding: "Poor movement of grain products has the same effect on food prices that limited supplies of red meat has on consumer prices."

Representatives of 17 states which account for about 85 per cent of the nation's wheat, soybean and feed grain production convened again in Chicago May 16–18 for a Midwest Grain Movement Conference co-sponsored by Illinois and Nebraska. This seminar resulted in a dozen-odd major resolutions demanding immediate priority cause/cure consideration of the grain shipment impasse. Governor Walker in turn submitted these recommendations to the National Governors' Conference at Lake Tahoe, Nev., June 3.

Meanwhile, on April 30, Sen. Hubert H. Humphrey (D-Minn.) introduced a joint resolution instructing the Secretary of Transportation to make "a full and complete investigation and study of farm-to-market roads, railroad beds and availability of operational rail lines serving rural areas in the U.S. for the purpose of determining the condition and adequacy of such roads and rail lines to carry the volume and weight of agricultural and other commodities from rural areas necessary for the nation's economy." A report on the findings of this study, together with DOT's recommendations for remedial action, would be submitted to the President and Congress not later than next December 31.

A week later, Minnesota's other Democratic Senator, Walter F. Mondale, introduced legislation (S 1749) to establish within the Department of Transportation a Rural Rail Transportation Administration with authority to make loans or loan guarantees to maintain and/or reestablish rail service for major agricultural areas. Explaining that in his state alone there will be 304 communities isolated from operational railroad facilities by 1980, and that a third of these cities and towns presently must rely on secondary roads restricted to less than 9-ton carrying capacity. Mondale said he was afraid that "many of our rural communities will be left to die" unless they are provided adequate transportation access. He also referred to the world demand for farm products as "the major hope of preventing a sharp deterioration in the U.S. balance of payments" which, he said, makes it "doubly critical not only to the agricultural community but also to the nation's overall economic future that we maintain rural rail lines."

Why this sudden furor? Essentially, what we have had for many years is an inevitable crisis waiting for a time to happen.

More than 46,000 miles of railroad trackage—principally those lines traversing sparsely populated rural regions—have been abandoned in the past 40 years. Railroads today are functioning with 30,000 fewer locomotives and 840,000 fewer cars than they had during their peak years in the 1930s. This loss equates to 13 main line railroads, stretching from coast to coast, each located 100 miles apart and each having 2,300 locomotives and 64,000 cars.

When the nation launched its expanded roadbuilding program in 1956 the emphasis was, with justification, on the planned Interstate expressway network and on modernization of heavily-traveled federal-aid primary routes. Although these two systems represent only 7 per cent of our total highway mileage, they now carry 50 percent of all automobile and truck traffic.

As a result, however, much of the remaining 3.6-million miles of roads and streets have gotten only cursory attention. Except for routine, minimal maintenance, most of the 2-million miles of non-federal-system rural roads have gone untouched and unimproved for 30 years or more. As an example, of the 373,000 highway bridges built before 1935, 343,000—almost 90 percent—are on county secondary and other rural roads. And some 88,900 bridges, or one out of every six in the U.S., are now classified as "critically deficient."

These combined conditions provided the ingredients for what Governor Walker has referred to as the grain shipment "time bomb—one of the nation's major domestic problems that has been swept under the rug too long."

The fuse was three precipitating factors: a bumper grain crop in 1972, the sale in the past 12 monhts of more than 700 million bushels of wheat, feed grains and soybeans to Russia, and record floods which closed the Mississippi and Missouri rivers to barge traffic for weeks this spring.

"It is no wonder then that we find ourselves faced with great difficulties," Robert C. Liebenow, president of the Corn Refiners Assn., told the second Chicago conference in his keynote address. "Movement of grain and grain products so far in 1973 exceeds 1972 loadings by almost 50 per cent. Total grain to be exported in fiscal 1973 is almost 75 million metric tons compared with 50 million metric tons in fiscal '72. And this massive increase in demand for transportation came on the heels of a peak year in 1972.

"Implications of the present railroad car shortage extend beyond the plight of shippers," he added. "Shortages of transportation inevitably will result in price list dislocations in various markets. Thus, we face a price impact on food products at a very time when this nation is engaged in serious efforts to moderate food price increases to the ultimate consumer."

Liebenow, who is a former president of the Chicago Board of Trade, called on the government to "openly asume responsibility of dealing with this problem because, after all, it bears direct responsibility for the crisis situation because of the Russian grain sales."

Acknowledging that the accumulated "structural problem" impeding the flow of farm commodities will require fundamentally new polices and long-range legislation, Liebenow went ahead to emphasize that "I don't believe this country can await the resolution of this underlying problem. Legislation of this kind cannot come quickly enough. More immediate action is required."

His recommendation was that the President promptly commission an inter-agency study, under auspices of the Cost of Living Council, to determine what steps can be taken that would promise quick relief to the American consumer. This commission would examine and report on such questions as:

Could a more liberal admixture of trucking and rail transportation provide significant short-term relief?

Can the government, perhaps including the Defense Department, ease its claim to an inadequate supply of freight cars?

Could the government profitably use emergency authority to coordinate truck, rail and shipping transportation?

Should emergency legislation be sought on a temporary basis, leaving open the question of appropriate long-range solutions?

Later, the conference approved a somewhat parallel resolution drafted by Metzger and Graham which calls on the National Governors' Conference to take the initiative in formation of an ad hoc committee to deal with the problem.

Serving on the committee would be appointees from the Midwest Grain Movement and Governors' conferences, chairmen of the Senate and House public works and transportation committees and representatives from the Departments of Transportation and Agriculture.

"Much of the specific data on abondoned and inadequate rail facilities and substandard roads and bridges has already been compiled," Metzger said, "and the impact of this transportation bottleneck on grain movement and food prices has been confirmed.

"It would be the responsibility of the committee to evaluate this information, pinpoint the best and most practical short- and long-range solutions to the problem, and then to make recommendations and draft legislation to help overcome these transportation inadequacies."

Although the overall financial position of the nation's railroads seriously impairs their capability to make capital investments in new rolling stock and improvement of facilities, it would be unfair to imply that there hasn't been a major effort by most companies during the past decade to cope with increased carloading demands, not only for grain but for lumber, aggregates, automobiles and other bulk commodities and manufactured products.

As was pointed out by representatives of the Assn. of American Railroads during the grain movement conference, U.S. railroads establishd an all-time record of 778-billion ton-miles of freight service in 1972, an increase of 5.2 per cent over the previous year. And grain car loadings—including those for both domestic and export shipments—averaged 32,660 per week for the first 10 weeks of this year, an increase of nearly 44 per cent over the corresponding period in 1972. This was accomplished despite the fact that there were 40,000 fewer freight cars in service last year than in 1969, when the previous all-time rail traffic record was set.

Since 1960, when virtually all rail grain shipment was in boxcars, railroads have been adding an average of about 11,000 covered hopper cars to their fleets annually. They and private shippers now operate 190,000 of these large hopper cars, and another 5,000 were on order as of last March 1.

It is generally true that, as a group, railroads still rank well down the list in terms of management, operational and labor efficiency. But gains also are being made in this area. A special AAR task force already is well along in a design study for a greatly expanded computerized freight car information program, while improvements are still being made in the basic system now in use. And various individual railroads are continuing to develop new and highly sophisticated computer programs within their own systems.

These stubborn facts remain, however: (a) railroads still do not have sufficient rolling stock to handle loading volume requirements, and existing fleets are not being utilized with maximum efficiency; (b) thousands of miles of rural area rail trackage are no longer in use, and more abandonments are in the offing, and (c) as much as half of the roadbed mileage still in service is inadequate and unsafe for today's 100-ton hopper car loadings.

Without a sustained, multi-billion dollar infusion of funds for new rolling stock and for needed improvement of roadbeds and other physical facilities, U.S. railroads will be extremely hard pressed to meet mounting demands for movement of grain and other basic commodities in the immediate future, let alone handle their subsequent burden of an overall national freight load which, according to DOT predictions, will double by 1985.

As was repeatedly emphasized at the two grain movement seminars, this situation also mandates immediate attention to the other modes of transportation, i.e. rural and farm-to-market roads and inland waterways.

Although over-the-road shipment of heavy bulk farm commodities for distances of more than 50 miles has, in the past, been considered prohibitively expensive, many rail-isolated farmers and suppliers are now left with no alternative. In Illinois alone, because of the lack of railroad lines and/or cars, truck hauling of grain increased by nearly 19-million bushels in 1972.

This extended truck-hauling trend will continue to accelerate. And, even within the prescribed 50-mile radius, the movement of grain to elevators and the equally important transporting of fertilizer, feed grain and heavy equipment to farmers is being choked off or made much more expensive by horse-and-buggy secondary roads and dilapidated, unsafe bridges.

It was this fact which prompted Rep. William H. Harsha (R-Ohio) to comment, during recent floor debate on the Federal-Aid Highway Act of 1973, that actual and proposed abandonment of thousands of miles of rail trackage is putting "an inordinate burden on our already over-burdened highway system and leaves highways—many of them inadequate—as the sole source and method of moving goods and services in and out of many of our rural communities." Harsha went ahead to point out that this is a significant factor in steadily rising feed prices.

Overdue improvements and expansion of the nation's waterways system have been almost equally slow in coming. Commercially navigable inland channels were extended by a scant 290 miles, or only slightly more than 1 per cent, in the 1960–70 decade, and stop-and-go funding of Army Corps of Engineers programs has stalled dozens of needed lock and dam and navigation projects.

A case in point is the old Lock & Dam 26 on the Mississippi River at Alton, Ill. The 41-million tons design capacity of these locks was reached and passed five years ago, and barge tow delays of as much as 18 hours are not uncommon.

There is no practical alternative route for these barges and, in addition to the present delay-loss to shippers and consumers of millions of dollars a year, there exists the possibility of structural failure which would immediately deprive all cities on the upper Mississippi and Illinois rivers of through-barge transportation.

Testifying before Congressional appropriations committees in mid-May, James B. Meanor Jr., manager of the Metropolitan St. Louis Chamber of Commerce transportation department, warned that "with the railroad car shortage becoming even more serious, loss of barge service to and from the upper midwest area would result in extremely serious conditions for its people and industry.

"In this connection, grain exports, much of which move south by barge, are extremely important to improving our balance of trade deficit," he added.

Meanor urged quick release of funds for replacement of Lock & Dam 26, explaining that, even if construction were to start immediately the new facility would not be fully operational for another seven or eight years.

Sen. R. Vance Hartke, chairman of Senate's Surface Transportation Subcommittee, sums up the total picture in this manner. "The situation, simply put, is that our needs for fast, safe and efficient ways to move people and goods are far in excess of the capacity of available systems.

"Our rail system is in disrepair. The waterways are nowhere near their full potential as useful carriers. And, despite tremendous strides made in recent years, many of our road and streets are still either unsafe or inadequate for the traffic volumes they are required to handle."

A number of other influential Congressional leaders are now speaking out on this problem and the enigma of more and more bypassed and isolated "ghost towns" in the hinterlands contrasting sharply with people-packed, transportation-jammed urban areas.

"Our population distribution today is badly unbalanced, with 80 per cent of all Americans living on 5 per cent of the nation's land area," explains Rep. John A. Blatnik (D-Minn.), chairman of the House Public Works Committee. "Half of all our people live on the perimeter of the mainland within 50 miles of the Atlantic, Pacific, the Gulf of Mexico or the Great Lakes.

"We can and we must reverse this flow, and in so doing we can do much to reduce the population pressures that are at the root of today's urban congestion," he stated, adding: "One way to get people back to countryside America is through the development of adequate highways that will encourage industry to locate in rural and small town areas.

"In our concern over the undeniable transportation crisis of our cities," Blatnik concluded, "we cannot afford to overlook or minimize the vital transportation needs of rural America."

Rep. Don Clausen (R-Calif.) echoed the same logic when he said that "if there is ever going to be a change in the quality of life in America, it's going to be brought about as a result of creating either new economic growth centers or revitalizing and diversifying some of the more sparsely populated areas in the U.S.

"If we are going to reverse or slow this out-migration from our rural sections, and if we're going to stop the stacking of people on top of one another in the big cities, then we must stop giving total consideration to allocating funds where the population is without giving some consideration to where the population can be," Clausen pointed out.

The grain shipment impasse is, obviously just one important symptom of a number of interlocking problems from which the only key is a carefully conceived, adequately financed and quickly implemented national transportation plan.

THE UNITED STATES AS AN ARMS MERCHANT

Mr. MONDALE. Mr. President, I would like to bring to the attention of my colleagues two editorials which recently appeared in the New York Times and the New York Post concerning the U.S. sale of conventional weapons to nations in the Middle East and Latin America.

The New York Times editorial, entitled "Phantom Security," persuasively rebuts administration justifications for our arms sales policy. The administration argues, for example, that if the United States does not sell jets to the Saudis or the Chileans, someone else will. But the Times replies: "The same arguments could be made by a debt-ridden dope pusher in Harlem."

> Phantom jets and napalm cannot be equated with farm machinery and wheat. competing with others to place lethal weapons into the hands of nations which often can't afford them and which may use them to add to the world's burden of strife and misery is not a wise or honorable way to balance the books of a nation that claims to be leading the world to a generation of peace.

An editorial in the New York Post makes the additional point that while the Nixon-Brezhnev summit focused on negotiating a limit on offensive nuclear weapons, world peace could be strengthened "by reducing the bigger business in smaller armaments."

Mr. President, my amendment to the Foreign Military Sales and Assistance Act would direct the President to convene an international conference on conventional arms to eliminate the kind of situation which these editorials describe. I hope that the President acts promptly and signs this bill into law so that the United States will eventually cease from being a merchant of death.

Mr. President, I ask unanimous consent that these editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, July 7, 1973]

Phantom Security

The sharply reduced foreign military aid bill as passed by the Senate recently represents a timely attempt to exercise some restraint over a new Administration drive to boost sales of sophisticated military equipment to nations in the Middle East, Latin America and perhaps elsewhere.

In recent weeks Washington has announced its willingness to sell F–4 Phantom fighter-bombers to Saudi Arabia as part of a billion-dollar deal to modernize that country's defenses; has entered negotiations to sell $500-million worth of arms and services to the tiny Persian Gulf state of Kuwait, including F–8 Crusader jet fighters;

and has authorized the sale of F–5E International fighters to Argentina, Brazil, Colombia, Venezuela and Chile, ending a five-year ban on the transfer of sophisticated arms to Latin America. In addition, Iran has committed itself to purchase about $2.5 billion in American military hardware and services, including Phantoms.

Credit limits and a specific ceiling on arms transfers to Latin America in the Senate bill could inhibit Administration plans for new sales in the Southern Hemisphere. Although credit curbs would not affect sales to oil-rich Middle East nations that can afford to pay cash, the bill does provide for Congressional review of sales exceeding $25 million.

Administration spokesmen have asserted that all of these new arms sales serve United States security interests. This may be demonstratable in some cases but it is certainly doubtful in many others. In any event, the scope of the new drive to expand arms exports and some of the explanations offered to justify them suggest motivations that have nothing to do with American security.

It is argued, for example, that arms sales which rose to a record $3.4 billion last year and are expected to reach $4.6 billion next year, will help the United States balance of payments. Furthermore, it is pointed out that if the United States doesn't sell jets to the Saudis or the Chileans somebody else will. The same arguments could be made by a debt-ridden dope pusher in Harlem.

Phantom jets and napalm cannot be equated with farm machinery and wheat. Competing with others to place lethal weapons into the hands of nations which often can't afford them and which may use them to add to the world's burden of strife and misery is not a wise or honorable way to balance the books of a nation that claims to be leading the world to a generation of peace.

Administration officials also argue that the sale of weapons will help the United States gain influence in purchasing countries and that Washington will be able to control their use. Has nothing been learned from the Soviet experience in Egypt or from their country's own miscalculations in South and Southeast Asia?

Even where a strong case for American security interests can be made, there needs to be careful analysis of the wider implications of any arms transfer to any country. Will arms aid lead to direct United States military involvement, as is the case today in Cambodia? Is there any real assurance that jets sold to the Saudis, for example, will be directed solely against forces hostile to the United States in the Persian Gulf area?

Finally, since the United States is already the world's leading arms exporter, the impact of stepped-up American arms sales on the worldwide arms race merits special consideration. The respected Stockholm International Peace Research Institute recently noted: "Although the greatest single threat to Man's survival is, undoubtedly, the nuclear arms race between the United States and the Soviet Union, the conventional arms races now taking place elsewhere are also extremely dangerous. A future conflict in one of these areas could escalate into a general nuclear war—possibly the most likely way in which such a war would come about." In the interest of its own security, can the United States afford to continue feeding so indiscriminately the imbalance of terror around the world?

[From the New York Post, June 22, 1973]

WORLD ARMS BUSINESS

If the U.S. and the Soviet Union can meet the deadline they agreed on yesterday—to negotiate a permanent limit on offensive nuclear weapons next year—the accomplishment will be both admirable and memorable; the initial agreement alone is most reassuring. In the meantime, they could contribute a great deal by reducing the bigger business in smaller armaments.

There are, indeed, some distressing ironies in the current spectacle. As the world welcomes and ponders the Camp David agreement, there is every likelihood that the global traffic in "conventional" arms, now somewhere above $216 billion a year, will reach $350 billion by the end of the decade.

And, as Sen. Mondale (D-Minn.) is now warning: ". . . the greatest danger to world peace may well lie not so much in the sudden outbreak of nuclear warfare . . . but in the step-by-step escalation of a local war fought with conventional weapons."

To limit such dangers, Mondale is now proposing legislation that would oblige President Nixon to seek a meeting of the world's principal arms suppliers—the U.S. has the unpleasant distinction of originating half the trade—with a view toward serious negotiations on reducing, instead of expanding, sales. Such talks could perhaps restrict the savage competition. The proposal invites study now by the White House.

CONSUMER PROTECTION AGENCY AND MARIHUANA USERS

Mr. ALLEN. Mr. President, the Executive Reorganization Subcommittee of the Senate Committee on Government Operations upon which I serve has just completed hearings on proposals to create an independent Consumer Protection Agency.

A colloquy between a Consumers Union witness and myself during the hearings on March 28, 1973, concerned whether that interests of marihuana users should be represented by a CPA. This led to a letter from Consumers Union, dated May 8, 1973 in an attempt "to clarify" its position followed by a "clarifying" letter from me to the subcommittee.

These letters and the colloquy crystalize some of the major issues which this body will face when debating a CPA bill. I ask unanimous consent to have printed in the Record at this point my letter on the subject of July 11, 1973, which reprints the hearing colloquy, followed by Consumers Union's letter of May 8, 1973, which attempts "to clarify" statements made in the colloquy.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate, Committee on Government Operations,
Washington, D.C., July 11, 1973.

Hon. Abraham Ribicoff,
Chairman, Subcommittee on Reorganization, Research and International Organizations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I have read the May 8, 1973, letter from Mr. Peter H. Schuck of Consumers Union clarifying his remarks to me, during the hearings on the Consumer Protection Agency bills, concerning legalizing marijuana.

His letter, I feel, might distort the import of that dialogue on marijuana, unless further clarification is made. Therefore, I request that this letter immediately follow Mr. Schuck's letter of May 8, 1973, in the hearing record.

My question about marijuana was one of a series designed to gain knowledge about how a CPA would determine what was a proper "interest of consumers"—a determination that is left to the sole, unchallengeable discretion of the CPA under S. 707 which Consumers Union strongly supports.

Thus, I asked Mr. Schuck about situations in which the interests of consumers might conflict with the interest of environmentalists (e.g., in the Alaska pipeline controversy), with the interests of American workers (e.g., increasing the importation of less expensive foreign products), with the interests of the press (e.g., in demanding source identification), and so forth.

The purposes of Consumers Union, as stated in its charter, are to provide consumers with information and counsel on consumer goods and services, to give information and assistance on all matters relating to the expenditure of the family income, and to initiate and to cooperate with individual and group efforts seeking to create and maintain decent living standards.

The testimony and action of Consumers Union, therefore, are very instructive to the Subcommittee. Much of what the prestigious Consumers Union does now parallels what is proposed for the CPA under S. 707—it testifies before Congressional bodies, requests action by Federal agencies and intervenes in their proceedings and activities, seeks judicial review of the decisions of these agencies and gathers and disseminates information thought to be of interest to consumers.

We have been assured continually by supporters of S. 707 that we should not be alarmed by the sweeping advocacy and information powers proposed by it for a CPA which will determine what is an interest of consumers. The CPA, these supporters say, is to be a nonregulatory agency that will take a prudent course.

Seeing the parallel between the CPA proposed in S. 707 and the mandates imposed upon Consumers Union by its charter—and as part of my attempt to fathom how any single government unit is going to prudently determine what is in the interest of consumers—the following dialogue, taken from the unedited transcript, ensued between the Consumers Union witness and myself:

"Senator Allen. Your organization, Consumers Union, has not taken a position in advocacy of the users of marijuana?

"Mr. Schuck. Well, the position that we have taken is that the mere possession of marijuana should not be regarded as criminal conduct. We have not in anyway advocated the use of marijuana. In fact, it is quite clear we have taken quite the opposite position. But we do not feel the mere possession of marijuana should bear criminal penalties.

"Senator Allen. I have an item from the Star, the Washington Star of November 28, 1972, 'Consumers Union Endorses Legalizing Marijuana.' That is a correct statement, is it not?"

"Mr. Schuck. There is some confusion between the terms 'legalization' and 'decriminalization.' Usually, the term that is used to describe the position that possession of marijuana should not carry criminal penalties is called 'decriminalization.' Consumers Union, in the book it published to which you refer did suggest that the production and marketing be retained under government control.

"So, it would be not be legalization in that sense at all. To the extent that the Washington Star calls it legalization if it had that in mind, that is not our position.

"Senator Allen. Would you feel, then, that the CPA ought to take over the advocacy of the interest of the users of marijuana in line with your recommendation?

"Mr. Schuck. Which particular interests of the users do you mean?

"Senator Allen. Well, who ever uses it, the users. A user is a user by any other name.

"Mr. Schuck. I think, if there are 20 million people in this country who are using marijuana, and the figures is somewhere in that neighborhood—

"Senator Allen. Their interests ought to be protected by the CPA?

"Mr. Schuck. May I continue?

"Senator Allen. Yes. Excuse me.

"Mr. Schuck. And if their conduct is

no longer criminal, as we feel it should not be, then I see no reason why the CPA should not protect them in their freedom of choice."

First, it should be noted that in the opinion of Consumers Union (and, therefore, very conceivably in the opinion of a CPA) legalization of marijuana is an important interest of consumers worthy of the expenditure of a great deal of time, effort and money at the expense of other interests. The question is whether the general consumers (as opposed to those who illegally consume marijuana) agree with this determination.

Before going on to other points, it should be noted that Consumers Union's recommendations relating to marijuana are far more extensive than one might be led to believe by the brief colloquy on the subject at the hearing and Mr. Schuck's clarifying letter.

Specifically, Consumers Union made seven recommendations concerning marijuana, urging quick Congressional and State action on them; namely—

"(1) Consumers Union recommends the immediate repeal of all federal laws governing the growing, processing, transportation, sale, possession, and use of marijuana.

"(2) Consumers Union recommends that each of the fifty states similarly repeal its existing marijuana laws and pass new laws legalizing the cultivation, processing, and orderly marketing of marijuana—subject to appropriate regulations.

"(3) Consumers Union therefore recommends that a national marijuana commission be established to help provide the states with needed research information, to monitor the various plans evolved by the states and to build, eventually, the best features of those plans into federal marijuana legislation.

"(4) Consumers Union recommends that state and federal taxes on marijuana be kept moderate, and that tax proceeds be devoted primarily to drug research, drug education, and other measures, specifically designed to minimize the damage done by alcohol, nicotine, marijuana, heroin, and other drugs.

"(5) Consumers Union recommends an immediate end to imprisonment as a punishment for marijuana possession and for furnishing marijuana to friends.

"(6) Consumers Union recommends, pending legalization of marijuana, that marijuana possession and sharing be immediately made civil violations rather than criminal acts.

"(7) Consumers Union recommends that those now serving prison terms for possession of or sharing marijuana be set free, and that such marijuana offenses be expunged from all legal records."

Here we have a good example of major recommendations by a self-avowed consumer protection agency, Consumers Union, after which the CPA under S. 707 will be patterned in large part.

We must assume that Consumers Union will be among the most successful "lobbyists" of a CPA if it is created; and, by virtue of the great importance Consumers Union has expressly put upon its marijuana recommendations, we must assume that Consumers Union will seek to gain the influential CPA advocacy of its recommendations.

If legalization of marijuana is not a valid interest of consumers, Consumers Union has exceeded the bounds of its charter. If it is a valid interest of consumers, we can expect that the CPA under S. 707 would, among other things, take the following authorized steps:

Testify before Congress and make recommendations to the President. Sec. 202(a)(10)(b).

Intervene on behalf of convicted marijuana users before Federal parole boards. Sec. 203(b).

Intervene to represent marijuana users in Federal investigations. Sec. 203(b).

Order enforcement agencies to turn over records concerning marijuana users. Sec. 207(c).

Issue court-enforceable information orders to private persons. Sec. 207(b).

Issue pro-marijuana press releases. Sec. 208.

Thus, my questions concerning marijuana were not intended to be "cute" or "red herrings." They were based upon a real-life situation having to do with how a consumer protection agency determines what is in the interests of consumers, a central question for us to consider in relation to S. 707 and S. 1160, the CPA bills before us.

It would appear that, now more than ever before, this Subcommittee should cast a wary eye on proposals that would grant sweeping, uncontrollable discretionary powers upon some unknown appointee. Let us not smother our reservations in the warmth of political popularity, but get them into the open and deal rationally with the difficulties with which they are concerned. I was attempting to do just that in my questioning of the Consumers Union witness.

Sincerely,

JAMES B. ALLEN.

CONSUMERS UNION,
Washington, D.C., May 8, 1973.

Senator ABRAHAM RIBICOFF,
Senate Government Operations Committee, Subcommittee on Executive Reorganization, Old Senate Office Building, Washington, D.C.

DEAR SENATOR RIBICOFF: I would appreciate the opportunity to clarify one portion of my testimony delivered before our subcommittee on March 28, 1973, concerning the proposed bill to establish a Consumer Protection Agency, S. 707.

In response to a question asked by Senator Allen toward the end of my testimony, I sought to make clear that, while Consumers Union had taken the position that possession and use of marijuana should not bear criminal penalties, Consumers Union had not in any way advocated the use of marijuana and in fact had been careful to stress the possibilities for its abuse. Then Senator Allen asked me whether "the CPA ought to take over the advocacy of the users of marijuana in line with your recommendation" I responded that *assuming that possession and use of marijuana were no longer illegal acts,* "then I see no reason why the CPA should not protect [consumers] in their freedom of choice." My principle is a very simple one—if society makes a decision to permit the use of a product without restrictions, then that product should be treated like any other product for purposes of protecting the interests in freedom of choice of those who would consume it. I in no way suggested or intended to suggest that a CPA would be justified in intervening in criminal proceedings concerning marijuana use; my explicit assumption for purposes of responding to Senator Allen's question was that marijuana use was no longer restricted in any way by the law. And in any event, of course, nothing in S. 707 would authorize the CPA to intervene in any criminal proceedings.

Thank you for the opportunity to clarify my remarks.

Very truly yours,

PETER H. SCHUCK,
Director, Washington Office.

THE JOB CORPS CAMP AT TRAPPER CREEK IN MONTANA

Mr. METCALF. Mr. President, one of the Job Corps camps in Montana is Trapper Creek in western Montana where young men are given a second chance for acquiring skills and background that will enable them to obtain useful jobs and get out of the treadmill of poverty.

The other day the editor from the Billings Gazette, a newspaper in eastern Montana, visited the Trapper Creek center and his comments are worth consideration by each of my colleagues.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GREAT PLACE FOR A WAR

(By Duane W. Bowler)

TRAPPER CREEK.—The war against poverty goes on unabated in this serene setting on the eastern slopes of the Bitterroot Range where Montana's face-like western border noses into Idaho.

Midnight June 30, 1973, came and went for the 200 plus young men and the 50 or so staff workers who are combining efforts at Trapper Creek Civilian Conservation Center.

The warfare to kill the war on poverty which encompassed the first parent, Office of Economic Opportunity, has left the Trapper Creek Job Corps camp operational if not overfunded.

The new parent is the U.S. Forest Service, the staff much the same. And so is the job.

The job of the Job Corps is to take underachievers, the unskilled and heretofore unemployable young men, up to 22, and teach them an occupation.

The place is full of dropouts, not of the upper and middle class whose offspring have opted for the counter culture. These are the young men who never really had much of a chance before.

They come from Montana, Wyoming and other nearby states. They also come from St. Louis and Kansas City, from New Orleans, many from families which have known little but welfare.

The goal of the Job Corps is to break that welfare chain, to get these young men into useful occupations where they can provide for themselves and families to come later.

Many don't have a high school education, at least not what they should have gotten out of high school, diploma or not.

The Job Corps instructors not only teach them a useful trade, they also teach them what is necessary to learn a useful trade—how to read and understand, be it mathematics or recipes.

Mostly, the young men respond. They learn how to weld, to do carpentry, to cook, to repair cars and trucks, to operate machinery, to do electrical work, to maintain buildings—and to live in harmony.

The Job Corps entry is recruited on the streets of his home town through cooperation with the U.S. Department of Labor. When the Job Corps has completed its efforts, six months to two years later, the graduate goes back to the world he left through the same system.

And they get jobs, these young men who see the course through. And most of them do see it through.

Many don't like it when they first arrive. There is a certain amount of regimentation, call it discipline or group living or getting along. There is a certain amount of conforming, of learning that the barracks boss you helped select has authority.

The life isn't tough but it isn't all a matter of doing your own thing. You are there to learn and the prod never stops.

The corpsmen get their clothes and about $50 a month in pay. If they stick it out, another $50 a month is added to the pot for them when they leave the Job Corps. It may be just what the young man needs to buy tools for his newly learned occupation. It helps him adjust. It helps him find his place in the world and to find it a better place than he left to enter the Job Corps.

It might well be added that the Job

Corps is good for Ravalli County, too, though quite a few residents resent the strange faces in their midst. The Job Corps Center pours a million dollars or so into the local economy, which isn't all that lively.

The young men also do work in the community. They build, they repair, they learn as they prepare to make their way with success somewhere else.

The story isn't a complete tale of success. When you start with failures—and face it, that's what the corpsmen were—you don't expect 100 per cent results.

But the law of averages is with the Job Corps.

One of the instructors tells you, with a smile of satisfaction playing across his face, that the Job Corps has a smaller dropout rate than the U.S. Air Force Academy, where 42 per cent of the starts quit.

And Job Corps costs are only about $6,000 a year per man while the Air Force spends nearly $100,000 on its recruits coming quite largely from what most of us would feel is a politically savvy, privileged sector of the system.

On this basis, the Job Corps would appear to be winning its war without much bombing.

MAKE ELECTION DAY A HOLIDAY

Mr. **HUMPHREY**. Mr. President, late last month, as an amendment to S. 343, the Senate passed my proposal to make election day a Federal holiday.

During the debate on that amendment, I pointed out that other countries achieve high voter participation rates, and one reason they may do, is that election day in nations such as Austria, Belgium, Germany, and Italy is a holiday.

I am pleased to see that my proposal has been endorsed editorially by the Minneapolis Star. The Star called for another "V" day—for voting day—a legal holiday for all Americans.

Said the Star editorial:

> It would be impossible to think of a more appropriate occasion to have time off from work than a new V-Day.

Mr. President, I ask unanimous consent that the Minneapolis Star editorial, "We Need Another 'V-Day'" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WE NEED ANOTHER V-DAY

If you were a citizen of Austria, Belgium, Denmark, Finland, France, Germany, Italy, Norway, or Sweden, come national election day you'd have the day off. Isn't that a good idea? Sen. Hubert H. Humphrey, D-Minn., thought so.

He offered a successful amendment to make the day on which federal general elections are held a legal public holiday, effective in 1976. The amendment was to a bill setting primary and convention dates.

"A nation at work on election day is a nation that denies its people the full opportunity to participate in the election process," he said.

The U.S. election turnout is often compared invidiously with that in other countries. The fact is, Humphrey said, that countries that already have an "election holiday" are countries with a turnout of 85, 90 and 95 percent of the electorate. Humphrey's office dug up the records, finding that the U.S. average between 1904 and 1966 was 59 percent. In 1972 the percentage of eligible voters who showed up for the presidential election was 55.3.

The remedy is another V-day—"V" for "voting," that is.

"Make no mistake about it. There is a limitation on access to the voting booth because election day is a regular workday," Humphrey asserted. We agree, even when polling places stay open into the evening hours. There is a psychological lift in having a holiday. It would be impossible to think of a more appropriate occasion to have time off from work than a new V-day.

THE CURRENT STATE OF VETERANS' AFFAIRS

Mr. **CRANSTON**. Mr. President, I recently had the privilege of addressing the California State Convention of the Veterans of Foreign Wars in Fresno, Calif., and of the American Legion, in Anaheim, Calif. I was delighted to have this opportunity to speak about current problems and developments in the area of veterans' affairs, and to inform the VFW and the Legion of my priorities and plans in the area of veterans' legislation and appropriations for the immediate future.

Mr. President, since the time that I spoke to the VFW and Legion, the status of several matters I spoke about has changed. I would like to take this opportunity to report on developments relating to these matters:

First. The amendment I introduced with Senator JAVITS to the Veterans'-Cost-of-Instruction provisions of the Higher Education Act to expand the eligibility of schools for Veterans'-Cost-of-Instruction grants, passed the Senate on June 25, 1973. I am hopeful that the House will take action on this measure before the August recess.

Second. I have written the Secretary of Labor, Mr. Peter J. Brennan, urging immediate action regarding the appointment of the 68 new assistant veterans' employment representatives required by law.

Third. The Veterans' Health Care Expansion Act of 1973, passed overwhelmingly by the Senate as S. 59, was reported by the House Veterans' Affairs Committee on Tuesday, July 10, as H.R. 9048, and is scheduled to be taken up by the House on Monday, July 16. I worked very closely with the House on this measure in order to meet the objections raised by the administration. I believe this bill will soon be signed into law.

Fourth. The $25 million which was added in the Senate to the fiscal year 1973 Supplemental Appropriations Act, H.R. 90555, to carry out the Veterans' Health Manpower Training Act of 1972 was reduced to $20 million in conference with the House. That bill was signed into law on July 1, as Public Law 93-50, and those funds remain available for expenditure for 6 more years under the terms of the authorizing legislation in chapter 82 of title 38 of the United States Code.

Fifth. As a result of the recommendations I made with Senator HARTKE to the Appropriations Committee based on extensive oversight hearings held by the Veterans' Affairs Committee's Subcommittee on Health and Hospitals, which I am privileged to chair, the fiscal year 1974 HUD-Space-Science, Veterans' Appropriations Act, H.R. 8825, as passed by the Senate on June 30, 1973, contains the following amendments above the President's budget request, totaling $122,743,063:

First, an additional $55 million for implementation of the VA Medical School Assistance and Health Manpower Training Act of 1972 (Public Law 92-541). This would bring the total amount available in the current fiscal year—and the next 5—to the full $75 million authorized by the law to be appropriated annually. See my discussion under point 4 earlier.

Second, $50,805,063 for the following medical care items: $2,478,063 to activate 50 closed wards where patient demand has been shown, $2,160,000 to establish 10 new and upgrade 4 existing alcohol dependence treatment units, $1,273,000 to establish 15 and upgrade 16 hospital-based home-care programs, $544,000 to establish 4 and upgrade 2 spinal-cord injury home care programs, $30,000,000 for the hiring of approximately 2,500 additional health-care personnel, with direction that the appropriate number of personnel positions be assigned to the VA, to support an unrestricted daily patient census in VA medical facilities in order to enable the Veterans' Administration to meet the demonstrated need for hospital and medical care for veterans, and $14,350,000 for 1,000 additional nurses, which the House had added over the President's budget request.

Third, $6.8 million for medical and prosthetic research to continue a level VA research program and meet minimal animal research standards at 8 noncomplying VA stations.

Fourth, $10,138,000 for construction, which will provide air-conditioning at eight VA hospitals in some of the hottest areas in the country, with a direction to turn off the air-conditioning at OMB until the funds are released and obligated.

Mr. President, I am delighted with the spirit of cooperation with which these recommendations were accepted. I look forward to the early passage of my amendment to the Veterans'-Cost-of-Instruction provisions, and the early appointment of the 68 new Assistant Veterans' Employment Representatives.

Mr. President, I ask unanimous consent that the full text of my speech before the American Legion California State Convention on June 22, 1973, followed by the full text of my July 10, 1973, letter to Secretary Brennan, be printed in the RECORD.

There being no objection, the address and letter were ordered to be printed in the RECORD, as follows:

AMERICAN LEGION CALIFORNIA STATE CONVENTION, ANAHEIM. JUNE 22, 1973

I am delighted to be with you today. The American Legion is a tower of strength in veterans affairs throughout the Nation and in Washington. I value highly the wise counsel I receive from Legion State and national legislative representatives. Your Washington staff is dedicated and informed and an indispensable ally in our efforts to improve veterans programs.

I consider myself fortunate to have been deeply concerned with veterans matters since the beginning of my service in the Senate: First, as the Veterans Affairs Subcommittee Chairman of the Labor and Public Welfare Committee; and now, as Chairman of the Subcommittee on Health and Hospitals of the Veterans Affairs Committee since that Committee's organization two and one-half years ago.

Working in this area has been particularly satisfying for me. I take great pride and satisfaction in the way Congress has made major improvements in G.I. Bill benefits, VA medical programs, veterans education programs, and veterans employment programs.

But this has also been an area in which I have experienced some of my greatest frustrations. Congress' struggle to get the Administration to give higher priority to programs for veterans has been a constant one for all four of the Nixon years. It has only been with persistent vigilance on the part of veterans organizations that we have been able to keep the present Administration from fully pursuing it's policies of what I consider to be very short-sighted budgetary economies in veterans programs.

This Administration operates on a policy of "Maximize the Minimal" and whenever possible "Make Mountains out of Molehills". The President has made numerous public pronouncements about the employment needs of veterans. In these proclamations, real accomplishments take a back seat, and the numbers game is played most adroitly by the Administration. As a case in point, the Department of Labor announced in January that "the President's Veterans program has been so successful that unemployment among 20-to-29 years old returning servicemen 'in effect' no longer constitutes a national problem".

That is simply wrong. It reflects the most elementary statistical trickery. The Administration stated that for veterans aged 20–29 the unemployment rate had dropped to 5.5 percent. Even that misleading figure is higher than the National average in January. But, what the Administration neglects to say is that for veterans 20-to-24 the National rate was at 10.6 percent. Here in the West it was 14.3 percent. Veterans who are over age 24, like everyone else over 24, simply find it easier to get jobs than younger people.

Additionally, the Department of Labor press release neglected to mention that many, many veterans now simply have been disillusioned and have stopped looking for work. They aren't counted among the unemployed—but unemployed they are.

The Administration is now proposing an increase of $19 billion dollars in the Federal budget. But it keeps right on skimping and cutting on aid to those most in need. This policy is absolutely disgraceful when it comes to veterans, particularly in programs for those who fought in the Indochina conflict. These men did not have the strong support and encouragement from the general public such as many of us here today had during and after World War II and the Korean conflict.

I have great respect and admiration for the men who have returned from battle in recent years. They did what they were called upon to do—in a generally unpopular cause. These men lost years in education, job training and work experience. Their contemporaries, who avoided the conflict in Indochina, have a head start on them in competing for jobs.

And jobs are scarce in an economy where over 4 million people are looking for work. More than half a million Californians are looking for jobs. Tens of thousands of them are veterans.

Congress recognizes its special responsibilities to returning veterans seeking work in this tight job market, and so we mandated in the "Veterans Employment and Readjustment Act of 1972", which I authorized, that about 70 new *Assistant Veterans Employment Representative* positions be created around the country by the Labor Department to search out and develop jobs for returning veterans, and to promote major placement efforts by State and local employment services for veterans.

Where are the 70 new Assistant Employment Representatives? Eight months later, these positions have not yet been created, let alone filled. They are not even being actively recruited for. All of this despite the requirements of law enacted by Congress and signed by the President. This is a clear violation of the law.

Let me give you another sad example: In that same law, we required each Federal contract and subcontract to contain a requirement that "special emphasis" must be given by the contractor to the hiring of service-connected disabled veterans of all eras and returning veterans. The result, despite my continued inquiries, urgings, and even demands to two Secretaries of Labor and the Assistant Secretary, is that the Labor Department has thus far refused to carry out this statutory mandate.

I am slightly hopeful that there might be a change in policy forthcoming on both of these failures to carry out the law, as a result of a personal meeting I held several weeks ago with the new Assistant Secretary of Labor for Manpower.

But we shall see.

While all this action was going on, the President has proclaimed his dedication through press releases about "Hire the Vet" and "Jobs for Veterans" programs. But words are not jobs, except for the White House speech writers.

During the excessively high unemployment of 1970 and 1971, I joined in sponsoring the Emergency Employment Act of 1971, which has resulted in decent jobs for over 200,000 Americans. We wrote into that legislation a provision providing for special consideration for veterans in filling jobs. Accordingly, over 27% of the Emergency Employment Act jobs are held by returning Vietnam era veterans.

Yet, the Administration has not sought, in fact has opposed, extension of this important legislation.

Apparently 5 percent unemployment is acceptable to the Administration. Well, with so many people in California and the nation looking for work and unable to find it, it's not acceptable to me, to the Congress, or the people. Consequently, S. 1560, the "Emergency Employment Amendments of 1973", extending this highly successful program for two more years has just been ordered reported to the Senate floor by the Labor and Public Welfare Committee, of which I am a member, with a requirement which I coauthored that 50% of the jobs be filled by Vietnam era and service-connected disabled veterans.

The men who fought this last war have returned home to no jobs, inequitable GI Bill benefits, underfunded and understaffed VA hospitals, run-away prices, and generally limited and begrudging assistance from the Administration. And for what little help they do receive, they must fight every inch of the way.

What is the Administration's justification for the cutbacks, the impoundments, the opposition to every significant legislative proposal to aid returning veterans and the refusal to seek the extension of the one job-creation program of the Federal government? Inflation.

But it is the Vietnam war that has led directly to the inflated economy which is used as a basis for denying the veteran who fought that war adequate readjustment assistance and benefits when he comes home. The Nixon Administration in effect says to veterans: "We can't help you, because that would be inflationary!"

This unjust policy demands that veterans make a double sacrifice. The Administration is shortchanging former servicemen in jobs and veterans benefits in a totally unsuccessful and unfair effort to halt inflation. It is altogether improper and unacceptable for the Aministration to demand that the men who fought that war must now make a second sacrifice through government skimping on veterans disability, education and employment programs.

The Administration must stop using veterans to pay the cost of inflation. They have paid more than enough already. The young veteran in particular finds fewer available jobs and more people looking for work, and he finds that whatever dollars he now has don't stretch nearly as far as they did when he left for Indochina.

But he can't get much help from the Government which asked him to give up years of his life in an undeclared war and in which he may have given up an arm or leg, or his vision, and in which many close friends were sacrificed.

Inflation strikes all Americans.

But it strikes hardest at the most helpless—the aged living on fixed retirement incomes; the low and moderate wage earner; the small business operator; and, perhaps most callously, those veterans who are returning to an inflated, job-tight economy.

Funding for veterans assistance and benefits is 100 percent a cost of war.

We *must* pay it!

There is plenty of fat in the whopping federal budget.

Let's cut *it* out.

That will help cure inflation.

Do you know that we are spending 30 billion dollars to support U.S. military bases overseas—17 billion dollars for NATO alone? Is all of that really necessary with today's modern weaponry, C5A's and instant strike capabilities? I believe that some of this decreases rather than increases our security, militarily and economically. We are also spending 5 billion dollars abroad in military assistance to other governments—mostly dictatorships, and most of the aid to them in the form of gifts. And we're spending 5 billion dollars more of your money and mine in foreign aid. Again, most of it in the form of gifts.

On top of all that, the President wants to spend vast sums in still another giveaway: to rebuild North Vietnam.

I oppose that. And I assure you that President Nixon won't be able to change my position—at least not until a number of conditions are met—and the first condition is proper care, first, for American veterans.

All these Federal dollars spent abroad drive the international value of the dollar lower and lower, enormously increasing the cost to us here at home of imported products such as fuel, food and cars. All these Federal dollars spent abroad have a lot to do with inflation, too.

So let's make some cuts in this overseas spending—but not in vitally needed veterans programs. The veteran has paid plenty already.

So here is my pledge to you. I am going back to Washington with this agenda:

I support a $268 billion ceiling on federal expenditures for this next fiscal year. That is $700 million less than the budget proposed by President Nixon.

I pledge that I will do all that I can to help Congress curb unnecessary, wasteful federal spending and to establish a sounder, more careful Congressional budgetary system under that annual spending ceiling.

I believe we can and must hold the line on spending—without increasing taxes or worsening the federal debt—and still maintain essential domestic programs, for veterans, and for others.

I believe that the way to fight inflation is to use federal funds for constructive, productive work—like programs to provide mass transit, improve housing and health care, fight pollution, and control crime and drugs.

I will work to strengthen both our national economy and our national security by voting to cut wherever possible needless and wasteful overseas spending of taxpayers' dollars.

The manpower bill just reported from the Labor and Public Welfare Committee includes amendments of mine (1) to require the Labor Department to set aside the funds to hire the Assistant Veteran Employment Representatives, (2) to carry out the federal contractor veterans special emphasis program, and (3) to place veterans representatives on all local, regional, state, and national manpower planning and oversight councils.

I will ensure that, in the public service employment program legislation now under consideration, 50 percent of the jobs it can fund are set aside for service-connected disabled veterans and returning vets.

We are currently deeply engaged in negotiations with the House Veterans Affairs Committee on my Veterans Health Care Expansion Act, S. 59. I will expend every effort to get that bill through the Congress and to the President by early July. It is a vital bill to update and expand VA nursing home and medical care, and to protect the integrity and independence of the Veterans Administration medical care system—something which I know is a number one priority with you.

I will continue my efforts to get House action on my Veterans Drug and Alcohol Treatment and Rehabilitation Act (S. 284), passed by the Senate again three months ago. This is a very vital measure.

I will continue my Health and Hospital Subcommittee oversight of the Veterans Administration medical program. In April I held extensive hearings on the basis of which I will present in the next few weeks recommendations to the Appropriations Committee for increases in VA medical funding for the next fiscal year. We have already been successful in the Senate in adding 25 million dollars to carry out my newly-enacted VA Health Manpower Training Act.

This week, I co-chaired hearings on the practice of questionable psychosurgical procedures in VA hospitals.

In the area of education, I am pleased that the Senate Labor and Public Welfare Committee adopted my amendment to expand the eligibility of schools for Veterans-Cost-of-Instruction grants under the program I authored a year ago. That program is now finally being carried out under a court order.

As to the GI Bill, I have found, sadly, that it isn't enough to write new laws directing that new programs be set up and old ones improved. I was the principal author of the GI Bill Amendment laws in 1970, and 1972, last Fall. But it has been necessary to hold the VA's hand every step of the way to get even half-hearted implementation. I will continue actively to pursue this oversight activity.

We have finally been able to enact a Veteran Cemetery Act, which includes my proposal to triple service-connected death benefits. Now we must make sure the VA carries out the law and prepares the report and survey. California, especially in the South, badly needs veterans burial space.

We are also planning action shortly to deal with the unfortunate January reductions in Veterans pension benefits caused by the recent Social Security increase. The Senate last fall passed a bill containing my formula to bring equity to this situation. It didn't become law. We plan to move ahead shortly in the Senate on this matter again.

We also must move to prevent horror stories such as the recent VA proposal to cut disability compensation benefits for returning Veterans. Although this was abandoned after public and Congressional outcry, we must remove the power of unilateral administrative action. I am a principal sponsor of the proposed VA Accountability Act of 1937 which would give Congress a veto over rating schedule revisions, hospital closings or construction plans, and land transfers or dispositions. In the weeks ahead, I will introduce an amendment to that bill, co-sponsored by Senator Hartke, Chairman of the Veterans Affairs Committee, to require that future appointments to the post of VA Deputy Administrator, Chief Medical Director, and Chief Benefits Director be made by the President—subject to Senate approval. Right now, in an agency spending 12.5 billion dollars, only one official, the Administrator, is so appointed and so accountable.

Finally, in August I will conduct hearings in San Diego on the need for a VA regional office there to unclog the scandalous backup in service to all Southern California veterans.

That's my program for this year.

I hope it meets with your approval.

I believe it merits your full support.

I pledge all my energy to fulfill these commitments.

U.S. Senate,
Committee on Labor and
Public Welfare,
Washington, D.C., July 1973.

Hon. Peter J. Brennan,
U.S. Department of Labor,
Washington, D.C.

Dear Secretary Brennan: Thank you for your response to my inquiry at your confirmation hearing last January concerning Assistant Veterans' Employment Representatives (VERs).

In your letter you state: "We have determined that from the available data on veterans population, a number of assistant veterans' employment representatives would *appear* to be required." (Emphasis added.) They *are* required by law.

Section 2003 of title 38, U.S.C. states:

"The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the veterans' employment representative, and shall further assign to each State one assistant veterans' employment representative per each 250,000 veterans of the State veterans population.

According to figures for the most recent veteran population by state, 93 assistant VERs must be assigned in order to comply with the law to search out and develop jobs for returning veterans and to promote major placement efforts by State and local employment services for veterans. This is 68 more than the present number of Assistant VERs.

Yet eight months after this law was enacted by Congress and signed by the President, these positions have not even been created, let alone filled.

Mr. Secretary, I would appreciate your response to the following questions as soon as possible:

1. What are the results of your study regarding ways to comply with the statutory provisions within your overall budgetary resources?
2. What do you consider to be "the appropriate number of Assistant VERs," and how have you arrived at this figure on a state-by-state basis?
3. When do you plan to have "the appropriate number" of Assistant VERs assigned?
4. When do you plan to begin recruiting and actively interviewing for these positions, on a state-by-state basis?

Thank you for giving your immediate attention to this most important matter.

With best wishes,
Sincerely,
Alan Cranston.

A RADIO DISCUSSION ON THE PETROLEUM CRISIS

Mr. METCALF. Mr. President, I recommend for the reading of the Senate and of all Americans a transcript which I just received of a short radio discussion on the petroleum crisis in this country.

Panelists were Mr. Ed Wimmer, president of Forward America, Inc., and John Kunnen, president of the Greater Cincinnati Gasoline Dealers Association. Their perceptive analysis of the "realities behind the oil crisis" is well worth the reading of anyone who wonders how we got into this mess—and how we are going to get out.

Mr. President, I ask unanimous consent that the transcript be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Realities Behind the Oil Crisis

(Interview with Ed Wimmer and Mike Kunnen)

Ed Wimmer. Thank you, Lowell Thomas, for that fine introduction, and I hope I can do as well in introducing the man sitting across from me at my desk at Forward America, Inc., here in Covington (Ky.): Mr. John (Mike) Kunnen, President of the Greater Cincinnati Gasoline Dealers Assn., who is as familiar with the gasoline business as the "experts" who have been making the headlines.

Mike is not only a dealer himself, but he has been a student of the petroleum industry for 29 years, and his appearances before investigative committees has brought commendation from government officials that is enjoyed by few people. We, in all these years at Forward America, could count on him in any attempt to eliminate trading stamps and other abuses in the oil industry, and especially those affecting the independent gasoline dealer.

Before turning you over to Mike, however, I want to lay some groundwork by quoting a few rather sensational remarks by John McLain, Chairman, Continental Oil Co. from statements he made in September 1972. Listen please:

"There are enough potentially recoverable oil reserves in the U.S. to last for 65 years . . . Potentially recoverable gas reserves in the U.S. to last 50 years—at present rate of consumption.

"Measured coal reserves, 300 years. Uranium reserves sufficient for electric power needs for 25 years. Recoverable shale oil reserves (and here is something to think about) sufficient to last 35 years after all other natural reserves are exhausted—at present rate of consumption.

"The total resources in the U.S., alone, are enough to supply all our needs (at present rate of consumption) for 300 years.

"Present trends indicate mobility to meet these needs which are going to be doubled by 1985—a period in which domestic production will decline 30%—in the next 15 years. By 1975 we will be 50% below median gas needs; imports of crude oil will have to be quadrupled—which we cannot do."

Mr. McLain, emphasized that he wants private enterprise to be allowed to meet this crisis, and future needs, and in his final statement, he said:

"We have an adequate source base. Our problem is to get new supplies at a faster rate."

Lowell, perhaps we can clear up what seems to be some striking contradictions here, and what bothers me, if we have domestic resources in such quantity, what has happened to exploration and development, and why are we risking a balance of trade crisis in getting imports that could border on a monetary disaster?

Lowell Thomas. First of all, Mr. Kunnen, what can we expect in the price of gasoline, this year and next?

Mr. Kunnen. I can go only by estimates which at the moment run from 4-to-10-cents a gallon more, but who can really foretell the future in all this energy confusion. I hate to say it but I think we will find some planned shortages in this picture to cause a price increase.

We need to consider that in the State of Ohio there are five billion gallons of gas sold annually by all suppliers. If the state collects 7c a gallon in taxes, and if supplies are reduced, what is the state going to do but increase the tax to offset the deficit? Estimates of 2c a gallon have already been made. Most of the states around us are already collecting 9c a gallon.

There also is the problem that if a retail dealer suffers a loss through allocation, his income will be substantially cut, which means increased prices in order to stay in business.

Lowell Thomas. True, but, Mike, what happens if consumers start boycotting gasoline dealers as they did with meat, and drive less?

Mr. Kunnen. Our fears are that boycotts will do with gasoline what meat boycotts did to the weaker dealers and already distressed smaller suppliers. They will hit the canvas, which we have seen on a wide scale in gasoline even without boycotts or shortages. Most big suppliers created their own price-cutting outlets, and these people are suffering widespread cut-offs and closings.

Lowell Thomas. What is your answer, Mike, to the charge that some of the majors in the oil industry are using this situation to put the independents out of business?

Mr. Kunnen. No one in this industry wants to believe such charges, but we all know, and Congress knows, that this sort of thing goes on. But I see the picture in a broader light; the Alaskan Pipeline controversy, for example; the recent cut in the depletion allowance; the change in import quotas—are all factors needing more exploration. Crude oil from Venezuela cost us 10 cents a barrel 10 years ago. It is now headed for $3 a barrel, which is only one warning that we've got to speed up exploration in this country.

Lowell Thomas. Ed, you have been talking about the effects of devaluation, in your broadcasts, and the dollars piling up in the hands of oil exporting countries. How do you view this situation?

Ed Wimmer. According to the exporters, devaluation has cost them an 11% loss, and they claim they are asking for only 50% of the loss. What seems to worry a lot of Congressmen at the moment, are the billions of so-called floating dollars they hold which they get rid of by increasing their already tremendous holdings in this country.

Population in most oil producing countries is too small to absorb our goods in amounts that would even jar our unbalanced trade situation, so why not follow the pattern of British Petroleum, and get control of American corporations? Look at the hold the Japanese are getting in this country with their surplus dollars, and you will get some idea of what all this multinational, corporate empire-building is going to do to the whole world.

The Japanese made a joking statement they didn't know whether to buy GM or IBM, and the oil producing countries have more of our dollars than Japan. We have reached a point where even the Swiss bankers are predicting a dollar crisis of unimaginable proportions; so how can we treat this situation with anything but the deepest concern?

Another factor at least suspected by most informed people, is the subservience of 'Big Oil' to many governments of countries in which they do business. How can they carry the American Flag anywhere today and do business, or be loyal to any private enterprise ideals they might hold? The bigger they are the greater their involvement in foreign governments, so where does that leave the United States?

So why shouldn't this country have been spending the $30 billion a year mentioned by Mr. McLain, in domestic exploration and development? He said we are spending only $14 billion; yet, the depletion and special depreciation allowances of the last few years make that figure look like peanut money. Some of the biggest paid—virtually no federal income taxes, so where did the money go? You know where a lot of it went: into mergers with insurance companies, opening shopping centers, chains of restaurants and motels; land development; billions into unneeded service stations, catalogue businesses, et cetera, et cetera; but let Mike pursue this thought.

Mr. Kunnen. An outstanding study in this field was done by Dr. Walter Adams, Michigan State University, in which he said there are 25 major oil companies that control 95% of all petroleum sales—which companies have bought up 2262 other assorted companies. This money should have gone into exploration and development, so what happens? . . . To help meet the crisis, the President lifts the oil import quotas which didn't do anything because the facilities are not available to process any flood of imports. Instead, we should be creating facilities to meet such a situation.

This may sound like I am anti-oil industry. I'm not, but no one can tell me that an industry as powerful and as integrated as petroleum could not have foreseen exactly what is happening, and what could happen to the motoring public in this decade. It all points to a man-made crisis. Listen to the oil industry as they shout fuel crisis, so everybody with the news media estimates gasoline prices up to $1 a gallon. Suppose it goes to 50c—a 7c increase, but multiply that by billions of gallons of gasoline, and what do you come up with? You come up with consumers screaming and independents going broke, and the 'bigs' getting richer and bigger. What we are going to see is an investigation of the oil industry that will blow the lid sky high.

Ed Wimmer. I am glad you mentioned Dr. Adams. He has been a longtime friend of mine, and is one of the strongest advocates of decentralization and protection of independent enterprise we have in this country.

Mike, we ought to bring out at this point that all we have is one month's supply of petroleum needs. This seems critically low to me, and I repeat: Where were the oil experts and government officials while all these conditions were building up? Where were their million-dollar computers? Why no preparation, no alarm, five years ago?

Answers will have to be found soon, and they won't come from any attacks oriented against big business. We already know that monopoly exists, and we should have had a second Standard Oil-type breakup a long time ago. This challenge will have to be faced. There is a lot of sentiment against bigness per se in this country, and if we don't watch ourselves, the demand for public controls will spread until the whole structure of private enterprise could suffer irreparable damage.

Where the problem comes in, is how do you talk about the evils of monopoly power, which exist in every industry, in agriculture, banking, labor unions—without appearing to be anti-bigness?

Lowell Thomas. Mr. Kunnen, how would a 10% cut in supplies across the board affect the independent dealer?

Mr. Kunnen. There is a failure rate right now in our retail business of 35%. That should answer your question; and look at the staggering number of terminal operators and jobbers who have gone down in the last few months.

Ed Wimmer. I can certainly attest to that, Mike, because Forward America, like your Association, gets its revenue from independents, and, believe me, the people battling for the smalls these days, are in trouble—just when they are needed the most. We saw this process in the fall-out of the wildcatters these past several years, who were once the backbone of the discovery of petroleum, gas and other hidden resources. Consider what happened when Standard Oil was broken up in 1911. Over 2500 new companies sprung up out of nowhere, and wildcatters were like gophers. Imagine the competition that would exist if that situation existed today.

Biggest need of the hour is all-out decentralization of economic and political power whether we are talking about food, clothing, energy, labor, government, or any other area of the body economic and body politic; and if it doesn't come, there will be another Watergate' in this country that will drown whatever hopes we have of celebrating a Republic on July 4, 1976.

Mr. Kunnen. I say restore the depletion cut and confine it to exploration and development, and increase it if necessary. This will turn the wildcatters loose, and you will increase incentive and build up domestic resources—which would keep foreign imports at reasonable price levels and protect our balance of payments. Since 1947 the so-called wildcatter has gone down more than 50% in number, and we ought to learn the reasons why.

Instead, we get such silly proposals as reducing speeds to 50 m.p.h. which would create traffic jams on super-highways that would burn twice what could be saved. We need to expedite traffic, unless we take half the cars off the expressways, not jam it.

WILLIAM BENTON

Mr. HUMPHREY. Mr. President, everyone who attended the memorial service in Connecticut for our late former colleague and my dear friend Bill Benton was touched by the meditation statement of the Reverend Francis X. Cheney. Unfortunately, his remarks were not recorded, but at the request of friends, Dr. Cheney consented to reconstruct them.

I ask unanimous consent that they be printed in the Record as another tribute to a great American.

There being no objection, the statement was ordered to be printed in the Record, as follows:

A Meditation Given by the Reverend Francis X. Cheney, D.D.

(The meditation followed a reading of portions of Roman 8 and John 14, and a poem by Emily Dickinson.)

St. Paul points out that if we have only hope we are of all men the most miserable. This is true. Men do not build great lives on the fragility of hope; they build them on strong inner convictions—the God given aspirations of the human spirit.

One of the inner convictions upon which great living is built is that truth brings its own reward of beauty and freedom. Truth is not to be avoided in order to protect some ancient prejudice or feared as dangerous to cherished ways. Truth is a liberating force the pursuit of which produces deep inner satisfaction. Indeed, those who would suppress truth are enslavers of the human spirit.

William Benton had this strong inner conviction and sought truth unafraid. We are grateful for that today.

Another strong inner conviction that great living is built upon is that it is the duty of the strong to secure justice for the weak. The inalienable rights of man enunciated at our nation's birth are not reserved for the favored few; they belong to all mankind. No one can accept as right injustice to the weak who either by circumstances of birth and living conditions, or by unjust laws, are denied the right to live in dignity. The God who implanted the desire for justice in the human heart demands it of all men and of all nations.

William Benton had this inner conviction and was a staunch defender of justice. We are grateful for that today.

Then too, there is the inner conviction that mercy is the fruit of love. Love without mercy is a fraud and a religion which does not promote mercy is a caricature.

God gives to us the spirit of reconciliation. Malice and all uncharitableness are cancerous sores of the soul. Empathy, compassion, and forgiveness are the signs of love and are the gifts of God. These alone can heal broken relationships. These alone are the cure for the estrangements which separate families, friends, neighbors, communities, and nations.

William Benton had a deep inner conviction about the God of Mercy and we are grateful for that today.

Finally, there is an inner conviction, when we are at our best, that love is immortal and life is eternal. St. Paul spoke without hesitancy of this. He was persuaded that neither life nor death nor anything else could separate us from the love of God. Our own life of the spirit informs us that our ultimate destiny is not death, but life—life in growth in love, knowledge, and peace.

William Benton was thus persuaded, and we are grateful for that today.

So death came to William Benton in kind civility and he was ready for it, for he knew "that the horses heads were toward eternity".

XXVII

Because I could not stop for Death,
He kindly stopped for me;
The carriage held but just ourselves
And Immortality.

We slowly drove, he knew no haste,
And I had put away
My labor, and my leisure too,
For his civility.

We passed the school where children played
At wrestling in a ring;
We passed the fields of gazing grain,
We passed the setting sun.

We paused before a house that seemed
A swelling of the ground;
The roof was scarcely visible,
The cornice but a mound.

Since then 'tis centuries; but each
Feels shorter than the day
I first surmised the horses' heads
Were toward eternity.

AMERICAN DEATHS SINCE THE CEASE-FIRE

Mr. CRANSTON. Mr. President, accounts of the continuous American bombing of Indochina are in the newspapers every day. Everyone knows that these bombs kill citizens of those countries. But I wonder how many people know that since the so-called cease-fire of January 27, 1973, a total of 23 Americans have been killed in Indochina.

Mr. President, I ask unanimous consent that my correspondence with the Department of Defense, together with a list of these 23 men, be printed in the RECORD.

There being no objection, the correspondence and list were ordered to be printed in the RECORD, as follows:

JUNE 7, 1973.

Lt. Gen. LEO E. BENADE,
Deputy Assistant Secretary of Defense for Manpower, Department of Defense, The Pentagon, Washington, D.C.

DEAR GENERAL BENADE: I am writing to enquire about the casualty figures for the war in Vietnam that you released to Senator Robert Byrd on June 4. According to your report there were 45,958 combat-related deaths and 10,303 noncombat deaths.

But according to news dispatches from Saigon on March 29, the date on which the last soldier left South Vietnam, the figure was 45,943 combat deaths and 10,298 noncombat deaths.

If these figures are correct, 20 men have died since the U.S. withdrawal—15 from combat causes and 5 from noncombat causes.

To the best of my knowledge, reports of these deaths have not been publicized. Do the figures represent a discrepancy in accounting methods, or have 20 men really died in Southeast Asia in the last two months? If there have been 20 deaths, where did they occur, and under what circumstances?

Your attention to these questions will be much appreciated. Thank you for your consideration.

Sincerely,

ALAN CRANSTON.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., June 28, 1973.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: This is in response to your letter of June 7, 1973, regarding U.S. military casualties in connection with the conflict in Vietnam, since the cease-fire.

The casualty figures cited by the United Press International (UPI) on March 29, 1973 were incorrect. The casualty data provided Senator Byrd for the period January 1, 1961 through March 31, 1973 were correctly shown as 45,958 hostile and 10,303 nonhostile deaths.

At the time of the ceasefire in Vietnam, the casualty figures were 45,941 hostile and 10,303 nonhostile deaths. Since the cease-fire January 27, 1973, through June 16, 1973, there have been 16 hostile deaths and 7 nonhostile deaths. Enclosed is a listing of these deaths giving the name, date, place of occurrence and circumstances of death.

It should be noted that the Military Departments in reviewing the case files of those personnel still unaccounted for in Southeast Asia have reclassified previously reported casualties which resulted, through June 16, 1973, in a net increase of 100 hostile deaths and 1 nonhostile death. These unaccounted for personnel were previously carried as "Missing in Action, Missing Nonhostile and Captured."

Therefore, the total casualties as of June 16, 1973 are 46,057 hostile and 10,311 nonhostile deaths.

I trust this information will help to clarify the casualty data for you.

Sincerely,

J. M. PLATT,
Acting Deputy Assistant Secretary of Defense

HOSTILE DEATHS—SOUTHEAST ASIA SINCE JAN. 27, 1973—

Name and cause	Rank	Country	Date of casualty	Week reported
Army:				
Dal Pozzo, Anthony Jr. (helicopter loss)	WO1	SVN	Jan. 29, 1973	Feb. 3, 1973
Scroggins, James L. (helicopter loss)	Sp5	SVN	Feb. 23, 1973	Mar. 24, 1973
Air Force:				
Bernhardt, Robert E. (Fixed wing loss)	1Lt	Laos	Feb. 5, 1973	Feb. 17, 1973
Brandenburg, Dale (Fixed wing loss)	Sgt	Laos	Feb. 5, 1973	Feb. 24, 1973
Matejov, Joseph A. (Fixed wing loss)	Sgt	Laos	Feb. 5, 1973	Feb. 24, 1973
Bollinger, Arthur R. (Fixed wing loss)	Capt	Loas	Feb. 5, 1973	Feb. 24, 1973
Cressman, Peter R. (Fixed wing loss)	Sgt	Laos	Feb. 5, 1973	Feb. 24, 197
Spitz, George R. (Fixed wing loss)	Capt	Laos	Feb. 5, 1973	Feb. 24, 1973
Melton, Todd M. (fixed wing loss)	SSgt	Laos	Feb. 5, 1973	Feb. 24, 1973
Primm, Severo J. III (fixed wing loss)	1 Lt	Laos	Feb. 5, 1973	Feb. 24, 1973
Gambino, Joseph Jr. (fixed wing loss)	1 Lt	Cambodia	Apr. 7, 1973	Apr. 7, 1973
Costello, Jeremiah F. (Fixed wing loss)	Capt	Cambodia	May 25 1973	May 26, 1973
Gray, Richard T. (Fixed wing loss)	1 Lt	Cambodia	June 5, 1973	June 9, 1973
Meador, Francis E. (Helicopter loss)	1 Lt	Cambodia	June 14, 1973	June 16, 1973
Rovito, Gilbert A. (Helicopter loss)	1 Lt	Cambodia	June 14, 1973	June 16, 1973
McLeod, David V., Jr. (Helicopter loss)	MSgt	Cambodia	June 14, 1973	June 16, 1973

NONHOSTILE DEATHS—SOUTHEAST ASIA SINCE JAN. 27, 1973

Army:				
Paulos, Frank W. (Drugs)	PFC	SVN	Feb. 10, 1973	Feb. 17, 1937
Beavers, James D. (Auto accident (1965) in coma until date of death, from pneumonia)	Sgt	SVN	June 6, 1973	June 16, 1973
Navy:				
Duensing, James A. (Fixed wing accident)	Lt	NVN	Jan. 30, 1973	Feb. 3, 1973
Haviland, Roy E. (Fixed wing accident)	Lt JG	NVN	Jan. 30, 1973	Feb. 3, 1973
Stringham, William S. (Lost from USS Midway in South China Sea)	ADR3	SVN	Feb. 3, 1973	Mar. 17, 1973
Marine Corps:				
Conner, Donnie R. (Cardiac arrest, respiratory failure and pneumonia)	LCpl	SVN	Feb. 14, 1973	Feb. 17, 1973
Air Force:				
De Wolf, Dale L. (Jeep accident)	Sgt	SVN	Feb. 5, 1973	Feb. 10, 1973

SUPPORT OF PERCY LEGISLATIVE PACKAGE ON FEDERAL CRIMINAL JUSTICE SYSTEM

Mr. MOSS. Mr. President, as a former city judge for 10 years and a county attorney for 8, I know that we badly need improvements in the treatment of people who come within the control of the criminal authorities, and I have strong convictions as to the form these improvements should take. In addition, I have for years advocated reorganization of administrative agencies of Government in the field of natural resources. Fragmented authority and gaps make it impossible for administrators to deal decisively and comprehensively with the real problems of water, land, energy, and environment. The same is true for the broad problems of crime control and rehabilitation.

Our Constitution, laws, and courts provide protections for those falsely accused of crimes which is unmatched by any other society past or present. But it is important in our society that we also be concerned about persons who are proven guilty. Our tolerance for others' weaknesses, willingness to forgive failures, and our unique American sense of justice demand this. And in recent years I think we have all learned that self-interest makes the same demand. Convicted persons must be given treatment so they will not offend again.

Roughly 80 percent of crimes in this country are committed by recidivists. This is an appalling figure, but it is one that has increased over the years. To reverse that trend requires major revision of structures and programs which operate after conviction. The Federal Government must take the lead in this area. The substantive laws which govern prisoner and parolee treatment in the Federal correctional system must be a model of justice, humanity, and efficacy. The structures must give administrators both the responsibility and the tools to make "treatment" a reality. In both organizations and substance we have a long way to go.

Senator PERCY has worked hard to make himself an expert on the administrative aspects of the correctional system. The legislative package he introduced yesterday, bills S. 2160, 2161, 2162, 2163, and 2164, addresses key shortcomings in substantive laws as well. I have been impressed by his grasp of key issues in criminal law since reading his article, "An Overhaul of the Federal Parole System," which appeared in "Case and Comment" early this year.

This legislative package is simple, straightforward—and long overdue. While the five bills do not advance solutions for every problem in the administration of criminal justice, they deserve our immediate attention.

I am proud to join the senior Senator from Illinois as a cosponsor of his bills to reorganize and reform the Federal criminal justice system.

IMMEDIATE ACTION NEEDED TO ALLEVIATE BANGLADESH FOOD SHORTAGE

Mr. HUMPHREY. Mr. President, I have requested the Council on International Economic Policy—CIEP—to give immediate consideration to a plan that would help alleviate the food storage in Bangladesh.

On June 20, I joined with several other Senators in suggesting that the President request the diversion of 200,000 tons of wheat from U.S. shipments to the Soviet Union, or other available U.S. shipments of grain en route to foreign buyers, for the alleviation of the food crisis expected to hit Bangladesh this fall.

In a letter dated July 12, I have asked Peter Flanagan, Assistant to the President and Executive Director of CIEP, whether any action has been taken on our suggestion.

As I pointed out in my letter to Mr. Flanagan, there is precedent for food diversion in times of crisis, and the administrative requirements can surely be handled with necessary speed.

The timing for such a diversion is advantageous because the Soviet shipments are being dramatically reduced in August, partly in response to Soviet rail needs for their own internal wheat harvest.

On March 31, the United States signed an agreement committing itself to the delivery of 500,000 tons of grain to Bangladesh.

It is expected that 280,000 tons of this allocation will reach the beleaguered country in September.

However, the people of Bangladesh will require every bit of the 280,000 tons that we have donated, and more as well from other sources if they are to move through the October food grain shortfall period without starvation.

If we do not formulate the immediate Soviet diversion by a new allocation of 200,000 tons, I pointed out, then we will be watching as the late September-October crisis materializes, and we, the United States, will be unable to get food through in time.

Mr. President, even in times of domestic shortage, we must not forget our responsibilities to the less developed countries which have come to depend on the United States and others for assistance in times of crisis. For many people, our food commitments mean the difference between subsistence nourishment or mass starvation.

Moreover, the Soviet Union has responsibilities too, to the people of Bangladesh, as a recent New York Times editorial suggests. They should be agreeable to the diversion.

I have asked for a prompt response from the administration concerning their plans, and I again urge the adoption of the diversion plan.

I ask unanimous consent that the text of my letter and the New York Times editorial be printed in the RECORD.

There being no objection, the letter and editorial were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 12, 1973.

Mr. PETER FLANAGAN,
Assistant to the President and Executive Director, Council on International Economic Policy, Executive Office Building, Washington, D.C.

DEAR MR. FLANAGAN: On June 20 I joined Senator Saxbe and several other of my colleagues in a letter to the President calling for immediate attention to the food crisis in Bangladesh. The most reasonable solution to the current food shortages was suggested to be the diversion of 200,000 tons of grain from the Russian grain agreement with the concurrence of the Soviet government. Because of my deep personal interest in this situation, I would appreciate following up our previous letter of concern by asking the present status of our suggestion.

1. Have we asked the Soviet Union to divert the 200,000 tons of wheat from our shipments to them for the alleviation of the food shortages in Bangladesh?

2. If not, does our government intend to do so? When?

3. If it is not the intention to make such a request, or, if for some reason the request is refused, will the United States government take steps to provide 200,000 tons of grain within the next three weeks to Bangladesh by other means, the period suggested to remain before food shortages become extremely severe?

I am aware of the recent allocation of 280,000 tons of wheat that will arrive in Bangladesh during September. In this regard, the commitment of 31 March for the U.S. delivery of 500,000 tons is partially fulfilled.

There are reasons for facilitating the immediate diversion of Soviet wheat to Bangladesh without requiring that the government of Bangladesh repay the Soviet from the 280,000 tons that we have donated for September arrival.

1. The Soviet shipments are being dramatically reduced in August, in part in response to Soviet rail needs for their own internal wheat harvest. As a result, the only opportunity to divert Soviet wheat is right now.

2. The people of Bangladesh will require every bit of the 280,000 tons that we have donated, and more as well from other sources if they are to move through the October foodgrain shortfall time period without starvation.

If we don't formulate the immediate Soviet diversion by a new allocation of 200,000 tons, then we will be watching as the late September-October crisis materializes—we, the United States, will be unable to get food through in time, and the diversion of Soviet grain shipments will no longer be available to provide substantial amounts of grain within a very short time period—3 to 4 weeks.

There are presently 12 ships loading in the gulf port, 6 more ships to arrive in July and only 3 to be loaded in August.

This will end the present schedules for wheat shipments to the Soviet Union.

The allocation that is required now can be actualized not immediately, but at some later date, convenient to both the Soviets and ourselves. In this respect, it is no more than a statement that sometime in the next months—year—the United States will be granting 200,000 tons foodgrain to Bangladesh.

Our commitment of 31 March was to deliver 500,000 tons of wheat to Bangladesh to meet their unusual survival needs before the November rice harvest.

With the immediate diversion of 200,000 tons of Soviet wheat to Bangladesh, we will meet the need for the early August foodgrain shortfall and will have successfully fulfilled that commitment.

There is precedent for food diversion in time of crisis and the administrative requirements can surely be handled with necessary speed.

Because of the immediacy of this problem, I would appreciate a reply to these questions by tomorrow. This is to allow time to explore the possibility of Congressional action if emergency relief is not currently planned.

Even in times of domestic shortage, we must not forget our responsibilities to the less developed countries which have come to depend on the United States for assistance in times of crisis. For many of these people our food commitments mean the difference between subsistence nourishment or mass starvation. I, therefore, ask your prompt attention to these issues.

Sincerely,

HUBERT H. HUMPHREY.

[From the New York Times, July 12, 1973]

HELP FOR BANGLADESH

An appeal from Dacca to the Soviet Union to divert some of the wheat it is buying from the United States to help avert a severe food shortage in Bangladesh suggests a fruitful new area for constructive Soviet-American cooperation.

Bengali sources say they have pledged to reimburse the Soviets next year with "surplus" wheat they expect to get from the United States under the Food for Peace program. This arrangement would enable the United States, currently short of gift wheat because of its large sales to the Soviets earlier this year, to continue its generous food shipments to Bangladesh at a time when they are most desperately needed. It should cause the Soviets no inconvenience since they are reported to be now receiving more wheat than their ports can efficiently absorb.

Few Americans would object to reimbursing the Russians next year from an expected bumper crop if an emergency loan of stocks from this year's Soviet purchases can help avert starvation in a hungry land. But the image of Soviet-American cooperation in a humanitarian cause would be more real if Moscow would volunteer to share the cost of any diverted wheat. The Kremlin, after all, had a good deal more to do with the creation of the Bengali nation than did the United States. It is time the Soviets assumed a more equal share of the burden of helping to keep the Bengalis alive.

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Mr. MONDALE. Mr. President, as you know, one of the most encouraging elements in the Education Amendments of 1972 was the creation of the basic educational opportunity grants program. This new student aid program—commonly called the Pell grant program—represents a major and long overdue improvement in our national commitment to student aid. If fully funded in this year's HEW appropriations bill, as I hope it will be, this program could go a long way toward reducing financial barriers that currently keep hundreds of thousands of talented and scholastically able students from continuing their education after high school.

FAMILY CONTRIBUTION SCHEDULE

Perhaps the keystone in this program is the family contribution schedule. This schedule, which is to be determined by the Office of Education, is intended to indicate how much financial help families of different incomes and different sizes could reasonably be expected to contribute to the costs of higher education which confront their children. The law authorizes that this expected family contribution be subtracted from $1,400 to determine the amount of financial aid the student is entitled to—provided this amount does not exceed one-half the cost of attending college.

EDUCATION SUBCOMMITTEE HEARINGS

In order to assure that the family contribution schedule presented by the Office of Education was fair and equitable, the Education Subcommittee, under the able leadership of Senator PELL, held hearings on this subject in March. At these hearings, it became clear to a number of us that OE's original contribution schedule placed a particularly heavy burden on the families of farmers and small businessmen and families with four dependents or more.

CORRESPONDENCE

As a result of these hearings, Senator PELL and I, along with 31 other Senators sent a letter to Commissioner-designate Ottina on March 28, expressing our concerns in these areas and recommending that the proposed contribution schedule be adjusted.

We received a reply on May 10 indicating that OE was modifying their schedule by: First, establishing the concept of "negative income" treatment of assets; second, creating the opportunity for recomputation of expected family contributions in cases of changing financial circumstances; and third, establishing a separate category of assets consisting of high cost consumer durables.

On June 5, following my request, OE provided us with specific examples of what effects these provisions would have. Finally, on June 28, I wrote to Mr. Ottina, indicating that, in my judgment, these changes would provide fairer treatment to students from families with low income and marginal assets, and urging him to implement this program immediately so that grants would be available this fall. At the same time, however, I indicated my belief that these modifications did not resolve the problems faced by many children from families of farmers and small businessmen and suggested several proposals we might pursue administratively or legislatively to insure the necessary relief in time for the second year of the program.

Mr. President, in order that the complete record of this effort can be available to the public and to my colleagues, I ask unanimous consent that the correspondence I have referred to be printed in the RECORD at the close of my remarks along with the statement of Mr. Ottina at the Education Subcommittee hearings and a copy of the very useful testimony offered at the same hearing by Mr. Richard Hawk, the executive director of the Higher Education Coordinating Commission in my own State of Minnesota.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY JOHN OTTINA, U.S. COMMISSIONER OF EDUCATION-DESIGNATE

Mr. Chairman and Members of the Committee: It is a pleasure to be here before you this morning. I am deeply honored to have been nominated by President Nixon for the Office of Commissioner of Education.

Attached to my statement is a resume and a biographical sketch. In my statement I will briefly highlight those aspects of my background which seem particularly relevant to this Committeee's consideration of my qualifications.

Upon completion of my baccalaureate degree in 1953 I entered the teaching profession as an instructor of mathematics for two years in an urban high school in Los Angeles, where I also served as a counselor for a total of 300–500 students. During this period I earned a Master's Degree from U.C.L.A. in educational psychology, specializing in testing and measurement.

For the following two years I taught algebra, geometry, and trigonometry in an evening adult education program while working as a mathematical analyst with the Lockheed Corporation.

In February of 1958 I joined the System Development Corporation in Santa Monica, California where I ultimately became vice-president. In my 11 years with this company I worked in a different dimension of educational activity from that of my classroom experiences. Specifically, this activity included training, development of training systems, and computer learning.

During my tenure with the System Development Corporation, I continued to pursue my formal education at the University of Southern California, where I specialized in experimental research and design. I received a Ph. D. in educational psychology in 1964.

In view of my career long involvement with education, I eagerly accepted Dr. Marland's invitation to come to the Office of Education as Deputy Commissioner for Development in December 1970. I moved over to the post of Deputy Commissioner for Planning, Evaluation, and Management a few months later and served in that capacity until being named Acting Commissioner in November 1972.

The experience I've gained with the Office of Education has had a profound influence on my conception of the Commissionership and my ability to execute the duties of the job effectively.

The fact that my experience before and during my affiliation with the Office of Education has required substantial administrative and managerial elements will be of prime importance to my serving effectively as Commissioner. The Commissioner is the statutory administrator of OE programs and the person primarily responsible for the lawful and effective operation of such programs. My experience as Acting Commissioner and as the Deputy Commissioner in charge of the management, planning, and evaluation functions of the Office of Education should prove valuable in carrying out the duties of the Commissioner.

I do not imply any demeaning of the policy formulation role of the Commissioner. The Commissioner should continue to have a strong influence in the formulation of Federal education policy. However, policy making is a team effort, requiring the input of many persons in the legislative and executive branches. Insuring that the chosen policy is translated into an effective operational program procedure falls primarily to the Commissioner.

I would expect as Commissioner to be a public spokesman on education topics. While Dr. Marland, the very capable Assistant Secretary for Education, is the principal Federal spokesman for education, I would intend to be active in this area as well. To illustrate the interaction between the Commissioner and the Assistant Secretary I suggest envisioning a continuum with Administrative Responsibilities at one pole and Public Spokesman at the other. For the Commissioner, a line between the poles would show decreasing activity as it moved from the "administrative" pole to the "spokesman" pole, the line for the Assistant Secretary would reflect increasing responsibility as the line proceeds toward the "spokesman" pole.

I believe more emphasis on the administrative role of the Commissioner, relative to the duties of public spokesman for education, is desirable. It is my feeling that the press of the latter responsibilities has often robbed the previous commissioners of time needed to attend to administrative matters. At other times the reverse has been true. Public exposure has been curtailed because of internal pressure. I submit that one man has been trying to do two jobs and that the working relationship I have outlined between the Commissioner and Assistant Secretary will permit both jobs to be handled more efficiently.

Another factor will be working in favor of this relationship between Commissioner and Assistant Secretary. Dr. Marland and I have worked well together and share the highest personal and professional regard for each other. In addition, we both have a clear understanding of the statutory responsibilities vested in each office. We understand that the statutory relationship between Assistant Secretary and Commissioner does not altogether fall into the mold of the traditional organizational relationship of line authority. I anticipate no significant problems in adjusting to this situation.

I would like to turn to the future of the Office of Education. As you are aware, President Nixon recently submitted the Better Schools Act of 1973 to the Congress for your consideration. This legislation, which authorizes a program of education revenue sharing through grant consolidation, is a major element in the Administration's legislative program for education. Since we will be testifying on this proposal before the Senate Subcommittee on Education in the near future, I will confine my remarks to the general concepts which I hope will be applied to the agency as soon as possible.

If the Better Schools Act is enacted, significant numbers of trained and experienced professional educators, now confined to pushing paper in the agency, would be released to provide technical assistance services to the States so that the States themselves can more effectively implement decisions of their own making. In my view, this is the most effective way to provide the Federal education assistance now authorized under the programs encompassed by the Better Schools Act.

Of course, the States would not have unlimited discretion with the expenditure of Federal funds. The Better Schools Act carefully assures a continued level of Federal effort in the education of the disadvantaged. Other broad national priorities are assured a minimum acceptable commitment from Federal funds. The Office of Education in the post-education revenue sharing era would be able to better facilitate and encourage local and State self-determination while maintaining a position of leadership in promoting and preserving the priorities in Federal education policy.

In conclusion, let me say that if I am confirmed I would look forward to working with you in the coming months to shape Federal education policy. If the past is truly prologue, I do not expect that harmony will always prevail in this task, but I am confident that goodwill and genuine concern for the education of young people and adults in this Nation will always be our foremost consideration.

STATEMENT BY RICHARD C. HAWK, EXECUTIVE DIRECTOR, MINNESOTA HIGHER EDUCATION COORDINATING COMMISSION

(Prepared for the U.S. Senate Education Subcommittee, Feb. 22, 1973)

Mr. Chairman, members of the Committee, thank you for this opportunity to comment on proposed regulations for the Basic Educational Opportunity Grant Program, which potentially can make post-secondary education available to many students previously excluded from education beyond high school.

Making post-secondary education realistically accessible to all citizens, regardless of family economic status, is an important national goal and a serious problem worthy of your continuing attention. The Basic Opportunity Grants Program can be a significant means to achieve this goal, if implemented properly. The Congress and the Education Subcommittee are to be commended for establishing such a well formulated program. Those of us who are striving to improve access to post-secondary education in Minnesota have been especially gratified by the persistent interest and effort of our own distinguished senator, Walter F. Mondale.

While some provisions of the proposed BEOG regulations are commendable, other provisions are so deficient as to impair the potential effectiveness of the program. Implementation of the program under the proposed regulations would effectively preclude grants to a significant portion of the most needy students in Minnesota and many other states—those whose families derive their income from farming or operation of small business establishments.

The BEOG Program is appropriately directed to the students who are least able to afford post-secondary education, because as we have found in Minnesota, it is the students from low income families to whom post-secondary education is least accessible.

Indeed, a major thrust of the efforts of the Minnesota Higher Education Coordinating Commission this year has been concerned with mechanisms to improve access to post-secondary education for low-income and disadvantaged students. The BEOG Program, based on an entitlement principle, can complement our efforts by providing a base upon which state efforts can build.

It is as an entitlement determination system that I have reviewed the proposed guidelines, and it is in this context that my comments are made. I note this context because when balanced against the existing procedures used to determine family ability to pay, the proposed procedures suffer from serious problems. Social security payments and state income tax payments, for example, vary directly with family income level (and coming from Minnesota with a rather hefty state income tax, I should note that income tax varies considerably by state also). This variation is not reflected in the stable allowance which, I assume, is included in the Family Size Offset. Similarly, a family's disposable income is directly affected by the amount of property tax it is required to pay. Although I presume that a housing allowance included in the Family Size Offset includes a standard property tax allowance, it is quite clear that the property tax paid (either directly or indirectly through rent payments) will vary from the standard allowance and will as a consequence, affect the individual family's disposable income and ability to pay in a manner not reflected in the procedure proposed in the guidelines.

I do not, however, consider these problems significant given the entitlement purpose incorporated in the BEOG Program. Given the entitlement concept, the system used to determine eligibility should be sufficiently simple and straight-forward for students to estimate the approximate size of the grant for which they might qualify. The proposed procedure would accomplish this.

The proposed guidelines make another important contribution by establishing standards and definitions that have been problematic in student aid for many years. I refer here to the definition of procedures for Independent Student, for determining what year of income information to use, for identifying what should be counted as unusual expenses, and for defining what should be included as an asset. For years, these concepts have been debated and various procedures and definitions have been used by financial aid administrators. By establishing standard procedures, the guidelines will facilitate greater horizontal equity among students by treating similar students in a similar manner.

There are, however, four problems in the proposed guidelines which need attention. First, there appears to be no appeal procedure for those students whose family or financial situation changes dramatically between the base year (1972 for applicants for the 1973–74 year) and the year in which the student will be enrolled. Although the majority of students are not affected, the student whose family experiences a sudden loss of income (through the death of a father, loss of the father's job, or some other unpredictable event), could be excluded from eligibility to the BEOG Program and, as a consequence, could be deprived of post-secondary education. The system should provide a procedure to meet needs of students who experience sudden income losses.

Second, the proposed procedure for evaluating family assets would effectively exclude the majority of low income farm and small business families. This is a particularly serious problem for a state such as Minnesota where approximately 12 percent of our population is on the farm and roughly seven percent of the families are small business owners. Table I indicates that the median adjusted gross income for farmers in Minnesota is approximately $3500 per year. This would clearly identify students from these families as a target for the BEOG Program because of the very limited disposable income of these families and their relative and absolute inability to bear the post secondary educational expenses of their children. We know also that farmers require significant investment in capital—both land and equipment—to earn an income. The typical farmer needs net capital assets (as opposed to liquid assets) in excess of $34,000 merely to earn a living. Yet, under the proposed guidelines, any family with net assets (regardless of their purpose or nature) in excess of $34,000 is automatically excluded from the BEOG Program. Thus, the effect of these guidelines would be to exclude from the BEOG Program the majority of farm families and a high proportion of small business families who would otherwise qualify because of their low incomes and their inability to pay for the post-secondary expenses of their children. More than 8,000 students from farm families are graduated from Minnesota high schools annually.

Third, the proposed guidelines suggest an ability to contribute from both income and assets that is not realistic when compared to the assessments made by the American College Testing Program and the College Scholarship Service. Table II contains a comparison of the contribution expected from parents with income of $7500 and assets of $15,000 under the system proposed in the guidelines and the ACT and CSS need analysis systems. It can be observed that for all family sizes the contribution expected by the procedure outlined in the guidelines, from both income and assets, is considerably in excess of that expected by the two other systems. This suggests that the use of the proposed system will not provide the necessary assistance for the target population to pursue post-secondary education because of an unrealistic expectation of what the family can provide. The danger of this procedure is that it will undermine the significant potential of the BEOG Program by promising more than it will deliver.

My final point is also exemplified in Table II. As family size increases, the difference in the contribution expected by the proposed procedure increases when compared to the ACT and CSS systems. This is undoubtedly caused by inadequate Family Size Offsets in the procedure outlined in the guidelines. Indeed, this should not be surprising when one considers that the proposed allowance for the summer expenses of an Independent Student are set at $700 and the proposed allowance for the expenses of maintaining a two-person family are set at only $2800 for an entire year. It would appear that the Family Size Offsets are considerably below that which is required to maintain a family and that, as family size increases, the Family Size Offsets are increasingly inadequate. The negative potential created by this procedure is emphasized by the fact that large families tend to be concentrated among the lower income segments of the population.

Before concluding, I should like to call your attention to three additional potential problems. Realizing the potential of this program depends on a successful beginning. I would hope, therefore, that the BEOG Program will be implemented by the middle of April at the latest. By this time, institutions have made their awards and are in the process of notifying students. If the program is implemented much later, both students and institutions are likely to be confused by the process.

Second, since the program is based on an entitlement concept, adequate funding is crucial. We cannot afford to raise false hopes. When low income students learn that they are entitled to a grant because they meet the criteria (presumably realistic criteria), the funds necessary to meet students' expectations must be available. Their confidence in this society's ability to deliver on promises is at stake; their confidence in governmental processes hangs in the balance. That is not, I would submit, an insignificant challenge.

Finally, I would appeal to you to provide funding for other student aid programs. The BEOG is appropriately targeted to those students most in need. But, college costs are increasing faster than family incomes, and meeting the rising costs is increasingly difficult for students from middle-income families. It is of interest that a survey of a sample of Minnesota banks revealed that 58 percent do not plan an increase in student loans and 62 percent do not plan to make loans in excess of the subsidized proportion available under the new FISL regulations. Proposed guidelines for the BEOG Program must be reviewed and funding for other student aid programs must be considered in the context of rising costs and inadequate aid for both low and middle income students.

Summarizing, Mr. Chairman, I would propose the following recommendations:

(1) An appeal procedure should be incorporated into the proposed BEOG process to accommodate sudden financial changes for individual students.

(2) The evaluation of family assets should be modified to prevent the systematic exclusion of low income farmers and small business owners from the BEOG Program.

(3) The Family Size Offsets should be adjusted upward to more realistically represent the living expenses of larger families and to provide a more accurate assessment of parents' ability to pay regardless of the family size.

In addition, I would urge this committee to encourage a timely implementation of the BEOG Program, to seek adequate funding of the program and to strive for adequate funding for the other Federal student aid programs.

Thank you, Mr. Chairman, for the opportunity to meet with you. I hope my comments will be helpful in your deliberations.

TABLE I.—DISTRIBUTION OF MINNESOTA FARMS BY AMOUNT OF SALES AND NET INCOME, 1970

Sales	Number	Percent	Net income
Under $2,500	21,722	19.6	$1,059
$2,500 to $4,999	14,144	12.8	2,049
$5,000 to $9,999	20,976	18.9	3,492
$10,000 to $19,999	27,081	24.5	6,208
$20,000 to $39,999	19,509	17.6	9,962
$40,000 and over	7,315	6.6	25,664
Total	110,747	100.0	

Note: Medians: Sales $9,950; net income $3,473. Farm population equal 455,000 or 11.9 percent of total population.

TABLE II.—COMPARISON OF EXPECTED FAMILY CONTRIBUTION FROM INCOME AND NET WORTH DERIVED FROM FEDERAL, CSS AND ACT COMPUTATION PROCEDURES

Computation procedure	Number of dependent children: 1	3	5	7
Expected family contribution from income:				
Federal	$701	$412	$208	0
CSS	635	167	(30)	($133)
ACT	690	70	(100)	(340)
Expected family contribution from net worth:				
Federal	375	375	375	375
CSS	319	238	165	162
ACT[1]	0	0	0	0
Expected family contribution composite:				
Federal	1,076	787	583	375
CSS	954	405	135	29
ACT	690	70	(100)	(340)

[1] Excludes net assets in excess of $15,000 for retirement allowance.

Note: Case data: 2 parents, 1 parent employed; father age 43. Adjusted gross family income equal $7,500; Net worth equal $15,000. Only adjustment to family income is the amount of Federal income tax liability.

SUPPLEMENT TO THE STATEMENT BY RICHARD HAWK, EXECUTIVE DIRECTOR, MINNESOTA HIGHER EDUCATION COORDINATING COMMISSION

(Prepared for the U.S. Senate Education Subcommittee, Feb. 22, 1973)

My testimony recommends three modifications to the proposed BEOG guidelines:

(1) An appeal procedure should be incorporated into the proposed BEOG program to accommodate sudden financial changes for individual students.

(2) The evaluation of family assets should be modified to prevent the systematic exclusion of low income farmers and small business owners from the BEOG Program.

(3) The Family Size Offsets should be adjusted upward to more realistically represent the living expenses of larger families to provide a more accurate assessment of parents' ability to pay regardless of the family size.

Since the U.S. Office of Education is developing an appeal procedure for the BEOG Program, this statement will describe specific procedures for accomplishing the latter two recommendations.

Procedures proposed by the U.S. Office of Education for deriving a composite estimate of a family's ability to contribute toward education costs treat income and net assets independently. Exclusive consideration of these two elements of a family's financial strength may, and often does, result in gross inequities in the computation of Expected Family Contributions. The financial strength of families varies by (1) the level of disposable income, (2) the amount and nature of net assets, and (3) family size. A change in any of these factors significantly affects a family's ability to meet basic maintenance and other costs.

A need assessment procedure, even in a simplistic form, should include and consider these related factors simultaneously. Computation procedures based on these principles have been validated by economists and demonstrate that when net assets are considered together with income level, the distribution of families by order of financial strength varies considerably from the distributions obtained when income and net assets are considered exclusively.*

When current income is less than that required to provide for basic maintenance of the family, net asset resources would be utilized and thereby reduced to enable the family to meet day to day expenses. Consequently, a family's ability to contribute toward educational costs from its stock of net assets should be diminished in direct proportion to its income deficiency. Therefore, when family income is below the level of basic maintenance requirements, the negative expectation from income should be used to reduce the positive expectation from net asset resources. That proportion of net assets resources required to supplement income to provide for basic maintenance should not be "taxed" to obtain an index of the family's ability to contribute toward educational costs. The "tax" on discretionary income must, therefore, take into consideration the element of income deficiency (negative discretionary income) as well as the positive. Each of the examples which follow illustrate the principle of offsetting negative expectations from income with expectations from net assets. The net effect of this procedure is to consider the income and assets of the family together and to minimize the extent to which low income farmers with large capital assets would be systematically excluded from the BEOG Program.

An additional adjustment to the treatment of assets should be made to more adequately reflect the potential drain on the Asset Reserve provided in the regulations. Both the income and net assets of a family are measures of its financial strength. Both the flow and the stock of economic goods can support current consumption. Assessment of a family's ability to pay for education must consider both of these resource elements. Given a level of income and a stock of economic goods, a family's ability to provide for education expenses will vary with the number in the family unit requiring support.

The function of an asset reserve is to provide for basic maintenance of the family unit in the event of unforeseen emergencies, e.g., temporal unemployment, unusual medical expenses during prolonged illness, losses from catastrophes or in the case of death of a member of the family, for burial expenses.

Just as a proportion of family income, varying by family size, must provide for current maintenance expenses at a minimal level, so must a proportion of net assets be reserved to provide a financial resource for emergencies. The need for such reserves is directly related to the number of members in the family. The larger the family, the greater the potential for disaster as a consequence of unusual events. Therefore, the amount of the Asset Reserve should relate to family size similarly to that proportion of family income required to provide for basic maintenance for each member of the family unit. On the average, to provide equitable consideration for family size, it is fair and reasonable that the Asset Reserve should provide a financial resource approximating two units of current income required to provide for basic maintenance as proposed in Table I.

TABLE I.—PROPOSED NET ASSET RESERVE BY FAMILY SIZE

Family Size	Reserve	Differential
2 (1 p, 2 ch)	7,500	
3 (2 p, 1 ch)	9,000	1,500
4	10,500	1,500
5	12,000	1,500
6	13,500	1,500
7	15,000	1,500
8	16,500	1,500
9	18,000	1,500
10	19,500	1,500
11	21,000	1,500
12	22,500	1,500

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*Weisbrod, B. A. and Hanson, W. G., "An Income—Net Worth Approach to Measuring Economic Welfare." *The American Economic Review.* December, 1968. pp. 1315–1329

The other problem in the proposed regulation relates to the unrealistic contribution expected from family income, particularly from the income of large families.

The Family Size Offsets are, as pointed out in my testimony, quite small and the increments for additional family members appear to have little relation to the increment in expenses that a family would actually experience from adding another member of the family.

Alternative Family Size Offsets are provided below in Table II. Even though they are derived from a low standard of living budget, the allowances for family living expenses are considerably above those contained in the proposed regulations, and they provide Family Size Offsets that more realistically represent the expenses families would encounter from an additional family member.

TABLE II.—A COMPARISON OF FAMILY SIZE OFFSETS FOR THE FAMILY CONTRIBUTION SCHEDULE FOR THE BEOG PROGRAM

Family members	Family size offsets contained in the guidelines	Differential	Alternative family size increments	Differential
2	$2,800		$2,800	
3	3,350	$550	3,950	$1,150
4	4,300	950	5,310	1,360
5	5,050	750	6,420	1,110
6	5,700	700	7,380	960
7	6,300	600	8,120	740
8	7,000	700	8,780	660
9	7,700	700	9,440	600
10	8,400	700	10,100	660
11	9,100	700	10,760	660
12	9,800	700	11,420	660

The Alternative Family Size Offsets are those used in the need analysis system of the American College Testing Program. (For a detailed explanation of the derivation of these Offsets see the American College Testing Program, 1972 Revisions in the ACT Student Need Analysis Service, Iowa City, Iowa, 1972, pp. 10–16.

It should be emphasized that these alternative Family Size Offsets are not derived from a budget that allows liberal living expenses for the family. Rather, they are derived from the consumption expenditures, adjusted to December 1971, that the Bureau of Labor Statistics identified as associated with a low standard of living in the United States. They represent an approximation of the basic expenses required to maintain a family at a living standard that is above the poverty level but considerably below the living standard experienced by a family living at the median family income level. (By comparison, the consumption expenditures from the BLS moderate budget would be approximately 59 percent higher and for the BLS high standard of living budget they would be 105 percent higher.)

The three modifications proposed above are responsive to the recommendations made when I testified before your committee; their adoption would provide for more equitable treatment of students under the BEOG Program. By considering assets and income together, applying the concept of negative discretionary income, low income farmers will not automatically be excluded from the BEOG Program. Similarly, the graduation of the Asset Reserve by size of family would provide more equitable assessment of the contribution that can be provided from family assets by recognizing that the potential drain on assets and the ability of families to accumulate assets are both directly affected by the size of the family. Finally, the Alternative Family Size Offsets indicated in Table II would result in more realistic expectations from family income when actual expenditures required to maintain larger families are given proper consideration.

For your convenience and information, I have attached a comparison, for selected cases, of the expected contribution that would be produced by the procedure outlined in the regulations and by the procedures as they would be modified by proposals outlined in this statement. I should add that each of the modifications I have proposed could be easily accommodated in the procedure contained in the regulations without changing the data collection instrument or the calculation schedule.

EXPECTED FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS, ACADEMIC YEAR 1973–74

Wage earner, two dependent children, one in college with $200 savings.

Taxable income, $7,700.

Net assets, $14,600.

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	7,670
2. Other parental income in 1972	30
3. Parent's adjusted annual income in 1972	7,700
4. Parent's Federal income tax paid in 1972	540
5. Effective family income in 1972	7,160
6. Family size offset	5,310
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (lines 6 plus 7 plus 8)	5,310
10. Discretionary income (line 5 minus line 9)	1,850
11. Multiply discretionary income by applicable rate to obtain standard contribution. X .20	370
12. Determine net assets of parents	14,600
13. Subtract asset reserve	10,500
14. Available parental assets	4,100
15. Multiply available assets by 0.05	
16. Parental contribution from assets	205
17. Add lines 11 plus 16 to obtain standard contribution from income and assets. 370 plus 205	575
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education	575
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	642

Maximum BEOG eligibility, $1,400 minus $642 equals $758.

Negative figures in parentheses.

Wage Earner, Two Dependent Children, One in College with $200 Savings.

Taxable Income, $7,700.

Net Assets, $14,600.

(BEOG guidelines from Federal Register)

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	7,670
2. Other parental income in 1972	30
3. Parent's adjusted annual income in 1972	7,700
4. Parent's Federal income tax paid in 1972	540
5. Effective family income in 1972	7,160
6. Family size offset	4,300
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (lines 6+7+8)	4,300
10. Discretionary income (line 5 minus line 9)	2,860
11. Multiply discretionary income by applicable rate to obtain standard contribution (×0.20)	572
12. Determine net assets of parents	14,600
13. Substract asset reserve	7,500
14. Available parental assets	7,100
15. Multiply available assets by 0.05	0
16. Parental contribution from assets	355
17. Add lines 11 plus 16 to obtain standard contribution from income and assets 572+355)	927
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education (×1.00)	927
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33	0
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	994

Maximum BEOG Eligibility=$1,400−944 =$406.

Negative figures in parentheses.

CASE NO. 1

Farm family, three dependent children, one in college with $200 savings.

Taxable income, $3,690.

Net assets, $34,900.

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	3,690
2. Other parental income in 1972	0
3. Parent's adjusted annual income in 1972	3,690
4. Parent's Federal income tax paid in 1972	0
5. Effective family income in 1972	3,690
6. Family size offset	6,420
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (lines 6+7+8)	6,420
10. Discretionary income (line 5 minus line 9)	2,730
11. Multiply discretionary income by applicable rate to obtain standard contribution (×0.20)	546
12. Determine net assets of parents	34,900
13. Subtract asset reserve	12,000
14. Available parental assets	22,900
15. Multiply available assets by 0.05	
16. Parental contribution from assets	1,145
17. Add lines 11 plus 16 to obtain standard contribution from income and assets $1,145–$546	599
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education (×$1)	599
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	666

Maximum B.E.O.G. eligibility, $1,400 minus $666 equals $734.

Negative figures in parentheses.

Farm family, three dependent children, one in college with $200 savings.

Taxable income, $3,690.

Net assets, $34,900.

(BEOG guidlines from Federal Register)

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	3,690
2. Other parental income in 1972	0
3. Parent's adjusted annual income in 1972	3,690

4. Parent's Federal income tax paid in 1972	0
5. Effective family income in 1972	3, 690
6. Family size offset	5, 050
7. Unusual expenses	0
8. Employment expens· offset	0
9. Total offsets against income (Lines 6 + 7 + 8). 5,050	5, 050
10. Discretionary income (line 5 minus line 9)	0
11. Multiply discretionary income by applicable rate to obtain standard contribution (0.20x0)	0
12. Determine net assets of parents	34, 900
13. Substract asset reserve	7, 500
14. Available parental assets	27, 400
15. Multiply available assets by 0.05	
16. Parental contribution from assets	1, 370
17. Add lines 11 plus 16 to obtain standard contribution from income and assets	1, 370
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education (x1.00)	1, 370
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	1, 437

Maximum BEOG eligibility=$1,400—$1,437=0.

Negative figures in parentheses.

Gas station attendant, one child in college with $200 in savings.

Taxable income, $5,200.

Net assets, $8,400.

Summary of calculation—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	5, 200
2. Other parental income in 1972	0
3. Parent's adjusted annual income in 1972	5, 200
4. Parent's Federal income tax paid in 1972	320
5. Effective family income in 1972	4, 880
6. Family size offset	3, 950
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (lines 6+7+8)	3, 950
10. Discretionary income (line 5 minus line 9)	930
11. Multiply discretionary income by applicable rate to obtain standard contribution (×.20)	186
12. Determine net assets of parents	8, 400
13. Subtract asset reserve	9, 000
14. Available parental assets	0
15. Multiply available assets by 0.05.	
16. Parental contribution from assets	0
17. Add lines 11 plus 16 to obtain standard contribution from income and assets	186
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education (×1.00)	186
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by 0.33.	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	253

Maximum B.E.O.G. Eligibility=$1400—$253=$1,147.

Negative figures in parentheses.

Gas Station Attendant, One Child in College, with $200 in Savings.

Taxable Income, $5,200.

Net Assets, $8,400.

(BEOG guidelines from Federal Register)

Summary of calculations—Proposed method

[In dollars]

1. Parent's adjusted gross income in 1972	5, 200
2. Other parental income in 1972	0
3. Parent's adjusted annual income in 1972	5, 200
4. Parent's Federal income tax paid in 1972	320
5. Effective family income in 1972	4, 880
6. Family size offset	3, 350
7. Unusual expenses	0
8. Employment Expense offset	0
9. Total offsets against income (lines 6 + 7 + 8)	3,350
10. Discretionary income (line 5 minus line 9)	1, 530
11. Multiply discretionary income by applicable rate to obtain standard contribution (x 0.20)	306
12. Determine net assets of parents	8, 400
13. Subtract asset reserve	7, 500
14. Available parental assets	900
15. Multiply available assets by .05	
16. Parental contribution from assets	45
17. Add lines 11 plus 16 to obtain standard contribution from income and assets	351
18. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education (x 1.00)	351
19. Effective income of student	0
20. Determine net assets of students	200
21. Multiply student's net assets by .33.	
22. Students contribution from assets	67
23. Total family contribution equals sum of lines 18 plus 19 plus 22	418

Maximum BEOG Eligibility=$1,400 — $418 = $972.

Negative Figures in Parentheses.

U.S. Senate,
Committee on Labor
and Public Welfare,
Washington, D.C., March 28, 1973.

Hon. John Ottina,
U.S. Commissioner of Education Designate, Department of Health, Education, and Welfare, Washington, D.C.

Dear Commissioner: We would like to register our deep concern over the family contribution schedule recently proposed by the Office of Education for the Basic Educational Opportunity Grant Program.

During the Education Subcommittee hearing at which you testified on this proposal, it became apparent that your schedule would require many families to pay more of their children's college costs than the schedules currently used by most colleges to determine student aid.

There are two aspects of this proposal which present particular problems: First, the schedule would make it difficult, if not impossible, for many children of farmers or small businessmen to receive the scholarship aid they need to attend college or postsecondary vocational schools. As we know, the family farmer or the small businessman needs investments in buildings, land and equipment just to eke out a living. Yet, these proposals would deny aid to the children of small businessmen in Rhode Island or elsewhere in this country who have assets of $35,000 or more, even if their income was below the poverty line. And they would deny scholarship aid to children of a farmer in Minnesota whose income is $3500 a year or less, if his farm is worth $35,000.

Secondly, this proposal would make it difficult for many children in large families—both poor and middle-income families—to secure the assistance they need.

In both these areas your proposal would provide substantially less assistance to young people than they would receive under either of the two current independent scholarship services—the American College Testing and the College Scholarship Service.

We are very proud of this legislation and pleased that the Administration has asked for full funding of it next year. We believe there is no disagreement between those of us in the Congress and those in the Executive Branch about the need to remove financial barriers to post-secondary education and we hope to continue working with the Administration to achieve this goal.

We feel strongly, however, that at the very least, the schedule should be adjusted immediately in these two areas so that all deserving young people can attend college next fall.

With warmest personal regards.

Sincerely,

Walter F. Mondale,
Chairman, Subcommittee on Children.
Claiborne Pell,
Chairman, Subcommittee on Education.

Also signed by: James Abourezk, Birch Bayh, Alan Bible, Edward W. Brooke, Quentin N. Burdick, Frank Church, Dick Clark, Alan Cranston, Thomas F. Eagleton, Philip A. Hart, William D. Hathaway, Ernest F. Hollings, Harold E. Hughes, Hubert H. Humphrey, Jacob K. Javits, Edward M. Kennedy, Gale W. McGee, George S. McGovern, Thomas S. McIntyre, Gaylord Nelson, John O. Pastore, Claiborne Pell, William Proxmire, Jennings Randolph, Abram A. Ribicoff, Richard S. Schweiker, Robert T. Stafford, Adlai E. Stevenson III, John G. Tunney, Harrison A. Williams, Jr., Milton R. Young.

Department of Health,
Education, and Welfare,
Washington, D.C., May 10, 1973.

Hon. Walter F. Mondale,
Chairman, Subcommittee on Children and Youth, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

Dear Senator Mondale: In further response to your letter of March 28 regarding the Family Contribution Schedules for the Basic Educational Opportunity Grant Program, we would like to share with you the revisions we have made in these schedules.

As we indicated in our interim reply of April 6, we have re-examined our position regarding the treatment of assets in the system for determining expected family contribution for the Basic Grants in light of the concerns expressed by yourself and a number of other members of the Senate.

As a result of our deliberations, we are incorporating several significant modifications in the Schedules which were presented to the Senate Subcommittee on Education on February 22.

The first of these modifications would permit a reduction in the amount of assets considered in those cases where the computation of discretionary income yields zero or a negative amount. In cases such as this, the reduction in the amount of assets would be the amount necessary to offset the negative level of the family's discretionary income. In other words, an unused exclusion against income could be "carried over" as an exclusion against assets.

The second revision provides for the inclusion of high-cost consumer durables as a separate category of assets. Included in this category of assets would be such consumer durables as cars, boats, jewelry, art objects, etc. We would not include any of these types of assets with a value of less than $500 and would provide an asset allowance of $7500 against the total net worth of the consumer durables included in this category. Most appliances and automobiles owned by the family would, therefore, usually be exempt.

Another modification to the Schedules expands the definition of "Federal Income Tax" to include the taxes on income paid to the Government of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. Residents of these outlying areas do not pay Federal Income Tax, but instead, pay a similar tax to their own Governments. This change allows them to be able to deduct the income tax paid from their adjusted gross income in the same manner as those persons who do pay Federal Income Tax.

We believe that the Schedules with these modifications will be more equitable than those originally proposed.

In addition to these modifications in the Schedules themselves, we have also developed a process by which students may request a recomputation of Expected Family Contribution due to changed financial circumstances which would adversely and significantly affect the family's income. The circumstances under which a student may request such a recalculation are the death of a parent or spouse whose income is included in the determination of family contribution, the loss of employment of such a parent or spouse for a period of at least ten weeks, or the inability of such parent of spouse to pursue normal income-producing activities for a period of at least ten weeks by reason of disability or natural disaster. In these situations, the applicant may use the current year rather than the previous or base year as the best indicator of family financial strength for computing his family contribution.

The question of a special asset treatment for farm and small business assets was debated at great length. After much discussion and careful consideration, we came to the conclusion that preferential treatment of any special kinds of assets would destroy the equity which we felt was essential to the program.

There are a number of reasons for not making this kind of modification. First, the purpose of any need analysis system is to measure the financial strength of a family. It appears that a rural family with an annual income of $5000 and $30,000 in farm assets is in a stronger financial position than an urban family with the same income but no assets. It would be very difficult to justify not recognizing that difference in determining expected family contribution. Also, the two major national need analysis services (the College Scholarship Service and the American College Testing Program) do not distinguish between types of assets. Their experience has been that trying to segregate income-producing assets in order to treat some kinds in a preferential manner is extremely difficult and does not produce any significant additionally equity. In addition, the use of adjusted gross income as defined by the Internal Revenue Service, seems to provide some additional benefits to farmers and small businessmen in the calculation of a family contribution.

We hope that this information will alleviate your concerns. We appreciate your continued support and good advice in our efforts to implement this vital new program.

Sincerely,

JOHN OTTINA,
U.S. Commissioner of Education-designate.

MAY 21, 1973.

HON. JOHN OTTINA,
Commissioner Designate, Office of Education, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. OTTINA: Thank you for your recent reply to a letter I and 33 other Senators sent you on March 28, questioning the proposed family contribution schedule for the Basic Educational Opportunity Grant Program. I write this letter as a follow up to conversations between members of our staffs.

In order to underscore and formalize the request I made last week, I would like to specially ask that you supply me with several examples of what your proposed changes will mean to the children of farmers and small businessmen.

I would be particularly interested in examples which indicate in what cases, and to what extent, the proposed modifications concerning the reduction in the amount of assets might have for these children. Please supply me with some examples, as well, of what your recomputation provision might mean in situations affecting these children.

Finally, I would very much appreciate learning of the reasons why you decided not to make any distinction between what many of us consider to be non-liquid assets and liquid assets. No one would quarrel with your statement that a rural family with an annual income of $5,000 and $30,000 in farm assets appears to be in a stronger financial position than an urban family with the same income but no assets. But that is not the point. The question is whether or not that rural family with its assets in the form of land or cattle is as able to free some of them up for college expenses as an urban or rural family with an equal income and equal assets in the form of a savings account or stock certificates. That is the issue. And I would like very much to receive your response on it.

I appreciate the effort you have made to be responsive to the concerns we have expressed and I hope that you can respond to these question in the very near future so that the implementation of this important program will not be delayed any further.

With warmest personal regards.

Sincerely,

WALTER F. MONDALE.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., June 5, 1973.

HON. WALTER F. MONDALE,
U.S. Senate
Washington, D.C.

DEAR SENATOR MONDALE: Thank you for your letter of May 21 requesting additional information on the treatment of assets for the Basic Educational Opportunity Grant Program. Specifically, you asked that I provide cases illustrating how the new "negative income" treatment of assets will affect the family contribution of farm and business families. I am pleased to include several cases illustrating the Family Contributions that would be expected under the Family Contribution Schedules published February 2, and the lower contributions now expected for these families under the schedules to be published shortly.

You also asked that I outline the rationale behind the expectation from the assets of farmers and businessmen. First, I want to emphasize that the expectation is not from gross assets; rather, it is from that portion of the asset unencumbered by debt. Second, the value of these assets is the current market value of the assets; that is, the value of the asset on the market today. Finally, at some point, all such assets must be assessed at their cash value and the farmer, businessman or his heirs will have the full benefit of its worth. Therefore, the comparative liquidity of an asset should not be a consideration for this grant program since we are attempting to measure the family's financial strength.

The Office has concluded, as have the College Scholarship Service and the American College Testing Program, that a dollar of assets is a dollar of assets. If some different treatment is offered farm and business assets, then a substantial amount of money is sheltered for students from farm and business families while the student is offered a nonrepayable grant, while such a grant is denied a student from a salaried family with an equivalent amount of assets.

A second argument may be made that liquidity is not the problem but, rather, the fact that if the farmer and businessman do actually sell a portion of their assets, then their ability to earn a livelihood from the farm or business is decreased. This may be true. However, a 5 percent expectation cannot be viewed as requiring that an asset be liquidated. Rather, there is a significant increase in the family's ability to obtain additional resources as a result of holding assets. The $30,000 asset position which you posit in your letter could easily support an additional $1500 in debt for educational purposes.

May I say that we have designed this family contribution system with the intention of producing consistent treatment for all parents and students. There will inevitably be circumstances which cannot be accommodated by a nationally consistent family contribution system such as the Basic Grant Family Contribution Schedules. However, such individual circumstances can be met from State, private, and other Federal resources, where additional flexibility is possible.

I am pleased to clarify further this important area of concern and to report that we are making good progress under the considerable pressure of time to implement this exciting new program for this fall.

Sincerely,

JOHN OTTINA,
U.S. Commissioner of Education-designate.

DESCRIPTIONS OF SAMPLE CASES FOR THE PROPOSED BASIC GRANT FAMILY CONTRIBUTION EXPECTATION

A student's maximum grant eligibility, under the Basic Educational Opportunities Grant Program, is equal to $1400, less the amount of expected family contribution, but not to exceed one-half the cost of attendance. "Expected Family Contribution" is defined as the amount which the family of each student may reasonably be expected to contribute toward the education of that student for each academic year. Family Contribution Schedules were published in the Federal Register on February 2, 1973, under the proposed rule making procedure.

As a result of the comments received in response to the previously published schedules, several changes in the determination of the contribution from assets have been incorporated in the schedules which will be published shortly. The attached cases illustrate the different treatment of these assets as previously published in the Federal Register as opposed to the treatment to be published shortly.

First, a so called "negative income" procedure has been included in the calculation of the contribution from assets. "Negative income" occurs in low-income families whereby the sum of the various offsets will exceed the amount of family income leaving a negative amount. The new schedules will permit a reduction of this amount from the net assets of the family.

In addition, the new schedules provide for a contribution from "other assets," if these assets are in excess of $7500. This so called "other assets" are such consumer durables and personal assets as automobiles, boats, art objects, electronic sound and visual equipment, jewelry, antiques, cameras, etc. In order to be included in this category of assets, each item must have a value of $500 or more.

Case A–1 shows a farm family with a negative income asset treatment. The total income is les sthan the various offsets, and therefore, "negative income" may be said to exist. The previously published family contribution schedules make no provision for this situation, and therefore, there is merely a $0 contribution from family income and no adjustment to assets.

Case A–2 shows the same family with the amount of negative income subtracted from assets along with the $7500 asset allowance before any contribution is expected.

Case B–1 shows a family headed by a widow with negative income and a considerable amount of net assets. Their contribution is computed on the amount of the net assets, less the asset reserve of $7500. No allowance is made for the negative income.

B–2 shows the same family with the amount of negative income subtracted from the assets along with the $7500 asset reserve, before their contribution is determined.

DONALD JONES FARM FAMILY, SIX-MEMBER FAMILY, TWO IN COLLEGE

Expected family contribution for dependent students, academic year 1972–74

[Calculated on the basis of February 2-family contribution schedules, in dollars]

WORK SHEET/SUMMARY OF CALCULATION

1. Parents' adjusted gross income in 1972	4,000
2. Other parental income in 1972	0
3. Parents' adjusted annual income in 1972	4,000
4. Parents' Federal income tax in 1972	0
5. Effective family income in 1972	4,000
6. Family size offset	5,700
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (lines 6, 7, and 8)	5,700
10. Discretionary income (line 5 minus line 9)	0
11. Multiply discretionary income by applicable rate to obtain standard contribution	0
12. Determine net assets of parents	15,000
13. Subtract asset reserve	7,500
14. Available parental assets	7,500
15. Multiply available assets by .05	
16. Parental contribution from assets	375
17. Add lines 11 plus 16 to obtain standard contribution from income and assets	375
18. Multiply standard contribution by multiply student rate to determine expected family contribution for each family member in postsecondary education	262.50
19. Effective income of student	0
20. Determine net assets of student	200
21. Multiply student's net assets by .33	
22. Student's contribution from assets	66
23. Total family contribution equals sum of lines 18 plus 19 plus 22	328.50

FARM FAMILY, SIX MEMBER FAMILY, TWO IN COLLEGE

Expected family contribution for dependent students, academic year 1973–74

[Calculated on the basis of revised family contribution schedules to be published shortly]

SUMMARY OF CALCULATION

1. Parent's adjusted gross income in 1972	4,000
2. Other parental income in 1972	0
3. Parents' adjusted annual income in 1972	4,000
4. Parent's Federal income tax paid in 1972	0
5. Effective family income in 1972	4,000
6. Family size offset	5,700
7. Unusual expenses	0
8. Employment expense offset	0
9. Total offsets against income (lines 6, 7, and 8)	5,700
10. Discretionary income (line 5 minus line 9)	1,700
11. Determine net assets of parents	15,000
12. If line 10 is a negative amount, subtract from line 11 the amount necessary to bring discretionary income up to zero. Enter the remainder of the net assets	13,300
13. If line 10 is a positive amount, enter that amount. If line 10 is a negative amount enter zero	0
14. Determine net other assets of parents'	0
15. Multiply discretionary income in line 13 by applicable rate to obtain standard contribution	0
16. Subtract asset reserve of $7,500 from amount entered on line 12 to obtain available parental assets	5,800
17. Multiple available parental assets by 0.05	
18. Parental contribution from assets	290
19. Subtract other asset reserve of $7,500, from amount entered on line 14 to obtain available other assets of parents	0
20. Multiply available other assets of parents by 0.05	
21. Parental contribution from other assets	0
22. Add lines 15 plus line 18 plus 21 to obtain standard contribution from income, assets, and other assets	290
23. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education	203
24. Effective income of student	0
25. Determine net assets of student	200
26. Multiply student's net assets by 0.33	
27. Student's contribution from assets	66
28. Total family contribution equals sum of lines 23 plus 24 plus 27	269

SHERRY JONES—MOTHER IS A WIDOW WHO OWNS A BUSINESS, FOUR-MEMBER FAMILY, ONE FAMILY MEMBER IN COLLEGE

Expected family contribution for dependent students, academic year 1972–74

[Calculated on the basis of the February 2 family contribution schedules, in dollars]

WORK SHEET/SUMMARY OF CALCULATION

1. Parents' adjusted gross income in 1972	3,800
2. Other parental income in 1972	0
3. Parents' adjusted annual income in 1972	3,800
4. Parents' Federal income tax in 1972	0
5. Effective family income in 1972	3,800
6. Family size offset	4,300
7. Unusual expenses	0
8. Employment expense offset	1,500
Total offsets against income (lines 6, 7, and 8)	5,800
10. Discretionary income (line 5 minus line 9)	2,000
11. Multiply discretionary income by applicable rate to obtain standard contribution	0
12. Determine net assets of parents	12,000
13. Subtract asset reserve	7,500
14. Available parental assets	4,500
15. Multiply available assets by .05	
16. Parental contribution from assets	225
17. Add lines 11 plus 16 to obtain standard contribution from income and assets	225
18. Multiply standard contribution by multiply student rate to determine expected family contribution for each family member in postsecondary education	225
19. Effective income of student	0
20. Determine net assets of student	350
21. Multiply student's net assets by .33	
22. Student's contribution from assets	116
23. Total family contribution equals sum of lines 18 plus 19 plus 22	341

SHERRY JONES, MOTHER IS A WIDOW WHO OWNS A BUSINESS, FOUR-MEMBER FAMILY, ONE FAMILY MEMBER IN COLLEGE

Expected Family Contribution for Dependent Students, Academic Year 1973–74

[Calculated on the basis of the Revised Family Contribution Schedules to be published shortly]

SUMMARY OF CALCULATIONS

1. Parent's adjusted gross income in 1972	3,800
2. Other parental income in 1972	0
3. Parent's adjusted annual income 1972	3,800
4. Parent's Federal income tax paid in 1972	0
5. Effective family income in 1972	3,800
6. Family size offset	4,300
7. Unusual expenses	0
8. Employment expense offset	1,500
9. Total offsets against income (lines 6, 7, 8)	5,800
10. Discretionary income (line 5 minus line 9)	2,000
11. Determine net assets of parents	12,000
12. If line 10 is a negative amount, subtract from line 11 the amount necessary to bring discretionary income up to zero. Enter the remainder of the net assets	10,000
13. If line 10 is a positive amount, enter that amount. If line 10 is a negative amount enter zero	0
14. Determine net other assets of parents	0
15. Multiply discretionary income in line 13 by applicable rate to obtain standard contribution	0
16. Subtract asset reserve of $7,500 from amount entered on line 12 to obtain available parental assets	2,500
17. Multiply available parental assets by 0.05	
18. Parental contribution from assets	125
19. Subtract other asset reserve of $7,500 from amount entered on line 14 to obtain available other assets of parents	0
20. Multiply available other assets of parents by 0.05	
21. Parental contribution from other assets	0
22. Add line 15 plus line 18 plus 21 to obtain standard contribution from income, assets, and other assets	125
23. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in post-secondary education	125
24. Effective income of student	0
25. Determine net assets of student	350
26. Multiply student's net assets by 0.33	
27. Student's contribution from assets	116

28. Total family contribution equals sum of lines 23 plus 24 plus 27---------- 241

JUNE 23, 1973.

Hon. JOHN OTTINA,
Commissioner of Education-Designate, Office of Education, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. OTTINA: Thank you for your letter of June 5, concerning the treatment of assets under the Basic Educational Opportunity Grants Program.

I appreciate your enclosing the examples I requested illustrating the impact of the changes you had made in response to concerns which I and 33 other Senators expressed earlier.

Let me begin by commending you for the changes and modifications you have made. The procedures you provided to permit a recomputation of expected family contributions in cases of changing financial circumstances—such as a death of a parent, loss of employment, or natural disaster—are good. The separate category of assets established to keep high-cost consumer durables also makes a good deal of sense. And the new concept of "negative income" treatment of assets is a useful step in the right direction.

Taken together, these changes constitute a much-needed liberalization of this program. Unquestionably, these changes assure fairer treatment and authorize greater financial assistance to students from families with low incomes and marginal assets.

I am still concerned, however, about your reluctance to make any special consideration for the assets of small businessmen and farmers. If a distinction between liquid and nonliquid assets does not make sense, as you suggest, I wonder whether we shouldn't consider a distinction between assets which provide a primary means of livelihood for a family—such as a farmer or small businessman—and those that provide supplementary income. And I wonder, as well, whether an effort shouldn't be made to vary the amount of exempt assets according to the size of the family. I hope you will give me your opinion of these ideas. They may well be worth pursuing for the second year of the program via further administrative change or legislative change.

At this point, I hope you will expedite implementation of the Basic Educational Opportunity Grant Program so that it can be of help to students attending college by this fall. Because of the changes you have made in response to our concerns, and because the Congress has provided funds for existing student aid programs, as well as for the BEOG program, what I and a number of my colleagues considered to be major weaknesses in your initial regulations have been reduced in magnitude and importance.

Let me close by expressing my appreciation for your responsiveness and my support for the immediate implementation of the BEOG program. And let me re-emphasize my hope that you will work with us in the consideration of further modifications to this effect in the second year of BEOG grants.

With warmest personal regards.

Sincerely,

WALTER F. MONDALE.

SENATOR NELSON CALLS FOR EXPANDED FUNDING OF REGIONAL COMMISSIONS

Mr. HUMPHREY. Mr. President, on July 12, Senator GAYLORD NELSON testified before the Senate Appropriations Subcommittee on State, Commerce, Justice, Judiciary, and Related Agencies in support of expanded appropriations for the title V regional commissions. I totally agree with Senator NELSON that the regional commissions play a vital role in the economic lives of many of the poorest areas of our Nation. We have both seen, first hand, the Upper Great Lakes Regional Commission become a dynamic catalyst for economic growth in our States.

I ask unanimous consent that Senator NELSON's remarks be printed in their entirety in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR NELSON TO THE SENATE APPROPRIATIONS SUBCOMMITTEE ON STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES, JULY 12, 1973

Mr. Chairman, I appreciate this opportunity to present to your Committee testimony in support of expanded appropriations for the Title V Regional Commissions. In 1965, the Congress established the Economic Development Administration. The intent in passing that legislation, known as the Public Works and Economic Development Act of 1965, is clearly spelled out in the bill. Initially, the Act acknowledges that some of the regions of the country suffer from "substantial and persistent unemployment and underemployment, and that such unemployment causes hardship to many individuals and their families, and wastes invaluable human resources."

To overcome this problem, the federal government, in cooperation with the state, "should help areas and regions of substantial unemployment and underemployment to take effective steps in planning and financing their public works and economic development . . . to help themselves achieve lasting improvement and enhance the domestic prosperity by the establishment of stable and diversified local economies and improved local conditions."

This expressed intent of Congress to help "local communities help themselves "is carried out, in part, through the establishment of the Regional Action Planning Commissions in Title V of the Act. The purpose of such organizations, the Title V Commissions, is to combine the financial resources of the federal government with the decision-making processes of the state and local governments to effectively determine the key priorities for the distribution of funds designed to relieve economic depression. The principle involved is really a very old one. Clearly, individuals who deal with the problems of unemployment, education and social services on a first-hand basis are most qualified to determine what the local needs in that area are. The Title V Commissions were established to guarantee that local participation.

In the Midwest, the Upper Great Lakes Regional Commission was established under Title V, encompassing 119 counties in northern Wisconsin, Minnesota and Michigan. Inherent in the Upper Great Lakes Commission, and in every one of the other regional development commissions, is that the problems of like geographic and like economic areas can best be approached with a recognition that what benefits a small area will benefit the entire area. As such, the Upper Great Lakes Commission approaches its work with both a concern for the individual problems in each locality, and for the contribution which those problems make to the problems of the entire region.

These 119 counties, including 36 counties in northern Wisconsin, clearly suffer under the most acute economic depression. Their average income is 20% lower than the average of the three states, unemployment averages 6.4%, while the State average is 5%, and the population trends indicate that the region lost 2.7% of the total population between 1960 and 1970, while the states had increases of 11.8%.

Some counties in particular suffer from much more severe problems. Menominee County, which was created when the Menominee Indian tribe was terminated in 1960, has an unemployment rate of 24%, and a median income of $5700, while the state average is $10,100.

Iron County, once a booming mining area, had a population decrease of 16% in the ten year period, and a 1972 unemployment rate of 10.9%.

Listed below are the 36 Wisconsin counties in the Upper Great Lakes region, and comparative figures on unemployment, population trends, median income.

County	Unemployment	Population	Median income
Adams	10.3	+22.0	$6,930
Ashland	7.1	−4.0	7,355
Barron	6.0	−1.0	7,759
Bayfield	12.0	−2.0	6,962
Brown	6.1	+27.0	10,300
Burnett	7.7	+1.0	6,050
Chippewa	7.8	+6.0	8,885
Clark	5.9	−4.0	7,199
Door	6.2	−3.0	8,079
Douglas	9.4	−1.0	8,502
Eau Claire	5.4	+15.0	9,857
Florence	17.4	−4.0	6,856
Forest	8.2	+2.0	6,432
Iron	10.9	−16.0	6,860
Jackson	5.6	+1.0	7,970
Juneau	6.1	+6.0	7,769
Kewaunee	5.1	+4.0	9,340
Langlade	5.7	−3.0	7,111
Lincoln	5.8	±1.0	8,290
Marathon	5.3	+10.0	9,173
Marinette	7.0	+3.0	7,916
Menominee	24.9		5,768
Oconto	7.1	+3.0	7,275
Oneida	5.3	±10.0	8,197
Outagamie	5.4	+17.0	10,384
Polk	6.5	+7.0	7,814
Portage	6.0	+29.0	9,309
Price	6.6	+1.0	6,865
Rusk	8.5	−4.0	6,724
Sawyer	11.5	+2.0	5,817
Shawano	7.1	+2.0	7,686
Taylor	8.8	−5.0	6,980
Vilas	6.6	+17.0	6,956
Washburn	9.1	+3.0	7,035
Waupaca	6.6	+7.0	8,049
Wood	6.2	+11.0	9,733
Region	6.4	−2.8	
State	5.0	+11.8	10,068

While these statistics illustrate the economic depression that has gripped the Upper Great Lakes region, nothing can better convey the problem than the realization that this area once boomed from extensive lumber, mining and shipping businesses. Blessed with thousands of square miles of forestland, and abundant mineral resources, and the Great Lakes System to serve as the transportation to carry the raw material to market, northern Wisconsin gave its heart to the development of the nation. But the forests were logged out, the deposits were depleted, and now the area stands as a shadow of its former prosperity.

With the creation of the Upper Great Lakes Regional Commission in 1966, it appeared that at last there would be an organization which would provide the needed coordination between local, state and federal government to assure the most effective utilization of the funds made available to increase the economic stability of the area. The active cooperation of the Governors of Minnesota, Wisconsin and Michigan, along with adequate appropriations by the Congress, created a climate where the work of the UGLRC could truly have a beneficial and notable effect on the area.

The aid provided by the Regional Development Commissions covers the entire range of assistance needed to raise the economic stability. Investments are made in the areas of transportation, business and industrial development, manpower, tourism, natural resources, waste management, lake pollution control, minerals, forestry, agriculture and recreation. Grants are made for projects which are designed to find long-term solutions to economic and related problems plaguing the region, as well as to provide short-term assistance to relieve particularly damaging conditions. Supplemental grants made by the Commission in situations where local governments are unable to provide the necessary "matching funds" for projects of great need also serves to attract significant outside public and private funds to the Region. The ability of the UGLRC to supplement with its dollars the local share of numerous community facilities projects thus serves a double function, as it promotes investment by other governmental agencies. Technical assistance grants are provided to initiate and continue pilot projects, demonstration programs, and research activities which assure that the gains made through short-term assistance are carried into the future.

Through the years 1966 through 1971, the Upper Great Lakes Regional Commission funded 58 supplemental grants in Wisconsin. Total project costs amounted to $39 million of which $6 million was supplied by the commission. In 1972, 18 projects totaling $6.7 million received Upper Great Lakes grants of a little over $1 million. And so far in 1973, the Commission has approved grants totaling $3 million for 17 projects and involving $770,000 in commission funds.

The most important factor underlining the work of the Regional Commission is that they are capable—both financially and organizationally—to operate on both the levels of short term assistance to relieve particularly aggravating problems, and on the long-range scale to cover planning for the future for an entire area.

Such planning on the regional level is absolutely necessary if real progress is to be made in alleviating the economic depression that exists in those areas.

The Commissions provide the necessary leadership, professional and technical assistance, and the financial resources to help in the long-range planning for the economic revitalization of the area.

The other levels of government are not able to provide this kind of leadership. Because of their limited size and financial resources, the lack of overall jurisdiction, and the lack of expertise, the city and county governments are unable to fill the role necessary to reverse the problems of the area.

In the area of recreational resources which are common to the three states, the Upper Great Lakes Regional Commission has developed a program of technical assistance which will provide assistance in the restoration, maintenance and protection of the 17,000 lakes in northern Michigan, Minnesota and Wisconsin. These lakes are valuable assets to both the economy and the environmental quality of the Upper Great Lakes region. Only an organization such as the Upper Great Lakes Regional Commission, with the expertise and funds adequately provided, can successfully prevent the destruction of these significant natural resources.

The Commission has provided important assistance to the many native Americans in the three states with the establishment of a training program to qualify Indians for jobs in environmental protection occupations, such as conservation aides and technicians, forest fire control, forest conservation, and park-forest-recreation management. Besides providing both training and job opportunities, this program also aids the environmental protection activities by assuring that qualified people are available for the jobs open.

Only two examples of the work of the Commission, the lake preservation program and the conservation job training project demonstrate the ability of the Regional Development Commissions to establish programs which would not otherwise be possible because of the limited resources.

To further illustrate the wide impact of the work of the Upper Great Lakes Regional Commission on the economy of northern Wisconsin, following is a list of ten major projects carried on by the Commission in the past three years:

SUPPLEMENTAL GRANTS

(1) Barron, Wisconsin (sewage improvements) 1970.

Sewage lagoon and sewage collection to industrial park and newly annexed area. This project was considered a hardship case and was approved to forestall the closing of an existing turkey processing plant which would have had an effect on approximately 800 people dependent on this operation; an economic impact has been realized. The 800 people referred to are involved in the processing, hatchery and raising of turkeys as well as the production of eggs.

Funding:

Total	$481,200
UGLRC	88,240

(2) Iron River, Wisconsin (Iron River Sewer and Water) 1970.

Because of the sewage collection and waste treatment program, the Brule Corporation (fiberglass fishing poles) was able to expand its operation on Iron River. The program enabled the firm to continue its operation in Iron River, rather than being forced to move. Seventy-five people were employed before the project, and now approximately 240 people are employed. The program also resulted in a decrease in the firm's fire insurance rate. The program has resulted in industrial expansion in Iron River and an increase in new home building, and remodeling and repairing of existing homes. Currently, in the planning stages is a Rest Home with 65 beds and an expected employment of 35-40 people, and a Senior Citizens Housing Unit on a 22-acre site on Iron River.

Funding:

Total	$377,000
UGLRC	113,000

(3) Brown County, Green Bay (Northeast Wisconsin Technical Institute) 1971.

This project provides for a technical institute instructional complex including labs, general classrooms, learning resource center, related facilities and appropriate fixed and movable equipment. It is anticipated that the facility will produce 1,200 to 2,000 qualified workers with special skills for the local labor market each year.

Funding:

Total	$7,691,751
UGLRC	157,500

(4) Clark County, Greenwood, Wis. (Greenwood Sewer and Water) 1971.

This project provided for water supply and storage facilities, including an elevated storage tank, a ground storage tank, satellite wells, a pump house, controls and pumping equipment. Expansion of existing industry is dependent upon improved water supply. Previous to installation, students in grades 7-12 were not able to attend classes on several occasions due to lack of water. Installation has remedied the problem. Other benefits of the system is the addition of two mobile home courts, expansion of the Greenwood Milk Products Co-op, enabling it to increase its output by at least three times. Greenwood Homes, Inc., is now able to expand its facilities to over 30,000 sq. ft. in size and double its employee force. Greenwood Campers, Inc. is expected to expand its work force of 40. The system has also provided the city with more available jobs and an increased tax base, making it more attractive to industry, and providing for the water needs of the community.

Funding:

Total	$286,800
UGLRC	121,300

(5) Rhinelander, Wis. (Rhinelander Sewer and Water) 1969.

Improvements served a new college, two industrial parks, and residential growth. One industrial park has attracted an asphalt terminal which has added $1,500,000 to the tax rolls. The other park has 3 new business establishments which add another $750,000 to the tax base. The college would not have been a possibility without city sewer and water. It now has an enrollment of 700.

Funding:

Total	$1,450,000
UGLRC	150,000

TECHNICAL ASSISTANCE PROGRAMS

(6) Inland Lake Renewal and Management:

UGLRC Investments	$180,000
	224,050
	303,525
	176,350

Problem: 17,000 lakes in Northern Michigan, Minnesota, and Wisconsin and shorelands are foundations of tourism. Many have deteriorated largely because of use and abuse by man.

Project Objectives: Demonstration of techniques to restore, maintain, and protect high-quality environment within and adjacent to inland lakes in Upper Great Lakes region.

Argument: This project merits consideration because it would result in the renovation of over-fertile lakes through the Lake Renewal program. This program of "clean-up" would then provide for extensive development of these areas. The Shoreland Management program is showing ways to realize the economic potential of lake shorelands with minimal environmental disturbance. Such a project would involve short-term employment, possible long-term employment (maintenance), preservation of valuable resources, tourism, and recreational facilities.

(7) Northern Wisconsin Development Center:

UGLRC Investments	$55,000
	67,000
	120,000
	95,000

Purpose of Project: Aids existing business and industry within UGLRC. Seeks entrepreneurial and management talent, capital sources and product ideas for formation of new business as well as assisting in feasibility studies.

Argument: The following figures from 1970 to the present attest to the success of the project:

(a) Management counsel to 125 businesses annually and assisted 660 since inception,

(b) 39 businesses assisted in formation,

(c) 547 jobs created and immediate projections for 71 more new jobs in 4 firms,

(d) 859 jobs saved through counseling from center with 41 firms,

(e) Assistance to 13 businesses, expanded employment by 629 with 8 more firms expecting to increase their job opportunities by 200 this year.

This project is possible by a grant to the University Extension to fund, in Wausau, a Regional Center for Management Assistance to Small Business.

(8) A Feasibility Study of Advanced Waste Treatment Systems for Combined Municipal and Pulp and Paper Waste.

UGLRC Investment	$50,000
	50,000

This project, made possible by a grant to the Institute of Paper Chemistry in Appleton, to investigate costs and efficiency of using innovative waste treatment system process for both pulp paper mill and municipal wastes. The advantages of this system would provide for better waste treatment, higher rate of waste purification and promoting the development of more mills. This system, if effective will save the paper industry money, thus encouraging growth, resulting in increased employment and possible employee benefits. The paper industry is a major industry in Northern Wisconsin, and if this system proves effective, it would greatly benefit the entire region.

(9) Project Native American Resources:

UGLRC Investment	$66,800

This project is a joint venture of Upper Great Lakes Regional Commission, Nicolet College, Department of Natural Resources and U.S. Forest Service. It will provide training for American Indians from Wisconsin (Michigan and Minnesota) and occupations such as conservation aides and technicians in fish and game management, park-forest-recreation management, forest fire control and forest conservation. It will be staffed by both whites and Indians as counselors and instructors. This project will help train and employ native American Indians who suffer from higher unemployment than the general population. The project will serve as a model for other programs throughout the nation. The advantage of this project would be the opportunity to train and employ a minority group and provide for professional environmental supervision.

(10) Lake States Forestry Co-op:

UGLRC	$60,000 31,300

Grants to establish the Lake States Forestry Co-op which provide economic development assistance to both large and small wood using businesses, wood processors, loggers and landowners. Success of this project is evident through past performance. One hundred sixty new wood industry jobs have been created since its existence. Assistance given to various small lumber concerns has resulted in their enabling to expand their markets and increase production. The Co-op is largely advisory and aids small businesses suffering from production deficiencies. The Co-op specializes in markets which will tend to stabilize production. These businesses are often able to increase employment because of expansion advice from the Co-op, i.e. a sawmill in Tomahawk which constructed an addition on the advice and guidance of the Co-op.

In accordance with proposals to encourage environmental protection, sewage treatment, and expansion of mills, the co-op's professional counseling services would aid small business, increase employment and keep the lumber industry in tune with other UGLRC programs.

It is important to note that not only does the Upper Great Lakes Regional Commission provide the basic funding for many projects, but the supplemental grants to generate additional non-Commission funds. Over the entire six-year period of the Commission, supplemental grants in the three states have totaled 32 million, and have generated an additional $125 million in state, local and federal assistance. This shows a ratio of approximately four dollars generated by every one dollar of Great Lakes money.

In short, the Upper Great Lakes Regional Commission is a critically important agency to help plan for economic growth for a whole area which has similar problems which can only be dealt with on the wide-scale. The planning programs, leadership, and cooperation that has been evident under the work of the Commission clearly demonstrates the support that it has received from the officials and citizens of the three-state region. All of the resources of the three states, the participation of the three Governors (Anderson of Minnesota, Lucey of Wisconsin, and Milliken of Michigan) and the coordinating ability of the Commission have combined together to reach the objective of making the Upper Great Lakes region economically viable.

Progress is being made. Jobs are being created and saved from elimination, assistance is provided to local governments to expand their pollution-abatement facilities, vocational education programs are being aided to provide help for the young people, businesses are being stabilized and expanded, and generally, the Upper Great Lakes Regional Commission has helped to strengthen the economic stability of the Upper Great Lakes Region.

But more is being accomplished than just the projects themselves. Through the investments made to revitalize the area, the Commission has guaranteed that the money expended will be more than made up in the future through expanded tax bases, a more stable economy capable of supporting the citizens, and overall a greater standard of living and human environment.

For the Regional Commissions to be effective, they must be provided with the adequate funding by Congress which will not only make available continuing funding for existing projects, but will also allow the assistance for new projects which hold out hope for more progress.

But the funding recommended by the Administration for the Title V groups, $21 million, is clearly inadequate for the continuation of the Commissions' activities. Should this funding be maintained by Congress, it is likely that the Commissions would be forced to abandon many worthwhile projects, and would prevent them from honoring commitments already made for the future. The cut-off of funds and the phase-out of the Title V groups such as is proposed by the Administration would have a great and detrimental effect on the economic progress which has been made to date in northern Wisconsin as a result of the assistance provided by the Upper Great Lakes Regional Commission.

For not only do the Commissions provide much-needed assistance in areas of economic depression, but the Commissions represent fully the principle expressed by the President as the "New Federalism," which places the prime responsibility for determining priorities in the hands of the local officials and citizens, who are best able to judge the needs in a particular area.

I would hope that the committee would see fit to provide at least $41.7 million for the Title V Commissions, which is the appropriation provided in fiscal year 1973. In addition, the Commissions ought to receive, as in the past, a proportionate allotment of the total Economic Development Administration funds, which, under the President's request, would total 20% or $40 million.

THE NEED FOR FISCAL INTEGRITY

Mr. BROCK. Mr. President, on several occasions I have called to the attention of this body the need for fiscal integrity to insure the soundness of the dollar.

We have seen the specter of rising prices and Congress has reacted by passing a law to stop them.

We have seen growing deficits and the Senate has twice voted—and then ignored—a spending ceiling $700 million under the President's budget request.

Congress has demanded that business and labor limit their wage and profit increases.

It has urged a ceiling on the prices charged by the farmer and the retailer.

Although Congress has demanded sacrifices of others, it has totally failed to curb its penchant for spending.

Despite pledges to hold down Federal spending to combat inflation, Congress so far has voted to boost fiscal 1974 Government outlays by at least $1 billion over the $268.7 billion budget ceiling proposed by President Nixon. These figures are contained in the most recent 1974 budget scorekeeping report of the Joint Committee on Reduction of Federal Expenditures.

I have repeatedly called to the attention of this body the need to reform our budget process, and have introduced legislation in that regard. These figures illustrate the necessity for Congress to act forthwith to enact such needed reforms. I am pleased to be able to report that the Senate Government Operations Committee has been considering and should soon report comprehensive budget reform legislation.

Mr. President, I ask unanimous consent that the pertinent sections of the 1974 Budget Scorekeeping Report No. 4 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION

FISCAL YEAR 1974—SCOREKEEPING HIGHLIGHTS

The impact of Congressional action to June 30 on the President's fiscal year 1974 requests (revised June 1) for budget authority and budget outlays, as shown in this report, may be summarized as follows:

[In millions]

	House	Senate	Enacted
1974 budget authority requested	$288,135	$288,135	$288,135
Congressional changes to date (committee and floor action):			
Appropriation bills	+1,267	+1,172	
Legislative bills:			
Backdoor and mandatory increases	+1,704	+1,166	+39
Adjustments and other changes	−1,139	−601	−1,139
Total, changes (see table 1, p. 8, for details)	+1,832	+1,737	−1,100
1974 budget authority as adjusted by congressional changes to date	289,967	289,872	287,035

	House	Senate	Enacted
1974 budget outlay estimate	$268,671	$268,671	$268,671
Congressional changes to date (committee and floor action):			
Appropriation bills	+799	+1,108	+454
Legislative bills:			
Backdoor and mandatory increases	+280	+1,189	+737
Adjustments and other changes	−157	−41	−157
Total, changes (see table 1, p. 8, for details)	+923	+2,257	+1,034
1974 budget outlays as adjusted by congressional changes to date	269,594	270,928	269,705

Deficit position

The 1974 unified budget deficit, as revised June 1, is estimated at $2.7 billion—a decrease of $10 billion from the original January estimate of $12.7 billion. This current deficit estimate reflects a federal funds deficit of $18.8 billion and a trust **fund** surplus of $16.1 billion.

On the basis of changes to date (including committee action) by the respective Houses of Congress in budget outlay and revenue requests, the 1974 unified budget deficit would be:

Budget estimate (revised June 1)	$2.7 billion
Based on House changes to date	$4.6 billion
Based on Senate changes to date	$4.8 billion
Based on changes enacted to date	$4.5 billion

Appropriation bills (see table 1, p. 8, for details)

Completed action to date on appropriation legislation reflects the 1974 outlay impact of actions taken with respect to 1973 supplemental appropriations and other requests in the Urgent and Second Supplemental bills.

Incomplete action on 9 regular 1974 appropriation bills is reflected in this report, with the major impact as follows:

Passed House and Senate

Agriculture bill: House reduction of $120 million in budget authority and increase of $140 million in outlays; Senate increase of $671 million in budget authority and increase of $643 million in outlays.

HUD-Space-Science-Veterans bill: House increase of $454 million in budget authority with no change in outlays; Senate increase of $501 million in budget authority and decrease of $29 million in outlays.

Passed House

Transportation bill: decrease of $140 million in budget authority and $70 million in outlays.

Labor-HEW bill: increase of $1,264 million in budget authority and $490 million in outlays (committee action).

Legislative bills—"backdoor" and mandatory (see table 1, p. 8, for details)

Completed actions: To date, there has been completed action on 6 legislative bills carrying backdoor or mandatory authorizations affecting fiscal 1974. The major items are:

Welfare and medicaid amendments: mandatory increases of $391 million in budget authority and outlays.

Social security—exempt wages: backdoor increase of $100 million in outlays.

Unemployment benefit extension: backdoor increase of $116 million in outlays.

Veterans national cemeteries: mandatory veterans benefits of $110 million in budget authority and outlays.

Pending actions: In addition, there are 17 legislative bills carrying backdoor or mandatory authorizations which have passed or are pending in one or both Houses of Congress.

House action pertaining to 9 measures would increase budget authority by $2.2 billion, having an outlay impact of at least $184 million excluding the undetermined effect of increased contract authority.

Senate action pertaining to 11 such measures would increase budget authority by $1.1 billion, having an outlay impact of at least $452 million excluding the undetermined effect of increased contract authority.

The scored backdoor or mandatory impact of these pending legislative bills includes the following major programs and amounts in excess of the budget:

Highway programs: additional backdoor contract authority of $1,115 million as passed by the House, and $405 million as passed by the Senate. The 1974 outlay impact is undetermined. (Pending conference.)

Traffic safety: additional backdoor contract authority of $915 million as passed by the House and $245 million as passed by the Senate. The 1974 outlay impact is undetermined. (Pending conference.)

Other veterans benefits: two bills authorizing mandatory veterans health benefits totaling $248 million in budget authority and outlays as passed by the Senate.

Legislative bills—adjustments and other changes (see table 1, p. 9, for detail)

Completed action has been taken on 2 additional legislative bills having impact on the 1974 budget totals:

REA loans: removes lending program from the budget, thereby decreasing budget totals by $579 million in budget authority and $157 million in outlays.

Airport development: enactment of this contract authority in fiscal 1973, instead of 1974 as requested, has the effect of reducing 1974 budget authority by $560 million and shifting it into 1973.

Revenue legislation (see table 2, p. 10, for detail)

The June 1 budget revisions estimate revenue for fiscal 1974 will total $266 billion. This is an increase of $10 billion over the original January estimate of $256 billion.

To date, legislation has reduced 1974 revenue estimates (revised June 1) by $810 million, as follows:

Railroad Retirement: decrease of $612 million due to failure on part of the House and Senate to provide additional trust fund receipts requested.

REA loan repayments: decreased receipts by $348 million by removal of program from budget totals.

Social security wage taxes: increase of $150 million in trust fund revenue due to a wage base increase.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

AMENDMENTS OF 1973 TO FEDERAL LAW RELATING TO EXPLOSIVES

The PRESIDING OFFICER. The Senate will now resume the consideration of S. 1083, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 1083) to amend certain provisions of Federal law relating to explosives.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. ROBERT C. BYRD. Do I correctly understand that, under the order, the unfinished business will remain in a temporarily laid-aside status until the disposition of S. 1083 or until the close of business today, whichever is earlier?

The PRESIDING OFFICER. The Senator is correct. Who yields time?

Mr. JAVITS. Mr. President, I ask unanimous consent that Mr. Brian Conboy may have the privilege of the floor in connection with the debate on S. 1083.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. G. Robert Blakey, chief counsel of the Subcommittee on Criminal Laws and Procedures of the Committee on the Judiciary, which has considered the bill, and Miss Mathea Falco, chief counsel of the Subcommittee To Investigate Juvenile Delinquency, which has also had a significant part in the preparation of the bill, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that the senior Senator from Alaska (Mr. STEVENS), the junior Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. COOK), and the Senator from Texas (Mr. TOWER) be added as cosponsors of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, the bill now before the Senate, S. 1083, cosponsored by the aforenamed Senators and the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Kentucky (Mr. HUDDLESTON), as well as by the junior Senator from Indiana, now speaking, is designed to exempt commercially produced black powder from the licensing, permit, transportation, and storage provisions of title XI of the Organized Crime Control Act of 1970.

Under present Federal law, the purchase, possession, storage, and transportation of black powder in amounts larger than 5 pounds as well as certain igniters are subject to extensive regulation, resulting in serious hardships for the many thousands of Americans who use these materials for recreational, cultural, and sporting purposes. My bill would remove these burdens without affecting in any way the strict criminal penalties for the misuse of explosives, including black powder and igniters. These penalties, adopted by the Congress in 1970, are designed to prevent unlawful damage to property, intimidation, personal injury, and loss of life through the use of explosives. I believe that these terrible crimes must be punished swiftly and severely, as provided by present law.

Mr. President, S. 1083 has been considered by the Subcommittee on Criminal Laws and Procedures, of which the distinguished Senator from Arkansas (Mr. MCCLELLAN) is chairman. Both this subcommittee and the full Judiciary Committee favorably reported this bill in the nature of a substitute. The subcommittee amendment improved my original bill by extending the black powder and igniter exemption to include not only sporting purposes, but also cultural and recreational purposes in the definition of the permissible uses of these materials.

The issue we are considering today, the regulation of black powder, is not new to the Senate. In the 91st Congress Senators MCCLELLAN and HRUSKA introduced a bill, S. 3650, to strengthen the Federal laws concerning the illegal use, transportation, and possession of explosives. During consideration of this measure, the committee recognized the overly broad scope of its provisions with regard to ammunition and materials used for sporting purposes. The committee report on S. 3650 notes that—

> The broad scope of the bill as originally introduced would have resulted in needlessly penalizing law abiding sportsmen who, because of the expense involved in pur-

chasing ammunition and as a hobby, hand load their own shells to be used for legitimate sporting purposes. In addition, over 10,000 of our citizens legitimately use black powder, smokeless powder, primers and percussion caps in connection with sporting activities involving muzzle loaded rifles and other guns. To meet this problem, Senator Schweiker (cosponsored by 27 other Senators) introduced amendment No. 728 to S. 3650 (see 116 Cong. Rec. S. 9559 (daily ed. June 23, 1970)), and others contacted the subcommittee. Consequently, language has been added to the bill that would exempt from its coverage these kinds of legitimate sporting activities. (Senate Report 91-1215, 91st Cong., 2d Sess., pp. 8-9 (1970).)

While Senator SCHWEIKER's amendment (No. 728) referred to in the committee report provided an exemption for black powder in amounts not to exceed 6 pounds for use for lawful sporting purposes—and I wish to emphasize the phrase "lawful sporting purposes"—the bill as reported by the committee contained a complete exemption for black powder by excluding small arms ammunition and components intended for use therein from the definition of explosive.

The Senate accepted without debate the committee amendments and adopted the bill by a vote of 68 to 0 on October 8, 1970.

However, it is fair to say this was done only in the spirit of compromise in trying to reach agreement. Both Houses passed separate bills, with the Senate finally adopting the House version which did not give adequate recognition to the use of black powder for sporting purposes. Thus, despite the language of the explosives law as finally enacted, the legislative history of this important measure clearly indicates that the Senate thoroughly considered the issue of exempting black powder for sporting purposes and acted favorably upon such an exemption.

Title XI of the Organized Crime Control Act was enacted 3 years ago to meet an intermediate, critical need to strengthen the Federal laws applicable to bomb explosions and bombing threats. The dangers posed by potential loss of life, destruction of property, intimidation, and the disruption of the daily activities of our people demanded strong, effective congressional action to curtail these bombings.

I enthusiastically supported the passage of that bill. Despite disagreement among us regarding certain provisions of that bill and despite the very strong position I have taken against what I feel are significant violations of the important guarantees of the Bill of Rights, I have nevertheless consistently maintained no American citizen has the right to use violent means to burn down a post office, an ROTC building, or to stick a bomb in a car as an expression of dissent.

However, I am sure that these efforts to deter criminals from misusing explosives were not intended to penalize our law-abiding sportsmen.

Furthermore, experience has shown that the restrictions on black powder have not been effective in curtailing bomb threats and bombing incidents. Studies conducted by the National Bomb Data Center have found that black powder is used in an insignificant number of bombings. During the period July 1970 through June 1971, 2,352 bombings were recorded by the center, of which only 96 contained black powder. Even more significant is the fact that a comparison of bombing reports for the 8-month period preceding the effective date of title XI—July 1970–February 1971 inclusive—and the 8-month period following that date—March 1971–October 1971 inclusive—reveals that the number of black powder bombs actually increased.

Thus, the restrictions placed on commercially manufactured black powder propellant have not had any demonstrable effect in reducing the incidence of black powder use for illegal purposes.

The center study on bombing, conducted by the International Association of Chiefs of Police, was based on newspaper reports and field reports from law enforcement agencies. Although no information was obtained on the type of black powder used in the small number of reported bombings, it is probable that a large percentage of the black powder incidents involved homemade black powder. Commercially manufactured black powder has been extremely difficult to obtain, even for legitimate purposes, since the effective date of title XI. As any schoolboy knows, black powder can easily be made from sulfur, saltpeter, and charcoal. However, as antique shooting sports enthusiasts know all too well, only the highest grade of propellant is suitable for muzzle-loading rifles and antique cannons.

The use of antique firearms and replicas of antique rifles and cannons is an integral part of the sporting, cultural, and recreational life of this country. Muzzle-loading rifles are used at meets throughout the Nation by organizations such as the National Muzzle Loading Rifle Association and the North-South Skirmish Association.

The organizations to which I referred a moment ago include both team and individual competitions using various types of Civil War weapons and other antique firearms. Antique or replica muzzle-loading cannons are also used nationwide by various civic, Boy Scout, and veteran groups in a variety of ceremonies, including flag-raising, centennial, sesquicentennial, and Fourth of July celebrations. Moreover, they are used by symphony orchestras in the performance of classical music, such as Tchaikovsky's "1812 Overture." In addition, replicas are manufactured for historical groups and associations for use on historical restorative projects throughout the country. In my own State of Indiana, organized competitions using antique muzzle-loading weapons are an important part of our recreational and sporting tradition.

Mr. President, the purpose of S. 1083 is relatively simple. First, it is designed to remove the rather significant burden which has been imposed on those sportsmen, on those symphony directors, on those community directors who are today utilizing black powder for wholesome recreational and cultural purposes. The second point I want to emphasize is that this bill is in no way designed to jeopardize law enforcement efforts to prevent illegal activity using any kind of explosive, and it is not designed to prevent punishing those terrible deeds which bring destruction, pain, suffering, and loss of life.

I yield the floor, Mr. President.

Mr. JAVITS. Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator has 16 minutes.

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

As usual, on such an important issue we argue to empty seats. I hope, however, that Members of the Senate will have read the details of the bill, and will at least have assistants around to report to them on what was said. Out of deference and respect to the Senate of the United States and the people of our country, the argument against the bill should be made.

Stripped naked, what the bill proposes to do is to repeal an important and effective limitation on the possession by individuals of black powder, which is an explosive, an extremely dangerous explosive. It would no longer retain the 5-pound limitation in present law. No argument has been made as to why 5 pounds is not enough. Five pounds can be pretty lethal. Nor can I follow the argument of the proponent of the bill, who stands us on our heads with the following argument: He denounces the use of black powder in pipe and other types of bomb devices, but, says he, make more black powder available. How that is going to abate the menace, even if it is not to end it, is beyond me.

We have heard a great deal in this Chamber about guns, criminal violence, and the need to back up our local police.

We have heard much about the death and injury resulting to innocent victims whose lives are shattered by the gunfire and bombs of criminals and terrorists. Who has become the No. 1 target of such people? In urban America, it is the policeman walking the beat.

This is but a part of a struggle which has been going on in the Congress and in the country for a long time. That struggle relates to whether we are to have rational and sane national policy dealing with explosive materials, guns and other implements of violence. It relates to the fact that we are unique from practically every other industrial country in the world, in the use and regulation of firearms. Those policies have presented a lethal reality to the people of the United States.

We have thousands and thousands of homicides in this country every year.

We have the worst homicide rate of any country of remotely comparable advance in terms of industry in the world. Yet we are soon to proliferate and add to this reality on the ground that we must once again help sportsmen.

One day the patience of the American people will snap. I have predicted this for a long time. The Congress has been good to sportsmen. We have responded to their legitimate needs. What has a sportsman to be afraid of, no matter what regulation we put on guns?

If he is a sportsman and comports himself with reasonable care, he is going to have a gun, and he is going to be able to shoot. No one has ever advocated taking it away. Nevertheless, the idea persists that to be a man in the United States of America, one has to lend himself to these lethal practices. This bill is just a piece of that same psychology.

After working out a compromise in 1970 to try to accommodate the legitimate users of black powder, Congress wrote into the law a 5-pound limit on black powder. We have not been told today why the 5-pound limit is not enough for any sportsman. Now because some sportsman thinks he ought to have more, it is proposed to take the roof off altogether. What will be the result?

The hearings that the Senator from Indiana (Mr. BAYH) referred to lasted only 1 day. Who appeared at that hearing? The National Rifle Association, a long-time advocate of no restrictions at all; the Indiana Sportsmen Council; the National Muzzle-Loading Rifle Association, which I doubt represents an appreciable part of the people of the United States; and the North-South Skirmish Association, which I also doubt represents any appreciable part of the people of the United States. They testified. And the Federal law enforcement officials from the Treasury and Justice Departments testified. They testified against the bill, as it was their duty, indeed, to do.

So, in the absence of a record, of any record, from my local or State law enforcement official, I took it up with two of the most distinguished law enforcement officials in the country, Frank Hogan, the long-time district attorney of New York County, and I do not think there is any other individual better known in that field, and Donald F. Cawley, the new commissioner of police of the city of New York.

I should like to read their letters into the RECORD as the best answer to this bill. First I read from the letter of Mr. Frank Hogan, dated July 11, 1973:

JULY 11, 1973.

Hon. JACOB K. JAVITS,
U.S. Senate, Committee on Foreign Relations, Washington, D.C.

DEAR JACK: I have your letter of July 5, 1973 on the subject of Senate bill 1083, which would, if enacted, totally exempt black powder from the control provisions of Title XI of the Organized Crime Control Act.

Black powder as the destructive agent in terrorist bombings has not been as widely used in New York County as smoke powder and incendiary devices. It nonetheless has constituted, during the past two years, a serious menace in the hands of certain terrorists groups.

The most notorious incident, involving pipe bombs detonated by black powder components, occurred on January 24, 1972, when the Portuguese Airways Office at 601 Fifth Avenue was seriously damaged. This act was admitted by an organization identified with Pan-African nationalism, called the Black Revolutionary Army. The incident was the 44th in a series of bombings or attempted bombings of cultural missions, consular offices, airline and tourist agencies and other diplomatic or international organizations accredited in the city of New York. Black powder pipe bombs were utilized in almost all of these bombing incidents.

Bomb squad detectives have repeatedly advised us, in various investigations conducted by this office, and particularly in connection with our inquiries into the activities of the Jewish Defense League, that once a bomb has exploded it is often impossible to determine the precise nature of the detonating compound. Accordingly, I view with suspicion statistical assertions that assign to black powder a minor role in the illegal activities of political terrorists.

In any case, the potential damage to the public welfare, attendant upon the easy availability of black powder, warrants continued federal control as established in Title XI. We regret the existence of even the five pound exemption provided for in the current law. I wholeheartedly endorse your effort to resist deletion of the current Title XI black powder provisions.

With warmest regards,
Sincerely,

FRANK HOGAN,
District Attorney, New York County.

Now, the letter from Donald F. Cawley, a professional policeman, just recently made police commissioner. It reads:

JULY 12, 1973.

Hon. JACOB K. JAVITS,
U.S. Senator,
Washington, D.C.

DEAR SENATOR JAVITS: You have requested my views on Senate 1083, a bill to totally exempt commercially manufactured black powder from the provisions of Title XI of the Organized Crime Control Act (P.L. 91-452, 84 Stat. 958). As indicated in the Report of the Committee on the Judiciary, present federal law regulating the purchase, possession, storage and transportation of black powder in amounts larger than five pounds results in hardship and inconvenience to sportsmen, and other special interest groups. While I can understand the difficulties encountered by these groups, I cannot accept as a remedy a total repeal of the black powder provisions. In my view, when conflicting interests are sought to be adjusted, great weight must be accorded to the prevention of death or serious physical injuries to innocent citizens.

Black powder is, of course, an extremely dangerous and volatile explosive substance. In 1971, a five pound case of commercial black powder alleged to have been owned by an extremist group was discovered in a locker in the Port Authority Terminal. The possibility of an explosion, intentionally or accidentally, in such a crowded public area is cause for great governmental concern. Also in 1971 our Department recovered eight demonstration or dummy hand grenades which had been filled with black powder. In the year 1972, six pipe bomb devices filled with black powder were also discovered by our Department.

While black powder is not as widely used as other explosive substances, it is nevertheless still a factor. While it is only conjecture at this point, is it not possible that the relatively low incidence of black powder bombs is due, at least in part, to the very regulations now sought to be repealed?

I sincerely agree with your position, Senator, that the danger to citizens and police officers attendant to bombing incidents, requires that the most careful consideration be given to any legislation which would relax restrictions governing the availability of explosive materials. It is my position that in the interest of public safety, the black powder provision of Title XI should not be repealed.

I hope my views will be of some assistance to you.

Sincerely,

DONALD F. CAWLEY,
Police Commissioner.

Mr. President, the facts uttered by the Senator from Indiana with relation to the use of black powder bombs are themselves a growing reason why this particular piece of legislation should be rejected.

By records maintained by the Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department, we can show that between July of 1971 and June of 1972, there were 542 explosive bombings in the United States. Black powder bombs were used in 18 percent or 100 of these cases. Subsequently, between July 1, 1972, and May 31, 1973, 409 explosive bombings were reported and 79 of these—or 18 percent—were caused by black powder bombs.

I respectfully submit on that argument alone that we show a material use of black powder bombs. Again, I say that we are being asked to stand on our heads and say that the danger will be less, because the people will be able to possess more lawfully.

I cannot understand the logic of this. It seems to me to be elemental that in the public interest 3 pounds is supply enough for any sportsman engaged in lawful sporting purposes, and to go beyond that would jeopardize the public safety. And if there is any reason, it cannot stand when compared with the public safety and the public interest involved.

Nevertheless, in fairness and because of the importance of this issue, I think that local law enforcement people in the country at the local level must be given an opportunity to have their say in respect of this proposed relaxation regarding black powder. There is no question and no argument that black powder can be used for bombs and that this bill, if it were to become law, would make the material more freely available. I am talking about commercially made black powder, and more of it would be made freely available. As a minimum, I think we owe that much to our local police officers.

Therefore, I deeply feel that the public safety and the public interest must be given more careful consideration in view of the high crime rate and the high bombing rate. We should determine that, at the very least, this bill should be returned to the Judiciary Committee so that it may take evidence from local law enforcement officers as to the balance of convenience which, I deeply feel, weighs heavily on the side of public safety on this issue.

At the appropriate time, on behalf of the Senator from Massachusetts and myself, I shall move that the bill be recommitted to the Judiciary Committee for further hearings.

Mr. BAYH. Mr. President, if the Senator would yield for a question or two regarding the correspondence he received—and I ask this only because I have not seen the correspondence. Mr. Hogan, who is certainly an outstanding public official, starts his letter by saying that he resents any 5-pound exemption at all. So we can see how much understanding he has for the legitimate need for commercially manufactured black powder. However, putting that consideration aside, in his letter, does he give the total number of bombs that he has studied? How many bombings did he have in New York City?

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I yield myself an additional 5 minutes.

He gives in his letter a couple of instances of the use of black powder in respect of bombing. He does not give a detailed figure for New York City. However, I respectfully submit that the very figures the Senator from Indiana used is no reason to dispute this. There is indictment enough in the very fact that black powder is a useful explosive for bombing and is actually used in a sufficient number of cases. He cites these figures himself.

Mr. BAYH. Mr. President, I was trying to find out more about the basis for the expert testimony. I was wondering whether he talked about the size of the bombs he referred to.

Did he talk about how much powder was contained in the explosive devices?

Mr. JAVITS. Mr. President, I suggest to the Senator from Indiana that I have read the letter and it is contained in the RECORD. I will read it again.

Mr. BAYH. Mr. President, I think the answer is that he did not.

Mr. JAVITS. Mr. President, if the Senator will forgive me, I am a pretty good cross-examiner myself. I would like to read what he said.

He said:

> Black powder as the distructive agent in terrorist bombings has not been as widely used in New York County as smoke powder and incendiary devices. It nonetheless has constituted, during the past two years, a serious menace in the hands of certain terrorists groups.
>
> The most notorious incident, involving pipe bombs detonated by black powder components, occurred on January 24, 1972, when the Portuguese Airways Office at 601 Fifth Avenue was seriously damaged. This act was admitted by an organization identified with Pan-African nationalism, called the Black Revolutionary Army. The incident was the 44th in a series of bombings or attempted bombings of cultural missions, consular offices, airline and tourist agencies and other diplomatic or international organizations accredited in the city of New York. Black powder pipe bombs were utilized in almost all of these bombing incidents.

That is his statement and I stand on that. If the Senator would like to join me in moving to recommit the bill to the Judiciary Committee, we can very easily have Frank Hogan come down to testify. I am sure that he will be very glad to do it.

Mr. BAYH. Mr. President, with all respect to Frank Hogan and my friend, the Senator from New York, I do not think we need further testimony. We have had the testimony of the experts in the Nation, those who have done more in studying bombs and bombing than anyone else in the country.

Mr. President, I did not mean to direct these questions to the Senator from New York in the form of cross examination. I was just trying to get the facts. The Senator from New York is one of the most outstanding men in the Senate.

I wish that he would look at some of the testimony from the people downtown, representing the Departments of Justice and Treasury, to see whether he would want to base his reputation on the kind of logic they presented.

One lawyer who came up here to represent the Justice Department and tried to present a case did not even realize that the committee bill distinguishes between commercially produced black powder and homemade black powder.

The fact is that most of these bombs are produced in the bathtub. Black powder can be made by any high school chemistry student. There is no way to get around that kind of thing happening. The reason I asked those questions was to see whether Chief Hogan knew how many pounds of powder were used, and the kind of powder that was used.

Mr. JAVITS. Mr. President, in the remainder of my time, may I point out that the letter of the chief of police of the city of New York deals specifically with commercial black powder.

Mr. BAYH. With all respect, if my friend will yield, I may be thinking about the wrong letter, but I think Chief Cawley—is that his name?

Mr. JAVITS. Police Commissioner Cawley.

Mr. BAYH. I think he said in his letter that based on his expertise, it was difficult to ascertain what kind of black powder was used.

Mr. JAVITS. Mr. President, I yield myself 2 minutes for this purpose: I think it is very important to just read again from Mr. Cawley's letter. He said:

> Black powder is, of course, an extremely dangerous and volatile explosive substance. In 1971, a five pound case of commercial black powder alleged to have been owned by an extremist group was discovered in a locker in the Port Authority Terminal.

That was all I was referring to. But again, Mr. President, no argument has been made, and I doubt that one can be made, that to pass this law will improve our situation. It can only make it worse.

The reason for my opposition is that I deeply believe it will only make it worse, and that we are yielding to an influence which is insidious to the public security on the basis of private convenience. The relative merits and relative equities are so disparate that the issue should be decided in favor of the general public.

Mr. BAYH. Mr. President, I think the Senator from New York has raised one very good point that the Senator from Indiana had not detailed, but I shall be glad to do so.

I must say I think it is a bit of an exaggeration for him to start his statement by saying we are asking the Senate to stand on its head.

We are asking the Senate to consider once again an issue it has already favorably passed. No one here can say black powder does not explode; that is what it is all about. So does gasoline; so does ammonium nitrate fertilizer; so does smokeless powder.

I was up at the University of Wisconsin, at Madison. They blew out the whole front of the math research building out there. What were the contents of that bomb? Ammonium nitrate fertilizer and gasoline—both of which are exempt from the coverage of the explosives law.

I think the Senator from New York is right to inquire whether it is going to get any worse. I do not think so. I remind my friend from New York that the only firearms bill that has passed this body since the 1968 Gun Control Act, which was supported by the Senator from Indiana, was a Saturday night special bill of which I was the original sponsor.

The Senator from New York did not think it went far enough. I think it is self-evident that the Senator from Indiana is not seeking to aid bombers and burglars.

I would just like to answer a point raised, I think very legitimately, by my friend from New York, and that is, Why is it necessary to have black powder at all? Who is really concerned about the sportsmen? Are these regulations really an inconvenience?

A year ago, I could not have answered that question. I wish to say that I do not belong to any of these muzzle-loading sports organizations, although a number of them are in my constituency. In the last year, I have undertaken to find out if the black powder restrictions are unduly burdensome.

Last Saturday I was in Indianapolis, Ind., and participated in the State championship shoot of these muzzle-loaders. These antique weapons are not the kind of weapon you would use to hold up a liquor store or the corner grocery, or break into someone's house.

The basic problem facing these sportsmen is that the sport has reached a degree of sophistication where as many as four different kinds of shooting grade black powder are needed. Buying four different kinds of black powder in one 5-pound-lot limitation causes a serious inconvenience, if not a prohibition on those people, who really are not hurting anyone.

I have never shot an antique cannon in my life, but I am not about to say that there is not a place for antique cannons, particularly as we approach our 200th birthday. If someone is firing antique cannons, are we going to say, "Wait a minute, he is not performing a useful recreational or cultural purpose?" I am not about to say that. I think they are making a useful contribution.

And what about symphony conductors? I never thought they would come to me saying, "Senator BAYH, we are having problems complying with a 5-pound limitation on black powder." That is because the "1812 Overture" involves the firing of cannon. I have never conducted a symphony orchestra, and never will, but I am sympathetic with their problem. Plus one other point——

Mr. JAVITS. Mr. President, will the Senator yield so that I may ask for a rollcall?

Mr. BAYH. I yield.

Mr. JAVITS. Mr. President, I ask unanimous consent that it may be in order to ask for the yeas and nays on the motion to recommit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I ask for the yeas and nays on the motion to recommit.

The yeas and nays were ordered.

Mr. BAYH. One last observation. I think one point raised by the Senator from New York was very legitimate; namely, the inconvenience involved.

Because of the restrictions and the resulting expense and inconvenience, the great majority of the dealers who previously sold even 6 pounds of black powder have now been forced out of business. In some communities it is very difficult to get any black powder at all. This imposes not only a hardship and an inconvenience, but an outright prohibition on those who want to use this kind of powder in their sporting and cultural activities.

Mr. GOLDWATER. Will the Senator from New York yield to me?

Mr. JAVITS. I am happy to yield 3 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I have a great interest in this legislation, but I am not certain as to what it would or would not do. Therefore, I shall support the motion to recommit the bill to the Judiciary Committee so that full and complete hearings can be held and a chance can be given to those who enjoy muzzle-loading shooting, hand shooting, and so forth, to be heard.

I happen to be one of those who enjoy muzzle-loading weapons. In fact, I am now in the process of building a 44-caliber muzzle-loading pistol. I have been building it for a long time and am enjoying doing so. There are literally tens of thousands of people in this country who find this a good form of recreation, not only to make the weapon but also to take it out and shoot it.

This is not the kind of weapon that someone would be able to hide under his belt and go out and hold up a liquor store with it. I have trouble holding one with my two hands. So far as the 5 pounds go, I can agree with the Senator from Indiana that 5 pounds is not going to last a muzzle loader a long time. There are four different grades, 1F to 4F, which are found to be necessary throughout the course of competition by one man, particularly if he has an assortment of rifles and pistols or even cannon.

I might add, the restrictions have been so tight that the big producer of this black powder for sporting purposes, Du Pont, no longer manufactures it. The powder we buy, and I use, is imported from England. I know there are black powder companies in the United States, but black powder is very difficult to buy.

I think I speak for the tens of thousands of people of all ages and all purposes and interests in life when I ask that further hearings be held on this bill, because I sense that we might wind up with further restrictions on the ownership and use of arms for sporting purposes.

Mr. BAYH. Mr. President, will the Senator from Arizona permit me to ask him a question, on my time?

Mr. GOLDWATER. I should be happy to do so.

Mr. BAYH. I have listened to the persuasive remarks just made by my friend from Arizona, and it sounds to me as though he is arguing on my side of the issue. This is an issue which is supported by the National Muzzle Loading Rifle Association and the North-South Skirmish Association. It is a measure which I think the Senator from Arizona supported in 1970 when the explosives bill passed the Senate by a unanimous vote.

Mr. GOLDWATER. That is exactly what I rose to find out, as to what the legislation was. It is difficult for me to understand, not having the whole bill before me, but I do want to see accomplished those things which we tried to accomplish before.

If the Senator from Indiana can convince me that is the case, I will be convinced to change my persuasion.

Mr. BAYH. I would not want to change the Senator from Arizona's mind unless he were convinced of the logic and merit of the proposal.

The amendment of the Senator from Indiana, the Senators from Kentucky, the Senator from Alaska, and the Senators from Texas, and North Carolina, would put commercially manufactured black powder in the same position now that smokeless powder is. Given the exemption, it would then be in the same position we tried to put it in in 1970 when it passed the Senate. The 5-pound limitation was in the House bill. This is no back-door effort to restrict antique firearms at all. It says on its face exactly what it does.

Mr. GOLDWATER. I thank the Senator from Indiana. I do not know exactly what the language was intended to do. I was trying to support the effort to have more hearings, but if this language does what the Senator says it does, that is precisely what I, as a muzzle loader, may find as something of a conflict of interest, to argue in my own behalf; but that is what I want.

I am told by my friend from Texas, who comes from a muzzle-loading State, that this is true. If that is the case, I will withdraw my support of the Javits proposal and support the proposal of the Senator from Indiana.

This convinces me that once in a while debate in the Senate does do some good. Senators do not have much time to study all these bills. When I see something that even sounds like black powder might be in trouble, it kind of discourages me. So I am happy to have the comments of the Senator from Indiana, and I am very glad that my friend from Texas came in at the time he did.

So now I will listen to what the Senator from New York has to say, and he will probably change my mind again. It rarely happens that I change my mind once in 1 day, or even in a year. I did not see the bill and was not able to read the language, but if that is the case, I am convinced that the Senator from Indiana is right and I will stand behind his proposal.

Mr. JAVITS. Mr. President, I yield myself 30 seconds to say to the Senator from Arizona that I did not yield the time to him under any illusions whatever, just strictly as a courtesy and as a friend.

Mr. STEVENS. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. How much time does the Senator want?

Mr. STEVENS. Not much.

Mr. BAYH. Mr. President, I appreciate the long-time interest of the Senator from Alaska in this subject, who has introduced a bill on a subject similar to that of the Senator from Indiana. I also appreciate particularly his cosponsorship of the bill.

Mr. STEVENS. Mr. President, I should like to ask the Senator from Indiana if he would add not only my name, but also the names of the Senator from Kentucky (Mr. Cook) and the Senator from Texas (Mr. Tower) as cosponsors of his amendment.

Mr. BAYH. I would say to the Senator from Alaska that both Senators have been added as cosponsors earlier.

Mr. STEVENS. I thank the Senator.

Mr. President, S. 1083 will amend certain provisions of the Federal law relating to explosives to permit the use of commercially manufactured black powder "intended to be used solely for sporting, recreational, or cultural purposes in antique firearms" or replicas thereof.

I repeat this is only for sporting, recreation, or cultural purposes. It is only for commercially manufactured black powder. Homemade black powder is not included.

The Organized Crime Control Act of 1970 has placed severe and unreasonable restrictions upon many law-abiding American citizens. Several groups are adversely affected. These include muzzle loading enthusiasts, those who fire ceremonial cannons on the Fourth of July and other patriotic holidays, and cultural users, including musicians. For example, Tchaikovsky's 1812 Overture depicts the firing of a cannon. This is one part of the score. It is important for the overture to be performed correctly that not only an adequate supply, but a high quality of black powder be available. Such black powder cannot be manufactured at home—it requires commercial standardization and quality.

On March 20 of this year, I introduced S. 1304 on this subject, along with the distinguished Senator from Texas (Mr. Tower) and the distinguished Senator from Kentucky (Mr. Cook). Of course, I was aware of the history of this legislation and the provision in S. 3650 of the 91st Congress which exempted black powder by excluding small arms ammunition and components intended for use therein.

As America approaches its bicentennial birthday, the Nation's thoughts are turning increasingly to the past for a preservation of the historical ideals upon which this Nation was founded. Yet few Americans actively practice any sport in a manner calculated to be as authentically historical as possible.

Among those who do are the muzzle loaders. These people simulate conditions similar to those during the Civil War and before. They gather several times yearly in various parts of the United States from the east coast to Alaska to shoot and discuss the fascinating details of their unique hobby. They manufacture authentic uniforms of the times. They shoot at targets under carefully supervised safety conditions with all the authentic pageantry possible.

One of their safety precautions precludes the use of modern smokeless powders. Modern smokeless powders cannot be used in their antique firearms for, unlike black powder, modern smokeless produces dangerously high levels of pressure. This pressure may explode the weapons and could cause serious injury. Therefore, the only propellant they can use with any degree of safety is black powder.

Unfortunately, these legitimate sportsmen have been unable to obtain domestically manufactured black powder propellant. Only one domestic corporation produced black powder until 1971. This manufacturer then ceased production, until recently, when it resumed production of limited amounts to fulfill military contracts. However, this corporation has indicated that it does not intend to continue domestic production after March 1973 and will then attempt to sell its plant to the successful bidder on the new contracts.

Since June 1971, the only source of commercial black powder available for sportsmen in the United States has been in Scotland. All black powder available commercially for private individuals must be imported. Recently, this producer in Scotland was also temporarily out of production. No other plant is selling to muzzle loaders and other legitimate sportsmen because of the relatively small demand for black powder.

As I have indicated, this situation has also had other unintended side affects. For example, the Cincinnati Symphony Orchestra is now unable to perform the 1812 Overture Solennelle by Tchaikovsky because it closes with a cannon volley utilizing commercial black powder. Those of us who know and appreciate this particular composition will deeply feel its loss.

Mr. President, as you can see, importation and distribution of black powder has been severely restricted. Moreover, under title XI of the Organized Crime Control Act of 1970, no more than five pounds of black powder may be purchased at one time. This statute has severely curtailed legitimate muzzle loaders.

The theory behind the prohibition in title XI was that, because black powder was used in the making of pipe-bombs, it should be prohibited. Several facts were not realized at the time the bill was passed.

The first was that black powder devices have seldom been used in bomb devices. From July 1, 1970, to December 31, 1971, only 3.87 percent of all American bombings involved black powder devices.

Second, homemade black powder can be manufactured from ingredients easily purchased commercially. Homemade black powder is suitable for bombs, but it is useless as a shooting propellant, for quality and consistency are both vital. Fertilizer, propane, and cotton are a few readily available potential bomb components. These are all exempt under title XI. Even automobile gasoline can be utilized. Commercial black powder, expensive and hard to obtain, is not used by bombers.

The Treasury Department conducted experiments involving homemade bombs manufactured with common materials costing only $3. The principal ingredient was ammonium nitrate fertilizer, readily available in garden supply stores for approximately $4 per 80-pound bag or in bulk from farm suppliers for approximately $60 per ton. Such materials are not licensed or restricted on any level of government.

To produce the same level of explosion as that which resulted from the bomb made by the Treasury Department with $3 worth of common materials would require at least $1,000 to $2,000 worth of commercial handloaders propellant or almost as much commercial black powder and an initiating charge of some type of high explosive. It would also require a skillful explosives expert. The fact remains this is only a guess because smokeless powder has never been used for such a purpose in the Treasury Department experiments.

Mr. President, if black powder must be so regulated, a host of other materials should receive similar treatment. Playing cards, hand soap, sugar, and flour are but a few. Ammonium nitrate fertilizer, when mixed with fuel oil, creates a high explosive presently used for 70 percent of the commercial blasting formerly done with dynamite. Yet fertilizer is not regulated. In fact, ammonium nitrate fertilizer may be mixed with other materials in such a way as to be detonated by nothing more than a fire cracker, although the standard mix requires an explosive priming charge. The details of such a "high explosive" mixture are available in almost any public or college library.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter I received on August 12, 1972, from the North-South Skirmish Association Inc.; the definition of antique firearms under the Gun Control Act of 1968; and a reprint from the Handholder magazine of November-December 1971.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NORTH-SOUTH SKIRMISH
ASSOCIATION, INC.,
Fort Knox, Ky., August 12, 1972.

Senator TED STEVENS,
U.S. Senate,
Washington, D.C.
Attention: Mr. Max Gruenberg

DEAR SENATOR STEVENS: I am a concerned member of the blackpowder shooting fraternity. Blackpowder shooting sports are threatened with possible extinction largely due to the unintended side effects of the restrictions imposed on blackpowder shooting propellant by Title XI of the Organized Crime Control Act of 1970—PL 91-452. This law makes no distinction between those materials commonly termed "blackpowder" but which are different in manufacture and designed purpose—blasting powder, home made blackpowder, and commercially manufactured blackpowder shooting propellant.

Information recently obtained from the Bomb Data Center of the International Association of Chiefs of Police reveals that the alleged role of blackpowder of all types as a bomb filler has been greatly exaggerated in the past when no accurate data were available. For the period of July 1, 1970 through December 31, 1971, there were a total of 3,841 bomb devices of all types employed in the United States. Only 149 (3.87%) of all devices used blackpowder as a filler; 3,692 (96.13%) employed materials other than blackpowder! See enclosed statistical summary.

With the proven infrequent use of blackpowder as a bomb filler by terrorist bombers and with the availability and use of many more powerful and efficient materials obtained by terrorist bombers through theft, underworld sources, chemistry laboratories, drug and grocery stores, the present federal regulations on the sale and transportation and storage of blackpowder propellant have little effect on the total number of criminal bombings, but are instead effectively strangling a legitimate form of shooting sport as old as this nation itself.

Recognizing the serious problems which threaten black-powder shooting sports, Congressman Lee H. Hamilton of Indiana and four of his fellow Representatives have introduced H.R. 12406, which will remedy the present unfortunate situation by granting commercially manufactured blackpowder propellant an exemption from the restrictions contained in PL 91-452.

Senator Stevens, you have repeatedly demonstrated that you are a champion of the firearms owners of America. I ask that you take up the cause of the blackpowder shooters of America and introduce in the Senate a bill similar to H.R. 12406 and champion its passage. I will be pleased to provide any additional information you may desire. I am also requesting LTC (Ret.) Vaughn K. Goodwin, President of the National Muzzle Loading Rifle Association to submit material about his organization and its activities, as well as blackpowder hunting.

I shall be looking forward to hearing from you.

Sincerely,
RICHARD L. CORRIGAN,
President, North-South Skirmish Association.

ANTIQUE FIREARMS UNDER THE GUN CONTROL ACT OF 1968

Under Section 921(a) (16) of Title I of the Gun Control Act of 1968, the term "antique firearm" means, "(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (B) any replica, of any firearm described in subparagraph (A) if such replica—' (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade."

Under Section 5845(g) of Title II of the Gun Control Act of 1968 (known as the National Firearms Act), an "antique firearm" is defined as, "any firearm not designed or redesigned for using rimfire or conventional centerfire ignition with fixed ammunition and manufactured on or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica therefor, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade."

For a weapon to qualify as an "antique firearms" under Title I of the Gun Control Act 1968 by virtue of its date of manufacture, it is necessary that the weapon actually was manufactured before January 1, 1899. A weapon manufactured on or after January 1, 1899, (even though it might have a model designation indicating an earlier year) would not qualify as an "antique firearm" unless it is a replica of a firearm manufactured in or before 1898, and such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

To illustrate the distinction between the two separate definitions of an "antique firearm" as contained in Title I and Title II of the Gun Control Act of 1968, a rifle manufactured in or before 1898 would not come under the provisions of Title I of the Act even though it uses conventional ammunition. However, if the same rifle has a barrel less than 16 inches in length and uses conventional fixed ammunition which is available in the ordinary channels of commercial trade, it would be a "firearm" as defined in Section 5845(a) of Title II of the Act and, as such, subject to the full provisions of the National Firearms Act.

A weapon which comes within the classification of an "antique firearm" as defined in both Title I and Title II of the Gun Control Act of 1968, is exempt from all of the provisions and restrictions contained in that Act. Consequently, such an "antique firearm" may be bought, sold, transported, shipped, etc., without regard to the provisions of the Act and with exemption from the licensing and record keeping requirements of the Act. "Antique firearms" as defined may also be imported into the United States without an import permit from this office. There is no list of "antique firearms" published by the Internal Revenue Service, Alcohol, Tobacco and Firearms Division, since it would be impossible to establish and maintain an all inclusive list of this nature.

THREE DOLLARS WORTH OF FERTILIZER

The awesome destructive power so vividly illustrated on these two pages was unleashed by Treasury Department agents in a demonstration for law enforcement officials at Vandenberg Air Force Base, California, in August 1971.

According to the officers conducting the demonstrations, the blast was created with a homemade bomb rigged with $3 worth of common materials. The principal ingredients was ammonium nitrate fertilizer—available at garden supply stores for about $4 per 80-pound bag, or in bulk from farm suppliers for around $60 per ton.

So what has this to do with handloading? A great deal.

As a result of a sharp increase in terrorist bombings by militant radicals in the past few years, there has been an almost constant stream of explosives control bills introduced by city, state and federal lawmakers.

These bills follow one general theme: requiring licenses of all "explosives" dealers, with permits for "explosives" users. "Explosives" is usually defined in these bills to include all commercial "high explosives," such as dynamite and TNT, but only two "low explosives"—the black powder and smokeless propellants used by handloaders and muzzle loaders.

Thanks to the assistance of the Nixon Administration, the federal explosives control law enacted last year exempted smokeless propellants and five-pound quantities of black powder. It is unfortunate that black powder was not exempted, for the five-pound limit is proving inadequate for many shooters, due to a shortage of local suppliers. Also, although black powder suitable for bombs can be made with a junior chemistry set, the high quality black powder used in firearms must be commercially manufactured.

Since the federal law was enacted, many other bills have been introduced in Congress and in state legislatures which would place additional, more stringent controls upon purchasers of "explosives," including smokeless propellant and black powder. Many are poorly drafted, and all would fail to meet their stated objective of reducing terrorist bombings.

The average lawmaker—like the average citizen—has a limited understanding of explosives—and is likely to legislate on the basis of this lack of knowledge, drafting his bill to include "gunpowder." This imprecise term is a holdover from the last century, when black powder similar to that used for guns was the principal blasting agent.

The misunderstanding concerning firearms propellants is furthered by television and movie portrayals of someone blasting his way out of peril with a bomb made with the powder from a half-dozen rifle or pistol cartridges. Like so much else in the movies, "it just don't work that way."

Smokeless propellants are "deflagrants," that is they burn at a high, but controlled rate, releasing gases which force a bullet out the barrel. A person with considerable knowledge could make a bomb with smokeless propellant, but it is unlikely that he could produce other than a "low order" detonation.

As a guess, based on a considerable amount of research into explosives, duplicating the $3 ammonium nitrate blast depicted on these pages would require at least $1,000 to $2,000 worth of handloader's smokeless propellant (almost as much black powder), an initiating charge of some type of high explosive, and a skillful explosives man. Even that might not do it; no one knows for sure because smokeless propellants simply aren't used that way.

Wouldn't the fact that smokeless can be made into bomb, justify its inclusion in anti-bombing laws? *Only if all other materials which can be made into bombs are similarly controlled.* And that's impossible!

In normal use, smokeless is not an explosive. The same is true of Nylon panties, gasoline, propane, hand soap, playing cards, sugar, flour, or ammonium nitrate fertilizer. But with a little knowledge, any of these items—and a long, long list of other materials—may be made into bombs as powerful, or many times more powerful, than any bomb made from either smokeless propellant or black powder.

None of the bills we have seen propose to regulate "low explosive" ammonium nitrate fertilizer, yet according to *The Wall Street Journal*, the same material—mixed with fuel oil—to make it a "high explosive"—is being used for 70 percent of the commercial blasting formerly done with dynamite. That standard mix requires an explosive priming charge to insure detonation, but ammonium nitrate fertilizer may be mixed with other materials in such a way as to be detonated by nothing more than a firecracker. The details of such "high explosive" mixtures are available in almost any public or college library.

Whatever laws are passed, such knowledge cannot be repealed; and it is being used by radicals. For instance, the devastating blast which destroyed the Mathematics Research Center at the University of Wisconsin last year, killing one and injuring several, was caused by a trailer loaded with 1,700 pounds of ammonium nitrate fertilizer mixed with gasoline.

Astonishingly, the Wisconsin tragedy has been cited as evidence of the "need" for new explosives laws regulating smokeless propellants—but such proposed laws do not include ammonium nitrate!

Even if ammonium nitrate were included in the laws, it would accomplish nothing, for how much control could be placed on the millions of tons used by farmers. And even if it could be regulated, all of the other potentially explosive materials would still be available—and the information would still be in the libraries.

The only sensible solution is to make explosive laws apply only to commercial high explosives, then outlaw the unauthorized possession of any substance prepared in such a way as to perform as a high explosive or destructive bomb. And that is precisely what the existing federal law does (though it needlessly includes black powder limitations).

When your lawmaker begins to think more laws are needed to control explosives, show him these photos and ask him how he proposes to control such homemade explosives.

He may ask, as Rep. Emanuel Celler asked at the explosives hearings last year, "What legislation can we enact to keep explosives out of the hands of bombers?" And you may answer, as both this editor and a demolition expert answered: "None. Explosives are too easy to make."—Neal Knox

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from Massachusetts (Mr. KENNEDY).

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The Senator from Massachusetts is recognized for 10 minutes.

Mr. KENNEDY. Mr. President, I shall join the Senator on the motion to send this legislation back to the committee, in the hope of permitting some of those charged with law enforcement in this country the opportunity to speak on this issue which I think is of great importance to all Americans.

A significant question of doubt has been raised in the minds of law enforcement officials in this country as to the impact of this legislation on the safety of American citizens. The figures that we have been able to assemble on the subject would indicate that close to 20 percent—exactly 18 percent—of the nonincendiary bombs exploded in this country during the past 2 years were caused by black powder devices.

What the Senate is being asked to do now is to make it easier for individuals in this country to be able to acquire black powder. The argument is made in opposition to it, "Well, the bombers can go out and make bombs from other substances so, therefore, why do we not put black powder on the market and make it easier for people to get black powder because we know that if we place restrictions on it, they may go out and build more bombs from other substances?

That is the most convoluted reasoning I have ever heard.

The kind of bill we should be considering today is one to establish regulations requiring those who want to buy up to 5 pounds of black powder to go through some kind of procedure, some kind of licensing procedure, in order to be able to purchase black powder. I do not think that would be an undue kind of hardship or an undue restriction on those interested in the particular hobbies or other legitimate interests in pursuit of sporting interests involving this dangerous substance.

We require all Americans who want to drive a vehicle to get a license and register their vehicle. When we are talking about a substance which has been used in approximately 20 percent of the bombings in this country and is an extremely dangerous substance, why should we not maintain at least some kind of procedure to provide adequate protection for the American people?

I think we all recall 1967 and 1968, when we had a rash of bombings all over this country. At that time, Senators were tripping all over themselves about what could be done to try to take either firearms or explosives away from irresponsible people in this Nation. Senator after Senator was introducing legislation in order to try to meet their objection.

Since then we have had a little peace, and during that period of time, five presidential commissions have been established to try to advise us and guide us about what we ought to be doing about crime and violence in this country. One conclusion was to provide a restriction on the general usage of firearms, to provide some kind of licensing and registration of firearms, and we made some attempt in that direction in 1968. Since that time, we have seen a loosening, by amendment after amendment that has come up in the Senate, in an attempt to weaken even the provisions that were included in 1968.

Now we are back to a situation where we have a substance that involves making explosives and bombs. No one should kid himself that this is not a dangerous substance—it is—and though it may be used legitimately, by those who are interested in sporting purposes, such as those who fire muzzle loading rifles, it is important to keep in mind that black powder also can be used to kill law enforcement personnel in this country. A number of them have been killed over the period of the last year, and I ask unanimous consent to have printed in the Record a list of personnel who recently have been reported killed or had their arms taken off or their eyes blown out by black powder explosions. I want to make that list a part of the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

Injuries and Deaths Caused by Black Powder Bombs According to Alcohol, Tobacco, and Firearms Bureau of the U.S. Treasury

March 14, 1973—black powder pipe bomb—police sergeant lost one hand and three fingers.

November 11, 1972—Jasper, Tenn.—pipe bomb—five persons injured, three in serious condition.

January 10, 1973—15 year old boy hospitalized for black powder—muzzle loading rifle, explosion.

July 15, 1972—Melbourne Beach, Florida—black powder bomb detonated, blew out eye and skull, died in four hours.

November 9, 1972—Orange, California—black powder bomb—22 year old male—lost three fingers.

July 10, 1972—Dubuque, Iowa—black powder bomb—wounds received by 1 person.

May 30, 1973—New York City—black powder pipe bomb—death of female.

December 25, 1972—Houston, Texas—black powder pipe bomb mfr. injured perpetrator.

May 29, 1973—Upper Deerfield Township, N.J.—black powder bomb accidentally exploded in vehicle—serious injury to one, and injury to another.

April 28, 1972—Saginaw, Mich.—black powder detonated in glass bottle. Minor child in critical condition—heart and lung injury—older brother kept powder on hand for cap and ball pistol.

June 1, 1971—Moosic, Pa. plant—recovered pieces of human flesh from one person killed due to black powder explosion that shut down that plant for 2 years.

These figures based on actual ATF investigations conducted by their own special agents.

Mr. KENNEDY. It is interesting, Mr. President, as we meet on this particular subject, that we are not going to hear from the individuals who are charged with law-enforcement responsibility at the local level, such as the chief of police in Boston, who wants to come here and testify in opposition to this measure. He thinks it is a threat to the security, the peace, and the stability of the people of Boston. It is quite clear, with this record, that when we are going to consider this type of legislation we ought to listen to such men.

I, for one, would hope that we could listen to the personnel who are charged with local law-enforcement responsibility, whose job is difficult and trying at best, in keeping the streets of this country clear and clean from violence and disorder, who feel strongly about this kind of legislation. They are on the frontline of law enforcement, they are walking the beats, and are charged with disassembling bombs when they find them—if they are fortunate enough to find them—in public or private places. We ought to be willing to listen to them. That is the thrust and purpose of this motion. This measure as constructed is not reasonable. Yet, my move to recommit the bill is a sensible way to get at the heart of this issue; and it is something to which this body is fully entitled.

I would have hoped that we would have had a measure which would provide at least controls on weapons and materials that are used for explosives. And if there are other techniques which are used for developing explosives and other materials involved in explosives, we ought to be considering what we are going to be doing about those as well, rather than making it easier for people to acquire the quantities which can be devastating.

We know that a pretty sizable bomb can go off with 1 pound of black powder. According to existing law and regulations, an individual can acquire more than 5 pounds of black powder by a payment of $20.

As I understand it, the principal part of that $20 is to be used for the administration of that program. Yet, the point is made that that $20 serves as a hardship on individuals who want to buy more than 5 pounds. Why does not this Senate consider that this fee also provides some degree of security for the people of this country. The American people are paying about $250 million in order to make the airlines safe. Everyone who travels by air in the United States now has to go through some kind of search. The American people are paying $250 million for security, and we on the floor of the Senate are going to make it easy to blow up not only a plane but any public utility as well. We are balancing these forces off one against the other.

It seems to me that besides those who are interested in musketeers and other legitimate sport interests, we also ought to take into account the interest of he overall public. I, for one, fail to be convinced that those who are charged with the public interest, who are in the front lines of defense, the law enforcement personnel, the chiefs of police, have been adequately heard. They know what is in the interest of the public in this area. We should listen to them. They have not been entitled to do so.

The purpose of this motion to recommit is to give them the opportunity to be heard. I hope the motion will be agreed to by the Senate.

Mr. President, in 1970 Congress enacted title XI of the Organized Crime Control Act. The stated purpose of Congress in enacting title XI was to reduce the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. Exempt from title XI was the licensing, transportation, and storage of up to 5 pounds of black powder. This exemption was made in deference to the sporting users of black powder.

Earlier this month hearings were held on S. 1083, a bill to exempt black powder from the permit, licensing, and storage provision of title XI of the Organized Crime Control Act. It is my firm belief that the exemptions for black powder now in effect, under title XI are sufficient to adequately meet the needs of those persons who want to use black powder for legitimate sporting purposes.

I am aware of the efforts of groups like the National Muzzle Loading Rifle Association and the North-South Skirmish Association in holding reenactments of battles of the Revolutionary period and other historical and cultural programs. It is not my purpose in opposing S. 1083, to cause undue hardship or harassment to those who pursue their recreational or cultural endeavors in this manner. Indeed, that is not the intent of title XI. The intent of that law is to restrict the availability of large quantities of a very unreliable explosive.

It has been argued by some, who support this amendment, that since black powder is so unreliable as an explosive it is not sought after as a blasting agent by terrorists and bombers. This is not the case.

The Alcohol, Tobacco and Firearms Bureau of the Department of the Treasury maintains statistics about bombing incidents and the type of explosive used. According to the Department, between July 1, 1971 and June 30, 1972, there were a total of 542 explosive bombings in the United States. Black powder bombs were used in 18 percent or 100 of these cases. Subsequently, between July 1, 1972 and May 31, 1973, 409 explosive bombings were reported and 79 of these or 18 percent were caused by black powder bombs. These bombing incidents, both malicious and accidental, occurred in every type of community in our society, from explosions in high schools to the planned ambush of police officers answering a call for help, to the planned assassination of two men in a car and the accidental maiming of a 15-year-old boy. All of this destruction and suffering was caused by the so-called harmless black powder. How many more incidents could be added to the list if this dangerous explosive were once again exempted from licensing, storage, and transport regulation.

Another argument leveled at those who would like to see dangerous explosives strictly controlled, contends that 5 pounds of black powder is not a sufficient amount to meet the needs of some sportsmen. According to ATF's statistics a person shooting a medium bore firearm can get approximately 440 shots from 5 pounds of black powder. Cannons require varying amounts depending on the model and size but there are approximately 20 shots per 5 pound canister.

I believe the 5 pound limit adequately meets the needs of the average recreational sportsman. There are, however some enthusiasts who shoot muzzle loading weapons in competition matches and other events that would require an excess of 5 pounds of black powder. When users desire to acquire or transport black powder in quantities exceeding 5 pounds, a user-limit permit may be obtained if the user fills out a proper application and meets the necessary qualifications. These qualifications prohibit the sale of black powder to persons under 21, fugitives under indictment for a crime and those who are mentally deranged or drug addicted.

The fee for the users license is not restrictive. If the user wants the permit for a single transaction the fee is $2. The user may also apply for a yearly permit which is $20 for the first year and $10 annually for each renewal.

Proponents of S. 1083 also complain about the regulations concerning the storage of black powder. As stated in title XI, there are no storage regulations placed on black powder in quantities of less than 5 pounds. The regulations concerning the storage of black powder in excess of 5 pounds are essential because of the instability of the explosive. This, of course, does not mean that less that 5 pounds of black powder is not extremely dangerous. According to ATF:

> Black powder is a mass detonating explosive most of which can be expected to explode virtually instantaneously when a small portion is subjected to fire, to severe concussion or impact, to the impulse of an initiating agent, or to the effect of a considerable discharge of energy from without. Such an explosion will normally cause severe structural damage to adjacent objects or simultaneous detonation of other separated ammunition and explosive if stored sufficiently close to the initially exploding material. The untrustworthiness of black powder cannot be overemphasized.

For the safety of the persons directly associated with the use of black powder as well as the safety of the public in general, it is essential that we maintain at least the present regulations for storing large amounts of this dangerous explosive. Storage of black powder in excess of 5 pounds must meet Federal standards. Title XI requires that black powder in excess of 5 pounds may be stored in a building, a tunnel, a dugout, a box, a trailer or semitrailer or other mobile facility which is resistant to fire, weather, and theft. These regulations are based on mere commonsense and in no way can be construed as being overly restrictive. To exempt the storage of large amounts of this explosive from any regulations, as S. 1083 would have us do, would subject the public to unnecessary fear and anxiety for the safety of their lives and property.

The most common argument used by proponents of S. 1083 is that the enactment of title XI has severely reduced the production and availability of commercial black powder. While there has been a substantial reduction in the production of commercial black powder the reduction was well underway before enactment of title XI. After an explosion at the DuPont plant in Moosic, Pa., in 1971, the company decided to restore the facility only to fulfill a military contract.

The DuPont black powder plant has since been sold to the Gearhart-Owens Co. I contacted the plant manager and he assured me that the production of commercial black powder is underway and will be available to authorized persons beginning sometime in July 1973. The company expects to produce approximately 1 million pounds of black powder per year. This huge amount is more than adequate to supply the needs of sportsmen requiring commercially produced black powder. I was also told that the powder would be selling from between $1 and $2.50 a pound, depending on the quality. This would bring price of powder down to pre-1971 standards.

At a time when there is a public mandate to control the use of instruments of death and destruction, we should not repeal existing laws that protect the welfare of society.

Title XI is a necessary provision of the Organized Crime Control Act of 1970. If title XI prevents the maiming of one innocent child, it is well worth the slight inconvenience it may cause a few sportsmen. I firmly believe that title XI is in the best interest of the American people and must not be repealed.

Mr. PASTORE. Mr. President, will the Senator yield me 2 minutes?

Mr. JAVITS. I yield 2 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I quite agree with everything that has been said; but I think, in fairness to the distinguished Senator from Indiana, who has been an advocate of the limitation of firearms in the possession of people, there may be some substance and merit to the fact that this bill was reported. There may be some legitimate groups with respect to whom an exception should be made. But I think that, psychologically, this is the wrong time and the wrong place to be discussing this kind of legislation. I sincerely hope the Senator would take the initiative himself of seeing the matter go back to the committee, where we can hold further hearings.

Mr. BAYH. I yield myself such time as I may need.

Mr. President, I appreciate the thoughtful remarks of the Senator from Rhode Island. I listened with great interest to the very compelling presentation of the Senator from Massachusetts, and I know how strongly he feels about this matter.

I have to say that I think we get a little far afield if it is said that being in favor of this particular piece of legislation makes us favor blowing up airplanes or blowing off hands or heads or putting out the eyes of policemen. I do not think the Senator from Massachusetts would impute to me any less desire to serve the public interest than he has. I believe everybody in this body wants to do that. We just look at this issue a little differently.

We gave over a week's advance notice in the public record of our hearings. The reason why I cannot in good faith follow the usually wise advice of the Senator from Rhode Island is that this is not the first time this baby is crying. We have already had this measure before the Senate in 1970. People have been heard. Perhaps the Senator from Indiana was wrong in not sending out a special delivery letter to every police chief in America. Notice of these hearings, including the complete witness list, was in the RECORD as all other notices for hearings are in the RECORD. I thought I had fulfilled my responsibility by going to those Federal officials who know about the whole picture in America.

We got the Government people who live and breathe the whole business of firearm regulation and explosive control.

My friend from New York cites the New York City Chief of Police who found a 5-pound can and a few hand grenades in one instance that had black powder. But the chief said as far as his experts were concerned, most of the time they cannot tell what is in a bomb after it goes off. People who testified before our committee can tell in most instances what bomb fillers are used. I think we have ample evidence.

Mr. President, you either believe you should remove the restrictions or you do not. I must say with all respect to those who disagree that we could study this issue for another year and the same people on each side would be just as emotional.

I have not tried to lead anyone to believe that black powder does not explode. The key question is, Will the passage of this amendment increase lawlessness?

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BAYH. I am glad to yield.

Mr. PASTORE. This is where I am surprised by the logic and the argument of the Senator from Indiana. He is the one who refused in very strong, emphatic terms, in clear and concise terms the arguments made at the time of the gun control bill by the people who said criminals were going to get them anyway. The Senator is more or less advancing the same argument this time.

Mr. BAYH. No, I am not, but go ahead.

Mr. PASTORE. Yes, the Senator is. He is saying that they will get this powder; if they do not get this powder one way, they will get it another way. The Senator is making the same argument that was made before.

My point is that the Senator has been a great exponent of restraint with respect to obtaining firearms. The argument the Senator has made from time to time is that some small segment of our population must be inconvenienced so that we could promote the public interest and make sure that these guns could not readily get into the hands of people who might want to commit crime.

The argument made here today is that we are going to sacrifice an opera or a symphony if we do not pass this legislation. I think it is a specious argument.

Mr. BAYH. That is not what I said.

Mr. PASTORE. The Senator said somehow they had to have more than 5 pounds for some opera. The Senator named the opera. What was it, the Fifth, Sixth, or Seventh——

Mr. BAYH. I would be glad to re-read the record, but I think what I said is that those who have the responsibility for firing the antique black powder cannons used in the 1812 Overture feel that the present 5-pound limitation is a serious hindrance.

Mr. PASTORE. They could kick the drum a little harder. It would make the same noise.

Mr. BAYH. I do not think I said what the Senator from Rhode Island thinks I said. The Senator may have misinterpreted me, but I must say that I look at it differently. I think there is a difference when we literally have each year hundreds of thousands of armed robberies assaults, and murders with small cheap hand guns and we have 96 black powder bombings.

Mr. PASTORE. We should not have any.

Mr. BAYH. We should not have any.

Mr. PASTORE. That is the point.

Mr. BAYH. Since there is a recognized legitimate use for black powder, we have to ask ourselves to what extent does the 5-pound limitation or no limitation relate to the number of black powder bombs?

Most of the black powder bombs used less than the 5 pounds permitted under present law. A significant percentage was made of homemade black powder made by amateur chemists.

I do not think that the present 5-pound limitation really has any relevance to the number of bombings that have occurred. If I did, I would come out on the other side.

If we are to say that we must not take off the restrictions on black powder, then I think we ought to put a similar limitation on smokeless powder, which now is completely exempt. Somebody ought to introduce a bill which would put a limit on ammonium nitrate fertilizer. I do not think the Senator from Rhode Island was here when I spoke of it, but the biggest bomb blast I have ever heard of was the bomb blast at the University of Wisconsin, when the front of that math building was blown out.

Some people use black powder for purposes that are illegal, and they should be severely punished. The committee bill in no way affects any existing criminal penalties for the misuse of black powder or for making black powder bombs.

The current restrictions on commercially manufactured black powder impose substantial burdens on those who like to use antique rifles and shotguns, brass antique cannons, or who perform the "1812 Overture," or whatever the case might be. I must say that I have never fired an antique cannon. I certainly have never orchestrated the "1812 Overture." Nor until the last week have I ever fired a muzzle-loading rifle.

In my judgment, the bill will not assist those who want to wreak destruction on society, and who, as I have said, ought to be put in jail.

Mr. JAVITS. Mr. President, I will yield myself 2 minutes; then I shall yield back the remainder of my time.

To summarize our argument: first, as to the law enforcement officials who were not afforded an opportunity to testify. There was just a one-day hearing; the opinions of local law enforcement professionals were not invited. But the Department of Justice and the Treasury Department are against this particular measure and so testified, explicitly upon grounds that the present limit is effective in keeping these materials out of the hands of criminals and terrorists.

Second, and very important in the argument, is the point that the enactment of this bill will undermine effective law enforcement and deny to innocent citizens and patrolmen the protection which Federal and local law enforcement officials say they must have. Third, it is admitted that in an appreciable number of bombings, commercial—not homemade—black powder is used.

Fourth, I should like to join in the comment of the Senator from Rhode Island (Mr. PASTORE). I think it would be most instructive to send the bill back for hearings and to see the long line of symphony conductors and directors who would testify for the bill on the ground that the performance of one orchestra overture, the 1812 overture, requires the use of black powder for a few seconds once in the course of the piece. I have heard the overture 100 times, and black powder to fire off a cannon certainly is not needed in order to emphasize Tschaikovsky's point. I think Tschaikovsky would whirl in his grave if he heard that argument made in connection with the bill.

Mr. President, the increasing number of bombing incidents throughout the country and the attendant danger to both innocent citizens and public safety officers requires that the most careful consideration be given to any legislation which relaxes Federal restrictions governing availability of these materials.

I urge the Senate to support local law enforcement and allow them to be heard on this issue.

Be that as it may, I am prepared to yield back the remainder of my time, if the Senator from Massachusetts (Mr. KENNEDY) is, and to make the motion.

Mr. KENNEDY. Mr. President, I am glad to yield back the remainder of my time.

Mr. BAYH. Mr. President, I yield back my time.

Mr. JAVITS. I yield back my time.

Mr. President, I move, and send the motion to the desk, to recommit S. 1083 to the Committee on the Judiciary for further hearings. I make the motion on behalf of the Senator from Massachusetts and myself.

The PRESIDING OFFICER. There will be a half-hour debate on this motion, 15 minutes on each side.

Mr. JAVITS. Mr. President, I am prepared to yield back my time. I think we have debated this issue thoroughly.

Mr. BAYH. Mr. President, I am prepared to yield back my time.

The PRESIDING OFFICER. All time on the motion has been yielded back.

The question is on agreeing to the motion to recommit. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Indiana (Mr. HARTKE) are necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) and the Senator from South Dakota (Mr. ABOUREZK) are absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) would each vote "nay."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Michigan (Mr. GRIFFIN) is absent on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Ohio (Mr. TAFT) is necessarily absent; and if present and voting would vote "nay."

The result was announced—yeas 14, nays 76, as follows:

[No. 286 Leg.]

YEAS—14

Biden
Brooke
Case
Clark
Fulbright
Javits
Kennedy
McIntyre
Pastore
Pearson
Percy
Ribicoff
Stevenson
Tunney

NAYS—76

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Buckley
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cook
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Goldwater
Gravel
Gurney
Hansen
Hart
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Johnston
Long
Mansfield
Mathias
McClellan
McClure
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pell
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevens
Symington
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NOT VOTING—10

Abourezk
Byrd,
Harry F., Jr.
Cotton
Griffin
Hartke
Magnuson
McGee
Sparkman
Stennis
Taft

So the motion to recommit was rejected.

Mr. SCHWEIKER. Mr. President, today, I rise to commend my distinguished colleague from Indiana, who has introduced S. 1083, which exempts black powder and certain igniters from the licensing, permit, transportation, and storage provisions of title XI of the Organized Crime Control Act of 1970. S. 1083 extends the black powder and igniter exemption to cover cultural and recreational purposes, as well as sporting events. This legislation, however, does not affect in any way the criminal penalties for the misuse of black powder and igniters.

During the 91st Congress, I introduced legislation, cosponsored by 27 of my colleagues, which provided an exemption for black powder in amounts not to exceed 6 pounds for use in lawful, sporting purposes. At that time, I was very pleased when the Judiciary Committee went even further and reported a bill providing a complete exemption for black powder, which was adopted unanimously by the Senate by a vote of 68 to 0. Unfortunately, the House of Representatives passed its own version of this bill, containing the present 5-pound restriction, and this limitation was included in the final conference report.

Mr. President, S. 1083 is strongly supported by the National Muzzle Loading Rifle Association, the North-South Skirmish Association, the National Rifle Association, and many other groups dedicated to historical and recreational activities involving firearms. Black powder is a necessary component for muzzle loading rifles and cannons. A great many of these firearms were developed in the 1700's and the 1800's and require a low yield combustion type powder. Gun powders, such as smokeless powder, which have been developed since black powder, are too strong to be used in the antique muzzle loading rifle and cannon.

As we approach our bicentennial, muzzle loaders are becoming much more popular. The demand for simulated battle scenes from our early heritage is increasing. Numerous skirmishes are held every year, where these battle scenes are replayed, and the antique rifles and cannons are used without live ammunition. In my home State, battle scenes are reenacted at Gettysburg regularly, with great authenticity. This is what S. 1083 is all about—it is a bill that would make such activities legal and possible.

Mr. President, I would like to point out here that firing an unloaded muzzle loading rifle or cannon requires two to three times more black powder to reproduce the report which is normally heard when firing a projectile from the same firearm. In fact, one of my constituents owns a reproduction of the famous "Dahlgren" cannon, which was used on naval vessels from 1855 to 1870. I am informed that this cannon would require 2 pounds of black powder to fire a cannon ball, but needs nearly 6 pounds to produce the same sound without the ball.

This is an interesting point, since the present law restricts this person from purchasing enough black powder to fire his cannon once, unless he uses live ammunition.

Mr. President, I urge prompt passage by the Senate of this much needed legislation. The current law restricts our Nation's law-abiding sportsmen and antique gun collectors, while having no demonstrable effect on reducing the frequency of criminal activities. Today, we have an opportunity to aid the American sportsmen and history buffs, while retaining stiff criminal penalties for unlawful uses of black powder.

Mr. HUDDLESTON. Mr. President, as a cosponsor of S. 1083, I fully support this bill as reported by the Judiciary Committee.

Since the enactment of the Organized Crime Control Act of 1970, muzzle loading rifle organizations, civic groups, veterans groups, historical groups, Boy Scouts, and even symphony orchestras have been hampered and harassed by unfair and unnecessary restrictions on the licensing, permit, transportation, and storage of commercially manufactured black powder.

I am the first to agree that the use of black powder or any other explosive to kill, maim, injure, or damage property must not be facilitated in any way, and must be stopped and punished. But the bill we have before us today does not propose the removal of all restrictions on black powder and in no way affects the criminal penalties for criminal misuse of black powder. It merely recognizes the legitimate sporting, recreational and cultural uses of commercially manufactured black powder and removes the restrictions only on black powder to be used for these purposes. And there is precedence for this—readily available materials like gasoline and ammonium nitrate, which have a much higher incidence in criminal activities, are subject to user intent provisions under the Federal explosives laws.

Although I was not a member of the Senate when the Organized Crime Control Act of 1970 was passed, it is my understanding that despite the language of the explosives law as finally enacted, the Senate thoroughly considered the issue of exempting black powder for sporting purposes and acted favorably upon such an exemption. I strongly urge that we take this opportunity today to remove the restrictions which are inhibiting the use of black powder by thousands of law-abiding Americans in antique shooting sports and other related recreational and cultural activities.

Mr. BAYH. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BAYH. Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Iowa (Mr. CLARK), the Senator from Indiana (Mr. HARTKE), and the Senator from Iowa (Mr. HUGHES) are necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS), and the Senator from South Dakota (Mr. ABOUREZK) are absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. HUGHES), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Michigan (Mr. GRIFFIN) is absent on official business.

The Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from New York (Mr. BUCKLEY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. TAFT) and the Senator from TEXAS (Mr. TOWER) would each vote "yea."

The result was announced—yeas 78, nays 8, as follows:

[No. 287 Leg.]

YEAS—78

Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cook
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Gurney
Hansen
Hart
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Johnston
Long
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevens
Symington
Talmadge
Thurmond
Weicker
Williams
Young

NAYS—8

Brooke
Case
Javits
Kennedy
Percy
Ribicoff
Stevenson
Tunney

NOT VOTING—14

Abourezk
Buckley
Byrd,
  Harry F., Jr.
Clark
Cotton
Griffin
Hartke
Hughes
Magnuson
McGee
Sparkman
Stennis
Taft
Tower

So the bill (S. 1083) was passed.

Mr. BAYH. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). The Senate will resume consideration of amendment No. 226 of the Senator from Alaska (Mr. GRAVEL).

Mr. DOLE. Mr. President, will the Senator from Alaska yield to me for a brief unanimous-consent request?

Mr. GRAVEL. I am glad to yield to the Senator from Kansas and then to the Senator from Nebraska (Mr. CURTIS).

Mr. DOLE. Mr. President, I ask unanimous consent to be made a cosponsor of amendment No. 320 to S. 1081.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE STATE OF THE PRESIDENT'S HEALTH

Mr. SCOTT of Pennsylvania. Mr. President, I rise simply to state that the President is getting along very well at the hospital. Of course, the prayers of the whole country go with him. He is going to be there for a few days, but his illness is not such that it should be too incapacitating for a very long period of time.

I think we should note, however, that a President who has been burdened for 4½ years by the heaviest kind of problems surely has the sympathy of the Senate, of the other body, and of the people of this country, and we all wish for him a prompt recovery; and meanwhile, I hope that during his stay there the country will understand that he has the desire to continue with as much work as he possibly can, and I do not believe any of the critical problems of the country will be delayed by reason of this temporary incapacitation. We all wish him the very best and an early recovery.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. SCOTT of Pennsylvania. I yield.

Mr. MANSFIELD. Mr. President, earlier today I expressed my regret and distress at the hospitalization of the President. I want to say I am fully in accord with the remarks of the Senator from Pennsylvania.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield to the Senator from Rhode Island.

Mr. PASTORE. Regardless of how we feel about individual issues, I wish to assure the majority leader that all of us wish the very best for the President and a speedy recovery.

Mr. BAYH. Mr. President, if the Senator will yield further, I would like to associate myself with the remarks of the majority leader, the minority leader, and the Senator from Rhode Island (Mr. PASTORE).

Mr. CURTIS. Mr. President, we were informed that the President of the United States, Richard Nixon, was taken to the hospital last night or this morning. I rise for the purpose of expressing not only my interest and concern but also, on behalf of the overwhelming majority of those people that I represent in part in the Senate, to express the wish that the President's stay in the hospital will give him the rest and the treatment he needs, and that it will be only a matter of a very few days until he will be feeling perfectly well again and can carry on his duties as we know that he would like to do.

President Nixon has the good wishes and the confidence of the vast majority of the people of this country. Of this I am convinced, judging from my mail and also the fact that I have been about the country quite a little in the past few weeks, making several speeches, and getting the opportunity to speak to the people.

The President is a man of unusual strength and endurance. We know that it will be just a matter of a few days before he will be back on he job; but in the meantime, I want the record to show that I speak for millions and millions of Americans in expressing their concern and their every good wish for his speedy and complete recovery.

WATERGATE

Mr. CURTIS. Mr. President, I want to take this occasion to express my opinion concerning the Watergate investigation.

I believe that it should be discontinued. I do not think that it is serving any lawful purpose.

The purpose of congressional investigations must be legislative, to gather information for the enactment of laws. One very important additional function that a committee plays is in the uncovering of evidence that assists those who prosecute for crimes.

The investigation going on now is not contributing to either one of those purposes.

There is a special prosecutor. A number of people have already been arrested, tried, and convicted.

It is my hope that every guilty person will be brought to trial. I believe that will happen, whether the Senate investigation goes on. The Senate investigation is not necessary to bring that about. We have enough of the facts that would provide any legislative information that any committee might need.

The plain facts are that the purpose of carrying on the Watergate investigation, from here on at least, is not legislative. It is not for the purpose of getting information to legislate.

I have stated it before, and I say it again, the purpose is to attack the President of the United States.

Let me read from an article which was published in the Washington Evening Star last evening, written by William Safire. He begins his article in this way:

> In President Nixon's first term, we moved from an era of confrontation to an era of negotiation; in his second term, Democrats are determined to move us into an era of investigation.
>
> "What the President knew and when he knew it." That was the goal of the Senate's Watergate investigation, succinctly stated and widely accepted as the ultimate target of truth-seekers.

Mr. President, I ask unanimous consent to have the entire article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTO AN ERA OF INVESTIGATION

(By William Safire)

In President Nixon's first term, we moved from an era of confrontation to era of negotiation; in his second term, Democrats are determined to move us into an era of investigation.

"What the President knew and when he knew it." That was the goal of the Senate's Watergate investigation, succinctly stated and widely accepted as the ultimate target of truthseekers.

At least, that used to be the accepted goal back when a lot of people assumed evidence would be brought forth to prove that the President had knowledge of a crime. Now, however, it appears that all we will see is unsubstantiated charges and irate denials. No proof. No impeachment. No resignation.

Where will that leave us? Will the accusers and the Senate committee announce that because they have not been able to pin a crime on the President, the presumption of innocence prevails and he should be permitted to go back to the business of governing the country without harrassment?

Not, as Eliza Doolittle would put it, bloody likely. The Democratic campaign of 1972 is finally, if belatedly, under way.

The Democratic strategy is to proceed in the next four years to investigate the last four years. The Robespierres of retribution, reveling in each new revelation, have a wide range of investigations already under way in addition to the televised hearings.

Grand juries are burrowing into Watergate and related matters here, in New York, Houston, Orlando and Los Angeles. Senate Appropriations and Armed Services Committees are both looking into CIA and FBI involvement, and House Armed Services, Commerce, and Banking and Currency Committees will have their day on CIA, ITT, Mexican laundering, grain deals and you name it.

Four civil suits filed by Common Cause, Ralph Nader's Public Citizen, the Democratic National Committee and a former National Security Council staffer will, the litigants hope, generate publicity for years, as will SEC and FBI investigations, and the anticipated criminal trials that could turn Washington into Nuremberg.

Along with all that, the General Accounting Office will frequently be heard from. The GAO is a creature of the Congress, now controlled by Democrats, set up to investigate the executive branch, now controlled (if that is the right word) by Republicans. On efficiency audits, the GAO has been a useful and generally nonpartisan agency. On its new election assignment, however, the GAO monitors financial disclosures of presidential elections only; Congress will not let it near the elections of representatives and senators, but nobody complains about this double standard.

It's a full plate for lovers of investigatory democracy. About the only political campaign scandal that wll not be looked into is the misuse of the FBI to bug the telephones of Republican candidates and their supporters in the Nixon-Agnew campaign of 1968 (But that happened when Ramsey Clark was attorney general, so it could not have been an intrusion into civil liberties.)

The bipartisan revulsion at the Watergate scandal has given way to a campaign by partisans in nonpartisan clothing to retroactively "win" the 1972 election. Since they now know they cannot bring down the President, they intend to continually challenge his legitimacy—in effect, to wear him down.

The probephiliacs will not succeed. The eye of the storm has passed, and Nixon did not blink. We may be getting into the longest permanent floating investigation game the nation has ever seen, but even a properly chastened president is not the sort to let himself be tromped on much longer.

Mr. CURTIS. Mr. President, I am thoroughly convinced that what I am proposing today meets with the approval of the vast number of patriotic thinking Americans all over the country.

Let me read to the Senate what a couple wrote me from Omaha back on May 22 of this year:

DEAR SENATOR CURTIS: At this time of great concern for President Nixon because of Watergate, we would like you to show and demonstrate your confidence in him. We still have complete confidence in his ability to lead this country. If the news media and some Members of Congress would stop criticizing and start cooperating in the solving of the problems of this country instead of trying to play up false stories and hearsay as fact, President Nixon can continue his job effectively.

Mr. President, a letter from White Plains, N.Y., dated June 23:

DEAR SENATOR CURTIS: It was most reassuring for us to read in Thursday's Times the report of your speech in the Senate on the Watergate matter; and to note your support of President Nixon who is leading our nation with firm courage through these difficult times.

We pledge our sincere respect and support to the President, with unswerving faith in his honor and integrity, his loyal devotion to our country, and indeed his perceptive guidance of this nation in our public affairs.

He inspires our confidence and we find it difficult, really impossible to understand the motives for the verbal abuse being heaped on him in the news media, both in print and over the air, as a result of the Watergate matter.

My own view is that the Senate Watergate Committee is opening the floodgates of subversion, which threatens to disrupt and destroy our executive government. This should be obvious to all who retain a semblance of sober thought, and must be brought under responsible control if this nation (as Lincoln said) "can long endure."

My wife is a native of Nebraska, and attended school in Omaha and at the University in Lincoln. I was born in Iowa and raised in South Dakota, at one time a classmate of the late Senator Francis Case in school at Sturgis in the Black Hills.

Another letter I have received:

DEAR SENATOR CURTIS: It was like a breath of clean air to read an excerpt from your June 14 Senate speech in the June 29 copy of our "Detroit News".

My husband and I heartily endorse your statements and commend you for having the courage to stand up and be counted in President Nixon's defense. We too feel he is an honorable man and has and will continue to do great things for this country. We believe that the majority of our citizens have the same feeling and are not being deceived by the actions of a few who themselves could not afford to have their activities investigated. It is about time we were done with Watergate so we all can get back to work to keep our country great.

Our warmest congratulations to you as well as the State of Nebraska for having you in the Senate.

A letter from Toledo, Ohio, dated June 29:

DEAR SENATOR CURTIS: We are vacationing at the Straits of Mackinaw in northern Michigan and have read excerpts from your June 14th Senate speech printed in the Detroit News. Such welcome words following the sickening spectacle on T.V. this week! I am a high school Latin teacher in Ohio, and this week has been my first viewing of the Watergate hearings. You have said so well many of the things I have been thinking as I have been witnessing the sorry state of affairs being broadcasted.

Is it possible for someone in your office to mail to me your June 14 Senate speech? I would like very much to use parts of it—if I may—in my Cicero class next fall. What a parallel your remarks will make with those of Cicero in his defense of the Roman Republic! I know nothing about you, Senator Curtis, but your remarks certainly have the ring of a statesman!!

Thank you!

A letter from South Sioux City, Nebr., dated July 7:

DEAR SIR: In my opinion, the Press, T.V., Jealous Politicians, Congress, Polls, Nonthinkers, Sensation Lovers, Nixon Haters, etc., have pushed this Watergate affair out of all proportion to its value in any way one wants to take it. Every president for many years has had some sort of scandal tinged involvement, and wire tapping isn't new.

I do not condone dishonesty, and firmly believe President Nixon is far more honest and conscientious than most Public Officials.

If, instead of using his time and efforts to end the Vietnam War and get the POWs home, President Nixon had personally handled, as usual, his 1972 election campaign, can you imagine the howls from the other side and the public that the president was neglecting his duties. One might also remember that the McGovern campaign was not exactly "Lily White and Saintly pure."

President Nixon, as I see it, is the victim of men he trusted, who were unbelievingly deceitful and stupid; they all sound now like perfect liars and cowards.

The "Investigation Committee" is doing nothing but adding to the confusion, and spending the tax payer's money, and should be done away with, or at least retired behind closed doors.

I would like to see the harassment of President Nixon stopped and that he be given a full chance to serve in the office to which he was elected . . . by the people. I hope you agree with me . . if not, why not?

Mr. President, here is a letter from Lincoln, Nebr., dated June 6:

DEAR SENATOR CURTIS: I am writing my concern about the news that is coming out or Washington.

Do the American citizens have no opportunity for a rebuttal or must we "sit it out" while the hatred of the news media and the jealousy of the Democrats destroy our President and our country?

No doubt our founding fathers would be horrified by the present abuse of Freedom of the Press. I am sure they did not intend for the news media to use this power to pursue their own schemes to mold public opinion; harass individuals; and even attempt to overthrow the government, when they included such freedom in the first amendment to the Constitution. The media seems to have no concern for our reputation abroad; for our economy; or for the welfare of our citizens.

Surely the Senators have more constructive work to do than the present witch-hunt which is being aired and viewed in such minute detail. We, and a great many like us in Nebraska, are sick of hearing about Watergate and would like to forget it and get on with important matters of state.

It bothers me when some of the Republican Senators join the media in attacking the President and calling for his impeachment. Now is the time for *all* Republicans to be loyal to him. I hope that you and other members of the Nebraska delegation will lead out in this endeavor.

A letter from Sherman, Tex., dated June 26:

DEAR SENATOR CURTIS: Congratulations to you for standing up and telling it like it is re the Watergate Affair.

See enclosed editorial clipping.

Mr. President, I ask unanimous consent that the editorial published in the Sherman Democrat, Sherman, Tex., Sunday, June 24, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WATERGATE MOVIE OVER

The Gallup Poll, revealing that 44 per cent of the people feel that newspapers, radio and television have overdone the Watergate coverage, turned up a retired business executive who chose to speak for a majority of readers and listeners.

"The press and television somehow have not awakened to the fact that the Watergate movie is over," he said. "The lynching party has hanged the bad guys. All that remains is to cut them down, bury their bodies, and then tip off the sheriff's office."

In a similar vein, Senator Carl T. Curtis, Nebraska Republican, in a prepared speech told the Senate that publicity-seeking politicians are "out to get Nixon" in their pursuit of Watergate. Curtis added, "Nixon is totally innocent of wrongdoing—he didn't plot it; he didn't condone it; and the facts were withheld from him too long after it happened."

Further, Curtis said that Watergate had brought into being a determined and militant coalition whose object is not justice but rather to "get Nixon," the President's disclaimers of any prior knowledge.

As Curtis described it, the coalition is a small group of "Nixon haters, politico-sadists of the type who enjoyed their efforts to destroy Lyndon Johnson over the war issue. A small segment of newsmen who prefer political propaganda over objective reporting, a few extreme partisans whose sense of justice is numbered by their desire for political gain, and those politicians who are willing to exploit any issue for personal publicity." They have made themselves extremely unpopular with half of America's voters.

These views previously have been expressed during the Watergate affair, but seldom so plainly as either the Gallup retired businessman or Senator Curtis. The strong impression has grown that Watergate is getting stale and the country should get on with more important business.

Mr. CURTIS. Mr. President, here is a letter from Fremont, Nebr., dated May 21:

DEAR SENATOR CURTIS: I'm terribly disturbed over this so called Senate Investigating Committee and their hearings. They are doing nothing constructive. But they are destroying the Country, whether they realize it or not.

They of course, started out to try to destroy our good President and the Republican party, and its gone beyond that already. The whole country is at their mercy now.

Surely something can be done to stop it. Everyone I know is fed up and disgusted with the whole mess. They don't need to have all these investigations Prosecutors, etc. The news media is as much to blame as the ones who committed the burglary.

I feel now is the time to stop it.

A letter from Charlotte, Vt., dated July 4:

DEAR SENATOR CURTIS: I am writing to congratulate you on your recent statements in the Senate appropos Bobby Baker and Billie Sol Estes as reported by syndicated columnist Kevin P. Phillips.

My husband and I and many of our friends are truly shocked at the campaign of the liberal media to undo the election of 1972 by "getting" President Nixon.

We think the present Senatorial inquiry is more like an inquisition violating standards of justice and fair play again and again. I do not think our country can survive the kind of "witch hunt" that is presently being conducted under the auspices of the Senate.

I am glad there are a few courageous, strong voices like yours still speaking up in our Senate.

From Red Cloud, Nebr., a letter dated June 11, 1973:

DEAR SENATOR CURTIS: We liked your statement regarding Watergate and President Nixon on this morning's radio. All of us are getting so tired of Watergate. Do people so quickly forget Nixon's good first four years?

Another letter dated June 14:

DEAR SENATOR CURTIS: We love you for standing by our good President Nixon who we feel has done nothing wrong. We hope this Watergate affair will be over soon—very soon. We have always admired you and pray for you as well as for our President. My husband and I are past 85 years and have seen many Presidents come an go—none finer than President Nixon.

Mr. President, here is another letter from Beatrice, Nebr., dated June 27, 1973:

JUNE 27, 1973.

Hon. CARL CURTIS,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR CURTIS: I'm sure that millions of Americans would agree with some, or most of the following random remarks regarding Watergate:

1. The Watergate affair is a rather serious moral crime, but not worth the attention it is receiving from the Senate.

2. As a crime, it should be handled by the Judicial Branch of the Government, leaving the Senate to handle its legislative duties.

3. The Watergate affair is not nearly as serious as the murders that occur every day that do not receive Senate attention.

4. If the Senate is interested in investigations that might be more beneficial to the national welfare, the following projects would seem much more worthy of Senate attention.

(a) Organized crime, such as the Mafia.
(b) The drug problem.
(c) Pollution.
(d) Growing power shortage.
(e) Slowing down inflation.
(f) Balancing the budget.

5. Has the Senate Commission considered the possible effect the investigation is having on the stock market, driving prices down at probably the most prosperous times in the history of our Nation?

6. Has the Senate Commission considered the possible effect the investigation has had on our dollar in foreign exchange? The low price of the dollar has some advantage to our foreign trade; however, the low price of the dollar combined with the low stock market prices lets Japan and other countries have bargain rates buying into U.S. industries, which may have far-reaching long range effects.

Is Watergate worth it?

Mr. President, those writers, broadcasters, and public officials who are continuing to publicize and thereby to exclude all other activity and news no longer contend that it serves the legislative purpose. Few objective minded people contend that it is not hurting the entire country, people of all political faith, color, and creed. It is hurting our future. I hope this matter can be closed. Let the courts and prosecutors go on. I, for one, hope every guilty person that had anything to do with any unlawful act which can be presented and proved in a court of law will be dealt with without fear or favor; but let us put a stop to this self-destruction of our country.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. CURTIS. Mr. President, I ask the Senator if I may yield briefly to the Senator from Wyoming.

Mr. GRAVEL. Certainly.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Nebraska very much for yielding. I, too, welcome this opportunity to join with him in conveying the very warm, sincere, good wishes of most Americans for the very speedy recovery of our dearly beloved President Richard Nixon.

I need not remind anyone in America that the war in Southeast Asia for our country has ended. For the first time in several decades young men can now plan their lives without anticipating involuntary induction into the various branches of the military service.

The Union of Soviet Socialist Republics and the United States of America are cooperating on a variety of fronts. The SALT talks have gone forward in the last 3 years. Mr. Brezhnev was in this country and he and President Nixon sat down to bring about a diminution of the possibility or likelihood of atomic power being used in an aggressive, offensive, way. We have opened new trade frontiers. In space these two strongest nations are cooperating to explore outer space.

In the conquest of disease and pollution we are bringing about real progress.

I think most importantly of all is the fact that there is on a man-to-man basis, comparing the average typical American citizen with his counterpart in the Soviet Union, an exchange of ideas on the whole front that bodes well for the progress and future peace of all mankind.

We know further that for the first time in the lifetime of most living Americans, the citizens of our country today can go into the mainland of China, not as uninvited guests but rather as welcome friends.

These are some of the goals that I am sure many of us have in mind when we wish the best and hope the best for the U.N. The U.N. did not work out as well as many of us had hoped it would. It has not been as successful as we had hoped it might be.

The one man, the one catalyst who has made possible the progress that is so significant today in the context of the lives of some 3.5 billion human beings is Richard Nixon. It is he who has opened up the Iron Curtain. It is he who has spread apart the Bamboo Curtain. It is he who, by demonstrating his sincere conviction and doing everything he could for the future of mankind, has brought about this most important progress.

I am sure no one minimizes for a moment the wrongdoing that has occupied so much of the attention of the press in the last weeks and months with respect to Watergate, but I would hope we can keep in better perspective precisely what has been accomplished, and be equally aware of the opportunities remaining in the some 3½ years of Richard Nixon's term of office, as President of the strongest nation on the face of the earth, the opportunities that this country and we as a people have to move this great world of ours further down the road to a lasting peace, to better understanding, to improved health, and to an improved quality of life for all of our people.

I think that history, of course, will write what the facts were during the decade of the late 1960's and early 1970's, and I am sure that in time these things will fall into clearer and more objective perspective than is now possible.

I would hope that, as we await the verdict and the hand of history to record what has happened, we will exercise forbearance and tolerance today not to make judgments without fact, without evidence, or upon hearsay, upon innuendo, upon character assassination, or all that sort of thing. We have real reason to join with nearly all Americans in wishing the President of the United States a very speedy recovery.

The President does indeed have a tremendous opportunity for accomplishment in the remaining years of his term of office, and those are the years that can be most meaningful for this generation and for several generations to follow.

On behalf of the people of the State I have the honor to represent, the State of Wyoming, may I say, Mr. President, that President Nixon does have the support and the best wishes of an overwhelming majority of the people from the Equality State.

I thank my colleague from Nebraska for yielding.

Mr. CURTIS. I thank my distinguished colleague from Wyoming.

Mr. FANNIN. Mr. President, it was with deep concern that I received the word that President Nixon has entered Bethesda Naval Hospital for treatment of viral pneumonia. I was most relieved, however, to learn that there are no complications and that the President should not be hospitalized for more than a week.

We can be thankful that the President has kept himself in excellent physical condition, and his recovery should be rapid. It has been a source of pride to the President that during 4½ years he has never failed to carry out any of the duties of the Presidency because of illness.

Although he is hospitalized, it has been reported that President Nixon will be active in the business of running our Federal Government. He will be keeping busy in the hospital.

I have sent the President a telegram expressing best wishes for a speedy recovery. In this telegram, I advised the President:

> Please rest well so that you may recover both quickly and fully. Your good health is vital so that you may continue your strong leadership of America and the Free World.

My colleagues, I am sure, join with me in wishing the President a quick restoration of his usually perfect health.

Earlier this week it was my privilege to visit with the President at the White House. I now know that at that time he must have been suffering from the onset of viral pneumonia, but this did not deter him from a lively and thorough discussion of our energy problems. The President emphasized the need to get the Alaskan pipeline constructed so that we could relieve the fuel shortages that are plaguing our Nation.

Mr. Nixon has been a hard-working President. He has met challenges head on and he has provided the United States and the world with the dynamic leadership demanded by our times.

He has brought the war in Vietnam to a close with honor; he has advanced the cause of world peace by improving relations both with the Soviet Union and mainland China; he has maintained the balance of power to prevent war in the Mideast. His record in foreign relations is magnificent.

Within America he has acted strongly to curb inflation. Although none of us—including the President—is happy with the inflationary trend, our record in the United States is far superior to any other major nation in the world.

He has offered domestic programs that are at the same time innovative and sensible.

He was the architect of revenue sharing; he is the proponent of a sensible National Health Insurance program; he has instituted policies which have reduced unemployment. The list could go on and on, but I believe this makes my point.

In addition to carrying the awesome responsibilities of the Presidency, Mr. Nixon has had to contend with the so-called Watergate affair. The President has suffered because persons acting without his knowledge or approval carried out irresponsible and illegal activities.

It is a tragedy that these activities—which in no way involved the President—have obscured the great achievements of the Nixon administration.

Although the President's illness is not extremely serious, perhaps his hospitalization will cause all of us to pause a few minutes to reflect on his many great achievements.

It might be well that we call a truce in our political wars while the President recovers from pneumonia. My thought is that such a truce might not necessarily help the President recover, but it might help the Nation recover some of the perspective that we seem to have lost in the battle of Watergate.

Mr. HELMS. Mr. President, like my colleagues I was distressed last evening when the news came that President Nixon had been hospitalized as a result of a seige of viral pneumonia. And of course I join countless millions of Americans who wish for him a speedy recovery.

Having known Mr. Nixon for more than two decades, I have been aware of how hard he works, and how blessed he has been with good health. I cannot remember an instance, if there was one, when he previously missed a day's work due to illness. He has always been a tireless worker, and he has never permitted physical discomfort to deter him from his responsibilities. So when I heard last evening that he had consented to go to the hospital, I was concerned because this man does not give up easily.

Needless to say, I am comforted by his physicians' assurances that he will be out of the hospital in about a week. Mrs. Helms and I wish him a speedy recovery.

Incidentally, Mr. President, one of my colleagues mentioned to me a few minutes ago that a reporter for one of the television networks had today implied that the President is not really ill, and that the President's illness perhaps was not—if the television reporter was quoted accurately—"legitimate."

I do hope that the information reaching me was not accurate, and that the television network reporter is not really willing to go that far with outrageous innuendo and implication.

But it is becoming increasingly apparent, Mr. President, that some of the major news media in America are out to "get" Richard Nixon, and to convict him in the minds of the public of any and every wrongdoing that can be contrived.

I have spent most of my life in the news business, Mr. President. I have done a great deal of editorializing in my time. But all of my editorials have been labeled as such. I abhor and resent the use of news columns in the newspapers, and news broadcasts on radio and television, for vicious editorial comment being fed to the people on the pretense that it is "news."

I have not always agreed with Richard Nixon, Mr. President. I have many times this year voted contrary to his wishes on this Senate floor. But I have never doubted his sincerity and dedication. The President's enemies in the political arena and in the major news media are constantly poised for the attack. They aim always for the jugular. Every Member of this body is bound to know of the repeated distortions and misrepresentations directed at Richard Nixon.

There is nothing new about this, Mr. President. Mr. Nixon has been mocked and ridiculed by certain elements of the major news media since he exposed Alger Hiss. He has been a constant target for attack since that time.

It has been nothing short of miraculous that he has withstood all of this for so long. A lesser man would have crumbled and retreated. Indeed, there have been men who have thrown in the towel, who have abandoned public life, because of the carping, cutting, and disgusting misrepresentations of some elements of the media. They could not take it. But Richard Nixon has taken it, endured it, lived with it.

I was at the White House Wednesday evening, Mr. President, for a visit with Mr. Nixon. I was in the company of several other Senators who also are his friends. We were there for something over an hour. It was no big thing—just a reassurance of friendship, and a reminder that he can expect our support on issues vital to the survival of this Republic.

I will not quote the President. That would be improper. But I will say that he was in a jovial mood. He was relaxed. And he certainly satisfied me that he will continue to pursue vital and fundamental economic principles which are imperative if this Nation is to survive. He made clear his support for the Alaska pipeline. And he left not a shred of doubt about his position on criminal violence, drug abuse, and other matters which, just a few years ago, were threatening the very destruction of this Republic.

I need not mention, Mr. President, that Richard Nixon is never given credit for what he has accomplished. Nobody mentions that last year there was not one reported instance of campus violence. No cities were burned. Our troops, some 500,000 of them, were brought home from Vietnam. Our POW's are home.

But who credits Mr. Nixon for these accomplishments? The television networks have no time to spare for this sort of report. The major newspapers have no space to spare to remind the American people that this man in the White House has worked, and has achieved much in the way of correcting the mistakes and the failures of his predecessors.

Let me reiterate, Mr. President, that I have not myself always agreed with Richard Nixon. No doubt in the future we will differ again. That is not the point. The point is that President Nixon deserves a better break than he has received from those who have missed no opportunity to mock, ridicule and revile him for the better part of 25 years. His family—his wife and lovely daughters—are a credit to this Nation. Mr. Nixon himself has worked with dedication and courage in defending the principles in which he believes.

Insofar as the current investigation is concerned, a member of the investigating committee—a Democrat, I might add—expressed a concern privately to me yesterday that he was fearful that the "investigation" is moving away from investigating, and that it may be moving toward prosecution.

If that is true, then it is a sad day for America. For I would think that the President of the United States is entitled to the same right accorded all other Americans, the right of presumption of innocence until proved guilty.

And I predict, Mr. President, that Mr. Nixon—when the last television light is cut off in the hearing room—will be proved innocent. The tragedy, however, is that in the process, he may wrongfully have been proved guilty in the minds of many Americans who have been misled.

I am not here to proclaim any virtues

of my own. But I am loyal to my friends when I feel that they have been mistreated. And I feel that Mr. Nixon has indeed been mistreated. But he will survive, and with far more basis for a clear conscience than his carping critics.

I reiterate my best wishes to him for a speedy recovery.

RELEASE OF DR. LEONID TARASSUK FROM SOVIET UNION

Mr. JACKSON. Mr. President, I am extremely pleased to be able to report that Dr. Leonid Tarassuk, the internationally renowned Soviet museum authority whose year-long struggle to gain permission to emigrate drew worldwide attention and sympathy, has arrived in Vienna with his family.

I know that my colleagues, many of whom have expressed concern over the fate of the Tarassuks, join me in welcoming these brave people to the free world.

It is my hope that the Soviet Government will correctly assess the determination of the American people and the U.S. Congress on the issue of individual liberty, and that as the days go by we will be able to welcome to the free world many, many more individuals who have dared demand their fundamental human right to emigrate.

Dr. Tarassuk was the former curator of European-American arms and armor at the famed Hermitage Museum in Leningrad. He and his wife, a conservator of decorative arts, were dismissed from the Hermitage after applying to emigrate and were subsequently denied visas as well. The Tarassuks have two small children. Dr. Tarassuk's mother, who had been granted a visa, was unable to leave without her son because she is too old and too ill to travel alone.

Despite his own terrible ordeal, and at great personal risk, Dr. Tarassuk courageously lent encouragement and support to many other Soviet citizens who are harassed and intimidated by the Soviet Government as a consequence of applying to emigrate.

Mr. President, given the especially compelling circumstances of the situation of Dr. Tarassuk and his family, I appealed directly to General Secretary Leonid Brezhnev in their behalf on April 11 of this year. In my letter I said:

> It is difficult to believe that the Soviet government would choose to extinguish rather than share with the international community the talents of these and other individuals who have won and would surely continue to win international admiration not only for themselves but for their nation of origin. Such an attitude could not fail to cast a pall over the expanded East-West cultural exchanges that so many of us, in both our country and yours, have looked forward to for so long.

I urged Mr. Brezhnev to "recognize their right to accept the invitations which have been extended to them by other countries which will allow us all the opportunity to appreciate their outstanding work."

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

Mr. MANSFIELD. Mr. President, will the Senator yield to me?

Mr. GRAVEL. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the yeas and nays be ordered on the Hart amendment (No. 332), which is at the desk and which will be modified shortly and which will be considered this afternoon; that the yeas and nays on the Hart amendment follow immediately the Bartlett amendment tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. I thank thet Senator from Alaska and the Senator from Washington.

STRIPPER WELL CRUDE OIL PRODUCTION

Mr. DOLE. Mr. President, I wish to take this opportunity to associate myself with the efforts of the Senator from Oklahoma (Mr. BARTLETT) in seeking to preserve a vital segment of U.S. domestic petroleum production.

When we speak of oil wells perhaps the first thing to come to mind is the gusher spilling out more oil than is possible to contain. However, approximately 353,000 of the producing oil wells in the United States today are of the so-called "stripper" variety which produce less than 10 barrels a day. These small wells historically have supplied nearly 10 percent of all domestic production and currently produce approximately one-eighth of the present U.S. supply.

These wells operate on the very edge of efficiency. They just barely produce enough oil to make their operation worthwhile. In recent years, rising costs, coupled with a reduced depletion allowance and other squeezes on the return of these wells, have led to the abandonment of ever-increasing numbers of them.

I am highly concerned that possible economic policy actions taken to meet a broader range of problems might have the inadvertent impact of forcing great numbers of these wells to be shut in or capped.

A single well which produces only 10 barrels per day might seem insignificant, but these thousands of stripper wells producing individually small amounts of crude oil may very well spell the difference between chaotic fuel shortages and adequate supplies in the years ahead. Many other aspects of the energy crisis and wise resource conservation policies are involved in this question. However, I believe it is extremely important that this step proposed by the Senator from Oklahoma be taken and that these stripper wells not only be preserved but that their continued production be assured and stimulated. Their exemption from allocation or price restraint policy is both desirable and necessary.

I regret that previous commitments in the State of Kansas will prevent my participation in the consideration of this amendment tomorrow. However, I have joined with Senator BARTLETT in sponsoring this measure, and it has my utmost support. I urge my colleagues to consider the importance of these issues and would hope that the amendment can be approved.

As a matter of information, I ask unanimous consent to have printed in the RECORD at this point a memorandum from George H. Bruce, president of the Aladdin Petroleum Corp. Mr. Bruce very clearly and in some detail discusses the importance of stripper wells to overall domestic petroleum production.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

ALADDIN PETROLEUM CORP.,
Wichita, Kans.

MEMORANDUM

Every oil well eventually becomes a stripper oil well. The oil production and oil reserves of these 353,000 small stripper oil wells in the U.S. must be maintained.

If not, the U.S.A. domestic oil producing industry and the independent oil producers in the U.S.A. will be destroyed and the economy in every county in every state of the 27 states where these 353,000 small oil wells are located will suffer a serious blow to their economy by reduction in taxes, labor, supplies and services.

In the years 1968–1971 there has been a steady decline due to abandonment in the number of these small wells from 367,205 stripper oil wells to 353,696 stripper oil wells.

There has also been a steady decline in the production from these small stripper wells from 485 + million bbls. to 423 + million bbls. This is a decline of about 62 million barrels in this 4 year period.

The 1971 production of 423 million bbls. of oil from these 353,000 small oil wells in the U.S.A. represents approximately ⅛th of the total U.S.A. supply of domestic crude oil.

Historically, the stripper oil wells have supplied from 10% to 12% of the total domestic oil supply all going to U.S.A. domestic refiners. If destroyed, it is the one sure way to destroy the domestic oil producing industry and the independent oil producers in the U.S.A. and many of the domestic refineries.

This oil is the safe dependable supply connected to presently operating domestic refineries with secure efficient pipelines. Last year's decline of approximately 18 million bbls. of oil from the stripper wells would require some 180 tank loads of 100,000 bbl. capacity each, to make up the loss of oil in this one year, supplied from the stripper oil wells.

Destroy the stripper oil wells by compelling them to be prematurely plugged and abandoned, and you destroy about ⅐th of the total recoverable reserves of domestic crude oil, or nearly 5 billion bbls. of domestic developed producing oil is lost. This is the safest, most dependable regular supply of oil in our nation.

The present price is totally inadequate to pay the labor costs, utility costs, taxes, supplies, services, and other costs to maintain these wells and show any return over operating costs to the owners of these small oil wells.

The price of this oil must be increased to $6.00 per bbl. to make sure these wells will be maintained and operated and stop their being abandoned. An increase of 40% from the present posted price for this oil production should be put into effect immediately. An increase of 4¢ per gallon on domestic produced crude oil would be the most constructive solution to the oil shortage this nation faces.

We are rushing headlong into depending on foreign imported oil into the U.S.A. for 30% to 50% of our total requirements. Every authority in industry, government and finance agrees it will require from $15 to $30 billion every year to purchase this foreign imported oil.

It is the catastrophe of this century for the U.S.A. to become dependent on foreign oil to such a staggering extent when we have vast resources of undiscovered oil in this nation which can and will be found and developed with an adequate price. This recurring cost every year of $15 to $30 million presents the most serious challenge our country faces in maintaining a favorable trade balance.

The domestic oil and gas industry must be saved and put to work with all the energy which can be commanded in finding and developing the vast resources of our nation to overcome this oil deficit.

Geo. H. Bruce, *President.*

Mr. JACKSON. Mr. President, I ask unanimous consent that I may be permitted to call up my amendment No. 328.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

On page 24, line 23, delete the period following the word "purposes" and insert the following: "which, in the case of any right-of-way to transport Alaska North Slope oil or gas, shall include liability on the part of the permittee to any Alaska Native or Native organization for damages in connection with or resulting from use of such right-of-way, without regard to whether such damages were due to negligence on the part of the permittee.".

Mr. JACKSON. Mr. President, my amendment No. 328 would require the Secretary of the Interior to include in any permit for rights-of-way for Alaska North Slope oil or gas a stipulation making the permittee liable to any Alaska Native or Native organization for damages in connection with or resulting from the use of the right-of-way without regard to whether the acts of the permittee causing the damage were negligent.

Without such a stipulation, Alaska Natives, who have a unique dependence upon the subsistence resources of the area that would be traversed by any pipeline to transport North Slope oil or gas will have no means of recovering damages in the event of destruction or injury to such subsistence resources or their means of livelihood by reason of such a pipeline. The Senate Interior and Insular Affairs Committee regards a requirement that the permittee be liable to Alaska Natives for such damage without regard to any questions of negligence as essential. The committee included in S. 1081 a provision which it considers as requiring the Secretary of the Interior to include such a provision in any permit for a right-of-way for North Slope oil or gas. This matter is fully covered at page 43 of the committee's report.

Notwithstanding the provision which the committee has included in the bill and the statement in the Senate committee report, the Department of the Interior has informed me that they will not include the necessary stipulation in the permit. This is a direct and arrogant disregard of congressional intent. Apparently the Department will refuse to do justice to Alaska Natives unless the Congress forces them to. I regret the necessity of having to take such action but the Department's refusal permits the Congress no other choice.

The Department of the Interior in letters delivered to me on July 11 and July 12, in response to a letter I wrote the Secretary on July 10, relates to certain provisions which in their essence have long been included in the draft permit heretofore prepared in the Department as adequate to protect the Alaska Natives. These provisions require the permittee, without regard to negligence, to abate conditions causing damage and to repair, replace or rehabilitate damaged property or natural resources. Even a casual examination of these provisions reveals that they are simply a rehash of similar provisions included in the Department's February 1972 draft of stipulations for the trans-Alaska pipeline.

That the Department should consider such provisions as giving adequate protection for the human needs of Alaska Natives demonstrates how completely the Department fails to understand the real nature of the problem.

The Department's proposals do nothing to alleviate the damage and suffering that can occur while the conditions causing damage are being abated. The Department's proposals do nothing to meet the needs of the Natives while damaged property or natural resources are being replaced.

The Department's proposals do nothing to compensate the Natives for economic loss.

For these reasons, the Department's present provisions cannot be deemed adequate protection for the Alaska Natives. That is why I have introduced amendment No. 328. The Department's present provisions cannot and do not provide the liability for damages which amendment No. 328 requires.

The purpose of my amendment No. 328 is to require the inclusion in the North Slope permit of stipulations incorporating the substance of the stipulations endorsed by the Senate Interior and Insular Affairs Committee in its report. Such provisions comply with my amendment No. 328. The Department's proposals, which offer nothing new, do not.

I ask unanimous consent to include in the Record my exchange of correspondence with the Department of the Interior and a letter of March 30, 1972, from the then president of the Alaska Federation of Natives, Inc., to me, and a letter of March 28, 1972, from him to the Secretary of the Interior, which explain the deficiency in the Department's proposal.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C.

Dear Senator Jackson: This is in further response to your letter of July 10, 1973, concerning the pending legislation dealing with the proposed trans-Alaska pipeline.

In our reply to your inquiry, we addressed only the precise questions which you posed. We think it would be helpful to you, however, if we elaborate somewhat on our answers.

The Department is presently preparing a right-of-way permit for issuance to the applicant oil companies when and if legislation is enacted to make issuance of such a permit possible. Because the terms of the permit will necessarily depend on the provisions of the legislation that is enacted, we are unable to finalize the permit at this time. We can, however, indicate to you in general terms what we intend to put into the permit. For some years, as you know, we have been developing stipulations which will be a part of the permit. In addition, we have been working on other provisions which will be additional to the stipulations.

We are opposed to including in the permit the provision which you referred to in the first question of your July 10 letter. Our reasons for taking that position are spelled out in our letter of September 1, 1972, which is an enclosure to our letter to you of July 11, 1973. We are sympathetic to the needs and desires of the Natives of Alaska. But we are firmly of the view that the proposal of the Alaska Federation of Natives is both unnecessary and over-reaching.

At the same time, we are determined to prevent the pipeline from causing harm to any person or to any person's property in Alaska. We are equally determined to prevent harm to the environment of Alaska, including its land and water and its vegetation and wildlife. Should any harm nonetheless occur, we want to insure that the harm will be cured so far as is possible. We intend to impose these obligations on the pipeline owners and those who work for them, and we have drafted proposed permit provisions to this end.

Specifically, one provision would provide as follows:

DUTY OF PERMITTEES TO ABATE

Permittees shall abate promptly any condition existing at any time with respect to the construction, operation, maintenance or termination of all or any part of the Pipeline System, if the condition causes or threatens to cause personal injury or loss of life to any person or serious and irreparable harm or damage to the environment, any property (real, personal or mixed), or any natural resource (including, but not limited to, areas of vegetation or timber, fish or other wildlife or their habitats).

This provision is intended to prevent harm to anyone, including Natives, and to prevent damage to any property. It would also protect the Natives' subsistence sources.

Another provision would require the oil companies to repair any property or resource damaged in connection with the construction or operation of the pipeline. Note that the liability which this provision would impose is quite severe.

DUTY OF PERMITTEE TO REPAIR, REPLACE, RECONSTRUCT AND REHABILITATE

To the written satisfaction of the Authorized Officer, permittees shall repair, replace, or rehabilitate all property (real, personal or mixed) regardless of ownership, and shall rehabilitate any natural resource (including, but not limited to, areas of vegetation, timber, fish or other wildlife populations or their habitats) that shall be seriously damaged or destroyed, if the damage or destruction is caused by or results from any act (including acts of God) or omission arising out of or connected in any way with the construction, operation, maintenance or termination of all or any part of the Pipeline System; Provided, however, that Permittees shall not be obligated so to repair, replace, reconstruct or rehabilitate any property or natural resource that shall be damaged or destroyed solely by reason of: (1) an act of war, or (2) the negligence of the United States.

The terms and provisions of this Section shall not supersede or limit, or be deemed to supersede or limit, any other obligations of Permittees under this agreement or under any law or regulation.

Another proposed provision would require the companies to post a bond or other security, for the purpose of ensuring the observance and performance of each of the obligations imposed by the permit, and would also ensure the payment of final judgments recovered against the companies for any loss or damage to property of the United States or of others, or for personal injuries to, or the death of any person arising out of or connected in any way with any occurrence related in any way to the Pipeline System or any part thereof.

The above provisions impose requirements over and above any that are imposed by State or Federal law. Failure of the companies to comply with them may result in shutting-down the operation of the pipeline. In addition, the United States may, at the companies' expense, perform the abatement and repair requirements imposed by the first two provisions set out above.

Coupled with the other provisions that we intend to place in the permit, and with the requirements of the State and Federal environmental and other laws, these provisions in our opinion will adequately protect the Natives and other inhabitants of Alaska.

Sincerely yours,
John Whitaker, *Under Secretary*.

Alaska Federation of Natives,
Anchorage, Alaska, March 30, 1972.

Hon. Henry M. Jackson,
U.S. Senate,
Washington, D.C.

Dear Senator Jackson: I enclose a copy of my letter of March 28 to the Secretary of the Interior regarding the necessity for the Secretary to include in any permit issued for the trans-Alaska pipeline, should a permit issue, a stipulation requiring the permittee to provide for the subsistence needs and other damages of Natives of Alaska growing out of the destruction or impairment of subsistence resources pending restoration. With my letter is included a legal opinion by counsel for the Alaska Federation of Natives which establishes beyond doubt that it is within the authority of the Secretary of the Interior to include such a stipulation.

Our request should not be misunderstood as an attack on the need for a trans-Alaska pipeline. That matter is before the Secretary and will be determined upon the basis of his evaluation of the environmental impact statement and other relevant factors. We are mindful of the necessity for some system of delivery if the people of Alaska, including the Alaska Natives, are to realize the benefits that can come from the development of North Slope oil and gas resources.

As matters now stand, the stipulations drafted within the Interior Department would require the permittee to clean up and restore damaged or destroyed habitat and other resources. However, no provision is made for providing for subsistence needs of Native peoples dependent thereon pending clean up and restoration. These would be left to local law, a totally inadequate remedy.

If this state of affairs is allowed to remain, Alaska Natives, through no fault of their own, will be left to bear the crushing burden of loss of subsistence, dependent wholly upon charity or emergency governmental assistance. The Alaska Natives have a right to better treatment. They have a right to protection by the Secretary of the Interior. They have a right not to be left to the vagaries of litigation, at once expensive time-consuming and unpredictable. They have a right to protection by the Secretary of the Interior without being relegated to seeking State legislation which itself may present difficult questions on legislative policy and constitutionality on the State level.

In the conference report on the Alaska Native Claims Settlement Act, the Congress made it clear that it expected the Secretary of the Interior to protect the Natives' subsistence needs. One of the most effective ways in which the Secretary can carry out that mandate is to require Alyeska, in the event a permit is granted, to assume responsibility for Native subsistence needs impaired by pipeline operations.

In a conference on March 29 with Under Secretary Pecora, the Under Secretary indicated a willingness to reconsider the position taken in his letter of March 10 in the light of my letter of March 28 and its attached legal opinion. The Department is to advise us in about two weeks whether it is agreeable to our request. If it is, we will be most happy to work with the Department in ironing out the details.

The Natives of Alaska are hopeful that you will agree that it would be in the public interest for the Secretary of the Interior to afford the necessary protection to the Alaska Natives through the inclusion of a stipulation as they have requested. May we respectfully request that you advise the Secretary of your interest and support of the Natives' request.

Sincerely yours,
Donald R. Wright, *President*.

Enclosure.

Alaska Federation of Natives,
Anchorage, Alaska, March 28, 1972.

Hon. Rogers C. B. Morton,
Secretary, Department of the Interior,
Washington, D.C.

Dear Mr. Secretary: The Alaska Federation of Natives continues to be surprised and disappointed at the Department's unwillingness up to now to include in the proposed stipulations for the Trans-Alaska pipeline a stipulation that is absolutely essential to the vital interests of those Alaska Natives whose livelihood depends upon the continued existence of subsistence resources.

As I have said in earlier letters to you, I cannot believe that you would personally countenance a situation under which a relative handful of Alaska Natives will be forced to bear the hardship resulting from impairment of the subsistence resources upon which their very life depends should a pipeline permit be issued and subsistence resources be destroyed or severely reduced. It is simply outrageously unjust for Alyeska to escape responsibility for providing for subsistence needs of Alaska Natives while destroyed or impaired habitat is being restored.

I last wrote you regarding this matter on March 15. Several days after that letter was sent I received a letter dated March 10 from Under Secretary Pecora, writing as Acting Secretary, which rejected our request for the inclusion in the proposed pipeline stipulations of the condition I have repeatedly urged beginning with the public hearing held by the Bureau of Land Management in February of 1971. In discussions by our counsel with Dr. Pecora and with counsel for the Department and from an earlier letter from Jack Horton, it appears that doubts that you have the legal authority to require the kind of stipulation we have requested may underly the present unwillingness of the departmental officials who have been considering this matter to afford us the protection we need.

Our counsel has carefully reviewed the legal question. He is satisfied that there are no legal impediments. A copy of his memorandum is enclosed.

Mr. Secretary, this matter is of the utmost importance to us not only practically but symbolically. I, therefore, repeat my request to discuss this matter with you personally.

Sincerely yours,
Donald R. Wright, *President*.

Mr. JACKSON. Mr. President, I do not believe there is any objection to the amendment.

Mr. FANNIN. Mr. President, we have no objection to the amendment.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

Mr. FANNIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Washington [putting the question].

The amendment was agreed to.

QUORUM CALL

Mr. JACKSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be taken out of the time allotted to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT ON S. 440

Mr. ROBERT C. BYRD. Mr. President, the distinguished majority leader and I have cleared the following request, we think, with a considerable number of Senators who are interested therein:

I ask unanimous consent that at such time as S. 440, a bill to make rules governing the use of military forces of the United States in the absence of a declaration of war by Congress, is called up and made the pending business of the Senate, there be a time limitation of 6 hours on the bill, to be equally divided between and controlled by the distinguished majority leader and the distinguished minority leader or their designees;

That time on any amendment in the first degree be limited to 1 hour, with the exception of an amendment by Mr. Eagleton, on which there be a time limitation of 2 hours;

That time on any amendment to an amendment, debatable motion, or appeal be limited to 30 minutes; and

That the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. JAVITS. Mr. President, reserving the right to object, I did not hear the provision for amendments that the Senator made.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator from New York that the request provided for 1 hour on any amendment, with the exception of an amendment by Mr. Eagleton, on which there would be 2 hours; and it provided ½ hour on any amendment to an amendment.

Mr. JAVITS. I thought that we should

have an hour on amendments to amendments also, and a half hour, equally divided, on motions and appeals.

Mr. ROBERT C. BYRD. Very well. I revise my request accordingly, Mr. President.

Mr. JAVITS. Mr. President, one other thing which I would like to agree on with the leadership, is that, as I cannot return to the Senate floor until late Monday afternoon, I would like to have the understanding that the bill would not be called up until Monday afternoon, say after 3 o'clock, and to protect me against plane failures, et cetera, that no amendments would be considered, or at least brought to a vote, on Monday afternoon.

Mr. MANSFIELD. The Senator has that assurance, because we will still be on the Alaska pipeline bill, and I would say it is highly doubtful that we would even get to this measure.

Mr. JAVITS. That is very kind, and I appreciate the accommodation.

The PRESIDING OFFICER. Is there objection to the several requests of the Senator from West Virginia?

Mr. MANSFIELD. If the Senator from New York returns, we would want that option, but my impression is that it is highly unlikely at the present time.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. JAVITS. It is in the usual form, Mr. President?

The PRESIDING OFFICER. It is in the usual form. The Chair hears no objection, and it is so ordered.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum, the time not to be taken out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield to the distinguished Senator from Michigan (Mr. HART).

Mr. HART. Mr. President, I ask unanimous consent that Mr. O'Leary and Mr. Nash of my staff be permitted access to the floor at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be taken out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered; and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT OF AMENDMENTS AND ON S. 1191

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, upon the disposition of amendment No. 332 by Mr. HART to the Alaska pipeline bill, the Senator from Alaska (Mr. STEVENS) be recognized for the purpose of calling up an amendment by Mr. MAGNUSON.

I ask unanimous consent that the vote on the Magnuson amendment occur no later than 1 hour after the disposition of amendment No. 332 by Mr. HART; that upon the disposition of the Magnuson amendment, Mr. JACKSON be recognized to call up an amendment; that upon the disposition of the Jackson amendment, the Senate proceed to the consideration of S. 1191, the National Center on Child Abuse bill; that upon the disposition of that bill, the Senate then return to the consideration of the amendment by Mr. GRAVEL.

The PRESIDING OFFICER. Is there objection to the requests of the Senator from West Virginia? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF APPROPRIATIONS FOR ACTIVITIES OF NATIONAL SCIENCE FOUNDATION

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8510.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 8510) to authorize appropriations for activities of the National Science Foundation, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. SCOTT of Virginia) appointed Mr. KENNEDY, Mr. PELL, Mr. EAGLETON, Mr. CRANSTON, Mr. MONDALE, Mr. DOMINICK, and Mr. STAFFORD conferees on the part of the Senate.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

Mr. GRAVEL. Mr. President, in the closing hours this afternoon I wish to bring up a few points on matters that may take place tomorrow and Monday.

There are many facets to the energy crisis and the problems plaguing us today. But there is one area where there is no argument, and unfortunately there is not much of a solution provided in that area, and that is the fact that every day it is necessary to consume more and more oil. We are not kidding anyone. We know this oil can be had from the Middle East and other areas of the world by putting out money and going in to buy it. We will be facing a dilemma that can destroy the financial viability of this country. As we buy more and more oil abroad, there are three possible courses of action to mitigate against the effect of those purchases. The first thing is that this country would become more and more aggressive in its commercial activities abroad as we export more. If we spend $1 abroad to buy oil we have to turn around and sell a product abroad, so that country will turn around and spend that dollar in the United States.

So, as we spend more and more money to buy oil abroad, the way to compensate ourselves is to sell more and more abroad so that those dollars can be repatriated through commercial purchases in the United States.

It seems very simple on the surface. Number one, it means this Nation, which has not become an export nation in the world, must become an export nation. What are the steps to be taken? It means we must disrupt the economic balance that has been built up over the years in Europe and the economic balance that exists in the Asian part of the world. So what we would have to do is increase our commercial activity in both Europe and Japan. I submit this could be very disruptive, and may not be to the best long-term interests of this country, but we would have to do some of it because of the expanding amount of purchases at home and abroad.

The second thing we would have to do is turn around and take this money that has been sent overseas and try to find ways where they can reinvest the money back in this country. This works only with countries that do not have very much consumptive ability. This does not work with countries that have very much consumptive ability. The case of the Soviet Union is the best example of that.

But that does not offer very much of a solution. The only real solution is that we mitigate the number of purchases abroad, that we cut down the number of purchases abroad. There is only one way to do it, and that is to produce oil domestically underneath the American flag.

The largest place in the world that has reserves that could supply us in that way is Alaska.

At the rear of the Chamber, I have a chart that depicts various methods by which we could supply the south 48, and I have the production levels that should be arrived at, in order to arrive at some significant solution with respect to the balance of payments.

The chart in question involves the Alaskan pipeline, which would provide oil at the rate of 2 million barrels a day when that is fully operative, and the Canadian line, which would also produce 2 million barrels a day. The other way would be the Northwest Passage, which could be expanded, depending on the situation, to go from 1 million to 2 million to 3 million to 4 million barrels a day. The amount of oil that would be brought out of Alaska from the different routes would depend on the amount in reserve.

At Prudhoe Bay we estimate we have 10 billion barrels in reserve, going up to 40 billion barrels. If we took a conservative estimate and cut it down the middle, we would have 20 billion barrels of reserve.

Just recently the Federal Government, through the Navy, released an amount of reserves just adjacent to Prudhoe Bay. There we have an additional 20 billion barrels, conservatively. So that makes an additional 20 billion barrels, or 40 billion.

So we take on the production of 20 billion barrels between now and 1990.

On the chart I have here we would start in 1977 with the Alaskan pipeline, and by 1980 would have 8.6 billion barrels.

With the Northwest Passage, we would have an addition of 2.6 billion barrels. With the Trans-Canadian pipeline, starting in 1982, we would have 4.9 billion barrels.

Then with the Canadian gas line, we would have 3.5 billion. With the Alaskan gas line we would have the barrel equivalent of 1 billion barrels.

This, translated over the years until 1980, would give us a dollar aggregate amount of over $100 billion that would not have to be repatriated or would not go abroad and would remain here in the domestic United States.

To give a sense of feeling to this, between the Second World War and today we have sent abroad $80 billion. What I am saying is that from the period of 1977 until 1990, we would save from going abroad sums of money that would be equal to what we have done in the 30-year period since the end of the Second World War. I think we all appreciate the significance of the $100 billion-plus to this Nation represented by the saving of this money going abroad. If this is not done, it would trigger a panic on the dollar, it would trigger a depression, and then it would trigger a world depression.

Those are the stakes that are involved in the decision to be made by the Senate Tuesday next when my amendment is brought up for a vote at 11 o'clock.

I hope that my colleagues will study this chart, which I will leave in the Chamber over the weekend, and realize the importance of taking steps for the immediate construction of the Alaska pipeline.

Mr. President, I yield the floor at this point in time, and will be prepared to take up the debate when other amendments are being handled.

I would like to yield the floor to the distinguished majority whip.

Mr. ROBERT C. BYRD. I thank the Senator.

ORDER FOR ADJOURNMENT FROM SATURDAY TO MONDAY AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 10 o'clock Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS HARRY F. BYRD, JR. AND BUCKLEY ON THURSDAY, JULY 19, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on next Thursday, after the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished Senator from New York (Mr. BUCKLEY) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND CONSIDERATION OF UNFINISHED BUSINESS ON MONDAY, JULY 16, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Senate return to the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLARIFICATION OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the agreement, what would be the pending question at the time the Senate resumes the consideration of the unfinished business on Monday next?

The PRESIDING OFFICER. The amendment of the Senator from Alaska (Mr. GRAVEL).

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, just to be sure the RECORD is clear, has provision been made for temporarily laying aside the amendment by Mr. GRAVEL to the Alaska pipeline bill on tomorrow in order to provide for the consideration of the other amendments which I just a few minutes ago enumerated, together with the child abuse bill?

The PRESIDING OFFICER. It will be laid aside until the conclusion of S. 1191.

Mr. ROBERT C. BYRD. Or until the close of business tomorrow, whichever is the earlier?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I yield to the Senator from Oklahoma.

AMENDMENT NO. 320

Mr. BARTLETT. Mr. President, I thank the Senator from Michigan.

Mr. President, I call up my amendment No. 320.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> At the end of the bill add a new section as follows:
>
> Those oil leases whose daily average production per well does not exceed that of a stripper well of not more than ten barrels per day shall be exempt from any allocation or price restraints established by any act of law.

Mr. BARTLETT. Mr. President, I ask unanimous consent that my amendment be laid aside at the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, yesterday I offered an amendment which now bears No. 332. Earlier today the majority leader obtained an order for the yeas and nays on an amendment which he indicated I was to offer later today.

Mr. President, it is now in order, and I would like to make a very brief explanation and have the amendment printed in order that we have an opportunity overnight to develop an understanding of it in anticipation of a vote tomorrow.

The amendment I offered yesterday would have insured that the Federal Trade Commission not require approval from the Office of Management and Budget before it could develop and obtain answers to questionnaires from business firms. These questionnaires would have to do with the discharge of its regular activities under section 6(b) of the Federal Trade Commission Act. The logic of the new amendment, I think, may make the support more broad.

Under existing law, title 44, section 3509 United States Code, Federal agencies, regulatory or not, are prohibited from sending out questionnaires if they are directed to 10 or more persons, unless the Office of Management and Budget approves. That enactment in the early stages of World War II was to serve a very useful purpose. It was to prevent multitudes of repetitious forms and inquiries descending on businesses and indivduals across the country, emanating from scores of Federal offices in Washington, with no effort to establish necessity or to indicate any showing of effort made to determine whether the information was already available in some other agency. I think all of us continue to support that concept.

But it becomes apparent that it is not a limitation that Congress should continue to apply to its own independent Federal regulatory agencies. The independent regulatory agencies should be free to obtain the information necessary to insure the proper performance of their regulatory functions without leave of the Office of Management and Budget. That is the purpose of the amendment. It is to withdraw the independent Federal agencies from the limitations imposed by the coordination of Federal Reporting Services Act of 1942.

Mr. President, I ask unanimous consent that the amendment be printed. I am grateful that the able Senator from Washington (Mr. JACKSON), the manager of the bill, joins in sponsoring the amendment.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. JACKSON. Mr. President, I am very pleased to join with the distinguished Senator from Michigan in cosponsoring this amendment. I think it is a sensible amendment. It recognizes that the Federal quasi-judicial agencies are indeed independent and should not have to go through the Office of Management and Budget in order to initiate questionnaires to the private sector matters that have nothing to do with the budget, but do relate directly to the discharge of their statutory and other responsibilities as independent agencies.

I shall support the amendment and hope that it will be adopted when the Senate votes tomorrow.

I commend the distinguished Senator from Michigan. He is the chairman of the Antitrust and Monopoly Subcommittee of the Committee on the Judiciary and has followed this matter very closely.

Mr. HART. Mr. President, as I indicated in offering the first amendment, No. 332, this amendment really follows the successful effort of the Senator from Washington, in his amendment No. 306, which provides the Federal Trade Commission with the power necessary to carry out responsibilities in many areas heretofore denied them.

We believe that freedom from veto by the Office of Management and Budget and other regulatory agencies is an additional strengthening act.

Mr. JACKSON. Mr. President, I reserve the remainder of my time.

I am glad to yield to the distinguished Senator from Rhode Island.

THE REJECTION OF THE GODLEY NOMINATION

Mr. PELL. Mr. President, I am profoundly shocked at the reaction of the President and the Secretary of State to the decision by the Senate Foreign Relations Committee on the nomination of Ambassador Godley to be Assistant Secretary of State for East Asian and Pacific Affairs.

The President and the Secretary in their statements issued yesterday have characterized the rejection of Ambassador Godley's nomination as a punitive act of retribution and as an attack on the career Foreign Service.

The action of the Foreign Relations Committee was in fact neither. In rejecting the nomination, the Committee, in my view, was calling for the appointment to this policymaking position, in the new and sensitive stage now reached in Indochina, of an individual with the temperament and perspective to seek all possible alternatives to the use of force or aggressive action in handling the multiplicity of problems, many of a new nature, that are bound to arise in this geographical area in the coming year.

The committee action, and certainly my own vote in the committee, was not determined by the fact that Ambassador Godley is a career Foreign Service Officer. It was not prompted by a spirit of retribution, nor does it establish a precedent of recrimination. This is shown, too, by the fact that other Foreign Service Officers identified with our Vietnam war policies have been and will be confirmed to equally important and sensitive posts. The action came instead from concern for future U.S. policy in Southeast Asia, and a concern that a sensitive policymaking position be filled with the most appropriate and able appointment from the viewpoint of our national interests.

I speak as a former Foreign Service Officer, a vigilant defender of the career principle, and as a Senator who has sought to strengthen and help the career Foreign Service in every way that I could from my present position as a member of the Foreign Relations Committee.

The Constitution of the United States gives to the Senate the responsibility to advise and consent to appointments at this level. The confirming process embodied in our Constitution does not mean that the Senate is to be a rubber stamp for all appointments submitted by the executive branch. Nor does the Constitution or any law provide an exemption from the confirmation process for persons from the career Foreign Service.

If the administration really objects to the exercise by the Senate of its judgment in fulfilling its constitutional responsibility, then I believe the administration should send to the Congress legislation, or a constitutional amendment, exempting career officials from Senate confirmation when nominated for positions normally requiring confirmation.

I deeply regret that the administration, which was informed well in advance of the problem involved in this nomination, sought to press ahead with it rather than accepting the advice it was given. The Foreign Service was not well served by this obstinacy on the part of the administration.

What the administration did was to nominate a very fine man, Ambassador Godley, to the wrong job. What the Foreign Relations Committee did was to refuse to rubber stamp this mistake in judgment by the administration.

Ambassador Godley is a man of exceptional character, integrity, and decency. There are many equally important posts in the Foreign Service in which these qualities together with his aggressiveness, tenacity, and faithfulness would be valuable assets. The fact that Ambassador Godley was not confirmed for the post to which he was nominated had nothing to do with the fact that he is a career Foreign Service Officer, and I believe the members of the career service know this very well. In fact, the vote against this nomination would have been by a larger majority if Ambassador Godley had not been a Foreign Service Officer, since the Foreign Relations Committee is predisposed to approve career Foreign Service nominations.

The Foreign Relations Committee, and the Senate, have almost always confirmed career officers in policymaking posts, including officers who have dutifully implemented policies with which the committee or the Senate disagrees. It will do so in the future, but the Senate in each case has the responsibility to exercise its judgment on the basis of the national interest.

THE INTERCEPTION OF THE "DONG BANG 71"

Mr. STEVENS. Mr. President, I call the attention of the Senate to the fact that a Coast Guard helicopter has sighted another Korean fishing vessel, the *Dong Bang 71*, 10½ miles off Cape Cross in the Gulf of Alaska fishing illegally. The vessel was instructed to heave to and wait for rendezvous with a surface vessel. Instead they made a run for it and the copter initiated hot pursuit and provided air coverage throughout the night. Early this morning the Coast Guard cutter *Clover* intercepted the violator, 80 miles northwest of Sitka and seized the vessel. The CGC *Sweetbriar* is proceeding to the area to relieve the *Clover* and escort the *Dong Bang* to Juneau.

I am informed that the U.S. attorney has indicated he will accept this case for appropriate prosecution, and I am urging the Department of Justice to see to it that this vessel's prosecution is proceeded with swiftly, because this is the third violation, and there are some 660 foreign vessels off the shores of Alaska fishing for our fishery resources at the present time. I think only stringent enforcement will save this vast resource that we have for our Nation.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

Mr. STEVENS. Mr. President, it is obvious, even to the most uninformed, that there is an energy crisis in this Nation and that to meet this crisis effectively we must meet it now.

The Alaska pipeline amendment provides the way for this Nation to meet this challenge with an effective answer—not 3 months, 6 months, or a year from now—but it provides the United States with a solution to help begin meeting the energy crisis now.

By giving the immediate go ahead for the trans-Alaska pipeline now the Congress would provide the vehicle to get to the business of solving our energy crisis at the point where time is of the essence. We have an immediate problem—it is only reasonable that we solve that problem with an immediate answer but with an answer that has been thoroughly studied and analyzed, an answer that we know will work. That answer is the immediate construction of the trans-Alaska pipeline.

Immediate construction of the trans-Alaska pipeline would not be just an expeditious and effective answer to help in solving our energy problem, but it would also help solve the many other problems which we are now confronting and which are acutely related to the energy crisis. Specifically, immediate construction of the trans-Alaska pipeline would be of urgent importance in both aiding our economy and protecting and improving our national interest.

If we act forthrightly and directly, construction of the trans-Alaska pipeline could reduce our first round balance of trade outflows by at least $7 billion to $12 billion annually. As production rates increase from Alaska—and Mr. President, we know that they will—America will be able to greatly strengthen our bargaining position with the Middle Eastern oil producing nations and simultaneously allow us to meet any supply disruptions with minimum economic consequences.

Because we have been forced to rely on Middle Eastern oil we have been forced to comply with the prices that these nations choose to impose. This costs billions of dollars—dollars that are going to the Middle Eastern nations which is inflicting further damage on our balance of payments position and eats away at the strength of the dollar—this is the price we must continue to pay if we do not embark on construction of the pipeline now. A $10 billion yearly drain is the price we will have to pay if we do not reverse this damaging trend. But if we build the trans-Alaska pipeline now we will be able to keep those billions of dollars in the United States. I want to stress this important point—a trans-Alaska pipeline will reduce by more than one-third the amount of oil that we have to import. That is more dollars in the pockets of Americans instead of the pockets of Arab sheiks.

By building a trans-Alaska pipeline now, we will help restore the confidence in our currency; confidence I might add that has been desperately lacking throughout the world as of late.

I want to stress the importance of what the immediate construction of the trans-Alaska pipeline means to our economy here at home—it is impressive.

Completion of the trans-Alaska pipeline should yield a net benefit to the economy beginning at $1 billion a year and increase to $2.4 billion a year later. But I must emphasize, we cannot complete the pipeline before we begin to build the pipeline. We must begin to build the pipeline now so America can begin to reap the fruits of the pipeline in the future.

What is also of great importance to the Nation at a time when we are fighting unemployment is the fact that thousands of new workers will find employment through the construction of the pipeline—not just in Alaska, but an Alaska pipeline means jobs throughout the Nation—in the East, Midwest, the North, the South and West. The trans-Alaska pipeline will have a positive, healthy and enduring impact on the economy. Both management and labor agree that we must begin immediate construction of the trans-Alaska pipeline. The AFL–CIO and other unions realize that a pipeline means jobs for Americans—jobs that are needed now. The faster we begin construction on the trans-Alaska pipeline the quicker we can get more people employed and reduce America's joblessness. Numerous sectors of the economy will directly benefit. But they will not benefit until we get on with this important task—the Alaska pipeline amendment allows us to do that.

As the trans-Alaska pipeline is essential to the American economy—America's economy is essential to our nation's national security.

The trans-Alaska pipeline will give us the energy to reduce our reliance on foreign energy and thus insure our ability to chart an independent foreign policy—a foreign policy free of stipulation, concession, and excessive compromise.

We will not be faced with the severe threat from the oil producing states in the Middle East who threaten to, and indeed upon occasion have, cut off our oil. The leader of Libya said recently that Middle East oil should be used as a "slap in the face of America." Mr. President, the sooner we are able to utilize our North Slope oil, then the sooner we will be able to take the threat of a slap in the face—and it would be much more severe than just a slap—away from the handful of Arab nations.

Construction of the trans-Alaska pipeline is essential, it is mandatory that we respond to a crisis where time is of the essence with a timely solution—construction of the trans-Alaska pipeline now. I ask my colleagues to consider the urgency of our energy crisis and our ability to move now and begin to solve this question now—we can, and our amendment is the catalyst to action.

I think we should meet the problem of the energy crisis with action, and not with further delay, and I am quite hopeful that on Tuesday the Senate will start the first positive move toward the construction of the Alaska pipeline by adopting the amendment we have offered to this bill.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I shall state the program for tomorrow and beyond.

The Senate will convene tomorrow at 10 a.m.

A yea-and-nay vote, which has already been ordered thereon, will occur on the amendment by Mr. BARTLETT to the Alaska pipeline bill at the hour of 11 a.m.

When the amendment by Mr. BARTLETT is disposed of, there will be a yea-and-nay vote on the amendment by Mr. HART to the Alaska pipeline bill.

Upon the disposition of the Hart amendment, Senator STEVENS will be recognized to call up an amendment by Mr. MAGNUSON. No later than 1 hour after the disposition of the Hart amendment, a vote will occur on the Magnuson amendment. That vote may very well be a voice vote, depending on the wishes of Senators at that time.

Upon disposition of the Magnuson amendment, the distinguished manager of the bill, the Senator from Washington (Mr. JACKSON) will be recognized to call up an amendment. There may very well be a rollcall vote on that amendment, but that, again, will be determined at that time.

Upon the disposition of the Jackson amendment, the Senate will take up S. 1191, the National Center on Child Abuse bill. A yea-and-nay vote already has been ordered on that bill.

Upon the disposition of S. 1191, other Senators may have amendments to the Alaska pipeline bill. If they wish to offer them, they may do so, but at any rate the Senate will return to the consideration of the Alaska pipeline bill. The question will be on the adoption of the amendment of the Senator from Alaska (Mr. GRAVEL). Debate will resume on the Gravel amendment. The amendment may be set aside, but only by unanimous consent to take up other business on which yea-and-nay votes could occur.

On Monday the Senate will convene at 10 o'clock a.m. Following any special orders for the recognition of Senators which may have been entered prior to Monday, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes. There may very well be a first track item, but in any event on Monday the Senate will resume consideration of the Gravel amendment to the Alaska pipeline bill.

At 1:30 p.m. on Monday the Senate will proceed to the consideration of the amendment (No. 309) by Mr. BUCKLEY to the Alaska pipeline bill. A yea-and-nay vote will occur on the Buckley amendment. The yeas and nays have been ordered on amendment 309 at 2:30 p.m. Other yea-and-nay votes may occur during the day.

On Tuesday, July 17, the Senate will convene at 9 a.m., or earlier, if necessary, to accommodate Senators who may wish to secure special orders prior to Tuesday. At no later than 10 o'clock a.m. there will be a vote on the Haskell amendment to the Alaska pipeline bill, provided that amendment has not been disposed of on an earlier date.

At 11 o'clock a yea-and-nay vote will occur on the amendment by Mr. GRAVEL, cosponsored by Mr. STEVENS.

At not later than 12 o'clock on Tuesday the vote will occur on final passage of the Alaska pipeline bill.

Other yea-and-nay votes may occur during the afternoon on Tuesday.

Under the order already entered, upon the disposition of the Alaska pipeline bill the Senate will turn to the consideration of the minimum wage bill, S. 1861. Yea-and-nay votes could occur thereon.

The leadership may from time to time seek to alter the program for Monday and/or Tuesday, with consent, of course, in order to utilize the time to the fullest, and may call up other measures for consideration if they have been cleared for action.

Mr. President, that is as far as I would care to attempt to predict at this time, my political prophecy not being strong enough to attempt to prognosticate beyond Tuesday. But suffice it to say there will be yea-and-nay votes daily from here on throughout the remaining weeks of July. Saturday sessions throughout July preceding the August recess will be almost unavoidable.

A look at the calendar will justify this. For example, the following bills are among—and I repeat "among"—those measures which must be disposed of before the August recess, but the bills which I shall enumerate are not necessarily listed in the order in which they will be taken up, and I emphasize that the list is not necessarily complete by any means. They are as follows:

H.R. 8760—Transportation appropriation bill.

H.R. 8658—District of Columbia appropriation bill.

H.R. 6691—Legislative appropriation bill.

H.R. 8917—Interior appropriation bill.

H.R. 8947—Public works appropriation bill.

S. 440—War powers.

H.J. Res. 512—HUD.

S. 426—Premarket testing of new chemical substances.

S. 2101—Truth in lending.

S. 1861—Minimum wage.

S. 356—Consumer product warranties.

S. 782—Antitrust.

S. 372—Equal time provision, Communications Act.

S. 1559—Manpower training.

S. 1560—Public service employment.

S. 4—Pension reform.

S. 1033—Export of timber.

S. 1149—Railroad rolling stock.

S. 1983—Protection of fish and wildlife.

Foreign aid authorization.

Campaign spending.

Numerous conference reports.

S.J. Res. 110—Nonpartisan Commission on Election Reform.

In addition, Mr. President, there are various energy bills. There are numerous conference reports. So, Mr. President, I read it and I weep.

I would suggest and I know the distinguished majority leader joins me in stating that I cannot read that list of bills and conceive of how we can avoid Saturday sessions for the remainder of July, especially when we will be going into an August recess of better than 4 weeks. I know Senators will want to fasten their seat belts and prepare for extreme turbulence ahead.

ADJOURNMENT UNTIL 10 A.M.

Mr. JACKSON. Mr. President, I move, in accordance with the previous order, that the Senate adjourn until 10 a.m. tomorrow.

The motion was agreed to; and at 4:56 p.m. the Senate adjourned until tomorrow, Saturday, July 14, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 13, 1973:

DEPARTMENT OF JUSTICE

Donald J. Stohr, of Missouri, to be U.S. attorney for the eastern district of Missouri for the term of 4 years, vice Daniel Bartlett, Jr., resigned.

NATIONAL CREDIT UNION BOARD

William E. Young, of Washington, to be a member of the National Credit Union Board for the remainder of the term expiring December 31, 1973, vice DuBois McGee, deceased.

IN THE NAVY

Timothy K. Murphy (Naval Reserve Officers Training Corps candidate) to be a permanent ensign in the line or staff corps of the Navy, subject to the qualification therefor as provided by law.

The following-named EX-USN officers to be permanent commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefor as provided by law:

George F. Humbert
James W. Smith

Waring B. Haselton to be reappointed from the temporary disability retired list as a permanent commander in the Navy, limited duty (Hull) subject to the qualification therefor as provided by law.

John P. Cook, U.S. Navy officer, to be a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualification therefore as provided by law.

Michael B. Sanborn (midshipman, Naval Academy) to be a permanent ensign in the line or staff corps of the Navy, subject to the qualification therefor as provided by law.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 13, 1973:

THE JUDICIARY

Thomas G. Gee, of Texas, to be a U.S. circuit judge, fifth circuit.

William H. Webster, of Missouri, to be a U.S. circuit judge, eighth circuit.

Harlington Wood, Jr., of Illinois, to be a U.S. district judge for the southern district of Illinois.

John F. Nangle, of Missouri, to be a U.S. district judge for the eastern district of Missouri.

Prentice H. Marshall, of Illinois, to be a U.S. district judge for the northern district of Illinois.

EXTENSIONS OF REMARKS

RAIL CRISIS

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1973

Mr. SHOUP. Mr. Speaker, on June 30, 1973, I introduced H.R. 9142 which relates to the impending rail crisis in the Northeast region. This bill is similar in some respects to other proposals, some of which have also been introduced, but H.R. 9142 has unique characteristics which I feel merit the serious attention of Congress.

H.R. 9142 mandates consolidation of the bankrupt railroads, has extensive and full protection for labor, keeps Government expenditures at a minimum level and vests control of the proposed new system in a private corporation. Nothing in the bill in any way compromises further work on the overall transportation problems facing the Nation, yet the bill is so constructed that it has attributes which constitute a sound basis for further attention to rail problems. For the information and reference of all those concerned with the Northeast rail situation I am submitting the following section-by-section explication of H.R. 9142:

SECTION-BY-SECTION EXPLICATION OF H.R. 9142

This is a bill to create a system to restore, maintain and operate a system of essential rail service in the Northeast Region.

SUBCHAPTER I

Section 101. Congress finds that certain carriers are in bankruptcy, that continuation of service is threatened; that public interest requires rail service; that federal financial assistance is needed to facilitate the reorganization and continuation of railroads in the Northeast.

Section 102. Definitions:

FNRA—Federal National Railway Association—the planning entity.

Bankrupt railroad is a line which is in reorganization and judged by a court not to have a reasonable likelihood of successful reorganization.

Commission—Interstate Commerce Commission.

Corporation—Northeast Rail Corporation—the operating entity,

Fair and equitable value (1) for bankrupt lines acquired by the corporation and to be abandoned this is the best market price (over a reasonable period of time) less costs of holding and maintaining and less a discount for delay and receipt of proceeds, (2) for rail property of railroads and reorganization to be acquired and operated—the greater of fair liquidation value. (1) above, or going concern value which is the capitalized value of earning power giving consideration to cost of implementing the regional plan and giving a reasonable rate of return.

Nonbankrupt railroad—any railroad in reorganization judged by a court to have a reasonable likelihood of successful reorganization on an income basis.

Northeast Region—a listing of the 18 jurisdictions affected by the railroads which are subject to the provisions of the bill.

Profitable railroad—line not in reorganization.

Rail properties—includes the assets owned and/or controlled by railroads in reorganization (The Chairman of FNRA is to prepare an inventory within 90 days of the enactment of the bill).

Railroad—common carrier.

Railroad in reorganization—a railroad which is undergoing a reorganization under Section 77 of the Bankruptcy Act.

Regional Plan—the design for reorganization of the railroads in the Northeast Region.

Secretary—Secretary of Transportation.

SUBCHAPTER II

Section 201. This section creates the FNRA known throughout the bill as the "Association". It is to be a profit corporation having existence until dissolved by Congress and being for venue purposes a resident of the District of Columbia.

Section 202. The powers of the Association are: to formulate the Regional Plan; to implement the Plan and; to make loans and advances for purchase, rehabilitation and modernization of rail properties and for protective arrangements for railroad employees adversely affected by the plan.

Section 203. The Association's capitalization shall consist of two types of stock—common and preferred. The common shall be purchased by the Federal Government and shall be voting stock. The preferred, with a par value of $100, shall be offered to railroads not in reorganization and to shippers and shall be nonvoting with cumulative dividends. The preferred is redeemable by the Association. The Secretary of the Treasury is authorized to purchase common stock with a value of $6,000,000 and the Association is authorized to issue preferred in an equal amount to railroads and shippers.

Section 204. Identifies the Board of Directors. Five are specified by the Act—the Chairman (appointed by the President), Secretary, Federal Railroad Administrator, Chairman and Vice Chairman of ICC. The remaining 14 are appointed by the President and are to include representation of labor, shippers, railroads not in reorganization, consumer interests, rail passenger corporation, and the regional governors. At the first Annual Stockholders Meeting the first board terminates and the number is set by the common stockholders. Officers of the Association are to be appointed by the Board. This section forecloses conflict of interests by both directors and officers. The proscription of interest by officers is especially strong in that present and past officers of railroads in reorganization are not to be allowed to hold an office in the new corporation.

SUBCHAPTER III

Section 301. Directs the District Courts having jurisdiction over a railroad in reorganization to make findings as to the likelihood of successful reorganization and grants rights to appeal such findings.

Section 302. Directs "each railroad operating in the Northeast Region" to provide information to the Chairman or Board for the inventory and gives supreme power to compel compliance.

Section 303. Sets forth the goals to be regarded in the formulation of the Regional Plan. Essentially there are three such goals. The first is a *mandatory* consolidation in the corporation of bankrupt railroads in such a manner as will make income based organizations feasible. Secondly, the plan should include a methodology for downgrading and abandoning railroad properties which are duplicative or economically unprofitable. Thirdly, the plan is to provide for consensual sales of rail properties by railroads in reorganization to other railroads in reorganization or to profitable railroads and the sale of rail properties of nonbankrupt railroads to the corporation. The Regional Plan will be a detailed scheme which will specify the lines to be operated and the lines to be abandoned. It will enumerate the consensual transfers to be made, and describe the acquisitions by the corporation, non-bankrupt lines, or profitable railroads. The plan will also set forth the changes and additions contemplated by the corporation. The plan will also describe the securities which are to be exchanged for rail properties and a valuation schedule of all such properties.

Section 304. Provides that the Chairman of the Association shall within nine months after the enactment of the bill submit to the Board along with conclusions and recommendations his Regional Plan.

Section 305. This section gives affected parties 45 days within which to respond and comment on the Chairman's preliminary plan. This is followed by a 60-day review period after which the Board shall deliver the final plan to Congress for its approval. It should be noted that both the Secretary and the Chairman of the Commission have veto powers over the Regional Plan before its submission to Congress. Thus the Regional Plan has the approval of two-thirds of the board and the affirmative vote of the Secretary and Chairman and is subject to Congressional approval. If the plan is rejected by the Congress it is returned to the Association for appropriate modifications and the then revised plan is resubmitted to Congress.

SUBCHAPTER IV

Section 401. Creates the corporate body to be known as the Northeast Rail Corporation. This is a profit corporation created and existing pursuant to the District of Columbia Business Corporation Act. The Secretary, the Federal Railroad Administrator, and the Chairman of the Commission are the incorporators of NRC and the initial Board of Directors.

Section 402. The powers of the Corporation include the power to operate and rehabilitate rail lines, to abandon and liquidate other rail lines, and to create any other necessary corporations for carrying out the Regional Plan.

Section 403. This section authorizes the issuing of 100,000,000 shares of common stock, gives it voting power, and allows cumulative voting of common stock. This section further provides that the common stock shall be exchanged for the property of railroads which are conveyed to the Corporation.

SUBCHAPTER V

Section 501. Provides that within 15 days after the Chairman has submitted the preliminary plan, the Association shall make an application for consolidation into a single three-judge district court of any and all proceedings which in any way relate to the Regional Plan. This provision mandates the consolidation and provides that no judge appointed to the three-judge court shall be a judge which has previously had jurisdiction over any bankruptcy proceedings involving any of the railroads in reorganization. This section then further provides that within three months after the final approval by Congress of the Regional Plan that the Association shall make certification to the above mentioned Special District Court of the following:

(1) which rail properties of bankrupt railroads are to be conveyed to the Corporation,

(2) which rail properties of nonbankrupt railroads are to be conveyed to the Corporation,

(3) which properties of the bankrupt railroads are to be conveyed to nonbankrupt railroads or to profitable railroads.

(4) which rail properties of nonbankrupt railroads are to be conveyed to other nonbankrupt railroads or to profitable railroads,

(5) the fair and equitable value of properties to be conveyed,

(6) the amount, terms, and value of the securities of the corporation to be issued in the exchange for the above properties,

(7) the amount, terms, and value of the Association bonds to be received by the railroads in reorganization in exchange for the properties to be conveyed to nonbankrupt railroads, to profitable railroads, or to the Corporation,

(8) the value of the securities of the Corporation to be received by the respective bankrupt railroads will not be less than the fair and equitable value of the rail properties to be conveyed to the Corporation.

(9) and that the bonds of the Association to be received as provided above will have a value equal to the fair and equitable value of the rail properties conveyed.

This section further provides that within three months after the final approval of the Regional Plan by Congress the Association shall certify to the *various district courts* having jurisdiction over bankruptcy proceedings which properties of railroads under their jurisdiction are to be conveyed to the Corporation and which rail properties are to be conveyed to the nonbankrupt railroads or the profitable railroads.

Section 502. Within ten days after the certification described in 501 the Corporation in exchange for the rail properties to be conveyed to the Corporation shall deposit with the Special District Court securities which have a value which is at least equal to the fair and equitable value of the properties to be conveyed. This section also provides that within ten days after the deposit of the securities with the Special District Court as above provided each district court shall order the trustees of the affected railroads to convey forthwith to the Corporation rail properties as described in the Regional Plan. Conveyance to the nonbankrupt railroads of properties they are acquiring pursuant to the railroad Regional Plan is also provided for in this section.

After the conveyance of the rail properties to the Corporation, to the nonbankrupt railroads and the profitable railroads as provided above the Special District Court shall make findings regarding the adequacy of these securities deposited in exchange for the rail properties. The predicate for the finding of the district court shall be whether or not these securities submitted are of a fair and equitable value pursuant to that value as set forth in the definition section. If the court should find that the securities deposited are of less than a fair value then the Association shall be directed to make adjustments in the Regional Plan. Upon finding of adequacy the district court shall then order distribution of the securities to the estates of the railroads in reorganization. This section further provides that orders of the court made pursuant to this title shall be appealable directly to the United States Supreme Court and all such appeals shall be prosecuted in an expedited manner.

Section 503. This section provides that at the time the Regional Plan becomes effective all rail service not set forth in that plan shall be discontinued at the option of the Corporation 30 days after the effective date of the Plan. The section also provides that there shall be no abandonment of rail properties over which service has been discontinued until a period of six months has elapsed after the effective date of the plan. It is further provided that no rail service may be discontinued nor any line abandoned after two years from the effective date of the Regional Plan if a shipper, or a local authority agrees to subsidize the difference between the revenue attributable to such lines on the fully distributed costs of handling traffic on such lines plus a reasonable return on the fair liquidation value on such lines. Definitions of the terms 'revenue attributable' and 'fully distributed costs of handling traffic' and a 'reasonable return on the fair liquidation of value shall be set forth in regulations formulated by the Commission.

Section 504. This section contains the provision for interim operation of the bankrupt lines. Rather than an appropriation it creates a debt-free situation for the railroads by diverting creditor interests from the rail properties to the bankrupt estates in the district courts. After a railroad has been adjudged a bankrupt railroad pursuant to the procedures set forth in this bill, it may not thereafter sell, lease, or dispose in any way of its properties, other than in the ordinary course of business, without the express authorization of the bankruptcy court having jurisdiction over said rail properties. Said authorizations shall be granted only upon a showing that the cash flow of the bankrupt lines is such that essential operations must cease absent income from the sale of rail properties.

SUBCHAPTER VI

Section 601. The Association is authorized by this section to issue and have outstanding obligations in the amount of $2,000,000,000. The section further provides that such obligations shall be fully guaranteed by the United States Government.

Section 602. Authorizes the Association to make loans or advances to the Corporation and railroads in the Northeast Region for the purposes of carrying out the Regional Plan and making provision for protection of employees adversely affected by implementation of the Region Plan.

Section 603. Authorizes the Association to inspect the records of the Corporation in any railroad receiving financial assistance under this subchapter with the view to determining the ability of the Corporation or Railroad to repay the loan or advance.

SUBCHAPTER VII

Section 701. This section authorizes the Secretary to reimburse a state or local agency for 70 percent of the amount paid by such state or local agency to continue service on a line which could otherwise have been abandoned. The Secretary is to formulate regulations concerning the granting of subsidies. The time for an operating subsidy contract is limited to two years; at which time the contract may be renegotiated. Before the Secretary may enter into subsidy agreements with local agencies, said local agency must have authorization to make such contracts from the appropriate legislative body. The section authorizes $50,000,000 per fiscal year for subsidy purposes.

Section 702. Initial costs of restoration of rail property which is a condition precedent to service may not be an item in a subsidy contract. However, such capital costs may be prorated over the life of the line.

SUBCHAPTER VIII—EMPLOYEE PROTECTION

Section 801. Definitions:

Acquiring railroad is any entity acquiring some of the properties of railroads in reorganization.

Employee of a railroad in reorganization is defined as one who has a current employee relationship and who has 100 days of compensated service immediately prior thereto. Illness or disability are counted as part of the time needed to establish the 100-day period.

Protected employee is one who has been offered and accepted employment by an acquiring railroad.

Item, class, or craft employees is a group of employees recognized and treated as a unit for purposes of collective bargaining.

Representative of a class or craft of employees is the duly authorized labor organization recognized pursuant to the Railroad Labor Act.

Deprived of employment is defined as the failure to be assigned to a position with the acquiring railroad after the employee has properly accepted employment with the acquiring railroad. Excluded from the term 'deprived of employment' are: deprivation of employment because of death, retirement, resignation, dismissal, or disciplinary suspension.

Average monthly compensation—the average of the last 12 months compensation.

Section 802. Directs that offers of employment shall be made by the acquiring railroad to all employees who are employed on the properties which they acquire.

Section 803. Provides that the acquiring railroad shall have the right to assign, allocate or reassign the employees acquired providing that there is no infringement upon the existing traditional classification of work rights of any craft or class of employees.

Section 804. Directs that the acquiring railroad shall assume all the obligations under existing collective bargaining agreements such that the rights of employees which it acquires shall continue under the existing collective bargaining agreements in force at the time of the reorganization. This section further provides that the representatives of the various employees and the representatives of the railroads shall begin an immediate review of the existing collective bargaining agreements and further provides that the agreements shall be formulated for implementing the transfer of employees and for the protection of employees as required by the next section.

Section 805. This section provides that one who is defined as a protected employee shall be paid a monthly displacement allowance which shall be equal to the difference between his monthly earnings and his former monthly average compensation. The effect of this section is that in the event any employee is displaced or adversely affected he shall continue to receive an amount equal to his average monthly earnings prior to his displacement but such displacement allowance shall be reduced by the amount of any earnings. The section also provides that the monthly displacement allowance shall continue for an agreed period of time and shall terminate in the case of the employee's death, retirement, resignation, dismissal, or disciplinary suspension for cause. It is further provided in this section that any employee may be transferred to another comparable job within his same territorial district as long as such assignment does not infringe upon the seniority or rights of other employees of the acquiring railroad. Any employee refusing such assignment or transfer shall forfeit all future rights to benefits under this subchapter. The section here also provided that an employee may be upon reasonable notice assigned to a position outside his territorial seniority district and that upon such reassignment and acceptance by the employee the acquiring railroad shall reimburse the employee for all reasonable expenses incurred in moving. This section also makes provision for lump sum severance payments which may be made in lieu of other benefits provided for in the section upon the option of the employee.

SUBCHAPTER IX

Section 901. **Et** seq. Miscellaneous provisions for including separability and audit and prohibition against duplicative use of name.

CIVIL RELIGION AND BIBLICAL FAITH

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1973

Mr. VANDER JAGT. Mr. Speaker, I submit for the RECORD an address by the Honorable MARK O. HATFIELD, U.S. Senator from Oregon, delivered at Hope College, Holland, Mich., on February 22, 1973:

CIVIL RELIGION AND BIBLICAL FAITH

(An address by Hon. MARK O. HATFIELD)

Today, I'd like to trespass upon your patience for just a few moments to share some convictions that I have that constantly are being challenged from different sources and for different reasons. I wish to share with you in a sense really from my heart more than from a piece of paper. When we involve ourselves in discussions of Christianity and politics we find that often we focus on how being a Christian is likely to make one a good citizen. Now this makes the presumption that there is nearly a total affinity between the allegiance to Christ and loyalty to the State, particularly in a democracy. I have had many illustrations of this, let me share one with you.

During the period of debate in the United States Senate in 1970, when Senator McGovern of South Dakota and I offered an amendment, what we called an amendment to end the war, I received many letters of communication. One of them said, "Why do you think you have the right to interfere with our President? Have you forgotten that God's way is to respect and honor those in authority? What higher power is there than President Nixon? God put him there. 'Whosoever, therefore, resisteth the power resisteth the ordinance of God.'" Now, this you might say is an extreme example, and it perhaps is; but I think it prevailed at that time and perhaps does so even to this day amongst many in the Christian community who conclude that faith in Christ means that one should basically obey and agree with those in political authority, and beyond that one need not involve his personal faith with politics.

The more I observe contemporary America, and the more I read about the history of the church and the more I study the scriptures, the more I sense how dangerous it is to merge our piety with patriotism. I was asked to make a few comments at the National Prayer Breakfast recently and I made this statement, "Today our prayers must begin with repentance. Individually we must seek forgiveness for the exile of love from our hearts and corporately as a people we must turn in repentance from the sin that has scarred our national soul." What I want to say today is that the Christian, like every citizen, cannot avoid being political in some sense. What he must do is bring the political realm of his life under the authority of Jesus Christ. Our politics must never be ruled by thoughtless conformity to the culture.

Now let me also make very clear that our culture is not Christian in the truest sense of the word, and therefore you cannot equate the two. As a culture, we do not accept the ultimate authority of Jesus Christ over all people and nations and history. We do not all believe that our ultimate allegiance and trust must be placed in God's work of redemption and salvation. Yet our culture is "religious." "In God We Trust" is found on our coins. Nearly every President of the

United States has made a reference to God or divine providence in his inaugural address, although none has ever referred to Jesus Christ. Most Americans, I believe, think that religion in some way is nearly essential to giving their nation strength and success. Americans today have greater faith in their civil religion, and this has been expressed well by President Eisenhower when he said, "Our government makes no sense unless it is founded in a deeply felt religious faith, and I don't care what it is."

American civil religion is faith in benevolent unitarianism. It includes a belief that God has blessed and has chosen America as he did Israel; that Washington was like Moses, leading the people out of bondage into a new land; and that the Constitution and the Declaration of Independence (and remember their authors were mostly deists) were written after inspired prayer meetings. Now, there can be certain kernels of truth in such civil religion, and I don't totally discount civil religion. I only want you to distinguish between civil religion and biblical religion. It is true that many of the first settlers came to America with a deep sense of religious mission and a vision of a new order for the glory of God, and all you have to do is read documents like the *Mayflower Compact* to see that there is in our history a certain spiritual heritage. In fact, Allen Nevins said that the history of America is the history of the spiritual movement.

But our civil religion totally distorts the relationship between the state and our faith. It tends to enshrine our law and order and national righteousness, but it fails to speak of repentance, salvation, and God's standard of justice. The promised land becomes a perfect land in civil religion and we are given a sense of righteous mission to the world. America's actions become spiritually ordained; even in war we are beyond reproach, fulfilling some divine destiny. An American civil religion wants us to believe there is honor in the peace we have achieved; that this past war can be vindicated, that what we have done was necessary and right, and that we can be proud of it.

If we believe in the God of an American civil religion, our faith is in a small and very exclusive deity, a loyal spiritual advisor to American power and American prestige, an exclusive defender of the American nation and the object of a national folk religion that is devoid of moral content. Our faith must be in the biblical God of justice and righteousness who is revealed in the scriptures and in the person of Jesus Christ. Then we shall cease using the trappings of religion to sanctify the status quo. We shall see that a relationship to God begins with repentance and that His will is discovered, not through nationalistic vain-glory, but in acts of humble love and service of justice. Isaiah said it very clearly in the Old Testament, "Is not this what I require of you, to loose the fetters of injustice, to snap every yoke and set free those who have been crushed? Is it not sharing your food with the hungry, taking the homeless poor into your homes, clothing the naked when you meet them, and never evading the duty to your kinfolk?"

Yes, much of the organized church of today, in my opinion, has allowed its thinking and its values to be conformed to the world. In subtle ways we allow our culture with its civil religion to determine our relationship to political power instead of the scriptures and the revelation of Christ. The church today in many ways is the captive of our culture, and the religion of America is America. If we are to liberate the church and ourselves from the conformity to the world, then we must allow ourselves to hear the Word of God over the tumult of society.

Exploiting or reducing religious faith to make it compatible with political ends is not a temptation unique to our country or to our time. This reoccurs throughout the Old Testament. Christ faced the temptation from both those who collaborated with the Roman State and those who wanted Him to lead a violent revolt against the Roman State. Most of the history of the church has been dominated by the political prostitution of its faith to serve the powers of emperors, kings and governments.

We see even in the establishment of the king over Israel in the Old Testament when the people of Israel wanted a king like all other nations, they wanted to follow the conventional wisdom of the age and trust in the world's mechanisms to insure their security. Samuel warned of the dangers inherent in setting up such uncontrolled kingly powers. Listen to what Samuel said when he responded to the people's request: "The Lord answered Samuel, 'Hear what they have to say now, but give them a solemn warning and tell them what sort of king will govern them.' Samuel told the people who were asking him for a king all that the Lord had said to him. 'This will be the sort of king who will govern you. He will take your sons and make them serve in his chariots and with his cavalry and will make them run before his chariot. Some he will appoint officers over units of thousands and units of fifty. Others will plow his fields and reap his harvests. Others again will make weapons for war and equipment for mounted troops. He will take a tenth of your grain and of your vintage to give to his eunuchs and lackeys. He will take a tenth of your flocks and you yourselves will become his slaves.' "

I think this prophetic warning has continuing relevance. There are oppressive dangers present whenever a people want to turn to rulers to give them absolute power. Our trust so easily becomes misplaced.

I feel we have good examples of this when Jesus was here on earth in his ministry. Remember the political environment of Palestine. This Jewish land was occupied by Rome. Roman soldiers enforced the political occupation of Israel. There was great resentment amongst many Jews toward Rome. Tax collectors were hated because they collected Rome's revenues. The Jews' anger took the form of direct resistance against Rome in many cases; however, some of the elements of the Jewish political religious establishment were willing to ally themselves with Rome. This was especially true with the Sadducees, religious leaders who justified the political status quo. This is what the Sadducees really represented. They saw politics in one sphere totally divorced from their religion which was in another realm, and they could be called the political collaborationists of their day, for they approved of the Roman occupation without reservation. Christ refused to side with the Sadducees. He was outspoken in his condemnation of the political-religious establishment. In light of the kingdom of God and its demands, the present order could not be accepted; it stood under judgment. And when he called the tax collectors to repentance, like Matthew, it meant that they gave up their former life of collaboration with Roman power and the injustice that it involved.

Now you had another group called the Zealots. They were committed to the forceful overthrow of the Roman power through military effort, a subversive guerrilla-war type of movement. They were also against paying taxes to Rome. The Zealots were foes of the religious establishment that compromised with Rome—the Sadducees—and they condemned the social injustice of their time. They were in expectation of a political messiah that would lead their resistance to the Roman powers and establish a new Israel, a Jewish theocracy. Now Jesus had a relation with the Zealots; he had constant contact with the Zealots and their followers as he did with all the Jews living in Palestine of that time. In fact there were Zealots who were very close to Him within the twelve disciples. One disciple is specifically identified as Simon the Zealot (not Simon Peter). Some biblical scholars believe that the sons of Zebedee could have had at least some affinity with the Zealot movements. Judas Iscariot is thought likely to have been close to the Zealot movement as well. Now the attraction of the Zealots to Jesus is understandable, for they held in common opposition to the religious political establishment of the day. Remember, Jesus cleansed the temple. He called Herod a fox, and spoke against the kings who ruled over and oppressed the people. And so there was this affinity.

The Romans also had a suspicion toward Jesus. In all probability the Romans looked upon Jesus as a potential political agitator and associated Him with the Zealots. In fact the inscription, we remember, on the cross accused Him of being King of the Jews.

Now what did Jesus say to the Zealots? He refused to embrace the full Zealot movement of violent resistance to Rome, and even regarded it as a temptation of the devil. In the garden when the authorities came to arrest Him and some disciples wanted to fight, Christ said, "He who takes up the sword shall die by the sword." His message of "love your enemies" included even those who were excluded by the Zealots.

So Christ's way was demonstrated to us in His ministry as being a way of love. He forsook both the extremes as they were represented by the Zealots and by the Sadducees. He condemned the Sadducees who were blind to injustice, and He resisted the Zealots who believed that injustice had to be met with violence. He proclaimed the way of love. His very physical force upon the cross was an exemplification of God's love. But His life also demonstrates that God's kingdom does not come through the world's means of political power. Rather it must come through the power of love.

We have in the epistles, as in the Gospels, a very interesting story of this relationship between man and his faith and man and the state. You heard Romans 13 cited many times: "Every person must submit to the supreme authorities." I often say to some of my Christian friends who cite me this ("Therefore all authority is constituted by God and therefore all authority must be obeyed and agreed with"), "What about the authority of Great Britain in 1776? It was a constituted authority, and yet we glorify the American Revolution, a rebellion authority of Great Britian in 1776? It was against authority." That usually forces them to another reading of Romans 13. But let us not read out of context but let us consider for instance the words in the verses directly before that part of Romans 13. Listen to these words: "Never pay back evil for evil; if possible so far as it lies with you live at peace with all men. My dear friends, do not seek revenge but leave a place for divine retribution, for there is a text which reads 'Justice is mine, says the Lord, I will repay' but there is another text 'If your enemy is hungry, feed him; if he is thirsty, give him a drink.' By doing this you will heap live coals on his head. Do not let evil conquer you, but use good to defeat evil."

Those are the words preceding in Romans 13. And consider the verses right after the injunction to obey those in authority, Romans 13:8–10: "Leave no claim outstanding against you except that of mutual love. He who loves his neighbor has satisfied every claim of the law; for the commandments, thou shalt not commit adultery, thou shalt not kill, thou shalt not steal, thou shalt not covet, and any other commandment there may be are all summed up in one rule—love your neighbor as yourself. Love cannot wrong a neighbor, therefore the whole law is summed up in love." We have many other examples, and I like to cite Revelation 13 and 18 to correspond to Romans 13. Read those chapters of Revelation because they picture the state that has been so glorified in the minds of many Christians in Romans 13. In Revelation 18 we hear the judgment of Babylon: "Fallen, fallen is Babylon the

Great. She has become a dwelling for demons, a haunt for every unclean spirit, for every vile and loathsome bird. For the blood of the prophets and of God's people was found in her, the blood of all who have been put to death on earth." And they had Rome in mind, the State.

The New Testament tells the Christian that we do owe the State respect because the State is ordained by God. As Paul says, it is accountable to Him; therefore the Christian must regard the powers of the State and their potential use for good and for bad even more seriously than the State considers itself. The Christian owes obedience as long as this does not involve disobedience to God. Whenever the State and God come into direct conflict the Christian has but one choice: render unto God, not to Caesar; and God and Caesar are not on a par. The Christian should pray for the State and the authorities, regardless of how good or how bad, just or unjust they may be.

Finally, the Christian must witness to the State by his words and his acts. He must demonstrate that Christ is sovereign over all, that ultimately we are all bound to the law of love. The Bible gives us no basis for uncritically accepting the State, or for totally rejecting it either. Rather, the Bible tells us that at times Caesar and God may come into conflict. And, of course, we know what our priority is.

You see, we do not come by this by chance. All of this attitude that I sense in today's world concerning the church's relation to the culture really has a very interesting history. I will not go into it all, but let me just give you one or two examples. The first Christians in the early church, the primitive church, gave their primary allegiance to Christ and His kingdom, not to the empire of Rome. Early Christians refused to give oaths of allegiance to the emperor and the empire. Early Christians did not join the Roman army. They did not participate in the Roman court system which they thought to be unjust. And you know what happened to them. Maximilian, a young Christian in the third-century, is one of those several recorded in history. Maximilian appeared before an African pro-consul named Dion for induction into the army. Maximilian refused induction simply stating, "I cannot serve for I am a Christian." Dion replied, "Get into the service or it will cost you your life." Maximilian's last remark was, "I do this age no war service, but I do war service for my God." He was executed March the 12th, 295 A.D., and his father, also a Christian, returned home in pride of his son's unbending loyalty to God.

Historians report that there were many cases like this which may have led to the massive persecution of Christians in A.D. 303. Tertullian, a third-century Christian father, asked, "If we are to love our enemies, whom have we to hate? Who then can suffer injury at our hand?" The Roman official Celsus continually insisted that Christians fulfill their duty to the king. He stated that if everybody followed the ethic of nonresistance, the empire would be ruined. Origen, a learned father of the early church, rebutted the position of Celsus, and said this: "We have come in accordance with the council of Jesus to cut down our arrogant swords of arguments into plowshares, and we convert into sickles the spears we formerly used in fighting, for we no longer take swords against a nation nor do we learn any more to make war, having become sons of peace for the sake of Jesus who is our Lord."

At first the State persecuted the Christians. Then we had that very interesting political happening. Now some historians have wondered about the conversion of Constantine. I am not here to judge any man's conversion, but as a part of the conversion of Constantine he made peace with the Christians and he got them on his side. He offered the church, the primitive church in the fourth century, a kind of a deal, and we have been suffering from this deal ever since. The clergy were exempt from taxes and any requirements to serve in the military, the church was allowed to set up a separate court system of its own, and the church authorities were given the right to hold property.

Thus, the church and its leaders received these benefits in return for the church's allegiance to the Christianized State of Rome. The church began to be put into the service of the State. From that time on the church began to be used to support the Roman empire, and eventually whole Roman legions were baptized *en masse* and sent into battles for the sake of the Holy Roman Empire. The State used the church to justify its own existence and power. That's the legacy of Constantine.

For fifteen hundred years of history since then it has been very difficult for the church to resist the temptation of baptizing the secular state or using the church and religion to serve the ends of the state. Today we still struggle with this legacy and face this continuing temptation.

Our witness is to the world. We must witness to the values of our culture. "Do not be conformed to this world," Romans tells us; as the Phillips translation puts it so succinctly, "Don't let the world around you squeeze you into its mold, but let God remold your minds from within, so that you may prove in practice that the plan of God for you is good, meets all His demands, and moves toward the goal of true maturity." So today we must examine that it means not to be conformed to twentieth-century culture in America. A church that is the captive of the culture, or a message that merely echoes the values of the society cannot be truly evangelistic or truly biblical. We cannot be the light of the world unless our ultimate obedience is to Jesus Christ rather than to the culture of the world and the State. Too often we have let the values of our society, which dictate so much of our lives, go unquestioned. We hesitate to confront or judge the problems of materialism, militarism, racism, and in so doing we run the danger of equating the American way with the Christian way of life, which is direct disobedience to the command, "Be not conformed to this world."

Lastly, we have the witness of our individual personal lives. We have the corporate witness as the body of believers known as the church. But we must offer the world a vision of its future built upon God's promised kingdom. To do so, we must have the spiritual resources from within our individual personal lives. We cannot give out more than what we possess. And this comes through prayer. It comes through reading and studying the scriptures. It comes through sharing one's faith and love and sharing and demonstrating one's faith by works. By works, the Lord said, the world will know that you are my disciples. By the catechism you recite, by the church you belong to? No. The world will know that you are my disciples by the way that you love one another. We have to have this inner vitality, this dynamic from within that Body of believers—a love for one another that reaches not only to the heart of each other but to the needs of each other. Then out of that, a dynamic Spirit spreads and infects the world, and the community about us.

Today we need that kind of individual, and that kind of church, a confessing church, a body of people who confess Jesus as Lord and are prepared to live by their confession. Individual lives lived under the Lordship of Jesus Christ at this point in our history may well be at odds with values of our society, may be at odds with the abuses of political power and with cultural conformity of our church. We need those who seek to honor the claims of their discipleship. We must continually be transformed by Jesus Christ. So let us be Christ's messengers of reconciliation and peace, giving our lives over to the power of His love. Then we can soothe the wounds of war and renew the face of the earth and all mankind.

MONEY MANIPULATION AND THE AMERICAN FINANCIAL PICTURE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1973

Mr. RARICK. Mr. Speaker, as the American people continue to see the rewards of their labors reduced to less and less buying power—called inflation, it is interesting to read the proposed solution from the experts who created the problem.

In the United States the idea of abolishing all State boundaries and redividing the country into regions for regional bank systems and proposed multinational banking institutions is suggested by some to be the wave of the future. Efficiency and control are highlighted in this proposal but nothing is suggested which might restore the people's confidence in their money.

On the international scene, Pierre-Paul Schweitzer, Managing Director of the International Monetary Fund, the financial hangout of U.N. theorists, is pleading for restoration of the "influence" of the IMF of international money decision-making. The IMF crowd, already responsible for two U.S. dollar devaluations through Mr. Schweitzer is calling for a third devaluation based upon the rationalization that it could improve the U.S. balance of payments.

But again nothing is being said or done to bolster the buying power of the American citizen's dollar. The overwhelming majority of American citizens are not engaged in international commerce and are becoming more and more aware that the rhetoric of balance of payments can never be overcome as long as we continue to give away the wealth and substance of our country to welfare nations around the world. Many Americans are also becoming aware that the devaluation of the dollar "abroad" has also devalued the dollar here at home regardless of what governmental spokesmen, economists, and international idealists theorized.

In a contrary action, the Socialist government of Austria has just revalued its schilling. In other words, the value of the schilling has gone up, based on the same explanation to the Austrian people as was given to the American citizens for the value of the dollar going down. The Austrians are told that their money must be increased in value to prevent job migration from Austria, which has a labor shortage, to West Germany and as a measure to hold domestic inflation. Not only were West German imports becoming more expensive but all of the youthful intelligence and initiative of Austria were being encouraged to work in West Germany for more stable money than they could receive at home.

In the meantime the Rockefeller bank, Chase Manhattan of New York, has announced the opening of a Peking branch in Red China and to fill the financial and credit void in the United States we have learned that eight of the top foreign banks in our country are Japanese. Apparently as our industrialists and financiers seek to enlarge their international markets, the Japanese continue to find gold in the hills of America. The Japanese have also revalued their currency.

It reminds us that if continued devaluation of the dollar is to be sold to the people as good for our economy and an anti-inflation move why not devalue the dollar to 10 cents? This would have the immediate effect of raising everyone's salary 90 percent and all Americans would be happy with their pockets full of new additional paper money. That is, they would be happy until they found out that all of the prices could be expected to likewise increase on the same multiple.

The question remains: Was the American dollar originally created as a medium of exchange for the American people, or was it intended to be exploited as a tool for money manipulation by international speculators? The American people will have to make the decision.

Related newsclippings follow:

[From the Evening Star and Daily News, June 20, 1973]

Regional Banking—Wave of Future?

(By Phillip M. Kadis)

Jarvis L. Mandercastle doesn't exist, and Multibankshares is also a fiction. But the rest of the foregoing resembles in its main features a Virginia banking scenario for the 1980s recently outlined by one of the top banking executives in the state.

In a speech before the Virginia Bankers Association last week, Frederick Deane Jr., president of the Bank of Virginia Co., presented his view of the shape the banking future will take.

Among his predictions:

The withering of state boundaries for banking and the emergence of as many as 20 large nationwide banking systems.

Establishment of regional holding companies with affiliates engaging in a wide variety of nonbanking financial services.

Growth of correspondent banking services into money-center banks which will charge fees for services that will be based on computer programs too costly and complex for individual banks and holding companies to develop efficiently.

Opening of an office by a major English, German or Japanese banking conglomerate in the Hampton Roads complex with full-scale banking services.

Deane said he foresaw a regional banking market stretching from Charlotte, N.C., to Baltimore, with heaviest concentration in Virginia and the Washington area suburbs.

"There is good reason to focus on the Maryland-District of Columbia-Virginia trade area when considering the development of regional holding companies," Deane told the 80th annual convention of the association at the Homestead in Hot Springs, Va.

"This is where it is likely to happen first—as a way of resolving the many competitive problems now faced by District banks, and because the holding company movement has achieved a maturity in Virginia, and the Southeast generally, that today is lacking elsewhere, except on the West Coast."

Deane's "bank of tomorrow" and its retail-oriented branches would be linked to a super-computerized electronic funds transfer system that would usher in the checkless society.

There would be remote, automated banking facilities without tellers in industrial plants, department stores, air and bus terminals, civic centers and similar high-volume areas. Machines at these facilities would be able to cash checks, take deposits, make loans and even provide video financial-counseling services.

Management of these centers, Deane said, may be restructured as an industry-owned utility.

Distinctions between such financial institutions as banks, savings and loans, credit unions and finance companies will begin to blur, Deane predicted, citing conclusions of the Hunt Commission Report on financial institutions.

"The extension of banking powers to thrift institutions is being hurried along by three forces," he said. "First, technology and the designing of an electronic funds transfer system; second, a competitive imbalance primarily stemming from developments in the bank holding company movement; and third, certain basic changes in our market economy and how it operates.

"One change is that thrift no longer is enshrined as a national folkway; people would rather have it—a car, a boat, a TV, whatever—now than save for it, and savings is what the thrift industry is all about."

Accompanying the breakdown in geographical and competitive barriers, Deane said, will be a more "extensive and intrusive" role for government regulatory agencies.

"The trend toward a single federal bank regulatory agency appears inevitable," Deane said. "Probably this superagency will be the Federal Reserve or a reconstituted extension of the system developed along the lines suggested a decade ago by recently retired Governor J. L. Robertson."

The role of state governments will shift from an emphasis on an examining function to issues such as consumer rights or chartering entrants into the marketplace, Deane said.

"Compelling this change primarily is the fact that state boundaries and interstate branching restrictions appear as anachronisms in the world of electronic banking," Deane said.

"One must even ask if there is any meaning to a state or federal charter in the environment we have been discussing. It is difficult to conceive of one, at least in the traditional sense."

The advent of electronic banking will open the institution to that portion of the population—estimated at 25 percent to 30 percent—that now is now outside the banking mainstream, Deane said.

To assist in facilitating the changes that he felt were inevitable. Deane proposed formation of a Virginia Bankers Association "Hunt Commission" with representation from the nonbanking community, as well, to analyze the state's banking and financial structure and propose changes.

[From the Washington Post, July 6, 1973]

More IMF Influence Is Urged

(By Hobart Rowen)

Pierre-Paul Schweitzer, managing director of the International Monetary Fund, yesterday called for restoration of the "influence" of the IMF, as part of a "return to an internationally agreed system" on trade and monetary matters.

Schweitzer, due to retire as head of the IMF on Aug. 31, conceded that "recent developments have tended to diminish" the IMF's influence in international money decision-making.

Presumably, he had in mind the floating of the major currencies of the world in direct violation of IMF rules requiring fixed exchange rate relationships.

Moreover, some governments, notably the United States, are known to advocate a reduced role for the IMF in any reconstructed monetary system.

Schweitzer addressing the U.N. Economic and Social Council in Geneva, acknowledged that it will be difficult to resolve numerous reform issues.

But the "central point I want to stress," Schweitzer declared, "is the importance of the return to an internationally agreed system, and to the observance of international decisions with respect to such matters as exchange rates, the use of trade and exchange controls, and convertibility."

An agreed system, he continued, refers "not only to the regulatory respects of the funds work," but to the fund "as a financial institution."

Schweitzer believes that if a "spirit of collaboration" is to prevail, the fund will have to be strong, rather than weak, to avoid the dominance of a few powerful nations.

"It will be important that the new monetary system should meet the needs of all member countries, large and small, rich and poor," he said. "The code of conduct required of smaller and poorer countries should not be more onerous than that accepted by rich and powerful members. And we must remember that the interest of industrialized nations in an effective functioning of the international monetary system is matched by an equally strong interest among developing countries."

He added that the development of the poorer nations of the world is a subject of transcendental importance, and called in the industrialized countries and the developing nations to tackle the problem together.

On current monetary anxieties, the retiring IMF director said that "it is probably inevitable that markets which have suffered so many crises in recent years should continue to be nervous."

But he predicted that the further depreciation of the dollar would improve the competitive situation of the U.S., leading to a "gradual but sustained improvement in the U.S. balance of payments." This, he said, is an essential prerequisite for reform of the international monetary system.

[From the Washington Post, July 9, 1973]

Austrian Revaluation Criticized

VIENNA, July 8.—Austria's decision last week to revalue its schilling has angered the nation's business and industrial leaders and brought an end to a post-war tradition of bipartisanship in monetary affairs.

Chancellor Bruno Kreisky's Socialist government raised the value of the schilling 4.8 per cent last Monday, declaring that the move was necessary to protect Austria's trade and labor relations with West Germany after Bonn's decision to revalue the mark by 5.5 per cent.

The revaluation, Austria's second this year was vigorously opposed by business circles and the tourist industry and was condemned by opposition leaders in Parliament as "economically unjustifiable."

Rudolf Sallinger, president of the National Chamber of Commerce, said Austria had "clearly reacted too quickly" and he warned that a major, unhealthy result would be "a further concentration of our foreign trade with West Germany," hampering Austria's efforts to diversify its market.

Even before the latest revaluation, Sallinger said, the combined effect of the weakening of the dollar and Austria's 2.25 per cent revaluation in February had been that "repeatedly, long-standing delivery contracts with the United States have been curtailed."

Financial experts here note that none of the three situations that generally precede an upward revaluation exist in Austria.

Austria has no surplus of exports for the first five months of this year, imports totalled $3.2 billion and exports were only $2.2 billion. There has been no speculative flow of dollars into Austria and the Austrian schilling in relation to the currencies of its chief trading partners, was not considered to be significantly undervalued.

Austrian Finance Minister Hannes Androsch, who had called for a revaluation matching West Germany's, defended the regime's decision as a move to prevent migration of workers from Austria, which has a labor shortage, to West Germany, and as a measure to halt domestic inflation.

Trade Minister Josef Staribacher contended that, "If we had not revalued with Bonn, it would have had the inflationary effect of making all our imports from West Germany more expensive."

About 22 per cent of Austria's trade and 70 per cent of its tourism each year is with West Germany.

Trade with Eastern Europe, a key element of neutral Austria's foreign policy that in recent years has dropped from 15 per cent of the nation's foreign trade to 8 per cent—is expected to be seriously affected by the new revaluation. The United States, whose goods are now comparatively cheaper, is likely to benefit as Eastern Europeans seek new suppliers, in the view of trade experts here.

Although U.S. trade with Austria is slight, American tourism is considerable and accounts for a large portion of Austria's foreign earnings. Since the beginning of the year currency revaluations and the imposition of Austria's new value added tax have combined to raise prices 40 per cent for American travelers, excluding inflation and normal price increases.

Since Austria regained independence in 1955, the Socialist Party and the conservative People's Party had practiced bipartisanship in monetary matters.

The first break in this practice came last January when the Socialists, over the objections of the People's Party, removed Wolfgang Schmitz, a respected international monetary expert, from the presidency of the Austrian central bank and appointed Hans Kloss, a former deputy executive director of the World Bank, who has been more receptive to Socialist party policies.

In February, both major political parties and representatives of trade and labor agreed on the 2.25 per cent revaluation.

[From the Washington Evening Star-Daily News, July 6, 1973]

JAPANESE BANKS

SAN FRANCISCO.—Of the top 20 foreign banks in the United States, eight are Japnese banks is the Bank of Tokyo, with $3.6 billion in assets in its American operations.

[From the Christian Science Monitor, June 1, 1973]

JAPAN'S INTEREST GROWS IN INVESTING IN UNITED STATES

(By Elizabeth Pond)

TOKYO.—Japanese investment in the U.S. may be an idea whose time has come. At least this is what the sponsors of Tokyo's first "invest in U.S.A. seminar" hope.

As they packed up their displays Wednesday, to go on to Osaka, representatives of the 36 participating American states and territories told reporters that the seminar results have surpassed their expectations.

Wayne Gentry, executive director of the trade-development division of the Washington State Department of Commerce was typical in his enthusiasm. "We were not prepared for the response we found here," he commented. "It was far beyond our expectations."

Many Japanese businessmen approached the Washingtonians with specific project ideas for the Pacific Northwest," he said. "Many made future appointments for follow-up discussions when they will be in the U.S. later this year."

Some indicated they had been studying the American market for several years and now are ready to go ahead with investments. All of the Washington State literature was exhausted (including the supplies for Osaka distribution), and more had to be airmailed from Seattle.

The Tokyo seminar was a low-budget ($75,000) affair sponsored by the U.S. Department of Commerce, the National Association of State Development Agencies, and the U.S. Embassy in Tokyo on the American side, and by the Tokyo Chamber of Commerce and Industry, the influential Federation of Economic Organizations, the Foreign Trade Council, and Japan External Trade Organization on the Japanese side. The strong Japanese support was notable as coming from organizations that have pushed Japan's aggressive export drive in the past.

SIMILAR SEMINARS

Similar seminars have been held before in Europe and South America. Essentially the idea is to put states that would like to attract foreign investment in touch with potential investors. In particular, the participating states would like to attract Japanese investment in manufacturing plants that would provide work for American labor.

So far Japanese investment in the U.S. is low—slightly under $300 million in direct long-term capital investment, or about $1.8 billion book value, the U.S. Department of Commerce estimates. American organizers of the seminar said they would be happy if they could triple those figures in the next couple of years.

This target may prove low. Japan is just now, with an embarrassment of foreign reserves and with a 33 percent yen revaluation in the past year-and-a-half making foreign investment that much cheaper, beginning to invest abroad in a big way. Total current foreign investment (Japanese figures) is about $6.2 billion, with $28 billion projected by 1980.

GROWING INTEREST

Moreover, the Japanese just now are becoming interested in manufacturing investment abroad. Heretofore they have concentrated on raw-materials procurement, real estate, and hotel and service industries in their foreign investment. Pollution, a labor shortage, and industrial overcrowding at home now are making it more desirable for Japanese companies to expand production abroad, however. And the frictions of Japan's bilateral payments surplus with the U.S. could be reduced in a major way by major Japanese investment in the U.S.

The degree of Japanese interest in this possibility was shown in the turnout for the Invest in U.S.A. Seminar. Close to 300 companies sent decision-initiating representatives to the sessions.

As sketched by seminar participants, there are a number of advantages to Japanese investors in the U.S. What the Japanese fear might turn out to be America's new protectionism might shut out expanding Japanese exports in the future, but Japanese companies manufacturing in the U.S. would have free access to the U.S. market. They would then be able to respond quickly to changing market preferences in the U.S. too—as in the case of YKK zippers in Macon, Ga.

Furthermore, the wage gap is closing rapidly. Seminar spokesmen described American wages as only double Japanese wages at present, and projected that Japan's huge wage hikes will bring wage equality with the U.S. within 10 years.

WOMEN'S INSURANCE BILL OF RIGHTS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1973

Mr. EILBERG. Mr. Speaker, on Thursday, Pennsylvania Insurance Commissioner Herbert S. Denenberg presented a 10-point "Women's Insurance Bill of Rights" in testimony before the Joint Economic Committee. He urged the committee, which is investigating the economic problems of women, to adopt it as a guide for eliminating problems of sex discrimination in insurance.

The bill of rights grants women the rights, among others, to equal access to all types of insurance, to premiums that fairly reflect risks and not prejudice, and to equal employment opportunities in the insurance industry and its regulatory agencies.

Denenberg told the committee that women faced discrimination by insurance companies in the areas of underwriting, coverage, and rates.

The coverage offered women, Denenberg said, is often inadequate, the premiums charged are often exorbitant, and even with these limitations, women still have problems getting and keeping insurance.

Denenberg told the committee that traditionally sex has been used as a distinguishing factor in insurance because it is a convenient, simple, and efficient way to divide people into categories.

Denenberg then suggested that insurance companies begin exploring alternative ways of dividing and classifying policyholders.

Denenberg said that changes in the economic, social, and legal status of women, have made the once homogeneous classification of women less meaningful. It is clearly time to reevaluate the use of sex classifications by the insurance industry.

Denenberg's testimony presented, in addition to the bill of rights, the following specific proposals:

That disability income insurance be made available to homemakers as well as more conventional income producers;

That insurance regulators review underwriting manuals, promotional materials, and agents' training guides for possible sexist content;

That companies revise their total exclusion of disability benefits for wage loss due to pregnancy;

That all women's health insurance include maternity coverage;

That maternity benefits in health insurance policies be increased;

That women be granted greater representation on the boards of directors of insurance companies; and

That insurance companies consider adopting unisex rating—charging men and women equal insurance rates despite somewhat different loss experiences.

In his testimony, Denenberg emphasized the seriousness of the problems, explaining that the denial of equal access to insurance, at fair rates, affects the economic status of all women. Other economic disadvantages of insurance, Denenberg continued, can be magnified by discriminatory, inadequate, or prohibitively costly insurance. Alternatively, insurance protection that serve women's needs can alleviate many economic burdens.

The full women's insurance bill of rights presented by Commissioner Denenberg includes the following rights:

First. The right to equal access to all types of insurance;

Second. The right to premiums that fairly reflect risks and not prejudice;

Third. The right to protection against arbitrary classification based on sex, and against sex classification when other bases which might be appropriate have not been utilized or even explored;

Fourth. The right to equal employment opportunities in the insurance industry and its regulatory agencies, and to a fair share of scholarships and financial assistance for the study of insurance;

Fifth. The right to nonsexist and nonjudgmental treatment by agents, brokers, claims representatives and all others who deal directly with policyholders;

Sixth. The right to representation on the decisionmaking bodies of commercial insurance companies, Blue Cross plans and other nonprofit insurers;

Seventh. The right to buy insurance or qualify for coverage regardless of marital status;

Eighth. The right to adequate health insurance coverage for all needs, including comprehensive maternity benefits for all conditions of pregnancy regardless of age or marital status;

Ninth. The right to disability insurance which fairly measures the economic value of child care and homemaking; and

Tenth. The right to privacy in the claims process.

HON. JAMES SMITH: A GOOD MAN

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. PICKLE. Mr. Speaker, I speak for myself and for hundreds of people in the 10th District of Texas in expressing deep sadness at the passing of our former colleague, the Honorable James V. Smith of Oklahoma.

I came to know Jim Smith when he represented the Sixth District of Oklahoma in the 90th Congress. He was a capable and effective Representative.

Four years ago, he became one of the most capable Administrators of the Farmers Home Administration in that agency's history, and it was in that capacity that he won the trust and gratitude of not only my constituents, but of people across the Nation who came to the FHA for assistance.

Under his leadership, the FHA undertook a massive sewage and water supply program to upgrade the living standard of this Nation's rural population. I well recall Jim's visit to Bastrop, Tex., for the opening of the Aqua Water Corp., which has grown to supply fresh running water to more than 1,600 people in five Texas counties.

I had the opportunity to work with Jim Smith on this and several other projects, and after each meeting with him, I was impressed with both his professional capability and his deep sense of sincerity and duty. He was the quintessential public servant. His job was more than a job; it was a chance for Jim to tangibly express his regard for his fellow man.

Jim Smith was a good man. He was considerate, kind, and helpful. He was one of those men we have to classify as a sweet person. He was indeed a conscientious public servant and a dear personal friend.

When he relinquished his position at FHA last January, many Members of Congress rose to pay tribute to his admirable record. In all his years of public service, his achievements were many and his record flawless.

And now we rise again to pay tribute to Jim Smith. His presence will be missed, but his contributions to rural America will live on, as will his memory in the minds of those he served.

TRIBUTE TO JIM SMITH

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. MATHIS of Georgia. Mr. Speaker, I rise to join with my friend, the distinguished gentleman from Oklahoma (Mr. CAMP) in paying tribute to the late Hon. Jim Smith. It was not my good fortune to be able to serve with Jim during his tenure in the Congress, but I did have the opportunity to meet him shortly after my arrival here when Jim was serving as Administrator of the Farmers Home Administration. I always found Jim and his staff ready and willing to try and help with problems that might arise in my district involving FHA. He understood, I am sure, the frustrations of a freshman Member of this House and was willing to go the extra mile to help find a solution to a problem.

Jim was always interested in rural America, and when the National Future Farmers of America adopted a project initiated by the Berrien High FFA of Nashville, Ga., called Build Our American Communities, Jim Smith was interested. The project, which stresses self-help for local communities all across the Nation, caught Jim Smith's eye because he was a firm believer in rural America and in the ability of America's citizens to solve their own problems. When a special day was set aside in Nashville, Ga., to honor the project and the Berrien FFA for its part in founding and developing the program Jim Smith came to Nashville to participate. Jim joined the Honorable HERMAN TALMADGE and me in addressing the convocation, and he delivered one of the most moving speeches I have heard, discussing in down-to-earth terms the problems and the potentials for rural America.

Mr. Speaker, I related this incident here to simply demonstrate Jim Smith's deep commitment to his job, to the revitalization of rural America, and to this great Nation.

Jim Smith's life was tragically short, but this Nation is better off because he came our way. His footprints are, and will be, visible in the sands of time.

Mrs. Mathis joins me in extending our heartfelt sympathy to the Smith family.

SENATE—*Saturday, July 14, 1973*

The Senate met at 10 a.m. and was called to order by Hon. SAM NUNN, a Senator from the State of Georgia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, Lord of each day and of all the years, grant that the measures taken in this place may serve the highest purposes of the Nation. May the strenuous exertions of the few minister to the needs of the many. Give us a part in the cleansing of the Nation and in renewing the moral foundations of our common life. When this day is done send us to worship and rest on the Lord's day with expectant spirits and peaceful hearts.

And to Thee shall be all praise and thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 14, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. SAM NUNN, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. NUNN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, July 13, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, beginning with Ernest V. Siracusa, of California, under the heading Department of State.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with Ernest V. Siracusa, of California, under the heading Department of State, will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of Ernest V. Siracusa, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Uruguay.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk read the nomination of John L. McLucas, of Virginia, to be Secretary of the Air Force.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. NAVY

The second assistant legislative clerk read the nomination of Adm. William F. Bringle, U.S. Navy, to be an admiral.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force and in the Navy, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the confirmation of these nominations, and on all previous nominations which have not been communicated to the President, the President be notified of their confirmation by the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—ALASKA PIPELINE

The PRESIDING OFFICER. Under the previous order, the Senate will resume the consideration of the unfinished business, S. 1081, which the clerk will state.

The legislative clerk read as follows:

> A bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment of the Senator from Oklahoma (Mr. BARTLETT), No. 320. The vote on the amendment will occur at 11 o'clock a.m. today. Who yields time?

Mr. BARTLETT. Mr. President, I yield myself as much time as I may use.

First, I ask unanimous consent that I may modify my amendment by the insertion of two words after the word "barrel" on line 3. The words are "of oil".

The ACTING PRESIDENT pro tempore. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

> At the end of the bill add a new section as follows:
>
> Those oil leases whose daily average production per well does not exceed that of a stripper well of not more than ten barrels of oil per day shall be exempt from any allocation or price restraints established by any act of law.

Mr. BARTLETT. Mr. President, I ask unanimous consent that a member of my staff, Mr. Bud Scoggins, be granted the privilege of the floor during the debate on the bill and the vote thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, the preceding hours of discussion on S. 1081 have focused upon our Nation's current and prospective energy problems. The urgency for constructive action is evident. My amendment will help to decrease the energy shortage.

The preceding debate has determined that no matter what action is taken on S. 1081 there will be a delay of at least 4 years before we receive any of the Alaskan crude oil.

My amendment would achieve results this year that will help the crude oil shortage problem.

My amendment would help to maintain domestic crude oil production that now exists, but is on the brink of being lost forever. We need every last drop of producible crude oil. We cannot afford to let regulatory policies of price controls or mandatory allocations to force economically marginal oil wells to be shut in.

The pending amendment would help to stretch out the life of the so-called "stripper well."

A stripper well is a low productivity, marginally economic well. It can produce just enough oil to remain above the break-even point. By definition a stripper well averages 10 barrels of oil per day or less. These wells provide 1.25 million barrels of oil per day. Eliminating the stripper well would eliminate a substantial part of our country's producible reserves. In 1972, stripper wells accounted for 11.2 percent of our domestic oil production.

A few years ago, in Oklahoma, a friend said:

> I finally figured out the definition of a big oil man—a big oil man is a person who has a big oil well.

I can tell Senators the definition of a little oil man. A little oil man is a person who has a little oil well—commonly called a "stripper" well.

Large oil companies have few stripper wells. Because of their higher operational costs, major oil companies are forced to sell their leases to independents—who can operate these leases for a longer period.

Major companies, by selling stripper leases to independents, also divulge themselves of the often difficult problem of plugging and abandoning a producing lease.

Merely having stripper wells subject to allocation programs or price controls would prevent the free marketplace from acting to alleviate energy shortages by extending oil production that would otherwise be abandoned forever.

It has been estimated that in 1972 a 25-cent-a-barrel increase in the price of crude oil would have continued 15,000 wells in production that were plugged and abandoned because of high costs and low profits—because they were losing money while producing the oil. Had these wells continued, they would have produced an extra 235 million barrels of oil during their extended lives.

This is the equivalent of two major oilfields which we would like to find in the United States today, but which we are not finding because we are not having adequate exploration activities.

Economics dictate whether or not these wells will remain on production. There are three reasons that adoption of this amendment will help to maintain current oil production:

First. The ability for the operator of a stripper well to seek higher prices for his crude oil would help to offset the high costs of the equipment necessary to lift the crude oil from the reservoir after the natural pressure mechanism of the producing formation has been depleted. For example, a pumping well could be operated longer because of the more favorable economics.

Second. There would be an incentive to do remedial work on the well. Most remedial work requires a large investment from the operator. Whether or not he makes this investment depends upon the likelihood of recovering his investment with a reasonable profit.

The third reason is that secondary oil recovery projects would be encouraged. Projects that up to now have been uneconomical to initiate and that have remained in producers' file cabinets would now move forward to help flush more oil out of the stingy oil reservoirs.

With the psychological barriers of possible mandatory allocation programs or price control programs eliminated, renewed enthusiasm toward stripper wells would be generated.

The price increases of crude oil during the last few months serve as testimony for the anticipated results of this amendment. A news article from the Daily Oklahoman on Saturday, July 7, 1973, backed up the claims of its headline that "strippers getting new lease on life from price hikes," Mr. President, I ask unanimous consent to have that newspaper article printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STRIPPERS GETTING NEW LEASE ON LIFE FROM PRICE HIKES

Recent increases in the price of crude oil have prompted Oklahoma oilmen to extend the production life of stripper wells and begin working over older wells for renewed output.

Company sources said that strippers, which produce less than 10 barrels a day, are still pumping because of the price of crude in the last three months has risen from around $3.60 a barrel to $4.30 a barrel.

James Ramsey, Oklahoma City, petroleum consultant for investors and producers, said some wells capable of only two or three barrels a day output now are economically feasible to continue at the higher prices.

He said old wells in the Kingfisher area, for example, which before the hike were not worth keeping in production, probably will be reworked and plugged to shallow depths to capture oil not worth producing a year or so ago.

Dean McGee, chairman of Kerr-McGee Corp., said the higher prices would stimulate extending marginal wells and doing remedial work.

He said, however, that Kerr-McGee and other companies have not received similar price increases in Louisiana.

Prices are still 35 cents below Oklahoma prices there, he said.

Independent producers have warned for more than a year that stripper wells were being plugged and abandoned because of low crude prices. They urged price increases to assure continued output of crude they said would be lost forever if wells were plugged.

Chairman Charles R. Nesbitt of the Oklahoma Corporation Commission said recently that several million dollars worth of oil had been saved because of the price increases.

Richard Norville, Oklahoma City, said some wells in a water-flooding project he has in Garvin County might be worth continuing in production for another two years

Norville has been working a schedule of abandonment as the field depleted.

About one-half of the nation's more than 300,000 stripper wells are located in Oklahoma, Texas and Kansas, an industry group has reported.

Mr. BARTLETT. Oklahoma crude oil prices went from $3.60 to $4.30 in a 3-month period. Some wells capable of only 2 or 3 barrels a day output became economically feasible to produce at these higher prices. Old wells which had not been worth producing will be reworked to shallow depths to capture oil not worth producing a year ago.

As the article states, Dean McGee, chairman of Kerr-McGee Corp., said the higher prices would stimulate extending marginal wells and doing remedial work.

The article also points out a significant fact that I would like to emphasize. If a well becomes uneconomical and it is plugged, it is lost forever. The chairman of the Oklahoma Corporation Commission indicated that several million dollars worth of oil had been saved, because of these small price increases.

Extending the life of stripper wells will provide more sweet crude oil to inland refineries that are critically short of crude oil.

Because much of the stripper production is in the East and Midcontinent area, it is helpful to these areas as well as the entire country.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter from Mr. C. John Miller, president of that National Stripper Well Association to the Price Commission in April of 1972.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL STRIPPER WELL ASSOCIATION,
Allegan, Mich., April 1972.

Mr. C. JACKSON GRAYSON, Jr.,
Chairman, the Price Commission,
Washington, D.C.

GENTLEMEN: This letter proposes an increase in the price of domestic crude oil as being in the best interests of the Nation and the consuming public.

It is our understanding from reports in the oil press that it is not a prerogative of the Price Commission to consider appeals by groups or associations. Within these parameters it is therefore urged that that the Commission favorably act on requests by individuals or specific firms seeking an increase in the price of crude oil, or other constructive improvement in incentives which would assure greater longevity for present producing oil wells, thereby adding to the nation's recoverable petroleum reserves as advocated in this submission.

Information presented specifically refers to marginal or stripper wells and the price of crude oil as the controlling factor in the essential contribution such wells make to the national economy and the total domestic crude oil supply. Fundamentally, economic conditions determine the amount of oil which may be recovered from known reservoirs.

A marginal or stripper well is defined as being one which has an average production of less than 10 barrels daily. Nationwide, these wells averaged only 3.37 barrels of oil daily in 1970.

Marginal wells total approximately 359,000 it is revealed in a survey sponsored by this Association and represent 70% of all the Nation's oil wells. In 1970 marginal wells accounted for more than ⅛th of total domestic oil supply, or 441 million barrels.

As the production of a well gradually but inevitably declines an economic break-even point is approached. At such level, these wells and the otherwise producible reserves they represent are abandoned.

Increased operating costs through recent years in materials, taxes, wages and maintenance combined with only a minimal increase in the price of produced crude oil have seriously impaired the producer's ability to continue operation of marginal wells, forced cancellation of plans for normal development drilling, made it economically less desirable to convert properties to secondary recovery projects, and hastened the break-even point. These factors have jeopardized the position of the marginal well as an essential segment of the entire producing industry.

There is ample evidence that this Nation's immediately available supply of crude oil is at the critical stage. Productive capacity in excess of domestic demand has been exhausted. Exploration and development drilling has declined constantly since 1956. A proper and adequate balance between increasing demand for petroleum and available reserves no longer exists.

This imbalance, resulting from lack of a reasonable crude oil price, is forcing the abandonment of thousands of small wells while substantial proven reserves remain to be recovered from underlying reservoirs.

During the past five years for which data are available abandonments were as shown:

1966	16, 207
1967	14, 986
1968	20, 496
1969	15, 618
1970	15, 631

A recent study by this Association indicates that a price increase of only 25¢ per barrel in crude oil from marginal wells would results in continued operation of approximatesult in continued operation of approximately 15,400 wells which are expected to be plugged this year for economic reasons. As a result of such price increase, an additional 10.7 million barrels of crude could be expected to be produced in the following 12 months from wells currently facing abandonment.

Applying these same factors to the total of presently operated marginal wells, additional recovery would be 235,000,000 barrels, equivalent to the total production from two major oil fields.

Considered in arriving at this added production figure have been the following elements:

1. Well has reached the zero profit/loss status
2. Production continues its typical production decline of 5% per year for a well that has reached a 2 barrels per day producing level
3. That taxes and royalty payments to farmers and landowners be applied against the increased price as these are integral to the value of produced oil
4. That other cost elements . . . wages, materials, etc., remain constant

The effective value of the 25¢ crude price increase would be reduced by approximately 32% through allowances made for No. 3 above. This was taken into consideration in the calculations extending total recovery. Despite the substantial gain of 10.7 million barrels in production resulting from the application of the effective balance available to the producer from a 25¢ price increase, the total thrust would be inadequate to the Nation's needs for oil. The measure would only be a short term gain, and limited in results to a 12-month period at which time normal depletion through continued production would establish a new zero profit/loss point.

However, substantial and prolonged results would be gained from a realistic crude price increase to $5.00 per barrel. In this case, and using the same limiting factors, a well would produce for six years before a new break-even point would be reached.

Production anticipated from one typical well would be as follows:

	Barrels
First year	693
Second year	659
Third year	626
Fourth year	595
Fifth year	565
Sixth year	536

During the extended productive life of six years this typical well would produce 3,674 barrels which would have been left in the reservoir without the price increase. Applying this factor only to present marginal wells as they reach their break-even point, an additional 1.32 billion barrels of crude would be recovered. It is observed, however, that the total number of marginal wells is augmented each year as production in larger wells declines below the 10 barrels per day definition.

No attempt is here made to project total future production resulting from the proposed price increase to present non-marginal wells. Whatever the figure, it would be quite substantial. Further, benefits in additional available crude oil would be cumulative.

Direct advantages would also accrue to other segments of the economy. Continued operation of marginal wells would provide jobs and wages which cease with abandonments. Further, well services, chemicals, tubing, casing, pumping units, purchased power, taxes and royalty payments would be continued in support of a desired overall economic posture.

It is submitted that a realistic increase in the price of crude oil is consistent with sound economics, is in the best interests of the consuming public, and would assure a substantially greater recovery of this valuable energy resource from known and proven reserves.

Respectfully,

C. John Miller,
President, National Stripper Well Association.

Mr. BARTLETT. Mr. President, there is more than ample precedent for the thrust of my amendment.

During World War II, there was a subsidy program financed by the taxpayers for stripper wells, which went into effect on January 28, 1944.

The payment schedule is as follows:

35 cents per barrel for 5 barrels per day or less per well on a field basis.

26 cents per barrel for 5 to 7 barrels per day or less per well on a field basis.

20 cents per barrel for 7 to 9 barrels per day or less per well on a field basis.

36 cents per barrel for 9 or more if exceptionally high costs justified it.

All wells in the four States of Pennsylvania, New York, Ohio, and West Virginia received 75 cents per barrel of oil.

Amount of $64,934,215 was paid during this nearly 2-year emergency period for 176,764,913 barrels of oil. So approximately $65 million of taxpayers' money was determined by Congress to be necessary to provide an additional amount of oil to help solve the shortages that existed at that time, during World War II.

The current crisis is more severe than that of World War II. This amendment does not require a subsidy or any payment by the taxpayers but does permit the mechanism of the market place to operate to permit higher prices, if justified to increase our stripper oil reserves to increase the amount of oil available to this country that would otherwise be lost.

I call on my colleagues not to turn their back on our existing energy crisis. These struggling small wells need to be maintained, not snuffed out by arbitrary price controls or allocation programs. If Congress has any intent whatsoever to try to eradicate a portion of our fuel shortages with domestic production, then this amendment should be adopted.

Mr. President, I ask unanimous consent that the names of the Senator from Kansas (Mr. Dole), the Senator from West Virginia (Mr. Randolph), and the Senator from Wyoming (Mr. Hansen) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BARTLETT. I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I am happy to be a cosponsor of this measure. As the Senator from Oklahoma has indicated, this amendment makes about as much good sense as any amendment that has been before this body for some time.

We are talking about known production when we speak of stripper wells, and we are talking about production that has decreased in quantity while there has been a concomitant increase in the per unit cost of recovery.

So that when a level is approached between these two figures—that is to say between what the oil above ground is worth and what it costs to bring it above ground—the well then is truly marginal. No one then has much interest in further production, because it is uneconomic to carry on an operation in order simply just to break even. That is why the amendment by the distinguished Senator from Oklahoma makes such good sense. It provides the incentive to continue production in such marginal operations.

Simply permitting the price of oil from these wells to reflect what the true demand situation is in the United States will assure that efforts to produce this oil will continue and that we will squeeze every last drop of this vitally important source of energy that we possibly can from these wells.

It was not too long ago, I recall, when the Areeda Commission was damning the oil industry and the mandatory oil import program and saying how silly it was to make any use of the production from stripper wells in the United States at that time. As I recall about one-eighth of our total domestic production came from this type well. The Areeda Commission said:

> Let us forget it all. It is too high priced. It is an unnecessary burden on the consumer, on the public in the United States, and we would be far better off to forget the mandatory oil program and to go abroad to the Middle East where you can buy it for one-third or one-fourth of the cost here.

Unfortunately, too many Members of Congress were taken in by that false ideology presented by a group of people who really did not know what they were talking about. I am glad the President, among his advisers, had people to expose the fallacy in such arguments, and who rejected it. As a consequence the recommendation of the Areeda Commission was not implemented. We are glad that it was not implemented because had those recommendations been implemented our dependency on foreign oil would have been increased, our latitude in trying to implement foreign policies that best serve the interest of peace and the people of the United States would have been diminished by the increased amount of our foreign dependency upon sources of energy, and we would have been in a far worsened position than we now find ourselves.

I hope Congress will have the good judgment to understand the good sense that is contained in the amendment by the distinguished Senator from Oklahoma and to adopt this amendment so as to make certain that these known reserves we have in this country today can be put to good use to satisfy the energy needs of America.

Mr. President, in yesterday's newspaper I read that one of the actions taken by Bunker Hunt, whose profits in the Middle East were expropriated by the nation of Libya, involved that company seeking to recover some tanker loads of the expropriated oil. The unique thing about the expropriated oil being sold by Libya was that the price being offered for it was at least $1 above the price for crude in the United States.

There are those who still argue that the oil and energy crisis is a contrived affair made by the industry. I submit that if it were contrived it certainly would not follow that any legitimate oil company would be out on the open market bidding more than $1 above the price of crude today in order to secure crude that would be sold in the free world markets today. So I think what this indicates is that there is, indeed, a very real crisis, as most people are realizing today. Since that is true, since we know this stripper oil is secure in U.S. territory, production from such wells should be encouraged.

If we assume our reserves are 40 billion barrels and if we were to increase the ultimate recovery by one percent, we would have added to our reserves by 400 million barrels. That is a very major oil discovery. And yet we do not have to do any work to discover such oil. It is here now. All we have to do is to take advantage of the amendment of the Senator from Oklahoma to secure production of this oil. It is here. It is going to cost more money, and as I said yesterday, we are going to pay more money. What is at issue is the decision on the basis of a sensible and reasonable domestic policy to encourage our domestic production recognizing increased costs and pay higher prices for U.S. oil, or to turn our backs on this opportunity forever and say we will forget about stripper wells and continue to purchase, as we are, more and more oil from the Middle East. If we choose the latter course I submit we will, indeed, pay more for oil.

The Arabs long ago demonstrated they can read the English language pretty well. They know the situation pretty well in this country. The OPEC countries have gotten together as we could have expected them to do and have decided they are going to push the price up to what the traffic will bear. When a country is as dependent upon energy as is the United States—when three-fourths of all our energy today comes from oil and gas, the Arabs know we are pretty dependent on such fuels. The Arabs know, and we ought to realize they know that the price no longer is of any consequence if we cannot get it anyplace else. They know we are going to pay through the nose for oil and they are charging increasingly higher prices to us for their oil.

I hope the Senate will have the good judgment to adopt this amendment unanimously because it makes the best sense of any amendment I have seen before this body during the course of the disunion of this bill.

I thank the distinguished Senator for yielding.

Mr. BARTLETT. I thank my distinguished friend, the Senator from Wyoming, for his cogent remarks and for his perception in this very important matter of energy that is such a problem to this country.

Mr. COOK. Mr. President, will the Senator yield to me for 5 minutes?

Mr. BARTLETT. I yield to the distinguished Senator from Kentucky for 5 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I rise to support amendment No. 320 introduced by my colleague, Senator BARTLETT of Oklahoma.

On many occasions I have expressed my concern for the degree of dependence this Nation now has upon foreign sources for energy fuels. None can deny that this dependence grows daily and with this growth comes the degradation of our balance of payments and a weakening of our status as a world power.

Earlier this week, in this Chamber, I took issue with the decision of the Cost of Living Council because it did not differentiate between domestic crude over which it exercised price controls and foreign crude over which it had no control. As a result of the formula which had been derived, which included a consideration of a 1.5 percent price increase as well as their profit margin ratio, the crude importer is caught on the horns of a dilemma. He is forced, in some instances, to decide between importing the high priced foreign crude, knowing that because of the limitations imposed he cannot recover his cost when he sells the refined product or not importing the crude at all.

I see here a very close parallel between the higher cost of imported crude over which we have no control and the higher cost of crude produced from stripper wells over which the producer has no control if he wants to continue production. It just costs more money to produce from stripper wells. Additionally if the decision is made to stop production, this is a lasting decision in that it is financially impossible to again attempt production from the particular well. We lose this domestic crude.

If we decide to impose a limitation on this producer, and thereby deny him the capability of commercial production, we create another in an ever-increasing series of self-inflicted wounds. I think it is time that we take a close look at such activity.

As well meaning as price restraints on stripper production may seem by the way, we are talking about stripper wells that produce 10 or less barrels a day—we must weigh the effects of such action in light of its total impact on the energy problem. If by effecting price restraints we deny the people of this Nation the use of domestic crude at a price which compares favorably with the ever-increasing cost of foreign imports, then I say that such action does not make good sense. In fact what it will do is make good cents and dollars for foreign producers.

Let us start to bind up the self-inflicted wounds that exist, and even more importantly, let us not inflict any new wounds to ourself and our Nation. Instead of finding ways to hinder our domestic production, let us expand this effort in assisting in the solution of the problem. Only then will we be really coming to grips with a very important question concerning our energy shortage and providing an answer to this question.

I do not think there is any question about the fact, if we are talking about stripper wells with production of 10 barrels a day and less, that we are talking about a very small percentage of the crude that is available for refining purposes. That means that if we take this entire amount out of the stripper situation as it exists in the country and put it in the entire pool that is available to be produced, regardless of the fact that there may be a slight increase in the cost of stripper production, it means nothing to the overall cost of a gallon of gasoline—absolutely nothing—because we are talking about—can the Senator give me a figure on production?

Mr. BARTLETT. Yes, 1.25 million barrels.

Mr. COOK. Considering the millions of barrels that have to be utilized in the Nation overall and the cost ratio of the entire pool, we are talking about a percentage of increase that would result in moving the decimal point all the way over, if we are talking about a production of 1.25 million barrels. We are now importing from foreign sources 5 million barrels a day. That amounts to 5 million times 42 gallons. We can see what effect that would have. And that price on crude is absolutely uncontrollable by the U.S. Government.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. BARTLETT. The Senator is referring to what used to be referred to as cheap foreign crude. How does the price of that cheap foreign crude compare with the price of domestic crude today and the price of stripper wells?

Mr. COOK. The price differential in relation to foreign crude and the present capacity of our strippers to produce is about two and a half times.

Mr. BARTLETT. It is about a dollar a barrel more.

Mr. COOK. It is about a dollar a barrel more, and obviously the stripper, at this stage of the game, could not get a dollar more. If he did, he would be lucky. We are talking about an increased cost of operation that would be somewhere around $10 a day if he could get $1 additional to get those barrels out of the ground——

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. BARTLETT. I believe the Senator is making the point that if the stripper wells are plugged, the amount of oil they are now producing would have to be replaced by foreign oil which costs $1 more.

Mr. COOK. I am not only making that point; I am saying that if the stripper well cannot continue operation, that percentage of crude is totally lost. It is lost not only to this market, but to every market. So the semantics of saying it would have to be replaced by foreign crude is one thing. The whole point is, it is lost.

Mr. BARTLETT. Is it not true that, being lost and having to be replaced by foreign crude, what we are doing by letting foreign crude in for a dollar a barrel more, is that we are working against our high cost stripper wells, making it harder for them to produce oil, making it easier for foreigners to produce their oil, which costs only 20 cents a barrel to produce?

Mr. COOK. As I said in my remarks, it makes no sense not to adopt this amendment. If we do not adopt it, the only sense it makes is the dollars and cents that will go to the foreign producers who are going to replace it, and we will go from 5 million barrels a day to 6½ million barrels a day immediately.

I thank the Senator from Oklahoma for the opportunity to participate in this discussion.

Mr. BARTLETT. I appreciate very much the remarks of the Senator from Kentucky. They bring out a point which many people miss. They bring out the point that so often we seem to look at foreign production or the welfare of people in other parts of the world differently from our own welfare, and we seem to want to take a little better care of them than our own people.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) be added as a cosponsor of this amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. HART. Mr. President, will the Senator yield to me for a question?

Mr. BARTLETT. I yield.

Mr. HART. I have listened to the Senator's comments, and I tend to be persuaded by them. Is he in a position to advise us whether the stripper producer, if that is the correct expression——

Mr. BARTLETT. That is the correct expression.

Mr. HART. Owns other oil producing resources which, if brought on the market, would be marketed or produced at a lower cost than the stripper operation?

Mr. BARTLETT. It is the hope of anybody in the oil business to have more profitable wells and more profitable leases.

This amendment—I will read it to the Senator; it is short—states:

> Those oil leases whose daily average production per well does not exceed that of a stripper well of not more than ten barrels per day shall be exempt from any allocation or price restraints. . .

So if the stripper producer had production that did not qualify, he, of course, would not be in any position to have that production exempted from price controls. It is done on a lease basis, because normally all the wells on one lease go into one tank or on a several-tank basis. So if it is from a big well, the average goes away up.

Incidentally, when subsidies were put on during World War II, that went beyond just a lease basis; that was done on a field basis, because it is easier to do all the accounting that way. But in this case, it is only decided on a lease basis.

Mr. HART. What I am trying to find out—perhaps if I rephrased it I would have a better shot at it—is whether this amendment, if adopted, will actually make more oil available, or, if it is adopted, might it simply replace a cheaper oil which otherwise would be brought in?

Mr. BARTLETT. No. Let me try to explain. It would affect a well that has just about reached the marginal limit and give it new life with a little more profit. In other words, the well is on a decline. At some place it is going to reach the break-even point, and then further it is going to lose money. At that point it is going to be plugged and abandoned forever.

If we do not adopt this amendment, or provide some relief to the stripper wells, we will have the producers of 15,000 marginal wells plug their wells. If we do plug them and we want to have more oil in this country, we are forced to import it. So, instead of getting cheap oil, this is going to result in getting more expensive oil. Right now the price of foreign crude is approximately $1 per barrel higher than domestic crude oil.

So, we will be replacing that stripper well with more expensive oil.

Mr. COOK. Mr. President, if the Senator will yield, I think there is something else that the Senator from Michigan should also understand.

It does not mean that a man with a number of stripper wells could demand an additional dollar for his crude because we pass the amendment, 90 percent of the strippers are also under contract to a jobber who picks up his crude.

We are not really saying by any stretch of the imagination—and I hope the Senator is not saying by any stretch of the imagination—that this fellow with a series of wells which produce 10 barrels, eight barrels, or several barrels could automatically say that tomorrow his crude goes up $1 a barrel. He is under contract and that contract is good as long as he is producing. However, as long as it is not feasibly possible for him to produce, he will plug that well, as 15,000 wells were plugged last year, and that production is lost forever.

Mr. HART. Mr. President, would this amendment apply, for example, to one of the 10 majors; do any of them have stripper wells producing 10 or less barrels?

Mr. BARTLETT. Mr. President, it is very seldom that major companies lease after they reach the break-even point. When it reaches that point, he sells, because the independent can operate that lease longer. He has a lower cost basis. Many of them are individuals. Some of them are pumpers who have pumps and lease for the majors. They will ask the major if he wants to buy it.

The incentive for the major to do this is that the major oil company may also be a refiner, and he would then be in a position to have that oil produced and available to him so that he could sell it.

Another reason for selling it is that sometimes there are complications in the whole matter of plugging these. It takes a lot of time to junk. The leases are completely abandoned then. And the independent many times is also in a position to sell the used pipe and also many of them are in a sense junkies. This fits into the independent operation.

Mr. COOK. Mr. President, may I say to the Senator from Michigan that this is a much greater source of supply for independent refiners than it ever would be for any majors.

In my State the basic supply from the strippers go to the independents and would not go to the majors at all.

Mr. FANNIN. Mr. President, if the Senator from Michigan will yield, I might advise the Senator from Michigan that the Bartlett amendment is really a conservation measure and provides an incentive not to leave oil in the ground.

The Senator knows that many of the wells of his own State are marginal. Some of them have almost stopped producing. The Bartlett amendment would encourage those wells to continue producing. The stripper wells in his State would be benefited by it. That the amendment would also cut down on the need to increase imports already has been brought out.

Chemical industry executives are feeling the squeeze on fossil fuels from two sides: many of their products are petroleum-based; and these companies need more fuel to run their plants. These price increases are being passed on to the consumer.

Mr. President, we need to develop our domestic oil supplies to alleviate this energy problem. The adoption of the Bartlett amendment would stimulate domestic supplies.

I ask unanimous consent that this article from the Wall Street Journal of May 29, 1973, be printed in the RECORD.

DOUBLE TROUBLE—PETROCHEMICAL FIRMS SAY PRICE INCREASES, SHORTAGES LIKELY AS ENERGY WOES MOUNT

(By Jeffrey A. Perlman)

Save your plastic bags. They may be collector's items before long.

Plastic bags, along with floor tiles, synthetic fibers and hundreds of other products derived from petrochemicals, may eventually be priced off the market if something isn't done about the energy crisis.

That's the gloomy warning from chemical industries executives, who say the heavy worldwide demand for fossil fuels is hitting them with a double whammy. Like everyone else, chemical companies are paying more for fuel to power their plants. But since so many of their products are derived from these same petroleum-based fuels, chemical manufacturers are also faced with unprecedented shortages and rising costs of raw materials.

"It isn't even a question of how much housewives will have to pay for Glad bags," says Richard C. Perry, chairman of Union Carbide Corp.'s energy task force. "There's a serious question of whether Glad bags will even be available." At the very least, he predicts, the dual squeeze on energy is likely to cause scattered plant closedowns, layoffs and rising consumer prices.

SUPPLY AND DEMAND

The reasons are purely economic. Natural-gas prices in the Gulf Coast area, where much of the country's fuel supply originates, have doubled in the past two years, and the rise shows no sign of slowing. And the price of coal has risen 40% in the same period. Meanwhile, the chemical industry's demand for its increasingly expensive energy is expected to more than quadruple by 1980 to about 68 quadrillion BTU's, or units of heat. This is nearly as much energy as will be used by the entire nation this year.

Gerald L. Decker, Dow Chemical Co.'s energy specialist, says that by 1980 it will cost 32% more to make polyvinyl chloride, a major plastic used in products such as bowling balls and floor tiles. Moreover, he anticipates a 29% rise in the cost of producing polyethylene, used to make plastic bags, dishes and bottles. And ethylene glycol, used in antifreeze, polyester fibers and plastics, should cost 8% more to produce by 1980, he says. The list goes on and on.

FROM SODA ASH TO SEAT BELTS

Wherever possible, chemical makers hope to recover these extra costs with price increases. Indeed, the rising cost of energy is already being blamed for recent price rises on a number of major plastics, including polyethylene, which is in very short supply.

In certain product lines, raw-material shortages have created almost black market conditions. Both polystyrene and styrene, are in extremely short supply due to the scarcity of benzene, a petroleum product from which both are derived. Because of shortages, the prices small distributors are charging for the two plastics are going through the roof.

Dow, a major producer of the plastics, acknowledges that a black market of sorts exists but claims it involves only a tiny fraction of the total market. Only a few middlemen who sell to manufacturers are taking unfair advantage of the situation, a Dow spokesman says.

Morton Levine, president of Amberlite Plastics Corp., a Leominster, Mass., comb manufacturer, says he can't get enough polystyrene, the raw material for his combs. While he once paid 15 cents a pound, he now is charged 23 cents a pound—provided he can get someone to sell him the stuff. By contrast, Dow says it is currently selling the plastic to distributors for 13 to 13½ cents a pound. Distributors normally charge an extra two cents a pound to their customers, Dow says Mr. Levine worries about getting enough polystyrene to keep his plant operating and his 40 employes on the payroll. He can't buy from a major producer, he says, because they sell only to long-standing customers. With small distributors running out of the material, he says, "I'm left out in the cold."

Although the real crunch is expected several years hence, energy problems are already beginning to reshape the chemical business. For one thing, chemical markets are all closed to new entrants. "If you aren't already in the business, you might as well forget it," says J. Peter Grace, chairman of W. R. Grace & Co., a diversified chemicals and consumer-products concern.

What's more, many chemical companies have begun to alter their product mix as a result of fuel shortages. Allied Chemical Corp., for example, has diverted capital spending away from its traditional chemicals business into products less dependent on large amounts of energy, such as automobile seat belts. And about half the company's $180 million capital budget this year is earmarked for oil and gas exploration.

The need for energy is also changing marketing strategy. "Energy is quickly replacing gold as the standard of value in commerce," Mr. Decker observes. With energy prices rising so fast, suppliers of chemicals requiring a lot of energy to produce are loath to sign long-term contracts with their customers. If they do, they are demanding increasingly that customers sweeten the deal by paying in energy as well as cash. Dow Chemical and Shell Oil Co. have reportedly signed such an agreement, in which Dow will supply chlorine in return for Shell's ethylene, a petroleum raw material vital to the chemical industry. Customers unable to come up with energy payments are forced to buy certain chemicals under more expensive short-term contracts.

A GLIMPSE OF THE FUTURE?

Some concerns have already seen grim previews of fuel shortages likely to come. In recent weeks, for example, both Union Carbide and PPG Industries Inc. have been beset by power blackouts at some of their Puerto Rican facilities. And difficulties in obtaining hydrocarbon raw materials have disrupted production for the past six weeks at Puerto Rican Olefins Co., jointly owned by PPG and Commonwealth Oil Refining Co.

Such delays can have a ripple effect, as when fuel shortages in the Pacific Northwest recently forced Union Carbide to cut deliveries of calcium carbide, a basic raw materiel used in making cleaning solvents. Because of Union Carbide's action, Hooker Chemical Corp. claims it had to close permanently its cleaning-solvents operation in Tacoma.

Production curtailments will be more frequent as time goes by, industry officials predict, because chemical companies for the first time are being forced to compete with other major users for available energy. Already, federal and state regulatory agencies have begun to assign priorities for deliveries of natural gas, the fuel most in demand, in the event of severe shortages. And, generally speaking, chemical companies are winding up third in line, behind public utilities and residential users.

Right now, Union Carbide and a dozen other chemical concerns are battling Houston Light & Power Co. over who will get first crack at natural gas supplied to the Houston area by Pennzoil Co. Texas regulatory officials are expected to hand down a decision soon.

A SCRAMBLE FOR CLEAN FUEL

The chemical companies contend they should be given top priority because most of their plants are built to use only natural gas. Utilities, they claim, can convert to alternate fuels at less cost, because their plants are designed to use more than one type of fuel. The utilities argue that clean, low-sulphur oil—the only other type of fuel that would enable them to meet federal pollution standards—is just as scarce as natural gas.

Officials within the chemical industry recognize they are waging an unpopular battle. Asks one: "How do you tell your wife she can't heat the apartment because the fuel is needed to employ thousands of people who make products like polyethylene?"

Despite the worrying, however, industry profits have been unaffected by the crisis. This year's first quarter earnings were the highest on record, and chemical stocks have held up reasonably well in the recent market decline. "It's a very healthy industry at the moment," declares one securities analyst who follows chemical concerns.

Such optimism, according to experts within the industry, is based on the conviction that somehow the energy problem will go away. But "that's an assumption that nobody ought to be making," warns Mr. Perry of Union Carbide.

A HOLDING ACTION

Nevertheless, to help delay the day of reckoning, the Manufacturing Chemists Association and the Petrochemical Energy Group, two trade associations, have mounted a massive lobbying effort in which they charge that the nation's energy policies favor big oil companies at the chemical industry's expense. They say U.S. chemical concerns are at a competitive disadvantage because overseas producers have ready access to low-cost foreign gas. The U.S. companies complain they must pay domestic refineries about 60% more for the same raw materials.

To ease this situation, U.S. chemical producers are asking the government to lift import restrictions on natural gas and allow additional oil imports so that U.S. refineries can produce more low-sulphur fuel. This, they reason, should take some of the supply-and-demand pressure off natural gas. They'd also like to see economic incentives for other industrial and utility users to swtich away from natural gas to alternate fuels.

In the meantime, chemical companies are seeking ways to save energy. Dow, for example, was able to cut energy consumption 20% last winter at its latex-manufacturing operation in Midland, Mich. The facility was a major steam user, and Dow found that heating waste tars instead of water provided the same amount of heat using less energy. With the energy it saved, Dow estimates, New York City could operate its subway system for two years.

Mr. BARTLETT. Mr. President, I would like to thank the distinguished Senator from Michigan for his very fine questions and make this one quick point. Very little of the major production is stripper oil. A very high percentage of the independent production is stripper oil.

When the program was put into effect at the time of World War II, 75 cents a barrel would serve every area in New York, New Jersey, and Ohio, recognizing that the tremendous amount of stripper wells in that area facilitate major company activity.

Mr. COOK. Mr. President, might I state to the Senator from Michigan that I would suggest that by far the biggest percentage of production from stripper wells, 10 barrels or less, is secondary or tertiary recovery. The lives of those wells have passed, and they are in the process of bleeding that well or pumping to the best of their ability to get what is left. However, once they stop that, that source is gone.

Mr. HART. Mr. President, I am very grateful to the Senator from Kentucky and the Senator from Oklahoma for helping me to understand this amendment.

I am sympathetic obviously with the desirability of increasing the available volume of oil. My only concern is that by agreeing to this amendment we not make a major oil company make a decision that, because of the amendment, he is now able to use a higher priced stripper source of oil and lose its enthusiasm to continue the production of a lower cost oil. That is really what I am trying to point out.

Mr. BARTLETT. Mr. President, I say to the Senator from Michigan that I believe there are 3 strong economic incentives for a major to dispose of an operation early.

The PRESIDING OFFICER. The time of the Senator from Oklahoma has expired. The Senator from Washington has time remaining.

Mr. JACKSON. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I thank the Senator from Washington.

I merely want to say that most of the stripper production that a major would have—and it would be very little—would be production that the major is hoping to water flood or use a secondary recovery program, which is a tremendous operation and is a very high cost operation, even though they may later produce a lot more oil.

This is a conservation program and I think it is needed, regardless of who is providing the money and the leadership.

I do not think a figure is available on the amount of oil that the majors would have in this classification. It would be very low, though. And for the independents, it would be very high.

Mr. JACKSON. Mr. President, I yield 5 minutes to the distinguished Senator from West Virginia, and whatever time I may have left, I will yield later.

Mr. RANDOLPH. Mr. President, I thank the astute Senator from Washington (Mr. JACKSON) the manager of the bill.

The able Senator from Oklahoma (Mr. BARTLETT) has presented a thoroughly valid and important amendment—which I have cosponsored—and he has made a persuasive argument in its behalf.

This amendment to the pending bill provides that the oil leases, the daily average production of which does not exceed that of a stripper well of no more than 10 barrels a day, shall be exempt from any allocation or price restraints established by any act of law.

This would not be a frivolous exemption, Mr. President. And I emphasize that it would not be a frivolous exemption. And it would not be, and I emphasize this also, an unwarranted exemption.

As the Senator from Oklahoma has pointed out, even though Congress were to pass the pending legislation this year, a substantial number of years—perhaps as many as 4—probably would expire before oil from the North Slope of Alaska would come into the commercial stream.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RANDOLPH. Mr. President, our country is already in an energy crisis. We must act on many fronts to overcome the problems inherent in this crisis—and the amost important actions will be those which add to the production of much-needed energy supplies. In this case we are considering ways to increase our domestic crude oil supplies. This is a highly necessary objective.

As the Senator from Oklahoma has said, our amendment is one which would achieve results this year. It is a means for reducing the crude oil shortage with promptness.

And I underscore another important point our colleague has emphasized, namely, this:

His amendment goes to the heart of a serious problem in that it would help to maintain domestic crude oil production that now exists—production which, however, is in danger of being lost forever.

I agree with Senator BARTLETT that we need every possible drop of crude oil production that can be developed and maintained—and we cannot afford to permit regulatory policies and/or price controls or allocation systems to force economically marginal oil wells to be shut down and possibly plugged forever.

As we have been informed by the principal author of the amendment—and I agree with him—it would help to stretch the life of the so-called "stripper" wells, wells of which we have hundreds in the State of West Virginia. He has pointed out that such wells are economically marginal but, cumulatively and in toto—and I think this is important for Senators to understand and the citizens of the country to appreciate—they provide America with approximately 1¼ million barrels of crude oil per day. Last year, such wells accounted for 11.2 percent of our country's total domestic production.

The amendment would not in any sense create a bonanza condition for the major oil companies, which was perhaps the concern, in part, of the Senator from Michigan (Mr. HART), because they have very few stripper wells.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. JACKSON. I yield the knowledgeable Senator 2 more minutes.

Mr. RANDOLPH. It is a fact that the major companies cannot afford to operate such wells in their systems, consequently, they lease them to the so-called independent producers who generally can and do operate them for long periods of time.

I understand and agree with the thesis of the junior Senator from Oklahoma that if, in 1972, a 25-cent-per-barrel increase in the price of crude oil had been made, as many as 15,000 wells would have continued in production—wells that were plugged and abandoned because of high costs and marginal profits and in fact, no profits. Such a loss—15,000 oil producing wells—even with marginal profits—would have been the equivalent of 235 million barrels of crude oil, which would be like the finding of two new major oil fields.

We should cogitate at length before deciding to permit such conditions to go on into another year without the taking of such appropriate action as would be inherent in approving our amendment today.

Mr. President, I hope this needed amendment will be approved by an overwhelming vote.

As emphasized by the chief sponsor of this amendment, I think there is ample precedent. The amendment does not require a subsidy or any payment by the taxpayers, but we have had direct subsidization before. I recall that during a 2-year emergency period at a stage of the World War II era, all wells in the contiguous States of West Virginia, Ohio, Pennsylvania, and New York were subsidized in a national interest program for which the taxpayers paid $65 million for almost 177 million barrels of oil. This was helpful to the meeting of an emergency situation.

The importance of this amendment would be to permit the marketplace to operate normally. Under such operations there is little doubt but that our stripper oil reserves would be increased, and this is an essential ingredient of recovery from the energy crisis and its accompanying supply shortage condition.

Mr. JACKSON. Mr. President, I yield 30 seconds to the Senator from Wyoming.

Mr. HANSEN. I only need 15.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the National Stripper Well Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL STRIPPER WELL ASSOCIATION,
Tulsa, Okla., May 19, 1972.

The PRICE COMMISSION,
Mr. C. JACKSON GRAYSON, Jr.,
Chairman, Washington, D.C.

Gentlemen: This letter proposes an increase in the price of domestic crude oil as being in the best interests of the Nation and the consuming public.

It is our understanding from reports in the oil press that it is not a prerogative of the Price Commission to consider appeals by groups or associations. Within these parameters it is therefore urged that the Commission favorably act on requests by individuals or specific firms seeking an increase in the price of crude oil, or other constructive improvement in incentives which would assure greater longevity for present producing oil wells, thereby adding to the nation's recoverable petroleum reserves as advocated in this submission.

Information presented specifically refers to marginal or stripper wells and the price of crude oil as the controlling factor in the essential contribution such wells make to the national economy and the total domestic crude oil supply. Fundamentally, economic conditions determine the amount of oil which may be recovered from known reservoirs.

A marginal or stripper well is defined as being one which has an average production of less than 10 barrels daily. Nationwide, these wells averaged only 3.37 barrels of oil daily in 1970.

Marginal wells total approximately 359,000 it is revealed in a survey sponsored by this Association and represent 70% of all the Nation's oil wells. In 1970 marginal wells accounted for more than ⅛th of total domestic oil supply, or 441 million barrels.

As the production of a well gradually but inevitably declines an economic break-even point is approached. As such level, these wells and the otherwise producible reserves they represent are abandoned.

Increased operating costs through recent years in materials, taxes, wages and maintenance combined with only a minimal increase in the price of produced crude oil have seriously impaired the producer's ability to continue operation of marginal wells, forced cancellation of plans for normal development drilling, made it economically less desirable to convert properties to secondary recovery projects, and hastened the break-even point. These factors have jeopardized the position of the marginal well as an essential segment of the entire producing industry.

There is ample evidence that this Nation's immediately available supply of crude oil is at the critical stage. Productive capacity in excess of domestic demand has been exhausted. Exploration and development drilling has declined constantly since 1956. A proper and adequate balance between increasing demand for petroleum and available reserves no longer exists.

This imbalance, resulting from lack of a reasonable crude oil price, is forcing the abandonment of thousands of small wells while substantial proven reserves remain to be recovered from underlying reservoirs.

During the past five years for which data are available abandonments were as shown:

1966	16,207
1967	14,986
1968	20,496
1969	15,618
1970	15,631

A recent study by this Association indicates that a price increase of only 25¢ per barrel in crude oil from marginal wells would result in continued operation of approximately 15,400 wells which are expected to be plugged this year for economic reasons. As a result of such price increase, an additional 10.7 million barrels of crude could be expected to be produced in the following 12 months from wells currently facing abandonment.

Applying these same factors to the total of presently operated marginal wells, additional recovery would be 235,000,000 barrels, equivalent to the total production from two major oil fields.

Considered in arriving at this added production figure have been the following elements:

1. Well has reached the zero profit/loss status
2. Production continues its typical production decline of 5% per year for a well that has reached a 2 barrels per day producing level
3. That taxes and royalty payments to farmers and landowners be applied against the increased price as these are integral to the value of produced oil
4. That other cost elements . . . wages, materials, etc., remain constant.

The effective value of the 25¢ crude price increase would be reduced by approximately

32% through allowances made for No. 3 above. This was taken into consideration in the calculations extending total recovery. Despite the substantial gain of 10.7 million barrels in production resulting from the application of the effective balance available to the producer from a 25¢ price increase, the total thrust would be inadequate to the Nation's needs for oil. The measure would only be a short term gain, and limited in results to a 12-month period at which time normal depletion through continued production would establish a new zero profit/loss point.

However, substantial and prolonged results would be gained from a realistic crude price increase to $5.00 per barrel. In this case, and using the same limiting factors, a well would produce for six years before a new break-even point would be reached.

Production anticipated from one typical well would be as follows:

	Barrels
1st year	693
2nd year	659
3rd year	626
4th year	595
5th year	565
6th year	536

During the extended productive life of six years this typical well would produce 3,674 barrels which would have been left in the reservoir without the price increase. Applying this factor only to present marginal wells as they reach their break-even point, an additional 1.32 billion barrels of crude would be recovered. It is observed, however, that the total number of marginal wells is augmented each year as production in larger wells declines below the 10 barrels per day definition.

No attempt is here made to project total future production resulting from the proposed price increase to present non-marginal wells. Whatever the figure, it would be quite substantial. Further, benefits in additional available crude oil would be cumulative.

Direct advantages would also accrue to other segments of the economy. Continued operation of marginal wells would provide jobs and wages which cease with abandonments. Further, well services, chemicals, tubing, casing, pumping units, purchased power, taxes and royalty payments would be continued in support of a desired overall economic posture.

It is submitted that a realistic increase in the price of crude oil is consistent with sound economics, is in the best interests of the consuming public, and would assure a substantially greater recovery of this valuable energy resource from known and proven reserves.

Respectfully,

C. John Miller,
President.

Mr. JACKSON. Mr. President, I call up my amendment to the amendment in the nature of a substitute, which is at the desk.

The ACTING PRESIDENT pro tempore. The amendment is not in order until 11 o'clock, except by unanimous consent.

Mr. JACKSON. Mr. President, I ask unanimous consent that I may call up my amendment to the amendment in the nature of a substitute.

Mr. COOK. Mr. President, reserving the right to object, and I conceivably will not object, I would like to know the import of the amendment.

Mr. JACKSON. I will give the Senator a copy of the amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MATHIAS. Mr. President, reserving the right to object, will this change the hour from voting from 11 o'clock?

Mr. JACKSON. No, it is not changing the hour of voting.

The ACTING PRESIDENT pro tempore. The vote will still occur at 11 o'clock.

Mr. JACKSON. The vote will occur, and there could be a vote on the amendment to the amendment first, I assume. Is that not correct?

The ACTING PRESIDENT pro tempore. The Jackson amendment would be voted on first, to be followed by the vote on the Bartlett amendment.

Is there objection?

Mr. FANNIN. Mr. President, reserving the right to object, we have not had a chance to read it.

Mr. JACKSON. Mr. President, while that is pending, I will not call it up, but in the meantime I will proceed with my statement.

First of all, Mr. President, we have not had hearings on the amendment offered by the distinguished Senator from Oklahoma. I am very sympathetic with this problem, and I want to do something about it, but there are some obvious concerns, which are expressed in my amendment to the amendment.

For example, the amendment exempts every oil lease, rather than oil sales. The amendment may also run to natural gas from those leases. Mr. Bartlett's proposal exempts leases with a certain oil production and may well apply to gas production from those leases under the Natural Gas Act, and in effect deregulate natural gas in this category.

The exemption, I think, should be limited to price controls under the Economic Stabilization Act, and not to rules established by any other act of law.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. JACKSON. Further, I would mention that at the present time—and I think the small companies do have a special case here—the Economic Stabilization Act, as I understand it, applies only to the 23 major oil companies, under the rules, that is, pursuant to the guidelines established by the Cost of Living Council.

Mr. President, I do believe that stripper wells are a source from which we can get additional oil. I believe that with the price being raised abroad, we ought to provide an incentive and inducement to get all the oil we can from these strippers.

Mr. LONG. Mr. President, will the Senator yield?

Mr. JACKSON. Let me finish this.

During World War II, as I understand it, the small strippers were given a subsidy, and I am very sympathetic to this problem, but I think the Senate ought to know what it is doing when we vote on this amendment. I would certainly arrange for early hearings to provide the encouragement, the incentive, and the inducement to see that the small stripper is given a chance to make a contribution in connection with the oil shortage problem.

The point, I think, that is critical, is that the Middle Eastern countries are shoving the price of oil up and up and up. I want to see these little fellows make a contribution which otherwise would not be made when these wells are shut down. We recognized that problem in World War II, as the Senator from West Virginia has indicated, and did provide a subsidy.

Mr. LONG. Mr. President, I congratulate the Senator on taking an open-minded attitude about the Bartlett amendment. We in Louisiana have recognized this problem for more than a quarter of a century. We have the highest tax on oil and gas of any State in the Union. We have about 25 cents——

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG. We charge about 25 cents a barrel severance tax on oil producted from those we regard as good wells. But for the kind of wells involved here, we have a severance tax of only about—

The ACTING PRESIDENT pro tempore. All time has now expired.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the amendment to the amendment.

Mr. HANSEN. Mr. President—Mr. President, I thought——

Mr. JACKSON. Mr. President, I now call up my amendment to the amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment to the amendment will be stated.

The legislative clerk read as follows:

At the end of the bill add a new section as follows:

Sec. .

(a) The first sale of crude oil and natural gas liquids produced from any lease whose average daily production of such substances does not exceed ten barrels per well shall not be subject to price restraints established pursuant to the Economic Stabilization Act of 1970 as amended, or to any allocation program for fuels or petroleum established pursuant to that Act or to any Federal law for the allocation of fuels or petroleum.

(b) The agency designated by the President or by law to implement any such fuels or petroleum allocation program shall promulgate and cause to be published regulations implementing the provisions of this section.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the amendment to the amendment.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Chair would advise that a parliamentary inquiry is not in order until the yeas and nays have been ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendment be read to the Senate.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Mr. JACKSON. For the yeas and nays?

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming will state it.

Mr. HANSEN. I thought the Senator from Washington asked unanimous consent, and I thought that while we were discussing that issue he chose to address the Senate and that there is still an opportunity to object to a unanimous-consent request that his amendment be called up at this time.

Mr. JACKSON. Mr. President, a parliamentary inquiry. Is not the amendment in order?

The ACTING PRESIDENT pro tempore. Until the request for the yeas and nays has been withdrawn, parliamentary inquiries are not in order.

The Chair would inquire, is there a sufficient second?

There was a sufficient second, and the yeas and nays were ordered.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming will state it.

Mr. HANSEN. What is the pending business?

The ACTING PRESIDENT pro tempore. On the amendment of the Senator from Washington to the amendment.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? We cannot hear what is being said.

The ACTING PRESIDENT pro tempore. Will Senators please take their seats. The Senate will suspend until Senators take their seats.

The question is on agreeing to the amendment of the Senator from Washington to the amendment of the Senator from Oklahoma.

All time has expired. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Colorado (Mr. Haskell), the Senator from Maine (Mr. Hathaway), the Senator from Iowa (Mr. Hughes), the Senator from Massachusetts (Mr. Kennedy), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Rhode Island (Mr. (Pastore), the Senator from California (Mr. Tunney), and the Senator from Maine (Mr. Muskie) are necessarily absent.

I further announce that the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), and the Senator from Alabama (Mr. Sparkman) are absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further anonunce that, if present and voting, the Senator from Washington (Mr. Magnuson) and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Tennessee (Mr. Brock), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Packwood), the Senator from Ohio (Mr. Taft), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in the family.

The Senator from Michigan (Mr. Griffin) and the Senator from Nebraska (Mr. Hruska) are absent on official business.

Also, the Senator from Maryland (Mr. Beall), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), and the Senator from Connecticut (Mr. Weicker) are necessarily absent.

If present and voting the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 66, nays 3, as follows:

[No. 288 Leg.]

YEAS—66

Abourezk
Aiken
Baker
Bartlett
Bayh
Bellmon
Bennett
Bentsen
Bible
Biden
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Domenici
Dominick
Ervin
Fannin
Goldwater
Gravel
Gurney
Hart
Hartke
Hatfield
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Mansfield
Mathias
McClellan
McClure
McGovern
Metcalf
Montoya
Moss
Nelson
Nunn
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevens
Stevenson
Symington
Talmadge
Thurmond
Williams

NAYS—3

Fong
Fulbright
Hansen

NOT VOTING—31

Allen
Beall
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Cotton
Curtis
Dole
Eagleton
Eastland
Griffin
Haskell
Hathaway
Hruska
Hughes
Kennedy
Magnuson
McGee
McIntyre
Mondale
Muskie
Packwood
Pastore
Sparkman
Stennis
Taft
Tower
Tunney
Weicker
Young

So Mr. Jackson's amendment was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that the previous order entered for the yeas and nays on the amendment be vacated.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BARTLETT. Mr. President, I ask unanimous consent that I may ask a question of the distinguished chairman concerning the amendment.

The PRESIDING OFFICER. Does the Senator from Washington yield for that purpose?

Mr. JACKSON. I yield to the Senator from Oklahoma.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I think we ought to have a time limitation on this colloquy.

Mr. HANSEN. Mr. President, I ask unanimous consent that there be a period of 30 minutes in which to ask questions, the time to be equally divided between the interrogators and those who will respond to clarify the effect of the Jackson amendment.

Mr. LONG. Mr. President, reserving the right to object, I would be willing to agree to 10 minutes; 30 minutes is too long.

Mr. HANSEN. All right. I revise the time to 10 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HUMPHREY. Mr. President, will the Senator yield for a half minute?

Mr. JACKSON. I yield.

Mr. HUMPHREY. Mr. President, I merely ask unanimous consent that a member of my staff, Miss Wendy Ross, may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BARTLETT. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. BARTLETT. I wish to ask a question of the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator will be in order.

Mr. BARTLETT. Is it not true that the term "first sale" in the Senator's amendment means to reserve price exemptions, and the fuel allocation to customers of stripper well producers applies only to the first sale? The first sale means the first sale from the tank taking place after the lease. That is the first sale; it does not have any other meaning.

Mr. JACKSON. The Senator is basically correct. I would construe, in connection with the amendment just adopted, which I offered, that the first sale of crude oil and natural gas liquids as contained in the first line of the amendment relates to the sale by the producer to whoever buys it, to the pipeline operator or whoever else it may be. The first sale is the sale by the producer.

Mr. BARTLETT. So it is the first sale by the producer of the crude oil on the lease "whose average daily production" on that lease "does not exceed 10 barrels per well."

Mr. JACKSON. That is correct.

Mr. HANSEN. Mr. President, I wish to ask the distinguished Senator from Washington several questions.

Mr. JACKSON. I yield whatever time is necessary.

Mr. HANSEN. Mr. President, we are in the middle of an energy crisis and yet we have not had the opportunity to look into the matter for 5 minutes before the last vote on an amendment to the amendment by the distinguished Senator from Oklahoma, the amendment proposed by the Senator from Washington.

Mr. President, let me tell you how important these stripper wells are. They produce more than one-eighth of the total production of all oil in the United States—oil and natural gas liquids.

For the year 1966, 16,207 such wells were closed; in 1967, 14,986 stripper wells were shut down; in 1968, 20,496 stripper wells were closed; in 1969, 15,618 were closed; and in 1970, 15,631 were shut down.

It seems to me to be pretty cavalier on the part of some people in this body to say we do not have time to discuss what we are talking about when it comes to voting on certain amendments and then turn around and say we need to hold hearings on other amendments because we need more time to discuss them. I submit the Senator from Washington is a most knowledgeable expert on oil. He knows about production in the Middle East and in this country, and to say that we do not want to consider an amendment because we want to hold hearings on it, begs the question. The Senator knows the answers. I do not think many people in this body are more knowledgeable.

We have to do something about the energy crisis. If these stripper wells are shut down, there is no way to open them up again. We are talking about more than one-eighth of the total domestic production in the United States of America.

My question to the distinguished Senator from Washington is: Does he think, given that set of circumstances, that it makes good sense to call hearings, in addition to all the others we have had, and let these wells be shut down month by month and day by day while we hold further hearings to decide what the energy crisis is all about?

Mr. JACKSON. Mr. President, may I say to my good friend, the Senator from Wyoming, that I took a good, hard look at the amendment of the Senator from Oklahoma (Mr. Bartlett) this morning and what disturbed me was the language contained in it.

I address this part of the amendment. I will read it and then ask him if one should not ask questions about it. This is the amendment:

> Those oil leases whose daily average production per well does not exceed that of a stripper well of not more than 10 barrels a day shall be exempt from any allocation of price restraints established by any act of law.

Will the Senator tell me what that means? What I am pointing to is the language "any act of law." This could include deregulation of natural gas.

Mr. HANSEN. Very well. I will respond to my good friend from Washington. I think it means precisely what it says, "any act of law." We are talking about more than one-eighth of the total production.

I know my good friend from Washington knows about secondary recovery and tertiary recovery.

Does my good friend want to get oil from these fields that will be recovered by secondary and tertiary recovery efforts?

Mr. JACKSON. I feel a responsibility to this body, as all Senators do, to try to point out to Members what might be contained in the language of a particular amendment.

I submit it is pretty clear that the Bartlett amendment, as I view it, could have been interpreted as a deregulation of natural gas.

I will ask my friend: Did anyone supporting this amendment tell the Senate in connection with this debate that they were advocating deregulation of natural gas?

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. HANSEN. I have advocated deregulation of gas for a long time.

Mr. JACKSON. I said in connection with this amendment. As the manager of this bill I have a duty and a responsibility to inform the Senate what, in our judgment, a given amendment contains. I wish to ask him whether anyone supporting this amendment——

Mr. BARTLETT. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Oklahoma is recognized.

Mr. HANSEN. Ten minutes is all we need.

Mr. BARTLETT. Mr. President, I wish to read my amendment. It states:

> Those oil leases—

It did not say gas leases—

> whose daily average production per well does not exceed that of a stripper well of not more than 10 barrels—

I modified the amendment by unanimous consent to provide "barrels of oil per day." Then continuing to read:

> shall be exempt from any allocation or price restraints established by any act of law.

It did not apply to gas. I remind the distinguished chairman and I know he is aware of this, that a stripper well does not produce gas other than a small amount.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. BARTLETT. It is a stripper well because the gas is depleted.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator yield for a parliamentary inquiry?

Mr. BARTLETT. I yield.

Mr. HANSEN. How much time remains?

The PRESIDING OFFICER. Two minutes remain.

Mr. JACKSON. I wish to ask my good friend this question. He is an expert. Do oil leases produce gas?

Mr. HANSEN. These stripper wells do not produce gas.

Mr. JACKSON. No, but when you use the language "oil leases," I understand oil leases include the broad spectrum of gas as well as oil.

Mr. RANDOLPH. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator yield to the Senator from West Virginia?

Mr. BARTLETT. I yield.

Mr. RANDOLPH. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 2 minutes remaining.

Mr. RANDOLPH. Mr. President, I think the objectives by the chairman, the manager of the bill (Mr. Jackson) and the principal sponsor of the amendment, the Senator from Oklahoma (Mr. Bartlett) are the same.

I feel, as we discuss the stripper well problem, that we can take just one moment to strip this discussion of some of its verbiage and come to this central question.

I emphasize, Mr. President, that in 1972, had we had a 25-cent-a-barrel increase in the price of oil to the producer, that we would not have had in this country more than 15,000 stripper oil wells that were plugged or abandoned. When that took place we lost 235 million barrels of needed oil to meet the energy crisis, which the able Senator from Wyoming (Mr. Hansen) mentioned. The same approximate losses were experienced in 1966, 1967, 1968, 1969, 1970, and 1971 as well as last year.

Under the Senator's amendment to the amendment of the Senator from Oklahoma, joined in by other Senators, does the chairman feel that essentially we can anticipate needed increases for stripper well production under the amended amendment?

Mr. JACKSON. I do not know what it will be in the marketplace.

Mr. RANDOLPH. I can understand that the Senator does not know as to exact percentage. But he realizes, as do I, the necessity to stop this substantial loss in production. The small producer must not be regulated out of business. We need this oil, we urgenely need the protection proposed in this amendment.

Mr. HANSEN. Mr. President, how much time remains?

The PRESIDING OFFICER. 1 minute.

Mr. JACKSON. My amendment clearly achieves the objectives the Senator from West Virginia (Mr. Randolph) has stated. We have discussed the problem, and I know of his familiarity with the situation in his State. He has an intimate knowledge of the small producer concerns, and I commend his efforts to give aid where justified. My amendment clears up any question about collateral impact on the whole question of pricing in connection with natural gas, particularly. That was my point. My amendment will achieve his objective.

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the time may be extended for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the Bartlett amendment, as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Colorado (Mr. Haskell), the Senator from Maine (Mr. Hathaway), the Senator from Iowa (Mr. Hughes), the Senator from Massachusetts (Mr. Kennedy), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr.

Pastore), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee), the Senator from Washington (Mr. Magnuson), and the Senator from Alabama (Mr. Sparkman) are absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) and the Senator from South Dakota (Mr. Abourezk) are absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) and the Senator from Rhode Island (Mr. Pastore) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from Masssachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Packwood), the Senator from Ohio (Mr. Taft), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in the family.

The Senator from Michigan (Mr. Griffin) and the Senator from Nebraska (Mr. Hruska) are absent on official business.

If present and voting, the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) would each vote "yea."

The result was announced—yeas 67, nays 1, as follows:

[No. 289 Leg.]

YEAS—67

Aiken
Baker
Bartlett
Bayh
Bellmon
Bennett
Bentsen
Bible
Biden
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Domenici
Dominick
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Gurney
Hansen
Hart
Hartke
Hatfield
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Mansfield
Mathias
McClellan
McClure
McGovern
Metcalf
Montoya
Moss
Nelson
Nunn
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevens
Stevenson
Symington
Talmadge
Thurmond
Williams

NAYS—1

Ribicoff

NOT VOTING—32

Abourezk
Allen
Beall
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Cotton
Curtis
Dole
Eagleton
Eastland
Griffin
Haskell
Hathaway
Hruska
Hughes
Kennedy
Magnuson
McGee
McIntyre
Mondale
Muskie
Packwood
Pastore
Sparkman
Stennis
Taft
Tower
Tunney
Weicker
Young

So Mr. Bartlett's amendment, as amended, was agreed to.

The PRESIDING OFFICER (Mr. Huddleston). Under the previous order, the Senate will now proceed to the consideration of amendment No. 332, as modified, an amendment offered by the Senator from Michigan (Mr. Hart). On this amendment, the yeas and nays have been ordered. The clerk will report the amendment.

The legislative clerk read as follows:

> Immediately following section 307, add a new section 308, as follows:
>
> Sec. 308. Section 3502 of title 44, United States Code is amended by inserting in the first paragraph defining "Federal agency" after the words "the General Accounting Office" and before the words "nor the governments" the words "independent Federal regulatory agencies,".

Mr. MANSFIELD. Mr. President, in view of the fact that it ought to be possible at least to get an abbreviated definition of what the amendment implies, states, and indicates, I ask unanimous consent that there be a limitation of 10 minutes on the Hart amendment—no agreement has been asked for—the time to be divided equally between the distinguished Senator from Michigan (Mr. Hart) and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I yield myself 2 minutes. Mr. President, under the Coordination of Federal Reporting Services Act (44 U.S.C. 3501 et seq.), Federal agencies may not collect information from 10 or more persons or companies without prior approval of the Office of Management and Budget. This World War II requirement was designed to prevent unnecessary and repetitious requests for information from Federal bureaucracies. I have no quarrel with these objectives.

Today, however, this act has been construed by OMB to require independent Federal regulatory agencies—arms of Congress—to receive OMB approval before they can collect vital information necessary in the discharge of their congressionally delegated responsibilities. Moreover, the Business Advisory Council to OMB often consists of representatives of the industries from whom information is sought. In effect, the industry has an opportunity to review any information request and then advise OMB as to whether or not it should be approved. Thus, independent agencies cannot act in vital areas without executive branch and business concurrence.

Chairman Lewis Engman and other senior FTC officials most vividly brought this problem to my attention at recent hearings held by the Antitrust and Monopoly Subcommittee. Section 6(b) empowers the Commission to obtain important data from businesses through questionnaires called "6(b) reports." Yet, FTC's Bureau of Economics' energy industry structure study is relying upon publicly available data rather than company-by-company reserve data, notwithstanding FTC's belief that concentration of reserve ownership is vital to understanding industry structure.

Why?

Based upon FTC experience with OMB, FTC testified at these hearings:

> Had we sought to collect data on reserves, we would have nothing to report now and probably for the next couple years.

Additionally, in the fall of 1970, the FTC submitted a line of business report program to OMB for its approval. Industry, in the form of the Business Advisory Council, had a meeting on this request on January 21, 1971. The representatives of the Business Advisory Council all came from corporations, with assets of at least $1 billion, in addition to such trade associations as the National Association of Manufacturers, the American Petroleum Institute, and the Automobile Association, among others.

Not surprisingly, the Business Advisory Council challenged the need for the data requested by the FTC. As a result, early in the spring of 1971, OMB told the Commission that its proposal was unacceptable and instructed the FTC to go back to the drawing boards. As of the current date, that request made in the fall of 1970, is still pending before the OMB.

In 1969, the Commission severely limited its conglomerate study to nine companies because it knew that OMB would not approve 6(b) questionnaires for a complete conglomerate study.

Most recently, the FTC attempted to estimate the degree of overcharge and the cost to consumers of pricing behavior within concentrated industries. This, too, had to be abandoned because of OMB refusal to clear FTC section 6(b) requests.

Mr. President, the examples are endless, and they are not limited to the Federal Trade Commission. All independent regulatory agencies have specifically delegated authority to collect business information, but this authority is impaired by the need to obtain OMB approval.

This amendment, Mr. President, would give independent Federal regulatory agencies no additional powers. Whatever powers exist in their enabling statutes will continue unchanged. This amendment, Mr. President, will make certain, however, that these powers can be exercised in the wisdom of the agency. This amendment will assure that the commissioners confirmed by this body can exercise their powers of collecting information necessary or appropriate in the discharge of their statutory responsibilities without fear of an OMB veto.

Mr. President, I should add that this is an amendment offered jointly by the Senator from Washington and the Senator from Michigan. I hope very much that the amendment will be agreed to.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I rise in support of the amendment of the distinguished Senator from Michigan. The amendment would modify the Federal Reporting Services Act of 1942 to exempt independent Federal regulatory agencies from the limitations of that act.

The purpose of this amendment is to preserve the independence of these agencies to carry out the quasi-judicial function which have been entrusted to them by the Congress. I do not interpret the intent of the amendment as encouraging a proliferation of general questionnaires to industry with all the concomitant costs and burdens.

The point of the amendment is to insure that the existing clearance procedure for questionnaires does not become, inadvertantly or otherwise, a device for delaying or obstructing the investigations and data collection necessary to carry out the regulatory functions assigned to the independent agencies by the Congress.

This exemption should be restricted to the greatest extent consistent with its intent. I would consider the following agencies to be covered:

Civil Aeronautics Board;

Federal Communications Commission;

The Atomic Energy Commission—insofar as its regulatory and adjudicative functions are concerned;

Federal Trade Commission;

Interstate Commerce Commission;

Securities and Exchange Commission; and

Federal Power Commission.

I ask my colleague if this is consistent with his understanding of the amendment.

Mr. HART. Precisely.

Mr. HANSEN. Mr. President, if the Senator would yield, this prohibition imposed pursuant to statute by the Bureau of the Budget, now the OMB, has been in effect since 1942.

I ask my distinguished friend, the Senator from Michigan if that is correct.

Mr. HART. The Senator is correct.

Mr. HANSEN. Would it seem appropriate to the chairman of the committee that hearings should be held on this matter? I do not know what we are talking about and feel that the amendment has very little relevance to the pipeline bill.

Mr. JACKSON. It is very simple.

Mr. HANSEN. This amendment is not in the category pertaining to the stripper well business is it? We need hearings on the prior amendment, but not on this?

Mr. JACKSON. Now, wait a minute. This is the independent Federal agencies that we are dealing with.

Mr. HANSEN. We have been working with this law since 1942.

Mr. JACKSON. Well there are a lot of things we have been working with since 1942.

Mr. HANSEN. I suppose the Senator has answered my question.

Mr. JACKSON. Are there any further requests for time?

Mr. METCALF. Mr. President, will the Senator yield?

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. JACKSON. I yield first to the Senator from Montana, and then the Senator from Arizona.

Mr. METCALF. Mr. President, the Federal Reports Act of 1942, which provides for the coordination and collection of information by Government agencies from 10 or more persons or firms has been the subject matter of hearings before the Subcommittee on Intergovernmental Relations of the Committee on Government Operations of the Senate in several instances. As a part of these hearings, the influence of the 1942 act on the power of the independent regulatory agencies to gather information and submit questionnaires has been a subject of the special study. These hearings were held on October 6, 7, 8, and 9 of 1970 and December 8, 10, and 17 of 1970. Witnesses included representatives of the regulatory agencies of the Office of Management and Budget, representative members of OMB advisory committees and representatives of the public.

When Everette McIntyre, Chairman of the Federal Trade Commission testified, he put into the RECORD a history of the Federal Reports Act of 1942, which includes some information as how it came to be applied to questionnaires and information gathering facilities of regulatory agencies (Advisory Committee hearings, part II, pages 274–275). It was his conclusion that—

> There is no doubt that the purpose for which the Act was conceived—to cut costs to the Government and to avoid unnecessary harassment of citizens and businesses—has considerable merit. If, however, it becomes an instrument of control over some types of investigations, specifically those of independent regulatory agencies—and this in fact has occurred—it would appear that the authority the Act vests in the Bureau of the Budget needs to be reexamined.

Mr. Ed Wimmer, vice president and public relations director of the National Federation of Independent Business, Inc., one of the original sponsors of the Federal Reports Act of 1942 testified on October 7, 1970, and told how in 1942, businessmen all over America were harassed by the volume of reports and paper work required by the Office of Price Administration. He pointed out that at that time it was impairing the activity of small businessmen and their ability to help with the war effort.

My immediate predecessor in the Senate, Senator James E. Murray, who was chairman of the Small Business Committee, heeded the concern of these small businessmen, and the result was the Federal Report Act of 1942 requiring clearance by the Bureau of the Budget before questionnaires and other reports could go out from any agency. During the course of the debate, concern was expressed by several Senators and Members of the House of Representatives that this act was too broad and that in covering regulatory agencies and other independent agencies it went further than was necessary to cure the evil that was apparent in the OPA reports. But in haste to pass this legislation, some of these questions that were raised were not heeded.

Mr. Wimmer did come back and testify before the committee in 1970 that it was never the intention of his organization and the people he represented to take away the power of investigation and the information gathering facilities of the independent regulatory agencies, and that, in his opinion, the act has been used for control of the regulatory agencies and restriction of information gathering ability of Congress rather than for the original purpose of eliminating the blizzard of paperwork that was descending on small business.

In other words, the Federal Reports Act originally passed as relief for small business, is now applied to the advantage of big business.

The hearings on the Federal Reports Act, and the industry committees advising OMB on information clearance, led to a broader and more indepth set of hearings on advisory committees by the Subcommittee on Intergovernmental Relations in 1971. There were 12 days of hearings on legislation which was finally adopted by Congress in 1972. Part of the hearings referred to the OMB advisory committees. Nevertheless the subject of OMB control over independent regulatory agencies was ever present.

The subject matter was again taken up in a third set of hearings on exemption of the budgets of regulatory agencies from clearance by OMB. These hearings were held by the above subcommittee on February 15, 16, and 17, 1972, February 22 and 23, 1972, and May 17 and 25, 1972. Witnesses were again a representative group from OMB; from regulatory agencies, from the academic community and public interest witnesses representing the public. These are all steps in liberating the independent regulatory agencies as arms of Congress from control by the Executive Office of the President and the Office of Management and Budget.

Under the present regulations, the procedures for a regulatory agency to submit a questionnaire or to try to gather information from more than nine people in an industry is about as follows: It is necessary for the questionnaire not only to be approved by the members of the commission itself who are confirmed by the Senate, but it must be submitted to OMB. It is the practice of OMB to submit such a request for the circulation of a questionnaire to the Business Advisory Council of Federal Reports for approval.

In 1970, the Subcommittee on Natural Gas Pipelines of the Business Advisory Council of Federal Reports (pt. I, hearing on S. 3067, 91st Cong., 2d sess., Subcommittee on Intergovernmental Relations of the Committee on Government Operations, p. 130) was composed of the following members:

LIST OF MEMBERS

E. H. Hasenberg, Natural Gas Pipeline Company of America (Chairman).

W. Page Anderson, Panhandle Eastern Pipe Line Co.

Daniel L. Bell, Jr., Columbia Gas System Service Corporation.

I. D. Bufkin, Texas Eastern Transmission Corp.

Robert L. Cramer, Florida Gas Transmission Co.

J. D. McCarty, United Gas Pipeline Co.

Harry A. Offutt, Consolidated Gas Supply Corp.

C. W. Radda, Northern Natural Gas Company.

Walter E. Rogers, Independent Natural Gas Assn. of America.

Harry B. Sheftel, Office of Management and Budget.

Robert H. Stewart, Jr., Gulf Oil Corp.

Lloyd M. Barenkamp, El Paso Natural Gas Company.

The Subcommittee on Petroleum and Natural Gas was composed of the following members:

LIST OF MEMBERS

Robert H. Stewart, Jr., Gulf Oil Corporation (Chairman).

A. P. Bradford, Texaco, Inc.

C. J. Carlton, Standard Oil Co. of California.

James S. Cross, Sun Oil Company.

E. Wilson Fry, Atlantic Richfield.

E. H. Hanenberg, Natural Gas Pipeline Company of America.

Edward R. Heydiner, Marathon Oil Company.

John E. Hodges, American Petroleum Institute.

G. B. McGillibray, Mobil Oil Corporation.

Harold T. Lingard, Office of Management and Budget.

Melvin L. Mesnard, Independent Petroleum Assn. of America.

Carl E. Richard, Humble Oil and Refining Co.

Frank Young, Continental Oil Company.

The Subcommittee on Public Utilities—Financial Reports was composed of the following members:

LIST OF MEMBERS

Robert S. Quig, Ebasco Services Incorporated (Chairman).

C. M. Allen, Panhandle Eastern Pipe Line Co.

A. J. Brodtman, New Orelans Public Service Company.

Miles J. Doan, The Cincinnati Gas & Electric Co.

Robert R. Fortune, Pennsylvania Power & Light Co.

Arthur E. Gartner, Consolidated Natural Gas Co.

John Geiger, Pacific Power & Light Company.

John S. Graves, Columbia Gas System, Inc.

Robert A. Jeremiah, Long Island Lighting Company.

J. C. Johnson, Southern Services, Inc.

Albert J. Klemmer, Rochester Gas & Electric Company.

Frank H. Roberts, Northern Natural Gas Company.

William E. Sauer, Peoples Light & Coke Co.

Harry B. Sheftel, Office of Management and Budget.

Alfred E. Softy, Edison Electric Institute.

William T. Sperry, Public Service Gas & Electric Co.

Douglas M. Tonge, American Electric Power Service Corp.

Therefore, in order for the Federal Power Commission, for example, to determine whether or not information will be available to it from the various gas pipelines of the United States, the FPC would have to survive the veto of the principal officers of the pipeline it is required to regulate. The same is true of the other regulatory agencies who have to go through an advisory committee consisting of officers with special interest in the field in which the Commission seeks to regulate. These include all the independent regulatory agencies—the CAB, FTC, SEC, and the like, all of whom have special OMB subcommittees that pass upon information that they are seeking from the companies that they are required to regulate.

Senator HART's original amendment No. 332, which he offered on July 12 related to the investigative powers of the Federal Trade Commission under its section 6(b) of the Federal Trade Commission Act. Control by OMB over FHC's 6(b) powers was one of the more telling lines of testimony in hearings held by the Subcommittee on Intergovernmental Relations in 1970 (S3067, 91st Cong., 2d sess.).

Now that Senator HART has broadened his amendment, to include all independent regulatory agencies, and remove all from such agencies subject to OMB approval, I presume we can assume that the monopoly and anticompetitive investigatory powers of FTC are entirely included in the modified amendment, as well as the information gathering of other agencies as it relates to the activities of companies involved in the Alaskan pipeline, and other corporate activity.

I urge the adoption of the Hart amendment, as modified.

I ask unanimous consent that an exerpt from part 2 of the hearings of the Subcommittee on Intergovernmental Operations on Advisory Committees October 8, 1970, at pages 195 to 198 be included at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

MR. TURNER, COUNSEL FOR THE COMMITTEE, INTERROGATING MAURICE MANN, ASSISTANT DIRECTOR OF OMB

Mr. TURNER. Now, Mr. Mann, you referred to the nitty-gritty several times, and I would like to get something that we discussed yesterday. And I am sorry you did not have a chance to review the testimony, but it concerns not only our testimony yesterday but an article in the Washington Post in the business section this morning, an article dated October 8, 1970, entitled "Monopoly Trend Cited—FTC Asked To Study Fuel, Power Firms."

(The article referred to follows:)

[From the Washington Post, Oct. 8, 1970]

FTC ASKED TO STUDY FUEL, POWER FIRMS—MONOPOLY TREND CITED

(By David Vienna)

"A powerful congressman has asked the Federal Trade Commission to study 'the trend toward monopoly' among fuel and power companies in light of declared shortages of coal, electricity and natural gas.

"Rep. Joe L. Evins (D-Tenn.) in a Tuesday letter to FTC Chairman Miles W. Kirkpatrick, said, 'I am deeply concerned over the monopolistic concentration of ownership of these vital and important areas of our economy—such as the reported acquisition of a number of major coal companies by oil companies.'

"Early last month, Sen. Philip A. Hart (D-Mich.), chairman of the Senate Antitrust and Monopoly Subcommittee, asked the FTC to learn whether oil companies were withholding data on natural gas reserves and, if so, to determine if this violated antitrust laws.

"Trade commissioners wrestling with Hart's request, are worried about embarrassing the Federal Power Commission. The FPC has been accused by Hart of basing a proposed gas rate increase solely on information supplied by industry.

"The trade commissioners Tuesday took up a proposal for an oil industry study, drafted by their staff in response to Hart's request. They were not happy with the proposal and delayed action until next week, FTC sources said.

"The study proposed by Evins is more broadly based and probably more to the liking of the Trade Commission members. Besides, Evins is chairman of the House Appropriations Subcommittee from which the FTC gets its budget.

"At a House Small Business Committee hearing on the energy crisis Tuesday, Evins, who also is chairman of that panel, said he agreed with a view expressed by Rep. Silvio O. Conte (R-Mass.).

"Conte said, 'I think there is a conspiracy among the oil companies in this country not to produce' industrial grade or residual fuel oil.

"Evins, according to his letter, is particularly worried about coal shortages. The Tennessee Valley Authority in his home state is a big coal customer.

"The National Coal Association in a September statement said that 'those who allege that energy companies' are responsible for the current coal shortage and current high prices also give the impression to the public that a very large part of the productive capacity of the coal industry is controlled by the oil industry.

"'This is contrary to the facts,' the association said. 'Only about 20 per cent of the productive capacity of the coal industry is owned by the oil industry.'

"Furthermore, the coal association said, 'the ownership of coal reserves by oil companies not producing coal exists primarily in areas (the Far West and Illinois) where there are such very great reserves of coal that "monopoly" is impossible, and ownership of reserves has nothing to do with the current shortage.'

"At the House Small Business Committee hearing yesterday, Power Commission Chairman John N. Nassikas explained that a coal shortage exists because coal companies cut back on exploration a few years ago when electric power companies began considering turning to nuclear plants.

"He said a tight electric power supply situation would not be eased for as much as five years.

"Robert E. DeBlois, president of the New England Fuel Institute, said the tight supply of residual fuel oil, used by industry and large institutions, has caused them to turn to the No. 2 fuel oil normally used to heat homes. He warned of 'the distinct possibility of a severe shortage.'

"Meanwhile, Sen. Edward M. Kennedy (D-Mass.) announced yesterday that five major oil companies will release additional residual fuel oil to help ward off a shortage in the Northeast. He listed Gulf Oil Co., Mobil Oil Co., Texaco, Inc., Humble Oil and Refining Co. and Shell Oil Co."

Mr. TURNER. This request for a study has apparently come from Representative Joe L. Evins, Democrat, of Tennessee, in a letter to Chairman Miles Kirkpatrick of the Federal Trade Commission. Representative Evins is quoted as saying, "I am deeply concerned over the monopolistic concentration of ownership of these vital and important areas of our economy," referring to electricity, coal, and natural gas.

"Early last month," the article states, "Senator Philip A. Hart, chairman of the Senate Antitrust and Monopoly Subcommittee, asked the FTC to learn whether oil companies were withholding data on natural gas reserves and, if so, to determine if this violated antitrust laws."

In addition, the Federal Power Commission has pending proposed requests for increases in gas rates on a national basis, and I will take that up seriatim after I discuss with you the Federal Trade Commission situation.

Now, the Congress gave the FTC powers under section 6 of the act, title XV, section 46, United States Code, called "Additional Powers" to gather and compile information and to investigate corporations and their conduct and their practices and their management.

I might say that in section 6(b), which is the important part for your consideration, that the FTC may require, by general and special orders, corporations, excepting banks and common carriers, to file with the Commission, in such form as the Commission may prescribe, annual or special, or both annual and special reports or answers in writing to specific questions, such information as they may require with respect to the organization—and that could refer to the relationships between oil and gas companies, their interlocking directorates, their stock ownership, their control and service contracts—conduct, practices, management, and various other matters related to the activities of the corporation, and such reports and answers shall be made under oath.

Now, do you know, sir, that before the Federal Trade Commission can issue such requests covering the field of natural gas, the resources of natural gas, the capped wells, the drilling, the resources of coal, the resources of oil, and initiating any investigation into potential antitrust and monopoly practices, it must send to the Bureau of the Budget its proposed investigatory request, and that the Bureau of the Budget Office must review it, along with the advisory committees representing the industry to be investigated? Is this your knowledge?

Mr. Mann. I am advised in the case of hearings by the FTC with the hearing examiners this is not covered by the Federal Reports Act.

Mr. Turner. That is exactly my point, Mr. Mann. Under the Administrative Procedure Act, those hearings are of a judicial nature, and I would hope, I would hope that there would be no contact between the Bureau of the Budget and the Federal Trade Commission once a case has been started. I would hope that is true.

Mr. Mann. To the best of my knowledge, Mr. Turner, it is true.

Mr. Turner. Because it would be an interference of executive power in the judicial process.

Mr. Mann. I agree with you fully.

Mr. Turner. But in order to prepare the facts, to obtain information and to make a preliminary investigation—and I have checked this both with the Senate Subcommittee on Antitrust and Monopoly and with the Federal Trade Commission people—it would have to be done under section 6(b), and reports requesting all of the facts with respect to corporate relationships and resources would have to be sent to the Bureau of the Budget for clearance.

Mr. Krueger. I do not know the specifics of the particular case you have in mind. If I understand it correctly, I assume——

Mr. Turner. There is no pending action——

Mr. Krueger. I assume——

Mr. Turner (continuing). Merely seeking information.

Mr. Krueger. I assume that this would be covered by the provisions of the Federal Reports Act.

Mr. Turner. Yes; because the Federal Reports Act does refer in its definition under 44 U.S.C. 3502[6] that a "Federal Agency" means an executive department or commission. So, therefore, the Bureau of the Budget would have to clear such preliminary investigation as requested by Representative Evins and Senator Hart.

Now, let me turn to the second part of my questions. Am I correct in assuming that such a request as this would be submitted to the Advisory Council on Federal Reports and to either a Subcommittee on Petroleum and Natural Gas or some other panel directed to the issue with respect to the necessary scope of the request?

Mr. Krueger. Not necessarily.

Mr. Mann. I think that is a matter of policy. Again, I cannot address myself to the specific case, but the general rule is, for example, if the Federal Trade Commission wants information and wants to send out a questionnaire, then, of course, this would come through the review procedure. On the other hand, if it is a matter within the auspices of a hearing examiner, then it would not come through a review procedure, and therefore would not be subject to this.

Mr. Turner. Now, Mr. Mann, I agree, as I told you—and I will say it again—that if the hearing examiner is hearing an action, a complaint which has been made by the Commission, I would hope under all circumstances that the executive would have no part of ruling on a discovery request. But the preliminary investigations that are required under section 6—and it is one important way, in fact it may be the only way, so far as I can find, that the Federal Trade Commission could have initiated this fuel survey requested by Members of Congress—would have to go to the Bureau.

And I merely asked whether or not this is the type of thing that the Committee on Petroleum and Natural Gas, the industry committee, would have an opportunity to look at, to evaluate, to comment on.

Mr. Krueger. If we considered in the course of an examination of such a proposal that there were questions or reporting problems which we would find it useful to discuss with the committee, then we would refer it to the committee.

Mr. Turner. That is right.

Mr. Krueger. On the other hand, if the committee expressed interest in that and requested an opportunity to look at it, we would consider such a question.

Mr. Turner. That is right. And such a committee is made up of Chairman Robert Stewart and members of the companies of Texaco, Standard Oil, Sun Oil, Atlantic Richfield, and others that I have mentioned so that they would have a very real opportunity at the initial stage of the investigation to face the Federal Trade Commission at the Bureau of the Budget level on the relevance and the necessity of the Federal Trade Commission's survey.

Mr. Krueger. I cannot say right now that it would be referred to that particular committee or that we would consider that the proper committee to consult on such an inquiry. We might request that a special panel be convened with representatives of other parties of the industry. Our consultation with the industry groups is not limited to these formal continuing committees.

There are single-time panels organized to review some of the data-gathering proposals for which a committee does not seem to be the proper kind of a group.

Mr. JACKSON. I thank the distinguished Senator from Montana for that very helpful information regarding the hearings. I think perhaps that answers a part of the question raised by the distinguished Senator from Wyoming.

I now yield to the Senator from Arizona.

Mr. FANNIN. I thank the distinguished chairman of our committee. I would just like to ask a question, because we have had some disputes this morning, and I am sorry that this has come about, but I think we should delve into it, to determine the germaneness of this particular amendment.

As I understand, the amendment was not introduced until July 12, and then it was modified, printed, and released yesterday, July 13.

Is this amendment in accordance with the agreement we have on the bill as to germaneness?

Mr. JACKSON. Well, very candidly, I will say to my friend from Arizona that I cannot stand up in this body and say that all of the amendments that we have been taking up are exactly germane. It all depends on how far you want to go. Some amendments could have been objected to.

But I would say that it is as germane as the amendment we adopted yesterday—we have been more or less making our rules as we go along—in connection with the Federal Trade Commission, in which we granted the subpoena power.

Mr. FANNIN. Mr. President, I am not objecting, but I wish to clarify.

Mr. JACKSON. I understand.

Mr. FANNIN. I just wanted the distinguished Senator from Michigan to know that this is making an exception to the rule and I would like to ask a question; since we have gotten into this, I think we should have clarification. I think copies of the amendment are on Senators' desks. I trust they have all read the amendment.

I would like the Senator from Michigan to explain the change in the law that his amendment would provide.

Mr. HART. Mr. President, the question is quite proper, and I am glad to respond.

This amendment, which is on Senators' desks, would insert four words into section 3502 of title 44.

The PRESIDING OFFICER. The Chair is advised that the time of the Senator from Washington has expired. The Senator from Michigan has 3 minutes remaining.

Mr. JACKSON. Will the Senator from Michigan yield to the Senator from Arizona for his colloquy? Or he can yield on his own time.

Mr. HART. Then, on the remaining time, let me respond.

Section 3502 contains the definition of "Federal agency" which triggers the need to obtain OMB approval.

"Federal agency," as used in that act, means:

> An executive department, commission, independent establishment, corporation owned or controlled by the United States, board, bureau, division, service, office, authority, or administration in the executive branch of the Government; but does not include the General Accounting Office nor the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions;

Mr. FANNIN. I thank the distinguished Senator from Michigan. The only question I would like to ask, if the Senator would permit, is as to the waiver of the germaneness rule on this particular amendment; that does not include the waiver of germaneness on any future amendments?

Mr. JACKSON. Absolutely not. I cannot make the ruling; it is for the Senate to rule, but I am sure that the Parliamentarian would rule that the question of germaneness can be brought up at any time in the absence of an agreement by which the rules of germaneness have been waived.

Mr. FANNIN. I thank the Senator for making that clear.

Mr. JACKSON. I will ask the Chair if that is not correct.

The PRESIDING OFFICER (Mr. Huddleston). The Chair would advise that in this particular case germaneness is waived because the Senate has given unanimous consent to vote upon this particular amendment.

The PRESIDING OFFICER. Who yields time?

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[6] See pt. 1, p. 3.

Mr. JACKSON. I am prepared to yield back the remainder of my time.

Mr. HART. I yield back the remainder of my time.

Mr. DOMINICK. Mr. President, will the Senator from Michigan yield?

The PRESIDING OFFICER. All time has been yielded back.

Mr. JACKSON. Mr. President, I ask unanimous consent to proceed for 1 minute, so the Senator may ask his question.

The PRESIDING OFFICER. Without objection, the Senator may proceed for 1 minute.

Mr. DOMINICK. I do not know; I may be out of step with the rest of the Members of the Senate, but I admit that I do not have the foggiest idea of what the amendment is designed to do. Apparently it waives a whole bunch of restrictions we now have in force insofar as independent regulatory agencies are concerned, and is designed to give them, I gather, much more power than they had before. If I am wrong on that, I would like to be corrected, because under the present situation I intended to vote against the amendment; I do not know what it does, but obviously, since it covers all independent regulatory agencies, we are going away beyond the scope of this bill.

Mr. HART. Mr. President, in whatever time remains I regret I cannot repeat the explanation. But it adds no substantive powers; the Senator from Washington and I insist that it adds nothing to the power of any Federal agency. Not one iota. It does insure that our independent Federal regulatory agencies may be able to exercise the power that is given them without an OMB veto.

The PRESIDING OFFICER (Mr. Huddleston). All time having expired, the question is on agreeing to the amendment of the Senator from Michigan (Mr. Hart). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Colorado (Mr. Haskell), the Senator from Maine (Mr. Hathaway), the Senator from Kentucky (Mr. Huddleston), the Senator from Iowa (Mr. Hughes), the Senator from Massachusetts (Mr. Kennedy), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from California (Mr. Tunney), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee), the Senator from Alabama (Mr. Sparkman), and the Senator from Washington (Mr. Magnuson) are absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson), the Senator from New Hampshire (Mr. McIntyre), the Senator from Rhode Island (Mr. Pastore), and the Senator from California (Mr. Tunney) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Packwood), the Senator from Ohio (Mr. Taft), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker) and the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in the family.

The Senator from Michigan (Mr. Griffin) and the Senator from Nebraska (Mr. Hruska) are absent on official business.

If present and voting, the Senator from Texas (Mr. Tower) would vote "nay."

The result was announced—yeas 46, nays 21, as follows:

[No. 290 Leg.]

YEAS—46

Abourezk
Bayh
Bellmon
Bentsen
Bible
Biden
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Ervin
Fong
Gravel
Hart
Hartke
Hatfield
Hollings
Humphrey
Inouye
Jackson
Javits
Mansfield
Mathias
McClure
McGovern
Metcalf
Montoya
Moss
Nelson
Nunn
Pearson
Pell
Proxmire
Randolph
Ribicoff
Saxbe
Stafford
Stevens
Stevenson
Symington
Talmadge

NAYS—21

Aiken
Baker
Bartlett
Bennett
Domenici
Dominick
Fannin
Fulbright
Goldwater
Gurney
Hansen
Helms
Johnston
Long
McClellan
Percy
Roth
Schweiker
Scott, Pa.
Scott, Va.
Thurmond

NOT VOTING—33

Allen
Beall
Brock
Brooke
Buckley
Byrd, Harry F., Jr.
Cotton
Curtis
Dole
Eagleton
Eastland
Griffin
Haskell
Hathaway
Hruska
Huddleston
Hughes
Kennedy
Magnuson
McGee
McIntyre
Mondale
Muskie
Packwood
Pastore
Sparkman
Stennis
Taft
Tower
Tunney
Weicker
Williams
Young

So Mr. Hart's amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was adopted.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 299

Mr. STEVENS. Mr. President, at this time I call up for consideration amendment No. 299, submitted on June 29 by Senator Magnuson.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 32, line 13, add the following new section:

SEC. 116. The Secretary of the Department in which the Coast Guard is operating is hereby directed to establish a vessel traffic control system for Prince William Sound and Valdez, Alaska, pursuant to authority contained in title I of the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 91–340).

Mr. STEVENS. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, amendment 299 is simple and straightforward. It is a further step in insuring that the marine leg of the Alaska pipeline delivery system is the safest possible. By its terms, the amendment would require the Commandant of the Coast Guard to begin the construction of a vessel traffic control system for Prince William Sound and Valdez, Alaska. The Coast Guard presently has authority to establish such systems where needed and they are being built or operated in Puget Sound, San Francisco Bay, New Orleans, and the New York Harbor.

The authority for these systems is contained in title I of the Ports and Waterways Safety Act and includes authority to—

First, require vessels to comply with the system;

Second, control the movement of vessels during bad weather or in areas of hazardous conditions;

Third, establish traffic routing schemes;

Fourth, direct the anchoring, mooring, or movement of a vessel when necessary to prevent damage to or by the vessel;

Fifth, require the use of pilots; and other requirements designed to prevent maritime mishaps which might damage property or the marine environment.

The Ports and Waterways Safety Act gives the Coast Guard this broad authority because of its technical expertise in navigation matters. Pursuant to its authority, the Coast Guard has been tentatively considering a system for the Valdez tanker traffic which would include the features I just mentioned.

I ask unanimous consent to have printed in the Record a statement with respect to the estimate for a positive vessel traffic control system for Valdez, Alaska, prepared by the Coast Guard.

There being no objection, the material was ordered to be printed in the Record, as follows:

ESTIMATE FOR A POSITIVE VESSEL TRAFFIC CONTROL SYSTEM FOR VALDEZ, ALASKA, INCORPORATING FULL RADAR COVERAGE OF THE TANKER ROUTE FROM SEA TO TERMINAL

1. INTRODUCTION

You requested an estimate of the cost necessary to construct a system which would provide complete radar coverage over the tanker routes from the approaches to the Hinchinbrook Entrance through Prince William Sound to Valdez.

An estimate has been prepared. The cost would be approximately $17,980,000 for construction and $2,650,000 for annual operation and maintenance thereafter. A breakdown of this estimate and an explanation of the system involved follows. It should be understood that this is a preliminary estimate based on past experience, done without engineering site surveys, detailed engineering design or solicitation of price information from possible suppliers or construction contractors for this specific project. Furthermore, it should be understood that such a system, while it may be technically feasible, would be very expensive to operate and maintain—thus the sizeable estimates for these items in the breakdown.

The Coast Guard is not pursuaded that such a sophisticated system is warranted in this area, nor that it would prove more successful in preventing a collision than the system explained in your office. It could play a part in preventing a grounding. However, vessels in the proposed trade would be equipped with the navigation devices (gyrocompass, radar, fathometer, radio direction finder, Loran) necessary to proceed safely through these waters. Thus in this sense the system would be redundant.

A study now in progress is addressing all the major ports and waterways in the United States to determine the necessity for systems, the level of complexity of systems required for a particular port and an order of priority for proceeding port by port in the implementation of vessel traffic systems throughout the nation. It is the stated goal of the Coast Guard in this national effort that systems be installed only where they are needed, and that those systems installed be no more sophisticated nor restrictive to the user, than is necessary to achieve the required level of safety for the particular port in question. A favorable cost to benefit evaluation will be a requisite for any system undertaken.

2. OBJECTIVE

To provide tankers transiting Prince William Sound from Cape Hinchinbrook to Valdez with all-weather, collision/grounding free transit.

3. ELEMENTS OF THE SYSTEM

(A) VHF-FM Communications network with complete coverage of Prince William Sound and 30 miles to sea from Cape Hinchinbrook.

(B) Mandatory charted traffic lanes inbound and outbound, with an intervening separation lane.

(C) Augmented aids to navigation.

(D) Complete Radar coverage of the tanker route from approximately 30 miles south of Cape Hinchinbrook thru Prince William Sound to terminal at Valdez.

(E) Compulsory Pilotage.

(F) Positive control of tanker transit including course stray advisories, recommended speed of advance, as well as movement control such as permission to get underway, anchor, etc.

(G) Computerized control center, located in Valdez with all remote site inputs transmitted by Micro-wave.

4.—SYSTEM COMPONENTS AND ESTIMATED COST

[In millions of dollars]

	A.C. & I.	OE
(A) Vessel traffic control center:		
(1) Building	1.40	0.068
(2) Power supplies	.02	.004
(3) Computers	1.00	.200
(4) Antenna	.20	.040
(5) Displays	.25	.050
(6) Tape recorders	.02	.004
(7) Video mapper	.15	.030
(8) Communications controllers	.03	.006
(9) Maintenances computer	.08	.016
(10) Radar controllers (PPI's etc.)	.50	.100
(11) Miscellaneous equipment	.39	.078
Subtotal	4.04	.596
(B) Housing: (1) Housing for approximately 29 military personnel	1.0	.0600
(C) Remote sites:		
(1) Cape Hinchinbrook:		
(a) High resolution radar	1.00	.2000
(b) VHF-FM communications equipment	.20	.0400
(c) Antenna	.20	.0400
(d) Emergency power	.02	.0040
(e) Control equipment	.02	.0040
Subtotal	1.44	.2880
(2) Montague Point:		
(a) Building (8 x 8) prefab	.01	.0006
(b) High resolution radar	1.00	.2000
(c) Antenna	.20	.0400
(d) Emergency power	.02	.0040
(e) Control equipment	.02	.0040
Subtotal	1.25	.2486
(3) Knowles Head:		
(a) Building (8 x 8) prefab	.01	.0006
(b) High resolution radar	1.00	.2000
(c) Antenna	.20	.0400
(d) Emergency power	.02	.0040
(e) Control equipment	.20	.0400
Subtotal	1.43	.2846
(4) Glacier Island: (Same as Montague Point)	1.25	.2486
(5) Valdez Narrows: (Same as Knowles Head)	1.43	.2846
(D) Microwave transmission: System (connecting all remote sites with center)	5.0	.1000
(E) Electronic spare modules	1.0	.2000
(F) Augmented aids to navigation	.14	.0270
(G) Personnel: 4 officers plus 3 warrant officers plus 22 enlisted		.3080
Total	17.98	3.0528

Note: These figures represent gross estimates and are not based on factual engineering studies.

Mr. STEVENS. Mr. President, with approval of this amendment and enactment of the rights-of-way bill, establishment would begin as soon as possible so that the system could be operative when the oil begins to flow through the trans-Alaska pipeline. And I long for that day, Mr. President.

I urge the Senate to vote favorably on this amendment.

Mr. JACKSON. Mr. President, I rise in support of amendment No. 299, submitted by the distinguished senior Senator from Washington, the chairman of the Committee on Commerce.

As Senators know, it is not possible for Senator MAGNUSON to be present today. He has, however, addressed to me a letter setting forth the objectives of the pending amendment and stating his views on the need for positive vessel traffic control for Prince William Sound and Valdez, Alaska.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 29, 1973.

Hon. HENRY M. JACKSON,
Chairman, Senate Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: As you are aware, I have introduced an amendment to the Federal Lands Rights-of-Way Act of 1973, S. 1081, which would mandate the United States Coast Guard to establish, maintain, and operate a vessel traffic control system for Prince William Sound and Valdez, Alaska. Authority for such action by the Coast Guard presently exists under the Ports and Waterways Act of 1972 (86 Stat. 424, Public Law 92–340).

Positive vessel traffic control systems are now being operated in San Francisco, California, and in Puget Sound in our own State of Washington. The location of one in the Valdez vicinity would provide needed controls for the loading end of the marine leg of the Alaska pipeline delivery system for North Slope oil and gas.

I want to stress that it has been my position that the technical features of these vessel traffic control systems is a matter best left to the expertise of the Coast Guard. The legislative branch is in no position to decide exactly what is technically needed to provide vessel control in any particular geographical location. Consequently, I believe we in the Congress should defer to the discretion and expertise of the Coast Guard in mandating a control system for Valdez.

Therefore, I urge you to support my amendment 299 as the most workable method of directing the creation of a vessel traffic control system for Prince William Sound and Valdez.

Sincerely yours,
WARREN G. MAGNUSON,
Chairman.

Mr. JACKSON. Mr. President, the able and experienced chairman of the Commerce Committee is unsurpassed in the Senate in his interest in, knowledge of, and concern for the safe navigation of ships and vessels in our ports, harbors, and coastal waters. In his letter he has stated the case well, and I endorse the vews stated therein.

It is imperative that positive and timely actions be taken to insure that the marine leg of the trans-Alaska route be afforded the same environmental protection which is to be guaranteed the terrain through which the pipeline itself will pass.

The Congress, by the passage of the Ports and Waterways Safety Act of 1972, has acted "to protect the navigable waters—of the United States—and the resources therein from environmental harm resulting from vessel or structural damage." That act grants authority to the Coast Guard to establish and maintain vessel traffic services in out ports, harbors, and other congested waters in order to prevent collisions, groundings, and other accidents which could result in pollution of our waters and beaches. Furthermore, it provides the Coast Guard with the authority to make mandatory the compliance with those regulations it might set forth in such areas as pilotage, ship movement, and necessary shipboard electronic installations.

The amendment before us would go beyond the granting of authority provided for in the Ports and Waterways Safety Act and specifically direct that, in Prince William Sound and Valdez, Alaska, a vessel traffic control system be established.

The junior Senator from Alaska has expressed his very strong desire for the establishment of a system which will prevent, to the greatest extent possible, the pollution of our Alaskan waters. I most strongly share his concern and desire and I believe that this amendment, offered by the senior Senator from Washington, will attain that goal. I most strongly endorse it, and I urge the support of my colleagues.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. JACKSON. I yield such time as the Senator may require.

Mr. GRAVEL. Mr. President, I agree

very strongly with the concept of this amendment. I have only one problem with it, and that is that it still leaves control of the vessel at the bridge of the vessel, of the ship itself.

I have asked the Coast Guard to prepare a system whereby control would not be at the bridge of the vessel but would lie at a control tower similar to what we have with respect to airplanes at airports.

For that reason, I have an improvement on this amendment, which, unfortunately, I had not had the opportunity to clear with the senior Senator from Washington (Mr. MAGNUSON) prior to his departure to China.

At this time, I ask unanimous consent to have printed in the RECORD the amendment I would propose, but shall not propose, as a substitute, together with a statement of the details explaining this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT

On page 32, line 13, insert the following:

SEC. 116 (a) (1) The Secretary of the Department in which the Coast Guard is operating is hereby directed to establish, operate, and maintain to the extent deemed necessary, a positive vessel traffic control system for Prince William Sound and Valdez, Alaska, beginning twenty miles to sea from Cape Hinchinbrook, pursuant to authority contained in Title I of the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 92-340).

(2) Such positive vessel traffic control system shall, to the extent deemed necessary by the Secretary, include, but is not limited to, the following features:

(A) VHF-FM Communications Network;
(B) Mandatory Charted Traffic Lanes;
(C) Augmented Navigation Aids;
(D) Complete Radar Coverage;
(E) Compulsory Pilotage;
(F) Positive Control of Vessel Transit; and
(G) Computerized Control Center.

(b) No Tanker engaged in the transporting of crude oil of the North Slope area of the State of Alaska to the other states of the United States shall operate in any of the navigable waters of the United States unless such tanker is equipped with a collision avoidance system which, by the use of digital computers and display consoles, will be sufficient to provide affected personnel on such tanker with pictorial displays of harbor approaches and other dangers, and which meets the requirements of the Secretary as contained in regulations issued by him pursuant to subsection (c) of this section.

(c) The Secretary shall issue such regulations as he may determine necessary to carry out the purposes of this section. Such regulations shall contain, among others, provisions setting forth the requirements which must be met with respect to any collision avoidance system referred to in subsection (b) of this section.

(d) No tanker shall engage in the transporting of North Slope crude oil resources in any of the navigable waters of the United States except in compliance with the provisions of this section and regulations issued pursuant thereto.

(e) (1) There is authorized to be appropriated the sum of $23,000,000 for the establishment of the positive vessel traffic control system authorized by subsection (a) of this section.

(2) There is authorized to be appropriated the sum of $3,000,000 for the purpose of operating and maintaining such navigational facility system authorized by subsection (a) of this section.

POSITIVE VESSEL CONTROL SYSTEM FROM VALDEZ TERMINAL TO THE SEA

My proposal for complete radar coverage from Hinchinbrook Entrance thru Prince William Sound to Valdez would cost approximately $22 million to construct and require $2½ million annually to maintain. While this is somewhat of a ballpark figure, the U.S.C.G. did use past experience in developing the cost data, and it should be fairly reliable. I might add that the reason which the Coast Guard gives for not endorsing the system which I propose is because it is not endorsed by the administration. I would like to read from Admiral Bender's letter regarding my proposal . . . "I share your concern over the worsening energy crisis, and the environmental considerations pertaining to the movement of the petroleum by water. Yesterday RADM BENKERT met with you and discussed the various aspects of the navigation problem in Prince William Sound and approaches, the Coast Guard's plans for a communications based system incorporating traffic separation and limited radar surveillance and non-technical details of the sophisticated, full radar coverage system supplied you previously. I fully appreciate your interest in this matter as it relates to the completion of the pipeline and the protection of the environment in this area. It must be stated that the more extensive system would provide a greater degree of control over all vessels in Prince William Sound and immediate approaches than would the simpler system, and would provide a higher degree of safety. . . . The Coast Guard is not in a position to support your amendment since it is not sponsored by the administration. . . ."

Subsequently they prefer a less expensive modification. So once again we are told that if it's not good for the Administration it's not good for the country or it's not good for Alaska. I will not accept that position now or ever. A general comparison of the proposed systems is as follows:

YOURS

Positive vessel control system

1. VHF-FM Communications.
2. Chartered Traffic Lanes.
3. Augmented navigational aids.
4. Complete radar coverage.
5. Compulsory pilotage.
6. Tanker Course, speed & movement control.
7. Computerized Control centers.
8. $22 million Construction & $2½ million maintenance.
9. Fully manned.

THEIRS

Vessel traffic system

1. Same.
2. Same.
3. Same.
4. Limited to Narrows, Arm & Port.
5. Same.
6. Arrival and Departure only.
7. None.
8. $3½ million construction and $½ million maintenance.
9. Partially manned.

However, we cannot accept price as the only criteria. For example, most vessels which will be transporting the oil will cost in excess of $44 million each—with a cargo capacity approximating 890,000 barrels. If the worst happened and one of these ships were lost within Prince William Sound or the Valdez Narrows because of poor weather, faulty navigational aids, or ship master's error, the cost of environmental cleanup, vessel replacement, fishing loss or Canadian ill-will would be completely disproportionate to the modest price tag attached to a positive vessel control system. And, with consideration being given to the use of supertankers, the impact of such a catastrophe would be magnified twofold.

In discussion with my colleagues on this matter the question raised was "did I feel that the justification could be made for the additional cost?" Mr. President, no port on the West Coast will, in the next twenty years be receiving the amount of oil which Valdez will be handling on a day to day basis. The sheer magnitude of providing 2,000,000 barrels per day justifies the need for this system.

And, to further assure that the most reliable collision avoidance system possible is used, I am also proposing that the ships transporting Alaska's oil to the Lower 48 be equipped with navigational systems which, through the use of digital computers and display consoles, will provide the ship masters with pictorial displays of the harbor approaches and the dangers around them. This will provide the ship masters with instantaneous assessment of the area and it will further reduce the probability of human error by providing automatic radar fixes in relation to navigational aids, shoal displays, possible collision points and course and speed of ships in the vicinity. This type of system would also include automatic alarm notification to the captain alerting him when the ship is navigating outside of the parameters of its programed course or if it is exceeding its authorized speed.

A most important and unique feature of this type installation is that it allows the ship to use the Navy's Navigational Satellites to pinpoint its location in any type weather as it journeys from Valdez to Washington or California. This additionall equipment, when used with the satellite system, is extremely accurate and will enable the ship to fix its position within 200 yards of its actual location on the ocean's surface.

And, while I am certain that the cost of collision advoidance systems will result in some opposition by the oil companies, I feel that the additional safeguards which they would provide will assure safe, collision-free transit of ships transporting the oil.

MISCELLANEOUS RELEVANT DATA

Vessels proposed to move Alaskan oil	A	B	C
Ship dead weight tons	86,000	120,000	225,000
Cargo capacity in barrels	636,400	888,000	1,665,000
Draft (feet)	47½	52	70
Construction cost	$33,000,000	$44,000,000	$70,000,000
Construction time in years	2	2½	3½

Note: Harbor depth—Valdez 90 ft, plus; California 57 ft, plus.

Mr. GRAVEL. What this amendment would do would be to treat oil tankers the way we treat jet aircraft. I think this is long overdue. We have handled our maritime ways in a most archaic fashion, and that is somewhat like the right-of-way.

I think that with supertankers and the cost to our environment and the ecology it is ignorant to continue with that approach. I know the Coast Guard thinks my suggestion is an improvement but because of the cost they cannot support it strongly. I hope we can make this improvement in conference.

I wish to ask the junior Senator from Washington if the system I propose could not be implemented if the Executive chose to make that decision under the existing amendment of the senior Senator from Washington.

Mr. JACKSON. The Senator is correct. That is the position taken by the senior Senator from Washington, in his letter, which I have placed in the RECORD.

Mr. GRAVEL. I thank the Senator. That is satisfactory to me with respect to Congress. If the Executive did not come forward to implement this proposal I would seek a stronger measure of this sort in Congress.

I thank the Senator.

Mr. STEVENS. I yield back my time.

Mr. JACKSON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, yesterday I had a colloquy with the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Mr. MONDALE) as to whether the Mondale amendment did or did not exempt the trans-Canada or trans-Alaska pipeline from the provisions of the National Environmental Policy Act.

I ask unanimous consent that the text of an editorial from the New York Times of July 13 be printed in the RECORD at this point. The editorial opposes what it views a NEPA exemption in the Mondale amendment.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PIPELINE AMENDMENT

Senators Mondale of Minnesota and Bayh of Indiana make a good case for their amendment to the Jackson right-of-way bill, which is designed to speed the building of the long disputed oil pipeline across the state of Alaska. The Senators want a 14-month postponement not only to allow the State Department time to negotiate with Canada on the possibility of an alternative route along that country's Mackenzie River valley but to permit the National Academy of Sciences time to study the engineering and environmental implications of both routes.

At the end of that period Congress itself would make the choice, according to the Mondale-Bayh proposal. If the Canadian alternative seemed politically or economically unrealistic—or unacceptable because of the time it would take to get into production—the line from Prudhoe Bay to Valdez would get a green light and the controversy would be over.

In the conviction that oil will eventually be produced from Alaska's North Slope, our principal concern throughout this controversy has been that the oil be removed in the way least harmful to the environment. The Mondale-Bayh amendment would go far to make possible the most reasonable decision in the shortest time. But to forestall lawsuits at the end of the 14-month period, based on the alleged inadequacies of the Interior Department's environmental impact statement that is now required by law, the Mondale-Bayh amendment would exempt the pipeline from the procedures of the National Environmental Protection Act and therefore from judicial review.

Even though the intent is to substitute the judgment of the respected National Academy of Sciences for the requirements of the Environmental Protection Act, we believe that such exemption could set a dangerous precedent. Any highway, dam, barge canal or other porkbarrel assault on the environment could be similarly shielded from the requirements of NEPA by statutory exemption of this sort, or by the substitution of review by some designated agency. This potentially mischievous provision should be removed from the Mondale-Bayh amendment. Even if that resulted in its rejection, the worst that could happen would be that the present environmental lawsuits would follow their judicial course, with the possibility that the courts, rather than Congress, would require a more thorough study of the Canadian alternative than has yet taken place.

It would help if the Canadian Government itself would at long last either indicate outright enthusiasm for a Mackenzie Valley pipeline or renounce any interest in it. Its opinions on the subject have until now been so limited in scope and muted in tone that one can only conclude that while it is extremely (and plausibly) sour on the Alaska line—because of the damage its tanker leg might do to the British Columbia coast—it is somewhat less than eager for a trans-Canadian one.

Mr. JACKSON. Mr. President, the editorial states in part:

> But to forestall lawsuits at the end of the 14-month period, based on the alleged inadequacies of the Interior Department's environmental impact statement that is now required by law, the Mondale-Bayh amendment would exempt the pipeline from the procedures of the National Environmental Protection Act and therefore from judicial review.
>
> Even though the intent is to substitute the judgment of the respected National Academy of Sciences for the requirements of the Environmental Protection Act, we believe that such exemption could set a dangerous precedent. Any highway, dam, barge canal or other porkbarrel assault on the environment could be similarly shielded from the requirements of NEPA by statutory exemption of this sort, or by the substitution of review by some designated agency. This potentially mischievous provision should be removed from the Mondale-Bayh amendment. Even if that resulted in its rejection, the worst that could happen would be that the present environmental lawsuits would follow their judicial course, with the possibility that the courts, rather than Congress, would require a more thorough study of the Canadian alternative than has yet taken place.

RESPONSE OF OIL INDUSTRY TO MAJOR PUBLIC POLICY QUESTIONS

Mr. NELSON. Mr. President, earlier this year I inserted into the CONGRESSIONAL RECORD three articles on the oil industry that appeared in the April issue of the Progressive magazine. These articles presented dramatic and deeply disturbing material and charges about the policies, practices and procedures of the oil industry. One of the articles was by our former and still valued colleague, Fred Harris. The second was by Philip M. Stern, whose books on taxation and on other subjects have won widespread acclaim. The third article was by Laurence Stern, the able, award-winning writer for the Washington Post.

These articles represented a significant challenge to the oil industry on many important points involving major public policy questions. At the time I inserted the articles in the RECORD, I announced that in order to assure that the oil companies had a full opportunity to comment on these issues I would write the leading oil executives for their comments on the articles and submit their response for printing in the RECORD.

Thus far, I have received responses from Mr. Frank N. Ikard, president of the American Petroleum Institute; Mr. William P. Tavoulareas, president of Mobil Oil Corp.; Mr. H. Robert Sharbaugh, president of the Sun Oil Co.; Mr. James D. Parriott, Jr., director of public affairs, the Marathon Oil Co.; Mr. W. F. Martin, president and chief executive officer of the Phillips Petroleum Co.; Mr. Stephen Stamas, vice president—public affairs, Exxon Corp.

I ask unanimous consent that these responses be printed in the RECORD at the end of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NELSON. Mr. President, early next week, I intend to bring up for consideration amendments to the Alaska pipeline bill which would establish a temporary study commission on the energy fuels industries and require major fuel producers to disclose data they now keep secret concerning their reserves of mineral fuels.

At that point, I will have further comments on our energy problems and the role of the oil industry in our energy affairs.

EXHIBIT 1

AMERICAN PETROLEUM INSTITUTE,
Washington, D.C., April 25, 1973.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: I appreciate your fairness in inviting a response, by your letter of April 16, to the articles from *The Progressive* that you inserted in the CONGRESSIONAL RECORD on March 20. You are certainly right in stating that there is more than one side to this issue, and also that a balanced and vigorous dialogue is important to the national welfare.

I would not attempt to burden this correspondence with a detailed reply to every criticism of the petroleum industry raised in the three articles in question. These same criticisms have been aired repeatedly over the years and have been just as often refuted. Even the few key charges that I will respond to on this occasion have been thoroughly debunked by myself and others on innumerable past occasions. If I were to make a criticism of the petroleum industry's detractors, I would accuse them of an undue fondness for cliches and for the trite and threadbare in making their attacks against us.

Let me begin with that tired old claim that the oil industry is a monopoly. Here are a few facts that should take care of that charge:

There are no "big three" or "big five" companies in the petroleum industry. Instead, in speaking of the major petroleum companies it is necessary to refer to the "big" 25 or the "big" 30.

Some 7,000 firms are engaged in the search for and production of oil and natural gas. The largest of these business organizations accounts for only about nine per cent of total production.

There are some 250 oil refineries operating in 39 states. The largest refining company has less than nine per cent of the total capacity.

On the average, a motorist has a choice of 28 gasoline brands in his state. The largest single marketer accounts for only about eight per cent of the total sales.

As for the claim about the petroleum industry's "political power," let me give a few examples that should dispose of that charge:

Since 1954 the intensely competitive business of finding and producing natural gas has been regulated by the federal government on the same basis as a public utility. Yet gas producers do not receive any of the privileges accorded public utilities—such as an exclusive franchise or the right of eminent domain. There is no other example of the federal government regulating a competitive, non-utility business on such a basis over a period of peacetime years.

The petroleum industry has an exceptional record for moderation in price increases. For example, from 1962 through 1972 the service station price of gasoline (excluding taxes) increased 20 per cent—compared to an increase of more than 38 per cent in the official Consumer Price Index. Yet despite this record, petroleum has been singled out for direct federal price controls in the current program.

In 1968 the largest known oil field on this continent was discovered on Alaska's North Slope. Despite a domestic oil shortage, not one drop of that North Slope oil has yet reached consumers in the lower 48 states. Delivery of this oil to consumers has been frustrated by failure to approve the needed pipeline even though the most exacting environmental requirements have been met.

A moratorium on drilling on leases granted off the California coast has been in effect for three years. Delays and restrictions have hindered undersea drilling in other areas.

Actions by governmental bodies have prevented construction of needed new refinery capacity or delayed plans for such projects.

Percentage depletion rates for oil, gas, and most other minerals were reduced as part of the 1969 tax legislation. Oil and gas took by far the sharpest depletion rate cut. In addition, percentage depletion was made subject to the tax on tax preferences. The combination of these changes resulted in an increase of more than half a billion dollars annually in the petroleum industry's federal income tax burden.

Numerous other examples could be cited, but these should be enough to make the point.

In a speech in support of percentage depletion, made on the Senate floor April 19, 1967, Senator Fred R. Harris of Oklahoma (the same Senator Harris whose article you inserted in the *Congressional Record*) said: "Responsible national policy would call for doing all we can to encourage, to stimulate the needed intensified search for oil and natural gas."

I agree with this statement by Senator Harris as much as I disagree with the extravagant charges against the petroleum industry made in the article in question.

The phony debate technique used by Philip M. Stern in his article could well be characterized as an example of the Walter Mitty syndrome. Since Mr. Stern composes the arguments for both sides, naturally his viewpoint wins (even though he has to do some sleight of hand with statistics to pull off the victory). On those occasions when Mr. Stern's views have been debated under less one-sided conditions, he has not fared so well.

Mr. Stern resorts to a much-used bit of statistical trickery in his charges about the tax burden of the petroleum industry. He relates the worldwide income of a group of oil companies to their alleged U.S. income tax—completely ignoring their income tax payments to foreign governments. For such a comparison to be fair, it would have to follow one of two courses of consistency: either compare worldwide income with worldwide income taxes, or U.S. income with U.S. income taxes. An analysis by Price Waterhouse & Co. of data compiled from 18 leading petroleum companies indicates that their 1971 effective income tax rate on their U.S. source income was 23.5 per cent. This is substantially higher than the figures cited by Mr. Stern (and by Senator Harris).

In discussing petroleum tax treatment, Mr. Stern and the other critics, of course, disregard one grim fact that *investors* cannot ignore: Of every 60 wells drilled in search of new or gas fields, only one—on the average—makes a commercially significant find.

Had Senator Harris researched his article a little more thoroughly he would not have repeated the old chestnut about the Cabinet Task Force on Oil Import Control having claimed that the oil import program costs consumers $5 billion each year. James W. McKie, who served as chief economist on the Task Force staff, has publicly branded such a use of that figure as "a misleading oversimplification of the economic impact of the oil import control program."

Senator Harris also failed to note that five of the seven members of the Cabinet Task Force on Oil Import Control expressed serious reservations about the plan proposed in the report, and two of these five actually filed a dissenting report.

He also fails to note that Gen. George A. Lincoln, who was Director of the Office of Emergency Preparedness, and who concurred with the report, on January 10 of this year gave the Senate Interior Committee a rundown of five key points on which the report's "foresight was critically in error on the optimistic side."

Senator Harris is also off the beam in his comments on oil industry profits. In point of fact, oil company profits trailed below the all-manufacturing average in seven of the past ten years. Last year, according to figures compiled by the First National City Bank of New York, the rate of return for oil companies, in relation to net worth, averaged less than 11 per cent. By comparison, the figure for all manufacturing was a shade over 12 per cent.

The May, 1972, issue of *Fortune* magazine contains the annual roundup of financial data on the 500 largest U.S. industrial firms for the preceding year. Of the 25 largest companies—on the basis of total profits—eight were oil companies. But only one of these eight oil companies made the list of the top 100 on the basis of return on equity investment.

I do not want to neglect Laurence Stern. He gets quite emotional on the subject of natural gas prices and quotes some quite imaginative statistics on the subject. He ignores this key statistic, however: The wellhead price of natural gas is only about one-fifth of the cost the household consumer pays for this fuel.

I have long been puzzled as to why some people become enraged at the thought that domestic wellhead prices of natural gas might rise to 30, 40, or even 50 cents per thousand cubic feet (to provide an economic climate for exploration and increased reserves). But these same people are apparently quite complacent at the prospect of paying $1, $1.25 or more per thousand cubic feet for liquefied natural gas imported from Algeria, the Soviet Union, or other distant and not consistently friendly lands.

I could go on. There are many more vulnerable points in these articles. As I have indicated, they have all been answered frequently and at length. I am attaching to this letter, however, a number of documents that will serve to set the record straight and to present the "other side" that your letter to me indicates you are seeking. These documents are:

1. Statements of witnesses who testified on various aspects of the petroleum industry's tax treatment on behalf of the American Petroleum Institute and other industry organizations before the House Ways and Means Committee on March 19, 1973.

2. A reprint of a Fact & Fiction page from the *Oil and Gas Journal* of November 13, 1972, refuting incorrect claims about the petroleum industry's tax burden.

3. "One Answer to the Energy Crisis," a compilation of statements made by witnesses who testified on behalf of the American Petroleum Institute and other industry organizations before the Senate Committee on Interior and Insular Affairs on April 11, 1972.

4. A statement of LeRoy Culbertson on behalf of the American Petroleum Institute presented to the Senate Committee on Interior and Insular Affairs on March 24, 1972. Pages 10 and 11 deal with the matter of natural gas reserves that was raised by Laurence Stern.

5. The full text of the October 11, 1971, letter of James W. McKie that was mentioned above.

6. An excerpt from the January 10, 1973, testimony of General Lincoln—also mentioned above.

7. Press releases on fuel oil supply, issued by the API on February 21 and 23 of this year. The February 21 release refutes Laurence Stern's charge that the industry "misled" the Office of Emergency Preparedness.

8. Reprints from the Fact & Fiction pages of the *Oil and Gas Journal* that relate to Senator Harris' charges about oil proration laws. This issue is now obsolete because production in all states is virtually at capacity.

9. The text of my address before the 50th annual meeting of the API in November, 1969, in which I advocated adoption of a national energy policy. This refutes Laurence Stern's implication that the petroleum industry is only now talking about such a policy.

If I have made it clear that there is much, much more to be said on the industry's side of these issues than the articles under discussion would suggest to an uninformed reader, then my letter has accomplished its purpose. Thank you again for your interest in inviting this response.

Sincerely,

FRANK IKARD.

PHILLIPS PETROLEUM CO.,
Bartlesville, Okla., June 7, 1973.

Hon. GAYLORD NELSON,
U.S. Senator from Wisconsin,
Senate Office Building,
Washington, D.C.

DEAR SENATOR NELSON: This is in response to your letter of April 30 and the enclosure from the CONGRESSIONAL RECORD.

Having read the letter you received from Mr. Ikard, President of the American Petroleum Institute, I will not comment, as he has done, on the various criticisms of the petroleum industry made in the articles published by *The Progressive* but rather I wish to make more general observations.

I agree with you that there are two sides to every issue. This is especially true of the criticisms of the petroleum industry being advanced today. However, it sometimes appears that the petroleum industry is singled out for special accusatory treatment based largely on isolated and unique business situations of a single individual or company which prompts public clamor. This is unfortunate, to say the least.

While we do not contend that mistakes are not made by representatives of petroleum companies, we do not believe rebukes are warranted against the entire industry when they stem from separate and particular instances. By the same token, I think you will agree that the Congress of the United States should not be judged on the basis of alleged irresponsible actions of a few members. There are those abroad and in this country who would destroy the private enterprise system which has brought this country to its present state of pre-eminence. The petroleum industry is a choice target for this objective. These people, having found that they cannot accomplish their purpose of socializing the country through the ballot boxes, have resorted to originating and furthering unjust criticism designed to promote piecemeal regulation of the petroleum industry which may have the unfortunate result of placing the industry in the position of being unable to meet its obligations to the citizens of this country. I trust this will not happen because if it does a strong case for nationalization will be made available to those who care to pursue it.

Those of us who believe strongly in the private enterprise system must be diligent in our efforts to maintain it, and in my judgment the petroleum industry should be freed of much of the regulation under which it now struggles rather than be subjected to more regulations as is proposed by many of its self-appointed critics.

With the critical energy problems facing our country, this is a time when Government and the petroleum industry should seek to understand the problems of the other and provide solutions rather than develop conflicts.

I appreciate your thoughtfulness in giving me the opportunity to respond to the articles you placed in the CONGRESSIONAL RECORD.

Respectfully yours,

W. F. MARTIN.

MOBIL OIL CORP.,
May 31, 1973.

Senator GAYLORD NELSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR NELSON: In your letter of April 30 you extended to us the opportunity to respond to a series of statements that appeared in the PROGRESSIVE magazine and which appeared in the Congressional Record on March 20.

We have often taken the initiative to discuss the oil industry and the U.S. energy situation in public, and we are always pleased when there is responsible discussion of these matters which are so important to the nation. As you can appreciate, we oftentimes do not agree with positions taken, but we continue to believe that responsible debate is in the public interest. Unfortunately, the items referred to in your letter cannot be called responsible. It would therefore be a waste of time for me to engage in a point by point discussion of unsubstantiated generalizations and innuendo. I would like to mention only a few examples.

Laurence Stern quotes from a speech by S. David Freeman, whom he identifies as Director of the Ford Foundation Energy Policy Project, but conveniently ignores the fact that the Energy Policy Project itself disavowed the speech the week after it was given, as not representing the conclusions of the project.

Mr. Laurence Stern also quotes a Mobil advertisement to support an argument that the oil industry believes "that what is good for the oil industry is good for the country." Our statement was:

"Oil companies knew the shortage was coming. We knew how it could be averted. For the last twenty years we have told everyone who would listen what we knew, but we failed to convince policy makers to take the necessary steps."

It is often pleasant to know that you were right in making a forecast. In this case we are not happy that we were right. We saw the shortage coming. Nowhere in the advertisement (copy attached) did we say or imply that what is good for the oil industry is good for the country. We do believe that a shortage of energy is not good for the country, and we would suppose that Mr. Stern might agree. Incidentally, our failure to convince policy makers is a poor track record for an industry which some think is "politically the most powerful in the country."

Even the statistics in the article are either wrong or handled in a misleading fashion. For example, the quote from Mr. Harris's article says that 55.4% of all petroleum sales in 1970 were made by four companies: Standard of New Jersey, Mobil, Texaco, and Gulf. In point of fact, published statistics show that these four companies accounted for 32% of total petroleum sales; and in the case of gasoline—a market which is highlighted as lacking in competition—the four companies only accounted for 27%.

In the Philip Stern article, *worldwide* before-tax income is related to *U.S.* income taxes. Now, it should come as a surprise to no one that a company—such as Mobil—which in the year cited earned 73% of its before-tax income overseas, would have paid substantial *foreign* income taxes. As a matter of fact, we paid over $500 million in taxes to foreign countries which, when taken together with income taxes paid to the United States, results in a 53% tax rate on worldwide income.

Finally, Mr. Harris makes reference to another Mobil advertisement entitled "Stagnation is Still the Worst Form of Pollution." His interpretation is: "This message really boils down to the claim that if the energy industry has to join the free enterprise system, economic growth will be killed." I am attaching the full advertisement for the record. Nowhere in the advertisement can we find a basis for the interpretation made by Mr. Harris. Indeed, the advertisement is directed at one of the cruelest hoaxes which is current in the country today. This hoax would have us believe that those who are proposing limitation of further economic growth would also be prepared to reduce their own standard of living so as to provide for the legitimate aspirations of those less advantageously situated.

Sincerely,

W. P. TAVOULAREAS.

[From the New York Times, Jan., 18, 1973]

IS ANYBODY LISTENING?

If normally cold weather prevails this month, up to 25 percent of the workers in parts of Illinois will be laid off because plants and factories can't get enough natural gas or heating oil.

Major airlines were forced to ration their jet fuel at Kennedy airport recently.

The Federal Power Commission has proposed a long-term system for rationing natural gas.

These items all made newspaper headlines. They all mean the same thing: The U.S. is facing an energy crisis of serious and growing proportions. In a curious way, the oil industry has failed.

Oil companies knew the shortage was coming. We knew how it could be averted. For the past 20 years we have told everyone who would listen what we knew, but we failed to convince policy-makers to take the necessary steps. Some examples:

When the Federal Power Commission began regulating the wellhead price of natural gas in interstate commerce in the 1950's, oil companies told Congress that artificially low prices would increase the demand for natural gas while reducing both the incentive and the ability to search for new reserves.

When the F.P.C. said the only consideration in price controls on natural gas was low prices to the consumer in the short term, oil companies told them this objective ignored adequacy of supply in the longer term and that a shortage would result. The gas shortage is now severe and getting worse.

When federal, state, and local governments decided the environment was to be protected at all costs, we told them this would worsen the natural gas shortage. It has.

Oil companies said that unless new refineries were built in this country, a severe winter could produce critical heating oil shortages. Not a single refinery is under construction in the U.S. at this time. Law suits and regulations stemming from exaggerated environmental fears have blocked the construction of new refineries. So today U.S. refineries are producing heating oil at peak capacity—in record volumes, in fact—and still having to ration it.

Oil companies said it was a mistake to delay construction of the trans-Alaska pipeline, keeping oil from what may prove to be the largest find in U.S. history away from U.S. markets. Today many U.S. refineries are short of crude oil, and foreign supplies of it are being allocated.

Oil companies said further burdens would be placed on U.S. oil and natural gas resources if nuclear energy were not allowed to play an important role in meeting the nation's energy needs. This has happened.

Oil companies said it was a mistake to reduce exploration incentives in 1969; to suspend drilling on offshore California leases; to delay lease sales off the coast of Louisiana; and to refuse to make leases available off the U.S. East Coast. We sounded off on all these issues, but we obviously failed to persuade enough people. In 1971 fewer exploratory wells were drilled in this country than in any year since 1947.

With such a good track record for prophecy in the past, what are oil companies saying *now?*

That while the U.S. has a strong energy resource base for the long term, in the form of coal, oil shale, uranium, and petroleum, it faces a critical oil-and-gas supply problem from now to about 1985.

That we are not alone in this critical supply problem for the next 12 to 15 years. Europe and Japan are facing the same problem. If the U.S. does not develop greater domestic capability for producing oil and gas, we will find ourselves competing increasingly with other countries of the West for relatively scarce supplies of petroleum from exporting nations.

That the long-term U.S. resource base can be developed to make us almost self-sufficient in energy and thus hold our dependence on foreign sources to a reasonable level, only through the adoption of realistic national energy policies.

That our country's fast-rising imports of oil and gas over the next 12 to 15 years—amounting to about half of our total consumption by 1985—pose balance-of-payments and securtiy problems to which we are not giving enough attention.

That we must rely primarily on oil and gas for energy for at least the next 12 to 15 years and accordingly must minimize our dependence on imports by finding, developing, and producing more oil and gas in this country.

That the most promising areas for this additional petroleum lie under the waters of our outer continental shelf, and that federal leasing of this acreage for exploration should proceed apace.

That we should be building a great deal of additional refining capacity here—particularly on the East Coast, where demand is greatest and where most of the imported oil is brought in—and stop exporting American jobs and capital on such a large scale.

That our nation should be building superports capable of accommodating the huge tankers that reduce transportation costs.

That atomic power plants should be built at a far faster rate.

That we must be sensible about environmental demands and must strike a socially acceptable balance between environmental considerations and the need for additional energy supplies.

Our industry seemed finally to have made itself heard last month when the *Washington Post* said in an editorial:

"The price of gas ought to be raised . . . The present shortage of gas to residential consumers has risen largely because of obsolete and harmful price regulations imposed by the federal government. Despite soaring demand, the price has been held far below the cost of competing fuels. Present policy is a monument to the influence of senators and congressmen from the urban states."

Is anybody *else* listening?

[From the New York Times, May 4, 1972]

STAGNATION IS STILL THE WORST FORM OF POLLUTION

Pollution takes many forms. In the American experience, by far the most damaging form has been stagnation. Economic stagnation.

This is the stagnation that brings a region or a community (or a race, or an economic group) or the whole country to a standstill. It deprives people of upward mobility. It erodes individual ability and self-respect and even hope.

Of all forms of pollution, economic stagnation has been least acceptable to other generations of Americans.

In the 1930s, as part of our response to the Depression, America mounted a great effort to overcome the blight of the South. And of the Dust Bowl, and other rural sectors. In the 1940s, emphasis shifted to the nation's declining small towns; and for a decade, on into the 1965s, our efforts were directed largely at relief for the depressed areas of New England, the Middle Atlantic states, the Midwest, and the Great Lakes region.

During the 1960s, social policy and programs reached out toward new concerns: the hopelessness of the rural poor, the bitterness of the ghetto.

But for all our good intentions, the basic problem will persist until we focus on root causes: failure to conserve and develop resources; failure to keep pace in fostering the new investment that creates new jobs; failure to encourage sound growth and expansion of the private sector as the sole support of works needed in the public sector. These omissions lead to stagnation. Stagnation has polluted the lives of millions of Americans. It will continue to pollute lives until we as a nation attain the understanding and determiniation that can stop it. And we can stop it without impairing the environment.

To stop pollution of human existence we must restore a decent priority to economic growth—south, responsible, adequate growth. Public policy must encourage growth and expansion. It must encourage investment, innovation, and new technology.

Growth carries with it some costs. But they are costs we can afford and may eventually be able to reduce. Economic stagnation brings far larger costs—larger than America can afford—and they multiply inexorably through the generations.

What we inherit when that happens is surely the very worst of all the many forms of pollution.

SUN OIL CO.,
May 30, 1973.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: Thank you for your recent letter enclosing the three articles from *The Progessive* magazine, as inserted in the *Congressional Record*.

Copies of these articles had been forwarded to us earlier, after publication, by the publisher of *The Progresive*. We did not comment at that time, feeling that if our views had really been desired they would have been solicited prior to publication of the articles.

The articles contain, in my opinion, very serious charges against the integrity and competence not only of this country's petroleum companies but also of the individuals who are responsible for managing and operating them. Yet, in spite of the severity of the charges, to my knowledge the authors did not make one single effort to discuss the issues with representatives of petroleum companies prior to publication. Accordingly, I can only conclude that they were not really interested in factual discussion of the national energy situation, but only in publicizing, for reasons of their own, severe criticisms of the petroleum industry.

Over and beyond the attack on the industry and the many thousands of Americans who give it substance and direction, publication of the articles, in our view, was a disservice to the American people and to the national interest. What we desperately need today is improved public understanding of the basic energy problems we face as a nation, and rational discusion of the alternative actions open to us if we are to avert a really critical situation in the future. The petroleum industry certainly must bear a share of the responsbility for the energy problems we face, just as a share must be borne by government, by all of us consumers, and even, perhaps, by uninformed critics. But accusation by insinuation, implication, half-truth and distortion contributes nothing to rational discussion or to solving the problem.

While it is not my intent to engage the authors or anyone else in debating opinions they advance as facts, or to attempt to rationally respond to the irrational, I will seek to tell you briefly why we consider these articles lacking in both objectivity and accuracy.

For example, they are highly critical of "monopoly" in the energy field, including the fact that petroleum companies are engaged in natural gas as well as oil operations and the fact that they are participating in development of coal, shale, and tar sands resources. The industry's involvement in natural gas, of course, stems from the simple fact that oil and gas are usually found together, and, therefore, developing one requires developing the other. And participation in the development of liquid fuels from coal, shale and tar sands is a logical extension of petroleum operations, and, in fact, essential to the nation's energy security. Investment in these activities is open to anyone who is interested, and is today being strongly encouraged by our government.

Anyone who thinks this is a bonanza being cornered by the petroleum industry might be interested in reading about the experience of Sun Oil Company in developing the Athabasca tar sands in Alberta, Canada (which are mentioned in one of the articles). We initiated our efforts toward commercial production of synthetic crude oil from the tar sands in the early 1960's, attaining sustained production in 1968. Our investment there now totals approximately $300 million. Additionally, as of the end of 1972, we have accumulated operating losses of some $88 million. In the first quarter of this year, a modest operating profit was achieved for the first time, although it is uncertain whether this can be sustained for the remainder of the year.

Another basic charge is that oil and natural gas are overpriced. The fact of the matter is that our country spends less than 3 per cent of national income for energy in its raw forms. And, at both the wholesale and retail levels, U.S. petroleum prices have advanced less in the past decade than have the average prices of all commodities as reported by the Bureau of Labor Statistics.

Considerable criticism is directed at the recently-suspended mandatory oil import control program, and its effect on domestic oil prices. While the mechanics of that program could certainly have been improved, it should be recognized that the basic goal of attempting to prevent heavy U.S. reliance on insecure sources of foreign oil was a valid one. Today our country needs all of the oil it can get, and the control program has been suspended. But it is worth noting that as our dependence on foreign oil has increased, so has the price of that oil. It no longer enjoys a price advantage over domestic oil. And we will be forced in the future to face the price, balance of payments and security of supply problems that foreign dependence entails, a situation that the control program sought, unsuccessfully, to avoid.

Again, the tax equity basis for the percentage depletion deduction is rejected out of hand, and completely ignored is the fact that the effective rate of depletion today is 18 per cent rather than 22 per cent. Further, comprehensive studies have shown that when foreign taxes on foreign earnings are included, and when taxes at all levels of government are considered, petroleum industry taxes as a per cent of revenues are now, and have been, higher than the average for all industries.

Similarly, the industry is depicted as earnthe excessive profits. But the truth is that during the 1962 to 1971 period the industry averaged an 11.8 per cent return on net worth, compared to 12.4 per cent for all other manufacturing industries.

I think these points are sufficient to indicate why we view these three articles as something far less than objective and accurate, and consider them a disservice to the American public.

We appreciate the opportunity to comment.

Sincerely yours,
H. ROBERT SHARBAUGH.

MARATHON OIL CO.,
Findlay, Ohio, May 28, 1973.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: Your April 30 letter requesting J. C. Donnell II's comments on three articles in the April issue of *The Progressive* magazine has been referred to me for reply. Recently, Morris Rubin, editor of that publication, made a similar request and a copy of my reply is attached. I hope that it will be adequate for your purpose.

Also, Frank Ikard, president of the American Petroleum Institute, has replied to your inquiry and generally we are in accord with the views he has expressed. I might point out that Mr. Ikard's letter deals with the allegations of monopoly by citing national market percentages, showing that the largest single marketer has only 8% of the total sales, while my letter dealt with maximum market shares only in the 25 largest gasoline consuming states. The figures, however, are consistent.

We think that you and Mr. Rubin are to be commended for soliciting the comments of those who might hold views contrary to those stated by the Messrs. Stern and Harris, and we thank you for your request.

Sincerely,
JAMES D. PARRIOTT, Jr.,

MARATHON OIL CO.,
Findlay, Ohio, May 18, 1973.

Mr. MORRIS H. RUBIN,
Editor, the Progressive,
Madison, Wis.

DEAR MR. RUBIN: Your March 20 letter to J. C. Donnell II concerning your April issue featuring the power of oil has been referred to me. Thanks very much for soliciting our views.

There was nothing new in the articles. They pretty well covered the points which are usually asserted against the oil industry and omitted the important points in favor of it. Fred Harris' article was a classical and cynical catering to oil paranoia, but I realize that it gives him currency in his new enterprise. Philip Stern's dialogue, Socrates and the Oil Dolt, was good technique. Laurence Stern did the popular thing by quoting Morris Adelman and not mentioning the deluge of contrary opinion, including that of James Akins of the State Department. However, whenever I feel that the oil industry is a leaf in the wind of public policy, which is usually, these articles will be something I can cling to.

I'll cover only three or four of the obvious omissions, but my comments cannot be adequate without going at least to the lengths of the articles themselves. Most of the figures I'll use will be based on those maintained by financial institutions on the 27 leading oil companies. Note that to get industry figures, you have to consider 27 companies, not two or five, and this does not include the thousands of independents in all phases of the industry. I don't know of any major or basic industry which has this broad a competitive base.

The price record of the industry is good. The U.S. always has one of the lowest energy costs among the developed countries. Over the past ten years, the average retail product price has risen at about half the rate of the consumer price index. However, the fact that, with 6% of the world's population, we consume a third of the energy might suggest that the price has been so low that it has encouraged profligate use. At least the Sierra Club thinks so.

The average rate of return on investment in the industry has been below the average of other U.S. business in seven out of the last ten years. This is significant because you can't toss revenue and profit figures around without mentioning an investment base. Your articles never mentioned investment.

Moreover, when all direct domestic taxes are totaled, including state, federal and local taxes, the oil industry averages higher direct domestic tax payments than the average of American business. This doesn't include the gasoline taxes we collect as a conduit for the state and federal governments.

The fact that the industry's after-tax return on investment is only average suggests that the tax provisions covering the industry create no windfall.

Philip Stern did the old trick of comparing worldwide revenues with U.S. federal taxes to arrive at his percentages of tax. In this he overlooks the sovereignty of foreign governments who tax foreign-earned income at rates similar to those in the U.S. and the treaties, conventions and statutes under which foreign tax credits are allowed in order to prevent double taxation. We pay plenty of foreign taxes and they should be stated if foreign income is to be used.

I'm not sure that Fred Harris or I know what he was talking about. He describes price wars and then says that there is no competition among majors. He says that the majors have a "shared monopoly", a term which I don't understand, particularly since, in the top 25 gasoline consuming states there is only one in which one company exceeds more than 20% share of the market. What he has described is an industry. As an employee of a relatively small oil company, I can say that we're able to compete with the big ones where we chose.

I think that in their biased zeal the articles overlooked some matters of broad public policy, particularly in how to deal with the ruinous and compounding trade imbalances which result from growing dependency on foreign oil and natural gas. These imbalances and this dependency are inflationary and they assault our domestic industrial capability. Above all, the articles ignore the fact that supplying energy is a huge and complex job which, perforce, must be done by a huge and complex industry under multiform public policies. The facts that our nation gets more energy at lower cost than almost any other and that the bottom line shows only an average return on investment within the industry indicate that this enormous complex must be doing something right.

I'm sorry that I have not commented on a line-by-line basis, but I hope that this letter adequately responds to your inquiry. Again, thanks for making it.

Sincerely,

JAMES D. PARRIOTT, Jr.
Director, Public Affairs.

EXXON CORP.,
New York, N.Y., June 27, 1973.

Sen. GAYLORD NELSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: Since receiving your April 30 letter to Mr. Brisco (who has been succeeded as President by Mr. C. C. Garvin, Jr.) concerning certain articles critical of the oil industry, we have learned of your exchange on this with Mr. Ikard of the American Petroleum Institute. Mr. Ikard's letter and attachments being quite comprehensive, it would perhaps not be particularly helpful to go over the same ground. Let me add just a few brief comments.

The reference by former Senator Harris to a Jersey Standard (now Exxon) U.S. market share of "nearly 20 per cent" is incorrect; the correct figure would be less than 9 per cent.

The effective rate of income tax on Exxon's U.S. source income was more than 29 per cent in 1972, approximately the level of the previous several years. Income tax obligations on a worldwide basis amounted to an effective rate of about 60 per cent.

With respect to the recounting by Mr. Stern of Professor Adelman's viewpoints on international oil developments, I think it would not be correct to ascribe to Professor Adelman, as the reader might derive from reading Mr. Stern, a suggestion that the international oil industry is cartelized. I believe that the article in the April issue of "Foreign Affairs" by Mr. Akins, formerly Director of the Office of Fuels and Energy at the State Department, also provides useful insight on this whole matter.

We appreciate your identifying and inviting comments on the material discussed.

Sincerely,

STEPHEN STAMAS.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Under the previous order the Senator from Washington was to be recognized to call up an amendment.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that order be vitiated and the time transferred to Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Now, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1191.

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1191, which the clerk will state.

The bill was stated by title as follows:

A bill (S. 1191) to establish a National Center on Child Abuse and Neglect, to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with amendments on page 1, at the beginning of line 4, insert "and Treatment"; on page 2, line 4, after the word "establish", strike out "an office" and insert "a center in the Office of Child Development"; in line 8, after the word "The", where it appears the first time, strike out "Secretary" and insert "Secretary,"; in the same line, after the word "the", where it appears the second time, strike out "Center" and insert "Center,"; after line 9, strike out:

(1) compile a listing of accidents involving children who have not obtained eighteen years of age;

At the beginning of line 12, strike out "(2)" and insert "(1)"; in the same line, after the word "publish", insert "annually"; in line 13, after the word "summary", strike out "annually"; at the beginning of line 15, strike out "(3)" and insert "(2)"; at the beginning of line 19, strike out "(4)" and insert "(3)"; in line 22, after the word "and", strike out "neglect." and insert "neglect; and"; after line 22, insert:

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

On page 3, after line 3, strike out:

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

In line 9, after the word "The", strike out "Secretary" and insert "Secretary, through the Center,"; in line 14, after the word "be", strike out "used—" and insert "used for—"; in line 15, after "(1)", strike out "for"; in line 16, after the word "for", strike out "professional and paraprofessional"; in line 17, after the word "in", strike out "the fields of"; in the same line, after the word "law,", insert "law enforcement, education,"; in line 18, after the amendment just stated, strike out "and"; in the same line, after the word "work,", insert "and other relevant fields"; at the beginning of line 22, insert "(2) establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary"; in line 24, after the word "teams", strike out "of professional and paraprofessional personnel, who are" and insert "of personnel"; on page 4, line 1, after the word "Cases,", strike out "on a consulting basis to small communities where such services are not available" and insert "to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies and organizations which request such services;"; in line 9, after the word "innovative", strike out "projects" and insert "projects, including appropriate parent self-help organizations,"; after line 12, strike out:

(b) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1973, and *$20,000,000* for each of the succeeding four fiscal years.

And, in lieu thereof, insert:

(b) Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

After line 21, insert:

(c) The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

On page 5, line 8, after the word "the", strike out "President" and insert "President, by and with the consent of the Senate,"; in line 9, after the word "among", strike out "persons" and insert "parents, State and local officials, and other persons"; in line 11, after the word "the", strike out "field" and insert "fields"; in the same line, after the word "preventing", strike out "and treating"; in line 12, after the word "and", strike out "neglect" and insert "neglect,"; in line 15, after the word "Commission.", insert "In making appointments to the Commission the President shall give consideration to the appointment of individuals who represent the various disciplines involved in the prevention and treatment of child abuse."; in line 19, after the word "be", strike out "completed" and insert "completed, and the Commission shall hold its first meeting,"; in line 22, after the word "The", strike out "President shall designate" and insert "Commission shall elect"; in line 23, after the word "of", strike out "the" and insert "its"; on page 6, line 10, after the word "doctors", strike out "and other professionals." and insert a comma and "physician assistants, dentists, nurses, social workers, teachers, medical examiners, law enforcement personnel, and other individuals required to report such abuse and neglect;"; after line 13, insert:

(B) the effect of existing programs designed to prevent, identify, and treat child abuse and neglect;

(C) the national incidence of child abuse and neglect, including a determination of the extent to which if any, the incidents of child abuse and neglect are increased in number or severity;

(D) the causes of child abuse and neglect including the relationship, if any, between drug dependence and alcoholism and such abuse and neglect;

(E) the adequacy of funding for efforts to deal with child abuse and neglect available from Federal, State, and local public and nonprofit private resources; and

On page 7, at the beginning of line 1, strike out "(B)" and insert "(F)"; in line 10, after the word "for", insert "Federal and State"; in line 22, after the word "request", strike out "made by" and insert "of"; on page 8, line 1, after the word "Chairman", strike out "shall have the power to" and insert "may"; in line 10, after the word "but", insert "no such personnel shall be compensated"; in line 11, after the word "rates", strike out "not"; in 1-ne 16, after the word "at", insert "per diem"; in line 17, after "$50", strike out "a day"; in line 25, after the word "the", strike out "rate of $100 per day" and insert "maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code,"; on page 9, after line 6, strike out:

(g) There are hereby authorized to be appropriated such sums as may be necessary, not to exceed a total of $——— to carry out the provisions of this section.

At the beginning of line 10, strike out "(h)" and insert "(g)"; and, after line 12, strike out:

CHILD ABUSE PREVENTION PROGRAMS UNDER SOCIAL SECURITY ACT

Sec. 5. Section 422(a)(1) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (B) thereof, and

(2) by adding after subparagraph (C) thereof the following new subparagraph:

"(D) effective July 1, 1973, includes, with respect to the prevention of child abuse, a special program under which—

"(i) effective procedures are established for the discovery of instances of child abuse and neglect, and for the prevention, remedying, and otherwise treating of the problem of child abuse and neglect (including procedures to assure the enforcement of State and local laws dealing with child abuse),

"(ii) there is collected and reported to the Secretary and to the public such information and data (in accordance with regulations of the Secretary) which adequately and fully reflect the extent to which laws of the State (and the enforcement of such laws) are adequate in meeting the problem of child abuse in the State, and the steps, if any, which are being taken to assure the adequacy of such laws and the enforcement thereof, and

"(iii) cooperative arrangements are entered into with the State health authority, the State agency primarily responsible for State supervision of public schools, and other appropriate agencies to assure to the maximum extent feasible that instances of child abuse will be reported to the appropriate agencies within the State and that appropriate services and action are taken by such agencies with respect to each instance of child abuse so reported, and".

And, in lieu thereof insert:

Sec. 5. There are hereby authorized to be appropriated for the purposes of this Act $10,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for each of the four succeeding fiscal years, of which not more than $2,000,000 per annum shall be available for the purposes of section 2 of this Act, and not more than $1,000,000 per annum shall be available for the purposes of section 4 of this Act.

PENDING BUSINESS TEMPORARILY LAID ASIDE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESSENTIAL RAIL SERVICES CONTINUATION ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar 284, S. 1925, which has been cleared all around.

The PRESIDING OFFICER. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 1925) to amend section 1(16) of the Interstate Commerce Act authorizing the Interstate Commerce Commission to continue rail transportation services.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Essential Rail Services Continuation Act of 1973".

Sec. 2. Section 1(16) of the Interstate Commerce Act (49 U.S.C. 1(16)) is amended by inserting "(a)" before the word "Whenever" in the first sentence and adding the following new paragraph:

"(b) Whenever any carrier by railroad is unable to transport the traffic offered it because—

"(A) its cash position makes its continuing operation impossible;

"(B) it has been ordered to discontinue any service by a court; or

"(C) it has abandoned service without obtaining a certificate from the Commission pursuant to this section; the Commission may, upon the same procedure as provided in paragraph (15) of this section, make such just and reasonable directions with respect to the handling, routing, and movement of the traffic available to such carrier and its distribution over such carrier's lines, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people subject to the following conditions:

"(A) Such directions shall be effective for no longer than sixty days unless extended by the Commission for cause shown for an additional designated period not to exceed one hundred and eighty days.

"(B) No such direction shall be issued that would cause a carrier to operate in violation of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421) or that would substantially impair the ability of the carrier so directed to serve adequately its own patrons or to meet its outstanding common carrier obligations.

"(C) The directed carrier shall not, by reason of such Commission direction, be deemed to have assumed or to become responsible for the debts of the other carrier.

"(D) The directed carrier shall hire employees of the other carrier to the extent such employees had previously performed the directed service for the other carrier, and, as to such employees as shall be so hired, the directed carrier shall be deemed to have assumed all existing employment obligations and practices of the other carrier relating thereto, including but not limited to agreements governing rates of pay, rules and working conditions, and all employee protective conditions for the duration of the direction.

"(E) Any order of the Commission entered pursuant to paragraph (b) hereof shall provide that if, for the period of its effectiveness, the cost, as hereinafter defined, of handling, routing, and moving the traffic of another carrier over the other carrier's lines of road shall exceed the direct revenues therefor, then upon request, payment shall be made to the directed carrier, in the manner hereinafter provided and within ninety days after expiration of such order, of a sum equal to the amount by which such cost has exceeded said revenues. The term 'costs' shall mean those expenditures made or incurred in or attributable to the operations as directed, including the rental or lease of necessary equipment, plus an appropriate allocation of common expenses, overheads, and a reasonable profit. Such cost shall be then currently recorded by the carrier or carriers in such manner and on such forms as by general order may be prescribed by the Commission and shall be submitted to and subject to audit by the Commission. The Commission shall certify promptly to the Secretary of the Treasury the amount of payment to be made to said carrier or carriers under the provisions of this paragraph. Payments required to be made to a carrier under the provisions of this paragraph shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions hereof."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1925) was ordered to be engrossed for a third reading, was read the third time, and passed.

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

The Senate resumed the consideration of S. 1191 to establish a National Center on Child Abuse and Neglect, to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, and for other purposes.

Mr. MANSFIELD. I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, will the Senator from West Virginia yield for a parliamentary inquiry?

Mr. RANDOLPH. Yes, I yield.

Mr. STEVENS. Mr. President, following the consideration of the child abuse bill, will the time on the Alaska Pipeline bill be under control for the rest of the day?

The PRESIDING OFFICER. There is a general time limitation on S. 1081 which will be in effect following the consideration of S. 1191.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that upon the disposition of the pending business and our return to the consideration of the Alaska bill there be no time limitation for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question before the Senate is on the passage of S. 1191. Who yields time?

Mr. STAFFORD obtained the floor.

Mr. JAVITS. Mr. President, will the distinguished Senator from Vermont yield me 2 minutes?

Mr. STAFFORD. I yield 2 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I wish to express myself as being in favor of the bill, S. 1191, the Child Abuse Prevention and Treatment Act, which I have cosponsored.

I desire to express my deep appreciation to the distinguished Senator from Minnesota (Mr. MONDALE), who is the basic author; to the distinguished Senator from Vermont (Mr. STAFFORD), on the Republican side, who has given a great deal of energy, intelligence, and constructive effort to the fashioning of the bill; and to the distinguished Senator from West Virginia (Mr. RANDOLPH), who has undertaken the floor management of the bill, together with Senator STAFFORD.

It is quite clear that the dimensions of child abuse in the Nation exceed greatly the capacity of State and local and Federal efforts to deal with the problem.

As noted in the committee report, 60,000 cases of child abuse are reported annually; in New York City alone more than 10,000 cases of child abuse or suspected abuse were reported in 1972. According to the testimony of Barbara Blum, assistant administrator commissioner of the special services for children program in New York City, 50 children died in New York City alone last year in cases of child abuse.

The Department of Health, Education, and Welfare testified in hearings before the committee that of the $46 million available for children's programs under title IV–B of the Social Security Act in 1973—the principal source of funding—only $507,000 was spent on activities related to child abuse.

This means that for each of the 60,000 reported cases in the country—and we can expect that that figure would be multiplied many times were reporting laws more adequate—less than $10 is now available from Federal, State, and local sources.

The administration, which opposes this bill, points to a number of efforts now conducted or to be conducted by the Department of Health, Education, and Welfare, through the Office of Child Development and other agencies; these efforts which include expanded funding, a review of existing programs, and the establishment of model codes, are set forth in a letter to Senator WILLIAMS, chairman of the Committee on Labor and Public Welfare from Secretary Weinberger, and printed at page 8 of the committee report on this bill.

The administration's basic position is stated on page 9 of the report as follows:

> We believe the most effective approach to the problem is to work with State and local government, voluntary agencies, and professional associations to obtain a more adequate picture of the incidence and characteristics of child abuse than we have now. Rather than creating new offices and commissions, as proposed by S. 1191, I am of the opinion that coordination and intensification of existing efforts and organizations will produce greater and more lasting positive results.

In my opinion—without faulting the commendable plans of the administration—that, in essence, is exactly what this bill would do.

The basic elements of the committee's bill—the establishment of a national center on child abuse, the establishment of a demonstration program and the establishment of a national commission on child abuse and neglect—are all directed to the end of the Federal Government "working with State and local governments, voluntary agencies and professional associations" to the end of dealing with the problem of child abuse.

The committee bill does not represent a substantial "flooding" of Federal funds or intrusion of the Federal Government into the area of child abuse.

Its authorization of $90,000,000 over a 5-year period—roughly $20,000,000 a year—is very modest indeed considering the present efforts I have outlined and the needs—and even then it is to be directed in efforts in which the Federal Government will serve basically an innovative and catalytic function.

The bill is clearly only an interim measure—not yet a comprehensive proposal to deal with child abuse across the board.

Mr. President, it is quite clear from testimony of very distinguished experts on the State and city level in New York, as well as elsewhere, that at least as equally important as this bill, will be some sharpening of efforts under title IV–A of the Social Security Act, which as noted, is the principal source of funding at this time.

Accordingly, I am very pleased that the Committee on Labor and Public Welfare, while unable to effect changes in that law since it is within the jurisdiction of the Senate Finance Committee, will work with that committee, and as ranking minority member I pledge every effort to that end.

Also, I am delighted with the inclusion in this bill of the number of provisions that I added on the basis of testimony during the hearings in New York and elsewhere; these include:

The provisions set forth in section 2 (a)(4) under which the national center on child abuse would provide technical assistance to public and nonprofit private agencies.

Provisions set forth in section 4(b) to insure that parents, State and local officials as well as other persons serve on the National Commission to be established under that section.

The provisions contained in section 4(d) mandating that the Commission shall explore the relationship between drug abuse, alcoholism and child abuse and neglect and the adequacy of funding for efforts to deal with child abuse.

I am also pleased that the bill contains, in section 3(a)(3) an authorization for the funding of parent self-help organizations. This will permit Federal "seed money" for "Parents Anonymous" programs which have been conducted in New York City and in other areas of the country with such success.

Mr. President, for these reasons I support the committee bill and urge that it be passed.

Mr. STAFFORD. Mr. President, I yield myself as much time as I may consume.

I ask unanimous consent that an excerpt from the committee report be printed in the RECORD.

PURPOSE

The purpose of the legislation is to provide financial assistance for demonstration programs for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes.

NEED FOR S. 1191

Each year in this country, thousands of innocent children are beaten, burned, poisoned, or otherwise abused by adults.

One source—the National Center for the Prevention and Treatment of Child Abuse and Neglect in Denver—estimates that 60,000 cases of child abuse are reported annually. Barbara Blum, assistant administrator commissioner of the special services for children program in New York City, testified that in that city alone, more than 10,000 cases of child abuse or suspected abuse were reported in 1972. Witnesses agreed that most estimates of the incidence of child abuse represent only a small proportion of the number of children who are actually maltreated.

In the last decade nearly every State in the Union has revised its child abuse reporting laws. Yet it is common for cases of abuse to come to light only after the victim has suffered permanent psychological and/or physical damage; or even been killed. One reason for this is that most laws do not require any followup or treatment once a case of abuse has been reported.

Although effective programs exist in some communities, for many years the problem of child abuse has lacked a focus within broader social service programs. Moreover, the very social service agencies with the responsibility to deal with this problem have often lacked the necessary resources. One witness, an admitted former child abuser, testified that she had voluntarily gone from one public agency to another seeking help which would prevent her from harming her child—and was repeatedly turned away.

Federal support for programs dealing with child abuse—to the limited extent that it exists—has been available primarily through title IV–B of the Social Security Act, which authorizes child welfare services including child protective services. However, the entire child welfare program received only $46 million in 1973 and is budgeted for the same amount in 1974. And, HEW told the committee that of the $46 million available for IV–B activities in 1973, only $507,000 was spent on activities related to child abuse.

Representatives of the Department of Health, Education, and Welfare testified that child abuse programs are a function of the individual States and should be implemented under the existing authority for titles IV–A and IV–B under the Social Security Act. However, they also testified that they had no information about the effectiveness of these State programs in preventing, identifying, and treating child abuse, but were aware that they are not adequate. The hearings revealed further that not one employee of the Federal Government works full time on the problem of child abuse.

LEGISLATIVE HISTORY

On March 18, 1973, Senator Mondale introduced, with the cosponsorship of 13 other Senators, S. 1191, the Child Abuse Prevention and Treatment Act. A similar bill, H.R. 638, was introduced in the House of Representatives.

The Subcommittee on Children and Youth received testimony on S. 1191 in hearings in Washington, Denver, and New York. As part of these investigations the subcommittee visited the child abuse treatment facilities in Children's Hospital, Washington, D.C.; Roosevelt Hospital in New York; and the National Center for the Prevention and Treatment of Child Abuse and Neglect affiliated with the University of Colorado Medical Center in Denver. In addition, testimony was taken at a joint hearing of the Subcommittees on Human Resources and Employment, Poverty, and Migratory Labor in Los Angeles.

On June 18 the bill was reported with amendments by the Senate Subcommittee on Children and Youth to the Labor and Public Welfare Committee.

THE CHILD ABUSER

Dr. John Allen, a representative of the American Academy of Pediatrics testified: "We believe strongly that about 80 percent of these families (of abused children), and may be even 90 percent, with proper multidisciplinary coordination, could be rehabilitated * * *."

Witnesses agreed that only about 10 percent of adults who abuse children are psychotic or seriously mentally ill; and that the other 90 percent inflict abuse on a child out of frustration about other problems or unrealistic expectations about how a child should act.

Obviously, abused children must be permanently removed from the care of psychotic parents or other adults. However, in other cases the child can often be removed temporarily and returned to the family after both parent and child have undergone some type of therapy or other remediation of the family situation.

Dr. C. Henry Kempe of the center in Denver believes that child abuse occurs most often when a crisis occurs in a family in which parents may have underlying tendencies to resort to violence as a solution to their problems. Examples of a crisis, Kempe suggests, could be an argument over money, loss of a job, the need for day care—anything which disrupts the fabric of family life.

In the majority of cases, witnesses testified, parents who abuse their children were themselves abused when they were young. This suggests the vital importance of trying to treat child abuse so that a cycle is not repeated from generation to generation.

TREATMENT PROGRAMS

Members of the committee were encouraged to learn that in recent years a number of promising new approaches to child abuse have been developed and put into effect on a limited basis.

One of these approaches is the creation and operation of multi-disciplinary child abuse teams, like the ones at Children's Hospital in Washington, D.C., at Roosevelt Hospital in New York, and at the National Center in Denver. The personnel on these teams represent the various disciplines with a potential for contribution to solution of child abuse cases—doctor, psychiatrists, and psychologists, social workers, nurses, lawyers, and law enforcement officials.

These teams collect information from a variety of sources concerning a specific case of child abuse or suspected abuse; combine the information; and develop a program of treatment for both the abused child and his family.

The work of the professionals on the Denver team is augmented by the work of lay therapists. These are mothers who are trained to work closely with families in which child abuse has occurred; and to offer their assistance on a 24-hour-a-day basis. The lay therapists, who receive $2 an hour for their services, work with two or three families. They visit parents and children regularly and make themselves available to help resolve the types of crises that often lead to child abuse.

Another promising approach to dealing with child abuse has been the creation of parent self-help groups. These are organizations like Parents Anonymous, and Families Anonymous, whose membership consists of parents who have abused or fear that they might hurt their children. In a manner similar to that of Alcoholic Anonymous, these parents call on each other for assistance in a family crisis; and also learn to cope with their abusive tendencies by talking about them with others who have the same problem.

Through a combination of the above services, over the past 4½ years the Denver center has been able to return 90 percent of the abused children to their natural families within 8 months without any repetition of abuse.

THE DEMONSTRATION GRANT PROGRAM

The committee believes that the types of substantial contribution to eliminating child activities described above could provide a abuse if financial support were available to expand and strengthen them. These efforts have started and managed to exist through foundation grants, community contributions, and contributions of staff and facilities by hospitals, welfare agencies, police departments, and other institutions and agencies, The funds available from these sources are inadequate to the national need for such programs.

It is the intention of the committee that the demonstration grants be awarded to a wide variety of recipients for a variety of programs aimed at preventing, identifying, and treating child abuse. The committee believes that there is a particular need to increase the training opportunities of hospital emergency room personnel, social workers, teachers, and others who are likely to come in contact with child abuse. The committee further recognizes the special needs of small, and/or isolated communities which lack the resources to establish a complete multidisciplinary team, and encourages the creation of networks of experts who can consult and advise the authorities in such communities on child abuse.

It is the intention of the committee that is establishing regulations governing assistance to parental self-help organizations the Secretary shall not prescribe organizational rigidities tending to require procedures limiting the effectiveness or violating the confidentiality of such programs, which must remain informal and nonbureaucratic to be effective.

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Testimony by the Department of Health, Education, and Welfare clearly indicated that there is no central repository of information on either child abuse research or programs in this country. The committee believes that all communities should have access to any information which might assist them in dealing with child abuse.

The committee takes note of the announcement in June by HEW that it would test the feasibility of creating a clearinghouse to collect and disseminate information on child abuse. The committee believes strongly that the replication of promising program models will be enhanced by the creation of such a clearinghouse and that the immediate need has been fully documented in testimony.

NATIONAL COMMISSION ON CHILD ABUSE AND NEGLECT

It is clear that many complex legal and policy questions remain to be answered in the area of child abuse. For this reason, the committee has endorsed the concept of a Presidential Commission to study some of these questions and to make appropriate recommendations. The committee hopes that one area included in this examination will be the nature, effectiveness, and desirability of statutes which offer immunity from civil and criminal liability to persons who report child abuse.

The committee is aware that the Department of HEW has announced plans to study child abuse laws and possibly recommend acceptance of a new model statute by the States. The committee believes that the study should be expanded to include other areas and should be carried out by an independent, objective, outside body—the Presidential Commission—rather than by a government agency.

The committee further believes that establishment of the Commission—with authority to conduct public hearings and a mandate to report its findings—will assure a vital continuation of the public focus and the input of parents and others with insights into the problem of child abuse.

PREVENTION AND TREATMENT OF CHILD ABUSE UNDER THE SOCIAL SECURITY ACT

The committee believes that an adequate response to the problem of child abuse requires not only enactment and funding of S. 1191, but also greater resources for and attention to the protective services activities authorized under titles IV–A and IV–B of the Social Security Act. Indeed, in order to emphasize this combined approach, S. 1191 as originally introduced contained an amendment to the Social Security Act requiring every State to have a State plan for activities related to child abuse under the child welfare program authorized by title IV–B. This provision was dropped at the subcommittee level with the understanding that Senator Mondale would introduce a revised and strengthened version of it on behalf of himself and other committee members for consideration by the Finance Committee, which also has a deep concern about the problem of child abuse and has jurisdiction over legislation amending the Social Security Act.

Inclusion of this protective provision in the original bill, however, did help provoke some useful suggestions and recommendations during subcommittee hearings and investigations.

Dr. Vincent DeFrancis of the American Humane Association, Assistant Administrator/Commissioner Barbara Blum of New York City's Special Services Agency for children, and representatives of the Child Welfare League provided the subcommittee with an understanding of these existing efforts, and persuasively urged that title IV–B be strengthened and more fully funded so that child protection agencies have better support and more adequate resources for dealing with child abuse problems.

This dual approach received further support at the National Conference on Child Abuse and Neglect held in Washington this June. Members of the conference workshop on legislation suggested that Federal child abuse efforts include both a demonstration grant program of the type authorized by S. 1191 and an effort to upgrade existing child protective services along the lines suggested above. Authorities suggested, among other things, that in order to receive IV–B funds, States be required to meet more specific standards—such as having a child abuse reporting law—than those included in S. 1191 as originally introduced.

Following the hearings on S. 1191, the Department of Health, Education, and Welfare announced its intention to earmark $4 million for activities related to child abuse in fiscal 1974. Yet the announcement did not specify where these funds would come from, nor the extent to which they represented new and heretofore unplanned expenditures. Because of these ambiguities, and because of the severely limited budget available to Office of Child Development to fulfill its existing responsibilities in a wide range of programs serving children, Senator Mondale wrote to HEW requesting a detailed explanation of the sources of the $4 million and of the Department's plans for spending it. The text of Senator Mondale's letter and the response from Secretary Caspar Weinberger appear at the end of this report.

CONCLUSION

The committee believes that the HEW response demonstrates the inadequacy of the Department's plans for dealing with the critical and immediate problem of child abuse; and further demonstrates the pressing need for enactment of S. 1191.

JUNE 11, 1973.

Hon. CASPAR WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR SECRETARY WEINBERGER: I understand that Acting Assistant Secretary for Human Development Stanley B. Thomas, Jr., announced on June 9 that HEW has earmarked $4 million to be used in activities relating to child abuse in fiscal year 1974.

As you know, legislation dealing with child abuse is pending before the subcommittee. I would appreciate receiving from you the following information about the new activities to be undertaken by the Department in this area:

1. A detailed explanation of the sources of the $4 million—including authorizations. Was this previously planned or authorized for other programs? If so, please list them and the amounts of money involved in each.
2. A detailed explanation of how the $4 million will be spent.
3. How the Department intends to go along initiating a revision of the model child abuse reporting law.
4. What method will be used to survey the activities of States relating to child abuse? What criteria will be used to judge the effectiveness of the "program models and systems" to be studied for possible replication?
5. Exactly how the Department intends to test the feasibility of establishing a national clearinghouse.
6. A description of the type of training materials to be developed; of their contents, their distribution and audiences.

Because this legislation is under active consideration by the subcommittee, I request that you submit this information to me by the close of business on June 15.

Sincerely,

WALTER F. MONDALE.

JUNE 20, 1973.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I am pleased to respond to your letter of June 11 relating to the Department's plans in the area of child abuse. Of course in as important a field as this, our plans will necessarily evolve in various ways as more information on needs is developed.

The information that follows references the specific points in your letter:

1. Funds for the support of increased efforts in the area of child abuse will come from existing authorities such as the Office of Child Development and other programs as appropriate. Specific sources will be identified as our planning evolves. We would not expect that the funds will have been planned or authorized for other programs.

2. Plans for spending the $4 million will involve: (1) Revision of the model child abuse reporting law first developed in 1962; (2) survey of existing State and local programs in order to develop program models suitable for replication; (3) development of approaches to the collection and dissemination of data with respect to child abuse and neglect; and (4) development of training materials for persons dealing with the abused child. In addition, we will enlist the assistance of experts in the field to secure the benefit of their ideas and suggestions.

3. The Office of Child Development will be responsible for revision of the model child abuse reporting law, seeking the advice and assistance of a variety of knowledgeable individuals.

4. The Department plans to review its child abuse program guidelines and revise them as appropriate. This will involve a survey of selected State programs and a review of current State and Federal guidelines. In addition, a survey of selected local child abuse programs will be conducted as part of an effort to develop appropriate criteria to judge the effectiveness of current models. While it is too early to specify criteria at this time, we are looking for programs which allow for equal access of all children to services, which provide a coordinated flow of cases through the legal, medical, and social service systems involved, and which have clarity of assignment of responsibility in all phases of a case.

5. The feasibility of establishing a national clearinghouse will be tested by a recognized authority on child abuse and on reporting laws. The primary emphasis will be on the coordination of State reporting systems, with an effort to bring them into accord on definitions of what is to be reported, who is mandated to report, and to whom the report should be made.

6. The types of training materials and the contents of the material are undetermined at this time. However, I anticipate utilizing the expertise of many persons, from many disciplines, in the development of materials. The potential audience are those persons who would be most likely to come into contact with children and thus be in a position to identify the abused or potentially abused child, that is, teachers, doctors, nurses, policemen, and so on.

Your continuing interest in the Department's activities is appreciated.

With kind personal regards,

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

DEPARTMENTAL REPORT

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C.

Hon. HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request for a report on S. 1191, a bill entitled the Child Abuse Prevention Act.

This bill would direct the Secretary of HEW to establish a National Office on Child Abuse and Neglect to serve as the focal point for dissemination of research results on child abuse and neglect. The Office would establish and maintain an information clearinghouse on child abuse programs, and compile and publish training materials for persons working in or planning to enter the field. The bill would also establish a program of grants and contracts for demonstration programs designed to prevent, identify, and treat child abuse and neglect. In addition, S. 1191 would establish a National Commission on Child Abuse and Neglect, appointed by the President, to study and investigate the effectiveness of existing reporting laws and the proper role of the Federal Government in assisting State and local public and private efforts to cope with child abuse and neglect.

The Department of Health, Education, and Welfare has been deeply involved with the problem of child abuse. The Children's Bureau, now a part of the Office of Child Development, has for a number of years been concerned with this complex problem and, in 1961, undertook the task of assembling information and initiating action. The first step was the development of a State model act, to assist States in the formulating of State laws, since the States have always had jurisdiction in this area. Now, all the 50 States, the District of Columbia, Guam, and the Virgin Islands have enacted child abuse reporting laws and some have amended their original laws to make them more effective.

Dealing with child abuse involves not merely the identification of the abused child but a whole range of services aimed at prevention of abuse and treatment of the child and his family. The most compelling current need is for the fullest implementation of existing laws. Basic to any solution of the problem is the establishment of comprehensive protective and preventive services, including child health services, throughout a State. While the Federal role in this process is an important one, the Department sees this role as one of providing financial assistance, technical advice, and research and demonstrations to discover new and more effective means of carrying out State programs, rather than mandating specific procedures.

The principal Federal financial assistance to States in serving children and their parents who are involved in child abuse derives from the Social Security Act, in particular the 1967 amendments to title IV-A which require that protective services be provided to all neglected or abused children in families receiving AFDC and that cooperative arrangements be worked out with the courts and law enforcement officials in referring appropriate cases and following up on these cases. States may claim 75 percent reimbursement from the Federal Government for their expenditures for these purposes. In the period 1971-74, approximately $224,362,000 of title IV-A money will be used to reimburse States for protective services, and $655,000 of these funds will be spent on research and demonstrations related to child abuse.

During the same period, Federal child welfare funds, authorized by title IV-B of the Social Security Act, in the amount of $2,643,000 will have been spent for protective services provided by State child welfare programs for children who are not recipients of AFDC. Federal funds are also provided through title V of the Social Security Act, by the Maternal and Child Health Service, for health services which are a basic element of the identification and treatment of child abuse. In addition, the National Institute of Mental Health will have expended an estimated $829,534 from Public Health Services Act funds. The total of these Federal expenditures for the 1971-74 period is estimated at $231,656,240.

We believe the most effective approach to the problem is to work with State and local government voluntary agencies and professional associations to obtain a more adequate picture of the incidence and characteristics of child abuse than we have now. Rather than creating new offices and commissions, as proposed by S. 1191, I am of the opinion that coordination and intensification of existing efforts and organizations will produce greater and more lasting positive results. Accordingly, I have designated the Office of Child Development to take the leadership in coordinating the enhanced Department efforts in the child abuse and neglect area. The Office of Child Development has recently made a grant to Dr. Vincent DeFrancis, a noted authority in this field, to examine the feasibility of a National Clearinghouse on Child Abuse and Neglect for the systematic gathering of data which would assist in the analysis of trends having policy and program implications. This should be of material assistance in the development of effective programs and the allocation of resources where they will do the most good.

The National Institute of Mental Health conducts research, provides training, and disseminates materials relating to child abuse. In October 1972, for example, it published a bibliography entitled "Selected References on the Abused and Battered Child." In June of 1973, the National Institute of Mental Health also supported a conference on child abuse attended by a number of experts from the key disciplines involved in the problem. One of the major efforts of this conference was to attempt to define the problems of identification of abuse, including the legal, social and medical aspects. At that conference, the Acting Assistant Secretary for Human Development outlined the new initiatives which will be undertaken by HEW, involving the earmarking of $4 million of new funds in addition to those already committed to this problem.

We are also currently funding projects for the provision of emergency services—one in Buffalo, N.Y. and the other in Nashville, Tenn.—which provide assistance to families in crisis, many of which involve child abuse. Another of our projects operates a protective services center, offering a broad range of services to families who have abused their children. We also are planning a study to identify the early warning signs of family dysfunction which is generally a prelude to abuse. Another of our planned studies is a national evaluation of child abuse programs to determine the most effective means of dealing with the problems of child abuse at the local level.

As this review of our activities indicates, abused or neglected, I have already alluded to the funds provided under the AFDC, Child Welfare and Material and Child Health authorities of the Social Security Act. But it should also be recognized that much of the current activity and much of the projected effort in combatting the child abuse problem is supported solely from State, local, and voluntary funding sources, such as hospitals with large pediatric services. We sincerely believe that such local community efforts should be encouraged and supported rather than supplanted by Federal mandates.

As this review of our activities indicates, we are already deeply and firmly committed to substantial and enhanced efforts to cope with the problem of child abuse and neglect. Many of our ongoing activities as well as our projected ones would be duplicated by the provisions of S. 1191. In addition, S. 1191 proposes the creation of new organizational categorical units which, in the experience of the Department, tend to work against the development of successful means of dealing with problems rather than aiding in their solution.

For the above reasons, we believe that S. 1191 is unnecessary to carry out the Federal role of assisting States and local communities in coping with child abuse, and we recommend against its enactment.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that the legislation may be cited as the "Child Abuse Prevention and Treatment Act."

Section 2. National Center on Child Abuse and Neglect

This section authorizes the Secretary of HEW, to create, within the Office of Child Development, a National Center on Child Abuse and Neglect. It specifies that the center is authorized to compile, analyze and publish annually a summary of research on child abuse and neglect; to develop and maintain an information clearinghouse on programs dealing with child abuse; to compile and publish training materials for personnel in the fields which deal with child abuse; to provide technical assistance to public and nonprofit private agencies; and to administer the demonstration grant program authorized in section 3.

Section 3. Demonstration program for the prevention, identification and treatment of child abuse and neglect

Subsection 3(a) authorizes the Secretary of HEW, through the center, to make grants for demonstration programs designed to prevent, identify, and treat child abuse and neglect. This section specifies that the grants may be used for training of personnel to deal with child abuse; for establishment and maintenance of multidisciplinary centers to deal with child abuse; and for other innovative projects, including support of parent self-help organizations, which show promise of preventing or treating child abuse and neglect.

Subsection 3(b) specifies that funds provided pursuant to this section shall not be used for construction of facilities but may be used for lease or rental of facilities where adequate facilities are not available; and for repair or minor remodeling or alteration of existing facilities.

Subsection 3(c) requires the Secretary to establish criteria designed to achieve equitable distribution of assistance under this section among geographic areas of the Nation, and among urban and urban areas. It also specifies that to the extent possible, citizens from each State receive assistance from at least one project supported under this section.

Section 4. National Commission on Child Abuse and Neglect

Section 4(a) creates a National Commission on Child Abuse and Neglect.

Section 4(b) requires that the Commission have 15 members, appointed by the President with the advice and consent of the Senate. It specifies that the membership include parents, State and local officials and other persons who by reason of experience or training in the fields related to child abuse and neglect, are especially qualified to serve. The Secretary and the Director of the Office of Child Development are named as ex officio members of the Commission. This subsection also requires that the Commission be appointed and hold its first meeting within 60 days of enactment.

Subsection 4(c). This subsection provides that the Commission elect one of its members to serve as chairman and one to serve as vice chairman; that a vacancy in the Commission not affect its powers; and that eight members of the Commission shall constitute a quorum.

Subsection 4(d) requires the Commission to make a full study and investigation of several questions related to child abuse, and to transmit to the President and Congress 1 year after the first meeting a report containing a statement of the findings and conclusions of the Commission, together with such recommendations, including recommendations for Federal and State legislation, as it deems advisable.

The questions the Commission is required to study are the effectiveness of existing child abuse and neglect reporting laws, ordinances and related laws; the effectiveness of existing programs designed to prevent, identify, and treat child abuse and neglect; the national incidence of child abuse and neglect; the causes of child abuse and neglect; the adequacy of Federal, State, local, public, and private funding for child abuse programs; and the appropriate role of the Federal Government in assisting State and local public and private efforts to deal with child abuse and neglect.

Subsection 4(e) authorizes the Commission to hold hearings and to take sworn testimony from witnesses; requires Government agencies to furnish the Commission with such information as requested by the chairman or vice chairman to carry out the functions of the Commission; authorizes the chairman to appoint staff and hire consultants; authorizes the Commission to enter into contracts with private, nonprofit firms, institutions, and individuals to prepare research or surveys, reports, and other activities deemed necessary; authorizes the compensation of members of the Commission at the maximum per diem rate of GS-18; and specifies that on the 90th day after the date of submission of its report to the President, the Commission shall cease to exist.

COST ESTIMATE PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress), the committee estimates that the cost which would be incurred in carrying out this bill as amended in the fiscal year ending June 30, 1974, and for each of the 4 succeeding years would be $10 million for the fiscal year ending June 30, 1974, and $20 million for each of the 4 succeeding fiscal years, of which not more than $2 million per annum shall be available for section 2 and not more than $1 million for section 4 of the bill.

Mr. STAFFORD. Mr. President, the bill before the Senate is designed to end years of Government neglect of a terrible and a growing danger to the health and well-being of our Nation's greatest resource: our children. This legislation is designed to get us started down the road to the development of a system through which we will be able to identify and to treat the thousands of American youngsters who are victims of child abuse each year. And, perhaps more importantly, this legislation is designed to get our Nation started on the quest for a system through which we will be able to prevent the abuse of countless numbers of other American children who are destined to become victims unless we act with determination.

In placing this bill before the Senate, we are calling upon the Government of the United States to volunteer to act in the defense of American children who are too young to articulate their needs; of infants who cannot speak out to call for help; of infants whose only method of expression is often an anguished cry of pain and despair.

Equally important, this legislation is designed to aid the families of these children: the fathers and mothers and other relatives who inflict the abuse, more often out of frustration and lack of understanding than out of any evil intent. It has been estimated that 80 to 90 percent of these families can be rehabilitated, given adequate treatment and guidance.

Mr. President, the Child Abuse Prevention and Treatment Act is designed to move on these three fronts:

First. It would establish within the Office of Child Development a center that would take note of all research going on in this field; that would maintain a national clearinghouse on programs dealing with child abuse treatment and prevention, and that would make this information, along with training material, available to persons working in the field.

Second. It would establish demonstration grants to be used to train specialists in the field and to make these specialists available where they are most needed. The demonstration grants would also be used to support innovative programs that hold promise for the prevention and treatment of child abuse.

Third. It would create a National Commission on Child Abuse to examine the proper role of the Federal Government in this field of human need. The Commission would also examine the effectiveness of existing laws and programs dealing with child abuse.

If anyone has any doubts about my contention that we have been guilty of official neglect of this mounting national problem, let me note that hearings conducted by the Subcommittee on Children and Youth revealed, in the words of the committee report—

> That not one employee of the Federal Government works full time on the problem of child abuse.

It is time for our Nation to redress that wrong.

During our subcommittee hearings, we heard testimony from specialists in the field. We heard the appeals of those who deal daily with the legal, sociological, psychological, and medical aspects of child abuse. And we heard, most dramatically and most movingly, from parents who had previously been guilty of abusing their own children.

The hearings revealed that about 60,000 cases of child abuse are reported annually in this Nation, but specialists in the field were unanimous in their agreement that only a small percentage of child abuse cases are ever officially reported. The actual number is doubtless many times 60,000 each year.

We also learned that child abuse is not associated primarily with any racial, ethnic, sociological, or economic group. The specialists told us that the incidence of child abuse is evenly distributed among the rich and the poor; the city dweller and the farmer; white and black; the college graduate and the high school dropout.

So, when you ask, whose children are we talking about, the answer is, we are talking about our children.

If there is one way to anticipate the kind of parents who are most likely to inflict abuse upon their children, the specialists in the field suggested to us that in a majority of cases of reported child abuse, the victims were the children of parents who had suffered child abuse when they were young.

Thus, it becomes vital that we act to halt an evil that appears to perpetuate itself.

While our years of neglect of this problem has meant we know too little about ways of preventing child abuse, there is some evidence of promising efforts to deal with the issue.

The creation and operation of multidisciplinary child abuse teams has blazed new trails through the forest of neglect. There is one such team at the Children's Hospital of the District of Columbia. There are others at Roosevelt Hospital in New York City and at the National Center for the Prevention and Treatment of Child Abuse and Neglect in Denver, Colo.

Evidence over the last 4½ years at the Denver center has demonstrated that 90 percent of abused children have been returned to their families within 8 months of treatment and rehabilitation, with no repetition of the tragic act. Thus, we have heartening evidence that we can dramatically reduce this assault against our children and against our sensibilities.

To date, Federal support for programs designed to prevent and treat child abuse have been limited primarily to funds available through title IV–A of the Social Security Act for child welfare and protective services. But, of the $46 million made available to child welfare programs during the 1973 fiscal year, only $570,000 was spent on activities related to child abuse prevention and treatment.

Within the last few weeks, the Department of Health, Education, and Welfare announced it would make available $4 million for programs designed to end child abuse. But details of the availability of that money and the ways it will be be spent remain vague. While I welcome the belated commitment of our Government to this struggle, I suggest that a much greater effort is needed.

Mr. President, at this point I ask unanimous consent that a history of child abuse prepared by the Congressional Research Service of the Library of Congress be included in the Record at the conclusion of my remarks. I also ask unanimous consent that editorials on the subject that appeared in the Washington Post of April 1, 1973, and in the Washington Star-News on April 2, 1973, also be included in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. STAFFORD. Mr. President, this bill, S. 1191, calls for a modest financial effort by our Nation. The total cost would be $90 million over the next 5 years. It is an investment that cannot fail to return many times that amount of money in economic gains. But, more importantly, it is an investment that will yield this Nation immeasurable returns in terms of human values.

Mr. President, I have had the experience of sitting on the subcommittee and listening to the experts in this field, parents who have confessed to abusing their children. I have visited the Children's Hospital here in Washington and talked with the team of doctors and others who have various disciplines who attempt to deal with this problem.

Anyone who has seen an abused child would, I am sure, agree with me that they would want S. 1191 adopted this afternoon in the U.S. Senate. I hope we may have its unanimous approval.

It has been a privilege to serve with the distinguished Senator from Minnesota (Mr. Mondale), chairman of the subcommittee, and with the distinguished Senator from West Virginia, Mr. Jennings Randolph, chairman of the full committee.

I urge the adoption of S. 1191.

I reserve the remainder of my time.

Exhibit 1

Child Abuse Legislation in the United States

Ironically, it may very well be the abhorrence of child abuse which has made it such a slow moving area of legislation. The very idea that a parent, who is supposed to love and protect his offspring, could be responsible for his or her child's physical injury, or even death is so repulsive that many are reluctant to believe it. Our courts have also been reluctant to get involved in internal family government, preferring to let the family head determine his own laws and punishments. The implied "hands-off" policy followed by the courts is very much the result of our close association with English Common Law. Under the English Common Law, the right of the father to custody and control of his children was considered absolute, regardless of the welfare of the child. This has carried over to a strong extent in our own legal system.

EARLY HISTORY OF CHILD ABUSE IN THE U.S.

In colonial America, the father ruled both his wife and his family. Parental discipline was severe, and parents, teacher and ministers found justification for stern disciplinary measures in the Bible.

The earliest recorded case of child abuse in the United States involved a Massachusetts man whose maltreatment of his apprentice resulted in the latter's death. This case, which took place in 1655 described the kind of brutality which is common in contemporary child abuse cases. The master was convicted of manslaughter, ordered "burned in the hand" and his goods were confiscated. There were also two court cases in Massachusetts in 1675 and 1678 which record the removal of children from their parents because of unsuitable homes.

The dearth of recorded child abuse cases in early American history suggests the general tendency of the courts to allow parents their own discretion in determining home discipline. Parents were considered immune from prosecution unless the punishment was beyond the bounds of "reasonableness" in relation to the offence, or if the punishment was excessive, or the child was injured permanently.

EARLY REFORM MOVEMENT—CHILDREN AS ANIMALS

In 1840 there was a criminal case in Tennessee which involved prosecution for excessive punishment. Despite evidence which showed that the child had been beaten, whipped, her head pushed against a wall, and tied to a bedpost for hours, the court reversed the parents' conviction. It ruled that excessive punishment was a question of law, and that it was not the punishment, but its excessive nature which constituted the offence.

It wasn't until the second decade of the nineteenth century that public authorities began to intervene in cases of parental neglect. Most of the reform movements were directed toward children in institutions, however, and were aimed at preventing a neglected child from entering a life of crime.

Probably the most significant and helpful of all reform campaigns was that launched by the American Society for the Prevention of Cruelty to Animals. In 1874, a church worker sought the help of the President of the ASPCA on behalf of an abused child. The case concerned a ten-year old foster child named Mary Ellen Wilson who was the victim of child abuse. At that time there were laws which protected animals but no local, state or federal laws to protect children. The case was presented to the court on the theory that the child was a member of the animal kingdom, and therefore entitled to the same protection which the law gave to animals.

In the aftermath of public indignation over the case Elbridge T. Gerry, the lawyer who represented the ASPCA, founded the New York Society for the Prevention of Cruelty to Children. It was originally organized as a private group and later incorporated. Legislation was soon passed in New York and cruelty societies were authorized to file complaints for the violation of any laws relating to children, and law enforcement and court officials were required to aid the societies.

Similar societies were soon organized in other cities throughout the country and by 1922 there were 57 societies for the Prevention of Cruelty to Children, and 307 humane societies. With the advent of government intervention into child welfare the number of these societies has declined.

RECENT DEVELOPMENTS

One of the main reasons for the lack of prosecution in child abuse cases has always been the difficulty in determining whether the physical injury was, in fact, a case of deliberate assault by a parent, or an accident. Doctors in the area of pediatric radiology have been able to determine the incidence of repeated child abuse through more sophisticated developments in the area of X-ray technology. These advancements have allowed radiologists to see more clearly such things as subdural hematomas (blood clots around the brain resulting from blows to the head) and abnormal fractures. This has brought about more recognition of the widespread incidence of child abuse and public reaction has been on the rise.

LEGISLATION

The discovery of the bruised and weighted down body of three-year old Roxanne Felumero in the East River in 1969 set off particular public furor when it was discovered that just two months prior to her death her parents had been brought before the New York Family court for alleged neglect and abuse, and the judge had released the child back to her parents' custody.

This brings us to the problem of legislation. Between 1963 and 1969, all fifty state legislatures passed some kind of child abuse reporting statute, and all but four had mandatory requirements. But, despite this legislative action there are still thousands of cases of suspected abuse which remain unreported every year. The problems are difficult to solve through legislation. The reluctance of people to get involved, and the possibility of civil suits against them if they do seems to remain a deterrent despite the fact that all but one of the states has passed some form of immunity legislation. Part of the problem may also lie in the lack of information about the subject. The first studies which appeared in the early 1960's were often more sensationlistic than informative. Since that time, more substantive studies have been conducted and while the number of cases reported is still considered only the "tip of the iceberg", there has been an increase.

Until just recently, legislation in the area of child abuse has been confined almost entirely to the states. Although the passage of the Social Security Act in 1935 brought the federal government into the area of child welfare, they have mainly concentrated their concern on financial assistance. The 1962 Amendments to the Social Security Act did include a provision which required each state to extend their child protective services, but aside from this and legislation relating only to the District of Columbia (which is under the jurisdiction of Congress) the federal government has stayed out of the area of child abuse legislation.

Recently, perhaps because of the increasing awareness of child abuse, and the resulting public outcry, several bills have been introduced in Congress. Aside from those relating specifically to the District of Columbia there has been no action further than their referral to the proper committee.

CHILD ABUSE BILLS

(88th Congress through 92d Congress)

88TH CONGRESS, 1ST SESSION

No bills.

88TH CONGRESS, 2D SESSION

H.R. 9652—To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuses of children.

By: Mr. Multer, January 16, 1964.

To: Committee on the District of Columbia.

Action: Reported out favorably by commissioners with amendments and referred to Subcommittee No. 6 where there was no further action.

89TH CONGRESS, 1ST SESSION

S. 1318—To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuses of children.

By: Mr. Bible, March 1, 1965.

To: Committee on the District of Columbia.

Action: Referred to Subcommittee on Public Health, Education, Welfare and Safety where there was no further action.

H.R. 3394—Same as S. 1318.

By: Mr. Multer, January 25, 1965.

Action: Referred to Subcommittee No. 3; considered, amended and approved August 4, 1965. See H.R. 10304.

H.R. 3411—Same as H.R. 3394.

By: Mr. Sickles, January 25, 1965.

H.R. 3814—Same as H.R. 3394.

By: Mr. Moorhead, January 28, 1965.

H.R. 10304—To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuses of children. (Clean bill embodying amendments to H.R. 3394).

By: Mr. Multer, August 5, 1965.

Action: Committee on the District of Columbia considered and approved. Reported and passed House August 9, 1965. Reported and passed Senate, amended September 30, 1965.

89TH CONGRESS, 2D SESSION

No bills.

90TH CONGRESS, 1ST AND 2D SESSION

No bills.

91ST CONGRESS, 1ST SESSION

H.R. 11584—National Child Abuse Act—Provides for the protection of children under 16 years of age who have had physical injury inflicted upon them, or who are further threatened with physical injury by the conduct of those responsible for their care.

Requires mandatory reporting by any doctor, school teacher, social worker or welfare worker of an incidence of child abuse and makes it a misdemeanor for failure to report. Would grant immunity to any person filing a report in good faith.

Provides for the establishment of a child identification system through the issuance of a social security number to each child immediately after birth.

By: Mr. Biaggi, May 22, 1969.

To: Committee on Ways and Means. No further action.

H.R. 11615—National Child Abuse Act—Same as H.R. 11584.

By: Mr. Biaggi et al.; May 26, 1969.

To: Committee on Ways and Means. No further action.

91ST CONGRESS, 2D SESSION

H.R. 15481—National Child Abuse Act—Same as H.R. 11584 (above—91st 1st Session).

By: Mr. Biaggi et al.; January 21, 1970.

To: Committee on Ways and Means. No further action.

H.R. 19208—National Child Abuse Act—Same as H.R. 15481.

By: Mr. Fulton.

To: Committee on Ways and Means. No further action.

92ND CONGRESS, 2D SESSION

H.R. 304—National Child Abuse Act—Same as H.R. 19208 (see above).

By: Mr. Murphy (N.Y.) January 22, 1971.

To: Committee on Ways and Means—No further action.

H.R. 10336—Authorizes the Secretary of HEW to make grants to State agencies to assist in developing and carrying out child abuse prevention programs. Requires that the states provide for the reporting of instances of child abuse. Grants immunity from any civil or criminal liability for any doctors, school teacher, social worker, welfare worker, medical examiner or coroner who reports an instance of child abuse. Requires reporting of abuse by the above with a penalty for non-compliance of the reporting requirement. Authorizes the person making the report to hold the child in temporary custody or transfer the child to another person or agency if it is necessary in order to prevent the further abuse of the child through the proper court procedure.

By: Mr. Biaggi, August 3, 1971.

To: Committee on Ways and Means. No further action.

92ND CONGRESS, 2ND SESSION

H.R. 13855—Same as H.R. 10336.

By: Mr. Biaggi et al., March 16, 1972.

To: Committee on Ways and Means. No further action.

H.R. 13856—Same as above.

By: Mr. Biaggi et al. March 16, 1972.

To: Committee on Ways and Means. No further action.

JEAN YAVIS,
Education and Public Welfare Division.
November 1, 1972.

EXHIBIT 2

[From the Washington Star, Apr. 2, 1973]

THE BATTERED CHILDREN

Of all the loathsome happenings we can remember in this area, none was more repelling than this latest rash of child-abuse incidents, two of which resulted in the deaths of children and conviction of adults. Now there's a new charge in Montgomery County, against parents whose three-months-old baby died last week. No one can presume to judge guilt or innocence in that case. But this whole subject was brought into chilling focus the other day before a Senate subcommittee.

Anyone who saw the film slide presentation before that panel will never forget it. Indeed a good many people in that committee room diverted their eyes, so unbearable were the pictures being shown by a team of specialists from Children's Hospital. Those who watched saw a procession of infants and pre-teen children who had been brutally tortured—beaten, burned, scalded, wounded with forks and other instruments. Some had broken limbs. These things were suffered at the hands of parents and guardians, and it all happened here in the Washington area.

Worst of all, these cases apparently represented just a fraction of the whole picture. Dr. Robert H. Parrott, director of Children's Hospital, said the facility handled about 100 of the 150 child abuse cases reported in the District last year, "and we estimate there are three times that many occurring each year, but going undetected."

And in Montgomery County, suspected child abuse cases reported thus far this year exceed half the number for all of 1972, and are more than double those for 1971. This probably reflects an improvement of reporting more than an increase of abuse, because the area was startled into a recognition of the problem. The death of nine-year-old Donna Anne Stern under horrifying circumstances, and the murder conviction of her stepmother last month, didn't escape the attention of very many Montgomery countians. About half of this year's suspected cases have been reported by the school system, which has acquired a keener awareness of its obligation in this field.

But still there are serious shortcomings. Professional forces dealing with this dilemma—especially in the social and psychiatric services—are badly understaffed. Sometimes there has been poor communication between the responsible agencies. Some children who haven't been removed from abusive homes might have been saved from injury or death haven't been removed from abusive homes in time. And deficiencies of law deserve much blame, too. In Maryland, protective services workers don't have authority to enter a home, to investigate possible child abuse, without a warrant. Other citizens often hesitate to speak up for fear they won't have legal immunity in reporting abuse cases. However, theses drawbacks, and some others, would be removed by legislation now before the General Assembly. This session should produce new law to speed the identification and psychiatric treatment of child abusers, and afford better protection for the children.

The need for a strong federal assault on this problem is apparent, though, for most states are lagging dismally while children suffer. Senator Walter Mondale, whose subcommittee heard and viewed the grim testimony last week, has the most promising plan. He would establish a National Center and a National Commission on Child Abuse and Neglect, and require the states to draw up acceptable plans for remedial programs. Congress should approve this approach, along with enough funding to assist the states on a major scale.

[From the Washington Post, Apr. 1, 1973]

CARING FOR BATTERED CHILDREN

This much anyway the community owes to JoAnna Stern, the Montgomery County woman found guilty of killing her 9-year-old stepdaughter by a series of tortures almost too terrible to consider: a heightened awareness of the reality of child abuse and of the wholly inadequate measures we have devised to deal with it. As these particular horrors go and case by case, Mrs. Stern's behavior toward the child who died would have to be considered atypical—most child abuse is far less calculated and grotesque than that in which she engaged. But the part of the story that was, in its special way, most horrifying was also the part that was not atypical, the part about the manner in which responsible officials of the county, once alerted to the danger the child was in, still failed to take steps to rescue her in time. We quote a memorable passage from LaBarbara Bowman's account of the trial in The Post:

". . . a county policewoman told how she . . . tried without success to get the county's family services department to take an active role in the affairs of the troubled family."

The particular combinaton of lethargy and confusion that characterized this performance is hardly unique to the area we live in. The fact is that nationwide the relevant authorities have been slow to recognize the dimension of the problem of child abuse and slow to take advantage of the methods available for detecting its incidence and preventing terrible damage from being done. But that should not be much comfort and still less inspiration to the people of this area who have been reading daily about local cases of child abuse in which horrendous crimes are committed against infants and young children and in which horrendous mistakes may be made by those charged with protecting them.

The Child Abuse Team of Children's Hospital provided some incisive testimony before Senator Mondale's Subcommitee on Children and Youth the other day, outlining the steps that we should be taking to protect the helpless victims of these crimes. And while they described some progress, they also described the severe limitations on action that proceed from the fact that many of the relevant authorities are under-funded, understaffed and under-informed. Police, judges, lawyers, government workers and medical people, according to the Children's Hospital Team, could all use more education in known and available techniques for doing much better by the victims of child abuse.

In recommending a number of steps to be taken, the Children's Hospital Team did cite one giant step backwards the Department of Human Resources seems to be taking. It is the elimination of the corps of special protective services case workers who have been able to devote the requisite special and urgent attention to those children in distress. That group, rather than being enlarged and improved, is evidently to be disbanded, with the small caseload of each special protective service worker to be spread out among the overburdened case workers in other areas. As many of those observed, whose letters on this subject we printed Friday, there is something so senseless and misguided about this move as to defy reason. Emergency situations involving the lives of innocent and helpless children require emergency action—and action that is right the first time around. Can anyone have any doubts about that? A group of workers connected with Children's Hospital put the case against eliminating these special services succinctly and well: "The consequence could be an increase in irreparable damage and death to these children because they will be deprived of their right to specialized intervention . . . Remember, we are not dealing with social abstractions, but with life and death."

Mr. RANDOLPH. Mr. President, we have had the explanation by the able Senator from Vermont (Mr. STAFFORD) of the essential provisions of the pending legislation. I commend the diligence of the Senator from Vermont (Mr. STAFFORD) and the attention to this subject matter by all the members of the Committee on Labor and Public Welfare, and especially of the Subcommittee on Children and Youth.

The subcommittee, as we know, is chaired by the very progressive and helpful Senator from Minnesota (Mr. MONDALE), and I think that I should mention who the other members of the subcommittee are. They are Senators WILLIAMS, of New Jersey; KENNEDY, of Massachusetts; NELSON, of Wisconsin; CRANSTON, of California; HATHAWAY, of Maine, and myself as majority members of the subcommittee and Senators TAFT, of Ohio; BEALL, of Maryland; and, of course, the Senator who has just spoken, Mr. STAFFORD, of Vermont.

Mr. President, in the absence, and understandably necessary absence of the Senator from Minnesota (Mr. MONDALE), who as other Senators and I know would be handling this measure today if he were present, I ask unanimous consent that a statement by the Senator from Minnesota on S. 1191, and other material relating to the Child Abuse Prevention and Treatment Act, be printed at this point in the RECORD, coming prior to the remarks I wish to make upon the legislation itself. This is a statement of the chairman of the Subcommittee on Children and Youth.

The PRESIDING OFFICER (Mr. BAYH). Without objection, it is so ordered.

The statement follows:

STATEMENT OF SENATOR MONDALE

I sincerely regret that I am unable to be present in the Senate for consideration of S. 1191, "The Child Abuse Prevention and Treatment Act".

I am deeply grateful to Senator Robert Stafford of Vermont, both for the continuing leadership of bipartisan support of this bill and for his willingness to manage it on the floor today in my absence.

I would also like to express my sincere gratitude to Senator Randolph, who has taken an active role in shaping this legislation from the beginning. I am particularly grateful for the time and trouble he took to attend the Subcommittee's field hearing in Denver, and for his willingness to assist in managing the bill today.

On March 13 of this year, with the bipartisan cosponsorship of 13 other Senators, I introduced S. 1191. Since then the Subcommittee on Children and Youth, which I chair, has held four hearings on the bill. We have listened to the testimony of parents who abused their children, of doctors and social workers, lawyers and psychologists and many other concerned persons. We have visited abused children in hospitals in Washington, Denver and New York—children horribly burned, beaten and bruised.

In the Washington area, the stepmother of a 9 year old girl was recently found guilty of the premeditated murder and torture of the child. In Denver, a father burned the palms of his son's hands with a cigarette lighter. Years earlier, his father had used the same lighter on him for the same purpose.

The children who will benefit from enactment of this legislation are the victims of cruel psychological and physical punishment—not of normal discipline.

At least 60,000 cases of child abuse are reported in this country each year. Experts who testified before the subcommittee emphasized that the number of reported cases is only a small indication of the incidence of child abuse in this country. They further stated that child abuse is a problem which is found in virtually all social and economic groups within our society.

As I listened to the testimony and made field trips to hospitals, I was shocked and appalled at the stories I heard.

At the same time I was very gratified to learn that in many places there are serious, concerned people who are doing what they can to prevent, identify and treat child abuse. The people have learned and demonstrated that where adequate support services are made available to families suffering from this problem, 90 percent of abused children can be reunited with their parents without a repeated abuse. Our ultimate goal must, of course, be to prevent future occurrences of child abuse. We can only do this when we have accomplished a thorough understanding of the causes of the problem.

In the meantime, it is essential that steps be taken to protect the thousands of youngsters who suffer permanent physical and psychological damage each year. The purpose of the "Child Abuse Prevention and Treatment Act" is to provide support to successful and promising efforts to deal with child abuse: and to intensify our study of the underlying causes and possible solutions to it. If S. 1191 is enacted, for the first time we could have a national focus on activities dealing with child abuse. The National Center on Child Abuse and Neglect, within the Office of Child Development, would collect and disseminate research on child abuse and on child abuse programs.

In addition, the Center would award demonstration grants for the creation and expansion of programs aimed at preventing, treating and identifying child abuse. I was particularly impressed by testimony concerning the need for a multidisciplinary approach which brings together doctors, social workers, psychiatrists, legal and law enforcement workers and others to work together on individual child abuse cases. Some of the grants awarded under this bill would be directed toward creation of regional centers which would use this multidisciplinary approach.

Funds granted under this program could also be used to assist in the formation and operation of parent self-help organizations, like Parents Anonymous, which encourages parents who have abused their children to talk out their common problems and provide support to each other in crises.

Child protective services programs, which historically have had the responsibility for dealing with child abuse, have been hampered in their efforts by inadequate funding. Under this bill, protective services agencies could apply for grants for a variety of programs including the creation of multidisciplinary teams and personnel training.

In addition to the demonstration grant program, the other major thrust of the bill is creation of a Presidential commission. I believe strongly that such a commission is needed to examine some of the complex and unresolved questions concerning past and future efforts to eliminate child abuse.

When S. 1191 was introduced it included a section amending the Social Security Act to require a state plan for child abuse under Title IV–B, the protective services program. In the course of my study of this problem, I concluded that it is absolutely essential to make available extra resources for the strengthening of child abuse programs authorized by the Social Security Act. So I intend to offer on behalf of myself and other members of the Labor and Public Welfare Committee, additional legislation directed toward that goal. We will offer this legislation through the Finance Committee, which has jurisdiction over the Social Security Act.

As some of you know, the Department of Health, Education and Welfare announced suddenly in June its intention to earmark $4 million for expenditures relating to child abuse in 1974. I subsequently wrote to Secretary Weinberger requesting a detailed account of the sources of the $4 million and of the way in which the funds would be spent. I believe that there is no better argument for passage of S. 1191 than the inadequate answer I received from the Secretary. I ask unanimous consent that copies of our correspondence on this matter be printed at the close of my remarks in the Record.

I would like my colleagues to know that S. 1191 was reported by the Labor and Public Welfare Committee with no objections. In closing, I would like to express my special appreciation to Chairman Williams of the Labor and Public Welfare Committee for his support of S. 1191.

June 11, 1973.

Hon. Caspar Weinberger,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

Dear Secretary Weinberger: I understand that Acting Assistant Secretary for Human Development Stanley B. Thomas, Jr. announced on June 9 that HEW has earmarked $4 million to be used in activities relating to child abuse in fiscal year 1974.

As you know, legislation dealing with child abuse is pending before the subcommittee. I would appreciate receiving from you the following information about the new activities to be undertaken by the Department in this area:

1. A detailed explanation of the sources of the $4 million—including authorizations. Was this previously planned or authorized for other programs? If so, please list them and the amounts of money involved in each.

2. A detailed explanation of how the $4 million will be spent.

3. How the Department intends to go about initiating a revision of the model child abuse reporting law.

4. What method will be used to survey the activities of States relating to child abuse? What criteria will be used to judge the effectiveness of the "program models and systems" to be studied for possible replication?

5. Exactly how the Department intends to test the feasibility of establishing a national clearinghouse.

6. A description of the type of training materials to be developed; of their contents, their distribution and audiences.

Because this legislation is under active consideration by the subcommittee, I request that you submit this informaton to me by the close of business on June 15.

Sincerely,

Walter F. Mondale.

June 20, 1973.

Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: I am pleased to respond to your letter of June 11 relating to the Department's plans in the area of child abuse. Of course in as important a field as this, our plans will necessarily evolve in various ways as more information on needs is developed.

The information that follows references the specific points in your letter:

1. Funds for the support of increased efforts in the area of child abuse will come from existing authorities such as the Office of Child Development and other programs as appropriate. Specific sources will be identified as our planning evolves. We would not expect that the funds will have been planned or authorized for other programs.

2. Plans for spending the $4 million will involve: (1) Revision of the model child abuse reporting law first developed in 1962; (2) survey of existing State and local programs in order to develop program models suitable for replication; (3) development of approaches to the collection and dissemination of data with respect to child abuse and neglect; and (4) development of training materials for persons dealing with the abused child. In addition, we will enlist the assistance of experts in the field to secure the benefit of their ideas and suggestions.

3. The Office of Child Development will be responsible for revision of the model child abuse reporting law, seeking the advice and assistance of a variety of knowledgeable individuals.

4. The Department plans to review its child abuse program guidelines and revise them as appropriate. This will involve a survey of selected State programs and a review of current State and Federal guidelines. In addition, a survey of selected local child abuse programs will be conducted as part of an effort to develop appropriate criteria to judge the effectiveness of current models. While it is too early to specify criteria at this time, we are looking for programs which allow for equal access of all children to services, which provide a coordinated flow of cases through the legal, medical, and social service systems involved, and which have clarity of assignment of responsibility in all phases of a case.

5. The feasibility of establishing a national clearinghouse will be tested by a recognized authority on child abuse and on reporting laws: The primary emphasis will be on the coordination of State reporting systems, with an effort to bring them into accord on definitions of what is to be reported, who is mandated to report, and to whom the report should be made.

6. The types of training materials and the contents of the material are undetermined at this time. However, I anticipate utilizing the expertise of many persons, from many disciplines, in the development of materials. The potential audience are those persons who would be most likely to come into contact with children and thus be in a position to identify the abused or potentially abused child, that is, teachers, doctors, nurses, policemen, and so on.

Your continuing interest in the Department's activities is appreciated.

With kind personal regards,

Sincerely,

Caspar W. Weinberger,
Secretary.

U.S. Senate,
Committee on Labor
and Public Welfare,
Washington, D.C., March 8, 1973.

Hon. Walter F. Mondale,
Chairman, Subcommittee on Children and Youth, Committee on Labor and Public Welfare, Washington, D.C.

Dear Fritz: I have been following with great interest the preliminary research and investigation which the Subcommittee on Children and Youth has conducted in the area of child abuse. The compilation of materials which the subcommittee published last winter is an important beginning.

Child abuse is a sickening, largely overlooked problem in America. In the last several months, however, the media has begun to turn its attention to this phenomenon and it has become clear that brutality against children by their parents has been dramatically and tragically increasing. This fact is confirmed by recent studies showing child abuse to be on the rise in the United States. We can no longer afford to ignore this situation and the implications that it has for children, families, and, indeed, the entire Nation.

As chairman of the Labor and Public Welfare Committee, I cannot urge you strongly enough to expand your subcommittee's examination and evaluation of this issue. It is my hope that you will begin hearings as soon as possible with a goal of identifying precisely what role, if any, Federal legislation and Federal resources might play in the solution of this problem. The time has come to prevent the occurrence of child abuse, identify the victims, and provide the necessary help to these children and their families.

I want you to know that you will have my full support and cooperation in this vital effort.

Sincerely,
Harrison A. Williams, Jr.,
Chairman.

Mr. RANDOLPH. Mr. President, I ask unanimous consent also to have printed in the Record at this point, the statement of the chairman of the Committee on Labor and Public Welfare, the Senator from New Jersey (Mr. Williams), who is unavoidably absent from the Chamber during the consideration of this matter, but who has been a very strong supporter, together with a letter addressed to the Senator from Minnesota. We have looked to him for substantial guidance in reference to this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR WILLIAMS

Child abuse is a sickening problem and until recently, has been largely overlooked in the United States. Year by year, hundreds and thousands of helpless children are brutalized by their parents, guardians, and other adults. Some of these young people never survive these beatings, burnings, poisonings and other abuses. For others, the resulting emotional scars of such brutality can never be healed.

It has been estimated by the National Center for the Prevention and Treatment of Child Abuse and Neglect, that 60,000 child abuse cases are officially reported on an annual basis. In New York City alone, there were 10,000 cases of child abuse or suspected abuse reported in 1972. In my own state of New Jersey we have just learned that for the first five months of 1973, child abuse cases have more than doubled over the previous year. Statistics released on June 26, 1973 by the State of New Jersey showed that there have been 2,078 reported incidents of child abuse as of the end of May compared with 1,032 cases reported for the same period in the previous year. And despite the fact that during the last decade virtually every state in the Union has revised its child abuse laws, the problem continues to assume massive proportions. Indeed it is one of our great national tragedies.

During the last year the Senate Subcommittee on Children and Youth began preliminary research and investigation into this area. As a result of these initial efforts, I became deeply interested in ways in which the Senate Labor and Public Welfare Committee could develop some legislative initiatives to help deal with child abuse. In this regard, I urged the Chairman of that Subcommittee, Senator Mondale, to expand his activities and evaluation of this issue, and told him of my full support for any efforts he could undertake to deal with the problem.

On March 13, 1973, Senator Mondale with my cosponsorship introduced S. 1191, the Child Abuse Prevention and Treatment Act. It is to my deep satisfaction that the Senate is considering this measure today.

Over the course of the last three months, the Subcommittee on Children and Youth conducted hearings in Washington, Denver and New York and made numerous visits to child abuse treatment facilities in the areas across the country. The findings of the Subcommittee are fully documented in the hearing record and in the Committee's report on this bill. Clearly,the most important finding which the Committee made in its examination of this problem is that laws prohibiting child abuse take effect only after the victim has suffered permanent psychological and/or physical damage. And the very complex reasons for child abuse are such that criminal laws against child abuse do not serve as a deterrent. Thus, it became clear to the Committee that assistance was needed to encourage communities across the nation to develop programs for preventing and treating child abuse.

We know, of course, that a few areas in the United States have pioneered in new approaches to this problem with remarkable success. But, even in these instances, funding limitations have meant that such initiatives can only be put into effect on a limited basis.

In my judgment, the legislation before the Senate today will provide a substantial boost to the further development of comprehensive child abuse treatment programs across the nation. The bill authorizes the Secretary of Health, Education and Welfare to establish a National Center on Child Abuse and Neglect, which is mandated to maintain an information clearinghouse on child abuse programs, compile and publish training materials for personnel in fields dealing with child abuse, to provide technical assistance to public and non-profit agencies who request such help, and to compile and evaluate a summary of research on child abuse and neglect.

In addition, the bill authorizes the Secretary through the National Center, to make grants for demonstration programs designed to prevent, identify and treat child abuse. Such grants may be used for personnel training for the establishment and maintenance of multi-disciplinary centers to deal with child abuse, as well as for other innovative projects including support for parents' self-help organizations.

The bill also creates a National Commission on Child Abuse and Neglect which is required to make a full study and investigation of the effectiveness of existing child abuse laws, the effectiveness of existing programs for prevention, treatment and identification of child abuse and the causes of this tragic problem.

A total of $90 million is authorized for all of these purposes over the next five fiscal years.

When the Administration was asked for its views on this legislation, the Committee was told that this initiative was unnecessary because in fact, the Department of HEW was already undertaking several small efforts in this regard and already had adequate legislative authority to get the job done. Following the completion of hearings on S. 1191, the Department surprisingly announced its intention to earmark $4-million for child abuse activities in Fiscal Year 1974.

In HEW's view this reinforced its position that a new program was unneeded, yet, as the Committee report shows, in response to written questions from Senator Mondale, HEW could not specifically identify where these funds would come from or precisely how they would be spent—particularly in regard to the prevention and treatment efforts which S. 1191 addresses itself to. It is unfortunate that after months of activity by the Labor and Public Welfare Committee in this area that the Administration has been unable to adequately grasp the necessary focus for child abuse programs and, while I am pleased that the Department of HEW has, for the first time earmarked some monies for child abuse, its intentions do not go far enough.

I am deeply committed to the philosophy and objectives of the legislation before us today. My distinguished colleague, the Chairman of the Subcommittee on Children and Youth, Senator Mondale, has labored long and hard to develop a bill which will have meaningful impact in this highly emotion-charged and complex field. He has brought to the attention of the American people the fact that child abuse is not something which we can lightly dismiss. He has demonstrated a clear need for Federal assistance in the development of well-planned programs which will help eradicate child abuse in America.

I commend him for his efforts and urge all my colleagues to support S. 1171.

March 3, 1973.

Hon. Walter F. Mondale,
Chairman, Subcommittee on Children & Youth Committee on Labor and Public Welfare, Washington, D.C.

Dear Fritz: I have been following with great interest the preliminary research and investigation which the Subcommittee on Children and Youth has conducted in the area of child abuse. The compilation of materials which the Subcommittee published last winter is an important beginning.

Child abuse is a sickening, largely overlooked problem in America. In the last several months, however, the media has begun to turn its attention to this phenomenon and it has become clear that brutality against children by their parents has been dramatically and tragically increasing. This fact is confirmed by recent studies showing child abuse to be on the rise in the United States. We can no longer afford to ignore this situation and the implications that it has for children, families, and, indeed, the entire nation.

As Chairman of the Labor and Public Welfare Committee, I cannot urge you strongly enough to expand your Subcommittee's examination and evaluation of this issue. It is my hope that you will begin hearings as soon as possible with a goal of identifying precisely what role, if any, federal legislation and federal resources might play in the solution of this problem. The time has come to prevent the occurrence of child abuse, identify the victims, and provide the necessary help to these children and their families.

I want you to know that you will have my full support and cooperation in this vital effort.

Sincerely,
Harrison A. Williams, Jr.,
Chairman.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the privilege of the floor be given to staff members Nick Edes and Robert Harris during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, if the Senator will yield at that point, I ask unanimous consent that the privilege of the floor be given to Colby King, during the consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, S. 1191, the Child Abuse Prevention and Treatment Act now before the Senate, marks a major step toward the solution of one of the most shocking problems in America. All too often we read in a newspaper or listen on the radio or see on the television about a young child who has been severely beaten, burned, poisoned, or otherwise abused by their parents or other adults. when we see this, we sometimes pass it by without consideration of the fact that we, as the people of the United States, have a responsibility through the Congress to take steps toward solving this problem.

We have reliable estimates of the number of known or suspected cases reported each year, but there is general agreement among experts in the related fields for treatment of child abuse that the incidence of unreported cases for child abuse outnumbers the known cases. The estimated 60,000 known cases of abuse that occur annually is fast approaching the point of a national disgrace. The pending measure proposes to take affirmative action to halt this disease that cripples children and in many cases breaks apart the fabric of the American family, the bulwark of our society.

S. 1191 provides the opportunity to move forward in the prevention and treatment of child abuse. How are we to do this? Not in some imaginary program, but we will fit the pieces together. That is what this bill would do. We establish regional centers and programs, which will be staffed by persons who have knowledge in this field. But we need more persons who have a greater knowledge in the related fields of identification, treatment, and prevention. Regional centers will also provide for the training of these individuals.

Moreover, this bill provides for a thorough investigation of the many facets of this problem through the establishment of a National Commission on Child Abuse and Neglect.

The subcommittee chaired by the Senator from Minnesota, the Subcommittee on Children and Youth, has held extensive hearings under his leadership. The hearings have extended over many days in Washington and other areas of the country. I especially recall a hearing we had in Denver, which was a most informative hearing. It indicated what the University of Colorado and those who are working on the program thought of this matter and what they have done to help us understand the situation.

The subcommittee heard compelling testimony which showed that there is a need for action. However, there is much that is still unknown about child abuse or even what the proper role of the Government must be.

In the committee report filed with this legislation, the language is used that it is "clear that many complex legal and policy questions remain to be answered in the area of child abuse."

So, we come here today, not having all of the answers, but knowing that a beginning must be made. For this reason, the committee established the concept of a national commission to make a full study of these questions and to make recommendations not only for our committee and subcommittee, but also for all Members of the Senate as well.

Because of its desire for immediate action, the committee endorsed a demonstration grant program designed to establish major centers and networks of smaller centers working through a regional center. These programs will be designed to increase the training of multidisciplinary staffs of experts as well as providing services for the identification and treatment of known cases of child abuse and the prevention of further cases.

Through the media the public has generally become aware of the intensity of this shocking problem.

I have in my hand now an advertisement which appeared in last evening's Washington Star and News, which caught my attention. It focuses on an article on child abuse that will appear in the "Washington," the magazine supplement section of the Sunday Star-News. And these words are used to draw attention to the article which I hope that all Senators will read tomorrow:

> The brutal sickness called child abuse.

If efforts to contain child abuse are to be successful, there must be a greater public awareness, and not only an awareness, but also a sense of urgency by the public to help Congress solve these matters. The public must be made aware that there are facilities that can be used for the proper care of the abused children. The National Center on Child Abuse and Neglect and the National Commission will continue the emphasis needed to keep the public informed.

It is important to recognize that this legislation is not punitive in nature. Much of the testimony that the subcommittee heard on S. 1191 pointed out that through proper care for the abused child and abusive parents alike the family can again be united. Experts estimate that 90 percent of adults who abuse children can be rehabilitated.

Mr. President, I have listened to some of these parents admit what they have done.

I think it was courageous for mothers to come before the subcommittee and tell how they had abused their children. There were reasons why parents did this; I shall not go into them now. It is a very complex subject, in some cases involving one child even abusing another child in the family, because that child felt that attention was not given to him in the same degree that it was given to another child in the same family. These are all very complex matters, involving the psychology of growing minds and sometimes the distorted psychology of parents—all of these things are involved, as we attempt to rehabilitate. We heard testimony and we saw instances where children have been abused by parents who themselves had been abused as children.

It is not the intention of this legislation, I wish to underscore, to break apart the family, but rather to preserve the institution of the family as a wholesome institution in which there can be love and understanding.

Our subcommittee chairman (Mr. MONDALE) has worked with diligence in this matter. We have had the cooperative efforts and effective work of the Senator from Vermont who, while not the ranking minority member on the subcommittee, has been perhaps the most active minority member. Other members of the subcommittee, I am sure, would agree with that, in connection with his application of time and attention to this matter.

I feel that there has been perseverance and coordination in bringing this legislation to the floor. We need to halt the spread of child abuse; and I think this measure (S. 1191) is necessary and important toward achieving that end.

I hope that when the roll is called—and an order for a rollcall has been entered—there will be unanimity of support within this body.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BAYH). Will the Senator from Maryland withhold his amendment until the Senate has an opportunity to act upon the committee amendments? I am advised that they take precedence.

Mr. MATHIAS. I am happy to do so.

Mr. STAFFORD. Mr. President, I move the adoption of the committee amendments.

The PRESIDING OFFICER. Does the Senator from Vermont ask unanimous consent that the amendments be considered en bloc?

Mr. STAFFORD. I do so request.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the committee amendments, en bloc.

The PRESIDING OFFICER. The bill is now open to further amendment, and the amendment of the Senator from Maryland will be stated.

The assistant legislative clerk read as follows:

> On page 5, between lines 2 and 3, insert the following new subsection:
>
> "(d) The Secretary is authorized and directed to prepare and submit annually to the President and to the Congress a report on the programs assisted under this section, together with an evaluation of such programs."

Mr. MATHIAS. Mr. President, I would like to thank the managers of the bill, the distinguished Senator from West Virginia and the distinguished Senator from Vermont, for the attention that they are giving to this problem. Perhaps it is an appropriate note that we are considering this bill here on Saturday, because it is the kind of bill that needs to be thought about urgently. It is not the sort of thing that we ought to put over until next week, next month, or next year, because for the children who are suffering now, next week, next month, or next year may be too late.

Mr. President, if there is one thing Americans have always prided themselves on, it is that, more than any other people on Earth, we care for our children. If we slave and we sacrifice and we struggle, it is not for ourselves, but so our children can enjoy advantages and opportunities far greater than those we ourselves were able to enjoy. We fight no war, adopt no program, take no action that is not ultimately and unselfishly aimed at making life better for "generations yet unborn," for "our children and our children's children."

We have, it would appear, every reason to believe what foreign observers have long said of us: that we are a child-oriented society, that our children are the center and the circumference—the Alpha and Omega of our lives. The trouble is, Mr. President, that somebody apparently forgot to tell over 60,000 children who were burned and beaten and poisoned and in various other ways abused by adults last year. And we are told that this rough estimate may only represent the tip of the iceberg.

Clearly, child abuse in America is a national problem. It is appropriate, therefore, that we seek to find a national solution to this difficult and perplexing issue. On this score, I wish to commend the distinguished chairman of the Subcommittee on Children and Youth, Mr. Mondale, my distinguished Republican colleague from Vermont (Mr. Stafford), and the other members of the subcommittee for taking the leadership in the Senate on this issue. S. 1191 represents a serious attempt on the part of the Congress to come to grips with the problem of child abuse and neglect and for this reason, I shall vote in favor of the bill.

Mr. President, S. 1191 wisely recognizes that there are many major unresolved questions which plague this entire issue of child abuse and neglect. Section 3 of the bill, which creates a National Commission on Child Abuse and Neglect, in my judgment, represents a step in the right direction. While I am not at all certain that the commission need be created at the presidential level, I agree with the committee that we do need to have a body to make a full study and investigation of many major unresolved questions. I am pleased to see that the commission, if created, would be required to study issues such as:

The effectiveness of existing child abuse and neglect reporting laws, ordinances and related laws; the effectiveness of existing programs designed to prevent, identify, and treat child abuse and neglect; the national incidence of child abuse and neglect; the cause of child abuse and neglect including its relationship, if any, to drug dependency and alcoholism: The adequacy of Federal, State, local, public, and private funding for child abuse programs, and the appropriate role of the Federal Government in assisting State and local public and private efforts to deal with child abuse and neglect.

Clearly, such a commission will be able to provide the Congress with the kind of information we need to know about the problem in order to fashion additional legislative remedies.

Simultaneously, with the creation of the national commission, section 3 of S. 1191 would also authorize grants for demonstration programs designed to prevent, identify, and treat child abuse and neglect. This section of the bill, the demonstration grant program, is vital to the whole effort to create a national response to a national problem.

But, Mr. President, congressional attention to this problem cannot end with the passage of this bill. We will need to know if the money being spent under the demonstration grant program is contributing to the solution of child abuse problems and if the programs funded under this section are worth the money being spent on them.

Mr. President, my amendment, quite simply, is designed to help the President and the Congress address these questions. This amendment will enable Congress and the President to receive timely feedback about the positive and negative effects which will result from the demonstration grant programs. This amendment will also enable the Congress to receive an assessment of what difference this legislation is actually making on the problem of child abuse and neglect so that we and the President can make our own projections of what reasonably could be expected if these programs were continued, expanded or otherwise modified in the future.

Mr. STAFFORD. Mr. President, speaking for the minority side of the committee, we have had a chance to examine the amendment offered by the distinguished Senator from Maryland(Mr. Mathias), and we are prepared to accept the amendment.

Mr. RANDOLPH. Mr. President, I have had the privilege of discussing the pending amendment with the Senator from Vermont, and I also have the desire which he has expressed to accept the amendment, but I would like to have the opportunity to ask one question of the able Senator from Maryland (Mr. Mathias).

It is my understanding that this amendment is offered so that there may be, in a relatively new field, the opportunity for the oversight function to take place. Congress—and in a sense through Congress—the American people will know that we are having brought back to us and to them a report which will indicate not only the enormity of the problem, but hopefully that the dollars are being wisely spent and that the proper emphasis is being given to the solving of the very terrible and tragic child abuse problem in this country.

Mr. MATHIAS. The Senator from West Virginia has, I think, placed his finger exactly on the purpose of this amendment. We have so many competing claims on the very limited Federal dollar that it is imperative that we be able to critically examine the benefits and costs associated with what we would hope to accomplish under this legislation—not just for today, or next year, but for the years to come. I think my amendment will make it possible for the Congress to fulfill its responsibilities in this regard over a period of time, and to sustain its oversight in this very vital field.

Mr. RANDOLPH. Mr. President, the Senator from Vermont and I agree to the amendment.

The PRESIDING OFFICER (Mr. Church). Is time on the amendment yielded back?

Mr. RANDOLPH. I yield back my time.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time have been yielded back, the question is on agreeing to the amendment of the Senator from Maryland (Mr. Mathias).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the administration's departmental report in opposition to S. 1191 be printed in the Record at this point in the debate.

There being no objection, the report was ordered to be printed in the Record, as follows:

Departmental Report

The Secretary of Health,
Education, and Welfare,
Washington, D.C.

Hon. Harrison A. Williams, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This letter is in response to your request for a report on S. 1191, a bill entitled the Child Abuse Prevention Act.

This bill would direct the Secretary of HEW to establish a National Office on Child Abuse and Neglect to serve as the focal point for dissemination of research results on child abuse and neglect. The Office would establish and maintain an information clearinghouse on child abuse programs, and compile and publish training materials for persons working in or planning to enter the field. The bill would also establish a program of grants and contracts for demonstration programs designed to prevent, identify, and treat child abuse and neglect. In addition, S. 1191 would establish a National Commission on Child Abuse and Neglect, appointed by the President, to study and investigate the effectiveness of existing reporting laws and the proper role of the Federal Government in assisting State and local public and private efforts to cope with child abuse and neglect.

The Department of Health, Education, and Welfare has been deeply involved with the problem of child abuse. The Children's Bureau, now a part of the Office of Child Development, has for a number of years been concerned with this complex problem and, in 1961, undertook the task of assembling information and initiating action. The first step was the development of a State model act, to assist States in the formulating of State laws, since the States have always had jurisdiction in this area. Now, all the 50 States, the District of Columbia, Guam, and the Virgin Islands have enacted child abuse reporting laws and some have amended their original laws to make them more effective.

Dealing with child abuse involves not merely the identification of the abused child but a whole range of services aimed at prevention of abuse and treatment of the child and his family. The most compelling current need is for the fullest implementation of existing laws. Basic to any solution of the problem is the establishment of comprehensive protective and preventive services, including child health services, throughout a State. While the Federal role in this process is an important one, the Department sees this role as one of providing financial assistance, technical advice, and research and demonstrations to discover new and more effective means of carrying out State programs, rather than mandating specific procedures.

The principal Federal financial assistance to States in serving children and their parents who are involved in child abuse derives from the Social Security Act, in particular the 1967 amendments to title IV–A which require that protective services be provided to all neglected or abused children in families receiving AFDC and that cooperative arrangements be worked out with the courts and law enforcement officials in referring appropriate cases and following up on these cases. States may claim 75 percent reimbursement from the Federal Government for their expenditures for these purposes. In the period 1971–74, approximately $224,362,000 of title IV–A money will be used to reimburse States for protective services, and $655,000 of these funds will be spent on research and demonstrations related to child abuse.

During the same period, Federal child welfare funds, authorized by title IV–B of the Social Security Act, in the amount of $2,643,000 will have been spent for protective services provided by State child welfare programs for children who are not recipients of AFDC. Federal funds are also provided through title V of the Social Security Act, by the Maternal and Child Health Service, for health services which are a basic element of the identification and treatment of child abuse. In addition, the National Institute of Mental Health will have expended an estimated $829,543 from Public Health Services Act funds. The total of these Federal expenditures for the 1971–74 period is estimated at $231,656,240.

We believe the most effective approach to the problem is to work with State and local governments voluntary agencies and professional associations to obtain a more adequate picture of the incidence and characteristics of child abuse than we have now. Rather than creating new offices and commissions, as proposed by S. 1191, I am of the opinion that coordination and intensification of existing efforts and organizations will produce greater and more lasting positive results. Accordingly, I have designated the Office of Child Development to take the leadership in coordinating the enhanced Departmental efforts in the child abuse and neglect area. The Office of Child Development has recently made a grant to Dr. Vincent DeFrancis, a noted authority in this field, to examine the feasibility of a National Clearinghouse on Child Abuse and Neglect for the systematic gathering of data which would assist in the analysis of trends having policy and program implications. This should be of material assistance in the development of effective programs and the allocation of resources where they will do the most good.

The National Institute of Mental Health conducts research, provides training, and disseminates materials relating to child abuse. In October 1972, for example, it published a bibliography entitled "Selected References on the Abused and Battered Child." In June of 1973, the National Institute of Mental Health also supported a conference on child abuse attended by a number of experts from the key disciplines involved in the problem. One of the major efforts of this conference was to attempt to define the problems of identification of abuse, including the legal, social and medical aspects. At that conference, the Acting Assistant Secretary for Human Development outlined the new initiatives which will be undertaken by HEW, involving the earmarking of $4 million of new funds in addition to those already committed to this problem.

We are also currently funding projects for the provision of emergency services—one in Buffalo, N.Y. and the other in Nashville, Tenn.—which provide assistance to families in crisis, many of which involve child abuse. Another of our projects operates a protective services center, offering a broad range of services to families who have abused their children. We also are planning a study to identify the early warning signs of family dysfunction which is generally a prelude to abuse. Another of our planned studies is a national evaluation of child abuse programs to determine the most effective means of dealing with the problems of child abuse at the local level.

As for services to the child identified as abused or neglected, I have already alluded to the funds provided under the AFDC, Child Welfare and Material and Child Health authorities of the Social Security Act. But it should also be recognized that much of the current activity and much of the projected effort in combatting the child abuse problem is supported solely from State, local, and voluntary funding sources, such as hospitals with large pediatric services. We sincerely believe that such local community efforts should be encouraged and supported rather than supplanted by Federal mandates.

As this review of our activities indicates, we are already deeply and firmly committed to substantial and enhanced efforts to cope with the problem of child abuse and neglect. Many of our ongoing activities as well as our projected ones would be duplicated by the provisions of S. 1191. In addition, S. 1191 proposes the creation of new organizational categorical units which, in the experience of the Department, tend to work against the development of successful means of dealing with problems rather than aiding in their solution.

For the above reasons, we believe that S. 1191 is unnecessary to carry out the Federal role of assisting States and local communities in coping with child abuse, and we recommend against its enactment.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the administraion's program.

Sincerely,
CASPAR W. WEINBERGER,
Secretary.

Mr. HELMS. Mr. President, I realize that a vote against this measure will be misinterpreted by some as an indication of disinterest in the tragic problem of child abuse.

But I must vote against the proposition because it is yet another step in the direction of centralizing further power and responsibility in Washington.

Child abuse, like other callous violence, is a crime that States and local governments have as their responsibility. No doubt some States would like to pass the buck—and the cost—to Washington. And that, Mr. President, is precisely the sad story of how so much power has been centralized in Washington—by citizens, and States, and local and State leadership, seeking an "easy" way. There is no easy way.

I know something personally, Mr. President, about this problem. I have worked with it in my own State. And if I may make a personal reference, Mrs. Helms and I adopted a neglected child several years ago—a son who has been a blessing to us.

Mr. President, we either mean what we say, or we do not, when we talk in this body, and in other oratory, about "States' rights." Sometimes we must cast difficult votes—votes subject to being misunderstood. But I pledged when I came to Washington that I would try to be consistent—that I would cast my every vote to preserve the rights, and the responsibility, of the States.

Thus, tempting as it is to vote in favor of this measure, I am compelled to vote against it.

Mr. DOMINICK. Mr. President, the problems associated with child abuse and neglect are certainly not new to our society, and yet I feel that awareness of this problem by the general public and recognition and effective handling by professionals is lagging far behind the times.

Positive action toward handling child abuse in this country began about 100 years ago with the creation of the Society for the Protection of Cruelty to Children under the auspices of private concerned citizens. No major steps toward treating these problems occurred for the next 90 years.

However, largely due to the excellent work of a handful of dedicated people, such as at the University of Colorado Medical Center, public awareness has grown. Within the last 10 years, all 50 States have passed reporting laws of some kind and all 50 States now have child protective services under the State welfare department, which receive these reports.

There is no question that this is a very serious problem. Approximately 60,000 suspected cases of child abuse are reported in the United States every year. The frequency of child abuse may actually be twice this figure annually. Five to 25 percent of abused children die as a result of injuries they receive, and an additional 20 to 30 percent suffer permanent disability—usually mental retardation or motor changes. Much more can and should be done to remedy the situation.

For that reason, Mr. President, I have cosponsored S. 1191, which will give impetus to the effort of finding solutions to this problem. In addition to providing Federal funds for demonstration projects for the prevention, identification, and treatment of child abuse and neglect, this bill would help focus national attention and expertise on this problem through the establishment of a Presidentially appointed National Commission on Child Abuse and Neglect. This legislation is not intended to establish a permanent Federal program, but to enlarge public and professional awareness, and to stimulate the development of State and private programs which will both reduce the incidence of child abuse and provide treatment to its victims.

After the planning and implementation of State programs has begun to crystallize, the role of the Federal Government in this area can be reduced if not eliminated.

I would also like to take this opportunity to note that I am particularly proud of the fact that the leadership of Dr. Henry Kempe and the hard work of a group of public-spirited professionals for the past 12 years at the University of Colorado Medical Center in Denver has resulted in the creation this year of the National Training Center for Child Abuse and Neglect with headquarters at Booth Memorial Home, and operating out of there and the Colorado Medical Center. The center was created with the express purpose of prevention, identification, and treatment of abused children. I believe this center will serve as a model for the Nation as child abuse programs are expanded.

I think many of my colleagues were able to observe this spring, during the hearings on this bill, the tragic plight of those who have suffered child abuse. Certainly the stories and facts that were brought before the subcommittee touched many of us, and I would urge members of this body to support the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent that a statement prepared by the Senator from South Carolina (Mr. THURMOND) be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Statement by Senator Thurmond

I share the concern expressed by the Labor and Public Welfare Committee over the problem of child abuse and neglect. However, I do not believe that the creation of additional Federal program agencies as proposed on S. 1191 will contribute to effective efforts to prevent, identify and treat the problem. I thereby oppose this bill.

My basic objection is that the protection of children is primarily a state responsibility. It is a matter that should not be controlled by a Federal bureaucracy. The vast network of state and local institutions such as schools, hospitals, law enforcement agencies, social service agencies, and a wide range of private agencies expend substantial sums of money in a wide array of programs.

The role of the Federal government is to aid states and localities in carrying out their responsibility for the protection of children. This is done through activities such as the development of a uniform reporting law, through the conduct of research and demonstrations which identify various approaches to assist children in danger of abuse, through grants to states for services such as provision of food, clothing and shelter when necessary, and health services which are targeted primarily to the economically disadvantaged, and through the provision of technical assistance and consultation.

The principal Federal financial assistance to states in serving children and their parents who are involved in child abuse is through Title IV–A of the Social Securtiy Act which requires that protective services be provided to all neglected or abused children in families receiving AFDC. Cooperative arrangements must be worked out with the courts and law enforcement officials in referring appropriate cases and following up on these cases. States may claim 75 percent reimbursement from the Federal government for their expenditures for these purposes. In the period 1971–74, approximately $224,362,000 of Title IV–A money will be used to reimburse states for protective services, and $655,000 of these funds will be spent on research and demonstrations related to child abuse.

During the same period, Federal child welfare funds, authorized by Title IV-B of the Social Security Act, in the amount of $2,643,000 will have been spent for protective services provided by state child welfare programs for children who are not recipients of AFDC. State expenditures under this program are considerably higher.

The Department of Health, Education and Welfare has indicated recently that it plans to expend an additional $4 million for new initiatives in the child abuse and neglect area. Many of the activities they plan to undertake are duplicated by the provisions of S. 1191. These include revision of the model child abuse reporting law first developed in 1962, surveying state and local child abuse neglected children's service programs in order to develop program models and systems which could be replicated, testing the feasibility of a National Clearinghouse for the collection and dissemination of data with respect to child abuse and neglect, and developing training materials for use with people likely to come into contact with abused or neglected children.

A review of HEW activities indicates, they are already deeply and firmly committed to substantial and enhanced efforts to cope with the problem of child abuse and neglect. Many of the on-going activities as well as those projected would be duplicated by the provisions of S. 1191. In addition, S. 1191 proposes the creation of new categorical programs which, in the experience of the Department, tend to work against the development of successful means of dealing with problems rather than aiding in their solution.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. RANDOLPH. Mr. President, I yield back the time under the control of the majority.

Mr. STAFFORD. I yield back the minority's time.

The PRESIDING OFFICER (Mr. Church). All time having been yielded back, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from North Dakota (Mr. Burdick), the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from Alaska (Mr. Gravel), the Senator from Colorado (Mr. Haskell), the Senator from Maine (Mr. Hathaway), the Senator from Iowa (Mr. Hughes), the Senator from Massachusetts (Mr. Kennedy), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Maine (Mr. Muskie), the Senator from Rhode Island (Mr. Pastore), the Senator from California (Mr. Tunney), the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. McGee), the Senator from Alabama (Mr. Sparkman), the Senator from Washington (Mr. Magnuson) are absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. Gravel), the Senator from North Dakota (Mr. Burdick), the Senator from Iowa (Mr. Hughes), the Senator from Massachusetts (Mr. Kennedy), the Senator from New Hampshire (Mr. McIntyre), the Senator from Minnesota (Mr. Mondale), the Senator from Rhode Island (Mr. Pastore), the Senator from Washington (Mr. Magnuson), the Senator from California (Mr. Tunney), the Senator from New Jersey (Mr. Williams) would each vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Maryland (Mr. Beall), the Senator from Tennessee (Mr. Brock), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Nebraska (Mr. Curtis), the Senator from Kansas (Mr. Dole), the Senator from Oregon (Mr. Packwood), the Senator from Ohio (Mr. Taft), the Senator from Texas (Mr. Tower), the Senator from Connecticut (Mr. Weicker), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The Senator from New Hampshire (Mr. Cotton) is absent because of illness in the family.

The Senator from Michigan (Mr. Griffin) and the Senator from Nebraska (Mr. Hruska) are absent on official business.

Also, the Senator from Arizona (Mr. Goldwater) and the Senator from South Carolina (Mr. Thurmond) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. Taft) would vote "yea."

On this vote, the Senator from Kansas (Mr. Dole) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Kansas would vote "yea" and the Senator from South Carolina would vote "nay."

On this vote, the Senator from Nebraska (Mr. Curtis) is paired with the Senator from Arizona (Mr. Goldwater). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 57, nays 7, as follows:

[No. 291 Leg.]

YEAS—57

Abourezk
Aiken
Baker
Bartlett
Bayh
Bennett
Bentsen
Bible
Biden
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Domenici
Dominick
Ervin
Fong
Fulbright
Gurney
Hart
Hartke
Hatfield
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Mansfield
Mathias
McClellan
McClure
McGovern
Metcalf
Montoya
Moss
Nelson
Nunn
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Pa.
Stafford
Stevens
Stevenson
Symington
Talmadge

NAYS—7

Bellmon
Fannin
Hansen
Helms
Roth
Saxbe
Scott, Va.

NOT VOTING—36

Allen
Beall
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.
Cotton
Curtis
Dole
Eagleton
Eastland
Goldwater
Gravel
Griffin
Haskell
Hathaway
Hruska
Hughes
Kennedy
Magnuson
McGee
McIntyre
Mondale
Muskie
Packwood
Pastore
Sparkman
Stennis
Taft
Thurmond
Tower
Tunney
Weicker
Williams
Young

So the bill, S. 1191, was passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Abuse Prevention and Treatment Act".

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Sec. 2. (a) The Secretary of Health, Education and Welfare (hereinafter referred to in this Act as the "Secretary") is authorized and directed to establish a center in the Office of Child Development to be known as the "National Center on Child Abuse and Neglect" (hereinafter referred to in this section as the "Center").

(b) Secretary, through the Center, shall—

(1) compile, analyze, and publish annually a summary of recently conducted and currently conducted research on child abuse and neglect;

(2) develop and maintain an information clearinghouse on all programs, including private programs showing promise of suc-

cess, for the prevention, identification, and treatment of child abuse and neglect;

(3) compile and publish training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect; and

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and oragnizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

DEMONSTRATION PROGRAM FOR THE PREVENTION, IDENTIFICATION AND TREATMENT OF CHILD ABUSE AND NEGLECT

SEC. 3. (a) The Secretary, through the Center, is authorized and directed to make grants to, and enter into contracts with, public agencies or nonprofit private organizations for demonstration programs designed to prevent, identify, and treat child abuse and neglect. Grants under this section may be—use for—

(1) the development and establishment of training programs for personnel in medicine, law, law enforcement, education social work, and other relevant fields who are engaged in, or intend to work in the field of the prevention, identification, and treatment of child abuse and neglect;

(2) establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect cases, to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies and organizations which request such services; and

(3) for such other innovative projects, including appropriate parent self-help organizations, that show promise of successfully preventing or treating cases of child abuse and neglect as the Secretary may approve.

(b) Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(c) The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

(d) The Secretary is authorized and directed to prepare and submit annually to the President and to the Congress a report on the programs assisted under this section, together with an evaluation of such programs.

THE NATIONAL COMMISSION ON CHILD ABUSE AND NEGLECT

SEC. 4. (a) There is hereby established a National Commission on Child Abuse and Neglect.

(b) The Commission shall be composed of fifteen members to be appointed by the President, by and with the consent of the Senate, from among parents, State and local officials, and other persons who by reason of experience or training in the fields of preventing child abuse and neglect, are especially qualified to serve on the Commission. The Secretary and the Director of the Office of Child Development shall be ex officio members of the Commission. In making appointments to the Commission the President shall give consideration to the appointment of individuals who represent the various disciplines involved in the prevention and treatment of child abuse. Appointment of the Commission shall be completed, and the Commission shall hold its first meeting, not later than sixty days following enactment of this Act.

(c) (1) The Commission shall elect one of its members to serve as chairman and one to serve as vice chairman.

(2) Any vacancy in the Commission shall not affect its powers. Eight members of the Commission shall constitute a quorum.

(d) (1) The Commission shall make a complete and full study and investigation of—

(A) the effectiveness of existing child abuse and neglect reporting laws and ordinances, with special consideration of the impart, if any, of penalties of varying severity for child abuse, on the effectiveness of provisions requiring the reporting of child abuse by medical doctors, physician assistants, dentists, nurses, social workers, teachers, medical examiners, law enforcement personnel, and other individuals required to report such abuse and neglect;

(B) the effectiveness of existing programs designed to prevent, identify, and treat child abuse and neglect;

(C) the national incidence of child abuse and neglect, including a determination of the extent to which if any, the incidents of child abuse and neglect are increased in number of severity;

(D) the causes of child abuse and neglect including the relationship, if any, between drug dependence and alcoholism and such abuse and neglect;

(E) the adequacy of funding for efforts to deal with child abuse and neglect available from Federal, State, and local public and nonprofit private resources; and

(F) the proper role of the Federal Government in assisting State and local public and private efforts to prevent, identify, and treat cases of child abuse and neglect.

(2) The Commission shall transmit to the President and to the Congress not later than one year after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations, including recommendations for Federal and State legislation, as it deems advisable.

(e) (1) The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request of the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(3) Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(A) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no such personnel shall be compensated at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at per diem rates not to exceed $50 for individuals.

(4) The Commission is authorized to enter into contracts with Federal, State, and local public agencies, and with private, nonprofit firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(f) Members of the Commission shall receive compensation at the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(g) On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

SEC. 5. There are hereby authorized to be appropriated for the purposes of this Act $10,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for each of the four succeeding fiscal years, of which not more than $2,000,000 per annum shall be available for the purposes of section 2 of this Act, and not more than $1,000,000 per annum shall be available for the purposes of section 4 of this Act.

The title was amended, so as to read: "A bill to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes.".

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—ALASKA PIPELINE

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

TRANS-ALASKA PIPELINE MEANS MORE AMERICAN JOBS

Mr. STEVENS. Mr. President, the immediate construction of the trans-Alaska pipeline will mean more American jobs. The trans-Alaska pipeline, obviously, means more jobs for Alaskans. The line is expected to take 3 years to build and would employ almost 10,000 men during actual construction. It would mean, in addition, thousands of extra jobs for those who would feed, clothe, house, and provide other services to these primary workers.

The construction of a trans-Alaska pipeline would be a tremendous shot in the arm to the American economy. It would require thousands of additional skilled workers. These are people who could help us develop our other areas of potential petroleum reserves—the Outer Continental Shelf and the rest of Alaska.

Completion of the Alaskan pipeline will probably yield a net benefit to the American economy starting at $1 billion per year and increasing to $2.4 billion annually by 1980. It will benefit all regions of the country. At this time, when we are fighting unemployment, thousands of new workers will find employment in Alaska during pipeline construction. These people will buy goods and services from throughout the United States. As these goods and services must be shipped to Alaska, the transportation industry will also benefit. Merchants will benefit, indeed, the entire economy will benefit.

The trans-Alaska pipeline will particularly aid several vital American industries which are currently depressed. For example, the American maritime and shipbuilding industry will be helped greatly. Alaskan oil must be carried in American-bottom ships under the Jones Act. At least 27 new tankers must be constructed: 73,480 man-years of shipyard employment will be created; 3,800 permanent jobs will be created to run and maintain this new, modern tanker fleet. This will result in more than $1.6 billion for America's shipbuilding industry. This is an industry that has, for some time, been at a competitive disadvantage because of lower costs from foreign competition. The trans-Alaska pipeline will indeed have a great positive effect on this industry.

The trans-Alaska pipeline will probably, when one considers its total effect on the U.S. economy, result in more than $19 billion to the American economy by 1980.

For this reason, hundreds of thousands of American workers, led by the AFL–CIO, the Teamsters International, the carpenters union, as well as many other unions throughout the Nation, have also given their strong support for immediate construction of the trans-Alaska pipeline.

Mr. President, throughout the discussion and debate on S. 1081, I have been trying to emphasize what immediate construction of the trans-Alaska pipeline means to the people of Alaska.

I invite the attention of the Senate to a recent article in the Washington Star-News entitled "Oil Alone Fires Life at Barrow," written by Wallace Turner of the New York Times News Service. This article tells the facts of what construction of the trans-Alaska pipeline means to Alaska—specifically to the town of Barrow.

Pipeline construction means jobs for many of the unemployed in Barrow; it means the dawn of a new day for this economically depressed Alaskan town. The pipeline is their hope; it is an answer to their dreams.

Mr. President, I ask unanimous consent that Mr. Turner's article be printed in the Record, for it is an excellent description of what the trans-Alaska pipeline means to Alaskans.

There being no objection, the article was ordered to be printed in the Record, as follows:

Oil Alone Fires Life at Barrow

(By Wallace Turner)

Barrow, Alaska.—The rusty, errant pipe that travels from house to house here, propped on old oil barrels, or tunneling beneath the streets, is a symbol of the break with the harsh, cruel life of centuries past as well as a talisman of hope for the future.

Even in summer it is hard to live here. There was rain on Independence Day, and the Eskimo children's dances were rescheduled. The next day there was snow. They say the sun has not set since one night in May, but to believe that a sun exists behind the fog and mist requires faith.

Ten feet of open water lies darkly sullen between the dirty white of the pack ice, stretching north to the horizon, and the pea gravel of the beach. Walkers in parkas lean into a cold wild that comes off the ice.

For a mile along the beach and a half mile inland there is a scattering of small, low, square houses that make up Barrow. The pipes that link the houses carry natural gas from wells drilled on a Navy petroleum reserve that begins just outside the village.

The gas line replaces the whale oil fires used in the past or the 55-gallon fuel drums used by Eskimos who live on the Bering Sea. The gas itself comes from the huge reserves of gas and oil being found in the Arctic.

The future here is entwined with the future of oil development, and rests with the pipeline that will probably cross Alaska from Prudhoe Bay to Valdez, when the U.S. government decides that it should be built.

This place, 2,000 residents, calls itself the biggest Eskimo village in Alaska. Also, it has become the seat of government for a sprawling new political entity that will affect the development of one of the major oilfields in North America, that at Prudhoe Bay, 175 miles east of here on the Arctic sea.

The new political entity is the North Slope Borough, 4,000 people living within 88,000 square miles.

For the most part they live here or at dots on the map called Anaktuvuk Pass or Point Hope or Barter Island, all between the Chukchi Sea, the Canadian border, the Arctic Ocean and the Brooks Range.

Some still live the wild, free life of the migrant Eskimo hunter, fisherman and trapper. The Eskimos grow up speaking the tongue of their ancestors. English is a language that some have acquired well, and some have not.

Joe Kaleak, a driver for the Top of the World Company, speaks English to his customers from "outside" and Eskimo to his radio dispatcher.

"I was outside to California," he said, swerving his cab though a mudhole. It was for six months in basic training at Fort Ord when he was in the Eskimo National Guard Battalion 15 years ago.

Eben Hopson has been "outside" many times, although he ended his formal education at the Bureau of Indian Affairs grammar school here.

Hopson, 51 years old, was an advisor to Gov. William A. Egan of Alaska but left that job about 18 months ago to come back here and campaign for acceptance of the North Slope Borough. He also campaigned for election as the first mayor of the borough and won on both.

The oil companies have hired many Eskimos as laborers. The Atlantic Richfield company, for example, has 40 employes working at Prudhoe Bay, and 24 of these are Alaska natives. They spend a week of seven shifts of 12 hours each, and then go home to Barrow for a week. The laborers earn about $15,000 a year.

When the pipeline is built, there will be 300 to 500 wells in the field. There now are about 65 wells, all capped. Employment will grow to 400 or 500 by Atlantic Richfield and British Petroleum, which will operate the field. Many workers will be Eskimos.

Eskimo leaders see these job opportunities as beneficial but they think the oil discoveries should bring more to the Eskimos. The oil lies below their lands, they say, and the Eskimos should benefit from its sale.

The oil companies tried and failed to prevent creation of the borough.

The companies then asked that the borough be prevented from levying and collecting taxes until their appeal was decided, and after the borough budget had been made up such a court order was issued. This left Hopson and his five assemblymen with a budget but with their property tax rolls decimated. They had assessed property of $765 million on the rolls and the court order removed $565 million of it.

The borough then quadrupled the base tax rate and levied the entire $4.2 million in taxes against the property left on the rolls. This has been shattering to holders of some undeveloped oil leases in the North Slope region. They find their lease holds valued as if they were on proved oil land, which they are not, and then taxed at high rates.

In years to come, if it survives legal tests, the borough tax load will climb spectacularly as it assumes costs of schools, roads, and services now paid for by federal and state governments.

The dispute has emphasized the fact that many of the companies that bought leases in the frenzy of the state oil lease auction in 1969 will never recoup their investments.

Those leases did not cover land within the Prudhoe Bay fields, which is the only one proved so far. That field is 95 percent controlled by Atlantic Richfield and British Petroleum who are developing it. Between then, they paid just under $11 million for leases that have at least $30 billion worth of oil under them. There is a possibility that big lease money was paid for land with little or no oil under it.

When the pipeline is in operation and the wells are producing, the state's income from its one-eighth royalty and severance taxes will be from $400 million to $500 million a year from known reserves.

Estimates are of a minimum reserve of 10 billion barrels, which would last for 15 to 20 years at the projected delivery rate now discussed. Gas reserves are estimated at 21 trillion cubic feet.

Meantime, Alaska's legislature is steadily eating up the $900 million realized from the 1969 lease sale, cutting it down to $640 million at present. The first tax-royalty income from Prudhoe Bay is not expected until 1977-78.

Delay in pipeline construction could be catastrophic to the state, because it has been spending on a bigger scale.

The Alyeska Pipeline Service Company is ready to begin construction if its design is approved, and some way is found to circumvent the problems in its way. These now are chiefly that its pipeline right-of-way requirement is greater than the law will allow it to have in some areas of the route.

MILITARY SPENDING

Mr. PROXMIRE. Mr. President, a little later this year, the Senate will be engaged in a debate on military spending. We will have a chance to do that when the procurement bill comes before us and when the defense appropriation bill comes before us.

I look forward to this discussion and debate and decision by the Senate more in this year than in any other concerning our military policy since I have been in the Senate. I do that because we have ended the Vietnam war—it will be over as of August 15—and because there is a greater realization on the part of the public and Congress, especially in the Senate, of the importance of taking a more thoughtful look at our military spending.

There is also pressure as never before

on the Congress to hold down spending as the most significant action we could take to stem inflation.

All Members of the Senate without exception, recognize that we have to have a strong military force stronger than we have had historically in the past, and I think we should have the strongest military force in the world. It is possible to reconcile that view with a substantial reduction in the recommendations made by President Nixon.

Fortunately, a group of extraordinarily able and experienced men, have made an excellent study of the military budget prior to this. These men, by and large, are oriented toward the Defense Department. They have worked in the Defense Department. They understand military problems. They understand the high cost of our military operations. They understand fully the increasing cost of military spending caused by the increased pay in the Army, Navy, and Air Force and the terrific escalation in the cost of weapons. Yet, these men have made a dramatic recommendation on reducing defense spending.

They include men such as Alfred B. Fitt, former Assistant Secretary of Defense, Manpower; Roswell L. Gilpatric, former Deputy Secretary of Defense; Morton Halperin, Former Deputy Assistant Secretary of Defense; Townsend Hoopes, former Under Secretary of the Air Force; George B. Kistiakowsky, former Presidential Science Adviser to President Eisenhower; Herbert Scoville, Jr., former Deputy Director, Central Intelligence Agency; Ivan Selin, former Deputy Assistant Secretary of Defense; and Paul C. Warnke, former Assistant Secretary of Defense, International Security Affairs.

Before I place their report in the RECORD, I should like to read briefly from some of the highlights of the report, because these men, with their background, their concern for the defense of our country, and their understanding of other priorities, have made some recommendations that should awaken Members of the Senate to the great opportunity we have to make substantial reductions this year. They say, in part, as follows:

> We have analyzed the Nixon military budget proposal, which calls for the appropriation of $87.3 billion in Fiscal 1974 for Pentagon programs, nuclear arms, and foreign military assistance, $83.5 billion of which is requested for the Department of Defense. Even a conservative analysis shows that some $14 billion can be saved from the Nixon proposal while fully preserving our national security, and starting a return to a peacetime national budget. Even making a generous allowance for transition and other "shut-down" costs, a substantial amount of the savings can be achieved in Fiscal 1974 budget authority, with the full saving in future years. Specifically, we project feasible savings of $3.1 billion in U.S. military operations in and aid to Southeast Asia, $4.0 billion in paring of our inflated general purpose forces and weapons systems, $3.3 billion in military manpower efficiency improvements, $3.0 billion in elimination or stretch-out of new strategic weapons procurements made unnecessary by the recent nuclear arms agreements with the Soviets, and $556 million in discontinuance of unproductive and even counter-productive foreign military assistance.

They go on:

> We start with some basics:
>
> About half of the current defense budget is enough to provide a more than adequate nuclear deterrent, as well as the land, sea, and air capacity to repel attack on U.S. territory.
>
> The other half is spent to continue our alliance commitments and to maintain our overseas bases and troop deployments.
>
> Many of these latter expenses are well justified; our national security interests at this time are advanced by a strong, stable network of international relationships. But recognition of the proportion of defense spending attributable to these commitments highlights the need for a close link between our international policy and our military spending.

The report goes on to point out that even without any reduction in our NATO commitment, although they find one can be justified, they say that $14 million could be eliminated.

They point out:

> At present only 15 per cent of military personnel are "combat" forces—the other 85 per cent provide engineering support, transport services, a logistic network, training facilities, and other non-hostile services. While the spending for combat troops has decreased, reflecting the reduction in troop levels following the end of U.S. ground combat in Vietnam, support spending has not decreased proportionately. We recommend a 10 per cent reduction in support personnel which could yield as much as $1.2 billion.

One other area I think that is worthy of highlighting:

> One significant source of increased costs is the steadily growing number of higher grade officers in a smaller total force. There are now more field grade and flag officers (lieutenant colonel or commander and above) to command a force of 2.2 million than there were in 1945 when the military numbered 12.1 million. Since 1970 total defense manpower has decreased by 15 per cent, while the number of general and flag rank officers and comparably paid civilians has remained the same. A similar problem exists with respect to non-commissioned officers.
>
> If, by the end of Fiscal 1974, grade distribution were to be restored to the grade pattern of Fiscal 1964—the last "peacetime" year—an annual savings of over $2 billion could be realized from this factor alone. Due to the costs of separation pay and retirement benefits, the first year savings from restoring grade patterns would be an estimated $400 million.

Furthermore, they state:

> The Department of Defense employs one million civilians, or ten times the number employed by the Department of Health, Education, and Welfare. President Nixon recognized in a recent interview that the Pentagon civilians were in need of a "thinning down." Yet his proposed budget raises civilian employment by 31,000.

Finally, with regard to the military assistance program, this report states:

> The United States must adjust the military assistance program to the new era which has opened in international affairs. The detente among the superpowers has downgraded the significance of political/military developments in regions which were formerly the chief arenas of Big Power confrontation. Moreover, U.S. experience in Indochina in the past decade has shown the limits of military power, direct and by proxy, even when applied in huge amounts, to complex economic, political, and social conflicts within developing nations.
>
> The American people recognize that the United States has neither the resources nor the need to be the world's policeman. It is equally wrong to continue to seek to be the world's chief distributor of subsidized arms and ammunition. Our arms aid and sale policies have led us to arm both sides in local conflicts. They increase the danger that the United States will align itself against the hopes and aspirations of the majority of the world's people by arming authoritarian governments representing a narrow political-military-economic elite.
>
> In the current fiscal year the Executive Branch estimates that military and related assistance and arms sales programs total more than $8.4 billion. Much of this assistance—some $4 billion—is made available through programs which require no Congressional appropriations, for example, Department of Defense foreign military cash sales, excess defense articles, and ship loans.

They recommend a savings of $556 million in this area.

As I said, I think this is a very significant report. It could not be timed better. It comes before the Senate at a time when we will have a chance to analyze it and consider it. From my point of view, I could not support a reduction of $14 billion. I think it is excessive, but I think this report, which has been put together by very able, patriotic, and devoted men, who are knowledgeable in the field of defense, should be considered very carefully. Perhaps a $5 or $6 billion would be more reasonable, such a spending cut would go a long way toward enabling us to come in under the ceiling while at the same time meeting our very vital domestic needs.

Mr. President, I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

A REPORT TO CONGRESS: MILITARY POLICY AND BUDGET PRIORITIES, FISCAL YEAR 1974

Presented by:

Adrian S. Fisher, former Deputy Director, US Arms Control and Disarmament Agency.

Alfred B. Fitt, former Assistant Secretary of Defense (Manpower).

William Foster, former Director, US Arms Control and Disarmament Agency.

Roswell L. Gilpatric, former Deputy Secretary of Defense.

Morton Halperin, former Deputy Assistant Secretary of Defense.

Townsend Hoopes, former Under Secretary of the Air Force.

George B. Kistiakowsky, former Presidential Science Advisor to President Eisenhower.

Vice Adm. John Lee, USN Ret., former Assistant Director, US Arms Control and Disarmament Agency.

Herbert Scoville, Jr., former Deputy Director, Central Intelligence Agency.

Ivan Selin, former Deputy Assistant Secretary of Defense.

Paul C. Warnke, former Assistant Secretary of Defense (International Security Affairs).

Herbert F. York, former Director of Defense Research and Engineering.

Walter Slocombe, Editor, former staff member, National Security Council.

Money Bills in Congress

[In billions of dollars]

*Distribution of the $171.5 billion budget authority requested for fiscal 1974**

Total	$171.5
National defense (57.2%)	98.1
DOD (including pay raises)	80.5
Physical resources (12.3%)	21.1
Veterans benefits	80.5
Military construction	2.9
Foreign military aid	1.3
AEC-military component	1.2
Agriculture, environment & consumer protection	9.5
Transportation	3.1
HUD	2.7
Dept. of Interior	2.4
Public Works, AEC-civilian component	3.4
Human resources (19.7%)	33.7
Labor, HEW	33.7
Other (10.8%)	18.6
State, Commerce, Justice, Judiciary	4.3
Foreign economic aid	3.1
Space, science	3.6
Treasury, general government, etc.	7.6

* Only $171.5 billion is requested to be appropriated by Congress for Fiscal 1974; the rest of the proposed budget is composed of interest on the national debt, trust funds, and other funds obligated under permanent authorization legislation.

Source: U.S. Senate Appropriations Committee.

MILITARY POLICY AND BUDGET PRIORITIES

Our nation has been burdened in recent years with unprecedented military costs. The Vietnam War and the nuclear arms race have not only cost us dearly in lives and peace of mind: they have also distorted our national budget towards arms and war and away from those vital areas of our people's needs dependent on support from federal revenues. With the end of our Vietnam involvement and the negotiation of the Moscow arms agreements in 1972, we were entitled to expect a major reduction in the military budget for Fiscal Year 1974 similar to the massive reductions achieved upon termination of the Second World War and of the Korean War. But, instead of reductions, President Nixon has proposed a $5.6 billion increase in national defense budget authority for Fiscal 1974 and simultaneously a vast cut-back on a great variety of federal domestic programs essential to our genuine national security.

A new international situation

Now is the time when the defense budget should decline, not increase, to reflect a changing world. The President, in his cordial exchanges with Chinese and Soviet leaders, has repeatedly stressed the need for a relaxing of international tensions. The Nixon doctrine states that foreign allies are primarily responsible for their own security. The SALT negotiations should have begun to curb a dangerous nuclear arms race. The U.S. and Russia have begun to develop economic ties, with large-scale business exchanges, which imply the existence of long-term, stable relationships.

As the President has repeatedly stated, we are indeed moving from an era of confrontation to one of negotiation. We still need a defense fully adequate to ensure our physical safety, but a general reduction in military funding would be consistent with that purpose in this new era. The Administration's proposal for increased military spending would, at best, mean a diversion of U.S. resources from urgent domestic needs. At worst, it could re-ignite the arms race, bring about new international crises, and jeopardize our national security.

*Summary of feasible reductions in national defense budget authority fiscal year 1974**

[In billions of dollars]

Southeast Asia	3.1
Military aid to South Vietnam, Laos, Cambodia	2.1
U.S. combat operations	1.0
General purpose forces	4.0
Procurement reductions	2.0
Asia-committed forces	2.0
Manpower efficiency	3.3
Reduce support personnel	1.2
Grade levels: restore to 1964 pattern	.4
Cut civilian manpower 10%	.8
No recomputation	.4
Other savings	.5
Strategic forces	3.0
Trident	1.3
Minuteman MIRV's	.7
B–1 bomber	.4
ABM	.4
AWACS	.2
Other (SLCM, ABRES, mobile ICBM, phased array warning)	.1
Military aid: Aid to foreign nations and U.S. military missions	
Total feasible reductions	14.0

* Detail may not add to totals due to rounding.

The Nixon military budget could safely be reduced by more than 15 percent

We have analyzed the Nixon military budget proposal, which calls for the appropriation of $87.3 billion in Fiscal 1974 for Pentagon programs, nuclear arms, and foreign military assistance, $83.5 billion of which is requested for the Department of Defense. Even a conservative analysis shows that some $14 billion can be saved from the Nixon proposal while fully preserving our national security, and starting a return to a peacetime national budget. Even making a generous allowance for transition and other "shutdown" costs, a substantial amount of the savings can be achieved in Fiscal 1974 budget authority, with the full saving in future years. Specifically, we project feasible savings of $3.1 billion in U.S. military operations in and aid to Southeast Asia, $4.0 billion in paring of our inflated general purpose forces and weapons systems, $3.3 billion in military manpower efficiency improvements, $3.0 billion in elimination or stretch-out of new strategic weapons procurements made unnecessary by the recent nuclear arms agreements with the Soviets, and $556 million in discontinuance of unproductive and even counter-productive foreign military assistance.

We start with some basics:

About half of the current defense budget is enough to provide a more than adequate nuclear deterrent, as well as the land, sea, and air capacity to repel attack on U.S. territory.

The other half is spent to continue our alliance commitments and to maintain our overseas bases and troop deployments.

Many of these latter expenses are well justified; our national security interests at this time are advanced by a strong, stable network of international relationships. But recognition of the proportion of defense spending attributable to these commitments highlights the need for a close link between our international policy and our military spending.

In this report, we focus on that relationship and on wasteful expenses—those deployments and programs that do nothing to further our interests, either to defend the U.S. or to support our alliances. And we point out some expenditures that actively threaten our national security by increasing the prospects of military confrontation.

An issue of priorities

We emphasize that savings from the Nixon military spending proposals must be made not merely because of the general desirability of eliminating wasteful spending. Making reductions on the military side has now become indispensable for adequate funding of many essential domestic programs. Programs now threatened by the Fiscal 1974 budget include: urban and rural housing assistance, water and sewer programs, various community development projects, health care and training programs, educational assistance for the disadvantaged. The cities, where many of these programs have been concentrated, are beginning to feel the effects of the Nixon reductions. The funds for manpower training and employment programs will be decreased nationwide by 13.5 per cent. Community development projects—those dealing with urban renewal, park construction, and sewer services—will be phased out abruptly. There is a promise in the budget of block grants to be available in 1975, but no new money is offered for 1974. Funds proposed for education special revenue sharing will decline by $515 million from comparable program appropriations in 1972.

For all practical purposes, a maximum has been set on the total federal budget. President Nixon has defied Congress to exceed his proposed $268.7 billion "fiscally responsible" federal outlay budget for 1974 and has threatened to impound domestic appropriations which would cause that limit to be exceeded. Congress has generally indicated its approval of such a spending ceiling, recognizing that the present inflation requires a limit on federal spending.

President Nixon, by increasing the military budget while announcing that we cannot afford to increase or even to maintain many of our vital domestic programs, has put before the Congress a fundamental issue of national priorities: It has become indispensable to the maintenance of our true national security that we find savings in the inflated defense budget to meet real human needs at home. We have concluded that at least $14 billion can easily be eliminated from President Nixon's proposed $87 billion military appropriations request.* Those billions saved can and should be applied to the needs of our people.

SOUTHEAST ASIA MILITARY COSTS (RECOMMENDED SAVINGS: $3.1 BILLION)

The new budget authority being requested by the Pentagon in Fiscal 1974 for Southeast Asia is $2.9 billion. This figure includes $1.9 billion for U.S. military aid to South Vietnam and Laos, about half of which is slated for ammunition and equipment procurement for those two countries, and half for support of "allied operations." The remaining $1 billion is for the support of U.S. naval and air forces in Southeast Asia. In addition, $180 million for military aid to Cambodia is sought in the military assistance request. All $3.1 billion in new authorizations should be cut out. The arms assistance previously authorized is more than adequate for purposes of self defense.

The Congress and the American people are now united in the conviction that it is time to disengage militarily from Indochina. The January 27, 1973 peace agreement provided for an end to U.S. bombing in North and South Vietnam and the withdrawal of our ground forces there. However, the Administration has continued its heavy military involvement throughout Southeast Asia by conducting extensive bombing raids over Cambodia, sending in new advisors to South Vietnam, flying oil and other supplies to Phnom Penh, conducting two days of bombing raids over Laos, sending reconnaissance planes over North Vietnam, and maintaining high levels of "replacement" of equipment and supplies to South Vietnam.

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*The figures in this report, except as otherwise stated, refer to "budget authority," i.e., proposed new appropriations. Because actual spending ("outlays") includes amounts appropriated in prior years, reductions in appropriations, particularly for procurement, do not immediately produce equally large cuts in outlays. The full savings would be achieved in future years.

The U.S. is becoming enmeshed in one part of Indochina—without any constitutional authority—just after disengaging militarily from another area. This can only lead to new military involvement, to new U.S. combat deaths in Indochina, to new prisoners of war, and to further Indochinese deaths.

It is time for the U.S. to end our use of military force in the entire area. This means the cessation of all U.S. bombing, the withdrawal of support for Thai mercenaries in Laos, the suspension of the shipments of enormous amounts of military equipment to the area, and the removal of our air forces in Thailand and our naval forces off the shores. In short, a true U.S. withdrawal can be achieved only by completely ending U.S. military participation in this tragic area, where such participation only serves to keep the fighting going and to encourage new outbreaks.

The economic savings from the Fiscal 1974 military budget will be substantial; even more substantial will be the human savings resulting from an end to continued U.S. involvement in Southeast Asia. It is time to leave the resolution of power struggles in Indochina to the Indochinese people.

GENERAL PURPOSE FORCES (RECOMMENDED SAVINGS $4 BILLION)

General purpose forces—Army divisions, tactical air wings, both land- and sea-based, and most naval units—are the most expensive item in our defense budget. General purpose forces absorb 75 per cent of the defense dollar and are the driving element in the increasingly expensive defense manpower bill. Moreover, although they lack the terrible potential for ultimate destruction of strategic forces, the level and deployment of our general purpose forces may have more day-to-day political and diplomatic significance.

For the foreseeable future, the United States must maintain adequate conventional forces so that we do not have to rely entirely on strategic nuclear threats. However, in planning for these forces, we must keep two objectives in mind. First, we must achieve the most efficient possible use of funds spent for the manpower and equipment in our general purpose forces. Both because of budgetary considerations and because it is of profound importance to our national policy, we must clearly link the force levels and deployment patterns of our general purpose forces to our political and diplomatic objectives.

Procurement of new weapons

We must call a halt to the administration's seemingly incurable preference for extravagantly expensive, overly complicated weapons systems and for unjustifiably high force levels, sustained more by tradition than by need. The potential savings in this area are very large, at little or not cost in ability to meet genuine requirements. For example, by cancelling the fourth nuclear carrier and maintaining a reduced number of carriers in the future, we would save $700 million on the new carrier in Fiscal 1974 and very large amounts in annual operating costs for aircraft, missiles, and escort vessels in the future.

Examples of other general purpose weapons systems which can and should be eliminated or cut back include: (Fiscal 1974 authorization requests in parentheses).

Cancel SAM-D Army anti-aircraft missile ($194 million). This complicated system is of marginal utility, even for the NATO missions now chiefly proposed for it.

Eliminate F-14 program ($633 million). This plane is financially and technically troubled and represents little, if any, advance on the proven F-4.

Stretch out SSN-688 nuclear attack submarine program ($922 million), with two instead of five boats in Fiscal 1974 ($550 million savings).

Cuts such as these—and a much more critical look at other proposed new tanks, missiles, planes, and ships—will save large amounts now. More important, if we insist on simpler, more workable systems in the future, the effectiveness of our forces will actually be enhanced. The cuts outlined above, and similar cuts in other smaller programs, could readily save $2 billion in Fiscal 1974 authorization, even taking account of transition costs.

Manpower

Of particular importance in the general purpose forces area is reversing the continuing trend toward an imbalance in the teeth-to-tail ratio. The possible increases in military efficiency, detailed in the following section of this report, have greatest impact on the general purpose forces. Specifically, the 10 per cent cut in support personnel advocated there can be made with no harm to the capability of these forces.

We must review in the light of current conditions the reasons that we maintain our general purpose forces, i.e., the political and diplomatic objectives and policies they are designed to support. We must make these policies determine force levels and deployments and not, as so often has been the case in the past, the other way around. Reduced international tensions and acceptance of the hard-learned lessons of the limits on the usefulness of U.S. military power in foreign policy must be reflected in reduced forces and deployments.

The key practical areas here are deciding what forces we must maintain for Asia and what for European contingencies.

In recent years the level of forces actually deployed in Europe has been the most controversial issue as to general purpose forces. Clearly, the support for the NATO alliance must, in the United States' own self-interest, remain our highest conventional defense priority. However, it is neither militarily or diplomatically necessary, nor is it practically feasible permanently to maintain the present structure of United States forces in Europe. We must begin now, in consultation with our NATO allies, to plan a gradual but significant reduction in the number of United States forces in Europe. The place to begin the cuts is certainly in the overgrown support forces for the United States forces in Europe, as would be done by including European forces and bases in a 10 per cent cut in support manpower, stressing greater efficiency and the preservation of combat capability. We cannot wait until the completion of negotiations on balanced force reductions to initiate this review, nor can we permanently delay actual reductions as "bargaining chips" in those negotiations.

With respect to Asia, the case is much clearer that there must be cuts in committed forces to bring our defense policies in line with an updated view of our military role in Asia. If we now understand as a nation the folly of any political commitments which could entail engaging in a major land war in Asia, we have no continuing need for the ground divisions and tactical air wings which are now committed to Asian contingencies.

Independent estimates allocate at least three of our 16 ground divisions and 6-8 of our 38 tactical air wings to readiness for Asian interventions. These forces should be eliminated, with an estimated savings of at least $2 billion. Specifically, there is no longer any justification for continuing to maintan an American division deployed in Korea, as the South Korean ground forces enjoy about a two-to-one advantage over those of North Korea.

MILITARY EFFICIENCY (RECOMMENDED SAVINGS: $3.3 BILLION)

In addition to the savings gained by a demobilization of combat units, other savings can be realized by cutting support personnel levels, improving military efficiency and reducing manpower-related waste. Total savings could amount to $3.3 billion.

Reduce support personnel

At present only 15 per cent of military personnel are "combat" forces—the other 85 per cent provide engineering support, transport services, a logistic network, training facilities, and other non-hostile services. While the spending for combat troops has decreased, reflecting the reduction in troop levels following the end of U.S. ground combat in Vietnam, support spending has not decreased proportionately. We recommend a 10 per cent reduction in support personnel which could yield as much as $1.2 billion.

Reduce officer levels—"Grade creep"

One significant source of increased costs is the steadily growing number of higher grade officers in a smaller total force. There are now more field grade and flag officers (lieutenant colonel or commander and above) to command a force of 2.2 million than there were in 1945 when the military numbered 12.1 million. Since 1970 total defense manpower has decreased by 15 per cent, while the number of general and flag rank officers and comparably paid civilians has remained the same. A similar problem exists with respect to non-commissioned officers.

If, by the end of Fiscal 1974, grade distribution were to be restored to the grade pattern of Fiscal 1964—the last "peacetime" year—an annual savings of over $2 billion could be realized from this factor alone. Due to the costs of separation pay and retirement benefits, the first year savings from restoring grade patterns would be an estimated $400 million.

Reduce civilian bureaucracy

The Department of Defense employs one million civilians, or ten times the number employed by the Department of Health, Education, and Welfare. President Nixon recognized in a recent interview that the Pentagon civilians were in need of a "thinning down." Yet his proposed budget raises civilian employment by 31,000.

While DOD civilian personnel have been cut from their Vietnam War high, they have not been reduced in propotion to the cutback in military manpower. A 10 per cent reduction in the DOD civilian workforce would save at least $800 million.

No "recomputation"

The Administration proposes to tie military retirement benefits for certain retirees to the salary increases for active duty personnel, in addition to normal cost of living increases. While purportedly giving a fair shake to retired servicemen, this proposal, exceptionally costly over time, is inequitable for the civilian pensioner, the recipient of Social Security, and the taxpayer. Elimination of "recomputation" would save $390 million in Fiscal 1974, and an estimated $17 billion over the lives of the retirees affected.

Other savings

Vigorous implementation of simple operational efficiencies which even advocates of high levels of defense spending have repeatedly called for could easily achieve additional savings. Through a combination of increasing reliance on on-the-job training, reducing pilot training to operational needs, increasing average tours of duty, and improving maintenance procedures, at least $500 million could be saved.

PROCUREMENT OF STRATEGIC WEAPONS (RECOMMENDED SAVINGS: $3.0 BILLION)

Strategic context

Strategic weapons programs must be evaluated in 1973 in light of the Strategic Arms Limitations Agreements signed in Moscow in May 1972. The ABM Treaty, by limiting defensive missile systems to low levels, ensures the viability of our deterrent force. New offensive strategic weapons thus can no longer be justified as necessary to overcome potential Soviet ABM deployments. Furthermore, the capability to respond at appropriate levels in the event of limited Soviet nuclear aggression—the flexible response advocated by the Nixon Administration—has been materially enhanced and requires no new weapons developments. Our present strategic forces may now strike some military targets, including command posts and ICBM silos, without having first to overwhelm an ABM. Finally, the Interim Offensive Agreement freezes the number of large (SS-9 type) Soviet ICBMs at 313, significantly fewer than the number which Secretary Laird posed as a possible future threat to the Minuteman portion of our deterrent.

Despite this improved strategic climate, the Nixon Administration is planning to spend $750 million (30 per cent) more on procuring offensive strategic weapons in 1973 than was spent in 1972 and an additional $670 million (20 per cent) in 1974 over 1973. The Fiscal 1974 program also includes a number of new projects which, although costing relatively small amounts now, provide a foot in the door for very large expenditures in future years.

In the present strategic situation, we recommend the following minimum specific reductions:

Trident

The budget calls for more than $1.8 billion (DOD and AEC combined) for the Trident submarine ballistic missile system. The missile part of this program, costing $532 million, is divided into two phases: Trident I missile with a range of 4,000 nautical miles, which can also be retrofitted into the present Polaris-Poseidon system, and the Trident II missile with a range of 6,000 nautical miles. The ship part, costing about $1.3 billion, would design and build huge new submarines to carry the Trident II missile.

Trident is rationalized in two ways: (1) as a replacement for the "aging" Polaris submarine, and (2) as a hedge against the future development by the USSR of an anti-submarine warfare (ASW) capability which could threaten Polaris-Poseidon. Neither rationale justifies the procurement of mammoth Trident submarines, more than twice the size of Polaris and each costing $1.3 billion. The Polaris submarines will remain seaworthy until well into the 1990s, and at the present time the nature of any ASW threat to Polaris cannot even be predicted. When and if it arises, the Trident fleet could be more vulnerable than the present Polaris one because its greater unit size and its smaller number of ships could make it easier to destroy in a surprise attack, using some now unknown technology. The decision to place the $500 million Trident base in Bangor, Washington, still further reduces the value of this new ship by initially foreclosing its operation in the Atlantic.

Virtually all the potential benefits of Trident, and none of its drawbacks, can be obtained by retrofitting the 4,000 nautical mile Trident I missile on Polaris; this would put our subs in range of Soviet targets, even while still in U.S. territorial waters. The Trident program should be cut back to the development of the Trident I missile and to research on alternative submarine configurations including smaller vessels, with a saving of $1.3 billion.

Procurement of Minuteman III with MIRV's

The Fiscal 1974 budget proposes $768 million as the final installment for the MIRVing of the first 550 Minuteman missiles. Since no MIRVs are needed to overwhelm any Soviet ABM, further improvements to the Minuteman force should be deferred and the program halted after completing only those missile modifications now in process. Total savings would be about $677 million.

B-1 bomber

The 1974 budget calls for $474 million for the continued development of the new B-1 strategic bomber, a replacement for the present B-52s, which has less range and payload and is supersonic only at high altitudes. The envisaged eventual procurement of some 240 of these bombers could involve overall system expenditures of at least $30 to $40 billion. However, the later model B52Gs and Hs, of which we have more than 200, are now estimated to remain operational well through the 1980s. The B-52 replacement, if ever needed, could be a slower, longer endurance aircraft equipped with long-range missiles to avoid having to penetrate hostile air space. The program should be cut back to exploratory R&D on a variety of bomber system designs and the procurement of aircraft should be deferred, with a saving of $374 million.

ABM

The budget calls for new authorization of $672 million in Fiscal 1974 for ABMs, of which $172 million would be authorized for weapons outlawed by the SALT treaty. Total outlays of $1.74 billion in 1973 and 1974 are needed to complete the Safeguard deployment at the Grand Forks, North Dakota, site. The new program authority requested should be cut back to exploratory development on advanced ABM systems with no procurement of additional hardware, for a saving of $372 million.

AWACS

The 1974 budget calls for $210 million for continued development and production of Airborne Warning and Control Systems designed to provide highly sophisticated and invulnerable control systems for defense against Soviet bomber attack and for tactical air defense. The tactical system is too expensive and vulnerable to airplane attack to be worthwhile; the strategic system is unnecessary, as Soviet strategic strength is in missiles, not bombers. Since, by the ABM Treaty, the U.S. and the Soviet Union have recognized their inability to defend against missile attack, the expenditure of large sums of money for new defenses against bombers is very wasteful. The AWACS should be cancelled with a saving of $200 million.

Development projects leading to large future expenditures

The Fiscal 1974 budget calls for the initial development of a Strategic Cruise Missile ($15 million), a mobile ICBM ($6 million), and the deployment of a phase array radar for warning against submarine launched missiles ($31 million). None of these are justified. Cruise missiles are unnecessary when ballistic missiles have a free ride to targets in the Soviet Union; a mobile ICBM is necessary in view of the invulnerability of our submarine missile force with more than 5,000 warheads; and additional means of warning of submarine missiles is superflous because of the recent successful deployment of a satellite-based missile warning system. In addition, the program calls for spending $95 million for the development of advanced ballistic re-entry systems and technology. The project could be destabilizing and erode the agreed mutual deterrent balance, spurring the arms race. These four programs should be eliminated or reduced to very low levels with a saving of $122 million.

MILITARY ASSISTANCE PROGRAM (RECOMMENDED SAVINGS: $556 MILLION)

The United States must adjust the military assistance program to the new era which has opened in international affairs. The detente among the superpowers has downgraded the significance of political/military developments in regions which were formerly the chief arenas of Big Power confrontation. Moreover, U.S. experience in Indochina in the past decade has shown the limits of military power, direct and by proxy, even when applied in huge amounts, to complex economic, political, and social conflicts within developing nations.

The American people recognize that the United States has neither the resources nor the need to be the world's policeman. It is equally wrong to continue to seek to be the world's chief distributor of subsidized arms and ammunition. Our arms aid and sale policies have led us to arm both sides in local conflicts. They increase the danger that the United States will align itself against the hopes and aspirations of the majority of the world's people by arming authoritarian governments representing a narrow political-military-economic elite.

In the current fiscal year the Executive Branch estimates that military and related assistance and arms sales programs total more than $8.4 billion. Much of this assistance—some $4 billion—is made available through programs which require no Congressional appropriations, for example, Department of Defense foreign military cash sales, excess defense articles, and ship loans.

Some parts of our military assistance and sales programs are clearly in our national interest, and should be continued. But major cuts can be made.

FEASIBLE REDUCTIONS IN THE FOREIGN MILITARY ASSISTANCE PROGRAM

[In millions of dollars]

Program	Fiscal year 1974 budget request	Proposed	Savings
Military grant assistance (request includes $180,000,000 for Cambodia)	652	270	[1] 202
Military education and training	33	25	8
Military credit sales	525	200	325
Credit sales ceiling	(760)	(700)	(60)
Security supporting assistance	100	95	5
Total	1,310	590	540

[1] Eliminating the $180,000,000 request for military aid to Cambodia is included in our recommended Southeast Asia cuts, and not here.

Additional savings can be made by reducing Military Assistance Advisory Groups, missions, and military groups attached to U.S. embassies around the world. These groups, which promote U.S. military sales and services, and even the military aid program, too often play a role independent of the U.S. ambassador who is nominally in control. The Administration estimates MAAG/Mission/Military Group costs for Fiscal 1974 as follows: $15.8 million from the Military Assistance Program and $50 million from Department of Defense Funds. We recommended a 25 per cent cut this year leading to a total phaseout of the program. Total savings for aid to foreign nations and U.S. military missions: $556 million.

ROUTINE MORNING BUSINESS

The routine morning business transacted during the day is printed here by unanimous consent.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. NUNN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON BUDGETARY RESERVES

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on budgetary reserves, as of June 30, 1973 (with an accompanying report). Referred to the Committee on Appropriations.

REPORT OF BOARD OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND

A letter from the Secretary of the Treasury, Secretary of Labor, Secretary of Health, Education, and Welfare, and the Acting Commissioner of Social Security, transmitting, pursuant to law, a report of the Board of Trustees of the Federal Hospital Insurance Trust Fund, for 1973 (with an accompanying report). Referred to the Committee on Finance.

REPORT OF BOARD OF TRUSTEES OF THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

A letter from the Secretary of the Treasury, Secretary of Labor, Secretary of Health, Education, and Welfare, and the Acting Commissioner of Social Security, transmitting, pursuant to law, the 1973 annual report of the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund (with an accompanying report). Referred to the Committee on Finance.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ROBERT C. BYRD (for Mr. SPARKMAN):

S. 2182. A bill to consolidate, simplify, and improve laws relative to housing and housing assistance, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BENTSEN:

S. 2183. A bill to implement the shrimp fishing agreement with Brazil. Referred to the Committee on Commerce.

By Mr. STEVENSON:

S. 2184. A bill to amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty. Referred to the Committee on Finance.

By Mr. WILLIAMS:

S. 2185. A bill to provide a $100 million increase in the authorized funding for the section 202 housing for the elderly and handicapped program. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CRANSTON:

S. 2186. A bill for the relief of Young Hae Lee Jameson. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 2183. A bill to implement the shrimp fishing agreement with Brazil. Referred to the Committee on Commerce.

Mr. BENTSEN. Mr. President, I am pleased to introduce legislation to implement the agreement concerning shrimping rights which was signed May 9, 1972, by the Government of the Federative Republic of Brazil and the Government of the United States. This agreement is of great importance in view of substantial American shrimping operations within the 200-mile limit which Brazil claims as its territorial waters and in view of the growing American need for additional sources of protein. This treaty, having a 2-year life, has been complied with by both the U.S. Government and U.S. fishermen in good faith since the agreement was concluded. However, there has been no executive mechanism or legislative authorization for all of the functions necessary to officially implement the agreement. My bill is designed to meet such needs.

The Department of State has advised that preliminary talks for extending the treaty would have to begin in early fall of this year. However, concern has been expressed over the United States not having yet officially implemented the treaty. Therefore, it is imperative that implementing legislation be passed prior to the commencement of these further talks with Brazil.

Mr. President, we are all familiar with the problems facing the U.S. fishing industry. I would like to point out again that this agreement with Brazil is important not only for the U.S. shrimping industry but also to insure an adequate supply of shrimp to the American consumer. The Congress must act to insure that proper implementing legislation is enacted to carry out the terms of the agreement. I urge the Senate to expedite action on this bill.

By Mr. STEVENSON:

S. 2184. A bill to amend the Tariff Schedules of the United States to provide that certain forms of zinc be admitted free of duty. Referred to the Committee on Finance.

Mr. STEVENSON. Mr. President, I am today introducing legislation to amend the tariff schedules to admit zinc ore free of duty.

There are few industrial material shortages resulting from international market fluctuations that can be alleviated through unilateral action by our Government. Such is the situation that exists, however, in the zinc smelting industry, a vital supplier of slab zinc metal. Its needs could be more easily met by amending the U.S. Tariff Schedules to admit zinc ore free of duty. This would be the effect of the bill which I introduce.

American industry needs zinc in the form of slab zinc metal. In the years between 1950 and 1970, the consumption of zinc rose from an annual level of 900,000 tons to 1.4 million tons. In that same period, domestic production decreased from approximately 900,000 tons to less than 800,000 tons per year. The growing disparity between industrial needs and the product of domestic smelters must be compensated for through costly zinc metal imports.

Zinc metal is produced by the smelting of zinc ores and concentrates. In early 1970, 14 zinc smelters were operating in the United States. During the period 1950 to 1970, U.S. zinc metal production ranged between 900,000 and 1.1 million tons per year. Domestic mine production of the vital ore and concentrate ingredients, however, has averaged only 500,000 tons. Smelter production has therefore depended on the importation of ores and concentrates from countries with excess mine production—particularly Canada, Mexico, and Peru. Such imports have ranged from 400,000 to 600,000 tons per year, entering with a statutory duty of 67 cents per pound of zinc ore.

The economics of this matter is simple: In an ore-short and metal-hungry economy like ours, we must import either ore and concentrates from which slab metal can be smelted or import the zinc metal produced by foreign smelters. Every ton of zinc imported as concentrates now costs approximately $200; every ton imported as zinc metal costs $400 per ton. The drain on our balance of payments is evident. As American smelters lie idle, metal imports must continue to grow.

Since early 1970 7 of 14 domestic smelters have closed. Two more are expected to close shortly, and one in my home State of Illinois is expected to reopen this year. The prospect remains, however, that in 1974 only six zinc smelters will be operating in this country with a capacity of approximately 700,000 tons per year—less than one-half of our present annual zinc consumption level.

It is estimated that if current trends continue the United States will have to import annually as much as 750,000 tons of zinc metal by 1975—a 50-percent increase over 1972 levels. Import of cheaper zinc ores and concentrates will drop to 200,000 tons—only one-third of the 1969 peak.

The short-supply situation which plagues our smelters, increasing both foreign exchange outflows and our dependence on foreign smelters, is aggravated by the current freeze on zinc metal prices. American smelters must bid for their ore supplies on the world market and ore import prices are free to rise. The inability of these firms to raise the prices of finished zinc metal products makes it difficult for them to offer adequate bids for ore on the world market. Japan and other smelting countries are outbidding U.S. processors. U.S. firms are unable to compete with other ore consumers who are free to pass on ore cost increases to their zinc metal customers.

We cannot alter the situation created by the imposition of the price freeze. We can, however, make it easier for U.S. smelters to acquire raw materials on the world market by removing from the books the duty on zinc ores and concentrates. American smelters would thus be able to offer bids more in line with world market conditions and provide better for our domestic metal needs with less strain on our balance of payments.

Mr. President, this tariff reduction must be accomplished by statute. The duty which has hindered smelters to date is an anachronism and should be removed. American mines are unable to meet the growing needs of our smelters and will have no less incentive to maintain maximum productive levels in zinc ores and concentrates if this tariff is removed. It is time to eliminate the artificial barrier on zinc ores and to review those other tariffs which may in fact be working against the public interest.

By Mr. WILLIAMS:

S. 2185. A bill to provide a $100 million increase in the authorized funding for the section 202 housing for the elderly and handicapped program. Referred to the Committee on Banking, Housing and Urban Affairs.

EXTENSION OF SECTION 202 HOUSING FOR THE ELDERLY AND HANDICAPPED PROGRAM

Mr. WILLIAMS. Mr. President, I introduce, for appropriate reference, a bill to increase the authorization of the section 202 housing for the elderly and handicapped program.

The purpose of this measure is to put the Senate on record in favor of the reinstatement of this program and its coexistence with the section 236 interest subsidy approach. Moreover, this bill provides unmistakable support for restoring 202 to full and effective operation.

Over the years, section 202 has, in my judgment, been one of the most successful housing programs ever enacted for the elderly. In fact, it never had a failure during its 12 years of existence.

Yet, the administration has decided to phase out this enormously effective program.

This decision, it seems to me, is especially shortsighted because housing is in such short supply for older Americans. And, 202 has throughout its history provided pleasant apartment units at prices which the elderly could afford.

Equally important, section 202 provided housing which was tailor made for older Americans. Because it was a specialized program for the aged, it was possible to develop flexible, comprehensive, and effective guidelines.

My proposal, I am pleased to say, was adopted as an amendment to the 1972 Housing Act, S. 3284. Unfortunately, no final action was taken on this omnibus housing package because of a legislative logjam in the House at the end of the 92d Congress.

Recent hearings by the Senate Committee on Aging's Subcommittee on Housing for the Elderly—of which I am chairman—had clearly demonstrated that shelter for older Americans requires sustained and specialized attention. And this is a major reason that I introduce my bill to continue the 202 program as one approach for responding to the unique and intensifying housing problems of older Americans.

For these reasons, I urge prompt consideration of this proposal.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 202(a)(4) of the Housing Act of 1959 is amended by striking out the first sentence thereof and inserting the following: "There is authorized to be appropriated for the purposes of this section not to exceed $750,000,000."

ADDITIONAL COSPONSORS OF BILLS

At the request of Mr. PELL, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 796, to improve museum services.

S. 1907

At the request of Mr. BURDICK, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1907, to establish an arbitration board to settle disputes between supervisory organizations and the U.S. Postal Service.

S. 1954

At the request of Mr. STEVENSON, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1954, the Federal Election Finance Act of 1973.

S. 2065

At the request of Mr. STEVENSON, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2065, the Campaign Gift Tax Act of 1973.

S. 2080

At the request of Mr. PELL, the Senator from Massachusetts (Mr. BROOKE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2080, to provide for the establishment of rail passenger service development corporations, and to make available Federal assistance to encourage the development of improved rail passenger services in transportation corridors in the United States.

S. 2161

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 2161, relating to the employment and training of criminal offenders, and for other purposes.

S. 2162

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 2162, relating to voting rights of former offenders.

AMENDMENT OF COMMUNICATIONS ACT OF 1934—AMENDMENTS

AMENDMENT NO. 339

(Ordered to be printed, and to lie on the table.)

Mr. BENTSEN submitted amendments, intended to be proposed by him, to the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to Presidential and vice-presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—AMENDMENT

AMENDMENT NO. 340

(Ordered to be printed, and to lie on the table.)

Mr. HUMPHREY submitted an amendment, intended to be proposed by him, to the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

AMENDMENT NO. 341

(Ordered to be printed, and to lie on the table.)

Mr. STEVENS submitted an amendment, intended to be proposed by him, to Senate bill 1081, supra.

NOTICE OF HEARINGS ON H.R. 4083 AND H.R. 6713

Mr. STEVENSON. Mr. President, on Tuesday, July 17, the Subcommittee on Business, Commerce, and Judiciary of the Committee on the District of Columbia will hold hearings on H.R. 4083 and H.R. 6713. The hearing will begin at 10 a.m. in room 6226, Dirksen Senate Office Building. Inquiries about the hearing may be addressed to Ms. Adele Alexander, 456 Russell Senate Office Building, phone 225-2854.

NOTICE OF HEARINGS ON H.R. 8250, TO AUTHORIZE CERTAIN PROGRAMS AND ACTIVITIES OF THE DISTRICT OF COLUMBIA

Mr. INOUYE. Mr. President, on July 19, the Subcommittee on Fiscal Affairs of the District of Columbia Committee will hold public hearings on H.R. 8250, a bill to authorize certain programs and activities of the District of Columbia, in room 6226, Dirksen Senate Office Building, at 5:30 p.m.

Persons wishing to present testimony at these hearings should contact Mr. Andrew E. Manatos, Associate Staff Director of the District of Columbia Committee, room 6222, Dirksen Senate Office Building, by July 17, 1973.

NOTICE OF HEARINGS ON SENATE JOINT RESOLUTION 76

Mr. BAYH. Mr. President, the Subcommittee on Constitutional Amendments has scheduled hearings on Senate Joint Resolution 76, a proposed constitutional amendment which would grant representation in Congress to the District of Columbia. Specifically the proposed amendment would grant the District two Senators and as many Representatives as its population warrants.

The hearings are scheduled for Thursday, July 19, in room 2228, Dirksen Senate Office Building, beginning at 1:30 p.m. Any persons wishing to testify or submit statements for the hearing record should contact J. William Heckman, Jr., chief counsel of the subcommittee, room 300, Russell Senate Office Building, Washington, D.C. 20510, as soon as possible.

ADDITIONAL STATEMENTS

NOMINATION OF JOHN R. STEVENSON

Mr. FULBRIGHT. Mr. President, the Committee on Foreign Relations has received the nomination of Mr. John R. Stevenson, with the rank of Ambassador, to head the U.S. Delegation to Law of the Sea Conferences scheduled to be held in 1973 and 1974.

In view of the fact that Mr. Stevenson, former legal adviser to the Department of State, is now associated with a law firm in New York which has clients whose interests may be affected by treaties which may be negotiated at the forthcoming conferences, the Department has submitted a determination—with background papers—finding that the interest of Mr. Stevenson in his firm is not so substantial as to affect the integrity of his services.

In these circumstances, and after informal consultation with the Department of State, I felt that the material we have received relevant to the Stevenson nomination should be put in the Congressional Record so that it will be a matter of public record prior to the committee's consideration of the Stevenson nomination.

Parties interested in this nomination should communicate their interest to the Clerk of the Committee on Foreign Relations, Mr. Arthur Kuhl, prior to July 23.

I ask unanimous consent that the following papers be printed in the Record.

First. Determination by Secretary of State Rogers;

Second. Letter of May 9th from Acting Legal Adviser of the Department of State, Mr. Charles Brower, to Assistant Attorney General Dixon;

Third. Letter of May 10 from Acting Assistant Attorney General Ulman to the Acting Legal Adviser, Department of State.

There being no objection, the material was ordered to be printed in the Record, as follows:

Determination

Pursuant to the authority granted by Title 18, United States Code, Section 208(b), considering the annexed "Confidential Statement of Employment and Financial Interest" dated May 10, 1973 signed by John R. Stevenson and the annexed letters of Acting Legal Adviser Charles N. Brower and Acting Assistant Attorney General Leon Ulman, dated May 9, 1973 and May 10, 1973, respectively, I hereby determine that any financial interest which John R. Stevenson, his wife, his minor child John R. Stevenson, Jr., or Sullivan & Cromwell may be deemed to have in the United Nations Law of the Sea Conference or the preparatory session of the United Nations Committee on Peaceful Uses of the Seabed or in any preparations or negotiations in connection therewith is not so substantial as to be deemed to affect the integrity of the services of John R. Stevenson as a special government employee serving as Chairman of the United States Delegations to said Conference and session.

William P. Rogers,
Secretary of State.

Department of Justice,
Washington, D.C., May 10, 1973.

Hon. Charles N. Brower,
Acting Legal Adviser,
Department of State,
Washington, D.C.

Dear Mr. Brower: This is in response to your letter of May 9, 1973, asking for our review of the application of the conflict of interest statute (18 U.S.C. 201 *et seq.*) to John R. Stevenson, Esq., presently a partner of the New York law firm of Sullivan & Cromwell, while serving as Chairman of the United States Delegation for the Law of the Sea Conference. You inform us that it is expected that Mr. Stevenson will be designated "Special Presidential Representative for the Law of the Sea Conference" with the rank of Ambassador, an office subject to confirmation by the Senate. We also understand that he would be serving as an officer of the Department of State.

You state that in order to enable Mr. Stevenson to serve in the capacity as Chairman of the Delegation, he would be appointed a special Government employee for not to exceed 130 days during any period of 365 consecutive days. Your letter sets forth in detail the purposes of the Law of the Sea Conference and the duties Mr. Stevenson will be called to perform as Chairman of the Delegation. It states as follows:

"Mr. Stevenson has indicated to the Secretary his acceptance of the appointment and has made the following proposed arrangements with his firm: He would resign as a partner effective June 30, 1973, and as of that date would become counsel to the firm with the understanding that he would be compensated by the firm solely an agreed salary which is paid only for times other than those during which he is serving as Chairman of the United States Delegation at the Law of the Sea Conference or at the Preparatory Committee meeting this summer, is not in any way compensation for his services to the government, and is wholly unrelated to the employment contemplated herein. The reason for Mr. Stevenson withdrawing as a partner and becoming counsel to Sullivan & Cromwell on this basis is that the extensive absences which will be necessitated by his government service would make it difficult to meet the normal responsibilities of a member of the firm, and would make it inequitable for him to participate in firm profits. In addition, it is intended to ensure full compliance with both the letter and the spirit of the federal conflict of interest provisions and eliminate any possiblity of an appearance of conflict. Throughout the period of his special employment with the government, Mr. Stevenson would not represent any private client before the State Department and, in addition, he would not advise any partner of Sullivan & Cromwell in connection with any representation of any client, in respect of any matter relating to the law of the sea negotiations. Mr. Stevenson has advised me that his firm does have clients whose interests may be affected by any law of the sea treaty or treaties."

The conflict of interest statute distinguishes between regular officers and employees of the Government and a category of officers and employees designated in 18 U.S.C. 202 as "special Government employees." This latter category includes, among others, officers and employees appointed or employed to perform temporary duties, either on a full-time or intermittent basis, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days. Special Government employees are excepted by the statute from certain of the prohibitions imposed upon regular employees.

The application to Mr. Stevenson of the provisions of the conflict of interest statute would be as follows:

1. 18 U.S.C. 208. *Acts affecting a personal financial interest.* The basic question presented here involves the applicability of 18 U.S.C. 208(a), which bars executive branch officers and employees, including a special Government employee, from participating personally and substantially in relation to a particular matter in which "he, his spouse, minor child, partner, organization in which he is serving as . . . employee" has a financial interest. Section 208(b) permits an agency to grant an officer or employee an ad hoc exemption if the interest is not so substantial as to affect the integrity of his services to the Government. An agency may also waive insignificant interests by a general rule or regulation.

Mr. Stevenson will continue in an employment relationship with Sullivan & Cromwell as counsel for that firm. You state that the firm has clients whose interests may be affected by any law of the sea treaty or treaties. The Civil Service Commission has set forth guidelines with respect to the waiver provision of section 208(b) applicable to special Government employees whose advice is of a general nature from which no preference or advantage over others might be obtained by any particular person or organization. Federal Personnel Manual Instruction 57 of November 9, 1965. These guidelines are based on the President's memorandum of May 2, 1963, entitled "Preventing Conflicts of Interest on the Part of Special Government Employees." *

You set forth the basis for your view that the Secretary of State may appropriately conclude that the services to be rendered by Mr. Stevenson as Representative would fall within the underscored language above. Under the Civil Service Commission Personnel Manual's guidelines and based solely on the situations set forth in your letter, we are not aware of any legal objection to the granting of a waiver by the Secretary of State, should he decide to do so.

The Commission guidelines state in part the following:

"The matters in which special Government employees are disqualified by section 208 are not limited to those involving a specific party or parties in which the United States is a party or has an interest, as in sections 203, 205, and 207. Section 208 therefore undoubtedly extends to matters in addition to contracts, grants, judicial and quasi-judicial proceedings, and other matters of an adversary nature. Accordingly, a special Government employee should, in general, be disqualified from participating as such in a matter of any type when its outcome will have a direct and predictable effect upon the financial interests covered by the section. The power of exemption, however, may be exercised in this situation *if the special Government employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization.* The power of exemption may, of course, be exercised also where the financial interests involved are minimal in value." (Emphasis added.)

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* The President's Memorandum of May 2, 1963, was revoked by E.O. 11222 of May 11, 1965, with the direction that the date of such revocation was to be the date of issuance by the Civil Service Commission of regulations under section 701(a) of the order. Sec. 703(e). Under section 701(a), the Commission was authorized to issue appropriate regulations and instructions implementing, among other things, Part III of the order, which relates to "Standards of Conduct for Special Government Employees."

2. 18 U.S.C. 203. *Compensation of officers and others in matters affecting the Government.* In the case of a special Government employee such as Mr. Stevenson, the bar of section 203 is limited to compensation for services, performed by him or *another person,* in relation to any *particular matter* in which he has personally and substantially participated as a Government employee or as a special Government employee, or which is pending in the department or agency in which he is serving. Accordingly, Mr. Stevenson could not participate in any of the fees of Sullivan & Cromwell resulting from services rendered before the Department of State with respect to a particular matter by any of the members of that law firm during the period of his employment. Upon the basis of the facts set forth in the quotation from your letter reproduced above, section 203 would not apply.

3. 18 U.S.C. 205. *Activities of officers in claims against and other matters affecting the Government.* Mr. Stevenson could not appear actually or constructively before the Department of State in representation of any private client in any particular matter pending before the Department of State or in which he has participated personally and substantially through decision, approval, disapproval, recommendation, advice, or otherwise. Your letter states that Mr. Stevenson disclaims any intention of such activities. Upon that basis, Mr. Stevenson would not violate 18 U.S.C. 205.

4. 18 U.S.C. 207. *Post-employment restrictions and treatment of partners.* Upon completion of his services for the State Department, Mr. Stevenson, as a special Government employee, will be subject to the applicable post-employment restrictions of 18 U.S.C. 207 (a) and (b).

Section 207(c) relates to treatment of *partners* of *existing* Government employees, including a special Government employee. It prohibits such partners from acting as agent or attorney in connection with a particular Government matter only where (1) the government partner is *currently* a government employee, and (2) he participates in the matter personally and substantially or has official responsibility for it. As noted above, Mr. Stevenson will cease to be a partner of Sullivan & Cromwell on June 30, 1973, and thereafter will be a salaried employee in the capacity of counsel. On that basis, section 207(c) would not apply.

5. 18 U.S.C. 209. *Salary of Government officials payable only by the United States.* 18 U.S.C. 209(a) bars an officer of the executive branch from receiving, or anyone from paying him, any salary or supplementation of salary from a private source as compensation for his services to the Government. You should note that section 209, however, has no application to a special Government employee. Sec. 209(c).

Sincerely,

LEON ULMAN,
Acting Assistant Attorney General, Office of Legal Counsel.

THE LEGAL ADVISER,
Washington, D.C., May 9, 1973.

Hon. ROBERT G. DIXON,
Assistant Attorney General,
Washington, D.C.

DEAR MR. DIXON: The Secretary of State has asked John R. Stevenson, a partner of the New York law firm of Sullivan & Cromwell, to serve as Chairman of the United States Delegation for the Law of the Sea Conference. In connection with this appointment it is expected that Mr. Stevenson will be designated "Special Presidential Representative for the Law of the Sea Conference" with the rank of Ambassador, which will be subject to confirmation by the Senate.

The United Nations General Assembly has scheduled the first session of the Conference for two weeks in New York in November or December 1973 to deal with organizational matters, including the election of officers, and a second session of eight weeks to deal with substance in Santiago, Chile, in April–May 1974.

It is expected that the Conference will be attended by most of the more than 130 members of the United Nations. In addition, the General Assembly has scheduled two preparatory meetings for the Law of the Sea Conference, the second of which will be held for eight weeks this summer in Geneva, and is expected to be attended by 91 countries. It is contemplated that Mr. Stevenson would head the United States Delegation to the second preparatory meeting as well as to the Conference itself.

In order to enable Mr. Stevenson to serve in this capacity as Chairman of the Delegation with the indicated designation he would be appointed a special government employee for not to exceed 130 days during any period of 365 consecutive days.

Mr. Stevenson has indicated to the Secretary his acceptance of the appointment and has made the following proposed arrangements with his firm: He would resign as a partner effective June 30, 1973, and as of that date would become counsel to the firm with the understanding that he would be compensated by the firm solely an agreed salary which is paid only for times other than those during which he is serving as Chairman of the United States Delegation at the Law of the Sea Conference or at the Preparatory Committee meeting this summer, is not in any way compensation for his services to the government, and is wholly unrelated to the employment contemplated herein. The reason for Mr. Stevenson withdrawing as a partner and becoming counsel to Sullivan & Cromwell on this basis is that the extensive absences which will be necessitated by his government service would make it difficult to meet the normal responsibilities of a member of the firm, and would make it inequitable for him to participate in firm profits. In addition, it is intended to ensure full compliance with both the letter and the spirit of the federal conflict of interest provisions and eliminate any possibility of an appearance of conflict. Throughout the period of his special employment with the government, Mr. Stevenson would not represent any private client before the State Department and, in addition, he would not advise any partner of Sullivan & Cromwell in connection with any representation of any client, in respect of any matter relating to the law of the sea negotiations. Mr. Stevenson has advised me that his firm does have clients whose interests may be affected by any law of the sea treaty or treaties.

Mr. Stevenson served as Legal Adviser to the Department of State from 1969 through December 30, 1972 when he resigned to return to private practice. While he was Legal Adviser for the Department of State he served both as the United States Representative to the United Nations' Committee on Peaceful Uses of the Seabed, acting as a preparatory committee for the Law of the Sea Conference, and as Chairman of the Inter-Agency Law of the Sea Task Force in Washington. Because of Mr. Stevenson's broad experience in the law of the sea and close working relationship with the leaders of other countries involved in these negotiations, it is very much in the national interest that he head the United States Delegation to the Conference.

While it is not contemplated that Mr. Stevenson will serve as Chairman of the Inter-Agency Task Force as he did when he was Legal Adviser, undoubtedly he would be required, in his capacity as Chairman of the United States Delegation to the Conference, to make recommendations to the Secretary of State and the President on United States positions with respect to the negotiations and comment on recommendations of the Inter-Agency Task Force on the Law of the Sea.

The purpose of the Law of the Sea Conference is to reach agreement on a comprehensive law of the sea treaty or treaties establishing a legal regime for the oceans. This will involve the negotiation and preparation of treaty provisions dealing with the rights and obligations of states and their nationals in the oceans, including such questions as the permissible limit of the territorial sea, coastal states' jurisdiction with respect to fisheries and petroleum and mineral exploitation beyond the territorial sea, and an international regime with respect to the exploitation of mineral resources beyond coastal state jurisdiction, navigational and overflight rights beyond the territorial sea and in international straits, the prevention of marine pollution and the preservation of the freedom of scientific research in the oceans. Under usual rules governing diplomatic conferences, the agreement of two-thirds of the nations voting at the Conference will be necessary to the conclusion of any treaty or treaties prepared at the Conference. It is contemplated that any treaty adopted at the Law of the Sea Conference would be submitted to the United States Senate for its advice and consent to the ratification of such treaty.

It is my opinion that the employment of Mr. Stevenson as proposed herein would not present a problem under 18 U.S.C. §§ 203, 205, 207(a) and (b) or 209, and would not subject the partners of Sullivan & Cromwell to the provisions of § 207(c) (which sections collectively, in addition to 18 U.S.C. § 208, comprise the federal conflict of interest statutes potentially applicable to this matter). It is further my opinion that the Secretary of State may appropriately make a written determination under 18 U.S.C. § 208 (b) as clarified by Federal Personnel Manual Instruction 57 of November 9, 1965, precluding application of 18 U.S.C. § 208(a) in these circumstances insofar as it might otherwise apply, on the grounds that Mr. Stevenson will be rendering services of a general nature from which no preference or advantage over others might be gained by any particular person or organization. My grounds for so believing are as follows:

1. The legal principles being discussed at the Law of the Sea Conference, as outlined above, will be extremely general, indeed of virtually worldwide application, and not such as to afford the opportunity for actions favoring individual firms or individuals.

2. Because of the political considerations affecting all participants in the Conference, there is no possibility for a broad "trade-off" of one major United States interest for another; all major interests will have to achieve accommodation of some sort to assure adequate accommodation of the divergent interests of other countries. This fact in itself considerably narrows the opportunity for obtaining preferential treatment.

3. The major policy objectives of the United States in the Law of the Sea negotiations have already been determined by the President in considerable detail as a result of inter-agency analyses that, for the most part, occurred some time ago. This process has already resulted in promulgation by the President on May 23, 1970, of his Oceans Policy, which continues to be the basic guidance in these negotiations. Most of these decisions were made on the basis of a determination of likely United States interests during the time frame to which a treaty could be expected to apply, and this assessment is believed still to be basically accurate. Indeed, the House of Representatives has recently endorsed these negotiating objectives by an overwhelming vote, and a similar resolution has been introduced in the Senate. Our principal concern from here on in will be that of harmonizing optimum United States objectives with the interests and objectives of other States in ways that adequately accommodate all of the major United States interests concerned.

4. The positions taken by the United States Delegation to the Conference, which Mr. Stevenson would chair, and any changes in these positions, are and will continue to be approved by the President after full discussion within the Inter-Agency Law of the Sea Task Force, as well as the Delegation, both of which groups are composed of representatives of principal government agencies, particularly the Departments of Commerce, Defense, Interior, Treasury, and State, and the Council on Environmental Quality. Since each agency will be seeking to preserve the integrity of this established policy and assure protection of the particular domestic interests entrusted to it, the opportuniy for significant shifts of position for any reason will be minimal. The role of the Chairman, rather, will be to lend his subject matter expertise and diplomatic abilities to permit amicable compromise and sensible resolution of divergent points of view.

5. The United States position is considered by an advisory committee organized and operated in accordance with the Federal Advisory Committee Act (P.L. 92-463, October 6, 1972) and composed of representatives of private interests directly affected by the Conference, and of public representatives. The Committee is very broadly based, and is designed to represent all major segments of opinion on the subject. Members of this advisory committee also serve on the negotiating Delegation. The membership of this Delegation thus constitutes direct representation of all interests affected by the outcome of the Conference, and possesses the capacity to assure that no substantial changes in United States positions which adversely affect their interests can take place without the review and approval referred to in paragraph 4 above.

6. The development of our positions is subject to close congressional scrutiny by a large number of Committees with different concerns, including the Foreign Relations, Commerce, and Interior Committees in the Senate and the Foreign Affairs, Merchant Marine and Fisheries, and Armed Forces Committees in the House of Representatives. Members of Congress and their staffs are present on our delegation. It has been our assessment for some time that failure to achieve adequate accommodations of all major U.S. interests would seriously jeopardize the possibility of achieving the two-thirds vote necessary for advice and consent to ratification of a treaty.

7. Insofar as the purposes of the statute relate to the maintenance of public confidence, both at home and abroad, it would appear from private communications that all those concerned would greatly welcome this appointment by the Secretary.

I would appreciate very much if you would advise me whether you concur in my opinion that the Secretary of State could appropriately make a written determination under 18 U.S.C. § 208(b) so as to permit Mr. Stevenson to serve in this important position and that, assuming such determination is made, such employment would not present a problem under the federal conflict of interest statutes potentially applicable to this matter as mentioned above.

Sincerely yours,

CHARLES N. BROWER,
Acting.

STATE—USIA CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

(For use by special Government employees)

1. Name (last, first, initial): Stevenson, John R.

* * * * *

3. Birth date (month, day, year): October 24, 1921.

NAME AND KIND OF ORGANIZATION

Sullivan & Cromwell (law firm), New York, N.Y., Partner—see Schedule A.

* * * * *

4. Actions on behalf of foreign principals.—Have you ever been an agent or otherwise acted for a foreign principal under the terms of Foreign Registration Act of 1939? No.

MAY 10, 1973.

JOHN R. STEVENSON.

CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

For use by a special Government employee as required by section 306 of Executive Order 11222, dated May 8, 1965, Prescribing Standards of Ethical Conduct for Government Officers and Employees.

GENERAL REQUIREMENTS

The information to be furnished in this statement is required by Executive Order 11222, the regulations of the Civil Service Commission and the joint regulations of the Department of State, the United States Information Agency and the Agency for International Development, issued thereunder and may not be disclosed except as the agency head may determine for good cause shown.

The Order does not require the submission of any information relating to an employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants or money from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

The information to be listed does not require a showing of the amount of financial interest, indebtedness, or the value of real property.

In the event any of the required information, including holdings placed in trust, is not known to you but is known to another person, you should request that other person to submit the information on your behalf and should report such request in Part IV of your statement.

The interest, if any, of a spouse, minor child, or other member of your immediate household shall be reported in this statement as your interest. If that information is to be supplied by others, it should be so indicated in Part IV. "Member of your immediate household" includes only those blood relations who are full-time residents of your household.

SCHEDULE A

If appointed and confirmed, it is my intention to resign as a partner of Sullivan & Cromwell, effective June 30, 1973, and as of that date I will become counsel to the firm with the understanding I will be compensated solely by an agreed salary which is paid only for times other than when I am serving as Chairman of the United States Delegation at the Law of the Sea Conference or the preparatory meeting this summer and is not in any way compensation for my services to the government and is wholly unrelated to my employment as a special government employee. Throughout the period of my special employment with the government, I would not represent any client, and would not advise any partner of Sullivan & Cromwell in connection with any representation of any client, in respect of any matter relating to the law of the sea negotiations. Sullivan & Cromwell has clients whose financial interests may be affected to a presently unascertainable extent by any law of the sea treaty or treaties.

SCHEDULE B

Organization, kind of organization, and nature of interest and in whose name held

American Micro-Systems, Inc.; manufacturing—stock; my name.

Eastman Kodak Company; manufacturing—stock; my name.

MCI Communications; manufacturing—stock; my name.

Union Pacific Corporation; railroad—stock; my name.

DeVegh Mutual Fund, Inc., investment company—stock; my name.

Scudder Development Fund; investment company—stock; my name.

Smith, Barney Equity Fund; investment company—stock; my name as trustee for Patience F. Stevenson (wife) and John R. Stevenson, Jr. (son).

WATERGATE

Mr. JAVITS. Mr. President, I ask unanimous consent that a speech I delivered before the Genesee County Republican Committee Dinner on June 25, 1973, discussing the national implications of the Watergate affair be placed in the RECORD:

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR JACOB K. JAVITS

I have some observations on Watergate, what it was, what it is, and what it should teach us. It was an undertaking by some who put blind desire for the President's reelection above our laws, creating a crisis of political integrity and a threat to the security of our free institutions. Watergate created a moral crisis through which we are going even now. But, if we learn from Watergate we can weather that crisis and emerge from it with our free institutions strengthened and fortified—we can emerge from it a better country and a better people.

One thing is already clear: Watergate—which demands that we investigate it to the limit and prosecute whoever has violated the law no matter where it leads—will not dismantle the United States Government or the Presidency within it—nor will it dismantle the Republican Party.

Watergate can teach us a lesson—a lesson, in my view, in three parts.

First, it can teach us that the timespan, the financing and the rules under which we conduct our political campaigns must be formulated with considerations of the highest standards of honesty and decency, based on an acknowledgement that even in politics all is *not* fair.

Second, it can teach us that the organization of our government is such that it can, and must, be isolated from a national scandal such as Watergate so that it can function effectively in its responsibilities at home and abroad, even while investigations and prosecutions go forward. Under our system, a government cannot fall and a new election be held. Therefore, in the present circumstances, the Congress can make a vital contribution to meeting our responsibilities by regaining the authority, especially as to war and foreign policy, bestowed upon it by the Constitution—an authority which the Congress has for years given up or defaulted on. This is an opportunity for the Congress to serve the people with statesmanship and decisiveness.

Third, Watergate shows there has been something seriously, perhaps basically, wrong with the moral climate of our country when the perspective of so many in high places is so distorted as to countenance stooping to crime and mendaciousness in the waging of a political campaign and the search for political victories at any price.

Perhaps the last part of the Watergate lesson is the most important. For from that we must move to return to scrupulous adherence to the constitutional and ethical principles upon which our nation was based by the Founding Fathers. We have grown and prospered—we have become strong and respected because of our past adherence to those principles. To leave any distance between them and us would be far more than folly—it would be unforgivable.

No doubt many of us will continue to be fascinated by the coming developments and revelations as the Watergate hearings and investigations continue. Let us not be so fascinated as to fail to learn the lessons of Watergate.

STATE GOVERNORS TAKE STEPS TO CONSERVE ENERGY

Mr. HUMPHREY. Mr. President, a little less than a month ago the Senate, by a wide margin, passed the Emergency Petroleum Allocation Act of 1973. This legislation included my amendment urging the establishment of State fuels and energy conservation offices. I suggested that such offices be established for the purpose of developing and promulgating a program to encourage voluntary conservation of gasoline, diesel oil, heating oil, natural gas, propane, other fuels, and electrical energy.

I subsequently informed all 50 Governors of the content and intent of this legislation, and it pleases me to note that many Governors agree and already are working along the lines.

I have been notified by 19 Governors concerning their efforts to confront the growing energy problem. It is reassuring to know that in many of these States, programs for the overview of the various energy problems already had been implemented. Let me give you a couple of examples of the type of actions underway:

In Delaware, Gov. Sherman W. Tribbitt has established the Delaware Energy Emergency Board, which has three objectives: First, to determine the depth and realities of the energy shortage for that State; second, to act as a clearinghouse for complaints that will be eventually funneled to the Office of Emergency Preparedness and the Office of Oil and Gas; and third, to develop a program for voluntary energy conservation by all Delawareans. Governor Tribbitt also sent me copies of the various staff reports that have been done for him concerning ways to save electricity and energy.

Gov. David Hall of Oklahoma reported that during the most recent session of his State's legislature, an Energy Advisory Council for Oklahoma was established to direct energy policy.

Two Governors, Linwood Holton of Virginia and Wendell Ford of Kentucky, reported that in the last month they have established separate bodies to review their States' energy policy. On June 15 Governor Holton announced the appointment of an Energy Resource Advisory Committee, and on June 22 Governor Ford created a Kentucky Energy Council.

Moreover, Governor Egan of Alaska informs me that he will soon establish a Committee on the Alaska Energy Situation. And Governor Walker of Illinois has said he is planning to establish an Office of Energy Conservation which will monitor steps toward energy evaluation and implement new programs.

Finally, even in those States which do not presently have official offices for the purpose of fuel policy review, there are definite steps which can be taken to accomplish the desired conservation. Gov. John A. Burns of Hawaii, a State which has not suffered from any pronounced fuel crisis, has nevertheless passed certain regulations which actively conserve energy. The posted speed limits in Hawaii are no higher than 55 miles per hour. State and county agencies have experimented with liquid petroleum to replace gasoline in some fleet uses. The news media have encouraged and promoted the use of the bicycle as well as bus ridership. Hawaii's State agencies have monitored agricultural fuel needs and suggested allocation adjustments based upon seasonal realities. These are all steps which I have advocated for a long time, and I am pleased to see that some States have taken affirmative action on them.

In conclusion, Mr. President, I would like to express my hope that all 50 States will implement programs for the purpose of conserving fuel and energy. The action Governors have taken in recent weeks is encouraging. I can only hope that all States will be conscious of this growing problem, and that they will take positive steps to make the energy shortage manageable. The reports from selected States I have mentioned suggest that constructive programs can be adopted. And with the full weight of each Governor's office, we will be better able to face up to this crisis.

KEYNOTE ADDRESS BY SENATOR MOSS TO AIAA/ASME/SAE/SPACE MISSION PLANNING AND EXECUTIVE MEETING

Mr. GOLDWATER. Mr. President this past Tuesday in Denver, Senator Moss keynoted a joint symposium on space program planning held by the American Institute of Aeronautics and Astronautics, the American Society of Mechanical Engineers, and the Society of Automotive Engineers.

The chairman of the Committee on Aeronautical and Space Sciences addressed the four points paramount in his mind at this critical juncture of the national space program. His remarks reflect the kinds of policy decisions weighed by the committee this year, and will, I believe, be of interest to my colleagues.

I ask unanimous consent that Senator Moss' keynote address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

THE FUTURE OF SPACE: THE VIEW FROM CAPITOL HILL

Someone once suggested that each speech by a Senator should be entitled "The Universe: And Other Matters", so as to leave a little room for digression. The title suggested for my remarks today—The Future of Space: the View from Capitol Hill—is a bit more constraining. But it leaves me enough leeway to cover the four points I'd like to make.

First, despite a year with all the trappings of potential disaster, NASA is coming through in pretty good shape.

Second, now is the time for space planners—inside and outside the NASA family—to get serious about how best to use the space shuttle.

Third, the single, most important need for a healthy future space program is a substantially higher NASA budget request for Fiscal Year 1975.

Fourth, Congress is willing to leave overall planning for future space options to the Executive Branch, but cavalier disregard for specific Congressional decisions—such as we witnessed last January—is not likely to be so lightly accepted in the future.

I would like to address each of these points briefly.

One should not go too far into the past in a speech about the future. I'll go back just one year to set the stage for elaborating on my first point.

Last year the Administration proposed, and Congress fully endorsed, a balanced program which could be supported by an essentially level NASA budget over the next few years. This program included the continuation of active, though restricted, work, both in space sciences and in the direct application of space science and technology to the solution of present-day problems here on earth.

At the same time, it included developing and putting in place by the end of this decade the basic elements of a new space transportation system, including the space shuttle. Bolder options, such as the larger, more expensive automated planetary expeditions and manned earth orbital space stations, were consciously deferred.

After acceptance, and Fiscal Year 1973 funding by Congress of the first increment of this new, more stable, program, the Administration inexplicably chose to draw back. As part of reductions in numerous federal programs, the aeronautics and space budget plan for Fiscal Year 1973 was cut sharply, and the President put forward a 1974 budget far short of the "constant level" just approved by Congress.

Thus Congress was called upon to consider a budget which could be characterized—and was—as carrying forward the shuttle, Skylab, Apollo/Soyuz, and little else. Since there were virtually no new starts, the five-year runout projections vividly portrayed shriveling budgets for everything but the shuttle, while the total budget stayed at about $3 billion. Talk of the "shuttle squeeze" became so fashionable some thought it was the name of a new rock group!

Then came new troubles with ERTS–A; the tragic crash of the "Galileo" research aircraft; and Skylab's problems. Some began to wonder if NASA, so proud a few months before of the 1972 vintage year—100% success in space and in Congress—was not due for a random success.

By mid-May, NASA was in serious trouble, and the outlook was dark on Capitol Hill.

But then NASA turned the corner. ERTS kept working. Quick steps were taken—by the Administration and the Congress—to replace the "Galileo", Convair 990, and the largest unmanned spacecraft ever launched—the Skylab workshop—was fixed in orbit by, of all things, men!

Meanwhile, cooler heads prevailed on Capitol Hill. The authorization bill, after some repair, breezed through the House. We were able to just barely squeak through the Senate by a vote of 90 to 5! The appropriation bill, providing 99.5% of the funds that NASA requested, also passed.

The NASA program survived an extremely tenuous period virtually unscathed.

With this somewhat limited background, let me turn briefly to the near term NASA future, as I see it.

Mariner 9 obsoleted several generations of textbooks on Mars. In much the same tradition, the Fall 1973 launching of a mission to Venus and Mercury will extend our field of knowledge in a sunward direction. This mission will also provide the first practical demonstration of the new technique of using the gravitational field of a planet to alter the direction, and improve the travel time, of a spacecraft on its journey to a second planet. Thus, the Venus-Mercury mission is of great importance in its own right and critical to the success of later flights to the outer planets.

NASA is planning, and I believe the Congress will continue to support, the 1975-1976 Viking missions to orbit and to land instrumented vehicles on Mars. It is, of course, critical that we place instruments on Mars if we are ever to resolve the question of life on that planet. Viking, and the Russian missions which we all expect, may well provide the answers and, of course, raise new questions.

Beyond Mars, two Pioneer spacecraft are even now on the way to Jupiter. These probes will provide vital data on the asteroid belt and the radiation environment of the largest solar planet. We must have this information before we design and fly two gravity-assisted missions to Jupiter and Saturn in 1977. These spacecraft will arrive at Jupiter in 1979 and at Saturn in 1981. Thus, they will open the path to full exploration of the outer planets of the solar system in the decades to come.

One of the most promising fields in the U.S. space effort, and one that is in high favor in Congress, is the earth applications program. This is the area in which the American space dollar offers the most immediate return in relation to the economy and the betterment of the human condition.

We often hear about the potential of orbiting satellites in surveying global resources: crops, timber, ore and fuel deposits, fish migration, and the status of water supplies. Orbital technology will also enable utilization of vastly improved methods of air and water pollution surveillance and of monitoring of the ecological threat to man's terrestrial environment. ERTS–A is proving these promises to be conservative. ERTS–B, which I will mention later, will continue this progress.

The earth physics program will tell us much more about our planet, including land mass movement, the nature of tidal action, the dynamics of ice migration, and the motion of the earth's crust. These data will be highly useful in improving our knowledge and the capability for prediction of earthquake phenomena. Even the occurrence of tidal waves and volcanic eruptions may be predictable in the orbited technology of coming decades.

Congressional leaders are well aware of the high potential of these earth applications programs. Within the limits of available resources, they will be maintained in an active state.

Because of the improved climate existing between this country and the Soviet Union, the Congress welcomes the joint Apollo/Soyuz mission now scheduled for 1975. As you know, in that mission an Apollo command/service module will rendezvous in orbit and dock with a Russian Soyuz spacecraft. This flight should open the way for more advanced cooperative efforts in the future, including the important capability for emergency rescue missions.

I want to mention specifically in respect to this ASTP mission, the need for prompt decision on *meaningful* experiments for the U.S. flight. Just this week many of you have received a letter from Jim Fletcher, NASA Administrator, inviting proposals for experiments to be utilized on the Apollo/Soyuz Test Program. There is space for about 400 pounds for experiments not now committed. The unique nature of this flight calls for meaningful investigations of interest to the Soviet Union and the United States and valuable for all mankind.

Time is short. Proposals should be delivered to NASA not later than 23 July—this month. I hope that your homework has been going on at full speed. NASA will screen your proposals and invite many of you to a workshop seminar in Houston during the week of 30 July, there to discuss objectives, the nature of experiments, fiscal and interface requirements, and compatibility with this mission.

Experiment funding has been authorized. An ASTP experimenters information package is available on request. Here lies further opportunity truly to learn and to apply the values of space.

Apollo/Soyuz is an important step in a program of international technical exchange with the Russians that, to date, has included moon rocks and soil, data from weather satellites, and specific medical information on the effects on astronauts and cosmonauts of the space environment.

Within this broad framework, cooperation in space research between the United States and the Soviet Union is of special significance. One of the most popular exhibits at the Paris Air Show this year was the exhibit of the planned Apollo/Soyuz Test Project. It has been little more than a year since President Nixon and Premier Kosygin signed the space agreement in Moscow on May 24, 1972. Enough time has elapsed so that we can now evaluate the extent to which the provisions of that agreement are being implemented.

The Apollo/Soyuz Test Project has reached the point where American and Soviet technical directors and their staffs are meeting almost monthly in Houston and Moscow to work out the details of compatible systems for rendezvous and docking. Between March 13 and 30, 1973, they met at the Lyndon B. Johnson Space Center in Houston and reaffirmed the date of July 15, 1975, when the Soyuz would be launched first from the Soviet Union with the Apollo to follow from Kennedy Center in Florida.

When Arnold W. Frutkin, NASA Assistant Administrator for International Affairs, testified before our Committee on March 22, 1973, he said that "Soviet interest in the success of the Apollo/Soyuz Test Project is clearly equal to our own, and veteran observers of the Soviet scene tell us that the close collaboration between members of the joint working groups is unmatched in their experience."

We all look for an increase in this cooperation and exchange of scientific and technical data, particularly when data becomes available from the surface of Mars.

I expect that the interchange of scientific and technological information will continue to contribute to the general detente between Russia and the United States in political and cultural fields. Cooperation between the two powers, even in science, is a dramatic departure from the atmosphere of mutual distrust that has marked relations during the past half-century.

Now to my second point. You will recall I said that everyone should bend his attention now to planning how to use the shuttle. If the shuttle survives the yearly series of hurdles that we set before large, long-term projects, it will be ready in 1980. In many ways, that's a long way off. But each of you knows it's just around the corner in space program planning terms.

We are not going to realize the benefits of the shuttle unless we use it as the shuttle, not as just another launch vehicle. The shuttle offers a true difference in kind in spacefaring. To use it for several years with payloads differing only in degree would be a tragedy for the taxpayer as well as for those who could reap much more from the scientific, military and applications missions in the early 1980's.

If the shuttle is to be fully used when it is ready, many steps must be taken in a timely fashion. Payload studies and designs must proceed now. In this connection, I welcome the payload efforts NASA is funding and the Space Science Board summer study now underway. Those are important, but only first steps.

Meetings of the type you are holding here in Denver this week are also highly important, and I hope the by-words "think shuttle" will pervade all your sessions, not merely those on Thursday.

A crucial element of readiness will be preparation of the Western launch and recovery site. That must also be timely. In saying this, I recognize the difficult program phasing and funding problems faced by the Department of Defense.

And, of high importance, prompt decisions are essential on funding and design of space tug vehicles. Until we provide properly designed "upper stages", to use an outmoded term, the shuttle will work under a great handicap.

All of these steps cost money, and a great deal of it. Providing the necessary funds, in the appropriate budgets, will not be simple; in fact, it may not be possible unless we move in the right direction now. And that leads to my third point.

The NASA budget must be raised.

As I mentioned a moment ago, the Congress endorsed last year the concept of a "contant level" NASA budget of $3.4 billion in 1971 dollars. If any of you can't remember what a 1971 dollar was, take my word that it looks a lot bigger now than it did then.

But NASA is down to about $3 billion in current dollars, well more than a half billon dollars *below* the "constant" budget in 1971 dollars. At that level next year, and in the next few years, something would have to go. And that "something" might well have to be the shuttle.

Dr. Fletcher has been frank to acknowledge this fact.

In testimony before the various Committees of Congress this year, including my own, Dr. Fletcher was quick to point out that NASA must have a higher budget next year to maintain a balanced program. Otherwise, he said, and I believe him, some major segment of traditional NASA effort would disappear.

Experimental communications satellites have gone already. The next loss would be greater in scope and long term impact, be it the shuttle, planetary missions, or one or more NASA centers.

I hope that no one—in NASA, the Administration, the Congress, industry or the academic world—will be lulled into a false sense of security by the unprecedented support a $3 billion budget received on "the Hill" this year. In large measure, that unprecedented support was based on uncommon frankness.

In addition to Dr. Fletcher's forthrightness about the need for bigger budgets, every statement I made in support of this year's level was clearly premised on a higher level in years to come.

As an aside, I might say that I even went to the unusual technique, unusual at least in the Senate, of using tables and charts to make the point as clearly as I know how.

Perhaps it was a result of these clear arguments, that there was no serious attempt to reduce the NASA authorization or appropriation in the Senate this year.

The NASA budget, I repeat, must go up. We cannot turn back.

I will be brief about my final point. To refresh your recollections, as they say in the Watergate hearings, let me remind you "at this point in time" what the fourth point was.

The Congress is not likely to hold still again for the kind of treatment accorded by impoundments, selective withholdings, or whatever term one chooses to use for the non-statutory rape of NASA programs by OMB last Winter.

This year over 100 million appropriated dollars were withheld from NASA. Besides, numerous programs, specifically approved by the Congress, were slowed, stalled or stopped.

During review, authorization and appropriation of the NASA budget this year, the Congress mandated modest, but nonetheless significant and sincerely held changes in priorities. Without taking the time of this distinguished assembly to spell out all of them, let me mention just two.

Earlier, I referred to the astounding success of ERTS–A. The FY 1974 NASA program would have delayed ERTS–B until 1976, well beyond any reasonable life expectancy of ERTS–A.

The Congress will insist, in the language of my Committee's report, that NASA use $8 million out of its $3 billion, and I quote "to proceed immediately to bring ERTS–B into a ready status for launch in its present configuration in the event ERTS–A encounters major system failure."

A lengthy gap in this program will not be tolerable.

As a second example, on my recommendation, the Senate Space Committee added $2 million in authorization for NASA work on planning energy programs. The House Space and Senate Appropriations Committees specifically endorsed this initiative to ensure that the NASA family is doing what it can to apply its considerable talents to solutions to the energy crisis.

These and other decisions which we made must be heeded by space planners. The House-Senate Conference on NASA authorization, noting the disregard for Congressional setting of priorities last year, stated, and I quote, that it "strongly urged the funds provided by the Congress for NASA . . . be used to fully fund the programs to the level approved by Congress."

It would behoove the Administration to pay attention to these clear expressions of legislative intent.

If you've been keeping count, you know that I have now covered the four points I undertook to make.

One—NASA is getting through a bad year in good shape.

Two—It is time for professional organizations such as those represented here today, and others, to get serious about the shuttle.

Three—The budget must go up, and

Four—Congress has asserted itself and means what it says.

Let me close by wishing you the utmost success in the working sessions this week at this important conference. Much depends on the quality of your efforts here and back at your places of business. The Congress, and the American people, rely on you to continue the high level of excellence you have achieved in the past. The ingenuity and persistence of the Skylab crew is a tremendous example for all of us in furthering our space efforts toward a better tomorrow. It is in your hands and minds that the future of space truly lies.

Thank you.

ACTION ON GENOCIDE LONG OVERDUE

Mr. PROXMIRE. Mr. President, it was in 1950 that President Truman first submitted the Genocide Convention to the U.S. Senate for ratification. Hearings were held before the Foreign Relations Committee that year, but no action was taken. No action was taken for the succeeding 21 years either.

During the time that the convention has languished in the Senate, it has been ratified by 75 nations. This includes virtually every major nation in the world. The United States stands out as the single major abstainee on the list of nations ratifying the convention.

In May 1971, the Foreign Relations Committee finally reported the convention to the Senate floor, with the recommendation that the convention be ratified. Unfortunately, no action was taken in 1971 and 1972. However, in the spring of this year, the convention was again sent to the floor by the Foreign Relations Committee, and we now have an opportunity to act upon it.

Mr. President, let us not lose this opportunity. The Genocide Convention, which would make unalterably clear the opposition of the civilized world to the hideous crime of genocide, deserves to be ratified. I hope the Senate will be permitted to act upon it without further delay.

PRAYER OFFERED AT DINNER AT NATIONAL CONFERENCE OF CHRISTIANS AND JEWS AT PITTSBURGH

Mr. JAVITS. Mr. President, on Wednesday, May 30, 1973, I had the pleasure of addressing the National Conference of Christians and Jews at a dinner honoring Mr. and Mrs. Henry Lee Hillman of Pittsburgh, Pa. The Reverend John Baiz, D.D., rector of Calvary Episcopal Church of that city, offered the invocation and I ask unanimous consent to have it printed in the Record.

There being no objection, the invocation was ordered to be printed in the Record, as follows:

Invocation

O God of righteousness.

We thank you for the faith we inherit from common sources. It gives us the vision of a world where children of God are not ground down in oppression but lifted up in freedom.

We thank you for the gift of your love. It demands that the human person must not be bound in misery but liberated in joy.

We thank you for the abundance of the earth. Your gift makes possible a society of persons not equal in poverty but diverse in wealth.

We thank you for the pricking of conscience. It makes us lay the foundations for such a world, not tomorrow but today.

We thank you for the natural majesty and beauty of this land. They restore us, though we often destroy them.

We thank you for the great resources of this nation. They make us rich, though we often exploit them.

We thank you for the men and women who have made this country strong. They are models for us, though we often fall short of them.

We thank you for the torch of liberty which has been lit in this land. It has drawn people here from every nation, though we ourselves have often hidden from its light.

Help us, O Lord, to finish the good work here begun. Strengthen our efforts to blot out ignorance and prejudice, and to abolish poverty and crime. Hasten the day when all our people, with many voices, in one united chorus will glorify your Holy Name.

Bless this food to the nourishment of our bodies and this fellowship to the nourishment of our souls. In thine own Name we ask it. Amen.

ANALYSIS OF SUPREME COURT DECISION IN LAIRD AGAINST TATUM

Mr. ERVIN. Mr. President, when the Senate Subcommittee on Constitutional Rights conducted hearings in 1971 on Federal data banks, computers, and the Bill of Rights, testimony was heard from Mr. Ralph M. Stein which contributed significantly to the subcommittee's study of Government compilation of information and records on private citizens.

Mr. Stein served in the U.S. Army in military intelligence from October 1965 to October 1968 and subsequently participated in an exhaustive investigation of the activities of the U.S. Army. Mr. Stein now serves as editor in chief of the Hofstra University Law Review.

An excellent article by Mr. Stein on the Supreme Court opinion in *Laird* v. *Tatum* (408 U.S. 1) recently appeared in the Hofstra Law Review. I was privileged to present oral argument as a friend of the Court in this class action dealing with the chilling effect which Army surveillance of civilians has on first-amendment freedoms. In my opinion, the Supreme Court gravely erred in dismissing the case on the grounds that the plaintiffs had no standing to sue.

Mr. President, I ask unanimous consent that Mr. Stein's perceptive article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Laird v. Tatum: the Supreme Court and a First Amendment Challenge to Military Surveillance of Lawful Civilian Political Activity*

The First Amendment was adopted to elevate and defend the central right of a free people: the right to peaceably dissent, to argue, to persuade, and to demonstrate. The United States Army was created to preserve and protect our society. *Laird v. Tatum*,[1] a class action challenge to military surveillance of civilian politics, demonstrates with frightening precision the degree to which the force of protection can and has imperiled the instrument of freedom.

There was no evidence in the record before the Supreme Court to show the extent to which lawful political activity was chilled and deterred by Army intelligence. The reasons are several. The action was initiated with a modicum of information; much that is known today was not known at the time of the District Court hearing. More important, individuals present in court who were prepared to relate their experiences monitoring civilian activity were not allowed to take the stand and, instead, took their story to the country through a press conference.

This Comment will explore the salient issues raised by *Laird v. Tatum* and will attempt to answer the following questions: Did the Supreme Court err in denying the political activists an opportunity to present witnesses at a District Court hearing and in deciding the issues on the original papers and appellate briefs? Was the Military Intelligence (hereinafter MI) program complained of an impermissible abridgement of First Amendment rights? Did Justice Rehnquist behave improperly by participating in the *Laird v. Tatum* decision? Last, to what extent has the Supreme Court's decision in this case affected future adjudication of First Amendment class action challenges to government programs of surveillance and data compilation related to lawful political activity.[2]

In January 1970, *The Washington Monthly*, a social and political science magazine, published "CONUS Intelligence: The Army Watches Civilian Politics," by Christopher H. Pyle, a lawyer and former captain in MI. Pyle stated that "[t]he U.S. Army has been closely watching civilian political activity within the United States. Nearly 1,000 plain-

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Footnotes at end of article.

clothes investigators . . . keep track of political protests of all kinds—from Klan rallies in North Carolina to anti-war speeches at Harvard." [3] In his article, Pyle reproduced a portion of an MI intelligence summary which described a number of political activities and named participants and organizations.[4]

The reaction to Pyle's article was immediate. While newspaper reporters investigated Pyle's allegations, senators and congressmen queried appropriate officials in the Department of Defense and the Department of the Army to determine whether the military, as Pyle claimed, actually maintained "files on the membership, ideology, programs, and practices of virtually every activist political group in the country" [5] and conducted a program of surveillance.

A number of the persons and organizations mentioned in the MI summary reproduced in Pyle's article, together with other political activist individuals and groups, engaged the American Civil Liberties Union to initiate a class action challenge to the constitutionality of the Army's domestic intelligence program.

The action commenced by the activists, *Laird v. Tatum,* was dismissed by the Supreme Court after two and a half years of litigation on October 10, 1972.

The case raised a number of still unsettled and pressing constitutional issues, as well as questions concerning Mr. Justice Rehnquist's judicial propriety in participating in the *Laird v. Tatum* decision, the latter of a critical importance since the Associate Justice's vote decided the case against the plaintiffs.

I. HISTORY OF THE CASE

The *Laird v. Tatum* plaintiffs[6] filed their complaint in the United States District Court for the District of Columbia on February 17, 1970.[7] They named as defendants in their suit for injunctive and declaratory relief Secretary of Defense Melvin R. Laird and several high-ranking Army officials.[8]

The complaint, based almost exclusively on the Pyle article,[9] alleged that the MI program created an impermissable First Amendment chill, was *ultra vires* and exceeded the lawful needs of the United States Army in carrying out its constitutional and statutory role with regard to intervention in civil disorders.[10] The litigants sought a declaration that the Army's activity was unconstitutional and prayed for a preliminary and permanent injunction restraining the Army from engaging in the surveillance and data-compilation activities disclosed by Pyle.[11] Also sought in the same motion were a permanent injunction forbidding the defendants from applying security classifications to reports of civilian political activity and a mandatory injunction directing the defendants to produce for the court, but explicitly not for public disclosure, all documents and files pertaining to military surveillance of civilian politics.[12] A separate motion for a temporary restraining order was denied.[13]

In a memorandum prior to oral argument before the District Court, the plaintiffs alleged that "the Army's domestic intelligence program also involves the conduct of undercover operations by military agents within the civilian community. . . ." [14] This allegation, as will be discussed later, is of seminal significance in analyzing *Laird v. Tatum.*

Responding to the plaintiff's assertions in the several pre-hearing motion papers, the defendants stated that the Army's preparation for its civil disturbance mission necessitated that information be collected before a crisis, and that such collection was reasonable and implied by statutes which authorize the Army's civil disturbance function.[15] The defendants would not discuss the specific activities of the MI branch, but urged that the Army's conduct was constitutional and claimed that the *Laird v. Tatum* activists had failed to state grounds upon which relief could be granted. An affidavit filed by Under Secretary of the Army Thaddeus R. Beal did admit, however, that "As a result of a review of the intelligence activities of the U.S. Army it has been determined that certain records maintained by the Army were not useful and were not necessary in view of the Army's mission." [16] The Beal affidavit did not elaborate on the nature or scope of MI holdings concerning civilians.

On April 22, 1970, oral argument on the motion papers was heard in the District Court by Judge George L. Hart, Jr. Present in the courtroom were a number of former MI agents who were prepared to testify on behalf of the plaintiffs as to the extent and nature of MI operations; [17] three of these former agents were willing to discuss covert and clandestine infiltration operations conducted by MI personnel.[18]

Judge Hart refused to allow plaintiff's counsel, Professor Frank Askin of Rutgers University School of Law, and Melvin L. Wulf, National Legal Director of the American Civil Liberties Union, to present any witnesses. He insisted instead that oral argument was sufficient. Ignoring the claim of Professor Askin that the witnesses present in court were able to testify as to the existence of covert operations, Judge Hart concluded that MI activity seemed to be limited to the clipping of news media reports. Such activity, he maintained, whether engaged in by the Army or by the press, is equally constitutional. Hart, in dismissing the action,[19] found that no unconstitutional action by the Army was shown and that the complainants had not alleged any unlawful conduct.[20] On April 23, 1970 an appeal was filed. On April 27, 1971, the Court of Appeals for the District of Columbia remanded the case to the District Court for an evidentiary hearing.[21] Judge Wilkey, for the majority, found,[22]

> Because the evil alleged in the Army intelligence system is that of overbreadth . . . and because there is no indication that a better opportunity will later arise to test the constitutionality of the Army's action, the issue can be considered justiciable at this time.

He acknowledged that the military has a legitimate need for certain information in order to effectively intervene in civil disorders. He noted also that "The questions are what type of information the military needs, how they should go about obtaining it, when they need it, and whether what the Army has done here has infringed any of appellants' rights." [23]

Whatever the Army had "done here" was limited, in the view of the court majority after examining the District Court record, to what "a good newspaper reporter would be able to gather by attendance at public meetings and the clipping of articles from publications available on any newsstand." [24] Since the testimony of witnesses was absent, the court concluded that "[t]here is no evidence of illegal or unlawful surveillance activities. We are not cited to any clandestine intrusion by a military agent." [25]

The court recognized, however, that "[t]he compilation of data by a civilian investigative agency is thus not the threat to civil liberties or the deterrent on the exercise of the constitutional right of free speech that such action by the military is. . . ." [26] The court ordered the case re-heard by the District Court to determine four principal issues: [27]

1. The nature of the Army domestic intelligence system made the subject of appellants' complaint, specifically the extent of the system, the methods of gathering the information, its content and substance, the methods of retention and distribution, and the recipients of the information.

2. What part, if any, of the Army domestic intelligence gathering system is unrelated to or not reasonably necessary to the performance of the mission as defined by the Constitution, statutes, military regulations, and as interpreted by actions under those written definitions of the mission.

3. Whether the existence of any overbroad aspects of the intelligence gathering system, as determined above, has or might have an inhibiting effect on appellants or others similarly situated.

4. Such relief as called for in accordance with the above established law and facts.

Judge MacKinnon dissented, finding that "the chill to this amorphous group . . . is grounded in the unrealistic and speculative fear that the Government will improperly use the information against them." [28] He asserted that the appellants lacked standing based on the admission of counsel during oral argument before Judge Hart that the plaintiffs were not cowed or chilled, but rather wished to represent those Americans who were supposedly so affected by the Army program.[29]

The Supreme Court granted defendants' petition for certiorari on the issues of justiciability and standing.[30] The government, in their briefs and before the Court, argued that the case lacked concreteness and evidence of a real injury to the rights of the plaintiffs.[31] The defendants also asserted that the issue was moot.[32] Sufficient public disclosure of clandestine MI activities by a large number of former military personnel had forced some admission of inappropriate activity by Army officials followed by assurances that such activity had been halted. The defendants offered the Army's assurances to show that the issue was moot; they also alleged that the responsibility for insuring the lawful functioning of MI operations resided in the Executive and Legislative branches.[33]

The plaintiffs urged the Supreme Court to affirm the Court of Appeals order for an evidentiary hearing.[34] Arguing that the record was insufficient for a valid determination of the constitutional issues,[35] the plaintiffs alleged that many of the defendants' assertions of fact about First Amendment injury were, in reality, contested and could not be decided absent an opportunity to present witnesses and documentary evidence.[36]

Prior to oral argument, an unusual brief *amici curiae* was submitted to the Court. The *amici,* twenty-nine former MI officers and enlisted personnel, urged the Court to allow the plaintiffs an opportunity to present witnesses and evidence in the trial court.[37] They informed the Court that far from limiting its activities to clipping newspapers, MI, among other things, infiltrated agents into Resurrection City,[38] had agents pose as newsmen with bogus identification cards to obtain information from unsuspecting civilians during protests,[39] had infiltrated the headquarters of the National Mobilization Committee to End the War in Vietnam,[40] had penetrated the Colorado Springs Young Adults Project,[41] and had assigned agents to stake out Martin Luther King's grave to determine who came to the graveside.[42]

On June 26, 1972, Chief Justice Burger delivered the majority opinion in a 5 to 4 reversal of the Court of Appeals decision, thereby affirming the dismissal of the action.[43] The Court acknowledged the "traditional and strong resistance of Americans to any military intrusion into civilian affairs." [44] but found that there had been no actual or threatened injury by reason of unlawful activities by the Military.

The Court noted,[45]

> The [Army's] information itself was collected by a variety of means, but it is significant that the principal sources of information were the news media and publications in general circulation.

The Court majority, agreeing with the government's position, contended,[46]

Footnotes at end of article.

> The system put into operation as a result of the Army's 1967 experience consisted essentially of the collection of information about public activities that were thought to have at least some potential for civil disorder. . . .

Of far greater import, however, was the Court's acceptance of the defendants' claim that *Laird v. Tatum* was nonjusticiable because the parties bringing the action had failed to show injury and thus lacked standing to sue. In the absence of injury, the issues raised required action by the Executive and Legislative branches if they perceived a need to respond to the allegations raised by the plaintiffs. The Court majority stated,[47]

> [T]hey [plaintiffs] disagree with the judgments made by the Executive Branch with respect to the type and amount of information the Army needs and that the very existence of the Army's data-gathering system produces a constitutionally impermissible chilling effect upon the exercise of their First Amendment rights.

The political activists, in the opinion of the Court, sought a wide, self-conducted investigation of Army intelligence operations, utilizing the Federal judiciary as its agency of inquisition.[48]

> Carried to its logical end, this approach would have the federal courts as virtually continuing monitors of the wisdom and soundness of Executive action; such a role is appropriate for the Congress acting through its committees and the "power of the purse"; it is not the role of the judiciary, *absent actual present or immediately threatened injury resulting from unlawful governmental action.*[49] [emphasis added]

The Court therefore concluded that the respondents lacked standing to bring the action. Mr. Justice Douglas, in a dissent in which Mr. Justice Marshall concurred, began by asserting that "Our tradition reflects a desire for civilian supremacy and subordination of military power." [50] Reviewing the role of the military, the Justice stated,[51]

> [T]he Armed Services . . . are not regulatory agencies or bureaus that may be created as Congress desires and granted such powers that seem necessary and proper. The authority to provide rules "governing" the Armed Services means the grant of authority to the Armed Services to govern themselves, not the authority to govern civilians.

He continued, "The action in turning the 'armies' loose on surveillance of civilians was a gross repudiation of our traditions." [52]

Justice Douglas found that the majority's conclusion that the plaintiffs lacked standing to sue was "too transparent for serious argument." [53] Noting that the Army allegedly maintains files on all groups engaged in activist politics,[54] "uses undercover agents to infiltrate these civilian groups . . ." [55] and "moves as a secret group among civilian audiences, using cameras and an electronic ear for surveillance," [56] he concluded that, "One need not wait to sue until he loses his job or until his reputation is defamed. To withhold standing to sue until that time arrives would, in practical effect, immunize from judicial scrutiny all surveillance activities, regardless of their misuse and their deterrent effect." [57]

Mr. Justice Brennan, in a separate dissent concurred in by Associate Justices Stewart and Marshall, decried the denial to the plaintiffs of an opportunity to present evidence at the trial court level. Justice Brennan stated,[58]

> Respondents may or may not be able to prove the case they allege. But I agree with the Court of Appeals that they are entitled to try.

Following the Supreme Court's June decision, the plaintiffs filed a petition for rehearing. They also filed a motion for withdrawal of the Court's opinion, so that Mr. Justice Rehnquist could consider a separate motion addressed to him requesting recusal because of his prior involvement in the case. The petition and motions were denied on October 10, 1972.[59]

II. THE HISTORICAL BACKGROUND

The issues raised by *Laird v. Tatum* cannot be meaningfully examined solely in their legal context. Two other areas must be explored in some detail before an attempt can be made to analyze *Laird*: use of federal troops in civil disorders; and the Army's domestic intelligence program.

A. The use of Federal troops in civil disorders

The defendants in *Laird* relied on statutory authorization by implication for their data-collection on civilian activities. They also viewed the MI program as a necessary preparation for the commitment of Federal troops in civil disorders. It is useful to review the history of Federal troop commitment to see if the statutory provisions cited allow this expansive interpretation.

Americans have always been wary of military forces. The third amendment is as much a recognition of the coercive nature of military force in a civil setting as it is a declaration of property rights. The debate over when and how to employ Federal forces to suppress civil disorder dates back to the founding days of the nation.[60] As early as 1792, fears were voiced that the use of federal troops would dampen civil liberties. "Congressman John Francis Mercer of Virginia rose in the new House of Representatives to denounce a bill to permit use of federal troops to control civil disorders, 'In no free country,' he said, 'can the [military] be called forth nor martial law proclaimed but under great restrictions.' " [61]

Two years after Congressman Mercer expressed his concern, President George Washington was faced with the Whiskey Rebellion, a Pennsylvania protest against the imposition of an excise tax many considered to be little different from the hated British Stamp Act [62] Washington dispatched troops after writing.[63]

> Not only the Constitution and Laws must strictly govern; but the employing of the regular troops avoided if it be possible to effect order without their aid . . . . Yet, if no other means will effectually answer, and the Constitution and Laws will authorise these they must be used as the Dernier resort.

Washington was quick to warn, however, that the necessary deployment of troops because of the inability of local government to keep order did not mean that the military authorities were to govern. "The dispensation of . . . justice belongs to the civil Magistrate and let it ever be our pride and our glory to leave the sacred deposit there unviolated." [64]

Although there were occasional departures from Washington's standard, the concept that the employment of Federal forces must occur only when such commitment is the "Dernier resort" was accepted by most presidents.[65]

As Washington correctly foresaw, occasions arise when the only means left to restore public order is the use of the Federal military might. Article I, Section 8 of the Constitution provides the authority for such use and three statutory provisions define the procedures for the President to follow in dispatching the Army.[66] The President may direct the commitment of federal forces upon a request by a state legislature, or a state governor if the legislature cannot be convened, to suppress civil disorder. Troops may be deployed by the President to combat a rebellion against the national government. Last, the Chief Executive may commit troops if state or national law is interfered with so as to result in a denial of constitutional rights to a part or a class of the state's population.[67]

Nowhere in these statutory provisions nor in any other legislation is there reference to or authority for pre-commitment activities on the part of the military.

B. *The Army's domestic intelligence program*

Until former Army Captain Pyle's January 1970 article appeared virtually no information had ever become public suggesting that the Army maintained a program of surveillance and data-compilation on civilians.[68]

In February 1970, Pyle and the author initiated a nationwide investigation of MI activities.[69] Although the Army assured critics that it had re-evaluated its intelligence needs with regard to civil disturbance preparation, Pyle, in a second article in July 1970, several months after the District Court hearings in *Laird*, charged,[70]

> Despite over 50 Congressional inquiries, the threat of House and Senate hearings, and a lawsuit by the American Civil Liberties Union, more than 1,000 plainclothes soldier-agents continue to monitor the political activities of law-abiding citizens.

He asserted that the Army, finding that "the rising tide of criticism could not be ignored," [71] had issued a series of partial admissions. "In the jargon of the spy trade, such admissions are known as 'plausible denials,' because they are invested with just enough truth to mask an essential falsehood." [72]

Although a number of senators and congressmen threatened to hold hearings on the Army's intelligence program, only one, Senator Sam J. Ervin, Jr. (Democrat-North Carolina), actually held hearings. In February and March 1971, the Subcommittee on Constitutional Rights, chaired by Senator Ervin, heard witnesses on eleven hearing days.[73] Although the Subcommittee concerned itself with several issues, most of the hearing days were devoted to MI activities. The 2,164 pages of testimony, documentary evidence, and related materials published by the Subcommittee on Constitutional Rights are, at present, the only reference source on Army domestic spying.[74] No attempt to outline the extensive material contained in the two volumes published will be made here, but a summary of the hearings is a prerequisite to understanding the analysis of *Laird v. Tatum* which follows this section.

Hearings witnesses testified that an Army agent, in civilian clothes, had attended black studies classes at New York University to monitor one professor and his course material.[75] Agents had infiltrated racial,[76] campus,[77] and religious groups [78] and had gathered data on virtually every activist group in the United States.[79] Military intelligence agents attended both national political conventions in 1968, according to witnesses.[80] At the Chicago Democratic Convention, undercover men with bogus news credentials wandered about with a videotape camera and conducted phony news interviews with protest leaders to determine their future plans.[81] At the Miami Republican Convention, agents drifted aimlessly among the delegates on the convention floor after having been given vague and ill-defined orders to monitor political activity.[82] One witness related that he penetrated a church-sponsored youth group in Colorado because "one of the founders of the organization had been active in antiwar activities in Colorado Springs. . . ." [83] This same agent had orders to spy on local anti-poverty agencies.[84]

A black agent recounted his assignments to cover anti-war meetings in churches and to cruise the black areas of Washington, D.C. in a radio-equipped car, reporting in community activities.[85] On one occasion this former first lieutenant had to attend a children's Halloween party because refreshment ingredients for the party had been obtained from local stores by a known black militant.[86] According to this witness, Army in-

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telligence interest extended to the topic of birth control.

Agents from our unit were detailed to attend a conference of dissenting priests from throughout the Washington Archdiocese who were protesting the position that Archbisop O'Boyle had taken in reference to the birth control pill.[87]

To store the information collected by the special agents and provided by other agencies the Army maintained several computer data banks as well as local intelligence files at approximately 300 Army intelligence field and resident offices throughout the U.S. These data banks contained information on hundreds of thousands of American citizens, much of it obtained from informers and undercover agents. Many of those under surveillance were either young men and women or black Americans, a fact that will be shown to have special relevance in establishing a theory of First Amendment chill caused by the MI program.[88] To date, the Army has presented no evidence to show that its data banks and local field offices concerning civilians have been destroyed.

Many of the witnesses before the Ervin Subcommittee stated that the Army received much of its information through liaison with other agencies, particularly the Federal Bureau of Investigation. The author, while serving in MI in Washington, received hundreds of F.B.I. reports weekly on individuals and organizations involved in lawful dissent.[89]

The Department of the Army's principal spokesman before the Ervin Subcommittee was Robert F. Froehlke, then Assistant Secretary of Defense (Administration).[90] Froehlke acknowledged, "Clearly there is no precedent for the scope and intensity of information collection and analysis related to the civilian communities which occurred in the period in question."[91] He described in detail the civil disturbance picture during the period 1967–1970 and explained Army preparations for suppressing civil disturbances.[92] Dealing directly with the Army's involvement in monitoring civilian affairs, Froehlke depicted most of the Army's effort as directly related to tactical deployment of troops.[93] He acknowledged that covert operations had taken place with official approval in four instances.[94]

Froehlke admitted that "a civil disturbance related covert collection was authorized for an agent to enroll at New York University to monitor a special course entitled 'New Black Revolt,' in early 1968."[95]

Froehlke conceded that as the pressure to obtain information by agent observation increased, *"In some cases, the rather obscure demarcation between direct agent observation and covert collection was probably transgressed."*[96] [emphasis added]

Undersecretary Froehlke concluded his testimony by emphasizing the steps then being undertaken by the Department of the Army to limit Army intelligence collection to the minimal amount required for mission preparedness.[97]

In the context of this background, the legal issues can now be examined and weighed.

III. THE LEGAL ISSUES—THE SUPREME COURT AND LAIRD V. TATUM

The plaintiffs in *Laird v. Tatum* sought relief for alleged infringements of their First Amendment rights, and on behalf of other individuals and organizations claiming the same right to engage in lawful political activity without being surveilled by Army agents. In affirming the dismissal below, the Supreme Court has raised many issues which will affect future First Amendment adjudication.

A. The chilling effect

The rights protected by the First Amendment were recognized in *Dombrowski v. Pfister* to be a public interest "of transcendant value to all society, and not merely to those exercising their rights. . . .[98] Any government policies or the acts of government officials which restrain, limit, deter or control individuals in the exercise of First Amendment rights directly conflict with the Supreme Court's finding in *New York Times Co. v. Sullivan* that the First Amendment embodies "a profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open. . . ."[99]

The scope of public issues for debate is vast. Some topics are of limited impact and interest, others are far-reaching and charged with controversy and dissension. Throughout history, governments have attempted by various means to suppress dissent by citizens. The First Amendment was designed not only to allow dissent, but to protect and encourage this fundamental right.

In *Laird v. Tatum,* the plaintiffs did not assert that the Army attempted to directly prohibit protest, dissent, or speech. Rather, they maintained that the Army's system of surveillance and data-compilation exerted an unhealthy and inhibiting effect on the exercise of First Amendment rights which deterred Americans from enjoying those constitutional provisions. The absence of a direct intent to prevent speech or lawful dissent does not obviate First Amendment challenges, for as Justice Brennan stated in *Lamont v. Postmaster General,* "inhibition as well as prohibition against the exercise of precious First Amendment rights is a power denied to government."[100]

The question arising from Justice Brennan's statement is what government activity constitutes the impermissible inhibiting of First Amendment rights? In *Watkins v. United States,* the Court found that where people are identified with views that are "unorthodox, unpopular or even hateful to the general public," there is an injury covered by the First Amendment.[101]

Perhaps the greatest fear of the *Laird* plaintiffs was the possibility that they or their followers might be the subject of governmental sanctions as a result of their political activity. As the Court noted in *NAACP v. Button,* "The threat of sanctions may deter almost as potently as the actual application of sanctions."[102]

Sanctions for the exercise of First Amendment rights have been attempted. In *Dombroski v. Pfister,* the threat of prosecution under an overboard state statute was found to chill First Amendment rights. Justice Brennan noted that "Because of the sensitive nature of constitutionally protected expression, we have not required that all those subject to overboard regulations risk prosecution to test their rights."[103]

Other forms of governmental sanctions besides prosecution may also be employed. Security clearances may be denied, promotions may not come, positions may not be offered, employment may be terminated. To determine whether a First Amendment chill exists, we must look beyond the possibility or probability of prosecution and examine the complained of conduct with reference to the claimed necessity for such activity by government and the impact of the conduct on the complainants.

In *Lamont,* the Supreme Court invalidated a government scheme which required individuals desiring to receive certain types of mail from communist countries to affirmatively indicate such desire before receiving the mail. The case established the proposition that government cannot demand that people act affirmatively in response to government requests for information as a precondition for the enjoyment of First Amendment rights. As the lower court noted in *Heilberg v. Fixa,* a companion case decided by the Supreme Court with *Lamont,* the unwillingness of the individual to be identified in the eyes—and files—of government as one interested in unorthodox concepts, groups or individuals is part of a deterrent to the free expression of ideas.[104] Engagement in lawful protest under the eyes and camera lenses of government agents can be seen as an affirmative act of the type struck down in *Lamont.*

Recognizing that identification with a lawful, albeit controversial cause can deter freedom of expression, the court granted an injunction forbidding state law enforcement officers from attending and monitoring union meetings in *Local 309 v. Gates.*[105] Similarly, the Court recognized in *NAACP v. Alabama* that the compelled disclosure to government officials of membership lists can result in significant fears on the part of the organization's members that sanctions may follow and that these fears, admittedly not always rational, can act as a chilling deterrent on the members.[106]

The *Laird* plaintiffs asserted that the Army's nationwide program created a chilling effect and was so extensive in operation that it could be seen as a "dragnet which may enmesh anyone."[107]

Responding to the charges that MI surveillance created an impermissible chill on First Amendment rights, the government advanced a narrow interpretation of *Dombrowski,* arguing that no legal or criminal sanctions threatened any of the plaintiffs.[108] The Army's activity, according to the government, did not require disclosure of membership lists nor did MI operations entail the assumption of affirmative acts by the plaintiffs in order to exercise their rights. The government, noting that the plaintiffs acknowledged that the Army had a lawful civil disturbance mission, urged the Court to apply a balancing test to the situation at bar.[109]

The lack of an evidentiary record precludes discussion of the actual Army practices which led to the *Laird* plaintiffs' chilling effect claims in this part of the comment (see Conclusion). The government's contention that a balancing test should be employed raises the fundamental question whether First Amendment rights may be balanced against activities adopted in the pursuit of lawful governmental policies and practices.

The circumscription of First Amendment rights as a corollary to executing a valid governmental function has been found constitutionally repugnant "less under the guise of regulating conduct that is reachable by the police power, freedom of speech or of the press suffer."[110] The standard to be applied cannot simply be an inquiry into the nature and extent of the lawful state police power "but whether the means chosen to achieve a legitimate end are so sweeping that fundamental personal liberties are stifled."[111] The balancing test was clearly rejected by the Court in *United States v. Robel* where the Court declared,[112]

> Faced with a clear conflict between a federal statute enacted in the interests of national security and an individual's exercise of his First Amendment rights, we have confined our analysis to whether Congress has adopted a constitutional means in achieving its concededly legitimate legislative goal. . . . [W]e have in no way "balanced" those respective interests. We have ruled only that the Constitution requires that the conflict between Congressional power and individual rights be accommodated by legislation drawn more narrowly to avoid the conflict.

In attempting to create a concept of balancing interests in *Laird v. Tatum,* the defendants sought to rely not on statutory enactments which clearly contain neither reference to nor mandate for the MI domestic program, but on directives of Department of Defense and Department of the Army officials interpreting their scope of authority under the statutes.[113]

In *Laird,* we do not find a clear conflict

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between statutes and First Amendment rights. There is, however, a sharp and clear conflict between Department of the Army directives, the claimed authority for which is statutory, and the individual's First Amendment rights.

B. Justiciability, separation of powers and the standing question

The value of the First Amendment to the American concept of society and government has resulted in the creation of a standard for justiciability in First Amendment cases which is less restricted than one employed in cases not involving basic rights.[114] In *Reed Enterprises v. Corcoran*,[115] the Court found,[116]

> Where the plaintiff complains of chills and threats in the protected First Amendment area, a court is more disposed to find that he is presenting a real and not an abstract controversy.

With reference to the relationship between sanctions and justiciability, the Court in *Wolff v. Selective Service Local Board No. 16* noted: [117]

> It has been held repeatedly that the mere threat of the imposition of unconstitutional sanctions will cause immediate and irreparable injury to the free exercise of rights as fragile and sensitive to suppression as the freedoms of speech and assembly. . . . Since threat of the imposition of unconstitutional sanctions which precipitates the injury, the courts must intervene at once to vindicate the threatened liberties.

The Army's activity in itself may be a sanction against the exercise of First Amendment rights. The acknowledgement in *Heilberg v. Fixa*, that identification with unorthodox views by government can act as a deterent to lawful political participation makes obvious the concept that sanctions are not limited, as they were in *Dombrowski*, to possible or probable formal prosecutions. The very surveillance itself, especially at private meetings, is a form of forced disclosure of membership. It identifies persons at meetings whether or not they hold the unorthodox viewpoint espoused by a particular faction. Even if they do agree with the views of the speaker or organization there is clearly no right to compel such identification.

A determination of justiciability cannot await a finding that the challenged program is actually succeeding through design or chance in deterring lawful activity. Referring to the situation challenged in *Dombrowski*, the Court stated, "The chilling effect upon the exercise of First Amendment rights may derive from the fact of its prosecution, unaffected by the prospects of its success or failure." [118] If the view is accepted that a program of surveillance can, in some circumstances, be interpreted as a prosecution of a non-judicial nature, justiciability exists without a statement that the challenged activity has achieved its chilling effect.

Chief Justice Burger, writing for the *Laird* majority, found that "it is not the role of the judiciary, absent actual present or immediate threatened injury resulting from unlawful governmental action" to investigate an activity initiated and directed by the Executive Branch.[119] Departing from precedent in First Amendment cases, he denied justiciability, stating that: [120]

> [W]hen presented with claims of judicially cognizable injury resulting from military intrusion into the civilian sector, federal courts are fully empowered to consider claims of those asserting such injury; there is nothing in our Nation's history or in this Court's decided cases, including our holding today, that can properly be seen as giving any indication that actual or threatened injury by reason of unlawful activities of the military would go unnoticed or unremedied.

The court improperly denied the plaintiffs the opportunity to prove their case because the majority refused to acknowledge that the plaintiffs, in their original complaint, had alleged actual First Amendment injury to themselves and, further, had alleged that the Army had conducted covert operations; they had been unable to substantiate these charges without witnesses. That no evidence existed in the trial court record to indicate covert infiltration of private events is attributable solely to the refusal of Judge Hart to permit witnesses to be heard in the District Court.

Plaintiffs maintained, in their brief before the Supreme Court, as did the *amici* in their brief, that evidence could and would be introduced at a trial court hearing to show both the nature of the chilling effect upon the plaintiffs and the extent of MI clandestine operations. The majority, while making no reference to these allegations, took note of material filed by the Solicitor General which included Army and Defense Department directives relating to MI activities and commented,[121]

> [T]hese directives indicate that the Army's review of the needs of its domestic intelligence activities has indeed been a continuing one and that those activities have since been significantly reduced.

In fact, the degree of MI reduction in surveillance and data-compilation was highly contested by the plaintiffs in their brief and by the knowledgeable *amici*. The Court's reliance on the government directives did not, in any event, adjudicate the legality of the challenged program. Even if the practices of MI has been curtailed or halted.[122]

> [T]he voluntary abandonment of a practice does not relieve a court of adjudicating its legality, particularly where the practice is deeply rooted and long standing. For if the case were dismissed as moot appellants would be "free to return to . . . [their] old ways."

The Army practices, while largely expanded in the 1967–70 period, began in 1917. The author personally had access to a vast number of reports on civilians from the 1940s and 1950s. The activity was deeply rooted; only the subjects which interested MI seemed to change, *i.e.*, left wing organizations in the 1950s, new left, black and youth groups in the 1960s.

The Court found that the plaintiffs lacked standing. To do this, the majority seized on a statement by plaintiffs' counsel during oral argument before Judge Hart.[123] Counsel had stated that the plaintiffs were not cowed or chilled, but rather represented those Americans who would not and could not put themselves under public scrutiny and feared MI surveillance. Obviously, the *Laird* plaintiffs were not so immobilized as to be unable to initiate a suit. In view of their pre-hearing assertion that they had been affected and inhibited by the Army's program, it is difficult to understand the Court majority's interpretation of and reliance on one statement. The Court used one oral statement to negate all of plaintiffs' claims of First Amendment injury, ignoring all of plaintiffs' other assertions.

Even assuming, *arguendo*, that the *Laird* plaintiffs, or other activists bringing a future suit based on a chilling effect claim related to government activities, are actually not themselves chilled, the Court's decision may significantly narrow the protection of First Amendment freedoms as a practical reality.

If activists cannot raise the question of the chilling effect unless they are personally cowed—and leaders are sometimes less vulnerable than average citizens—and such actions can be brought only by the personally chilled, can we expect many challenges to First Amendment inhibiting practices? As the brief *amici* pointed out to the Court, by requiring that litigants be either intimidated or demonstrate having been harmed in addition to intimidation, "the Government would place all dissenters in the classic 'Catch 22' dilemma: they can invoke their rights if they are immobilized by fear, but if they really were immobilized by fear, they would not invoke their rights." [124]

The reality, of course, is that political activism cannot exist without followers as well as leaders, and if average Americans are deterred from exercising their First Amendment rights, those rights cease to be a public interest "of transcendent value to all society." [125] As Mr. Justice Brennan noted in *Lamont*, "It would be a barren marketplace of ideas that had only sellers and no buyers." [126] The Supreme Court's ruling in *Laird* may lay the foundation stone for that marketplace.

C. The role of Mr. Justice Rehnquist

Before appointment to the Supreme Court, Mr. Justice Rehnquist was an Assistant Attorney General in the Department of Justice's Office of Legal Council.[127] In that capacity, he appeared on March 9, 1971 and March 17, 1971 at the Ervin Hearings to explain the Justice Department's role in MI surveillance of lawful political activity.[128] During the hearings, he testified at length about the legality of military intelligence operations and directly presented his viewpoint on *Laird v. Tatum*. At one point, in response to a question from Senator Ervin, he stated: [129]

> "My only point of disagreement with you is to say whether as in the case of *Tatum v. Laird* that has been pending in the Court of Appeals here in the District of Columbia that an action will lie by private citizens to enjoin the gathering of information by the executive branch where there has been no threat of compulsory process and no pending action against any of those individuals on the part of the government."

Rehnquist's statement then is similar to the conclusion later reached by the Court majority in *Laird* and is based on the same theory of standing and chilling effect doctrine.[130]

The plaintiffs, in their motion to rescue Mr. Justice Rehnquist, cited Canons 2 and 3 of the Final Draft of the Code of Judicial Conduct.[131] They relied also on lower federal court decisions recusing other judges "under circumstances similar to those of Mr. Justice Rehnquist in the case at bar." [132]

Had Justice Rehnquist abstained from voting, the Court of Appeals decision would have been affirmed by the vote of an equally divided court. By casting the decisive vote, Mr. Justice Rehnquist prevented the activists from obtaining the evidentiary hearing they sought and upheld his seemingly preconceived position regarding the merits of the case.

Justice Rehnquist, on October 10, 1972, in an unprecedented action, issued a 16 page memorandum in which he denied the motion for recusal and explained his position.[133] Acknowledging that he had appeared as an expert witness during the Hearings,[134] he denied having any involvement in the *Laird* litigation while serving in the Department of Justice.[135] The Associate Justice maintained that he had been informed of the case as background preparation for his testimony as a Department of Justice representative at the Hearings.[136]

In his memorandum, Mr. Justice Rehnquist admitted supervising the preparation of a memorandum of law on *Laird v. Tatum* in response to a request from Senator Hruska, a member of the Subcommittee on Constitutional Rights.[137] Although no copy of the memorandum for Hruska is apparently available, Justice Rehnquist admitted that he "would expect such a memorandum to have commented on the decision of the Court of Appeals in *Laird v. Tatum* . . . ." [138]

He stated, however, that he would never

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participate, as an Associate Justice, in a case in which he had signed a pleading or brief or actively participated prior to being appointed to the Supreme Court.[139] Thus he found no grounds for mandatory recusal.

Mr. Justice Rehnquist proceeded to examine the question of discretionary recusal.[140] Discretionary recusal is indicated where a judge had a previous relationship with a party to a litigation to such a degree that impropriety would be suggested by the judge's failure to recuse himself.[141] He found, however, that he had no hesitation in concluding that my *total* lack of connection while in the Department of Justice with the *defense* of the case of *Laird v. Tatum* does not suggest discretionary disqualification here because of my previous relationship with the Justice Department.[142] [emphasis added]

The Associate Justice also stated that "none of the former Justices of this Court since 1911 have followed a practice of disqualifying themselves in cases involving points of law with respect to which they had expressed an opinion or formulated policy prior to ascending to the bench." [143]

Justice Rehnquist acknowledged that "fair minded judges might disagree about the matter," [144] which he admitted was a "fairly debatable one." [145] The Justice urged as a countervailing argument that, when not disqualified, judges have a duty to sit which is equally strong to the duty to rescue when indicated.[146]

Mr. Justice Rehnquist's final argument for participating is intriguing.[147]

> The prospect of affirmance by an equally divided Court, unsatisfactory enough in a single case, presents even more serious problems where *companion cases reaching opposite results are heard together here.* [emphasis added]

The Associate Justice noted that "the disqualification of one Justice of this Court raises the possibility of an affirmance of the judgment below by an equally divided court." [148] He then found that "the consequence attending such a result is, of course, that the principle of law presented by the case is unsettled." [149]

The Associate Justice failed to realize that affirmance by an equally divided Court in *Laird v. Tatum* would merely insure that the plaintiffs obtained an opportunity to present evidence and make a record upon which the Supreme Court could, at a later date, concretely base a substantive review. Further, there were no companion cases to *Laird v. Tatum* before the Court. Mr. Justice Rehnquist must have been aware of the enormous quantity of material unearthed during the Hearings, at which he himself testified, which strongly indicated that the *Laird* litigants could present evidence dealing with the issues raised by both the Supreme Court majority and the Court of Appeals dissent. Rather than settle a point of law, Mr. Justice Rehnquist's participation insured the continuance of a state of confusion.

It is also difficult to accept the analogies constructed by Mr. Justice Rehnquist to liken his participation to that by previous Justices. Justice Rehnquist was correct in stating in his memorandum that Chief Justice Hughes and Mr. Justice Frankfurter had both been involved in writing books, encouraging the enactment of legislation, and commenting on matters of legal cotroversy before coming to the Supreme Court.[150] Neither, however, had participated in a case as politically charged as *Laird v. Tatum,* and on behalf of the Executive Branch so soon before being appointed to the Court, as Justice Rehnquist did.

Such problems as may follow an affirmance by an equally divided Court are of little import compared with the serious ethical dilemma Mr. Justice Rehnquist's participation in *Laird v. Tatum* has posed for himself, the Court and the Constitution.

IV. CONCLUSION

An examination of the Ervin Hearings provides ample data upon which an analysis of the Army's activities can be made. The record reveals not an attempt by the Army to ignore or supplant civil and constitutional authority, but rather a program that can be characterized as at once coordinated and out of control, supervised and running free, benevolent and malign.

In July 1967, racial violence broke out in Detroit, Michigan, with such intensity that federal military assistance was urgently required to restore order with a minimum of bloodshed. Simultaneous outbreaks occurred, with varying degrees of intensity, in a number of cities. The Army was not prepared; it had little or no relevant tactical intelligence. So little information was available that the author, on duty in the Pentagon's Army Operations Center, received a frantic call for information from an Army staff officer in Detroit who stated that Lieutenant General Throckmorton, the Army commander on the scene, was positioning his airborne troops with the aid of an oil company road map.

Faced with the possibility of further outbreaks of violence at a time when troop strength in the United States was low because of the Vietnam war, the civilian and top military officers ordered MI to prepare for future civil disturbances and, if possible, predict further outbreaks. Very little guidance was given the General Staff MI analysts or the special agents in the field as to what preparation was necessary or what information was relevant and desired.[151]

In the two-and-one-half years between the Detroit riots and the first Pyle article, MI engaged increasingly in a widespread system of domestic surveillance and data-accumulation, largely without the kowledge and approval of civilian superiors.[152]

The United States Army Intelligence Command, the component responsible for most of the MI agents in the country,[153] issued increasingly ambitious and far-flung collection requirements.[154] Before the end of 1967, an initial concern with racial violence had led to requirements that special agents monitor virtually every form of dissent in the United States.

As direct agent coverage increased, other agencies, especially the Federal Bureau of Investigation, responded to Army requests for information by sending extensive classified reports reflecting information collected from covert and other sources on the politics of dissent.

To maintain this data, several computerized data banks were established. The largest and the most complete was at the United States Army Investigative Records Repository at Fort Holabird, Maryland.

A phenomenon known as bureaucratic accretion and the application of military institutional paradigms, a not surprising development, assured that the data banks would grow immensely. The majority of participants in the MI program saw their activities as being in the best interests of the American people, rather than as creating a threat to liberty. Of particular relevance is the warning by Mr. Justice Brandeis, dissenting in *Olmstead v. United States:* [155]

> Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasions of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in the insidious encroachment by men of zeal, well-meaning but without understanding.

Such men largely directed and carried out the Army's program. In a disquieting minority of instances, individuals of relatively low rank undertook operations which, when made public, astounded and embarrassed their superiors.[156]

A large part of the MI effort involved monitoring youth and campus groups. Information from a number of agencies was regularly transmitted to the Army with reference to youth involvement in antiwar and campus activities. The Army is predominantly composed of young men and women. It is naive to deny the very considerable chilling effect which this Army activity exerts on a wide range of America's young men and women who might one day serve in the Army. Anonymity is a vital component of the right to protest for many.[157] Stripped of this anonymity by an intelligence system which recorded, but never deleted, many Americans would undoubtedly consider themselves to be identified with unorthodox viewpoints by government. Participation would diminish from the resultant chill of First Amendment rights. Had an evidentiary hearing been granted in *Laird v. Tatum,* the plaintiffs' allegations of chilling effect might well have been substantiated using this vast group alone.

The Army's activities exerted a chill on other groups too. One of the most informative experiences ever encountered by the author occurred in 1970, in Detroit, during the taping of an interview show. The host was a leading black militant, the audience represented diverse segments of black Detroit and the topic was MI surveillance. When questions were solicited from the audience, the first question, to the author's temporary confusion, was "Does the Army have a King Alfred plan?" The audience became visibly uneasy and distressed. The host explained that the "King Alfred plan" was the creation of black novelist John Williams in his work, The Man who Cried I Am. The fictional plan was a government operation for the annihilation of black Americans in a manner reminiscent of Hitler's genocidal schemes. Despite assurances by the author that no such plan existed, the audience's fear, irrational yet profoundly disturbing, demonstrated the effect a government program of surveillance can have on a minority group. Without an evidentiary hearing, the Supreme Court, of course, had no inkling that such a response to MI activities may be felt by a wide range of Americans.

It cannot be gainsaid, however, that the Army must have some pre-commitment information to avoid repetitions of the oil company road map fiasco in Detroit. According to Senator Ervin,[158]

> The business of the Army . . . is to know about the condition of highways, bridges, and facilities. It is not to predict trends and reactions by keeping track of the thoughts and actions of Americans exercising First Amendment freedoms . . . . Regardless of the imagined military objective, the chief casualty of this overkill is the Constitution of the United States, which every military officer and every appointed official has taken an oath to defend.

In *Powell v. McCormick,* the Court affirmed that in our country living under a written constitution, no branch or department of the government is supreme; and it is the province and duty of the judicial department to determine in cases regularly brought before them, whether the powers of any branch of the government . . . have been exercised in conformity of the Constitution.[159]

The Supreme Court failed to live up to that standard in *Laird v. Tatum* by refusing to allow American citizens the opportunity to prove that the Army was not exercising its powers in conformity with the Constitution. There may not be a second chance to try this issue. All the former Army personnel who revealed information about the MI program were citizen-soldiers serving one tour of duty in wartime. Career professionals did not step forward as is understandable. With the end

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of the Vietnam war and the transition to a volunteer Army, it is likely that a future MI surveillance program could operate to the possible detriment of millions of Americans with little information, especially of a probative nature, reaching the American public.

Already, other actions are being dismissed based on the Supreme Court's decision in *Laird v. Tatum*.[100] Mr. Justice Douglas, whose opinions ring true with a love for First Amendment freedoms, said in his dissent in *Laird v. Tatum:*[101]

> This case is a cancer in our body politic. It is a measure of the disease which afflicts us. Army surveillance, like Army regimentation, is at war with the principles of the First Amendment. Those who already walk submissively will say there is no cause for alarm. But submissiveness is not our heritage. . . . The Bill of Rights was designed to keep agents of government and official eavesdroppers away from assemblies of people. . . . There can be no influence more paralyzing of that objective than Army surveillance. When an intelligence officer looks over every nonconformist's shoulder in the library or walks invisibly by his side in a picket line or infiltrates his club, the America once extolled as the voice of liberty around the world no longer is cast in the image which Jefferson and Madison designed. . . .

FOOTNOTES

[*] The author gratefully acknowledges the support and advice of his friend and colleague, Christopher H. Pyle, Esq. The comments, criticisms and constant intellectual stimulation of Professor Burton C. Agata were invaluable.

[1] 408 U.S. 1 (1972).

[2] The author served in the U.S. Army in Military Intelligence from October 1965 to October 1968. From July 1967 to October 1968, he was assigned to the Counterintelligence Analysis Branch, Office of the Assistant Chief of Staff for Intelligence, United States Army, Washington, D.C. In that capacity he was the desk, or action, officer responsible for Left Wing/Anti-War and Civil Disturbance Analysis. Inevitably the analysis and conclusions in this comment are to a certain degree based on his experiences and perceptions stemming from that tour of duty. For the author's account of his experience in military intelligence *see* Stein, *The Expansion of Counter Intelligence,* in UNCLE SAM IS WATCHING YOU (1971). *See also* WHISTLE BLOWING 126–134 (R. Nader, P. Petkas, K. Blackwell, eds. 1972).

[3] Pyle, *CONUS Intelligence; The Army Watches Civilian Politics,* 1 THE WASHINGTON MONTHLY, (Jan. 1970).

[4] *Id.* at 5–6.

[5] *Id.* at 5.

[6] The individual plaintiffs were: Arlo Tatum, Executive Secretary of the Central Committee for Conscientious Objectors; Conrad Lynn, a private attorney; Benjamin N. Wyatt, Jr., also a private attorney; and the Reverend Albert B. Cleage, Jr., Minister of the Shrine of the Black Madonna in Detroit, Michigan. Organizational plaintiffs were: Women Strike for Peace; Chicago Area Women for Peace; the Vietnam Week Committee of the University of Pennsylvania; The Vietnam Education Group of Knoxville, Kentucky; Veterans for Peace in Vietnam; The American Federation of State, County and Municipal Employees; the Vietnam Moratorium Committee; Clergy and Laymen Concerned about Vietnam; and the War Resisters League.

[7] Tatum v. Laird, Civil No. 459–70 (D.D.C., 1970).

[8] The other defendants were: Secretary of the Army Stanley R. Resor; General William C. Westmoreland, Army Chief of Staff; and Brigadier General William H. Blakefield, Commanding General, United States Army Intelligence Command. None of them currently hold the above positions. The defendants were sued individually and in their official capacity.

[9] From the date of publication of Pyle's article to the time of filing of the complaint in *Laird* v. *Tatum* no further information had come to the attention of plaintiffs' counsel. Shortly after the complaint was filed, several individuals with personal and extensive knowledge of the Army's activity came forward, including the author. Pyle, an instructor at the U.S. Army Intelligence School at Fort Holabird, Baltimore, Maryland, had never been personally involved in the activity complained of, but he had picked up enough information from friends and acquaintances to write the January 1970 article.

[10] Complaint of Tatum *et al., supra* note 7.

[11] *Id.* at 2.

[12] *Id.* at 10.

[13] Plaintiffs' Motion for Temporary Restraining Order, Tatum v. Laird, Civil No. 459–70 (D.D.C., filed Mar. 12, 1970, denied Mar. 13, 1970).

[14] Plaintiffs' Memorandum In Support of Their Motion for a Preliminary Injunction and in Opposition to Defendants' Motion to Dismiss at 1.

[15] Defendant's Memorandum In Opposition to Plaintiffs' Motion for a Preliminary Injunction at 3–7.

[16] Affidavit of Thaddeus R. Beal.

[17] The author and two former agents were present in the courtroom and prepared to testify. Unfortunately, counsel for plaintiffs had not secured affidavits from the persons prepared to testify. As a result, Judge Hart, after refusing to hear witnesses, had no means of learning that serious charges of clandestine operations by the Army were being advanced by the litigants.

[18] Much of the material which the former agents were prepared to discuss during testimony was publicly revealed for the first time in a press conference immediately after the District Court hearing. *See* NEWSWEEK, May 4, 1970, at 35–36.

[19] Oral dismissal on April 22, 1970.

[20] Order of Dismissal, April 29, 1970.

[21] 444 F.2d 947, 958 (D.C. Cir. 1971).

[22] *Id.* at 955–6.

[23] *Id.* at 953.

[24] *Id.*

[25] *Id.*

[26] *Id.* at 957.

[27] *Id.* at 959.

[28] *Id.*

[29] *Id.*

[30] Petitioner's Brief for Certiorari at 2, Laird v. Tatum, 408 U.S. 1 (1972). The Court's jurisdiction was invoked under 28 U.S.C. § 1254(1).

[31] *Id.* at 2, 13–14, 32–33.

[32] *Id. passim.* In briefs and on oral argument before the Supreme Court, the government argued that such activities as had been determined by the Army to be unnecessary had been stopped and that there was no further cause for complaint. The defendants were hampered to a certain degree by a continuing series of revisions by former Army personnel, some of which were in direct conflict with the assurances and statements of Army officials. While these developments were not, of course, before the Court, they were a matter of considerable public, legislative and news media interest.

[33] Petitioner's Brief, *supra* note 30, at 33. The government had raised the separation of powers question at the District Court and the Court of Appeals level. The government urged the Court to accept the viewpoint that where a party seeking to represent a class similiarly situated failed to allege a specific personal injury the case lacked the clarity and focus required to maintain a case or controversy and was, in reality, a political question which the Legislative and Executive Branches were especially designated, under the Constitution, to decide.

[34] Respondents' Brief in Opposition, at 30, Laird v. Tatum, 408 U.S. 1 (1972).

[35] *Id.* at 15.

[36] *Id.* at 9.

[37] For Tatum, *et al.,* as *Amici Curiae,* Laird v. Tatum, 408 U.S. 1 (1972). Christopher H Pyle and the author participated in the writing of the Brief. Counsel for the *amici* were Professor Burke Marshall, Deputy Dean of the Yale Law School, and Professor Arthur R. Miller, Harvard Law School. It is the author's belief that this Brief is unique in that, for the first time, individuals with a common background but no organizational link with one another were brought together for the sole purpose of submitting an *amici* brief to the Supreme Court. The expenses incurred in this undertaking were shared by most of the *amici.*

[38] *Id.* at 17. Resurrection City was the Washington, D.C. tent encampment of the Southern Christian Leadership Conference's Poor People's Campaign. It was located between the Washington Monument and the Lincoln Memorial. The author, on duty in the Pentagon, received daily reports from, among others, an Army major, a black officer who infiltrated Resurrection City after assuming a false identity and with specific orders to attempt to influence Southern Christian Leadership Conference policy. A large number of other agents, who reported regularly, roamed the area in casual clothing with orders to glean as much information as possible from participants in the Poor People's Campaign.

[39] *Id.* Agents with phony press cards and portable videotape units were ordered to conduct interviews with civilians during protests in the hope that those interviewed would divulge future plans.

[40] *Id.*

[41] *Id.* at 17–18.

[42] *Id.* at 17.

[43] 408 U.S. 1 (1972). Joining the Chief Justice were Associate White, Blackmun, Powell and Rehnquist.

[44] *Id.* at 15.

[45] *Id.* at 6.

[46] *Id.*

[47] *Id.* at 13.

[48] *Id.* at 14.

[49] *Id.* at 15.

[50] *Id.* at 19.

[51] *Id.* at 18.

[52] *Id.* at 23.

[53] *Id.* at 24.

[54] *Id.*

[55] *Id.* at 25.

[56] *Id.*

[57] *Id.* at 26.

[58] *Id.* at 40.

[59] 93 S. Ct. 7 (1972).

[60] *See generally,* A. YARMOLINSKY, THE MILITARY ESTABLISHMENT (1971). This excellent study, especially chapter 11, is recommended for those desiring a more complete account of the military in American society.

[61] Id. at 153 (Footnote Omitted).

[62] S. MORISON, THE OXFORD HISTORY OF THE AMERICAN PEOPLE 340 (1965).

[63] 32 THE WRITINGS OF GEORGE WASHINGTON 153 (J. Fitzpatrick, ed. 1931).

[64] 34 THE WRITINGS OF GEORGE WASHINGTON 6 (J. Fitzpatrick, ed. 1931).

[65] The reluctance to commit troops is perhaps best illustrated by President Theodore Roosevelt's terse telegram to an Army commander during a bitter 1907 Nevada miners' riot: "Do not act at all until President issues proclamation. . . . Better twenty-four hours of riot, damage, and disorder than illegal use of the troops." B. RICH, THE PRESIDENTS AND CIVIL DISORDERS 129 (1941).

Not all Presidents have been as concerned with maintaining control over Federal forces. President Wilson's directive that National Guard commanders should respond to all state requests for aid—at the time the Guard was federalized—has been severely criticized as an abdication of Federal power, *Id.* (1941).

[66] The statutes apply to the military in general, not just to the Army. In practice,

however, the Army has been almost exclusively the branch of the Armed Forces which the President has called out for riot duty.

[67] 10 U.S.C. § 331 provides: Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

10 U.S.C. § 332 provides: Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

10 U.S.C. § 333 provides: The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or (2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws. In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

[68] *See generally* J. Jensen, The Price of Vigilance (1968). This is a fascinating study of military surveillance of civiilan politics during World War I and is one of the only works to delve into this facet of military operations. Jensen examines the Army's fear of dissenters during the First World War and traces the steps taken by the fledgling MI Branch—then known as the Corps of Intelligence Police—to monitor and control dissent. The Army entered into an extensive liaison relationship with the American Protective League, a vigilante group which sought to identify and neutralize German sympathizers and pacifists. One of the most chilling examples of MI activity in the sensitive area of First Amendment rights occurred in Butte, Montana, in 1917, when a military intelligence party raided a union printing plant with the aid of civilian vigilantes and arrested labor leaders and seized pamphlets. Among the Army raiders was then Major Omar N. Bradley. Apparently the only factor to prevent the enlargement of the Army's largely clandestine domestic police role during World War I was the termination of hostilities and the resultant cutback in appropriations for the MI Branch. The Price of Vigilance is must reading for those interested in fully understanding the constitutional implications of the issues raised in *Laird v. Tatum.*

[69] The author and Mr. Pyle began their investigation, which is still in progress, in February 1970. In connection with this study, the author has travelled throughout the United States, Canada, and the Virgin Islands to interview scores of former Army agents, as well as civilians affected by the Army's program. Some sources came voluntarily forward while others were developed by Pyle and the author. Many have insisted on total anonymity in exchange for their cooperation.

[70] Pyle, *CONUS Revisited: The Army Covers Up,* 2 The Washington Monthly, July 1970, at 49.

[71] *Id.* at 50.

[72] *Id.*

[73] *Hearings on Federal Data Banks, Computers, and the Bill of Rights Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary,* 92d Cong., 1st Sess., pts. 1 and 2 (1971) [hereinafter I *Hearings* and II *Hearings* respectively].

[74] *See* Staff of Senate Comm. on the Judiciary, Subcomm. on Constitutional Rights, Army Surveillance of Civilians: A Documentary Analysis, 92nd Cong., 2nd Sess. (1972). This report analyzes the Army's use of computers in connection with its MI program and is an essential appendix to the two Hearings volumes.

[75] I *Hearings* at 290.

[76] *See* statement and testimony of Christopher H. Pyle, I *Hearings* at 147. *See also* the author's statement and testimony, I *Hearings* at 244.

[77] Note 76 *supra.*

[78] I *Hearings* at 305 and at 285.

[79] I *Hearings passim.* Virtually all of the former MI personnel who testified reported massive data-gathering.

[80] I *Hearings* at 185, at 198, and at 274.

[81] *See* Pyle testimony in I *Hearings* at 147.

[82] I *Hearings* at 274.

[84] *Id.* at 308.

[83] *Id.* at 306.

[85] *Id.* at 288.

[86] *Id.* at 289.

[87] *Id.*

[88] *See* Report on Army Surveillance, *supra* note 74; author's testimony, I *Hearings* at 264–265 for a representative but very incomplete listing of the organizations monitored by MI.

[89] Some reports concerned criminal activity which had no bearing on or relationship to the Army. A small percentage of reports, no more than five percent in the author's estimation, contained information relevant and necessary for the accomplishment of the Army's mission.

[90] Mr. Froehlke is now Secretary of the Army.

[91] I *Hearings* at 376.

[92] *Id.* at 382–4.

[93] *Id.* at 382–6.

[94] *Id.* at 387. The four acknowledged operations took place at the following events: the Democratic National Convention in Chicago in August 1968; the March on the Pentagon in October 1967; the June 1968 Washington Spring Project (better known as the Poor People's Campaign); and the presidential inauguration in January 1969. During these operations, agents were admittedly used to infiltrate groups in order to obtain information on personalities and activities associated with the event.

[95] *Id.*

[96] *Id.* at 388.

[97] *Id.* at 392 *et seq.*

[98] 380 U.S. 479, 486 (1965).

[99] 376 U.S. 254, 270 (1964).

[100] 381 U.S. 301, 309 (1965) (Brennan, J., concurring opinion).

[101] 354 U.S. 178, 197 (1957).

[102] 371 U.S. 415, 433 (1963).

[103] 380 U.S. at 486.

[104] 236 F. Supp. 405, 409 (N.D. Cal. 1964).

[105] 75 F. Supp. 620 (N.D. Ind. 1948).

[106] 357 U.S. 449 (1958).

[107] Herndon v. Lowry, 301 U.S. 242, 263 (1937); Appellants' Brief at 16, Tatum v. Laird, 444 F.2d 947 (D.C. Cir. 1971).

[108] Petitioners' Brief, *supra* note 30, at 24.

[109] *Id.* at 2 *et seq.*

[110] Ashton v. Kentucky, 384 U.S. 195, 200 (1966).

[111] Davis v. Francois, 395 F.2d 730, 734 (5th Cir. 1968).

[112] 389 U.S. 258, 268, n.20 (1967).

[113] 10 U.S.C. §§ 331–333 (1970). *See* I *Hearings* 375 *et seq.*, testimony of Under Secretary of Defense Froehlke. II *Hearings* contains numerous Department of the Army directives concerning the collection of information about civilian organizations and personalities by MI. It is interesting to note that the Army civil disturbance plans cite no authority in law. The author, based on his experience, believes that the challenged Army program arose largely because military officers, inadequately and insufficiently supervised by civilian superiors, consistently and disastrously misinterpreted the source and nature of urban strife and rioting. It appeared to the author that many of these high-ranking officers were convinced that urban rioting was initiated because of conspiratorial activity on the part of a number of protest groups and their leaders. Insulated from frequent and meaningful contact with civilian communities, many of the Army's top-ranking generals were unable to grasp and comprehend the complex political, socio-economical and historical background which contributed to the outbreak of tragic violence in American cities. The legal arguments advanced by the government at various stages of *Laird* as authority for the MI program were, in the opinion of the author, afterthoughts brought on by the need to litigate the questions raised. In 16 months of Pentagon duty, the author never heard any high-ranking officer or civilian superior enunciate, much less question, the existence of a legal authority for the Army's program of surveillance and data-compilation.

[114] National Students Association v. Hershey, 412 F.2d 1103 (D.C. Cir. 1969).

[115] 354 F.2d 519 (D.C. Cir. 1965).

[116] *Id.* at 523.

[117] 372 F.2d 817, 824 (2nd Cir. 1967).

[118] 380 U.S. at 487.

[119] 408 U.S. at 15.

[120] *Id.*

[121] *Id* at 8.

[122] Gray v. Sanders, 372 U.S. 368, 376 (1963).

[123] *See* Tatum v. Laird, 444 F. 2d 947, at 959 (D.C. Cir. 1971), where a portion of the transcript from the District Court hearing is reproduced.

[124] Brief for Tatum, *et al.,* as *Amici Curiae, supra* note 37, at 11. The "Catch 22" reference is to Joseph Heller's novel of the same name. In Heller's novel, an Army Air Force bombardier during World War II requested relief from combat duty because he thought everyone was planning to kill him. The only way out of flying for the bombardier was Catch 22 which specified that a concern for one's safety in the face of dangers that were real and immediate was the process of a rational mind . . . All he had to do was ask; (to be relieved from flying) and as soon as he did, he would no longer be crazy and would have to fly more missions.

[125] Dombrowski v. Pfister, 380 U.S. 479, 486 (1965).

[126] 381 U.S. at 308.

[127] Respondents' Motion to Recuse Mr. Justice Rehnquist *Nunc Pro Tunc* at 4, Laird. v. Tatum, 408 U.S. 1 (1972).

[128] *See* I *Hearings* at 597–654 and at 849–914.

[129] *Id.* at 864.

[130] 408 U.S. at 1–16.

[131] Canon 2. A judge should avoid impropriety and the appearance of impropriety in all his activities.

A. A judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 3. A judge should perform the duties of his office impartially and diligently.

C. Disqualification.

(1) A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned including but not limited to instances where:

(a) he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) he served as a lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it.

[132] Respondents' Motion for Recusal, *supra* note 127, at 10.

[133] Memorandum of Mr. Justice Rehnquist (October 10, 1972), Laird v. Tatum, 93 S. Ct. 7 (1972).

[134] *Id.* at 8–9.

[135] *Id.* at 10.

[136] *Id.* at 9–10.

[137] *Id.* at 10.

[138] *Id.*

[139] *Id.*

[140] *Id.* at 11.

[141] *Id.*

[142] *Id.*

[143] *Id.*

[144] *Id.* at 14.

[145] *Id.*

[146] *Id.* at 15.

[147] *Id.*

[148] *Id.*

[149] *Id.*

[150] *Id.* at 12.

[151] The author, for example, was ordered by a superior officer to assume his duties with the simple command, "From now on, you're Mr. New Left in the Pentagon. Start a desk."

[152] The failure of the appointed civilian superiors in the Department of Defense and the Department of the Army to discover that the Army, and MI in particular, was running a nationwide surveillance operation has, of course, serious constitutional implications in itself with which this comment cannot deal.

[153] A small number of agents assigned to combat units came under the command of the Continental Army Command, Fort Monroe, Virginia. Most MI special agents were assigned to the U.S. Army Intelligence Command, Fort Holabird, Maryland. These agents, working out of field and resident offices throughout the country, were primarily involved in conducting routine background checks—known as Personnel Security Investigations—on individuals entering the Armed Forces and the Army in particular. This activity was not challenged by the plaintiffs in *Laird* v. *Tatum*.

[154] *See* II *Hearings passim* for a sampling of these mission requirements. *See also* testimony of former special agents and other Army personnel in I *Hearings*.

[155] 277 U.S. 438, 479 (1928).

[156] *See* the testimony of former Army Staff Sergeant John M. O'Brien in I *Hearings* at 100 *et seq*. O'Brien's revelation that he had been directed to monitor the activities of elected officials in the Chicago area, including U.S. Senator Adlai E. Stevenson III, shocked the entire nation and led to a court challenge to MI practices in the Chicago area. The action, *ACLU* v. *Laird*, 463 F.2d 499 (7th Cir. 1972) was brought by a number of political activists allegedly under surveillance by MI personnel in Illinois. The action was dismissed by the District Court after an evidentiary hearing in which much material was brought to public attention. The seriousness of the hearing was tempered somewhat when a career MI civilian intelligence officer, responding to O'Brien's charge that MI had harassed civilians by dispatching unordered pizza pie to the homes of political activists, firmly asserted that he and the members of his unit had ordered fried chicken instead for the activists. The dismissal was affirmed by the Court of Appeals for the Seventh Circuit with *Laird* v. *Tatum* being cited as controlling. The Supreme Court denied certiorari, 41 U.S.L.W. 3376 (U.S. Jan. 19, 1973).

[157] *See* Address by Senator Sam J. Ervin, Jr., March 2, 1970, in Appendix to Appellants' Brief at 68–69, Tatum v. Laird, 444 F. 2d 947. *See* A. WESTIN, PRIVACY AND FREEDOM (1967), the seminal work on the role of and need for privacy and individual autonomy in our society. *See also* A. MILLER, THE ASSAULT ON PRIVACY (1971), an excellent study of the threat to privacy posed by technological advances. Police surveillance is an increasing problem as police departments expand their capacity for intelligence operations of a type formerly conducted only by federal agencies in internal security matters. A study of the First Amendment problems inherent in such activities is well covered in F. Askin, *Police Dossiers and Emerging Principles of First Amendment Adjudication,* 22 STAN. L. REV. 196 (1970).

[158] Appellants' Brief, *supra* note 59, at 68–69.

[159] 395 U.S. 486, at 506 (1969).

[160] See *e.g., Donohoe v. Duling,* 465 F. 2d 196 (4th Cir. 1972), a challenge to police coverage of protest meetings, which was dismissed on August 1, 1972. In *Donohoe,* 42 individual plaintiffs sought to represent those made timorous by the presence of police observers who photographed individual participants. The court majority, citing *Laird v. Tatum,* found that the plaintiffs had failed to show a chilling effect injury to themselves as a result of defendant's activities, and therefore they would not be permitted to represent those who were allegedly so affected.

[161] 408 U.S. at 28.

THE FUTURE OF THE AMERICAS

Mr. PERCY. Mr. President, my friend, Sol M. Linowitz, a distinguished lawyer, corporate executive, diplomat, and public servant, who is now chairman of the National Urban Coalition, recently addressed an inter-American meeting in Mexico City on new approaches he believes the United States should take in dealing with Latin America. Mr. Linowitz brings to his subject the wisdom and experience of a highly effective and respected American Ambassador to the Organization of American States.

I wish to associate myself with Ambassador Linowitz' solid rejection of the idea recently advanced that the United States withdraw from membership in the OAS. He also suggests interesting innovations in the area of trade and investment relationships with Latin America which merit further discussion and study.

I invite the attention of my colleagues to Ambassador Linowitz' address and ask unanimous consent that excerpts from his address be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

THE FUTURE OF THE AMERICAS

(Excerpts from an address by Sol M. Linowitz, before the Inter-American Meeting on "Science and Man in the Americas," Mexico City, June 27, 1973)

It is clear that the future of the Americas will in large measure depend on how effectively we can deal with the staggering problems of development—on how successful we are in helping Latin America rid itself of the social and economic inequities that darken so much of its immense potential.

Yet at the time when the need for cooperation and coordination of effort is greater than ever, the United States and Latin America seem to be pulling further apart. The Alliance for Progress has been superseded by a policy of noninvolvement in which slogans have replaced commitments. The tragic effect has been that at this critical time in hemispheric affairs, Latin America and the United States are pursuing separate paths—each with apparent disregard for the other.

Ironically, the abandonment of the Alliance for Progress has taken place at a time when—despite its problems and failures—it was managing to achieve an annual average of 2.4% real per capita growth and was showing gratifying signs of progress in a number of areas. During the decade of the sixties, the United States has contributed over 8 billion dollars in bilateral aid and was responsible for much of the 6.5 billion dollars in loans from international institutions such as the World Bank and the Inter-American Development Bank. More significantly, Latin Americans themselves contributed at least 90% of the capital required to fuel development and build up a sizeable infrastructure of public works projects and social programs.

On his recent visit to Latin America the United States Secretary of State indicated his recognition that a new policy for Latin America is long overdue—one which can again set forth the common objectives of the nations of the hemisphere and would restore the spirit of cooperation and mutual commitment. What should be the outlines for such a policy? Tonight I would like to focus on the basic ingredients for such a policy in five vital areas.

1. COMMON GOALS FOR THE FUTURE

It is urgently important that the countries of Latin America and the United States promptly agree upon common goals for the future of the Americas and the commitments necessary to achieve these goals through multilateral cooperation. We have long since passed the point where statements of good intentions and high motives will be sufficient to counter the tensions and antagonisms already aroused. What is needed is a new beginning in fact—a credible and realistic partnership which must begin at the top. The President of the United States has already announced his intention to visit Latin America later this year. Such a trip could be the occasion for a summit conference between the Presidents and Chief Executives of all the countries of the Americas in order to discuss openly and freely, goals for the future and commitments to be undertaken if the goals are to be achieved. From my participation in the summit conference at Punta del Este, Uruguay, in April 1967, I saw for myself what a real thrust toward hemispheric cooperation could result from such a summit conference at a time when it was sorely needed. In my judgment such a conference is even more necessary today in order to open up a whole new era of understanding and cooperation and to delineate the objectives for hemispheric cooperation.

2. REGIONAL COOPERATION

During his recent Latin American visit United States Secretary of State Rogers stated: "Our policy is to encourage regional cooperation." Essential to full and effective regional cooperation is clear agreement on the role of individual governments in multilateral inter-American institutions and responsibilities assumed by each nation by virtue of such membership. Above all else there must be full recognition of the principle of multilateralism whereby decisions are made on a truly multilateral basis, representing the concerted judgment of the members and divorced from the political control or influence of any one country. The OAS, the Inter-American Development Bank, and other inter-American institutions are able to make great contributions toward regional development and progress and hemispheric cooperation. They are staffed by dedicated international civil servants who must be assured of the full support of all member governments in proceeding toward common objectives.

Some regional efforts such as the Andean Pact and the Central American Common

Market—should properly involve regional cooperation without United States participation. But in the OAS, the Inter-American Development Bank, and other similar inter-American institutions, the clear need is for full United States participation and commitment on a truly multilateral basis.

Recently a suggestion was put forward that the United States might consider withdrawing from full membership in the OAS in order that the OAS might undertake to deal with hemispheric problems as a wholly Latin American instrumentality. In my judgment such a move would be an ill-advised step inimical to the best interests of both the United States and Latin America. For it would be regarded as a withdrawal by the United States from cooperation and commitment precisely at the moment when what is needed is increased commitment and cooperation by the United States in inter-American multilateral institutions such as the OAS.

A helpful step would be the participation of Japan and the European countries in lending institutions such as the International Development Bank. These nations have capital for investment in Latin America and could make available resources which could be well used for coordinated regional projects by the Inter-American Development Bank and the several regional counterparts. At the same time the participation of these countries would assure that such institutions are truly multilateral, not dominated by the political influence, express or implied, of the United States.

It is appropriate to add one further word about the responsibility of nations as members of multilateral institutions. Some Latin American countries—frustrated by the apparent tone deafness of the United States in responding to Latin American needs—have tended to make multilateral institutions sounding boards for complaints and charges. While their frustrations is understandable, such a cacophony of complaints hinders the effective operation of multilateral institutions and exacerbates differences. Multilateral institutions can function effectively only when member nations agree upon their objectives and work together effectively to further their progress.

3. TRADE

One of the foremost and urgent needs of Latin America has long been the growth of trade and industrial development. Here both Latin American countries and the United States can do much to assure essential progress. Latin American economic integration—the development of a Common Market—made considerable headway during the 1960's but has now come to a standstill. One of the most important steps Latin America could do to bring itself to a position of dealing on an equal basis with the United States would be to achieve the economic strength which regional integration can accomplish. Coordinated development of key industrial and agricultural sectors, withdrawal of quotas to flow of people, capital, and trade among countries—these are the essential keys to a better relationship with the United States, which has long championed integration of the development and trade of the region.

The United States could help to stimulate progress toward economic integratiton by offering to become a non-reciprocal member of a Latin American Common Market—opening up its own markets but not insisting on the same from Latin America. Such a step might stimulate the countries of Latin America to push forward with their regional integration program, to set their export goals, and to develop ways to reach them.

Increased trade has long been an essential goal for Latin America. For a number of years the United States has promised a trade preference for manufactured and semi-manufactured products of Latin America. The new Trade Bill put forward by President Nixon includes a proposal in that direction. But to Latin Americans it does not represent a clear and unambiguous assurance of the kind of general trade preference they have long been promised.

Today Latin America has a 2 billion dollar trade deficit with the United States. While the United States is plagued with its own balance of payments problems, there is no reason why it should make its mark at the expense of Latin America. I would therefore propose that the United States undertake to allow Latin American manufactured and semi-manufactured products to come into the United States free of all duties and quotas to the extent of the 2 billion dollar trade surplus which the United States has with the region. Such a step would be a significant one for Latin America and would be politically feasible in the United States, especially if Latin American countries would indicate their willingness to reduce their barriers against United States exports to the degree they benefit from increased exports to the United States.

4. UNITED STATES PRIVATE INVESTMENT IN LATIN AMERICA

It is essential to develop a clear understanding between the countries of Latin America and the United States as to the precise relationship of the United States government and United States subsidiaries operating in those countries. For conflict on this issue too often arouses antagonisms with widespread ramifications. It is time for the countries of Latin America and the United States to formulate together a Code of Conduct for Responsible International Companies. Such a Code would specifically set forth the rights a United States company would be able to expect and the duties it would have to the host country in which it seeks to operate. Provision would be made for recourse to an international tribunal for resolution of any dispute thereby avoiding unilateral action. Under such a Code, a United States company could, in good conscience, call upon the United States government for help if it had been wronged. By the same token, the United States would be in a position to insist that American companies fulfill their obligations to the host country.

During recent years various Latin American countries have, in pursuance of their national policies, imposed restraints and restrictions on United States companies and investments. Admittedly some such limitations have been helpful to the developmental effort. But it would be appropriate for Latin American countries to re-examine restraints and restrictions imposed, in order to be certain that they are actually proving of benefit in advancing the countries' goals. For clearly some such restrictions keep out vital goods, services, and needed capital with little or no concomitant gains for the local economy. In such instances, there would be value in removing the limitations and restrictions not only because they are not beneficial, but also because they constitute formidable psychological blocks to cooperation and serve as a deterrent to further United States investment.

In the light of its great development needs, Latin America should be able to obtain the benefit of United States investment and technology on a more mutually fair basis. Perhaps a clearinghouse could be established in the United States that would undertake to provide Latin American countries with direct access to technical assistance from smaller, non-international United States firms and individual technical experts that abound in the United States. In addition, the United States might try to help meet financial requirements by considering ways to facilitate floating of Latin American bonds on local exchanges in the United States, perhaps supported by some kind of a guarantee program. Steps such as these could be both timely and helpful and help to further cooperation.

5. RESPECT FOR DIFFERENCES

Of critical importance to the future of the Americas is the need to respect differences among nations and to recognize that Latin America is seeking to fulfill its own destiny in its own way. Basic to this concept is the recognition of the fact that each nation must have the freedom to determine for itself its own political, social, and economic system; and when a particular government has been freely chosen by a country, that choice must be accepted and respected.

This means that the United States must be careful not to try to elbow its way in or to lecture the countries of Latin America on what they must do and how they must do it. Recognizing our own problems and our own unfulfilled aspirations, we can only approach the problems of others with humility. For if with all of our wealth and know-how, we continue to have such major difficulties in dealing with our own urban ghettos and rural blight—if, with all of our technological and scientific knowledge, people in the United States are still hungry—if, with all of our commitments to democratic institutions, there are still those among us—even in very high places—who resort to undemocratic means—we should have some sense of the effort which will be required in Latin America as it seeks to achieve its own goals.

In Latin America today there are frequently recalled the words of the Spanish poet, Antonio Machado: "Traveler, there is no path, paths are made by walking".

The 270 million people of Latin America are today trying to make their own path. In doing so, they need the cooperation, the commitment, and the support of the United States. With the assurance of our true partnership and our commitment to one another, we can all take hope that we can yet move forward together toward a brighter tomorrow in a hemisphere free from war and free from want.

SOLUTIONS TO THE ENERGY CRISIS

Mr. HUMPHREY. Mr. President, the Christian Science Monitor in recent weeks has published a series of informative articles on energy. The articles, by Fred Singer, professor of environmental sciences at the University of Virginia, examine the ramifications of the current energy crisis. They explore the reasons for it and possible solutions to the problem.

One of the main points of the series is that there is no long-term energy supply crisis in the world. If we can only develop the technological know-how we can look forward to nuclear breeders and nuclear fusion; as well as the possibility of geothermal and solar power. Any one of these would supply the world's energy needs for thousands of years. Coal, shale, and tar sands also are available to meet our needs for several hundred years, long after we run out of petroleum and natural gas.

Hence, as Professor Singer states, there is no long term energy crisis. But there are immediate and serious problems, problems which demand immediate solutions. This series of articles examines in-depth these current problems and suggests ways we can get over this trying period.

I ask unanimous consent that this series of articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Fuels Lift Living Standard—But Supply is Limited

(By S. Fred Singer)

Probably no single event in human history has influenced our existence on this planet as much as the discovery of fossil fuels and the use of concentrated forms of energy.

Over the last 150 years human labor and animal labor have been increasingly replaced by machines which burn coal, oil, and gas. This "energy subsidy" has increased both the standard of living and the amount of leisure time for a sizable fraction of mankind.

In turn, the accumulation of capital and the availability of free time have allowed men to divert resources from basic necessities, such as food and shelter, in order to make investments in science and technology. The results of these investments have been spectacular, and have become available on an ever-shortening time scale. Within the life span of most of us have developed television, computers, and atomic energy; man has landed on the moon; the genetic code has been broken; and many diseases have been eradicated.

But in addition to improving our well-being and easing our battle against an unfriendly environment, these new developments, especially in medicine and agriculture, have led also to an immense explosion of population throughout the world. This, plus the increasing consumption of energy and materials, is producing an ever-increasing amount of environmental pollution.

To further complicate the situation, concern is also being voiced about the adequacy of energy supplies. Geological, technical, economic, and political problems—domestic and foreign—are pressing upon us, in addition to environmental and ecological problems. We shall try to look at all of these later—if not exhaustively then at least squarely. We may discern the forest, even if we miss quite a few trees.

FUELS GIVE "SUBSIDY"

Some basic facts about the effects of energy on our economy need to be restated often. A simple calculation brings home dramatically the importance of energy to everything we do. One gallon of gasoline produces the energy-equivalent of 25 man-days; and thus, the cost of a man-day of work is only a little more than a penny. This figure illustrates in a striking way the subsidy we receive from fossil fuels—a far greater subsidy than was ever obtained from human slavery.

Before the year 1800, energy available to human societies was limited to solar energy only recently radiated to the earth. Its most direct form was human or animal power; the energy came from food, that is, from the biological oxidation of compounds that were capable of storing solar energy.

SOLAR ENERGY USED

The burning of wood to provide heat, or the use of moving air or falling water to drive windmills or pumps, also represented the conversion of recently arrived solar energy. Such power sources could not be readily transported, and the energy could not be transmitted over any considerable distance. The amount that was available at any particular point was rather small.

This picture has, of course, changed completely since the 1800's, and it has assumed significant new dimensions in the past two decades with the advent of nuclear power. The most striking measure of these changes is increased per capita consumption of energy in the developed countries. There is a direct correlation between energy consumption and average income, with the cost of fuels itself being only a few percent of the income, about 3 percent in the U.S. today. This relationship demonstrates the subsidy received from the use of low-cost fuels.

To quote H. T. Odum, professor of ecology at the University of Florida, "Today beef and potatoes are made partly from oil" through the use of tractors and fertilizers. Any rise in the cost of fuels has a very direct effect on the cost of all necessities, and on the cost of living. An energy tax amounts to a regressive tax, hitting the poor especially hard.

The minimum consumption of energy is the food we need to stay alive, about 2,000 calories per day or a power level of 100 watts—the equivalent of an average light bulb. Today the per capita use of energy from all sources in the United States is 10,000 watts or about 100 times this minimum; and the figure is rising about 2.5 percent per year.

With some 200 million people, U.S. consumption is herefore 2 million megawatts, of which about 30 percent goes into the generation of electricity, and the rest is used about equally for transportation, households, and industry. Currently the United States accounts for about one-third of the world's energy consumption, although the rate of increase is faster in countries growing more rapidly than the United States.

Hand in hand with the advance in the rate of energy consumption has gone the introduction of the new sources of energy: coal was followed by oil, then gas, and then nuclear fuels. In contrast to fuel used before 1800, fossil and nuclear fuels represent energy that reached the earth millions and even some billions of years ago. Except during time of polictial conflict, it matters little where the new fuels are found; they can be purchased and transported readily, and the electrical energy produced from them can be transmitted over great distances.

In terms of human existence, this "energy revolution" occupies an incredibly brief span of time—and it will be over in a couple of centuries if we have to rely only on fossil fuels. The amounts of coal, oil, and gas that exist on the earth are, after all, finite; and even though new technologies can be developed to extract these fuels more efficiently, this still does not alter the fact that the supply is finite.

Even if we add other fossil fuels that do not presently constitute a resource, such as tar sands and oil shales, even if we add underground nuclear explosions to extract gas and oil more efficiently and completely, this still leaves us with a finite amount.

Fortunately, there are essentially inexhaustible energy sources: nuclear breeders and nuclear fusion; as well as the possibility of geothermal power and solar power. Any one of these would supply the world's energy needs for thousands of years or longer.

Coal, shale, and tar sands are available for several hundreds years—long after we run out of petroleum and natural gas.

There is, thus, no long-term energy-supply crisis in the world. But there are immediate problems.

Solutions to Other Problems at Hand

(By S. Fred Singer)

There is no real energy crisis in the world today and there may never be one.

That is, there is plenty of oil and gas in the ground to satisfy today's needs. Long before that oil and gas supply becomes exhausted, in about 50 to 80 years, there will be plenty of substittues available from coal and other fossil fuels, and from nuclear energy and other kinds of energy sources.

Yet in another sense, there are energy crises, or properly speaking "energy crunches." It is possible to identify at least four of these. It is important to keep them distinct, since they are due to different causes and require different remedies.

1. Let's look at the long-range "crisis" first. Oil and gas are likely to be limited within the United States, which will increasingly depend on oil imports.

DISTRIBUTION PROBLEM

There's also the problem of distribution. More than 60 percent of the world's oil reserves are in the Persian Gulf, although substantial supplies are known to exist in many other areas of the world. But with the possible exception of the Soviet Union, all consuming nations depend on imports.

In principle, this presents no problem; in practice it may. In principle, Middle East oil has the lowest production cost, about 10 to 20 cents per barrel, and should not cost a domestic refiner much over $1. In practice, the price is now as high as domestic oil, which sells for around $3.50 at the wellhead.

Right now oil and gas are more widely used than any other energy source, but this situation surely will change once the lowest-cost deposits become exhausted.

In a decade or two, long before we run out of oil and gas we will be relying more on coal, and perhaps oil shale and tar sands, to supply us with hydrocarbons.

The supplies of these fossil fuels are enormous. The coal supplies of the United States can take care of its energy needs for 200 to 300 years, and the oil shale supplies of the United States, or the tar sands of Canada and of Venezuela, can supply its needs for several hundred years also.

Energy also can be produced without fossil fuels. Nuclear energy certainly will take an increasing fraction of the electricity generation; from 4 percent today to more than 50 percent by the year 2000. It is is difficult at this stage to judge which of the many possibilities will turn out to be cheapest and therefore most successful: nuclear breeder reactors, nuclear fusion, solar, or perhaps geothermal power plants, which draw on the heat energy of the earth.

Any one of these energy soruces may develop so quickly and successfully that it will crowd out the others. It is possible, for example, that oil shale may be by-passed and may never become a resource. This almost happened to coal a few years back.

INVESTMENT NECESSARY

The long-range problem of energy supplies will not be met, however, unless the nation is prepared to make substantial investments today to develop alternative energy sources. And at this stage we have to cover our bets by putting money on all reasonable possibilities.

2. When we turn to short-range crunches, there are no real problems either, i.e., problems that are fundamental and lack a solution. It is important to understand that the shortages of natural gas that we have been experiencing, as well as the shortages in fuel oil last winter and gasoline this summer, do not indicate a general shortage of fossil fuels in the world.

These shortages really are misallocations, and they can be fixed by allowing the economic forces of the marketplace to operate more freely, as well as by proper planning.

To some extent these shortages were made worse by concerns about air pollution and the need for fuel with a low-sulfur content, like gas and "sweet" crude oil.

ELECTRIC-POWER SHORTAGE

3. Quite distinct from fuel shortages are the shortages in electric power. We have been experiencing brownouts and even blackouts, and we probably will see more of these in the next few years, especially in rapidly growing parts of the U.S. This inadequacy in electrical generating capacity again has little to do with a long-term fuel shortage. Instead it is caused by a combination of poor planning and just bad luck, by problems in siting power plants, problems in manufacturing nuclear reactors, and by environmental concerns that have introduced substantial delays and cost increases into the powerplant construction program. Again, this represents not an energy crisis but a temporary crunch.

OIL-IMPORT CRUNCH

4. The one problem most likely to cause a crisis is a medium-range problem. It is the problem of oil imports after 1976, or about

the time when the present agreements with the oil-producing countries expire. The crunch may last until 1985 or so, until substitute fossil fuels as well as alternative energy sources are brought into the market in sufficient quantity and at sufficiently low cost. The crunch need not become a crisis *provided we prepare ourselves immediately.*

The implications of the oil-import problem are threefold:

Higher prices for fuels and therefore a greater burden on the American consumer, particularly the lower-income consumer.

A greater outflow of U.S. currency to pay for the oil imports.

A potential threat to national security, in case energy supplies were to be cut off.

This medium-range oil-import problem is as much psychological and political as economic. Its solution will depend on attitude and resolve, on image as well as substance. There is much within the United States' power to see that a crisis never occurs.

A WAY TO EASE THE U.S. ENERGY CRISIS

(By S. Fred Singer)

A current problem making headline news is the scarcity of natural gas. Gas companies have not been able to service new customers, and pipeline companies in the last couple of years have had to apply curtailment of gas to industrial customers. To understand the problem we must first look at basic facts.

The most striking event in the United States has been not only the annual rise in fuel consumption, about 3 to 4 percent, or a doubling time of roughly 20 years, but also the rapid change in the "mix" of fuels. Natural gas, which was hardly used 50 years ago, has become a strikingly popular fuel, taking 18 percent of the energy share in 1950 and nearly 33 percent in 1970. Oil has increased from 40 percent to 44 percent over the last 20 years, while coal has slipped from 38 percent to 19 percent.

COAL USE DECLINES

Over the last 20 years the use of coal has disappeared for household and commercial applications and for transportation. But for natural gas, household consumption has quadrupled, industrial consumption has tripled, and electrical utility consumption has increased by a factor of six, all within 20 years.

The reason for these drastic changes is not difficult to find. The wellhead price of gas has been set and held at levels which must now be considered as too low, around 20 cents per 1,000 cubic feet. During all this time, the price of crude oil held reasonably constant, but it is three times that of gas in terms of its heating value. That's what counts: After all, fuels are used to produce heat.

Of course, electrical utilities use the less costly residual oil (left over after refining crude oil for more expensive gasoline). But it is still a little more costly than delivered natural gas, and so is coal—especially after the costs for air-pollution control are added.

A CLEAN FUEL

There is one other aspect to the use of natural gas: It is a clean fuel that can be burned without producing any appreciable pollution, and it can be burned very cheaply. Unlike oil and coal, it requires no storage and it does not require specialized burning equipment. It is therefore the ideal fuel for households and small commercial users, a premium fuel that is really worth more but costs less.

From the point of view of overall national efficiency, one would like to see gas burned by households and small users, while the dirtier fuels—residual oil and especially coal—should go to large industrial users and electric utilities.

The large users can afford the more complicated burners, as well as the engineers who keep them in adjustment and make sure that as little pollution as possible is generated. Because of the economies that come with large-scale operations, they can purchase and maintain at a lower cost the pollution-control equipment that removes soot, fly ash, and all particulate materials, as well as sulfur dioxide.

INTERSTATE REGULATION

Another switch that could be achieved for gas is from intrastate use to interstate use. Keep in mind that the regulation of natural gas by the Federal Power Commission applies only to gas that is produced in one state, say Texas, but then is shipped and sold in another state. Within the state of Texas the free-market price of gas is more than twice that of the interstate price. Not surprisingly, the producers prefer to sell to intrastate use, rather than make new interstate contracts at the regulated price. This distortion results in a use of gas which from a national point of view is not efficient.

However, the most serious consequence of strict regulation of well-head prices is the fact that the exploration and production of gas has become a marginal enterprise. Gas is usually discovered jointly in searching for oil. To stimulate exploration and production of gas, its price would have to rise greatly or the price of oil would have to rise moderately.

RESULTS SUGGESTED

In summary, a more realistic price for natural gas would go a long way toward achieving the following:

It would not only stimulate exploration and production of new gas, but would also direct existing gas into uses for which it is most uniquely fitted (such as home heating).

It would shift more gas into interstate use.

It would encourage utilities to use less gas and release it to the small user.

This shift (by the utilities) from gas, probably to greater coal use, would lead to lower overall operating costs, lower pollution costs, and therefore to more efficient national performance. Greater use of coal would also reduce the dollar outflow.

UNITED STATES FACES MANY OPTIONS IN NATURAL-GAS SHORTAGE

(By S. Fred Singer)

The federal government can deal with the natural-gas shortage in at least three ways:

More regulation, in the form of curtailments, rationing, or use taxes.

Less regulation, it could indulge in the manipulation of prices or subsidies which have been fixed until now.

No regulation. The pricing of natural gas could be left to free markets.

Regulation without change in price might consist of reserving gas to small users who cannot use oil and coal effectively, because it is too costly and too inefficient to install millions of small burners and pollution control devices.

SUBSIDY FOR CONSUMER

If large industrial users and utilities, which now consume roughly 60 percent of the gas, were curtailed, then more gas would be made available to residential and commercial users, who now consume roughly 25 percent of the total production. This policy would represent a clear subsidy to the consumer, as indeed the low price of gas over the last decades has represented a subsidy.

The problem with this approach is the long-term gas shortage. The nation has about reached the point where the costs of discovering and producing natural gas are too high in relation to the return. Further, at the current low price there is little incentive for private industry to develop cheaper processes for making synthetic gas from coal—possibly the best source after natural-gas supplies are exhausted.

FPC SETS PRICES

The second method involves pricing. The Federal Power Commission (FPC) currently sets field prices for natural gas in interstate use. Some analysts have advocated drastic changes, involving a doubling or even tripling of the price of gas at the wellhead. The intention is to provide incentives for production, as well as to "clear the market" and make it uneconomical for large industries and electric utilities to use gas, forcing them into oil and coal.

There are risks involved in this approach. It would increase supplies but it would also raise the cost to the consumer. Clearly, since so much of the delivered cost lies in distribution, it would not double or triple the cost but it might raise it by 10 to 30 percent.

But a price rise may be counterproductive if it also raises the cost of competing fuels—oil and coal. To the extent that this happens the market may not "clear."

AMENDMENT INVOLVED

The third approach would be deregulation, amending the Natural Gas Act and letting market forces operate so that gas achieves a competitive price level in relation to oil and coal. To a certain extent, the optional gas-pricing procedures now being heard before the FPC would stimulate such a free market without requiring any change in legislation.

Here again, to the extent that oil and coal become more competitive and therefore more desirable, their prices will rise somewhat, so that freeing the gas price may raise the cost of all fossil fuels.

One way to counteract such a general price rise, or to channel it for the general benefit of the U.S. public, might be to apply judicious subsidies. (Based on our generally unhappy experience with subsidies, one would want to introduce also an automatic phase-out, in say five to 10 years.)

REBATE POSSIBLE

But if the United States is interested in making coal more acceptable and if it wants to get industries and utilities to switch to coal, it might subsidize some item that forms a large fraction of the delivered cost of using coal.

It might, for example, subsidize sulfur removal, or one can conceive of a tax rebate to coal companies that spend large sums of money on reclaiming strip-mined land. Alternatively, the government might contribute a percentage of the cost, which rises as the degree of reclamation is increased or as the land is returned to more beneficial uses.

Clearly, in the best of all possible worlds, a free market would be preferred. But the fact is that we don't have a free market in fuels.

We certainly have a completely regulated market in gas. We have what amounts to quasi-regulation and monopolistic practices in oil. And the coal business is riddled with various restrictive regulations as well as subsidies, for example, in transportation.

EFFICIENCY NEEDED

I see nothing wrong therefore with the government's rationalizing the situation by some manipulation of this market; provided, of course, we keep in mind the general goals of achieving efficient use of energy in the United States and of achieving an equitable distribution of costs that will not discriminate against the poor.

There is another set of facts that refer to the long-range fuel-supply situation. To electrical utilities, especially, the low cost of fuel is only a partial consideration; availability over many decades is important also. Since domestic supplies of natural gas are clearly limited and are bound to become more expensive, coal represents an obvious alternative.

COAL PLENTIFUL

Coal happens to be plentiful in the United States: by a geological accident the U.S. has sufficient reserves to last for several hundred years. (Not all of the coal is easily accessible, and much of it will not be minable because it would damage land that could not be reclaimed. But there are huge supplies of low-sulfur coal in the Dakotas, Wyoming, and Montana, where strip mining and land reclamation are not prohibitively expensive.)

The 500 million tons of coal mined in 1970 released the need for more than 2 billion barrels of oil and saved more than $5 billion in foreign exchange costs. Not only our balance of payments but national security will be enhanced if more gas and oil users switch to coal.

DEREGULATION—BEST ROUTE TO LOWEST-COST GAS?

(By S. Fred Singer)

In his energy message of April 18, 1973, President Nixon announced he would submit legislation to amend the Natural Gas Act to deregulate the wellhead prices on new supplies and on new contracts of natural gas.

However, this free-market approach is to be watched over by the secretary of the interior to make sure that it works out as intended.

Now we will have to see how Congress reacts to the proposal. The stumbling blocks may well be supposed price rises to consumers and "windfall profits" to producers.

Interestingly, the Natural Gas Act of 1938 did not envisage regulation of the price of natural gas at the input end of the pipeline; it only meant to regulate the transportation and the sale for resale by interstate pipelines to so-called jurisdictional customers. (Congress twice passed bills that would have effectively deregulated natural gas, but they were vetoed by Presidents Truman and Eisenhower.) In the 1954 Phillips case, the United States Supreme Court held that the act also applied to wellhead prices.

HISTORY OF REGULATION

The history of regulation of producers' prices by the Federal Power Commission is a long one and has resulted in the sale of gas at prices now judged to be artificially low. The consequences have been partly good by giving the consumer a subsidy, but partly bad by encouraging uneconomic uses of gas, which is a premium fuel, in applications where other fuels could have served.

Steadily increasing costs have discouraged exploration and production. As a result the reserve-to-production ratio in the United States has dropped to a level where less than 10 years' supply is in view.

How will the proposed plan work out? Ideally the price of gas will become high enough to "clear the market," so electric power plants and industries will switch to another boiler fuel—hopefully to coal where supplies of several hundred years are available.

COMPLETE SWITCH

A complete switch would triple the amount of gas for commercial and residential users who cannot readily switch to residual fuel oil or to coal.

Furthermore, part of the gas now in the intrastate market would be captured by the interstate market, and therefore become available to consumers outside the producing states Finally, increased incentives for exploration and production will raise the reserves further.

Since the wellhead cost of gas amounts to something like 10 to 20 percent of the homeowner's bill, a doubling of the wellhead price to 40 cents would increase his bill by only 15 percent. But since the new gas would be "rolled in" with low-priced gas on existing sales contracts, the increase should certainly be less, over the next several years at least.

COMPENSATING FEEDBACK

We cannot be sure, of course, where the wellhead price will end up; but there is a compensating feedback. If the price rises and enough industries switch out of gas, then the rise will moderate, provided also that oil and coal prices do not go up appreciably. Of course, any collusion among fuel producers would raise all fuel prices, to the detriment of the consumer.

Another concern is about "windfall profits." Congress may add some provision that would not permit price increases on flowing, gas or somehow tax away excessive profits derived from old gas wells.

In the balance, deregulation seems the best approach for the consumer. A plentiful domestic supply may do away with the need to import LNG (liquefied natural gas) from Algeria or from the Soviet Union at fancy prices and after tremendous capital outlays by the American oil and gas industry—all to be paid for in the end by the consumer.

PEAK DEMAND

Domestic LNG has been in use in the U.S. for a number of years, but as a way of storing gas to supply the peak demand the pipelines cannot handle. Under those conditions it is quite economical.

The danger is that large import programs and the huge capital investments necessary will force LNG into supplying "base load" gas rather than just "peak shaving." As an alternative, the consumer would actually save money by paying a little more for deregulated domestic gas.

ENERGY CRUNCH STIRS LNG INTEREST

(By S. Fred Singer)

A year ago LNG and SNG might have been mistaken for Vietnamese generals, Siamese twins, and perhaps new psychedelic drugs. By now most people recognize them as liquefied natural and synthetic (or substitute natural gas.

LNG is indeed natural gas. At least it starts out that way. But shipping any gas is costly because of its bulk. Overland transfer by pipeline costs 2 cents per 100 miles per 1,000 cubic feet and is economic only because 1,000 cubic feet of natural gas has a heat value of a million BTU (British thermal units), about the same as ⅙ of a barrel of oil (about 7 gallons), or about the same as 1/25 of a ton of coal (about 40 pounds).

But pipelines cannot yet span oceans, so natural gas is first liquefied at high pressures and extremely low temperatures. It must be conveyed in specially built insulated vessels, and of course it must be gasified at the receiving end.

NO OBJECTIONS

The procedure is so costly that there was no objection from our domestic gas producers to importing LNG. They saw it not as a competitor, but as a demonstration that domestic gas is a bargain, and perhaps as a magnet for pulling up the price of domestic natural gas. When the latter at 20 cents per 1,000 cubic feet at the wellhead (and about 70 cents average in Northeast cities) and with LNG at $1.40 to $2 at the city gate, there is quite a spread here. And LNG costs are likely to escalate further.

It is to the great credit of our public officials that they have resisted rushing into gigantic LNG deals with Algeria and with the Soviet Union. The latter. we are told, would require a $10 billion investment by us in plant and pipelines in the U.S.S.R.—a very expensive long-range commitment.

AGREEMENT ANNOUNCED

Early in June, Dr. Armand Hammer, chairman of Occidental Petroleum Corporation, announced an agreement of intent under which Occidental and El Paso Natural Gas Company would move LNG from the Soviet Union by tanker to the U.S. West Coast. The intent is to move some $10 billion worth of natural gas over a 25-year period. If consummated, it will require some $4 billion to construct a 2,000-mile pipeline, a liquefaction plant, and a fleet of tankers.

There could also be other costs involved: federal subsidies for tanker construction and federal guarantees for the capital investments. The memory of the Russian wheat deal where the U.S. paid three times over is still fresh in many minds; first, by selling too cheaply; secondly, by internal subsidies which were not necessary; and finally, by now paying a higher price for food.

WHO BENEFITS?

Energy economics is not so different from wheat economics. One must always ask: Who benefits and who pays? Domestic gas producers see a chance to raise their prices up to the LNG mark. A rise in gas prices will certainly tend to raise the prices of oil and coal, so those producers won't object. Gas pipeline companies have little incentive to keep prices low; at worst they simply pass the price increase along to the consumer, but they are likely to charge more any way.

Gas distributors are in a similar situation. Shipyards see a chance for new business and federal subsidies. Equipment manufacturers see a chance for a big new market. There are few who will stand up for the consumer, who pays for it all in the end.

Fortunately there are lower-cost alternatives to LNG. One result of the proposed deregulation of the wellhead price of natural gas will be a release of gas to the small users, commercial and residential, who might have been customers for LNG. Paying a little more for deregulated domestic gas will actually save the consumer some money.

ARCTIC SOURCES

Before the price of domestic gas rises too high, perhaps before 1980 gas may reach the continental United States from large Arctic deposits via a trans-Canada pipeline. (The trans-Alaska pipeline, unfortunately cannot handle gas economically.) And by that time also synthetic natural gas from coal will make its appearance.

The problems of coal gasification have been technical and economic. Optimists predict a price of about 60 cents per 1,000 cubic feet, pessimists closer to $1. Depending on price, it may not be too many years before SNG becomes competitive with natural gas, especially gas from offshore and from the Arctic.

Right now SNG is being made by a number of gas distributors who use naphtha, propane, or some similar light hydrocarbon as a feed stock. It is expensive, and it also increases the need for oil imports.

THE METHANOL PROCESS

Another approach, competitive to LNG, for using foreign natural gas is the "jumbo methanol process," described in a recent issue of the Oil and Gas Journal. The gas is turned into methyl alcohol (methanol), a liquid which can be transported at normal temperatures by pipeline or in ordinary tankers at very low cost. At the receiving end it can be turned into gas and piped to consumers, or it can be burned as a liquid. It might even make a good motor fuel and supplement gasoline. The great advantage is that it can use foreign natural gas resources which heretofore may have been wasted.

With respect to LNG, the advantages of methanol are not only delivered cost, safety, and ease of handling, but also the reduced need for initial capital. Put another way, LNG facilities and tankers would have to operate at full capacity; for methanol this will not be important. It could therefore be used more economically for peak shaving, that is, to satisfy peak demand which cannot be handled by the pipeline network. In addition, methanol can be piped and stored at low cost.

U.S. DEPENDENCE ON OIL IMPORTS GROWS

(By S. Fred Singer)

Within the last three years the United States has gone from close to self-sufficiency in oil to an ever-increasing dependence on oil imports. In 1970 it imported 22 percent of its oil, almost all of it from Canada and Venezuela. By 1980 the percentage may rise to 50 percent, with most of the oil coming from the Persian Gulf.

The implications of this development in terms of outflow of dollars and in terms of national security could become serious for the United States, provided it does not prepare itself adequately. Sen. Henry M. Jackson, who chairs the U.S. Senate's National Fuel and Energy Policy Study, bluntly states, "This is the most difficult problem facing the nation today, either internationally or domestically."

Our dependence or imported oil has made unrealistic the oil import quota program that was supposed to limit imports to about 12 percent of domestic production. As far back as 1970 a Cabinet Task Force chaired by George P. Shultz, now Secretary of the Treasury, recommended to President Nixon that the mandatory oil import program be modified. In his energy message of April, 1973, the President recognized what is essentially a fact and abolished the quota program.

MANDATED IN 1959

The mandatory oil import program was set up by President Eisenhower in 1959 by executive order, the legal rationale being national security. This was identified with the welfare of the domestic oil industry, "the basis of the new program . . . is . . . national security, which makes it necessary that we preserve to the greatest extent possible a vigorous, healthy petroleum industry in the United States."

The program has been criticized as being both inefficient and inequitable. Those who were allowed to import cheaper foreign oil benefited; and a variety of exceptions and special allocations were set up, which led to special benefits and special problems.

For example, overland imports from Canada and Mexico were exempted. But since no pipeline links Mexican producing areas to the United States, the only method for bringing in Mexican crude oil was by tanker. That problem was solved by the "Brownsville Loop," sometimes referred to as "El Loophole," whereby Mexican oil was shipped to Brownsville, loaded on a truck, hauled across the border to Mexico and immediately brought back to the United States, reloaded on tankers, and shipped to the East Coast.

DISTORTIONS IMPAIR

Some of the distortions of the program have actually impaired security. For example, the import exception given to residual fuel oil has not only made the Eastern United States almost completely dependent on imports, but also has created an incentive to refine abroad. This "export of refining capacity" is not only detrimental to national security, but also leads to an outflow of more dollars.

This problem has been addressed in the energy message, where extra license fees are proposed for imported, refined products, so as to encourage domestic refinery construction.

In retrospect it is easy to be overly critical of the oil import program. It has been argued that had we imported in the 1960's larger quantities of much cheaper foreign oil, especially Middle East oil, the U.S. consumer would have saved on the order of $40 billion and today we would have an additional 40 billion barrel reserve in the United States.

DEPENDENCY LOOMS

But unrestrained import of cheap foreign oil under perfect competitive conditions would have wiped out domestic production, discouraged exploration, and made us completely dependent on foreign imports and vulnerable in case of cutoff.

The critics point out, however, that that situation is again approaching, except that this time the oil-producing countries have more financial resources and we have less available oil. In any case, countries like Japan are almost 100 percent dependent on imported fuel, and they are doing quite well. But we must also remember that oil production in the United States has furnished the consumer a great deal of low-cost natural gas, most of which was developed in connection with oil.

Coupled with the change in our oil position has been another very fundamental change, the emergence of a strong cartel of producer nations, the Organization of Petroleum Exporting Countries (OPEC). That group, founded in 1960, gained strength suddenly through a series of coincidental events:

A peaking out of U.S. oil production.

The closing of the Suez Canal after the 1967 conflict.

Sabotage of the trans-Arabian pipeline.

A sudden shortage of tanker capacity.

A military coup in Libya and excess income that led to a threat of a cutoff and demands for higher taxes.

TAXES INCREASED

Quickly, independents and then major oil companies buckled under. The Tehran agreements of February, 1971, provided increasing taxes to the producing countries, making the price of imported oil essentially equivalent to the U.S. domestic price of about $3.50 per barrel. When one realizes that Saudi Arabian oil can be produced at a cost of only 10 to 20 cents a barrel, it is easy to see that a large differential previously available to the consuming countries or to the oil companies now has been taken up by OPEC.

At this stage, the domestic producers are no longer threatened by cheap imported oil. Indeed, this is what has made it politically feasible for President Nixon to accept the 1970 recommendations of his own task force.

Unfortunately, however, the U.S. consumer directly or indirectly now must pay the higher price and OPEC receives a higher take.

STRENGTHENING THE GENERAL ACCOUNTING OFFICE

Mr. PERCY. Mr. President, on June 21, Senator ERVIN introduced a bill, S. 2049, which I have cosponsored, to strengthen the General Accounting Office. This measure is the result of research by Congress and the GAO into ways in which this crucially important investigative arm of Congress can become even more effective in saving Federal moneys and in prompting Federal agencies to effect these savings. S. 2049 would, among other things, authorize the Comptroller General to have direct access to the courts with his own counsel to resolve questions on which he and the Attorney General of the United States differ; it would also empower the Comptroller General to sign and issue subpenas to obtain negotiated contract and subcontract records and records of other persons and organizations outside the Federal Government to which he has right of access by law or agreement.

The General Accounting Office has repeatedly demonstrated the need for and the value of competent, impartial oversight of Federal spending practices. I believe that S. 2049 would increase GAO's contributions to responsible government.

Mr. President, I would like to call to the attention of my colleagues an article from the June 2 Christian Science Monitor by Lucia Mouat on the General Accounting Office. This article reviews the history of the GAO and comments on efforts in Congress, such as S. 2049, to strengthen it. I ask unanimous consent that Ms. Mouat's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"FISCAL FBI" HUNTS BIG SPENDERS IN WASHINGTON

(By Lucia Mouat)

WASHINGTON.—Economy-minded congressmen such as Sen. William Proxmire and Rep. Les Aspin wouldn't be without it.

Neither would less well-positioned taxpayers if they knew what it was doing for them—saving their government $263 million in cash during 1972, for instance.

Operating in gray semianonymity for most of its half-century existence, it recently has been breaking into the black newsprint of Page 1 headlines several times a month.

Give up?

It's Congress's fiscal FBI—that investigative auditing agency with the somewhat stodgy name: the General Accounting Office (GAO).

Actually the more than 1,000 reports this federal financial sleuth issues each year on everything from cost overruns on defense contracts to sanitation conditions in food-processing plants are anything but stodgy in conclusions and impact.

Though carefully couched in the most discreet language and always accompanied by the criticized agency's own view of the facts and comments, these blue-and-gray-covered reports enjoy rare esteem in the capital city as accurate, objective, and increasingly influential.

INFLUENCE EXTENDS FAR

Technically, GAO's enforcement power is almost nil. However, in a city where information is as valued and often as tightly guarded as gold bullion at Ft. Knox, this auditing agency's influence extends far beyond its legal powers.

Often fact-finding alone spurs reform. In the GAO's annual finger-pointing at federal agencies in hundreds of specific cases of wasted taxpayer dollars, onetime exposure to the spotlight is usually enough.

Among the many savings last year for instance were more than $1 million when the Department of Defense (DOD) shifted to buying surplus American butter (rather than buying its European counterpart) and more than $131 million when the Army followed GAO's suggestion to reduce heavy-equipment purchases and instead repair equipment already on hand.

Sometimes, though, changes are long in coming. GAO officials suggest that here, their reports' efforts to stir thought along new lines, considering alternative means to desired ends, is service enough to Congress and the taxpayer.

A bulky report on health facilities' construction costs issued last fall is, so far, a case in point.

Over the years, GAO has slowly but steadily been extending the scope of its probes—all with Congress's approval.

Formally set up in 1921 to keep close watch over congressionally appropriated funds, the agency at first assumed a clerical preoccupation with whether or not agencies balanced their books and spent what they said they did for declared purposes.

EFFECTIVENESS SOUGHT

Twenty-three years ago, Congress authorized the GAO to look beyond mere fiscal accountability to efficiency and, three years ago, to delve even deeper—into the sensitive area of program effectiveness.

This ever-broadening interpretation of auditing is implicit in the original legislation, in the view of Elmer B. Staats, GAO's Comptroller General, and well within the bounds of at least the Latin definition of the term—oversight—which he prefers to use.

Strict fiscal accounting now takes 10 percent of the 4,800-member GAO staff's time. Establishment of intermal audits in various federal agencies and departments (about half have them so far) has helped to lighten this load.

Also, as the prospect of more lump sums of federal money going directly to state and local governments grows, the GAO has been working with these governmental units to establish sound, uniform audit standards.

The Comptroller General, a tall, red-haired Kansan who has a PhD in pubic administration from the University of Minnesota and enjoys the independence of a 15-year presidential appointment (he is midway through), is openly eager to move the office into areas in which the GAO is "more uniquely equipped" to serve Congress and which are more "relevant" to the national legislatures needs.

HOW ROLE IS VIEWED

He envisions the GAO's rule not as that of a "think tank" for Congress, assessing national program priorities and advocating one solution over another, but rather as one pointing out areas of waste, inexpensive alternatives, and of assessing whether or not specific programs meet their legislative objectives.

At a time when the legislative branch has been rapidly losing ground in its tug-of-war with the executive branch, the scope and clout of the auditing agency's role as a congressional helpmate are considered crucial.

Accordingly, an effort is reviving on Capitol Hill to strengthen the GAO's legal muscle as a fiscal investigator. One such effort passed the Senate in 1969 but was never even reported out by the House Government Operations Committee.

One of the GAO's major problems in collecting data for Congress is the stone wall of noncooperation it meets in some agencies.

Two of the biggest withholders of information are the Treasury (though the Comptroller General stresses that the situation is improving) and the Internal Revenue Service.

In the case of Treasury's refusal to provide the working papers behind the Lockheed loan transaction of the department's Emergency Loan Guarantee Board, congressional committee intervention secured the data, but as Mr. Staats says, "They [Treasury officials] still contend officially we have no legal right to it."

DIFFICULTY SPOTLIGHTED

Crux of the difficulty here is that when the GAO has a difference of legal opinion such as this with an executive-branch agency, it is effectively the Attorney General and the Justice Department which become the counsel for both. Almost invariably, according to GAO officials, the executive-branch version of the law gains the upper hand.

One current case in point involves GAO's relatively new job of gathering data on presidential campaign contributions and monitoring campaign media spending. Several times in the course of its investigatory work, the GAO came across repeated failures of finance Committees for the Re-election of the President to report certain contributions.

Interviewing a number of indivdiuals reported to have made such political gifts, GAO investigators in most cases were told in the affirmative that contributions had been made. Although the Justice Department has levied fines in a few instances, Mr. Staats repeatedly has called on the Office of the Attorney General to "take the initiative" in prosecuting more of the many alleged violations.

"How can you get separation of powers under such conditions?" asks Mr. Staats. "We think it's essential not to have to depend on the executive branch to say whether or not we can bring a case to court."

The GAO also seeks power to subpoena records of the many contractors who supply goods and services to the government. Although the law is quite clear on this point, insisting that such records be provided, reluctant contractors often opt for delays rather than outright refusals to stave off the GAO. "They don't say 'no' but they don't say 'yes.'" says Paul Dembling, GAO's general counsel.

CLUB IN THE CLOSET?

Bills introduced on the Senate side by Sen. Abraham A. Ribicoff (D) of Connecticut and Sen. Sam J. Ervin Jr. (D) of North Carolina would award the GAO both of these valuable legal tools.

In GAO's view, the mere possession would be a deterrent. As Mr. Dembling puts it, "Having a club in the closet could prove to be very useful."

No such legislation has yet been introduced on the House side, and it is considered less likely to vote the GAO the new powers. However, as one GAO staff member says, "The House voted to cut off funds for U.S. bombing of Cambodia this year—who knows what they'll do on the GAO?"

Proponents of a stronger GAO insist the congressional auditing arm will be no less discrete in treating information as classified (if it is) and/or including the agency's comments in reports than before.

As a former employee of the executive branch—serving as deputy director of the Bureau of the Budget under four presidents—Mr. Staats concedes he well understands agency reluctance:

"They are concerned that if we have the information physically it may get distribution or taken out of context." However, he says he has no sympathy for this position because he feels GAO precautions are such as to leave it no basis.

In the meantime, as GAO auditing functions have broadened at least in theory, so has the nature of the staff. In the last four years, more professionals, such as lawyers, engineers, sociologists, and the like, have been hired than accountants. In addition to a headquarters and 50 on-site audit offices in various governmental agencies in Washington, there are 15 field offices around the United States and 4 overseas.

BUDGET FAIRLY SOLID?

The GAO network operates on a $90-million-a-year budget, slim by some standards but generally considered fairly solid.

About 70 percent of the legislative agency's reports are self-initiated. Congressional requests from both individuals and committees have quadrupled over the last six years since Mr. Staats has been in office and now keep about 25-to-30 percent of the staff fully occupied.

Despite its reputation for accuracy and nonpartisanship, the GAO does have its critics. For the most part, however, they are few, and the criticism is muted.

Understandably, executive agencies sometimes bristle at charges leveled at them, but since GAO findings are usually based on their own records, they are often hard-pressed to refute them.

There are a few on Capitol Hill who say they think the GAO is too friendly with the executive branch. "I don't think they're really digging as much dirt out as they should be," says one Republican committee aide.

REPORTS DEBATED

If the reports are too cautious and bland for some, devoid of "purple language" and "desk pounding," Mr. Staats insists it is strictly intentional.

Though admitting this one subject on which there is constant internal debate, the Comptroller General sees it as the prerogative of the individual congressman to add such peppery adjectives when a report happens to suit his purposes.

The timing of reports is a more universal concern. Everyone would like to see them come out faster and be more closely timed to congressional appropriations and authorization decisions. With access delays a substantial factor, the average GAO report takes six to nine months before the agency's printing office (it has its own) puts out the final version. However, as Mr. Staats points out, so-called "letter" reports, a few pages long, can often be issued within a week or two, and GAO staff members can always brief congressional committee members well before any GAO reports are finished.

Some who commend the nonpartisanship of GAO reports themselves are critical of the politics involved in the congressional follow-through or lack of it.

Recalling the days in the mid-1960's when he served as a member of the House Government Operations Committee, and majority staff members greatly outnumbered the minority, Rep. Robert McClory (R) of Illinois says:

"The committee deliberately sidestepped investigations of discrepancies and irregularities which might reflect on the [Democratic] administration."

Whatever the politics of Congress's choices of action, Mr. Staats considers the GAO's objectivity and credibility among its main strengths. As time goes by in this political city, the GAO may find itself increasingly hard-pressed to preserve that reputation for neutrality. As it moves further into the sometimes subjective area of evaluation, it may trigger some charges of partisanship.

EXPORT CONTROLS: TOO LITTLE, TOO LATE

Mr. HUMPHREY. Mr. President, on July 11 the Subcommittee on Foreign Agricultural Policy held hearings on our export control policies.

The testimony we heard supported my concern over the recent imposition of export controls on our agriculture commodities.

Most of the witnesses strongly supported the assertion that the controls were "too little, too late" and that the consequences in terms of the disruption to production and future trade hardly justified such hastily conceived measures.

We are dealing with issues the implications of which are just now beginning to come to light.

The restraint of exports by the United States is being used as justification for the consideration of similar measures by Canada and the European Community. I will ask consent to include in the Record several news clippings from the Commodity News Service that offer evidence of the way some of our major trading partners are responding to U.S. control of exports.

Mr. President, we may have just established precedents for export restrictions which will haunt the international trade sphere for many years to come.

I would also like to mention issues in regard to our food-for-peace program.

Commodities placed under export controls are no longer available for emergency food aid under Public Law 480. As Mr. Ralph Ellis, former senior official in the Food for Peace Office of AID pointed out:

> Unless existing statutory provisions are modified the immediate and urgent need for food, primarily grain, in Bangladesh, Indo-

nesia, central west Africa and war-torn Southeast Asia will not be met if it becomes necessary to institute controls on wheat and feedgrains. Unless remedial legislative action is taken, the great work of the voluntary and international agencies in using Food for Peace commodities for emergency relief, to combat hunger and malnutrition, especially in children and to carry out food for work projects, will be even further curtailed. This program (P.L. 480) which has served the United States and the world well by relieving hunger, building markets for American agricultural commodities and depicting in the most dramatic terms the efficiency of our incentive economic system, could be liquidated along with the expertise and competence the voluntary agencies have acquired in the use of food for work and for development.

Certainly the President's request for broader export control authority has vital implications for our food assistance programs.

We must not forget our commitments to the less developed countries who have come to depend on the United States for assistance in times of crisis. While we may experience temporary shortages of particular commodities in this country, the availability of our food aid means life or death for thousands of people around the world.

Speakers for the forest products industry produced considerable evidence showing the disadvantages of controlling exports of logs. Limitations of log exports were originally based on the need to dampen domestic prices of lumber. But we have seen a reducton of lumber prices in recent weeks without additional controls. According to spokesmen for the USDA Forest Service, the price for lumber has generally followed regular cycles and may be overreacting to the normal trends of the industry.

Also, I understand that we have worked out voluntary import restraint agreements with Japan on timber exports. Therefore, I am concerned that we might undermine such a reasonable approach by imposing mandatory controls when voluntary limitations seem to be working.

We may be facing a dominoes phenomenon—namely as soon as we clamp controls on soybean exports there may be a run on wheat and corn. Do we continue to run after the distortions caused by export controls with stopgap measures? We must ask where is all this leading us and where will it stop. Clearly better planning control and coordination is needed and the Foreign Agricultural Policy Subcommittee intends to use the information from yesterday's hearings to study each of these issues and to report on each to the Congress.

Mr. President, I ask unanimous consent that the news clippings referred to be printed in the Record.

There being no objection, the news clippings were ordered to be printed in the Record, as follows:

Canada Studying Latest U.S. Move on Exports

Ottawa, July 6.—The Canadian Government is urgently studying new U.S. moves when recently placed additional agri. products under export controls, trade minister Alastair Gillespie said today.

Last week the United States announced it was putting controls on the export of oilseeds and protein foods, and yesterday the U.S. administration listed 41 new agri. product which would be added to the control lists.

"We view with real concern the measures taken by the United States. We have this matter under urgent, urgent review at this present time," the minister told conservative Harold Danforth.

Last Friday, the Canadian Government took steps to place controls. Canada is a net importer of protein foods like soybeans from the United States but still exports a minimal quantity of soybeans and larger quantities of oilseeds such as rapeseed.

All applications for export permits were to be mailed by midnight Thursday. Gillespie said the government was "not yet in a position to indicate just what permits will be licensed or approved until we have all the information.

"I would expect in a very few days to know more about that situation so that we can make a further announcement in due course," he said.

EEC Plan To Ban Cereal Exports

Brussels, July 9.—The European Commission is preparing the ground for the EEC to ban or tax the export of cereals.

It will ask the council of ministers to introduce a system under which such steps can be taken depending on the situation in the community and on the world market.

The commission's paper does not spell out in detail when the community should act to stop or limit cereal exports, but states simply that such a possibility ought to exist taking the situation on the two markets into account.

Commission sources said the proposal had been under consideration for some time, but admitted that the recent United States restrictions on the export of soybeans and other commodities had added urgency to it. The action to stop exports could be taken either by introducing special licences or by imposing an export tax.

The sources said prices on the Chicago forward market for cereals were already higher than the current market price in the community.

In the meantime, Mr. Pierre Lardinois, the commissioner responsible for agriculture, now plans to fly to the United States in about two weeks time to discuss the American export restrictions. The sources said he could not leave Brussels earlier because of a series of important discussions inside the commission on a possible review of the common agricultural policy, which was called for by the council of ministers last May, and because of a council meeting scheduled for next Monday and Tuesday.

THE CRITICAL ROLE OF GENERAL AVIATION

Mr. MOSS. Mr. President, to many citizens and Members of Congress the words "general aviation" connote only private pilots flying small single-engine aircraft for their own personal pleasure. And when we have to consider the future of our national air transportation system, there is a corollary attitude that perhaps the general aviation sector is the least important. There is also the impression that perhaps general aviation is the biggest stumbling block in coping with air transportation growth, congested airways, and midair collisions.

I would like to make two points to correct any such impressions about general aviation.

First, general aviation is the most productive and significant segment of our air transportation system by many measures. And, second, general aviation must not be shunted into the background of our future air transportation system because it cannot evolve with the increasingly congested and complex air traffic environment. General aviation must and will grow with the times.

To have some appreciation for the vital role played by general aviation accounts for:

Ninety-eight percent—134,000 out of 136,580—of the aircraft.

Ninety-five percent—698,000 out of 732,729—of the pilots.

Ninety-five percent—10,725 out of 11,261—of the airports.

Seventy-nine percent—25,997,000 out of 32,897,000—of the hours flown.

Eighty percent—41,384,006 out of 51,777,300—of the aircraft operations at just the 336 airports where control towers exist and count traffic.

Virtually 100 percent of the uncounted operations at the remaining 10,925 airports without towers.

The existence of 73 percent—246 out of 336—of the control towers.

Thirty-seven percent—92 million out of 246 million—of the passengers in intercity air travel.

Virtually 100 percent—85 million—of the passengers on local flights.

All of the industrial-aid flying.

All of the aerial application for agriculture and forestry.

Air transportation on demand by 43 percent—425—of the 1,000 largest business enterprises in the Nation.

Domestic sales of approximately $1.3 billion annually.

Export sales of approximately $150 million annually.

Employment of over 30,000 workers.

Faced with these enormous contributions, we must insure that general aviation keeps pace as we plan to cope with the problems of aviation growth. General aviation must remain fully integrated and not be relegated to ever smaller regions of airspace and airports, because training and equipment become outmoded.

As chairman of the Committee on Aeronautical and Space Sciences, I was pleased to report that NASA has established a new Office of General Aviation Technology. This represents a step to guarantee the long-term technical advancement of general aviation and insure its future. General aviation must be kept abreast of the rest of the aviation community to realize its full potential and contribute to our national air transportation system. Balanced development is mandatory.

A good case in point relates to legislation which I introduced earlier in this session, S. 1610, along with 18 cosponsors who have joined me to date. There has been some concern expressed that this bill is not in the best interest of the general aviation community, because it requires all aircraft—commercial as well as general aviation—to be equipped with devices to prevent midair collisions, a problem the National Transportation

Board has called "one of the most urgent and serious" facing our air system today.

Since I introduced my bill, I have accepted changes to permit general aviation aircraft to have transponder-based transmitters or pilot warning indicators, as well as fully cooperative collision avoidance systems. This equipment would add as little as $500 to $1,500 to the price of an aircraft. Based on statistics from the General Aviation Manufacturers Association, this represents only 1 to 3 percent of the average price of general aviation aircraft shipped in 1972. This is a small price to pay to further assure that general aviation will participate fully in our future air transportation system and not be confined due to public fears and discriminatory Federal actions to reduce the midair collision hazard.

Mr. President, let me repeat my central message. General aviation is a vital asset to this country and must be permitted to mature and flourish along with the rest of our air transportation system. For the further information of my colleagues, I commend their attention to a recent report issued by the General Aviation Manufacturers Association and ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

WHAT IS GENERAL AVIATION?

The role aviation has played in helping America achieve its position of world preeminence can hardly be overstated. In fact, the growth and success of our nation during its 200-year existence have always been closely related to the innovative abilities of its various forms of transportation.

Land, water, and air transportation systems have historically provided the lines of communication and distribution required to unite the nation and foster the development of its commerce.

Air transportation is a purely 20th century phenomenon. It has developed with almost incredible swiftness from scarcely-noted experiments on the hills of Kitty Hawk in 1903 to its role today as a vital public necessity which touches the lives of everyone.

Today, transportation as an industry, in its many public and private forms, accounts for fully 20 percent of the total gross national product of America. Air transportation makes a significant contribution to this total economic impact. General aviation employs some 120,000 persons in manufacturing, servicing and flying, and by the end of this decade, its economic impact, both direct and indirect, may reach $18 billion a year.

The term general aviation refers to all civil aviation activity except that of the scheduled airlines. Together, general aviation and the airlines make up America's balanced air transportation system, which is the safest and most efficient aviation network in the world.

Air service in America is available to almost everyone because the airlines and general aviation fulfill separate but compatible transportation roles. The general aviation fleet of some 140,000 business, commercial, and personal planes serves all of the nation's 11,000 airports, bringing the benefits and mobility of air transportation to virtually everyone, including millions of people who live outside of the metropolitan areas which the airlines serve through some 500 airports.

General aviation is air transportation on demand. It moves millions of passengers a year and tons of cargo and mail faster and farther than any earth-bound mode of transportation—and with almost unlimited flexibility.

Statistically, about 70 percent of all general aviation flying—some 20 million hours per year—is for business or commercial purposes. General aviation carries one in three intercity air passengers—about 70 million persons a year—and 60 percent of those passengers fly from airports that are not served by the airlines.

FIVE TYPES OF FLYING

General aviation comprises five basic categories or types of flying: business, commercial, personal, instructional and special purpose.

Because of general aviation's on-demand, go-anywhere characteristics, aircraft have become increasingly important business tools in recent years as American industry has decentralized and moved many operations away from metropolitan areas. Today, thousands of firms own a total of 40,000 general aviation aircraft to carry on their business more efficiently and profitably and many more thousands of businesses regularly charter or rent.

A recent survey showed that 432 companies of the *Fortune* 1,000 operated general aviation aircraft and very significantly it showed that those 432 companies accounted for 77 percent of the total group's sales and 84 percent of net profit.

The commercial category of general aviation includes mainly some 1,500 air taxi and commuter airline operations. These carriers, who provide scheduled service for passengers and cargo and on-call charter air transportation, link many small communities with each other and with metropolitan centers. They enable millions of airline passengers to make connections at major airports and they also carry tons of cargo and mail.

The commercial category also includes aerial application flying, which has been especially significant in making American agriculture more productive. By increasing farming efficiency through aerial application of pesticides and fertilizers, general aviation has helped to keep food prices down and helped to make a wide variety of produce abundant in supermarkets across the country.

Personal and instructional flying are also important parts of general aviation. Hundreds of thousands of men and women have discovered the fun and freedom of learning to fly and they use airplanes to help them get the most out of their leisure time.

The special purpose category of general aviation covers a broad range of activities from fire control and pipeline patrol to traffic surveillance and emergency aid. The transportation benefits and flexibility of general aviation have frequently been demonstrated in times of natural disasters such as floods, hurricanes and earthquakes.

EVERYONE BENEFITS

There are, of course, many public benefits derived from general aviation beyond emergency relief. In fact, because of aviation's vast, immeasurable impact on the U.S. economy and our way of life, everyone benefits from the nation's air transportation system, even those who don't use it directly.

General aviation planes and the airports they use contribute to regional development because of their role in attracting new industry and jobs to outlying areas. Regional planners recognize the importance of airports in generating economic growth, and industrial development consultants often cite the lack of an adequate airport as a chief reason for by-passing a community as a site for a new plant or business.

The U.S. balance of payments benefits too. Since 1965, the American general aviation industry has exported nearly $1 billion worth of aircraft, and today one of every four general aviation planes produced in this country is shipped abroad. As a result, 85 percent of the total world fleet of aircraft is American-made.

Along with its public benefits and transportation role, general aviation is also a good neighbor. Most general aviation aircraft need only modest facilities that can be planned for maximum compatibility with residential and industrial zoning. New technology in aircraft and engine design have significantly reduced operational noise and tomorrow's planes will be even quieter.

Air pollution, another major concern of communities both large and small, is virtually non-existent with general aviation. More than 90 percent of all general aviation flying is above 3,000 feet where emissions are negligible and do not affect the breathable atmosphere. Sulphur oxides, considered the most harmful pollutant, are refined out of general aviation fuels, and aircraft engines are more efficient, cleaner and better maintained than other types of transportation engines.

AIRPORTS ARE THE KEY

In recent years, there has been much discussion about "crowded skies" and airport congestion in the United States. There are about 140,000 general aviation airplanes and some 3,000 airliners in the U.S. today, and if every one of these aircraft were in the air at the same time and at the same altitude over the state of Montana, there would still be more than a mile between their wing tips.

It is not the number of airplanes that constitutes crowding and congestion, but the lack of landing facilities in busy population centers.

The problem can be solved in two ways—by building separate runways for general aviation aircraft at high density airports and by utilizing nearby reliever airports.

It makes little sense for general aviation aircraft to use long runways designed and constructed to handle large, heavy airliners. Some 94 percent of the general aviation fleet needs less than 3,000 feet of runway. By segregating air traffic with different approach requirements, airliners and general aviation aircraft can land simultaneously.

However, although general aviation does not need long runways, it does require first-class facilities in keeping with its role as an integral part of the nation's air transportation system.

GOVERNMENT'S ROLE IN AVIATION

High-speed, flexible air transportation is an indispensable factor in economic and social well-being of the entire nation. It is, therefore, in the public interest to maintain an aviation system that can accommodate the air travel needs of all people today and tomorrow through both public and private air transportation.

Since the early days of flying, our country's network of airports and navigation equipment has been developed and operated to provide air transportation in the public interest and for the public's benefit. And, since the Air Commerce Act was passed in 1926, the Federal government has been responsible for fostering the growth of air transportation through creation of the National Aviation System.

The pre-eminent role of the government in this regard is demonstrated by the fact that the National Aviation System is designed, operated, maintained and regulated by Federal authority in the public interest. No other form of transportation has this Federal involvement.

In 1970, Congress passed landmark legislation to provide necessary funds for improving the National Aviation System to meet future needs. Virtually all segments of civil aviation applauded the Airport/Airway Development and Revenue Acts of 1970 and the establishment of an Aviation Trust

Fund, supported by user charges, to pay for capital improvements to the system.

PUBLIC SHARES BENEFITS AND COSTS

Currently, the total cost of the National Aviation System is shared about equally by user charges paid into the Aviation Trust Fund and by general taxes. We firmly believe that a continuing allocation of 50 percent should be the minimum figure assigned to the public benefit of the system in view of air transportation's tremendous importance to the country's economy and to its international posture.

We who use the National Aviation System directly have often stated our desire to pay our fair share for operating and improving the system. But, since everyone benefits from air transportation, we believe everyone should share in supporting the National Aviation System through the continued allocation of general tax funds.

REMOVING ENVIRONMENTAL BARRIERS TO THE HANDICAPPED

Mr. PERCY. Mr. President, I note with great satisfaction that the problems facing America's handicapped citizens are receiving ever-increasing press and public attention. The Chicago Sun-Times recently carried a sensitive and informative article by Mr. Steve Fiffer on the inaccessibility of Chicago's public transportation systems to the handicapped. I ask unanimous consent that the article be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A HARD FIRST STEP FOR THE HANDICAPPED

(By Steve Fiffer)

Although David Wells never was captured during his six-month tour of duty in Vietnam, he still considers himself a "prisoner of war."

Honored in Washington last October as an "outstanding disabled veteran," Wells, 24, who lives at 5938 S. Lafayette, lost his left leg above the knee and suffered serious back injuries after being hit by shrapnel in September, 1968. Today, he frequently finds himself a prisoner in his own home because he can't afford an auto and can't negotiate public transportation. Cabs also are too expensive, so Wells must rely solely on his brother for transportation.

"I live at an ideal place for public transportation," he says. "The bus and L both stop outside my front door. But between the long stairway up to the L, the high first step onto the bus and the crowds which never seem to see me, I'm more frightened trying to use public transportation than I was when patrolling in Vietnam. Fortunately, my brother drives me downtown to my job. But there are plenty of things I'd like to be doing around town, and if I can't borrow his car or if he's not around to drive me, I'm forced to sit at home—a prisoner of the war."

Henry Jopes, 58, is another Chicagoan who considers himself imprisoned by the lack of accessible transportation. For 26 years, he relied on the CTA to get from his home on the Far West Side to his job as a medical technician at Northwestern University's Medical School on the Near North Side. Progressive muscular dystrophy has condemned him to crutches, and now he is unable to traverse bus steps or L stairways.

"I continued taking the bus to work, until I reached the point where I literally had to crawl up the bus steps," Jopes says. "Then I considered taking taxis to and from the medical school, but a round trip would have cost $10—something I couldn't afford on my slender salary, I even called to see how much it would cost to charter a limousine, that was even worse than cab fare."

No longer able to get to work, Jopes was forced to retire last October. Since that time, things have steadily worsened. Jopes recently filed for bankruptcy and must rely on a monthly welfare check to make ends meet. "This trouble has all been created by my inability to find inexpensive, accessible transportation to my job, which still waits for me," he sighs. "It's really frustrating to be stuck here at home, because I feel I still have so much to contribute."

Just how many David Welleses and Henry Jopeses there are sitting at home in Chicago is difficult to gauge. The national census does not ask for information concerning physical handicaps, so public officials and those involved in the rehabilitation of the disabled must rely on estimates from the National Institute of Health and the Social Security Administration. Chicago's Council of Community Services has estimated that over 300,000 people in the metropolitan area suffer from some temporary or chronic illness or injury which severely restricts mobility. Disabled veterans of the conflict in Vietnam constitute a sizable portion of this total. In addition, the city has over 350,000 elderly citizens, many of whom suffer mobility limitations from sickness, injury or the natural process of aging.

"It is sadly ironic that our society forces so many individuals like David Wells and Henry Jopes to stay at home," says Dr. Henry Betts of the Rehabilitation Institute of Chicago. "Centuries ago, parents of deformed or handicapped babies in Sparta abandoned their infants on the hills, and the Eskimos still abandon their aged on icebergs. We're supposed to be the most progressive of societies. But by designing the vast majority of facilities and services to meet the needs of the "average," young, able-bodied American, by creating an environment with architectural barriers which limit the mobility of millions of Americans, we have taken the disabled and aged off the hills and the icebergs and imprisoned them in their homes."

49th Ward Ald. Paul T. Wigoda, whose City Council Committee on Traffic and Public Safety recently began to examine the problems, adds: "Ours is an urban society where mobility is essential if one is to take advantage of the great majority of services. Nevertheless, almost every type of transportation—bus, subway, train, airplane and taxi—in every locality has certain physical barriers which drastically limit the mobility of a substantial segment of the population."

Wigoda recently introduced legislation which would extend special parking privileges to certified disabled drivers and insure that all new or remodeled curbs be ramped, to facilitate accessibility. But he acknowledges that it is equally important to eliminate the barriers presented by public transportation.

In order to negotiate public buildings and transportation systems like the CTA, mobility-limited Chicagoans must overcome a variety of barriers which most able-bodied travelers take for granted. Climbing up long stairways and high bus steps, riding escalators, moving through turnstyles and revolving doors, negotiating steep curbs and moving through crowds create serious problems for the ambulatory handicapped—the crutchbound, the blind and the sufferers of arthritis or heart disease—and make travel impossible for the wheelchair-bound.

While auto modifications facilitate travel for some handicapped persons, most aged and disabled lack the physical or financial means to operate a car. Financial limitations also render travel by cab impractical.

Helen Goodkin of Access Chicago, a citizens group concerned with eliminating transportation and architectural barriers, says "As a group, the mobility-limited are income-poor. According to the Department of Transportation, 30 per cent of all Americans aged 65 or over live in households which fall below the poverty level. In addition, 59 per cent of the nation's chronically handicapped earn less than $3,000 per year." Recognizing the financial burden which travel levies on the elderly, the CTA offers round-the-clock reduced rates to those over 65, and Mayor Daley recently raised the possibility of free rides for senior citizens.

"The low income of the handicapped reflects the low employment of the handicapped, and a major reason for this unemployment is the lack of adequate transportation," argues Ald. Wigoda. He cites a Department of Transportation study, which estimated that if transportation no longer were a problem, 13 percent of the nation's chronically handicapped—190,000 Americans—could return to work.

"These people don't want to waste away at home," says Wigoda. "It's about time that we realize that by making the relatively minimal investment of time and money needed to get these individuals back to work, we'll be taking them off the welfare rolls and making taxpayers out of them."

A number of social-service and governmental agencies have attempted to set up special transportation systems providing door-to-door service for the aged and disabled. Such systems generally employ vehicles modified to accommodate wheelchairs and carry the mobility-limited from home to work, clinics or recreation centers. One of the most successful of these has been the YMCA's Senior Citizen's Mobile Service. Operated under a grant from the Administration on Aging, the service provided 30,000 free rides over a three-year period to elderly South Side residents. Another door-to-door minibus system, operated by Mutual Enterprises of the Handicapped in the Lincoln Park, Lakeview and Uptown areas, has encountered difficulties. Faced with the same inability to secure an operating subsidy which plagues the CTA and all transit companies MEH has been forced to charge as much as $3 per trip to its handicapped clients.

The experience of MEH has indicated that some governmental intervention is necessary. On April 6, the City Council committed $300,000 for the design and operation of a nine-bus door-to-door system for the elderly and handicapped. Complementing the city's investment will be $700,000 from the Department of Transportation.

"The mayor and the Department of Public Works deserve much praise for undertaking such an endeavor.," says August Christmann, president of the Congress of Organizations of the Physically Handicapped. "I only hope they continue such forward thinking in developing an equitable fare structure and in combining the specialized system with the larger public-transportation system."

The necessity of integrating a specialized transit system with accessible bus and subway service also is emphasized by Pastora Cafferty, the most recent addition to the board of Chicago's Urban Transportation Planning District. "I would hope that the city's proposed specialized bus system will serve as a feeder to major mass and rapid-transit lines," she said. "Of course, to make this work, it is imperative that any new additions to the subway system be 100-per cent barrier-free and that certain existing stations be remodeled wherever feasible."

The status of the new Central Area Rapid Transit, which includes plans for a new route running from near the John Hancock Center to the area of the Circle Campus and makes provisions for replacing the old Loop L structure with underground service, was of major concern to the 300 participants in Access Chicago, a conference held last December to discuss barriers confronting the mobility-limited. One of the speakers at the conference was Harold Willson, a paraplegic, who almost single-handedly made sure that San Francisco's new Bay Area Rapid Transit System is 100-per cent barrier-free and accessible to the wheelchair bound.

Another speaker, Public Works Comr. Milton Pikarsky, whose department is designing Chicago's new subway, supported Willson's argument. "Planning cannot be effective without the co-operation of the user groups who will be affected by the plans," he said.

To Henry Jopes, who still sits at home, the city seems to be moving in the right direction. But the immediate travel problems still remain. "I'd love to help plan the new transportation system," says Jopes. "But how am I going to get to the planning sessions?"

Mr. PERCY. Mr. President, on March 6, Senator Dole and I introduced S. 1105, the antienvironmental barriers bill, which would encourage the renovation of buildings and transportation systems to be accessible to the handicapped and the elderly. The response to the bill has been extremely enthusiastic. On April 3, I shared with my colleagues some of the many supportive comments that I had received about the antienvironmental barriers bill. Since that time, I have received dozens of additional letters expressing appreciation for the introduction of this type of legislation and indicating the desire of individuals and groups to have S. 1105 enacted into law.

Saralea Altman, of the National Rehabilitation Association of Southern California, comments:

> By allowing a tax exemption for removing mobility barriers, small business owners and those who own smaller buildings will be more amenable to making the necessary renovations which will allow for greater employment of the disabled. At the same time, daily living will be made easier and disabled individuals can lead a more independent life.

Mrs. Ruth J. Ellis, of the Georgia Easter Seal Society for Crippled Children and Adults, Inc., writes:

> As you are aware, public buildings built with federal tax funds must include accessibility features. Many of the states, also, have state laws with which any building built with state, county, or municipal tax funds must also comply. But to get privately owned buildings to adapt has always had the obstacle of expense. Your bill, therefore, would certainly give the incentive as well as being a tremendous help. . . . Your bill, to our way of thinking, would indeed be a boon toward making communities accessible for the handicapped—thus enabling them to be able to participate fully and in a contributive way as well. Accessibility benefits everyone!

Dean F. Ridenour, executive director of the National Paraplegia Foundation, remarks:

> I personally know of two jobs which I would have been accepted for except that I could not get into the buildings in my wheel chair. Both of these situations could have been corrected very easily had the additional incentive been available.

John F. Snyder, president of the West Virginia Rehabilitation Association, writes:

> Please be assured of this Association's enthusiastic support of Senate Bill 1105 and please be assured also of our appreciation for your insight and leadership in the continuing fight to increase opportunities for independence and improve the quality of life for all disabled citizens.

The president of the American Institute of Architects, S. Scott Ferebee, Jr., comments:

> To our knowledge, the problem of removing architectural barriers in existing buildings in the private sector has not been previously addressed. The concept of income tax incentives is one we wholly support, primarily because it will stimulate action at all levels with a minimum of red tape.

This outpouring of support from across the country for S. 1105 has been gratifying. I am also greatly pleased by the introduction of similar legislation in the House by Congressman Cohen from Maine and Congressman Burke from Massachusetts. I sincerely hope that Congress will now respond positively and approve S. 1105 and other legislation designed to guarantee to handicapped and elderly citizens the right to live in a barrier-free society.

TO GET THE RIGHT ANSWER ABOUT ENERGY, YOU MUST ASK THE RIGHT QUESTION

Mr. HUMPHREY. Mr. President, I wish to call to the attention of my colleagues a provocative article about energy by Emma Rothschild which appeared in the July 19 issue of the New York Review of Books. Ms. Rothschild states that the question we all are asking, "Is there an energy crisis" may be the wrong question. She says it may not be answered satisfactorily because it does not get to the central issue which is that the institutions and corporations responsible for distributing energy have behaved in a way which is "incompetent, or disingenuous, and usually both."

While one may agree or disagree with this thesis, the article is very interesting reading and provides new insights into this area of critical importance to us all.

I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

What Is the "Energy Crisis?"

(By Emma Rothschild)

I

President Nixon's energy policy, expounded in April and amended in each subsequent turn of economic policy, down to the imposition in June of Freeze Two, has failed so far to halt even the rhetoric of the "energy crisis." The President's energy message was received with judicious commendation by large and small US oil corporations. Nixon proposed the liberalization of oil imports, increased support for domestic production and refining, relaxation of controls on natural gas prices, reduced concern for environmental protection, and a new system of tax credits for oil and gas exploration. These suggestions inflated the already high price of oil stocks. The *Wall Street Journal* quoted the opinion of an oil analyst that "the [unpredictedly but ambiguously munificent] tax credit was the only surprise in the energy message."

Nixon's statement stayed close to the hopes and exhortations, even to the language, of the petroleum industry's corporate advertising. His major projects followed most of the recommendations of the American Petroleum Institute, the National Petroleum Council, the American Gas Association, and the other institutes and associations that had described America's energy crisis. The presidential message achieved a tone that mixed the calm and * * * major and minor, multinational and nationalistic, Eastern and Texan voices of different energy interests: it was less sophisticated, less farsighted perhaps, than the reflections of the Mobil corporation, as advertised on the "Op-Ed" page of the *New York Times*, but less strident than the pronouncements of, say, the "New England Oil Men's Association."

Such a mixture of political-corporate business as usual was unexpected only because of the expense and momentous anticipation that attended Nixon's energy "initiative." Early descriptions of the forthcoming energy plan had promised the most global and photogenic policies. Soon after the 1972 election, Secretary of Commerce Peterson proclaimed that "the energy strategies and programs the President presents next year will be fully equal to his initiatives to the Soviet Union and the People's Republic of China." The subsequent message was prepared with the help of some sixty government reports, a cabinet super-committee, an energy overlord, a White House energy coordinator trained by the US Navy, and, sporadically, Dr. Kissinger's secretariat.

The *Wall Street Journal*, in January, noted that Kissinger's staff had organized "paperwork" on the strategic aspects of energy policy, and planned to "float it around the State Department, Pentagon, CIA and other concerned agencies." Energy policy was presented as a major endeavor for the period "after Vietnam." As one "Kissinger staffer" revealed, "Suddenly we've realized we should worry about energy problems. We've been pondering which matters to stress over the next four years, and this is certainly one."

The rhetoric of political anticipation suggested questions which a US energy initiative could not hope to answer. The message was, as one government official put it, a "disappointment." Policies of Kissingerian balance were never very appropriate to the complicated and essentially economic problems of supplying oil, coal, and gas. The eventual energy message in fact minimized issues of national defense. Commentators noted that it failed to mention the word "Arab"; Kissinger himself, with some instinct for bureaucratic self-preservation, seems to have extricated his group from prominent involvement in such unpromising and disputed problems.

Most of the conflict over energy policy had to do with domestic economic issues. Government energy strategy, from Nixon's message down to recent Administration attempts to regulate persisting energy shortages, was divided over the merits of applauding "free" competition and intervening to control it—the same issue that has fractured economic policy, and particularly policy to control inflation. Delays in the presentation of the energy message were caused, reportedly, by such questions as whether oil imports should be allocated to companies by fee or, in a purer spirit of free enterprise, by auction. President Nixon's chief energy counselor was John Ehrlichman, who presumably found particularly keen distractions in early 1973. Ehrlichman spared the time, however, to reveal in an interview published in the May, 1973, issue of *Nation's Business* that his "role changed from the first to the second Nixon administration to the extent that he . . . now is able to give more time to going into major issues, like the energy problem, in depth."

Other disputes concerned different business lobbyists, such as the producers, refiners, and marketers of oil, and industries such as the chemical business which are large energy users. Officials disagreed over policies for moderating the demand for energy, as distinct from expanding its supply; the presidential message eventually dismissed energy conservation with vague encouragement, summarized by Treasury Secretary Shultz in his explanation that in conservation policy "what we are trying to give is a sense of ongoing effort to address this problem."

The tone of these arguments also suggested a general retreat from the substance of environmental concern. This retreat, demanded by business, was signaled in Nixon's deprecation, earlier this year, of the "doomsday mentality," and in the remark of an Atomic Energy Commission official that the environmental movement is "seeing an analogue to the over-taking of the civil rights movement by the extremists several years ago." It was apparent also in fiscally conservative attacks on urban reorganization plans and on the northeast railroads, and in the continuing re-examination, sometimes reasonable and sometimes craven, of air quality and auto emission standards.

Such complexities made it almost impossible for government strategists to disentangle, for example, the time periods of the "energy crisis." Yet a confusion of time periods goes to the heart of energy difficulties. US energy "crises," as described in hundreds of corporate advertisements and official pronouncements, include: immediate problems of distributing gasoline, heating oil, and other fuels, on a month to month basis; questions of energy production and oil refinery capacity for the next three years; problems of world oil supplies for the next fifteen years, and of finding "alternative" fuels as a substitute for oil; and finally a long-range "crisis" of industrialization and natural resources. These problems are distinct, although the resolution of each has to do with prices and corporate decisions about prices.

Each problem raises different, grave problems of political evaluation. An immediate example of these problems is shown in the recent Administration proposal, now postponed for apparently political reasons, to reduce energy demand by raising gasoline taxes. Such a strategy, unless combined with selective tax increases, would discriminate against the poor, who might be forced to reduce recreational and vacation driving, since automobile commuting is compulsory for most US jobs. The development of alternative fuels, to take a longer term example, will raise even more difficult questions. Public policy should, in this case, weigh the power of US industries, such as the chemical or automobile or trucking businesses, which are dependent historically on cheap oil; the benefits to consumers of lavish oil use; and the cost of developing new coal or oil shale, particularly to people living in the Western states where such fuels would be mined. Yet these difficult evaluations have seemed, to the high officials of the Nixon Administration, as inconceivable as subtracting the moon from the stars, or oil shale from automotive mobility.

II

The immediate energy crisis of gasoline shortages, halted tractors, and emptied Colorado schools is now a subject for angry incredulity. Even President Nixon has suggested that present troubles do not constitute a "genuine" energy crisis. Armies of local, state, and federal officials address the question of whether energy shortages are "real"—finding no answers, while shortages, which are real in a most concrete sense, persist.

The question *is there an Energy Crisis?* may not be answered satisfactorily, because it is, in a sense, the wrong question. What can be shown is that the institutions and corporations responsible for distributing energy have behaved in a way which is incompetent, or disingenuous, and usually both. Questions about the reality of the energy crisis confront issues of corporate and competitive privacy. Independent gasoline marketers have been the main victims of present gas shortages, often unable to obtain supplies after large producers have supplied their own gas stations. Yet even the independents cannot prove deception in the general allocation of supplies.

There are few relationships more protected than the association, in petroleum distribution, among companies, their local depositories, their routing managers, their tanker drivers—and few decisions more obscure, even to most corporate employees, than the evaluation, in petroleum investment planning, of future demand and prices, of construction technology, and of the profitability of refinery building. Yet the cumulative effect of corporate behavior can now be seen much more clearly in the history of present energy disruptions.

Corporate crisis advertising is constantly critical of "environmentalist" or "doomsday" constraints, yet it has played quite openly on public anxieties about long-term dangers to the environment. Energy publicity relies on such images as electric lights that fail, frame by frame, or of the US "dangerously dependent" on barbaric foreign sellers of natural resources: these images, as will be seen, have very little to do with the business practices that cause energy shortages.[1]

Immediate fuel shortages are caused, evidently, by failures of distribution. When Denver ran out of heating oil there was oil in Pennsylvania, and when Long Island filling stations rationed gasoline, gas flowed freely in New Jersey. Some initial presumption of corporate disingenuousness is indicated by the financial scale of operations: the American Petroleum Institute and the American Gas Association alone spent $12 million on three recent energy campaigns, and individual corporate advertisers dispensed comparable sums—enough money, at least, to airlift heating oil to every school in Denver. Meanwhile proficiency in distribution has been among the proudest boasts of US oil companies, since an apologist for the Standard Oil Trust proclaimed in 1900 that "petroleum today is the light of the world. It is carried wherever a wheel can roll or a camel's hoof be planted. . . ."[2]

A study of energy use in *Scientific American* comments that the shortage of liquid fuels now presents "no real technological problem . . . along the distribution chain," and that "it is easier than keeping grocery shelves stocked."[3] Even supplying a satisfactory "mix" of petroleum products—heating oil in the winter, or industrial fuels, or gasoline in the summer "driving season"—is comparable to the challenge grocery stores face when they supply lemonade in July and turkeys in the fall. Further presumptive evidence for disingenuousness is shown, of course, in the by now notorious pattern of energy shortages, where rationed fuel distribution discriminates against and occasionally bankrupts independent and cut-price marketers, where along a single highway favored stations find supplies and independents lock their pumps.[4]

Public concern about the status of fuel distribution problems has forced the energy corporations to retreat to a more sophisticated rhetorical position. Corporate advertisements of the last few weeks have emphasized the "three year" problem of insufficient refinery capacity, and the technical difficulties of importing foreign oil. Yet these problems, as obscure and as private as imperfections in distribution, show the same pattern of deviousness and incompetence. Even the limitations of existing refinery capacity are surprisingly flexible. For several weeks during the recent "gas crisis," US refineries produced less gasoline than during gas booms. A June advertisement by the Amoco corporation displays this ambiguity, in a crisis "progress report" qualified to the point of meaninglessness: *"Primarily,* the situation is this: demand has outstripped our country's crude oil supply. (Even though Amoco refineries are running well ahead of last year. And at *practical* maximum with *available* crude.)"[5]

Another indication of the complexity of these questions was given in the press briefing which followed the presidential energy message. Deputy Secretary of the Treasury William Simon complained that "at present there are no new (US) refineries underway," and that "this is in a period where all the refineries are operating at 100 percent of their effective capacities." Later, Mr. Simon was asked to explain the new regulations allowing extra imports of crude oil.

Q. If the refiners are at 100 percent capacity, of what value and what will happen to the new crude oil that comes in here for refining?

Mr. Simon. There are refineries inland that are not operating at 100 percent.

Q. So your 100 percent was a very vague number?

Mr. Simon. No, it wasn't vague. A great majority of them are functining at 100 percent.

What these evasions indicate is that, predictably enough, refinery limitations are determined by economic and political costs, rather than by technological necessity.

The problem of refinery construction is similarly hedged with confusion. A major corporate explanation for the energy crisis is that only one new refinery has been built in the US in the last several years. A Mobil advertisement asks, "Why haven't oil companies built more refineries here?" and answers (with the standard qualifications, here italicized), "*Mainly* environmental and financial constraints . . . [which] have *effectively* kept oil companies from obtaining satisfactory sites for new refineries." Such constraints, of course, make refinery construction not impossible, but more expensive (and if oil prices increase dramatically fast, Mobil will presumably be prepared to build idyllically clean refineries). Even the emphasis on new refinery construction obscures the extent to which companies could, quietly if expensively, add new capacity to existing refineries if they wanted to (and as Atlantic Richfield has recently proposed).

What the "energy crisis" propaganda reveals is a corporate desire to increase prices, particularly at the level of retail and wholesale business, which has been less profitable to US oil companies than the production and first sale of crude oil. The timing of refinery construction can give some indication of the political component of the "crisis," and of the inflationary promise of present government policy. In the three weeks after Nixon's energy message, five major refinery construction projects were announced, with thirteen more expected, and the prospect of what *Barron's* calls a "bonanza" of doubled revenues for construction contracting firms. These projects were waiting, evidently, for political support; it should not be supposed that Exxon, for example, planned a $400 million expansion in the space of three weeks.

More generally, refinery construction problems show the inefficiency and irrationality of "free" energy investment. Oil companies were incompetent in failing to predict and plan for expansion of gasoline demand in the 1972–1973 national boom. They have been unwilling to build new refineries because they experienced excess capacity after a building splurge in the 1960s, which in a classic example of business overshoot, stimulated attempts to create more demand: campaigns to "Discover America" by buying more gasoline, the selling of excess gasoline at discount prices to the same independent retailers whom major suppliers are now attempting to crush. These failures provide the background to energy shortages: neither incompetence no disingenuousness is much in doubt.

The momentum of the present energy "crisis" comes down to a play to raise prices,

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Footnotes at end of article.

a corporate demand for immediate price increases and for longer term government support. The play has succeeded so far, as shown in the recent contrite remark of a Cost of Living Council official that "if our regulations [against oil inflation] are causing a supply problem, we'll change them. We don't want to aggravate the situation." Gasoline prices have been frozen, in Freeze Two, at a level sometimes nine cents a gallon higher they they were in January, 1973.

A Wall Street analyst, observing higher prices, sees 1973 as "one of the classic growth years for the [oil] international."[6] Oil companies, with already inflated earnings, note that "product prices [have] generally recovered considerably" this year, and are gratifyingly "firm." *Business Week,* seeing "sharp" increases in refinery profits, quotes the opinion of a Phillips Petroleum executive, "There's such upward pressure on prices right now that there's a good opportunity coming in refining." The price of crude oil is also expected to increase, notably faster than the general rate of inflation. A prominent oil tycoon, in an intimate moment when his company's share price potential was in dispute, confided the industry's hopes to the *Wall Street Journal:* "We think we can continue to find oil and gas for the foreseeable future. We see tremendous increases in crude prices over the next five years and this should contribute to rising income."

Increases in the price of fuel are now accepted as inevitable, and even desirable. A Sierra Club representative quoted in *Business Week,* recently told US senators that "we invite the leaders of the resource extraction industries to join with us in supporting the free enterprise system . . . to overcome the 'energy crisis' by recognizing the proper and essential role of price in allocating resources and balancing supply demand." That such recommendations should seem either rational or equitable must be counted as a triumph for the energy industries' scheme to receive new "incentives." Corporate energy advertising (as in a eulogy by Mobil of the oil companies' "good track record" in predicting likely disruptions of supply—"Oil companies knew the shortage was coming. We knew how it could be averted") improved self-fulfilling prophecy to the point where corporations predicted what their own behavior would be if they did not receive adequate incentives to act in a specific way; and this confused but commercially effective prediction was, of course, not a prophecy but a threat.

III

The most conspicuous energy problem for the medium term of ten to twenty years—the problem which provides the energy crisis with much of its geopolitical allure—has to do with the supply of oil. As the American Petroleum Institute puts it, "A nation that runs on oil can't afford to run short," and as other energy advertisements continue, "Every man, woman and child in the USA" runs on a little over three gallons of oil every day. Traditional sources of cheap and convenient oil now present increasing problems, and the fields of Texas and Oklahoma, California, Louisiana, and Venezuela can no longer supply US demand. These changes seem to threaten financial and military vulnerability—Senator Hubert Humphrey pronounces that "the sheiks of Arabia [may] control the dollar," government officials see "serfdom" for the US, the *New York Times* fears, editorially, the "Gnomes of Araby" and their "stockpile of rootless dollars."

The military situation appears even more vividly menacing. More than a third of the world merchant fleet carries petroleum, and the need to protect oil tankers supports world production of naval destroyers: Admiral Elmo Zumwalt of the United States Navy finds an exciting challenge in preserving the "flow" of world oil, since "to the citizen of a less technologically oriented society there is nothing quite like a shipshape destroyer making a call."

In the rhetoric of the energy crisis, such vistas will develop imperceptibly from present disruptions of supply. Yet the constraints which influence the world petroleum market are different from those shaping US oil refining and distribution—although both "crises," like all problems of energy supply and demand, have to do with prices, and costs, and business interests. The immediate situation of US oil supplies is hardly terrifying: in 1972 the US, which is still the world's leading oil producer, supplied more than 70 percent of its own oil, while of the oil it imported, more than 70 percent came from Canada and Latin America.

In 1973, according to predictions in a "fact sheet" that accompanied the President's energy message, less than 14 percent of oil used in the US will be imported from the entire "Eastern Hemisphere," including countries outside the Middle East. The fact sheet was more concerned about expected future imports, and about expected dependence, in the 1980s, on the Organization of Petroleum Exporting Countries, or OPEC, a "cartel" which controls three quarters of "the free world's oil reserves": OPEC, which was formed in 1960, now comprises Iran, Iraq, Kuwait, Saudi Arabia, Venezuela, Qatar, Libya, Indonesia, Abu Dhabi, Algeria, and Nigeria.

Future dependencies will be determined, as the fact sheet points out, by the continuation or interruption of present trends in oil consumption and production. But the *shape* of future supply and demand is already evident, in the sense that the momentum of world oil production has shifted from the US to underdeveloped countries of Africa, Asia, and the Middle East. A general pattern seems clear, despite the confusion which surrounds the science of oil predictions. Of all oil produced in the first hundred years of the large-scale world oil industry, from 1870 to 1970, 40 percent was produced in the US; of oil produced between 1970 and the end of large-scale production (possibly around 2020), less than 10 percent is expected to be drilled for in the US. The US will meanwhile, at least for the immediate future, continue to consume 30 percent of all oil produced in the world. The US Geological Survey, noting that oil *reserves* are estimated on the basis of assumptions about prices, about economic, and technical feasibility, proclaims that "oil must be sought first of all in our minds"; yet it concedes also that "it is extremely difficult to envision circumstances which would make the United States ever again economically self-sufficient in oil and gas."[7]

The problems of oil importing are in no way peculiar to the US, and energy troubles are in fact notably more menacing in almost all foreign countries. Officials of the European Common Market have said (with what the *Wall Street Journal* describes as "a characteristic European style of rhetoric") that "he who is in possession of energy products is in possession of power. And this literally as well as figuratively . . ."; that "quite literally" the lights might soon go out all over Europe. Japan, which supplies 75 percent of its energy needs with oil, imports about 99.7 percent of the oil it uses, each day producing 15,000 barrels of oil and consuming 5,000,000. The US uses oil for only 46 percent of its energy needs, and its oil-based pattern of economic growth, which US corporations have exported around the world, was made possible historically by munificent American oil fields from Pennsylvania to California.

For other countries the entire development of an oil-dependent society has required access to cheap and convenient foreign supplies (as in Britain, which with lavish coal resources depends on oil for almost half of its energy, compared to less than a quarter in 1960, or South Korea, also supplied with indigenous coal, which uses oil for nearly half of its energy needs, compared to less than 10 percent in the early 1960s). More generally, oil consumption required a world trade in natural fuel resources comparable to that obtaining for the last eighty years in metals, minerals, and agricultural production, where poor countries supply richer countries with raw materials, at a price which reflects the subordinate political status of the producing nations.

Buying resources from the rest of the world has been less important in the richly endowed US than in other industrialized countries. Yet US preoccupation with such commerce and its economic costs is now increasing—because of energy needs, because of continuing US demand for strategic but imported minerals, because the commodities to be traded now include such "goods" as clean air and water. US companies build "dirty" refineries in the Caribbean, and Southern California utilities import "clean" low-sulphur oil from Indonesia, while Japan uses coal stripped in US mines, and plans refineries, steel plants, and other polluting factories for coastal areas of South Korea and Taiwan. World crude oil trade is part of this global commerce, and like other public or private commercial endeavors, it is influenced by economic decisions. For the US, as for Europe or Japan, petroleum importing is a matter not only of military vulnerability, but also of costs and prices, of the shape of the domestic economy.

Rich countries face three major threats in importing oil. First, their supplies could be cut off or cut back; second, they could come under diplomatic attack when, for instance, Arab OPEC nations attempt to weaken US and European alliances with Israel; third, their economic and financial institutions could be disrupted as exporting nations acquire huge sums of money. The third threat is seen, at least by world business, as the most alarming; yet each menace is affected by the price of oil, and by the perceived economic and social costs of supplying fuels from alternative sources.

In the case of the first two "political" threats, a strategic objective of oil consuming countries (acting jointly or in mutual hostility) is to exploit differences between more or less amenable oil exporting countries—and the capacity to exploit such divisions may depend on economic and price discrimination, on the willingness to forego cheap oil. (Political intervention to support or set up favorable regimes is also of course to be expected). The entire oil policy debate has to do with the fact that OPEC, and specifically Middle East oil, was sold in the past at bargain prices. Middle East oil, from Iran, Saudi Arabia, and other other countries around the Persian Gulf, has been and remains extremely cheap to develop and produce. It cost, recently, 10 cents a barrel to produce, compared to 82 cents a barrel for Indonesian oil, and $1.31 a barrel for US oil.[8] (A barrel contains forty-two gallons, so the production cost for a gallon of Middle East oil is one fifth of a cent.)

Middle East oil was also, in the 1950s and part of the 1960s, available at low royalties, barely higher than the royalties and taxes on US crude oil, and much lower than the taxes imposed in the US and Europe on oil consumption. When *OPEC was formed, in 1960,* producing countries shared oil revenues equally with oil companies. In 1948, according to OPEC statistics, this ratio had favored oil companies by 82 to 18; in 1970, the ratio favored producing countries by 70 to 30. OPEC taxes now account for approximately $1.50 of the $2.00 that a barrel of oil costs in the Middle East, an increase of almost 50

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cents a barrel in the last three years of price negotiations.

This past cheapness is a major reason for the pre-eminence of Middle East oil in world reserves—accounting for 65 percent of reserves in noncommunist countries, and 55 percent of all world reserves.[9] Middle East oil was convenient—economically, geologically, and to British and American oil companies, politically. Yet the observation of the US Geological Survey, that oil must be sought in the mind, applies to world oil exploration as well as to the US, at least for the next twenty years of oil production, during which physical limits to world production will not yet be of decisive importance.

Oil is being found, and reserves proved, in parts of the world less lavish geologically than Saudi Arabia. Exploration has followed political perceptions. Consuming countries and their oil corporations commit huge amounts of money to oil exploration in producing regions which, although not cheap and convenient, seem politically "stable." The most enthusiastic of all recent exploration, outside such "industrialized" areas as the North Sea and northern Canada, has been in the potentially amenable and non-Arab OPEC regions of Nigeria, and Indonesia, whose recent bonanza is seen on Wall Street as "extraordinarily fine." This desire for stability also explains much about the US and Japanese energy expansion into the Soviet Union. As one "American banker" in Hongkong told the *Far East Economic Review:* "To be frank, the Russians have a triple-A credit rating—which is something very few people have in this area, and you don't have problems like corruption in Siberia."

Oil importing countries make themselves more vulnerable to logistical and diplomatic attack to the extent that they are reluctant to accumulate expensive stockpiles of oil and to undertake the economically, socially, and politically much more costly task of developing contingency energy supplies. An OPEC shutdown could only be effective between the short term of perhaps three months, when stockpiles could meet a (reduced) demand for oil, and the time, six to twelve or more months later, when technological ingenuity or military intervention would replace fuel supplies. It could be effective only between the near future, when dependence on "Eastern" oil is still limited at least in the US, and the more remote period when energy importing countries develop permanent substitute fuels. A slowdown or cutback in OPEC supplies is more likely and more menacing than a total shutdown. OPEC countries and particularly the richer ones are justifiably concerned to limit depletion of the oil that is their major national resource. Yet even in the case of a slowdown, the vulnerability of consuming countries would largely depend on economic decisions about the cost of alternative energy resources.

The second, diplomatic, menace is mitigated, evidently, by similar preparations and price adjustments. Japan and the US display sharply different diplomatic attitudes in the Middle East. Until the last few months, they have depended on this region, respectively, for more than 80 percent and less than 5 percent of all their crude oil. Diplomatic threats, including the threat to the US posed by hostility to Israel, cannot reasonably be isolated from economic issues; these include the cost of investment in the fuel-producing regions, the involvement of US or European corporations in OPEC countries, the stability of domestic oil-intensive industries, even the balance of payments constraint, which encourages the US, for example, to export the products of its competitive arms industry to even more countries in Africa and the Middle East.

The third menace to oil supply, a threatened disruption of financial and economic institutions, is described by *Wall Street Journal* editorial writers, speaking for the financial world, as the "most serious aspect of the energy 'crisis.'" This menace derives from the fact that advanced oil importing countries pay large sums for the oil they buy—the US alone will probably spend some $15 billion a year in the 1980s. This expenditure would have serious consequences for the US balance of payments, and for the whole complex of economic policy trade-offs. Joseph Alsop has raised the prospect, in this context, of US dollars coming "to resemble confederate greenbacks." The economic measures needed to prevent payments deficits might involve an expansion of the arms industry and its exports, or a further increase in America's other major export trade, in agricultural products, which has been repudiated by Nixon's latest economic policy in the interests of price stability and domestic consumer choice.

More generally, if the money received by oil exporting countries is kept in short-term, liquid investments it will seem to threaten the stability of international financial arrangements, to the extent that states owning such investments will be able and willing to move funds rapidly from one currency or country to another. If the money is invested in long-term projects, advanced countries might lose control of certain domestic industries. Oil exporters may soon take over some refining and marketing operations that the oil corporations now control, or demand that petro-chemical plants and, as Saudi Arabia has suggested, aluminum factories be built in producing countries. Business interests anticipate such investments with mixed fear and relief, as bringing, on the one hand, the terrors of a foreign take-over of Texaco or comparable corporate landmarks, yet on the other, a salutary involvement of oil producing countries in preserving international business stability, as Kuwaiti-owned gas stations become vulnerable, perhaps, to US government expropriation.[10]

Even the most political of oil problems have to do with the actual price of barrels of oil. The constant menace is that oil exporting countries will, in the words of Professor Adelman of MIT, the American oil "optimist" and scourge of OPEC, "overcharge" consuming countries, will **like** "a hungry tiger" demand ever more "red meat" by imposing higher taxes. This fear is further complicated by the activities of international oil companies. *Business Week,* quoting the opinion of Gulf Oil's "director of economics" that "We have an interest in getting the crude out of the Middle East as fast as we can while there's still a profit in it," notes that the new Nixon energy policy in this situation gives "the best of both worlds to the big international oil companies." Meanwhile oil corporations, simultaneously producers and marketers of petroleum, can be expected to use the excuse of a crude oil crisis, and of notoriously tigerlike OPEC demands, to increase domestic oil product prices by as much as and probably more than the extent of cost increases—a technique used most effectively in Europe by US and foreign-owned companies during the last three years of publicized OPEC negotiations.

It is certain that crude oil prices will continue to rise: OPEC producers hope and intend that their tax component of crude prices will increase until the total cost of "cheap" OPEC oil is as high as the cost of alternative fuels available to oil importing companies. (New domestic fuels, such as oil made from shale rock, or by coal liquefaction, will become "competitive," according to the National Petroleum Council, when the price of crude oil rises to more than $5 a barrel, from its present price of between $3 and $4 a barrel.) Yet this process of substitution, which Nixon's energy policies have attempted, halfheartedly, to encourage, will involve domestic conflicts that, for Europe and Japan as for the US, go beyond even the troubles of inflation and economic policy.

Increases in the price of natural or synthetic oil will damage permanently some of the largest US industries, not only truck and auto transportation, but the manufacture of synthetic fibers, and the production of electricity in oil-powered plants. Meanwhile producing alternative fuels would also expose the true national costs of energy use, as Long Island or Osaka is compelled to process its own fuel; or as, in a denial of fairness, Colorado's shale mountains are devastated for the convenience of California, Welsh coal towns for southern England or for western France. If these social costs, or the expense of avoiding them, are accounted for, alternative fuels become yet more expensive than the Petroleum Council expects—and yet more inconvenient relative to foreign oil.

To see the economic basis of oil supply problems is not to deny the catastrophic potential of the conflict over oil. A momentously geopolitical language, predictions of material vulnerability, diplomatic and naval activity around such perennially disputed locations as the Straits of Malacca and the western Indian Ocean, all recall strategic fears described in the late 1930s. Japanese planners are justifiably concerned, for example, about tanker routes, about the Indonesian oil industry, which flourished in the late 1930s, about comparisons between the US oil embargo in 1941 and recent US-Soviet energy deals, about the control of world mineral commerce by foreign, and particularly US companies.

Now, as in the years before the Second World War, the worst dangers derive from conflict among advanced or oil importing countries—and sometimes from the perception more than from the reality of vulnerability. Former Commerce Secretary Peterson has warned of a "wild and cannibalistic scramble" among industrialized countries, for energy and external earnings. In such a situation, perceptions of a global energy crisis, reaching from today in US service stations to 1990 in Madagascar, seem particularly ominous, a self-fulfilling vision of technological and natural inevitability.

The rivalry of advanced countries, whether expressed in direct military confrontation or through special relationships to oil exporting countries, is a major but not of course the only danger of petroleum conflict. Senator Fulbright is almost alone in the US in warning publicly that "our present policy makers and policy influencers may come to the conclusion that military action is required to secure the oil resources of the Middle East, to secure our exposed jugular." Yet any military aggression by oil-producing countries would be made possible by US and European arms exports. The US is now planning to supply arms and advisers worth an expected $4.1 billion to Saudi Arabia, Kuwait, and Iran, while such a minor merchant as Britain enjoys a $625 million contract to improve the air force of Saudi Arabia.

One US commentator has described these endeavors as "a second essential pipeline to the US—a pipeline of continuing military equipment, spare parts, and training" (Michael Berlin, in *The New York Post,* June 1, 1973). The prospect of such a military "presence," given the evidence of earlier presences, must inspire only the deepest fear and pessimism. For US policy makers this presence supports both open and covert economic needs. It protects diplomatically supplies of oil which are still cheap compared to any domestic substitutes; but it also encourages the export trade in war materials which will become so valuable to the troubled US balance of payments.

Even where geopolitical conditions most recall the menace of 1940, oil commerce still

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Footnotes at end of article.

has to do with economic relations. The second World War itself, while hardly a model for peaceful or long-term industrial adjustments, can provide examples of economic ingenuity in the use of fuels and minerals. Shortages of raw materials damaged the military effort of Nazi Germany only after several years of war. German engineers preserved resources by scrap recycling, conserving alloys, and devising substitutions. They used a Farben method for making oil out of coal, and invented the Lurgi process for coal gasification which now appears as an essential technique in America's struggle against the energy "crisis" of the 1970s and 1980s.

Whatever direction energy policy takes in the long run, it will face the question of how technological substitutions can be induced, in a situation less urgent than that which the Lurgi company confronted. But policy makers also need to evaluate the economic benefits involved in energy use. They will be forced to discriminate, either consciously or by default, between different industries which consume or waste energy. They will decide how much of the inconvenience of energy conservation should be borne by business and how much by consumers, how much by the rich and how much by the poor. Such questions have been buried in the capitulations and market ideology of recent domestic policy. Yet even if they are not raised they will be answered, in some more or less purposeful fashion.

These difficulties, and the general problem of "equating" distinct costs and benefits, can be seen in the development of alternative fuels, in energy conservation, and in the evaluation of energy use, all of which will be considered in a second article. Some small comfort may be found, perhaps, in long-range industrial trends away from intensive energy use and toward the increased sale of computer processes, or services, or telecommunications. Such trends will at least cast doubt on the view, implicit in present concern to secure energy supplies, by ever more disruptive means, that there is some equivalent between increased energy use and industrial growth, or even between energy use and progress.

FOOTNOTES

[1] Energy corporations are not of course alone responsible for publicizing the idea of an energy crisis, although as the agents directly responsible for fuel shortages, their intervention has particular force. A noncorporate but congenital view is given in a book, *The Energy Crisis*, by two scientists, Lawrence E. Rocks and Richard Runyon (Crown, 1972). These authors are influenced by the Meadows analysis in *The Limits to Growth*, and they believe that "the most profound issue we face today is an impending power shortage," that "an energy gap is opening up in America sufficiently wide to cause a total industrial collapse in one decade."

Their scenario for the "accelerating power crisis" surpasses even the methodology of *Limits to Growth* in moving from "would" to "*will*": "What *would* the United States be like if we suffered a massive power default, with no viable alternative energy sources? . . . At the beginning, the cost of gasoline and oil products *will* increase . . . there *will* be restrictions placed upon the use of luxuries. . . . Our entire network of interrelated institutions *will* feel the shock waves [of energy rationing]. Forgotten *will* be our lofty ideas of justice and democracy. . . ." This timetable, as much as that of Mobil or the National Petroleum Council, mixes different problems in a single gloomy fate—accepting also the equivalence of progress and energy consumption, and the necessity of technical rather than political solutions.

[2] Quoted by Ida Tarbell in *The History of the Standard Oil Company* (reprinted by Norton, 1969). The company apologist continues: "The caravans in the desert of Sahara go laden with Pratt's Astral, and elephants in India carry cases of 'Standard-White,' while ships are constantly loading at our wharves for Japan, Java and most distant isles of the sea."

[3] *Scientific American*, "The Economic Geography of Energy," September, 1971.

[4] Gasoline allocation is now to be supervised publicly. When Nixon's voluntary allocation scheme was announced in May, oil companies reacted with their customary unanimity, Exxon expressing "serious concern about the practicality of the plan" and Mobil "seriously concerned about [the plan's] legal implications." But Mobil subsequently retracted its legal concern; a company spokesman, groping after the Zieglerian locution "to inoperate," announced that the previous statement had been "withdrawn."

[5] Italics added: has demand outstripped supply or has it not, and is supply limited by refinery capacity or by the availability of crude oil? The main technical difficulty, in the very short term, of increasing crude oil imports is that some US refineries cannot process high sulphur foreign crude without expensive modifications. The main difficulty of increasing gasoline imports is that while many US and foreign-owned refineries in Europe have considerable excess capacity, they are organized to produce relatively little gasoline compared to heating and industrial fuels, and gasoline which suits small European rather than large American cars. These difficulties are costly to overcome—but it is a cause for grave alarm if they are beyond the competence of the corporations which for seventy-five years have lit the lights of Java and Japan.

[6] *Barron's*, June 11, 1973. The same analyst, in *Barron's* for June 18, explained further:

Q. If I read you correctly, we're in the throes of a bona-fide energy crisis. . . . If that's the case, why bother with oil stocks at all?

A. The bleak picture I painted was not for oil company profits. It was for tighter supplies, rationing and fundamental changes which will see more and more intervention in the industry's affairs by both producer and consumer governments. But all this can be true and rates of return on assets can still go up.

[7] *United States Mineral Resources* (Geological Survey, 1973). According to the oil industry's present estimates, total proved world oil *reserves* amount to 663 billion barrels, of which 38 billion are in the US. The Survey points out that in business use "the term *reserves* generally refers to economically recoverable material in identified deposits"; it classifies total oil or other mineral *resources* according to the distinct criteria of (economic) recoverability and (geological) certainty, with "*proved reserves*" classified as both cheap to recover and proved geologically. The rate at which resources become reserves depends, evidently, on factors of cost and technological optimism.

Past oil prophecies have been notoriously unreliable at least since the anxious expectations of economists in the 1900s about what was described as the "exhaustion of the American oil fields." Yet geological and explanatory techniques have improved notably in the last twenty years, while the volume of world exploration has also increased, with the land areas of the "lower 48" US states particularly well prospected; the (pessimistic) chief geologist of British Petroleum has written that "most sedimentary basins of the world have been explored to some extent, and a surprising number of them to a considerable extent."

Recent estimates have even seemed overoptimistic. Alaskan oil, for example, is now expected to supply, by 1980, less than a tenth of US oil demand, and substitute for a fifth of estimated imports. Yet as recently as May, 1970, the Department of the Interior wrote that "until July 18, 1968 [when the first major oil discovery on the North Slope was announced] many authorities, from government and industry, continued to forecast in varying degrees an impending 'energy gap' occurring on or about 1975 when indigenous supplies of petroleum would be insufficient to meet the growing demand. . . ." The Department continued, in an abruptly unfortunate metaphor, that the "contagious optimism" of July, 1968, subsequently "spilled over from the Prudhoe Bay Field to the whole of the North Slope, into the Canadian MacKenzie River Delta area, up to the Arctic islands, and southward into the Gulf of Alaska."

[8] Quoted by Jahangir Amuzegar, chief of the Iranian Economic Mission to Washington, in *Foreign Policy*, July, 1973.

[9] Oil reserves are counted in the *International Petroleum Encyclopedia*, 1972, published by the *Oil and Gas Journal*.

[10] The clamorous outrage which has greeted the prospect of OPEC investment recapitulates many myths of modern business. A basic assumption is that money earned from the sale of natural resources is not really deserved. As one international symposium put it, describing Saudi Arabia, "In the first place, their wealth is not the result of their own labor" (*The Changing Balance of Power in the Persian Gulf*, American Universities Field Staff, 1972). The oil just lies there in the ground, and nobody worked or sacrificed or accumulated in order to own it. Short term investments raise further prejudices. Oil exporting countries which keep their monetary reserves in liquid, easily accessible form, and move their "rootless stockpile" as currency after currency is devalued, are accused of "childish" caution—while such impeccably rooted dollars, as those managed by the treasurers of huge multinational corporations can evade most devaluations in the name of financial responsibility to shareholders.

STRONG SUPPORT FOR CONGRESSIONAL BUDGET REFORM

Mr. PERCY. Mr. President, on February 28, 1973, I sent a number of businessmen in Illinois a letter informing them of efforts in Congress to reform the legislative budget system. In this letter I noted the controversy over responsibility for recurrent Federal deficit spending, and the arguments in favor of a procedure requiring congressional consideration of spending legislation in light of overall national priorities and spending goals. A summary of my own bill to effect such a reform—S. 846—was also contained in the letter.

As a result of my letter, I received during March a large number of responses supporting the enactment of congressional budget reform. These letters came from all types of businesses, large and small, throughout Illinois. My constituents expressed their strong belief that the Congress must undertake to reform its responsibility for the Federal budget, and that efforts in Congress to establish a self-monitoring, self-regulating system for Federal spending are dictated by simple commonsense.

The Subcommittee on Budgeting, Management, and Expenditures of the Government Operations Committee is currently marking up a bill, S. 1541, to create a reformed congressional budget system. I believe it is imperative that the legislation reported by that subcommittee and by the full Government Operations Committee establish for Congress a strict program of fiscal self-regulation.

Congress has been claiming for years that its constitutional role in the determination and implementation of Federal policy is threatened. I submit, Mr. President, that if we do not enact a congressional budget reform program that reflects a sober commitment to self-discipline, our complaints of usurpation of our role in the creation of Government policy and programs become empty rhetoric. We cannot expect to exercise leadership if our own actions are not responsible. And we certainly cannot expect to keep the confidence of people throughout the country who are heartened by our new efforts at fiscal reform and who support them so strongly.

Mr. President, I ask unanimous consent that a copy of my letter to my constituents and a selection of their responses be included in the RECORD at this point as an indication of the public's endorsement of congressional reform of its appropriations process.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., February 28, 1973.

DEAR BUSINESSMAN: The current controversy over the President's budget and Executive impoundment of funds appropriated by Congress has overshadowed a serious problem that strikes at the heart of fiscal responsibility in government.

Some say the President has defied the will of Congress by calling for the elimination of various programs in his recent budget message and refusing to spend certain funds appropriated by Congress. But others say the fault lies with Congress, which has appropriated funds without regard to priorities or available revenues.

I believe that before Congress can pass judgment on the President's budget, it must put its own financial house in order by reforming its budgetary process. Presently there is no relationship between the procedures used for raising revenues and those used for spending them.

Our system in Congress of raising and spending revenues resembles a corporation that spends without regard to its income or priorities. It is as if the officers and executives wrote checks without reviewing the corporation's economic health or plans for the future. Most corporations that acted in such an irresponsible manner would soon face bankruptcy.

Yet this is the way the Congress spends the taxpayers' money. We do it through a system that is fragmented and antiquated. The system has gone virtually unchanged since the Civil War. Provisions for reform were made in the Legislative Reorganization Act of 1946, but they were ignored and finally repealed in 1970. It is time for a renewal effort to reform the system.

I have proposed a system that would require Congress to take stock of the government's anticipated income and set priorities before the spending begins. Under my bill, a Joint Committee on the Budget would be created, to consist of senior members of the four Congressional committees charged with raising and spending funds—Ways and Means and Appropriations in the House, and Finance and Appropriations in the Senate. The Committee would meet early each year to review the health of the economy and the President's budget and annual economic report. It would then set a spending ceiling for the next fiscal year based on estimated government receipts, and would assign spending limits to the Congressional committees and subcommittees responsible for spending.

By March 30, the Committee would report its recommendations to Congress in the form of a Joint Resolution. No appropriations bills would be passed until the resolution was accepted.

Adoption of this plan would restore order to the Congressional budgetary process. It would be a signal to the Executive branch of government that Congress is raising and appropriating funds in an orderly and responsible manner. Most of all, it would show the taxpayers that Congress is spending wisely and living within its means.

In 1968, I supported legislation that established a budget ceiling and resulted in an 8 billion reduction in the budget. As a consequence, we had a balanced budget in fiscal 1969, for the first time in many years. The proceedure that I am now suggesting provides a formal structure that can bring fiscal responsibility into the federal government in the years ahead. Without such action, we will never be able to truly control inflation.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, D.C., March 7, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Congratulations on your letter of February 28 . . . the one addressed "Dear Businessman."

I read it with great pleasure, from start to finish.

I'm very happy you're staying so involved in this issue of budget control. Your description of current Congressional procedures was excellent—and points up clearly why Congress simply must improve its handling of the budget.

Stick in there and fight. We'll help every way we can on this issue, because we consider it a top priority for this Congress.

Cordially,

ARCH BOOTH.

CHICAGO, ILL., *March 12, 1973.*
Hon. CHARLES H. PERCY,
U.S. Senator, Illinois, Committee on Government Operations, U.S. Senate, Washington, D.C.

DEAR CHUCK: I do not write many letters. However, as I read your letter of February 28th, I wanted to write to say to you that I received it, I read it and I agree with you.

Keep up the good work.

Sincerely,

BENJAMIN C. WILLIS.

CONTINENTAL BANK,
Chicago, Ill., March 16, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I appreciated receiving your letter of February 28, 1973, concerning your proposal of a system that would require Congress to take stock of the government's income and set priorities before spending.

I have often wondered why such a system has never been instituted by Congress long before this. I agree that if we operated our personal finances, as well as our corporate finances, in the manner currently followed by Congress, we would all be bankrupt in very short order.

I hope that other members of Congress will also see the merits of such a system as you are proposing. I feel there is no more vital task confronting us all than establishing a better system of financial control, especially between those responsible for appropriations and those responsible for spending.

Sincerely,

ROBERT G. LOVELL,
Area Development Officer.

HOUSEHOLD FINANCE CORP.,
Chicago, Ill., March 5, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate, Committee on Government Operations, Washington, D.C.

DEAR CHUCK: I cannot compliment you highly enough on your February 28th letter to businessmen concerning your proposal to establish responsible fiscal procedures in Congress. I feel that such action is one of the most important steps that Congress could take this session.

I have little respect for those in Congress who condemn the President for usurping the rights and prerogatives of Congress when Congress fails to act in a responsible way. As someone put it, many in Congress seem to be mainly concerned with their right to be irresponsible.

I wish you early success with your bill.

Sincerely,

ARTHUR E. RASMUSSEN.

HERITAGE BANCORPORATION,
Evergreen Park, Ill., March 6, 1973.
Re your bill for a joint Committee on the Budget.
Hon. CHARLES H. PERCY,
Member of the U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR CHUCK: I heartily approve of your position on the above subject as stated in your letter "Dear Businessman" of February 28, 1973.

I grow to be more an admirer of yours very day. Please count on me for any assistance and support I can give you.

Yours very truly,

DONALD O'TOOLE,
Chairman of the Board.

RYERSON,
Chicago, Ill., March 9, 1973.
Senator CHARLES H. PERCY,
New Senate Office Building,
Washington, D.C.

DEAR CHUCK: I don't believe I've ever received a more welcomed form letter that you sent out February 28, directed "Dear Businessman".

The financial and reporting responsibility of the Congress and its understanding of what it is doing would restore order most importantly to the Congressional spending process as well as to the budgetary process.

I sincerely wish you success, Chuck, and if there is any way that I can be helpful—if you need some work done in planning this I would be glad to have my people do it for you or in any other way to accomplish this—please call on us.

Best personal regards.

Sincerely,

RAYMOND N. CARLEN.

CONSOLIDATED FOODS CORP.,
Chicago, Ill., March 6, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR CHUCK: It is most gratifying to note in your letter of February 28 of your concern with Federal fiscal responsibility, and the corrective action you are proposing.

It makes a great deal of sense to me, and I commend you for it.

Sincerely yours,

WILLIAM A. BUZICK, Jr.,
Chairman of the Board.

NORTHBROOK CHAMBER OF COMMERCE,
Northbrook, Ill., March 28, 1973.
Senator CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Your February 28th letter regarding the current controversy over the President's Budget has been read and re-read. Congratulations on the system that you proposed because the present process certainly needs to be restored to order.

Yours very truly,
CHET BLODEN,
Executive-Secretary.

CALUMET AREA INDUSTRIAL
DEVELOPMENT COMMISSION,
Chicago, Ill., March 9, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

Senator, we are pleased that you are trying to bring some order to federal budgeting as outlined in your letter of February 28. It is crucial to the future of America that spending programs be reduced and this must first come from a balanced, well thought-out budget.

An attempt to place the government in a planning and budgeting system, like any businessman must do, is essential.

You have our support as again we are concerned with runaway government costs.

Regards,
J. EDWIN BALLARD,
Executive Director.

BOUTIN CLEANERS,
Lake Forest, Ill., March 10, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I appreciate the opportunity to respond to your letter regarding the budget and the seemingly irresponsible appropriations and spending on the part of Congress over the years, causing deficits year after year that have contributed immensely to the inflation we are having now.

I wholeheartedly agree that any business person indulging such practices would be bankrupt in a very short time.

Your proposal is one that will be concurred in by any sensible thinking person whether in business or not, as this disastrous trend cannot continue further.

In addition I would add, that estimated receipts is too much guess work, but if there happens to be a surplus why not apply it to the enormous debt we have and is costing us more than twenty billions of dollars annually instead of finding some ill excuse for spending it.

The thoughts above are those of many, many people with whom I am in daily contact, and believe me Senator, this subject is one we are all concerned about; however, too many people will not take the time to make their thoughts and wishes known to you and others in government.

Sincerely yours,
WALLACE M. BOUTIN.

TIME-O-MATIC INC.,
Danville, Ill., March 5, 1973.
Senator CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.:

Thank you for your letter of February 28, addressed to businessmen.

Your proposal of a way to limit federal spending to an agreed-upon amount seems reasonable to me.

If measures of this kind are not adopted, we will see the continual devaluation of the dollar and corresponding inflation at home.

I would like to see us value the dollar realistically in terms of gold, make it redeemable, and keep it that way.

KEITH S. WOOD.

THE SAMPSON CO.,
Chicago, Ill., March 5, 1973.
Hon. CHARLES H. PERCY,
U.S. Senator, Committee on Government Operations, Washington, D.C.

DEAR SENATOR PERCY: I appreciated receiving your newsletter of February 28th concerning the Bill which you have proposed regarding the budgetary processes of our Federal Government. I simply wanted you to know that I am in total agreement with the need for such change and I believe that the proposal which you offer could provide an effective manner in which to deal with the problem.

It seems to me that fundamentally and from a long term point of view, governments are faced with the same considerations as individuals in adjusting expenditures to income. I believe that there comes a point in time at which this fact cannot be denied. I believe that if that time is not upon us right now, it is certainly very close.

Like many others I have great concern regarding our priorities. Ours is a tremendously diverse population from every point of view. The requirements for achieving a reasonable balance in dealing with the needs of these diverse elements, in my opinion, is a condition for the survival of our system. I believe that your proposal would result in a more effective system for recognizing this fact.

Please let me know if there is anything that I might do to bring about the passage of this legislation.

Best regards,
Sincerely,
THE SAMPSON CO.,
ROBERT L. SAMPSON,
President.

BELL & HOWELL,
Chicago, Ill., March 14, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: Your proposal on orderly government spending, as covered in your February 28 letter, came as another indication of the effective and sound contributions you continue to make in the government of this country.

The system you outline is nothing but good common sense—as is your proposal for job opportunities and reforms in the penal system.

Once again, we in Illinois should be constantly grateful for the quality of our representation through your office.

Warmest regards,
R. D. HIGGINS.

FLEXIBLE STEEL LACING CO.,
Downers Grove, Ill., March 5, 1973.
Subject: Government spending
Senator CHARLES H. PERCY,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: We applaud your efforts and sincerely hope that your bill will be enacted without major changes. Government spending is one of the major reasons for our continued inflation and must be brought under control.

We support you and your bill and will do what we can to help you get it through Congress.

Cordially,
JOHN RAMSEY, *President.*

KROEHLER MFG. CO.,
Naperville, Ill., March 13, 1973.
Senator CHARLES H. PERCY,
Committee on Government Operations,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I received your letter of February 28 concerning your proposal to require Congress to take stock of the Government's anticipated income and set priorities before spending begins.

I surely agree with your position and heartily support it. If there is any way that we as businessmen can be of assistance to you, please let us know.

Sincerely,
RICHARD E. BUROW.

SANGAMO ELECTRIC CO.,
Springfield, Ill., March 6, 1973.
Hon. CHARLES H. PERCY,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: Your letter of the 28th of February describing your proposal to establish Congressional responsibility to be coupled to Congressional authority for raising and spending revenues comes as a very welcome sign. The irresponsible manner in which our appropriations have occurred in the recent past makes one shudder. It looked like the sure beginning of the end of our system of government.

I wholeheartedly back the President in taking a stand in this matter. If it works it will precipitate some legislation which hopefully will bring fiscal integrity back into the system.

Your effort is to be commended.

Good luck.

All the best,
G. A. DAUPHINAIS.

DEVOTO, BAAS, BROOKHOUSER & ASSOCIATES, INC., MANAGEMENT COUNSEL,
Chicago, Ill., March 7, 1973.
Hon. CHARLES H. PERCY,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: I salute you for your sponsorship of the bill concerning the Joint Committee of the Budget so Congress can be responsible in the financial area (as indicated in your letter of February 28th). If this could be explained to all voters, I feel sure they would give their unqualified support. What a sensible solution to an age old problem.

Sincerely,
DONALD E. DEVOTO,
President.

W. BRAUN CO.,
Chicago, Ill., March 5, 1973.
Senator CHARLES H. PERCY,
U.S. Senate, Committee on Government Operations, Washington, D.C.

DEAR SENATOR PERCY: Your February 28th "Dear Businessman" letter is excellent; it gets to the heart of the matter.

Because I'm in favor of a stronger Congress, one that does not abdicate its powers or responsibilities, I don't look with equanimity on what the President has done despite the fact that there is precedent for it in the past. President Nixon's objectives however are right.

Your proposal which has had favorable comment in recent time solved the problem of good ends versus bad means. Good Luck!

Incidentally, the Milton Friedmans are due at our home for dinner Friday night and if I think of it I'm going to mention your idea which this original and brilliant thinker undoubtedly knows about if he hasn't advocated it already.

As a maverick Republican who has supported you in the past, I say, keep up the good work for many years to come and hopefully perhaps on a higher level when our party gives you proper recognition in 1976.

Regards,
JULIUS BRAUN.

HINSDALE, ILL.,
March 7, 1973.
Hon. CHARLES H. PERCY,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I received your letter of February 28 regarding the controversy of the President's budget and Executive impoundment of funds appropriated by Congress.

I am thoroughly in agreement with your efforts to introduce legislation that would make the Congress responsible in budgetary vs. expenditure matters. I have felt for years that Congress continuously has appropriated funds for programs that were popular "vote-wise" but totally irresponsible as to where the money was coming from.

I urge you to back the President's efforts to put a ceiling on expenditures and restore some fiscal responsibility in the Federal Government.

Sincerely,

AUWELL FOGARTY.

WHETZEL CONSTRUCTION CO.,
Champaign, Ill., March 8, 1973.

Sen. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: We were extremely gratified to receive your letter of February 28, 1973. As you vividly pointed out, any corporation would be bankrupt if they operated under the government's present system of receipts and disbursements. We feel that not only businessmen, but all individuals would have more confidence in their government and might not feel the pain of taxes nearly as bad if they knew their money was spent with integrity. Your proposed system has our wholehearted support.

Thank you.

Very truly yours,
WHETZEL CONSTRUCTION CO.,
WILLIAM J. AUTERMAN,
Executive Vice-President.

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., February 28, 1973.

DEAR BUSINESSMAN: The current controversy over the President's budget and Executive impoundment of funds appropriated by Congress has overshadowed a serious problem that strikes at the heart of fiscal responsibility in government.

Some say the President has defied the will of Congress by calling for the elimination of various programs in his recent budget message and refusing to spend certain funds appropriated by Congress. But others say the fault lies with Congress, which has appropriated funds without regard to priorities or available revenues.

I believe that before Congress can pass judgment on the President's budget, it must put its own financial house in order by reforming its budgetary process. Presently there is no relationship between the procedures used for raising revenues and those for spending them.

Our system in Congress of raising and spending revenues resembles a corporation that spends without regard to its income or priorities. It is as if the officers and executives wrote checks without reviewing the corporation's economic health or plans for the future. Most corporations that acted in such an irresponsible manner would soon face bankruptcy.

Yet this is the way the Congress spends the taxpayers' money. We do it through a system that is fragmented and antiquated. The system has gone virtually unchanged since the Civil War. Provisions for reform were made in the Legislative Reorganization Act of 1946, but they were ignored and finally repealed in 1970. It is time for a renewal effort to reform the system.

I have proposed a system that would require Congress to take stock of the government's anticipated income and set priorities before the spending begins. Under my bill, a Joint Committee on the Budget would be created, to consist of senior members of the four Congressional committees charged with raising and spending funds—Ways and Means and Appropriations in the House, and Finance and Appropriations in the Senate. The Committee would meet early each year to review the health of the economy and the President's budget and annual economic report. It would then set a spending ceiling for the next fiscal year based on estimated government receipts, and would assign spending limits to the Congressional committees and subcommittees responsible for spending.

By March 30, the Committee would report its recommendations to Congress in the form of a Joint Resolution. No appropriations bills would be passed until the resolution was accepted.

Adoption of this plan would restore order to the Congressional budgetary process. It would be a signal to the Executive branch of government that Congress is raising and appropriating funds in an orderly and responsible manner. Most of all, it would show the taxpayers that Congress is spending wisely and living within its means.

In 1968, I supported legislation that established a budget ceiling and resulted in an $8 billion reduction in the budget. As a consequence, we had a balanced budget in fiscal 1969, for the first time in many years. The procedure that I am now suggesting provides a formal structure that can bring fiscal responsibility into the federal government in the years ahead. Without such action, we will never be able to truly control inflation.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

MARCH 5, 1973.

DEAR SENATOR: I agree with you wholeheartedly, please continue your fight to garner fiscal responsibility. Good luck and best regards.

I. MICHAEL WOLINSKI.

CANTEEN CORP.,
Chicago, Ill., March 7, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

MY DEAR SENATOR: I have received your letter concerning the current controversy over the President's budget and Executive impoundment of funds appropriated by Congress.

I like the suggestion which you have made which would require Congress to take stock of the Government's anticipated income and set priorities before the spending begins. This is the kind of thinking I would expect from an outstanding businessman like you and I hope that you are successful.

If I can be of any service, please let me know.

Sincerely,

MARLIN W. JOHNSON,

BBB,
Chicago, March 5, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate, Committee on Government Operations, Washington, D.C.

DEAR SENATOR: I received your letter addressed to businessmen, dated February 28, 1973, in which you relate your thinking with regard to the legislative process as it relates to the fiscal management of the Government.

There is little question but that you have in this communication set forth the very essence of the problem. Your thinking is most constructive and represents, in my opinion, a very realistic approach to the handling of public finances.

I have in my own experience had an opportunity to see first hand the procedures involved and it is long past time when we began to treat with this area of Government responsibility in a realistic and down to earth manner.

I commend you for your efforts and sincerely hope that you will succeed.

Best personal regards.

Cordially,

EARL R. LIND.

ABBOTT LABORATORIES,
North Chicago, Ill., March 7, 1973.

Hon. CHARLES R. PERCY,
U.S. Senator,
New Senate Office Building,
Washington, D.C.

DEAR CHUCK: Your letter of February 28 addressed to Businessmen concerned a subject that in my opinion is as critical as any this country has faced in a long time. As a businessman, I am appalled at what appears to be fiscal irresponsibility in many sectors of government but especially at the Federal level. Here fault must be charged to both the Congress and the Administration.

Your efforts to bring the former group to its senses and to establish a rational system of control of expenditures are appreciated and worth the support of all of us. Continuation of the past practice of spending without regard to anticipated income and without concern for priorities is all but idiotic.

Good luck in your efforts in this vital area.

Sincerely,

CHARLES S. BROWN.

ATTORNEY AT LAW,
Chicago, Ill., March 16, 1973.

Senator CHARLES H. PERCY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I received your letter covering your efforts to revise Congressional practices and procedures with respect to the budget. Certainly changes are necessary and I wish to commend you for your efforts in this area.

You may be sure that many of your constituents are concerned with the inflation in this country which goes unchecked and out of control. In no small measure the federal government's uncontrolled spending represents the key danger in our inflation situation, and now the world wide distrust of the dollar.

I hope in your move to restore fiscal responsibility in the federal budget you will also take a hard look at the expenditures involved in our continued retention of U.S. military troops and personnel and their families all over the world. Surely if this is so vital to world peace, those nations which have accumulated a glut of depreciating dollars should be willing to stand a major portion of the expense involved in maintaining these troops in their respective countries.

With every good wish for success in your continued efforts in our behalf.

Sincerely yours,

ALBERT R. BELL.

CNA FINANCIAL CORP.,
Chicago, Ill., March 27, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Committee on Government Operations,
Washington, D.C.

MY DEAR SENATOR PERCY: The goals of the proposed system for fiscal responsibility which you summarized in your letter of February 28, 1973 are indeed worthy of the support of all citizens of these United States. All corporations instinctively know that priorities must be met first and that a balanced budget is a necessity for their continued existence. It, therefore, is obvious that our largest corporation, the federal government, must adopt a formal structure for controlling its spending and to bring it in line with revenues raised.

This letter is to serve as evidence of my personal endorsement. If there is any way in which I can aid your plan, please call upon me.

Sincerely,

ROBERT A. GARRITY.

CHICAGO, ILL.,
March 12, 1973.

Senator CHARLES H. PERCY,
Committee on Government Operations,
Washington, D.C.

DEAR SIR: Your letter of February 28 (Dear Businessman:) referred to your efforts to organize a system of matching and controlling federal revenues, appropriations and expenditures.

I strongly support your efforts in this direction.

I also wish to compliment you for your efforts in attempting to balance the budget. Our present currency problems stem from our federal domestic deficits as well as from our balance of payments deficits. These are related.

We must educate our legislators, union leaders and the public that "large" deficits on a continuing basis will lead to currency devaluation, trade wars and great international strife.

I also wish to suggest a system under which all laws passed by our Congress would bear a termination date of one, three, five or ten years so that it would force a review and renewal of all legislation over a period of time and possibly contribute to allowing legislation required for a short term to terminate automatically.

Thank you.

Sincerely,

J. NASTI.

CUTTING TOOL DIVISION, INC.,
Elk Grove Village, Ill., March 21, 1973.

Senator CHARLES H. PERCY,
Committee on Government Operations,
Washington, D.C.

DEAR SENATOR: Your letter of February 28th would be an answer to a businessman's prayer. We all hope and pray that you can devise a procedure to develop a priority rating of our country's needs based on availability of funds.

We are in a constant battle with our young employees, their low opinion of business or the establishment has been created by the way Congress has acted since the end of World War II. One pork barrel deal after another, welfare programs, that run into each other continuously spending more than they received. Is it any wonder that they don't believe us, when we are forced to say no, to extra fringes or benefits without additional output on their part, that would help generate the necessary funds.

Thank God, we finally have a President and Senators such as you, that are taking a stand and trying to bring this holocaust to an end.

Your bill on fiscal responsibility must pass. We would like to help you in any way possible.

Very truly yours,

ANTHONY GIANORIO.

BRESLER ICE CREAM CO.,
Chicago, Ill., March 19, 1973.

Senator CHARLES H. PERCY,
U.S. Senator,
Washington, D.C.

DEAR SENATOR PERCY: Your letter of February 28 reciting your recommendations on your Bill for a Joint Committee on the Budget sounds like a good business approach to having sufficient money for expenditures agreed to or anticipated.

We are hopeful that you can get your recommendations through Congress and perhaps we can get a budget that has more meaning and one that a responsible Congress can work within.

Sincerely,

BRESLER ICE CREAM CO.,
HARRY O. BRESLER,
President.

BATAILLE ASSOCIATES, INC.,
Barrington, Ill., March 8, 1973.

Hon. CHARLES H. PERCY,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: You are to be congratulated for your proposal to form a Joint Committee on the Budget.

It is hard to believe we have survived this long with no relationship between the procedures used for raising revenues and those used for spending them and is certainly reflected in our inflation.

Again, congratulations on taking a step in the right direction to correct a serious defect in our control of the budget.

Sincerely,

GERALD S. BATAILLE,
President.

MONMOUTH AREA
CHAMBER OF COMMERCE,
Monmouth, Ill., March 5, 1973.

Hon. CHARLES H. PERCY,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Thank you for your letter of February 28, 1973, detailing your program for Congressional review of Federal spending, with the objective of setting spending priorities.

I applaud your proposal and prayerfully hope that it will win approval in the Senate and the House of Representatives. This is the type of control we need to stem inflation.

The biggest offender of overspending is the Federal government. I absolutely agree with President Nixon that we must cut back many of the programs that were established in good faith, but simply have not been effective. Perhaps there is not enough control between the point of funding these programs and receipt of the monies for their execution at the point of final expenditure, because of hassel between selfish individuals who are self-seeking.

Your system should help immeasurably and you are to be commended for your extremely realistic approach. Please continue to be a watch dog in the public interest in the Federal spending arena.

Sincerely,

ROBERT E. SHUNICK,
Executive Vice President.

CAMP BUCKSKIN

Mr. HUMPHREY. Mr. President, on July 10, the President signed H.R. 7445, the Renegotiation Act, which contained an amendment delaying for 4 months the effective date of the new HEW social service regulations.

These regulations would limit, reduce and shut down many extremely important programs such as day care, family planning, and alcoholic rehabilitation. States would be allowed to spend only $1.5 billion of the $2.5 billion authorized by Congress for these programs.

I would like to describe one such program to be affected by these new regulations. Camp Buckskin is located near Duluth in the northern part of Minnesota. This camp is established to help culturally deprived and underprivileged rural children who need assistance in reading skills, physical coordination, sportsmanship, and interpersonal relations.

Camp Buckskin began its program for the rural underprivileged in 1966 and its staff has been very encouraged by the remarkable progress it has seen in these young campers. Its particular pride is in its accomplishment of raising campers' reading levels by an average increase of 1.3 to 1.5 school years.

The camp has two 5-week sessions, with 100 campers each session ranging from age 8 to 13. The morning activities consist of arts and crafts, reading lessons, and swim instruction. The afternoon session is devoted to further lessons with emphasis on physical skills in sports such as soccer, volleyball, camping, and fishing. In the evening there are campfires, songs, and skits.

When HEW imposes its new restrictions and regulations, Camp Buckskin would lose 75 percent of its funds. While it has been suggested that mental health and education funds could be utilized, these funds do not apply to this particular type of program. Local officials advised me that the camp would have no alternative but to close its doors to these needy children.

Mr. President, I am not speaking of the average child from a middle-class community, but those children tucked away in rural areas whose general environmental advantages are fewer—their family incomes lower, diets poorer, social preparation for schooling lacking, and their proximity to the usual public services extremely limited. Now with the aid of Camp Buckskin some 200 children can happily engage in summer fun while at the same time improving their ability to receive a good education.

I would like to see these youngsters continue to receive the opportunity to learn invaluable skills and enjoy this summer fun.

Mr. President, I would hope that this 4-month extension of time before implementation of these regulations will afford Congress the time to enact legislation to prevent implementation by the Department of Health, Education, and Welfare of regulations which would eliminate important programs such as Camp Buckskin.

FLIGHT PAY

Mr. GOLDWATER. Mr. President, on June 28, 1973, the House voted to instruct their conferees on H.R. 8537 to disagree to the Senate amendment which would have extended some colonels' and generals' entitlement to flight pay for 7 months, an amendment which I sponsored in the Senate Armed Services Committee. Simply put, the purpose of this extension was to give the Congress sufficient time to consider another DOD proposal that would overhaul the entire flying pay structure. For some individuals, this action was a tactical victory—for others—like myself—it was a tragic mistake. The satisfaction gained by Members instrumental in defeating this extension may well be outweighed by the overall loss to our Nation's defense.

Ridicule and personal abuse, while a potent tool, sets a dangerous precedent in dealing with such important matters as national defense; and may I add, this is not in the tradition of the Congress of the United States. Not only was the proposal subjected to ridicule, but facts were deliberately misrepresented. The purpose of this speech is to set the record straight; place the proposal in its proper perspective; and create a climate for considered, rational, and mature debate of an important DOD personnel proposal.

The purpose of flight pay is to induce qualified individuals to voluntarily specialize in a hazardous military aviation career. It is not meant to compensate for hazard or for specific hours of flying; it is offered as an incentive to attract and retain sufficient numbers of flyers to man our air forces. The payment of flight pay to officers who are prohibited by law from flying is a result of congressional action and not the result of Defense Department initiatives—or initiatives by the flyers themselves.

To explain the practice of paying flight pay to those flyers who are not permitted to fly, the legislative background of the situation must be considered. Prior to 1954, flight pay was paid to active flyers who satisfied established monthly flying performance minimums. This requirement to fly a minimum number of hours to qualify for flight pay resulted in high aircraft operations cost. In order to reduce these aircraft flying costs, Congress in the 1954 Defense Appropriations Act initiated a permissive "excusal" program. This program permitted aviators in remote assignments and the more experienced aviators—that is, those with 20 years of rated service or more—to be excused from meeting the flying hour minimums and still receive the incentive pay. Congress enacted a similar provision each year until 1962, when it expanded eligibility to those with 15 years of rated service or more. Again, the purpose of this provision was to reduce flying operations costs while specifically protecting the affected individual's incentive pay.

These 1954 and 1962 excusal provisions were permissive rather than mandatory. Because the services considered proficiency flying enhanced their ability to respond rapidly to fill wartime requirements, they were reluctant to exercise excusal. In fiscal year 1972, the Congress in the Defense Appropriations Act directed mandatory excusal of all aviators in nonflying positions except those allowed to engage in proficiency flying "in anticipation of assignment to combat operations." This legislation resulted in an increased number of excused flyers, but specifically authorized that their incentive pay be continued.

In short, the congressionally directed "excusal" policy, whether permissive or mandatory, is the reason why some flyers collect flight incentive pay without flying.

There have been strong allegations in the news that the Air Force payment of flight incentive pay to 65 general officers is a clear violation of law and an utter defiance of civilian authority. I have looked into this matter.

I have copies of 36 statutes on flight pay from its beginning in 1913 through section 715 of Public Law 92–570 which is the law that the Defense Department asked us to amend. It is interesting that 19 of these laws are annual appropriation acts. If anyone wishes to review the laws my copies are available. I have studied the laws and this is what I find.

There are two separate entitling laws on flight pay; one restricts flying by certain aviators.

First. Section 301 of title 37 entitles aviators in flying jobs who fly at least 4 hours a month.

Second. Public Law 92–570, section 715, entitles aviators who are in nonflying jobs, except colonels and generals, regardless of the amount they fly. Public Law 95–270 also restricts flying by aviators in nonflying jobs. It does not address aviators in flying jobs.

The Air Force has submitted for the record and sent to its commands a message designating which general officer positions require active flying and those which do not. They are now reviewing colonel flying jobs. You can argue their identification but their legal authority is clear. The Secretary of the Air Force has the responsibility and the authority to make that decision.

Generals and colonels in flying jobs are entitled to flight pay under section 301 of title 37. Here is the criteria the Air Force used to determine which generals and colonels must fly:

First. Generals and colonels exercising command and control of aircraft.

Second. Generals and colonels directly supervising aircraft operations or aircrew training/evaluation programs.

Third. Generals and colonels responsible for flight safety and operational readiness inspections.

Fourth. Generals and colonels who perform or directly supervise test evaluation of existing and proposed weapon systems.

Fifth. Generals and colonels with operational or training responsibilities in special agencies such as NASA, U.S. Air Force Academy, military attache duty or foreign advisory duties.

Sixth. Special requirements such as returned prisoners of war undergoing aircrew training.

Seventh. The individual who is directly responsible for the employment of airpower—the Chief of Staff of the Air Force.

Although some of these positions may change as requirements change, I repeat again, these are the flying leaders who run the Air Force. They include the commanders of the Strategic and Tactical Air Commands and their subordinate commanders. These are not armchair generals, rewarded for some unknown reason as was reported in the press. These are not officers who have no need to fly or are drawing flight pay as a privilege of rank. The officers in these positions are the fighter, bomber, and cargo pilots chain of command.

It was not the intent of Congress to stop the flying of these officers or to refuse them flight pay. The criteria, the positions identified, and the open message to the troops demonstrate total compliance with public law and congressional intent by the U.S. Air Force.

Now let me turn to another aspect of this issue—the all-volunteer force. Who in this body can foresee the future with such clarity as to assess the ramifications of our arbitrary action? Which one of you is prepared to stake his reputation on the Nation's ability to attract and retain the quality and quantity of volunteers to man our Nation's defense? Did any of us expect at the outset of the Polaris program that we would be required to pay a submariner a bonus? After raising the base pay of a private 266 percent in the past 6 years, did any of us think we would also be required to pay men a bonus to join the combat arms? And what will be our response to the sagging retention of military doctors?

In the first two cases we were forced to play catchup ball while hoping that nothing on the international scene would require us to deploy understrength combat division. Are we now willing to accept placing the services in a catchup position regarding flyers—our most skilled and expensive resources—one that takes a year to train, and 2 years to prepare for combat? The debate in the House focused on generals and colonels. These same officers were in the lower grades in World War II, Korea, and Vietnam—and not products of the volunteer era.

Today, the lieutenants and captains—our future colonels and generals—are members of the most aware, economically oriented generation of all time—and may I add, the first true volunteers to serve in the Armed Forces. What will their response be to our actions?

Gentlemen, as I stated at the beginning of my speech my only purpose today is to set the record straight and ask you to reflect on your previous actions in light of the facts laid before you. The question in each of our minds must be—are we willing to accept the risk—and pay the price if we are wrong?

As I stated previously, the Department of Defense has submitted a proposal to Congress which would revise the current incentive pay structure as it pertains to flying pay. This proposal was submitted only after a comprehensive and exhaustive study of all ramifications of the problem. The proposal has been referred to the Armed Services Committee and I urge the distinguished acting chairman of that committee to schedule early hearings on the proposal. I feel it is necessary that we move ahead as rapidly as possible on this problem so that the current uncertainties can be resolved and we can show the young lieutenants and captains that there is truly a "career" available in military aviation.

Mr. President, the people in the House who engineered the defeat of flight pay obviously are highly elated over what they feel is an outstanding accomplishment. If these same people were consistent in opposing real wastes of money, I could better understand that, but to have them in such a grotesque, bizarre, and sadistic-like demonstration, defeat something that has been a part of military pay for many, many years, to me, is very, very dangerous.

To me, and I think to most every person who has ever served in uniform or out of uniform, leadership without the ability to demonstrate the proficiency in the job assigned does not accomplish the purpose of leadership. The particular actor in the comedy played on the floor of the House inferred that all colonels and generals, in fact, all Navy captains and admirals wearing wings receive flight pay. This is not so.

I ask unanimous consent that orders authorizing certain officers in certain jobs to receive flight pay be printed at this point in my remarks.

There being no objection, the orders were ordered to be printed in the RECORD, as follows:

REVIEW OF GENERAL OFFICER POSITIONS

1. Provisions of section 715, P.L. 92–570, DOD Appropriations Act 1973, ends entitlement to flight pay for O–6's and above after 31 May 1973 who are "assigned to duties, the performance of which does not require the maintenance of basic flying skills." Those general officer positions requiring active flying have been identified and a review of 0–6 positions is in progress. Only the incumbents of the designated positions may actively fly. Rated general officers in non-designated positions are prohibited from performing duties in their rated specialty and from logging flying time. DOD has proposed an amendment to retroactively change 31 May 1973 date to 31 Dec. 1973 to allow Congress sufficient time to consider a new flight pay proposal. If the amendment is enacted by Congress all active and excused rated officer crew members, otherwise qualified, will be entitled to flight pay. If no action is taken by Congress the incumbents of the designated positions are the only generals who may receive flight pay.

2. Rated officers in general officer positions not specifically designated in paragraph 3 of this message as requiring active flying are prohibited from performing duties in their rated specialty and from logging flying time. HQ USAF is working a means to allow major commanders the flexibility needed when it is determined that a general officer in a non-designated position must perform crew member duties to properly evaluate a specific problem area associated with aircraft/aircrew operations.

3. The following general officer positions, by grade, are authorized to actively fly:

GRADE AND DUTY TITLE

O–10: Chief of Staff, USAF. Commanders (MAC, TAC, SAC, PACAF, USAFE, 7AF).

O–9: Commanders, ADC, ATC, USAFA. Numbered air forces, SAC (2, 8 & 15 AF), PACAF (5 & 13 AF).

O–7/8: Commanders, AAC, USAFSO. Numbered air forces, MAC (21 & 22 AF), TAC (9 & 12 AF), PACAF (13 AF ADVON), USAFE (3, 16 & 17 AF).

Air divisions: ADC (20, 21, 23, 24, 25 & 26 AD), TAC (832, 834 & 837 AD), SAC (1, 4, 12, 14, 17, 19, 40, 42, 45 & 47 AD), PACAF (313 & 314 AD).

Test centers: ADC (ADWC), TAC (SOF, TAWC, TFWC).

Operational/training wings: ADC (552), ATC (12, 64, 78, 82, 322), MAC (9, 60, 62, 63, 87, 436, 437, 438, 443), TAC (1, 4, 31, 35, 49, 58, 67, 313, 354, 363, 366, 474).

SAC (2, 7, 9, 22, 42, 43, 92, 93, 96, 97, 99, 301, 305, 306, 376, 380, 410, 416, 449, 509).

USAFE (10, 20, 26, 36, 48, 50, 52, 81, 86, 322, 401, 601).

PACAF (3, 8, 18, 374, 388, 405, 432).

DCS/Operations: HQ ADC, ATC, MAC, TAC, SAC, PACAF, USAFE.

Numbered air forces: MAC (21, 22 AF), TAC (9, 12 AF), PACAF (7 AF).

Miscellaneous: Commander, ArRS, Dir. Aerospace Safety, Commandant of Cadets, USAFA.

Note: No vice commanders are included.

4. Colonels occupying general officer positions designated in paragraph 3, above, are authorized to fly, to log flying time and will be paid accordingly.

5. A listing by position number will be forwarded by separate correspondence.

6. This message constitutes authority to initiate action effective 31 May 1973, to place the incumbents of the general officer positions designated in paragraph 3, above, in FSC 1; all other general officers will be placed in FSC 3B.

JOHN D. RYAN,
General, USAF,
Chief of Staff.

Mr. GOLDWATER. I ask unanimous consent at this point in my remarks to insert the legislative history of the subject we are discussing, flight pay. I sincerely hope that all of my colleagues will peruse this subject so that they will have a better understanding of the extreme hardship and injustice placed upon them to whom we have made certainly a moral commitment relative to flight pay.

There being no objection, the legislative history was ordered to be printed in the RECORD, as follows:

LEGISLATIVE HISTORY OF FLIGHT PAY

FLIGHT PAY CHRONOLOGY

1. Act of 2 March 1913 (37 Stat. 704, 705): Initiated flight pay to pay for hazards endured. Rate set at 35% of pay and allowances.

2. Public Law 63–143 Act of 18 July 1914: established three classes of aviators. Set flight pay at 25%, 50%, and 75% of base and longevity pay (respectively).

3. Act of 4 June 1920 (41 Stat. 759, 768): broadens entitlement to all Services provided 50% extra pay.

4. Act of 10 June 1922 (PL 67–235) provided 50% extra flying pay for those participating in frequent and regular aerial flights.

5. Act of 2 July 1926: Continued 50% increase in base pay while on duty requiring frequent and regular participation in aerial flight.

6. Act of 26 April 1934 (48 Stat. 614, 618): Non air corps officers limited to $1440 flying pay per year.

7. Act of 16 June 1936 (PL 691): redefined peacetime flying officers.

8. Pay Readjustment Act of 16 June 1942 (PL 77–607): Increased rates payable, rates for aviation duty.

9. Career Compensation Act of 12 October 1949 (PL 81–351): defines as incentive pay for hazardous duty. Initiates monthly dollar rate by grade.

10. FY 1951 Defense Appropriation Act (PL 81–434): limits amount of flight pay for non flying officers (noncrew).

11. FY 1952 Defense Appropriation Act (PL 82–179): limits flight pay to personnel assigned to duties involving operational and training flights.

12. FY 1953 Defense Appropriation Act (PL 82–488): Same limits as FY 1972 Act.

13. FY 1954 Defense Appropriation Act (PL 83–179): Initiates excusal program for members in remote areas and those holding ratings for not less than 20 years.

14. FY 1955 Defense Appropriation Act (PL 83–458): continues provisions of PL 83–179.

15. Career Incentive Act of 1955: Rates changed to those in 37 USC 301. Rates computed on grade and longevity.

16. FY 1956 Defense Appropriation Act (PL 84–157): continues provisions of PL 83–179.

17. FY 1957 Defense Appropriation Act (PL 84–639): continues provisions of PL 83–179.

18. FY 1958 Defense Appropriation Act (PL 84–157): continues provisions of PL 83–179.

19. Act of 20 May 1958 (PL 85–422): adds grades of 0–9 and 0–10.

20. FY 1959 Appropriation Act (PL 85–724): continues provisions of PL 83–179.

21. FY 1960 Appropriation Act (PL 86–166): continues provisions of PL 83–179.

22. FY 1961 Appropriation Act (PL 86–601): continues provisions of PL 83–179.

23. FY 1962 Appropriation Act (PL 87–144): lowers eligibility for excusal from twenty years to fifteen years.

24. FY 1963 Appropriation Act (PL 87–577): continues provisions of PL 87–144.

25. Act of 7 September 1962 (PL 87–649): Broadens entitlement to flight pay to members of reserve components.

26. FY 1964 Appropriation Act (PL 88–149): continues provisions of PL 87–144.

27. FY 1965 Appropriation Act (PL 88–446): continues provisions of PL 87–144.

28. FY 1966 Appropriation Act (PL 89–213): continues provisions of PL 87–144.

29. FY 1967 Appropriation Act (PL 89–687): continues provisions of PL 87–144.

30. FY 1968 Appropriation Act (PL 90–96): continues provisions of PL 87–144.

31. FY 1969 Appropriation Act (PL 90–580): continues provisions of PL 87–144.

32. FY 1970 Appropriation Act (PL 91–171): continues provisions of PL 87–144.

33. FY 1971 Appropriation Act (PL 91–668): Continues provisions of PL 87–144.

34. FY 1972 Appropriation Act (PL 92–204): limits proficiency flying, does not permit proficiency flying by students in schools of ninety days or more, and entitles rated members in nonflying jobs to flight pay.

35. FY 1973 Appropriation Act (PL 92–570): continues provisions of PL 92–204 except provisions end entitlement for O–6 and above in nonflying jobs after 31 May 1973.

36. P.L. 92–482: entitles returned missing members to incentive pay for the period of hospitalization and rehabilitation not to exceed one year.

ACT OF 2 MARCH 1913 (37 STAT. 704, 705)

(Copy not available)

EXTRACT FROM HOOK COMMISSION REPORT

"Flying pay was first authorized by Congress in 1913 to pay individuals for the hazard which they endured in military flying. It was set at 35 percent (of pay and allowances)".

ACT OF 18 JULY 1914 (P.L. 63–143)

(Copy not available)

"Each aviation student authorized by this Act shall, while on duty that requires him to participate regularly and frequently in aerial flights, receive an increase of 25% in the . . . (pay of his grade).

"Each duly qualified junior aviator (below rank of O–3) shall receive 50% increase in base pay.

"Each duly qualified military aviator (O–6 and above) shall receive a 75% increase in base pay.

"Each duly qualified aviation enlisted member shall receive a 50% increase in base pay."

NATIONAL DEFENSE ACT OF 1920

(41 STAT. 759, 768)

(Copy not available)

"The National Defense Act of 1920 and the Pay Readjustment Act of 1922 provided 50 percent extra flying pay (of base and longevity pay) for those who participated in regular and frequent flights".

Act of 10 June 1922 (P.L. 67-235)

(Copy not available)

Section 20 of this Act provided that officers, warrant officers, and enlisted personnel of all branches of the Army, Navy, Marine Corps and Coast Guard, were detailed to duty involving flying were to receive the same 50% increase of basic pay for flight as authorized for like duties in the Army.

Act of 2 July 1926 (P.L. 69-446)

(Copy not available)

(Amends section 20 of the Pay Readjustment Act of 1922:)

Officers, warrant officers, and enlisted men of all branches of the service participating in aerial flights to receive the same 50% increase in payment therefor as authorized for personnel of the Army by adding:

The bill also provides additional pay to enlisted men receiving distinguished flying cross. Additional pay of $2 per month for each such award was authorized to continue as added compensation throughout the active service of the recipient.

Act of April 1934 (48 Stat. 614, 618)

(Copy not available)

(Excerpt from Hook Commission Report.)

"The War Department Appropriation Act of 1934 and each subsequent appropriation act has limited officers not of the Air Corps, but attached thereto on flying duty, to a maximum of $1440 per year of flying pay".

Act of June 1936 (P.L. 691)

(Copy not available)

Act redefines a flying officer in time of peace as one who has received an aeronautical rating as a pilot of service-type aircraft, one who has received a rating as an aircraft observer. A peacetime observer so rated must previously have qualified as a pilot.

Army Air Corps officers temporarily appointed under the Act shall be entitled to flying pay (50% increase over base pay) pertinent to the grade to which temporarily assigned.

Pay Readjustment Act of June 1942

(Copy not available)

Section 18: Officers, enlisted men, members of the reserve forces, and National Guard shall receive increase of 40% of their pay when they are required to participate regularly and frequently in aerial flights.

When personnel of the National Guard are entitled to Army-drill pay, the increase of 50% shall be based on the entire amount of such armory drill pay.

PL 77-607 Pay Readjustment Act of 1942: An Act to readjust the pay and allowances of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.

Section 2: The base pay for enlisted men shall be increased by 20% for aviation duty. The base pay for Officers shall be increased by 10% for aviation duty.

Effective from 7 December 1941 and shall cease to be in effect 12 months after termination of the present war is proclaimed by the President.

Public Law 81-351

* * * * *

INCENTIVE PAY—HAZARDOUS DUTY

Sec. 204. (a) Subject to such regulations as may be prescribed by the President, members of the uniformed services entitled to receive basic pay shall, in addition thereof, be entitled to receive incentive pay for the performance of hazardous duty required by competent orders. The following duties shall constitute hazardous duties:

(1) duty as a crew member as determined by the Secretary concerned, involving frequent and regular participation in aerial flight;

(2) duty on board a submarine, including submarines under construction from the time builders' trials commence;

(3) duty involving frequent and regular participation in aerial flights not as a crew member pursuant to part (1) of this subsection;

(4) duty involving frequent and regular participation in glider flights;

(5) duty involving parachute jumping as an essential part of military duty;

(6) duty involving intimate contact with persons afflicted with leprosy;

(7) duty involving the demolition of explosives as a primary duty including training for such duty;

(8) duty at a submarine escape training tank, when such duty involves participation in the training; and

(9) duty at the Navy Deep Sea Diving School or the Navy Experimental Diving Unit, when such duty involves participation in training.

(b) For the performance of hazardous duty as prescribed in part (1) or (2) of subsection (a) of this section, members of the uniformed services qualifying for the incentive pay authorized pursuant to said subsection shall be entitled to be paid at the following monthly rates according to the pay grade to which assigned or in which distributed for basic pay purposes:

Pay grade

[Monthly rate]

O-8	$150.00
O-7	150.00
O-6	210.00
O-5	180.00
O-4	150.00
O-3	120.00
O-2	110.00
O-1	100.00
W-4	100.00
W-3	100.00
W-2	100.00
W-1	100.00
E-7	75.00
E-6	67.50
E-5	60.00
E-4	52.50
E-3	45.50
E-2	37.50
E-1	30.00

(c) For the performance of any hazardous duty as prescribed in parts (3) to (9), inclusive, of subsection (a) of this section by officers and enlisted persons qualifying for the incentive pay authorized pursuant to said subsection, officers shall be entitled to be paid at the rate of $100 per month, and enlisted persons shall be entitled to be paid at the rate of $50 per month.

(d) The President may, in time of war, suspend the payment of incentive pay for the performance of any or all hazardous duty.

(e) No aviation cadet shall be entitled to receive any incentive pay authorized pursuant to this section.

(f) No member of the uniformed services shall be entitled to receive more than one payment of any incentive pay authorized pursuant to this section for the same period of time during which he may qualify for more than one payment of such incentive pay.

* * * * *

Public Law 81-434

Sec. 601. The appropriations contained in this Act shall not be available for increased pay for flights by nonflying officers at a rate in excess of $720 per annum, which shall be the legal maximum rate as to such officers, and such nonflying officers shall be entitled to such rate of increase by performing three or more flights of a total duration of not less than four hours within each ninety-day period, pursuant to orders of competent authority, without regard to the duration of each flight.

* * * * *

Public Law 82-179

RESTRICTION ON FLIGHT PAY

Sec. 633. No part of any appropriation contained in this Act shall be available for the payment of flight pay to personnel whose actual assigned duties do not involve operational or training flights.

Approved October 18, 1951.

Public Law 82-488

FLIGHT PAY

Sec. 631. No part of any appropriation contained in this Act shall be available for the payment of flight pay to personnel whose actual assigned duties do not involve operational or training flights.

Public Law 83-179

FLIGHT PAY FOR CERTAIN OFFICERS

* * * the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose, but not to exceed one hundred hours during the fiscal year 1954: *Provided*, That, during the fiscal year 1954, without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204 (b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain officers of the Armed Forces otherwise entitled to receive flight pay (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

Public Law 83-458

FLIGHT PAY FOR CERTAIN OFFICERS

Sec. 721. Notwithstanding any other provision of law, executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That during the fiscal year, without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain officers of the Armed Forces otherwise entitled to receive flight pay (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

Career Compensation Act, 1949

* * * * *

INCENTIVE PAY—HAZARDOUS DUTY

Sec. 204. (a) [18] Subject to such regulations as may be prescribed by the President, members of the uniformed services entitled to receive basic pay shall, in addition thereto, be entitled to receive incentive pay for the performance of hazardous duty required by competent orders. The following duties shall constitute hazardous duties:

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[18] Subsection (a) was amended by section 2 (4) of the Career Incentive Act of 1955, supra, to add clauses (10)–(12).

(1) duty as a crew member as determined by the Secretary concerned, involving frequent and regular participation in aerial flight;

(2) duty on board a submarine, including submarines under construction from the time builders' trials commence;

(3) duty involving frequent and regular participation in aerial flights not as a crew member pursuant to clause (1) of this subsection;

(4) duty involving frequent and regular participation in glider flights;

(5) duty involving parachute jumping as an essential part of military duty;

(6) duty involving intimate contact with persons afflicted with leprosy;

(7) duty involving the demolition of explosives as a primary duty, including training for such duty;

(8) duty at a submarine escape training tank, when such duty involves participation in the training;

(9) duty at the Navy Deep Sea Diving School or the Navy Experimental Diving Unit, when such duty involves participation in training;

(10) duty at low-pressure chamber inside observer;

(11) duty as human acceleration or deceleration experimental subject;

(12) duty involving the use of helium-oxygen for a breathing mixture in the execution of deep-sea diving; and

(13) duty as human test subject in thermal stress-experiments.[19]

(b) [20] For the performance of hazardous duty as prescribed in clause (1) or (2) of subsection (a) of this section, a member of a uniformed service qualifying for incentive pay thereunder is entitled to pay at a monthly rate as follows:

INCENTIVE PAY FOR HAZARDOUS DUTY PERFORMED UNDER SEC. 204 (A) (1) AND (2)

COMMISSIONED OFFICERS

Pay grade	Years of service													
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
O-10	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00	$165.00
O-9	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00
O-8	155.00	155.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00	165.00
O-7	150.00	150.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00	160.00
O-6	200.00	200.00	215.00	215.00	215.00	215.00	215.00	215.00	215.00	220.00	245.00	245.00	245.00	245.00
O-5	190.00	190.00	205.00	205.00	205.00	205.00	205.00	210.00	225.00	230.00	245.00	245.00	245.00	245.00
O-4	170.00	170.00	185.00	185.00	185.00	195.00	210.00	215.00	220.00	230.00	210.00	240.00	240.00	240.00
O-3	145.00	145.00	155.00	165.00	180.00	185.00	190.00	200.00	205.00	205.00	205.00	205.00	205.00	205.00
O-2	115.00	125.00	150.00	150.00	160.00	165.00	170.00	180.00	185.00	185.00	185.00	185.00	185.00	185.00
O-1	100.00	105.00	135.00	135.00	140.00	145.00	155.00	160.00	170.00	170.00	170.00	170.00	170.00	170.00

WARRANT OFFICERS

Pay grade	Years of service													
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
W-4	$115.00	$115.00	$115.00	$115.00	$120.00	$125.00	$135.00	$145.00	$155.00	$160.00	$165.00	$165.00	$165.00	$165.00
W-3	110.00	115.00	115.00	115.00	120.00	120.00	125.00	135.00	140.00	140.00	140.00	140.00	140.00	140.00
W-2	105.00	110.00	110.00	110.00	115.00	120.00	125.00	130.00	135.00	135.00	135.00	135.00	135.00	135.00
W-1	100.00	105.00	105.00	105.00	110.00	120.00	125.00	130.00	130.00	130.00	130.00	130.00	130.00	130.00

CAREER COMPENSATION ACT, 1949—ENLISTED PERSONNEL

Pay grade	Years of service													
	Under 2	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-0	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00	$105.00
E-8	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00
E-7	80.00	85.00	85.00	85.00	90.00	95.00	100.00	105.00	105.00	105.00	105.00	105.00	105.00	105.00
E-6	70.00	75.00	75.00	80.00	85.00	90.00	95.00	95.00	100.00	100.00	100.00	100.00	100.00	100.00
E-5	60.00	70.00	70.00	80.00	80.00	85.00	90.00	95.00	95.00	95.00	95.00	95.00	95.00	95.00
E-4	55.00	65.00	65.00	70.00	70.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00
E-3	55.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00
E-2	50.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00	60.00
E-1	50.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00	55.00
E-1 (under 4 months)	50.00													
Aviation cadets	50.00													

(c) Officers and enlisted persons of the uniformed services who are qualified for the incensive pay authorized under subsection (a) are entitled to be paid at the rate of $110 and $55 per month, respectively, for the performance of any hazardous duty described in clauses (3) to (13) of subsection (a).

(d) The President may, in time of war, suspend the payment of incentive pay for the performance of any or all hazardous duty.

(c) No member of the uniformed services shall be entitled to receive more than one payment of any incentive pay authorized pursuant to this section for the same period of time during which he may qualify for more than one payment of such incentive pay.

Public Law 157

FLIGHT PAY FOR CERTAIN OFFICERS

* * * order, or regulation, no part * * * available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That during the fiscal year, without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain officers of the Armed Forces otherwise entitled to receive flight pay (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

Public Law 84–639

PROFICIENCY FLYING—FLIGHT PAY FOR CERTAIN OFFICERS

SEC. 616. Notwithstanding any other provision of law, executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain members of the Armed Forces otherwise entitled to receive flight pay during the fiscal years 1956 and 1957 (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

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[19] Clause (13) was added by section 1 of the Act of August 28, 1957, Pub. L. 85–208 (71 Stat. 484).

[20] Subsection (b) was restated generally by section 2 (5) of the Career Incentive Act of 1955, supra. That part of the table in subsection (b) relating to commissioned officers and enlisted personnel was restated by section 1 (6) of the Act of May 20, 1958, supra.

August 2, 1957, Public Law 85–117

PROFICIENCY FLYING—FLIGHT PAY FOR CERTAIN OFFICERS

SEC. 616. Notwithstanding any other provision of law, executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain members of the Armed Forces otherwise entitled to receive flight pay during the fiscal year 1958 (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whoes particular assignment outside the United States makes it impractical to participate in regular aerial flights.

Act of 29 May 1958 (P.L. 85–422)

(Copy Not Available)

Armed Forces Salary Increase of 20 May 1958. PL 85–422: Amends the incentive pay table for flight pay in section 204(b) of the Career Compensation Act of 1949 by including the new officer grades of O–9 and O–10, and the enlisted grades of E–9 and E–8.

Public Law 85–724, August 22, 1958

PROFICIENCY FLYING

SEC. 615. Notwithstanding any other provision of law, executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates perscribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) to certain members of the Armed Forces otherwise entitled to receive flight pay during the fiscal year 1959 (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States makes it impractical to participate in regular aerial flights.

Public Law 86–166, August 18, 1959

FLIGHT PAY FOR CERTAIN OFFICERS

* * * the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) as amended, to certain members of the Armed Forces otherwise entitled to receive flight pay during the fiscal year 1960 (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

Public Law 86–601, July 7, 1960

PROFICIENCY FLYING

SEC. 514. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) as amended, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than twenty years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

Public Law 87–144, August 17, 1961

PROFICIENCY FLYING

SEC. 614. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1949 (63 Stat. 802) as amended, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

Public Law 87–577, August 9, 1962

. . . any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 204(b) of the Career Compensation Act of 1919 (63 Stat. 802) as amended, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

Act of 7 September 1962 (P.L. 87–649)

(Copy Not Available)

An Act to revise, codify, and enact title 37 of the U.S. Code, entitled "Pay and Allowances of the Uniformed Services".

Henceforth amendments will be with respect to title 37, USC rather than the Career Compensation Act of 1949.

Section 301(f): Members of the reserves or National Guard performing a hazardous duty as defined under this Act are entitled to a pay increase equal to 1/30 of the monthly incentive pay authorized for similar duty performed by active duty personnel of corresponding grade.

Public Law 88–149, October 17, 1963

PROFICIENCY FLYING

SEC. 514. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

Public Law 88–446, August 19, 1964

PROFICIENCY FLYING

SEC. 514. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

Public Law 89–213, September 29, 1965

PROFICIENCY FLYING

SEC. 614. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 89-687, OCTOBER 15, 1966

* * * available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 90-96, SEPTEMBER 29, 1967

* * * of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 90-580, OCTOBER 17, 1968

PROFICIENCY FLYING

SEC. 514. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 91-171, DECEMBER 29, 1969

APPORTIONMENT OF FUNDS, EXEMPTION

SEC. 613. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interests of national defense.

AIRBORNE ALERT EXPENSES

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of Revised Statutes 3732 (41 U.S.C. 11).

INCREASED MILITARY PERSONNEL, EXPENSES

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of Revised Statutes 3732 (41 U.S.C. 11).

REPORT TO CONGRESS

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

PUBLIC LAW 91-171, DECEMBER 29, 1969

* * * any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights.

PUBLIC LAW 91-668, JANUARY 11, 1971

PROFICIENCY FLYING

SEC. 815. Notwithstanding any other provision of law, Executive order, or regulation, no part of the appropriations in this Act shall be available for any expenses of operating aircraft under the jurisdiction of the Armed Forces for the purpose of proficiency flying except in accordance with the regulations issued by the Secretaries of the Departments concerned and approved by the Secretary of Defense which shall establish proficiency standards and maximum and minimum flying hours for this purpose: *Provided*, That without regard to any provision of law or Executive order prescribing minimum flight requirements, such regulations may provide for the payment of flight pay at the rates prescribed in section 301 of title 37, United States Code, to certain members of the Armed Forces otherwise entitled to receive flight pay during the current fiscal year (1) who have held aeronautical ratings or designations for not less than fifteen years, or (2) whose particular assignment outside the United States or in Alaska makes it impractical to participate in regular aerial flights, or who have been assigned to a course of instruction of 90 days or more.

DECEMBER 18, 1971, PUBLIC LAW 92-204

PROFICIENCY FLYING

SEC. 715. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of 90 days or more. When any rated member is assigned to duties, the performance of which does not require the maintenance of basic flying skills, all such members, while so assigned, are entitled to flight pay prescribed under section 301 of title 37, United States Code, if otherwise entitled to flight pay at the time of such assignment.

PUBLIC LAW 92-570, OCTOBER 26, 1972

PROFICIENCY FLYING

SEC. 715. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more. When any rated member is assigned to duties, the performance of which does not require the maintenance of basic flying skills, all such members, while so assigned, except, after May 31, 1973, those of the rank of colonel or equivalent or above (0-6) in noncombat assignments, are entitled to flight pay prescribed under section 301 of title 37, United States Code, if otherwise entitled to flight pay at the time of such assignment.

PUBLIC LAW 92-482, 92D CONGRESS, H.R. 14909, OCTOBER 12, 1972

An act to amend section 552(a) of title 37, United States Code, to provide continuance of incentive pay to members of the uniformed services for the period required for hospitalization and rehabilitation after termination of missing status

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 552(a) of title 37, United States Code, is amended to read as follows:

"(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is—

"(1) for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may thereafter become entitled; and

"(2) for the period not to exceed one year, required for his hospitalization and rehabilitation after termination of that status, under regulations prescribed by the Secretaries concerned, with respect to incentive pay, considered to have satisfied the requirements of section 301 of this title so as to entitle him to a continuance of that pay.

However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay."

Approved October 12, 1972.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—ALASKA PIPELINE

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The clerk will state the pending business before the Senate.

The bill was stated by title as follows:

A bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 226.

Mr. ROBERT C. BYRD. I thank the Presiding Officer.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE ON MONDAY, JULY 16, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, the distinguished Senior Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO MONDAY, JULY 16, 1973, AT 9:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:45 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MATHIAS ON TUESDAY, JULY 17, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday, after the two leaders and their designees have been recognized under the standing order, the distinguished Senator from Maryland (Mr. MATHIAS) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM MONDAY UNTIL TUESDAY, JULY 17, 1973 AT 8:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next it stand in adjournment until the hour of 8:45 a.m. on Tuesday next.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I wish to ask the acting majority leader a question. I understand there are 2 hours planned for debate on the Alaska pipeline bill on Tuesday morning, with the vote to occur at 11 a.m.

Mr. ROBERT C. BYRD. On Tuesday, I have just gotten consent for the distinguished Senator from Maryland (Mr. MATHIAS) to speak for 15 minutes. That is why I had to change the order for convening from 9 a.m. to 8:45 a.m. on Tuesday.

I wonder if we might get a decision on the request and then I will be glad to respond to the Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as I recall, on Tuesday, beginning at the hour of 9 a.m. the Senate will resume consideration of the Alaska pipeline bill. At not later than 10 a.m. a vote will occur on the amendment by the Senator from Colorado (Mr. HASKELL).

At 11 a.m. precisely the vote will occur on the amendment by Mr. GRAVEL and Mr. STEVENS.

I assume Mr. HASKELL probably will want to debate his amendment to some extent on Monday afternoon; but under the order he would be entitled, if he wanted to do so, to discuss it on Tuesday morning, prior to the vote on the amendment, which will occur not later than 10 a.m. on Tuesday.

Mr. STEVENS. I would like to inquire if the distinguished Senator from West Virginia would consider moving the time for the Alaska pipeline amendment offered by my colleague and myself to a later point in the morning?

The vote would take 15 minutes I assume, being the first vote of the day, on the Haskell amendment. We could assume the debate on the pipeline amendment would start no earlier than 10:15, and currently the vote is scheduled to take place at 11. We think we should have at least a half-hour on the side after the vote on the Haskell amendment to set forth clearly the various considerations regarding the Alaska pipeline amendment.

Would the distinguished Senator from West Virginia consider changing the unanimous-consent request to have a vote on the amendment offered by my colleague and myself to take place at 11:15? I may also mention that I have discussed previously the problem of one Senator who will be returning on a plane that lands at 10 minutes of 11, and this would make certain he would be present to vote.

Mr. ROBERT C. BYRD. I do not think that could be done today, because the 11 o'clock vote has been specified by the order. It has been stated in the RECORD. It has been stated in the majority whip's notice. But I am sure that on Monday it would certainly be worthwhile for the Senator to engage in conversations with other Senators, and I will be glad to do whatever I can to get a new order, if possible, to delay that vote 15 minutes.

Mr. STEVENS. There are not enough Senators here high now to make that determination, but I wanted the Senator from West Virginia to know of our attempt to have the vote 15 minutes later.

Mr. ROBERT C. BYRD. Yes. It may be that the vote on the Haskell amendment could be held earlier than 10 o'clock, but under the order it is to be held no later than 10 o'clock a.m. on Monday.

ORDER FOR RESUMPTION OF UNFINISHED BUSINESS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the completion of the order for the recognition of Mr. MATHIAS, the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I send to the desk an amendment to be printed.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. STEVENS. Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a statement provided to my office by the Congressional Research Service of the Library of Congress concerning the limitations of judicial review.

This memorandum pertains to the bill I introduced, S. 970, which is now in substance incorporated in the modification of amendment No. 226 which is before the Senate. It deals with the question of the constitutionality of the limitation of judicial review on the trans-Alaskan pipeline project.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

LIMITATION OF JUDICIAL REVIEW UNDER S. 970

(By the Library of Congress, Congressional Research Service)

This responds to your request for information on the constitutionality of limiting further judicial review of the trans-Alaska Pipeline project, and on precedents for providing that administrative action be final and not subject to judicial review. S. 970, 93rd Congress, 1st session (1973), authorizes and directs the Secretary of Interior to issue permits for the construction of the pipeline across federal land, finds and declares that the environmental impact statement prepared pursuant to the National Environmental Policy Act "meets the requirements of such Act," and declares that findings, determinations, and decisions of federal officials "with respect to the legal authority to permit the construction of the trans-Alaska pipeline, shall be final and not subject to review in any court of the United States."

Article III, sec. 1 provides that "(t)he judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." It has generally been assumed by Congress and by the Supreme Court that the power to create inferior federal courts implies the power to limit the jurisdiction of those courts. While there is much uncertainty over the limits of congressional power to restrict the jurisdiction of lower federal courts, case law suggests that the Due Process Clause of the Fifth Amendment is one such limitation.

Enclosed are page proofs from 1973 edition of "The Constitution of the United States of America Analysis and Interpretation," Congressional Research Service, Library of Congress, Johnny H. Killian, editor, pp. 750–762. These pages contain analysis of the power of Congress to control the federal courts. As indicated therein at p. 761, the Portal-to-Portal Act of 1947, 29 U.S.C. 251–262, withdrew jurisdiction of federal courts to enforce claims for back pay arising under Supreme Court interpretations of the Fair Labor Standards Act. In the "Congressional findings and declaration of policy" (sec. 251) Congress stated that "the Fair Labor Standards Act of 1938, as amended, has been interpreted judicially in disregard of long-established customs, practices, and contracts . . . thereby creating wholly unexpected liabilities . . ." Sec. 252(d) provided:

"No court of the United States, of any State, Territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any action or proceeding, whether instituted prior to or on or after May 14, 1947, to enforce liability or impose punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, under the Walsh-Healey Act, or under the Bacon-Davis Act, to the extent that such action or proceeding seeks to enforce any liability or impose any punishment with respect to any activity which was not compensable under subsections (a) and (b) of this section."

The Portal-to-Portal Act was upheld as constitutional in numerous lower court decisions, including *Battaglia* v. *General Motors Corp.* 169 F. 2d 254 (2d Cir.), cert. den. 335 U.S. 887 (1948), a copy of which is enclosed. While upholding the constitutionality of the Act, the Second Circuit did caution that "the exercise by Congress of its control over jurisdiction is subject to compliance with at least the requirements of the Fifth Amendment."

Congressional power over public lands derives from Art. IV, sec. 3, cl. 2:

"The Congress shall have Power to dispose of and make all Rules and Regulations respecting the Territory or other Property belonging to the United States . . ."

While the Supreme Court has characterized this power as "without limitation," adding that "neither the courts nor the executive agencies could proceed contrary to an Act of Congress in this congressional area of national power," *United States* v. *California*, 332 U.S. 19, 27 (1947), the restriction imposed by the Due Process Clause has been held applicable to exercise of the power. *Cases* v. *United States*, 131 F. 2d 916 (1st Cir.), cert. den. 319 U.S. 770.

Of particular relevance to an attempt to amend the law to provide that the trans-Alaska pipeline project proceed without further delay occasioned by judicial review is the history of the Three Sisters Bridge project which was to be built across the Potomac River. Following several delays in the project occasioned by court reviews, Congress provided in Sec. 23 of the Federal-Aid Highway Act of 1968, P.L. 90–495, 82 Stat. 827, that the project should continue "(n)otwithstanding any other provision of law, or any court decision . . . to the contrary . . ." Notwithstanding that language, the United States Court of Appeals for the District of Columbia further enjoined work on the project pending compliance with pre-construction planning and hearing requirements of the law. *D.C. Federation of Civil Association* v. *Volpe*, 434 F. 2d 436 (D.C. Cir. 1970). The injunction was continued following a finding by the Court of Appeals that the Secretary has failed to comply with the requirements. 459 F. 2d 1231 (1971). The Supreme Court denied certiorari, 405 U.S. 1030 (1971). Chief Justice Burger, although concurring in the denial, suggested that Congress might "take any further legislative action it deems necessary to make unmistakably clear its intentions with respect to the project, even to the point of limiting or prohibiting judicial review of its directions in this respect." A copy of the Chief Justice's concurrence is enclosed.

Several factors relied on by the Court of Appeals in its 1970 decision construing sec. 23 of the Federal-Aid Highway Act of 1968 cast some doubt on the intent of Congress to preclude further judicial review of the Three Sisters Bridge Project. One such factor was the language of sec. 23 itself, which directed that "construction shall be undertaken as soon as possible . . . and shall be carried out in accordance with all applicable provisions of title 23 of the United States." The other factor was that the legislative history indicated that a primary objective of Congress was to reverse the decision of the District of Columbia government not to proceed with the project.

Below are listed other laws we have located expressly limiting judicial review of administrative action. We have cited court decisions interpreting these sections, and have enclosed copies of the headnotes therefrom.

Canal Zone Code, tit. 2, sec. 411, 64 Stat. 1038. Tolls set by Panama Canal Co., to take effect upon approval of President of the U.S., "whose action in such matter shall be final and conclusive." *Panama Canal Co.* v. *Grace Line, Inc.*, 35 U.S. 309 (1958).

Railway Labor Act, 45 U.S.C. 153(m), 48 Stat. 1191–1192. Awards of National Railroad Adjustment Board in employee grievances "shall be final and binding upon both parties to the dispute, except insofar as they shall contain a money award." *Union Pacific Railroad Co.* v. *Price*, 360 U.S. 601 (1959); *Elgin, Joliet & Eastern Ry. Co.* v. *Burley*, 325 U.S. 711 (1945).

Act of June 25, 1910, ch. 431, sec. 1, 36 Stat. 855, 25 U.S.C. 372. Ascertainment by Secretary of the Interior of legal heirs of intestate Indian "shall be final and conclusive." *Hayes* v. *Seaton*, 270 F. 2d 319 (D.C. Cir. 1959); *Heffelman* v. *Udall*, 378 F. 2d 109 (10th Cir. 1967); *Hallowell* v. *Commons*, 239 U.S. 506 (1916).

Adjusted Compensation Act, ch. 157, 43 Stat. 121, as amended by Act of July 3, 1926, ch. 751, sec. 310, 44 Stat. 826. Decision of Director of Veterans Bureau on claims for payment of adjusted compensation, and other decisions within his jurisdiction made "final and conclusive." *United States* v. *Williams*, 278 U.S. 255 (1929).

Sugar Act of 1948, 7 U.S.C. 1136. The facts constituting the basis for any payment, or the amount thereof authorized to be made under this subchapter, officially determined in conformity with rules or regulations prescribed by the Secretary, shall be reviewable only by the Secretary, and his determinations with respect thereto shall be final and conclusive. (Aug. 8, 1947, ch. 519, title III, sec. 306, 61 Stat. 932). *Mario Mercado E. Hijos* v. *Benson*, 231 F. 2d 251 (D.C. Cir. 1956).

Act of March 3, 1885, ch. 335, 23 Stat. 350. Provided that determination of payment by Treasury Department for loss of property by officers or enlisted men "shall be held as finally determined, and shall never thereafter be reopened or reconsidered." *United States* v. *Babcock*, 250 U.S. 328 (1919).

Servicemen's Readjustment Act of 1944, ch. 268, sec. 301, 58 Stat. 286. Findings of boards of review concerning discharge or dismissals from service were "to be final subject only to review by the Secretary of War or the Secretary of the Navy, respectively." *Gentila* v. *Pace*, 193 F. 2d 924 (D.C. Cir. 1951).

Rev. Stat. sec. 2930. Appraisals by customs official made "final." *Auffmordt* v. *Hedden*, 137 U.S. 310 (1890).

George Costello,
Legislative Attorney.

Mr. STEVENS. Mr. President, I should like to direct to the attention of the Senator from West Virginia a question which pertains to the period of time between the vote on the Alaska pipeline amendment and on the bill, S. 1081. Pending the outcome of the vote on the amendment my colleague and I have offered, I have a subsequent amendment which deals with the procedural aspects of the possibility of a question as to the constitutionality of our amendment in the event it is adopted by the Senate and finally passed by the Congress and becomes law.

I would like to make certain there at least 10 or 15 minutes are definitely reserved for that amendment in the event our amendment does pass. And again, I do seek a unanimous consent agreement at this time. However, I think the distinguished Senator from West Virginia ought to know this. And I would like to have the record clear, for those who want to know what the business will be on Tuesday, that if our amendment does pass, I have a subsequent amendment which I consider very critical to the whole bill. This would take place, as I understand, between the time of the vote on the amendment, between 11 and 11:15 a.m. and noontime on the final vote of the bill.

Mr. ROBERT C. BYRD. The Senator is correct.

I think that the Senator is acting judiciously in indicating for the information of the Senate that he does have such an amendment in the event the Gravel-Stevens amendment is adopted.

During the time following the announcement by the Chair of the vote on the Gravel-Stevens amendment and the hour of 12 o'clock noon, any Senator may offer an amendment if he gets recognition from the Chair. And the Senator from Alaska could do that.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday and Tuesday is as follows:

The Senate will convene at the hour of 9:45 a.m. on Monday. After the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Wisconsin (Mr. Proxmire) will be recognized for not to exceed 15 minutes. At the conclusion of Mr. Proxmire's statement, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes.

At the conclusion of routine morning business, the Senate will return to the consideration of S. 1081, the so-called Alaskan pipeline bill. At that time the question will be on the adoption of the amendment by the junior Senator from Alaska (Mr. Gravel). Debate will ensue thereon. By unanimous consent, of course, that amendment could be laid aside and other amendments could be called up or other business could be called up.

At 1:30 p.m. on Monday, the distinguished Senator from New York (Mr. Buckley) will call up his amendment, and there will be 1 hour of debate thereon. A vote will occur on the Buckley amendment at the hour of 2:30 p.m. The yeas and nays have already been ordered.

Following the disposition of the Buckley amendment on Monday, debate will resume on the amendment by Mr. GRAVEL. The debate on that amendment could consume the rest of the afternoon.

I would assume that the distinguished Senator from Colorado (Mr. HASKELL) would want to explain his amendment that afternoon, in view of the fact that he will have but little time to do so on the following morning, Tuesday.

The Gravel amendment could be laid aside temporarily on Monday afternoon for the purpose of Mr. HASKELL being recognized to call up his amendment; or he can discuss his amendment, if he gets recognition, without calling it up on Monday afternoon. But I should like to alert Senators to the fact that there may be some discussion of the Haskell amendment on Monday afternoon.

Conceivably, on Monday afternoon the war powers measure could be called up for some debate, with no action taking place thereon, but only in the event that the debate on the Alaskan pipeline bill and voting on amendments thereto should reach the point where there was no further action indicated. The leadership would merely like to alert Senators to the possibility of debate on the war powers bill being started on Monday afternoon, but again with the caveat that there would be no action on the war powers bill other than debate.

On Tuesday, the Senate will convene at 8:45 a.m. The distinguished Senator from Maryland (Mr. MATHIAS) will be recognized for not to exceed 15 minutes. If other Senators wish to speak on Monday, their orders will be placed ahead of order of Mr. MATHIAS, and the Senate will come in earlier than 8:45.

After the Senator from Maryland has completed his remarks, the Senate will resume the consideration of S. 1081, the Alaskan pipeline bill. I would assume that debate would continue on the Haskell amendment. In any event, a vote will occur on the amendment by Mr. HASKELL to the Alaskan pipeline bill not later than 10 o'clock a.m. on Tuesday.

The unanimous-consent agreement provides that debate on the amendment by Mr. GRAVEL and Mr. STEVENS would then resume after the disposition of the Haskell amendment, if the Haskell amendment has not been disposed of prior to Tuesday.

A vote will occur at 11 o'clock a.m. on the Gravel amendment. That is as the agreement now stands. The distinguished senior Senator from Alaska (Mr. STEVENS) has now indicated that it might be hoped that that vote could be delayed 15 minutes on Tuesday; but the present order for a vote to occur at 11 a.m. on Tuesday will have to remain until Monday for modification, if there is to be any change in the agreement in that regard.

Following the disposition of the Gravel amendment on Tuesday, debate will resume on the Alaskan pipeline bill. Other amendments will be in order at that time. However, a vote on final passage of the bill will occur no later than 12 o'clock noon. That will be a roll call vote.

On the disposition of the Alaskan pipeline bill on Tuesday, the Senate will take up the minimum wage bill, S. 1861.

Mr. President, in summation there will be yea-and-nay votes on Monday. At least one such vote has already been ordered for 2:30 p.m. The war powers bill may be called up at some point during the afternoon, for debate only. And on Tuesday there will be several yea-and-nay votes. At least three such votes are presently indicated for Tuesday, beginning no later than 10 a.m.

ADJOURNMENT UNTIL 9:45 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:45 a.m. on Monday.

The motion was agreed to; and at 1:52 p.m. the Senate adjourned until Monday, July 16, 1973, at 9:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 14, 1973:

DEPARTMENT OF STATE

Ernest V. Siracusa, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Uruguay.

DEPARTMENT OF DEFENSE

John L. McLucas, of Virginia, to be Secretary of the Air Force.

IN THE AIR FORCE

Gen. George S. Brown, [redacted] FR (major general, Regular Air Force), U.S. Air Force, to be appointed as Chief of Staff, U.S. Air Force, for a period of 4 years beginning August 1, 1973, under the provisions of section 8034, title 10 of the United States Code.

(The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10, of the United States Code:

To be lieutenant general

Lt. Gen. Eugene B. LeBailly, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Charles A. Corcoran, [redacted], Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. James Francis Hollingsworth, [redacted] U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Alexander Meigs Haig, Jr., [redacted] Army of the United States (colonel, U.S. Army).

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Claire E. Hutchin, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general

Brig. Gen. John A. Wickham, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. William B. Caldwell III, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. George S. Patton, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Rolland V. Heiser, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Samuel V. Wilson [redacted], Army of the United States (Colonel, U.S. Army).

Brig. Gen. Alton G. Post, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Elmer R. Ochs, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Hal E. Hallgren, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Stan L. McClellan, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. John G. Waggener, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles D. Daniel, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert G. Gard, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Edward C. Meyer, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Gordon Sumner, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard L. West, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Orville L. Tobiason, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Eugene J. D'Ambrosio, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John R. McGiffert II, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John E. Hoover, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Baer [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. John R. D. Cleland, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Proudfoot, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. L. Gordon Hill, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Pat W. Crizer, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Oliver D. Street III, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Marion C. Ross, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Albert B. Crawford, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. John W. McEnery, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Thomas U. Greer, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Eivind H. Johansen, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general

Maj. Gen. Ernest Graves, Jr., [redacted],, Army of the United States (colonel, U.S. Army).

Maj. Gen. Thomas M. Tarpley, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Samuel V. Wilson, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Ira A. Hunt, Jr. [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Richard L. West, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Sylvan E. Salter, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. William R. Wolfe, Jr., [redacted] Army of the United State, (colonel, U.S. Army).

Maj. Gen. Joseph C. McDonough, [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Wilbur H. Vinson, Jr., [redacted] Army of the United tSates (colonel, U.S. Army).

Brig. Gen. Gordon Sumner, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Herbert E. Wolff, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Herbert A. Schulke, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Oliver D. Street III, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles R. Myer, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Robert M. Shoemaker, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Hal E. Hallgren, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles J. Simmons, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Sam S. Walker [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Daniel O. Graham, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. John R. Thurman III, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles D. Daniel, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles M. Hall, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Elmer R. Ochs [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Pat W. Crizer [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. George S. Patton, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Bert A. David, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. William J. Maddox, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Maj. Gen. Henry R. Del Mar, [redacted], Army of the United States (colonel, U.S. Army).

Brig Gen. Robert J. Proudfoot, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John R. D. Cleland, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Orville L. Tobiason, [redacted], Army of the United States (colonel, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. Richard Giles Stilwell, [redacted] Army of the United States (major general, U.S. Army).

IN THE NAVY

Adm. William F. Bringle, U.S. Navy, for appointment to the grade of admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

IN THE AIR FORCE AND NAVY

Air Force nominations beginning Byron A. Abbott, to be first lieutenant, and ending Timothy R. Saunders, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on April 10, 1973;

Air Force nominations beginning Terry P. Kloss, to be captain, and ending Merry K. Colgrove, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on June 12, 1973;

Air Force nominations beginning Jack Ables, to be lieutenant colonel, and ending Frank W. Young, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on June 22, 1973; and

Navy nominations beginning Eugene William Albrecht, to be commander, and ending Walter E. Beam, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on June 20, 1973.

EXTENSIONS OF REMARKS

FOUNDATION SUPPLIES LIST OF EXTRAS FOR BOTH PROFESSOR AND STUDENT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 12, 1973

Mr. PICKLE. Mr. Speaker, 17 years ago a new idea in university education came to be at the University of Texas at Austin.

Called the Arts and Sciences Foundation, it was an idea to fill the breach in supplying the individual needs for the largest bulk of our university professors and students—those engaged in the broad field of the arts and sciences.

The idea has such a broad scope that people generally are not mindful of the need. But since World War II our universities have seen such a phenomenal growth that the individual and his efforts are in danger of being swallowed up, especially if he is not a member of a specialized or professional school such as engineering, law, or pharmacy.

If in the area of the arts and sciences a student or professor needs special funding for a need or project, that money is often not available under the present system.

Seventeen years ago at the University of Texas, the Arts and Sciences Foundation was created to fill this gap. The foundation secures its funds from voluntary contributions—and the needs it fulfills run a surprising gamut, from the sublime to the most mundane.

It has funded, for instance, major archeological expeditions, provided funds to move a distinguished faculty member and his family or his scientific equipment to the university, supplied scholarships to needy and deserving scholars, and provided travel money so that recognized experts could travel to national or international symposiums in their field.

I have been pleased to be a member of this worthy effort and to do what I can to help fill a vital, often overlooked need in our educational system.

A recent article in the Alcalde, the University of Texas alumni magazine, explains more about the Arts and Sciences Foundation, how it works, and what it has already accomplished.

I include the article in the RECORD at this time:

REACHING BEYOND THE GRASP

The past is all that man knows for certain. His curiosity about it is never ending. It was curiosity about the civilization of Ancient Greece that sent a University of Texas excavation team halfway across the world to begin digging into the ruins of Corinth several years ago.

This kind of research, although seldom visualized as a part of the day-to-day role of a university, can be as important and as significant academically as a dramatic discovery in the test-tube filled chemistry laboratory. It adds indisputable enrichment for the participants and a substantial degree of status for The University of Texas. Projects like this and others as important but less exotic are made possible by funds supplied by interested alumni of the Colleges comprising the field of Arts and Sciences. The unusual diversity of the programs which the A&S Foundation has partially or fully supported in recent years makes an interesting listing.

At the first of the list, perhaps, is the Corinth dig. By the end of 1971, the members of the dig had completed uncovering a large bath and fountain house complex which proved to be the best preserved monument in Corinth. Dating back at least to the 4th Century B.C., the complex originally contained a marble-encrusted courtyard, centered by a large swimming pool; an underground bath; a grotto that served as a fountain; and a large domelike portico. Among the incidental discoveries were 11th Century A.D. silver coins and 6th Century A.D. bronze coins. Portions of marble statues and inscriptions were also found.

In 1970 a joint American (largely UT)-Yugoslavian team began digging into the ruins of Stobi, Yugoslavia. The most important discovery was the large baptistery of the Episcopal Basilica. Excavation work was done on a theatre, an early Roman cemetery, the Synagogue-Basilica and residential areas. Other discoveries were 2nd Century B.C. silver denarii and 1st Century B.C. terracotta figurines.

Another mind-stretching program occurred in April, 1972, when a carefully selected faculty committee at UT-Austin brought together 30 scholars to project and exchange ideas about the next century. The occasion was the Walter Prescott Webb International Symposium. Selected to preview the opportunities and problems of the future were: Dr. Bentley Glass, professor of biology at the State University of New York at Stony Brook; Herman Kahn, director of the Hudson Institute; Dr. Harry Ransom, chancellor emeritus of The University of Texas System; Alfred Kazin, critic and author; Aaron Copeland, the composer; Raymond Aron, a French philosopher; Dr. Loren Eiseley, professor of anthropology at the University of Pennsylvania; Nathaniel A. Owings, architect and city planner; Brainislav Solkic, a Yugoslavian economist; Dr. Daniel Bell, professor of sociology at Harvard; Irving Howe, professor of English at the City University of New York and well-known critic; and Sol L. Linowitz, attorney and diplomat.

Because of their specialized knowledge, UT professors have been invited to foreign countries to participate in various studies. Programs include a school of modern language teaching for young children, a conference on quantum chemistry, a symposium on computer education for developing countries, a workshop on electromagnetic induction, a paper on the sources of German baroque, and so on. In each case UT professors contributed their expertise and gained from the other experts with whom they exchanged ideas.

From the student standpoint one of the several innovative courses initiated at UT-Austin is an interdisciplinary course entitled *The American Experience*. Through the cooperation of the Departments of English, Government, and History it enables students to satisfy University requirements in Government, History, and freshman English in a single year.

In 1972 the L. D., Marie, and Edwin Gale Professorship in Judaic Studies was established at UT-Austin through the generosity of those whose name it bears. It is now in the process of being converted into an endowed chair.

During 1971–72 the College of Arts and Sciences awarded approximately 50 scholarships to students who were both qualified and in need of financial assistance. In 1972–73 there were sufficient funds for only 33.

The University has many development foundations, and by comparison with them the A&S Foundation is incredibly small. For its larger projects, therefore, substantial assistance is needed from other sources. Help for the Corinth dig came from the Ford Foundation; for the Stobi dig, the Smithsonian Institution. Generous contributions came from C.B. Smith of Austin, J.R. Parten of Houston, and The University itself for the Webb Symposium. *The American Experience* was aided by the Moody Foundation and foreign trips for international professional meetings were partially financed by the Brown-Lupton Foundation and its managing director, Sam Woodson, Jr. The Gale family of Beaumont supplied funds for the Gale Professorship.

Since 1969, faculty members of the College of Arts and Sciences have contributed more than $30,000 for scholarships. And, Mrs. Greer Mareschal of Houston has endowed two scholarship funds in the names of George S. Heyer and Mrs. Frances Eggleston Goldbeck. Most of the support for scholarships within the College has come from these two sources.

For its less dramatic activities the Arts and Sciences Foundation cannot turn to Ford, the Smithsonian, or the Moody Foundations, or even to generous single contributors. It must depend upon the income from its small endowment or from annual contributions made by loyal alumni.

In addition to scholarships and research, The University itself has unfulfilled needs. For example, the difference between recruiting or losing a distinguished faculty member may be payment of the costs of moving him and his family or his scientific equipment to Austin. The University cannot pay such costs from state funds. And, state funds for foreign travel are strictly limited. Such expenditures must have the approval of various officials including the Governor himself. To harassed professors who often have to make commitments and personal arrangements before official approval can be secured, the Arts and Sciences Foundation is a God-send. Finally, with increasing tuition and living costs, an important function of the Foundation is to aid qualified students. The above figures show how much has been accomplished with small but well-managed funds.

At most universities' Arts and Sciences Foundations tend to be the least affluent. It is easy to see why. Many A&S College alumni go on to Law School, the Medical Schools, or the Graduate School of Business. Thereafter their interest is given to these professional schools. Other graduates choose less lucrative professions, small businesses, or become housewives and mothers. Supporting their families is all that many of them can manage.

At UT-Austin the Arts and Sciences Foundation operates under another handicap. It was established a mere seventeen years ago and has not had time to reach maturity. Even so, its executive committee has been enlarged, and under the leadership of Provost Stanley R. Ross and Chairmen Thomas D. Anderson, Gordon Appleman and Edwin Gale, the Foundation has taken on new life. Hopes are now high that it will be able to strengthen its sponsored programs, as well as to expand the scope of its operations.

HOUSE OF REPRESENTATIVES—*Monday, July 16, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord is good to all, and His tender mercies are over all His works.—Psalms 145: 9.

> "Lord, what a change within us 1 short hour spent in Thy presence will avail to make."

Here burdens are lifted, darkness gives way to light, ill will changes to good will and the way to life is gained to us. May this be our experience as we face the duties of this day.

Guide our President, direct our Speaker, lead these Representatives of our people. Bless their hands as well as their hearts that they may labor and labor together with integrity and insight for the good of our beloved country.

> "Land of our birth, our faith, our pride,
> For whose dear sake our fathers died;
> O Motherland, we pledge to thee
> Head, heart, and hands through the years to be."

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2323. An act to continue until the close of June 30, 1974, the suspension of duties on certain forms of copper;

H.R. 2324. An act to continue until the close of June 30, 1975, the existing suspension of duties for metal scrap; and

H.R. 6394. An act to suspend the duty on caprolactam monomer in water solution until the close of December 31, 1973.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 8510) entitled "An act to authorize appropriations for activities of the National Science Foundation, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. EAGLETON, Mr. CRANSTON, Mr. MONDALE, Mr. DOMINICK, and Mr. STAFFORD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1083. An act to amend certain provisions of Federal law relating to explosives;

S. 1191. An act to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes;

S. 1925. An act to amend section 1(16) of the Interstate Commerce Act authorizing the Interstate Commerce Commission to continue rail transportation services; and

S. 2067. An act relating to congressional and Supreme Court pages.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

CONTROL OF CERTAIN OVERSEAS MEMORIALS

The Clerk called the bill (H.R. 3733) to authorize the American Battle Monuments Commission to assume control of overseas war memorials erected by private persons and non-Federal and foreign agencies and to demolish such war memorials in certain instances.

There being no objection, the Clerk read the bill as follows:

H.R. 3733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act for the creation of the American Battle Monuments Commission to erect suitable memorials commemorating the services of the American Soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 125), is amended by inserting "(a)" immediately before "The", and by adding at the end thereof the following new subsections:

"(b)(1) The Commission is authorized, in its discretion, to assume responsibility for the control, administration, and maintenance of any war memorial erected before, on, or after the effective date of this subsection outside the United States by an American citizen, a State, a political subdivision of a State, any other non-Federal governmental agency, foreign agency, or private association to commemorate the services of any of the American Armed Forces in hostilities occurring since April 6, 1917, if (A) the memorial is not erected on the territory of the former enemy concerned, and (B) the sponsors of the memorial consent to the Commission assuming such responsibilities and transfer to the Commission all their right, title, and interest in the memorial. If reasonable effort fails to locate the sponsors of a memorial, the Commission may assume responsibility therefor under this subsection by agreement with the appropriate foreign authorities. A decision of the Commission to assume responsibility for any war memorial under this subsection is final.

"(2) Any funds accumulated by the sponsors for the maintenance and repair of a war memorial for which the Commission assumes responsibility under this subsection may be transferred to the Commission for use in carrying out the purpose of this Act. Any such funds so transferred shall be deposited by the Commission in the manner provided for in section 7.

"(c) The Commission is authorized to take necessary measures to demolish any war memorial erected on foreign soil by an American citizen, a State, a political subdivision of a State, any other non-Federal governmental agency, foreign agency, or private association and to dispose of the site of such memorial in such manner as it deems proper, if—

"(1) the appropriate foreign authorities agree to such demolition; and

"(2) the sponsors of the memorial consent to such demolition; or

"(3) the memorial has fallen into disrepair and a reasonable effort on the part of the Commission has failed—

"(A) to persuade the sponsors to maintain the memorial at a standard acceptable to the Commission, or

"(B) to locate the sponsors.

"(d) As used in this section, the term 'sponsors' includes the legal successors to the sponsors."

Mr. TEAGUE of Texas. Mr. Speaker, the purpose of H.R. 3733 is to extend the authority of the American Battle Monuments Commission, which was created by an act of Congress in 1923, to assume control over certain overseas war memorials erected by private persons and non-Federal and foreign agencies and, in appropriate cases, to demolish such war memorials.

The American Battle Monuments Commission was created by the act of March 4, 1923, as amended (36 U.S.C. 121–138b), and its authority expanded by subsequent legislation (24 U.S.C. 279a). The Commission is responsible for the construction and permanent maintenance of military cemeteries and memorials on foreign soil, as well as for certain memorials on American soil; controls as to design and provides regulations for the erection of monuments, markers, and memorials in foreign countries by other U.S. citizens and organizations, public or private.

The Commission is administered by a Secretary under the guidance of Commissioners who are appointed by the President and who serve without pay. The ABMC presently administers 23 memorial cemeteries and 14 separate monuments and memorials in 10 countries. These cemeteries are generally closed for future burial and, similar to those cemeteries which remain under the jurisdiction of the Department of Interior, are in the nature of historical shrines. The Veterans' Administration in its report to the committee last year on the bill to establish a national cemetery system in the VA noted the "operational expertise" of the ABMC—whose current annual budget is only $3.3 million—and the absence of any "compelling reason" to transfer its jurisdiction to the VA. The following table lists the cemeteries and memorials presently administered by the Commission:

ABMC CEMETERIES, MONUMENTS, AND MEMORIALS

	Country	Burials	Memorializations
World War I cemeteries:			
Aisne-Marne	France	2,288	1,060
Brookwood	England	468	563
Flanders Field	Belgium	368	43
Meuse-Argonne	France	14,246	954
Oise-Aisne	do	6,012	241
St. Mihiel	do	4,152	284
Somme	do	1,837	333
Suresnes	do	1,541	974
Total		30,912	4,452
World War II Cemeteries:			
Ardennes	Belgium	5,306	462
Brittany	France	4,410	498
Cambridge	England	3,811	5,125
Epinal	France	5,255	424
Florence	Italy	4,402	1,409
Henri-Chapelle	Belgium	7,989	450
Lorraine	France	10,489	444
Luxembourg	Luxembourg	5,076	370
Manila	Republic of the Philippines	17,206	36,279
Netherlands	Holland	8,301	1,722
Normandy	France	9,386	1,557
North Africa	Tunisia	2,840	3,724
Rhone	France	861	293
Sicily-Rome	Italy	7,862	3,094
Suresnes	France	24	None
Total		93,218	55,851
Mexican War	Mexico	750	None
Memorials, World War II:			
East coast			4,596
West coast			412
Honolulu (includes Korea)			26,280
Total			31,288
Monuments, World War I:			
Audenarde	Belgium		
Bellicourt	France		
Brest	do		
Chantigny	do		
Chateau-Thierry	do		
Chaumont (tablet)	do		
Gibraltar			
Kemmel	Belgium		
Montfaucon	France		
Montsec	do		
Somme-py	do		
Souilly (tablet)	do		
Tours	do		
Grand total		124,880	91,591

Since World War I, many privately sponsored war memorials and monuments have been erected on foreign soil by American military units, citizens, States, municipalities, and associations. Often they were poorly designed and constructed; provisions for site acquisition and maintenance were inadequate; and, in some instances, the magnitude of the memorial bore little relationship to the accomplishments of the unit. Many of these memorials and monuments have deteriorated over the years to such a degree that they should be demolished, and there are some whose designs do not merit retention. Others are in fairly good condition, and with limited repairs and adequate future maintenance, can be restored and maintained in satisfactory condition.

The committee is advised that the Commission has been assisting those sponsors, who have funds or could raise them and who desire such assistance, with arrangements for the care and maintenance of their memorials and monuments. The committee believes that it is desirable to utilize and build upon these private resources; however, the sponsors of a great many of these monuments are no longer alive and the original sponsoring organization no longer exists. In these cases where there are no sponsors, the monuments should either be demolished or maintained adequately.

It is therefore the purpose of this bill to authorize the Commission, in its discretion, to assume responsibility for the control, administration, and maintenance of any war memorial erected before, on, or after the effective date of this legislation outside the United States by an American citizen, a State, a political subdivision of a State, any other non-Federal governmental agency, foreign agency, or private association to commemorate the services of any of the American Armed Forces in hostilities occurring since April 6, 1917, if first, the memorial is not erected on the territory of the former enemy concerned; and second, the sponsors of the memorial consent to the Commission assuming such responsibilities and transfer to the Commission all their right, title, and interest in the memorial. If reasonable effort fails to locate the sponsors of a memorial, the Commission may assume responsibility therefor under the bill by agreement with the appropriate foreign authorities. A decision of the Commission to assume responsibility for any such war memorial is final.

Any funds accumulated by the sponsors for the maintenance and repair of a war memorial for which the Commission assumes responsibility may be transferred to the Commission for use in carrying out the purposes of the act. Any such funds so transferred shall be deposited by the Commission in the manner otherwise specified in the basic law.

The Commission is further authorized to take necessary measures to demolish any war memorial erected on foreign soil by an American citizen, a State, a political subdivision of a State, any other non-Federal governmental agency, foreign agency, or private association and to dispose of the site of such memorial in such manner as it deems proper, if—

First, the appropriate foreign authorities agree to such demolition; and

Second, the sponsors of the memorial consent to such demolition; or

Third, the memorial has fallen into disrepair and a reasonable effort on the part of the Commission has failed—

To persuade the sponsors to maintain the memorial at a standard acceptable to the Commission; or

To locate the sponsors.

A question has been raised as to whether the status of Pershing Hall operated by a post of the American Legion in Paris, France, might be affected at some time in the future by enactment of H.R. 3733. The committee wishes to make clear that the answer to this question is in the negative. Pershing Hall is a building located in Paris which was acquired by the U.S. Government in 1936, under the provisions of Public Law No. 171, 74th Congress, June 28, 1935 (49 Stat. 426). It is clear, therefore, that it is not a memorial erected "by an American citizen, a State, a political subdivision of a State, or any other non-Federal governmental agency, foreign agency, or private association."

The American Battle Monuments Commission feels that this limited extension of their authority with respect to additional overseas war memorials is desirable and has estimated that the annual cost of the program will not exceed $25,000. Our committee has been advised that the Office of Management and Budget has no objection to the proposal and I recommend its approval by the House.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INCREASING INTEREST PAID ON THE PERMANENT FUND OF THE U.S. SOLDIERS' AND AIRMEN'S HOME

The Clerk called the bill (H.R. 8528) to provide for increasing the amount of interest paid on the permanent fund of the U.S. Soldiers' and Airmen's Home.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I wonder if I might have a brief explanation of the bill.

Mr. RONCALIO of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Speaker, the bill would provide for increasing the amount of interest paid on the permanent fund of the U.S. Soldiers' and Airmen's Home. The trust fund of the U.S. Soldiers' and Airmen's Home is limited by an 1883 law to an annual interest rate of 3 percent. This bill would amend the law to allow the rate of interest to be determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States.

The bill would allow a rate of interest equal to that of similarly situated trust funds, such as the railroad retirement fund and the civil service retirement fund.

Mr. WYLIE. Could the gentleman tell me how much that new interest rate will be? I do not see that figure in the bill. Does the gentleman have any kind of an estimate?

Mr. RONCALIO of Wyoming. No, I do not. The interest could vary from time to time. For the purpose of the Consent Calendar, Mr. Speaker, the fact that the committee recommends enactment, and the Department of Defense favors the legislation, and the Department of the Treasury favors the legislation, and the Office of Management and Budget had no objection, we felt that that was a good test to be met by the bill.

Mr. JOHNSON of Pennsylvania. The committee report points out the average rate of similar funds has been 4.8 percent. The bill allows the Secretary of the Treasury to take account of the period of availability of funds in setting the interest rate.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

H.R. 8528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the Act of March 3, 1883, chapter 130 (24 U.S.C. 46) is amended by striking out "of 3 per centum per annum," and inserting in place thereof "a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such investments, adjusted to the nearest one-eighth of 1 per centum,".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CIVIL ACTION NO. 1328–73, U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA—COMMUNICATION FROM THE SERGEANT AT ARMS

The SPEAKER laid before the House the following communication from the Sergeant at Arms:

JULY 12, 1973.

Hon. CARL ALBERT,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Sergeant at Arms of the House of Representatives received on July 9, 1973, from the U.S. Marshal, a copy of the summons in a Civil Action, together with the complaint filed by Consumers Union of the United States, Inc. v. several Government officials as defendants, including Kenneth R. Harding, Sergeant at Arms of the House of Representatives, United States House of Representatives, in Civil Action File No. 1328–73 in the United States District Court for the District of Columbia.

The summons requires an answer to the complaint within sixty days after service. Both documents are attached herewith.

Pursuant to 2 U.S.C. 118, I have written to the Attorney General of the United States and to the U.S. Attorney for the District of Columbia (copies of letters attached), requesting that they carry out their assigned statutory responsibilities in defending the Sergeant at Arms of the House in this matter.

Sincerely,

KENNETH R. HARDING,
Sergeant at Arms.

JULY 12, 1973.

Hon. ELLIOT L. RICHARDSON,
The Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: I am sending you a copy of a summons and complaint in a Civil Action No. 1328–73, filed against several Government officials as defendants, including Kenneth R. Harding, Sergeant at Arms of the U.S. House of Representatives, in the United States District Court for the District of Columbia, and served on me on July 9, 1973.

In accordance with 2 U.S.C. 118, I have sent a copy of the summons and complaint in this action to the U.S. Attorney for the District of Columbia requesting that he take appropriate action under the supervision and direction of the Attorney General. I am also sending you a copy of the letter I forwarded this date to the U.S. Attorney.

Sincerely,

KENNETH R. HARDING,
Sergeant at Arms.

JULY 12, 1973.

Hon. HAROLD H. TITUS, Jr.,
U.S. Attorney for the District of Columbia, U.S. Courthouse, Washington, D.C.

DEAR MR. TITUS: I am sending you a copy of a summons and complaint in a Civil

Action No. 1328-73, filed against several Government officials as defendants, including Kenneth R. Harding, Sergeant at Arms of the U.S. House of Representatives, in the United States District Court for the District of Columbia, and served on me in my official capacity as Sergeant at Arms of the House of Representatives, on July 9, 1973.

In accordance with 2 U.S.C. 118, I respectfully request that you take appropriate action, as deemed necessary, under the "supervision and direction of the Attorney General" of the United States in defense of this suit against the Congress of the United States.

I am also sending you a copy of the letter that I forwarded this date to the Attorney General of the United States.

Sincerely,

KENNETH R. HARDING,
Sergeant at Arms.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

JULY 13, 1973.

The Honorable CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:57 P.M. on Friday, July 13, 1973, and said to contain a message from the President concerning the 1972 annual report on agricultural export activities carried out under Public Law 480.

With kind regards, I am

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.

ANNUAL REPORT ON AGRICULTURAL EXPORT ACTIVITIES CARRIED OUT UNDER PUBLIC LAW 480—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-127)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Agriculture and ordered to be printed with illustrations:

To the Congress of the United States:

I am pleased to transmit to the Congress the 1972 annual report on agricultural export activities carried out under Public Law 480. This program has once again demonstrated the desire of the people of the United States to help those in other countries who are less fortunate than ourselves and stand in need of our assistance.

Through food donations and concessional sales of agricultural commodities, the Public Law 480 program in 1972 helped alleviate immediate problems arising from inadequate food supplies, and helped to lay the basis for new agricultural production in many countries throughout the world. A major impact of this program came through our assistance to the distressed victims of war and natural disasters in Bangladesh.

Other principal recipient countries of development and emergency assistance included Korea, Vietnam, Israel, Pakistan, India and Indonesia. By assisting such countries, the Public Law 480 program also helps to offset threats to internal stability and contributes to our objective of reducing the level of international tensions.

RICHARD NIXON.

THE WHITE HOUSE, *July 12, 1973.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

JULY 13, 1973.

The Honorable CARL ALBERT, The Speaker, *House of Representatives.*

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:57 P.M. on Friday, July 13, 1973, and said to contain a message from the President concerning the Seventh Annual Report of the National Advisory Council on Extension and Continuing Education.

With kind regards, I am

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.

SEVENTH ANNUAL REPORT OF THE NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93-73)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor and ordered to be printed:

To the Congress of the United States:

I herewith transmit the Seventh Annual Report of the National Advisory Council on Extension and Continuing Education. The Council is authorized by Public Law 89-329.

The Council's study covers the impact of Federal continuing education, extension and community service programs. I especially commend its analysis of the problems and shortcomings which have resulted from too many fragmented programs operating under various narrow legislative authorities. This study lends further support to a better approach to higher education which would permit academic communities to pursue excellence and reform in the fields they choose and by the means they choose.

The new Fund for the Improvement of Postsecondary Education provides a way to support development of effective programs in continuing education, extension, and community service. Because of the wide range of support possible under the Fund's broad mandate, I shall continue to recommend the termination of other less flexible programs.

RICHARD NIXON.

THE WHITE HOUSE, *July 12, 1973.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

JULY 13, 1973.

The Honorable CARL ALBERT,
The Speaker, House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:57 p.m. on Friday, July 13, 1973, and said to contain a message from the President concerning the annual report of the World Weather Program.

With kind regards, I am,

Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.

ANNUAL REPORT OF THE WORLD WEATHER PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

Through the World Weather Program, man is acquiring a means not only to cope with his atmosphere and its vagaries but also to understand and assess the impact of his activities on the quality of the global atmosphere.

As a result of recent technological improvements, we are continuing to show substantial progress in furthering the goals of this program:

—Operational geostationary satellites will soon provide a nearly continuous view of storms over a large part of the earth's surface, strengthening our ability to predict and warn of potential natural disasters. Polar-orbiting satellites making vertical measurements of the global atmosphere are already an important aid to weather forecasting.

—Significant advances in computer science are now helping to extend the range, scope and accuracy of weather predictions and to assess the impact of pollution on climate and weather.

—Intensive planning is nearing completion for a large-scale international experiment to be conducted in 1974 in the tropical Atlantic. This experiment will seek a better understanding of the effects of the tropics on global weather patterns. As a result, we expect to gain new insight into the life cycle of hurricanes that affect the coastal areas of the United States.

—Nations are planning to combine their resources in 1977 to observe the entire earth's atmosphere for the first time as a single physical system.

The World Weather Program is a distinctive example of what nations of the world are capable of achieving when united in a common purpose. A recent United Nations Conference on the Human Environment acknowledged the vital contributions of this program. It is most heartening that a program which means so much to the safety and well-being of the American people can at the same time assist in providing these same assurances to other peoples.

In accordance with Senate Concurrent

Resolution 67 of the 90th Congress, I am pleased to transmit this annual report describing the current and planned activities of Federal agencies participating in the World Weather Program.

RICHARD NIXON.

THE WHITE HOUSE, *July 12, 1973.*

PROVIDING EMERGENCY ALLOTMENT LEASE AND TRANSFER OF TOBACCO ALLOTMENTS IN CERTAIN DISASTER AREAS IN GEORGIA AND SOUTH CAROLINA

Mr. MATHIS of Georgia. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from the further consideration of the bill (H.R. 9172) to provide for emergency allotment lease and transfer of tobacco allotments and work quotas for 1973 in certain disaster areas in Georgia and South Carolina, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right of object, and I will not object, would the gentleman from Georgia explain briefly whether or not this bill will cost the Treasury any money?

Mr. MATHIS of Georgia. Mr. Speaker, if the gentleman will yield, the Department of Agriculture has reported that there will be no additional cost as a result of the enactment of this legislation.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman from Georgia will explain further, what is the immediate need which calls for bringing up this unanimous-consent legislative request?

Mr. MATHIS of Georgia. Mr. Speaker, as the title of the bill implies, it is an emergency situation in 12 counties in Georgia and South Carolina where farmers have been affected by inclement weather. This bill allows for this year only transfer by lease of allotments or quotas by farmers to other countries within the State. As a result, it is only after the farmers in the counties have met basic minimum requirements.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman could explain further, will this cause disruption in marketing quota systems and/or was there major objection to this bill in the committee?

Mr. MATHIS of Georgia. Mr. Speaker, there was no major objection to it; no objection at all in the Committee on Agriculture.

Of course, it would not be disruptive to the marketing procedure. In fact, by the financial relief to a number of small tobacco farmers who otherwise will be very much hurt financially, it will help.

Mr. ROUSSELOT. Mr. Speaker, I think that answers most of the questions I have. This is not a highly unusual procedure then, to respond to this kind of disaster?

Mr. MATHIS of Georgia. Mr. Speaker, if the gentleman will yield further, it is not without precedent.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection, and thank the gentleman from Georgia for his explanation.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 9172

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 316 of the Agricultural Adjustment Act of 1938, as amanded, is amended by adding at the end thereof the following new subsection (g): "(g) Notwithstanding any provision of this section, when as a result of flood, hail, wind, tornado, or other natural disaster the Secretary determines (1) that one of the counties hereinafter listed has suffered a loss of 10 percentum or more in the number of acres of tobacco planted, and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within Atkinson, Berrien, Clinch, Cook, Lanier, Lowndes, or Ware Counties, Georgia, or Clarendon, Lee, Sumter, or Williamsburg Counties, South Carolina, which has suffered a loss of 30 per centum or more in the number of acres of tobacco planted of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or nearby counties within the same State, for use in such counties for the year 1973 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another country pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection.".

AMENDMENT OFFERED BY MR. MATHIS OF GEORGIA

Mr. MATHIS of Georgia. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATHIS of Georgia: On page 2, line 4, following "Atkinson," insert: "Bacon,"

The SPEAKER. The question is on the amendment offered by the gentleman from Georgia (Mr. MATHIS).

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

Mr. POAGE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8860) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8860, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, July 12, 1973, the first section of the bill, ending on page 53, line 2, was open to amendment at any point.

Are there further amendments to be proposed to this section?

Mr. ROUSSELOT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Seventy-two Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 337]

Addabbo
Alexander
Ashbrook
Ashley
Aspin
Badillo
Bell
Biaggi
Blatnik
Boland
Brown, Mich.
Burke, Calif.
Burke, Fla.
Chisholm
Clark
Conyers
Danielson
Dellums
Diggs
Dingell
Dorn
Edwards, Ala.
Edwards, Calif.
Fisher
Fraser
Frelinghuysen
Gray
Green, Pa.
Gross
Gubser
Hanna
Hébert
Heinz
Helstoski
Hillis
Holt
Holtzman
Johnson, Calif.
Kastenmeier
Kemp
Landgrebe
Landrum
Lott
McCormack
McDade
McFall
McKinney
Mailliard
Mallary
Maraziti
Minish
Minshall, Ohio
Mitchell, Md.
Morgan
Murphy, N.Y
O'Hara
O'Neill
Parris
Pepper
Pettis
Peyser
Podell
Reid
Reuss
Robison, N.Y.
Roe
Roy
Ruppe
Sandman
Stratton
Stuckey
Talcott
Thompson, N.J.
Ullman
Vander Jagt
Wilson, Bob

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8860, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 357 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. Are there additional amendments to title I?

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FINDLEY: On page 4, strike lines 10 and 11.

Mr. FINDLEY. Mr. Chairman, I have two amendments to the dairy section; both of them would help consumers of milk and dairy products. One is on the question of price support levels. The bill before us would increase the minimum price support for dairy products from 75 percent of parity to 80 percent of parity.

The other amendment which I will offer when I have the opportunity deals with the dairy import license section, which is a very novel provision under which the producers and processors of dairy products would be able to be in charge of the import of dairy products, somewhat like putting General Motors in complete charge of deciding how many

Volkswagens will be introduced into this county.

The amendment now before the Members is one to reduce the level of price supports as provided in the bill from the level of 80 percent of parity to the present minimum price support, that is, 75 percent of parity. The dairy section, as I say, will raise milk and other dairy prices. My amendment will keep the minimum price support at 75 percent.

This amendment is the Members' chance to vote against higher milk prices. If Members want to be recorded for higher milk prices, vote against my amendment.

Bear in mind that the price support is a floor and not a ceiling. If the Secretary of Agriculture at some future time gets word about milk supplies and wants more production, he will have the option of raising the minimum price supports to stimulate production. That flexibility is now in the law and is not changed at all by my amendment or by the bill that is before us. But if the 80 percent price support floor sticks, consumers will be stuck with higher milk prices.

I hope the Members will not be fooled by arguments that dairy prices are already above 80 percent of parity. These arguments are being sold by the well-fed, well-paid, well-financed milk lobby that has been churning around Capitol Hill in the past few days. The sole objective of this lobby is to legislate higher milk prices. The 80 percent floor is like the bottom rung of the extension part of an extension ladder. If the bottom rung of the extension part goes up, everything above it goes up, too. That means that the price paid by the consumer will go up if the minimum price support specified in this bill goes up.

In fact, the Department of Agriculture in a memorandum furnished to me just a couple of weeks ago estimated that the change from 75 percent of parity to 80 percent of parity will cost consumers $182 million extra the first year of this bill. The 4-year cost by my estimate would be about $800 million. But that is only a part of the price tag of this price support change.

The Department of Agriculture estimates that the increase will cost the Government, that is, in new Government expenses, new Government costs, $521 million over the 4-year life of the bill, so we are talking about a Government outlay of $½ billion in this seemingly modest price support change from 75 to 80 percent of parity.

If we add the two items together, the increase to 80 percent of parity proposed in this bill will sock the American people to the tune of $1.3 billion over 4 years or about $320 million a year.

So if the Members want higher milk prices, vote against my amendment. If the Members would like to hold milk prices down, vote "yes."

The question occurs, Is there really broad interest in consumer prices? Here is an opportunity to test the level of that interest in this body. I will give the Members a chance to vote "yes" or "no" on the question of raising milk prices.

Mr. POAGE. Mr. Chairman, I rise in opposition to the amendment.

This amendment is based upon the same fallacy that has served as the basis for so many of the proposals offered by the gentleman from Illinois. It is based on the assumption that if we fix a support price at a very low level, the public will be able to buy very cheap food. Unfortunately for that philosophy, experience in the last few weeks has shown that it does not work.

Have any Members heard anything about chickens getting scarce? Have any Members heard anything about meat beginning to get scarce? That is occurring not because the price is down but because a farmer cannot get any profit for producing those things, and when he cannot make a profit he does not produce them any more than those who operate factories would produce items on which they cannot make any money.

The question is not what we are going to pay. The real problem is: Are we going to have the food?

But I want to suggest something about this particular milk price and I want every Member to hear me. I do not often demand the attention of the Members, but I would appreciate it deeply if each Member who is properly committed to protecting the welfare of the consumer will bear in mind that just about 3 months ago we had 80-percent support for milk and milk products. We had 80-percent support and it was dropped to 75 percent. I want every Member in this Chamber who has observed a drop in the retail milk price to stand up, please.

It is a perfect fallacy for the Members to be told that what the gentleman is proposing is going to protect the consumer from the high prices for milk. We had 80 percent and we were paying less for milk then than we are paying today. How in the world can the gentleman seriously insist that he is going to reduce the milk price by refusing to let producers get a fair return for their milk? He is not going to drop the price by forcing milk cows to the market for slaughter.

Oh, yes, he talks about these "big, rich" dairymen. I do not know what the situation is in his west-central Illinois area but I know what it is in central Texas. I know there are very few people on or off the farm who work more diligently and who work longer hours and who work under more adverse circumstances than do our dairymen. It is a dirty work. It is unpleasant work. Yet somebody stays at it always in the hope that he will wind up with enough to pay the mortgage and pay the feed bill and that feed bill has been going up mighty fast.

I have been in the dairy business. I got out of it as quickly as I could. But I have been in the business and I know something about the privations of those who are dependent upon milking cows for their livelihood. Of course, the gentleman may have an entirely different situation in his district, but if so it is probably the only district in the United States where dairymen are rolling in wealth and where dairymen are enjoying the easy life or where dairymen are even getting a fair price.

Do Members think it is unreasonable to expect dairymen to get 80 percent of a fair price? That is all we are asking that we give these dairymen—80 percent of a fair price.

When the gentleman tells us it is going to cost so much money, remember we have been supporting dairy prices at 80 percent. This is not something new. We are just going back to what we have been doing.

I cannot remember any other commodity where the support has been dropped as it has in dairy prices, but the support has been dropped on dairy products and has gone up in almost everything else. Do the Members want to vote for something that is going to reduce the income of the dairy farmers, something that is going to cut the price down lower than it was last year, and yet expect them to pay present-day prices for feed and present-day prices for supplies and present-day prices for labor and present-day prices for their equipment?

Mr. TEAGUE of California. Mr. Chairman, I move to strike the necessary number of words.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from Illinois (Mr. Findley).

Mr. FINDLEY. Mr. Chairman, our good chairman of the House Agriculture Committee, Mr. Poage, bases his whole argument against this amendment on the fear of short supply of milk that might put consumers shelves empty and price milk even higher than it is now. But he pointed out himself in the course of his argument that the Secretary has indeed power to raise supports, if need be, and in times past has done so. There is no reason in this world why under my amendment the Secretary of Agriculture could not exercise the same flexibility if he saw a shortage looming, and raise supports to 80 percent or even higher if he felt that was necessary to get the added production.

By the same token, it makes no sense whatever to inflict the consumers and taxpayers of the United States with a price floor that is unnecessarily high. I would point out to the Members that there is not a single commodity produced in the United States today which enjoys a minimum price support as high as even 75 percent for all production. We are talking about a price support for all production of dairy supports here, not just for those which might happen to be under a marketing order, but for every dairy producer.

It makes no sense whatever to raise the price-support minimum to unnecessarily high levels.

If I have fallen into a fallacy, to use the chairman's own words, the Department of Agriculture has fallen into the same fallacy, because I used Department figures, not Findley figures.

Mr. Chairman, I thank the gentleman from California for yielding.

Mr. TEAGUE of California. Mr. Chairman, I support the Findley amendment.

Mr. DENT. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, it is too bad that a greater number of the American people and, I might say, a greater number of the Members of Congress have not taken the time to really study the agricultural economy of this country. There would be no need for price supports if we based the cost of production and the selling price of agricultural products realistically.

However, what we do, each and every one of us in the United States, is pay taxes in order that we can support the difference between what a farmer gets for his product and what we sell it for in foreign countries.

The last time I was in Wisconsin, a few years back on a study of this problem—I have not been out since, because it has become so confused today that I doubt if anyone really knows the answer—one of the answers very seriously, is this: Last year, in 1972, the foreign buyers jumped up their corn purchases from 500 to 880 million bushels of corn. It was at a price that the farmer cannot even start to grow it for and a price we all know we have to pay in millions of dollars in support.

The gentleman from Ohio was talking about it along the lines of cost. It is not millions of dollars support for the consumption of the American people; it is for the consumption of the foreign people that get world prices on products grown on our farms below the price of the production, and every man in this room knows it.

In Wisconsin, they had whole sheds, warehouse sheds filled with Cheddar cheese being shipped where? Being shipped over to Switzerland, the great dairy country. Why? Because they get it at a price we could not buy it at in our stores and then they reprocess it and send it back to the United States in about bite size pieces, if you please. They were getting 500-pound-barrel sizes, shipping it back from all of the dairy countries of Europe, back into the United States delicately and daintily wrapped in little packages.

We "suckers" run into the confectionery and pay a price higher than was paid for the American product. They did not even support the tariff and custom rates for the amount of money we sold it to them for. We allowed it to come into this country at less than 25 cents a pound, and we were selling at 25 cents a pound.

Members may as well make up their minds.

I do admire the one point which was brought out about the dairy imports. A few years ago, Mr. Freeman was Secretary of Agriculture, he got President Johnson to put a clamp on the imports of cream or products made from milk. Why? Because our dairy farmers were down on their backsides. They were broke.

My State is a dairy State. Pennsylvania is one of the largest eastern seaboard States of the Union for dairy farming. The farmers do not get any of this money we are talking about, to amount to anything. They did get a little lime, and a little for the fishponds, to help eradicate erosion, but the Congress saw fit to take that out.

We must tackle this thing at the cross, where it belongs, and that is between 90 and 97 percent of parity. From 1946 to 1950 were the best days we had, because we had almost a 90- to 95-percent parity in agricultural products. Anything less than that deprives the farmer of the ability to buy American machinery, to buy the products he needs on the farm.

This business of dairy farming is no longer a little backwoods operation. It is mechanized. They have lost in my State thousands and thousands of dollars, on the equipment they must have to be allowed to come within the law to produce milk in that State and sell it.

I want to say to all of the Members that until we tackle this problem on the basis of the difference of a world price and the American cost price of production we will never resolve the farm problem. They will always be the stepbrothers of the American workingman.

Mr. WAMPLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the increase in the minimum price support level for milk to 80 percent of parity is a question of basic concern to dairy farmers and to consumers across the Nation. At the heart of the issue is the continued production of adequate milk at reasonable prices.

In the enactment of legislation originally authorizing the dairy price support program, Congress set forth three basic objectives. These are: First, assistance to dairy farmers in the securing of parity prices in the marketplace; second, a support floor at which the Government intervenes through Commodity Credit Corporation purchases to prevent milk prices to farmers from dropping too low; and third, assurance of the production of adequate supplies of milk within our own shores which can be depended upon in times of war or other emergencies. The present minimum of 75 percent does not fulfill that objective.

I strongly feel that the minimum of 80 percent of parity should prevail. It is barely consistent with current marketing conditions. In fact, more than 100 of our colleagues agreed earlier this year that the price support level should be set at 85 percent for the current marketing year.

The production situation is critical in the dairy industry today. Just as we failed to heed warnings of an energy shortage, and a feed grains shortage, until it was too late, so we fail to read correctly clear signals of distress within the dairy industry.

During the month of June, milk production throughout the United States was 2.5 percent less than a year ago. Total production for the first 6 months of this year is down 2.0 percent from a year ago. The number of milk cows on farms is 2 percent fewer than a year ago, and milk production per cow is also down slightly.

Even though milk prices are higher than ever before in this country, production costs have risen at such a rapid rate that dairy farmers are being forced out of business. Supply and demand are in very close balance now, and this is the peak of the production season. Later this year, when the short production season is upon us, it will be next to impossible for the dairy farmers to meet the needs of the market.

During 1972 gains in milk and dairy product consumption outstripped the increase in production by 2 to 1. It is extremely important that we assure dairy farmers that they will be able to recover a reasonable percentage of their cost if we expect them to continue to fulfill their responsibility to the consuming public. Their participation in the economic stabilization process demands equitable opportunity.

The productivity of the farmer means that America can supply abundant food for all of our people. The cost of living has been going up, but it is not the farmer who is to blame. He has been striving and investing to produce the milk, meat, grain, vegetables, and other needed food as economically as possible. Farmers have doubled their output per man-hour just since 1950. They have increased their productivity three times as fast since 1960 as nonfarm industries. They have actually been holding down our cost of living. Americans spend a lower percentage of their disposable income for food than any other industrialized country in the world. Obviously if farmers were still using the methods of even 20 years ago, food would cost substantially more today than it does. America has a very high standard of living, because of its higher productivity, and agriculture is a glittering example of what productivity can accomplish.

When all factors are weighed, it is obvious that there is every reason to increase the minimum price support level for milk to 80 percent of parity. The strengthening of the market at this time is essential to assure farmers that they will have prices in the year ahead which will warrant their staying in the milk production business. Clearly this is in the public interest.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman's yielding. I would like simply to compliment him on an extraordinarily good statement and associate myself with his remarks.

The gentleman from Illinois in proposing the amendment talked about the effect that his move to lower the support level conceivably could have upon the consumer. What I think has been forgotten is the point which the gentleman from Virginia made so clear, that in terms of future production, in terms of the ability of the farmer to remain in business, a refusal to set the price at a decent level will, in effect, mean not an extra supply of milk, but a shorter supply of milk.

What I see in my State of Wisconsin, as I know the gentleman from Virginia sees in his State, is that dairy farmers today are questioning whether or not they want to remain in business, whether or not they are going to have a decent support price to justify the cost that they bear of the goods they are buying. And if they do not, and if there is not an assurance, what they are going to do is to say, "I am going to get out of the milk business."

Mr. Chairman, the result of that step will be clearly that consumers will pay more for less product. The failure of this Congress to deal with the serious problems facing the dairy farmer will have longrun consequences.

Mr. Chairman, I compliment the gentleman from Virginia (Mr. WAMPLER) for his very fine statement.

Mr. JONES of Tennessee. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it was my pleasure to preside over the House Dairy and Poultry Subcommittee on consideration of the dairy section of the Senate passed farm bill. Let me say that when we received this bill a hot debate was going on over some of its provisions.

The Justice Department was upset over some of the milk marketing order provisions. Farm groups were at each other's throats and consumers were up in arms. However, the committee took steps to calm the situation and in so doing eliminated the controversial sections. As far as I know, there is little significant opposition to our version of the bill.

We completely eliminated the controversial market order provisions and simply extended the class I base plan. This allows dairy producers to sell fluid milk on the basis of their past deliveries of milk. For staying within this production framework a dairyman will receive the agreed price in the market order. If he overproduces, he will receive a lower price. This basically is the same system we have operated under since 1965.

A new provision gives producers the right to a hearing with the Secretary of Agriculture on their marketing agreement if one-third of the producers request such a hearing in writing. In the past USDA has ignored legitimate complaints, and this should insure their right to be heard.

Another change in title I simply mandates that the Secretary of Agriculture, when setting prices in Federal milk marketing orders, should consider both the need for adequate supplies of high quality milk and the need to insure a farm income adequate to maintain the productive capacity in dairying needed to meet anticipated future demand.

While this change probably will not have much effect, it points out a very serious problem. We are rapidly losing our ability to produce milk. Dairymen are selling all their cows except their top-notch producers. Feed costs will not allow dairymen to maintain any but the most efficient milk cows. Farmers are taking advantage of the current beef prices and are liquidating their herds.

Dairying is hard work, 7 days a week; when a farmer gets out of the business he is not likely to go back in. Marginal producers are falling by the wayside. In my district we have had several go out of business this month. And remember that they are selling their dairy herds for hamburger, not to other dairymen.

In consideration of this very serious problem, the committee voted to set the minimum dairy price support level at 80 percent of parity. This is a 5 percent adjustment above the 75 percent level set by USDA this past March. I want to say, also that this provision puts more power back into the hands of Congress and takes it out of the hands of the administration. We all realize the need for Congress to regain its rightful place as an equal branch of government and this is a step in the right direction. Currently the support level can be set by USDA at any point between 75 percent and 90 percent of parity. I must say their decisions have been made arbitrarily without regard for the long-term consequences. However, in the interest of compromise, the Department still has the flexibility of setting the support level between 80 percent and 90 percent of parity. Also, the bill gives added flexibility by permanently eliminating the butterfat support program which was temporarily suspended by the 1970 farm bill.

This bill would amend section 22 of Agricultural Adjustment Act of 1938, as amended, as it pertains to dairy import licenses. It makes an allowance that when new dairy products are imported, that is any product not currently covered under section 22, licenses must be issued and must be made available for a 30-day period to domestic producers and processors of that product. This gives our domestic producers a chance to compete with foreign producers.

Our bill extends and reaffirms several provisions of the old bill. It extends the authority to donate dairy products acquired under the dairy price support program to the military agencies and the Veterans' Administration. It incorporates the same legal clarification of the status of producer-handlers as in the 1965 and 1970 acts.

The dairy indemnity program is extended and adds a provision to indemnify farmers for milk cows whose production is lost due to residues of chemicals which are registered and approved by the Federal Government. The provision is not retroactive and would only apply to cows producing milk which is ordered removed following enactment.

I see very little that is controversial about this bill. Some Members and some visitors are arguing against the 80 percent price support level. I submit that if this small increase is not granted, consumers are going to see sky high prices. All but the large dairies will go broke.

The trend has already started. I believe few people would disagree that dairymen deserve a fair price for their product. As consumers our choice is simple, pay the fair price for adequate supplies or face a situation of not being able to afford what little milk is produced.

Gentlemen, we need milk. Milk is needed for the children of this country. We need it for a good balanced diet. But, believe me, we are going to face a real shortage of milk in the not too distant future if we do not do something to encourage these dairy farmers to remain in business and quit liquidating their dairy herds as they are doing today.

I was in Tennessee over the past weekend, not in my district but in the eastern part of the State. These dairy farmers are getting rid of their cows as rapidly as they possibly can and, as has been pointed out by my good friend, the gentleman from Virginia (Mr. WAMPLER), we need these milk cows and we need dairy farms throughout this country.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. JONES of Tennessee was allowed to proceed for 1 additional minute.)

Mr. JONES of Tennessee. However, with the closing in of the prices on feedstuffs and labor and all of the other necessary items that a farmer needs, we are going to lose them very rapidly if we do not do something to see that they get a fair return for their labor on the farm.

Mr. SHUSTER. Will the gentleman yield?

Mr. JONES of Tennessee. I will be glad to yield to the gentleman.

Mr. SHUSTER. I rise to commend the gentleman for his statement and point out to this body that in the Pennsylvania market, in April, 14 dairy producers went out of business, in May, 12 additional dairy producers went out of business, and in June, 10 went out of business. In the United States last month every State in the Union dropped in milk production at a time when milk consumption is increasing. Something has to be done, or we will just not have milk on the table.

Mr. JONES of Tennessee. I thank the gentleman.

Mr. ZWACH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

Mr. Chairman, we are making a very important decision. As a member of the subcommittee that spent many, many hours on this particular item, and ended up giving it my strong support, I want to very briefly make just a few statements.

First of all, the milk production in our country is down. There is just no question about that. We are starting to open the gates to imports, and these are not imports through honest competition, but subsidized imports from Europe. Europe cannot produce milk as cheaply as the United States, but when the Government subsidizes their out shipments then they can bring it into our country.

Milk is still a very good buy. Why milk is cheaper than colored water that so many of our people drink. It is much cheaper than beer that has a little hops and a little barley in it; it is a very, very good buy. We are going to need to maintain our daily producers. We need to bring in young men into this hardworking business. It is not easy to be a dairyman, because one is almost slave to time in this business. Every day; 365 days of every year, they are slaves to it. But these people love it. We want to keep them in it, so let us keep our Americans producing our milk.

Mr. FROEHLICH. Mr. Chairman, will the gentleman yield?

Mr. ZWACH. I yield to the gentleman from Wisconsin.

Mr. FROEHLICH. Mr. Chairman, as one Member of the House of Representatives, may I say that I spend most of my weekends back in America's dairyland in Wisconsin, traveling throughout the countryside visiting farmers and cheese factories, and I can say right now that there is a shortage of milk in this country because the cheese factories of Wisconsin cannot get the amount of milk they need to produce what they have been producing, and to cover what the demand is.

If this amendment is not defeated, if the farmers are not guaranteed a long-term return then they are going to continue to sell off their stock and we are going to face liquid milk rationing in this country.

Members of the House, this amendment must be defeated.

Mr. Chairman, I would like to commend the gentleman from Minnesota (Mr. ZWACH), associate with his remarks, and say that the gentleman is correct about the production of milk in Europe. I just talked to a farmer who recently returned from a visit to Europe, and he said that it takes 10 people to run a 100-cow dairy farm in Germany, whereas that gentleman and his wife do it themselves in Wisconsin. Milk from Europe is more expensive. Our milk is less costly because we are more efficient. We can continue and increase our production, but to do this we must promise our dairy farmers a good return.

Mr. Chairman, this amendment should be defeated.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. ZWACH. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I want to compliment my colleague, the gentleman from Minnesota, for his very timely and accurate statement.

I would ask the gentleman from Minnesota if it is not a fact that the culling of dairy herds in our Nation today is perhaps at an alltime high?

Mr. ZWACH. The gentleman from Virginia is correct; there is no question but that it is correct.

We cannot replace them fast enough. If we need them, and if this occurs, then we are in serious trouble in America insofar as our dairy production is concerned.

Mr. WAMPLER. And is it not true, if the gentleman will yield further, that it takes from 2 to 5 years to replace one of these cows?

Mr. ZWACH. Yes, it takes about 5 years to produce a milk cow.

Mr. WAMPLER. And is it not also true that because of the attractive price of beef in the market that this brings about an additional incentive for dairy producers to cull their less productive cows?

Mr. ZWACH. That is certainly another factor that is involved.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I move to strike out the requisite number of words. I have listened to this debate, and the discussion has revolved around those who are engaged in the dairy business.

That has been the situation we have had throughout this debate on the bill for the Department of Agriculture, the agricultural program. I think we make a mistake, as Members of Congress, and I think the press makes a mistake, when we refer to this as a bill for those engaged in agriculture. I think by all manner and means, we must realize that the bill before us is a consumers' bill. Yesterday's press, including the local paper and the New York Times, said we are in for a lasting food shortage in the near future.

Involved here is the question of whether or not we give the consumers something to consume. There is absolutely nothing in the world that will help the consumer if he does not have anything to consume.

I received permission to have included in the RECORD, which the Members will find on page 23625, the law that would exist in the event we fail to pass the agricultural bill, and when I listen to the statements that we have heard here today, it makes me wonder if we would not be better off to revert back to the 1958 act. It was an act that provided for production. There is no way in the world for anyone engaged in agriculture with the present high land values—which have been run up by nonfarmers to a great degree—to pay the type of prices which he has to pay, reflecting the cost of labor and the cost of industry's markup and sell for only what the traffic will bear or what is left of the consumer dollar without going bankrupt. We, the consumers in the long run, are the ones who will do without.

As I tried to point out in my discussion, we have an average of more than 400,000 leaving the farm every year. One cannot hire anyone in my area to go out and do farm labor. They do not care to do that type of labor. As someone has said, it is too hard, too much like work.

I say to the Members here, if they have time, read the remarks on page 23625. They will see a resume of the law, as it would exist if we fail to pass an agricultural act this time. It makes me wonder if perhaps we should not fail. Included in the remarks, the Members will find excerpts from volume 9 of our hearings this year in which I brought forward the 1956 and 1957 hearings of the Department of Agriculture.

Mr. Benson was the Secretary of Agriculture at that time, and the Assistant Secretary was Mr. Butz. There are those who say that if we went back to the 1958 act that we would have billions and billions of dollars of American commodities in storage. We did not have it then, because of the law; we would not have it now, because of the law. If the Members read my remarks, they will see that Mr. Benson acknowledged that we had a surplus because they would not sell our commodities in world trade at competitive prices. That is in the RECORD.

If the Members read volume 9, they will see that they deliberately held our commodities off the oil markets and left it up to industry, and too frequently, our American industry had investments in South and Central America and around the world. They talk about our State Department and the Secretary of Agriculture holding off from this world trade so they could make fortunes right under it while we held the umbrella.

I say to the Members, we never have had a dime's worth of any commodity as a result of law. We had it as a result of the refusal of the Secretary of Agriculture and of our authorities in the State Department and in the White House to let us sell, as the law contemplated, at competitive prices. Our Nation must return to a land of production.

I know one of the great issues here is food stamps. I know in many consumer areas where there has been extensive use, it has become a red hot political issue. I know it is hard to turn our backs on a program once we start it, but let me say to the Members, those food stamps only have value as long as there is food on the shelves.

(By unanimous consent Mr. WHITTEN was allowed to proceed for 3 additional minutes.)

Mr. WHITTEN. We have made many mistakes in this country, and I hope the Members will give serious thought to what I have said here. After all, I have presided over the committee handling the appropriations for agriculture since 1949, except for 2 years. We need a country that produces. We need to return to the time where, instead of trying to cut back production and squeeze in a higher unit price, we are producing the units and using the Commodity Credit Corporation's charter which authorize sale on the world market for what the traffic will bear. We need to get back to section 32. We need to divert that surplus to those who receive food stamps, and who will get food stamps, but little food for them if we do not get back to that policy.

We need to return to our former program which will allow us to produce a surplus of commodities to sell in world trade in order that our Nation may earn its dollars back. Certainly if ever any nation needed to earn its dollars back, it is this Nation. I say to you, agriculture production offers our best opportunity.

If Members will read the debate in the RECORD of last Thursday or read the hearings, they will see that where it is alleged, this surplus was built up, because of the law, and shortsighted policies in agriculture. But my friend, the gentleman from California, has not told the Members in the debates we have had over a number of years that with lemons, oranges, and various other citrus fruits we have had an export subsidy from section 32 funds. Why? Because we cannot pay labor as much in 1 hour as is paid to labor for a full day in Mexico and compete.

Section 32 of the AAA Act states that 30 percent is set aside for price support in perishable areas. Most of the producers of perishable commodities do not have sympathy for the problems the storable commodity producers, producers of commodities which can be carried over for many years, for they have a source of funds provided by section 32 with which they buy up the surplus, strengthen the market, and divert the commodities purchased for domestic uses, such as food stamp recipients.

Mr. TEAGUE of California. If the gentleman will yield, I have to agree with the gentleman that exactly what we have to do is to go back to production. I have always been against soil banks and against set-asides and against whatever we call them if the method is to take good valuable land out of production. It has been one of the principal causes for the shortage of the present-day supply of feed grains and it is causing cattle and hog growers difficulties at the present time.

Mr. WHITTEN. May I say to the gentleman he is confirming the high opinion I have of him.

But I do say that where we have 95 percent of the people in our cities absolutely dependent upon 5 percent for their food production, they must remember that 5 percent has to invest an average of $100,000 for each farm. They cannot get labor, buy equipment and provide for other essentials when they have to pay the going salary rates for an hour's labor which is the same amount as is paid for a day's labor in Mexico.

I say it is not time to debate about the poor fellow who cannot get off the farm. He can get off quite easily and we may be the ones who take him off. We had better pay attention to the 95 percent of Americans who are going to get hungry if we do not pay an adequate price to promote production.

Mr. DENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. FINDLEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred and fifteen Members are present, a quorum.

Mr. DENHOLM. Mr. Chairman, I rise to oppose the amendment for the reason that it is inconsistent with the theory of the entire bill. It may very well be that all price supports are wrong but we have had them for 40 years. The question is at what level we are going to sustain them—and what level of production we can expect if we don't have them.

The author of the amendment suggests that if we reduce the price support level on milk to 75 percent of parity it will save consumers and taxpayers of this country several million dollars. I ask again, if the author will respond, how much he alleges can actually be saved by reducing the price support level to 75 percent of parity?

Mr. FINDLEY. Here, I used the estimate of the Department of Agriculture that in the first year of the bill the consumers would be saved $182 million by the passage of my amendment. The first year additional cost to the Government, that is, to the administration of the program in terms of Government cost of various sorts, the first year cost would be just $54 million, but the 4-year estimate by the Department of increased Government costs over the 4-year life of the bill would be $520 million, so there is a lot of cost to the public involved in this amendment.

Mr. DENHOLM. Will the gentleman agree with me that whatever is saved in the interest of the consumers and the Government is a cost to the producers?

Mr. FINDLEY. No. Whatever we save to the consumer I think would be translated in some loss of income to the producer, but not 100 percent loss. Certainly, the extra cost to the Government would be spread out over the whole population, not just the producer.

Mr. DENHOLM. That is exactly the issue in controversy. Who is going to carry the burden of all the subsidy payments in the future? It should be shifted to all of the people rather than to less than 5 percent of the people.

Mr. PRICE of Texas. Mr. Chairman, will the gentleman yield further?

Mr. DENHOLM. I yield to the gentleman from Texas.

Mr. PRICE of Texas. Mr. Chairman, I agree with the gentleman. The gentleman from Illinois is talking about what it is going to save the consumer. What will it save the consumer when they go to the milk shelf and there is not any milk there? That is what we are talking about.

Dairymen are not going to produce milk. They will sell their dairy herds. We are going to get to the point in America where we will not be able to buy milk on the shelf.

Mr. DENHOLM. That is exactly right. In the first 5 months of 1973 there were 111,000 dairy cows slaughtered because producers could not afford to feed them and receive the market price level for raw milk. Last year, for the same period of time 45,000 dairy cows were slaughtered. As the supply diminishes, and if the demand remains constant then prices are certain to increase. Therefore, I believe it would be more costly to the consumers.

I think the consumers of this country are growing weary of paying the price twice, once in support prices and/or again at the checkout counter of the grocery stores across the country.

The consumers are weary of that kind of a program. I agree with the gentleman from Mississippi (Mr. WHITTEN) that it is time for full production but we must secure the income of the producer without increasing the cost to the consumer.

The only possible way we can attack inflation in a meaningful way is to reduce the cost of living because organized labor reacts to the cost of living and they will return for a higher minimum wage next year if we enact a food policy that increases the cost of living. I do not know what is required for reasonable people to come to their senses and understand what is going on in this country. We are charging consumers twice under policies of production controls and price supports—payments for nonperformance and nonproduction and false prices at Government expense.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. DENHOLM. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, the thrust of this amendment is that the 75-percent parity level which I seek to keep in the law would be a ceiling. Instead, it is a floor. The Secretary could go above 75 percent whenever he believes the supply conditions require.

Mr. DENHOLM. The gentleman from Illinois has had more experience with the Secretaries of Agriculture than I have, but I have seen many of the results of some of their discretionary work. The fact is, they do not raise the price level within the limits of the law. They have not in the past and I have no confidence that they will in the future.

We need full production and security of income for the producers without affecting prices to consumers. I oppose the amendment and it should be defeated.

Mr. TAYLOR of North Carolina. Mr. Chairman, cows are the only creatures in the milk business these days that seem contented. For everyone else the situation threatens chaos. Consumers are irate about rising milk prices. Retailers and processors complain about profit squeezes, and dairy farmers are distressed by spiraling feed price increases, labor shortages, expensive farm machinery and other conditions.

This year the big problem has been the unprecedented increase in feed costs. Heavy rain and storms have not only delayed harvesting of grain but have destroyed much of last year's feed grain crops. Large-scale exports of grains, such as wheat and soybeans, and especially the large sale of wheat to Russia, have led to a shortage of feed grain and forced feed prices to double.

Between December 1971 and December 1972 the cost of hay increased 42 percent. During this same period in North Carolina the cost of cottonseed meal increased 157 percent and the cost of 16 to 18 percent dairy ration increased 74 percent.

Dairy farmers are being driven out of business by an income squeeze. In the mid-fifties there were over 200 grade A dairies in the county in which I live—Buncombe County, N.C. Today there are 74. It is only through improved production methods, automation and better cows that these dairies have remained in business and have been permitted to survive and to grow. Milk is the Nation's most perfect food and in most homes it is a necessity. Yet, our Nation is threatened with a severe milk shortage unless the dairy industry can be made sufficiently attractive and profitable for dairymen to remain in business. There is a real danger that in the years ahead we will face in this Nation a milk shortage, just as we are now facing a gasoline shortage. For these reasons, I must oppose the Findley amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FINDLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. SMITH OF IOWA

Mr. SMITH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Strike everything from page 37, line 10, through page 38, line 19 and insert in lieu thereof the following:

"SEC. 807. (a) The Secretary of Agriculture shall revoke the registration of any futures commission merchant or floor broker—

"(1) who accepts any order for the purchase or sale of any commodity for future delivery on any contract market from any person who has been found in violation of the provisions of subsection (b) below, or

"(2) who, himself, is a person who has been found in violation of the provisions of subsection (b) below.

"Any futures commission merchant or floor broker whose registration is revoked in accordance with this subsection shall not be eligible to reapply for registration until twelve months after the date of revocation.

"(b) Any person who sells any commodity for export shall, within forty-eight hours after such sale, inform the Secretary of Agriculture or his designate of (1) the date of such sale, (2) the name and full identity of the commodity sold, (3) the quantity of the commodity sold, (4) the name of the buyer and the country or countries to which the commodity is to be shipped, (5) the sale price, and (6) such other information as the Secretary may by regulation require. The Secretary shall by regulation prescribe the manner in which the above information shall be transmitted. On the first working day following its receipt, such information shall be made available by public announcement and shall remain available for public inspection for a reasonable time thereafter. The Secretary shall prescribe regulations to assure that such information shall be disclosed simultaneously to the public and to prevent any person or firm gaining from premature disclosure.

"(c) For the purposes of this section, the terms 'registration,' 'futures commission merchant,' 'floor broker,' 'contract market' and 'commodity' shall have the same meaning as stipulated in the Commodity Exchange Act as amended, and the authority contained therein shall be used in carrying out the requirements of this section.

"(d) The amendments made by this section shall become effective thirty days after enactment."

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. SMITH of Iowa. Mr. Chairman, this amendment revokes the right to use the futures market to any grain dealer who fails to report within 48 hours to the CEA sales that he has made to foreign customers.

We heard a lot here during the debate about the Russian grain deal and the wheat sales, but there has not really been anything offered prior to this amendment to help avert the same thing happening again. I believe we should learn from mistakes of the past; not just talk about them, but to do something about it.

On July 5 of last year one of the big private grain companies met with the Russians, and sold them 180 million bushels of wheat for cash. During the same period of time they were talking with the Department of Agriculture officials on the basis of buying a lot of corn, and that they needed a lot of credit. In fact, they had already bought 180 million bushels of wheat for cash, and it was wheat they wanted.

Within a short time thereafter they bought a lot more wheat, a total of something like 400 million bushels. While diverting attention, they simply absorbed the free market stocks of wheat in the world, yet the people who were affected by that did not know it. The supply and demand situation had been changed not only in other countries but also in the United States. Producers were selling wheat at the very time, delivering it to elevators. They did not know the supply-demand situation had changed, and they did not really find out for about a month.

I do not believe there is any good excuse for a private grain company which makes a sale like that to a big purchaser in another country not revealing it, so that the people who are legitimately in the market, whether they are producers or processors or whatever they may be, will have an opportunity to know that the supply-demand situation has changed.

The Russians could have bought a billion bushels and had time enough to cover it on the futures market, and put an even bigger squeeze on the market.

Let me tell the Members something else. Do not be surprised if one of these countries does do that at some time in the future, if we do not do something about it.

I believe that all they should be able to keep secret is what they can cover in 2 days of purchases on the market. It they cannot cover it on the futures market in 2 days then they ought to let people know how much there is in excess of that amount.

That is really all we are talking about here. As a result of what happened they bought that wheat for about $1.64 a bushel when it was worth more than $2. If the processors and the producers and the others who were legitimately in the market at the time had known—all they needed was to know as to what the supply situation was—then the Russians never could have bought it for that low price. Continental and Cook and the others who sold to them would not have sold that volume at that kind of price. They would have had some kind of an escalator clause to permit them to buy on the market and sell for whatever the value was at the time they bought it.

I believe we ought to learn from this. In other countries, we do not have a whole host of individual purchasers and sellers.

Mr. Chairman, in many countries it is a government owned organization which buys and sells the grain. They are big enough and they have plenty of resources, so that if they want to, they could come into our soybean market—and this may have happened to a smaller extent. They could have come into our soybean market last fall and bought 300 or 400 million bushels and sold perhaps a half or a portiton of them later for enough to pay profit for what they kept.

Mr. BERGLAND. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Minnesota.

Mr. BERGLAND. The gentleman is accurately stating the case that existed last year, that the Russians could have come to the United States and bought more wheat than we owned and beat the American capitalists at their own game. They could have sold it back, after prices skyrocket, at a killing without one bushel leaving our shores.

I am sure that the gentleman is aware that our committee has adopted a very tight provision which for the first time in history requires reporting on a weekly basis, so the kind of disaster the gentleman is speaking of could never be repeated.

Mr. SMITH of Iowa. Mr. Chairman, under the committee provision they have as much as 2 weeks, and I think that is entirely too long a time for secrecy. Two days is enough time to report, and then on the next day the Department is in business, the Department will make the report public.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have great admiration for the gentleman from Iowa (Mr. Smith) who is one of the experts in this House on agricultural policy. I think in this instance, however, that his amendment is too far-reaching.

The Agriculture Committee fully considered the problem of prompt reporting of sales for export. Accordingly this bill has a provision that requires the exporter of wheat and flour and other grains and the products thereof to report to the Secretary of Agriculture within a week any sales that are contracted for export, and the Secretary must publicly report those sales—by kind, class, and quality—to the country in the following week.

This allows a sufficient amount of time for the prompt and correct reporting of these sales to the country as a whole. If we try to set a 48-hour reporting deadline we are going to see only the people in Washington, D.C., receiving the available information, while the people elsewhere in the country who need the information just as much will not receive it as easily.

Mr. Chairman, we do not have any reporting requirement now except the voluntary requirement that the Department has established. We in the Agriculture Committee felt the reporting system should be mandatory and that those who failed to report should be subject to a criminal penalty. Furthermore, the Secretary has the discretionary authority to tighten the reporting requirements and he can require immediate reporting under a provision included in the bill as suggested by the gentleman from Louisiana (Mr. Rarick).

This is a matter on which I think the committee has acted very strongly. The penalties for a violation are stringent and criminal in nature. There is no opportunity for any grain trader or grain exporter to avoid his responsibility to report.

Now, should this system prove to be inadequate—and I do not think it will be—I can assure the Members that the gentleman from Minnesota (Mr. Bergland), the gentleman from Louisiana (Mr. Rarick), and I as well as others, will be coming back with a bill to make sure the program works.

Mr. Chairman, the Committee has provided for one exception to the public reporting requirement, and that is a surplus situation develops. We do not have a time of surplus at the moment. As we read the bill and as we read the report, we will find that this is a very,

very tight exception. Reporting can only be suspended under certain conditions for 60 days, and the situation must be reexamined every 60 days.

Mr. Chairman, I share the gentleman's concern about this bill. I was one of those in the committee who attempted to tighten up the present law. I think we have succeeded in doing that. I hope that we do not adopt the amendment offered by the gentleman from Iowa (Mr. Smith).

Mr. SMITH of Iowa. Will the gentleman yield?

Mr. FOLEY. I yield to the gentleman.

Mr. SMITH of Iowa. The gentleman points to the penalty provisions. I remind him that $20,000 or 1 year when we are dealing with $200 million or $300 million that might be involved in one of these deals is rather light and is nothing compared to the penalty involved in dealing in futures.

Mr. FOLEY. I do not like to see a lot of automatic consequences following the orderly marketing of grain. At one time I was Assistant Attorney General, and I found that when it comes to jail sentences businessmen are very reluctant to go to jail either for a period of 1 year, 6 months, or even 30 days. I was one member of the committee who insisted on having the jail term included. I believe that a fine, would not be a sufficient deterrent to the potential violator but a term in jail is a different matter.

I recall that in the famous antitrust cases, involving major U.S. electrical manufacturing firms, several of their key executives were convicted and sentenced to prison. The impact of those sentences was profound even though the sentences were relatively short.

We have a penalty of up to a year in this bill, and I do not think there will be any problem with regard to compliance. Accordingly, I do not think the gentleman's amendment is needed, and I hope the committee will reject it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. Smith).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SMITH of Iowa. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BERGLAND

Mr. BERGLAND. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. Bergland: Page 27, line 4, strike out on page 27 all of line 4 and the remainder through page 36 line 15 and renumber the succeeding paragraphs of section 1 of the bill accordingly.

Mr. BERGLAND. Mr. Chairman, my amendment is simple. I would strike the cotton section from the bill.

On last week we had three votes dealing with the matter of cotton. The gentleman from Illinois (Mr. Findley) offered an amendment which carried by a vote of 246 to 163; an amendment was offered to knock out Cotton, Incorporated, and that carried 241 to 162; then an amendment offered by Mr. Foley, of Washington, to extend price support loans to cotton farmers who found themselves in a difficult position carried 247 to 160.

It is very obvious to me this House is not in a mood to pass a farm program that has in it a section dealing with cotton, and I for one want to pass an extension of Public Law 480 and pass a food stamp program and pass a section dealing with wheat and feed grains. I suggest the cotton section be stricken in its entirety.

Mr. FINDLEY. Mr. Chairman, I rise in opposition to the amendment.

I would like to ask the gentleman a few questions for clarification.

We have to deal in the future. What will happen after the bill leaves this Chamber? We need to ponder this to make a sound judgment on how to vote on this amendment. I suppose one possibility is that this Congress will not pass legislation dealing with cotton. That is a possibility. If that should develop, am I correct that we will then have operating the 1958 basic law under which the minimum acreage for cotton is 16 million acres? Am I correct on that point?

Mr. BERGLAND. That is correct.

Mr. FINDLEY. And the Government will be required to support the price of all the production from 16 million acres at what level? I am not clear on that point.

Mr. BERGLAND. I think about 45 cents a pound. I do not have cotton producers in my territory in Minnesota, but I think it is 45 cents.

Mr. FINDLEY. The gentleman from Minnesota I am sure will agree with me in stating that the cost of the cotton program is going to be staggering in that event.

Mr. BERGLAND. That perhaps could be concluded, but my concern is that this House is in no mood to pass a cotton program because it is apparent that after three tests, cotton is the target of an attack.

Mr. FINDLEY. I think the big issues have been resolved, and if the committee will accept the decision of this Chamber on the level of payments to individual farmers, the limitation there, and leaving Cotton Inc. out, I think the issues are largely resolved.

The other possibility I wanted to ask the gentleman from Minnesota about is if we go to conference with the Senate, which does have a cotton section, the Senate cotton section could be included in the conference report, and reported back to the House for an up-or-down vote. Is that correct?

Mr. BERGLAND. I cannot speak for the conference, but that is technically possible. But we must keep in mind that the Senate bill does carry a $20,000-per-farm limit on all crops.

Mr. FINDLEY. Of course, that language has loopholes in it as big as the biggest farm tractor that was ever built, and it really does not mean much, I would suggest to my colleague. If we are going to report out a farm bill and we leave the cotton section in it as now drafted, it would put the House in a far better bargaining position when it takes up the question of cotton in the conference. I think we ought to assume that the Senate bill will include in it a cotton section, and that might be in the conference report that comes back to this body; we could have a cotton section in it, and this House will have to satisfy itself as to what their wishes are in the cotton law from now on.

Mr. TEAGUE of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am in a little bit of a difficult position here, I believe. As all of the Members know, I have continually opposed this farm bill. However, I cannot see the merits of legislating on other products, and striking cotton out.

I had some computations made for me, and I am informed that if we should strike cotton out of the bill, and if it is not put back in in the House-Senate conference, as I expect it probably will be, and without the Findley limitation, if that should occur, and we would revert back to the old act, this could be at potential a cost of $3.2 billion. Of course, everyone should understand that all of the cotton crop would not go into the Government loan program.

That could be terribly expensive, as the gentleman from Illinois (Mr. Findley) pointed out, because we will be dealing with 16 million acres rather than the lesser amount of 11 million acres in the committee bill.

So I would hope very much that the House would not fall for this rather clever maneuver, and would decisively reject this amendment and leave the cotton section in.

Mr. FINDLEY. Mr. Chairman, would the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I want to point out that in the Senate version the cotton section provides a guaranteed price of 43 cents a pound. The version of the cotton section that came out of the House Agriculture Committee provides a guarantee of 38 cents a pound. If we strike the cotton section from this bill we would face the certainty of having the conference report come back with a 43-cent per pound guarantee for all cotton program production.

Mr. TEAGUE of California. Certainly it amounts to raising the guaranteed price for cotton under the House bill, so this is a very, very strategic, wise move on the part of the proponents of this bill, and I certainly hope the Members of the House will not fall for it, and will vote against the amendment.

Mr. DENHOLM. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Minnesota (Mr. Bergland).

Mr. Chairman, it is clear that there is no real controversy on the proposition that there is a real need for increased production of food in this country to provide for an adequate food supply at a reasonable cost to the consumers. The issue is a controversy over the cotton section. If that section is eliminated from the bill, there will be no limitation on payments; there will be no restrictions on the lease and sale agreements; and there will be an increase of 5 million acres of allotted acreage to cotton production, increasing base acreage from 11 million to 16 million acres of production.

The loan rate will be 41½ cents per pound.

I urge the support of the amendment that we may proceed and the House can work its will on a food program for the people of America. That is the problem today. It will not jeopardize the production of cotton. It will increase the production of cotton in the future.

Mr. MAYNE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think it very important that the House understand what will be accomplished by this very, very drastic amendment. It certainly should not be slipped through with very little discussion or awareness of just what it will accomplish. After I have made my small effort to try to illuminate the situation, Members, of course, will vote as they wish. But it does seem to me that the true effect of this amendment has not yet been shown, and Members should have a better understanding of what the amendment will accomplish before they vote.

The gentleman from Minnesota has said that by three decisive votes last week this House has shown that it definitely does not wish to enact any cotton legislation. I would respectfully disagree with my good friend, the gentleman from Minnesota, and say that I read those three votes as showing the determination of the House, that there should be an end to any special deals for big cotton. There was no action taken in those three votes against the small cotton farmer or the medium-sized cotton farmer. The $20,000 limitation and the strict language plugging up the loopholes of selling and leasing and subdividing allotments will have an impact only on the large cotton producers. The amendment now offered will strike the entire cotton section from the bill and destroy the good work accomplished last week, by nullifying both the Findley and Conte amendments.

Mr. BERGLAND. Mr. Chairman, will the gentleman yield?

Mr. MAYNE. I yield to the gentleman from Minnesota.

Mr. BERGLAND. I think there is misunderstanding about the implications of the so-called Findley Amendment dealing with the sale, lease, and transfer of cotton allotments. There are some Members among us who have a notion that this was some kind of a scheme cooked up in 1970 designed only to allow the supercorporate fat cats a chance to make the payment limits. I remind the gentleman that this cotton provision was put into law in 1965. In the South and Southeastern regions of this country we had literally thousands of small sharecrop tenant farmers on 20 acres of land with a mule and 4 acres in cotton, and there was no way they could compete—this mechanized society. Under the terms of this provision of law those people can pool those allotments, and out of this some will have allotments large enough so they mechanize and stay in business.

Mr. MAYNE. It seems to me to be clear that the language in the present law which permits the sale and rental leasing of allotments has been widely used by gigantic cotton corporations to evade the clear intent of most Members of the Congress. The Department of Agriculture has interpreted this language to continue annual payments of hundreds of thousands of dollars to single farming units even, I believe, running up into payments of more than a million dollars to some individual corporations.

If the House wants to abandon the strong position that it has taken to finally put teeth into limitations against big cotton interests it should vote for this amendment, but if the House really means that it wants to have payments of not more than $20,000 per farm unit and wants to plug the loopholes which now exist, permitting large cotton producers to sell, lease and otherwise subdivide their allotments, then I think we should take a very questionable view of this amendment. The practical effect of this amendment is to junk all of the progress that was made on three decisive votes last week and to have no cotton section in the bill whatsoever. This would remove the language removing the loopholes and also remove the $20,000 per person limitation from the bill. Looking a little farther down the road we should also anticipate that its passage would also enable the House and conferees to accept the very liberal Senate version of the cotton section and foist it upon the House. If that is what the Members of the House wish to do I think they should clearly understand that is what they are doing, that this is an attempt to reverse the momentum of the very decisive votes against big cotton interests in the House last week. Perhaps the House has completely changed its view and wants to undo that work, but I think we should clearly understand that is what we are doing if we vote for this amendment. I will vote against the amendment because I have not changed my mind and still think we need a $20,000 per person limitation with teeth in it.

The offering of this amendment after the weekend recess makes clear why our consideration of this vitally important farm bill was so abruptly interrupted last Thursday, July 12. It is obvious that the spokesmen for Big Cotton wanted to break the strong momentum running against them in three decisive votes last week. They wanted time to regroup their forces, form a coalition, and come up with some device to reinstate loopholes for Big Cotton. This amendment is the legislative vehicle they have selected to accomplish that purpose and it should be defeated.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr MAYNE. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I think the gentleman will also agree that this end run by big cotton would also have the effect of putting back $10 million a year to Cotton, Inc., a provision that this House on two separate record votes by a large margin has voted to prohibit.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MAYNE. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, it is my understanding that what they are trying to do, after postponing this bill for the weekend to try to arrive at some gimmick to do away with the amendments we adopted here in the House last week, is to knock out the complete cotton section of the bill. Then they will go to conference and accept the Senate version which has the $10 million subsidy for Cotton, Inc., and reopens all the same old loopholes that allow the big corporate farmers to get around the $20,000 payment limitation. By this maneuver, they have unraveled everything the House accomplished last Tuesday and Wednesday to cut out the worst abuses of our subsidy program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. BERGLAND).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 49, noes 42.

RECORDED VOTE

Mr. TEAGUE of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote proceeded to be taken by electronic device.

The CHAIRMAN (during the progress of the vote by electronic device). The Chair desires to announce to the Members that the electronic device is not working. This vote will be repeated by a recorded vote with clerks.

The vote was taken by clerks, and there were—ayes 207, noes 190, not voting 37, as follows:

[Roll No. 338]

AYES—207

Abdnor
Albert
Alexander
Andrews, N.C.
Annunzio
Arends
Aspin
Baker
Barrett
Beard
Bergland
Bevill
Biaggi
Boggs
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Broyhill, N.C.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Chappell
Clark
Clausen, Don H.
Clay
Cochran
Collins, Ill.
Collins, Tex.
Conlan
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Dellums
Denholm
Dent
Dickinson
Downing
Duncan
Eckhardt
Edwards, Calif.
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Fountain
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Ginn
Goldwater
Gonzalez
Gray
Gubser
Gunter
Haley
Hamilton
Hammerschmidt
Hanrahan
Hansen, Wash.
Hawkins
Hays
Henderson
Hillis
Holifield
Hungate
Ichord
Jarman
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Ketchum
Kluczynski
Kuykendall
Leggett
Lehman
Litton
Long, La.
Lujan
McCollister
McCormack
McKay
McSpadden
Madden
Madigan
Mahon
Mann
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Meeds
Melcher
Metcalfe
Milford
Mills, Ark.
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Murphy, Ill.
Myers
Natcher
Nichols

Nix
Obey
O'Brien
O'Hara
O'Neill
Parris
Passman
Patman
Patten
Perkins
Pickle
Poage
Preyer
Price, Ill.
Price, Tex.
Quillen
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Roncalio, Wyo.
Rooney, N.Y.
Rose
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruth
Satterfield
Scherle
Sebelius
Shipley
Shriver
Sikes
Sisk
Skubitz
Slack
Spence
Staggers
Stark
Steed
Steiger, Ariz.
Stephens
Stokes
Stubblefield
Symington
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thornton
Treen
Udall
Ullman
Veysey
Vigorito
Waggonner
Walsh
White
Whitehurst
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Yatron
Young, Alaska
Young, Ga.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NOES—190

Abzug
Adams
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Ashley
Badillo
Bafalis
Bennett
Biester
Bingham
Blackburn
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Camp
Carey, N.Y.
Cederberg
Chamberlain
Clancy
Clawson, Del
Cleveland
Cohen
Collier
Conable
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Davis, Wis.
Delaney
Dellenback
Dennis
Derwinski
Devine
Dingell
Donohue
Drinan
Dulski
du Pont
Eilberg
Erlenborn
Esch
Findley
Fish
Forsythe
Frelinghuysen
Frenzel
Froehlich
Gibbons
Gilman
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Guyer
Hanley
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hinshaw
Hogan
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hunt
Hutchinson
Johnson, Colo.
Johnson, Pa.
Karth
Keating
King
Koch
Kyros
Latta
Lent
Long, Md.
McClory
McCloskey
McDade
McEwen
Macdonald
Mallary
Maraziti
Martin, N.C.
Mayne
Mazzoli
Mezvinsky
Michel
Miller
Minish
Mitchell, Md.
Moakley
Moorhead, Calif.
Moorhead, Pa.
Mosher
Moss
Nedzi
Nelsen
Owens
Peyser
Pike
Podell
Powell, Ohio
Pritchard
Quie
Railsback
Rangel
Rees
Regula
Reuss
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rooney, Pa.
Rosenthal
Rousselot
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Saylor
Schneebeli
Schroeder
Seiberling
Shoup
Shuster
Smith, Iowa
Smith, N.Y.
Snyder
Stanton, J. William
Stanton, James V.
Steele
Steelman
Steiger, Wis.
Stratton
Studds
Sullivan
Symms
Taylor, Mo.
Teague, Calif.
Thomson, Wis.
Thone
Tiernan
Van Deerlin
Vander Jagt
Vanik
Waldie
Wampler
Ware
Whalen
Widnall
Wiggins
Williams
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Fla.
Young, Ill.
Zion

NOT VOTING—37

Addabbo
Bell
Blatnik
Boland
Burke, Fla.
Chisholm
Conyers
Danielson
Diggs
Dorn
Edwards, Ala.
Fisher
Flynt
Fraser
Gross
Hanna
Hébert
Helstoski
Holt
Johnson, Calif.
Kemp
Landgrebe
Landrum
Lott
McFall
McKinney
Mailliard
Morgan
Murphy, N.Y.
Pepper
Pettis
Reid
Sandman
Stuckey
Talcott
Towell, Nev.
Wilson, Bob

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DENHOLM

Mr. DENHOLM. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DENHOLM: strike all after the enacting clause and insert:

That this Act shall be cited as "The National Nutrition, Food and Fiber Act of 1973".

TITLE I—DEFINITIONS

FARM FAMILY UNIT

Sec. 201. (a) Any person as defined by law, including a spouse and issue, head of a household, widow or widower that derives one-half or more of his or her earned annual gross income from the actual production and sales of food and fiber.

(b) Any person as defined by law, including a spouse and issue, that derives one-half or more of his or her annual gross income from the ownership of land used in the production of food and fiber under a leasehold, sharecrop, or tenancy agreement with a producer, but not to exceed an annual sum in the aggregate in excess of one-half of the computed annual aggregate total of a qualified farm family unit, as a producer or producers as defined in subsection (a) of section 201 and notwithstanding any number of such landlord-tenant relationships the owner or owners of any such land use in the production of food and fiber shall not participate in the aggregate benefits in excess of $27,500 per annum as provided for a separate farm family unit producer defined in subsection (a) hereof.

GROSS ANNUAL SALES

Sec. 202. (a) The combined gross cash receipts first received for feed grains and wheat produced by a farm family unit in any calendar year or for such other approved 12-month accounting period, including the gross cash receipts plus the cost of production payments.

(b) The gross annual sales shall constitute the combined amount of gross receipts from sales of feed grains and wheat actually produced plus the cost of production payments.

COST OF PRODUCTION PAYMENTS

(c) The computed difference between the national weighted average market price received by producers and not less than 90 per centum of the cost of production.

CARRYBACK OPTION

Sec. 203.(a) The farm family unit as defined in subsection (a) and (b) of section 201 of this title may exercise the option of applying sales against the limits of gross annual sales for any next preceding 24-month period that commodity cash receipts plus cost of production payments were less than the allowable annual aggregate total of $27,500 for any one calendar year or such other approved 12-month accounting period and such carry-back shall be first applied to the oldest accounting period at the current compound rate or rates in determining the limits thereof;

CARRY FORWARD OPTION

(b) The farm family unit as defined in subsection (a) or (b) of section 201 of this title may exercise the option of applying sales against the limits of gross annual sales for any next succeeding 36-month period: *Provided,* That the computation of gross annual sales is first applied to the next succeeding calendar year, or such other approved 12-month accounting period, and the then computed rate or rates of the gross annual sales shall be computed at current prices received plus cost of production payments not to exceed in the aggregate a sum total of $27,500 per annum.

TITLE III—COST-OF-PRODUCTION PAYMENTS

Sec. 301. (a) Notwithstanding any other provisions of law, any farm family unit that markets feed grains and wheat shall receive cost of production payments directly from the Government not less often than semi-annually, equal to the difference between the national weighted average market price received by farmers for feed grains and wheat sold and not less than 90 percent of the cost of production on the first $27,500 of current gross annual sales marketed in any one 12-month accounting period.

(b) Gross annual sales in excess of $27,500 for any 12-month period by a farm family unit shall not be eligible for cost of production payment unless applied and computed as provided in subsections (a) and (b) of section 302 of this title.

Sec. 302. (a) Any farm family unit may exercise the option of applying sales against the limits of gross annual sales for any next preceding 24-month period that feed grains and wheat cash receipts plus cost of production payments were less than the allowable annual aggregate total of $27,500 for any one calendar year or such other approved 12-month accounting period and such carry-back shall be first applied to the oldest accounting period at the current computed rate or rates in determining the limits thereof.

(b) Any farm family unit may exercise the option of carrying forward sales of feed grain and wheat against the limits of gross annual sales for any next succeeding 36-month period: *Provided,* That the computation of gross annual sales is first applied to the next succeeding calendar year, or such other approved 12-month accounting period and the gross annual sales shall be computed at current prices received plus cost of production payments not to exceed in the aggregate the sum total of $27,500 per annum in such acceptable accounting period of time.

(c) The gross annual sales limitation per farm family unit shall be adjusted not less often than annually with the rate of decrease or increase in the cost of production index to reflect prices paid by farmers for production items, including interest, taxes and wage rates.

TITLE IV—ADJUSTMENT PROVISIONS AUTHORIZED

Sec. 401. (a) Notwithstanding any other provisions of law, the Secretary of the United States Department of Agriculture finds that if the production of feed grains or wheat produced in any calendar year is excessive in relation to available market outlets and desirable strategic reserves, he may require as a condition precedent to cost-of-production payments, that each qualified farm family unit shall restrict the acreage of those crops in excess of market demand to not less than 75 percentum of the average acreage planted or harvested in the immediate past three years. An acreage of cropland equal to that diverted from such production shall be set aside and used only for approved conservation, grazing, recreational, and wildlife purposes upon the condition of approved practices of husbandry as may be prescribed by the Secretary and for a compensatory payment equal to the net average income of all acres in production of the farm family unit.

Sec. 402. In any year in which the Secretary informs producers that an increase in acreage planted to any crop is needed to maintain adequate market supplies and rebuild carryover stocks to more desirable levels, the minimum cost-of-production payments shall be increased by not more than 25 per centum on any such commodity over the level specified in section 301 of title III of this Act.

TITLE V—DAIRY PROGRAM

The Agricultural Act of 1970 is amended as follows:

Milk Marketing Orders

Section 201 is amended by—

(A) amending section 201(e) by striking out "1973" and inserting "1977", and by striking out "1976" and inserting "1980", and

(B) adding at the end thereof the following:

"(f) The Agricultural Adjustment Act as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended by:

"(1) striking the period at the end of subsection 8c(17) and adding in lieu thereof the following: ': *Provided further,* That if one-third or more of the producers as defined in a milk order apply in writing for a hearing on a proposed amendment of such order, the Secretary shall call such a hearing if the proposed amendment is one that may legally be made to such order. Subsection (12) of this section shall not be construed to permit any cooperative to act for its members in an application for a hearing under the foregoing proviso and nothing in such proviso shall be construed to preclude the Secretary from calling an amendment hearing as provided in subsection (3) of this section. The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.'

"(2) inserting after the phrase 'pure and wholesome milk' in section 8c(18) the phrase 'to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs'."

Milk Price Support, Butterfat Price Support Suspension

Section 202 is amended by—

(A) striking the introductory clause which precedes subsection (a);

(B) effective April 1, 1974, inserting in subsection (b) before the period at the end of the first sentence in the quotation the following: "of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs"; and

(C) inserting in subsection (b) in the first sentence "80 per centum" in lieu of "75 per centum".

Veterans Hospitals

Section 203 is amended by striking out "1973" and inserting "1977".

Dairy Indemnity Program

Section 204 is amended by—

(A) striking out "1973" and inserting "1977"; and

(B) striking subsection (b) and substituting therefor the following:

"(b) Section 1 of said Act is amended to read as follows:

"Section 1. The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since the date of enactment of the National Nutrition, Food and Fiber Act of 1973 in the case of indemnity payments not authorized prior to such date of enactment), to remove their milk, and to indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since the date of enactment of the Agricultural Act of 1970 to remove their dairy products from commercial markets because of residues of chemicals registered and approved for use by the Federal Government at the time of such use. Any indemnity payment to any farmer shall continue until he has been reinstalled and is again allowed to dispose of his milk on commercial markets.' "

Title II is amended by adding at the end thereof the following:

"Dairy Import Licenses

"Sec. 205. Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) is amended by adding at the end thereof the following:

" '(g) The President is authorized to provide that dairy products may be imported only by or for the account of a person or firm to whom a license has been issued by the Secretary of Agriculture. In issuing a license for dairy products not currently being imported but sought to be imported under this section during any period after the enactment of the National Nutrition, Food and Fiber Act of 1973, the Secretary shall make licenses available for a 30-day period before issuing licenses to other applicants to domestic producers and processor who agree to import such dairy products. For purposes of this subsection, dairy products include (1) all forms of milk and dairy products, butterfat, milk solids-not-fat, and any combination or mixture thereof; (2) any article, compound, or mixture containing 5 per centum or more of butterfat, or milk solids-not-fat, or any combinations of the two; and (3) lactose and other derivatives of milk, butterfat, or milk solids-not-fat, if imported commercially for any food use. Dairy products do not include (1) industrial casein, industrial caseinates, or any other industrial products, not to be used in any form for any food use, or an ingredient of food; or (2) articles not normally considered to be dairy products, such as candy, bakery goods, and other similar articles: *Provided,* That dairy products in any form, in any such article are not commercially extractable or capable of being used commercially as a replacement or substitute for such ingredients in the manufacture of any food product.'

"Producer Handlers

"Sec. 206. The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by the National Nutrition, Food and Fiber Act of 1973.

TITLE VI—WOOL PROGRAM

The Agricultural Act of 1970 is amended as follows:

Section 301 is amended by—

(A) striking out "1973" each place it occurs and inserting "1977", and by striking out the word "three" each place it occurs; and

(B) adding at the end thereof the following:

"(6) Strike out the first sentence of section 708 and insert the following: 'The Secretary of Agriculture is authorized to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats or the products thereof, for the purpose of developing and conducting on a national, State, or regional basis advertising and sales promotion programs, and programs for the development and dissemination of information on product quality, production management and marketing improvement, for wool, mohair, sheep, or goats or the products thereof. Advertising and sales promotion programs may be conducted outside of the United States for the purpose of maintaining and expanding foreign markets and uses for mohair or goats or the products thereof produced in the United States.'."

TITLE VII—PUBLIC LAW 480

The Agricultural Act of 1970 is amended as follows:

Title VII is amended—

(A) by striking out "1973" and inserting "1977" in section 701; and

(B) by adding a new section 703 as follows:

"Sec. 703. Title IV of such Act is amended by adding at the end thereof the following:

" 'Sec. 411. No agricultural commodities shall be sold until title I or title III or donated under title II of this Act to North Vietnam, unless by an Act of Congress enacted subsequent to July 1, 1973, assistance to North Vietnam is specifically authorized."

TITLE VIII—MISCELLANEOUS PROVISIONS

The Agricultural Act of 1970 is amended as follows:

Termination of Wheat Certificate Program

Section 402 is amended by inserting "(a)" after the section designation and adding the following at the end of the section:

"(b) (A) Section 379b of the Agricultural Adjustment Act of 1938 (which provides for a wheat marketing certificate program) is hereby terminated.

Repeal of Processor Certificate Requirement

Section 403 is amended by inserting "(a)" after the section designation and by inserting at the end thereof the following:

"(b) Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported after July 1, 1973; and section 379g is amended by adding the following new subsection (c):

"(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 379d to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions (b) of section 379d, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.'."

Reduction in Wheat Stored To Avoid Penalty

Section 407 of the Agricultural Act of 1970 is amended by adding at the end thereof the following: "Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended, prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants.".

Application of the Agricultural Act of 1949

Section 408 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Commodity Credit Corporation Sales Price Restrictions

Section 409 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Set-Aside on Summer Fallow Farms

Section 410 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Cotton Insect Eradication

Title VI is amended by adding at the end thereof the following:

"Sec. 611. Section 104 of the Agricultural Act of 1949, as amended, is amended by adding a new subsection (d) as follows:

"'(d) In order to reduce cotton production costs, to prevent the movement of certain cotton plant insects to areas not now infected, and to enhance the quality of the environment, the Secretary is authorized and directed to carry out programs to destroy and eliminate cotton boll weevils in infested areas of the United States as provided herein and to carry out similar programs with respect to pink bollworms or any other major cotton insect if the Secretary determines that methods and systems have been developed to the point that success in eradication of such insects is assured. The Secretary shall carry out the eradication programs authorized by this subsection through the Commodity Credit Corporation. In carrying out insect eradication projects, the Secretary shall utilize the technical and related services of appropriate Federal, State, private agencies, and cotton organizations. Producers and landowners in an eradication zone, as established by the Secretary, and who are receiving benefits from any program administered by the United States Department of Agriculture, shall, as a condition of receiving or continuing any such benefits, participate in and cooperate with the eradication project, as specified in regulations of the Secetary.

"'The Secretary may issue such regulations as he deems necessary to enforce the provisions of this section with repect to achieving the compliance of producer and landowners who are not receiving benefits from any program administered by the United States Department of Agriculture. Any person who knowingly violates any such regulation promulgated by the Secretary under this subsection may be assessed a civil penalty of not to exceed $5,000 for each offense. No civil penalty shall be assessed unless the person shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Where special measures deemed essential to achievement of the eradication objective are taken by the project and result in a loss of production and income to the producer, the Secretary shall provide reasonable and equitable indemnification from funds available for the project, and also provide for appropriate protection of the allotment, acreage history, and average yield for the farm. The cost of the program in each eradication zone shall be determined, and cotton producers in the zone shall be required to pay up to one-half thereof, with the exact share in each zone area to be specified by the Secretary upon his finding that such share is reasonable and equitable based on population levels of the target insect and the degree of control measures normally required. Each producer's pro rata share shall be deducted from his cotton payment under this Act or otherwise collected, as provided in regulations of the Secretary. Insofar as practicable, cotton producers and other persons engaged in cotton production in the eradication zone shall be employed to participate in the work of the project in such zone. Funding of the program shall be terminated at such time as the Secretary determines and reports to the Congress that complete eradication of the insects for which programs are undertaken pursuant to this subsection has been accomplished. Funds in custody of agencies carrying out the program shall, upon termination of such program, be accounted for the Secretary for appropriate disposition.

"'The Secretary is authorized to cooperate with the Government of Mexico in carrying out operations or measures in Mexico which he deems necessary and feasible to prevent the movement into the United States from Mexico of any insects eradicated under the provisions of this subsection. The measure and character of cooperation carried out under this subsection on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds made available by the Secretary under this subsection, shall be such as may be prescribed by the Secretary. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State. There are hereby authorized to be appropriated to the Commodity Credit Corporation such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this subsection.'."

Section 374(a) of the Agriculture Adjustment Act of 1938, as amended, is hereby amended by adding the following new sentence: "Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1977 crops."

Title VIII is amended as follows:

Beekeeper Indemnities

(A) Section 804 is amended by striking out "December 31, 1973" and inserting "December 31, 1977".

Export Sales Reporting

(B) By adding the following new sections:

"Sec. 807. All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may suspend the requirement for publishing data with respect to any commodity or type or class thereof during any period in which he determines that there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports will not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales. Such suspension shall not remain in effect for more than sixty days unless extended by the Secretary. Extensions of such suspension, if any, shall also be limited to sixty days each and shall be promulgated if the Secretary determines that the circumstances at the time of the commencement of any extension meet the conditions described herein.

"Wheat and Feed Grains Research

"Sec. 808. In order to reduce fertilizer and herbicide usages in excess of production needs, to develop wheat and feed grain varieties more susceptible to complete fertilizer utilization, to improve the resistance of wheat and feed grain plants to disease and enhance their conservation and environmental qualities, the Secretary of Agriculture is authorized and directed to carry out regional and national research programs.

"In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $1,000,000 in any fiscal year."

"EMERGENCY RESERVE

"Sec. 809. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall under the provisions of this Act establish, maintain, and dispose of a separate reserve of inventories of wheat, feed grains, and soybeans for the purpose of alleviating distress caused by a natural disaster.

"Such reserve inventories shall include such quantities of grain that the Secretary deems needed to provide for the alleviation of distress as the result of a natural disaster.

"(b) The Secretary shall acquire such commodities through the Commodity Credit Corporation.

"(c) Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should be disposed of, the Secretary shall not offer any commodity in the reserve for sale or disposition.

"(d) The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855 et seq.), or (2) for use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297).

"(e) The Secretary may sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

"(f) The Secretary may use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this Act; and to the maximum extent practicable consistent with the fulfillment of the purposes of this Act and the effective and efficient administration of this Act shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

"(g) The Secretary may issue such rules

and regulations as may be necessary to carry out the provisions of this Act.

"(h) There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

"IMPORTED COMMODITIES

"SEC. 810. Notwithstanding any other provisions of this Act, the Secretary shall encourage the production of any crop of which the United States is a net importer and for which a price support program is not in effect by permitting the planting of such crop on set-aside acreage and with no reduction in the rate of payment for the commodity."

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

The Consolidated Farm and Rural Development Act is amended as follows:

(a) Section 306(a) of such Act is amended by adding at the end thereof the following:

"(A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

"(B) For the purposes of this subsection, the term 'eligible volunteer fire department' means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thousand but greater than two hundred, as reasonably determined by the Secretary."

(b) Section 310B(d) of subtitle A of such Act is amended by adding at the end thereof the following:

"(4) No grant or loan authorized to be made under this section, section 304, or section 312 shall require or be subject to the prior approval of any officer, employee, or agency of any State."

RURAL DEVELOPMENT ACT AMENDMENTS

The Rural Development Act of 1972 is amended as follows:

(a) Section 401 of such Act is amended by substituting the words "fire" and "fires" for the words "wildfire" and "wildfires", respectively, wherever such words appear.

(b) Section 404 of such Act is amended to read as follows:

"SEC. 404. APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this title $7,000,000 for each of three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this title."

TITLE IX—FOOD STAMPS

The Food Stamp Act of 1964, as amended, is amended—

(a) by inserting after the sentence which would be added to subsection (e) of section 3, effective January, 1, 1974, by section 411 of the Act of October 30, 1972, the following: "Notwithstanding any other provision of law, households in which members are included in a federally aided public assistance program pursuant to title XVI of the Social Security Act shall be eligible to participate in the food stamp program or the program of distribution of federally donated foods if they satisfy the eligibility criteria applied to other households."

(b) That (a) the second sentence of section 3(e) of the Food Stamp Act of 1964 (7 U.S.C. 2012(e)) is amended—

(1) by striking out "or"; and

(2) by inserting before the period at the end thereof the following: ", or (3) any narcotics addict or alcoholic who lives under the supervision of a private nonprofit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program."

(c) Section 3 of the Food Stamp Act of 1964 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(n) The term 'drug addiction or alcoholic treatment and rehabilitation program' means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts purusant to Public Law 91–616 'Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act' and Public Law 92–255 'Drug Abuse Office and Treatment Act of 1972' as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics."

(d) Section 5 of the Food Stamp Act of 1964 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall establish uniform national standards of eligibility for households described in section 3(e)(3) of this Act."

(e) Section 5(c) of the Food Stamp Act of 1964 (7 U.S.C. 2014(c)) is amended by adding at the end thereof the following: "For the purposes of this section, the term 'able-bodied adult person' shall not include any narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in any drug addiction or alcoholic treatment and rehabilitation program."

(f) Section 10 of the Food Stamp Act of 1964 (7 U.S.C. 2019) is amended by inserting at the end thereof the following new subsection:

"(i) Subject to such terms and conditions as may be prescribed by the Secretary in the regulations purusant to this Act, members of an eligible household who are narcotics addicts or alcoholics and regularly participate in a drug addiction or alcoholic treatment and rehabilitation program may use coupons issued to them to purchase food prepared for or served to them during the course of such program by a private nonprofit organization or institution which meets requirements (1), (2), and (3) of subsection (h) above. Meals served pursuant to this subsection shall be deemed 'food' for the purposes of this Act."

(g) By striking the second sentence of section 5(b) and inserting in lieu thereof the following:

"The standards established by the Secretary, at a minimum, shall prescribe the amounts of household income and other financial resources, including both liquid and nonliquid assets to be used as a criteria of eligibility. The maximum allowable resources including both liquid and the equity in nonliquid assets, of all members of each household shall not exceed $1,500 for each household, except, for households including two or more persons age sixty or over the resources shall not exceed $3,000: *Provided*, That the home, one automobile, household goods and clothing, life insurance policies with a face value of $10,000 or less, owned by persons 60 years of age or older; the tools of a tradesman or the machinery of a farmer; total resources of a roomer or boarder, or of a member of the household (other than the head of the household or spouse) who has a commitment to contribute only a portion of his income to pay for services including food and lodging; and Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs, shall be excluded in determining the value of the the financial resources."

(h) By adding at the end of section 6(a) the following new sentence: "Such certification shall be made prior to the issuance of any food stamps under this program: *Provided, however*, That in the event of a natural disaster some or all of the requirements for certification may be waived by the Secretary."

(i) By adding at the end of subsection (h) of section 10, the following: "Subject to such terms and conditions as may be prescribed by the Secretary, in the regulations issued pursuant to this Act, members of an eligible household who are sixty years of age or over or elderly persons and their spouses may also use coupons issued to them to purchase meals prepared by senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or private eating establishment which prepares meals especially for elderly persons during special hours, and any other establishment approved for such purpose by the Secretary."

(j) By striking out "June 30, 1972, and June 30, 1973" in the first sentence of subsection (a) of section 16, and substituting "June 30, 1972, through June 30, 1977".

(k) Section 3(b) of the Food Stamp Act of 1964 (7 U.S.C. 2012(b)) is amended by inserting after "tobacco," the following: "such food and food products as may be determined by the Secretary to be of low or insignificant nutritional value,".

(l) By adding at the end of subsection (b) of section 3 the following: "It shall also include seeds and plants for use in gardens to produce food for the personal consumption of the eligible household."

(m) Section 3(f) of the Food Stamp Act of 1964 (7 U.S.C. 2012(f)) is amended by striking the second sentence and inserting in lieu thereof the following new sentence: "It shall also mean a political subdivision or a private nonprofit organization or institution that meets the requirements of sections 10(h) or 10(i) of this Act."

(n) Section 5(b) of such Act is amended by inserting after the third sentence thereof the following: "No person who has reached his eighteenth birthday and who is a student at an institution of higher learning shall be eligible to participate in the food stamp program established pursuant to the provisions of this Act: *Provided*, That such ineligibility shall not apply to any member of a household that is otherwise eligible for or is participating in the food stamp program—nor shall it apply to married persons with one or more children and who are otherwise eligible."

"TITLE X—RURAL ENVIRONMENTAL CONSERVATION

"SEC. 1001. Notwithstanding any other provision of law, the Secretary shall carry out the purposes specified in clauses (1), (2), (3), (4), and (6) of section 7(a) of the Soil Conservation and Domestic Allotment Act, as amended, section 16(B) of the Great Plains Act, and in the Water Bank Act (16 U.S.C. 1301 et seq.) by entering into contracts of three, five, ten, or twenty-five years with, and at the option of, eligible owners and operators of land as determined by the Secretary and having such control as the Secretary determines to be needed on the farms, ranches, wetlands, forests, or other lands covered thereby. In addition, the Secretary is hereby authorized to purchase perpetual easements to promote said purposes of this Act, including the sound use and management of flood plains, shore lands, and aquatic areas of the Nation. Such contracts shall be designed to assist farm, ranch, wetland, and nonindustrial private forest owners and operators, or other owners or operators, to make, in orderly progression over a period of years, such changes, if any, as are needed to effectuate any of the purposes specified in clauses (1), (2), (3), (4), and (6) of section 7(a) of the Soil Conservation and Domestic Allotment Act, as amended; section 16(B) of the Great

Plains Act; the Water Bank Act (16 U.S.C. 1301 et seq.); in enlarging fish and wildlife and recreation sources; improving the level of management of nonindustrial private forest lands; and in providing long-term wildlife and upland game cover. In carrying out the provisions of this title, due regard shall be given to the maintenance of a continuing and stable supply of agricultural commodities and forest products adequate to meet consumer demand at prices fair to both producers and consumers.

"Sec. 1002. Eligible landowners and operators for contracts under this title shall furnish to the Secretary a plan of farming operations or land use which incorporate such practices and principles as may be determined by him to be practicable and which outlines a schedule of proposed changes, if any, in cropping systems or land use and of the conservation measures which are to be carried out on the farm, ranch, wetland, forests, or other land during the contract period to protect the farm, ranch, wetland, forests or other land and surrounding areas, its wildlife, and nearby populace and communities from erosion, deterioration, pollution by natural and manmade causes or to insure an adequate supply of timber and related forest products. Said plans may also, in important migratory waterfowl nesting and breeding areas which are identified in a conservation plan developed in cooperation with a soil and water conservation district in which the lands are located, and under such rules and regulations as the Secretary may provide, include a schedule of proposed changes, if any, to conserve surface waters and preserve and improve habitat for migratory waterfowl and other wildlife resources and improve subsurface moisture, including, subject to the provisions of section 1001 of this title, the reduction of areas of new land coming into production, the enhancement of the natural beauty of the landscape, and the promotion of comprehensive and total water management study.

"Sec. 1003. (a) Approved conservation plans of eligible landowners and operators developed in cooperation with the soil and water conservation district or the State forester or other appropriate State official in which their lands are situated shall form a basis for contracts under this title. Under the contract the landowner or operator shall agree—

"(1) to effectuate the plan for his farm, ranch, forest, wetland, or other land substantially in accordance with the schedule outlined therein;

"(2) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the Soil and Water Conservation District Board, or the State forester or other appropriate official in a contract entered into under the provisions of section 1009 of this title, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

"(3) upon transfer of his right and interest in the farm, ranch, forest, wetland, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

"(4) not to adopt any practice specified by the Secretary in the contract as a practice which would tend to defeat the purposes of the contract;

"(5) to comply with all applicable Federal, State, or local laws, and regulations, including those governing environmental protection and noxious weed abatement; and

"(6) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program: *Provided*, That all contracts entered into to effectuate the purposes of the Water Bank Act for wetlands shall contain the further agreement of the owner or operator that he shall not drain, burn, fill or otherwise destroy the wetland character of such areas, nor use such areas for agricultural purposes: *And provided further*, That contracts entered into for the protection of wetlands to effectuate the purposes of the Water Bank Act may include wetlands covered by Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary.

"(b) In return for such agreement by the landowner or operator the Secretary shall agree to make payments in appropriate circumstances for the use of land maintained for conservation purposes as set forth in this title, and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost-sharing is appropriate and in the public interest. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the physical installation of the conservation practices and measures under the contract, but, in the case of a contract not entered into under an advertising and bid procedure under the provisions of section 1009(d) of this title, not less than 50 per centum or more than 75 per centum of the actual costs incurred by the owner or operator.

"(c) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other similar conservation, land use, or commodity programs administered by the Secretary.

"Sec. 1004. The Secretary is authorized to make available to eligible owners and operators conservation materials including seeds, seed inoculants, soil conditioning materials, trees, plants, and, if he determines it is appropriate to the purposes of this title, fertilizer and liming materials.

"Sec. 1005. (a) Notwithstanding the provisions of any other title, the Secretary may establish multiyear set-aside contracts for a period not to extend beyond the 1977 crop. Producers agreeing to a multiyear set-aside agreement shall be required to devote this acreage to vegetative cover capable of maintaining itself throughout such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited. Producers entering into agreements under this section shall also agree to comply with all applicable State and local law and regulation governing noxious weed control.

"(b) The Secretary shall provide cost-sharing incentives to farm operators for such cover establishment, whenever a multiyear contract is entered into on all or a portion of the set-aside acreage.

"Sec. 1006. The Secretary shall issue such regulations as he determines necessary to carry out the provisions of this title. The total acreage placed under agreements which result in their retirement from production in any county or local community shall in addition to the limitations elsewhere in this title be limited to a percentage of the total eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community. In determining such percentage the Secretary shall give appropriate consideration to the productivity of the acreage being retired, if any, as compared to the average productivity of eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community.

"Sec. 1007. (a) The Secretary of Agriculture shall appoint an advisory board in each State to advise the State committee of that State (established under section 8(b) of the Soil Conservation and Domestic Allotment Act) regarding the types of conservation measures that should be approved to effectuate the purposes of this title. The Secretary shall appoint at least six individuals to the advisory boards of each State who are especially qualified by reason of education, training, and experience in the fields of agriculture, soil, water, wildlife, fish, and forest management. Said appointed members shall include, but not be limited to, the State soil conservationist, the State forester, the State administrator of the water quality programs, and the State wildlife administrator or their designees: *Provided,* That such board shall limit its advice to the State committees to the types of conservation measures that should be approved affecting the water bank program; the authorization to purchase perpetual easements to promote the purposes of this title, as described in section 1001 of this title; the providing of long-term upland game cover; and the establishment and management of approved practices on multi-year set-aside contracts as provided in section 1005 of this title.

"(b) The Secretary of Agriculture, through the establishment of a national advisory board to be named in consultation with the Secretary of the Interior, shall seek the advice and assistance of the appropriate officials of the several States in developing the programs under this title, especially in developing guidelines for (1) providing technical assistance for wildlife habitat improvement practices, (2) evaluating effects on surrounding areas, (3) considering aesthetic values, (4) checking compliance by cooperators, and (5) carrying out programs of wildlife management authorized under this title: *Provided,* That such board shall limit its advice to subjects which cover the types of conservation measures that should be approved regarding the water bank program; the authorization to purchase perpetual easements to promote the purposes of this Act, as described in section 1001 of this title; the providing of long-term upland game cover; and the establishment and management of approved practices on multiyear set-aside contracts as provided in section 1005 of this title.

"Sec. 1008. In carrying out the programs authorized under sections 1001 through 1006 of this title, the Secretary shall, in addition to appropriate coordination with other interested Federal, State, and local agencies, utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended. The Secretary is also authorized to utilize the facilities and services of the Commodity Credit Corporation in discharging his functions and responsibilities under this program. The Secretary shall also utilize the technical services of the Soil Conservation Service, the Forest Service, State forestry organizations, soil and water conservation districts, and other State, and Federal agencies, as appropriate, in development and installation of approved conservation plans under this title.

"Sec. 1009. (a) In furtherance of the purposes of this title, the Secretary of Agriculture is authorized and directed to develop and carry out a pilot forestry incentives program to encourage the development, management, and protection of nonindustrial private forest lands. The purposes of such a program shall be to encourage landowners to apply practices which will provide for the afforestation of suitable open lands and reforestation of cutover and other nonstocked and understocked forest lands and intensive multiple-purpose management and protection of forest resources so as to provide for production of timber and related benefits.

"(b) For the purposes of this section, the term 'nonindustrial private forest lands' means lands capable of producing crops of industrial wood and owned by any private individual, group, association, corporation, or other legal entity. Such term does not include private entities which regularly engage in the business of manufacturing forest products or providing public utilities services of any type, or the subsidiaries of such entities.

"(c) The Secretary shall consult with the State forester or other appropriate official of the respective States in the conduct of the forestry incentives program under this section, and Federal assistance shall be extended in accordance with section 1003(b) of this title. The Secretary shall for the purposes of this section distribute funds available for cost sharing among and within the States only after assessing the public benefit incident thereto, and after giving appropriate consideration to the number and acreage of commercial forest lands, number of eligible ownerships in the State, and counties to be served by such cost sharing; the potential productivity of such lands; and the need for reforestation, timber stand improvement, or other forestry investments on such land. No forest incentives contract shall be approved under this section on a tract greater than five hundred acres, unless the Secretary finds that significant public benefit will be incident to such approval.

"(d) The Secretary may, if he determines that such action will contribute to the effective and equitable administration of the program established by this section, use an advertising and bid procedure in determining the lands in any area to be covered by agreements.

"(e) In implementing the program under this section, the Secretary will cause it to be coordinated with other related programs in such a manner as to encourage the utilization of private agencies, firms, and individuals furnishing services and materials needed in the application of practices included in the forestry incentives improvement program. The Secretary shall periodically report to the appropriate congressional committees of the progress and conduct of the program established under this section.

"SEC. 1010. There are hereby authorized to be appropriated annually such sums as may be necessary to carry out the provisions of this title. The programs, contracts, and authority authorized under this title shall be in addition to, and not in substitution of, other programs in such areas authorized by this or any other title or Act, and shall not expire with the termination of any other title or Act: *Provided*, That not more than $25,000,000 annually shall be authorized to be appropriated for the programs authorized under section 1009 of this Act."

SEC. 2. (a) Notwithstanding section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(c)) or any other provision of law, the Secretary of Agriculture shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard prohibiting agricultural workers from entering areas where crops are produced or grown (such emergency standard to take immediate effect upon publication in the Federal Register) if he determines (1) that such agricultural workers are exposed to grave danger from exposure to pesticide chemicals, as defined in section 201(q) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(q)), and (2) that such emergency standards is necessary to protect such agricultural workers from such danger.

(b) Such temporary standard shall be effective until superseded by a standard prescribed by the Secretary of Agriculture by rule, no later than six months after publication of such temporary standard.

(c) As of the date of enactment of the National Nutrition, Food and Fiber Act of 1973, the regulations issued by the Secretary of Labor under section 6(c) of the Occupational Safety and Health Act of 1970, which appear on pages 10715-10717 of number 83 of volume 38 of the Federal Register of May 1, 1973, shall be null and void with respect to agricultural workers.

SEC. 3. Section 301 of the Act of August 14, 1946 (Public Law 79-733), as amended (7 U.S.C. 1628), is hereby repealed.

Mr. DENHOLM. Mr. Chairman, in the interest of time I will explain briefly what this amendment does. Substantially, it does not change that portion of the committee bill that does not relate to corn feed grains and wheat.

It does relate to the feed grain concept in providing a basic payment for the difference between the national weighted average prices received by farmers on feed grains and wheat—and not less than 90 percent of the cost of production of corn feed grains and wheat.

In discussing the price differential payment to producers, it is important to recognize the target prices set forth in the Senate bill. The Senate set the target price for corn at $1.53 and $2.28 for wheat. The target price level set by the House Committee on Agriculture is $1.38 for corn and $2.05 for wheat. It is interesting that based upon the cost of production at not less than 90 percent of the cost of production—and that is 10 percent less than the cost of production, the price for wheat would be $1.97 and the price for corn would be $1.53.

I was amazed that the corn price level would be that high when based on 90 percent of the cost of production. I suspect it is because of the value of the land where corn is grown. Much of the corn is produced in Iowa, Illinois, and Indiana, and the cost of land factor increases the cost of production per unit thereof.

The figures cited are based upon the Statistical Reporting Service in the U.S. Department of Agriculture as of June 15, 1973. I am proposing that the farmers and producers be paid not less than 90 percent of the cost of production of corn, feed grains, and wheat. Also, that the price float in the market so that we do not increase the cost of feed to dairy, poultry, and livestock feeders, because that is the source of the protein meats essential to satisfy consumer demand.

The target prices in the Senate bill are a guaranteed support price, and it will influence, to a certain extent, the cost of feed grains to red meat producers. Further, any attempt to freeze the retail and wholesale price level of meats results in a direct cost-price squeeze that directly affects adversely the supply all along the line of production to consumption.

It is very important in these times when there is an ever increasing demand for more and more production of food that we provide a stability of income to the producers without increasing the cost of living to the consumers.

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman yield?

Mr. DENHOLM. I yield to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Chairman, will the gentleman tell me whether this matter was considered in committee?

Mr. DENHOLM. No, it was not. In fact, there were no other amendments or alternatives considered in the committee—the full Committee on Agriculture and I have always thought it would have been better to have done so.

Mr. CHARLES H. WILSON of California. Mr. Chairman, it makes it very difficult for many of us here to be confronted with this deluge of amendments which seem to be coming to us on this particular bill. We were under the impression—at least this particular Member was—that there was a bill that with the exception of trying to work out something that would make it more agreeable to the administration, that the Committee on Agriculture had worked out and we were not going to have to argue the bill on the floor the way we usually do with the Banking Committee bill.

It is a very difficult thing for us to try to decide what to do on many of these amendments. I am sorry that this is happening today and for part of last week.

Mr. DENHOLM. It is to be regretted and this Member concurs that our committee may have errored in rushing this bill to the floor. We have not been able to ascertain what is acceptable to the administration.

Mr. CHARLES H. WILSON of California. Why do we not pass the House bill and work out the differences in conference rather than trying to adopt some Senate version in the House?

Mr. DENHOLM. Mr. Chairman, I certainly agree with the gentleman from California. However, we have not had the benefit of the cooperation of the administration as to what is acceptable to them.

I am proposing a $27,500 farm family unit payment limit, which cuts the present $55,000 limit in half, and places emphasis on a positive form of procedure for the benefit of bona fide farm family producers and compensates "people" for performance and production on a base amount of gross annual sales up to $27,500 per annum without production controls and price supports—and the price of all the commodities is free to float according to supply and demand.

In other words, the payment is on the gross annual sales of any producer equal to the difference between the national weighted average price and not less than 90 percent of the cost of production. As long as the current prices prevail there would be no cost to Government. If the price on any commodity was less than 90 percent of the cost of production a payment would be made for that computed difference on each unit of production up to $27,500 of gross annual sales per farm family unit. In addition, I have proposed a 2-year carryback and a 3-year carryforward provision against the $27,500 per annum base to provide the producers an opportunity to insure against the hazards of production and the elements that adversely affect the industry. It would also provide for over- or underproduction in any one year. Each producer would be free to exercise an independent business judgment in the management of his own affairs—he would not be limited or restricted adversely.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am concerned to have to come to the well of the House to oppose my good friend from South Dakota (Mr. DENHOLM) but neither I nor any other Member, so far as I know, on the Committee on Agriculture or in this Committee of the Whole, has had an opportunity to examine this substitute bill. It contains, obviously, many sections we cannot even adequately discuss because we have not had an opportunity to examine them.

The Denholm substitute would do one thing, apparently; it would raise the target prices for feed grains in certain parts of the country.

The Agriculture Committee has had some disagreement with the administration as to what the target prices should be. We had some disagreement with the Senate version. We selected target prices about midway between the Senate and the administration figures. They are moderate; $2.05 for wheat, $1.38 for corn, and 38 cents for cotton.

If we interject an entirely new scheme here as a result of adopting the amendment of the gentleman from South Dakota, and provide a minimum of 90 percent of the production cost, as a minimum alternative to the target prices, the gentleman tells us we will at least raise the target prices on feed grains to $1.53 in the Midwest.

The theory that we ought to keep the target prices above whatever is the most expensive area of the country in production costs, is open to the most serious question. One of the advantages of the present farm program is that it encourages production in the most efficient areas. It is not designed to gear payments to the least efficient or the most costly producers.

I can say with confidence that the administration is more opposed to this approach than it is to the House target prices. Under the circumstances, I believe it would only confuse deliberation on this bill to accept the substitute. None of us has had sufficient opportunity to examine the substitute. The most obvious feature of the substitute, that of raising target prices, is unwise. Therefore, I hope we will reject the substitute and move on with the bill.

Mr. DENHOLM. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from South Dakota.

Mr. DENHOLM. The statistics I gave were from the U.S. Department of Agriculture Statistical Reporting Service, based on national figures, I say to my friend from Washington.

I did say I was surprised to see the percentage of the cost of production for corn is $1.53 a bushel. I do not believe we should ask people to produce more and take less for it.

Mr. FOLEY. We are producing a bumper crop in corn this year, of almost 6 billion bushels as presently estimated. We are producing a record wheat crop. I do not believe we need to adopt this kind of a formula you suggest in order to obtain large production. If we accept the committee target prices I believe we will have a powerful instrument to stimulate production.

Again I urge the members of the committee to reject the substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from South Dakota (Mr. DENHOLM).

The question was taken; and the Chairman announced that noes appeared to have it.

Mr. DENHOLM. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. DU PONT

Mr. DU PONT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DU PONT: On page 38 on line 20, insert a new section, 808, and renumber the following sections accordingly, to read:

"SEC. 808. The Secretary shall, within sixty (60) days from the enactment of this Act, submit to the Congress a detailed report indicating what steps are being taken to implement the recommendations of the Controller General of the United States in his report to the Congress dated July 9, 1973, entitled "Russian Wheat Sales and Weaknesses in Agriculture's Management of Wheat Export Subsidy Program (B 176943)."

POINT OF ORDER

Mr. POAGE. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. POAGE) will state his point of order.

Mr. POAGE. Mr. Chairman, the amendment as offered is not germane to anything in the bill now before us. The bill simply amends the existing farm law, the act of 1970, and by this amendment the gentleman attempts to add a provision that does not relate to the act of 1970 in any way.

The CHAIRMAN. Does the gentleman from Delaware (Mr. DU PONT) desire to be heard on the point of order?

Mr. DU PONT. I would like to be heard, Mr. Chairman.

Mr. Chairman, I do not believe the point of order should lie, because the paragraph 807 in the bill which we are considering is entitled "Export Sales Reporting" and, in fact, deals exactly with one of the items within the GAO report concerning the sale to the Soviet Union.

Since by the bill we are considering the very items that my amendment also relates to, I would argue that it is relevant and the point of order should not be sustained.

The CHAIRMAN (Mr. NATCHER). The Chair is ready to rule. This amendment, as offered by the gentleman from Delaware (Mr. DU PONT), is offered to that portion of the bill pertaining to the reporting of export sales and proposes to add another new section to the 1970 act which is amended by this section of the bill. And while it would place a new duty on the Secretary of Agriculture, the Chair notes that throughout the pending section there are additional duties provided for.

The Chair is of the opinion that the amendment is germane and the point of order is overruled.

Mr. DU PONT. Mr. Chairman, this is a very simple and straightforward amendment. It is one that some Members can vote for who have been unable to vote in favor of any other amendment offered to this particular bill.

What it does is require the Secretary of Agriculture to report back to the Congress within 60 days upon how he proposes to implement the recommendations o fthe GAO in its report on the wheat sales to the Soviet Union.

Now, the Committee will recall that a week ago today, on Monday, the GAO issued a very substantial report on the sales, and in that report they made some dozen recommendations for improving and changing the grain export program.

All this amendment does is to make sure that that report will not go the way of most reports submitted to the Congress and gather dust on the shelf.

Mr. Chairman, it requires the Secretary of Agriculture to go to work on the report, to study it, and to report back to the Congress as to what he plans to do to implement his suggestions. It does not say that he must adopt all the suggestions; it simply says that he has to review them and make recommendations and report back to us on what his intentions are. It costs nothing; it is good administrative procedure; it puts some horsepower back in the legislative branch of the Government.

Mr. Chairman, I urge the adoption of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware (Mr. DU PONT).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 43, noes 3.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. BURLISON OF MISSOURI

Mr. BURLISON of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURLISON of Missouri: On page 39, immediately after line 8, insert the following new section:

"SOYBEAN RESEARCH

"SEC. 809. The Secretary of Agriculture is authorized and directed to carry out regional and national research programs for the purpose of increasing the production per unit of soybeans.

"In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

"There is authorized to be appropriated not more than $500,000 in any fiscal year to carry out this section."

Redesignate the following sections accordingly.

Mr. BURLISON of Missouri. Mr. Chairman, as we noted on Thursday in a discussion of another amendment, the scarcity of soybeans in this country has made it necessary for the President to declare an embargo on the export of our present supplies. We also noted at that time the tremendous escalation in the price of soybeans on our domestic market. We do not need to go into further discussion as to why those things are happening. I believe we explored and discussed it sufficiently last Thursday.

What this amendment seeks to do is to give the same attention to soybeans in the way of research as we give to feed grains, cotton, and wheat.

The situation is that in spite of the fact that we are spending more money on the other crops for research, the soybean is the commodity in which we have the greatest need and have gotten the least progress over the years in the way of increasing production.

Let me cite an example. In the last 22 years the percentage of increase for sugar beets has been 39 percent, hay, 51 percent; tobacco, 63 percent; cotton, 77 percent; wheat, 78 percent; rice, 94 percent; corn 132-percent increase in production per acre; peanuts, 135 percent; and grain sorghum, 258 percent. Compared with all of these commodities soybeans have increased only 35 percent in production per acre in the last 22 years. This is the slightest increase of any of the major commodities.

On that point I would like to refer very briefly to an article written by John Schnittker, former Under Secretary of Agriculture, just a couple of months ago. I might preface it by saying that I do not agree with many of the things Mr. Schnittker writes, but here is one with which I do—

> The demand for soybeans is expanding more rapidly than any other U.S. agricultural product. Soybean yields, however, have increased only very slowly, since there have been no major scientific breakthroughs in soybean breeding. Corn yields, on the other hand, have continued to rise at a rapid rate averaging nearly 2 bushels per acre per year.

Mr. Chairman, soybeans are the commodity which overshadows all others in their need for increased production and an increased supply for this Nation and the world. It seems to me we need to devote some attention to research in this area. In this bill on the Senate side $1 million was put in for research for feed grains and wheat and $10 million for cotton. In the committee bill we are discussing now $500,000 is put in for research for wheat and feed grains.

I think that my amendment is a very conservative one, and a very reasonable one, by authorizing $500,000 for research on this most needed commodity so we can increase production per acre and alleviate the problems that we have in world trade and domestic supply in this country.

Mr. MAYNE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Missouri (Mr. BURLISON).

Mr. MAYNE. Mr. Chairman, I would like to point out to my good friend, the gentleman from Missouri (Mr. BURLISON) that in talking about the remarkable record of increased soybean production in the last 20 years that the gentleman referred only to yields. For example, this year in the report released by the Department of Agriculture on July 10, it shows that as of July first projected production is 24 percent above last season's production. I believe the record will show that in the last 20 years soybean production has more than doubled, and I think, from an article that I read yesterday, it has tripled in the last 20 years.

So it seems to me that the need to spend $500,000 for this purpose of soybean research to increase production is not shown.

I believe, and I could be mistaken on this, but I believe we considered this in the Subcommittee on Livestock and Grains very carefully, and it was concluded in the subcommittee and the full committee that it should be rejected.

Mr. BURLISON of Missouri. Mr. Chairman, would the gentleman yield?

Mr. MAYNE. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, Does not the gentleman from Iowa agree that there is an embargo which has been placed by the Department of Agriculture on the exporting of soybeans from this country?

Mr. MAYNE. Yes; this is a step which I opposed, and regret very much. I am glad that it has been at least partially lifted so that 50 percent of the 92 million bushels of soybeans that were contracted to move out of the country in July and August will still be permitted to be exported.

Mr. BURLISON of Missouri. If the gentleman will yield further, Would not the gentleman from Iowa agree that an embargo on soybeans while wheat, feed grains, and cotton are still permitted to move in the world markets, is an indication of the great shortage and the great need for soybeans, more than with any other commodity?

Mr. MAYNE. I would say to the gentleman from Missouri that the fact we are increasing production 24 percent this year shows that American agriculture is responding in a very adequate manner to this challenge.

Mr. BURLISON of Missouri. If my good friend, the gentleman from Iowa, will yield once more, Would the gentleman agree that just within recent weeks we saw a price of $12 a bushel for soybeans?

Mr. MAYNE. Not within recent weeks, but I believe more than a month ago or more the price reached that level.

Mr. BURLISON of Missouri. Would not the gentleman agree there is a far greater price on the domestic market for soybeans in relation to wheat, feed grains, and cotton?

Mr. MAYNE. Yes.

Mr. BURLISON of Missouri. If the gentleman will yield still further, Mr. Chairman, it seems to me that the gentleman from Iowa has spoken eloquently for the need for a greater amount of funding for experimentation in research in soybeans, so that we may increase production per acre and thus give more income to farmers and lower prices for consumers.

Mr. MAYNE. I want to assure my good friend, the gentleman from Missouri, that that was not my intention.

Mr. TEAGUE of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, might I say to the gentlemen from Missouri that there is not a need for this amendment. The Department of Agriculture has adequate authority, and all that is necessary to do is go before the subcommittee chaired by the gentleman from Mississippi (Mr. WHITTEN) in the Committee on Appropriations, meeting with the Department of Agriculture to get the necessary money.

Furthermore, it is my understanding that extensive research is now going on in many of the land grant colleges throughout the country, and probably in some other institutions. In any event this does not seem to me to be a necessary amendment, and I recommend a vote against it.

SUBSTITUTE AMENDMENT OFFERED BY MR. PRICE OF TEXAS FOR THE AMENDMENT OFFERED BY MR. BURLISON OF MISSOURI

Mr. PRICE of Texas. Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentleman from Missouri.

The Clerk read as follows:

Substitute amendment offered by Mr. PRICE of Texas for the amendment offered by Mr. BURLISON of Missouri: Page 39, immediate after line 8, insert the following new section:

"SOYBEAN RESEARCH

"SEC. 809. The Secretary of Agriculture is authorized and directed to carry out regional and national research programs for the purpose of a cost study of increasing the production and increase per unit of soybeans, grain sorghum, corn.

"In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

"There is authorized to be appropriated not more than $500,000 in any fiscal year to carry out this section.

Redesignate the following sections accordingly.

Mr. PRICE of Texas. Mr. Chairman, I will not take long. We discussed this in committee about trying to determine the cost of production of the various grains that fall under this bill. There is too much misunderstanding and misinformation, in my opinion, in trying to spend millions of dollars upon a farm program when we do not actually know the cost of production of these various grains mentioned. I just feel that if the Department of Agriculture can coordinate its efforts with all of our land-grant colleges and research stations that are already working together trying to come up with an actual cost of production for the food and fiber of this country, it would certainly benefit all Members of Congress as well as the Department of Agriculture. But for each of us who has no idea what it costs to produce a bushel of corn or a bushel of soybeans, I think it is imperative that we find out actually what the cost of these products are today to give us a sounder understanding of what this cost will be to the American taxpayer.

Mr. BURLISON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Chairman, I believe that this substitute amendment has really little relevance to my amendment. In this amendment that the gentleman from Texas offers, a variety of commodities; grain sorghum, and corn are already covered in the bill. Grain sorghum and corn are given $500,000 for research in this bill and $1,000,000 in the Senate version.

Mr. PRICE of Texas. There is not the actual cost of production in the bill.

Mr. BURLISON of Missouri. Mr. Chairman, my amendment goes to the full realm of research to increase the production of soybeans per unit, per acre. That is what we need. The amendment offered by the gentleman from Texas does not really speak to that problem. I urge its defeat.

Mr. PRICE of Texas. I should like to ask the gentleman if he is not interested in what the cost of the production of the soybean product is?

Mr. BURLISON of Missouri. Mr. Chairman, I am primarily interested in additional research to increase the production of soybeans per acre. That is what we need. What the gentleman is asking for is really superfluous, really, to what we are after and what we need.

Mr. PRICE of Texas. I do not feel it is superfluous when I want to find out what it costs to produce the increase in grain production the gentleman refers to.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Texas (Mr. PRICE) for the amendment offered by the gentleman from Missouri (Mr. BURLISON).

The substitute amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. BURLISON).

The amendment was rejected.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: Page 37, strike out lines 5 through 7.

Page 37, line 9, strike out "(B)."

Mr. CONTE. Mr. Chairman, I really feel upset about the passage of the Bergland amendment. I think many in the Chamber did not understand it. They felt they were wiping out cotton and this was a good idea. What they did not realize was that by the Bergland amendment we undid everything we had done.

I see the chairman of the committee smiling. It was a great victory for the boys in the Cotton Belt but certainly it was a defeat for the taxpayers and the consumers of this country.

We may have lost the skirmish but we have not lost the battle. We will watch this bill and when it comes back we can instruct the conferees. There are a great many things we can do. It was a bad amendment and it was a bad day for the taxpayers and consumers of this country.

Mr. Chairman, I have offered an amendment to end the sweetest farm subsidy of them all—the beekeepers indemnity program. This Federal giveaway should set my colleagues off buzzing, if it does not make them break out in hives.

My waxing rhetorically would be very funny if it were not for the taxpayers who are getting stung.

Under the beekeepers indemnity program, we are paying beekeepers for dead bees. Worse yet, we are paying for dead bees that are allegedly killed by pesticide programs approved by the Federal Government.

To collect under this program, a beekeeper from an area where pesticide spraying has been conducted goes to his local ASCS office and tells the agent how many hives of dead bees he has. Then he collects $15 for each hive.

In the past, the Federal Government paid without checking up on these claims. It did not determine if the bees died from pesticides—or from old age, arthritis or too much high living. What is more the Department of Agriculture took no action against those people who use pesticides in such a way as to cause massive bee deaths.

As was brought out last year in an appropriations subcommittee hearing, a person can fly over bee colonies laying down pesticides, and, regardless of his liability, the Federal Government will routinely go ahead and pay for the losses.

I ask my colleagues to forbear from saying that I am making too much of a small thing. Look at the size of the claims submitted under the beekeeper indemnity program and you will get a taste of what a honey of a deal Congress has created. If Congress were to continue this program, it would lay itself bare to the stinging indictment of taxpayers that it has, may I say, bees in its bonnet.

Last year, over $6 million in this honey money was ladled out to bereaved beekeepers. The queen bee of all recipients in 1972 was Stover Apiaries in Mayhew, Miss. This beekeeper waxed the taxpayers for $457,000. At 15 bucks a hive, that's a lot of dead bees.

The all-time champion keeper of dead bees is Jim's Valley Apiaries of Sunnyside, Wash. Jim has submitted claims for over $1,725,000 over the past 6 years. With all the piles of dead bees Jim must have, I cannot imagine how the sunshine still penetrates into his valley.

According to the claims Jim has submitted for the past 6 years, he has lost a minimum of 13,085 hives from pesticide activity each year for the past 6 years. If I were the administrator of this program, I think that by now I would be a little suspicious.

I cannot bear the thought that our Federal Government seeks to protect our bees by dipping its paw into the Federal nest of honey money to pay a huge bounty for their tiny corpses. This illustrates how, once it has taken wing, A Federal program can become sticky after it has jelled.

I trust my colleagues will forgive me if my honey-laden words seem to be dripping with sarcasm. But I believe that this Federal program is misdirected. It should try to protect the bees. Live bees pollinate crops. But under current Federal law, dead bees pollinate private pocketbooks.

I urge my colleagues to take the stinger out by passing this amendment to end the beekeeper indemnity program.

Mr. POAGE. Mr. Chairman, I find it rather embarrassing to have to get up here repeatedly to talk about these amendments, which obviously are either introduced by an abundance of ignorance or maliciously. I do not know just what the gentleman has in mind. He, of course, put on a performance which probably would be a pretty good attraction on some vaudeville stage, but as to facts which the gentleman undertook to give the Members, they were completely missing.

Of course, he talks about "dead" bees and talks about the "honey" and seeks to make puns about the character of the business, but the honey business is a serious and an important business. It is not as important, however, as the pollination business of beekeepers. If the Members are interested in basic agriculture, they are interested in maintaining a method of pollinating a great many of our crops. I do not know that with all of the fancy words the gentleman had, that he is familiar with the fact that bees are the great pollinating agents in this country, and that if we eliminate our bees, we will eliminate a large number of important crops in this country, particularly in the field of fruits and vegetables.

We must have this pollination, and the only way we can have it is to have bees, and the only way we can keep the bees is to protect them from the poisons that destroy them.

The present law simply provides that we will make compensation for those bees that are killed by poisons approved by the U.S. Government. If someone goes out and puts out lead arsenic or something of that kind in violation of the regulations, the beekeeper cannot recover anything for that. It is only where the U.S. Government has approved the injury he sustained. That is the only time he can recover anything.

He has not been recovering the amounts the gentleman is suggesting. I have the figures here of what has been paid out. We have paid out, not $6 million, but $2,914,000. We did not pay any one gentleman, as he suggests, over a million dollars. There is not a State in the Union where they paid as much as $1 million in any State.

What he said was, of course, not that we paid. He simply wanted the Members to get the impression that we paid somebody a million dollars. Actually, what he said was that somebody put in a claim for a million dollars. Of course, he told us that the Department of Agriculture was not carrying out the law and that the Department of Agriculture was extremely negligent in its responsibilities and was not doing a good job.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from California (Mr. TEAGUE).

Mr. TEAGUE of California. Mr. Chairman, in this case I will have to leave my friend from Massachusetts (Mr. Conte). I agree with the chairman of the committee in his opposition to the amendment for the very good reasons which he has stated.

Mr. POAGE. Mr. Chairman, I thank the gentleman from California. I suggest that all of us, instead of being taken in with some vaudeville language, could give some real consideration of the basic facts of agriculture, which are that we must have pollinating agents. One of those pollinating agents we have got to have is the bee. Therefore, we must maintain the bee business.

Of course, it is dead bees that we pay for, not live bees. There is no reason for the Government to pay for live bees. I hope the Members vote down this rather unnecessary amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Conte).

The amendment was rejected.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Vanik: Page 6, line 3, after the period, insert *Provided, however,* That such licenses shall not be sold, transferred or assigned."

Mr. VANIK. Mr. Chairman, this amendment would simply prohibit those in the dairy business who get import licenses from trading them and developing a right in the license.

It seems to me we went through this whole cycle with the oil import licenses. Import permits became merchantable. They were sold, were transferred, and became of value.

It seems to me as we embark on this kind of a program we ought to insist that the licenses should not be sold, should not be transferred, should not be assigned. In other words, the license should be available only to the person or individual to whom issued.

I hope the committee will accept the amendment.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Texas.

Mr. POAGE. Of course, I cannot accept the amendment on behalf of the committee, but from what the gentleman has said about it I see no objection to the amendment.

I should like to point out that these licenses are given to this special group of producers for only 30 days. We are not trying to set up something here whereby somebody can sell something.

So far as I am concerned, I am perfectly willing to accept the gentleman's amendment, with the understanding that we will support it unless we find that it has other implications.

Mr. VANIK. That is the only purpose I have. I want to prevent the development of a property right.

Mr. TEAGUE of California. Mr. Chairmain, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from California.

Mr. TEAGUE of California. I am in the same position as the gentleman from Texas (Mr. Poage). I have no personal objection to the amendment. I have not discussed it with the other members of the committee, but I myself have no objection.

Mr. VANIK. Mr. Chairman, I hope the Committee will adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Vanik).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FROEHLICH

Mr. FROEHLICH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Froehlich: On page 41 after line 10, insert the following:
>
> EMERGENCY SUPPLY OF AGRICULTURE PRODUCTS
>
> Sec. 811(a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, under the provisions of this Act, assist farmers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.
>
> (b) The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive Order for any agricultural products (at any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the product will be reduced to unacceptably low levels as a result of the freeze or subsequent modification thereof and that alternative means for increasing the supply are not available.
>
> (c) Under this section, the term "agricultural products" shall include meat, poultry, vegetables, fruits and all other agriculture commodities.

Mr. FROEHLICH. Mr. Chairman, the purpose of the bill, H.R. 8860, is "to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices."

I emphasize the words "plentiful supplies."

This particular amendment I have offered would require an adjustment in the price for any agricultural product when the Secretary of Agriculture determines that the current price freeze or future price controls will produce a shortage of that product and there is no alternative means for increasing the supply.

We are facing in this country today, I believe, one of the most critical periods in the modern history of our country so far as food supplies are concerned.

Mr. Chairman, we have seen in the poultry business those who have gotten out of the business by killing their chicks and by dumping their eggs which were in process. One poultry distributor in my district closed his doors last week Friday noon. He distributed 10 million pounds of poultry to northeastern Wisconsin and upper Michigan. He is unable to buy a product and sell it at a profit or at a break-even point. The chickens that he can buy for redistribution cost him more than he can sell them for.

The retail grocers and small butchershops which he served in northeastern Wisconsin and northern Michigan are this week without poultry on their shelves.

Mr. Chairman, my district also covers a county that grows many cherries. Cherry production this year is down considerably, 105 million pounds less than last year in national cherry production. In Door County where they produced 9 million pounds last year, they are down to 6 million pounds. These producers are considering leaving those cherries on the trees, or they were until last Friday, when the cooperatives that buy the cherries and process them determined that they were going to pay 10 cents above what they could pay under the freeze in hopes that they will be able to raise their price when it comes to sell those cherries. So they are going to be picked. But those processors are now in danger of losing up to 8 cents a pound unless there is an adjustment in the price freeze. Until Friday it looked as though there were going to be no cherries picked in Door County.

We all know the story about beef. We have talked about it; we have heard other speakers who have debated this bill speak about it. There has been closing after closing after closing of slaughterhouses. Here is just a partial list of some of the closings:

Hartford, Conn.; Missouri; Omaha, Nebr.; Quincy, Fla.; Omaha, Nebr.; Council Bluffs, Iowa; Harlan, Iowa; Florence Ala.; Owensboro, Ky.; Baltimore, Md.; Scranton, Pa.; Utica, N.Y.; Elizabeth, N.J.; Wichita, Kans.; Chicago, Ill.; Cozad, Nebr.; Sterling, Colo.; Independence, Iowa; Vinton, Iowa; West Union, Iowa; Philadelphia, Pa.; York, Pa.; Lebanon, Pa.; Bridgeport, Conn.; Philadelphia, Pa.; Detroit, Mich.; Little Rock, Ark.; Essex Corner, Vt.; Detroit, Mich.; Cushing, Okla.; Okmulgee, Okla.; Pine Bluff, Ark.; and Omaha, Nebr.

There are others which have been closed since this list was compiled.

Mr. Chairman, in my district one of the largest packers east of the Mississippi laid off 15 percent of his employees and put off indefinitely a $6-million expansion that would have doubled his work force of 600 in the State of Wisconsin because of the effects of the price freeze on agriculture.

It is not just the 60-day freeze we are talking about; it is the freeze that took effect on March 29.

Mr. Chairman, this amendment addresses itself also to continuing price and economic controls that will lead to critical shortages in this country.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. Froehlich) has expired.

(By unanimous consent, Mr. Froehlich was allowed to proceed for 1 additional minute.)

Mr. FROEHLICH. Mr. Chairman, in closing I would like to say that we must put upon the Secretary of Agriculture the responsibility to watch critically the supply of food and fiber. When any factor, particularly our economic controls, force a critical shortage which will lead people in this country to stand in line for food and which will lead to the rationing of food, then it is incumbent upon the Secretary to tell the President and it is incumbent upon the President to adjust the policy.

Mr. Chairman, that is what this amendment addresses itself to. I trust the amendment will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. FROEHLICH).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer several amendments, and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read as follows:

> Amendments offered by Mr. VANIK: Page 11, strike out lines 1 and 2 and redesignate the following clauses accordingly, and on page 13, line 14, strike out "(less imports)", and on page 13, line 15, strike out "and for export".
>
> And on page 23, line 17, strike out "(less", on line 18, strike out "imports)", and on line 19, strike out "and for export".

Mr. VANIK. Mr. Chairman, the amendments that I have offered and which have just been read en bloc are directed, one to the wheat section, and the other to the feed grains section of the bill.

The purpose of the amendments is to limit the taxpayer support of acreage allotments to that part of production designed for domestic use.

I believe that we must provide inducements and encouragement for the production of food and feed grains and essential fibers for domestic needs. But agriculture is now a mature industry, and I do not think that taxpayers subsidies should be used to provide for payments for that part of production which is designed for the export market. We do not have this kind of a program for automobiles or for machine tools or other things. It seems to me, if we are going to develop a viable program of designing our domestic agricultural program to provide food and fibers for the American people and if they are going to support it, they should not be called upon to support by taxpayer support that part of it that goes to the export program.

Mr. BERGLAND. Will the gentleman yield?

Mr. VANIK. I am glad to yield to the gentleman.

Mr. BERGLAND. I would be curious to know if the gentleman's amendment only goes to the export subsidies that have been used.

Mr. VANIK. No. It applies to the limitations on acreage allotments. To that part of it.

Mr. BERGLAND. I thank the gentleman.

Mr. VANIK. Because of the high target prices proposed by this bill, we could be jeopardizing our advantage in agricultural exports. In other words, by minimizing the cost of this bill to the taxpayer we can expect that there will be every effort to curtail production through acreage set-asides. This will increase prices not only for American consumers but for foreigners, and therefore our commodities will be less used. Foreign nations wlil buy their wheat and feed grains from others before they buy ours. The solution is to provide support to insure production for domestic consumption. Those farmers who want to enter the export trade to sell to foreign markets should do so without taxpayer support and without acreage limitations.

The amendments I have offered simply seek to limit the system of price and taxpayer support to domestic needs. By eliminating the provision for allotments for anticipated exports we will remove the taxpayer subsidy for foreign sales and free the Treasury from being subject to weather conditions in Russia, China, India, Australia, and the rest of the world. The taxpayers of the United States and our Treasury should be liable only for our domestic needs. We must not go into the business of subsidizing export sales to the entire world.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment is perhaps well intended, but its effect will be to prevent farmers from cooperation in the wheat programs entirely. The gentleman's amendment does not touch loans, it refers to the allotment under the act and to target prices.

The price of wheat today is substantially above the target price, this has been the case for many months. Wheat has been selling for as much as $3 a bushel. The present law that we want to suspend by passing this bill, guarantees the wheat producer for the domestic portion of the crop, the price of $3.40 a bushel. That is a much higher sum than the target price of $2.05 set by this bill. It is in the interest of the country and the consumer to produce a large amount of wheat and feed grains for both domestic needs and support. We realize $11 billion a year in favorable balance of payments as the result of agricultural exports. Much of that is due to our grain production.

To shrink the allotment a wheat producer can plant is simply not in our best national interest. Any cooperator who would stay in such a program would have a substantially reduced allotment. Is this a time to reduce allotments? The many who would leave the program would be able to plant whatever they wanted to plant.

Furthermore the amendment offered by the gentleman from Ohio (Mr. VANIK) is not going to save the Treasury any money because, as far as the Department of Agriculture or anybody can foresee, there will be no payments made to the wheat growers in the next year or two. Only a disastrous, completely unexpected and improbable drop in the price of wheat could change the situation.

Wtih all due respect to my good friend, the gentleman from Ohio, we are discussing a highly complicated, technical area and I regret to say that the gentleman is to some extent shooting from the hip.

Mr. BERGLAND. Mr. Chairman, would the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Minnesota.

Mr. BERGLAND. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am rather confused by the amendment offered by the gentleman from Ohio. Three-quarters of this year's wheat crop will be exported. Just about half of the soybean crop will be exported. One-fourth of our feed grains will be exported. In total this represents between $12 and $13 billion that will come back into the American economy.

If the amendment offered by the gentleman from Ohio were adopted, would we be in the position where we would not be able to produce and sell grains overseas for dollars so desperately needed to help solve our balance of payments problem.

Mr. FOLEY. As I understand the amendment offered by the gentleman from Ohio (Mr. VANIK) is that he believes his amendment would satisfy the needed production for domestic use in our country, some 535 million bushels. And save costs in operating the program.

Mr. VANIK. Mr. Chairman, if the gentleman will yield, the gentleman from Washington (Mr. FOLEY) is correct. I relate to the acreage allotment. But I do wish to point out that the $11 to $12 billion in export sales that are supposed to have done so much with respect to our balance of payments cost the consumers of America an additional $20 billion. So it would seem to me it is not a very good bargain. It has not worked out very well.

Mr. FOLEY. I will advise the gentleman from Ohio that no export subsidy has been registered since last August. The export subsidy program has been suspended for the foreseeable future. The target prices set in this bill are so far below the current market prices that this government is unlikely to make any payments to cooperators or nobody else for the next 2 years. The only effect that this amendment could have would be either to reduce the amount of wheat planted by a cooperator or encourage him to leave the program.

How is it in the interest of the consumer, how is it in the interest of the country, and how is it in the interest of export sales to reduce the wheat allotment? Each Member who appears in the well says we want production. Yet this is an amendment that would have only one effect, and that would be almost surely to reduce production.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. VANIK).

The amendments were rejected.

AMENDMENT OFFERED BY MR. FINDLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. FINDLEY: On page 5, strike lines 14 through 25, and on page 6, strike lines 1 through 19; and
>
> Page 6, line 21, change "SEC. 206" to "SEC. 205.".

Mr. FINDLEY. Mr. Chairman, farm programs over the years have contained some very novel items. In fact, they have contained what I would term to be outrageous items, but this surely can be classified as the worst outrage of all. I invite the Members' attention to the language that begins on line 19 of page 5:

> The President is authorized to provide that dairy products may be imported only by or

for the account of a person or firm to whom a license has been issued by the Secretary of Agriculture.

Then, listen to the next sentence:

> In issuing a license for dairy products not currently being imported but sought to be imported under this section during any pe- Secretary shall make licenses available for a thirty-day period before issuing licenses to other applicants to domestic producers and riod after the enactment of the Agriculture and Consumer Protection Act of 1973, the processes. * * *

I do not think ever in history has legislation of this nature been brought forth seriously for the consideration of this body. I surely hope not.

My fear is not so much that this language will be acted upon by the man who is now Secretary of Agriculture, and, frankly, the saving grace lies in that first sentence that, "The President is authorized." He may or may not provide this licensing system. Nevertheless, it provides that if he does establish a licensing system, then he shall make licenses available ahead of any other applicants to the processors and the producers of dairy products. That is like putting the fox in charge of the chicken coop. It is like letting General Motors or Ford Motor Co. be in complete charge of how many Volkswagens or how many Toyotas or how many Datsuns are to be imported into this country, and on what terms.

As I say, I really do not think our Secretary of Agriculture would be so unwise as to utilize the licensing authority embodied in this bill, but it would be a terrible mistake if by putting this into legislation it should become the precedent for other similar measures on import control—and who knows who will be Secretary of Agriculture in the future? He might actually use this authority.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from California.

Mr. TEAGUE of California. I do not think the gentleman could possibly be more right. This strikes out competition. It is an unfair view. I certainly support the gentleman's amendment. I have hope that the chairman—but I have not discussed it with him—will see it in the same light.

Mr. FINDLEY. I thank the gentleman from California.

I will add the existing law does give the President the power to regulate the level of imports, but the regulation is in his hands, not in the hands of the dairy cooperatives—the producers and the processors—who are already a bit musclebound and at times arrogant. I do not think it is good policy for us to open the way for these interests to be put in charge of the level of dairy importation or the conditions under which these imports might enter the country.

One of the very few tools that exists now in the hands of the President to protect the interests of the consumer in the question of dairy supplies and prices is the authority to regulate the level of imports. This language is a poor addition to that Presidential authority, and I urge support of my amendment.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's yielding.

Having opposed the gentleman from Illinois on his earlier amendment on the level of price support for dairy products, I must say I am a little bit torn when it gets to this question. From my perspective, we do face a very serious problem in what has happened in the last 6 or 7 months in dairy imports. I am disturbed, frankly, that the walls have come down to the extent which they have come in terms of allowing new imports to come into this country and, therefore, even further jeopardizing the assurance the dairy farmer has in terms of production of milk.

But I think the gentleman from Illinois on balance is correct in his analysis of the mischief in the provision in the committee bill.

However, I think it is fine if we at some point decided we wanted a system of licensing, if that were the decision that was to be made, but to do it in the manner this provision does it seems to me would not be in the longrun interest of the dairy farmer or of those who eat the good dairy products. Therefore, I support the gentleman's amendment.

Mr. JONES of Tennessee. Mr. Chairman, I rise in opposition to the amendment.

My good friend, the gentleman from Illinois, is a most persuasive legislator Mr. Chairman, much more so than I. He is a member of the Dairy and Poultry Subcommittee, of which I am chairman, and he has made a good member. We do have our disagreements, however, on some portions of the legislation which has been proposed. The majority of the committee felt and the full committee that the dairy import licenses section as we have written it is as it should be, the President being authorized to provide that dairy products be imported with the accountable office or firm to whom the license has been issued by the Secretary of Agriculture.

I have faith in the Secretary of Agriculture and believe he knows who is best fitted to be given licenses. It seems to me that the argument that has been put forth here is not valid, because who knows better than the domestic producers and processors who agree to import such products. We feel that someone who is professional in this business should be more able to accept these licenses and to be given these licenses than anyone else.

For this reason I oppose the amendment offered by my good friend, the gentleman from Illinois, and ask that the amendment be voted down.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. JONES of Tennessee. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Chairman, is it not a fact that this bill from the other body contains a provision for discretion on the part of the President up to 2 percent? Is that not correct?

Mr. JONES of Tennessee. That is correct, Mr. Chairman.

Mr. POAGE. And that in an effort to try to get a bill that would receive support of the administration, of which the gentleman from Illinois is a part, in an effort to get the support of the administration we felt that we should give a larger degree of leeway to the Secretary of Agriculture, and we gave that larger degree of leeway the Secretary asked for. Then in order to see that these producers and producers' organizations were not destroyed by nonproducing organizations, the Swiss organizations and Dutch organizations and foreign organizations as well as American, in order to see that they were not destroyed we simply said that during the first 30 days under which we gave preference to these people who are in the business of producing milk, they would agree to bring it in. We did not say they should get the license and not bring in the milk. We said they must agree to bring in the milk and only for 30 days would they have the preference and they would bring it in with a preference provision. We adopted the amendment offered by the gentleman from Ohio which I think was proper which said they could not speculate on these licenses.

The only thing it does is it says the American producer rather than the international or foreign corporations and for the first 30 days they will have enough to meet their requirements, because anyone who is in the dairy manufacturing business needs imports, and that was the purpose of the whole thing. But we do not put the limitations on for weeks. In an effort to be fair to American producers we tried to insure the American producers would be able to bring in everything they needed. Is that not correct?

Mr. JONES of Tennessee. That is correct.

Mr. POAGE. We did that in an effort to have a provision to which most people interested in agriculture would not object, but of course there are those who find objection to almost anything our committee does.

They feel that it is somehow helpful on agricultural matters to come out here and delay things and try to affect the passage of legislation brought out by the committee. I think, after all, we have taken pretty good care of the consumer.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY).

The amendment was rejected.

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. VANIK: Page 32, immediately after line 22, insert the following new paragraph:
>
> (24) Section 610 is amended by inserting "(a)" immediately after "SEC. 610." and by inserting at the end thereof the following new subsection:
>
> "(b) In carrying out its powers and duties under the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) the Commodity Credit Corporation may not make or

provide for payments of export subsidies or similar payments to exporters of commodities."

Redesignate the following paragraphs accordingly.

PARLIAMENTARY INQUIRY

Mr. TEAGUE of California. Mr. Chairman, am I not correct that this amendment comes within the section which was stricken from the bill?

The CHAIRMAN. The gentleman from California is correct. It comes within the provisions of the bill that have been stricken.

PARLIAMENTARY INQUIRY

Mr. VANIK. Mr. Chairman, a parliamentary inquiry.

Mr. CHAIRMAN. The gentleman will state it.

Mr. VANIK. Mr. Chairman, would the amendment be in order as an amendment to the Commodity Credit Act? That was my intention.

The CHAIRMAN. The Chair is not in a position to pass on that matter at this time. But the amendment does go to the portion of text which has been stricken and is not in order in the form offered.

Mr. VANIK. Mr. Chairman, I would like to offer this amendment to H.R. 8860 to prohibit the use of taxpayer subsidies for the sale of agricultural goods in foreign markets.

I realize that this entire section dealing with the cotton program has been amended and counter-amended. But in the original bill—as reported by the committee—this is the one part of the legislation which refers to the authority of the Commodity Credit Corporation to provide massive taxpayer subsidies for the export of our agricultural goods.

Specifically, the basic authority of the CCC provides that the Corporation can—

> Remove and dispose of or aid in the removal or disposition of surplus agricultural commodities.
>
> Export or cause to be exported, or aid in the development of foreign markets for, agricultural commodities.

I believe that we must provide inducements and encouragement for the production of food and feed grains and essential fibers for our domestic needs. But agriculture is now a mature industry, and I do not think that taxpayer subsidies should be used to provide for payments for that part of production which is designed for the export market.

The CCC's export subsidy program has been subject to particular abuse—and these subsidies must end.

On July 9, the General Accounting Office issued a detailed study of last year's grain sales to the Soviet Union.

The GAO's study was primarily critical of the failure of the Department of Agriculture to adequately predict and warn American farmers of the pending massive Soviet wheat purchases.

Hopefully, the reporting requirements provided in the committee's bill will prevent a repeat of last year's disaster.

But the GAO was also highly critical of the operation of the export subsidy program.

To quote from one newspaper account:

> The assurances of subsidies, the report said, put grain traders in a position to offer lower prices to the Soviet Union than would otherwise have been possible.
>
> There is reason to believe, the report said, that Russian needs would have dictated purchases of significant quantities even with higher prices. It said that Agriculture will pay over $300 million in subsidies on Russian and other sales, although there were prospects that these sales could have been made with reduced subsidies if the department had responded more rapidly to the available information.

Apparently the report has recommended that the Agriculture Department review the wheat export subsidy program—which has been suspended at the present time—"and predicate its reinstatement on a meaningful justification for its existence."

There were obviously some gains from the Soviet wheat deal. But the costs have outweighed the losses. Our colleague from Georgia, Mr. BLACKBURN, presented testimony to the Ways and Means Committee in which he added up all the costs of the Soviet wheat deal—transportation tie-ups, higher bread taxes, higher feed grain prices and therefore higher meat prices. He estimated that over a 9 month period, the cost of this "deal" to America was about $3.2 billion.

Mr. Chairman, I do not believe that there is any justification for the continuation of this program.

First, if American agriculture is so efficient—as everyone keeps telling us it is then it should not need expert assistance.

Second, in recent years, as our trade situation has become more uncertain, we have complained about foreigners subsidizing exports to the United States. This is a practice which we want to stop. Yet it is unrealistic to ask others to stop when we continue to make such massive subsidies ourselves.

Third, the world wheat and feed grain situation appears to be very tight and is expected to continue so for some time. All too often, the American selling price for wheat is the world price for wheat.

Assistant Secretary of Agriculture Brunthaver analyzed the world wheat situation in a speech this June in Oklahoma:

> Something similar is happening in the world's wheat markets. The outlook is for record world wheat production—and continued strong prices. In spite of an expected slight drop in import demand, wheat output will barely cover needs, and the world's wheat stocks are the lowest they've been in 20 years. With feed grain demand booming too, wheat prices are expected to hold near the recent strong levels.
>
> Stocks in the major exporting countries on June 30 will probably be less than 30 million metric tons. This compares with almost 69 million tons three years ago. The last time stocks were this low was in 1952, at a time when world wheat trade was less than half what it is now.
>
> World wheat production is expected to be 10 percent higher this year, at 330 million metric tons. Nearly all of the increase will come from the major exporting countries and Russia. Russia, of course, will be recovering from its exceptionally poor 1972 crop. Soviet production should be up by at least 10 million tons. The United States wheat output will be up by 6 million tons we think, and the combined output of Canada and Australia will be up some 8 million tons. Elsewhere, however, we look for less production. The wheat crops look smaller in West Europe, East Europe and the Middle East.
>
> There are two reasons why production outside the major exporting countries is not expected to increase next year. First, many of them had above-normal years in 1972. Second, most of these importing countries have already been holding wheat prices above world market levels—and their farmers aren't seeing any price increase for their wheat.
>
> Another factor in both the exporting and importing nations is that prices and incentives for feed grains, oilseeds and even forage for livestock have increased—and limited the shifting of additional land into wheat that might otherwise have occurred.
>
> Here's how we see the world wheat market: Russia will probably need less wheat imports. On the other hand, the Middle East and Japan will need more. Several Asian countries took more wheat last year because of poor rice crops, and the world rice supply is very tight again this year.
>
> In all, we expect total world imports of 63 million tons. That is somewhat less than the 69 million tons imported last year. Canada, despite a much larger crop, will have much lower stocks to draw on and will probably not maintain this year's export level. Australia, meanwhile, will increase its exports offsetting Canada. Elsewhere we look for small declines offsetting small increases.
>
> We estimate U.S. wheat exports at 950 million bushels this year, compared with 1150 million last year. With production estimated at 48 million tons, and the somewhat smaller export total, we may add a few bushels to our very low wheat carryover this year.
>
> Let me also emphasize that there are several factors that could have sharp impacts on the market for wheat and other grains . . . and we don't yet know how to weigh them. For example, we don't know how much wheat and corn Russia may want to buy. The Russians themselves don't know how much they'll produce this year yet, and we don't know how much they're using or how much they may want to build their stocks.
>
> We don't know if Mainland China will be in the market for grain this year—though we know their weather has been far from ideal.
>
> We don't know how much protein meal will be available to the world's livestock feeders this year. The Peruvians have halted fishing again, and there may not be much fishmeal.
>
> It is entirely possible, too, that the food situation in Asia may worsen, increasing their import needs.
>
> Canada has had a dry season so far. Some recent rains have helped but they don't have the moisture to produce a full crop yet by any means.
>
> Finally, we don't even know when our Corn Belt farmers will be able to start planting, or how many acres of crops they'll get planted. This could have a big effect on the market for grains later this year and next.
>
> I think it is a startling thing to be able to say that the world's wheat crop is going to jump 10 percent—and that wheat prices are holding strong.
>
> That's how we see it, though.
>
> The market will probably take a billion bushels more corn this year than it took just 4 years ago—and take the extra grain at strong prices.
>
> Soybeans are in such tight supply that I heard an elevator in Indiana is offering farmers $8.10 a bushel for any soybeans they have lying around and the elevator will come and pick them up!

The United Nation's Food and Agriculture Organization recently released a report on the world food situation. The report warned that—

> The new and dangerous decline in world cereal stocks calls for a new international initiative to ensure at all times a minimum level of world food security.
>
> The world has drifted into this time of danger because there is, up to this moment, no acceptance by the international community, in any meaningful sense, of the concept of a minimum safe level of basic food stocks for the world as a whole. *It has been*

> *possible to do without such a concept as long as the world could rely confidently on surplus stocks in North America. But these have now disappeared.* [Emphasis added]

In short, Mr. Chairman, there is no need at this time for the Department to reinstitute the export subsidy program.

We should wait to see what the world market conditions are this year and in the coming year. We should wait to see how the Department improves its internal operations. If export subsidies are needed in the future, they should be considered in the future, as part of an overall legislative examination of our trade and export policies.

Mr. WYLIE. Mr. Chairman, I move to strike the last word.

I wonder if the distinguished chairman of the Committee on Agriculture would respond to a question?

On page 16 of the report there are some statements which seem inconsistent to me with respect to the wool program. For example, in the second paragraph under "Wool Program," it says:

> Payments are based on the percentage needed to bring the average return (price received on mohair sales plus payments) received by all producers up to the support level.

Then, on down in the fifth paragraph it says:

> Prices have been higher than in 1971 and the payment rate will be lower than last year.

Mr. Chairman, I would like to go on down to the next to last paragraph in which it says:

> Under this method, the producer who gets a better market price for his wool also gets a higher support payment.

That seems inconsistent with the other language I just read and with provisions of the law.

Mr. POAGE. Mr. Chairman, I think there is an error there. I think that the words should not be "higher support payments." I think that that is one of those errors which we so often encounter. The words clearly should be "higher total payments."

AMENDMENTS OFFERED BY MR. POAGE

Mr. POAGE. Mr. Chairman, I offer amendments along exactly the line of technical corrections. We have here about 20 technical amendments, all of them of exactly the same nature, and I would ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Poage:

Page 5, line 2, insert "make" after the words "and to".

Page 8, line 5, after the words "section 107" insert the words "of the Agricultural Act of 1949, as it appears therein,".

Page 13, line 3, strike out "Agriculture" and insert "Agricultural".

Page 16, line 3, after the word "topography" add the following ", and in addition, in the case of conserving use acreages, to such other factors as he deems necessary in order to establish a fair and equitable conserving use acreage for the farm.".

Page 20, lines 16 and 17, strike out "which precedes the first colon" and insert "through the first colon and section 105(a) of the Agricultural Act of 1949, as it appears therein,".

Page 23, line 25, after the word "allotments" insert "shall be established on the basis of the feed grain allotments".

Page 25, line 6, strike out "bases" and insert "allotments".

Page 25, line 22, strike out "feed grain or soybean".

Page 26, line 7, strike out "(i)".

Page 26, line 9, after the word "to" insert "(i)".

Page 26, lines 20–22, strike out "inserting a period after the word 'topography' in the first sentence of paragraph (2) and striking out the balance of such sentence".

Page 28, line 5, after the word "beans," insert "triticale, oats, and rye,".

Page 30, line 19, strike out "the" and insert "any".

Page 30, line 24, strike out "(a)" and insert "(f)".

Page 31, line 10, strike out "farmer" and insert "farm".

Page 32, line 4, strike out "1975" and insert "1977".

Page 34, line 2, strike out "section" and insert "subsection".

Page 36, line 5, after the word "State." insert the following new sentence: "The Commodity Credit Corporation shall not make any expenditures for carrying out the purposes of this subsection unless the Corporation has received funds to cover such expenditures from appropriations made to carry out the purposes of this subsection."

Page 36, line 9, after "(25)" insert "Title VI is further amended by adding the following new section: Section 612."

Page 3, line 9, strike out "Agriculture" and insert "Agricultural".

Page 38, line 16, after the word "shall" insert "only".

Page 40, line 19, strike out "Act" and insert "section".

Page 40, line 20, strike out "Act" and insert "section".

Page 40, line 21, strike out "Act" and insert "section".

Page 40, line 25, strike out "Act" and insert "section".

Page 41, line 3, strike out "Act" and insert "section".

Page 41, line 18, strike out "(B)" and insert "(b)".

Page 41, line 18, strike out "the Great Plains" and insert "such".

Page 42, line 1, strike out "Act" and insert "Title".

Page 42, line 10, strike out "(B)" and insert "(b)".

Page 42, lines 10 and 11, strike out "the Great Plains" and insert "such".

Mr. POAGE (during the reading). Mr. Chairman, these are all technical amendments without any changes of a substantial nature. I ask unanimous consent that the amendments be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from California.

Mr. TEAGUE of California. I am familiar with the fact that these are technical amendments, and I am perfectly willing to accept them.

Mr. POAGE. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas (Mr. Poage).

The amendments were agreed to.

Mr. SEBELIUS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I should like to address a question to the chairman of the Subcommittee on Livestock and Grains, the gentleman from Washington (Mr. Foley) with respect to section 808 in the bill.

Section 808 provides for wheat and feed grains research.

Mr. FOLEY. Yes.

Mr. SEBELIUS. The report, on page 36, reflects the subject. The language talks about fertilizer and pesticide uses. I believe we had a conversation in the subcommittee, but did not have one in the full committee, on the subject of residues of fungicides and pesticides and the need for research in the marketing field as to how to deal with those residues.

I should like to ask the gentleman a question, to make legislative history, as to whether it was the intent of the committee that in the research such residues of fungicides and pesticides would also be included.

Mr. FOLEY. Yes. The marketing research was within the purpose, as announced by the Subcommittee on Livestock and Grains.

The gentleman is correct.

Mr. SEBELIUS. I thank the gentleman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sec. 2. (a) Notwithstanding section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(c)) or any other provision of law, the Secretary of Agriculture shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard prohibiting agricultural workers from entering areas where crops are produced or grown (such emergency standard to take immediate effect upon publication in the Federal Register) if he determines (1) that such agricultural workers are exposed to grave danger from exposure to pesticide chemicals, as defined in section 201(q) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(q)), and (2) that such emergency standard is necessary to protect such agricultural workers from such danger.

(b) Such temporary standard shall be effective until superseded by a standard prescribed by the Secretary of Agriculture by rule, no later than six months after publication of such temporary standard.

(c) As of the date of enactment of the Agriculture and Consumer Protection Act of 1973, the regulations issued by the Secretary of Labor under section 6(c) of the Occupational Safety and Health Act of 1970, which appear on pages 10715–10717 of number 83 of volume 38 of the Federal Register of May 1, 1973, shall be null and void with respect to agricultural workers.

AMENDMENT OFFERED BY MR. BERGLAND

Mr. BERGLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bergland: Page 53, line 3, strike out section 2 of the bill, H.R. 8860, in its entirety, and renumber the following sections accordingly.

Mr. BERGLAND. Mr. Chairman, my amendment would strike section 2, dealing with the transfer of the administration of OSHA as it has to do with pesticides from the Department of Labor to the Department of Agriculture. While that section is technically germane it is my judgment it is not relevant to a farm bill.

On the first day of May the Department of Labor issued temporary standards limiting reentry to fields that had been treated by a deadly family of poisons known as organophosphates.

Mr. Chairman, this is a nerve gas. Heavy doses will kill and light doses of this compound will show up in such symptoms as flu, blurred vision, vomiting, nausea, and so forth.

Those temporary standards were to be effective on the 18th day of June, the worst possible time in my judgment, in that these pesticides are used in the fruit growing and the tobacco growing industries and the planters of these crops had the growing of these crops underway.

Mr. Chairman, I submit that the Labor Department should have proposed these temporary standards last December, so there would have been time to consider them, but instead they were to be put into effect on the 18th day of June. The Committee on Agriculture moved to set aside those temporary standards and transfer the administration of OSHA from the Department of Labor to the Department of Agriculture. Our committee acted in the heat of passion. It was in my judgment an unwise amendment, but it was the only means by which a majority of the members of our committee could react and indicate to the Labor Department their displeasure at the way this matter had been handled.

On the 15th day of June the Department of Labor set aside those temporary standards and rendered them null and void. On the 21st day of June the Labor Department introduced some new temporary standards reducing the number of chemicals that were to be prohibited from 21, the number that was in the original order, down to 12, and reducing the re-entry days to two. Last week the Fifth Circuit Court of Appeals set aside even those temporary standards.

Mr. Chairman, it has been said that the Department of Agriculture has no responsibility in these kinds of matters, but, in fact, they do have a representative on the OSHA Standards Boards. The Department of Agriculture is counseled as these standards are developed.

Our committee held no hearings on this matter; we had no testimony from the Department of Agriculture, from the Department of Labor, or from anyone else. We have no idea on the implications of this amendment. We do not know how or if the Department of Agriculture could run it, in fact.

Mr. Chairman, I urge that the amendment be adopted.

Mr. MIZELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. SYMMS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Eighty-eight Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 339]

Addabbo
Bell
Blatnik
Boland
Breaux
Burke, Fla.
Butler
Chisholm
Clark
Conyers
Danielson
Diggs
Dingell
Dorn
Edwards, Ala.
Evins, Tenn.
Fisher
Froehlich
Gross
Hanna
Hébert
Helstoski
Holifield
Johnson, Calif.
Kemp
King
Kuykendall
Landgrebe
Landrum
McFall
McKinney
Madden
Mailliard
Mills, Ark.
Morgan
Murphy, N.Y.
O'Neill
Pepper
Pettis
Reid
Stokes
Talcott
Taylor, Mo.
Wilson, Bob

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 8860, and finding itself without a quorum, he had directed the roll to be called, when 389 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. MIZELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota (Mr. BERGLAND). I never thought I would see the day I would come into the well of this House to oppose an amendment offered by a member of the Committee on Agriculture, to capitulate to the jurisdiction of the Committee on Education and Labor over the regulations for usage of pesticides, because the knowledge and the expertise on this subject rests in the Department of Agriculture, and has been there for years.

My friend on the committee wants to leave the farmers of this country, the food producers, under the thumb and jurisdiction of the Labor Department as it relates to the use of pesticides, instead of the Department of Agriculture.

Mr. Chairman, first of all, let me say as the author of this section of the bill which my colleague seeks to strike, that I am as firmly committed as anyone to the protection of farmworkers from potential dangers associated with farming operations. And so I believe, as does every member of the Committee on Agriculture, there is no room for debate on that point at all.

But on the point raised by my colleague, the gentleman from Minnesota (Mr. BERGLAND) in a "Dear Colleague" letter that went out to all the members about the expert advice being used by the Occupational Safety and Health Administration for establishing such protective standards, there is ample room and substantial need for clarification.

On May 1, 1973, OSHA published in the Federal Register a set of emergency temporary standards for the protection of workers from exposure to highly toxic pesticides. Without belaboring the specifics of these technical regulations, I believe the pertinent point to make here is that the chairman of OSHA's Special Advisory Subcommittee on Pesticides resigned in protest against the regulations and stated in his letter of resignation as follows:

> The Subcommittee on Pesticides was unanimous in its recommendation that no emergency existed and that there was no justification for emergency standards.

The chairman of the advisory subcommittee was Dr. F. S. Arant, of Auburn University, one of the leading authorities in the Nation in the field of pesticides. In his letter of resignation, Dr. Arant goes on to challenge in great detail the published regulations, which he characterizes alternately as "laughable," "unworkable," "ambiguous," and "potentially disastrous" and would work "unnecessary hardships on employer and employee."

Dr. Arant goes on to state that his subcommittee could find no proof of the Department of Health, Education, and Welfare's estimate that 800 persons are killed and another 80,000 injured each year with pesticides. The subcommittee found instead that there were relatively few deaths associated with pesticides and that the vast majority of those occurred primarily from persons drinking the chemical through accident or suicide.

In the conclusion of his letter, Dr. Arant writes, and again I quote:

> It is obvious from the above discussion that many recommendations of the Advisory Committee have been totally ignored in the standard issued. It is also obvious that the advice of the Subcomittee is not valued highly by the Department of Labor.

Mr. Chairman, I believe that the safeguarding of farm workers from potential dangers from pesticide exposure is too important a task to be left to an agency that rejects the advice of its own experts and which is so seemingly devoid of any sense of realism or any working knowledge of farming operations.

The fact that the regulations were established on an emergency basis, despite the absence of any emergency, is proof enough that OSHA has engaged in nothing less than a power grab.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. MIZELL) has expired.

(By unanimous consent, Mr. MIZELL was allowed to proceed for 5 additional minutes.)

Mr. MIZELL. For all of these reasons, I believe—and the majority of the Agriculture Committee has concurred in this belief not once but twice—that the Secretary of Agriculture is far more capable of establishing intelligent standards that will meet the crucial test of adequate protection and at the same time allow for the continued economical production of food and fiber in this country.

OSHA's regulations by the estimate of the Library of Congress' senior agricultural specialist would cost the agricultural industry about $50 million a year, and in my opinion that is a very conservative estimate. That is far too high a price to pay for a set of standards that are unneeded and unworkable. The cost to farm laborers themselves who are denied work unnecessarily under the terms of these provisions, would be great indeed.

The Secretary of Agriculture has the expertise available to him to establish workable standards if it is proven that they are in fact needed.

As my colleagues know, the price of food is high enough already, and I see very little sense in imposing a substantial additional burden on the cost of farm production through a set of standards whose very reason for existence has been called into serious question by the Nation's leading experts.

I strongly urge my colleagues to heed the advice of these experts.

Mr. SYMMS. Will the gentleman yield?

Mr. MIZELL. I yield to my friend from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I, too, wish to associate myself with the gentleman's remarks and join him in asking our colleagues in the House and members of the committee to vote down this amendment.

Mr. MIZELL. I thank the gentleman. I now yield to the gentleman from California.

Mr. TEAGUE of California. I, too, am opposed to the amendment and would like to point out that it was very carefully considered in the House Committee on Agriculture. The amendment was adopted by an overwhelming vote, 25 voting in favor of it with 2 present, and it should not be canceled.

Mr. MIZELL. I thank my distinguished friend.

Mr. YOUNG of South Carolina. Will the gentleman yield?

Mr. MIZELL. I am glad to yield to the gentleman.

Mr. YOUNG of South Carolina. I would like to associate myself with the remarks of the distinguished gentleman from North Carolina and commend him on the presentation he has made.

I am delighted that he would take the time of the House to explain fully what is going on in the amendment.

Mr. ABDNOR. Will the gentleman yield?

Mr. MIZELL. I am glad to yield to the gentleman.

Mr. ABDNOR. I would like to commend the gentleman from North Carolina for his remarks and associate myself with his statement and point out that Dr. Wayne L. Berndt of the South Dakota University Extension Pesticide Division wrote me about this very thing and pointed out what you said about the chairman of the advisory commission resigning and urged me to do what I can to help keep this clause in the bill giving the Department of Agriculture the right to have control over the use of these pesticides.

Mr. DICKINSON. Will the gentleman yield?

Mr. MIZELL. I am glad to yield to the gentleman.

Mr. DICKINSON. I was wondering about something. Recently I have gotten a good bit of mail relative to some standards which were promulgated that prohibited children from going into a field for a certain time after the use of certain pesticides. I understand that it varies from crop to crop. But I wondered who promulgated these standards and are they in fact workable.

Mr. MIZELL. In response to the gentleman's question, OSHA is the agency which implemented those standards and completely ignored the advice of the experts who said no emergency existed and they were totally unneeded at this time, but they were still imposed.

Mr. DICKINSON. I understand Dr. Arant is one of the outstanding experts in the field, and I understand he resigned because of the unnecessary and unreasonable regulations OSHA had imposed on the agricultural industry. Is there any hope to expect things will be any different if the Secretary of Agriculture should undertake the oversight and promulgation of such rules?

Mr. MIZELL. I think the very fact that Dr. Arant resigned in protest against these regulations is an indication that the experts in this field would certainly recommend something far different from OSHA.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. BERGLAND. Will the gentleman yield?

Mr. MIZELL. I am glad to yield to the gentleman.

Mr. BERGLAND. There is no Member of this House for whom I have greater respect either as a baseball player or legislator, but I am sure the gentleman did not intend to leave the impression that these organophosphorus chemicals were somehow harmless. I am sure he is aware that in North Carolina 22 workers in tobacco were poisoned by malathion and in California 24 were poisoned using parathion.

The CHAIRMAN. The time of the gentleman has once again expired.

Mr. TEAGUE of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Chairman, I thank the gentleman for yielding, so that I might respond to the statement made by the gentleman from Minnesota.

Mr. Chairman, I have here a letter to Secretary John Stender from the Chairman of the Advisory Committee to OSHA in which he says:

> The subcommittee was unable to find a single authentic record of a fatality resulting from a person entering or working a field treated with a pesticide.

He went on to say:

> A survey of pesticide safety specialists at all Land-Grant Universities revealed that no problems had arisen from workmen entering pesticide treated fields in a majority of the States, and only minor problems in others.

This clearly answers the question of the gentleman from Minnesota.

Mr. WILLIAM D. FORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would ask the gentleman from North Carolina (Mr. MIZELL), a question. I did not hear the answer to the question that was posed a few moments ago from the other side of the aisle.

I believe the question was: "What change do you think would be brought about by transferring OSHA's enforcement to the Secretary of Agriculture? How would that change differ from what it is now?"

I do not believe the gentleman answered that question. I believe it was the gentleman from Alabama (Mr. DICKINSON), who asked the question originally.

Would the gentleman from North Carolina answer the question again? What does the gentleman expect will happen that will be different after the transfer of this function to the Department of Agriculture?

Mr. MIZELL. If the gentleman will yield, we certainly transfer the authority to set the emergency regulations back to the Secretary of Agriculture where the expertise in this field is located at this point.

And the very fact that the chairman of the Advisory Committee, who is a well-known specialist in this field——

Mr. WILLIAM D. FORD. That is not the question. The question is, what does the gentleman expect would happen that would be different? The gentleman has not answered that question. The gentleman is talking about some speculation here. But the gentleman specifically, in his amendment, not only authorizes the suspension of temporary standards, but provided further that there shall be no standards until such time as the Department of Agriculture promulgates standards.

What is it that the gentleman expects will happen when this new authority is moved to the Department of Agriculture? Why not leave this responsibility in the one agency of the Government that deals with occupational safety for all other employees in the United States?

Mr. MIZELL. If the gentleman will yield further, the gentleman did not let me finish. I stated in my statement a moment ago, and I think this is looking to the point that the gentleman is now making, and that is that the expertise in this field is in the Department of Agriculture. The experts state, first of all, that there is no emergency existing. And the only way that——

Mr. WILLIAM D. FORD. The gentleman is speaking on my time and, with all due respect to the gentleman from North Dakota, I have asked the gentleman the question. Is it that the gentleman cannot answer the question, or is it that the gentleman does not want to answer the question?

Mr. MIZELL. Please give me a chance to respond. I made the statement a moment ago——

Mr. WILLIAM D. FORD. My question is, What would be different by having the administration of occupational safety of only farm workers moved to the Department of Agriculture? What does the gentleman expect it to do?

Mr. GOODLING. Mr. Chairman, will the gentleman yield to me?

Mr. WILLIAM D. FORD. I will yield to the gentleman from Pennsylvania as soon as the gentleman from North Carolina answers my question.

Mr. MIZELL. The authority is clearly in the Secretary of Agriculture where there is the expertise in this field. This is what I would like to do: I do not know what set of standards he will set, but I believe that whatever steps the Secretary considers are necessary if an emergency does exist, then he can set the standards.

Mr. WILLIAM D. FORD. The gentleman is telling me what the Secretary can do. I can read the bill. I want to know exactly what the difference would be. The gentleman in the well claims credit for writing this section of the bill. What does the gentleman from North Carolina expect would happen that would be different with the Secretary of Agriculture handling this enforcement? Would the gentleman please answer that question?

The standards affect the working conditions of farm employees working with pesticides. What does the gentleman expect would be different if the Secretary of Agriculture were to handle this?

The gentleman from Alabama (Mr. DICKINSON) asked that question, and the gentleman from North Carolina apparently refused to answer the question. I have asked the gentleman from North Carolina three times, and the gentleman will not tell me.

It is not the truth that the gentleman expects the Secretary of Agriculture to throw the ballgame in this matter of safety standards for agricultural employees?

Mr. MIZELL. If the gentleman will yield further, I think the gentleman would rather listen to himself than to listen to me at this point.

Mr. WILLIAM D. FORD. Will the gentleman answer the question? What does he expect the Department of Agriculture to do with this authority?

Mr. MIZELL. I think the Secretary would have the authority, if he says there is an emergency, to set standards and regulations. In other words, they would be set by the experts in the field who completely rebelled against the regulations that OSHA was trying to impose.

Mr. WILLIAM D. FORD. How would they change them, and change them to what?

Mr. MIZELL. I would leave that to the discretion of the experts.

Mr. WILLIAM D. FORD. Is the gentleman from North Carolina saying that the gentleman trusts the administration's Secretary of Agriculture, but does not trust the administration's Secretary of Labor?

Mr. MIZELL. I think it is obvious at this point from the fact that we have a decision from the Fifth Circuit Court of Appeals that has stayed the order that was implemented by OSHA.

All my amendment does——

Mr. WILLIAM D. FORD. What assurance do we have that the same experts hired by one member of the Nixon Cabinet will not be hired by another member of the Nixon Cabinet?

Mr. MIZELL. I think this is an area where the experts should haxe jurisdiction in this field. We have a perfect example of what can happen when they not only do not have any expertise in this field but when they ignore it.

Mr. WILLIAM D. FORD. Has the gentleman been assured in advance that there have been different experts selected by the Department of Agriculture? He is asking us to vote on this amendment on the ground that something different will happen, but he is reluctant to tell us what is going to be different.

Mr. MIZELL. I certainly have no advance information from the Secretary of Agriculture. I think that if we are going to impose some hardships and some regulations on the food producers in this country, it should be done by experts in the field.

Mr. WILLIAM D. FORD. Mr. Chairman. I have no further time.

Mr. Chairman, I should just like to call the Members' attention to the fact that what is being attempted here. With reference to the occupational safety and health law, we will have this very unusual situation where standards governing only one particular type of occupational hazard affecting only one particular kind of employee in the country would be administered by an entirely different agency of the Federal Government than that already promulgating and administering such standards for all other employees and industries in the country.

There is no need and no justification for the transfer of this authority from the Department of Labor to the Department of Agriculture.

The Occupational Safety and Health Act, enacted by Congress less than 3 years ago, was intended to cover farmworkers fully. As of this date, the Labor Department has still not demonstrated that it has completed the job of protecting the farmworker. But to transfer its authority to carry out the task of protecting farmworkers from death and illness from pesticide poisoning at this time, would merely delay the process even further. It simply makes no sense to do this when the Labor Department has been working all this time to develop expertise in this area.

Congress intended to give the Labor Department the authority to protect all workers. If it wanted to decentralize this authority we would have delegated the authority to promulgate standards for small businesses to the Small Business Administration, the authority to promulgate standards for larger corporations to the Department of Commerce, and the authority to regulate pesticides to the Agriculture Department. But we did not. We centralized the authority to issue occupational safety and health regulations in the Department of Labor, and the gentleman from North Carolina has demonstrated no justification whatsoever for his amendment which transfers the authority in this one specific area to the Department of Agriculture.

Mr. Chairman, agricultural labor is one of the most dangerous of all industries. Recent studies indicate that the injury rate for agricultural employees exceeds that of all other major occupational groups with the exception of coal miners and construction workers. Farmworkers are injured or killed at a rate of 67 per 100,000 workers, while the average in all other industries is 18 per 100,000 workers. Although the national agricultural work force accounted for only 4.5 percent of the national total work force, it accounted for nearly 10 percent of the disabling work injuries and 17 percent of the job-related fatalities.

The Labor Department has been charged with the responsibility of protecting farmworkers, and although it has not accomplished this goal, its work in this area has at least begun. To transfer the responsibility at this time is to mandate a further delay which we cannot afford.

Mr. Chairman, I urge my colleagues from both sides of the aisle to vote against transferring this authority to the Agriculture Department by voting in favor of the Bergland amendment.

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the Bergland amendment.

Mr. Chairman, certainly, every thinking and responsible person agrees that we must provide the maximum reasonable protection for the safety and health of all workers in this country, regardless of whom their employers may be.

In attempting to reach this end, however, and particularly with respect to the OSHA legislation, the 91st Congress enacted a law which now—3 years later—is, in the agricultural area at least, being administered as if complex problems can be handled with simplistic, overgeneralized solutions.

The fundamental fact, in this instance, is that representatives of the Department of Labor have mistakenly assumed that farmers, who are hiring temporary employees—many of whom have limited education and suffer from language barriers—can be treated in the same manner as large corporations, with fixed facilities, who hire more highly educated and better trained, permanent employees. This is causing undue and unnecessary hardship on small family farmers, and the possible loss of work by the men and women the Congress intended in 1970 to protect.

Add to this the arrogance with which representatives of the Department of Labor have treated and threatened to treat the farmers, and one finds a situation in which the Federal Government or at least the Department of Labor is looked upon as nothing less than the enemy of the average small farmer attempting to make a living. I do not for a moment suggest that this Congress should relax reasonable standards for safety for any employee, when those standards have been established after reasonable deliberations by personnel who understand the situation. But this is the crux of the problem we face. It is quite obvious to me that representatives of the Department of Labor have not demonstrated an understanding of how to work with the members of the agricultural community in my State in providing responsible safety programs under the law. I suggest that safety and health requirements for agricultural employees can be more responsibly formulated and administered by representatives of the Department of Agriculture who have come, through a lifetime of experience, to understand the difference between managing a family farm on the one hand, and a large industrial or manufacturing plant on the other.

What we all want is optimum protection for all employees with respect to their health and their physical safety on the job, but a responsible approach to this goal requires a realistic attitude toward the facts involved. The health and safety of agricultural workers can be better protected, in this instance, if the laws are administered by the Department of Agriculture rather than by the Department of Labor. What is missing in the Department of Labor, but present in the Department of Agriculture, is an understanding of the economic and managerial problems of the small farmer. In our desire to protect the workers, we should not allow ourselves to blindly overlook either the problems of the small farmer or the employment stability of the farmworkers. I urge you to defeat this amendment.

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, let us understand at the outset that the controversy that surrounds the provision in the committee bill does not really deal with the issue of pesticides and their application. The controversy involves the decision of the Department of Labor to promulgate under section 6(c) of the Occupational Safety and Health Act a temporary emergency standard under the provisions of that act. I think that judgment was wrong. I think it was a serious mistake for the Department of Labor to issue an emergency standard, and I think what has happened since that decision was made in the early part of May is that by and large almost everybody in the field of agriculture and in labor recognizes that the initial decision of the Department of Labor was not correct. There was no emergency.

The facts on which they based their decision were wrong.

What has happened since then? And why do I very strongly support the Bergland amendment? What has happened is that on the 26th of June the Department of Labor released on amended version of their temporary standard. That amended version, among other things, reduced the number of regulated pesticides from 21 to 12. It reduced a number of the reentry times. It modified the types of personal protective equipment required of farmworkers, and it limited requirements of the standard where the employee has "substantial contact" with the pesticide-treated crop.

All of those basic changes that were made in the initially promulgated temporary emergency standard, it seems to me, go a long way, frankly, in terms of substantially responding to the very legitimate concerns that have been expressed by those in the field of peaches, apples, and all of the other crops that were affected by the initial standard.

What the Department of Labor has done, having made that initial mistake, in large measure is to correct the error of the way that they undertook this standard. But what we now find ourselves with is a provision in the agriculture bill, and what does it do? It does very simply, a rather unique thing. It, first of all, voids the standard, both modified and original.

Then what does it do? It says that any further promulgation of standard will not be made by the Department of Labor but will be made by the Department of Agriculture.

Where does that leave us? It leaves us in the position, if this amendment is not agreed to, of having the Department of Labor carry out all other responsibilities under the Occupational Safety and Health Act, and the Department of Agriculture setting standards for one particular set of problems in the pesticide field. This kind of split administration, it seems to me, is totally wrong and works to the disadvantage both of the farmer and of the farmworker.

A step in that direction would compound an already difficult problem. It does not solve the very real fact of life that some pesticides used in agriculture are harmful. This does not solve the initial decision made by the Department of Labor in the long run of having made the mistake of having issued a temporary emergency standard. Thus it seems to me this committee ought to undertake to attempt to resolve this problem in a far more effective fashion and adopt the Bergland amendment to allow the Department of Labor as it has done already to modify the provisions, to undertake the section 6(b) work, it has already started public hearings across the country, to recognize that the Department of Labor because of the court order has already stayed the effective date of July 13 any compliance on inspection of farm use of pesticides.

The Department of Labor's Safety Health Administration last Friday because of the action in Louisiana, are staying any further work on the farms. Thus it seems to me this committee would be well advised not to compound the difficulties that the amendment started by the Senator from South Carolina in the other body would cover, and with all due respect for the man who does such a good job, with respect to the decision of the Mizell amendment, I hope the Bergland amendment is adopted and then the House will keep up the pressure on the Department of Labor to do the job properly, but we should not take that authority away. It would be a serious mistake.

Mr. POAGE. Mr. Chairman, I rise in support of the amendment. I think we have blown this up out of all proportion. I cannot believe it is of the importance that has been attached to it but I do think what we must bear in mind is that while all of us have a tendency to want to see those agencies with which we are most closely associated have control, it does not always mean they are absolutely perfect and everybody else is absolutely wrong.

I do not know just where a great many of the interested parties stand on this matter. I had understood up until today that the Department of Agriculture felt the Bergland amendment was a perfectly sound approach. I had understood that the administration had decided they wanted to keep these programs in the agencies that are presently administering them.

I had personally felt that I had more experience with the Department of Agriculture and thought that it possibly would do a better job. I had also observed in the Department of Labor what I know was a very poor job of setting standards—in fact one of the worst I had ever seen—and I had thought that the Department of Agriculture could improve upon that.

But I do understand now that the administration feels it is better to keep the functioning of the different agencies as they are at the present time. Since they have the responsibility I think that those who have the responsibility probably ought to accept that responsibility, and maybe this discussion will point out to the Department of Labor just how far off they are from anything that is practical and they will try to get back to a practical position.

I do know that those who have felt the Department of Labor should administer this program have not changed their position nor have they fragmented over the matter as those of the other viewpoint have.

It seems to me we had better therefore forgo our natural prejudice in favor of the Department of Agriculture, those of us on the committee who naturally are favorable that way, and maybe we ought to forgo that and seek to achieve that which could be sound administration if the Department of Labor will exercise a degree of judgment and a degree of practicality. I, therefore, expect to vote for the Bergland amendment.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, ordinarily I would not take the floor to participate in a discussion of an amendment of this nature except that I happen to have a good many constituents who are good apple growers, and they have been very concerned about the action taken by the Department of Labor. In addition, a number of Members of the House on both sides of the aisle were concerned about the rather precipitous action taken by the Department of Labor when it issued its first order and it was printed in the Federal Register. A number of Members on both sides of the aisle have asked me on two occasions to sign a joint letter to the President complaining of the action taken by the Department of Labor. I signed the first one and did not sign the second one.

Mr. Chairman, let me indicate some personal views, if I might. I think the Department of Labor was completely wrong factually in their justification for the issuance of a temporary emergency standard. The hook upon which they hung their hat, the so-called 800 deaths, was never justified. They pulled it out of the air of some Senate hearing and never made any independent investigation as to the credibility of that statement by a witness before that committee. That was the full grounds upon which they made their original finding. They ought to learn a lesson and do a little better homework.

I think they were wrong in promulgating temporary emergency standards which, in effect, precluded individuals from coming in and making a presentation so that all parties could be heard and an opportunity for review could have been given.

I believe under those circumstances a far better result would have been the conclusion of this rather tragic story or circumstance.

After this mistake was made—and it was a serious mistake—I had communications with the Secretary of Labor, Pete Brennan, and after listening to the story that I gave him and the information that came to him from other sources in a meeting we had, the Department of Labor revised its original order. They modified it as to reentry requirements; they modified it as to protective equipment and modified it as to certain pesticides.

They did determine, however, that on a date certain these standards would go into effect that had been modified, but they then agreed that there should be hearings held throughout the country so that a permanent standard might be established. It is my understanding that they have established four places throughout the United States for hearings. Unfortunately, they ignore several very vital areas where there should be hearings, in my opinion.

In a matter of this consequence, where people are so vitally affected in so many areas, the Department of Labor would have been well advised to have more than four places for hearings, and would have been well advised to give people a better opportunity to testify without an undue burden on them of time or money.

Perhaps that can be modified. I hope it will be.

In the interim, lawsuits have been initiated, first against the original order but continued against the subsequent or modified order.

On July 10, 1973, the U.S. Court of Appeals for the Fifth Circuit in New Orleans stayed the July 13 effective date of the amended emergency temporary standard which was published in the Federal Register on June 29.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. GERALD R. FORD was allowed to proceed for 5 additional minutes.)

Mr. GERALD R. FORD. Mr. Chairman, the court's stay of the order is to remain in effect pending judicial review of the standard or until otherwise ordered by the court.

What this means is that there will be no standards that will be effective, in all likelihood, in 1973.

I believe the court was on good ground in taking the action that it did. I hope the action of the court will convince the Department of Labor that it made a mistake in the first instance and that when it goes into court for temporary emergency standards it should have a better factual justification for what it did.

Now we come to the question of whether in this bill we should, in effect, remove jurisdiction from the Department of Labor and transfer it to the Department of Agriculture. I have mixed emotions about this. Frankly, I have not made up my mind how I am going to vote.

I believe it is bad to fragment the control of occupational health and safety regulations and enforcement. Most of us, in my judgment, would rather have this kind of an operation in one department. At least I would.

On the other hand, the action taken by the Department of Labor in this particular case was pretty badly done, pretty sloppy. If they do not have a better batting average in the future then we ought to fragment it, and the sooner the better.

I wish to commend the Secretary of Labor for interjecting himself into the situation and getting a modification of the original order. The Secretary of Labor has written me dated July 10, 1973, urging my opposition to section 2 of H.R. 8860, the portion referring to OSHA. I will put the letter in the record after we leave the Committee of the Whole.

I also have a communication from Mr. Benjamin L. Brown, Deputy Under Secretary for Legislative Affairs, dated July 6, urging my opposition to this provision in the bill now before us.

I also have a communication from Assistant Secretary of Labor, John Stender, in effect urging my opposition to this provision, but he included something I believe is of broader nature and something that ought to be put in the record.

And I will later. But I would like to read to the Members some guidelines that Assistant Secretary of Labor Stender has issued, dated July 2. If these are implemented accurately and properly, I believe we can look upon OSHA as being better managed now than it was in the past. I am quoting from Mr. Stender's memorandum for Assistant Regional Directors in field compliance staffs. I am quoting from the third paragraph:

> I am not asking you to play a numbers game. I am not assigning a weekly or annual inspection quota for each compliance officer and industrial hygienist, because as a longtime union man I am opposed to a piecework operation.
>
> I am, however, asking each of you, using your own good judgment, to think about programming your time during the week so you can spend as much time as possible conducting inspections and related activity. Your good judgment and logic is a necessary ingredient to producing a safe work place. In my public appearances I have stated that we want to be practical in our professional approach to job safety.
>
> I urge you to be practical and not to nitpick.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. GERALD R. FORD was allowed to proceed for 3 additional minutes.)

Mr. RONCALIO of Wyoming. Mr. Chairman, will the distinguished minority leader yield?

Mr. GERALD R. FORD. I yield to the gentleman from Wyoming.

Mr. RONCALIO of Wyoming. Mr. Chairman, I would like to compliment the minority leader on his remarks, and I know we all hope that the act is being better administered now. It could not be much worse than it was.

I compliment the minority leader on his commendable work, and I appreciate the gentleman's remarks.

Mr. GERALD R. FORD. Mr. Chairman, let me compliment the Secretary of Labor for personally getting involved in this controversy. I think his actions are responsible for the modified order.

I also believe Secretary Stender, after taking a look at the situation, does recognize that perhaps a mistake was made at the outset, and I compliment him on what I think is a better approach to the compliance problem and the inspection problem of OSHA.

Quite frankly, I wish the problem had not arisen. But it is on our doorstep.

Mr. Chairman, I had mixed emotions, and I am going to wait and see, after we have a little more debate. If we could reprimand labor or the people who made the mistake in the first instance and leave the compliance and the inspection in their hands in the future, and hopefully they would do a better job, I would support the Bergland amendment. But if there is a repetition of the kind of problem we face or did face, then in my opinion the Bergland amendment should be defeated.

Mr. Chairman, the material I referred to earlier is as follows:

JULY 11, 1973.

Hon. GERALD R. FORD,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FORD: Because of your strong interest in the field of work place safety and health, I am sending to you a recent memorandum directed to our field compliance officers.

The Williams Steiger Act of 1970 2(b) states in part as a Congressional purpose, ". . . to assure as far as possible every working man and woman in the nation safe and healthful working conditions. . . ."

It is my purpose and the challenge of all of us in OSHA to carry out the mandate in the Act in a professional manner applying the safety standards in a practical way so as to assure a safe and healthful work place for all employees.

With all best wishes,
Sincerely,

JOHN H. STENDER,
Assistant Secretary of Labor.

U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION,
Washington, D.C., July 2, 1973.

Memorandum for: Assistant Regional Directors and Field Compliance Staff.

I am very pleased about the increased level of inspection activity during the last few months. It is my belief that the success of the Occupational Safety and Health Act of 1970 lies in making both employees and employers conscious of the Act and stimulating them to comply with our standards through their own efforts.

Although our emphasis will be on making more inspections to stimulate compliance, we cannot do this at the expense of the quality of our inspections. Inspections, and possible self-compliance, can eliminate the hazards that exist in the workplaces of America. Reducing fatalities, injuries, and illnesses in the workplaces will be the real test for OSHA and the final gauge of our success or lack of it.

I am not asking you to play a "numbers" game. I am not assigning a weekly or annual inspection quota for each Compliance Officer and Industrial Hygienist because, as a longtime union man, I am opposed to a "piecework" operation. I am, however, asking this of each of you: using your own good judgment, think about programming your time during the week so you spend as much time as possible *conducting inspection and related activities*. Your good judgment and logic is a necessary ingredient to producing a safe workplace. In my public appearances, I have stated that we want to be practical in our professional approach to job safety. I urge you to be practical and not to nitpick.

Thank you for your past efforts. I feel confident that your dedication to our program will insure our future success.

JOHN H. STENDER,
Assistant Secretary of Labor.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 10, 1973.
Hon. GERALD R. FORD,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FORD: This letter is in opposition to section 2 of H.R. 8860, the Agriculture and Consumer Protection Act of 1973. This section would transfer to the Secretary of Agriculture the authority to promulgate occupational safety and health standards relating to pesticides.

Congress has placed the general responsibility for safeguarding the safety and health of the Nation's employees in the hands of the Secretary of Labor giving the Department of Labor broad coverage over all employers. To place this portion of the Secretary of Labor's authority in the Department of Agriculture would be unwise and impractical. The proposed provisions would have the counterproductive effect of placing one group of employees, and with respect to only a certain group of hazards, under the authority of another Federal agency—creating confusion, distortions of the carefully worked out statutory scheme, and possible gaps in coverage.

This section would have the effect of nullifying the Secretary of Labor's emergency temporary standards as to the use of pesticides in farm employment. On the basis of additional information which the Occupational Safety and Health Administration has received, it amended the emergency pesticide standard on the ground that the original standard was broader than necessary to protect farm workers. The emergency standards will remain in effect for six months, during which time public hearings in different parts of the country are to be conducted before permanent standards are issued. In view of these facts, the enactment of the proposed amendment would be premature and would disrupt the prescribed procedures under the Occupational Safety and Health Act.

For these reasons, I urge that section 2 of H.R. 8860 not be enacted.

The Office of Management and Budget advises that it has no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

PETER J. BRENNAN,
Secretary of Labor.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 6, 1973.

DEAR CONGRESSMAN: This letter is in further regard to your recent expression of concern over the emergency standards protecting workers from pesticide exposure. As you were informed in June, the original standard was suspended in answer to Congressional complaints of its rigidity. We have issued a revised standard on the basis of new evidence which we feel will satisfy your concern in this matter.

On Tuesday, July 10, an amendment to H.R. 8860, the 1974 Agriculture Act, will be considered in the matter of pesticide controls. This provision would do great harm to the OSHA law by fragmenting the enforcement powers of the Secretary of Labor. Regulation of pesticide safety standards would be given to the Department of Agriculture which represents, as it were, the management side of the agriculture industry. We consider this a deliberate attempt to weaken the protection given to farm workers under the OSHA and, in effect, designate farm laborers as separate and distinct from other workers. The suspension and revision of the emergency standards in June indicated the Department of Labor's willingness to administer OSHA in a reasonable manner. We believe we have demonstrated a willingness to respond to the best judgments of Congress in the enforcement of the Act. I hope you will consider this when the amendment is brought up on Tuesday, July 10.

Thanking you very much for your consideration, I am,

Sincerely,

BENJAMIN L. BROWN,
Deputy Under Secretary
for Legislative Affairs.

Mr. GOODLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in answer to the one question the minority leader just raised, I do not believe in giving a man a second chance if he makes irresponsible statements. The minority leader was talking about Mr. Stender, who was responsible for this directive.

Mr. Stender made the irresponsible statement that 800 people died as a direct result of pesticides, and he also said 80,000 people became ill. There is not anybody who can prove that statement.

Mr. Chairman, I personally asked Mr. Stender to prove that statement. He refused to do it. He refused to answer my letter. I do not think a man of that type deserves a second chance.

Why transfer this from Labor to Agriculture? I wanted to refer that question to the minority leader, and he refused to yield to me.

I want this directive enforced by the rule of reason rather than by the rule of emotion, and this was strictly an emotional reason that came out of Labor.

I should also like to reply to what the gentleman from Minnesota (Mr. BERGLAND) said. The gentleman talked about a few people being killed by the use of pesticides in the tobacco fields, and the gentleman is correct, but he did not tell the whole story.

They did not happen to be workers who were working in that field but happened to be a few children who wandered in and were playing in the field that had been sprayed with parathion.

If you use parathion properly, it is not dangerous. Personally I have used many hundreds of pounds of parathion, and I am still able to sit up and eat three meals a day.

Mr. HORTON. Will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I rise in opposition to the Bergland amendment.

I agree with the gentleman from Pennsylvania. I think the difficulties that we have encountered in OSHA with respect to these regulations regarding the use of pesticides is something that is characteristic of OSHA and the way in which it has been managed.

Last year I sat and served on the Select Committee on Small Business. We had several hearings on the problems of small businessmen and the difficulties they were having with regulations. At that time the Department of Labor acknowledged they had been somewhat hasty in the regulations they laid down.

I think this has very serious consequences. The regulations they laid down on an emergency basis put a great deal of difficulty on people raising apples in my district. They had a very difficult time trying to get across the problems they would have in complying with these regulations.

I think if this is transferred over to the Department of Agriculture, there will be people who are more aware of what the problems are and will not be so quickly moved but will be more certain to give people time and opportunity to be heard than they have had in this instance.

Mr. MIZELL. Will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. I thank the gentleman from Pennsylvania for yielding.

As always, he has done an outstanding job.

You know, I am a little surprised at the chairman of my committee. After serving with him for these past 4½ years I never thought I would see the day when he would be willing to leave the farmer out in left field. That seems to be the case with my distinguished minority leader.

Yesterday Nolan Ryan threw a no-hitter at the Detroit Tigers, and that is nothing to what the apple pickers will experience if we do not get this out of the hands of OSHA and into the hands of the Department of Agriculture where it should be.

I will say to the Members of the House that a great mistake has been made. The mistake was made in declaring an emergency. They have never revoked that position, and they still say an emergency exists, but the experts say it does not exist.

The regulations are not called for because an emergency does not exist, but at the same time OSHA is imposing a $50 million cost on the food producers of this country, and the consumer will have to pay the bill.

I would say any regulation prohibiting a farmer from going into a field and working is not doing him a favor. He is not bringing home any bacon, if he isn't working.

These regulations were wrong then, they are wrong now, so, for Heaven's sake, let us not let them be wrong for eternity. Let us defeat the amendment. Put the responsibility with the Secretary of Agriculture.

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not take the 5 minutes, but I want to say to my colleagues in this chamber that I am in opposition to this amendment.

What the gentleman from North Carolina said is absolutely true. I was in the Champlain Valley and in Lake Ontario, two of the great apple areas in my district. I have talked to physicians in the area as well, and I said "Tell me about the deaths that resulted from these sprays." I have had no cases mentioned to me.

A score of people are out of work because of OSHA. I hope they are as right in that case as they can be, but I am not at all sure they are.

At the same time, Mr. Chairman, an entire industry in my district is threatened. Unlike the apple growers and the other fruit farmers, and all of the others banded together, this happens to be a pecular industry in my district that may exist in only one other district in the country, so we cannot elicit much support. But I hope this agricultural part is transferred out of the Department of Labor, because the way it overreacted, and that it be put in a place where there is an understanding of those who produce the food and fiber for America, and that is the Department of Agriculture.

Mr. WYLIE. Mr. Chairman, would the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Ohio.

Mr. WYLIE. Of course, none of us like the arbitrary manner in which the Department of Labor acted initially in this area. But, I wonder about the advisability of putting this kind of control under the Department of Agriculture. I feel a little bit like the minority leader when the gentleman from Michigan said that he was not sure how he would vote. May I ask if there was any consideration given during the deliberations of the Committee on Agriculture of placing this control under the Environmental Protection Agency which was created for just such purpose?

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from California.

Mr. TEAGUE of California. To the best of my recollection no consideration whatsoever was given to such a proposal, and if it had been offered I do not believe it would have been accepted.

Mr. BERGLAND. Mr. Chairman, would the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Minnesota.

Mr. BERGLAND. Mr. Chairman, no consideration was given to the transferring of this program to the Department of Agriculture until we were in the markup session, and not one bit of testimony was received in support of the proposition.

Mr. WYLIE. Mr. Chairman, I would ask would the gentleman who offered the amendment consider placing this control under the Environmental Protection Agency?

Mr. BERGLAND. If the gentleman will yield, I think it should stay in the Department of Labor where they have the training and the expertise. They know how to run it with the advice and consent of the Department of Agriculture. Let us not set up another agency to duplicate what another one is doing.

Mr. McEWEN. Mr. Chairman, if I have any time remaining, let me say to the gentleman from Minnesota that it should not come as any surprise when the gentleman from North Carolina offered his amendment, because there are still a lot of apple-knockers around this Chamber who were pretty darned upset with OSHA.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. BERGLAND).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BERGLAND. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by clerks, and there were—ayes 221, noes 177, not voting 36, as follows:

[Roll No. 340]

AYES—221

Abzug
Adams
Albert
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Bolling
Brademas
Brasco
Breaux
Brotzman
Brown, Calif.
Buchanan
Burke, Calif.
Burke, Mass.
Burton
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Clark
Clay
Cohen
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Cronin
Culver
Daniels, Dominick V.
Delaney
Dellenback
Dellums
Dent
Diggs
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Fascell
Flood
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Grover
Gude
Haley
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Hicks
Hillis
Holifield
Holtzman
Howard
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Keating
Kluczynski
Koch
Kyros
Landrum
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCloskey
McDade
McKay
McSpadden
Macdonald
Madden
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Mills, Ark.
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Mosher
Moss
Murphy, Ill.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
Owens
Passman
Patman
Patten
Perkins
Peyser
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Quie
Railsback
Rangel
Rarick
Rees
Reuss
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roybal
Ryan
St Germain
Sarasin
Sarbanes
Schroeder
Seiberling
Shriver
Sikes
Sisk
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steele
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Studds
Sullivan
Teague, Tex.
Thompson, N.J.
Tiernan
Udall
Van Deerlin
Vanik
Veysey
Vigorito
Waldie
Whalen
Widnall
Wiggins
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki

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Abdnor
Andrews, N.C.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Blackburn
Bowen
Bray
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Denholm
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
Eshleman
Findley
Fish
Flowers
Flynt
Foley
Ford, Gerald R.
Fountain
Frey
Froehlich
Gettys
Gilman
Ginn
Goodling
Green, Oreg.
Gubser
Gunter
Guyer
Hammerschmidt
Harsha
Harvey
Hastings
Henderson
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Kazen
Ketchum
Kuykendall
Latta
Lent
McClory
McCollister
McCormack
McEwen
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Nelsen
O'Brien
Parris
Pickle
Powell, Ohio
Price, Tex.
Quillen
Randall
Regula
Rhodes
Robinson, Va.
Rogers
Rose
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Sandman
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shuster
Skubitz
Smith, N.Y.
Snyder
Spence
Steed
Steelman
Steiger, Ariz.
Stratton
Symington
Symms
Taylor, N.C
Teague, Calif.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Ullman
Vander Jagt
Waggonner
Walsh
Wampler
Ware
White
Whitehurst
Whitten
Winn
Wyman
Young, Alaska
Young, S.C.
Young, Tex.
Zion
Zwach

NOT VOTING—36

Addabbo
Bell
Blatnik
Boland
Burke, Fla.
Chisholm
Conyers
Danielson
Edwards, Ala.
Evins, Tenn.
Fisher
Goldwater
Gross
Hanna
Hébert
Helstoski
Johnson, Calif.
Kemp
King
Landgrebe
Lott
Lujan
McFall
McKinney
Mailliard
Morgan
Murphy, N.Y.
O'Neill
Pepper
Pettis
Reid
Stokes
Talcott
Taylor, Mo.
Treen
Wilson, Bob

Mr. MONTGOMERY changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. WOLFF. Mr. Chairman, there is one feature to the Agriculture and Consumer Protection Act of 1973 for which I would like to commend the committee and its distinguished chairman. This is the provision which provides for the termination of the 75 cents per bushel certificate tax on wheat which the miller pays in processing wheat into flour, the so-called bread tax, which is passed on from the miller to the baker to the consumer. This highly regressive tax, which it is estimated has increased the cost of bread by 2 cents a loaf, has long outserved its purpose and has become an unnecessary burden upon the American consumer. When Congress first enacted the wheat certificate program in the early 1960's, the purpose of the wheat certificate tax was to insure that processors would pay at least $2 per bushel. With the present market price of wheat, it is unjust and, indeed, absurd to continue to charge an excise tax that must be absorbed by the American consumer. As my colleagues well know, the cost of flour has skyrocketed in recent months largely because of U.S. foreign sales of wheat to the Soviet Union. The increase has brought with it exorbitant food costs. Repeal of the bread tax will help to bring down the cost of bread on the supermarket shelves.

Several weeks ago, the Senate voted 77 to 12 on an amendment to repeal the unjust bread tax. It is to our committee's credit that it has seen fit to include this provision in the bill before us today. I would like to commend the committee's work in this area and advise the Members of my full support for repeal of the wheat certificate tax.

Mr. Chairman, there is another related issue which I would like to raise in connection with the Agriculture and Consumer Protection Act of 1973. This is the matter of U.S. foreign sales of food products, in particular feed grains which influence the supply and cost of virtually every basic foodstuff, such as we have witnessed in the past year. For several weeks in March, I sponsored hearings in New York along with a number of colleagues from the metropolitan area to consider questions relating to the tremendous price rises in the cost of food since January. One clear fact that emerged was the direct relationship between the Russian wheat deal and the impending China grain deals, other grain exports, and the rise in prices of bread, meat, poultry, and dairy products.

Now the General Accounting Office has released its report corroborating this relationship and further indicating that the United States-Soviet wheat deal was one of the most mishandled and misrepresented export deals in the history of this Nation. Not only has the Russian deal resulted in significantly higher food costs to the detriment of the American consumer, but it has necessitated massive export subsidies to the tune of over $300 million, which comes out of the American taxpayer's pocket. GAO has also confirmed that American farmers were hurt by the deal, not receiving from the administration the information or assistance needed to make sound marketing decisions. Consequently, many farmers sold their wheat before their normal time at prices far lower than could have been gotten had they known the implications of the Soviet agreement.

The General Accounting Office has made several recommendations as to how we can prevent future economic damage like that which was created by the Russian wheat deal. It is essential that the Congress give serious consideration to these recommendations, to the need for establishing a mechanism whereby it will be informed of all the economic ramifications and implications of export deals before they take place, and to require the administration to set forth complete data concerning the benefits of an anticipated export agreement as compared with the impact of such agreement upon the domestic economy.

Mr. Chairman, this Congress must also insure that future food export deals are not going to be financed at the expense of the American taxpayer. Because of the Russian deal, the American people were shortchanged to the tune of $300 million in grain subsidies, $400 million in transportation subsidies, $750 million that the Commodity Credit Corporation needed to finance the deal, and increased food costs on top of it all. Mr. Chairman, I was dismayed that the amendment offered early in the week to the bill before us, which would have prohibited the use of Commodity Credit Corporation funds to finance any future sale of wheat or feed grains to the Soviet Union or the People's Republic of China, failed to pass the House. I felt that this amendment was a needed and welcome step in the right direction to prevent the continuation of the misguided policies which characterized the first Russian wheat deal and which placed such a burden on the American people. I am dismayed that, when even now there is talk of negotiating a similar wheat deal to cover the coming grain season, the House did not act to protect the interests of the American taxpayer.

Mr. Chairman, the 1973 agriculture bill does not include a mechanism or device to prevent the kind of economic damage that occurred as a result of the Russian wheat deal. I, along with several other Members, have introduced separate legislation to prohibit these kinds of export deals whenever they would have severe detrimental effects on domestic food supplies and costs; but it seems to me that the House has missed an opportunity, through legislation we are considering now, to provide built-in safeguards in the handling of any future foreign food sales that are going to be financed by the American people.

Mr. Chairman, this is one very grave shortcoming in the 1973 farm bill. I am concerned, too, that the present bill provides no real alternative to farm policies which have proved costly to the consumer and not helpful to the small farmer. Although this bill is a gesture toward curtailing the farm subsidy program, we have not done what in my mind would have been a real service to both the American people and the American farmer, that is, seek to develop a means by which we could eliminate the folly of farm subsidies altogether. It makes no sense to me that with the rapidly rising cost of food, we should continue to encourage farmers with large cash subsidies not to grow crops.

The farm subsidy program was once a viable source of raising and later maintaining farm prices so that the average farmer could do more than eke out a living; but this is no longer the case; the farm subsidy program has outserved its purpose. Presently, farm subsidies are received by a very small percentage of farmers, and oftentimes, it is these farmers who need the subsidies the least. The average and small farmers receive very little benefit from the program and would be better served by a revamping of the subsidies program. Yet, each year we perpetuate the waste and drain on the American taxpayer created by the farm subsidy program by not considering this revamping.

In short, Mr. Chairman, while there are features of this bill which I support, such as the elimination of the bread tax, I find myself again faced with another omnibus bill which lacks provisions essential to the economic security of this Nation and contains elements which continue to place a burden on the American taxpayer. The concept of target pricing with the built-in escalator clause, which it is estimated will add an extra $2 to $4 billion in additional costs over a 4-year period, seems to me a poor compromise and not a productive substitute for the old concept of price supports. It means that the farmer will still be getting a major part of his income out of the Public Treasury, and it means that the American taxpayer will continue to subsidize the farmer without getting any real assurance of adequate food supplies at reasonable costs.

Mr. Chairman, as long as we continue to base our farm policies on a penalization of the American taxpayer and consumer, it is difficult for me to believe we are enacting legislation in the best interests of the country. While I would like to see certain of the provisions in the 1973 farm bill put into law, I feel that the positive features of this legislation are overridden by the negative elements, and I cannot support its passage.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 3. Section 301 of the Act of August 14, 1946 (Public Law 79-733), as amended (7 U.S.C. 1628), is hereby repealed.

FOOD STAMPS

SEC. 4. The Food Stamp Act of 1964, as amended, is amended—

(a) by inserting after the sentence which would be added to subsection (e) of section 3, effective January 1, 1974, by section 411 of the Act of October 30, 1972, the following: "Notwithstanding any other provision of law, households in which members are included in a federally aided public assistance program pursuant to title XVI of the Social Security Act shall be eligible to participate in the food stamp program or the program of distribution of federally donated foods if they satisfy the eligibility criteria applied to other households."

(b) That (a) the second sentence of section 3(e) of the Food Stamp Act of 1964 (7 U.S.C. 2012(e)) is amended—

(1) by striking out "or"; and

(2) by inserting before the period at the end thereof the following: ", or (3) any narcotics addict or alcoholic who lives under the supervision of a private nonprofit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program."

(c) Section 3 of the Food Stamp Act of 1964 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(a) The term 'drug addiction or alcoholic treatment and rehabilitation program' means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91-616 'Comprehensive Alcoholic Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act' and Public Law 92–255 'Drug Abuse Office and Treatment Act of 1972' as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics."

(d) Section 5 of the Food Stamp Act of 1964 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall establish uniform national standards of eligibility for households described in section 3(e)(3) of this Act."

(e) Section 5(c) of the Food Stamp Act of 1964 (7 U.S.C. 2014(c)) is amended by adding at the end thereof the following: "For the purposes of this section, the term 'able-bodied adult person' shall not include any narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in any drug addiction or alcoholic treatment and rehabilitation program."

(f) Section 10 of the Food Stamp Act of 1964 (7 U.S.C. 2019) is amended by inserting at the end thereof the following new subsection:

"(i) Subject to such terms and conditions as may be prescribed by the Secretary in the regulations pursuant to this Act, members of an eligible household who are narcotics addicts or alcoholics and regularly participate in a drug addiction or alcoholic treatment and rehabilitation program may use coupons issued to them to purchase food prepared for or served to them during the course of such program by a private nonprofit organization or institution which meets requirements (1) (2), and (3) of subsection (h) above. Meals served pursuant to this subsection shall be deemed 'food' for the purposes of this Act."

(g) By striking the second sentence of section 5(b) and inserting in lieu thereof the following:

"The standards established by the Secretary, at a minimum, shall prescribe the amounts of household income and other financial resources, including both liquid and nonliquid assets to be used as a criteria of eligibility. The maximum allowable resources, including both liquid and the equity in nonliquid assets, of all members of each household shall not exceed $1,500 for each household, except, for households including two or more persons age sixty or over the resources shall not exceed $3,000: *Provided*, That the home, one automobile, household goods and clothing; the tools of a tradesman or the machinery of a farmer; total resources of a roomer or boarder, or of a member of the household (other than the head of the household or spouse) who has a commitment to contribute only a portion of his income to pay for services including food and lodging; and Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs, shall be excluded in determining the value of the other financial resources."

(h) By adding at the end of section 6(a) the following new sentence: "Such certification shall be made prior to the issuance of any food stamps under this program: *Provided, however*, That in the event of a natural disaster some or all of the requirements for certification may be waived by the Secretary."

(i) By adding at the end of subsection (h) of section 10, the following: "Subject to such terms and conditions as may be prescribed by the Secretary, in the regulations issued pursuant to this Act, members of an eligible household who are sixty years of age or over or elderly persons and their spouses may also use coupons issued to them to purchase meals prepared by senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or private eating establishment which prepares meals especially for elderly persons during special hours, and any other establishment approved for such purpose by the Secretary."

(j) By striking out "June 30, 1972, and June 30, 1973" in the first sentence of subsection (a) of section 16, and substituting "June 30, 1972, through June 30, 1977"

(k) Section 3(b) of the Food Stamp Act of 1964 (7 U.S.C. 2012(b)) is amended by inserting after "tobacco," the following: "such food and food products as may be determined by the Secretary to be of low or insignificant nutritional value,".

(l) By adding at the end of subsection (b) of section 3 the following: "It shall also include seeds and plants for use in gardens to produce food for the personal consumption of the eligible household."

(m) Section 3(f) of the Food Stamp Act of 1964 (7 U.S.C. 2012(f)) is amended by striking the second sentence and inserting in lieu thereof the following new sentence: "It shall also mean a political subdivision or a private nonprofit organization or institution that meets the requirements of sections 10(h) or 10(i) of this Act."

(n) Section 5(b) of such Act is amended by inserting after the third sentence thereof the following: "No person who has reached his eighteenth birthday and who is a student at an institution of higher learning shall be eligible to participate in the food stamp program established pursuant to the provisions of this Act: *Provided*, That such ineligibility shall not apply to any member of a household that is otherwise eligible for or is participating in the food stamp program—nor shall it apply to married persons with one or more children and who are otherwise eligible."

Mr. POAGE (during the reading). Mr. Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. POAGE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8860) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices, had come to no resolution thereon.

A NATION'S LOSS IN THE DEATH OF CARROLL NOBLE

(Mr. RONCALIO of Wyoming asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. RONCALIO of Wyoming. Mr. Speaker, Wyoming has lost one of her favorite sons with the passing away of Mr. Carroll R. Noble. Carroll was deeply imbedded with a strong sense of conviction to preserve and maintain all that is beautiful in Wyoming. While his thoughts were not always congruent with those who wished to forsake nature for progress, his singular personality enabled him to persevere where lesser men would have dropped along the wayside. Carroll's ability to achieve his conservationist goals was not marred by overaggressiveness but rather complemented by an insatiable gift of giving to others of himself and asking for nothing in return.

Carroll was well rounded in all respects. He ranched the same land on which he was born over 70 years ago of homesteader parents near Cora, Wyo. As a cattleman he conducted himself with the skill and care handed down from his frontier heritage. He was an accomplished horseman in a land where horses are a way of life. His humanitarian and civic interests predicated his involvement on hospital boards and numerous community activities. But it was his career as a conservationist, sparked by his love for natural beauty, for which he will be most remembered.

He was instrumental in organizing the Wyoming Outdoor Coordinating Council to unite conservation efforts in the State and was a director of the council at the time of his death. Carroll was Wyoming's delegate to the National Wildlife Federation for 8 years and regional director for 13 years. He served for many years on the advisory board for the Pinedale Bureau of Land Management in addition to the State and national BLM boards. He was also a member of the Bridger National Forest Advisory Council. Carroll's efforts were recognized nationally in 1971 when he was named .. recipient of the American Motors Conservation Award.

Carroll Noble will not be forgotten. Although his reassuring physical presence is lost to us, his spirit which he instilled in the individuals and organizations with whom he associated remains for the propserity of Wyoming and the Nation.

JOE W. ANDERSON RETIRES

(Mr. STEED asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. STEED. Mr. Speaker, one of Oklahoma's outstanding public servants, our friend Joe W. Anderson, has retired effective June 30 as Director of the Veterans' Administration Regional Office at Muskogee. He held this position for more than 7 years and earlier in other capacities gave fine service to Oklahoma veterans.

Only recently he received the distinguished career service award from the Administrator of Veterans' Affairs, Mr. Donald E. Johnson.

Our entire congressional delegation expressed its thanks for the inspiring work Joe Anderson has done in a letter to him which follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 10, 1973.

Mr. JOE W. ANDERSON,
Hugo, Okla.

DEAR JOE: For more than seven years as Manager of the Regional Office of the Veterans Administration at Muskogee, and for many years previously in prior capacities, you have given unstinting superior service to the veterans of our state.

The dedication and good will you have brought to the task has been reflected in the high standards and courtesy so consistently shown by you and your staff.

The many awards presented to you by the veterans organizations shows their high evalaution of our work. In addition you have found the time to take part in many civic activities.

It is altogether fitting that the Administrator of Veterans Affairs presented you with the Distinguished Service Career Award.

You are the kind of person who makes the ideal of public service a living one. On behalf of the people of Oklahoma as well as ourselves as individuals we want to thank you for your splendid contribution to the general welfare. We wish for you many rewarding years ahead.

With kindest personal regards, we are,

Sincerely yours,

Henry L. Bellmon, USS, Carl Albert, M.C., Tom Steed, M.C., Dewey F. Bartlett, USS, John Jarman, M.C., Happy Camp, M.C., James R. Jones, M.C., and Clem McSpadden, M.C.

Joe spent some 2 years on Capitol Hill in the period 1957–59 when he served as administrative assistant to Mr. ALBERT, who was then majority whip of the House.

He now goes back to his hometown of Hugo, Okla., where we all wish him every happiness.

ABORTION AND LIBERALIZED ABORTION LAWS

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 60 minutes.

Mr. HOGAN. Mr. Speaker, I have requested time today to discuss an issue of overriding importance to the Nation. The issue is abortion.

For many years now we have heard debate on the State and local levels regarding abortion. There has been a strong push in some States for liberalized abortion laws, but there have been equally vigorous efforts made to retain or strengthen laws protecting the lives of the unborn.

New York State is a good example of what has been happening during the past few years. In 1970 the New York State Legislature passed a very liberal abortion law. After only 2 years the legislature reversed itself and repealed the liberalized law only to have it vetoed by Gov. Nelson Rockefeller.

In the 1972 election two States held referendums on whether not to liberalize their abortion laws. In both North Dakota and Michigan the voters overwhelming rejected the liberalized abortion laws. The results of the referendums on liberalized abortiton laws were as follows: Michigan, yes, 39 percent, no 61 percent; and North Dakota, yes, 23 percent, no 76.5 percent.

So, in retrospect we see that, despite the strong efforts made by proabortion groups across the country and despite the wide publicity given to so-called liberalized attitudes toward abortion, the pendulum was clearly swinging the other way—against liberalized abortion laws. My own State of Maryland refused, on a number of occasions, to make it easier to get an abortion.

On January 22, 1973, the Supreme Court ignored what the voters had been saying, ignored the rights of States to regulate abortion, ignored the scientific facts and created a new "right to privacy" and held that unborn babies can be destroyed up until the moment of birth in every State of the Union.

Many are under the misconception that the court decision allows abortion only during the early stages of pregnancy. The decision is far more sweeping than that. Let us take a look at exactly what the court decision says:

During the first 3 months of pregnancy, the State may neither prohibit nor regulate abortion. It is "left to the medical judgment of the pregnant woman's attending physician." In other words, the woman and her physician for no reason whatsoever, can decide to destroy the unborn child.

From the end of the first 3 months to viability—"viability is usually placed at about 7 months or 28 weeks, but often occurs as early as 24 weeks—the State may not prohibit abortion but may "regulate the abortion procedure in ways that are reasonably related to maternal health." No consideration is given to the health of the unborn child, only to the mother.

"For the stage subsequent to viability," the State may regulate and even proscribe, abortion "except where it is necessary, in appropriate medical judgment, for the preservation of the or health of the mother." The health of the mother includes, "psychological as well as physical well being," and "the medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being" of the mother. In other words if, a day before normal birth a woman decides that her "emotional" or "psychological" well-being would be impaired by the birth of the child, the child can be destroyed.

In other words, during the first 6 months of pregnancy there are no restrictions whatsoever on the performance of abortions, only minor regulations that can be established by the States as to the procedures that can be used, and during the last 3-month period the decision leaves so many doors open that any woman who wants an abortion will be able to get one.

I was badly shaken by the Supreme Court decision in January. I have been fighting abortion for some time because I cannot accept that it can be right—that it can be legal—to end one human life for the convenience of another human being. I wish every Member of Congress would take the time to see photographs of what the unborn child, the so-called fetus, looks like. Seeing the perfectly formed human features no one can logically challenge the obvious fact that this is a human being. It can be nothing else. So when we talk of abortion we should weigh the rights of this other human being as well as the rights of the mother. The Supreme Court did not do this.

On January 30 I introduced a constituitional amendment, House Joint Resolution 261, which would overturn the Supreme Court's decision on abortion. It is a simple amendment that would guarantee the right to life of the unborn child "from the moment of conception."

My amendment also addresses itself to the frightening trend that antilife forces are now pushing for euthanasia in the same way in which they pushed for abortion a few years ago. Therefore, section 2 of my constitutional amendment says:

> Neither the United States nor any State shall deprive any human being of life on account of illness, age, or incapacity.

Since the introduction of my constitutional amendment, my office has been flooded with letters and phone calls from all over the Nation, from people who were as upset as I was about the Supreme Court's abortion decision. They wanted to express their support for a constitutional amendment to overturn the Supreme Court's decision. To date I have received over 7,000 letters regarding my constitutional amendment and, of that number, only about 500 of them have been in opposition to the amendment.

It is also noteworthy that since the Supreme Court decision in January, 11 States, the House of Representatives of Montana, and the Senate of West Virginia have passed memorial resolutions urging the Congress to enact a constitutional amendment to overrule the Court's abortion decision.

The States of Maine, Minnesota, Oklahoma, Utah, and West Virginia, Idaho, Louisiana, Maryland, Montana, Nebraska, New Jersey, North Dakota and South Dakota ask Congress to adopt an amendment to the Constitution to protect the unborn.

Certainly, for such a significant number of States to have already responded, it should clearly indicate to Congress that the people of the United States expect Congress to face up to this issue and do something about it.

More than 32 Members of the House have sponsored constitutional amendments on the question of abortion in the House and eight Members of the other body have also sponsored constitutional amendments.

On four separate occasions the House has had the opportunity to vote on amendments to bills that relate to the question of abortion. On May 31, the House approved by a vote of 354 to 8 the Roncallo amendment to the biomedical research bill prohibiting the experimentation on live human fetuses, or more accurately on live babies because the child is no longer a fetus after it is alive outside the mother's body. On June 22, a similar amendment to the National Science Foundation bill was adopted by a vote of 288 to 73. On June 21, I offered an amendment to the Legal Services Corporation Act which was adopted by a vote of 301 to 68 as amended by the Froehlich amendment, accepted by a vote of 316 to 53. These provisions prohibited legal assistance from the Legal Services Corporation in connection with abortions.

With this overwhelming evidence of the great interest of the public in the issue of abortion, and with clear evidence that the House is willing to act, one would logically expect that hearings would be held by the House Judiciary Committee on antiabortion measures and that some measure would be quickly proceeding through committee so that the House could vote on some type of prolife proposal in the near future.

The fact is that my amendment and the others offered thus far, are still pending before the Subcommittee on Civil Rights and Constitutional Rights of the Judiciary Committee with no hearings yet scheduled and no indication that the committee is inclined to take any action.

The rules of the House provide a remedy for a situation such as this, the discharge petition. So, on July 10, I filed with the Clerk a discharge petition that would relieve the committee of jurisdiction over House Joint Resolution 261 and bring it to the House floor for a vote.

I have followed the orderly procedures of the House so that this legislation could be considered in the customary manner.

And, if it were not literally a matter of life and death, I would still be waiting most patiently for hearings and consideration by the committee in the normal course of legislative events. But because thousands upon thousands of lives are being destroyed every day we delay, I have no choice but to take any action I can to enable the Congress to act as quickly as possible.

I hope that 218 of my colleagues will join me in signing this discharge petition which is at the desk so we can vote one way or the other on my constitutional amendment. Unless we get 218 signatures on that discharge petition, we will not be afforded the opportunity to vote one way or the other on that constitutional amendment.

Mr. Speaker, 116 years ago the U.S. Supreme Court handed down another infamous decision also by a lopsided majority, a decision of which we, as Americans, have been deeply ashamed ever since. That was the Dred Scott decision which declared that all Americans were equal under the law unless they were black and were born in slavery. One human being had the legal right to own another human being. Slavery was declared to be constitutional because of the Dred Scott decision.

Now we have gone even further than that. If it was shocking to think that one human being could own another, what is it to say that one human being can kill another with impunity? That is where we are today with the Supreme Court decision on abortion. What value will the Supreme Court uphold if it cannot uphold the value of human life itself?

I think that every Member of the House of Representatives has the responsibility to see that this decision is overturned. I invite every Member to take a close look at the questions raised by the court decision, and I urge them to make every effort to insure consideration of remedial legislation by the House. I also urge them to look at the color pictures of what an unborn baby looks like, and then I urge them to sign my discharge petition so that we can erase this sad chapter from American history.

Mr. ZWACH. Will the gentleman yield?

Mr. HOGAN. I will be happy to yield to the gentleman.

Mr. ZWACH. I thank the gentleman for yielding and want to associate myself with his remarks.

Mr. Speaker, on February 1, 1973, I introduced House Joint Resolution 284 into the House of Representatives, one day after my distinguished colleague and friend Larry Hogan introduced his House Joint Resolution 261. The two bills are identical except that my bill states that:

> Neither the United States nor any State shall deprive any human being, from conception, of life without due process of law; nor deny to any human being, from conception, within its jurisdiction, the equal protection of the laws.

House Joint Resolution 261 uses the phraseology "from the moment of conception." While the definition of conception differs in the two bills, the intent is the same—to stop the feticide of our unborn citizens.

I was shocked at the January 22 ruling of the Supreme Court legalizing abortions during the first 6 months of pregnancy. I believe this decision is bad logic, bad law, and very bad morals.

This decision, which strikes down the laws of 31 States and will require the rewriting of the laws of all the States except Alaska, Hawaii, New York, and Washington, to conform to the decision, cannot be allowed to stand.

The Court only a few months earlier revoked the death penalty for kidnapers, rapists, and murderers, and then it imposed it on living, unborn babies. This is one of the most brazen displays of raw judicial power in our Nation's history. How can the Court say that at one certain month of its fetal life an unborn human has no rights, not even the right to life, and the very next month it has those rights.

This decision could open up an era of self-worship and selfishness never intended under our guarantee of life, liberty, and the pursuit of happiness. We would be following in the footsteps of Sodom and Gomorrah.

If we are allowed today to kill the unborn, it will be but a small step to kill the infirm, the aged, or those of unsound mind.

As we all know the legislative process proceeds slowly. But the efforts of the "pro-life" Member have paid off in a number of cases during this session.

The so-called conscience clause, which was included in the Health Programs Extension, has become Public Law 93-45. As a cosponsor of this legislation, I am extremely glad to know that a physician or other health care personnel cannot be discriminated against because he or she refused to perform or assist in a sterilization or abortion operation on the grounds of moral convictions or religious beliefs. If we are going to allow abortions, we certainly cannot punish those who do not wish to take part in them in any way, shape, or form. If we are going to stress individual rights, we must stress them for everyone, not just a particular group.

Through the efforts of the distinguished gentleman from New York (Mr. Roncallo) and others, the House has added provisions to the biomedical research bill on May 31 and the National Science Foundation appropriations authorization on June 22 to prohibit funds for research on human living fetuses.

As a cosponsor of this legislation, I was glad to see favorable action by the House to guard against the ghoulish practice of using a live, human fetus for a guinea pig.

On June 21 the House passed a Legal Services Corporation bill. Through the efforts of the distinguished Member from Maryland legal assistance would not be provided in litigation seeking to compel the performance of nontherapeutic abortions contrary to the religious beliefs of an individual or institution under the legal services corporation.

I believe the approval of these bills indicates congressional feeling against feticide.

On May 8, the legislature of my home State of Minnesota passed a resolution memorializing the Congress of the United States to propose a constitutional amendment offering and protecting the value of human life. The resolution follows. It supports my amendment:

> H.F. No. 479—Resolution No. 5
>
> A resolution memorializing the Congress of the United States to propose a constitutional amendment affirming and protecting the value of human life
>
> Whereas, the United States Supreme Court has recently put on the United States Constitution a construction that is contradictory to the convictions of the people of the United States about the value of human life; now, herefore,
>
> Be it resolved, by the Legislature of the State of Minnesota that the Congress of the United States should speedily propose to the states for their ratification an amendment to the United States Constitution substantially in the following form:
>
> "Article ——
>
> Section 1. No. person shall be deprived of life, liberty, or property, from conception until natural death without due process of law, nor denied the equal protection of the laws; provided that this article shall not prevent medical operations necessary to save the life of a mother.
>
> Sec. 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation."
>
> Be it further resolved, that the Secretary of State of the State of Minnesota transmit copies of this resolution to the Speaker of the United States House of Representatives, the president of the United States Senate, the chairmen of the Judiciary Committees of the United States House of Representatives and Senate and the Minnesota Representatives and Senators in Congress.

Mr. Speaker, it passed Minnesota House 98 to 21 and it passed Minnesota Senate 51 to 12.

I have received thousands of letters and petitions in support of my pro-life amendment.

Numerous other States have passed similar resolutions calling on Congress to act on a constitutional amendment. For years the Congress has bypassed the feticide issue, passing it off as a "State matter." The time has come for the Congress to move in this area. We have the legislation introduced, now we need hearings, committee approval, and floor action. The time is now.

In 1776, our forefathers said,

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness. . . .

The unborn child, as a member of our human society, must have all of these inalienable rights. To take the ilfe of an unborn is to deny life, liberty, and the pursuit of happiness to one who is unable to yet fight for his own well being. We cannot take these rights away.

Life is a gift that keeps on giving. Only God has the right to say when it should start and when it should end.

Mr. Speaker, I would like to include in my remarks, the following article on "The Abortion Culture" by Nick Thimmesch in the July 9 issue of Newsweek.

THE ABORTION CULTURE

(By Nick Thimmesch)

A journalist often gets caught up in events flaring into instant print and broadcast—a Watergate, feverish inflation, a fretful fuel crisis. We grab at these, try to make some sense out of it all and soon turn to what's next. Occasionally we come on to something that strikes the core and won't go away. For me, it has been the question of the value of human life—a question embracing abortion, letting the newborn die, euthanasia and the creeping utilitarian ethic in medicine that impinges on human dignity. It's all reminiscent of the "what is useful is good" philosophy of German medicine in the '30s—a utilitarianism that sent 275,000 "unworthy" Germans to death and helped bring on the Hitler slaughter of millions of human beings a few years later.

Now super-abortionists and others who relish monkeying around with human life cry that this is scare stuff inspired by hysterical Catholics waving picket signs. Not so. There is growing concern among Protestant and Jewish thinkers abount "right to life" and the abortion-binge mentality.

Fetal life has become cheap. There were an estimated 1,340,000 legal and illegal abortions in the U.S. last year. There were a whopping 540,245 abortions in New York City in a 30-month period under the liberalized state abortion law. The abortion culture is upon us. In one operating room, surgeons labor to save a 21-week-old baby; in the next, surgeons destroy, by abortion, another child, who can also be reckoned to be 21 weeks old. Where is the healing?

PLASTIC BAGS

Look beyond the political arguments and see the fetus and what doctors do to it. An unborn baby's heartbeat begins between the 18th and 25th day; brain waves can be detected at seven weeks; at nine to ten weeks, the unborn squint, swallow and make a fist. Look at the marvelous photographs and see human life. Should these little human beings be killed unless it is to save the mother's life?

Other photos show this human life aborted, dropped onto surgical gauze or into plastic-bagged garbage pails. Take that human life by suction abortion and the body is torn apart, becoming a jumble of tiny arms and legs. In a D and C abortion, an instrument slices the body to pieces. Salt poisoning at nineteen weeks? The saline solution burns away the outer layer of the baby's skin. The ultimate is the hysterotomy (Caesarean section) abortion. As an operation, it can save mother and child; as an abortion it kills the child. Often, this baby fights for its life, breathes, moves and even cries. To see this, or the pictures of a plastic-bagged garbage can full of dead babies, well, it makes believers in right-to-life.

It's unfair to write this way, cry the super-abortionists, or to show the horrible photos. But Buchewald and Dachau looked terrible, too. Abortions are always grisly tragedies. This truth must be restated at a time when medical administrators chatter about "cost-benefit analysis" factors in deciding who lives and who dies.

THE "GOOD DEATH"

The utilitarian ethic is also common in the arguments of euthanasia advocates at work in six state legislatures. Their euphemisms drip like honey (should I say, cyanide?) just as they did in Germany—"death with dignity," the "good death." Their legal arguments fog the mind. Their mentality shakes me. One doctor, discussing the suicide-prone, wrote: "In such instances, positive euthanasia—a nice, smooth anesthetic to terminate life—appears preferable to suicide." Dr. Russell Sackett, author of the "Death With Dignity" bill in Florida, said: "Florida has 1,500 mentally ill patients, 90 per cent of whom should be allowed to die." The German utilitarians had concluded the same when they led the first group of mental patients to the gas chamber at the Sonnestein Psychiatric Hospital in 1939. It bothers me that eugenicists in Germany organized the mass destruction of mental patients, and in the United States pro-abortionists now also serve in pro-euthanasia organizations. Sorry, but I see a pattern.

Utilitarianism isn't all abortion or euthanasia. Utilitarians ran the experiment in which syphilitic black men died through lack of penicillin. There are also experiments on free-clinic patients, students, the institutionalized. Senate hearings revealed that two experimental birth-control drugs were used on the "vulnerable" for purposes other than those approved by the Food and Drug Administration.

This monkeying around with people is relentless. Some medics would like to sterilize institutionalized people from here to breakfast. Psychosurgery is performed on hundreds of Americans annually, not to correct organic brain damage, but to alter their behavior. This chancy procedure, a first cousin of the now discredited prefrontal lobotomy that turned 50,000 into human vegetables, is performed on unruly children and violence-prone prisoners.

Experimenters produce life outside the womb—combining sperm and ovum—and dispose of the human zygotes by pouring the solution down the sink drain. Recently scientists debated guidelines for experimenting with the live human fetus as an organ, like, say, a kidney. Dr. Andre Hellegers of Georgetown University pointed out that fetuses have their own organs and cannot be considered organs themselves. How does one get consent from a live fetus? he asked. Or even from its donors—the parents who authorized the abortion?

Once fetal experimentation is sanctioner, are children to be next? Farfetched? No. In the New England Journal of Medicine, Dr. Franz Ingelfinger recently advocated removing the World Medical Association's absolute ban on experimenting with children and mental incompetents.

We can brake the tendencies of technocratic-minded doctors and administrators coldly concerned with "cost-benefit analysis." There was no such brake in Germany. After the first killings at Sonnestein, respected German doctors, not Nazi officials, killed 275,000 patients in the name of euthanasia. Many were curable. Eventually the doomed "undesirables" included epileptics, mental defectives, World War I amputees, children with "badly modeled ears" and "bed wetters."

UTILITARIAN ETHIC

The worst barbarisms often have small beginnings. The logical extension of this utilitarian ethic was the mass exterminations in slave-labor camps. In "A Sign for Cain," Dr. Frederic Wertham tells how death-dealing technicians from German state hospitals (and their equipment) were moved to the camps in 1942 to begin the big job.

Could the "what is useful is good" mentality lead to such horror in the U.S.? Not so long as I am allowed to write like this—which German journalists couldn't. Not so long as right-to-life Americans can dispute—which Germans couldn't. The extremes of the utilitarian mentality rampaging today through medicine, the drug industry and government will be checked by our press, lawmakers and doctors, lawyers and clergymen holding to the traditional ethic. The Germans weren't blessed that way.

(Mr. ZWACH asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. HOGAN. I thank the gentleman from Minnesota not only for his contribution today but for his staunch help in this fight in defense of life.

Mr. RONCALLO of New York. Mr. Speaker, will the gentleman yeld?

Mr. HOGAN. I yield to the distinguished gentleman from New York (Mr. RONCALLO).

Mr. RONCALLO of New York. Mr. Speaker, I thank the gentleman for yielding and I wish to compliment my good friend and colleague, the distinguished gentleman from Maryland (Mr. HOGAN), for taking this special order on behalf of those who seem to have no one else to speak in their behalf.

The Supreme Court decision to permit abortion on demand has given added impetus to segments of our society which hold human life as a cheap commodity, available for disposal if it is unwanted or somehow differs from an ill-defined norm. This demeaning, strictly pragmatic approach to life as a direct result of the Supreme Court decision can be measured. For example, at a recent meeting of the American Medical Association, Dr. Joseph P. Donnelly noted that there were more abortions last year in New York City than live births. Over one and a third million young American lives were ended by abortion in 1972.

Who can speak for these young lives, if not we in the Congress? Certainly not their mothers who were free to refrain from conception but refuse to take advantage of available alternatives to abortion which would allow the life they nurture in their womb to develop into a contributing member of society. Certainly not the medical profession, which has of late abjured its Hippocratic Oath to protect life and has transformed the physician into a technician performing at the whim of his adult patients.

As an Episcopal priest, the Reverend Charles Patrick Carroll, so correctly told the AMA's Conference on Medicine and Religion:

> Medicine right now is without an ethic. The moment that you do what the patient demands, you open yourself to do what the state demands. If you can take life so glibly in the first two trimesters, what is to prevent you, please tell me, from taking it at any point in the spectrum?

No; it remains for us to speak for these unwanted lives and to extend to them the equal protection of our laws. The Constitution, and especially its amendments, were designed to protect the minority from the adverse actions of the majority. Until recently, the vast majority of the American people never guessed that one minority was left out. I still do not feel that an amendment such as I have introduced should have been necessary, but the Supreme Court's misinterpretation makes it imperative.

The abortion culture that has grown in the United States since the Supreme Court decision extends far beyond the abortion issue itself. All human life is being threatened by this pragmatic approach to research and medicine. In their never-ending quest for data, regardless of its significance, regardless of its availability through other means, researchers are filling their journals and computers without consideration for the humanity of their unwitting subjects. By setting up knowledge as a god, under the pretext of saving future lives, they are rejecting the spark of God in the already-existing lives they are sacrificing at their altar.

Doctors are aborting babies on demand, researchers are taking many of these human lives and performing the most bizarre experiments on them while a heart still beats in their tiny breasts. Others withhold penicillin from a group of black men suffering from syphilis so that the effects of this mind-crippling killer can be studied in detail. The retarded are given hepatitis to see why others have become infected. Now euthanasia once again rears its ugly head in our midst.

These people obviously cannot give their own informed consent, nor can it be given by others to the harm of the subject involved. As far back as 1944, in Prince against Massachusetts, a Federal Court held that:

> Parents may be free to become martyrs themselves, but it does not follow that they are free to make martyrs out of their children.

Even at NIH, which has wittingly or unwittingly funded live fetus research, a few voices for sanity are heard. Dr. Donald T. Chalkley of that institution told the American Federation for Clinical Research that:

> A parent has no right to give consent for the involvement of his child in an activity not for the benefit of that child. No legal guardian, no person standing *in loco parentis, has that right.*

He noted that if harm came to the child, the parent would be an "accessory before the fact."

Research on live human fetuses, which so demeaningly compounds the evils of abortion, has been of particular interest to me. Here we have the classic case: the subject cannot speak for itself and the mother cannot properly give consent because she already is on record as uninterested or hostile to the welfare of the child in her womb. Since the subject has lived an independent existence, albeit fleeting, its estate could possibly undertake an action for wrongful death, but there is no one to bring suit.

The answer, therefore, must be found in legislation which I have introduced with dozens of cosponsors to protect these lives by banning the use of appropriated funds for live fetus research and making such research a Federal crime.

Much of the so-called knowledge obtained from these experiments does not significantly have application for the good of mankind. It is merely knowledge for its own sake. In most cases where it is valuable, tissue or organs can be taken after the heart has stopped beating and life has ended of its own accord. In other cases, the knowledge can be obtained through experimental therapeutic procedures where the possible benefits to the subject outweigh the risks. In still other cases, lower primates, such as the rhesus monkeys, can be used as physiologically analogous to humans. If none of these possibilities exist, then I say the human race can wait for such knowledge until one does. The integrity of a single existing human life is more important to the well-being of mankind than any collection of research data.

The researchers say that the fetus will die in any case. So will we all, Mr. Speaker, so will we all. The only difference between that fetus and us in this Chamber today is that we are bigger and more powerful. Might does not always make right. In this case, it most assuredly does a grievous wrong.

The House can correct this wrong by letting the States have a chance to ratify the proposed constitutional amendment on abortion, by passing the fetal research bills and by dealing promptly with the remaining areas of experimentation other human subjects, nonconsentual sterilization and, if necessary, euthanasia.

I would like to call the attention of my colleagues to an article which I will place in the Record at the end of these remarks. The article, by Nick Thimmesch of Newsday, is an articulate analysis of the broad spectrum of antilife activities in the United States today and what is being done to stop them.

The article ends, as will I, with a quote from the late Albert Schweitzer, a Protestant whose thoughts are respected by people of all religious persuasions:

> If a man loses reverence for any part of life, he will lose his reverence for all life.

[From Newsday, July 8, 1973]

A Wider "Reverence for Life"

(By Nick Thimmesch)

What's going on with the Right-to-Life organization, the movement that had a winning record in state legislatures, only to be stopped by January's U.S. Supreme Court ruling on abortion? The high court's sweeping decision was that legal personhood doesn't exist until a child is born, thus giving a woman the ultimate right to abort. The Right-to-Lifers called it a "Day of Infamy," but from the display of earnestness and the record turnout at their recent national convention in Detroit, they show no sign of quitting their crusade.

That convention, in fact, reflected not only the vigor and determination of the movement, but a broader-based membership, a wider scope on the "value of human life" and indications of maturity going beyond political action. Abortion remains their key concern, but workshops dealt with euthanasia, increasing experimentation with prisoners, students and institutionalized patients; development of human life outside the womb; research with live fetuses and the trend toward utilitarian ethics in medicine.

There is growing realization that "Right to Life" should not be thought of as a Catholic issue or organization, thus leaving it vulnerable to accusations that it is a bunch of hysterical Catholics brandishing picket signs and doing Rome's unholy work.

Indeed, the principal speaker at the Detroit convention was Sen. Mark Hatfield (R-Ore.) a Baptist; the invocation was pronounced by the Rev. Carl Berrmann, a Lutheran pastor, and the keynoter was Dr. Mildred Jefferson, a prominent black surgeon, who is a Methodist. Moreover, prominent Jewish thinkers, like Northwestern Law School Prof. Victor Rosenblum, were recruited, with the reminder that it was utilitarian German medicine that led to the Nazi death camps.

Similarly, there is an effort to get more black leaders interested. The Right-to-Lifers argue that it is black people whom abortionists want to remove, and it is black people who often wind up as those experimented with in medical clinics and institutions. Dick Gregory is against abortion. Duke Ellington is a member of Right-to-Life. And in Chicago the Rev. Jesse Jackson calls abortion "a form of genocide practiced against blacks" and condemns "the moral emptiness and aloofness that comes when protecting human life is not considered sacred."

The Right-to-Lifers are now pushing the "Human Life Amendment" propsed by Sen. James Buckley (R-N.Y.) and Sen. Hatfield that would specify that the word "person" in the Constitution shall apply to all human beings, including the unborn. It is significant that all the senators who cosponsored the amendment are Protestants except one, Dewey Bartlett (R-Okla.) (a Catholic). The others are Harold Hughes (D-Iowa), Wallace Bennett (R-Utah), Milton Young (R-N.D.) and Carl Curtis (R-Neb.). Equally significant is that the most symbolic Catholic in the Senate, Edward Kennedy (D-Mass.) was hardly solicited to cosponsor, and although firmly against abortion, hasn't put his name on the bill.

One of the more interesting sheaves of literature available at the convention was the "Practical Politics Kit," distributed by the Celebrate Life Committees of Huntington, L.I. The prime advice is how to pressure the "pragmatic politician, the legislator who cares little about the idealistic questions involved" and whose concern is reelection. Right-to-Lifers are advised that he will keep "hot" legislative proposals, like anti-abortion, bottled up in committee, and that the task is to convince him "that it is more inconvenient to avoid a vote than to have one."

Since the "pragmatic politician" doesn't like opposition in a primary, the kit declares, a pro-life candidate can make a deal with him to get the bill out of committee in return for withdrawing from the primary. The candidate must never disclose the deal, says the practical kit, and there is the comment: "It all sounds terribly cold-blooded, doesn't it? And it is."

Besides such political maneuvering, the pro-lifers are encouraged to write letters to the editor, keep pressure on local politicians, get on radio and television talk shows, and work for the constitutional amendment. Another area that adherents are asked to explore is that of hospital and health insurance. They are urged to ask Blue Cross and Blue Shield executives to enact group plans for "conscientious objectors to abortion," or to ask employers to "substitute a medical need now not covered, such as eyeglasses or dental work, for abortion coverage." If that doesn't work, then pro-lifers are urged to work to make sure that insurance programs are as generous to patients, married and unmarried, who have full-term pregnancies as they are to women having abortions.

Pro-lifers are increasingly aware of the euthanasia movement, and moves to pass euthanasia legislation. In Oregon, a negative euthanasia bill, labeled "Death with Dignity," authorizes a person to direct his physician to stop "maintenance medical treatment" if he has a "terminal illness." The bill also allows "other people" to issue the order if the patient is incapacitated, thus bringing an action, possibly against his will. But "maintenance medical treatment" could include food and water, and "terminal illness" is considered dangerously vague. "Other people" could include the state, and that raises the question of what could go on in state hospitals with hopeless cases. *It is reminiscent* of Germany of the '30s.

Oregon also considers a *positive* euthanasia bill permitting a physician or a nurse, acting on a physician's orders, to induce death painlessly for the "qualified patient," who must be of voting age and certified by two physicians as appearing "to be suffering from an irremediable condition," physical or mental. Loophole: physicians and nurses are exonerated from "any offense" if they act in "good faith" on such a request. Worse loophole: "The Department of Human Resources shall make regulations under this Act for determining *classes of persons* [my emphasis] who may or may not sign a declaration by way of attestation." Thus a legal guardian could grin and declare for a legally incompetent person, and compulsory euthanasia could result.

If this is scary, so are the thoughts of some euthanasia advocates. Dr. Robert H. Williams of Seattle says the extremely suicide-prone should have "positive euthanasia—a nice, smooth anesthetic to terminate life—appears preferable to suicide." Dr. Walter Sackett, who introduced a "Death With Dignity" bill in Florida, has said, "Florida has 1,500 mentally retarded and mentally ill patients, 90 per cent of whom should be allowed to die." Both the Oregon and Florida bills were stopped this year. There are euthanasia proposals in four other state legislatures.

This is called utilitarianism, the ethic that prevailed in German medicine in the '20s and '30s. There are signs of it now in the U.S. The withholding of penicillin from syphilitic prisoners, as part of an experiment, is a well known outrage. Recent Senate hearings revealed that experimental birth control drugs "DES" and Dope-Provera, were used on students, free-clinic and institutionalized patients for purposes other than those approved by the Food and Drug administration. Then there's psychosurgery, an operation performed annually on hundreds of Americans, not to correct organic brain damage, but to alter human behavior, often on violence-prone prisoners and sometimes on disruptive children.

One form of experimentation under severe criticism by pro-lifers is that with the live, human fetus. They ask, how do you get consent from a fetus or even from its donors—the parents who didn't want the fetus in the first place? On May 31, 1973, an amendment to the bio-medical research bill by Rep. Angelo R. Roncallo (R-New York) prohibiting research on a living fetus "outside the womb of its mother and alive with a beating heart," was passed overwhelmingly by the House. In Minnesota, pro-lifers got a bill through this session forbidding experimentation with, or sale of, live human fetuses.

The fetus is where it starts, argue the pro-lifers, and once it can be tampered with, other life is fair game for experimentation. In the prestigious New England Journal of Medicine, it recently was advocated that the World Medical Association's absolute ban on experimentation with children and mental incompetents be removed and a broadly based system of experimentation be devised. Again, this is reminiscent of Germany.

Taunted by the U.S. Supreme Court ruling, and challenged by the widening scope of involvement, the Right-to-Life movement seems as vigorous as ever. Attendance at this year's Detroit convention was three times what it was a year ago. More than 1,000 are expected to attend the Northeast Regional Convention in Syracuse this October. A new national headquarters office is being opened in Washington. And, according to President-Elect Edward J. Golden of Troy, $100,000 will be raised for the organization this year through sale of Right-to-Life bracelets. The tax-exempt educational branch of Right-to-Life is "Americans United for Life," a group appealing to the intelligentsia.

Right-to-Life also works with Alternatives to Abortion Inc. and its Pro-Life Emergency Services. This group provides counseling for pregnant women, helping them find maternity homes or ways of having their babies (including financial aid), and maintains a worldwide directory of emergency pregnancy services. There is also a National Youth Pro-Life Coalition working on the Buckley-Hatfield amendment. This group has a folksinger, Barbara Breuer-Sipple, out on the road to give meetings greater appeal.

As Americans face the complicated questions about medical decisions that are made from conception right on through life, people in the Right-to-Life movement are challenged to provide intelligent, responsible and credible answers. Beyond this, they can invoke the wisdom of history and philosophers, including Albert Schweitzer, the Protestant humanitarian, who wrote: "If a man loses reverence for any part of life, he will lose his reverence for all life."

Mr. O'BRIEN. Mr. Speaker, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Illinois.

Mr. O'BRIEN. I thank the gentleman for yielding.

(Mr. O'BRIEN asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. O'BRIEN. Mr. Speaker, the issue of abortion is not receiving adequate attention and I am concerned. A number of constitutional amendments have been proposed to correct the adverse effects of the Supreme Court ruling in Roe against Wade, a ruling which severely limits the State's ability to restrict or regulate the practice of abortion.

Despite widespread public support for congressional action, the subcommittee of the House Judiciary Committee which is responsible for these resolutions has not even scheduled hearings.

I do not believe in abortion. As a member of the Illinois General Assembly, I opposed any attempt to weaken the State's antiabortion statutes. I personally favor and support a nationwide prohibition of abortion such as that proposed by our distinguished colleague from Maryland, the Honorable Larry Hogan.

However, I recognize that there are Members of Congress who are reluctant to vote for a ban on abortion in the United States. Therefore, I have introduced an alternative to the "right-to-life" approach which would simply return to the States the power to regulate or limit abortion practices.

This alternative should have appeal not only to those who oppose abortion, but also to those who, though favoring liberalized abortion practices, believe that the Supreme Court in their decision, overstepped the legitimate bounds of their authority and preempted legislative decisions.

But my purpose today is not to discuss the moral issues precipitated by the Court's decision, nor to dwell on the political advantages of the various approaches toward correcting that mistaken position.

To those of my colleagues who have not given the Supreme Court's decision in the Roe case a great deal of thought, I recommend a Yale Law Journal article entitled, "The Wages of Crying Wolf: A Comment on *Roe* v. *Wade*." This article, written by John Hart Ely, professor of law at the Yale University Law School, and incidentally, a proponent of abortion, contains a most perceptive and scholarly analysis of the Supreme Court's abortion ruling.

The Roe decision creates a superprotected right to an abortion which, in Professor Ely's words, "lacks even colorable support in the constitutional text, history, or any other appropriate source of constitutional doctrine."

To create such a superright is simply bad constitutional law as Professor Ely's article so ably demonstrates. Even if the majority of citizens agreed that the Roe decision represented social progress, it would remain bad constitutional law.

The truth, of course, is that a majority of the Nation's citizenry oppose the easy abortion practices which the Roe decision mandates. To a great many Americans, the ruling is worse than just bad constitutional law. It is an abomination.

Whether the Supreme Court will eventually recognize the error of its ways and reconsider their holding in Roe, I can only hope. Certainly critical academic comment such as Professor Ely's will be most helpful in promoting such a reconsideration.

With respect to whether the Congress of the United States will act to protect the life of unborn millions, however, I can do more than hope. I can urge and continue to press with every legislative device at my disposal for a prompt remedy of unconscionable situation which the Supreme Court's ruling has created. Whether the Congress acts in the manner suggested by Mr. Hogan to guarantee the "right-to-life" nationwide or simply to restore decisionmaking authority in the area of abortion to the States, seems to me less important than that the Congress act and act promptly.

Mr. HOGAN. I thank the gentleman from Illinois. He makes the point very well that so many lawyers are distressed with the legality of the decision of the Supreme Court itself. It is on a foundation of sand, even legally.

I thank the gentleman for his contribution and his support.

Mr. SANDMAN. Mr. Speaker, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from New Jersey.

Mr. SANDMAN. Mr. Speaker, I am very happy to join my colleague, the gentleman from Maryland, in this endeavor. I may say that this is the first time in my life as a legislator of more than 18 years that I have chosen to take the attitude of amending the Constitution because I have such a strong disagreement with the decision of the Highest Court. I do not subscribe to that but in this case I fear the subject matter is so important that action should be taken and it must be taken immediately. Of course the only way it can be corrected is as suggested by my colleague, the gentleman from Maryland.

Mr. Speaker, I insert the following statement of support for Mr. Hogan's efforts to move House Joint Resolution 261.

The resolution is now in the Judiciary Committee but it is to me, literally, a matter of life or death that we lend our support to a discharge petition and act on the floor swiftly.

The resolution, in effect, would nullify the Supreme Court's ruling for abortion on demand. This ruling must not be allowed to stand. The lives of countless unborn are at stake.

Normally constitutional amendments take years to ratify, but I sincerely believe there is no other course at this time. I do not expect the Court to change its stand. Therefore, we must act for them in concert with the several States.

H.J. RES. 659

Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged, or the incapacitated

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. Neither the United States nor any State shall deprive any human being, from the moment of conception, of life without due process of law; nor deny to any human being, from the moment of conception, within its jurisdiction, the equal protection of the laws.

"SEC. 2. Neither the United States nor any State shall deprive any human being of life on account of illness, age, or incapacity.

"SEC. 3. Congress and the several States shall have the power to enforce this article by appropriate legislation."

Mr. HOGAN. I thank the distinguished gentleman from New Jersey for his contribution. He is absolutely correct. I opposed the process of the constitutional amendment myself until the Supreme Court handed down its decision. This left us with no recourse but to proceed by that route of amending the Constitution.

Mr. FROEHLICH. Mr. Speaker, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Wisconsin.

Mr. FROEHLICH. Mr. Speaker, I would like to commend the gentleman for the outstanding leadership he is providing in this area.

As one member of the Judiciary Committee I want to say I am displeased with the action of the subcommittee that seems disinclined to discuss and to have public hearings on this issue. I have requested of the subcommittee chairman both on the floor and by written request, of him and members of the subcommittee, to bring this matter to public hearings so that the people of this Nation can speak to the issue. There is widespread support for either amending the Constitution or of finding a legislative way around that decision. To sit on it is just not in accord with the democratic process.

I want the gentleman from Maryland to know I will aid him in every effort to bring this matter to hearing or discussion on this floor and I commend him for his continued interest in this matter.

Mr. HOGAN. I thank the gentleman for his support and contribution to this matter today.

Ms. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. HOGAN. I yield to the Representative from New York.

Ms. ABZUG. Mr. Speaker, I thank the gentleman for yielding.

Of course I differ from the gentleman entirely. I rise to object to your interpretation of the Constitution and the Supreme Court decision. It is very interesting, gentlemen, that the subject matter of that decision happened to be the women in this country. It is very interesting, gentlemen, that the remarks made here in this discussion reflect a view that one does not have to recognize the fundamental constitutional right of privacy of a woman over her body and over her decisions. I find it very interesting indeed that a few men of this body find that they object to the Supreme Court decision on that ground. It is almost as though they find it inconceivable that there could be such a finding that there is such a right.

The fact is that the courts have been moving in the direction of finding, correctly, that matters concerning sex, family, and marriage are indeed matters of privacy and matters to be determined by the parties involved. This right of privacy has the protection of the 1st and 9th amendments and cannot be legislated against under the 14th and 5th amendments.

Much argument is being made here that there is no right of privacy—that in fact this right was sort of made up by the Supreme Court to cover abortion. This is legal and constitutional nonsense. In Roe against Wade, the Court said:

> The Constitution does not explicitly mention any right of privacy. In a line of decisions, however, going back perhaps as far as *Union Pacific R. Co.* v. *Botsford,* 141 U.S. 250, 251 (1891), the Court has recognized that a right of personal privacy, or a guarantee of certain areas or zones of privacy, does exist under the Constitution. In varying contexts the Court or individual Justices have indeed found at least the roots of that right in the First Amendment, *Stanley* v. *Georgia,* 394 U.S. 557, 564 (1969); in the Fourth and Fifth Amendments, *Terry* v. *Ohio,* 392 U.S. 1, 8–9 (1968), *Katz* v. *United States,* 389 U.S. 347, 350 (1967), *Boyd* v. *United States,* 116 U.S. 616 (1886), see *Olmstead* v. *United States,* 277 U.S. 438, 478 (1928) Brandeis, J., dissenting); in the penumbras of the Bill of Rights, *Griswold* v. *Connecticut,* 381 U.S. 479, 484–485 (1965); in the Ninth Amendment, *id.,* at 486 (Goldberg, J., concurring); or in the concept of liberty guaranteed by the first section of the Fourteenth Amendment, see *Meyer* v. *Nebraska,* 262 U.S. 390, 399 (1923). These decisions make it clear that only personal rights that can be deemed "fundamental" or "implicit in the concept of ordered liberty," *Palko v. Connecticut,* 302 U.S. 319, 325 (1937), are included in this guarantee of personal privacy. They also make it clear that the right has some extension to activities relating to marriage, *Loving* v. *Virginia,* 388 U.S. 1, 12 (1967) procreation, *Skinner* v. *Oklahoma,* 316 U.S. 535, 541–542 (1942), contraception, *Eisenstadt* v. *Baird,* 405 U.S. 438, 453–454 (1972); *id.,* at 460, 463–465 (WHITE, J., concurring), family relationships, *Prince* v. *Massachusetts,* 321 U.S. 158, 166 (1944), and child rearing and education, *Pierce* v. *Society of Sisters,* 268 U.S. 510, 535 (1925), *Meyer* v. *Nebraska, supra.*

And the Court went on to hold:

> This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is, or, as the District Court determined, in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy.

I am not going to spend a great deal of this special order that has been taken by the gentleman from Maryland (Mr. HOGAN) to argue over other matters here.

I also find it very interesting that the gentlemen who spoke here for a constitutional amendment just said they always oppose constitutional amendments except in this instance.

Either the gentleman from Maryland (Mr. HOGAN) or one of the other Members who participated in this special order indicated that more than 1.3 million abortions took place in 1972. Indeed yes, 1.3 million abortions and probably more took place in 1972 and I would venture to say that they have taken place in that number for many years before and will continue to take place in that number for many years to come. There is a great deal of hypocrisy in this House on the part of those who act as though they did not know this prior to the decision; and who would like to hear no more of it; and would further like to ban abortions by legislating against them. The fact of the matter is that abortions do take place and will take place.

The Supreme Court decision, by eliminating abortions from the criminal statutes, will now make it possible for abortions to be performed under safe medical conditions and not in the back alleys of the past which have crippled and taken the lives of many women.

Are we in this House going to overturn a decision of the Supreme Court of the United States which recognizes a fundamental right, and that is that a woman has a right to determine what happens to her own destiny and her own body?

You are entitled to your personal religious and moral views but they are irrelevant to this Supreme Court decision.

For example, one has a right to free speech. I am sure the Members will recognize that. They may not like what one is saying when one is expressing that right of free speech. But if it is a valid exercise of free speech one cannot interfere with that right. Your remedy is to have the free choice not to listen.

The same thing goes with the subject of abortion. You cannot choose whether or not you want an abortion because you all happen to be men. But there are women in this country who may choose not to have abortions, and indeed that is their right. Nothing in this decision coerces abortion. But those who object to abortion have no right to prevent others from exercising their valid constitutional right to have an abortion. Their remedy is to have the free choice not to have an abortion.

Mr. Speaker, I think this issue is a matter which might be discussed out in the community, but it should not be a matter which takes the time of this body when the Supreme Court has acted, at long last, to protect what is an important existing constitutional right.

Mr. HOGAN. Mr. Speaker, I think it is paradoxical that the representative from New York (Ms. Abzug) cited in argument for her case a number of "amendments" to the Constitution. That is why there is a provision available to amend the Constitution, so that the people can express their will and thereby change, amend, the Constitution. For her to recite certain amendments to the Constitution as arguments for her point of view and then say we should not take the time of this body to debate what the Supreme Court has done seems patently ridiculous to me. This would deny us the right to even amend the Constitution. We want to amend it as soon as possible to assure the right to life of unborn children.

Prior to January 22, there was no such thing recognized under the Constitution as a "right to privacy." The only right to privacy that was ever invested in the law was one statutorily given by States and it related only to advertising and commercial exploitation of one's name or picture. There was never a right of privacy under the Constitution until the Supreme Court created one out of the thin air on January 22.

What we are proposing to do is amend the Constitution to return to the pre-January 22 constitutional interpretation, which says that the unborn child, as a human being, has certain rights and certainly has a right to live. This right to his life supersedes the convenience of his mother. That is basically what we are talking about.

We are trying to put on a human scale the inconvenience of the mother against the very life of the baby. I say, on that kind of scale inconvenience has to come second to life.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from California (Mr. Ryan).

The SPEAKER pro tempore. The Chair would advise persons in the gallery that they are here as the guests of the House of Representatives. Accordingly, they will show neither approval nor disapproval of any actions taken on the floor, or will be subject themselves to appropriate dismissal from the Chamber.

Mr. RYAN. Mr. Speaker, I thank the gentleman from Maryland for yielding to me.

I would only like to insert myself into this colloquy for a particular purpose. I am not so sure that I am that much in favor of the constitutional remedy as a remedy for a difficult problem, but I would like to respond to the remarks of the gentlewoman from New York by pointing to a distinction I think she failed to make in the course of her remarks.

We talk about the fact that because men are men and cannot have children they therefore cannot have sympathy with the right of a woman to control her own body. Since all of us began at some point in time in the womb of some woman, our mother, I believe we can begin with a common viewpoint.

The fact is that nature has endowed women with a particular set of organs different from those of men. We learned this in school. From that time the problem gets worse, because from then on somehow the child becomes, while it is in the womb, simply a kind of appendage to the woman, in the viewpoint of too many women in this country, especially those who are opposed to some kind of regulation of the manner in which abortions are performed.

I have listened for years to those who classify themselves as liberal, among whom I consider myself one, but I have been puzzled for years, because they seem to be in favor of the abolition of capital punishment, which is the taking of life, yet they are in favor of abortion, which is the taking of life.

What bothers me further, in the case of capital punishment it is the taking of life for a particular reason so defined by a particular State wherein the offense occurs. In the taking of the life of the unborn child, I believe that no one says seriously any more the child has not reached bare existence, or birth, is not a child, or is not somehow human, yet in the taking of the life of the unborn child the argument is simply that the mother has property, as if it were some kind of a real property to be taken or dismissed as the mother chooses.

I should like to insert here, as the father of five children, at this point, the fact that while my wife had those five children, believe me, I insist on the right of every male in this country who has any concern about his children, to say that those children also belong to him, were fathered by him, and that he has as much right as the woman does to determine the fate of the child in the womb.

Last year as a member of the California State Legislature I was able to get a law passed by that body which, for the first time, I am told, in American law cites a principle which is new.

In matters of child abuse in California from that time on, and now, when there is any kind of an action taken in court in which the accused child abuser—that is usually the parent—is prosecuted by the State, by the district attorney, they will allow the accused to have a defense attorney, for this is an adversary proceeding, which is usual in any proceeding in court today when it is a criminal matter, but now, in the State of California, at any hearing like that, at any proceeding like that, there is a third attorney who must be present, and it is a requirement of the court, and that attorney is appointed by the court to represent the interest of the child.

I would suggest here, in this discussion and dialog about abortion, if there is going to be a law which allows for abortion, as the Supreme Court said there may be, and if we are to have some kind of a constitutional limitation to bring it back to where it was, that may not be quite the total answer yet, because the gentlewoman from New York (Ms. Abzug) does have a point when she says we should stop the criminal abortions that take place in the back alleys and so on, which are totally forbidden.

But within this framework I believe it is possible to set up a procedure which allows, either under the Constitution or otherwise, for a proceeding which will allow that child, unborn, unspeaking and unrecognized, apparently, some kind of a right to be heard, and in any kind of abortion hearing they should include at least someone who speaks for the life of that child, for that person, for that adult, for that human being who may never be born simply because of the convenience of the mother, whose claim it is she owns the child until it is born.

I reject that argument, that concept, mostly because, as I say, we all began that way. I would hate to see the number of people who might otherwise not appear and not have an opportunity to breathe on this Earth, simply because of the convenience of a mother, in an argument too simplistic about whether or not there should be an abortion.

I thank the gentleman for yielding.

Mr. HOGAN. Mr. Speaker, the gentleman makes a very interesting point. This is one of the tragedies of the Supreme Court decision, that the rights of the unborn child are totally ignored as if this human being did not exist. And obviously it does exist, and the mother who does not want it, does not want it to exist. The reason that she wants the "pregnancy to be terminated," to use the euphemism that proabortionists use, is that she does not want to have a baby. So, it is obvious and inherent in the situation itself that it is a "baby" that she does not want to have, not some other "thing." The gentleman makes an excellent point that that baby has legal rights that are now being ignored as a result of the Supreme Court decision.

Now, the gentlewoman from New York talks about back-alley abortions and the results from them. The abortion mentality and the elimination of restrictions on abortion now have created more deaths through abortion than we ever had through the so-called back-alley abortions, because now there are more of them being performed. And she will find to her surprise that among the 7,000 letters which I indicated I had received, the overwhelming majority of them came from women who abhor the Supreme Court decision as much as I do.

Mr. Speaker, it is paradoxical that a woman who possesses this ability to help create a child should treat it so wantonly and would so callously destroy the life which she is privileged to carry within her.

I think it is a tragedy that the Supreme Court, too, ignored all of our legal history. From the beginning of our legal history, the unborn child had certain legal rights which the legal system protected.

The child in the womb could inherit. If a father left a will which said that "I leave my estate to my children at the time of my death," a child in the womb not yet born inherited equally with the other born children. A child in the womb who was injured had the right to bring suit in tort for injury done to him before birth. He had the right to have a guardian appointed to bring suit against his father for support. He had a whole spectrum of human rights which were callously thrown out the window by the Supreme Court on January 22 when the most basic human right of all, the right to life itself, was destroyed.

At the same time, the Supreme Court created out of thin air the right to privacy, the right of privacy to allow a woman to say, "I can do anything with my body that I want."

Mr. Speaker, that is a fallacy. None of us have a right to do with our body what we want. We do not have the right to inject drugs into our body; we do not have the right to use our body for prostitution; we do not have the right to take a part of our body, our fist, and slam it into another's face, because it interferes with the rights of another human being. And that is all we are talking about in opposing abortion, the rights of another human being.

A woman cannot exercise her rights in such a way that she interferes with the rights of that other human being, the unborn child.

That is all we are talking about. We want to restore the human scale where this precious life is given some recognition, some value in the eyes of the law so it is not cast aside on some phony "right to privacy" that was just invented last January.

Mr. MINISH. Mr. Speaker, I should like to commend our distinguished colleague, Mr. Hogan of Maryland, upon his eloquent statement on behalf of House Joint Resolution 261 and to associate myself with his stance on the major issue of abortion.

This most delicate of problems raises many profound questions. No one can gainsay the anguish of an unwanted pregnancy nor reject the rightful insistence of women for equality in what remains our male-dominated culture.

But, when all is said and done, I believe that, as the U.N. Declaration on Human Rights stated, the right of life is the most fundamental right and hence abortion must not be removed from the context of law nor left to the realm of conscience and private decision.

To those who believe as I do that from the moment of conception a new biological entity exists, must also believe that abortion, in the words of the Rabbinical Alliance of America, "is not a private, personal matter in which the law should not interfere." The logical question ensues: if one is free to end life at its beginning, is one not free to eliminate the sick or aged or those deemed unfit in one way or another? The horror of the eugenics of the Third Reich is but a step away once the reverence for the value of life is torn asunder.

Citizens of all religious persuasions—or none—who hold to reverence for the value of life are profoundly disturbed at the Supreme Court's interpretation of life as decreed in its abortion ruling. The Judeo-Christian tradition is affronted by the Court's decision, and I believe that the people of the United States through their chosen representatives have the right to be heard on a matter of vital importance to our future as a nation.

There are many problems of great moment before us, but none can take precedence over the paramount issue of the protection of human life. I hope that the House Judiciary Committee will respond to entreaties made by me and many of our colleagues and will promptly convene hearings on House Joint Resolution 473 and related measures.

The case for the right of life was cogently set forth in the following statement "Choose Life" by New Jersey's Catholic Bishops. I commend it to our colleagues' attention in their study of this moral problem that affects all our people and transcends a particular theological approach:

Choose Life

To: The Catholic Community of New Jersey and to all of Our Fellow Citizens of the State.

From: New Jersey's Catholic Bishops.

Once again it becomes necessary for us to address ourselves to the problem of the protection of human life.

Recently, the State Study Commission on Abortion concluded its work. Unfortunately, the results of this study are under a shadow. Four of the nine Commission members felt it necessary to issue dissenting opinions from the report written by the Commission chairman, and at least one other member was never present at any of the three public hearings where testimony was gathered. We, too, must conscientiously dissent from the chairman's report, which attempts to solve many of society's problems at the expense of unborn human life.

This controversy is raging not only in New Jersey but throughout the country. In recent months, the pressure has shifted from limited changes in the law to a determined drive for abortion on demand.

We speak today as religious leaders, not to our Catholic community of faith and worship alone but to all of our fellow citizens. The question of abortion is a moral problem transcending a particular theological approach. We have been heartened by the support of many leaders of other religious persuasions. In particular we commend the efforts of those clergymen and laity, of all religious persuasions and of none, who have formed the State Right to Life Committee. We invite the cooperation of all to recognize and eliminate the danger of the erosion of respect for human life that proposed bills may sanction for our State.

We are saddened by those who accuse us of being insensitive to human problems, even some who have been our allies in the fight against poverty and discrimination, and for the improvement of the quality of life in our society.

Certainly, the Catholic people have demonstrated their concern for human needs; among many manifestations of this, we note the hospitals, guidance clinics, homes for the elderly and homes for unwed mothers which have been built by their financial contributions, often at great personal sacrifice.

Now, Catholics must assume their responsibility to involve themselves in the abortion issue, which will have such a profound and long-range effect upon our society and our family life.

It is, indeed, the very matter of life which is at stake. Medical science has informed us that at the moment of conception, there comes into being a unique human life in the microscopically tiny egg cell. Contained in this cell is the blueprint for the development of the whole human person, factors which will influence the temperament, physique, eye, hair and skin color, and even intellectual capacity. This cell's tissue composition is distinct from its mother's tissue and would be rejected from her body were it not to be enclosed in the amniotic sac.

The unborn child's civil rights have increasingly been recognized by the law. We recall, in particular, that case in which the mother was forced by the courts against her religious convictions to have a blood transfusion to maintain her baby's life. Likewise, the unborn child's rights of inheritance and medical or economic support, his right to recover damages for injury suffered in the womb are affirmed by the courts. In short, the law has cast itself in the role of safeguarding the rights of the unborn.

How much more important it is that the law continue to protect that most basic right of life itself—the right upon which all others are based!

As religious leaders, we are involved daily with people in situations of distress. We recognize the complex difficulties facing so many women and families. But abortion not only fails to solve the underlying causes: it raises even deeper problems. We are haunted by the wide spectrum of possibilities opened by an acceptance of easy abortion. Once we sanction, for the sake of expedience, the taking of an innocent human life at its beginnings, how can we logically protect human life at any other point, once that life becomes a burden?

Law is an educator. If it allows the destruction of unwanted life, it unavoidably teaches that life is cheap.

We are willing and anxious to cooperate on positive programs to help erase the demand for abortion. There is great need for thorough education of all our citizens to assist them in marriage, family life and responsible sexual behavior. We urge, also, cooperative efforts in such problems as racial discrimination, economic hardship, birth defects, treatment and education of the handicapped, and increased mental health and counseling facilities.

Our prayer and our plea is that all men of good will in this state will join us in seeking these solutions, and will reject that most destructive recourse, the killing of innocent human life in the womb.

Mr. HANSEN of Idaho. Mr. Speaker, I commend the gentleman from Maryland (Mr. Hogan), for taking this special order to provide a forum for the discussion of this issue. I also commend him for his leadership in calling attention to the implication of trends in evidence toward virtually unrestricted abortion and the elimination of legal safeguards to protect the unborn child.

One of Idaho's ablest and most respected physicians, Dr. James J. Coughlin, of Boise, has presented a most thoughtful and intelligent analysis of the abortion issue. In order to bring Dr. Coughlin's observations and views to the attention of my colleagues and the public, I include the text of a paper on abortion prepared earlier this year as part of my remarks:

Abortion

(By Dr. James J. Coughlin)

Abortion is defined as the act of bringing forth young prematurely or before maturity. It may be spontaneous and is then called a miscarriage. Or it may be induced and is then classified as therapeutic or criminal. At the present time we have a law in this state allowing abortion to save the life of the mother, or therapeutic abortion. Criminal abortion is one not sanctioned by the law and therefore illegal or criminal.

No discussion of abortion would be complete without some information about the fetus. First let us ask in what way the ovum, or female egg, and the sperm, or male egg, differ from the fertilized ovum. The essential difference is that an ovum or a sperm will inevitably die unless they are combined together in the process of fertilization, while the fertilized egg will automatically develop unless untoward events occur. The first definition of life, then, could be the ability to reproduce oneself, and this the fertilized egg has while the individual sperm and ovum do not.

This fertilized ovum now has a totally new genetic package which is individual alone to this fertilized ovum. It contains the hereditary characteristics of both the father and mother, one half from each, which are carried in the genetic thread of life, DNA.

Following fertilization which occurs in the Fallopian tube, cell division starts, one cell dividing into two, two into four, four into eight, this going on for about a week. Then implantation in the uterine wall occurs. At 14 days the name is changed from zygote to embryo. At 3 to 4 weeks the heart is pumping. At 6 weeks all organs are present. At 8 weeks the length is 3 centimeters or slightly larger than 1 inch, and now its name changes from embryo to fetus which means unborn offspring. At 10 weeks spontaneous movements occur, and at 12 weeks the length is about 3 inches. Between 12 and 16 weeks quickening or life may be felt. At 16 weeks the fetus is 7 inches in length. At 20 weeks the fetal heart may be heard, the length is 10 inches, and the name changes from abortus to premature infant if birth occurs. Between 20 and 28 weeks, if birth occurs, 10% survive. At 28 weeks the fetus will weigh slightly over 2 pounds, the age of legal viability. However in the next decade, with the new approaches already showing up such as DNA synthesis, test tube incubation, intra uterine transfusions, chromosomal manipulations, artificial placentas, and more to come, the survivability age may be greatly shortened. It was recently stated that the 20 week survivability standard is about as sacred as the 4 minute mile. And at 40 weeks birth occurs.

Back to abortion. Fifteen states have amended their statutes relative to abortion in the last three years. Three states, New York, Alaska, and Hawaii, have removed virtually all restrictions, and the performance of an abortion in those states is a matter to be decided by the woman and her physician.

The Legislative Council Committee on Criminal Code Revision of Idaho has studied three proposals for liberalization of Idaho's Abortion Law. Meetings were held in Boise and Pocatello. The committee received 21 letters favoring some degree of liberalization and 1669 letters opposed to any liberalization of the law.

After study, this committee has recommended clarification of the law rather than liberalization. Under the proposed new statute, an abortion would be allowed if "there is a reasonable medical certainty that continuation of the pregnancy would gravely impair the health of the mother." (No mention is made if this health is physical alone or also mental.)

Forcible rape and incest resulting in pregnancy are grounds for therapeutic abortion up to the 12th week of the pregnancy. The rape and incest must be reported to the county prosecuting attorney and a request for action against the alleged rapist made. This law would require the procedure be performed in a hospital following consultation and authorization from a three doctor board of the hospital.

Let us consider the maternal health issue. Dr. Denis Cavanaugh, professor and chairman of the department of Obstetrics and Gynecology at St. Louis University School of Medicine, a Jesuit school and my alma mater, stated that there is a place for therapeutic abortion and that there is no doubt that it may be necessary to kill a fetus to save the life of the mother. (This gets into Theology which we are not discussing, however there are Catholic theologians who would support Dr. Cavanaugh in his premise.)

Now after stating that such a need may arise, he stated that he was director of the obstetrical service at St. Louis City hospital, a 1,000 bed hospital. For a comparison, St. Alphonsus and St. Lukes Hospitals of Boise are each approximately 150 beds. I served there during my orthopedic training. This hospital served the underprivileged and would be expected to have a high maternal mortality rate. Yet between July 1, 1966 and July 1, 1968 there were over 5,000 deliveries without a single maternal death and during this period only 1 therapeutic abortion was considered necessary to save the life of the mother. It would appear that liberalization claimants have overemphasized the maternal health issue.

Mental health which is substituted for severe mental illness leaves many loopholes. In California in the first year with a new liberalized abortion law, 88% of the therapeutic abortions were for mental reasons and 5% were for organic disease. It is obvious that serious mental illness is not 17 times as common among pregnant women as serious physical illness. So we conclude that the mental health clause is abused in accredited hospitals.

Incidentally, in regard to the commonly quoted "suicide threat", the actual suicide rate is 4 times as high in the general female population as it is in the pregnant woman population.

Rape and incest, two emotion laden questions, must be mentioned, but the real infrequency of these and also the difficulty in proving it should not occasion new laws. They were omitted from the English law because of the legal difficulties of obtaining proof. Cases of this type if immediately reported can be handled with a dilatation and curretage removing the lining of the empty womb and preventing implantation if a pregnancy were to occur. This would nullify a need for later abortion and also would help in the apprehension of the criminal.

German measles or Rubella in the first three months of pregnancy may cause birth defects. These may range from minimal to severe. Proponents of liberalization state that 85% of women having german measles in the first trimester will have defective babies. A study of the last Rubella epidemic in Indiana shows a figure of 14%. 280 such pregancies had 43 babies with defects, and these ranged from minimal to severe. Should the 280 pregnancies be aborted with 137 of them being normal to remove the 43 defective, and these 43 ranging from minimal to severe.

Also rubella vaccine will be in full use before the next rubella epidemic, eradicating this disease as polio was removed from the scene. Remember, rubella is by far the most common cause of fetal abnormalities at this time. The proponents are well informed people who know that this indication will disappear with the vaccine, but they selectively forget it because it weakens their case.

The so called humane provision regarding birth defects could well result in a significant change in our moral and legal philosophy. If it is alright to remove life because of birth defects, then life may be removed for other reasons. After all, as concerns the deformed child, there is nothing therapeutic. He is dead. So this could be more aptly called "Fetal Euthanasia". And where do we go from there? In England, those who were pushing for a liberalized abortion law 4 years ago are now legislating for euthanasia. A Euthanasia bill was defeated in the House of Lords by only a vote of 61 to 40 in 1969.

Criminal abortions: Its incidence is thought to be one and a quarter million yearly with 8000 deaths occurring. Now criminal or illegal or back alley abortions are not scheduled in a hospital surgery, and the abortionist doesn't report his case series in a medical journal, so there is no way of determining the numbers. The figure of 8000 deaths yearly however is open to argument. This figure was first quoted by a Dr. Taussig of St. Louis in 1936 and it has been quoted and requoted. Using the state of Missouri figures over a recent 7 year period, there were 4 to 5 deaths yearly from all types of abortion. Assuming all were criminal, which they weren't, we would arrive at 225 criminal abortion deaths per year in the United States. The state of Minnesota has figures on deaths from criminal abortions between 1950 and 1966. They list a total of 21 and this would give us the figure of 60 deaths per year in the United States from criminal abortion. Take your pick, 60 or 225, but either way it's a far cry from the 8000 criminal abortion deaths that liberalization proponents claim.

As for population control, I say control it by not begetting life with the means at one's disposal that his conscience dictates. This is far better than transmitting life and then destroying it. One aspect of the abortion issue that has been given great attention by theologians is whether or not the fetus has a soul. This particular question has a long history of debate behind it with various possible solutions expressed. As a doctor I do not feel either qualified or willing to make any real statement about this. With a great deal of relief, I can leave that question to the theologians.

Instead, I prefer to think of the fertilized ovum as transmitted life from the parents, with the potential capacity to live and develop through the stages of birth, growth and development, adulthood, old age and death.

It seems to me that at the crux of the abortion issue is what the Declaration of Independence calls "the inalienable right of life." Life is the right of every citizen. Governments are instituted to preserve this right. A profession, such as medicine, is dedicated to saving life. Seen in this light, abortion can not be relegated to the "merely religious" sphere of life.

I must confess that I have had problems the past few years with the Church's views on abortion. It seemed to me that the Church was trying to force its beliefs on the rest of the public. I have long been an advocate of toleration of other people's beliefs, as long as they did not hurt the public at large. However, after a great deal of study on the matter, I now see abortion in most cases as a basic invasion of the human right to life, and as such, it far transcends a mere religious preference. What the world needs now is not only love, but toleration for opposing beliefs. But toleration must be governed by moderation, for complete toleration would result in anarchy; as one writer put it "in that condition human life would be nasty, brutish and short."

The maternal health issue is undoubtedly over-stressed. However, if a fetal life is to be taken, it would be far better to do it to save a life than just to spare the mother's inconvenience or embarrassment.

For the sake of the common good, therefore, I feel that abortion, and especially abortion on demand, based on pseudo justifications of physical and mental disturbances, thwarts the basic principle of preservation of life and especially of indefensible life, and as such cannot be tolerated.

Mrs. HOLT. Mr. Speaker, I am extremely pleased that this body has set aside some time today for discussion of the abortion question. Abortion is an emotional issue, a moral issue, and certainly a legislative issue. Debate on this topic has intensified during recent years while our social, moral, and cultural standards have been in a state of rapid transition. The Supreme Court decision earlier this year, which had the practical effect of striking down most State abortion statutes, has brought this debate to the forefront.

Many of the speeches today have dealt

with the morality of this issue and the legislative alternatives available to Congress. Any remarks of mine on these aspects of the question would be superfluous. I would, however, like to concentrate my remarks on one facet of the issue which I feel has not received enough attention.

We, as legislators, have an obligation to look far down the road to determine the long-run effects of our actions. We must consider the total consequences of legislation, administrative policies, and even judicial decisions on the institutions and values of our Nation.

Most of us will agree that the proper functioning of our society is dependent in great part upon the family structure. It is the best framework within which to rear children and infuse them with a sense of morality, responsibility, and discipline. This task will never be successfully transferred to any other institution.

What will be the effect of unrestricted abortions upon the family structure and our value system? I do not pretend to have a power of clairvoyance which would allow me to answer this question; but I do feel that this is a legitimate question which should be considered during our discussion of this issue.

Our legal and moral codes have always maintained that members of our society must assume responsibility for their actions. In my opinion, many of our problems today stem from the failure of individuals to accept this responsibility. There is a growing utilitarian philosophy which stresses the ends above the means; which glorifies the "easy way out" rather than facing up to problems. I think that we must be wary that we do not contribute to the perpetuation of this theory which condones the evasion rather than the assumption of responsibility.

I hope that we will fully consider these factors during our deliberation of this issue.

Mr. KEATING. Mr. Speaker, I would like to join my colleague from Maryland in supporting congressional action on his constitutional amendment to guarantee the right to life to the unborn, the ill, the aged, and the incapacitated.

In my view, the Supreme Court decision poses one of the most serious problems that can confront a Member of Congress, and that is whether or not it is necessary to amend our Constitution. I am loath to constantly amend the Constitution for matters which are transitional in nature; I do not have such a problem in this case. The basic right to life has been challenged by the decision of the Court. The nature of this issue will not change with the passage of time. I can find no other alternative to remedy this situation than the constitutional amendment.

The Supreme Court did not determine the central issue, and that is when does human life begin. As we consider this issue, in determining what legislative course to take, we cannot make the same mistake. It is a difficult task, but one that is essential to any meaningful answer to this question. We as representatives of the people cannot shy away from a question merely because it is controversial or difficult.

Modern science in the last decade has brought us a spectrum of knowledge about fertilization and early development that we only guessed at previously in history. In a book written by Dr. and Mrs. J. C. Wilke they discuss the scientific data on the beginning of human life.

Dr. and Mrs. Wilke point out that we now know that the sperm contributes 50 percent and that the egg contributes 50 percent of the new life. The sperm contains the genetic code of the father, and has no life or continuing function beyond the sole goal of its existence, that is, fertilization. The ovum contains the genetic code of the mother and is unquestionably part of her body. It has no other function than to be fertilized and, if it is not, it will die.

When, however, at fertilization, the 23 chromosomes from the sperm join the 23 chromosomes from the ovum, a new being is created. Never before in the history of the world nor ever again will a being identical to this one exist. This is a unique being, containing within itself a genetic package, completely programed for and actively moving toward adult human existence. It has, by any standard, a life of its own and in no way is part of the mother or the father.

At first the medical profession calls this new, unique being a fertilized ovum and soon thereafter a zygote. Nothing will be added to this being the moment of fertilization and its ultimate death as an old person. It is all there in toto at the moment of conception, merely not fully developed.

Today we stand on the threshold of deciding whether or not we tolerate a new morality where the guarantees of the Declaration of Independence, the 14th amendment to the Constitution, and the previous traditions of our Judeo-Christian heritage do not apply to all human life.

When, for example, the Court states that the unborn are not recognized by the law as "persons in the whole sense," and when, further, it uses as a precondition for legal protection the test whether one has the capability of meaningful life, one begins to question what the logical next step will be to this type of logic.

In a recent article that appeared in Newsweek magazine guest columnist Nick Timmesch wrote of the "Abortion Binge Mentality."

He pointed out that—

> Fetal life has become cheap. There were an estimated 1,340,000 legal and illegal abortions in the U.S. last year. There were a whopping 540,245 abortions in New York City in a 30-month period under the liberalized state abortion law. The abortion culture is upon us. In one operating room, surgeons labor to save a 21-week-old baby; in the next surgeons destroy, by abortion, another child, who can also be reckoned to be 21 weeks old. Where is the healing?

There are people of conscience around the country who are standing up to this senseless taking of life; but groups who have the abortion mentality are seeing to it that we have abortions in each and every hospital across America.

Lawsuits have already begun in nine States to compel hospitals to perform abortions. There have already been decisions handed down in Massachusetts and New Jersey. In Green Bay, Wisc., a doctor has brought suit against a private Methodist institution to allow him to perform abortions there.

In my district, the Cincinnati Enquirer had an article quoting the executive director of the Cincinnati chapter of the American Civil Liberties Union as saying that she was preparing letters to General, Bethesda North, Jewish, Providence, Our Lady of Mercy, and St. George hospitals to find out what their abortion policies are and whether they have changed with the Supreme Court decision.

The ACLU spokesman stated that if the hospitals had restrictive policies on abortion that are not in line with the Supreme Court decision that they would be liable for a suit.

It now seems that the same people who were working for liberalized abortion laws are now the same ones who are taking the hospitals to court to force the institution to perform abortions and are the leaders of efforts for sterilization and euthanasia.

We were all shocked and outraged by the sterilization of the young black girls in Alabama recently; yet with the direction that the "new morality" is leading us I do not see how the proponents of abortion are surprised at this because it is the outgrowth of the same type of logic that was expressed in the Supreme Court decision.

The antilife thinking that was in the Supreme Court was seen earlier in the recommendations of the Commission on Population Growth and the American Future. This report used basically the same language as the Court decision in stating that abortion laws should allow all abortions "on request" for it was a decision to be reached between patient and doctor. This report, which was hailed by the supporters of abortion, had similar language representing the same philosophy, on the question of sterilization. The report stated that:

> All restrictions on access to voluntary contraceptive sterilization be eliminated so that the decision be made solely by physician and patient.

In the Population Commission report and in the court decisions the attitude toward human age is characterized by the question of usefulness. The court refuses to decide if human life is real but it is willing to decide that life before 6 months in the womb is not useful. This utilitarian ethic is also common in the arguments of euthanasia advocates at work in six State legislatures.

In Florida, Dr. Russell Sackett, author of the "death with dignity" bill, has stated that—

> Florida has 1,500 mentally retarded and mentally ill patients, 90% of whom should be allowed to die.

The Supreme Court decision allows for the killing of the developing child in the womb of the mother; the Florida bill allows the killing of the mentally ill.

What we have witnessed with the cases of sterilization in Alabama, with the Supreme Court decision on abortion, and with the increased discussion of euthanasia is the Federal Government determining who shall have the right to life and the right to give life and who shall not have these rights.

This new view of the role of Government, granting the right to life, is so repugnant to what this Nation has always stood for that it demands urgent congressional action. At this point in time I can think of no action less than a constitutional amendment to achieve the goal. In this debate we are determining the role Government should play in the right to life, and we must act quickly—we must pass a constitutional amendment. It is my hope that the Judiciary Committee will consider the different bills that have been introduced so that the language we adopt will be the most effective and to the point.

If the Judiciary Committee continues to fail to act, then there will be no alternative than immediate consideration on the floor of the House. For this reason I have signed the discharge petition, hoping that it brings about the quick action that is needed.

Mr. ZABLOCKI. Mr. Speaker, I want to commend my colleague, the gentleman from Maryland (Mr. HOGAN) for arranging this special order on the question of abortion. It is with a deep sense of concern that I join him and others in emphasizing man's basic right to life, especially the right to life of the unborn.

The Declaration of Independence of the United States of America, the signing of which we celebrated just a few days ago, continues to be one of man's finest statements 197 years after it was written. This document reaffirms the central truths of the American tradition:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life . . .

The right to life. This most basic of all rights is a priceless heritage. It is a fundamental tenet of our system that the state protect each of our lives until natural death occurs.

Yet, on January 22 of this year, the Supreme Court, in striking down the laws of Texas and Georgia regulating abortion, has made a mockery of the right to life provision in the Declaration of Independence. It has failed to offer the protection of the laws to this God-given and most basic human right. As a result of this improvident Court decision on abortion, the fundamental right to life is being neglected and can now be legally denied to many potential members of our society.

The critical point of whether the developing child has human life was treated very casually in the Court holding. It took note that there is evidence that human life begins at conception, but added:

> We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary is not in a position to speculate as to the answers.

The Court has not only speculated but decreed the answers by establishing definite standards and criteria with regard to what kind of fetuses may have their lives extinguished and what kind may be given the right to live. The decision stated that in the first three months of pregnancy, an abortion decision must be left entirely to the woman's desire and her doctor's medical judgment.

No State law may intervene. The mother and the doctor are thus put in the position of selecting and judging the fate or justice that may come out of a life.

In the second 3-month period States may legislate to insure that medically safe abortion procedures are used but may not stop abortions. In the final 3 months of pregnancy the State may act to protect the rights of the unborn but still may not halt an abortion judged medically necessary to preserve the "life or health" of the mother. The majority of judges held that:

> Maternity or additional offspring may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by child care.

Justice White disagreed with such a reconstruction of values which would make the worth of a potential human being dependent upon being wanted by its mother. In his dissenting opinion he argued:

> At the heart of this controversy are those recurring pregnancies that pose no danger whatsoever to the life or health of the mother but are nevertheless unwanted for any one or more of a variety of reasons—convenience, family planning, economics, dislike of children, the embarrassment of illegitimacy, etc.

Certainly, as in most cases when there are differences of opinion, various conclusions result. Some believe that if human life exists in the fetus, it has an inalienable right to continue to live—a right which cannot be sacrificed for anyone's convenience. Others apparently believe that this right to personhood and life is dispensable under certain conditions or in certain circumstances. Unfortunately, justifications of abortion as a backup contraception, a woman's inherent right, a population stabilizer, and a postconceptive family planning and sociological therapy are finding increasing acceptance among an apathetic public.

I am greatly distressed with this downward thrust in the interpretation of American laws protecting the sanctity of life. It is already clear that the new legal arrangement could lead to excesses and abuses never intended or foreseen by the proponents of the decision. There is reason to fear that the Court's decision already implies that only "persons in the whole sense" are protected by the Constitution and that in the future the mentally deficient infant, the retarded child, the adolescent imbecile, and the senile could be describe as less than persons "in the whole sense" and "lacking the capability of meaningful life." Just a few short weeks ago a New York physician was indicted for injecting a lethal dose of potassium chloride into the veins of a 59-year-old cancer patient. This incident, in turn, prompted a statement by Dr. Malcolm C. Todd, president-elect of the American Medical Association, which stated that mercy killings may be justified in cases of "uncorrectable illnesses" such as cancer or strokes where the continuation of "intravenous feedings and blood transfusions are just prolonging the agony of the individual" and the expense to the family. In Washington, Dr. Walter H. Judd, retiring chairman of the judicial council of the American Medical Association, said that—

> There is no use keeping an individual alive as a vegetable . . . The profession nevertheless believes it is up to the judgment of the individual physician.

A new issue at stake in the controversy is the rights and freedoms of those individuals who in conscience cannot participate in the destruction of human life. This includes doctors, nurses, hospitals, laboratory technicians, and others connected with the clinical practice. One must wonder whether a society which can so readily accept the destruction of unborn fetuses will permit those with conscientious objections to refrain from abortion procedures without jeopardy to their professional positions. Recently, a bill has been introduced into the Wisconsin Legislature which would make it mandatory for any doctor to perform an abortion on request under pain of losing his medical license.

In an effort to reverse the Court holding and to restore respect for the life of the unborn in our society, several Members of Congress and I have introduced legislation to provide for a constitutional amendment which would insure that due process and equal protection are afforded to an individual from the moment of conception. Since the introduction of legislation for a constitutional amendment, thousands of individuals and groups from all over the country have written to me in support of the proposal. Undoubtedly, there are millions of Americans who have not communicated to Members of Congress who share the deep sense of concern in this matter.

Certainly, the issue of abortion is an urgent and complex matter requiring a thoughtful balance of moral, social, and personal values. The January 22 decision of the Supreme Court regarding abortion and the various legislative proposals in Congress should be thoroughly reviewed. Therefore, I would like to reiterate my request of June 21 to the Judiciary Committee that public hearings on this most important matter be initiated at the earliest possible date.

Fear of this issue is unworthy of a Federal representative of the people. We must summon the courage and face the stubborn facts of our times. The Supreme Court has given to the Nation its interpretation of "meaningful life." The Congress, amidst the increasing number of decisions being made about abortion, euthanasia, genetic experiments, ovum transplants, back and forth, must exert itself to protect the right to life of any human, born or unborn. We cannot go contrary to this most important moral, human, and American ideal.

GENERAL LEAVE

Mr. HOGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order today and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THE NORTHEAST RAIL TANGLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HASTINGS) is recognized for 10 minutes.

Mr. HASTINGS. Mr. Speaker, the railroad crisis in the Northeast, involving six bankrupt carriers and several other lines on the brink of bankruptcy is epitomized by the fall of the mighty Penn Central. The PC alone earns 14 percent of the nation's rail revenues, but it has never had a net income on a fully accrued basis since its merger in 1968. Total losses in calendar 1972 were $198 million, despite revenues of $1.8 billion.

Mismanagement, scandal, and general incompetence have been major factors. Noted examples are: an illegal attempt by PC executives to organize their own airline; executives speculating in stocks of PC-controlled companies; railroad investment funds drained by ill-conceived diversification; hopelessly inadequate planning for the 1968 merger; and imaginative accounting to disguise the extent of the problems which led to the 1970 bankruptcy. PC even lost $4 million to a fast-talking "investor" from Liechtenstein.

Takeover by court-appointed trustees in 1970, together with the importation of a new president from the money-making and innovative Southern Railway, have markedly improved PC's financial picture. Total loss for fiscal year 1971—the first year of bankruptcy—was an awesome $305 million, compared to the latest figure of $198 million for calendar 1972. Nevertheless, long-developing root causes, which affect railroads throughout the Northeast region, have finally caught up with PC. Its troubles are deeper than past ineptitude.

A number of considerations are basic to an understanding of the problem. I will very briefly outline a few of the most important:

United States rails now handle 40 percent of all intercity freight, a whopping 260-million tons in 1971. Yet, since 1957, originated tonnage has increased by only 1 percent nationally. Of the three federally designated railroad "districts," the Southern district has increased originated tonnage 37 percent, the Western district has increased 10 percent, and the Eastern district has declined 21 percent. The growth of light manufacturing in the East and the growth of the highway system have combined to favor trucking.

Shorter hauls and frequent terminal operations in the East mean that, while the Union Pacific in the West gets 1.6-million net ton-miles per employee per year, the Southern Railway gets 2 million, the PC gets only 900,000 ton-miles per employee. It should be noted that all these railroads operate under the same employee work rules.

Former dependable revenue sources have been lost to PC, such as coal shipment. As an example, the use of the high-sulphur coal which PC used to haul has drastically declined since 1968, meaning a loss of $75 million a year in revenues. That $75 million amounts to nearly 40 percent of last year's deficit.

Meanwhile, the Norfolk & Western and the B. & O./C. & O.—both "money machines" in the Southern district—collect big revenues from hauling low-sulphur coal out of the Pocahontas fields of West Virginia. The loss of the high-sulphur coal market has also greatly affected the other Northeastern roads.

Penn Central does 80 percent of its business on 11,000 miles of its 20,000 miles of track. The dense network of lines built in the Northeast after the Civil War is largely redundant today. In Pennsylvania, for example, the PC has 500-miles tied up in 167 different branch lines—most less than 10-miles long—whose revenues in each case do not come anywhere near covering out-of-pocket expenses. In most cases, trucks could easily pick up this business.

Overregulation has choked off innovation, even when proposed rate and/or service changes are clearly in the public interest and would not work hardship on competing traffic modes. UCLA economist George Hilton has demonstrated that Interstate Commerce Commission overregulation of all transport modes amounts to maintenance of cartels that cost the economy $5 billion a year. The problem is not so much with the motivations of the ICC, but rather with the procedures under which the ICC must operate.

The track and physical plant are rapidly deteriorating throughout the East, as the six bankrupts defer needed maintenance to meet daily expenses. Thus service is impeded and safety seriously compromised, compounding the problem of traffic losses. According to PC's own figures, on-time freight delivery is off sharply, even from the indifferent year of 1972. Forty percent of shipments in 1 week in 1973 were a day longer in transit than expected, compared with 24 percent in the same week a year earlier. The basic reason is that the track is falling apart.

Deterioration of plant and financial estate is also a constitutional matter for creditors. The fifth amendment states that:

> No person shall—be deprived of life, liberty, or property, without due process of law.

Section 77 of the Bankruptcy Act requires the judge in a railroad bankruptcy to determine if creditors' estates are being significantly eroded by further operation of the bankrupt line. If this is the case, then further operation is an unconstitutional appropriation of private property.

On July 3, the Federal judge in the Penn Central case authorized the trustees of PC to file a plan of liquidation with the ICC, as required by law. Because further operations may now be unconstitutionally damaging to creditors, the judge requested the ICC to certify an approved plan of liquidation or partial abandonment by October 1.

Should suspension of operations by PC thus occur, direct damage to affected shippers and constituents would be incalculable, and indirect damages would be considerable. Transfer of all of PC's 83-million annual ton-miles to other rails and to trucks would be impractical, beyond the fact that the area's highways would probably be destroyed as a result, with obvious impact on taxes. In light of the present fuel shortages, it is also worth noting that, while the average 1-ton-mile line-haul by truck expends 3,460 Btu of energy, the average 1-ton mile line-haul by rail takes 624 Btu.

The danger in hurried congressional action on the railroad problem is that first, Congress may pass a bill calling for an unnecessary degree of intervention and authorizing far more money than is required, thus insuring a taxpayer backlash and a Presidential veto, or second, Congress may "paper over" the underlying cause—taking no action on revamped regulation for example—thus insuring another Northeast rail crisis or a new Midwest crisis.

A large number—I should say an avalanche—of railroad reform bills and formal proposals have been put before Congress. I have extensively studied at least 26 that would impact my constituency in the southen tier of New York.

All serious bills recognize that the present Northeast railroad tangle of excess trackage must be pruned down to a viable "core" system to prevent an endless drain on the taxpayer, and that some kind of Federal intervention will be necessary. The bills differ importantly on the following key issues: How much public money should be committed? Who should decide on the regional rail system for the Northeast?

What criteria should the designers use in deciding which tracks should be included? That is, should they use a profit-and-loss basis only, or should they also consider public service and indirect economic costs? Who should own the new system What mechanism of financing should be used? And, finally, what kind of flexibility should be left to the designers of the new system to provide for joint use of facilities and main lines, future alterations, interests of solvent competing railroads, separate tracks or rights-of-way for passengers, and new freight technology.

After studying all the various proposals, I have arrived at the following judgements:

First, any nationalization—whether direct or disguised—must be avoided now and prevented in the future. Nationalization will not solve any of the fundamental problems.

Second, a special commission or body, representing all interest groups and the public, should be assigned the task of developing the regional rail plan for the Northeast, with appropriate input. No single Federal agency should be given this power over the economies of the Northeastern States.

Third, the final plan must be ratified by both Houses of Congress.

Fourth, the extensive capital funds required for rehabilitation must come from the private sector. A financial intermediary similar to the Federal National Mortgage Association—the familiar "Fannie Mae"—can serve this purpose, channeling the actual investment cash to the railroads from private investors, not from the Treasury.

Fifth, any Federal program must avoid putting the solvent rail carriers and other competing modes at a disadvantage and thus unfairly jeopardizing their solvency.

Sixth, the rights of labor must be explicitly protected.

Seventh, any new operating corporation must be a profitmaking, private common carrier, generating its own funds for operations. Outside financial aid should be limited in scope.

For the above reasons, I am cosponsoring the bill introduced by my colleague DICK SHOUP of Montana, the "Northeast Regional Rail Services Act of 1973."

This bill also answers the serious problem of how to handle money-losing branchlines. Extensive subsidization of these branchlines is unacceptable. The tax burden on our citizens would be too great. On the other hand, forcing a railroad to maintain money-losing service means that the railroad will eventually have to be bailed out by the Government, and thus the result is identical: a burden on the taxpayer.

At the same time, many communities have a clear stake in continued rail service. The economy of these communities would be severely damaged by preemptory abandonment of rail service, with closing of manufacturing plants and other businesses which depend on such service. The loss of jobs would be major.

Therefore, some kind of shared financial aid, carefully limited as to amount and duration, seems to be the best solution. The bill provides that if States, local communities, or regional authorities agree to put up 30 percent of the amount necessary to keep a branchline operating "in the black," the Federal Government can put up 70 percent. The total amount of Federal money to this program in any one-year would be strictly limited: $50 million. Any subsidy to any one branchline would last for only 2 years, but could be renewed by reapplication to the Secretary of Transportation. Thus, if the cost of keeping a branchline in operation is excessive or if trucks can easily pick up the business involved, the branchline may be abandoned, pursuant to the local decision of community or State authorities not to put up the 30 percent of operating loss. Even in this case, reasonable notice must occur; the bill provides that no abandonment can take place until 6 months after the regional rail plan has been fully reviewed by all parties and approved by Congress.

There are a sizable number of abandonment proposals in New York State, involving marginal branchlines of the Penn Central and the Erie Lackawanna, where studies indicate that abandonment of the lines would have a severe impact on the local economies. A pending abandonment proposal involving Chautauqua and Cattaraugus Counties provides a good example: Feed mills—which require rail service—would have to close, manufacturers would have to cut back operations, and the net effect would be felt throughout the region. In addition, there is considerable traffic on part of the line, so that only a modest degree of aid would be required for the railroad to break even. I am sure there are numerous examples of lines like these throughout the Nation.

Limited and temporary Federal aid, on a shared basis with the communities involved, would appear to be prudent, in order to avoid far larger indirect economic costs.

The Northeast Region Rail Services Act is a sound, responsible bill, putting the necessary amount of money in exactly the right places and by the right mechanisms. I urge support of this bill.

Thank you.

TOWARD A CURE FOR DIABETES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. STEELE) is recognized for 10 minutes.

Mr. STEELE. Mr. Speaker, for far too long the public and the Congress have failed to pay sufficient attention to one of the most devastating diseases affecting young Americans—diabetes. Thus, I am today introducing legislation to appropriate an additional $20 million to combat this dread disease.

There are currently 5 million known diabetics in this country and an estimated 5 million more are believed to remain undetected. This number is growing each year since diabetes has clearly established hereditary factors. In fact, the annual increase in victims exceeds the general growth in population.

The physical toll of this crippler—which is the fifth leading cause of death in the United States—is taken mainly in terms of blindness, kidney failure, epidermal ulcers, and, in some cases, amputation of extremities made necessary by irreversibly poor circulation.

The current yearly cost of diagnosis and treatment of diabetes is $4½ billion, and the cost goes higher each year. Yet, while the costs rise, the Federal Government is spending less. The estimated Federal allocation for programs in diabetes for fiscal year 1974 is $7,100,000; this figure is down from $8,052,000 in fiscal year 1970.

There is no excuse for this neglect. Seldom in the history of medical research has it been possible to state with reasonable certainty that mankind is on the verge of a significant breakthrough. Experts on diabetes have estimated, however, that a Federal input of $20 million could result in the development of a cure for diabetes within 1 year. Compared to the amount the disease is now draining from the economy—not to mention the pain and suffering of victims of the disease—this sum indeed seems negligible. What better evidence that "an ounce of prevention is worth a pound of cure"?

It is not as if diabetes and its treatment are new to medical science. Last year marked the fiftieth anniversary of the discovery of insulin. Yet, while daily self-administration of this hormone has unquestionably meant substantially increased lifespans to victims of the disease, research is still basically in the fledgling stage. Important projects are currently underway to find out exactly how insulin is produced and how it does its vital work. Even more impressive advances are being made in cell transplants and the development of an artificial pancreas. Four research groups in different geographical areas of the country are on the brink of a breakthrough toward a cure for diabetes, along with a possible breakthrough for supplementing or replacing the functions of other vital organs of the body which may have been destroyed by numerous diseases.

But if we are to realize the fruition of these possibilities, Congress must provide the resources to do it. Twenty million dollars hardly seems exorbitant in order to spare diabetes victims the progressively deleterious effects of this disease. That $20 million will also mean adding years to the lives of diabetics where life expectancy is now only 17 years after the age of onset for adults and 28 to 30 years in children.

With the significant strides that have been made in practically all fields of medicine—from the successful development of pacemakers, kidney transplants, plastic heart valves, heart transplants, and the virtual cure of the once great crippler, polio—surely we can do the same in the case of diabetes with firm commitment and comparatively minimal funding.

As the wealthiest nation in the world, I believe we can well afford the modest funds which would enable us to seize this rare opportunity to conquer one of the Nation's most prevalent and most deadly diseases. It is high time for the Congress to provide these funds.

ALL-STAR FOOTBALL GAME SPONSORED BY CHICAGO TRIBUNE CHARITIES, INC.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. YOUNG) is recognized for 10 minutes.

Mr. YOUNG of Illinois. Mr. Speaker, at the present time in the 10th Illinois Congressional District, more than 50 young men are in training to play football for charity, for the direct benefit of people less fortunate than themselves.

They are 1972 college all-America football players. On July 27 in Chicago's Soldier Field, they will take part in the 40th annual all-star football game sponsored by Chicago Tribune Charities, Inc. They will play the world professional champion Miami Dolphins.

This game, as it has for each year since 1934, will pit the cream of America's college football teams against the professional team that has proven itself to be the best. Through the years, the all-star game has continued to be one of the most colorful sports events in the Nation.

These young men are preparing for their last game as collegiate stars in Evanston, Ill. They are using the facilities of Northwestern University and the university's Dyche Stadium, in the 10th District.

By way of history, the all-star game was the idea of the late Arch Ward, sports editor of the Chicago Tribune. He conceived it at the request of Chicago's Mayor Edward Kelly to provide a spectacular sports attraction for the Chicago World's Fair in 1934. The previous year, also at Mayor Kelly's request, Mr. Ward had organized an all-star baseball game as a sports highlight for Chicago's century of progress exposition.

That first all-star football game sent college all-Americans under the guidance of Coach Noble Kizer of Purdue University against the professional prowess of the Chicago Bears. It ended in a scoreless tie.

I might note that in the second all-star game in 1935, one of the participants was an all-American center from the University of Michigan. Today he is our distinguished minority leader, Mr. GERALD FORD of Michigan.

Since 1933, more than 3 million spectators have watched the game through the years, and more than 2,000 all-American college players have taken part, many of them going on to fame as professionals.

And during that same time, Chicago Tribune Charities, Inc., has collected more than $13 million, which has been distributed to all major charities, regardless of race, creed, or color.

This year's coach is John McKay, who during the last college season led his Southern California team through a perfect 11–0 schedule. The Miami Dolphins also were undefeated last year.

Coaches through the years have included some of the great names of football—Bob Zuppke of Illinois, Bernie Bierman of Minnesota, Elmer Leyden and Frank Leahy of Notre Dame, Gus Dorais of the Detroit Lions, Bud Wilkinson of Oklahoma, Otto Graham, Norm Van Brocklin, Curly Lambeau, and Blanton Collier.

Chicago Tribune Charities, Inc., is to be congratulated for the continuing success of the all-star game, which, because of television, now is viewed coast to coast.

Chicago Tribune Charities, Inc., deserves the sincere congratulations of every Member of the House for the continuing success of the all-star game, which now is viewed in many parts of the world because of television. My congratulations go also to George Strickler, retired sports editor of the Chicago Tribune who now serves Chicago Tribune Charities, Inc. as executive director.

Congratulations also are due the officers and directors of Chicago Tribune Charities, Inc., who are: President, Cooper Rollow, the Chicago Tribune's present sports editor; vice president, Edward D. Corboy, vice president of the Chicago Tribune Co.; treasurer, William F. Caplice, controller of the newspaper's parent organization, the Tribune Co.; secretary, William N. Clark, secretary of both the Tribune Co. and the Chicago Tribune Co.; and director Clayton Kirkpatrick, editor of the Chicago Tribune.

I invite my colleagues in the House to scan the list of college players who will participate in this year's all-star game. They come from across the Nation.

I also invite my colleagues to join with me in congratulating each and every one of these fine athletes—as well as their coaches—for their efforts on behalf of others by participating in this game for charity.

Defensive linemen—Dave Butz of Purdue, St. Louis Cardinals; Wallace Chambers of Eastern Kentucky, Chicago Bears; Rich Glover of Nebraska, New York Giants; John Grant of Southern California, Denver Broncos; Greg Marx of Notre Dame, Atlanta Falcons; John Matuszak of Tampa, Houston Oilers; Derland Moore of Oklahoma, New Orleans Saints, and Ernest Price of Texas A. & M., Detroit Lions.

Linebackers—Bruce Bannon of Penn State, New York Jets; Gail Clark of Michigan State, Pittsburgh Steelers; Jim Merlo of Stanford, New Orleans Saints; Jamie Rotella of Tennessee, Baltimore Colts; John Skorupan of Penn State, Buffalo Bills; Brad Van Pelt of Michigan State, New York Giants; Gary Weaver of Fresno State, Oakland Raiders; and Jimmy Youngblood of Tennessee Tech, Los Angeles Rams.

Defensive backs—Joseph Blahak of Nebraska, Houston Oilers; Cullen Bryant of Colorado, Los Angeles Rams; Bill Cahill of Washington, New Orleans Saints; Mike Holmes of Texas Southern, San Francisco 49ers; Burgess Owens of Miami of Florida, New York Jets; James Thomas of Florida State, Pittsburgh Steelers, and Jackie Wallace of Arizona, Minnesota Vikings.

Offensive linemen—Pete Adams of Southern California, Cleveland Browns; Tom Brahaney of Oklahoma, St. Louis Cardinals; Dave Brown of Southern California, Los Angeles Rams; Joe De Lamielleure of Michigan State, Buffalo Bills; John Hannah of Alabama, New England Patriots; Paul Howard of Brigham Young, Denver Broncos; Guy Morris of Texas Christian, Philadelphia Eagles; Paul Seymour of Michigan, Buffalo Bills; Jerry Sisemore of Texas, Philadelphia Eagles; and Robert Woods of Tennessee State, New York Jets.

Tight ends—Gary Butler of Rice, Kansas City Chiefs, Mike Creanery of Notre Dame, Chicago Bears, and Charles Young of Southern California, Philadelphia Eagles.

Quarterbacks—Joe Ferguson of Arkansas, Buffalo Bills; and Bert Jones of Louisiana State, Baltimore Colts.

Running backs—George Amundsen of Iowa State, Houston Oilers; Otis Armstrong of Purdue, Denver Broncos; Sam Cunningham of Southern California, New England Patriots; Chuck Foreman of Miami of Florida, Minnesota Vikings; Terry Metcalfe of Long Beach State, St. Louis Cardinals; Bill Olds of Nebraska, Baltimore Colts; and Greg Pruitt of Oklahoma, Cleveland Browns.

Wide receivers—Issac Curtis of San Diego State, Cincinnati Bengals; Steve Holden of Arizona State, Cleveland Browns; Barry Smith of Florida State, Green Bay Packers; Darryl Stingley of Purdue, New England Patriots; and Joe Wylie of Oklahoma, Oakland Raiders.

Kicker—Ray Guy of Southern Mississippi, Oakland Raiders.

ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. HANRAHAN) is recognized for 5 minutes.

Mr. HANRAHAN. Mr. Speaker, the questions being raised in this country surrounding the legalization of abortion are complex ones, both judicially and morally. They are questions of major significance to every mother and father, to every unborn child, and to every human being.

Many individuals, in struggling to judge this issue humanely, begin to find conflict between the moral obligation not to destroy life, the right of a mother to choose termination of her own pregnancy rather than the right of the Supreme Court to make such a choice, and the desire to protect our world from overpopulation.

The full inpact of the recent Supreme Court decision is just beginning to be felt. In its two decisions, on January 22, 1973, the Court virtually nullified all existing State laws concerning abortion.

After reviewing these decisions, I concluded that, given the gravity of the issues at stake, and the wide variance of public sentiment, the proper solution is to restore to the States the power to deal with the abortion issue.

For this reason, I have cosponsored House Joint Resolution 537, which would amend the Constitution so as to guarantee the States the power to enact laws respecting the life of an unborn child, from the time of conception.

The proposed constitutional amendment reads:

> Nothing in this Constitution shall bar any State, or the Congress, with regard to any area over which it is granted the power to exercise exclusive legislation, from enacting laws respecting the life of an unborn child from the time of conception.

This amendment assures that the people, through their chosen representatives, will have a say in deciding where to draw the line between the rights of the mother and the rights of the unborn child.

Already many States have sought to regain the power stripped from them by the recent Court decision. The attorneys general of States such as Montana, have declared the existing State laws valid until specifically struck down by another court. The Rhode Island Legislature has passed a bill guaranteeing the 14th amendment's equal protection of the laws to the unborn child.

Still other States such as Maryland and Virginia have voted down bills which would have brought the State law into conformity with the Supreme Court guidelines.

In Indiana, the legislature has included amendments—consent of husband, parents or guardians; written consent of women; 48-hours delay prior to the operation; provisions for live birth of aborted infants—which indicated the people's voice through their representatives.

The Illinois State General Assembly

has been active in legislating to regulate the procedural criteria for abortion, since the Supreme Court has left that question undecided.

The evidence is strong to indicate the citizens of this country are not content to give up their State's rights to decide the question for themselves. The constitutional amendment I have cosponsored would provide an avenue of expression for the vast numbers of Americans who believe abortion to be wrong. Many of these people have been frustrated by their inability to influence any decision as to where the line should be drawn between the rights of the mother and the rights of the unborn child.

In a recent poll of my district, the preliminary results show a distinct split among the respondents on the issue of abortion. How can we, at the Federal level, possibly hope to pass legislation reflecting diverse public sentiment? I believe the States have a right to make sociological and medical determination on their own. This is an issue best left to the people to decide.

ANNIVERSARY OF VILLAGE OF DUNDEE IN YATES COUNTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WALSH) is recognized for 10 minutes.

Mr. WALSH. Mr. Speaker, on Friday, July 27, the village of Dundee in Yates County will celebrate its 125th anniversary. Actually, the history of the village goes back many years before it was incorporated with the name of Dundee.

The long and interesting tale of the founding of this village and its progress through the years really began early in the 19th century and I would like to share that story with my colleagues.

In 1807, Isaac Starks erected a mill on Big Stream. This was the first building in the settlement and so the community was called Stark's Mill. For many years the inhabitants lived chiefly along the banks of the Big Stream. There was a store, a tavern, a blacksmith shop, the sawmill, and an ashery.

In 1812, Griffin Hazard built the first grist mill on Big Stream and about the same year, John Starkey and Clayton Semans started another store.

An east-west road, now Union and Seneca Streets, was cleared of trees and opened in 1813, the same year the first framehouse was built. The settlement became Harpendings Corners, a barren place with stumps in the streets filled with piles of lumber, shingles, and staves. Cows, pigs, and geese ran at large.

There were no shade trees, no churches, no sidewalks, no lawyers, no stages, and no livery. Long rows of rail fences lined the few dirt roads which passed for streets. Indians were numerous in the vicinity and came to the settlement to make salt.

The year 1820 was a milestone for the settlement. The old red schoolhouse, also used for religious purpose, was constructed. It was torn down in 1845. The first preaching was by old Mr. Parker, one of the Friends. He was known to remark:

> If his preaching wasn't very good, it wasn't very dear either, as he charged nothing for his services.

In 1824, the Reading Masonic Lodge was established.

One year later, Samuel Harpending became the first postmaster and weekly mail delivery was started. It lasted until 1838.

The early 1830's were boom years for the settlement. Samuel Huston started the boom when he built a store on the corner of Union and Water streets. There were 26 mills on Big Stream and Rock Stream. At this time also, the Baptist, Methodist, Presbyterian, and Free Churches were organized.

In 1832, the old red schoolhouse, used by John Starkey as a store, was moved from its location—where the Fred Hunt residence now is on Main Street—given a lean-to addition and relocated where the Presbyterian church now stands. It was used on Sundays for church and rented out weekdays as a school.

The village got its present name in 1833. It was renamed Dundee after the old hymn tune of the same name, written by James Gifford, an old-fashioned singing school teacher. When Gifford left Dundee he established the communities of Elgin and Dundee, Ill.

Nehamiah Reples became the postmaster in 1838 and dispensed the semiweekly mail deliveries from his kitchen.

In 1839, a count was taken and it was reported that nine establishments sold intoxicating beverages.

The office of postmaster changed hands in 1843. Edward Hoogland, a practicing attorney in Dundee, got the job by being "honored with the confidence of his friends and neighbors, as well as with the assistance of an extensive family influence." The Record, a newspaper, was "projected" by G. J. Booth of Elmira. It was printed in a shop over the postoffice. Postmaster Hoogland rendered every assistance he could and purchased the Record in 1848 "faithfully disseminating local intelligence without fear or favor."—1848 was an historic year for Dundee, for in that year the settlement was incorporated as a village with 250 voters present.

Something new made its first appearance in Dundee the following year. What was then called a bowling saloon was opened. No boys without parents and no betting or gambling were allowed. Also, the Methodist Church on Union Street was bought by three gentlemen and moved to Spring Street where it became Dundee Academy.

By 1850, it was becoming obvious that Dundee was becoming a boom town. There were seven dry goods stores, four grocery and oyster shops, a bookstore, a drug and paint store, three tailors, two carriage makers, five blacksmiths, a tannery, a fulling mill and cloth factory, a millwright, an insurance agent and surveyor, a sash and blind factory, four milliner shops, a cooper shop, one cough syrup manufactory, three livery stables and stage proprietors, two brick yards, five sawmills, two salt manufactories, six plow factories, two chair and cabinet makers, two iron foundries, two saddle and harness makers, two pattern and machine shops, two boot and shoe stores, three tailoresses and three taverns.

The Dundee Union Agricultural Society, forerunner of the Dundee Fair Association, was organized in 1855. That same year, the Dundee Academy was incorporated by the New York State Board of Regents.

Just 1-year later, the first bank in the village, Raplee's Banking and Exchange Bank, opened its doors in a building on Seneca Street. That was the forerunner of the Dundee State Bank.

The years 1859, 1860 and 1861 were tragic ones for the village. First, the east side of Main Street burned down in a fire that did $25,000 damage. In 1860, Main Street West burned in a spectacular $60,000 fire. At the time, the village had a population of 732. Finally, in 1861, the worst fire in the history of Dundee destroyed 40 buildings, the main portion of the business section. Damage was estimated at $76,000 and there were no places of business left after this conflagration. As a result, the merchants of the village built rough board shanties, 100 feet long, where they conducted business-as-usual until permanent buildings could be constructed.

Dundee saw its second banking house open in 1868 operated by L. J. Wilkin. This later became the Dundee National Bank.

Ten years later the Dundee Observer brought out its first issue and has been in continuous publication from that date to this. And the first train ran on the Fall Brook Railroad line.

The Dundee Preparatory School was built in 1879 on Upper Water Street with Professor Kline at the helm.

In 1880, the first Catholic Church in Dundee was organized with 125 members. Services were held once every 3 weeks.

The Casino, a building where various amusements, plays, programs, and revivals were held, was in full swing in 1885. About the same time, evaporated black raspberries were a big business, with seven large and five small evaporators unable to supply the demand. Evaporated berries were sold at 27½ cents per pound. Under odds and ends for the year 1885, George Ardrey killed and sold to the Harpending House, a turkey weighing 35 pounds. The guests at the hostelry pronounced it very tender and of excellent flavor. Three hotels were in full operation in the village. The new street-lamp lighter was Mr. Gannon. Also about this time, J. J. O'Brien formed a partnership with C. J. Watson in a produce business. For many years they dealt in black raspberries as well as other farm produce.

In 1887, the Dundee Preparatory School burned. As a result, the brick high school on Harpending Avenue was built in 1888 and became the Dundee Free High School in 1891. Also, as a result of the fire, villagers ratified the action of a committee to purchase a hook and ladder truck for village use and to organize a hook and ladder company. At a later meeting in the Coliseum, charter members elected to the G. P. L. Hook and Ladder Co. were; H. V. L. Jones, E. M. Horton, C. S. Hoyt, J. H. Knapp, Clayton Bigelow, Philo Rogers, E. M. Sawyer, H. I. Young, E. Vreeland and Clayton Howell. The firehouse was on Hollister Street and housed the Comet and Red Rover hand pumpers. The old Comet met an ignominious end, in a few years, when it was converted to the prosaic job of street repair.

Yet another fire in 1890 burned down the fair house necessitating a one day delay in the fair. But as a tribute to the spirit of the residents of the village, tents were set up and a record crowd of 4,000 attended on the first day.

In 1892, the brick schoolhouse on Seneca Street was built and put into use.

Dundee had its last severe fire in 1894 when the Presbyterian Church and several business blocks were destroyed in a blaze that also killed one person.

The Fourth of July celebration in 1896 almost became a tragedy when a cannon being fired burst and hurled large pieces of iron a great distance. Fortunately no one was hurt. The iron was cast in 1876 at the Dundee Foundry. That same year, the first commencement in the new union school district was held from Dundee High School. The business community got a boost when the Dundee Electric and Lighting Plant was constructed by Edward L. "Lectric Light" Bailey east of the railroad tracks. Competition from the Dundee Observer proved too much for the publisher of the Dundee Record who decided to move all his equipment to Corning.

At the turn of the century, three chemical hand pumpers were purchased for the fire company. At the time, they were manually hauled by drag lines. Also, the first rural mail deliveries were begun with mail carried in a wooden box, 12 by 6 inches with dividing partitions, thus separating the mail. On the first delivery, there were eight letters, nine newspapers, and one parcel.

In 1902, Dundee Lodge No. 450, I.O.O.F. was organized.

The Dundee Telephone & Telegraph Co. was established in 1903 with an initial investment of $5,000 and 50 shares of stock. It began operation in the back of Gilbert's Drug Store and remained there a year when the equipment was moved upstairs. There they stayed until 1963 when the operation came back downstairs. Silas Price was an owner and the first telephone operator. Later operators were Harry Weeks and Ernest Sproul. The first female operator was Mabel Turk, the late Mrs. C. J. Sackett.

The telephone service improved another step in 1904 when toll telephone lines from the village were inaugurated.

A village tradition, the Letts home came into existence in 1906 when Mary Letts left money, her home, and her household goods for a home for ladies. An organization to care for the property was formed with representatives from the Masonic Lodge, the Baptist, Presbyterian, Methodist, and Episcopal Churches. A representative from the Catholic Church was added about 1960. In 1962, an apartment was added to the House with money left by Nettie Trask. In that same year, the G. P. L. Hook and Ladder Co. changed its name to the Dundee Volunteer Fire Department—1908 marked the opening of the Dundee Library on Saturday afternoons only. The library had 290 books in a room over the National Bank.

The village rang to the sound of a new fire bell in 1909. It was generally agreed it sounded better than the old one. That same year, the horseless carriage made its debut in Dundee when three gentlemen purchased and drove from Elmira three automobiles: one, a 20-horsepower Ford; one, a 20-horsepower Franklin; and the third a 10-horsepower Oldsmobile. H. B. and H. C. Harpending registered and transferred more Berkshire hogs than any other two breeders in the United States.

In 1914, the worst winter storm since the blizzard of 1888 isolated Dundee for several hours on March 4. Mail and train service were suspended for several days.

The black raspberry business continued to grow and in 1916, 1,000 people were employed in the harvest. Streets were lighted from dusk to 1 a.m., then only on nights when the almanac said no moon would be visible. And for the housewives of Dundee, current was supplied Tuesday mornings for the benefit of those few who used electric irons.

The Dundee Observer was purchased by Harry C. Smith who had come to Dundee in 1914 as principal of the high school.

The village fathers decided that traffic regulations were needed in 1917. Before that there were no traffic rules so drivers could go in either direction on both sides of the streets and leave their cars anywhere. Also in that year, the Dundee Chapter of the American Red Cross was founded.

The library became a "free" Library in 1918 with a yearly appropriation from the village of $400. During that same year, a terrible flu epidemic struck that closed all public places including the school, the library, and the theater. There were no public meetings and all children were required to stay off the streets. This regulation was in force 3 weeks. About this time, a Boy Scout troop was organized with Sam Murdock, scoutmaster.

In 1921, electric current to the village became continuous day and night when a transmission line from Seneca Mills to Dundee was installed. Power was generated by water coming through the outlet at Keuka Lake. And the Beekman Theatre opened.

About 1923, Dr. C. J. Spencer, a well-known veterinarian, spurred on by the death of a friend who had been gored by a bull, invented a device which he called Dr. Spencer's Bull Tamer. In 1925, he organized a company, Spencer Brothers Inc., which manufactured the bull tamer, other cattle devices and stock medicine sold all over the world.

The year 1925 was a big one for Dundee when the Morton Salt Co. first became interested in mining salt in this area when they purchashed Severne Point on Seneca Lake.

On December 23, 1929, Dundee took a step closer to the modern age when the new water and sewer systems were opened for use.

A new industry reared its head in Dundee in 1930 when leases for drilling for gas and oil were filed in the Yates County Clerk's Office by the Belmont Quadrangle Drilling Co. In March, they first struck gas on Hause Hill. The second well was brought in on the Roy Litteer farm.

Church bells were rung for 10 minutes, January 10th in celebration of the 10th anniversary of prohibition; and the manager of the Beekman Theatre announced the discontinuation of silent pictures. Dundee firemen used the new water system for the first time September 12 when Fred David's ice house burned.

In 1931, excitement ran high in the area over the drilling of gas wells, which had reached 93 in number—5,000 people attented a public exhibition of drilling-in and capping a well one weekend.

Still another industry made its mark in the area in 1932 and 1933. Wright-Built Boats on Water Street began building sailboats of all kinds, including the well-known K-boat. Then Charles Wixom started a boat-building business in his barn on Bigelow Avenue and adopted the name Dundee Boats for his small fishing craft. Both of these companies sold their boats all over the country.

In 1935, a torrential rain brought area floods and destruction. But despite flooded homes and some washed out streets, Dundee was spared devastating damage.

The estate of Ursula Sworts left the village $5,000 in 1936 "for the purpose of acquiring, creating, continuing and maintaining a public park in Dundee or within 1 mile thereof."

A berry was named for Dundee in 1937 by New York State because the village had been so heavily engaged in the raspberry business.

In 1940, a business that would soon become one of the largest in the Dundee area was founded. The Dundee Grape Juice Co. originated when Lewis Kleckler began pressing and processing grape juice in the old creamery building on Hollister Street.

The war years were quiet ones for Dundee. The post office moved to Main Street, school boys were excused from classes to work in the fields, a Girl Scout troop was organized and in 1942, the national bank closed its doors because of the death of its president, Pierre Harpending, and the loss of several employees to the war effort.

But in 1949, things began to move again when the Wolcott family of Elmira purchased Dundee Grape Juice which has since been renamed Seneca Foods Corp. It has expanded greatly, now employs more than 1,500 people and has annual sales of more than $120 million.

In 1951, an emergency car, a red 1936 Pontiac was purchased by the firemen and a squad of men was selected to receive Red Cross training and instruction. That same year, the Dundee Bible Church was organized with Sunday evening services in the Odd Fellows hall.

Radio station WFLR was licensed and began operation in 1956, the same year that the Dundee Area United Fund was organized and held its first fundraising campaign with Douglas Miles as chairman.

In 1958, the Southern Tier Library System was inaugurated with the Dundee Free Library as one of the original libraries in the system.

In the early 1960's, the new modern post office opened on Main Street under the direction of Postmaster Lawrence.

Strayline and the Dundee Telephone System converted to dial and direct distance dialing.

The economy of Dundee got another boost in 1966 with the expansion of the Morton Salt Co. The company began exploratory drilling in this area. In 1969, they began preparations for mining by sinking two shafts on their property adjacent to Himrod. By 1973, the company was in full operation and employing 135 people of whom 125 were local.

In 1968, the Grace Episcopal Church on Seneca Street was given to the town of Starkey for a town hall by the Harpending heirs. The family had originally given the land to the church in 1884. The new sewage treatment plant on the Dundee-Glenora Road was put into operation.

The fire department continued to grow in 1969, with the completion of a new firehouse on Union Street on the site of the old town hall. The building also housed the village and police offices.

Under odds and ends for 1971: Telephone operators became a thing of the past, an elementary wing and a new high school gymnasium were voted as additions to the Dundee Central School and the Dundee Area Historical Society was formed.

In 1972, Tommy's Holiday Camp opened on Main Street under the auspices of the Yates County Narcotics Guidance Council for the purpose of giving preventative education on drugs and for providing area youth with recreational activities.

The Dundee Fire Co. continued its expansion in 1972 with the purchases of a new pumper-tanker and a 1968 Cadillac ambulance. This gave the emergency squad two ambulances in service. Twelve of the 16 squad members are certified medical emergency technicians of the State of New York.

The village now has a six-man police force headed by Chief Mortensen. As in 1935, when the village escaped serious damage from a devastating storm, the ravages resulting from Hurricane Agnes affected Dundee residents only slightly. But many villagers and civic organizations were actively involved in relief efforts for the less fortunate in the southern tier. Another example of the spirit of those who live in Dundee.

Finally in 1973, the community is busily involved in preparations for the sesquicentennial celebration, July 22 through 28. The honorary chairman is Mrs. Lewis Rochester Hanmer, whose ancestors—the Raplees—came to Yates County in 1805. General cochairmen: Dr. Henry M. Lane and Mr. Donald Backer; treasurer, Mr. Edward Raps; recording secretary, Mrs. Alma Beard.

COMMITTEE ON ENERGY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, several of my colleagues have joined me in reintroducing legislation that would create a standing Committee on Energy in the House of Representatives. Altogether I have introduced three identical bills on this subject, House Resolution, 439 introduced on June 13, and House Resolution 489 and House Resolution 490 introduced yesterday with 29 cosponsors.

Although the need for a comprehensive energy policy is painfully apparent, we here in Congress have done very little to develop such a policy. So far we have met our many energy problems with a fragmented, scatter-gun approach, sending energy-related legislation to committees all over the House, giving ourselves no opportunity to relate these various pieces of legislation to an overall energy picture. I have included two charts at the end of my remarks to illustrate this present chaotic state of affairs. The first one breaks down the number of bills and resolutions referred to each House committee as of June 20 this session. As you can see from the totals at the bottom of this chart, the 382 energy related bills and resolutions introduced this session were distributed among 17 of the 21 standing committees in the House. The second chart lists the committees which have dealt with each of several energy topics during the 92d and 93d Congresses. With this kind of duplication of efforts, and with 17 different committees each considering a separate subsection of energy legislation, it is obvious to me that the input for a coordinated national energy program is certainly not going to emerge from this House of Congress.

In the President's energy message of June 28, he proposed a reorganization of the Federal Government which called for the creation of a new Federal department and an Energy Policy Office within the Executive Office. In giving his reasons for the proposed change, the President remarked that—

> The acquisition, distribution, and conservation of energy resources have become increasingly complex and increasingly critical to the functioning of our economy and our society.

It is laudable that the President recognizes that the times demand direction in the formation of the U.S. energy policy, but what are we in Congress to do in the meantime? We cannot become content to simply answer "Yes" or "No" to energy policy suggestions from the executive branch, supplying none of the initiative or leadership ourselves. On the contrary, in an area so "critical to the functioning of our economy and our society," the direction should come from Congress, the arm of the Federal Government most available to the American people.

A House Committee on Energy would give us a forum through which we could effectively deal with our short- and long-term energy needs. My bill calls for a legislative committee which would review all energy related bills for the explicit purpose of developing and maintaining on a permanent basis a coordinated energy policy for the United States. In cases where existing committees already have jurisdiction in certain types of energy legislation, the Committee on Energy will have concurrent jurisdiction. While another committee's scrutiny may be necessary because of the particular nature of a bill, the bill still must be related to our other efforts in the energy field if we are going to have an effectively coordinated program. I believe it is absolutely foolish not to have a permanent standing committee that has expertise in this legislative area of such enormous and continuing importance.

The charts described above follow:

CHART NO. 1

ENERGY RELATED LEGISLATION, INTRODUCED IN THE 93D CONGRESS, 1ST SESSION—THROUGH JUNE 20, 1973

Committees to which referred	House bills	House joint resolutions	House concurrent resolutions	House resolutions
1, Agriculture	5			
2, Armed Services			1	
3, Atomic Energy	4	1		
4, Banking and Currency	13			
5, Education and Labor	5			
6, Foreign Affairs	1			2
7, Government Operations	5			
8, Interior and Insular Affairs	77	1		
9, Interstate and Foreign Commerce	95	6	5	
10, Judiciary	4			
11, Merchant Marine and Fisheries	29			
12, Post Office and Civil Service	1			
13, Public Works	11			
14, Rules	3	6		6
15, Science and Astronautics	15			
16, Ways and Means	70	15		
17, House Administration			1	
Total	338	29	7	8

Note: Total number of bills and resolutions, 382.

HOUSE COMMITTEES INVOLVED IN ENERGY ISSUES

(A list of energy-related topics dealt with in legislation, hearings, and reports by committees of the House of Representatives during the 92d and 93d Congresses)

Subject and committees listed

Coal: Education and Labor; Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works; Ways and Means.

Geothermal: Interior and Insular Affairs.

Natural Gas: Interior and Insular Affairs; Interstate and Foreign Commerce; Merchant Marine and Fisheries; Ways and Means.

Nuclear: Joint Committee on Atomic Energy; Merchant Marine and Fisheries.

Petroleum: Banking and Currency; Foreign Affairs; Government Operations; Interior and

Insular Affairs; Interstate and Foreign Commerce; Joint Economic Committee; Judiciary; Merchant Marine and Fisheries; Ways and Means.

Solar: Science and Astronautics.

Water Power: Interior and Insular Affairs; Public Works.

Electric Power and Utilities: Agriculture; Appropriations; Interior and Insular Affairs; Interstate and Foreign Commerce; Public Works; Science and Astronautics.

Conservation, Comprehensive, and/or Overview: Banking and Currency; Foreign Affairs; Government Operations; Interior and Insular Affairs; Public Works; Science and Astronautics.

Energy Organization: Foreign Affairs; Government Operations; Interior and Insular Affairs; Interstate and Foreign Commerce; Joint Committee on Atomic Energy; Rules; Science and Astronautics; Ways and Means.

Environmental Protection Aspects: Interior and Insular Affairs; Merchant Marine and Fisheries; Public Works; Science and Astronautics.

Research and Development: Government Operations; Interior and Insular Affairs; Interstate and Foreign Commerce; Merchant Marine and Fisheries; Science and Astronautics; Ways and Means.

SOME COMMENTS ON THE TRADE REFORM ACT OF 1973—H.R. 6767

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, very soon we will be discussing the Trade Reform Act of 1973 (H.R. 6767). In fact, it is imperative that we provide our U.S. negotiators at the forthcoming GATT talks, to be held in Tokyo and beginning in September this year, with a very specific set of guidelines within which they can operate and horse trade with our major trading partners.

The context within which these international trade negotiations will take place is of the utmost importance in the light of our vicious balance-of-payments problem, our increasing trade deficits, our inability to compete successfully on world markets without repeated devaluations, our seeming cost spiral for all industrial foods, our obvious tendency to allow our multinational corporations to dictate our future economic relations overseas, the apparent unwillingness of our trading partners to extend to us a helping, or rather accommodating, hand in trade despite the billions we have pumped into their economies to rehabilitate their war-ravaged economies, and, finally, our makeshift policies since the expiration in 1972 of the Trade Expansion Act of 1962.

We are living in rather ambiguous times, especially insofar as our foreign economic interrelationships are concerned. These economic relationships are going to be affected by our proposed trade legislation for some time to come. We are either going to get cooperation in our negotiations in Tokyo or there is going to be strong economic nationalism by which each nation or bloc will be maneuvering for advantage.

What I am looking forward to is the willingness of the GATT partners to establish rules for fair trade as well as the setting of new international standards for safeguards and balance-of-payments adjustments.

My purpose in mentioning this so-called Reform Act in trade matters before it is called up for debate is to give notice that no matter how optimistic we may be in hopes of passing this rather comprehensive piece of legislation I will propose many an amendment in line with the Burke-Hartke trade proposal (H.R. 62) of which I am a cosponsor. Since we really do not know yet in what form the House Ways and Means Committee will submit the administration bill for our consideration, it would be premature for me to discuss each title of the bill in detail. Suffice it to say that in the forthcoming debate I will speak on each of the various titles in turn; namely:

First. The power to be granted the President to lower or raise tariffs;

Second. Trade with Communist countries on the most-favored-nation—MFN—principle;

Third. Preferential tariff treatment to imports from developing countries;

Fourth. Nontariff trade barriers;

Fifth. Adjustment assistance to our workers;

Sixth. Balance-of-payments problems and new trade actions; and

Seventh. The escape clause.

These seven aspects of forthcoming trade legislative debate are all important to me, for in this instance, I speak out predominantly on behalf of American labor. This is a cause I express freely and willingly, for in any discussion on the new trade bill here on this House floor, I feel it incumbent on myself to speak up for the laboring man in my district and my State. For at stake is the American living standard, the Nation's industrial base, its productivity advance, and job opportunities. On behalf of labor, I say that a thorough revision of the U.S. Government's posture and policy is required to meet present realities and be prepared for an abundant future for all of us.

In 1934 Cordell Hull enunciated a reciprocal trade agreement program, a trade program noted particularly for the benefit to accrue to the American laboring man because of increasing productivity here at home of goods for exports. Tariffs were to be reduced so as to increase the international interchange of goods. Such tariff reductions have been legislated in 11 renewals of authority granted to the President since 1934 to negotiate reciprocal trade concessions with other nations.

Yet, today, even as we note the fact we have cut our tariffs more than any other nation, we are actually experiencing a trade deficit, larger and larger each successive quarter, with more and more plant closings and more and more workers affected injuriously by excessive imports of competing products from our trading partners. Hence the desperate need for Congress to vote on a trade bill that is fair to all. The last time both Houses voted on such a comprehensive trade bill was when we passed the Trade Expansion Act of 1962. This has been our trading blueprint for the last decade. Under it we negotiated the Kennedy round of tariff reductions with our major trading partners in the supposedly secure hope that a new period of prosperity and reciprocal concessions in international trade had arrived.

But this was not to be.

As you all know, the Common Market and Japan began to increase their nontariff trade barriers to our exports, and, because of our new lowest tariff duties, applied a concerted effort to overwhelm our domestic market with textiles, shoes, electronics, bicycles, cars, and what have you, without any regard to the disruption caused to our domestic labor market or to our competitive consumer offset areas. You are all too familiar with the closing of hundreds of plants and the retrenchment of thousands of jobs in all areas due to these cheaper competitive imports.

Just note the following:

In 1970 we had a trade surplus of $2.2 billion. By the end of 1971 we had a complete somersault in trade and for the first time in 83 years we had a trade deficit of $2.7 billion. Once the rot began it accelerated to a deficit of $6.3 billion in 1972. In the figures released for the first quarter of 1973 imports amounted to $16.26 billion and exports $15.34 billion leaving a deficit of $920 million. We are told that the deficit for March was only $53 million, denoting a welcome reduction of the impact onslaught and that the prognostication for 1973 was a trade deficit in the nature of only $1.68 billion. In addition we have been told that these depressing figures should not be interpreted as indicating that a rising and sustained improvement in our trading position is underway. We have been exhorted to be thankful that a 15.5 percent export expansion took place in the first quarter of 1973. My question is why should we be thankful for a trade deficit and why should we allow it to continue because the concessions are all onesided and we have become the dumping ground of other countries who are dictating our trading terms.

One of the major factors of our trade deficit during the last 2 years has been the excessive surplus heaped up by Japan in its trading exchange with the U.S.A. This exchange has been against our interests because Japan has no raw materials to export, only highly profitable manufacturers such as textiles, electronics, steel goods, cars, and other labor-intensive products, while our exports have been confined to feed grains, flour, soya beans, lumber, cotton, and other raw materials of much lesser value because of volume.

You and I know that Japanese trade barriers are rather onerous and that there has been a very reluctant willingness even to discuss with us such things as their very stringent import quotas; tariffs on many of our manufactured items, far higher than ours; the effective exclusion of foreign suppliers from Japanese Government procurement—while clamoring against our "Buy American Act"—governmental limitations on financing arrangements of Japanese importers while helping exporters; and controls and hindering regulations on foreign-owned processing and selling facilities in Japan.

Last year, as the trend of our trade deficit became more and more clear a concerted effort began in Congress, one largely engineered and supported wholeheartedly by AFL–CIO unions for a complete legislative program combining in one package tax, trade, and investment controls. This Burke-Hartke bill (H.R. 10914 and S. 2592) or the Foreign Trade and Investment Act of 1972 of which I was a cosponsor, became the rallying cry for a new dynamic trade policy. The same is now true as once again we have introduced the same bill (H.R. 62). This bill has occasioned both violent support and equally vociferous opposition. From its very contents it was adduced that large importers and certainly the giant business enterprises and manufacturers with subsidiaries abroad would oppose its enactment. Many liberal groups and internationalists saw it as disastrous in content, as inimical to our foreign commitments, as leading to massive retaliation on the part of our trading partners, as restrictive of our own productive capacity, as leading to higher prices for domestic consumer goods, in short, as being a bad bill worthy of defeat. They opposed it last year and we expect them to oppose it even more this year—as evidenced by the discussion in the House Ways and Means Committee hearings.

On the other hand proponents of the bill, particularly labor unions, submitted many cogent arguments in its favor in 1972 and favor it even more now, because—

First. It will curtail injurious imports to an appreciable extent;

Second. It will put our trade balance in perspective with our overseas commitments;

Third. It will safeguard American jobs now being taken over by foreign production;

Fourth. It will increase our tax revenues from international investment, patent, and leasing arrangements;

Fifth. It will put a premium on voluntary restriction of excessive competitive imports;

Sixth. It will, only as a last resort, impose quotas as a percentage of a 5-year period—notably 1965–69;

Seventh. It will create an exemplary three-man commission, representing government, industry, labor plus consumers, which will take over all controls on trade, instead of the present fragmented structure of responsibilities among agencies; and

Eighth. It will take care of many small inequities in international trade that hurt our economy and labor—notably antidumping duties, countervailing duties, border industry imports, the Buy American Act, the "American Selling Price"—ASP—principle, and many other smaller tariff procedures, presently enshrined in law.

I am for a frank discussion of all aspects of our current trade and investment dilemma and in favor of early passage of a new trade bill. Certainly, many amendments will have to be made—in my opinion, in line with the Burke-Hartke proposal—for exceptions, a larger spelling-out of our and foreign responsibilities, acceptance of various international commitments, as of GATT, and the inclusion of the other smaller provisions mentioned before. Many of my colleagues here, known as friends of the American laboring man, are sponsors of the Burke-Hartke bill. There is a deep concern for the livelihood and living standards of our working men and consumers, for job security, hard-won fringe benefits, for a reduction of unemployment, for increasing productivity here at home, and an awareness of "fair" trade on a reciprocal basis, denied us hitherto.

Now I come to the crux of the whole trade controversy, namely the support or not of the new Trade Reform Act of 1973, or H.R. 6767, the trade proposal sent to Congress by President Nixon on April 10 and soon to be discussed.

As you know, it has been stated before that the Burke-Hartke bill has no chance of passing because of its serious protectionist or quota nature. Yet, because labor, consumer groups, American industry and many here in Congress itself—among whom I include myself—have expressed deep concern over our current trading posture, the present administration held extensive conversations with all the various groups concerned before finally coming up with this new, but carefully orchestrated bill. Hopefully they have put something in the bill for everyone, hoping thereby to get the authority to negotiate on behalf of all. This is the bill that Congress is supposed to pass by the end of August so as to get the GATT ball rolling.

The GATT nations are going to begin a new round of tariff negotiations—probably the Nixon round—in Tokyo in September 1973. All indications point to the fact that our major trading partners, particularly the new Common Market of nine members and Japan, will not bargain realistically about tariff and nontariff reductions unless they are convinced that the U.S. bargainers can deliver, namely that Congress will not rescind or fail to act on what our trade negotiators promise in the shape of tariff cuts, concessions, or elimination of our nontariff barriers. They know we will be tough. Europeans point to the fact that we undertook to eliminate the "American Selling Price"—ASP—principle on chemical and dye imports and in response would cut their tariffs on our chemicals by 30 percent. Since Congress did not eliminate ASP, the Europeans have not instituted their tariff cuts either and are still smoldering over it.

There are certain very powerful imperatives that will guide me in deciding what to do on the administration's new trade bill. These are:

First. We must export more—not only agricultural raw products but manufactured items to the industrialized as well as the lesser developed nations;

Second. We will have to restrict excessive and injurious imports, particularly if certain nations direct an unfairly large percentage of their exports to our markets without offsetting concessions. Here I insist that the Burke-Hartke import quota principle be discussed;

Third. Nontariff hindrances to our exports must be eliminated or at the very least, be drastically reduced in line with our concessions;

Fourth. Production by our multinational corporations overseas must be redirected to third markets. Their production should be prohibited as exports to our market. Why create jobs overseas at the expense of our laboring men here? There are strong claims that our multinational corporations create jobs here and abroad for Americans. All I know is that excessive imports are reducing our laboring force activity engaged in production and that the more production takes place overseas, to that extent adjustment assistance increases here;

Fifth. Much more adequate adjustment relief must be available than heretofore to our domestic industry and labor injured by excessive imports. Under the administration bill assistance to workers will be more easily given, but none to industry. Yet if the industry closes, the workers will suffer. I would prefer the Burke-Hartke procedures to help both industry and labor, but under more equitable conditions; and

Sixth. If Congress gives the President the flexible authority to raise or lower tariffs, even institute quotas, tax our multinationals, tax repatriated profits, and extend most-favored-nation treatment to the Communist-bloc countries, I would certainly want very specific safeguards.

What intrigues me about the new trade posture is the fact that so many features of the Burke-Hartke bill have been taken over and reworded in the new administration trade bill. But I will have more to say on the various topics.

Much more comprehensive than in any previous trade bill is the President's request for delegated authority to control, restrict, or enhance trade in the national interest. Congress is being asked to abdicate much of its authority of veto, of supervision, of advice, of control, of exacting responsibility, and so forth, to an administration that has not spelled out very accurately what it intends doing with the authority it requests. Here we must be very careful as to how the President is to use the new power.

Certainly many amendments will have to be offered; many of the provisions must be conditional so that concessions to other nations may be restricted or withdrawn unless they are reciprocal.

Amongst others I would like to see a proviso that the AFL–CIO set up a watchdog committee to check periodically whether any of our industries or labor unions are being hurt by excessive or low-cost imports. A specific "trigger" mechanism must be allowed for, so that when this trigger is tripped, labor can automatically demand quotas, tariffs, or other remedies within a specified period of time and not wait till the damage is irreparable.

On the congressional side I would certainly like to see a Joint Oversight Committee to check all trade concessions and whether they are beneficial to us when applied. This restraining hand by the elected representatives will assure discretion on the part of the administration and safeguard our national interest. This will also eliminate undue pressure by special interests on the President's trade office.

Some may think this latter proviso is unduly harsh, but let it be known that in the final analysis we in Congress must be responsive to the wishes of our electorate, and, also that there is as much brains and discretion in Congress as in a group of bureaucrats concerned with the national interest.

DECENNIAL CENSUS FIGURES AND THE APPORTIONMENT OF STATE LEGISLATURES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. Runnels) is recognized for 5 minutes.

Mr. RUNNELS. Mr. Speaker, today I have introduced legislation which would require the Bureau of Census, in tabulating the total population of each State during each decennial census, to make each State's tabulation according to a plan and form approved by the Governor of that State.

The Bureau currently breaks down its census figures for a State into what are called enumeration districts. These districts often do not coincide with political subdivisions in a State which are used as a means of apportioning the State legislature. The end result is that many States are not provided, by the decennial census, with precinct population figures with which to apportion the legislature.

The bill I have introduced today would solve this problem. It would allow the Governor of a State to approve a plan to be followed by the Census Bureau whereby the precincts of each county in the State would be tabulated for population in the decennial census. This plan would be submitted at least 2 years prior to the census date.

The following is the text of this bill:

H.R. 9290

A bill to amend title 13, United States Code, to provide for the transmittal to each of the several States, in accordance with a plan and form approved by the Governor thereof, of the tabulation of total population of that State obtained in each decennial census and required for the apportionment of the legislative bodies of that State

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 141 of title 13. United States Code, is amended by adding at the end thereof the following new subsections

"(c) The tabulation of total population by State as required for the apportionment of the legislative bodies of each State shall be completed within eight months after the census date and reported to the President of the United States for transmittal to the Governor of the State concerned.

"(d) The tabulation of total population by State for the apportionment of the legislative bodies of each State shall be made and reported by the Secretary in accordance with a plan and form approved by the Governor of the State being tabulated and reported. Such plan and form shall be submitted to the Secretary not later than two years before the census date. The respective form for reporting such tabulation need not be uniform.".

ENERGY CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. Thornton) is recognized for 5 minutes.

Mr. THORNTON. Mr. Speaker, on April 19, I made a speech in this Chamber in which I outlined the gravity of the energy crisis which our Nation faces. This was, as you may recall, the same day on which the President said there was no "energy crisis" and that voluntary reductions in energy consumption would be adequate to solve our Nation's problems.

Since that date an ever-increasing stream of letters has been received in my office from individuals who are personally affected by shortages of petroleum products including shortages in fuels which are needed for agricultural productivity.

We may call it a "crisis," a "crunch" or, merely a "shortage of fuels," but the juggling of labels no longer can hide the serious threat which shortages of supplies pose for us today.

At present, the United States is increasing its consumption of oil and gas at a rate of 4.6 percent per year. At the same time, our Nation's production of these fuels is actually diminishing at a rate of nearly 3 percent per year.

Statistics such as these show all too well that we cannot afford to minimize the danger of gasoline and oil deficits in a society as fuel dependent as ours. Nor can we afford the luxury of postponing action to meet this challenge on long, as well as short range terms.

The long term challenge is to develop alternate sources of energy before we run out of the oil, gas, and coal which now provide 95 percent of all our energy requirements. It is essential that we accelerate our efforts because it will require a tremendous expenditure of fossil fuel energy to develop and bring on the line nuclear, solar, geothermal, and other alternate sources, and a world that has exhausted its present energy sources will simply not be able to support the technology and massive effort required to construct such alternate sources.

But of more immediate concern are the shortages which we are experiencing today, and which will grow more severe during the next 3 years.

This short-term problem, while foreshadowing the day when resource shortages may hobble our efforts, is not so much a shortage of resources as it is the reflection of failure of our institutions to correctly apprehend and take needed action before a crisis develops.

There are today sufficient worldwide energy sources to meet our needs, but our ability to make these energy sources available for use—pipelines, tankers, new wells—are inadequate. As Michigan Public Service Commissioner William R. Ralls stated in testimony before a joint subcommittee meeting on July 10—

> Today there is in reality a shortage of deliverable resources, resources that have been developed to the point where we can use them as fuels.

Several factors have combined in causing the present crises, but the root of the causes has been an institutional failure. Our institutions of government, of production, and of commerce have marched to this brink, still confident of inexhaustible resources, and continuing to promote the attitude that the more energy we produce and consume, the better the quality of our lives.

If we are to correct our mistaken actions we must first realize that our energy sources are limited and that we must develop programs of energy conservation as a substitute for the wasteful and environmentally degrading policies of ever increasing energy use and waste.

Presently, according to Elmer F. Bennett, Deputy Director, Office of Emergency Preparedness, only 31 percent of the oil in the ground is being recovered, only 30 to 35 percent of the Btu content of that fuel is convertible into electric power, and after transmission losses, only 9 to 10 percent of the original Btu value of our oil reservoirs is delivered as usable electric power.

Similar examples of inefficiency and waste abound. A significant reduction in such energy waste could completely alleviate our current crisis. Reducing waste, however, is not simply a matter of turning off a few lights, or otherwise reducing use of energy consuming devices, though that may help reduce peak demands and may solve some problems on a day-by-day basis. Reducing waste to a significant degree requires additional expenditures, for such things as new technology to capture waste heat going up stacks, by substitution of more efficient engines with better emission characteristics for those now in general use, and by developing substitutes for faltering institutional policies which have led to reductions in exploration for oil and gas, indecision and inaction toward construction of refineries, and to unwise efforts to substitute less efficient energy consumption for more efficient and less wasteful utilization of our resources.

Our efforts, predicated upon a better understanding of the exhaustible nature of our energy sources, must be directed toward the development of a policy of wise use and conservation of these resources to improve our environment while continuing to provide energy which is essential for employment, transportation, food, and shelter for the people of our Nation.

In this perspective, we should next examine what steps are needed to provide solutions to our immediate crisis.

The Energy Subcommittee of the Committee on Science and Astronautics has been conducting extensive hearings on many aspects of this problem. As a result of these hearings, several facts have emerged.

First, the short-term crisis cannot be doubted. Our usage of refined petroleum products—gasoline, fuel oil, and diesel fuel—is greater than the entire refinery capacity of plants now in existence in the United States, and new plants cannot be completed during the next 2 years because it takes 2 to 3 years to build a refinery.

The question follows: How do we make

up the deficit, or short fall, of petroleum products? Three methods are available:

First. Import more refined products—but world refinery capacity is also inadequate;

Second. Reconvert plants which have been switched to burning oil back to coal burning plants—but this has environmental complications; or

Third. Reduce consumption of oil products—but this calls into question what priorities shall be established in order to minimize the effect of such shortages upon productivity and employment levels.

Frankly, all these methods will have to be used and balanced to minimize dislocations and hardships while other measures are developed. These steps include:

First. Immediate commencement of refinery construction programs

Second. Acceleration of nuclear plant construction; and

Third. Early development of means to bring the North Slope Alaskan oil to the lower 48 States.

In the longer term we must accelerate programs of research and development for such things as: oil shale development; coal liquefaction and gasification; solar energy; geothermal and other dilute energy sources; continued development of fusion and fast breeder reactor technology; development of more efficient energy systems for generation of electricity; and continued research and development of long-term power generation systems, such as magnetohydrodynamic and thermionic conversion.

In the meantime attention must be given to the question of establishing priorities for use of fuels whenever shortages develop which threaten productivity and employment levels.

In this regard it seems to me that what is needed is authority to establish end-use priorities for fuels which are short in supply. If such priorities can be established by voluntary programs under guidelines which are developed nationally, such programs would be most desirable. This alternative of voluntary action should be kept open in any legislation which the Congress may enact.

My own concern is that essential industry, commerce, employment and agricultural productivity must not suffer as a result of the shortages which now exist. I am less concerned with establishing a governmental organization to control the market process by means of which petroleum products reach the ultimate user than I am with providing Government leadership to ensure that those whose use of fuels affects the well being of our economy be assured of an adequate supply.

Hindsight is a gift with which we all are blessed. We have made a serious mistake in neglecting our need to encourage research which would lead to the discovery of new forms of fuel, and a more serious mistake in continuing to assume that present energy sources will remain inexhaustible. This is a costly mistake but it is one which can be corrected.

By using present fuel supplies more sparingly, consuming them more efficiently and giving high priority to the development of alternative energy supplies, we can hopefully come to grips with this "crisis"—"crunch" or "shortage of fuels"—and work to insure that our Nation has adequate fuel supplies for the decades which lie ahead.

BILL TO LIMIT POLITICAL INFLUENCE ON OFFICE OF ATTORNEY GENERAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I am introducing today legislation designed to limit political influence on the office of Attorney General.

Under this legislation, any person who, in the 2 preceding years, had taken an active part in managing a Presidential campaign, would be barred from serving as Attorney General.

After stepping down as Attorney General, a person would be barred for 2 years from soliciting or receiving contributions for a Presidential campaign and from taking an active part in managing that campaign.

The legislation is intended as a safeguard, to lessen the chances that political considerations will shape any of the policy decisions of the Nation's chief law enforcement officer.

Without dwelling on the lurid details of the disclosures of recent months, I must say that I found particularly saddening—and revealing—this week's testimony of former Attorney General John Mitchell. His statements demonstrated that the political influences in the Department of Justice have become too powerful and must be controlled.

If the Congress does not act to implement such controls, it will only strengthen the convictions of too many Americans that the use of law-enforcement facilities for partisan political purposes is the rule rather than the exception.

In this regard I recall that over a decade ago when the late President John F. Kennedy appointed his brother Robert F. Kennedy as Attorney General, some members of the bar expressed doubts about the wisdom of that appointment because Robert Kennedy's appointment came in the wake of his vigorous performance as campaign manager for his brother. Under the present administration, a similar policy was pursued with respect to former Attorney General John Mitchell, who served as a campaign manager and political fundraiser both immediately before and immediately after his tenure as Attorney General.

In recent years there has been a growing tendency for our Nation's top law-enforcement officers to view themselves as the Attorney General of the President and of the President's political party. This tendency is a dangerous one.

We in Congress have a responsibility to take swift and effective steps to remove the Department of Justice from politics—and to remove politics from the Department of Justice. For clearly the head of the Justice Department should be above politics and, as his title suggests, should view himself as the Attorney General of the entire United States.

NATO: NEITHER OUTMODED NOR SACROSANCT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. Fraser) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, I am concerned that the United States view its role in NATO in the proper perspective. We must be careful not to downplay its political significance as we reevaluate our overseas commitments in the post-Vietnam era. But we also must not view it as an organization free of faults. In short, NATO should be regarded as neither outmoded nor sacrosanct.

Last week, I had the privilege of appearing before the Subcommittee on Europe of the Committee on Foreign Affairs, to discuss NATO. I was appearing in two capacities—as a member of the Committee on Foreign Affairs and as National Chairman of Americans for Democratic Action.

At the national convention of Americans for Democratic Action, held in May, a resolution was adopted concerning our policy in Europe. By a close vote the convention specifically rejected unilateral withdrawal of U.S. forces in Europe at this time. I ask that a copy of this resolution be printed in the Record at the conclusion of my remarks.

It would be a mistaken conclusion that ADA is satisfied with the present status of NATO. ADA shares the concern of many Americans about the continued presence within NATO of Greece under an illegal, authoritarian rule. I believe it is fair to say that our ADA members would like to eliminate unneeded manpower in Europe either as a result of streamlining our forces or through cuts agreed upon within NATO. But ADA believes that the concept of collective security through an alliance with democratic nations is important to protect and promote the values of individual liberty and the rule of law. A NATO which is modernized both in military and political terms would carry out this objective.

What follows is an elaboration of my own views on NATO, as presented to the Subcommittee on Europe last week.

Although I was an early critic of U.S. policy in Vietnam and do not object to being described as a "dove" on military matters, I have concluded that the United States should not unilaterally withdraw its troops from Europe.

The military and financial issues frequently raised in the debate over troop withdrawal are not to me the vital issues. The chief justification for leaving our troops in Europe is, I believe, political. Retention of the troops is a necessary element to the success of West German ostpolitik and political-security negotiations in Europe. A unilateral decision to pull our troops out now would mean pulling the rug out from under Chancellor Willy Brandt's ostpolitik efforts for normalizing West Germany's relations with Eastern Europe. And, since

Brandt's ostpolitik is the forerunner of our own present détente with the Soviet Union, I fear that a unilateral withdrawal of U.S. troops now would endanger detente by upsetting the present balance in Europe.

I also fear that a unilateral U.S. withdrawal at this time would unnecessarily weaken our position in three current negotiations of the highest importance: the mutual and balanced force reductions—the so-called MBFR; the Conference on European Security and Cooperation—CESC; and the Strategic Arms Limitation Talks—SALT II. Withdrawal now could also panic the European economic community, the nine nations which finally are forming a workable nucleus for a united Europe.

In view of this country's history of frequent over-reaction to international phenomena, I fear we are about to overreact once again. This time, the deep scars from our involvement in Vietnam may cause an indiscriminate pulling back just as disillusionment with World War I led to the tragic isolationism of the 1920's and 1930's. Such a recoil to our own borders would compromise the security of both Western Europe and the United States at a time when the prospects for security and political stability between East and West are perhaps brighter than ever before. After two World Wars which started in Europe, surely we have learned that Europe is our first line of essential defense. Peace and prosperity there immediately affect us.

The Europeans realize this. In numerous talks with European parliamentarians, I have yet to find one of any party or political persuasion who urges the United States to take its troops home.

Chancellor Brandt, in discussing the forthcoming MBFR negotiations in a signed article in the New York Times this past April 29, declared:

> Withdrawal by the United States would threaten the substance of the negotiations. . . . Indeed, America's presence in Europe is also a prerequisite to the political presence of the United States at the conference table in Vienna (MBFR) and Helsinski (ESC). Without the United States, there can be no realistic negotiations on European security and cooperation—a fact which is now also accepted by the Soviet Union.

A German poll in 1970 found 70 percent of the Bundeswehr soldiers thought their country, in the absence of U.S. troops, would be overrun in the event of aggression from the East. Of the general German public, 66 percent were so persuaded.

Even French President de Gaulle, who removed his troops from their NATO commitment and evicted NATO headquarters from Paris, nonetheless insisted that the United States keep its troops in Europe for his country's security. His successor, President Pompidou, concluded his recent meeting with President Nixon in Iceland by having his spokesman cite the "great importance of maintaining U.S. forces in Europe at their present level." France, like all of Western Europe, is apprehensive that the United States might deal over its head and make its own bilateral accommodation with the Soviet Union. The MBFR discussions, for example, are viewed with alarm lest they result in a Soviet-American deal.

There currently are about 310,000 U.S. Army, Navy, and Air Force contingents in Western Europe committed to the NATO defense; about 195,000 of these are ground forces in West Germany, and a total of 220,000 ground and air. Matched against this, West Germany itself has a total force of 467,000 of which 315,000 are army. Other allied forces now in Germany include: 55,000 British, 50,000 French—not committed to NATO defense, 25,000 Belgian, and 3,000 each from Canada and the Netherlands.

Aside from our own then, the only real forces in West Germany—whose soil is the front line and the main cause for defense concern vis-a-vis the East—are those of West Germany itself. Should there then be more West Germans to defend their own land so that the Americans can go home? When West Germany joined the old Western European Union in 1954, it agreed to limit its military to 12 divisions, just a little over the 467,000 it now has. Its neighbors' World War II memories persist. Perhaps Western Europe could persuade itself to look the other way at an augmented German army—because no other country could fill the breach. But the Soviet Union and the Warsaw Pact allies, despite ostpolitik, also have grim memories of their own experiences with Hitler and centuries of warfare with the Germans.

It is more likely that, should the United States withdraw its troops, there would be no one to step in and fill the breach. There might be an attempt at organizing a European nuclear force, but with Western European unity as tenuous as it is, chances for success would be minimal. With U.S. forces withdrawn, Western Europeans fear Germany may then revert to its historical role of Middle European independent perhaps becoming the leader of a neutral bloc. Then, the reasoning goes, ostpolitik no longer will be good enough for German security, and any German Chancellor would feel compelled to make an accommodation with the most powerful force in Europe, the Soviet Union. This could set into motion the "Finlandization" of Western Europe, in which all Europe would beat a path to Moscow for some form of self-survival accommodation, as Finland did in order to avoid becoming a Latvia, Estonia, or Lithuania.

Even if there is little likelihood of Western Europe itself replacing American troops after a withdrawal, the question remains whether or not any replacement would be necessary, given the U.S. nuclear guarantee.

The Europeans insist that for a nuclear backup to be "credible" it must have conventional forces to employ as the lesser deterrent if the aggressor moves in slowly. Former Secretary of State Dean Rusk used to refer to this as "wriggle room"—the use of conventional forces for the first few days after an attack to provide parlaying time to allow a settlement before resorting to nuclear weapons. In the absence of conventional forces, an enemy might calculate that the United states, loath to respond with nuclears, might be muscle-bound and unable to respond at all.

An attack on Western Europe seems to me unlikely with or without the presence of American troops. But our European friends, faced with a still uneasy East-West coexistence on the continent, and Warsaw Pact forces at their doorstep, do not feel as confident. A leading European Ambassador in Washington has put it this way:

> We want your troops because we want your security guarantee.

The implication was that once the troops were withdrawn, the 7,000 U.S. nuclear warheads positioned around Europe might go too. I am attaching a brief statement by Andre Beaufre, former general of the French army, which succinctly sets forth this European view, which I request be made part of the RECORD. This statement appeared last Monday in the New York Times.

Does this mean U.S. troops are to stay in Europe indefinitely? Some European leaders contend that Europe's fate will always be in the hands of the two superpowers, and that since one of them, the Soviet Union, is tied to Europe by geography, the other, the United States, must be present to provide a counterbalance. They also say that Europe, for the foreseeable future, has no leader of continental stature so that American leadership, with all its shortcomings, must coordinate the joint defense.

When Chancellor Brandt was asked by the press, during his recent Washington visit, when the U.S. troops could come home, he replied:

> I wouldn't be serious if I mentioned a specific year . . . How long and how much a country like the United States is engaged abroad depends upon . . . the East-West relations . . . It also will depend upon whether or not the U.S. will take care of its own interests in the very important part of the world which is called Europe.

I am not so pessimistic. The substantive part of the MBFR talk is set to begin in Vienna this fall. Observation of recent Soviet diplomacy and a visit to the Soviet Union last December gave me hope that the Kremlin has indeed made a decision for serious negotiations on troop cutbacks.

Yet, there is no guarantee that the MBFR talks will succeed. Chancellor Brandt thinks it will take 2 years to know and warns against "any blue-eyed idealism." But even if MBFR does fail, it is not unreasonable to hope for the day, perhaps 5 or 6 years off, when Brandt, or some other Chancellor, could feel sufficiently assured of West Germany's own security in a more integrated and relaxed Europe to say that U.S. troops no longer are necessary. At this stage, however, timing is to the essence and the present moment is politically a most inopportune time for unilateral troop withdrawals.

In stressing that U.S. troops be retained in Europe at this time, I am certainly not suggesting that we should regard the present organization of NATO as sanctified. A NATO with troop strength maintained at the right level to provide the political stability necessary for continued easing of East-West tensions in Europe is essential, but what kind of NATO do we want beyond one which satisfies this condition? I believe NATO must be thoroughly democratic, militarily rational and internally cooperative.

I

A democratic NATO would be one whose member nations actually practice the democratic way of life that the alliance was founded to defend. They should be required simply to live up to the obligations freely accepted when they subscribed to the NATO Charter; namely, "safeguard the freedom, common heritage, and civilization of their people founded on the principles of democracy, individual liberty, and the rule of law" and "contribute toward the further development of peaceful and friendly international regulations by strengthening their free institution."

By no stretch of the imagination is Greece under its present government thereby qualified for NATO membership. The military autocrats who rule that country openly flaunt democracy and show contempt for those who question its authoritarianism. When their allies express concern about this obvious corruption of the NATO democratic structure, the Greek leaders say that their policies are justified in order to somehow protect democracy while the alleged "emergency" exists in the country, but their actions belie such assurances. Apologists for the regime, including—to an extent—the U.S. Government, seem satisfied that the internal situation in Greece is not really all that bad and that Greece's strategic importance makes its continued participation in NATO essential. Even if one ignores Greece's rejection of democracy and accepts the apologists' contention, there is now evidence that the Papadopolous regime has politicized the Greek military organization to the point that its credibility is in serious doubt for purposes other than repression of the citizenry.

There is no justification for full NATO membership for a country which is both antidemocratic and incapable of making a significant and dependable military contribution to the alliance. Western Europe has had the good sense to force Greece out of the Council of Europe; yet it remains in NATO. Persistent American patronage of Greece has stifled considerable Europe support for ousting Greece—a demonstration of the extent to which our Government is out of step with European thinking on this subject. The United States should take the initiative in getting NATO to explore procedures for the suspension of Greece until parliamentary democracy is restored. Hopefully, movement toward suspension might have some constructive effect on the Greek leaders. But in any event, today's Greece has no place in NATO.

The membership of Portugal, too, raises serious questions. It is authoritarian and has been since it first joined NATO, and its effort to defend its African territories consumes the major share of its defense budget. Here again the United States, with its intimate bilateral military ties with Portugal, should take the intiative. And the United States should abandon its advocacy of Spanish membership in NATO, which fortunately has so far been overruled by a majority of NATO partners.

The arguments for confining NATO to democratic governments are buttressed by an important political fact of life. Concerned young people in Western Europe and the United States will never enthusiastically support NATO unless they are convinced that it is fundamentally an instrument for the defense of individual liberty. These are conscientious people to whom the Iron Curtain is only a term out of a history book, and who play no favorites in denouncing the suppression of human rights whether from the left or the right. Traditional anticommunism is at best irrelevant to them. They expect all governments to protect the rights of citizens and are especially suspicious of politicians who say one thing and do another. With no recollection of the dark days of the cold war, they look forward into the future, not backward. A military alliance with Greece, Portugal, or Spain is to them as devoid of long-range constructive content as one with South Vietnam, and as coldly expedient as the cynical Hitler-Stalin Pact of 1939.

Continued U.S. participation in a NATO which is actively identified with the democratic beliefs and traditions of Americans, Canadians, and Europeans would stand in sharp and welcome contrast to the past policy of the United States of unilaterally intervening in Southeast Asia on behalf of a corrupt and feudal regime.

II

A militarily rational NATO would be one in which, from a strategic standpoint, the right forces were deployed in the right places. For example, I have heard arguments from European strategists and politicians in favor of greater concentration of NATO forces near the areas of currently significant Soviet military activity, and greatest likely threat. This would involve moving some ground forces from Southern Germany to the North German plain—a more likely invasion route from the east. Soviet naval movements in NATO's flank areas around Norway and in the Mediterranean are cited in favor of more NATO air and sea units in the extreme north and south, perhaps justifying a corresponding reduction in ground forces stationed in Germany.

Good arguments can also be made to cut out some of the "fat" in American command and logistical support personnel in Europe for the sake of improved efficiency. I am intrigued to learn that we have some 134 generals and admirals there now, a proportionately larger number than at the height of World War II. This top-heaviness, I am told, is chronic among NATO members, creating a moribund military bureaucracy in Brussels and other command centers.

NATO should collectively work toward a leaner military presence—one which is constantly evaluated in the light of changing military and political conditions. Any reduction in U.S. force levels resulting from a more hard-headed appraisal would indeed be welcome—and the United States should not hesitate to push vigorously for such a result.

III

An internally cooperative NATO would be one in which all members would not only feel equally benefited by the alliance, but also equally responsible for maintaining it—burden sharing, in other words. I refer specifically to financial burden sharing. In order to sustain maximum benefit for all, each ally has a responsibility to help if the payments drain is unacceptably high for any other member. The U.S. contribution results in a serious balance-of-payments drain on our economy resulting from the expenditure of dollars for and by our forces located in Europe.

It is my conviction that a NATO-wide cooperative effort is the only fair way to alleviate the $2 billion deficit in the net U.S. balance of payments. It is not enough for NATO members to say that the problem is a bilateral one between the United States and West Germany; although that is where the drain is most severe, it is every member's problem as long as it creates major economic problems for another member.

The problem must be multilateralized by establishing some kind of fund to which all would contribute in order to compensate those members whose balance-of-payments deficit increases beyond a certain percentage as a direct result of NATO participation. While there are plenty of proposals of this type, none will exist on the part of the Europeans to implement them.

I have argued here today for avoiding unilateral cuts in U.S. troop levels in Europe as an American who believes his country's national interest in European stability and progress is of the highest order. But gratuitous American concern is self-defeating if Western Europeans do not have a corresponding view of their own interests. The real test of NATO's future viability may come when the Europeans finally face up to whether or not the security they themselves regard as necessary for continued détente is worth digging a little deeper into their pockets. I believe our Government should put the question in just those terms. The American taxpayer, after digging deeply for a long time, has found two holes in the bottom of his pocket called dollar devaluation and balance-of-payments deficit.

The NATO required for the post-cold war period must be finely tuned to the waves of East-West political change, thoroughly democratic, militarily rational and internally cooperative. It must be all these things or history may ultimately view it as a cold war relic which outlived its usefulness.

I include the following:

RESOLUTION ADOPTED AT CONVENTION OF AMERICANS FOR DEMOCRATIC ACTION, MAY 1973

EUROPE

The situation in Europe is too complex to permit simple and complete remedies for current economic, political and social problems. However, ADA urges that the United States demonstrate a determination to find imaginative and innovative ways to decrease military tensions and to expand the human freedoms necessary to achieve a democratic world.

More specifically, the main goals of U.S. policy in Europe should be (1) promoting measures to increase political confidence and stability, (2) improving East-West understanding through exchange of information and increased communication between peoples, (3) lowering military tensions and force levels, and (4) encouraging additional freedoms for all the peoples of Europe.

Americans for Democratic Action proposes:

1. While the West European nations now should be asked to assume a larger share in the manpower and financial costs of their mutual defense, which should lead to reduction in U.S. troops in Europe, the common goals of Europe and America would be jeopardized by any weakening of its defense posture prior to the successful conclusions of Mutual and Balanced Force Reductions negotiations.

2. The United States should support Chancellor Willy Brandt's efforts to eliminate those tensions which result from mutual Soviet-German fears. Similarly, we should negotiate to bring about a further reduction of military tension through Mutual and Balanced Force Reductions.

3. In the Helsinki conference on "security and cooperation," the United States should seek to achieve the ending of restrictions on freedom of movement by all countries.

4. The United States also should join with its allies to urge inclusion in the conference's final declaration language prohibiting by any signatory country any interference, by armed forces or other means, in the internal affairs of any other country.

5. The conference also should adopt a resolution urging the free flow of information.

Finally, ADA believes that the restructuring of the Atlantic Alliance on a more equitable basis should lead to increased social and economic cooperation between the United States and Europe, but warns that differences among the developed nations of the alliance should not be resolved at the expense of the developing countries of the world.

[From the New York Times, July 9, 1973]

THE DANGER OF SAYING GOODBY

(By Andre Beaufre)

PARIS.—Europe is far from being safe today. Not because of an imminent or possible military aggression from the East, of which nobody believes at present, but because of the fading away of the American nuclear protection, due to nuclear parity with the Soviets and to SALT agreements. Also, the complete imbalance of military conventional forces in Europe, where a tightly integrated Warsaw Pact has twice as many divisions and planes, three times more tanks, than a more loosely united NATO, contributes to this unease. Moreover, NATO's main pillar, the U.S., seems to doubt her role for the defense of Europe and to hesitate to commit to it her considerable tactical nuclear weaponry which represented in the nineteen-fifties a formidable regional deterrence.

This situation is utterly dangerous. It gives to the East an overwhelming political weight which may well cause a progressive sliding of Western Europe under Soviet influence, where the Communist parties are still strong and active. It could also allow the U.S.S.R. to take advantage of internal difficulties of its Western neighbors such as Yugoslavia. A proper military and political balance must be restored in Europe between East and West and if possible a stable, mutual deterrence.

This is especially dangerous at a time when Western Europe is trying, with great difficulty, to build its unity. The U.S.S.R. wants to prevent this unity to go further than an economic construction. External pressures and internal turmoil may well be combined to achieve a gradual Finlandization of Western Europe. This is a danger for the 250 million Europeans. Their industrial might, superior to the Soviet's, and their technical skill, would give the U.S.S.R. a crushing superiority over the United States. This is to be avoided at all costs by building up a strong Europe linked both with the U.S. and the U.S.S.R. in a proper balance.

American public opinion is not aware of what is at stake. Frustrated by Vietnam, shocked by the dollar crisis, she would tend to reduce drastically the military commitments in Europe, and on minor premises, she is now willing to open an economic confrontation with Europe. Both measures would help the Soviet policy, at a time when Europe is still too young and uncoordinated and very easily divided.

I think that the American interest is primarily to help and protect the building up of Western Europe, and then—and only then—to withdraw substantially its military establishment in Europe. I think that the American interest is not to wage an economic war with the E.E.C., which would certainly divide the European partners and push some of them into the Soviet's arms and others under a U.S. protectorate. It is true that the recent and considerable economic agreements between the U.S. and U.S.S.R. constitute a strong solidarity which might be a new form of deterrence. But it is a reciprocal deterrence too, and it is an encouragement for the Europeans to slide to the East. This encouragement would be confirmed by a substantial U.S. military withdrawal from Europe which would certainly ruin the European confidence.

It is not true, as it is widely believed in the U.S., that the American Government shoulders a major portion of the defense burden in Europe. Far from it. The U.S. provides five divisions of more than 60 and the U.S. military expenditure for Europe is much less than that of the NATO countries (including France). This is the real situation. That is why there is not much benefit to expect from a hasty withdrawal.

Of course, that does not mean that adjustments are impossible in the American force posture in Europe. But one must be aware that this is a political problem of a primary importance. More important than numbers is the way things are done and their psychological influence on the Europeans and the Soviets. From this point of view, the stock of tactical nuclear weapons is paramount, such as is the American attitude toward Europe at this critical age, its political union still in question, and very far from any significant might.

Europe is a considerable political and strategic asset. Do not let some immediate and secondary problems lead us to forget this basic assessment.

THE "PAUL P. RAO U.S. CUSTOMS COURT AND FEDERAL OFFICE BUILDING"

(Mr. ROONEY of New York asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROONEY of New York. Mr. Speaker, it is indeed a pleasure for me to take the floor this day, for in all my years in the Congress seldom have I had a more pleasant task to perform. Today I have introduced legislation that would change the name of the Federal office building at 1 Federal Plaza in Manhattan, New York City, to "The Paul P. Rao United States Customs Court and Federal Office Building."

It is indeed right and just, proper and fitting that we should undertake the task of naming this modern building for Judge Rao for if it had not been for his untiring efforts this magnificent new building might never have been built. It is indeed the hallmark of the man and his life that he saw the need for such a new structure and then went about the long and arduous work needed to see that the building indeed became a reality.

It was, Mr. Speaker, a pleasure to have worked closely with Chief Judge Rao in the many phases that were needed before the new customs court could be built. For over two decades we worked closely together to see that the new building came into being. Once we had succeeded it was my great pleasure to have joined with Chief Judge Rao, the Honorable Tom C. Clark, the Honorable Warren E. Burger, His Eminence Terence Cardinal Cooke and many other distinguished guests in dedicating this most magnificent of buildings.

Though however magnificent a building it is, it is still only stone and mortar. Its life comes from those who occupy it and who serve the needs of the people and the law. Judge Rao, throughout his life both public and private, has served his people, his law and his conscience in a manner that has reflected great respect, credit and pride on himself and the law he loves so much.

The judge's love of the law and his ability to understand it has been well known to all those who have known him. His understanding reminds me of the story of Saint Thomas Moore. When this great man became Chancellor of England, he was counseled by unscrupulous advisers to arrest several powerful men who opposed him. When Saint Thomas questioned on what grounds the arrests were to be made he was advised that he did not need any since he was Chancellor. The great man cautioned them that the law was not unlike the grass and the trees that held the soil in place even in times of great storms. The law, he continued, was there to hold society together even in time of great turmoil and adversity. If it were not, society could not long endure. Judge Rao has understood that role of law in society and has triumphantly guarded the statutes so that when turmoil does come the laws are rooted firm in the hearts of the people and society survives and prospers.

For over three decades now the judge has stood guard over the law, first as an Assistant U.S. Attorney General and later as both judge and chief judge of the U.S. Customs Court. In recognition of his dedication to both the law of man and the law of God, he was invested as a Knight of Malta at Saint Patrick's Cathedral in 1962. Further recognition came to him in 1971 when he was awarded an honorary degree of doctor of laws by Manhattan College.

Mr. Speaker, the finest testament we can give to Judge Rao is to place his name on this building as a lasting symbol of appreciation for a man who has given so much of himself to the task of preserving the rule of law in this great country of ours.

THE MILITARY MAW—PART IV

(Mrs. SCHROEDER asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, as I have noted for the past 3 days, the military procurement authorization bill, H.R. 6722, on which we will be voting soon, is bloated with fat. There are many programs contained within this legislation that are unwise, unwarranted and even unwanted.

Of particular interest to me today is the request for $79 million for long lead construction of two DLG(N) nuclear-powered guided missile frigates. I do not believe that the construction of these vessels is necessary. Indeed, they are a colossal waste of money. Within the next 2 years we will have to appropriate almost one-half billion dollars to complete these frigates.

The two nuclear-powered guided missile frigates will make a total of 10. What the Navy does not tell us, however, is that it will eventually ask for 12 nuclear powered frigates, four each to protect our three nuclear carriers. If the CVAN–70 is built, then the Navy will ask for a total of 16.

At an average cost of $250 million each, we are talking here of eventually committing ourselves to a possible expenditure of $2.2 billion. I am one who is convinced that the Navy can prosper and flourish with the 35 frigates it has or will have. Obviously, these two additional ships are not vital to our national defense at this time or in the foreseeable future.

The request for these two ships came from Admiral Rickover and was made at the last moment. In fact, the House Armed Services Committee, of which I am a member, witnessed the rare spectacle of factions within the Navy arguing in public over the merits, and lack of them, of these two ships.

If we allow this authorization to go through on such short notice, with such little debate, with no strong military justification, and with a total one-half billion dollar compulsory finished cost, it will illustrate once more Congress willingness to prostrate itself before the Pentagon, no matter how frivolous the latter's request.

RENT-A-COW PROGRAM BENEFITS FARMER

(Mr. ALBERT (at the request of Mr. Sarbanes) was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ALBERT. Mr. Speaker, the Ada Sunday News, Ada, Okla., recently carried a refreshing story by Art Cox concerning the operation of the unique "rent-a-cow" program in southeastern Oklahoma. The result of extensive dedicated effort by the Indian Nations Community Action Center under the direction of Mr. Jess Hamilton, this special program offers the twin advantages of providing a needed and valuable service to the underprivileged and at the same time maintaining an operating profit. To express my delight with this report of a truly beneficial and effective Government service, I request the attention of my colleagues to the following article:

[From the Ada (Okla.) Sunday News, July 1, 1973]

Government Rent-A-Cow Program Gives Farmers Added Income

(By Art Cox)

Tishomingo.—A government agency showing a profit is about as unlikely as a government agency renting cows.

But the Indian Nations Community Action Center here is doing both.

The agency, financed by the Office of Economic Opportunity, began its unique rent-a-cow program three years ago in Johnson County.

The center rents cows to families in the $1,000 to $3,000 range, the official poverty level set by the federal government.

"It's designed as an income supplement program only," Jess Hamilton, director of the center, said. "Most farm families work at another job in rural areas. And it's always at common labor.

"With this plan, it will produce an additional income of from $500 to $1,000 a year for each family. It gives poor families something they can call their own."

Farmers can rent the animals for three years. He is charged $25 for every calf the cow produces. The bill becomes due either at weaning time or when a calf weighs 500 pounds.

The fee is collected so the agency can buy more animals, but Hamilton said payment can be stretched out over several months, if the family can't pay the $25 in a lump sum.

Fourteen families in Murray, Garvin, Atoka, Johnston and Marshall counties are enrolled in the rent-a-cow program.

Hamilton said his agency places from one to 10 cows on each farm. The farmer must provide shelter and feed for the animal, but that's all it costs him.

The center pays all medical expenses for the cows. Each animal is checked once a week for disease. If the cow dies and the farmer is not at fault, the center takes the loss.

After a calf is born, the farmer can either sell, slaughter or keep it to build his own herd.

Hamilton said the self-help program is on healthy financial ground now. His agency owns 84 animals and showns a paper profit of $10,000.

"We bought them on an average of $204 a cow and now, you will pay $300 for any type cow. That leaves us with a profit of about $10,000," Hamilton said.

"This is not counting 90 calves born since the program began."

Through the years, Hamilton has replaced 10 cows with rent money.

When Hamilton first had the idea early in 1971 he thought it was so good he applied for a $500,000 OEO grant. But the OEO didn't see it in the same bright light.

At first the OEO refused the grant entirely, but Hamilton persisted. Finally, the center obtained $10,000 through the discretionary fund of the OEO.

With the $10,000, Hamilton bought 39 animals and started his project in Johnston County.

He was so successful that the state OEO came through with another $10,000 in October. Hamilton added another 49 cows.

The center expanded its rent-a-cow idea to Marshall County in 1972. The addition of another $4,000 enabled the center to add Atoka, Garvin and Murray counties in 1973.

The idea is catching fire across the nation, Hamilton said.

In Wisconsin, a pilot program was started by the OEO office to rent sheep to poverty-level farmers. Cows are also rented on the Bureau of Indian Affairs Native American Training and Educational Farm, near McCloud.

"The idea is catching on," Hamilton said. "This way we can help the farmers without giving them welfare. Look at it this way—this farmer has 40 acres he's not doing anything with. He can't afford to buy cattle to breed them.

"And from 5 to 8 p.m. he's not doing anything anyway. But if he takes part in this program, he eventually may have a herd of 50 cows or more," Hamilton said.

One of the first farmers to rent cows from the agency was Ottis Kinsey, who lives on a 240-acre farm about five miles outside Tishomingo.

Kinsey, 55, once worked in the oilfield as a mechanic. He returned to his farm about three years ago because of failing health.

In 1971, the agency rented 10 cows to him.

"It's been a lifesaver for me," he said. "I've got eight heifers and I've sold four or five bulls. But without the rented cows . . . it's just like being caught in the rain. You got no shelter unless you got some kind of extra money coming in.

"And I had plenty of years on me, but no money for cows."

Kinsey's rented cows will be returned to the center in six months, to be used by another family.

"Kinsey was fortunate," said the center's field representative, Bill Buck. "We're swamped with applications now. We have 40 or 50 families who would like to get in on this program, but can't because we don't have the cows to give them."

Buck who buys cows for the center, also advises the farmers on feed and protein for the cattle.

Hamilton said he doesn't expect any additional money to come from OEO in the future, but he is exploring other revenue sources.

"I would like to see the program expanded. We need it. We're serving five counties now, but not well enough."

What about the future of the program?

"It will always be here in one way or another," Hamilton said. "It's done too many good things to be scrapped."

STATE DEPARTMENT PROVIDES MORE INFORMATION ON PIPELINE ISSUE

(Mr. MELCHER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MELCHER. Mr. Speaker, on June 30, I placed in the Congressional Record two letters from the State Department responding to questions I had posed about the Canadian position on a pipeline route across Canada. They appear on 22649 and 22650.

In the initial letter, the Department reported that:

> Our most recent inquiries and remarks by Canadian officials give no cause to change our view that the Canadian government has no strong current interest in the construction of a Mackenzie Valley oil pipeline.

The second letter was a more detailed discussion of Native claims as they relate to a pipeline project.

Now I have received a third letter from the Department which gives more detailed written responses to questions which the U.S. Embassy in Ottawa posed to Canadian officials.

In view of the importance of the proposed trans-Alaska pipeline, I am including here the text of the third Department letter as well as the questions and answers they supplied.

The letter and additional material follow:

DEPARTMENT OF STATE,
Washington, D.C., July 7, 1973.
Hon. JOHN MELCHER,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, House of Representatives, V'ashington, D.C.

DEAR MR. CHAIRMAN: You will recall that my letters of June 22 and 27 responded to your request of June 1 that we undertake renewed discussions with Canadian authorities concerning the possible construction of an oil pipeline from northern Alaska through Canada. On instructions from the Department, our Embassy in Ottawa did undertake such discussions and reported on them to the Department by cable. The Embassy's cabled report provided the basis for the views set forth in my letters of June 22 and 27.

In carrying out the Department's instructions, the Embassy posed a number of specific questions to Canadian officials. We have now received from the Embassy detailed written responses to these questions prepared by the appropriate Canadian officials. They set forth in more detail matters which were summarized in my letters to you. I enclose the text of these Canadian responses as of possible interest to you. I believe they bear out our judgment that an oil pipeline through Canada does not offer an alternative to the Alaskan route in terms of the time frame which circumstances require.

We have also just received the text of a speech made on June 20 by the Canadian Minister of Energy, Mines and Resources in which he outlines in some detail the complexity and magnitude of the questions the Canadian Government would have to face in considering a possible Mackenzie Valley oil pipeline. I believe this latest statement further confirms the position we have taken. I enclose a copy of the text.

Sincerely,
MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

Q. What is the current status of relevant Canadian environmental studies? What is the expected date of their completion?

A. The Government's environmental social program calls for the publication, as they become available, of 121 reports on all phases of environmental and social concern as related to northern pipelines; of these 39 reports have already been published by Government and an additional 16 by others. It is expected that the complete material thus assembled will place the government in position to adequately assess an application for a pipeline by the end of this year.

Industry has indicated that they expect to file an application for a gas pipeline at the end of 1973 or shortly thereafter.

Q. What is the status of consideration of native claims? What is the expectation as to time required for their settlement?

A. The Indians of the Mackenzie Valley are signatories to Treaties 8 and 11. The Government's obligation under these Treaties has as yet not been fully met; the Government has affirmed that it will meet these obligations and toward this end has offered to set aside the necessary lands. However, recent indications are that the NWT Indian Brotherhood is preparing to advance claims over and above that specified by Treaty. In this respect, the Brotherhood has attempted to file a caveat to protect lands they deem to be covered under the Treaties. The matter is now before the Territorial Courts. The Government has accordingly presented its case, alleging that the caveat by its nature is not registerable. It is expected that the resolution of this specific issue will take a number of months. Although the caveat, if registered, would not apply to mining and oil rights, it could affect the granting of a pipeline right-of-way. At the moment it is not clear how and within what time frame this matter could be resolved, should the problem arise.

In the Yukon Territory no treaties are in effect. The Government is, however, in the process of negotiating native claims (Indian and Metis) and indications are that a settlement could possibly be reached there within the next two years.

Depending on the route chosen, the pipeline could pass through areas of the Mackenzie Delta where the Inuit (Eskimos) may have certain land claims. These have not as yet been fully defined and the Government has made available funds to the Inuit Tapirisat for further research.

In summary, indications are that settlement in the Yukon could be achieved within approximately two years, during which time the application could be heard and construction commenced. The situation regarding the Native Brotherhood in the NWT is not yet sufficiently clear to allow a precise statement; and considerable research must still be carried out before Inuit claims become fully defined and therefore negotiable. It is the Government's intention to proceed with northern development in the best interests of Canada, as a whole, but at the same time the Government is determined to ensure the just settlement of native claims.

Q. What is the Canadian Government's position likely to be with regard to ownership and control?

A. Speaking on this point in the House of Commons on May 22nd, 1973, Minister Macdonald said

"Mr. Speaker, I have indicated that the objective of the government would be to give an opportunity to Canadians to acquire 51 per cent ownership in any such pipeline and the expectation that it would remain under Canadian control."

In addition, all interprovincial and international pipelines are under National Energy Board control.

Q. When will the Canadian Government be ready to give active consideration to proposals from the private sector?

A. In respect of a gas pipeline, Minister Macdonald said on May 23rd, 1973, in the House of Commons

"Of course, the law has always been there with regard to the making of an application, but we have indicated within the past 12 months that we are completing our studies for the purpose of evaluating such an application and that we expect about the end of this year to be in a position to evaluate any application that comes forward. For that reason we have not issued any invitation to any specific group, but we have indicated that we are in a position to to deal with such an application under the law."

In respect of an oil pipeline the above statement still applies. However, it should be noted that the Canadian Government has not received an application for construction of such an oil pipeline in the north nor is it apparent that any company or any group of companies is preparing to make such an application in the near future.

Substantial work has been completed by Mackenzie Valley Pipe Line Research Limited and much of this work relates to environmental and social matters. However, there undoubtedly would be additional work required by a prospective applicant in respect of environmental considerations. Additional work on details of engineering design would also be required, although these could proceed concurrently with environmental work.

Q. What would the process of consideration entail (e.g.—public hearings and a finding by the National Energy Board prior to consideration by the Government and Parliament) and how long a time would it likely require?

A. An application to build an oil pipeline would be heard by the National Energy Board which would then make its findings known to the Government. If the National Energy Board rejects the application, no further action is required by the Government. However, if the National Energy Board recommends approval of the application, the final decision must then be made by the Government. There is no legal requirement to refer to Parliament either the National Energy Board finding or the decision of the Government.

Further, the Minister of Indian and Northern affairs, the Honourable Jean Chrétien, has announced that upon receipt of an application for a pipeline right-of-way, an Inquiry will be held under the Territorial Lands Act with the purpose of assessing the regional socio-economic and environmental implications arising out of the construction and operation of a major pipeline in the Territories. These hearings will be held in addition to those under the National Energy Board Act described above.

The time required for a National Energy Board hearing for an oil pipeline is unknown at this time, but might take perhaps up to one and a half years, including time required to arrange financing. The hearings by the Department of Indian Affairs and Northern Development would also be concluded within that time period.

Q. Are there significant Provincial/Federal differences which are likely to delay an eventual Canadian decision? To what extent would differences of view between eastern and western Canadians obstruct or delay decisions?

A. A northern oil pipeline would be a "federal work". As such, the Provincial Governments are not legally involved. The National Energy Board Act grants to a successful pipeline applicant the right to expropriate lands, including Provincial Crown Lands, if such are necessary to complete the project.

Q. What is the status of Canadian governmental consideration of a possible Mackenzie Valley gas pipeline?

A. The answers given above gave the status of the Canadian Government's environmental work in connection with a possible gas pipeline. It should be noted that under the Task Force on Northern Oil Development, six committees have been established and work has been in progress in most of these committees for a number of years. The Advisory Committee on Northern Pipeline Financing was established in early 1973 and results from its considerations should be available by the time an application to build a gas pipeline could be filed.

Q. Would active Canadian consideration of a Mackenzie Valley oil pipeline delay consideration of the prospective application for a gas pipeline? Are there proponents in Canada of the gas pipeline who oppose encouragement of Mackenzie Valley oil pipeline on these grounds?

A. Canada would likely wish to avoid the necessity of building both an oil pipeline and a gas pipeline simultaneously because of the impacts upon the Canadian economy. If it is decided to proceed with active consideration of the Canadian oil pipeline, it is likely that the question of building a gas pipeline would be deferred, for reasons of gas supply to such a pipeline. This is based on the assumption that some 50 per cent of the gas supply would be solution gas from the Alaska North Slope. If an approval to build a Canadian oil pipeline was granted and if the Canadian Government did not wish to have the gas pipeline built simultaneously, it is possible that the construction of the gas pipeline could be delayed by some three years compared with the decision to build the Alyeska oil pipeline.

Q. Any other observations deemed relevant?

A. There are a number of other elements to the Canadian position in respect to the northern oil pipeline.

1. Canada does not now have commercial oil discoveries in the north, although the prospects are rated very high. There could be

some 100 to 150 Mbd of natural gas liquids, if the gas pipeline is constructed.

2. The Government guidelines on northern pipelines are clear in stating that Canada requires that Canadian production have "access" to such pipelines. Undoubtedly such access would be achieved by adding pipeline capacity rather than "backing out" non-Canadian supplies. Thus Canada does not require any fixed percentage of the throughputs of either a gas pipeline or of an oil pipeline.

3. There would seem to be no reason why the United States would need a "treaty" or agreement with Canada to cover such pipelines which would cross Canadian territory and carry U.S. supplies to U.S. markets. In this connection, the Canadian Government notes that both loops of the Interprovincial-Lakehead pipeline system cross the United States and that throughputs of these loops are vital to Ontario oil markets. The Montreal oil market is entirely dependent on the Portland-Maine to Montreal pipeline. In addition, approximately half of the Canadian gas markets, east of Manitoba, depend on the Great Lakes pipeline which crosses the United States. None of these important pipelines, across United States territory is covered by "treaty" or international agreement.

4. Canada continues to view with alarm the prospect of large tanker movements into the Puget Sound area of the Pacific northwestern United States. For that reason, Canada is prepared to consider guaranteeing the total supply to the Puget Sound area during the period that a pipeline might be constructed through northern Canada. Such a Canadian guarantee for the Puget Sound supply would, of course, be limited to the present refining capacity in that area. The amount of added Canadian oil required for this purpose would be relatively small compared to the total Canadian exports to the United States and would also be relatively small compared with present Canadian deliveries to the Puget Sound area.

5. If Alyeska is built, Canada would find little attraction in having a second oil pipeline built through Canada to serve U.S. Midwest markets unless and until sizeable commercial Canadian oil discoveries have been made in the north. Moreover, Canada is aware that the economic attraction of looping an existing TAPS line would undoubtedly militate against construction of a line through Canada. Admittedly, other circumstances such as markets and security of supply might make it attractive to build such a second line through Canada. However, such circumstances are undoubtedly present even in respect of the first oil pipeline.

Notes for an Address by the Honorable Donald S. Macdonald, Minister of Energy, Mines, and Resources, to the Annual Meeting of the Industrial Contractors Association of Canada

Mr. Chairman, Head Table Guests and Association Members: I particularly welcome this opportunity to address the annual meeting of the Industrial Contractors' Association because of the need for better communication between your industry and government on questions related to our national energy requirements.

I believe that this is the first occasion we have had to get together and hope that we can lay the basis for continued discussion of Canada's refinery and chemical plant capacity in the weeks and months ahead.

In the general effort to improve contacts with industry, perhaps I should mention in passing the National Advisory Committee on Petroleum which brings the leaders of that industry into close, regular contact with me on a wide range of questions affecting my department's role as a coordinator of national resources policy.

It is particularly gratifying, too, to know that several representatives of U.S. industry are present at this annual meeting because the debate over energy policies has reached new levels of concern among the citizens of both countries.

In the United States, President Nixon has delivered his message on energy to Congress and moved to curtail recent increases in gas prices through Phase 4 of the administration's measures against inflation.

Here in Canada, I am looking forward to an informed exchange of views with other levels of government, industry and the public at large based on the analysis of Canada's current energy resources and industries which will be published in the next week or two. The analysis will provide an in-depth review of energy in all its forms—hydroelectric, coal, oil and gas as well as nuclear—in an attempt to delineate the important concerns which inevitably occur at a time when the country faces a task of investing some $50 to $70 billion over a decade to keep pace with industrial and other demands for power.

As a prelude to further discussion of some of these large energy projects, it might be useful to spend a few minutes going over the recent history of government involvement on the northern pipeline question.

On December 20, 1968, the Minister of Energy, Mines and Resources announced in the House of Commons the establishment of the Task Force on Northern Oil Development "to bring together all information on the existing oil situation in the North, on transportation routes that might be used, and to coordinate all available information, from all Federal agencies and departments and then report and make proposals to the government."

The Task Force has reported to Cabinet on a number of occasions and, in addition, has issued two important sets of guidelines. In August, 1970, guidelines were issued setting out certain principles that are to be followed in planning, constructing and operating nothern pipelines. These principles are concerned with the "corridor" concept; common or contract carrier stipulations; Parliament's jurisdiction; the Canadian content in financing, engineering, construction, ownership, and management; conditions to be met prior to the issuance of a construction permit including those relating to the preservation of the ecology and environment and the protection of the rights of northern residents; and finally, requirements as to employment of northern residents. These guidelines have remained the basic principles for the conduct of all activities concerned with northern pipelines.

In June of 1972, expanded guidelines were established, based on the "corridor", environmental, and social clauses of the 1970 guidelines.

We have ahead of us the working out of some of the financial concepts of a northern pipeline and, in this connection, I announced earlier this year the membership of a National Advisory Committee on Northern Pipeline Financing representative of those in Canada with skills in the operation of the Canadian and international capital markets. The Task Force will be the government's vehicle for assessing the findings of this Committee and developing policy recommendations therefrom. Closely related to this activity is another Task Force program assessing the potential of the Canadian content of labour, materials and services for a northern pipeline. We expect, in due course, to prepare a set of guidelines concerned with financing, ownership and control, and Canadian content of the total project.

NORTHERN PIPELINE ISSUES AND CONCERNS

There is no need to explain why we have embarked on such an indepth program of Task Force research and appraisal. We are concerned with the planning of the largest capital investment project ever to be proposed in Canada and it is only natural that the proposal is raising some major national issues. I could illustrate this by merely listing some of the questions being asked by Canadian citizens who are now actively interested in the concept of a northern pipeline.

For instance: can a northern pipeline be built in such a way as to present no serious hazards to the delicate Arctic environment? What about possible harm to wildlife and fishing resources of the north? What route would the pipeline follow in the north and through the provinces? What are the objectives and specifications of a Mackenzie "corridor"? Will a pipeline really be of benefit to the native people? How would the pipeline be financed and controlled—would Canadian control be assured? Would pipe and equipment manufacturers have ample lead time and opportunity to supply the materials required? Would Canadian labour have full opportunity to participate in construction and operation? Could the total project have a negative effect on the Canadian dollar in international money markets and thereby on our international trade and, if so, how could this be prevented? What would be the regional benefits?

Would our oil and gas resources be drained out too rapidly by export markets and what about future Canadian requirements for oil and gas? Do we really need to develop northern gas and a pipeline outlet at this time—why not wait until we actually need the gas for the Canadian markets and until we have enough Canadian capital within Canada to finance it? Is the project going to be managed by Canadian personnel and are engineering and consulting firms going to have opportunities to establish a world reputation through active association in the project?

These are some of the questions being asked by a public becoming increasingly involved in concepts concerned with the proposed development. I could list other concerns but I believe these will illustrate we are presented with a major national decision to be made.

THE LARGER ENERGY PICTURE IN CANADA

We are concerned with a pipeline project which would have major implications for the Canadian economy and for our total energy situation in this country. I have mentioned some of the economic and national interests and concerns as they relate to the construction of the pipeline. One can also enlarge the perspective of this project by viewing some of the implications of opening up a new and large source of energy and having it available to the Canadian market.

It is no longer a question of whether we will find gas in the north, but rather how much is needed in order to justify the large investments in pipeline and other facilities to bring this frontier gas to market.

The advent of large-scale northern gas supply is, of course, not without its particular and challenging problems in addition to those associated with getting the gas to market under acceptable engineering and environmental standards. There is, for instance, the question of pricing, and the related question of the terms and conditions under which the gas would be exported. There is also the net effect of rising export prices from the points of view of balance of payment benefits and the costs to consumers of upward pressures on the domestic price for gas. There are strong regional views within Canada on these and related matters and the makings of some serious interprovincial and federal-provincial jurisdictional and constitutional conflicts, unless industry and government at all levels are willing to work constructively towards a solution of these complex issues.

EXPORT CONTROLS ON OIL AND GASOLINE

As you know, effective March 1, this year, Cabinet approved amendments to regulations made under Part VI of the National Energy Board Act which brought under license the export of crude oil and equivalent hydrocarbons but not refined oil products.

The action followed discussions with provincial ministers and industry and was in line with the long-established national policy to export only those quantities of energy which are clearly surplus to our domestic requirements.

The past fourteen years have seen rapid growth in our oil exports, almost all of which go to the United States, mostly in the form of refinery raw material. This export growth made an important contribution to the health of the Canadian oil producing industry and to our national prosperity.

Because of the pressures in the U.S. market by reason of their shortages, levels of export demand for our oil strained the capacity of our oil production and transportation systems and threatened the continuity of supply of Canadian oil to domestic refiners dependent on such supply.

The continuation of pressure in the U.S. market also has shown up in the greatly increased demand, from the north-east U.S. in particular, for refined Canadian products.

Last Thursday I informed the House of Commons that effective midnight Friday, June 15, temporary controls would be imposed on the export of motor gasoline and home-heating types of oils.

This move will ensure that unusual export demand for these products does not impair supplies to Canadian consumers.

Because of the very substantial differences which exist between American and Canadian prices, there was no assurance that exports of these products could be voluntarily limited at this time.

I also announced a repeal of import restrictions on motor gasoline.

Duration of the temporary period for these export restrictions will be related to improvement in international supplies of refined oil products and also to the expansion of refinery capacity in Eastern Canada.

Traditionally, Eastern Canada has been a net product importer, though a high rate of petroleum refinery expansion has enabled Eastern Canada to move into a position where it is showing the first signs of becoming a net product exporter. A table appended to this paper shows that the region of Quebec, the Maritimes and Newfoundland actually had a net export position in January of some 26 Mb/D for all of 1972, 100 Mb/D a year earlier and 163 Mb/D in 1968.

CURRENT REFINING CAPACITY AND CAPITAL EXPENDITURE BY THE INDUSTRY

I would like to make the following points about current refining capacity and growth of the industry in Canada:

1. The refining industry in Canada included 40 refineries in 1972 with a total capacity of approximately 1.7 million barrels per day. Over the previous ten years it had grown at the average rate of 43,000 barrels per day per year, or the equivalent of one big refinery two to three years.

2. Recent growth has been more rapid, however, and capacity is estimated to grow by approximately 700,000 barrels per day over the period 1970 to 1973; or an average of about 230,000 barrels per day per year.

3. Capital expenditures for the construction of Canadian refineries is running at over $200 million per year over this period.

Capital expenditures in the Canadian refining industry

[In millions]

1970	$214
1971	211
1972 (preliminary)	212
1973 (estimated)	301

4. These expenditures represent a significantly higher rate of construction growth than the U.S. and the world as a whole, relative to the size of their respective refining industries.

5. Recent capital expenditures for the construction of natural gas processing plants in western Canada and other physical facilities associated with oil and gas production have been as follows:

[In millions]

1971	$399
1972	323

6. Another factor in refinery construction is the increasing average size of refineries. Thus, two large new refineries will be operating in Edmonton, permitting the shutdown of smaller uneconomic refineries on the Prairies.

7. Ontario capacity will grow with a major new refinery—Texaco's at Nanticoke—as well as expansion by Shell, Sun Oil and BP. Additional units for quality improvement will be added by Gulf and Imperial Oil.

8. In the Athabasca oil sands area of Alberta, many new extraction and processing plants are under study which may offer the greatest growth prospects for the hydrocarbon processing construction industry. Capacity is expected to grow from the present 50,000 barrels per day level to a million barrels per day sometime in the 1980's. Great Canadian Oil Sands Ltd's expansion, the pending Syncrude plant which should be constructed within the next few years to be followed by a Shell Oil project to commence construction in the late '70's are the leading projects in the Athabasca area. Other projects are in the planning stage.

9. Construction in the petrochemical industry has been slow due to past difficulties in the petrochemical industry and overbuilding in the early '60's. It now appears that this phase is coming to an end, and several major petrochemical plants are under consideration such as the world-wide ethylene plants under study for the Sarina and Edmonton areas. Fertilizer capacity is also being overstretched, and new ammonia capacity will be needed.

10. Apart from these developments in established petrochemical centres, the establishment of new pertochemical centres, for example in the Maritimes, is now being discussed and could lead to future developments.

11. Yet another growing area, of greater importance to the U.S., is the construction of plants for the manufacture of synthetic fuels from coal or shale. Although no such plants are presently projected in Canada, they may be in the future, particularly in view of Canada's untapped coal resources, the assurance of a growing energy market, and the improvements expected from current active research in coal processing.

As I told the House last Friday, construction plans in Eastern Canada for new refineries may be affected where companies were considering the processing of off-shore raw material for export only. It is not expected that the export controls announced last week would pose any difficulty for new or existing facilities which were operating to meet Canadian needs as a first priority. And I can only remind this audience that increased refinery capacity in Eastern Canada is an obvious need at this time in order to meet our own requirements.

In concluding, I would remind you that Eastern Canada is necessarily dependent on the international petroleum economy. Imports of refined products continue to be required. Particularly in the case of heating oils, they will not be easy to obtain this year, but the Government expects that Canadian oil companies will make every effort to ensure that we enter the heating season with adequate inventories.

The expansion of the refining industry in Eastern Canada ought to proceed much as expected on the very real need to meet Canadian requirements for petroleum products and any export opportunities which might arise after full allowance has been made for the prime needs of Canadian consumers.

The high rate of petroleum refinery expansion has enabled eastern Canada to move from the position of a net product importer to the first signs of becoming a net product exporter, as shown by the following table:

MARITIMES, QUEBEC AND NEWFOUNDLAND

[Mbl/day]

MBbl/D, maritimes Quebec and Newfoundland	Crude refined	Product demand	Net product imports (exports)
1968	485	569	163
1969	520	640	156
1970	564	635	159
1971	664	668	100
1972	785	708	62
1973 (January)	848	747	(26)

FOREST SERVICE OPERATION IN UTAH

(Mr. OWENS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OWENS. Mr. Speaker, I was elected to Congress last fall, in part, I think, because I enunciated the frustration I sensed on the part of Utahans as they deal with the Federal bureaucracy. In many instances Congress has been responsible for overly insulating the agencies, and even with a clear expression of congressional intent, we are often unable to change an administrative action.

A heartening thing has just happened in my native State. Some time ago the Forest Service announced an intention to move its regional headquarters from Ogden, Utah, to further centralize operations in Denver, Colo. Virtually all the officials in Utah, and most officials in the State of Colorado, opposed this move. The Forest Service itself, apparently, was in opposition, but they are forced to support the requirement imposed by the Office of Management and Budget. The Utah congressional delegation and Utah Gov. Calvin Rampton took positive steps, together with other Congressmen and Senators involved from other States similarly affected, to ascertain whether this shuffling would actually increase the efficiency of the Forest Service operation and to determmine whether funds would, in fact, be saved by the moves.

We were all dismayed at the lack of any significant proof that either efficiency or funding would be benefited by this move. Because of various steps the Utah delegation has taken in making the ill-founded nature of the proposal known, the move to consolidate the Forest Service office has failed. Of particular effectiveness was my senior colleague in the House, Congressman GUNN MCKAY of Utah's First District. A member of the Appropriations Committee, Congressman MCKAY was successful in pursuading his colleagues to attach language to the recent Interior appropriations bill providing that no funds might be used to affectuate that change. Senator FRANK MOSS has long been involved in the discussions and was a forceful advocate of Utah's interests. The majority leader of the Senate, Senator MIKE MANSFIELD, was also extremely helpful.

Today, the Secretary of Agriculture announced that the proposed moves have been rescinded. It is heartening to see that when we are stirred up in Congress, we can effectuate some change in the agency structure. It has been great to help strike a blow for the forces of representative government.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

(The following Members (at the request of Mr. O'Neill) :)

Mr. Pepper, for today, on account of illness.

Mr. Danielson, for today, on account of death in family.

Mr. Blatnik, for today and July 17, on account of official business.

Mr. Boland, for today, on account of death in family.

(The following Members (at the request of Mr. Gerald R. Ford) :)

Mr. Gross, for today, on account of illness.

Mr. Burke of Florida, for today, on account of illness in the family.

Mr. Talcott, for week of July 16, on account of official business.

Mr. Yates, for July 17, 1973, on account of illness in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Martin of North Carolina) to revise and extend their remarks and include extraneous matter:)

Mr. Hastings, for 10 minutes, today.

Mr. Treen, for 10 minutes, today.

Mr. Steele, for 10 minutes, today.

Mr. Young of Illinois, for 10 minutes, today.

Mr. Duncan, for 40 minutes, on July 17.

Mr. Walsh, for 10 minutes, today.

Mr. Hanrahan, for 5 minutes, today.

(The following Members (at the request of Mr. Sarbanes) to revise and extend their remarks and include extraneous matter:)

Mr. Burke of Massachusetts, for 5 minutes, today.

Mr. Gibbons, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Runnels, for 5 minutes, today.

Mr. Thornton, for 5 minutes, today.

Mr. Rodino, for 5 minutes, today.

Mr. Fraser, for 5 minutes, today.

Mr. Alexander, for 15 minutes, on July 17.

Mr. Biaggi, for 5 minutes, on July 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Saylor and to include extraneous matter.

Mr. Taylor of North Carolina to extend his remarks prior to the vote on the Findley dairy amendment, H.R. 8860, in the Committee of the Whole, today.

Mr. Teague of Texas to revise and extend his remarks on H.R. 3733 today immediately prior to passage of the bill.

(The following Members (at the request of Mr. Martin of North Carolina) and to include extraneous matter:)

Mr. Quie in two instances.

Mr. Derwinski.

Mr. Steele in five instances.

Mr. Sebelius.

Mr. Keating.

Mr. Kemp.

Mr. Veysey in two instances.

Mr. Nelsen.

Mr. Thomson of Wisconsin.

Mr. Wyman in two instances.

Mr. Steiger of Wisconsin.

Mr. Roncallo of New York.

Mr. Sarasin.

Mr. McKinney.

Mr. Huber.

Mr. Dickinson.

Mr. Robison of New York.

Mr. Froehlich.

Mr. Collins of Texas in three instances.

Mr. Hudnut in two instances.

Mr. Saylor.

Mr. Hanrahan.

(The following Members (at the request of Mr. Sarbanes) and to include extraneous matter:)

Mr. Drinan in three instances.

Mr. Brinkley.

Mr. Rarick in three instances.

Mr. Annunzio in six instances.

Mr. Gonzalez in three instances.

Mr. Conyers in 10 instances.

Mr. Breaux.

Mr. Adams.

Mr. Biaggi in five instances.

Mr. Yatron.

Mr. Carney of Ohio in three instances.

Mr. Evins of Tennessee in two instances.

Mr. Corman.

Mr. Jones of Tennessee.

Mr. Bolling.

Mr. Bennett.

Mr. Thompson of New Jersey.

Mr. William D. Ford in two instances.

Mr. Rodino.

Mr. Long of Louisiana.

Mrs. Mink.

Mr. Chappell.

Mr. Dingell in three instances.

Mr. Wolff in five instances.

Mr. Harrington.

Mr. Edwards of California.

Mr. Melcher, and to include extraneous matter notwithstanding the fact that it exceeds three pages of the Congressional Record and is estimated by the Public Printer to cost $627.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1083. "An act to amend certain provisions of Federal law relating to explosives; to the Committee on the Judiciary.

S. 1191. An act to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes; to the Committee on Education and Labor.

S. 1925. An act to amend section 1(16) of the Interstate Commerce Act authorizing the Interstate Commerce Commission to continue rail transportation services; to the Committee on Interstate and Foreign Commerce.

S. 2067. An act relating to congressional and Supreme Court pages; to the Committee on Rules.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 15 minutes p.m.), the House adjourned until Tuesday, July 17, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1141. A letter from the Secretary of Health, Education, and Welfare, transmitting a report covering the quarter ended June 30, 1973, of actual procurement receipts for medical stockpile of civil defense emergency supplies and equipment purposes, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

1142. A letter from the Chief of Legislative Affairs, Department of the Navy, transmitting notice of the proposed donation of a surplus LH 34 helicopter, serial No. 145717, to the Bradley Air Museum, Connecticut Aeronautical Historical Association, Hartford, Conn., pursuant to 10 U.S.C. 7545; to the Committee on Armed Services.

1143. A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize the establishment of the Big Thicket National Biological Reserve in the State of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

1144. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a request for the withdrawal of a case involving the suspension of deportation, previously submitted pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended [8 U.S.C. 1254(c)(1)]; to the Committee on the Judiciary.

1145. A letter from the Secretary of Transportation, transmitting a report concerning the need for engineers on uninspected towing vessels, pursuant to section 2 of the Towing Vessel Operator Licensing Act; to the Committee on Merchant Marine and Fisheries.

1146. A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend certain provisions of title 5, United States Code, relating to pay and hours of work of Federal employees; to the Committee on Post Office and Civil Service.

1147. A letter from the Acting Administrator, U.S. Environmental Protection Agency, transmitting a report on thermal discharge, pursuant to section 104(t) of the Federal Water Pollution Control Act Amendments of 1972; to the Committee on Public Works.

1148. A letter from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting the 1973 Annual Report of the Board of Trustees of the trust fund, pursuant to section 201(c) of the Social Security Act (H. Doc. No. 93–130); to the Committee on Ways and Means and ordered to be printed.

1149. A letter from the Board of Trustees, Federal Hospital Insurance Trust Fund, transmitting the 1973 Annual Report of the Board of Trustees of the trust fund, pursuant to section 1817(b) of the Social Security Act, as amended (H. Doc. No. 93–128); to the Committee on Ways and Means and ordered to be printed.

1150. A letter from the Board of Trustees, Federal Supplementary Medical Insurance Trust Fund, transmitting the 1973 Annual Report of the Board of Trustees of the trust fund, pursuant to section 1841(b) of the Social Security Act, as amended (H. Doc. No. 93–129); to the Committee on Ways and Means and ordered to be printed.

1151. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Tariff Act of 1930 to grant additional arrest authority to officers of the customs service; to the Committee on Ways and Means.

1152. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report of budgetary reserves as of June 30, 1973, pursuant to the Federal Impoundment and Information Act, as amended; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 620. A bill to establish within the Department of the Interior an additional Assistant Secretary of the Interior for Indian Affairs, and for other purposes; with amendment (Rept. No. 93–374). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affair. H.R. 5089. A bill to determine the rights and interests of the Choctaw Nation, the Chickasaw Nation, and the Cherokee Nation in and to the bed of the Arkansas River below the Canadian Fork and to the eastern boundary of Oklahoma; with amendment (Rept. No. 93–375). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6925. A bill to authorize the exchange of certain lands between the Pueblo of Acoma and the Forest Service (Rept. No. 93–376). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8029. A bill to provide for the distribution of funds appropriated in satisfaction of certain judgments of the Indian Claims Commission and the Court of Claims, and for other purposes; with amendment (Rept. No. 93-377). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois (for himself and Mr. Sarasin):

H.R. 9278. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. ASHLEY:

H.R. 9279. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. BRASCO:

H.R. 9280. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. BRASCO (for himself, Mr. Waldie, Mr. Dominick V. Daniels, Mr. Charles H. Wilson of California, Mr. Moakley, Mr. Hogan, Mr. Hillis, and Mr. Bafalis):

H.R. 9281. A bill to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DOMNIICK V. DANIELS:

H.R. 9282. A bill to provide for improved labor-management relations in the Federal service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FORSYTHE:

H.R. 9283. A bill to establish an arbitration board to settle disputes between supervisory organizations and the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. FRASER (for himself, Mr. Diggs, Ms. Holtzman, and Mr. McKinney):

H.R. 9284. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community; to the Committee on Foreign Affairs.

By Mr. GIBBONS:

H.R. 9285. A bill to amend the Accounting and Auditing Act of 1950 to provide for the audit of certain Federal agencies by the Comptroller General; to the Committee on Government Operations.

By Mr. HÉBERT (for himself and Mr. Bray):

H.R. 9286. A bill to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes; to the Committee on Armed Services.

By Mr. HOGAN:

H.R. 9287. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

By Mr. KOCH:

H.R. 9288. A bill to amend title XIX of the Social Security Act to waive the existing requirement that all medicaid patients be given free choice in the selection of treatment facilities in cases where the services involved are being effectively provided through locally operated public health centers, or where such services may be most effectively obtained in designated specialized medical centers; to the Committee on Ways and Means.

By Mr. MILLER:

H.R. 9289. A bill to terminate the authorization of the Salt Creek Dam and Reservoir project, Ohio; to the Committee on Public Works.

By Mr. RUNNELS:

H.R. 9290. A bill to amend title 13, United States Code, to provide for the transmittal to each of the several States, in accordance with a plan and form approved by the Governor thereof, of the tabulation of total population of that State obtained in each decennial census and required for the apportionment of the legislative bodies of that State; to the Committee on Post Office and Civil Service.

By Mr. STEELMAN:

H.R. 9291. A bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress of the United States or of a military attack upon the United States; to the Committee on Foreign Affairs.

By Mr. STEELMAN (for himself, Mr. Wylie, Mr. Conyers, Mr. Reuss, Mr. Hinshaw, Mr. Randall, and Mr. Macdonald):

H.R. 9292. A bill to provide that appointments to the offices of Director and Deputy Director of the Office of Management and Budget shall be subject to confirmation by the Senate; to the Committee on Government Operations.

By Mrs. SULLIVAN (for herself, Mr. Murphy of New York, Mr. Grover, Mr. Clark, Mr. Ruppe, Mr. Bowen, Mr. Snyder, Mr. Breaux, Mr. Steele, Mr. Kyros, Mr. Lott, Mr. Sarbanes, Mr. Treen, Mr. Dingell, Mr. Young of Alaska, Mr. Leggett, Mr. Metcalfe, and Mr. Ginn).

H.R. 9293. A bill to amend certain laws affecting the Coast Guard; to the Committee on Merchant Marine and Fisheries.

By Mr. UDALL (for himself, Mr. Burke of Massachusetts, Mr. Cotter, Ms. Grasso, Mr. Gray, Mr. Lehman, Mr. McCormack, Mr. Perkins, Mr. Rangel, Mr. Roy, and Mr. Studds):

H.R. 9294. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. WAGGONNER (for himself, Mr. Hébert, Mr. Passman, Mr. Rarick, Mr. Breaux, Mr. Long of Louisiana, Mrs. Boggs, and Mr. Treen):

H.R. 9295. A bill to provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University; to the Committee on Agriculture.

By Mr. WHALEN:

H.R. 9296. A bill to improve the conduct and regulation of Federal election campaign activities and to provide financing for such campaigns; to the Committee on House Administration.

By Mr. ESCH:

H.R. 9297. A bill to amend the Internal Revenue Code of 1954 to provide that preparers of income tax returns shall report certain information to the Internal Revenue Service, and to prohibit preparation of returns by a person convicted of preparing a fraudulent return; to the Committee on Ways and Means.

By Mr. HAWKINS:

H.R. 9298. A bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes; to the Committee on Education and Labor.

By Mr. JONES of Tennessee:

H.R. 9299. A bill to provide a penalty for the robbery or attempted robbery of any narcotic drug from any pharmacy; to the Committee on the Judiciary.

By Mr. O'BRIEN:

H.R. 9300. A bill to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. PRICE of Texas:

H.R. 9301. A bill to amend the Internal Revenue Code of 1954 to provide tax relief for homeowners; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 9302. A bill to amend titles 18 and 28 of the United States Code to establish certain qualifications for the Office of Attorney General, and for other purposes; to the Committee on the Judiciary.

By Mr. ROONEY of New York:

H.R. 9303. A bill to name the U.S. Customs Court and Federal Office Building at 1 Federal Plaza, New York, N.Y., the "Paul P. Rao U.S. Customs Court and Federal Office Building"; to the Committee on Public Works.

By Mr. STEELE:

H.R. 9304. A bill making an additional appropriation for the fiscal year ending June 30, 1974, for the Department of Health, Education, and Welfare for research on the cause and treatment of diabetes; to the Committee on Appropriations.

By Mr. UDALL (for himself, Ms. BURKE of California, Mr. DELLENBACK, Mr. HOSMER, Mr. OWENS, Mr. RUNNELS, and Mr. WON PAT):

H.R. 9305. A bill to provide for a national fuels and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN:

H.J. Res. 663. Joint resolution, a national education policy; to the Committee on Education and Labor.

By Mr. HARRINGTON:

H.J. Res. 664. Joint resolution, a national education policy; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

276. By the SPEAKER: A memorial of the Legislature of the State of California, relative to the public employees program; to the Committee on Education and Labor.

277. Also, memorial of the Legislature of the State of California, relative to prosecution of interstate motor vehicle thefts; to the Committee on the Judiciary.

278. Also, memorial of the Legislature of the State of California, relative to escheat of intangible abandoned property; to the Committee on the Judiciary.

279. Also, memorial of the Legislature of the State of California, relative to Federal earthquake detection and prevention programs; to the Committee on Merchant Marine and Fisheries.

280. Also, memorial of the Legislature of the State of California, relative to earthquake hazard; to the Committee on Science and Astronautics.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRASCO:

H.R. 9306. A bill for the relief of Claudette Angelia Dwyer; to the Committee on the Judiciary.

By Mr. FAUNTROY:

H.R. 9307. A bill for the relief of Wilmoth N. Myers; to the Committee on the Judiciary.

By Mr. GIBBONS:

H.R. 9308. A bill for the relief of M. Sgt. George C. Lee, U.S. Air Force; to the Committee on the Judiciary.

By Mr. MARTIN of North Carolina:

H.R. 9309. A bill for the relief of Faiz Ur Rahman Faizi; to the Committee on the Judiciary.

By Mr. NELSEN:

H.R. 9310. A bill to authorize the Carnegie Endowment for International Peace to use certain real estate in the District of Columbia as the endowment's Washington offices; to the Committee on the District of Columbia.

By Mr. VEYSEY:

H.R. 9311. A bill for the relief of Maj. William J. Pelham, U.S. Air Force; to the Committee on the Judiciary.

H.R. 9312. A bill for the relief of A. C. Brown; to the Committee on the Judiciary.

SENATE—*Monday, July 16, 1973*

The Senate met at 9:45 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who has given us this good land for our heritage, endowed it with rich resources of nature, and peopled it with diverse cultures, races, and religions to form "one nation under God"; so help us now to conserve and to use wisely both the natural human resources so lavishly bestowed by the Creator. Be with the leaders of this Senate as they plan for the days to come that their leadership may expedite the tasks ahead so that all Members may concert their best efforts for the well-being of the whole Nation.

We pause to ask Thy special blessing upon the President. Surround him with healing ministries and grant him peace of mind and the assurance of the people's prayers.

We pray in His name who is Lord and healer and guide. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 16, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, July 14, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS AUTHORIZED DURING THE SESSION OF THE SENATE TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be permitted to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the provisions of rule VIII be waived with respect to the consideration of unobjected to measures on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order Nos. 295, 296, and 297.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SUSPENSION OF DUTIES ON CERTAIN FORMS OF COPPER

The bill (H.R. 2323) to continue until the close of June 30, 1974, the suspension of duties on certain forms of copper was considered, ordered to a third reading, read the third time, and passed.

SUSPENSION OF DUTIES FOR METAL SCRAP

The bill (H.R. 2324) to continue until the close of June 30, 1975, the existing suspension of duties for metal scrap was considered, ordered to a third reading, read the third time, and passed.

SUSPENSION OF DUTY ON CAPROLACTAM MONOMER

The bill (H.R. 6394) to suspend the duty on caprolactam monomer in water solution until the close of December 31, 1973, was considered, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the minority leader wish to be recognized?

Mr. SCOTT of Pennsylvania. Only to admit that I do not know what caprolactam monomer is.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

Mr. PROXMIRE. Mr. President, I yield myself 10 of the 15 minutes, and I ask that the Acting President pro tempore inform me when my 10 minutes is up so that I may yield to the Senator from Vermont (Mr. STAFFORD).

(The remarks Senator PROXMIRE made at this point when he submitted amendment No. 342 to the Federal Elections Campaign Act of 1973 and the statement by Senator STAFFORD relating to it are printed in the Routine Morning Business section of the RECORD under amendments submitted to this bill.)

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ABOUREZK). One minute remains to the Senator from Wisconsin.

ONE HUNDRED AND SIXTEEN WEAPONS WILL COST $53 BILLION OR MORE OVER NEXT 6 YEARS; WASTEFUL PROCUREMENT CONTINUES

Mr. PROXMIRE. Mr. President, I am today releasing a list of 116 weapons together with figures showing weapons costs will exceed $53 billion annually for at least the next 6 years. On the basis of these figures there is no doubt that the present Pentagon procurement program inflates defense costs and defeats efforts to control Federal spending.

An analysis of 116 major weapon systems in various stages of procurement shows that weapons costs alone will exceed $53 billion annually for at least the next 6 years.

This means there is no way for defense spending to be brought under control unless decisions are made soon to cancel or phase-out unnecessary and low-priority weapons.

GAO ASSISTED

The list of weapons and their costs was obtained with the assistance of the General Accounting Office and is considered to be the most comprehensive record compiled so far. Yet there are glaring omissions in the available information suggesting that weapons costs will actually be much higher than $53 billion per year.

Here is how the annual weapons costs are derived:

The Pentagon estimates it will cost $153.3 billion to complete 116 current weapon programs.

Congress appropriated $64.4 billion for the same 116 weapons through June 30, 1972, leaving $89.9 billion yet to be appropriated for the purchase of those weapons.

Assuming it will take an average of 6 years to complete work on the 116 weapons, the amounts yet to be appropriated for their acquisition will total $14.9 billion per year.

OPERATION AND MAINTENANCE COSTS MORE

The costs of acquisition are just part of the weapons picture. In addition to acquiring the items they have to be operated and maintained, personnel have to be trained to use and repair them, facilities have to be constructed to service them.

The costs of fielding and supporting weapon systems is estimated at from 5 to 10 times the costs of acquisition.

A weapon that cost $1 billion to procure will generally cost an additional $5 to $10 billion to field and support during the life of the weapon.

Using the conservative lower factor of 5, the costs of fielding and supporting the 116 weapons will total an estimated $766.5 billion; five times $153.3 billion equals $766.5 billion.

Assuming an average 20-year life cycle for each of the weapons, annual field and support costs will amount to $38.4 billion—$766.5 billion÷20=$38.4 billion.

The annual field and support costs added to the annual procurement costs add up to $53.3 billion for each of the next 6 years.

It should be emphasized that this is a conservative estimate. Not only is it based on the lower factor of 5, in the calculation of field and support costs, it does not take into account the probable impact of cost overruns, inflation, engineering and design changes and other factors which contribute to cost growth in weapon systems.

OLD AND NEW SYSTEMS NOT INCLUDED

The estimate does not include the field and support costs of weapons already procured and in the current inventory, nor does it include the costs of new systems to be announced in the future.

The estimate does not include the costs of major modification of the C–130 into the C–130 gunship or the modifications made on the B–52 bomber to carry the SRAM missile.

SOME COSTS EXCLUDED

The estimate does not include the costs of several major weapons on the list of the 116 whose costs are considered classified.

The Trident submarine program is named on the list of 116 weapons, but its costs are excluded on national security grounds. The costs of the Harpoon missile and the AN/BQQ5 sonar are also considered classified information. The costs of these three systems seem to be included in the cumulative totals of the 116 weapons, but there is no way of telling how much each of the three will cost individually.

In addition, the Safeguard ABM costs were excluded from the totals because of the uncertainty of the costs due to the SALT agreement being considered for ratification by the Senate at the time the list was compiled. The ABM costs are excluded from the cumulative totals.

Finally, the list of 116 weapons is an incomplete record. The Pentagon has intentionally omitted from the list all systems under development whose development costs will not exceed $50 million, and it omits all systems in production whose production costs will not exceed $200 million.

These omissions are the result of a change in cost reporting policy instituted in 1972. As a consequence of the new policy a number of weapons listed by the Pentagon as major systems in 1971 were dropped from the current list.

It is my belief that the list of 116 weapons is incomplete for an additional reason: The Pentagon has been unable or unwilling to identify all the major systems being procured.

For some time I have been asking the General Accounting Office to obtain from the Pentagon the costs of all major weapon systems. The GAO has done an excellent job of locating weapons under procurement and reporting their costs, despite the fact that a central inventory of major weapons and their costs does not seem to exist in the Defense Department.

The list of major weapons changes from year to year, partly because systems are dropped from the list when their procurement is completed or when they are cancelled before completion. But some weapons have been added because their existence was discovered by GAO for the first time although they have been under procurement for a year or more.

LETTER TO COMPTROLLER GENERAL AND SECRETARY OF DEFENSE

I have written to Elmer Staats, the Comptroller General of the United States, requesting that he continue GAO's efforts to compile a complete list of major weapon systems and their costs.

I have also written to James R. Schlesinger, Secretary of Defense, bringing these matters to his attention, suggesting ways to improve the Pentagon's system of reporting weapons costs to Congress, and urging that a complete inventory of weapons, their status and their costs be developed, updated regularly, and made available to Congress and the GAO.

I have also recommended to the Defense Secretary that the definition of major weapon systems be expanded so that the costs of all systems whose development or production will exceed $1 million are reported to Congress.

I am also recommending that life cycle cost estimates of major weapons be provided to Congress when the initial authorization for a new weapon is made. The life cycle cost should include all procurement costs of the program, and all field and support costs for the expected life of the program, usually estimated at 20 years.

AUTHORIZED IN THE PARK

Too often Congress is asked to authorize a new weapon on the basis of a partial understanding of the full costs of the program. We ought to know at the outset not only what the development and production costs will be, but how much it will cost to operate, maintain, train personnel, and construct facilities for each program during its expected life.

We have heard a lot about the increased costs of military manpower in recent years, and it is true that these costs have increased at an alarming rate, primarily because of pay raises and the costs of an all-volunteer force.

The largely unavoidable rise in manpower costs is all the more reason to pay close attention to weapons costs.

While the weapons cost estimates I have made are imprecise due to the absence of definitive information, it is clear that huge amounts of resources are being tied up for years to come.

There is no way to reduce the defense budget or avoid busting all efforts to control Federal spending unless tough decisions are made in the near future to trim the fat from the list of weapons.

I ask unanimous consent that the list of 116 weapons and the letters from me to the Comptroller General and the Secretary of Defense be printed in the RECORD.

There being no objection, the list and the letters were ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR ACQUISITIONS OF THE DEPARTMENT OF DEFENSE—AS OF JUNE 30, 1972

Service	Number of weapon systems	Estimated cost through completion	Funds programed through June 30, 1972
Army	[1] (34)	$23, 296, 300, 000	$10, 710, 700, 000
Navy	[2] (60)	78, 065, 200, 000	28, 110, 500, 000
Air Force	(22)	51, 961, 800, 000	25, 625, 900, 000
Total	[3] (116)	153, 323, 300, 000	64, 447, 100, 000

[1] Although the Safeguard system is included in the total systems for the Army, no cost estimates or programed funds are included in the totals because of the recent SALT agreement which will affect substantially the future estimates.

[2] For Navy systems, the 60 systems reflect programs which do not have over 90 percent of the funds obligated.

[3] DSCS phase II program not included in the total systems although Army and Air Force portions of the cost estimated and programed funds are included in the total dollars. This system is managed by DCA.

SUMMARY OF DOD MAJOR ACQUISITION AS OF JUNE 30, 1972

DEPARTMENT OF ARMY

Weapon system	Estimated cost, through completion	Fund programed, through June 30, 1972
Cheyenne [1]	$453, 100, 000	$399, 100, 000
LOH	328, 700, 000	328, 700, 000
AH-16	475, 200, 000	464, 700, 000
UTTAS	2, 344, 500, 000	34, 100, 000
HLH	123, 100, 000	48, 300, 000
UX	123, 100, 000	42, 400, 000
Safeguard [2]		
Sam D	5, 240, 500, 000	386, 700, 000
Improved Hawk	758, 300, 000	415, 600, 000
Chaparral	397, 200, 000	356, 500, 000
Lance	776, 600, 000	597, 000, 000
TOW	651, 600, 000	459, 900, 000
Dragon	484, 700, 000	119, 400, 000
Stinger	476, 400, 000	9, 100, 000
LCSS	160, 600, 000	150, 300, 000
Pershing	1, 305, 900, 000	1, 163, 800, 000
M60A1	1, 940, 800, 000	1, 031, 900, 000
M60AO	402, 800, 000	297, 400, 000
Sheridan (M551)	426, 100, 000	426, 300, 000
SCOUT	244, 900, 000	17, 200, 000
MICV	249, 000, 000	10, 600, 000
M16 A1 Rifle	333, 800, 000	330, 200, 000
XM198 Howitzer	125, 300, 000	13, 400, 000
Bushmaster	235, 800, 000	11, 800, 000
Truck—2½-ton ABT	1, 277, 100, 000	1, 155, 900, 000
Truck, utility, 1¼-ton	160, 700, 000	
M561 Gama Goat	196, 200, 000	196, 200, 000
Truck, utility, ¼-ton	599, 600, 000	532, 800, 000
Truck, 5-ton ABT	1, 031, 100, 000	864, 200, 000
TACFIRE	218, 200, 000	78, 800, 000
AACOMS	1, 170, 900, 000	445, 600, 000
DSCS, phase II [3]	92, 900, 000	56, 600, 000
Autodin	237, 400, 000	210, 900, 000
NAVCON	67, 900, 000	24, 800, 000
TOS	186, 300, 000	30, 500, 000
Total	23, 296, 300, 000	10, 710, 700, 000

[1] Terminated subsequent to June 30, 1972.

[2] No cost estimate provided pending ratification of SALT agreement.

[3] This represents only Army portion of this tri-service program.

SUMMARY OF DOD MAJOR ACQUISITIONS AS OF JUNE 30, 1972—DEPARTMENT OF NAVY

Weapon system	Estimated cost through completion	Funds programed through June 30, 1972
LHA	$970, 000, 000	$951, 700, 000
DLGN-38	820, 400, 000	802, 300, 000
DD 963	2, 750, 300, 000	1, 447, 700, 000
CVAN 68/69	1, 316, 200, 000	1, 203, 300, 000
SSN-688	8, 096, 100, 000	2, 213, 500, 000
DLG AAW Mod	1, 006, 600, 000	682, 100, 000
DLGN 36	405, 300, 000	391, 100, 000
A O	398, 600, 000	100, 000
AD 37	556, 800, 000	116, 900, 000
AOR	297, 400, 000	210, 800, 000
AS-36	460, 700, 000	225, 800, 000
CVAN-70	951, 000, 000	
SCS	840, 200, 000	4, 700, 000
SES	708, 000, 000	60, 900, 000
PHM	604, 000, 000	10, 700, 000
PF	3, 134, 100, 000	12, 600, 000
DSRV	170, 600, 000	153, 300, 000
LAMPS	1, 080, 800, 000	119, 000, 000
P3C	2, 487, 000, 000	1, 409, 200, 000
AV8A Harrier	525, 500, 000	275, 200, 000
E 2C	878, 000, 000	509, 900, 000
A-7E	2, 776, 000, 000	1, 374, 500, 000
S-3A	3, 151, 800, 000	1, 085, 600, 000
F 14 A/B	5, 271, 600, 000	2, 757, 800, 000
E A6 B	1, 575, 600, 000	956, 700, 000
Condor	524, 800, 000	187, 500, 000
Sparrow E	339, 500, 000	313, 600, 000
Sparrow F	978, 900, 000	94, 700, 000
Phoenix	1, 113, 700, 000	444, 900, 000
A-4M	365, 500, 000	152, 800, 000
A-6E	1, 292, 000, 000	338, 200, 000
CH 53 E	652, 400, 000	4, 700, 000
VHIN	231, 700, 000	78, 200, 000
T 2 C	227, 800, 000	140, 100, 000
HARM	223, 000, 000	2, 100, 000
Agile	316, 400, 000	38, 300, 000
V C X	272, 500, 000	
V/STOL SCS Proto	72, 000, 000	
Advanced Prototype for V/STOL	115, 800, 000	1, 400, 000
VAST	435, 400, 000	257, 200, 000
Harpoon		62, 000, 000
Standard Missile (FR)	493, 500, 000	347, 600, 000
Standard Missile (MR)	381, 000, 000	142, 600, 000
Walleye	261, 200, 000	192, 500, 000
Snakeye	1, 483, 600, 000	1, 112, 900, 000
Rockeye II	551, 800, 000	257, 000, 000
Zuni	382, 400, 000	251, 600, 000
FEAR 2.75 Rocket	334, 300, 000	239, 200, 000
DIFAR	504, 400, 000	139, 500, 000
Poseidon	4, 751, 000, 000	3, 832, 500, 000
Trident (ULMS)		165, 000, 000
Mark 48	1, 957, 900, 000	583, 500, 000
Captor	325, 000, 000	40, 000, 000
AN/BQQ5		169, 600, 000
ANSQQ 23	171, 800, 000	171, 800, 000
Aegis	484, 100, 000	246, 600, 000
High Energy Laser	1, 155, 700, 000	25, 200, 000
Project Ceasar	1, 315, 200, 000	918, 700, 000
Sanguine	246, 400, 000	53, 400, 000
SSEP	343, 600, 000	131, 200, 000
Total	[1] 78, 065, 200, 000	28, 110, 500, 000

[1] Total includes costs of Harpoon, Trident, and AN/BQQ5 which are not listed individually for national security reasons.

DEPARTMENT OF AIR FORCE

Weapon system	Estimated cost, through completion	Funds programed, through June 30, 1972
AX	$84, 500, 000	$76, 900, 000
F-15	7, 802, 000, 000	1, 022, 300, 000
B-1	11, 112, 600, 000	689, 300, 000
C-5A	4, 650, 200, 000	4, 318, 800, 000
F-111 A/D/E/F	6, 994, 600, 000	6, 819, 300, 000
F-5E	297, 400, 000	169, 000, 000
T-43A	130, 800, 000	81, 700, 000
A-7	1, 324, 800, 000	1, 322, 500, 000
AWACS	2, 661, 300, 000	318, 200, 000
VCX	19, 000, 000	
I-41D	900, 000	800, 000
VH-1H	245, 800, 000	185, 100, 000
CX-X	18, 000, 000	
AABNCP	402, 200, 000	2, 800, 000
MMII CIII	11, 016, 900, 000	8, 398, 600, 000
Maverick	385, 300, 000	220, 200, 000
SRAM	1, 325, 900, 000	842, 800, 000
SCAD	928, 700, 000	19, 700, 000
Sparrow AIM 7F [1]	298, 000, 000	8, 000, 000
Sidewinder AIM 9-L [2]	112, 500, 000	7, 000, 000
AGM-45A	218, 000, 000	151, 400, 000
OTL-B	131, 300, 000	10, 500, 000
DSCS II [3]	154, 000, 000	141, 300, 000
Defense support	1, 647, 100, 000	819, 700, 000
Total	51, 961, 800, 000	25, 625, 900, 000

[1] This represents AF portion of the Sparrow F program which is Navy managed.

[2] This represents AF portion of this Sidewinder program which is Navy managed.

[3] This represents only AF portion of this tri-service program.

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, D.C., July 13, 1973.

HON. JAMES R. SCHLESINGER,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: On Monday, July 16, I plan to deliver a speech in the Senate concerning the costs of military procurement.

With the aid of the General Accounting Office, I have calculated the annual costs of 116 major weapons systems at $53.3 billion annually. These figures are based on the costs of acquisition as well as assumptions concerning the costs of operations and maintenance and other life cycle field and support costs.

The figures and the totals are necessarily rough. As you know, there is a paucity of information about life cycle costs and there are a number of deficiencies in the estimates of acquisition costs. I have spelled out a number of the deficiencies and the omissions in the procurement cost estimates in my speech, a copy of which is enclosed for your information.

I hope you understand that my remarks are in no way intended as criticism of you. The purpose of my speech is to call attention to the huge amount of resources tied up in military procurement, a fact which will make it increasingly difficult to control the defense budget and overall spending.

The purpose of this letter is to suggest ways of improving DOD's reporting system so that Congress may have a better understanding of the costs of weapons programs it has authorized. My suggestions are incorporated in the following requests and queries:

1. Please provide me with a list of all major acquisitions by service, with a breakout showing the name of each major system, the prime contractor, estimated costs through completion, including RDT and E, procurement, military construction, and total cost through completion, and funds programmed through June 30, 1973, including RDT and E, procurement, military construction and the total funds programmed.

2. A similar list compiled by GAO omitted individual cost figures for three programs considered classified. These were Trident, Harpoon, and A N/BQQ5 Sonar. In addition, the list omits cost figures for safeguard ABM. Is it possible to provide the cost figures of these programs on an unclassified basis? If not, can you explain the basis for classifying cost figures for each of the programs for which cost figures are classified? Such an explanation should be in sufficient detail so that I may understand why costs are ever classified in general and why they are classified in these particular cases.

3. I understand that last year the definition of "major" weapons system was changed to mean any system under development whose costs of development are $100 million or more and any system under production whose costs of production are $200 million or more. I would like to formally request that this definition be changed to include all systems under development whose development costs are $1 million or more and all systems under production whose production costs are $1 million or more. I see no reason to maintain such a restrictive definition of major weapons systems. The effect of the current definition is to remove numerous expensive, multimillion dollar projects from the Pentagon's reporting system and to prevent Members of Congress and the public from understanding the full cost of procurement. If the definition is not changed in accordance with my recommendations, I would like to be provided with a separate table of all weapons systems under development whose development costs

will be in excess of $1 million but less than $100 million and all systems in production whose production costs will be in excess of $1 million but under $100 million, together with the same breakout of information as requested in paragraph 1 above.

4. Please provide me with "life cycle" cost estimates of any individual weapons systems that are available. If life cycle estimates are not available, please let me know whether the Department of Defense plans to develop life cycle estimates and whether any steps to develop such estimates have been taken.

5. Beginning next year, I would like to have life cycle cost estimates of all major weapons systems for which funds are requested for the following Fiscal Year. If it is not possible, in your view, to provide Congress with such complete estimates of weapons costs. I would like to have your opinion on the desirability and the feasibility of developing such cost estimates in the near future.

6. Please provide me with a list of all major weapons systems cancelled prior to production during the period Fiscal Year 1973 through Fiscal Year 1973 showing the name of each system, the prime contractor, the amount spent prior to cancellation, and the reason for cancellation of each system.

Once again, I want to stress the fact that I am not attempting to criticize you or place you in a bad light. My recommendations and requests are made in a constructive spirit and in the hope that the system of reporting weapons costs can be significantly improved under your administration. I will welcome your own comments and your cooperation. I would like to have the information requested by September 1, 1973.

Sincerely,

William Proxmire,
Vice Chairman.

Congress of the United States,
Joint Economic Committee,
Washington, D.C., July 16, 1973.

Hon. Elmer B. Staats,
Comptroller General of the United States General Accounting Office, Washington, D.C.

Dear Elmer: This morning, July 16, I gave a speech in the Senate concerning the total costs of military procurement.

With the aid of your office, I have calculated the annual cost of 116 major weapons systems at $53.3 billion for each of the next six years, including the cost of acquisition and all operations and maintenance and other field and support costs.

As you know, for some time I have been attempting to obtain a list of all weapons in the various stages of procurement and their costs. However, as you have pointed out, there seems to be no central procurement inventory within the Pentagon, and the Pentagon's definition of "major" weapons systems leaves much to be desired.

I am also dissatisfied with other aspects of the Pentagon's reporting system, particularly the lack of "life cycle" cost estimates. Such estimates would include costs of acquisition, operations and maintenance, personnel training, construction of facilities, and all other costs that can be reasonably attributed to each system during the expected life of the system.

I understand that your office has been making a major effort to obtain a comprehensive list of major weapons systems in procurement and to periodically revise the list. I want to encourage you to persist in these attempts until you are satisfied that a complete inventory of major weapons systems, periodically revised and updated, and the costs is available to your office and to Congress.

I would also like GAO to do a study of the feasibility of making "life cycle" cost estimates. I would like to know whether any such estimates have been made by the Department of Defense for individual systems, and if so, the names of the systems and the cost estimates, and whether there is any plan within the Department of Defense to develop this method of cost estimation, and an indication of the relative costs and benefits of making "life cycle" cost estimates.

A copy of the remarks I made in the Senate and of a letter I sent to the Secretary of Defense are enclosed for your information.

Sincerely,

William Proxmire.

Mr. PROXMIRE. I feel very strongly that this revelation by the General Accounting Office is something that all Senators should be very well aware of when we consider the authorization and appropriation for the weapons program this year.

Mr. President, I yield back the remainder of my time.

The PRESIDENT OFFICER. The time of the Senator from Wisconsin has expired.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes.

ORDER FOR ADJOURNMENT ON TUESDAY AND SUCCEEDING DAYS THIS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Tuesday, Wednesday, Thursday, and Friday, of this week it stand in adjournment until 10 o'clock a.m. each succeeding day—Wednesday, Thursday, Friday, and Saturday, respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later in the day this order was changed to provide for the Senate to convene at 9 a.m. tomorrow.)

ORDER FOR RECOGNITION OF SENATOR STEVENSON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by Mr. Mathias on tomorrow, the distinguished Senator from Illinois (Mr. Stevenson) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR UNFINISHED BUSINESS TO BE TEMPORARILY LAID ASIDE DURING THE WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on any day during this week the distinguished majority leader or his designee may at any time have laid before the Senate any second track items or other business on which the 3-day rule has elapsed, or which has otherwise been cleared for action, and that on any day that the unfinished business is thusly temporarily laid aside for consideration of such other items, the unfinished business remain temporarily laid aside until the close of business that day or until the disposition of the item for which the unfinished business is temporarily laid aside or unless the majority leader or his designee may request the unfinished business again be brought before the Senate, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That, effective Monday, July 16, 1973 and throughout the week ending July 21, 1973, the majority leader or his designee is authorized at any time to have laid before the Senate any second track items of business or other business for which the 3-day rule has elapsed or which otherwise has been cleared for action, thus setting aside the unfinished business temporarily until the disposition of such second track item or until the majority leader or his designee asks to have the unfinished business laid down, or until the close of business on such day, whichever is the earlier.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Robert C. Byrd) laid before the Senate the following letters, which were referred as indicated:

Report Concerning the Need for Engineers on Uninspected Towing Vessels

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report concerning the need for engineers on uninspected towing vessels (with an accompanying report). Referred to the Committee on Commerce.

Proposed Legislation from Secretary of the Treasury

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Tariff Act of 1930 to grant additional arrest authority to officers of the Customs Service (with an accompanying paper). Referred to the Committee on Finance.

PROPOSED LEGISLATION FROM UNITED STATES CIVIL SERVICE COMMISSION

A letter from the Chairman, United States Civil Service Commission, transmitting a draft of proposed legislation to amend certain provisions of title 5, United States Code, relating to pay and hours of work of Federal employees (with an accompanying paper). Referred to the Committee on Post Office and Civil Service.

REPORT ENTITLED "EFFECTS AND METHODS OF CONTROL OF THERMAL DISCHARGES"

A letter from the Acting Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Effects and Methods of Control of Thermal Discharges" (with an accompanying report). Referred to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD):

A joint resolution of the Legislature of the State of California. Referred to the Committee on Commerce:

"ASSEMBLY JOINT RESOLUTION NO. 29

"Relative to Federal earthquake detection and prevention programs

"Whereas, The recent earthquakes in southern California and the disastrous earthquake in Managua, Nicaragua, in December of 1972, reaffirmed the constant threat of serious damage from earthquakes in California; and

"Whereas, Scientists are constantly reporting progress in providing early-warning systems and in constructing quake-resistant buildings; and

"Whereas, The National Oceanic and Atmospheric Administration (NOAA) has maintained an earthquake information center, and has developed programs on earthquake engineering, earthquake hazard assessment, and earthquake forecasting; and

"Whereas, Proposed federal budget cuts threaten to stop such research or compel the NOAA to give up its programs; and

"Whereas, The continuation of such experiments and research is vital to the health and safety of the residents of California; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to provide sufficient moneys in the 1973–74 fiscal year federal budget to fund the earthquake detection and prevention programs of the National Oceanic and Atmospheric Administration or, alternatively, to ensure that such programs continue under other appropriate federal agencies; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Director of the Office of Management and Budget, to the Administrator of the National Oceanic and Atmospheric Administration, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California. Referred to the Committee on Commerce:

"SENATE JOINT RESOLUTION NO. 4

"Relative to earthquake hazard

"Whereas, The President of the United States has sent to the Congress his proposed budget for the 1974 fiscal year and he has announced reductions in current levels of spending; and

"Whereas, The President has also announced his proposed reorganization of agencies with respect to their functions and program emphasis; and

"Whereas, Significant changes in overall federal efforts relating to earthquake hazard reductions are apparent in the proposed budget and reorganization announcements; and

"Whereas, The earthquake hazard to California, the nation's most populated State, is severe; and

"Whereas, The current federal efforts in earthquake engineering, seismology, geology, and disaster relief have reduced, are reducing, and must continue to reduce, the earthquake hazard to acceptable risk levels; and

"Whereas, A modest increase in federal efforts at this time should lead to significant reductions in the earthquake hazard in California as well as in many other states; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to assure the people of California that, at the very minimum, the current levels of scientific and engineering efforts relating to earthquake hazard reduction will be continued at budgetary levels not less than 10 percent over those originally proposed for fiscal year 1973; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution of the Legislature of the State of California. Referred to the Committee on Labor and Public Welfare:

"SENATE JOINT RESOLUTION

"Relative to the Public Employees Program

"Whereas, The Congress of the United States adopted the Emergency Employment Act of 1971 which was signed into law by President Nixon on July 12, 1971; and

"Whereas, The California Legislature adopted the Employment Opportunities Act of 1971 signed by Governor Reagan December 30, 1971, for the purpose of facilitating the implementation of the Federal Emergency Employment Act; and

"Whereas, The Public Employees Program (PEP) has enabled financially distressed local governments to provide vitally needed services including education, environmental protection, police and fire protection services and innovative social services without increasing the burden to property taxpayers; and

"Whereas, PEP has allowed state and local government to provide meaningful job opportunities to the young and old, to Vietnam veterans, to minorities, to the hardcore unemployed, and to the technologically displaced; and

"Whereas, PEP has spurred the economy while at the same time increasing the self-dependency of the disadvantaged and reducing the welfare rolls by approximately 5,000 families; and

"Whereas, The PEP Program has provided more public service job opportunities in California than any other program. PEP employees are characterized as follows:

"1. Total persons employed as of August 1972, by state, city, and county governments totaled 26,635.

"2. Twenty-nine percent of PEP employees are Vietnam veterans.

"3. Eighty-eight percent of PEP employees are between the ages of 18 and 44.

"4. Eighty-six percent of PEP employees were unemployed prior to entering PEP. It is estimated that by June 30, 1973, 15,712 PEP enrollees will be in permanent positions with state and local governments in California.

"5. Fourteen percent of PEP employees were underemployed.

"6. Four thousand eight hundred seventy welfare recipients have been placed in the PEP Program; and

"Whereas, In addition to the PEP Program, California cities and counties have participated in various summer youth opportunity programs which have provided employment opportunities as well as recreation and other support services; and

"Whereas, The proposed 1973–74 federal budget proposes to terminate the PEP Program and drastically reduce the availability of funds for summer youth programs; and

"Whereas, The discontinuation and reduction of PEP funding will increase unemployment, cause the welfare rolls to grow and reduce essential public services; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President of the United States and the Congress of the United States to assure the people of California that the Public Employees Program and various summer youth opportunity programs will extend through June 30, 1975; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution adopted by the Marine Corps League, Department of Illinois, praying for the enactment of legislation relating to Fort Sheridan, Ill. Referred to the Committee on Armed Services.

A resolution adopted by the National Council of Catholic Women, Washington, D.C., praying for the enactment of legislation to guarantee full constitutional rights to the unborn child. Referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRANSTON, from the Committee on Labor and Public Welfare, with amendments:

S. 1875. A bill to amend the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, and for other purposes (Rept. No. 93–318).

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare, with amendments:

S.J. Res. 118. A joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States (Rept. No. 93–319).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOMENICI:

S. 2187. A bill to authorize the Secretary of the Interior to establish a commission for the purpose of evaluating and reviewing regulations of the Department of the Interior which govern the relationship between the United States and the Indian people and to authorize and direct the Secretary of the Interior to revise those regulations in accordance with the policies set forth in this act. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE (for himself and Mr. Ribicoff):

S. 2188. A bill to provide for the identification of a restructured rail transportation system in the Midwest and Northeast regions of the Nation in order to meet the present and future needs of commerce, the national defense, and the environment; the service requirements of passengers, mail, shippers, States, communities, and the consuming public; and for other purposes. Referred to the Committee on Commerce.

By Mr. TALMADGE (by request):

S. 2189. A bill to amend Section 602 of the Agricultural Act of 1954. Referred to the Committee on Agriculture and Forestry.

By Mr. ABOUREZK (for himself, Mr. McGovern, Mr. Bayh, Mr. Burdick, Mr. Church, Mr. Clark, Mr. Cook, Mr. Hart, Mr. Hatfield, Mr. Hathaway, Mr. Hollings, Mr. Hughes, Mr. Humphrey, Mr. Inouye, Mr. Kennedy, Mr. Mansfield, Mr. McGee, Mr. Metcalf, Mr. Mondale, Mr. Moss, Mr. Muskie, Mr. Randolph, and Mr. Tunney):

S. 2190. A bill to provide housing for persons in rural areas of the United States on an emergency basis. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. MONDALE:

S. 2191. A bill to require public disclosure of all contacts made with the Internal Revenue Service concerning any individual or corporate tax case by any official or employee of the executive or legislative branch of the Federal Government. Referred to the Committee on Finance.

By Mr. ABOUREZK:

S.J. Res. 133. Joint resolution to provide for the establishment of the American Indian Policy Review Commission. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2187. A bill to authorize the Secretary of the Interior to establish a commission for the purpose of evaluating and reviewing regulations of the Department of the Interior which govern the relationship between the United States and the Indian people and to authorize and direct the Secretary of the Interior to revise those regulations in accordance with the policies set forth in this act. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, last week I had the pleasure and great honor to speak to members of the Mescalero Apache Tribe in New Mexico on the occasion of their 100th anniversary on their south central New Mexico reservation.

At that time I promised to introduce the bill which I am introducing at this time for appropriate reference. I would like to share with my colleagues some of the thoughts I expressed to my Indian friends illustrating the need for legislation of the kind I am introducing today.

In the early years of the centenary celebrated by the Mescaleros in New Mexico last week, the Federal Government dealt with each Indian tribe on an individual basis, through treaties and agreements with each one. Then, from 1887 to about 1933, the Government changed its policies. It dealt with all tribes in the same way, essentially trying to impose upon them the farming pattern of life of their white neighbors, whether the individual tribe desired it or not.

It was only in 1934, just 39 years ago, that each tribe, band, or pueblo was permitted to adopt its own constitution for self-government—and thus allowed to develop a system which expressed its own beliefs and traditions, as our nation had done almost 200 years ago.

And while all this history was going on, certain things went on with it. Many Federal Government officials, probably more misguided than ill-intentioned, wanted to impose on the tribes the culture of the white citizen. They tried to stamp out all the old ways, which they felt were somehow foreign—and hence, wrong—for Americans.

They developed a system of education, for example, which instead of doing good, as education should do, often did much harm. Clearly, you cannot take children from their families and homes and educate them along new lines—without reference to what they have been taught to believe is good and true and beautiful—without creating a gap between the children and their past, a gap which many found impossible to bridge in their later lives.

Clearly, you cannot impose standards of health entirely from outside a group, no matter how good your intentions, without any reference to or regard for the native patterns of people.

Yet our Federal Government did these things.

It created situations of great stress, because it made all Indian tribes subject to decisionmaking that came from outside the Indian community.

What resulted was resentment, disdain and an unfortunate mutual disregard which often reigned between Indians and the very agency which was charged with their protection.

The most striking fact of all this history—which I hope is now coming to an end—is that Indian tribes remained intact despite the drastic interference they were often called upon to sustain.

To put it simply, Indians can be proud because they have prevailed, though often at great spiritual costs to themselves and to their leaders. In view of this history, what must we do today?

Mr. President, I maintain that we must pledge ourselves to Indian self-determination and self-reliance without termination or fear of termination of help from the Federal Government. I have pledged myself to these ends.

As a Senator from a State with one of the largest Indian populations in the country, I believe that I can be a part of working to pass laws that will benefit Indian people; laws that will preserve their cherished culture and traditions but will enable them to partake in the benefits of modern society, namely education, opportunity for them and their children to be what they want to be, and the opportunity to earn a good income.

In speaking with Indians about initiative that would accomplish these highly desirable objectives, I have noted that the most common, persistent, and consistent complaint they have concerns the rules, regulations, and policies of the Bureau of Indian Affairs. These rules, regulations, and policies, govern the entire relationship of the Federal Government to Indian people and as such they have a profound effect on the life of each Indian person.

The bill I am introducing today involves the modernization of these rules and regulations and policies. Many, if not most, of these regulations are out of step with the times and with other laws that govern the general population off the reservations. This is a massive undertaking and will require a great deal of effort, time, and expense. But it most certainly is a worthwhile project when we consider some of the outdated, senseless regulations that govern every aspect of this relationship.

There are scores of vivid examples of regulations that only harm the Indian people and only interfere with their progress. And there are BIA regulations that are in conflict with other Federal laws that they are governed by. Clearly, if we can revise these laws completely to make them workable and to make them laws that will work for you rather than against you, Indians will be able to move forward and contribute their great potential for the Nation's total benefit.

Other legislation before Congress and the legislation I am introducing today is important not only to Indians but also to the entire country. Indians have a beautiful heritage and culture that enriches the diversity of our America. By helping them to preserve and protect their heritage, their culture, and their lands, we also preserve that richness. This bill to modernize BIA rules, regulations and policies is critical to all these endeavors.

I urge immediate attention to this bill and its swift enactment. I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Bureau of Indian Affairs' Regulations Review and Revision Act of 1973".

Sec. 2. The Congress hereby finds and declares that—

(1) it is the policy of the United States to recognize and carry out its treaty and trusteeship obligations to Indians;

(2) the historic and unique trust relationship between the United States and the Indians shall not hereafter be abridged without the consent of the Indians;

(3) this historic and unique trust relationship is the basis for the responsibility of the United States to protect lands, resources, and rights of Indians as well as to provide basic community services to Indians residing on reservations and in other areas considered to be within the scope of the trust relationship;

(4) self-determination among the Indian people can and must be encouraged without the threat of eventual termination of the trust relationship;

(5) the United States must strengthen the Indian's sense of autonomy without threatening his sense of community and must assure the Indian that he can assume control of his own life without being separated involuntarily from his tribal group;

(6) the United States is committed to a policy which will result in the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation of the Indian people in the planning, conduct, and administration of those programs and services for which the United States has a responsibility to provide by reason of the unique legal, social, and economic relationship existing between the United States and Indians and which arise out of the Constitution, treaties, statutes, Executive Orders, agreements, and judicial decisions of the United States.

SEC. 3. (a) The Secretary of the Interior shall take such action as may be necessary to establish a commission which shall be charged with the responsibility of conducting a review, and evaluation of all rules, regulations, and policies of the Department of the Interior which govern or involve the relationship between the United States and Indians with a view to determining to what extent (1) such rules, regulations, and policies are required to be altered, amended, modified, or repealed, (2) additional rules, regulations, and policies need to be promulgated or adopted, and (3) additional legislation is required to be enacted, in order to comply with, and implement, the findings and declarations set forth in section 2 of this Act.

(b) Such commission shall consist of seven members of whom not less than four shall be appointed from private life and shall be Indians. All appointments to the commission shall be made by the Secretary of the Interior. The commission shall select from among its members one such member to serve as chairman. A vacancy in the commission shall not affect its powers. Members of the commission who are officers or employees of the Government shall serve without compensation in addition to that which they receive by reason of their regular employment. Each member of the commission appointed from private life shall receive compensation at the rate of $150 for each day that he is engaged in the performance of his duties as a member of such commission. Each member of the commission shall be reimbursed for necessary travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently, incurred in the performance of his duties as a member of the commission.

(c) The commission shall, from time to time, hold such hearings as it determines are necessary to enable it to carry its duties under this Act. At least thirty days before any such hearing, the commission shall notify by appropriate means as prescribed by the Secretary all interested parties of the time, place, date, and purpose of such hearing. All interested parties shall be granted an opportunity to testify or submit written statements. A record shall be made of all hearings and shall be available for inspection by interested parties. Such hearings shall be conducted in such manner, at such times, and at such places as the commission shall prescribe.

(d) The Secretary of the Interior shall make available to the commission full-time legal counsel acceptable to the commission; as well as such facilities, equipment, supplies, and personnel as are necessary to enable the commission to carry out its functions under this Act. He shall also make available all information concerning or supporting the rules, regulations and policies of the Department of the Interior, as referred to in subsection (a) of this section, as the commission may determine necessary to enable it to carry out its duties under this act. The Secretary shall assign as liaison to the commission the Assistant Secretary for Indian Affairs, to be assisted by such of his professional staff as the Secretary determines necessary to enable the commission to carry out its function under this Act.

SEC. 4. (a) It shall be the function of the commission to conduct a comprehensive review and evaluation of all rules, regulations, and policies of the Department of the Interior which govern or involve the relationship between the United States and Indians with a view to determining to what extent (1) such rules, regulations, and policies are required to be altered, amended, modified, or repealed, (2) additional rules, regulations, and policies need to be promulgated or adopted, and (3) additional legislation is required to be enacted, in order to comply with, and implement, the findings and declarations of the Congress contained in section 2 of this Act.

(b) The commission shall, from time to time, submit interim reports to the Secretary containing the findings and recommendations of the commission in connection with the carrying out of its function under subsection (a) of this section. On or before the expiration of the twelve-month period following the date of the enactment of this Act, the commission shall submit a final report to the Secretary containing the findings and recommendations of the commission in connection with the carrying out of such function. Within thirty days following the submission of its final report, the commission shall expire.

SEC. 5. (a) The Secretary shall, after considering each such report submitted to him pursuant to section 4, take such lawful action as necessary (1) to alter, amend, modify or repeal, any rule, regulation, or policy of the Department of the Interior, or (2) to lawfully promulgate or adopt additional rules, regulations, or policies, in order to comply with, and implement, the findings and declaration set forth in section 2 of this Act.

(b) On or before the expiration of the fifteen calendar month period following the date of the enactment of this Act, the Secretary shall submit a comprehensive report to the Congress concerning the actions taken by him pursuant to subsection (a) of this section, together with his recommendations for legislation which he determines is necessary in order to enable him to comply with, and implement, the findings and declaration contained in section 2 of this Act. Such report shall also include a copy of each report submitted to the Secretary by the commission pursuant to section 4 of this Act.

SEC. 6. There is authorized to be appropriated such sum as may be necessary to carry out the provision of this Act.

By Mr. HARTKE (for himself and Mr. RIBICOFF):

S. 2188. A bill to provide for the identification of a restructured rail transportation system in the Midwest and Northeast regions of the Nation in order to meet the present and future needs of commerce, the national defense, and the environment; the service requirements of passengers, mail, shippers, States, communities, and the consuming public; and for other purposes. Referred to the Committee on Commerce.

THE MIDWEST AND NORTHEAST RAIL SYSTEM DEVELOPMENT ACT

Mr. HARTKE. Mr. President, I introduce for appropriate reference a bill to provide for the identification of a restructured rail transportation system in the Midwest and Northeast regions of the Nation in order to meet the present and future needs of commerce, the national defense, and the environment; the service requirements of passengers, mail, shippers, States, communities, and the consuming public; and for other purposes.

I ask unanimous consent that a press conference of July 16, 1973, be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

REGARDING PROPOSALS TO SOLVE THE RAIL CRISIS

Throughout scores of hearings, interviews, conferences and private meetings with all sorts of government, industry and carrier people, I have continually warned of a national disaster, if the Penn Central and other bankrupt railroads go under. I do not care what they call it: liquidation, partial shutdown, or a cessation of operations in any form.

This is the domino effect. And last Friday, you began to see it starting to take formal, legal shape. I offer you a statement I made immediately upon learning that the *mainline*, Washington to New York had been further jeopardized with the hardly noticed bankruptcy declared Friday by the New Jersey Railroad & Canal Company. I predicted then that some 60 new bankruptcies may flow from the same causes . . . failure of the Penn Central to pay for the use of these rights of way. A new group of trustees very well might determine that the interests of their companies may require them to halt Penn Central use of the lines. That is a "shut-down horse" of a different color than the one we have been contemplating and that your readers have been reading about.

I emphasize that contrary to some reports, this is *not* a step to liquidation of the Penn Central. It may be caused by a calculated policy of the Penn Central management not to pay some of these charges. But the failure of these lines and companies is caused by a failure of income.

I have already traced in some detail the effects of the domino-like progression of disasters for my own state, and those details are available to you this morning on the press table.

And I have laid out details on the national scene, such as I have. Careful analysis so far indicates that a shutdown of the Penn Central alone would affect the entire national rail system, coast to coast, clog highways North, South, East and West, and push waterway and air carriers beyond their capabilities.

Employment nationally and the Gross National Product would drop 3% in less than eight weeks . . . and that is a very conservative estimate; and employment and the gross national product of the region East of the Mississippi would drop more than 5% in two months. Again, that is a conservative estimate.

A liquidation of this magnitude would require wartime emergency powers. Anyone who still thinks seriously that the nation and the economy could stand a blow of this proportion, especially at this time, is *not living in this world!*

ALTERNATIVE PROPOSALS

Now I want to extend every bit of cooperation to every agency of government and private enterprise that is trying to come up with permanent and interim solutions. Our committee has waded through miles of documentary evidence and commentary, stretching back much farther than the problem and time-frame of the moment.

1. I have been very critical of the Department of Transportation, and I warned Sec-

retary Brinegar in extensive conversations of what I would say and do.

Forgetting the inactivity and unfortunate proposals of the DOT in the past, I welcome today the 180-degree turn of the Department. As a matter of fact, the DOT would spend more than I think necessary on interim proposals: $85-million plus $40-million for bureaucratic studies, or *a total of $125-million,* while I would rely solely on existing funds and statutes to raise the $62.5-million that may be necessary to carry the bankrupt railroads until we get a long range solution going.

2. Secondly, I have had very open discussions with my friend Brock Adams in the House. I have studied his proposals carefully. I also have read in the press of reports by some unidentified House staff persons who find my proposals to be what they call "rear-end financing."

I do not want to dwell on the metaphor, but let me just say that I cannot see committing the American taxpayer to huge sums of outlays for railroads, until we know what we are buying. I see proposals for $5-billion in loa guarantees, before we have spent a dime on upgrading track, properties or assurances of service. And that does not include aid promised to waterways and trucks in some proposed legislation.

So I think my proposals are geared to *"what is"*, to interim cash relief only as it is required, to long range solutions only as they are possible, with machinery that has a chance to move quickly.

Finally, let me say that I have support for these propositions across a wide spectrum of leadership in House and Senate, regardless of party; and I find increasing support among private parties with vital stakes in the problem.

I think these proposals I discuss with you this morning can move in this session. We already have moved on the $62.5-million in aid, while the DOT has only begun to admit that something of this sort is necessary.

Mr. HARTKE. Mr. President, I ask unanimous consent that the text of the bill and a description of the proposed legislative program to meet the Midwest and Northeast rail crisis be printed in the RECORD at this point.

There being no objection, the bill and description were ordered to be printed in the RECORD, as follows:

S. 2188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Midwest and Northeast Rail System Development Act".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress hereby finds and declares that—

(1) Rail transportation service in the Midwest and Northeast regions of the United States is threatened with cessation or significant curtailment.

(2) The national interest demands that rail transportation service be maintained and improved within these regions.

(3) To assure the continuation and improvement of rail transportation service in the Midwest and Northeast regions, the present rail transportation system in these regions must be restructured in such a way as to produce a rail system which is adequate to meet the needs of commerce, the national defense, the environment, and the service requirements of passengers, mail, shippers, States, communities, and the consuming public.

(4) The first step in such a restructuring is to identify such a rail system following an intensive examination by specialized experts of the condition and utilization of existing plant, facilities, and rights-of-way and an evaluation of methods of improving their condition and utilization.

(b) PURPOSE.—It is the purpose of this Act to facilitate the restructuring of the present rail system in the Midwest and Northeast regions of the United States in order to meet the present and future needs for rail transportation in those regions by—

(1) creating a special Office in the Commission;

(2) directing the Office to conduct an investigation which surveys existing rail transportation operations and facilities, analyzes rail service needs, and studies methods of effecting economies in the cost of rail system operations;

(3) requiring the Commission to identify a restructured rail system which meets the rail transportation needs of the regions; and

(4) asking the Commission and the Secretary of Transportation to submit recommendations for achieving the restructured system identified by the Office and the Commission.

SEC. 3. As used in this Act—

(1) "Commission" means the Interstate Commerce Commission.

(2) "Council" means the Advisory Council for the Rail Emergency Region established pursuant to section 6 of this Act.

(3) "Director" means the Director of the Office.

(4) "Office" means the Rail Emergency Region Planning Office in the Commission established pursuant to section 4 of this Act.

(5) "Person" means an individual, a corporation, a partnership, a business trust, an association, an organization, or any group of individuals whether incorporated or not.

(6) "Rail emergency region" includes the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, and Michigan, the District of Columbia, and other areas designated by the Commission.

(7) "Secretary" means the Secretary of Transportation.

RAIL EMERGENCY PLANNING OFFICE

SEC. 4. (a) ESTABLISHMENT.—There is hereby established, fifteen days after the date of enactment of this Act, a new Office in the Commission to be known as the "Rail Emergency Planning Office." Such Office shall function continuously pursuant to the provisions of this Act and shall cease to exist on the second anniversary date of its establishment unless extended by law.

(b) ORGANIZATION.—The Office shall be administered by a Director, pursuant to the provisions of section 5 of this Act.

(c) DUTIES.—The Office shall—

(1) conduct the initial investigation of the present rail transportation system in the rail emergency region and prepare and publish a report on such investigation within six months from the date of enactment of this Act;

(2) prepare and submit to the Commission, the Congress, the Secretary, and the public, and cause to be published in the Federal Register its preliminary identification plan for a restructured rail system for the rail emergency region within eight months from the date of enactment of this Act;

(3) prepare and submit to the Commission a proposed final identification plan for a restructured rail system for the rail emergency region within ten months from the date of enactment of this Act;

(4) prepare and submit to the Commission recommendations, including alternatives, as to the most expeditious and feasible means, consistent with the policy of this Act, to bring into existence in the rail emergency region the restructured rail system identified by the Commission after the Commission has accepted, with or without amendment, the proposed final identification plan submitted pursuant to paragraph (3) of this subsection within eleven months from the date of enactment of this Act;

(5) prepare and submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate detailed reports in writing on the fifteenth day of each month on the activities of the Office and provide to the members of such Committees and Subcommittees thereof such information as is requested;

(6) provide technical assistance, upon written request, to the Chairman of the Commission; and

(7) perform such other duties as may be necessary to accomplish the purposes of this Act.

DIRECTOR

SEC. 5. (a) APPOINTMENT.—The Director shall be appointed by the Chairman of the Commission with the concurrence of at least five members of the Commission and shall take office as Director upon the issuance of a resolution endorsing such appointment by both the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Commerce of the Senate.

(b) TERM OF OFFICE.—The Director shall administer the Office and shall be responsible for the discharge of the duties of the Office from the day he takes office until such date as the Office ceases to exist unless removed for cause by the Commission.

(c) COMPENSATION.—The Director shall be compensated at a rate to be set by the Chairman of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of GS–18 of the General Schedule under section 5332 of such title.

(d) POWERS.—The Director is authorized to—

(1) appoint, fix the compensation, and assign the duties of employees of the Office without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and to procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5, United States Code, but at rates not to exceed $250 a day for qualified experts. Each department, agency, and instrumentality of the executive branch of the Federal government and each independent regulatory agency of the United States is authorized and directed to furnish to the Director, upon written request made by the Director, on a reimbursable basis or otherwise, such assistance as the Director deems necessary to carry out his functions and the duties of the Office under this Act including, but not limited to, transfer of personnel with their consent and without prejudice to their position and rating;

(2) enter into, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), such contracts, leases, cooperative agreements, or other transactions as may be necessary, in the conduct of his functions and the duties of the Office under this Act, with any government agency or any person;

(3) personally, or by any duly designated employee of the Commission, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise the attendance and testimony of such witnesses and the production of such evidence as the Director may deem advisable for the purpose of carrying out the provisions of this Act. Subpoenas may be issued under the signature of the Director, and may be served by any

person designated by him and shall be enforced by the Commission. Witnesses summoned before the Office shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production of evidence may be required from any place in the United States to any designated place of such hearing.

ADVISORY COUNCIL

SEC. 6. (a) ESTABLISHMENT.—There is hereby established an "Advisory Council for the Rail Emergency Region" which shall assist the Office and the Commission in the performance of their duties and obligations under this Act. Such Council shall remain in existence for the same period of time as the Office.

(b) MEMBERS.—The Council shall consist of fifteen individuals who shall be appointed by the Commission on the following basis—

(1) two, to be selected from a list of not less than four qualified individuals recommended by the Association of American Railroads or its successor, who shall be representative of railway management;

(2) two, to be selected from a list of not less than four qualified individuals recommended by the parent body of the American Federation of Labor and Congress of Industrial Organizations or its successor, who shall be representative of railway labor;

(3) two, to be selected from a list of not less than four qualified individuals recommended by the Chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives and the Chairman of the Committee on Commerce of the Senate as having expert knowledge or experience in a scientific or technical discipline relevant to the development of a restructured rail system in the rail emergency region;

(4) four, to be selected from the lists of qualified individuals recommended by shippers, organizations representative of significant shipping interests including small shippers, organizations representative of railroad passengers, consumer organizations, environmental organizations, community organizations, and recognized consumer leaders;

(5) one, to be selected from a list of not less than two qualified individuals who are not employees of the Federal Government recommended by the Secretary of Transportation; and

(6) four, to be selected from lists of qualified individuals recommended by the Governors of the States in the rail emergency region, who shall be representative of the States.

The Commission shall select one of the members of the Council to serve as its President. As used in this subsection, "qualified individual" means an individual who is equipped by education, experience, known talents, and interests to further the policy of this Act effectively, positively, and independently if appointed to be a member of the Council. Each list of qualified individuals shall be accompanied by such biographical and other material on each person recommended and in such form as the Commission shall direct.

(c) COMPENSATION.—A member of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of functions vested in the Council and shall receive $150 per diem when engaged in the actual performance of functions vested in the council: *Provided*, That no such per diem shall be paid to any member who is an employee of the Federal Government or a State or who is appointed as representative of railway management or railway labor.

(d) FUNCTION.—The Council shall assist the Office and the Commission by meeting regularly, not less than one day each month, to confer upon and make specific recommendations concerning the submission—

(1) by the Secretary, of the preliminary core plan;

(2) by the Director, of the Office's preliminary identification plan for a restructured rail system in the rail emergency region;

(3) by the Commission, of the final identification plan for such system;

(4) by the Commission and the Secretary, of recommendations for the most expeditious and feasible means consistent with the policy of this Act for bringing into existence in the rail emergency region the restructured rail system identified by the Commission; and

(5) by the Council, of such material, views, and reports as the Director, the Commission, the Secretary, on a Committee of the Congress may request or as the Council may determine to issue concerning any matter relevant to the policy of this Act.

All recommendations of the Council, together with separate and dissenting views, shall be submitted in writing to the Office, the Commission, the Secretary, the Congress, and the President.

(e) STAFF.—The Office may provide the Advisory Council with such staff support as the Director deems appropriate.

REPORT OF THE SECRETARY

SEC. 7. Within forty-five days from the date of enactment of this Act, the Secretary shall submit to the Commission and the Office a report which shall contain his conclusions concerning essential rail services in the rail emergency region. Such report shall include his recommendations as to the cities and geographic zones within the rail emergency region at and between which rail service should be provided and the connections between and among the several lines of railroad which should be maintained. The Secretary may use as a basis for the establishment of such recommendations the standard metropolitan statistical areas as described in the latest census of the United States, groups of such areas, or counties or groups of counties having similar economic or geographical characteristics. The Secretary shall cause such report to be published in the Federal Register and shall serve a copy upon the Governor of each State in the rail emergency region and upon the public utilities commission or other official or board having jurisdiction over rail transportation in each such State. The Secretary shall make a copy available to each interested person, upon request.

INITIAL INVESTIGATION

SEC. 8. The initial investigation conducted by the Office pursuant to section 4(c)(1) of this Act shall include, but is not limited to, preparing—

(a) a detailed information survey of existing rail transportation operations (including patterns of traffic movement), traffic density over identified lines, pertinent costs and revenues of such lines, plant, equipment, facilities (including yards and terminals), and property suitable for rail transportation service in the rail emergency region;

(b) an economic and operational study and analysis of present and future rail service needs in the rail emergency region, taking into account such factors as——

(1) the nature and volume of the traffic now being moved, or likely to be moved in the future, by rail in this region;

(2) the extent to which available alternative modes of transportation could move such traffic as is now carried by railroads in the region;

(3) the relative economic, social, and environmental costs involved in the use of alternative modes of transportation, including energy utilization requirements;

(c) a study—

(1) of methods of effecting economies in the cost of rail system operations in the rail emergency region through—

(A) consolidation of lines, facilities, corporate entities;

(B) relocation;

(C) rehabilitation and modernization of equipment and track;

(D) abandonment of lines consistent with meeting service requirements; and

(E) any other methods; and

(2) of the added economic, social, and environmental costs, if any, of each method of effecting operational economies studied under paragraph (1) of this subsection, and the anticipated benefits of each such method;

(d) a report which the Commission shall cause to be published and make available to each interested person, upon request, summarizing in detail the initial investigation.

RESTRUCTURED RAIL SYSTEM PLAN

SEC. 9. (a) PRELIMINARY IDENTIFICATION.—(1) The preliminary identification plan for a restructured rail system, to be prepared and submitted by the Office pursuant to section 4(c)(2) of this Act, shall identify on a map of the rail emergency region the rail transportation system which in the judgment of the Director would best satisfy present and future rail transportation needs in the region.

(2) In identifying such a restructured rail system, the Director shall not consider any barriers or impediments to establishing or bringing into existence such a system, but shall provide an estimate of the costs and benefits of all consolidation, relocation, rehabilitation, modernization, abandonment, improvement, and other changes which are deemed appropriate in the preliminary identification plan.

(b) PUBLIC RESPONSE.—Following the submission of the preliminary identification plan, the Office shall solicit the views of other government agencies and the public with respect to such plan, on behalf of the Commission. The Director shall invite interested persons to comment thereon at a public hearing pursuant to section 553 of title 5. United States Code, to be held not less than forty-five days after the date of submission.

(c) PROPOSED FINAL IDENTIFICATION.—The proposed final identification plan for a restructured rail system, to be prepared and submitted by the Office pursuant to section 4(c)(3) of this Act, shall reflect evaluation by the Office of all responses received, testimony at public hearings, and the results of any additional study and review by the Director. It shall also include a projection of traffic volume, costs, and revenues for the restructured system, reported in such a way that the projected costs and revenues can be attributed to identifiable segments of main lines, secondary lines, and branch lines.

(d) FINAL IDENTIFICATION.—Within eleven months after the date of enactment of this Act, the Commission shall submit to the Congress and the President a final identification plan for a restructured rail system in the rail emergency region. The determination of the Commission shall be guided by the criteria set forth in subsection (a) of this section. The Commission shall include detailed cost estimates for establishing or bringing into existence such a system and shall evaluate the benefits of any proposed consolidation, relocation, rehabilitation, modernization, and other changes which are deemed appropriate.

IMPLEMENTATION OF RESTRUCTURED RAIL SYSTEM PLAN

SEC. 10.(a) RECOMMENDATIONS OF OFFICE.—The recommendations for bringing into existence the restructured rail system as detailed in the final identification plan, to be prepared and submitted by the Office pursuant to section 4(c)(4) of this Act, shall include—

(1) a comparison of alternative plans together with an evaluation of their relative advantages and procedural characteristics;

(2) the Director's conclusions regarding the possibility of successful reorganization

of each Class I railroad (as defined by the Commission) in the rail emergency region then in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205); and

(3) an evaluation of the methods of financing each plan.

(b) RECOMMENDATIONS OF THE SECRETARY.—Upon the basis of his review of the preliminary identification plan submitted by the Office pursuant to section 4(c) (2) of this Act, the Secretary shall, not more than 30 days following publication of such plan, shall submit to the Office his recommendations for establishing the restructured rail system and shall cause them to be published in the Federal Register. Such recommendations of the Secretary shall be considered by the Director in preparing the recommendations of the Office in accordance with subsection (2) of this section.

(c) RECOMMENDATIONS OF COMMISSION.—Within one year after the date of enactment of this Act, the Commission shall submit to the Congress and the President recommendations for establishing or bringing into existence the restructured rail system for the rail emergency region, together with any recommendations for modifications in the final identification plan because of practical problems detailed in the submission. The recommendations by the Commission shall be guided by the criteria set forth in subsection (a) of this section.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 11. There is hereby authorized to be appropriated to the Commission for the use of the Office in carrying out the purposes of this Act such sums as are necessary, not to exceed $7.5 million. Such sums shall remain available until expended. The budget for the Rail Emergency Region Planning Office shall be submitted by the Commission directly to the Congress and shall not be subject to review of any kind by any other agency or official of the United States. Moneys appropriated for the Office shall not be withheld by any agency or official of the United States or used by the Commission for any purpose other than the use of the Office. No part of any other moneys appropriated to the Commission shall be withheld by any other agency or official of the United States to offset any moneys appropriated pursuant to this section.

DESCRIPTION OF PROPOSED LEGISLATIVE PROGRAM TO MEET THE MIDWEST AND NORTHEAST RAIL CRISIS

INTRODUCTION

The rail transportation problems in the Northeast and Midwest regions of the Nation are approaching crisis proportions. Trustees of the Penn Central Transportation Company, who are in charge of the Nation's largest railroad, are proposing to cease rail operations and sell the rail property if aid is not immediately forthcoming. Trustees of other railroads are proposing similar plans.

In order to avert the imminent prospect of a widespread shutdown in rail service throughout this vast region of the United States, with acute disruption to the economy and peril to the public health and welfare, this Committee has been intensively studying the situation by holding public hearings, listening to detailed information from railroads, and engaging in independent analysis of impending plans for solving the crisis.

The Chairman of the Surface Transportation Subcommittee (Senator Vance Hartke) has concluded that: 1) a long-range solution must begin to be formulated and; 2) immediately, interim steps must be taken to avert a shutdown of a vital rail system. The Chairman of the Surface Transportation Subcommittee has, therefore, proposed the following legislative program.

LONG-RANGE SOLUTION

1. The Midwest and Northeast Rail Systems Development Act

It is the stated purpose of this legislation to "facilitate the restructuring of the present rail system in the Midwest and Northeast regions of the United States in order to meet the present and future needs for rail transportation in those regions." To accomplish this purpose the legislation would create a special office within the Interstate Commerce Commission (the Rail Emergency Planning Office) which would be responsible for: 1) conducting the initial investigation of the present rail transportation system; 2) preparing and submitting a preliminary identification plan for a restructured rail system; 3) preparing and submitting a proposed final identification plan for a restructured rail system for the rail emergency region; and 4) preparing and submitting to the Commission recommendations as to the most expeditious and feasible means to bring into existence the identified restructured rail system.

During the initial investigation, the Rail Emergency Planning Office would receive and analyze the preliminary core recommendations of the Department of Transportation within 45 days from the date of enactment of the legislation. The Office would also survey existing rail facilities, ascertain their present capacity and utilization, explore traffic movement patterns of people and freight, and analyze the rail service needs of the region. The bill would specifically require the Office to study methods of affecting economies in rail system operations through relocation, consolidation, rehabilitation, modernization, abandonment, and so forth. The bill would also require the Office to project the cost benefits of each of these procedures. Within six months from the date of enactment of the legislation, the Office would publish a final report on its preliminary investigation. The Office would preliminarily identify a restructured rail system in the Midwest and Northeast regions that would meet the present and future needs of rail transportation in those regions within eight months from the date of enactment. Public hearings would then be held and comments received and evaluated. By the tenth month the Office would submit to the Commission a proposed final identification plan for a restructured rail system. Within one month following the submission of a proposed plan by the Office, the Commission would submit the final identification plan which would describe the proposed restructured system in detail and estimate the cost and benefits of any proposed consolidation, relocation, rehabilitation, modernization, or other changes.

Following the identification of the final plan, the Commission would be required to submit to Congress its recommendations for securing the identified system and offering any amendments to the system necessitated by practical considerations. To assist the Commission in the formulation of its recommendations, the bill would require the Secretary of Transportation to submit its recommendations to the Commission 30 days after publication of the preliminary identification plan.

To assist in the investigation and identification of a restructured rail system, an Advisory Council consisting of a representative group of rail management, labor, shippers, communities, and consumers would be constituted. This Advisory Council would assure broad-based participation in activities of the Office and the Commission. To assure Congressional involvement in the investigation and identification of a restructured rail system, the bill would require a rail emergency planning Office to submit monthly reports to the House Interstate and Foreign Commerce Committee and the Senate Commerce Committee. In addition, the appointment of the director of the Office is dependent upon approval by those committees.

The bill would authorize the appropriation of $7.5 million to assist the Commission in carrying out the purposes of the legislation. Money appropriated in accordance with the authorization could not be withheld or offset against other monies appropriated to the Commission.

2. Subsequent congressional action

With the knowledge of the kind of rail system in the Midwest and Northeast which should be created and with the estimate of the cost of its creation, as well as projected *operating* cost and revenues, Congress would be in a posititon to formulate final plans for moving from the present outdated, inefficient and bankrupt rail system to one which is modern, efficient, and financially supportable.

PROPOSED INTERIM MEASURES

1. Utilization of existing programs to improve the cash position of the bankrupt railroads

Through the Emergency Rail Services Restoration Act (the so-called Hurricane Agnes legislation) several of the bankrupt railroads in the Midwest and Northeast regions are eligible to obtain loans to replace funds they have expended, or plan to expend, for restoring rail services damaged or destroyed by Hurricane Agnes. Congress has appropriated the necessary funds and the Administration has tentatively committed those funds as follows: Penn Central, $17.28 million; Erie-Lackawanna, $3.978 million; Reading, $1.57 million; and Lehigh Valley, $4.2 million. This measure alone should improve the cash position of the Penn Central Transportation Company by more than $13 million.

By expediting the dispute between Amtrak and Penn Central Transportation Company regarding the amount of compensation which Amtrak owes Penn Central for serving the transportation of passengers in the mid-west and northeast, it is possible that cash position of the Penn Central could be further improved.

Under the National Rail Passenger Service Act, there is provision for federal loans to railroads to have agreed to pay the national rail and Passenger Corporation (Amtrak) for the right to cease operating their rail passenger services. Such loans provide another source for improving the cash position of the bankrupt railroads. Rather than using existing cash to pay their Amtrak obligations, eligible railroads could obtain a loan from the federal government and save their cash.

2. Amend the Emergency Rail Services Act of 1970 to facilitate granting of direct interim aid

On June 25, 1973, Senator Hartke introduced the "Emergency Rail Services Act Amendments of 1973". This bill (S. 2060) authorizes the Secretary of Transportation to contract with the trustees of any railroad in the case of an actual or threatened cessation of essential service for the continued provision of such services, and allows the Secretary to acquire by purchase, lease, or other transfer any equipment facilities, or operating rights over the tracks of such railroad. The present act authorizes the Secretary to take similar action only with respect to those railroads which have accepted loans from the Federal government. The amendment would broaden that authority to apply to any railroad which has actually ceased operation or is about to cease operations. Any such service contract, or acquisition would be subject to the approval of the reorganization court and the Interstate Commerce Commission.

Funds to pay for any service contract or acquisition would be available through funds in the existing Emergency Rail Services Act, which authorizes the Secretary of Transportation to issue obligations to pay for acquisitions. While the present Act authorizes such sums as may be necessary to pay the principal and interest on any obligation so issued, S. 2060 places a ceiling of $250 million on such authorization. The Administration has also proposed the granting of direct aid to meet cash emergencies.

3. Essential Rail Services Continuation Act of 1973

S. 1925 would authorize the Interstate Commerce Commission to direct one carrier by railroad to operate over the lines of another carrier which is unable to transport the traffic offered it because:

(1) its cash position makes its continuing operation impossible; or

(2) it has been ordered to discontinue service by a court; or (3) it has abandoned service without obtaining a required certificate from the Commission. The Commission must issue just and reasonable directions to the operating carrier which covers the handling, routing, and movement of the traffic of the non-operating carrier.

The bill specifically limits the duration of such direction to 60 days (unless extended by the Commission because of extraordinary circumstances for an additional period of time not to exceed 180 days). The Commission is prohibited from issuing directions which would cause a carrier to operate in violation of the Federal Railroad Safety Act or which would substantially impair the ability of the operating carrier to service adequate its own patrons or otherwise meet its outstanding common carrier obligations. When issuing directions, the Commission would require the operating carrier to utilize those employees of the non-operating carrier for the directed operations involved. These are the only non-operating carrier employees that must be hired. Employees so hired would be afforded the same protection as if they were still employed by the non-operating carrier. If the operating carrier incurs costs not covered by revenues because of operations it was directed to engage in, the Commission, after audit, is directed to secure payment for such cost from the Secretry of the Treasury. The bill authorizes funds to be appropriated in such amounts as may be necessary to reimburse a directed carrier for such losses.

In the event railroads ceased operation prior to the authorization of direct interim relief or in the event that the Administration refused to extend such relief, S. 1925 would provide a means of assuring the continuance of essential rail service in the Northeast and Midwest.

This bill was passed by the Senate on July 14, 1973.

THE IMPENDING RAIL CRISIS

Mr. RIBICOFF. Mr. President, I am pleased to join with the distinguished chairman of the Senate Subcommittee on Surface Transportation (Mr. HARTKE) in his effort to preserve and maintain essential rail freight service in the Midwest and northeastern States.

Two weeks ago the trustees of the bankrupt Penn Central Roalroad announced their desire to cease all railroad operations. This follows the decision of the trustees of the bankrupt Lehigh Valley Railroad to liquidate that line. Four other major roads, the Boston and Maine, the Reading, the Erie Lackawanna and the Central New Jersey are also bankrupt and face a similar fate.

It would be a grave blow to this Nation's economy if these railroads—that serve over half the American people—are allowed to collapse. The Penn Central alone moves close to 1 million tons of freight every day through the Northeast. We simply do not have either the trucks or the highway capacity to absorb even a fraction of that load.

Farmers will not be able to get food for their animals and will not be able to deliver their goods to market. Industries that rely on railroads for either their raw materials or to ship out their finished product may not be able to live up to their commitments. For many, the only alternative will be to shut down.

Possibly the most critical aspect—as evidenced by this week's heat wave—is the impact a shutdown would have on our energy supplies. The power companies are already finding it difficult to meet peak summer demands. If their supplies of oil and coal—much of which is delivered by rail—are suddenly interrupted, we could experience a prolonged blackout covering the entire Northeast.

The administration and the Congress must act quickly. We must take whatever actions are necessary to preserve essential services, while at the same time creating a new and stable rail system that will meet the needs of the American people and economy.

The following steps can be taken now. First, loans must be available to the railroads under the Emergency Rail Services Restoration Act. Money for this program has been appropriated and can be used to relieve the cash shortage facing each line, particularly the Penn Central.

Second, the dispute between Amtrak and Penn Central over the amount Amtrak owes the bankrupt carrier for providing passenger service should be settled as quickly as possible and the funds given to Penn Central.

Third, legislation should be enacted to facilitate the granting of direct interim aid. The Congress should approve S. 2060, Senator HARTKE's Emergency Rail Service Amendments of 1973. This bill would allow the Secretary of Transportation to contract with a failing railroad to continue its service and allow the Secretary to acquire by purchase, lease or other transfer whatever facilities or equipment that may be necessary to keep the railroad operating.

Fourth, the full Congress should pass S. 1925, the Essential Rail Services Continuation Act of 1973. This bill, which the Senate approved on July 14, would grant the Interstate Commerce Commission the authority to direct one carrier to operate over the lines of another that has shut down or abandoned service. At the present, if Penn Central ceased tomorrow, the ICC does not have the power to tell another line to operate on Penn Central's tracks.

These four proposals, if enacted and implemented quickly, could stave off the current crisis for a few weeks or months by pumping as much as $62.5 million into the troubled rail lines. We cannot, however, continue to rely on emergency measures, but must also develop long-term solutions to this most serious problem.

To meet that need we introduce today the Midwest and Northeast Rail Systems Development Act. Our proposal is designed to facilitate the restructuring of the present rail systems serving the Midwest and Northeast.

Under this bill a Rail Emergency Planning Office would be established within the ICC. The Office would be charged with: First, conducting an initial investigation of the present rail transportation system; second, preparing and submitting a preliminary identification plan for our restructured rail system; third, preparing and submitting a proposed final identification plan for a restructured rail system for the rail emergency region; and fourth, preparing and submitting to the Commission recommendations as to the most expeditious and feasible means to bring into existence the identified restructured rail system.

Within 6 months the Office would publish a final report on its preliminary investigation—outlining the possible restructured rail system. Public hearings would then be held on the proposal.

By the 10th month a final proposal reflecting public comments and suggestions would have to be submitted to the full ICC which would then submit it to Congress.

In order to assure that the people most affected by any plan are heard, an Advisory Council containing representatives of rail management, labor, consumers, shippers, and local communities will be appointed to assist the ICC and the Rail Emergency Planning Office. In addition, in order to keep Congress fully informed of its progress at each step, monthly reports would have to be submitted to the Senate Commerce Committee and the House Interstate and Foreign Commerce Committee.

The final rail system must reflect basic changes in our present public and private railroad policies.

Like those nations with great rail service, the United States must make a national commitment to support the railroads. Our citizens deserve nothing less than the best.

By Mr. TALMADGE (by request):

S. 2189. A bill to amend section 602 of the Agricultural Act of 1954. Referred to the Committee on Agriculture and Forestry.

Mr. TALMADGE. Mr. President, by request, I introdue a bill and ask unanimous consent that the bill and a letter from the Department of Agriculture be printed in the RECORD.

There being no objection, the bill and letter was ordered to be printed in the RECORD, as follows:

S. 2189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 602 of the Agricultural Act of 1954, as amended, is amended by adding at the end thereof a new subsection as follows:

"(f) Appropriations available to the Secretary of Agriculture may be used to provide appropriate orientation and language training to families of officers and employees of the Department of Agriculture in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to this Act or other authority: *Provided,* That the facilities of the Foreign Service Institute or other Government facilities shall be used wherever practicable."

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 9, 1973.
Hon. SPIRO T. AGNEW,
President of the Senate.

DEAR MR. PRESIDENT: Enclosed for consideration of the Congress is a draft bill which would amend Section 602 of the Agricultural Act of 1954, by adding a new subsection thereto.

The Department recommends that this bill be passed.

This bill would provide that appropriations available to the Secretary of Agriculture may be used to provide appropriate orientation and language training to families of officers and employees of the Department in anticipation of an assignment abroad of such officers and employees or while abroad pursuant to the Agricultural Act of 1954, or other authority. This authority is available to other Foreign Affairs agencies through the Foreign Service Act of 1946, as amended.

Section 701 of the Foreign Service Act of 1946, as amended, provides authority to Federal agencies to utilize the facilities of the Foreign Service Institute for dependent training. There is, however, no authority for the Department of Agriculture to use its appropriations to pay for the cost of such training.

Because of the representational nature of the Agricultural Attache's position it is important that dependants of the Attache share in representing the United States abroad. The Attache's spouse is an important member of the Attache team and thereby occupies a significant role in the success of U.S. agricultural representational activities at posts abroad.

The spouse of other Department officials assigned abroad also has a significant role in representational activities in the country to which the official is assigned.

It is especially useful for the spouse of the Attache and of the other Department officials to know something of the culture and history of the area to which the Department representative is to be assigned, as well as have general orientation on foreign service requirements. Of equal importance is the increasingly greater emphasis being placed on language proficiency for those assigned officially abroad. The spouse must acquire a degree of skill to communicate in the language of the country to which the Attache or Department official is assigned. While her language skills and knowledge of the area need not be as highly developed as those of the Attache or other official assigned abroad, a lesser degree is justified and important to effectively represent the United States abroad.

A limited amount of dependent training has been accomplished through the Foreign Service Institute in Washington, D.C., without cost to this Department. The Institute has informed us that due to budgetary limitations they must request reimbursement for future dependent training. Furthermore, authority is needed to pay for training which is not feasible to obtain through FSI. Also, there is a need for training of dependents at posts abroad which cannot be met on a nonreimbursable basis.

The spouse of an Attache or other Department official serving abroad should not bear such expense, in view of her role in representing the United States abroad, but rather such cost should be borne by the Government.

It is estimated that the enactment of this proposed legislation would not result in additional costs, since the cost of about $30,000 annually can be absorbed within the total resources of the Department of Agriculture.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,
J. PHIL CAMPBELL,
Under Secretary.

By Mr. ABOUREZK (for himself, Mr. MCGOVERN, Mr. BAYH, Mr. BURDICK, Mr. CHURCH, Mr. CLARK, Mr. COOK, Mr. HART, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUGHES, Mr. HUMPHREY, Mr. INOUYE, Mr. KENNEDY, Mr. MANSFIELD, Mr. MCGEE, Mr. METCALF, Mr. MONDALE, Mr. MOSS, Mr. MUSKIE, Mr. RANDOLPH, and Mr. TUNNEY):

S. 2190. A bill to provide housing for persons in rural areas of the United States on an emergency basis. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. ABOUREZK. Mr. President, today Senator MCGOVERN and I are pleased to reintroduce the Emergency Rural Housing Act with 20 cosponsors.

These 20 cosponsors have agreed that there are huge gaps of housing need in rural America left unfilled by our present policies.

They have agreed that Federal housing policy must take into account the generally lower incomes, older populations, lack of private lending institutions, and shortage of housing catalyst agencies found in rural America.

What is more important, they have agreed that national housing policies cannot succeed until they shine a little light on the fact that 60 percent of this Nation's inadequately housed people live in rural areas and small towns.

The legislation proposes a number of basic concepts which I respectfully submit ought to be a part of any major housing legislation considered by the Congress this year.

These are the concepts:

First and foremost, that we must create a comprehensive rural housing delivery system. Both Farmers Home and HUD have shortcomings. Farmers Home is limited to towns of 10,000 population and under, operates a dozen major programs in addition to housing, suffers an incredible administrative overload, generally gravitates toward those with higher incomes, works with limited housing tools, and is predominantly farm-oriented. HUD has an overwhelming urban orientation and relies upon many institutions—such as public housing authorities or private lenders—which do not exist in anything like adequate quantity in rural America.

The Emergency Rural Housing Act creates a housing delivery system. As presently written, it would allow HUD and Farmers Home to continue what they are doing, and borrows from the model of REA to form locally controlled rural housing associations—similar to REA co-ops—to serve as housing vehicles where none existed before. Two REA concepts are fundamental: Local control, through elected boards of directors, of housing developed and managed by the associations, and areawide coverage.

The second fundamental principle is that the rural housing delivery system must be directly equipped with its own credit and subsidy mechanisms. It cannot be expected to succeed if it can process applications but must turn to a third party—HUD or Farmers Home—for its mortgage credit and subsidies. The legislation provides for direct credit and subsidy to the delivery system and does so in a manner which assures local control with Federal responsibility.

The third fundamental principle is establishing at the Federal level one person in charge of rural housing. The legislation would create an independent agency, the Emergency Rural Housing Administration, to administer the act. We were in something of an quandry in designing this legislation, because both of the agencies which come to mind as possibilities work under debilitating limitations of one kind or another. I recognize that there would be opposition to an independent agency, and remain willing to listen to alternative suggestions, but hold the fundamental principle intact: One Administrator with comprehensive rural housing responsibility to whom Congress can speak directly.

The fourth fundamental principle puts a premium on homeownership. The proposal makes homeownership available to the lowest practical reaches of the income scale and provides for rehabilitation and rental housing for those beyond that reach. Simply put, maximizing homeownership is the best way to minimize maintenance headaches, and its psychological benefits to Americans of all kinds cannot be understated.

The fifth fundamental principle is the minimum home concept. Instead of insisting that we cannot help someone until his income or our subsidies are adequate to finance a $25,000 home, this bill would make a small, but livable, weather-tight, leakproof, safe, heatable home with plumbing a reality for millions of rural Americans who now live in shacks, car bodies, tents, and hovels.

Mr. President, there are nearly 1 million rural American families with an average rentpaying capacity of $14 a month who presently need housing.

The overwhelming number of them are elderly.

It is time we had a national housing policy which speaks to the special needs of rural America, and a workable program which can fill them.

Mr. President, at this point in the RECORD I ask permission to insert a title-by-title analysis of the bill, the bill itself, and a recent Washington Post editorial on the subject.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Emergency Rural Housing Act of 1973".

FINDINGS

SEC. 2. The Congress finds that—

(1) after more than three decades of Federal activity in the housing field and more than two decades after the enactment of the Housing Act of 1949 which pledge this

Nation to a decent home and suitable living environment for every American family, there are millions of substandard, crowded, and otherwise deficient dwelling units which lack running water and sanitation facilities essential to health and decency;

(2) more than half of these units are in non-metropolitan areas;

(3) none of the existing housing agencies, public or private, function adequately in meeting the housing needs of the poorest people in small towns and rural areas;

(4) the administrative funds and grant and lending authorities of Farmers Home Administration are inadequate to the task, and its authorized capacity to subsidize dwellings falls far short of that required to provide housing for the poor;

(5) public housing exists in little more than token quantities in small towns and rural areas; and public housing legislation presently does not permit a subsidy adequate to meet the needs of the poorest of the poor;

(6) despite the moving rhetoric of the last two decades, the authority and funds to satisfy the housing needs of low-income families are not available;

(7) existing agencies operating under existing authorities could not meet the needs of millions of the rural poor even if all restraints on administrative funds were lifted, nor would they meet those needs, if there were no ceiling placed on grant and loan funds; and

(8) the ill health and human degradation that flow from this continuing neglect and denial of responsibility call for emergency action.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) "Administration" means the Emergency Rural Housing Administration established under section 4 of this Act;

(2) "Administrator" means the Administrator of the Administration;

(3) "adjusted income" means the total income of an individual or family reduced by—

(A) 5 per centum of that income;

(B) $300 for that individual or for each member of that family; and

(C) $1,000 for that individual if he is physically disabled or mentally retarded or for each member of that family who is physically disabled or mentally retarded;

(4) "area responsibility agreement" means an agreement between the Administrator and a Rural Housing Association or other organization to provide minimal housing facilities for all eligible persons in an area;

(5) "eligible person" means an individual or family which (A) lives or desires to live in a rural area or small community, and (B) minimum housing facilities by any means other than assistance under this Act within two years after the date of application for assistance under this Act;

(6) the term "minimal housing facilities" means a safe, weatherproof dwelling which has running potable water, modern sanitation facilities including a kitchen, sink, toilet, and shower or tub, and which meets such other requirements as may be established by the Administrator with respect to square footage and other facilities or standards;

(7) "rural area" means any open country or any other such place in the United States; and

(8) "small community" means any place, town, village or city which has a population not in excess of 25,000 people.

ESTABLISHMENT AND DUTIES

SEC. 4. (a) There is established as an independent agency, the Emergency Rural Housing Administration. The management of the Administration shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) It shall be the duty of the Administration to provide minimal housing facilities for all eligible persons in rural areas and small communities and to do so to the extent possible within a five-year period. The duties and powers of the Administration shall not be transferred to any other department, agency, or instrumentality of the United States.

(c) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"(60) Administrator, Emergency Rural Housing Administration."

POWERS

SEC. 5. The Administration shall have the power—

(1) to sue and be sued, and complain and defend, in its name and through its own counsel;

(2) to adopt, amend, and repeal such rules and regulations as may be necessary;

(3) to lease, purchase, or acquire by condemnation or otherwise, and own, hold, improve, use, or otherwise deal in and with, any property, rural, personal, or mixed, or any interest therein, wherever situated;

(4) to accept gifts or donations of services, or property, real, personal, mixed, tangible or intangible, in aid of any of the purposes of the Administration;

(5) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(6) to appoint such officers and employees as may be required without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(7) to enter into contracts, execute instruments, incur liabilities, and do all things which are necessary or incidental to the proper management of its affairs.

HOME OWNERSHIP

SEC. 6 (a) The Administration is authorized to make loans to eligible persons to finance the acquisition of land and the construction thereon of minimal housing facilities, or to finance the acquisition or rehabilitation of existing facilities in accordance with minimum housing facilities standards.

(b) At least 50 per centum of the principal amount of any loan made under this subsection shall be amortized over a period of not more than forty years, shall bear interest at a rate of not less than 1 per centum per year, and shall be secured by a first mortgage. The remainder of such principal amount may be evidenced by a note secured by a second mortgage which becomes payable and interest bearing only when and to the extent that the borrower's ability to repay exceeds that required to retire the first note at the maximum interest rate or upon the sale or other disposition of the property financed by the loan. The Administration shall determine the percentage rate, the amount of the principal deferment, and the other terms and conditions of any such loan, taking into account the adjusted income of the eligible person involved.

(c) The Administration may not require an eligible person who is a borrower to pay more than 20 per centum of his adjusted annual income on principal, interest, taxes, and insurance, but a borrower, in order to qualify for ownership may voluntarily agree to pay more.

(d) The Administration is authorized to make rehabilitation grants not in excess of $3,500 to owners who occupy substandard housing and whose income is too low to repay a loan on terms and conditions described in this section.

HOUSING DEVELOPMENTS

SEC. 7. The Administrator is authorized to acquire land and engage in the development of housing projects to be sold under section 6 or rented under section 8 of this Act.

RENTAL FACILITIES

SEC. 8. (a) The Administrator is authorized to provide financing to Rural Housing Associations which meet the requirements of section 9, for all or any part of the acquisition, construction, rehabilitation, operation, and maintenance of (1) minimal housing facilities in rural areas and small communities to be rented by eligible persons, (2) water and sewer facilities for such housing facilities, and (3) related community facilities for such housing facilities.

(b) Financing for the acquisition, construction, and rehabilitation of rental units and related facilities shall be in the form of a non-interest bearing loan and shall be repayable (1) in annual installments by the borrower during a forty year period from the making thereof, only to the extent that the income of the borrower attributable to the rental units and related facilities exceeds reasonable and necessary costs (such as taxes, utilities, maintenance, and other management and operating costs approved by the Administration), or (2) in the event that the rental units and related facilities are sold under section or otherwise disposed of.

(c) The Administrator is authorized to enter into contracts for annual assistance payments with a borrower under this section. Such contracts shall provide for payments to borrowers in amounts which do not exceed the difference between the total costs attributable to the rental project (taxes, utilities, maintenance, and other such management and operating costs) and total revenues accruing to the rental project. The aggregate amount of such contracts shall not exceed in the aggregate, $1,000,000,000 per annum.

(d) Rental payments required from, and the amount of assistance attributable to, any eligible person shall bear a reasonable relationship to the income of the eligible person, taking into account reasonable needs for food, clothing, medical care, education, and other necessities as determined by the Administration. In no case shall any such payment, including the reasonable cost of heat, water, and light, exceed 25 per centum of the adjusted income of the eligible person.

(e) Any lease or other occupancy agreement for facilities under this section shall include whenever feasible an option to buy in accordance with the provisions of section 6 of this Act.

LOCAL AGENCY AGREEMENTS

SEC. 9. (a) (1) To carry out the purposes of this Act, the Administration shall enter into area responsibility agreements with State-chartered Rural Housing Associations.

(2) Such Associations shall, pursuant to contracts with the Administration, determine the eligibility of persons seeking assistance under this Act; make and service loans and grants under section 6 of this Act; acquire land and develop housing projects under section 7 of this Act; own and operate, or make and service loans to and enter into contracts with public or private nonprofit organizations to own and operate, rental housing and related facilities under section 8 of this Act.

(3) Contracts entered into by the Administration with any local Rural Housing Associations shall require the Association to serve all eligible areas and eligible persons within its designated jursidiction.

(4) The Administration shall not advance funds for purposes of making loans under this Act to any local Rural Housing Association in any State unless it determines that all areas in the State eligible for assistance under this Act will be within the jurisdiction of such an Association and that all such Associations will enter into area responsibility agreements.

(b) (1) A Rural Housing Association shall be chartered for the purpose of contracting with the Administration in order to carry out the purposes of this Act. They shall be empowered: (A) to lease, purchase, or otherwise acquire, and own, hold, improve, use, or otherwise deal in and with, any property, real, personal, or mixed, or any interest therein, wherever situated; to accept gifts or donations of services, or property, real, personal, mixed, tangible, or intangible, in aid of any of the purposes for which the Association is established; (B) to sell, convey, mortgage, pledge, lease exchange, and otherwise dispose of its property and assets; (C) to sue and be sued, and complain and defend in its name through its own counsel; (D) to enter into contracts, execute instruments, incur liabilities, and do all things which are necessary or incidental to the proper management of its affairs.

(2) Such an Association shall be controlled by a board of directors, of which two-thirds of the membership shall be persons receiving or eligible for assistance under this Act. The board shall fairly represent the geographic area of the jurisdiction of the Association. Such boards shall be chosen by democratically conducted election with any person residing within the jurisdiction of the Association who is receiving assistance or is eligible for assistance under this Act being eligible to vote in such election.

(3) Interim boards of directors may be established for organizational purposes but such boards must be replaced in a manner established in paragraph (2) within one year of incorporation.

(c) When a State has failed to establish an Association described in this section within one year after the enactment of this Act, or the Administration finds that any Association which is established is incapable of carrying out or unwilling to carry out the purposes of this Act, then the Administration shall establish in that State or area, a comparable organization to carry out this Act.

(d) The Administration shall have access to the books or records, and any other papers of any Association which enters into an area responsibility agreement in order to insure that such Association is at all times operating in compliance with the provisions of this Act.

LIMITATIONS AND CONDITIONS

Sec. 10. (a) The Administration may not require, as a condition of assistance under this Act, the relocation of any eligible person in order to engage in or to facilitate the economic development of an area.

(b) Any construction or rehabilitation undertaken with funds authorized under this Act shall—

(1) be designed to require minimum maintenance over a useful life or not less than fifty years: *Provided*, That this limitation shall not apply to new or rehabilitated housing if the Administration finds that less permanent housing is in accordance with the basic purposes of this Act;

(2) be in accordance with plans developed with the active participation of the eligible persons involved.

PRIORITIES

Sec. 11. (a) The Administration shall, insofar as is practicable, furnish assistance under this Act to eligible persons with the lowest adjusted incomes first.

(b) To the maximum extent feasible, the Administration shall provide for homeownership rather than rental occupancy.

ANNUAL REPORT

Sec. 12. The Administration shall, within 60 days after the end of each fiscal year, prepare and transmit to the Congress and the President an annual report of the operation and activities of the Administration. Such report shall contain but not be limited to, the long range and annual goals, progress toward the attainment of those goals by area, and any problems which are being encountered in fulfilling the purposes of this Act.

BORROWING AUTHORITY

Sec. 13. (a) There is hereby established the Rural Housing Investment Fund (hereinafter referred to as the "fund") which shall be used by the Administration for carrying out the provisions of this Act. The Administration is authorized to issue to the Secretary of the Treasury notes or other obligations in such sums as may be necessary to carry out the purposes of this Act, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average interest rate on outstanding marketable obligations of the United States during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations required by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. All amounts borrowed under this section by the Administration and all receipts, collections, and proceeds received by the Administration under this Act shall be deposited in the fund.

(b) The Administration shall utilize the fund—

(1) to make loans for homeownership under section 6 of this Act;

(2) to acquire land and engage in the development of housing projects under section 7 of this Act;

(3) to finance the acquisition, construction, and rehabilitation of rental housing and related facilities under section 8(b) of this Act; and

(4) to pay taxes, insurance, prior liens, expenses, necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the security for loans and grants made under this section and to acquire such security property at foreclosure sale or otherwise.

APPROPRIATIONS

Sec. 14. (a) There shall be credited to the Rural Housing Investment Fund, by annual appropriations, the amounts by which nonprincipal payments made from the fund to the Secretary during each fiscal year exceed interest received from borrowers each year.

(b) There are authorized to be appropriated such sums as may be necessary to administer the provisions of this Act including the cost of administration incurred by Rural Housing Associations.

(c) There are authorized to be appropriated to the fund such sums, not to exceed $1,000,000,000, as may be necessary for grants under section 6(d) of this Act, such sums to remain available until expended.

(d) There are authorized to be appropriated such sums as are necessary to meet obligations for annual assistance payments contracts entered into by the Administration under section 8 (c).

(e) There is authorized to be appropriated not to exceed $500,000,000 in each fiscal year, reduced by any amounts paid into the Rural Housing Investment Fund in each such year, for repayment of principal on loans made by the Administration under this Act, to be applied to the retirement of notes or other obligations issued by the Administration under section 13(a) of this Act.

Section-by-Section Analysis of the Emergency Rural Housing Act

Section 1.—Short Title.

EMERGENCY RURAL HOUSING ACT OF 1973

Section 2.—Findings.

Congress finds that an emergency situation exists in rural areas with regard to housing for low-income individuals.

Section 3.—Definitions.

Section 4.—Establishment and Duties.

Provides for the establishment of an independent federal agency called the Emergency Rural Housing Administration. Defines the ERHA's duties as providing minimal housing facilities to eligible persons in rural areas and small communities and to do so within five years to the extent possible. An eligible person as defined in Section 3 is an individual or family which lives or desires to live in a rural area or community and cannot with reasonable certainty obtain minimum housing facilities by any means other than from assistance under this Act within two years of the date of application for assistance. Provides for an Administrator of the ERHA by adding a new clause (58) to 5 U.S.C. 5314 to be appointed by the President by and with the advice and consent of the Senate. Provides that the Administrator's duties may not be transferred to any other department, agency, or instrumentality of the United States.

Section 5.—Powers.

Provides for the powers of the Administrator of the ERHA.

Section 6.—Home Ownership.

Authorizes the Administrator to make loans to eligible persons for the acquisition of land and the construction of minimal housing facilities or for the acquisition or rehabilitation of existing facilities. Provides that at least fifty percent of such loan shall be amortized over a period not exceeding forty years and at an interest rate of not less than one percent per year. The remaining balance of such a loan shall be evidenced by a note secured by a second mortgage which becomes payable and interest bearing when and to the extent that the borrower's ability to repay exceeds that required to retire the first note at the maximum rate of interest or upon the sale or other disposition of the property. Provides that the interest rate, the amount of deferred principal and the other terms and conditions of such loans will be set by the Administrator taking into account the adjusted income of the eligible person involved and precludes requiring a borrower to pay more than twenty percent of his adjusted annual income on principal, interest, taxes and insurance except when the borrower chooses to in order to qualify for the ownership program.

Authorizes grants of up to $3,5000 to homeowners unable to repay a loan for the purpose of rehabilitating housing.

Section 7.—Housing Developments.

Authorizes the Administrator to acquire land and develop housing projects which are to be sold or rented under the Act.

Section 8.—Rental Facilities.

Authorizes the administrator to finance all or part of the acquisition, construction, rehabilitation, operation and maintenance of minimal housing facilities to be rented by eligible persons, water and sewerage facilities for such housing, and related community facilities for such housing. Provides that the rental payments of the occupants and the amount of rent assistance provided shall bear a reasonable relationship to the income of the eligible persons taking into account other budget needs and in no case should any rent payment (including the reasonable cost of heat, water and light) exceed twenty-five percent of the person's adjusted income. Provides that, when feasible, lease agreements should include an option to purchase at terms consistent with Section 6.

Financing for the acquisition, construction and rehabilitation of rental and related facilities shall be in the form of a non-interest bearing loan amortized over a forty-year period and repayable in annual installments to the extent that income attributable to the project exceeds operating and maintenance costs.

Authorizes the Administrator to enter into annual contribution contracts with the owners of rental and related facilities for the purpose of paying for any amounts by which the costs of operating and maintaining such facilities exceed income attributable to it. Such contracts may not exceed $1 billion per annum in the aggregate.

Section 9.—Local Agency Agreements.

Provides that the Administrator shall not into contracts with State-Chartered Rural Housing Associations. Such contracts shall authorize the Rural Housing Associations to determine eligibility of persons seeking assistance under the Act and make and service loans, grants, and contracts under Sections 6, 7, and 8 of the Act. The Rural Housiing Association will be required to serve all eligible areas and persons within its designated jurisdiction. The Administrator is prohibited from advancing funds to any Rural Housing Association within a state for the purpose of making loans under the Act until all eligible areas within that state are within the jurisdiction of a Rural Housing Association. If after one year of the passage of the Act, a state has failed to charter Associations or the Administrator finds that any Association is incapable of carrying out or unwilling to carry out the purposes of this Act, then the Administrator shall establish in that state or area a comparable organization. Rural Housing Associations shall be governed by a board of directors, at least two-thirds of whom shall be persons eligible for or receiving assistance under the Act. Such boards of directors shall be elected by persons eligible for or receiving assistance under the Act. Interim boards of directors may be established for a period not to exceed one year from the date of incorporation for organizational purposes.

Section 10.—Limitations and Conditions.

Provides that the Administrator shall not require the relocation of any eligible person in order to engage in or to facilitate the economic development of any area. Provides that construction or rehabilitation undertaken must be designed to require minimum maintenance for at least fifty years except when the Administrator finds that less permanent housing is in accordance with the Act; and be in accordance with plans developed with the active participation of the eligible persons involved.

Section 11.—Priorities.

Establishes the priorities that, insofar as is practicable, persons with the lowest adjusted incomes shall be served first, and to the maximum extent feasible, ownership rather than rental occupancy will be provided.

Section 12.—Annual Report.

Provides that the Administrator shall prepare and transmit to the Congress and the President an annual report of the operation and activities of the Agency.

Section 13.—Borrowing Authority.

Establishes a Rural Housing Investment Fund.

Provides that for purposes of this Act the Administrator is authorized to issue notes or other obligations to the Secretary of the Treasury in such sums as may be necessary in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary and bear interest at a rate determined by the Secretary, taking into consideration the current average interest rate on outstanding marketable obligations of the United States during the month preceding the issuance of the notes or other obligations. Authorizes the Secretary and directs him to purchase such notes and for that purpose to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and extends the purposes for which securities may be issued under that Act to include any purchase of such notes and obligations under this Act. Authorizes the Secretary to sell at any time any of the notes or other obligations acquired by him under this subsection and provides that all redemptions, purchases and sales by the Secretary of such notes or other obligations shall be treated as a public debt transaction of the United States.

All amounts so borrowed and all other receipts, collections and proceeds shall be deposited in the Rural Housing Investment Fund. The Administartor is authorized to utilize the fund to make loans for homeownership under Section 6, to acquire land and engage in the development of housing projects under Section 7, to make loans for the acquisition, construction, and rehabilitation of rental facilities under Section 8, and to protect the assets of the Fund.

Section 14.—Appropriations.

Authorizes an annual appropriation to reimburse the Rural Housing Investment Fund in an amount by which nonprincipal payments made from the Fund exceed interest received from borrowers each year. Authorizes an appropriation in such amounts as may be necessary to administer the Act including the cost of administration incurred by Rural Housing Associations.

Authorizes an appropriation not to exceed $1 billion for rehabilitation grants to homeowners unable to repay a loan. Such amounts appropriated are to remain available until expended. Authorizes an appropriation in such amounts as may be necessary to meet obligations for annual contribution contracts entered into by the Administration under Section 8 of the Act.

Authorizes an appropriation not to exceed $500 million, for the purpose of retiring notes and other obligations issued by the Administrator under Section 13 of the Act.

[From the Washington Post, Dec. 14, 1972]

THE QUALITY OF RURAL HOUSING

Poor housing—people "living" in dwellings that are clearly unlivable—is usually associated with inner-city America. This association may be understandable because urban America has the most concentrated population and because its tensions are most easily felt or seen. Yet, bad housing is largely a failure that plagues rural America; the nation's small towns and isolated villages have nearly two-thirds of our substandard housing. This does not mean only crowded shacks or shanties where the poor huddle close together on freezing nights; it can mean houses with no electricity, plumbing or sewage outlets.

Statistically, the bleakness of our rural housing problem is summarized by the Housing Assistance Coalition: "Areas containing half of the nation's poor and close to two-thirds of its worst homes have received less than 20 per cent of its public housing." More graphic are the words of Aaron Henry, the tireless president of the Mississippi NAACP who has long worked for the poor's housing: "There has been a lot of talk . . . about a housing crisis. But the word 'crisis' generally refers to a temporary situation, and, for people living in the nation's worst housing, there's nothing temporary about it."

Not long ago, the housing needs of the rural poor were given attention at a Washington conference involving 600 delegates. One of the sentiments of the conference was that the rural poor are isolated not only geographically but also politically: Rural congressmen, aligned with the local banks, power companies and agri-business, often care less about rural housing than big-city congressmen. Another irony is that urban taxpayers often pay heavily for the neglect of the rural poor; bad housing has been a major cause of the population exodus from small towns and farms to the cities.

Overall, the tragedy of rural housing is a combination of many deficiencies: confusion and disinterest among some 3,000 state and local government agencies, a lack of federal response, regressive tax policies, poor land-use plans, programs that benefit builders and speculators more than the poor. One of the few recent legislative attempts to face the problem, and at least try to solve part of it, came in the last session of Congress when Sen. George McGovern and Rep. James Abourezk (now a senator-elect) introduced bills calling for $7.5 billion in five years aimed at helping 2.5 million rural families. Both bills died. The legislation is expected to be introduced again in the next session.

There is no question that it, or a similar measure, is needed. As Richard J. Margolis, chairman of the Rural Housing Alliance, has noted: "If all of our 50 states were simultaneously struck by hurricanes, the resulting emergency—the deaths, the destruction, the shortage of water and sanitation, and shelter—would be no greater than the emergency we now confront in rural America. But rural America has never been declared a disaster area."

Mr. McGOVERN. Mr. President, I am pleased to join with Senator ABOUREZK today in introducing the Emergency Rural Housing Act. This bill reflects the hard work and determination of many people over many years. And it deserves the support of every Member of Congress who is concerned about the future of rural America.

We have heard and continue to hear a great deal about the problems of our cities, and justifiably so. But in the absence of any effective national growth policy, America's rural areas are consistently shunted aside as we ponder the great urban blight and the continuing suburbanization of America. Nowhere is that more evident than in our housing policies. With less than a third of the Nation's households, monmetropolitan areas contain more than half of the Nation's worst housed. The incidence of substandard housing in metropolitan areas is 4 percent. In nonmetropolitan areas it is more than three times that—13 percent. And in the most rural areas it is almost four times that—15 percent. But the delivery of Federal housing assistance has been bent the other way.

HUD statistics indicate that, through the end of last year, less than 24 percent of all the public housing units under annual contributions contract were in nonmetropolitan areas. A rural housing alliance study released last year reported that nearly half the Nation's counties, containing almost one-fifth of its population, had no public housing program at all. Other housing assistance programs, except for Farmers Home Administration, do little better. HUD program statistics for the 30-month period from January 1970 through June 1972—a period of record achievements in the volume of Federal housing assistance—show that less than one-fourth of the units were in nonmetropolitan areas. Even when one adds in the Farmers Home Administration program, rural and small-town areas accounted for less than one-third of all Federal housing aid.

In the case of my own home State of South Dakota, a decidedly rural State, 27.8 percent of the State's population lives in substandard housing; 19.8 percent of all housing units in South Dakota are substandard and 20,310 housing units lack some or all indoor plumbing. Obviously, decent housing is a crying need that concerns a very sizable portion of the population. When you consider the fact that 68 percent of South Dakota's families earn less than $10,000 per year and 15 percent of the families in the State earn less than $3,000 per year, the need for Federal subsidy also becomes obvious.

The Emergency Rural Housing Act squarely faces the fact that programs and institutions designed for urban environments cannot be administered so as to serve rural ones as well. It follows the example of the successful rural electrification movement in calling on local people themselves to play a critical role in solving their housing problem. And finally, it asks Congress to make more than a rhetorical commitment and to underwrite a serious effort to wipe out indecent housing in rural and smalltown America.

By Mr. MONDALE:

S. 2191. A bill to require public disclosure of all contacts made with the Internal Revenue Service concerning any individual or corporate tax case by any official or employee of the executive or legislative branch of the Federal Government. Referred to the Committee on Finance.

DISCLOSURE OF EXECUTIVE AND CONGRESSIONAL CONTACTS WITH IRS ON INDIVIDUAL TAX CASES

Mr. MONDALE. Mr. President, I am today introducing legislation that would require the Internal Revenue Service to list publicly all contacts they receive from executive or congressional officials concerning individual tax cases.

The revelations in the Watergate hearings of White House attempts to have the IRS audit its political "enemies," or suspend investigations of its political friends, have shaken public confidence in the integrity of our Government.

The IRS—to its credit—has apparently resisted these attempts at political interference. The bill I propose would strengthen its hand in cases like this, by allowing IRS officials to tell any public official calling about an individual or corporate taxpayer that the call must be publicly reported.

This legislation would not discourage legitimate inquiries. If the official calling the IRS has a legitimate reason for doing so, he should have no objection to explaining that call to anyone who asks about it. Those who have nothing to hide have nothing to fear.

The bill would require the IRS to "compile and make available for public inspection and reproduction" a list of all contacts with the IRS by executive and congressional officials. The list would have to include "at least the name and affiliation of the individual making the contact, the name of the individual or corporation concerning whom the contact is made, and a one-sentence description of the nature of the contact." An up-to-date list would have to be made available at least every 3 months, with a cumulative list every year.

A list of this sort would be especially helpful to diligent reporters and public interest investigators. If there is ever a suggestion that IRS action on a tax case has been influenced by politics, the list of contacts this bill requires would be an excellent starting point for any investigation.

I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. (a) The Internal Revenue Service shall, at least every three months, compile and make available for public inspection and reproduction a list of all contacts made with the Service by any official, Member, or employee of the Executive or Legislative branch of the Federal Government concerning any individual or corporate tax case. Internal contacts among Service officials and employees need not be included.

(b) The list required by subsection (a) shall be cross indexed under the names of both the person making the contact and the individual or corporation concerning whom the contact is made. A copy of each list shall be transmitted promptly to the Speaker of the House of Representatives and the President of the Senate. A cumulative list and index shall be compiled each year and made available in the same manner as the periodic lists.

(c) The list required by subsection (a) shall include at least the name and affiliation of the individual making the contact, the name of the individual or corporation concerning whom the contact is made, and a one-sentence description of the nature of the contact.

(d) As used in this section, "contact" means any oral, written, or electronic communication.

By Mr. ABOUREZK:

S.J. Res. 133. Joint resolution to provide for the establishment of the American Indian Policy Review Commission. Referred to the Committee on Interior and Insular Affairs.

Mr. ABOUREZK. Mr. President, I introduce, for appropriate reference, a Senate joint resolution to provide for the establishment of the American Indian Policy Review Commission.

If approved by Congress and enacted into law, this resolution would bring about a fundamental reform in the Federal relationship of American Indians.

I shall submit for the official record in the Senate on July 17, 1973, a statement setting forth the justification for such a resolution.

As chairman of the Subcommittee on Indian Affairs, I have scheduled hearings for this resolution before the subcommittee on July 19 and 20, 1973, at which time administration and private witnesses will present their views with respect to the resolution.

The hearings will be open to the public and will commence at 2 p.m. on both days and will be held in room 3110, Dirksen Senate Office Building.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 335

At the request of Mr. CHURCH, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 335, to promote development and expansion of community schools throughout the United States.

S. 1914

At the request of Mr. PERCY, the Senator from Tennessee (Mr. BAKER), the Senator from New Hampshire (Mr. COTTON), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), the Senator from Kansas (Mr. DOLE), the Senator from Hawaii (Mr. FONG), the Senator from Wyoming (Mr. HANSEN), the Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 1914, to provide for the establishment of the Board for International Broadcasting and to authorize the continuation of assistance to Radio Free Europe and Radio Liberty.

S. 1971

At the request of Mr. SCHWEIKER, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 1971, to increase certain penalties for offenses involving the unlawful distribution of certain narcotic drugs, and for other purposes.

S. 2081

At the request of Mr. NUNN, the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 2081, to amend title IV of the Social Security Act to provide a method of enforcing the support obligations of parents to children who are receiving assistance under such title, and for other purposes.

SENATE JOINT RESOLUTION 118

At the request of Mr. WILLIAMS, the Senator from South Dakota (Mr. McGOVERN), the Senator from Michigan (Mr. HART), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alaska (Mr. STEVENS), the Senator from Florida (Mr. CHILES), the Senator from Nevada (Mr. CANNON), the Senator from Colorado (Mr. DOMINICK), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of Senate Joint Resolution 118, a joint resolution expressing the sense of the Congress that a White House Conference on the Handicapped be called by the President of the United States.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENT

AMENDMENT NO. 342

(Ordered to be printed and to lie on the table.)

GOVERNMENT CONTRACTORS SHOULD NOT BE PERMITTED TO MAKE CAMPAIGN CONTRIBUTIONS

Mr. PROXMIRE. Mr. President, I send to the desk on behalf of myself and the Senator from Vermont (Mr. STAFFORD) an amendment to strike section 17 of S. 372, the Federal Elections Campaign Act of 1973. Section 17 would in essence repeal a restriction on campaign expenditures that has been on the books since July 19, 1940.

Mr. President, this action of the Committee on Rules and Administration would repeal a prohibition that bars campaign contributions, direct or indirect, by Government ocntractors.

Some may argue that section 17 simply amends this prohibitory statute, section 611 of title 18, but in doing so it guts the statute. Let me read the language of section 611 as amended by the Federal Election Campaign Act of 1971:

> Whoever—
>
> (a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (1) the completion of performance under, or (2) the termination of negotiations for, such contract or furnishings of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or
>
> (b) knowingly solicits any such contribution from any such person for any such purpose during any such period;
>
> shall be find not more than $5,000 or imprisoned not more than five years, or both.

Back in 1940 former Senator Harry Byrd, Sr., in describing the need for section 611 put it this way:

> We should prohibit those who have government contracts, contractors who deal with the government, contractors who make great sums out of government contracts, from making contributions to political parties for any purpose whatsoever.

This is exactly what section 611 does. This is what the Rules Committee provision would strike and repeal.

Now how about section 17 of S. 372? What does it do? Does it really gut section 611? Let me read the language added to section 611 by this amendment:

> It shall not constitute a violation of the provisions of this section for a corporation or a labor organization to establish, administer, or solicit contributions to a separate segregated fund to be utilized for political purposes by that corporation or labor organization if the establishment and administration of, and solicitation of contributions to, such fund do not constitute a violation of section 610.

Section 610 as amended by the Federal Election Campaign Act of 1971 permits "the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization." It says nothing about Federal contractors. It does not prohibit them from making political contributions through "segregated funds" even though such indirect contributions are specifically prohibited by section 611.

Consequently section 17 of S. 372 plainly repeals the language in section 611 prohibiting campaign contributions "indirectly" by Government contractors, corporate or union, by excluding "separate segregated funds" from the section 611 prohibition. We all know that direct corporate or union contributions, even if no Government contracts are involved, violate the law. This is prohibited by section 610. Consequently the only acts the section 611 as revised by section 17 would prohibit are direct donations by corporations or labor unions—already outlawed by section 610—and direct or indirect contributions by individual, as opposed to corporate or union, contractors. If this is not gutting section 611, I do not know what is.

Why the sudden turnaround? Why is great pressure suddenly being applied to gut a section of the law that has been on the books since 1940? This effort to gut the law seems particularly puzzling since the Congress tightened the section 611 prohibition in passing the Federal Election Campaign Act of 1972 a short 17 months ago. Congress did so by defining more precisely the period of time during which contributions are prohibited.

The answer to this question is simple. Finally the 1940 law is being enforced. Common Cause went into the courts and forced TRW, Inc., a major defense contractor, with over $200 million in Government contracts, to dissolve a so-called Good Government Fund. Common Cause claimed that the fund violated the 1940 act by making indirect contributions to political candidates. Before the issue could even be decided by the U.S. District Court for the District of Columbia, TRW, Inc., had dissolved the fund. In wake of this action a number of other corporate political funds and committees were dissolved.

While some corporations "saw the light" others said the law was too vague and would require legislative or judicial clarification. For example the Hughes Active Citizenship Campaign—an offshoot of the Hughes Aircraft Co.—claimed that they were complying with the law, but that further clarification was necessary.

An attempt at clarification was not long coming. And unfortunately it was a regression to the pre-1940 days. On September 27, 1972—less than 5 months after the Common Cause lawsuit was filed—a bill was quietly reported from the House Rules Committee that would have destroyed the effectiveness of section 611 by allowing campaign contributions indirectly by defense contractors. It was reported without hearings, despite a public pledge by the House leadership that no amendment to campaign reform legislation passed earlier in the year would be permitted without public hearings. It was placed on the suspension calendar and barely squeaked by on a two-thirds vote—294 to 124. The Washington Post called it "another striking example of legislation by stealth," because the House membership was not aware until too late what was going on.

The same sort of effort was made in the Senate during the waning days and hours of the 92d Congress. The bill was reported from the Senate Rules Committee on October 4—2 days after it passed the House. A bare quorum accomplished this act with three in favor, one opposed, and one abstention. When our leadership refused to schedule the bill it was added as a last-minute rider to a minor tariff bill late in the session. Fortunately Senators STAFFORD and AIKEN, together with this Senator, were able to block this last-minute attempt to squeeze the bill by in the preadjournment confusion.

My colleagues should be interested in some of the national editorial comments on this attempt to weaken campaign spending reform. Here are a few samples:

> Apparently when it comes to getting money, Congressional Democrats and Republicans stand together in defiance of public opinion and the canons of sound public policy—Washington Post
>
> . . . outrageous, sly and cynical raid on the law by loophole seekers—New York Times.
>
> The amendment has a great potential for evil and should be stamped out—Cleveland Plain Dealer.
>
> Given the choice between reducing the possibilities of political influence-peddling and increasing the number of potential sources of campaign funds, Congress will choose the latter—Greensboro (N.C.) Daily News.
>
> What disturbs us most about the loophole, however, is that it further expands a system of raising political contributions that we view as both corrupt and corrupting—Dayton Journal Herald.
>
> The people are entitled to know what elements their elected representatives are representing. And they have every reason to expect restrictions against the ability of those most powerful elements to buy an office—Kansas City Times.
>
> If there had been no other evidence of the influence that campaign money has had on public affairs, the handling of this bill would suffice—Louisville Courier-Journal.
>
> The whole business smells. Worse, it shows that the wrong attitudes toward campaign spending control are still alive and kicking in Congress—St. Petersburg (Fla.) Times.

Now some Senators may ask, even at a time when the word "Watergate" with all its implications is sending a collective chill up the national spine, why is this prohibition necessary? Why should not we repeal it so that companies can make campaign contributions even though they have Government contracts. After all, the story goes, these are contributions made by individual employees to a separate company account, fund, or committee for the candidates of their choice. Why is this so bad?

Well, if this were the case there would be no violation of existing law. If individual workers or executives were truly earmarking funds from their salaries for individual candidates then the Government contractor himself would not be making the decisions directly or indirectly as to where the money goes. And the law is very specific on this point. The contribution has to be made by the representative of a company entering into a contract with the United States to be illegal.

Others will say that we should put all corporations on the same footing, whether they be Government contractors, or not. I violently disagree with this suggestion. For many years now I have been pressing for much stronger conflict-of-interest laws where Government contractors are concerned. For example we should sharply curtail the flow of experts between Government jobs and employment with companies who have a direct interest in Government decisions. This leads to the most pernicious kind of influence. To my mind campaign contributions by Government contractors, direct or indirect, fall into the same mold.

Mr. President, the American people are beyond any question of a doubt disillusioned with our political system as a result of Watergate and associated wrongdoing. Recently I sent out a questionnaire on campaign spending reform. The people of Wisconsin reflected this disillusionment by speaking out in support of all sorts of reform with an overpowering voice. Eighty-six percent of those who answered favored barring corporations, associations, and other profit-making organizations from making campaign contributions through the loopholes currently used. These representative voters—and there were more than 10,000 of them—were not asking us to forego weakening present law, as section 17 would do. They favored a stronger law. Any Senator who votes in support of this attempt to turn back the pages to the bad old days will be voting against the overwhelming conviction of the people of the United States. Anyone who votes to turn back the clock in this way wil be voting for a continuation of the type of corporate coercion and influence peddling that apparently took place in the American Airlines case. Now is the time to work for the strengthening, not the sapping, of our political system.

Mr. President, I yield the remainder of my time to the Senator from Vermont (Mr. Stafford).

The PRESIDING OFFICER (Mr. Abourezk). The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, I thank the Senator for yielding. I associate myself with the remarks of the Senator from Wisconsin (Mr. Proxmire), and I pledge to join his effort to strike section 17 from S. 372 when the matter comes before the Senate for action.

The Senator from Wisconsin (Mr. Proxmire) has eloquently and accurately presented the history and purpose of the section of the law designed to prevent those organizations that do business with the Government from making political contributions to candidates and political parties. He has also presented an accurate picture of the activities that have taken place last year and this year concerning the efforts to tear away that safeguard against political financing corruption.

I will try not to go over the same ground in my remarks, but I think it is important to understand what is being proposed for the approval of the Senate.

The provision that prohibits Government contractors from establishing, administering, and soliciting contributions to a separate, segregated fund to be utilized for political purposes has been law since 1940. There were never any objections to it until steps were taken to see that the section of the law was obeyed. Now we have strong efforts to eliminate, or at least to effectively circumvent, that prohibition.

Who wants to permit those who do business with the Government to make political contributions? Who favors the proposed change in the law?

News stories and editorials tell us that both corporations and unions want to change the law. Lobbyists for both corporations and unions tell us privately they want to change the law. The same news stories and editorials and lobbyists tell us that officeholders and officials of both major political parties want this proposed change in the law.

But, who has testified for the proposed change in the law? Where are the public arguments by the proponents of this change? Where is the public testimony that has been subjected to examination by those opposed to the change?

The report of the Senate Committee on Rules and Administration tells us—on page 5—that the present law appears to discriminate against those corporations and labor unions that have Government contracts. The committee report further argues that the law should be changed in the interest of fairness. Fairness to whom? Certainly not to the public.

I agree that the present law discriminates against corporations and unions that have Government contracts by preventing them from making political contributions in the same manner as those corporations and unions that do not do business with the Government. That discrimination is deliberate, and it is justified.

The most eloquent argument I have heard in support of that discrimination was made more than 40 years ago by the late Senator Harry F. Byrd. It is worth repeating here today. At a time when Congress was making its first real effort to exercise some control over political contributions, the late Senator Harry F. Byrd said:

> We should prohibit those who have government contracts, contractors who deal with the government, contractors who make great sums out of government contracts, from making contributions to political parties for any purpose whatsoever. . . . The greatest source of corruption in American politics today is the use of money obtained from those who make profit out of contracts with the government.

Like all words of wisdom, that statement is as true today as it was more than 40 years ago. Events of recent months have demonstrated the evils of a system that permits big money to seek big power. The entire world knows of those evils.

Yet, at a time when all public opinion polls and virtually every other indicator of public sentiment suggest that Americans want tighter control on campaign financing, the Senate of the United States is being asked to legalize a system of political contributions that can only lead to greater temptation, greater potential for corruption, and greater distrust on the part of the American public of their political system.

Mr. President, at this point I ask unanimous consent to have printed in the Record an editorial from the New York Times of July 11, 1973; the Review and Outlook commentary on "Shakedowns and Bribes" from the July 11, 1973 edition of the Wall Street Journal, and a column by David S. Broder that appeared in the Washington Post on July 11, 1973. Each of these articles deals with campaign financing, the need for reform, and the proposals of reform that are being offered to the Senate.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, July 11, 1973]

LOOKING BACKWARD

Like a major earthquake, the Watergate scandal has transformed the political scene. But politicians, like other human beings, prefer to look backward and cling to old ways. The members of the Senate Rules Committee, in particular, seem unable to comprehend how much the ground has moved under their feet.

While tens of millions of Americans have sat transfixed for hours before their television screens listening to testimony about secret political contributions, attaché cases stuffed with hundred dollar bills, and dirty political tricks financed by cash from concealed sources, the Rules Committee has quietly been meeting to draft amendments to weaken the Federal Election Campaign Act.

When that law went into effect on April 7 last year, it established reporting procedures that were intended to take some of the mystery out of how political campaigns are financed. Each new revelation about the financing of last year's campaign—mostly before April 7—has brought fresh proof of the need to strengthen rather than weaken the new law and extend the reforms.

American Airlines, for example, has disclosed to Watergate Special Prosecutor Archibald Cox that it contributed $55,000 in corporate funds to the Nixon campaign. Such contributions are illegal under the new law, as indeed they were under the old but unenforced Corrupt Practices Act of 1925. Eastern Airlines has announced that it refused a similar solicitation from the Nixon campaign, but Mr. Cox reportedly has in his possession a secret list compiled for the White House of other corporations that did contribute.

A stockholder's suit against International Telephone and Telegraph Corporation has brought to public attention a memorandum from a former I.T.T. official detailing how he was pressured by his corporate superiors to contribute to Lyndon B. Johnson's Vice-Presidential campaign in 1960 with the understanding that he would be reimbursed out of corporate funds if he filed a fake expense account. Political observers agree that I.T.T. is hardly unique in this devious practice.

Another lawsuit is pending in an effort to uncover the whole story of the substantial contributions made by the dairy lobby immediately before and after President Nixon ordered an increase in dairy price supports. Investigation is also under way into the contributions to the Nixon campaign by the Teamsters Union after a Presidential commutation unexpectedly released former Teamsters president James R. Hoffa from prison.

Against the background of these developments it is astounding that the Senate Rules Committee has the temerity to report out two amendments to the new law that would narrow its scope. The first would remove the requirement that each contributor list his name, address and occupation. Instead, only his name would be reported. Undoubtedly, the existing requirement is now somewhat burdensome to campaign treasurers, but once it is widely known, it will become a matter of simple routine. It is no more onerous for the contributor than providing identification to get a check cashed. If addresses and occupations are not listed, the reports on contributions become much less meaningful.

Another amendment would repeal a section of the law forbidding any individual member of a corporation or union which holds a Government contract—as some unions do under the manpower training program—from making donations to a company-controlled political fund. These funds too easily become vehicles for some of the abuses which the Watergate investigations are bringing into view.

There is need for a strengthening of the existing law and combining it with provision for new sources of campaign financing from public funds. The objective is to achieve a balance between many modest contributions from individual citizens and limited public subsidy for some campaign expenses. There is no need for a return to the mystification and corruption-breeding practices permitted by the old weak law.

Members of the Senate who think they can slip back to the bad old days are misreading the public's post-Watergate sophistication. They run the risk of being retired from public life altogether.

[From the Wall Street Journal, July 11, 1973]

SHAKEDOWNS AND BRIBES

American Airlines is getting high marks for candor for admitting that corporate funds were used in a $75,000 kitty that went to the Committee to Re-Elect the President. We think the marks would be more deserved were it not for suggestions by "insiders" that the airline was about to be found out anyway.

Common Cause, a "citizens lobby" that focuses a great deal of its non-partisan attention on miscreants of a Republican persuasion, was hot on the trail of a donor list that might have disclosed the gifts. Also, the incident should not pass without someone noting that it would have been perfectly possible for Americans to rebuff this bit of illegality in the first place. Still, we do rate the airline's candor far higher than that of the re-election committee and its minions, who claim no knowledge of anything unseemly about the contribution.

We find it hard to know where to begin a discussion of this wearying subject, except to say that we have little sympathy for anyone whose political machinations carry him beyond the law or propriety. Corporate executives seek to make a case that politicians blackmail them into illegal campaign contributions. The politicians insist that they are constantly being offered slightly soiled dollars that they can refuse only on penalty of losing an election. Civil servants insist that they would remain pure and free of involvement in these political games were it not for the pressures applied to them by the political operators higher up.

Let us take the first claim. American Chairman George A. Spater insists that the political fund-raising system in this country is beset with evils. Some other businessmen claim that it falls little short of extortion; the fund-raisers, so we are told, have a habit of suggesting that helping a politician win can mean favors that are important to corporations.

We have very little trouble imagining such goings on. Government's power to bestow favors or inflict injury on corporations has been growing steadily for years as succeeding Congresses have expanded a web of federal regulation and supervision in matters ranging from the worthiness of auto bumpers to the fidelity of televised glimpses of breakfast food. There are all sorts of ways for bureaucrats to cause businessmen problems.

But we doubt that many businessmen would come to real disaster from refusing improper advances from political fundraisers. Put another way, we suspect that there is about a 50–50 split on which side makes the first pass.

In our system, no politician—even the President—is powerful enough to fix every federal problem a donor might encounter. The fact that civil servants and even some political appointees don't always bow to pressures from higher up has been one of the more reassuring disclosures from the Watergate hearings. We suspect that those big donors who expect a quid pro quo often get less than their money's worth.

But civil servants are not entirely blameproof either. Some, we suspect, play their own political games, helping or attacking the friends of this or that elective official to achieve ends of their own. We have no illusions, particularly after Watergate, that the inner workings of politics are simple or the methods and motivations of politicians anything less than complex.

We also have no simple solutions. But the recent revelations do encourage us to think that maybe the tough disclosure requirements in the Federal Election Campaign Act of 1971 have proved to be more effective than anyone imagined they would be. We now learn that the Senate Rules Committee has moved to water down those requirements, a prospect that could scarcely seem less appropriate. If anything, the requirements should be strengthened.

In the final analysis, tough disclosure requirements probably serve as well as anything as a remedy. What we may be seeing now is not so much the ills of the system but the 1971 remedy finally at work to purge some of the ills. Let's stick with it awhile and see.

[From the Washington Post, July 11, 1973]

"INCUMBENTS' RE-ELECTION ACT OF 1973"

(By David S. Broder)

The only thing more dangerous to democracy than corrupt politicians may be politicians hell-bent on reform. We have had a large dose of corruption in Watergate and now, by God they mean to make us take our medicine.

Waving the banner of reform, they have already pushed through the Senate, with a minimum of debate or public attention, a bill that would basically alter the American political calendar. A companion measure, with similarly sweeping changes in the financing of federal campaigns, is scheduled for Senate action before the end of the month and—barring public protest—will also probably gain easy passage.

Both of them are described in the noblest, most altruistic rhetoric as measures to purify politics. Both have some provisions that may be very desirable. But make both bills law and it becomes virtually impossible ever again to defeat an incumbent for Federal office. If that is not the intention of the sponsors, it is the kind of coincidence that makes one suspicious.

The first bill, already passed by the Senate at the urging of its powerful Democratic whip, Sen. Robert C. Byrd of West Virginia, has as its ostensible purpose the shortening of election campaigns.

It prevents any congressional or senatorial primary being held before the first Tuesday in August and says that no presidential nominating convention may begin before the third Monday of that month.

Byrd says that by shortening the general election campaign period to about two month, his bill would "reduce campaign expenditures and renew the waning interest of citizens in the electoral process."

Noble and desirable, right? The only problem is that there is precious little reason to think that any challenger limited to an eight-week campaign would stand a snowball's chance in hell of defeating an incumbent representative, president or senator who has had two years, four years or six years to gain name recognition and familiarity, to propagandize his constituents at public expense and to organize his re-election campaign.

Hubert Humphrey knows from bitter personal experience in 1968 what it is like to try to heal intra-party wounds and organize a general election campaign after a nominating convention as late as that required by this bill. But Humphrey, the incumbent senator of 1973, did not raise the objections once loudly voiced by Humphrey the frustrated presiential contender.

Conceivably, an occasional challenger could overcome the disadvantages of the short campaign period by mounting a real blitz in those few weeks. But the companion measure, now awaiting Senate action, is carefully contrived to eliminate even that slight danger to incumbents.

Along with some quite desirable changes in other aspects of election law, it includes an overall spending limit of 20 cents per eligible voter for the general election. For House races where that limit would be most restrictive, a minimum of $90,000 per district is specified.

That, too, sounds just dandy. But what is the effect of limiting a challenger to $90,000 and a short campaign when his incumbent opponent has had two years or more of federally-financed newsletters, television reports, trips home, and district office staff members to propagandize his contituents? The effect is to re-elect incumbents.

Indeed, even Common Cause, the reform-minded citizens group that is pushing for new election laws, concluded a study of the financing of last year's Senate races with the observation that "the consistently disproportionate distribution of funds between challengers and incumbents is a far more serious problem today than the total amounts being spent."

If the "reformers" in Congress wanted to address themselves to that real problem, they could easily do so. They could vote government-subsidized mailings for all federal candidates or provide public financing, equally, for the campaigns of incumbents and challengers alike.

But, for some strange reason, they are not doing that. Instead, the bill awaiting action (S. 372) moves in the opposite direction, by weakening the existing statutory ban on contributions from people in companies and unions engaged in government contract work —contributions which, inevitably would increase the incumbents' already intimidating campaign treasuries.

What these two bills amount to is the Incumbent's Guaranteed Re-Election Act of 1973. Since it is in the incumbent senators and representatives power to vote themselves this boon there is no reason to doubt they will do so.

Lord save us from such reformers.

Mr. STAFFORD. Mr. President, if we have learned anything from the events of recent months regarding political campaign financing it is that the mixture of big money and politics is an explosive and dangerous mixture. It is a mixture that can do only violence to our system of politics and government.

The argument is made by the proponents of S. 372 that their proposed changes will create a broader base of contributors to political campaigns. But, who will these new contributors be? They will be big business and big labor organizations.

Our system needs broader participation by individual citizens who are willing to demonstrate their trust in the American political system by investing their own contributions in political candidates and political parties of their choice. The law permits that kind of political participation. We need no change in the law to broaden the base of political contributors. What we need is a change in the political climate. A change that will attract greater participation by individual Americans.

Yet, at a time when the need to purify the political atmosphere is overwhelming, we are being asked to create the potential for new political clouds.

Mr. President, our political system cannot stand this kind of reform at this point in our history. At a time when we are all being overwhelmed with evidence that demonstrates that big money leads to abuse of the political system, we must act to tighten controls on campaign financing. Certainly we cannot weaken those controls, as the committee has proposed.

AMENDMENT NO. 347

(Ordered to be printed, and to lie on the table.)

Mr. BENTSEN. Mr. President, I am submitting today an amendment to S. 372, amending the Federal Elections Campaign Act which would make the Comptroller General a permanent member of the Federal Election Commission established under this bill. Under S. 372 the Federal Election Commission would operate as an independent agency responsible for the enactment of the provisions of the act.

At present the bill before the Senate calls for a commission of seven members, four of whom are to be selected from individuals recommended by the joint leadership of the House and Senate. I am including the Comptroller General as a permanent member for two principal reasons. First, the GAO has already had significant experience carrying out the requirements of the 1971 Federal Elections Campaign Act and has vigorously pursued its responsibilities under that law. Second the Election Commission will rely heavily upon the assistance and facilities of the GAO and the cooperation and participation of the Comptroller General, therefore, is essential in order for the Commission to function effectively.

Mr. President, the Federal Election Commission will face an immediate, tremendous task in recording, accounting, and policing the campaign committees that will participate in the 1974 Federal elections. The participation of the Comptroller General on the Commission will provide a continuity of experience and will insure immediate and full cooperation between the GAO and the Election Commission. The effectiveness of the law will be greatly enhanced by this amendment and I urge the Senate to give it prompt and favorable consideration.

AMENDMENT OF TRUTH-IN-LENDING ACT—AMENDMENT

AMENDMENT NO. 343

(Ordered to be printed, and to lie on the table.)

Mr. MOSS submitted an amendment, intended to be proposed by him, to the bill (S. 2101) to amend the Truth-in-Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes.

CONSERVATION OF CERTAIN FISH AND WILDLIFE—AMENDMENT

AMENDMENT NO. 344

(Ordered to be printed, and to lie on the table.)

Mr. TALMADGE submitted an amendment, intended to be proposed by him, to the bill (S. 1983) to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife that are threatened with extinction or likely within the foreseeable future to become threatened with extinction, and for other purposes.

REVISION OF SPECIAL PAY STRUCTURE RELATING TO MEMBERS OF THE UNIFORMED SERVICES—AMENDMENTS

AMENDMENT NO. 345

(Ordered to be printed, and referred to the Committee on Armed Services.)

FOREIGN DUTY PAY

Mr. GRAVEL. Mr. President, S. 368, the Uniformed Services Special Pay Act of 1973, would correct many inequitities in our present military pay structure, and if enacted will constitute an important step toward assuring the success of an all-volunteer armed force. There is one important inequity which S. 368 fails to correct, however, so I am today submitting an amendment to rectify this situation.

Section 305(a), title 37, United States Code, prohibits any serviceman who is a resident of the State, territory, or possession in which he serves from receiving hardship duty pay.

As a consequence of this restriction, a resident of Alaska, in the military, assigned to a station in Alaska, receives less pay than other men in his unit. This is also true for residents of Hawaii, Puerto Rico, the Virgin Islands, and U.S. possessions.

Deprived of this additional pay, a man is less well off than his fellow servicemen who are residents of any one of the other States. Yet, he faces the same high cost of living his fellow servicemen face. But with less money. While it is true that he is stationed in his home State, home could be any distance away—500 to 1,000 miles—and he suffers the same hardships as those from other States.

Most military posts in Alaska are hardship posts. The serviceman is faced with a higher cost of living in terms of food, housing, and other essentials, than he is in the lower 48 States. Many of these posts are remote, which, translated into dollars and cents, means that the serviceman's pocketbook is adversely affected, notwithstanding the PX and commissary privileges.

The criteria for receiving this special pay should be isolation and hardship, factors much more relevant than residence. My amendment would correct the present inequity of the law, and I hope that it will receive favorable consideration by the Senate.

AMENDMENT NO. 346

(Ordered to be printed, and referred to the Committee on Armed Services.)

EQUAL COMPENSATION FOR VETERINARIANS

Mr. GRAVEL. Mr. President, today I submit an amendment to S. 368, the Uniformed Services Special Pay Act of 1973, to provide compensation to veterinary officers of the Army, Air Force, and Public Health Service equal to that which would be provided physicians and dentists.

Specifically, my amendment provides the following for veterinarians:

First. Four years constructive credit for the purpose of computing basic pay;

Second. Special pay at the rates of $100 a month for each month of active duty if less than 2 years of active duty has been completed; and $350 a month for each month of active duty if at least 2 years of active duty has been completed; and

Third. Four years constructive credit for the purpose of determining grade, position on a promotion list, seniority in grade, and eligibility for promotion.

The need for this amendment is explained fully in a letter from Dr. David Howe, president of the Alaska State Veterinary Medical Association. I ask unanimous consent that Dr. Howe's letter be printed at this point in the RECORD, followed by a copy of the amendment itself.

There being no objection, the letter and amendment were ordered to be printed in the RECORD, as follows:

THE ALASKA STATE
VETERINARY MEDICAL ASSOCIATION,
Anchorage, Alaska, April 24, 1973.

DEAR SENATOR GRAVEL: The Alaska State Veterinary Medical Association, with assistance from American Veterinary Medical Association, the Association of American Veterinary Medical Colleges, and concerned individuals in our profession, are actively working to create a system of compensation for the uniformed services that will attract the highest quality of veterinary officers in sufficient numbers to meet the needs of the U.S. Army, Air Force, and Public Health Service.

Several members of Congress have introduced bills that propose compensation systems for the health professions but they do not provide adequate incentives for veterinary officers. We anticipate that the Department of Defense will not oppose these bills. The following remarks provide background information on this situation.

Veterinary officers of the U.S. Army, Air Force, and Public Health Service receive $100 special pay monthly, in addition to other allowances, as partial recognition of the salary differential between civilian and military veterinarians. The AVMA was instrumental in having this $100 special pay for veterinarians included in Public Law 83–84, June 29, 1953. The amount was identical to the amount then received by physicians and dentists who earlier had been awarded special pay by Public Law 80–635, August 5, 1947.

Public Law 84–118, June 30, 1955, continued veterinarians at the $100 per month level, and marked the start of "separate handling" of physicians and dentists by increasing their special pay. With enactment of Public Law 89–132, October 2, 1963, the level for physicians and dentists is $100 per month for the first two years' service, $150 per month for the next four years, $250 per month for the next four years and $350 per month thereafter. The $100 per month special pay for veterinarians has been unchanged for 20 years.

A bill (HR 16924) passed by the House of Representatives in the 92nd Congress (1972) contained provisions for $100 per month special pay for physicians and dentists for the first two years of active duty and $350 per month thereafter, rather than scaling up to $350 per month after 10 years as at present. The $100 per month special pay for veterinarians entering on active duty after July 1, 1973, *would be discontinued.* This bill was not considered by the Senate and thus was dead for that session of Congress.

The proposed legislation also contained a "bonus" provision whereby health professionals could receive a bonus of *up to* $15,000 annually for each year of non-obligated service up to six years. The actual amount would vary by professional category. One proposal for implementation of the bonus plan would award selected veterinarians with not more than five years' service a bonus of $5,000 annually for agreeing to serve six additional years. The amount of the six-year bonus would decrease depending upon the number of years already served on active duty by the officer, with the effect that veterinary officers with over nine years of active service would not be eligible to enter into a bonus contract. Some effects of the bonus plan would be:

1. Only a fraction (300 officers) of the approximately 850 Army and Air Force veterinary officers would be eligible for selection to receive a bonus in any given fiscal year.

2. The Secretary of Defense could cease offering a bonus contract to any officer at any time without cause.

3. Although graduate training has been the single most successful recruiting tool, officers in a training or obligated status would not be eligible under the provisions of the proposed bill.

4. Because of the six-year limitation on payments, there would be an unavoidable exodus of officers with 10 to 12 years' service following the termination of bonus payments. These would include the officers with board certification and graduate training, just entering their professional prime.

Veterinary Corps officers are given three years' constructive credit *for promotion* only. Between 1954 and October 31, 1966, Veterinary Corps officers entered the service as first lieutenants and were promoted to captain when their combined time in service and three years' constructive credit coincided with the total commissioned service of the line officer at the time of the latter's promotion to captain. Subsequent to 1966, the rapid promotion of line officers to captain (three years or less total service) enabled veterinarians, with their three years' promotion credit, to enter the service as captains. There has been a serious disadvantage, however, in that the veterinary officer with 7 to 8 years of professional education useful to the uniformed services reaches 25–26 years of age and has *no credit for pay purposes.* By contrast, the line officer who was promoted to captain at age 24, already had over two years' service for pay and, at the same age of the entering veterinary officer, already had compiled 3 to 4 years for pay purposes. This gave the line officer an advantage of from $140 to $230 per month over the military veterinarian that was not equalized by the veterinarian's $100 per month special pay.

Students in the current first-year classes of veterinary medicine have an average of 3.63 years of collegiate training prior to acceptance by a college of veterinary medicine. This means that upon completion of their professional training, they will have had 7.63 years of college education. Medical and dental officers, who spend a similar amount of time in college, receive four years' constructive credit for promotion *and* pay *and* retirement, in recognition of their professional education.

There is a high level of professional talent in the veterinary services of the Army and Air Force. Of 335 regular Army and Air Force Veterinary Corps officers, 238 or 61.8% are trained at the masters degree level postdoctorally. Ninety-nine or 25.6% hold certification by veterinary specialty boards as testimony to their professional excellence. Thirty-six or 9.3% have been trained at the Ph. D. level beyond the doctor of veterinary medicine degree.

Legislation which adversely affects any segment of the profession adversely affects the profession as a whole. It is for this reason that the AVMA, the dean of the colleges of veterinary medicine, and others in the profession are joining enthusiastically to stimulate legislation that will provide the following for military veterinarians:

1. Four years' constructive credit for promotion *and* pay by amending Section 205a (7), Title 37, U.S. Code to include veterinarians.

2. Special pay for veterinarians on a comparative level with physicians and dentists. This can be accomplished by including veterinarians along with physicians and dentists in Chapter 5 of Title 37, U.S. Code, Section 302, Special Pay.

Proposed legislation (HR 310 and S368) has been introduced in both houses of the 93rd Congress relating to special pay, similar to the provisions of HR 16924 in the 92d Congress. It will be necessary to amend these bills or to support new legislation if veterinarians are to receive appropriate professional recognition.

The Alaska State Veterinary Medical Association support this effort and urges your assistance in securing a fair and adequate pay for the uniformed veterinarian.

Sincerely,

David Howe, D.V.M.,
President, ASVMA.

Amendment No. 346

On page 1, between lines 4 and 5, insert the following:

Sec. 2. (a) Section 205(a) of title 37, United States Code, is amended by striking out the word "and" at the end of clause (8), and redesignating clause (9) as clause (10) and adding after clause (8) a new clause (9) as follows:

"(9) for an officer of the Veterinary Corps of the Army, an officer of the Air Force designated as a veterinary officer, or a veterinary officer of the Public Health Service—four years; and".

(b) Such section is further amended by striking out "clauses (2)–(9)" in the first sentence following clause (10), as redesignated by subsection (a) of this section, and inserting in lieu thereof "clauses (2)–(10)".

On page 1, line 5, strike out "Sec. 2" and insert in lieu thereof "Sec. 3".

On page 1, line 7, strike out "Section 302 is" and insert in lieu thereof "Sections 302 and 303 are".

On page 2, line 15, strike out the quotation marks.

On page 2, between lines 15 and 16, insert the following:

"§ 303. Special pay; veterinarians

"(a) An officer of the Army who is in the Veterinary Corps, an officer of the Air Force who is designated as a veterinary officer, or a veterinary officer of the Public Health Service, who is on active duty for a period of more than thirty days is entitled, in addition to any other pay or allowances, to special pay at the following rates:

"(1) $100 a month for each month of active duty if he has not completed two years of active duty in a category named in this section; or

"(2) $350 a month for each month of active duty if he has completed at least two years of active duty in a category named in this section.

The amounts set forth in this section may not be included in computing the amount of an increase in pay authorized by any other provision of this title or in computing retired pay or severance pay."

On page 15, line 7, strike out "Sec. 3" and insert in lieu thereof "Sec. 4".

On page 15, line 13, strike out "Sec. 4" and insert in lieu thereof "Sec. 5".

On page 16, line 7, strike out "Sec. 5" and insert in lieu thereof "Sec. 6".

On page 16, between lines 22 and 23, insert the following:

Sec. 7. (a) Section 3287 (a) (2) of title 10, United States Code, is amended by—

(1) redesignating items (A), (B), (C), and (D) as items (B), (C), (D), and (E), respectively;

(2) inserting a new item (A) as follows:

"(A) Four years, if he is appointed in the Veterinary Corps."; and

(3) striking out "chaplain, in the Judge Advocate General's Corps, or in the Veterinary Corps" in item (B), as redesignated by clause (1) of this subsection, and inserting in lieu thereof "chaplain or in the Judge Advocate General's Corps".

(b) Section 8287 (a) of such title is amended by—

(1) redesignating clauses (2), (3), (4), and (5) as clauses (3), (4), (5), and (6) respectively;

(2) inserting a new clause (2) as follows:

"(2) four years, if he is appointed in the Regular Air Force with a view to designation as a veterinary officer;"; and

(3) striking out "chaplain, judge advocate, or veterinary officer" in clause (3), as redesignated by clause (1) of this subsection, and inserting in lieu thereof "chaplain or judge advocate".

On page 16, line 23, strike out "Sec. 6" and insert in lieu thereof "Sec. 8".

On page 17, line 1, strike out "2 (1)" and insert in lieu thereof "3 (1)".

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—AMENDMENT

AMENDMENT NO. 348

(Ordered to be printed, and to lie on the table.)

Mr. HATHAWAY submitted amendments, intended to be proposed by him, to the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

NOTICE OF HEARING ON FEDERAL PAPERWORK BURDEN

Mr. McINTYRE. Mr. President, the Subcommittee on Government Regulation of the Senate Select Committee on Small Business will continue its hearings into the Federal paperwork burden and the impact on small business on July 23, 1973, beginning at 10 a.m. in room 4200 of the Dirksen Senate Office

Building. The witness list will be released by the subcommittee at a later date.

At this hearing the subcommittee will examine into the reporting requirements imposed on small broker-dealers by the National Association of Securities Dealers and the Security Investors Protection Corporation.

Further information regarding this hearing can be obtained from the offices of the Senate Select Committee on Small Business, extension 5-5175.

ADDITIONAL STATEMENTS

THE NEED FOR FIREFIGHTER LEGISLATION

Mr. McINTYRE. Mr. President, as a result of recommendations from the National Commission on Fire Prevention and Control, my distinguished colleague from Washington, Senator MAGNUSON, has introduced legislation which would assist firemen in their struggle against the ravages of fire. The Fire Prevention and Control Act of 1973 would improve upon existing Federal programs, create within the Department of Housing and Urban Development a U.S. Fire Administration to assist State and local government in reducing the incidence of death, personal injury, and property damage from fire and increase effectiveness and coordination of fire prevention and control agencies at all levels of government. I wholeheartedly endorse Senator MAGNUSON in his efforts to aid these brave men who face danger each and every day of their lives.

Recently, I received a letter from the supervisor of fire service training for the Department of Education, State of New Hampshire, Mr. Barry Bush. He states a most cogent argument expressing the need for such legislation in New Hampshire. The best way I can conceive to show our firefighters we care would be to act on this legislation as soon as possible.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the New Hampshire Department of Education. I am sure my colleagues will agree that the need for this legislation is imperative.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 6, 1973.

Hon. THOMAS J. McINTYRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR McINTYRE: At this time, I would like to take the opportunity to request your support for Senate Bill S. 1769, and House Bill H. 7681, the Fire Prevention and Control Act of 1973, introduced in the Senate by Senator G. Magnuson and in the House by Representative Wright Patman.

As you are aware, the Presidential Commission on Fire Prevention and Control has made its report to the President and is recommending a very comprehensive program for the Fire Service. Senate Bill S. 1769 and House Bill H. 7681 is, in fact, designed around the 20 member Commission's report.

I cannot overemphasize the fact that in our State alone, there are some 8,000 firefighters who receive little or no training, the protective clothing is inadequate or nonexistent in many cases, that our emergency Fire Service communications between Fire Departments and throughout the State is a hodgepodge and needs coordination to allow inter-department communications in times of emergencies. That our State Fire Marshal's Office is totally overburdened and lacks the ability to be effective, and that there is little general comprehensive direction given for the Fire Service of our State.

Our State has, within our existing funds and resources, tried to alleviate this situation and enter the 20th century. However, our plight is woefully in need of massive federal assistance. In just the training area alone, our total budget for 8,000 firefighters is $44,000. Of this amount we have been able to stretch our training to some 1,000 firefighters; however, our instructors lack the necessary training aids to carry out instruction. In many cases, they do not even have the necessary training manuals and through much personal sacrifice have taught courses for no pay whatsoever. Our Fire Chiefs Association has studied the problems of our State Fire Service and most can be directly related to lack of budgetary support.

As you may know, the Fire Service is the only governmental agency that utilizes its funds to the greatest potential, no other area can do more if they are given the opportunity. The men and women of the local fire departments have proven their ability to get the most for the money appropriated to them. They operate on shoe string budgets through limited town appropriations, bake sales, donations, raffles, etc., and are protecting the lives and property in our communities.

The Fire Service not only protects the lives of the citizens of the communities, but is the only governmental agency that protects the local tax base. It does well to consider the valuation of a city or town and then look at the amount expended to protect that investment.

It must be pointed out that in our State, in 1970, there were some $5,240,000 in fire losses. The figures include only insured losses on straight fire policies. The loss figures do not take into acount fire losses incurred on homeowners or multiperil commercial policies. Further, there is no consideration given to the indirect fire losses such as loss of tax base, loss of key employees, loss of customers, loss of payroll, loss of engineering data, etc. These indirect losses are figured to be 2 to 3 times the direct loss rate.

In other words, New Hampshire lost some 10 to 15 million dollars in 1970 due to fires. Our part-time instructors have been witnesses where proper training could have saved tens of thousands of dollars in fire losses at fires. By supporting this bill and the funding requested with it, our State will be able to begin to provide its citizens the level of fire protection they deserve.

Thank you very much for your time and consideration. Should you desire any further information, please feel free to contact me at any time.

Very truly yours,

BARRY BUSH,
Supervisor, Fire Service Training.

CAPTIVE NATIONS WEEK—JULY 15-21

Mr. BEALL. Mr. President, July 15 marked the beginning of Captive Nations Week for 1973. Pursuant to a joint resolution of Congress adopted in 1959, Public Law 86-90, we, as freedom-loving Americans, focus the attention of all nations on the sorry plight of a few. More than 100 million people in the East European nations of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Rumania have been forcibly denied their precious God-given right to self-determination. As the leader of the free world, the United States must reaffirm its commitment to the ideals of freedom, liberty, and the inalienable right to self-government which our institutions embody.

The popular outbursts against domestic tyranny that have characterized these nations' captivity attest to the yearnings of the people for escape from authoritarian, foreign rule. The valiant struggle so long maintained by these oppressed peoples in their fight against virtually insuperable odds deserves our greatest respect. We cannot desert these nations by straying from the ideals of justice that they hold as dear as we do here in America.

We are presently making great strides in the direction of detente with the Soviet Union. In the interest of peace and brotherhood we must constantly strive to coexist amicably with all peoples of all ideologies. But we will never abandon the principles and beliefs which are the cornerstone of our governmental institutions. We will never abandon our dedication to particular freedoms enumerated in the Bill of Rights. We, as a nation, are dedicated to the promotion of liberty and the right to self-determination everywhere on the globe.

The people of East Europe will someday be free. We in the United States, as the world's symbol of liberty, must do our part to keep their flame of hope alive, not only during this week or this year, but until these nations are delivered from this awful tyranny.

CHILD ABUSE PREVENTION AND TREATMENT ACT

Mr. HUMPHREY. Mr. President, I voted for passage of the Child Abuse Prevention and Treatment Act, S. 1191, by the Senate on July 14, 1973. I wish to take this opportunity to urge that this vital legislation be enacted by Congress without delay.

It is imperative that this first step toward providing effective protection for thousands upon thousands of maltreated children in America be taken as quickly as possible. There is sufficient cause for decisive action when it is estimated that at least 60,000 cases of child abuse are reported annually, while thousands more go unmentioned. We must halt a profoundly critical social disease reflected in estimates that at least 700 children are killed in this country every year by their parents or surrogates, and that one out of every two "battered" children dies after being returned to his or her parents.

Increased public awareness of this social malady is reflected in the fact that in the last decade nearly every State has revised its child abuse reporting laws. But we know all too well that this is only a beginning; that far too often the permanent psychological or physical damage has already been done; and that the crucial job of treatment and follow-up protection and family counseling services remains to be addressed.

The harsh fact is that our knowledge of the extent of what should be more correctly termed the "maltreatment syndrome in children" remains totally inadequate. We may have been shocked by revelations of hospital emergency room cases of children with body trauma, bruises, abrasions, cuts, lacerations, burns and scalds, and broken bones or dislocated shoulders. But the story has yet to be told of extensive cases of children without these symptoms of physical abuse, but with numerous minor physical evidences of emotional and nutritional deprivation, neglect, and abuse. And we are only beginning to recognize the dimensions of the child abuse cycle, where the victim of emotionally crippled or distraught parents will himself have emotional and psychological crippling which is passed on to succeeding generations with a sense of rejection and violence.

It is an unconscionable act of personal and social irresponsibility to be satisfied with the explanation that the maltreatment syndrome in children is simply a symptom of the pressures and tensions of modern society. It is no excuse that the battered child is but one form of the violence that is all too prevalent in society today. No one questions that there is a good measure of truth in these assertions. But no one dare accept them as final answers; rather, they should be a decisive stimulus to action on behalf of those in our society who are innocent of its ills and least able to protect themselves from the aberrational behavior spawned by social disintegration.

However, firm action on child abuse prevention and treatment demands leadership at the national level. It is clear that Congress must provide this leadership in the absence of definitive action by the administration. Federal support for programs dealing with child abuse has been available primarily through title IV–B of the Social Security Act, which authorizes child welfare services, including child protective services. But the administration has only budgeted $46 million for all IV–B activities in fiscal 1974—identical to the funds available in the last fiscal year—and of this limited amount, only $507,000 was spent in fiscal 1973 on activities related to child abuse. Moreover, the Department of Health, Education, and Welfare has revealed that it has no information about the effectiveness of child abuse prevention and treatment programs in the respective States. and a last-minute announcement by HEW, subsequent to the introduction of S. 1191, of its intention to earmark $4 million for activities related to child abuse in fiscal 1974, failed to indicate the source of these funds, whether they constituted new moneys, and any specific and comprehensive plan for their expenditure beyond certain general-purpose information gathering and feasibility study intentions.

The Child Abuse Prevention and Treatment Act, of which I am an original sponsor, can prepare the way for pinpointing Federal responsibilities, marshaling resources, and developing a comprehensive and sustained program of action to address this crucial social problem. It provides for the establishment of a National Center on Child Abuse and Neglect within HEW's Office of Child Development. The center would compile, analyze, and publish current research on child abuse, and would serve as a national clearinghouse of information on programs dealing with child abuse and neglect.

Most importantly, the bill authorizes grants, administered through the Center, for extensive demonstration programs designed to prevent, identify, and treat child abuse and neglect. The purposes for which these grants are specified indicate a clear recognition of the serious need for the training of personnel to deal with child abuse, for the establishment of multidisciplinary approaches to deal effectively with the full scope of child abuse causes and treatment problems, and for innovative projects, such as support of parent self-help organizations.

Finally, S. 1191 provides for the establishment of a National Commission on Child Abuse and Neglect, to include parents, public officials, and those with professional training and experience. The Commission is given a specific 1-year mandate to report to the President and Congress on the effectiveness of child abuse and neglect reporting laws, existing prevention, and treatment programs, the actual national incidence of child abuse and neglect, the adequacy of public and private funding for child abuse programs, and the appropriate role of the Federal Government in assisting State and local public and private efforts to deal with child abuse and neglect. The Commission is given effective powers to get at these vital facts, and is to include recommendations for further legislation, as appropriate, in its findings and conclusions.

Mr. President, I was gratified that the report on this legislation by the Senate Committee on Labor and Public Welfare clearly recognized that further action is necessary to assure the development of effective State programs on child abuse prevention and treatment, meeting specific standards. It is intended that this be accomplished under legislation that would require a State plan for activities related to child abuse as a condition for receiving funds for child welfare programs authorized under title IV–B of the Social Security Act.

On March 26, 1973, I introduced S. 1364, the National Child Abuse Prevention Act of 1973, which specifically requires that States submit to the Secretary of Health, Education, and Welfare comprehensive plans for child abuse prevention and treatment. My bill would amend the Elementary and Secondary Education Act of 1965 to add a new title on child abuse, authorizing $60 million in grants over a 3-year period for effectively coordinated programs targeted on critical needs in this area. These needs, for which explicit standards are set forth, include adequate State laws on child abuse reporting and child welfare, programs designed to train professionals in the appropriate techniques of child abuse prevention and treatment, education programs to sharpen public awareness of the high incidence of child abuse and neglect, and a central registry at the State level to coordinate information on relevant court actions.

S. 1364 provides for a comprehensive and responsible definition of child abuse, and it sets forth specific requirements, protections, and followup procedures in the reporting of child abuse or neglect.

I urge that careful consideration be given to the provisions of my bill, the National Child Abuse Prevention Act, in the development of further legislation on this vital issue. It is essential that such comprehensive measures be undertaken to assure that a multidisciplinary network of protection is developed in each community to implement the good intentions of the law. Effective counseling and assistance must be provided to parents. Law enforcement, medical, and social service sector responsibilities must be fully coordinated. But of highest importance, no effort must be spared to guarantee the right of every child to life, and to the opportunity for a future of hope and decency.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Mr. PERCY. Mr. President, several weeks ago I had the privilege to chair—together with the senior Senator from Kentucky (Mr. COOK)—a series of hearings on maternal and infant nutrition held by the Select Committee on Nutrition and Human Needs.

We heard from a long list of outstanding doctors and scientists all of whom stressed the vital importance of good nutrition during pregnancy and the early years of life for the optimum physical and mental development of the child.

The evidence presented to the committee indicated that various nutrition intervention programs designed to supplement the diets of pregnant and lactating women and their offspring have had a very positive impact on the nutritional status of the target population.

Nearly a year ago, under the leadership of the junior Senator from Minnesota (Mr. HUMPHREY) and the senior Senator from New Jersey (Mr. CASE) we authorized the USDA to conduct a 2-year $40-million demonstration project aimed at measuring as precisely as possible the efficacy of a supplemental feeding program for women, infants, and children, the WIC program.

We have had to wait a long time for the regulations for this program, but they were finally published by USDA in the Federal Register last week.

Local agencies which are chosen to participate will distribute supplemental foods to eligible persons and will keep medical records to be used to evaluate the effect of the food on the health and well-being of the women, infants, and children who take part.

In order to launch the program quickly, the regulations will not be open for comment, but are effective immediately. USDA hopes some programs will be in operation by early this fall.

This is an important program which needs our support. In light of the evidence already amassed by the Select Committee on Nutrition in the hearings on maternal and infant nutrition I know my colleagues will want to bring this pilot program to the attention of their constituents.

I ask unanimous consent that the USDA's press release announcing the publication of the regulations together with the text of the regulations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PILOT SPECIAL SUPPLEMENTAL FOOD PROGRAM STARTS FOR WOMEN, INFANTS, AND CHILDREN

WASHINGTON, July 9.—The U.S. Department of Agriculture (USDA) today announced the start of a new pilot Special Supplemental Food Program for Women, Infants and Children (WIC).

The WIC Program, authorized by Public Law 92–433, will be administered by USDA's Food and Nutrition Service (FNS).

FNS will provide cash grants to health departments or comparable state agencies to make supplemental foods available to pregnant and lactating women, infants, and children up to four years. The system of delivery may include the distribution of food at health clinics, the issuance of food vouchers redeemable at retail stores, or any other method a state may select.

The pilot program will operate through June 30, 1974, in selected areas. It may be carried out in any area, without regard to whether the area is operating a Food Stamp Program or a Food Distribution Program.

Project areas will be required to maintain medical records on participants, and the information will be used to evaluate the effect of the supplemental food on the women, infants and children who take part.

A local agency may apply for the program if:

It provides health services to residents of areas in which a substantial number of persons have low incomes;

It serves women, infants, and children;

Its staff includes competent medical personnel to examine persons receiving health services; and

Its facilities include equipment for conducting evaluation tests.

Participants are eligible for the pilot program if:

They live in an approved project area;

They are eligible for medical treatment at reduced cost from a local agency serving the project area in which they live; and

They are determined by competent medical personnel of the local agency to be in need of supplemental food.

The following foods will be authorized for distribution:

To infants—iron-fortified infant formula, infant cereal, whole milk, and fruit juice.

To children—milk, cheese, cereal, fruit or vegetable juice, and eggs.

To pregnant or lactating women—milk, cheese, cereal, fruit or vegetable juice, and eggs.

Final regulations for the operation of the program are scheduled to be published in the Federal Register on Friday. To expedite the introduction of the program, comments and suggestions will not be sought on these regulations.

The five regional offices of the Food and Nutrition Service will immediately start to contact state health departments, to advise them of operating details of the new program, and to determine their interest in participating in it.

TITLE 7—AGRICULTURE: CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—SCHOOL LUNCH PROGRAM: PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Pursuant to the authority contained in the Child Nutrition Act of 1966, as amended (42 U.S.C. 1771 et seq.) regulations for the operation of the Special Supplemental Food Program for Women, Infants and Children are hereby issued.

Public Law 92–433, approved September 26, 1972, added a new section 17 to the Child Nutrition Act of 1966 (86 Stat. 729). This section authorized the establishment of a Special Supplemental Food Program. The Department has chosen to call this the Special Supplemental Food Program for Women, Infants and Children (WIC program) to prevent confusion with the supplemental food program which is currently being operated as an adjunct of the Food Distribution Program (7 CFR 250.14).

The WIC program is established on a pilot basis through June 30, 1974. Although the WIC program will supply nutritious foods to participants, a major object of the program is the collection and evaluation of data which will medically identify benefits of this food intervention program. In addition, data will be collected and analyzed to measure the administrative efficiencies of various methods of making food available to participants.

To achieve the maximum amount of information in a minimum period of time, the Department is encouraging diversity in the design and operation of the WIC program in individual localities. A minimum number of requirements are imposed. Local health clinics are required to demonstrate that they serve low income populations considered to be at nutritional risk and that they have the necessary facilities and other resources to effectively carry out the WIC program. State departments of health (by whatever name identified) must accept the responsibility for the system of making foods available to participants and for supervising all participating health clinics in the State.

Interested health clinics must apply to their State department of health but FNS will select those which will participate in the WIC program. The criteria for selection fall in two general categories: Demonstrated need for the program and the ability to meet program objectives.

Pregnant or lactating women, infants and children under age four are eligible to participate if they live in an approved low income area served by an approved health clinic, are eligible for reduced cost medical treatment from that clinic and are determined by professionals on the staff of the clinic to need the supplemental foods.

The Department has prescribed the foods and the maximum monthly quantities of each food which are to be made available to participating individuals. These foods are intended to supplement the regular diet of participants—not to be a complete diet in themselves. However, they are nutritious and are especially high in those nutrients known to be lacking in diets of people who are eligible for the WIC program.

Infants can receive over 100 percent of the Recommended Dietary Allowances (RDA) of the National Research Council of the National Academy of Sciences for protein, calcium, iron and Vitamin C and about 90 percent of the RDA for Vitamin A from the authorized supplemental foods. Calories will also be fully supplied up to about age 3 months and will be about three-fourths of lactating women can receive about one-RDA thereafter. Children one year of age, but less than four years of age can receive more than 100 percent of RDA for protein, calcium, iron, and Vitamins A and C, and about two-thirds for calories. Pregnant or lactating women can receive about one-fourth of RDA for calories and between 60 percent to over 100 percent of RDA for the nutrients mentioned above.

It is the policy of the Department to publish a notice of proposed rulemaking and afford interested persons 30 days to submit comments before final rules and regulations are formulated for Food and Nutrition Service Programs. However, in view of the need for issuing final regulations for the WIC program on or before July 6, 1973, as ordered by the U.S. District Court for the District of Columbia on June 20, 1973, it is hereby determined that it is impractical, unnecessary and contrary to the public interest to give notice of proposed rulemaking. Although public comment was not solicited, these regulations were formulated after discussions with members of the Department of Health, Education and Welfare and with medical consultants.

Applications for participation in the pilot WIC program will be accepted immediately. Any inquiries should be directed to the appropriate FNS Regional Office listed in § 246.15 of this part.

Sec.
246.1 General purpose and scope.
246.2 Definitions.
246.3 Administrations.
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246.12 Eligibility of persons.
246.13. Supplemental foods.
246.14 Fair hearing procedure.
246.15 Miscellaneous.

AUTHORITY: Sec. 10, 80 Stat. 889, as amended; sec. 9, 86 Stat. 729; 42 U.S.C. 1786.

§ 246.1 General purpose and scope.

(a) This part announces the policies and prescribes the general regulations for a pilot Special Supplemental Food Program for Women, Infants and Children (WIC) program. Under the WIC program the Department shall provide cash grants to the health department or comparable agency of a State to enable such agency to make nutritionally desirable foods available to pregnant or lactating women, infants and children through local public or nonprofit private health agencies. The WIC program shall operate through June 30, 1974, in selected States and areas.

(b) The Department shall also collect data to evaluate the effect of food intervention upon populations which are at nutritional risk. Further, the Department shall evaluate WIC program operations for administrative effectiveness and efficiency.

§ 246.2 Definitions.

For the purposes of this part and of all contracts, instructions, forms, and other documents related hereto, the term:

(a) "Adequate medical records" means those records listed under § 246.11(d).

(b) "Administrative costs" means all costs, except expenditures for food, directly attributable to WIC program operations and also means costs indirectly attributable to the WIC Program (those costs shared with other programs) if such costs are allocated under an approved cost allocation plan as described in the Office of Management and Budget Circular A–87.

(c) "Birth weight" means weight of an infant in grams determined within two hours of birth.

(d) "Children" means persons at least one year of age but less than four years of age.

(e) "Competent professionals" means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.

(f) "Department" means the United States Department of Agriculture.

(g) "Designated evaluation visit" means a visit to the local agency during which participants selected in accordance with FNS instructions will complete the tests needed to obtain the information required for the FNS evaluation of the effect of food intervention.

(h) "FNS" means the Food and Nutrition Service of the Department.

(i) "FNSRO" means the appropriate Food and Nutrition Service Regional Office.

(j) "Infants" means persons under one year of age.

(k) "Lactating women" means women for a period of six weeks post partum and also means women who are breast-feeding an infant.

(l) "Local agency" means a health clinic which is operated by the State agency, a political subdivision of the State, or a private, nonprofit organization.

(m) "Low birth weight" means a birth weight less than 2,500 grams.

(n) "Low income" means an income below the poverty level as determined by the 1970 U.S. Census subject to annual revision for changes in the cost of living.

(o) "Nutritional risk" means one or more of the following:

(1) For pregnant or lactating women—

(i) Known inadequate nutritional patterns;

(ii) High incidence of anemia;

(iii) High rates of prematurity or miscarriage; or

(iv) Inadequate patterns of growth (underweight, obesity, or stunting).

(2) For infants and children—

(i) Deficient patterns of growth (when compared to the standards for height and weight established by H. C. Stuart and published by Waldo E. Nelson, et al., in the Textbook of Pediatrics, 9th Edition, 1969, W. B. Saunders Co., Phila., Pa.);

(ii) High incidence of nutritional anemia; or

(iii) Known inadequate nutritional patterns,

(p) "Participants" means persons to whom food is made available under the WIC program.

(q) "Pregnant women" means persons determined by competent professionals to have one or more fetuses *in utero*.

(r) "Project area" means a geographic subdivision within a State determined by the local agency as the area to be served by the WIC program.

(s) "Secretary" means the Secretary of the United States Department of Agriculture or his authorized representative.

(t) "State" means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam or American Samoa.

(u) "State agency" means the State health department or comparable agency of the State government.

(v) "Supplemental food" means any food authorized to be made available under the WIC program.

(w) "WIC program" means the Special Supplemental Food Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966, as amended.

§ 246.3 Administration.

(a) Within the Department, FNS shall act on behalf of the Department in administering the WIC program.

(b) Within the States, the State agency shall be responsible for the operation of the WIC program within the State. The State agency shall accept applications from local agencies which desire to participate in the WIC program. The State agency shall be responsible for the design and operation of the system for making supplemental foods available to participants, including adequate safeguards against misuse. The State agency shall be responsible for forwarding to FNSRO those applications from local agencies which demonstrate the capability of operating under the WIC program in accordance with this part and all instructions issued hereinunder. The State agency shall monitor all program activities by local agencies and shall promptly notify FNSRO of any problems, program irregularities or illegal activity discovered thereby. The State agency shall account to FNSRO for all funds granted under the WIC program and shall be responsible for allocating the funds available for administrative costs between the State agency and local agencies.

§ 246.4 Use of funds.

(a) Federal funds made available to any State agency for the WIC program shall be used by the State agency or by local agencies either to purchase supplemental foods for participants or to redeem vouchers issued for that purpose, except that an amount not to exceed 10 per centum of the total funds so made available may be used for State and local agency administrative costs.

(b) The use of funds for administrative costs shall be subject to the following conditions;

(1) Applicant local agencies and State agencies shall submit budgets for administrative costs with the WIC program applications;

(2) The formula, if any, for allocating these funds between the State agency and local agencies shall be determined by the State agency;

(3) The aggregated administrative costs of the State agency and all local agencies shall not exceed 10 per centum of the total amount of the WIC program funds made available to the State agency.

(c) Funds shall not be used for any purposes by or on behalf of a local agency until a WIC program agreement has been completed between the State agency and such local agency.

(d) Upon demand by FNS, the State agency shall promptly return to FNS any funds which have not been used for the WIC program.

§ 246.5 Eligibility of local agencies.

A local agency is eligible to apply for participation in the WIC program if:

(a) It provides health services to residents of an area in which a substantial proportion of the persons have low incomes;

(b) It serves a population of women, infants or children which is at nutritional risk;

(c) Its staff includes competent professionals who interview or examine persons receiving health services;

(d) It has the personnel and expertise, and its facilities include the equipment necessary for performing the measurements, tests and data collection specified by FNS for the WIC program; and

(e) It maintains or is able to maintain adequate medical records.

§ 246.6 Application by local agencies.

Any eligible local agency interested in participating in the WIC program shall file a written application with its State agency. Applications need not be in any particular form, unless otherwise required by the State agency, but must include the following:

(a) The name, address and telephone number of the health clinic; the name of the official who shall be responsible for supervising WIC program operations at the local level; the name and address of the organization which sponsors the health clinic, if any, and the sources of funding for the health clinic. A private nonprofit organization must also include the number of the certificate issued by the Internal Revenue Service granting tax-exempt status.

(b) The types and numbers of competent professionals on the staff, by field of specialization, who will examine or interview persons to determine eligibility for the WIC program.

(c) The types of health services offered by the health clinic to pregnant or lactating women, infants and children; and a brief description of the financial, residential and other socio-economic criteria applied to determine the eligibility of such individuals for each type of health service, including treatment.

(d) Description of type of laboratory facilities available and a statement indicating whether or not blood, serum or plasma can be processed for transportation to a designee of FNS.

(e) A list specifying which of the following data are presently maintained on pregnant or lactating women, infants and children: height; weight; head circumference (infants only); hemoglobin; hematocrit; serum or plasma concentrations of iron, albumin, vitamin A, and ascorbic acid; and percent saturation of transferrin. Also, indicate any other laboratory tests routinely performed and any other pertinent medical data routinely recorded.

(f) The boundaries of the geographic subdivision which the local agency proposes as the project area.

(g) An estimate of the total population of the proposed project area.

(h) Data showing the percentage of the population of the proposed project area with low incomes and any other significant information on economic conditions affecting the proposed project area.

(i) Data which indicates the rate of nutritional risk within the proposed project area including information such as the incidence of nutritional anemia; the number and rate of pregnancies, especially teenage pregnancies; the incidences of prematurity and miscarriage; the percent of low birth weight infants, infant morbidity and mortality rates; and the incidence of any additional health problems known to exist among women, infants and children in the proposed project area.

(j) An estimate of the number of pregnant or lactating women, infants, or children which the local agency expects to serve monthly under the WIC program with an indication of the racial and ethnic composition of the expected participants.

(k) A brief description of the method which the local agency recommends to the State agency for making supplemental foods available to expected participants.

(l) A description of any feeding program of a similar nature which is already in operation. Include number of participants served by age group or other category, costs and items of food provided, delivery system used, administrative costs, and an explanation of the expected relationship between the current program and the WIC program.

(m) The estimated monthly cost of purchasing supplemental foods for expected participants and a brief description of the estimating techniques employed to calculate this figure;

(n) The estimated monthly administrative costs of the health clinic by general type of expenditure, a brief justification for each such budgeted expenditure and, if the total administrative costs exceed the funds which will be made available for such costs, the sources and amounts from each source which shall be used to fund such costs.

(o) A statement that the information furnished in the application is true and accurate to the knowledge of the signer.

(p) The signature of the official in the local agency who shall be responsible for supervising local WIC program operations.

§ 246.7 State agency action on applications.

(a) The State agency shall transmit to FNSRO each application from a health clinic which demonstrates the capability of operating under the WIC program. The transmittal shall include the following information:

(1) The name and address of the State agency and the name and telephone number of the person within the State agency who shall be responsible for the WIC program;

(2) A listing of the WIC program operation duties to be performed by the State agency and those to be performed by the local agency;

(3) A description of the techniques which shall be used to monitor the activities of the local agency and the frequency with which they shall be employed;

(4) The estimated administrative costs of the State agency and a brief justification for each of the budgeted expenditures;

(5) If the 10 per centum of the WIC program budget which may be used for administrative costs are to be divided between the State agency and local agency, specify the method by which these funds shall be allocated;

(6) If estimated administrative costs exceed 10 per centum of the estimated total WIC program budget, including such administrative costs, the source of additional funds above the 10 per centum shall be specified and the amounts to be provided by each source shall be indicated;

(7) A description of the method or delivery system selected by the State agency for making supplemental foods available to participants;

(8) A description of any activities which shall be carried out as an adjunct of or concomitant to the WIC program (for example, any nutrition education effort) and such activities shall be separately identified in the budget;

(9) Any other information which the State agency wishes to include; and

(10) The signature of the official in the State agency who shall be responsible for all WIC program operations within the State.

(b) The State agency shall promptly notify in writing each local agency whose application is not transmitted to FNSRO of the reasons therefor.

§ 246.8 Selection of local agencies.

(a) *General.* FNS shall select local agencies for participation in the WIC program on the basis of information contained in each application and in the accompanying transmittal of the State agency. Each application and the accompanying transmittal shall be thoroughly appraised and, for the initial selection, shall be ranked among all applications received by FNSRO as of August 15, 1973. Local agencies shall be selected which, in the judgment of FNS, are most suited to the accomplishment of the purposes of this part. The number of local agencies selected shall be dependent upon the funds available to FNS.

(b) *Criteria for selection.* In selecting local agencies for participation in the WIC program, FNS shall consider:

(1) The severity of nutritional risk and other health problems which affect residents of the proposed project area;

(2) The percentage of residents in the proposed project area with low incomes and other factors which could affect the ability of such residents to secure adequate nutrition;

(3) The number of expected participants in each category eligible persons and any demographic characteristics which could affect the WIC program evaluation;

(4) The expertise which the health clinic has in conducting necessary anthropometric measurements, in performing hemoglobin tests, and in processing blood, serum, or plasma for transportation to a designee of FNS.

(5) The experience of the health clinic with similar feeding programs and the expertise of its staff in managing programs in addition to the normal health care programs.

(6) The feasibility of the proposed method of making food available to participants, the acceptability of the monitoring system, and the utility of both systems for program evaluation;

(7) The adequacy and suitability of the manner in which grant funds will be handled and administered and program activities monitored by the State agency.

(c) *Notification.* Each State agency shall be notified in writing by FNS of the action taken on each application transmitted by that State agency. The notification shall list the amount of funds which FNS shall make available to the State agency. In addition, FNS shall publicly announce all selected local agencies and the amount of funds made available to each State agency.

§ 246.9 Agreements.

(a) The State agency shall enter into a written agreement with the Department before any funds are made available by FNS under this part. The agreement shall incorporate, by reference or otherwise, the terms and conditions set forth in this part. The agreement shall be executed by the appropriate State agency official and by the Administrator of FNSRO on behalf of the Department. The original and two copies of the agreement shall be forwarded to FNS. The agreement shall include:

(1) *Opening statement.* An expression of the willingness of the State agency to administer the WIC program until June 30, 1974.

(2) *Identification.* The name of the State agency charged with primary responsibility for the WIC program.

(3) *Applications.* An assurance that the WIC program shall be operated only by local agencies selected by FNS and that such operations shall conform to the methods stated in applications and transmittals which were approved by FNS.

(4) *Records.* An assurance that all required records shall be maintained and retained in accordance with the requirements of this part and shall be made available as required by this part.

(5) *Reports.* An agreement to submit to FNS on a regular and timely basis any reports, including a report of expenditures, as required by this part and any instructions issued hereunder.

(6) *Safeguards of information.* An affirmation that information concerning individual participants will be released only to persons directly connected with the WIC program.

(7) *Public information.* A statement that WIC program regulations, instructions, and other documents which do not pertain to individual participants shall be made available to the public upon request.

(8) *Nondiscrimination.* An assurance that the State agency shall comply with the requirements of the Department's regulations respecting nondiscrimination (Part 15 of this title) to the end that no person shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the WIC program and a further assurance that no person shall be subjected to any discrimination under the WIC program because of creed, political beliefs or sex.

(9) *Fair hearing.* An assurance that persons aggrieved by any determination of a local agency shall be afforded a prompt opportunity for a fair hearing as specified in this part.

(10) *Program promotion.* A guarantee of assistance to the Department in its efforts towards WIC program promotion and nutrition education.

(11) *Compliance.* An agreement to comply with the provisions of this part and the instructions issued hereunder including the requirement that WIC program funds be withdrawn from a Federal Reserve Bank only in amounts necessary to meet actual current disbursement needs.

(12) *Miscellaneous.* Any additional provisions that are required by law or may be necessary for WIC program administration, operation or evaluation.

(b) The State agency shall enter into an agreement with each local agency in the State selected for participation in the WIC program. The agreement shall be in writing and shall contain such terms as the State agency deems necessary to insure that:

(1) The local agency operates in conformity with the methods stated in the application and transmittal which were approved by FNS;

(2) The actions of the local agency will be in accordance with this part; and

(3) Data will be collected by the local agency and made available as required this part.

§ 246.10 Payments to States.

FNS will issue a Letter of Credit to the appropriate Federal Reserve Bank in favor of each State agency having an agreement with the Department under this part to administer the WIC program. The State agency shall obtain funds needed through presentation by designated officials of a Payment Voucher on Letter of Credit to a local commercial bank for transmission to the appropriate Federal Reserve Bank, in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department. Withdrawals (advances) against the Letter of Credit shall be made only in amounts necessary to meet actual current disbursement needs. The advanced funds shall be used without delay to pay the currently approved costs. Advances made by the State agency to local agencies shall conform to the same standards of timing and amount as apply to advances by FNS to the State agency.

§ 246.11 Records and reports.

(a) *General.* All records relating to the WIC program shall be retained for three years following the end of the applicable Federal fiscal year or the termination of the program, whichever is sooner. However, the Department may, by written notice, require retention of any records deemed by it to be necessary for resolution of an audit or of any litigation. If the Department deems any of the program records to be of historical interest, it may require the State or local agency to forward such records to the Department whenever such agency is disposing of them. All food records, fiscal records and medical records shall be available during normal business hours for representatives of the Department and of the General Accounting Office of the United States to inspect, audit and copy, provided that medical case records of individual participants shall remain confidential.

(b) *Financial records.* Each State and local agency shall keep complete and accurate records of all amounts received and disbursed for the WIC program. All of the cost allocation data shall also be maintained.

(c) *Food records.* Each local agency shall keep a file of the food authorizations issued each month to each participant. If a local agency actually dispenses food to participants, the agency shall keep accurate and complete records of the receipt, disposal and inventory of such foods.

(d) *Medical records.* The local agency shall record during each designated evaluation visit, at a minimum, the following data: height (first visit only for pregnant or lactating women); weight, head circumference (infants only); and hemoglobin determinations. In addition, the following information is to be recorded at the local agency after delivery of an infant: The duration of the pregnancy and birth weight of the infant. If birth weight is not determined within two hours of delivery, the weight in grams may be determined within 5 days, but the interval between birth and weighing must be specifically noted. It may also be required at each designated evaluation visit that blood be drawn and processed for transportation to a designee of FNS.

(e) *Reports.* State agencies and local

agencies shall submit monthly reports on forms specified by FNS. Such reports shall be submitted on or before the 20th of the month following the month for which data are reported. Reports shall be mailed in accordance with instructions from FNS. Reports shall concern the use of funds received under this part, the participation in the WIC program, and the data necessary to permit evaluation of administrative performance and of the effect of food intervention upon participants.

§ 246.12 Eligibility of persons.

Pregnant or lactating women, infants and children shall be eligible for the WIC program if:

(a) They reside in an approved project area;

(b) They are eligible for treatment at less than the full charge customarily made for such services by the local agency which serves the project area wherein they reside; and

(c) They are determined by a competent professional on the staff of the local agency to need the supplemental foods described in § 246.13.

§ 246.13 Supplemental foods.

(a) The following kinds and specifications of foods shall be available under the WIC program:

(1) For infants:

(i) Iron fortified infant formula with at least 10 milligrams of iron per liter of formula at standard dilution (which supplies 67 kilocalories per 100 milliliters, i.e., 20 kilocalories per fluid ounce).

Substitute

Whole fluid milk fortified with 400 International Units of Vitamin D per quart, or evaporated milk fortified with 400 International Units of Vitamin D per reconstituted quart, may be substituted for iron fortified infant formula for infants after six months of age.

(ii) Infant cereal which contains a minimum of 90 milligrams of iron per 100 grams of dry cereal.

(iii) Fruit juice which contains at least 30 milligrams of vitamin C per 100 milliliter.

(2) For children and pregnant or lactating women:

(i) Whole fluid milk fortified with 400 International Units of vitamin D per quart; or evaporated milk; or skim milk, low fat milk or non-fat dry milk. All milk products other than whole fluid milk must be fortified with 400 International Units of vitamin D and at least 1500 International Units of vitamin A per fluid quart.

(ii) Cereal (hot or cold) which contains a minimum of 30 milligrams of iron per 100 grams of dry cereal.

(iii) Fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters.

(iv) Cheese (natural cheddar or pasteurized processed American).

(v) Eggs.

(b) Supplemental foods shall be made available in amounts up to the following maximum quantities:

Foods	Units[1]	Maximum number of units per month	
		Infants	Children and pregnant or lactating women
Iron fortified infant formula	13-fluid-ounce can of conc, liquid[2]	31	
Whole fluid milk	Fuid quart	([3])	31.
Evaporated milk	13-fluid-ounce can	May be substituted for whole fluid milk at the rate of 1 can per quart of whole fluid milk.	
Skim or low-fat milk	Fluid quart		May be substituted for whole fluid milk on a quart-for-quart basis.
Nonfat dry milk	4-pound package		1 package may be substituted for each 20 quarts of whole fluid milk.
Cheese	Pound		May be substituted for whole fluid milk at the rate of 1 lb. per 3 quarts.
Eggs	Dozen		2½.[4]
Infant cereal	8-ounce package	3	
Cereals (hot or cold)	do		4.
Juice, single strength	46-fluid-ounce can[5]	2[6]	6.

[1] Different size units may be made available provided that the total volume or weight per month remains the same.

[2] Dry or ready-to-use forms may be made available in equivalent amounts.

[3] May be substituted for formula beginning at age 6 months at the rate of 1 quart per can of concentrated formula.

[4] An equivalent amount of dried egg mix (2 lb.) may be substituted.

[5] Frozen, concentrated fruit juices may be made available in 12 oz. cans at the same rate or in an equivalent volume in other size cans.

[6] 15 4-oz. cans of infant juices may be substituted.

§ 246.14 Fair hearing procedure.

Each State agency participating in the WIC program shall establish a hearing procedure under which a person or his or her parent or guardian can appeal from a decision made by the local agency respecting the eligibilty of such person for supplemental foods. Such hearing procedure shall provide:

(a) A simple, publicly announced method for a person to make an oral or written request for a hearing;

(b) An opportunity for the person to be assisted or represented by an attorney or other person in presenting the appeal;

(c) An opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(d) That the hearing shall be held with reasonable promptness and convenience to the person and that adequate notice shall be given to the person as to the time and place of the hearing;

(e) An opportunity for the person to present oral or documentary evidence and arguments supporting his or her position without undue interference;

(f) An opportunity for the person to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(g) That the hearing shall be conducted and the decision made by a hearing official who did not participate in making the decision under appeal;

(h) That the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record;

(i) That the person and any designated representative shall be notified in writing of the decision of the hearing official;

(j) That a written record shall be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family of the decision of the hearing official; and

(k) That such written record of each hearing shall be preserved for a period of 3 years and shall be available for examination by the person's representative at any reasonable time and place during such period.

§ 246.15 Miscellaneous.

(a) Any State agency or any local agency may be disqualified from future participation if it fails to comply with the provisions of this part and its agreement with the Department or the State agency. This does not preclude the possibility of other action being taken through other means available where necessary, including prosecution for fraud under applicable Federal statutes. If FNS determines that any part of the money received by a State agency, or food purchased or vouchers redeemed with WIC program funds were, through State agency or local agency negligence or fraud, misused or otherwise diverted from the WIC program purposes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the food or vouchers so misused or diverted. Further, if FNS determines that any part of the money received by a State agency, or food purchased or vouchers redeemed with WIC program funds, were lost as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the food or vouchers so lost. The State agency shall have full opportunity to submit evidence, explanation or information concerning alleged instances of noncompliance or diversion before a final determination is made in such cases.

(b) Requests for information or assistance on the WIC program and all applications, transmittals, agreements or other documents required by this part shall be sent to the FNSRO serving the State as listed below:

(1) Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia: U.S. Department of Agriculture, FNS, Northeast Region, 707 Alexander Road, Princeton, New Jersey 08540.

(2) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, Virgin Islands: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street NW., Atlanta, Georgia 30309.

(3) Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Illinois 60605.

(4) Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming: U.S. Department of Agriculture, FNS, West-Central Region, 1100 Commerce Street, Room 5-D-22, Dallas, Texas 75202.

(5) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory, Washington: U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, California 94108.

(c) FNS shall issue instructions or procedures to implement the provisions of this part.

(d) Nothing contained in this part shall prevent a State agency from imposing additional requirements for participation in the WIC program which are not inconsistent with the provisions of this part.

NOTE: The reporting and/or record keeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This part shall become effective on July 13, 1973.

Signed at Washington, D.C., on July 6, 1973.

CLAYTON YEUTTER,
Assistant Secretary.

[FR Doc.73-14024 Filed 7-6-73;11:30 am]

EXECUTIVE PRIVILEGE

Mr. MOSS. Mr. President, in recent months a confrontation of increasing proportions has grown between two separate and equal branches of Government—the executive and the legislative—over the issue of executive privilege. Because of my concern that executive privilege has been used as a guise to thwart the will of Congress, I appeared before Senator KENNEDY's Subcommittee on Administrative Practice and Procedure on June 7, 1973, to assert that Congress has the constitutional right to acquire information from the executive department for legislative purposes.

Again, I want to reaffirm that there is no historical evidence that executive privilege has ever been intended to mean a check on the legislative power of inquiry. Presently, the executive department refuses to recognize this.

In an editorial in the Washington Post on July 16, 1973, the Post observed that executive privilege—

> Is a practice which has grown up in the give-and-take between the executive and legislative branches of Government over the years and which in recent decades has come to be cloaked in grand language about separation of powers and fundamental constitutional principles.

The Post argues that the broad interpretation currently given to executive privilege approaches the absurd.

Mr. President, because of the appropriateness of the Washington Post editorial, entitled "An Excess of Executive Privilege Versus the Truth," I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AN EXCESS OF EXECUTIVE PRIVILEGE VERSUS THE TRUTH

In his recent letter to Sen. Sam Ervin stating his intention not to testify before the Senate Watergate committee, President Nixon also threw a shroud of secrecy over his presidential papers. Later last week Deputy Press Secretary Gerald L. Warren let us know just how broad that shroud is meant to be. Mr. Warren said that former White House employees would be permitted to examine White House papers "to refresh their memories" but they would not be permitted to make photocopies or handwritten notes.

Thus, it is fair to say that when it comes to papers, Mr. Nixon's assertion of executive privilege is at least as broad as that staked out in a May 3 White House memorandum. That document claimed the privilege could be invoked, even before grand juries, with respect to presidential papers, which were defined as "all documents produced or received by the President or any member of the White House staff in connection with his official duties." We think there is no basis in the Constitution, in the case law of the United States or in precedent for so sweeping an assertion of executive privilege. Moreover, Mr. Nixon's broad claims seem to be in neither the national interest nor his own.

The first thing to be said about executive privilege is that it has no constitutional foundation; in fact, constitutional scholars argue that the record points in precisely the opposite direction. Parliament, from which the drafters of the Constitution drew their experience, was deemed a grand inquisition which could delve freely into all executive operations. There is much persuasive history to indicate that the founding fathers viewed Congress the same way. Indeed, the Constitution mentions a narrow area in which *Congress* may keep information secret, but there is no specific grant of such authority to the executive.

There is not a single case defining or justifying the doctrine. As a matter of fact, there is a decision by Chief Justice John Marshall going the other way. The great chief justice asserted the authority of the court to subpoena a document in the possession of President Jefferson. What we have come to know, then, as executive privilege is a *practice* which has grown up in the give-and-take between the executive and legislative branches of government over the years and which in recent decaeds has come to be cloaked in grand language about separation of powers and fundamental constitutional principles. Basically, it is a common sense accommodation between the Congress and the executive designed to protect the national interest and to provide the President and his most intimate associates the benefit of candor and openness in their private conversations while conducting the nation's business.

That is essentially the rock upon which Mr. Nixon rested his refusal to open up "presidential papers" to the committee. The trouble is that Mr. Nixon's assertion of the privilege is so broad as to make it absurd. With the enormous growth of the White House staff in recent years, it cannot reasonably be argued that every document generated in the White House or addressed to a member of the staff involves intimate advice to the President or his own private ruminations about the public business. Only a tiny fraction of the documents can possibly be so classified. Indeed, according to what appears to be Mr. Nixon's position that he knew nothing in connection with the matters of interest to the Ervin committee, most of the documents in question could not involve the operations of his mind or advice given to him at all; presumably they relate to a secret set of illegal operations carried out by his underlings without his knowledge. For the President to assert that these documents have a close relationship to him and to decisions he was making would appear—as Sen. Ervin has suggested—to raise an inference that is not at all flattering to the proposition that Mr. Nixon was innocent of culpable knowledge of this whole mess.

Finally, Committee Counsel Samuel Dash has made it clear that the committee is not on a fishing expedition, but, rather, has limited purposes in mind. He has proposed that he and members of his staff, together with White House lawyers, go through the papers which may be of interest and decide together which of those are relevant to the committee's inquiring. Only in cases where there is a differing judgment would the committee consider resorting to a subpoena. That would seem to be a reasonable method of doing what Mr. Nixon and his associates say he wants to do: to get to the bottom of this whole thing in the most expeditious fashion. And it would also get Mr. Nixon out of the preposterous position in which he has placed himself. For what he is arguing is that papers which relate to the commission and coverup of crimes about which he knows nothing, are somehow cloaked in the majesty of the presidency.

SCARCE FOOD, THE ENERGY CRISIS, TAX REFORM, AND—

Mr. DOLE. Mr. President, I call the Senate's attention to the following list of topics:

The farm program; the energy crisis; international trade reform; the U.S. balance-of-payments deficit and dollar crisis; land use policy; tax reform; rising food prices; family planning and population control; and foreign aid.

The subjects cover most of the important issues before the Congress today and many of the concerns shared by the majority of Americans. Each is important, and different people might say that one is more important than another.

But the real significance of these issues lies in the fact that they all are closely related as part of one large, universal subject: America's and the World's Food supply.

Yesterday's Washington Post carried an article by Lester R. Brown which draws these issues together in direct and clear fashion to paint an understandable and thought-provoking picture of the rapidly changing currents of the world food supply system. It deserves the careful attention of those who are concerned with any one of these issues and should be required reading for those of us who must deal with the broad range of national and international matters.

Coming from Kansas and having served on the Agriculture Committees of the House and Senate for some 13 years, I believe the article is particularly important, for it highlights a point I have been making for many years: The vital importance of American agriculture to our whole Nation and the world.

I ask unanimous consent that this article, "Scarce Food: Here To Stay," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SCARCE FOOD: HERE TO STAY

(By Lester R. Brown)

(*The writer, a senior fellow at the private Overseas Development Council here, is a former Agriculture Department official and the author of "Seeds of Change" and "World Without Borders."*)

This year has witnessed a dramatic upsurge in interest in the world food situation, largely in response to global scarcity and rising food prices. Prices for some of man's principal food commodities—wheat, rice, feedgrains and soybeans—have soared to historic highs in international markets. Rationing has been in effect for at least some foodstuffs in three of the world's four most populous countries: China, India and the Soviet Union.

By summer, food was being airlifted into several countries in sub-Sahara Africa to stave off famine. India and Bangladesh faced critical food shortages. The United States was restricting soybean exports in order to bring internal food prices down. Food scarcity was affecting the entire world, rich countries and poor.

Within the United States, those protesting and boycotting over rising meat prices in recent months hardly know whom to blame. They are not certain that supermarkets bear responsibility, they are not convinced that it is entirely the farmer's fault, and they are not sure who the middleman is.

What most Americans have never stopped to ask is whether we, as consumers and parents, might in any way be responsible for the soaring meat prices. As average American consumers, we have increased our per capita beef consumption from 55 pounds a year in 1940 to 117 pounds in 1972. Meanwhile, as parents, many of us have borne far more children than needed to replace ourselves, expanding our population by 57 per cent during this same period. Altogether, our national beef consumption tripled, making us a leading beef importer.

For Americans, soaring food prices and the prospect of sometimes empty meat counters in the months ahead has come as a shock. If there was any sector of our economy which we thought was invulnerable, it was the capacity of U.S. agriculture to provide consumers with an adequate supply of low-cost food. Suddenly this is no longer possible.

A dollar devalued by as much as a third over the past 20 months against major currencies such as the German mark and Japanese yen is enabling two-thirds of a billion high-income consumers in Europe, the Soviet Union and Japan to compete very successfully for our domestically produced agricultural raw materials. Had the administration been willing earlier to reduce the scale of our vast dollar-draining military establishment abroad or to meaningfully address the energy crisis at home by curbing demand through such actions as reducing the size of automobiles, much of the decline in the dollar's value could have been avoided. Inaction on these fronts is now taking its toll at the supermarket checkout counter.

At the global level, the news media have drawn attention to several factors contributing to the food scarcities of 1973. Among these are the poor rice harvest in Asia, the shortfall in the Soviet wheat crop, and the temporary disappearance of the anchovies off the coast of Peru for several months in late 1972 and early 1973. But these are to some extent at least, short-term factors, and they should not be permitted to obscure other, more fundamental long-term trends and forces that are altering the nature and dimensions of the world food problem.

POPULATION AND AFFLUENCE

During the 1960s the world food problem was perceived as a food/population problem a race between food and people. At the end of each year observers anxiously compared rates of increase in food production with those of population growth to see if any progress was being made. Throughout most of the decade it was nip and tuck. During the 1970s rapid global population growth continues to generate demand for more food, but, in addition, rising affluence is emerging as a major new claimant on world food resources. Historically, there was only one important source of growth in world demand for food; now there are two.

At the global level, population growth is still the dominant cause of an increasing demand for food. Expanding at nearly 2 per cent per year, world population will double in little more than a generation. Merely maintaining current per capita consumption levels will therefore require a doubling of food production over the next generation.

The effect of rising affluence on the world demand for food is perhaps best understood by examining its effect on requirements for cereals, which dominate the world food economy. Consumed directly, cereals provide 52 per cent of man's food energy supply. Consumed indirectly in the form of livestock products, they provide a sizable share of the remainder. In resource terms, cereals occupy more than 70 per cent of the world's crop area.

In the poor countries, the annual availability of grain per person averages only about 400 pounds, a year. Nearly all of this small amount, roughly a pound a day, must be consumed directly to meet minimum energy needs. Little can be spared for conversion into animal protein.

In the United States and Canada, per capita grain utilization is currently approaching a ton a year. Of this total, only about 150 pounds are consumed directly in the form of bread, pastries and breakfast cereals. The remainder is consumed indirectly in the form of meat, milk and eggs. The agricultural resources—land, water, fertilizer—required to support an average North American are nearly five times those of the average Indian, Nigerian or Colombian.

Throughout the world, per capita grain requirements rise with income. The amount of grain consumed directly rises until per capita income approaches $500 a year, and then begins to decline, eventually leveling off at about 150 pounds. The total amount of grain consumed directly and indirectly, however, continues to rise rapidly as per capita income climbs. As yet no nation appears to have reached a level of affluence where its per capita grain requirements have stopped rising.

There is now a northern tier of industrial countries—including Scandinavia, Western Europe, Eastern Europe, the Soviet Union and Japan—whose dietary habits more or less approximate those of the United States in 1940. As incomes continue to rise in this group of countries containing some two-thirds of a billion people, a sizable share of the additional income is being converted into demand for livestock products, particularly beef. Many of these countries, such as Japan and those in Western Europe, are densely populated. Others—the Soviet Union, for example—suffer from a scarcity of fresh water. Most lack the capacity to satisfy the growth in demand for livestock products entirely from indigenous resources. As a result they are importing increasing amounts of livestock products or of feedgrains and soybeans with which to expand their livestock production.

Throughout the poor countries, population growth accounts for most of the year-to-year growth in the demand for food. At best only very limited progress is being made in raising per capita consumption. In the more affluent countries, on the other hand, rising incomes account for most of the growth in the demand for food.

LAND AND WATER

As world demand climbs due to these two factors, we face several important constraints in our efforts to expand global food production. The traditional approach to increasing production—expanding the area under cultivation—has only limited scope for the future. Indeed, some parts of the world face a net reduction in agricultural land because of the growth in computing uses, such as industrial development, recreation, transportation and residential development. Few countries have well-defined land use policies that protect agricultural land from other uses. In the United States, farmland has been used indiscriminately for other purposes with little thought to the possible long-term consequences.

Some more densely populated countries, such as Japan and several in Western Europe, have been experiencing a reduction in the land used for crop production for the past few decades. This trend is continuing and may well accelerate. Other parts of the world, including particularly the Indian subcontinent, the Middle East, North Africa, the Caribbean, Central America and the Andean countries, are losing disturbingly large acreages of cropland each year because of severe erosion.

The availability of arable land is important, but perhaps even more important in the future will be the availability of water. In many regions of the world, fertile land is available if water can be found to make it produce.

Yet most of the rivers that lend themselves to damming and to irrigation have already been developed. Future efforts to expand fresh water supplies for agricultural purposes will increasingly focus on such techniques as the diversion of rivers (as in the Soviet Union), desalting sea water and the manipulation of rainfall patterns.

Another disturbing question is the extent to which the trend of rising per-acre yields of cereals in the more advanced countries can be sustained. In some countries, increases in per-acre yields are beginning to slow down, and the capital investments required for each additional increase may now start to climb sharply. In agriculturally advanced countries, such as Japan, the Netherlands and the United States, the cost of improving production for some crops is rising. For example, raising yields of corn in the United States from 90 to 100 bushels per acre requires much more nitrogen than was needed to raise yields from 50 to 60 bushels.

What impact the energy crisis will have on food production costs and trends remains to be seen. With a substantial rise in the cost of energy, farmers engaged in high-energy agriculture, as in the United States, will tend to use less, thus perhaps reducing future production increases below current expectations. Rising costs will affect not only gasoline for tractors but other basic items. Nitrogen fertilizer, for instance, often uses natural gas as a raw material, and energy is one of the dominant costs in its manufacture.

BEEF AND SOYBEANS

In looking ahead one must be particularly concerned about the difficulties in expanding the supply of world protein to meet the projected rapid growth in demand.

One important source of protein is beef. Efforts to increase its supply have run into two problems: First, agricultural scientists have not been able to devise any commercially usable means of getting more than one calf per cow per year. For every animal that goes into the beef production process, one adult must be fed and otherwise maintained for a full year. There does not appear to be any prospect of an imminent breakthrough on this front.

The other problem is that the grazing capacity of much of the world's pasture land is now rather fully utilized. This is true, for example, in the U.S. Great Plains, in East Africa and in parts of Australia. Most of the industrial countries in which beef consumption is expanding rapidly, from Ireland through the Soviet Union and Japan, are unable to meet all the growth in demand from their own resources. Either some of the beef, or the feedgrains and soybeans to produce it, must be imported.

Soybeans are a second major protein source which has thus far defied the efforts of scientists to achieve a production breakthrough. A major source of high-quality protein for livestock and poultry throughout much of the world, soybeans are consumed directly as food by more than a billion people throughout densely populated East Asia. They have become the leading export product of the United States, surpassing export sales of wheat, corn and high-technology items such as electronic computers.

In the United States, which now produces two-thirds of the world's soybean crop and supplies more than 90 per cent of all soybeans entering the world market, soybean yields per acre have increased by about 1 per cent per year since 1950; corn yields, on the other hand, have increased by nearly 4 per cent per year. One reason why soybean yields have not climbed very rapidly is that the soybean, being a legume with a built-in nitrogen supply, is not very responsive to nitrogen fertilizer.

The way the United States produces more soybeans is by planting more soybean acreage. Close to 85 per cent of the dramatic four-fold increase in the U.S. soybean crop since 1950 has come from expanding the area devoted to it. As long as there was ample idled cropland available, this did not pose a problem, but if this cropland reserve continues to diminish or disappears entirely, it could create serious global supply problems.

DEPLETED OCEANS

A third major protein source is the earth's oceans. From 1950 to 1968 the world fish catch reached a new record each year, tripling from 21 million tons to 63 million tons. The average annual increase in the catch of nearly 5 per cent, which far exceeded the annual rate of world population growth, greatly increased the average supply of marine protein per person.

Then suddenly, in 1969, the long period of sustained growth was interrupted by a decline in the catch. Since then, it has been fluctuating rather unpredictably, while the amount of time and money expended to bring in the catch continues to rise every year. Many marine biologists now feel that the global catch of table-grade fish is at or near the maximum sustainable level. A large number of the 30 or so leading species of commercial-grade fish may currently be overfished—that is, stocks will not sustain even the current level of catch.

The 1971 catch of 69 million tons amounted to nearly 40 pounds of live weight a person throughout the world. Of this catch roughly 60 per cent was table-grade fish, the remainder consisting of inferior species used for manufacturing fish meal, which in turn is used in poultry and hog feed in the industrial countries.

The world's major source of fish meal is the anchovy stock off the coast of Peru. Peru has supplied nearly two-thirds of world fish meal exports in recent years. Last year's disappearance of the anchovies, at first regarded as a temporary, recurring natural phenomenon, is now bieng viewed with considerable alarm by many biologists. There are growing indications that the stock has been seriously damaged by overfishing.

If, as now seems probable, the global fish catch does not continue rising in the next decade as it did during the last two, the pressures on land-based protein sources can be expected to increase substantially.

Although there are still substantial opportunities for further expanding the world's protein supply, it now seems likely that the supply of animal protein will lag behind growth in demand for some time to come, resulting in significantly higher prices for livestock products during the 1970s than prevailed during the 1960s. We may be witnessing the transformation of the world protein market from a buyer's market to a seller's market, much as the world energy market has been transformed over the past few years.

DWINDLING RESERVES

Since World War II the world has been fortunate to have, in effect, two major food reserves: grain reserves in the principal exporting countries and cropland idled under farm programs, virtually all of it in the United States.

Grain reserves, including substantial quantities of both foodgrains and feedgrains, are most commonly measured in terms of carry-over stocks—the amount in storage at the time the new crop begins to come in. World carryover stocks are concentrated in a few of the principal exporting countries—namely the United States, Canada, Australia and Argentina.

Since 1960, world grain reserves have fluctuated from a high of 155 million metric tons to a low of about 100 million metric tons. When reserves drop to 100 million tons, severe shortages and strong upward price pressures develop. Although 100 million tons appears to be an enormous quantity of grain, it represents a mere 7 per cent of annual world grain consumption, a perilously thin buffer against the vagaries of weather or plant diseases. As world consumption expands, so should the size of working reserves, but the trend over the past decade has been for reserves to dwindle while consumption has climbed.

In addition, one-seventh of U.S. cropland, or roughly 50 million acres out of 350 million has been idled under farm programs for the past dozen years or so. Though not as quickly available as the grain reserves, most of this acreage can be brought back into production within 12 to 18 months once the decision is made to do so.

In recent years the need to draw down grain reserves and to dip into the reserve of idled cropland has occurred with increasing frequency. This first happened during the food crisis years of 1966 and 1967 when world grain reserves were reduced to a dangerously low level and the United States brought back into production a small portion of the 50 million idle acres. Again in 1971, as a result of the corn blight, the United States both drew down its grain reserves and again brought a portion of the idled acreage back into production. This year, in response to growing food scarcities, world grain reserves once more declined, and the United States dipped much deeper into its idled cropland, permitting at least two-thirds to come back into production.

Now, even with the prospect of record harvests of wheat, corn and soybeans in the United States and a good-to-very-good cereal harvest in the Soviet Union, it does not appear that depleted world grain reserves will be rebuilt much, if at all, this year.

A WORLD FOOD BANK

If world food reserves become chronically low and idle U.S. cropland dwindles or disappears, the result may well be very volatile world prices for the important food commodities. It already is clear that a 25-year era of remarkably stable world prices for the principal temperature zone crops, based on U.S. commodity support levels, has come to an end.

The situation could become even more traumatic for consumers throughout the world if North America, on which the world has become progressively more dependent for its food supplies during this same postwar period, should experience a prolonged drought of several years during the 1970s. There has been such a drought roughly every 20 years since weather records were begun after the Civil War. The most recent drought period, in the early 1950s, was not especially severe, but the preceding one brought on the Dust Bowl crisis of the 1930s.

The prospect of an emerging chronic global scarcity of food calls for serious consideration of the proposal by the Food and Agriculture Organization of the United Nations for an internationally managed world food bank as a means of maintaining some semblance of order and stability in the world food economy. Just as the U.S. dollar can no longer serve as the foundation of international monetary system, so U.S. agriculture may no longer have sufficient excess capacity to ensure reasonable stability in the world food economy.

A world reserve could be built up in times of relative abundance and drawn down in times of acute scarcity. In effect, the cushion that surplus American agricultural capacity has provided for a generation would be provided at least partially by a world food bank. A system of global food reserves would provide a measure of price stability in the world food economy that would be in the self-interest of all nations. It also would provide assurance against famine in the densely populated low-income countries after a poor crop year—an assurance the affluent nations may be less able to provide in the future if the current system of autonomous, nationally oriented planning is allowed to continue without modification.

There is a similarly urgent need to evolve a cooperative global approach to the management of oceanic fisheries. Failure to do this will result in a continuing depletion of stocks, a reduction in catch and soaring seafood prices that will make those of the early 1970s seem modest by comparison. It is in this context that we, as consumers, have a direct stake in the U.N.-sponsored conference later this year in Santiago.

THE DEVELOPING LANDS

Over the long run, the key to coping with world food scarcity lies in the developing countries. It is here that the population pressures are most severe and furthest from solution; it is here also that the unused potential for expanding food production is the greatest.

On the population front, current trends make possible the stabilizing and eventual halting of growth in the industrial countries. In the poor countries, however, it will be much more difficult to achieve population stability. For one thing, history shows that birth rates do not usually decline unless there is improvement in well-being—a reasonable standard of living, an assured food supply, a reduced infant mortality rate, literacy, and health services.

In short, it may well be in the self-interest of affluent societies, such as the United States, to launch an attack on global poverty, not only to narrow the economic gap between rich and poor nations, but also to meet the basic needs of people throughout the world in an effort to provide incentives for lowering birth rates. Population-induced pressures on the global food supply will continue to increase if substantial economic aid and social progress is not made. Populations that double every 24 years—as many are doing in poor nations—multiply 16-fold in scarcely three generations!

The United States could also lead an enlarged effort to expand the world's food supply by concentrating on the unexploited potential of the developing countries. A bipartisan proposal introduced in Congress last month would do this by restructuring the Agency for International Development and increasing by half the support it provides for agricultural and rural development.

Although the introduction of new wheat and rice varieties has increased production substantially in many developing countries, the jump in per-acre yields appears dramatic largely because their yields traditionally have been so far below their potential. But today rice yields per acre in India and Nigeria still are only one-third those of Japan; corn yields in Thailand and Brazil are less than one-third those of the United States. Large increases in food supply are possible in these countries at far less cost than in agriculturally advanced nations if farmers are given the necessary economic incentives and resources.

Concentrating efforts on expanding food production in the poor countries could reduce the pressure on world food prices, create additional employment in countries where continuously rising unemployment poses a serious threat to political stability, and raise income and improve nutrition for the poorest portion of humanity—the people living in rural areas of the developing countries.

The urgency of the food problem is underscored by increasingly frequent reports of starvation in sub-Sahara Africa and of food riots in Asia. Assuring adequate food supplies at reasonable prices may now be possible only through international cooperation. The disappearance of surplus food stocks and the return of idled cropland to production has removed the cushions that once existed as partial insurance against catastrophe for the poor and skyrocketing prices for the rich.

SENATOR STEVENSON CORRECTLY CALLS FOR MANDATORY ALLOCATIONS

Mr. McINTYRE. Mr. President, for several months now we have witnessed a most complexing situation regarding our national supply of petroleum products and the apparent inability of the oil industry to respond appropriately to this crisis.

During the Senate's consideration of the extension of the Economic Stabilization Act earlier this year, it became apparent that unless allocation procedures were developed serious supply dislocations would occur.

Based on the legislative authorization contained in the Economic Stabilization Act the administration on May 10 of this year imposed a voluntary allocation procedure. As Senator Stevenson pointed out in his statement before the Committee on Interstate and Foreign Commerce of the House of Representatives, the voluntary plan has proved to be a failure and the immediate implementation of a mandatory system is essential. Thousands of independent small businessmen have already been driven out of business with hundreds more following each week.

Mr. President, I request unanimous consent that the statement of my good friend and colleague, the Senator from Illinois (Mr. Stevenson) appear in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement by Senator Adlai E. Stevenson

Mr. Chairman. I appreciate this opportunity to appear before you. The task this Committee now faces involves one of the most important consumer issues the Congress will face this year.

The major oil companies spend hundreds of millions of dollars to explain to the American public that there is a serious gasoline shortage. But the message from Johnny Cash is misleading. True, we are an energy thirsty people competing for scarce resources in an increasingly competitive world. But the Office of Oil and Gas in the U.S. Department of Interior publishes a biweekly report entitled "Summary of Current Petroleum Industry Operations." In the report for the two weeks beginning May 18, almost eight weeks ago, it concluded that gasoline production had reached such record highs, exceeding last year by some 14 percent, that *it is difficult to see a shortage in the statistics as they are unfolding*. There is no doubt, however, that the independent segment of the market is short of supply and is paying a premium price for what they do get. *Under these circumstances, the ranks of the independents will be quickly thinned*. (Italic added.)

New production records have been set with the issuance of each subsequent report. The report issued last Friday concluded gasoline stocks are now 2 million barrels above last year . . . normally there should be a strong downward movement in gasoline stocks at this season of the year. . . .

Instead, the exact opposite has happened. In early April, gasoline inventories were 24 million barrels below the previous April, and now we have a surplus. Yet, during this same three month period of swelling supplies:

The number of normally operating gasoline stations dropped from 95 percent to 43 percent.

Independent gasoline stations were closing at the rate of over 200 per week; by the beginning of July over two thousand had been forced to close their doors.

The wholesale gasoline market for cities, bus companies, truckers, school districts and police departments was disappearing.

The price of gasoline for this three month period rose at an annual rate of 27 percent, and

The majors increased allocation to their own stations while actively soliciting the most lucrative accounts and locations of independents forced out of business.

Conspiracy or not, the major oil companies are the only ones who seem to be benefiting from the sudden surge in gasoline supplies. These are the same major oil companies which suddenly found that they could run their refineries at 93 percent capacity after the Congress acted to give the President authority to institute a mandatory allocation program, and at 97 percent capacity after the Senate passed S. 1570—mandating a detailed allocation program.

Last fall those same refineries were running at 85 percent capacity as the major oil companies assured us that there would be no shortages and opposed lifting of the oil import quotas.

The evidence continues to mount that the major oil companies are manipulating a shortage they helped create to drive their competition out of the market place.

In a preliminary report on a two-year study forwarded to the Senate Commerce Committee last Friday, the Federal Trade Commission concluded that—

". . . activities by the major integrated petroleum companies . . . (their) structure, conduct and performance . . . have had significant anti-competitive effects . . . such conduct and associated market power has its origin in the structural peculiarities of the petroleum industry and has limited the independent share of the market . . . in the final analysis, it is the gasoline consumer who . . . will pay dearly . . ."

The FTC staff is now in the process of forwarding to the full Commission recommendations for changing this anti-competitive structure. Several bills directed at restoring competition to the industry through restructuring and regulation have been or are soon to be introduced in the Congress.

Such proposals are major undertakings which, together with concentrated efforts to develop alternative sources of energy, like coal gasification, offer long-range solutions to both the problems of anti-competitive conduct and supply. They offer little hope of controlling the immediate manipulations of the major oil companies, or saving the thousands of independent businessmen who will very soon be out of business. Day by day the majors grow stronger and richer at the expense of the consumer, the independents and those they supply. If there is going to be any competition worth saving, decisive action in the form of a workable mandatory allocation program which forces the majors to do by law what they now refuse to do is needed—and it cannot be expected to come from an Administration whose dismal record can only be explained by gross negligence or a willingness, in concert with the major oil companies, to eliminate competition in the petroleum industry.

When I asked the Administration to lift the oil import quotas last fall, I was assured there would be no shortage. In the face of dwindling supplies and serious shortages last winter, the Administration waited until April of this year to abolish the oil import quota program.

After waiting years to act, the Justice Department filed an antitrust suit based on the anti-competitive effects of a single exchange agreement between Texaco and Coastal States Gas Company, instead of questioning the basic anti-competitive structure of an industry that has made the elimination of independents a daily business practice.

While the FTC staff recommendations are a blueprint for action which could permanently restore competition in the petroleum industry, there is no indication when or if the full Commission will act.

And not surprisingly, the Administration's ten week old voluntary allocation program, dependent on the good will and charity of the majors, is a colossal flop.

I quote directly from last week's Office of Oil and Gas report on the voluntary program—

". . . the operation center in Washington . . . continues to be swamped with an increasing number of telephone calls and letters concerning fuel shortages. Because of the impossibility of handling all cases expeditiously . . . it becomes increasingly necessary to process . . . cases at the regional level. However, the regional offices are understaffed. As a result, some cases may not be resolved for some time."

Last week three of the largest majors confirmed what we have known all along—they publicly announced they will not comply with the voluntary program. Other majors have announced they will comply, but made up their own base period. Others have announced they will comply, but are selling product at what amounts to black market prices. Still others have announced they will comply, but simply have not made good on that promise.

Of the 148 shortages cases which have been lodged with my office, I am aware of only three in which any relief was obtained from the Office of Oil and Gas—even then it was only temporary and required my personal intervention.

On May 21, members of the Senate Consumer Subcommittee told Assistant Secretary of the Treasury, William Simon, Chairman of the Oil Policy Committee, that a voluntary allocation program could never work because there were no incentives for the major oil companies to comply. We urged him to use the authority the Administration already had to institute a mandatory allocation program with the force of law.

We told him the same thing again in Chicago on May 29.

I said it again at the Oil Policy Committee hearings on the voluntary allocation program June 13.

On June 26, the Midwest Conference of Senators urged Secretary Simon to immediately institute a mandatory allocation program in view of the serious farm fuel shortages throughout the Midwest.

Finally on June 28 in a letter to Senator McIntyre, Secretary Simon admitted that—

"The Office of Oil and Gas has very literally been deluged with complaints . . . we, too, feel that the voluntary program is not working as effectively as it should and are now drafting a mandatory program to take its place."

Ten weeks of work and thousands of independents later, it finally looked like the Administration would institute a mandatory program. That is, until the next day, when President Nixon's new energy czar, Governor Love, appeared upon the scene to announce that we were right back where we started. He said he opposed a mandatory program. Secretary Simon's retreat from his June 28 letter before this Committee yesterday is a clear indication that Governor Love means business. It is a rebuke to those fighting to save competition in the nation's petroleum industry, and further evidence that another high Administration official—in this case its energy czar—is a friend of the majors.

The Administration persists in being the partner of big oil, and so it is up to the Congress to step forward as the partner of the American consumer. Every day of delay means further losses for America's independents, farmers, municipalities, truckers, and others who cannot get their share of the record oil production. The burden of saving price competition at the gas pump and billions of dollars for America's consumers rests with the Congress and this Committee.

S. 1570 and H.R. 8089 point the way. Even the Chairman of the President's Oil Policy Committee has acknowledged the need for a mandatory allocation program.

The energy crisis is rapidly becoming a crisis of confidence in government which appears as easily manipulated by the major oil companies as the magical shortages which suddenly appear and just as suddenly disappear. This Committee can help take an urgently needed step in restoring that confidence by acting as soon as possible to enact a workable mandatory allocation program. Such a program cannot solve our long-range energy needs, but it will check the predatory tactics of the major oil companies until longer-range action is taken, and help save competition in this nation's largest industry.

NEW YORK TIMES SUPPORT FOR RADIO FREE EUROPE AND RADIO LIBERTY

Mr. PERCY. Mr. President, tomorrow, Tuesday, July 17, in executive session the Committee on Foreign Relations will mark up S. 1914, a bill to provide for the establishment of a Board of International Broadcasting and to authorize the continuation of assistance to Radio Free Europe and Radio Liberty.

As principal sponsor with the distinguished Senator from Minnesota (Mr. Humphrey) of this bill, I was pleased last week when the Washington Post editorialized very strongly in support of continued funding for these radio stations.

Today, July 16, 1973, the New York Times has added its support with a splendid editorial entitled "Ideological Détente." The Times correctly notes that:

> Radio Free Europe and Radio Liberty create a marketplace of opinion in those Communist countries to which they are directed, by disseminating both ideas and information that the governments involved would prefer to keep from their citizens.

I ask unanimous consent that the text of the Times' editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Ideological Détente

At the Helsinki conference of European foreign ministers, Western spokesmen properly put much emphasis on the importance of free communications across the boundaries of the world's ideological blocs. In this same period, Congress has been considering the budgets of the Voice of America, Radio Liberty and Radio Free Europe, the chief mechanisms by which this country does communicate with the Soviet Union and Eastern Europe. By its budgetary decisions, Congress will show whether or not it places the same value on international communications that Secretary of State Rogers and other Western spokesmen did in Helsinki.

The Voice of America is primarily concerned with broadcasting to the world a full and adequate picture of this country. Radio Liberty and Radio Free Europe are targeted to the Soviet Union and Eastern Europe respectively. Their primary emphasis is on filling the gap in the information system available to the peoples of those countries because their internal media are strictly censored and required to conform to the respective party lines involved. In effect the American transmitters create a marketplace of opinion in those Communist countries to which they are directed, by disseminating both ideas and information that the governments involved would prefer to keep from their citizens.

It has been argued that radio broadcasts of this type, which are regularly jammed by the receiving countries, are inconsistent with the spirit of détente. But the Communist bloc's leaders have always insisted that détente and peaceful coexistence must be accompanied by the ideological struggle in which they expect to continue their efforts to create a completely Communist world. It would be unrealistic to believe that détente implies an end to international debate via the airwaves and the printed word.

MULTINATIONALS AND INTERNATIONAL TRADE

Mr. HARTKE. Mr. President, a new phenomenon is upon us. Large multinational firms are so powerful that they are able to compete with national economic systems. In the first stage of their development, the U.S. enterprises invested abroad and purchased foreign firms outright. In the second phase, foreign operations of American firms abroad produced as much as 50 percent of their total profit abroad—like the Eastman Kodak Co., Caterpillar Tractor, International Harvester, and Minnesota Mining & Manufacturing. Now, in the third developmental stage of multinational corporations, more than 75 percent of their production and turnover occurs in foreign countries.

Their surging development has been aided by the rapid progress in science and technology. These multinational companies have become very flexible both geographically and monetarily. When a particular government puts obstacles in their path, the firm simply picks up its operation and moves its industrial activity, investments and profits to another nation-state. They move quickly to take advantage of lower labor costs in Hong Kong, Taiwan, Mexico, or Singapore or other lesser-developed areas. They are also attracted to countries which offer tax benefits or what is commonly called "tax holidays."

The multinational corporations control over $286 billion in short-term assets. Swiss bankers assert that it was the speculation of these transnational firms against the dollar in early February and March of this year, that weakened the position of the dollar on the international monetary market and caused it to be devalued.

The problems associated with this new phenomeon of the development of a massive world-spanning corporate structure are discussed with alacrity by Ronald Segal in a recent May/June 1973 article from the Center magazine entitled, "Everywhere at Home, Home Nowhere." I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Everywhere at Home, Home Nowhere

(By Ronald Segal)

It was not unusual for a leading capitalist of ancient Rome to own many houses in the city and beyond, for his personal use. The satirist Martial directed an epigram against the type, addressed as a certain Maximus. After describing some of his various properties, Martial cried, "Tell me where I can call upon you or in what quarter I may look for you. The man, O Maximus, who is everywhere at home is a man without a home at all."

Martial might have been writing about the modern multinational corporation, whose executives and shareholders, operations and interests are spread across so many countries that it is increasingly questionable whether they have any real home at all. There are between three hundred and four hundred of these, with the majority based in the United States, but a significant proportion in Western Europe and Japan. Indeed, it is Switzerland that provides the most spectacular example. Nestle, the country's largest company, does no less than ninety-eight per cent of its business abroad. But Bayer (of West Germany), Philips (of the Netherlands), and British Oxygen are among other Western European companies that get more than half their profits from foreign operations. In all, the foreign subsidiaries of British companies by 1970 were manufacturing twice as much as domestic industry exported abroad, and even French subsidiaries were producing a volume of goods by value equal to the sum of France's direct exports.

It is the companies based in the United States, however, that dominate the multinational enterprise. I.T. & T., Singer, Colgate-Palmolive, National Cash Register, and Goodyear are among those which have around half of their fixed assets outside the United States; while foreign operations produce between thirty per cent and fifty per cent of the total profit made by such as Eastman Kodak, Caterpillar Tractor, International Harvester, or M.M.M. (Minnesota Mining and Manufacturing). Profit, of course, is the crux in the enormous expansion of American subsidiaries abroad. Although in 1969 foreign sales accounted for only thirty-five per cent of I.B.M.'s total, they contributed some forty-three per cent to the total profit of the corporation.

The first feature of the multinational corporations to be noted is the rapidity and extent of their rise. By 1968 their total foreign sales exceeded in value the gross national product of every country except the United States and the U.S.S.R., and their foreign output was expanding at some ten per cent a year, or twice the growth rate of the world's gross national product. By the turn of the century, some commentators calculated, the largest two or three hundred of them would account for over half of world production.

Moreover, they are concentrated in certain sectors, such as chemicals, mechanical and electrical engineering, where industrial growth is most marked. Though their impact differs from state to state, it has, in one instance at least, reached stupendous proportions. More than half of Canada's industrial capital assets are now owned by U.S. or British companies.

Now capitalism is, and always has been, essentially about private profit. Indeed, as the eminent American economist, Milton Friedman, has expressed it in his book *Capitalism and Freedom*, "Few trends could so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible." This attitude has been somewhat qualified by what have come to be established as considerations of the wider public interest. Corporations are taxed in order to help provide the funds for social expenditure. They have become, recently, subject to measures against environmental pollution. Various government policies to control the rate of inflation may limit the rise in prices of their products. But in general, as the financial pages of the press eloquently testify, their freedom to exploit the market for their own benefit remains considerable. And, to be sure, their success is measured by their relative ability not merely to maintain, but continually to increase, their profits.

Yet, if the freedom of national companies remains considerable, the freedom of international ones is far greater. They can reduce the burden of taxation for social expenditure, or the costs of measures against pollution, by concentrating their development in those countries where company tax is lowest and measures against pollution least demanding. They can accept the consequences of price restraint in one national economy by raising prices to compensate in another. They can also, needless to say, shift production from countries where organized labor proves troublesome to countries where it is more docile. Their power is nonetheless substantial for being latent. They do not need, in general, to take drastic steps. The knowledge that they can do so affects the decisions of government.

They live and prosper, in short, within and by the competition among national economies and the differential in living standards and productive conditions between one society and another. The degree to which they can exploit this competition is revealed not least in their monetary manipulation. Thus, they can switch liquid funds from one country, where relatively expansionist policies are being pursued, to another, where retrenchment is in operation. In consequence, they have access to credit which competitors on the national level are denied. And in any event, the scale of their operations and assets allows them opportunities to raise money on the international markets which smaller, national concerns cannot do, or only at a far higher rate of interest.

And they can exploit the changing relationships between currencies which are themselves a manifestation of competitive economies. "When I write a check," the treasurer of a giant oil company is reputed to have said, "it is the bank that bounces." The truth is that these companies dispose of such enormous liquid resources, through bank deposits on call or through borrowing powers, they can swamp the international money markets with their transfer of funds from one currency to another. Within some thirty-five minutes at the beginning of May, 1971, no less than one billion dollars were sold to buy Deutsche marks, on the assumption that the Western Germany currency would be revalued; and Swiss bankers firmly maintain that the multinational corporations were responsible for the bulk of the transactions.

From the middle of July, heavy selling of U.S. dollars developed, and one month later, on August 15th, President Nixon announced the formal inconvertibility of the dollar into gold. "In recent weeks," he declared in his broadcast, "the speculators have been waging an all-out war on the American dollar.... Accordingly, I have directed the Secretary of the Treasury to take the action necessary to defend the dollar against speculators.... This action will not win us any friends among the international money traders. But our primary concern is with the American workers."

The Economist in London tartly commented that the President "had decided to defend the dollar against the speculators by yielding to the speculators the devaluation of the dollar which they had very sensibly been betting would come about." An article in the Wall Street Journal, five days after the broadcast, was no less to the point. "President Nixon is blaming the weakness of the dollar in world markets, in large part on international money speculators. Well, it appears a nest of these rascals is in operation right here on the Hudson River Palisades. The Gnomes of New Jersey, it seems, are busily engaged in bollixing up world financial structures with such weapons as Hellmann's mayonnaise, Skippy peanut butter, Bosco, and Shinola." The article referred to the Corn Products Refining Co., an American-based multinational corporation with operations in thirty-nine countries and transactions involving many millions of dollars across the world's foreign exchange and commodity markets. Any one of numerous other similarly extensive enterprises would have served as a pertinent illustration.

These corporations are more and more not merely in the business of business but directly in the business of money. They have special departments to study and advise their executives on the likely future performance of different currencies, so that stock purchases, investment policies, and credit positions may be adjusted accordingly. Indeed, it is a process of speculation that promotes its own impulse and rewards. A currency selected as weak becomes so, as the corporation treasurers accelerate necessary payments out of and delay necessary payments into it; use their available liquid holdings or lines of credit in it to make foreign purchases of stocks or of other currencies.

Exchange controls have proved largely ineffectual, and even counter-productive, since they have encouraged the development of joint undertaking by the big banks of several countries. Thus American banks with branches abroad and in more or less formal association with banks in Western Europe, can engage in business outside the regulations on exchange control and credit that may be imposed by the American authorities. Their deference to the desires of the American authorities must be overwhelmed by their fear of offending multinational industrial companies, which might then choose to take their mammoth accounts elsewhere not just for the while but for good.

The findings of a study made by the U.S. Tariff Commission, on the economic impact of multinational corporations, were reported aptly on the same day as the second devaluation of the dollar within fourteen months. The Commission estimated that some $268 billion of short-term liquid assets had been held at the end of 1971 by "private institutions on the international finance scene," and that the "lion's share" of this money was controlled by U.S.-based multinational industrial companies and banks. This massive sum "was more than twice the total of all international reserves held by all central banks and international monetary institutions in the world at the same date." And in consequence, the study continued, "it is clear that only a small fraction . . . needs to move in order for a genuine crisis to develop."

This poses the central issue: these multinational corporations, industrial and financial, in general, reflect in their conduct an allegiance only to their own dynamic. In short, though they may be based in the United States, it is not to United States prosperity but to their own that they are essentially committed. And if it has long been recognized that what is good for General Motors is not necessarily good for the United States; it may be said with equal truth that what is good for the United States is not necessarily good, or seen as good, for General Motors. The particular example is not a strong one. The development of their foreign subsidiaries by the major American car manufacturers, for the increasing import of products from abroad for the American market has played a significant role in the deteriorating trade position of the United States.

But then how, within the moral perimeter of the system, should they be blamed? They exist to make satisfactory profits; and any failure to do so meets swift retribution in the stock market and the plummeting of prestige. As far back as 1932, Berle and Means in The Modern Corporation and Private Property analyzed the concentration of corporations into large units, with the related separation of management from ownership, and argued therefore that the managers of these corporations would not be solely concerned with providing for the largest possible return on shareholders' capital. They did not examine what the objectives of the managers would be, but suggested that "it is probable that more could be learned regarding them by studying the motives of an Alexander the Great, seeking new worlds to conquer, than by considering the motives of a petty tradesman in the days of Adam Smith."

And certainly there is an element of empire-building in the disposition not only of the top executives, but of many lesser fry who identify much of their own meaning in the trust of their particular company. The multinational corporation increasingly becomes a state in itself, imposing its priorities on the established allegiances to national communities. It is, for instance, the contention of one important Swiss banker that the deterioration in the social climate of the United States from the middle nineteen-sixties had a significant, if necessarily nebulous, impact on the flow of investment funds to Western Europe. The treasurers and other senior executives of multinational corporations with headquarters in the United States and especially in New York City reacted to the rising violence of the streets, the civil disturbances over the Vietnam war, the decay of public services, the spreading sense of social sickness, by moving more of their corporate assets and operations abroad; rather as the French middle class in times of alarm moves money and antiquities to Switzerland.

The rise of the multinational corporation accordingly confronts the very nature of the sovereign state as we have known it since its own rise in the Renaissance. This last phenomenon has been based essentially on mercantilism, defined by Gustav Schmoller in his Jahrbuch 1884 as "the total reconstruction of society and its organization, as well as of the state and its institutions, by substituting for the local and provincial economic policy that of the state and of the nation." And though liberal economists qualified the doctrine, with their devotion to free trade and their hostility to monopolies, their perspective remained that of the sovereign nation-state. Thus, for instance, Adam Smith entitled his seminal work The Wealth of Nations.

And how is the nation-state reacting to the threat? Paradoxically it does so by supporting where it can the multinational corporations based within it. Indeed, American official opinion waxes sporadically indignant at the help given to European- and Japanese-based multinational corporations by their respective governments through subsidies to such industries as steel; sanctioned cartel agreements; accommodating tariffs; and even whole or part government ownership, as of British Petroleum or Renault. Yet the Europeans and Japanese reply with reason that American-based multinational corporations are scarcely left to brave the trade winds of the world on their own. The U.S. government subsidizes domestic aerospace companies with loan guaranties and massive military contracts; blackmails foreign governments and corporations into "voluntary" curbs on steel and textile exports; even applies antitrust laws rather more rigorously against foreign companies seeking to buy domestic industry than against domestic companies seeking to buy foreign industry. As Pierre Malvé, economic counsellor in Washington of the European Economic Community, declared in citing the requirements for improving relations between the Community and the U.S.-based multinational corporations: "Certain taboos must be renounced, like the myth of free enterprise." This myth, he continued, was misleading, since it "largely disregards the economic reality characterized by public subsidies and government controls" on both sides of the Atlantic. What Americans might denounce as a "government-controlled economy" he preferred to consider an "attempt to introduce a certain order in the name of the general interest and of cooperation among countries."

It is a relationship that acts somewhere more to the advantage of the corporations than to that of the individual nation-states, which effectively provide far more than they control. This is particularly evident in the area of inflation; for the reality of increasing concentration stands in ever more marked contrast to the illusion of competitive pricing in free-market economies.

In both France and Britain, four industrial giants accounted for ninety-nine per cent of car production in 1967 (ninety-six per cent and eighty-three per cent, respectively, 1955); in Germany, four accounted for ninety-six per cent (seventy-eight per cent in 1955); in Japan, four accounted for seventy-seven per cent; while in the United States, only three accounted for over ninety-five per cent; and in Italy, two, for virtually all. Moreover, collectively they dominated car production in the other free-market economies of the world.

Indeed, the degree of concentration is much larger than any available statistics may measure. For corporations are not in general required to disclose in their accounts full information on other companies in whose equity they hold a minor stake, even though such a stake may constitute effective control. But there is no doubt that the multinational corporations have sufficient holdings in other companies: suppliers, customers, and often competitors. In 1962, according to the U.S. Federal Trade Commission, General Motors had interlocking directorships with seven other of the top one hundred corporations and with fifty-six smaller ones. Between 1960 and 1968, the top two hundred U.S. corporations established over seven hundred jointly owned subsidiaries with other corporations, of which last no less than one in five was also in the top two hundred. The top fifty U.S. corporations in 1965 shared 520 directors with other corporations in the top one thousand.

There is all too much evidence that these industrial giants, having achieved their dominance by absorbing or crushing such smaller rivals as have posed a danger to them, now compete mainly in the rhetoric of marketing. Cars, detergents, razor blades, electric light bulbs, transistor radios, margarine, television sets, pet foods, toasters, cosmetics, breakfast cereals, headache pills, paints, refrigerators: the list of commodities which are manufactured by supposedly competing corporations but are similar in quality and price is virtually endless. Increasingly, it is advertising that distinguishes and promotes. The costs of advertising compel smaller firms to become large ones by mergers and takeovers and so excite the leaders in turn to become larger still by buying out competition. The capital demands of inventing and launching new products are so great as generally to discourage management from taking the risks.

The inflationary consequences are twofold. Rising profits are insured by raising prices, in the confidence, explicit or implicit, that the market leaders will all fall into line, while recalcitrant smaller competitors will not pose much of a threat by keeping their prices down, and may be chastised in due course if they prove troublesome. But inflation results, too, not just from rising prices but from falling quality. An appliance whose price remains constant but which has to be replaced at ever-shorter intervals has much the same impact as one which lasts but whose price increases for successive purchasers. The truth is that both pressures operate, often simultaneously, with the same product rising in price and falling in quality over the years.

Indeed, an important element in the diminishing competitiveness of the American economy may well be that the quality of domestically produced commodities has fallen further, more rapidly, than has the quality of imported commodities. For certainly substantial changes in currency relationships have, so far at least, not had the predicted consequence of diminishing the American consumer's appetite for foreign goods, or the foreign consumer's appetite for American ones, despite the greater expense of satisfying the first and the lesser expense of satisfying the second.

A study by the U.S. Commerce Department, published in its Survey of Current Business, underlined the phenomenon. The monetary settlements of 1971 devalued the dollar by some 8.5 per cent against many currencies, and by still more against the currencies of strong economies, especially those of West Germany and Japan. Yet the total of imported goods and services rose from 6.2 per cent of U.S. domestic demand in 1971 to 6.7 per cent in 1972 while the total of U.S. goods and services exported abroad stayed at 6.3 per cent of national output. Excluding services, the survey showed an even larger rise in U.S. dependence: with the demand for foreign goods growing from 7.5 per cent of the total domestic consumption in 1971 to 8.2 per cent in 1972.

This does not, of course, mean that foreign-based multinational corporations are successfully competing with American-based ones in the marketplace. It is often the American-based multinational corporation competing with itself, as Ford does by importing for the American market cars produced by its subsidiaries in Britain and West Germany. If the products from foreign subsidiaries are more acceptable than those of domestic industry to the American consumer, it is because the efficiency of plant and labor and the requirements of the local market make it profitable for the subsidiaries to offer a product sufficiently appealing in quality at a sufficiently appealing price.

If the problems of the American economy are accordingly severe, the problems of successfully competitive economies are, in their own way, no less so. For the multinational corporations are quick to exploit such success without endangering it too far, by raising prices to the limit that the traffic will bear. And their internal accounting can easily enough confront the complaints of a particular government with evidence that their profit in the local market remains at a barely acceptable level. Shifting raw materials and components from one country to another, they can manipulate the cost of products significantly to their advantage.

In November, 1970, no less orthodox and authoritative a capitalist institution than the Organization for Economic Coöperation and Development proclaimed the relationship between rapidly rising prices and the multinational corporation. "The competitive pressures which have come from the dismantling of trade barriers may gradually weaken," it declared, "and there is a danger that international mergers and growing financial links between large companies in different countries may lessen competition between foreign and domestic suppliers." And it emphasized: "While the growth of multinational corporations and links across national frontiers has been a major factor promoting rationalization and higher productivity, it also provides increasing scope for monopolistic and oligopolistic practices."

Furthermore, in a display of its essential irony, capitalism insures that resources should flow to where they are least needed. The very success of the Western European and Japanese economies attracts to them a sporadic flood of capital, for industrial investment or speculation in the world money markets. That in the process the poor countries are in general kept poor is regarded in the metropolitan centers of the system with occasional sanctimonious regret but some confidence that any ensuing problems are too remote for serious concern. It is effectively the consequences for the American economy and for the role of the dollar in the world monetary system that enjoys attention.

To be sure, the multinational corporations are the eye of a monetary storm that increasingly threatens the whole monetary structure of the system. Every few months an accumulation of dollars abroad seems suddenly to erupt into pressure on the exchange rates; and strong economies face the choice between revaluing their currencies upward against the dollar or taking yet further large quantities of unwanted dollars into their reserves. The conventional belief, that revaluing their currencies must make the American economy more competitive, may be open to question; but it is held with sufficient strength to discourage governments from accepting such a course as any but the very last resort. On the other hand, if dollars have to be bought for the reserves, the supply of local money is correspondingly increased, with predictable inflationary results.

While the governments of nation-states seem, for one reason or another, unwilling or unable to meet the challenge of the multinational corporation, the leadership of organized labor in the advanced capitalist world is beginning to register its alarm. For it can see two distinct threats: first, the ability of the multinational corporation to play off the work force in one state against the work force in another, by the implied or proclaimed possibility of shifting production wherever labor proves most amenable; and then, the export of jobs through the development of plants outside the advanced capitalist world altogether.

The first threat is the more credibly being confronted by such reactions as the effort to synchronize the expiration of contracts and even establish coordinated negotiating machinery for workers in the various advanced industrial states where the particular multinational corporation operates. The second is far less manageable since there is so little identity of interest or power between workers in the advanced and workers in the backward capitalist worlds. Highly paid Dutch or West German, British or American workers would be the last to accept the principle of the rate for the job that would inform an effective united stand by labor throughout the domains of multinational corporate enterprise. For such, they suspect, might well mean a decline in the income of the richer workers as well as a rise in the income of the poorer ones. And then, many of the countries to which the multinational corporations are switching production have regimes which concede far fewer rights to labor in practice than on paper. Japan is a special case; there the attraction is of a labor force rather less militant or self-confidently organized than its Western counterparts.

The threat of exported employment is seen as particularly real by the American workers, though the British are not far behind. Nor is it by any means only a threat to the less skilled, as by the shift of strawberry production from Louisiana to Mexico where labor is cheaper. Advanced industry is, far more importantly, involved. R.C.A., Ford-Philco, Zenith, and Admiral are American companies manufacturing in Formosa television sets for the American market. Westinghouse sells under its own label sets manufactured in Japan. By 1970 almost all radios and tape recorders sold in the United States were produced abroad, often by U.S. companies or under license, increasingly in Japan or countries of far cheaper labor. Singer and Burroughs import and market desk calculators that they themselves pioneered but that are now manufactured by arrangement with various companies in Japan. Japan and Taiwan, Hong Kong and Mexico have become almost as important to the supply of the American consumer market as has the Arab world to the supply of American energy needs.

And the outflow of investment capital and consumer expenditure to these countries does not return in the commensurate purchase of American plant or products. It either stays there for industrial expansion or moves out for the purchase of products from other countries (which is why the United States has been running a trade surplus with the European Economic Community, but a massive trade and even more massive over-all balance-of-payments deficit with the rest of the world, while the European Economic Community is itself in healthy surplus).

Indeed, what we may well be seeing not least in the activities of the American-based multinational corporations is an American rerun of the British capitalist experience by which capital resources that might have been used to renew the British industrial structure were exported instead to other countries. The tribulations of the dollar reflect the previous tribulations of the pound.

UNESCO SPONSORS INTERNATIONAL SOLAR ENERGY CONFERENCE

Mr. WEICKER. Mr. President, at a time of considerable concern in this Nation and the world over alternative sources for increasing energy needs, the proven potential of research and development of solar energy has received growing international attention. Numerous governments and industrial concerns have initiated substantial investments into the harnessing of solar power for domestic heating and cooling systems and even the generation of electricity.

The involvement of the Federal Government in research in solar energy is indeed increasing, as this year's National Science Foundation budget was raised to over $12 million. Nevertheless, this figure represents less than 2 percent of the total Government budget for overall energy research and development.

Recently, over 900 scientists representing many interested countries and organizations met in Paris to discuss the projected massive development of solar power in the near and very foreseeable future. An article in Newsweek of July 16 details the international conference and the present state of solar energy application in the United States. I ask unanimous consent that the text of that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TURNING ON THE SUNPOWER

A major attraction at the Paris Exposition of 1878 was a steam engine powered by heat from the sun; it was used to operate a small printing press but was thereafter dismissed as interesting but impractical. Now, however, with the mounting worldwide energy crisis and skyrocketing rises in the price of all fuels, power producers have turned their attention to solar energy with both hope and enthusiasm.

Last week in Paris, barely two miles from the site of the 1878 exposition, some 900 scientists attending a meeting sponsored by UNESCO agreed that energy from the sun may soon provide a breakthrough of enormous importance. "The speed at which solar energy will be put to use," declared French physicist Ivan Peyches, "is a direct function of the world's fear of running out of conventional energy sources."

These new assessments of the future of solar power do not spring from spectacular improvements in technology; rather, they stem directly from the increasing interest of governments and industrial companies. "There's no question that government funding will increase, just as it is already clear that industry is already investing money," said John A. Duffie of the University of Wisconsin. In fact, U.S. Government support for research into solar energy has increased from next to nothing in 1971 to some $13 million in the current fiscal year. Such investments, Duffie believes, will help provide solar-heating units that can be incorporated into houses and office buildings. "Until now," Duffie explained last week, "builders have not been able to order solar-powered units even when they wanted to. Within the next few years, such units may well be commercially viable."

The technical efficiency of some solar power units has already been established. For years, Australians, Japanese and Latin Americans have heated their bath water simply by storing it in rooftop tanks; and at Odeillo in the French Pyrenees, solar-power pioneer Félix Trombe has developed a solar furnace—a collection of mirrors that focuses the sun's heat so effectively that it can produce temperatures as high as 3,500 degrees for simple industrial uses.

A FIRST

Over the past decade, about 25 houses have been constructed in parts of the U.S. with heating systems powered largely by solar energy. This year, the Massachusetts Audubon Society announced plans for an addition to its office building in Lincoln, Mass., that will use solar power to provide 60 per cent of the energy required for heating and air conditioning. And next week, the University of Delaware will dedicate an experimental house that not only will use the sun's heat for heating and cooling but will also convert sunlight into electricity to run home appliances.

The Delaware house, named Solar One, illustrates the basic simplicity of harnessing solar power for domestic purposes. Mounted on the roof, at an angle of 45 degrees to obtain optimum exposure to the sun, are two large rectangular panels, or collectors. These consist of a number of solar cells—sandwiches of cadmium sulfide and copper sulfide between thin layers of glass—which produce electrical current on exposure to sunlight. Some of the current produced in this way is fed immediately into the house's electrical system, to run lights and domestic appliances; the remainder is used to charge up a series of batteries in the cellar. The batteries are designed to provide electricity at night and on days when the sun is behind the clouds. And against the inevitable contingency of a series of gray and sunless days, Solar One's electrical system can also be connected to the local power utility.

LONG-RANGE

But family houses are just one prospect. Solar experts say that Lake Erie alone receives more energy from the sun every day than the entire United States consumes in the course of a year. Thus, a major long-range objective is large-scale production of electrical power, using either arrays of large collectors spread over hundreds of square miles, or even satellites equipped with solar cells that would overcome the problem of cloudy days. At the moment, most solar-power promoters recognize that such large-scale schemes will not be practical for one or two decades; meanwhile they are putting the bulk of their efforts into the immediate problem of supplying solar heating and cooling for individual buildings, which at present use up more than 20 per cent of the entire U.S. energy budget.

According to present estimates, a typical three-bedroom house can be equipped with solar collectors and ancillary heating equipment for about $3,000—a surprisingly economical figure, because experience to date suggests that maintenance costs are minimal. Viewed in the light of increasing costs of energy from conventional sources, the cost of such units seems even more attractive. "Oil and gas will inevitably rise in price," says Karl Boer, who designed Solar One, "but the cost of power from the sun will always be the same."

AN ANSWER TO COLT INDUSTRIES ON THE ISSUE OF CHROME FROM RHODESIA

Mr. HUMPHREY. Mr. President, recently several of my colleagues and I received a letter from Mr. Martin N. Ornitz, president of the Crucible Stainless Steel Division of Colt Industries. In his letter, Mr. Ornitz expressed his concern over my efforts, and those of 28 of my colleagues, to restore the United States to full adherence to the United Nations sanctions against Southern Rhodesia. Today, in my own behalf and that of my colleague, the distinguished senior Senator from Wyoming (Mr. MCGEE) who is absent on official business, I would like to make a factual rebuttal of several assertions Mr. Ornitz has made in his letter. First, in firmness to Mr. Ornitz, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COLT INDUSTRIES,
Midland, Pa., June 25, 1973.

Re: S. 1868.
Hon. GALE W. MCGEE,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR MCGEE: I note that you have co-sponsored the subject bill, S. 1868, introduced by Senator Humphrey, aimed at halting the shipment of chromium ore from Rhodesia to the United States. This matter has been the subject of considerable publicity lately—some of which has been inaccurate or at the very least misleading. Since availability of adequate supplies of chromium, at prices competitive to those paid in other nations, is vital to the welfare of our country, I write to you to express concern over the effect that the enactment of this bill would have.

Ferro-chromium, an alloy of iron and chromium, is used in the manufacture of nearly all specialty steels. These include alloy steels used in making such things as farm equipment, trucks, buses, automobiles airplanes, and machine tools. It is essential to the manufacture of all stainless steels—for dairy, hospital, and restaurant equipment, power plants, oil refineries, chemical plants, atomic energy plants, pollution control equipment and countless items used in the home, such as pots and pans, tableware, sinks, electric ranges, dishwashers, etc. It is used in making tool steels—for shaping and cutting other materials. Obviously, a shortage of chromium for steelmaking would disrupt our entire economy.

Chromium ore is mined chiefly in Russia, South Africa and Turkey, as well as Rhodesia. There are no known domestic deposits. This makes us fully dependent on foreign sources for a very vital metal for which there are no substitutes.

At present the world-wide supply and demand are not quite in balance, with demand exceeding supply. As a result, contrary to some recent statements, the price of one grade of ferro-chromium has increased in this country 13% and the much more widely used grade has increased 24%. These increases have occurred in spite of the fact that the embargo on Rhodesian chrome was lifted. If it had remained it is likely that the price increases would be greater.

It has been said that in spite of the lifting of the embargo essentially the same percentage of our chrome still comes from Russia. This is caused by two things. The total has increased due to increased demand. Also the embargo did not slow down Rhodesian production. The Rhodesians sold their chrome ore to other countries on long-term contracts. These countries merely ignored the embargo. Chemical analysis suggests some of the chrome ore we buy from Russia originated in Rhodesia.

The Rhodesian ore is considered to be of the highest quality available, contrary also to recent statements by the State Department.

The proposed pollution-control devices (catalytic converters and thermal reactors) for automobiles will result in a tremendous increase in requirements for chromium just for the production of stainless steel in this country of about 25%. Should the present projections for catalytic converters hold true, this will require the use of an additional, approximately, 60,000 tons per year of chromium for this application alone. With all the chrome ore mines in full production, including Rhodesia, and no restrictions on American industry as to sources, there is presently a serious lack of adequate supplies of ferro-chrome. This problem will be compounded by the requirements for pollution control as well as the growth of stainless steel production in the immediate future. Further, the problem of cost and viability of the industry can be seriously affected.

In spite of the State Department's problem vis-a-vis its African policy, nevertheless, I respectfully request that you reconsider S. 1868 from the standpoint of its effect on the vast majority of Americans. The price of imports cannot be controlled. Chromium is imported. We cannot afford, as a nation, to reimpose this embargo just for, as the State Department says, "the psychological effect." If we do, the cost of a lot of things all of us buy is going to go up still more, with no real effect on Rhodesia.

We regard this as a most serious matter and would be pleased to meet with you at your convenience if you would like additional facts on this subject, and the importance of it to the American economy.

Sincerely,

MARTIN N. ORNITZ, *President.*

Mr. HUMPHREY. Mr. President, I have no quarrel with the accuracy of the first two paragraphs of Mr. Ornitz' letter. However, in the third paragraph, Mr. Ornitz makes the assertion that chromium ore is mined chiefly in Russia, South Africa, Turkey, and Rhodesia. Yet, he fails to mention the fact that chrome ore is mined in substantial quantities in the Philippines, Finland, India, and Brazil. The latter three nations are metallurgical grade producers.

His contention that "there are no known domestic deposits" of chromium ore is just not the case. According to the U.S. Geological Survey estimates, there are over 8-million tons of domestic deposits of chrome ore. These deposits are located primarily in Montana, California, Oregon, and Minnesota. They are generally of a relatively low grade and are widely dispersed. While they are considered commercially unsuitable for mining under current market conditions, this does not mean they are unavailable for future use. As an example, Finland has taken advantage of her deposits of low-grade chrome ore and now exports ferrochromium produced from these deposits. Canada is also a source of an additional 5 million tons of low-grade chrome ore.

The assertion that this situation "makes us fully dependent on foreign sources for a very vital metal for which there are no substitutes" is also misleading. We presently have some 5.3 million tons of metallurgical grade chrome in our strategic stockpile. The administration has already announced there is no longer a need for maintaining such huge amounts of strategic metals in the national stockpile and therefore will be releasing all but 500,000 tons from the stockpile over the next 5 years.

The assertion that worldwide supply is exceeding the demand is not correct. Most of the Turkish, Iranian, Brazilian, Indian, and Greenland deposits of chrome ore are being mined well below capacity. This is the case because it is easier and cheaper to mine chrome ore in southern Africa and central Asia. Turkey, in particular, produced four times as much between 1950 and 1955 than she produced between 1965 and 1970. Each of these producing nations could increase its output if the United States, Japanese, and European consumers were willing to assist them.

As to the assertion that the price of one grade of ferrochromium—

> Has increased in this country 13 percent and the much more widely used grade has increased 24 percent.

The figures are of questionable legitimacy since neither a time reference, nor an indication of whether the price increases are for domestically or foreign manufactured ferrochromium, is spelled out. Nevertheless, Mr. Ornitz failed to mention that price increases have occurred for ferrochromium because: First, demand has increased as both Japan and Germany have increased their production of steel, and second, production costs have generally increased through inflation, devaluation of the dollar, and wage increases. This also refutes his contention that price increases would have been greater had our compliance with the sanctions remained in force.

The next assertion by Mr. Ornitz is addressed to the fact that, in spite of the lifting of the embargo against Southern Rhodesia, we still import the same percentage of our chrome from Russia as before the embargo. He contends:

> The total increase was due to increased demand. Also the embargo did not slow down Rhodesian production. The Rhodesians sold their chrome ore to other countries on long-term contracts.

These contentions are entirely speculative. Even if long-term contracts were responsible for the small amounts of Southern Rhodesian chrome imported into the United States in 1972, then who is to say this would change this year or the next. In addition, if Southern Rhodesian chrome is as attractive and necessary as Mr. Ornitz implies it is, I have little doubt that either first, American chrome consumers would find a way to get a greater share of the market, or second, Rhodesian producers would find a way to increase production to compensate for the increased demand in our country. He also fails to mention our imports from Turkey have fallen off by 17 percent since our violation of the sanctions went into effect.

Perhaps the most misleading assertion made by Mr. Ornitz is his statement that—

> Chemical analysis suggests some of the chrome ore we buy from Russia originated in Rhodesia.

This is a test devised by crucible itself in an effort to obtain congressional violation of the sanctions—a test the U.S. Geological Survey subsequently found to have no scientific worth whatsoever, and therefore, invalid as an attempt to show that Soviet chrome imports are nothing more than Southern Rhodesian ore transshipped through Russia.

The next assertion by Mr. Ornitz is:

> The Rhodesian ore is considered to be of the highest quality available, contrary also to recent statements by the State Department.

This is simply not true. By any standard, be it chrome ore deposit formulation, chrome ore content, or availability on short notice, Southern Rhodesian chrome is inferior to Soviet Russia's, and in some cases Turkish ore.

The best proof of this is the rapid increase of American industrial consumption of Soviet chrome ore. The statistical evidence of the superior quality of Soviet chrome ore over Southern Rhodesian chrome ore is not just the machinations of the U.S. Department of State, but is based upon data from the U.S. Bureau of Mines.

Mr. Ornitz contends that with all the chrome ore mines in full production, including Southern Rhodesia—

> And with no restrictions on American industry as to sources, there is presently a serious lack of adequate supplies of ferrochrome.

As previously mentioned, all of the chrome ore mines are not in full production. In addition, there will shortly be almost 3 million tons of metallurgical chromite and 700,000 tons of ferrochromium available to American industry from our stockpiles. Thus, this statement is simply without foundation.

Mr. Ornitz also contends:

> Further, the problem of cost and viability of the industry can be seriously affected.

Again, this statement is misleading in that the domestic ferrochromium industry's problems are not due to a lack of available metallurgical chromite. Some 900,000 tons of chrome ore have been sitting in the national stockpile for 4 years looking for a buyer. In addition, Turkey, Brazil, Greenland, and India have been looking for someone to invest in chrome ore mines. The industry's problem is not one of supply, but rather, it is one of increasing production costs with the use of outdated plants and equipment.

I was particularly disturbed with Mr. Ornitz' statement that—

> In spite of the State Department's problem vis-a-vis its African policy, nevertheless, I respectfully request that you reconsider S. 1868 from the standpoint of its effect on the vast majority of Americans.

First, Presidents Johnson and Nixon have both stated publicly their support for peaceful change toward majority rule in Southern Rhodesia. Accordingly, both supported economic sanctions against the minority regime of Ian Smith as the best feasible means of effecting that kind of change. Our adherence to the security council sanctions was an act we entered into voluntarily in a forum where we have the veto power should resolutions not be in our best national interest. As a case in point, as recently as June 26, Mr. Peter M. Flanigan, assistant to the president for international economic affairs, stated in a letter that:

> Access to Rhodesian chrome and other minerals is not an important element in U.S. security or in our overall foreign economic policy given: (1) the substantial excess of our stockpile resources and (2) the comparatively minor amounts we actually import from Rhodesia.

Mr. Flanigan's response was the result of an inquiry made by Representative Donald Fraser, Democrat, of Minnesota, and Representative Charles Diggs, Democrat, of Michigan.

Mr. Ornitz also fails to mention two very important developments which are a direct outgrowth of our decision to violate sanctions against Southern Rhodesia. Since January 1, 1972, the effective date of the act of Congress allowing us to violate sanctions against Southern Rhodesia, our country has imported chrome ore. Imports of low-priced ferrochrome made in Rhodesia and South Africa, using Rhodesian ore, threatens to destroy the American ferrochrome industry. Cutthroat competition from these imports is made possible by the use of cheap forced labor and government subsidies.

Foote Mineral Co., a principal lobbyist in 1971 for breaking the sanctions against Southern Rhodesia, was the first to feel the detrimental impact of the new law. On December 13, 1972, it announced that it was closing the plant in Steubenville, Ohio, which had received one of the first shipments of Rhodesian chrome ore. Foote gave the following reason for the closure:

> The domestic ferrochrome industry has been forced to reduce selling prices in order to combat the low-priced foreign imports which have taken as much as 50 percent of the domestic low carbon ferrochrome market this year.

Industry sources estimate that 307 workers will lose their jobs in 1973 because of the Steubenville closing. In Brilliant, Ohio, Ohio Ferroalloys Corp., is halting its production of ferrochrome and converting to silicon. Others may soon follow.

In May 1973, the Ferroalloys Association of the United States filed a statement with the Tariff Commission and the Congress asking for relief from excessive imports. The association stated in part that:

> The problem of domestic ferrochrome production is now critical. Imports of low carbon ferrochrome and chromium metal in 1971 captured 56 and 59 percent respectively of the domestic market. In fact, the impact of the increased volume and the attendant low price of imported material has already forced some producers to abandon the production of ferrochrome and others to begin importing from overseas. Unless aid is forthcoming soon it will only be a matter of time until almost all domestic production of ferrochrome and chromium metal will cease and the bulk of our country's requirement will be supplied from and dependent on foreign production.
>
> Technological changes in the production of stainless steel, the principal metallurgical use for chromium, will alter the use pattern in favor of increasing amounts of high ferrochrome at the expense of low carbon ferrochrome and ferrochrome silicon. This fact has been recognized by foreign producers, particularly those located in Africa where abundant quantities of chrome ore are available and new facilities installed for high carbon ferrochrome production. Ultimately the Republic of South Africa and Southern Rhodesia could dominate and control the world supply of chromium products.
>
> Effective government action is needed to insure continued domestic production of chromium products and forestall complete dependence on foreign production and supply.

I believe these developments speak for themselves. That is why the distinguished senior Senator from Wyoming (Mr. McGee) and I, along with 27 of our colleagues, see the urgency for putting this Nation back in compliance with U.N. sanctions against Rhodesia as soon as possible.

In conclusion, it was the decision of my colleague, Mr. McGee, and me to use this statement as a means of responding to the letter from Mr. Ornitz. Therefore, a copy of this statement will be forwarded to Mr. Ornitz.

CREDIT DISCRIMINATION AGAINST WOMEN

Mr. BROCK. Mr. President, eliminating the practice of credit discrimination against women has been a project of particular interest to me in this session, following the hearings last year by the National Commission on Consumer Finance which clearly documented the widespread existence of such unfairness.

Last month the Banking, Housing and Urban Affairs Committee acted on my proposal, and unanimously agreed to attach antisex discrimination provisions to the Truth-in-Lending Act.

In the hearings which led to that decision, as in the earlier National Commission on Consumer Finance hearings, numerous examples of the problems faced by women in obtaining credit came to the fore.

However, I have subsequently learned of a case which so clearly documents the case that I wanted to bring it to the attention of the Senate on this occasion.

Columnist Georgiana Vines, writing in the Knoxville, Tenn., News-Sentinel, tells the story of the Honorable Kathryn Kirschbaum, mayor of the city of Davenport, Iowa.

Mayor Kirschbaum's problems in obtaining a credit card speak eloquently of the double standard that exists with regard to credit, and I would ask unanimous consent that Ms. Vines' column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

WOMEN IN PUBLIC LIFE—MAYOR CAN'T GET CREDIT CARD

(By Georgiana Vines)

Kathryn Kirschbaum can be mayor of Davenport, Iowa, a city of about 103,000, but she can't get a credit card from BankAmericard on her own.

The reason, she says, is that the signature of her husband, Raymond, has to be on the application. She doesn't feel his signature is necessary. She feels her own credentials are enough.

She cited this as one discrimination against women during the U.S. Conference of Mayors meeting in San Francisco last week. Mayor Kirschbaum was one of three women mayors at the conference and was the only woman mayor to be part of the conference program in a discussion on programs for the disadvantaged. She was asked to speak on disadvantaged women.

Kathy Kirschbaum's problems in getting the credit card have been taken before the Iowa Civil Rights Commission by the Iowa Civil Liberties Union. The refusal of the company to issue a credit card does not violate Federal law "but it is felt Iowa law would relate to it," she said.

SELF-IMPOSED LIMITS

Mayor Kirschbaum, nearing the end of her first two-year term as Davenport's chief executive, told the mayor's conference that she believes "with individual exceptions," that many of the limitations that women have are self-imposed.

"It is largely a result of the social education of girls in this country," she said.

However, the climate of achievement in the adult world is such that "penalties" are imposed on women who compete, she said.

"The male roles involve aggressiveness and risk taking—which are considered unfeminine and would cause women to fear other women (who are aggressive or take risks)," she said.

"Maintaining positive requirements for success can bring women to rather lonely positions sometimes," she said.

Elections in Davenport are partisan, and Mayor Kirschbaum was elected as a Democrat on a reform-minded platform. Davenport has a weak mayor council form of government, which means "council must confirm department heads," Mrs. Kirschbaum explained. (Directors and department heads are not confirmed by the Knoxville City Council.)

Before being mayor, she served a term as ward alderman and alderman-at-large. Her training ground for politics was the League of Women Voters, which she described as "issue-oriented and straightforward."

GOT AIDE APPROVED

She is on the board of directors of the National League of Cities, whose counterpart in the state is the Tennessee Municipal League.

The Davenport mayor considers it an achievement that she has been able to get the council to approve a new post of administrative assistant to the mayor, "to bring greater professionalism" to government. She also is trying to create a position of corporation counsel, in an effort to lessen "pure political influence" in the city legal department.

Mrs. Kirschbaum, 41, a native of New Kensington, Pa., has a BA degree in social science from Denison University, Grandville, Ohio. An aptitude test in college showed she should be an occupational therapist.

This sounds kind of corny but I joined the Army because it offered courses in occupational therapy," she said.

The Army sent her to Ft. Sam Houston, Tex., where she met her husband. He is a mechanical engineer in Davenport. The Kirschbaums have two sons, ages 10 and 13.

Davenport has problems that sound familiar. A major concern at the moment is housing for the elderly, with 500 units needed in the downtown area.

In contrast to Knoxville which has several publicly financed housing projects and seeks more, Davenport had not participated in such programs previously "because of its conservative viewpoint," Mayor Kirschbaum said. "We're trying to put a program together," she said.

The city also has Waste Water Problems and is under order to provide secondary sewage treatment facilities. The design for a $30 million plant is under way. A site has been found. The problem is finding the money.

"We're catching up with years of neglect and lack of money," she said.

Mr. BROCK. Mr. President, I note that the Joint Economic Committee hearings on the economic position of women in the United States provided further documentation of the need for my proposed legislation to prohibit discrimination in the granting of credit on the basis of sex or marital status.

One day of the 2-week hearings, chaired by Congresswoman MARTHA GRIFFITHS, Democrat of Michigan, was devoted to the credit issue. In testimony before the congressional hearings, witnesses provided evidence of the problems women face in this area.

According to a witness from the Center for National Policy Review, School of Law, Catholic University—

> There is no legitimate rationale for discrimination based on marital status.

Nevertheless, as one survey conducted by the Federal Home Loan Bank Board revealed, 64 percent of the savings and loans use a person's marital status as a factor in evaluating the loan application, and 18 percent state that a person's marital status, in and of itself, could be grounds for automatic disqualification.

Another witness, Prof. Margaret Gates, an attorney and codirector of the Center for Women Policy Studies, brought attention to the results of the latest studies dealing with home mortgage delinquency and foreclosure. It was "found that marital status is unrelated to delinquency and foreclosure risk."

When creditworthy individuals are denied participation in the credit economy because of their marital status, legislation prohibiting this discrimination on account of sex or marital status, such as I have proposed, must be put into effect immediately. The hearings further demonstrated this need for Federal legislation.

My legislation, S. 2101, title III, the Equal Opportunity Credit Act, prohibits discrimination based on sex or marital status in connection with any consumer credit transaction or extension of credit for commercial purposes.

GAS CYLINDER SAFETY

Mr. HARTKE. Mr. President, on February 22, I reintroduced along with Senator SCOTT of Pennsylvania legislation designed to prohibit the Secretary of Transportation from promulgating any regulations which would permit the transportation of compressed gas cylinders within the United States which have not been inspected within the United States. A recent report by the Comptroller General of the United States indicates more than ever that this legislation (S. 975) should be adopted.

The report is entitled "Need for Improved Inspection and Enforcement in Regulating Transportation of Hazardous Materials." It concludes that the Department of Transportation must improve its inspection and enforcement program to insure compliance with regulations for safely transporting hazardous materials. The present inspection and enforcement program of DOT was found to be handicapped by: First, a lack of basic data on hazardous material movements; second, a small and unsystematic inspection effort; and third, inadequate enforcement actions.

With specific reference to compressed gas cylinder manufacturers, it was found that domestic manufacturers are rarely inspected and many instances of violations were found when inspections were conducted. Of the 19 cylinder plants inspected during a special study by the Office of Hazardous Materials in 1970–71, all but one violated requirements for manufacturing containers used to transport compressed gases. The violations consisted of failure to perform tests and failure to meet specifications such as material and wall thickness—requirements designed to insure that containers will withstand conditions normally experienced in transportation.

It therefore seems very strange to me that DOT which is not able to perform adequately its inspection functions domestically seeks to expand its jurisdiction to include inspection of foreign-made cylinders.

On January 19, 1971, the Hazardous Materials Regulations Board of the Department of Transportation, in a notice published in the Federal Register, stated that it was considering whether it was necessary to continue to require that the tests be performed in the United States. The Board made clear that the motivation for this possible change in safety requirements was not safety, but—

> The desire to import foreign-made cylinders for industrial and medical gas service and the future difficulties which will evolve from passive restraint systems being incorporated into foreign manufactured automobiles.

I do not believe that the suggested changes should be made. On the contrary, I believe that unless a positive showing can be made that the safety of American workers and consumers will not be endangered by the suggested changes in the regulations, the Department of Transportation must continue to require that these tests be performed within the United States. My review of the record before the Hazardous Materials Regulations Board convinces me that there has been no showing that safety will be enhanced or even preserved by this action. Rather, the proposed action would be a step away from safety and would create risks to which the American worker and consumer should not be exposed.

In view of the inherent dangers involved in the use of compressed gas cylinders and admitted need for improved inspection by the Department, it is incredible that the Hazardous Materials Regulations Board is still considering extending its jurisdiction to include foreign inspection. The implementation and supervision of the foreign program will place an impossible burden on the already overworked staff of DOT inspectors. The result will be two inadequate programs instead of one that is only slightly inadequate. The only losers will be the American people—those who Congress and the Department of Transportation have a primary duty to protect from dangers which cannot be abated by the efforts of the individual citizen. The Department must institute an adequate domestic safety-inspection program before it expands its jurisdiction to take responsibility for foreign containers bound for use in the United States.

Going beyond any doubts as to the Department's ability to carry out a sound plan, there is evidence that the proposals themselves are unsound. They provide for no on-the-spot inspection of foreign plants and no supervision by the Department over the foreign inspectors. Moreover, there is little or no evidence in the record as to the safety record of foreign cylinder manufacturers, and what evidence there is is contradictory at best, negative at worst.

The record before DOT provides no basis for instituting a new program, with new complications, based upon an old program that is not working. The present program must first be made to work.

PROPOSAL TO LESSEN THE BALANCE-OF-PAYMENTS PROBLEM AND MAINTAIN OUR FORCES IN EUROPE

Mr. BROCK. Mr. President, the President of the United States has referred to 1973 as "the year of Europe," but I fear that it may turn out to be the year from which we mark the decline of the European-American alliance unless Congress puts aside some of the dangerous notions in its head.

In recent weeks and days, I have noted the usual harbingers of a massive legislative-media campaign to focus attention on a particular issue, and the issue this time is American troops in Europe.

"Why do we need troops in Europe," the argument goes, "now that we've made friends with the Russians?"

"Who will they be used against? Luxemburg?"

Hopefully, of course, they will never be used against anybody, but the attitude that détente is a prelude to unilateral withdrawal is both dangerous and foolhardy. Moreover, it displays a remarkably sophomoric understanding of the complexities of negotiating with the Kremlin.

The man perhaps most experienced in such negotiations, former Ambassador Charles Bohlen, concludes his recently published memoirs in this manner:

> I see little that the United States can do except to continue along the lines of the policy that has been generally followed since World War II. This involves, above all, keeping our defenses sufficiently strong to deter the Soviet Union from any possibility of yielding to the temptation of a first strike against the United States. I do not think we can look forward to a tranquil world so long as the Soviet Union operates in its present form. The only hope, and this is a fairly thin one, is that at some point the Soviet Union will begin to act like a country instead of a cause.

Détente is certainly preferable to war, and it is also preferable to confrontation. But we must not delude ourselves into thinking that détente means alliance.

The American understanding of détente connotes a positive action, the creation of a relationship that may not be quite an alliance, but nonetheless a cooperative entity.

A literal translation of the Russian words used for détente, however, would be "a weakening of tension." In dealing with the Soviets, semantics can be vastly important, and it is vital for the American people to understand the difference between the positive connotation of the English word "détente" and the negative connotation implicit in the phrase "weakening of tension."

Put bluntly, the Soviets do not conceive of détente as the creation of a qualitatively new relationship. Rather, they regard it as the mere lessening, quantitatively, of the old relationship of confrontation—that is, a lessening of free world—United States—resolve.

This quantitative adjustment can, of course, be quickly and easily undone, 10 weeks from now, or 10 years from now, but regardless of how long it endures, it is important to understand that—as official Soviet statements indicate—it represents, for them, merely another phase in their ideological struggle against capitalism.

Moreover, we must understand that for the Soviets, struggle is the normal state of things. We think of peace as normal, but the Communist ideology allows for no peaceful normality until the final triumph. All history preceding is merely a continuous struggle toward the victorious end.

For Mr. Brezhnev and his associates then, détente is a tool which may be used, when valuable, in the conduct of that struggle. It will be valuable when it can serve to weaken the military defenses against the Communist world, or to permit the Soviets to acquire wheat or other products it may need. But it is not, and can never be, an end in itself.

The American response to détente then, must be constant readiness. Of particular importance, we must never give something away without extracting, in return, an appropriate quid pro quo.

The enslaved nations of Eastern Europe stand as a tragic monument to such a policy. Their fate should serve as a reminder not to commit the mistake of unilateral withdrawal.

Now, having said all of this, I would like to address myself to a particularly worrisome effect of our maintaining troops in Europe. The American presence there has resulted in an annual balance of payments disadvantage to our country of some $1.5 billion. The prolonged continuance of this situation is clearly unacceptable.

It weakens the strength of our currency, fuels the fires of domestic inflation, and adversely affects the livelihood of every American. It must be stopped, and it must be stopped without further delay.

To respond by withdrawing the troops would be like canceling one's insurance to save the premiums. But when the premiums are exorbitant, something must be done.

If I may continue with the insurance analogy for just a moment, I would note that the wise policyholder, caught in such a situation, will carefully examine his alternatives, and attempt to negotiate for himself a better deal.

Suppose for a moment, however, that the policyholder is not a single citizen, powerless, practically against the company. Suppose instead that he controls immense resources, such that the company is as dependent upon him as he is upon it. Then might not his chances for negotiating that better deal be greatly enhanced?

Clearly they would, and clearly too, that is precisely the situation of the United States in relation to its European allies.

We must act to correct our balance-of-payments deficit, and we must, in lieu of a quid pro quo from the Soviets, maintain our military presence in Europe.

At the conclusion of World War II, the United States found itself with the power to dominate the globe. Economically and militarily, we were in a position of strength unmatched in modern times.

Such power, held in abeyance and not utilized in terms of conquest, was inherently unstable, and was bound to erode. Being a nation little interested in conquest, we turned our interest toward peace, humanitarianism, and domestic affluence.

With regard to Europe, we determined that our best interests lay in a strong prosperous and independent continent. To that end, we committed vast resources to the economic rebuilding of Europe. In addition, we determined to make a second level of commitment, to the cooperative defense of Europe.

The extent of the defense commitment reflected the general state of European affairs at the time. Economically drained by the war effort, our allies were functionally incapable of defending themselves against a new eastern threat.

At that time, too, their balance of payments was deficient, and our transfer of some $10 billion in the defense effort was a welcome relief in their efforts to close the dollar gap.

Now, a quarter of a century later, the gap has been closed, and the pendulum has swung substantially in the opposite direction. It is now our balance-of-payments account that is deficient. It is now our currency that is threatened.

It is now time for Europe to ask, in the same respect that we did in 1948, what sort of America is in their best interest. I believe that given careful consideration of that question, they will answer it with the same sort of statesmanship that we applied in considering their postwar future.

If that view is correct, we may then turn to the question of implementation. Clearly, the answer is not an inverse Marshall plan.

I believe that the answer lies in a more equitable sharing of the burden of European defense; specifically, that burden must be internationalized.

There could be created, within the NATO structure, an International Security Fund, organized in such a fashion as to neutralize the balance-of-payments problems associated with the presence of American troops in Europe.

Two premises underlie this proposal: First, that all NATO members benefit from the American presence and should therefore contribute to its maintenance; and second, that the heaviest burden in the process of neutralizing the balance-of-payments costs should be borne by those countries which are actually getting the foreign exchange windfall by the fact of the presence.

In effect, the International Security Fund would serve as a multilateral umbrella, maintained by the NATO countries, individually and collectively.

The countries would make payments to the fund from their excess dollars and substitute obligations from their own national treasuries to be financed as part of their long-term national debt structure. Against these payments, credits could be given for bilateral procurement or other payments mutually agreed upon between the surplus and deficit countries.

Uses of contributed moneys would be subject to negotiation, of course, but a portion should rightfully revert to the U.S. Treasury, since the United States must be the main beneficiary as the principal deficit country.

As an alternative, or supplement, to direct reversion, funds could be authorized to purchase goods and services in the United States. Here, however, it would be necessary to develop accurate methods of determining that such purchases would be genuinely additive to normal trade.

Extensive scholarship has been done on the proposition of an International Security Fund, notably by Dr. Timothy W. Stanley of the International Economic Policy Association.

My own examination of the idea has convinced me that it is clearly preferable to the precipitous withdrawal from Europe of American military forces. I urge the Members of the Senate to consider it prior to committing themselves to a pro-withdrawal stance.

At the appropriate moment, should withdrawal legislation reach the floor, I shall offer an amendment providing that if an International Security Fund, or similar burden-sharing proposal can be negotiated within a reasonable length of time, the current U.S. security contribution can be maintained. In this way, our negotiations for balanced force reduction with the Soviet Union can have real prospect of success.

EXPORT CONTROLS: LATEST EXAMPLE OF MISMANAGEMENT OF U.S. FARM POLICY

Mr. HUMPHREY. Mr. President, each day I find more evidence which indicates misjudgment in the recent imposition of agricultural export controls.

Instead of directing our attention solely to granting broader export control authority, we should be looking closely at the administration's policies which brought us to this point.

Many agricultural experts agree that we could have foreseen the results of an excess world demand and provided for a system of voluntary restraints negotiated with our trading partners.

Yet we waited until the last minute when the alternatives were limited and imposed controls which will result in serious disruptions to our agricultural economy and which may seriously impair desired expansion of world trade in both agricultural and manufactured goods.

We could have avoided the shock to the Nation and the world by a little foresight.

Clearly, there is no excuse for the poor planning and monitoring which led us to the current food shortages.

Despite the optimistic crop projections for the coming year, the International Wheat Council predicts that world demand for wheat will exceed supply by 8-million tons.

Let us learn our lesson and start planning now. Let us replace talk about export controls and get to the roots of the problem.

At a minimum we must create a system which will keep active watch over the supply/demand situation and which can provide reasonable adjustments long before we reach a point of crisis.

The Washington Post, on July 2, 1973, carried an editorial which stated the need for better management of our foreign agricultural policy, and it is even more timely today in view of the new speculative pressures on wheat and corn resulting from the soybeans embargo.

I would like to direct your attention to this article and to the issues it raises.

Unless we start planning for our future food needs now we can expect a continuation of short-term emergency measures by which the farmer, the consumer, and our foreign trade relationships all lose in the long run.

I ask unanimous conscent to have the editorial printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The Soybean Embargo

The administration's soybean embargo is a staggering confession of incompetence. To say that the embargo had become necessary does not render it desirable. It only demonstrates how far our government had let matters slide. This administration lurches from one economic crisis to the next, reacting in haste, with little evidence of thought or careful planning. The embargo is only the latest example of the general mismanagement that has characterized this country's agricultural policy for the past year and more.

Remember that the United States got a very expensive lesson last summer in the costs of carelessness in promoting farm exports. The Russians came here and unexpectedly bought a billion dollars worth of grain, through traders operating in great secrecy. The Agriculture Department claims that it had no idea how much the Russians were buying. The effect of this sale was nearly to double the price of wheat for Americans. The lesson was that a prudent and competent government does not voluntarily leave itself in total ignorance regarding the sales of its crops to foreign buyers.

Having sat on its hands last year while the traders sold off the nation's wheat stocks, the department naturally continued to sit on its hands this year while they proceded to sell off the soybean stocks. But this time it was not done in haste or any great secrecy. If the Agriculture Department did not know what was happening, the market did. The price of soybean meal a year ago was $95 a ton. By the end of the winter it had doubled. By late spring it had doubled again. There was no mystery about the reason: The professional brokers had come to believe that, between domestic sales and foreign sales, they had sold more soybeans than there were to sell.

Finally, when the administration was driven to freeze food prices earlier this month, it belatedly told the traders to register their export commitments. At that point the Agriculture Department discovered what everyone else had known for months: that the actual export sales were running much higher than the official estimates. It responded with the embargo. Ships currently being loaded can sail, but no further soybeans or meal are to be loaded.

The soybean has become, over the past two decades, crucial to the nutrition of Americans and a large part of the world's population overseas. It is the cheapest and richest of all the sources of protein. Three-quarters of the world's soybeans are grown in the United States, and the United States is the only country that can export them in any significant quantity. For those countries depending on American soybeans, there is no alternative source of supply.

Particularly in East Asia, soy products are an important part of the human diet. The embargo cuts off the flow of protein to people in Japan and Korea in order to control the prices of eggs and beef in the United States. It can be argued that a degree of price stability is essential in this country, and in the long run other countries' economies will also benefit from our restraint of inflation. But Americans need to understand the cost of other people, particularly those across the Pacific, of this sudden and drastic decision to tear up our commitments to deliver the food supplies that we have already sold.

A reasonably foresighted administration would have required last fall, that traders publicly register all foreign sales. It would then have been warned of the rise in foreign demand. It would have installed at that point a system of rationing to our foreign customers. By making its intentions clear at the beginning of the crop year last fall, it would have held down prices at home and expectations abroad. It would have allowed traders to sell only what it could deliver, and it would have guaranteed those deliveries. But those opportunities were all lost months ago.

Instead, the administration is apparently going to spend another frantic weekend trying to devise, in great haste, a formula for allocating the remainder of the current soybean crop. There may be very little to allocate abroad, if the administration wants to push down the domestic price. Any allocation ought, obviously, to give preference to our steady customers, to the nations that depend upon us most heavily and to those who need the protein for human consumption.

But no solution now can be any more than a last-minute attempt to limit the damage. The Nixon administration and its Secretary of Agriculture have given us a farm policy that offers the consumer the highest food prices in history, while simultaneously putting the farmer in a squeeze that forces him to drown his chicks. To help things along, we cut off deliveries of goods already sold to the foreign nations that we have been pressuring heavily to buy more from us. Our economic foreign policy was, until last Wednesday, to promote vigorously our agricultural exports. But on Wednesday evening, our customers got the embargo. In agriculture as in the rest of its economic management, the administration falls from one emergency to another. Each solution tends to be whatever the administration said most recently it would under no circumstances ever do.

THE MINIMUM WAGE BILL AND YOUTH EMPLOYMENT

Mr. FANNIN. On behalf of the Senator from Texas (Mr. Tower), I ask unanimous consent that there be printed in the Record a statement by him and two insertions attached to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Minimum Wage Bill and Youth Unemployment

STATEMENT BY SENATOR TOWER

When the minimum wage bill is taken up this week the issue of youth employment will be debated at length. The unemployment rate for teenagers is four times the unemployment rate for adults. The unemployment rate for non-white teenagers is more than six times that of the adult population. In fact when disguised unemployment is taken into consideration it has been estimated that the non-white teenage unemployment rate is an unconscionable 53%.

The Committee bill, S. 1861, has totally ignored this problem. The substitute that Senator Fannin and I have proposed contains a youth differential provision that will provide for expanded employment opportunities for teenagers.

In failing to recognize this very serious problem, S. 1861 rejects the views of respected economists on both sides of the political spectrum. For instance, both Milton Friedman and Paul Samuelson have called for a legislative distinction between the adult and youth wage levels under the Fair Labor Standards Act.

The overwhelming evidence is that the minimum wage has had an adverse employment impact on marginal workers. Because of their lack of experience teenagers fall within the marginal worker classification.

One of the most articulate spokesmen for a youth differential has been Dr. Andrew Brimmer, a member of the Board of Governors of the Federal Reserve System. A most comprehensive economic analysis of this matter was done by Sar A. Levitan, Director of the George Washington University Center for Manpower Policy Studies and Robert Taggert, Executive Director of the National Manpower Policy Task Force. I add this study to the Record, along with an article by Dr. Brimmer which appears in the July issue of *Nation's Business*, as follows:

Don't Close the Job Door on Youth

(By Andrew F. Brimmer)

The jobless rate among American teenagers who want to work is three times higher than that of their elders. For young blacks, it's six times higher.

Although workers aged 16 through 19 are less than 10 per cent of the civilian labor force, nearly 28 per cent of all the unemployed are in that age group.

This problem of youth unemployment has

been with us for a long time, but it has gotten much worse in the past 10 years.

Among the causes: A substantial growth in the youth population; a larger number of students competing for part-time jobs; continuing movement of families from rural areas to cities, resulting in a sharp increase in the number of teen-agers who must compete in the urban job market; and the effect of the draft on hiring policies.

But to that list must be added the adverse impact on youth employment of the statutroy minimum wage.

Congress is now considering legislation to raise that pay floor once again and to expand coverage to additional categories of workers.

It is crucial that any such legislation permit employers to offer jobs to teen-agers at a wage rate below that set for adults.

If such an opportunity is not provided, the youth unemployment problem will almost certainly become even more serious than it already is.

* * * * *

In the first quarter of this year, the unemployment rate among workers 16 through 19 was 14.7 per cent. This was in sharp contrast to 5 per cent for the total labor force, 3.4 per cent for adult males and 5 per cent for adult women.

The situation was particularly distressing among black youths, with a 30.1 per cent unemployment rate. Among blacks generally, the overall rate was 9 per cent. It was 5.5 per cent for adult black males and 8.6 per cent for adult black women.

Among whites, the jobless rate for youths was 12.9 per cent, compared with 4.5 per cent overall; 3.1 per cent for men and 4.5 per cent for women.

Even apart from the proposed increases in the minimum wage, a number of studies by economists, including some in the federal government, have suggested that existing minimum wage legislation—the extent of coverage as well as the specific pay levels—has had a seriously adverse impact on job opportunities for young people.

The progressive extension of coverage to retail and service industries may have been especially burdensome.

Prior to 1961, only 6.2 per cent of wage and salary workers in the retail trade were covered by minimum wage legislation. Last year, 56 per cent were covered.

WHERE TEENAGERS WORK

In the service industries, 17.4 per cent of employees were covered prior to 1961, and 51.8 per cent last year. Hardly any farm workers were covered before the 1966 amendments to the minimum wage law, but 38.3 per cent are now under its provisions. In construction, coverage went from 41.7 per cent before 1961 to more than 90 per cent last year.

It is in retail trade and services that young people find jobs most frequently.

Last year, for example, nearly 40 per cent of all employed teen-agers were in retail jobs; about 25 per cent were in service establishments and another 6 per cent were in private households.

By contrast, less than 15 per cent were in manufacturing jobs; 6 per cent on farms, 5 per cent in construction and 2.5 per cent in transportation.

For job opportunities young people have come to depend heavily on areas in which average wages are typically below the average for the economy as a whole.

Conversely, high-wage industries employ relatively few teen-agers.

The implication of these patterns is self-evident: Teen-agers occupy jobs in industries where a further extension of minimum wage coverage and an increase in the rate would close the employment door for many of them.

UNDERCUTTING LABOR GAINS?

Before concluding, it is necessary to address issues which must be confronted if an entry wage for teen-agers is to be allowed.

A number of economists, public officials and other observers (as well as trade union officials) have long held that such a provision would undercut hard-won gains made by the labor movement over many years.

I admit that if employers could pay wages below the statutory minimum, they most likely would use the option to hire people whom they otherwise might not be willing to employ. That is precisely the point: The willingness of employers to bring in teen-agers presupposes that the newly-hired workers' productivity would at least equal the wage—after some reasonable allowance for learning time.

On the record, it appears that a substantial number of employers have concluded that a considerable proportion of young people simply cannot meet that test. An entry wage below the statutory minimum would help to reduce this employment disincentive.

At the same time, I also realize that safeguards would have to be built into an entry-wage plan.

Undoubtedly, some employers would try to replace some of their high-wage employees with workers to whom they could pay less. To prevent this, the Administration's proposal would limit an employer to no more than six workers or 12 per cent of his labor force, whichever is higher, who could be paid at the below-minimum rate. The fairly short period (up to 20 weeks) during which the below-minimum rate could be paid works toward the same objective.

While some risk remains, I believe it should be accepted in view of the persistent high unemployment among young people. I know that any substitution of lower-paid young workers for higher-paid, more mature employees would involve some cost. But some benefits would also result. Thus, it becomes a question of trade-offs.

Given the fact that the unemployment situation among teen-agers has been deteriorating for years, it is obvious that they have borne more than their share of joblessness. Moreover, there appears to be no prospect of significant improvement in the foreseeable future.

Relief is sorely needed. An allowance for an entry wage for young people would be a move in the right direction.

THE ECONOMICS OF YOUTH UNEMPLOYMENT IN THE UNITED STATES

(By Sar A. Levitan and Robert Taggart)

PART ONE: EMPLOYMENT PATTERNS AND PROBLEMS

The plight of our youth

Young people who want to work but cannot find jobs, parents whose children sit home or roam the streets with nothing to do, and those who must deal with the consequences of idleness and despair, all recognize that the youth of our nation face severe employment problems. Contrary to what many people may believe, the younger generation is not lazy or alienated from the "system"; the proportion of teenage male working or seeking jobs has remained relatively stable over the last decade, and has actually increased for young females. The problem is that a large and increasing number cannot find work. Nearly 17 percent of all 16 to 19-year-old youths who wanted jobs in 1971 could not find them. This unemployment rate was four times that for workers aged 25 and over. In 1960, it was only 3⅓ times as high, suggesting a long-run deterioration in the relative labor market status of youth (Fig. 1—not printed in the Record).

The employment of a teenager who may be looking for a part-time job after school to earn money for a car or a record collection is not as serious as the unemployment of an older full-time jobseeker with a family to support. Yet the problems of young people can have serious consequences. In the short-run, teenagers who cannot find jobs may be "turned off to the system," often shifting attention to less desirable pursuits which may have long-run effects. There is some evidence, for instance, that juvenile delinquency varies directly with the level of youth unemployment. Initial failures to find gainful employment compounded by a police record may complicate the transition into career jobs. Work experience can be useful in learning about the expectations of employers, where to apply for jobs, and how to perform at work. Though most of those who are unemployed as youths move into stable jobs as they mature, the transition is probably easier and may be more successful where previous experience has been gained.

A higher youth unemployment rate than that of adults can be taken for granted, given the propensity of youth to change jobs and try new experiences. The fact is, however, that most other industrialized nations have experienced in recent years less severe youth unemployment problems than the United States. In 1968, when tight labor conditions prevailed in the United States, unemployment among teenagers and the ratio of teenage to adult unemployment was higher than in most other industrial countries (Fig. 2—not printed in the Record).

The problems of our nation's youth are not, therefore, necessary results of an industrialized economy. An examination of the employment patterns and problems of teenagers in the United States may shed light on the factors contributing to our high rates of youth unemployment and might also offer insights into strategies that may ease their plight.

The period of transition

The teen years are a period of dramatic change (Fig. 3—not printed in the Record). At age 14 and 15, the overwhelming majority are in school, neither seeking nor holding jobs; even in the summer, less than a third look for work. Jobholding begins to increase at 16 and 17 among both students and the minority who drop out of school at this age. On the average, two-fifths of 16 and 17-year-olds are working or looking for work during the school year, with the proportion increasing to nearly half during the summer months. At age 18 and 19, most students leave high school, either going on to college or full-time employment. Seven of every ten males and a lesser proportion of females at this age hold or look for jobs, and one of every three has completed formal education. Finally, by the early twenties, most young people are employed and self-supporting. Only 35 percent are not in the labor force, with half of these still in school and most of the rest keeping house. Labor force patterns of young males and females differ significantly. Girls are less likely than boys to remain in school after age eighteen either because of marriage or because relatively fewer girls continue with education after high school. At all ages women are less likely than males to be found in the work force.

During the critical years of transition, young people become more committed to work. They seek more permanent and rewarding jobs as they look to the future. Only 11 percent of all 16 and 17-year-old workers held full-time jobs in 1970, and more than half of these worked thirteen weeks or less. Among 18 and 19-year-old workers, over half held full-time jobs; while at age 20 to 24, nearly four-fifths of those employed were full-time workers. Conversely, nearly half of all 16 and 17-year-old workers held part-time jobs for less than half of the year in 1970; but only a fourth of 18 and 19-year-old workers and 9 percent of those aged 20 and 24 had such marginal attachments to the labor force.

The shift from part-time intermittent work to full-time year-round employment is achieved through frequent job changing and penetration into new occupations. During the period 1966 to 1968, 55 percent of 14 to

24-year-old whites changed jobs at least once, as did 68 percent of young blacks. Job changing and the differing work patterns of school graduates entering the labor force for the first time, results in a significant change in occupational and industrial employment patterns over the teen years (Table 1). Sixteen and 17-year-olds are concentrated in sales, service and laborer occupations, while 20 to 24-year-olds are more likely to be clerical, professional or technical workers. There is a shift from wholesale and retail and private household work to manufacturing industries and education. These changes are observable for both sexes though they are much more extreme for males.

The increased stability of employment and changed occupational patterns result in higher earnings. In October 1969, 51 percent of 16 and 17-year-old workers earned less than the general minimum hourly rate of $1.60 and only 9 percent earned more than $2.50. Among 18 and 19-year-old workers, the proportions were 21 percent and 17 percent, respectively; while among 20 to 21-year-olds only 13 percent earned less than $1.60 and 33 percent over $2.50 per hour.

TABLE 1.—THERE IS A SIGNIFICANT CHANGE IN OCCUPATION AND INDIVIDUAL EMPLOYMENT PATTERNS OVER THE TEEN YEARS

[Percent distribution]

Major occupation group and sex	Both sexes						Men						Women					
	Enrolled in school			Not enrolled in school			Enrolled in school			Not enrolled in school			Enrolled in school			Not enrolled in school		
	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr	16 and 17 yr	18 and 19 yr	20 to 24 yr
Professional, technical, and kindred workers	1.9	6.2	28.1	0.3	2.5	13.9	2.2	7.2	26.8	--------	2.3	11.0	1.5	4.9	30.0	0.8	2.7	16.9
Managers, officials, and proprietors, except farm	.2	1.2	3.2	.6	1.8	4.7	.3	2.0	4.0	1.1	2.6	6.8	.2	.2	1.9	--------	.9	2.4
Clerical and kindred workers	15.8	30.2	29.1	15.5	29.7	28.2	6.0	14.8	19.7	5.5	8.3	9.6	27.7	50.4	43.6	29.7	51.4	47.9
Sales workers	10.7	12.4	8.4	2.3	6.5	5.0	8.3	8.7	8.4	.6	5.5	5.5	13.4	17.3	8.4	4.7	7.4	4.4
Craftsmen, foremen, and kindred workers	2.3	2.9	3.9	3.2	7.3	10.0	3.7	4.9	5.6	5.5	13.7	18.5	.5	.2	1.1	--------	.7	.9
Operatives and kindred workers	10.0	12.0	9.6	29.1	24.7	20.5	16.3	19.7	15.0	34.8	34.4	29.5	2.4	2.1	1.3	21.1	14.9	10.9
Private household workers	11.5	2.0	.7	5.5	2.0	1.0	.8	--------	--------	--------	--------	--------	24.5	4.5	1.8	13.3	4.1	2.0
Service workers, except private household	27.6	20.9	11.3	18.1	10.4	9.4	28.2	22.2	11.2	15.5	4.6	5.8	27.0	19.1	11.3	21.9	16.2	13.2
Laborers, except farm and mine	14.2	9.7	4.8	15.5	11.0	5.4	25.1	16.5	7.8	26.0	21.2	10.1	1.1	.8	.2	.8	.7	.5
Farmers and farm managers	([1])	.3	.1	--------	.2	.5	--------	.5	.1	--------	.4	1.0	.1	--------	--------	--------	--------	--------
Farm laborers and foremen	5.7	2.1	.9	9.7	3.9	1.5	9.0	3.5	1.4	11.0	6.9	2.2	1.6	.4	.3	7.8	1.0	.6
Agriculture	6.5	2.8	1.5	11.9	4.8	2.5	10.2	4.6	2.2	14.8	8.5	4.0	2.1	.4	.3	7.8	1.0	.9
Nonagricultural industries	93.5	97.2	98.5	88.1	95.2	97.5	89.8	95.4	97.8	85.2	91.5	96.0	97.9	99.6	99.7	92.2	99.0	99.1
Wage and salary workers	91.5	96.2	97.3	85.2	93.8	95.4	86.8	93.5	96.8	83.0	90.1	93.9	97.3	99.6	98.1	88.4	97.7	96.9
Mining	--------	.2	.3	.3	.4	.6	--------	.3	.4	.5	.9	1.1	--------	--------	.2	--------	--------	.1
Construction	1.5	2.4	2.4	5.5	5.6	5.8	2.0	3.6	3.6	8.8	10.2	10.5	.8	.8	.5	.8	.9	.7
Manufacturing	4.9	7.5	13.6	21.9	27.2	27.6	7.1	11.2	18.9	18.7	33.7	35.3	2.3	2.7	5.5	26.4	20.6	19.5
Transportation and public utilities	1.9	3.5	5.0	3.2	5.8	6.6	1.8	4.1	6.7	4.4	4.9	7.2	1.9	2.7	2.4	1.6	6.8	5.8
Wholesale and retail trade	47.1	38.9	22.6	25.4	29.2	18.2	50.5	41.0	24.1	28.0	30.3	19.6	42.9	36.3	20.1	21.7	28.2	16.6
Service and finance	35.3	41.5	48.9	27.3	23.2	31.6	24.8	31.6	37.9	21.4	8.3	15.7	48.0	54.3	65.9	35.7	38.3	48.6
Public administration	.9	2.1	4.5	1.6	2.3	5.0	--------	1.6	5.1	1.1	1.8	4.5	1.4	2.9	3.5	2.3	2.9	5.5
Self-employed and unpaid family workers	2.0	1.1	1.3	2.9	1.4	2.2	3.0	1.9	1.0	2.2	1.4	2.1	.6	--------	1.6	3.9	1.3	.2

Source: Bureau of Labor Statistics, Employment of School Age Youth, Special Labor Force Report 135, U.S. Department of Labor.

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[1] Less than 0.05 percent.

Patterns of unemployment

Given the jobseeking and jobholding behavior patterns of youth, it is not surprising to find that they have high rates of unemployment. For most 16 and 17-year-olds, and a substantial minority of those who are 18 and 19, school is the major activity and work can only be pursued on a part-time basis or during the summer months. In June and July, there is a flood of youths into the labor market, including those looking for temporary jobs and those who have left school and are seeking permanent employment. Each year this summer invasion reoccurs, though its impact depends on aggregate economic conditions which influence the number of available jobs. In 1970, for instance, 2.3 million more 16 to 19-year-olds were looking for work in July than in January (Fig. 4—not printed in the RECORD). The labor market could not absorb all these potential workers, and consequently the number of unemployed rose by 587,000. This seasonal pattern holds for both males and females, but males have a relatively easier time finding summer jobs and the number of unemployed does not rise as fast as it does for women.

Unemployment also results from the fact that youths often enter, leave and reenter the labor force. During the summer they may seek work after or before taking a vacation; during school, they may quit work during exams or seek it only over Christmas holidays. At each point of reentry, there is usually a period of unemployment accompanying the search for a new job. Many youths also enter the labor force for the first time during their teen years; without contacts, their job search is often protracted. Where most unemployment among adults is related to layoffs or quits from the previous job, most teenage joblessness is related to reentrance into the labor force or the search for a first job (Table 2).

Youth unemployment is also high because of the types of jobs they hold. These are usually the lowest paying and least attractive in the economy, providing little incentive for stable work patterns. They are also characterized by frequent layoffs and temporary hiring, so that young workers have little security. Though most youths end up in jobs of this sort because they are not yet committed to work, others who want rewarding, permanent jobs often have no alternative.

TABLE 2.—MOST TEENAGE JOBLESSNESS IS RELATED TO REENTRANCE INTO THE LABOR FORCE OR THE SEARCH FOR A 1ST JOB

	Reason for unemployment, 1971 (percentage)			
	Lost last job	Left last job	Re-entered	Never worked before
16 to 19 year old, unemployed	18	12	34	36
20 and over, unemployed	54	14	28	4

Source: Manpower Report of the President, 1972.

Seasonality, intermittant labor force participation, and work in peripheral jobs explain why the youth unemployment rate is higher than that of adults. But they do not account for the fourfold difference, nor do they account for the fact that different groups of youths have different chances of success at each point in their transition from school to work. By almost every measure, young blacks do worse than young whites and dropouts worse than graduates. Though unemployment rates decline for all groups with age, the differentials persist (Fig. 5—not printed in the RECORD). In this sense, youth unemployment is not one single problem, but many, since its burdens are unequally distributed over the teenage population.

PART TWO: THE CAUSES OF YOUTH UNEMPLOYMENT

A number of reasons account for the higher unemployment rate of teenagers in this country compared with other industrialized nations, and for their rising unemployment rate over the last decades relative to that of adults. First, the rapid unprecedented growth of the number of teenagers exceeded the number of jobs available for them, and primarily young workers competed for too few jobs. Second, institutional factors distorted the match-up of supply and demand forcing many youths into idleness. Demographic, economic and social conditions in this country have resulted in an increasing supply of youthful jobseekers, a too slowly growing demand, and a sometimes poor match-up of workers to available jobs.

Too Many Young Jobseekers

Between 1960 and 1970, the number of 16 to 19-year-olds in the civilian noninstitutional population increased by two-fifths while the adults aged 25 through 64 increased by only a seventh. Over the same period, the proportion seeking or holding jobs (i.e., the labor force participation rate) remained relatively constant, decreasing somewhat for nonwhite males who were increasingly enrolled in school while rising substantially for white females (Table 3). The average number of teenage labor force participants consequently rose from 4.8 million in 1960 to 7.2 million in 1970. The expanding economy absorbed most of this increase, but 1.1 million remained unemployed in 1970 compared with .7 million in 1960. There are precise ways to estimate what the unemployment rate would have been with a slower population growth, but it is clear that the rapid growth has been a major factor contributing to the surplus of unsuccessful youthful jobseekers. This rapid growth is not going to continue into the 1970's and this is likely to have a significant favorable effect.

From 1960 to 1968, the 16 to 19-year-old population increased on an average of 238,000 each year; between 1968 and 1975, it is expected to rise by only 161,000 annually; from 1980 to 1985, it should *decline* by 175,000 annually. The Labor Department estimates that the number of teenage labor force participants will grow by only 1.3 percent annually from 1968 to 1980, compared with 3.9 percent between 1960 and 1968. This demographic change should reverse the deterioration in the relative status of youth, and should contribute to an easing of their unemployment problem over the next decade.

DO THEY REALLY WANT JOBS?

Many oldsters would agree that "kids today are lazy and want the world on a platter." This myth persists despite the statistics which indicate that labor force participation rates among youths have increased slightly despite discouraging job prospects and rising school enrollment which should have produced a decline of jobseekers. Many write off these figures by claiming that unemployed youths do not really want jobs, that they have inflated expectations and are unwilling to do the many menial tasks which youths used to do in the past. Available evidence also contradicts this widespread notion. A survey of employed and unemployed youths, as well as those not looking for work but thinking about doing so within six months, revealed that those without work were willing to take jobs at very low pay—often below the minimum wage (Table 4). Their expectations were in no way inflated in comparison with the wage distribution of those who were employed.

If wage expectations are not inflated, there must be other explanations for the many menial jobs which remain unfilled even in a slack economy. The reasons are not hard to find. In many cases, youths can work only part-time and their schedules do not jibe with job opportunities. In other cases, the jobs require commuting which may be difficult for teenagers and not very profitable when wages are low. And certainly in some cases, the jobs are beneath the dignity of youth, who are not driven from economic necessity. In the aggregate, however, there is little evidence of either alienation or inflation of expectations among young people.

TABLE 3.—BETWEEN 1960 AND 1970, TEENAGE LABOR FORCE PARTICIPATION RATES REMAINED UNCHANGED FOR WHITE MALES, ROSE FOR FEMALES, AND DECLINED FOR BLACKS

	White males		White females		Nonwhite males		Nonwhite females	
	16 to 17	18 to 19	16 to 17	18 to 19	16 to 17	18 to 19	16 to 17	18 to 19
1960	46.0	69.0	30.0	51.9	45.6	71.2	22.1	44.3
1961	44.3	66.2	29.4	51.9	42.5	70.5	21.6	44.6
1962	42.9	66.4	27.9	51.6	50.2	68.8	21.0	45.5
1963	42.4	67.8	27.9	51.3	37.2	69.1	21.5	44.9
1964	43.5	66.6	28.5	49.6	37.3	67.2	19.5	46.5
1965	44.6	65.8	28.7	50.6	39.3	66.7	20.5	40.0
1966	47.1	65.4	31.8	53.1	41.1	63.7	23.6	44.0
1967	47.9	66.1	32.3	52.7	41.2	62.7	22.8	48.7
1968	47.7	65.7	33.0	53.3	37.9	63.3	23.3	46.9
1969	48.8	66.3	35.2	54.6	37.7	63.2	24.4	45.4
1970	48.9	67.4	36.6	55.0	34.8	61.8	24.3	44.7
1971	49.2	67.8	36.4	55.0	32.4	58.9	21.9	41.1

Source: U.S. Department of Labor,

TABLE 4.—UNEMPLOYED YOUTH WERE WILLING TO TAKE JOBS AT VERY LOW PAY—OFTEN BELOW THE MINIMUM WAGE

	Hourly rate of pay, Oct. 1969 (percentage)		
	Earned by employed	Acceptable to unemployed	Acceptable to those not in labor force
16 and 17 years old:			
Males:			
Less than $1.60	47	58	46
$1.60 to $2	38	38	45
$2 and over	15	4	9
Females:			
Less than $1.60	57	58	58
$1.60 to $2	34	40	38
$2 and over	9	2	4
18 and 19 years old:			
Males:			
Less than $1.60	19	20	22
$1.60 to $2	34	50	47
$2 and over	47	30	31
Females:			
Less than $1.60	16	23	24
$1.60 to $2	34	47	47
$2 and over	50	30	29

Source: Young Workers and Their Earnings, Special Labor Force Report 132. U.S. Department of Labor.

Other factors affect the supply of teenage labor. One of the most important is school attendance. Youths in school are not available for full-time employment. Increased school attendance, therefore, reduces the full-time equivalent jobs needed for youth, though it intensifies competition for part-time and seasonal employment. Over the last twenty years, there has been a dramatic increase in the proportion of teenagers attending school. In October 1971, 75 percent of all 16 to 19-year-olds were enrolled in school compared with 68 percent in October 1960. Students who accounted for only 41 percent of the teenage labor force a decade ago, comprised 56 percent in October 1971. The competition for part-time jobs is especially rough because older women entered the labor force in increasing numbers over the last decade. Thus, student jobseekers multiplied and their share of teenage unemployment rose from 30 percent of the unemployed in October 1960 to 54 percent eleven years later.

Another important factor affecting the supply of young workers is the number of potential workers who are withdrawn from the labor force to serve in the military. During the middle 1960's, the growth of the armed forces eased the competition for jobs among teenage males, as the number in the service rose by 200,000 to a total of 590,000 in 1967. With the deescalation of the Vietnam war, 399,000 teenagers were left in the armed forces three years later, and the number is still declining.

As for the future, there will probably be a leveling off of school enrollments, a stabilization of military enlistments, and a declining rate of growth of population. The more slowly growing supply of young jobseekers will have a favorable impact on unemployment.

TOO FEW JOBS

The number of employed teenagers increased by more than a million between 1960 and 1970, but employment would have risen even more if the occupations and industries in which youth are over-represented had grown at the same rate as over-all employment. [It has been estimated that employment in the kinds of jobs which typically employ three-fourths of the teenagers increased 20 percent in the past ten years, while the supply of teenagers in the labor force rose by over 50 percent. According to a representative of the AFL-CIO, another factor is the increasing labor force participation of married women 35 years of age and over.] While nonhousehold service jobs in which teenagers are over-represented increased rapidly, nonfarm laboring jobs grew only slowly while private household and farm employment in which they are also over-represented declined precipitously (Table 5). Only a small proportion of youths are in the professional, technical and managerial occupations which grew rapidly over the last decade.

TABLE 5.—NONHOUSEHOLD SERVICE JOBS IN WHICH TEENAGERS ARE OVERREPRESENTED INCREASED RAPIDLY, WHILE PRIVATE HOUSEHOLD AND FARM EMPLOYMENT DECLINED PRECIPITOUSLY

[In percent]

	16 to 19-year-olds Ocober 1971	16 and over 1971 average	Employment 1960 to 1970
Clerical workers	20.1	17.0	+38
Services except private household	21.4	11.6	52
Operatives	17.4	16.4	9
Nonfarm laborers	14.3	5.1	13
Sales workers	9.0	6.4	20
Private household workers	5.3	1.9	−33
	16 to 19-year-ods October 1971	16 and over 1971 average	Employment 1960 to 1970
Farm workers	4.9	3.8	−42
Craftsmen and foremen	4.2	12.9	19
Professional, technical and managerial	3.4	25.0	36

Sources: Manpower Report of the President, 1972, and Bureau of Labor Statistics, Employment of School Age Youth, Special Labor Force Report 135, U.S. Department of Labor.

These aggregate figures are misleading, since teenagers represent only a small minority of the employees in any industry. Their problem is not the lack of enough jobs, but the fact that they are at the end of the labor queue—the last to be hired and the first to be fired. Employers are reluctant to hire teenagers when older workers are available. In many cases, their reasons are valid, but too frequently failure to hire youth is the result of arbitrary discrimination (Table 6).

Institutional impediments

Though demand and supply factors largely determine the unemployment rate of teenagers, institutional factors such as labor market regulations and the ties between school and work have an impact which is probably significant though difficult to measure.

To some extent, the employment problems of the young are aggravated by the labor market regulations designed to protect their welfare. State and federal minimum wage and child labor laws have played a major role in reducing the exploitation of young workers. Yet they have also contributed to the rising rates of teenage unemployment by prohibiting specific jobs, restricting others, and discouraging employers from hiring youths. [Representatives of the AFL-CIO deny this, asserting that there was a sharp rise in teenage employment between 1958 and 1968, despite improvements in the minimum wage law.] The major relevant federal law is the Fair Labor Standards Act. For covered employment in industries involved in interstate commerce, this law sets a basic minimum working age of 16. Under special circumstances, 14- and 15-year-olds are allowed to work outside of school, though maximum hours are set and night work is out. Those under 16 may not be employed in agricultural work during school hours or at any time in dangerous occupations. In addition, 17 occupations are classified as hazardous, from which anyone under 18 is excluded.

TABLE 6.—FOR A VARIETY OF REASONS, EMPLOYERS ARE RELUCTANT TO HIRE TEENAGERS WHEN OLDER WORKERS ARE AVAILABLE

	Rank importance of reasons for difficulty in placing teenagers based on local employment service office experience during fiscal year 1969 [1]			
	16 and 17 years old, full time	18 and 19 years old, full time	16 and 17 years old, part time	18 and 19 years old, part time
Legal restrictions on hours of work, hazardous work, or other working conditions for teenagers	2.75	1.41	2.71	1.45
State laws require too much paper work such as work permits	1.85	1.07	1.59	1.05
Level of the minimum wage has caused employers to seek older, more experienced workers for jobs	1.77	1.54	1.66	1.53
Uncertainty over the draft makes employers reluctant to hire teenagers	1.32	2.44	1.18	1.48
Unwillingness of teenagers to accept wages usually offered for jobs they are qualified to take	1.79	2.10	1.64	1.87
Hiring specifications of employers with respect to education and experience are so high that most teenagers are excluded	2.28	1.95	1.96	1.54
Employers' hiring specifications with respect to age excluded teenagers	2.44	1.56	2.23	1.47
Employer fear of higher cost of workmen's compensation and other insurance when teenagers are employed	2.19	1.59	2.09	1.48
Employers believe that teenagers are not reliable	2.54	2.10	2.30	1.95
High labor turnover among teenagers	2.31	2.14	2.22	2.01
High cost of hiring and training teenagers	1.65	1.58	1.57	1.41

[1] Rating scale: very important—3; important—2; unimportant, irrelevant or untrue—1.

Source: Bureau of Labor Statistics, Youth Unemployment and the Minimum Wage, Bulletin 1957, U.S. Department of Labor.

There are also child labor laws in every state. These cover intrastate commerce and in some cases supersede FLSA regulations with more stringent standards. Most of these laws require work permits, regulate the minimum employment age and maximum employment hours, restrict certain occupations and night work, and require school attendance to a specified age. Almost half the states set a minimum of 16 for employment in manufacturing establishments, and most have a minimum age of 14 for work outside of school hours. All but five require an employer to get a certificate in order to hire anyone under 16, with almost half requiring work permits for 16 and 17-year-olds. Most states require full-time school attendance until age 16, though eight extend this requirement until age 17 and four until age 18.

* * * * *

Few employers want to get involved in the red tape of hiring these younger teenagers. If they are willing to hire a youth, and are permitted to do so by law, they can usually find an unemployed 18 or 19-year-old to fill their needs. But even older teenagers are affected. Legal restrictions are viewed by employers as the single most important reasons for not hiring 16 and 17-year-olds (Table 6).

Minimum wage laws may also have a significant impact on the work experience of youths. Under the Fair Labor Standards Act and a number of state laws, minimum wages are set for most industries. The federal minimum, which covers 46 million wage and salary workers, is $1.60 per hour for all but agricultural workers. Over the decade it has increased from $1.15 in 1961 to $1.25 in 1963, $1.40 in 1967, and to its present level in 1968. These increases were accompanied by extensions in coverage and a raise in the wage paid to millions of workers including many youths.

However, these increases and extensions are also blamed for the rising levels of youth unemployment. Theory suggests that under competitive conditions an "artificial" floor which raises wages above the productivity of the least qualified employees will lead some employers to substitute more experienced or skilled workers, will force marginal firms out of business, and will lead others to mechanize in order to reduce the size of their labor force. These adjustments lead to a fall in employment opportunities for those at the end of the labor queue, the younger jobseekers In reality, the picture is much more clouded because many industries are not purely competitive and because many other factors enter into the picture. Economists disagree about the extent of the negative employment effect of statutory minimum wage rates, some saying that there has been no noticeable decline in youth employment as a result of the increases in the minimum, others claiming that there has been a statistically significant fall after each increase. The majority seem to agree that the long-run impact has been to slow the growth of those sectors that traditionally employ youths.

[The AFL–CIO denies that minimum wage laws cause unemployment. They cite such factors as the job competition provided by increasing labor force participation on the part of married women over 35 and the massive influx of teenagers into the labor force. As for the higher unemployment rates among black teenagers, the AFL–CIO points to such problems as racial discrimination in education and hiring, the migration of large numbers of blacks from the rural South to the cities and the mechanization of farming.]

Another reason why youths fare so poorly in their first contacts with the world of work is that the schools often do a poor job of preparing them for the transition. There is mounting evidence that the school system is too little concerned with the application of what is taught, especially its relevance to work. Students learn to pursue academic goals, to learn for learning's sake. They are prepared to be better students rather than more productive and satisfied workers.

It is a rather dismal commentary that vocational education courses are the only points of contact which many school curricula have with the job market. These courses are often inadequate. Many students are being trained in skills for which the demand is declining; equipment and instruction are out of date. Nevertheless, the vocational education program has demonstrated that it can help nonacademic students improve their employability and earnings. Unfortunately, little effort is made outside of vocational education to try to counsel or guide or prepare students for meaningful jobs after high school.

The acute problems of ghetto blacks

A dozen years ago, James B. Conant, former President of Harvard University, warned that "the existence in the slums of our large cities of thousands of youths . . . who are both out-of-school and out-of-work is an explosive situation. It is social dynamite." The succeeding decade witnessed sustained economic growth and rising standards of living accompanied by intensified commitments to improve the quality of education for the poor, to break down the barriers of discrimination and to increase the employability of disadvantaged workers through extensive manpower services. These developments produced real gains, and it seemed for a while that slow but steady progress was being made in attacking the employment problems of ghetto blacks.

Unfortunately, the telltale symptoms began to reemerge as economic growth stalled in 1969. By the end of 1970, the serious economic decline had eroded all the ground that had been gained and more. Of 2.4 million nonwhites age from 16 to 24 in the civilian noninstitutional population in 1960, only 60 percent were looking for or holding jobs, and 18 percent of them were unemployed. By 1970, the number of black youths in the same age bracket rose by nearly 4 million, but their labor force participation rate dropped to 55 percent and their unemployment rate rose to 19.4 percent. To make matters worse, the unemployment status of black youths had deteriorated significantly relative to that of other groups in the labor force. In 1960, the unemployment rate of nonwhites aged 16 to 24 was 1.6 times that for all youths; by 1970, it was 1.8 times as high. Over the same period the rate of black youth unemployment increased from 3 to 6 times that for all labor force participants aged 25 and over. Teenage blacks also lost ground relative to older blacks whose employment status improved markedly during the 1960's.

The problems of black youths who live in densely populated urban areas are more severe, and their consequences are pervasive. In the hundred largest metropolitan areas there were, in 1970, 1.2 million nonwhite youths aged from 16 to 19 and 1.3 million aged from 20 to 24, with a 30 percent unemployment rate for teenagers and 13 percent for those in older youth brackets. In the poverty areas within these large cities—the areas usually referred to as ghettos, which contain over a million nonwhite youths—conditions were worse still, and unemployment figures were significantly higher than those for white poverty area residents in comparable age brackets. Young blacks are clearly much worse off than whites or older workers, whether they live in urban areas or in the ghettos within these areas.

Unemployment is but one of the problems facing black ghetto youths. In almost all dimensions of labor force activity, they are worse off than other youths. Their wages are lower; they work fewer hours; their jobs are less attractive; and their advancement is more limited. Though the statistics that measure these difficulties may not be as accurate for the ghetto as for other areas, they tell a depressing story. And more likely than not, they understate the real problems. Interviewers simply miss many of those who are out of work, and those supported by illicit activities may claim to be working. In either case, the number of unemployed is undercounted. Whatever the inaccuracies of the statistical measure, the difference between the work patterns in the mainstream economy and those of black youth in the ghetto are staggering.

Unfortunately, there is no basis for optimism in the near future. Though the growth of the white teenage population will slow precipitously, that of black youths will continue at a high rate (Fig. 6—not printed in the RECORD). Unless the barriers to equal opportunity are eliminated, black youths may benefit very little from the more favorable labor market conditions facing white youths in the 1970's.

PART THREE: ALLEVIATING YOUTH EMPLOYMENT PROBLEMS

Efforts to alleviate youth unemployment have intensified as their problems have grown more severe over the last decade. A variety of measures have been instituted which, though unable to reverse the rise in teenage joblessness, have undoubtedly stopped it from becoming even worse. Other actions have been proposed on the basis of careful analysis of youth employment problems. In the broadest terms, these measures seek to control the supply of teenage workers to increase their job opportunities, and to alter the institutional impediments to their employment.

The supply of teenage jobseekers

Even if nothing is done, the employment problems of young people probably will ease over the coming years because of the slowing growth of the teenage population. More active public policies are needed, however, if youth unemployment is to be significantly reduced.

One frequently recommended action that has been implemented only sparingly, is to continue school throughout the year. Summer vacations might still be needed in rural areas to release youths for farm work, but even this is questionable with the decline of family farms. There is no reason why high school as well as college could not be run on a quarter or trimester system, with equal proportions of students having their vacation in each period (if vacation is felt to be needed). There are now more than 300 colleges which offer work-study programs on an optional basis or in certain departments, but a growing number have instituted mandatory plans for all students. Besides utilizing educational facilities and staff year round, this would have several favorable labor market impacts. Rather than increasing dramatically each summer, the supply of young job seekers would remain relatively constant throughout the year. Reduced seasonality would contribute to reduced unemployment. It would also facilitate work experiences or cooperative education programs. And conceivably, full-time year-round student jobs could be established since employers could count on a steady youthful labor supply.

Continued efforts to reduce the number of school dropouts will also have a favorable impact. Not only are dropouts more likely to compete for scarce jobs, but they are also less likely to find them because they lack the credentials and skills demanded by employers. Their unemployment rate is half again as high as that of 16- to 19-year-old high school graduates. Despite notable progress over the last decade, 655,000 young people aged 16 to 24 dropped out of school between October 1970 and October 1971 before completing high school. Though this may be a symptom rather than a basic cause of a youngster's problems, there can be no doubt that a reduction in the number of dropouts would lower the teenage unemployment rate.

Another measure which might have a favorable impact is the planned reorientation of the armed services. For many youths, including some of the most hard-core, the military has provided opportunities for training and work experience. It will be even more valuable as combat missions decline and more useful skills are provided as the armed forces become increasingly dependent upon volunteers. Conceivably, many youths who cannot find jobs in the civilian labor market may be attracted by the opportunities for work and training in the military. The scale of the armed forces may not increase significantly, but they may have a more significant impact on youth employment problems.

Expanding demand and training

The *sine qua non* for reducing youth unemployment is a healthy economy. When aggregate unemployment is reduced, teenagers benefit more than older workers; when it rises, they are the ones who are hurt the most (Fig. 7—not printed in the RECORD). Monetary and fiscal measures to stimulate the economy are therefore vital if the rate of youth unemployment is to be significantly improved.

If the *relative* unemployment differential is to be reduced, however, it is necessary to increase the share of jobs for youth. Several manpower programs have been established for this specific purpose. The largest is the Neighborhood Youth Corps (NYC) program. The in-school segment provides part-time jobs for needy students, serving 120,000 in fiscal 1971. The summer programs provide temporary jobs for disadvantaged youth, serving 567,000 in 1971. Initially, these programs were intended to forestall dropouts and to provide some useful training but for the most part, they have become job creation programs. In-school participants work as library and classroom aides or as general helpers. Summer participants work in recreation and clerical jobs and do clean-up work. Whether or not such efforts are productive, the program has proved popular and it is expanded every summer to meet the annual job crisis.

There are other job creation efforts. Federal agencies provide special jobs for young people in the summer months. The Job Opportunities in the Business Sector (JOBS) program also makes an annual appeal to businesses to create summer work. Overall, these efforts are claimed to have resulted in * * * jobs for youth under 22 during the summer of 1971. Without NYC and the other summer job creation efforts, unemployment among teenagers would be even worse. If it is assumed that half of the 817,000 first-time enrollees in 1971 summer programs would have been otherwise unemployed, the unemployment rate of teenagers would have been at least a fourth higher.

There are other manpower programs that emphasize training and education, and offer their services to improve future employability, but these also provide income and draw youthful participants out of the job market at least temporarily. The Job Corps offers very concentrated assistance to the most disadvantaged youths, most often in residential training centers. The cost runs over $8,000 per man-year, and there were some 50,000 first-time enrollees in fiscal 1971 who were 21 or under. The NYC out-of-school program is oriented to teenage high school dropouts, and it is intended to provide remedial education and skill training along with useful work experience. There is no evidence as yet that its services have increased future employability or that productive work has been performed, but over 50,000 first-time enrollees received incomes and were kept busy in 1971. The Work Incentive program provides counseling and training to welfare mothers so that they can find jobs and cut down on needed support. There were an estimated 31,000 young women who participated in 1971. The Concentrated Employment Program, mostly operating in ghetto areas, is meant to provide an assortment of services tailored to individual needs, serving 44,000 youths 21 and under in fiscal 1971.

In addition to these federally initiated manpower programs, there are also a number of apprenticeship training programs run by unions, employers, trade associations and other groups. These serve mostly 16 to 26-year-olds seeking to learn a craft, and in 1970 45,000 completed training and 280,000 were enrolled in these programs. Formal apprenticeship serves the less than college educated youths to get into higher paying skilled trades or crafts.

Institutional changes

An alternative way of increasing jobs is to eliminate institutional impediments to the employment of teenagers without sacrificing the protections provided by youth labor market regulations, and much can be done to eliminate unnecessary obstacles. At the very least, procedures should be brought up to date to make work permits simpler to get, and restrictions should be clarified so that they do not unnecessarily discourage employers. But more substantive changes may also be worthwhile. Provided school attendance laws are enforced and certain dangerous occupations are precluded, restrictions on youth employment should be eased to allow young people to decide for themselves when and where to work. If this occurred, there would certainly be incidents of exploitation, but these could be handled on a case-by-case basis. And as jobs expand in the more stable and higher paying sectors of the economy, low paying employers will meet stronger competition of youthful employees.

Although economists continue to debate the impact of minimum wage changes on youth employment, most agree that there has been some negative impact, at least over the long run. The raising of the minimum wage from $1.60 to $2.00 an hour and the extension of coverage is likely to aggravate youth employment problems. It may be worthwhile, therefore, to initiate a dual minimum with one rate for adults and a lower one for youth. This could be accomplished, for example, by establishing a lower minimum for those under 18 as the minimum hourly rate is raised for everyone else.

Whether this differential would result in any significant increase in youth employment cannot be known. Many employers feel that the level of the minimum wage is very important in deciding whether to hire youth and that a large differential would encourage substantial employment. Several other countries with such a dual system have much lower teenage unemployment rates. On the other hand, several states already have dual rates, and these have experienced no discernably lower rate of youth unemployment. Little use has been made of procedures under the Fair Labor Standards Act which permit the payment of lower wages to learners, although the red tape involved may have been a deterrent.

Whatever the employment impact, there is little danger that youths will be hurt by a dual minimum wage. They would be protected by the lower secondary minimum, and this is adequate since most are only marginal workers supplementing family incomes or earning extra cash. Also, a substantial minority now work in jobs not covered by the federal law; their wages would actually rise if coverage were made universal and they could keep their jobs. If it is found that this dual minimum approach is ineffective for any of a number of possible reasons, it can be changed with little difficulty.

[The AFL–CIO position is that there should be a single standard for all workers regardless of age, sex, color or creed, and that the "subminimum" for teenagers would reshuffle unemployment by inducing employers to hire teenagers rather than adults, thus putting some adults (including many who are heads of families) out of work. Their answer to the problem is to promote a growing economy and full employment. If regular job markets fail to provide sufficient job opportunities, there should be a federal program of public service employment in such things as recreation centers, hospitals, schools, parks and other public and private nonprofit facilities. The AFL–CIO also calls for an expansion of the Neighborhood Youth Corps, maintenance of the Job Corps program and improved vocational training in the school systems.]

Institutional changes are also needed to increase the ties between school and work. If more were done within the school system to prepare young people for jobs, they would have far fewer transitional problems. There is nothing wrong with training generalists in the liberal arts tradition, but students should be increasingly exposed to the types of demands which will be made in their future work life and to the ways in which their knowledge will be productively applied. This involves a change in the total educational approach, to make it more relevant to the needs of students.

On a limited scale, much can be done to improve vocational educational programs. The first step is to implement the changes which were legislated in 1968. More adequate funds must be appropriated for training teachers, improving facilities, planning and administering new course offerings, and for serving the disadvantaged. Appropriations have been far below allocations in all these areas, and unless substantial incentives are provided, the pace of improvement will be slow.

A reorientation is needed, away from specific training to instruction in work methods, occupational demands, and clusters of related skills. This approach should be tested before vocational courses are reequipped with modern skill-specific equipment. It is also vital that vocational educators—or someone else in the school system—are funded to provide intensive job counseling and placement services, including several years of follow-up. The problem of students more often is the lack of labor market information than of marketable skills.

Career education

There is increasing recognition among educators and policy-makers of the dichotomy between the world of school and the world of work. A variety of reforms have been proposed to bridge this gap, which together represent a new thrust in educational philosophy and policy: *Career Education.*

Career education can be defined as "the total effort of public education and the community aimed at helping all individuals to become familiar with the values of work-oriented society, to integrate these values into their personal value systems, and to implement these values in their lives in such a way that work becomes possible, meaningful, and satisfying to each individual." Conceptually, this approach has several distinct components. First, work attitudes and values are to be taught in the school and in the home, with task assignments and responsibilities preparatory to later work. Second, classroom teachers will emphasize the career implication of all subjects, or in other words how abstract academic matter will be later applied in the workaday world. Third, an effort will be made inside and outside the school to determine the aptitudes and abilities of each individual, to expose him or her to alternative career choices, and to provide counsel to produce the most satisfying educational and occupational choices. Fourth, vocational skill training will be provided to prepare students for successful entry in the occupation world, though training will be flexible and broad-ranging enough to change with the needs of the occupational society. Fifth, education will increasingly move outside the classroom, with participation in training programs, cooperative education, educational site visits and other methods of getting students into "real world" settings.

Career education is more a set of goals than a specific system for educating youth. In broad terms, however, it implies altered emphasis and approaches at all levels. At the elementary level, students would receive general job information, and an effort would be made to instill positive work attitudes. In junior high school, several clusters of occupations might be explored through field observations as well as classroom instruction. In senior high school, students would receive either intensive job preparation for immediate entry into the labor market, preparation for postsecondary occupational education, or preparation for college. But no matter which direction was chosen, all would receive occupational guidance and instruction better preparing them for work.

Career education is still an experimental concept. Even if it proves successful, it can be implemented only gradually. Yet it offers real promise in easing the transition between school and work, and alleviating some of the employment problems of youth.

It is likely that educational institutions at the secondary, postsecondary and college level will be undergoing drastic changes in the next few years as they have recently. Several developments might increase the ties between school and work, and these should be considered if the institutions are to be revamped on a large scale.

The private sector could play an increased role in vocational education. Several central city high schools have been "adopted" by large corporations. Though these have not been spectacularly successful, they have demonstrated that if training is provided for specific jobs and employment is assured at the end, dropouts can be reduced among less qualified students who might otherwise take to the streets. The government should provide assistance for these types of activities on an experimental basis and should carefully evaluate their effectiveness. Community colleges concentrating on distributive education might also be expanded. Lower income and less endowed students could then combine work with longer education, and could acquire skills which could be directly translated into increased economic opportunities.

At the college and university level, opportunities must be opened for work on perhaps a quarterly basis which, as suggested, would help to ease summer job shortages and could provide much-needed work experience. Curricula could be restructured to permit this pattern of employment, and public sector jobs in human services could be funded on a permanent basis which would be structured for a continuously rotating body of workers.

Comprehensive public policy

There are no panaceas for teenage employment problems but as the pressure of rapid population growth eases over the next decade, a concerted effort to solve these problems can have a very significant impact. A comprehensive public policy for alleviating youth unemployment would include the following measures:

1. Monetary and fiscal actions would be taken to maintain the rate of aggregate unemployment at 4.0 percent or lower. Only in tight labor markets can youth compete successfully for a larger share of jobs.

2. High schools and colleges would gradually shift to a year-round schedule with staggered vacations, reducing the seasonality of labor force participation.

3. Efforts would be continued to reduce the number of high school dropouts, and where these fail, remedial training programs would be instituted on a broader scale to help overcome individual handicaps and to assist the placement of out-of-school jobseekers.

4. In shifting to a volunteer basis, the armed forces would seek to attract as many youths as possible who have no other opportunities except peripheral work and unemployment.

5. Job creation programs would be expanded, including those in both the public and private sector. The latter are especially important if employer prejudice is to be overcome. "Outreach programs," to motivate and assist young people for entry into apprenticeship programs and skilled occupations, should be expanded.

6. Child labor laws would be reformed and simplified as far as possible while still maintaining protection for youth. A dual minimum wage would be at least tried until its effectiveness could be determined.

7. Vocational education would be expanded and improved, and all students would be given broader exposure to the world of work to ease their transition into the labor market.

A labor force participant is either employed or unemployed. The employed individual is one who works at least one hour a week in paid employment, 15 hours a week or more without pay in a family enterprise such as a farm or store, or else is not at work because of vacation, a strike, illness or bad weather, though still having a job. The unemployed person is out of work but actively seeking a job. The residual are nonlabor force participants who either do not want to work or would like a job but are not actually searching for one.

Based on these classifications, two major measures of work activity are calculated: Labor force participation and unemployment rates. The first of these is the ratio of labor force participants to the total civilian noninstitutional population; calculated for a variety of age and race groups, it suggests the proportion who are currently involved in the world of work. The unemployment rate is the ratio of unemployed persons to the number of labor force participants; in other words, it indicates the number of those who want to work and are actively seeking a job who cannot find one.

For the adult population, these measures are fairly good indicators of the employment situation in the economy, and even more, of the improvement and deterioration of employment problems. When applied to younger groups, however, these measures are less meaningful.

For one thing, a large proportion of teenagers work in part-time jobs, for instance, as babysitters or lawn mowers, for a few hours a week. They are counted as employed though they may very much want a full-time job. Another difficulty is that jobsearching by youth is usually an informal process, i.e., a teenager may only look for work if he or she knows a job is available. When there are none, jobseeking may decline and they will not be counted among the unemployed or among labor force participants. Similarly, if a person is looking for a future rather than an immediate job, as many students do as summer approaches, they are not counted among the unemployed, nor will they be if they give up the search and opt for leisure in the summer though they would prefer to work. It is not surprising, therefore, to find that when teenage unemployment rises, the rate of labor force participation falls. This is evidence that there are a number of youths, especially in slack times, who would like to work but have become discouraged and left the labor force. There is no doubt that measured unemployment rates seriously understate the problems of youth.

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A SMALL PRICE TO PAY TO PROTECT OUR CHILDREN: S. 1191, THE CHILD ABUSE PREVENTION ACT

Mr. CRANSTON. Mr. President, as a member of the Labor and Public Welfare Committee's Subcommittee on Children and Youth, I was pleased to join with the subcommittee's dedicated chairman, Senator Mondale, in sponsoring S. 1191, the Child Abuse Prevention Act, unanimously passed by the Senate Saturday, July 14. The Subcommittee on Children and Youth, under Senator Mondale's able leadership, has conducted an extensive series of hearings on S. 1191.

We also received testimony on child abuse at the June 16 Los Angeles joint hearing of the Special Subcommittee on Human Resources—which I chair—and the Subcommittee on Employment, Poverty, and Migratory Labor—on which both Senator Mondale and I serve. I was privileged to chair these joint hearings—held in San Francisco and Los Angeles on June 15 and 16—which were conducted to investigate the effects of the proposed administration budget cuts in human resources programs. I was particularly delighted that Senator Mondale was able to attend both the San Francisco and Los Angeles hearings.

Again and again during the hearings on S. 1191 the tragic story of abused children—victims of psychological and emotional abuse as well as the truly shocking incidence of physical abuse—has been told.

Mr. President, according to information gathered by the subcommittee and substantiated by the National Center for Prevention and Treatment of Child Abuse and Neglect in Denver, Colo., as many as 60,000 children nationally are abused annually. Witnesses throughout the hearings were unanimous in the belief that this estimate is undoubtedly low, and that the reported incidence of child abuse represents only a small portion of the children who are actually abused. During testimony in Los Angeles, Mrs. Elizabeth Davoren, psychiatric social worker and author of "The Battered Child in California: A Survey," indicated that her study has revealed that in California alone 20,000 child abuse cases occurred last year. That would indicate that the rate of national child abuse is likely more than 100,000 children annually.

The disgraceful and all too frequent occurrence of child abuse can take many forms. In a paper presented at the American Academy of Pediatrics, the Committee on the Infant and Preschool Child stated:

> It [child abuse] may be serious gross neglect of the child's welfare to the point of starvation, cruelty resulting in emotional damage to the child, or physical assault by a parent, older sibling or person charged with the care of the child. . . .

But in any form, child abuse takes a toll of incredible magnitude. A child may develop emotional problems which can deny the child a full and meaningful life; the child may be maimed, scarred irreparably, or may even die—as recently happened in Maryland.

One of the clearest and most readily recognized characterization of child abuse appeared in an article about the organization "Parents Anonymous"—an organization which I think has contributed greatly to helping prevent child abuse. The article, in the magazine Woman's Day, stated:

> Abuse can take many forms, from physical beatings to verbal attacks or icy withdrawal. All parents feel occasional urges to wack their children, and may sometimes give in to the impulse. But those who come to Parents Anonymous find themselves doing it consistently and uncontrollably.

Mr. President, our current social institutions are not adequate to deal with this problem. During the hearings in Los Angeles, I was shocked to hear a witness—a former child abuser and now a member of Parents Anonymous—tell the story of how she had recognized her problem and sought help from the various public social services agencies, only to be bounced from one agency to the next. She didn't get help. She finally seriously abused her child. And then she was afraid to go to a public agency—for fear she would lose her child, and possibly go to jail. She had gone through, as Jolly K., the founder of Parents Anonymous, put it, "sheer emotional torment."

In this instance the much ill-famed redtape of Government bureaucracy took two victims, the parent, attempting to seek help who received none; and the child, who eventually became the physical outlet of the parent's frustrations.

Mr. President, that story told at our hearing last month, by a woman who so strongly felt the need for increased efforts in the prevention of child abuse that she appeared publicly to tell how she had abused her own child, is nothing less than outrageous.

We are simply not getting the job done. The Federal effort in programs dealing with child abuse is extremely limited. HEW testified before the subcommittee that only $507,000 in fiscal year 1973 was made available to child abuse programs. Moreover, it was noted in the committee report (Senate Report No. 93–308) that:

> Not one employee of the entire Federal Government works full-time on the problem of child abuse.

UGRENT NEED FOR S. 1191

Mr. President, during the last decade every one of the 50 States has either passed or updated laws requiring reporting of child abuse or suspected child abuse. While some of the details of these statutes differ, the differences do not really matter—because none of the laws have acted as an effective deterrent to child abuse. The committee report on S. 1191 states that one of the reasons for the ineffectiveness of present statutes aimed at child abuse prevention is that most laws do not require followup treatment once a case has been reported.

Another problem brought to the attention of the committee was the frequent reluctance of members of the medical professional to get involved in what may be a long, drawn-out court case—even though they are protected in many States by immunity statutes. Section 4 of S. 1191 is aimed at determining precisely how to affect a change in that attitude and what statutory steps should be taken to increase the deterrent effect of child abuse statutes. Section 4 of the bill provides for the President to establish a Commission on Child Abuse and Neglect to study several issues, including the effectiveness of the existing child abuse reporting laws; the effectiveness of existing child abuse prevention, treatment, and identification programs; the incidence of child abuse; and the proper role of the Federal Government in dealing with child abuse. This section further directs that the commission report to the Congress and President on the results of that study within 1 year.

The tragic story of the parent who sought help and could find none told at the Los Angeles hearing—one of several told that day—manifests the enormous need for outreach services and information about how and where to get help for the potential child abuser. Section 2 of S. 1191 directs the Secretary of Health, Education, and Welfare to create within the Office of Child Development, a "National Center on Child Abuse and Neglect"—so that local communities can determine the most effective programs to prevent child abuse and can benefit from the successful experience of other communities.

SELF-HELP GROUPS—PARENTS ANONYMOUS

Mr. President, during the hearings here and in Los Angeles we were privileged to have the assistance and testimony of one of the most promising child abuse treatment and prevention organizations in the country—Parents Anonymous—and of its founder, Jolly K. Parents Anonymous is a self-help group where parents who are child abusers or potential child abusers can go anonymously to receive help. P.A., as it is called by its members, has over 45 chapters in the United States and Canada, with its home base in Redondo Beach, Calif.

One of the most difficult problems in dealing with child abuse is that while a parent may abuse a child, the parent still loves the child, does not want the child placed in a foster home or institution, and does not seek help because of fear of societal reprisals which may lead to the child's institutionalization and possibly to the parent's as well. Parents Anonymous is an organization which enables these parents to seek the help they so desparately need—without these fears. I would add however, that if the members of Parents Anonymous feel that the child is in any present danger, or that the parents condition is so serious as to mandate institutional care—they do not hesitate to report the situation to the appropriate authorities.

One of the difficulties Parents' Anonymous faces is inadequate funds to insure that someone is available 24 hours a day, that professional counseling is available at meetings, and so forth. Their funding needs are not great by comparison to so many organizations—but are important. Consequently, following the June 16, Los Angeles hearings at which many members of PA testified, I offered an amendment, which Senator Mondale cosponsored, to section 3 of S. 1191, to include self-help groups such as Parents Anonymous amoung those eligible for grants for demonstration programs.

Under section 3 of S. 1191, the Secretary of Health, Education, and Welfare is authorized, through the Center on Child Abuse and Neglect established under section 2, to make grants for "demonstration programs designed to prevent, identify and treat child abuse and neglect." Such grants would include training of personnel, creation and maintenance of multidisciplinary child abuse centers and other innovative projects, which—as the result of the amendment I offer with Senator Mondale—will include self-help groups.

Mr. President, I would point out that the committee was concerned that governmental involvement in self-help groups might interfere with the anonymity and flexibility that has been the key to the success of these kinds of self-help organizations. In that regard the committee report states:

> It is the intention of the committee that in establishing regulations governing assistance to parental self-help organizations the Secretary shall not prescribe organizational rigidities tending to require procedures limiting the effectiveness or violating the confidentially of such programs, which must remain informal and nonbureaucratic to be effective.

I hope that the protective purposes of this committee report language will be most strictly heeded by the Secretary, in administering the act.

CONCLUSION

Mr. President, this is a most important measure, designed to attempt to come to grips with an appalling national disgrace—the some 100,000 cases of child abuse which occur in this Nation annually. I know that no Member of the Congress—and certainly no private citizen—believes that we can let this continue; the cost is simply too great.

S. 1191 does not purport to present the final solution. But it is a beginning. An important beginning, and one to which I am gratified my colleagues in the Senate have given their full support. I hope the other body will do so also.

Mr. President, I ask unanimous consent that an article and an editorial on child abuse which recently appeared in the Sacramento Bee and the Los Angeles Times, respectively, be printed in the Record.

There being no objection, the article and editorial were ordered to be printed in the Record, as follows:

[From the Sacramento Bee, June 10, 1973]

Most Child Abusers Are Normal

Berkeley.—In Berkeley there is a telephone number to call for help to calm you down if you get so furious you fear you may beat your child.

It is the Parental Stress Service, a group recently formed to help prevent battered children. You can discuss the crisis and perhaps be put in touch with a sympathetic volunteer.

The service is an experiment aimed not only at the problem of battered children—and some believe 50,000 annually die at their parents' hands—but at a vast number of parents whose wallopings end just short of physical damage.

ABUSE RUNS GAMUT

"To me, abuse runs the gamut from psychological neglect and verbal assaults to actual battering," says Carol Johnston, founder-director of the service. "If people are honest, they will admit they sometimes abuse their children.

"Every parent is a potential abuser. What can stop him is seeing the child as a person with his own rights."

Mrs. Johnson believes 90 per cent of people who abuse their children are normal.

UNDER STRESS

Abusing parents, she says, aren't monsters but basically good people under great stress who finally crack, ofter because of some trivial incident.

"I consider myself an abusing parent, and that's how I got into this," she says. "I do not trust myself. Sometimes I have no empathy to stop me from hurting Danny."

"Now I can say, Danny, get out of here, and he will leave. He knows what is coming.

Danny is eight, and Mrs. Johnston confesses an occasional, sudden desire "to ram him through something, to kill him."

GOT STATE GRANT

Mrs. Johnston, 34, is a divorcee who quit teaching at Moses Lake, Wash., to take a master's degree at the University of California.

After work at the San Francisco Youth Guidance Center, she obtained a state grant of $15,000 to set up the Parental Stress Service. Additional money has been contributed by churches, and the state grant has been renewed for a second year.

The service takes calls seven days a week, 24 hours a day. Calls are handled by Mrs. Johnston, the only full-time worker, and 19 volunteers.

About a third of callers don't give their names, but the same voices keep calling back. Others are referred to volunteers—persons who have taken a training course—who take subsequent calls and often visit homes, when invited.

FEEL IT COMING

Some phone after having let loose all their frustrations by trouncing their child. Others learn to call when they feel violence coming on.

Half the cases involve children under five, and 90 per cent of the callers are women.

A common factor is isolation, and women are more likely to feel isolated. Another common factor is that the parent herself was abused as a child, and knows no other mode of child raising.

National studies show that of children actually injured, most are three or under. The most severely injured are under six months.

[From the Los Angeles Times, June 13, 1973]

New Focus on the Battered Child

Little children are uniquely vulnerable; they are utterly dependent on the adults around them; they have no way to protect themselves. In thousands of homes, they suffer from neglect; in thousands of others, they live in terror of physical abuse. There is no escape, unless their plight happens to come to the attention of outsiders; social workers, physicians, schoolteachers or the police.

The problem of the battered child is the focus of attention by the new Office of Child Development within the Department of Health, Education and Welfare.

OCD proposes four initial steps: a revision of the child abuse reporting law of 1962 to standardize reporting procedures by the states; a survey of state and local children's service programs with the object of coordinating and improving them; creation of a national clearinghouse for collection and dissemination of information on child abuse; development of training materials for social workers, physicians, teachers and police.

About 60,000 cases of child abuse are reported annually in the United States, and, horrifying as this figure is, some authorities believe that many more go unreported. Child abuse occurs at all social and economic levels. Some of the causes are known; much more has to be learned.

OCD will emphasize this aspect of the problem. Stanley B. Thomas Jr., acting assistant secretary for human development in HEW, said, "Uniform reporting laws, model programs and the best of all possible statistics reach only the visible surfaces . . . In seeking to end the nightmare of child abuse, we as a society must go much further—we must identify and eliminate its fundamental causes."

Few HEW objectives are more important than this one.

THE FEDERAL ADVISORY COMMITTEE ACT—INTERIM REPORT ON A NEW LAW

Mr. METCALF. Mr. President, last year Congress established procedures governing the creation and operation of Federal advisory committees. The President signed Public Law 92-463, the Federal Advisory Committee Act on October 6, 1972 and it became effective on January 5, 1973.

The agency primarily responsible for administering the act is the Office of Management and Budget. The Subcommittee on Budgeting, Management and Expenditures will conduct oversight hearings and investigations regarding administration of the act later this year. The purpose of my remarks today is to provide Members with information regarding advisory committees and the new law dealing with them, including congressional responsibilities under the act and methods by which its administration can be improved.

We already have a basis to evaluate initial directions which the advisory committee management system is taking. Many agencies have done a good job of complying with both the letter and spirit of the law. However, some agencies appear to have been negligent in meeting the act's straightforward provisions. These agencies will have an opportunity to explain their noncompliance.

Draft administrative guidelines and management controls implementing the act, developed by the OMB and Department of Justice, were issued on January 10. They are the rules agencies are to follow in complying with the act, until final guidelines are promulgated.

OMB also prepared the President's first annual report to the Congress on advisory committees. The report, "Federal Advisory Committees," containing detailed information on advisory committee activities and members, has been printed by the Senate Committee on Government Operations. Copies of this four-part, 5,701-page report have been sent to chairmen of Senate and House standing committees, members of the Senate and House Committees on Government Operations, the Federal agencies, the Library of Congress and to those who participated in the development of this legislation.

This voluminous committee print, and the index to it now being prepared by the Congressional Research Service and the Subcommittee on Budgeting, Management and Expenditures, will be a useful reference.

The first Federal advisory committee was used by President Washington to assist him in dealing with the Whiskey Rebellion. By the end of last year, at least 1,435 Federal advisory committees—excluding interagency committees—were in existence. Without detracting from the conscientious service rendered by many members of some advisory committees, it should be recognized that the advisory committee system—the "fifth branch of government" as one witness termed it—has often provided committee members with exceptional advantage, sometimes without compensating contribution to Government.

As a result, committees emerged as a new factor to be reckoned with in government. They often had the vantage point within an agency, a department, or even the White House. They could anticipate and affect Government policy. They could better protect their own interests and adversely affect the interests of others.

In addition, many advisory councils met in sessions that were closed to the public and the press. Often it was impossible to find out when these meetings were scheduled. They did not keep transcripts. They recorded only brief summary minutes which did not adequately reflect proceedings.

The Federal Advisory Committee Act seeks to remedy these problems, citing specific areas of responsibility for both the legislative and executive branches.

RESPONSIBILITIES OF THE OFFICE OF MANAGEMENT AND BUDGET

Under Public Law 92-463, the Director of the Office of Management and Budget is to "establish and maintain within the Office of Management and Budget a Committee Management Secretariat which shall be responsible for all matters relating to advisory committees." This provision, inserted despite feeling that committee management could best be handled by the agencies, attempts to centralize, rather than diffuse, authority and responsibility for administering the act.

Second, the Director is to annually conduct a comprehensive review of the activities and responsibilities of each advisory committee to determine:

First, whether such committee is carrying out its purpose;

Second, whether, consistent with the provisions of applicable statute, the responsibilities assigned to it should be revised;

Third, whether it should be merged with other advisory committees, or

Fourth, whether it should be abolished.

This review is designed to reduce the number of advisory committees and insure that those in existence are providing useful recommendations.

Third, the Director "shall prescribe administrative guidelines and management controls applicable to advisory committees." Again, the emphasis is on centralized authority and responsibility. The requirement for issuing guidelines seeks to fill the vacuum between legislative initiative and executive management.

Fourth, to insure uniformity in compensating advisory committee members, that law requires the Director, after consultation with the Civil Service Commission, to establish guidelines with respect to "uniform fair rates of pay."

Fifth, the Director is to include in budget recommendations a summary of the "amounts he deems necessary for the expenses of advisory committees."

Sixth, prior to any executive branch action to create additional advisory committees—other than by Executive order—an agency must consult with the Director. This is to check the use of administrative discretion in establishing advisory committees by interposing an additional review mechanism.

The act requires that notice of each meeting of each advisory committee be published in the Federal Register. The Director is required to prescribe additional regulations which provide for other types of public notice.

Additionally, for those advisory committees which advise the President, the Office of Management and Budget is to be the depository for their charters.

Finally, the Director has been delegated two functions by the President. Pursuant to Executive Order No. 11686, dated October 7, 1972, entitled "Committee Management," the Director is to "prepare for the consideration of the President the annual report to the Congress as required by section 6(c) of the act; and (to) prescribe administrative guidelines and management controls for advisory committees composed wholly of full-time officers or employees of the Federal Government—interagency committees not subject to the provisions of the act."

RESPONSIBILITIES OF AGENCY HEADS

Each agency has also been given responsibility for complying with the Federal Advisory Committee Act. The agency head is to establish administrative guidelines and management controls for its advisory committees, "which shall be consistent with (the) directives of the Director." The agency must also designate an "Advisory Committee Management Officer," who will exercise control and supervision over the agency's advisory committees, and maintain the necessary records and reports. Both provisions recognize that primary responsibility for the day-to-day management of advisory committees rests with the agency.

RESPONSIBILITIES OF CONGRESS

In enacting Public Law 92-463 Congress recognized that it too plays an important role in the advisory committee process by establishing advisory committees, passing authorizations and appropriations, and in some instances, designating its members to serve on advisory committees.

The Act provides that each standing committee of both Houses must make a continuing review of the activities of each advisory committee under its jurisdiction. The primary purpose of this review is to insure that advisory committees are providing useful advice to the Federal Government, their numbers are kept to the minimum, and they are properly managed.

Additionally, during the consideration of any legislation establishing or authorizing the establishment of any advisory committee, each standing committee should apply the same review criteria. Any legislation creating a committee must include:

First. The committee's intended purpose;

Second. A membership which is fairly balanced in terms of points of view and function of the committee;

Third. Provisions to insure that the advice given the Government is the result of their independent judgment; and

Fourth. Adequate funds and staff to be assured the committee can carry out its intended purpose.

The chairmen of all standing committees will receive a list of those advisory committees for which they are responsible.

ADVISORY COMMITTEE PROCEDURE

One of the most important provisions of Public Law 92-463 outlines the procedures for conducting advisory committee meetings. This section begins with the affirmative statement, "Each advisory committee meeting shall be open to the public." Reemphasizing the need for public access to, and participation in advisory committee meetings, the act states that:

> Interested persons shall be permitted to attend, appear before or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

To insure that advisory committees stay within the parameters under which they were established, the Federal Advisory Committee Act places two restrictions on committee meetings. First, an officer or employee of the Federal Government must either conduct or attend each meeting. He is empowered to adjourn any meeting if he finds adjournment to be in the public interest. No meeting of any advisory committee can take place in his absence.

Second, no meeting can be held except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government, and—with the exception of Presidential advisory committees—with an agenda approved by him.

Since most persons cannot conveniently attend advisory committee meetings, procedures were developed to provide information to the public about them. First, subject to the provisions of the Freedom of Information Act (5 U.S.C. 552) the documents which are made available to or prepared for each advisory committee shall be available for public inspection or copying at a single location. Second, the act enumerates certain detailed information that must be included in minutes of each advisory committee meeting. These minutes provide a permanent record of the committee action.

There are, however, restrictions on access to the meetings and records of advisory committees. For reasons of national security, there may be meetings that must be kept secret from the public. If such a determination is made, the provisions for timely notice of the meeting in the Federal Register may be waived.

The act also states that those sections dealing with access to meetings should not apply to any meeting which the President or agency head determines is "concerned with matters listed in section 552(b) of title 5, United States Code." This section of the Freedom of Information Act details nine exemptions:

First, specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

Second, related solely to the internal personnel rules and practices of an agency;

Third, specifically exempted from disclosure by statute;

Fourth, trade secrets and commercial or financial information obtained from a person and privileged or confidential;

Fifth, inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

Sixth, personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy;

Seventh, investigatory files compiled for law-enforcement purposes except to the extent available by law to a party other than an agency;

Eighth, contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

Ninth, geological and geophysical information and data, including maps, concerning wells.

The determination, based on one or more of these exemptions, must be in writing and contain the reasons it is necessary. Then, a summary of the committee's activities must be reported annually. These exemptions also apply to advisory committee documents.

THE ADMINISTRATION OF THE ACT

It is proper to assess the operation of the Federal Advisory Committee Act at this time. The first annual report has been transmitted. As mentioned earlier, this document contains the most detailed information available on advisory committees. Also, OMB is completing its comprehensive review, although it is still too early to judge the results of that effort.

Certain problem areas appear. The act intended dual management of advisory committees by both the agencies and OMB. Although some agencies have committed themselves to reduction of the number of advisory committees and insure proper management, others have not.

OMB opposed passage of the act, partially because of an anticipated increase in the size of the OMB staff needed to meet the act's requirements. That increase has not taken place. While the Congress did not intend to create a vast bureaucracy to manage committees, it nevertheless recognized the need for some staff to adequately carry out the provisions of the law. Neither event has happened.

It is important that attention be given to the act's requirements and that resources be committed, both within the agencies and OMB, to comply with the letter and spirit of the act. There is some doubt whether OMB has met the intent of the act in committing resources to establish the Committee Management Secretariat.

Second, although draft administrative guidelines and management controls have been issued, several areas need to be clarified or changed. The draft guidelines were published in the Federal Register on January 23, 1973, and agency and public comments were solicited by March 16. Regulations have yet to be published in final form.

These draft guidelines are the basis for agency operation and it is important that the comments submitted be assessed and final guidelines be issued. Agencies have been hesitant to issue their guidelines until OMB rules are final. Also, there have been no OMB guidelines issued on uniform fair rates of pay for advisory committee members.

Three interrelated areas of the act's administration are particularly troublesome: First, meeting notices in the Federal Register; second, the application of the Freedom of Information Act to advisory committee meetings; and third, sections of the January 10 joint OMB-Department of Justice memorandum.

FEDERAL REGISTER NOTICES

Section 10(a)(2) of the act states that:

> Timely notice of each such (advisory committee) meeting shall be published in the Federal Register.

Section 10(a)(2)(c) of the draft guidelines attempts to define "timely" as "7 days before the date of the meeting except that (i) a different provision may be made in emergency situations and (ii) shorter advance notice may be used when 7 days notice is impracticable." Further, the guidelines state that.

> Such notice should state the name of the advisory committee, the time of the meeting and the purpose of the meeting (including where appropriate, a summary of the agenda). The notice should state whether (or the extent to which) the public will be permitted to attend or participate in the meetings. If the meeting will be open to the public the place of the meeting should also be included in the notice.

Numerous notices have appeared in the Federal Register only one or two days before the meeting, without stating a time, place or purpose of the meeting. While it is understandable that notices appearing immediately after the effective date of both the act and these guidelines might have been deficient, and allowances might be made for them, there is no excuse for deficiencies to continue 6 months after the effective date. Some notices still refer to rescinded Executive Order 11671.

The idea that only if the meeting is open should all information be included in the notice seems contrary to the act. The act states that notice is not required when a determination has been made that such notice would be inconsistent with national security. Other than national security, there is no basis to withhold information from meeting notices. A closed advisory committee meeting does not require a secret location.

Understandably, certain advisory committees, such as the Defense Department Epidemiological Committees, must meet on short notice. In these cases notice of meeting should also be given, even if after the meeting. Further, the provisions for shorter notice should be clearly identified as the exception, with an explanation as to why sufficient notice was not given.

FREEDOM OF INFORMATION ACT

A second major area of concern is the application of the Freedom of Information (5 United States Code 552(b)) to closing advisory committee meetings. In passing the Freedom of Information Act, Congress identified specific types of documents that may be withheld from the public. Disclosure of these documents is permissible even though a basis exists for withholding them.

The Federal Advisory Committee Act applies these same Freedom of Information exceptions to advisory committee meetings. Admittedly, the transition from a written document available for inspection to a determination to close an advisory committee meeting based on what might be said, is difficult, Generally, the transition has been properly used. However, some parts of the proposed guidelines seem to go beyond the authority of close advisory committee meetings contemplated or intended by Congress in enacting the Federal Advisory Committee Act, and do not seem to be consistent with the intent of Congress in passing the Freedom of Information Act.

Specifically, this misuse apears in the application of exemption (5) of the Freedom of Information Act. This exemption permits withholding internal memoranda "not . . . available by law to a party other than an agency." An advisory committee is not an agency, and in most cases its members are not Government officials. Generally, an intra- or interagency communication which the agency exempts from disclosure under (5) should lose its confidential privilege when introduced into an advisory committee meeting. By the same token, any exchange of opinions with respect to Federal policy decisions conducted in the presence of an advisory committee should also lose its privileged character. Any internal memoranda or deliberations which would be made available to advisory committees must fall in the category of material "which would be routinely disclosed to a private party through the discovery process in litigation," and thus open to the general public, unless protected by some other exemption. (See House Report No. 1497, 89th Congress, 2d session, 10/1966.)

Understandably, there may be emergency situations where such confidential documents and internal deliberations between Federal officers may be necessary in the presence of an advisory committee. Such situations should be severely limited and specific guidelines should provide the protection of confidentiality only in those special instances.

Currently, an agency need only insert an "internal document" into the agenda of an advisory committee to justify the closing of the meeting. This position that an exchange of opinions, if written, would fall within exemption (5), may be based on loose ground. The additional qualifying language that the agency head must make a finding that it is essential to "protect the free exchange of internal views and to avoid undue interference with agency or committee operation" is open to so many interpretations that it could be, and has been, used to subvert the openness and public information provisions.

Further, there appears to be no requirement that any such written determination—with reasons—made by the Director of the agency head to close meetings under any exemption be made public. The clear intent of reducing the determinations to writing, and providing reasons for making such determinations, was to provide sufficient facts to challenge the closing of meetings. Hopefully, the guidelines will be amended so that future notices published in the Federal Register provide a brief description of the documents to be considered, or deliberations to be held.

There are also several difficulties other than those mentioned above in the January 10 OMB-Justice memorandum. The first is in section 8 of the memo dealing with the creation of advisory committees. Before any advisory committee can be established, the agency head must consult OMB. If OMB is satisfied that creation is in accord with the provisions of the act, the agency head shall publish notice in the Federal Register.

If OMB is not satisfied that creation of a committee is in accord with the act, the Secretariat shall inform the agency head in writing within 30 days. If OMB disagrees with the establishment of a committee, can the agency still establish the group? Admittedly, this is a fault of both the act and the guidelines. "Consultation" does not mean approval. Nor does the act spell out or even reference any sanctions, other than litigation, for noncompliance.

AVAILABLE COURSES OF ACTION

Given the responsibilities of the law and the instructions in the guidelines, there are tools available to both the Congress and the public for improving the administration of the Federal Advisory Committee Act: Data regarding all the advisory committees is at last publicly available. The first annual report, printed by the Committee on Government Operations, is available from the Government Printing Office.

Members who have not received this 4-part report, entitled "Federal Advisory Committees," can receive a copy by calling the Subcommittee on Budgeting, Management, and Expenditures, extension 1474.

The index being prepared by the Congressional Research Service and Subcommittee on Budgeting, Management and Expenditures will facilitate identifying advisory committee members' affiliation, geographic distribution, overlap on committees and work done by them.

Each agency is required to prepare a charter detailing an advisory committee's purpose, anticipated cost, the agency responsible for support, and other information. These charters are being filed at the Library of Congress and are available for inspection in the microfilm reading room 140B, in the Main Building.

The Federal Register includes a compilation of scheduled advisory committee meetings. This document can be regularly screened, and ideas and comments made known to the appropriate agency and advisory committee.

Finally, agencies and advisory committees must be made aware of public interest in their proceedings. If there is no interest, open meetings serve little purpose. Consequently, the public should be encouraged to attend as many advisory committee meetings as possible, to correspond with the agency and committee, and ask for information, records, minutes, and any other pertinent data. The subcommittee is monitoring selected advisory committee meetings. The monitoring is designed to provide information about the operation of advisory committee procedure, insure public access, and encourage openness.

Student interns are assisting the Subcommittee on Budgeting, Management and Expenditures in the monitoring. This practice is providing interns with insights into an aspect of Government that they did not learn about in school, while also helping the Subcommittee in its oversight function. Other Members may wish to have their interns participate in this monitoring activity.

S. 504—THE EMERGENCY MEDICAL SERVICES SYSTEMS ACT OF 1973

Mr. TAFT. Mr. President, I have received a letter from the Department of Health, Education, and Welfare, expressing the administration's position on S. 504, the Emergency Medical Services Systems Act of 1973 which was reported by the committee of conference on July 10. I ask unanimous censent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 13, 1973.

Hon. ROBERT TAFT, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TAFT: As you know, within the next several days the Congress will be considering the conference report on S. 504, the Emergency Medical Services Systems Development Act of 1973. We would like to take this opportunity to review with you the Administration's position on this legislation.

In the 92nd Congress, H.R. 12563, H.R. 1278, and S. 5784 were introduced to deal with the problem of emergency medical services. We opposed that legislation on the grounds that sufficient legislative authority existed to carry out the Emergency Medical Services Initiative which had already been announced by the President in his 1972 State of the Union and Health Messages. Further, we noted that the Initiative proposed would be sufficient to mobilize both Federal and local monies already in the health care system to meet the critical emergency medical services problem. That proposed legislation was not passed by the Congress.

H.R. 74, 4224, 4952, 5675, and 5677 (ultimately combined into H.R. 6458) and S. 504 were introduced this Congress, have been passed by both Houses, as amended, and are currently the subject of a conference agreement. We again opposed those bills as unnecessary, organizationally restrictive and unduly expensive.

We strongly believe that the approaches reflected in the conference bill are inappropriate for a number of compelling reasons.

In the first place, although the Federal Government can assist in remedying certain deficiencies in EMS, we believe it is inappropriate for the Federal Government to create yet another categorical legislative program involving potentially large-scale Federal support for the development of emergency medical service systems. The activities involved are inherently of a local character and should reflect local priorities and decisions.

Ample legislative authority is already on the books to allow the conduct of a range of Federal demonstration initiatives in the EMS field. If there is an existing need, it is not for additional categorical legislation but rather for a rationalization and simplification of the maze of statutes, regulations, and guidelines for those looking to the Federal Government for assistance. We believe it inappropriate to enact additional legislation on the unsupported assumption that needed improvements in the EMS field will not occur without additional legislation. Indeed further categorical legislation may well impede rather than improve progress in this regard.

Particularly objectionable is the provision of S. 504 to establish a new organizational structure with the responsibility for EMS programs. It is undesirable to attempt to conduct a program effort in a particular area by establishing by statute a new organization with responsibility for that area. We certainly do not think, in this case, that a separate organizational focus for EMS activities serves program needs.

The matter of the scale is also important, for there would be significant administrative costs—as well as administrative delays in organizational development, recruiting, and gearing up for implementation—associated with a new organization's structure, and these increased administrative resource demands would have to be at the expense of other high-priority health activities. Accordingly, we strongly oppose as undesirable and unnecessary the creation of a separate EMS mechanism.

Furthermore, the appropriations authorizations contained in the bill are greatly in excess of the amount of funds that could conceivably be soundly invested in a Federal EMS demonstration program in the foreseeable future. Enactment of legislation containing the large authorizations in the bill would constitute another example of creating expectations that the Government cannot hope to fulfill. We believe that the practice of creating categorical programs with unrealistic funding authorizations is undesirable.

Finally, there are various provisions of the bill that we believe are unwise and inconsistent with the President's overall objective of simplifying administration and reducing the plethora of categorical, special purpose programs that have sprung up in recent years. Particularly ill-advised, we think, are the provisions which would require creation of another statutory interagency committee. We believe that Federal interagency committees permanently established by law are both unnecessary and ineffective as a means of coordinating and planning complex programs, especially when the principal responsibility for an activity properly rests at the State and local level.

With regard to the PHS hospitals portion of S. 504, we oppose it for the following reasons:

1. It is our firm conviction that the small beneficiary population served by PHS hospitals will be served more adequately, effectively and with less personal disruption through Federal contracts with locally available community health facilities. This is in consonance with the basic Administration position, which we have repeatedly stated, that the Federal role in health should not include the direct provision of services to Federal beneficiaries by medical facilities operated by DHEW.

2. The continuing operation of the hospitals, as they were on January 3, 1973, is a virtual impossibility. Existing professional staff shortages compounded by the large number of recent civilian staff retirements resulting from passage of P.L. 93-39 and the expiration of the doctors' draft on June 30, 1973 have had a critical impact on the PHS hospitals' ability to provide beneficiary services. Further, increasing difficulties in recruiting physicians during fiscal year 1974 are a certainty and will undoubtedly affect the ability of PHS hospitals to provide the services which are now being furnished to beneficiaries. Our plans to shift our primary beneficiaries to the more modern, more accessible, better equipped and better staffed hospitals in the community are therefore in the interests of the patients, the Federal Government and the community hospitals themselves which are operating generally below the optimal 85 percent occupancy rate.

3. The inability of the Department to close these hospitals without Congressional approval when such action is justified, as it is in this case, from the standpoint of rendering better quality care to beneficiaries and the benefits of better utilization of PHS and community hospitals, flies in the face of sound administrative judgment. The continuing operation of the PHS outpatient clinics will assure the scope, quality and quantity of ambulatory services to beneficiaries. They will also serve as an entry point into the health care system and proper referral and monitoring of care provided by community hospitals.

4. In respect to the requirement that both Section 314(a) and (b) agencies approve subsequent plans for closure of PHS hospitals, this provision would be tantamount to precluding desirable or necessary Federal action by the failure or inability of both the local and State jurisdictions to react to Federal plans. The Federal Government would be in an untenable position if such a principle were generally applied in this and other matters of Federal concern and responsibility.

For these reasons, we are strongly opposed to S. 504, the enactment of which would not be consistent with the Administration's objectives.

Sincerely,

———— ————,
Acting Secretary.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. If there be no further morning business, the period for morning business is closed.

FEDERAL LANDS RIGHTS-OF-WAY ACT OF 1973—ALASKA PIPELINE

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 1081, which the clerk will read by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The question is on agreeing to amendment No. 226, the Gravel amendment, as modified.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I rise to compliment the editorial policy of the Washington Sunday Star. I ask unanimous consent to have printed in the Record at this point an editorial entitled "Energy—A Crisis That Won't Wait," published in yesterday's edition of the Star.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Energy—A Crisis That Won't Wait

No, the country isn't running out of gasoline just yet. This is not, as many Americans had feared, the summer of the great filling station dry-up and the stalling of vacation-bound families all along the highways.

Rather, it is a summer of portents, of our first encounter with real shortages, our first retreat from the high-consumption ideal. We see stations rationing gasoline to their customers, cutting hours of operation and in some cases—if they are independent distributors—shutting down altogether. We are squeaking through, but the signs indicate this is only a foretaste of what's to come next year—and perhaps next winter, where heating and industrial oils are concerned. And with demand racing far ahead of production, the response of both government and the oil industry has been incredibly slow.

At last there is some movement of consequence, however. For the past several days the Senate has been locked in debate on legislation to allow construction of the trans-Alaska oil pipeline, which offers the only hope for a large increase in domestic oil production any time in the near future. Right now the $3.5-billion project is stopped, dead still, by a Supreme Court decision, upholding an old federal statute that doesn't allow enough right-of-way for such a line across federal lands. Changing the law to provide a sufficiently wide corridor is the fervent intent of Chairman Henry M. Jackson of the Senate Interior Committee, and a vote on his proposal is coming up Tuesday.

For several urgent reasons, the national interest demands passage of this measure, and fortunately the Senate seems in a mood to pass it. This is indicated by the two-to-one vote Friday against an amendment that would have held up the Alaska pipeline so the United States could negotiate for a different route through Canada to the Midwest. That could have meant an additional delay of three to five years in tapping the abundant Arctic oil, which was sheer folly even to consider.

In fact, we think the Senate now should adopt an amendment by Senators Gravel and Stevens of Alaska to lessen the danger of further stoppage by environmental lawsuits, which still might stall the work another year or two. After all, the environmentalists—through long delays they already have forced—achieved the inclusion of strong safeguards in plans for the Alaskan line. It's time to begin stringing pipe, for the fast-swelling U.S. reliance on foreign oil threatens a dangerous, destabilizing dollar drain. Add to this the apparent willingness of some Middle East nations to manipulate their vast oil resources as a lever on American foreign policy, and the picture becomes grim indeed.

Even if Congress removes all obstacles, however, the Alaskan oil won't be flowing down from the North Slope for another three years or more, and there seems no prospect of any dramatic increase in U.S. refinery production before then. President Nixon waited about three years too long in easing the import quotas, to permit more foreign oil to enter this country. The petroleum industry, for reasons we cannot begin to grasp, let several years pass without building a single new refinery, so that now there is insufficient capacity to process all the foreign oil which the nation needs to import. Nor is there a single deepwater port capable of handling the gigantic new supertankers that will haul the crude oil to these shores from the Middle East and elsewhere.

How could the United States, with all its economic expertise and sophisticated predicting techniques, ever have gotten boxed into such a predicament? In some quarters there's suspicion that the big oil companies were in collusion to create a shortage, force independent dealers out of business and hike prices. It is well that the Justice Department and the Federal Trade Commission have launched studies to determine if there is any substance to these mutterings. But a few basic facts are beyond dispute—that gasoline consumption has far outrun the government's estimates, and that new car production and sales are setting new records. Prosperous America guzzles more and more energy—electricity as well as petroleum—and the day of accounting isn't far ahead.

The fastest that the government can act will not be soon enough, and solid proposals are at hand that must be expedited. The Senate soon will begin hearings on legislation to hasten the building of offshore deepwater ports to receive incoming foreign oil. Anyone doubting the need for this might consider last week's announcement that the first large domestic refinery in three years will be built beside the Mississippi River, above New Orleans. That's good news, but three years will be required for the job, and then the crude oil for this plant—coming from the Middle East—will still have to be unloaded from supertankers at a deepwater port in the Bahamas and towed in barges to the Mississippi. Obviously, this country must have offshore port facilities as quickly as possible, with the best possible environmental safeguards.

And Congress must get cracking, too, on a massive program of research and development across the whole energy field—from solar and fusion electricity to large-scale extraction of oil and gas from coal, which is our only abundant energy resource. This is envisioned in a bill by Senator Jackson that would launch a 10-year, $20-billion effort. Time is critical, for at best we may be well into the 1980s before even the most advanced of these new modes—coal gasification—provides fuel in any significant quantity. And action is imperative on several other measures—to allocate scarce petroleum equitably (which is much better than rationing at this point), and to stimulate refinery construction and natural gas exploration. Congress also should come up with some tax incentives for energy conservation, down to the household level, instead of relying on appeals for voluntary frugality, which is primary way President Nixon has chosen.

But the President has become a great deal more concerned over this whole menacing matter in recent weeks. In his second energy message of this year (the first one having been considerably too weak), he came out for a $10-billion federal program over five years, to develop new sources of energy, and that represents quite a leap in White House objectives. Highly encouraging, too, is his plan to reduce the government's energy consumption by 7 percent in the next year, as the model for a new national "conservation ethic." He has proposed a sweeping governmental reorganization to consolidate the multitude of endeavors in the energy-fuels field, and persuaded Colorado's popular and persuasive governor, John Love, to resign and come here to head the enterprise.

So an initiative equal to the challenge at last may be in the making, and the question is whether the many wheels of government can turn fast enough. The first vital tests will be in those Senate votes this week on hastening the availability of all that oil in Alaska.

Mr. GRAVEL. I think the Star's editorial board has made a very valid distinction with regard to my amendment which will come up for a vote tomorrow. That distinction—and though I think the Nation feels that the Senate, as a result of rejecting the Mondale amendment last Friday, has mustered the resolution to do something about the energy crisis, I do not think that the broad American public is totally aware of the distinction—is between the passage of the Jackson bill alone and the passage of the Jackson bill with the Gravel amendment. I think that distinction will be made clear over a period of time, and quite graphically clear, by the very simple fact that the American people, as they suffer from the energy crisis, will start demanding an accountability for the situation from their elected officials.

So I hope we can persuade our colleagues to vote for my amendment tomorrow, because that is the only way that we can begin to address ourselves in a very serious fashion to the energy crisis that is now upon us.

With the defeat of this amendment, we would see ourselves languishing in court for 1 to 2 years, and the state of the Nation would be a sorry spectacle, because here we would be, suffering from the shortage of energy and the dislocations and inconveniences it would be causing our society, together with the drain that would be occasioned by the moneys that would be used to buy energy overseas, which would exacerbate our balance-of-payments problem to such a degree that I feel we would bring ourselves to the brink of financial disaster.

Ever since I was a child—and I was born during the Great Depression—I have always wondered what calamity could ever visit this Nation again of such far-reaching economic proportions. We have received assurances over and over again from our national leaders that we will never again have a depression such as we had then, because we have learned to control our economy.

That is probably true; but as a student of economics, I do foresee that one thing that looms on the horizon could trigger a depression of the proportions of that of the 1930's, and that, of course, would be the result of an international financial panic, which would cause a domestic financial panic and would cause a cascading of unemployment upon unemployment, to the point where we would be in a national depression. This, in turn, would trigger a worldwide depression, and all because of the instability of the American dollar, for the very simple reason, economically, that we are spending more than we are earning.

That is really what balances of payments are about. What we would be doing is enjoying a high standard of living. We would be living it up, so to speak, enjoying all this energy, enjoying our air-conditioning, enjoying our automobiles, and turning around and taking our dollars, our capital, and giving it to some one else so that we could continue to enjoy this high quality of life.

We would be like a person who has been left a legacy—and that is really the position we are in today; in our wealth we have been left a legacy from the productive abilities of our forefathers, and now, in order to maintain this high plateau of existence, we are going to start eating into the capital. In order to keep our cars and our air-conditioners going, we are going to take some of this capital and start sending it abroad.

We are not producing enough manufactured products to send refrigerators abroad, for example, so that those people whom we send our dollars can buy our refrigerators and we can get the dollars back, so as to remain solvent. What we have to find a way to do is buy and then sell as much as we buy, so as to remain financially stable.

The imbalance can go on for a period of time, for the length of time that it takes to eat into our capital substantially. I do not know what that period of time would be, or what the amount would be. But I do not know that the year before last, we started with a deficit of $3 billion. This struck consternation in our bones, because that was the first time in this century we had gone to a deficiency in our balance of payments. The year after, we experienced a $6 billion balance-of-payments deficit, and now this year the balance-of-payments deficit is upward of $7 billion. And $4 billion of that deficit this year thus far is the result of the purchase of oil abroad to fuel our automobiles and to heat and cool our houses.

What does this mean? We have seen what it means just this past year. We had a devaluation of the dollar in August of 1971. I, for one, thought that was a healthy thing at that point. But then we had another devaluation this last February.

These two devaluations not only have placed us in a better position to sell our products abroad, but they would be a benefit if we were an export nation.

But we are not an export nation. So what the devaluations have done is just the reverse: What commodities we did have in a good export posture were basically our agricultural commodities, and as the demand increased abroad for those agricultural commodities, because they were cheaper abroad, the economics of scarcity crept in the domestic situation, which raised the cost of bread, the cost of soybeans, and the cost of barley, and raised the cost of living right at the local supermarket for every single American in this country. That was the product of the devaluations that we have experienced.

Devaluation gets to be a vicious syndrone, because it works in this fashion, particularly with energy: When we devaluated in 1971 and again in 1972, the exporting oil countries, the OPEC countries of the world, came back and said, "Look, since you have devaluated, you have altered the price agreements that we had established in contracts for the sale of our oil. We did not have anything to do with this devaluation; you made the decision on devaluation. So now we want to renegotiate our contracts." And, of course, since they had the whip hand, since they controlled the supply of oil, we sat down and renegotiated the contracts just 2 months ago.

What did that amount to? With the

OPEC countries, for our purposes, it amounted to 13 percent. So here in 2 months' time, or let us say since the month of February, for the oil we buy in the Middle East, we had a 10-percent devaluation and on top of that a 13-percent renegotiation of the contract, which means that for the oil we are buying in the Middle East we are now paying, since February, 23 percent more than we were in the month of January, which obviously, in this syndrone I have described, exacerbates in a cascading fashion the flood of dollars that go abroad for the same amount of oil brought into this country.

There is no end to that. The syndrome is compounded by a very simple event: When we analyze what happened in February, with the devaluation of the dollar by the present administration, we must be deeply chagrined by the very simple fact that we lost control over our economy. What has happened was that when we had devalued initially, we had set up the Smithsonian Agreement, and we thought we had left ourselves in a very secure position wherein Germany, France, and the other European countries would buy up the dollar as speculators. Well, the speculators made a run on it in February.

We are told, as a result of the investigation, that basically the speculators were dollar holdings from the Middle East—let us say, in oil dollars which were sent abroad. Well, this speculation might appear from our vantage point to be irresponsible, but it is not irresponsible when we look at it from the vantage point of the dollar managers in the oil countries, or when we look at it from the vantage point of the boards of directors of multinational corporations who indulged in the same activity as did the dollar Arab managers in February. That is the general conclusion in the world, that the dollar was still overvalued and that in order to be competitive, the dollar would have to be devalued again at some future date.

Anyone knowledgeable and having a large amount of dollars would realize that, if that were to happen, the smart thing to do would be to sell dollars. That is the advice that the Arab money managers received, and that is essentially what the multinational corporations decided to do, that is, to sell dollars, which precipitated a run on the dollar. The United States and this administration had no choice, since the run was so severe, that rather than to buy up the dollar to use it our own country, it decided to devalue again.

I suspect that this problem will exist with us and will compound itself with us every year that we permit this imbalance, this spending of our capital, this dipping into our capital, our legacy, in order to sustain the quality of life that we want to enjoy.

Obviously, these are several ways to solve the problem. One is, really, to export as much as we import. This would mean that all of a sudden, we would have to become an aggressive, commercial nation in the old mercantile sense. We could do that, and we certainly would have the advantage right now with the two devaluations. In fact, that is pretty much the test—the fibrous aspect of our free enterprise system is whether we will take advantage of the devaluation and more aggressively reassert our competitive position abroad. But we would have to do this to quite a tune. I think we could do it if we wanted to. Whether we have the incentive to do it right now, remains to be seen. That is the question. Because with the devaluation, our industries could turn around and rather than be aggressive, could pull back at home and we would find ourselves enshrouded in a cocoon of security, since imports into this country would have increased, so that they would enjoy an advantage over imports, and so that, rather than going to be aggressive and compete abroad with that advantage, what they could turn around and do is to get a little lazy and ride the crest of the benefits that the Government has given them.

Which way our industries will respond I do not know at this point in time. It is very difficult to say. But I know that if we choose the more aggressive course, that is, become an aggressive mercantile nation, what would happen would be that we would have to sort of change the balance, the commercial balance that exists in Europe and in Asia.

This means that we would be, above all, competing against Japan. I think that we would find ourselves in extreme difficulty because where we have a natural area of exports, let us say in agricultural products, both satisfying the needs of Europe and particularly the needs of Japan, we would find ourselves in some difficult straits with the nations of the world if we did aggressively try to change that balance. Since both of these areas are the pillars of our dated or outdated defense system, it would not be to our economic interest to put those two economic areas in jeopardy.

So I would say it would not be or could not be in our best, long-term economic interest to launch into aggressive commercialism abroad.

That leaves another area. With all the moneys going abroad, there is only one area we can bring it back and that is to bring it back in terms of investment.

That makes sense, especially to those who hold the money, whether Arab or anyone else. This money is a capital acquisition, if they are to enjoy the benefits of this capital acquisition for future generations.

What we have to do is to invest it in some long-term, secure type of equity so that it can throw back a capital return or an interest return in the future. That would be fine, but I think that one of the things we would have difficulty with would be the psychic problem of having a sizable portion of American industry and American land owned by foreigners. That does not particularly disturb me with respect to the Arabs, because the Arab investments would not be backed up by a gunboat diplomacy, at which we have been so skillful ever since the beginning of the industrial revolution, as other nations of the Western World and the Orient have been skillful at. We would have their investments, and they would well know that any irresponsible acts on their part could cause us, one, either to nationalize their investments, or, two, subject them to a form of discriminatory taxation which could have the same effect as nationalizing their investments.

So I think that by entertaining large investments without gunboats to back them up, we would guarantee that the nature of the investments would be most responsible.

Another benefit that would accrue to that, undoubtedly, would be the stability enjoyed in the Middle East as a product of extensive Arab investments, because if they had a sizable investment interest in this country, obviously they would not be in a unilateral position to cut off oil supplies, or intimidate us, or blackmail us with respect to our Israeli foreign policy.

However, realistically, understanding the sums of money involved, and they would be in the hundreds of millions of dollars, there is no way that this would really offer any real, long-term security. When we talk of $100 million—and I will refer to the chart later—that represents what could be saved in terms of $100 million. To keep it in proper perspective, the capital cost of every single educational institution in this country plus every single hospital in this country, is about $150 billion to $175 billion.

Now, we have got to understand how little we could really absorb, in terms of the quantities of dollars we are employing abroad.

There are two possible solutions. One is aggressive commercialism and, two, is the reinvestment of foreign dollars into this country. That would not offer the necessary security because we could end up with a tragic financial crisis.

There really remains only one possible solution, and that is to purchase oil abroad, not to purchase oil abroad, or to minimize the oil that is purchased abroad so that we do not have the money going abroad in the quantities anticipated.

That means that we have to produce the required oil and the required energy to satisfy the needs of the American people, and we would have to produce it under the American flag. This can only be produced in the short run through the use of fossil fuel.

I think we will have to address ourselves to that problem, once we get beyond the Alaska pipeline issue, otherwise our cybernetic society, our American standard of living, the world as we know it, will come to a screeching halt by the turn of the century.

I would hope that we would have the wisdom to develop a national policy to aggressively pursue alternate and new energy sources, so that we can meet the long run demands of our society. But in the short run, we are stuck with fossil fuels, stuck with the technology we know a great deal about, and stuck with producing these fossil fuels under the American flag.

Several things will enhance this project, not the least of which will be the pricing of oil abroad. Henceforth, in this country, the cost of oil will be the cost of oil in the Persian Gulf plus the cost of its transportation to the United

States. That is what the American people will have to pay. And these prices will be set by the Arab leadership.

These prices have increased 23 percent since February. They have doubled since 1970, and I am sure they will double again in the next 4 to 5 years. As these prices increase what will happen is that we will be able to afford alternate sources—whether it is solar, whether it is oil shale, whether it is coal gasification; you name it. These will now be brought into economic viability as a result of the price increase that will take place.

But there will still be one area of difficulty, and that is the concept that we want to have energy cheap for the American people. This, unfortunately, has made the American people wasteful in using energy. One of the best ways to alter that situation in a free society would be to let the marketplace, to a good degree, establish the discipline, so that we can treat energy as a scarce resource, so that we can be more provident in our daily lives with respect to the use of energy.

But this still brings us down to the bottom line of it all, and that is that we have to seek energy under the American flag. The search for energy can best be satisfied in my State, where we have the largest energy reserves on this continent. It seems foolish to me that we would not aggressively, in a headlong fashion, reach out and grab the oil that is there for the beckoning within Alaska. This has occurred for the simple reason that, in the last few years, we have developed an environmental awareness in which we realize that the unlimited use of energy, uncontrolled and only motivated by the concept of profit, can destroy the life we hope we can enjoy. We saw this happen with the automobile and with the electrical generation. So, in point of fact, this new environmental awareness, which I consider a new maturity, has brought a sense of totality into how we are to arrive at this quality of life.

However, in any transitional period there exists a great deal of misunderstanding; there exists a great deal of confusion. So if we have suffered, it is a sort of confrontation between our industrialized society and our new environmental awareness. The price of this confrontation has been delay that has accrued to us in the decisionmaking process involving the Alaska pipeline. This delay need not continue, and I think it will not continue, because this confusion is slowly being dispelled. The American people are beginning to realize that although they want clean air, by the same token, they want adequate supplies of gasoline and heating oil, and they want to enjoy their air conditioners.

We can have all that. It is a lot of rot to think that we cannot and that there is only one recourse, and that is to go back to sweating in the summertime and wearing sweaters in the winter. We are more sophisticated than that. We have the technology at our disposal to have our cake and eat it, too. We have to bring our political decisionmaking process to the level that we have brought our technology.

I think that that level can be easily satisfied by realizing that the environmental decision with respect to the transportation of oil in this country today is the Alaskan pipeline. It seems almost sacrilegious to many environmentalists because they are in a sort of knee-jerk response position. That is, they go back to the rhetoric of anticipating oil spillage from an Alaskan pipeline. You jerk your knee up and your arm up and say, "Whoa; we are against this." How ridiculous. They think the clock stopped 3 years ago. In fact, with respect to the movement of oil, that transportation started 3 years ago. That is when we began to find out how to transport oil.

So now we have new ways at our disposal. We have new ways of bringing in the body politic, who are still hung up on the rhetoric, who are still hung up on the ideas of 3 years ago. How really tragic it is that we now have to teach the leadership of the country so that they can understand what is happening today. What is happening today is that we are placing ourselves in very serious financial jeopardy as we let our oil supplies languish.

To show how immature the leadership of the country is, it has developed a sort of schizophrenia because the focus of attention is really on the Alaskan pipeline. It is not really focused on pipelines in other parts of the country. In fact, my friend, the distinguished Senator from Maine (Mr. HATHAWAY), who is the present occupant of the Chair, comes from a similar beautiful State with wonderful environment. A very important pipeline traverses his State. It is an important pipeline to eastern Canada. I do not think that that pipeline should be torn up and rebuilt in accordance with the new governmental standards that have been established for Alaska. No; I think what we shall have to do is to wait until the time comes to rebuild it; then let it be rebuilt to the standards that have been established for Alaska.

Take the east Central States, where a pipeline is being built to transport hot oil. It is the same size as Alaska's. It goes through seven States on the way to New York. It is being built right now.

There is opposition to the building of the Alaska pipeline, not because of maliciousness, but only because there is confusion, and a certain schizophrenia within the confusion. That is a tragic decision to make in a democracy—that only the leadership can move.

I should like to put in the RECORD indications of the rate of speed at which the leadership of the country should be moving. I have asked a good friend of mine, in a university, to make soundings around the country to find out how the American people feel about the Alaskan pipeline.

I know that many Senators will say that the people are confused; that we really know better what should be done than they do. Let me say that the confusion is not among the people; it is in the leadership of the people, because the people are making their views felt; and believe me, they will make their views felt in the years to come. Let me cite areas such as California. In California, in the areas tested, 61.4 percent of the people are for the immediate construction of the Alaskan pipeline.

Mr. President, 24.4 percent are against it and 14.2 percent are undecided. I suspect that within a year the undecided will go into the column of those who are for and we will find three-fourths of the people of California adamantly in favor of the immediate construction of the Alaskan pipeline.

Woe to those politicians, woe to those poor individuals who vote against the pipeline. They will be living with that vote for quite a number of years. I suspect that vote will be the crucial conflict in the 1974 election in California.

Let us look at Minnesota. In Minnesota 53.6 percent of the people are for, 31.8 percent are against, and 14.6 are undecided. Again, moving the undecided vote to those in favor will make the total 68 percent of the people of Minnesota before the year is out who will be in favor of the construction of the Alaskan pipeline.

Let us jump to Indiana. In Indiana 59.4 percent of the people are for the immediate construction of the Alaskan pipeline, 16.8 percent are against and 23 percent are undecided. That would mean 83 percent or almost 83 percent of the people within a year in Indiana, in the Indianapolis area, will be for the immediate construction of the Alaskan pipeline.

My goodness, what would happen to a politician who votes against that issue. What havoc he will suffer with the electorate a year from now with such a vote.

In the State of Arizona, the State of my distinguished colleague, the ranking Republican member of the committee, 67.3 percent of the people are for the immediate construction of the pipeline, 14 percent are against and 18 percent are undecided. This would mean that more than 80 percent of the people in this State within a year would be for the immediate construction of the pipeline. In Colorado 60.8 percent are for, 21.4 percent are against and 17.8 are undecided. In Utah 61.7 percent are in favor, 23.3 percent are against and 15 percent are undecided. In New Mexico 65.4 percent are for the immediate construction, 17.1 percent are against, and 17 percent are undecided. In Texas 68.1 percent are for, 13.5 percent are against and 17.8 percent are undecided. In Connecticut 60 percent are for, 21 percent are against and 18 percent are undecided.

Mr. President, I think these figures prove conclusively that the American people want or are for the immediate construction of the Alaskan pipeline and in the months and years ahead they will become more and more for it.

I suspect we will look back upon the vote tomorrow on amendment No. 226 in this way: Amendment No. 226 will become the Tonkin Gulf decision on the energy crisis.

There are people who presently are Senators of the United States who are in this Chamber now who will be routed out of office as a result of their vote on this particular issue. What a tragedy. What a tragedy to waste a political career on such a decision, when really, the facts are before us. That is what happens when the leadership of the Nation lags, as well as the knowledge of the Nation. I think the American people have the knowledge in this regard and will demonstrate their displeasure toward politicians who do not rise to that same level of knowledge.

I am chagrined over the fact that some of the politicians to be rooted out of office as a result of a negative vote tomorrow are very good friends of mine and I think they should be here to enjoy the full flower of seniority and the wisdom that that can bring in contributions to the leadership of this country.

I would hope that my colleagues would heed these humble words this morning and change their votes.

Does the Senator from Arizona wish to be recognized?

Mr. FANNIN. When the Senator from Alaska has concluded his remarks.

Mr. GRAVEL. I would be happy to yield the floor.

Mr. FANNIN. Mr. President, I wish to commend the distinguished Senator from Alaska for placing in the RECORD the editorial from the Sunday Star. I wish to call this matter to the attention of my colleagues, to point out what is involved and how this is consistent with what we have been discussing in recent days.

The editorial states:

> For several urgent reasons, the national interest demands passage of this measure, and fortunately the Senate seems in a mood to pass it.
>
> * * * * *
>
> In fact, we think the Senate now should adopt an amendment by Senators Gravel and Stevens of Alaska to lessen the danger of further stoppage by environmental lawsuits, which still might stall the work another year or two.

I would say it might be a longer period of time than that considering what happened in the past few years.

The editorial goes on:

> After all, the environmentalists—through long delays they already have forced—achieved the inclusion of strong safeguards in plans for the Alaskan line.

I am very pleased this has been brought about. We can commend many of the very sincere people who are anxious to see every precaution taken.

The editorial states:

> It's time to begin stringing pipe, for the fast swelling U.S. reliance on foreign oil threatens a dangerous, destabilizing dollar drain. Add to this the apparent willingness of some Middle East nations to manipulate their vast oil resources as a lever on American foreign policy, the picture becomes grim, indeed.

I wish to point out that we have a serious problem in competing with other nations in the world. But we face a situation now that if we have a higher cost for energy due to increased and costly imports of fuels our competitiveness in manufactured goods will suffer. This is because as other costs, including labor costs, go up we cannot afford to be competitive.

I want to emphasize the importance of the vote that is coming up on the Gravel-Stevens amendment that the Senator from Alaska referred to.

S. 1081, as reported, would eliminate the restrictive width limitations on rights-of-way presently contained in 30 United States Code, section 185; however, the possibility of a continued challenge to the granting of rights-of-way for the trans-Alaska pipeline, based upon section 102 of the National Environmental Policy Act of 1969—hereinafter NEPA—remains unabated.

The years of delay which have been occasioned by the Wilderness Society litigation suggest that unless the possibility for litigation under section 102 of NEPA is legislatively obviated, a comparable period of delay can be expected in the future. Essentially, the same steps followed in the earlier litigation would be followed in challenging the granting of rights-of-way under S. 1081. Instead, however, of being able to base its holding solely upon the width limitations of the Mineral Leasing Act, the court of appeals would be compelled to examine the environmental impact statement in light of what it considered to be the requirements of NEPA. Thus, the time between appeal and final decision by the Circuit Court of Appeals might well be protracted beyond that experienced in earlier litigation.

Additionally, the Supreme Court's denial of certiorari in the Wilderness Society litigation should not be construed as meaning that certiorari would necessarily be denied in a case decided on the basis of NEPA. Therefore, even after a decision by the court of appeals favorable to the Government, there might well be an additional delay of up to a year or more and I say more, because it could be several years—pending action by the Supreme Court.

Four of the eight judges—at the district court and the court of appeals—who considered the final environmental impact statement in light of NEPA, during the Wilderness Society litigation, determined that the Secretary had fully complied with the requirements of that act.

Mr. President, I think that is a vitally important amendment. Millions of dollars have been spent, perhaps more than in any other single investment in the history of our Nation. So many people say that the NEPA requirements have not been satisfied for one reason or another. This contention is not true. Mr. President, the Secretary of the Interior has gone far beyond what would necessarily be demanded by a NEPA report.

But to go on: The others did not decide to the contrary but merely delayed consideration of the issue until amendment of the Mineral Leasing Act.

That, of course, is what is involved now, in addition to the other considerations in S. 1081.

The district court found the Secretary had fully complied with NEPA and had authority to permit temporary use of construction area, but the court of appeals—in a 4–3 decision—reversed, holding that the Secretary could permit no use of land outside the 50-foot right-of-way. Reasoning that it might take the Congress "several years" to amend the Mineral Leasing Act, after which the Secretary might wish to make further environmental study of the project, the majority judges refused to decide the NEPA issue.

That must be understood; they were not ruling one way or the other.

In the opinion of the three minority judges, the Secretary had fully complied with NEPA, and all agreed the issue should have been decided by the Court. Judge MacKinnon characterized the majority decision to postpone the NEPA issue as "a monstrous refusal to perform a judicial obligation" and "judicial insouciance" which he felt to be "indefensible."

Even though the final environmental impact statement has received the approval of those judges who addressed the issue there will, nonetheless, be a continued delay resulting from litigation based upon NEPA, challenging the action of the Secretary in granting a right-of-way for the trans-Alaska pipeline system.

This delay would come at a time when the United States is facing an acute energy crisis and is becoming more dependent, by the day, on insecure Middle East sources. Therefore, unless the possibility of NEPA litigation is legislatively precluded, by the Congress, there is every assurance that an already intolerable situation will become much worse.

Mr. President, we have an important decision to make, and I trust Members of this body will realize just what is involved. The issue should be viewed from more than merely the standpoint of the State of Alaska even though it is tremendously important to give consideration to the people of the State of Alaska. We have heard from the Governor of that State. We have heard from its legislative body. We have heard from the people of Alaska. They are certainly behind this legislation, and they hope that we will consider this question, which involves not only them; it is not only for the State of Alaska, but for the whole Nation.

Mr. President, I have a letter from the Society for the Prudent Use and Environmental Protection of Our Natural Resources, from Fairbanks, Alaska. The letter is written by Eugene Miller, president of the Fairbanks chapter. It is a society for the environmental protection of our natural resources. I would just like to read the letter and the resolution that was sent along with it:

> JULY 10, 1973.
>
> Senator PAUL J. FANNIN,
> *Washington, D.C.*
>
> DEAR SENATOR FANNIN: The action of this society to support the construction of the pipeline through Alaska is spelled out in the attached resolution. The members, individually and as an organization, have studied all aspects of the proposed construction project, and have concluded there are no longer any environmental objections of sufficient magnitude to justify delaying the pipeline construction.

Mr. President, I just want to emphasize at this point that this was a finding of the Governor of Alaska and the Legislature of Alaska.

> The society might be called a middle-of-the-road group. While the membership believes in the prudent use of natural resources, it places a very high priority on environmental protection. Housewives, teachers, university faculty, business men, professionals, skilled and unskilled labor and technicians are numbered among the members. The diversity of the background can be illustrated by the six named in this communication. Ages 32–65, years in Alaska 8–40, occupations—teacher, plumber, attorney,

> university dean, labor representative and cement wholesaler. Native of Kansas, Missouri, Oregon, Oklahoma, Idaho and Minnesota. (Probably every state is represented as the birthplace for some member of this organization.)
>
> If you or any of your constituents were here and had studied the situation as we have, you would take the same position.

He ends up with a statement that is very important for our consideration:

> Item: The entire pipeline project will involve fewer than 5,000 acres out of the more than 375 million acres in Alaska.
>
> CHARLES W. LAFFERTY,
> *State President.*
> EUGENE V. MILLER,
> *President, Fairbanks Chapter.*

I think that is very important to consider—5,000 acres out of the more than 375 million acres. And those are areas that are going to be protected.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. FANNIN. I yield.

Mr. GRAVEL. I think it is difficult to keep in mind what the quantities are that are involved. It is a very small quantity, but most Americans can compare it with the areas of golf courses. What that area represents is like a length of thread laid from the first to the 18th hole on a golf course. That would be the amount involved.

Mr. FANNIN. I think the Senator has put it into proper perspective. It is so minute that it should not even be considered.

I think the resolution explains the attitude of the people. They are environmentalists. They are certainly desirous of protecting the Nation's environment.

The resolution that came with the letter reads as follows:

> Whereas the Society for the Prudent Use and Environmental Protection of Our National Resources has pledged itself to promote use of our natural resources with adequate protection of our environment
>
> Whereas the nation is feeling the effect of what could become an acute petroleum energy shortage
>
> Whereas the delivery of North Slope oil to the American market will do much to strengthen the American economy, reduce inflationary pressures, improve the balance of payments, and stabilize the dollar's position in relation to foreign currency, and
>
> Whereas this body in special meeting has been presented with substantial information pertaining to the environmental safeguards planned for the proposed pipeline which indicates the Alaska pipeline has been subjected to the most complete environmental impact study ever devised by man
>
> Therefore I move that we call upon the Members of the Congress of the United States to contribute their early support to that of the people of the State of Alaska for the construction of the Trans-Alaska Pipeline.

I would just like to read one paragraph again:

> Whereas this body in special meeting has been presented with substantial information pertaining to the environmental safeguards planned for the proposed pipeline which indicates the Alaskan pipeline has been subjected to the most complete environmental impact study ever devised by man.

Mr. GRAVEL. Mr. President, may I interrupt again?

Mr. FANNIN. I yield.

Mr GRAVEL. When we use the words "environmental study" in context, it should be borne in mind that it is not only that, actually; it is the most definitive study by any human endeavor, probably, save the space program, which was done by the Government. This was done by the private sector. I think when we talk about it, it should be remembered that it is not just in terms of the environment, but is in terms of engineering and technology. We have developed more knowledge of the Arctic as a result of this study than man has ever devised before. When we consider this whole body of the knowledge of the Arctic, and knowledge of oil that is in that area, it will be seen it is not just a study of the environment; it is a body of study of all facets of the program, engineering, and what-have-you that are of benefit.

The significance is that this has never been done in the private sector to this day in the entire history of mankind. The first time it was done was by the Government in regard to the space program which, I think, is a very commendatory situation.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Alaska for emphasizing the magnitude of the work that has been done. Very few of our people realize just what has been accomplished in the work that has gone forward in Alaska.

I would like also to discuss with my friend, the Senator from Alaska, a little concerning the impact of this, as I mentioned earlier. I think the Senator realizes that we must have low-cost energy in this country if we are to compete internationally. Here we are talking about the availability of more energy than we have to look forward to from any other domestic source in the immediate future.

We know that we have plans going forward for coal gasification. We have studies being made so that more of our coal can be used. We are talking about the environment and a product with a low sulfur content. We will be held up from using coal because of the high sulfur content of the coal available. And we keep discussing the environment. We are talking about the environment of the lower 48 States. We are talking about the environment of Alaska and Hawaii. We are talking about the environment of all States. After all, it is the protection of the environment in these areas that we are discussing.

So, when we admit that we are not doing everything within our power to bring this low sulfur content fuel into these markets, we are admitting that we certainly have not lived up to our obligation. I think that the Senator from Alaska will agree to that.

When we talk about the economy of this Nation, we must recognize that we have to import many products into our country. We have an imbalance of trade with the Japanese of $4 billion. Some say it is changing. However, it certainly is not changing very much. It will go the other way if we do not have low cost fuel.

The Japanese must import practically all of their fuel. With the present wages they pay and with their productivity, it certainly places them in a position where they are competitive with their manufactured goods or we would not be flooded with their exports to our country.

If we are to look forward to changing this imbalance of trade, we must develop our natural resources and maintain the integrity of the dollar. And we cannot do that if we start importing more fuel from the Persian Gulf States in the not too distant future.

They are talking about importing $20 to $25 billion of petroleum products from other countries of the world, and principally from the Persian Gulf countries. The Senator from Alaska has brought out the hazard involved in that respect. We do not know what price will be involved. We have small control over the price. OPEC countries have markets for that fuel. They are not worried about the situation.

If they acquire $20 billion to $25 billion of oil revenue they will have more financial reserves than all of the other countries of the world combined by 1985. I do not feel that will come about. It would bankrupt this country and would cause disaster throughout the rest of the world. We cannot let it happen. We have to develop our resources. There is some talk about geothermal steam. We have great potential in this field. We have talk of thermal nuclear energy. We do not see the development of that in the immediate future. We have all of these other projects. We are working on them. They have a great deal to do with what happens on the price of imported oil. However, most important, we have the possibility of the opportunity to bring in oil from Alaska. And that is the No. 1 opportunity we have facing us for the next few years.

We do not know how much oil there is in Alaska. I have heard the Senators from Alaska discuss the tremendous amount of oil that might be available.

We know that the oil companies determined that they would not conduct exploration in the future because they would not be able to build this pipeline. That was several months ago. They deferred exploration until a later time.

Is it the Senator's belief that if we go forward, there will be further exploration in the next few years?

Mr. GRAVEL. There is no question about it. We have to satisfy more and more of our energy needs domestically. We will see a new experience in Alaska. We will have a more vigorous search for oil than we have ever witnessed on the face of the Earth because they will have to find it. No oil company would spend one dime until they could be guaranteed that they could get that oil out.

That is the problem that we have today. We are studying now how to permit that exploration to go forward. We have potentially five pools that we feel might be as big as Prudhoe Bay. We could have upwards of 1-billion barrels of oil.

Mr. FANNIN. And this will not be determined until we go forward with the pipeline so that America will have the opportunity to use Alaskan oil.

Mr. GRAVEL. It would be foolish for them not to proceed.

Mr. FANNIN. They do not want to make an investment for further exploration until they feel they will be able to use the oil, this along with the possibility of oil from the Outer Continental Shelf. They will go forward with less doubtful programs as far as large amounts of the energy is concerned. We have a means of producing energy such as from geothermal steam. It is said that we may not be able to produce more than 1 or 2 percent of our energy needs. That is a fantastic amount of energy.

We cannot sit idly by and not do everything within our power to push forward on all sources of domestic energy.

As the Senator from Alaska knows, many of these programs are going forward. However, our greatest potential lies in Alaska. That is why it is vitally important that we not delay this one day longer than is absolutely essential.

Mr. President, I feel that, as the Senator expressed earlier, the crucial votes coming today and tomorrow will make a decision that will affect our society for many years to come.

I commend both Senators from Alaska for the way in which they have handled this legislation, for the work they have done, for the homework that they did before the legislation came to the floor, and for their continued desire to cooperate in every way possible to elaborate to the people of this Nation and to the Congress just what is involved.

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution unanimously adopted by the Interstate Oil Compact Commission at Tulsa, Okla., on June 13, 1973. In view of the great interest today to eliminate shortages of energy and to have sufficient domestic energy available to safeguard our national security, to protect our economy, and to provide for a clean environment, I urge my colleagues to consider this resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Article II of the Interstate Compact to Conserve Oil and Gas states that "the purpose of this compact is to conserve oil and gas by the prevention of physical waste thereof from any cause." The Compact believes that waste includes the failure to find, develop and direct the full potential domestic petroleum resources to fill the present and future consumer needs. Such failure is not limited to operating practices of those who develop the petroleum resources, nor the action or lack of action by State regulatory agencies, but can result from Federal policies as well. The Compact has for many years worked to inspire and promote conservation of these essential and non-renewable resources upon which our Nation relies so heavily. The high standards of living that the people of our Nation are privileged to enjoy are due largely to the availability of an ample domestic energy supply. About 75 percent of this energy comes from oil and gas and these resources will continue to be called upon to contribute a large share of the Nation's energy for many years.

The United States has undergone a substantial change in its basic petroleum supply situation. The Nation must quickly adapt to these changes. In the past, the U.S. has had the benefit of surpluses of both producing and refining capacity. This situation has reversed, and now both crude supply and refining capacity are short. Last winter, clean fuel supplies in the U.S. were very tight and now we face a summer of gasoline supply problems. However, these difficulties are just a sample of what the country will encounter unless far-reaching actions are taken very soon.

Now, therefore, be it resolved that the Interstate Oil Compact Commission urges the Governors of the Compacting States to take positive action in all effective ways toward the following measures to prevent waste and conserve oil and gas:

1. Develop a climate which will permit competitive market forces to efficiently direct the available supply of petroleum fuels to their highest priority uses throughout the Nation. This would encourage large stationary energy consumers to accelerate conversion to coal or other alternative fuels.

2. Prudently extend the timetable for achieving air quality goals so as to alleviate near term shortages of clean petroleum fuels.

3. Encourage the research and development of, and provide incentives for improved secondary and tertiary recovery projects, including the formulation of effective unitization assistance laws in all States.

4. Carefully examine environmental restrictions and administrative requirements to encourage the promptest possible development of potential oil and gas producing areas in Alaska and in other offshore and onshore areas.

5. Cultivate broad based attitude of energy conservation in citizens and all segments of the economy so as to reduce oil and gas consumption. Endorse use of car pooling, slower highway speeds, mass transit, more efficient industrial uses and other similar measures.

6. Remind the oil and gas industry that it has a continuing responsibility in this period. Urge it not to deviate from its historical practice of developing and supplying sufficient hydrocarbons to the American people at reasonable prices consistent with the free enterprise system.

Be it further resolved that the Executive Secretary of the Interstate Oil Compact Commission is hereby instructed to furnish a duly certified copy of this resolution to each of the Governors and Official Representatives of the Compacting States for such action as is deemed necessary.

QUORUM CALL

Mr. FANNIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HATHAWAY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader to propound the following two unanimous-consent requests, which have been cleared with the other side of the aisle.

Mr. President, I ask unanimous consent that at such time as S. 1983, a bill to provide for the conservation, protection, and propagation of species or subspecies of fish and wildlife, and for other purposes, is called up and made the pending business before the Senate, there be a time limitation thereon of 1 hour for general debate on the bill and one-half hour on any amendment, debatable motion, or appeal, and that the agreement be in the usual form.

The PRESIDING OFFICER. (Mr. HATHAWAY). Without objection, it is so ordered.

S. 1983

Ordered, That, during the consideration of S. 1983, the Endangered Species Act of 1973, debate on any amendment, debatable motion or appeal shall be limited to one-half hour, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the majority and minority leaders, or their designees: *Provided,* That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 782, a bill to amend the antitrust laws of the United States, and for other purposes, is called up and made the pending business before the Senate, there be a time limitation thereon of one-half hour, and that there be a time limitation on amendments, debatable motions, and appeals of 20 minutes each, that the time on the bill be equally divided between and controlled by Mr. TUNNEY and Mr. JAVITS, and that the agreement be in the usual form.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

S. 782

Ordered, That, during the consideration of S. 782, the Antitrust Procedures and Penalties Act, debate on any amendment, debatable motion or appeal shall be limited to 20 minutes, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to ½ hour, to be equally divided and controlled, respectively, by the Senator from California (Mr. TUNNEY) and the Senator from New York (Mr. JAVITS): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

Mr. ROBERT C. BYRD. Mr. President, likewise, with respect to S. 1983, I ask unanimous consent that the time on the bill be equally divided and controlled by the distinguished majority leader and the distinguished minority leader, or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. Abourezk) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—ALASKA PIPELINE

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

Mr. GRAVEL. Mr. President, the delay in getting oil to the lower 48 States from Alaska's North Slope is not only adding to this Nation's energy woes, but also it is undermining our negotiating power with the oil-producing countries of the Middle East.

The June 14 issue of the Washington Post carries an editorial about Qaddafi of Libya entitled "Oil Blackmail." In just mentioning Colonel Qaddafi and his recent nationalization of American oil companies in Libya, I do not think I have to explain what the problem is all about.

I know that my colleagues share my deep concern about the energy crisis and the potential threat of reduced oil imports from the Middle East. Early production of oil via the trans-Alaska pipeline would serve to offset obvious disadvantages in negotiations with the Middle Eastern oil producing countries. Increased domestic production would likewise decrease our balance-of-payments deficit.

I ask unanimous consent to have the editorial printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Oil Blackmail

Col. Qaddafi, the erratic supernationalist, who rules Libya, nationalized a British oil company in 1971 and now has nationalized its American partner, Bunker Hunt of Dallas. On both occasions he said he was taking a political step to punish the parent government: London for supporting Iran, Washington for supporting Israel. "The time has come for us to deal America a strong slap on its cool, arrogant face" was the way he put it the other day. For the announcement he was wildly cheered in Tripoli. If, as some expect, he seizes the three other American firms producing in his country, he will win further cheers. The world's thirst for oil and Libya's excess of revenues over needs are such that, in the short-term frame in which he evidently considers these matters, he may well get away with these grabs—assuming he stays in power. But whether he achieves what he maintains are his larger political purposes in respect to Israel and the United States is something else again.

To understand why, one need only look at the man who was standing next to Col. Qaddafi when he announced his seizure of Bunker Hunt: President Sadat of Egypt. No doubt Mr. Sadat would dearly like to see Arab oil used to scare or press the United States into forcing Israel back to its pre-1967 borders. This is his last best hope of staving off the negotiations with Israel which he so ardently avoids. Mr. Sadat, however, needs the United States. Just a few weeks ago, for example, he signed up Exxon and Mobil—two of the "monopolistic oil companies" denounced by Col. Qaddafi—to spend $73 million exploring off the Egyptian coast. In a special but real sense, Washington has become Egypt's only military protector, now that the Soviet Union has removed its shield from Cairo. Libya's domestic radicalism is also more than Egypt can stomach. Moreover, the echoes of the Qaddafi rhetoric notwithstanding, Libya simply does not possess the means of swaying the big Persian Gulf producers who are following more moderate policies toward oil companies and consumers, and toward the United States and Israel, too.

To hold that oil blackmail should not and will not work, however, is not to deny that the energy squeeze has probably made it inevitable that different Arabs will try in their different ways to employ it against the United States. Nationalism, radicalism or greed, singly or together, would have tempted producers to exploit the energy squeeze even if Israel did not exist. The existence of Israel makes it possible to rationalize price gouging as a political act. Of course, the Israelis should not be expected to pay for economic costs for which they bear no blame.

At the same time, there is emerging now in Israel a tendency to describe any call for Israeli compromise on settlement terms as an unacceptable exercise in oil blackmail. The United States is being told that its own interests will suffer if it takes steps touching Israel at a time when it is coming under pressure, real or imagined, on oil. This attitude is wrong. An Arab-Israeli settlement is no less desirable in its own right simply because some Arabs say it is necessary for reasons of American oil. The "energy challenge," as Mr. Nixon calls it, will be around a long time. Surely the United States cannot accept the budding Israeli contention that an Arab-Israeli settlement should be put off until that "challenge" is met.

Mr. GRAVEL. Mr. President, I was pleased to receive a copy of a letter from Mr. S. S. Cooke-Yarborough of Larchmont, N.Y., in reply to a letter to the editor of the New York Times credited to my esteemed colleagues, Senator Mondale of Minnesota and Senator Bayh of Indiana, in support of a crude oil pipeline from Prudhoe Bay through Canada.

Mr. Cooke-Yarborough is a former resident of Alaska and a well-known and highly respected civil engineer with extensive knowledge of the Alaskan and Canadian environments. He points out some obvious flaws in arguments that some proponents are using to support a trans-Canadian line. Those obvious flaws cover design, engineering and construction costs, and construction time. One of the most interesting flaws is the general assumption, or inference, that the trans-Canadian line would be an "all-Canada" land route with little or none of it in Alaska. The inference, of course, is that if the route is through Canada then there would be no threat whatsoever to Alaska's environment.

Actually, this is not the case.

With a trans-Canadian route of 1,738 miles from Prudhoe Bay to Edmonton, approximately 25 percent of the line—or more than 400 miles—would pass through Alaska with 482 miles through permafrost areas of Alaska and Canada, and 918 miles through discontinuous permafrost. Additionally, the trans-Canadian line would cross 8 major rivers and 69 streams as compared to the trans-Alaskan route crossing one major river and 25 streams.

So that my colleagues may have the benefit of Mr. Cooke-Yarborough's technical knowledge and appraisal of the two routes, I ask unanimous consent to have his letter printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Larchmont, N.Y., *June 12, 1973.*

Senator Walter F. Mondale,
Senator Birch Bayh,
U.S. Senate,
Washington, D.C.

Gentlemen: I have read your letter to the editor in the New York Times of June 11, 1973 which indicates that you support bringing Alaskan oil via a Mackenzie River pipeline rather than the proposed Alyeska pipeline from Prudhoe Bay to Valdez, Alaska. Certain points in your letter seem to be continuing what I believe to be misconceptions that never seem to get pointed out with respect to the proposed Canadian line.

As a matter of introduction: I am a Civil Engineer licensed in the State of Alaska and other states and have had extensive experience in highway design in Alaska and in the period November, 1971–January, 1972 I was the Project Director for a "quickie" feasibility study of the Alyeska pipeline which was made for the State of Alaska by the consulting engineering firm for whom I then worked. This three month study consisted of an intensive in-depth analysis of the investigations and designs that had been prepared by the Alyeska group and included consultation with Canadian specialists who had been working on heat transfer and other experiments for the Canadian line. In addition, I have traveled in Arctic Canada and have been in the Mackenzie River Delta area. I am therefore not without knowledge of the environment and of the proposed Alyeska and Canadian pipelines and the engineering and environmental problems by which they are beset.

One of the major points that appears to be neglected by proponents for bringing north slope oil by the Canadian line is that Prudhoe Bay is not on the Alaska-Canada border. It is, in fact, some 180 miles airline distance to the west of the border and is separated therefrom by a rugged mountainous area that extends practically to the Beaufort Sea. These mountains consist of the Shublik Mountains, the Franklin Mountains, the Romanzof Mountains and further to the south the Philip Smith Mountains and the Davidson Mountains. On the Canadian side are the British Mountains and the Richardson Mountains before the flatlands of the Mackenzie Delta are reached. If the proposed line were to follow the shore of the Beaufort Sea it would cross the very large number of drainage courses, each of which represents a difficult engineering problem increasing the cost and the potential for breakage of the pipe. Furthermore, I believe that the north slope of these mountains in this area is a wildlife preserve.

If the coast route is to be avoided the pipeline would have to cross the Brooks Range, which in this area is composed of the above named groups of mountains and would enter Canada further to the south. This would increase the length of the line within Alaska and also increase the length of the line within Canada which is in the mountainous area west of the Mackenzie River. With either routing the length of the pipeline in Canada would be equal to 25% or more of the length of the proposed line from Prudhoe Bay to Valdez and this length would all be in the wilderness areas of the Brooks Range, the crossing of which by the pipeline has so upset the environmentalists. The Canadian route does not therefore remove the line from Alaska; it, in fact, leaves a very large section of it in Alaska. What therefore is the great advantage of handing over control of the transport of our oil to the Canadians?

The public furor over the environmental consequences of the Trans-Alaska pipeline have caused probably the most complete and thorough engineering analysis ever made for any project. The pipeline as now designed would have every possible protection within reason and almost beyond reason, against environmental damage (most of the pipelines currently in use within the United States pose far greater damage potentials because they are not engineered to the same degree of safety). I believe it is also important that one should put the environmental dangers in scale. Much has been said and written about the Right-Of-Way for the pipeline and its adjoining road as destroying the wilderness area in Arctic Alaska. Arctic Alaska is hundreds of miles wide and the Right-Of-Way is something like 100 feet. With the precautions now built into the design to prevent oil spill and the containment of such should it occur, the ratio of the area which might possibly become affected compared with the millions of acres that would not be affected is infinitesimally small.

We note in your letter that you said "A Trans-Canada line could ship part of its production to the West Coast through existing pipelines from Edmonton to Seattle but a Trans-Alaska pipeline would mean that the entire area east of the Rockies would be virtually cut off from Alaskan oil". Why? It is equally possible to ship oil from the Seattle area eastwards across the United States by pipeline as it is to ship from Edmonton to Seattle. In fact, I believe that a pipeline from the Seattle area to the central United States is under study. Assuredly this would involve shipment by two pipelines and tanker, which is no different from oil shipped from the Middle East and delivered by pipeline throughout the United States. The economics of it would probably be no worse than those of transporting via the Mackenzie River line.

In your letter you state that "A Trans-Canada line would cost about $3.5 billion to $4 billion". I know that this was a very preliminary figure given a number of years ago for the Mackenzie River line. At that time the Alaska line was estimated to be about $1 billion. When I worked on the Alaska line study the cost estimate was about $3½ billion. It has probably gone up since then. How could a line from Prudhoe Bay to Edmonton, which has to traverse some 200 miles in Alaska in rugged country and a vastly greater length in Canada, cost only $3.5 billion to $4 billion? From the experiments that have been conducted by the Canadians, there is every reason to believe that they will be equally concerned about the melting permafrost (the length of the Canada line in permafrost would be greater than that of the Alaska line in permafrost) and of damage in general to their wilderness environment. Costs of construction of the Mackenzie line must cost approximately the same as that of the Alaska line and cost of the Alaska Mackenzie River route must be three to four times that of Alaska route.

From all published statements that I have seen concerning the comparison of the two proposed lines that have come from congressional sources, there appears to me an imbalance in the quality of the technical information available to those interested in the project. The realism of costs and problems associated with the Alaska line have been excellently evaluated and presented in the environmental statement and studies prepared by the Alyeska group, admittedly as the result of prodding by the State of Alaska and the environmentalists, but the problems of costs and environmental consequences for the Canada line appear to be consistently played down and incorrect. With the energy situation in the United States it is obvious that Alaskan oil must be brought to market. By which route is a decision of national importance. It is my sincere hope that you and other members of the Congress will be diligent in acquiring truly equivalent evaluations of the two routes before a decision is made not to build the Alaska pipeline.

Very truly yours,

S. S. COOKE-YARBOROUGH.

Mr. GRAVEL. Mr. President, one of the arguments we hear most often from the opponents of the trans-Alaska pipeline is that the oil is needed in the Midwest—not the west coast—and that the oil would be surplus and exported.

It will take approximately 3 years from go-ahead to construct the trans-Alaska pipeline. With the projected increase in consumption of petroleum products and a decreasing production, it is estimated that by 1980 California alone will be dependent upon imports for more than 75 percent of its needs.

Mr. Howard S. Williams, editorial director of station KNXT, Los Angeles, has pointed out this blunt fact in editorials broadcasted on June 20 and 21 in support of immediate construction of the trans-Alaska pipeline.

I would like to share Mr. Williams' editorial with my colleagues and ask unanimous consent to have it printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ALASKA PIPELINE

Broadcast: June 20 and 21, 1973

That huge Northern Alaska oil field was discovered five years ago, but we're still years away from getting the oil here where it's needed.

Prudhoe Bay, where the oil is, is frozen all but six weeks a year. So the plan is to bring the oil down an 800-mile pipeline to an ice-free port at Valdez. From there, tankers will deliver 2 million barrels a day to the West Coast.

However, a number of self-appointed environmental experts have battled the pipeline for years, and still are—as if no oil shortage existed—as if a State bigger than Texas is really going to be despoiled by a 100-foot pipeline right-of-way across a frozen no-man's land.

The Supreme Court decided not long ago that a 1920 law which limits a right-of-way to 50 feet would apply to the pipeline, so Congress will have to change the law, and they should.

We need that oil. Californians will use almost 1.5 million barrels of oil this year. However, we will produce only 800,000 barrels. The rest is imported.

By 1980, consumption will be around 2.5 million barrels, but production has been going down and in 1980 will be only 600,000 barrels. The Alaska pipeline could supply the difference.

Alaska's Senator, Mike Gravel, is backing an amendment that would permit construction of the pipeline at once. But the environmentalists are stalling again. The dodge now is to call for a study of a trans-Canadian pipeline. That's out of the question. A Canadian pipeline would be three times as long, three times as expensive, it would take many more years to build, and Canada has given no assurance it would permit such a line.

The answer to part of the fuel stortage is the Alaska pipeline. It's going to take three years to build, and Congress should clear the way to start now.

Mr. GRAVEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEVENSON). On whose time?

Mr. GRAVEL. Not counted against either side.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Texas is about to call up an amendment. I ask unanimous consent that the amendment by Mr. GRAVEL may be temporarily laid aside and that the Senate proceed to the consideration of the amendment by Mr. BENTSEN; that if a yea-and-nay vote is ordered on the Bentsen amendment, it occur immediately upon the disposition of the amendment by Mr. BUCKLEY, which is scheduled to be disposed of at 2:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Section 308 after the words "Section 3502 of title 44 United States Code is amended by inserting in the first paragraph defining Federal Agency after the words 'the General Accounting Office' and before the words 'nor the government' the words 'independent Federal regulatory agencies'." add the following:

That Chapter 35 of Title 44, United States Code, is amended by adding after Section 3511 the following new section:

INFORMATION FOR INDEPENDENT REGULATORY AGENCIES

SEC. 3512. The Comptroller General of the United States shall review and approve the collection of information required by independent federal regulatory agencies described in Section 3502 of this Chapter in order to insure that the information needs of such agencies should be obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish the information. Unnecessary duplication of efforts in obtaining information through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by an independent regulatory agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other federal agencies and the public.

(a) In carrying out the policy of this Section, the Comptroller General shall review all existing information gathering practices of independent regulatory agencies as well as requests for additional information with a view toward

(1) avoiding duplication of effort by independent regulatory agencies, and

(2) minimizing the compliance burden on business enterprises and other persons.

(b) In complying with this section, an independent regulatory agency shall not conduct or sponsor the collection of information upon identical item, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency submitted to the Comptroller General the plans or forms, together with the copies of pertinent regulations and of other related materials as the Comptroller General has specified; and

(2) The Comptroller General has stated the information is not presently available to the independent agency for another source within the federal government and has determined that the proposed plans or forms are consistent with the provision of this section.

(c) While the Comptroller shall determine the availability from other federal sources of the information sought and the appropriateness of the forms for collecting such information, the independent regulatory agency shall make the final determination as to the necessity of the information in carrying out its regulatory function.

(d) Section 3508 of this Chapter dealing with unlawful disclosure of information shall apply to the use of information by independent regulatory agencies.

(e) The Comptroller General may promulgate rules and regulations necessary to carry out this Chapter.—

Mr. BENTSEN. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of this amendment: the Senator from Utah (Mr. Moss), the Senator from Arizona (Mr. FANNIN), the Senator from Wyoming (Mr. HANSEN), and the Senator from Georgia (Mr. NUNN).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, this amendment is brought about by an amendment that was passed on Saturday, the Hart amendment. The Hart amendment would remove the following agencies from the Federal Reporting Service Act of 1942: the Civil Aeronautics Board, the Federal Communications Commission, the Atomic Energy Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Securities and Exchange Commission, and the Federal Power Commission.

I concur with the objective of that amendment, and I voted for it. My concern there was that the OMB was in a policy position, in effect, to veto the obtaining of information by these independent regulatory agencies—information that I thought was necessary for them to arrive at a judgment. But I am also concerned by the problem of a proliferation of Government reports requested, of agencies that ask for reports sometimes for capricious reasons, or they might ask for a report where the information already is available, where another agency obtained it, or ask for it in an unreasonable format. So over the weekend, in trying to resolve that problem and accomplish both objectives I drafted this amendment.

Mr. President, the Bentsen amendment would provide a separate section 3512 in the Federal Reporting Services Act to deal with the information needs of these independent regulatory agencies. It would retain the Hart amendment exemption from OMB approval. It would require that before any of these agencies could publish a new or revised reporting requirement it would have to receive prior approval by the General Accounting Office.

The General Accounting Office would determine two things: First, was the information available to the independent agency from another Federal source; and second, are the forms designed to minimize the reporting burden, especially to small business.

Unlike the previous oversight by OMB the GAO would not make the final decision as to whether the information was needed. That decision would be left with the independent agency.

My feeling was that if the General Accounting Office were given veto power over whether information was needed, it is putting them in the policy-decision framework, and I do not think that should be done.

The amendment also instructs the General Accounting Office to review present reporting requirements of independent agencies to simplify and remove duplication where practicable.

I believe that this will answer both objectives and it will help the businessman who has been subjected in many instances to designating reports to various Government agencies, which has caused an expensive burden on him. In addition, a middleman would be required to give some assistance in connection with reports, to make it easier for the businessman to develop the information.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. BENTSEN. I am happy to yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I wish to ask my good friend from Texas whether it is his intention through this amendment to give a responsible agency of Congress an opportunity to review the information that is presently available to the various regulatory agencies of the United States and to make certain we do not plow the same ground another time if the information is on hand.

Mr. BENTSEN. The Senator is correct. It would be a coordinating point where someone would be charged with the responsibility to see if this information is or is not available. One would think the regulatory agency itself would do that, but there has been no incentive for them to do it.

Mr. HANSEN. As I understand it under the present law which the amendment adopted last week would repeal, authority is given to the Bureau of the Budget or OMB to pass on the propriety of questions submitted by any regulatory agency.

With respect to the philosophy behind that law, which I understand has been in effect since 1942, the Senator spoke about capriciousness. I was not certain I heard what the Senator said. Was it the Senator's thought there may be some idea that perhaps someone could review questions to see if they were capricious, but that it is not the Senator's intention here to cloak the GAO with that authority?

Mr. BENTSEN. Not to determine a policy question. I think I used the word capricious, in connection with burdens on the businessman, and the forms presented to him, without developing a simple form the businessman could handle without a lot of outside hired expertise.

Mr. HANSEN. Mr. President, would it be the Senator's opinion that the General Accounting Office, if his amendment is successful, would probably request an opinion, or suggest one, in which information would be garnered from questionnaires distributed, and not be unduly burdensome on individuals or include any heresy or threatening language that might strike a person being interrogated as causing undue fear or undue concern?

Mr. BENTSEN. I should think that if there were a department or a bureau in the General Accounting Office that was, in effect, charged with this responsibility, it would focus on trying to develop simplified reports to see that the purpose was accomplished, and that they would have a myriad of examples from other agencies that had done effective work in trying to develop this information and had obtained those examples from other agencies. That would be of great assistance in simplifying forms and developing information.

Mr. HANSEN. I think there is great merit in the amendment proposed by the Senator from Texas. I am proud to be a cosponsor of the amendment. It is a step in the right direction. It will restore some semblance of expertise and knowledge to an operation that I think could very conceivably get out of hand without the leavening good judgment that I think is found in the GAO. I am happy to cosponsor the amendment.

Mr. BENTSEN. I thank the distinguished Senator from Wyoming. He and I have both had many instances cited to us of small businessmen who have had to devote a too disproportionate amount of their time to answering governmental requests for information that really had little correlation to the size of the business and such benefits as might redound to it.

Mr. President, I ask for a favorable consideration of my amendment.

The PRESIDING OFFICER. Who yields time? If time is not yielded, it is to be charged equally to both sides.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. HANSEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. BENTSEN subsequently said: Mr. President, I ask unanimous consent that in the amendment proposed by me which was agreed to by the Senate this morning, certain amendments of a technical nature may be incorporated, which have been cleared with the Senator from

Michigan (Mr. HART) and the Senator from Washington (Mr. JACKSON), to make clear that the General Accounting Office, in extending its advice, must do so within 45 days. That is the substance of the technical amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? Without objection, it is so ordered.

Mr. BENTSEN. I thank the distinguished Senator.

Mr. BENTSEN's amendment, as modified, is as follows:

Section 308 after the words "Section 3502 of title 44, United States Code, is amended by inserting in the first paragraph defining 'Federal Agency', after the words 'the General Accounting Office' and before the words 'nor the governments', the words 'independent Federal regulatory agencies,'." add the following:

That Chapter 35 of Title 44, United States Code, by adding after Section 3511 the following new section:

INFORMATION FOT INDEPENDENT REGULATORY AGENCIES

SECTION 3512. The Comptroller General of the United States shall review the collection of information required by independent Federal regulatory agencies described in Section 3502 of this Chapter to assure that information required by such agencies is obtained with a minimum burden upon business enterprises, especially small business enterprises, and other persons required to furnish that information. Unnecessary duplication of efforts in obtaining information already filed with other Federal agencies or departments through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by an independent regulatory agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

(a) In carrying out the policy of this Section, the Comptroller General shall review all existing information gathering practices of independent regulatory agencies as well as requests for additional information with a view toward

(1) avoiding duplication of effort by independent regulatory agencies, and

(2) minimizing the compliance burden on business enterprises and other persons.

(b) In complying with this Section, an independent regulatory agency shall not conduct or sponsor the collection of information upon identical item, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

(1) the agency submitted to the Comptroller General the plans or forms, together with the copies of pertinent regulations and of other related materials as the Comptroller General has specified; and

(2) the Comptroller General has advised that the information is not presently available to the independent agency from another source within the Federal Government and has determined that the proposed plans or forms are consistent with the provision of this section. The Comptroller General shall maintain facilities for carrying out the purposes of this Section and shall render such advice to the requestive independent regulatory agency within 45 days.

(c) While the Comptroller shall determine the availability from other Federal sources of the information sought and the appropriateness of the forms for collection of such information, the independent regulatory agency shall make the final determination as to the necessity of the information in carrying out its statutory responsibilities and whether to collect such information. If no advice is received from the Comptroller General within 45 days, the independent regulatory agency may immediately proceed to obtain such information.

(d) Section 3508(a) of this Chapter dealing with unlawful disclosure of information shall apply to the use of information by independent regulatory agencies.

(e) The Comptroller General may promulgate rules and regulations necessary to carry out this Chapter.

Mr. BENTSEN. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Alaska (Mr. GRAVEL).

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. ROBERT C. BYRD. How much time remains on the amendment offered by the distinguished Senator from Alaska (Mr. GRAVEL)?

The PRESIDING OFFICER. No time has been used on the amendment; 1 hour remains.

Mr. ROBERT C. BYRD. Has the time used thus far been taken from the time on the bill?

The PRESIDING OFFICER. From the bill.

Mr. ROBERT C. BYRD. So 1 hour remains on the Gravel amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. It is my understanding that we will use that 1 hour tomorrow morning.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Alaska states that it is his desire, as a cosponsor, to use that 1 hour tomorrow morning. That being the case, is time now running on the bill?

The PRESIDING OFFICER. Time has now run on the bill in the recent consideration of this amendment. Unanimous-consent agreements had been entered for quorum calls which provided that no time run against the bill.

Mr. ROBERT C. BYRD. A further parliamentary inquiry, Mr. President. In view of the fact that time allowed on the Gravel amendment under the order—1 hour being allotted to any amendment—is to be reserved until tomorrow, is unanimous consent required to call up any other amendment at this time as long as debate is not running against the Gravel amendment?

Let me make this unanimous-consent request, which may be helpful, so that I will carry out the desire of the distinguished Senator from Alska.

I ask unanimous consent that at least 45 minutes of the 1 hour allotted to the amendment by Mr. GRAVEL not begin running until the hour of 10:15 a.m. tomorrow.

I make this request because up until this moment the agreement calls for a vote on the Gravel-Stevens amendment tomorrow at 11 a.m. The distinguished Senator from Alaska (Mr. STEVENS) indicated on last Saturday that, if it were possible, the sponsors of the amendment would like to see that vote delayed 15 minutes. But as of now, the vote must occur at 11 a.m. tomorrow. As of now the vote on the Haskell amendment will occur not later than 10 a.m. tomorrow. That vote may, however, occur earlier than 10 a.m. tomorrow. But as the order now stands, the vote on the Haskell amendment could be delayed until the hour of 10 a.m. tomorrow.

If such is the case, with 15 minutes allowed for a roll call, only 45 minutes would remain between the disposition of the vote on the Haskell amendment and the beginning of the roll call on the Gravel-Stevens amendment at 11 o'clock a.m. Hence my request that 45 minutes of the hour on the Gravel amendment be held in reserve until tomorrow beginning no later than 10:15 a.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD That leaves 15 minutes of the hour to be disposed of at some point, if it is ever disposed of.

Now my parliamentary inquiry: Is it in order to call up other amendments to the Alaska Pipeline bill during the afternoon of today without getting unanimous consent to set the amendment by Mr. GRAVEL aside?

The PRESIDING OFFICER. After the 15 minutes are used their afternoon, it would be assumed that the amendment was put aside until tomorrow, when the remaining time begins.

Mr. ROBERT C. BYRD. So that other amendments could then be called up during the afternoon of today?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. This, I think, clarifies the situation, to my satisfaction, and I think it could very well help prevent a tangled situation developing from a misunderstanding later on.

Mr. FANNIN. Mr. President, will the distinguished acting majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. FANNIN. As I understand it that would not apply to any amendment that is not germane to the pending bill.

Mr. ROBERT C. BYRD. Absolutely. This colloquy has nothing to do with the germaneness procedure. I am glad the Senator from Arizona has raised that point, because we do not want any misunderstanding about it. I am glad it has been clarified for the RECORD.

Mr. President, at the suggestion of the distinguished Senator from Alaska (Mr. STEVENS)—and I think it is a good one—I suggest the absence of a quorum and ask unanimous consent that the first 15 minutes consumed in the quorum call be equally charged against both sides on the Gravel amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

Mr. MOSS. Mr. President, I ask unanimous consent that Ed Merlis of the Commerce Committee staff be permitted the privilege of the floor during discussion and any votes that may occur on the amendments I am about to call up.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 337

Mr. MOSS. Mr. President, I call up my amendment No. 337 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

AMENDMENT No. 337

Immediately following section 307, add a new section 308, as follows:

SEC. 308. Section 2 of the Clayton Act (38 Stat. 730, as amended, 49 Stat. 1526; 15 U.S.C. 13), is amended as follows:

(a) In section 2(a) delete the words "in the course of such commerce" wherever they appear, and the words "are in commerce" after the words "where either or any of the purchases involved in such discrimination" and insert in lieu thereof the words "affect commerce".

(b) In the third proviso after the words "or merchandise" delete the words "in commerce" and insert the words "interstate commerce and" after the words "engaged in".

Mr. MOSS. Mr. President, is that the right amendment? I am not sure that is the right one.

The PRESIDING OFFICER. That is the one the clerk reported.

Mr. MOSS. I thank the Chair. I will proceed to discuss that, then, if I may.

Mr. President, this amendment that I have called up is occasioned by the holding recently of the 10th circuit court having to do with the interpretation of the language of the Robinson-Patman Act.

Some courts have begun to interpret the commerce standards of the Robinson-Patman Act in restrictive terms, rather than the realities of modern day commerce. In *Belliston* v. *Texaco, Inc.*, 1972 trade cases (¶37, 837), the 10th circuit reversed a $2.5 million plus verdict on behalf of 15 Utah Texaco dealers on the grounds that Texaco's discriminatory sales in that case did not cross State lines. Texaco was selling gasoline to its branded dealers and a favored jobber-retailer from a refinery operated by American Oil Co., in Salt Lake City. Since none of the gasoline in the discriminatory sales physically moved across State lines, the court held that the commerce requirements of the Robinson-Patman Act were not met. The result is strange since the crude oil moved across State lines; production from the refinery moved across State lines; American Oil and Texaco are international major integrated oil companies; and many of the customers of the injured Texaco retailers crossed State lines. Indeed, the only thing which did not cross State lines were the injured Texaco retailers being supplied gasoline by Texaco under the nationally advertised Texaco brand name from a Salt Lake City refinery operated by American Oil Co.

In States like Utah the Belliston decision leads to anomalous results. We have oil refineries in Utah and local retailers do not enjoy the protection of the Robinson-Patman Act if their supply comes from those refineries. Retailers in sister States without refineries and supplied by the Utah refineries are protected by the act. Retailers in Utah supplied by product from outside the State, like Conoco's retailers, are protected by the act. Even in Utah, therefore, the act is applied unequally since Conoco dealers may sue if they are the victims of price discrimination by their supplier, but Texaco dealers may not. A retailer's rights under the Robinson-Patman Act should not be made to depend upon the accident of where his supply comes from. Nor should the practical uniform application of Federal law be destroyed by artificially created limitations having the effect of making Federal law applicable in one State and not in another. That is the effect of this erroneous reading of section 2(a) of the Robinson-Patman Act in the Belliston case.

This result is, indeed, anomalous and contrary to the purpose of the Robinson-Patman Act. That act was designed to protect the small independent businessman from the economic clout of integrated national marketers, yet the Belliston interpretation creates an umbrella where lawless price discrimination may be used to destroy the very businesses Congress sought to protect. Other courts have rejected such an interpretation, see *Little John* v. *Shell Oil Co.*, 1972 Trade Cases 73, 897 (5th Cir. 1972) (on motion for hearing en banc) and the prospects for splits in the circuits and an extensive waste of court time in rectifying the issue is very real. It is in this light that I offer this amendment; not to rectify what Congress has failed to do, but to clarify what Congress has done so that the courts will not continue to be misled as in Belliston. Consequently, my offering of this amendment at this time should not be relied upon as evidence of legislative intent confirming the Belliston interpretation of "in commerce." It is designed to clarify the standard so that future interpretations like Belliston do not recur and the essential purpose of the Robinson-Patman Act is realized.

We cannot afford the luxury of waiting for the courts to resolve this issue by the long process of judicial review. Many hundreds of small local retailers have been driven out of business during the current gasoline shortage—be it real, contrived, or imagined. If their problems have been caused by the undue market power of large integrated oil companies engaging in discriminatory practices outlawed by the Robinson-Patman Act, they are entitled to protection of the Federal law despite the physical trail of their supply. Otherwise, the very beneficiaries of the Robinson-Patman Act will be the victims of an interpretation denying the fundamental purpose of that statute.

For the convenience of my colleagues, the amended language of section 2(a)—if this amendment is adopted—would read as follows:

> It shall be unlawful for any person engaged in commerce either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, where either or any of the purchases involved in such discrimination affect commerce, where such commodities are sold for use consumption or resale within the United States or any Territory thereof or the District of Columbia or any insular possession or other place under the jurisdiction of the United States, and where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefits of such discrimination, or with customers of either of them. . . .
>
> *And provided further*, that nothing herein contained shall prevent persons engaged in interstate commerce and selling goods, wares or merchandise from selecting their own customers in bona fide transactions and not in restraint of trade.

Mr. President, the amendment is to remove the artificial impediment of bringing cases under 2(a) of the Robinson-Patman Act. The reason for this is that the interpretation now placed on the statute of requiring that goods be in commerce has overlooked the more recent holding of the courts that if interstate commerce is affected by the action, it is within the jurisdiction of the Federal courts; and with this very small amendment, that matter can be clarified. The situation arose recently in the case I cited, the Belliston case.

I believe that this amendment would greatly relieve one of the damaging parts of the distribution function that we have occasioned in the matter of petroleum products. Of course, it would be wider than petroleum products, but this is where the focus has been up to this time.

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. MOSS. I am glad to yield, either on my time or the time in opposition.

Mr. HANSEN. Has the Senator completed his statement?

Mr. MOSS. Yes, I have completed my statement, unless there are questions about it. I will be glad to respond to any questions.

Mr. HANSEN. Mr. President, on my own time, if that is agreeable with the Senator from Utah, may I say that, as I understand it, amendment No. 337 would amend the Clayton Act for the purpose, as stated by its sponsor, of protecting Texaco retailers in the State of Utah who lost a case against Texaco. I think it is only fair to say that it would treat this sort of situation, and there may be instances in which other similar cases would arise which would be applicable as well.

That is the intent, is it not, of the sponsor of the amendment?

Mr. MOSS. Yes, that is the intent. It would not have the effect of reaching back. It would be prospective, from here on, with respect to matters that arose.

Mr. HANSEN. Mr. President, the

amendment seems to me to have no specific bearing on the pipeline legislation.

It occurs to me that there is real merit in examining this sort of situation to determine what may be the facts behind circumstances such as these. For that reason, I think it would be appropriate to hold hearings on this amendment. I hope the Senator will withdraw his amendment. If he does not, I intend to raise a point of order, because it is my feeling that the amendment is not germane. I hope we might look forward at a later date to hearings on this particular situation and let both sides come in and explain what their circumstances are and give the appropriate committees the benefit of whatever might evolve in that situation.

Mr. MOSS. If the Senator will yield, I point out that in this case I think the matter is germane because of the situation that confronts us in this pipeline case.

For example, in the Belliston case, which I cited, the oil came in from across State lines, and indeed it was not even received by Texaco. It went to American Oil Co., who then refined the oil and transferred it to Texaco, who then sold it under the Texaco brand name.

At that point, the court held that since the oil, after being refined, was then only transferred to a dealer in the State, the act did not apply. However, if it happened to go across that State line into Idaho or Wyoming, then the court did have jurisdiction. Therefore, I think it clearly entered interstate commerce.

Under the pipeline situation, if the pipeline is built and oil comes from Alaska in a tanker and it is landed in the State of Washington, and then, after being refined, some of that product, goes into the State of Oregon, that clearly would be covered by the Robinson-Patman Act. But if it remained and were sold in Seattle or Everett, or one of the other cities in Washington, it would not.

I believe this is a perfectly anomalous situation, because it all clearly affects the interstate market. Sixty percent of our oil refinery transactions are really intrastate, in the sense that the gasoline is sold where it is refined, but the whole integrated market is part of the same economic transaction. I think this is an appropriate and proper place for us to deal with this problem, which has now become acute in the petroleum industry.

Therefore, I would certainly hope that we could adopt this amendment. I submit that it is germane to the main business before us. It is certainly as germane as the remainder of title III, which amends the Federal Trade Commission Act.

Mr. HANSEN. I thank the distinguished Senator from Utah, my very good friend, for the explanation he has just given Senators. I can appreciate his concern and his interest in this problem. I commend him, as I have done on numerous occasions, for his diligence in trying to do what he believes will best serve the interests of America.

It is in the same vein, Mr. President, that I rise to make the point of order and to see whether, in the determination of the parliamentarian, this amendment is germane.

Before doing that, however, I should like to observe that a number of issues have been opened up as we have discussed the Alaska pipeline case. Many meritorious questions have been raised, and certainly a number of them deserve the attention and further study that I believe they will receive in due time. But in the debate that has occurred on the Alaska pipeline, it is my feeling that there is a real sense of urgency because of some facts that are known to all Senators.

In the first place, we are consuming between 17 and 18 million barrels of oil a day, and we are importing approximately one-third of that total amount from foreign sources.

The important sources in the past historically have been Canada and Venezuela. Now, as their inability to supply the increasing consumption in this country is brought into sharper focus, we are looking at further parts of the world. The distinguished chairman of the Committee on Interior and Insular Affairs has many times raised the point of national security. Can we, as a nation, afford further to get ourselves in the position where we would be moving with ever greater dependence upon foreign sources of supply? I would agree with the chairman, as I suspect many people do, that we cannot afford further delay in taking steps now that will hopefully reverse or retard this trend of looking upon foreign nations for something as critical to our material well-being and our national security goals as is oil.

Consequently, there is an urgency about getting on with the construction of the Alaska pipeline. For that reason I earlier favored a simpler bill which would have granted the Secretary of the Interior the power to widen the easement to a consortium so that they could get on with the pipeline construction.

For reasons that were persuasive to most Senators on the Committee on Interior and Insular Affairs, this simpler bill approach was rejected and a more broadened approach was taken which would deal with rights-of-way generally. As a consequence, we have broadened significantly the legislation we first envisaged as being necessary and essential. After that broadening and proliferation of concern have come into focus many issues and quite appropriately I would agree with my good friend from Utah that this is one. But I hesitate on such short notice, Mr. President, to agree to an amendment to the Clayton Antitrust Act without having had the benefit of hearings. I may very well find myself in strong support of my good friend from Utah, as I have on many occasions in the past, but it seems to me as though we ought to know more than at least this Senator knows before we take a position of amending something that has served us as long as and as well as the Clayton Antitrust Act.

So because of that, Mr. President, I must with great reluctance object and raise the point that in my opinion the amendment is not germane to the provisions of the bill.

The PRESIDING OFFICER. Until all time has expired on the amendment a point of order is not in order.

Mr. MOSS. Mr. President, I appreciate what my colleague from Wyoming has to say and I think he and I are largely in agreement on many matters having to do with resources. But I would plead with him to consider this matter on jurisdictional grounds.

Here we already have the circuits in disagreement; it has been held one way in one circuit and it has been held in another way in another circuit. Generally it has been held in other types of retailing that if a trade were effectively interstate commerce then it would be governed by the terms of the Robinson-Patman Act.

Here we have an example right in the petroleum field and here we have a bill in which we are considering transportation of petroleum from one of our remote States to the other contiguous States; and that oil is going to be subjected to retailing practices that are governed by the nondiscriminatory provisions of Robinson-Patman. So it seems to me, along with the fact that we have taken three measures which are amendments of the FTC Act, this amendment fits in and is germane to the matter. It is a simple matter. It states that in determining these cases the court shall make a finding if it affects interstate commerce, and if it does affect interstate commerce its jurisdiction is included.

It is not as though we were adding another big new field involving a lot of changes. For that reason I would offer to the Senate that I think it is certainly germane and certainly needed. I do not think any hearings on this could amount to anything extensive, at any rate. It would be a simple question, and Congress would have to decide if it wants to change the wording so that there would no longer be contradictory decisions of the court.

I am willing to yield back the remainder of my time. If a point of order is raised on germaneness, I would like to have a rollcall vote and appeal from the rule.

Whenever the Senator is ready to yield back his time, I am ready to yield back my time.

Mr. HANSEN. I thank my distinguished colleague from Utah.

Mr. President, there is much merit in what the Senator from Utah says. The danger that I contemplate in considering amendments that, in my opinion, are not germane, arises from the fact that there are few industries in the United States that reach into as many homes, that touch as many individuals as does the oil industry. I do not doubt at all that we could find all sorts of legitimate concern which would provide a basis for drafting amendments now until the crack of doom. Yet were we to do that, I think we would do our country a disservice now because there is a particular urgency that goes even beyond national security, and it addresses the issue of whether we are going to have enough heat for our schools this winter, whether we are going to be able to keep our generators working to continue life in the great metropolitan areas, whether we are going to have the energy necessary to move the wheels of commerce in this country.

Mr. President, each of these questions cannot await our deliberations too much longer. I hope we will get on with that business. If the Senator wishes to respond, I would be happy to yield.

Mr. MOSS. I do not know that any further response is necessary. I do not see any need for delay. If the measure is adopted, the bill will go as far as it will go anyway. I think it would be law very quickly, so I do not agree it would delay the bill in any sense because of the simplicity of the amendment. What I would like to do is to be ready to yield back——

Mr. HANSEN. I am ready to yield back.

Mr. MOSS. Does the Senator intend to make a point of order?

Mr. HANSEN. Yes.

Mr. MOSS. Then I want to be sure that I can get a second, if it is necessary to appeal. I do not know whether it will be necessary.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. ROBERT C. BYRD. I assure the distinguished Senator that he will have a sufficient second if he wishes a yea-and-nay vote on his appeal from the ruling of the Chair. I would suggest that, if the Senator does wish to appeal the ruling of the Chair—depending on the ruling of the Chair—such vote await the disposition of the amendment by the Senator from New York (Mr. BUCKLEY) which is scheduled for a vote at 2:30 p.m. today.

Mr. MOSS. I will be glad to, if we have an adverse ruling. I am not sure we will get one. So I yield back my time at this time.

Mr. HANSEN. Mr. President, I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed for 2 additional minutes before taking up the amendment by Mr. BUCKLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Is this amendment germane to the bill under the terms of the unanimous-consent agreement on the calendar of Monday, July 16, 1973?

The PRESIDING OFFICER. It is the opinion of the Chair that this amendment introduces new subject matter and is not germane to the bill.

Mr. HANSEN. I thank the Presiding Officer.

The PRESIDING OFFICER. Did the Senator make that point of order, or was it merely an inquiry?

Mr. HANSEN. I make the point of order that the amendment is not germane.

The PRESIDING OFFICER. The Chair so rules.

Mr. MOSS. Mr. President, I appeal from the ruling of the Chair, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the appeal by Mr. Moss from the ruling of the Chair, with reference to the point of order, occur immediately upon the disposition of the amendment by Mr. BUCKLEY, which is scheduled for a vote at 2:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from New York is recognized to call up an amendment.

Mr. BUCKLEY. Mr. President, I call up my amendment No. 309.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 30, line 24, delete the period following the word "Act" and insert a proviso.

The amendment is as follows:

On page 30, line 24, delete the period following the word "Act" and insert the following: ": *Provided, however,* That notwithstanding any other provision of this Act, neither the Secretary nor any agency head by regulation, by stipulation or conditions for right-of-way grants or renewals, or by any other means shall use the position of the Federal Government as landowner to accomplish, indirectly, public policy objectives unrelated to protection or use of the public lands except as expressly authorized by statute.".

Mr. BUCKLEY. Mr. President, I shall read the language of the amendment, because I believe——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous consent request?

Mr. BUCKLEY. I am delighted to yield.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the Senator from Arizona and the Senator from Wyoming? I ask unanimous consent that, upon completion of the vote today on the appeal by Mr. Moss from the ruling of the Chair in connection with the point of order, the distinguished Senator from Utah (Mr. Moss) then be recognized to call up his second amendment, and that upon disposition of the second amendment of Mr. Moss, the distinguished Senator from Colorado (Mr. HASKELL) be recognized to call up his amendment for debate thereon only. The previous order still stands that the vote on the Haskell amendment occur not later than 10 o'clock tomorrow morning.

Mr. STEVENS. Mr. President, reserving the right to object—and I shall not object—we have been informed that several Senators wish to make statements on the amendment that my colleague and I have offered. If we lay down the Haskell amendment, there would still be time to discuss the Gravel-Stevens amendment on time from the bill notwithstanding the fact that the amendment had been called up. Is that correct?

Mr. ROBERT C. BYRD. Mr. President, the Senator will have an opportunity later in the day to debate the Gravel-Stevens amendment. The reason I made this unanimous-consent request is that we have had some spinning of the wheels today, and if we know we are going to bring up amendments Nos. 1, 2, 3 and 4, we could move ahead.

Mr. STEVENS. Once the Haskell amendment is brought up, it will be the pending business until tomorrow. Is that correct?

Mr. ROBERT C. BYRD. No; it will be the pending business only for not to exceed 1 hour.

Mr. STEVENS. I thank the Senator.

Mr. FANNIN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. FANNIN. I ask the Senator from Utah (Mr. Moss) if he would be willing to yield 3 minutes to the Senator from Wyoming after his amendment is called up.

Mr. MOSS. On the second amendment?

Mr. FANNIN. Yes.

Mr. MOSS. Yes, I would be glad to yield.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from New York for his courtesy.

Mr. BUCKLEY. Mr. President, I shall read the amendment, which I have called up on my own behalf and on behalf of the Senator from Idaho (Mr. MCCLURE) and the Senator from Oklahoma (Mr. BARTLETT). It reads:

Provided, however, That notwithstanding any other provision of this Act, neither the Secretary nor any agency head by regulation, by stipulation or conditions for right-of-way grants or renewals, or by any other means shall use the position of the Federal Government as landowner to accomplish, indirectly, public policy objectives unrelated to protection or use of the public lands except as expressly authorized by statute.

What the amendment proposes to do is to protect the legitimate prerogatives of Congress against the possibility of usurpation by the executive branch. Specifically, it is designed to make certain that no future Secretary of the Interior will be tempted to abuse the broad discretion provided by this legislation in order to implement policy which is not specifically authorized by Congress.

To give some idea or some understanding of the scope of authority granted by the proposed legislation, let me quote from section 104(c) of the reported bill:

Right-of-way granted, issued, or renewed pursuant to this Act shall be given under such regulations and subject to such terms and conditions as the secretary or agency head may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

Section 104(d) of the reported bill delegates to the Secretary or agency head broad authority to impose stipulations.

Section 104(f) delegates to the Secretary or agency head the authority to decide whether or not an applicant for a right of way permit will be required to "reimburse the United States for all reasonable administrative and other costs incurred in processing an application . . ."

Section 104(h) authorizes the Secretary or agency head to require a right of way holder to "furnish a bond, or other security, satisfactory to the Secretary or agency head to secure all or any of the obligations imposed by the terms and conditions of the right-of-way . . ."

Section 105 specifies that "each right-of-way shall contain such terms and conditions as the Secretary or agency head deems necessary . . ."

Other provisions of the reported bill authorize the Secretary to require from the right-of-way applicant unlimited information concerning the nature of the business activity a part of which happens to involve the need for a right-of-way across Federal lands.

All of these provisions taken together represent a wholesale delegation of authority to the Secretary or agency head to manipulate by imposition of arbitrary stipulations the nature and conduct of business operations which by happenstance require a right-of-way across Federal lands. Such authority extends far beyond that needed to ensure that the actual use of the right-of-way granted will be related to the protection of the public lands. It extends to whatever the Secretary or agency head might wish.

It not only authorizes the Secretary or agency head, but virtually invites him, to intervene in the private business planning functions of persons needing rights-of-way across Federal lands. Such intervention could extend to business planning activities completely unrelated to the limited matter of that part of the business activity which requires a right-of-way across Federal lands. Such wholesale delegation of authority invites the Secretary or agency head in the name of "public policy" to tell the right-of-way applicant "unless you run your business in the manner which I prescribe or do this and that, you won't be granted a right-of-way."

The Public Land Law Review Commission detailed in its report several examples of such "public policy" abuses on the part of the executive branch regarding the imposition of conditions upon the use of public lands. The Commission stated that:

> Every constitutional tool available to the Federal Government should be used to accomplish public policy goals, but the decision to utilize indirect approaches to promote such objectives should be made by Congress. Authority to impose conditions unrelated to public land values should be expressly provided by statute where appropriate. This would remove present uncertainty and controversy and promote sound planning and development.

The Commission accordingly recommended that:

> Recommendation 98: Whenever the Federal Government utilizes its position as landowner to accomplish, indirectly, public policy objectives unrelated to protection or development of the public lands, the purpose to be achieved and the authority therefor should be provided expressly by statute.

Thus we believe that the reported bill, in the manner we described, is grossly inconsistent with the recommendation of the Public Land Law Review Commission. We believe that the reported bill provides for an abusively wholesale delegation of authority and thereby avoids the responsibility which the Constitution has placed on the shoulders of the Congress. It is through such redelegations of congressional authority as are provided for in the reported bill that the Congress has been called the "Sapless Branch".

We therefore introduced the pending amendment and urged its adoption. We cannot see how it in the least part can be controversial, as it simply states that the Secretary of the Interior will not take advantage of the happenstance that a particular activity must cross a piece of Federal land in order to improve on matters of policy which are not authorized by statute and do not relate to the protection of utilization of Federal land.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, I appreciate the leadership that the Senator from New York has given in bringing this matter to the attention of the Senate. I am a cosponsor of the pending amendment.

We have matters of concern that, I think, should be stated very clearly at the outset. While we have been debating the pending bill on the floor of the Senate for some days now, the tendency has been to follow the rather general misconception that has now been thoroughly ingrained into the minds of this body as well as the general public concerning the bill, that it is an Alaskan pipeline bill.

It is much more than an Alaskan pipeline bill. It is a bill that modifies the fundamental statutes of this land with respect to granting rights-of-way across public lands for whatever purpose. It also has a good many provisions in it that deal with the business of transporting petroleum products.

It is in this related area that we begin to see some of the ramifications if the pending amendment is not adopted. For instance, we wrote into the bill in committee certain requirements for the disclosure of information that bears upon antitrust, certain requirements for common carriers that deal with special common carrier status that are far beyond any right-of-way question. And if we indeed then allow the executive agency unbridled discretion, including the awards of the right-of-way and the granting of anything which might be desirable, it seems to me that it is an open invitation to extend that power to the implementation of the disclosures which we have required under this proposed statute.

Would the Senator from New York not agree that that is not a far-fetched extension of the possibilities under the pending bill?

Mr. BUCKLEY. I believe that the Senator from Idaho points out the well-recognized bureaucratic impulse. The fact is that the Secretary is granted the authority to deny or accept an application. The Secretary may believe that certain practices, certain disclosures, certain construction—the Senator may name anything he wants—is desirable. Yet, it will have nothing to do with the protection of Federal land.

We have seen example after example in recent history where someone with this type of discretion has, in fact, abused it and has, in fact, gone far beyond the logical limitations of his office.

I know that we have heard frequently on the floor in this body in recent months expressions of concern over the usurpation of congressional authority by agencies and by Secretaries of the various Departments.

I believe that what we have here is an amendment which will help prevent temptations and will help to eliminate these abuses.

I would like to take occasion at this point to state that this amendment, although I introduced it, is really the outgrowth of the comments and proposals made by the Senator from Idaho during the markup session. He introduced an amendment at that time that was carried one day and "uncarried" the following day. There is, therefore, a very close division of opinion within the committee itself as to the desirability of this provision precisely because the Senator from Idaho was able to point out historic abuses of the nature that we are hoping to guard against.

Mr. McCLURE. Mr. President, if the Senator will yield further, I am amazed that we are involved in a debate on the floor about the wisdom of this kind of legislation. It seems to me very clear that, whether it is the history of this Government or the history of governments generally in the evolution of governmental processes throughout all of recorded history, we are constantly guarding against an abuse of power placed in the hands of governmental officials.

I think that is what the struggle to have freedom on this continent was all about. It was an action by people who had seen too much of authorization governments, and they, therefore, carefully sought to limit the authority of the government by specifying the power with respect to the Federal Government and stating that they would have no powers except those which were expressly granted and that all other powers would be reserved to the States and to the people.

We have here in this amendment specifically provided that there should be no authority granted here that is not expressly provided for elsewhere by statute or his statute itself.

We can recite a number of examples of the kind of thing that might happen. And while this is not an Alaskan pipeline bill, let us look at the kind of thing that might possibly happen under this bill if this needed amendment is not adopted.

We are talking about an Alaskan pipeline as being absolutely necessary to get petroleum, supplies to the lower 48. And we have been concerned, as we have been debating the alternatives, as to where those supplies should go.

We have had any number of people from the east coast of the United States who were concerned whether, after the pipeline came down, they would get their petroleum supplies. So, we adopted an amendment which would prevent the transshipment of supplies in this country in a manner that would diminish the supplies to the United States. And we had endless debate about whether it should come to the west coast. And indeed, the people on the east coast are very concerned that this supply should be available to the north coast and the Northeast where there is indeed a critical shortage.

Mr. President, with that background, is it not possible that as conditions exist for the granting of a right-of-way for an oil pipeline, the Secretary might possibly include within the stipulation for that pipeline the provision that the companies who are involved in the joint venture of building the pipeline, and who will also produce the oil on the North Slope of Alaska, should be required as a condition of that pipeline to build deep port facilities, say in New Jersey?

Mr. BUCKLEY. Mr. President, that is not a farfetched example. One thing that concerns me about the bill is that if it broadens the traditional area over which the Secretary of the Interior has been concerned, respecting the common carrier status and other matters which ought to be the concern of other departments, I hope that he will be encouraged to take into consideration precisely the kind of circumstances detailed by the Senator from Idaho.

I believe that this is something that would be more likely to occur than not to occur if we did not insert into this bill language which makes it absolutely clear that those powers not specifically granted to the secretary, those exercises of discretion not directly related to the protection of the public domain, shall not be exercised.

I am delighted that the Senator from Idaho, in his introductory remarks, mentioned that the history of freedom has been that of finding ways of limiting the abuse of power and restricting the delegation of power. In recent years, we in this country have really created a fourth branch of government not contemplated by the Constitution: namely, these huge agencies and departments, bureaucracies who are really responsible to no one, who have been granted the broadest possible discretion by Congress, whose activities are so far flung that Congress, as a practical matter, has no capacity of oversight in any meaningful way; and also, because so many individuals, corporations, firms, and State and local governments have a life and death dependency on the use of discretion by these officials in this fourth branch of the government, unless we are particularly careful we will be creating something over which no one can exercise appropriate concern.

So I believe not only that this amendment should be adopted as a part of this bill, but that comparable language should be inserted in every new bill that comes along.

Mr. McCLURE. Certainly I would agree with what the Senator has stated. It seems to me that I recall, over the last several months, at least, and perhaps even the last year or two, loud cries of outrage from Members of Congress and a great many Members of this body about the usurpation of authority by the executive branch. Yet when they are given an opportunity to carefully limit that power, they sometimes drag their heels or seem to fail to understand that it is not so much a usurpation of authority as it is an unlimited grant of authority by this body. I would hope that we can persuade our colleagues of the wisdom of the course which we urge now in the adoption of an amendment which would carefully say, of all the outrageous suggestions that have been made that the administrative branches of Government cannot do anything that is not authorized by statute, "What a horrendous and outrageous proposition."

Mr. BUCKLEY. And incidentally, I would like to advise the Senator from Idaho that he and I have been so persuasive thus far that the only other Senator in the room, the Senator from Delaware (Mr. BIDEN) now occupying the Chair, has sent me a note asking that he be added as a cosponsor.

Mr. President, I ask unanimous consent that the name of the Senator from Delaware (Mr. BIDEN) be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. TAFT. I wonder if the Senator would include my name also as a cosponsor, and indicate that I am present.

Mr. BUCKLEY. Mr. President, I also ask unanimous consent to add the name of the Senator from Ohio (Mr. TAFT) as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I wonder if I might, just as a matter of explanation or correction for a misinterpretation of my motives, make reference to some press reports of my reasons for asking for this amendment in committee.

It was reported in the press in my home State that I had done this in order to upset or turn back the clock so far as wheeling agreements on private utility lines was concerned, that is, electrical powerlines.

My response would have to be that that was not my concern, although that was certainly one of the things that triggered my interest in the matter some years ago. But they have in that specific instance a court decision that says that is authorized by statute. So I do not see how, if it is indeed authorized by statute, this amendment would in any way affect wheeling agreements which are in effect at the present time under the provisions of statutes which the court has construed as being broad enough to cover that question.

Whether it is covered by statute or not perhaps is subject to question. I am aware that there is another case in court at the present time testing that very provision of the statute, to see whether or not the requirement of wielding public power over investor-owned utility lines is an appropriate exercise of authority. I think this should not be construed in any way as affecting that court proceeding.

Mr. BUCKLEY. That is correct; and Senator yield?

Mr. McCLURE. Certainly.

Mr. BUCKLEY. I just wanted to confirm my own understanding as a cosponsor of the amendment that it is not intended to change existing law. It is not intended to upset or interfere with court cases delineating the exact scope of existing law.

But the fact that the question would be raised as a criticism of the amendment is, to my mind, intriguing. If I can try to interpret what the editorial writer was saying, it was that, because this might interfere in something that we approve of that is not authorized by act of Congress, we do not want this amendment to be adopted. In other words, we do in fact want to have a Secretary of the Interior to have the broadest kind of discretion in utilizing certain overriding interests as a wedge, or as a lever to impose his policy irrespective of the wishes of Congress.

Unfortunately, this type of thinking is far too typical. Unfortunately the sheer size of our Government invites this tendency toward paternalism, toward reliance on people sitting at the top of these vast Government departments and dependence on them to do our thinking for us.

So I would say, whereas the amendment is not intended to change any existing interpretations of law, it is startling to me that it should be attacked, because it might be interpreted to prevent a Secretary of the Interior in the future from doing something not authorized by law.

Mr. McCLURE. If I may refer to another pending amendment, the amendment of the Senator from Utah, which has to do with divestiture: Suppose Congress today rejects that amendment and, therefore, is on record as saying, "We do not wish to enter the field of divestiture as far as the ownership by various oil companies may be concerned," and some future Secretary of the Interior should decide that divestiture was a good thing. He could, without the express letter of this amendment, as a condition to any right-of-way grant sought by any such oil company, attach to that right-of-way grant a provision that they divest. Is that not correct?

Mr. BUCKLEY. The Senator is absolutely correct.

Mr. McCLURE. Because the language of this bill is very broad that says he can attach such conditions as he deems reasonable to applications for right-of-way grants.

Mr. BUCKLEY. And the Secretary could, therefore, require provisions specifically voted down by the Senate.

Mr. McCLURE. That is absolutely correct. But, on the contrary, this amendment does not in any way interfere with any existing statute, nor does it limit the application of existing statutes as construed by the courts.

Mr. BUCKLEY. Mr. President, will the it in no way inhibits the Secretary from adopting any reasonable provision designed to protect public property and to protect its use or its development, whether it be by pipelines, canals, or rights-of-way for high tension lines, and so on. It does not interfere with his traditional authority as custodian or protector of Federal lands.

Mr. McCLURE. It certainly does not do that. As a matter of fact, the bill as a whole can be taken for only one thing with respect to public lands, and that is it must be legitimately used to protect the public lands and the interest of the public in the public lands so far as that specific right-of-way is concerned.

That leads me to another facet of the question that must be very clearly understood, if we are to know why my concern is expressed so vehemently here. The U.S. Government is not just another landowner. The U.S. Government has diverse responsibilities. It has diverse responsibilities across the country. It has this great number of people with respect to any individual part or parcel of land, but for the Secretary to have authority granted under this statute to be able to effect a public land policy in Maine as a result of public land use in California, it would seem to me to be absolutely an abuse of authority of the Federal Government as a landowner.

I submit that they have that authority if there is any kind of common interest between their concern in Maine for the applicant for a right of way in California——

The PRESIDING OFFICER (Mr. BARTLETT). All time of the Senator from New York has now expired.

Mr. FANNIN. Mr. President, S. 1081, as reported, contains one cause for particular concern articulated in the additional views of Senators BUCKLEY, McCLURE, and BARTLETT. That feature is the discretionary authority granted to the Secretary of the Interior or agency head to impose terms and conditions on right-of-way permits.

Specifically, section 104(c) of the reported bill authorizes—

> Such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

Section 104(d) of the reported bill delegates to the Secretary or agency head broad authority to impose stipulations.

Section 104(f) delegates to the Secretary or agency head the authority to decide whether or not an applicant for a right-of-way permit will be required to—

> Reimburse the United States for all reasonable administrative and other costs incurred in processing an application. . .

Section 104(h) authorizes the Secretary or agency head to require a right-of-way holder to—

> Furnish a bond, or other security, satisfactory to the Secretary or agency head. . .

Section 105 specifies that—

> Each right-of-way shall contain such terms and conditions as the Secretary or agency head deems necessary. . .

Other provisions of the reported bill authorize the Secretary to require of him the right-of-way applicant unlimited information concerning the nature of the business activity, a part of which happens to involve the need for a right-of-way across Federal lands.

My colleagues pointed out that such wholesale delegation of authority extends far beyond that needed to insure protection of the public lands. This is one feature of the bill which I would hope to see amended. I believe that amendment No. 309 proposed by Senators BUCKLEY, McCLURE, and BARTLETT, would correct such deficiencies in the bill as reported and favor its adoption.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BARTLETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McCLURE). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished manager of the bill (Mr. JACKSON), I yield to the distinguished Senator from Oklahoma—how much time?

Mr. BARTLETT. Two minutes.

Mr. ROBERT C. BYRD. Three minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 3 minutes.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from West Virginia and also the distinguished chairman of the Committee on Interior and Insular Affairs.

Mr. President, I appreciate very much the initiative of the Senator from New York and the Senator from Idaho in the preparation of this amendment and in driving home very hard and firmly their points during debate on this bill in committee.

My remarks will be very brief. For one thing, the amendment is very plain as to its intent. It is reasonable to expect that the adminstrator of any Government program or the grantor of any right to public lands, will not be allowed, because of his commanding position, to use this power of the process to achieve objectives that have not been expressly given to him under law. Whether the intent of the arbitrary stipulations be honorable or dishonorable is not the question. I know that there are several examples when the matters are of honorable intent and that in the past the Secretary of the Interior has rendered what I would consider a good judgment. But he has done it illegally and improperly, in my estimation.

The question is, does he, as an administrator, have the right, formally or informally, to require of the right-of-way applicant a condition which, by law, he would not be able to enforce otherwise? This amendment makes it plain that arm-twisting is not permitted.

I ask my colleagues to support the amendment by the Senator from New York and the Senator from Idaho.

I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from New Mexico wish to speak at this time?

Mr. DOMENICI. Not at this time. Perhaps in another moment or so.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against both sides on the amendment.

The PRESIDING OFFICER. The time of the proponents has expired.

Mr. ROBERT C. BYRD. I ask unanimous consent that the time be charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BARTLETT). Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I rise in opposition to the amendment of the junior Senator from New York (Mr. BUCKLEY). If adopted, amendment No. 309 would greatly restrict the Secretary of the Interior's authority to protect and manage the public lands.

This amendment was offered on two different occasions during the Interior Committee's markup of S. 1081. On both occasions, the amendment was defeated.

Mr. President, during consideration of this amendment in committee, I asked the Department of the Interior and the Department of Agriculture for reports on this amendment and its impact if it were adopted. The reports of the Secretary of Interior and the Secretary of Agriculture are found at pages 92 and 93 of the committee report on S. 1081.

The Department of the Interior stated that—

> We disagree with Recommendation No. 98 of the Public Land Law Review Commission and we strongly oppose the amendment offered by Senator McClure and respectfully urge the Committee to reject it . . . .
>
> Congress has given the Secretary fairly clear policy guidance in the administration of lands under his jurisdiction. It would be impossible for Congress to foresee all of the situations arising which require Secretarial action to carry out that policy. Limitation of the Secretary's discretion of the sort contemplated by this amendment could seriously impair his ability to enforce Congressional policy. With the great burden of legislation before the Congress it would be impossible for it to react effectively to deal with problems like the encroachment of a power line on the values of Antietam Battlefields.
>
> The language of the proposed amendment is vague and except for the specific illustrations in the discussion of the Public Land Law Review Commission Report on Recommendation No. 98 it is extremely difficult to predict what other actions of the Secretary could be subject to a wide variety of lawsuits alleging a violation of this provision whenever he attempted to include otherwise reasonable conditions in grants of right-of-way or any other authorizations for use of the public lands. Consequently this amendment could very seriously hamstring the Secretary in his administration of our Nation's public land resources. . . .

The Department of Agriculture stated that—

> Rights-of-way terms and conditions, established by the Secretary pursuant to his discretionary authority, have been for the protection, management and improvement of the National Forests and their resources. We think questions about our authority could be raised if a term or condition was imposed that did not reasonable [sic] relate to a purpose for which the National Forests are established and administered. We would interpret Civil Rights and similar general

government-wide requirements as being in a category of 'expressly authorized by statute.'

Section 6 of S. 1081 specifies the terms and conditions of rights-of-way which, as the Secretary deems necessary, shall be contained in each right-of-way. We think the effect of the additional restriction contained in the proviso may result, in doubtful cases, in the agency's refusal to authorize the right-of-way.

Mr. President, for the reasons noted in the reports of the two principal agencies charged with the administration and protection of the Nation's public and Federal lands, I strongly urge the defeat of the proposed amendment. It would greatly restrict the existing authority of responsible Federal officials to carry out their public trust responsibilities and obligations to protect the values and the resources of the public and Federal lands.

Mr. President, I ask unanimous consent to have printed in the RECORD the full text of the letters and a letter from the president of the Alaska Federation of Natives.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Set forth are Departmental coments on an amendment proposed by Senator MCCLURE.]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 12, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate

DEAR MR. CHAIRMAN: This is in response to your request for this Department's comments on the following amendment to Section 6, S. 1081 offered by Senator McClure:

"No public land management agency shall use the position of the Federal government as land owner to accomplish, indirectly, public policy objectives unrelated to protection or development of the public lands except as expressly authorized by statute."

The language of this amendment is essentially identical to Recommendation No. 98 of the Public Land Law Review Commission Report.

Although the text of Recommendation No. 98 is very general in nature, the accompanying discussion in the PLLRC Report recites Department of the Interior and Department of Agriculture regulations requiring recipients of power line rights-of-way to wheel Federal power within their available excess capacity on such lines as an example of an unrelated program objective. The discussion also mentions another case in which the Secretary of the Interior blocked construction of a power line near Antietam Battlefield as a condition of the Potomac Edison Company's right-of-way across the C & O Canal National Monument as another example of an action taken without clear direction of Congress. The principal thrust of the PLLRC recommendation appears to be that this type of Executive action should not be taken without explicit Congressional direction.

We disagree with Recommendation No. 98 of the Public Land Law Review Commission and we strongly oppose the amendment offered by Senator McClure and respectfully urge the Committee to reject it.

The illustrations of the PLLRC Report do not, in our view, demonstrate Federal action as a land owner to accomplish indirectly public policy objectives unrelated to the protection and development of the public lands.

Construction of power lines across public lands is a significant development of those lands. As a legal matter, the issue of "wheeling" regulations has previously been fully explored, adjudicated and upheld in a Memorandum Opinion of June 2, 1952, by the United States District Court for the District of Columbia in the unreported case of *Idaho Power Company* v. *Chapman* (Civil Action No. 4540–59); and in a supplemental memorandum of that Court on October 31, 1952. Most important, subsequent administrative decisions have been based on our interpretation that Congress intended power lines to be placed across Federal lands under terms and conditions to assure the overall welfare of those lands. The Government's use of *surplus* capacity in a transmission line upon payment of fair market value by the Government for that use limits the proliferation of these lines across Federal lands, saves the taxpayers the expense of constructing separate Federal lines, and is fully consistent with good land management policy.

The second illustration in which the Department conditioned a right-of-way across the C & O National Monument upon an agreement by the Potomac Edison Company to minimize the effect of that same line on the Antietam National Battlefield was clearly an action directly related to the protection of our public lands, the National Park System.

Congress has given the Secretary fairly clear policy guidance in the administration of lands under his jurisdiction. It would be impossible for Congress to foresee all of the situations arising which require Secretarial action to carry out that policy. Limitation of the Secretary's discretion of the sort contemplated by this amendment could seriously impair his ability to enforce Congressional policy. With the great burden of legislation before the Congress it would be impossible for it to react effectively to deal with problems like the encroachment of a power line on the values of Antietam Battlefield.

The language of the proposed amendment is vague and except for the specific illustrations in the discussion of the Public Land Law Review Commission Report on Recommendation No. 98 it is extremely difficult to predict what other actions of the Secretary it might be construed to affect. Because of this vagueness the Secretary could be subject to a wide variety of lawsuits alleging a violation of this provision whenever he attempted to include otherwise reasonable conditions in grants of right-of-way or any other authorizations for use of the public lands. Consequently this amendment could very seriously hamstring the Secretary in his administration of our Nation's public land resources.

Sincerely yours,

JOHN C. WHITAKER,
Under Secretary.

DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
April 12, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate

DEAR MR. CHAIRMAN: This is in response to Mr. Harvey's April 11 request for our comments on an amendment to Section 6 of S. 1081 offered by Senator McClure. In the time available we have discussed the question informally with our Office of General Counsel.

The amendment in question would add a proviso at the end of the section which would read: "*Provided,* That no public land management agency shall use the position of the Federal government as a landowner to accomplish, indirectly, public policy objectives unrelated to protection or development of the public lands except as expressly authorized by statute."

We have two comments on the proposed proviso:

1. While the proposed language, as a proviso, would qualify the foregoing language of Section 6, we think it should be made clear that the qualification applies, as we think it is intended, to the issuance of rights-of-way across public lands. This clarification could be accomplished by inserting after "agency" and before "shall" the language, "in issuing, granting, or renewing rights-of-way."

2. Rights-of-way across National Forest lands are authorized either under a statute relating to a specific use, such as the Act of March 4, 1911 (16 U.S.C. 523), authorizing easement for power and communication facilities, or under the Organic Act of June 4, 1897 (16 U.S.C. 551) which authorizes the Secretary of Agriculture to regulate the occupancy and use of the National Forests. The latter is a broad authority. Except for conditions respecting the duration of use and the area of land which may be subjected to the use, right-of-way statutes have usually left to the discretion of the agency the terms and conditions of the right-of-way. For example, the Act of March 4, 1911 provides that the Secretary is authorized to grant an easement "under general regulations to be fixed by him." The terms and conditions of rights-of-way permitted under the Act of June 4, 1897, have been prescribed by the Secretary.

Rights-of-way terms and conditions, established by the Secretary pursuant to his discretionary authority, have been for the protection, management and improvement of the National Forest and their resources. We think questions about our authority could be raised if a term or condition was imposed that did not reasonably relate to a purpose for which the National Forests are established and administered. We would interpret Civil Rights and similar general government-wide requirements as being in a category of "expressly authorized by statute."

Section 6 of S. 1081 specifies the terms and conditions of rights-of-way which, as the Secretary deems necessary, shall be contained in each right-of-way. We think the effect of the additional restriction contained in the proviso may result, in doubtful cases, in the agency's refusal to authorize the right-of-way.

Furthermore, we are concerned that the phrase "unrelated to protection and development of the public lands" may be narrowly construed. An alternative would be to amend the phrase to read: "unrelated to the purposes for which public lands are protected, managed, and developed."

We are glad to give you these comments as a drafting service, and they should not be construed as indicating a position of the Department of Agriculture on the proposed amendment.

Sincerely,

PHILIP L. THORNTON,
Deputy Chief.

MEMORANDUM

JULY 16, 1973.

To Senator JAMES BUCKLEY.

From William L. Hensley, President, Alaskan Federation of Natives, Inc.

Re Position of Alaska Federation of Natives, Inc., on Amendment No. 309 to S. 1081

The Alaska Natives are concerned that the terms of Amendment No. 309 might so restrict the Secretary of the Interior in the exercise of his public land responsibility as to make it impossible for the Secretary to take actions in the future with respect to permits and rights-of-way that are essential to protect their interests.

As already amended by Senator Jackson's Amendment No. 328, presumably the absolute liability stipulation covered by that amendment would be "expressly authorized by statute." However, other protection actions may be required in the future and it might be difficult or impossible to show that they meet the qualification that Amendment No. 309 would impose, to-wit that they be "related to protection or use of the public lands." For that reason, the Alaska Federation of Natives, Inc., recommends against Amendment No. 309, or in the alternative, if such amendment is favorably regarded by the Senate that it be amended by the addition of the following proviso:

"Provided further, however, that this limitation shall not apply to any regulation, stipulation or condition found by the Secretary or by the appropriate agency head to be related to protection of the interests of persons living in the general area traversed by such right-of-way."

Mr. JACKSON. Mr. President, I reserve the remainder of my time.

Mr. BUCKLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has all the remaining time.

Mr. JACKSON. I yield such time as the Senator from New York may require.

Mr. BUCKLEY. I thank the Senator from Washington for his courtesy.

First of all, with respect to the letter from the Under Secretary of the Interior, Mr. John Whitaker, perhaps he was not fully conversant with what the amendment in question stipulates.

He expressed concern in the final sentence when he said that it would seriously hamstring the Secretary in his administration of our Nation's public lands resources. He said the amendment in question specifically limits him as to matters that are unrelated to the protection or use of the public lands. Therefore, anything that comes within his overall jurisdiction, his historic jurisdiction as custodian of the public lands, will clearly be unaffected by this amendment.

It is not at all surprising that the Secretary of the Interior and the Secretary of Agriculture, or any other Secretary would respond as they have. I have yet to hear of any member of the Executive branch who wanted to turn back power or restrict his options. It seems to me this goes precisely to the concern that has so often been expressed in this body in recent months, namely a concern that Congress over-delegated and granted plenary discretion, and we have expressed the desire time and again to recapture that discretion and establish clear limits where the Secretary may exercise discretion to protect and preserve the prerogatives of the United States.

Mr. JACKSON. Mr. President, I completely respect the sincerity of my good friend from New York in offering the amendment. I would not want any inference drawn to the contrary. I must confess to my colleague that I did not know how to draft an amendment to do what I think he sincerely has in mind.

The problems we face here when we are dealing with rights of way are so diverse that I am not wise enough, shrewd enough, or prophetic enough to be able to figure out how to delegate authority in such a way as to be able to anticipate all of the situations that could arise in the future that are indeed relevant and indeed would be relevant conditions in a right of way grant. This is my problem.

Mr. BUCKLEY. I am glad to yield to my colleague from Idaho, who is a cosponsor of the amendment.

Mr. McCLURE. Mr. President, the problem I have with the position of the Senator from Washington is this. First, as the Senator from New York said, the amendment expressly exempts from the restrictions of this amendment those policy objectives which are related to the protection or development of the public lands. So within the confines of the management of public lands there was no possible restriction by the application of this amendment.

Might I respond most directly by directing a question to the Senator from Washington. What authority is it that the Senator desires that the Secretary should have, that is unrelated to the development or protection of the public lands that is not provided for by statute?

Mr. JACKSON. I do not know what that might be, but I know it is said that the door has been locked on him and you will not be able to deal with specific problems that might arise in the future.

Let me ask the Senator this question. The Antietam Battlefield case was the classic one we were up against not too long ago when the power company wanted to run a powerline through that particular monument. The result was that the Secretary laid down the conditions that they would have to comply with. Now, that is one example.

I would ask my friend to take that last line in the amendment, line 9. He refers to public lands "as expressly authorized by statute." What does "expressly" mean?

Mr. BUCKLEY. It means clearly and explicitly, not inferentially.

Mr. JACKSON. That is the problem. I do not know that we can in such clear language expressly anticipate every condition that might be reasonable and sensible. Maybe there should be a provision shall we say, to use the old lawyer's language, where there might be an arbitrary and capricious act. Perhaps we ought to review it and look at it and see if we should not have an override authority.

I hesitate here to put this kind of hammerlock on the Secretary when he is trying to take charge of the duties of his office. I would assume that my colleagues on the other side may not want to grab back that power due to an adverse Congress. I say that with a smile.

Mr. McCLURE. First, with respect to what is meant by the language, I think the courts determine what is meant by a statute, as they did in the Wheeling controversy out in our region. The Court said in one decision that it was provided for by statute and, therefore, the Secretary had the authority. It is being challenged, but the Court will make the decision whether it is provided by a statute.

As to whether or not we would like to restrict this administration of course. I would. I would like to restrict the arbitrary abuse of power, regardless of by whom it is held. The history of enslavement of people has been the abuse of power in the hands of government, and that is what this is all about.

Mr. JACKSON. I respond by saying that Congress said to leave it to the courts. I recognize whether we want it or not everything is left to the courts if someone brings a lawsuit.

I would like to be more specific. I would like to ask my colleagues—they are very able lawyers—would the Antietam Battlefield be included under the amendment, as not expressly authorized by statute?

I do not see anything about the Antietam Battlefield here.

I would say the decision rendered in the Antietam case would be covered by this and prohibited by this, just as would be the secretarial discretion, if he should decide, in the Alaskan pipeline controversy to order a deepwater port in New Jersey or Maryland as a condition of the pipeline in Alaska. It is the kind of case which should be discussed by Congress. That confirms my suspicion and my worry.

I believe the Secretary would act within his authority. The Court so held. It is this very kind of anticipatory situation that we would be blocking hereby, requiring that it must be expressly authorized by statute.

There are tens of thousands of rights-of-way over public lands that must be granted all over the United States. Just think of it: The United States of America owns over one-third of all the real estate. It would be difficult to pass a bill to expressly cover every possible contingency. Unless it is spelled out in express language, the Secretary could not act.

I think if we got into a situation where there was a capricious and arbitrary act, there would be a remedy; but, as a lawyer, I do not see how we could draft an amendment that would be so wise as to be anticipatory of such action.

The PRESIDING OFFICER.. The time on the amendment has expired.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from New York (Mr. BUCKLEY) have 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. I thank the Senator for his graciousness. Yes, there are tens of thousands of rights-of-way across Federal lands, which pose the prospect of tens of thousands of abuses in discretion in granting those rights-of-way. The Senator has cited one possible case in point where the Secretary went beyond his authority, and that is in the Antietam case. The Senator liked that decision, but would he have liked it if the Secretary had required the building of storage tanks on Lake Washington as a condition for a right-of-way in another State?

Mr. JACKSON. I think that is irrelevant.

Mr. BUCKLEY. No. It is an example of what could be done if the Congress does not make it clear.

Mr. JACKSON. With all due respect, the Antietam decision was directed to public lands and the conservation of those lands and the protection of them.

Mr. McCLURE. Mr. President, I ask unanimous consent that I may proceed for 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCLURE. The Antietam case has been referred to several times, and I think it might be well to define that a little more, because when I am talking about that I am not talking about the decision to locate or not locate the powerline in proximity to the Antietam Battlefield; I am talking about the right-of-way stipulation that was put in the C. & O. Canal crossing that required them to relocate that at some miles distant, totally unrelated. The Senator from Washington indicated that had been approved by the court. My understanding is that it was never submitted to the court, because the secretary had overweening power in that respect.

While I share the Senator's feelings about obtaining results, the very fact that the Secretary has authority to do that simply underscores the necessity for defining that authority.

The PRESIDING OFFICER. The time on the amendment has expired.

The question is on agreeing to the amendment by the Senator from New York (No. 309). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Mississippi (Mr. Eastland), and the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Bible), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), and the Senator from Alabama (Mr. Sparkman) are absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "nay."

Mr. SCOTT of Pennsylvania. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness in the family.

The Senator from New York (Mr. Javits) and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from Michigan (Mr. Griffin) is absent on official business.

If present and voting, the Senator from New York (Mr. Javits) would vote "nay."

The result was announced—yeas 49, nays 36, as follows:

[No. 292 Leg.]

YEAS—49

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Biden
Brock
Brooke
Buckley
Clark
Cook
Curtis
Dole
Domenici
Dominick
Fannin
Fulbright
Goldwater
Gurney
Hansen
Hartke
Hatfield
Helms
Hruska
Inouye
Mansfield
Mathias
McClellan
McClure
Metcalf
Montoya
Moss
Nunn
Packwood
Pearson
Percy
Roth
Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—36

Abourezk
Aiken
Bayh
Bentsen
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Cranston
Eagleton
Ervin
Fong
Gravel
Hart
Haskell
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Jackson
McGovern
McIntyre
Mondale
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Ribicoff
Stevenson
Symington
Williams

NOT VOTING—15

Bible
Byrd,
Harry F., Jr.
Cotton
Eastland
Griffin
Javits
Johnston
Kennedy
Long
Magnuson
McGee
Saxbe
Sparkman
Stennis
Tunney

So Mr. Buckley's amendment was agreed to.

Mr. BUCKLEY. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. Bartlett). Under the previous agreement, the vote will now occur on the appeal from the ruling of the Chair that amendment No. 337 is not germane to the bill under the unanimous-consent agreement requiring all amendments to be germane.

Mr. McCLELLAN. Mr. President, may we have the amendment stated?

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The assistant legislative clerk read as follows:

> Immediately following section 307, it is proposed to add a new section 308, as follows:
>
> Sec. 308. Section 2 of the Clayton Act (38 Stat. 730, as amended, 49 Stat. 1526; 15 U.S.C. 13), is amended as follows:
>
> (a) In section 2(a) delete the words "in the course of such commerce" wherever they appear, and the words "are in commerce" after the words "where either or any of the purchases involved in such discrimination" and insert in lieu thereof the words "affect commerce".
>
> (b) In the third proviso after the words "or merchandise" delete the words "in commerce" and insert the words "interstate commerce and" after the words "engaged in".

Mr. MOSS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOSS. This vote will be on whether or not the ruling of the Chair is to be sustained; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MOSS. The substance of the amendment appears in a mimeographed sheet that is on the desk of every Senator. I would suggest that reading that sheet would give the Senator clues as to how he wants to vote on the ruling.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is not the vote which is about to occur a vote on the appeal by Mr. Moss from the ruling of the Chair, the Chair having ruled that the amendment by Mr. Moss is not germane to the bill under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is it correct that a "nay" vote would support the Senator from Utah (Mr. Moss) on his amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. FANNIN. A "yea" vote would sustain the Chair; is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is, Shall the decision of the Chair stand as the judgment of the Senate? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrd, Jr.), the Senator from Mississippi (Mr. Eastland), the Senator from California (Mr. Tunney) are necessarily absent.

I further announce that the Senator from Nevada (Mr. Bible), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from Wyoming (Mr. McGee), and the Senator from Alabama (Mr. Sparkman) are absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "nay."

Mr. SCOTT of Pennsylvania. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness in the family.

The Senator from New York (Mr. Javits) and the Senator from Ohio (Mr. Saxbe) are necessarily absent.

The Senator from Michigan (Mr. Griffin) is absent on official business.

If present and voting, the Senator from New York (Mr. Javits) would vote "nay."

The yeas and nays resulted—yeas 52, nays 33, as follows:

[No. 293 Leg.]

YEAS—52

Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Biden
Brock
Buckley
Byrd, Robert C.
Cannon
Case
Cook
Curtis
Dole
Domenici
Dominick
Ervin
Fannin
Fong
Fulbright
Goldwater
Gurney
Hansen
Haskell
Hatfield
Helms
Hruska
Huddleston
Inouye
Mansfield
McClellan
McClure
Montoya
Nunn
Packwood
Pearson
Percy
Randolph
Roth
Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevens
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—33

Abourezk
Bayh
Brooke
Burdick
Chiles
Church
Clark
Cranston
Eagleton
Gravel
Hart
Hartke
Hathaway
Hollings
Hughes
Humphrey
Jackson
Mathias
McGovern
McIntyre
Metcalf
Mondale
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Ribicoff
Stevenson
Symington
Taft
Williams

NOT VOTING—15

Bible
Byrd,
Harry F., Jr.
Cotton
Eastland
Griffin
Javits
Johnston
Kennedy
Long
Magnuson
McGee
Saxbe
Sparkman
Stennis
Tunney

The PRESIDING OFFICER. On this question, the yeas are 52 and the nays are 33, and the decision of the Chair stands as the judgment of the Senate.

Under the previous order, the distinguished Senator from Utah (Mr. MOSS) is now recognized.

AMENDMENT NO. 329 AS MODIFIED

Mr. MOSS. Mr. President, I call up my Amendment No. 329 and send to the desk a substitute rewording of the amendment No. 329 containing technical corrections, and ask that the substitute amendment be read in lieu of 329 as printed. Copies of the substitute are already on Senators' desks.

The PRESIDING OFFICER. The amendment as modified will be stated.

The assistant legislative clerk read as follows:

On page 35, after line 23, insert the following two new sections:

GENERAL PROVISIONS

SEC. 207. (a) SHORT TITLE.—Section 207 through 208 of this title may be cited as the "Energy Industry Competition Act".

(b) DECLARATION OF POLICY.—The Congress hereby finds and declares that the full potential benetfis of the early delivery of the oil and gas available on Alaska's North Slope to domestic markets and consumers will not be realized unless—

(1) barriers to competition presently existing in the energy industry are removed;

(2) restrictions are imposed on further expansion of persons engaged in commerce in the business of producing, transporting, refining, or marketing energy resource products; and

(3) divestiture of assets of such persons in return for fair compensation is directed to promote the public interest in competition and freedom of enterprise, and to protect the consuming public from monopoly, oligopoly, and bigness.

(c) DEFINITIONS.—As used in this Act—

(1) "Affiliate" means a person controlled by or controlling or under or subject to common control with respect to any other person.

(2) "Asset" means any property (tangible or intangible, real, personal, or mixed) and includes stock in any corporation which is engaged (directly or through a subsidiary or affiliate) in the business of producing, transporting, refining, or marketing energy resource products.

(3) "Commerce" means commerce among the several States or with foreign nations or in any State or between any State and foreign nation.

(4) "Control" means actual or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates or officers, contractual relations, agency agreements, or leasing arrangements where the result or consequence is used to affect or influence persons engaged in the marketing or energy resource products.

(5) "Energy resource product extraction asset" means—

(A) any asset used for the exploration or development of petroleum or coal deposits or used for the extraction of coal or crude petroleum, including oil and gas wells, and

(B) with respect to oil shale, any asset used in extracting such shale from the ground, crushing and loading it into a retort and retorting such shale, except that the term does not include any asset used in processes subsequent to retorting.

(6) "Energy resource product" means petroleum, natural gas, coal, or products refined therefrom.

(7) "Marketing" means the sale and distribution of energy resource products, other than the initial sale with transfer of ownership to customers at the refinery.

(8) "Person" means an individual or a corporation, partnership, joint-stock company, business trust, trustee in bankruptcy, receiver in reorganization, association, or any organized group whether or not incorporated.

(9) "Energy marketing asset" means any asset used in the marketing or retail distribution of energy resource products including, but not limited to, retail outlets for the sale of gasoline, motor oil, Number 2 fuel oil, home heating oil, or coal.

(10) "Energy pipeline asset" means any asset used in the transportation by pipeline of energy resource products from the site of its extraction to a refinery or in the transportation by pipeline of energy resource products from the refinery to any other place.

(11) "Energy refinery asset" means any asset used in the refining of energy resource products.

(12) "Production" means the development of oil lands or oil shale lands within any State, the extraction of crude petroleum, coal, oil shale, or natural gas thereon, and the storage of crude petroleum or natural gas thereon.

(13) "Refining" means the refining, processing, or converting of crude petroleum, coal, kerogen, fuel oil, or natural gas into finished or semifinished products. The term includes the initial sale with transfer of ownership of such finished or semifinished products to customers at the refinery.

(14) "State" means any State of the United States, the District of Columbia, the Commonwealh of Puerto Rico, the Virgin Islands, Guam, and the Trust Territory of the Pacific.

(15) "Transportation" means the transportation of energy resource products by means of pipelines, railroads, or tankers.

ENERGY INDUSTRY COMPETITION

SEC. 208. (a) (1) It shall be unlawful for any person engaged in commerce in the business of extracting energy resource products to acquire any energy pipeline asset, energy refinery asset, or energy marketing asset after the date of enactment of this Act.

(2) It shall be unlawful for any person engaged in commerce in the business of transporting energy resource products by pipeline to acquire any energy resource product extraction asset, energy refinery asset, or energy marketing asset after the date of enactment of this Act.

(3) It shall be unlawful for any person engaged in commerce in the business of refining energy resource products to acquire any energy resource product extraction asset, energy pipeline asset, or energy marketing asset after the date of enactment of this Act.

(4) It shall be unlawful for any person engaged in commerce in the business of marketing energy resource products to acquire any energy resource product extraction asset, energy pipeline asset, or energy refinery asset after the date of enactment of this Act.

(b) (1) It shall be unlawful for any person to own or control, more than three years after the date of enactment of this Act, any asset which such person is prohibited from acquiring under subsection (a) of this section.

(2) Each person owning or controlling, on the date of enactment of this Act, any asset which such person is prohibited from acquiring under subsection (a) of this section shall, within one hundred and twenty days after such date, file with the Attorney General of the United States and the Federal Trade Commission such reports relating to such assets and, from time to time, such additional reports relating to such assets, as the Attorney General or the Federal Trade Commission may require.

(c) (1) The Attorney General of the United States and the Federal Trade Commission shall, simultaneously and independently, examine the relationship of persons now engaged in one or more branches of the energy industry. The Attorney General shall, and the Federal Trade Commission may, institute suits in the district courts of the United States requesting the issuance of such relief as is appropriate under this Act, including declaratory judgments, mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

(2) The Attorney General of the United States and the Federal Trade Commission shall take all steps necessary to require such additional divestment as is necessary or appropriate to restore maximum competition with respect to the production, refining, transportation, and marketing of energy resource products in commerce in each section of the country.

(d) The district courts of the United States shall have exclusive jurisdiction pursuant to the Act of February 11, 1903 (ch. 544, § 1, 32 Stat. 823) to enforce compliance with or to enjoin any violation of this Act.

(e) Any person who knowingly violates any provision of this Act shall, upon conviction, be punished, in the case of an individual, by a fine of not to exceed $500,000 or by imprisonment for a period not to exceed ten years, or both, or in the case of a corporation, by a fine of not to exceed $5,000,000 or by suspension of the right to do business in interstate commerce for a period not to exceed ten years, or both. A violation by a corporation shall be deemed to be also a violation by the individual directors, officers, receivers, trustees, or agents of such corporation who shall have authorized, ordered, or done any of the acts constituting the violation in whole or in part, or who shall have omitted to authorize, order, or do any acts which would terminate, prevent, or correct conduct violative of this Act. Failure to obey any order of the court pursuant to this Act shall be punishable by such court as a contempt of court.

Mr. MOSS. Mr. President, the thrust and force of this amendment would be to follow a trend first proposed in the 75th Congress, that is to bring about once and for all the separation of the marketing, production, refining, and transportation of petroleum and petroleum products. The old axiom of whoever controls the crude, controls the industry, has been borne out over the past year. Unfortunately, those who have controlled the crude have, due, to their total vertical integration, left in their wake bankrupt independent businessmen, abandoned service stations, and frightened motorists.

Mergers and acquisitions in the oil industry among the dominant companies have increased the concentration of power in a relative handful. In almost a "divide and conquer" fashion, major oil companies have split up the retail market of this country along with several strong regional companies and thus posed a significant impact on competition. The elimination of price competition has a severe effect on consumer costs and the potential for misallocation of the refined product has been demonstrated with the price increases and shortages that have developed during the spring and early summer months.

I was in Denver just a few days ago and witnessed cars lining up at gas stations early in the morning for blocks on end in order to obtain gas for use during the day before the stations ran out. Frequently, by early afternoon, stations had to close because there was no gasoline left to be sold.

Curiously, on July 6, 1973, the Office of Oil and Gas reported that inventories in districts I–IV, that is, east of the Sierras, were 2 million barrels higher than at a similar point in time 1 year ago.

And even though OOG evidence indicates that district V inventories are below normal, what can we make of the following evidence. The city of Seattle has been cut by its suppliers by 15 percent below last year's quantities. Price in Seattle has risen 6 to 8 cents per gallon. Yet, the seven major oil companies operating in King County have reported to the county assessor, for personal property tax assessment purposes, that there are available 2,707,209 more gallons of refined product than were available at the same time last year.

The ramifications of the gasoline shortage on the consumer have immense impact on the public. It has been estimated that for each 1-cent increment in price at the retail level, consumers nationally pay an additional $1 billion per year.

The first indication of the effort of the major integrated oil companies to inhibit competition was the assault upon the independent marketing community. While only 7 percent of the stations in the United States are independent, approximately 25 percent of all retail gasoline sold is through these stations. Obviously, the public feels that the independent station provides an important service since the consumer is willing to go out of his way to obtain gasoline and other refined products from the independent marketers By drying up a source of supply, be it crude or refined product, the majors have eliminated the competition of the independents. Independents find themselves without supply or alternatively with prices that have escalated so high they can no longer be competitive.

The Commerce Committee, the Antitrust Monopoly Committee, the Banking Committee, the Agriculture Committee, the Interior Committee, each has looked into the problems which have brought about the current crisis. And each of the legislative proposals which have appeared or have been introduced clearly are designed to restore competition by regulating the market. In the long run, the best method of restoring competition and enhancing the free enterprise system is not to control the market, but to decontrol the market. By eliminating the type of control exercised by a few, there will be ample opportunity for competition to be restored. Competition and concentration are the antithesis of each other. In order to restore competition it is necessary to lessen the concentration which exists in this vertically integrated industry.

We must take affirmation action now to halt any further market domination by the majors. If only a few giant corporations are allowed to gain total control from the oil well to the gasoline tanks of our cars, then the abuse of market power will spell the end of our free market economy.

In less than a year, the major oil companies have announced substantial changes in marketing.

I ask unanimous consent to have printed in the RECORD a list of the changes made by Gulf, Phillips, Arco, Sohio, Sun Oil, Mobil, Exxon, and Standard of Indiana.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MARKETING CHANGES

GULF OIL

On October 1972, announced a $250 million write-off of "marginal and unprofitable" operations. Included in the announcement was its plans to sell or close 3,500 service stations in the upper Mid-west and Northwest.

PHILLIPS PETROLEUM CO.

In June 1972 announced plans to withdraw its service station and home heating oil operations in the Northeast. 1,400 service stations are involved.

ARCO

Announced plans to withdraw from retail marketing operations in the South, Southwest, Rocky Mountain and Plains states.

SOHIO/BP

Sold some 1,150 service stations to American Petrofina, which included all of its marketing operations in Florida and Georgia as well as selected marketing operations in North and South Carolina and parts of Louisiana, Alabama and Oklahoma.

SUN OIL CO.

In February 1973 announced that it was withdrawing from marketing operations in eight Midwestern States. Over 300 service stations were involved. The States are Illinois, Nebraska, Kansas, the Dakotas, Wisconsin, Minnesota and Tennessee.

MOBILE OIL CO.

Intends to close 575 service stations in 1973.

EXXON

Pulled out of Indiana, Illinois, Wisconsin, and Michigan.

STANDARD (IND.)

Pulled out of Western states with the exception of Washington and Oregon.

Mr. MOSS. Mr. President, on June 23, ABC news presented on the Reasoner Report a segment devoted to the current crisis in gasoline. It is most interesting to review the information which this program adduced. First, ABC managed to locate and to film a tank truck backing into a yard at midnight picking up a supply of "black market" gasoline. The product was diverted to an independent wholesaler from a branded dealer in the South. Ironically, conspiring with the black marketeer was the major integrated oil company which, for a price, was willing to allow the wholesaler to transport this product to the independent.

Particularly telling in this program was an interview with Richard Leet, vice president for supply and distribution of Amoco Oil. Mr. Leet in the ABC interview commented:

> Each company of course, is an independent organization making its own decisions. It attracts capital to projects that you can get a good rate of return. Refining has not been a profitable business in its own right. A very expensive business and without a good rate of return.

But in explaining why there has not been refinery construction in the past few years, Mr. Leet left out one important fact. Independent refiners have not been able to build because the major vertically integrated oil companies, those who supply the crude, have not been willing to give assurance of crude supply to new entrants to the market. This is an example of how, according to the FTC report which was released last week:

> There has not been one new entrant into refining of any significant size since 1950.

A classic example of how vertical integration acts as a barrier to entry for new companies. Further, in commenting on this problem, Mr. R. B. Phillips of Gulf Oil asserted, that the independents' source of supply has been the major's leftovers, what he called the incremental barrel—now the incremental barrel of gasoline is gone—there is no oversupply of gasoline, but what Mr. Phillips fails to say is that it was the majors, the vertically integrated oil companies who created the incremental barrel policy. And it is the majors, the vertically integrated oil companies, who have terminated the incremental barrel.

David Schoumacher, the ABC reporter in this program, commented:

> When a small group of companies conspire to restrain trade, one of the first things they do is divide up the territory . . . get out of each other's way to reduce the competition.

That is exactly what I described earlier in my listing of pullouts by major companies from the given markets.

And most interesting is the conclusion of Harry Reasoner:

> Make a comparison with the motion picture industry. Time was when the big studios not only made movies but owned the theaters they were shown in: the independent movie houses got the dregs. The principle is probably the same. And maybe the answer is, too: in the case of oil and gas, the people who drill for it, or import it, or refine it should not be the same people who retail it.

That is exactly the intent of my amendment, to prevent continuation of this system which has allowed excess of market control to be contained in the hands of the few.

Mr. President, I ask unanimous consent that the transcript of the Reasoner report for June 23, 1973 be printed in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

THE REASONER REPORT, JUNE 23, 1973

HARRY REASONER. Good evening. I'm Harry Reasoner and this program is called The Reasoner Report. For the next half hour I'd like to look with you at some stories we found interesting this week.

First, about the gas shortage.

Now, there are oil and gas bootleggers in a growing black market. Some stations ration gas. Some are out, entirely. And for the thousands of independent gas dealers, things have become desperate.

MAN. We have about thirty more stations closed than we had this time last week. Out of two hundred and nine, there's more than—there's about a hundred and eighty-nine of them closed. There's just no profitability anywhere and it's a very, very bad situation.

* * * * *

REASONER. Now it is the great gas crisis of 1973. In a survey this week, the American Automobile Association found nearly half of all gas stations rationing sales, cutting hours—or closed. Nearly two thousand independent gasoline retailers faced imminent shutdown; more than a thousand have shut down in the past two months. And the Federal Trade Commission is now looking into charges that the shortage has been deliberately engineered by the major oil companies to drive the independent dealers—more than twenty-five thousand of them—out of business and grab their market.

And finally, to protect the independents, the Senate has passed a bill for mandatory allocations of gas and oil to them by the big refiners.

With this as background, we asked David Schoumacher to look into the story. He found it to be one of anger, intrigue, and illegality.

SCHOUMACHER. The delivery came as scheduled. The huge tank truck backing into the yard just before midnight. Not normal business hours . . . but then this was not a normal shipment. It was a delivery of black market gasoline.

The only way this wholesaler—who is not affiliated with any of the nationally-advertised brands—could get gasoline was on the black market. The only way we could film the operation was to promise to protect the identity of those involved.

Originally, this gasoline was intended for a major brand dealer in a southern city. Instead . . . it was diverted to the independent wholesaler . . . at a price. For the independent today . . . cut off from his traditional source of supply . . . it is the price of survival.

MASON. We're closing down by the day. Every hour on the hour somebody's calling in saying they're completely out of gas and asking when we're going to get some and. . . .

SCHOUMACHER. Roy Mason is losing his personal fight for survival. Mason owns or services more than two hundred independent stations in Alabama . . . at least he used to . . . until his fuel supply was cut ninety-six percent.

Now he spends much of every day on the telephone, begging for gasoline.

MASON. Now's a desperate time when we need it. Thirty days from now or sixty days from now, we'll have everything closed up, the organization'll be gone and we won't have anything left.

The gasoline shortage is real enough for the independents. Deprived of their supply . . . hundreds of service stations already have closed. One government estimate is that more than one thousand have been driven out of business in the past two months.

Others have been forced to curtail hours . . . limit sales . . . and generally squeeze money out of an operation that was low profit to begin with.

For, ironically . . . it is the independents who have been the most efficient operators, buying gasoline from the major brands and yet selling it for less than the majors by holding down costs. Without the price competition of the independents . . . most experts believe gasoline would cost at least six cents more a gallon.

And a man who has studied the shortages and the oil industry for two years—the Attorney General of Connecticut sees a connection.

Attorney General KILLIAN of Connecticut. I feel and I am convinced, utterly and sincerely, that if there is a crisis in petroleum, it was created by the major oil companies of this nation. And it was created to knock out the independents and be able to increase the price to whatever level that they felt the traffic would bear.

PHILLIPS. This is a true shortage of product in the United States and I think those people who are talking about contrived shortages and conspiracies are being just a little politically frivolous.

SCHOUMACHER. Those who suspect the gas shortage is a conspiracy by the majors begin their case at the refineries. The majors claim their refineries are operating around the clock to supply the demand.

What they do not say is that several years ago . . . in the face of increasing demand, they halted new refinery construction. And while there is more than enough crude oil in the world . . . many independent refineries are now operating at less than capacity, unable to get crude deliveries from the majors . . . as they did in the past.

MAN. There's a great deal of circumstantial evidence that would tend to indicate to me that the supply shortage was to a large extent planned, programmed and implemented to solve the problem of the independents and permit the major oil companies to breathe profit into their backward marketing systems.

SCHOUMACHER. Fred Alvine . . . a professor at Georgia Tech University . . . has been a consultant both to the industry . . . and to those investigating the industry.

According to Alvine, the major companies want to increase the profits of their service stations . . . but the independents are in the way. He feels that when the big companies stopped building refineries, they knew they were passing a death sentence on the independents.

ALVINE. It doesn't take a great deal of genius to be able to predict what's going to happen if you quit building refining capacity. All you have to do is quit building refining capacity for a couple of years and you're going to have a shortage situation.

SCHOUMACHER. At the headquarters of Amoco Oil in Chicago . . . we put Alvine's charge to Richard Leek, Vice President for Supply and Distribution.

When was the last time you built a new refinery?

LEEK. Last time we built a new refinery was in the 1950s.

SCHOUMACHER. Most of the majors have not built refineries for three to five to ten years.

Why not? Weren't you just setting up a shortage?

LEEK. No. That may have been the net effect. Each company, of course, is an independent ogranization making its own decisions. It attracts capital to projects that you can get a good rate of return. Refining has not been a profitable business in its own right. A very expensive business and without a good rate of return.

SCHOUMACHER. But where was the one troublemaker who looked at this increasing demand and looked at everybody else and said, they're not building refineries. By golly, let's build us some new refinery capacity if this thing goes the way we think it's going to do, we're going to have a lot of gas.

LEEK. Well, I don't know who he is hypothetically, but . . .

SCHOUMACHER. He just doesn't exist.

LEEK. But whoever he was . . . he probably couldn't get the capital.

MASON. And if we don't get together and stand together now you as an independent refiner and me as an independent marketer, we're lost. And I'll tell you what, this ain't no place now at all for the faint-hearted. I'm dependent on you for gasoline and you're dependent on them for crude. And if you wait around until they get their good time, in their own good time to serve you, you're going to be just like I am, you're going to be out of business.

PHILLIPS. The independent over the past ten years has been the fellow who has picked up the incremental barrel of gasoline from a refiner.

SCHOUMACHER. In Houston . . . R. B. Phillips . . . of Gulf Oil Company . . . says until now the independent's source of supply has been the major's leftovers, what he calls the incremental barrel.

PHILIPS. And he's bought it at a good price and he's constructed relatively inexpensive service stations . . . some rather objectionable service stations, some rather attractive. But he's been the last man in the business.

Now, the incremental barrel of gasoline is gone—there is no oversupply of gasoline . . .

Now, it appears to me in the American scheme of things that the fellow who disappears from the business scene is the fellow who lived on the incremental barrel.

SCHOUMACHER. According to all the textbooks, when a small group of companies conspire to restrain trade, one of the first things they do is divide up the territory . . . get out of each other's way to reduce the competition.

In that light, there's evidence before Congress that Exxon and Gulf have been selling service stations in the midwest. Phillips is withdrawing from New England and Amoco, according to trade reports, is planning to pull out of the far west.

There is evidence that indicates the gasoline shortage depends on who you are. Some stations are closing down, but others are opening up . . . stations that will be owned by the major companies.

BINSTEAD. Well, we're standing here in an Exxon station just across the street from an Alert Station. Alert is a subsidiary of Exxon. Alert is competing in the same market with the Exxon dealer who has been on this corner for many years.

SCHOUMACHER. In Baltimore . . . the President of the National Dealers Association . . . Charles Binstead . . . charges that despite the shortage . . . Exxon, like other major brands is opening new stations under so-called "fighting brand names" . . . going after the independents even at the cost of their own dealers.

In some places . . . major brand stations are being built on the site . . . or next to the old independents.

There may be a shortage . . . and customers for this station may be months away . . . but the majors have enough gasoline to fill their new tanks.

JOHNNY CASH. It's an American tradition to help each other when there's a problem, like our country's gasoline shortage.

* * * * *

SCHOUMACHER. Still the oil industry insists the shortage is real . . . and they've launched an advertising campaign on television . . . and newspapers and magazines to tell us about it.

CASH. And all of us can help by conserving gasoline if everybody used one gallon less a week there wouldn't be a shortage. Let's see the shortage through together.

KILLIAN. There's a very popular cowboy type singer that comes on television and he tells you that—in very deep and sonorous tones that believe it or not, there is an energy crisis, he doesn't say it's created by his employer.

SCHOUMACHER. Mr. Leek, has Amoco and the other major oil companies conspired to create this shortage in order ta drive independents out of business?

Mr. LEEK. Absolutely not. There is not a shred of evidence to that effect. We feel that the allegations have been totally unfair. We feel that an investigation by a responsible branch of government would prove without a shadow of a doubt that this is a very real, a very serious problem and in no way the result of conspiracy. But rather than being afraid of it, we would encourage it.

Phillips. At this point in time, all we're doing . . . I believe . . . is earning a decent return on our invested capital. Now, if that's unfair, so be it. But I don't think the fact that a company makes money or an industry makes money for a period of time backs us into proof that there's some collusion.

Mason. Exxon ain't coming through with nothing you don't make 'em come through. They're a cold, hard, calculating bunch of son of a guns that don't give a damn about nobody but themselves . . . and Gulf and Mobil and Standard of California and the whole damn bunch of them parasites are trying to run the independent out of business and take control of the government as far as I'm concerned. Well, keep in touch and if anything turns up, you call us. Thank you. Bye. Bye. No gas.

Schoumacher. Without gas . . . Roy Mason . . . like thousands of other independents . . . will be forced to turn to the black market . . . and that supply is limited.

With gas . . . the largest oil companies are enjoying a boom year . . . Profits up twenty-eight percent on an average. The industry leader . . . Exxon . . . up forty-three percent.

But there are no profits for thousands of smaller businessmen . . . the independents . . . men who feel they've played by the rules and succeeded . . . Now scrambling in the night . . . to survive.

This is David Schoumacher.

Reasoner. So the charge of conspiracy and calculated intent to drive the independents to the wall has been made and denied. We will not have a determination on whether the shortage has been manipulated, at least until July first, when that Federal Trade Commission Report is due.

But in the meantime, the evidence of our eyes is that is not enough gas and oil to go around.

So it would be surprising under the circumstances, if the big oil companies did not look after their own.

Make a comparison with the motion picture industry. Time was when the big studios not only made movies but owned the theatres they were shown in: the independent movie houses got the dregs. The principle is probably the same. And maybe the answer is, too: that, in the case of oil and gas, the people who drill for it, or import it, or refine it should not be the same people who retail it.

But that's for the long run. For now, Johnny Cash may be right. We'll have to get along with less.

Mr. MOSS. Mr. President, some of the conclusions of the Federal Trade Commission staff report are most telling. According to the Commission's report:

> These major firms, which consistently appear to cooperate rather than compete in all phases of their operation, have behaved in a similar fashion as would a classical monopolist: they have attempted to increase profits by restricting output. With their advanced econometric models and computer simulations, the major oil companies should have been able to predict the current increase in demand for petroleum products.

Another point:

> The major firms, which control most of the domestic crude supply, appear to be preventing many independent refineries, particularly those in the Midwest, from obtaining sufficient supplies of "Sweet" crude. Therefore, these refineries are running far below capacity, and the gasoline shortage thus has become further aggravated.

There is another comment which discusses how major oil companies have inhibited the normal marketplace cures which should bring into equilibrium the imbalance in supply and demand. The report notes:

> What has happened here is the majors have used the shortage as an occasion to attempt to debilitate if not to eradicate, the independent marketing sector.

The Commission report concludes:

> The eight largest majors have effectively controlled the output of many of the independent crude producers. A high degree of control over crude is matched by relatively few crude exchanges within independents, an exclusionary practice which denies a high degree of flexibility to the independent sector while reserving it to the majors.
>
> Independent refiners are largely dependent on the majors for their crude supply, but independents sell very little of their gasoline output back to the major oil companies. Thus, the welfare of the independent sector is largely dependent on the well-being of independent refiners.
>
> Continued existence and viability of the independent refiners is necessary for the survival of the independent marketers. This is especially true since the eight largest majors rarely sell gasoline to the independent marketers.
>
> Major oil companies in general and the eight largest majors in particular are engaged in conduct which exemplifies their market power and have served to squeeze independents at both refining and marketing levels. Such conduct and associated market power has its origin in the structural peculiarities of the petroleum industry and has limited the independent share to approximately one-quarter the total, resulting in a threat to the continued viability of the independent sector in this market.

Mr. President, the evidence is in. A vote for the amendment is a vote for the free enterprise system. A vote against the amendment is not necessarily a vote against competition or against free enterprise, but it is a vote for the major integrated oil companies.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. ABOUREZK. First of all, I commend the Senator from Utah for offering such an amendment. I think it is long overdue and badly needed.

I should like to ask one question with respect to the vertical integration of the major oil companies.

Is it not true, as well, that all companies that are integrated into four separate phases of oil production, refining, transportation by pipeline, and marketing, are able to use unchallenged tax writeoffs for production to subsidize other parts of the operation, making competition further unfair?

Mr. MOSS. That is part of the economic advantage to the integrated company.

Mr. ABOUREZK. In other words, they have an advantage that many independents do not have, companies that do not produce oil as well.

Mr. MOSS. The Senator is correct.

Mr. ABOUREZK. I thank the Senator.

Mr. MOSS. Mr. President, I think that in this instance where we are considering this problem of oil supply, where we are in a shortage situation, where marketing and transportation are involved, and production is the heart of the matter, we need to address ourselves to this matter of totally integrated petroleum companies that, because of their power as integrated economic units, have been able to deal in various ways with the independent sector of the industry to the detriment not only of the independents, but the consumers on the end of the line.

Mr. President, I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I yield 5 minutes to the Senator from Arizona.

Mr. FANNIN. I thank the distinguished chairman of the committee.

Mr. President, this amendment would require a breakup of the entire petroleum industry: production, refining, transportation, and marketing. It assumes complete ownership, production, refining, transportation, and marketing is anticompetitive. Neither the Department of Justice nor the Federal Trade Commission has found such to be the case. The adoption of this amendment would completely disrupt the production and would change our present situation to one of a national emergency.

It has been represented that the amendment was stimulated by a controversial report prepared by some staff members of the Federal Trade Commission. It has not been evaluated by the Federal Trade Commissioners. For Congress to take some recommendations of some FTC staff members and create new legislation containing such recommendations raises a question of fairness and propriety.

The Federal Trade Commission should be given a chance to study the report; the industry should be given an opportunity to study the report; Congress should be given an opportunity to study the report and hold hearings on it. This is a very serious matter. The effect of the amendment could be devastating.

It is unbelievable that we would be considering an amendment of this magnitude to the bill when we are trying to pass a bill that will help to bring oil to the lower 48 States. Here we are in a crisis. We are talking about an imbalance of payments, we are talking about importing oil in great quantities and we are talking about as much as $20 billion in petroleum imports by 1980 or 1985.

The amendment states:

> It shall be unlawful for any person engaged in commerce in the business of extracting crude petroleum to acquire any petroleum pipeline asset, petroleum refinery asset, or petroleum marketing asset after the date of enactment of this section.

It is unbelievable that we would be considering any type of action that would so disrupt the industry. The amendment goes on to say:

> It shall be unlawful for any person engaged in commerce in the business of transporting crude or refined petroleum by pipeline to acquire any crude petroleum extraction asset, petroleum refinery asset, or petroleum marketing asset after the date of enactment of this sction.

It is just unbelievable. I do not understand how we can even be considering any action that would disrupt the industry as this amendment would. Here we are hoping that we can in very short order satisfy the requirements we have now as far as right-of-ways are concerned. We are very concerned about the NEPA requirements. We hope that can be settled. Millions of dollars have been spent. We have industries involved in this program, bringing oil from Alaska to the lower 48 States. These are industries that would come under this amendment. It seems to me that we should not be talking about an amendment of this type that would be so all-encompassing.

Mr. President, I ask unanimous consent that an editorial and an article be printed in the RECORD.

There being no objection, the editorial and article were ordered to be printed in the RECORD, as follows:

[From the Oil and Gas Journal, July 16, 1973]

OIL PERFORMS REMARKABLY WHILE DODGING BRICKBATS

The oil industry's standing with the public might be higher today if companies had rocked along and permitted a serious gasoline shortage to paralyze the nation this summer.

The nation was headed for that kind of trouble in May. Gasoline demand was outrunning domestic production and imports combined. Stocks had been pulled down to the crisis level with the entire heavy motoring season still ahead. A crisis by midsummer appeared certain.

But the crisis won't come off. It's now midsummer, and the industry can see sufficient supply to cover the next months without serious problems.

The reason for this sudden turnaround?

The oil industry simply ran its refineries flat out in June. Refiners processed everything they could get their hands on, including plenty of sour crude that will cause maintenance problems later. Many plants operated at rates above their nameplate capacity, and at times gasoline yields exceeded 50%. Imports of refinery feed and finished gasoline also were stepped up sharply. And consumers contributed their share by driving less.

The result: Gasoline supply exceeded demand so much that stocks built up by nearly 7 million bbl—the first time in memory that gasoline stocks in June have not declined.

Very little recognition is coming the industry's way for this remarkable performance.

A few officials in the Interior Department have acknowledged publicly that gasoline supply has changed for the better. Otherwise, brickbats have hit the industry at a time when it should be winning supporters. Unfriendly congressmen have had a field day grabbing headlines by blaming the industry with manufacturing the crisis. Investigations have become a dime a dozen. The Federal Trade Commission staff, encouraged by a congressional committee, even warmed up a batch of discredited charges and rewrote them into a new report slamming the industry. Monopoly accusations also have been resurrected, and Florida's attorney general used the turmoil as occasion to charge 15 companies with antitrust conspiracy.

And the crowning calumny is the charge now appearing that the industry should have performed at the June level all along—then there would have been no crisis. The truth is the industry can't maintain the June operating rates or follow many practices used then for a prolonged period. The units would come apart at the seams. The answer is that more refineries are needed.

And the reason there aren't more refineries, more domestic crude, and more energy in toto is a confused, uncoordinated, misdidected energy policy exemplified by the frenzied attitude in Congress toward the oil industry. Yet despite the political thunder that surrounds it, the industry is doing a remarkable job in averting a gasoline crisis.

INADEQUATE REFINERY CAPACITY

Another important result of public and political pressures has been the constraints on building new refineries and expanding and modernizing older ones. Historically, the oil industry has generally been able to expand refining capacity in line with demand growth. This has been accomplished despite the long lead time required to obtain a site, make the engineering studies of the ground, design and build the process units and put them into operation.

In recent years, obstacles in the way of obtaining refinery sites and economic factors have worked against the expansion of refinery capacity. As a result, U.S. refining capacity has leveled off in the past two years while growth in demand has accelerated (see Chart 3 opposite page). The first significant constraint on increasing refinery capacity occurred when the government cleared the way in 1966 for importing unlimited amounts of low-priced foreign No. 6 heavy fuel oil into the East Coast. This has resulted in a severe distortion of the U.S. refining and logistic system. In more recent years, East Coast deepwater terminal operators have obtained more and more licenses to import light No. 2 fuel oil, which is primarily used for home heating. The greater volumes of the then low-priced imported products discouraged refiners from committing the hundreds of millions of dollars required for sizeable new refineries or expansion programs since the products from these new expensive facilities could not have competed with the low-priced imports. More recently, however, the implementation of the new National Security Fee System for imports should help to alleviate this problem.

This is just one aspect of the unsatisfactory economic climate that has prevailed for a long time for almost all companies in petroleum manufacturing and marketing. The low levels of product prices in relation to costs have not provided enough profit to warrant construction of new, even more costly (due to inflation and more stringent environmental standards) evironmentally acceptable facilities. This is still the case, and product prices will have to be permitted to rise in response to the supply and demand situation if a satisfactory number of new refineries are to be built.

In many cases, companies who in the past were willing to make the financial commitments in spite of low prices and competition from imports have been thwarted in their efforts to build new refineries. The experience of Shell Oil Company is a good case in point. When Shell announced plans to build on a coastal site in Delaware which the company had owned for nearly 10 years, the state passed a law prohibiting new heavy industry facilities along the coast. Attempts to obtain other sites in the Northeast continue, but have not yet been successful even though many studies by independent experts substantiating our contention that environmentally acceptable refineries can be built have been admitted to government authorities.

Mr. HRUSKA. Mr. President, will the Senator yield to me for 5 minutes?

Mr. JACKSON. I yield 5 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, I rise in opposition to the amendment. The amendment in its original form was objectionable enough. The amendment in its amended form is even more objectionable.

The true basis and comprehensive basis for my opposition lies in the fact that the amendment gets into material and distinctions that are highly and vitally important in the antitrust law.

There have been no hearings in the Committee on Interior and Insular Affairs on this matter. There have been hearings in the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary. Two years ago this month extensive hearings were held. They were so inconclusive as to the impact of divorcement of retail and other sectors of the industry to the production of petroleum that the subcommittee did not venture any further as of 2 years ago.

A year and a half ago there were additional hearings and there again it was found that it was highly unfavorable to the consumer and the motorist and other users of petroleum products. Everything seemed to go in the direction of being an impairment to the consumer; that the consumer would suffer from inevitably higher costs and poor service.

The fact that it is a matter that is heavily involved in antitrust laws is seen in lines 4 through 14 on page 2 of the amendment, which I understand is virtually transferred into the amended amendment.

Mr. President, I ask unanimous consent that those lines of the amendment be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

(1) barriers to competition presently existing in the petroleum industry are removed;

(2) restrictions are imposed on further expansion of persons engaged in commerce in the business of producing, transporting, refining, or marketing petroleum or petroleum products; and

(3) divestiture of assets of such persons in return for fair compensation is directed to promote the public interest in competition and freedom of enterprise, and to protect the consuming public from monopoly, oligopoly, and bigness.

Mr. HRUSKA. Mr. President, after all, this material gets into an industry that is complicated, intricate, and massive. It has been an industry that has developed through the last 100 years to the point of requiring a delicate balance, a responsiveness and highly receptiveness to changing conditions in the field. This delicate balance can be preserved only by including and involving tankers, barges, refineries, pipelines, trucks, terminals, and so forth. All these factors are the result of great cost and expertise that is possessed by those who go into the matter on an overall basis. The present systems encompass producing, refining, transporting, storaging, delivering, and marketing. If these areas were entrusted to independents, separate from the major industry, in substantial degrees we would have chaos and confusion.

As to the retail marketing area, very few retailers would be capable of the judgment, as well as of the finances, to locate and to build facilities for retail systems, to have the personnel and management to maintain a national credit system for individual customers, and so on. They just do not have the backup financially or by way of judgment in order to sustain them.

If it were parliamentarily practicable, I would make a motion to refer these amendments to the Antitrust and Monopoly Subcommittee. I understand that such a motion would necessarily have to include the entire bill, so that we cannot get at it that way. I think a point of order which would be rendered would be well founded, because this amendment does not pertain to the text and the thrust of the bill which we are not processing.

It would be my hope, Mr. President, that this amendment would be rejected, so that hearings, which have been started in part and which were concluded in part, may go forward, and that we may build on that record to demonstrate what impact such a step and such an amendment would have on the producing, refining, transporting, and marketing practices of the industry.

I hope the amendment will be rejected.

Mr. JACKSON. Mr. President, I yield myself such time as I may require.

The pending amendment, No. 329, offered by the Senator from Utah creates a dilemma for me. I understand that the Senator wishes a vote for the record on the principle of his amendment, without expecting, however, that it would become law in its present form.

The Federal Trade Commission staff report delivered to me earlier this month establishes a prima facie case that vertical integration in the petroleum industry seriously undermines competition and economic efficiency, and that anticompetitive structure and behavior in the oil industry have had some role in creating the current gasoline shortage. The permanent Investigations Subcommittee will hold hearings shortly on the FTC staff report, and the fuels and energy policy study conducted by the Interior Committee will have hearings on the legislative recommendations implicit in that report.

I do not want to be recorded at this time in opposition to the principles embodied in the Moss amendment. But I do have problems with the amendment, and hope that the issues it raises will get a thorough examination.

Before I could vote for specific divestiture language I would have to know more about—

The legislation's impact upon energy supplies during the period of transition;

Whether it is indeed the integration of marketing with other sectors of the petroleum industry that has the chief adverse impact upon competition rather than, for example, the integration of production and refining;

The burden that the specific legislation could place upon the courts, and whether the procedure for divestiture should be left to the courts; and

The tax and securities implications of alternative divestiture plans.

I think I can assure the distinguished Senator from Utah that the issues raised by his amendment and the purposes of the amendment will not be ignored by the Senate in this session.

The Senator would, I believe, agree with me that, because this measure is so far reaching, it would benefit from hearings at which experts on all aspects of the energy industry could appear.

I would point out, in this connection, that the distinguished Senator from Michigan, who chairs the Antitrust and Monopoly Subcommittee of the Judiciary Committee, is currently holding hearings on problems relating to those raised by the amendment and by the Senator from Utah. What I would suggest is that, at an appropriate time, the Judiciary Committee, the Commerce Committee, and the Interior and Insular Affairs Committee in connection with responsibilities for the study now underway on fuels and energy, hold joint hearings better to address themselves to the problems raised by the FTC report and by the amendment offered by the Senator from Utah. I would hope that we could proceed in that way, so that we could make a record and go into all of the complicated aspects of that problem before voting here on the floor of the Senate.

I reserve the remainder of my time.

Mr. HART. Mr. President, the question of divestiture in the oil industry has been raised in this body—via proposed legislation—dozens of times in the past 30 or 40 years. There are many who think past Senates were ill-advised not to have given more serious consideration to those proposals. For this well could have prohibited the energy crisis we face today.

Instead, we today have an oligopolistically structured industry that seems likely to serve only one interest—that of the whole. Competition in such an industry frankly would be a surprise—not a reasonable anticipation.

Indeed, at the conclusion of a recent study, the FTC staff found that the current gasoline shortage resulted from a combination of anticompetitive practices by the large oil companies, a general spirit of intra-industry cooperation rather than competition and from Government policies. The latter, I suspect, were most likely given birth first in the minds of industry leaders and not in the minds of Government officials.

On the natural gas side of this industry, a preliminary FTC study, reported to the Antitrust Subcommittee a few days ago, produced equally as startling revelations. The staff's assignment was to determine the validity of figures on natural gas reserves—which have traditionally been reported to Government by the American Gas Association—and which are the chief bases for judgments that we have a natural gas shortage. The staff found that in some cases, the proved reserves a company carried in its records were greater by 10 to 1 than the figures reported by the same company to the AGA. In comparing the "book reserves"—the most conservation in company files—with the AGA figures, the staff found "serious underreporting." In some cases, they said, the figures were the same, in many cases the reserves figures were higher. But in no case did the FTC staff find that the company reported higher reserves to the AGA than it carried on its "book reserves."

Obviously, there is adequate reason to think that the solution proposed in the Moss amendment is the correct one.

Certainly, there has been ample testimony before the Antitrust Subcommittee—dating back to the time of Senator Kefauver—as to the oligopolistic structure and behavior of this industry.

The evidence here was adequate enough to convince me to introduce legislation to restructure this industry—along with six others. This is the industrial reorganization bill, introduced first in 1971.

My plan has been to get to full hearings on possible remedies for structure problems in the oil industry—under that bill—this fall.

Following this route, I grant, will be time consuming and will do little immediately to alleviate the current energy crisis. The Senate today may indicate that this is still the best route to follow. This feeling is understandable.

For my part, I have seen enough evidence to convince me what divestiture is the best step to take toward solving the energy crisis and, therefore, I will support the Moss amendment.

Mr. MOSS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 14 minutes.

Who yields time?

Mr. MOSS. Mr. President, I yield myself such time as I have remaining.

Mr. President, I appreciate the comments made by the Chairman of the Interior and Insular Affairs Committee, who spoke last, the ranking minority member of the committee, and other Senators who have discussed this problem. All have seemed to recognize that there is a problem, and I am persuaded by the suggestion of the Senator from Washington that it does indeed require debate and investigation which would have to come from hearings, because what we are talking about is dismantling a great economic force in our country and doing it at a time when it is under stress and when we are trying to find ways of averting further shortages. I recognize that this matter requires further study and research, and I further recognize that, although hearings have been conducted on this phase of the petroleum industry, there have not been hearings directly on this legislation.

Amendment No. 329 which I offered is an effort to separate the petroleum industry functions of marketing, refining, production, and transportation.

I note that on the same date that I filed my amendment, Senator ABOUREZK introduced a bill to amend the Clayton Act seeking to regulate the four functions of the petroleum industry. Senator McINTYRE has introduced similar legislation.

I recognize that this is a matter which requires careful study and research. I further recognize the fact that hearings have been conducted on this phase of the petroleum industry, but not directly on this legislation.

Under existing law, section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) provides that the owner of rights-of-way operate rights-of-way as a common carrier and in addition thereto such a carrier must, at reasonable rates and without discrimination, accept and convey the oil of the Government or of any private citizen or company, not the owner of the pipeline, operating a lease or purchasing gas or oil under the provisions of that act. S. 1081 revokes all rights-of-way, but retains the portion of existing law referred to above.

I have had called to my attention the legislative history of the Mineral Leasing Act of 1920 with regard to the pipeline provisions. Senate Report No. 578, 83d Congress, first session, at pages 2–3 provides:

> On March 22, 1951, the then Secretary of the Interior, in an effort to make the common-carrier provision of the Mineral Leasing Act effective as a regulating device, undertook to require natural gas pipeline companies, as a condition of the grant of a right-of-way across public lands, to file a stipulation whereby they agreed to act as common carriers, to submit rate schedules to the Secretary of the Interior, to file such schedules with the Federal Power Commission and to construct additional facilities as their common-carrier obligations might require (subject to many limitations). The right of the Secretary to take this action was contested in the court of the District of Columbia in the case entitled "El Paso Natural Gas Company v. Chapman," and culminated in a decision of the United States Court of Appeals for the District of Columbia, dated March 26, 1953, in which the court held that the action taken was "beyond the authority of the Secretary."
>
> The decision in the El Paso case would indicate that under the language of the existing statute the Secretary is without authority to promulgate detailed regulations of the pipelines respecting the common carrier provisions of the Mineral Leasing Act. Even if this were possible, it seems impractical to incorporate into a grant of a right-of-way the numerous regulatory provisions that would normally be applied to a regulated industry. In other words, to attempt to regulate oil and gas pipelines through provisions in a grant of a right-of-way is, at best, a very left-handed approach to the subject. It seems to me, therefore, that if Congress should see fit to require gas pipelines to be common carriers, the matter should be approached directly and not through the indirect method of regulations and conditions in the grants of rights-of-way. The Congress has designated the Federal Power Commission to exercise broad powers over the regulation of the gas industry by the Natural Gas Act. That Commission has a staff of engineers, accountants and rate experts. The Interior Department does not have and never has had a staff of that nature with reference to the gas industry. Moreover, such jurisdiction as the Department might exercise through restrictions in grants of rights-of-way would always be, at best, only partial, and furthermore, would not affect all pipelines but only such gas pipelines as happen to cross public lands.
>
> Meritorious as the common carrier provision might have been at the time of its enactment in 1920, it seems to me that, with the control of oil pipelines in the Interstate Commerce Commission, and the control of most major gas pipelines in the Federal Power Commission, the common carrier provision now serves only a limited purpose.

So, Mr. President, in view of the urging that we have full hearings, and in view of the fact that I believe this is meritorious and should be done, and with the assurance of the Senator from Washington and others that we can get down to this immediately, I am inclined to think that I should withdraw my amendment, and I believe that I shall do that. The amendments which I offered and the right-of-way bill are too big to be considered together.

I will withdraw my amendment and, at an appropriate time, I will urge the Congress to proceed with the divestiture concept.

Another matter that has been raised, and one that is of importance, is the fact that there may be called up the question of germaneness, which we ignore blithely in many instances, but when the time comes we can raise it to shut off amendments that, although they deal with the same industry, might be ruled as being nongermane.

Finally, I want to say that I fear an amendment of this complexity and impact might threaten the passage of S. 1081 and contribute to further discouragement of exploration and development at a time when we are faced with an energy crisis.

Mr. President, I want to emphasize that I recognize that we do indeed have a very serious shortage of energy at this time. We are becoming increasingly more dependent every day on overseas imports. And we have deprived ourselves for a considerable period of time of some of our domestic production. This is the basis for the pending bill, to get the domestic production available for use in this country to meet our needs for energy.

Mr. President, under the circumstances and with the assurances that have been made and with the suggestions that have been advanced, at this time I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Under the previous order——

Mr. JACKSON. Mr. President, I wonder if I might have unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I want to take this opportunity to express my appreciation to the able and distinguished Senator from Utah for his decision to withdraw the amendment.

I want to say that we are going over this matter very carefully as part of our study under the resolution we are operating under in the Senate's study of national fuels and energy policy which is made up of representatives from the Commerce Committee, the Committee on Public Works and the Joint Atomic Energy Committee, as well as the Interior Committee.

The Senator from Utah serves on that study group as a representative of the Commerce Committee.

I would hope that as soon as possible I shall be able to confer with the chairman of the Judiciary Committee and of the Subcommittee on Antitrust, headed by the Senator from Michigan (Mr. HART), as well as with the Senator from Washington (Mr. MAGNUSON), to see that there is this tripartite committee approach to the problem we have discussed on the floor.

I want the Senator from Utah to know how much I appreciate his decision to withdraw his amendment. And I thank the Senator.

Mr. FANNIN. Mr. President, I ask unanimous consent that I might proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I commend the Senator from Utah for his excellent cooperation in withdrawing his amendment. I realize his desire to go forward with this measure. And I feel gratified that we will have the opportunity to have the measure considered for whatever merit it might have.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is recognized.

Mr. HASKELL. Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I want to ask the distinguished chairman of the committee a question because I am not certain that I understood precisely what he said in his colloquy with the distinguished Senator from Utah. Did the Senator from Washington indicate that it would be his intention to have the Committee on Interior and Insular Affairs, the Commerce Committee, the Public Works Committee, and the Joint Committee on Atomic Energy hold hearings on the Moss proposal?

Mr. JACKSON. No. It would be the Committee on Interior and Insular Affairs, the Judiciary Committee—which has jurisdiction of antitrust matters—and the Commerce Committee on this specific bill. We do intend to hold hearings, of course.

Mr. HANSEN. Under Senate Resolution 45, it would be the Committee on Interior and Insular Affairs, the Commerce Committee, the Public Works Committee, and the Joint Committee on Atomic Energy.

Mr. JACKSON. The Senator is correct.

Mr. HANSEN. Would it be the intention of the distinguished Senator from Washington to have the same committees represented on both these hearings?

Mr. JACKSON. Mr. President, I would be glad to entertain the suggestion. The only problem is the matter of practicability. We would have almost half of the committees meeting. And I am a little fearful whether the size would be such that it would be difficult to conduct the hearings.

I have no real objection as long as it is practicable. However, the main thrust here relates to the antitrust issues which is the primary function of the Judiciary Committee and specifically the subcommittee headed by the Senator from Michigan (Mr. HART). I am certainly open to suggestions.

Mr. HANSEN. What about the Committee on Government Operations, just for my own clarification?

Mr. JACKSON. Mr. President, I suggest that the question of the committees that might be involved in this matter is something that we had better discuss at another time.

We could have a lot of committees. We could have them all there. We might even have a committee of the whole of the Senate.

Mr. HANSEN. Mr. President, the reason I asked the question was because part of the time the Senator was speaking, he was facing the Senator from Utah and I did not catch precisely the committees indicated by him. That is why I raised the question.

I thank the distinguished Senator for yielding to me.

Mr. HASKELL. Mr. President, I would like to discuss the amendment which I introduced a week ago to S. 1081 which seeks to forbid pipelines which cross Federal lands from being owned by the people who ship the product.

The distinguished Senator from Washington, the floor manager of the bill, suggested that probably the amendment should be broadened so that no pipelines were owned by the shippers of their product. I will not, Mr. President, go back over the remarks I made the other day except to point out that the anticompetitive effect of the innovative ownership of pipelines by the oil companies was recognized right here 6 or 7 years ago.

Mr. President, the Attorney General under President Eisenhower and the Attorney General under President Johnson recommended divestiture and recommended that competition would be best served by having independent pipelines.

I think it is extremely interesting to note the profitability of pipelines. I believe the junior Senator from Alaska (Mr. GRAVEL) felt that pipelines might not be profitable and that independents could not be induced to get into the field.

On this matter I refer to a statement by a Mr. Beverly Moore before the Subcommittee on Special Small Business Problems of the House Select Committee on Small Business on June 15 where, in analyzing the Colonial Pipe Line returns, he concludes that the return on equity investment before taxes is 94 percent and the return after taxes is 70 percent. I think that is sufficient incentive to induce people to enter into the market.

I refer any interested parties to this particular publication. Also, at the time I mentioned that independent pipelines should carry oil—and we need oil in our country when we have an energy crisis—we need competition in an energy industry.

I believe I was questioned on the fact as to whether our financial structure could raise the money for pipelines or whether we did not have to depend upon the oil industry.

The information was advanced to me that utility companies were unable to raise sufficient capital.

I would point out that the A.T. & T. in November of 1972 offered and subsequently sold a half billion dollars worth of securities and in March of 1973, this year, offered and successfully sold another half a billion dollars worth of securities. One can just go down the list. The ability to market the securities is unquestioned. There is no question about it. The profitability is unquestioned.

The only question, it would seem to me, is whether there is an anticompetitive effect on a pipeline owned by major oil companies.

In this connection, as a last indication that there is in fact a stranglehold on oil in this country by the integrated nature of the major oil companies, I would call the Senate's attention to the report of the Federal Trade Commission. The distinguished floor manager of the bill (Mr. JACKSON), with considerable foresight, on May 31 of 1973, asked the Chairman of the FTC to report, and the Chairman did report, on the nature of the industry generally, and specifically on the anticompetitive nature of ownership by oil companies of pipelines.

Rather than read from that report at length, I ask unanimous consent to have printed in the RECORD at this point excerpts from the report.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE "PRELIMINARY FEDERAL TRADE COMMISSION STAFF REPORT ON ITS INVESTIGATION OF THE PETROLEUM INDUSTRY"

Our best estimates, indicate that in 1970, the Top 4, 8 and 20 firms had approximately 37, 64 and 94 percent respectively of domestic crude proven reserves. On the basis of these data, the industry structure viewed in a long-run sense is even more concentrated than short-run statistics have indicated.

These (crude oil) pipelines form a vast, complex intrastate and interstate transportation network. Because of the high construction costs, most of the pipelines are owned directly by individual major petroleum companies or by several of these companies through joint venture. However, the nature of the interstate lines causes them to come under the "common carrier" regulatory jurisdiction of the Interstate Commerce Commission.

Our investigation disclosed charges leveled against these pipeline owners by non-owners who claim that they have been excluded from using the common-carrier lines. The inherent technological nature of the pipeline system and the petroleum industry provides the basis for such exclusionary practices.

Through the pipeline system, crude oil is transported more or less on a constant flow-pressure basis. Trunk stations can pump-in a batch of crude only when there is a slow in the flow for it and then line pressure must be increased or decreased to adjust for the desired flow speech. The scheduling of pipeline input is very complex and must be worked out in advance of the shipment. Because of this process, an independent crude producer may have a great difficulty in securing a place in the flow, especially if he does not have storage tanks at the trunkline station and/or ships a relatively small amount of crude.

The result of this pipeline system is to place the major firms who own the pipelines in an excellent position to discriminate against the independent producer. The opportunity to require the independent to enter into an agreement to sell his product at the well head in order to obtain regular sale and transportation of crude clearly exists for the majors.

Since pipelines transporting crude oil across state lines are common carriers subject to Interstate Commerce Commission regulation, it might seem strange to classify pipeline control as a barrier to entry to new refinery capacity. However, there are two reasons to suppose that pipeline control does, in fact, constitute a legitimate barrier. First, the owners of pipelines seek approval from the ICC of rates that provide sufficient returns from their pipeline investment. However, the rate approved may be well above the competitive cost of transporting crude oil.

For the vertically integrated owners the excessive rate is no burden. Those firms simply transfer funds from the Refinery Department to the Pipeline Department; a bookkeeping transaction of no moment is made. Non-integrated independent refiners, though, must pay the excessive pipeline charge. For these firms a real cost is incurred. To the extent that major-firm owners of pipelines earn greater than competitive returns on investments, the independent refiners are put at a cost disadvantage relative to their major competitors, and a barrier to entry is imposed. To a lesser extent control of product pipelines can be used to erect a barrier to entry.

Second, pipelines can be employed as a barrier to entry if the owners can exclude or limit flows of crude oil to independents. In fact, this can be done by (1) requiring shipments of minimum size, (2) granting independents irregular shipping dates, (3) limiting available storage at the pipeline terminal, (4) imposing unreasonable product standards upon independent customers of pipelines, and (5) employing other harassing or delaying tactics.

What has happened here is that the majors have used the shortage as an occasion to attempt to debilitate, if not eradicate, the independent marketing sector.

Mr. JACKSON. I yield myself such time as I may require.

Mr. President, I want to commend the junior Senator from Colorado (Mr. HASKELL) for introducing amendment No. 313. The Senator has identified a very important—perhaps the most immediately important—problem presented by the current structure, conduct, and performance of the vertically integrated major oil companies which control and dominate so much of the country's production, transportation, refining, and marketing systems for crude oil and petroleum products.

The committee report on S. 1081 made special reference, for example, to the potential anticompetitive affect posed by trans-Alaska pipeline and the near monopoly powers a few companies could exercise through ownership of both production and transportation facilities for North Slope oil. At page 27 of the report it is noted that:

> Three companies control more than 90 percent of the proved reserves of the Prudhoe Bay field, the largest in North America. This field, whose production will dominate West Coast oil supplies will be developed and produced as a single unit pursuant to state conservation law. The same companies will also own 82 percent of the Trans-Alaska pipeline, which is organized as an undivided interest joint venture. West Coast crude oil prices, the companies' profits and the state's revenues, and fuel prices for West Coast consumers, will all be affected powerfully by the amount of oil that the companies and the state permit to be delivered to District V markets.

Economic power of this nature and of this magnitude presents major issues of public policy, no matter how benevolently it may be exercised. The problem of the relationship between production, transportation, and refining is not unique to Alaska, but is found in practically all of the producing oil fields throughout the Nation. In my view the facts warrant early and expeditious consideration by the Congress of legislation addressed to this matter.

Mr. President, at my request, the Economics Division of the Library of Congress Congressional Research Service prepared a memoradum on amendment No. 313. This memorandum was prepared by Dr. Douglas Jones, Specialist in Fiscal and Financial Economics.

The memorandum provides a concise review of the issues involved in the amendment, the history of previous divestiture actions, and a discussion of some problems associated with divestiture but not specifically addressed to the amendment.

Mr. President, I ask unanimous consent that the text of the memorandum be printed in the RECORD at the conclusion of my remarks.

THE PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JACKSON. Mr. President, in view of the major impact the amendment would have, and in recognition of the substantial uncertainty that the amendment in its present form would create in the areas of tax consequences, pipeline financing, methods and timing of divestiture, and other matters, it is my belief that the amendment would benefit from hearings and from consideration by the committees of jurisdiction in the Senate.

If the junior Senator from Colorado decides to withdraw the amendment and have it referred to committee as a formal bill for hearings, I will set the measure for early hearings. I am in sympathy with the objective the Senator seeks to achieve. I hope the Senator would recognize the need for further clarification relating to the matters mentioned above, as well as to the need to make provision for exempting small gathering lines and petroleum product lines, and to provide for a transitional period of time for implementation which will avoid any disruptions or delay in connection with pipelines now under construction or at an advanced state of planning and engineering design.

EXHIBIT 1

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 16, 1973.

To: The Honorable HENRY M. JACKSON.
From: Economics Division.
Subject: Haskell amendment (No. 313 to S. 1081).

As requested in your telephone call of July 12 this memorandum treats several possible modifications to the Haskell Amendment (No. 313) to the Pipeline Right-of-Way bill S. 1081. Assuming a divorcement and divestiture requirement I have set out the main forms an implementing plan might take and some scenarios associated with the playing out of the process. With the hope of possible usefulness in the course of floor debate on such an amendment I have included some supplementary observations and information which bear on the general problem of divestiture.

For ease of exposition the memo is organized around (I) seven propositions, (II) some points about the Alyeska case, and (III) some comments about divestiture itself.

I. SEVEN PROPOSITIONS

1. To begin with there is no legal difficulty in writing into legislation a requirement for divestiture, though this probably has not been done before in this explicit fashion. The Public Utility Holding Company Act of 1935 involving dissolution, divorcement and divestiture in the electric and gas industries is probably the closest thing to it. In that instance the Securities and Exchange Commission got the oversight task.

2. Amendment 313 would essentially apply the Commodities Clause to a pipeline carrier, much the same as it has been applied to the railroads since 1906 (Hepburn Act). This law was designed to prevent the type of discrimination which is almost certain to develop when carriers are free to manufacture or deal in products which they also transport for others. In a sense the Haskell Amendment applies the Clause "in reverse" in that the present case is an oil industry which would "incidentally" own a transport system, while the earlier circumstance was a matter of preventing the carriers (railroads) from engaging in mining, manufacturing, and other production activities (aimed particularly at anthracite coal).

3. Congress has the choice of writing the outlines of a divestiture plan into the legislation, or setting out the objectives that a divestiture plan subsequently arrived at must accomplish, or merely decreeing that there will be one and assigning the task of overseeing one to this or that entity. In this last connection presumably the several agencies having an interest in such matters would "automatically" look in on any divestiture actions whether or not directed by S. 1081 to do so. They would, however, merely see if those actions conformed to their existing basic laws in the absence of specific language in S. 1081 giving special authority and responsibility to go further.

4. The main alternative methods for accomplishing divestiture of the Alaska pipeline after construction and operation would appear to be (a) a public offering of stock through an investment house; (b) a "pass through" of stock to existing shareholders of the oil companies; and (c) a negotiated sale to some other entity. While perhaps not absolutely necessary to disposal of the assets, all three approaches imply first altering the present undivided interest pipeline into a stock corporation and then selling or otherwise distributing the shares that were issued.

An advantage of a public offering disposal is the chance for a substantial diffusion of ownership—presumably a prime objective of divestiture itself. As in the case of a negotiated sale, however, a disadvantage is the need to find a buyer. The "pass through" approach is perhaps the simplest method in that "the buyers" are already there. It is the most conservative method in that it is minimally disruptive to existing values. (Each shareholder in, say, EXXON receives some shares as well in the new pipeline company.) A disadvantage of this approach is that if the oil company shares are concentrated it follows that at the first round of distribution ownership of the pipeline may still reside with a few shareholders. Furthermore, even if ownership is diffuse, shareholders holding both EXXON and "Alaska Pipeline" stock are likely to see a connection between the welfare of each company when it comes to voting both stocks. Finally, in the absence of other provisions, a change in the management regime is more likely in method (a) and (c) than (b).

Note that there is no obvious reason why a divestiture plan would have to apply the same method to all participants in the Alaska pipeline—a combination might be preferable in recognition of the differing corporate circumstances of the seven companies and the amounts and values of their holdings.

5. As the courts have long since found, the creation of an implementing plan following a divestiture order is no easy task. In the El Paso case, for example, the Supreme Court over a dozen years has three times ordered divestiture "without delay." In the Alaska pipeline instance it would seem best to provide for the plan to be drawn up by the oil company participants themselves if at all possible. The legislation would provide that failing an acceptable divestment plan proposed by the participants one would be drawn up from without. Such a "voluntary plan" implies a degree of close cooperation and consultation that might itself run afoul the antitrust laws so that special relief from this possibility should be considered in S. 1081. (Note that this might also come up if the seven companies making up the Alyeska Service Corporation were to merge into a single pipeline company for purposes of creating an entity which could be readily divested.)

6. Time considerations are, as usual, important. If a seven-year cutoff is chosen, companies should be required to have an approved plan by a certain date and partial sales should be allowed over the remainder of the period (typically about ¼ is sold to establish a market and a price). And since this divestiture requirement would be known from the outset in S. 1081 and, unlike most divestiture proceedings, is not intended to be punitive in character, companies should be allowed (within reason) to choose the timing and circumstances of their sales (or distribution) of the asset so as to maximize any advantage or minimize any disadvantage they may legitimately have.

7. The candidates for primary oversight of any divestment plan (or indeed initiation, if not done by the oil companies involved) would seem to be the Securities and Exchange Commission, the Interstate Commerce Commission, the Federal Trade Commission, the Antitrust Division of the Justice Department, a special board established for this purpose under S. 1081, the (District) Courts, or the Congress.

II. A WORD ON ALYESKA

Recall that the entity in existence is the Alyeska Service Corporation which has a management contract to manage the Alyeska Pipeline System. It is comprised of the following companies with the following degrees of participation (there are no stock shares as such):

	(In percent)
SOhio	28.08
Exxon	25.52
Arco	28.08
Mobile	8.68
Phillips	3.32
Union	3.32
Amerada Hess	3.00
	100.00

These degrees of participation equate roughly to how much each is responsible for in financing the line, the amount of oil reserves each has, and the amount of access each has to the capacity of the line. As an undivided interest enterprise the single planned pipeline is carried on the books of these seven companies as seven separate pipelines, each with its own tariff. This arrangement was in part arrived at as a way of minimizing antitrust difficulties by showing separation. As noted earlier for purposes of disposal the "Service Corporation" and the "seven pipeline companies" should be merged into one pipeline common carrier with a single management regime.

As always the valuation problem in a divestiture action is a complicated one. It is all the more so when the entity remaining is a public utility where levels of rates have to do with the rate base and allowable earnings—and the type of common carrier is the most fixed single-purpose investment of all transport systems, a pipeline whose value ultimately is linked to the diminution of the resource. Accordingly at this point it is difficult if not impossible to say whether tariff schedules or earnings would go up or down after divestiture and what the economic consequence of the action might be. Presumably, though, it would have at least struck a blow against vertical integration by slicing out a portion of the transport element in this case.

III. A WORD ON DIVESTITURES

In formulating the present research it was instructive to recall four famous cases of divestment and how those scenarios played out. These are the COMSAT case where now all but AT&T has sold their stock interests on the open market (and AT&T has announced its intention to do so); the Ford Foundation's sale of Ford Motor stock by public offering; the du Pont-General Motors case which allowed a "pass through" of 63 million shares of GM stock to du Pont stockholders as a dividend over a ten-year period; and the El Paso case which sets up assets in a corporation to be sold through shares, not at public offering, but by negotiated sales. The famous Standard Oil of New Jersey and Alcoa dissolutions at an earlier date could also be cited as examples of spinning off whole companies to stockholders.

Recall that there is no express provision for divestiture relief in the Sherman Act, though the courts have long allowed this remedy under Section 4. The Clayton Act, however, contains specific statutory authority for divestiture under Sections 7 and 11 allowing the Federal Trade Commission (or the Antitrust Division) to order it. By 1955 after 60 years of Sherman Act history divorcement, divestment, or dissolution has been ordered by the courts in only 24 litigated cases.

Typically divestiture involves an antitrust violation with respect to mergers or acquisitions and hence is directed at "stock, or other share capital, or assets" illegally held. The end object is often to recreate a separate corporate entity as both a viable and independent firm. In short divestiture is intended to remove the anticompetitive effects of an unlawful acquisition by restoring the competitive status quo.

Until recently the usual course of events has been for the Supreme Court to order divestiture and let the District Court work out the implementing plan. This separation of the substantive finding from the operational remedy has been widely criticized in the literature from the public policy point of view. And even when the courts have given some thought to the implications of relief at the time of finding, the actual playing out of the consequences of divestiture have often been far from what was intended.

There is frequently no guarantee that a divested company will be able to realize the desired competitive potential, even with adequate capitalization. Practical problems abound—the difficulty of locating a buyer and the inevitably of affecting many parties who are in no way responsible for the violation are two major ones.

Finding a buyer for $4 or $5 billion in assets is no small task. Occasionally this problem has induced the government to agree to a sale that itself constitutes a horizontal or vertical merger (Continental Can and Crown Zellerbach divestitures might be two cases in point). A court or Commission order (or legislation) can of course designate certain purchasers to whom the sale of a divested company cannot be made. At other times (Leslie Salt case) a consent order has provided that the offending company would be relieved of the requirement of divestiture if, after a good faith effort to sell, the sale could not be made within five years.

In 1911 the Supreme Court acknowledged the practical necessity of a "proper regard for the vast interests of private property which may have become vested in many persons as a result of the acquisition . . . of stock . . . or . . . interests in the . . . combination wthout any guilty knowledge or intent in any way to become actors or participants in the wrongs . . ." (American Tobacco Case).

The parties include, in addition to shareholders of various tenure, employees of both the "old" and the "new" entities, actual and potential creditors, and third parties having contractual and other relations with the combined enterprise. At times the Court has said that these hardships should not get in the way of a severe finding like diverstiture, but generally tribunals have been rather sensitive to property rights and values. In any event all parties would be "on notice" from the outset in S. 1081 that divestiture is a requirement by a time certain, and therefore those considerations are less prominent, a proposition recently adopted by the Court (Von's Grocery).

DR. DOUGLAS JONES,
Specialist in Fiscal and Financial Economics.

The PRESIDING OFFICER. The Chair wishes to advise the Senator from Colorado that he has not called up his amendment. If the amendment is not called up, the time now being consumed will be charged against the bill.

Mr. HASKELL. Then, Mr. President, I shall call up my amendment, No. 313.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, add the following new title:

TITLE III—OWNERSHIP OF OIL TRANSPORTATION SYSTEMS

SEC. 301. Notwithstanding any other provisions of this Act or any other law, it shall be unlawful for any oil pipeline company, or affiliate thereof, receiving a grant of right-of-way across Federal land pursuant to the provisions of this Act, for the purpose of pipelines or other systems for the transportation of oil, to transport any crude oil or any product manufactured or refined from crude oil, which is produced, manufactured, or refined by such pipeline company or by any affiliate thereof.

SEC. 302. For the purposes of this title, the term "affiliate" means—

(1) any person, association of persons, corporation, or other entity owner or controlled by such pipeline company;

(2) any person, association of persons, corporation, or other entity which owns a substantial interest in, or controls, directly or indirectly, such pipeline company by (A) stock interest, (B) representation on a board of directors or similar body, (C) contract or agreement with other stockholders, or (D) otherwise; or

(3) any person, association of persons, corporation, or other entity which is under common ownership or control with such pipeline company.

Mr. HASKELL. Mr. President, I should like to respond to the statement of the floor manager of the bill. I feel very strongly, as I know the Senator from Washington does, about the necessity for competition in the energy field in this country. I feel very strongly, as does the Senator from Washington, I know, that it is essential, if new lines are to be constructed, that my amendment be agreed to, and I hope that it will be very shortly.

I do concur with the Senator in the view that it would be more desirable if we could have hearings quickly on the subject, if we could expand the amendment to include all pipelines, not merely those going across Federal lines, and if we could consider the time and the extent of divestures.

For that reason, and because I know that the distinguished Senator from Washington feels strongly, as I do, about this matter, and believes that we have a better chance of adoption of the amendment by holding hearings, I now withdraw the amendment.

Mr. JACKSON. Mr. President, I wish to express my appreciation to the distinguished Senator from Colorado for the action he has taken on the pending amendment. I believe that by that action we can go into the matter in a thorough, careful way and end up with what I hope will be good legislation. I know that is the objective of the Senator from Colorado.

Mr. HASKELL. Yes, indeed. I thank the Senator from Washington.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. HASKELL. As I understand, we have scheduled a vote on the amendment at 10 o'clock tomorrow morning on amendment No. 313, I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. If the amendment is withdrawn, there will not be a vote on it. Without objection, the amendment is withdrawn.

Mr. JACKSON. Mr. President, I call up my unprinted amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 32, line 10, strike the numeral "1969." and add the following language: "1969: *Provided that,* the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within that time limit passes a joint resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease."

Mr. JACKSON. Mr. President, the amendment speaks for itself. It would retain in Congress sufficient authority to monitor, review, and in fact reject any agreement relating to the export of petroleum from Alaska, should that decision be made by the President.

There was considerable discussion on this matter earlier. Many of the opponents of the trans-Alaska pipeline made the allegation that much of the oil from Alaska would be exported to other countries outside the United States.

I feel that the mater is of such importance on this point that Congress should retain the authority as expressed in this section of the bill.

Mr. President, I personally do not have this great concern that others have expressed. The effect, however, of the amendment will nail down any talk or discussion that this is simply a pipeline that will be used to export oil away from the United States so that the people of the other 49 States will be denied this important oil.

It is important that that charge and that allegation be nailed down and nailed down securely.

Despite the overwhelming vote in favor of the bill as reported from the committee and in opposition to the Mondale-Bayh amendment, I am willing to offer the amendment so that there can be no question on this particular point. I do not think it is necessary, but I would rather have that question clarified once and for all, and that is why I offer the amendment. Later I will ask for the yeas and nays on the amendment.

Mr. President, I want to note that by providing for a congressional role my amendment, in some respects, parallels a provision in an amendment previously offered by the Senator from Minnesota (Mr. MONDALE).

My amendment provides that Congress has 60 days to act to override a Presidential finding by the passage of a joint resolution of disapproval. The amendment of the Senator from Minnesota—Amendment No. 240—provided that the authority to permit exports would exist for only 60 days unless the Congress by affirmative action within the 60-day period approved the report, in whole or in part, under such terms and conditions as the Congress might deem desirable.

Mr. HANSEN. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. HANSEN. I should like to compliment the distinguished chairman of the Committee on Interior and Insular Affairs and the floor manager of the bill for his wisdom in offering this amendment. I share, I think, fairly completely the feelings he has expressed about it. The amendment should make very clear, once and for all, that there is no intention under any set of circumstances to utilize the Alaska pipeline, once it is built, as a means of funneling important and needed reserves off to Japan or to any other nation contrary to the best interests of the United States of America.

There could well be instances wherein it would make good sense, and be clearly in the public interest, to have some of our oil or timber, or whatever, go to Japan in exchange for certain other considerations that Japan or any other nation might be able to offer the United States.

What the amendment provides is that the determinations shall be made by the President, and unless Congress takes an adverse position, it would have the ruling and effect of more.

I compliment the distinguished Senator from Washington. He has performed a valuable public service in clarifying the intent and purpose of the most of us who support this right-of-way bill.

Mr. JACKSON. I thank my good friend from Wyoming. We both have in mind the same objective, that is, to disabuse those who make the charge that this is simply a device by which oil will be exported outside the United States. Those of us who have worked long and hard on this measure know that is not true. There can be no question about the authority of Congress to deal with it, if the Senate adopts this amendment.

Mr. HRUSKA. Will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. HRUSKA. I should like to address a question to the chairman and manager of the bill.

The second sentence of the amendment states, "If Congress passes a joint resolution of disapproval * * *" and so forth.

It is contemplated, is it not, that that joint resolution of disapproval will be within the time period described in the first sentence of the amendment? Do I understand that correctly?

Mr. JACKSON. Yes. It would have to occur within 60 calendar days, 30 days of which, of course, must be while Congress is in session——

Mr. HRUSKA. That is right.

The first sentence gives—confers on Congress the opportunity to consider the imports that are proposed——

Mr. JACKSON. Pardon me?

Mr. HRUSKA. The first sentence gives—confers on the Senate the opportunity to consider the export agreements, whatever they are. That opportunity is limited in point of time. However, the second sentence does not refer to any period of time. Would it be agreeable, after the word "Congress" in the second sentence—"If Congress within the time period aforesaid passes a joint resolution of this disapproval, then the export agreement will cease"——

Mr. JACKSON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, will the Senator from Washington yield?

Mr. JACKSON. Mr. President, I yield again to the distniguished Senator from Nebraska. As I understand it, the Senator would propose a change in the amendment, in the second sentence, to read as follows: "If the Congress within the time period passes a joint resolution of disapproval . . ."

Mr. HRUSKA. ". . . within the aforesaid time period . . ." which limits it to the preceding sentence——

Mr. JACKSON. Well now—within—I have no objection to that. It is "within the aforesaid time period"?

Mr. HRUSKA. The time period——

Mr. JACKSON. I thought it was "within this time period."

"This" refers back—there is only one time period. That is the first sentence.

Mr. HRUSKA. "Within this time period." That would be all right.

Mr. JACKSON. Mr. President, I ask unanimous consent that, on the basis of the suggestion of the Senator from Nebraska, my amendment be perfected so that it will read, and I repeat:

Starting with the second sentence—

> If the Congress—

Then insert—

> . . . within this time period. . . .

And so forth.

The PRESIDING OFFICER (Mr. BARTLETT). The Senator has a right to modify his amendment. The amendment is so modified.

Mr. JACKSON. Mr. President, I yield to the Senator from Wisconsin for a unanimous consent request.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Ray Watts of the staff of the Small Business Committee be permitted the privilege of the floor. Shortly, I will be calling up amendment No. 319. Mr. Watts drafted the amendment and did the research and preparation of this proposal. I would appreciate having him on the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

Mr. FANNIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Washington, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. HARRY F. BYRD, JR., the Senator from Mississippi (Mr. EASTLAND), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE, the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), and the Senator from Alabama (Mr. SPARKMAN) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from New York (Mr. JAVITS) and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) is absent on official business.

If present and voting, the Senator from New York (Mr. JAVITS) would vote "yea."

The result was announced—yeas 86, nays 0, as follows:

[No. 294 Leg.]

YEAS—86

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Gurney

Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Mansfield
Mathias
McClellan
McClure
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

NAYS—0

NOT VOTING—14

Bible
Byrd,
Harry F., Jr.
Eastland
Griffin
Javits
Johnston
Kennedy
Long
Magnuson
McGee
Saxbe
Sparkman
Stennis
Tunney

So Mr. Jackson's amendment, as modified, was agreed to.

Mr. **FANNIN**. I move to reconsider the vote by which the amendment was agreed to.

Mr. **ROBERT C. BYRD**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER**. The Senator from Wisconsin is recognized.

AMENDMENT NO. 319

Mr. **NELSON**. Mr. President, I call up my amendment No. 319.

The **PRESIDING OFFICER**. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE III—PUBLIC DISCLOSURE OF MINERAL FUELS RESERVES DATA

SHORT TITLE

Sec. 301. This title may be cited as the "Mineral Fuels Reserves Disclosure Act".

PURPOSE

Sec. 302. It is the purpose of this title to provide for the collection and organization in a single electronic data base of the fullest available information on the Nation's mineral fuels industries and reserves of mineral fuels, to provide for the establishment and maintenance of that data base by the Comptroller General of the United States, and to provide for the mandatory disclosure to the Comptroller General by substantial fuel companies of information on the quantities and locations of their own mineral fuels reserves.

DEFINITIONS

Sec. 303. As used in this title—

(a) "Mineral fuel reserve" means a deposit or body of identified, unextracted mineral fuel or mineral fuel ore, of either a proved or probable quantity.

(b) "Substantial fuel company" means a corporation which, alone or with its affiliates, in either of its last two full fiscal years, had either total annual business sales or receipts of $50,000,000 or more derived from business activity in any of the following lines of commerce: (1) crude petroleum and natural gas production, (2) mining of uranium-radium-vanadium ores, (3) anthracite mining, or (4) bituminous coal and lignite mining; or own or controls, alone or with its affiliates, mineral fuel reserves having a fair market value of $5,000,000 or more.

(c) "Affiliate" means an individual, partnership, or corporation which controls, is controlled by, or is under common control with one or more other individuals, partnerships, or corporations.

(d) "Control" means, in the case of a substantial fuel company or an affiliate, the ability to determine business policy, including but not limited to such ability based on ownership, contract, agreement, or a combination thereof. In the case of a mineral fuel reserve, "control" means the ability to determine, alone or with others, whether, when, and how such reserve will be developed or extracted, including but not limited to control based on ownership of the fee in land or submerged land, or a lease, or on a combination of ownership and lease.

(e) "Data base" means the library of information on mineral fuels reserves to be established and maintained by the Comptroller General under this title.

(f) "Comptroller General" means the Comptroller General of the United States or his delegate.

(g) "Commerce" and "Corporation" have the meanings set forth in section 4 of the Federal Trade Commission Act (15 U.S.C. 44).

(h) "Establishment" and "standard industrial classification" have the same meanings as in the Standard Industrial Classification Manual 1972 prepared by the Statistical Policy Division, Office of Management and Budget, Executive Office of the President.

MINERAL FUELS RESERVES DATA BASE

Sec. 304. (a) Immediately upon enactment of this Act, the Comptroller General shall collect and organize data for, and establish and maintain a complete and current data base on the mineral fuels industries and, in particular, on mineral fuels reserves.

(b) The data base shall—

(1) Contain all available information on the location, quantity, ownership, control, and state of development of every mineral fuel reserve within and without the United States.

(2) Be organized, indexed, and cross-referenced on the basis of establishments, by company or other affiliation or ownership, by particular location within or without the United States, and by standard industrial classification.

(3) Utilize the best and fastest information storage, retrieval and processing systems, and technologies available, including but not limited to microform and electronic data processing and transmission systems.

(4) Be divided into a confidential section and a public section, as provided in section 306 of this title.

SUBSTANTIAL FUEL COMPANIES TO REPORT MINERAL FUEL RESERVES

Sec. 305. (a) It shall be the duty of every substantial fuel company, foreign and domestic, engaged in commerce to report annually to the Comptroller General full and complete details of all mineral fuel reserves which it, together with its affiliates, owns or controls anywhere in the world. Such reports shall be verified, under penalties of perjury, by the chief executive officer, chief geological officer, and chief financial officer of the substantial fuel company and shall describe for each reserve the identity of each establishment having any ownership or control of the reserve; the location, types, and proved and probable quantities (specifying which) of mineral fuel or fuel ores in the reserve; and the state of development of the reserve.

(b) The Comptroller General, by regulation, shall prescribe the form or forms on which the reports required by subsection (a) shall be made. Such form or forms shall be drafted in consultation with the Office of Management and Budget and such other departments and agencies as either that Office or the Comptroller General may deem requisite or desirable. The most expeditious procedures, for consideration of such form or forms shall be employed and such form or forms shall be promulgated not later than sixty days after the effective date of this title.

(c) The first reports under this section shall be filed not later than four months after the effective date of this title and shall describe mineral fuel reserves as of a specified date not more than four months earlier than the date of the report. Annual reports thereafter shall be due on or before the first day of May of each year, beginning with the year 1974, and shall describe mineral fuel reserves of each reporting substantial fuel company as of the preceding first day of January.

DIVISION OF DATA BASE INTO PUBLIC SECTION AND CONFIDENTIAL SECTION

Sec. 306. (a) The Comptroller General shall establish the data base in two sections: a public section and a confidential section. The public shall have unlimited use of and access to the public section, under such regulations and at such reasonable fees as the Comptroller General shall prescribe. Access to the confidential section shall be limited to the Comptroller General and his staff and to officers and employees of the Government of the United States having official use for such data commensurate with the purpose of this title, except that any substantial fuel company providing information for the data base may have access to the data in such section which it provided. Unauthorized disclosure of information in the confidential section shall subject the officer or employee making such disclosure to the provisions and penalties of section 1905 of title 18, United States Code.

(b) The Comptroller General shall place in the public section of the data base all information which it obtains from reports, documents, and other sources in the public domain, together with all microform and electronic reproductions, recordings, and tabulations thereof. In addition, the Comptroller General shall place in the public section all data received from any report or reports of any substantial fuel company, pertaining to a particular mineral fuel, when such report or reports reveal that such company controls 5 per centum or more of the national total reserves of that fuel. All other data derived from the reports required by section 305 shall be placed in the confidential section of the data base, except that such data may be transferred, in appropriate part, to the public section in aggregate, statistical forms or tabulations which do not disclose the precise identity or ownership of particular reserves. Any data contained in a report required by section 305 may also be placed in the public section of the data base if the Comptroller General ascertains that such data have previously been in the public domain by virtue of another report or public source.

(c) At the request of any substantial fuel company or any department or agency of the Federal Government, the Comptroller General shall place in the confidential section and withhold from the public section of the data base any report or information, upon a showing that the public disclosure thereof would be harmful to the national security of the United States.

(d) Data more than twenty-five years old shall be placed in or transferred to the public section of the data base, except that, for good cause shown, data up to fifty years old may be placed or held in the confidential section when required by competitive equities, and data up to seventy-five years old may be placed or held in the confidential section when required by the national security. The Comptroller General, by regulation, shall provide for formal hearings on any question or dispute concerning the entry of data into or removal of data from the confidential section, and such hearings shall be open to the public except that a private formal hearing may be conducted when the Comptroller General determines that competitive equities or the national security so require.

POWERS OF THE COMPTROLLER GENERAL

SEC. 307. (a) The Comptroller General in carrying out his responsibilities under this title shall have access to any books, documents, papers, statistic, data, information, and records of any substantial fuel company or affiliate thereof, where necessary to validate any report required under this title, to ascertain the existence of a duty to report under this title, or otherwise to fulfill the purpose of this title.

(b) To assist in carrying out his responsibilities, the Comptroller General may sign and issue subpenas requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (a).

(c) In case of disobedience to a subpena issued under subsection (a), the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the books, documents, papers, statistics, data, information, and records referred to in subsection (a). Any district court of the United States within the jurisdiction of which the substantial fuel company or affiliate is found or transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the substantial fuel company or affiliate to produce the statistics, data, or information; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

AUTHORIZATION OF APPROPRIATIONS

SEC. 308. There are hereby authorized to be appropriated to the Comptroller General such supplemental and annual funds as may be necessary to carry out the purposes of this title.

EFFECTIVE DATE

SEC. 309. This title shall be effective on the date of enactment of this Act.

Mr. NELSON. Mr. President, I understand the Senator from Minnesota wishes to offer an amendment to the amendment.

Mr. HUMPHREY. Mr. President, I have an amendment that I wanted to offer to the amendment submitted by the Senator from Wisconsin. This amendment is No. 321.

The PRESIDING OFFICER. The amendment is not in order until the time on the amendment is used or yielded back.

Mr. HUMPHREY. I was to offer this amendment to the amendment of the Senator from Wisconsin. Mr. President, is that out of order?

The PRESIDING OFFICER. Except by unanimous consent, until the time is used or yielded back.

Mr. HUMPHREY. Mr. President, in order to expedite matters, because I do believe the Senator from Wisconsin would be willing to modify his amendment accordingly or to accept the amendment, I ask unanimous consent that we might proceed on that basis.

The PRESIDING OFFICER. Is there objection?

Mr. FANNIN. Mr. President, reserving the right to object, will the Senator give us the number of the amendment?

Mr. HUMPHREY. Yes; the amendment is No. 321. It is an amendment to the amendment of the Senator from Wisconsin. It is related to the whole subject of onsite inspections of mineral fuel reserves.

Mr. FANNIN. Would the Senator tell us what his amendment modifies? Is his amendment No. 321 and the amendment of the Senator from Wisconsin No. 319?

Mr. HUMPHREY. Yes; this is amendment No. 321.

The PRESIDING OFFICER. Is there objection to the request?

Mr. FANNIN. No objection.

The PRESIDING OFFICER. The clerk will read the amendment. The assistant legislative clerk proceeded to read the amendment.

The amendment (No. 321) is as follows:

(1) At page 9 of the amendment, following line 16, add the following new subsection and section:

"(d) The Comptroller General shall from time to time, as he deems requisite, ask the Secretary of the Interior to make onsite inspections of any mineral fuel reserves required to be reported under section 305, for purposes of verifying the accuracy and completeness of such reports. The costs of any such inspection shall be transferred from the Comptroller General to the Secretary for the purpose of this subsection.

"POWERS AND DUTIES OF THE SECRETARY OF THE INTERIOR

"SEC. 308. The Secretary of the Interior shall, when requested by the Comptroller General under section 307(d), make onsite inspections of any mineral fuel reserves required to be reported by substantial fuel companies under section 305, to verify or validate the accuracy and completeness of such reports. In addition, the Secretary of the Interior shall, within eighteen months after the effective date of this title, submit to the Comptroller General a preliminary report containing his best estimates, based to the utmost extent practicable on onsite geological and engineering by officers and employees of the Department of the Interior, of all mineral fuel reserves in the public lands of the United States, including the Outer Continental Shelf. Such report shall be supplemented by annual reports thereafter. The reports required from the Secretary of the Interior by this section shall be made a part of the public section of the data base, and copies thereof shall be furnished to the Senate and the House of Representatives.".

(2) On page 9, lines 18 and 23, strike "308" and "309", respectively, and insert in lieu thereof "309" and "310", respectively.

(3) On page 9, line 19, insert after the words "Comptroller General" the words "and the Secretary of the Interior".

Mr. HUMPHREY. Mr. President, I will take just a few minutes. I have discussed this amendment with the distinguished Senator from Wisconsin. The purpose is, in a sense, just to strengthen or more explicitly delineate some of the functions that are described under amendment No. 319, the proposal of the Senator from Wisconsin for himself, the Senator from Michigan (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), and myself.

The amendment puts a new subsection in stating that:

> The Comptroller General shall from time to time, as he deems requisite, ask the Secretary of the Interior to make onsite inspections of any mineral fuel reserves required to be reported under section 305—

Section 305 refers to the Nelson proposal—

> for purposes of verifying the accuracy and completeness of such reports. The costs of any such inspection shall be transferred from the Comptroller General to the Secretary for the purpose of this subsection.

Then it delineates the powers of the Secretary of the Interior when he is requested by the Comptroller General to perform onsite inspections of mineral fuel reserves. Then it spells out in more explicit terms some of the provisions proposed by the Senator from Wisconsin (Mr. NELSON), a measure which, by the way, I have cosponsored.

Mr. President, I have submitted an amendment to amendment No. 319, the mineral fuels reserve disclosure amendment offered by Senator NELSON. This is a welcome step in the right direction, and I am happy to be a cosponsor of it. However, I feel it needs to be strengthened somewhat, and this is the intent of my amendment.

For too long, we in Government responsible for administering the Nation's laws, have lacked adequate, independent information on the Nation's energy reserves. For too long we have relied on figures supplied to us by the oil and gas industry. Time and time again, the big oil corporations have been asked to help confirm the reserve figures by opening their books and records, making available background memorandums and other data on which these figures are based. Amazingly, these big corporations, all too often, have refused to cooperate. Instead, they have said in effect, "You can take our word for it. There's a petroleum shortage, there's a natural gas shortage. If you give us higher prices, if you give us bigger tax incentives, then we'll find you more oil and gas. If you don't, then you'll have a shortage, and an emergency crisis."

Mr. President, this situation has come home to all of us very vividly in the last few weeks. For example, during the week of June 24, the Senate Judiciary Antitrust Subcommittee held hearings on the natural gas shortage. At those hearings, James T. Halverson, Director of the Federal Trade Commission's Bureau of Competition, declared that some oil companies are seriously underestimating proven reserves of natural gas. Other hearings in Congress have raised real questions about whether there is a real petroleum shortage, or whether it has been brought on by the big oil companies to squeeze out the independent sector of the industry, and to raise petroleum prices.

Mr. President, this is truly an absurd situation, when Members of Congress, charged with writing energy policy, and members of the administration, charged with carrying out that policy, have no independent knowledge of the Nation's mineral fuels reserve.

The new disclosure law, proposed by the Nelson-Hart amendment, of which I am a cosponsor, will go a long way toward remedying this problem. However, I suggest these disclosure requirements be strengthened to deal specifically with the question of mineral fuels reserves located in the public domain, where most of our future reserves are to be found.

In the past, oil and gas companies drilled predominately in areas they owned privately, but increasingly, as these areas have dried up, they have moved into and leased territories administered by the Federal Government, such as those in the Outer Continental Shelf. At the present time, for example, one-third of all the natural gas in the United States comes from offshore Louisiana, an area in the public domain.

Mr. President, this is a vast area under the jurisdiction of the Federal Government. The Continental Shelf of the United States measures 875,000 square miles, or about 515 million acres, and is relatively undeveloped. Of this area, 290,000 square miles, or about 186 million acres lie in the Gulf of Mexico, offshore from the Atlantic seaboard and in the waters of the Pacific off the coast of the States of California, Oregon, and Washington.

As of July 1, 1973, of the 515 million acres off the mainland of the United States, approximately 1 percent or 5.25 million acres were under lease on the Outer Continental Shelf. So far, the leasing has been concentrated on areas off Santa Barbara, Calif., in the gulf, off Louisiana and Texas. Because of the energy crisis, President Nixon outlined in his budget message of this year a program to step up the leasing on the shelf. The Government now anticipates letting leases for oil and gas in the Atlantic Ocean, off the east coast of Florida and off the Alaskan coast.

If, as the industry suggests, our supplies of oil and natural gas run down and gradually dry up entirely, then we probably will have to rely on our vast coal reserves, estimated to last several hundred years. Until very recently, coal production was concentrated in the Appalachian region of the United States. But these mines are now fully developed, and to meet an anticipated increase in the need for coal, the industry is beginning to develop the vast untouched coal resources of the western Mountain States. Our future coal reserves will come from these Western States. Much of that coal is in the public domain. Some of it is located under Indian lands. Another large part of it is controlled by corporations, predominantly railroads. Perhaps between one-quarter to one-half of all these vast coal reserves are in the public domain. But we do not have exact figures on coal reserves because the U.S. Geological Survey which makes estimates of coal reserves does not have the money or the manpower to make an adequate analysis.

Here we are, debating energy policy for the Nation. And I cannot even tell my colleagues in the Senate the extent of our coal reserves because the Government does not have the money or manpower to find out.

An inquiry this morning to the Geological Survey brought forth the comment that our information on coal reserves was gathered in the 19th century. We are relying then on information put together a century ago.

We need accurate information on coal reserves, not only because of the energy crisis. We need detailed information on trace elements contained in the coal so that we can anticipate and take steps to combat pollution that occurs from burning the coal and letting the dangerous trace elements into the atmosphere.

We daily consider predictions by the power companies, the administration, and the Federal Power Commission that in the future our electricity will come more and more from nuclear power. Nuclear reactors consume large quantities of uranium. And again, this precious fuel is located largely in the public domain. Forty-five percent of our present 273,000 tons of uranium ore is on public land. We need accurate, reliable information of the extent of uranium reserves.

Areas in the public domain are under law administered as a public trust. The duty of the Federal Government is to execute the intent and purpose of the trust. Part of that duty is for the Government to know the extent of the reserves so that it can know how to exploit or conserve the minerals wealth.

The Interior Department has major responsibility for administering these lands in the public domain, under laws passed by Congress in the public interest. And yet, this Department does not maintain adequate knowledge of the extent of these reserves. Instead, it basically relies on questionable data supplied by corporations which exploit the minerals under lease.

Because we in Government have allowed these big corporations to dominate our technical knowledge of what these rich lands contain, we now have our hands tied behind our backs.

Alaska is a good example. We are told by the oil companies that we must have this pipeline because of the oil shortage. What is the extent of the oil shortage? What are the amounts of reserves in Alaska? There is a great deal of gas in Alaska along with the oil. We ought to know the facts when we legislate and when executive branch decisions are made.

Mr. President, my amendment to the Mineral Fuels Reserve Disclosure Act is a simple one. It would authorize the necessary funds to the Interior Department to make its own periodic, independent, onsite investigations of oil, gas, and other mineral fuels reserves in the public domain, including the Outercontinental Shelf. This would reduce the Department's reliance on data supplied by the oil companies as to how much reserves the public owns.

The first such investigation shall be completed within 18 months after enactment of the bill, and the results of the investigation will be reported to the Comptroller General, and made public. Such investigations and reports shall be made on a yearly basis thereafter.

The main point is that while there are reasons in the Nelson-Hart amendment for the amount of privately owned reserves to be kept confidential—section 306—there is no justification for secrecy with respect to reserves in the public domain. My amendment expressly states this information shall be public.

My amendment would also give the Comptroller General the authority to request the Department of the Interior from time to time to make onsite inspections of any mineral fuels reserves required to be reported under section 305 of the Nelson-Hart amendment for the purpose of verifying the accuracy and completeness of such reports.

My amendment No. 321 taken together with amendment No. 319, will provide us basic information with which we can begin serious debate toward creating rational, long-term solutions to the energy problem. Until this is done, we are left at the mercy of the big oil and mining corporations which have a vested interest in exploiting for their own profit energy sources that belong to every American, to all of us.

I also ask unanimous consent that amendment No. 340, which I had intended to offer but which is very similar to amendment No. 321, be printed in the Record.

There being no objection, the amendment (No. 340) was ordered to be printed in the Record, as follows:

At the end of the bill, add the following:

"TITLE V—MINERAL FUEL RESERVES INVENTORY

"Sec. 501. (a) The Secretary of the Interior shall compile, maintain, and keep current on not less than an annual basis an inventory of all mineral fuel reserves containing hydrocarbons (oil, natural gas, coal) and uranium in the public domain lands of the United States (including the Outer Continental Shelf), together with other natural resources determined by the Secretary of the Interior to be an energy source or to have potential as such a source.

"(b) Such inventory shall be compiled, maintained, and kept current on the basis of the Secretary's best estimates and, to the utmost extent practicable, on the basis of onsite geological and engineering testing conducted by personnel of the Department of the Interior. Such initial inventory shall be completed on or before the expiration of the eighteen-month period following the date of the enactment of this title.

"(c) On or before the expiration of the twenty-month period following the date of the enactment of this title, the Secretary of the Interior shall submit a report to the Congress concerning the carrying out of his duties under this title, together with a copy of such initial inventory so compiled, and shall thereafter, on not less than an annual basis, submit a report to the Congress concerning the carrying out of such duties and shall include as a part of each such report a copy of the current such inventory so compiled for the period covered by such report. All such reports and inventories shall be made available to the public by the Secretary of the Interior in accordance with rules and regulations prescribed by the Secretary.

"Sec. 502. There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this title."

Mr. NELSON. Mr. President, I think the amendment offered by the Senator from Minnesota (Mr. Humphrey) does, in fact, substantially improve and strengthen amendment No. 319, and I am prepared to accept the amendment of the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I yield back my time.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Does the Senator from Wisconsin so modify his amendment?

Mr. NELSON. Yes.

The PRESIDING OFFICER. The amendment is so modified.

Mr. NELSON. Mr. President, this amendment replaces amendment No. 303, which I filed earlier. Amendment 319 is cosponsored by the Senator from Michigan (Mr. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Illinois (Mr. STEVENSON).

Both amendment No. 303 and the revised amendment I am calling up in its place would add to the bill (S. 1081) a new title, which would be cited as the "Mineral Fuels Reserve Disclosure Act." The text of the amendment has been read into the RECORD, and I shall insert the analysis at the end of my statement as exhibit A.

However, the evil this amendment is intended to remedy, and the nature of the remedy, are easily and quickly explained.

The evil is ignorance and unjustified secrecy.

The remedy is information and disclosure.

At least twice already this year the Senate has legislated against public ignorance and corporate secrecy and for public knowledge and corporate disclosure. This amendment follows logically and naturally upon those earlier actions. It complements and reinforces them.

AMENDMENT WOULD DO TWO BIG JOBS

The Nation is now confronted with fuel shortages and threatened with an energy crisis. The premise of this amendment is that we cannot deal with these serious problems without more and better information, not 5 or 10 years from now, but this year.

The amendment does two things to deal with the problem of inadequate information.

CENTRALIZED FUELS DATA BASE

First, it directs—not authorizes but directs—the Comptroller General of the United States to set up, immediately, in the General Accounting Office a centralized, current, complete electronic library on the mineral fuels industries, with particular emphasis on mineral fuels reserves.

For years, everybody has been talking about the bewildering, indeed dismaying dispersion and diffusion and complexity of existing information about the mineral fuels industries. For years almost everybody who ever thinks about such matters has talked about the need to get the existing information all together in one place, a centralized, fully modern electronic library.

This amendment, somewhat belatedly in my opinion, finally ends the talking and mandates some action. This amendment orders the Comptroller General, who is the direct agent and representative of the Congress, to do the job that we all know needs doing, and do it right away. It orders him to establish immediately and maintain permanently an electronic data base on the mineral fuels industries and mineral fuels reserves which will be complete and current. It authorizes the appropriation to the Comptroller General of whatever funds he may need to do that admittedly large but absolutely vital job.

MANDATORY DISCLOSURE OF FUELS RESERVES

Second, the amendment directs an immediate end to another absolutely appalling and intolerable condition of ignorance for a Nation that has an energy crisis on its hands. That is the condition of ignorance we are in about the true nature and extent of our own and the world's reserves of mineral fuels.

Frankly, this country looks ridiculous when it complains of fuel shortages and an energy crisis and at the same time admits that it does not know what its own fuel reserves really are, where they are, how big they are, and who owns them. It is almost incredible, but we have allowed ourselves to remain in ignorance about our common heritage from the Earth, the very lifeblood of our society, the fuel that runs our technological machinery and makes our present day of life possible.

We have been foolish to let this go on as long as we have. We will be idiotic to let it go on any longer. We must have accurate disclosure of our mineral fuels reserves, and we must have it, not 2 or 5 or 10 years from now, but now. This year.

This amendment would provide for immediate, sworn statements from all substantial fuel companies of complete data on their mineral fuels reserves, anywhere in the world. The amendment would also require annual updating of those sworn disclosure statements. It is hard to believe that the Government is not getting such reports now, but it is not. This amendment will get them.

The statements would be filed with the Comptroller General and the information they contain would go into the electronic data bank the amendment directs him to set up.

RULE OF CONFIDENTIALITY

Except on one condition which I shall describe, competitors of a company would not have access to the data on its reserves filed in the data bank. Only officials of the U.S. Government, having official use for the data, would be allowed access to individual-company reports. For the public at large, the Comptroller General would release information from the data bank only in the same way that the Census Bureau and the Internal Revenue Service for years and years have been publishing data derived from individual-company census reports and tax returns. That is in statistical tabulations and aggregations too large for identification and recognition of individual-company data. But Congress and the public would have something they do not now have, and for which no present law provides: regular, current tabulations of our mineral fuel reserves based on mandatory, sworn statements from the private owners of those reserves.

EXCEPTION TO CONFIDENTIALITY RULE

There would be one exception to the general rule that the Comptroller General will not make individual company data public. The exception would be in the case of single companies which were found to own or control 5 percent or more of the total national reserves of a particular mineral fuel. In that case, that particular company's itemized data for that particular mineral fuel would be made public.

This exception to the general rule of confidential treatment of individual company data makes sense in today's world. When a single company acquires control over one-twentieth or more of a vital natural resource, a part of the legacy from the Earth that is the common heritage of every citizen, that company also acquires, by that very fact, a most uncommon measure of power: power over markets, power over competitors, power over the lives and life style and living standards of all Americans.

In our system, we give lipservice, at least, to the proposition that power should be accompanied by responsibility. We, therefore, should not, we cannot afford to accord the powerful the same degree of business privacy that we can safely permit for the relatively powerless.

In a free enterprise economic system, competition is the best check on power—far better than any scheme of regulation, when the market is truly free and unburdened by monopoly and conspiracy. Exposure of the details of their reserve holdings to public scrutiny will subject those few giant companies found to have control over one-twentieth of a vital natural resource to the better operation of the checks and balances of the competitive market system. Because of its size and power and position, such a company can endure the competitive disadvantages such exposure might entail, and the free enterprise system will be safer. It is, on balance, an easier and better pill for the giant fuel companies to swallow than the alternative, which is ever-increasing regulation leading quite possibly to ultimate nationalization.

THE FEDERAL POLICY OF SECRECY

For many years now, beginning around the turn of the last century, it has been the public policy of this country to allow private businesses, no matter how large and powerful they become, to keep almost all details of their business operations to themselves.

Off and on during the 20th century there have been voices raised in dissent against that policy; but the policy has generally remained intact. So it is that the reports which business concerns file with the Bureau of the Census are secret. The tax returns they file with the Internal Revenue Service are secret. The quarterly financial reports that manufacturing companies file with the Federal Trade Commission are secret. Almost every report that a business concern files with the Government is secret.

It was not always so. Late into the 19th century, individual company reports to the Federal census were public. For a period of some years in the State of Wisconsin, income tax returns were public, and, to a significant extent they are still semipublic. It is only in this century, as corporate power and economic concentration have reached the most awesome proportions in history, that we have allowed the best check on such power, exposure of the facts, to wither away and be buried in a mass of laws and rules and policies favoring and protecting and hallowing secrecy.

CHALLENGES TO THE POLICY OF SECRECY

To investigate and from time to time, as the facts justify, to challenge the prevailing public policy of allowing great business power to operate outside of public view, the Senate Small Business Subcommittee on Monopoly since 1967 has been holding hearings on corporate giantism and corporate secrecy. It is my privilege to chair that subcommittee.

Economic concentration and corporate secrecy have also been investigated and challenged in various hearings held over the past decade before the Senate Judiciary Subcommittee on Antitrust and Monopoly. That subcommittee is chaired by the first cosponsor of this amendment, Senator HART.

As a result of the activities and investigations of these two subcommittees, Senator HART and I are deeply concerned about the excessive lengths to which public policy has gone in its support of corporate secrecy.

It is extremely gratifying to report today that there are strong signs the policy of secrecy is ripe for change. Adoption today by the Senate of this amendment would be another such sign. I should like briefly to recall two earlier actions by the Senate this year, which lead me to hope that this body may today be ready for this measure.

ECONOMIC STABILIZATION AMENDMENT

In March the Senate Committee on Banking, Housing and Urban Affairs reported a bill, S. 398, to extend and amend the Economic Stabilization Act of 1970. The reported bill contained a committee-approved amendment by the Senator from Maine (Mr. HATHAWAY), which had the effect of removing the cloak of confidential, secret status from certain reports filed by very big business corporations with the Cost of Living Council. On March 19 the Senate adopted an amendment which, in effect, restored the secrecy; but on March 20, this body reversed itself and again removed much of the secrecy. The antisecrecy amendment survived the conference and was included in the enacted law, Public Law 93–28. While there are still, to my way of thinking, undue limitations and restrictions on the right, the public now does have some right of access to the price-increase reports filed by giant corporations, under some circumstances. The Hathaway amendment, therefore, might well be regarded as that indispensable first step in a long journey, a journey to a new and enlightened policy, a policy which will enshrine the concept of the open society, rather than the concept of big-business secrecy.

ENERGY POLICY ACT OF 1973

A second step in that journey was taken by the Senate on May 10. On that date this body passed, S. 70, the Energy Policy Act of 1973. In the form that passed the Senate, the bill was a Hollings amendment in the nature of a substitute to an Interior Committee-reported bill which was in the nature of a substitute. The Senate, before final passage, had also adopted a Metcalf amendment. The net effect of all these actions was to enunciate a strong policy in favor of, among other things, better and more centralized information sources on the energy industries, and in favor of more public access to information. The amendment being offered today follows on and builds on the policy and program enunciated in Senate-passed S. 70.

This amendment does not, however, as some are arguing, merely duplicate S. 70. Because that argument is being made, it will be useful to review the provisions of S. 70 and the present proposed amendment to S. 1081, as they relate to complement and reinforce each other.

The report of the Senate Commerce Committee on S. 70 issued on April 10, said:

> A major cause of the nation's energy problems is the lack of a comprehensive national energy policy. More than 60 different Federal agencies are involved in energy policy making. All of these agencies were established at different times and for different purposes to handle specialized problems. (S. Rept. No. 93–114, p. 2.)

The principal purpose of S. 70, as reported and as passed, was to establish a means for drawing up a single national policy on energy, and of coordinating the activities of all the various agencies in support of that unified policy. To that end, the bill established a three-member Council on Energy Policy, to serve as adviser to the President on energy matters, and to develop a national energy plan.

Under section 4(b) of S. 70, "All agencies of the Federal Government" are directed to—

> (1) Utilize a systematic interdisciplinary approach which will insure the integrated use of both physical and social sciences in producing, conserving, and utilizing the Nation's energy resources;
>
> * * * * *
>
> (3) gather data and information pursuant to guidelines promulgated by the Council on Energy Policy; develop analytical techniques for use in the management, conservation, use, and development of energy resources, and make such data available to the Council on Energy Policy;
>
> * * * * *
>
> (6) prepare, if required by guidelines promulgated by the Council on Energy Policy, an energy resource statement by the responsible official on the effect of the proposed activity on the Nation's overall energy posture.

Under section 7(a) of S. 70, the new Council on Energy Policy is directed to—

> * * * * *
>
> (2) employ a competent, independent staff which shall utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, to avoid duplication of effort and expense, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by other agencies.

Under section 6(h) of S. 70, the new Council is also directed to promulgate guidelines for the collection and initial analysis of energy data by other Federal agencies. The subsection continues:

> Such guidelines shall be designed to make such data compatible, useful, and comprehensive. Where relevant data is not now available or reliable and is beyond the authority of other agencies to collect, then the Council shall recommend to the Congress the enactment of appropriate legislation. Pending congressional consideration, the Council shall have the power to require by special or general orders any person to submit in writing such energy data as the Council may prescribe. Such submission shall be made within such reasonable period and under oath *or otherwise* as the Council *may* direct.

Mr. President, in the foregoing quotation from the principal section of S. 70 relating to the new Council's information-gathering powers, I have emphasized the words of discretion. The Council "may" gather data directly. Reports gathered by the Council shall be "under oath or otherwise as the Council may direct." It is the familiar story of the Congress, being unwilling to bite the bullet itself, delegating to some executive agency or committee or council, discretionary authority to bite the bullet, if and when it gets ready to do so.

I mention that not to criticize S. 70, its sponsors, or the Senate for passing it—I voted for it myself—but rather to emphasize that the information provisions of S. 70, which were good enough for May of 1973, are not good enough for July of 1973.

We are in a crisis.

We have a national emergency on our hands.

And in that crisis, that emergency, we do not possess essential facts on which the future and fate of our very civilization may hang.

What is worse, we are denied those facts not because they are undiscovered or unknown or even not readily available. We are denied them because corporate business America has somehow persuaded our policymakers, including much of the public and most of the public's government, that we are not entitled to the facts, because they are "private property." They are secrets.

The location, type, quantity, ownership control and state of development of natural resources, mineral fuels, that were put in the planet's crust for all mankind, are now treated as the private secrets of business corporations. The only thing more incredible, more outrageous than the fact that business should peddle such a policy is that Government should for so long have bought it. Well, it is time to stop buying it.

Under section 8 of S. 70, the new Council is directed to prepare an energy report to accompany the energy plan it is elsewhere directed to prepare. The energy report is to include, among other things—

> * * * * *
>
> (b) an estimate of the domestic and foreign energy supply on which the United States will be expected to rely to meet [its energy] needs in an economic manner with due regard for the protection of the environment, the conservation of natural resources, and the implementation of foreign policy objectives;
>
> (c) current and foreseeable trends in the price, quality, management, and utilization of energy resources and the effects of those trends on the social, environmental, economic, and other requirements of the Nation; [and]
>
> * * * * *
>
> (d) recommendations for improving the

energy data and information available to the Federal agencies by improving monitoring systems, standardizing data, and securing additional needed information;

* * * * *

Section 9 of S. 70 is the section dealing with what shall be confidential and what shall be public among the business data obtained by the Council on Energy Policy. It corresponds to section 306 of the presently proposed amendment, which is our section on dividing information into segments available to the public and not available to the public. Section 9 of S. 70 is somewhat ambiguous in its directions on treatment of individual company data; but it might be concluded by some court at some future time—and I would so argue—that the section, taken as a whole, permits some individual company data, now secret, to become public.

There is not, of course, anything at all in S. 70 to correspond with the express provisions of this amendment.—

First, that individual company fuels-reserves data will be routinely, systematically collected in mandatory sworn reports, beginning immediately; and

Second, that individual company data on its reserves of particular mineral fuel will be made public if—but only if—a company is found to control one-twentieth or more of the total national reserves of that mineral fuel.

S. 70 and this amendment are alike in providing, although in different language, that otherwise confidential, individual company data can be made available to Government officials, including officials of the judicial and legislative branches as well as the executive branch, for official purposes.

The key difference is that S. 70 does not provide for the new mandatory fuels-reserves data-collection program and the new mandatory information-coordinating program that our amendment establishes. Passage of this amendment will be, therefore, of substantial benefit to the council created by S. 70.

But the more important reason for passing this amendment, notwithstanding the provisions of S. 70 which are in the same policy mold although differing in detail, is this: S. 70 leaves up to an as yet unborn council to determine whether the country needs one official, centralized data bank on mineral fuels, and mandatory disclosure of privately held mineral fuels reserves, whereas this amendment assumes that those needs have already been demonstrated. In passing this amendment, Congress would say, in effect, that as to those two things, the country can not wait for a new council to be authorized and appointed and set up shop and make a study and make findings. Those two needs exist now and must be met now. By action, not study.

Section 10 of S. 70—the Metcalf amendment—directs the Comptroller General of the United States to monitor and evaluate the activities of the new Council on Energy Policy on a continuous basis, including its reporting requirements. In addition, upon his own initiative or request of a congressional committee, the Comptroller General is directed to do some of the same things the Council is directed to do. First, study existing statutes and regulations on energy; second, review the administration of those laws and rules; third, review and evaluate Federal agencies' programs for gathering energy data; and fourth, evaluate particular projects or programs. He is also directed to "give particular attention" to improved coordination of Federal energy programs and "the attendant need for a central source of energy statistics and information."

As already noted, the proposed amendment would make a leap beyond that last point. We would have the Congress find, right now, on its own knowledge, that there is a need for a central source of energy statistics and information, and we would order the Comptroller General to establish one immediately.

Our amendment originally called for the Federal Trade Commission to do this work; but we have now amended the amendment to shift the responsibility to the Comptroller General, for two very good reasons. One is that it is consistent with the Senate-passed plan in S. 70. The other is that the Comptroller General and his agency, the General Accounting Office, are part of the legislative branch, responsible directly to the Congress and not subject, as the FTC is, to White House control of its budget. There are strong incentives to give the GAO instead of the FTC, especially since the FTC and indeed all other Federal agencies would have access to the data bank, in full.

GIVE THE HOUSE ANOTHER CHANCE

There is one other consideration that should be remembered by Senators who share our view that we must as rapidly as possible change the policies that permit antisocial and anticompetitive corporate secrecy to flourish, but who also think that the job our amendment would do is sufficiently covered by S. 70. It is this: S. 70 is currently on the calendar, of the House Committee on Interstate and Foreign Commerce, with no action of any kind presently scheduled. It is possible that S. 70 will simply die in the House committee's pigeonhole.

Therefore, even if our amendment were far more a mere duplicate of—rather than complement to—S. 70 than in fact it is, there would still be good reason to attach the "Mineral Fuels Reserves Disclosure Act" to S. 1081. By so doing, we would provide another indication to the House that the Senate is ready, willing and anxious to legislate against outmoded policies and practices of corporate secrecy in the energy field. By so doing, we would give the House "another bite at the apple" of a new policy. A policy against corporate secrecy. A policy for the open society.

THE STATE OF ENERGY INFORMATION

The big oil companies may still argue, although hardly anyone else does anymore, that a new Federal information program on our mineral fuels resources is unnecessary, because all the information anyone could possibly need about the subject is being reported and is in the public domain now.

It is certainly true that there is an overwhelming quantity of data pouring into the public domain about fuels generally, and oil in particular, every day. As already noted, one of the country's needs is to have an agency expressly charged with reading all the statistics emanating from all sources and keypunching them into one electronic data base for computerized management, comparison and tabulation. A prime purpose of this amendment is to meet that need.

In the precomputer age it was not possible; but now it is possible to compare, quickly and easily, everything that a big oil company is telling various data recipients about itself. If this amendment passes, it would become the duty of the Comptroller General to obtain and enter into the electronic data base in the GAO everything about the mineral fuels industries that is reported publicly, to and by any of those earlier mentioned 60 Federal agencies, and innumerable State and local and foreign governments, and anything on the subject reported, publicly, to and by innumerable private associations, business publications, stock exchanges, and so on.

Obviously, the Comptroller General would have to assign priorities to the data sources to be read and entered into the data base. Many sources would, perhaps for some time, have to be omitted. But eventually the GAO could catch up and keep up with something approaching the universe of public knowledge on the mineral fuels industries.

It is probable that the Comptroller General would want to give first priority to collecting, regularly and promptly, all data reported by the various Federal and State agencies concerned with energy, which data is based, for the most part, on voluntary, confidential report forms filed by companies. I suspect that the inconsistencies and omissions such a collection and comparison of data would turn up would soon result in a call for better reporting by the companies themselves, and more public access to individual-company reports.

Many examples and exhibits could be given of the dispersion and enormous complexity of existing data sources, and of expert opinion on the need to coordinate them. Of the many possibilities, I shall cite only five.

NEED FOR COORDINATION

First, a recent staff report to the Senate national fuels and energy policy study contains an excellent, brief statement on the need for better, and better-coordinated information on energy. I shall append that report's section headed "Energy Data Collection, Analysis, and Dissemination" to this statement as exhibit B.

FOUR MAJOR DATA SOURCES

It is rather plain that two data sources which would deserve first priority entry in the Comptroller General's new centralized electronic data base would be State agencies. One is the Texas Railroad Commission, the other is the Oklahoma Corporation Commission. Both receive periodic, public reports from oil companies on their inventories. I shall append to this statement two news accounts of the agencies' release of information from these company reports. The first, from the June 25 issue of U.S. Oil Week, is headed "Gasoline Shortage

Over—For Exxon at Least," and is based on reports to the Texas Railroad Commission as exhibit C.

The second, from the May 23 issue of the Daily Oklahoman, Oklahoma City, is headed "Oil Firms Describe Stocks' Status," and is based on reports to the Oklahoma Corporation Commission as exhibit D.

The third and fourth data sources that should be given top priority for coordination in the new Federal data bank are the reports issued by two powerful private associations, the American Petroleum Institute and the American Gas Association. I am appending to my statement a news account from the June 22 issue of the Journal of Commerce, headed "'Gas' Stocks Up, Output Down," which gives some idea of the type of data that are collected and reported by the first of those associations, the API as exhibit E.

FUELS RESERVES DATA INADEQUATE

Perhaps even more important than the need to coordinate existing data on the mineral fuels industries is the need to obtain information, now inadequate to nonexistent, on mineral fuels reserves. A principal purpose of this amendment is to provide machinery for meeting that need.

The U.S. Bureau of Mines relies on the American Petroleum Institute—API—for the data it obtains on reserves of crude petroleum and on the Federal Power Commission and the American Gas Association—AGA—primarily the latter—for the data it publishes on natural gas reserves. The FPC, in turn, also relies heavily on the AGA, although it does have its own regular survey program for gas reserves of pipeline companies. In addition, the FPC has just completed a special study of our national reserves of natural gas. I shall append to my statement the preface and official summary of the recently released staff report on that study. The report itself describes the study as a first—and inadequate—step as exhibit F.

The insufficiency of existing data can be illustrated by the discrepancies that are found in various statements and tabulations, as well as the challenges made by one data source of the reports made by another.

For example, on the last point, on June 27 the director of the Federal Trade Commission's Bureau of Competition told the Senate Judiciary Subcommittee on Antitrust and Monopoly, the Hart subcommittee, that natural gas producers regularly disclose only one-half to one-tenth of their true reserves to the Government. A June 28 Washington Post article, headed "Natural Gas Reserves Understated, Hill Told," will be appended to this statement as exhibit G.

Another example is found in the summary of the FPC's report, which I have already referred to. See exhibit F.

It reports a discrepancy of 10 percent between the AGA's estimates of national gas reserves and those made by the FPC's study.

But that discrepancy is minor compared to the differences in figures that are being cited by different friends of the trans-Alaska pipeline about the oil reserves on the North Slope of Alaska. Senator Jackson's amendment No. 315 to the pending bill would have Congress make an official finding—

> That approximately twenty-four billion barrels of crude oil in place and twenty-six trillion cubic feet of natural gas reserves have been proved on the North Slope of Alaska, and that the probable reserves of that region are many times greater.

The Atlantic Richfield Co. has been running full-page "Let's get on with it" advertisements, supporting the pipeline. One such ad, appearing in the July 2 Washington Post, was headed "What Stands Between Our Nation's Energy Shortage and 10 Billion Barrels of Alaska Oil?" Arco's figure on the Alaskan oil reserve is only 42 percent of the figure that the Jackson amendment would have the Congress "find" to be in existence.

It is probable that requiring mandatory, sworn statements from the companies that own or control substantial fuel reserves will not immediately result in our having worldwide, reliable data on reserves; but it will surely help. The data we have now are derived from unsworn reports filed in various voluntary programs, which reach the Government in fairly advanced stages of analysis. This amendment will provide reserve-by-reserve, field-by-field, individual-company reports, from which the Comptroller General and other interested Federal agencies can do their own analyses.

The Senator from Minnesota (Mr. Humphrey), who is a cosponsor of this amendment, is offering amendments to this amendment which would further strengthen the likelihood of our obtaining better data on reserves. His amendments would put the facilities of the Department of the Interior at the service of the General Accounting Office, for purposes of onsite checking of the validity of the reports the Mineral Fuels Reserves Disclosure Act would require. In addition, the Humphrey amendment would provide for regular reporting of data on reserves in the public domain. I support the Humphrey amendments to this amendment and have accepted them.

MINERAL FUEL RESERVES ARE KNOWN TO COMPANIES

One argument that may be raised against this disclosure law is that it is impossible to know with any certainty the things about a mineral fuel reserve that would be required to be stated under oath, if this amendment passes: the location, types, and proved and probable quantities—specifying which—of mineral fuel or fuel ores in the reserve, and the state of development of the reserve.

The answer to that is, fuel companies are making statements all the time now about their reserves, describing their proved, probable, possible, and speculative quantities. This amendment asks them to do no more, except to verify that what they are saying is in fact true.

It is anticipated that the Comptroller General will devise a form of verification that makes allowance for the fact that it is impossible for a geologist to count barrels of oil or cubic feet of gas or tons of coal in the ground with the same accuracy that a cashier counts dimes and quarters in a cash register.

It is recognized that methods of ascertaining the size of mineral reserves vary, and that often two geologists in the same company may interpret the same core drillings in significantly different ways.

But it is also recognized that large bank loans and stock offerings are being made on the basis of such estimates as are now within the state of the geologic and engineering arts. Also, it is undeniable that official Government statistics are regularly being issued, which could give any but the most sophisticated reader the impression that the national totals of all these estimates add up to a "fact."

This amendment does not ask for any miracles from geologists and engineers; but it does ask that the best of their knowledge be shared with the Government, not monopolized by the companies they work for.

FOREIGN COMPANIES DOING BUSINESS HERE ARE COVERED

Another question that may be raised about this amendment is whether it might harm American-based companies and help their foreign-based competitors, by disclosing information about the American firms.

The answer is "No." Many, if not most, of the important foreign-based competitors of the U.S.-based fuel companies have operations in the United States. The proposed Mineral Fuels Reserves Disclosure Act adopts the definitions of "corporation" and "commerce" contained in the Federal Trade Commission Act. It also contains a very broad definition of the term "affiliate" and then defines the term "substantial fuel company" in such a way as to include all the affiliates of a corporation. Finally, the reporting requirement of section 305 applies to "every substantial fuel company, foreign and domestic, engaged in commerce."

Hence, if a large refining company based in the United Kingdom or the Netherlands, for example, had an "affiliate"; that is, an individual, partnership or corporation which controls, is controlled by, or is under common control with the foreign refinery—engaged in gasoline retailing in the United States and had another affiliate engaged in crude oil extraction in the Middle East, the reserves of that foreign company's Middle East affiliate would have to be disclosed to the General Accounting Office under this legislation.

In addition, it should be remembered that the principal purpose of this amendment is to obtain more regular and reliable statistical data on mineral fuels reserves, not to publish individual company data. Only in the case of a single company's having more than 5 percent of the total national reserves of a particular mineral fuel would its individual company, detailed data come into the public domain and be available to its competitors. In such a case, expected to be fairly rare, the public exposure is justified and necessary, as I have already explained.

EMERGENCY LEGISLATION

Finally, it may be argued that a measure establishing a new reporting and data program of substantial size and great national importance should not be adopted as a floor amendment to another bill, even though—as is the case here—the amendment is fully germane.

Our answer to that is, once again, that we are in an emergency. We are in a crisis.

We do not and cannot know the nature, extent or even the validity of the crisis, because we are denied information.

All that this amendment does is to provide means for the Congress and the public to obtain information which any number of Senate and House committees, after any number of hearings, have frequently said the country must have. The committee that reported this bill, the Committee on Interior and Insular Affairs, is the mainstay of the national fuels and energy policy study under Senate Resolution 45. A staff report issued in connection with that study has clearly pointed to the need for this type of legislation. See exhibit B.

If we allow the oil and gas companies to raise their rates without having the data on which to base a decent judgment of the need and justification, how can we explain that to American consumers and small businesses?

I have a letter from one of the thousands of small businessmen who are affected by this crisis. He was a service station operator. His letter is only too typical of letters every Senator is getting these days. See exhibit H.

Can any elected representative face a constituent such as this disfranchised service station operator and say that he voted against getting fundamental information on the natural resources on which the man's livelihood depends?

What are we going to tell the factory owners and their workers when their energy costs go up 100 or 200 or 300 percent? Or when they cannot get the fuel they need at all? What do we say to people like these, when they have had to shut down their businesses or have lost their jobs because their factories could not get or could not afford the power that America's industries run on? Do we say that we are against having the essential facts made known, because the facts are claimed by big mining companies and giant oil and steel and railroad companies as "proprietary" information?

What are we going to tell the poor family that will spend the coming winter in a cold house because the local supply of fuel oil ran dry, or the cost of fuel oil became so high they could not afford it? Can any Senator say, "Well, the facts are complex and we cannot get the necessary facts, because that would involve invading big business privacy"?

Parents this summer are having to explain to their children that the family's vacation plans have been canceled, because they are uncertain about gasoline in the region to which they were going, or they cannot afford gasoline at almost 50 cents a gallon, or they are concerned about motel and campground fees that have gone up, because of increased fuel costs. Those parents want explanations. Shall we tell them we are against finding the essential facts and setting up a modern data processing system to manage the facts and make them usable?

We have constituents who are farmers, and the energy crisis is hitting them, too. What do we tell a small farmer who cannot afford—or cannot find—the fuel necessary to operate his farm machinery? What do we tell the consumers of farm products about their increased grocery bills, linked to fuel costs in part?

There simply is no existing legislation, no existing program to pull together in one place all the information that is available but widely scattered on the mineral fuels industries. There is no existing legislation, or program, to pull together in one place all the information that companies know, but keep secret, about their mineral fuels reserves.

This amendment would provide that legislation.

This amendment should therefore be passed.

Mr. President, I ask unanimous consent to insert in the Record at this point exhibits A through H, inclusive, referred to and identified in my remarks.

There being no objection, the exhibits were ordered to be printed in the Record, as follows:

Exhibit A

The Mineral Fuels Reserves Disclosure Act: Section-By-Section Analysis And Comment

GERMANENESS

The "Mineral Fuels Reserves Disclosure Act" is offered as an amendment (No. 319) which will add new title III to S. 1081. Title I of that bill as reported establishes new, general law for the granting of rights-of-way across Federal lands for various purposes. Title II authorizes specifically the granting of permits for the Trans-Alaska Pipeline, subject to certain conditions.

The Disclosure Act is an appropriate, relevant and urgent addition to the bill. It is germane because the bill is concerned with an aspect of the emerging energy crisis, oil transportation, while the amendment is concerned with another, equally important aspect of the energy crisis, the inadequacy of public data and inaccessibility of existing corporate data required for the formation of sound public policy to deal with the Nation's fuel problems. Many of the oil companies that will derive great benefit and profit from enactment of S. 1081 possess but withhold the types of information on mineral fuels reserves this amendment would make available to policymakers. The amendment is urgent because the need is urgent for the information it would make available.

SEC. 301, SHORT TITLE

The title to be added to S. 1081 by amendment no. 319 will be cited as the "Mineral Fuels Reserves Disclosure Act."

SEC. 302, PURPOSE

The purpose of the Mineral Fuels Reserves Disclosure Act is to provide for the Collection and organization in a single electronic data base of the fullest available information on the Nation's mineral fuels industries and reserves of mineral fuels. The act will provide for the establishment and maintenance of that data base by the Comptroller General of the United States within the agency of the legislative branch which he heads, the General Accounting Office. A further purpose of the act is to provide for the mandatory disclosure to the Comptroller General by substantial fuel companies of information on the quantities and locations of their own Mineral fuels reserves.

SEC. 303, DEFINITIONS

This section provides word-of-art definitions for key terms used in the Disclosure Act: "Mineral fuel reserve," "substantial fuel company," "affiliate," "control," "data base," "Comptroller General," "commerce," "corporation," "establishment," and "standard industrial classification."

The terms "commerce" and "corporation" are given the same broad, inclusive definitions as in the Federal Trade Commission Act, and the term "affiliate" is defined to include business associates other than corporations which control, are controlled by or are under common control with corporations.

The definition of "substantial fuel company" in effect exempts from the reporting requirements of the Disclosure Act the great majority of mining and oil enterprises, by number, but is believed to exempt from disclosure only a fairly small percentage of total privately controlled mineral fuels reserves. The companies required to report will be those which had annual business sales or receipts of $5 million or more in either of the last two fiscal years, derived from operations in the extraction of mineral fuels; or which own or control mineral fuel reserves valued at $5 million or more.

The definitions of "mineral fuel reserve" and "control" are simply restatements of their ordinary, commonsense business meanings.

The term "data base" throughout the Disclosure Act means the great centralized, all-inclusive, computerized library of essential information on the mineral fuels reserves which the Comptroller General will be directed to establish.

To assure that the information in the data base will be comparable with Census and other Government statistics, to the utmost degree practicable, the terms "establishment" and "standard industrial classification" are incorporated into the Disclosure Act with the same meaning as in the Standard Industrial Classification Manual. That official Government manual classifies all economic activity in a system employing numbers and names, and provides for the enumeration of economic activity by establishments—that is, single mines, factories, refineries, etc.—rather than on a company-wide basis.

SEC. 304, MINERAL FUELS RESEVES DATA BASE

In subsection (a), the Comptroller General is given a direct order—not mere authorization—to collect and organize data for, and establish and maintain a complete and current data base on the mineral fuels industries and, in particular, on mineral fuels reserves.

In subsection (b), the characteristics of the data base are described. It is to contain all available information on every mineral fuel reserve within and without the United States. It is to be organized, indexed and cross-referenced on the basis of establishments, by company or other affiliation or ownership, by particular location within or without the United States, and by standard industrial classification. It is to utilize the best and fastest information storage, retrieval and processing systems and technologies available, including but not limited to microfilm and electronic data processing and transmission systems. And it is to be divided into a confidential section and a public section, as provided in section 306.

SEC. 305, SUBSTANTIAL FUEL COMPANIES TO REPORT MINERAL FUEL RESERVES

Subsection (a) requires every substantial fuel company, foreign and domestic, engaged in commerce to report annually to the Comptroller General full and complete details of all mineral fuel reserves which it, together with its affiliates, owns or controls anywhere in the world. These reports are to be verified, under penalties of perjury, by the chief executive, geological and financial officers of the substantial fuel company. They are to describe for each reserve the identity of each establishment having any ownership or control of the reserve; the location, types, and proved and probable quantities of mineral fuel or fuel ores in the reserve; and the state of development of the reserve. Quantities of proved and probable fuels or fuel ores are to be separately specified, not lumped.

The use of the words "foreign and domestic" companies, "affiliates" and "commerce" gives subsection (a) the broadest possible extraterritorial reach. For example, a giant conglomerate based in Europe, having refineries in the United Kingdom operated by British subsidiaries, gasoline retailing in the United States operated by an American affiliate and oil wells in the Middle East operated by an affiliated Arabian subsidiary, would, under this subsection, be required to report the reserves of its Middle East oil-producing affiliate. To escape the reserves-reporting requirement, it would have to pull out its American gasoline-retailing operation.

Subsection (b) directs the Comptroller General to prescribe, by regulation, the form or forms on which the reports of substantial fuel companies on their reserves shall be made. The Comptroller General is directed to consult with the Office of Management and Budget and other interested departments and agencies in the drafting of these reporting forms; but the consultations must be expeditious. The forms are to be finally promulgated not later than 60 days after the effective date of this act.

Subsection (c) provides that the first reports of reserves will be due not later than four months after the effective date of this act and shall describe mineral fuel reserves as of a specified date not more than four months earlier than the date of the report. Annual reports thereafter are to be made on or before the first day of May, beginning with the year 1974, and are to describe mineral fuel reserves as of the first day of January.

It is recognized that oil and mining companies will not be able to get complete geological and engineering estimates of their total reserves within four months, or to update all such reserve estimates annually. No new or special geological exploration is mandated by this section. All that is expected under this section is that the three most responsible officers of substantial fuel companies would report annually, under oath, the best and most recent information they normally and necessarily acquire on the status of their companies' reserves, for purposes of the long-range planning, management and operations of their own businesses.

SEC. 306, DIVISION OF DATA BASE INTO PUBLIC SECTION AND CONFIDENTIAL SECTION

Subsection (a) directs the Comptroller General to divide the data base into two sections, one of which shall be public, the other confidential. The public at large is to have unlimited rights of access to and use of the public section, under regulations and at reasonable fees to be prescribed by the Comptroller General. In general, only the Comptroller General, officials of the General Accounting Office, and other officers and employees of the Government of the United States are to have access to the confidential section, and then only when they have official use for the data they are asking for from the confidential section. The term "officers and employees of the Government of the United States" includes officials of all three branches of Government, executive, legislative and judicial. An exception to the general rule is that substantial fuel companies shall have access to the data they themselves provided for the confidential section. An officer or employee of the United States Government who makes an unauthorized disclosure of data in the confidential section may be removed from office, fined, or imprisoned under the provisions of section 1905 of title 18 of the U.S. Code, the criminal code.

Subsection (b) directs the Comptroller General to place in the public section of the data base all information which he obtains from reports, documents, and other sources in the public domain. Any work that is done from or with data from public sources, including microfilming and computer tabulations, is also to be fully available to the public. In general, reports on mineral fuel reserves from individual substantial fuel companies are to be placed in the confidential section of the data base, where the individual-company data will not be available to the companies' competitors. An exception to that rule is provided in the case of ownership or control of five percent or more of total national reserves of a particular mineral fuel by a single substantial fuel company. In that case, the company's complete reports of data on that particular mineral fuel will be transferred to the public section of the data base. Another exception is made for data contained in a mandatory report under section 305 which the General Accounting Office discovers is in the public domain already, through other channels. In that case, that information will also be transferred to the public section of the data base. The Comptroller General has complete authority to make statistical tabulations of the confidential data and transfer those tabulations to the public section of the data base, so long as the tabulations do not disclose any individual-company data that are declared to be confidential under this section of the act.

Subsection (c) provides that any department or agency of the Federal Government, or any substantial fuel company may request that certain data be withheld from the public section and placed in the confidential section of the data base, for reasons of the national security. If the Comptroller General is satisfied that the national security would indeed be adversely affected by public disclosure, he is directed to place the data in question in the confidential section.

Subsection (d) in effect makes a Congressional finding that neither competitive equities nor the national security can justify keeping business data secret forever. The subsection establishes a general rule that no data more than 25 years old shall be placed in the confidential section, and data in the confidential section are to be transferred to the public section of the data base upon becoming 25 years old. However, the Comptroller General may keep data confidential for up to 50 years upon a showing that competitive equities so require, and up to 75 years upon a showing that the national security so requires. The subsection directs the Comptroller General to draft regulations providing for formal hearings on any question or dispute that may arise concerning the entry of data into or removal of data from the confidential section of the data base. Such hearings are to be open to the public, except that a private formal hearing may be conducted when the Comptroller General determines that competitive equities or the national security so require.

SEC. 307, POWERS OF THE COMPTROLLER GENERAL

This section is patterned on and consistent with sections 10 (c), (d) and (e) of S. 70, the Energy Policy Act of 1973, which passed the Senate May 10. However, this section (and the entire Disclosure Act) do not depend upon passage by the House and final enactment of S. 70. This act and S. 70 complement and reinforce each other, but each can stand and be very useful alone.

Subsection (a) gives the Comptroller General the right of access to books, records and accounts of any substantial fuel company or affiliate thereof where necessary to validate any report required by this title, to ascertain the existence of a duty to report under this title, or otherwise to fulfill the purpose of this title.

Subsection (b) gives the Comptroller General power to issue subpenas requiring the production of books, records and accounts of substantial fuel companies.

Subsection (c) gives United States District Courts power to enforce the Comptroller General's subpenas, upon his request for their aid. A court may issue an order to comply with the Comptroller General's subpena, and may punish disobedience of that order as a contempt of court.

SEC. 308, AUTHORIZATION OF APPROPRIATIONS

The cost of implementing this Disclosure Act will be small, in comparison to the benefits to be gained by the public, but exact amounts cannot at present be estimated. Therefore, this section authorizes the appropriation to the Comptroller General of whatever supplemental and annual funds he may find that he requires to establish and maintain the massive data base on the mineral fuels industries and mineral fuels reserves for which this act provides.

SEC. 309, EFFECTIVE DATE

The Mineral Fuels Reserves Disclosure Act will become effective on the date of its enactment.

EXHIBIT B

EXCERPT FROM FEDERAL ENERGY ORGANIZATION

(A staff analysis prepared by Daniel A. Dreyfus, professional staff member; at the request of SENATOR HENRY M. JACKSON)

3. ENERGY DATA COLLECTION, ANALYSIS, AND DISSEMINATION

The Problem. It has been evident from the outset of the Committee's energy study that an adequate body of basic information about the energy system is not available to support Federal policy decisions. A typical example is the controversy over whether or not the wellhead price of natural gas is a significant factor in suppressing new discoveries.

Much of the existing energy information, furthermore, is obtained directly from the energy industries at a relatively advanced stage of analysis. It is obvious, of course, that some data concerning the energy industries cannot be obtained from any other source. Data concerning shipments of fuels, generation and deliveries of electric power, and operating costs are examples. There is, however, a wide range of options concerning the degree of industry analysis which need be accepted as part of even these kinds of data. There also is a range of options concerning the degree to which efforts may be made to validate such data. There would appear to be no reason for any Federal agency to monitor the recording instruments of an electric utility to obtain information on generation and sales. At the other extreme, however, the Secretary of the Interior or the Congress should not uncritically have to accept the utilities' projections of future electric demands as the basis for Federal policy concerning the development of vast regions. Both the Federal Task Force and the Senate Interior Committee during studies of coal-fired powerplant construction in the Southwestern desert regions faced the latter situation.

The processing of data to produce management information for policy decisions inevitably involves not only the measurable data itself, but also judgmental assumptions. Generally, the more significant policy decisions are complex and abstract, and the information upon which they are based involves a high proportion of judgmental analysis. The assumptions which have been made are not always obvious in the results. The views and motives of the analysts, either inadvertently or deliberately, can significantly influence policy decisions which are based upon the information.

The Federal government also presently obtains data from industry which is not peculiarly industrial data. For example, the Department of the Interior relies heavily upon industry for information concerning the potential value of fuel resources on the public lands. Greater disclosure of raw exploration data or exploration directly by the Federal agencies could be substituted for such information.

There are indications that the present Federal reliance upon energy information from industry is excessive. Federal decision-making is influenced not only by the facts, but by the assumptions used in analysis. Furthermore, the Federal government is unable to recognize deficiencies or errors in industry decisions.

The recently released *U.S. Energy Outlook* report of the National Petroleum Council is an example of predigested, policy advice which often is offered to Federal decision-makers in the guise of industry data. An analysis of similar major energy studies which were available at the initiation of the Senate energy study [44] showed that the underlying assumptions were so thoroughly concealed that the projections of supply and demand could not be reliably normalized among the reports considered.

The dangers in relying upon predigested data were highlighted in Committee hearings on recent fuel shortages. A representative of the Office of Emergency Preparedness testified that the Office had been assured by the oil industry that supplies were adequate for this winter. Appropriate Federal contingency planning, therefore, had not been done.

Present deficiencies in information for energy policy decisions fall into four general categories:

(1) adequacy of data—is sufficient original source data being collected in an accurate and timely fashion (*e.g.*, is sufficient geological exploration being done)?

(2) analysis—is the data being analyzed competently and with regard to relevant issues (*e.g.*, has anyone estimated the impact of surface mining slope limitations upon coal availability)?

(3) validity—is the information being distorted to prove preconceived notions (*e.g.*, are projections of energy demands based upon realistic assumptions of growth)?

(4) credibility—will decisions based upon the available information be suspect (*e.g.*, will conservationists believe that proposed powerplants are essential on the evidence of industry projections)?

There are indications that *existing* energy data management falls short in each of the foregoing areas.

The energy information available for Federal policy formation has been inadequate for past decisions and it is certainly grossly deficient in the present crisis. Now, and in the future, increasingly difficult tradeoff decisions between energy and other needs of society will be necessary. The management of the energy system will continue in the foreseeable future to labor under critical shortage conditions. Federal actions which affect energy must be based upon the greatest possible knowledge of the facts.

Alternatives.—Few comprehensive proposals for energy data have been advanced. The bill (S. 70) introduced by Senator Hollings to create a Council on Energy Policy in the Executive Office would assign broad energy information duties to that group.

It appears inappropriate for extensive data collection and processing activities to be situated in the Executive Office. The advocacy function of a Presidential advisory body, moreover, is inimical to the production of credible statistical information for general use.

Conclusions.—Greater Federal "in-house" data collection and analysis is needed. Technical field work (such as geologic exploration) should be assigned to technical agencies (such as G.S.). More authority to require "proprietory" data from industry and to verify it is probably needed. The analysis should be done by Federal agencies to insure validity from the Federal viewpoint.

These functions could be vested in a sub-cabinet energy administration. Such an agency, however, will inescapably develop a close relationship and similar viewpoint to the energy industries. To achieve public (and Congressional) credibility, it might be preferable to assign a broad energy data processing and reporting function to an existing statistical agency which has an established reputation for accurate and impartial reporting. The Census Bureau and Bureau of Labor Statistics are examples. Alternatively, a Legislative Branch agency such as the General Accounting Office might be selected.

EXHIBIT C

[From U.S. Oil Week, June 25, 1973]

GASOLINE SHORTAGE OVER . . . FOR EXXON AT LEAST

The nation's largest oil company told the Texas Railroad Commission last week that July 1 it had on hand 800,000 barrels more gasoline than desirable.

Exxon's gasoline glut was quite a turnaround from its 75.6 million gallon deficit April 1.

The only other firm with burdensome gasoline inventories was La Gloria Oil & Gas with about 714,000 gallons too much.

Some of the biggest refiners were really hurting—according to figures they gave the Commission—Ashland, Texaco and Gulf especially.

The net shortage adds up to 30.5 million barrels of gasoline or a bit under 1.3 billion gallons below desirable levels.

Exxon claimed a 29.4 million gallon distillate surplus April 1 but by June 1 Exxon's stocks had fallen to 42 million gallons below desirable.

Amoco and Arco were awash in distillate (OW 4/23) back in April (137 million gallons more than they needed), but now they claim shortages.

Only Charter, Conoco and Gulf show a distillate surplus.

TRC uses the oil company figures to set maximum allowable crude production levels from Texas wells. TRC once restricted production to prevent oversupply and the effect on crude prices.

But TRC has ordered wells to run at maximum through July for the 16th straight month.

Mobil refused again to supply its viewpoint on gasoline and heating oil stocks.

Given the severe shortage, even TRC officials are beginning to wonder about the validity of the figures released June 1:

ABOVE OR BELOW DESIRED LEVELS IN BARRELS (42 GALLONS=1 BARREL)

	Add 000		Percent capacity
	Gasoline	Distillate	
Adobe	−2	−20	78.9
Fina	−445	−78	99.6
Amoco	−2,200	−100	102.6
Ashland	−4,231	−568	96.3
Arco	−318	−146	91.0
Bell	−17	+6	92.3
Charter	−329	+138	104.0
Citgo	−490	−1,153	104.9
Coastal St	−158	−175	81.2
Continental	−351	+154	100.0
Cosden	−228	+14	96.0
Crown	−91	+16	67.3
Diamond	−486	−19	98.0
Exxon	+800	−1,000	106.6
Fort Worth	−29	−8	96.2
General Am	0	0	
Getty	−723	−631	92.1
Gulf	5,400	+200	93.5
LaGloria	+17	−19	97.5
Marathon	−335	−256	112.7
Mobil	0	0	94.9
Permian	0	0	
Phillips	−769	−139	105.6
Scurlock	0	0	
Shell	2,980	−252	91.9
Skelly	−500	−200	102.9
Sohio	2,463	−923	69.7
Socal	−785	−51	86.5
Sun	−1,395	888	83.9
Texaco	−5,805	−1,156	83.9
Union	800	−400	107.0
Total others	0	0	
Total all companies	30,513	7,654	

Source: U.S. Oil Week, June 25, 1973.

EXHIBIT D

[From the Oklahoma City Daily Oklahoman, May 23, 1973]

OIL FIRMS DESCRIBE STOCKS' STATUS

(By Glen Bayless)

Most oil companies reported stocks of gasoline, diesel fuel and LPG products on hand to the Oklahoma Corporation Commission Tuesday as a first step in the commission's inquiry to find out whether there is hoarding for higher prices.

The companies reporting responded to last week's request from the commission to submit figures on product supplies and where they are located in Oklahoma and elsewhere in the country.

Only Continental Oil Co. among the larger companies failed to report supplies at its Ponca City refinery and throughout the continental United States.

Commission Chairman Charles P. Nesbitt directed the commission staff to find out why Continental had not responded.

A spokesman for Sun Oil Co. said at the commission's bi-monthly demand and proration hearing that his company had sent in a reply of products it has in Tulsa and elsewhere, but the conservation department had not received the material Tuesday afternoon.

Other companies gave reports of stocks on hand, in pipelines and in refineries. Because their figures could not immediately be compared to any historical or seasonal benchmarks, Nesbitt said no conclusion could be drawn until Dan Dunnett, director of the oil and gas conservation division, could make analyses and findings.

"We asked for the figures on products because there had been complaints gasoline, diesel and LPG were being withheld in the current shortage situation in anticipation of higher prices," Nesbitt said.

"Analysis will help to show whether that is true or not."

Oil purchasers at the demand hearings made regular reports on what they define as "above or below desired levels" of crude and oil products.

On May 1, the total barrels of crude oil below "desired levels" was 8,405,548 barrels, slightly improved over the 9,002,475 deficit on March 1.

However, the deficit in products which include "desired levels" of oil gasoline, diesel and LPG, increased between March and May by 528,261 barrels to total 10,675,000 barrels.

Commission spokesmen said you "just can't do any arithmetic yet" with the traditional "above or below desired levels" figures and the specific breakouts of products supplied to the commission Tuesday.

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[44] U.S. Congress, Senate, Committee on Interior and Insular Affairs, *Survey of Energy Consumption Projections*, Committee Print 92-19, 92d Cong., 2d Sess., 1972 evaluation.

These larger companies supplied these figures Tuesday:

Kerr McGee Corp.: 147,503 barrels of gasoline and 48,909 barrels of diesel in the Wynnewood refinery and pipelines in Oklahoma. Nationwide, the company reported 530,399 barrels of gasoline and 355,681 barrels of diesel on hand in refineries, and pipelines.

Phillips Petroleum Co.: In District 2 which includes Oklahoma, the company reported stocks of 3,923,000 barrels of motor fuel, 1,994,000 barrels of distillates and 1,166,000 barrels of LPG.

Company-wide, Phillips reported stores of 10,378,000 barrels of gasoline, 5,596,000 of distillates and 2,446,000 of LPG.

Shell Oil Co.: In District 2 there were 4,724,000 barrels of gasoline on May 11, 284,000 barrels of aviation fuel, 1,422,000 of diesel and 639,000 barrels of LPG.

Company-wide, Shell reported on hand 14,204,000 barrels of gasoline, 439,000 barrels of aviation fuel, 5,128,000 barrels of diesel, and 1,909,000 of LPG.

Skelly Oil Co.: In Oklahoma, 43,000 barrels of gasoline, 64,000 barrels of LPG and 7,000 barrels of diesel.

Nationally, Skelly reported 1,500,000 barrels of gasoline, 1,330 of diesel and 1,120,000 of LPG.

Standard Oil of Ohio: No supplies in storage in Oklahoma. Company-wide, Sohio reported 6,250,000 barrels of gasoline, 387,000 of LPG and 4,129,000 barrels of diesel.

Cities Service Oil Co.: In its midwest area including Oklahoma, the company reported 1,890,000 barrels of gasoline, 307,000 barrels of LPG and no diesel stocks.

Company-wide, Cities Service had stocks of 6,400,000 barrels of gasoline, 3,654,000 barrels of LPG and 212,000 barrels of diesel.

Champlin Petroleum Co.: At Enid, Champlin 431,800 barrels of gasoline, 177,500 barrels of diesel and 2,600 barrels of LPG.

Company-wide it had stocks of 1,618,100 barrels of gasoline, 832,200 barrels of diesel and 4,500 barrels of LPG.

Apco Oil Co.: In Oklahoma, 35,113 barrels of gasoline, 64 barrels of diesel.

In six states, 984,000 barrels of gasoline, 180,828 barrels of diesel.

Other companies among the 29 purchasers of Oklahoma crude reported lesser amounts. Koch Oil Co., second largest buyer of crude with June and July nominations of 101,473 barrels a day, reported no stocks of refined products in Oklahoma or company-wide.

Nesbitt pointed out that companies build stocks to meet seasonal demands and therefore a careful analysis needs to be made of the reported figures. He reminded that the shortage of gasoline is perhaps in part result of an abnormal switch by refiners to heating oils during the 1972–1973 severe winter.

Exhibit E

[From the Journal of Commerce, New York, June 22, 1973]

"Gas" Stocks Up, Output Down

Despite a modest decline of a third of a million barrels in gasoline production last week, inventories were able to do a little better than hold level, according to figures compiled by the American Petroleum Institute.

API data showed that gasoline inventories had increased slightly by June 15 to 202,926 thousand barrels from 202,654 thousand barrels a week earlier. They were far below the 210,027 thousand-barrel level of a year earlier.

Gasoline output last week tapered to 48,948 barrels (in this total and those that follow the final 000's are omitted), or 54.2 per cent of refinery runs, from 49,283 barrels, or 55.7 per cent of refinery runs, the previous week. A year earlier gasoline output totaled 43,329 barrels for a 51.8 per cent yield.

Refinery runs of crude were substantially higher, at a daily average of 12,893 barrels, or 94.7 per cent of capacity, compared to 12,041 barrels, or 92.8 per cent of capacity, the previous week and 11,942 barrels, or 89.3 per cent of capacity, a year before.

For the four principal oil products, total stocks also increased, to 403,091 barrels from 397,425 a week earlier, 408,969 was the total a year before.

On the East Coast, gasoline stocks dipped 1.4 per cent to 49,051 barrels from the previous week's 49,756, and compared to 53,471 a year earlier. Distillate oil stocks rose to 48,187 barrels from 46,063 a week earlier, and were ahead of the 43,838 barrel total of a year before. Residual oil stocks were also higher than the week before, at 22,853 compared to 21,886 barrels, but were below the 26,129 barrel total of a year earlier.

TOTAL UNITED STATES

[Thousands of barrels]

	Week ended June 15, 1973	Week ended June 16, 1972
Output:		
Motor gasoline	48, 948	43, 329
Jet fuel (kerosene type)	5, 343	4, 466
Distillate	19, 153	18, 496
Residual	6, 221	4, 640
Stocks:		
Motor gasoline	202, 926	210, 027
Jet fuel (kerosene type)	21, 588	22, 399
Distillate	127, 842	119, 379
Residual	50, 735	57, 164
Total	403, 091	408, 969
EXCLUDING WEST COAST		
Output:		
Motor gasoline	42, 195	37, 389
Jet fuel (kerosene type)	3, 880	3, 395
Distillate	17, 335	17, 201
Residual	3, 525	2, 819
Stocks:		
Motor gasoline	182, 400	185, 055
Jet fuel (kerosene type)	16, 259	16, 820
Distillate	118, 513	107, 044
Residual	37, 048	39, 858
Total	354, 220	348, 777
EAST COAST		
Output:		
Motor gasoline	5, 080	4, 325
Jet fuel (kerosene type)	267	277
Distillate	2, 423	2, 223
Residual	823	631
Stocks:		
Motor gasoline	49, 051	53, 471
Jet fuel (kerosene type)	4, 567	5, 186
Distillate	48, 187	43, 838
Residual	22, 853	26, 129
DAILY REFINERY RUNS		
Total United States	12, 893	11, 942
Percent of capacity	94. 7	89. 3
Excluding west coast	10, 971	10, 110
Percent of capacity	95. 9	90. 0
DAILY CRUDE OIL AND CONDENSATE OUTPUT		
Total United States	9, 377	9, 847
East Texas	251	246
Total Texas	3, 653	3, 754

INDICATED REFINERY YIELDS

[Percent]

	Past week	Previous week	Month ended June 8	Same period, 1972
Gasoline	54. 2	55. 7	54. 4	53. 0
Jet fuel	5. 9	5. 1	5. 2	5. 5
Distillate	21. 2	22. 1	21. 2	22. 3
Residual	6. 9	6. 7	7. 1	6. 3

DAILY OIL IMPORTS

[Thousands of barrels daily]

	4 weeks ended—	
	June 15, 1973	June 16, 1972
Excluding West Coast:		
Crude	2, 578	1, 512
Residual	1, 786	1, 433
Distillate	71	112
Asphalt	24	22
Others	84	76
Total	4, 543	3, 155
West Coast:		
Crude	844	693
Products	158	128
Total	1, 002	821
Total United States:		
Crude	3, 422	2, 265
Products	2, 619	2, 106
Total	6, 041	4, 371

Note: Output for the week ended June 8 was: gasoline, 49,283; Jet fuel, 4,526; distillate, 19,558; and residual, 5,904. For the 4-week period ended June 15 the average weekly output was: gasoline, 48,569; jet fuel, 4,685; distillate, 19,052; and residual, 6,322. In the same period a year ago, comparable figures were: gasoline, 43,333; jet fuel, 4,493; distillate, 18,368; and residual, 5,078.

Exhibit F

From "National Gas Reserves Study"

(Staff report of the Federal Power Commission, May 1973)

PREFACE

The Federal Power Commission on February 23, 1971, authorized the establishment of Natural Gas Survey Advisory Committees and prescribed procedures under which the Survey would be conducted. The order indicated that:

To accomplish the objectives of the Natural Gas Act, in providing for the ultimate consumer an adequate and reliable supply of natural gas at a reasonable price and the Nation a vital energy resource base, the Commission will direct the conduct of the Survey through the members of the Commission and its staff.

By order of December 21, 1971, as amended on March 9, 1972, the Federal Power Commission Staff was directed to undertake an independent analysis of the Nation's proven natural gas reserves as stated:

We believe that an analysis of natural gas reserves is an important step in the accomplishment of the objectives sought by the National Gas Survey.

This analysis, conducted through the combined efforts of the Federal Power Commission staff, the United States Geological Survey of the Department of the Interior, the Office of Naval Petroleum and Oil Shale Reserves of the United States Navy, the Office of Management and Budget, the Bureau of the Census, and the regulatory and conservation agencies of the major gas producing states is the first independent government-conducted appraisal of the proven gas reserves in the United States. The United States Geological Survey teams took the responsibility for preparing estimates of the fields included in the sample which were located on the Outer Continental Shelf.

This is a highly significant first step, but still just that. It is imperative that the United States, so dependent upon its own fossil fuel resources, have a continuing program to provide government and industry planners with a comprehensive, accurate and credible inventory of our proven fossil fuel resources. The primary goal of this program was to establish, on a consistent basis, a conclusive estimate of the proven reserves of natural gas available under existing economic and technical conditions. That goal has been achieved. However, much more information is needed to complete the evaluation. A similar appraisal of the Nation's oil reserves should be undertaken; deliverability studies to determine optimum rates of production should be made; further economic studies should be conducted to assess the response of resource base development to economic stimuli; and a combined state and federal effort to improve the energy resources data gathering, storage and retrieval effort should be initiated.

SUMMARY

On December 21, 1971, the Federal Power Commission issued an order for its staff to conduct a National Gas Reserves Study (NGRS) to obtain an independent estimate of the proven recoverable gas reserves in the United States, including Alaska and the offshore areas, as of December 31, 1970. The total reserves were to be estimated in three categories:

(a) *Reported fields*—those fields for which non-associated and associated gas reserves were reported to NGRS by members of the A.G.A. Committee on Natural Gas Reserves.

(b) *"A.G.A. omitted fields"*—those fields which contain non-associated and associated gas and were not included in the A.G.A. field list.

(c) *Dissolved gas*—those fields whose gas reserves consist of dissolved gas only and the dissolved gas reserves of fields containing both dissolved and other types of gas.

The total reserves estimates are based on a detailed geological and engineering estimate of gas reserves from a sample of all fields in category (a). Data were analyzed for all individual reservoirs in fields selected by means of a sound statistical sampling procedure. Statistical predictive techniques then were used to obtain the total reserves estimate for all fields.

An estimate was made for each of the "A.G.A. omitted fiields". The total reserves estimate for this category (b) was obtained by summing the individual field reserves.

Dissolved gas statistics were compiled and reported for each of the defined geographical subdivisions and were used in the calculation for category (c) reserves.

The proven natural gas reserves in the United States are estimated by the Staff of the Federal Power Commission to be 261.6 trillion cubic feet as of December 31, 1970.[1] A subdivision of these reserves into various categories and a comparison to similar figures consistent with the estimates published by the American Gas Association Committee on Natural Gas Reserves[2] is given in the following table:

[All volumes in trillions of cubic feet]

Gas	Field category	National Gas reserves study	American Gas Association
Non-associated and associated gas:			
	Reported fields (category a)	228.5	25.20
	Omitted fields (category b)	.1	
Dissolved gas (category c)		33.0	34.7
Total*		[3]261.6	286.7

* Excludes gas in underground storage.

The NGRS estimate is lower than the estimate by A.G.A.; however, the difference is less than 10 percent. The difference of 23.5 Tcf between the estimate of the non-associated and associated gas reserves for the 6,358 entries in the reported fields category (a) is the primary difference between the total estimates. The gas reserves in the "A.G.A. omitted fields" are a relatively insignificant part in the total NGRS estimate, and it seems evident that the 62 entries in the "omitted" category (b) are small fields. The two dissolved gas estimates differ by 1.7 Tcf or by about 5 percent.

These reserves estimates provide the basis for computing various ratios which can be used as indicators of natural gas supply. For example, the reserves to production (r/p) ratio *i.e.,* the year-end proven recoverable reserves divided by production during the same year, is a widely used measurement of available supply in relation to production rates. Based on A.G.A. data the r/p ratio at the end of 1970 was 13.1[4] years. However, when computed on the basis of the NGRS estimated the r/p ratio is reduced to the less optimistic figure of 11.9[4] years.

Similarly, projections of future production of natural gas from proven reserves which have been based on A.G.A. figures should still be considered reasonable. However, they may be optimistic and the natural gas available from this source in the future may be more limited than previously reported.

The quality and reliability of the statistical analysis and the field reserves estimations were assured because the teams performing these tasks were composed of qualified government and academic experts. Both the Independent Accounting Agent and the Gas Field Identification Agent were awarded contracts in accordance with standard government service procurement practices, to act as agents of the Commission and assist in conducting the NGRS. Similarly, academic personnel participated in the NGRS as agents of the Commission.

The publications of state regulatory and conservation agencies were considered the primary source of data for gas field identification. In addition, many state agencies indicated a willingness to participate in the study by assigning space, providing access to data and, in some cases, providing personnel. These states included: Alaska, Arizona, Arkansas, California, Colorado, Florida, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, Nebraska, New Mexico, New York, North Dakota, Oklahoma, South Dakota, Texas, Utah and Wyoming. In order to determine the status of fields indicated as potential omissions from the A.G.A. field name list, field team personnel visited the agencies in the following states: California, Colorado, Kansas, Louisiana, Michigan, New Mexico, Oklahoma, Texas, Utah and Wyoming.

Reserve analysis teams composed of geologists, engineers, economists and other professional employees of the Federal Power Commission, United States Geological Survey, Department of the Interior,[5] and the Office of Naval Petroleum and Oil Shale Reserves of the United States Navy, Department of Defense,[5] analyzed and evaluated the information and prepared the estimates of recoverable gas reserves.

When the reserves teams analyzed an individual field, their estimate was developed on a reservoir-by-reservoir basis. The teams estimated the reserves for each reservoir in the field and summed the reserves of all reservoirs to obtain the field reserves estimate. Estimates were developed from the basic raw data which were supplied by the company.[6] These data usually consisted of various types of electrical, radio-active and acoustical well logs; core analysis; fluid analyses, open hole, production, back pressure, draw down and build-up, and other type well tests; temperature measurements; gas analyses; structural and isopachous maps; and pressure and production history. The basic data were reviewed to determine their adequacy, accuracy, and validity. The independent reserves teams utilized this information, and by applying accepted geological and engineering methods, made their own independent estimates of reserves. Rather than rely solely upon the various factors developed by the company, the teams derived their own factors for measurable physical properties such as porosity, water saturation, temperatures, and pressure. Additionally, they were required to exercise their professional judgment in the interpretation of structural and isopachous maps and records, and the selection of appropriate abandonment pressures, recovery factors and similar factors affecting the volumes of reserves which would be recoverable.

In making estimates of natural gas reserves the field teams used the definitions cited in the Reserves Estimation Manual (Appendix IV). They are as follows:

> The reserves . . . are natural gas . . . reserves estimated to be recoverable from proved reservoirs under the economic and operating conditions existing at the time of the estimate. Such volumes of gas . . . are expressed in cubic feet at 14.73 pounds per square inch absolute pressure and 60°F. temperature. These reserves estimates . . . include gas . . . reserves of all types regardless of size, availability of market, ultimate disposition or use.

The field teams were further instructed to make the following assumptions relating to economic and operating conditions:

1. A ready market will exist for all volumes of gas produced.

2. If sold in interstate commerce, sales price for gas will be at the effective rate as of December 31, 1970, (or at FPC ceiling if the gas is not under contract) with no allowance for price escalations beyond those already approved in FPC area rate orders. . . .

3. Everything will be frozen at 1970 levels; *i.e.* prices, wages, etc.

4. Environmental effects will not restrict gas recovery.

5. Nuclear stimulation is not an economic method of gas recovery at present.

6. Compression will be installed if and when economically justified.

7. The recovery factor will differ significantly for water drive reservoirs, fractured reservoirs, exceptionally high pressure reservoirs, low permeability reservoirs and associated gas reservoirs, for example. The estimator will not limit his consideration to the "prevailing practice" in the field, but rather should consider the possibility of adding compressors or other equipment and base his estimate on the recovery efficiency which would result from installation of such equipment, if he felt it appropriate to install the equipment.

FOOTNOTES

[1] A discussion of the reliability of the estimate is given in the Report of the Statistical Validation Team of the National Gas Reserves Study (Appendix VI).

[2] "Reserves of Crude Oil, Natural Gas Liquids, and Natural Gas, the United States and Canada and United States Productive Capacity as of December 31, 1970", Volume 25, 1971. Published jointly by: American Gas Association, Inc., America Petroleum Institute, and Canadian Petroleum Association.

[3] The gas reserves of the fields which were analyzed by the field reserves teams were approximately 56 percent of the total NGRS estimate of non-associated and associated gas and 49 percent of the total NGRS estimate of all types of gas.

[4] Includes gas reserves for Alaska, but excludes gas in underground storage.

[5] See Appendix VIII for correspondence establishing the work program with the United States Geological Survey and the Office of Naval Petroleum and Oil Shale Reserves.

[6] In some cases, reserves estimates were developed using data purchased commercially or obtained from public sources.

EXHIBIT G

[From the Washington Post, June 28, 1973]

NATURAL GAS RESERVES UNDERSTATED, HILL TOLD

(By Morton Mintz)

Natural-gas producers regularly disclose only one-half to one-tenth of their true reserves to the government, a Federal Trade Commission official told Congress yesterday.

His testimony damages the claim—made by President Nixon, the Federal Power Commission and the petroleum industry—that gas consumers must accept multi-billion-dollar price increases to spur the search for adequate supplies.

The disclosure of "serious" and "consistent" under-reporting was made by James T. Halverson, director of the FTC's Bureau of Competition, to the Senate antitrust subcommittee. Not one case of over-reporting was uncovered in an investigation by his staff, he testified.

Just 24 hours earlier, the chairman of the Power Commission had insisted that the purported shortage is "real." "I have no evidence to the contrary," Chairman John N. Nassikas told Subcommittee Chairman Philip A. Hart (D-Mich.).

Halverson not only offered contrary evidence, but testified that Nassikas' agency had been uncooperative with his investigators. The Power Commission, he remarked acidly, did refrain from making "a public statement" that it opposed the FTC inquiry.

Halverson told Hart, who requested the FTC investigation almost three years ago, that gas producers report their reserves to the Power Commission through the American Gas Association.

The AGA mechanism "could provide the vehicle for a conspiracy . . . to under-report gas reserves, but more information is needed," he testified.

In another development, two Power Commission economists—giving their personal views—attacked President Nixon's proposal to deregulate the sale of new gas at the wellhead to interstate pipelines.

This would result "in billions of dollars of added consumer cost," Dr. David S. Schwartz, assistant chief of the FPC Office of Economics, testified.

Without referring directly to Mr. Nixon, Dr. John W. Wilson, chief of the FPC Division of Economic Studies, said deregulation would mean "capitulation to the monopoly power" of giant oil companies, which would be free "to extract the maximum possible price that the market will bear."

Rejecting the White House claim that deregulation would stimulate exploration and development, the economists said that steps taken by the commission to raise prices—including recent approval of a 73 per cent increase for three producers—have been accompanied by a decline in proved reserves.

Schwartz and Wilson depicted this as a logical result of the expectation, nurtured by the administration and the commission, that a doubling of prices is imminent. That expectation creates strong economic pressures on producers to hold back until speculation subsides, the economists testified.

One of the arguments for deregulation advanced by Mr. Nixon, in his April energy message, was that interstate pipelines can't get all the gas they need because unregulated intrastate pipelines can pay any price they want.

But Wilson said it is little known that interstate sellers, including Pennzoil United and Standard Oil of Indiana are also intrastate buyers. As such, he said, they are "in a unique position to manipulate" intrastate prices so as to force up the prices of gas destined to cross state lines.

The FTC's Halverson said that the Power Commission, in granting rate increases, relied on unaudited reports of inadequate reserves made to the AGA by 10 regional subcommittees of the trade group.

His investigators made a pilot study of the subcommittee for the rich South Louisiana region, obtaining some documents with supoenas of company records.

Each subcommittee member reports on fields in which his employer was the major producer, Halverson testified. 'The member's data are reviewed only by other subcommittee members, and they "do not see the underlying data," Halverson said. Other major findings:

Producers make lower estimates of proved reserves for tax purposes than for decisions such as whether to build an off-shore drilling platform.

For certain fields, the estimates that companies had on their books were "as much as ten times" higher than the estimates the same companies gave to the AGA subcommittee.

In "numerous" cases, companies have discovered but have not developed "apparently substantial amounts" of proved off-shore reserves.

The Power Commission economists urged Congress not only to reject deregulation, but to extend controls to intrastate sales.

Wilson and Schwartz said that the White House deregulation bill, without clearly saying so, would remove controls from much old or flowing gas, threatening to burden consumers with additional billions of dollars in needless added costs.

Schwartz opposed as another threat to consumers a power commission plan to set a uniform nation-wide price for new gas, replacing the present system of ceiling prices for each producing area.

The economists suggested creation by Congress of an independent public petroleum authority to explore for and develop fuels and to provide a performance yardstick for what Wilson termed the "thoroughly interlocked petroleum companies."

EXHIBIT H

FEBRUARY 23, 1973.

Senator GAYLORD NELSON,
New Senate Office Building,
Washington, D.C.

DEAR SIR. Help!

We're in trouble and don't know who to turn to. Can you help?

I operate a retail gasoline service station in Milwaukee. Been at this location eleven years, and in the business for twenty. Business has never been better, and we have many happy customers. We sell the usual gasoline, tires, batteries etc., and service our customers cars. I have a family (wife and four children) a full time employee (with wife and four children) and usually three part time employees, all of whom look to my small business for all or part of their income and support.

Continental Oil Co., the owner of our business property, has just informed me that this business of mine will end no later than September 1973. Our lease will be cancelled and a company employee will be put in charge of our service station. Reason given is lack of profits in the Milwaukee marketing area. (Continental Oil Co. or Conoco as it is known had a pre tax net profit of 335 million dollars in 1971. Profits were higher in 1972.) A Conoco representative visited me yesterday and informed me that the company would like us to vacate the premises by May 1. All Conoco stations in the Milwaukee area will suffer a similar fate by Sept. 1st. at the latest. Our relations with the company are, and alway have been cordial, as is the case at most other Milwaukee stations. As if the company had any complaints about our operation, the rep stated this was not the reason for any change, but rather the company had just changed its policy and nothing could be done about it.

I want to continue in business at my present location. To do so, I'll need help. I can't fight a giant corporation in the courts, and I can't prevent them from cancelling my 30 day lease. (All Conoco stations in several midwestern states were made to accept a 30 day cancellation clause in their lease agreement last September.) Is there any way that you know of to save what we have worked years to build? Can you help?

Considerations other than my plight may or probably will enter into any solutions. Some of them are:

A shortage of motor fuel is expected which should drive up prices. Traditionally, when the fuel price to the customer advances one cent, the supplier gains .7 and the dealer .3 cents. (The reverse is true in cases of decreasing price, but only to a certain point. Trade publications have recently predicted fuel prices as high as fifty cents per gallon. Multiply this ten to twenty cent increase, by the dealers traditional three tenths, and you can see why the oil company might want to assume the retail function. Conoco's 335 million dollar profit isn't enough, they want mine too. After years of gasoline surpluses which saw oil companies competing against another in many markets, we see Gulf, Sunoco and probably others, leaving the Milwaukee market. Leaving it to whom? Have the companies arrived at an agreement dividing the country into territories? Will the oil companies stop competing, and set prices by agreement?

What is to happen to the independent oil jobber who buys surplus from major refiners? Will he cease to have an effect on prices with his unbranded gas stations? With no surplus, you can expect Conoco (eighth largest crude producer in the U.S.) to sell all its product through its company owned, company operated stations.

The fuel we sell, comes to us by way of a bulk plant in Milwaukee. If not physically, it is all billed through this facility. As each station in Milwaukee is changed over to a salary type operation, the bulk plant no longer has any part in supplying that station. Result is another slice of the pie for Conoco, and a vanishing list of customers for the bulk plant. If these small bulk plants close, can we do without their storage capacity? Our supplying pipe line has run out of product several times recently. What happens when there is no bulk plant to draw from?

The service station has been a traditional source of parts, accessories and repairs for the nations automobiles. Will we see the day when you can no longer take your car to the neighborhood station for an oil change, tire repair, battery, tune-up or safety check? Who will come to your house on a sub-zero day and start your car? Automobile dealers can't handle the business they have now, and some don't want it. But even if they can and will, do you want to drive across town to the dealer and leave your car for two days just for an oil change? And will you ever get to know that mechanic on a first name basis as my customers know me?

Much has been said about the public relations and corporations moral in the past few years. Oil companies are worried about pollution and damage to environment. Conoco has an employee pension plan and many other employee benefits. The company wants to be known as a good citizen. Well, isn't it just possible that Continental Oil Co. has some moral obligation to the service station dealers over which it has such tremendous control and power? Can Conoco in one sweep, wipe out the business of every dealer, good or bad, in a marketing area without even a pang of coincidence? Can they wipe out twelve years of business building, without even an offer of compensation?

Well, the answer is yes. Yes., they can do all these things and they will unless we can come up with some real help soon.

Can you help? I hope so, and will look forward to any reply.

Sincerely,

JOHN TIBBITTS,
Service Station Dealer.

Mr. JACKSON. Mr. President, the basic premise of amendment No. 319 is that we urgently need more, and better-coordinated information on the fundamental facts that are involved in the current fuel shortage and the energy crisis facing the Nation. The Senator from Wisconsin (Mr. NELSON) has correctly pointed out that the poor state of our information about the energy industries was noted, and strongly, in the March 1973 staff report to the National Fuels and Energy Policy Study.

Very possibly the establishment in the General Accounting Office of a massive, centralized, electronic library, where all existing data on the mineral fuels industries would be collected and subjected to regular and extensive comparison and analysis by computers and specialists, as the best way to deal with the well recognized problem of the immense volume and worldwide dispersion of existing data.

It is also quite possible that the proposal in the amendment offered by Senators NELSON, HART, HATHAWAY, HUMPHREY, KENNEDY, MCGOVERN and STEVENSON—amendment No. 319—to require annual reporting of mineral fuels reserves by substantial fuel companies, is a sound way to deal with our well recognized lack of reliable information on reserves.

I am in agreement with the basic premise of amendment No. 321, offered by the Senator from Minnesota (Mr. HUMPHREY), that provision for onsite, spot-check inspection by geologists and engineers of the Department of the Interior would help improve the reliability and usefulness of the reports the companies would submit on their reserves. The provision in amendment 321 for reporting by the Secretary of the Interior on reserves of mineral fuels in the public lands is also sensible and valuable.

Nevertheless, I cannot support the amendment, as amended, at this time and in its present form.

My reasons are three.

First, the amendment does not do all that needs to be done. It does not, for example, make specific provisions for any new, centralized reporting by companies on their stocks of manufactured and refined products, but only on their reserves. Granted that reserves are the subject on which our present information is most deficient, there are deficiencies in our information on products as well. Also, the amendment does not deal at all with many other factors in the energy system, such as the transportation and conversion sectors which are tremendously important in the total energy-crisis picture. I am concerned that, were we to adopt this amendment now, we might unnecessarily, and for an unnecessarily long time, foreclose our options to enact more comprehensive, stronger legislation providing for better, more complete data collection and the best possible centralized information system. In short, this measure requires additional study and discussion.

Second, the rights-of-way bill, S. 1081, is not an appropriate vehicle. Even if this amendment were to pass the Senate, it is improbable that it could be retained throughout future legislative action on the bill.

Third, the amendment, while simple in basic concept, is complex in design—and necessarily so. The amendment would create a major new Federal program of information collection and management. It would impose a new reporting requirement on companies in the energy industries to which they can certainly be expected to object. The Government's hand in dealing with challenges will be weak if the program is adopted without benefit of committee hearings and the refinements, the understanding and support that only public hearings can produce.

I would like, therefore, to ask the Senator from Wisconsin (Mr. NELSON) and the Senator from Minnesota (Mr. HUMPHREY) if they would consider another approach to solving the problems to which their amendments are addressed, problems which I completely agree require early and innovative action by the Congress.

It seems to me that the need here is for a bill, which would be referred to the Interior Committee, and on which that committee could hold early hearings.

If the Senator from Wisconsin (Mr. NELSON) and his cosponsors would agree to withdraw their amendments—No. 319 and 321—at this time, I would certainly be willing to have the professional staff of the Interior Committee assist in the preparation of such legislation. I would be pleased to join the Senator from Wisconsin as a cosponsor.

Because this is so important a matter, I believe there should be hearings on that legislation, very promptly after it is introduced, as a part of the committee's energy study. I would like to have the Senator from Wisconsin, whose recent reappointment to the Interior Committee has been most welcome and helpful, agree to serve as chairman of those hearings.

Could the Senator from Wisconsin accept this alternative to present consideration by the Senate of his amendment?

Mr. NELSON. In my remarks in support of amendment No. 319, I said that there has evolved in this country during this century, and at an accelerating speed recently, a national policy of Government support for corporate secrecy. Under that policy, enormous corporate power is exercised in enormous secrecy, even though the power of the giant corporations often affects more lives, and more dramatically, than Government power. In my remarks I also suggested that there are signs the time is ripe for reversal of that national policy which supports corporate secrecy. Would the distinguished chairman of the Interior Committee agree that the legislation and the hearings he is suggesting, as an alternative to present consideration of these amendments, should have as their objective an across-the-board reversal of existing law and policy that support corporate secrecy, at least insofar as the energy industries are concerned?

Mr. JACKSON. The Senator's objective is my own. The Senator's concern on that subject is my own. I do agree to that.

Mr. NELSON. Mr. President, the Senator from Wisconsin would be very pleased to accept the alternative the Senator from Washington proposed and is prepared to withdraw the amendment.

I offered this amendment to this particular bill because the question of public information about the Nation's resources is a critically important one. I know that as a consequence of hearings and careful preparation and background, the amendment can be improved. The Senator from Washington has already suggested previously some strengthening amendment to this proposal.

I would be most happy to join with the Senator from Washington and the Senator from Minnesota in legislation which would be taken up before the Committee on Interior and Insular Affairs, and on which I would hope that we could get some early action.

Is the Senator from Washington talking about initiating hearings yet this fall?

Mr. JACKSON. Mr. President, it will certainly be this year. I doubt very frankly that we could have hearings before the August recess. As the Senator knows, we are stacked up with markup sessions and hearings every day between now and August 3.

The Senator from Wisconsin is aware that one of the early recommendations of the staff was to get the kind of information that both Senators have discussed here. In the economic area we have a good statistical organization available, the Bureau of Labor Statistics, as a source of information which has been looked upon with great respect by all elements of the American community, whether business or labor. All sources can look at the BLS reports and say, "Here are the data."

Mr. President, when we had the industry and the White House people in last fall, in connection with why they had goofed up on import allocation recommendations, we asked where each of them had got their data. The White House had obtained information from the oil companies, and the oil companies had their own information, even though a little different. To be very fair about it, I do not think it is fair to the oil companies to have to bear the responsibility of supplying data because they will always be suspect in this kind of situation.

There ought to be means by which we could get reserve information that we know can be verified and monitored so that those who have the information will know it is not self-serving information and that the information is such that proper governmental decisions can be made and, in fact, so that the proper business decisions can be made by the private as well as the public sector of our economy.

Mr. President, this is too important a matter to leave it to private enterprise alone to supply, compile, and interpret the information necessary for public decisionmaking. It should be supplied by an appropriate entity in the Federal sector on which all elements of the American community can rely, and can act upon so that decisions can be made.

I believe that is what the Senator from Wisconsin has in mind and what the Senator from Minnesota has in mind.

I want to assure the Senator that this is one of the items on our agenda for early action and a high priority action as far as our energy problems are concerned.

Mr. NELSON. Mr. President, I thank the Senator from Washington who has been addressing himself in great depth to this important question.

I am very pleased that we will be able to have some comprehensive hearings and determine if we can reach a resolution of this important problem of guaranteeing that the Government and the public have adequate information on availability, the reserves, and the estimates of those fuels upon which the very operation of this highly sophisticated technical society depends.

Mr. HUMPHREY. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. Mr. President, I yield to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I want to say to the Senator from Wisconsin and the Senator from Washington that the understanding that has been reached here in reference to special hearings on new legislation in this area, I think, is very desirable. I thank the leadership for giving this whole matter of energy policy consideration. I thank the Senator from Washington for his willingness to do this.

The distinguished Senator from Wisconsin, as subcommittee chairman, will look into this matter of our reserves and secure adequate documentation as to those reserves which we will have. I think then that we will have arrived at what could be a very sensible understanding.

Mr. President, I had intended to offer another amendment along this line that was numbered as amendment No. 340. However, it falls within the same framework of the study which will be undertaken by the Committee on Interior and Insular Affairs and under the subcommittee chairmanship of the Senator from Wisconsin. Therefore, I shall not offer it.

Mr. President, I believe that the colloquy today has satisfied what I believe is an urgent need, and if we can move forward with hearings, and hopefully with reports and legislation, I think we will have made a better contribution to all of this than any hasty action on the floor of the Senate today.

So I thank the Senator from Wisconsin and the members of the committee, both majority and minority, for their cooperation.

Mr. JACKSON. Mr. President, I express my deep appreciation to the Senator from Minnesota and the Senator from Wisconsin for their willingness to have this matter handled in a way in which the staff could put together all of the points we have endeavored to cover in this colloquy and draft an appropriate bill which would be referred to the Committee on Interior and Insular Affairs, in which a special subcommittee would be set up to be chaired by the Senator from Wisconsin, who would conduct and hold these hearings.

I believe that way we can move expeditiously.

Mr. NELSON. I thank the Senator from Washington. Mr. President, I withdraw my amendment No. 319.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. NELSON. Mr. President, I neglected to yield to the Senator from Maine, who wishes to make a brief comment on amendment No. 319, which I am withdrawing.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. I yield the distinguished Senator from Maine whatever time he may require.

Mr. HATHAWAY. Mr. President, I wholeheartedly support the amendment of the Senator from Wisconsin (Mr. NELSON), which would make available to Congress, the Federal Government, and the public information on mineral fuel reserves held by every substantial fuel company and its affiliates.

I support in general the principle of making a broad range of corporate data available to the public. Major corporations are the dominant force in our economy; their operations have a substantial effect on all of us. Because the public interest in this matter is so great, it is essential that the public receive more information on the operations of large corporations than they presently receive.

I promoted this principle in my public disclosure amendment to the Economic Stabilization Act, designed to provide the public with cost and profit data underlying excessive price increases by major companies.

I support the same principle as presented in this amendment—providing the public, and the Federal Government as well, with vital data on fuel reserves.

I think we should have more public disclosures. I regret that the amendment will not be adopted today. Nevertheless, the fact that we are going to have hearings in this area may serve a better purpose, in bringing to the full view of the public the fuel reserves and the supplies of various oil companies, which I know the public does not know anything about at the present time, or knows very little about.

The fuel industry is particularly crucial to our economy. Recently we have all gained increased awareness of the various dimensions of the energy crisis.

Questions of supply, and shortages of fuel, and the price increases which are involved in this question, affect all of us.

For example, heating oil shortages and high prices which New England has suffered for some time, and which are getting worse.

For example, gasoline shortages throughout the country this summer.

For example, prospect of large increases in natural gas prices.

The industry argues that its reserves are insufficient to meet current and future demand. Thus, demands higher prices, tax privileges, and so forth, as necessary for more exploration for additional supplies.

But there is much evidence, most recently the startling revelations coming out of the FTC study, to indicate that the fuel industry is not giving an accurate picture of its reserves, that it is manipulating the energy crisis to gain higher prices and a stranglehold on the economy.

We must not allow this to happen. This amendment is essential because it will give the public information, and the Federal Government still more detailed information, to determine what reserves are available. Provide a basis on which to base a rationale and informed energy policy.

AMENDMENT NO. 251

Mr. NELSON. Mr. President, I call up my amendment No. 251.

The PRESIDING OFFICER. The amendment will be stated.

Mr. NELSON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON's amendment (No. 251) is as follows:

At the end of the bill, add the following new title:

TITLE III—MARKETING STRUCTURES OF ENERGY RESOURCES INDUSTRIES

SEC. 301. The Congress finds that a searching and comprehensive evaluation of the existing market structure of energy fuels industries, its relation to industry performance, and an assessment of the adequacy of that performance in terms of this society's goals is a matter of national importance. With our increasingly serious energy problems and the growing influence of energy fuels industries, such an inquiry is an especially necessary and timely step. The possible need for legislative remedies, and the detailed information which would be required for making any basic changes in energy structures clearly justify special study action at this time.

SEC. 302. (a) To conduct the study referred to in section 301 of this title, there is established the Temporary Study Commission on Energy Fuels Industries (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of seventeen members appointed as follows:

(1) Three members appointed from the membership of the United States Senate by the President of the Senate;

(2) Three members appointed from the membership of the House of Representatives by the Speaker of the House;

(3) Two members appointed by the President of the United States from the executive branch of the Government;

(4) Two members appointed from industry, one by the President of the Senate and one by the Speaker of the House of Representatives;

(5) Two members appointed from labor organizations, one by the President of the Senate and one by the Speaker of the House of Representatives;

(6) Two members appointed from institutions of higher education, one by the President of the Senate and one by the Speaker of the House of Representatives;

(7) Three members appointed from among members of the public who have particular knowledge and expertise with respect to fuels and energy, one by the President of the United States, one by the President of the

Senate, and one by the Speaker of the House of Representative.

(c) The appointments specified in subsection (b) shall be made within thirty days of the date of enactment of this Act. Not more than ten of the members of the Commission shall be members of the same political party.

(d) The Commission shall elect a Chairman and Vice Chairman from among its members.

(e) Nine members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(f) Each member of the Commission who is not otherwise employed by the United States Government shall receive an amount equal to the daily rate paid a GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of his duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(g) The first meeting of the Commission shall be called by the President within the sixty-calendar-day period following the date of enactment of this Act.

Sec. 303. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals;

(3) hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or any subcommittee or member thereof may deem advisable.

(b) In the case of contumacy or refusal to obey a subpena, issued under subsection (a) (3), by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

Sec. 304. Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish the Commission, upon request made by the Chairman, such data, reports, information, and other resources as the Commission deems necessary to carry out its function under this title.

Sec. 305. (a) The Commission shall make a full and complete investigation and study with a view to determine the extent to which, if any, the present marketing structures of energy resources industries are responsible for current problems in the energy fields and whether alternative marketing arrangements involving less or more Federal control might be more responsive to the public interests. In conducting such study, the Commission shall consider and evaluate alternative marketing structures relating to such industries, including the degree, if any, to which the Government should involve itself in the operation and control of such industries, including the spectrum of options ranging from no governmental controls, restrictions, or other actions, to full governmental ownership and control thereof. Within such spectrum, the Commission shall consider—

(1) continued private ownership and operation of such industries, but with substantially increased governmental controls and regulations and institutional changes, such as requiring public members on the boards of directors of such industries;

(2) restructuring of the private ownership and operation of such industries as will assure the fullest possible competition between the industries as part of a free economic system;

(3) applying the public utility concept to all or part (such as refining) of such industries, where ownership would remain private but operations and results would be governmentally regulated;

(4) creating the concept of a public-private partnership, where the Government owns 51 per centum of the enterprise and the remainder is privately owned; or

(5) selective public ownership in such industries under the so-called yardstick principle of public control, wherein a sector which is generally in private ownership has within it public entities against which the performance of the private element of such sector can be measured.

(b) In conducting its analysis, the Commission shall establish agreed-upon standards of performance of such industries as a basis for evaluating marketing arrangements alternative to the existing system. The economic aspects of the present case of vertically integrated companies in such industries shall be assessed as well as the economic consequences of dissolution, divorcement, and divestiture proceedings against members of such industries. Important tests of performance shall include concentration and competition, entry and exit, investment behavior, pricing practices, returns, efficiency, employment, income generation, and corporate management and innovation, with particular emphasis on the present structure and the near-term and intermediate-term future. In conducting such study, the Commission shall consider the extent to which the Government itself is both a contributor to and a victim of the existing market structure by its regulations and procurement policies and the possible effects on the Government of alternative market arrangements.

Sec. 306. (a) The Commission shall submit to the President and the Congress such interim reports as the Commission deems advisable and, not later than twenty-four months following the date of the enactment of this Act, a comprehensive and final report to the President and the Congress containing the findings and recommendations of the Commission with respect to its study and investigation. Such recommendations may include such legislative and administrative actions as the Commission deems advisable.

(b) The Commission shall cease to exist sixty days after the submission of its final report.

Sec. 307. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

Mr. NELSON. Mr. President, this amendment would add to this legislation a provision establishing a Temporary Study Commission on Energy Fuels Industries. I ask unanimous consent that the name of Senator McGovern be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. This Commission would examine the ownership, control and management of the energy fuels industry—principally oil, gas and coal—to determine if the industry is performing in the best interests of the country.

The chief task of the Commission would be to study possible alternative structures and controls of the energy fuels industry over the full range of options from virtually no Government restrictions on the industry to actual Government ownership and operation.

The specific study options would include:

Restructuring of the private ownership and operation of such industries to assure the fullest possible competition;

Continued private ownership and operation of America's energy resources, but with substantially increased Government controls and regulations;

Applying the public utility concept to the industry where ownership would remain private, but earnings and price levels would be governmentally regulated;

Creating a public/private partnership where the Federal Government owns 51 percent of the enterprise and the private sector owns the remainder;

Actual public ownership and operation.

The Commission would be composed of 17 members from Congress, the executive branch, the public, academia, industry, and labor. Seven of the members would be appointed by the President of the Senate; seven members by the Speaker of the House, and three members by the President. As is traditionally the case the congressional appointments would be on the basis of recommendations by the majority and minority leadership of the Senate and the House.

The Commission would in no way delay any court action or legislative or administrative action regarding the nation's energy policy or the structure and regulation of the oil industry.

For instance, reportedly, the Federal Trade Commission is now contemplating bringing a major antitrust action in court seeking divestiture in the oil industry. Based on past history, such a case could last 5 years. The famous antitrust case to dissolve Standard Oil of New Jersey in 1911 was in the court nearly 5 years. The 1937 Government antitrust case to dissolve the Aluminum Company of America and others for monopolizing interstate and foreign commerce was in the courts nearly 8 years.

The work of the 2-year energy fuels study commission proposed by this amendment should actually be complementary to court or legislative and administrative efforts and would be aimed at contributing as quickly and effectively as possible to action to assure that the energy fuels industry better serves the public interest and the Nation's energy needs and goals.

At a time when we are asked to pass

on a major public policy issue like the Alaska pipeline involving a consortium of the major oil industry members it is entirely proper that we provide for a long overdue comprehensive and fair analysis of the market structure of this industry and how it might legislatively be made more responsive to the public's long term energy needs and economic welfare.

America today is faced with the threat of a full-blown national energy crisis. While the duration and severity of the current gasoline and heating oil shortages are uncertain, it is dramatically clear that overall, this country is fast coming to the end of the age of unlimited, cheap energy.

The American energy squeeze is a product of fantastic, soaring levels of demand and ominously shrinking supplies. Our per capita electricity consumption has been doubling almost every 10 years. Our total U.S. automobile gasoline consumption was 24.3 billion gallons in 1950; in 1970, it was 65.8 billion gallons; in the year 2000, it is estimated the figure will reach 120 billion gallons.

Meanwhile, our domestic supplies of readily available natural gas could be drained by 1988 under present consumption patterns, and domestic oil reserves are under similar pressure. Only a 10 years' supply of uranium ore, the fuel for nuclear powerplants, is available to the United States at current competitive prices, according to one estimate. As yet unresolved technological problems are making it difficult to easily tap the massive coal reserves that might help ease the energy crunch.

Energy is the life blood of our highly sophisticated technological-industrial society. Substantial shortages of energy would create chaos, if not cause the total collapse of the whole system.

Yet we have only partial answers or no answers to most of the important questions involved in establishing a long range national energy policy. We have inadequate knowledge and understanding of the whole energy complex; how it works; who makes the decisions; what are our immediately available supplies; what are our reserves; what is the status of our research; what are our future needs; where can we cut wastage and how much; what social, cultural, and life style changes are going to be forced upon us. In short, where are we, where are we going and who is in charge?

This amendment is directed to just one aspect of this complex energy situation. It would immediately launch a high priority, full-scale study into the critically important question of the role of the energy fuels industries and their market structure in our accelerating energy problems.

I do not prejudge the question of what should be done to assure that the energy fuels industry better serves our Nation's energy needs and goals. I am suggesting that it is a question too important to be left unstudied, unevaluated and unresolved. It would be the task of the Temporary Study Commission on Energy Fuels Industries proposed by this amendment to study the options, evaluate the problems and supply basic information and recommendations for congressional and public consideration and action.

Now, Mr. President, since I proposed this energy fuels study commission as an amendment to the Alaska pipeline bill, there has been a sprouting of congressional and administration activity on several fronts regarding the oil industry and the extent of its responsibility for our present situation.

The Senate Commerce Committee recently sent the top 23 oil refiners questionnaires regarding the cause of the current gas shortage. The committee is trying to find out whether the shortage is rigged and what steps the companies have taken in recent years to improve refinery capacity to meet rising fuel needs. The chairman of the House Public Works Committee's energy subcommittee has announced hearings shortly on whether our energy problems are in part industry rigged. Mr. Abourezk has asked for a Justice Department investigation of possible antitrust violations in the gasoline supply and price situation and has introduced a bill to bring about early, widespread structural reorganization of the oil industry.

A bill to force producers and refiners to give up marketing oil products by January 1, 1974, was introduced by the junior Senator from New Hampshire (Mr. McIntyre) in late June. The bill would require the oil companies to divest themselves of stations they now operate plus divestment of lease arrangements. The senior Senator from Michigan (Mr. Hart) has been holding hearings through his Senate Judiciary Antitrust Subcommittee on an Industrial Reorganization bill, a measure to restructure several industries, including oil, and on the issue of whether the failure of competition may have caused—or aggravated—our current energy problems.

The Federal Trade Commission just recently delivered a report to the Interior Committee, a report on the causes of the gasoline shortage, based on an FTC probe. The FTC report concluded that the current shortage has largely been created by the anti-competitive practices of the oil industry, aided by Government policies. "The major firms—have behaved in a similar fashion as would a classical monopolist: They have attempted to increase profits by restricting output," the FTC report concluded. Congressional efforts are now underway to provide funds for further FTC studies on how much a factor the market structure and a possible antitrust conspiracy may be in the energy shortage.

Finally, Mr. President, the able manager of the bill before us today (Mr. Jackson) has been extremely active in pursuit of the truth about our present energy difficulties and in search of workable remedies. He has announced that the Permanent Investigations Subcommittee of the Senate Government Operations Committee will investigate whether the gasoline shortage is a premeditated plan by the oil industry. And for the last 2 years, Senator Jackson has chaired an excellent, wide ranging study under Senate Resolution 45, on National Fuels and Energy Policy, involving the Interior Committee in conjunction with the Commerce, Public Works, and Atomic Energy Committees, though the study has not as yet comprehensively addressed this specific aspect of our complex energy issue, the structure of the energy fuels industry and the options for restructuring it.

The point of all this is that the initiatives that have been taken in Congress and by the Federal Trade Commission and other agencies are substantial steps in the right direction.

But it would be helpful to have some assurances regarding these congressional steps. I would hope that the basic issue of the structure, role and practices of the energy fuels industry will be fully studied by Congress and the appropriate Federal agencies on a top priority basis and that solutions will be seriously and urgently considered by the Congress. And while I do not plan to press this amendment to a vote at this time, I will reintroduce it as a bill for further congressional consideration.

Mr. President, I ask unanimous consent that several articles regarding the structure and role of the energy fuels industry in our energy affairs be printed in the Record at the end of this colloquy, along with an explanation of this study commission amendment, and a letter in support of the amendment from the Center for Science in the Public Interest, a nonpartisan public interest group. The articles from the Washington Post are concerned with the Federal Trade Commission report, the oil industry and international energy problems, a recent antitrust suit filed by the Justice Department against a major oil company, and an investigation by the Cost of Living Council on pricing and supply policies of major oil companies. An article from the Evening Star also reports on the Federal Trade Commission study.

There being no objection, the articles were ordered to be printed in the Record, as follows:

EXPLANATION OF NELSON AMENDMENT TO S. 1081, THE ALASKA PIPELINE BILL PROPOSING A TEMPORARY STUDY COMMISSION ON ENERGY FUELS INDUSTRIES

WHAT WOULD IT DO?

This proposal would amend S. 1081, the Temporary Study Commission on Energy Fuels Industries to inquire into the need for legislative remedies to the present market structure and operation of the energy fuels industries (principally oil, gas and coal). Specifically the Commission would analyze alternative market arrangements to the present system ranging from virtually no governmental control to full governmental ownership and operation. The "in between cases" to be studied include:

(1) continued private ownership and operation of such industries, but with substantially increased governmental controls and regulations and institutional changes, such as requiring public members of the board-of-directors of such industries;

(2) restructuring of the private ownership and operation of such industries to assure the fullest possible competition between the industries as part of a free economic system;

(3) applying the public utility concept to all or part (such as refining) of such industries, where ownership would remain private but operations and results would be governmentally regulated;

(4) creating the concept of a public-private partnership where the Government owns fifty-one per centum of the enterprise and the remainder is privately owned; or

(5) selective public ownership in such industries under the so-called "yardstick principle" of public control, wherein a sector which is generally in private ownership has within it public entities against which the performance of the private element of such sector can be measured.

WHO WOULD BE ON THE COMMISSION?

Seventeen members from Congress, the executive branch, the public, industry, labor and academia appointed (variously) by the President, the President of the Senate, and the Speaker of the House of Representatives. No more than ten could be of the same party.

WHAT WOULD BE THE NATURE OF ITS PRODUCTS?

Hearings, analyses, interim report and final report written within two years—recommendatory in character.

WHAT WOULD BE ITS FOCUS?

The fundamental concern of the Commission would be to study whether and how the energy fuels industry could be made more responsive to the energy and other public concerns of the nation through altering its structure. The Commission would establish at the outset agreed-upon measures of performance of the industry as a basis for evaluating alternative arrangements to the existing system. In particular, the economic aspects of the present system of vertically integrated companies would be assessed as well as the economic implications of dissolution, divorcement, and divestiture proceedings against members of the industry. Among the study's tests of performance would be the traditional ones of concentration and competion, ease of entry and exit, pricing practices, investment behavior and innovation, returns, efficiency and employment.

WHY DO IT NOW?

With our increasingly serious energy problems and the growing influence of the energy fuels industry, such an industry is an especially necessary and timely step. At this critically important juncture in the nation's energy decision-making, we need an independent evaluation of the existing market structure of this industry, the structure's relation to industry performance, and an assessment of that performance in terms of this society's goals. This proposal, which will provide the detailed information necessary for making any basic changes in energy market structures, is complementary to other current investigative efforts in the energy field.

WHY CHOOSE THIS VEHICLE?

The rights-of-way bill (S. 1081) chiefly concerns the issue of the Alaska pipeline, a project which involves a consortium of major oil companies having individual interests in a major pipeline and indeed a total system. The intraindustry arrangements that would be fostered by the project are a nationally-important example of the kinds of structures and practices that would be studied and appraised by the Commission.

Center for Science in the
Public Interest,
Washington, D.C., July 12, 1973.

Hon. Gaylord Nelson,
U.S. Senate,
Washington, D.C.

Dear Senator Nelson: In response to your request for comment on Amendment 251 to S. 1081, the Alaska Pipeline Bill, we would like to offer the following comments:

Sec. 305 (*a*) We applaud your call for an examination of the energy fuels industries. A full scale congressional investigation and subsequent congressional action is needed. We feel that your study should be broadened into a complete congressional investigation of our nation's energy needs, resources and conservation policies.

Your bill's recommendation for an examination of a broad spectrum of options is a good proposal. It may well be that the past and present antitrust activities of the FTC have proven ineffective in bringing about a desirable balance between the private enterprise activities of the major fuel industry companies and the public good. This examination you propose would be quite valuable because it expands the scope of the investigation beyond the present focus of antitrust probes.

Sec. 305 (*b*) Rep. George Brown (Cal.), James Halverson, Director of the FTC's Bureau of Competition, and Dr. John Wilson, Chief of the FPC's Division of Economic Studies, in testimony before the Senate Subcommittee on Antitrust and Monopoly on June 26–27, 1973, raised serious questions about the competitive nature of the oil and gas industry. While we feel that there is already a strong case for divorcement in the petroleum industry, we would like to see your commission appointed, its recommendations made, and appropriate congressional action taken.

Sec. 306 (*a*) Given the fast pace at which our country is approaching an energy crisis, a twenty-four month period to compile a report seems to be an unnecessarily long period of time to wait for the report. A report could conceivably be complied within twelve to eighteen months using the method described in our enclosed Appendix. We would like to see the choice of political & economic structuring of the energy fuel industry follow the decision-making process outlined in our Appendix. (It is the text of a talk to be given on Nov. 14 to the American Society of Mechanical Engineers.) We believe that the characteristics of public citizen participation pointed out in this paper are as important as having several representatives of the public on your report.

Sincerely yours,
Albert J. Fritsch, Ph.D.,
John W. Egan.

[From the Washington Post, July 8, 1973]

Oil Noncompetition Cited in FTC Study

(By Carole Shifrin)

Anticompetitive practices by the nation's large oil companies, a general spirit of intra-industry cooperation instead of competition, and government policies have together created the nation's current gasoline shortage, a Federal Trade Commission staff report says.

The report says the "major firms, which consistently appear to cooperate rather than compete in all phases of their operation, have behaved in a similar fashion as would a classical monopolist. They have attempted to increase profits by restricting output."

The major companies—18 of them—have cooperated with one another in influencing legislation, bidding for crude oil leases, establishing the purchase price of crude oil from which petroleum products are made, transporting the crude oil, refining it, and marketing gasoline, the report charges.

"In sum, the majors continually engage in common courses of action for their common benefit," the report says.

The report suggests that the major oil companies are using the current gasoline shortage their activities helped create to eliminate "the only viable long-term source of price competition"—the independent marketer.

Noting that more than 1,200 independent gasoline stations were forced to close in the first five months of this year, the FTC staff report says: ". . . The majors have used the shortage as an occasion to attempt to debilitate, if not eradicate, the independent marketing sector."

They are not doing this by lowering prices in those areas where they compete with independents—who have generally charged two to six cents per gallon less than the majors—but by not permitting their prices to rise.

In a normal competitive market, the report explains, the "cure" for a shortage would be for prices to increase; this in turn would cause producers to increase supply and also discourage some consumption; thus, supply and demand would be brought into equilibrium.

Instead, the independents who are having to pay higher prices for their wholesale products—if they can get them at all—have to raise their prices, while the majors absorb their higher costs thus not allowing their gasoline prices to rise. "The independents, of course, simply do not have available supplies of gasoline to deal with such a tactic," the report says.

"As the shortage forces them to curtail sales, they must raise prices; the sole basis on which they can compete with the majors is destroyed."

The majors, the FTC staff report says, have never tried to compete on price, only in "secondary respects" such as appearance and location of stations, giveaways, credit card services, and maps.

At the same time they developed "an elaborate network of devices" to limit the supply of crude oil available to independent refiners and refined products available to independent wholesalers and retailers, the report says.

If the majors' current pricing tactic is at all successful, the staff predicts, "the consumer will pay dearly . . ."

The report, prepared by the FTC's Bureau of Competition—the antitrust enforcement arm—and the Bureau of Economics, is part of the culmination of an almost two-year study of the effects of the structure, conduct and performance of the oil industry and whether its firms are engaged in unfair methods of competition in violation of the law.

A copy of the report—sent to members of Congress who requested it—was obtained by The Washington Post. Not sent to the Hill was another report containing an analysis of alternative courses of action for the commission's consideration and the staff's recommendations.

The staff is said to have recommended the bringing of antitrust charges against the eight largest oil companies, which, if successful, would result in a considerable restructuring of the industry. The staff recommended that the FTC seek the divestiture of some of the industry's functions—now interrelated—to foster competition in its various phases: production of crude oil, transportation, refining and marketing.

The report points out that in 1970 the eight largest firms—operating in varying degrees in all phases of the industry—held 64 per cent of the nation's proved crude oil reserves, accounted for 58 per cent of refining capacity, and 55 per cent of the gasoline sold.

The top eight companies are Atlantic Richfield, Exxon, Gulf, Mobil, Shell, Standard Oil of California, Standard Oil of Indiana and Texaco.

The oil industry didn't get where it is today nor did it create the current gasoline shortage by itself, the FTC staff says.

"There also has been a significant contribution made by the United States government." The report says that federal and state governments ". . . do for the major companies that which would be illegal for the companies to do themselves." These things have included the oil import program, which restricted the flow of competing foreign supplies into this country; the oil depletion allowance, which allowed the firms to make most of their profits on crude while the independents have little crude production;

the foreign tax credit, and price controls, all of which altered the system of supply and demand to the industry's benefit.

The staff was not happy about its own past performance either. Its past approach—seeking to correct specific anticompetitive practices at the marketing level—really ignored "the market power associated with vertical integration and limited competition," the report says.

Among the report's significant findings:

The petroleum industry, and refining especially, is characterized by high barriers to entry, preventing new firms from being attracted into the market by the industry's excess profits. There has been no big entry into refining in 20 years.

With their economic resources and advanced econometric models "the major oil companies should have been able to predict the current increase in demand for petroleum products," the report says. "Whatever their forecasts showed" they failed to expand refinery capacity and to meet present and future need, the report says.

Even though some firms have plans to build new refineries, ". . . the prospects for the next three or four years (the period needed for construction of new refineries) appears bleak," the staff said. "As demand increases more rapidly than refinery capacity, shortages of petroleum products will become more acute." The degree of severity will depend upon prices—the lower they are, the more critical the shortages will be, the staff said.

[From the Washington Post, July 11, 1973]

OIL PRICING PROBE LAUNCHED BY UNITED STATES

(By Sanford J. Ungar)

The federal government has launched a nationwide investigation of the pricing and supply policies of the oil industry from the wellhead to the filling station.

Acting on the basis of a preliminary survey that uncovered violations in the petroleum industry of the latest price freeze, the Cost of Living Council yesterday announced "a comprehensive monitoring system" that could lead to "swift enforcement action . . . against the producer, the refiner, the wholesaler, or the person who sells gasoline at the pump."

At the same time, five major oil companies were served with subpoenas from a federal grand jury in Los Angeles looking into their pricing and marketing practices in the western states going back to early 1969.

There were also indications that the Antitrust Division of the Justice Department, now studying the alleged gasoline shortage that has raised prices and closed thousands of independent service stations, may soon issue further subpoenas returnable in other cities.

Meanwhile, the Nixon administration's oil policy coordinator, Deputy Treasury Secretary William E. Simon, said that enforcement of new federal clean-air standards may have to be postponed for two years to alleviate the fuel shortage.

Appearing before the House Commerce Committee, Simon also indicated that there would be an administration decision "within the week" on whether to introduce mandatory allocations of petroleum products, requiring major companies to share their supplies with independent marketers.

Increasingly under pressure after published reports last weekend that a Federal Trade Commission staff study accuses them of cooperation instead of competition, leaders of the oil industry began to counterattack.

Rawleigh Warner Jr., chairman of the Mobil Oil Co. and of the American Petroleum Institute, said in a Los Angeles speech that charges of a conspiracy to tighten gas supplies come "from elected officials who, in groping for the causes of the shortage, find it convenient to blame the oil industry."

He dismissed as "nonsense" a lawsuit filed on Monday by the attorney general of Florida against 15 oil companies, claiming they had manipulated supplies to increase profits.

In St. Louis, yet another lawsuit was filed by a propane and butane distributor servicing portions of Missouri, Illinois and Iowa, contending that three major companies were conspiring to drive independents in the area out of business.

Regional disputes broke out in the Senate.

Democratic Sen. Jennings Randolph of West Virginia, a coal state, called for a national energy policy based on the increased use of clean-burning coal and nuclear fuels. Republican Sen. Dewey Bartlett of Oklahoma, an oil state, complained that crude-oil prices and supplies have been kept artificially low by the artificially low price of natural gas.

The Cost of Living Council action was announced here by James W. McLane, director of the council's "special freeze group," who stressed a particular concern with "the identification and elimination of any black market activities within the (oil) industry."

McLane said a "test survey" was conducted last week in Atlanta, Philadelphia, St. Paul and Los Angeles.

Because some violations were uncovered in Atlanta, he added, Internal Revenue Service agents have now begun "an intensive monitoring sweep of the entire area." The IRS will also make spot checks in 29 key districts across the country, McLane said.

Lasting about six weeks, the Council survey will look at "the freeze base and current purchase and sale price for all gasoline products," as well as "changes in mark-ups at each level in the industry, volumes handled and distribution allocations," McLane promised.

He said the agents will look for instances where the octane ratings of gasoline may have been lowered without a corresponding cut in its price.

Neither the Justice Department here nor the Los Angeles field office of its Antitrust Division would confirm the existence of the west coast grand jury investigation of oil company pricing and marketing arrangements.

But spokesmen for five companies—Standard Oil of California, Atlantic Richfield, Union Oil of California, Shell and Texaco—said that the subpoenas served on them Monday called for extensive documents, including the confidential files of corporate executives.

The subpoenaed records cover the companies' operations in California, Nevada, Oregon, Arizona and the state of Washington.

According to Justice Department sources, the Los Angeles subpoenas stem from a long-pending probe and the Antitrust Division's new nationwide study could lead to similar actions in other cities.

There was no indication that the Cost of Living Council and the antitrust enforcers had coordinated their pleas.

Simon, in his appearance on Capitol Hill, warned that the country faces a shortage of home heating oil next winter that will parallel this summer's gasoline squeeze.

He told the congressmen that if the environmental standards set by the Clean Air Act of 1970 were postponed "a couple of years," the government could "get a handle" on the energy crisis.

[From the Washington Post, July 8, 1973]

GOVERNMENT AND OIL—ADMINISTRATION RESISTS PRESSURE TO MOVE IN

(By David B. Ottaway and Ronald Koven)

The Nixon administration is resisting intense pressure for government to become directly involved in the international oil business.

After gas stations throughout the country refused to fill up the tanks of motorists, there was a populist wave of resentment against Big Oil. Now some congressional voices are going so far as to demand nationalization of the oil industry, and the notion of regulating it like a public utility is even more current.

Simultaneously, the oil companies, whose once-privileged positions are under mounting attack from foreign government, are beseeching the administration to come to their aid.

Given the interests at stake and the political climate, some degree of increased government involvement seems inevitable. The question is how much and for whom.

William Johnson, the energy adviser to the administration's Oil Policy Committee, recently outlined to an audience of Texas oilmen what he considered to be the two likeliest scenarios for the industry.

In the first, Johnson said "buoyed by adequate prices, the producers embark on a new wave of exploration, discovery and development. The result is national self-reliance in energy.

"In the second scenario, public and congressional reaction to price increases, product shortages, so-called windfall profits, and other complaints about the industry, imagined or real, result in reimposition of price controls and, perhaps, even a rollback in price levels.

"A national oil company is created and the issue is not whether the government should be in the oil business, but how much of the business government will control and operate."

In the view of the adversaries of the oil companies, the government for years has already been all too helpful to the industry. Former Oklahoma Democratic Sen. Fred R. Harris, now launching an organization called New Populist Action, charges, for instance, that "international oil companies based in the United States avoid taxes on about one-half of their profits through the depletion allowance and by writing off intangible drilling costs. They avoid taxes on three-fourths of the remainder of their income through the foreign tax credit."

To this kind of criticism, Sen. J. W. Fulbright (D-Ark.), chairman of the Senate Foreign Relations Committee, recently commented that "bias and prejudice are built up against the oil companies in our folklore." He said that by the time the oil companies finish paying taxes in the oil-producing countries, they do not come out ahead of other U.S. corporations.

Top energy policy officials made it clear in a series of interviews that the dominant attitude in the administration is that the government should continue to provide the industry with incentives which would allow it to solve the nation's energy problem on its own. These officials almost invariably say, in effect, "Let the market do its job."

The attitude of Republican appointees, most of whom come from the world of business, seems to stem from an unexamined, deeply held ideological commitment coupled with a perhaps more pragmatic observation that government is habitually wasteful.

As Deputy Treasury Secretary William E. Simon, chairman of the administration's Oil Policy Committee, recently testified, "There is a fundamental question as regards this great free enterprise system of ours . . . Do we want the government to get into the business of competing with a very important industry in this country? And can government do better than the business community can?"

But some government planners immersed in the foreign policy implications of the energy problem are convinced that there is no longer any alternative to a more activist government policy. Says James E. Akins, the State Department's top oil analyst, public regulation of the oil companies is "not desirable, but probably inevitable."

Analysts like Akins look at a world in which governments are becoming deeply embroiled in all phases of the international oil system. They see a number of forces at work pressuring the U.S. government to become more deeply involved in international oil operations. Among them are the following:

The Force of Example. Almost alone among the major industrial nations, the United States—the world's largest oil consumer—has resisted the pressures to become involved in the petroleum trade. Countries like France and Italy have long had national oil corporations, which have served as major instruments of foreign policy.

Every oil-producing country in North Africa and the Middle East also has a growingly important national oil company. Even in the most conservative Arab oil states, agreements have been concluded giving their national companies 51 per cent ownership of local operations by 1983.

At home in America, Exxon or Mobil may loom as Big Oil, but in their dealings with the national companies of the 11 states in the Organization of Petroleum Exporting Countries, the U.S. companies are proving to be weaklings. As Sen. Abraham A. Ribicoff (D-Conn.) recently said, the U.S. companies are "in an unequal contest" against the "combined bargaining power" of OPEC.

The oil-producing nations regard disposition of their most vital resource as a subject for government negotiation, and they have in fact been making government-to-government agreements with some European countries for years. Saudi Arabia tried last year to tempt Washington into such a direct new oil pact.

Calls for Cooperation. As a result of the growing imbalance of power between American oil companies and OPEC in a world of tight oil supplies, the U.S. government is urging formal cooperation with the other major consumers—Europe and Japan. The key U.S. proposal is for the allocation of available oil exports in case the producers cut off or restrict the flow of oil.

The implications of this proposal for times of emergency is that governments would establish standby procedures, dictating to whom the companies ship their oil and in what quantities. Even without an emergency, the very act of establishing standby mechanisms would seem to require the government to send in agents to learn a great deal more about the companies' daily operations.

Many oil analysts doubt that there will be a serious international allocation program. Nevertheless, there would still be growing pressure for domestic energy rationing plans, requiring a larger government role in the industry.

Furthermore, only the U.S. government can persuade suspicious European foreign ministries that the American international oil companies will not be required to supply America first in an emergency.

Another key objective of cooperation proposals is to prevent the oil-producing nations from forcing the consumers from bidding against each other for the available petroleum.

A Senate resolution this spring called upon the President to negotiate with the other major oil importers—Europe and Japan—to establish an organization to counteract the OPEC cartel with "common practices and policies affecting oil pricing, importation and consumption." Among the nine co-sponsors of the bipartisan resolution telling the government to get into the middle of the oil business was Sen. Barry M. Goldwater (R-Ariz.), the apostle of conservatism.

But the idea of a formal countercartel to OPEC has lost a great deal of ground because of fears of arousing the producers' ire. One respected oil economist, Prof. Walter Meade, says that the exclusive supplier negotiating with the exclusive buyer is a classic example of a "bilateral monopoly," which "inevitably leads to stalemate."

Price Controls. Any common consumers' front to prevent the bidding up of oil prices would seem to require government regulation of company offers to the producers.

If the government becomes involved in deciding the price paid to the producers, then it also becomes vulnerable to domestic political pressures to control retail prices.

The next logical step would be profit controls—a measure already being demanded by some voices in Congress. For many, profit controls imply treating the oil industry as a public utility with a government regulatory board.

Meeting the Foreign Competition. Not only are the American companies dwarfed by foreign governments at international negotiations, they are also at some disadvantage in competing for scarce new oil sources against European and Japanese government-backed groups that can offer attractive package deals to tie up assured supplies.

The Japanese have been offering to swap industrial development projects, including whole factories, for oil.

The European and Japanese governments are far ahead of Washington in responding to the growing OPEC demands that new oil agreements be tightly linked to a willingness to invest in the industrialization of the producing countries.

For companies to fulfill the demands and expectations of OPEC countries for industrial projects, U.S. government involvement in the planning stages of development packages may be needed.

At recent hearings of his committee, Sen. Fulbright and others complained that the government is good at giving out aid grants to poor countries, but that it does not know how to deal with rich underdeveloped countries which want U.S. technology and know-how. "We are not as good in helping others use their own money as we are in giving them money," Fulbright said.

America's Superpower Role. Not only do America's key foreign oil sources in the Persian Gulf seek technology. Living in an exposed stategic area surrounded by conflicts, radical governments and regional and world powers, the Gulf oil countries are also worried about military protection.

American oil contracts in the Gulf are not merely commercial. Increasingly, they are being negotiated in the context of complex, explicit or implicit, military and political relationships.

For example, in the past year, Saudi Arabia asked Washington for a special trade relationship allowing its oil in duty-free, inquired about the purchase of Phantom jets and made clear that its level of oil production will be tied to U.S. policy in the Middle East. Such delicate, complex relations, many analysts in and out of government argue, can hardly be left to the boards of directors of oil companies, whose main concern is profit.

For the two largest Gulf oil producers, Iran and Saudi Arabia—which represent 95 per cent of the expected growth in Middle East oil production between them through 1980—oil negotiations are in effect only part of a tacit "package deal" involving broader ties.

As Walter J. Levy, perhaps the top private oil consultant, says, those countries need U.S. friendship to protect their independence. "The United States will continue to be a dominant factor in world oil," he says, "not because of the foreign oil interests of its companies, but primarily because of its standing in the world balance of power."

Balance of Payments. U.S. planners now realize that there is no way the major oil-consuming nations can pay for all their fuel imports without huge deficits. Possibly the most conservative projection available points to an overall deficit of $8 billion in these countries' trade balance with the oil producers in 1980. The U.S. share of that deficit, according to the most optimistic estimates, would be $3 billion.

This strongly suggests that a trade war among the industrialized countries is inevitable as the United States, Japan and Western European nations vie for the markets of the oil producers and the Communist world, among others, to compensate for the hard currency outflows to buy oil.

Given the U.S. government's responsibility for the country's balance of payments, it can hardly remain aloof from the ongoing negotiations with OPEC. As Sen. Jacob K. Javits (R-N.Y.) recently observed, "Shouldn't the real negotiating party be the U.S. government? If we're going to have the responsibility, shouldn't we have the authority?"

If—despite its obvious disinclination—the foregoing pressures force the administration into seizing the authority, then it will be confronted with the problem of organizing itself to meet such highly coordinated, streamlined competitors as Japan.

There, public institutions work with private companies in what a U.S. Commerce Department study described as "a kind of participatory partnership between government and business operating toward generally agreed upon goals." One of these goals is for Japan, which must import practically all of its oil, to stake out exclusive foreign oil preserves, just as American companies did long ago in Saudi Arabia and Venezuela.

MITI, Japan's Ministry of International Trade and Industry, considered the headquarters for "Japan, Incorporated," has been prodding private companies into joint ventures with the oil producers, often sweetened by 70 per cent Japanese government financing.

Clearly outlined Japanese national interests are meshed with profit-seeking in the business strategies of major companies. In such a patriotic climate, the incentives and dispensations key industries get from government have a different flavor than special U.S. government favors to big business.

European governments have also demonstrated Japanese-style feats of rapid decision-making. Recently, companies from five European nations succeeded in getting government approval for a multi-billion-dollar deal to import large quantities of gas from Algeria within 90 days.

By contrast, it took El Paso Natural Gas Co. of Texas almost four years before final approval to overcome such varied obstacles as Federal Power Commission hearings for an import certificate, State Department, Pentagon and White House approvals, strict U.S. Import-Export Bank demands for Algerian repayment guarantees of a $153 million American loan, and environmentalists' court suits against East Coast gas import facilities.

The Algerians at one point threatened to accept rival European offers to buy the same gas if Washington did not act on the $1.8 billion deal.

In an attempt to put someone in charge of marshalling America's disorganized and conflicting agencies to meet what he calls the "energy challenge," President Nixon has just named Colorado Gov. John A. Love as White House "energy czar." He also proposed a new Cabinet department of energy and natural resources.

The reorganization plan has not even been formally approved by Congress yet. It is already clear, however, that the plan still leaves the energy landscape cluttered with enough jealous independent agencies to block administration policies.

Under Secretary of State William J. Casey remarked, "We're trapped in our federal system and arrangements where each institution is its own boss. Maybe those institutions should be changed, but they're not going to be in a hurry. Right now, you operate by knocking heads together. I'm not too sanguine about shaking things around and getting rid of these problems."

Casey went on, however, to stress the advantages that the United States has over countries with state oil companies.

"By and large the national oil companies haven't been terribly successful . . . Any one of those countries would gladly swap their state company for one of half a dozen of our companies. Our strength is that our companies are in the places where the oil is. We'd be stupid to elbow our own companies out of the way."

Casey also argues that the companies serve as a "very useful buffer" against turning commercial negotiations into political confrontations between governments. There are thoughtful proponents of governmental intervention who accept this point.

The role Casey advocates for the government involves turning the State Department into a kind of U.S. International Chamber of Commerce. He would have government offer leadership, set targets, give financial incentives and keep in far closer touch with the companies. But, he said, the government should be "damn cautious" not to undermine the effectiveness of industry.

Because bureaucracies lack the profit motive to make them efficient, many independent economists harbor similar doubts about the advisability of government intervention.

Prof. Meade thinks that turning U.S. oil companies into public utilities would also be unwise. "The history of public utilities is very dismal," he says. "Their regulatory boards generally become the creatures of those they are supposed to regulate."

The business-oriented Casey says, "Higher prices tend to augment the supply (of oil). I'm not saying it doesn't matter where the price goes. We pay 40 cents a gallon for gasoline. Most countries pay 80 cents. I don't say I view that with equanimity . . . But higher prices will make other energy sources more economic and you'll move to an equilibrium of supply and demand."

Such laissez-faire attitudes are running into an increasingly hostile reception on Capitol Hill. Sen. Hubert H. Humphrey (D-Minn.) recently complained "We have a peculiar policy of never doing anything in this government until we are literally up to the wall. . . . I hope we'll use this energy crisis as a way to get at the planning generally of our social structure."

Some in Congress complain that the energy crisis has generated a supercharged atmosphere in which sloganeering—including cries of "conspiracy" by Big Oil against the public and counteraccusations of "witchhunting"—has crowded out sober discussion.

Cautioning against "simplistic shibboleths," Rep. John G. Culver (D-Iowa), chairman of the House Foreign Economic Policy Subcommittee, nevertheless says, "To leave America's fundamental and critical need for oil willy-nilly to the *ad hoc*-ery of the large international oil companies is no longer compatible with the national interest."

FUEL BLAME UNFAIR?

(By Roberta Hornig)

Environmentalists may have been unfairly blamed by major oil companies for causing current fuel shortages, according to a study done by members of the Federal Trade Commission staff.

The study—a preliminary report of an investigation into oil company practices—points out that insufficient refinery capacity is one of the major reasons gasoline is in short supply this summer.

"Spokesmen for several majors argue that the lack of (refinery) expansion can be attributed directly to environmental problems," the report says.

"However, now that import controls have been removed, and governmental intervention into the industry has become a strong threat, these companies have suddenly overcome their environmental problems," it says.

In a related development, the Justice Department today confirmed reports that it is "currently engaged in an intense study to determine if the current fuel shortage is a result of collusion or other anti-trust violations."

A Justice spokesman said the investigation began in early June and that it is directed at several oil companies and at a "variety of operations."

Within the last two months, when gasoline shortages began appearing nationwide, Exxon, the world's largest oil company, and several other oil giants have reported plans to build more refineries or expand existing ones.

The FTC staff study, made public today by Sen. Henry M. Jackson, D-Wash., also raises the question of whether practices by companies themselves, aided by favorable government policies, have abetted the fuel shortage—or at least its sudden advent.

"With their advanced econometric models and computer simulations, the major oil companies should have been able to predict the current increase in demand for petroleum products," the study said. "Whatever their forecasts showed, however, they failed to expand refinery capacity sufficiently to meet this demand."

At another point, the study speculates on "the root causes of the current product 'shortage'" and then lists, presumably as possibilities, "mismanagement, poor fore-'casts, price controls, import quota or contrivance."

As reported earlier this week, the thrust of the study is that major oil companies cooperate rather than compete, manipulate their operations to protect profits and to try to exclude independents from entering or operating in the business. And government regulations contribute to these practices, the study says.

The study gives six "separate but interrelated factors" for the current petroleum shortage. They are:

The oil import control program, which was finally removed by the Nixon administration on May 1.

Interdependent and cooperate behavior by the largest oil firms.

The failure of these firms to construct refinery capacities sufficient to meet current needs.

Government-induced barriers which have inhibited firms from entering into refining.

An insufficient supply of domestic crude for independent refiners.

The fact that major station gasoline prices have not been allowed to reach their natural level during the period of shortage in certain areas of the country.

The industry "operates much like a cartel, with 15 to 20 integrated firms being the beneficiaries of much federal and state policy," the report says, adding:

"Thus, the federal and state governments with the force of law do for the major companies that which would be illegal for the companies to do themselves."

Jackson released the study over the objections of FTC Chairman Lewis E. Engman, who maintained its release could undermine the commission's efforts to police the oil industry and possibly impair later legal steps.

Mr. JACKSON. Mr. President, I wish to express my appreciation again to the able Senator from Wisconsin for proposing what I think is indeed a provocative proposition, and one that should be thoroughly explored, so that all of us will understand what options are available. I believe that is the import of his proposal, among other things.

I assure the Senator that I shall cooperate in every way to see that there will be appropriate hearings, if the matter is again assigned to the Committee on Interior and Insular Affairs. As the Senator knows, the Antitrust and Monopoly Subcommittee, of which the Senator from Michigan (Mr. HART) is chairman, is in the midst of important hearings on this question, and I would therefore want to take cordinating with him into consideration.

I assure the Senator that I will do everything I can to assist in seeing to it that there is expeditious handling of the matter, and expeditious hearings, so that we can get a better picture of the total problem, the options that are available, and the alternative courses that can be followed.

Mr. NELSON. The objective of this proposal, as the Senator knows, is that we do study the question of the management and control of our fuel resources, since they are vital to the operation of our whole economic system. I have drawn no conclusion myself——

Mr. JACKSON. May I just interpolate at this point that we lawyers would say it is a businesss affecting the public interest.

Mr. NELSON. There is no other business that I can think of that is more deeply involved in the public interest than the question of fuel.

Without adequate energy supplies, the whole system would come to a halt. So I would like to have all the alternative methods of ownership, control, and management of our fuel industries studied so that we would have some basis on which to make decisions as to whether any substantial changes in that management and control should be made. I realize that in Congress there are overlapping committee jurisdictions involved in these issues. Subsequent to this proposal, the Federal Trade Commission made public its 2-year study, and I would hope that appropriate congressional committees would explore in depth the issues raised by the report. I am well aware of the concern, interest and effort that the Senator from Washington is putting into the fuels and energy field. I am satisfied that he and his committee, and the antitrust subcommittee under the distinguished Senator from Michigan (Mr. HART), are deeply concerned also. I would hope that we can get some substantial, in-depth consideration of this process. Being satisfied that we are moving in that direction, I will not press the amendment at this time but will introduce legislation on a separate bill for appropriate reference to the appropriate committee.

Mr. JACKSON. Mr. President, I want to commend the Senator from Wisconsin for a very fair statement. I will sum it up by saying that I do not think we should be afraid of alternatives. If we are to do an intellectually honest job of trying to analyze every aspect of the energy problem, we should look into all alternatives. This is what the Senator is suggesting. If we do that, we will be in a better position to make some intelligent decisions.

The thrust of the Senator's proposal is

one that does involve looking at every reasonable alternative. It does not mean that we go on and on ad infinitum, but that we do look at every relevant option that might be available to us in all the areas the Senator has referred to. Is that not correct?

Mr. NELSON. That is exactly correct. That is my objective.

Mr. JACKSON. I commend the Senator for that approach.

Mr. NELSON. I thank the Senator from Washington very much. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER (Mr. BARTLETT). The amendment is withdrawn.

Mr. JACKSON. Mr. President, I now yield to the distinguished Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. Mr. President, I had an amendment that I was going to call up but it was partially taken care of in the prior amendment the Senator from Washington (Mr. JACKSON) offered and was agreed to. However, I want the RECORD to show that if the issue were to come before the courts, there would be some history to that particular point.

That point is that if this issue goes back to the courts, after final disposition, they will handle this as expeditiously as possible, that they will place it at the top of their docket.

Mr. President, I ask unanimous consent to have the amendment in question printed in the RECORD. I want it to be considered part of the legislative record at this point in time.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of the bill, add the following new section:

SEC. —. In any action or proceeding pending or brought in any court of the United States (a) involving or relating to the construction of the trans-Alaska pipeline, including the issuance or granting of any right-of-way permit, special land use permit, easement, right, or other interest in connection therewith; (b) involving or relating to the sufficiency of the statement prepared by the Secretary of the Interior pursuant to the National Environmental Policy Act of 1969 with respect to such pipelines; or (c) arising out of or in connection with any provision of this Act or of any other law, or regulation issued pursuant thereto, and involving or relating to the construction of the trans-Alaska pipeline; it is the sense of Congress that such action or proceeding (including appeals in connection therewith) should, to the maximum extent feasible, be advanced on the docket of the court in which filed, and put ahead of all other actions and proceedings (other than actions or proceedings within the purview of clause (a), (b), or (c) of this subsection).

Mr. GRAVEL. Mr. President, I have another amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. NELSON). The amendment will be stated.

The legislative clerk read as follows:

At page 33, line 21, strike the word "States;" and insert the following new language: "States, including the use of tankers by way of the Northwest Passage;"

Mr. GRAVEL. Mr. President, this amendment has been agreed to by the manager of the bill. In fact, I do not know whether he has also discussed it with the distinguished minority manager of the bill. It involves the Northwest Passage, but I would explain it to him and I think he will be able to grasp what I am attempting to do.

We have basically three ways of bringing oil down from Alaska. One is the Alaskan pipeline route, the Alyeska route which we are presently considering; two, is a pipeline through Canada, which is clearly marked on the map in the rear of the Chamber; and three, is the Northwest Passage, the route to bring the oil to the east coast of the United States.

As can be seen by the chart in the rear of the Chamber, the oil that can come through the Alaskan pipeline would be a maximum of 2 million barrels a day. The amount that would come from the Canadian pipeline would be about 2 million barrels a day. The amount to come from the Canadian pipeline and the Alaskan pipeline, translated into barrels a day, amounts to about 2 million barrels each. This would mean that we would have a maximum of 6 million barrels a day that could come through existing planned sources.

Not too long ago, the Humble Oil Co. ventured on what I thought was a very imaginative experiment, which was to send the tanker *Manhattan* through the Northwest Passage. The *Manhattan* successfully negotiated the Northwest Passage and brought sufficient data to indicate that other tankers and other vessels could be slightly changed to negotiate the Northwest Passage very easily. However, the economics were such at that time that the entire project was shelved until some future date.

There is no question in my mind that with the advancing progress of the OPEC countries, the use of tankers and east coast ports would make the transportation of oil by sea economically very viable.

For that reason, and that simple reason alone, with the Northwest Passage we could satisfy a certain limited amount of the oil needs of the country. The Northwest Passage becomes a fuse for all. That is, if our country gets into some difficulty, which I anticipate it will in the mid-1980's, the way we can defuse the situation is by large shipments of oil by way of the Northwest Passage. It also would take a shorter time within which to come into being. We expect that the Canadian pipeline could not become operative until 1983, but shipments by way of the Northwest Passage could begin in 1979. The volume of oil could amount to from 1, 2, 3, or 6, to 10 million barrels a day or more, assuming that we have the reserves that we all anticipate exist under the Arctic tundra.

At the time of the Northwest Passage experiment, the Canadians took over what they claimed as environmental responsibility within a 200-mile radius, which would essentially encompass all of the Northwest Passage. So when we are negotiating with the Canadians concerning a Canadian pipeline, we would also include in the negotiations the tanker route by way of the Northwest Passage.

So all my amendment does is to alter the instructions to the administration, through the President in his negotiations, to include also in the pipeline negotiations a possible tanker route via the Northwest Passage.

As I have stated, the amendment to the bill is acceptable to the manager of the bill; and if the minority manager would have any comments to make at this time, I should be glad to have them.

Mr. FANNIN. Mr. President, we need to study every potentiality. I see no reason why this study should not include the means of delivery which the amendment provides.

I agree that we are in a desperate position so far as oil is concerned. If we can bring in oil from Alaska that would displace oil that we must now import from foreign countries, that would be extremely efficacious in cutting down our imbalance of trade with other countries. This is a very serious factor, and it is becoming more serious each day.

I think that the Senator's anticipation of the amount of oil that could be available will come true. I know that he has every reason to believe, from the exploration that has taken place already and what is projected for the future, that that will be the case. So I see no reason for not supporting the amendment of the Senator from Alaska.

Mr. GRAVEL. I thank the Senator from Arizona.

Since I do have the permission of the manager of the bill to accept this amendment, Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. GRAVEL. I yield back the remainder of my time.

Mr. FANNIN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 226 (AS MODIFIED)

Mr. GRAVEL. Mr. President, I send to the desk a modification of amendment No. 226. The yeas and nays have not been ordered on this amendment. I have modified the amendment once already, and I seek to modify it at this time and have the modification printed with the amendment as modified, No. 226.

The PRESIDING OFFICER. This would require unanimous consent. Does the Senator ask unanimous consent?

Mr. FANNIN. Will the Senator make the unanimous-consent request?

Mr. GRAVEL. I would be happy to do so. The yeas and nays have not been requested.

Mr. ROBERT C. BYRD. Action has been taken on the amendment by virtue of a time having been set on it for a vote tomorrow.

Mr. GRAVEL. I ask unanimous consent, Mr. President.

Mr. FANNIN. Mr. President, reserving the right to object, I think an explanation should be forthcoming as to what is involved.

Mr. GRAVEL. In connection with the present language of my amendment, I did not take cognizance of what had transpired since that time in the adoption of subsequent amendments. An amendment of the Senator from Washington (Mr. JACKSON) has been adopted. This would cause some conflict with respect to the stipulations in question.

On page 3 of my amendment, paragraph (c) reads:

> (c) At any time he complies with the Act by performing the ministerial act of issuing a right-of-way, lease, permit, approval, or other authorization required under subsection (a) of this section, the Secretary shall make such action subject to the terms and conditions of the stipulations contained in volume 1 of the final Environmental Impact Statement on the proposed trans-Alaskan pipeline issued by the Secretary on March 20, 1972, prepared by him to prevent or mitigate any adverse environmental impact.

I would go on to add:

> And to the terms and conditions of the stipulation identified at page 43 of Senate Report 93-207, Ninety-Third Congress, First Session.

It only seeks to comply with what has already been placed into the report and is a subject dear to the manager of the bill.

Mr. FANNIN. Mr. President, I suggest the absenc of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I yield to the Senator from Oklahoma.

The PRESIDING OFFICER. A unanimous-consent request to modify the Senator from Alaska's amendment is pending.

Mr. GRAVEL. Mr. President, at this time, I withdraw my unanimous-consent request.

The PRESIDING OFFICER. The unanimous-consent request is withdrawn.

Mr. BARTLETT. Mr. President, will the Senator yield me 4 minutes?

Mr. FANNIN. I yield the Senator time on the bill.

Mr. BARTLETT. Mr. President, I rise to announce my support of the Stevens-Gravel amendment which determines that the National Environmental Act has been satisfied and the construction of the trans-Alaskan pipeline should begin immediately.

The Department of the Interior and Secretary Rogers C. B. Morton have studied the trans-Alaskan route and the pipeline technology that will be used more thoroughly than any other pipeline ever has been studied. The six-volume environmental impact statement that resulted from 175 man-years of study has been available for public scrutiny since March 1972.

Secretary Morton is convinced that the trans-Alaskan pipeline should be built. He states:

> A trans-Alaskan pipeline and tanker delivery system can be built and operated under safeguards that will protect the environment and wildlife of Alaska and the Pacific Ocean.

The intent of the National Environmental Act—NEPA—has been satisfied. The only actiton that remains to be taken is for a proper and informed body to make that judgment. Congress is that proper and informed body.

NEPA was not intended to be used as a vehicle for delay.

The lower 48 States need the oil from the Alaskan pipeline, and they need it as quickly as possible for the environment's sake as well as for the national security and economic well-being or our Nation. To clean the environment and to keep the environment clean requires energy. The two-million barrels that will come from Alaska to the 48 States will not provide enough oil to meet our additional, rapidly increasing environmental demands on energy. It seems to me that environmentalists should be in favor of this pipeline.

Mr. John Winger of the Chase Manhattan Bank estimates that by 1976, in just 3 years, the balance-of-payments deficit for oil will be about $17.5 billion.

We will be importing, according to Mr. Winger, about 50 percent of our oil by 1976. The OPEC countries will have us in a corner and will be able to use our dependence upon their imports to their economic advantage by charging higher prices and by various forms of political blackmail.

NEPA's authority is not being challenged. The Alaskan pipeline has been thoroughly studied. It is the duty of Congress now to decide to build this pipeline. The same information that has been presented to the Senate will be presented to the courts. Does not Congress have a responsibility to our national security, our economy and our environment. Why should we wait and let the American people suffer from our delay?

Congress should act on this important matter. Let us not shirk our responsibility. Let us support the Stevens-Gravel amendment.

TIME LIMITATION AGREEMENT—S. 1149

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—having been authorized by the distinguished majority leader to do so, and having cleared the request with the other side of the aisle—that at such time as S. 1149, to increase the supply of railroad rolling stock, is called up and made the pending question before the Senate, there be a time limitation thereon of 1 hour; that time on any amendment, debatable motion, or appeal be limited to 30 minutes; and that the agreement be in the usual form, with the distinguished majority leader and the distinguished minority leader or their designees controlling time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT ON S. 1148

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as S. 1148 is called up and made the pending business before the Senate there be a time limitation thereon of 30 minutes, the time to be equally divided and controlled by the distinguished Senator from California (Mr. CRANSTON) and the distinguished Senator from New York (Mr. JAVITS); the time on any amendment, debatable motion, or appeal be limited to 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there not two special orders for the recognition of Senators tomorrow?

The PRESIDING OFFICER. The Senator is correct—Senator MATHIAS and Senator STEVENSON.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the two orders for the recognition of Senators tomorrow, or no later than 9:30 a.m., the distinguished Senator from Maine (Mr. HATHAWAY) be recognized to offer his amendment; that time on that amendment be limited to not to exceed 30 minutes, to be equally divided between Mr. HATHAWAY and Mr. JACKSON; and that at no later than 10 a.m. the Senate resume consideration of the amendment by Mr. GRAVEL; that time on that amendment be limited to one hour and a half, to be equally divided between Mr. GRAVEL and Mr. JACKSON; and that a vote occur on the amendment by Mr. GRAVEL at 11:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as I understand it, under the order previously entered, the vote on the passage of the bill still is to be at no later than 12 o'clock noon tomorrow. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—ALASKA PIPELINE

The Senate continued with the consideration of the bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

AMENDMENT NO. 226

Mr. GRAVEL. Mr. President, I renew my request and ask unanimous consent to modify my amendment No. 226, which was previously modified.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment will be so modified.

The modified amendment reads as follows:

TITLE III—AUTHORIZATION FOR TRANS-ALASKAN PIPELINE

SHORT TITLE

SEC. 301. This title may be cited as the "Trans-Alaskan Pipeline Authorization Act".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds and declares that:

(a) The early delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest.

(b) Transportation of oil by pipeline from the North Solpe to Valdez, and by tanker from Valdez to domestic markets, will best serve the immediate national interest.

(c) A supplemental pipeline to connect the North Slope with a trans-Canadian pipeline may be needed later and it should be studied now, but it should not be regarded as a substitute for a trans-Alaskan pipeline that does not traverse a foreign country.

(d) Actions of the Secretary of the Interior and all other Federal agencies and officers heretofore taken on behalf of the executive branch with respect to the proposed trans-Alaska oil pipeline shall be regarded as satisfactory compliance with the provisions of the National Environmental Policy Act of 1969 and all other applicable laws.

RIGHTS-OF-WAY AND PERMITS

SEC. 303. (a) The Congress hereby grants and the Secretary of the Interior and all other Federal agencies and officers are hereby authorized and directed to issue, without further action under the National Environmental Policy Act of 1969 or any other law, and notwithstanding the provisions of any law other than this title, such rights-of-way, leases, permits, approvals, and other authorizations of any kind that they deem necessary for the construction, operation, and maintenance of a trans-Alaskan oil pipeline system, a State of Alaska highway, and no more than three State of Alaska airports, all in accord with applications on file with the Secretary on the date of this Act.

(b) The route of the trans-Alaskan oil pipeline system shall follow generally the route described in applications pending before the Secretary of the Interior on the date of this Act: *Provided*, That the Secretary may approve amendments to said applications if he deems it appropriate.

(c) At any time he complies with the Act by performing the ministerial acts of issuing a right-of-way, lease, permit, approval, or other authorization required under subsection (a) of this section, the Secretary shall make such action subject to the terms and conditions of the stipulations contained in volume 1 of the final Environmental Impact Statement on the proposed trans-Alaskan pipeline issued by the Secretary on March 20, 1972, prepared by him to prevent or mitigate any adverse environmental impact "And to the terms and conditions of the stipulation identified at page 43 of Senate Report 93-207, Ninety-Third Congress, First Session."

(d) No right-of-way, permit, or other form of authorization which may be issued; nor any other action taken by the Secretary of the Interior or by any other Federal agency with respect to the construction of such pipeline system; no public land order or other Federal authorization with respect to the construction of such highway; nor any lease or permit granted by the Secretary of the Interior for such airports shall be subject to judicial review.

PUBLIC ROADS AND AIRPORTS

SEC. 304. A right-of-way or permit granted under this title for a road or airport as a related facility of the trans-Alaskan pipeline system may provide for the construction of a public road or airport.

ANTITRUST LAWS

SEC. 305. The grant of a right-of-way, lease, permit, approval, or other authorization pursuant to this Act shall grant no immunity from the operation of the Federal antitrust laws.

Mr. STEVENS. Mr. President, as I understand, during the period following the vote on amendment No. 226 there will be a period of time within which amendments would be in order, but the amount of time that is involved there is a maximum of one-half hour, at the present time.

Mr. ROBERT C. BYRD. The amount of time involved would be a maximum of 15 minutes. The vote is to occur on the Gravel amendment at 11:30, which would consume 15 minutes, and the vote on passage at 12 o'clock noon, so there would be a maximum of 15 minutes in which amendments could be called up and debated.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEE ON LABOR AND PUBLIC WELFARE TO FILE REPORT ON S. 1875 BY MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare have until midnight tonight to file a report on S. 1875, vocational rehabilitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

REVISION OF ORDER OF RECOGNITION OF SENATORS MATHIAS AND STEVENSON ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the orders for the recognition of Mr. MATHIAS and then Mr. STEVENSON on tomorrow be reversed.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at the hour of 9 a.m. After the two leaders or their designees have been recognized under the standing order, the Senator from Illinois (Mr. STEVENSON) will be recognized for not to exceed 15 minutes, after which the Senator from Maryland (Mr. MATHIAS) will be recognized for not to exceed 15 minutes.

At no later than the hour of 9:30 a.m., the Senate will resume the consideration of S. 1081, the so-called Alaskan pipeline bill, at which time the distinguished junior Senator from Maine (Mr. HATHAWAY) will be recognized for the purpose of calling up an amendment.

At no later than the hour of 10 a.m. the Senate will resume the consideration of the Gravel amendment No. 226, as modified, on which there is a time limitation of 1 hour and 30 minutes.

The yeas and nays will occur on that amendment. The vote is to occur at 11:30 a.m. tomorrow on amendment No. 226, as modified, by the Senator from Alaska (Mr. GRAVEL), instead of 11 a.m. as previously scheduled.

The vote on final passage of the bill, S. 1081, will occur at no later than 12 o'clock noon on tomorrow. That likewise will be a yea-and-nay vote.

Following the vote on the Gravel amendment (No. 226), as modified, other amendments could conceivably be called up and voted on prior to the vote on passage of the bill.

Upon the disposition of S. 1081, the so-called Alaskan pipeline bill, the Senate will proceed to the consideration of S. 1861, the minimum wage bill. Yea-and-nay votes may occur on amendments thereto during the afternoon tomorrow.

ADJOURNMENT UNTIL 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 o'clock a.m. tomorrow.

The motion was agreed to, and at 5:53 p.m. the Senate adjourned until tomorrow, Tuesday, July 17, 1973, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 1973:

OVERSEAS PRIVATE INVESTMENT CORPORATION

The following-named persons to be members of the Board of Directors of the Overseas Private Investment Corporation for the terms indicated:

For the remainder of the term expiring December 17, 1974:

Bradford Mills, of New Jersey, vice Dan W. Lufkin, resigned.

For a term expiring December 17, 1975:

Allie C. Felder, Jr., of the District of Columbia, reappointment.

IN THE COAST GUARD

The following members of the permanent commissioned teaching staff of the U.S. Coast Guard for promotion to the grade of Commander:

Bruce C. Skinner

Bruce A. Patterson

The following licensed officer of the U.S. merchant marine to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant (junior grade):

James W. Cratty II

The following Reserve officers to be permanent commissioned officers in the Regular Coast Guard in the grades indicated:

Lieutenant commander

William W. Barker III

Lieutenant

Roger G. Love
Ronald R. DiGennaro
James W. Calhoun
Stewart C. Sutherland
Douglas A. Smith
Stephen J. McCleary
Frederick H. Edwards III
Craig E. Jud
Edward J. Searl
Frank E. Couper
Thomas J. Barrett
John H. Fishburn
Lee M. Kenney
Robert J. Weaver
Michael J. Goodwin

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Elvy Benton Roberts, [redacted] Army of the United States (brigadier general, U.S. Army.)

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Patrick Francis Cassidy, [redacted] Army of the United States (major general, U.S. Army).

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Allen Mitchell Burdett, Jr., [redacted] U.S. Army.

IN THE NAVY

Rear Adm. Oliver H. Perry, Jr., U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

EXTENSIONS OF REMARKS

HAWAIIAN NAMED OUTSTANDING FEDERAL CIVILIAN EMPLOYEE BY HAWAII CHAPTER ASSOCIATION OF THE U.S. ARMY

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mrs. MINK. Mr. Speaker, too often in our haste to criticize the workings of Government we forget to record the very real contributions that individuals in that Government's employ have been making towards the welfare of their fellow citizens.

I can think of no better example than Mr. Tamotsu "Barney" Ono, who was named the Outstanding Federal Civilian Employee for 1973 by the Hawaii Chapter Association of the U.S. Army.

Mr. Ono through his own efforts and sense of dedication rose from a position of aide to that of chief of the Pulmonary Function Laboratory at Tripler Army Medical Center in Hawaii and has unselfishly devoted his time and effort not only to his primary responsibilities but also to community activities.

The following words from the Caducean explains better than I could the depth of Mr. Ono's dedication:

[From the Caducean, May 25, 1973]

ONO AUSA'S CHOICE OUTSTANDING FEDERAL CIVILIAN EMPLOYEE

Mr. Tamotsu Ono, chief of TAMC's Pulmonary Function Laboratory, was named the Outstanding Federal Civilian Employee for 1973 by the Hawaii Chapter Association of the United States Army (AUSA). He was honored May 11 at a TAMC Officers' Club banquet.

The AUSA also named an Outstanding Junior Officer and Outstanding Enlisted Man during the recent ceremonies. Both military honorees were from other Hawaii Army installations.

Ono joined the TAMC staff in 1953 as a cardiopulmonary aide. He now operates the most efficient and productive Pulmonary Function Laboratory in the state. In a military hospital the size of Tripler, comparable laboratories require several technicians and at least one medical officer trained in pulmonary physiology to handle such a large load of patients with varied and often complex pulmonary problems.

However, Ono has provided professional services for TAMC's Pulmonary Lab largely single-handedly for years. A new blood-gas analysis section of the laboratory was spearheaded by Ono and now serves both the Department of Medicine and the Department of Surgery.

Evidencing Ono's enthusiasm for his work are the long hours he has contributed toward improving the laboratory during off-duty time and vacations. Without compensation, Ono has voluntarily placed himself on-call to assist physicians and other pulmonary technicians in emergencies and with critically ill patients.

Cardiopulmonary technicians from outlying hospitals often seek Ono's advice on their related problems and he has been active in planning Hawaii health meetings and symposiums. Serving on planning boards for the Pulmonary Section of the recent Honolulu Health Fair and for the Respiratory Care Symposium at Leahi Hospital and representing TAMC at the Instrument Laboratories Seminar in Burlingame, Ca. have been among his many tasks outside the laboratory.

Ono's efforts have not only provided the thrust to establish TAMC's Pulmonary Function Laboratory as the best in the islands, but also have insured through community outreach the laboratory's excellent reputation.

COMPLAINTS ABOUT THE MAIL SERVICE ARE GETTING MONOTONOUS

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. ALEXANDER. Mr. Speaker, my constant speeches and insertions on the quality of the mail service may seem monotonous to some, but they are no more monotonous than the mail I regularly receive complaining about the Postal Service. These complaints come all too often. We in Congress must stop merely criticizing this agency and act now to remedy this situation.

I would like to share with my colleagues at this point correspondence I received from Mr. E. B. Gee, Jr., of Blytheville, Ark.

Mr. Gee's letters follow:

JULY 12, 1973.

Mr. HUGH HUDSON,
Postmaster, U.S. Post Office,
Blytheville, Ark.

DEAR MR. HUDSON: Enclosed is a copy of the front of an envelope that we mailed from Blytheville, Arkansas to the address showing in Montana. This letter was mailed on June 20, 1973. You can see from the note the people wrote me on the letter that they received this on July 7, 1973. I think it is absolutely ridiculous that this mail should take so long to reach its destination.

This letter was mailed on a bulk rate meter. Apparently this dictates that it be handled third class. I would not have thought "third class" meant "three weeks". I think this is a ridiculously long period of time for this mail to be delivered.

I thought you would like to have information in regard to this particular letter. In addition to this, we have many instances of first class mail taking several days to a week to travel from one of our offices in Southeast Missouri to our home office in Blytheville, Arkansas. We have on occasion lost mail that was mailed from one of our offices to another.

I do hope some improvement can be made in these services.

Sincerely yours,

E. B. GEE, Jr.

E. B. GEE COTTON CO.,
Blytheville, Ark., July 12, 1973.

Congressman BILL ALEXANDER,
House of Representatives,
Washington, D.C.

DEAR BILL: Enclosed is a letter I have written to the Postmaster in Blytheville, Arkansas. This is depicting but one instance of ridiculously slow service with United States mails. The Post Office Department or the

United States is absolutely the most inefficient organization of all governmental and private agencies that we do business with. It should be abandoned or straightened out.

Already there is a private business concern giving better service at a cheaper rate and making a profit handling many of the same functions that the United States Post Office Department has. You no doubt have heard of this group. They are called United Parcel Service.

I think something should be done about our Post Office Department or we should farm it out to a contract agency who would have the ability to do it efficiently.

Sincerely yours,

E. B. GEE, Jr.

FREEZE ON FOOD PRICES

HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. THOMSON of Wisconsin, Mr. Speaker, last week I received a telephone call from the manager of a small poultry processing company in my district. It is a relatively new business, having received an SBA loan guarantee in February 1972, and now employs about 20 persons in a community of 600.

The telephone call was to both advise of their condition and ask what could be done. This small business purchased their chickens at 40 cents per pound during the first week of June and was selling them at 45 cents per pound during the same period. It is anticipated, however, that they will have to pay 47 to 48 cents per pound for chickens this week; meanwhile, their selling price is frozen.

According to the manager, the small company has three alternatives: violate the freeze and incur Federal penalties which will probably be enough to put it out of business, continue selling at a loss of well over $2,000 per week and go out of business, or temporarily close down with an accompanying loss of markets and inability to repay the SBA loan which will also put it out of business. He asked what he was to do. Naturally, I would like to have responded with some magical solution to assist my constituent, but none was readily available.

The freeze on food prices must end and a passthrough of cost provision adopted.

Already we are witnessing the depletion of beef breeding stock and the culling of dairy herds. Chicks are being killed and dumped, for there is profit in neither chickens nor eggs. Boycotting housewives soon will not have to worry about meat prices; they will just have to worry about finding meat. Boycotting housewives soon will not have to worry about the price of meat substitutes such as eggs, cheese, and chicken; they, too, will be in short supply.

If anyone thinks the food price freeze is a favor to consumers, they are shortsighted. It can only result in even higher food prices. There is no need to even discuss the effect on agriculture and food processing; it is an unmitigated disaster.

THE MOUNTING FUEL CRISIS: A REPORT BY FTC

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. EVINS of Tennessee. Mr. Speaker, the staff of the Federal Trade Commission, under direction of FTC Chairman Lewis A. Engman, has prepared a report concerning concentration in the oil industry.

The report is one phase of an investigation which I requested as chairman of the House Select Committee on Small Business in 1970 and details the effects of "cooperation" between the 20 major oil companies on gasoline supply and prices throughout the Nation.

Because of the interest of my colleagues and the American people in this most important subject, I place in the RECORD herewith my recent newsletter concerning this subject.

My newsletter, Capitol Comments, follows:

THE MOUNTING FUEL CRISIS

A recent report issued by the staff of the Federal Trade Commission confirms in many respects evidence and findings developed earlier during hearings by our House Small Business Committee to the effect that the giants of the oil industry in the United States constitute an anti-competitive concentration of economic power to the detriment of small businessmen and American consumers throughout the Nation.

The FTC report—one phase of an investigation requested by your Representative as Chairman of the Small Business Committee—states that "major oil firms, which consistently appear to cooperate rather than compete in all phases of their operation (the production, distribution and sale of gasoline) have behaved in a similar fashion as would a classical monopolist: they have attempted to increase profits by restricting output."

Removing the careful phrasing of the FTC report, the conclusion is that some 20 major oil companies constitute a monopoly and it is reported that a further report will recommend antitrust action to break up this monopolistic concentration.

Our Committee in its hearings and investigations developed testimony in 1971 which showed that major oil companies account for approximately 84 percent of refining capacity and 72 percent of the natural gas production and reserve ownership. Our Committee also determined that major oil companies control 30 percent of domestic coal reserves and 20 percent of domestic coal production—as well as 50 percent of uranium reserves.

In other words, our Committee testimony, coupled with the recent findings of the FTC, paint an alarming picture of vertical and horizontal concentration—concentration within the oil industry and monopolistic practices all across the entire spectrum of the energy field. This investigation was ordered by the FTC after your Representative on October 6, 1970, requested then Chairman Miles Kirkpatrick to "study and investigate the fuel and energy crisis with respect to the trend toward monopoly and conglomerates in the industries in this field."

On October 11, 1970, Chairman Kirkpatrick replied that he was "today" initiating investigations in line with my request with "expedited, priority treatment to current merger activity in the energy field." The FTC report just completed relates primarily to monopolistic practices within the oil industry itself and concludes that the industry "operates much like a cartel." The report states further that "the major firms . . . attempt to sharply limit the supply of crude oil available to independent refiners and refined product available to independent wholesalers and retailers. . . . An elaborate network of devices to deny independents access to product has been erected."

The report states that this policy endangers independent operators—as we know, many small operators have been forced out of business in the current gasoline shortage—"and yields serious economic losses" in higher costs to American consumers.

CAPTIVE NATIONS WEEK

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. WOLFF. Mr. Speaker, July 15–21 is the 15th observance of Captive Nations Week, and today, keeping in mind the 100 million East and Central Europeans still living under Communist rule, I would like to reaffirm my belief in the right of self-determination for every nation of the world. In the light of the recent summit meetings, it is essential that we remember what our country fought for almost 200 years ago and what citizens of the Communist-occupied countries fight for now—the right of a people to run their own affairs.

There is a long history of revolt against the Soviets for denying these countries national freedom. From the East Berlin uprising and the workers revolt in Pilsen in 1953 through the Czechoslovak freedom movement of 1968, the captive people of Europe have struggled to rid themselves of foreign domination. The events in Lithuania in 1972, when three youths burned themselves in protest, reminds us that the struggle goes on today.

We must not forget this struggle, despite superficial advances that might be made by ignoring it. Agreements with the Soviet Union and the increased trade with Communist countries relax the tensions between our countries and reduce the chance of hostilities, but advances of this kind mean little if millions of people are denied their freedom. Helping a country through an agricultural crisis is a humanitarian gesture, but we must also do all we can to stop the domination of one country by another.

The world has more to gain by seeing the best traditions of freedom become the rights of all people. We must forcefully stand for the freedom of emigration, the freedom of movement, the freedom of expression, and other rights that these European captives have fought for. We must be suspicious of grand promises: these captives still wait for the Soviet's wartime promises concerning self-determination and holding free elections. The best way to promote open and friendly relations between nations and to reduce hostilities is to be committed to seeing all nations free to stand on their own.

DOMESTIC VOLUNTEER SERVICES

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. ADAMS. Mr. Speaker, Mayor Avery Garrett of the city of Renton, Wash., submitted a statement on the Domestic Volunteer Services to the Subcommittee on Equal Opportunity of the Committee on Education and Labor. His remarks illustrate an enthusiastic involvement in a forward-looking program to benefit the community while providing valuable work experience for returning veterans, the unemployed, welfare recipients, the unskilled, and felons along with young people whose backgrounds give them a choice of opportunities. This also shows that the "New Federalism" has many problems which local governments have to overcome before cooperative Federal-State programs can be used to make life better for real people under it. I would like to share his statement with you today:

DOMESTIC VOLUNTEER SERVICES

(By Mayor Avery Garrett)

Renton, Washington, is located at the south end of Lake Washington in King County, just a few miles southeast of Seattle. It is a city of over 25,000 people with many of the urban problems faced by other cities. Renton's involvement with Domestic Volunteer Programs is a new and exciting involvement. This involvement has been basically with the Federal ACTION agency and in particular with the Program for Local Service and VISTA.

The program for Local Service is a pilot program serving south King County with a central office in Renton. The City of Renton has worked closely with PLS. This program is beginning to make a significant impact on local social service and anti-poverty programs, the 18–25 year-old age group eligible for participation, and the south King County community in general. The program allows both volunteers and sponsoring agencies to negotiate placements and job descriptions—this aspect when combined with recruitment of local volunteers to work on local programs enhances community support and involvement with PLS.

While PLS benefits the community, it is also a challenging opportunity for youth. Returning veterans, the unemployed, welfare recipients, the unskilled, felons, along with young people whose background has given them a choice of opportunities, all have a place in PLS. They gain much from the program while contributing to their community. The application screening process has allowed a wide diversity of individuals with varied backgrounds, histories and talents the opportunity to participate. Selection on the basis of proven ability, educational experience and trouble-free past has often disqualified individuals who might well make good volunteers. This is not so with PLS.

The Renton Area Youth Services (RAYS) program is sponsored by the City of Renton and the Renton School District. RAYS initially identified the Vietnam era veterans' special problem through contact with younger brothers and sisters of this group. The positive/negative impact of returning veterans affected the progress of their siblings in school. An adjusting veteran can often relate to various age groups and reconcile differences. On the other hand, a discontented veteran can greatly influence both age groups in negative ways.

With this in mind RAYS contacted the regional unit of ACTION. Through a cooperative effort, VISTA ventured into a new area of service. The VISTA program is normally called *Volunteers* In Service To America, but this project recruited *Veterans* In Service To America. While many agencies regard veterans as an outcast group because of their special problems, ACTION recruited a staff which closely represented those problem areas: minority and white; educationally and/or vocationally underskilled; physically, psychologically and/or drug disabled; single, married and divorced; draftees and retirees; and with various types of military discharges. The major qualifying characteristic is motivation and a desire to help another veteran or social service agencies.

These veterans, serving their country in a new way, are being seen and are seeing their community from a different perspective. After long struggles with their self images and the unemployment lines, VISTA vets are now working as peers with the community; with service agencies as consultants on veteran problems, and with individual veterans.

State and local governments are capable of handling a wider range of responsibilities. This is the premise of much of the New Federalism. Developing and administering volunteer programs can be one of these responsibilities. We welcome these opportunities but emphasize the importance of ACTION and other agencies to provide technical and financial assistance. If localized, costs of many programs would be reduced and more services and benefits could reach the taxpayer. Although PLS is an ACTION program, it is administered by people recruited from the state. If this model proves successful, then consideration should be given regarding the applicability of PLS-type programs elsewhere throughout the country.

In summation, the point I wish to make is that local communities are usually aware of their needs. Programs like PLS and the innovation shown by the Region X ACTION office are helping local communities meet those needs.

SLOVAK CATHOLIC SOKOL CELEBRATES ITS 26TH NATIONAL GYMNASTIC AND CALISTHENIC EXHIBITION

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. REUSS. Mr. Speaker, the Slovak Catholic Sokol celebrated its 26th National Gymnastic and Calisthenics Exhibition in Milwaukee on July 13–14, 1973. Just as the Sokols with their programs of physical fitness were the forerunners of democracy in central Europe, so the work of the Slovak Catholic Sokol today is in strong support of democratic institutions in the United States.

The program of the windup event of the exhibition, held at the Shorewood High School Stadium on Saturday night, July 14, 1973, follows:

PROGRAM

Grand parade of athletes led by color guard.

National Anthem, Band.

Pledge of Allegiance, Renee Egan, supreme physical directress.

Invocation, Rev. Jerome J. Pavlik, supreme chaplain.

Welcome greetings, Stephen C. Burican, Stephen Filo, local chairmen.

Welcome address, John A. Olejar, supreme president.

Remarks, Tibor Kovalovsky, supreme secretary.

Remarks, Amalia T. Burican, supreme ladies vice-president.

Principal address, Honorable Henry S. Reuss, Congressman of Wisconsin.

Introduction of guests, local chairman.

Gymnastic and calisthenic presentation under the leadership of John J. Stofko, supreme physical director Renee Egan, supreme physical directress, assisted by Joseph Polacek, assistant physical director, Theresa Hergan, assistant physical directress, John J. Klimchak, sports director and physical fitness board members: Michael Anthony, Michael J. Dluhy, Frank E. Macey, Ann T. Filo, Eleanor Venit and Kathi Smolkowicz.

PRESENTATION OF AWARDS

Benediction, Rev. Jerome J. Pavlik.

"God Bless America," audience.

Slovak Anthem "Hej, Slovaci!" audience.

OUR YOUTH DO CARE

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. CHAPPELL. Mr. Speaker, one of the most touching situations I have watched unfolded in Ormond Beach during this past school year.

A vibrant, active man, William H. East, not yet to middle age, was stricken by a degenerative muscular condition, commonly called Lou Gehrig's disease after the famous first baseman of the New York Yankees.

As an avid tennis player, musician and ham radio operator, William East loved his independence, but gradually, as he lost more and more muscular control of his body, he had to curtail all activities and eventually he was admitted to the Veterans hospital in Gainesville. The hospital did an evaluation and determined that indefinite hospitalization was not needed and recommended that perhaps a nursing home would suit his needs.

William East, more than anything else, wanted to remain at home. He longed for his house, his yard, his own familiar surroundings. Therefore, before his discharge from the hospital, Mrs. Clarisse W. Carriere, the hospital's public health nurse coordinator, was asked to find nursing assistance so Mr. East could return to his home in Ormond Beach. Mrs. Carriere contacted the Advanced Home Health Services Class at Seabreeze High School in Ormond Beach and 13 students from the class volunteered to help take care of Mr. East through a home visitation program.

Each day these wonderful students arrived at Mr. East's home. The boys assisted him in shaving and dressing. The girls prepared his noonday meal and fed him. One boy returned at night to play chess with him.

These young folks went beyond the daily chores to provide special treats for their helpless friend. They planned and prepared holiday meals for him at Thanksgiving and Christmas. They decorated his house and had a party with him. As his physical condition worsened and he lost his sight, they arranged for a "talking book" through the Council for the Blind. The highlight of his days were the visits of these dedicated and charitable students.

Ever eager to learn additional ways for caring for Mr. East, the students visited the Veterans hospital in Gainesville and the J. Hillis Miller Health Center on the University of Florida campus. Mr. Malcom Randall, director of the Veterans hospital, and Mrs. Clarisse Carriere arranged the visit and met with the students.

Mr. East lived out his days in his home in Ormond Beach, blessed by the concern and compassion of 13 devoted helpers. The students, in turn, were blessed with the knowledge that they gave comfort in the last days of a brave man. Additionally, this experience sparked the enthusiasm and dedication of several students to plan careers in the health field.

I want to commend these 13 students for their humanitarian attitude, as well as for their steadfast actions during this undertaking. I would also like to commend Seabreeze High School and its class instructor of home health services, along with the principal, school board and local public health nurse for making this type of project possible. I commend my good friend, Malcom Randall, director of the Veterans hospital at Gainesville, and Nurse Clarisse Carriere for their assistance.

Our youth do care. They care very deeply. When given the chance they express it.

THE LATE HONORABLE JIM SMITH

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. ZWACH. Mr. Speaker, it was my good fortune to come to Congress at the same time as our departed colleague, James V. Smith of the Sixth District of Oklahoma.

We both represented the Sixth District of our States. We were members of the 90th Club together and we had the additional bond of being cattlemen-farmers.

I knew Jim as a dedicated Member of this body. He was knowledgable and helpful in the field of agriculture and an outspoken friend of our farm people. After his unsuccessful campaign for reelection, President Nixon demonstrated the esteem with which Jim was held by appointing him Administrator of the Farmers Home Administration.

He was loved and respected by those he worked for and those who worked for him and that is the mark of a man.

I am proud to have known Jim Smith and I join my colleagues in expressing my deepest sympathy to his wife and family and to all of those who knew and loved him.

HOMEOWNERS' TAX RELIEF ACT

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. PRICE of Texas. Mr. Speaker, in view of the continued and increased interest in tax reform, I am introducing for the consideration of this Congress a bill I originated and introduced during the 92d Congress which addresses itself to the tax problems of our Nation's homeowners. They are dismally overburdened by the combined weight of local, State, and Federal taxes and in an effort to ease their burdens, I am proposing that the Internal Revenue Code be altered in certain areas as it applies to those who own and reside in their own homes.

For the benefit of my collagues, I am inserting at this point a summary of the principal provisions of the Homeowner's Tax Relief Act. Inasmuch as my proposal is a complex and far-reaching one, I think a review of this summary will facilitate a better understanding of the details of this act;

PRINCIPAL PROVISIONS OF THE HOME OWNERS' TAX RELIEF ACT OF 1971

SECTION 2

Enables a home owner to depreciate the investment in his home in the same manner as residential property held for rental purposes can be depreciated. A deduction limitation of $1,500 is imposed to reduce incentives for wealthy taxpayers to purchase expensive homes for tax write-off purposes.

SECTION 3

Provides that if the taxpayer elects to depreciate his home, his tax bases will be decreased accordingly. This makes a homeowner's tax status parallel with owners of residential rental property.

SECTION 4

Provides that the taxpayer who owns shares in a cooperative housing corporation will have similar depreciation tax relief as proposed for the individual home owner.

SECTION 5

Enables the taxpayer to deduct up to $1,000 for his home repairs and maintenance. This deduction is limited to exclude amounts spent for domestic servants and management of property.

SECTION 6

Enables a taxpayer to deduct as a capital loss, his economic loss on the sale of his home to the extent it does not exceed $5,000. While this section helps alleviate any economic losses suffered by an individual who must buy and sell his home within a short period of time, the $5,000 limitation minimizes potential abuses.

SECTION 8

Authorizes the taxpayer to utilize the standard deduction as well as the proposed deductions for some ownership including, within certain limits, real estate taxes and home finance interest charges. At the present time these are deductible only if the standard deduction is not taken. In operation, this section gives the home owner parallel tax status with the investor in residential rental property.

SECTIONS 7 AND 9

Changes present law giving taxpayers 65 or older choice of either electing non-recognition of gain under Sec. 121 or 1034, but not both. This eliminates the possibility or regressive taxation occurring in some situations where both sections are applicable. These sections also raise the non-recognition limitation for the sale of a home by persons 65 and over from $20,000 to $40,000. This increase represents a much needed adjustment to offset the effects of inflation, particularly in the building industry, that has occurred since Sec. 121 was enacted in 1964.

SECTION 10

Provides a taxpayer 65 or older with a $1,000 deduction if he has a life interest in a retirement home which represents an investment of at least $5,000. Under present regulations a life interest in a retirement home does not constitute a "principal residence" as defined in Section 1034 and used in this Act. This section is included because an elderly taxpayer who avails himself of the facilities of a retirement community should not be denied tax relief merely because he does not hold legal title to his residence.

The Homeowners' Tax Relief Act has much to recommend it. Individual homeownership is of singular importance to this society as we know it, for those who own their own homes tend to have a greater interest in local affairs and community life. Those who own their homes take a greater concern for their upkeep which results in a reduction of slum conditions. For these reasons, in a public policy sense, structuring Federal tax policy to promote homeownership is quite consistent with the public interest.

It must not be forgotten that individual homeownership represents an unparalleled opportunity for the average American to make a substantial investment for the future. In purchasing a home, an individual takes part of the income he allocates for living expenses and invests it in his residence. Moreover, as financial security is a goal to which most Americans direct much of their energy, and since problems of financial security beset such a significant portion of the Nation's elderly, creating a new Federal tax policy, one that encourages an individual to invest in a home, is a highly desirable legislative goal.

Despite the positive aspects of homeownership, I would point out that homeownership has become less attractive to individuals and to families. For one thing, the rate of local and State taxation has soared in recent years and, in many States, homeowners are bearing a macabrely disproportionate share of these increases. Living patterns and life styles of the American family have changed dramatically in recent years; according to recent statistics, the average family moves once every 3 years. This adversely affects the attitudes of potential home buyers, particularly when one considers that if a person purchases a home which he is forced to sell after a year or 2, it is probable that the homeowner will lose money. Legislating a new Federal tax policy could ease the tax burdens of homeowners and would diminish the negative aspects of homeownership in an increasingly mobile society.

It is altogether too evident that our economy is not functioning at its full capacity. This act would infuse new strength into the economy by providing incentives to citizens to purchase homes and to make necessary repairs to existing property. When one considers that the home construction, repair, and maintenance industries incorporate such goods and services as lumber, concrete, plaster, paint, tile, plumbing, heating, electrical, steel, and other related items, the multiplier effect and the economic impact become obvious.

In summation, the Homeowner's Tax Relief Act promotes fairness in Federal tax policy, is consistent with American traditions of private ownership of property, and is an economic incentive. Tax revenue losses occasioned by the act would be partially offset by new revenues accrued from increases in the home construction, maintenance, and repair industries.

I urge my colleagues to give this proposal their careful attention and their full support. In my judgment, the interests of tax justice, the interests of our society in the reduction of slum conditions, the principal of private property, and free enterprise, demand our unequivocal support of this legislation. We dare not do less.

FOOD STAMP ELIGIBILITY FOR AGED, BLIND, AND DISABLED

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. HUDNUT. Mr. Speaker, while in my district over this past weekend, I met with a group of older Americans who will be eligible for supplemental security income as of January 1, 1974.

While this program, as enacted in H.R. 1 of the 92d Congress—Public Law 92–603—would provide a guaranteed monthly income of $130 for an individual, and $195 for a couple, it contained provisions which stripped the eligibility for food stamps for most of those persons simply because they are receiving a very modest SSI benefit.

Therefore, rather than gain under this program, many older Americans would actually lose benefits. A case example brought to my attention by the Human Justice Commission in Indianapolis is as follows:

> An elderly couple is presently receiving old age assistance of $190. They are also receiving $66 worth of food stamps at a cost of $45. Under SSI, this couple would receive $195 a month. While this reflects an income increase of $5, the couple would lose their $21 food stamp bonus. Therefore, they have a net loss of $16 a month.

Needless to say, many of my constituents are very unhappy about this provision, and I sympathize with their point of view. It seems to me that Congress should act now to assure adequate nutritional needs for those eligible for SSI benefits. While the $16 loss cited in the example given may not seem critical to many persons, when an elderly couple is living on a shoestring budget, this amount can make a severe difference.

Therefore, I support those provisions in H.R. 8860 which restore food stamp eligibility to those persons who will otherwise be denied this benefit next January. Furthermore, I urge the adoption of amendments to increase the maximum financial resources an elderly person or couple may have before losing eligibility for food stamps.

Raising the eligibility for food stamps and restoring eligibility to SSI recipients are two of the surest ways to reduce poverty and hunger in the homes of this Nation's elderly. Many experts have stated that perhaps half of the health problems of the elderly are attributable to inadequate nutrition. I urge my colleagues to join me in supporting those provisions of H.R. 8860 to help assure adequate nutritional needs for the Nation's aged, blind, and disabled.

THE FLOOD THAT WENT SOMEWHERE ELSE

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. THOMPSON of New Jersey. Mr. Speaker, it has been 11 years since the Congress authorized construction of the Tocks Island Dam as part of a comprehensive flood control project for the Delaware Valley. Unhappily, the drain of resources to Vietnam and, more recently, questions raised as to environmental issues have delayed a start on construction of this facility. But if there are any among us who may have questioned the original purpose for which the dam was authorized, I commend to his or her attention the following editorial which appeared in the July 13 edition of the Trenton Evening Times.

Last year we witnessed the awful destruction visited upon the Susquehanna River Valley by tropical storm Agnes. In the aftermath of that tragedy I had occasion to comment on the fact that if Agnes had struck the Delaware Valley instead of the Susquehanna the resultant flood would have made the flood of 1955 seem as an act of mercy by comparison. My observation has now been confirmed by the National Weather Service. I do hope that my colleagues, and especially those privileged to represent those areas encompassed within the Delaware River Basin heed the lesson which the Times editorial places before use:

THE FLOOD THAT WENT SOMEWHERE ELSE

Blocks of downtown Trenton under water. Floodwater surging across State Street all through the West Ward, reaching up Hermitage and Parkside Avenues and over Glen Afton—and rising above the eaves of two-story homes in the Island section. Yardley and the Washington's Crossings virtually uninhabitable. A raging river crest lapping at the roadbed of the Scudder Falls bridge—while Calhoun Street bridge and other less-elevated spans collapse into the torrent. Similar devastation for miles up and down the Delaware.

This fruitful picture is conjured up by a news report by the National Weather Service's River Forecast Center in Harrisburg, which was asked to estimate what would have happened if last year's Tropical Storm Agnes had passed through the upper Delaware basin instead of the Susquehanna. The Weather Service report, released by the Delaware River Basin Commission, shows that Agnes would have swollen the Delaware's flow at Trenton to 654,000 cubic feet per second—nearly double the 329,000 cfs that hit us here during the record flood of 1955, and far higher than the estimates made by the Army Engineers last year in the immediate aftermath of Agnes.

"No reservoir or feasible combination of them could have provided full protection against such a flood," says James F. Wright, executive director of the Basin Commission. "However, the Tocks Island reservoir would have been capable of reducing the Agnes-induced flow at Trenton by nearly 200,000 cfs."

Even that would have left Trenton and the rest of the valley in far worse shape than it was in 1955. But faced with a choice between different degrees of catastrophe, it is not hard to decide that the lesser one is preferable. Tocks Island, Mr. Wright is saying, would represent the difference between ruin and salvation for tens of thousands of residents of communities from Burlington to above Belvedere.

The Tocks Island dam has a great many opponents, and almost as bad, a great many supporters whose support is only passive. But unless it can be shown that the National Weather Service report is wrong or deceitful—and the National Weather Service, unlike the Army Engineers, has no stake in the decision to build the dam—we cannot see how anyone can continue to dismiss the value of the dam as a flood control device. We do not see how anyone can continue to say, as the New York Times said editorially last year, that "protection against flooding . . . would be better achieved by land-use planning in the flood plains." Land-use planning is essential, of course, but what of the Trentons and Morrisvilles and Yardleys and Lambertvilles and Eastons that are already here and vulnerable to burial under 640,000 cfs of Delaware River if the next Tropical Storm Agnes is not obliging enough to go somewhere else? The dam is essential; it must be built. If it is not, we will draw no comfort from being able to say—clinging to the top of the Battle Monument—"we told you so."

THE LATE HONORABLE JAMES V. SMITH

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. WHALEN. Mr. Speaker, I join my colleagues in expressing my deep sympathy to the family of our late friend Jim Smith of Oklahoma.

Earlier this year, when Jim left his position as Administrator of the Farmers Home Administration, the Nation lost a concerned and dedicated public servant. Now the people of the Sixth District of Oklahoma, to which Jim returned to continue his efforts in their behalf, are tragically and unexpectedly also deprived of his services.

However, the innumerable contributions which Jim made both here in the legislative and executive branches and in his home territory will long be remembered. I trust that this recognition of the many endeavors for rural America which Jim spearheaded will be a source of consolation and pride to his family during these difficult days.

May Jim rest in peace.

CAPTIVE NATION'S WEEK

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. RODINO. Mr. Speaker, the month of July holds a special meaning for all Americans. It was only 2 weeks ago that millions of Americans, from all walks of life, gathered together in a gesture of unity to celebrate our most cherished ideal—America's independence. Yet I sometimes wonder if amidst the brilliant sprays of color which illuminate the sky on July 4, if the strong foundation upon which our country is firmly built is not sometimes taken too much for granted; if the beauty and blaze of the holiday does not somehow blind us to the true meaning of this solemn occasion.

Let us be ever thankful that we can celebrate. Unlike many less fortunate peoples, we can truly say that we are free. Our freedoms are guaranteed, protected, defended, and constantly and consistently upheld. There are however at least 100 million people who cannot make that statement. It is in accordance with their plight that by national proclamation July 15 marks the beginning of the observance of Captive Nation's Week. Let it be known that the captive peoples of Europe have not given up their fight for freedom. Theirs is a continuing war and constant struggle to obtain the principles they so passionately desire and so strongly deserve. The captive nations have not succumbed quietly. They have voiced their opposition to oppression. Even though relentless forces have tried time and time again they have not dulled the vigorous appetite or courage of these brave people. This dream of freedom is nourished by an extraordinary bravery and willingness to accept self-sacrifice.

We sympathize with the hardships these people have endured. And as stated in Public Law 86-89:

> Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and
>
> Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence—

We reaffirm our solid support for their position as we have in years past and continue to ferverently hope that the captive peoples' dream will tomorrow be a reality.

WAR POWERS RESOLUTION

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. BENNETT. Mr. Speaker, House Joint Resolution 542 is coming up for consideration this week on the floor of the House. My objection to the resolution as it now stands is that despite any words in it that attempt to minimize the delegation of the warmaking powers to the President, the resolution as it comes from the committee does give the President more power than the Constitution gives him in the field of putting our country at war. It provides a congressional delegation of war powers to the President to be used whenever he wishes, even though it then puts limitations on the use of such powers. I consider it improper for Congress to delegate to the President any warmaking powers even if their use is somewhat limited.

It would be constructive for our country to enact legislation which would require the President to report to Congress before any enlargement or new placement of U.S. troops in a foreign nation. Therefore, I have revised House Joint Resolution 542 in a way which accomplishes this good objective sought by the original legislation; but my bill, unlike the committee bill, does not authorize the President to place our country at war without new congressional action.

The bill coming from the committee acknowledges power in the President to create a war situation involving the use of U.S. troops without prior consultation with Congress. This amounts to delegation to the President of a power reserved solely to Congress in the Constitution—the warmaking power. The legislation I have introduced, House Joint Resolution 653, does no such thing. My bill is purely a limitation and not in any way an extension of Presidential war powers.

It is my plan to introduce this resolution as a substitute for the committee bill, House Joint Resolution 542. My bill, House Joint Resolution 653 reads as follows:

H.J. Res. 653

Joint resolution concerning the war powers of Congress and the President

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This measure may be cited as the "War Powers Resolution of 1973".

Sec. 2. The President shall consult with the leadership and applicable committees of Congress before substantially enlarging United States Armed Forces in any foreign nation; and before placing any United States Armed Forces in any foreign nation where none had been immediately prior to such placement.

Sec. 3. The President upon doing any of the things set forth in section 2 shall submit within seventy-two hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating his action;

(B) the constitutional and legislative provisions under the authority of which he took such action;

(C) the estimated scope of activities;

(D) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to placing or enlarging United States Armed Forces abroad.

Sec. 4(a) Within one hundred and twenty calendar days after a report is submitted or is required to be submitted pursuant to section 3, the President shall remove such enlargement of Armed Forces and terminate such placement of Armed Forces with respect to which such report was submitted, unless the Congress enacts a specific authorization for such use of Armed Forces.

(b) Notwithstanding subsection (a), at any time that the United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories such forces shall be disengaged by the President if the Congress so directs by concurrent resolution.

Sec. 5. (a) Any resolution or bill introduced to terminate the utilization of United States Armed Forces as above described or to provide for disengagement as referred to in section 4(b) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Senate Foreign Relations Committee, and one such resolution or bill shall be reported out by such committee, together with its recommendations, within thirty days.

(b) Any resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three legislative days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a resolution or bill passed by one House shall be referred to the appropriate committee of the other House and shall be reported out within fifteen days. The resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three legislative days after it has been reported, unless such House shall otherwise determine by yeas and nays.

Sec. 6. For purposes of subsection (a) of section 4, in the event of the termination of a Congress before the expiration of the one hundred and twenty-day period specified in such subsection (a), within three days of the convening the Congress under such subsection, such one hundred and twenty-day period shall not expire sooner than forty-eight days after the convening of the next succeeding Congress, provided that a resolution or bill is introduced, pursuant to such subsection (a), within three days of the convening of such next succeeding Congress.

Sec. 7. Nothing in this Act (a) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties;

(b) Shall be construed to represent congressional accceptance of the proposition that Executive action alone can satisfy the constitutional process requirement contained in the provisions of mutual security treaties to which the United States is a party; or

(c) Shall be construed as granting any authority to the President with respect to the commitment of United States Armed Forces to hostilities or to the territory, airspace, or waters of a foreign nation which he would not have had in the absence of this Act.

Sec. 8. All commitments of United States Armed Forces to hostilities existing on the date of the enactment of this Act shall be subject to the provisions hereof, and the President shall file the report required by section 3 within seventy-two hours after the enactment of this Act.

SEC. 9. This Act shall take effect on the date of its enactment.

BREZHNEV'S FIGURES CONTESTED

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Ms. ABZUG. Mr. Speaker, the plight of Jews in the Soviet Union is a real one, and cannot be ignored. The Union of Councils for Soviet Jews released a statement on June 20, 1973, which refutes statements made on this subject by Soviet Party Leader Leonid Brezhnev when he visited this country last month.

I would like to share with my colleagues the text of this statement, containing excerpts from a speech by Dr. Louis Rosenblum, chairman of the Union of Councils for Soviet Jews:

JEWISH LEADER DISPUTES BREZHNEV'S CLAIMS ABOUT EMIGRATION OF SOVIET JEWS

Dr. Louis Rosenblum, Chairman of the Union of Councils for Soviet Jews stated in Cleveland today that he was "surprised that Mr. Brezhnev would think that members of the U.S. Congress were naive enough to accept such patently false figures on Jewish emigration from the Soviet Union."

Referring to comments made by General Secretary Leonid Brezhnev at a luncheon with members of Congress yesterday, Dr. Rosenblum went on to say that, "Obviously in his desperation for American trade concessions Mr. Brezhnev will say anything in an attempt to dissipate congressional concern over the statement of Soviet Jews who have been refused permission to emigrate. However, I think he has underestimated the ability of congressional leaders to find out the truth and act on that knowledge.

"Of the figures attributed to Brezhnev in news accounts perhaps the most startling was the number 60,200 cited for Jewish emigration in 1972. According to all other authorities, including Israeli diplomatic sources, the number was approximately 31,700. In contrast previous Soviet estimates have never exceeded 29,000.

"As to the number of applicants awaiting permission to leave, we know that over the last two years the figure has grown from 80,000 to 110,000 persons at present. Furthermore, twice as many people apply monthly as receive visas. It is clear, then, that regardless of which figure one uses in calculating the percentage of applicants who have received permission, nothing approaching the 95% approval rate cited by Mr. Brezhnev is accurate.

"The fact is, that while many poorly educated Jews from Georgia and Bukhara have little trouble receiving permission to leave, Jews from central and western republics in the Soviet Union, where 90% of Soviet Jews reside, account for only 20% of the exit visas granted in recent months. This distortion in representation was exaggerated after the suspension of the education tax removed a major obstacle to the emigration of better educated Jews. Prior to the suspension of the education tax emigration from eastern republics made up 40% of the total.

"As far as the question of 'state security' is concerned, the Soviet authorities have used this pretext to deny permission to hundreds of scientists and prominent personalities in the arts who have had no contact with classified information, or in a few cases dealt with secret material fifteen to twenty-five years ago. These people are kept as virtual hostages in order to demonstrate to other would-be applicants the possible consequences of applying for exit visas.

"In addressing himself to the quantitative aspects of emigration, Mr. Brezhnev carefully avoided the issue of the inhuman treatment of people who apply to leave and are refused. There was no mention of the loss of livelihood, harassment by police, groundless arrests, trials and even imprisonment in labor camps which have been the fate of so many Jews just for the 'crime' of requesting permission to go to Israel.

"Until the Soviet government addresses these issues and is willing to make a fundamental change in its emigration policy, it is pointless to play games with numbers. We are not concerned with statistics, but with the thousands of human beings who have been waiting for months and years, often under unbearable conditions, to leave the Soviet Union to be reunited with their families."

WHAT EDUCATORS ARE DOING WITH YOUR FEDERAL TAXES

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. HUBER. Mr. Speaker, at a time when the House is preparing to consider the Elementary and Secondary Education Act, I think it is pertinent to insert a statement by Dr. Onalee McGraw on this subject.

As director of curriculum for Citizens United for Responsible Education—CURE—in Montgomery County, Md., Dr. McGraw points out that title III of this act does not focus on nourishing the intellect as education programs should do. Instead, it concerns itself with the feelings and values of children, an approach which often leads to serious invasions of the child's privacy and that of the home.

Many parents are dissatisfied with these programs, because they often advocate values different from those taught in the home. I do not think I have to stress the danger to our system imposed by such programs. It is frightening to think that values and feelings are being guided not by local school districts, not by parents, but by the Office of Education.

Dr. McGraw very ably clarifies the nature of the bias which has crept into our education system under such programs. This is a mental health bias which threatens to supersede the emphasis on intellectual skills.

I insert this important statement on the pernicious trends in our educational system in the RECORD:

WHAT EDUCATORS ARE DOING WITH YOUR FEDERAL TAXES

(By Dr. Onalee S. McGraw)

With the passage of the 1965 act, federal funds were made available on a wide scale to professional educators to develop and implement their theories in school systems throughout the nation. Employing federal funds, Regional Education Centers were instituted, curricula developed, and pilot schools installed in local communities. In many instances such measures have frustrated the congressional intent of upgrading the quality of education with particular emphasis on disadvantaged children.

Up until recently it was commonly acknowledged that the schools were commissioned by the parents to educate their children in the areas where they were not qualified; i.e., the basic subjects and skills. In years past there was agreement among educators and parents alike as to what the purposes of education were to be in a pluralistic society In such areas as philosophy and morals the school either mirrored basic community sentiment or maintained political and philosophical neutrality in tacit recognition of the divergent views prevalent in the community that they represented.

This is no longer true today. Parents, and to a much lesser extent, the educators themselves, are deeply divided on the proper role of the school in the community and the purposes of education. Community agreement on basic moral values has broken down and with it, agreement on such important practices as the rearing of children. In the face of this widespread breakdown, a public school system cannot be truly democratic unless it maintains a strict neutrality on these fundamental questions.

At the same time that community agreement on the purposes of education has broken down, the education establishment has been given, through federal funds, a great source of power and influence outside the context of local control for the implementation of its ideologies and theories of education. Parents in ever increasing numbers have become aroused, concerned, and finally enraged at the nature of the educational programs their federal tax dollars are financing.

When it is borne in mind that for the overwhelming majority of our people a public school education is compulsory, the question demanding an answer is: Why are these parents being forced to support educational philosophies and theories to which they are unalterably opposed?

The dimensions of the problems in education cannot be grasped unless the almost monolithic nature of the education establishment is first perceived. Today there is little debate in the education community reflecting the diversity in our society and there is practically none of the scholarly inquiry that characterizes other disciplines; e.g., history or biology (see Dr. James Koerner's *The miseducation of American Teachers*). The virtual monopoly in the field of public education (dominated by the National Education Association) has been described by James Koerner in his recent book, *Who Controls American Education?*

Through selected funding, the Office of Education is supporting and implementing in school districts nationwide the prevailing tenets of the education establishment which are: (1) learning should result in change in the student's *behavior*, with decreased emphasis on the development of the intellect and basic skills (see Jacques Barzun's *The House of Intellect*); (2) the primary function of the school is the inculcation in the student of the social attitudes and values which the educators believe are the most desirable; (3) the school is an agent of socialization for the "total child" for whose development an elite group of social scientists and educators are responsible (the home is viewed as an inadequate, unhealthy, or even pernicious source of character formation which must play a subservient role); (4) all questions, values and moral issues are "open" and relative; (5) academic learning is important *only* as a means of reinforcing "concepts" which serve to mold the student's attitudes and values and to cause a change in his behavior.

Pacesetters in Innovation is the cumulative listing of all projects funded under Title III of the Elementary and Secondary Education Act through 1969. Even a cursory review of the projects listed therein will demonstrate that by selective funding the Officer of Education is supporting a specific educationist philosophy at the expense of philosophical diversity and academic excellence.

The projects funded reflect the educational concepts which were summarized in the beginning of this letter. They embody the "mental health" approach to education. This approach seeks the psycho-social formation of the child as opposed to the development of basic skills and the intellect.

The headings under which the projects are listed illustrate this bias; e.g., "Behavioral Objectives" (the development of "desirable attitudes" through selective presentation of content); "Change Agents" (behavorial scientists trained with the techniques of the National Training Laboratories of the National Education Association). Supported by federal funds, the change agent is given the responsibility for gaining entrance to local school systems for the purpose of changing attitudes through the psychological manipulation of local school personnel.

The bias for the "mental health" approach and the downgrading of intellectual development is revealed, for example, in the number of grants given under "Clinical Diagnosis" (29) compared to those given to develop "Literary Composition Skills" (3).

Because our national lawmakers are now providing funds for the dissemination and implementation of those ideas, their responsibility for knowing their content is clear. It is the response of our elected representatives to these educational ideas that will greatly determine the future course of our nation. Young minds are the "prize" in the confrontation before us.

VOTER REGISTRATION REFORM: A BIBLIOGRAPHY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. RANGEL. Mr. Speaker, the Subcommittee on Elections of the House Administration Committee is now conducting hearings on H.R. 8053, a bill which would create a Federal system of postcard voter registration.

This proposal is of paramount importance to the future of American participatory politics. We are all fully aware of the increasingly low voter turnout in elections all across the country. Unfortunately, most of us are not yet aware of the reasons why so many Americans are not voting. It is my firm belief that our present system of voter registration is keeping millions of citizens out of the polling booths and away from our political process. By making it extraordinarily difficult to register, we make it extraordinarily difficult to vote.

It would be tragic if we in the House of Representatives did not comprehend this depressing reality, and based our vote for or against H.R. 8053 on misconceptions and falsities.

So that this will not be the case, I am herewith offering a bibliography of material pertaining to voter registration. These materials are easily obtainable from the Library of Congress or directly from the authors involved.

I sincerely hope that my fellow Members and their staffs take advantage of these valuable resources:

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DR. WILLIAM WINICK LEAVES A TRAIL OF GLOWING MEDICAL ACCOMPLISHMENTS

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. BURKE of Massachusetts. Mr. Speaker, on July 1, 1973, Dr. Winick, a pioneer of rehabilitation of mentally and emotionally disturbed veterans retired as director of the Veterans' Administration Hospital in Brockton, Mass. I join all of the employees and patients who have loved and respected Dr. William Winick during his 14 years as director of the VA Hospital in Brockton, in saluting him especially in these days when we so often hear harpoons of criticism launched at dedicated hard-working public servants, who in no way merit these assaults.

Under the outstanding leadership of Dr. Winick, the Brockton veterans facility has become internationally acclaimed and all the Veterans' Administration hospitals across the United States use patient treatment techniques pioneered by him. Dr. Winick established the first paid-work programs as incentive and motivation to patients and 6,000 former patients who have participated in paid-work programs while under treatment at the facility are now living successfully in society.

It is indeed my pleasure and privilege to include in the RECORD at this point the article that the Brockton Enterprise and Brockton Times has printed, heralding Dr. Winick's "glowing medical accomplishments":

DR. WILLIAM WINICK LEAVES A TRAIL OF GLOWING MEDICAL ACCOMPLISHMENTS

(By Paul R. Stevens)

Dr. William Winick is nearing the top of life's work escalator and soon will step into retirement.

This pioneer of rehabilitation of mentally and emotionally disturbed veterans—named National Physician-of-the-Year in 1967 by the Federal Government—will retire July 1 as director of the Brockton Veterans Administration Hospital.

Dr. Winick has guided this 1,000-bed hospital since assuming its management in September, 1959, to the No. 1 position in the VA galaxy of psychiatric facilities.

All told, there are 166 VA hospitals in the country, 39 of them psychiatric hospitals. The psychiatric hospitals all now use patient treatment techniques pioneered by Dr. Winick.

Statistics at the Brockton VA Hospital show that 6,000 former patients who have participated in paid work programs while under treatment at the facility now are living successfully in society, earning livings and paying taxes.

The saving to taxpayers from this human salvage can be measured in millions of dollars, for without rehabilitation, the 6,000 veterans would require continual care and many of their families would be on relief rolls.

Dr. Winick in 1960 initiated the paid work programs, getting contracts for piece assembly work from Greater Brockton industries for men to work on at the hospital while under treatment.

Twenty years earlier, at the Augusta, Ga., VA Hospital where Dr. Winick was a rehabilitation officer, the then young psychiatrist headed a work project for the American Legion. Patients assembled plastic poppies for sale on American Legion Poppy Day. As long as funds held out, the patients were paid a penny a poppy.

Dr. Winick noticed patients did well as long as they were paid. But they became disinterested when they were getting nothing for their trouble except praise.

Later, Dr. Winick observed that pay for work in European mental hospitals provided strong motivation for patients, giving them a feeling of control of their environment.

With this background, he began the paid work programs in Brockton, making the VA Hospital here the first in the country to test the idea. At almost the same time, Dr. Roy Hubbs, a psychiatrist at the Palo Alto, Calif., VA Hospital, experimented with a similar program, but on a smaller scale.

He and Dr. Winick swapped notes on the progress and pitfalls of their programs, learning from each other.

It was for his work in shaking disturbed veterans out of their lethargies and hang-ups and getting them motivated in work programs that prepared them for a return to the work-a-day world that Dr. Winick won the National Physician-of-the-Year Award. That same year, then Gov. John A. Volpe gave Dr. Winick the Massachusetts Physician-of-the-Year Award at State House ceremonies.

Born in New Castle, Pa., Dr. Winick will be 64 on July 15.

"After 37 years of service as a psychiatrist and hospital director, I elected to retire." Dr. Winick said in an interview.

"My wife, Ida, and I want to take to the road and see the country when we feel the urge," explained Dr. Winick.

"Also, we want to live a full life in Brockton, a city we have come to love, without the alarm clock buzzing me into another day of action and long hours at the hospital.

"After 37 years, freedom is something we look forward to while we're still young enough to savor and enjoy it."

Dr. and Mrs. Winick have no children. "Something we regret," he said, "but a matter we had no control over."

Dr. Winick was graduated with a bachelor of science degree from Geneva College, Pennsylvania, Jefferson Medical College, also in Pennsylvania, and studied later at the U.S. Public Health Hospital in Atlanta.

He left the post of chief of psychiatry at the VA area office in Trenton, N.J., to replace Dr. Peter A. Peffer as head of the Brockton VA Hospital 14 years ago.

Under his management, the Brockton facility has become not only a "showcase" hospital in the VA system but internationally known as well.

Medical personnel from all over the world visit Brockton's facility.

Among Dr. Winick's achievements in making the Brockton VA Hospital an institution that the U.S. State Department refers to with pride when discussing problems of veterans with foreign dignitaries are:

1. Development with Dr. Emil Rothstein, associate chief of staff in charge of research of outstanding research programs in the fields of clinical-biological chemistry and (study of viruses).

Heading the clinical-biological chemistry research is Dr. Sabid Gabay, who recently was one of the chief participants in an international conference on biological psychiatry in Kyoto, Japan. He showed movies illustrating treatment techniques developed at the Brockton VA Hospital.

Heading the virology research is Dr. Robert Rustigian, member of the Tufts Medical College faculty and teacher at the Harvard Dental School.

"Under Dr. Winick's leadership, the research budget granted by the Veterans Administration in Washington grew from $25,000 ten years ago to more than $250,000 annually today," Dr. Rothstein said in an interview.

"Several researchers at the Brockton VA Hospital are affiliated with dental and medical schools in Boston and play an active part, both in Boston and here, in the education of young doctors and dentists."

2. Establishment of the first VA Hospital home care unit, a nursing home for veterans. This unit has 100 beds and provides topflight care for veterans of all wars needing medical care in a homelike atmosphere. One of the residents is Siegfried von Hartenstein, 101-year-old Spanish American War veteran.

3. Establishment of a drug rehabilitation unit for small groups of addicts. The unit functions as a drug-free therapeutic community employing encounter group therapy. Some of the "graduates" now are back in society living useful lives.

4. The work-for-pay therapy program already outlined.

5. An alcoholism treatment center founded 10 years ago. The center now returns 500 patients a year to society. The center has an out-patient clinic that handles 7,000 patient visits a year.

As a psychiatrist, Dr. Winick, has seen every facet of mental illness. "And I'm hopeful," he said.

"Our big basic problem remaining is that we do not understand mental illness known as 'schizophrenia,' but it's a big plus that while we don't understand causation, we're developing treatment techniques that help."

He said, "I've been privileged to live through a tremendously interesting era in psychiatry. I've seen insulin shock treatments introduced and electro-shock therapy tried.

"I've seen the introduction of Freudian principles in psychiatry and studied its impact on interpretation of mental illness. I've seen—and had a part in—the development of tranquilizers in treating the mentally ill, and I've played a role in the new community psychiatry approach to helping disturbed human beings find normalcy and acceptance in society outside hospital walls.

"With each step there has been a gain.

"But human nature is always going to be a complex subject, and our personalities will be tried constantly as we seek to adjust to demands of the future.

"I see early training in the home and in school, where I think mental hygiene should be taught, as the main hope for preventing mental breakdowns in the stressful years ahead."

He paused, looked at the ceiling of his office for a moment, then looked his interviewer straight in the eye, smiling slightly. "The psychiatrist is here to stay," he said, "and so is the Bible with its message that love is the antidote to hate. It's the message psychiatrists must preach along with the ministers, the priests and the rabbis.

"For the ultimate good treatment," he said softly, with the wisdom of 37 years of experience built into his voice and expression, "is to learn how to love and how to trust."

(Addenda: The Enterprise, knowing secretaries see bosses in all kinds of situations, happy and sad, smooth and stressful, elated one day and disappointed the next, asked Dr. Winick's secretary, Mary McNamara, "How do you evaluate Dr. Winick? Has he earned the love and trust of others?" Quick as the blink of an eye, she replied: "Oh, yes indeed. I rate him tops—and so do the employes and the patients who know him.")

OHIO VALLEY IMPROVEMENT ASSOCIATION BLASTS NATIONAL WATER COMMISSION REPORT

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. EVINS of Tennessee. Mr. Speaker, the National Water Commission recently issued an ill-advised and ill-conceived report which would in effect destroy our national water resource development program.

In this connection, the Subcommittee on Public Works Appropriations, which I am honored to serve as chairman, in its recent report pointed out that adoption of the recommendations of this report would be "a giant step backward and detrimental to the national interest."

Mr. William J. Hull, chairman of the legislative committee of the Ohio Valley Improvement Association, in commenting on our committee report said:

> In our judgment, the Committee has made a highly significant contribution to the preservation of the Nation's priceless water resource heritage in calling attention to the grave deficiencies of the Report which would repudiate the long established basic principles of development. As you are aware, imposition of tolls or user charges on inland waterways would strike a severe blow at the economic life of our great river valleys. The proposed exemption of the Great Lakes, ocean harbors and other deep draft channels would introduce intolerable discrimination in favor of the coastal regions at the expense of the interior of the country.

Our committee in its report said:

> The Committee reviewed the Draft Report of the National Water Commission in detail. Although there were a few commendable observations in the draft, for the most part the 290 conclusions and recommendations appear to be ill conceived. The final report, which was issued on June 14, 1973, has been available for only a very short time. And is too voluminous to discuss at length at this report. However, it would appear to be well to point out a few objectionable features of the report at this time. For example, there is the recommendation that, in the main, future water resource development be the responsibility of State and local entities. Also, future Federal water programs, including navigation, for the most part would be completely reimbursable with interest. The report also would have all Federal water resource programs justified mainly on the basis of national economic efficiency, that is on the basis of only direct monetary benefits that can be quantified.
>
> A primary thrust of the Commission appears to be to treat water and water resource services as saleable commodities to our people rather than necessary and essential public services.
>
> In short, the Commission's report constitutes a repudiation of long standing, basic principles of water resource development in the public interest which have guided these programs for decades. It reflected a grave miscalculation of the magnitude of anticipated future public needs for water supply, electric power, navigation, flood control, recreation and other aspects of water resource development.
>
> The conclusions and recommendations in the report suggest strongly that the National Water Commission has not fully evaluated the tremendous impact that implementation of its recommendations would have on water resource development throughout the Nation.
>
> It appears that if these features of this report are adopted, water resource development in the United States would be seriously curtailed and possibly halted. This, of course, would be a giant step backward, and obviously would be very detrimental to the national interest.

Certainly the report of the National Water Commission should be rejected. We cannot at this critical time dismantle and destroy our water resource development program.

SPRING MEETING OF THE EXECUTIVE COMMITTEE OF THE INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION

HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. KEATING. Mr. Speaker, I take this opportunity to report to the Congress upon the spring meeting of the Executive Committee of the Intergovernmental Committee for European Migration in Geneva, Switzerland, May 23 to 25, 1973. Chairman Peter W. Rodino of the Judiciary Committee honored me by naming me as a congressional representative to this important meeting.

Major concerns at the Geneva meeting centered around budgetary problems caused by devaluation of the dollar, and the withdrawal of Australia from participation in the joint migration program. Australia has decided to operate its own program rather than continue in the 32-nation organization. Our Government has also been critical of the administration by ICEM officials of the Western Hemisphere selective migration program which attempts to place highly skilled migrants in South American countries.

It is apparent that ICEM will require considerable modification and reorganization if it is able to continue as a viable organization. The financial and administrative problems will receive study by the individual member nations in the period ahead and hopefully solutions will be reached at the fall meeting of the council.

I am particularly interested in the part ICEM is performing in reference to the movement of refugees from the Soviet Union. As the Members all know, a total of $50 million has been appropriated by the Congress to assist the migrants from Russia. Contracts totaling $44 million have been signed with United Israel Appeal, Inc., an accredited American voluntary agency which is responsible for en route care of the refugees, construction of absorption centers, housing, and a hospital facility, and training or retraining of artisans, professionals and scientists. ICEM has received $5 million for air travel of migrants from Austria to Israel, and other voluntary agencies have received $1 million for assistance to migrants from the Soviet Union to countries other than Israel.

In order to examine personally how these funds are being expended, I traveled to the receiving and processing centers in Austria and Italy, then to the absorption centers in Israel.

The refugees are moved from Russia to Vienna by rail. I met a group at the railroad station as they arrived early in the morning and spoke through an interpreter with about 35 individuals. They had been stripped of all jewelry—wedding rings, watches, et cetera, by members of the Russian police force at the last check point going out of Russia. They told me of the difficulty they had raising the $900 to $1,000 per person for travel documents, release from Soviet citizenship and train fare. Apparently the exorbitant exit visa charges, of which we have all heard, have been suspended, at least for the present. However, all these refugees had been suspended from their jobs as soon as they applied for exit visas, so they had endured much harassment and hardship.

Next, I went to the processing center at Schoenau, some 20 miles outside Vienna. The refugees are screened at this camp and prepared for the flight to Tel Aviv 2 or 3 days after arrival from Russia. I found a group of perhaps 40 persons from Georgia and the Baltic states and we conversed at length about their experiences. They were cordial and warm, and appeared well clothed and healthy.

In Israel I visited two absorption centers from which the refugees are dispersed to other locations throughout the State of Israel. Those with professional qualifications receive retraining and refresher courses before relocation. Again, I found the treatment and care to be excellent.

In my conversation with individual refugees, I heard many inspiring stories of sacrifice and courage. Some had made applications for exit visas at the time of President Nixon's visit to the Soviet Union, since more expeditious and favorable treatment was given at that time. They told me they followed our American broadcasts over Radio Free Europe. I was told that world opinion has had a great impression on the Soviet Union and the plight of Jews and their emigration problems have benefited from worldwide expressions of interest and concern.

Authorities in Tel Aviv assured me that the people of Israel will welcome and absorb Jewish refugees from Russia even if all the approximately 3 million Jews in Russia were allowed to leave at one time. Despite housing shortages in Israel, the refugees are given preferred treatment and have a first claim on housing, as well as tax benefits.

In Italy there is a Soviet Jewish migration center for processing refugees going to locations other than Israel. Some of these persons obtained exit visas from Russia by assuming false Jewish identity. There are approximately 200 refugees at the Italian processing center.

I was much impressed, Mr. Speaker, with the excellent job being done by ICEM and the voluntary agencies in handling the flow of Jewish refugees from Russia. This humanitarian work is especially heart warming to see at firsthand. I am confident the money we appropriated is being well spent.

SCARCE FOOD HERE TO STAY

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. JONES of Tennessee. Mr. Speaker, in the past several months I have made many attempts to explain to my colleagues and constituents all the complexities of our current food shortage situation. Yesterday, Sunday, July 15, 1973, the Washington Post printed an article entitled: "Scarce Foods: Here to Stay." by Lester R. Brown.

This article does an excellent job of detailing the reasons for the worldwide food scarcity. These reasons make it apparent that we are facing a new era in the United States which will call for closer attention to food production and food use. Until now American agriculture has been a marvel of production, which allowed 95 percent of our population to assume the availability of unlimited supplies of food. I hope this article helps people realize that food does not pour from the "Horn of Plenty" but requires long hours of work, massive investments, proper land and weather, plus years of research on production techniques.

The Washington Post is to be commended for printing this article. I hope this indicates the beginning of a trend for urban newspapers. There is no logical reason for urban newspapers to ignore agricultural topics as they have in the past. Food production should be of interest to all well informed citizens, whether they live in rural or urban America.

Again I want to commend the Post and congratulate Lester Brown for an outstanding piece of work. I insert the article at this point in the RECORD and urge all my colleagues to read it:

SCARCE FOOD: HERE TO STAY

(By Lester R. Brown)

(NOTE.—The writer a senior fellow at the private Overseas Development Council here, is a former Agriculture Department official and the author of "Seeds of Change" and "World Without Borders.")

This year has witnessed a dramatic upsurge in interest in the world food situation, largely in response to global scarcity and rising food prices. Prices for some of man's principal food commodities—wheat, rice, feedgrains and soybeans—have soared to historic highs in international markets. Rationing has been in effect for at least some foodstuffs in three of the world's four most populous countries: China, India and the Soviet Union.

By summer, food was being airlifted into several countries in sub-Sahara Africa to stave off famine. India and Bangladesh faced critical food shortages. The United States was restricting soybean exports in order to bring internal food prices down. Food scarcity was affecting the entire world, rich countries and poor.

Within the United States, those protesting and boycotting over rising meat prices in recent months hardly know whom to blame. They are not certain that supermarkets bear responsibility, they are not convinced that it is entirely the farmer's fault, and they are not sure who the middleman is.

What most Americans have never stopped to ask is whether we, as consumers and parents, might in any way be responsible for the soaring meat prices. As average American consumers, we have increased our per capita beef consumption from 55 pounds a year in 1940 to 117 pounds in 1972. Meanwhile, as parents, many of us have borne far more children than needed to replace ourselves, expanding our population by 57 percent during this same period. Altogether, our national beef consumption tripled, making us a leading beef importer.

For Americans, soaring food prices and the prospect of sometimes empty meat counters in the months ahead has come as a shock. If there was any sector of our economy which we thought was invulnerable, it was the capacity of U.S. agriculture to provide consumers with an adequate supply of low-cost food. Suddenly this is no longer possible.

A dollar devalued by as much as a third over the past 20 months against major currencies such as the German mark and Japanese yen is enabling two-thirds of a billion high-income consumers in Europe, the Soviet Union and Japan to compete very successfully for our domestically produced agricultural raw materials. Had the administration been willing earlier to reduce the scale of our vast dollar-draining military establishment abroad or to meaningfully address the energy crisis at home by curbing demand through such actions as reducing the size of automobiles, much of the decline in the dollar's value could have been avoided. Inaction on these fronts is now taking its toll at the supermarket checkout counter.

At the global level, the news media have drawn attention to several factors contributing to the food scarcities of 1973. Among these are the poor rice harvest in Asia, the shortfall in the Soviet wheat crop, and the temporary disappearance of the anchovies off the coast of Peru for several months in late 1972 and early 1973. But these are to some extent at least, short-term factors, and they should not be permitted to obscure other, more fundamental long-term trends and forces that are altering the nature and dimensions of the world food problem.

POPULATION AND AFFLUENCE

During the 1960s the world food problem was perceived as a food/population problem, a race between food and people. At the end of each year observers anxiously compared rates of increase in food production with those of population growth to see if any progress was being made. Throughout most of the decade it was nip and tuck. During the 1970s rapid global population growth continues to generate demand for more food, but, in addition, rising affluence is emerging as a major new claimant on world food resources. Historically, there was only one important source of growth in world demand for food; now there are two.

At the global level, population growth is still the dominant cause of an increasing demand for food. Expanding at nearly 2 per cent per year, world population will double in little more than a generation. Merely maintaining current per capita consumption levels will therefore require a doubling of food production over the next generation.

The effect of rising affluence on the world demand for food is perhaps best understood by examining its effect on requirements for cereals, which dominate the world food economy. Consumed directly, cereals provide 52 per cent of man's food energy supply. Consumed indirectly in the form of livestock products, they provide a sizable share of the remainder. In resource terms, cereals occupy more than 70 per cent of the world's crop area.

In the poor countries, the annual availability of grain per person averages only about 400 pounds a year. Nearly all of this small amount, roughly a pound a day, must be consumed directly to meet minimum energy needs. Little can be spared for conversion into animal protein.

In the United States and Canada, per capita grain utilization is currently approaching a ton a year. Of this total, only about 150 pounds are consumed directly in the form of bread, pastries and breakfast cereals. The remainder is consumed indirectly in the form of meat, milk and eggs. The agricultural resources—land, water, fertilizer—required to support an average North American are nearly five times those of the average Indian, Nigerian or Colombian.

Throughout the world, per capita grain requirements rise with income. The amount of grain consumed directly rises until per capita income approaches $500 a year, and then begins to decline, eventually leveling off at about 150 pounds. The total amount of grain consumed directly and indirectly, however, continues to rise rapidly as per capita income climbs. As yet no nation appears to have reached a level of affluence where its per capita grain requirements have stopped rising.

There is now a northern tier of industrial countries—including Scandinavia, Western Europe, Eastern Europe, the Soviet Union and Japan—whose dietary habits more or less approximate those of the United States in 1940. As incomes continue to rise in this group of countries containing some two-thirds of a billion people, a sizable share of the additional income is being converted into demand for livestock products, particularly beef. Many of these countries, such as Japan and those in Western Europe, are densely populated. Others—the Soviet Union, for example—suffer from a scarcity of fresh water. Most lack the capacity to satisfy the growth in demand for livestock products entirely from indigenous resources. As a result they are importing increasing amounts of livestock products or of feedgrains and soybeans with which to expand their livestock production.

Throughout the poor countries, population growth accounts for most of the year-to-year growth in the demand for food. At best only very limited progress is being made in raising per capita consumption. In the more affluent countries, on the other hand, rising incomes account for most of the growth in the demand for food.

LAND AND WATER

As world demand climbs due to these two factors, we face several important constraints in our efforts to expand global food production. The traditional approach to increasing production—expanding the area under cultivation—has only limited scope for the future. Indeed, some parts of the world face a net reduction in agricultural land because of the growth in competing uses, such as industrial development, recreation, transportation and residential development. Few countries have well-defined land use policies that protect agricultural land from other uses. In the United States, farmland has been used indiscriminately for other purposes with little thought to the possible long-term consequences.

Some more densely populated countries, such as Japan and several in Western Europe, have been experiencing a reduction in the land used for crop production for the past few decades. This trend is continuing and may well accelerate. Other parts of the world, including particularly the Indian subcontinent, the Middle East, North Africa, the Caribbean, Central America and the Andean countries, are losing disturbingly large acreages of cropland each year because of severe erosion.

The availability of arable land is important, but perhaps even more important in the future will be the availability of water. In many regions of the world, fertile land is available if water can be found to make it produce.

Yet most of the rivers that lend themselves to damming and to irrigation have already been developed. Future efforts to expand fresh water supplies for agricultural purposes will increasingly focus on such techniques as the diversion of rivers (as in the Soviet Union), desalting sea water and the manipulation of rainfall patterns.

Another disturbing question is the extent to which the trend of rising per-acre yields of cereals in the more advanced countries can be sustained. In some countries, increases in per-acre yields are beginning to slow down, and the capital investments required for each additional increase may now start to climb sharply. In agriculturally advanced countries, such as Japan, the Netherlands and the United States, the cost of improving production for some crops is rising. For example, raising yields of corn in the United States from 90 to 100 bushels per acre requires much more nitrogen than was needed to raise yields from 50 to 60 bushels.

What impact the energy crisis will have on food production costs and trends remains to be seen. With a substantial rise in the cost of energy, farmers engaged in high-energy agriculture, as in the United States, will tend to use less, thus perhaps reducing future production increases below current expectations. Rising costs will affect not only gasoline for tractors but other basic items. Nitrogen fertilizer, for instance, often uses natural gas as a raw material, and energy is one of the dominant costs in its manufacture.

BEEF AND SOYBEANS

In looking ahead one must be particularly concerned about the difficulties in expanding the supply of world protein to meet the projected rapid growth in demand.

One important source of protein is beef. Efforts to increase its supply have run into two problems: First, agricultural scientists have not been able to devise any commercially usable means of getting more than one calf per cow per year. For every animal that goes into the beef production process, one adult must be fed and otherwise maintained for a full year. There does not appear to be any prospect of an imminent breakthrough on this front.

The other problem is that the grazing capacity of much of the world's pasture land is now rather fully utilized. This is true, for example, in the U.S. Great Plains, in East Africa and in parts of Australia. Most of the industrial countries in which beef consumption is expanding rapidly, from Ireland through the Soviet Union and Japan, are unable to meet all the growth in demand from their own resources. Either some of the beef, or the feedgrains and soybeans to produce it, must be imported.

Soybeans are a second major protein source which has thus far defied the efforts of scientists to achieve a production breakthrough. A major source of high-quality protein for livestock and poultry throughout much of the world, soybeans are consumed directly as food by more than a billion people throughout densely populated East Asia. They have become the leading export product of the United States, surpassing export sales of wheat, corn and high-technology items such as electronic computers.

In the United States, which now produces two-thirds of the world's soybean crop and supplies more than 90 per cent of all soybeans entering the world market, soybean yields per acre have increased by about 1 per cent per year since 1950; corn yields, on the other hand, have increased by nearly 4 per cent per year. One reason why soybean yields have not climbed very rapidly is that the soybean, being a legume with a built-in nitrogen supply, is not very responsive to nitrogen fertilizer.

The way the United States produces more soybeans is by planting more soybean acreage. Close to 85 per cent of the dramatic four-fold increase in the U.S. soybean crop since 1950 has come from expanding the area devoted to it. As long as there was ample idled cropland available, this did not pose a problem, but if this cropland reserve continues to diminish or disappears entirely, it could create serious global supply problems.

DEPLETED OCEANS

A third major protein source is the earth's oceans. From 1950 to 1968 the world fish catch reached a new record each year, tripling from 21 million tons to 63 million tons. The average annual increase in the catch of nearly 5 per cent, which far exceeded the annual rate of world population growth, greatly increased the average supply of marine protein per person.

Then suddenly, in 1969, the long period of sustained growth was interrupted by a decline in the catch. Since then, it has been fluctuating rather unpredictably, while the amount of time and money expended to bring in the catch continues to rise every year. Many marine biologists now feel that the global catch of table-grade fish is at or near the maximum sustainable level. A large number of the 30 or so leading species of commercial-grade fish may currently be overfished—that is, stocks will not sustain even the current level of catch.

The 1971 catch of 69 million tons amounted to nearly 40 pounds of live weight a person throughout the world. Of this catch roughly 60 per cent was table-grade fish, the remainder consisting of inferior species used for manufacturing fish meal, which in turn is used in poultry and hog feed in the industrial countries.

The world's major source of fish meal is the anchovy stock off the coast of Peru. Peru has supplied nearly two-thirds of world fish meal exports in recent years. Last year's disappearance of the anchovies, at first regarded as a temporary, recurring natural phenomenon, is now being viewed with considerable alarm by many biologists. There are growing indications that the stock has been seriously damaged by overfishing.

If, as now seems probable, the global fish catch does not continue rising in the next decades as it did during the last two, the pressures on land-based protein sources can be expected to increase substantially.

Although there are still substantial opportunities for further expanding the world's protein supply, it now seems likely that the supply of animal protein will lag behind growth in demand for some time to come, resulting in significantly higher prices for livestock products during the 1970s than prevailed during the 1960s. We may be witnessing the transformation of the world protein market from a buyer's market to a seller's market, much as the world energy market has been transformed over the past few years.

DWINDLING RESERVES

Since World War II the world has been fortunate to have, in effect, two major food reserves: grain reserves in the principal exporting countries and cropland idled under farm programs, virtually all of it in the United States.

Grain reserves, including substantial quantities of both foodgrains and feedgrains, are most commonly measured in terms of carryover stocks—the amount in storage at the time the new crop begins to come in. World carryover stocks are concentrated in a few of the principal exporting countries—namely the United States, Canada, Australia and Argentina.

Since 1960, world grain reserves have fluctuated from a high of 155 million metric tons to a low of about 100 million metric tons. When reserves drop to 100 million tons, severe shortages and strong upward price pressures develop. Although 100 million tons appears to be an enormous quantity of grain, it represents a mere 7 per cent of annual world grain consumption, a perilously thin buffer against the vagaries of weather or plant diseases. As world consumption expands, so should the size of working reserves, but the trend over the past decade has been for reserves to dwindle while consumption has climbed.

In addition, one-seventh of U.S. cropland, or roughly 50 million acres out of 350 million, has been idled under farm programs for the past dozen years or so. Though not as quickly available as the grain reserves, most of this acreage can be brought back into production within 12 to 18 months once the decision is made to do so.

In recent years the need to draw down grain reserves and to dip into the reserve of idled cropland has occurred with increasing frequency. This first happened during the food crisis years of 1966 and 1967 when world grain reserves were reduced to a dangerously low level and the United States brought back into production a small portion of the 50 million idle acres. Again in 1971, as a result of the corn blight, the United States both drew down its grain reserves and again brought a portion of the idled acreage back into production. This year, in response to growing food scarcities, world grain reserves once more declined, and the United States dipped much deeper into its idled cropland, permitting at least two-thirds to come back into production.

Now, even with the prospect of record harvests of wheat, corn and soybeans in the United States and a good-to-very-good cereal harvest in the Soviet Union, it does not appear that depleted world grain reserves will be rebuilt much, if at all, this year.

A WORLD FOOD BANK

If world food reserves become chronically low and idle U.S. cropland dwindles or disappears, the result may well be very volatile world prices for the important food commodities. It already is clear that a 25-year era of remarkably stable world prices for the principal temperate zone crops, based on U.S. commodity support levels, has come to an end.

The situation could become even more traumatic for consumers throughout the world if North America, on which the world has become progressively more dependent for its food supplies during this same postwar period, should experience a prolonged drought of several years during the 1970s. There has been such a drought roughly every 20 years since weather records were begun after the Civil War. The most recent drought period, in the early 1950s, was not especially severe, but the preceding one brought on the Dust Bowl crisis of the 1930s.

The prospect of an emerging chronic global scarcity of food calls for serious consideration of the proposal by the Food and Agriculture Organization of the United Nations for an internationally managed world food bank as a means of maintaining some semblance of order and stability in the world food economy. Just as the U.S. dollar can no longer serve as the foundation of international monetary system, so U.S. agriculture may no longer have sufficient excess capacity to ensure reasonable stability in the world food economy.

A world reserve could be built up in times of relative abundance and drawn down in times of acute scarcity. In effect, the cushion that surplus American agricultural capacity has provided for a generation would be provided at least partially by a world food bank. A system of global food reserves would provide a measure of price stability in the world food economy that would be in the self-interest of all nations. It also would provide assurance against famine in the densely populated low-income countries after a poor crop year—an assurance the affluent nations may be less able to provide in the future if the current system of autonomous, nationally oriented planning is allowed to continue without modification.

There is a similarly urgent need to evolve a cooperative global approach to the management of oceanic fisheries. Failure to do this will result in a continuing depletion of stocks, a reduction in catch, and soaring seafood prices that will make those of the early 1970s seem modest by comparison. It is in this context that we, as consumers, have a direct stake in the U.N.-sponsored conference later this year in Santiago.

THE DEVELOPING LANDS

Over the long run, the key to coping with world food scarcity lies in the developing countries. It is here that the population pressures are most severe and furthest from solution; it is here also that the unused potential for expanding food production is the greatest.

On the population front, current trends make possible the stabilizing and eventual halting of growth in the industrial countries. In the poor countries, however, it will be much more difficult to achieve population stability. For one thing, history shows that birth rates do not usually decline unless there is improvement in wellbeing—a reasonable standard of living, an assured food supply, a reduced infant mortality rate, literacy, and health services.

In short, it may well be in the self-interest of affluent societies, such as the United States, to launch an attack on global poverty, not only to narrow the economic gap between rich and poor nations, but also to meet the basic social needs of people throughout the world in an effort to provide incentives for lowering birth rates. Population-induced pressures on the global food supply will continue to increase if substantial economic and social progress is not made. Populations that double every 24 years—as many are doing in poor nations—multiply 16-fold in scarcely three generations!

The United States could also lead an enlarged effort to expand the world's food supply by concentrating on the unexploited potential of the developing countries. A bipartisan proposal introduced in Congress last month would do this by restructuring the Agency for International Development and increasing by half the support it provides for agricultural and rural development.

Although the introduction of new wheat and rice varieties has increased production substantially in many developing countries, the jump in per-acre yields appears dramatic largely because their yields traditionally have been so far below their potential. But today rice yields per acre in India and Nigeria still are only one-third those of Japan; corn yields in Thailand and Brazil are less than one-third those of the United States. Large increases in food supply are possible in these countries at far less cost than in agriculturally advanced nations if farmers are given the necessary economic incentives and resources.

Concentrating efforts on expanding food production in the poor countries could reduce the pressures on world food prices, create additional employment in countries where continuously rising unemployment poses a serious threat to political stability, and raise income and improve nutrition for the poorest portion of humanity— the people living in rural areas of the developing countries.

The urgency of the food problem is underscored by increasingly frequent reports of starvation in sub-Sahara Africa and of food riots in Asia. Assuring adequate food supplies at reasonable prices may now be possible only through international cooperation. The disappearance of surplus food stocks and the return of idled cropland to production has removed the cushions that once existed as partial insurance against catastrophe for the poor and skyrocketing prices for the rich.

LAWYER BILL DRAWS FIRE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. WILLIAM D. FORD. Mr. Speaker, on June 12 we passed legislation to amend the National Labor Relations Act to permit contributions to jointly administered trust funds established by labor organizations to defray the cost of legal services. This legislation would permit labor unions to bargain collectively for legal services as they do now for medical services.

Unfortunately, we amended this bill to require that only "open panels"—where clients could go to a lawyer of their choice—would be permitted. This amendment would preclude the use of "closed panels" or panels to which a union could pay a specified group of lawyers to handle legal services for all its members. An identical bill passed the Senate without the mandatory "open panel" language.

The mandatory "open panel" language is opposed by several groups, including the Consumer Center for Legal Services, the AFL–CIO, the insurance industry. It is also opposed by the chairman of the

American Bar Association's Pre-Paid Legal Services Committee.

As a member of the Conference Committee which considered this bill, I supported compromise language which would permit both open and closed panels.

An article which appeared in the July 9 edition of the Washington Star presents an excellent explanation of why we should not require only open panels, and I would like to submit the text of this article for the RECORD.

I hope my colleagues will have the opportunity to read this thoughtful article prior to the time we consider the conference report on S. 1423, and that we will be able to adopt the conference report by an overwhelming vote.

The article follows:

LAWYER BILL DRAWS FIRE

(By Miriam Ottenberg)

Top labor and consumer spokesmen charged today that the House has turned a measure providing inexpensive legal services for middle-income Americans into a "give-away" for lawyers.

At the same time, the National Consumer Center for Legal Services' executive committee, representing some 70 million people, says that if the measure is not changed during an upcoming House-Senate conference, it would rather have no bill at all.

The suddenly controversial bill would amend the Taft-Hartley Act to permit contributions to jointly administered trust funds established by labor organizations to defray the costs of legal services. Under the proposal, unions could bargain collectively for legal services as they now do for medical services.

The Senate-passed bill ran into truble on the House floor when Rep. Delbert L. Latta, R-Ohio, succeeded with an amendment to require that only "open panels"—where clients could go to any lawyer of their choice—would be permitted.

The Latta amendment, which he said would preserve the business of small-town lawyers, would eliminate all "closed panels" in collectively bargained union contracts. With a "closed panel," the union would pay a specified group of lawyers to handle all legal problems for its members.

The House action has prompted a growing storm of protest. Opponents noted that a week later, the House took exactly the opposite position during debate over creation of a Legal Service Corp. for the poor when Rep. John B. Conlan, R-Ariz., offered an amendment providing for "open panels" or free choice of attorneys to serve poor clients.

Conlan remarked that his amendment was parallel to the Latta amendment. But the House had changed its mind. While the Latta amendment had passed by a vote of 279 to 126 on June 12, the similar Conlan amendment was defeated by a vote of 74 to 22 on June 21.

Commented one union official: "The government, which has to finance the Legal Service Corp., is not giving free choice of lawyers because it's not economical, but Congress is saddling unions and employers with free choice of lawyers which may make them reject the plans entirely.

Mrs. Helen Nelson, president of the Consumers Federation of America, also stressed the cost factor.

"Mandatory open panels are no way to go," Mrs. Nelson said. "The Latta amendment would make it impossible to realize the great reduction in cost of legal services."

Like others, she noted that open panels were not made mandatory when medical services were brought under the Taft-Hartley Act. Unions could either sign up with the open panels of Blue Cross-Blue Shield or the closed panels of Group Health Associations.

The consumer spokesman said if it was a choice between the bill with the Latta amendment or nothing, "I'd take nothing and go back next year to try again."

That's also the position taken by the executive committee of the National Consumer Center for Legal Services, although some of its members have pushed for the legislation for several years.

Hugh G. Duffy, the center's executive directors, said it was the unanimous sense of the executive committee that if the Latta amendment stays in, the bill should be defeated.

The organized bar, however, doesn't like the Latta amendment.

"It's really self-defeating," said William McAlpin, chairman of the American Bar Association's Pre-paid Legal Services Committee." It means fewer legal service plans. Unions tend to shy away from open panels.

"The labor movement won't support mandated open panels as the exclusive method of delivering legal services. Having fought for the constitutional right to have their own panels of lawyers, you can't blame them. This amendment is an illusory bonanza."

Philip Murphy, staff director of the ABA's committee, agreed with union spokesman that "what the Latta amendment has done is turn a people's bill into a lawyer's bill. Such action does not improve the image of lawyers in the eyes of the American public."

Legal service plans are still in an early stage of experimentation with open, closed and mixed arrangements being tried.

The insurance industry, now beginning to offer legal insurance, also had an official speaking out against the Latta amendment.

Lee Morris, vice president of Insurance Co. of North America, said the amendment's ban on closed panel plans was "extremely deleterious".

Lee Morris, vice president of Insurance for the AFL–CIO, argued that in order to experiment effectively with legal service plans, there must be many options.

"I think a mandatory open panel is disastrous," he said, "because it would prevent the most essential part of pre-paid legal services, which is a choice of plans."

WALTER E. FAUNTROY INTRODUCES THE DISTRICT OF COLUMBIA FREEDOM OF INFORMATION ACT

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. FAUNTROY. Mr. Speaker, on June 28, 1973, I introduced the District of Columbia Freedom of Information Act. The purpose of the bill is to assure the maximum availability of public records in the District of Columbia without unreasonable bureaucratic delay. Fundamental to the concept of democracy is the people's right to know how their government is operating. By gaining access to government-held information, the public will be able to exercise their right to participate in the decisionmaking process in a more informed manner and to know what their government is doing.

Under the proposed legislation, agencies of the District government would be required, upon written request, to produce government records and permit inspection and copying of them within 10 days of such request, unless the records are specifically exempted from disclosure under the act. Exempted records include trade secrets, confidential commercial and financial information, records which clearly invade personal privacy, and some law-enforcement investigative records. A denial of the request must also be given by the agency within 10 days of the request.

Where a person is denied access to government information by an agency, an appeal can be made to the Commissioner of the District of Columbia. He must respond within 20 days of the date the appeal was filed to determine if the agency denying the request acted properly. If information was improperly withheld by the agency, the Commissioner shall order the agency to disclose the records immediately.

Where the Commissioner determines that the denial was proper or where the agency refuses to disclose after being ordered to do so, an appeal may be taken in the D.C. Superior Court on an expedited basis. In such a case, the agency has the burden of proof in sustaining the action. The court is empowered to assess reasonable attorneys' fees and costs against the District government when it does not prevail, and in other cases, to impose limitations on attorneys' fees.

The need for this legislation arises because of significant shortcomings in existing law. Federal freedom of information requirements are not applicable to the District of Columbia government. There are no statutory procedures regulating public disclosure of D.C. government documents, although there is a Mayor's executive order, issued on November 2, 1971, which provides for public access to District government information in a manner similar to Federal law. The Nelsen Commission recommended that a statutory approach to freedom of information replace the executive order because of its numerous inadequacies. Its major drawback is that it can be revoked at any time, thus failing to guarantee access to local government information. There are also loopholes in the executive order which create problems in its application. For example, the definition of "agency" includes only entities of the District of Columbia government which are under the administrative authority of the Commissioner. This exempts certain D.C. governmental bodies which should be covered by a disclosure law. The legislation proposed today cures this problem by adopting the more comprehensive definition of "agency" found in the D.C. Administrative Procedures Act and includes the Washington Metropolitan Area Transit Authority as a D.C. Administrative Procedures Act and includes the Washington Metropolitan Area Transit Authority as a D.C. agency.

Furthermore, the executive order fails to provide for judicial review where the D.C. government upholds an agency's decision denying access to requested documents or where an agency fails to comply with an order compelling disclosure. The bill provides for judicial review in the D.C. Superior Court under such circumstances.

Although the bill is largely modeled after the executive order and the Federal Freedom of Information Act, it attempts to eliminate the defects in these laws. The bill adopts recommendations from the Nelsen Commission, as well as recommendations to improve Federal law proposed by Congressman Moorhead's Subcommittee on Foreign Operations and Government Information. It is my hope that the adoption of such well researched recommendations will result in a successful bill guaranteeing freedom of information for the citizens of the District of Columbia.

FAMILY REUNION DAY

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. BRAY. Mr. Speaker, on August 12, for the sixth consecutive year, Family Reunion Day, originated by Kiwanis International and the Freedoms Foundation, will be observed.

I am happy to call attention to this most worthwhile event. Following is the release from the general offices of Kiwanis International:

FAMILY REUNION DAY

The Nation's most basic social unit will be the object of attention across the United States and Canada on August 12.

Family Reunion Day recognizes the family as the cornerstone of society. The day will be celebrated with family get-togethers, picnics, outings and patriotic events. The holiday is supported by scores of service and fraternal organizations, veterans, patriotic, youth and religious groups to dramatize the family as the keystone of strength and morality in our nation.

When President Lyndon B. Johnson proclaimed Family Reunion Day in 1968 he said: "I urge all people to support those actions that will strengthen the family, and to celebrate this day with such ceremonies as will re-emphasize our continuing belief that family life is the highest and most enduring product of our civilization."

Family Reunion Day was originated by Kiwanis International and Freedoms Foundation at Valley Forge. Freedoms Foundation's president, General Harold K. Johnson, USA (Retired), emphasized the importance of the family, saying "Families are the basic unit of society. They are the wellspring of the nation's values and its moral strength. Our capacity to love our fellow man, our sense of integrity, our regard for the dignity of the other person, and our respect for authority are learned first in the family circle." General Johnson continued: "The emphasis each of us can give to the family on this day is a constructive action. Strong families are our most valuable asset as we work to improve the quantity of life in every community."

"No institution is as old or has made such important contributions to the evolution of society as the family," said Kiwanis International President Lorin J. Badskey in a recent statement. "We can be proud of the fact that Kiwanians have been the leaders in initiating the Family Reunion Day idea and all that it stands for—the affirmation of the family as the ultimate influence in teaching good citizenship, morality, and personal integrity to our children and to succeeding generations. I therefore urge every Kiwanian to plan a family reunion and every club to encourage participation to demonstrate our belief that the family is the keystone of a strong community and nation."

Some of the activities suggested for families on August 12 include: family dinners, picnics or outings with children, grandchildren, aunts, uncles and cousins; getting the family up to date on addresses, births, anniversaries, deaths and other family events; patriotic activities such as familiarizing the youngest family members with our historic documents and events in national and local history; the development of family research projects so that youngsters know more of their grandparents and great-grandparents; everybody in the family getting together for at least part of the day; family worship together in the manner of their choice; renewing contact with family members in other parts of the state or country by phone or mail.

NO DECENCY LEFT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. KEMP. Mr. Speaker, one of the most execrable displays of callousness to be seen on television since "Peyton Place" occurred last week during the Watergate hearings. Millions of Americans must have been dismayed to see Mr. Lenzner, a self-styled paladin, practicing the very things the Watergate hearings are supposed to help destroy—arrogance, rancor, vindictiveness, insensitivity, in short, political evils in their multifarious forms.

Using the "search for truth" as the aegis for intensive questioning, Mr. Lenzner lost credibility fast, as is inevitable when such fundamental humanist sentiments as compassion and kindness are disregarded. When humility yields to arrogance, when maliciousness replaces inquisitiveness, when crudeness supersedes civility and when respect submits to pride, "the search for truth" becomes a euphemism for McCarthyism.

William Safire explained the condition well on the editorial page of the New York Times. The Moore-Lenzner incident is significant only insofar as we learn from it. In that spirit, I include it in the RECORD for perusal.

The editorial follows:

NO DECENCY LEFT

(By William Safire)

WASHINGTON.—A vicious attack by a 33-year-old Democratic lawyer, bedazzled by his moment in the limelight, upon the only witness to come before the Watergate committee with clean hands—an upright, respected, gentle human being of 59 named Richard Moore—is proof that the purpose of the Ervin committee is not to bring out the truth but to bring down the President.

Richard Moore, of all the men on the White House staff, comes closest to being a hero on the Watergate matter, when in March he had evidence that a crime was being covered up, he urged the man who knew most about it—John Dean—to go to the President and tell him all he knew. One reason Dean then did so, after nine months of duplicity, was the knowledge that if he did not immediately spill all he knew to the President, Richard Moore would go in with whatever he had.

So there was Moore, a man not "involved"; not seeking immunity; not the target of an investigation; a man of substance and lifelong good repute, and a witness to some crucial meetings between Mr. Dean and the President, coming before the Senate committee.

Moore had been told on Monday evening that he would be called to testify on the coming Thursday. He began preparing his testimony, but was interrupted the next day by Special Prosecutor Archibald Cox, who wanted his information first and took most of the next day. That left Moore all day Wednesday to get ready for the Ervin committee, and he concentrated on the period central to the whole investigation—"what the President knew and when he knew it."

After a few hours' sleep Moore went to the committe; briefly, at lunchtime, committee lawyers went over the area of testimony to be covered that day, centering on the crucial March meetings with the President and Dean.

Then Moore's turn came. His prepared statement refuted John Dean's central conclusion that the President was aware of the cover-up. Moore said no; the first the President had known was on March 21, 1973, when Mr. Dean came clean.

Then young Terry Lenzner tore into him—not into the blockbuster testimony Mr. Moore had just given, nor on the matters about which Moore had properly been concentrating, but on some meetings that had taken place on another subject over a year ago. The line of questioning was a non sequitur; it had nothing to do with the matter at hand; in the language of football he "blindsided" the witness.

Moore was taken aback; Lenzner bored in with demands for dates and facts on an extraneous matter, effectively confusing and thereby discrediting the witness—after all, had not John Dean come equipped with every fact and date at his fingertips?

Next day, under questioning by others who wanted to find out what evidence he could contribute, Mr. Moore answered with some wit and the kind of occasionally precise recall that has an honest ring, and contrasts sharply with the carefully rehearsed stories of con men out to save their skins.

Because Moore did not lash into anybody, because his subsequent testimony showed he is a person not motivated by hatred, the unfairness of the attempted humiliation by Lenzner was underscored.

The thought must have occurred to many viewers of the two men in confrontation, who would be a better adviser to any President of the United States?

Terry Lenzner, born to wealth, captain of the Harvard football team, protégé of Ramsey Clark and lawyer to the Rev. Philip Berrigan, is the essence of radical chic. He is a man on the make who strikes the pose of a stern guardian of civil liberties but who has shown he has not the most rudimentary understanding of fairness and civility in human relationships.

Richard Moore, whom he sought to discredit, emerges from the hearings with dignity, good humor, and integrity intact. Viewers who do not automatically assume anybody connected with Mr. Nixon to be evil see Mr. Moore as the kind of man Presidents need to protect them from the gung-ho, ends-justify-the-means "team players" who flutter around the center of power.

The fury of the attack on a good man who did the right thing recalls the pivotal question asked by Joseph Welch, a man like Mr. Moore at the Army-McCarthy hearings a generation ago: 'Have you no decency left, sir?"

The Lenzner attack—which Senator Ervin made no effort to stop—is sure to be mentioned when the President confronts the Senator, and, with personal civility and all constitutional respect, tells him where to get off.

FEDERAL RESOURCES FOR HUMAN STERILIZATION

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. DICKINSON. Mr. Speaker, today the former Acting Director of the Office of Economic Opportunity, Howard Phillips, submitted a statement to the Senate Subcommittee on Health of the Committee on Labor and Public Welfare presenting his views concerning the use of Federal resources for human sterilization.

I found Mr. Phillips' remarks most interesting in light of the recent sterilization of two young girls in Montgomery, Ala.

I insert Mr. Phillips' timely remarks in the RECORD.

The remarks follow:

STATEMENT OF HOWARD PHILLIPS

Mr. Chairman: I appreciate the opportunity to present to the subcommittee my views concerning the use of Federal resources for human sterilization.

As one who is morally opposed to human sterilization as a profane tampering with the divinely bestowed gift of procreative capacity, I have consistently and adamantly, throughout my service with the Office of Economic Opportunity, opposed any use of agency funds for such purposes and argued in favor of grant conditions and regulations completely barring such activities.

It is a source of concern to me that the current debate about sterilization has focused, not on the fundamental issues of whether Federal funds or government subsidized personnel should be available for such purposes, but instead on the ancillary question of procedural aspects of sterilization activities.

It is quite simply wrong for the government to give life and death power to some, over the lives of others. Whatever procedural requirements may be set forth, some abuses will almost inevitably and tragically result. It is one thing to give poverty bureaucrats and social workers the authority to advance their own notions of what is best for others on matters of life style, education, or legal representation, and quite another to assign them power over basic questions of life and death. I oppose such vesting of power in all respects. With respect to sterilization, it is totally abhorrent.

If the poor are to be truly equal citizens of a free nation, they must be able to personally make the decisions which shape the courses of their individual lives. The time must come when we recognize, as a matter of public policy, that we do not meaningfully aid the poor by arbitrarily delegating to others the power to act in their names or on their behalf. This is true whether we speak of legal services staff attorneys or health services staff personnel.

Unless the poor, through vouchers and other means, are granted the economic leverage and power of making choices concerning the activities of those who are funded by the Federal bureaucracy to serve them, they will continue to be treated as second class citizens, colonials, subordinate to the "well intentioned" professionals who are assigned by the bureaucracy to oversee their lives and determine what is best for them. There is no sound reason why public policy should require the furtherance of Federally subsidized service monopolies, with all the disadvantages normally incident to monopoly. To truly empower the poor, we must abandon this approach and apply available resources in such a manner as will allow the poor to purchase services for themselves in the economic market place.

The tragedy in Alabama is the sad consequence of misguided Federal activities, which have not been directly relevant to the alleviation of economic poverty but which have instead served to underwrite poverty professionals to advance their personal notions of what is good for the poor.

Let us hope that out of this tragedy there will flow appropriate action to prevent any recurrence. A flat statutory ban on any such activities being undertaken with Federal funds is, in my view, a necessary step.

VETERANS OF FOREIGN WARS MAGAZINE

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. SEBELIUS. Mr. Speaker, in the July issue of the Veterans of Foreign Wars magazine, there appears an article by Ronald G. Bliss about a young man whose example, I am sure, can serve as an inspiration to all Americans.

Maj. Ramon Horinek of Atwood, Kans., is a former prisoner of war. As the article states, there are no medals for those who dared to make speeches or for those who resisted torture the longest within the North Vietnamese prison camps. Since coming home, however, Major Horinek, in the eyes of his Kansas friends and neighbors, has become a symbol of courage and strength.

In this day and age, many are questioning and challenging our system of government and our values. The example of Ramon Horinek, however, is strong evidence that dedication to principle and personal sacrifice are not a thing of the past. I commend the following article to the attention of my colleagues. It tells the story of a truly great and dedicated American.

The article follows:

I'LL DIE IF I MUST

(By Ronald G. Bliss)

The Pentagon listed him as one of its most decorated officers; the North Vietnamese called him Ho, and fellow POWs remember him as one of the bravest men to emerge from the prisons of North Vietnam. His ringing words when their morale was at its lowest ebb will never be forgotten.

Air Force Maj. Ramon Horinek, of Atwood, Kans., a former enlisted man, has added new luster to an already glistening military record after surfacing from 5½ years as a prisoner of war.

Before his capture, he served two tours of duty in Southeast Asia and was one of only 16 awarded the Air Force Cross and one of only three living Americans to earn the medal for extraordinary heroism.

He won the AFC for bravery when the North Vietnamese overran an Air Force camp by directing air strikes against the onrushing enemy from an unarmed single-engine observer plane. When it was hit he flew the crippled aircraft to a secure landing strip, jumped into a second observer plane and guided additional air strikes. The second one also was shot down. He glided it to a clearing, grabbed a radio and from a hilltop continued to direct strikes on the advancing North Vietnamese. When Maj. Horinek realized the battle was hopeless, he called for bombs on himself and his position. He escaped seconds before the massive bursts began and crawled through elephant grass to a helicopter and safety.

The AFC is just one of many medals awarded the ex-college halfback. He also gained early prominence in the space program, spending a month underground in a space capsule simulator. He was on the astronaut preferred list until he volunteered for Vietnam the first time. He was on his third tour of duty in Vietnam on Oct. 25, 1967, when his plane was shot down near Phuc Yen airfield about 50 kilometers northwest of Hanoi.

A feeling of helplessness engulfed the major as he floated down over a village after ejecting from his damaged F–105 Thunderchief at 2,500 feet. When villagers below shot at his descending parachute, he fired back a few shots to scatter them, but as he crashed to earth, his weapon was knocked from his hand. As he struggled to release his parachute harness, the villagers immediately surrounded and beat him with clubs. His left ankle was broken in several places and he was repeatedly clubbed until he feigned unconsciousness.

Stripped of his flight suit, watch, ring and boots down to his tee-shirt and shorts, he was roped and blindfolded. The villagers carried him to the hamlet and placed him on a stump. When the blindfold was removed, Horinek found himself facing a firing squad. Several agonizing minutes passed while the marksmen aimed and re-aimed and then fired. No bullets ripped into his chest, only the hollow clicking of empty rifles, followed by loud laughter from the villagers. After the mock execution, he was blindfolded again and taken by jeep to the top of a hill. Because of the painful broken ankle he could not walk. Instead of carrying him down the hill, several Vietnamese pushed him to the ground and rolled him to its base. He was then thrown bodily into the house of an elderly Vietnamese, still blindfolded and trussed up with wire and rope. His moans attracted the old man who loosened the bindings. Maj. Horinek credits this with saving both his arms.

The next morning he was taken directly to Hanoi to begin what he termed his worst week in his 5½ years as a prisoner. Torture started immediately in his first encounter with an expert interrogator nicknamed "Straps and Bars" and an officer called "The Bug." They were to be his constant companions for several days. Their deeds would be starkly relieved in agonizing dreams that awaken him screaming in a cold sweat.

He was tormented for hours with the notorious rope trick. His arms were tied behind his back so tightly his shoulders almost touched. The rope was then put around his neck and legs. When "Straps and Bars" noticed his broken and swollen ankle, the binding was wrapped tightly around it and pulled taut so his head rested on his ankle. Left for hours at a time curled tightly in this grotesque position on a cement floor, Horinek slipped in and out of consciousness when the pain became too intense. If the position didn't look painful enough, the interrogators would pull the rope even tighter.

A metallic gag was crammed forcibly into his mouth to cut off breathing except through the nose. A strap around his head held the gag tightly in his mouth and he worried constantly about choking. To avoid this he broke several teeth to prevent the gag from slipping too far back into his throat. The interrogators left the room for long periods of time. If he vomited when left alone, he would certainly strangle to death.

Without water or food for seven days, he lost 50 pounds from his 190-pound frame. Tortured around the clock to learn of bombing targets, Horinek still refused to talk. He was allowed no sleep during his grueling week. He was forced to stand on his broken ankle with his hands chained above his head while his feet barely touched the floor. He was beaten repeatedly in this position. During one session the bone in his left leg was chipped below the knee and the thigh bone was cracked. A tire carcass was used as a paddle.

"I used to count the number of times to see how far I could go before screaming out," said Maj. Horinek. "It usually was about 25."

The interrogators, realizing any pressure on the broken ankle and leg would add further pain, placed both ankles in iron manacles and forced his head between his knees. Then they lifted and dropped him to the cement floor. He passed out on each drop.

By the end of the initial torture sessions, he had not received a change of clothing and was still clad in his soiled tee-shirt and shorts. Temperatures had dipped to 38° at the beginning of one of the worst winters he was to experience in the open windowed, cement prison. He spent many of these cold nights sleepless, using any means to keep warm. In the daytime when the temperatures rose, he would try to get as much sleep as possible.

On the seventh night, he was brought some sugar on a paper, but he couldn't eat it because he was too thirsty. The following day he was moved into a solo cell where he was finally given a few drops of water and some soup. On the 10th day came two blankets, two long uniforms, mosquito net, cup, toothbrush and toothpaste.

After six days of torture, Horinek told his captors he would not sign a confession or seek amnesty of any kind, but he would write a biography. He was set at a table, but he could not write because his arms were paralyzed. Returned to a solo cell, he regained enough use of them a week later to write the biography they wanted. In his account, Horinek did not list any of his family, except his parents. When the guards discovered he had children, he had to rewrite it. Instead of fellow officers, he named people he knew from his hometown in Kansas. "A lot of Atwood people got promoted. Local bankers suddenly became colonels and friends became fellow pilots. National sports figures suddenly joined the military."

CHRISTIANS ARE CITIZENS, TOO

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. BRINKLEY. Mr. Speaker, on the Sunday preceding Independence Day many churches across the country conducted special patriotic services. My home church, the Edgewood Baptist Church of Columbus, Ga., was no exception. The following article printed in our July 1 church bulletin entitled "Christians Are Citizens, Too" certainly provides good instruction and I commend it to the attention of my colleagues.

The article reads:

CHRISTIANS ARE CITIZENS, TOO

One preacher, at a political rally in an exciting political campaign, is said to have prayed, "O Lord, give us good men in government, honest men, righteous men, just men, upright men who . . . Oh, Pshaw, Lord; what's the use of beating the devil around the bush? Give us George W. Johnson for Governor."

Such political partisanship compromises the church and fragments the fellowship. The United States of America does not need so-called Christian political parties in the European tradition. It does not need blind partisanship. It does not need a silent and apathetic majority.

This nation does need Christians who are politically aware, politically informed, politically active, politically involved, and politically responsible.

It has been observed that too often while saints are engaged in pious introspection, burly sinners run the world. Christians, called to be God's yeast in an unleavened world, must not leave the running of the country and the world to unbelievers. What can Christians do?

Mix religion and politics according to a recipe that keeps religion true to God and politics up to its best potential.

Understand the issues, for without knowledge of the issues Christians are politically paralyzed.

Be politically active, for the benefit of government and also for the cause of Christ.

Work with special interest groups whose goals are morally commendable.

Run for office or support responsible people who do.

Vote carefully.

Maintain a higher loyalty, realizing that the Christian's highest loyalty is to God and to God alone.

NOW—HATLESS PRIEST FIGHTS ALCOHOLISM

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. LONG of Louisiana. Mr. Speaker, I would like to share with my colleagues an article which appeared in the Alexandria, La., Daily Town Talk on July 8, 1973. The article is about the Reverend Father J. Garvan Cavanaugh, a Catholic priest and a truly unusual and extraordinary person.

The article which was written by Mr. Curtis Jerry Humphries follows:

NOW—HATLESS PRIEST FIGHTS ALCOHOLISM

(By Jerry Humphries)

Father J. Garvan Cavanaugh made the national news in 1961 when he was ordained a priest at age 53, giving up his post as head of a giant hat manufacturing company and three other "smaller" firms.

Since then he has led a quieter life, doing just what he set out to do when he became a priest—"helping others."

The slender, energetic Cavanaugh, who looks and acts younger than 65, is a priest "in residence" at St. Francis Xavier Cathedral.

His job is counseling alcoholics, addressing groups on problems of alcoholism and recommending ways of combatting it, and generally fighting the disease of alcoholism on a variety of fronts.

Last year, he became the first chaplain of the Rapides Parish Jail.

His residency at the Cathedral and his special work are possible, he said, as result of permission from his "beloved Bishop Charles Greco."

The soft-spoken, witty man of the cloth is modest. He much prefers talking about his activities as a priest over activities of the businessman he had been for 25 years.

In addition to being vice president and director of Cavanaugh Hat Corp. headquartered in New York, Cavanaugh had been a member of the Connecticut legislature. He is a native of Norwalk, Conn.

He was elected to the legislature in 1940 and resigned in 1941 to go in the Army. "I was the first legislator in the country to resign and join the Army (to fight in the war)," he commented.

In the Army, Cavanagh served five years, including 11 months of combat duty in five major campaigns in Europe. Three times he was decorated for valor. He left the Army with rank of lieutenant colonel.

HELD STATE POST

When Cavanagh got out of the Army, he was appointed to the Connecticut State Parks & Forest Commission on which he served two six-year terms. And while in Connecticut he was a member of the American Chemical Society.

Later, while running the businesses in New York Cavanagh was active in civic affairs. He was a member of the Chamber of Commerce and was a deputy commissioner of commerce advisory position in New York City.

For almost three years now, he has applied his knowledge of alcoholism in the Alexandria area.

His knowledge of the problems of the disease has been a valuable tool in counseling prisoners, he explained.

About 75 percent of the persons confined in the parish jail, he said, are arrested on charges that are in one way or another connected to alcohol.

For example, he asserted, a thief will steal to support his addiction to alcoholism.

Father Cavanagh has also worked with alcoholics who take temporary residency at Bridgefield House, a "half-way" house established here about two years ago.

But according to Cavanagh, prisoners and men who seek help at half-way houses represent only about five percent of the alcoholics in the country.

"Ninety five percent are still functioning—most have jobs," he explained.

An alcoholic, he said, is "one whose continued drinking adversely affects his relationship with his family, his business, his community life and or his relations with the law."

There are about seven to nine million alcoholics in the United States, he noted.

NUMBER ONE ADDICTION

Alcoholism is the number one addiction problem in the country and almost every person "comes in contact with the problem, either personally or among their families, relatives or friends."

Alcoholics can be helped, said Cavanagh, "but the most difficult barrier in helping the alcoholic is to get him or her to admit that the problem exists."

When the New York Herald Tribune reported in 1961 that Cavanagh was one of the wealthiest men in the nation and that he was becoming a priest who would serve in an "impoverished" Central Louisiana parish, Cavanagh disagreed on both points.

"There were no millionaires in the hat business except for maybe a couple and they made it by buying oil wells," commented Cavanagh in this profile interview.

Asked if he had been "wealthy," he replied, "I was merely well to do."

And he certainly disagreed with the report that this was an "impoverished" area.

Why did he decide to become a priest?

The New York newspaper item—which made newspapers nation-wide—quoted him as saying that there was more to life than just "piling dollars on dollars."

He explained it differently in the interview for this profile.

"I wanted to look back on life as having helped someone else," he commented. "The decision was more a logical one than an emotional one. I asked myself what should a bachelor of 45 do with his life. I was full of vigor. I looked at the priesthood and saw there was a need for priests in the South."

Father Cavanagh's seminary studies in Rome were a well-kept secret, not becoming public until just a few days before he was to be ordained in 1961.

After being ordained he was assigned to St. Francis Xavier Cathedral here. Soon afterwards he was assigned to Rome where he worked in the Vocations Division of the Congregation of Seminaries and Universities.

He came back to Louisiana in 1963 and spent the next two years at St. Teresa Catholic Church in Shreveport. Next he was assigned to St. Joseph in Mansfield for a year. Then he spent two years at Our Lady of Fatima in Monroe. His next assignment was administrator of Our Lady of Sorrows in Pineville where he served until 1966.

For the next four years, Father Cavanagh (who had for years been interested in the problems of alcoholism) attended schools, including Rutger's University in New Brunswick, N.J. and the University of Utah. From both of those universities he received certificates as an alcoholic counselor.

And he did clinical work at Georgian Clinic in Atlanta and at Connecticut Valley State Hospital. He also worked in a private alcoholic recovery center in Pennsylvania as a counselor.

FURTHER OEO IMPACT

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. BREAUX. Mr. Speaker, as the House of Representatives considers whether or not to continue the programs instituted and maintained under the Office of Economic Opportunity, I would like to submit for consideration more evidence that the OEO concept is a good one and needs to be retained for the benefit of the underprivileged in the United States.

There are many reports of bad management and fiscal waste within the program and no doubt much of such criticism is justified. But it is important that we realize that OEO programs do exist which have proven of great help to communities across our land and which demonstrate that, if administered properly, OEO is a necessary and effective method of combating poverty.

An example of this is the Jefferson Davis Community Action Association, Inc., of Jennings, La.—a community and parish in the Seventh Congressional District of Louisiana which I represent. Let me share with my colleagues in the House and the public at large some of the accomplishments of this organization.

During the past year, more than 76 percent of the poverty population in Jefferson Davis Parish, or 8,093 individuals, benefited from the services of this CAA agency. A total of 103 families were removed from the poverty rolls, thereby representing a substantial annual savings to taxpayers, since 47 of these families previously were recipients of welfare.

The agency was responsible for placing 343 persons in jobs during the fiscal year. Through its programs, incomes in the parish are increased annually by an amount greater than that of the OEO funding portion of the agency budget.

Soon the community of Jennings will be the site of a new textile plant, Glen Oaks Industries. Employment in this industry will reach 450 individuals. The agency provided the Industrial Inducement Committee of the Jennings Association (Chamber) of Commerce assistance which resulted in the location of Glen Oaks Industries.

Using a 1-year planning grant from OEO, the Community Action Agency was instrumental in organizing the Imperial Calcasieu Regional Planning and Development Commission, an organization of several regional parishes devoted to economic and community betterment in southwest Louisiana.

Again let me stress the importance of considering the Office of Economic Opportunity, not from the standpoint of its failures, but from the standpoint of its successes. The sins of the few should not become the penalties for the many.

Our diligent consideration of a strong, well-administered program can help assure the continued better life for all Americans. The OEO in Jeff Davis Parish is helping to accomplish that.

THE MISSING IN ACTION

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. SIKES. Mr. Speaker, the story of America's missing-in-action, the MIA's, is one of the most tragic chapters in our history. Because so little is carried in the news media about the search which is being conducted, it is well to be reminded that the U.S. Government is not overlooking any possible source which may provide information about these individuals. Their families still live in suspense and although hope is waning, they continue to wait and pray for the return of their loved ones.

Air Force magazine of July 1973 carries a clear accounting of the work in progress to search for MIA's. I submit it for reprinting in the RECORD:

THE MISSING IN ACTION

(By John L. Frisbee)

As this is written, 1,284 American families live in uncertainty as to the fate of their men who are missing in action in Southeast Asia. More than half of the missing are Air Force men.

According to Dr. Roger E. Shields, Special Assistant to the Secretary of Defense on Prisoner of War Matters, there has not been a "complete and accurate accounting for our men," as required by the cease-fire agreement signed in Paris last January. Some who were photographed while POWs in North Vietnam have not been returned or their status reported. Only nine of the more than 300 Americans lost in Laos have been accounted for.

The overwhelming majority of the missing probably are dead. But some may survive. Thus, there remains a desperate, cruelly elusive hope in the minds of MIA families. A full accurate, and speedy accounting is imperative.

But that is only part of the problem. Another part is the recovery of the remains of those who died in Hanoi's prisons or were killed in action. North Vietnam pledged at Paris to help in this undertaking.

To investigate the circumstances surrounding the loss of those who probably were killed in combat and to recover their remains, the Department of Defense has set up a Joint Casualty Resolution Center (JCRC) at Nakhon Phanom in northeastern Thailand. Under normal conditions, the task of the JCRC teams would be staggering. Most of the missing were involved in air crashes. There are at least 1,000 crash sites, many in jungle areas that are booby-trapped and strewn with unexploded bombs and shells.

Conditions are, however, far from normal. About ninety percent of the crash sites are in areas controlled by North Vietnam or the Communist organizations it supports elsewhere is Southeast Asia. Fighting still goes on in some of these places. So far, six months after the cease-fire, the JCRC teams have had little success in getting to any of the sites.

The Vietnam MIA situation is quite different from that following World War II. In that war, our opponents observed the Geneva Convention, admittedly with varying degrees of compliance. POW's were accounted for much more accurately than has been the case in Vietnam. Germany and Japan, defeated and occupied, were cooperative in helping account for the missing and recover bodies. Now, getting complete lists and obtaining permission to comb the crash sites is totally dependent on the voluntary cooperation of the North Vietnamese and their associated Communist organizations. That cooperation has not been forthcoming.

In recognition of these facts, the Department of Defense has proceeded at a commendably slow pace in changing the status of a missing man from MIA to "killed in action." Of the 2,400 who have been classified MIA during nearly eight years of large-scale US participation in the war, some 1,100 have been reclassified, based on eyewitness accounts and other incontrovertible evidence of death.

But the customary presumptive finding of death after a man has been missing for a year and a day has not geen generally applied. Some men have been carried in MIA status for many years. Only seventy-nine status changes have taken place since January. In this, we believe the Department of Defense has acted wisely and with proper consideration for the families of the missing. We urge that the remaining cases be handled with similar deliberation and thoroughness.

In obtaining North Vietnam's compliance with those terms of the cease-fire that relate to prisoners of war and missing in action, the President's bargaining chips grow fewer and smaller with the passage of time. Surely, North Vietnam's awareness of public concern for the fate of the missing and for the prolonged anguish of their families will add some value to his remaining chips. For our part, we will keep track of events and report on them in our "MIA/POW Action Report" so long as significant information is forthcoming.

The work of the League of Families and other responsible organizations in keeping the MIA situation before the public, and the League's function of liaison between the MIA families and the government, deserve our continued support, and they will have it.

The families of those missing in action have lived too long in their limbo of uncertainty. They deserve to know the fate of their men and, where that fate has been death, to have their loved ones returned with honor to their native land.

We owe to these families the same debt that we owed to the POW's and their families. That debt must not go unpaid.

SHOULD WORK OR WELFARE DRAW HIGHEST PAY?

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. COLLINS of Texas. Mr. Speaker, there is more thought on the editorial page of newspapers than any place in America. Friday while I was in Dallas, I read my Dallas Morning News and found a most thought-provoking article by Jim Wright. Jim Wright is assistant editorial director to Dick West at the Dallas Morning News. When we think of the name Jim Wright in Washington we immediately think of our distinguished colleague from Fort Worth who has represented Texas so well in Congress for all these years.

But the other Jim Wright in Dallas is a noted scholar and articulate spokesman for the American constitutional system of government.

I have included below the key section from an interesting editorial that he has written on the subject of excessive welfare. You will find this story most informative as written by Jim Wright in the July 13 Dallas Morning News:

Editorial

(By Jim Wright)

A couple of interesting statistics came out of Washington last week, from that great source of so many millions of uninteresting statistics, the federal government.

On the one hand, the Joint Economic Committee of the Congress released a report showing that a family of four on welfare in New York City would have to earn $11,500 in wages to match the living standard now provided them free by welfare—free, at least, to the recipients.

On the other hand, the Labor Department released figures showing that the average nonsupervisory worker in American industry earned $145.13 a week in June. That works out, via my old math, to a yearly wage of $7,546.76.

The welfare figure is not—I hasten to add—all cash in hand. It includes in addition to cash payments the value of food stamps, subsidized housing, medical care and other benefits that the welfare recipients receive.

However, it is also true—as any taxpayer would hasten to add—that neither is that average worker's pay all cash in hand. A big part of the difference between his supposed earnings and what he takes home to his wife, kids, and creditors is paid out in taxes to support the theoretically needy.

I say "theoretically" because there's some question about who is truly deprived, when the welfare client gets 50 percent more for doing nothing than the average rank-and-file worker gets for putting in 52 weeks on his job.

There are, to be sure, some complicating factors, such as the fact that the cost of living in New York City is higher than in most other communities. Nevertheless, on the face of the government's own figures, it would appear that the quickest way for a typical worker in American private industry to boost his family's standard of living in a hurry is to quit producing goods and services and began consuming them at someone else's expense.

It is a strange commentary on our values and attitudes at this stage in our history. For most of our history not only the economic rewards but the public attention and status usually went to the doers, the builders, the creators of wealth, the men and women who produced something useful.

The one thing that most of these schemes have in common is that they take away from those who create wealth—i.e., that $7,547-a-year worker—and give to those who merely consume wealth created by others—the New York City welfare family.

We have come a long, long way since the days of the Jamestown colony, whose inhabitants were told that "he who does not work does not eat."

The enormous strides made by the Japanese in improving their standard of living since the end of the World War II have been hailed as "an economic miracle." The Japanese miracle is similar to and somewhat greater than that wrought by our other World War II foe, Germany.

In some ways the economic performance of the two countries, both flattened under the ruins of war, does seem to be miraculous. But the essential method used by both to climb to the top is neither miraculous nor secret. It is in fact the same approach once used by the United States to grow from a backwoods colony to leader of the world.

In both postwar Japan and postwar West Germany the entire thrust of society, from government policies to public attitudes, has been to encourage production and reward the individuals who have worked and built and so made constructive additions to the country's progress.

This contrasts with our own society where the producer is not only punished and restricted by government laws and taxes, but derided and scorned by the media and the arts. The American worker sees himself portrayed as a hard-hat Archie Bunker or a brainless pawn. The farmer is rewarded for his success at producing food and fiber by elitists who describe him as a redneck. As for business and industry, at times it seems that three fourths of the government and nine tenths of the communications intellectuals in this country are determined to prevent profits wherever possible and punish those who are guilty of earning any. The ecologists appear to view production and growth not as accomplishments but as crimes against the environment

The smart thing to do these days is to sneer at the Japanese "work ethic" and laugh at those factory pep squad sessions in which the Japanese workers get together to sing the company song.

NATIONAL RECOGNITION TO A JOHNSTOWN FIRM

HON. JOHN P. SAYLOR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. SAYLOR. Mr. Speaker, I would like to call the attention of my colleagues to an article in the recent issue of GO, the Goodyear Tire magazine. This publication has given national recognition to the outstanding accomplishments of the employees of the Del Boring Tire Service, Inc., located in my hometown of Johnstown, Pa.

Don McLaughlin, president of the local company, has provided the firm with innovative leadership. One of his successful techniques has been to place a major burden of responsibility upon young men in the company. In his own words he stated:

> If a company is going to grow, it needs young people . . . give them a challenge and responsibility you feel that only you can handle . . . and he'll do his darndest to measure up. Generally he'll do so well that he'll surprise himself.

Two young men who have been influential in the company's success have been Pat Hawkins, who developed a vast new market for a Goodyear product used in the mining industry and; Larrie Weaver, who performed a remarkable job in marketing motorcycle tires.

I take this occasion to congratulate all employees of the Del Boring Tire Service for their high standards of performance as recognized by their customers and Goodyear, and wish them continued success in the future.

I call upon my colleagues to examine the story, "An Accent on Youth—Challenge Drives Del Boring Deep Into New Markets," by Larry Miller:

Challenge Drives Del Boring Deep Into New Markets

(By Larry Miller)

Far below the lush, green hills of south central Pennsylvania, a legion of men gnaw at the earth's riches, tunneling through the depths like a colony of giant ants.

Meanwhile, a nation of people only vaguely aware of this underground work depends on these men for much of the power to supply the "creature comforts" Americans consider necessities.

The men are mining coal.

Four hundred feet beneath the picturesque countryside around Johnstown, Ebensburg, Spangler and Hastings, the earth hums with the sounds of coal mining.

Working in miles of tunnels that weave a subterranean pattern like hollow strands of a giant fishnet, miners chip away millions of tons of coal, gently easing it from under the mountains that have held it captive for eons.

Today's miners move coal at a pace that would leave old timers of the industry shuddering in disbelief. Electric carts whir through the 40-inch-high passageways, hauling tons of coal from continuous mining machines to a conveyor belt.

The continuous miner is a steel beast with an insatiable appetite for coal. It creeps forward as it gnaws into the wall of coal, steadily expanding the tunnel as it goes.

A steady procession of low-slung shuttle cars scoop up the coal disgorged by the mining machine, and they haul it to the moving conveyor belt for its trip to the surface, several miles away.

"Are those shuttle cars important?" Nick Letizia, superintendent of the Greenwich Collieries Company mine near Ebensburg repeats the question he has been asked.

"You damn betcha they're important. If we didn't have those shuttle cars down there, we wouldn't be in the coal mining business," he says.

Letizia illustrates the value of the coal shuttle machines by explaining that downtime on such a machine costs as much as $50 a minute.

This high downtime cost is a key sales tool for Pat Hawkins of Del Boring Tire Service. He has charge of Permafoam tire sales and service for the Goodyear dealership located in Johnstown.

Hawkins, 24, is a young man who has developed his own market. It's his baby. Now he's watching it spring from infancy to full-bloom maturity, "almost overnight."

Developing a market for Permafoam tires in the mining industry was not a sweet deal that Hawkins simply "fell into." He studied the mining industry, studied the product, projected and compared costs and savings, then went out to sell.

"At first it took a lot of hard work to sell Permafoam tires," he says. "Although there was a tremendous need for such a tire, some mines had tried a competitive product and it had failed miserably.

"So the word got around that 'foam tires' were no good. I had to convince the miners that Goodyear's Permafoam was in a league by itself.

"And once they tried a set of the tires, my selling problems faded away. After that it became a matter of filling orders to equip more machinery at the mine with Permafoam tires."

The sequence is repeated nearly every time Hawkins calls on a new mining account, but today he's greeted with less skepticism. Miners in the area are learning that Goodyear has a "foam tire" that works, and the "kid from Del Boring" is the man to see.

Hawkins' success in the tire business is not an unusual occurrence at Del Boring.

Another example is Larrie Weaver, who heads the company's motorcycle tire sales division. Two years ago the company was moving motorcycle tires about as fast as it moves snow tires in June.

"We'll sell 200,000 cycle tire units this year . . . easy," says Weaver, looking over sales figures for the first five months of 1973.

Weaver's case may—on the surface—look like just "another lucky break," but there's more to the story.

The big reason for his and Hawkins' exuberant success is the attitude of Del Boring President Don McLaughlin toward his employes and his company.

"If a company is going to grow, it needs young people. And it has these young guys but keeps them under tight rein and inhibits their enthusiasm and creativity, it's still not going to go anywhere," he says.

"Treat a guy as if he were a slow, incompetent jerk, and he'll never strive to be anything more.

"But give him the challenge and responsibility you feel that only you can handle . . . and he'll do his darndest to measure up. Generally he'll do so well that he'll surprise himself."

McLaughlin has put his theories into practice.

Not many dealers would entrust the development of a brand new market to a teenager.

But Weaver was still in school when McLaughlin called him in and said, "I have a stack of motorcycle tires around here and I want to see them go out the door. See if you can move them.

"If you can . . . and you find a market that's worth getting into, it's your baby."

The rest is history. Today Del Boring is the second largest distributor of Goodyear motorcycle tires.

"Now, just because a guy is young doesn't mean he's instant success material," says McLaughlin. "You can be sure that in the case of Larrie and Pat, and others in the company, they were given an opportunity because they were judged to be aggressive and capable of handling the job.

"Pat was just out of school with a marketing degree when he came to me looking for a job.

"He didn't look too prosperous. In fact, he looked downright hungry.

"So I gave him $100 and told him to do a market on Permafoam.

"He studied the product and the market, and said it looked good. So I gave him another $100 and told him to check deeper.

"He took a special course in mining at Penn State, and when he came back he said, 'Don, I know I can sell this.'

"Up to that point, I hadn't given him a job. I hadn't even given him any assurance of employment. He was so excited he created his own job.

"He was certain of the market potential, so I told him to take the ball and run.

"He's still running."

It's obvious that the element of challenge plays a strong role in MacLaughlin's program of business growth.

His most recent was to Ron Williams, manager of the company's Eisenhower Boulevard store. "I wanted to prove to him that he could sell more retreads than he ever imagined," says McLaughlin. "So I told him that I'd pay him a $700 bonus if he sold $7,000 in wholesale retreads in a single month. That's over and above his regular monthly store quota of $45,000.

"He'll do it, too.

"I have confidence in him . . . and in this area."

McLaughlin also has a great deal of confidence in the product he sells. "We've been a 100 per cent Goodyear dealer four years, and we now do more business in a month than we did in our best full year with our former supplier," he says.

"That says something about the Goodyear line . . . and about the importance of being a 100 per cent dealer."

MURDER BY HANDGUN: A CASE FOR GUN CONTROL—NO. 3

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. HARRINGTON. Mr. Speaker, last week, I inserted into the CONGRESSIONAL RECORD two newspaper articles describing the deaths of two Americans by the most widely used murder weapon in our society—the handgun.

Today's article, the third in a continuing series, is the most tragic thus far.

On June 10, George T. O'Leary, a 43-year-old Boston man, shot and killed his wife and five of his six children, and then killed himself, probably with an overdose of drugs. The sixth child and only survivor, a 15-year-old girl, returned home to a scene she will never by able to erase from her mind: the slain bodies of her family lying in a bedroom upstairs.

Police found among O'Leary's possessions a .38 caliber pistol, and several used cartridges.

The story of the O'Leary family, as terrible as it is, is not an isolated incident, not a social aberration which we can disregard. Reports show that in the great majority of homicide cases, the victims are slain by friends, relatives, acquaintances, and husbands and wives.

Today, five children and their mother are needlessly dead, and one young girl is orphaned and scarred for life. Tomorrow, another human being will be shot by a handgun. We vitally need strong legislation to control the sale and possession of handguns. The continued unrestricted use of handguns only makes tragic stories like that of the O'Leary family more and more possible.

The article from the June 11 Boston Globe follows:

FIVE DORCHESTER CHILDREN, WIFE SLAIN, FATHER FOUND DEAD

ONE DAUGHTER ONLY SURVIVOR

(By John Robinson)

A Dorchester man was found dead in his home yesterday after he apparently shot his wife and five of his six children to death.

Found shot in their two-story single-family house at 67 Clayton St., near Fields Corner, were Thelma D. O'Leary and the five children, identified by police as George Jr., 13; Colleen, 11; twins Michael and Melinda, 8; and Kathleen, 10.

Medical Examiner George Curtis said George T. O'Leary, 43, "probably died of ingestion of drugs" and called the death a suicide.

He said the other bodies were "quite decomposed" and that the slayings could have occurred from 24 to 48 hours before their discovery yesterday.

Theresa O'Leary, was away from home overnight and reportedly found the bodies of her parents, brothers and sisters when she returned with a family friend shortly before noon yesterday.

The bodies were found in the second-floor bedrooms, according to police. There were no signs of struggle.

O'Leary was a uniformed security guard, according to police, and a .38 caliber pistol, possibly part of his equipment, was found along with several spent cartridges and ammunition for it.

Police did not reveal the name of the employer nor the contents of notes, also found in the house.

O'Leary, wounded in the Korean War, was formerly employed by the Systems of Security Agency in Dorchester as a uniformed guard but he left about two years ago. A company spokesman could not recall the reason.

However, the family was reportedly receiving public assistance and neighbors reported that O'Leary began working again only recently.

Theresa was returning to her home after a stay at Boston City Hospital, according to police.

Police said she had been a patient at the hospital "for a week or more" but would not divulge the ailment she was being treated for.

The owner of the wood-frame house, David R. Hosmer of 9 Dickens St., Dorchester, said he saw O'Leary Saturday afternoon.

Hosmer, who was painting the upper part of the house over the weekend, told police that when he arrived Saturday morning to begin work he found a note from O'Leary.

The note read: "David, the wife and kids are sick with a virus. Could you please come back later," according to Hosmer.

Hosmer said he then saw O'Leary later in the day but would not elaborate.

Police said they were first notified of the killings at about 2:20 p.m. yesterday.

A crowd of neighbors quickly gathered around the brown house and fenced-in yard as police vehicles and hearses filled the short street, lined with modest apartment buildings and single-family dwellings.

Neighbors said that at one time O'Leary had eight dogs, including a "vicious" police dog, which he teased. They also said he had a gun and occasionally brandished it.

A sign in a front window of the house read "Beware of dogs."

Playmates said the younger O'Leary children mixed freely with others, joining in neighborhood games and pranks, but that the older children remained to themselves.

The crowd, which included many young children, remained casual as six of the seven bodies were removed through the front door of the house on stretchers and zipped into gray bags.

But an obvious shudder ran through the onlookers as bearers carried out the seventh body—a massive form zipped into a red bag which police said was the father.

WPIX EDITORIALS ON DAY CARE

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. KOCH. Mr. Speaker, I recently inserted into the RECORD a reply editorial prepared by Assemblyman Antonio Olivieri on day care which responded to an editorial of WPIX, channel 11 in New York City.

In the interest of fairness and balance, I am placing in the RECORD the WPIX editorials so that those interested in this most important subject would have the benefit of both views.

The editorials follow:

WPIX EDITORIALS

DAY CARE—I

There is a large and bitter battle brewing about the future of day care centers in New York City, which has interesting philosophical overtones.

Stating a complex problem in its simplest terms, the federal government proposes a change in subsidizing day care centers. Presently, families with income up to $7,500 per year are being partially subsidized. Under proposed new rules, the federal subsidy would end at an income level of $5,400 for a family of four. In New York City, this would affect about half of the present 24,000 mothers whose children use the centers, and the new federal regulations, if implemented, would cause the City to lose about $58 million a year in federal funds.

The people who oppose the change say that the new regulations would force some 12,000 women onto welfare, since they would not be able to pay the average $3,000 per year per child for day care centers. They add that welfare would cost the City more than day care, thus making the change in policy a false economy.

The people who favor the administration proposals make the argument into a larger question of local autonomy. They say that it has been a guiding principle of the Nixon administration to return power and accountability to local government. They say that if the local government believes that the subsidy level should remain $7,500 per year, it has the means to finance the cost by using a portion of federal revenue sharing monies. On the other hand, they say that if local politicians use revenue sharing money for other purposes at the expense of day care, the voters should know that and either approve or disapprove at the next election.

After considering the matter, the management of WPIX applauds the idea of local authority and local autonomy. We think it is long overdue. But to solve the very real short-term problem, we think that the City should devise a more realistic sliding scale of payments for day care, ranging from nothing for the lowest income families to a more reasonable amount for those at the high end, with federal revenue sharing funds making up the balance.

What's your opinion? We'd like to know.

DAY CARE—II

In a recent editorial, WPIX discussed the philosophy which underlies the Nixon Administration plan to change the method of subsidizing day care centers. Under the proposals, New York City would lose some $58 million in direct federal aid for day care centers. The federal government says that if the local governments want to continue the old standards, they should use some of the federal revenue sharing funds to do so.

The Administration takes this position because the President wants to reduce the involvement of the federal bureaucracy in local affairs and return power to the local governments.

In that editorial, and in this one, the Management of WPIX supports that philosophy. We believe that local decisions should be made locally, and that local politicians should be held accountable for their decisions.

In the discussion of this issue, several interesting facts come to light, which are deserving of some comment on their own. One is that the average cost of day care for one child in New York City, for instance, on a Monday through Friday, 8 AM to 6 PM basis, is over $3,000 per year. That is simply an outlandish amount of money, and can be explained only by the fact that 75% of the money has been coming from Washington, and the general feeling that money from Washington comes mysteriously from heaven.

The fact is that federal money is the most expensive kind because it goes from the locality to Washington where some of it sticks, and some lesser amount returns.

Over a period of years, in an undeniably reasonable desire to redress some of the inequities of society, society has come to think that no price is too great, as long as federal money is paying the bill. Well, federal money comes from local taxpayers, and if the nation is to survive and inflation is to be reversed, there are only two possible courses. Either the local taxpayers are going to have to send more money to Washington, in federal taxes, or programs which have been allowed to mushroom in recent years are going to have to be more reasonably priced. There simply is no middle ground.

The Management of WPIX believes that the people of the nation think taxes are high enough, and that it is a time for economy.

What's your opinion? We'd like to know.

CAPTIVE NATIONS WEEK

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mrs. GRASSO. Mr. Speaker, Captive Nations Week spotlights the plight of millions throughout the world who remain trapped under Communist domination. It is a time to rededicate ourselves to the principles of freedom and self-determination for all peoples.

In 1959, responding to a congressional directive, President Eisenhower proclaimed the first Captive Nations Week in order to assure the nations controlled by Soviet-imposed communism of America's support for their just aspirations for freedom and national independence. In each succeeding year, Presidents have renewed our commitment to the millions of people who are unable to exercise the basic freedoms of speech, press, assembly, and religion, which we in the United States often take for granted.

The citizens of the Free World cannot rest secure in freedom so long as other peoples continue to resist efforts to deprive them of what little freedom they can remember or clandestinely hold. Despite the difficulties and discouragements, invasions and repression that have been experienced by the peoples of Czechoslovakia, Hungary, Poland, Romania, the Ukraine, the Baltic States, and the rest of the Captive Nations, their spirit and love of liberty remain strong and must be encouraged.

Mr. Speaker, in the past few years, the United States has been actively negotiating for the removal of sources of international tensions that have imprisoned a generation in the balance of terror. I support these efforts for detente. At the same time, however, I do not believe that we can forget those people who continue to see in the United States a source of hope that keeps the spark of freedom alive in these lands. To surrender these people to their oppressors would signify an abandonment of our commitment to a world of freedom and self-determination. This we cannot allow.

During this Captive Nations Week—July 15–21—let us remember Hungary in 1956, Czechoslovakia in 1968, Poland in 1956 and 1970, and the continued Lithuanian opposition to russification efforts. Then, let all of us renew our commitment to the right of self-determination, personal liberty, and the other basic rights still denied to the peoples of the Captive Nations.

Finally, Mr. Speaker, I include a recent editorial from the Hartford Courant on Captive Nations Week:

[From the Hartford Courant, July 12, 1973]

CAPTIVE NATIONS WEEK

Once again, Captive Nations Week will be observed beginning Sunday.

Established by Congress 14 years ago, the observance is designed to show support for the freedom of such countries as Poland, Lithuania—or on the farther side of the world—Tibet and North Korea.

Naturally, the present governments of the countries involved vigorously pretend they are not "captive," though it would be laughable to assert they now have the freedom they once enjoyed, cherished, and in many cases, gallantly fought for.

The Soviet Union is affronted by the inclusion of the Ukraine. Turkestan and Cossackia on the captive list. When in 1959 President Eisenhower issued the first Captive Nations proclamation on the eve of Vice President Nixon's visit to Moscow, Soviet Premier Khrushchev flew into a rage and the Soviet press dutifully echoed him.

Meanwhile, who can forget Czechoslovakia, for example?

While at the outset the proclamations began as detailed listings of countries that had lost their independence, United States support of the right of national self-determination is still being stressed. After all, we did go to the defense of South Vietnam for that very reason.

At the moment, this country and the Kremlin are in an era of summit conferences. But this should not detract from the argument of Dr. Lev Dobriansky, a leading champion of captive nations and professor at Georgetown University. Writing in the Ukrainian Quarterly, he urges the United States not to relax its defenses or its protection of countries whose freedom may be threatened. "All current, substantial evidence points to the eventual outcome of new captive nations," he says.

He is not alone in his feeling. Many observers in the West wonder whether the whole Russian eagerness for a European Security and Cooperation conference isn't simply for the purpose of lulling the Continent into a state of totally relaxed vulnerability.

In any event, Captive Nations Week must serve as a continuing reminder of those countries ruthlessly pillaged of freedom and plowed under, their peoples oppressed or scattered, bereft of national rights and aspirations. Whether their day will ever come again, one cannot say despite their continuing struggles. But their tragic fate should be a warning that still other nations could go the same way.

YOUTH DIFFERENTIAL ON MINIMUM WAGE NEEDED

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. QUIE. Mr. Speaker, I should like to submit for the Record a recent editorial from the Evening Star concerning the minimum wage bill which passed the House recently. It expresses the disappointment which I feel that the House rejected the Republican position on the necessity for a youth differential in wage which would, I believe, help combat the escalation of unemployment among teenagers, particularly minority youth living in the Nation's largest cities.

Mr. Speaker, I still feel that our position on this youth differential is sound. A growing number of Americans—such as Paul Samuelson, the noted economist—believe that we are making a mistake in ignoring the need to provide an entering wedge for unskilled youth in the employment market.

I should also like to include for the Record an earlier statement by Andrew Brimmer, the only black member of the Federal Reserve Board, which speaks to the point of the need for a youth differential for young people. I might point out that the safeguard which Mr. Brimmer says is necessary to prevent exploitation of young workers was written into the Republican measure. What we were attempting to do was to provide an opportunity for youth, particularly the unskilled dropout youth—an opportunity which I believe is being denied these youngsters now, and a situation which will be further exasperbated with a new minimum wage law.

Minimum wage legislation will be before the Senate this week, and I am hopeful that our colleagues in that body will give thoughtful attention to the growing number of us who advocate a youth differential.

The newspaper articles follow:

[Editorial From the Washington Star-News]

MINIMUM-WAGE BREAKTHROUGH

Last fall, as it appeared certain he was going to win re-election, President Nixon had enough support in the House to get approval for a minimum-wage bill considerably more modest than legislation backed by organized labor and passed by the Senate. A deadlock resulted, and no bill passed.

This year, the political script is different. Perhaps the President's influence, because of Watergate, is truly on the wane. Perhaps enough House leaders and members had decided much earlier that they would not again get caught in a painful minimum-wage controversy. At any rate, House Democrats with sufficient help from Republicans, have approved a measure that, in terms of both dollar levels and extent of coverage, is considerably out of line with what the administration wanted. The Senate almost certainly will go along with it.

In some respects, this is very good news. The federal minimum wage last went up in 1966, which in light of inflationary forces is quite a long time ago. At the current $1.60 hourly minimum, a worker with a family makes an annual wage nearly $1,000 below the officially-designated poverty line. That is intolerable, and corrective legislation is long overdue.

Just how high the wage should go, of course, is a familiar dispute. The administration argued for a figure of $1.90, going to $2.10 next year and $2.20 the year after. Organized labor wanted to go to $2.20 immediately. What the House bill provides—$2 an hour now and $2.20 in 1974—appears a fair compromise.

Under the House bill, minimum-wage coverage would be extended for the first time to about 1 million household domestics. This provision is likely to have mixed results—a welcome raise for many an underpaid maid, along with the decision by an undetermined number of middle-class families that they can no longer afford domestic help.

We believe the House was wrong in brushing aside the proposal to establish a lower minimum wage for teenagers. This "youth differential," had it been spelled out so as to prevent exploitation, could have served as a useful tool to combat the currently high and very stubborn rate of unemployment among young people. It wouldn't be so bad if the congressmen had some alternate ideas for getting out-of-school teen-agers to work. Unfortunately, they don't, and the problem is likely to persist for a long time.

[From the Washington Post]

MINIMUM WAGE SEEN DANGER TO YOUTH EMPLOYMENT

(By James L. Rowe Jr.)

Federal Reserve Board governor Andrew F. Brimmer said yesterday that the severe youth unemployment problem "is being aggrivated by federally imposed minimum wage legislation" and advocated permitting employers to pay beginning workers less than the minimum wage.

Brimmer's suggestion came in his annual assessment of the economic status of blacks in the United States. Brimmer is the only black member of the Federal Reserve's Board of Governors.

The Nixon administration had proposed that all workers under 18 and all full-time students be permitted to be hired at 20 per cent below the minimum wage and that all 18- or 19-year-olds for the first six months on the job be paid at that rate.

Brimmer said studies are in conflict over whether the minimum wage—now $1.60 an hour—does adversely affect teen-age hiring, but said that on balance he feels "the evidence tentatively suggests" that changes in the minimum wage law during the last decade, particularly broadening the occupations it covers, have impelled employers not to hire some younger workers because the minimum wage was higher than their worth to the firm.

While the overall unemployment rate last year was 5.3 per cent, workers between 16 and 19 had an unemployment rate of 15.6 per cent. For black youths the rate was 35.9 per cent and for white youths it was 13.2 per cent.

Brimmer said safeguards would have to be built into an entry-level differential for younger workers and acknowledged that it entailed balancing the risk that some employers would "attempt to replace some of their high-wage employees with workers to whom they could pay less" against "the present certainty of persistent high unemployment among young people."

Brimmer said, however, that the move would not expand teenage unemployment but would "preserve jobs which may otherwise disappear with increases in the minimum wage."

In his address to the University of California at Los Angeles, Brimmer also reported:

While blacks improved their relative economic position during the 1960s, "their pace of advance compared with whites has slackened somewhat in the last few years."

The recession of 1969–70 had a "disproportionately adverse impact on blacks," and they got a smaller share of new jobs during the initial recovery. Although they shared "more equitably in economic gains last year, they were still carrying a disproportionate share of the lingering effects of the recent recession."

AN ECONOMIC UNITED NATIONS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. GAYDOS. Mr. Speaker, on June 27 I addressed the House on the subject of multinational corporations and their spawning of a new economic giant, the supernational corporation.

I informed my colleagues of my concern that these giants among giants could be a threat to the sovereign rights of any nation since they could exert tremendous economic and political power over any government on the face of the Earth. I spoke of the need to control these huge corporations to prevent this from occurring. But, I also said I could not accept the idea of giving such awesome power to a supernational authority, such as an economic United Nations.

A few days later, July 1, the Pittsburgh Press carried a story by R. M. Sorge which discussed a special report on multinational corporations and their giant offsprings. The report was prepared at the request of the United Nations Economic and Social Council. It suggests these super corporations be registered and reviewed by an agency of the U.N.

Mr. Speaker, although I am greatly concerned over the effect supernational corporations might have on the Government of the United States, I stand by my June 27 statement that I would no more place the economic fate of our citizens in the hands of an economic United Nations than I would entrust their sovereign rights to the existing U.N.

I would like to insert Mr. Sorge's article into the Record at this point and direct the attention of my colleagues to it.

INTERNATIONAL CORPORATION REINS URGED—NATIONS CHALLENGED BY GIANT COMPANIES, U.N. REPORT SAYS

(By R. M. Sorge)

UNITED NATIONS.—Giant international corporations exerting massive influence on the world's economy could be regulated or at least reviewed by the United Nations.

That's the conclusion of a special report prepared at the request of the U.N. Economic and Social Council.

ECONOMISTS TO MEET

Twenty economists, named by Secretary Gen. Kurt Waldheim will open discussions in September on multinational corporations.

The economist will seek means to reap the benefits of international business, while at the same time avoiding abuses associated with concentration of economic power.

The report from which they'll work will be published this summer, but UPI has obtained a final draft.

"Some general agreement on a code of conduct for multinational corporations is not beyond reach," the report said.

INFLUENCE POWERFUL

It noted the companies, because of their size and economic power, can exert their influence in many ways.

"Their pervasive influence on the host country may be regarded, in one way or another, as a challenge to national sovereignty," the report said.

For example they "can precipitate a currency crisis if they move only a small proportion of their assets from one currency to another," said the report.

DOLLAR JOLTS NOTED

"In particular, the massive movements by multinational corporations against the dollar have jolted the exchange parities."

The report said the top multinational corporations "are bigger than a large number of entire national economies."

The top 10 multinational firms, it said, operate at monetary levels higher than the gross national product (GNP) of more than 80 countries.

As a further step toward overseeing their operations, beside a code of conduct and review by the U.N., the report suggested creation of a status of "supranational corporation."

CORPORATIONS TRANSFORMED

"The efforts by multinational corporations to broaden ownership, control and managements at a truly international level . . . have the effect of transforming these corporations into almost supranational bodies," it said.

"Yet in the present circumstance they continue to exist as national legal entities.

"As a first step toward dealing with this anomaly, corporations which satisfy certain criteria . . . might be registered with an agency of the United Nations.

"A more formal internationalization or denationalization of corporations would be the chartering of supranational corporations," the report continued.

"An international company law would be established and administered by a body of the signatory countries."

ITT HEARINGS CITED

Since the recent Senate hearing on the operations of the International Telephone and Telegraph (ITT) Corp. in Chile and its plans to investigate other multinational firms, major international business operations have been thought of primarily as U.S.-based.

But British, French and West German firms also play major roles on the multinational business stage, as do the Japanese.

As another example of their power, the report said the sales of foreign affiliates of the multinational corporations to nonaffiliates are approaching the level of the total of world trade.

Such sales amounted to about $250 billion in 1971, compared with total world exports valued at $300 billion.

But aside from the United Nations, the report said, individual countries are taking an interest in exerting some measure of control over multinational corporations operating within their territories.

TWO YOUNGSTOWN, OHIO, PRIESTS CELEBRATE 50 YEARS IN THE PRIESTHOOD

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. CARNEY of Ohio. Mr. Speaker, Rev. Bernard C. Werner, O.P., and Rev. Wolfgang N. Frey, O.S.B., recently participated in ceremonies marking their 50th year of service in the priesthood.

Reverend Werner, currently at St. Dominic Church in Youngstown, spent 23 years as a missionary in China. He was born in Wheeling, W. Va., graduated from St. Vincent's College, Latrobe, Pa., and began his studies for the priesthood at Aquinas College, Columbus, Ohio. He also attended St. Joseph's Priory, Somerset; St. Rose Priory, Springfield, Ky.; and the Dominican House of Studies, Washington, D.C.

Ordained June 14, 1923, in Washington by Archbishop Michael J. Curley, Father Werner was assigned to the China mission field. For 15 years he served as vicar provincial of American Dominican Fathers there and for the next 7 years as administrator-apostolic of the prefecture. Following his return to the United States in 1947, Father Werner spent 8 years at St. Andrew Parish, Cincinnati, helping to care for patients in hospitals and nursing homes. For the past 15 years, he has been preaching at novenas and retreats throughout the Eastern United States, while stationed at St. Dominic's.

Father Werner has two sisters, Mrs. Joseph B. Flinn of 344 Legan Avenue, Sharon, Pa., and Mrs. Edward Huth of Ingram, Pa. His only brother, Vincent, who was married to the former Theresa Bauer of Sharon, died in 1951. Recently Father Werner offered a jubilee mass at Sacred Heart Church, Sharon, where he had offered his first mass on June 17, 1923. Servers for the mass were Dr. Michael E. Connelly and Paul Walsh, both of Sharon, Pa., and Harry O'Brien, manager of the Standard Club, Chicago, Ill. These three men also served at Father Werner's first mass.

On July 11, 1973, Rev. Wolfgang N. Frey, O.S.B., officials of the Youngstown Diocesan Tribunal, celebrated his 50th anniversary as a member of the Benedictan Order. The renewal of profession took place at St. Vincent Archabbey, Latrobe, Pa.

Father Frey is an authority on canon law and church liturgy, and has been associated with the Youngstown Diocese since 1950. He has served as notary and translator of the diocesan matrimony tribunal and is chaplain of the Vincentian Sisters of Charity.

A native of St. Mary's Pennsylvania, Father Frey was ordained on June 16, 1929, at St. Vincent's and went to Catholic University of America where he received a doctorate in canon law in 1931. He served as vice rector and professor of theology and canon law at St. Vincent Seminary until 1944 when he became socius of the clerks at the archabbey. From 1947 to 1950, he was chaplain of Andrew Kaul Memorial Hospital, St. Mary's. Father Frey also served as master of ceremonies for important diocesan functions at St. Columba Cathedral.

Mr. Speaker, I would like to take this opportunity to extend my congratulations to Father Werner and Father Frey for their long and dedicated service to God and their fellow man. It is indeed a pleasure to acknowledge the accomplishments of these two fine human beings.

BROOKINGS STUDY ON THE ALL-VOLUNTEER ARMED FORCE

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. STEIGER of Wisconsin. Mr. Speaker, the Armed Services Committee recently released a staff study on the all-volunteer armed force, prepared by Martin Binkin and John D. Johnston of the Brookings Institution.

This highly informative report concludes that—

> This nation can accomplish what no other nation has ever attempted—to maintain an active armed force of more than two million men and women on a voluntary basis.

The Brookings study suggests a host of manpower reforms needed to insure the success of the program on a cost effective basis: recruitment of more women; civilianization; longer terms of service; modification of standards; and increased use of educational benefits. I am inserting in the RECORD an excellent summary of this study which recently appeared in the Chicago Tribune:

ALL-VOLUNTARY MILITARY WORKING—FOR MOST PART

(By Stephen Crews)

In January, the military draft was ended and with it went the worries of many draft-age Americans.

Gone were the fears of being plucked from home, job, or school and being forced to spend invaluable years shorn of locks and rights.

The services were safely shunted into the category of "they." The other category, "we," became secure in the knowledge that their civilian classification could not be changed against their will.

In fact, in these first euphoric post-draft months, the continuing military manpower requirements have become all too easy to forget.

But, it should not be forgotten that an all-volunteer military is an experiment, for no nation has ever attempted to maintain a force of close to three million volunteers.

It is estimated that the armed services will need in excess of 350,000 new recruits in fiscal year 1974, and the question is whether enough young men and women will sign up in the face of their new-found freedom to do otherwise.

According to a recently completed study by the Brookings Institution at the request of the Senate Committee on Armed Services, the answer to that question is a tentative "yes."

The authors voiced this optimism despite their estimate that if the no-draft system is to work, as many as one of every three "qualified and available men will have to volunteer for active military service before reaching age 23."

If a problem exists, it is to be found not in the quality of new recruit, but in the quantity the authors said.

The history of the transition from dependence on the draft to dependence on volunteerism began in February, 1970, with the completion of a federal study that concluded "a volunteer force will not jeopardize national security, and . . . it will have a beneficial effect on the military as well as the rest of society."

An end-of-draft deadline of July 1, 1973, was set, and the military went about the multibillion-dollar task of making itself attractive.

To upgrade military life, barracks were modernized, KP duties were assigned to civilian personnel, and additional health and dental care programs were provided.

"Average weekly earnings of new recruits, which had lagged behind those of 19-year-old civilian male workers by 30 per cent in 1970, . . . attained reasonable comparability by fiscal 1972," the report says.

A new recruit today starts work at more than $300 a month. If fringe benefits such as retirement, commissary and exchange privileges, and medical services are added to the food and rent-free or subsidized housing he receives, the military man is, in fact, substantially better off than his average civilian counterpart.

On Jan. 27, 1973, almost six months ahead of schedule, Secretary of Defense Melvin Laird announced:

"With the signing of the peace agreement in Paris . . . the armed forces henceforth will depend exclusively on volunteer soldiers, sailors, airmen, and marines. The use of the draft has ended."

Several things made this possible, the report says. One was that the level of "true volunteers" [those who enter military service despite rather than because of the draft] rose from 215,000 in 1971 to an estimated 356,000 for fiscal 1973.

Equally important, however, was the fact that at the same time, the size of the active military force was dropping from a high of 3.55 million in fiscal 1968 to an estimated 2.23 million.

As indicated in the Brookings report, the quality of the new volunteers remains a matter of concern.

Their study showed that on average, the intelligence level of new recruits has improved. The cause, however, is not an increase in the proportion of enlistees with above-average scores on military tests [in fact, this proportion has declined], but because of a "moderate increase in those with average ability, and, of most importance, a steady decrease in enlistments of those scoring below average."

At the same time, the proportion of high school graduates recruited has dropped somewhat. The services, nevertheless, have, with the exception of the Marine Corps, been able to maintain proportions comparable to or greater than that characterized by the civilian labor force, the authors said.

In the face of this, the military, in April, raised enlistment bonus payments from $1,500 to $2,500 for four-year enlistments and offered them only to high school graduates scoring above average in Army qualification tests.

In addition, the proposed 1973 Uniformed Services Special Pay Act contains provisions for selective reenlistment bonuses to servicement with particular skills. They will range from $1,000 to $15,000 with an average payment of about $6,000.

The question asked, but not answered in the report, is "how much quality do the services require?"

The authors suggest that though the military makes many assumptions about its needs for "quality," there is a shortage of facts. The report suggests that if implemented thoughtlessly, the bonuses could buy more quality than necessary, and thus result in job dissatisfaction among overqualified recruits.

The report says a thorough study of these needs should be made before bonuses estimated to cost $400 million a year, become a permanent fact of life.

Recruiting 356,000 volunteers depends on such unpredictable factors as public attitudes toward the military and world conditions. The possibility exists that shortages, not only in quality, but quantity, could eventually become a problem, the report admits.

If this happens, "pressures can be expected to build up to renew conscription, to offer additional incentives to volunteers, or to reduce force levels. The first option could have high domestic social and political costs; the second would have high financial costs; the third could have important foreign policy costs," the authors said.

Alternatives to present recruitment techniques should be considered, therefore, and could include:

The recruitment of more women; the replacement of military men with civilians; the lengthening of initial terms of service; the recruitment of persons under current physical standards for non-combat duty; and the attraction of full-time students with post or preservice scholarships.

Recognizing the possible problems, and the fact that future events can change seemingly established trends, the Brooking study nevertheless concludes that thus far recruitment achievements suggest that this nation can accomplish what no other nation has ever attempted—to maintain an active armed force of more than two million men and women on a voluntary basis.

But will volunteer service have socially divisive effects? Will it "undermine patriotism by weakening the sense of moral responsibility?" Will it "foster a military ethos posing a threat to our democratic institution?" There too, are valid questions, but ones the authors leave for the future to answer.

PUBLIC BROADCASTING

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. **GONZALEZ**. Mr. Speaker, public broadcasting has been much in the news lately and on Thursday of this week the House is scheduled to consider the public broadcasting authorization bill, so I thought the Members would find the following two articles from newspapers in San Antonio of interest.

It is most gratifying to me to read these reports, for I have steadfastly supported public broadcasting, even when some are critical for a variety of reasons, such as minority complaints of lack of input, et cetera. In my area, in short, my assessment of public broadcasting has worked fairly well, even though I believe the emphasis has been placed in the smaller capital city of Austin, rather than in the larger, cosmopolitan, pluralistic city of San Antonio. The public broadcasting in our southwest area should be headquartered in San Antonio.

The articles follow:

[From the San Antonio News, June 18, 1973]

PUBLIC TV PROVES ITSELF

The Issue: Public television's total coverage of the Watergate hearings has proved the need and value of the system. Public response shows a deep interest in public affairs TV

The Watergate hearings have shown what public television is, or should be, all about.

Locally, KLRN (Ch. 9) the San Antonio-Austin station, has been running the hearings in full from 7 p.m. until completion. The replays have shown the public's awareness of Watergate and interest in seeing the whole thing.

Public response, says Larry White, Ch. 9 manager has been "gratifying in both San Antonio and Austin. The station's request for donations to help pay for carrying the hearings has met with strong response. Daily mail is five times heavier, most of it about the hearings. Many people have called in asking where to mail donations.

For those who wish to contribute, the address is KLRN, PO Box 9, San Antonio, Tex. 78291.

The other 200-plus public TV stations are having the same response, according to the Wall Street Journal. WNET in New York has been deluged with favorable mail and donations. The audience has more than doubled, according to a survey.

Watergate, in its own sad way, has been a boon for public television, which had been in a crisis. There was a dispute between the Corporation for Public Broadcasting, the government body which transmits some federal money to the system, and the Public Broadcasting Service, which links the stations together.

At the Nixon administration's urging, CPS was trying to take control of PBS programming. The stations rebelled. They also rebelled against a CPS proclamation that PBS could not carry the Watergate hearings and did it anyway. Thus the appeals for donations to finance coverage.

Public TV coverage of the hearings has been dispassionate. Each day's proceedings are presented with little interruption and no analysis. This is a prime example of what public TV can do if it is independent of political pressure or control.

Judging by the response, the people like it that way. And the night re-runs make it possible for day workers to see what they miss on the commercial networks.

Going by past performance, the administration can be expected to retaliate against the public network and stations. When and if it does, the viewers should again rally to support an independent television system which tells the public about its affairs.

[From the San Antonio Express, June 14, 1973]

WATERGATE HEARINGS IN SPANISH

KLRN-TV, Channel 9 of San Antonio and Austin and two area radio stations plan to present complete evening coverage of the Senate Watergate Hearings in Spanish Thursday from 7 p.m.–11 p.m.

KUT-FM in Austin and KSYM-FM in San Antonio will broadcast the hearings soundtrack in Spanish to coincide with the KLRN-TV coverage of the hearings.

The translating will be done simultaneously, similar to the method used by the United Nations. If the "simulcast" of these hearings, the latest in a number of cooperative experiments between KLRN and local radio stations, meets with audience approval, it will pave the way for similar ventures in the future.

CAPTIVE NATIONS WEEK

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. **SARASIN**. Mr. Speaker, the annual observance of Captive Nations Week during the third week of July has expanded each year since its inception in 1959 by provision of public law. We are, of course, disheartened that such a designation is necessary, but we are optimistic that so many of our State and local governments are encouraging our citizens to be aware of the plight of helpless people whose aspirations for the recovery of their liberty and independence have gone unfulfilled. There are today millions of persons still under bondage of a menacing neighbor in Eastern Europe and Asia.

The observance has, in fact, spread to other countries, including West Germany, the Philippines, and Turkey. This illustrates a worldwide desire to see independence as a reality rather than as an unattainable goal. Those of us in the Free World should not accept the dichotomous global situation as unalterable and thus acceptable. We cannot acquiesce to the permanent bondage of any people.

We must, on a continuous basis and not just during Captive Nations Week observances, assert our hopes for a worldwide independence and rededicate ourselves to achieving freedom for all.

THE INTERNATIONAL LABOR ORGANIZATION AND SOUTH AFRICA

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. ASHBROOK. Mr. Speaker, at its recent meeting in Geneva, Switzerland, the International Labor Organization's apartheid conference passed a resolution urging far-reaching boycotts against South Africa. Specifically, the resolution called on governments to sever political, cultural, commercial, and diplomatic relations with South Africa, to stop public and private investment in the country, to refuse to supply arms or any other form of military assistance and to close their ports and airports to South African ships and planes.

The reason alleged for this action is the "inhuman policy of apartheid pursued by the Government of the Republic of South Africa which is a crime against humanity, a flagrant violation of the U.N. Charter, and a threat to world peace and security."

Although the South African Government's policy of separation of the races is undesirable, sanctions such as proposed by the ILO cannot be justified. First, the charge that South Africa is a threat to world peace and security is patently ridiculous. Rather than being a threat, South Africa is the most stable, modern, and progressive country on the Continent. Any threat is to South Africa and is a result of the aggressive policies advocated by the ILO.

Second, racial segregation and integration are clearly matters of internal policy which must be resolved by the people of South Africa. Such internal matters provide no basis for concerted world action under the U.N. Charter or otherwise.

Third, the charge that South Africa is committing crimes against humanity is difficult to justify. Black workers in South Africa, although primarily unskilled, earn wages which on average are higher than in any other country in Africa. In addition, the black worker receives medical benefits at nominal cost and heavily subsidized housing. At a time when the former President of Uganda is charging his successor with killing tens of thousands of Ugandans and Burundi's military government of Col. Michel Micombero is believed to have slaughtered as many as 250,000 persons in reprisal against an abortive revolt, the policies of the Government of South Africa seem mild by comparison.

GOVERNMENT OF, BY, AND FOR THE PEOPLE

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. BOLLING. Mr. Speaker, it was only very recently that I learned that Frank Eleazer who so ably covered the House for UPI for many years, had left Washington for a position as editorial writer for the St. Petersburg Times in Florida. In a recent personal exchange of correspondence Mr. Eleazer enclosed an interesting editorial which follows:

EDITORIAL—OF, BY, AND FOR . . .

Now it's official. Last year's subsidized wheat sale to Russia unduly enriched the exporters, cost taxpayers $300-million, and played a key role in raising food prices to their current record high levels.

The General Accounting Office (GAO) said Russia probably would have bought the wheat at or near market prices, the exporting firms timed deliveries to cash in on peak subsidy rates, and the Agriculture Department neglected to consider impact of the sale on domestic consumers.

"Mismanagement," the GAO called it in a formal report to Congress, but as some congressmen say that's putting the matter in the most charitable possible light.

Rep. John Melcher, D-Mont., blames what he calls a "too cozy" relationship between department officials and their friends in exporting firms. Certainly there was either high-level connivance or stupidity on a scale warranting dismissal of Agriculture Secretary Earl Butz and some of his helpers.

Official confirmation of what long had been obvious in the smelly wheat deal completes another chapter in a long story of the Nixon Administration's favored treatment of special interests—interests which frequently turn out to have dropped big chunks of money into Republican coffers.

ITT got its favorable anti-trust settlement, and coincidentally agreed to foot part of the bill for the GOP's 1972 nominating convention. Milk producers, denied a price support boost, put $320,000 into the Nixon re-election campaign, and got an increase worth $400-million.

Financier Robert L. Vesco paid $200,000 in cash, and a grand jury charges that two of Mr. Nixon's Cabinet members sought in return to refuse a fraud injury against him.

Multimillionaire Robert H. Abplanalp helped his friend the President swing the deal on his San Clemente estate. He was lucky enough to escape an inquiry into alleged price-fixing by his Precision Valve Corp.

American Airlines found itself on the losing end of a campaign shakedown, and illegally put $55,000 into Mr. Nixon's re-election campaign. Apparently other big corporations made equally big and equally illegal donations.

The Wategate scandal, it now is apparent, came as an almost inevitable climax to a period of political influence-peddling that must be brought to an end.

It will not suffice now, no matter how the Senate's inquiry ends, for Mr. Nixon to say he didn't know, and that in any event all those dirty tricks are behind us.

Mr. Nixon's term has more than three years to run. If he is to govern effectively, he should rid his Administration of officials and aides who put public interests last. And he must somehow reestablish, beyond the most cynical doubt, the government of, by and for the people which most of us always thought was our right.

NOT MANY PEOPLE LOVE POLITICIANS, BUT THEY WORK HARD

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. HOSMER. Mr. Speaker, an editorial aired by KNBC of Los Angeles on June 28 reveals a fact long known to Congressmen, but not to their constituents, namely that the legislators work long hours. I doubt, however, that this has any clear connection with the recent Gallup poll finding that only one in four parents thinks much of the idea of a son going into politics as a career. Thus, most families probably would not mind having a politician to dinner, but they would not want a daughter to marry one. The KNBC editorial follows:

WORKING REPRESENTATIVES

To many people these days, the word Washington is synonymous with Watergate. A combination Sodom and Gomorra on the Potomac. A place we send money to, and get, in return, gobbledegook, red tape and an occasional subsidy.

Those half-truths are hard to fight. There *was* a Watergate incident. Bureaucracy there has been developed to a fine art. And sin in Washington gets bigger headlines than in, say, Omaha.

But we've just returned from a few hot, muggy days there, and the impression that sticks with us is that your elected representatives, at least, are worth every nickel you're paying them. They're in their offices early in the morning, they're in committee meetings all day, and they're still at work when the civil servants are home relaxing in Alexandria and Georgetown.

We met with one California Congressman early in the morning after he'd flown all night returning from a speaking engagement the evening before in his district. He spent the day presiding over meetings of his committees and taking part in debate on the House floor. And that night he was still in discussions on Congressional business until nearly 10 o'clock. And he was back in his office bright and early the next day. You probably don't hear much about that kind of performance, simply because it's not unusual. The juicy tales that make news *are* the exceptions; the stories of people being wined and dined and generally relaxing at your expense are news simply because they're out of the ordinary.

We can't guarantee the quality of performance of all the people in Washington. Or even all the members of the House or the Senate. But we did come away with the distinct feeling you're getting your money's worth from your two senators and your 43 representatives. You may not even agree with everything they're doing. But you can be sure they're trying.

YOUNGSTOWN LODGE NO. 858 HOSTS GRAND LODGE OF OHIO, 31ST BIENNIAL SONS OF ITALY CONVENTION

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. CARNEY of Ohio. Mr. Speaker, the Grand Lodge of Ohio, Order Sons of Italy in America held its 31st biennial convention in Youngstown, Ohio, from July 5 to July 8, 1973. As Congressman from the 19th Ohio District, which includes the city of Youngstown, I had the pleasure of attending this great convention.

Mr. Speaker, I would like to take this opportunity to congratulate Mr. Louis V. Corsi, Ohio Grand Venerable; Mr. John Trimboli, chairman of Youngstown Lodge No. 858, and Anthony C. Pannunzio, general convention chairman, for a highly successful and enjoyable convention. I would also like to commend the Sons of Italy for their devotion to God and country, and for their many worthwhile projects. The activities of the Sons of Italy serve as a constant reminder of the many outstanding contributions which Americans of Italian descent have made to our great Nation.

Mr. Speaker, I insert excerpts from the convention program and several newspaper clippings concerning the convention in the RECORD at this time. The program and newspaper articles follow:

YOUNGSTOWN LODGE #858—ORDER SONS OF ITALY IN AMERICA

The Youngstown Lodge was initiated in the Order Sons of Italy in America, July, 1918. It was named in honor of Napoleone Colaianni.

Napoleone Colaianni was born in Enna, Sicily in 1847. In his late teens, he distinguished himself with a liberation movement to free Sicily from the rule of Francesco II of Bordone. He remained with the movement and served it well.

When the Sons of Italy was formed in America, many immigrants came from Enna, Sicily and settled in Youngstown. These particular people from Enna were responsible for the naming of the Youngstown Lodge in honor of Napoleone Colaianni.

The Colaianni Lodge grew and progressed with such speed that within a few short years it became the largest lodge in Ohio with 1400 members. In the years to follow, the lodge took an active part in Community and Civic affairs and offered its helping hand wherever it was needed. During the depression years, the membership assisted in any way possible to obtain food, clothing and what little money they could afford to the needy families. At the beginning of W.W. II, hundreds of Italian-Americans left their homes and loved ones to perform their duty. Their families worked at the home front providing the necessities for the war effort.

In 1966 the Italian Government sent out an appeal to all the Italian-Americans to assist the victims of the Florence Flood Disaster. The Colaianni Lodge pledged a personal contribution and worked together with the Grand Lodge to raise thousands of dollars along with immeasurable contributions in the form of aid and other necessities.

In October of 1968, the Colaianni Lodge became Youngstown Lodge #858. Napoleone Colaianni will always be remembered for his outstanding dedication to the Italian people.

The Youngstown Lodge #858 ranks as the largest lodge in Ohio again and is proud of this achievement. It has continued to progress with responsible leadership and take its role in the community as a leader among the fraternal orders in the Youngstown area. Always willing to serve wherever it is needed.

In the spirit of brotherhood, the Lodge graciously honors the "Golden Agers" annually and pays special recognition to these wonderful men who have given of their time and energy to promote "brotherhood" among the Italian people.

A recent accomplishment is the establishment of a scholarship fund to be granted to any deserving student wishing to study and later teach the Italian language. Through a combined effort with other fraternal organizations, the Italian Language will be offered and taught in two of the city's public high schools, beginning this year. An accomplishment we are proud of.

The Youngstown Lodge #858 hosts a membership of gentlemen willing to work hard and promote the "Brotherhood Spirit." With the help of God, it is our sincere desire that our Lodge will always be successful in all its undertakings for the betterment of our community and mankind.

WELCOME FROM YOUR HOST LODGE YOUNGSTOWN LODGE NO. 858

Welcome to All Grand Officers, Venerables and Delegates!

As hosts for the Thirty-First Biennial Convention of the Grand Lodge of Ohio, the Youngstown Lodge bids you welcome.

We are proud to have you in Youngstown. It is our hope that the Grand Lodge of Ohio and State Benefit Society finds strength through unity of thought and purpose as a result of this great convention.

John Trimboli, Venerable.

Judge Jack Lipari, Assistant Venerable.

Cataldo Burrelli, Jr., Recording Secretary.

Raymond Parillo, Financial Secretary.

Joseph Berarducci, Treasurer.

John Tisone, Orator.

Trustees: Anthony Pannunzio, Alfred Fortunato, Robert Eusanio, Walter Pasquale, Rocco Manginelli.

PROGRAM

Introduction of Headtable, Hon Judge Jack A. Lipari.

National Anthem, George Lawrence.

National Anthem of Italy—Inno Di Mameli, Victoria Aurelio.

Pledge of Allegiance to the Flag, Hon Anthony Vivo, Mahoning County Clerk of Courts.

Invocation, Rev. Peter Faini, Pastor, St. Anthony Church.

DINNER

Introduction of Toastmaster, Anthony C. Pannunzio, Convention Chairman.

Toastmaster, Hon Judge Jack A. Lipari.

Welcome, John Trimboli, Venerable, Youngstown Lodge No. 858.

Introduction of Honored Guests.

Presentation of Grand Lodge Scholarship, Nick Monitello, Assistant Grand Venerable.

Awards.

Welcome, Hon Jack C. Hunter, Mayor of Youngstown.

Remarks, Hon Louis V. Corsi, Venerable, Grand Lodge of Ohio.

Remarks, Ernest Teodosio, President, State Benefit Society.

Presentation of Lodge No. 858 Scholarship Awards, Hon Anthony Vivo, Chairman, Scholarship Committee.

Greetings from Dr. Raffaele Gesini, Aid to Egidio Ortona, Ambassador of Italy, introduced by Hon Mario Anziano, Italian Consul.

Convention Address, Hon Michael P. Balzano, Director of ACTION.

Benediction, Rev. Joseph Iati, Pastor, Our Lady of Mt. Carmel Church.

The Youngstown Lodge #858 is extremely proud to be the host of the 31st Biennial Convention of the Grand Lodge of Ohio, Order Sons of Italy in America.

We extend a warm welcome to the Grand Lodge, to all of the fraternal delegates, their ladies, friends and visitors. Our objective is to make your stay here a memorable one in an atmosphere of friendliness and conducive to progressive deliberations.

I wish to express my deep appreciation to Convention Chairman Anthony C. Pannunzio for his invaluable effort and the many convention committees who worked tirelessly in planning this great Convention, finally we are deeply grateful to the entire community for their unparalleled cooperation, and especially to those individuals and organizations who sponsored an Ad in our Program Book which helped to make our convention one long to be remembered.

Venerable JOHN TRIMBOLI,
Chairman of Youngstown Lodge #858.

OFFICE OF THE MAYOR,
Youngstown, Ohio, May 25, 1973.

Mr. ANTHONY C. PANNUNZIO
Pannunzio Construction,
Youngstown, Ohio.

GREETINGS! On behalf of the citizens of Youngstown and my administration, I would like to welcome Youngstown Lodge No. 858, Order Sons of Italy in America, 31st Biennial Convention—July 5, 6, 7 and 8, 1973, to be held at the Sheraton Inn, Youngstown West.

As you know, the city of Youngstown is located in northeastern Ohio, five (5) miles from the Pennsylvania line and midway between Cleveland and Pittsburgh.

Youngstown is a great city. It is a city of homes, schools and churches. It is a city of Steel. It is the center of an urbanized area, familiarly known as Yohio. And foremost, it is a city of people—people whose friendliness is genuine and deep.

Our city is also culturally enriched through the Youngstown Philharmonic Orchestra and the Monday Musical Club, the Youngstown Playhouse, which ranks among the top five community theatres in the country and regularly presents year-round amateur productions in its theatre. The Butler Institute of American Art contains rich exhibits of paintings, casts, sculptures and special exhibits.

Our hotel accommodations are among the finest and our restaurant and recreational facilities are superb also. We also have many fine stores which are both modern and progressive. I am certain you will find the city of Youngstown a fine place to hold your convention.

Very truly yours,
JACK C. HUNTER, *Mayor*.

Greetings to All Grand Officers, Venerables and Delegates!

As Chairman for the Thirty-First Biennial Convention of the Grand Lodge of Ohio, I welcome you.

May your stay in Youngstown be a memorable one.

In your deliberations may the good and welfare of the Order be paramount in all your thoughts. Let us advance the ideas and aims of the Order and follow through for God and Country.

May God guide you as you travel back to your homes so we can be together again at the 32nd Grand Convention in 1975.

Fraternally,
ANTHONY C. PANNUNZIO,
Convention Chairman.

GRAND LODGE OF OHIO

Louis V. Corsi, Grand Venerable.

Nick Montiello, Ass't Grand Venerable.

Veto J. Presutti, Past Grand Venerable.

Majorie Barbato, Grand Orator.

Mario Scardilli, Grand Treasurer.

Joe DeGenova, Grand Financial Secretary.

Elizabeth Candela, Grand Recording Secretary.

GRAND TRUSTEES

Vincent J. Glorioso, Joseph Franchina, Jerry Triozzi, John Sturniolo, Vincent Liberati.

BENEFIT SOCIETY

Ernest Teodosio, President.

Raymond Parillo, Financial Secretary.

Gilbert Martello, Recording Secretary.

Amos Belardo, Treasurer.

TRUSTEES

Nick Calderone, Mary Benedict, Thomas Indovina.

ORDER SONS OF ITALY IN AMERICA,
GRAND LODGE OF OHIO,
Cleveland, Ohio, July 5, 1973.

MY DEAR BROTHERS AND SISTERS: I extend my fraternal greetings as Grand Venerable to the Grand Lodge of Ohio, formally assembled in the 31st Biennial Convention and I acknowledge the official welcome of our host, the Youngstown Lodge under the able leadership of our Venerable, John Trimboli, Convention Chairman Anthony Pannunzio, as well as the other members of the lodge.

While we can take pride in the progress that has been made, both locally and nationally, in protecting and defending the good Italian name, of our involvement in charitable and civic activities, of our assistance to the worthy and needy through our scholarship program, and remembering our elders upon celebrating their golden anniversary, much still remains to be done.

During our convention deliberations, the planning and formulating of ideas and programs should lead into a better and more dynamic Order.

I extend my good wishes to all the delegates and hope for a safe return to your home at the conclusion of the convention.

Fraternally yours,

LOUIS V. CORSI,
Ohio Grand Venerable.

THE STATE OF OHIO,
OFFICE OF THE GOVERNOR,
State House, Columbus.

To the delegates of the Order of Sons of Italy in America:

As Governor of the State of Ohio, I would like to extend my sincere congratulations to the members of the Youngstown Lodge No. 858 for the celebration of your 31st Biennial Convention.

I am sure you will continue to deserve the respect and admiration of Italian-Americans throughout Ohio and America for many years to come.

Best wishes for a joyous and eventful convention.

Sincerely,

JOHN J. GILLIGAN.

AMBASCITIA D'ITALIA,
Washington, D.C., June 11, 1973.

MESSAGE OF GREETING

Regretting to be unable to attend personally the State Convention of the Ohio Grand Lodge of the Order of Sons of Italy, I would like to express to the Venerable, to the Convention Committee and to all the participating members my best wishes of every success in their praiseworthy activity on behalf of the Italian-American community and my deepest appreciation for their commendable initiatives aiming at fostering the ties of friendship between Italy and the United States.

EGIDIO ORTONA,
Ambassador of Italy.

BIOGRAPHY OF MICHAEL P. BALZANO, JR., DIRECTOR OF ACTION

Michael P. Balzano, Jr., 37, was born in New Haven, Conn. The son of Italian-speaking immigrants, he dropped out of high school at the age of 16 and worked in odd jobs in New Haven. He was a refuse and garbage collector for two and a half years until a serious back injury made heavy physical labor impossible. He then became an apprentice lens grinder for the American Optical Company.

Feeling handicapped by his inability to read or write English, he enrolled in night classes at his former high school at the age of 21. After graduating four years later he passed the Connecticut state optical examination and became manager of a Darien, Conn., optical company.

Later, Balzano left his business career to study history at the University of Bridgeport. He graduated magna cum laude at the top of his class, was named the outstanding senior and received the university's Top Scholar Award. Interested in astronomy he received a lectureship at the Bridgeport Planetarium where he taught astronomy to school, community and university groups.

Awarded a fellowship for graduate study at Georgetown University, Balzano majored in political theory and became president of the Pi Sigma Alpha Honor Society. He received the Outstanding Young Man of America Award in 1969.

He went on to earn his Ph.D. degree in political philosophy at Georgetown. His dissertation was based on an analysis of the VISTA program entitled "The Social and Political Ramifications of the VISTA Program," later retitled "Whatever Happened to VISTA?"

After President Nixon created ACTION in 1971, bringing together VISTA, the Peace Corps and other volunteer programs, Balzano served as a consultant and made his VISTA study available to officials planning the new agency. He later became special assistant to the director of the Office of Economic Opportunity.

In February, 1972, Balzano became a staff assistant to the President. On March 1, 1973, President Nixon announced his intention to nominate Balzano as director of ACTION. The Senate confirmed his appointment on April 6. Balzano was administered the oath of office by the President on May 10.

At the occasion, the President described Balzano as "a self-made and self-educated man in the very best sense of the word." He said the story of Balzano's life "should renew a message of hope that anybody can start any place in this country and go to the top."

Besides the Peace Corps and VISTA, ACTION includes the Foster Grandparent Program, Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), Retired Senior Volunteer Program (RSVP) and University Year for ACTION.

CONVENTION COMMITTEE, YOUNGSTOWN LODGE No. 858

Anthony C. Pannunzio, Convention Chairman.

Hon. Judge Jack A. Lipari, Co-Chairman.

Anthony Vivo, Banquet Chairman.

Thomas DiBernardi, Program Book Chairman.

Robert Eusanio, Program Book Co-Chairman.

Atty. Raymond Parillo, Convention Treasurer.

Cataldo Burrelli, Registration Chairman.

Anthony Tucci, Publicity Chairman.

Rocco Manginelli, Social Chairman.

Pasquale Leone, Speaker Chairman.

Nick Carrino, Historian Chairman.

Joseph Beraduce, Reception Co-Chairman.

Nicholas Fortunato, Reception Co-Chairman.

GENERAL COMMITTEE

Rev. Father Joseph Itai, John Tisone, Atty. Raymond Tisone, John Trimboli, Nicholas Bernard, Walter Pasquale, John Monroe, Peter Zerbonia, Angelo Berasi, Frank Iannucci, William Valentini, Phil Mihula.

Mae Tisone, Angeline Pannunzio, Helen Trimboli, Lucille Phillips, Mary Nudo, Helen Manginelli, Annette Lipari, Caroline Fioranti, Theresa Pesa, Catherine Tavolario, Agnes Booty, Eva Varso, Midge Lisko.

ADDITIONAL PATRONS

J. Quaranto & Son, Teenies Tavern, Milan Paurich, Chaney Pharmacy, Bell Wick Ford.

PANNUNZIO NAMED TO HEAD SONS OF ITALY CONVENTION

Anthony C. Pannunzio, of 4074 Riverside Drive, president of Pannunzio Contractors, Inc., is serving as general chairman of the 31st Biennial Convention of the Grand Lodge of Ohio, Order of the Sons of Italy, to be held July 5-8 at the Sheraton Inn, West, Youngstown.

Pannunzio, appointed by the local Sons of Italy president, John Trimboli, has served many clubs and institutions, some of which are the board of governors of the County Builders Association, the Concrete Contractors Association, Latin Culture Foundation, Mill Creek Kiwanis, and Knights of Columbus.

Host for the convention is Youngstown Lodge 858. The main speaker is Michael P. Balzano Jr., national director of ACTION. The main banquet will be held Saturday, July 7.

Other activities include an Italian sing on Thursday, a Friday fish fry and entertainment, and Sunday will feature a closing mass.

Nick Monitello will present four scholarships awarded by the statewide organization; Judge Jack Lipari will be toastmaster, Father Fiani will deliver the invocation and Father Joseph Lati, the benediction.

A women's reception committee is adding to the preparations. Members are Mrs. Ange Pannunzio, Mae Tisone, Mrs. Annette Lipari, Lucille Phillips, Agnes Booty, Catherine Cavolario, Caroline Fioranti, Phil Mikula, Theresa Pesa, Eva Varso and Midge Lisko.

SONS OF ITALY CHOOSE CORSI AS VENERABLE

Louis V. Corsi of Cleveland was re-elected grand venerable of the Grand Lodge of the Sons of Italy Sunday after a four-day convention at the Sheraton Inn.

Other officers elected were: Nick Monitello, assistant grand venerable; Nick Fortunato, orator; Elizabeth Candela, grand recording secretary; Mario Cardilli, grand treasurer, and Marge Barbato, grand financial secretary.

NAME TRUSTEES

The grand trustees are: Vincent Liberati, Vincent Glorioso, Joseph Franchi, Mary Benedict and Dr. Vincent Rivizzino. Also elected were supreme delegates Gilbert Martello, Dan Russo and Joseph Berarducci, and their alternates, Nick Monitello, Jerry Triozzi and Charles Burelli.

Atty. Raymond Parillo was elected financial secretary of the insurance council, and Judge Jack A. Lipardi was appointed grand deputy of the eastern division of Ohio. The Rev. Joseph Iati was appointed grand chaplain.

Chairman of the election committee was John Trimboli, venerable of Lodge 858. Convention chairman Anthony C. Pannunzio was honored for outstanding services.

ORVILLE CHRISTOPHEL A COMPLETE CITIZEN

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. CULVER. Mr. Speaker, during the recent centennial celebration of Oelwein, Iowa, the memory of one of its public servants was honored. The Orville F. Christophel Park was dedicated, a memorial arch commemorating the park was unveiled, and a posthumous award for meritorious service was presented.

The new park is across the street from the office where Mr. Christophel worked for so many years as an executive of the Oelwein Chamber of Commerce. The arch was built by students of the Area I Vocational-Technical school. He was the original director of this school and a long-time member of the board of education. He was a person who cared about others. He believed in youth, and in communication among people, and in programs which serve people. He gave unselfishly of himself through countless civic contributions to Oelwein. It is most fitting that his achievements and memmory have been acknowledged in this recent ceremony.

Mr. Speaker, I insert in the RECORD this editorial which was published in the Oelwein Daily Reporter at the time of Mr. Christophel's death:

HE LITERALLY GAVE HIS LIFE

The death of Orville Christophel of Oelwein is a shock to this entire community and the shock will grow rather than lessen with the passage of time.

The story of his life which appeared in yesterday's Register reminded our readers of his wide range of public service activities. And in all of this work his dedication was always noticeable. A gifted public speaker, his words underscored his heart. Those who knew him best were constantly aware of his unselfishness and humility.

We would like to think that in months and years ahead, perhaps in connection with the 100th anniversary of Oelwein, 1973, that some permanent memorial will be set up marking his contributions.

In his death, which followed a heart attack several months ago, he literally had given his life to his community. As manager of the Oelwein Area Chamber of Commerce and secretary for the Oelwein Industrial Development Corporation as well as the Oelwein United Fund he had been working day and night. Probably even when at home he was thinking of ways the programs could be improved, dreaming up new approaches. He worried (constructively) about his job. "Am I doing all I possibly can," he would ponder.

Of course since Salesmen's Day Monday and Maxwell Street Days last Saturday were Chamber of Commerce activities, he had been active right up to the last into Monday evening. The United Fund September drive, which is about to start was discussed at a special meeting as late as last Friday afternoon. Only a week or two ago a breakfast meeting was held attended by a few men to consider setting up a symposium involving communication between high school students of the area with business, industrial and professional people of their respective communities. It was Orville who set it up. He telephoned Washington, D.C., and learned a friend, an executive with the United States Chamber of Commerce, would be near Oelwein. The man conferred with local leaders at the breakfast session explaining success of the symposiums in Michigan and other states. The dream will come true, Orville, as steps to activate it will take place on October. A symposium of this kind, a one day affair, takes many months of careful planning.

His loyalty and dedication to his church, his total religious life, were among his many great assets.

Grief will be felt not only across Iowa but in many other areas of the nation. His deep interest in Area One Vocational school at Calmar represented another preoccupation as well as many years of service on the Oelwein board of education. As a retailer he applied his principles so aptly stated in the Four-Way test of Rotary Clubs: Is it the truth? Is it fair to all concerned? Will it build goodwill and better friendship? Will it be beneficial to all concerned?

His friends urged him to take it easy after his first attack. He tried to do so, did not return to his desk until July 1. He reduced his hourly schedule and, at first, his nightly meetings. He had been especially helpful in making outside calls for the O.I.D.C., something he tried to combine with his Chamber of Commerce managership. This always concerned him as he felt he was not getting into the establishments of Chamber members often enough. Actually he often turned in 18 and 20 hour days.

Right up to the last, though, he literally gave his life to his community, and the things in which he believed. He leaves a vacuum here that will never be filled.

CAPTIVE NATIONS WEEK

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. DINGELL. Mr. Speaker, the 15th observance of Captive Nations Week, July 15–21, 1973, is the opportunity for renewed attention to the problem of the lack of freedom for several captive nations including Poland, Lithuania, Rumania, Latvia, Hungary, Estonia, Albania, Bulgaria, and other nations where the people live without liberty and who suffer under imperialistic and dictatorial control.

I urge that we "summon the American people to study the plight of the Soviet-dominated nations and recommit ourselves to the support of the just aspirations of the people of these captive nations." This is language contained in a portion of legislation pending before the Congress today which I support and which is the basis for the need by the United States to enlighten the forces who control and deny the freedom of the people within the captive nations of the world.

During the observance of Captive Nations Week this month, I urge the United States to assist the peoples of the captive nations by any peaceable means available to help them in their plight and their desire to regain their deserved natural and individual freedoms which we in America enjoy.

FREEDOM FOR CAPTIVE NATIONS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. YATRON. Mr. Speaker, this week is an extremely important time for the Soviet occupied peoples of the Baltic States of Lithuania, Latvia, and Estonia. To commemorate this time, Congress in 1959 authorized the observance of Captive Nations Week by stating:

> . . . The desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace. . . ."

Certainly, therefore, Captive Nations Week marks some sad and glorious anniversaries for Americans of Baltic origin or descent and their friends around the world. First, the Baltic States were overrun by the Soviets 33 years ago; second, Lithuanians were successful in their revolt against the Soviet Union 32 years ago and; finally, the Baltic peoples have lost more than one-fourth of their population during these 33 years of Soviet terror and occupation.

The Balts have had to suffer oppression for centuries due to the "accident of geography." From the West, they were invaded by Teutonic knights and, from the East, by the Russians. Accordingly, it has taken remarkable spiritual and ethnic strength to survive these pressures from both sides.

Just as the Balts resisted invasions throughout the centuries, they have waged an intensive fight for freedom since the very beginning of Soviet occupation. During the period from 1940 to 1952 alone, approximately 30,000 Lithuanian freedom fighters lost their lives in an organized resistance movement. The cessation of armed guerrilla warfare in 1952, however, did not spell the end of Baltic resistance against Soviet domination. On the contrary, resistance by passive means gained new impetus.

Such passive resistance has also been exhibited by the U.S. Government since we have refused to recognize the seizure and forced "incorporation" of Lithuania, Latvia, and Estonia by the Communists into the Union of Soviet Socialist Republics. Our Government continues to accredit only those diplomats whose credentials were received from the former free governments of the Baltic States and not the Soviet-dominated puppet governments in existence today.

Since June of 1940, when the Soviet Union took over Lithuania, Latvia, and Estonia, all Presidents of the United States have stated, restated, and confirmed our policy of nonrecognition of the occupied Baltic States. Hopefully, the present generation of Americans will continue to recognize that the bonds which many U.S. citizens have with enslaved lands of their ancestry are a great asset to the struggle against communism.

Despite the concern of Americans for

their own internal problems, it is remarkable that a substantial cross-section of our citizenry is also concerned with the captivity of the Baltic States under totalitarian tyranny. Accordingly, it is comforting and reassuring to note that, in these uncertain times, our leaders and broad segments of our citizenry remain fully aware of these numerous captive nations, not only for humanitarian reasons, but for fundamental strategic ones as well.

The U.S. Congress has made a step in the right direction by unanimously adopting House Concurrent Resolution 416 which calls for freedom of the Baltic States. It is my hope that all freedom-loving Americans will urge the President to implement this very important resolution by bringing the issue of the liberation of the Baltic States to the United Nations to request that the Soviets withdraw from Lithuania, Latvia, and Estonia.

Certainly, the time has come for everyone to demand that the principle of self-determination be respected and that the nations of Lithuania, Latvia, and Estonia be free to choose their own form of government. We should have a single standard for freedom. Its denial in whole or in part, anywhere in the world, is surely intolerable.

CAPTIVE NATIONS WEEK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. BIAGGI. Mr. Speaker, this week marks the 15th annual observance of Captive Nations Week. Since its inception in 1959, Captive Nations Week has provided an opportunity for Americans to demonstrate their solidarity with the 100 million people in Eastern and Central Europe who are still forced to live under Communist rule, deprived of basic human freedoms and the right of self-determination.

This year's Captive Nations Week will be observed against a background of vastly improved relations between the United States and the Soviet Union, largely a result of the recently completed summit between Secretary Brezhnev and President Nixon. Yet as grateful as we are for the emergence of a new era of "detente" between the United States and the U.S.S.R., we must maintain our insistence that the Soviets begin to respect the right of self-determination for the citizens of Eastern Europe.

Secretary of State William Rogers, speaking before the recently convened European Security Conference in Helsinki gave reassurance to the captive people of the world when he stated that true detente will only come when there is common agreement on "the principle of universal respect for the right of every country to independence and to its own internal development, free of outside interference, and irrespective of its political, economic, or social system." Secretary Rogers added that—

> We have said in effect that a country must not be denied those rights for any reason . . . there is nothing equivocal about that decision which we have made. And in international affairs, strict observance of that mandate is of utmost importance.

As we reflect this week upon the struggles of the beleaguered peoples of Eastern Europe, let us not forget the continuing plight of the Soviet Jew, who today is still denied by the Kremlin the basic freedom of emigration.

During this week let us urge the President to make any future agreements with the Russians contingent on adherence by the Soviets to a policy of providing guarantees of basic freedoms for all citizens under Kremlin rule. With the admitted dependency of the Soviet Union on American agricultural and technological materials, we are in a position of strength, which if properly used could serve to benefit those people who are seeking relief from the iron hand of Soviet domination.

It is only by pursuing a policy based on the right to self-determination that we can establish a spirit of détente with the Soviet Union which will benefit all the members of the world community. Let us hope this era of good feeling between the United States and the U.S.S.R. produce the kind of respect for the rights and freedoms of others which will mark July 1973 as the last observance of Captive Nations Week.

WEICKER: BUSY FRONT MAN FOR DEAN

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. DERWINSKI. Mr. Speaker, if the public is to be satisfied that the truth, "and nothing but the truth," eventually emerges from the Watergate hearings, a key requirement is objectivity and balance in the press.

Certain members of the Watergate panel have been the subject of developing fan clubs. This is certainly the case insofar as the previously obscure junior Senator from Connecticut is concerned.

The following editorial by Bill Anderson, a Chicago Tribune national correspondent, in the Wednesday, July 11, issue of the Tribune delves into the Watergate role of Connecticut's junior Senator. I believe this article worthy of careful review:

WEICKER: BUSY FRONT MAN FOR DEAN

(By Bill Anderson)

WASHINGTON.—It is not easy to determine from watching the Sam Ervin television show that Sen. Lowell P. Weicker (R., Conn.) is roughly 6 feet 6 inches tall and wears a size 13 shoe.

The filters of the camera also hide some other aspects of the wealthy junior Republican senator who has been using an elephant gun to blast away at the Nixon administration.

Weicker's best shots have failed to appear anywhere on the TV screens, or, until now, in the newspapers. But the facts are that the disgruntled Weicker (with his staff) has been acting as a front man for John W. Dean III.

For weeks now, favored reporters have been beating a path to Weicker's door for pre-testimony "leaks" about what Dean would charge at the open hearings. And, in some cases, Weicker has gone to the media to plant additional stories.

On the other hand, before the cameras, Weicker has been wringing a strange crying-towel. In one celebrated bit, the senator said:

"Whether it is you in that witness chair or whether it is me in this committee chair or any other man in the back of this table or any other witness who is going to come before this committee, there are going to be no more threats, no intimidation, no innuendo, no working thru the press to go ahead and destroy the credibility of individuals.

"If the executive branch of government wants to meet the standards that the American people set for it in their minds, then the time has come to stop reacting and playing this kind of game, and either disavow it completely or make the very specific charges that apparently are being leaked out either against the committee members, or against the witnesses appearing before this committee."

At least one irony from the statement can be found in legislation sponsored by Weicker. Earlier this year he offered a bill which would protect the confidentiality of sources for reporters because: "We must protect a constitutional right we all have in the free flow of news. . . ."

One of Weicker's gripes against the administration is that it has been "leaking" information about him since he opened his attack on Watergate last October. He has placed a lot of the blame on Charles W. [Chuck] Colson, a former White House aid in charge of political carrots [favors] and onions [no patronage].

Colson, in an attempt to soothe the ire of Weicker, called on him two weeks ago, just after the senator's emotional television statement. The meeting, altho supposedly in the beginning to have been private, became almost as celebrated as the TV hearings.

Notes were taken during the encounter in Weicker's office and subsequently made into what represented a transcript. Richard McGowan, Weicker's press secretary, then circulated Xerox copies of statements from the private meeting to many reporters covering the Ervin hearings.

The Weicker press release, among other things, quoted the senator as saying to Colson:

"I deal in hard-nose politics. . . . You deal in crap." Aides to the senator, who was reared on New York's Park Avenue, also said that Weicker "threw Colson out of the office" after a 12-minute meeting.

Some of Weicker's better shots, however, came much earlier in the course of Watergate in his strange liaison role between Dean and the media. Dean's unlisted phone number was made available to select newsmen, who were then occasionally granted interviews.

Weicker also was a dinner guest in the home of Mel Elfin, Newsweek Washington bureau chief. Newsweek, a corporation owned by the Washington Post, has consistently led the magazine field with pre-Dean testimony and favorable personal publicity. The Post has had access to much of the private workings of the committee itself.

On the surface, Weicker's main target in the Watergate hearings has been H. R. [Bob] Haldeman, highly unpopular former White House chief of staff. But Weicker's calculated "leaks" behind the scenes have been aimed more directly at President Nixon—as has the much touted testimony of Dean. So far, the 41-year-old senator, who likes to play the game Monopoly, has moved from "Go" to Park Place on the board. But there is a lot of the game high to be played.

THE HELPING HAND PROGRAM

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. HUDNUT. Mr. Speaker, on May 5, Mrs. Elmo Coney, director of Citizens Forum, Inc., in Indianapolis, visited Washington, D.C., to tell some people in this city about the helping hand program which is being sponsored by Citizens Forum. Mrs. Coney is a constituent of mine, and I feel that in her efforts to bring national attention to this program that is aimed at building better neighborhoods and producing better neighbors, she deserves the recognition and appreciation of my colleagues in the Congress.

The helping hand program was formed primarily to build better neighborhoods by educating schoolchildren in the principles of courteous and responsible conduct, and by protecting them against harassment, intimidation, or abuse from their peers or adults. In each block, one or two persons are designated to act as helping hand "children watchers." They are authorized to notify school principals of any infractions they observe of rules of good conduct, and they are also supposed to call law enforcement agencies in case of molesting, annoyance, or any type of accident. These individuals participate in the program not only when children are walking to and from school, but also after school hours and on weekends and holidays. They help instruct children to walk in a quiet, orderly manner and not run, and to avoid trespassing on yards, arguing noisily on the streets, littering on the sidewalks, or fooling around in streets and alleys. These volunteers also have a vital concern in protecting children from abuse, and will come to the assistance of children who are in trouble whenever necessary.

These children watchers need not necessarily be parents; they may be retired persons, business persons, or any concerned individual of good character. They are not required to admit anyone into their home, but simply to know how to obtain help when it is needed and to be ready to act. Their homes are identified by a large red hand that is displayed in the front window of the house, quickly accessible and readily visible from the sidewalks and streets. All volunteers take a helping hand pledge in which they promise to do their best to achieve the above stated aims of preventing the physical bullying of children, wanton destruction of property, trespassing, molesting, littering, and so forth. Lists of qualified active watchers are kept on file in the school principal's office, at local law-enforcement agencies, and with the sponsoring organization—which is usually the parent-teacher group in the school. The watchers are not babysitters, they do not provide drinks of water or restroom facilities, they are not responsible for keeping peace in the neighborhood. They are simply people who stand by ready to help in times of emergencies and who are ready and willing to do what they can to help to build good citizenship ideals into young children.

As of this writing, approximately 100,000 schoolchildren in Indianapolis are participating. Eighty-nine schools are involved and 45 of them have achieved the 100-percent goal—that is, there is a helping hand neighbor in each block in the school district. The program has been promoted by the local newspapers and electronic media, as well as by the law-enforcement agencies.

Having become established in Indianapolis over the last 5 years, the program is beginning to attract national attention. Forty-eight mayors in major cities around the United States have talked with Mrs. Coney about getting the program started in their cities. Here in Washington, a helping hand beautification project has been inaugurated at the Shaed School on the corner of Lincoln Road and Douglas Street in northeast Washington under the leadership of Mrs. Anne Wooten.

Good neighborhoods are very important in American society and form the nucleus of stability and happiness for the American people, particularly those who are living in urban America. This program builds on the basic American principles of brotherhood and respect for the rights of one another, and translates the ideals of the Judeo-Christian ethic of love of neighbor into concrete action. As such, it can become part of the solution to some of the problems of urban decay and demoralization that blight the face of America today. And as such, I commend it to the attention of my colleagues in the Congress and the American people.

GSA SUPPORTS RECYCLING PROGRAM

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. ROBISON of New York. Mr. Speaker, it is always with a great deal of pride and satisfaction that we, in Congress, view the successes of our colleagues in the various governmental departments and agencies. Today I would like to draw particular attention to the accomplishments of Mr. Arthur F. Sampson, newly confirmed Administrator of the General Services Administration. Mr. Sampson, during his tenure in office, first as Acting Administrator and more recently as the congressionally-confirmed Administrator of the General Services Administration, has displayed not only an ability to perform his duties as an administrator with great facility, but also a talent for conceiving and initiating timely innovations in his field which have served as examples of responsible industrial and managerial progress for both the public and private sectors.

One recent manifestation of Mr. Sampson's acumen is the GSA-sponsored program for the recycling of paper products purchased for Government use. As a result of this effort, the GSA has taken the lead nationally in the creation of standards for the percentage of reclaimable fiber used in the production of almost 100 paper products. In the words of a recent progress report,

> These percentage requirements . . . do not represent GSA's final position, but are steps in a progressive approach toward achieving maximum recycling.

It is hoped that definitive action by the GSA will provide an impetus for action on the part of both government and industry directed toward facilitating the growth and sophistication of this vital recycling process.

In order to give my colleagues a better understanding of the service being provided by Mr. Sampson's organization, I request that the introduction to the program's progress report fact sheet be printed, in part, in the RECORD.

FACT SHEET

In 1970, over 50 million tons of paper and paperboard were used in the United States. Economists project that by 1985 consumption of these products will double to 100 million tons per year. This rapid increase, together with the expansion of our cities, increasing scarcity of sites for sanitary land fills, and the phaseout of incineration due to air pollution regulations contribute to the scope and severity of our solid waste problem. The domestic industry, in 1970, recycled approximately 12 million tons of waste paper fibers into new paper and paperboard products. In view of the projected increase in waste generation, the amount of reclaimed fibers used must be substantially increased to restrict the volume of materials entering the solid waste stream.

Aware of the problem, the General Services Administration, at the direction of the President, has undertaken a role of national leadership in the promotion of recycling solid waste for the production of new items. Recycled waste material contributes to the economy and can be looked upon as a resource rather than a liability.

About 50 percent of urban waste consists of paper and paperboard products. This fact points out the significance of GSA's paper recycling program. Many common use paper products purchased for Federal agencies by GSA are now required to contain percentages of recycled fibers. The percentages vary from 3 to 100. It is expected that these requirements, which are implemented with the cooperation of industry, will promote recyclying programs at all levels of government and in private enterprise.

Because the purpose of our program is to divert as much waste as possible from incinerators and land fills, GSA requires the use of post-consumer waste in its recycled paper products whenever feasible. Post-consumer waste is defined as material that has already been circulated commercially and used and discarded from homes, offices and factories.

KEEPS CONSTITUENTS AND MEMBERS INFORMED

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. RHODES. Mr. Speaker, congressional newsletters are the best way that I know of keeping the people back home informed about current issues and events. They are also valuable to the Members themselves, in that they enable us to consider and discuss different perspective on these issues. The following is my most recent newsletter, which was mailed to the people of the First District of Arizona:

Representative John J. Rhodes, First Congressional District, Arizona, Reports

"WATERGATE"

It began slowly, and built into a crescendo which has consumed the attention of virtually everyone in Washington and millions of Americans around the country. At first, it was dismissed as a petty burglary, an isolated incident. Now, it is a raging controversy which has threatened to paralyze the normal machinery of government.

I am talking about Watergate—the illegal entry last fall of seven individuals, among them employees of the Committee to Re-Elect the President, into the headquarters of the Democratic National Committee. This incident has blossomed into a full-scale scandal, complete with charges and countercharges. And as the President himself admitted in his recent television speech, "The inevitable result of these charges has been to raise serious questions about the integrity of the White House itself."

Of course, the only responsible position to take, regardless of whether one is a Democrat or a Republican, is to unequivocally reject the attitude which led to the Watergate break-in. Over the past several weeks, many leading Republicans in the Congress and the country have urged an immediate and full investigation of the facts. The 1972 Democratic Party Presidential candidate, Senator George McGovern, has publicly stated, "Republicans have been among the most effective voices calling for full disclosure of all the facts."

Watergate must be resolved . . . without delay. Far too much time has been spent on this senseless crime at the expense of the normal business of government. That has been, in my judgment, the real tragedy of Watergate: it has distracted us from many of the important issues which face our country. We must get on with the vital work before us.

Watergate must be resolved, but it must also be placed in some sort of a realistic perspective. Watergate was, as the President has said, "a series of illegal acts and bad judgments by a number of individuals." However, those who point to Watergate as an indication that our political system is inoperative are wholly wrong. "It was the system," the President has stated, "that has brought the facts to light and that will bring those guilty to justice." I, for one, believe this.

All those who had anything to do with the Watergate affair—regardless of their position—must be fully prosecuted and, if found guilty, punished as required by the law. Future generations must know that there is no condonation for this type of senseless and reprehensible activity.

The process is now underway which will result in full disclosure, if it is scrupulously followed. We must see to it that this process proceeds unhampered. But now, we must move on to other matters—vital matters, of great importance to our people and to the world, whose consideration cannot longer be postponed.

Politics is full of good and honest men and women. For every person in the Republican organization who had anything to do with Watergate, there were literally thousands who worked tirelessly and honestly to reelect the President and elect Republican candidates. No one party holds a monopoly on integrity . . , no entire party should be penalized by the actions of one group of individuals. There has never been any allegation that the Republican National Committee, or any of its functionaries were involved in any way in Watergate.

I am proud to be a Republican because I believe in the principles of the Republican Party. One of these principles was handed down by Abraham Lincoln, the first Republican President. President Lincoln said over a hundred years ago: "Let the people know the facts and the country will be saved."

The facts of Watergate will be displayed to the people of America. And America, once again, will have been saved, by the good judgment of an informed people.

BALANCING THE BUDGET: CAN THE CONGRESS FACE UP TO ITS RESPONSIBILITY?

In the Vice-President's room in the United States Capitol hangs an antique mirror which was purchased in the 19th Century by First Lady Dolley Madison. Mrs. Madison had purchased the mirror during a visit to France with her husband, the President, for the sum of $40. When the bill for the mirror was submitted to Congress for approval, however, several Congressmen demanded a full-scale investigation of the forty-dollar expenditure. In the end, Congress did approve the purchase. However, the total cost of the investigation had been $2,000.

This rather humorous example of past Congressional ineptitude illustrates a rather severe void which is largely responsible for our current economic problems. The Congress, in Madison's time as well as our own, has never made rational decisions as to whether or not its activities make fiscal sense. The reason for this is that the Congress has never made the effort to construct for itself an efficient mechanism through which it can oversee its appropriations responsibility. When an attractive piece of legislation is being considered by the Congress, the individual Congressman is too often concerned with *that* particular program and its desirability, with little regard to its rank among other worth-while programs, than to the over-all effect that this legislation will have on the economy. The unfortunate result of this piecemeal approach to budgetary matters has been spiraling inflation and, ultimately, Presidential impoundment of funds. For it has been the President who has been forced to take the long fiscal view so essential to a sound economy.

Fortunately, there is a plan to reform the Congressional budgetary procedure. A special 32-member Joint Committee on Budget Control was established early in the session to study the problems of federal spending. Just before Easter, the Joint Committee, of which I am privileged to be a member, completed its study and submitted a list af final recommendations to the Congress. These recommendations include the creation of special budget committees in both chambers of Congress to set ceilings for spending and appropriations at the beginning of each legislative session. This would mean that for the first time in history, the Congress would make a rational decision concerning the amount of money to be spent in direct relation to the estimated revenues for the coming fiscal year. If revenues could not meet expected expenditures, then the two committees would meet to decide whether to propose higher taxes or allow the government to operate at a deficit, something which is not presently done.

During the legislative session, the Appropriations Committees would bring resolutions to the Floors of both Houses of Congress containing the spending figures, broken down into appropriate divisions of spending. The resolutions could be debated and possibly amended. Then, as each individual bill became ready, it would be brought to the Floor in the usual manner. Any bill exceeding the earlier agreed-upon spending limit, however, would require a two-thirds vote for passage.

This plan for Congressional reform would represent an important step towards fiscal sanity. If adopted, balanced budgets will be the rule rather than the rare exception. Its chances for adoption appear remarkably good. The Democrat-controlled Congress is genuinely scared, having witnessed its prerogatives and responsibilities slowly erode. If one thing is certain it is that the Congress cannot continue to operate in this manner. It is the knowledge which will, I believe, spur the Congress into badly-needed action.

FLOOD INSURANCE

In 1972, floods in the United States caused billions of dollars worth of property damage, in addition to tragic loss of life and personal possessions. We all remember well the extensive property damage which resulted from last June's flooding in the Valley of the Sun. In February of this year, President Nixon signed into law a resolution which was passed by the Congress to increase the Government's authority to issue flood insurance to $4 billion. Despite the dramatic growth of the National Flood Insurance Program, however, much more needs to be done. The 1,500 communities now included in the program represent less than 25% of the known flood-prone areas in the United States. The Department of HUD has announced those areas eligible for flood insurance as of February 28, 1973. In Arizona, these areas are:

Casa Grande, Huachuca City, Kingman, Maricopa County, Mesa, Paradise Valley, Phoenix, Prescott, Santa Cruz County, Scottsdale, and Willcox.

The Arizona coordinating agency for flood insurance is: The Arizona State Land Department; 1624 W. Adams; Room 400; Phoenix (85007). The Commissioner is Mr. Andrew Bettwy. The contact person is Kelly Johnson, who can be reached at 271-4625. The Federal Insurance Administration has informed me that communities which seek eligibility for flood insurance should obtain the appropriate application from the Arizona State Land Department and send them to the Department of HUD in Washington, D.C. I am told that the Federal Insurance Administration is able to make flood insurance available to a community within three weeks after receipt of the complete application.

THE ENERGY CRISIS: ONE POSSIBLE ANSWER

One of the more serious problems confronting our Nation is our dwindling energy reserves. In fact, the "energy crisis," as it has come to be known, could well be the major issue of the 1970's. As a Nation, our annual consumption of energy is enormous. With about 6% of the world's population, we consume approximately 33% of its annual energy output. And our demand is ever-increasing. Secretary of the Interior Morton has reported that the Nation's 1972 demands for heat, light and power of all kinds represented a 4.9% increase over 1971, and more than double the 2.4% rise from 1970 to 1971. To make matters worse, our energy reserves are swiftly diminishing—we have already consumed more than half of our known oil and natural gas reserves. And the remaining 50% will be substantially harder to tap. For one thing, it costs twice as much today as it did ten years ago to construct a 100,000 barrel-a-day oil refinery. Also, the first half of our energy reserves were reasonably accessible and could be easily tapped. Our remaining reserves lie deeper beneath the crust of the earth, and in more remote locations. Without appearing overly-alarmists, the picture is indeed a bleak one.

One possible solution which I am hopeful will receive increased attention by the Government is the potiental of geothermal power. Geothermal power—power beneath the crust of the earth—is known to be efficient, clean and abundant, particularly in the Southwestern United States. Of all the possible energy sources, geothermal power seems without peer in terms of advantages. Petroleum and natural gas supplied the United States with most of its fuel last year, but our reserves are diminishing. Coal is the Nation's most abundant fossil fuel, yet when mined, the land is scarred and when burned, the air is often polluted. Nuclear plants offer considerable hope for the future, but also present unique waste disposal problems. Geothermal power, however, is unique in the sense that all activities related to the power production cycle are localized to the immediate vicinity of the power plant. Support operations such as mining, fuel processing, transportation and other handling facilities do not exist. For these reasons, geothermal steam may represent a viable answer to the energy crisis.

I have recently co-sponsored a bill to promote the exploration and development of geothermal resources through cooperation between the Federal Government and private enterprise. The bill expands the scope of the Geothermal Steam Act of 1970—which provided the development of Federal lands that have potential for geothermal energy—by seeking out promising geothermal areas and improving exploratory and developmental methods. The underlying premise of this bill is that if geothermal energy is to be successfully tapped, joint public and private research must show the way.

While we realize that with regard to issues as complex as the energy crisis there are seldom any "sure thing" answers, we can begin to take active steps to avert a major national crisis. Geothermal power represents one potential answer to our energy problems—particularly in many of the Southwestern states—and I look forward to the expansion of its potential.

[From the CONGRESSIONAL RECORD, Feb. 20, 1973]

WATER

Mr. RHODES. Mr. Speaker, today I have introduced a joint resolution directing the Secretary of State and the Secretary of the Interior to study the economic and engineering feasibility of acquiring riparian rights from the Republic of Mexico to water in the Gulf of California. This would be for the purpose of piping and pumping such water from the gulf to Arizona, and to acquire a permit to locate a desalinization plant within the territorial limits of the Republic of Mexico.

This resolution relates generally to the water and energy shortage problems of the American Southwest, and specifically to the salinity problem of the Colorado River.

The treaty between the United States and Mexico involving the Colorado River provided only that a certain quantity of water, 1,500,000 acre-feet of water per year, would be delivered at the international border. Nothing was said about the quality of water to be delivered.

Nevertheless, the desirability of lowering salt content is undeniable. In an attempt to accomplish this, the United States has constructed a ditch to take the waters which drain from the Wellton-Mohawk project in Arizona and introduce them back into the Colorado River at a point below Morelos Dam, which is the Mexican point of diversion. Actually these waters amount to a windfall to the Mexicans, since the water is not charged against the one million and a half acre-feet which Mexico obtains under the international treaty. This additional water assists in efforts to keep the mainstream water below undesirable salt levels.

In addition, President Nixon and President Echeverria of the Republic made more headway on the salinity question in their discussions early last summer. As a result, further efforts are being undertaken to dilute the water Mexico receives.

It should be emphasized that these improvements were undertaken as a matter of international comity, and not as an assumption of any legal liability on the part of the United States to provide water of any given quality at the international border.

Despite what has already been done, the Colorado River salinity question still could be an extremely delicate issue between the nations; or, it could be a means of cementing the friendship between our two Republics.

Although, as I mentioned before, the United States has no legal duty to improve the quality of water obtained by Mexico from the river, I feel it is to our own best interest to do so if we can without irreparable injury to own people.

The best manner by which to improve the quality of this water is by augmentation; introducing additional water which is better in quality than the water which flows across the international boundary. And, the best means of doing this is by the construction of a desalinization plant to be located somewhere in the littoral of the Gulf of California. Power to operate this plant would be provided by a nuclear plant built in the United States, near the Mexican border.

This scheme would provide pure water to dilute the waters of the Colorado River to the desired degree. It would also provide surplus water which could be used in the Colorado River, either by water exchange or by direct application. The surplus power which would be produced by the nuclear plant would be readily marketable, possibly in northwestern Mexico and certainly in the southwestern part of the United States, which faces imminent power shortages.

I have specified a nuclear plant, rather than a conventionally fired plant because there is no adequate supply of fossil fuel in that region. Also, I feel that the undertaking of a project of this magnitude would appeal to our friends in Mexico, not only as a source of water supply, but as a prestigious scientific undertaking. The two countries would be advancing technologies in nuclear power production, desalinization, and surely in the related areas for the protection of our environment. After all, we would want this undertaking to epitomize sound environmental planning.

As its part of the undertaking, Mexico would furnish a site or sites on or near the Gulf of California for the withdrawal of water. It would also give whatever riparian rights are necessary for the legal use of waters of the Gulf of California, and rights of way for canals, waterways, and the like. Of course, insofar as possible the United States and Mexico should be reimbursed for their expenses from the sale of excess power.

It should also be noted here that the Colorado River Basin Project Act took the burden of providing water to satisfy the entire Mexican treaty burden upon the Government of the United States. At some time in the future, the task of providing 1,500,000 acre-feet of water to satisfy this burden must be assumed. The Colorado River is far short of producing the amount of water to satisfy the needs of the States of the basin, even without regard to the Mexican burden. This, then, might be a manner in which the United States could discharge the burden it has assumed, establish better international relations with Mexico, and aid in ending a power shortage in the southwestern part of the United States.

This plan is not new to Mexico. It has been broached in numerous talks between officials of the two Governments over the last few years.

If passed my legislation would direct the Department of State and the Interior to undertake negotiations which are necessary if this plan is to be developed further. The time is right with the increased Mexican concern over the salinity problem. I hope my resolution will be given early consideration.

Phoenix

Don W. Perry, James B. Mayer, Denison Kitchel, Frank Middleton, Ricky Boyd, Sister M. Richard Goodbody, Eugene K. Mangum, C. K. Hull, Jr., Bill and Jean Was, Wayne O. Earley.

Burton Kruglick, Mrs. Bertha R. Koch, Sam A. Phillips, Charles W. Fernald, Frank G. Scussel, Les M. Alexander, Michael A. Curtis, Edward E. Davis, Walter Ong, Joseph Duke.

Arthur L. Funk, David K. Funk, Dewey B. Wilcoxson, Allen Rosenburg, Wallace Vegors, Chet Lockwood, Carl Heppler, Frances Kent, Ron Krause, Ray Leitner, L. H. Woodruff.

George E. Leonard, Junius E. Driggs, Douglas Driggs, Karen Levine, Francisco E. Quihuis, Ed Gonzales, Mary Murphy, Rose King, Gerald Lindsey, Governor Jack Williams.

J. R. Tatum, Jerry Laughlin, Alvis J. Moore, Jim Brooks, Ernie LeDesma, Renee Engel, Charles B. Prentiss, Art Williams, Milton Graham, Mrs. Everett B. Luther.

Emmett McNulty, George Dean, Paul H. Dudine, Larry Chavez, Dr. and Mrs. Harold Udelman, Honorable Bill McClune, Peggy Spaw, William P. Reilly, Dr. & Mrs. G. H. Mertz, Dave and Steve, Don Yule.

Bob Jordan, William E. Smith, Richard M. Arnold, E. Jay Whiting, John Sing Tang, Richard W. Cain, Mark B. Smith, Melinda Doeller, Jennifer Hauskins, Connie Warner, Chris Warner.

Raul Rios, Richard Taylor, David Kent, Jo Lynne Wells, Paul Laune, Karalee Schoen, Steve Mardian, Kathy Wells, Michael Gardner, Julie Newman.

Bob Clark, Ann Bosson, Tom Barrett, Mr. & Mrs. Paul B. Butler, Jr., Anne Marshall, Kathy Grundy, Bob Pritts, Alyce Wells, Tracy Smith, Rose Driscoll, Floyd D. Hamman.

James C. O'Malley, Mr. and Mrs. Glenn Stanley, Cathy, Liz, Sara and Mark, Mrs. G. V. Stanley, Homer Lane, Bill Lester, O. Buskirk, Rev. Robert Nesby, Mildred F. May, Don and Karen Vance, Neil Wake, Gilbert Ribal.

Scottsdale

Curtis A. Jennings, Milton F. Graf, Jerry Levine, Jerry Kalman, Mr. and Mrs. Herb Drinkwater, Jamie and Mark, Richard and Sam Campana, Paul J. Smith, Donald W. Fry.

Al Overend, Jonathon Marshall, Peter Brown, Barb Brown, Robert G. Worden, A. C. Mason, Leon M. Nowell, Dorothy E. Gerrard, Eldon Rudd, Rose Pfeifer, Bob Corckrill.

Paradise Valley

Mr. and Mrs. William Puntenney.

Mr. and Mrs. J. Earle Martin, Jr.

Sun City

R. F. Gruver, Gay Carson, Ed Omohundro.

Avondale

Esiquiel Ramos.

Chinle

George James.

Casa Grande

Antonio Rascom.

Mary Farms

Bob Roessel.

Rimrock

Dennis Cray.

Carefree

Joe Bernier.

Patagonia

R. A. Rich.

Sierra Vista

Bob Currito.

Nogales

David R. Williams.

Winslow

Fred L. Swagerty.

Tucson

Marion R. Sundt, Elsa P. Mulhern, Jack Maute, D. Shropshire, Mr. and Mrs. Floyd Sedlmayr, Charles F. Sullivan, Larry T. Gregory, Robert W. King, "Swede" Johnson, G. E. "Doc" Hamilton, Judge Richard H. Chambers.

Holbrook

Cephas Perkins.

Coolidge

Mary J. Faul, Arthur J. Faul.

Window Rock

Jerry Bathke, Wilson C. Skeet, Graham Holmes.

Flagstaff

Dr. Tom Geiler.

Chandler

Merton E. Davis.

Prescott

Charles McDonald, Rhonda Duke

Mesa

Peggy and Jay Rhodes, L. L. Thomas, Scott S. Parker, M. K. McCampbell, Betty Cory, Phil Cory, Henry H. Haws.

Tempe

Mark I. Potter, Richard Mauzy, Ted Brennan, Henry Kutak, Bill Ream, Harry E. Mitchell, Hernan Selaya, Walter Brown, Michael Goodwin, Rudy Campbell.

OBJECTIONS TO SONNENFELDT CONFIRMATION MUST BE ANSWERED—PART V

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. ASHBROOK. Mr. Speaker, with hearings soon to begin before Senator HENRY JACKSON's Senate Permanent Investigations Subcommittee on the Soviet grain deal, questions raised in connection with the nomination of Helmut Sonnenfeldt as Under Secretary of the Treasury are more timely than ever. In May I inserted information in the CONGRESSIONAL RECORD on four occasions concerning the suitability of Mr. Sonnenfeldt for the very important job of senior adviser on East-West trade within Treasury. Objections to Mr. Sonnenfeldt's confirmation divided into two areas: His alleged leaking of sensitive information in the past and his involvement in the Soviet grain deal as a member of the National Security Council.

Clark Mollenhoff, the Pulitzer Prize-winning investigative reporter for the Des Moines Register and former White House adviser during the Nixon administration, briefly but adequately outlined the grain deal and security aspects of the Sonnenfeldt case in his May 16, 1973, article entitled, "Senate Unit in Sharp Quiz of Sonnenfeldt on Soviet Wheat." I include the article at this point in the RECORD:

SENATE UNIT IN SHARP QUIZ OF SONNENFELDT ON SOVIET WHEAT

(By Clark Mollenhoff)

WASHINGTON, D.C.—President Nixon's nomination of Helmut Sonnenfeldt as undersecretary of the Treasury department came under fire Tuesday on grounds of security, integrity as well as his role in the Soviet wheat deals.

The questioning of Sonnenfeldt, who has been Dr. Henry A. Kissinger's senior staff adviser at the White House, came from Finance Committee Chairman Russell Long (Dem., La.) and Senator Harry Byrd (Dem., Va.) and Senator Carl Curtis (Rep., Neb.).

JUDGMENT RAKED

It came after John D. Hemenway, a former State Department Foreign Service officer and expert on German and Soviet affairs, declared that Kissinger's senior national security adviser has "faulty . . . professional judgment" and "unacceptably low" standards of integrity and had given documents with national security classifications "to a foreign power."

Sonnenfeldt, nominated by Mr. Nixon for the treasury post to take charge of East-West trade negotiations, denied the security violation, but admitted the Russian wheat deals have created problems for farmers, consumers and the bakery industry.

Although Sonnenfeldt admitted a key role in the wheat transactions last year, when he was questioned by Senator Byrd on the necessity for $140 million in wheat subsidies to the Soviet Union, he claimed a lack of expertise on grain prices, grain supplies and economic impact.

The German-born career "Soviet expert" supported the Nixon administration's wheat deals, and the credit arrangements as probably the best possible way to conclude an agreement with the Soviets for movement of U.S. wheat.

"NEGATIVE" ATTITUDE

Sonnenfeldt said the Soviet had expressed "a very negative" attitude on the grain sales on the credit arrangements that the U.S. originally proposed, and had regarded those arrangements as no better than a cash transaction.

He said the objective as far as the United States was concerned was to broaden the international markets for wheat by developing the Soviet sales.

Byrd asked him if it was necessary "to let Russians buy our wheat with our money and then pay them a subsidy for doing it."

Sonnenfeldt conceded that this had been the result, but that the sale of American farm products was increased.

Byrd then asked whether Sonnenfeldt believed that such a huge wheat sale was necessary, and had been in the best interests of the American economy.

"A MISTAKE"

Sonnenfeldt replied that by hindsight the large sale had been a mistake, and that none of the persons on the National Security Council staff had understood what a large impact it would have on grain prices, food prices and the entire economy.

He said his only direct knowledge of what has happened to the food prices is what his wife reports to him "on the increased cost of the food basket" at the grocery store.

Byrd noted that in the position in the treasury to take charge of all trade negotiations with the Communist world, Sonnenfeldt must know the possible impact of all such massive sales of commodities or products.

Sonnenfeldt said that he believed that "we learned a lesson" from the Soviet wheat deals and that "it won't happen again."

"Our government was not adequately organized for this (huge wheat sale) experience," Sonnenfeldt said. He said that to meet these problems in the future President Nixon is restructuring the Treasury Department, and has placed Treasury Secretary George P. Shultz in charge of the program.

ASK DETAILS

The Finance Committee members wanted to know more about the specific mechanics through which Sonnenfeldt will police agreements with the Soviet Union. Both Byrd and Curtis noted that the Soviet Union has had a notorious record in not living up to its international agreements.

Sonnenfeldt explained that this time is different because "the United States has some sanctions" and that the U.S. has something the Soviet Union wants.

"We will keep very close watch on what the Soviets export to our country," Sonnenfeldt said. He promised to take swift action if it even appears that the Soviet Union has any intention to violate any trade agreements.

Earlier, Hemenway had told the committee that "abundant evidence is available to show that Mr. Sonnenfeldt is unfit for this high office and not worthy of trust."

He related that Sonnenfeldt had been his superior at the State Department, and that reports made in connection with his selection out had included "false statements" attributed to Sonnenfeldt.

Hemenway said his efforts to obtain testimony from Sonnenfeldt on those statements had failed in connection with his recent hearing before a Foreign Service panel.

Hemenway also noted that in 1960 and 1961, Sonnenfeldt was under investigation on charges of having delivered highly classified documents to officials of "a foreign power."

"From State Department security source, it can be established that Mr. Sonnenfeldt lied when interrogated about his own improper activities," Hemenway told the committee. "Mr. Frank Niland, an employe of the Department of Justice, can provide information on the personal surveillance of Mr. Sonnenfeldt which was maintained for one year."

Hemenway also said "Mr. Stephen Koczak, formerly an employe of the Department of State bureau of intelligence and research and a career U.S. diplomat, personally witnessed improper and illegal transfer of information from Mr. Sonnenfeldt to unauthorized foreign nationals."

PERSONNEL FILES

He said Koczak now lives in Washington, D.C., and would be available as witness for the committee.

Hemenway said State Department personnel files have included the details of Sonnenfeldt's security investigations. He said that this information should be available to the Senate Finance Committee which has Sonnenfeldt's nomination under consideration.

Under questioning by Chairman Long and other members, Sonnenfeldt denied that he had given classified documents to officials of a foreign power.

Long asked if Sonnenfeldt would object to two members of the Senate Finance Committee obtaining his personnel record to examine it, and Sonnenfeldt said he had no objection but did not know what the State Department's view would be.

ANNOUNCEMENT OF HEARINGS ON THE CABINET COMMITTEE ON OPPORTUNITIES FOR SPANISH-SPEAKING PEOPLE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. EDWARDS of California. Mr. Speaker, I would like to announce that the Civil Rights and Constitutional Rights Subcommittee of the House Committee on the Judiciary will continue hearings on Thursday and Friday, July 19 and 20, 1973, on the Cabinet committee's role in providing equal opportunity for Spanish-speaking people.

The hearings will commence at 10 a.m. in 2237, Rayburn House Office Building. Those wishing to testify or to submit statements for the record should address their requests to the Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

ADMINISTRATION CONSIDERED POLITICAL REPRISALS AGAINST MIT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. DRINAN. Mr. Speaker, I would like to bring to the attention of my colleagues an article written by Ms. Deborah Shapley for Science magazine, the editorial arm of the American Association for the Advancement of Science and a publication highly regarded in the scientific community.

The article describes in considerable detail a White House proposal to cut off all Federal research funds to the Massachusetts Institute of Technology as a political reprisal against the school's president, Dr. Jerome Wiesner, and the school's policies. According to MIT officials, the reprisals were never actually carried out.

It appears that the administration actually gave serious consideration to penalizing this outstanding institution for the political statements made by Dr. Weisner before he became president.

I urge my colleagues to study this article—and its implications—quite carefully:

WHITE HOUSE FOES: WIESNER TARGET OF PROPOSAL TO CUT MIT FUNDS

(By Deborah Shapley)

In the last 2 years, highly placed White House staffers and perhaps the President himself, apparently considered cutting off federal research funds to the Massachusetts Institute of Technology as a political reprisal against its president, Jerome B. Wiesner.

The evidence for this consists of the texts of two White House memoranda, one referring to a prior presidential "directive" to cut M.I.T.'s money "in view of Wiesner's antidefense bias." The second, which was addressed to the President himself, discussed how to do this. The first was addressed to presidential aides John Erlichman, Henry Kissinger, and George Shultz in 1971; the second was addressed to the President in 1972. However, the plan apparently came to nothing; M.I.T.'s federal research funds have increased steadily over the last 3 years.

Wiesner—who was President John F. Kennedy's Science Adviser and an ardent foe of the Nixon-backed antiballistic missile system—is also listed on the White House "enemies" list said to be drawn up by the office of Charles W. Colson. It is not known what, if any, connection there is between the enemies list and the Wiesner-M.I.T. memos. The memos' existence, at least, indicates that specific reprisals were planned, that research funds were considered an added means of political reprisal, and that perhaps, the President may have been involved.

The first, labeled "Confidential/Sensitive" and dated October 1971, is addressed to Shultz, Ehrlichman, and Kissinger. It states that it is from Jon Huntsman, who, as White House staff secretary, was a pivotal communications man among top-level aides. It states:

"Upon reading the attached article which appeared in the Wall Street Journal on October 12, 1971 [about the ABM debate and the scientific community] it was requested that you report on the progress that has been made on the President's directive of a year ago to cut back on M.I.T.'s subsidy in view of Weisner's [sic] antidefense bias. "Please submit your report to the Office of the Staff Secretary.

"Thank you."

Carbons were addressed to H. R. Haldeman and Alexander Butterfield, a deputy assistant to the President.

The second text is dated April 1972 and addressed to the President from Ehrlichman, with an "E" over the latter's name. The presence of his initial would customarily indicate that he saw the memorandum.

"As you will recall, prior cuts have reduced grants to M.I.T. about 30 percent to $71 million.

"Of this some $40 million goes to Department of Defense laser development, which is deemed high priority.

"The remaining $31 million is fair game and will be identified by contract number immediately. The best method is to order no further funding, rather than cancellation, to avoid penalty claims and lawsuits. Such an order would actually stop funds as of June 30 (71 days from now).

"Either way it will take until Monday to know precisely which contracts make up the $31 million.

"You should give guidance on these specifics:

"Cut out the DOD laser program (40 million dollars)

"Order no further funding of non-defense programs as of June 30, 1972 (31 million dollars).

"Cancel non-defense contracts *now* ($31 million less cancellation penalties)"

A check appears next to the second option, and it could be the President's, since the memo was addressed to him. However, there is no way of confirming or denying this.

The memoranda were shown to this reporter who was permitted to copy down the texts. They were confirmed as authentic by a source considered to be reliable. Attempts to reach Ehrlichman through his lawyers were unsuccessful. Huntsman, who left the White House in early 1972 is now president of Huntsman Container Corp. Reached at his Maryland home he said he couldn't remember writing the first memo, but that if his initials appeared on it—which they do—he probably did. "I put out 20 to 40 memos a day," Huntsman said. "I normally would be getting information and acting on requests made to me by the staff. I would not get involved with policy, or who wanted it, or why they wanted it." He admitted that some of these requests had come from the President. Huntsman asked what M.I.T. was, and indicated he was unfamiliar with Wiesner's activities.

But the plan to cut off nondefense research funds to M.I.T. at the end of fiscal 1972, opted for either by the President, Ehrlichman, or someone else, turns out to have been inoperative. M.I.T. Vice-President Constantine B. Simonides states that the funding of M.I.T.'s campus research, the Draper Laboratory, and the Lincoln Laboratory, will rise for fiscal 1973 by the largest jump since 1968 to a $205 million total. Simonides said he could find no numbers among M.I.T.'s official charts corresponding to the "$31 million" of nondefense research monies that the Ehrlichman memo called "fair game." Nor could he find a total of $71 million, nor a drop of 30 percent—all cited in the Ehrlichman memo to the President. In fact, Simonides pointed out, each component of M.I.T.'s federal research funds has been rising steadily since 1971, when the two laboratories and the campus together netted $154 million from Uncle Sam. M.I.T.'s 1973 books do not reflect the loss of the Draper Laboratory, which, according to a previous 1970 decision, wouldn't spin off to become an independent, nonprofit corporation until the start of fiscal 1974, on 1 July. In short, M.I.T.'s business has been booming, despite Wiesner's "antidefense bias." Its federal funding has grown under Nixon (it stood at $168.8 million in 1968), as it did under Eisenhower, when the institute underwent a major expansion. As a director of another major science institution on the federal dole pointed out: "The Administration's science policy likes the kind of thing M.I.T. likes to do, like the RANN program. They all love that at M.I.T."

In the absence of any institutional reason then, why might the President and some of his aides have it in for M.I.T.? The obvious explanation is that Wiesner is a personal target. His name appears on the undated "enemies" list submitted to the Senate Watergate committee by John W. Dean III; he was a former Science Adviser to President John F. Kennedy; he is the only major university president closely identified with Nixon's antediluvian foe; and finally, at the height of the bitter 1969 debate over the antiballistic missile, Wiesner was a conspicuous opponent of it and one who, moreover, insulted military planners by arguing publicly that the system's hardware wouldn't even work. When he was sworn in as president of M.I.T., Wiesner swore off making public political statements; but there is no question that in his previous public life he has stepped on several toes. William O. Baker, who is as identified with the Republicans as Wiesner is with the Democrats, recalls an impromptu debate Wiesner got into early in the Kennedy Administration with rocket specialist Wernher von Braun in front of the President and some Huntsville, Alabama, television cameras.

The dispute, Baker said, made the public think that these scientists who wanted to go to the moon didn't know what they were talking about, and afterward he said. "Some of Kennedy's people were just as mad at Wiesner as the Nixon people evidently are." But Baker said that among other scientists, at least, Wiesner's style and ideas were regarded as "amusing," sometimes "ingenious," and generally "admirable," since this sort of controversy is the stuff of science. "It's true that Jerry has all sorts of strange attitudes about modern events, and people don't take some of them that seriously. They just say, 'Oh that's just Jerry sounding off.' But if you were in the political arena, or in a religious one, and somebody started talking like that, Jerry would look like a heretic."

A former National Security Council staffer, on reading the texts of the Wiesner-M.I.T. memos, retorted, "That's par for the course. . . . There was talk in the administration at the time of the Cambodia invasion of reassessing federal grants." The memos are "entirely plausible and consistent" with Administration attitudes. "I'm sure there are companion memoranda to those in the files, about other institutions."

Wiesner had the two texts relayed to him by telephone and commented, "I think it's outrageous, of course, to attack an institution for things I did as a private citizen, in the public interest, before becoming president of it." He said that he thought the Administration might consider him part of the Edward Kennedy "team", but that their principal unhappiness with him was probably over his role in the ABM debate. He confirmed that he had, nonetheless, remained a consultant to the now-defunct President's Science Advisory Committee at the invitation of both of Nixon's science advisers.

As to whether he had any evidence that the plan to cut off nondefense funds to M.I.T. was carried out, Wiesner said he had heard of an occasional research administrator saying that he could have considered a given proposal, "if only it didn't come from M.I.T.," but that he knew of "no overt action taken to punish M.I.T."

That the Nixon White House, apparently unhappy with one of the nation's most prominent scientific figures, should have tried to cut off funds to his institution as a reprisal, is not unprecedented. President Lyndon Johnson, riled by some scientists' opposition to his Vietnam policies, was said to have gone over the budget figures to pencil out items he thought should not be funded (see *Science*, 5 March 1971). But both Wiesner and Eisenhower's Science Adviser George B. Kistiakowsky stated last week that, to their knowledge, nothing of the sort transspired when they served in the White House.

THE METRIC SWITCHOVER—ITS EFFECT ON A SINGLE STATE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. PICKLE. Mr. Speaker, in all the hearings, studies, and investigations now completed on the possibility that the United States will change to the metric system, one factor has stood out repeatedly. Everyone seems to be in agreement that the United States will make the switch eventually. The only questions are how and when.

Those are important questions on which will hinge the savings and expenditures all across our land.

Just exactly what that means has been most ably set out by a staff member of the Bureau of Business Research at the University of Texas at Austin, Mr. J. Bryan Adair.

Mr. Adair's article deals with one State, the State of Texas. In detailing the options available—and the hard facts about what each option will mean in terms of dollars, employee retraining, and the general economy of that State—Mr. Adair is giving us some valuable insight into what the various options can mean for the country as a whole.

I commend Mr. Adair's article to my colleagues and insert it in the Record.

The article follows:

[From Texas Business Review, June 1973]

TEXANS AND THE METRIC SYSTEM

(By J. Bryan Adair)

Texans, through three of their congressmen, may significantly influence the probable upcoming conversion to the metric system of measurement in the United States.

Three representatives from Texas, Olin E. Teague (6th Congressional District), J. J. (Jake) Pickle (10th District), and Dale Milford (24th District), are members of the Science and Astronautics Committee, which handles all legislation concerning national scientific research and development, scientific scholarships, the National Science Foundation, NASA, the National Bureau of Standards, and all matters relating to outer space or to astronautical research and development.

It was the National Bureau of Standards that recently published the *U.S. Metric Study*, a three-year in-depth survey of the metric system and its potential impact on the United States. Legislation being considered by the committee is largely based on the findings of that study. In fact, during the second session of the 92d Congress, the Senate passed a measure—by unanimous vote and with no debate—that would make metric measurements mandatory within the federal government in ten years and would encourage voluntary conversion throughout the country during the same time span. However, the action came late in the session and the House never brought the legislation to a vote. Another bill has been introduced into the Senate this year and is being considered by the Commerce Committee.

Eleven bills dealing with metrication were introduced in the House between January 3 and March 23, 1973. Four of those bills were coauthored by Texas congressmen, two by Congressman Teague (who is chairman of the committee) and two by Congressman Pickle. Bills promoted by both Texans have conversion to the metric system within ten years as a goal, but the rigor of implementation sought by the bills differs somewhat. One Pickle bill calls for the establishment of a nine-member U.S. Metric Conversion Coordinating Commission and declares that after ten years the international metric system will be the sole official measuring system of this country. The key bill introduced by Congressman Teague also calls for a changeover through a national plan but sets as a goal to make the metric system only as predominant as possible in the ten-year time span. The Teague bill resembles the legislation considered by the Senate Commerce Committee.

Neither bill would outlaw use of the customary standards and measurements with which Americans are familiar. Both bills call for a voluntary changeover, as do most of the other nine bills introduced.

The metric system of measurement, officially known as Système International d'Unités and commonly abbreviated SI, has six base measurement units: the unit of length is the meter; the unit of mass is the kilogram: the unit of time is the second; the unit of electrical current is the ampere; the unit of temperature is the kelvin; and the unit of luminous intensity is the candela, or candle. All other units of measurement, such as speed and volume, are defined in terms of the six base units. This measurement system had its beginnings in France, where it was conceived in 1670 by an abbé, Gabriel Mouton.

France, however, did not adopt the system until the French Revolution period of the 1790s. During the following century, about 80 percent of the countries of the world adopted the metric system, leaving the United States and British Commonwealth countries the primary holdouts. That situation has changed radically in the past few years, particularly with Great Britain's decision to adopt SI in 1965. Today all of the major countries of the world except the United States have officially adopted SI or are in the process of conversion to it. As the international community moves toward this common language of standards and measurements, the United States remains the only English-speaking nation not officially committed to a given system of measurement.

There is little question that adoption of the metric system would enhance our position in world trade markets. The export of measurement-sensitive products is often dependent on domestic supplies of parts and tools in countries to which goods are being exported. With Great Britain, Canada, Australia, and a number of other formerly English-measurement countries now committed to the metric system, closer trading ties can reasonably be expected to develop between those countries and industrialized nations presently using SI. A result of the realignment is already observable in Britain's recent entry into the Euroepan Economic Community.

During the 1962–1969 period, the U.S. share of freeworld trade decreased 10.4 percent, even though the absolute volume increased. Of the top six major-world trading nations, only the four using the metric system for the entire period increased their world market shares, wtih the United States and Britain experiencing declines.

Texas manufacturer performs operations in about 98 percent of all manufacturing Standard Industrial Classifications. Texas produced about 5 percent of all U.S. manufactured exports in 1969, a decline from 5.4 percent in 1960. Still the state ranks seventh in export of manufactured goods, and Texas obviously has a stake in any policy formulation that might alter the position of the United States in the world market. The metrication issue and the decisions made during the next few months could be critical.

Texas, with its deep-water seaports, large air terminals, and international border, is in a prime position to take advantage of the overseas market for American-made goods. Even by providing embarkation facilities for the shipment of goods manufactured in inland states, Texas benefits, and any increase in that commerce enhances state revenues.

Aside from improvement of the U.S. role in international trade, numerous other reasons exist for switching to SI. Since metric units are related by submultiples of ten, problems of designation and calculation will be simplified. For example, addition of a series of fractions of inches and conversion of the sum to feet require considerable arithmetic calculation, but the corresponding operation with metric units requires only addition of decimal units and conversion of the sum to the needed measurement by moving the decimal point (such as cents to dollars: 25. cents=.25 dollars).

The simpler terminology and greater flexibility of the metric system make it easier to learn and to use. In fact, much of the time spent on fractions in elementary school could be used in teaching other subjects. Engineering and scientific calculations based on units of ten are faster, simpler, and less expensive to the employer. Basic product research in this country is usually performed by use of metric units, which are customarily converted to English units during product design processes. The switch to SI will eliminate the need for inefficiencies involved in conversion of one measuring system to another as a matter of routine operation.

From the point of view of the consumer, metrication has several advantages. Prices of items sold by volume, weight, or count are easier to compare if the monetary and measurement system both have the same decimal unit base. Further, after SI has become accepted throughout American business and government institutions, savings resulting from increased efficiencies should pass on to the consumer-taxpayer.

An established trend toward conversion to metric measurements has been apparent in the United States for some years. Notable conversions have occurred in activities and disciplines that are more or less self-contained. The pharmaceutical industry has discarded its traditional drams, grains, and minims in favor of milligrams, grams, and milliliters. Camera equipment is designed with metric dimensions for compatibility with metric-sized film. Mathematics and science education are largely taught in the metric system in the United States, often to very young children. Manufacturers of antifriction bearings of all types have largely changed to metric designs. Automobile mechanics have added metric tools to their toolboxes as the number of cars having metric-dimensioned parts has risen to 20 percent of those on U.S. highways. In fact, some foreign-made parts of metric design are presently being installed in American cars, and General Motors has recently announced plans for a metric changeover. Other items that often appear in metric sizes are snow skis, swimming pools, typewriters, and motorcycles.

The increasing usage of SI in U.S. business and industry, the adoption of the metric system in all other major trading nations, and the interest taken by Congress in the past few months indicate that metrication in America is a movement with much momentum. This impression is true, but the movement faces resistance from many quarters. Fully 58 percent of the American public has only the vaguest notion of what the metric system entails. Further, a surprising number of people contend that any metric conversion in the United States would primarily benefit those enterprises dealing in foreign trade, all at the expense and inconvenience of the American consumer-taxpayer. They often hold that businesses wanting to trade with foreign countries should switch to SI and leave the rest of the country alone. But a policy of isolationism is not feasible, for the United States is inextricably involved in international commerce and politics. Although only a small percentage of our GNP is shipped in world commerce, that percentage is a large portion of total world commerce. Countries historically using the metric system have made heavy inroads on the American share of free-world trade.

Numerous problems can be expected along with the changeover to SI in this country, but none of them are insurmountable. SI will be phased in over a ten-year period and the initial changes will be "soft," language-only changes.

The general public is reluctant to accept widespread change over a short period of time. Many are reluctant to study a new system that might take time or effort to learn, cost money, or change familiar habits and lifestyles. The 58 percent of the population knowing little or nothing about the metric system is the group most reluctant to change. An intensive government-sponsored education program will be necessary to overcome some of this resistance. On the positive side, many secondary-level students have grown accustomed to the idea of national conversion to SI, a probability suggested to them by science teachers for several decades.

ESTIMATED COSTS OF METRICATION TO TEXAS INDUSTRIES

Industry	SIC groups	Estimated conversion cost (millions)
Agriculture/forestry/fisheries	0100–0900	$7
Mining	1000–1400	14
Construction	1500–1700	7
Ordnance (included with SIC 3500).	1900	
"Soft" manufacture	2000–3200	101
Primary metals	3300	20
Fabricated metal products	3400	79
Machinery (except electrical), ordnance.	3500, 1900	70
Electrical machinery	3600	17
Transportation equipment	3700	47
Instruments	3800	14
Miscellaneous manufacturing	3900	2
Transportation	4000–4700	5
Communication	4800	2
Utilities	4900	6
Wholesale trade	5000–5200	30
Retail trade	5300–5900	22
Finance/insurance/real estate	6000–6700	1
Services	7000–8100, 8900	5
Total cost to Texas industry.		449

Note: The table shows absolute amounts and does not relate metrication costs to volumes of sales or value added.

Another stumbling block to conversion is the potential initial cost to industry and business. Manufacturing businesses will experience costs for tooling and metering changes as well as for employee training programs. In more measurement-sensitive areas, particularly in businesses operating under Standard Industrial Classifications 1900 and 3300–3800 (see table accompanying this article), changes will be more costly, particularly in the fastener and nonelectric-machinery industries. Costs to nonmanufacturing industries will be largely for training employees and for educating customers and clients. Wholesale and retail trade businesses expect significant costs, probably for time spent explaining to and placating customers, dual dimensioning in catalogs, drops in sales because of customer resistance to change or lack of customer knowledge, and customer resentment of a new and unfamiliar measurement system apparently being imposed by the business selling the goods.

Some fear exists that repair and maintenance of long-life structures and equipment will become prohibitively expensive, if not impossible, within a short time after the changeover. Replacement parts and modernized components compatible with ships, buildings, and similar products built to English measurements and standards may become scarce soon after conversion. Most products falling into this category, however, are custom-built, one-of-a-kind structures, and improvements and modifications are also custom fitted. In most cases, the basic framework of such structures need not be altered as a direct consequence of the new measurement system; modification would be necessary only at points of modification attachment—changes that would quite likely need to be made even if the system of measurement were a constant.

Many business organizations will incur costs as a result of retraining needs and initial inefficiencies resulting from lack of familiarity with SI. Inefficiencies will be particularly noticeable during the changeover period in cases where a mechanic's intuitive feel for a tool size or an engineer's conception of design sizes are important. Functioning of such intuitive processes will be hampered until the worker or designer gains experience with the new system.

This kind of problem is a primary concern of many unions, which claim that older workers may "lose experience" when their familiar worker-tool-material relationships are replaced by relationships more easily learned by younger workers. Another union demand is that costs to individual workers for tool replacements of measurement-system sensitive tols should be borne by someone other than the individual worker.

Many small businesses do not have technical, financial, or managerial resources sufficient to plan their own metric changeover. Further, the small businessman is less likely to be in a position to decide when to go metric; large companies tend to set the pace. Small operators are often dependent on the ready availability of standard parts and supplies.

In many business and institutional operations, inventories of parts and materials will be duplicated, depending on the mix of metric-nonmetric products being produced or serviced. Many manufacturers customarily maintaining large inventories and users of long-life machinery and goods should expect costs in this area. The Department of Defense expects a significant expenditure for double-inventory provisions.

Most accepted engineering standards will require reevaluation, in some cases entailing only conversion of units between systems, but in others involving hardware changes. Screw-thread standardization will be a large part of such a program, but this problem has been under study for some time. The fifty-nine thread sizes in customary usage probably will be replaced with a standard set of twenty-five sizes. Similar industry standardizations have taken place in the past; bricks and light bulbs are examples.

Some observers fear that the expanded cooperation between companies within the same industry as a result of the metrication effort could run afoul of the antitrust laws. It has been suggested that such cooperation, if certain conditions are met, should be immune from antitrust action.

During the metric changeover, some operations may hold invisible hazards, particularly when rapid decision making involving measurement calculations is necessary. If a machine operator habitually thinks in terms of English units, he would quite likely translate metric instructions into his familiar measurement language before acting. The delays involved in translation could be critical in some cases. For example, an aircraft pilot used to thinking in terms of feet of altitude might have to translate meters to feet when analyzing instructions from air traffic controlling agencies.

These problems have been outlined not as argument against implementation of the metric system in the United States, but as a suggestion of possible problems the businessman-industrialist might encounter when the changeover is being implemented. The benefits of metrication—and its by-products—are expected to far outweigh the costs. For example, many long-needed standardizations and updatings of materials, processes, customs, and other inbreedings of the American industrial mechanism can be accomplished at virtually no cost if that cost is allocated to the metric changeover. Most of these outdated but institutionalized tools of American business and industry could not be eliminated economically if approached singly, but would be updated easily in a wholesale housecleaning.

If the foreign experience is a reliable indicator, metrication in America will be far less traumatic than many predict. British workers have derived a number of English/metric relationships that allow the worker to maintain some of the "feel" he had under the English system. For example, 30 centimeters is only slightly shorter than the foot, so construction workers habitually thinking in terms of feet can visualize lengths in terms of multiples of 30 centimeters. Other innovative relationships have been used as devices to help soften the impact of metrication abroad. There is no reason that American workers cannot use similar analogies to simplify the transition to the metric system in this country.

Estimation of the advantage of metrication in dollar amounts is difficult, largely because many of the benefits are intangible and are not quantifiable. Measurement of the costs of metrication is also difficult, but many businesses in the United States have experience of partial or complete changeovers. On the basis of that experience, estimates by company and governmental officials not having metric experience, and "educated guesses," the *U.S. Metric Study* made rough estimates of the industrial costs of conversion to SI. Factors derived by the study were applied to Texas industry figures, and this process yielded estimates of costs of metrication to Texas industry (see accompanying table). Manufacturing industries, wholesale and retail trade, and mining are expected to incur greater costs than other categories of industry in Texas.

The loss of export trade experienced by Texas primary metals and machinery industries solely as a result of the presently used measurement system is estimated at over $15 million per year at the present rate. The entire cost of metrication to Texas industry could be covered in less than thirty years by the savings in those two industries alone. Further, metrication will give Texas industry as a whole vast opportunities in foreign trade. The disadvantage in foreign trade will increase in the future unless this country adopts the metric system, particularly since many of our primary trading partners are forming trade alliances with other metric countries.

Many Texans are interested in potential costs in other areas, such as costs to the consumer, to education, and to federal government agencies. The ten-year costs to Texas consumers as a direct result of metrication are expected to be about $14 million. A breakdown of the major items is shown in an accompanying table. Education costs are expected to be negligible if the program is extended over the ten-year time span. Most educational materials are replaced one or more times within ten years, and replacements can be updated with metric-language material without additional costs. Teacher education, not a great problem, can be handled in normally scheduled workshop and inservice training sessions for public school teachers.

SUMMARY OF COST ESTIMATES TO THE TEXAS CONSUMER

[In millions]

Self-education	$1.8
Cooking equipment	5.1
Sewing equipment	1.7
Home shop equipment	5.0
Total	13.6

The Texas portion of costs expected to be incurred by civilian agencies of the federal government amounts to approximately $2.30 per person, or $26 million. This cost is the present value, discounted at 4 percent, of costs expected over the ten-year period. This figure should be thought of as an upper limit. The present value of the portion of the Department of Defense estimate allocated to Texas is $690 million. This estimate is no doubt high, but it is difficult to adjust the figures downward with any intuitive or numerical justification.

The costs of metrication along with the expected benefits are depicted in an accompanying diagram showing the cumulative costs over the ten-year implementation period and the benefits over the following several decades. The solid line depicts the cost-time relationship that is expected with a nationally coordinated plant. The dashed line shows the relationship expected if no program is instituted and a *laissez faire* approach to metrication is taken.

There exists little doubt that the nation will adopt the metric system of measurement. It is highly probable that legislation will be forthcoming from the 93rd Congress, and that legislation is expected to propose a ten-year coordinated transition program. The new system will feel a number of dampers, but none of the problems appears insurmountable. The businessman should not allow himself to be caught unaware by implementation; a certain amount of preparedness and forethought as well as timely introduction of the system into his own operations should smooth the transition.

CAPTIVE NATIONS WEEK

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. McKINNEY. Mr. Speaker, the spirit of cooperation evident in the President's summit talks with Soviet Party Leader Brezhnev makes this year's observance of Captive Nations Week, July 15–21, a promising opportunity to reaffirm our commitment to the millions of Central Europeans who live as captives in their own lands.

Since President Eisenhower first proclaimed Captive Nations Week in 1959, the third week of July has been set aside as a time for all Americans to rekindle their awareness of the plight of peoples living under unwanted Communist governments. Each year, the President, Governors, Senators, Congressmen, and mayors join in a week-long observance of this country's permanent unity of purpose with all those seeking freedom.

This year we have reason to hope that the weight of world opinion on the new East-West détente may ease the oppression that exists in Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Rumania.

Therefore, I urge the people of the United States to participate in the 15th observance of Captive Nations Week and demonstrate their unyielding vigilance in the cause of liberty.

NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. BIAGGI. Mr. Speaker, the torment of Northern Ireland continues. With each passing day the death roll rises, more homes are destroyed, and the spirit of violence and division spreads further through the country. At the base of the problem is the existence of the Northern Ireland state. Northern Ireland is an unnatural entity, born of the threat of violence, which can survive only through the continued use of violence, corruption, discrimination, and gerrymandering. I have tried to point out time and time again that the present problems spring inevitably out of the creation of a separate state of Northern Ireland.

I have also tried to point out on numerous occasions, that the only way to solve the Northern Ireland problem is to remove those forces which created and maintained the state of Northern Ireland; that is, the British presence. For 51 years, this ominous military presence has prevented the natural development of a vigorous and a united Ireland. In simple language, no British military solution is possible. This has been attested to by the fact that the military presence has resulted in an escalation of the violence at a quantum rate ever since their intervention. Yet, despite this fact, the British presence has increased and intensified.

It is 3 years since the gross crime of internment without trial was perpetrated on the Catholic minority of Northern Ireland and reinforced by the "Special Powers Act." Is this the status quo which the British troops are trying to preserve?

Mr. Speaker, over the last month I have included in the RECORD sections of the brief of the case now pending before the European Court of Human Rights concerning alleged charges of brutality and inhumane treatment committed by the British Government against the people of Northern Ireland. Therefore, with the intention of continuing to provide my colleagues with a clear perspective on what is happening in Northern Ireland, I shall read into the RECORD the final two sections of that brief.

The material follows:

IV. The European Commission of Human Rights, To Render Substantial and Realistic Justice, Must Make Independent Examination as to the Effectiveness or Futility of "Available Domestic Remedies" in Northern Ireland and as to the Conditions Endured by Applicants

The Rules of Procedure of the European Commission of Human Rights provide in pertinent part:

(1) The Commission shall assist the European Court of Human Rights in any case brought before the Court. For this purpose and in accordance with Rule 29, paragraph (1) of the Rules of Court, the Commission shall as soon as possible appoint, at a plenary session, one or more of its members to take part, as a delegate, in the consideration of the case before the Court. These delegates may be assisted by any person appointed by the Commission. In discharging their functions they shall act in accordance with such directives as they may receive from the Commission.

(2) Until delegates have been appointed, the President may, if consulted by the Court, express his views upon the procedure to be followed before the Court.

[Rule 71 of the Rules of Procedure of the European Commission of Human Rights, as amended on 28 May, 1971]

RULE 41

1. The application shall mention:

a. The name of the applicant;

b. The name of the High Contracting Party against which the claim is made;

c. The object of the claim;

d. As far as possible the provision of the Convention alleged to have been violated;

e. A statement of the facts and arguments;

f. Any attached documents.

In light of the Commission's dilatory and arbitrary treatment of the within Applications, it is most interesting and ironic to note the statement of the Commission on Application No. 4517/70 [1970], *Huber v. Austria*, Coll. 38, page 99:

[Referring to Rule 41 of the Rules of Procedure] None of these provisions requires that, in order to establish his case before the Commission, an applicant should have to make *and even has to substantiate*, allegations of criminal acts or negligence on the part of the Government. It suffices that he submits the facts of his case and alleges that these facts amount, *in his opinion*, to a violation by the respondent Government of the rights set forth in the Convention. [Emphasis supplied]

Patently, the Commission, *by virtue of its own precedent*, cannot maintain the position it has taken with regard to the within Applications. Applicants have complied with the applicable Rules of Procedure to the best of their ability.

V. The Commission Is a High Contracting Party Within Article 48

In the *Lawless* and *DeBecker* cases [3 YB Human Rights 492 (1961); *Lawless* case (merits) 4 YB Human Righs 438 (1962); *DeBecker* case (merits) series A (1962) Judgments and Decisions 26], the petition was declared admissible and it became the duty of the entire Commission, meeting *in camera* to ascertain the facts. The Commission was considered a "High Contracting Party". In short, the *Lawless* case holds that the Commission has not only the right to appear under specified conditions, but of even greater significance, that it has the same *locus standi* as Sovereign States, since the Commission is a "party" in the treaty sense. It is clear that the individual *through the Commission* can now obtain a full hearing before the Court. The Lawless holding was as important as *Marbury v. Madison* (1 U.S. (1 Cranch.) 368 [1803]).

It is clear that the Court and not the Commission is the final authority as to whether the rights guaranteed by the Convention were in fact recognized and respected and not violated by Respondents.

Applicants are aware that in the Convention for the Protection of Human Rights and Fundamental Freedoms of September 3, 1963, the Statute of the Council of Europe, the Commission and the Court are not even mentioned. Let there be pause that diplomatic negotiations or political arbitrariness not destroy an arena of effective judicial machinery.

The within case is of wide significance and tests the fabric of the international integrity of the designatory High Contracting Parties.

Under the applicable Rules and findings of the Commission, it is now incumbent upon the Commission to refer the within Applications to a Committee of three Members and to institute investigative procedures. Further dalliance will result in an abject denial of due process by the very body created to safeguard fundamental human freedoms.

When the desire of peoples on a global basis becomes focused on the protection of human rights, it becomes the duty of such supranational bodies as the Commission to pursue the vindication of human freedoms. Unless the Commission acts with dispatch, it may well appear that the controls provided by the Convention remain on paper only where certain "vested interests" are concerned. Arbitrary refusal to act, or dalliance with the fundamental freedoms and rights of imprisoned men, undermines the faith in the entire institution of the Council of Europe. Indeed, the hope for humanity rests with the powers of supranational human rights bodies. The Commission must not derogate its fundamental duties.

Within the past ten years the individual has emerged as the subject of regional, international law. The progress of the law has been to extend individual rights of action to conflict-resolving tribunals of international organizations. Clearly, regression at this point by the Commission would be a tragic denial of the progress of internationally safeguarded human rights.

The case of *Emile Delcourt* demonstrates the oblique due process of law that permeates the European Commission and the Court (7 Cahiers de Droit Europeen 190 [1971]). Delcourt, a Belgian national, was convicted in September, 1964 of crimes by the Court of Brugge. After affirmation, he lodged a complaint against Belgium with the European Commission of Human Rights, alleging the secret deliberations of the Court of Cassation as violating Article 6(1) under which, in civil and criminal proceedings, everyone is entitled to a fair and public hearing by an independent and impartial tribunal established by law. The Commission split seven to six on the question of whether the Belgian practice violated Article 6(1). On December 16, 1968, the Commission submitted the issue to the Court of Human Rights. Under the Convention, as a rule, a chamber composed of seven Members of the Court hears and decides cases reaching the Court. The judge for the state which is a defendant (Respondent) in the case is an ex-officio member of the chamber; the names of the other six judges and of the three substitute judges are drawn by lot.

In a surprise decision on January 17, 1970, after open hearing on September 29 and 30, 1969, the defendant Belgium was found not guilty. The opinion and decision have rocked the international community in that the parties to the suit were not called and that the matter was decided by legal spokesmen, there being no witnesses present or testimony advanced. It is the consensus among serious-minded lawyers of the international bar that no matter how high and disinterested the motives of the Court, advocacy in the absence of the parties to the suit is a caricature of a fair and public hearing. As was noted by the Commission minority, the Court's impartiality can be affected.

In light of the transparent device to preclude a hearing on the within Applications, note should be made that the directive letter to counsel for Applicants was received by him on June 9, a Saturday, and a fiat order was entered for complete and total response by July 1, 1973. In order to comply counsel would be required to have his response and total compliance by no later than June 25, 1973, thus being limited to ten working days.

Counsel for Applicants would be derelict in not recording the view that the political and legal background of the members of the Commission and the Court creates certain predispositions, and particularly when the question to be of determining evaluation is one of extreme procedural demands, but not one of general and substantive law consistent with the intent and spirit of the Convention of the Council of Europe and its resulting Statute. There is no intent to impugn the distinguished jurisconsults of the Commission or of the Court. Each enjoy a national and international reputation, and many are with judicial experience in their own national highest courts. But human beings who sit together regularly develop an ambience that suggests that an outside *amicus* would be indispensable before the Commission and the Court.

The *Delcourt* case focuses, tragically and sadly, the serious shortcomings in the application of the Human Rights Convention within a case received by the Court as the result of an individual, as distinguished from a government complaint. From Delcourt a feeling can develop that controls provided by the Human Rights Convention remain words printed on paper when certain "vested interests" are affected (A.J.I.L., vol. 66, No. 3, July 1972, Nadelmann, pp. 509–525).

Applicants assert that they do not pray the Commission to abrogate or rewrite the laws of the High Contracting Parties.

Rather, they seek enforcement of the very precepts upon which the Convention was drafted. Centuries ago the inhabitants of the British Isles affirmed, "Nolumus leges Angliae mutari"; "We do not wish the laws of the Anglo-Saxons to be changed". Applicants, their descendants, reaffirm that very precept, and add, "Nolumus leges Angliae mutari, sed exsequi"—"We do not wish the laws of the Anglo-Saxons to be changed, but rather, to be enforced."

The heritage of the Magna Carta, the Bill of Rights, and the great documents of the Council of Europe have all been abrogated by the malefic and odious operation of the Special Powers Act of 1922.

The Convention of the Council of Europe and the drafting of the statute was the result of the highest level formulation that authorizes the Commission and the Court to total recourse to data prior to the outcome of the agreement signatories by seventeen States (now sixteen since the withdrawal of Greece).

In Maltass v Maltass (1 Rob. Ecc. 67 (1844)), reported in Lauterpacht, "Some Observations on Preparatory Work in the Interpretation of Treaties." 48 *Harv. L. Rev.* 549, 563–64 (1935) in which the tribunal concluded that "in construing . . . treaties, we ought to look at all the historical circumstances attending them, in order to ascertain what was the true intention of the contracting parties, and to give the widest scope to the language of the treaties in order to embrace within it all the objects intended to be included."

The Commission may be exposed to subjective and objective interpretation. The true test should be reference to the realities of a process of communication between the framers of the documents and the expectations of human beings who may be affected thereby. The context of the conditions and atrocities for which Applicants seek relief must include the context of the conditions that constitute the process of authoritative decision and the entire spectrum of the political and social process under which they have been dehumanized, degraded, assaulted, tortured and imprisoned.

Hans Kelsen has stated, "The principle of collective responsibility is one of the most characteristic elements of the legal technique prevailing in General International Law. This seems to be closely connected with the fact that States are the subjects of International Law. The State as a subject of International Law is a juristic person and the juristic person is the personification of a legal order regulating the mutual behaviour of individual human beings. The State is the personification of a national legal order (municipal law). Since the law, by its very nature, is the regulation of mutual relations between individual human beings, all legal relations are relations among individual human beings. In order to see clearly the legal relations which exist behind the veil of the personification called State, we must dissolve this personification and describe the legal facts presented as obligations, responsibilities and rights of a State in terms of obligations, responsibilities and rights of individual human beings." (J.Y.Int. L., 1948, p. 227).

It is incumbent upon the Commission to take all steps necessary to effect due process of law for the Applicants and others similarly situated, and to institute immediately the full force of its investigative and fact-finding capabilities.

The Commission and the Court should conclude that the Respondents have fostered a legacy of violence, death, maiming and broken families.

A competent rule of law can restore realistic justice and prevent further civil war in Northern Ireland.

There are too many cosmetic institutions in this world which offer hope for the hopeless, help for the helpless, and freedom and justice for the wrongfully imprisoned. These institutions serve merely to perpetrate a cruel hoax on humanity and to decorate the grave of human freedom.

The time for decision is now—though long overdue.

MORE SUPPORT FOR THE CUYAHOGA VALLEY NATIONAL HISTORICAL PARK AND RECREATION AREA ACT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. VANIK. Mr. Speaker, on April 16, Congressmen SEIBERLING, REGULA, myself and some 42 other Members introduced H.R. 7077, a bill to establish the Cuyahoga Valley Historical Park and recreation area. Among the sponsors of this legislation is the distinguished Chairman of the House Interior Committee (Mr. HALEY) as well as the ranking minority member of the committee, the distinguished gentleman from Pennsylvania (Mr. SAYLOR). In addition, in the other Chamber, Ohio's two Senators—Senators SAXBE and TAFT—are sponsoring identical legislation.

This legislation would preserve for future generations the last beautiful open space suitable for wilderness, recreation, and historical displays in northeast Ohio. This unspoiled valley lies within the most densely populated part of Ohio. It is estimated that 4 million people live within 30 miles of the Valley. Yet, it still remains a miracle of greenness and beauty in this urbanized area. In keeping with the administration's program of putting parks where the people are, we have introduced this legislation to save this valley from encroaching urban sprawl. The preservation of this unique, picturesque valley, rich with the history of early America and the beginning of the industrial revolution in America, must be undertaken now. Every year that we wait reduces our chances to save this beautiful valley for ourselves and for future generations.

This park legislation has always had wide support throughout the park area and the entire northeast Ohio region. As an indication of the ever-growing support for this proposal, I would like to enter in the Record at this point an editorial from the Cleveland Plain Dealer of June 29. In addition, I would like to enclose copies of resolutions of endorsement adopted by the Cleveland Metropolitan Park District, the city of Richmond Heights and Garfield Heights, Ohio, and the Lake Erie Watershed Conservation Foundation:

[From the Cleveland Plain Dealer]

Cuyahoga Valley Park Needed

Ohio members of the U.S. Senate and House of Representatives two months ago joined in introducing bills in Congress to create a Cuyahoga Valley Historical Park and Recreation Area.

That was a firm step forward in the move to preserve for public use and enjoyment a rare scenic area in Cuyahoga and Summit counties. But the move also needs lively support from citizens who know how badly urban areas need park and recreation areas.

There are many such persons in Cleveland, Akron and neighboring communities. They value their own metropolitan park districts and they should be pleased by the extension of those facilities that a federal project would provide in Cuyahoga and Summit counties.

They could help the cause by writing to the committees of Congress where the legislation is now referred. For the House Interior and Insular Affairs Committee, the address is 1324 Longworth Building. Washington, D.C. 20515. For the Senate Interior and Insular Affairs Committee, the address is 3106 Dirksen Building, Washington, D.C. 20510.

Both committees have a majority membership from western states where there are many national parks and recreation areas. The westerners should be receptive to a plan that would place a new park and recreation area within close reach of some 4 million people in one of the most populous parts of the nation.

It could do no harm, either, for citizens to tell Secretary of the Interior Rogers C. B. Morton of their interest. He has under consideration a National Park Service report recommending the Cuyahoga Valley project. His address is: Interior Building, Washington, D.C. 20240.

Ohio has no national parks or recreation areas. The Cuyahoga Valley area proposed for their designation is an excellent candidate. The idea has been around for some time now and its time has come. But it needs help.

Resolution No. 4231

Whereas there is now pending before the Congress of the United States H.R. 7077 and S.R. 1862 proposing establishment within the Cuyahoga River Valley of the Cuyahoga Valley National Historical and Recreation area; and

Whereas the Board of Park Commissioners of the Cleveland Metropolitan Park District has supported vigorously for many years the preservation of this singularly attractive and unspoiled valley as open space for the enjoyment and benefit of the population of 4,000,000 which lives within 30 miles thereof; and

Whereas the National Park Service and the Ohio Department of Natural Resources, after extensive studies, have enthusiastically proclaimed the merit of this project; and

Whereas in our judgment the preservation of the Cuyahoga River Valley is attainable only by enactment by the Congress of such pending legislation and the subsequent funding and implementation of the preservation program thereby proposed;

Now therefore be it resolved by the Board of Park Commissioners of the Cleveland Metropolitan Park District that:

(1) Sincere appreciation is extended to Senators William B. Saxbe, Robert Taft, Jr., and to Charles Mosher and J. William Stanton, and to Congressmen John F. Seibeling, Charles A. Vanik, Ralph S. Regula, Louis Stokes, William E. Minshall, and James V. Stanton, and the many other eminent authors of such legislation for their sponsorship thereof;

(2) The Congress of the United States is memorialized to enact with dispatch H.R. 7077 and S.R. 1862; and

(3) Citizens, civil groups, municipalities and state and county governmental officials throughout Ohio are urged similarly to endorse and support enactment of such legislation and to notify the members of Congress of such endorsement and support.

Yeas—Messrs. Hinslea, Burton and Pyke. Nays—none.

Resolution No. 38–73

Whereas, House Resolutions 1075, 7076, and 7077 have been introduced into the House of Representatives of the Congress of the United States to Establish the Cuyahoga Valley National Historical Park and Recreation Area, and

Whereas, these same resolutions would encourage the preservation of the natural, scenic, and historical features of the valley, and

Whereas, the highly urbanized Cleveland-Akron area—which contains more than one-third of the population of the State of Ohio—desperately needs to maintain open areas for recreation and relaxation, and

Whereas, the City of Richmond Heights, State of Ohio, is located in the Cleveland-Akron area and would be favorably affected by said resolutions, if passed, and

Whereas, the Advisory Board of Environmental Control of the City of Richmond Heights on April 3, 1973 unanimously requested the Council of the City of Richmond Heights to memorialize the House of Representatives and Senate of the Congress of the United States in this matter, and

Whereas, the Council of the City of Richmond Heights wishes to add its support to this program of maintaining open recreation areas and of preserving the ecology of the valley;

Now, therefore, be it resolved by the Council of the City of Richmond Heights, State of Ohio:

Section 1: That this Council hereby determines that said House Resolutions would substantially improve the availability of Recreational Areas for the people of the Cleveland-Akron area, especially those of the City of Richmond Heights.

Section 2: That this Council is on record supporting passage of said House Resolutions.

Section 3: That the Clerk be and he is hereby directed to forward a certified copy of this resolution to the following congressmen: (1) Hon. Charles A. Vanik, (2) Hon. John F. Seiberling, Jr., (3) Hon. Ralph S. Regula, House Office Building, Washington, D.C., 20515., (4) Hon. Robert Taft, and (5) Hon. William Saxbe, Senate Office Building, Washington, D.C., 20515.

Section 4: That this Resolution shall take effect at the earliest time allowed by law and upon the signature of the Mayor.

Resolution No. 56–1973

Whereas, Congressman Vanik, Congressman Regula, and Congressman Seiberling, on Monday April 16, 1973, introduced jointly House Bills known as H.R. 7077 and H.R. 7167 which would establish the Cuyahoga Valley National Historical Park and Recreational Area, and

Whereas, the National Park Service has studied the Valley quite extensively and has prepared a draft report recommending creation of a National Park and Recreation Area in the Valley, and

Whereas, that report is now awaiting final approval by the Secretary of the Interior, and

Whereas, the park shall be located, "Within the eastern and western rims of the Cuyahoga Valley, north of Bath Road in Summit County, and south of Rockside Road in Cuyahoga County": now therefore

Be it resolved by the Council of the City of Garfield Heights, Ohio, that:

Section 1. This Council is in favor of the passage of House Bill 7077 and House Bill 7167 and urge their immediate passage.

Section 2. The Clerk of Council be and she is hereby authorized and directed to forward a copy of this Resolution to the Honorable Charles A. Vanik, the Honorable John F. Seiberling, and the Honorable Ralph S. Regula, members of Congress, House of Representatives, Washington, D.C. 20515.

Section 3. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

Lake Erie Watershed Conservation Foundation Resolution

Whereas in March 1970 the Lake Erie Watershed Conservation Foundation sponsored a public dinner to hear and discuss Akron and Cleveland Metropolitan Park District ideas and plans for open space preservation and recreational development in the Cuyahoga Valley, and

Whereas the public response to such open space preservation and recreational development was overwhelmingly favorable, and

Whereas since that time the Foundation has produced three educational pamphlets on the history, flora and fauna, and geology of the Cuyahoga Valley and one on the Ohio and Erie Canal in the Valley, and

Whereas the public responses received as a result of these educational efforts has been overwhelmingly favorable toward open space preservation and recreational development in the Cuyahoga Valley, and

Whereas the Akron and Cleveland Metropolitan Park Districts and the State of Ohio have recognized that the Cuyahoga Valley could serve the people of the United States as a National Park and are prepared to work to that end, and

Whereas Congressmen Seiberling, Regula, Vanik, Hays, Ashbrook, Ashley, Brown, Carney, Guyer, Keating, Minshall, Miller, Mosher, W. Stanton, J. Stanton, Stokes and Whalen of Ohio, and eight Congressmen from other States introduced H.R. 7167 in the

House of Representatives on April 18, 1973, a bill to provide for the establishment of the Cuyahoga Valley National Historical Park and Recreation Area, and

Whereas Senator Taft and Senator Saxbe introduced S. 1862 in the Senate on May 22, 1973, a companion bill to provide for the establishment of the Cuyahoga Valley National Historical Park and Recreation Area,

Now, therefore, be it resolved: That the Lake Erie Watershed Conservation Foundation by action of its Board of Trustees records its support of these two bills and urges their early passage with appropriations necessary to their fulfillment.

RUNAWAY YOUTH

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. WILLIAM D. FORD. Mr. Speaker, an article in the Washington magazine of the Sunday Star and the Washington News, June 24, concerning the plight of runaway youths, has recently come to my attention. The article makes the point that in the Washington metropolitan area alone an estimated 10,000 to 18,000 children run away each year. The majority of these children are between the ages of 13 and 17. Often these runaway children leave home in the affluent suburbs with little more than the clothes on their back and head for the cities. Alarming statistics such as these point out the need for constructive action to help alleviate the problems facing both runaways and their parents.

As you know, I have introduced the Runaway Youth Act in the 92d Congress and again in this Congress. This legislation would provide funds for the establishment, maintenance, and operation of temporary housing and counseling for runaways. I might also add that the Senate on June 8, 1973, passed a similar bill designed to aid runaways.

Also, in my own State of Michigan the legislature passed a bill to aid runaways which, incidentally, was sponsored by my friend and constituent, Representative Thomas H. Brown, of Westland. I am hopeful that this Chamber will give my own proposal, the Runaway Youth Act of 1973, the prompt and favorable consideration which it deserves.

At this point, Mr. Speaker, I would like to insert the article, "The Runaways," into the Record:

[From the Washington Star-News,
June 24, 1973]

The Runaways

(By Christine Chapman) *

"Every kid should leave home," the runaway girl declared pushing a cat away from her plants. "That cat loves to eat my plants."

Mimi pushed the cat to the floor and the cactus fell off the window sill with it. She scooped up the dirt and sat down again to tell me why she left home and how she came to be living in an old house near Meridian Hill with four boys.

"I've never seen a family where the kids aren't repressed. If they stay at home, they get more repressed. The sooner they get away from home, the better they'll be. Kids may be able to function around the family, or they may rebel against it. I walked out.

"What happened was my mother wanted me to cook dinner. I burned it, and my father said, 'Can't you do anything right?' Then he asked me: 'Do you want to do just what you want when you want to do it?' 'That's exactly what I want!' I shouted."

Mimi's green eyes flashed at the memory, and she tossed her long brown hair. She continued: "He said: 'You don't belong here then.' We were standing in the hall, yelling, my father and I. Ken was with me. I just walked out with him and went to his apartment."

That was 18 months ago when Mimi was still 14. Today at 16 she is living with Ken and his friends in a condemned row house. When I talked to her there, the house was alive with cats and dogs, and boys tacking up a marijuana banner. Another boy drove his motorcycle up a plank over the sagging porch and parked it in the hall. A boy and his girl walked in with their bags and planned to stay for a few weeks.

"This is the first time there'll be another woman living here," said Mimi. "Because I was the only female, the boys expected me to clean up. I didn't do it. I yelled about their being male pigs, and it embarrassed them. Now we all clean up together once a week. Ken and I take turns on our room. It's been his turn for a month now.

Mimi has decorated their bedroom with tails from the peacocks on her father's farm in Virginia. Pinned to the wall was a photograph of her playing with a dog in the woods.

"I can't even imagine the lifestyle I'm in now. My parents are rich, really rich."

Mimi's father is a successful Washington professional; her mother is "very social;" Mimi and her sister attended an excellent private school. The family owns homes in Washington, Virginia and New England. For many years Mimi had a nursemaid. She owned her own horse. Today she has her stereo and a few clothes.

When she ran away, she and Ken traveled for a month before she decided to call her parents.

"I told them I'd come home if they would tell the police I was no longer a runaway. They said we'd work things out. They sent me $50 travel money. When I got home, they asked me what kind of life I wanted to lead. My father told me if I could find a job, a school, and a place to live in one week and if I promised to make no scandal for him or ask him for money, I could leave home. I did it. All in one week."

Like many runaways, Mimi wanted freedom from the responsibilities of home and school. She got freedom to grow up the hard way.

"It's really scary. It really is. There are times when I don't think I'm going to make it any more. I've been robbed and almost raped. It's been a really hard fight. I don't know how I made it."

At first she made it with Ken's help. She moved in with him, and he helped her find a job. She enrolled in a free school which she attends mornings.

In the afternoons she baby-sits to earn her share of the rent, the groceries, the electricity and gas bills. Her jobs have ranged from waterbed builder to nude model. She's worked once as a waitress and often as a baby-sitter.

"When I think of the school I used to go to and the people I knew there, I can't believe it. They're so unaware of what's going on outside. They don't know what it's like not having money."

Although Mimi visits her parents and sister, sometimes with Ken, sometimes alone, she has no plans to return to live with them. What she likes about her new home and the free school is the sense they give her of being part of a big family.

"No one's trying to change me. They like me for what I am. There's an acceptance of everyone by everyone."

Running away from home is becoming the answer to the trauma of growing up in the 1970s. One million children under 18 run away each year in the United States, according to the estimate of the Senate Subcommittee on Juvenile Delinquency. In the Washington metropolitan area the estimate drifts between 10,000 and 18,000 runaways annually. Sgt. Edward A. Smith of the Missing Persons Bureau, Youth Division, has stated that 200 to 300 children are reported missing in the District each month. The majority are junior and senior high school students between 13 and 17.

As a high school English teacher, I taught students about those literary runaways, Huck Finn and Holden Caulfield, before I realized life was imitating art. A student told me her girl friend had run away to San Francisco; a friend traveled South to pick up his runaway son; a neighbor down the block visited a spiritualist, hoping to make contact with her runaway daughter. Some of my own students left home and stayed away for a few days, for several months, for good. I began to learn that nothing we have ever read or heard, known or imagined, has prepared us for this phenomenon—the runaway child.

He is not the boy we knew who lit out for the West to pick up gold in California. He isn't the flower child we read about who followed him there a few decades later to do his own thing in the Haight. He isn't the determined revolutionary who tried to correct the ills of a repressive society by building bombs in a Greenwich Village basement. Nor is he the purposeful utopian who aimed to create a new life in the communes of Massachusetts or New Mexico.

None of these images, pictured for us by television and the newspapers and conceived perhaps by the kids themselves, fits the new bell-bottomed emigrant. Like Mimi, the runaway is often a 14-year-old girl, and girls who run away from home today outnumber boys. The runaway comes from all classes of society, not only from Mimi's affluent middle class. They run from the suburbs to the city by hitchhiking on the highways. They may head from coast to coast or only from one town to the next. They have no place to go, so they go any place a ride will take them.

Runaways live by panhandling and shoplifting. They may look for a job, but they probably won't find one. They'll give themselves sexually for a place to crash or sell drugs to help pay the rent. They learn that you don't get something for nothing in America.

Each runaway tells a different story, yet runaways seem to be of two types: the child who runs away from home often because he is abused or beaten and the child who runs away once or twice as his solution to a family problem. A 1967 study by the National Institute of Mental Health entitled "Suburban Runaways of the 1960's" describes "two distinct populations," the frequent runaway and the child who runs once. There is a third type, the child who escapes from a reform school or a mental hospital. He is usually an abused child, the family throwaway.

The trip the runaway is taking today is one we'd rather ignore. His running away announces that something's wrong at home, that something may be wrong with us. He is running from the demands of his family that he live by their rules, rules he considers outdated and intolerant. As the runaway tells it, one boy ran because his parents burned his bellbottoms. Another boy ran because his grandparents were ashamed of his long hair.

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* Christine Chapman, a high school English teacher, is writing a book on runaway children.

A girl left home because her parents were angry that she was not doing well in school. Last fall in Maryland a girl ran because she was pregnant and she did not want the abortion her mother insisted she undergo.

Kids run away from the idea that they must do everything right and that they can't do anything right. In many cases they run from parents who expect their children to succeed where they have failed. They leave parents who are so vindictive about their own unhappiness that the kids become the scapegoats. They run from homes broken by divorce or separation, homes where the mother has remarried a man who is antagonistic or uninterested in them. The runaway leaves to prove to himself and to his family that he can make it on his own terms.

Congressmen are so worried that runaways can't make it without help that they have written legislation to establish temporary shelters for them. There are two different bills before Congress, both entitled The Runaway Youth Act, which provide funds to local and state governments to set up runaway houses in areas where kids congregate.

Runaway House on Riggs Place is a temporary shelter for running children. Sponsored by the Washington youth advocacy agency, Special Approaches in Juvenile Assistance, called SAJA, Runaway House has been giving runaways a place to stay since 1968, when Resurrection City closed. The former townhouse provides a dorm for boys and another for girls and a staff of counselors who live with the kids and help them work out their problems.

Scrawled on the wall in the girls' dorm was the command: "Thou shalt not hassle." Pam, a vivacious 14-year-old, and Julie, a 16-year-old blonde, sat on their beds and described their running away.

All kids talk about their parents' hassling them, but these two spoke of beatings and of the delinquency proceedings initiated against them by their families. These were two of the children who ran away from home so often that their parents filed a petition with the court describing them as incorrigible and beyond parental control. Their experiences epitomize the worst of all worlds for the runaway child: the unhappy home, the unfeeling institution, the brutal street.

After running away, Pam appeared in court with her parents; the judge determined that she be returned home and placed on probation. He assigned a probation officer to act as the intermediary between the court and the family. The P.O. as Pam calls him, reports to the court on her behavior.

Julie's parents filed a petition when she ran away from home at 15. She became the responsibility of the court which returned her to her parents the first and second times she ran. After the third attempt, she was placed in a series of foster homes, finally in the District's Florence Crittenton Home, which has a residential program to teach girls to control their impulses.

"I ran away from there, too," admitted Julie. "The girls at the home beat me up because they said I was a hippie. I was using drugs I got in Georgetown."

"My mother hit me on the head with a log," said Pam. "She found me in a barn waiting for this dude to bring me cigarettes. When we got home, she hit me. Then she wiped the blood off her refrigerator and the floor before she gave me the towel for my head."

"Show her your head" insisted Julie.

"The time my mother did this," added Pam, revealing the healing wound in her scalp, "I'd been gone only three days. I split with a dude I really liked. This time I've been gone a week, and I'll die before they take me back."

At 14 Pam has run away from home 17 times.

"If I'm just 30 minutes late getting home from school," Pam complained, "my mom calls my school and my probation officer. Then when I get home, I get my behind kicked."

"Your mother's cool," Julie laughed.

"I hate my mom, I do," insisted Pam. "I don't remember what my dad was like. He got another lady pregnant and married her. My mom wants to get even with me for something. She came after me once with a knife. I beat her up. I laid her up and then I got out."

"You love to fight," said Julie.

"Kids are hell, really hell," Pam agreed. "They want more freedom than their parents give them. They want to get out at night to see their friends and mess around. Parents nowadays should stop hanging on the kids," she suggested. "You can't stay just one way all your life. What's life without changing?"

"My mother was always screaming at me," said Julie. "She yelled: 'You're the oldest. Set an example. What will the neighbors think?' She beat me with an electric cord. I was their drug-addict daughter. The guy I was going with was dealing dope and he gave it to me.

"There's not much to do at home. You ride around in a car, then meet somewhere where everyone sits around and does dope," Julie recalled. "Drugs are easy enough to get. Junk was my favorite. I've also done acid and mescaline, but I haven't done a drug now in four months."

After a fourth appearance in court, Julie was surprised to hear her court-appointed lawyer recommend her commitment to a state reform school for girls. With four other girls Julie escaped from the reform school after she had been there three weeks. They hid in the bordering woods until dark, then boldly walked down the main road to the highway while the girls and matrons searched the woods.

"We were scared, but that's what we did. When we got to the highway, we split up, two of us going one way, three the other. A car came along, and two really nice guys picked us up. We were lucky, because the next car belonged to the state police."

Julie's luck did not last. The escape melodrama turned into a horror story with her second ride.

"This dude picked us up. He said he'd take us into D.C., but he had to stop at his house first to call his friend. He took us to his house and called him. Then he whipped out a gun. His friend came over. The dude was about 21, his friend was older. They got into a hassle about whether they should do it to us. I don't think the older guy wanted to. He held the gun while the dude raped me. He got me down on the floor and did it to me. My friend was watching and screaming. Later they brought us into the District."

Julie will be 17 this spring. She hopes to work with other runaways in a group home. She will not return to Virginia.

"My mother said I was too independent for my own good," she said. "That I wanted to be 18. She's such a bitch."

"People don't have to be sick to have problems with their kids," said Alec Rode, a clinical psychologist for the D.C. Department of Human Resources. "Often the interaction of two different personalities, that of the child and the parent, creates a problem. Quiet parents may have an active child, or a quiet child may have active, outgoing parents, and their personalities clash. Since an essential character difference between a parent and child is impossible to overcome, the child may react by running away from home."

Alex Rode also serves as a consultant at Runaway House once a week.

A child's running away from home strikes all classes and all types of people, said Rode. "It may result from value conflicts with parents who are traditional. Parents argue with their sons about not coming in on time, not doing their work, about their hair. Hair is a very symbolic issue. Parents will not tolerate their having long hair, but it's the fashion for boys. With their daughters, it's a sexual battle. Girls are not consciously caught by the Women's Lib movement, but there is an increase in sexual activity at a younger age. Parents are fighting biology relentlessly," Rode explained. "And with little success."

On the faces of the teenaged girls at Runaway House he has noticed "a fake toughness with its sexual connotations. It's a mask, a response to a lot of fears and pressures. These kids are scared to death. The community doesn't want to know why they run away from home. The majority of runaways are physically or psychologically brutalized at home. They are desperate. They have no outs, so they run. It's a way of evading pain and, as such, it's a healthy impulse. For a tiny minority of kids, running away is an adventure, something to tell their friends.

"Kids on the streets are at the mercy of unprincipled people. They're open to sexual exploitation; they're faced with the use of drugs at an early age; the jobs they can get pay them little money; the police often harass them. Kids live in a prison out on the street. For better or worse most of them return home."

One solution to the runaway problem is to control the society that breeds it. "You can curb behavior by changing the social structure," decided Rode. "If economic conditions get worse, there will be fewer runaways. If there were a return to Victorian morality, there would be fewer runaways. If there were more pressure against the counter-culture which gives support to kids who run, running away would decrease. Now, running away from home is increasing."

The Reverend Jo Tartt Jr., rector of Grace Episcopal Church, Georgetown, is going to rehang the "No Crashing" sign on the tree in his churchyard this summer.

In previous years, before the young minister got tough, his church catered to street people and, perhaps, induced kids to leave home. Located below M Street on Wisconsin Avenue, the church attracted them with its open-door policy.

"We encouraged a parasitic way of living," said the minister. "We made it easier for kids to run away from home by giving them food and a place to sleep. We changed our attitude, because the place was a shambles. I got tired of walking over bodies in order to enter the church. I wasn't satisfied letting them take over. We stopped letting them sleep there. A mass exodus occurred. Gradually kids began to come back. On our terms. We operated a drug hotline, opened a job referral service, and we put up the No Crashing sign."

As a minister, Tartt has talked to dozens of runaways and their parents. "I have two attitudes about runaways because I've seen two kinds: the one- and two-dayers from McLean and Chevy Chase and the kids who are running because they need to get out of the atmosphere at home. It would be worse for them to stay home. For these kids—and I saw more of them than the others—running away is a sign of health. These runaways were the girls who'd been kicked out of the house for getting pregnant and having an abortion. They were the girls whose fathers tried to rape them. They were kids who'd been beaten. They had to leave home.

"The other kids, the two-dayers, aroused the parent in me. I wanted to spank them, to tell them life is not going to be easy. Running away is not the way to solve problems. I don't believe in encouraging the adolescent fantasy that you can find a world where you don't have to deal with authority.

"Their parents called me often. They came on as self-righteous, wronged. They'd done everything for their kid but turn him over their knee to say we don't behave that way.

"Running away from home is one symptom of a cultural problem. There are no families any more, no big families with uncles and aunts and cousins and grandparents. This puts an unbelievable strain on the members of a small family to meet one another's needs. Kids need to communicate, to feel close to the family. Closeness comes out of confronting those people who are primary in your life with all your feelings."

C. T. "Jimmie" James of the National Detective Agencies, dean of the city's private detectives, talks about runaways and their parents in a low, sympathetic voice. One wall of his office is crowded with the photographs of famous people he has worked for.

"Every kid who runs away from home wants to be recognized, because his parents are too busy to become part of his life. He wants to do something to attract attention.

"So many families know nothing of their children. One girl, a 13-year-old was to go overseas with her parents," he remembered. "The afternoon the family was to leave for New York, she disappeared. The father went on, the mother stayed behind and asked me to look for her. A few days later, we found her in a hospital ward. O.D. Another girl I found, a 15-year-old, told me she was able to make her living with her body. There are many young girls prostituting themselves on the streets and begging for coins. We have more requests to locate missing girls than boys. Parents may think a boy can take care of himself, but with the girls the prostitution angle comes into it.

"I don't like to make money on this field," said James. "I handle many of these cases on a personal basis. Parents don't know how to start looking for a child, so I give them suggestions. They should notify the police. They should go to school to talk to the principal and the homeroom teacher. They should talk to the parents of their child's friends. They should get a copy of their long-distance phone calls. They can check out appointments the child may have had to see if he's kept them. They can check credit cards to see if he's charged anything lately.

"If we get into the case," the detective continued, "we go to our informants who have drug contacts to get leads. We check the drive-ins where teenagers work. If there's a boyfriend, he can be a very good source of information. If there's a rock group in town, we determine whether the child is interested in rock, and we look for her in the next city where the group will appear.

"There's no American home," said James. "Reestablish the American home, and the kids may have a reason to stay there."

Father of two grown children, "Jimmie" James ran away from home at 17 to join a carnival. "I was gone long enough to get hungry. I learned what the other side of life was like. I learned that the people in the carnival had higher morals than those who came to see it."

He looked out his window to the street below and said: "It's tough out there."

"Jimmie" James went home and finished high school. Mimi will not go home, although she agrees with him.

"Making it out here is hard, but it's possible. I'm still away from home," she emphasized. "I'm not in a pigsty, and I'm not in a rut."

She smiled: "I get a lot more pleasure out of life than I ever have."

AGRICULTURE DEMORALIZED

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 16, 1973

Mr. QUIE. Mr. Speaker, I have received the following mailgram from Mr. Herb Halvorson of Hansaka, Minn., President of the Minnesota Soybean Growers Association, which pretty well sets forth the dismay and apprehension of the food-producing industries of this Nation in the face of faulty planning and abrupt policy changes that have thrown their industries into an uproar.

Having just returned from Japan, which is the largest overseas customer for American soybean products for heavy use in their human diet, I can attest to the shock and disillusionment that grips this great trading partner in the wake of the soybean embargo.

This country should face up to the fact that the consumers of this Nation have been subsidized by farmers for the past 20 years in the way of cheap food. Now the shoe is on the other foot and consumers will have to accept price increases in food, just as they accepted higher prices in everything else all along, in order to avert widespread food shortages down the road. Administration decisions on trade and economic controls should reflect this fact of life.

The Mailgram is as follows:

Representative ALBERT H. QUIE,
U.S. House of Representatives,
Washington, D.C.

It appears that now on top of everything else confusing the picture and demoralizing the agriculture community high interest rates are going to become a prime factor in limiting the capacity of the farmer to expand his production.

The American agriculture community has now reached the point where because of these actions they are no longer willing to risk the chance of increasing their production until some assurance is given that the government will no longer take steps that appear to be using agriculture as a bargaining tool in either foreign trade or to passify the consumer groups in this country.

The Government is going to have to make the consumers realize that they can no longer expect farmers to produce food without making an adequate profit. Every government action beginning with the price freeze and continuing through the soybean and feed stuffs embargo has tended to demoralize and have a counter productive effect on American agriculture.

Until these policies are rescinded the only alternative we have in this country is extremely high food prices or food rationing. I must urge your careful consideration of this matter and hope that you pass on these feelings to urban congressmen so they will understand the problem better.

HERB HALVORSON,
President, Minnesota Soybean Growers Association.

HOUSE OF REPRESENTATIVES—*Tuesday, July 17, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

If any of you lack wisdom, let him ask of God, who giveth to all men liberally and without reproaching; and it will be given him.—James 1: 5.

"Good Father, we Thy children pray
For light and guidance on the way,
Reveal Thy truth and give to each
Thy blessing of the upward reach."

O Thou whose ways are wise, whose love is life, and whose truth endureth forever, help us to look up and with the upward reach to feel Thy presence as we pray.

Lift us out of the ruts of self-righteousness and self-satisfaction. Help us to hear the music of the spheres, the song of life, and to listen once again to Thy call to all mankind—by faith to walk humbly with Thee and to live with one another in the spirit of good will.

We pray for our country. Free our leaders and our people from all bigotry and all bitterness and give to us all large minds and great hearts that by giving our allegiance first to Thee we may reap the harvest of a common brotherhood.

We pray in the spirit of Him who said love and you will live. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make an announcement.

The Chair has been advised that the electronic voting system is at the present time inoperative. Until further notice, therefore, all votes and quorum calls will be taken by the standby procedure which is provided for in the rules.

WELCOME TO GIRLS' NATION

(Mr. BRAY asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. BRAY. Mr. Speaker, today the U.S. Congress is host to the 98 girls from 48 States and the District of Columbia who are in Washington for the annual Girls' Nation, sponsored by the American Legion Auxiliary. Two girls are selected to Girls' Nation from each of the various girls' States.

Delegates to Girls' State are selected with the help of high school principals on the basis of potential leadership qualities and must be between their junior and senior years in high school to qualify. Through these programs, it is estimated that each is adding 19,000 girls trained in the processes of government to a group that by the end of 1973 will total about 457,000.

On Washington's Birthday, February 22, 1964, the American Legion Auxiliary received one of the four top American awards from the Freedoms Foundation at Valley Forge honoring its 1963 Girls' Nation program. Other Girls' Nation programs have helped to win similar George Washington honor medals, including the ones in 1971 and 1972.

The National Association of Secondary School Principals has placed this program on the advisory list of national contests and activities for 1973–74. We are proud to welcome these fine young women.

NATIONAL RESOURCE CENTER FOR CORRECTIONAL LAW AND LEGAL SERVICES—DESERVING OF SUPPORT

(Mr. GROVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROVER. Mr. Speaker, when the House recently considered the controversial legal services legislation, it amended the bill extensively.

I supported many amendments presumably designed to decentralize and make the program more effective. However, one effect of the amendment to remove "backup centers" has been to jeopardize one of the most effective programs, the law reform project of the National Resource Center for Correctional Law and Legal Services; and I feel compelled to say a word in behalf of this vitally needed project.

Sponsored by the American Bar Association's Commission on Correctional Facilities and Services and funded by the Office of Economic Opportunity and the Ford Foundation, the law reform project provides valuable assistance to legal services organizations throughout the country in matters concerning prison and correctional law. Among its many and varied activities, the project provides manuals, model briefs, pleadings, collected data, and occasional monographs relating to specific areas of correctional law. It makes readily available to field attorneys detailed information on specific practices within the various State jurisdictions and, in selected cases, the project provides technical advice to local attorneys in their original actions and appeals. Its publications are designed to provide attorneys with up-to-date information of activities in the field, and its services are available to legal services offices, bar associations, public interest organizations, correctional administrators, and Government agencies.

Among its major areas of concern are sentencing, parole and probation, alternatives to incarceration, and civil disabilities; and I feel that with the rapid increase in prison litigation and the growing public concern for correctional action which can best reduce the recidivist rate, services such as those provided by the law reform project are invaluable to those actively involved in the field. Therefore, I believe that this program is deserving of our support.

REJECTION BY SENATE FOREIGN RELATIONS COMMITTEE OF NOMINATION OF AMBASSADOR G. McMURTRIE GODLEY

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I would like to take this means to register my disappointment with the action of the Senate Foreign Relations Committee in killing the nomination of Ambassador G. McMurtrie Godley to be Assistant Secretary of State for Far Eastern Affairs. This action was very severe to a very distinguished and capable Foreign Service officer.

I had the opportunity to meet with Ambassador Godley on several occasions on my trips to Southeast Asia and always found him to be a man of great understanding and dedication to duty. With the knowledge he has gained on the people of Eastern Asia through many years of service, I can think of no person better qualified to fill the position for which President Nixon nominated him. I have had no indication that they will, but I certainly hope my colleagues on the Senate Foreign Relations Committee will reconsider their action of last week.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2535) for the relief of Mrs. Rose Thomas.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COL. JOHN H. SHERMAN

The Clerk called the bill (H.R. 2633) for the relief of Col. John H. Sherman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LEONARD DIAMOND

The Clerk called the bill (H.R. 2771) for the relief of Leonard Diamond.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ESTATE OF THE LATE RICHARD BURTON, SFC, U.S. ARMY (RETIRED)

The Clerk called the bill (H.R. 3533) for the relief of the estate of the late Richard Burton, SFC, U.S. Army (retired).

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ROGER STANLEY, AND THE SUCCESSOR PARTNERSHIP, ROGER STANLEY AND HAL IRWIN, DOING BUSINESS AS THE ROGER STANLEY ORCHESTRA

The Clerk called the bill (H.R. 4589) for the relief of Roger Stanley, and the successor partnership Roger Stanley and Hal Irwin, doing business as the Roger Stanley Orchestra.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MR. AND MRS. JOHN F. FUENTES

The Clerk called the bill (H.R. 2508) for the relief of Mr. and Mrs. John F. Fuentes.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GUIDO BELLANCA

The Clerk called the bill (S. 464) for the relief of Guido Bellanca.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

SLOBODAN BABIC

The Clerk called the bill (S. 666) for the relief of Slobodan Babic.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

CALL OF THE HOUSE

Mr. BLACKBURN. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 341]

Badillo
Biaggi
Blatnik
Burke, Calif.
Chappell
Chisholm
Clark
Danielson
Dellums
Dorn
Esch
Fisher
Gibbons
Helstoski
Kemp
Landgrebe
Patman
Reid
Slack
Stephens
Talcott
Taylor, Mo.
Teague, Tex.

The SPEAKER. On this rollcall 410 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I ask unanimous consent that the committee may have until midnight tonight to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

MASS TRANSIT TO SOLVE ENERGY CRISIS

(Ms. ABZUG asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous matter.)

Ms. ABZUG. Mr. Speaker, thanks to a massive, multimillion-dollar advertising campaign sponsored by the most powerful oil companies in the world, we are all now painfully aware of an increasing gap between soaring demand for and dwindling supply of our energy resources. Big Oil is already beginning to reap additional profits by labeling this gap a national crisis. As might be expected, the solutions that the major oil companies have chosen to promote are designed to perpetuate and reinforce the very systems which simultaneously created both a gasoline and fuel oil shortage for consumers and swollen profits for producers.

That is, instead of suggesting far-reaching, structural changes in lifestyles—particularly in the area of intra- and inter-city transportation—the majors are devising new and improved ways of pumping more and more gasoline into an ever-increasing number of thirsty automobiles. Driving more slowly, organizing car pools, and improving driving habits—such as Mobil and others have repeatedly suggested—offer nearsighted, short-term solutions while avoiding the basic causes of the so-called crisis.

The only way that we can reverse the possibly disastrous course upon which we have sped since the first Model T rolled off the assembly line in 1908, without compromising our commitment to progress and growth, is to develop extensive, inexpensive mass transit systems within and among our cities. Stewart L. Udall, former Secretary of the Interior, recently expressed ardent support of this alternative. In a column in the New York Times on July 12, 1973, Mr. Udall wrote:

> It is urgent to deter wasteful travel now; but it is ten times more important to initiate sweeping changes in our whole petroleum-based transportation system.

I would encourage the other Members to read Mr. Udall's article, which I have included in the extensions to today's RECORD.

CONFERENCE REPORT ON S. 1423, LEGAL SERVICES TRUST FUNDS

Mr. THOMPSON of New Jersey submitted the following conference report and statement on the bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services:

CONFERENCE REPORT (H. REPT. NO. 93–378)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That section 302(c) of the Labor Management Relations Act, 1947, is amended by striking out "or (7)" and inserting in lieu thereof "(7)" and by adding immediately before the period at the end thereof the following: ": or (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: *Provided further*, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workmen's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959".

And the House agree to the same.

CARL D. PERKINS,
FRANK THOMPSON, Jr.,
WILLIAM L. CLAY,
JOHN BRADEMAS,
JAMES G. O'HARA,
WILLIAM D. FORD,
Managers on the Part of the House.

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
THOMAS F. EAGLETON,
HAROLD E. HUGHES,
WILLIAM D. HATHAWAY,
J. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT TAFT, Jr.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Both the Senate bill and the House amendment authorize employer contributions to jointly administered trust funds established to defray the costs of legal services for their employees, their families, and dependents. The House amendment, but not the Senate bill, provided that the legal services must be to such persons for the counsel of their choice.

The conference agreement provides that the Senate shall recede from its position with an amendment providing that the legal services must be to such persons for the counsel or plan of their choice.

It was the opinion of the conferees that employees should have the same free range of options available to them in negotiating for legal services that they currently enjoy with respect to medical or hospital care and services plans. There must be freedom for the employee and the employer to reach a meeting of minds as to the appropriate and most effective way to provide legal services. The needs and desires of the employees must be recognized. The availability of competent counsel must be considered. The legitimate cost concerns of the employer must be permitted to enter into the negotiations. Parties must be able to accommodate their plans to otherwise valid State laws and court rules regulating the practice of law.

CARL D. PERKINS,
FRANK THOMPSON, Jr.,
WILLIAM L. CLAY,
JOHN BRADEMAS,
JAMES G. O'HARA,
WILLIAM D. FORD,
Managers on the Part of the House.

HARRISON A. WILLIAMS, Jr.,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
THOMAS F. EAGLETON,
HAROLD E. HUGHES,
WILLIAM D. HATHAWAY,
J. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT TAFT, Jr.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

Mr. FOUNTAIN. Mr. Speaker, in rollcall No. 334 last Thursday, July 12, on the motion of Mr. POAGE to rise, I am recorded as not voting. Even though I am not so recorded, I would like for the RECORD to show that I inserted my voting card in one of the House election voting devices and pushed the "aye" button, in an effort to vote "aye." I therefore ask unanimous consent that the permanent RECORD for last Thursday be made to show that during debate on the farm bill, that had my vote been recorded, it would have been "aye."

RESIGNATION AS CONFEREE ON S. 795

The SPEAKER laid before the House the following resignation:

WASHINGTON, D.C., *July 16, 1973.*

The SPEAKER,
The Speaker's Office.

DEAR MR. SPEAKER: Because of an illness that would prevent me from participating fully as a representative of the House in the upcoming Conference on the Arts and Humanities bill, I must tender my resignation as a House Conferee to the Conference on the Bill S. 795—National Foundation on the Arts and Humanities Act of 1965 Amendments.

I trust that another Conferee can be quickly appointed so that the House will be fully represented at the Conference. Thanking you for your attention to this matter, I remain,

Sincerely,

EARL F. LANDGREBE,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT AS CONFEREE ON S. 795

The SPEAKER. The Chair appoints as a conferee on the bill S. 795 the gentleman from Idaho, Mr. HANSEN, to fill the existing vacancy.

The Clerk will notify the Senate of the action of the House.

CONFERENCE REPORT ON S. 504, EMERGENCY MEDICAL SERVICES SYSTEMS ACT OF 1973

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (S. 504) to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 10, 1973.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. GROSS. Mr. Speaker, reserving the right to object, does the gentleman propose to take time to explain the bill?

Mr. STAGGERS. Yes, sir, I do.

Mr. GROSS. Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I yield myself whatever time I may require.

Mr. Speaker, I call up the conference report on the bill, S. 504, the Emergency Medical Services Assistance Act of 1973. This legislation which passed the House on May 31, 1973, deals, as the Members know, with medical emergencies by providing Federal assistance to communities which wish to improve their systems for taking care of such emergencies. In addition, the legislation was amended on the floor of the House to require HEW to keep the eight U.S. Public Health Service hospitals open unless the closing of any of them is approved by Congress.

S. 504, the original Senate bill, and H.R. 6458, the House amendment to it, contained very few major differences in their intent and numerous small differences in their content. The conference report which I am calling up would still follow the form of the House amendment and represents essentially the House bill rewritten to include the good ideas in the Senate bill. The conference report would authorize the expenditure in the next 3 years of $185 million. This is closer to the $145 million in the original House bill than it is to the $240 million in the Senate bill.

The conference report would still require HEW to keep the eight PHS hospitals open. The eight hospitals in question are now named in the statute, and anti-impoundment language in the Senate bill has been removed and the requirement has been added that, if HEW proposes that Congress approve closing a hospital, they must provide us with the approval by the community health planning agency of their proposal.

This is a good conference report representing the best of both bills and following very closely the original House policy. It would authorize a reasonable and moderate amount of money in a subject which the administration has already included in its budget. I urge its adoption by the House.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I would ask the gentleman from West Virginia if the amendments in the conference report are germane?

Mr. STAGGERS. In reply to the inquiry of the gentleman from Iowa I will state that all of the amendments in the conference report are indeed germane.

Mr. GROSS. And there is an increase of approximately $40 million?

Mr. STAGGERS. That is correct, approximately $40 million.

Mr. GROSS. I thank the gentleman for yielding.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Speaker, I thank the gentleman from West Virginia for yielding me this time.

The emergency medical services bill which was approved by the House some time ago was designed to assist and encourage communities and other governmental entities in organizing facilities and personnel to make emergency services readily available to victims of accidents and other medical emergencies. The bill outlined five different areas of grants and contracts designed to accomplish the objective.

The Senate bill, while contemplating much the same approach, was so differently constructed as to make section to section comparisons and compromises difficult if not impossible. As a result the conference version cannot be said to follow one bill more than the other. Some items are purely House versions. Some sections are almost entirely Senate language, and some have been rewritten within the scope covered by both. The resulting bill is not a distortion of the original House bill in any way, but it will be found to read quite differently in many areas from that which we passed.

The Senate bill authorizes $240 million over a 3-year period while the House bill authorized only $145 million over the same period. The amounts were compromised into $185 million in three grant and contract authorities covering all of the activities contemplated in the two bills.

When the House bill was passed there was a provision contained therein which evoked considerable debate and which had to do with the authority of the military to cooperate with emergency medical organizations. The Armed Services Committee objected to any reference to the use of military personnel or equipment despite the acknowledged effort within the military to render whatever assistance it could. Pilot projects under the MAST program were underway. Although the provisions in question were retained in the bill, the matter became moot by the passage of a separate bill reported by Armed Services on the subject of military cooperation in emergency services, which bill passed the House. In light of this development the conferees prevailed upon the Senate conferees to delete all references to military assistance in the expectation that the independent House bill would be acted upon in that body soon.

It should be noted that the administration has consistently opposed the emergency medical services bills in both Houses as being unnecessary, too expensive, and organizationally unsound.

One other difficulty with the bill, both in the House and in its conference version, is the inclusion of the otherwise nongermane provisions dealing with Public Health Service hospitals. Originally included in the Senate bill, similar sections were included in the House bill only by way of a waiver of points of order. It was pointed out at the time of the debate on the bill that these extraneous provisions could and would jeopardize the acceptance of the bill by the Executive. As the conference version of the bill reads, the Executive may not close or reduce services in such hospitals without a law authorizing it, and further, the Executive may not even propose such a law unless comprehensive health agencies in the affected area approve. Such provisions are completely unacceptable to the Executive and both committees knew it. The possibility of a veto is very great under these circumstances, and the merits of creating emergency medical programs have been diluted by this side issue. Although I do not oppose the acceptance of the conference report, I do think we may be going through an exercise in futility.

In regard to both of these objections I have recently received a letter from the Department of Health, Education, and Welfare outlining in more detail its objections to S. 504 and the conference report.

The letter reads as follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 13, 1973.

Hon. ANCHER NELSEN,
House of Representatives,
Washington, D.C.

DEAR MR. NELSEN: As you know, within the next several days the Congress will be considering the conference report on S. 504, the Emergency Medical Services Systems Development Act of 1973. We would like to take this opportunity to review with you the Administration's position on this legislation.

In the 92nd Congress, H.R. 12563, H.R. 1278, and S. 5784 were introduced to deal with the problem of emergency medical services. We opposed that legislation on the grounds that sufficient legislative authority existed to carry out the Emergency Medical Services Initiative which had already been announced by the President in his 1972 State of the Union and Health Messages. Further, we noted that the Initiative proposed would be sufficient to mobilize both Federal and local monies already in the health care system to meet the critical emergency medical services problem. That proposed legislation was not passed by the Congress.

H.R. 74, 4224, 4952, 5675, and 5677 (ultimately combined into H.R. 6458) and S. 504 were introduced this Congress, have been passed by both Houses, as amended, and are currently the subject of a conference agreement. We again opposed those bills as unnecessary, organizationally restrictive and unduly expensive.

We strongly believe that the approaches reflected in the conference bill are inappropriate for a number of compelling reasons.

In the first place, although the Federal Government can assist in remedying certain deficiencies in EMS, we believe it is inappropriate for the Federal Government to create yet another categorical legislative program involving potentially large-scale Federal support for the development of emergency medical service systems. The activities involved are inherently of a local character and should reflect local priorities and decisions.

Ample legislative authority is already on the books to allow the conduct of a range of Federal demonstration initiatives in the EMS field. If there is an existing need, it is not for additional categorical legislation but rather for a rationalization and simplification of the maze of statutes, regulations, and guidelines for those looking to the Federal Government for assistance. We believe it inappropriate to enact additional legislation on the unsupported assumption that needed improvements in the EMS field will not occur without additional legislation. Indeed further categorical legislation may well impede rather than improve progress in this regard.

Particularly objectionable is the provision in S. 504 to establish a new organizational structure with the responsibility for EMS programs. It is undesirable to attempt to conduct a program effort in a particular area by establishing by statute a new organization with responsibility for that area. We certainly do not think, in this case, that a separate organizational focus for EMS activities serves program needs.

The matter of the scale is also important, for there would be significant administrative costs—as well as administrative delays in organizational development, recruiting, and gearing up for implementation—associated with a new organization's structure, and these increased administrative resource demands would have to be at the expense of other high-priority health activities. Accordingly, we strongly oppose as undesirable and unnecessary the creation of a separate EMS mechanism.

Furthermore, the appropriations authorizations contained in the bill are greatly in excess of the amount of funds that could conceivably be soundly invested in a Federal EMS demonstration program in the foreseeable future. Enactment of legislation containing the large authorizations in the bill would constitute another example of creating expectations that the Government cannot hope to fulfill. We believe that the practice of creating categorical programs with unrealistic funding authorizations is undesirable.

Finally, there are various provisions of the bill that we believe are unwise and inconsistent with the President's overall objective of simplifying administration and reducing the plethora of categorical, special purpose programs that have sprung up in recent years. Particularly ill-advised, we think, are the provisions which would require creation of another statutory interagency committee. We believe that Federal interagency committees permanently established by law are both unnecessary and ineffective as a means of coordinating and planning complex programs, especially when the principal responsibility for an activity properly rests at the State and local level.

With regard to the PHS hospitals portion of S. 504, we oppose it for the following reasons:

1. It is our firm conviction that the small beneficiary population served by PHS hospitals will be served more adequately, effectively and with less personal disruption through Federal contracts with locally available community health facilities. This is in consonance with the basic Administration position, which we have repeatedly stated, that the Federal role in health should not include the direct provision of services to Federal beneficiaries by medical facilities operated by DHEW.

2. The continuing operation of the hospitals, as they were on January 3, 1973, is a virtual impossibility. Existing professional staff shortages compounded by the large number of recent civilian staff retirements resulting from passage of P.L. 93–39 and the expiration of the doctors' draft on June 30, 1973 have had a critical impact on the PHS hospitals' ability to provide beneficiary services. Further, increasing difficulties in recruiting physicians during fiscal year 1974 are a certainty and will undoubtedly affect the ability of PHS hospitals to provide the services which are now being furnished to beneficiaries. Our plans to shift our primary beneficiaries to the more modern, more accessible, better equipped and better staffed hospitals in the community are therefore in the interests of the patients, the Federal Government and the community hospitals themselves which are operating generally below the optimal 85 percent occupancy rate.

3. The inability of the Department to close these hospitals without Congressional approval when such action is justified, as it is in this case, from the standpoint of rendering better quality care to beneficiaries and the benefits of better utilization of PHS and community hospitals, flies in the face of sound administrative judgment. The continuing operation of the PHS outpatient clinics will assure the scope, quality and quantity of ambulatory services to beneficiaries. They will also serve as an entry point into the health care system and proper referral and monitoring of care provided by community hospitals.

4. In respect to the requirement that both Section 314(a) and (b) agencies approve subsequent plans for closure of PHS hospitals, this provision would be tantamount to precluding desirable or necessary Federal action by the failure or inability of both the local and State jurisdictions to react to Federal plans. The Federal Government would be in an untenable position if such a principle were generally applied in this and other matters of Federal concern and responsibility.

For these reasons, we are strongly opposed to S. 504, the enactment of which would not be consistent with the Administration's objectives.

Sincerely,

——— ———,
Acting Secretary.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I support the conference report, and I merely want to say that the gentleman from Minnesota (Mr. NELSON) has explained some of the changes in the language that the conferees have found acceptable, and I would recommend the adoption of this conference report by the House.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I rise to support H.R. 504, the Emergency Medical Services Systems Act and its amendment pertaining to the Public Health Service system.

I have a vital interest in this legislation, especially as it pertains to the Public Health Service system. I chaired several days of hearings on the administration's planned dismantling of the Public Health Service system and as a result introduced the legislation to keep the hospitals open.

I would like to make reference to a letter which appeared in the CONGRESSIONAL RECORD of July 16, 1973, from Secretary of Health, Education, and Welfare, Caspar Weinberger to Senator ROBERT TAFT. Several points in the Secretary's letter explained how this bill is not consistent with the administration's objectives. First I would emphasize to the Secretary that this bill may not be consistent with the administration's objectives, but it is certainly consistent with the objectives of the U.S. Congress. By now it should be apparent to the decisionmakers at HEW that the Congress does not want the PHS system to be dismantled and the Congress has expressed this emphatically in many different ways.

I would like to respond to the Secretary's arguments on a point by point basis.

The Acting Secretary said:

> 1. It is our firm conviction that the small beneficiary population served by PHS hospitals will be served more adequately, effectively and with less personal disruption through Federal contracts with locally available community health facilities. This is in consonance with the basic Administration position, which we have repeatedly stated, that the Federal role in health should not include the direct provision of services to Federal beneficiaries by medical facilities operated by DHEW.

The Secretary offers no evidence to support this assertion. To the contrary, in the submitted HEW "plan" for the hospitals, a majority of the affected agencies given the responsibility to take over the care and treatment of the beneficiaries have asserted that they will be unable to do so. And when they have asserted that they can take over some of the HEW responsibilities, they have admitted that they cannot do so to the same degree as HEW, thus causing a loss of many important specialized health programs. Further, they admitted the quality of care would be below that now provided by the PHS hospitals.

The Secretary provides no information to suggest that the beneficiaries share the administration's conviction that they will be better served if the PHS hospitals are closed and they are referred to community facilities. In fact, he gives no indication that the beneficiaries have even been consulted. He does not mention that beneficiary groups have brought judicial actions in Federal courts in Seattle and New York to keep the hospitals open. And he makes no mention of the fact that the Federal District Court in Seattle has granted a temporary injunction barring HEW from closing the hospital there.

The Secretary ignores entirely the substantial roles which the PHS hospitals are playing in health manpower training, in health research, and as support facilities for a wide variety of community health programs serving the poor.

The Acting Secretary said:

> 2. The continuing operation of the hospitals, as they were on January 3, 1973, is a virtual impossibility. Existing professional staff shortages compounded by the large number of recent civilian staff retirements resulting from passage of P.L. 93-39 and the expiration of the doctors' draft on June 30, 1973 have had a critical impact on the PHS hospitals ability to provide beneficiary services. Further, increasing difficulties in recruiting physicians during fiscal year 1974 are a certainty and will undoubtedly affect the ability of PHS hospitals to provide the services which are now being furnished to beneficiaries. Our plans to shift our primary beneficiaries to the more modern, more accessible, better equipped and better staffed hospitals in the community are therefore in the interests of the patients, the Federal Government and the community hospitals themselves which are operating generally below the optimal 85 percent occupancy rate.

It is only logical that when the administration announced it would close the hospitals this summer, proceeded to ignore beneficiary groups, State, and local governments where these hospitals are located, and the Congress in order to obtain this objective, that employees would start looking for jobs elsewhere. The administration, through deft maneuvering, has attempted to present the Congress with a fait accompli; that is, first it encourages employees to leave and now it argues the hospitals must be closed because of staff shortages.

The Acting Secretary said:

> 3. The inability of the Department to close these hospitals without Congressional approval when such action is justified, as it is in this case, from the standpoint of rendering better quality care to beneficiaries and the benefits of better utilization of PHS and community hospitals, flies in the face of sound administrative judgment. The continuing operation of the PHS outpatient clinics will assure the scope, quality and quantity of ambulatory services to beneficiaries. They will also serve as an entry point into the health care system and proper referral and monitoring of care provided by community hospitals.

The conference report does not preclude HEW from closing these hospitals if—in fact—the administration can demonstrate with hard evidence that it can and will provide in some other fashion for those now being treated at the hospitals, for the health manpower training activities, and for research activities now being carried on at the hospitals. There is no reason why Congress should be expected to approve closure of the hospitals without that evidence and on the basis of the administration's assertions alone.

The Acting Secretary said:

> 4. In respect to the requirement that both Section 314(a) and (b) agencies approve subsequent plans for closure of PHS hospitals, this provision would be tantamount to precluding desirable or necessary Federal action by the failure or inability of both the local and State jurisdictions to react to Federal plans. The Federal Government would be in an untenable position if such a principle were generally applied in this and other matters of Federal concern and responsibility.

Elsewhere in his letter the Secretary refers to basic philosophical positions and convictions of the administration. Yet here there is no mention of the principle so often stated by the President with respect to the decentralization of power, the returning of power to the people, and abhorrence of the idea that the Federal Government always knows best.

The Secretary makes no mention of the fact that the 314(a) and 314(b) agencies were established pursuant to Federal law and receive Federal funds for the very purpose of participating in health planning at the State and local levels.

Extensive hearings were held on this subject by the Merchant Marine Committee and the Interstate and Foreign Commerce Committee. Secretary Weinberger testified at these hearings. The record was clear then and it is clear now. The Congress has not accepted or approved this poorly conceived "plan" of the administration to dismantle the PHS hospital system and has clearly rejected it by votes in the House and Senate in approving S. 504.

Mr. ADAMS. Mr. Speaker, I am very pleased that the Emergency Medical Service Systems Act of 1973 contains a provision to maintain the Public Health Service hospitals. I am disappointed that the administration has continued to oppose the Public Health Service hospitals and is still attempting to close them.

Our hospital in Seattle has been of great benefit to the people of the Northwest, and it seems to me that meeting the human needs of our people is a worthy project which deserves the support of the House of Representatives.

I hope we will have a substantial vote in favor of this conference report so the administration will not be tempted to veto it.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, I demand tellers.

Tellers were refused.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 306, nays 111, not voting 16, as follows:

[Roll No. 342]

YEAS—306

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Beard
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Broyhill, Va.
Buchanan
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Carney, Ohio
Carter
Casey, Tex.
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fraser
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Gunter
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hays
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Holifield
Holt
Holtzman
Horton
Howard
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
King
Kluczynski
Koch
Kuykendall
Kyros
Landrum
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
McCloskey
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mailliard
Maraziti
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Mills, Ark.
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Passman
Patman
Patten
Pepper
Perkins
Peyser
Pike
Poage
Podell
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Scherle
Schroeder
Seiberling
Shipley
Shoup
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Thompson, N.J.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Whalen
White

Whitehurst
Whitten
Wilson, Bob
Wilson,
 Charles H.,
 Calif.
Winn
Wolff
Wright
Wyatt
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Tex.
Zablocki

NAYS—111

Anderson, Ill.
Archer
Arends
Armstrong
Bafalis
Baker
Bell
Blackburn
Bray
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Burgener
Camp
Clawson, Del
Cochran
Collier
Collins, Tex.
Conable
Conlan
Crane
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Edwards, Ala.
Eshleman
Findley
Ford, Gerald R.
Fountain
Frelinghuysen
Frenzel
Froehlich
Goodling
Gross
Grover
Gubser
Guyer
Hanrahan
Harsha
Harvey
Hastings
Hillis
Hinshaw
Hogan
Hosmer
Huber
Hudnut
Hutchinson
Johnson, Colo.
Jones, Okla.
Keating
Latta
Lujan
McClory
McCollister
McEwen
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Mayne
Michel
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moorhead,
 Calif.
Myers
Nelsen
O'Brien
Parris
Pettis
Pickle
Powell, Ohio
Quie
Rhodes
Robinson, Va.
Roncallo, N.Y.
Rousselot
Ruppe
Ruth
Saylor
Schneebeli
Sebelius
Shriver
Shuster
Smith, N.Y.
Snyder
Spence
Steiger, Ariz.
Steiger, Wis.
Symms
Teague, Calif.
Thomson, Wis.
Treen
Veysey
Walsh
Widnall
Wiggins
Williams
Wydler
Wylie
Wyman
Young, Ill.
Young, S.C.
Zion
Zwach

NOT VOTING—16

Ashbrook
Blatnik
Carey, N.Y.
Cederberg
Danielson
Fisher
Kemp
Ketchum
Landgrebe
Reid
Roncalio, Wyo.
Talcott
Taylor, Mo.
Teague, Tex.
Ware
Wilson,
 Charles, Tex.

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Blatnik for, with Mr. Kemp against.

Mr. Carey of New York for, with Mr. Landgrebe against.

Mr. Reid for, with Mr. Ware against.

Mr. Roncalio of Wyoming for, with Mr. Talcott against.

Mr. Danielson for, with Mr. Taylor of Missouri against.

Until further notice:

Mr. Teague of Texas with Mr. Ashbrook.

Mr. Charles Wilson of Texas with Mr. Cederberg.

Mr. SANDMAN and Mr. MATHIAS of California changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

EXEMPTING STEAMBOAT "DELTA QUEEN" FROM CERTAIN VESSEL LAWS

Mrs. SULLIVAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5649) to extend until November 1, 1978, the existing exemption of the steamboat *Delta Queen* from certain vessel laws.

The Clerk reads as follows:

H.R. 5649

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the primary purpose of the amendment made by section 2 of this Act is to assure the continuity of operation of the overnight riverboat, the steamboat *Delta Queen,* by extending her existing exemption from the safety-at-sea laws. A new overnight passenger riverboat will be constructed by the owners of the *Delta Queen* and, in order to assure the preservation of this historic and traditional piece of American folklore and life, such amendment will provide for the continued operation of the present steamboat *Delta Queen* while the new riverboat is being constructed.

SEC. 2. The penultimate sentence of section 5(b) of the Act of May 27, 1936 (49 Stat. 1384, 46 U.S.C. 369(b)), as amended, is amended by striking out "November 1, 1973," and inserting in lieu thereof "November 1, 1978,".

The SPEAKER. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mrs. SULLIVAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge my colleagues to support H.R. 5649, to extend until November 1, 1978, the existing exemption of the steamboat *Delta Queen* from certain vessel laws. It is no secret that I have long championed the continued operation of this grand old lady of the inland river system which makes port calls in some 17 States so that thousands of Americans each year enjoy the beauty of our Nation's waterways and spend their vacations on this fabulous replica of the storied past.

For those who are not informed, the *Delta Queen* is a paddlewheel riverboat, the only overnight passenger vessel left on our river system. She is 285 feet long and weighs 1,837 tons. Her hull, over 50 years old, was shaped at Clydesbank, Scotland, her steel forged at the Krupp works in Germany. Her superstructure is mostly wood and this is where the problem has arisen.

Under legislation enacted in the 89th Congress—Public Law 89–777—certain standards for the safe operation of deep draft cruise vessels were enacted into law. Inadvertently, it would seem, this legislation was made broad enough to include passenger vessels carrying overnight passengers and operating in our inland rivers and waterways.

The original legislation gave the inland water passenger vessel owners a short period of time to permit the companies involved to assess their particular situations. As a result, one company operating on the Great Lakes went out of business, ceasing all its operations. The last remaining company, Greene Line Steamers, Inc., the owners and operators of the *Delta Queen* decided to attempt to construct a new vessel and thus continue its operations. An extension of time was enacted by the Congress in 1968—Public Law 90–435—allowing the *Delta Queen* to continue operating until November 1970.

The owners and operators of the *Delta Queen* found to their dismay that with the rise in cost of construction material and labor, a new replacement vessel would have cost in excess of $10 million, instead of the originally anticipated $4 million. These costs stalled new construction at that time. The question then arose as to whether the *Delta Queen* would be able to continue in operation. As everyone knows, I spearheaded the drive in Congress 3 years ago to get a 3-year exemption. Our efforts were successful with the passage of H.R. 6114 in the House of Representatives, on December 15, 1970, by a vote of 295 to 73. The bill was signed by the President on December 31, 1970, and became Public Law 91–612.

As unbelievable as it seems, that 3-year exemption period is closing in on its termination date of November 1, 1973. Thus, we are once again faced with the possible demise of the only overnight passenger vessel left on our rivers. She is the last of her class and if Congress fails to act, she will be forced into retirement and another of our great American traditions will have passed from the scene. If that happens, it will mean the end of nearly 160 years of paddlewheel history in this country, and particularly on the Mississippi River.

Fortunately, the owner of the *Delta Queen* has now found sufficient resources to enter into a contract for the construction of a new riverboat vessel. In order to continue this romantic link with our past, it will be necessary to provide the *Delta Queen* with another exemption. To this end, we have the bill H.R. 5649, which we are considering today, which will give the *Delta Queen* a 5-year exemption from the safety-at-sea laws.

As I mentioned earlier—and I guess it is well known—I have long been a proponent of exempting the *Delta Queen* from safety at sea laws and continuing her in operation. My reasons for this position are many, and I believe reasonable and logical.

First, I believe she should be allowed to continue to ply the inland rivers of the United States because of her great historic and cultural value. At a time when change is the rule and not the exception, there should be kept intact marks of the old America which is a part of our history and tradition and culture. These marks should be kept with us. At a time when we are doing much to save the endangered species of fish and wildlife from extinction, why not also save this vanishing overnight paddlewheel riverboat from total extermination?

The advancement of technology and efficiency should not come at the expense of the great monuments of the past, it should include these things. If history allows us to stand on our predecessors' accomplishments and advancement, I hope it will let us stand tall enough to look over the trees and see a river system with the *Delta Queen* sailing majestically on it.

Another reason for preserving this romantic link with our past, and perhaps the really basic reason, is the undeniable fact that the people of the Nation want it. Few other subjects in the last several years have brought a stream of letters and outpouring of emotion as has this particular matter.

Another reason why I believe this legislation should be enacted is that the termination of the *Delta Queen* would be a misapplication of law. The first thrust of the safety of sea laws of 1966 was the passenger trade out of the major ocean ports of the United States and the cruise trade to the Caribbean and other seaward locations. The owners of this vessel have had their vessels plying the waters of this great country for 50 years without one loss of life due to an accident or an unsafe condition. It must be considered that the *Delta Queen* is not a vessel engaged in international carriage or trade, nor does she encounter the stresses, strains, and dangers of a vessel on the high seas. Studies of the operation of the *Delta Queen* have convinced me and many others that the nature of her commerce and the many special precautions taken by her owners to protect her, make the *Delta Queen* as safe as if her superstructure were made of metal.

At this very moment, when we are considering this legislation to exempt the *Delta Queen* from the safety at sea laws, thousands of Americans are aboard vessels on the various inland waterways of Europe which do not meet the standards established in this area by the laws we now have on the books. I do not believe that we need to be insensitive to the desires of our people and if we wish to preserve this little piece of our romantic past and keep the *Delta Queen* available to the millions of Americans who have been enjoying her all these many years, then we should pass H.R. 5649.

In passing, I would like to point out that I am convinced that this vessel operates as reasonably safely in all the circumstances as can be expected. It should be recognized that the owners have fireproofed the wooden portions of the vessel and have installed fire prevention sprinkler systems. In addition, these inland passenger vessels are never more than a few yards from any shore, presently meet certain Coast Guard safety standards, and are frequently operated in waters no deeper than the middle of the ship.

I have not been aware of any evidence adduced at our hearings or coming to light over the past several years to persuade me that this romantic link with the past should not be continued in operation. To the contrary, the fact that she has been operating safely and wonderfully without mishap all these years is the best argument there is for her continued operation. I am confident the Congress can only resolve to let America continue to have this part of her cultural heritage and romance of the past and that this grand old lady of the rivers will not be drowned in a tide of apathy and indifference. I urge all my colleagues to vote in support of H.R. 5649.

Mr. RUPPE. Mr. Speaker, H.R. 5649 amends the act of May 27, 1936, as amended, by changing the effective date for application of certain vessel safety provisions set forth in 46 U.S.C. 369, to domestic passenger vessels operating solely on the inland rivers and waterways of the United States from November 1, 1973, to November 1, 1978. The provision affected is that which would prohibit after November 1, 1973, the issuance of a certificate of inspection to a passenger vessel of the United States of 100 gross tons or over having berth or stateroom accommodations for 50 or more passengers if the vessel was not constructed of fire-retardant material and if the structural fire protection did not conform to requirements established by regulations for vessels constructed for on or after May 28, 1936.

The United States has required since May 28, 1936, that passenger vessels be constructed essentially of fire-retardant material. In 1966, the original act was amended by Public Law 89-777 which had as one of its basic provisions a section dealing with construction of domestic vessels. In essence, that act prohibited from operation those vessels of U.S. flag which did not conform to current standards of structural fire protection.

When Public Law 89-777 was enacted, it was recognized that its domestic application would terminate the service of two vessels operating on the inland rivers and waterways, the *Delta Queen* and the *South America*. These vessels, which had previously been exempted from the fire-retardant construction requirements of the 1936 act by a grandfather clause, were the only U.S. vessels affected by Public Law 89-777. Original drafts of legislation culminating in Public Law 89-777 provided for an effective date of July 1, 1966, for compliance with these requirements by our domestic vessels. Prior to enactment of this law, however, the date was extended by Congress to November 2, 1968, in order to allow time for the development of replacement vessels. Since the expiration of the November 2, 1968, date, Congress has extended the effectve date on two separate occasions to the present expiration date of November 1, 1973.

The bill under consideration would permit the owners of the *Delta Queen* to operate it for an additional 5 years while a new riverboat is being constructed. The *Delta Queen*, built in 1926, and certificated for 192 passengers, is the sole inland vessel in operation, of 100 gross tons or over and with berth or stateroom accommodations for 50 or more passengers.

In the interest of maritime safety, the Coast Guard and the Department have consistently opposed legislation to prolong the service of the *Delta Queen* on the ground that the vessel, constructed primarily of wood, and operating in the overnight passenger trade, presents a serious risk in regard to fire safety. The United States in international maritime safety negotiations has long championed fire preventive standards, as opposed to firefighting capability standards, as the primary aim of marine fire safety regulations. Fire preventive standards were written into the International Convention for the Safety of Life at Sea of 1960 at the insistence of the United States. The standards of that convention are incorporated by reference in the act to be amended.

Mr. Speaker, I oppose this legislation and the exemption contained therein from the vessel safety laws.

Mr. Speaker, I yield to the gentleman from Kentucky (Mr. SNYDER) such time as he may consume.

Mr. SNYDER. Mr. Speaker, the Fourth Congressional District of Kentucky, which I have the honor to represent, consists of eight counties, all of which border on the Ohio River. Thus, the lives of all the people of our district are more or less intimately involved with the river, its history, its heritage, and its traditions.

One of these great traditions is the steamboat *Delta Queen*, the only overnight passenger vessel left on our river.

One hundred years ago there were thousands of steamboats plying their trade up and down the Mississippi and its tributaries. Today just one paddle wheel riverboat, the *Delta Queen*, carries on the 160-year steamboat tradition.

The U.S. Department of the Interior has recognized her unique role in history, listing her in the National Register of Historic Places.

The *Delta Queen*, as originally designed and built in 1926, was the most expensive—$875,000—luxurious and safest paddle wheel passenger riverboat ever built.

The hull was fabricated on the River Clyde in Glasgow, Scotland, and shipped to Stockton, Calif., for final assembly. The superstructure of oak, walnut, teak, mahogany, and ironwood was hand-fitted by California cabinetmakers. The boat was originally commissioned by the California Transportation Co. to operate overnight between Sacramento and San Francisco on the Sacramento River.

During World War II, the U.S. Navy recommissioned the *Delta Queen* to ferry troops and wounded in San Francisco Bay. In 1947, the vessel was auctioned off to the highest bidder, Capt. Tom Greene, then president of Greene Line Steamers.

After painstakingly "crating" the superstructure, the *Delta Queen* was towed down the Pacific Coast to the Panama Canal and up through the Gulf of Mexico to New Orleans. Under its own power, the boat proceeded up the Mississippi and Ohio Rivers, where she was remodeled and outfitted for Mississippi River trade at a cost of nearly $750,000. During the next 20 years, the *Delta Queen* carried hundreds of thousands of passengers on memorable river journeys in historic mid-America.

In 1966, when the *Delta Queen* was enmeshed in the Safety at Sea Law, the owners voluntarily undertook a major program of restoration and safety improvements that by 1973 totaled more than $1 million.

Today, the *Delta Queen* is a familiar and stirring sight as she serenely steams up and down the Mississippi, Ohio, Tennessee, Cumberland, Arkansas, and Illinois Rivers. She is a living museum of fine riverboat design and engineering—impossible to duplicate in our day and age.

The Congress has also recognized the unique nature of the *Delta Queen* by noting that she does not face the same hazards as oceangoing vessels. Since the enactment of the safety at sea law in 1966, Congress has voted three times in favor of temporarily exempting America's last overnight passenger paddlewheel riverboat from these laws.

This exemption will not only enable the *Queen* to continue her life on the river but—more importantly—it will enable service to continue as a new $15.5 million vessel is built.

The new boat will be a steampowered stern paddlewheeler of traditional design, constructed of noncombustible materials and with hull and outfittings which comply with Coast Guard regulations.

The new vessel will not be, and is not intended to be, a replacement for the *Delta Queen*. Her historic value and nostalgic feeling cannot be replaced.

Mr. Speaker, the new vessel is designed for those who prefer the comforts and conveniences of our modern age and the first of a new fleet of riverboats.

To make the new vessel attractive, it is necessary to maintain the great tradition of the *Delta Queen* until the new boat is completed. This bill would do that, and would make a valuable contribution to the service of a vital part of our national heritage.

Mr. Speaker, I implore and urge my colleagues to vote affirmatively on this legislation.

Mr. STUBBLEFIELD. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to my colleague from Kentucky (Mr. STUBBLEFIELD).

Mr. STUBBLEFIELD. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from Kentucky, and urge passage of H.R. 5649.

Mr. SNYDER. Mr. Speaker, I appreciate the gentleman's support.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, it seems to me that when we had this matter before us on a previous occasion there was a great deal of talk about a movement to build a replica of the *Delta Queen* that would be constructed and take the place of this boat, and let this dear old lady retire.

Mr. Speaker, what has happened to the movement to do that?

Mr. SNYDER. Mr. Speaker, of course in the original first exemption, it was thought that they could comply with the Coast Guard regulations with the present vessel. Then, they found out they could not do that to the satisfaction of the Coast Guard. Of course, members must bear in mind that the safety at sea law really was directed toward those vessels that go out to sea, not to those which are only a minute from shore. They asked for the second exemption when it was estimated that it would cost $4 million to build a new vessel. They found out that it cost in excess of $10 million. This required new financial arrangements which have now been obtained. The new vessel will cost $15½ million.

It is just one of those things that people get involved in which cost more than they think. They have got to get their financing worked out, and they have done that.

Mr. Speaker, as far as the *Delta Queen* is concerned, I do not know what the owners intentions are about that, but I hope they do not intend to retire the *Delta Queen* because of its place in river history. The problem is it carries over 50 passengers, overnight, and they will have to cease and desist doing that under the safety at sea law. I hope the *Delta Queen* continues to ply up and down the river for many years.

Mr. DEVINE. Mr. Speaker, what the gentleman is saying is that they have abandoned any idea of replacing her with a more modern vessel?

Mr. SNYDER. No, a contract has been let for a new $15½ million vessel which will be completed during the term of this projected exemption.

Mr. DEVINE. Is the projection for 1975?

Mr. SNYDER. The bill is to 1978. It will be completed in that time.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I want the gentleman to know that I am in strong support of this legislation.

Mr. McCLORY. Mr. Speaker, this bill (H.R. 5649), which would extend a 5-year exemption to the *Delta Queen* from certain vessel safety laws, will enable us to retain a traditional example of a famed river steamer.

The gentlewoman from Missouri (Mrs. SULLIVAN) and the gentleman from Kentucky (Mr. SNYDER) have spoken eloquently in support of this legislation. I concur in their remarks, and add that someone very close to me—my wife, Doris—is one of the millions of Americans who has enjoyed a memorable voyage on this historic and well-equipped *Delta Queen* and can attest to its safe and skillful operation.

Mr. Speaker, the law from which the *Delta Queen* will continue to be exempted appears to have been intended for seagoing vessels and not riverboats. The excellent safety record of the *Delta Queen* and the many safety precautions that have been taken by her owners and operators, would seem to justify fully the additional 5-year exemption that is granted by this bill.

Mr. Speaker, I urge my colleagues to give this measure their wholehearted support.

Mr. SNYDER. Mr. Speaker, I assure the gentleman that if someone close to his heart decided to take her husband, he would be equally enthusiastic.

Mr. RUPPE. Mr. Speaker, I yield 4 minutes to my distinguished colleague from New York (Mr. SMITH).

Mr. SMITH of New York. Mr. Speaker and Members, I hate to inject a sour note into this exercise in nostalgia today, but this of course is the third extension that we have been asked to pass exempting the good old *Delta Queen* from the safety at sea laws. We know that the Coast Guard is against this, as they were for the first extension in 1968 and the second extension in 1970 and this extension which asks for another 5 years of exemption.

Mr. Speaker, I would like to remind the Members of the House of the circumstances of the last exemption the Congress granted. As the Members may remember, our former colleague, Mr. Garmatz, who was chairman of the Committee on Merchant Marine and Fisheries, was adamantly opposed to granting this exemption to the *Delta Queen* because he felt the safety at sea laws really meant something and that the Congress meant them to be enforced in passing these laws.

Therefore, this bill was never able, as I understand it, to get through the illustrious Merchant Marine and Fisheries Committee of this House.

So the last time it came up for exemption, lo and behold, it appeared as a nongermane amendment added by the other body on a private claim bill. That was a bill brought for the relief of Elmer M. Grade, and was acted upon by the Judiciary Committee of the House.

I should like at this time, Mr. Speaker, merely to repeat what I said then, in the interest of nostalgia. I believe we do owe something to Elmer Grade. I said at that time:

> Mr. Speaker, I rise today to pay particular tribute to a modern Atlas, one Elmer M. Grade, a patriot, who has, through the vagaries of the legislative process, finally, on Thursday last—

This was in December 1970—

> managed to carry on his back that historic symbol of a bygone era, the *Delta Queen*, to a resounding victory for nostalgia. Mr. Speaker, I would hope that the Greene Line Steamers, Inc., who are apparently the owners of the *Delta Queen*, would grant Mr. Elmer M. Grade a lifetime pass in this now historic ship for his unwitting services above and beyond the call of duty.

I would say to the Members that we do not need Mr. Grade today, because apparently the committee is unanimous in its approval of again extending for 5 years the exemption from the safety at sea laws for this wooden ship.

I must repeat to the Members the warning of Mr. Garmatz. He said, I remember, that if a terrible tragedy should happen with this wooden ship because of this exemption the blame would be on this Congress.

Mr. RUPPE. Mr. Speaker, I yield 5 minutes to my distinguished colleague from Ohio (Mr. KEATING).

Mr. KEATING. Mr. Speaker, I thank the gentleman from Michigan for yielding, and I congratulate him on the work on this particular bill.

I should like also to congratulate the gentlewoman from Missouri for the fine work, recommendations, and leadership she has shown in presenting the bill in this fashion to this body.

As representative from the home port of the river steamer *Delta Queen*, I am pleased to urge that the historic vessel be granted a 5-year extension to its exemption from certain provisions of the 1968 Safety at Sea Act. This exemption will enable the *Delta Queen* to continue in overnight service on the Mississippi River system until November 1, 1978.

On two previous occasions, in 1968 and again in 1970, the Congress has seen fit to grant an exemption to the *Delta Queen*. Since 1968, the owners of the *Delta Queen*, Greene Line Steamers, Inc., has spared no effort to make the vessel as safe as possible. Greene Line has spent over a million dollars to date on safety improvements and has promised to make further safety changes if granted the exemption which we are considering.

A new overnight riverboat has been commissioned by Greene Line and is currently taking shape in Jeffersonville, Ind. The new boat will cost $15.5 million and will be the finest vessel of its type in the world. With the construction of the new boat, which the Greene Line owners hope to have in service in 1975, we may see the beginning of a new era in passenger riverboat service. Recent years have witnessed renewed interests in riverboats and the way of life which they represent.

In Europe, riverboats represent a common and accepted method of travel and the potential in this country is great with our extensive network of navigable waters. All the citizens of Cincinnati look forward to the day when the new riverboat will make its first call at its home port, but until that day we must be sure that the *Delta Queen* remains in operation and that the continuity of riverboat service is not broken.

The *Delta Queen* must remain in operation in order to train crew for the new boat. The company also needs a continuing source of revenue in the intervening years. The president of Greene Line has said that the success of the new riverboat cannot be guaranteed if the *Delta Queen* is forced out of service.

Beyond the beneficial effect on the vessel now under construction, the *Delta Queen* deserves preservation in its own right. The boat is unique and the last remaining link to a bygone era. It is not a relic of the past as some have termed it but a living preservation of a way of life. This was the way of life when rivers were the major avenue of commerce for the Midwest and South. We should allow this exemption so that the calliope of the *Delta Queen* will continue to be heard on the Nation's rivers.

Mr. Speaker, I would also like to take this opportunity to congratulate the gentleman from Kentucky (Mr. SNYDER) for his excellent statement which he presented before I spoke.

Mr. RUPPE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I asked for these 2 minutes in order to clarify something in connection with this traditional exercise which we go through every once in a while.

I received a letter from one of my constituents that expressed a great deal of nostalgia about the use of the *Delta Queen*. He thought this was one of the most wonderful trips he and his wife had ever taken, and during this trip some time during the past 2 years; he stated that he looked over the crowd on the ship—and I believe I wrote to the gentlewoman from Missouri about this—and he was distressed and quite concerned about what would happen in the event a fire or something of that nature should break out, due to the advanced ages of the passengers and the fact that there was very little likelihood that they could successfully escape in that event.

Now, I do not know whether the gentlewoman from Missouri has information concerning the average age of the passengers who take advantage of this fine trip or not, but this is an area of concern which I think we should all discuss before we once again renew the life of this "Dear Old Lady."

Mrs. SULLIVAN. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. Mr. Speaker, there is no average age that has ever been discussed concerning the passengers. I think we all know that we are all up in years when we have some leisure time at our disposal, so naturally those who take these trips outside of the vacation months would be those who have already retired, those who probably do not have to work and have the leisure time.

However, the company does have a rule that they will not take anyone in wheelchairs or anyone who is crippled. That, I believe, is expressed in their advertising. Now, if people attempt to go aboard after all their arrangements are made, and their reservations have been made by mail, I cannot tell you whether they refuse to let them on or not.

Mr. DEVINE. Mr. Speaker, I thank the gentlewoman.

I would say, concerning the owners of the *Delta Queen*, whoever they may be, that they have a pretty good thing going, because we, in Congress, do all their advertising. Every time we come up with a renewal, they get a lot of publicity, and they get quite a waiting list of customers, so it seems we are somewhat of a public relations department for them.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Speaker, I certainly can understand the gentleman's concern about the safety of the passengers on the boat.

I just want to bring out the point that failure to enact this legislation does not take the *Delta Queen* off the river. It only takes it off the river as to overnight trips with over 50 passengers, and then it still could stay on overnight if it carries 49 passengers rather than 50 or more. This legislation is only necessary because of the fact that it does go overnight with more than 50 passengers, which is prohibited under the safety at sea law.

Mr. DEVINE. Mr. Speaker, we certainly hope that nothing does occur, because we would hate to have someone point the finger of responsibility at the House of Representatives in that event.

Mr. RUPPE. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. Speaker, we are all aware of the predicament of the riverboat *Delta Queen*. The purpose of H.R. 5649 is to extend until November 1, 1978, from November 1, 1973, the existing exemption of the paddlewheel steamboat from the specifications of the Safety at Sea Act.

My wife and I both have wonderful memories of many happy hours spent aboard this grand old ship. This paddlewheel riverboat is the only overnight passenger vessel left on our inland waterways. It really is only right and proper that we pass this needed legislation to allow the *Delta Queen* to continue operation until her replacement is ready. This riverboat is our last remaining link with the paddlewheels of a bygone era, making her of great historical and cultural value. In addition, the owners of this vessel have undertaken extraordinary measures in the past few years to provide for additional safety for her passengers. We must not allow this historic piece of America's past to be obliterated.

Mr. RUPPE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Mississippi (Mr. COCHRAN).

Mr. COCHRAN. Mr. Speaker, I urge my colleagues to pass this bill which is of considerable importance to the citizens of my State and our Nation who love the river towns and enjoy the nostalgia of a trip down the Mississippi.

H.R. 5649 will insure that the *Delta Queen* will be able to continue 160 years of paddlewheel service on the inland waterways of this country.

The *Queen*, as the last of her breed, should be permitted exemption from a law which was never intended to apply to her but which now threatens to end her life.

A secondary, but no less important feature of this legislation, is its auxiliary benefit to the communities which are the *Queen's* ports of call along the Mississippi River, particularly the great river cities of Natchez and Vicksburg in my own district, and those of 16 other States along our waterways.

I hope you will vote "aye" and help preserve a great tradition.

Mrs. SULLIVAN. Mr. Speaker, to close the debate, I would just like to refer my colleagues to pages 4 and 5 of the report to show the extent of work that has been done on the *Delta Queen* to make her as safe as it is possible to make any vessel safe on an inland waterway.

I have no hesitation at all to recommend the passage of this extension of the exemption, and I urge my colleagues to vote to that effect.

Mr. Speaker, I do wish to point out that there is no money in this bill at all. There is no expense at all connected with the legislation which we are enacting.

Mr. Speaker, I have no further requests for time.

Mr. MILLER. Mr. Speaker, I am pleased to lend my enthusiastic support to H.R. 5649, extending the steamboat *Delta Queen's* exemption from the safety at sea laws. The committee and its new chairman, Congresswoman SULLIVAN, are to be commended for their fine leadership in bringing this legislation to the floor for an early vote. We all recall the rather dramatic parliamentary maneuvering it took to grant the *Queen* an 11th hour reprieve from the drydock in 1970. That 3 year reprieve expires this November 1. H.R. 5649 gives the *Queen* an additional 5-year extension of its exemption allowing it to operate until November 1, 1978. The owners have contracted to replace the *Queen* with a new vessel satisfying the safety at sea regulations.

The 1966 Safety at Sea Act which necessitated this action was intended to protect Americans from unsafe oceangoing vessels but its provisions were so broad as to include inland water passenger vessels with wooden superstructures. In other words, the laws broad brush interpretation paints America's only overnight paddlewheeler, the *Delta Queen*, into a corner and only the Congress can now rescue the vessel from oblivion.

I recently had the opportunity to inspect the *Queen* when she docked in my district in Gallipolis, Ohio. Quite frankly, I was very much impressed by the extensive fireproofing and safety work that has been performed on the vessel since 1970 as well as the pride, dedication and experience of its crew. Over half a million dollars in safety equipment and repairs have made the steamboat as safe as possible and justifies an additional lease on its life.

The *Queen* is an unique part of America's river heritage which she keeps alive for thousands of people to experience and enjoy. The charm and nostalgia she invokes is that of a bygone era rich in cultural and historical significance. Those of us who several years ago joined the nationwide campaign to save the *Queen* believe this essential aspect of Americans is worth preserving for future generations.

Mr. JOHNSON of California. Mr. Speaker, in these days of rapid progress and growth, the preservation of links with our cultural heritage becomes increasingly important. The steamboat *Delta Queen* is one of these links and the only one of her kind remaining.

Most historical exhibits and landmarks offer families the chance to view the conditions under which our ancestors lived. But a voyage on the *Delta Queen* is a journey into the past, a return to the era of Mark Twain and turn-of-the-century America. Not only can people see the artifacts of days gone by, but they can experience a way of life.

The *Queen* is a microcosm of American culture and society in the late 1800's; one of a dwindling number of sanctuaries for people seeking respite from the fast pace of today's world. The distinctive red paddlewheel and black smokestacks make the 285-foot white vessel a welcome sight from St. Paul to New Orleans. The *Queen*'s famous calliope, along with the 40-foot plumes of water thrown from her paddles helps to create the charm that attracts people now just as it did 70 years ago.

The *Queen* was born 1926 in the shipyards of Glasgow, Scotland. She was then shipped to Stockton, Calif., where her wooden superstructure was added. The *Queen* made runs regularly between Sacramento and San Francisco until World War II, when she was used as a troop carrier. After the war the ship was purchased by Greene Line Steamers and towed to Pittsburgh for refurbishing. As a Mississippi steamer, the *Delta Queen* ferries passengers up and down the river, covering some 35,000 miles a year, visiting over 100 cities in 17 different States.

In 1966 we enacted a safety-at-sea law to protect Americans from hazardous voyages at sea. This was in response to two disastrous fires at sea on Caribbean cruises. Although the sternwheeler never leaves sight of the shore, she technically falls under the wording of the law which states that all ships which carry 50 overnight passengers or more, must be of fireproof construction. Because the *Queen's* superstructure is of wood, the great paddleboat was condemned as unsafe.

In an effort to retain the *Delta Queen* as a unique historical vessel, the Congress granted the *Queen* a 2-year exemption from the new law. She has been granted a 2- and a 3-year extension since that time. Her current reprieve is scheduled to expire November 1 of this year. In view of this fact the distinguished gentlewoman from Missouri has introduced legislation to further extend the *Queen*'s exemption for another 5 years.

Since the last exemption, the *Delta Queen* has been upgraded at the cost of nearly $500,000. Included among her modifications are a total repainting with fire-retardant paints approved by the National Aeronautics and Space Administration, an installation of an automatic fire detection and warning system, and the addition of a shipwide sprinkler system.

This link with our historical past continues to offer many pleasures for travelers. A river cruise is a smooth, relaxing trip. There is no seasickness. It is comparable to traveling across country in relative seclusion on a modern passenger train. It is considered by some as the most peaceful and relaxing experience one can enjoy in today's fast-paced world.

The shoreline becomes a kaleidoscope of sights along the river's grassy banks. Crowds invariably assemble at the locks meeting the *Queen* and requesting to hear a tune from her stern-mounted steam calliope. The passengers can enjoy the pleasure of quiet reading, basking in the sun, or watching the many varieties of birds that nest along the river. Nights are particularly spectacular with the boat floating quietly on the water under a black sky blanketed with a million stars.

The *Delta Queen* has both a historical and a current purpose. Let us continue this cruise into history and preserve the memories of some of America's finest years. I am confident that such action will be widely acclaimed and will be in the best interest of the Nation as a whole.

Thank you.

Mr. ANNUNZIO. Mr. Speaker, I have asked for the time to express my enthusiastic support for H.R. 5649, the *Delta Queen* bill. This bill was submitted on March 14 of this year by Mrs. SULLIVAN, chairwoman of the House Merchant Marine and Fisheries Committee. Congresswoman SULLIVAN is to be commended for her outstanding leadership in the areas of responsibility covered by the Merchant Marine and Fisheries Committee. Taking the initiative in presenting this bill is a good example.

The bill, H.R. 5649, has a single purpose and objective—to extend the *Delta Queen*'s existing exemption from the safety of sea laws for an additional 5 years, to November 1, 1978.

The *Delta Queen* is a river excursion boat operating on the Mississippi River and its tributaries. But the *Queen* is more than a commercial venture or a recreational attraction. She is truly an American institution—a monument to an era which has long since passed. She is the last of the overnight river boats which years ago plied our navigable rivers and inland streams.

The *Delta Queen* was built in Glasgow, Scotland in 1926. She was shipped to California where her wooden superstructure was added. For many years she saw service between San Francisco and Sacremento, and during World War II as a troop carrier in California waters. Her safety was not considered a critical factor while hauling American troops during that period.

Is she really less safe today? The *Queen* has recently undergone a modernization program during which her owners installed safety and fire prevention equipment, including treating her wooden superstructure surfaces with fire resistant material, and installation of automatic fire detection systems in the crew and work areas, and of an automatic sprinkler system. I understand that the *Delta Queen* now meets and exceeds the safety recommendations of the National Aeronautics and Space Administration.

The *Queen* is a river boat and is hardly likely to go to sea. It was her unfortunate fate to be caught up in the provisions of the Safety at Sea Act of 1966 which was enacted to authorize the establishment of safety requirements for ocean vessels which operate under the hazards of the open sea. Many have long argued that the *Delta Queen* should never have been included within the scope of the act. There is considerable weight of logic to support their contention.

The inappropriateness of including the *Queen* within the scope of the 1966 Safety at Sea Act is clearly reflected in congressional action. Three times, Congress has seen fit to exempt her temporarily from the act's provisions. The most recent action extended the exemption to November 1, 1973.

This date is rapidly approaching, and this is the reason for H.R. 5649, and for my appeal today. I think it entirely fitting that we grant this fine old river vessel a 5-year lease on life. At the same time, I consider it unthinkable to force this memorable bit of Americana out of existence.

It would be a shame, because once out of service the *Queen* will be gone forever. At least as a living, moving monument which she is. Thousands of Americans have booked her voyages each year, and will continue to if we allow the vessel to continue operating.

As everyone is clearly aware, the *Delta*

Queen cannot continue to operate forever. Firm plans for a metal replacement for the *Queen* have been made. It will cost just over $15 million and will carry 400 passengers, with conveniences such as a pool, elevators, and air conditioning. The Maritime Administration has agreed to insure a construction loan and mortgage for the new vessel. But her power will be steam, and her propulsion system will be the paddlewheel.

So it is doubly important that we extend the life of the *Queen*. The bill I have mentioned, H.R. 5649, points out clearly that:

> A new overnight passenger riverboat will be constructed by the owners of the *Delta Queen* and, in order to assure the preservation of the historic and traditional piece of American folklore and life, such amendment will provide for the continued operation of the present steamboat *Delta Queen* while the new riverboat is being constructed.

Mr. Speaker, I am a former member of the House Merchant Marine and Fisheries Committee. During my tour of duty with this important Committee, the matter of extending exemption to the *Delta Queen* came up on several occasions. On those occasions I gave my support to continuation of the fine, old tradition which the *Queen* represents. I have not changed my attitude one bit. I still firmly support the cause of the *Queen*.

Mr. Speaker, again let me commend the chairwoman of the Merchant Marine and Fisheries Committee for introducing H.R. 5649, which I know will have her support. I urge my colleagues in the House to join in support of this most worthy measure.

Mr. MAZZOLI. Mr. Speaker, I rise in support of H.R. 5649, which would extend until November 1, 1978, the existing exemption of the *Delta Queen* from the Safety at Sea Law.

Since 1966, the effective date of the act, Congress on three occasions has exempted the *Queen* from requirements of the act.

When this question of exemption was last before the Congress in 1970, the normal legislative processes were short circuited and legislation was passed as an amendment to a private bill. This year, I am glad to report, the House will treat the matter directly and work its collective will in the regular manner.

I should like to take this opportunity to commend my distinguished colleague, the gentlewoman from Missouri (Mrs. SULLIVAN) the chairman of the House Merchant Marine and Fisheries Committee, for her tireless efforts in behalf of this legislation.

Mrs. SULLIVAN has long been dedicated to the preservation of the *Delta Queen*. Without her stalwart efforts in 1970 we would not be considering today further extension of the *Queen's* exemption, because this fine ship would have been retired.

We, in Louisville, Ky., have a deep interest and personal stake in the preservation of the *Delta Queen*. For the past 10 years the *Queen* has provided the competition for our own *Belle of Louisville* in the annual Great Steamboat Race which is a feature each year during Kentucky Derby Week. Each boat has won the race five times which attests to the intense rivalry involved.

Kentuckians have other reasons to support the preservation of the *Queen*. She cruises the Ohio River which bounds Kentucky on the north, and she takes week-long passenger excursions into the famous and beautiful Kentucky Lake resort area in western Kentucky.

But the importance of the legislation before us today extends far beyond a continuation of the Kentucky Derby Week boat-race spectacular. It goes beyond the fact that the *Queen* glides through our State's waterways during the cruise season.

Passage of this measure will preserve the last of the great river steamers reminiscent of that era of America when the commerce on our Nation's rivers contributed so greatly toward its exploration, settlement, and development. Today, only the *Delta Queen* remains to transport modern Americans—though too briefly—into this glorious and historical past as it cruises up and down the Ohio and the Mississippi.

Since the enactment of the Safety at Sea Law in 1966 the Greene Line Steamers, Inc., has spent approximately $1.5 million to assure the safety of the *Queen's* passengers. In its 47 years of operation, it has never incurred the loss of a single passenger life.

Further evidence of the dedication and good faith of the *Queen's* owners is their announcement of the construction of a new boat which will conform to the safety provisions of the law.

Thus, the continued operation of "today's" *Queen* becomes even more important since it will permit the proper promotion and advertising of the new boat and can be utilized for training of the personnel who will be required to operate "tomorrow's" *Queen*.

Mr. Speaker, I enthusiastically support this legislation and I hope all of our colleagues will recognize the need to preserve this queenly and regal vessel and will vote to grant the *Delta Queen* another 5 years of life.

Mrs. BOGGS. Mr. Speaker, I rise in support of H.R. 5649, to extend until November 1, 1978 the existing exemption of the steamboat *Delta Queen* from certain vessel laws, and I associate myself with the meaningful remarks of the gentlewoman from Missouri.

Completely refurbished with the most modern emergency radio, radar, and microphone facilities, and extensively repaired and improved to meet the most stringent safety regulations, this grand old lady of the river is a safe passenger vessel which can bring the joy of river travel to countless fortunate Americans and foreign visitors.

All of the romance of our history as a nation is tied to the struggles, international and continental, that finally secured the Mississippi River system to the infant United States of America. The Louisiana Purchase opened up the entire era of expanding and building across the continent to the other sea. One can relive the romance of the early struggles and experience our potpourri of cultures which has resulted from the trade and commerce and foreign settlements throughout the heartland of America.

As we prepare for our bicentennial celebration, we are restoring old sights and houses and planning musical and dramatic presentations of our history. The *Delta Queen* is a historical vessel, already restored, which can dramatically unfold to our Bicentennial travelers much of the history of our Nation and of the glories of the American dream in action. I hope, Mr. Speaker, that the *Delta Queen* will be given a new lease on life and will be allowed to continue to operate pending completion of a new vessel which will meet the new safety requirements.

Mr. MEZVINSKY. Mr. Speaker, the bill before us is pleasantly unique. It is not engulfed in controversy and it would not cost the taxpayers a dime.

But it is an important and pressing matter because Congress must act to preserve an historic and romantic link with America's past—the *Delta Queen*.

The legislation before us will exempt the *Queen*, the last steampowered paddlewheeler offering overnight passenger service on our inland waterways, for an additional 5 years from Federal regulations which threaten to scuttle this famous reminder of the days of Mark Twain, Huck Finn and Tom Sawyer.

The *Queen* is a living museum of our Nation's riverboat history—a proud, colorful, and sometimes infamous history of the expansion of our Nation. She is the last of her class on the Mississippi and that makes her very special to thousands of my constitutents who live on the banks of the mighty Mississippi as well as to millions of Americans who have, or look forward to enjoying a riverboat journey on the river.

As you know, safety-at-sea regulations threaten to ban the *Queen* from her proud voyages because her superstructure is oak, walnut, teak, and mahogany instead of the steel required for all ships carrying overnight passengers. Of course, the steel superstructure requirement was meant for oceangoing vessels, but it has, inadvertently, I believe, affected the *Delta Queen*.

Twice before, Congress has acted to give the *Queen* reprieve by exempting her from the steel superstructure requirement. Today, I believe we should again do so to protect this important, irreplaceable relic of the past.

The *Queen's* owners, Greene Line Steamers, Inc., have invested a good deal of time and money to insure the safety of the paddlewheeler's passengers and the *Queen* has written an excellent safety record.

I believe the safety precautions, the safety record, and the *Queen's* magnificent history combine to merit our favorable consideration of the required exemption.

Mr. BEARD. Mr. Speaker, as a cosponsor of H.R. 7244, which extends the existing exemption of the steamboat *Delta Queen* from certain vessel laws, I rise to urge my colleagues to join in support of this effort to preserve one of the last living museums of our Nation's great heritage on the Mississippi River.

In this age of modern transportation—of jet airplanes, high-speed buses and trains and faster and faster means to get us from one place to another, we often forget to look and appreciate the sights we pass along the way. We forget the every day drama of life that is being waged in each of America's communities and towns. This was not the case with steamboat transportation in the heyday of the magnificent paddlewheelers of the Mississippi. When it took days instead of hours to get to a destination several hundred miles away, one had a chance to reflect on one's surroundings and the emotions they welled in him.

Today, a trip on the *Delta Queen* provides the traveler this same perspective on a bygone era. If only to preserve this perspective, I urge that we act today to grant the continued operation of "the *Queen*."

The bill under consideration today exempts the *Delta Queen* from the fire standards established for deepwater vessels. This is not a permanent exemption, but one that would be in effect until November 1, 1978, when a new $15.5 million passenger riverboat, can take her place.

The financial resources necessary to build the new vessel will depend upon whether the *Delta Queen* is allowed to continue operation until her replacement is ready.

Granting this extension to the *Delta Queen* would be a giant step toward retaining for posterity the last remaining link with the era of the Mississippi, Ohio, and Tennessee River boats. In my opinion it should be saved.

Mr. CULVER. Mr. Speaker, the paddlewheelers which traveled the Mississippi and other major rivers during the 19th and early 20th centuries played an important role in our Nation's expansion. In many ways they were also the center of life for the inhabitants of the river towns, providing entertainment and a tie with other parts of the land.

Today, there remains only one overnight passenger paddlewheel steamboat, the *Delta Queen*. She makes regular trips up and down the Mississippi and Ohio Rivers, granting us the opportunity to glance back into a bygone era—an era of Tom Sawyers and Huck Finns, of riverboat gamblers, and of a music all its own.

Today we have the opportunity to preserve a living symbol of this heritage.

It has been argued that the *Delta Queen* should meet standards established for deepwater vessels, but those regulations were designed to protect passengers on ships hundreds of miles from land. The *Delta Queen* is never more than 5 minutes from shore and meets modern firefighting capability standards.

In order to assure the preservation of this portion of our river heritage, the present owners of the *Delta Queen* are currently building a riverboat which will meet the new structural standards. I urge you to vote today to extend the life of the present *Delta Queen* so that she and her successor might continue to inspire future generations of Americans.

The SPEAKER. The question is on the motion offered by the gentlewoman from Missouri (Mrs. SULLIVAN) that the House suspend the rules and pass the bill, H.R. 5649.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

GENERAL LEAVE

Mrs. SULLIVAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentlewoman from Missouri?

There was no objection.

AMENDING REORGANIZATION PLAN NUMBERED 2 OF 1973

Mr. HOLIFIELD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8245) to amend Reorganization Plan Numbered 2 of 1973.

The Clerk read as follows:

H.R. 8245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Reorganization Plan Numbered 2 of 1973 is amended by—

(1) repealing section 2;

(2) repealing section 6(b) and redesignating section 6(a) as section 6; and

(3) striking "and to the Secretary of the Treasury", and "and to the Department of the Treasury, respectively," from section 8.

SEC. 2. The amendments made by this Act shall be effective on the date of the enactment of this Act or as of July 1, 1973, whichever is earlier.

The SPEAKER. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. HOLIFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 8245 will repeal section 2 and subsection 6(b) and modify section 8 of Reorganization Plan No. 2 of 1973. That plan was transmitted to the Congress by President Nixon on March 28, 1973. A resolution—House Resolution 382—to disapprove the plan was rejected in the House on June 7, 1973, by a vote of 281 to 130, thereby permitting the plan to take effect. The effective date as specified in the plan is July 1, 1973.

Reorganization Plan No. 2 of 1973 has two parts. Section 1 of the plan established in the Department of Justice a new agency, the Drug Enforcement Administration, and permitted the transfer of about 500 drug investigative personnel from the Customs Bureau to the new agency. The second part of the plan, which would be repealed by H.R. 8245, transfers to the Secretary of the Treasury functions vested by law in the Attorney General or the Department of Justice regarding the inspection of persons and documents at U.S. ports of entry. This part would have caused the transfer of approximately 900 immigration inspectors from the Immigration and Naturalization Service in the Justice Department to the Customs Bureau in the Treasury Department.

In the course of the subcommittee hearings on Reorganization Plan No. 2, and subsequently, it became evident that this second part of the reorganization plan was very controversial. It was strongly opposed by union representatives of employees in the Immigration and Naturalization Service. The employees' concern, shared by many Members of Congress and myself, was that the transfer of so large a proportion of immigration inspector personnel from the Service at this time would have a detrimental effect on morale and the ability to perform their important function of policing the entrance of illegal aliens.

The Immigration and Naturalization Service is confronted with a serious problem of illegal entry of aliens into the United States. There are said to be more than a million illegal aliens in the country now. About a half-million illegal aliens a year—judging by 1972 figures—are being apprehended and returned, but the service obviously is undermanned for this difficult job. This problem is particularly acute in southern California, Texas, and Arizona as well as other States.

As a result of discussions between administration and union representatives, certain understandings were reached and summarized in written form. The administration agreed to support the repeal of section 2 and subsection 6(b) of the plan, and to make a conscientious effort to expand the number of, and upgrade, positions in the Immigration and Naturalization Service. The union then expressed its willingness to withdraw opposition to the plan.

During the floor debate on Reorganization Plan No. 2 of 1973, the situation was fully explained and assurances were given that prompt action would be taken to consider and report a bill repealing the objectionable part. H.R. 8245 carries out that pledge.

A hearing on H.R. 8245 was held by the Subcommittee on Legislation and Military Operations on Thursday, June 14, 1973. Testifying in support of the bill were Roy L. Ash and Frederic V. Malek, Director and Deputy Director, respectively, of the Office of Management and Budget; and James H. Lynch, a representative of the American Federation of Government Employees. Letters endorsing the bill were received from the Departments of Justice and Treasury, and the AFL-CIO.

The subcommittee recommended by a vote of 10 to 0 that H.R. 8245 be approved, and the Full Committee on Government Operations voted favorably, 35 to 2, to report the bill.

No additional costs are involved in the enactment of this legislation. I would note, however, that the Office of Management and Budget has made a strong commitment to consider and support a request by the Immigration and Naturalization Service for additional personnel in the INS and its Border Patrol. The OMB commitment comes as a result of the committee's inquiry into the conditions as indicated by the testimony of the working personnel.

Our committee will not stop here in its monitoring of these matters. We will watch to see that the commitments are carried out, yes; but we also have two other inquiries proceeding in the committee. One of our subcommittees is examining the effectiveness and efficiency of the Immigration Service, and another is looking into the adequacy and strategy of the Federal programs to stop drug traffic and otherwise meet the drug problem.

Mr. HORTON. Mr. Speaker, I rise in support of the bill H.R. 8245.

Mr. Speaker, I wish to indicate my support for the statement made by the chairman, the gentleman from California (Mr. HOLIFIELD) and to indicate that I thought it was an adequate and full explanation of what is involved here.

As I stated before, Mr. Speaker, I rise in support of H.R. 8245, a bill to amend Reorganization Plan No. 2 of 1973. This bill would repeal those parts of the plan which involve the transfer to the Bureau of Customs of the document inspections authority and some 900 officers of the Immigration and Naturalization Service. No other aspects of the plan are affected by this bill.

At the time of the consideration of the reorganization plan, Chairman HOLIFIELD and I explained to the House that we believed the INS transfer did not belong in the reorganization plan and that we would make every effort to permit the House to vote on the repeal of that transfer as soon as possible. We are here today to fulfill that pledge to the House.

The transfer of INS personnel involves an issue which is quite unrelated to the central purpose of Reorganization Plan No. 2, which is to consolidated Federal drug law enforcement activities in a Drug Enforcement Administration. The administration told us the INS transfer would result in better management of personal, document, and baggage inspectors at ports of entry. But organized labor informed the Government Operations Committee that it felt the INS transfer would hamstring important efforts to keep illegal aliens out of the country. It was my feeling that the INS issue should not be allowed to confuse the question of whether this consolidation of drug enforcement programs should be permitted to take effect. Drug abuse is too important a problem.

We on the committee made every effort to resolve this INS issue prior to House consideration of the plan. When the Administration and the union finally did reach an agreement, Chairman HOLIFIELD and I consented to support it as the best alternative available to assure support for this necessary drug reorganization. We immediately sent each Member of the House word of the agreement so that everyone would know exactly what we felt would be the best course of action. The scheduled vote on the disapproval resolution to the reorganization plan was put off a week to allow Members to give full consideration to the agreement and its effect upon the plan. On the floor, we discussed the agreement and its effect upon the plan.

The House, of course, approved Reorganization Plan No. 2 of 1973 on June 7 by an overwhelming vote, and the reorganization plan took effect on July 1 of this year. The Drug Enforcement Administration is now in existence, combining the drug law enforcement efforts of the Bureau of Customs and the Bureau of Narcotics and Dangerous Drugs. I understand the transition went well, and the new Administration is functioning smoothly. We can expect from this new agency a stronger, better managed, and more efficient attack on those who supply and sell illegal drugs.

The Administration has not implemented the INS transfer called for by the plan, pending congressional consideration of this bill. INS continues to operate the document inspections function. Therefore, enactment of this legislation will not result in any disruption of the Immigration and Naturalization Service or of the Bureau of Customs.

This bill, H.R. 8245, proved to be a necessary adjunct to the drug law enforcement reorganization approved by the House. The Government Operations Committee approved this bill by a vote of 35 to 2, with one member voting present. All of the minority members on the committee supported H.R. 8245. It also has the support of the AFL-CIO, the American Federation of Government Employees, and the administration. I hope the House now will pass this bill, thus completing our consideration of and action on the issues involved in Reorganization Plan No. 2 of 1973.

Mr. HOLIFIELD. Mr. Speaker, I have no requests for time.

Mr. HORTON. Mr. Speaker, I have no requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from California. (Mr. HOLIFIELD) that the House suspend the rules and pass the bill H.R. 8245.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

GENERAL LEAVE

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 8245.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

WAGNER-O'DAY ACT AUTHORIZATION

Mr. HICKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7423) to increase the authorization for fiscal year 1974 for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped.

The Clerk read as follows:

H.R. 7423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 25, 1938 (52 Stat. 1196), as amended by Public Law 92–28, dated June 23, 1971 (85 Stat. 77), is hereby amended as follows:

By striking out in section 6 the words "and the next two succeeding fiscal years" and inserting in lieu thereof "and the next succeeding fiscal year, and $240,000 for the fiscal year ending June 30, 1974".

The SPEAKER. Is a second demanded?

Mr. WYDLER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. HICKS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 7423 to increase the authorization for fiscal year 1974 for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped.

Mr. Speaker, I believe the bill now before the House is rather straightforward. It increases the authorization for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped by $40,000 for fiscal year 1974. The committee's function is to help increase employment opportunities for blind and handicapped workers by selecting products and services which the Government will purchase from certified workshops employing these workers.

The existing authorization of $200,000 was set in 1971 when Public Law 92–28 amended the Wagner-O'Day Act of 1938. Besides expanding the coverage of the act to other severely handicapped, the 1971 amendment authorized a full time staff for the committee. The original authorization was not based on actual operating experience and represented the best information available at that time. Subsequently, increases in rental costs, travel requirements to inspect workshops for compliance and to provide assistance, and step level increases in salary necessitated an increase of $40,000.

The Senate has already passed S. 1413, a bill identical to this one. The Appropriations Committee has received testimony on the need for this additional amount. Approval of this authorization would clear the way for action by the committee.

This action today is of a one-time nature. Since new authorization for fiscal year 1975 and thereafter will be required, our subcommittee plans to hold hearings to put the authorization procedure on a continuing and realistic basis.

Mr. WYDLER. Mr. Speaker, as the ranking minority member of the subcommittee which considered H.R. 7423, I rise in support of the bill.

Two years ago, the Congress enacted another bill emanating from the Special Studies Subcommittee of the Government Operations Committee—one which established a Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped. We authorized an annual appropriation of $200,000 for hiring a staff and conducting the business of the committee.

Mr. Speaker, that small sum has proven a good investment. The committee has done excellent work in providing opportunities for handicapped people to become part of the American economy.

Due to increased operating costs and a recognition that the committee's staff must leave Washington somewhat more frequently if it is to do its job properly, the committee's authorization must be increased by $40,000 for fiscal year 1974.

This small increment is justified. H.R. 7423 would provide it. I hope that the House will follow my subcommittee and the full Government Operations Committee in giving unanimous support to the bill.

Mr. Speaker, this appropriation is one I think every Member of Congress supports. The money being asked for is a small amount highly necessary for the proper operation of the committee charged with the responsibility under the act. This bill went through the subcommittee unanimously and through the full Committee on Government Operations, and I think it is a very worthwhile bill and deserves the support of all of the Members.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I rise in support of H.R. 7423.

In a sense, this bill is a minor one: It increases an authorization by only $40,000, and that only for 1 fiscal year. But in another sense, this bill is very important: It holds out the promise that in return for a small additional investment, we will be able to promote many opportunities for blind and other severely handicapped Americans to become gainfully employed participants in our economic system.

Just 2 years ago, blind persons were the only handicapped people who benefited from the activities of the committee whose authorization we consider today. As a result of Public Law 92-28, which passed the House upon the recommendation of the Government Operations Committee, other severely handicapped were included within the scope of the blind committee's operations. That committee is now pursuing the goal of fully implementing the legislative mandate. It has plans to expand its operations still further, to assist in training handicapped citizens so that they have sufficient skills to leave their sheltered workshops and become truly self-sufficient.

The aims of the legislation we passed 2 years ago are valuable. Fulfilling them requires a small amount of money. In the last Congress, we enacted an authorization for this committee using cost estimates which could not have been based on operating experience, for the committee had never before had a staff. The first full year's experience has demonstrated that our original authorization was too low, and must be increased by $40,000 for fiscal year 1974. This increase is already included in the budget which the President has proposed for that fiscal year. I urge my colleagues to authorize the recommended sum by enacting H.R. 7423.

Mr. HICKS. Mr. Speaker, I yield to the gentleman from Missouri (Mr. Randall).

Mr. RANDALL. Mr. Speaker, I rise to commend the distinguished chairman of the subcommittee, the gentleman from Washington (Mr. Hicks) for his leadership in the extension of this legislation. We in the House may recall we had a sad experience with some vetoed legislation earlier this year for the benefit of the handicapped.

Faced with the pressures of other work, this subcommittee did not overlook or neglect the very important legislation concerning the handicapped.

We in the Congress can express ourselves today as we say we have not forgotten the blind and the handicapped. We must help those who cannot help themselves. With the pressures we face in the remaining days before the recess, this subcommittee is to be commended that they have taken the time to act for those who would otherwise be neglected and forgotten.

Mr. HICKS. Mr. Speaker, I yield to the gentlewoman from New York (Ms. Abzug).

Ms. ABZUG. Mr. Speaker, I want to compliment both Mr. Randall, the former chairman, and the present chairman, Mr. Hicks, in bringing this bill to the floor. I, too, believe that the extension of the Wagner-O'Day Act for the handicapped has been an important development. The act as it now stands is in the position to be able to give employment assistance to the handicapped and the blind. The additional authorization requested today will help us get that moving. We will find that we can further the Wagner-O'Day Act with this authorization and proceed to really provide more meaningful work and assistance to the handicapped and to the blind in the way that they can participate on their own and be constructive in our society.

I thank the gentleman for yielding.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. Hicks) that the House suspend the rules and pass the bill H.R. 7423.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. HICKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the Senate bill (S. 1413) to increase the authorization for fiscal year 1974 for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, which is identical to the bill just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 25, 1938 (52 Stat. 1196), as amended by Public Law 92-28, dated June 23, 1971 (85 Stat. 77), is hereby amended as follows:

By striking out in section 6 the words "and the next two succeeding fiscal years" and inserting in lieu thereof "and the next succeeding fiscal year, and $240,000 for the fiscal year ending June 30, 1974".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7423) was laid on the table.

GENERAL LEAVE

Mr. HICKS. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CUSTOMS AND IMMIGRATION INSPECTORS CLASSIFICATION

Mr. WALDIE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6078) to include inspectors of the Immigration and Naturalization Service or the Bureau of Customs within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of certain employees engaged in hazardous occupations, and for other purposes.

The Clerk read as follows:

H.R. 6078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 8336(c) of title 5, United States Code, is amended to read as follows:

"(c) An employee, the duties of whose position are primarily—

"(1) the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States;

"(2) to perform work as an inspector in the Immigration and Naturalization Service or in the Bureau of Customs; or

"(3) to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment;

including an employee engaged in this activity who is transferred to a supervisory or administrative position, who is separated from the service after becoming fifty years of age and completing twenty years of service in the performance of these duties is entitled to an annuity if the head of his agency recommends his retirement and the Civil Service Commission approves that recommendation.".

(b) The third sentence of section 8336(c) of title 5, United States Code, is amended by redesignating the references "(1)", "(2)", "(3)", and "(4)", as "(A)", "(B)", "(C)", and "(D)", respectively.

The SPEAKER. Is a second demanded?

Mr. MALLARY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. WALDIE. Mr. Speaker, I rise in support of H.R. 6078, which was unanimously ordered reported by the Post Office and Civil Service Committee on March 20, 1973. Similar legislation, H.R. 440, passed the House in the 92d Congress but failed of consideration in the Senate. The purpose of H.R. 6078 is to extend to customs and immigration inspectors the same retirement treatment accorded Federal law enforcement personnel under the hazardous duty provisions of the civil service retirement law.

Presently the civil service retirement law grants special early retirement privileges to employes serving in positions which primarily involve investigation, apprehension or detention of persons who are suspected or convicted of criminal offenses. These employees who are engaged in hazardous duty may retire after reaching the age of 50 and after having served at least 20 years in such capacity.

It should be noted that these preferential provisions apply only if the head of the employing agency recommends such an employee's retirement and only if the Civil Service Commission approves the recommendation.

H.R. 6078 would extend this preferential treatment to approximately 5,000 customs and immigration inspectors. These inspectors engage in duties that can be reasonably called hazardous.

The inspectors are charged with the enforcement of customs and immigration laws. Enforcement includes securing and acting upon information of actual or suspected violations of law and, when necessary, making searches, seizures and detention of suspected violators. These inspectors, it must be noted, are the front line of enforcement in regard to unauthorized importation and exportation of dangerous drugs. They are also responsible for the enforcement of statutes pertaining to entry into and departure from the country.

In short, these inspectors often face hazards more perilous than those to which customs and immigration "agents" and other criminal law enforcement personnel are subject to. This fact has been borne out in hearings before the Subcommittee on Retirement and Employee Benefits, and during a special investigatory hearing by an ad hoc subcommittee which went to San Ysidro, Calif. I might add, at this point, that under the legislation no customs or immigration inspector who had not in fact been exposed to hazards over a 20-year period would be eligible for preferential retirement consideration.

It is the consensus of the committee then, that customs and immigration inspectors are essentially law enforcement officers. In its judgment, to confine a preference under law to a group of employees engaged in hazardous duty without recognizing supportive personnel performing equally or, at times, more hazardous duties is, in itself, an inequity. The committee also is also of the opinion that enactment of this legislation will facilitate the maintenance of relatively younger and more vigorous inspection and enforcement force. I would strongly urge the passage of this legislation.

Mr. MALLARY. Mr. Speaker, I rise in opposition to H.R. 6078 and urge the House to exercise good judgment by rejecting this legislation which grants preferential retirement benefits to customs and immigration inspectors.

In speaking against this legislation, I do so, Mr. Speaker, with the realization that the dam has already been breached with special interest retirement legislation through the enactment last year of a bill which gave similar preference to Federal firefighters. I find it difficult to understand or explain the inconsistency of the executive branch in favoring one bill for firefighters and opposing another for customs and immigration inspectors, but the fact that preferential retirement for firefighters was signed into law does not make preferential retirement for customs and immigration inspectors any more reasonable or justifiable.

The fact is, that by enactment of this bill (H.R. 6078) the Government would be helping to create a situation conducive to competition between various groups within the civil service retirement system for ever higher annuity formulas, without regard to such consideration as good management and retirement policy.

Following this legislation, Mr. Speaker, we can undoubtedly expect a continuing series of bills that will seek to extend the same benefits to countless other employees whose duties involve some form of hazard.

I submit that the civil service retirement fund is not the instrument for compensating employees for hazardous duty. Any degree of hazard should be compensated directly through premium pay.

I would like to note the strong opposition of the Civil Service Commission and its full explanation of this objection. I think it should also be noted for the record that this particular bill would increase the unfunded liability of the civil service retirement and disability fund by $63.5 million.

Although I oppose this bill, I wish to indicate my full recognition of the vital services performed by our customs and immigration inspectors and the substantial hazards involved in their work. Despite this recognition, I maintain that the Congress should not be put in the position of making such detailed judgments as to hazard. This procedure will inevitably lead to a continued stream of bills of this sort which will lead to chaos in our whole retirement system.

Mr. Speaker, I urge the defeat of this legislation.

Mr. WYLIE. Mr. Speaker, will the gentleman yield for a question?

Mr. MALLARY. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, the gentleman has raised a valid point and I would like to direct a question if I may to the gentleman from California (Mr. WALDIE) if I may have the general's attention.

Is it not true that hazardous Federal civil service is generally compensated for by higher pay?

Mr. WALDIE. No, it is not true.

Mr. WYLIE. That is not true?

Mr. WALDIE. No, it is not.

Mr. WYLIE. Does the gentleman know of other instances where this kind of special treatment has been given for hazardous duty?

Mr. WALDIE. Yes, I do.

Mr. WYLIE. Will the gentleman please name them?

Mr. WALDIE. I would be pleased to. Customs guards, immigration enforcement officers, U.S. marshals, prison guards, policemen, Treasury agents, Federal firefighters, and employees of the FBI.

Mr. WYLIE. Does the gentleman say that those people are not compensated at a higher rate for hazardous duty than other civil service employees?

Mr. WALDIE. That is what I said.

Mr. WYLIE. Mr. Speaker, I was under the impression that hazardous duty pay is common practice within the Federal civil service, but the gentleman from California says my information is not accurate.

Mr. WALDIE. These people I listed are compensated by preferential retirement, such as we are today proposing and such as the House enacted last year for this new category of hazardous duty employees.

Mr. WYLIE. But the hazardous duty which they perform does not necessarily command a higher rate of pay for them?

Mr. WALDIE. All I know is that the hazardous duty they perform in the categories I read to the gentleman are already covered in the preferential retirement. It was the opinion of the House last year, and it is the opinion of the subcommittee and the full committee this year, and hopefully the House, that these employees are entitled to the same treatment because their duty is equally hazardous.

Mr. WYLIE. I thank the gentleman for yielding, and have just one added comment.

It was my impression that persons who perform hazardous duty for the Federal Government receive higher compensation for performing that hazardous duty, and that by being compensated with higher pay their retirement benefit is thus increased.

Mr. WALDIE. Mr. Speaker, that would be a logical and understandable solution to the problem, and I can understand why the gentleman might feel that is the way the problem has been handled because there is, in fact, authority in the law to do precisely that which it is suggested has been done.

The fact of the matter is that in all the categories which I enumerated, that logical response to their hazardous duty was not forthcoming from either the agency or the Civil Service Commission. It was, therefore, the opinion of Congress that they were entitled to preferential retirement.

Mr. WYLIE. Would it not be advisable to establish a more uniform system of retirement benefits for Federal employees then?

Mr. WALDIE. Yes, I do not think that there is any question at all about that. The gentleman is absolutely correct that it would be advisable, were we able to do so.

In the 7½ years I have been on the subcommittee, we have struggled with that effort and we have been unable to do so, and therefore we have approached it in what is inevitably a piecemeal process. The gentleman will recall that we did it last year with the firemen and are seeking to do it this year with this group. Each year, we have approached the solution to this problem in a haphazard way. The gentleman is absolutely correct. I wish I were able to propose a more logical solution to these inequities, but I am not.

Mr. WYLIE. Mr. Speaker, I thank the gentleman.

Mr. MALLARY. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I think one of the points here which this bill is trying to accomplish has been brought up in the colloquy that just took place between the gentleman from Ohio (Mr.

WYLIE) and the gentleman from California (Mr. WALDIE). That point is, what is the need and purpose for this bill?

Mr. Speaker, I think one of the most important needs and purposes for it is that it reduces the time a person is required to give in an occupation that has become hazardous duty from 30 to 20 years, and permits retirement age of 50 as compared with age 55. What this does, Mr. Speaker, is keep a young force available to serve in hazardous duty work of the Bureau of Customs.

Before our committee, testimony in the 92d Congress revealed that for 10 months of fiscal 1971, there were 8,159 seizures of narcotics offenders made. This resulted in confiscation of over 143,000 pounds of narcotics and dangerous drugs with an estimated street value of over $127 million.

This has become, as we all know, I believe, an extremely hazardous type of duty and activity on the part of those law enforcement officials who have to make these apprehensions and arrests and confiscations of dangerous drugs.

For example, it was the experience of the inspectors at the Port of Laredo, Tex., that the traveling public is becoming more and more belligerent in connection with customs processing, because many have been found to be not only under the influence of alcohol, of "speed," and other "pep pills," but also marihuana. Persons in these kinds of conditions frequently are very difficult to handle. The inspectors as a result were authorized to carry mace, and some were authorized to carry pistols.

This is typical of what is happening daily throughout the land.

Physical hazards are present in boarding or leaving vessels, and particularly during bad weather.

The workload of the Customs Service has been steadily increasing, and the Service is understaffed. As a result, there is continuing pressure on the inspectors to get the job done, and these pressures have caused diseases such as coronary attacks and hypertension, to mention a couple.

The hazardous nature of a customs inspector's duty certainly warrants inclusion under the hazardous duty retirement provisions of the Civil Service Retirement Act, and this is what H.R. 6078 would do. I urge its approval.

Mr. KETCHUM. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from California.

Mr. KETCHUM. I wonder if the gentleman could answer one question for me with regard to this group of individuals. One of the things we normally require, when we speak of retirement at a younger age and increased retirement based on a hazardous occupation, is this information. Could the gentleman tell me how many of these inspectors were killed in the line of duty in the last several years?

Mr. HILLIS. There have been some fatalities, I am sure. I cannot tell the gentleman how many.

Mr. WALDIE. Mr. Speaker, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from California.

Mr. WALDIE. I am sorry, but I could not hear the question.

Mr. HILLIS. The question was how many customs inspectors had been killed in the line of duty in the past couple of years?

Mr. WALDIE. I cannot give that answer. It may be in the report.

The SPEAKER. The time of the gentleman from Indiana has expired.

Mr. MALLARY. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. WALDIE. I have no response to that. I do not know what the figure is. I am sorry.

Mr. KETCHUM. I thank the gentleman.

Mr. MALLARY. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in support of H.R. 6078 because it gives statutory recognition to the duties and responsibilities of customs and immigration inspectors by according them the benefits of hazardous duty retirement to which I believe they are entitled.

My support of this legislation is based on personal investigation of customs inspector duties in my own State of California—an investigation which I conducted with my colleague CHARLES H. WILSON, and I can say without reservation that these employees are justly entitled to the benefits of this bill.

Last November, Mr. WILSON and I were appointed to an ad hoc subcommittee by the chairman of our Committee on Post Office and Civil Service to conduct an onsite investigation to evaluate the performance of U.S. Customs Service inspectors at San Ysidro, Calif. The report which we submitted to the chairman, and which was subsequently printed as House Report No. 93-35, contained the following recommendation:

> We recommend that the appropriate subcommittee give early attention to legislation which would provide hazardous duty retirement benefits for customs inspectors. We see no valid distinction between the law enforcement and apprehension duties of the customs inspector—who is not entitled to this benefit—and the custom agent—who is. We feel both categories of customs employees are entitled to the same retirement benefits.

Mr. Speaker, this legislation, H.R. 6078, carries out this recommendation.

As evidence of the justification of this legislation, I cite the following verbatim excerpts from the official job description for customs inspector, prepared by the Bureau of Customs:

> Principal Duties and Responsibilities:
>
> The purpose of this position is to perform the full range of customs inspectional work related to the enforcement of laws governing the importation and exportation of all types of merchandise as well as the laws of other government agencies. (The employee) apprehends and searches suspected smugglers based on an extensive knowledge and perception of contraband goods. (The employee) seizes merchandise which is being imported or exported contrary to laws and as required, holds articles seized for other Federal agencies for ultimate disposition. (The employee) detains and arrests, if warranted, persons involved in violation of laws.

Mr. Speaker, I believe this job description clearly describes a person engaged in law enforcement activities, and therefore such an employee should be entitled to retirement benefits on the same footing as all other law enforcement personnel.

In further support of my position, I quote another portion of the official job description:

> Incumbents stationed at Mexican Border Ports may, upon recommendation of the District Director and at the discretion of the Regional Commissioner, be authorized to carry firearms (.38 caliber pistol) during the performance of their duties.

Mr. Speaker, I can testify from personal knowledge that customs inspectors at the San Ysidro Port do wear sidearms and that in the performance of their duties they are exposed to all of the hazards of law enforcement personnel.

For example, just a few days after our hearing at San Ysidro, one of the witnesses, Mr. Anthony Martinez, who is a GS-9 customs inspector, was seriously injured in the performance of his duties. Mr. Martinez had attempted to apprehend a dope smuggler who was trying to cross the border, and during the encounter Mr. Martinez incurred critical neck and back injuries.

Mr. Speaker, I am personally convinced of the merit of this legislation, H.R. 6078, and I strongly urge its approval.

Mr. MALLARY. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from California.

Mr. Speaker, I rise in support of H.R. 6078, a bill I cosponsored. The sole purpose of this legislation is to extend to immigration and customs inspectors the same retirement treatment accorded other Federal law enforcement personnel under the hazardous duty provisions of the civil service retirement law. That is, immediate retirement benefits at age 50—20 years of service at 2 percent with no reduction in annuity for being under age 55.

As a former FBI agent and one who has witnessed firsthand the duties and responsibilities of customs and immigration inspectors, I am of the opinion they are essentially law enforcement officers. Accordingly, they are entitled to, and should be extended benefits under the hazardous duty provisions of the civil service retirement law.

To illustrate this point, permit me to cite for you certain parts of the official job description of Customs Inspectors:

> MAJOR DUTIES AND RESPONSIBILITIES
>
> 1. *Baggage Inspection*: Examines baggage and importations of a wide variety at a port where there is a substantial volume and variety of international traffic, consisting of returning residents, foreign visitors, long-term visitors, crew members and immigrants. Questions arriving persons to determine residence for customs purposes, allowable personal exemption and value of articles being imported; makes allowances for use and wear; passes articles which are free of duty; determines dutiable value and assesses and collects duty and Federal Internal Revenue tax on articles imported for personal use or gifts. Determines the value and classification of commercial importations entered on the baggage declaration and releases examined baggage and merchandise after all laws and regulations have been complied with and duties and taxes paid. Also gives necessary information and instruc-

> tions on articles acquired abroad and not accompanying the passenger, commercial shipments declared on a baggage declaration, the value of which requires more formal entry procedure. Enforces the laws and regulations of customs and other Federal Government agencies governing the importation and exportation of all types of merchandise, apprehends and searches suspected smugglers, including crew members, personnel of airlines, and others assigned to loading and unloading operations of passengers and cargo, seizes merchandise which is being imported contrary to law, prepares seizure reports, and detains and arrests, if warranted, the person or persons involved in the violation.

As recently as 1972, Congressmen ROUSSELOT and CHARLES H. WILSON of California of an Ad Hoc Subcommittee of the Post Office and Civil Service Committee, conducted an investigation into the reported personnel problems at San Ysidro, Calif., inspection station. The following excerpts are taken from House Report 93-35:

The following is a statement of Mr. Pat Early, GS-9 Inspector:

> I have been employed as an inspector at San Ysidro for 2 years. I feel very strongly that inspectors should not have to be subject to assaults, both verbal and physical. While performing my duty, I lost the sight of one eye. Because of my age I will not be eligible for retirement for another 20 years. However, because of my injury, I am unable to work in my chosen profession. I would hope that the retirement system for customs inspectors could be changed so that an inspector could be retired at a younger age if he sustains an injury while performing his duty. Additionally, I feel that inspectors are not properly trained; many inspectors have to supply their own firearms, and there is no firing range for practice.

The following is a statement by Mr. Robert L. Lasher, Supervisory Customs Inspector:

> For years, San Ysidro has been an enforcement port and record amounts of narcotics have been caught crossing this border. For many years, this was done with a staff of 28 to 35 inspectors covering three 8-hour tours of duty.
>
> Customs at San Ysidro has had inspectors "kidnapped" at gunpoint and forced to drive the getaway cars. They have been dragged, hanging from the outside of the vehicles used to smuggle. They have been outnumbered in fights with smugglers, drug addicts, drunks, psychos, and just plain irate people that feel they have had to wait in traffic lanes too long and/or object to Customs inspection.
>
> In the last 3 years, customs officers have seized drugs or narcotics from representatives of nearly every profession you can find in the United States. Top narcotic dealers have employed the services of such a variety of people to smuggle narcotics across the borders that any officer naive enough to think he has stereotyped the "smuggler" isn't fit to work in this business at the southern border.

The subcommittee was impressed with the performance of the Customs inspectors and the duties they are required to perform. It reported, and I quote:

> We recommend that the appropriate subcommittee give early attention to legislation which would provide hazardous duty retirement benefits for Customs inspectors. We see no valid distinction between the law enforcement and apprehension duties of the Customs inspector—who is not entitled to this benefit—and the custom agent—who is. We feel that both categories of customs employees are entitled to the same retirement benefits.

According to a letter to the committee dated June 11, 1971, C. E. Trumble, Inspector, U.S. Customs Service, reported that at the port of San Ysidro, Calif., customs inspectors processed in excess of 25 million people each year. From July 1970 to May 1971, a total of 7,431,369 automobiles crossed this border entering the United States from Mexico. Of this number, 258,401 vehicles were referred to secondary stations for further inspection. In this same period of time there were 1,139 narcotics seizures made, not even taking into consideration the dangerous drug seizures that totaled 6,482,483 units. In addition, there were 70 pistols and 417 switchblade knives seized, which were fully loaded when found. In addition, to those weapons seized in connection with narcotic seizures, many more pistols, loaded and unloaded, and hundreds of switchblade knives, brass knuckles, daggers, homemade billy clubs, and others too numerous to mention, were also seized.

Mr. Speaker, I think the important point to be remembered in this discussion is that customs and immigration inspectors are the first persons to come in contact with the criminal or potential criminal. If they feel this man is a drug smuggler they arrest him, and take him into custody. Therefore, I am convinced that these occupations are clearly within the provisions of the first part of the sentence of section 8336(c) of title 5, which reads:

> An employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States.

The time has come for the Congress to recognize the duties and responsibilities of customs and immigration inspectors by according them the same retirement benefits enjoyed by other Federal law enforcement personnel.

Mr. MALLARY. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding time to me.

I did not mean to get into this debate to any great extent, but I would like to have the attention of the gentleman from California (Mr. WALDIE).

A while ago I asked a question to this effect: Is it not true that hazardous Federal service is generally compensated for by providing higher pay? And I thought I had the benefit of what would be the answer in advance. I was a little bit surprised when the gentleman from California said, "no."

Mr. Speaker, I would like to refer back to some hearings which were held in 1971; I do not suggest the gentleman will recall those hearings to his mind.

In answer to a question of the gentleman from California (Mr. WALDIE), Mr. Andrew Ruddock, Director of the Bureau of Retirement Compensation and Health, U.S. Civil Service Commission said:

> While all of these occupations entail physical hazards not present in many other occupations, we do not consider this to be justification for extending to them special preferential retirement rights and more liberal benefits. Hazardous works is generally, and appropriately, compensated for in the Federal service by higher pay. These positions are placed in appropriate grades in accordance with their duties, responsibilities, and qualification requirements. The knowledge, skills, and abilities required by the hazards encountered in these jobs have been taken into account in setting position classifications, which in turn establishes rates of pay.

Does the gentleman disagree with that?

Mr. WALDIE. Yes, I do.

Mr. WYLIE. Does the gentleman feel it is not an accurate statement?

Mr. WALDIE. Yes, I do.

Mr. WYLIE. I thank the gentleman.

Mr. WALDIE. Will the gentleman yield further?

Mr. WYLIE. I will be glad to yield.

Mr. WALDIE. I disagree to this extent: The ability to compensate for hazardous pay exists and Mr. Ruddock is correct to that extent, but the implementation of that ability has been absent, and it was in the categories of employees I read to you where Congress decided that since the hazardous pay provisions were not sufficiently implemented to compensate for hazardous occupations, they would seek to compensate them further liberalizing their retirement. And not only by early retirement, but to attempt to address themselves to the additional problem that extra pay does not address itself to; namely, the maintenance of a younger service.

Mr. WYLIE. I understand what the gentleman is saying now. He feels the customs and immigration inspectors do not receive the benefit of additional higher pay for hazardous duty.

Mr. WALDIE. That is right.

Mr. WYLIE. The point I was making is that Federal Civil Service employees generally do receive higher pay for hazardous duty, and that is reflected in their receiving higher pension benefits; that is, the employees who are working at hazardous duties receive higher pay which produces higher retirement benefits?

Mr. WALDIE. If the gentleman will yield further, if that were the case, the employees in fact performing hazardous duties were in fact receiving higher compensation, my inclination would be to agree with the gentlman that that is the way to go, but it does not address itself to the fact that the Civil Service Commission and the agencies involved do not really reflect the fact that hazardous duties are being performed and thereby extra compensation is to be given.

If I can give you a more concrete example than the one just given, in my own county, there is a naval ammunition depot—during World War II 300 men were killed when the ammunition exploded at the dock at Port Chicago in Contra Costa County, and to this day the commission did not construe it as a hazardous occupation or give additional pay to compensate for that hazard.

All I am saying is the provision to do it is there, but the will to do it is not, so the Congress steps in in this manner to reflect and compensate for that lack.

Mr. WYLIE. I understand the gentleman's position a lot better now.

Mr. WALDIE. I am sorry.

Mr. WYLIE. My own position was when we first started to debate this bill was that we are here singling out a special group of Federal employees for special treatment. Does this not open the door for other special groups who are performing hazardous duty to ask for this same special treatment?

The SPEAKER. The time of the gentleman has expired.

Mr. WALDIE. I yield the gentleman 1 additional minute.

Mr. WYLIE. And would it not be better to have a uniform retirement policy and would it not be more advisable than having these special bills come before the Congress?

Mr. WALDIE. If the gentleman will yield further, I must say I cannot with logic argue against your position. It would be much better were there a uniform standard that we could apply to encompass all groups rather than take this on a case-by-case basis as to who should be entitled to this preferential retirement treatment, but I assure you that we on the committee took up this matter and we were not able to come up with a resolution of it and, therefore, in fact, as the gentleman has suggested, had to take a makeshift approach to a much bigger and larger problem.

Mr. WYLIE. I thank the gentleman for a very intelligent statement which helps me understand his position.

Mr. MALLARY. Mr. Speaker, I have no further requests for time.

Mr. WALDIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I thank the gentleman for yielding me this time.

I would ask the gentleman from California (Mr. WALDIE), whether my understanding is correct that immigration inspectors and customs inspectors as a class will not be entitled to their retirement under the provisions of this bill?

Mr. WALDIE. It is my understanding that the way the bill works it authorizes the Civil Service Commission then to determine within that class which of those people are engaged in hazardous occupations.

Mr. KAZEN. In other words, those people in the service of immigration and customs are going to have to depend upon the head of the agency, as I understand it, recommending to the Civil Service Commission and getting the approval of the Civil Service Commission before a person can be declared to be in hazardous duty?

Mr. WALDIE. The gentleman is correct.

Mr. KAZEN. This is not a bill that applies to all customs inspectors, or immigration inspectors?

Mr. WALDIE. The gentleman is correct.

Mr. KAZEN. I am just afraid that the gentleman is going to raise a little confusion here. Has the gentleman given any thought to the fact that within the service we are going to have some jealousies and scrambling for certain types of jobs, because of the more beneficial retirement provisions?

Mr. WALDIE. I say to the gentleman from Texas, we have not treated this group of employees any differently than other groups of employees that have been brought under this provision of the retirement law.

Mr. KAZEN. Let me ask the gentleman from California this question: The laws applicable to those two classes that are involved in this bill will be the same as those applicable to all other hazardous occupations in the Federal service?

Mr. WALDIE. The gentleman is correct.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. GROSS. Mr. Speaker, the intent of section 8336(c) of title 5, United States Code, which H.R. 6078 proposes to amend, is to provide preferential retirement benefits to anyone whose duties for 20 years or more is primarily the investigation, apprehension, or detention of individuals suspected or convicted of offsenses against the criminal laws of the United States.

It is felt that this special treatment is justified when the nature of certain law enforcement positions require a young, strong organization, and a liberalized retirement formula would make it economically feasible for a law enforcement officer to retire when he is no longer at the peak of efficiency.

There are many occupations in the Federal Civil Service, such as the customs and immigration, and others, which entail a certain degree of hazard. But in these instances the occasional exposure to hazard is generally provided for in the classification and scales of pay for these employees.

To include customs officials under the hazardous duty retirement provisions of the Civil Service Retirement Act would be unfair to many other groups of Federal employees who encounter certain hazards in the performance of their duties as well, and who undoubtedly insist upon receiving equal treatment. It would be equally unfair to all the other Federal employees who will be saddled with the cost of this bill, but will not receive the increased benefits therefrom.

Rather than pursuing this course on an occupation by occupation basis, as has been the practice in the past, it is my opinion that the entire subject of preferential early retirement be thoroughly studied before any further liberalizations are proposed.

I, therefore, recommend that H.R. 6078 be defeated.

Mr. WHITE. Mr. Speaker, I rise in support of H.R. 6078, the purpose of which is to extend to customs and immigrant inspectors the same preferential retirement treatment the law has accorded enforcement officers of the Bureau of Customs and the Immigration and Naturalization Service for the past 25 years.

Although the principal duties of these inspectors are not the investigation, apprehension, or detention of offenders of criminal laws, they are, nevertheless, charged with the enforcement of the Federal immigration and customs statutes. The fact of the matter is that inspectors form the first line of enforcement of the pertinent laws. They are, essentially, law enforcement officers, notwithstanding the titles of their positions or their job descriptions. Inspectors along the border of Mexico have suffered many injuries and deaths apprehending and detaining law violators, especially in the traffic of illegal narcotics.

Therefore, Mr. Speaker, equity would seem to dictate that the more liberal treatment be accorded these supportive personnel involved in customs and immigration work, to the same extent that the civil service retirement provisions favor other criminal law enforcement personnel employed by the U.S. Government.

I urge the adoption of this legislation.

Mr. DULSKI. Mr. Speaker, I rise in support of H.R. 6078.

Since 1948 the civil service retirement law has accorded special retirement treatment to Federal employees engaged in criminal law enforcement activity, including enforcement officials of the Immigration and Naturalization Service and the Bureau of Customs. Similar treatment is not extended by the Civil Service Commission to immigrant and customs "inspectors" on the sole premise that these employees do not meet the prescribed statutory criteria; that is, that while there are elements of hazards in these occupations, their primary duties are not the investigation, apprehension, or detention of persons suspected or convicted of offenses against Federal criminal laws.

While these inspectors' job descriptions may not stipulate that the duties of their positions are primarily to investigate, apprehend, or detain criminal offenders, they are charged with the enforcement of Federal laws and, in fact, search, seize, and detain suspected violators of those laws.

These inspectors are law enforcement officers in fact, if not in name, and warrant inclusion in the pertinent provisions of the retirement law.

Therefore, Mr. Speaker, I recommend the adoption of this legislation.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. WALDIE) that the House suspend the rules and pass the bill H.R. 6078.

The question was taken.

Mr. HILLIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken, and there were—yeas 296, nays 123, not voting 14, as follows:

[Roll No. 343]

YEAS—296

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen

Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burton
Carney, Ohio
Casey, Tex.
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clay
Cleveland
Cohen
Collins, Ill.
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fraser
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Guyer
Haley
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Harvey
Hawkins
Hays
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holtzman
Horton
Hosmer
Howard
Hudnut
Hungate
Hunt
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Ketchum
Kluczynski
Koch
Kyros
Landrum
Leggett
Lehman
Lent
Long, La.
Long, Md.
McCloskey
McCollister
McDade
McEwen
McFall
McSpadden
Macdonald
Madden
Mahon
Mailliard
Mathias, Calif.
Mathis, Ga.
Matsunaga
Meeds
Melcher
Metcalfe
Mezvinsky
Milford
Miller
Mills, Ark.
Minish
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Moorhead, Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Parris
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Pritchard
Railsback
Randall
Rangel
Riegle
Rinaldo
Roberts
Rodino
Roe
Rogers
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Rousselot
Roy
Roybal
Runnels
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Stephens
Stokes
Stratton
Stubblefield
Studds
Sullivan
Symington
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Waldie
Walsh
Wampler
Whalen
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zwach

NAYS—123

Abdnor
Anderson, Ill.
Andrews, N.C.
Archer
Arends
Armstrong
Ashbrook
Brown, Ohio
Broyhill, N.C.
Buchanan
Burlison, Mo.
Butler
Byron
Camp
Carter
Cederberg
Chamberlain
Clawson, Del
Cochran
Collier
Collins, Tex.
Conable
Crane
Daniel, Dan
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Edwards, Ala.
Erlenborn
Eshleman
Findley
Ford, Gerald R.
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Goodling
Gross
Gunter
Hamilton
Hansen, Idaho
Harsha
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Holt
Huber
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
King
Kuykendall
Latta
Litton
Lott
Lujan
McClory
McKay
McKinney
Madigan
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mayne
Mazzoli
Michel
Minshall, Ohio
Montgomery
Mosher
Myers
Nelsen
O'Brien
Passman
Powell, Ohio
Price, Tex.
Quie
Quillen
Rarick
Rees
Regula
Reuss
Rhodes
Robinson, Va.
Robison, N.Y.
Roncalio, Wyo.
Roush
Ruppe
Ruth
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Shuster
Snyder
Spence
Stanton, J. William
Steiger, Wis.
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Treen
Vigorito
Waggonner
Ware
Wiggins
Winn
Wylie
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion

NOT VOTING—14

Blackburn
Blatnik
Brown, Calif.
Brown, Mich.
Carey, N.Y.
Danielson
Fisher
Hébert
Kemp
Landgrebe
McCormack
Reid
Talcott
Teague, Tex.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Blatnik and Mr. Reid for, with Mr. Landgrebe against.

Mr. Talcott and Mr. Carey of New York for, with Mr. Kemp against.

Mr. McCormack and Mr. Danielson for, with Mr. Hébert against.

Until further notice:

Mr. Clay with Mr. Brown of California.

Mr. Teague of Texas with Mr. Blackburn.

Mr. Fisher with Mr. Brown of Michigan.

Mr. RANGEL changed his vote from "nay" to "yea."

Messrs. YOUNG of Alaska, ROBINSON of Virginia, and POWELL of Ohio changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALDIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill (H.R. 6078) just passed.

The SPEAKER. Is there objection to the request of the gentleman from California.

There was no objection.

FLEXIBLE GI INTEREST RATE AUTHORITY IN VA

Mr. DORN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8949) to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans.

The Clerk read as follows:

H.R. 8949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1803(c)(1) of title 38, United States Code, is amended by striking out the semicolon and all that follows thereafter and inserting in lieu thereof a period.

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. DORN. Mr. Speaker, H.R. 8949 has a special urgency at this time in that it is vitally needed to restore the effectiveness of the GI veterans' loan program. As the distinguished chairman of our Subcommittee on Housing, the gentleman from Ohio, will explain to you in more detail, the authority of the Administrator of Veterans Affairs regarding GI loans as well as the authority of the Secretary of Housing and Urban Development regarding FHA loans to set interest rates in the light of current market conditions expired June 30, 1973. Accordingly, under the basic law, GI loans may not bear interest at a rate in excess of 6 percent as set forth in a provision of the National Housing Act. In today's market, this of course means that no lender is interested in making any loans subject to this low yield. Enactment of our bill will give the Administrator independent authority to adjust the interest rate consonant with the changing loan market demands.

I now yield such time as he may consume to the distinguished chairman of our Subcommittee on Housing, the gentleman from Ohio (Mr. CARNEY) who will explain in more detail the purpose and urgent need of this legislation.

GENERAL LEAVE

Mr. CARNEY of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill presently under consideration, H.R. 8949.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. CARNEY of Ohio. Mr. Speaker, the veterans' housing program is in a state of lapse. Failure of the Senate to accept House Joint Resolution 512, which passed the House on May 20, has caused this problem. After June 30 of this year, the Secretary of HUD and the Administrator of Veterans' Affairs have no authority to set interest rates, and the rate has lapsed to the statutory 6 percent. This, in effect, has killed the veterans' housing program.

I understand the Senate has failed to pass House Joint Resolution 512 because of some very controversial amendments which were added to the resolution when the bill was reported on June 25. I will not attempt to deal with the merits of the amendments since they are not under the jurisdiction of our committee. I am concerned, however, about the continuity and success of the veterans' housing program. It is for this reason that our committee reported H.R. 8949 on June 27.

The purpose of the bill is quite simple. It separates the Veterans' Administration housing program from the FHA expiring deadlines and confers on the Administrator of Veterans' Affairs authority to set interest rates for the veterans' program.

This is the third time in recent years that this problem has developed and I feel that the time has come to separate the veterans' program from any relationship with the various deadlines affecting FHA programs. We have a very good example of the kind of mischief that can occur if the two programs are left together. When the veterans' housing program went into default on June 30, the Veterans' Administration issued instructions immediately to their field offices to proceed with the closing of approximately 50,000 cases on which the VA had already issued commitments of guaranty. A few days later the Administration announced, and I understand this was over the protest of the VA, that when and if the impasse in the Senate is resolved and authority is restored to the Secretary of HUD to set interest rates, that the Secretary planned to set the rate at 7¾ percent. This advance announcement of intention to make a change in the interest rate, which so far as I was able to learn is unique, is having the effect of depriving about 50,000 veterans of a 7-percent loan because the lenders who had issued the commitments to make the loans are now put on notice of an impending increase to 7¾ percent and are refusing to make these loans until the rate is raised.

Mr. Speaker, even though H.R. 8949 gives authority to the Administrator of Veterans' Affairs to set interest rates for the VA loan program, it will in no way interfere with any necessary coordination between various agencies on the subject of interest rates. We all know that decisions that alter interest rates are made jointly between the Secretary of the Treasury and the Council of Economic Advisors, after consultation with the various agencies involved. Since the Administrator of Veterans' Affairs is an appointee of the President, obviously he is required to coordinate through the Office of Management and Budget with the policies of the administration. In view of this, there is no basis for the argument that some undesirable unilateral action could occur. The necessary coordination could be achieved administratively. The bill would, however, prevent the VA housing program from going into lapse because of controversies that develop on extraneous issues that have nothing to do with the veterans' program.

I hope, Mr. Speaker, that this bill can be passed and signed quite promptly because each day that passes creates further disruption in the veterans housing program and the housing industry as a whole.

At this point, I shall insert in the RECORD letters from representatives of the American Legion, the Veterans of Foreign Wars of the United States, and the National Association of Concerned Veterans which express their strong support of the objective of H.R. 8949. Also, I am submitting for the interest of the members a very significant table showing the magnitude of the Veterans' Administration GI loan program, inviting particular attention to the increase in the number of loans from 1971 to 1973. It will be noted that by the end of the past fiscal year 8.5 million loans had been guaranteed or insured by the VA representing a principal amount of over $98 billion.

The material follows:

JULY 12, 1973.

Hon. WM. JENNINGS BRYAN DORN,
Chairman, House Committee on Veterans' Affairs, Washington, D.C.:

The American Legion is extremely disappointed at the failure of the Congress to act timely to extend authority to set interest rates on VA guaranteed loans before the delimiting date of June 30, and the ill advised, premature announcement by the Secretary of HUD to raise interest rates to 7¾ percent. These actions have halted the VA loan guaranty program thereby depriving some 50,000 veterans of securing 7 percent loans which were being processed.

The American Legion has long supported enactment of legislation to grant the Administrator of Veterans Affairs with the continuing authority to regulate interest rates on home loans to meet the demands of the changing mortgage market. Had this been done, veterans attempting to purchase homes would not be faced with the present chaotic dilemma.

Accordingly, The American Legion strongly supports the provisions of H.R. 8949 granting such authority of the Administrator and urges early consideration and passage of the bill.

HERALD E. STRINGER,
Director, National Legislative Commission, the American Legion.

VETERANS OF FOREIGN WARS,
Washington, D.C., July 16, 1973.

Hon. WM. JENNINGS BRYAN DORN,
Chairman, Committee on Veterans' Affairs, Washington. D.C.

MY DEAR MR. CHAIRMAN: Expiration of the authority of the Veterans Administration—HUD to adjust mortgage rates above the statutory limitation of 6% has caused great anguish among thousands of veterans. The GI home loan program has come to a halt.

Over the years the Veterans of Foreign Wars has taken a very dim view of the comingling of Veterans Administration programs in any fashion with other Government agencies. It is noted that H.R. 8949 will provide the VA independent authority to adjust the interest rate on GI loans, thus eliminating the very unsatisfactory situation which has prevailed in recent years, which has authorized the Secretary of HUD to adjust mortgage rates for GI home loans, with the only requirement being consultation with the VA. The Veterans of Foreign Wars holds that it should be just the reverse.

It appears that H.R. 8949 will effectively accomplish the purpose of giving back to the VA full authority over the GI home loan program and make possible available funds for VA home loans at the earliest possible time.

For these reasons, the Veterans of Foreign Wars strongly urges the House to approve and send to the Senate without delay H.R. 8949, the flexible GI interest rate bill. The favorable consideration of this bill will carry out Veterans of Foreign Wars mandates regarding one of the most successful programs for veterans ever approved by the Congress, the GI home loan program.

With kind personal regards, I am

Sincerely,

FRANCIS W. STOVER,
Director, National Legislative Service.

NATIONAL ASSOCIATION OF CONCERNED VETERANS,
July 12, 1973.

Hon. WILLIAM JENNINGS BRYAN DORN,
Chairman, Committee on Veterans' Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: The National Association of Concerned Veterans fully supports the provisions of H.R. 8949. This bill, if enacted, would rectify a very unjust situation.

As of July 1, 1973 the Administrator of Veterans Affairs and the Secretary of Housing and Urban Development have no authority to adjust mortgage interest rates above the statutory limit of 6 per cent.

Because of this development, the Veterans Administration home loan program is at a standstill. This predicament is causing undue hardships for many veterans.

If enacted, H.R. 8949 would give the Administrator of Veterans Affairs authority to adjust mortgage interest rates without regard to section 203(b) of the National Housing Act. This action would enable the Veterans Administration to begin certifying home loans for veterans once again.

According to recent VA statistics the number of its home loans have reached a 16 year high, and nearly 70 per cent of its FY 1973 home loans were made for veterans under the age of 35.

Since the NACV is primarily a Vietnam era veterans' organization, we strongly suggest that any delay in the passage of H.R. 8949 will cause even further hardships and expense for young veterans.

Respectfully yours,

JAMES M. MAYER, *President.*

TABLE 1.—VETERANS' ADMINISTRATION GUARANTEED OR INSURED LOANS

	Cumulative through June 30, 1973[1]	Fiscal year— 1973[1]	1972	1971
Number of loans, total	8,507,407	366,554	359,010	197,915
Home	8,196,419	360,685	354,571	197,606
Mobile home	10,574	5,860	4,430	278
Farm	71,157	6	4	19
Business	229,257	3	5	12
Amount of loans, total (thousands)	$98,615,588	$8,374,154	$7,860,833	$4,112,014
Home	97,587,739	8,322,538	7,822,580	4,109,367
Mobile home	91,850	51,521	38,118	2,211
Farm	283,853	53	88	334
Business	652,146	42	47	102
Amount of guarantee and insurance total (thousands)	50,757,981	4,067,664	3,921,657	2,133,214
Home	50,425,464	4,052,208	3,910,178	2,132,351
Mobile home	27,517	15,426	11,428	663
Farm	120,000	21	41	168
Business	185,000	9	10	32

[1] June 1973 data estimated.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. CARNEY of Ohio. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

I should just like to inform the House that I happen to be one of these very veterans whom we are talking about today in this bill.

I made application under the G.I. bill for an opportunity to buy a home here in Washington. I made my application in the month of June. June elapsed, and I was not aware of the fact that on July 1 the Administrator of the Veterans' Administration no longer had the power to authorize the insurance of a home loan in excess of 6 percent interest. In effect we have no program now. And, I cannot lose my home purchase.

I happen to be right at this moment packing everything in our house in boxes. I am betwixt the devil and the deep blue sea. I am between a rock and a hard spot.

I do not know whether to tell the mover in Louisville, Ky., to pick up my household goods and transport them up here or not. Because for the moment the seller and I are in a state of limbo and we are unable to close my home purchase arrangement.

I would certainly hope that unless the House has some extraordinarily good reason for not supporting this bill that it would support it. And, I personally urge the House to support it.

Finally, I should like to ask the gentleman from Ohio one question. Is he of the opinion that Mr. Johnson, the Administrator of the Veterans' Administration, will in fact exercise the authority the Congress would give him under this measure. In this bill we do not mandate him to do so anything; we simply give him the authority to insure home loans for veterans where the mortgage interest rates exceed 6 percent.

Is it the gentleman's opinion that this authority will be exercised to help veterans like myself?

Mr. CARNEY of Ohio. No, I have not talked to Mr. Johnson personally, but I have been assured by our administrative staff and by our committee that this is true and they will act. Also I thank the gentleman for bringing this to our attention. I am sure that when this bill passes it will have prompt attention in the U.S. Senate.

Mr. SAYLOR. Mr. Speaker, will the gentleman yield?

Mr. CARNEY of Ohio. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. Mr. Speaker, I would like to say to our distinguished colleague from Kentucky that we have been assured by the Veterans' Adminstrator that if this bill passes he will take action as soon as it is signed by the President to see to it that cases such as the gentleman's which exist throughout the breadth of our land are taken care of at once.

Mr. MAZZOLI. I would like to thank the distinguished gentleman from Pennsylvania and certainly our friend, the gentleman from Ohio and the distinguished gentleman from South Carolina, the chairman of this committee, for having moved this bill forward. Because, notwithstanding the philosophical questions involved in high or low interest rates for veterans, the truth is that many veterans like myself are absolutely strung up. We cannot be more frustrated, more troubled nor more uncertain about the future than we are at this moment in not knowing whether this bill will be enacted and the veteran's program continued.

As one voice in the wilderness, as one seeing how it feels to be at the other end of the shotgun, I would urge the House to pass this legislation, to work with our colleagues on the other side of the Capitol to make this law pass and to urge the President to sign it without delay.

Mr. CARNEY of Ohio. I thank my friend, the gentleman from Kentucky. I would like to say his plight is the plight of 50,000 other veterans at this time.

Mr. HUNT. Mr. Speaker, will the gentleman yield?

Mr. CARNEY of Ohio. I yield to the gentleman from New Jersey.

Mr. HUNT. Mr. Speaker, I would like to associate myself with the remarks of my friend, the gentleman from Kentucky and the chairman of the subcommittee, on this bill. For the past 10 days I have been besieged in my office with calls from veterans who have been hung up because of the waiting time on this bill. It is sort of ridiculous. I have one young couple who are being transferred to California who cannot leave because of the complex situation which now exists on the selling of their home and the liquidation process so they might move out.

This is a good bill. I hope everybody understands this is a bill that is really necessary, because if we do not get this through all we do is penalize the veteran who is trying to do the right thing in buying a house or disposing of property.

It has been a nightmare to us to try to get the thing straightened out. I compliment the gentleman and his committee.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. CARNEY of Ohio. I yield to the gentleman from Ohio.

Mr. WYLIE. I think we should put this bill and the situation in proper perspective. The gentleman from New Jersey (Mr. HUNT) said he had been besieged with calls and letters from people waiting for this House to pass this bill. May I suggest to the gentleman this House has already acted in the area of veterans' housing and indeed, on FHA housing. This House passed House Joint Resolution 512 as the gentleman from Ohio suggested but the other body in its inimitable wisdom is against playing games. This time with housing problems. The other body has attempted to put on a Cambodian amendment and an amendment on the impounding of funds and such related matters, so that House Joint Resolution 512 has become a controversial bill tied up in the Banking, Housing, and Urban Affairs Committee of the Senate.

So again the Veterans' Committee is meeting an emergency situation. We are saying we do not want the veterans of the United States to be denied housing by political maneuverings and shenanigans in the Senate, so we want to separate the veterans' housing program from the other housing programs.

It is true the Veterans' Administrator has said they will still have to check with the Secretary of HUD to establish the proper interest rates, but the reason this program is being held captive is not for lack of interest or action by this House of Representatives, I say to the gentleman from New Jersey (Mr. HUNT). It is because of lack of responsible action by the other body and that is the real reason for the necessity for this bill at this time.

Mr. CARNEY of Ohio. Mr. Speaker, I thank the gentleman. I tried to point that out a little more diplomatically but to the same effect.

Mr. HUNT. Mr. Speaker, will the gentleman yield?

Mr. CARNEY of Ohio. I yield to the gentleman from New Jersey.

Mr. HUNT. I would like to say to my friend, the gentleman from Ohio, that we in New Jersey do understand English and I read the bill but I find it necessary to have still a very explicit explanation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 8949. This is a measure that will eliminate the requirement of current law that the interest rate on GI home loans cannot exceed the interest rate on FHA insured home loans. This measure is essential if the Nation's veterans are to have any opportunity to purchase a home under the Veterans' Administration home loan program.

Under existing law, the Administrator of Veterans Affairs is authorized to set the maximum rate of interest on GI home loans except that the rate shall not exceed the rate in effect for FHA home loans. Unfortunately, the temporary authority to establish a rate of interest in excess of 6 percent on FHA home loans expired June 30.

The expiration of this temporary authorization meant simply that neither FHA nor Veterans' Administration home loans can be made at a rate in excess of 6 percent after July 1 of this year. Since the 6 percent rate is not competitive in today's money market, there will be no mortgage capital available for VA and FHA home loans.

Legislation to extend on a temporary basis the authority of the Secretary of Housing and Urban Development to establish an FHA interest rate in excess of 6 percent passed the House of Representatives on May 21, 1973. The other body has failed to act on this legislation, with the result that both of these Government housing programs have been permitted to lapse. The members of the Committee on Veterans' Affairs, Mr. Speaker, believe the Nation's veterans deserve much better treatment. We have, therefore, reported unanimously this bill that will, in effect, divorce the Veterans' Administration interest rate from the interest rate ceiling on FHA loans. Thus, the Administrator of Veterans Affairs would be free to establish an interest rate that is commensurate with the demand of today's loan market.

In closing, Mr. Speaker, let me point out that we are extremely reluctant to approve legislation that will permit the interest rate on Veterans' Administration home loans to be different than the interest rate on FHA insured home loans. On the other hand, we are even more reluctant to witness the demise of the veterans home loan program simply because of inaction by the other body on legislation relating to the interest rate on FHA home loans. Even though this measure will create the possibility of two different rates of interest on the two Government housing programs, I have great confidence in the ability of the Office of Management and Budget in cooperation with the Secretary of the Treasury and the Secretary of Housing and Urban Development to make certain that the interest rate for the two programs remains identical when the necessary authority to establish a reasonable rate of interest for FHA loans is ultimately worked out.

In any event, Mr. Speaker, this is necessary legislation and I urge that it be passed.

Mr. Speaker, I yield such time as he may consume to the senior member of the committee on the minority side, the gentleman from Pennsylvania (Mr. SAYLOR).

Mr. SAYLOR. Mr. Speaker, I rise in support of H.R. 8949. This bill would give the Veterans' Administration the independent authority to make adjustments in the mortgage rates above the 6 percent statutory limit in order to keep it competitive with the mortgage market.

Heretofore, the interest rate has been adjusted by the Secretary of Housing and Urban Development in consultation with the Administrator of Veterans Affairs. This authority expired on July 1, 1973. Provisions for its extension are contained in House Joint Resolution 512 which passed the House on May 21, 1973, but the Senate has failed to act on it.

The effect of this is to penalize certain veterans who decide to purchase a home during this period of lapse, since 6 percent home loans are not available in today's money markets.

There is additional penalty imposed that is not quite so apparent. That the price of homes increases almost daily is an established fact. Any delay, therefore, to the veteran ready to make a purchase, means he will pay a higher price for the home commensurate with the length of the delay.

I believe this bill is urgently needed in order that the GI home loan program may continue as a viable benefit, and I intend to vote for it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER of Massachusetts. Mr. Speaker, I rise in support of H.R. 8949, a bill that will permit the Administrator of Veterans' Affairs to establish a competitive rate of interest on GI loan homes without regard to the maximum permissible rate of interest under the FHA program.

The chairman of the Housing Subcommittee has explained the inaction of the other body that has resulted in both the FHA home mortgage and VA home loan program suspending their activity. Under the law in effect since July 1, the maximum permissible interest rate that can be charged by either of these two Government programs is 6 percent. This, of course, is completely unrealistic and legislative action is necessary to authorize both the Secretary of Housing and Urban Development and the Veterans' Administrator to establish a competitive rate of interest. House Joint Resolution 512, a bill that will permit such a course of action, passed the House on May 21, 1973, and has been hopelessly mired in the other body since that date.

This legislation will, in effect, put the Veterans' Administration home loan program back in business by freeing the VA interest rate from the restriction that it cannot exceed the FHA rate of interest. I shall support this measure and urge that it be passed.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HILLIS), a member of the committee.

Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 8949, a bill which would grant the Administrator of Veterans' Affairs the authority to adjust the interest rates on GI guaranteed loans in keeping with the loan market demands.

Since 1968 the Secretary of Housing and Urban Development, after consulting with the Administrator of Veterans' Affairs has been empowered to adjust home mortgage rates. On June 30, 1973, this authority expired because the Senate failed to act on House Joint Resolution 512 which contained as one of its provisions, the extension of the interest adjustment authority to June 30, 1974.

I believe that the enactment of H.R. 8949 is mandatory if we are going to deal equitably with all of our veterans. I do not believe that we can afford to have periods of undetermined length when those entitled to a GI loan may lose out in the purchase of a home, because their decision to buy was made during a time when the authority had lapsed. This is a good bill, and I am going to vote for it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the gentleman from California, (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Speaker, I rise in support of this legislation, and commend the Committee on Veterans' Affairs and its distinguished chairman for this quick and positive action.

Mr. Speaker, there is no question in my mind that enactment of this legislation is urgently needed. Thousands of veterans have been subjected to terrible uncertainty as a result of the expiration of the authority to adjust mortgage rates above the statutory limitation of 6 percent.

Just last week my district offices in California were flooded with calls from veterans who have been adversely affected by the expiration of the present authority. There are untold stories of disruptions of plans for building, commitments to build, and the selling of one home based upon expectancy of the loan being approved for another home.

The Veterans' Affairs Committee and its distinguished chairman are to be commended for this quick and positive action in preparing this legislation for consideration by the House. It deserves to be passed overwhelmingly.

Mr. DORN. Mr. Speaker, may I respond to my distinguished and beloved colleague from Ohio, Mr. WYLIE?

Mr. Speaker, we have been assured by the leadership of the other body that this bill will move expeditiously in the other body when it passes the House. I do not anticipate any hangup or anything being tied on to it at this time.

Mr. WYLIE. Mr. Speaker, I thank the gentleman.

Mr. DORN. They are aware of the urgency.

Mr. WYLIE. I think, too, the other body is aware of the urgency in the veterans' housing program and will act quickly.

Mr. DONOHUE. Mr. Speaker, I earnestly urge and hope that the House will overwhelmingly adopt this measure now before us, H.R. 8949, designed to give the administrator of Veterans Affairs independent authority to adjust the interest rate on guaranteed loans to meet the changing market demands in our present economic situation.

On this past July 1, Mr. Speaker, the interest ceiling on VA guaranteed loans reverted, because of existing legislation, from 7 percent to the statutory limitation of 6 percent. This present legislative proposal we are considering, because of this particular occurrence, has been unanimously recommended to the House by the esteemed Veterans' Affairs Committee because of their fears, which I am sure are commonly shared by most of the Members here, that in the current money market such a low rate will make any mortgage funds for veterans practically unavailable.

In substance, this measure would encourage participating institutions to make mortgage loan money available to those veterans and their families who are in a position to purchase a home. Any adverse action on our part, with respect to this bill, would virtually amount to discrimination against the veteran, in providing any opportunity at all for veterans to obtain a guaranteed mortgage loan in today's market. So, while we pledge to continue to do everything within our legislative power to expedite the improvement of our present economic situation, I hope that the House will resoundingly accept this measure.

Mr. ZWACH. Mr. Speaker, I would like to associate myself with my distinguished colleague from Ohio in support of eliminating the interest rate ceiling on VA guaranteed or insured loans.

Temporary measures attempted by Congress have failed to forestall the current emergency that exists in mortgage interest rates under the VA. As of the July 1, the VA and HUD no longer have authority to set interest rates, and the rate has reverted back to 6 percent.

We are all aware that current market mortgage rates are in the neighborhood of 8 to 8½ percent. Needless to say the VA activities in mortgages have been halted.

The House's effort (H.J. Res. 512) to forestall this housing crisis was not acted on in the Senate. In order to continue the GI home loan program it is imperative that Congress move immediately. Housing for veterans is a necessity, not a luxury.

The SPEAKER. The question is on the motion offered by the gentleman from South Carolina (Mr. DORN) that the House suspend the rules and pass the bill H.R. 8949.

The question was taken.

Mr. SAYLOR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken, and there were—yeas 412, nays 3, present 1, not voting 17, as follows:

[Roll No. 344]

YEAS—412

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Boggs
Boland
Bolling
Bowen
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Chisholm
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Ketchum
King
Kluczynski
Koch
Kyros
Landrum
Latta
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Miller
Mills, Ark.
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Owens
Parris
Passman
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—3

Leggett
Patman
Patten

PRESENT—1

Mazzoli

NOT VOTING—17

Blatnik
Brademas
Carey, N.Y.
Danielson
Fisher
Gray
Hébert
Henderson
Kemp
Kuykendall
Landgrebe
McEwen
Milford
O'Neill
Reid
Talcott
Wilson, Bob

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Henderson.
Mr. Blatnik with Mr. Milford.
Mr. Carey of New York with Mr. Talcott.
Mr. Brademas with Mr. McEwen.
Mr. Fisher with Mr. Landgrebe.
Mr. Danielson with Mr. Bob Wilson.
Mr. Hébert with Mr. Kuykendall.
Mr. Reid with Mr. Minshall of Ohio.
Mr. Gray with Mr. Kemp.

Mr. PATTEN changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERANS HEALTH CARE EXPANSION ACT OF 1973

Mr. DORN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 9048) to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Health Care Expansion Act of 1973".

TITLE I—HOSPITAL, DOMICILIARY, AND MEDICAL CARE BENEFITS

SEC. 101. (a) Subparagraph (C) of section 601(4) of title 38, United States Code, is amended to read as follows:

"(C) private facilities for which the Administrator contracts in order to provide (i) hospital care or medical services for persons suffering from service-connected disabilities or from disabilities for which such persons were discharged or released from the active military, naval, or air service; (ii) hospital care for women veterans; or (iii) hospital care for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the forty-eight contiguous States, except that the annually determined average hospital patient load per thousand veteran population hospitalized at Veterans' Administration expense in Government and private facilities in each such noncontiguous State may not exceed the average patient load per thousand veteran population hospital by the Veterans' Administration within the forty-eight contiguous States; but authority under this clause (iii) shall expire on December 31, 1978".

(b) Section 601 (5) of such title is amended to read as follows:

"(5) The term 'hospital care' includes—

"(A) (i) medical services rendered in the course of the hospitalization of any veteran, and (ii) transportation and incidental expenses for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation;

"(B) such mental health services, consultation, professional counseling, and training (including (i) necessary expenses for transportation if unable to defray such expenses; or (ii) necessary expenses of transportation and subsistence in the case of a veteran who is receiving care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, under the terms and conditions set forth in section 111 of this title) of the members of the immediate family (including legal guardians) of a veteran or such a dependent or survivor of a veteran, or, in the case of a veteran or such dependent or survivor of a veteran who has no immediate family members (or legal guardian), the person in whose household such veteran, or such a dependent or survivor certifies his intention to live, as may be necessary or appropriate to the effective treatment and rehabilitation of a veteran or such a dependent or a survivor of a veteran; and

"(C) (i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, and (ii) transportation and incidental expenses for such dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation.".

(c) Section 601(6) of such title is amended by inserting immediately after "treatment," the following: "such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title".

SEC. 102. Section 610 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "or nursing home care" immediately after "hospital care" where it first appears;

(2) striking out clause (1)(B) of subsection (a) and inserting in lieu thereof the following:

"(B) any veteran for a non-service-connected disability if he is unable to defray the expenses of necessary hospital care;";

(3) amending subsection (c) to read as follows:

"(c) While any veteran is receiving hospital care or nursing home care in any Veterans' Administration facility, the Administrator may, within the limits of Veterans' Administration facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which he is hospitalized, if the veteran is willing, and the Administrator finds such services to be reasonably necessary to protect the health of such veteran."; and

(4) adding at the end thereof the following new subsection:

"(d) In no case may nursing home care be furnished in a hospital not under the direct and exclusive jurisdiction of the Administrator except as provided in section 620 of this title.".

SEC. 103. (a) Subsection (f) of section 612 of title 38, United States Code, is amended to read as follows:

"(f) The Administrator may also furnish medical services for any disability on an outpatient or ambulatory basis—

"(1) to any veteran eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or to obviate the need of, hospital admission, or (B) where such a veteran has been granted hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care; and

"(2) to any veteran who has a service-connected disability rated at 80 per centum or more.".

(b) Strike out sections 613 and 614 in their entirety and insert in lieu thereof:

"§ 613. Medical care for survivors and dependents of certain veterans

"(a) The Administrator is authorized to provide medical care, in accordance with the provisions of subsection (b) of this section, for—

"(1) the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and

"(2) the widow or child of a veteran who died as a result of a service-connected disability

who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS).

"(b) In order to accomplish the purposes of subsection (a) of this section, the Administrator shall provide for medical care in the same or similar manner and subject to the same or similar limitations as medical care is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under chapter 55 of title 10 (CHAMPUS), by—

"(1) entering into an agreement with the Secretary of Defense under which the Secretary shall include coverage for such medical care under the contract, or contracts, he enters into to carry out such chapter 55, and under which the Administrator shall fully reimburse the Secretary for all costs and expenditures made for the purposes of affording the medical care authorized pursuant to this section; or

"(2) contracting in accordance with such regulations as he shall prescribe for such insurance, medical service, or health plans as he deems appropriate.

In cases in which Veterans' Administration medical facilities are particularly equipped to provide the most effective care and treatment, the Administrator is also atuhorized to carry out such purposes through the use of such facilities not being utilized for the care of eligible veterans.

"§ 614. Fitting and training in use of prosthetic appliances; seeing-eye dogs

"(a) Any veteran who is entitled to a prosthetic appliance shall be furnished such fitting and training, including institutional training, in the use of such appliance as may be necessary, whether in a Veterans' Administration facility or other training institution, or by outpatient treatment, including such service under contract, and including necessary travel expenses to and from his home to such hospital or training institution.

"(b) The Administrator may provide seeing-eye or guide dogs trained for the aid of the blind to veterans who are entitled to disability compensation, and he may pay all necessary travel expenses to and from their homes and incurred in becoming adjusted to such seeing-eye or guide dogs. The Administrator may also provide such veterans with mechanical or electronic equipment for aiding them in overcoming the handicap of blindness"."

(c) The table of sections at the beginning of chapter 17 of such title is amended by striking out

"613. Fitting and training in use of prosthetic appliances.
"614. Seeing-eye dogs."

and inserting

"613. Medical care for survivors and dependents of certain veterans.
"614. Fitting and training in use of prosthetic appliances; seeing-eye dogs.".

SEC. 104. (a) The first sentence of subsection (a) of section 620 of title 38, United States Code, is amended by redesignating clauses (1) and (2) as clauses (i) and (ii), respectively; and by amending that portion preceding such clauses to read as follows:

"(a) Subject to subsection (b) of this section, the Administrator may transfer—

"(1) any veteran who has been furnished care by the Administrator in a hospital under the direct and exclusive jurisdiction of the Administrator, and

"(2) any person (A) who has been furnished care in any hospital of any of the Armed Forces, (B) who the appropriate Secretary concerned has determined has received maximum hospital benefits but requires a protracted period of nursing home care, and (C) who upon discharge therefrom will become a veteran

to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care, for care at the expense of the United States, only if the Administrator determines that—".

(b) The second sentence of section 620(a) of such title is amended by striking out the designations (A) and (B) and inserting in lieu thereof (I) and (II).

(c) Section 620(b) of such title is amended (1) by adding "or admitted" after "transferred" and (2) by adding at the end thereof the following: "The standards prescribed and any report of inspection of institutions furnishing care to veterans under this section made by or for the Administrator shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.".

(d) Section 620 of such title is further amended by adding at the end thereof the following new subsection (d):

"(d) Subject to subsection (b) of this section, the Administrator may authorize for any veteran requiring nursing home care for a service-connected disability direct admission for such care at the expense of the United States to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care. Such admission may be authorized upon determination of need therefor by a physician employed by the Veterans' Administration or, in areas where no such physician is available, carrying out such function under contract or fee arrangement based on an examination by such physician. The amount which may be paid for such care and the length of care available under this subsection shall be the same as authorized under subsection (a) of this section.".

SEC. 105. (a) Section 626 of title 38, United States Code, is amended by striking out "fire" and inserting in lieu thereof "fire, earthquake, or other natural disaster".

(b) The catchline at the beginning of section 626 of such title is amended to read as follows:

"§ 626. Reimbursement for loss of personal effects by natural disaster".

SEC. 106. (a) Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 628. Reimbursement of certain medical expenses

"(a) The Administrator may, under such regulations as he shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including necessary travel), for which such veterans have made payment, from sources other than the Veterans' Administration, where—

"(1) such care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health;

"(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected disability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who is found to be (i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible his entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

"(3) Veterans' Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

"(b) In any case where reimbursement

would be in order under subsection (a) of this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

"(1) to the hospital or other health facility furnishing the care or services; or

"(2) to the person or organization making such expenditure on behalf of such veteran.".

(b) The table of sections at the beginning of such chapter is amended by deleting

"626. Reimbursement for loss of personal effects by fire.
"627. Persons eligible under prior law."

and inserting in lieu thereof

"626. Reimbursement for loss of personal effects by natural disaster.
"627. Persons eligible under prior law.
"628. Reimbursement of certain medical expenses.".

Sec. 107. (a) Chapter 17 of title 38, United States Code, is amended by striking out sections 631 and 632 in their entirety and inserting in lieu thereof the following:

"§ 631. Assistance to the Republic of the Philippines

"The President is authorized to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and non-service-connected disabilities under certain conditions.

"§ 632. Contracts and grants to provide hospital care, medical services and nursing home care

"(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on July 1, 1973, and ending on June 30, 1978, under which the United States—

"(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided either in the Veterans Memorial Hospital, or by contract, or otherwise, by the Administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 612 of this title, for Commonwealth Army veterans and new Philippine Scouts determined by the Administrator to be in need of such hospital care or medical services for service-connected disabilities;

"(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans, and for new Philippine Scouts if they enlisted before July 4, 1946, determined by the Administrator to need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

"(3) may provide for the payment of travel expenses pursuant to section 111 of this title for Commonwealth Army veterans and new Philippine Scouts in connection with hospital care or medical services furnished them;

"(4) may provide for payments for nursing home care, on the same terms and conditions as set forth in section 620(a) of this title, for any Commonwealth Army veterans or new Philippine Scouts determined to need such care at a per diem rate not to exceed 50 per centum of the hospital per diem rate established pursuant to clause (6) of this subsection;

"(5) may provide that payments for hospital care and for medical services provided to Commonwealth Army veterans and new Philippine Scouts or to United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator, who may furnish through the revolving supply fund, pursuant to section 5011 of this title, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefor, as applicable, appropriations available for such payments;

"(6) will provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

"(7) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

(b) The total of the payments authorized by subsection (a) of this section shall not exceed $2,000,000 for any one fiscal year ending before July 1, 1978, which shall include an amount not to exceed $250,000 for any one such fiscal year for the purposes of clause (4) of such subsection.

"(c) The contract authorized by subsection (a) of this section may provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans or new Philippine Scouts for service-connected disabilities, for hospital care of other persons in the discretion of the Republic of the Philippines, except that (1) priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans and new Philippine Scouts needing hospital care for service-connected disabilities, and (2) such use shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical services for persons eligible therefor from the Veterans' Administration.

"(d) To further assure the effective care and treatment of patients in the Veterans Memorial Hospital, there is authorized to be appropriated for each fiscal year during the five years beginning July 1, 1973, and ending June 3, 1978—

"(1) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel who are assigned to such hospital; and

"(2) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such hospital.

Such grants shall be made on such terms and conditions as prescribed by the Administrator, including approval by him of all education and training programs conducted by the hospital under such grants. Any appropriation made for carrying out the purposes of clause (2) of this subsection shall remain available until expended.".

(b) The table of sections at the beginning of such chapter 17 is amended by striking out

"631. Grants to the Republic of the Philippines.
"632. Modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948."

and inserting in lieu thereof

"631. Assistance to the Republic of the Philippines.
"632. Contracts and grants to provide hospital care, medical services and nursing home care.".

(c) Nothing in subsection (a) of this section shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Republic of the Philippines and the Government of the United States resulting from Public Law 89–612, which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 632 of title 38, United States Code, in effect on the day before the date of enactment of this section.

Sec. 108. (a) Section 624 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Administrator may furnish nursing home care, on the same terms and conditions set forth in section 620(a) of this title and at the same rate as specified in section 632(a)(4) of this title, to any veteran who has been furnished hospital care in the Philippines pursuant to this section, but who requires a protracted period of nursing home care.".

(b) The catchline at the beginning of section 624 of such title is amended to read as follows:

"§ 624. Hospital care, medical services and nursing home care abroad".

Sec. 109. (a) Chapter 17 of title 38, United States Code, is further amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Sickle Cell Anemia

"§ 651. Screening, counseling, and medical treatment

"The Administrator is authorized to carry out a comprehensive program of providing sickle cell anemia screening, counseling, treatment, and information under the provisions of this chapter.

"§ 652. Research.

"The Administrator is authorized to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter.

"§ 653. Voluntary participation; confidentiality

"(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program under this title.

"(b) The Administrator shall promulgate rules and regulations to insure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled without reference to patient names or other identifying characteristics.

"§ 654. Reports

"The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator deems necessary.".

(b) The analysis at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER VI—SICKLE CELL ANEMIA

"651. Screening, counseling, and medical treatment.
"652. Research.
"653. Voluntary participation; confidentiality.
"654. Reports".

TITLE II—AMENDMENTS TO CHAPTER 73 OF TITLE 38, UNITED STATES CODE, RELATING TO THE DEPARTMENT OF MEDICINE AND SURGERY

Sec. 201. Section 4101 of title 38, United States Code, is amended by amending subsection (b) to read as follows:

"(b) In order to carry out more effectively the primary function of the Department of Medicine and Surgery to provide a complete medical and hospital service for the medical care and treatment of veterans and in order to assist in providing an adequate supply of health manpower to the Nation, the Administrator shall, to the extent feasible without interfering with the medical care and treatment of veterans, develop and carry out a program of education and training of such health manpower (including the developing and evaluating of new health careers, interdisciplinary approaches and career advancement opportunities), and shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as physicians' assistants, dentists' assistants, and other medical technicians (including advising all such qualified veterans and servicemen about to be discharged or released from active duty of such employment opportunities), acting in cooperation with such schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions; other institutions of higher learning; medical centers, academic health centers; hospitals; and such other public or nonprofit agencies, institutions, or organizations as the Administrator deems appropriate.

"(c)(1) Within ninety days after enactment of this subsection, the Administrator, in consultation with the Chief Medical Director, is directed to conclude negotiations for an agreement with the National Academy of Sciences under which such Academy (utilizing its full resources and expertise) will conduct an extensive review and appraisal of personnel and other resource requirements in Veterans' Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to insure the provision to eligible veterans and high quality care in all hospital, medical, domiciliary, and nursing home facilities. Such agreement shall provide that (A) at the earliest feasible date interim reports and the final report will be submitted by the National Academy of Sciences to the Administrator, the President of the Senate, and the Speaker of the House of Representatives, and (B) the final report will be submitted no later than twenty-four months after the date of the agreement except that the Administrator, in consultation with the Chief Medical Director and after consultation with the House and Senate Committees on Veterans' Affairs, may permit an extension up to twelve additional months.

"(2) Within ninety days after the submission of the final report described in subsection (a) of this section, the Administrator shall submit to the Senate and House Committees on Veterans' Affairs a detailed report of his views on the National Academy of Sciences' findings and recommendations submitted in such report, including (A) the steps and timetable therefor (to be carried out in not less than three years) he proposes to take to implement such findings and recommendations and (B) any disagreements, and the reasons therefor, with respect to such findings and recommendations.

"(3) The Administrator shall cooperate fully with the National Academy of Sciences, and make available to the Academy all such staff, information, records, and other assistance, and shall set aside for such purposes such sums, as are necessary to insure the success of the study.".

SEC. 202. Section 4103(a) of title 38, United States Code, is amended—

(1) by amending paragraph (4) to read as follows:

"(4) Not to exceed eight Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendations of the Chief Medical Director. Not more than two Assistant Chief Medical Directors may be individuals qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicine. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service."; and

(2) by amending paragraph (7) to read as follows:

"(7) A Director of Pharmacy Service, a Director of Dietetic Service, and a Director of Optometry, appointed by the Administrator.".

SEC. 203. Section 4107 of title 38, United States Code, is amended by—

(1) amending subsections (a) and (b) to read as follows:

"(a) The per annum full-pay scale or ranges for positions provided in section 4103 of this title, other than Chief Medical Director and Deputy Chief Medical Director, shall be as follows:

"Section 4103 Schedule

"Associate Deputy Chief Medical Director, at the annual rate provided in section 5316 of title 5 for positions in level V of the Executive Schedule.

"Assistant Chief Medical Director, $41,734.

"Medical Director, $36,103 minimum to $40,915 maximum.

"Director of Nursing Service, $36,103 minimum to $40,915 maximum.

"Director of Chaplain Service, $31,203 minimum to $39,523 maximum.

"Director of Pharmacy Service, $31,203 minimum to $39,523 maximum.

"Director of Dietetic Service, $31,203 minimum to $39,523 maximum.

"Director of Optometry, $31,203 minimum to $39,523 maximum.

"(b)(1) The grades and per annum full-pay ranges for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"Physician and Dentist Schedule

"Director grade, $31,203 minimum to $39,523 maximum.

"Executive grade, $28,996 minimum to $37,699 maximum.

"Chief grade, $26,898 minimum to $34,971 maximum.

"Senior grade, $23,088 minimum to $30,018 maximum.

"Intermediate grade, $19,700 minimum to $25,613 maximum.

"Full grade, $16,682 minimum to $21,686 maximum.

"Associate grade, $13,996 minimum to $18,190 maximum.

"Nurse Schedule

"Director grade, $26,898 minimum to $34,971 maximum.

"Assistant Director grade, $23,088 minimum to $30,018 maximum.

"Chief grade, $19,700 minimum to $25,613 maximum.

"Senior grade, $16,682 minimum to $21,686 maximum.

"Intermediate grade, $13,996 minimum to $18,190 maximum.

"Full grade, $11,614 minimum to $15,097 maximum.

"Associate grade, $10,012 minimum to $13,018 maximum.

"Junior grade, $8,572 minimum to $11,146 maximum.

"(2) No person may hold the director grade in the 'Physician and Dentist Schedule' unless he is serving as a director of a hospital, domiciliary centers, or outpatient clinic (independent). No person may hold the executive grade unless he holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position."; and

(2) adding at the end thereof the following new subsections:

"(d) The limitations in section 5308 of title 5 shall apply to pay under this section.

"(e)(1) In addition to the basic compensation provided for nurses in subsection (b)(1) of this section, a nurse shall receive additional compensation as provided by paragraphs (2) through (8) of this subsection.

"(2) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional compensation for each hour of service on such tour at a rate equal to 10 per centum of the employee's basic hourly rate, if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of work performed between those hours.

"(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday, shall receive additional compensation for each hour of service on such tour at a rate equal to 25 per centum of such nurse's basic hourly rate.

"(4) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive such nurse's regular rate of basic pay, plus additional pay at a rate equal to such regular rate of basic pay, for that holiday work, including overtime work. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

"(5) A nurse performing officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service; the overtime rates shall be one and one-half times such nurse's basic hourly rate, not to exceed one and one-half times the basic hourly rate for the minimum rate of Intermediate grade of the Nurse Schedule. For the purposes of this paragraph, overtime must be of at least fifteen minutes duration in a day to be creditable for overtime pay. Compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted. Any excess service performed under this paragraph on a day when service was not scheduled for such nurse, or for which such nurse is required to return to her place of employment, shall be deemed to be a minimum of two hours in duration.

"(6) For the purpose of computing the additional compensation provided by paragraph (2), (3), (4), or (5) of this subsection, a nurse's basic hourly rate shall be derived by dividing such nurse's annual rate of basic compensation by two thousand and eighty.

"(7) When a nurse is entitled to two or more forms of additional pay under paragraph (2), (3), (4), or (5) for the same period of duty, the amounts of such additional pay shall be computed separately on the basis of such nurse's basic hourly rate of pay, except that no overtime pay as provided in paragraph (5) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under paragraph (4) for such service.

"(8) A nurse who is officially scheduled to be on call outside such nurse's regular hours shall be compensated for each hour of such on-call duty, except for such time as such nurse may be called back to work, at a rate equal to 10 per centum of the hourly rate for excess service as provided in paragraph (5) of this subsection.

"(9) Any additional compensation paid pursuant to this subsection shall not be considered as basic compensation for the purposes of subchapter VI and section 5595 of subchapter IX of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits based on basic compensation.".

SEC. 204. (a) Section 4108 of title 38, United States Code, is amended to read as follows:

"§ 4108. Personnel administration

"(a) Notwithstanding any law, Executive order, or regulation, the Administrator shall prescribe by regulation the hours and conditions of employment and leaves of absence of physicians, dentists, and nurses appointed to the Department of Medicine and Surgery, except that the hours of employment in carrying out responsibilities under this title of any physician, dentist (other than an intern or resident appointed pursuant to section 4114 of this title), or nurse appointed on a full-time basis who accepts responsibilities for carrying out professional services for renumeration other than those assigned under this title, shall consist of not less than eighty hours in a biweekly pay period (as that term is used in section 5504 of title 5), and no such person may—

"(1) assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Veterans' Administration facility, except in those cases where the individual, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed one hundred and eighty calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed one hundred and eighty calendar days each;

"(2) teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with his responsibilities under this title;

"(3) accept payment under any insurance or assistance program established under subchapter XVIII, or XIX of chapter 7 of title 42, or under chapter 55 of title 10 for professional services rendered by him while carrying out his responsibilities under this title;

"(4) accept from any source, with respect to any travel performed by him in the course of carrying out his responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5;

"(5) request or permit any individual or organization to pay, on his behalf, for insurance insuring him against malpractice claims arising in the course of carrying out his responsibilities under this title or for his dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of his remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title; and

"(6) perform, in the course of carrying out his responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for his personal benefit, or both, and in the case of any such fund or account established before the effective date of this subsection—

"(A) the affiliated institution shall submit semiannually an accounting to the Administrator and to the Comptroller General of the United States with respect to such fund or account, and thereafter shall maintain such fund or account subject to full public disclosure and audit by the Administrator and the Comptroller General for a period of three years or for such longer period as the Administrator shall prescribe, and

"(B) no physician, dentist, or nurse may receive, after the effective date of this subsection, any cash from amounts deposited in such fund or account derived from services performed prior to the effective date of this subsection.

"(b) As used in this section, the term 'affiliated institutions' means any medical school or other institution of higher learning with which the Administrator has a contract or agreement pursuant to section 4112(b) of this title for the training or education of health manpower.

"(c) As used in this section, the term 'remuneration' means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.".

(b) The table of sections at the beginning of chapter 73 of such title is amended by striking out

"4108. Administration."

and inserting in lieu thereof

"4108. Personnel administration.".

SEC. 205. (a) Section 4109 of title 38, United States Code, is amended by striking out "the Civil Service Retirement Act" and inserting in lieu thereof "chapter 83 of title 5".

(b) Subsection (b) of section 4112 of such title 38, is amended by striking out "service personnel" in the first sentence immediately after "health" and by inserting in lieu thereof "manpower".

SEC. 206. Section 4114 of title 38, United States Code, is amended as follows:

(1) by striking out the words "ninety days" in the last sentence of paragraph (3) (A) of subsection (a) and inserting in lieu thereof "one year";

(2) by inserting "(1)" immediately after "(b)" at the beginning of subsection (b) of such section and by adding at the end of such subsection the following new paragraphs:

"(2) For the purposes of this title, the term 'intern' shall include an internship or the equivalency thereof, as determined in accordance with regulations which the Administrator shall prescribe.

"(3) In order to carry out more efficiently the provisions of paragraph (1) of this subsection, the Administrator may contract with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the Veterans' Administration in the training of interns or residents to provide for the central administration of stipend payments, provision of fringe benefits, and maintenance of records for such interns and residents by the designation of one such institution to serve as a central administrative agency for this purpose. The Administrator may pay to such designated agency, without regard to any other law or regulations governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such intern or resident serves in a Veterans' Administration hospital of (A) stipends fixed by the Administrator pursuant to paragraph (1) of this subsection. (B) hospitalization, medical care, and life insurance, and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Veterans' Administration hospital, (C) tax on employers pursuant to chapter 21 of the Internal Revenue Code of 1954, where applicable, and in addition, (D) an amount to cover a pro rata share of the cost of expense of such central administrative agency. Any amounts paid by the Administrator to such central administrative agency to cover the cost of hospitalization, medical care, or life insurance or other employee benefits shall be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim he might have to any payment of stipends or employee benefits to which he may be entitled under this title or title 5. Notwithstanding the foregoing, any period of service of any such interim or resident in a Veterans' Administration hospital shall be deemed creditable service for the purposes of section 8332 of title 5. The agreement may further provide that the designated central administrative agency shall make all appropriate deductions from the stipends of each intern and resident for local, State, and Federal taxes, maintain all records pertinent thereto and make proper deposits thereof, and shall maintain all records pertinent to the leave accrued by such intern and resident for the period during which he serves in a participating hospital, including a Veterans' Administration hospital. Such leave may be pooled, and the intern or resident may be afforded leave by the hospital in which he is serving at the time the leave is to be used to the extent of his total accumulated leave, whether or not earned at the hospital in which he is serving at the time the leave is to be afforded."; and

(3) by adding at the end thereof the following new subsection:

"(e) The program of training prescribed by the Administrator in order to qualify a person for the position of full-time physician's assistant or dentist's assistant shall be considered a full-time institutional program for purposes of chapter 34 of this title. The Administrator may consider training for such a position to be on a less than full-time basis for purposes of such chapter when the combined classroom (and other formal instruction) portion of the program and the on-the-job training portion of the program total less than 30 hours per week.".

SEC. 207. Section 4116 of title 38, United States Code, is amended—

(1) by amending subsection (a) to read as follows: "(a) The remedy—

"(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of his duties in or for the Department of Medicine and Surgery shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical or other supporting personnel (or his estate) whose act or omission gave rise to such claim.";

(2) by striking out the last sentence in subsection (c) and inserting in lieu thereof the following: "After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of his office or employment, the case shall be remanded to the State court."; and

(3) by adding at the end thereof the following new subsection:

"(e) The Administrator may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a) of this section), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of his duties in or for the Department of Medicine and Surgery, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury.".

SEC. 208. Section 4117 of title 38, United States Code, is amended to read as follows:

"The Administrator may enter into contracts with medical schools, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans' Administration facilities (including, but not limited to, services of physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel).".

TITLE III—AMENDMENTS TO CHAPTER 81 OF TITLE 38, UNITED STATES CODE—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SEC. 301. (a) Subsection (a) of section 5001 of title 38, United States Code, is amended by—

(1) striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the following: "and the Administrator shall staff and maintain, in such a manner as to insure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services. The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration medical facilities so as to insure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of such care and of services pursuant to section 612 of this title. The Chief Medical Director shall periodically analyze agencywide admission policies and the records of those eligible veterans who apply for hospital care and medical services but are rejected or not immediately admitted or provided such care or services, and the Administrator shall annually advise the House and Senate Committees on Veterans' Affairs of the results of such analysis and the number of any additional beds and treatment capacities and the appropriate staffing and funds therefor found necessary to meet the needs of such veterans for such necessary care and services."; and

(2) striking out in the first sentence of paragraph (3) "is authorized to" and inserting in lieu thereof "shall", and by striking out "four thousand beds" and inserting in lieu thereof "eight thousand beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter".

(b) Subsection (b) of section 5001 of such title is amended to read as follows:

"(b) Hospitals, domiciliaries, and other medical facilities provided by the Administrator (including nursing home facilities for which the Administrator contracts under section 620 of this title) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing plant is purchased, it shall be remodeled to comply with the requirements stated in the first sentence of this subsection. In order to carry out this subsection, the Administrator shall appoint an Advisory Committee on Structural Safety of Veterans' Administration Facilities, on which shall serve at least one architect and one structural engineer expert in fire, earthquake, and other natural disaster resistance who shall not be employees of the Federal Government, to advise him on all matters of structural safety in the construction and remodeling of Veterans' Administration facilities in accordance with the requirement of this subsection, and which shall approve regulations prescribed thereunder. The Associate Deputy Administrator, the Chief Medical Director, or his designee, and the Veterans' Administration official charged with the responsibility for construction shall be ex officio members of such committee.".

(c) Section 5001 of such title is further amended by adding the following new subsection:

"(g) The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to Veterans' Administration medical facilities when deemed necessary for safe ingress or egress.".

SEC. 302. Chapter 81 of title 38, United States Code, is amended—

(1) by adding at the end of subchapter I the following new section:

"§ 5007. Partial relinquishment of legislative jurisdiction

"The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under his supervision or control are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.";

(2) by inserting immediately after the first sentence in subsection (a) of section 5012 thereof the following: "Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled 'An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Administrator shall give appropriate public notice of his intention to do so in the newspaper of the community in which the lands or buildings to be leased are located."; and

(3) by inserting in the table of sections at the beginning of such chapter

"5007. Partial relinquishment of legislative jurisdiction."

immediately after

"5006. Property formerly owned by the National Home for Disabled Volunteer Soldiers.".

SEC. 303. Section 5053(a) of title 38, United States Code, is amended by striking out "or medical schools" at the beginning of the material contained in parentheses, and by inserting immediately after the close parenthesis the words "or medical schools or clinics".

TITLE IV—MISCELLANEOUS AMENDMENTS TO TITLE 38, UNITED STATES CODE

SEC. 401. Section 230(b) of title 38, United States Code, is amended by striking out "July 3, 1974" and inserting in lieu thereof "June 30, 1978".

SEC. 402. (a) Section 234 of title 38, United States Code, is amended by inserting immediately after the words "telephones for" the following: "nonmedical directors of centers, hospitals, independent clinics, domiciliaries, and".

(b) The table of sections at the beginning of chapter 3 of such title is amended by striking out

"234. Telephone service for medical officers."

and inserting in lieu thereof

"234. Telephone service for medical officers and facility directors.".

(c) The catchline at the beginning of section 234 of such title is amended by inserting immediately after the word "officers" the words "and facility directors".

SEC. 403. (a) Section 641 of title 38, United States Code, is amended by—

(1) striking out in clause (1) "$3.50" and inserting in lieu thereof "$4.50";

(2) striking out in clause (2) "$5" and inserting in lieu thereof "$6";

(3) striking out in clause (3) "$7.50" and inserting in lieu thereof "$10"; and

(4) inserting immediately after the words "veteran of any war" the following: "or of service after January 31, 1955".

(b) Section 644(b) of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

(c) Section 5033(a) of title 38, United States Code, is amended by striking out "nine" and inserting in lieu thereof "fourteen".

(d) Paragraph (1) of section 5034 of title 38, United States Code, is amended by striking out "one and one-half beds" and inserting in lieu thereof "two and one-half beds".

(e) Subsections (a)(1), (b)(2), and (d) of section 5035 of such title are amended by striking out "50 per centum" wherever it appears therein and inserting in lieu thereof "65 per centum".

(f) Section 5036 of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

TITLE V—EFFECTIVE DATES

SEC. 501. The provisions of this Act shall become effective the first day of the first calendar month following the date of enactment, except that sections 105 and 106 shall be effective on January 1, 1971; section 107 shall be effective July 1, 1973; and section 203 shall become effective beginning the first pay period following thirty days after the date of enactment of this Act.

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

GENERAL LEAVE

Mr. DORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 9048.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DORN. Mr. Speaker, the bill before the House, which is an omnibus veterans medical bill bearing the title "Veterans' Health Care Extension Act of 1973," is very similar to the veterans medical bill we passed last year which, unfortunately, was the subject of a pocket veto after the sine die adjournment of the Congress. Although we felt the adverse Presidential action on that bill was unfortunate, I want the members to know that we have given careful consideration to the points raised by the President in conjunction with extended and effective consultations with the counterpart committee in the other body. As a result, we believe that the modified version that we have now unanimously reported from our committee will be acceptable and at long last, within a short time, the needed improvements in the veterans' medical program will become a reality.

I want to pay particular tribute to the commendable action of our subcommittee on hospitals under the able chairmanship of the Honorable DAVID E. SATTERFIELD III. The Honorable JOHN P. SAYLOR is the ranking minority member on that subcommittee, from the great State of Pennsylvania, and the Honorable JOHN PAUL HAMMERSCHMIDT of Arkansas is the ranking minority member of the full committee. Each of these gentlemen has done an outstanding job.

Mr. Speaker, I am listing here the Members of this body of the subcommittee who sponsored this legislation. Hon. OLIN E. TEAGUE, Hon. JAMES A. HALEY, Hon. THADDEUS J. DULSKI, Hon. RAY ROBERTS, Hon. G. V. (SONNY) MONTGOMERY, Hon. DON EDWARDS, Hon. CHARLES J. CARNEY, Hon. GEORGE E. DANIELSON, Hon. ELLA T. GRASSO, Hon. LESTER L. WOLFF, Hon. HENRY HELSTOSKI, Hon. JACK BRINKLEY, Hon. CHARLES WILSON, Hon. JOHN PAUL HAMMERSCHMIDT, Hon. CHARLES M. TEAGUE, Hon. MAGARET M. HECKLER, Hon. JOHN M. ZWACH, Hon. CHALMERS P. WYLIE, Hon. ELWOOD HILLIS, Hon. JOSEPH J. MARAZITI, Hon. JAMES ABDNOR, Hon. ROBERT J. HUBER, and Hon. WILLIAM F. WALSH.

I would like to note that three of them are distinguished chairmen of various committees in their own right, the Honorable OLIN E. TEAGUE, the Honorable JAMES A. HALEY, and the Honorable THADDEUS J. DULSKI.

Mr. Speaker, I would be remiss if I did not also at this time express my appreciation for the utmost cooperation and contribution from the Senate Committee on Veterans' Affairs under the able leadership of the Senator from Indiana, Mr. HARTKE, and his general counsel, Mr. Guy McMichael, as well as the understanding attitude toward reaching a compromise version taken by the Subcommittee on Hospitals and Health under the able chairmanship of the Senator from California (Mr. CRANSTON), and his very efficient staff assistants, Mr. Jonathan Steinberg and Miss Louise Ringwalt. I truly believe that this bill represents a fine example of what can be accomplished by understanding and reasonable attitudes by each of our legislative bodies.

Mr. Speaker and my colleagues, I might say that we discussed this personally with the President of the United States and time and again with Members of the other body, and we have arrived at the legislation now before us. I believe it is acceptable to all parties concerned, and certainly is in the interest of the medical care of the veterans of our country and this includes every war in which we have participated.

There have been some erroneous remarks made that we are not taking care properly of the Vietnam veterans. This is simply not true, and this medical care bill before the House today will be a long step forward in taking care of the medical needs of our veterans and certain dependents.

Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from Virginia (Mr. SATTERFIELD) who did such a brilliant job, and who will explain the various provisions of this very important legislation.

Mr. SATTERFIELD. Mr. Speaker, as Chairman DORN has indicated, H.R. 9048 is a revised version of the omnibus veterans' medical bill we passed last year and which was the subject of a pocket veto by the President. At the outset I think it is highly significant to point out that this bill is the culmination of a series of hearings held by our subcommittee in the 91st, the 92d, and the 93d Congresses. Similar extended consideration of this subject was given during each of the mentioned Congresses by the other body.

In light of the veto last year, our subcommittee has given very careful consideration to the reasons assigned for that adverse Presidential action. We have engaged in extensive discussion with representatives of the Senate Committee on Veterans' Affairs in our efforts to rework certain provisions without jeopardizing the basic objectives of the measure we passed last year. We have secured encouraging coordination with the Office of Management and Budget on certain vital points. As a result, there is reason to be assured that the bill we are now considering will meet with approval on the part of the other body and that it will be satisfactory to the executive branch.

As pointed out by my distinguished colleague from South Carolina (Mr. DORN), H.R. 9048 is essentially the same as H.R. 10880, which passed the Congress in the closing days of the last Congress.

It still contains the provisions dealing with outpatient and ambulatory service to veterans. As you know, under existing law outpatient and ambulatory service is available to veterans only in preparation for hospital admission or for post-hospital service in connection with treatment he received while hospitalized.

This bill would enlarge these current provisions to make it possible for veterans, especially non-service-connected veterans, to receive outpatient or ambulatory treatment, including medical examinations, medical treatment, and optometrical, dental, and surgical services where such care is reasonably necessary to obviate the need for hospital admission.

It also provides that any veteran with a service-connected disability rated at 80 percent or above may also be entitled to such outpatient or ambulatory treatment for any service-connected or non-service-connected cause.

H.R. 9048 retains the provisions in last year's bill providing pay differential for nurses performing duty between the hours of 6 p.m. and 6 a.m., from midnight Saturday to midnight Sunday, or on Federal holidays and for overtime pay for hours of service in excess of 8 hours a day or 40 hours during a nurse's administrative workweek.

Such differentials are the general rule with respect to nurses' compensation in civilian hospitals and the VA Committee feels that VA nurses should not receive less favorable treatment. We believe that this provision will act as a real factor in improving the recruitment and retention of nurses whose services, of course, are invaluable to the overall medical care mission of the VA.

Except for three instances, the remaining provisions of the bill, 22 in number, are unchanged. Those three instances reflect efforts to remove impediments to the measure which might affect its future course. The provisions involved will, if enacted, accomplish the following:

First, extend medical care insurance protection to the wife or child of a totally and permanently disabled service-connected veteran and to the widow or child of a person who has died as a result of a service-connected disability. In the previous bill, such medical care would have been provided at VA facilities. I am sure the Members are aware we have had in operation for several years in the military service a medical insurance program known as CHAMPUS, covering certain dependents and survivors of active duty and retired personnel of the Armed Forces. H.R. 9048 would provide that where the classes of persons above mentioned are not now eligible under CHAMPUS, then the Administrator of Veterans' Affairs is authorized to negotiate with the Secretary of Defense in an effort to secure benefits for them on a reimbursable basis under the existing CHAMPUS, through effecting changes in the present and future contracts with the prime insurer. If for any reason that course of action is found to be not feasible or administratively impracticable, and I should point out now that any such agreement is absolutely discretionary with the Secretary of Defense, then the Administrator is extended the authority to secure independent health insurance coverage providing similar services for the benefit of these limited classes of beneficiaries. Finally, the Administrator would have the authority to provide care in VA facilities specially equipped to provide the most effective care and treatment in a particular case. Examples of treatment which this provision contemplates are such exceptional services as hemodialysis, spinal cord injuries, open heart surgery, and high voltage X-ray and radioisotope therapy.

Second, instead of requiring specific staff-to-patient ratios in VA hospitals on a regional basis, as did our bill last year, H.R. 9048 would direct the Administrator of Veterans' Affairs to negotiate an agreement with the National Academy of Sciences for a full review and appraisal by the Academy of personnel and other resource requirements in VA medical facilities. The problem of an appropriate staff-to-patient ratio has been a controversial one for many years and there is a great variance of opinion as to comparison of the VA ratio to the ratios at the private sector hospital level. The committee has consulted with representatives of the National Academy of Sciences and is confident that they have the particular resources and objectivity to make meaningful findings and constructive conclusions in the area in question.

Third, another controversial area through the years has been the question of the minimum hospital patient census that should be maintained. Past appropriation acts and our medical bill which was vetoed last year, contained mandatory numerical requirements for the number of beds to be maintained and patients to be treated in VA hospitals during a fiscal year. One of the specific objections cited by the President in his memorandum of disapproval last year dealt with this feature. H.R. 9048 would place in the law a broad policy approach which has been coordinated with, and concurred in, by the Office of Management and Budget, as reflected in its letter to the committee contained in the report on H.R. 9048.

Under this bill the Administrator is directed to provide the staff and maintain sufficient beds and other facilities to insure the immediate acceptance of, as well as the timely and complete medical care to, eligible veterans who apply for hospital admission and who are found in need of hospital care or medical services.

Further, the Administrator would be required to maintain the bed and treatment capacities of all Veterans' Administration medical facilities so as to insure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions or in the provision of such care and of services pursuant to section 612 of title 38.

The other provisions of the bill are generally administrative or operational in character and are designed to make improvements in the Department of Medicine and Surgery, extend greater flexibility to the Administrator in carrying out his responsibilities in the veterans medical care program, and to clarify and extend certain administrative authority now set forth in title 38 of the United States Code.

The major objectives of the bill which I previously discussed briefly are believed by the committee to be highly desirable and essential to the needs and greater utilization of the facilities of the Department of Medicine and Surgery. The broadening of the authority to extend outpatient or ambulatory care will enable the Veterans' Administration to render such care in many cases which under present law would require initial hospitalization of the non-service-connected wartime veteran concerned. With this expanded authority, the need for hospital admission will be obviated, thus making beds available to other veterans where hospitalization is clearly required.

With respect to cost, it has been estimated that the additional cost for the first full year following enactment of the bill will be $64.9 million. This represents a significant reduction in the cost of last year's bill which was estimated to be $88.9 million. At the same time, we believe that all of the basic objectives will have been met.

Mr. Speaker, in order to fully round out the record on this very major piece of veterans' legislation, I insert at this point a detailed summary of the provisions of the bill, together with a section-by-section analysis of H.R. 9048. In addition, I insert letters and telegrams from the Veterans of Foreign Wars, the Disabled American Veterans and the American Legion urging enactment of this measure.

In conclusion, Mr. Speaker, I strongly recommend approval of this important veterans' bill.

The material follows:

SUMMARY OF PROVISIONS

(1) Permits the furnishing of medical services on an outpatient or ambulatory basis to any veteran eligible for hospital care under veteran laws, where such care is reasonably necessary to obviate the need for hospital admission. These services include, in addition to medical examination and treatment, optometrists' services, dental and surgical services, as are now available in the case of non-service-connected disabilities for treatment after the veteran has been scheduled for admission for hospital treatment or, following hospitalization, in connection with treatment he received while hospitalized. The bill also extends mental health services, consultation, professional counseling and training of members of the immediate family of disabled veteran and such home health services as may be necessary or appropriate for the effective and economical treatment of VA beneficiaries. Places peacetime veterans on same basis as wartime for hospital and medical benefits. In the case of veterans who are disabled to a degree of 80 percent or more for a service-connected cause, provides for outpatient care for any disability from which he suffers.

(2) Provides for pay differentials for nurses performing duty between the hours of 6 p.m. and 6 a.m.; from midnight Saturday to midnight Sunday; or on Federal holidays. Provides for overtime pay for hours of service in excess of 40 hours during nurses administrative work week, or in excess of 8 hours a day; and for additional pay for nurses who are "on call" outside regular work hours.

(3) Directs VA, to the extent feasible, without interfering with medical care and treatment of veterans, to develop and carry out a program of training and education of health service personnel, acting in cooperation with schools of medicine and other institutions, and stressing the recruiting, training, and hiring of former military medics.

(4) Provides for furnishing of hospital and medical care (if such care is not otherwise provided under CHAMPUS, the medical program for certain dependents and survivors of active duty and retired members of the Armed Forces), for the wife or child of a totally and permanently disabled service-connected veterans and to surviving widows and children of veterans who died as a result of service-connected disability. This care is to be provided in the same or similar manner and be subject to the same limitations as presently apply to Armed Forces dependents previously mentioned. The Veterans' Administration is authorized to enter into contracts with the Department of Defense or with private insurors for this purpose. Care may be provided for the subject group of dependents in VA facilities in those cases where there are specialized facilities which are not being utilized for care of eligible veterans.

(5) Directs the Administrator of Veterans' Affairs, within 90 days after enactment, to conclude negotiations for an agreement with the National Academy of Sciences for conducting a full review and appraisal of the personnel and other resource requirements in VA medical facilities. The National Academy of Sciences will then render interim reports, at the earliest feasible date, to the Administrator, the President of the Senate, and the Speaker of the House of Representatives, with a final report to be submitted not later than 24 months after the date of agreement. This date may be extended by not more than 12 additional months after consultation with the Chief Medical Director and the House and Senate Committee on Veterans' Affairs. The Administrator, within 90 days after submission of said report, to be required to submit to the House and Senate Committees a detailed report of his views on the findings and recommendations of the National Academy of Sciences and the steps and timetable he proposes for implementing these recommendations.

(6) Authorizes the appointment of two additional Assistant Chief Medical Directors, who may be individuals qualified in the administration of health services, but who are not doctors of medicine, dental surgery or dental medicine. Also reflects the new designations of Director of the Pharmacy Service and Director of the Dietetic Service to correspond to the other Director of Services titles, such as Chaplain and Nursing. It also establishes the position of Director of Optometry and prescribes compensation to be paid to such personnel.

(7) Prescribes the circumstances under which physicians, dentists or nurses may perform professional services other than those performed as full-time employees of the Veterans' Administration, and prohibits payments for certain services.

(8) Permits furnishing of nursing home care in the case of service-connected veterans requiring such care for their service-connected disabilities upon determination of need therefor by a Veterans' Administration doctor, thus removing the requirement that these persons be first hospitalized under VA auspices. Authorizes direct transfer of military personnel from military hospitals to nursing home care facilities.

(9) Clarifies current law with regard to contracts with clinics and other groups or individuals (in addition to medical schools and clinics as now permitted) for securing certain specialized medical resources.

(10) Provides additional authority for temporary full-time appointments of various types of medical personnel for a period of time not to exceed 1 year. Such appointments were previously authorized for a period of not more than 90 days.

(11) Clarifies and extends protection in malpractice or negligence suits brought against VA medical personnel.

(12) Permits reimbursement of veterans in VA hospitals and domiciliaries for loss of personal effects sustained by fire, earthquake, or natural disaster, while such effects were stored in those VA facilities. Previous law permitted reimbursement only in case of loss by fire.

(13) Permits VA to lease buildings or lands to public or nonprofit organizations without advertising, and to consider maintenance, protection, or restoration, by the lessee, as all or part of payments received under the lease. Prior to execution of any such lease, the Administrator must give public notice of intention in the press of the community in which the lands or buildings to be leased are located.

(14) Authorizes reimbursement of certain veterans who have service-connected disabilities, under limited circumstances, for reasonable value of hospital care or medical services, including necessary travel expense, when services are furnished from sources other than the VA. Eligible veterans are those receiving treatment for a service-connected disability, or a non-service-connected disability associated with a service-connected disability (or veterans in need of vocational rehabilitation because of a service-connected disability whose training would be interrupted or delayed because of the illness). Services must be rendered in a medical emergency and VA or other Federal facilities must not be feasibly available. In lieu of payment to the veteran, payment may be made directly to the medical facility providing medical services, or to a person or organization making payments in behalf of the veteran.

(15) Authorizes installation of telephones in personal residences of nonmedical directors of VA hospitals, domiciliaries, centers and independent clinics. Present law permits this only in the case of medical doctors.

(16) Clarifies the term "Veterans' Administration facilities" as it relates to provision of care in private facilities for VA beneficiaries.

(17) Extends VA authority (until June 30, 1978) to continue grants for hospital and medical care of veterans in the Republic of the Philippines. No more than $2 million is authorized to be expended for this purpose in any one fiscal year (including not more than $250,000 for nursing home care). Authority is also provided for expenditures in the amounts and for the purposes which follow, in each fiscal year during the 5-year period beginning July 1, 1973 and ending June 30, 1978: Authorizes grants to VA Memorial Hospital, Manila, for education and training of health service personnel assigned to that hospital, $50,000; and for replacement and upgrading of equipment and rehabilitation of the physical plant $50,000. Also extends authority to operate the VA Regional Office in the Republic of the Philippines through June 30, 1978. Authority is provided to assist the Republic of the Philippines in furnishing medical care (including nursing home care) for Commonwealth Army veterans and new Philippine Scouts who enlisted before July 4, 1946, under certain conditions.

(18) Provides specific authority for a VA program of screening, counseling, and treatment of sickle cell anemia.

(19) Provides for relinquishment to States in which VA facilities are located of such legislative jurisdiction as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned, of lands over which VA has jurisdiction.

(20) Provides for contracts with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with VA in training interns and residents, to provide for central administration of stipend payments, provision of fringe benefits and maintenance of records, by designating one such institution to serve as central administrative agency for this purpose.

(21) Directs the Administrator to staff and maintain sufficient beds and other facilities to insure immediate care of patients found to be in need of hospital care and medical services, and makes provision for rendering of an annual report on admission policies, as well as need for additional funds and facilities to meet the needs of veterans for necessary care and services, from the Chief Medical Director to the Administrator and to the House and Senate Committees on Veterans' Affairs. The Administrator is directed, with the approval of the President, to operate not less than 8,000 nursing care beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter.

(22) Provides for appointment by the Administrator of an Advisory Committee on Structural Safety of Veterans' Administration Facilities, to include at least one architect and one structural engineer who is an expert on fire, earthquake and other natural disasters, and who are not employees of the Federal Government, to advise him on matters relative to structural safety and remodeling of VA hospital and medical facilities.

(23) Provides for VA's contribution to local authorities for construction of traffic controls and road improvements in locations adjacent to VA medical facilities when deemed necessary for safety purposes.

(24) Increases the per diem rate for reimbursements of State soldiers' homes which provide care for veterans who are eligible for admission to VA medical and domiciliary facilities, from $3.50 per veteran per day to $4.50 where domiciliary care is provided; $5 to $6 where nursing home care is provided; and from $7.50 to $10 where hospital care is provided. Authority is also provided for reimbursement of such State home facilities where care is furnished veterans whose service occurred after January 31, 1955.

(25) Increases the percentage of the Federal Government's allowable contribution under the program of grants to States for construction, alteration, and renovation of State veterans' homes, from the present 50-percent maximum to 65 percent of the estimated cost of such projects.

(26) In connection with VA assistance to States in constructing nursing home facilities for veterans, appropriation authority is extended for an additional 5 years, i.e., to June 30, 1979. The formula for determining adequate State nursing home beds is increased from a maximum of 1½ beds per 1,000 veterans in any State to 2½ beds.

SECTION-BY-SECTION ANALYSIS OF H.R. 9048 AS REPORTED

Section 1 establishes the title of the proposed Act as "The Veterans Health Care Expansion Act of 1973."

TITLE I—HOSPITAL, DOMICILIARY, AND MEDICAL CARE BENEFITS

Section 101.—Subsection (a) amends clause (C) of present section 601(4) of title 38, regarding the Administrator's contract authority for providing hospital care, along the lines recommended in the administration bill proposed in the 92d Congress to delete the qualification that contract care for persons suffering from service-connected disabilities or disabilities for which they were discharged or released from the service be provided "only in emergency cases." Deletion of this language confirms existing practice.

Subsection (b) of section 101 amends paragraph (5) of present section 601 of title 38, which defines "hospital care", to reflect the expanded eligibility for hospital care provided for in subsection (a) of section 101 and section 102(3) of the bill as reported. In addition, a new clause (B) is added in paragraph (5) in order to include within the definition of "hospital care" the provision of mental health services, counseling, training, and (on the terms set forth in present section 111 of title 38) necessary transportation and subsistence expenses for the members of the immediate family of VA patients when such services and expenses are necessary or appropriate to treat and rehabilitate the VA patient effectively.

Subsection (c) of section 101 amends paragraph (6) of present section 601 of title 38, which defines "medical services" (ambulatory and out-patient care), to provide specific authority for the provision of home health care services.

Section 102 makes a series of amendments to present section 610 of title 38, which specifies eligibility for hospital and domiciliary care.

Clause (1) amends present subsection (a) to make nursing home care an inherent part of VA hospital care, thereby authorizing direct admission to VA directly-run nursing homes for all section 610 (as amended by section 102(4) of the bill as reported) beneficiaries. The effect of this new clause and the new section 610(e), added by clause (4) of section 102 of the bill as reported, is to authorize direct admission to VA directly-run nursing homes, eliminating the requirement that admission to such nursing homes must be made only for patients hospitalized in VA facilities. This new language would not authorize such direct admission to community nursing homes. (See section 104 of the reported bill for amendments to community nursing home authority.)

Clause (2) amends present clause (1)(B) of subsection (a) to make any veteran, peace-time or war-time, eligible for hospital care for a non-service-connected disability if he is unable to defray the necessary hospital expenses, rather than only war veterans at present. This provision would provide new eligibility for approximately 150,000 peace-time veterans (generally those whose service ended prior to April 6, 1917, and those who served between November 12, 1918 and December 6, 1941, and those who served between January 1, 1947 and June 27, 1950). The VA estimates the first-year cost of this provision as $7.9 million.

Clause (3) replaces the present subsection (c), regarding the provision of medical services to hospitalized veterans for non-service-connected disabilities for which they were *not* hospitalized. The revised subsection eliminates the requirements that the Administrator make a determination in each such instance that the treatment of the non-service-connected disability would be in the veteran's interest, would not prolong his hospitalization, and would not interfere with the furnishing of hospital services to other veterans. These conditions are needlessly restrictive on professional medical judgment or redundant of such judgment. The revised subsection, in accordance with what the VA advises is actual practice in most instances, premises the provision of such medical services only upon the willingness of the veteran and a finding that such services are reasonably necessary to preserve his or her health. No additional costs will result from this provision.

Clause (4) adds a new subsection (d) to present section 610 of title 38, as follows:

New Subsection (d) provides that in no event may nursing home care under chapter 17 of title 38 (as added to basic hospital care eligibility in present section 610 by clause (1) of section 102 of the bill as reported) be provided in other than VA directly-run nursing homes except insofar as community nursing home care under contract is expressly authorized under present section 620, as amended by section 105 of the bill as reported.

Section 103 amends present section 612 of title 38 by replacing present subsection (f), regarding the provision of medical services for the non-profit-connected disabilities of certain veterans. Presently, such out-patient and ambulatory care for non-service-connected disabilities may be provided only on a pre-hospital or post-hospital care basis or to any war veteran with a total and permanent service-connected disability. The revised subsection (f) includes for the first time the language "on an outpatient or ambulatory basis" and makes the provision applicable to service-connected as well as non-service-connected disabilities (thus, a veteran unable to defray the necessary expenses of hospitalization who contended his condition was service-connected and did not then require hospitalization could be provided outpatient care if his condition met the "obviate" criterion described in item

(1) below, without waiting for adjudication of his service-connected claim). The revised subsection also makes the following changes with respect to this authority: (1) authorizes (along lines proposed in the administration bill proposed in the 92d Congress), outpatient care to such veterans "when necessary to obviate the need of . . . hospital admission"; (2) authorizes such outpatient care for any veteran, peace-time or wartime, with an 80% or more rated service-connected disability; and (3) authorizes such outpatient care for any person eligible for hospital care, which, under the hospital care eligibility provisions in the revised subsection 610, newly authorizes outpatient care under the terms of revised subsection (f) for peacetime veterans.

Under the new "necessary to obviate" hospital care standard, a veteran with a non-service-connected disability would still be required to complete an oath of inability to defray the necessary expenses of hospital care, pursuant to present section 622 of title 38. According to the VA report this provision would entail no additional expenditures.

Subsection (b) of Section 103 adds a new provision authorizing the Administrator to provide, under certain limited conditions, medical care for the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability and for the widow or child of a veteran who died as a result of a service-connected disability *provided* that such a person is not otherwise eligible for medical care under Chapter 55 of Title 10 (CHAMPUS). The Administrator may provide such care either by agreement with the Secretary of Defense to include coverage for such persons under the on-going CHAMPUS program or by contracting independently for such insurance, medical service or health plans as he deems appropriate.

The Administrator would also be authorized to treat such dependents and survivors on an inpatient or outpatient basis in VA facilities in cases where those facilities are particularly equipped to provide the most effective care and treatment, such as, for example, hemodialysis, spinal cord injury units, open-heart surgery, and high-voltage x-ray and radio-isotope therapy, and other specialized medical services which are available on an inpatient or outpatient basis in some VA hospitals and which may not be available in many community medical facilities.

Section 104.—Subsection (a) amends subsection (a) of present section 620 of title 38, regarding transfer of VA hospital patients to community nursing homes, so as to authorize direct admission (without immediately prior VA hospitalization as is now required) to community nursing homes at VA expense of servicemen from military hospitals if the Service Secretary concerned determines and the Administrator agrees that the serviceman has received maximum hospital benefits and requires nursing home care. The VA estimates no material cost increase as a result of this provision.

Subsection (b) of section 104 is purely technical in order to achieve consistency of drafting style.

Subsection (c) of section 104 amends subsection (b) of present section 620 of title 38, requiring VA standards to be established for community nursing homes to which eligible veterans are transferred, by adding a new sentence to require the Administrator to make copies of VA prescribed standards and inspection reports available to all Federal, state, and local agencies charged with licensing or otherwise regulating or inspecting such institutions (this is done only sporadically now).

Subsection (d) of section 104 adds a new subsection (d) to present section 620 of title 38 to authorize direct admission of a veteran to community nursing homes at VA expense of veterans requiring nursing home care for service-connected disabilities after the need for such care is determined by a physician (employed by the VA or performing under contract or fee arrangement) based upon an examination of the veteran by such physician. A comparable provision was supported by the VA in 1972, except that the VA provision would have excluded (apparently inadvertently) application of this new procedure in Hawaii and Alaska where the VA does not maintain medical facilities or employ physicians. The revised provision also makes clear that in such states as well as in geographical areas where no VA physician employee is stationed, the examination and determination may be conducted on behalf of the VA by a physician under a contract or fee arrangement.

Section 105.—Subsection (a) amends present section 626 of title 38, regarding VA reimbursement to VA patients due to fire loss, so as to cover certain personal property loss by earthquake or other natural disaster (flood, windstorm). The VA has produced no cost estimate for this provision, which section 501 of the bill as reported makes retroactive to January 1, 1971, in order to cover the San Fernando, California, earthquake and the Fayetteville, North Carolina, windstorm, both of which occurred in February, 1971, and occasioned considerable patient property loss.

Subsection (b) of section 106 amends the catchline for present section 626 to reflect the revision contained in subsection (a).

Section 106.—Subsection (a) amends present subchapter III (Miscellaneous Provisions) of chapter 17 of title 38 by adding a new section 628 to codify a VA regulation providing for reimbursement of the reasonable value of hospital care and medical services provided to veterans entitled to VA medical care for service-connected disabilities in an emergency when VA facilities are not readily available. No additional cost should be occasioned by this provision.

The bill as reported also includes in the reimbursement provisions of the new section authority for reimbursement (without prior authorization) for emergency care provided for any disability (whether or not it could be demonstrated to be service-connected) of a veteran with a 100 percent permanent and total service-connected disability. Under present law, such veterans are entitled to full VA medical care, in- and out-patient, for any disability, either directly in a VA facility or by fee or contract. However, it is not clear that the VA would interpret its contract authority (which itself is not crystal clear in present law—the bill as reported makes it explicit) to permit reimbursement after expenditures had been made an emergency situation where no VA hospital or clinic is accessible. And the enactment of section 628, without inclusion of authority to make such reimbursement, might be interpreted to rule out such an expansive interpretation.

The amendment would close this small gap in coverage for the 100% service-connected disabled (it is retroactive to January 1, 1971, to cover any meritorious claims arising since the start of the 92nd Congress). It is not contemplated that appreciable additional expense would be entailed since such so severely disabled veterans tend to remain accessible to VA hospitals for treatment.

Subsection (b) of the new section makes clear the Administrator's authority to make payment directly to the provider of the services rather than to the veteran treated.

Section 107.—Subsection (a) amends sections 631 and 632 of title 38 effective July 1, 1973 regarding grants to and agreements with the Philippines, by striking out these sections and inserting in lieu thereof new sections 631 and 632. The VA estimates the first year cost as $2.1 million and the same for each of the next four fiscal years.

New section 631 authorizes the President to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans and certain new Philippine Scouts for service-connected disabilities and for non-service-connected disabilities under certain conditions.

New section 632(a) provides that the President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital, with approval of the appropriate department of the Government of the Republic of the Philippines covering the period beginning on July 1, 1973, and ending on June 30, 1978, under which the United States—

(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided in the Veterans Memorial Hospital (or by contract or otherwise) in accordance with the conditions and limitations applicable generally to beneficiaries under present section 612 of title 38, for Commonwealth Army veterans and new Philippine Scouts the Administrator determines to need such hospital care or medical services for service-connected disabilities (presently there is no contract care authority for new Philippine Scouts);

(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans and new Philippine Scouts who enlisted before July 4, 1946, the Administrator determines need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

(3) may provide for the payment of travel expenses pursuant to present section 111 of title 38 for Commonwealth Army veterans and new Philippine Scouts in connection with hospital care or medical services furnished them;

(4) may provide for payments for nursing home care, on the same terms and conditions as set forth in section 620(a) of title 38, for any Commonwealth Army veteran or new Philippine Scout determined to need such care at a per diem rate not to exceed 50 percent of the hospital per diem rate established pursuant to the new clause (6) of section 632 (this is a new authority);

(5) may provide that payments for hospital care and medical services provided to Commonwealth Army veterans and new Philippine Scouts or to U.S. veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator; and also is authorized to furnish, through the revolving supply fund, pursuant to present section 5011 of title 38, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefor, as applicable, appropriations available for such payments;

(6) will provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

(7) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

Subsection (b) of the new section provides that the total payments under this modified agreement shall not exceed $2 million for any one fiscal year during such period, of which sum not to exceed $250,000 shall be for the purposes of payments under new clause (4).

Subsection (c) of the new section provides that available beds, equipment, and other facilities at the Veterans Memorial Hospital can be made available at the discretion of the Republic of the Philippines for other persons subject to (1) priority of admission and retention in the hospital of Commonwealth Army veterans or new Philippine Scouts needing hospital care for service-connected disabilities, and (2) the use of available facilities on a contract basis for hospital care or medical services for persons eligible therefor from the VA.

Subsection (d) of the new section provides for an authorization of appropriations each fiscal year during the six years beginning July 1, 1973, and ending June 30, 1978, of (1) $50,000 for VA grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel assigned to (as compared to present section 632(e)) the hospital and (2) $50,000 for VA assistance to the Republic of the Philippines in replacing and upgrading equipment and rehabilitating the hospital physical plant under terms and conditions prescribed by the Administrator. Appropriations for purposes of clause (2) are to remain available until expended. This provision would enable the VA to obtain equipment whose value may exceed $50,000 by allocating 2 or more years funding for such purchase.

Subsection (b) of section 107 amends the table of sections at the beginning of chapter 17 of title 38 to reflect changes made in present sections 631 and 632 of title 38 by subsection (a).

Subsection (c) of section 107 provides that nothing in this section shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Philippines and the Government of the United States resulting from Public Law 89–612, which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 612 of title 38, in effect on the day before the date of enactment of this section.

Section 108.—Subsection (a) amends present section 624 of title 38, regarding hospital care and medical services abroad, by adding a new subsection (d) making U.S. veterans residing in the Philippines eligible for the same per diem payments for nursing home care as would be made available to Filipino veterans in the Philippines by the amendment to present section 632 in section 107 of the bill as reported. This new eligibility should entail no appreciable cost.

Subsection (b) of section 108 amends the catchline for present section 624 to reflect the revision contained in subsection (a).

Section 109.—Subsection (a) adds to chapter 17 of title 38 a new subchapter VI, "Sickle Cell Anemia". This provision is similar to provisions in section 5 of S. 2676, the proposed "National Sickle Cell Anemia Act", which passed the Senate on December 8, 1972. This section was deleted from the version as is passed the House (incorporating the text of H.R. 13592) on March 22, 1972, and this deletion was agreed to by the Senate on April 17, 1972, in returning the bill to the House with an amendment. The Act is now P.L. 92–294.

Section 651 in the new subchapter authorizes the Administrator to carry out a comprehensive program of providing sickle cell anemia screening, counseling and treatment, and dissemination of information under the provisions of chapter 17. It is expected that under these provisions, the VA would offer to all veterans receiving hospital or domiciliary care or medical services, and those receiving benefit eligibility examinations, screening examinations to detect those persons with the sickle cell trait or with sickle cell anemia; ensure that all veterans' benefits recipients receive full information as soon as possible regarding sickle cell trait or anemia and where they may receive screening and treatment for such a trait or disease; provide appropriate counseling on a voluntary basis to a spouse of an eligible veteran, who was found to have the sickle cell trait; and advise every black veteran receiving outpatient or inpatient VA care or undergoing a VA physical examination about the availability of voluntary sickle cell anemia screening under the new Subchapter. The VA estimates the cost of these programs over a five-year period to be $10 million.

Section 652 in the new subchapter authorizes the Administrator to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under the new subchapter.

Section 653 in the new subchapter.—Subsection (a) specifies that any person who participates in any of the sickle cell anemia programs under the new subchapter (including the research program by cross reference in new section 652) shall do so only on a voluntary basis, and that such participation shall not be a condition for receiving service or assistance from programs to which the participant may otherwise be entitled under title 38.

Subsection (b) of the new section directs the Administrator to ensure the confidentiality of all information and patient records obtained from sickle cell anemia programs conducted under the new subchapter.

Section 654 in the new subchapter directs the Administrator to include in the annual report to the Congress required by title 38, a comprehensive report on the administration of the new Subchapter, including recommendations for additional legislation as the Administrator deems necessary.

TITLE II—AMENDMENTS TO CHAPTER 73 OF TITLE 38, UNITED STATES CODE, RELATING TO THE DEPARTMENT OF MEDICINE AND SURGERY

Section 201 amends present section 4101 of title 38, regarding functions of the Department of Medicine and Surgery (DM&S), by revising present subsection (b) to supplement the primary function of the VA Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower in order to meet national needs in addition to meeting the hospital needs of veterans, to the extent feasible without interfering with the medical care and treatment of veterans. In carrying out this function, the Administrator is directed to develop and carry out a program of health manpower education and training, including the development and evaluation of new health careers, interdisciplinary approaches and career advancement opportunities, and to carry out a major program for the recruitment, training and employment of veterans with medical military occupation specialities (MOS) as physicians' assistants, dentists' assistants, and other medical technicians. The VA is directed to advise all veterans and servicemen about to be discharged with such MOS's of the opportunities for training and employment in the VA. In implementing these new programs, the VA is directed to act in cooperation with such health training institutions as the Administrator deems appropriate. The VA estimates no additional cost resulting from this provision.

Section 201 also adds a new subsection (c) to the present section 4101 to provide that—

(1) Within 90 days after enactment of the subsection, the Administrator, in consultation with the Chief Medical Director, is directed to conclude negotiations for an agreement with the National Academy of Sciences under which such Academy (utilizing its full resources and expertise) will conduct an extensive review and appraisal of personnel and other resource requirements in Veterans' Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to ensure the provision to eligible veterans of high quality hospital, medical, domiciliary, and nursing home care in all such facilities. Such agreement shall provide that (A) at the earliest feasible date interim reports (the first six months after the contract is executed) and the final report will be submitted by the National Academy of Sciences to the Administrator, the President of the Senate and the Speaker of the House of Representatives, and (B) the final report will be submitted no later than 24 months after the date of the agreement except that the Administrator, in consultation with the Chief Medical Director and after consultation with the House and Senate Committees on Veterans' Affairs, may permit an extension up to twelve additional months.

(2) Within 90 days after the submission of the final report described in subsection (a) of this section, the Administrator shall submit to the Senate and House Committees on Veterans' Affairs a detailed report of his views on the National Academy of Sciences' findings and recommendations submitted in such report, including (A) the steps and timetable therefor (to be carried out in not less than three years) he proposes to take to implement such findings and recommendations and, (B) any disagreements, and the reasons therefor, with respect to such findings and recommendations.

(3) The Administrator shall cooperate fully with the National Academy of Sciences, and make available to the Academy all such staff, information, records, and other assistance, and shall set aside for such purposes such sums, as are necessary to ensure the success of the study.

Section 202 amends present section 4103(a) of title 38, which specifies the personnel in the Office of the Chief Medical Director to make changes included in the administration bill originally proposed in the 92nd Congress: providing in paragraph (4) of the present subsection authority for appointment of two additional (six authorized now) Assistant Chief Medical Directors (ACMD's) (VA estimated cost $89,000 per year) not more than two of whom may be lay administrators and in paragraph (7) of the present subsection, upgrading the Chief Pharmacist and Chief Dietician to Directors of Services and adding a new position "Director of Optometry" under the Chief Medical Director. (Under the new Section 4103 Schedule in section 203 of the reported bill, all three positions would be compensated at the same level—$31,203 minimum to $39,523 maximum.)

Section 203.—Clause (1) revises subsections (a) and (b) of present section 4107 of title 38, establishing title 38 DM&S grades and pay scales (for DM&S officers; physicians, dentists, and nurses), along the lines in the administration bill proposed in the 92nd Congress. Basically, the amendment reflects current practice under the three recent Federal pay increases. In addition, the Director of Nursing is upgraded to the level of Medical Director grade (GS–17)—the same as Directors of DM&S Services (such as Psychiatry); the Directors of the Chaplain, Pharmacy and Dietetic Services are upgraded from the equivalent of GS–15 to 16; and a new Nurse Schedule grade is established—Director grade comparable to the Chief Grade in the Physician and Dentist schedule, all recommended by the VA (at an annual cost estimate of $63,000). Establishment of the Director grade is intended to recognize the difficult managerial and professional responsibilities inherent in the position of Chief Nurse in the very largest and most complex VA hospitals, and in the position of the top program officials in the headquarters Nursing Service in the Department of Medicine and Surgery. Such responsibilities inherent in other chief nurse and managerial nurse positions can be similarly recognized, as appropriate, by use of existing grades in the Nurse Schedule.

The newly created position of Director of Optometry is paid on the same level as the Directors of the Pharmacy and Dietetic Services; and the prohibition in subsection (b) (2) of the present section 4107 on persons who are eligible to hold the director grade (directors of VA hospitals, domiciliaries, centers, or independent outpatient clinics) is made applicable only to the Physician and Dentist Schedule so as to carry out the purpose of the new Director grade in the Nurse Schedule—for the Chief Nurse in large hospitals—as recommended by the Administration.

Clause 2 of section 203 adds at the end of present section 4107 of title 38, regarding grades and pay scales, new subsections as follows:

New subsection (d) specifically applies to title 38 salaries and limitations—salaries in excess of $36,000 limited to $36,000 until pay for level V of the Executive Schedule is raised—of 5 U.S.C. 5308. A comparable provision was included in the administration bill proposed in the 92d Congress.

New subsection (e) establishes overtime and premium pay benefits for VA nurses (and it is intended that this provision shall be applied to intermittent and part-time nurses) generally comparable to those now available to General Schedule and Wage Board employees. Similar provisions were included in the administration bill proposed in the 92d Congress. Variations are noted in the description that follows:

Paragraph (1) of the new subsection establishes the basic eligibility for specified pay in addition to basic compensation. *Paragraph (2) of the new subsection (Night Duty)*:—10% of the employee's basic rate added for each hour between 6 p.m. and 6 a.m. except that if at least four hours of a tour (generally 8 hours of work per full tour) fall within those hours of the night tour (for example a 3:30 p.m. to 12 midnight tour), all hours of that tour would be paid at the extra 10% rate. (It should be noted that the administration proposal in the 92d Congress seemed to exclude the night nurse working overtime from the additional 10%—i.e., 160% instead of 160% by use of the language "for each hour of service not exceeding eight hours," whereas the provision in the reported bill would clearly provide for 160%, as do present G.S. authorities.)

Paragraph (3) of the new subsection (Sunday Duty):—25% of the employee's basic rate added for each hour worked on a tour any part of which falls between midnight Saturday and midnight Sunday. The administration proposal in the 92d Congress, apparently this time following G.S. precedent, would clearly preclude 175% for Sunday overtime, whereas the reported bill provision would allow it by deleting "which is not overtime work" and the same eight-hour tour limitation discussed in new paragraph (2) above.

Paragraph (4) of the new section (Holiday Duty):—100% of the employee's basic rate added for each hour worked on a Federally-declared holiday. For overtime work on a holiday, in conjunction with paragraph (7), the full 100% additional would be paid, rather than only 50% additional for holiday overtime, which is the incongruous and inequitable effect—reducing pay when the nurse goes on overtime on a holiday—proposed by the administration and paid under the G.S. A provision has been added to specify that a nurse required to perform any work on a holiday shall receive at least two hours double pay (now provided in 5 U.S.C. 5546(c) for G.S. employees).

Paragraph (5) of the new section (Overtime Duty):—150% of the employee's basic rate used for computation for each hour in excess of eight hours per day or forty hours per administrative workweek, but the basic rate cannot be above the minimum rate of Intermediate grade in the Nurse Schedule (equivalent of GS 11—although GS 10, Step 1, is the limiting salary base under the General Schedule; overtime does not begin until at least 15 minutes is worked; compensatory time off is not permitted as it is under the G.S. system; and any new work on a nonwork day or callback shall be a minimum of time-and-a-half for two hours. This whole provision is identical to the original administration proposal in the 92d Congress.

Paragraph (6) of the new subsection specifies the basis for computing the basis hourly rate (dividing annual salary by 2080) This is identical to the administration bill proposed in the 92d Congress.

Paragraph (7) of the new subsection makes clear that the additional pay provisions of new paragraphs (2) through (5) are to be applied independently and consecutively, except that holiday overtime and holiday nonovertime work are both paid the same (200%). There was no comparable administration provision proposed last Congress.

Paragraph (8) of the new subsection (On Call):—10% of the employee's basic overtime rate (150% of the employee's basic rate not to exceed Intermediate grade, Step 1) added for each hour officially scheduled on call. There is no comparable provision in the administration bill or G.S. now, although serious consideration has been given to it. A survey of available data on large city hospital pay practices for on-call time indicates the proposed provision in the Committee substitute is in step with private and community practice in this area.

Paragraph (9) of the new subsection provides that additional pay under this new subsection will not count as basic compensation for lump-sum leave payments, severance pay, and other benefits relating to basic compensation. There was an identical provision in the administration bill as a paragraph (7) in a new subsection (d) to be added to present section 4107.

The VA estimate of the first-year cost for premium and differential pay is $26.7 million.

Section 204 amends present section 4108 of title 38 to clarify the hours and conditions of employment and leaves of absence for physicians, dentists, and nurses appointed on a full-time basis.

New subsection (a) directs the Administrator to prescribe, by regulation, such hours and conditions of employment and leaves of absence, and lists provisions regarding permissible outside employment by physicians, dentists and nurses appointed in the Department of Medicine and Surgery—

Clause (1) of the new subsection would prohibit such personnel from assuming responsibility for the medical care of any patient other than a patient admitted for treatment at a VA facility, except where, with the approval of the Chief Medical Director, such responsibilities are assumed to assist communities or medical practice groups to meet medical needs which would otherwise not be available (for a period limited to 6 months, with extension for an additional six months approved specifically by the Chief Medical Director). The Chief Medical Director would delegate to the station director the responsibility for granting an exception so that consulting services for up to six months would be permissible when necessary to provide scarce expertise to help the non-VA community to provide otherwise unavailable services.

Clause (2) of the new subsection would prohibit such personnel from teaching or providing consultative services at affiliated institutes where such activities would, because of their nature or duration, conflict with responsibilities under title 38.

Clause (3) of the new subsection would prohibit such personnel from accepting payment under reimbursement programs established under subchapter XVII (Medicare) or XIX (Medicaid) of chapter 7 of title 42, or under chapter 55 of title 10, for professional services rendered while actually carrying out responsibilities under title 38.

Clause (4) of the new subsection would prohibit such personnel from accepting any payment or per diem for travel performed in the course of carrying out responsibilities under title 38, other than as provided for in section 4111 of title 5.

Clause (5) of the new subsection would prohibit such personnel from requesting or permitting any payment on his behalf for insurance insuring him against malpractice claims arising in the course of carrying out responsibilities under title 38 or for dues or fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of his remuneration for professional responsibilities permitted under section 4108, other than those carried out under title 38.

Clause (6) of the new subsection would prohibit such personnel from performing any professional services, in the course of carrying out responsibilities under title 38, for the purpose of generating money for any fund or account maintained by an affiliated institution for the benefit of such institution, or for his personal benefit, or both. Where such funds or account may have been established prior to the effective date of the new subsection (a), certain requirements and limitations are specified.

Subsection (b) of section 204 amends the table of sections at the beginning of chapter 73 of title 38 to reflect the revisions contained in subsection (a).

Section 205. Subsection (a) amends present section 4109 of title 38, regarding retirement rights, to update the statutory reference in view of the codification of title 5, United States Code.

Section 205.—Subsection (b) is a technical clarifying amendment.

Section 206.—Clause (1) amends present section 4114(a) of title 38, regarding temporary, full-time appointments of health personnel, to raise the time limit of such appointments from 90 days to one year for health personnel generally (except trainees), just as it is for physicians, dentists, and nurses. This provision was included in the administration bill (proposed in the 92nd Congress).

Clause (2) of section 206 amends present section 4114(b) of title 38, regarding residency and internship appointments, by adding a new paragraph (2) defining the term "intern" and a new paragraph (3) providing for central administration of internships and residencies, in a form virtually identical to that which was first proposed by the administration and passed the House in H.R. 10879 in the 92nd Congress with a VA estimate of no additional cost.

Clause (3) of section 206 adds a new subsection (e) to present section 4114 of title 38 to require that full-time training programs for veterans to be physicians and dentists' assistants be treated as a full-time institutional program ($220 per month for a single veteran), the same as are internship and residency training programs (by virtue of an administrative ruling) under chapter 31, 34 or 35 for purposes of GI bill benefits. Measurement of such training program as less than full-time under the GI bill would be permissible only when the combined classroom (and other formal instruction) and OJT portions of the training program totalled less than 30 hours per week (a figure drawn from present section 1788(a)(5) in chapter 36 of title 38 regarding measurement of OJT full-time programs under the GI bill). This provision is designed to make physicians' assistant training more attractive to veterans with medical MOS's. No cost estimate has been provided by the VA, but it is unlikely to be appreciable.

Section 207 amends present section 4116 of title 38, regarding defense of certain malpractice and negligence suits against the U.S. arising out of actions of certain VA health care personnel. They were included in the administration bill (section 206 of S. 1924) proposed in the 92nd Congress at no additional estimated cost, to clarify and extend this protection to cases where Federal Tort claims actions would not lie, but actions could still be brought against the VA employee personally for actions arising in the exercise of his duties; to authorize the Administrator to provide insurance for these purposes; and to add specification of physician's and dentists' assistants. Virtually identical provisions were added to the Public Health Service Act by PL 91-623 in 1970 and were included.

Section 208 amends present section 4117 of title 38, authorizing contracts for scarce medical specialist services, to clarify that the authority extends to "any group or individual capable of furnishing" the necessary services. This provision was included in the administration bill proposed in the 92d Congress), with a VA estimate of no additional cost. Reference to physicians' and dentists' assistants is added.

TITLE III—AMENDMENTS TO CHAPTER 81 OF TITLE 38, UNITED STATES CODE—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

Clause 1 in subsection (a) of section 301 amends Section 5001 of Title 38 to provide that the Administrator shall staff and maintain, in such a manner as to ensure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services. The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration facilities so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of such care and services. The Chief Medical Director shall periodically analyze agency-wide admission policies and the records of those veterans who apply for hospital care and medical services but are rejected or not immediately admitted or provided such care or services, and shall annually advise the Administrator and through him the House and Senate Committees on Veterans' Affairs of the number of any additional beds and treatment capacities and the appropriate staffing and funds therefor which are necessary to meet the needs of such veterans for such necessary care and services.

For several years, OMB and other Executive Branch officials have been engaged in a systematic attempt to reduce operating beds and the average daily patient census in VA hospitals. For the past two fiscal years, the Congress has established by law in appropriation acts minimum operating bed and average daily patient census levels in order to insure that all qualified veterans in need of hospital care would have the necessary VA hospital facilities to accommodate their medical needs. These statutory levels have been ignored each year by the Administrator of Veterans Affairs apparently due to lower arbitrary guidelines imposed upon the VA by OMB.

The Committee has amended the bill to remove previously established average daily patient census levels of 85,500 and operating bed levels of 97,500 which were legislated in FY 1972 and 1973. The Committee is taking this action in direct response to the President's request contained in his March 1 message to the Congress on Human Resources, and further amplified by the Administrator of Veterans Affairs in his report to this Committee on H.R. 2900, dated June 26, 1973.

The objective of this amendment is to support the Administration's stated objective in their report on this legislation that this new approach will expedite their efforts to organize facilities and budget resources to achieve the objective of caring for the medical needs of all eligible veterans. The Committee action to eliminate the numerical levels of average daily patient census and operating beds from this bill places a clear obligation on the OMB and the VA to likewise eliminate pre-conceived floors or ceilings of average daily patient census and other treatment indices which have been utilized during the past several fiscal years.

The Committee expects the VA to submit, in connection with budget requests, projections of annual average daily patient census loads; staffing needs, and budget recommendations, but recognizes that with the innovation of this new legislation, such projections will need to be continually reviewed and, where appropriate, revised later in the fiscal year and that such revisions may require commensurate additional funding.

Clause (2) in subsection (a) amends paragraph (3) to raise the nursing home care beds authorization from the present minimum (4,000) to a maximum of 8,000 by FY 1974 (6,568 presently in operation) to be maintained thereafter.

Subsection (b) of section 301 revises subsection (b) of the present section 5001 of title 38, requiring fireproof construction of VA hospitals and domiciliaries, to require the Administrator to make fire, earthquake, and other disaster resistance studies, to ensure that all new construction and new acquisitions must meet new safety standards he is directed to prescribe; and to provide for the appointment of an intra-agency Advisory Committee on Structural Safety in VA Facilities.

Subsection (c) of section 301 adds a new subsection (g) to section 5001 of title 38 to authorize the Administrator to make contributions to local authorities for the construction of traffic controls, road improvements or other devices adjacent to VA medical facilities when deemed necessary for safe access.

Section 302 amends present chapter 81 (Acquisition and Operation of Hospital and Domiciliary Facilities) of title 38, as follows:

Clause (1) of section 302 adds to chapter 81 of title 38 a new section 5007 (Partial relinquishment of legislative jurisdiction), which authorizes the Administrator to cede concurrent jurisdiction over VA lands and interests to the State where located. This provision is based on the administration bill (H.R. 481) in the 92d Congress which passed the House, but would not permit, as that bill would, total relinquishment of jurisdiction to a State. Rather, the bill as reported permits only the ceding of concurrent jurisdiction, as did P.L. 91-45 ceding concurrent jurisdiction over the Fort Harrison, Montana, VA Center real property, thereby maintaining a clear and continuing Federal control over VA land and buildings situated thereon. The VA estimates that this provision would entail no additional cost and concurs in its approach.

Clause (2) of section 302 amends present chapter 81 by amending subsection (a) of present section 5012 of title 38, regarding leasing for up to three years of lands or buildings under VA control, a new sentence exempting such leases from 5 U.S.C. 41, which requires advertising for leases above $500, and from the provisions of 40 U.S.C. 303b, which bar lease provisions calling for property maintenance as part of the consideration for the rental. These provisions were included in the administration bill (section 301 of S. 1924) proposed in the 92d Congress. An additional sentence is added in the bill as reported to require the Administrator, prior to execution of such a lease, to give appropriate public notice in local newspapers of his intention to execute such a lease.

Clause (3) of section 302 amends the table of sections at the beginning of present chapter 81 by inserting reference to the new section 5007 added by clause (1) of section 302 of the bill as reported.

Section 303 amends present section 5053(a) of title 38, authorizing arrangements for the sharing of specialized medical resources between VA and community hospital facilities, by making clear that these arrangements may also be made with "medical schools or clinics". This provision is included in the administration bill proposed in the 92d Congress, and would, along with the other two clauses added, entail no additional costs, according to the VA estimate.

TITLE IV—MISCELLANEOUS AMENDMENTS TO TITLE 38, UNITED STATES CODE

Section 401 amends subsection (b) of section 230 of title 38, regarding VA central and regional offices, to extend the termination date of the Administrator's authority to maintain a regional office in the Republic of the Philippines from July 3, 1974, to June 30, 1978. The VA estimates the first-year cost as $975,000 and the same for each of the next four fiscal years.

Section 402.—Subsection (a) amends present section 234 of title 38, regarding telephone services for medical officers, to permit installation in private residences for official use of a telephone for nonmedical directors of VA centers, hospitals, independent clinics and domiciliaries; presently, such installation may be made only for physician directors. This provision was included in the administration bill proposed in the 92d Congress, and the VA estimate of the annual cost is $3,000.

Subsections (b) and (c) of section 402 amend the table of sections at the beginning of present chapter 3 and the catchline at the beginning of present section 234 of title 38 to change the catchline of section 234 to reflect the amendment made in subsection (a)(1) of section 401 of the bill as reported.

Section 403 amends a number of sections of title 38—section 641, increasing the rates for VA payments to State veterans hospitals and nursing homes and making such payments in the case of veterans of the post-Korean conflict, with an estimated first-year cost of $5 million; section 644(b), authorizing appropriations for VA grants to states for remodeling and altering state veterans homes; section 5033, to extend the State home nursing facility program for an additional five years; sections 5035(a)(1), (b)(1), and (d), all regarding VA grants to states for construction of state home facilities providing nursing care to war veterans; and section 5036, regarding recapture of the VA-assisted portion of such homes which cease to be operated principally for the care of veterans—to raise from 50 percent to 65 percent the permissible VA share of the cost of the proposed state home project. This provision is identical to that requested by the administration in the 92d Congress.

Section 403 would also amend section 5034 of title 38, to increase the number of nursing home beds in each State for war veterans in need of nursing home care.

Originally, the number of such beds was limited to .5 beds per thousand war veteran population in the case of any one State. In October 1965 this was increased to 1.5 by Public Law 89-311. This provision of the reported bill would increase this to 2.5.

Sixteen States have received VA assistance in 25 construction projects involving 2,909 nursing care beds at a total cost of over $46 million with the Veterans Administration contributing about 46 percent or about $21 million. Only two States (Rhode Island and Vermont) have approached the maximum limit. Both have expressed interest in constructing more beds which would exceed the 1.5 bed limit.

Since other States have not raised the maximum number of beds as a problem, it is realistic to assume that a limited number of States would be affected; for example—

State	Number of beds constructed	Current maximum (1½)	Proposed maximum (2½)
Rhode Island	165	195	325
Vermont	62	81	135

The proposed maximum beds projected here are based on Bureau of Census data published December 31, 1971.

Based on an average VA construction cost of approximately $7,300 per bed, the projected cost of this provision should, for the two States mentioned, be about $1.3 million (184×$7,300 per bed=$1.3 million) over a 5-year period.

TITLE V—EFFECTIVE DATES

Section 501 makes all provisions of the proposed Act effective on the first of the month following enactment except for (1) sections 105 (reimbursement for loss of personal effects in natural disaster) and 106 (reimbursement for certain emergency medical expenses), which are made retroactive to January 1, 1971, (2) section 203 (pay and grade schedules and new premium and overtime pay), the provisions of which become effective beginning with the first pay period following 30 days after enactment and (3) section 107 relating to the Republic of the Philippines in effective July 1, 1973.

ESTIMATES OF COST

SECTION-BY-SECTION COST CHART FOR H.R. 9048, 93D CONGRESS

Section number and provision	Cost (in millions) fiscal year— 1974	1975	1976	1977	1978
101. (a) To reflect long-standing definition of "VA facility"	(1)	(1)	(1)	(1)	(1)
(b) Mental health services and training to certain dependents	(2)	(2)	(2)	(2)	(2)
(c) Home health services to veteran or dependent	(2)	(2)	(2)	(2)	(2)
102. Hospital or nursing home care for peacetime vets—for n/s/c	$7.9	$8.5	$9.0	$9.7	$10.4
103. (a) Outpatient care to obviate need for hospitalization	(13)	(1)	(1)	(1)	(1)
80 percent s/c disabled	1.6	1.7	1.8	1.9	2.0
(b) Wives, widows, and children	5.0	10.0	15.0	15.0	15.0
104. (a) Direct admission of military to community nursing home	(2)	(2)	(2)	(2)	(2)
(b) Technical amendments	(1)	(1)	(1)	(1)	(1)
(c) Nursing home standards	(1)	(1)	(1)	(1)	(1)
(d) Direct admission to community nursing home for s/c condition	[4] 11.2	12.7	13.5	13.9	14.2
105. Earthquakes—loss of personal effects	(2)	(2)	(2)	(2)	(2)
106. Reimbursement for emergency medical care	(1)	(1)	(1)	(1)	(1)
107. Grants to Philippines	2.1	2.1	2.1	2.1	2.1
108. N/H care for U.S. veterans in Philippines	(2)	(2)	(2)	(2)	(2)
109. Sickle cell anemia	2.3	2.3	2.3	2.3	2.3
201. Expands D.M. & S. mission	(1)	(1)	(1)	(1)	(1)
Staff-patient ratio study	(2)	(2)	(2)	(2)	(2)
202. 2 additional assistant CMD's	.089	.094	.099	.104	.110
Change titles of service heads	(1)	(1)	(1)	(1)	(1)
203. Salary rate D.M. & S. Increase salary range for service heads	$0.063	$0.066	$0.070	$0.074	$0.078
Nurse premium pay	26.7	29.2	31.7	34.4	37.3
204. Personnel administration	(1)	(1)	(1)	(1)	(1)
205. Technical changes	(1)	(1)	(1)	(1)	(1)
206. Temporary full-time D.M. & S. appointments	(1)	(1)	(1)	(1)	(1)
Central administration of interns and residents	(1)	(1)	(1)	(1)	(1)
207. Malpractice protection for VA medical personnel	(1)	(1)	(1)	(1)	(1)
208. Clarifies authority to contract for scarce medical specialists	(1)	(1)	(1)	(1)	(1)
301. (a) Maintain adequate bed capacities; and 8,000 nursing beds	(2)	(2)	(2)	(2)	(2)
(b) Construction standards for fire and earthquake	(2)	(2)	(2)	(2)	(2)
(c) Contribute to local for traffic controls and roads	(2)	(2)	(2)	(2)	(2)
302. Relinquishment of legislative jurisdiction	(1)	(1)	(1)	(1)	(1)
Lease authority	(1)	(1)	(1)	(1)	(1)
303. Expand sharing authority	(1)	(1)	(1)	(1)	(1)
401. VA office in Manila	(1)	.975	.975	.975	.975
402. Telephones for nonmedical directors	.003	.003	.003	.003	.003
403 (a) Increase per diem rates to State homes	5.0	5.3	5.5	5.6	5.6
(b) Increase grants to State homes, and extend program	2.7	2.7	2.7	2.7	2.7
(c) Change State N/H formula	.26	.26	.26	.26	.26
Total (in millions)	64.915	75.898	85.007	89.016	93.026

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(1) No cost.

(2) No estimate.

(3) This estimate is based upon a plan of implementation whereby any costs could be absorbed mostly through a utilization of funds which would otherwise be needed for the obviated hospitalization.

[4] This estimate represents refined date indicating a substantial increase in new admissions over those anticipated from in-VA-facility admissions.

VETERANS OF FOREIGN WARS,
Washington, D.C., July 16, 1973.
Hon. WM. JENNINGS BRYAN DORN,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reference to H.R. 9048, the Veterans Medical Care Bill, scheduled for consideration by the full House, Tuesday, July 17.

H.R. 9048 is an amended version of S. 59, a medical care bill approved by a lopsided majority in the United States Senate on March 6. S. 59 substantially replaces a medical care bill (H.R. 10880), 92nd Congress, which was strongly approved by the Veterans of Foreign Wars; in fact, the Veterans of Foreign Wars was shocked when the faceless anti-veteran officials were successful in having H.R. 10880 rejected by the President when he pocket vetoed that bill last October.

It is noted that first the Senate and now the House Veterans' Affairs Committee have amended this legislation to meet some of the objections for its rejection last October. It contains over 20 separate provisions, a large number of which carry out Veterans of Foreign Wars mandates approved by the delegates to our most recent National Convention, which was held in Minneapolis last August. More important, H.R. 9048 will strengthen and improve the VA's capability to deliver high quality medical care for veterans. The Veterans of Foreign Wars is pleased that the bill also recognizes the need for more Congressional control over the comprehensive VA hospital and medical care system by establishing additional requirements for the Congress to make certain that all veterans who are entitled to VA hospital care are receiving it and not being arbitrarily rejected.

The Veterans of Foreign Wars, therefore, approves H.R. 9048 and urges that it be approved by the House and cleared by the Congress at the earliest practicable time. This legislation is long overdue and will be a giant step in strengthening the integrity and independence of the VA's hospital and medical care system and its capability to provide the quality medical care that Congress intends and which veterans deserve.

With kind personal regards, I am
Sincerely,
FRANCIS W. STOVER,
Director, National Legislative Service.

TELEGRAMS

JULY 13, 1973.
Hon. WILLIAM JENNINGS BRYAN DORN,
Capitol Hill
Washington, D.C.:

The Disabled American Veterans urges your support for H.R. 9048, the Veterans Health Care Expansion Act and H.R. 8949 re interest rates on VA home loans when the measures reach the floor for a vote on July 17. We appreciate your efforts on behalf of the Nation's deserving war veterans.

CHARLES L. HUBER,
National Director of Legislation
Disabled American Veterans.

JULY 17, 1973.
Hon. WILLIAM JENNINGS BRYAN DORN,
Chairman, House Committee on Veterans Affairs, Washington, D.C.:

The American Legion strongly supports H.R. 9048 as reported by your Committee.

This bill would improve the ability of VA to deliver quality medical care to veterans on an expanded basis. It would, for the first time, authorize hospital and medical treatment for wives, widows and dependent children of certain totally disabled service-connected veterans and those who die from service-connected causes on a basis similar to persons who die in active service or in retired status.

H.R. 9048 would assist VA in providing an adequate supply of health care manpower to meet national needs in addition to meeting the hospital needs of veterans. It would also assist in the recruitment and employment of skilled health care personnel and make other improvements in the hospital and medical program.

The American Legion commends you and Chairman Satterfield of the Subcommittee on Hospitals and othr members of the Committee for your foresight in drafting and reporting this far reaching and long overdue legislation.

HERALD E. STRINGER,
Director, National
Legislative Commission

Mr. HAMMERSCHMIDT. Mr. Speaker, I wish to associate myself with the remarks of our distinguished chairman of the full committee, the gentleman from South Carolina (Mr. DORN) as well as the remarks of the able gentleman from Virginia (Mr. SATTERFIELD) the chairman of the subcommittee, and I wish to concur in his explanation.

Mr. Speaker, I support H.R. 9048. This measure, entitled the Veterans Medical Care Act of 1973, is an omnibus type medical bill that will expand medical services available to veterans and improve the delivery of health services. It will also provide additional employee benefits for certain professional personnel in the VA Department of Medicine and Surgery. This is a good bill, Mr. Speaker, and I intend to support it.

If Members will review the blue sheet which summarizes the major provisions of this measure, you will note there are 27 features of the bill that are deemed worthy of mention. I certainly do not intend to discuss these in detail, but do invite your attention to the fact that this is truly an omnibus bill with many important features.

The most significant provision of this bill, Mr. Speaker, will authorize outpatient treatment for nonservice-connected ailments for veterans eligible for hospital care if such care will obviate the need for hospitalization. Reduced to the most simple language, Mr. Speaker, this means that if a veteran has a common cold, it can be treated, because untreated it could progress to the point that it required hospital treatment.

Under existing law, outpatient treatment is available for the treatment of service-connected disabilities. Outpatient care for nonservice-connected conditions is currently limited to treatment in connection with a scheduled admission for hospital treatment, or following hospitalization, in connection with treatment received while hospitalized.

This proposed change in the law, Mr. Speaker, if approved, will be especially important in enabling our Nation to respond more completely to the increasing medical needs of older veterans.

Let me mention another important feature of this bill. Under today's law, veterans who served in the military or naval forces of our country are eligible for Veterans' Administration medical care, only if the condition for which they are seeking treatment is service-connected. The measure before the House today will eliminate this disparity and authorize the same hospital and medical benefits for peacetime service as is currently available to veterans of war service.

This measure will also authorize the Administrator of Veterans' Affairs to contract for private medical care for certain widows and children of service-connected deceased veterans and wives and children of service-connected totally disabled veterans. This care would be available to dependents in these categories only if they are not eligible for care under the civilian medical program of the Armed Forces, the so-called Champus program.

One of the most difficult problems facing the Veterans' Administration in the delivery of health services relates to the recruitment of qualified technical and professional personnel. A major provision of this bill will enable the Veterans' Administration to better compete with the private sector of the recruitment of nurses. It will provide additional pay for nurses performing duty at night, on weekends, and on holidays. The measure also authorizes overtime pay for nurses for duty in excess of 8 hours per day or 40 hours per week.

The measure also increases the Federal Government per diem rate for reimbursement of State soldiers homes which provide domiciliary, nursing, or hospital care for veterans eligible for Veterans' Administration care.

Mr. Speaker, as a composer of this bill, I want to compliment the chairman of the Hospital Subcommittee, the gentleman from Virginia and the ranking Republican member of the subcommittee, the gentleman from Pennsylvania, for demonstrating a high degree of fiscal responsibility in bringing to this floor a bill that will improve the delivery of health care to veterans and their dependents.

I urge that it be approved. And for the benefit of the Members offer this analysis of H.R. 9048:

ANALYSIS

(1) Permits the furnishing of medical services on an outpatient or ambulatory basis to any veteran eligible for hospital care under veteran laws, where such care is reasonably necessary to obviate the need for hospital admission. These services include, in addition to medical examination and treatment, optometrists' services, dental and surgical services, as are now available in the case of non-service-connected disabilities, for treatment after the veteran has been scheduled for admission for hospital treatment or, following hospitalization, in connection with treatment he received while hospitalized. Places peacetime veteran on same basis as wartime for hospital and medical benefits. In the case of veterans who are disabled to a degree of 80 percent or more for a service-connected cause, provides for out-patient care for any disability from which he suffers.

(2) Provides pay differentials for nurses performing duty between the hours of 6 p.m. and 6 a.m.; from midnight Saturday to midnight Sunday; or on Federal holidays. Provides overtime pay for hours of service in excess of 40 hours during nurses' administrative work week, or in excess of 8 hours a day. Additional pay may also be received by nurses who are "on call" outside regular work hours.

(3) Directs VA, to the extent feasible without interfering with medical care and treatment of veterans, to develop and carry out a program of training and education of health service personnel, acting in cooperation with schools of medicine, and other institutions.

(4) Provides for furnishing of hospital and medical care (if such care is not otherwise provided under CHAMPUS, the medical program for certain dependents and survivors of active duty and retired members of the Armed Forces), for the wife or child of a totally and permanently disabled service-connected veteran and to surviving widows and children of veterans who died as a result of service-connected disability. This care is to be provided in the same or similar manner and be subject to the same limitations as presently apply to Armed Forces dependents previously mentioned. Veterans' Administration is authorized to enter into contracts with Department of Defense or with private insurors for this purpose. Care may be provided for the subject group of dependents in VA facilities in very limited cases where there are specialized facilities which are not being utilized for care of eligible veterans.

(5) Directs the Administrator of Veterans' Affairs, within 90 days after enactment, to conclude negotiations for an agreement with the National Academy of Sciences for conducting a full review and appraisal of the personnel and other resource requirements in VA medical facilities, to determine needs to insure high quality care in all facilities. National Academy of Sciences to then render interim report or reports, at the earliest feasible date, to the Administrator, the President of the Senate, and the Speaker of the House of Representatives, with a final report to be submitted not later than 24 months after date of agreement. This date may be extended by not more than 12 additional months with concurrence of the House and Senate Committee on Veterans' Affairs. The Administrator, within 90 days after submission of said report, to be required to submit to the House and Senate Committees a detailed report of his views on the findings and recommendations of the National Academy of Sciences and steps and timetable for implementing these recommendations.

(6) Authorizes the appointment of two additional Assistant Chief Medical Directors, who may be individuals qualified in the administration of health services, but who are not doctors of medicine, dental surgery or dental medicine. Also reflects the new designations of Director of the Pharmacy Service and Director of the Dietetic Service to correspond to the other Director of Services titles, such as Chaplain and Nursing. It also establishes the position of Director of Optometry and prescribes compensation to be paid to such personnel.

(7) Prescribes the circumstances under which physicians, dentists or nurses may perform professional services other than those performed as full-time employees of the Veterans' Administration, and prohibits payments for such services.

(8) Permits furnishing for nursing home care in the case of service-connected veterans requiring such care for their service-connected disabilities upon determination of need therefore by a Veterans' Administration doctor, thus removing the requirement that these persons be first hospitalized under VA auspices. Authorizes direct transfer of military personnel from military hospitals to nursing home care facilities.

(9) Authorizes VA to enter into contracts to provide scarce medical specialist services at VA facilities, with medical schools, clinics, or any other group or individual capable of furnishing such services, including medical support personnel (physicians, dentists, nurses, technicians, etc.).

(10) Clarifies current law with regard to contracts with clinics and other groups or individuals in addition to medical schools and clinics as now permitted for securing certain specialized medical resources.

(11) Provides additional authority for temporary full-time appointments of various types of medical personnel for a period of time not to exceed 1 year. Such appointments were previously authorized for a period of not more than 90 days.

(12) Clarifies and extends protection in malpractice or negligence suits brought against VA medical personnel.

(13) Permits reimbursement of veterans in VA hospitals and domiciliaries for loss of personal effects sustained by fire, earthquake, or natural disaster, while such effects were stored in those VA facilities. Previous law permitted reimbursement only in case of loss by fire.

(14) Permits VA to lease buildings or lands to public or nonprofit organizations without advertising, and to consider maintenance, protection, or restrain, by the lessee, as all or part payment received under the lease. Prior to execution of any such lease, the Administrator must give public notice of intention in the press of the community in which the lands or buildings to be leased are located.

(15) Authorizes reimbursement of certain veterans who have service-connected disabilities, under limited circumstances, for reasonable value of hospital care or medical services, including necessary travel expense, when services are furnished from sources other than the VA. Eligible veterans are those receiving treatment for a service-connected disability, or a non-service-connected disability (or veterans in need of vocational rehabilitation because of a service-connected disability whose training would be interrupted or delayed because of the illness). Services must be rendered in a medical emergency and VA or other Federal facilities must not be feasibly available. In lieu of payment to the veteran, payment may be made directly to the medical facility providing med-

ical services, or to a person or organization making payments in behalf of the veteran.

(16) Authorizes installation of telephones in personal residences of nonmedical directors of VA hospitals, domiciliaries, centers and independent clinics. Present law permits this only in the case of medical doctors.

(17) Clarifies the term "Veterans' Administration facilities" as it relates to provision of care in private facilities for VA beneficiaries.

(18) Extends VA authority (until June 30, 1978) to continue grants for hospital and medical care of veterans in the Republic of the Philippines. No more than $2 million is authorized to be expended for this purpose in any one fiscal year (including not more than $250,000 for nursing home care). Authority is also provided for expenditures in the amounts and for the purposes which follow, in each fiscal year during the 6-year period beginning July 1, 1973 and ending June 30, 1978: Authorizes grants to VA Memorial Hospital, Manila, for education and training of health service personnel assigned to that hospital, $50,000; and for replacement and upgrading of equipment and rehabilitation of physical plant $50,000. Also extends authority to operate VA Regional Office in Republic of the Philippines through June 30, 1978. Authority is provided to assist the Republic of the Philippines in furnishing medical care (including nursing home care) for Commonwealth Army veterans and new Philippine Scouts who enlisted before July 4, 1946, under certain conditions.

(19) Provides specific authority for a VA program of screening, counseling, and treatment of sickle cell anemia.

(20) Provides for relinquishment to States in which VA facilities are located of such legislative jurisdiction as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned, of lands which VA has jurisdiction.

(21) Provides for contracts with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with VA in training interns and residents, to provide for central administration of stipend payments, provision of fringe benefits and maintenance of records, by designating one such institution to serve as central administrative agency for this purpose.

(22) Directs the Administrator to staff and maintain sufficient beds and other facilities to insure immediate care of patients found to be in need of hospital care and medical services, and makes provision for rendering annual report on admission policies, as well as need for additional funds and facilities to meet the needs of veterans for necessary care and service, from the Chief Medical Director to the Administrator and to the House and Senate Committees on Veterans' Affairs. The Administrator is directed, with the approval of the President, to operate not less than 8,000 nursing care beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter.

(23) Provides for appointment by the Administrator of Veterans' Affairs of an Advisory Committee on Structural Safety of Veterans' Administration Facilities, to include at least one architect and one structural engineer who is an expert on fire, earthquake and other natural disasters, and who are not employees of the Federal Government, to advise him on matters relative to structural safety and remodeling of VA hospital and medical facilities.

(24) Provides for VA's contribution to local authorities for construction of traffic controls and road improvements in locations adjacent to VA medical facilities when deemed necessary for safety purposes.

(25) Increases the per diem rate for reimbursements of State soldiers' homes which provide care for veterans who are eligible for admission to VA medical and domiciliary facilities, from $3.50 per veteran per day to $4.50 where domiciliary care is provided; $5 to $6 where nursing home care is provided; and from $7.50 to $10 where hospital care is provided. Authority is also provided for reimbursement of such State home facilities where care is furnished veterans whose service occurred after January 31, 1955.

(26) Increases the percentage of the Federal Government's allowable contribution under the program of grants to States for construction, alteration, and renovation of State veterans' homes, from the present 50-percent maximum to 65 percent of the estimated cost of such projects.

(27) In connection with VA assistance to States in constructing nursing home facilities for veterans, appropriation authority is extended for an additional 5 years, i.e., to June 30, 1979. The formula for determining adequate State nursing home beds is increased from a maximum of 1½ beds per 1,000 veterans in any State to 2½ beds.

Effective Dates: Reimbursements of patients for personal loss of personal effects, and reimbursements of certain medical expenses of veterans, January 1, 1971.

Provisions relative to pay of VA medical personnel, first pay period following 30 days after enactment.

Provisions relating to Republic of the Philippines effective July 1, 1973.

Other provisions are effective the first day of the first calendar month following date of enactment.

First year cost: $65.55 million.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the Subcommittee on Hospitals, the gentleman from Pennsylvania (Mr. SAYLOR).

Mr. SAYLOR. Mr. Speaker, I rise in support of H.R. 9048, the Veterans Medical Care Act of 1973. As the senior minority member of the Hospital Subcommittee and a cosponsor of this important measure, I can well attest to the fact that approval of this measure will represent the culmination of several years of intensive effort to provide the means by which the quality of medical care can be improved for veterans and to improve and expand the recruitment and retention of career persons in the Veterans' Administration Department of Medicine and Surgery.

Before I proceed further, Mr. Speaker, I want to commend the distinguished chairman of the Subcommittee on Hospitals, the gentleman from Virginia (Mr. SATTERFIELD) for his extreme patience and dedication to the substance of this legislation. This is not the first time this measure and similar bills in the 91st and 92d Congresses have been on the firing line. In the first session of the 92d Congress, Members will recall that this body passed a similar measure. The other body, or the "One Hundred Club" as it is sometimes called, sat on the measure until the second session and then killed it with kindness. Subsequently, the measure was pocket vetoed by the President, following the adjournment of the 92d Congress.

Despite my deep disappointment at this rejection of a bill containing many desirable provisions, I was forced to agree with the President's action, although for somewhat different reasons. The vetoed bill would have authorized complete medical care and treatment in Veterans' Administration facilities for the widows and children of service-connected deceased veterans and the wives and children of service-connected totally disabled veterans.

Much as my heartaches for these survivors and dependents of men who made the supreme sacrifice or gave so much of themselves in preserving our national security, there appeared to be no merit in burdening the Veterans' Administration hospital system with this additional patient load when we were having great difficulty in obtaining sufficient funds to provide adequate medical services for those already entitled to Veterans' Administration medical care. In the measure before the House today, Mr. Speaker, we have eliminated this provision that would further burden our already burdened hospital system. At the same time, we have recognized the merit in providing medical services for this deserving group by authorizing the Administrator of Veterans' Affairs to contract for medical care in private facilities for those dependents and survivors who are not already eligible for care as dependents of armed services personnel.

The subcommittee has labored long and hard over this bill, Mr. Speaker, and has eliminated those provisions that were most objectionable to the President, and at the same time we have preserved those provisions that authorize more generous medical treatment for veterans.

In addition, the bill directs the Administrator to double the number of nursing care beds operated by the Veterans' Administration. Testimony presented to our committee, Mr. Speaker, revealed that World War I veterans in particular were being discharged from VA hospitals before they are entirely well. They are too sick to be sent home and yet not quite sick enough to occupy an active hospital bed. It is absolutely necessary to increase the nursing care facilities of the Veterans' Administration. I am confident that this increase to 8,000 beds will help to alleviate the problem. I am hopeful that the Veterans' Administration will take administrative action to create even more nursing care facilities than are authorized by this legislation.

One of the most important and far reaching provisions of the bill is that section that will authorize an expansion of the Veterans' Administration outpatient program. This provision will be particularly beneficial to World War I and the older World War II veterans whose medical needs are continually increasing. Under the terms of the bill, outpatient medical services may be furnished to any veteran eligible for hospital care under veterans' law, where such care is reasonably necessary to obviate the need for hospital admission. In other words, if a veteran presents himself to a Veterans' Administration outpatient clinic complaining of a belly ache, doctors will be authorized to treat the condition, on the theory that if it is untreated, it may progress to the point that hospitalization is required. Now, under today's law, there is no authority to provide such treatment. Instead, the veteran remains untreated until the condition becomes serious enough to warrant hospitalization. This ridiculous situation, Mr. Speaker, will be eliminated under the proposed bill.

To assist in the recruiting and retaining of qualified nurses, the measure authorizes pay differentials for nurses performing duties at night, on weekends and on Federal holidays. For the first time, nurses will be entitled to overtime pay for duty in excess of 40 hours a week or 8 hours per day.

Another provision of the bill sets guidelines or prescribes the circumstances under which physicians, dentists or nurses may perform professional services other than those performed as full-time employees of the Veterans' Administration. It also prohibits payments for certain services.

The bill also extends medical benefits including hospitalization to veterans of peacetime military service, thus removing a disparity of existing law. The existing authority to operate a Veterans' Administration regional office in the Republic of the Philippines and to fund the Veterans Memorial Hospital in Manila is extended for 5 additional years. Finally, the bill authorizes the Administrator of Veterans' Affairs to enter into a contract with the National Academy of Science to conduct a full review and appraisal of the staffing ratios and other resource requirements in VA medical facilities needed to insure high quality care for veterans.

These are the major provisions of this multiprovision bill. The controversial provisions have been eliminated or revised and the result is a bill that should merit the approval of all veterans' organizations, their members and the public in general, as well as the President.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio (Mr. WYLIE) a member of the committee.

Mr. WYLIE. Mr. Speaker, I rise in support of H.R. 9048 a bill which I am proud to be a cosponsor and which will improve the medical care of veterans and which inaugurates a medical treatment program for certain dependents. For the veteran who is otherwise eligible for hospitalization, outpatient treatment will be available for any disability from which he may suffer, providing such treatment may eliminate the need for hospitalization. I consider this a sensible and economically sound approach to any well-rounded medical program. Peacetime veterans will become eligible for all medical benefits that are now available only to the wartime veteran. Veterans suffering from service-connected disabilities ratable at 80 percent will become eligible for outpatient treatment for any ailment from which they may suffer. This is a benefit that accrues only to the totally disabled veteran under existing law.

The widows and children of veterans who died of service-connected disabilities and the wives and children of veterans who are rated permanently and totally disabled from service-connected disabilities will become eligible for hospitalization and medical care under a program to be established by the VA which will be comparable to the one administered by the Armed Forces for certain dependents and survivors of active duty and retired members. In a very limited way specialized VA facilities will be available to dependents if they are not being utilized by veterans.

Direct admission to a nursing home for the service-connected veteran is authorized upon a finding of need by a Veterans' Administration doctor. The direct transfer of military personnel from military hospitals to nursing home care facilities is authorized also.

The program of grants to States for the construction, alteration or renovation of State veterans' homes will be increased from the present 50-percent maximum to 65 percent of the estimated cost of the project. The per diem rate is increased to State soldiers homes for eligible veterans receiving domicilary or medical care.

There also are provisions to train health service personnel and obtain scarce medical specialist services, plus authorization to provide pay differentials for nurses who perform duty in excess of 8 hours a day or other than normal working hours. These are a few of the variety of measures designed to improve health care to our veterans.

Possibly one of the most important features of this bill is that the Administrator of Veterans' Affairs is directed to arrange for the National Academy of Sciences to conduct a full review and appraisal of the VA medical system. The resulting conclusions and recommendations will then be submitted to the Congress.

This is a many faceted bill, but the overall thrust is to improve VA medical care for our veterans. I believe it to be very meritorious and urge support for it.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana (Mr. HILLIS), a member of the committee.

Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 9048, the Veterans Medical Care Act of 1973. It is designed to improve veterans medical care; establish a new program for the medical treatment of certain dependents, and enhance careers in the Department of Medicine and Surgery. A few of the most important features of this bill are as follows:

The Administrator of Veterans' Affairs is directed to enter into an agreement with the National Academy of Sciences to conduct an overall review and appraisal of the existing VA medical operation. The ensuing reports will be rendered to the Administrator and the Congress. The study will be finalized by a report from the Administrator which will indicate how he intends to implement the recommendation made by the Academy. This should go far to insure the very best medical care for our veterans.

Outpatient treatment is expanded in two areas. Veterans with 80 percent or more service-connected disabilities are, for the first time, made eligible for outpatient care for all non-service-connected disabilities. Where outpatient treatment might obviate the need for hospitalization will be given. Peacetime veterans will become entitled to medical benefits on a par with wartime veterans.

Wives and children of veterans who are permanently and totally disabled from service-connected disabilities and the widows and children of veterans who died of service-connected disabilities will become eligible for medical care and hospitalization under a plan similar to CHAMPUS, which is a program available to certain dependents and survivors of active duty and retired members of the Armed Forces.

There are several features designed to encourage people to enter into and to make a career of employment in the Department of Medicine and Surgery. Among them is a pay differential for nurses who work overtime and on holidays.

Federal grants to States for the construction or alteration of State veterans homes will be increased from the present 50-percent maximum to 65 percent of the estimated cost of the project.

I believe that this bill will go a long way toward establishing an outstanding medical system within the Veterans' Administration and I intend to vote for it.

Mr. DONOHUE. Mr. Speaker, I earnestly urge and hope that this bill, H.R. 9048, presently under consideration, the Omnibus Veterans Health Care Expansion Act of 1973, will be unanimously approved by the House this afternoon.

Clearly, Mr. Speaker, the objectives and purpose of this proposal are not, in any sense, a partisan matter. We in Congress, on both sides of the aisle, have been long committed to the principle that those serving our country in uniform, and their dependents, deserve the finest medical care and treatment that is available and that can be provided in modern facilities.

This measure is designed to bring our present veterans medical care program more up to date and to make it more effective and efficient in operation.

It also evidences the good will and intentions of the House to reasonably respond to White House objections to the previous measure that was passed in the Congress last year but vetoed by the President.

Under this revised measure medical benefits would be extended to certain veteran's dependents under a program similar to the Defense Department CHAMPUS program for military dependents instead of direct Veterans' Administration medical care for such dependents. Also, instead of a specified minimum number of hospital beds this bill would require only that sufficient hospital beds will be so available in order that veterans will experience no undue delay in admission and treatment.

The bill further provides that instead of a requirement for the Veterans' Administration to obtain comparability with staff-patient ratio in private and public hospitals, the National Academy of Sciences will be retained by the Veterans' Administration to conduct a study and make recommendations as to the appropriate staff-to-patient-ratio and resource facilities for Veterans' Administration hospitals.

Mr. Speaker, this is an omnibus measure and it contains some 26 provisions to extend better medical services and treatment to our veterans and their families and it is particularly timely for our Vietnam veterans who still must be regarded, unfortunately, as the most "unwept, unhonored, and unsung" war heroes in all our history.

Mr. Speaker, I have stated my conviction here many times before, and I will state it again now, that the extension of complete and competent modern hospital and medical treatment and services to our veterans and their dependents is a vitally important factor in sustaining the high morale or our people and it is also absolutely essential for the accomplishment of our own domestic tranquility and world leadership for peace.

Mr. Speaker, by any and every standard of objective judgment this measure is "good for all Americans" and I hope that it will be overwhelmingly approved by this House.

Mrs. GRASSO. Mr. Speaker, America's veterans have served our country bravely and with distinction. All have given of themselves in defense of the Nation and, in view of their contributions, they deserve the best possible benefits we can provide for them.

Therefore, I wholeheartedly endorse H.R. 9048—the Veterans Health Care Expansion Act, which I cosponsored—as one way of thanking our veterans and their families for the sacrifices and pain they have endured.

In the 92d Congress, both the House and the other body overwhelmingly approved a similar bill and sent it to the President. His pocket veto of H.R. 10880 unnecessarily postponed the excellent improvements in health care for veterans which the bill would have provided. It is my fervent hope that this bill—a similar version of which passed the Senate by a vote of 86 to 2—will be signed into law.

One of the most important provisions contained in H.R. 9048 is the section improving outpatient or ambulatory care to eligible veterans. Under this provision, a veteran who qualifies for hospital care under the law would be able to receive certain outpatient care before entering and after leaving the hospital for scheduled treatment. In this way, the qualified veteran would obtain the necessary medical care without interfering with the furnishing of hospital services to other veterans. In addition, a veteran with an 80 percent or more service-connected disability would be able to receive outpatient care for the disability from which he suffers.

Another provision of the bill improves hospital and medical care for the wife or child of a totally and permanently disabled service-connected veteran and to the surviving widow or children of veterans who died as a result of service-connected disability.

I am especially pleased to see the language of H.R. 568, a bill which I introduced on January 3, included in H.R. 9048. This section increases the per diem rate for reimbursement to State veterans homes providing care for eligible veterans from $3.50 to $4.50 for home care, $5 to $6 for nursing home care, and $7.50 to $10 for hospital care. For the State Veterans' Home and Hospital in Rocky Hill, Conn., this would mean as much as $550,000 a year in additional Federal assistance for Connecticut's veterans.

Another provision of H.R. 568 included in this bill would increase the percentage of the Government's allowable grant contribution to States for construction, alteration, and renovation of State veterans homes from the present 50 to 65 percent of the estimated cost of such projects.

Mr. Speaker, through the able leadership of our distinguished chairman from South Carolina (Mr. DORN) and the chairman of the hospital subcommittee, the gentleman from Virginia (Mr. SATTERFIELD), the Veterans' Affairs Committee has reported the House a bill of vital importance to our veterans. Fully confident that the differences between this bill and the other body's legislation will be quickly resolved, and hopeful that the bill will receive the favorable Presidential action it deserves, I urge my colleagues to give this legislation their approval.

Mr. PRICE of Illinois. Mr. Speaker, the Veterans Health Care Expansion Act of 1973 is a bill to liberalize and expand coverage of medical benefits to veterans and their families.

The Veterans' Administration hospital system has long been considered among the finest Government programs ever enacted. This Nation prides itself in its service to those who have borne the burden of battle, and Congress has always acted in the belief that the finest medical care should be made available in VA hospitals to those who have served their country.

The bill contains numerous provisions designed to improve medical services to veterans. These provisions include authority to increase the scope of treatment, creation of a voluntary sickle cell anemia screening program, mental health counseling programs, training programs for health personnel, outpatient service, ambulatory care, and nursing home service.

Other major provisions of the bill include medical care for veterans' dependents and a comprehensive study of staff utilization. In conjunction with the latter provision, VA would require the VA to contract with the National Academy of Sciences for a 2-year survey of staffing needs and resource requirements in the VA medical system. Such a study will provide the system with a comprehensive assessment of staffing requirements and recommend optimum staff-to-patient ratios so necessary to maintenance of high quality medical care.

Mr. Speaker, expansion and refinement of VA medical services comes at a time when a new generation of veterans seeks them out. It is our duty to provide these Indochina veterans, whose service and sacrifices have gone largely unrecognized by the public, with the best in health care and rehabilitative facilities. For these unthanked men and for those who fought in America's other wars, I urge support of the Expansion Act.

Mr. ANNUNZIO. Mr. Speaker, I rise in strong support of H.R. 9048, the Veterans' Health Care Expansion Act of 1973. This bill is virtually identical to H.R. 10880, which was vetoed by the President after adjournment of the 92d Congress. On March 6, the Senate passed S. 59, a bill very similar to H.R. 9048, by an overwhelming majority. We must now show the veterans of this Nation that we also stand behind this bill—and the improvement of health benefits of interest to our veterans.

I would also like to take this opportunity to commend the House Veterans' Affairs Committee for the strenuous effort exerted in attempting to work out a reasonable compromise version of a bill which would still retain the basic objectives of Congress.

The basic purpose of H.R. 9048, as stated in the House report, is:

> To improve the ability of the Veterans' Administration to deliver quality medical care to its beneficiaries by removing certain legislative restrictions on the scope of treatment (particularly for ambulatory and nursing care).

This includes extending eligibility for full medical care to 37,785 veterans with an 80-percent rated service-connected disability.

This bill also expands coverage for medical care and treatment by a CHAMPUS-type contract to approximately 282,000 new beneficiaries: the wives and children of permanently and totally disabled veterans, and the widows and dependent children of veterans who died as a result of service-connected disabilities.

It provides a voluntary, comprehensive sickle cell anemia screening and counseling program both for requesting veterans and their spouses.

It supplements the primary function of the Veterans' Administration, Department of Medicine and Surgery to include assistance in providing an adequate supply of health care manpower in order to meet our national needs, in addition to meeting the hospital needs of veterans. It also improves the personnel system of the Department of Medicine and Surgery by providing for a major emphasis on the recruitment, training, and employment by the Veterans' Administration of recent veterans with medical military occupation specialities both to make the Department more attractive to skilled health care personnel and to be able to compete for scarce health care manpower.

There were a number of provisions in H.R. 10880 of the 92d Congress which were strongly favored by the Veterans' Administration. There were, however, three basic areas in the bill to which the administration objected and which brought about the Presidential veto: Care for certain dependents of veterans, the minimum average daily patient census, and the mandated staff-to-patient ratio in the bill.

H.R. 9048 addresses the problem areas in last year's bill that led up to its eventual veto. In contrast to the Senate version, S. 59, which requires the raising of the staff-to-patient rating, H.R. 9048 authorizes an independent, indepth study aimed at improving the staff-to-patient ratio in VA medical facilities. Rather than mandating a definite average daily patient census and average operating bed level, as in S. 59, H.R. 9048 directs the Administrator to maintain bed and treatment capacities of all VA facilities so as to insure accessibility and availability of such beds and treatment to all eligible veterans in all States and to minimize delays in admissions and in the provision of medical care and services.

Mr. Speaker, this is an important measure for the veterans of our Nation. We have made a commitment to the men and women who have served in our Armed Forces. Now this commitment must be backed with affirmative action and programs. H.R. 9048 is a vital part of the commitment to the veterans of our Nation. This bill is designed to maintain the oft-quoted phrase of the veterans hospital system: "Care second to none."

I hope the swift action of the House on this bill will help get it signed into law very soon. As in the past, this legislation has my complete support.

Mr. ZWACH. Mr. Speaker, I rise in support of H.R. 9048.

This bill authorizes a significant expansion in the medical benefits available to veterans and their dependents and the survivors of deceased veterans.

It permits the furnishing of out-patient medical service to any veteran eligible for hospital care under veterans' laws where such care is reasonably necessary to obviate the need for hospital admission. Under present law, outpatient care is generally limited to treatment of service-connected disabilities.

The measure also authorizes hospital and medical care for the wife or child of the totally and permanently disabled service-connected veteran and to widows and children of veterans who died as a result of service-connected disabilities.

The dependents' medical care will be provided in contract facilities rather than in Veterans' Administration hospitals.

Additionally, the measure authorizes increased pay for nurses performing night, Sunday, and holiday duty; authorizes the Veterans' Administration to conduct a program of screening, counseling and treatment of sickle cell anemia; increases the Federal payment to State soldiers' homes which provide domiciliary, medical, or nursing care for veteran residents.

This improved medical package for our veterans and their families will provide more equitable medical benefits for veterans and their dependents.

The Veterans' Affairs Committee, of which I am a member, has made the necessary changes in H.R. 9048 to insure administration approval. This bill is good for the vet, good to his family, and not so bad on the taxpayer's pocketbook.

As we end our involvement in the conflict in Indochina, we must turn our attentions to the returned brave men and women who fought unquestionably. Medical care is the logical place to start.

I urge my colleagues to support this legislation.

Mr. TEAGUE of Texas. Mr. Speaker, the chairman of the Committee on Veterans' Affairs and the Hospital Subcommittee chairman have explained in detail the provisions of H.R. 9048 which is designed to improve medical services for the sick and disabled veterans of this country and certain of their dependents. This legislation culminates several years of long and thorough formal hearings as well as careful study by the Hospital Subcommittee and the full Committee on Veterans' Affairs.

Mr. Speaker, for the information of my colleagues, I believe that it is important to review some of the background concerning the need for this legislation and the congressional intent of this important bill.

The Veterans' Administration hospital system has long been considered among the best Government operated medical facilities in America. This Nation has prided itself in its service to those who have borne the burden of battle, and Congress always acted with the belief that the finest medical care should be made available in VA hospitals to those who served their country. Since 1969, Congress has increased the Administration's budget requests for VA medical care by hundreds of millions of dollars in an effort to keep pace with rising demands and increased costs of VA medical care. Congress has also consistently urged staff upgrading in VA medical facilities from an overall average ratio of less than 1.5 staff to patients to a ratio more comparable to the private sector hospital level ranging from about 3.0 to 4.7 staff to patients.

In April of 1970, the President also recognized a need for improving delivery of health care in VA hospitals when he issued the following statement of veterans medical care:

> For a number of years the Veterans' Administration hospital system has been experiencing increasing difficulties in providing a full range of services for the care of sick and disabled veterans. As a result of past decisions, the ability of the VA hospital system to meet future needs has been seriously impaired. Action must be taken now to insure that eligible veterans will receive the medical care they require. To those who have been injured in the service of the United States, we owe a special obligation. We, as a people, have commitments to our veterans, and we shall fulfill them.

During the past 5 to 6 years there have been vast differences of opinions between Federal budget officials, policymakers in the executive branch of the Government, committees of Congress concerned with veterans' affairs, and national veterans groups as to the adequacy of VA hospital staffing and the quality of medical care available for America's veterans.

Based on information assembled by congressional committees and veterans organizations, it seemed abundantly clear that there was a serious need for immediate and substantial staffing and other resource increases. Surveys conducted by the House Veterans' Affairs Committee for several years among VA hospital directors indicated that additional staffing was considered to be one of their most pressing problems in the delivery of health care to veterans. These surveys also disclosed that various arbitrary personnel ceilings and grade deescalation policies imposed by Executive order were having serious adverse effects and impeding the proper care of hospitalized veterans.

Current administration budgetary requests and predicted continuation of hard-line personnel ceilings and grade de-escalation policies which will result in the reduction of over 2,000 employes in the VA's Department of Medicine and Surgery in fiscal 1974 indicate that no improvement can be expected during the next 12 months if there are no policy changes.

During the 1974 VA budget hearings before the Congress, the Administrator of Veterans' Affairs presented testimony predicting that for the most part, present staffing patterns in the VA medical program were adequate to meet current demands. However, when the Administrator transmitted his budget request for fiscal year 1974 to the Office of Management and Budget, before it was sent to Congress, it contained a request for increased medical care employment totaling about 5,500 positions at a cost of $123 million in order to staff VA medical bed sections at a ratio of 1.65 staff to patients; surgical bed sections at 2.07 staff to patients, and psychiatric bed sections at 1 staff to patients. The Office of Management and Budget did not approve these levels and the overall 1974 budget request for VA medical care was reduced by over $173 million. Of course the Administrator was then required to defend the OMB approved level rather than his own recommendations.

For many years questions have been raised as to why community hospitals appeared to be so much better staffed than VA hospitals. However, no conclusive program has been undertaken to establish the needed benchmarks for logical staffing and other resource requirements in VA medical facilities taking into consideration the similarities and differences between VA and community hospital staffing and their other comparative resource requirements. Available statistics showed larger numbers of people employed by community hospitals in relationship to operating beds. For the most part in VA, the gross number of hospital employees providing care to hospital patient census has been used to compare the staffing of different hospitals.

Early in the 91st Congress in hearings before the Subcommittee on Hospitals of the Committee on Veterans' Affairs, it became apparent that community hospitals had a higher ratio of employees to average daily patient census than VA hospitals. The comparisons made at that time were based on statistics appearing in the Annual Guide Issue of Hospitals—Journal of the American Hospital Association. During these hearings, it was recognized that many variables were involved in staffing individual hospitals in the private sector and that many differences existed between VA hospitals in spite of their being joined into a system by standardized policies, rules, and regulations.

Although various staffing studies have been undertaken by the Veterans' Administration's Department of Medicine and Surgery, no policy guidelines evolved to establish reasonable standards or guidelines to properly gage actual staffing and other resource needs to provide reasonable standards for quality medical care to hospitalized veterans.

Staffing ratio and other resource requirements for VA hospitals have been dated for a number of years; however, little progress has been made in resolving the issue. Conflicting policies have been set by both the executive and legislative branches of the Government. Funds for implementing legislative policies have been impounded by the executive branch.

For the past 2 fiscal years, the Congress has established a minimum operating bed and average daily patient census level by law in seeking to insure that all qualified veterans in need of hospital care would have the necessary VA hospital facilities available to accommodate their medical needs.

For 2 consecutive years, the numerical levels of average usage and operating bed capacity as earmarked by the Congress for the VA hospital system have been ignored, apparently due to arbitrary guidelines imposed by the Office of Management and Budget.

In each of the past 2 fiscal years, an opinion has been sought from the Comptroller General of the United States as to whether or not the VA had complied with the provisions of law pertaining to the minimum average daily patient census and operating bed levels. In two separate opinions, the Comptroller General has stated that the VA has not complied with the provisions of law.

Congress has taken note of the President's statement in his human resources message on the State of the Union on March 1, 1973, concerning the provision of medical care for veterans. In this message, the President stated:

> Since 1969, there has also been a steady shortening of the average length of stay in VA hospitals, a highly desirable objective from every viewpoint. This means that VA hospitals have fewer patients in bed on an average day, with shorter waiting lists, even though the total number of patients treated has gone up.
>
> Misunderstanding these statistics, some have sought to establish by law a numerical minimum average daily patient census in VA hospitals. But such a fixed daily census would represent a backward step; it would force sharply increased length of stay—an effect that is medically, economically, and socially undesirable. It is far better that our veterans be restored to their families and jobs as rapidly as feasible, consistent with good medical care. A fixed patient census would tie the hands of those seeking to serve veterans' health needs;

I urge Congress not to enact such a requirement.

In direct response to the President's contention as expressed in his March 1, 1973, message and further reiterated by the Administrator of Veterans' Affairs in testimony before the Congress that no fixed patient census or fixed operating bed level is needed to serve veterans' health-care needs in fiscal year 1974, Congress omitted such provisions from the appropriations bill. Congress expects, however, that the administration will also drop the arbitrary restrictions it has imposed, which has limited available hospital facilities for the care of veterans. Congress expects the VA to accept to treatment eligible veterans in need of care, as required by law, and has indicated that it stands ready to favorably entertain consideration of future justified proposals submitted by the administration to supplement medical care funding in the future.

This is most important and I hope OMB will fulfill its commitment. Eligible veterans in need of care must be admitted and I am confident that Congress will furnish the funds if the Agency will request them.

An examination of the hearing record on the 1974 VA budget reveals substantial testimony by the Administrator of Veterans Affairs to the effect that an average daily census of 80,000 is sufficient to meet the needs of veterans requiring hospital care during fiscal year 1974. In his testimony, the Administrator reiterated the President's position that there was no need to establish by law minimum census and bed level requirements which the Congress adopted in fiscal years 1972 and 1973.

The Administrator of Veterans' Affairs, in support of the requested budget, assured the committee that if the patient load required an increase in average daily patient census and operating bed levels during fiscal year 1974, the necessary upward adjustments would be made to take care of the additional load.

Members of Congress have reported that they are receiving many complaints, particularly from older World War I veterans who have been denied admission to VA hospitals and found it necessary to seek medical care in the private sector. This has resulted in considerable undue hardship on many of these veterans who must live on fixed retirement incomes. Many instances have been noted where needy veterans experienced long delays in being examined in connection with their applications for hospital admission. They generally receive good care once admitted to a hospital, but being screened for admission is often a lengthy and unnecessarily harrowing experience. It appears that arbitrary patient census limitations imposed by VA and OMB play a large role in determining admission of patients rather than medical facts of the case.

There are other areas of equal concern in the VA hospital system that need improvement. These include better staffing in direct patient care during night shifts, weekends and holidays; improvement in emergency care capability and around the clock hospital coverage to facilitate prompt workup and treatment of patients; more adequate space and better staffing to deal with greatly increasing outpatient care loads; some relaxation of rigid personnel ceilings and average grade level policies; and continued upgrading and replacement of physical facilities in the hospitals and clinics.

Both Congress and the executive branch of Government have made solemn pledges to America's veterans to provide quality care in VA medical facilities. And Congress believes that in order to provide proper guidelines for future legislative and administrative action for health care delivery in the VA medical system, an independent survey of these complex problem areas should be undertaken. This bill provides that such a survey be made by the National Academy of Sciences utilizing its extensive scientific resources and expertise, including the National Institute of Medicine and National Research Council.

The new language now contained in section 201(c) of H.R. 9048 is expressly intended to determine the total staffing patterns and/or ratios required in the VA medical system, including inpatient, outpatient, and domiciliary facilities; nursing care units; research and education programs; and any other services performed in order that veterans will receive quality medical care. It is further intended that this survey will be devoted, not only limited, to a review of the requirements of each hospital service unit and to all categories of employment, including professional, paraprofessional, technical, administrative and supporting personnel. It is further expected that this review will include, but not be limited to, resource requirements such as equipment, facilities, admitting and emergency services, as well as other 24-hour services deemed appropriate to the delivery of quality health care in the VA medical system.

The Veterans' Administration medical system has undertaken many "firsts" since its reorganization after World War II, and through its vast system of hospitals and clinics which constitute the largest single hospital system in the world, the committee believes that this pioneer step, in addition to providing extensive and highly valuable information for health care delivery in the Veterans' Administration, will be most beneficial to the Nation as a whole in attempting to help solve the so-called medical care crisis, which is of great concern to all Americans.

This is an important bill. It reaffirms the interest of the Congress in the VA medical program. I for one wish to declare my intention to continue my efforts to preserve the VA hospital and medical system intact and effective as an independent system.

The SPEAKER. The question is on the motion offered by the gentleman from South Carolina (Mr. DORN) that the House suspend the rules and pass the bill H.R. 9048, as amended.

The question was taken.

Mr. SAYLOR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 345]

YEAS—421

Abdnor
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen

Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Conte
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
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Downing
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Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
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Hawkins
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Hechler, W. Va.
Heckler, Mass.
Heinz
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Henderson
Hicks
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Hogan
Holifield
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Johnson, Calif.
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Jones, Ala.
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Landrum
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Litton
Long, La.
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McCormack
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McEwen
McFall
McKay
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McSpadden
Macdonald
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Mailliard
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Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
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Meeds
Melcher
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Mezvinsky
Michel
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Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
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Moorhead, Calif.
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Morgan
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Powell, Ohio
Preyer
Price, Ill.
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Pritchard
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Roberts
Robinson, Va.
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Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
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Scherle
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Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
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NAYS—0

NOT VOTING—12

Chisholm
Conyers
Danielson
Fisher
Gray
Hébert
Kemp
King
Landgrebe
Mills, Ark.
O'Neill
Talcott

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Kemp.
Mr. Danielson with Mr. Landgrebe.
Mrs. Chisholm with Mr. King.
Mr. Gray with Mr. Talcott.
Mr. Hébert with Mr. Mills of Arkansas.
Mr. Fisher with Mr. Conyers.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DORN. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from the further consideration of the Senate bill (S. 59) to amend title 38 of the United States Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes, and ask for immediate consideration of the Senate bill.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The Clerk read the Senate bill as follows:

S. 59

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans Health Care Expansion Act of 1973".

TITLE I—HOSPITAL, DOMICILIARY, AND MEDICAL CARE BENEFITS

SEC. 101. (a) Subparagraph (C) of section 601(4) of title 38, United States Code, is amended to read as follows:

"(C) private facilities for which the Administrator contracts in order to provide (i) hospital care or medical services for persons suffering from service-connected disabilities or from disabilities for which such persons were discharged or released from the active military, naval, or air service; (ii) hospital care for women veterans; (iii) hospital care for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the forty-eight contiguous States, except that the annually determined average hospital patient load per thousand veteran population hospitalized at Veterans' Administration expense in Government and private facilities in each such noncontiguous State may not exceed the average patient load per thousand veteran population hospitalized by the Veterans' Administration within the forty-eight contiguous States; but authority under this clause (iii) shall expire on December 31, 1978; or (iv) hospital care, where appropriate facilities defined in clauses (A) and (B) are not available, for the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and the widow or child of a veteran who died as a result of a service-connected disability.".

(b) Section 601(5) of such title is amended to read as follows:

"(5) The term 'hospital care' includes—

"(A) (i) medical services rendered in the course of the hospitalization of any veteran, and (ii) transportation and incidental expenses for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation;

"(B) such mental health services, consultation, professional counseling, and training (including (i) necessary expenses for transportation if unable to defray such expenses; or (ii) necessary expenses of transportation and subsistence in the case of a veteran who is receiving care for a service-connected disability or in the case of a dependent or survivor of a veteran under the terms and conditions set forth in section 111 of this title) of the members of the immediate family (including legal guardians) of a veteran or a dependent or survivor of a veteran, or, in the case of a veteran or dependent or survivor of a veteran who has no immediate family members (or legal guardian), the person in whose household such veteran, or a dependent or survivor certifies his intention to live, as may be necessary or appropriate to the effective treatment and rehabilitation of a veteran or a dependent or a survivor of a veteran; and

"(C) (i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran, and (ii) transportation and incidental expenses for a dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation."

(c) Section 601(6) of such title is amended by inserting immediately after "treatment," the following: "such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran or a dependent or survivor of a veteran,".

SEC. 102. Section 610 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "or nursing home care" immediately after "hospital care" where it first appears;

(2) striking out clause (1)(B) of subsection (a) and inserting in lieu thereof the following:

"(B) any veteran for a non-service-connected disability if he is unable to defray the expenses of necessary hospital care;".

(3) amending subsection (c) to read as follows:

"(c) While any veteran is receiving hospital care or nursing home care in any Veterans' Administration facility, the Administrator may, within the limits of Veterans' Administration facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which he is hospitalized, if the veteran is willing, and the Administrator finds such services to be reasonably necessary to protect the health of such veteran."; and

(4) adding at the end thereof the following new subsections:

"(d) The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care or nursing home care to the following individuals, in accordance with such regulations as he shall prescribe, to the extent that the provision of such care does not interfere with the furnishing of hospital and domiciliary care under subsections (a) and (b) of this section:

"(1) the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability; and

"(2) the widow or child of a veteran who died as the result of a service-connected disability.

"(e) In no case may nursing home care be furnished in a hospital not under the direct and exclusive jurisdiction of the Administrator except as provided in section 620 of this title."

SEC. 103. Subsection (f) of section 612 of title 38, United States Code, is amended to read as follows:

"(f) The Administrator may also furnish medical services for any disability on an outpatient or ambulatory basis—

"(1) to any person eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or to obviate the need of, hospital admission, or (B) where such a person has been granted hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care; and

"(2) to any veteran who has a service-connected disability rated at 80 per centum or more."

SEC. 104. (a) The first sentence of subsection (a) of section 620 of title 38, United States Code, is amended by redesignating clauses (1) and (2) as clauses (i) and (ii), respectively; by striking out "veteran" in redesignated clause (i) and inserting "person"; and by amending that portion preceding such clauses to read as follows:

"(a) Subject to subsection (b) of this section, the Administrator may transfer—

"(1) any person who has been furnished care by the Administrator in a hospital under the direct and exclusive jurisdiction of the Administrator, and

"(2) any person (A) who has been furnished care in any hospital of any of the Armed Forces, (B) who the appropriate Secretary concerned has determined has received maximum hospital benefits but requires a protracted period of nursing home care, and (C) who upon discharge therefrom will become a veteran

to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care, for care at the expense of the United States, only if the Administrator determines that—".

(b) The second sentence of section 620(a) of such title is amended by striking out the designations (A) and (B) and inserting in lieu thereof (I) and (II), respectively; and by striking out "veteran" wherever it appears in such sentence and inserting in lieu thereof "person".

(c) Section 620(b) of such title is amended by (1) striking out "veteran" and inserting in lieu thereof "person"; (2) by adding "or admitted" after "transferred" and (3) by adding at the end thereof the following: "The standards prescribed and any report of inspection of institutions furnishing care to veterans under this section made by or for the Administrator shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.".

(d) Section 620 of such title is further amended by adding at the end thereof the following new subsection (d):

"(d) Subject to subsection (b) of this section, the Administrator may authorize for any veteran requiring nursing home care for a service-connected disability direct admission for such care at the expense of the United States to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care. Such admission may be authorized upon determination of need therefor by a physician employed by the Veterans' Administration or, in areas where no such physician is available, carrying out such function under contract or fee arrangement based on an examination by such physician. The amount which may be paid for such care and the length of care available under this subsection shall be the same as authorized under subsection (a) of this section."

SEC. 105. (a) Section 624 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Administrator may furnish nursing home care, on the same terms and conditions set forth in section 620(a) of this title and at the same rate as specified in section 632(a)(4) of this title, to any veteran who has been furnished hospital care in the Philippines pursuant to this section, but who requires a protracted period of nursing home care."

(b) The catchline at the beginning of section 624 of such title is amended to read as follows:

"§ 624. Hospital care, medical services and nursing home care abroad"

SEC. 106 (a) Section 626 of title 38, United States Code, is amended by striking out "fire" and inserting in lieu thereof "fire, earthquake, or other natural disaster".

(b) The catchline at the beginning of section 626 of such title is amended to read as follows:

"§ 626. Reimbursement for loss of peronal effects by natural disaster"

SEC. 107. (a) Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"(a) The Administrator may, under such regulations as he shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including necessary travel), for which such veterans have made payment, from sources other than the Veterans' Administration, where—

"(1) such care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health;

"(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected disability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who is found to be (i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible his entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

"(3) Veteran' Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

"(b) In any case where reimbursement would be in order under subsecion (a) of this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

"(1) to the hospital or other health facility furnishing the care or services; or

"(2) to the person or organization making such expenditure on behalf of such veteran."

(b) The table of sections at the beginning of such chapter is amended (1) by deleting

"624. Hospital care and medical services abroad."

and inserting in lieu thereof

"624. Hospital care, medical services and nursing home care abroad."

and (2) by deleting

"626. Reimbursement for loss of personal effects by fire.

"627. Persons eligible under prior law."

and inserting in lieu thereof

"626. Reimbursement for loss of personal effects by natural disaster.

"627. Persons eligible under prior law.

"628. Reimbursement of certain medical expenses."

SEC. 108. (a) Chapter 17 of title 38, United States Code, is amended by striking out sections 631 and 632 in their entirety and inserting in lieu thereof the following:

"§ 631. Assistance to the Republic of the Philippines

"The President is authorized to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and non-service-connected disabilities under certain conditions.

"§ 632. Contracts and grants to provide hospital care, medical services and nursing home care

"(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on July 1, 1973, and ending on June 30, 1978, under which the United States—

"(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided either in the Veterans Memorial Hospital, or by contract, or otherwise by the Administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 612 of this title, for Commonwealth Army veterans and new Philippine Scouts determined by the Administrator to be in need of such hospital care or medical services for service-connected disabilities;

"(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans, and for new Philippine Scouts if they enlisted before July 4, 1946, determined by the Administrator to need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

"(3) may provide for the payment of travel expenses pursuant to section 111 of this title for Commonwealth Army veterans and new Philippine Scouts in connection with hospital care or medical services furnished them;

"(4) may provide for payments for nursing home care, on the same terms and conditions as set forth in section 620(a) of this title, for any Commonwealth Army veteran or new Philippine Scout determined to need such care as a per diem rate not to exceed 50 per centum of the hospital per diem rate established pursuant to clause (6) of this subsection;

"(5) may provide that payments for hospital care and for medical services provided to Commonwealth Army veterans and new Philippine Scouts or to United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator; and is authorized to furnish through the revolving supply fund, pursuant to section 5011 of this title, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefor, as applicable, appropriations available for such payments;

"(6) will provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

"(7) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

"(b) The total of the payments authorized by subsection (a) of this section shall not exceed $2,000,000 for any one such fiscal year ending before July 1, 1978, which shall include an amount not to exceed $250,000 for any one such fiscal year for the purposes of clause (4) of such subsection.

"(c) the contract authorized by subsection (a) of this section may provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans or new Philippine Scouts for service-connected disabilities, for hospital care of other persons in the discretion of the Republic of the Philippines, except that (1) priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans and new Philippine Scouts needing hospital care for service-connected disabilities, and (2) such use shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical services for persons eligible therefor from the Veterans' Administration.

"(d) To further assure the effective care and treatment of patients in the Veterans Memorial Hospital, there is authorized to be appropriated for each fiscal year during the six years beginning July 1, 1972, and ending June 30, 1978—

"(1) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel who are assigned to such hospital; and

"(2) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such hospital.

Such grants shall be made on such terms and conditions as prescribed by the Administrator, including approval by him of all education and training programs conducted by the hospital under such grants. Any appropriation made for carrying out the purposes of clause (2) of this subsection shall remain available until expended."

(b) The table of sections at the beginning of such chapter 17 is amended by striking out

"631. Grants to the Republic of the Philippines.

"632. Modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948."

and inserting in lieu thereof

"631. Assistance to the Republic of the Philippines.

"632. Contracts and grants to provide hospital care, medical services and nursing home care."

(c) Nothing in subsection (a) of this section shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Republic of the Philippines and the Government of the United States resulting from Public Law 89-612, which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 632 of title 38, United States Code, in effect on the day before the date of enactment of this section.

SEC. 109. (a) Chapter 17 of title 38, United States Code, is further amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Sickle Cell Anemia

"§ 651. Screening, counseling, and medical treatment

"The Administrator is authorized to carry out a comprehensive program of providing treatment, and information under the provisions of this chapter.

"§ 652. Research

"The Administrator is authorized to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter.

"§ 653. Voluntary participation; confidentiality

"(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance program under this title.

"(b) The Administrator shall promulgate rules and regulations to insure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled without reference to patient names or other identifying characteristics.

"§ 654. Reports

"The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator deems necessary."

(b) The analysis at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER VI—SICKLE CELL ANEMIA

"651. Screening, counseling, and medical treatment.

"652. Research.

"653. Voluntary participation; confidentiality.

"654. Reports.".

TITLE II—AMENDMENTS TO CHAPTER 73 OF TITLE 38, UNITED STATES CODE, RELATING TO THE DEPARTMENT OF MEDICINE AND SURGERY

SEC. 201. Section 4101 of title 38, United States Code, is amended by amending subsection (b) to read as follows:

"(b) In order to carry out more effectively the primary function of the Department of Medicine and Surgery to provide a complete medical and hospital service for the medical care and treatment of veterans and to assist in providing an adequate supply of health manpower to the Nation, the Administrator shall, to the extent feasible without interfering with the medical care and treatment of veterans, develop and carry out a program of education and training of such health manpower (including the developing and evaluating of new health careers, interdisciplinary approaches and career advancement opportunities), and shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as physicians' assistants, dentists' assistants, and other medical technician (including advising all such qualified veterans and servicemen about to be discharged or released from active duty of such employment opportunities), acting in cooperation with such schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions; other institutions of higher learning; medical centers; academic health centers; hospitals; and such other public or nonprofit agencies, institutions, or organizations as the Administrator deems appropriate.".

"(c) In order to attain comparability in the staff-to-patient ratio in the several services of Veterans' Administration hospitals with like services of other public and private hospitals, the Comptroller General of the United States shall, on a geographical or regional area basis, select as an index for such purpose any hospital or hospitals (or other medical installation or installations having hospital facilities) having an optimum staff-to-patient ratio in such services. Within three years after the date of the enactment of this subsection, the staff-to-patient ratio in each such service at each Veterans' Administration hospital, domiciliary, and clinic within the same geographic or regional area shall be comparable to that in the index service of the index facility in such area at such time, taking into consideration the composition of patient population. To secure the information and statistical data necessary for the selection of such index hospital, the Administrator shall cooperate fully with the Comptroller General and may make arrangements, by contract or other form of agreement, for such medical information services. The Comptroller General shall submit to the Congress not more than sixty days after the end of each fiscal year, a report describing the actions taken to implement the provisions of this subsection and the extent to which such provisions have been implemented. Such report shall also include a service-by-service description of the index ratios and established staff-to-patient ratios in each Veterans' Administration facility."

SEC. 202. Section 4103(a) of title 38, United States Code, is amended—

(1) by amending paragraph (4) to read as follows:

"(4) Not to exceed eight Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendations of the Chief Medical Director. Not more than two Assistant Chief Medical Directors may be individuals qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicine. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service."; and

(2) by amending paragraph (7) to read as follows:

"(7) A Director of Pharmacy Service, a Director of Dietetic Service, and a Director of Optometry, appointed by the Administrator."

SEC. 203. Section 4107 of title 38, United States Code, is amended by—

(1) amending subsections (a) and (b) to read as follows:

"(a) The per annum full-pay scale or ranges for positions provided in section 4103 of this title, other than Chief Medical Director and Deputy Chief Medical Director, shall be as follows:

"Section 4103 Schedule

"Associate Deputy Chief Medical Director, at the annual rate provided in section 5316 of title 5 for positions in level V of the Executive Schedule.

"Assistant Chief Medical Director, $41,734.

"Medical Director, $36,103 minimum to $40,915 maximum.

"Director of Nursing Service, $36,103 minimum to $40,915 maximum.

"Director of Chaplain Service, $31,203 minimum to $39,523 maximum.

"Director of Pharmacy Service, $31,203 minimum to $39,523 maximum.

"Director of Dietetic Service, $31,203 minimum to $39,523 maximum.

"Director of Optometry, $31,203 minimum to $39,523 maximum.

"(b) (1) The grades and per annum full-pay ranges for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"Physician and Dentist Schedule

"Director grade, $31,203 minimum to $39,523 maximum.

"Executive grade, $28,996 minimum to $37,699, maximum.

"Chief grade, $26,898 minimum to $34,971 maximum.

"Senior grade, $23,088 minimum to $30,018 maximum.

"Intermediate grade, $19,700 minimum to $25,613 maximum.

"Full grade, $16,682 minimum to $21,686 maximum.

"Associate grade, $13,996 minimum to $18,190 maximum.

"Nurse Schedule

"Director grade, $26,898 minimum to $34,971 maximum.

"Assistant Director grade, $23,088 minimum to $30,018 maximum.

"Chief grade, $19,700 minimum to $25,613 maximum.

"Senior grade, $16,682 minimum to $21,686 maximum.

"Intermediate grade, $13,996 minimum to $18,190 maximum.

"Full grade, $11,614 minimum to $15,097 maximum.

"Associate grade, $10,012 minimum to $13,018 maximum.

"Junior grade, $8,572 minimum to $11,146 maximum.

"(2) No person may hold the director grade in the 'Physician and Dentist Schedule' unless he is serving as a director of a hospital, domiciliary, center, or outpatient clinic (independent). No person may hold the executive grade unless he holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position."; and

(2) adding at the end thereof the following new subsections:

"(d) The limitations in section 5308 of title 5 shall apply to pay under this section.

"(e) (1) In addition to the basic compensation provided for nurses in subsection (b) (1) of this section, a nurse shall receive additional compensation as provided by paragraphs (2) through (8) of this subsection.

"(2) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional compensation for each hour of service on such tour at a rate equal to 10 per centum of the employee's basic hourly rate, if at least four hours of such tour fall between 6 postmeridian and 6 antimeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of work performed between those hours.

"(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday, shall receive additional compensation for each hour of service on such tour at a rate equal to 25 per centum of such nurse's basic hourly rate.

"(4) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive such nurse's regular rate of basic pay, plus additional pay at a rate equal to such regular rate of basic pay, for that holiday work, including overtime work. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

"(5) A nurse performing officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service; the overtime rates shall be one and one-half times such nurse's basic hourly rate, not to exceed one and one-half times the basic hourly rate for the minimum rate of Intermediate grade of the Nurse Schedule. For the purposes of this paragraph, overtime must be of at least fifteen minutes duration in a day to be creditable for overtime pay. Compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted. Any excess service performed under this paragraph on a day when service was not scheduled for such nurse, or for which such nurse is required to return to her place of employment, shall be deemed to be a minimum of two hours in duration.

"(6) For the purpose of computing the additional compensation provided by paragraph (2), (3), (4), or (5) of this subsection, a nurse's basic hourly rate shall be derived by dividing such nurse's annual rate of basic compensation by two thousand and eighty.

"(7) When a nurse is entitled to two or more forms of additional pay under paragraph (2), (3), (4), or (5) for the same period of duty, the amounts of such additional pay shall be computed separately on the basis of such nurse's basic hourly rate of pay, except that no overtime pay as provided in paragraph (5) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under paragraph (4) for such service.

"(8) A nurse who is officially scheduled to be on call outside such nurse's regular hours shall be compensated for each hour of such on-call duty, except for such time as such nurse may be called back to work, at a rate equal to 10 per centum of the hourly rate for excess service as provided in paragraph (5) of this subsection.

"(9) Any additional compensation paid pursuant to this subsection shall not be considered as basic compensation for the purposes of subchapter VI and section 5595 of subchapter IX of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits based on basic compensation."

SEC. 204. (a) Section 4108 of title 38, United States Code, is amended to read as follows:

"§ 4108. Personnel administration

"(a) Notwithstanding any law, Executive order, or regulation, the Administrator shall prescribe by regulation the hours and conditions of employment and leaves of absence of physicians, dentists, and nurses appointed to the Department of Medicine and Surgery, except that the hours of employment in carrying out responsibilities under this title of any physician, dentist (other than an intern or resident appointed pursuant to section 4114 of this title), or nurse appointed on a full-time basis who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title, shall consist of not less than eighty hours in a biweekly pay period (as that term is used in section 5504 of title 5), and no such person may—

"(1) assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Veterans' Administration facility, except in those cases where the individual, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed one hundred and eighty calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed one hundred and eighty calendar days each;

"(2) teach or provie consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with his responsibilities under this title;

"(3) accept payment under any insurance or assistance program established under subchapter XVIII, or XIX of chapter 7 of title 42, or under chapter 55 of title 10 for professional services rendered by him while carrying out his responsibilities under this title;

"(4) accept from any source, with respect to any travel performed by him in the course of carrying out his responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5;

"(5) request or permit any individual or organization to pay, on his behalf, for insurance insuring him against malpractice claims arising, in the course of carrying out his responsibilities under this title or for his dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of his remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title; and

"(6) perform, in the course of carrying out his responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for his personal benefit, or both, and in the case of any such fund or account established before the effective date of this subsection—

"(A) the affiliated institution shall submit semiannually an accounting to the Administrator and to the Comptroller General of the United States with respect to such fund or account, and thereafter shall maintain such fund or account subject to full public disclosure and audit by the Administrator and the Comptroller General for a period of three years or for such longer period as the Administrator shall prescribe, and

"(B) no physician, dentist, or nurse may receive, after the effective date of this subsection, any cash from amounts deposited in such fund or account derived from services performed prior to the effective date of this subsection.

"(b) As used in this section, the term 'affiliated institution' means any medical school or other institution of higher learning with which the Administrator has a contract or agreement pursuant to section 4112(b) of this title for the training or education of health manpower.

"(c) As used in this section, the term 'remuneration' means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional reponsibilities."

(b) The table of sections at the beginning of chapter 73 of such title is amended by striking out

"4108. Administration."

and inserting in lieu thereof

"4108. Personnel administration.".

SEC. 205. (a) Section 4109 of title 38, United States Code, is amended by striking out "the Civil Service Retirement Act" and inserting in lieu thereof "chapter 83 of title 5".

(b) Subsection (b) of section 4112 of such title 38, is amended by striking out "service personnel" in the first sentence immediately after "health" and by inserting in lieu thereof "manpower".

SEC. 206. Section 4114 of title 38, United States Code is amended as follows:

(1) by striking out the words "ninety days" in the last sentence of paragraph (3)(A) of subsection (a) and inserting in lieu thereof "one year";

(2) by inserting "(1)" immediately after "(b)" at the beginning of subsection (b) of such section and by adding at the end of such subsection the following new paragraphs:

"(2) For the purposes of this title, the term 'intern' shall include an internship or the equivalency thereof, as determined in accordance with regulations which the Administrator shall prescribe.

"(3) In order to carry out more efficiently the provisions of paragraph (1) of this subsection, the Administrator may contract with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the Veteran' Administration in the training of interns or residents to provide for the central administration of stipend payments, provision of fringe benefits, and maintenance of records for such interns and residents by the designation of one such institution to serve as a central administrative agency for this purpose. The Administrator may pay to such designated agency, without regard to any other law or regulation governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such intern or resident serves in a Veterans' Administration hospital of (A) stipends fixed by the Administrator pursuant to paragraph (1) of this subsection, (B) hospitalization, medical care, and life insurance, and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Veterans' Administration hospital, (C) tax on employers pursuant to chapter 21 of the Internal Revenue Code of 1954, where applicable, and in addition, (D) an amount to cover a pro rata share of the cost of expense of such central administrative agency. Any amounts paid by the Administrator to such central administrative agency to cover the cost of hospitalization, medical care, or life insurance or other employee benefits shall be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim he might have to any payment of stipends or employee benefits to which he may be entitled under this title of title 5. Notwithstanding the foregoing, any period of service of any such intern or resident in a Veterans' Administration hospital shall be deemed creditable service for the purposes of section 8332 of title 5. The agreement may further provide that the designated central administrative agency shall make all appropriate deductions from the stipend of each intern and resident for local, State, and Federal taxes, maintain all records pertinent thereto and make proper deposits thereof, and shall maintain all records pertinent to the leave accrued by such intern and resident for the period during which he serves in a participating hospital, including a Veterans' Administration hospital. Such leave may be pooled, and the intern or resident may be afforded leave by the hospital in which he is serving at the time the leave is to be used to the extent of his total accumulated leave, whether or not earned at the hospital in which he is serving at the time the leave is to be afforded."; and

(3) by adding at the end thereof the following new subsection:

"(e) The program of training prescribed by the Administrator in order to qualify a person for the position of full-time physicians' assistant or dentists' assistant shall be considered a full-time institutional program for purposes of chapter 34 of this title. The Administrator may consider training for such a position to be on a less than full-time basis for purposes of such chapter when the combined classroom (and other formal instruction) portion of the program and the on-the-job training portion of the program total less than 30 hours per week."

SEC. 207. Section 4116 of title 38, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) The remedy—

"(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28, for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of his duties in or for the Department of Medicine and Surgery shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical or other supporting personnel (or his estate) whose act or omission gave rise to such claim.";

(2) by striking out the last sentence in subsection (c) and inserting in lieu thereof the following: "After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of his office or employment, the case shall be remanded to the State court."; and

(3) by adding at the end thereof the following new subsection:

"(e) The Administrator may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a) of this section), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of his duties in or for the Department of Medicine and Surgery, if such person is assigned to a foreign country, detailed to a State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury."

SEC. 208. Section 4117 of title 38, United States Code, is amended to read as follows:

"The Administrator may enter into contracts with medical schools, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans' Administration facilities (including, but not limited to, services of physicians, dentists, nurses, physicians' assistants, dentists' assistant, technician, and other medical support personnel)."

TITLE III—AMENDMENTS TO CHAPTER 81 OF TITLE 38, UNITED STATES CODE—ACQUISITION AND OPERATION OR HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SEC. 301. (a) Subsection (a) of section 5001 of title 38, United States Code, is amended by—

(1) striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the following: "but in no event shall the Administrator provide for less than an average of 98,500 operating beds in Veterans' Administration hospitals or an average daily patient census in such beds of less than 85,500 in any fiscal year, nor maintain such a census of less than 82,000 in any such fiscal year."; and

(2) striking out in the first sentence of paragraph (3) "is authorized to" and inserting in lieu thereof "shall", and by striking out "four thousand beds" and inserting in lieu thereof "eight thousand beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter".

(b) Subsection (b) of section 5001 of such title is amended to read as follows:

"(b) Hospitals, domiciliaries, and other medical facilities provided by the Administrator (including nursing home facilities for which the Administrator contracts under section 620 of this title) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing plant is purchased, it shall be remodeled to comply with the requirements stated in the first sentence of this subsection. In order to carry out this subsection, the Administrator shall appoint an Advisory Committee on Structural Safety of Veterans' Administration Facilities, on which shall serve at least one architect and one structural engineer expert in fire, earthquake, and other natural disaster resistance who shall not be employees of the Federal Government, to advise him on all matters of structural safety in the construction and remodeling of Veterans' Administration facilities in accordance with the requirement of this subsection, and which shall approve regulations prescribed thereunder. The Associate Deputy Administrator, the Chief Medical Director, or his designee, and the Veterans' Administration official charged with the responsibility for construction shall be ex offico members of such committee."

(c) Section 5001 of such title is further amended by adding the following new subsection:

"(g) The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to Veterans' Administration medical facilities when deemed necessary for safe ingress or egress."

SEC. 302. Chapter 81 of title 38, United States Code, is amended—

(1) by adding at the end of sbchapter I the following new section:

"§ 5007. Partial relinquishment of legislative jurisdiction

"The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under his supervision or control are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.";

(2) by inserting immediately after the first sentence in subsection (a) of section 5012 thereof the following: "Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled 'An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Administrator shall give appropriate public notice of his intention to do so in the newspaper of the community in which the lands or buildings to be leased are located."; and

(3) by inserting in the table of sections at the beginning of such chapter.

"5007. Partial relinquishment of legislative jurisdiction."

immediately after

"5006. Property formerly owned by the National Home for Disabled Volunteer Soldiers.".

SEC. 303. (a) Section 5053(a) of title 38, United States Code, is amended by striking out "or medical schools" at the beginning of the material contained in parentheses, and by inserting immediately after the close parenthesis the words "or medical schools or clinics".

TITLE IV—MISCELLANEOUS AMENDMENTS TO TITLE 38, UNITED STATES CODE

SEC. 401. Section 230(b) of title 38, United States Code, is amended hy striking out "July 3, 1974" and inserting in lieu thereof "June 30, 1978".

SEC. 402. (a) Section 234 of title 38, United States Code, is amended by inserting immediately after the words "telephones for" the following: "nonmedical directors of centers, hospitals, independent clinics, domiciliaries, and".

(b) The table of sections at the beginning of chapter 3 of such title is amended by striking out

"234. Telephone service for medical officers."

and inserting in lieu thereof

"234. Telephone service for medical officers and facility directors.".

(c) The catchline at the beginning of section 234 of such title is amended by inserting immediately after the word "officers" the words "and facility directors".

SEC. 403. (a) Section 641 of title 38, United States Code, is amended bv—

(1) striking out in clause (1) "$3.50" and inserting in lieu thereof "$4.50";

(2) striking out in clause (2) "$5" and inserting in lieu thereof "$6";

(2) striking out in clause (2) "$5" and inserting in lieu thereof "$10"; and

(4) inserting immediately after the words "veteran of any war" the following: "or of service after January 31, 1955".

(b) Section 644(b) of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

(c) Subsections (a)(1), (b)(2), and (d) of section 5035 of such title are amended by striking out "50 per centum" wherever it appears therein and inserting in lieu thereof "65 per centum."

(d) Section 5036 of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

TITLE V—EFFECTIVE DATES

SEC. 501. The provisions of this Act shall become effective the first day of the first calendar month following the date of enactment, except that sections 106 and 107 shall be effective on January 1, 1971, and section 203 shall become effective beginning the first pay period following thirty day after the date of enactment of this Act.

AMENDMENT OFFERED BY MR. DORN

Mr. DORN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORN: Strike out all after the enacting clause of S. 59 and insert in lieu thereof the provisions of H.R. 9048, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 9048) was laid on the table.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1973

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2120) to amend the Federal Railroad Safety Act of 1970 and other related acts to authorize additional appropriations, and for other purposes, as amended.

The Clerk read as follows:

S. 2120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1973".

SEC. 2. Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"Sec. 212. Authorization for appropriations.

"There is authorized to be appropriated to carry out the provisions of this title not to exceed $19,440,000 for the fiscal year ending June 30, 1974.".

SEC. 3. Section 303 of the Hazardous Materials Transportation Control Act of 1970 (49 U.S.C. 1762) is amended to read as follows:

"Sec. 303. Authorization for appropriations.

There is authorized to be appropriated to carry out the provisions of this title not to exceed $1,200,000 for the fiscal year ending June 30, 1974.".

SEC. 4. The Secretary of Transportation shall, within ninety days after the date of enactment of this Act, submit a report to the Congress which contains a complete evaluation of all programs conducted under the Hazardous Materials Transportation Control Act of 1970, and on proposed revised handling procedures and feasbility of alternative routing in order to avoid population centers.

The SPEAKER. Is a second demanded?

Mr. HARVEY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr Speaker, this legislation is simply a 1-year extension of the authorization for appropriations for programs within the Federal Railroad Safety Act of 1970 and the Hazardous Materials Control Act of 1970.

The authorization for both programs terminated on June 30 of this year. The Department of Transportation waited until June 6th, to request an extension of these programs. They sent their request up here accompanied with proposals for extensive changes in the 1970 act.

Our Subcommittee on Transportation has been deeply involved in considering Amtrak legislation and the Northeast rail crisis. Our full committee considered this bill on June 20 and passed it by voice vote with one amendment.

This amendment would require the Secretary of Transportation to report within 90 days on programs underway in the Hazardous Materials Control Act. Our subcommittee hopes to have hearings on these programs later in this session.

The administration asked for an open-ended authorization—but budgeted $13.7 million for the programs in this act. Under the original act, the programs under the Federal Railroad Safety Act have received $21 million a year since 1970, and $1 million a year for hazardous materials control.

The Senate bill contains an authorization of $19,440,000 for Federal railroad safety. This is the $13,750,000 the administration had budgeted, plus $5,690,000 we have added to include these items:

For matching grants $1,500,000 for States who will supply inspectors under this program; $100,000 for an experimental inspection of freight cars; $2 million for track inspection equipment; and $2,090,000 for 95 additional inspectors.

We have given the hazardous materials control program $200,000 more than the $1 million annual authorization they received in the past because we feel they need at least 15 new employees for investigations and scientific work.

The total authorization in this bill for both programs is $20,640,000—or $1,360,000 less than last year.

Let me stress to my colleagues that 1,935 persons died in railroad-related accidents last year. We must accelerate our safety efforts. Last year, we had 7,371 train accidents, costing more than $100 million in property damage. And more than 18,273 were injured in railroad-related accidents, two-thirds of whom were railroad employees.

Let me say also that our committee is

not satisfied with the progress that has been made since Congress passed the Federal Railroad Safety Act of 1970. The Federal Railroad Administration has promulgated only one safety standard under this act.

We need more personnel in the Office of Railroad Safety, and we have told the department that we expect them to use the funds available in this bill to have additional personnel. A good example of the current situation is that the Federal Railroad Administration has only six inspectors for hazardous materials—despite a large increase over the past 3 years in the transportation of hazardous materials. It has no inspectors for bridges and tunnels, and last year, four train derailments were directly attributable to defects in bridges and tunnels—some more than 75 years old.

I urge adoption of this legislation, and I assure my colleagues that our committee plans to look very closely at the administration's proposals for changes in the existing law.

Mr. HARVEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 3 years ago Congress placed the responsibility for determining what was required to improve railway safety and authority to enforce those requirements with the Federal Railway Administration. Congress also gave authority to look into the problems connected with the transportation of hazardous materials to that same office. The authorizations for appropriations were set at $21 million per year for a 3-year period. Those authorizations are now expiring, or rather have expired as of the first of July.

The bill sent to Congress by the administration did not reach here until well into June. It asked for open-end authorization. It also recommended amendments of various kinds to safety acts now in effect and the repeal of certain acts considered to be obsolete by those administering the program. Undoubtedly some of these changes are justified but they must be looked into and not run through the mill on faith alone. In view of the fact that the committee is extremely busy with the pressing problems of the northeast railroads and Amtrak, there was no possibility that this legislation could receive proper attention for some time. Because of this the committee brings to the House H.R. 8813 which extends the authorization for the program for 1 fiscal year at the same level as present authorizations.

Some progress has been made in the first 3 years of the program. Track standards are in effect. Proposed standards for rolling stock are being considered. Employee qualification rules are also in the works. At the same time railroad safety could be described as unsatisfactory.

The same might be said for the transportation of hazardous materials. Efforts are being made to minimize the dangers, but several explosions and fires in the last 3 years show clearly that more needs to be done. Because of this the bill does contain one substantive provision. It requires a report within 90 days of all proposals submitted to DOT for revising handling procedures for hazardous materials. It also requires a report on the possibilities of routing hazardous materials to avoid population centers.

It is the intention of the committee to look into these safety programs very fully later on when, hopefully, the difficult problems of the northeast railroads finances have been solved.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. HARVEY. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. How much of this $1 million would be devoted or dedicated to the committee for the purpose of which the gentleman speaks?

Mr. HARVEY. I do not believe there is any dedicated to our committee itself; I will say to my friend, the gentleman from Iowa, that I express it that way because our committee has the oversight function of the Federal Railway Administration, and we felt we would like to before extending that authorization, call that Administration up and go into it at greater length, go into some of these explosions that have taken place. I am satisfied that they have been doing their best, and they have promulgated some regulations in that regard. We would like to be even closer to them in that respect.

Mr. GROSS. Let us take the Railway Safety Act—I believe that is the way it is set forth—how much has been expended on that subject prior to this authorization?

Mr. HARVEY. They have had an authorization of $21 million a year for the last 3 years. That would be $63 million.

Mr. GROSS. Sixty-three million dollars?

Mr. HARVEY. Yes. I cannot tell the gentleman from Iowa how much has been appropriated by the Committee on Appropriations, but I would guess it would be nearly that full amount.

Mr. GROSS. This year it is again $21 million?

Mr. HARVEY. The railway safety program this year is $19.4 million.

Mr. GROSS. Nineteen point four million dollars?

Mr. HARVEY. That is correct.

Mr. GROSS. How much has been expended on the Railway Hazardous Materials Transportation Act, or whatever its specific title, prior to this time?

Mr. HARVEY. It is my understanding and the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS) can correct me if I am wrong, that $21 million per year was authorized for Federal railroad safety and $1 million per year for hazardous materials. This year there is $1.2 million authorized for the hazardous materials transportation program. So that the total this year would be $20.6 million, which is still $1.4 million less than the $22 million total authorization for both programs over the last 3 years.

Mr. GROSS. So despite the 5-year expenditure on this subject, we are still appropriating at the rate of $20 million on these two studies, which are related studies, I am sure.

Mr. HARVEY. I will say to my friend, the gentleman from Iowa, that this was a 3-year program. It is true that despite the 3-year program we are still continuing with it for the fourth year. But I would say to my friend, the gentleman from Iowa, that this is a very complicated subject. If anyone does not believe it, he need only sit in on some of the hearings.

Mr. GROSS. I hesitate to ask the gentleman as to what is complicated about it. I just do not know. What is complicated about a study of this kind?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, I would say to the gentleman from Iowa that this is an enforcement of the laws that are on the books. I will say to my distinguished friend, the gentleman from Iowa (Mr. GROSS) that there are rules to be enforced, and in the $1 million for the transportation of hazardous materials there are inspectors, they have men who are traveling around, men who are putting some or all of these things into effect right now. We are requesting that we not transfer these hazardous materials through heavily populated areas, and there are, of course, a good many of these areas. I am sure the gentleman from Iowa knows that we did have a very severe explosion in California in which a considerable number of people were injured. We think that this rule should be enforced, not only for that city, but for many other cities. We have had complaints from Alabama and many other States.

Mr. GROSS. Mr. Speaker, if the gentleman will yield further so that I may ask a question of the Chairman, is it not obvious that hazardous materials, whatsoever they may be, should not be shipped through cities where there is any other route?

Mr. STAGGERS. We do not say there is anything mysterious or complicated about it. In fact, that is what they should be doing now. That is part of their job. What we are saying is that they need more inspectors and they need more men to enforce the laws that we already have on the books.

Mr. GROSS. Do we not have a Justice Department to enforce the laws?

Mr. STAGGERS. The Justice Department I do not believe has had very much expertise in railroading. These are men who have had the expertise and who have spent their lifetime in this kind of work.

Mr. GROSS. After the expenditure of some $60 million and 3 years—I may have misspoken myself when I said 5 years—there ought to be now some people trained and this bill cut down. Obviously it ought not to cost $60-some million for employees to administer the law. We are going to have to cut expenses in this Government, and on the basis of this bill, this seems to be unrealistic from the standpoint of total expenditures.

Mr. STAGGERS. I think the gentleman just does not quite understand the bill, because this is Federal railroad safety, and certainly something that has been carried for a long time. It is like State policemen on the highway enforcing the laws that these States have, like the Federal Government. Certainly there is an agency, set up in 1970, for this purpose.

Mr. GROSS. I really do not see any all-embracing correlation between highway safety and railroad safety, but perhaps there is.

Mr. MILLER. Mr. Speaker, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman from Ohio.

Mr. MILLER. As I understand, for each of 3 years $21 million has been spent, some $63 million in total, and also as I see by the bill, the gentleman is indicating that there would be a complete evaluation of all programs conducted under the Hazardous Materials Transportation Control Act. Could the gentleman tell us what has been accomplished for that $63 million?

Mr. HARVEY. I can say this to the gentleman, that the Railroad Safety Administration is an office, not a study, in the first place. It is an office charged with the administration of certain standards. I can say to the gentleman that one standard that I know that has been promulgated is the track standard, and this is being enforced at the present time. I know that they are also in the process of promulgating standards to go further with regard to the shipment of hazardous materials. I do not know the exact number of personnel involved, but I do know that there are as many as 48 persons involved in the Office of Hazardous Materials, as I read in the appendix here in the report itself.

Mr. MILLER. Do we have any record that would indicate that we have had less accidents with hazardous materials?

Mr. HARVEY. I do not have any such record, no.

Mr. MILLER. That seems to be the end result of the legislation?

Mr. HARVEY. I would say to the gentleman that I do not think that in a 3-year period of time we are going to end railroad accidents by authorizing $63 million or $633 million. We are talking about the transportation of very dangerous substances. Just look at the explosion that took place recently out in California. They still do not know the cause of that explosion.

Mr. MILLER. That is the point of my question. I know that we would not be able to stop all of the accidents, but by the same token I am just looking for some reduction in accidents due to the expenditure that has been made over the past 3 years of some $63 million.

Mr. HARVEY. I will say that I should like to think that is going to happen eventually, but I can remember back 20 years ago when I served as Secretary of a highway safety council. All I know is that we were striving at that time to cut automobile deaths on the highways and in the factories. If we look at the statistics today, they have gone up during that period of time, despite the millions and millions of dollars that have been spent. Accidents just do not happen; they are caused, and we keep working to try to eliminate them. I doubt that we are going to eliminate these completely. Thus far we have not been shown that this office is not doing its job. We need this much to continue it.

Our committee, as soon as we get in the next few months the Northeast railroad situation resolved, is going to go into hearings on this subject.

Mr. MILLER. I thank the gentleman.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. HARVEY. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, as far as the Northeast railroads, what is the position on them in the committee?

Mr. HARVEY. I do not believe we have had hearings on them as far as this extension.

Mr. SYMMS. It was pointed out the railroads had an interest in the safety of the railroads.

Mr. HARVEY. I do not think there is any question but what the railroads are interested in safety just as any employer is because it is dollars and cents to them, certainly it is, but nevertheless we are talking about not only the safety of the railroads here but also the safety of the public generally. The U.S. Government and the railroad administration has an interest in it also.

Mr. SYMMS. I thank the gentleman for yielding but I wonder if maybe it was not thought the railroads had the most to gain from having a safe operation without Federal intervention.

Mr. HARVEY. That may be the gentleman's conclusion but certainly it is not mine. I think an awful lot is to be gained by having a safe operation of our railroads and I want to go on record in that respect because I believe it is absolutely necessary, and I believe our subcommittee has a duty once we get through this to get into that question and find out what happened in California and other places because that affects not only the railroads but also the surrounding communities and our entire transportation system.

Mr. PRICE of Illinois. Mr. Speaker, I urge favorable consideration of the Railroad Safety and Hazardous Materials Control Amendments of 1973. This bill authorizes $19.4 million for railroad safety programs and $1.2 million for hazardous materials transportation programs. Also, a provision requires the Department of Transportation to report on its efforts to reduce hazards.

The need for such legislation is evident when we consider such disasters as the one which shook East St. Louis, Ill., last year. On January 22, 1972, a ruptured railroad tank car containing 30,000 gallons of propylene, a liquid petroleum gas, exploded as it was being transferred in a railroad yard and was the cause of extensive damage to a 16-square block area. Oven 200 persons were injured and about 100 families were left homeless. Damage was widespread as over 1,000 buildings suffered property losses at an estimated cost of $7.5 million.

East St. Louis is a major railroad hub. Moreover, as an urban community, the risks associated with the transportation of hazardous materials are increased.

In light of the disaster that hit the city, the programs authorized by both the Federal Railroad Safety Act of 1970 and the Hazardous Materials Transportation Control Act of 1970 are of vital importance.

It is my belief, Mr. Speaker, that Congress should provide adequate funds for these important programs. Our responsibility to our railroad workers, the general public, and our general economic well-being compels favorable consideration of this legislation.

The SPEAKER. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS), that the House suspend the rules and pass the bill S. 2120, as amended.

The question was taken.

Mr. SCHERLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 409, nays 7, not voting 17. as follows:

[Roll No. 346]

YEAS—409

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashley
Aspin
Badillo
Bafalis
Baker
Barrett
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Coughlin
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Drinan
Duncan
du Pont
Eckhardt
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keating
Ketchum
Kluczynski
Koch
Kuykendall
Kyros

Landrum
Latta
Leggett
Lehman
Lent
Litton
Long, La.
Long, Md.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Madigan
Mahon
Mailliard
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mills, Ark.
Minish
Mink
Minshall, Ohio
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Mollohan
Montgomery
Moorhead,
  Calif.
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
Owens
Parris
Passman
Patman
Patten
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rangel
Rarick
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Saylor
Schneebeli
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton,
  J. William
Stanton,
  James V.
Stark
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Tiernan
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson,
  Charles H.,
  Calif.
Wilson,
  Charles, Tex.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—7

Abdnor
Ashbrook
Collins, Tex.
Crane
Gross
Scherle
Symms

NOT VOTING—17

Chisholm
Danielson
Diggs
Downing
Dulski
Fisher
Hanna
Hébert
Kemp
King
Landgrebe
Maraziti
Mosher
O'Neill
Stokes
Talcott
Teague, Tex.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Landgrebe.
Mr. Teague of Texas with Mr. Maraziti.
Mr. Hébert with Mr. Mosher.
Mr. Fisher with Mr. Talcott.
Mrs. Chisholm with Mr. Danielson.
Mr. Kemp with Mr. King.
Mr. Hanna with Mr. Stokes.
Mr. Dulski with Mr. Diggs.

Mr. CLANCY changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 8813) was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

NATIONAL COMMISSION ON PRODUCTIVITY AND WORK QUALITY

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1752) prescribing the objectives and functions of the National Commission on Productivity and Work Quality.

The Clerk read as follows:

S. 1752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is the policy of the United States to promote increased productivity and to improve the morale and quality of work of the American worker, for the purpose of providing goods and services at low cost to American consumers, improving the competitive position of the United States in the international economy, and facilitating a more satisfying work experience for American workers.

(b) The President's National Commission on Productivity shall hereafter be referred to as the National Commission on Productivity and Work Quality (hereinafter referred to as the "Commission"). The Commission shall carry out the objectives and exercise the functions hereinafter prescribed.

(c) The objectives of the Commission shall be to help increase the productivity of the American economy and to help improve the morale and quality of work of the American worker.

(d) To achieve the objectives of subsection (c), the Commission shall have the following primary functions:

(1) To encourage and assist in the organization and work of labor-management committees which may also include public members, on a plant, community, regional, and industry basis. Such committees may be specifically designed to facilitate labor-management cooperation to increase productivity or to help improve the morale and quality of work of the American worker.

(2) To conduct such research as is directly necessary to achieve each of the objectives set forth in subsection (c) when such research cannot appropriately be accomplished by other Government agencies or private organizations.

(3) To publicize, disseminate, and otherwise promote material and ideas relating to its objectives.

(e) In addition to its functions under subsection (d) the Commission shall—

(1) advise the President and the Congress with respect to Government policy affecting productivity and the quality of work;

(2) coordinate and promote Government research and technical assistance efforts relating to productivity; and

(3) provide technical and consulting assistance.

(f) In pursuing its objectives under subsection (c), and in carrying out its functions under subsections (d) and (e), the Commission shall concentrate its efforts on those areas where such efforts are likely to make the most substantial impact on—

(A) the morale and quality of work of the American worker;

(B) the international competitive position of the United States;

(C) the efficiency of government; or

(D) the cost of those goods and services which are generally considered to fulfill the most basic needs of Americans.

(g) (1) The Executive Director of the Commission shall be the principal executive officer of the Commission in carrying out the objectives and functions of the Commission under this section.

(2) The Executive Director of the Commission, with the approval of the Chairman of the Commission, is authorized (A) to appoint and fix the compensation of such officers and employees, and prescribe their functions and duties, as may be necessary to carry out the provisions of this section, and (B) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(3) The Commission may accept gifts or bequests, either for carrying out specific programs which it deems desirable for its general activities.

(h) In carrying out its activities under this section, the Commission shall consult with the Council of Economic Advisers.

(i) The Commission shall transmit to the President and to the Congress, not later than March 1 of each year, a report covering its activities under this section during the preceding calendar year. The Commission shall also, not later than January 15, 1974, and January 15 of each year thereafter during the life of the Commission, submit to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Banking and Currency of the House of Representatives a report describing in detail the program to be carried out by the Commission under this section during the next fiscal year. Such reports shall include an explanation of how the Commission's program has complied or will comply, as the case may be, with the provisions of subsection (f).

(j) There are hereby authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the purposes of this section during the period ending June 30, 1974.

The SPEAKER. Is a second demanded?

Mr. WIDNALL. Mr. Speaker, I demand a second.

PARLIAMENTARY INQUIRY

Mr. SCHERLE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SCHERLE. Is the gentleman from New Jersey opposed to the bill?

Mr. WIDNALL. No, I am not opposed to the bill.

Mr. SCHERLE. Then, Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Texas will be recognized for 20 minutes, and the gentleman from Iowa will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. PATMAN. Mr. Speaker, this bill will extend the National Commission on Productivity and also authorizes an appropriation of $5 million for fiscal year 1974. In fiscal year 1973, $2.5 million was budgeted and appropriated. The increase of $2.5 million for this fiscal year is to permit the Commission to move from a predominantly planning and analysis stage to an action stage so that its work will have some practical effect.

Few will question the need for improvement of this Nation's productivity. During the period of 1965 to 1970, our industrial productivity increased at a slower rate than that of any other free world nation—2.1 percent per year compared to 14.2 percent per year for Japan. Obviously, if this Nation is to make improvements in its international trade position and to beat inflation in its domestic markets, we must make a major commitment to productivity improvement. The Commission will help achieve these results.

Its basic role is to focus attention on the need to improve productivity growth and to generate recommendations for action among labor, industry, government, and the public. The Commission is directed to organize labor management committees, conduct research designed to bring about productivity and improve working conditions, and to encourage the use of its findings and work product. The legislation requires the Commission to concentrate its efforts in those areas which will likely have significant impact on the international competitive position of the United States, decreasing the cost of consumer goods, improving working conditions and worker morale, and increasing efficiency in government.

In addition to prescribing the objectives of the Commission and setting priorities for its functions, the legislation requires a detailed accounting to the Congress of its activities each year, so that the Congress can decide on a yearly basis whether the work of the Commission justifies its continued existence.

Mr. Speaker, I yield 5 minutes to the gentleman form New Jersey (Mr. WIDNALL).

Mr. WIDNALL. Mr. Speaker, I rise in support of S. 1752. As the chairman has explained, this is a very simple bill but it has profound implications. As I reflect on a variety of matters which have come before the Banking and Currency Committee, the Joint Economic Committee, and others, relating to the problems of inflation, our balance of trade and related matters, I recall one of the repeated admonitions. The sagest of the spokesmen on all these subjects have usually concluded by reminding us that the ultimate solution to these problems depended in the long run on our ability to increase productivity, or stated differently, on improving our competitive posture in world markets.

This Nation is blessed with some magnificent resources and I doubt that there is a Member here who would deny that the high standard of living we enjoy is the result of our productive ingenuity. But the facts are that we have been slipping relative to other nations of the world, nations which compete in the markets both here and abroad. We cannot continue to slide. The reason for the National Commission on Productivity and Work Quality is to reverse that situation.

Mr. Speaker, I do not think we can afford to underestimate the importance of this Commission and its goals. If this bill is subject to criticism, it must be because it does not propose to do more. After all, the maintenance of our standard of living is important to every American and perhaps to the entire free world. I cannot believe that members of our committee would question the expenditure of $5 million for this.

I want to point out that the budget for fiscal 1974 proposes a variety of research programs all of which are worthwhile but many do not contemplate the broad benefits of this proposal.

If I read the budget proposal correctly, it projected $772 million for energy research, $680 million to find the causes and cures of heart disease and cancer, $749 million for improving our transportation system. The smallest item in the table I looked at on page 253 of the Special Budget Analysis is $41 million to improve crime prevention and control. Against this kind of background, I have no doubts about the need for the $5 million authorized in this bill.

I know that some have raised questions about the Commission's accomplishments. There are two points to made in this regard. First is the fact that this Commisison is only a little more than a year old. It takes time to get organized, to outline a program and to get going. A very distinguished group of 31 Commission members from labor, management, universities, and Government, have been appointed and have been attending the Commission meetings. They are making progress. Your committee has reviewed achievements to date and on the basis of that review we are recommending this bill.

Second, I call your attention to the fact that this is only a 1-year extension. We are interested in what the Commission is doing and intend to review that activity at least once a year.

This bill deserves your support.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, if I am not mistaken, my recollection is that Dr. Dunlop, who is the head of the Cost of Living Council, is also Chairman of this Commission, is he not?

Mr. WIDNALL. That is correct.

Mr. CRANE. And wearing those dual hats, I note on the one hand he has the concern for holding down increases in costs, and on the other hand, if I am not mistaken, the funding level for this particular commission under consideration now is a doubling of the funding level of last year, is that not correct?

Mr. WIDNALL. That is correct.

Mr. CRANE. It has gone from $2½ million to $5 million. Will that increase come before Dr. Dunlop, wearing his hat in charge of the Cost of Living Council, to see if it is within the general guidelines they are applying to other increasing costs?

Mr. WIDNALL. I cannot answer that question.

Mr. CRANE. I thank the gentleman for yielding to me.

Mr. J. WILLIAM STANTON. Mr. Speaker, will the gentleman yield?

Mr. WIDNALL. I yield to the gentleman from Ohio.

Mr. J. WILLIAM STANTON. Mr. Speaker, I rise in support of this legislation. I had some questions in regard to this legislation before our committee, but the questions have been answered to my satisfaction.

Mr. Speaker, we are considering today a bill S. 1752 which will affect every American. The National Commission on Productivity's job is to promote productivity in the U.S. economy. Productivity is the wellspring of our American prosperity; productivity creates real wage increases for American workers, and increases in our standard of living.

In recent years, however, our rate of productivity improvement slowed down, and it was with this in mind that the President established this Commission in 1970 and Congress gave it a mandate in 1971. It was established to take a long run view of productivity—to start in motion an effort toward higher productivity.

The Commission has engaged in useful activities. In addition to general investigations into productivity in the whole economy, the Commission has been deeply involved in productivity improvement of various segments of the economy, especially those which most directly affect the American consumer: food, health, and public services. Improvements in the productivity performances of these segments of the economy can have a direct effect on the prices we pay for the goods and services which they produce.

A major barometer by which Americans judge the performance of the economy is the level of prices they pay for their food. The National Commission on Productivity last year conducted a survey of the opportunities for and barriers to productivity improvement in this industry. Many of the findings of this study, if implemented, could alleviate the inflationary pressures which are building up in it. For example, a potential annual savings of $300 million could be realized if standard carton and package sizes were used in the food industry. Standardization offers large industry-wide savings but is not pursued—because no one firm benefits from the expense and trouble of taking the lead—and joint action is cautious because of possible antitrust implications. The Commission suggested that clearing up of antitrust regulations would alleviate the climate of uncertainty that inhibits useful productivity improvements in the food industry.

In the area of public services, the Commission is addressing itself to the problem of getting more performance out of each tax dollar. The American public is becoming increasingly resistant, and rightfully so, to the seemingly endless string of tax hikes, especially at the State and local level. If productivity can be improved, then the quality and quantity of these services can be increased without increasing taxes. The potential for such improvement is great.

A study done for the Commission on productivity differences between cities in solid waste collection, for example, found differences in tax rates of over 100 percent.

One city surveyed collected 334 tons per man in 1971; a city of approximately the same size and only 30 miles away collected 908 tons per man in 1971—a 300 percent difference. The city with the lower productivity could learn a great deal from its neighbor—but had not learned a thing. The Commission has established a task force of leading experts in the field, many of whom actually run solid waste management agencies, to assemble the "best practices" and will soon disseminate this information in various forms. If such practices are followed by local governments, then the taxpayer will receive better services for his tax dollar. And they have similar work underway in law enforcement.

These are just a few examples of activities of the National Commission on Productivity which could directly affect the pocketbooks of all American consumers. In the long run, support for this bill, and for the Commission may be among the most important steps we could take to improve the consumer's well-being.

Mr. SCHERLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members of the House, this is one of the most ridiculous proposals I think that has ever come to the floor of this House at this particular time. The U.S. Government once again is going to make an attempt to control the economy as it has in phase I, phase II, phase III and a half, and perhaps later this week, phase IV.

Mr. Speaker, I have never seen a time in my life, when we were not geared to a wartime emergency, where the economy of this country was in worse shape. I can understand the various wars; I can understand controls; I can understand ceilings and I can understand a lot of other things, but whenever the Federal Government becomes involved in the economy of our country, we seem to have a general laxity as to what the end result is going to be.

In this particular proposal, on page 3, line 15, they talk about "the morale and quality of work of the American worker."

I do not believe there is any problem whatsoever so far as the ability of the American worker is concerned. However, he must be totally frustrated, particularly with the competition we have overseas.

Under (B), on line 17, there is "the international competitive position of the United States."

That is about as poor as it could be. We are selling all our capital, all the jobs, all our competitive propositions and jobs overseas at the present time.

Next is "the efficiency of Government." I believe we have expressed our sentiments on that before.

This particular piece of legislation is supposed to cost $5 million. I believe we would be further ahead to put that money back in the general fund, to save it for some constructive purpose, to vote down this bill, and take the ceilings and controls off all the various products we have in the country, and let the United States flow free as a competitive Nation. That would be doing everybody a favor.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. SCHERLE. I yield to my colleague from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I should like to ask the gentleman from Iowa if he is aware that we have in Pennsylvania cherries hanging on the trees, not being processed, thanks to Government planners of the economy, and chickens in Texas being drowned, and this particular measure is more of that kind of planning. Would the gentleman agree with me that, Heaven knows, we do not need the Government in this?

Mr. SCHERLE. There is no question in my mind. With the controls we have at the present time the retailer cannot obtain the necessary commodities for resale. The wholesaler's supply is dried up, as the pipeline shrinks every day. The producer has no incentive to produce any more because of cost. There is no reason for him to stay in business.

We are in a really sad situation in this country. It is primarily because the Government wants to set some plan, some problem, other than that the free economy should prevail.

Mr. SYMMS. Mr. Speaker, will the gentleman yield further so that I may direct a question to one of the members of the committee?

Mr. SCHERLE. I yield to the gentleman.

Mr. SYMMS. If I may have the attention of the chairman of the committee, I ask if this Commission on Productivity is supposed to in any way set more wage and price controls or set levels of productivity? If so, where have Government planners helped on productivity to date?

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Texas.

Mr. PATMAN. This Commission is not qualified under this law to set any wage or price controls or any other controls; none.

Mr. SYMMS. Just what kind of recommendations does the committee expect? Where have the Government planners helped the economy?

Mr. PATMAN. It is only studies and suggestions to increase American productivity. That is all there is.

Mr. SYMMS. I thank the gentleman. When I see what the economic planners of the Government have done to our economy I can only say thank the good Lord we do not get all the Government we pay for.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman from Iowa yield?

Mr. SCHERLE. I yield to the gentleman from California.

Mr. TEAGUE of California. I understood the gentleman to say he is against controls. Does this extend to soil banks and programs of that sort, which control the production of agriculture and pay farmers for not producing?

Mr. SCHERLE. I favor the free enterprise system, but I believe we ought to maintain it so long as we pay the people in the gentleman's district for the citrus fruit.

Mr. TEAGUE of California. We do not do that.

Mr. SCHERLE. I did not think the gentleman wanted that.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. SCHERLE. I yield to my colleague from Pennsylvania.

Mr. GOODLING. Mr. Speaker, I asked for this time in order that I might ask the chairman of the committee to give us a brief report on what this Commission has done during the past year. I do not recall that report ever came to our office.

Can the gentleman, the chairman of the committee, give me a brief report on this?

Mr. PATMAN. Mr. Speaker, I have yielded as much time as I can yield.

Mr. GOODLING. Mr. Speaker, I asked for this time in order that I might question the chairman of the committee.

The SPEAKER. The gentleman from Texas and the gentleman from Iowa have control of the time.

Mr. GOODLING. Mr. Speaker, did not the gentleman from Iowa yield to me?

The SPEAKER. The gentleman from Iowa may yield if he wishes.

Mr. GOODLING. The gentleman did yield to me, Mr. Speaker.

Mr. Speaker, I will ask the gentleman from Texas (Mr. PATMAN), the chairman of the committee, if he can give us a brief report of what this Commission has done during the past year.

Mr. PATMAN. Mr. Speaker, I would not wish to read all of this, but I have before me the statement on productivity workshop——

Mr. GOODLING. I will ask the gentleman to give us just the highlights.

Mr. PATMAN. Mr. Speaker, this is the statement on Productivity Workshop for State and Local Government Officials National Commission on Productivity, Wingspread-Racine, Wis. That is in July 1973.

Then we have the Productivity Conference on May 23, 1972, held in Chicago, attended by the University of Chicago, Northwestern University, University of Illinois, Loyola University of Chicago, Illinois Institute of Technology, and the U.S. Department of Labor, with the following theme: "Improving the Competitive Position of American Goods and Services."

The next one we have is "Productivity Bargaining: The British and American Experience," prepared for the National Commission on Productivity.

Then we have "The Challenge of Productivity Diversity, Improving Local Government Productivity Measurement and Evaluation." That is part I. Then we have part II.

Then we have another study. The Commission has done lots of planning, and I have here what they are planning to do in 1974.

Mr. GOODLING. Mr. Speaker, I think the chairman of the committee has given us the information. It has not been a very productive committee, I believe.

Mr. PATMAN. Well, Mr. Speaker, it is the first one. They could not do much in 1 year.

Mr. HUBER. Mr. Speaker, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Michigan.

Mr. HUBER. Mr. Speaker, I would

like to address a question to the gentleman concerning the problem of productivities.

I wonder if the gentleman is aware of an organization called the Young Presidents Organization? Has the gentleman heard of that organization?

Mr. SCHERLE. Vaguely.

Mr. HUBER. Mr. Speaker, this organization is composed of approximately 2,000 members in the United States gathered together for the purpose of their organization. They have to retire from this organization in their 49th year. It is a young, aggressive group of people which was founded about 20 years ago. I had the pleasure of serving with that organization for about 18 years. If there is anything the Young Presidents Organization is concerned about in the United States, it is productivity.

Every year this organization conducts a presidents' university and the key men at that university talk about nothing but productivity and the way we can improve our businesses and the way we can improve the morale of our employees.

Mr. Speaker, all of this information is available at no cost to the U.S. Government, and I am sure the Young Presidents Organization would be delighted to participate in any kind of an organization to improve productivity, and it would not cost a penny.

These are experts. These are men who have been running their businesses. These are men who are citizens, men who are sick and tired of taxes, men who are sick and tired of restrictions on our working ability.

These are men who want to turn their attention to some profit-making organizations that will result in increased productivity.

I would suggest that if we want to do something intelligent in regard to productivity, we should contact the Young Presidents Organization, and it would not cost one penny. We would get the finest talent available in the United States.

Mr. SCHERLE. Mr. Speaker, I thank the gentleman for a very fine statement.

He has presented the argument as far as this bill is concerned, and I am sure, however, that his recommendation would be defeated.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I would simply like to direct a question to my good friend, the gentleman from Michigan (Mr. HUBER) who has just commented on the Young Presidents Organization.

I will ask the gentleman from Michigan if he is confident and truly believes that young presidents who are managing their own private companies independently under the free enterprise system honestly know more about productivity than government officials.

Mr. HUBER. In response to that question, let me say there is no question about it, Congressman, and, as a matter of fact, I think most of our employees, including the floor sweepers, know more about it than the Government people.

Mr. CRANE. I thank the gentleman from Michigan.

Mr. PATMAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I objected to this bill and I was the only one who really addressed himself adversely to the bill during the brief committee hearing we had on this bill.

The reason why was because I read the report this Commission sent us and I could not believe that they have spent almost $2.5 million this year and produced the report that they gave us.

At least the House ought to hold up consideration until enough of the Members can get that report and read it. Then, after they have read that report, if they honestly believe we ought to go on record as extending the life of this Commission and adding a bill of $5 million to this Commission's expense account, then I am willing to abide by that verdict.

But in the absence of that, once again I rise in opposition to this bill. I think the House would do well just to postpone increasing the amount of commitment to this Commission. The net result of its first year's activity as reflected in its report for the first year clearly indicates that the Commission does not have the right to continue in action.

Mr. ANNUNZIO. Will the gentleman yield?

Mr. GONZALEZ. I will be glad to yield.

Mr. ANNUNZIO. I thank the gentleman from Texas for yielding.

You will recall that during the hearings on this bill when we were presented by Dr. Dunlop with this report from his Commission, I, too, objected to the report, because I felt in a way he was insulting the intelligence of the members of the committee with some of the suggestions he made in his report and the manner in which they were going to increase the productivity and morale of workers in this country. So I am happy to associate my remarks with the gentleman from Texas.

Mr. WIDNALL. Will the gentleman yield to me?

Mr. GONZALEZ. I will be delighted to yield to the gentleman.

Mr. WIDNALL. I would just like to read into the record the names of some of the members of this National Commission on Productivity and especially for the benefit of the gentleman who spoke on behalf of the young presidents running the entire thing:

NATIONAL COMMISSION ON PRODUCTIVITY

MEMBERS

Business

Stephen D. Bechtel, Jr., President, Bechtel Corporation;

Berkeley Burrell, President, National Business League;

Edward W. Carter, Chairman of the Board, Broadway-Hale Stores, Inc.;

Archie K. Davis, President, Chamber of Commerce of U.S.;

M. Peter Venema, Chairman of the Board, Universal Oil Product Company;

R. Heath Larry, Vice Chairman of the Board, United States Steel Corporation;

James M. Roche, Member of the Board, General Motors Corporation;

Walter B. Wriston, Chairman, First National City Bank.

Government

Honorable Roy Ash, Director, Office of Management & Budget;

Honorable Peter J. Brennan, Secretary of Labor;

Honorable Frederick Dent, Secretary of Commerce;

John T. Dunlop, Director, Cost of Living Council;

Virginia Knauer, Special Assistant to the President for Consumer Affairs;

Honorable George P. Shultz, Secretary of The Treasury;

Honorable Herbert Stein, Chairman, Council of Economic Advisers.

Labor

I. W. Abel, President, United Steelworkers of America;

C. L. Dennis, President, Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees;

Frank Fitzsimmons, President, International Brotherhood of Teamsters;

Paul Hall, President, Seafarers' International Union of North America;

Lane Kirkland, Secretary-Treasurer, American Federation of Labor and Congress of Industrial Organizations;

John H. Lyons, President, International Association of Bridge, Structural and Ornamental Iron Workers;

George Meany, President, American Federation of Labor and Congress of Industrial Organizations;

Leonard Woodcock, President, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America.

Public

Honorable Beverly Briley, Mayor of Nashville, (City and County);

William T. Coleman, Jr., Dilworth, Paxson, Kalish, Levy and Coleman;

William Kuhfuss, President, American Farm Bureau;

Edward H. Levi, President, University of Chicago;

Arjay Miller, Dean, Graduate School of Business, Stanford University;

Honorable Arch A. Moore, Governor of West Virginia;

John Scott, Master of the National Grange;

W. Allen Wallis, Chancellor, University of Rochester.

I would also like to include the accomplishments of the National Commission on Productivity and the authority and funding history.

The material is as follows:

NATIONAL COMMISSION ON PRODUCTIVITY ACCOMPLISHMENTS

1. Food Study—The NCOP completed a survey of opportunities for and barriers to productivity in the food industry.

2. As a result of the Food Study the Commission is sponsoring a project to determine the feasibility of transporting fresh fruits and vegetables from the West Coast to the East in "unit trains."

3. As a result of the Food Study the Food Advisory Committee of the Cost of Living Council established a Productivity Subcommittee for which the NCOP is providing staff assistance.

4. The Commission is promoting the establishment of a pilot Food Service Productivity Development Center in New York City to discover if such institutes can be used to promote productivity in this industry.

5. The NCOP co-sponsored a 2-week tour by 15 businessmen and workers of Japanese companies to observe the methods they employ to increase productivity.

6. A Conference on Measuring Productivity in the Construction Industry was held by the NCOP. It gathered experts representing construction industry management and labor as well as university professors and

government employees with expertise in this area.

7. The Commission sponsored a Conference on an Agenda for Economic Research on Productivity. It brought together leading economists to appraise the state of knowledge about productivity economics, gaps in information and priorities in research.

8. The NCOP created productivity assessment teams in St. Petersburg, Florida and Nashville, Tennessee to ascertain the ability of these cities to respond to priority problem areas through productivity improvement programs, in an effort to provide a model for other cities.

9. The NCOP has established a resource task force to develop specific measures and to make recommendations for productivity improvement in law enforcement.

10. A resource task force has been established to develop measures and make recommendations for productivity improvement in the area of solid waste disposal.

11. The NCOP is supporting a productivity bargaining demonstration project in Nassau County, New York, in cooperation with the Labor Department, Civil Service Commission and Ford Foundation.

The project will attempt to demonstrate the feasibility of productivity bargaining in the public sector.

12. The Commission has developed a public education campaign consisting of public service advertising under the auspices of the Advertising Council and a continuing series of brochures and other publications, all designed to increase the public's awareness of the importance of productivity.

NATIONAL COMMISSION ON PRODUCTIVITY: AUTHORITY AND FUNDING HISTORY

FISCAL YEAR 1971

Authority: Established by Presidential Statement of June 17, 1970.

Funding: No funding provided.

FISCAL YEAR 1972

Authority: P.L. 92-210, Section 4, Economic Stabilization Act Amendments of 1971—December 22, 1971—Provided authority thru April 30, 1973.

Funding: $800,000, Council of Economic Advisers FY 1972 Appropriation; $2.5 million, Second Supplemental Appropriations Act of 1972 available from June 1972 thru April 30, 1973.

FISCAL YEAR 1973

Authority: P.L. 93-34, provided temporary extension of authority thru June 30, 1973.

Funding: $120,000—transfer from Cost of Living Council, May and June 1973 operation.

FISCAL YEAR 1974

Authority: S. 1752 has passed Senate; House action pending, provides extension thru June 30, 1974.

Funding: Commission's Fiscal Year 1973 Supplemental Appropriations Request providing funding thru June 30, 1974, is now being considered by Congress.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. GONZALEZ. Will the chairman yield me 2 additional minutes?

Mr. PATMAN. I yield 2 additional minutes to the gentleman from Texas.

Mr. GONZALEZ. May I say to the distinguished minority leader of the committee I have no quarrel with the quality of the membership. In fact, you have a very distinguished chairman, as has been brought out. What I am saying is, regardless of its composition, the commission's activities thus far do not merit or warrant continued assistance under these conditions, much less an additional $5 million added to the $2.4 million it has already spent.

I repeat, if the Members of this House will just bother to get that report and read it, then I think there will be no need to argue the point any longer.

Mr. WIDNALL. Mr. Speaker, will the gentleman yield further?

Mr. GONZALEZ. I will be delighted to yield further to the gentleman from New Jersey.

Mr. PATMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. POAGE) and ask unanimous consent that the gentleman may speak out of order.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

POSTPONEMENT OF FURTHER CONSIDERATION OF H.R. 8860, AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

Mr. POAGE. Mr. Speaker, I think that I should announce to the Members of the House that we are getting so far into the evening, and there will probably be some more time taken here, that it would be foolish to proceed with further discussion of the agricultural bill this evening. Therefore, I do want to announce now, so that the Members may take advantage of any information that I may have, so that they may make their plans accordingly, that we will not proceed further with the agricultural bill this evening.

I do understand that we are scheduled to proceed immediately after the completion of the War Powers Act. I cannot tell the Members whether that will be tomorrow night or Thursday night, or whether that will be next September, but whenever we are finished with the War Powers Act we will continue our war on the farm bill. I appreciate all of the Members who have stayed around here so faithfully all day long. I appreciate the fact that the Members have done this. I hope that they will stay around for another 3 or 4 days, because there are those who believe it should take a long time. I am sure that when we get through we will all be ready to harvest a big crop.

Mr. PATMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BLACKBURN).

Mr. BLACKBURN. Mr. Speaker, I appreciate the gentleman from Texas yielding me these 2 minutes, so that I might attempt to speak to the Members of the House.

I do not believe that there is anyone in this House who would accuse me of being one of the last bigtime spenders. I suspect that my voting record with respect to budgetary considerations is as rigid and as stringent as that of anyone on the floor of this House. So I do not stand here in the well of the House today in order to say what my opinion is of unproductive activities, but I do stand in the well of this House today to defend the activities of the President's National Commission on Productivity.

The Commission has done work that has never been done before in regard to comparing the services of local governments. They have done studies showing that a certain number of garbagemen, for example, in a given community of a given size, collect a certain amount of garbage, whereas in another community of the same size far more men are used, and the men work longer hours, and draw more income.

They have done an excellent study showing the efficiency of different police departments in various parts of the country, showing that in one area with a given number of policemen they perform a far more efficient service in many respects than in comparable other areas of the country.

Mr. Speaker, this commission is performing a service that no other government agency is performing, and that no private agency is performing.

Mr. Speaker, I would urge the Members of this House to please let us not act hastily here in terminating the existence of an activity that is proving fruitful to every taxpayer in this country. I for one, Mr. Speaker, will vote to continue the life of this Commission because I think it is helpful, and not just to the private sector, but to the public sector as well; it has been very beneficial.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield.

Mr. BLACKBURN. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I would ask the gentleman from Georgia if it is not also true that the Commission is studying the relative input of civilian activities within various industries such as the transportation industry, for instance, so that that type of activity in other sections of our country can be compared with the situation in the District, and thus provide possibly improved service?

Mr. BLACKBURN. I would reply to the gentleman from Michigan that certainly the Commission is performing activities relating to transportation, particularly in the rail and truck industries, activities that are not being performed by those industries themselves. We need the benefit of these types of studies, so I urge again the Members to vote for this commission.

Mr. PATMAN. Mr. Speaker, I reserve the balance of my time.

Mr. SCHERLE. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER. The Chair will state that the gentleman from Iowa has 9 minutes remaining.

Mr. SCHERLE. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the bill. This bill is all right and ought to be passed by the Members of the House. There has been a lot of publicity about production in the United States and the need to improve production. The gentleman from Iowa earlier pointed out that there are some areas of concern which ought to be taken into account and need attention by this Commission. As a matter of fact, today as we consider this legislation the National Commission on Productivity is holding a 3-day conference, meeting at this time to draft a national policy and enact a program for State and local government productivity improvement. The gentleman from New

Jersey (Mr. WIDNALL) referred to some of the Commission members. The Commission has excellent personnel and is made up of people who are concerned and ought to be concerned with productivity in the United States.

One of the members, in addition to Dr. Dunlop who has already been mentioned, is our former distinguished colleague in this House, the Governor of West Virginia, Gov. Arch Moore. Participants also include Gov. Patrick J. Lucey of Wisconsin, Gov. James E. Holshauser of North Carolina, Mayor John V. Lindsay of New York, Mayor Beverly Briley of Nashville, Gen. William Westmoreland, representing South Carolina, and many prominent legislators.

Labor will be represented by Abraham Weiss of the Teamsters Union, Walter Lambert of the International Association of Fire Fighters, Donald Wasserman of the American Federation of State, County, and Municipal Employees and Henry Wilson of the Laborers International Union, AFL–CIO. I think that this Commission could provide another step in improving the productivity which our Government should deliver to its customers, the citizens of the United States.

There has been a lot said about the money spent by this Committee. It has only been in existence for 1 year. They are just now getting underway; they are just now starting to perform a service; and I think it would be a poor time to in effect pull the rug out from under this Commission at this time when they are meeting for a 3-day conference at Wingspread, Wis. It is expected that the Commission can and will make significant progress in this highly important area of productivity among the citizens of the United States, and I think the Commission ought to be given the opportunity to try to prove its worth for at least an additional 1 year.

I would urge the Members of this House to support the Committee on Banking and Currency and approve this bill.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Illinois.

Mr. CRANE. I should like to ask the gentleman from Ohio a question in light of the comments made by the gentleman from Georgia earlier. I think we all wholeheartedly approve of the idea of increasing productivity of the Government. On the other hand, it is my understanding that this Commission's responsibilities go beyond the evaluating of the productivity of officials in government service.

Mr. WYLIE. Only insofar as it is related to government service and government functions. I suppose in an ancillary way, or incidentally, it will get into private-sector production, but the real thrust and purpose of this bill is to determine the areas in which government productivity can be improved. That is the specific purpose as provided for in the bill.

Mr. BLACKBURN. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Georgia.

Mr. BLACKBURN. I do want to point out to the Members of the House that this Commission has done yeoman work with regard to the transportation industry. They have brought together leaders in the railroads and the unions, as well as the shippers, and they have improved the delivery systems for vegetables from the markets in the West and the Midwest into the markets of the Northeast to a far greater degree of efficiency than existed prior to the existence of this Commission. So really when we are talking about a trillion-dollar economy, the amount of money asked by this Commission to improve proficiency and delivery in services is infinitesimal to the benefit we are going to derive from it.

I thank the gentleman for yielding.

Mr. WYLIE. I thank the gentleman for his comment, but I think, in answer again to the question of the gentleman from Illinois, that it is the responsibility of this Government to deliver to its customers as I said a little earlier, the citizens of the United States, efficiency in production; to improve services at minimum expense to the taxpayer. This is the real purpose and the real substance of this bill.

Again, I urge the Members of the House to support the bill.

Mr. SCHERLE. Mr. Speaker, I yield my remaining time to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, the marvel is that this bill ever showed up on the floor of the House. If this Commission has been instrumental in solving any of the problems of rail transportation, especially the transportation of grain in the Middle West, there is no evidence of it so far as I know. We are still laboring under and being belabored by a shortage of boxcars.

What does this bill provide for? Let us take the first page—and some of it is restated on the third page apparently because those who drafted it did not have anything else to put in the bill so they repeated part of it. But it says: "for the purpose of providing goods and services at low cost to American consumers."

Now, that is a fascinating promise: "for the purpose of providing goods and services at low cost to American consumers." That implies that this Commission is going to lick inflation, because I know of no way low-cost goods can be provided American consumers as long as inflation continues to chew away at the sinews of this country.

It also says: "improving the competitive position of the United States in the international economy."

How many hundreds of millions of dollars do the Members suppose have been and are now being expended through other programs for this purpose?

And the bill goes on to say: "and facilitating a more satisfying work experience for American workers."

Is this Commission going to be a wet nurse for all the unsatisfied workers in this country?

There is nothing modest about the gentleman from Texas, as he has demonstrated again this afternoon, when he asks $5 million for this kind of boondoggle. I do not care whether it is the President of the U.S. Chamber of Commerce or who it may be, we have no business spending this kind of money for this purpose at this time.

We have heard about increased productivity, but if I remember correctly it was reported in the last few days that productivity in this country dropped, despite the expenditure of $2.5 million on this Commission in the past year. Productivity went down and not up. Will we get a further down-curve in productivity in this country with the expenditure of this $5 million?

If we are going to spend this kind of money for the purposes stated in the bill, how about spending some of it on greater productivity from the taxpayers?

Mr. Speaker, this bill ought to be defeated out of hand.

Mr. PATMAN. Mr. Speaker, the President of the United States asked for consideration and passage of this bill. The Committee on Banking and Currency and the leadership of the House of Representatives through a gesture of cooperation by a Democratic House and a Democratic Banking and Currency Committee carried out the wishes of the President. The only disappointment the members of the Banking and Currency Committee have is the failure of the President to get the full and adequate support of the members of his own party in the House of Representatives.

The SPEAKER. The question is on the motion offered by the gentleman from Texas, (Mr. PATMAN) that the House suspend the rules and pass the bill S. 1752.

The question was taken.

Mr. PATMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were yeas 174, nays 239, not voting 20, as follows:

[Roll No. 347]

YEAS—174

Abdnor
Anderson, Ill.
Andrews, N.C.
Arends
Armstrong
Ashley
Aspin
Barrett
Bell
Bergland
Biester
Bingham
Blackburn
Boggs
Boland
Bolling
Brasco
Breckinridge
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burgener
Burke, Calif.
Burke, Mass.
Burton
Butler
Carey, N.Y.
Carter
Cederberg
Chamberlain
Clay
Cleveland
Cochran
Cohen
Collier
Conable
Conte
Corman
Cotter
Coughlin
Cronin
Daniels, Dominick V.
Dellenback
Denholm
Dent
Derwinski
Diggs
Dingell
Donohue
Dulski
du Pont
Edwards, Ala.
Fish
Flood
Foley
Ford, Gerald R.
Forsythe
Fraser
Frelinghuysen
Frenzel
Froehlich
Fulton
Gaydos
Gibbons
Goldwater
Gray
Gubser
Gude
Guyer
Hanrahan
Hansen, Idaho
Harrington
Harvey
Hawkins
Heckler, Mass.
Heinz
Hillis
Hogan
Horton
Hosmer
Johnson, Calif.
Johnson, Pa.
Karth
Keating
Latta
Leggett
Lent
Long, Md.
Lujan
McClory
McDade
McFall
McKinney
Madigan
Mailliard
Mallary
Martin, N.C.

Meeds
Michel
Milford
Mills, Ark.
Mitchell, Md.
Mitchell, N.Y.
Mizell
Moakley
Moorhead, Pa.
Morgan
Mosher
Murphy, N.Y.
Nix
O'Brien
Patman
Patten
Pepper
Perkins
Pettis
Preyer
Quillen
Randall
Rees
Regula
Reid
Reuss
Rhodes
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roncallo, N.Y.
Rooney, Pa.
Rousselot
Ruppe
Ruth
St Germain
Sarasin
Sarbanes
Saylor
Sebelius
Shriver
Shuster
Smith, N.Y.
Stanton,
J. William
Stark
Steele
Steelman
Steiger, Wis.
Sullivan
Teague, Calif.
Thomson, Wis.
Tiernan
Treen
Udall
Ullman
Vander Jagt
Veysey
Vigorito
Waldie
Ware
Whalen
Widnall
Williams
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Alaska
Young, Ga.
Young, Ill.
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson,
Charles H.,
Calif.
Wilson,
Charles, Tex.
Winn
Wolff
Yates
Young, Fla.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—239

Abzug
Adams
Addabbo
Alexander
Anderson,
Calif.
Andrews,
N. Dak.
Annunzio
Archer
Ashbrook
Badillo
Bafalis
Baker
Beard
Bennett
Bevill
Biaggi
Blatnik
Bowen
Brademas
Bray
Breaux
Brinkley
Brooks
Broyhill, Va.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byron
Camp
Carney, Ohio
Casey, Tex.
Chappell
Clancy
Clark
Clawson, Del
Collins, Ill.
Collins, Tex.
Conlan
Conyers
Crane
Culver
Daniel, Dan
Daniel, Robert
W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellums
Dennis
Devine
Dickinson
Dorn
Drinan
Duncan
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Flowers
Flynt
Ford,
William D.
Fountain
Frey
Fuqua
Gettys
Giaimo
Gilman
Ginn
Gonzalez
Goodling
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gross
Grover
Gunter
Haley
Hamilton
Hammer-schmidt
Hanley
Hansen, Wash.
Harsha
Hastings
Hays
Hechler, W. Va.
Helstoski
Henderson
Hicks
Hinshaw
Holifield
Holt
Holtzman
Howard
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Ketchum
Kluczynski
Koch
Kyros
Lehman
Litton
Long, La.
Lott
McCloskey
McCollister
McCormack
McEwen
McKay
McSpadden
Macdonald
Madden
Mahon
Mann
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Melcher
Mezvinsky
Miller
Minish
Mink
Minshall, Ohio
Mollohan
Montgomery
Moorhead,
Calif.
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Hara
Owens
Parris
Passman
Peyser
Pickle
Pike
Poage
Powell, Ohio
Price, Ill.
Price, Tex.
Pritchard
Quie
Railsback
Rangel
Rarick
Roberts
Robinson, Va.
Roe
Rogers
Roncalio, Wyo.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ryan
Sandman
Satterfield
Scherle
Schneebeli
Schroeder
Seiberling
Shipley
Shoup
Sikes
Sisk
Slack
Smith, Iowa
Snyder
Spence
Staggers
Stanton,
James V.
Steed
Steiger, Ariz.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thone
Thornton
Towell, Nev.
Van Deerlin
Vanik
Waggonner
Walsh
Wampler
White

NOT VOTING—20

Chisholm
Clausen,
Don H.
Danielson
Downing
Fisher
Hanna
Hébert
Kemp
King
Kuykendall
Landgrebe
Landrum
Maraziti
Metcalfe
O'Neill
Podell
Rooney, N.Y.
Skubitz
Stokes
Talcott

So (two-thirds not having voted in favor thereof) the motion was rejected.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. King.
Mr. Hébert with Mr. Kemp.
Mr. Talcott with Mr. Kuykendall.
Mr. Rooney of New York with Mr. Landgrebe.
Mr. Danielson with Mr. Maraziti.
Mrs. Chisholm with Mr. Hanna.
Mr. Teague of Texas with Mr. Sandman.
Mr. Fisher with Mr. Don H. Clausen.
Mr. Downing with Mr. Skubitz.
Mr. Stokes with Mr. Podell.
Mr. Landrum with Mr. Metcalfe.

Mrs. COLLINS of Illinois, Messrs. WILLIAM D. FORD, SEIBERLING, TAYLOR of North Carolina, MELCHER, ECKHARDT, JAMES V. STANTON, RANGEL, and CULVER changed their votes from "yea" to "nay."

Mr. HILLIS changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just considered, S. 1752.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PETROLEUM INDUSTRY DIVORCEMENT ACT OF 1973

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BLACKBURN. Mr. Speaker, our country today faces the greatest, most serious energy crisis in its history. This crisis demonstrates itself to the average consumer in the oil supplies needed to power our economy. Our people are urgently demanding to know what circumstances caused this crisis—is it real or imagined? And most importantly, what action can we take now—immediately—to put the public mind at rest that free markets and competition exist in an industry so vital to our national interests.

It will be many weeks before all of these questions are answered through investigations now underway. But, almost daily, new facts are coming to light which indicate that the major oil producers, the power backbone of the American economy, bear a major share of the blame for not exercising better foresight in anticipation and avoiding the current shortages.

In recent years, this industry has become increasingly dominated by a relatively few—some 20—enormously wealthy and large corporations. Such concentration in few companies could create a temptation to seek a monopolistic domination of a large segment of the American economy.

A report on the petroleum industry released by the Federal Trade Commission on July 6, 1973, charges that America's largest companies in petroleum are developing monopolistic trends through possibly illegal combinations, agreements and predatory business practices, by artificial curtailments of crude oil production and refining, and by limiting imports of oil. The major producers are charged with eliminating the competition of smaller independent companies by driving them out of business and by refusal to transport products of independent producers through jointly-owned big company pipelines. The FTC report concludes such practices have cost the American consumer millions of dollars in artificially increased gasoline prices in recent months.

These facts make it imperative that we take positive and major action now—action that will permanently avoid the possibility of practices that have contributed to our national oil crisis.

Therefore, Mr. Speaker, I am now introducing a bill to encourage more competition in the three major branches of the petroleum industry; production, refining, and marketing. This legislation will prohibit any business or corporation from engaging in more than one branch of the industry.

The purpose of this legislation is to protect commerce among the several States in petroleum and its products from the burdens, the harmful effects, and monopolistic tendencies which result when oil companies engage in more than one branch of the petroleum industry.

One of the key provisions is to prevent any person from exercising actual or legal power or influence over the activities of other persons who are engaged in a different branch of the industry. This, hopefully, will reduce the vertical integration of these major companies, which has been a major cause for the lack of competition in this industry.

This bill has resulted from studies of governmental investigations of the petroleum industry, antitrust actions taken against major oil companies over the years, and reports on the industry from various sources, public and private, both domestic and international.

It appears that only immediate and forthright action—new legislation enacted by the Congress of the United States, can restore the industry to the competitive condition that is the cornerstone of American business.

Of all these studies and investigations made of the industry over the years, the most timely, thorough, and exhaustive one is that which was just completed by the staff of the Federal Trade Commission on July 2, 1973. This study was launched September 14, 1971, when the regulatory agency was deeply concerned with the activities of the major oil companies.

The Commission's original instructions told its staff to—

> . . . investigate the acts and practices of firms engaged in the production or refining of crude oil or the distribution of petroleum products to determine the effects of vertical integration, joint ownership and operating arrangements on the structure, conduct and performance of the petroleum industry, and whether such firms are engaged in unfair methods of competition or unfair acts or practices which are in violation of Section 5 of the Federal Trade Commission Act.

The Commission's staff has performed magnificently in completing this work. The staff report of the FTC will undoubtedly be recognized as the most authoritative work on the inner workings of the oil industry which has been produced in many years.

For the first time, reasonably accurate and objective statistics on how much oil we have, how much we use, and what the prospects are for the future—figures the industry itself has closely guarded, company by company—are available to the American people. The facts revealed by this report on current practices of the oil industry, the methods used by the major companies to stifle competition, the massive degree of control the 20 major companies already have over the industry—reinforce the necessity of enacting immediate legislation if reasonable competition is to be restored to this major element of our economy.

It details the brutal truth about past efforts to regulate the industry. For instance, the Federal Trade Commission, for more than 50 years, has been continuously examining the marketing practices of the gasoline industry in response to thousands of complaints from Congress, State and local officials, as well as the general public. Over 300 formal investigations have been docketed during those years, ranging from charges of price fixing to illegal contracts and conspiracies. But the 18 or 20 major oil companies showed a strange reluctance to disclose their business practices to their own Government. They fought the efforts of the FTC staff to obtain information on their operations, even when subpenas were issued. They used delaying tactics in the courts. Their actions raised the question—what activities do they desire to hide—was there a widespread violation of the antitrust laws?

Despite this praiseworthy effort by the FTC, the trend toward further concentration of power in the industry to fewer and bigger companies continues to grow. Many have thought the FTC approach was ineffective, being on a case-by-case basis—bringing antitrust suits against individual companies in piecemeal fashion.

An even more frightening aspect of this situation, so far as our future is concerned, is that 20 of these giant companies together own and control 94 percent of our proven oil reserves.

The FTC report reveals an identical condition of economic concentration in the refining branch of the industry. There are 129 refining companies in the United States. Twenty of these same great corporations who control our crude oil supplies, also own and control more than 86 percent of our crude oil and gasoline refining capacity. Given the possibility that these 20 firms can sell or withhold from the market 86 percent of our need for refined products means that the entire American industrial economy could be placed at the mercy of the manipulations of 20 oil companies.

The FTC report says of this:

> A comparison of firm rankings in refining and production yields some interesting results. While there are some minor deviations, three of the top four refiners are among the top four crude producers and the top eight refiners are also the top eight crude producers. Further, 16 of the top 20 refiners are among the top 16 crude producers. Hence, independent monopsonistic purchasing power conducive to downward pressure on crude prices is virtually absent.

The FTC report describes the gasoline marketing branch of the oil industry as the "most competitive" area, principally because the independent stations can operate in competition against the major branded retail outlets with less capital investment. Here the top 20 companies make "only" 79 percent of all gasoline sales in the country, representing 6 percent less control than they have in production and refining.

Another facet of the industry that is subject to much manipulation are the pipelines. Because of high construction costs, most of our vast, complex interstate network of pipelines that carry 75 percent of the Nation's fuel to market is owned by those same 20 big oil companies, either individually or in partnership with other oil firms.

Despite the fact that pipelines are under Federal interstate commerce regulations, it is comparatively easy to bar use of these facilities to small independent refiners by technical excuses. Court cases and hundreds of FTC complaints indicate such exclusionary practices do take place.

A factor in this complex oil area is that the capital required for building huge facilities for crude oil production, construction of refineries, operation of pipelines and marketing, is so huge as to virtually prohibit new companies from entering the industry in competition with the great oil companies.

And finally, there are the actions of the State and Federal governments themselves which have lessened competition within the industry, such as embargos on the import of oil, thus limiting the domestic supply of crude from effective foreign competition. The oil depletion tax allowance has worked in various ways to put the independent refiner at a disadvantage when competing with a combination producer-refiner.

In summary, the FTC study has found that the industry operates much like a cartel with 15 to 20 integrated firms being the beneficiaries of much Federal and State policy. Through embargoes and tax policies, the Federal and State governments with the force of law do for the major companies that which would be illegal for the companies to do themselves.

The major firms successfully seek to consolidate market power by various exclusionary tactics. These firms attempt to limit the supply of crude available to independent refiners. They likewise control the amount of refined products available to independent wholesalers and retailers. The major producers maintain their dominance through control of pipelines, exchange agreements, processing agreements, and price protection coupled with price wars. An elaborate network of devices to deny independent companies access to products has been erected. The resulting system endangers existing independents, makes new entry difficult or impossible, and yields serious economic losses to American consumers.

Thus, in the words of the FTC report:

> There can be little doubt that the independent sector of the petroleum industry, especially at the marketing level, has suffered most as a result of the present gasoline shortage.

As of May 30, 1973, 1,400 gasoline stations had closed this year due to the lack of gasoline and oil. All but a few of these were independents.

As I have indicated, in the past the independent marketers have obtained gasoline from the major firms by diligent efforts. In the light of the present shortage we have shifted from a buyers to a sellers market and thus it has become even harder for the independents to fill their retail pumps. While the 20 major oil companies in control of the industry have been selling gasoline to the independents, they have been actually selling a much greater portion of their refined products to other major firms. In 1971, in different areas of the country they sold over 10 percent of their refined gasoline to other majors, but only 4 percent to independent marketers. The data clearly indicates the 20 largest firms have dealt only nominally with independent marketers.

Next to the independent marketing companies, the people hardest hit by the present gasoline shortage have been the nonproducing refiners in the industry. Although gasoline consumption has increased 60 percent over the past 15 years, there has not been one new entrant into the refining business of any size since 1950. There has not been one new refinery built in this country in 12 years despite this increased demand for gasoline. Even those independent refineries already in business have been operating at less than capacity since February of this year. The reason: their inability to get crude oil from the major companies who control the industry. Despite the national outcry about the gasoline shortage, with service stations closing down and motorists unable to get fuel, the major companies have found ways not to supply independent refiners with supplies of crude oil. The same producers have not significantly taken steps to increase their own refining capacity.

Only within recent months have three of the major companies announced plans for the construction and expansion of additional refining capacity—with estimates it will take 3 more years before they can go into production.

My question is: Why have these major

companies, experts in their field, waited so long to respond to the gasoline shortage which they claim to have seen coming as far back as 5 years ago? Evidence gathered by the Federal Trade Commission staff raises serious questions as to the validity of big oil's reasons for our present inadequate refining capacity in the country. Could it be that these major oil companies saw the shortage coming and let it happen so they might better manipulate prices of fuel around the needs of the American public?

The transition from a buyers market with aggressive competition between oil producers and refiners to sell their products on the market marks a radical change in a major segment of the American economy. Concentration of the great bulk of production, refining, distribution, and sales into a relative handful of companies present an opportunity for collusion which may be greater than the normal business executive would be capable of resisting. A market as staggering in size as that for refined petroleum products, including gasoline, heating oil, and other petroleum distillates used in the consumer as well as business markets is certainly large enough to permit active forces of competition between suppliers to exist. The economies of scale can certainly be achieved in the petroleum industry without the concentration of power which now presents itself.

If it is true that these companies have manipulated supplies to create this shortage, and much of the Federal Trade Commission's findings indicate just that, then immediate action by this Congress to take steps becomes imperative.

Most of the experts agree that lack of refining capacity is the heart of our present fuel crisis, and that finding ways to increase such capacity by the entry of new companies is one of the greater complexities of the energy crisis. There are so-called "barriers to entry" created by the Federal Government as well as the major oil companies.

The present high profits in refinery operations should attract new companies, but the principal barrier to this is the high capital costs. A refinery large enough to achieve maximum scale economies in the production of gasoline costs approximately $250 million, according to FTC, and the number of firms able to borrow that amount of money is relatively small. A potential invester in a new refinery cannot help but be discouraged by the fear that adequate resources of crude may not be available to justify the construction of a very expensive refinery. The knowledge that 94 percent of the proven oil reserves are controlled by existing competitors would make even the most optimistic investor reluctant to enter the business of refining crude oil.

The domination of the crude reserves by a few companies makes it nearly impossible for a new independent refiner to be assured of a continued, uninterrupted supply of crude oil. By dominating the crude reserves, the major companies actually control the actions of the independent companies by determining just how much crude oil the independents will be allowed to refine.

At present, the independent refiners are bearing the brunt of the oil shortage, because the major producers fail to supply them with crude.

The existence of Government-imposed import quotas poses a barrier to construction of new refining capacity in several ways. A Government quota, which may be generous today, is always subject to curtailment at the whim of Government. A $250 million investment in a refinery, if dependent upon foreign imports under quotas established by Government regulation, could well be jeopardized by a restriction in such quotas without recourse by the refiner.

These and many other complex factors have discouraged entry of new firms into the refinery branch of the industy.

The purpose of all that I have discussed is to focus the attention of the Congress upon the lack of the operation of a competitive market in the oil industry. In my own opinion, the most serious impediment to genuine competition lies in the concentration of resources in a relatively few companies, each of which constitutes a vertical monopoly controlling petroleum products from the time of their extraction from the ground up to and including the sale at the retail gasoline pump. Active competition in the industry will exist only when the vertical integration of operations will be prohibited as a matter of law.

The bill which I am submitting to my colleagues will achieve a divorcement of the production phase of the industry from the refining and distribution phases and further require a divorcement of the retail phase of the industry from all other phases. I recognize that many of my friends in the petroleum industry will feel that my proposal is punitive or a harassment to their industry. Nothing could be further from the facts.

The American public will accept shortages and price increases in their necessities so long as they recognize that such conditions are brought about by market influences regulated by competition between strong and viable competitors. The American public will not accept such shortages or price increases if they suspect that such conditions are brought about by monopolistic practices.

I am proposing that the production, including the exploration for petroleum products should be separated entirely from the other phases of the petroleum industry so that it will be the explorer who will enjoy the benefit of the oil depletion allowance.

To fail to separate the producer from the refiner is to permit a cash flow advantage created by the oil depletion allowance to the combination producer-refiner which does not exist for the independent refiner.

I can, and do, defend the special tax oil depletion tax treatment for the explorer who sometimes must risk all and gain nothing if his efforts should fail. It is the oil depletion allowance which, in my opinion, creates a powerful incentive for new exploration and we should do nothing to discourage exploration for new oil resources both within and without the boundaries of the United States.

I would urge my colleagues and chairmen of the proper committees to begin early hearings into the feasibility of enacting the bill, or a bill designed to achieve the same results at an early date. I am sure that divestiture of prohibited combinations of interests can be achieved in an orderly manner without undue hardship upon any person or any company. Any discomfort which may follow as a result of the enactment of the bill which I am proposing today will be more than offset by the reassurance which will follow to the American public that their best interests as taxpayers and consumers are being served through a genuinely competitive petroleum industry.

THE NATIONAL RIVER ACADEMY CASTS OFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

Mr. ALEXANDER. Mr. Speaker, the waterways industry has wisely recognized the need for establishing formalized education to train personnel to supply its manpower requirements. Today's riverman must be highly educated and highly skilled in order to insure the safe and efficient operation of the costly and sophisticated equipment that moves today's cargo on our navigable rivers. Last Sunday, July 14, 1973, Mid-South magazine featured the National River Academy. I commend this article to my colleagues:

THE RIVER IS THEIR CLASSROOM

(By James G. Andrews, Jr.)

Like an oversized salmon swimming to spawn, the towboat Sarah Elizabeth rammed its way up river, shoving a huge block of barges before it.

The diesel engines groaned at the load, their combined 5,750 horsepower producing a speed of only about six miles an hour against the Mississippi current.

In the air-conditioned pilot house, Jay "Booty" Goodman of Verona, Ill.—captain of the Sarah Elizabeth—sat at the wheel. A cigaret was in one hand, a cup of coffee in front of him and charts of the river to one side.

"They really ought to call these things 'pushboats,'" he said, smiling. "Towboats aren't designed to tow anything, just to push stuff."

He had been through a lot of charts, coffee and cigarets in 25 years on the river, but all of that was still ahead of the young man beside him.

Bruce Lundgren, who is 23, was obviously a newcomer to the river, despite his appropriately faded dungarees and blue chambray shirt. His face was not yet baked a deep tan by the sun, his hands still uncalloused by ropes and ratchets, his flat stomach not yet happily swollen by the ample offerings of the towboat cooks.

And he watched each move and listened to each word of the veteran river pilot with eager enthusiasm.

"Skippering a towboat's a big responsibility, sure enough," Booty Goodman said almost casually, his gaze fixed on the rushing, muddy river. "This boat alone is worth about a million-and-a-half-dollars. Each of the 16 regular barges we're pushing probably cost around $80,000. The seagoing barge out there cost $150,000 or so. And they are all loaded with steel and lumber and fertilizer and chemicals, worth a lot more.

"So what you have to do is keep from running them into a bridge or a boat or another barge and sinking them."

So far that morning, Bruce Lundgren's responsibilities had been somewhat less dramatic. All he had commanded was a mop—cleaning up the rotted corn that covered the bottom of one of several empty barges in the Sarah Elizabeth's tow.

It had been dirty work. Deckhand's work. And that morning Bruce was a deckhand—bottom level of the towboat hierarchy.

But the deckhand work was merely the first step in a program of study and training he is undergoing as a cadet at the National River Academy in Helena, Ark. It is a program designed to put Bruce and his fellow cadets into the pilot houses of towboats like the Sarah Elizabeth—first as apprentices, then, soon after, as full-fledged pilots and masters.

Not long ago, Bruce was steering himself along a totally different course in life. An English major at Millsaps College in Jackson, Miss., near his home in Clinton, he was preparing to become a teacher. He had logged three years of college before he became growingly aware that the demand for teachers was not what it used to be.

"The college struggle was becoming pretty tiresome, besides, so one day when my brother-in-law mentioned this new cadet program at the National River Academy, I decided to write."

The outdoor life appealed to young Lundgren. Life Scout as a teenager, he had "done a lot of small boating" on the Mississippi. And the material he received from the academy guaranteed a job in two years, promptly upon graduation. So he abandoned ship at Millsaps and signed on as a member of the academy's second cadet class.

"The dean at Millsaps tried to talk me out of leaving, since I was so close to my degree, but I didn't want to waste another year. And the way I figure it, when I graduate I'll be making as much money as a professor at a small college."

Actually, the academy's graduates will start off at about $10,000 a year as apprentices, according to the school's executive secretary, Mrs. Elizabeth Ashcraft.

"That's really for just six months' work, though, since the usual schedule on the river is 30 days on, then 30 days off," she says. "A pilot can earn up to $20,000 or $25,000 a year. And everyone can make more money by 'tripping,' or working extra trips during off-time. One pilot I know made $36,000 last year."

The pay is surpassed by demand for pilots, as an incentive to cadets like Lundgren.

"There is an attrition rate of something like 700 pilots a year," Mrs. Ashchaft says. "Some retire. Some go into management. Some die. The field is wide open."

Not only must replacements be found for all these pilots, still more must be recruited to handle the rapidly mounting amount of traffic on the country's inland waterways, according to Pierre R. Becker, the retired Navy captain who is superintendent of the National River Academy.

"In 1969, the growth rate of trade on the inland waterways was projected at 400 percent over the next 10 years," he says. "Now, with the import-export negotiations we are having with China and Russia, that figure should be even higher."

The academy, about 10 miles south of Helena, is the only one in the world training river pilots, Becker says, although a number of other maritime institutions have long been in operation. First opened in 1970, the Helena school offered training for deckhands, tankermen, engineers and the like, before starting its first cadet class last fall.

The master plan for the school includes six buildings, on its 50-acre campus, but only one has been completed thus far. Slated to be a social activities building eventually, it now serves as class building, administration building, dormitory, cafeteria, and workshop.

While landlocked by cotton fields, the school is not far from the river, and it exudes that flavor by virtue of the mile markers, buoys and lights flanking the double driveway. The theme is carried out inside, as well, where nautical terms are omnipresent. The kitchen is "the galley," dorm rooms are "state rooms," and anyone who enters the front door has come "on board."

The official name of the school is on a shingle hanging out front—"The National River Academy of the United States of America." The title is misleading, since the academy receives no federal financial aid. Funding is provided to a great extent through the dues of a host of members of the board of directors, including "owners or operators of inland river vessels; firms, corporations or persons connected with the industry; and individuals or nonprofit organizations interested in the industry," as the academy's newsletter puts it.

In return for their support, member companies which previously had to depend upon pilots ascending slowly through the ranks, can stake their claim on the academy's young pilots-to-be.

"Our curriculum is a practical one," says Mrs. Ashcraft. "Instead of world history, we teach river history. And the English our cadets study is the language used in the Federal Communications Commission codes or the Coast Guard 'Rules of the Road.' We don't seek out the top scholars for our program. Those who are vocationally oriented actually make the best pilots."

Average age of the cadets is about 20, Mr. Becker says, although one member of the second class is a 35-year-old Notre Dame graduate who was a former deckhand. Such experience is helpful, but not necessary.

The classes have been small so far, 13 cadets in the first class, 14 in the second. Each pays $1,000 tuition a year for a two-year program, equally divided between classroom study and towboat experience. While on the river, cadets receive regular wages, however all but $100 of their deckhand's pay, for example, goes to the school, to help defray expenses. That leaves the cadets less than $25 a week to show for 84-hour weeks consisting of constant 6-hour-on, 6-hour-off shifts.

"The entire program lasts 22 months, and it is set up so that the cadets go back and forth from the academy to the boats in each phase, instead of learning everything at the school first," says Supt. Becker. "That way they learn about being a deckhand for two months, then they are a deckhand for two months; then they learn about engineering, then they are an engineer, and so on, through mates and tankermen, till they go into apprentice steering."

The classes are staggered so that one is on land while the other is on the river, conserving space and faculty personnel.

"Finding qualified teachers is a problem," says Mrs. Ashcraft. "It seems like anyone who knows the river finds it hard to instruct, and anyone who can instruct doesn't know the river."

Of top priority at the present is a million-dollar teaching aid which is Becker's pet project—a "simulator" similar to those used by airlines. From it, cadets would operate a full-scale pilot house while watching models of docks and bridges on big closed-circuit television screens.

Another aid has been the presence of droves of veteran towboat skippers attending week-long sessions at the academy to earn licenses which will be required by federal law beginning this fall. Most of the old hands have been happy to share their knowledge of the river with the cadets in after-hours bull sessions, Becker says.

"They realize these young men aren't after their jobs. There are going to be a lot more jobs than men, and they know it."

So men like Memphis' Oliver Eschbach, 50 years old and with a patch over an eye lost to cataract trouble 10 years ago, pass along tales of the river and tricks of the trade.

"I went on the river in 1952," he says. "I was a farmer, and I only planned to stay on long enough to make enough money to buy some farm equipment. But I became a pilot in the wheelhouse in 1956, and I never made it back to the farm.

"You learn a lot about the river in 20 years. You learn it's a lot more than just going straight down the river. Just because a river is wide doesn't mean you can go close to a bank and stay off the bank. And you learn you might travel a mile before you can stop a tow. You watch your flags to check the wind, and you always point empty barges into the wind. You can watch the surface to check on the depth—another vessel that has passed recently will shake up shallow water over a sand bar, and water moving over a bar into deep water is choppy."

These insights are continued when the cadets go onto the river and serve under skippers like Booty Goodman.

"This cadet program is fine, and it should have been started 20 years ago," Goodman says. "But, of course, experience will still be the major factor. Cadets will have to learn by being on it, getting to know it by heart—like when you get up in the middle of the night in your home and go to the bathroom without turning on the lights. That well."

Cadets can also benefit from the experiences, good and bad, of fellow crewmen like James Vance, 27-year-old Osceola, Ark., deckhand on the Sarah Elizabeth.

"I fell off a barge one night and damn near got killed," Vance told Bruce Lundgren, shortly after the cadet came on board. "It was nothing but stupidity on my part. I was up on the head barge, and the shadows from the searchlight looked like part of the barge. I had a flashlight but didn't use it, and I stepped right off into the river.

"I went under two barges and got banged up pretty bad, but the captain saw me fall and cut the engine, and that kept me from getting chewed up by the propeller. It happened so fast, I didn't have time to think about it till I was back on board and the cook had given me a cup of coffee and the maid had wrapped me in a blanket. Then I just sat there and cried like a baby!"

Safety is a major problem cadets must face as pilots. Steel and nylon cables can cut men in half, when they snap. Fires can destroy lives and valuable cargoes. Heavy machinery can kill and maim. And crew members must also be protected from each other at times, cooped up for days on end in the limited confines of a towboat.

"We have TV and magazines on board," says Booty Goodman. "But there isn't really a lot to keep the men occupied, when they're off-duty. It's the same for us. Last year, my partner and I once counted all the grain barges we met from New Orleans to St. Louis, while we were taking turns standing our watches at the wheel, just for something to do. There were 822 grain barges, by the way, on 48 boats."

The worst aspect of life on the river is the time away from home, according to skippers like Goodman and Eschbach.

"If you could just carry your family with you on board, I'd be happy to sail forever," says Goodman, the father of two teenagers.

"My youngest son actually gets sick when I have to go catch a boat," says Eschbach, who has four children, aged 6 to 16.

"That's one reason I don't 'trip' any during my off-days—that, and the extra strain involved. This would be a great job for a young, single man, living with his parents and saving his money. But me, I just make a bare living and that's all, the cost of living what it is today. I could make a lot more tripping, but it wouldn't be worth it."

Cadet Lundgren, married but childless, does not look upon a pilot's career as a long-term proposition, particularly when a family comes along.

"I'd like to do it a few years, then go into management," he says. "I figure I have an advantage in that respect, since I've been to college."

Others, cadets and captains alike, are not so ambitious.

"I want to get my license and be a river pilot for years and years," says cadet Sewell Hembree, 27-year-old ex-Navy man from Clarksville, Tenn. "I've been on the water ever since I got out of school, and I love it, miss it and get homesick for it. I'd never want to be a desk jockey.

"I don't have enough education for management," says Oliver Eschbach. "I had four sisters and five brothers, and I only went through grade school, before I had to quit and get to work."

Meanwhile, other river men like James Vance are going to be forced to take the old-fashioned route to a captain's post and any subsequent management position, if they are ever to attain them.

"I would really like to go through the cadet program," Vance says. "But I'm just not financially able to do it. I've got two kids and a third on the way, so I can't start pouring money out, with none coming in."

By different approaches, then, Vance and Lundgren might one day wind up sharing the controls in a pilot house. There is plenty of room for both.

"Very soon, I'm going to be putting out 40 men a year with second-class pilot's licenses," says the National River Academy's Pierre Becker. "Of course, by that time, something like 1,000 new pilots will be needed annually, in all probability.

"As to where the remaining 960 are going to come from—well, that's going to be our problem."

PROPOSED AMENDMENT TO RESTORE THE BALANCE OF OUR CONSTITUTIONAL SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Oregon (Mrs. GREEN) is recognized for 30 minutes.

Mrs. GREEN of Oregon. Mr. Speaker, the subject of Watergate has become an almost total preoccupation. Not only in news stories but in private conversations this is the subject of endless analysis and speculation. Also, it has infected almost all consideration of legislation. Yet, our laws do not seem to provide an easily available means to resolve the problems. As I see it, Watergate is not an incident in isolation. It is not merely a series of crimes, calling for exposure and punishment. It is a dramatic warning to us to reexamine our instruments of Government.

To impeach or not to impeach is a question more and more people are pondering. Yet the impeachment process is so traumatic as to be virtually inoperative. It would tear apart the political and social fabric of our society. The impeachment process is tied to the words of the Constitution in article 2, section 4 of "treason, bribery, or other high crimes and misdemeanors." The serious nature of these acts produces an aura mitigating against use of the procedures set forth in all but the most serious cases.

The sanction prescribed by the Constitution of "disqualification to hold and enjoy any office of honor, trust, or profit under the United States"—article 1, section 3—is certainly not one which is applicable in all instances.

As I see it, the process of impeachment does not establish an adequate remedy for all questions of abuse of powers. The only precedent was in the period from 1866 to 1868 by the formal impeachment proceedings against President Andrew Johnson. That impeachment process stretched over a period of 18 months.

It seems to me the ineffectiveness of this check on the Executive requires us to explore alternatives. In parliamentary systems—the Government falls when there is a vote of no confidence. I suggest a modified parliamentary procedure.

We need, I believe a mechanism by which the electorate may bring about a change in Executive leadership, but, to make this change effective within our political structure, it must include the Vice President as well as the President—and it might be for other reasons than "treason, high crimes and misdemeanors." Let us try to find a process that will not tear asunder the political and social fabric of our society.

Today, I am proposing an amendment to the Constitution whose objective is to define three areas in which the Congress may act to mandate new elections, if the Congress, by a two-thirds vote, determines: First, that the President has failed or refuses to execute the laws passed by the Congress, or second, that he has exceeded the powers vested in his office, or third, that the President has willfully permitted the rights of U.S. citizens to be trespassed upon in violation of the Constitution and the laws of the United States.

The three substantive provisions are so defined that the Congress may not for mere dissatisfaction with the exercise or Executive privilege, or because of forceful aggressive advocacy of his constitutional powers, cause a special Presidential election. It is required that the President, by an affirmative act or omission, has failed to execute the powers vested in his office by the Constitution and the laws of the United States. It is not the intent to destroy the Presidential exercise of his powers but to place a check on willful excesses.

The provisions of the amendment are to delineate a legal standard for congressional action. The exacting procedures for impeachment are inadequate when the Government must drift on while its credibility drops precipitously. As the probability of wrongdoing increases to a consensus of two-thirds of the Congress, a corresponding governing crisis erodes our democratic system.

The time period must be kept as short as possible to restore the Executive to its constitutional position for effective Government. Therefore this constitutional amendment provides that, if Congress votes for new elections, they must be held within 90 days. The incumbent President and Vice President could first go to their party and ask for a vote of confidence and they would be eligible to be renominated as candidates of their respective political party for reelection. True democratic strength lies in the responsiveness to the will of the electorate. Interminable delay only prolongs any confidence and governing problems. In the interim, the political unity of the Nation and its confidence in the President to effectively serve and carry out his duties remains, in the minds of a great many Americans, in doubt.

I suggest this amendment not for our present dilemma—which it obviously could not affect—but for future Watergates or future Vietnams.

The future gives no assurances that another Watergate or another Vietnam will not occur. Our duty is to insure that future generations will not suffer the same disabilities that face us in 1973.

We presently have no choice between the extreme option of impeachment or the other extreme of maintaining in office for as long as 3 years an administration whose stature and ability to govern has been gravely impaired. We should seek to strengthen our system of checks and balances and our theory of Presidential responsibility to the electorate, and not to replace it. We should seek to restore the balance of our constitutional system, not to destroy it. I invite your consideration of the bill to strengthen our democratic form of government envisioned by the Constitution of the United States.

Mr. FOUNTAIN. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. I am delighted to yield to my friend from North Carolina.

Mr. FOUNTAIN. I wish to commend the distinguished gentlewoman from Oregon for the very thought-provoking contribution she has made to the subject matter she has discussed.

Further, I agree with the view of the gentlewoman from Oregon that the impeachment procedure provided under article ii, section 4 of the Constitution is a most extreme step and one which is virtually impossible to use with respect to the Presidency under 20th century conditions.

I, too, have been giving consideration to this problem. It is interesting that we have been thinking along the same lines, with some of the same reasoning. I have been considering proposing to the House legislation which would deal with the problem the gentlewoman has discussed. However, because any such proposal would be a substantial change in the system to which our people have been accustomed since our form of government was established, I decided it might be more desirable to request the House to establish a select committee to review and study all meaningful recommendations that have been made by Members of Congress, and others, to deal with the problems arising because of our constitutional imperfections concerning Presidential tenure. Such a select committee would be empowered to make an exhaustive study of the subject, including the taking of testimony from our Nation's leading experts in this area.

Some proposals worthy of serious consideration which have been submitted to the Congress would range from establishing one 6-year term for the Presidency, to providing for the termination of Presidential tenure in less than one full 4-year term of office.

We need to give attention to the possible future need of calling a special election for the offices of President and Vice

President, not only in situations involving the willful abuse of executive authority, but also when there is a demonstrable loss of public confidence in our Executive leadership. In any of these cases, a constitutional amendment would be required.

Again I commend the gentlewoman for spotlighting this overall problem by means of a special order. Perhaps between our two, and other approaches, the Congress can make a decision as to how it might best accomplish the purpose which both she and I have in mind.

Mrs. GREEN of Oregon. I thank my colleague very much. I really am today inviting consideration and reexamination of our instruments of government. I am suggesting this as a starting place for discussion.

I am not wedded to all of the particulars in the bill.

I also agree with my colleague regarding impeachment. I today certainly would not vote for impeachment. I believe it would tear apart our society in a manner that would be disastrous.

I believe a vote of confidence might be quite a different thing. As the gentleman said, this is the constitutional amendment procedure. It is not suggested and not designed to take care of the present situation.

But it is hopefully designed to give some encouragement to some constructive thought so that future generations will not face the same crises that we are facing.

Mr. FOUNTAIN. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Speaker, I quite agree with what the gentlewoman has just said and I am delighted that she, and hopefully others, are giving consideration to the subject matter of her special order.

Mr. ARCHER. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, not having had a chance to examine the details of the recommendations, I am certainly not qualified to go into them in depth, but I think that this moment should not pass without my stating that I have very serious reservations with regard to this concept, one which would, in effect, take one-half of the parliamentary process and not the entire parliamentary process.

I think that could be fraught with great mischief, and I think it is something that should be very, very seriously considered before we undertake it.

Mrs. GREEN of Oregon. Mr. Speaker, I would certainly agree that it must be very carefully considered. I am suggesting that it is incumbent upon us to find alternatives to the present situation.

ASSISTANCE TO SOUTH VIETNAMESE CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Whalen) is recognized for 5 minutes.

Mr. WHALEN. Mr. Speaker, the foreign aid bill, which the Foreign Affairs Committee completed earlier today, contains a section providing assistance to South Vietnamese children. This provision, which I offered and which the committee approved unanimously, earmarks $5 million. Ten percent of this would be used to facilitate adoption of these children. The remainder of the $5 million woud be used to establish, expand, and improve day care centers, orphanages, hostels, school feeding programs and health and welfare programs, as well as fund training related to these programs. The vehicles for disbursing this aid would be private voluntary agencies and international organizations. Special consideration would be given to children fathered by American citizens. As I indicated in my comments to the committee, I think that this type of aid is a particularly appropriate national undertaking in behalf of the thousands of war-disadvantaged Vietnamese children.

While I was preparing this provision for inclusion in the bill, an article on the subject of Vietnam children by Chester L. Cooper appeared in the New York Times. I know of no more eloquent expression of the need for this assistance than Mr. Cooper's commentary. Therefore, I take this opportunity to bring it to the attention of my colleagues.

The Surplus Children of South Vietnam

(By Chester L. Cooper)

The terrace of Saigon's Hotel Continentale is one of the few constants in the capital's kaleidoscopic physical and human landscape. In the late afternoon and on into the evening, the good and the evil sit cheek by jowl sipping and nibbling, buying and selling, drinking and brooding. The players change, but the cast is always the same—foreign soldiers, local hustlers, expatriate Frenchmen, world-weary newsmen. Along the side and rear walls are the prostitutes—male, female and indeterminate. And shuffling around from table to table are the beggars and the pushers. The mood music is a melange of turned-up rock, flatulent Honda, occasional siren.

Two "regulars" recently provided a leitmotif. Big Bob and Little Babe met each afternoon after Big Bob finished pushing papers or driving a truck or doing whatever he did at MAC–V, the Pentagon East. At about 5:30, khaki shirt stained and black face streaked with the sweat of the hot afternoon, he would lumber up to the terrace, look sternly at the score or so of street kids running and shrieking after any soft-looking touch, and shout: "Where's my date?" And then out of the crowd would emerge Little Babe. Barefoot, scruffy, scrawny, 7-going-on-30.

"Hi, Little Babe!" and a hug. A scream of joy and skinny arms embracing enormous thighs.

Across the terrace they went, and into the dank men's room rich with the aroma of decades of urine. Bob would scrub 24 hours' accumulation of street grime from Babe's face and hands and run his comb through her matted hair. Hand in hand, they went back to the terrace and to their table in the shade. And then, to the music of her giggles and his belly-laughs, Little Babe had her ice cream, cookies and milk and Big Bob his beer. A peck on the cheek and Babe would be off to her home, the street, and Bob disappeared into the crowded square—until 5:30 tomorrow.

Big Bob has long since returned to the States—hopefully, to a houseful of giggling little girls. Little Babe? Who knows?

Babe has at least a hundred thousand counterparts in Saigon and Hue and Danang. There are probably 50,000 Babes, courtesy of three million G.I.'s who passed through during the last decade. Some, the lucky ones, are in the few Vietnamese orphanages; most, like Babe, live on the streets. They provide an unbroken link with the wretched progeny of the French Foreign Legion and the Japanese Imperial Army. Together with the orphaned, the abandoned and the lost they comprise a pathetic legacy of the American struggle to provide the Vietnamese with free choice and a miserable souvenir of peace with honor.

Voluntary agencies have been doing what they can in South Vietnam. And thousands of compassionate Big Bobs have brought a moment of laughter to thousands of miserable youngsters. But the voluntary agencies, as well meaning and effective as they are, are not adequate for the job—and the Big Bobs have all gone home.

In North Vietnam the problem must be quite different in both scale and kind. Even under the fury of bombing, the Hanoi Government probably had some minimal organized arrangements for coping with lost, strayed, orphaned or abandoned youngsters. At least, visitors do not report them drifting around the streets of Hanoi or Haiphong. And, of course, during the last decade or so, the North has been spared the thousands of offspring of Vietnamese women and foreign troops. But surely, there must be a problem of substantial dimensions; a country as poor as North Vietnam cannot experience years of war without being overwhelmed by maimed, fatherless, sick, frightened and homeless children.

Highly motivated American officials, at this very moment, are wrestling with the problem of programs and modalities for postwar assistance to both North and South Vietnam. Perhaps the sordid terrace of the Hotel Continentale can help us get our priorities straight. Little Babe comes first—the bridges and the roads and the rail lines of North and South Vietnam will, sooner or later, one way or another, be rebuilt.

What we must do, if we are serious about a "lasting peace," is to concentrate on the Vietnamese people rather than on the Vietnamese things.

Schools, mental health clinics, pediatric services, vocational training centers, orphanages, teacher training, foster-parent programs, remedial education are but a few of the objectives of a five-year, children-oriented aid effort. The program, of course, should be wholly Vietnamese in character, not American. We have learned, or we should have learned, that we cannot and, indeed, should not, try to export our own standards and values.

The most expeditious way of accomplishing the task of salvaging a generation of young Vietnamese would be to turn over the major part of our aid directly to UNICEF, which is already operating in South Vietnam.

TESTIMONY IN FAVOR OF SUPERPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana (Mr. Treen) is recognized for 5 minutes.

Mr. TREEN. Mr. Speaker, I recently had the opportunity to testify before the House Commitee on Interior and Insular Affairs in support of H.R. 7501. As a sponsor of this bill, which would facilitate construction of deepwater port facilities, I am vitally interested in the passage of this legislation.

Mr. Speaker, it is estimated that by the year 1985 the United States will be importing 15-million barrels of crude oil a day. When one considers that the Alaskan pipeline, running at full capacity, will only carry 2-million barrels daily, I think the importance of the superport can be recognized, especially when it is pointed out that the proposed Louisiana Offshore Oil Port alone would import 4 million barrels of crude oil a day.

I am determined to do all that I can to see that the United States will meet its energy needs in the years to come. But although I am a sponsor of legislation authorizing a trans-Alaska oil and gas pipeline, I have yet to see any suggestions from responsible sources as to how we are to meet our energy needs in the immediate future without increasing the importation of crude oil. In my judgment it is far sounder to move ahead with the development of offshore deepwater facilities than to depend upon an increased number of discharges from small tankers at our existing ports. The evidence strongly indicates that chances of harmful oil spills are less with the former than with the latter.

Mr. Speaker, since one of the proposed superport sites is located in my congressional district, in the parish of Lafourche, I can assure you that I would not sponsor any bill that did not provide for all of the environmental protection any reasonable person could request. My district includes thousands of people who depend upon the estuarine areas for their livelihood. I thus take second place to no one in my zeal to see that the environment in my district is not destroyed and that its economic interests are not adversely affected.

The environmental safeguards in H.R. 7501 are spelled out clearly. Further, this legislation merely sets up the framework which would permit the licensing of the construction of deepwater ports. it does not mandate the licensing of any port.

Mr. Speaker, I am satisfied that my State of Louisiana has taken and will continue to take all reasonable steps to insure adequate study, consideration, evaluation and public debate of the environmental impact questions. And I know that I will continue to give very careful and sincere consideration to any reports or studies with regard to the environmental impact of the proposed deep water oil import facility in my district. However, given the seriousness and urgency of the energy problem confronting this Nation, I feel that it is essential that legislation be enacted by the U.S. Congress which would permit those States interested in the development of such facilities to proceed with their plans.

For the benefit of my colleagues, I am attaching a copy of my testimony, in favor of a superport, to the House Committee on Interior and Insular Affairs.

Statement of the Honorable David C. Treen

Mr. Treen. Thank you, Mr. Chairman. I appreciate the opportunity to come before the Committee. And in view of the fact that we are going into session at 11:00, and I know you want to see this film by Shell Oil, which will take about twenty minutes, I will be briefer than I had intended to be. And I know you will welcome that.

I am interested in the development of a superport for many reasons. One of the primary reasons is that my Congressional District in Louisiana is located on the coast, and off that coast is one of the sites that has been considered one of those most ideally suited for a deepwater facility, and particularly, a deepwater oil import facility. My remarks, therefore, will be directed strictly to that type of facility and not a superport in the sense of a port that would handle other types of commodities.

This site off the cost of Louisiana is about 21 miles off the mouth of Bayou Lafourche and it is located in 100 to 120 feet of water. This site has been studied by the Corps of Engineers, as I think this Committee knows, and found (as I just mentioned) to be ideally suited for the location of a superport. And, I might add, this site has also been evaluated by industry. You have, for example, had testimony from LOOP, Inc. and their president, and some officials of LOOP are here today. They have looked at this site and have moved ahead. In fact, they have already budgeted $3½ million for the Bayou Lafourche site and they have already spent a great deal of that money in the preliminary plans for this facility. This facility would ultimately involve five single point moorings and would bring the oil in by pipeline submerged beneath the floor of the Gulf of Mexico to a tank farm located in the parish of Lafourche. The oil then would move up by pipeline to the town of St. James near the Mississippi River. From thence, it would serve the refineries throughout the Mississippi Valley, as far north as Michigan, by means of the Capline pipeline which starts at St. James, Louisiana.

Now, I have co-sponsored H.R. 7501, the bill which this Committee is considering. It offers, in my opinion, the best approach to the superport question. This may be somewhat embarrassing, my being a member of the Merchant Marine and Fisheries Committee, to come before you and say I think the bill in this Committee is a better approach than that before the Merchant Marine and Fisheries Committee; but I do indeed. It is well thought out; it is comprehensive. I think it offers the best opportunity for early action.

My purpose here is really not to get into a lot of technical details and discuss the oil needs of this country. We have been over that time and again, and I certainly hope that the oil needs of the country have been well recognized by now. My purpose firstly, is to come here and assure this Committee, and to assure the Congress, that this facility which LOOP, an acronym for Louisiana Offshore Oil Port, Inc., proposes to build is a facility that is much desired by the people of south Louisiana, and to indicate that there is no appreciable opposition to this. In fact, I know of no opposition whatsoever, but I use the term appreciable because, of course, there may be some that I do not know of.

And, secondly, to urge this Committee to act with all dispatch.

First of all, with respect to the desire for the superport, the enthusiasm for this facility is very high throughout the 3rd Congressional District. In fact, Congressional candidates in the last election campaigned on the basis of hoping to move this project along and to bring the port to Louisiana's 3rd District. It was universally recognized as something that would help not only the district I represent but the entire state of Louisiana as well. As a result, it is greatly desired. I know this because of my travels through the district in which I meet with persons of all economic interests; and I know it from the fact that I have received absolutely no expression of opposition. Although I have been fairly prominent in pushing this project. I have not received one letter, not one communication of any kind from any person anywhere in Louisiana in opposition to the project.

The reasons for the support for this faciltiy are many. There is, of course, the obvious economic impact which would be very favorable to Louisiana. Equally important, however, and I believe this is the reason that there is a lack of opposition to the deepwater facility, the experience that we in Louisiana have had with offshore structures. For 26 years we have had offshore drilling platforms. You have seen ads by various of the major oil companies indicating how well the fishing industry gets along with the oil industry and how compatible those two are. That is not just public relations talk. It is a fact. I know that from my own experience.

We have had experience with hundreds of offshore platforms similar to the kind that would be built by LOOP under its proposal.

With respect to offshore pipelines buried underneath the floor of the Gulf, our Gulf is laced with these pipelines. Tank farms, another part of this proposed facility, is something we have had extensive experience with, without any difficulty. And then, of course, onshore pipelines, thousands of miles of onshore pipelines in Louisiana that have not caused any problem.

Let me further emphasize that the fishing industry of Louisiana, and particularly, the fishing industry of the Third District, is extremely important in terms of the number of people employed and its economic impact, and extremely important to me politically. And, I have sponsored legislation before the Merchant Marine and Fisheries Committee to strengthen the fishing industry. So I would not be here telling you that the oil and fishing industries were compatible if it were not true. The fishing industry, I think, would be the one to offer the greatest potential for opposition. But the fishing industry is not opposed to this project in any way. And I would not take this stand if I were not sure of that position.

The statistics on fishing catch in the Gulf serve to illustrate this point. While the catch elsewhere, on the Pacific and Atlantic Coasts, has been stable, and in some instances declined, in the Gulf it has been up over the past few years.

An illustration of how the fishing industry and the oil industry work together and how compatible they are in the fact that in Morgan City, one of the towns in the Third District along the coast of Louisiana, there is a festival every year which is a joint petroleum and shrimp festival, and it illustrates very well, I believe, the compatibility of these two industries.

So the desire, the enthusiasm is there, and of course the need is there.

LOOP, as I have indicated, has already gone to tremendous expense. They have leased land for the tank farm. The LOOP facility, incidentally, when it is completed, would bring in an excess of four million barrels of crude oil a day out of a total of approximately fifteen million barrels a day that we expect to have to import for the year 1985. So that is a sizable percentage.

I think that Sea Dock off the coast of Texas and LOOP off the coast of Louisiana, those two facilities alone, would provide the import facilities for approximately half of the nation's crude needs.

And, as has been pointed out in testimony before the Committee on Merchant Marine and Fisheries, of which I am a member, many other decisions of the petroleum industry are being held up pending this decision. The expansion of refineries, the construction of new refineries, these things are really being delayed to a large extent because we do not know the fate of this particular legislation.

And I think it is amazing, when you consider that there are approximately 100 of these all over the world already in operation (many in Japan and in other places in the world), that we have not moved faster on this issue.

Some of you may be interested in knowing that we are subsidizing, through our Ship Subsidy Program, ten tankers in the 200,000 to 265,000 ton range, which cannot use any existing port in the United States. We are subsidizing them through our Maritime Subsidy Program.

So, in conclusion, I strongly urge that we treat this matter as an emergency. I do not think it is necessary to get hung up, and I hope we will not, on this question of what agency will be the licensing agency. It does not make any particular difference to me, although I do think the Interior Department has a lot of expertise because of its familiarity with offshore oil operations. But H.R. 7501, as this Committee knows, provides for consultation with all other agencies in Section 104.

Section 104(b) requires that the Secretary of the Interior consult with all interested and affected Federal agencies. In Section 104 (c) the bill provides that the application with the Secretary shall constitute an application for all Federal authorizations required for construction and operation. And, later on in that section it is provided that the license will not issue until the Secretary has been notified by such agencies that the application meets the requirements of the laws which they administer. And then, of course, it provides for joint hearings and provides in Section 105(c) that any interested person may require a hearing. So it seems to me all we are talking about is a "window" agency, the Department of Interior, to issue the license, but all other agencies can have their impact. And, as I interpret this bill, it virtually gives veto power by any agency with respect to the issuance of a license.

So I hope that we will not get hung up and have this legislation delayed because of competition among agencies for the licensing authority. At least the Administration is in harmony, from everything I can tell, on this bill and on the provision that the Secretary of Interior be the licensing authority.

So again, I urge speed. I think that the date has long since passed that we should have moved along with licensing authority.

Thank you, Mr. Chairman. With that, I will be pleased to answer any questions, but I know you want to get to this film before we go into session. Someone may also call a quorum shortly.

PANAMA CANAL MODERNIZATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, two of the most potentially important subjects that will come before the Congress in the near future are the continued sovereign control of the U.S. Canal Zone and the Panama Canal. These are challenging questions because their ramifications are inexhaustible and they have not been clarified in the mass news media as they should have been.

Early in the present session my distinguished and scholarly colleague from Pennsylvania (Mr. FLOOD), one of the Nation's leading authorities on Isthmian Canal policy questions, introduced H.R. 1517 to provide for the major increase of capacity and the operational improvements of the existing Panama Canal.

Though the historical background of the canal subject is vast, when reduced to its essentials it is relatively simple. Because hearings on Panama Canal operations before the Committee on Merchant Marine and Fisheries are scheduled to start today, I have introduced a bill which is identical with H.R. 1517. I wish to summarize some of the main features in the history of the canal subject.

In 1939, the Congress, without adequate consideration, authorized the increase of capacity of the existing canal by the construction of a third set of larger locks at a cost not to exceed $277 million, primarily as a defense measure.

Construction was started in 1940 but was suspended in May 1942 because of more urgent war needs for materials, shipping and manpower, after an expenditure of $76,357,405, largely on huge lock site excavations at Gatun and Miraflores, a railroad-vehicular bridge across the Miraflores Lock and a road bed for relocating the Panama Railroad at Gatun, all of which work can be utilized. It was fortunate, indeed, that no excavation was started at Pedro Miguel.

As the resulting World War II experience there was developed in the Panama Canal organization a proposal for the future canal known as the Terminal Lake-Third Locks Plan, which calls for the elimination of a bottleneck Pedro Miguel Locks, the consolidation of all Pacific Locks in three lifts at Agua Dulce south of Miraflores to correspond with the arrangement at Gatun, and the creation of a summit terminal lake at the Pacific end of the canal. This plan won the approval of President Franklin D. Roosevelt as a post war project and the support of important maritime interests.

The great principle underlying the plan is the provision of an expansion chamber for traffic at the south end of Gaillard Cut as there is at the north end of cut.

The present maximum lake level of 87 feet, would be raised by 5 feet to a maximum of 92 feet, which would increase the operating range of the lake level from 5 to 10 feet, thereby doubling the reserve water supply for use during the dry season.

A total of $95,000,000 was expended on the enlargement of Gaillard Cut from 300 to 500 feet, which was completed on August 15, 1970. Added to the money already expended on the third locks project, the total so far invested toward the canal's major modernization is more than $171,000,000.

As pointed out in its 1973 Memorial to the Congress by the Committee for Continued U.S. Control of the Panama Canal—CONGRESSIONAL RECORD, volume 119, May 31, 1973, pages H4210–12—the outstanding advantages of the terminal lake plan are that it enables the maximum utilization of all work so far accomplished on our great tropical waterway, including that on the suspended third locks projects. It can be constructed under existing treaty provisions and does not require the negotiation of a new treaty, which are paramount considerations—CONGRESSIONAL RECORD, volume 84, part 9, July 24, 1939, page 9834 and volume 119, June 6, 1973, pages E3780–82—It preserves the existing fresh water barrier between the oceans, thereby protecting the Atlantic from infestation by poisonous Pacific sea snakes, the crown of thorns starfish, and other marine biological hazards.

It can be constructed at relatively low cost with every assurance of success and without the danger of disastrous slides.

It safeguards and increases the economy of Panama. It proves the best operational canal practicable achieved at the least cost, and without diplomatic involvement.

In contrast with the simple, logical, and historically based terminal lake-third locks plan, the strenuously propagandized "hardy perennial" known as the sea level project as recommended in the 1970 report under Public Law 88–609, as amended, to be constructed in Panama about 10 miles west of the existing canal at an initially estimated cost of $2,880,000, would involve a huge idemnity to Panama for a new treaty and the cost of a right-of-way, both of which would have added to the cost of construction. Engineers, navigators, and other canal experts who have studied the subject have expressed the view that such a canal would be far less satisfactory operationally than the canal it would replace. Moreover, it would open a Pandora's box of troubles.

What is needed at Panama is the best canal for the transit of vessels and such canal would be realized under the terminal lake-third locks plan, which is the proposal to be authorized under both H.R. 1517 and the bill I am introducing today.

For the sake of emphasis, I would add that when the question of increased transit facilities is considered from all significant angles, the evidence is conclusive that the major modernization of the existing canal under the time-tested terminal lake-third locks plan offers the best operational, the most economical, the most logical and the most practicable solution of the interoceanic canal question ever formulated.

COMMENCEMENT: WALLENPAUPACK AREA HIGH SCHOOL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 10 minutes.

Mr. McDADE. Mr. Speaker, each year at commencement time we have the opportunity to go to some of the schools of the Nation, to see a new generation leaving high school or college. Each year we discover anew the remarkable consistency with which our American schools graduate such fine and perceptive young people, well prepared to move into the mainstream of American life where they will make their contribution to all that has made this such an outstanding Nation.

I had the occasion to address the graduates at the commencement exercises at Wallenpaupack Area High School in Hawley, Pa. It was a refreshing opportunity to meet with Joseph Ruane, the high school principal, with Betty Schmidt, the assistant principal, with Rod Adams, guidance counselor, and with many other members of the faculty. Their dedication to their work, and their concern for the young people they teach was manifest and outstanding. Mr. Robert Fisher, superintendent and his assistant Mr. James McJunkin can be proud of the work of these dedicated men and women.

But for me, the highlight of the evening was the opportunity to hear the two addresses by Michael Rugala, valedictorian, and Ned Gumble, salutatorian, who addressed themselves in their remarks to the question of progress or survival. I believe my colleagues here in the Congress will be interested in the thinking of these two fine young men, and I am appending them herewith, as well as their introduction by Brian Johnson, class president.

Commencement Welcome by Brian Johnson, Class President

Good Evening. The class of 1973 would like to welcome all of you here to our commencement exercises. We would also like to thank Mr. McDade for coming here tonight to deliver the commencement address. Through our high school years we have received much help from our parents, our teachers, our counselors, the board of education, and the administration; they deserve our deepest gratitude. Several members of the faculty have given their special assistance as our class advisers: Mrs. Day, Mr. Drobnicki, Mr. Finney, Mr. Kennedy, Mr. Noone, Miss Stash, and Mrs. Wenkosky. We thank you for your guidance.

INTRODUCTION

For those of us whose formal education ends here and for us who will be attending college, tonight marks the beginning of a new and more responsible life, one in which we must make meaningful decisions. Many of us have already decided what we are doing after high school, but have we really given it much thought? Now we must think in terms of mankind, for our decisions will help the progress of man and hopefully help save our society. Mike Rugala and Ned Gumble will consider this dilemma of Progress or Survival.

Progress or Survival—Part I

(By Michael Rugala, Valedictorian)

Progress is one of those undefinable terms that is used by everyone yet is understood by only a few. Whether it is a necessary evil of civilization or a boon to mankind, the role it plays in our lives today is very important.

Many of us students consider going to colleg as one step of progress, yet many young people question this idea. Is it necessary to go to college? To have progress just for the sake of progress is just as useless as going to college just for the sake of obtaining college credits. A high school senior must decide whether college is right for him. He must make decisions within a space of the next few months, decisions that will shape his entire life.

Our ever increasing yearning for progress and wealth has seemed to make college a necessity, but too many young people are finding themselves in college and are not knowing why. Trade school can be the answer for many. A person skilled with his hands is in great demand today. But a trade school is for a person who know what he is going to do. It does not fill the void of indecision as other solutions might.

As many young people struggle to decide the direction of their futures, some have already come to a decision. These are the graduates who go to work directly out of high school. They don't continue their formal education, but their work might well provide the experience that will help them succeed in life.

Maturity is as important a factor in college life as it is in everyday life. We must mature enough to see and to face the problems of college as well as those of society.

Many students, when faced with the problem of going away from home, just can't cope with that step. Perhaps the youth of today should wait a few years to arrive at that extra maturity and to develop their personal outlook on life. Many colleges now consider such a postponement, thereby allowing a freshman student to wait a year before entering school. As many a college graduate will verify, the first year is the most difficult one of adjustment, both of thinking and of living. A year's wait might then give a college freshman that extra maturity and that fresh look at the world to give him a healthy start in his college work.

The Armed Forces can also fill that void in a person's life just when he might be floundering most, often during those first crucial years out of high school. The service can keep such a person out of trouble at the same time that it helps him find himself. Here the pay is getting better, the benefits are growing, and, even more important, an enlistee has the opportunity to receive college credits or learn a skill. Thus the Armed Forces can give a young person enough time to reflect on what he really wants to do. It can help him find himself while he is learning.

As this evening's graduation finally arrives, the question of college, trade school, work or service becomes a reality for us. Our problems ahead are many-faceted, but each of us must face them according to our own decisions. However, the greater part of our solution will involve our ability to change. The ability to be dynamic and to conform to the times is an asset we all need, whether to succeed in school or in work. For today many young people find their chosen professions overcrowded. The field of engineering will serve as a good example. When there was a cut-back at NASA, many engineers were laid off. Now it was no longer just a question of success but of survival. These men had to retrain themselves in order to live. As we grow into maturity and insight, we will learn the importance of adjustment to change.

Whether our progress-oriented society is leading to a college-oriented society, or whether we young people will decide upon other alternatives, we should keep in mind the familiar words, "the times they are a-changing." As we tonight enter these changing times, our only hope for survival might just be our ability to face these changes with a willingness to change.

Progress or Survival—Part 2

(By Ned Gumble, Salutatorian)

Ever since the establishment of our nation, progress has played a decisive role. In fact, those who first discovered America were functioning under this very concept; whether it was by means of colonizing for commercial or for purely religious purposes, they were seeking a better life. Thus, it is important to connect these two ideas—progress and a better life—and at the same time to question them. Since we have been rapidly progressing for such a long period of time, can we conclude that life is or should be getting better?

First of all, let us define progress. We can presume that progress means advancement and improvement. It is important to stress the *and* here, since advancement should always be considered in terms of improvement. In other words, what we label as an advancement—a step for the future—should be considered a benefit in all aspects, not just the sacrifice of one thing for the advancement of another. Thus progress should mean making headway.

Now to consider "the better life." What one person calls the better life is more than likely quite different from another's views, but if compared they are probably similar in certain general aspects. Everyone would probably agree that a few ingredients for this better and more abundant life would contain such things as love, understanding, stability, security, happiness, and—last in order on most people's lists, but usually number one in importance—material possessions. In short, the key to "the more abundant life" is through peace of mind—knowing that one is able to live rather than merely exist and knowing that the things needed for this life are attainable, not just at present but also in years to come.

Obviously we are concerned with the separate meanings of these two concepts—progress and the better life. Living in a nation that places its progress above everything else, how can we not be associated with progress, how can we not be searching for the best and most abundant life possible? But as graduating seniors, we are more concerned with these words in terms of each other. Actually we're a little more than concerned—we are questioning progress in terms of the life resulting from such a progressive society. By no means are we rebuking progress; think of the innumerable advances we have made in the fields of science, industry, and medicine in the past century. But should we, as graduates, not question some of the effects of such a progressive era in terms of our future and our so-called better life? To better understand our viewpoint, everyone should put himself in our situation. We presently live a life relatively untouched by many of the responsibilities of society—taxes, home payments, insurance policies, and many other complications of adulthood. However, we are not so out of touch that we don't feel and wonder about many of these complications. We are about to be literally hurled into a society and into a life style on which we have had little influence. Is it not natural for us to question this progressive society? If the whole idea behind the constant progress of this nation is to lead to a better and more abundant life for its citizens, we are a little in doubt. We see a society that is continually advancing and making headway, supposedly for man's benefit, but where are we headed?

We see the United States as a nation booming with industry—factories, plants, mills—but we also see many of the costs: polluted rivers, unclean air, a dwindling wilderness, a diminishing of wildlife—a steady drain on all our resources. We are seeing a once beautiful America being transformed into a demented wasteland. We see a quickly changing environment; man is adapting, but much of nature doesn't have this ability and is having trouble surviving. Our once stable environment, one of the most important factors contributing to the better life, is being sacrificed for the progress of society and towards a so-called better life. Isn't this a bit ironical?

We also see the type of man resulting from this progressive society—a materialistic and self-centered person who views things in terms of his personal benefit, not caring about the consequences, a progressive nearsightedness that is extremely detrimental. This hypocritical individual easily rationalizes many of the problems of the times by saying, "It doesn't affect me. Why should I be concerned?" He just exists as a conformist lost in the crowd, passing responsibility on to the next person, and rationalizing, "It's always been that way; there's no need for change." This so-called progressive man looks at our totally unstable economy as something out of his hands. He sees Watergate, for instance, as just another newspaper article that doesn't directly affect him. He seems to look at things in terms of his own future only, caring little what happens after he is gone.

It is easy enough for us to question many of the effects of progress, but since we will have to choose our place in this society, we must look for answers. A typical ending for this speech would suggest that the future lies in our hands, for we will be the leaders of the future, but we do not entirely agree with this idea—we believe the future lies in the hands of everyone today. All men must learn that it isn't man's God-given birthright, a deserved recognition of his excellence as a human being, to grab the phenomenal plenty of all around him. Only the acceptance of a totally new code of values can bring man into equilibrium with his environment and thus result in the better life for all men.

Long ago, when progress was slow, man could adapt unconsciously, but such ease of adaption is no longer possible. We have reached the turning point at which man must conquer this excessive change due to progress or he will vanish—the point where from being the unconscious puppet of the evolution of progress he becomes either its victim or its master.

PAY RAISE FOR MEMBERS OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, there is a great deal of talk these days about a pay raise for Members of Congress. I oppose such a pay raise now, and I believe the Congress should stiffen its back and reject an increase in salary.

I feel Members of Congress earn every penny they are paid and more. There has been only one pay raise during the 9 years I have served in Congress. A 12-hour-plus work day is more the rule than the exception for Members of Congress, and the responsibilities are as great as positions in private industry which pay two or three times as much. In addition, good government requires that positions in Government pay well enough to attract the very best people to full-time public service. Every citizen should consider and realize the need for good pay in Government positions.

But, Mr. Speaker, this is not the time for a congressional pay raise, particularly one as large as we have heard discussed. We are all aware of the inflationary pressures which are now operating on our national economy. Citizens in every corner of the country are being asked to exercise restraint in pay raises and price increases. Members of Congress, then, must set a good example and provide strong leadership to the rest of the Nation by displaying a deep sense of fiscal responsibility.

I have stated here before that of all the problems besetting our economy, uncontrolled Federal spending leads the field of culprits. Because of this inflationery impact, Federal spending affects every citizen every time he or she picks up a paycheck and every time he or she goes to the supermarket or tries to balance the family budget at the end of the month.

Not only must the Congress work to hold the line on Federal spending throughout the Government, but we must also resist the temptation to fatten our own paychecks when our economy is under attack on so many fronts. If the backbone of the country, the working men and women, can make sacrifices to make ends meet when the cost of living continues to climb, then so can people in Government. And we cannot forget that it is the workingman's tax dollars which would be used for a congressional pay raise.

Mr. Speaker, the time is just not right for a pay raise. I urge my colleagues in the House to join me in opposing an increase in salary for Members of Congress.

SUBCOMMITTEE REFUSES HEARINGS ON ABORTION ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

Mr. HOGAN. Mr. Speaker, since January when I introduced my constitutional amendment to overturn the U.S. Supreme Court decision on abortion, I and others have been pressing the Subcommittee on Civil Rights and Constitutional Rights. The subcommittee has refused to hold hearings on this vitally important issue.

The Nation can be reassured, however, that this subcommittee is going forward holding hearings on other vitally important issues. For example, on July 16, the Subcommittee on Civil Rights and Constitutional Rights began hearings on a bill to prevent the unauthorized use of the character "Woodsy Owl."

Perhaps to some this matter is more important than a constitutional amendment designed to save human lives. To me and to the majority of the American people, it is not.

Because this subcommittee has refused to hold hearings on my constitutional amendment, I have filed a discharge petition at the desk.

Mr. Speaker, I urge my colleagues to sign it.

CAPTIVE NATIONS WEEK, JULY 15–21

The SPEAKER por tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the 15th annual observance of Captive Nations Week takes place this year on July 15 through 21. Since 1959 the third week in July has been set aside by an act of Congress in order that the American people may devote themselves anew to the just aspiration of all peoples for national independence and human liberty.

It is certainly fitting that we in the free world, who have enjoyed for centuries the priceless rights of democracy, do all that we can to give hope and support to those capitive nations which aspire to national independence. By so doing, we not only reaffirm our dedication to the noble principles of self-government established by our Founding Fathers, but we also give tangible evidence to the captive peoples of our relentless opposition to oppression.

Millions of Americans who trace their origin to the captive nations, and to other lands, join each year during this special week to express their hope and their support for policies which will free the captive nations.

The atrocities perpetrated against the captive peoples who fell prey to Russian postwar colonialism were indeed a horrendous international crime, a crime against humanity which will remain a blight on human history. Terrorism, mass deportations, and comprehensive subjugation were the instruments by which entire nations of Eastern Europe were forced to submit to superimposed political structures directed from Moscow. As a budding ideology, communism at one time appealed to many equalitarian idealists throughout the world by promising rapid development to impoverished nations. However, this ideology was soon disrobed, shocking the world with its naked brutality and injustice, and with the criminal methods employed by Soviet leaders to establish and insure continued Soviet domination of the captive nations. The inhumane and abominable methods by which the Soviet Union has militarily suppressed subsequent rebellions by these courageous victims against Communist tyrannies has further underlined the despicable nature of communism.

We, to whom individual freedom is immeasurably precious, can appreciate the despair that these captive peoples have experienced in having their personal and national freedom torn from them. However, in spite of the abject despair in which they must continue to endure their subjugation, despite the indoctrination in which they are continually enveloped, a great number of these people continue to resist in spirt and in action and refuse to accept their enslavement as irrevocable. The Soviet Union will never succeed in stifling the undercurrent of national and cultural consciousness of those they hold in bondage. Blessed with rich and unique cultural and national heritages, these people refuse to relinquish their identification with their past personal and national independence, they refuse to terminate their hopes for future liberation.

We are entering a potentially dangerous period in our relations with the Communist bloc countries, and at the European Security Conference, now convening in Helsinki, we must stand firm. Already, members of the Baltic delegation to the Conference have been intimidated, harassed, and arrested.

Some 3.2 million NATO troops face over 4 million Warsaw Pact troops and as the question of a reduction in force levels is discussed, the United States must be extremely cautious and strongly oppose any action that will imperil our security. Soviet promises and assurances must, under no circumstances, be accepted at face value.

Freedom is denied to millions of people in the captive nations and we owe it to them, as well as to ourselves, to protect freedom where it exists and give voice to the aspirations of all mankind for liberty and justice.

In my own city of Chicago, under the capable and energetic leadership of Chairman Viktors Viksnins, the Captive Nations Week Observance Committee is coordinating the annual parade, memorial ceremony, and reception. I am honored to serve as one the grand parade marshals.

On July 21, 1973, the 15th year observance will start with a memorial ceremony at the "Freedom Flame" in the Civic Center Plaza. The bearer of our Captive Nations Flame of Freedom will be Mr. Charles Adkins, the Olympic boxing champion of 1952, who so gallantly won the gold medal from the Russians.

The Captive Nations observance in Chicago will feature a parade by members of the national groups, wearing their native costumes, joined by city officials, Chicago civic and business leaders, and members of our Armed Forces. A reception will follow the parade in the Windsor Room of the Pick-Congress Hotel.

Mr. Speaker, each year our outstanding mayor of Chicago, Hon. Richard J. Daley, proclaims Captive Nations Week for the city of Chicago. At this point in the RECORD I would like to include the mayor's 1973 Captive Nations Week Proclamation, as well as Illinois House of Representatives Resolution No. 344 which recognizes the 14th anniversary of Captive Nations Week:

OFFICE OF THE MAYOR, CITY OF CHICAGO—PROCLAMATION

Whereas, in accordance with Congressional enactment, Captive Nations Week will be observed during the period of July 15 through July 21; and

Whereas, under auspices of the Captive Nations Friends Committee the annual parade will be held on State Street, beginning at noon on July 21; and

Whereas, many people of nations made captive by the imperialistic policies of Communism are linked by bonds of family relationships to citizens of this community; and

Whereas, it is appropriate for all freedom-loving people to demonstrate to the populations of the captive nations support for their just aspirations for liberty and national independence; and

Whereas, it is commendable in every way that citizens of the United States, in appreciation of their constitutional guarantees of freedom should extend sympathy and hope of liberation to those whose rights have been constricted by Communist aggression:

Now, therefore, I Richard J. Daley, Mayor of the City of Chicago, do hereby proclaim the period of July 15 through July 21, A. D. 1973, to be Captive Nations Week in Chicago and urge general participation in the special events arranged for this time.

Dated this 6th July, A.D. 1973.

RICHARD J. DALEY, *Mayor.*

STATE OF ILLINOIS—HOUSE RESOLUTION No. 344

Whereas, No less than twenty-six nations have been denied the right of self government by the forces of communism through direct and indirect aggression; and

Whereas, Since 1918 the national independence of Lithuania, Latvia, Estonia, Hungary, Poland, Bielarus, Rumania, Ukraine, Slovakia, Serbia, Czechoslovakia, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, North Korea, North Viet Nam, Georgia, Albania, Tibet, Cossackia, Slovenia Turkestan Croatia Idel-Ural and other nations has been subjugated by the forces of world communism; and

Whereas In 1959 President Dwight D. Eisenhower and the Congress of the United States, in order to bring to the attention of the free world the plight of these nations, designated the third week in July as Captive Nations Week, and

Whereas, 1973 is the 14th Anniversary of Captive Nations Week, whose observance will be marked with a series of special events, including a parade in the City of Chicago; therefore, be it

Resolved, by the House of Representatives of the Seventy-eighth General Assembly of the State of Illinois, That we support the aims and aspirations of the people of these captive nations; that we commend the Captive Nations Committee for its valiant efforts in behalf of the restoration of freedom and democracy in these communist dominated countries; and that a copy of this resolution be forwarded to Mr. Viktors Viksnins, Chairman of the Captive Nations Committee.

Adopted by the House of Representatives on May 24, 1973.

W. ROBERT BLAIR,
Speaker of the House.
FREDERIC B. SELEKE,
Clerk of the House.

CONGRESSMAN DANIELS URGES RESPECT FOR LIFE INTRODUCED "RIGHT TO LIFE" AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) is recognized for 5 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, on January 22, 1973, the Supreme Court for all intents and purposes nullified existing State laws dealing with abortion. Seven weeks later I introduced House Joint Resolution 423, "guaranteeing the right to life to the unborn, the ill, the aged, and incapacitated" as a proposed constitutional amendment.

Mr. Speaker, at a time when so many people in this Nation speak of love and lament the loss of life in Asia or in Bangladesh I am at a loss to understand why they can stand by so calmly while more than 1 million fetuses are put to death each year. If we are to acquiesce in this killing of the unborn who is to say that this philosophy will not be extended to the elderly, the ill, or the handicapped. A nation that permits men to play God seems to be begging for divine judgment, a retribution that cannot be long postponed. I am alarmed by the attitude of the proabortionists and the similarity between their attitude and that of scientists in Hitler's Germany who embraced the philosophy that what is useful is good. Older persons will recall that Germany's liquidation of the unfit led ultimately to the horrors of Buchenwald, Auschwitz, and Dachau and the attempt to eliminate a whole ethno-religious group in the name of racial superiority. It was only a few years from the murder of mental patients at the Sonnenstein Psychiatric Hospital in 1939 to the time when murder was raised to a level unknown in modern times.

Mr. Speaker, we must revere God's gift of life and not permit mere mortals to decide who shall live and who shall not. I am alarmed at the proposition that in this last third of the 20th century we are regressing toward the dark past, even if that regression is done in the name of science.

Mr. Speaker, I urge all Members of this House to support House Joint Resolution 423, which I ask to be inserted in the CONGRESSIONAL RECORD at this point:

H.J. RES. 423

Joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged, or the incapacitated

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE—

"SECTION 1. Neither the United States nor any State shall deprive any human being, from the moment of conception, of life without due process of law; nor deny to any human being, from the moment of conception, within its jurisdiction, the equal protection of the laws.

"SEC. 2. Neither the United States nor any State shall deprive any human being of life on account of illness, age, or incapacity.

"SEC. 3. Congress and the several States shall have the power to enforce this article by appropriate legislation."

GAS SURVEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, a survey conducted by the American Public Gas Association which I am publicly releasing today reveals that some municipalities will be forced to pay as much as 30-percent more for propane gas this winter compared to last year.

According to the survey, a third of the municipal gas companies responding to the survey had been refused propane or experienced a 300-percent hike from their suppliers. The other third have experienced price increases ranging from 20 to 200 percent.

As many of my colleagues may know, the American Public Gas Association is an industry group of publicly owned gas utilities throughout the United States.

This American Public Gas Association survey demonstrates once again that the major oil companies are the chief beneficiaries of the so-called shortage by charging the continually rising prices and reaping windfall profits.

Some communities who responded to this survey do not know what price they will be paying during the coming winter for propane gas. These municipal gas systems are located mostly in the South and Midwest and generally having difficulty finding suppliers. All but one city are experiencing large price increases.

According to the survey, both major oil companies and independents are restricting supplies of propane gas and all the suppliers are raising prices.

Among the major companies named in the survey who are limiting supplies and raising prices Exxon, Phillips, and Union Oil.

One municipality in the South responded to the survey by saying that they are "presently unable to procure propane from major oil companies," and are "forced to buy through brokers and accept restrictive terms." This municipality paid 9.2 cents per gallon last winter for propane and expects to pay at least 22.5 cents per gallon this winter.

In addition to rapidly rising prices and restricted supply as indicated in the American Public Gas Association survey major oil companies have continued to increase their exports of propane. Thus far in 1973, propane exports have risen 35 percent. According to statistics provided to me by the Bureau of the Census. This continuation and growth of exports during a shortage is another sign of the major oil companies thumbing their noses at hapless consumers and Government officials. Thus far in 1973 a total of 1.7 million barrels of propane exports had been shipped overseas. This 1.7 million barrels in exports is significant compared to total consumption. In 1972, throughout the Midwest, only 33 million barrels of propane were consumed. Obviously, the big oil interests are more concerned with their foreign customers than in selling propane to millions of Midwestern farmers who desperately need the product.

Mr. Speaker, I am today renewing my call for a limit on exports of propane gas. It is simply insane to export large amounts of propane while farmers and other users are running short.

As many of my colleagues know, I introduced legislation in the House which would halt all gasoline, fuel oil, and propane gas exports during the current shortage.

INTERSTATE ENVIRONMENT COMPACT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. THORNTON) is recognized for 5 minutes.

Mr. THORNTON. Mr. Speaker, on June 27, I introduced, for myself and my three able colleagues from Arkansas, H.R. 9013, the Interstate Environment Compact Act. The bill is identical to S. 9, introduced in that body by the distinguished senior Senator from Arkansas, Senator MCCLELLAN, and passed on June 22, 1973.

The Senate bill has, of course, been transmitted to the House and referred to the Committee on the Judiciary. The main reason for the introduction of the companion bill is to express support for the measure and to emphasize the hope that the proposed act will received expeditious and favorable consideration in committee and on the floor.

In the pioneer legislation that has been passed in the last few years to protect and improve the quality of our environment, such as the Environmental Improvement Act of 1970, the Federal Water Pollution Control Act of 1965, the Clean Air Act, and the Solid Waste Disposal Act of 1965, the States have been assigned important responsibilities. It has been specifically recognized that if we are to have an effective environmental protection program, cooperation and coordination of efforts among the States are essential.

Section 103(b) of the Federal Water Pollution Control Act and section 102(c) of the Clean Air Act, for example, in identical language provide that:

> The Secretary shall encourage cooperative activity by the States for the prevention and control of (water and air) pollution; encourage enactment of improved and, so far as is practicable, uniform State laws relating to the prevention and control of (water and air) pollution; and encourage compacts between States for the prevention and control of (water and air) pollution.

Indeed, these sections go on to give the consent of Congress to two or more States to negotiate and enter into agreements or compacts. They provide, however, that no such agreement or compact shall be binding unless and until it has been approved by the Congress.

The purpose of the act is to give advance congressional consent for any two or more States to enter into the Interstate Environment Compact set forth in section 1 of the bill. Under the provisions of the compact, in turn, signatories are empowered to enter into supplementary agreements relating to specified interstate environmental problems such as air pollution, water pollution, solid waste disposal, land use, coastal zone management, energy production, and transmission, and related activities requiring joint cooperative activities by two or more States.

It provides, in other words, a means for the States to carry out the responsibilities imposed upon them by Federal environmental legislation.

The act has already received wide support. In fact several States, including Georgia, Arkansas, Mississippi, Louisiana, Maryland, North Carolina, Tennessee, New Jersey, and Florida have prospectively adopted the compact and legislation has been introduced in New York, Texas, West Virginia, Michigan, Virginia, South Carolina, and Oklahoma.

Mr. Speaker, I commend the bill to my colleagues and hope that the House will give the bill favorable consideration.

Following is a section-by-section analysis of the bill:

SECTION 1

Section 1 contains the text of the compact, which is divided into articles.

Article 1. Findings, purposes, and reservations of power

Article 1.01 states that environmental pollution problems are not affected by State boundaries and that there is a need to provide means for cooperative binding State arrangements for combating pollution.

Article 1.02 states the purposes of signatory states are to promote intergovernmental cooperation in dealing with environmental problems.

Article 1.03 points out that the compact can have no effect on the constitutional authority of the Federal Government nor on the laws of which the United States to the extent that they have vested responsibilities, rights, powers, or duties in its agencies or instrumentalities.

Article 1.04 states that the compact will not affect State constitutions. Neither will it affect other state powers except as expressly provided.

Article 2. Short title, definitions, purposes, and limitations

Article 2.01 cites the compact as the Interstate Environment Compact.

Article 2.02 defines the terms used in the compact.

Article 3. Intergovernmental cooperation

Article 3.01 authorizes agreements between signatories and the Federal Government and its agencies.

Article 4. Supplementary agreements

Article 4.01 authorizes signatories to enter into agreements to control interstate environmental problems provided the agreements are not inconsistent with applicable Federal law.

Articles 4.02, 4.03, 4.04, and 4.05 recognize other binding intergovernmental arrangements presently in existence and to be formed in the future.

Article 4.06 contains the authority for signatories to enter into supplementary agreements to combat environmental problems.

Article 4.07 specifies the methods of entering into supplementary agreements by action of the chief executives and the legislative bodies of the signatories. Also set forth is the right of the legislative body of a signatory and of the Congress to set aside or modify the agreements.

Article 4.08 authorizes signatories to enter into special supplementary agreements with foreign nations, provided that such agreements must be consented to by Congress before they become effective.

Article 4.09 provides that the power and authority of signatories is in no way affected by the compact except as specifically set out in a supplementary agreement.

Article 4.10 points out that signatories may need to enact additional legislation to accomplish the purposes of the compact and agreements entered into under the compact.

Article 4.11 establishes the amending procedure for supplementary agreements.

Article 4.12 provides that any citizen may sue to enforce the provisions of the compact and confers jurisdiction upon the Federal district courts to entertain such actions without regard to the amount in controversy or the citizenship of the parties.

Article 4.13 provides for public hearings as a part of the decision-making process of agencies created under the compact or a supplementary agreement.

Artcile 4.14 provides for public disclosure of financial and professional interests of agency members.

Article 5. Construction, amendment, and effective date

Article 5.01 provides that the compact and supplementary agreements will not affect the environmental protection laws of the jurisdiction nor affect its right to enact new laws not inconsistent with supplementary agreement obligations to another State.

Article 5.02 provides that the language of the compact and of supplementary agreements entered into under the compact is severable and that the compact and agreements entered into thereunder shall remain valid wherever possible, notwithstanding the invalidity of any portion therof.

Article 5.03 provides that the compact may only be amended by action of the Congress of the United States.

Article 5.04 establishes the date the compact becomes binding on a State as the date the State enacts it into law.

Article 5.05 sets forth the procedure for withdrawal from the compact. Withdrawal is accomplished by passage of a legislative act withdrawing from the compact, notice to all signatories, and the lapse of 1 year's time after notice.

SECTION 2. RESERVATION OF CONGRESSIONAL RIGHT TO AMEND

This section specifically provides that Congress has plenary power to withdraw or condition its consent to the compact.

SECTION 3. EFFECTS OF FEDERAL ENVIRONMENTAL LAWS

This section reiterates that neither this act nor supplementary agreements entered into under the first section shall establish interstate environmental pollution standards in violation of any Federal law.

SECTION 4. NOTICE OF SUPPLEMENTAL AGREEMENT NEGOTIATIONS

This section provides that notice must be given to the President and the Congress of the United States of the commencement of negotiations by signatories concerning supplementary agreements. The President is encouraged to send a representative or representatives to attend and render assistance to the negotiations.

SECTION 5, FILING OF SUPPLEMENTARY AGREEMENTS, CONGRESSIONAL DISAPPROVAL

This section requires that certified copies of supplementary agreements or amendments thereto must be filed with the President and the presiding officers of the Senate and the House of Representatives. The section also provides the procedure for Congressional disapproval of agreements and sets forth details for committee discharge and debate on a resolution of disapproval.

SECTION 6. ENABLING LEGISLATION

This section states the intent that States versions of the compact, whether enacted prior or subsequent to the date of passage of this act, shall be valid. It also provides that immaterial variances in language shall be disregarded.

SECTION 7. SHORT TITLE

This section cites the act as "The Interstate Environment Compact Act of 1973".

FINANCING SOCIAL SECURITY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. SEIBERLING) is recognizd for 5 minutes.

Mr. **SEIBERLING**. Mr. Speaker, last month, for the third time in 3 years, Congress increased social security benefits. These social security increases promise to become an annual exercise as long as the present, severe inflationary trend continues. I do not question their need. On the contrary, I strongly support them. We cannot allow millions of retired Americans living on fixed incomes to become fixed in poverty.

But, recognizing the necessity of insuring that social security benefits keep pace with the cost of living, we must also recognize that a retired person's benefits are a working person's burden. And every time benefits are increased, the worker's burden grows.

Since 1963 the social security payroll tax burden on a worker earning $10,000 a year has increased 236 percent. The payroll tax has been stretched almost to the breaking point as a source of revenue to pay for social security benefits. By its very nature as a flat-rate tax, insensitive to the individual taxpayer's ability to pay, it is inequitable and unfair. And as Congress adds to its burden year by year, increment by increment, its drain on the worker's paycheck grows and the strain on his budget increases.

Members of Congress might well consider how many straws can be safely added to the average taxpayer's back. We simply cannot go on increasing social security benefits without giving any thought at all to the way these increases are financed.

Reform of the social security payroll tax is long overdue. In a period of steady inflation, when benefit increases can be anticipated to occur on an almost annual basis, such reform is vital.

Before Congress votes another increase in social security benefits, it must overhaul social security finances. Reliance on the payroll tax as the sole source of social security revenues must end. At least part of the social security finance burden must be shifted to general revenues, which are raised through the more progressive and relatively equitable corporate and personal income taxes. The payroll tax itself must be made more sensitive to ability to pay, and the burden of that tax on workers who are considered too poor to pay income taxes must be lifted.

In May I introduced legislation that would make a start toward real social security finance reform. I hope it will receive serious consideration when the Ways and Means Committee resumes its deliberations on tax reform later this year. In the meantime, I hope all of us will remember that the social security benefits coin has another side, and we cannot continue to ignore it.

INSULT TO COAL MINERS

Mr. **HECHLER** of West Virginia. Mr. Speaker, the Associated Press has just carried on the news ticker a story by Robert A. Dobkin, which reads as follows:

> WASHINGTON.—The Interior Department has quietly named as Acting Director of the New Mine Safety Agency an official once reprimanded for accepting favors from the coal industry.
>
> Department officials confirmed today the appointment of Donald P. Schlick, saying it was approved without public announcement last Friday by Interior Secretary Rogers C. B. Morton.
>
> Schlick, Deputy Director of the Bureau of Mines for Health and Safety since 1971, has been under fire from the United Mine Workers Union and several coal-State Congressmen over alleged conflict of interest charges.
>
> Earlier this year, Undersecretary of the Interior John Whittaker officially reprimanded Schlick for accepting free air transportation in violation of Department policy from the FMC Corp., a firm holding Government research contracts and whose mines are regulated by the Bureau. Any further violations, Whittaker said, would bring dismissal.
>
> The UMW has since accused Schlick, a mining engineer who joined the Bureau in 1960, of accepting favors from other coal firms.
>
> Schlick was not available for comment, but Assistant Secretary Stephen Wakefield said a Department investigation "showed there was no factual basis to support further disciplinary action."
>
> In a reorganization of the Interior Department announced May 7, all safety functions of the Bureau of Mines were transferred to the New Mining Enforcement and Safety administration.
>
> One reason for the change was long-standing conflict of interest charges involving the Mines Bureau Enforcement of Safety Regulations—criticized by coal miners as too lax and by the coal companies as too tough.

The sneak appointment of Donald P. Schlick as Acting Director of the new Mine Enforcement and Safety Administration is an outrageous insult to every coal miner in the Nation. Although Mr. Schlick is a fellow-West Virginian, I must say that his record in the Bureau of Mines has been oriented heavily toward puffy public relations, conflict of interest, acceptance of free plane rides and other favors from firms he is supposed to regulate, and failure to act aggressively to protect the individual coal miner.

The preamble to the Federal Coal Mine Health and Safety Act of 1969 states:

> Congress declares that the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the coal miner.

Mr. Schlick through his activities has shown his disregard of that principle, and he does not deserve to be confirmed as the permanent director in charge of mine safety.

As a matter of fact this is a very good time to transfer the authority over mine safety from the industry-oriented Department of the Interior to the employee-oriented Department of Labor, as recommended by my bill, H.R. 3800, and legislation sponsored in the Senate by a number of Senators with the chief sponsor Senator HARRISON WILLIAMS of New Jersey. Then we could get a new director who shares the confidence of both the coal miners and other segments of the coal industry.

Mr. Speaker, I would also like to append a series of articles in the Louisville Courier Journal which bear on the activities of Mr. Schlick:

FEWER MINERS WORK UNDERGROUND BUT MORE ARE GETTING HURT

(By Ward Sinclair)

WASHINGTON.—Almost like a phonograph needle stuck on a mournful, broken record, the debate continues over whether the country's underground coal mines are getting any safer.

And as in times past, the health and safety of coal miners are blooming afresh as a political issue. They are safer or they are not, depending on the voices one hears and the statistics one reads.

On Labor Day, R. Sargent Shriver, the Democratic vice-presidential nominee, was in West Virginia, blasting the Nixon administration for entrusting mine-safety enforcement to "political hacks."

Right on Shriver's heels into Appalachia went Donald P. Schlick, a supposedly nonpolitical official of the U.S. Bureau of Mines who is the administration's most irrepressible evangel of "good news" in mine safety.

Schlick is deputy bureau director for health and safety. A favorite of Republican politicians at the Department of Interior, he has risen quickly in the bureau hierarchy and has shown a remarkable knack for making himself known in government and industry as a man of action.

For months, Schlick has darted about the country, singing the bureau's praises (and, not coincidentally, his own), telling how "the mining industry is a safer and more healthful place to work." Local newspapers from city to city have duly recorded his effervescence, although he refuses to be interviewed in Washington by coal-region reporters.

Three days after Shriver had issued his blast, Schlick showed up in Pikeville, Ky., to again sing a hymn to the bureau's enforcement activities and to try to molify coal operators who were incensed by a bureau listing that showed safety conditions in small Kentucky mines to be unfavorable.

But he had another purpose—to again tell how much safer the mines are now and "to set the record straight" about the bureau's record. He indicated the Pikeville visit was the start of a two-month national tour he plans as a one-man truth squad.

The only statistic Schlick and other bureau officials cite as proof of success in enforcing the 1969 law is the statistic that reflects a decline in the number of coal-mine fatalities. The rate of deaths per-million man-hours worked also is dropping.

Between 1970 and 1971 there was a 29 per cent decline in fatalities. The 1972 mark so far is lower than last year—111 fatalities as of Sept, 2, compared with 138 during the same period in 1971.

The reason Schlick maintains, is strict enforcement by the bureau, an expanded inspection force and a tough attitude that means closure of more mines until safety irregularities are corrected.

There are, however, other statistics—not publicized by Schlick or the bureau—that throw quite another light in his claims.

A weekly report by bureau director Elburt F. Osborn, obtained from congressional sources, shows for example that in 1972 Schlick's office has issued about 7,000 more violation notices than it did during the same period in 1971.

But 5,000 more extensions of time were given than in 1971, meaning that coal operators were being allowed more time to correct unsafe conditions than before. Most of the violations involved mandatory health and safety standards set by law.

By the same token, almost 50 per cent fewer withdrawal orders were issued to the operators, meaning orders requiring closeure of a mine until an irregularity is corrected. In 1971, 3,299 had been issued; in 1972, only 1,875 were issued.

Such a decrease in withdrawals might indicate less flagrantly unsafe conditions in the mines. But it might not, considering the fact that 7,000 more violations were found over-all this year than were found the year before.

Unfortunately, death is only one of the occurrences that befall coal miners. Far more of them are injured than are killed, and other statistics in the bureau's files—also unpublicized—tend to sharply challenge Schlick's assertions of improvements.

Despite the declining number of men working underground, the rate of non-fatal injuries continues to run high. In 1971, in fact, the rate of non-fatals per million man-hours was at a 12-year high. Non-fatal strip-mine accidents rose for the third straight year.

In 1960, there were 190,000 men working in the coal industry. That year there were 12,227 deaths and injuries reported. By the end of 1971, the work force had dropped to 142,000 men, a drop of nearly one-fourth. But deaths and injuries in 1971 amounted to 11,560, a decline of about 5 percent.

A special compilation reflecting on the Kentucky experience, drawn up by the bureau, shows a similar situation. Fewer men are working underground, but more of them are being injured than before.

Last year, 8.6 percent of Kentucky's 19,200 underground miners were killed or injured. In the strip mines, 6.2 per cent of the work force was killed or hurt.

In 1960, there were 26,545 underground miners in the state. But only 6.4 per cent of them were killed or injured, which was 2.2 per cent less than last year. In strip mines, in 1960, 4.7 per cent of the workers suffered death or injury.

The injury increase during the past decade tends to coincide with greater mechanization in the mines, and an emphasis on production that has helped make the state the country's leading coal producer.

But at the same time, the percentage of workers killed or injured in 1970 and 1971—the years following passage of the tough new law Schlick is charged with enforcing—has increased rather than decreased, as Congress intended when it passed the law.

The accompanying table provides statistics of Kentucky coal-mine facilities and non-fatal accidents, indicating the per cent of the work force killed or injured.

KENTUCKY COAL-MINE INJURY DATA

UNDERGROUND MINES

Year	Workers	Fatals	Non-fatals	Total	Percent of men hurt or killed
1930..	56,614	189	7,025	7,214	12.7
1940..	52,502	135	5,264	5,399	10.3
1950..	70,626	82	4,119	4,201	5.9
1960..	26,545	59	1,638	1,697	6.4
1965..	21,510	39	1,412	1,451	6.8
1970..	19,671	82	1,530	1,612	8.2
1971..	19,200	37	1,620	1,657	8.6

STRIP AND AUGER MINES

Year	Workers	Fatals	Non-fatals	Total	Percent of men hurt or killed
1930..	186	----------	9	9	4.8
1940..	203	1	19	20	9.9
1950..	3,032	3	148	151	5.0
1960..	3,179	2	148	150	4.7
1965..	3,216	2	197	199	6.2
1970..	6,244	6	353	359	5.8
1971..	6,100	6	370	376	6.2

[From the Louisville Courier-Journal, Jan. 28, 1973]

The Intrepid Mr. Schlick

If the U.S. Bureau of Mines had a "Through Rain, Snow or Gloom of Night Award" for perseverance in the line of duty, it would have to go to Deputy Director Donald Schlick. Overcoming all obstacles—bureau rules, internal precedent and elemental morality—he recently pulled off a California trip that looked like a junket and smelled like a conflict of interest.

Undeterred by the fact that for a year and a half the bureau had seen no overwhelming need to look into a problem-plagued mining research contract with a California firm, Mr. Schlick bravely scheduled a fact-finding trip which just happened to put him in town for the Super Bowl. Since the same firm also had bureau-regulated mines in Wyoming, Mr. Schlick took the occasion to hitch a free ride in a company plane to see the operations—courageously ignoring the fact that if this didn't put him in the firm's debt it would certainly look that way to everyone else.

As *Courier-Journal* staff writer Ward Sinclair observed in detailing this intriguing saga, both the Secretary of the Interior and the director of the Bureau make it a policy to pay their own travel expenses—on the theory that taking favors from people you're supposed to regulate is a questionable way to save the government money. Even so, Director Elburt Osborn's reaction had the same "Is that so?" quality he has adopted when asked why Mr. Schlick won't talk to reporters looking for more than press releases. It's a shame Mr. Schlick's itinerary was filed with the director beforehand; if it hadn't been, Dr. Osborn could have pleaded something more acceptable, like ignorance of the whole affair.

The Western trip by Mr. Schlick and some other bureau officials was a triumph of audacity. It rivals Mr. Schlick's recent assertions that coal mining now is as safe as driving a car on a highway, and that black lung disease no longer is a real problem for miners. In no case is the intrepid deputy director letting facts stand in his way.

United States Probes Mine Officials' Trip West on Plane of Company They Inspected

(By Ward Sinclair)

Washington.—The Department of Interior has begun an investigation of three Bureau of Mines officials' travels in the Far West on an airplane provided by a company whose activities they had gone to inspect this month.

The group, headed by Donald P. Schlick, deputy director of the bureau, traveled on the corporate airplane in apparent violation of Interior Department ethical-conduct regulations.

Schlick and his two companions also took advantage of the trip, most of which was financed at public expense, to arrange their schedule so they could attend the Super Bowl in Los Angeles on Jan. 14.

Their activities in the West were disclosed in The Courier-Journal last week. Schlick, the No. 2 man in the bureau, has refused to discuss the matter with the newspaper.

The departmental investigation came to light yesterday when Schlick's boss, bureau director Elburt F. Osborn, issued a one-sentence statement in response to a series of questions sent to him by The Courier-Journal.

A request had been made to review travel expense vouchers turned in by Schlick and his two aides and other related questions were directed toward Osborn. Through a press spokesman yesterday, he replied:

"We can provide no vouchers or other information concerning this case while the case is under investigation by the department."

Ethical-conduct regulations at Interior, the parent agency of the bureau, prohibit an employe from accepting "any gift, gratuity, favor, entertainment, loan or any other thing of monetary value" from anyone doing business with the department or whose interests are affected by departmental actions.

WORK INSPECTED

The plane ride—presumably a "thing of monetary value"—was provided to Schlick and his companions by the Food Machinery Corp. (FMC), a company that has a $5.9 million research contract with the bureau and whose underground mining operations are regulated by the bureau.

Schlick had gone to California with Jack Crawford, assistant bureau director for coal mine health and safety, and John Greenhalgh, an electrical specialist, to check on progress of the FMC research project and to inspect an FMC trona mine in Wyoming.

While on the West Coast they checked into other research activities being carried out for the bureau by other firms, then flew from northern California to the Los Angeles area by commercial plane to see the Super Bowl.

One day after the professional football championship, the FMC plane was waiting for them at Los Angeles airport to fly them to Green River, Wyo., where they toured the FMC mine where trona—a natural soda in used in industrial processes—is mined.

The following day, Jan. 16, the FMC plane carried the three men from Wyoming to Denver, Colo., where they boarded a commercial jet for the return flight to Washington. FMC spokesmen confirmed to this newspaper that the company plane transported the three.

OSBORN WAS ADVISED

Schlick's activities were outlined in detail in a memorandum prepared in advance of his trip, advising Osborn of his plans. The itinerary left a blank space for the Sunday on which the Super Bowl was played.

An FMC public relations man in California, Fred Rosewater, told The Courier-Journal that his company had nothing to do with obtaining football game tickets for the bureau entourage.

A fourth bureau official, Ross Wayment, flew to California with the group but returned home early because of illness. Questioned by a reporter, Wayment said his companions had paid for their own tickets and their own transportation to the game from northern California. He did not attend the game.

FMC's Rosewater insisted that the company plane happened to be in Los Angeles at the time the Schlick party was there and, since the plane was going to Wyoming anyway, "they more or less hitch-hiked with us."

However, Schlick's itinerary, which was dated Jan. 8—a week before he got his free ride—suggested that the FMC plane's presence in Los Angeles was more than a coincidence.

The travel plan indicated that arrangements for catching the plane at Los Angeles would be made by Schlick three days beforehand, when he was scheduled to visit FMC offices at Menlo Park, Calif.

Bureau of Mines Fires Wheeler, Names Schlick

(By Ward Sinclair)

WASHINGTON.—The U.S. Bureau of Mines dropped the other shoe yesterday and made official the expected firing of its No. 2 man, Henry P. Wheeler Jr., deputy director of Health and Safety.

More of a surprise, however, in an unexpected announcement by Bureau Director Elburt F. Osborn was that Donald P. Schlick, a fast-rising young engineer, will get Wheeler's job on an acting basis.

Schlick, 38, is widely believed at the bureau to be the hand-picked choice of Edward D. Failor, a former Republican Party fund-raiser and campaign operative who is Osborn's assistant.

Only last Thursday the bureau had announced that Schlick had been named assistant director for coal mine health and safety at the bureau, putting him in charge of all coal-mine inspection activities. He had held the job on an acting basis since March.

Since Failor joined the bureau in January and Schlick was given more authority last spring, a small-sized power struggle has swirled around Wheeler, with increasingly frequent indications in recent months that Wheeler was being bypassed on major policy and administrative decisions.

Late last month Osborn informed Wheeler that he was to be replaced, after he first confirmed the news to reporters. Later, bureau sources noted. Wheeler received signals that he might be allowed to stay on the job.

Some observers believed the suddenness yesterday of Osborn's announcement was a means of short-circuiting what appeared to be growing support of Wheeler among coal operators and members of Congress.

Wheeler was known to have the backing of several important Appalachian senators and only Thursday, in a visit with Kentucky Sen. Marlow W. Cook, heard more encouraging words.

Osborn's announcement said Wheeler, 52, is being reassigned to a bureau state liaison job at Jackson, Miss. Wheeler, a career bureau employe who is a petroleum engineer, was not available for comment.

After news of the pending Wheeler dismissal became public last month, Kentucky coal operator Robert Holcomb charged that "Washington has made a scapegoat out of the only man who was willing to examine reasonably all aspects of the (Mine-Safety) Act with both miners and operators."

Wheeler's firing takes place at a time when coal mine fatalities are nearly even with the 1970 toll, even though officials like Osborn and Failor have repeatedly asserted that mine conditions have improved greatly this year.

Last month Wheeler publicly diverged from the official line at the bureau and acknowledged that he was concerned over the ominous statistical trend.

Wheeler is the second key holdover from the reform-bent John F. O'Leary era of 1968 and 1969 to be unceremoniously ousted from his job this year. Earlier, the bureau bounced James C. Westfield as chief inspector and replaced him with Schlick.

O'Leary, a Democrat, was head of the bureau at the time of the 1968 disaster at Farmington, W. Va. that took 78 miners' lives. With that impetus for reform, O'Leary pushed the bureau to new procedures and took an active part in drafting the 1969 Mine Safety Law.

Although he submitted a pro-forma resignation when the Johnson administration took office, Republicans left O'Leary on the job until March 1970, on the eve of the new law's taking effect.

Wheeler, who had been appointed by O'Leary, and Westfield remained in their top jobs at the bureau, however, as confusion over enforcement and administration continued to mount as the bureau went seven months without a director.

Schlick is a native of Wheeler, W. Va., who joined the bureau in 1960 as a mine ventilation engineer. Before that he had worked as a miner, a foreman and mine engineer, and was an employe of Consolidation Coal Co., owner of the fatal mine at Farmington.

In 1962, Schlick was a bureau mining consultant in Pakistan, where he won a Department of the Interior valor award for rescuing several Pakistani coal miners trapped underground by a roof fall.

Schlick came to bureau headquarters in Washington in 1969. Last year he became chief of the health division, with responsibility for the new coal mine health standards. He held that post until replacing Westfield last April 1.

[From the Courier-Journal, Jan. 25, 1973]

U.S. Mines Officials Get Free Transportation During Trip

(By Ward Sinclair)

WASHINGTON.—Donald P. Schlick, the controversial deputy director of the U.S. Bureau of Mines, and two other officials were provided free air transportation in the Far West this month by a company whose activities they had gone to inspect.

The plane rides provided by Food Machinery Corp. (FMC), which has a $5.9 million mine safety research contract with the bureau, apparently were in violation of Department of Interior ethical-conduct rules.

The Schlick party's presence in the Los Angeles area also coincided with Super Bowl VII, which they attended Jan. 14. A fourth bureau official, Ross Wayment, assistant director for technical support, who made the trip West returned home early due to illness, missing both the game and the flight to Wyoming.

Spokesmen for FMC and another company, Mine Safety Appliances, which in the past has been known to provide tickets for athletic events, both denied that their firms had arranged for Super Bowl tickets for Schlick. Schlick and his other two companions were out of the city yesterday and could not be reached for comment. Schlick's secretary would not disclose where he was, and he has refused repeatedly to discuss mine-safety activities with The Courier-Journal.

Wayment, contacted at a hospital here, said the group had gone to Los Angeles to the Super Bowl, but he insisted that the officials paid for their own tickets and transportation.

BUREAU REGULATES FMC MINE

Interior Department regulations prohibit department employes from accepting "any gift, gratuity, favor, entertainment, loan or any other thing of monetary value" from any person doing business with the department or whose interests are affected by departmental actions.

In this case, FMC is conducting research business for the bureau and a large underground trona mine it operates in Wyoming is under the direct regulatory control of the bureau on health and safety matters.

A spokesman for FMC at Santa Clara, Calif., confirmed to The Courier-Journal that a company plane flew Schlick and his party from Los Angeles to Green River, Wyo., on Jan. 15. The plane then flew them from Wyoming to Denver the next day.

Schlick's boss, Dr. Elburt F. Osborn, bureau director, said Schlick would "have to answer for himself" about his West Coast activities. He said he recognized Schlick's refusal to talk to certain newsmen, but added "I can't make him talk to you guys."

Questioned about Schlick's travels on a corporate plane while on official duty, Osborn acknowledged that it was "very unusual." He said he himself would attempt to avoid traveling that way.

A spokesman in the office of Interior Secretary Rogers C. B. Morton said the secretary's policy is to travel only on commercial or government planes. "There's a feeling here that one should go as the secretary goes," the spokesman said.

FMC's public relations man, Fred Rosewater, said FMC saw nothing wrong with transporting the bureau group, which ostensibly had gone to the West to check on the company's progress in carrying out a multimillion-dollar research project on an "inherently safe mining system."

Rosewater said the plane just happened to be in Los Angeles at the time Schlick needed a ride to Wyoming. "They asked to see our trona mine in Wyoming . . . The plane was going up there anyway and they more or less hitchhiked with us."

OFFICIALS AT MINE CONFIRM VISIT

Schlick's official itinerary, however, which was dated Jan. 8—a week before the plane was in Los Angeles—indicated that the bureau team would be picked up there, flown to Wyoming and then be taken to Denver the next day.

Officials at the trona mine, where FMC mines the natural soda that is used in making glass, detergents and other products, confirmed that the Schlick party visited Green River Jan. 15.

They stayed overnight at a motel in nearby Rock Springs, Wyo., where FMC had made reservations for seven persons—four from the bureau and three others. Rosewater said he didn't know who paid the bill. The motel office said it would not divulge that information as general policy.

Actually, only three bureau people got as far as Wyoming. When they left Washington on a commercial flight to San Francisco on Jan. 10, there were four in the party—Schlick; Jack Crawford, assistant bureau director for coal mine health and safety; Wayment; and John Greenhalgh, who is said to be an electrical specialist.

Schlick's Jan. 8 itinerary, sent to director Osborn, was included in a memo that said they intended to "come away with a clearer understanding" of the FMC research work, which is being conducted near San Francisco. He noted that there had been technical problems with the project but due to scheduling and distance problems, senior health and safety officials had never before visited FMC.

But Director Osborn said yesterday that Schlick has no responsibility for contract matters. He said Schlick might be able to justify the inspection visit on the grounds that it involved a technical matter, for which he is responsible as deputy director. The contract was announced in July 1971 and until this month no bureau officials had visited FMC, despite the acknowledged problems the project was having.

MEMO CITED ARRANGEMENTS

Schlick's memo alluded to a Department of Interior budgetary crackdown on excessive travel, saying, "Due to travel restraints on health and safety, we are limiting our party to four. As a further effort towards economy, we are taking advantage of being in the West to visit several other installations."

Among them were the trona mine in Wyoming, plus the offices of several other consulting firms in the San Francisco area that are conducting research for the bureau.

Schlick's memo said arrangements for being picked up in Los Angeles by the FMC plane would be made when the officials were visiting FMC offices in Menlo Park, Calif.

Without Wayment, the entourage flew to

Los Angeles on Saturday afternoon, the day before the Super Bowl game between Miami and Washington. Hotel reservations awaited them in Pasadena. Their official itinerary made no mention of Sunday activities.

On Monday, they got on that FMC plane in Los Angeles.

Since his rapid rise through bureau ranks to the deputy directorship in 1971, Schlick has been controversial and often a target of critics of the bureau's coal mine safety enforcement activity.

In recent months, he has toured the coal fields telling how much improvement the bureau has made under his handling of health and safety regulations.

Despite contrary statistical evidence, Schlick has assured audiences that U.S. miners are safer now than ever before and that miners no longer need fear contracting black-lung disease from coal dust.

The latest volley of criticism arose two weeks ago after Schlick told a newsman that it is now safer to work in a coal mine than to drive a car on the highway. Osborn and other bureau officials disassociated themselves from the remark, saying they had no facts to support it.

[From the Courier-Journal, Feb. 8, 1972]

MINE SAFETY: MORE SELF-CONGRATULATION THAN ACTUAL RESULTS IN THE COALFIELDS?

(By Ward Sinclair)

WASHINGTON.—Words have a way of coming home to roost among the bureaucrats. Proof abounds in nearly every federal agency, but no where does it seem any clearer than in the Bureau of Mines.

Unhappily, coal-mine safety here continues to mean, to some degree, words and politics—men struggling to impress each other, secure their own fiefdoms, cover their excesses and trumpet their victories.

That has been happening at the bureau for months, as the debate continues over whether the coal mines are any safer now than when the 1969 safety law took effect.

For public consumption, the bureau's director, Dr. Elburt F. Osborn, has constrained himself from sounding overly enthused about the drop in coal-mine fatalities in 1971.

Osborn knows the critics are right when they say that 181 mining deaths, even though a record low, is nothing to write home about. He has issued no press releases of praise.

But behind the scenes, where politics counts for a lot, there has been a flurry of self-congratulation and credit-taking about the 1971 record. And already, the words are coming to roost. The January record of 19 mine fatalities cast a grim light on 1972.

One of the most vocal is Donald P. Schlick, a 38-year-old engineer who is the No. 2 man in the bureau, the acting deputy director for health and safety. He reportedly was handpicked for the job last fall by Edward D. Failor, the former Republican fund-raiser who is an assistant to Osborn.

Much of Schlick's time this winter has been spent in the field, where he meets industry men and visits coal mines, chats with an occasional reporter and obliquely criticizes predecessors who were not in touch with events in the field.

"He has drive, energy and ambition," comments a colleague of Schlick's. "But the guy is running for office—he wants to be fulltime deputy or acting director, one or the other. Criticism really upsets him. . . . He's trying real hard to make it."

Part of the message that Schlick has carried to the field is the same message that one can get without traveling far from Washington: Things are much better in the mines because the bureau is doing its job 110 per cent.

In December, Schlick told a wire-service reporter in an interview that health and safety was tangibly improving. Then he added: "We're getting a bunch of vigorous young Turks like myself. Next year, we're really going to show something."

Not that Schlick has not made an impression already. Only recently he got a warm letter of praise from Cloyd McDowell, of Harlan County, Ky., who is president of the National Independent Coal Operators Association (NICOA). The praise was for "splendid cooperation" in putting on a health and safety workshop for operators.

On another recent occasion in Kentucky, Schlick made the somewhat startling announcement that the mines have been so dramatically cleaned up that no young miner today need worry about contracting black-lung disease. He repeated that line elsewhere.

Ordinarily, an assertion of such medical magnitude would grab headlines. But to date no competent medical authority has backed him up. For all that may be known about black lung, one key fact remains unknown: The level of dust that is "safe" for a miner.

A QUESTIONABLE STATEMENT

Schlick's own statistics, as a matter of fact, do not even back him up. He has told the press that miner exposure to respirable dust is down 50 per cent; that 90 per cent of the mines meet the federal dust standard, which is a standard chosen only as a starting point toward eliminating dust. That is far from a guarantee for the miner.

Again last month in Alabama, Schlick, donning a hardhat and coveralls, told a newsman the bureau's enforcement of the law was an important factor in making 1971 the best year on record for fatalities, while the industry was making its third-largest haul.

Schlick went on to say that "miners agree" that dust levels have been reduced and that the "attitude of miners" toward the 1969 mine-safety law has changed from opposition to support.

It depends on which miners he means. The United Mine Workers (UMW) and its reform faction. Miners For Democracy, continue to complain that there is too much of a casual regard for health and safety on the part of the bureau and the coal operators.

A PARTY FOR FAILOR

With this backdrop of events and attitudes, Schlick recently invited a group of trusted bureau underlings to his office for a surprise party of coffee and cake. Sources who were there recall that he made his point succinctly.

Schlick had called them together to pay tribute to the "one man" who made 1971 such a happy adventure—Edward D. Failor, who was observing the end of his first full year at the bureau.

Failor and Schlick go together, almost like coffee and cake. Failor, a onetime coin-laundry lobbyist and traffic judge in Iowa who likes to be addressed as "Judge Failor," frequently had commented warmly on Schlick's huge "management" talent, a talent he contended was sorely missing in the bureau.

Many people at the bureau agree that Schlick's predecessor, Henry Wheeler, who was banished to Mississippi to open a bureau office, began to lose his grip on his job when Failor and Schlick made decisions that ordinarily would have been made by Wheeler.

But unlike Wheeler, Schlick has been careful about his dealings with the press. He rarely meets with Washington reporters and questions directed to his office usually are rechanneled to an information man.

Only last month The Courier-Journal requested an interview with Schlick, mainly to discuss health and safety developments in 1971 and 1972. Schlick sent back word that he would accept an interview only if questions were limited to that subject.

STRINGS ON INTERVIEW

An interview with limitations was rejected. It was pointed out to Schlick's messenger that director Osborn does not place limitations on interviewers and that there seemed to be no reason for an acting deputy director to do so.

Had Schlick agreed to a full-ranging interview, these are some of the questions that would have been asked:

What was the scientific basis for the repeated assertion that black-lung is a thing of the past?

Who permitted the "hot line," the telephone line for miners with problems, to remain unattended last fall, with the messages accumulated over a number of weeks finally being erased? Why didn't the bureau promote greater use of the hot line after making the initial announcement that it was being set up?

Has the bureau yet perfected the dust-sampling system to prevent cheating by operators and the damaging of dust-collection cassettes? What steps are being taken?

In light of the self-praise about the best year on record, how does the bureau explain its poor safety record in Kentucky, which had the most fatalities and the worst fatality rate among the major coal states? What, specifically, is the bureau doing about the Kentucky problem? (Forty-four miners were killed in Kentucky last year, or 1.15 deaths for every million man-hours worked. Fourteen of the deaths occurred in small mines, which had a fatality rate of 2.41 per million man-hours.)

What did you mean with your "young Turk" comment? Who are the young Turks and what are they doing? What did you mean by "really going to show something" in 1972. Was that promise perhaps premature, in view of the ominous start 1972 has shown in mine fatalities?

Give more details about the surprise party for Failor and explain what he has done in the safety field to merit special recognition.

At the same time, Schlick could have discussed some of the innovations that have taken place during his tenure as acting deputy director—the campaigns to cut down roof-fall and haulage accidents, the "winter alert" that is supposed to place extra stress on safety, the personally signed "fatalgrams" that he sends out to industry to warn against safety laxity.

YOUNG MAN IN A HURRY

And had he been inclined, he could have talked about his extensive background and credentials, which have success written all over them, a case study of a young man on the way up rapidly.

Schlick was an all-state high school athlete in his native Wheeling, W. Va. He graduated from the University of Pittsburgh in 1955 as a mining engineer, but he worked briefly in a coal mine as a laborer. He soon became a foreman for Consolidated Coal, one of the biggest companies.

Later, before joining the bureau in 1959, he was assistant to the president of the Valley Camp Coal Co. in West Virginia. From 1962 to 1969 he was a senior mining consultant for the U.S. Foreign Aid Mission in Pakistan.

He received an award in 1964 for directing the rescue of several Pakistani coal miners trapped underground.

Along the way, Schlick picked up enough expertise about Oriental rugs that he wrote a book on the subject, a point he has mentioned to reporters, as well as his proficiency as a glider pilot.

A LOOK AT THE RECORD

His rise in the bureau since returning to the U.S. has been almost meteoric. In 1970 he was made head of the health division; in 1971 he became assistant director, replacing James Westfield, who was fired, and then got Wheeler's job.

Viewing Schlick's situation with some sympathy, one colleague commented that the bureau and its parent Interior Department placed him in a difficult position by leaving the "acting" in front of his title.

"It's really not fair that way because the guy has to act like a candidate, and make a good impression, in order to win the job he already has got," he remarked.

If it is true that he is a candidate who has to run on his record, then the "next year" he so optimistically looked forward to hasn't begun very well. Through January, the 19 men who died in mine accidents numbered three more than died in the same month last year, the same as January 1970.

[From the Courier-Journal, June 6, 1972]

A Pat on the Wrong Back Regarding Safety in the Mines

(By Ward Sinclair)

WASHINGTON.—From the time the federal coal-mine safety act of 1969 took effect, the Department of Interior's Bureau of Mines has been under a drumfire of criticism for its enforcement of the law.

The criticism has come from all sides with little hint of partisanship. Members of Congress, coal miners, coal operators, union leaders, editorialists and even some interior officials have joined the parade.

And with it all has come what could be called a "bad press"—a seemingly unending string of newspaper and magazine reports that chronicle one snafu after another.

But last February the Scripps-Howard newspaper chain sent a reporter into the field with Donald Schlick, the bureau's deputy director for health and safety, to find out what was happening in the mines.

The result was a pair of articles that described a dramatic improvement in safety conditions and a two-fisted approach to enforcement by Schlick, a fast-rising young bureaucrat. Much of the progress was attributed directly to Schlick.

Officials at the Interior Department were ecstatic. Finally, the thought went, someone is doing some accurate reporting, finally telling the truth as it is perceived by the department.

So ecstatic was Robert A. Kelly, chief of communications for Secretary Rogers C. B. Morton, that he stuffed the articles into a reproducing machine and cranked out a supply of copies for distribution to the public.

On March 13, Kelly sent a memo to Hollis M. Dole, the assistant secretary for mineral resources, saying the articles "can be of assistance in informing the public about what actually is taking place in the mines."

"I would suggest that these be used, where appropriate, by your office and the Bureau of Mines to help answer queries from persons interested in mine health and safety. These reprints should be used in addition to supplying specific information requested in letters," Kelly said.

The suggestion to Dole, he added, was made by him and Lewis Helm, a Nixon-for-President campaign publicist in 1968, who now works in Interior's information operation.

Dole seemed as pleased with the articles as Kelly and Helm. He responded in a memo that his office already had put the suggestion into effect and that he ordered the bureau to follow suit.

There was only one detail. The stories were not entirely accurate. A lengthy list of achievements attributed to Schlick either were done by someone else or there was question whether they actually were achievements.

Kelly was asked last week to explain why he suggested distribution of news articles that gave a picture that didn't square with the facts. He replied that he was unaware of the discrepancies.

Apprised of them, Kelly conceded that Schlick should not have been given credit for the cited accomplishments. "It looks very much like Schlick is superman . . . but this was not an attempt by us to make him look like Super-Schlick," Kelly said.

In a year's time Schlick has risen from relative obscurity in the bureau to his position as the No. 1 man responsible for health and safety vigilance in the mines. His name is mentioned from time to time as a possible successor to bureau director Elburt F. Osborn.

Kelly, a publicity agent for Pepsi-Cola before joining Interior, indicated that he didn't think it was really news when the daily press reported inadequacies in the bureau's handling of the mine safety law.

"There's a lot wrong with the Bureau of Mines," Kelly said, "and everybody in the world knows that . . . if we send out the bad, we ought to send out the good."

Kelly said that "very seldom" had he seen news articles of a positive sort about the bureau, so he felt the Scripps-Howard pieces deserved to be circulated more widely.

"Don't think we're phonying the public—the taxpayer—by doing this." Kelly added. "But we thought the credibility is higher with the daily press than the government and that's why we reproduced this."

After checking some of the points of accomplishment attributed to Schlick, Kelly said he had decided to rescind his suggestion to distribute the articles to the public.

"It's attributed to the wrong guy," he said. "The article doesn't give a fair idea of what's happening in the Bureau of Mines. If it's inaccurate, it shouldn't go out."

Schlick's office reported last week that the article is not going out. And Kelly said he'd told the bureau's public information office to scrap its stack of copies of the articles.

U.S. Mine Chief Says Coal Dust Still Health Issue

(By Ward Sinclair)

WASHINGTON.—The director of the U.S. Bureau of Mines, in an unusual turn of events, has disputed his No. 1 assistant's claim that new coal miners no longer need worry about contracting black-lung disease.

The claim has been made by acting Deputy Director Donald P. Schlick, the bureau's top health and safety man, on recent trips to Kentucky, West Virginia and Alabama.

The apparent basis for Schlick's claim is his belief that Bureau of Mines dust-control programs are working so well that black lung—caused by the inhalation of fine coal dust—is a thing of the past.

But Dr. Elburt F. Osborn, the bureau director, took issue with his acting deputy this week at a press briefing held by Asst. Secretary of Interior Hollis M. Dole.

Dole was asked to amplify on Schlick's published remarks, particularly in light of the fact that medical experts had rejected his theory and also the fact that the bureau continues to sign research contracts for dust-control schemes.

The assistant secretary said that dust control achieved through the 1969 federal Coal Mine Heath and Safety Act has been "one of the real pleasant and wonderful surprises we've had." He said the Interior Department, as the bureau's parent agency, was "extremely proud" of results achieved so far.

Schlick and the bureau are claiming that 90 percent of all working mine sections in the United States meet the present 3.0 milligrams per cubic meter requirement of the law. Additionally, they say that more than, 75 per cent of them meet the 2.0 milligram standard that won't take effect until December.

OSBORN SAYS EFFECTS VARY

Dole turned then to Osborn for comment on the research angle. Osborn said that projects continue because "there is a great deal to do in finding the best technique or techniques" in reducing coal dust in the mines.

Osborn, asked to comment directly on Schlick's statements that miners need worry no longer, then said:

"I think the health people don't have enough information to make a positive statement. We do know that the effects of dust vary from person to person."

Dole later remarked that there is no plan to hasten the application of the 2.0 standard prior to December, even though the safety law permits such changes in deadlines. He said that the 90 per cent that purportedly met the 3.0 level are "that much ahead of the rest."

Discussing the matter with reporters afterward, Osborn said he saw no way that it would be possible to move to the tougher 2.0 standard before December. He said he is receiving as much "flak" from coal operators about the difficulty of meeting dust requirements as on any other item.

Dole also was asked if the Bureau of Mines accepted responsibility for a higher number of deaths in January, in view of other Schlick comments giving the bureau credit for 1971 having the lowest number of fatalities on record—181.

Dole said he thought the bureau "properly should take credit" for improvements achieved in 1971—more inspections, a larger inspection force, and so on. "We're beginning to make the strides we had hoped for," he said.

"We were blamed when the death rate was high," he added. "Why shouldn't we get credit when it goes down?"

Schlick Is Cleared, Made Acting Mine-Safety Chief

(By Ward Sinclair)

WASHINGTON.—The Department of the Interior has cleared Donald P. Schlick of conflict-of-interest charges and named him as acting chief of all mine-safety enforcement.

Although no public announcement was made, Asst. Interior Secretary Stephen Wakefield last Friday appointed Schlick acting administrator of the newly formed Mining Enforcement and Safety Administration (MESA), Wakefield's appointment memo said Schlick would serve until a permanent administrator is chosen.

MESA's duties, handled formerly by the U.S. Bureau of Mines, include enforcement of coal, metal and nonmetallic mine-safety laws and administration of penalty assessments against violators.

In the old setup, Schlick was deputy director of the bureau, directly responsible for the health and safety activities. Because of his controversial activities and statements in that position Schlick's dismissal had been demanded by the United Mine Workers (UMW) and several members of Congress.

Some of Schlick's activities had been under investigation by the department for possible conflict of interest. But in a letter last week to UMW President Arnold Miller, deputy assistant Interior Secretary Richard Hite said that Schlick had been cleared and "counseled" and that the case was closed.

The union's reaction was to term the investigation a "whitewash." The UMW said it would not rest until Schlick is removed from the top safety position.

The disclosure of his position brought further reaction from the union yesterday.

* * * * *

Commenting on the Interior Department's investigation and clearance was given to Schlick's host, J. Richard Lucas, head of the mining engineering school at VPI.

A spokesman for Hite, however, confirmed that the check had never been cashed; that investigators had seen only a photocopy of the check, and that investigators had not reviewed Schlick's check stubs to verify when the check had been written.

The MSA trip—That involved a flight from Chicago to Washington last Nov. 1 on an MSA plane. Although departmental regulations prohibit such flights, Hite said this one was "judged to be in the interest of the federal government" because Schlick had no other way back to Washington.

"All commercial transportation out of Chicago was grounded due to adverse weather conditions," Hite told Miller. Had Schlick not accepted the MSA flight offer, he "would not have been able to meet commitments the next day in Washington."

After a review of records, a spokesman for the Federal Aviation Administration (FAA) in Chicago said there was no indication that "all" commercial traffic was grounded.

The FAA reported that traffic was down at both Midway and O'Hara airports, the major commercial fields in the Chicago area, but both remained open throughout the day.

Hite said that both the VPI and the MSA cases predated the incident that brought Schlick a reprimand and that aside from "counseling" him to adhere to regulations, no further action would be taken.

The department's investigation apparently ignored still two other incidents involving Schlick and free plane travel. One of the trips was provided by MSA and the other by Keystone Aeronautics, which was trying to win a contract with the bureau.

The MSA flight, from Washington to Pittsburgh, took place last Nov. 17. Schlick flew to Pennsylvania to visit the MSA plant. The company has more than $500,000 in research contracts with the bureau.

The Keystone flight took place on Oct. 16, bringing Schlick from Pittsburgh to Washington, after a safety conference. Keystone was trying to get a contract with the bureau to fly inspectors to strip mines on helicopters. The proposal was turned down.

Schlick told the UMW Journal, that he had been asked to take the Keystone flight by Sen. Richard Schweiker, R-Pa., who had planned to be on board but had to cancel at the last moment.

Schweiker's office flatly rejected Schlick's story. Keystone, according to the senator's office, said it was flying Schlick back to Washington and wondered if Schweiker would like to go along. The offer was rejected; Schweiker planned to fly commercial, but then canceled altogether when he was detained in Washington.

As Schlick's activities have come under growing scrutiny and as his controversial statements about improved mine safety have been sharply criticized, Schlick has struggled to counteract the critics.

After his reprimand in April, he sent—using a government mailing frank—a memo entitled "Expression of Appreciation" to bureau field employes. He urged co-workers to abandon their plans to write their congressmen complaining of "unjust treatment" of Schlick. Government-frank use is limited to official communications.

And after the UMW and Sen. Robert Byrd, D-W. Va., called for Schlick's dismissal, Schlick prevailed upon John Guzek, president of UMW District 6 in Ohio, to write a letter of support for him to Rogers Morton, the secretary of Interior.

Union sources said that Schlick dictated the letter by telephone to a secretary in the District 6 office, who prepared it for Guzek's signature. Guzek subsequently withdrew his letter of support after UMW officials in Washington pointed out that it conflicted with union policy on Schlick.

THE PEACE CORPS IN COSTA RICA

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, on May 19 the Minister of Agriculture of the Republic of Costa Rica, the Hon. Fernando Batalla, addressed a group of Latin American agricultural experts meeting under the auspices of the Peace Corps in San Jose. In his speech Minister Batalla spoke of the contribution which he feels our Peace Corps is making to the development of his country. At a time when American intentions and programs are increasingly a subject for criticism at home and abroad it is heartening to hear such an expression of confidence in the United States and I would like to take this opportunity to call the Minister's remarks to the attention of the House:

U.S. PEACE CORPS

It is a privilege for Costa Rica, the fact that our country was chosen by the Representatives of Peace Corps Agricultural Programs to celebrate their meeting of this important Seminar, the object of which is to give major material and spiritual content to the historical accomplishments of this movement that has been beneficially extended to all the nations of the world.

At the same time, I would like to welcome all the Representatives of our neighbor countries in Latin America who are participating in this Seminar and are the distinguished guests of Costa Rica.

The specific work that Peace Corps is performing all around the world has all the dignity and virtue of altruism and noblesse that can be expected from the human spirit.

The leaders and co-workers of this great crusade are no doubt messengers of the much wanted peace that humanity needs to obtain the goal of a civilization abundant in benefits for all the inhabitants of the earth.

I wish to express my satisfaction with the way in which the work of the Peace Corps in Costa Rica is being developed. Its Directors have maintained very close and cordial relationship with Government officials, making possible the incorporation of hundreds of volunteers of this movement, volunteers who have given all their efforts to promote and develop programs of national benefit.

I want to refer in a very special way to the volunteers that have been performing a most valuable job collaborating with the officials of the Ministry of Agriculture in their activities; promoting throughout the country a positive increase in our agricultural production. I particularly want to point out the virtues of these young people for their dedication to work directly related to agricultural extension activities and the stimulation of basic grains production and other agricultural systems in the rural areas of our country.

At the same time, I enthusiastically visualize the success of the new groups that have recently arrived to collaborate with the Ministry of Agriculture in the fields of research and economics.

All this shows the dedication and affection for the work that is being performed that is of benefit to our country, which based on experience and knowledge has made possible the establishment of programs that define more clearly the efficiency of the technical and administrative functions of the volunteers, making possible a most positive and vigorous training even though the volunteer's previous knowledge in agricultural fields is minimum.

I hope that in the future our country continues to receive the benefits of Peace Corps technicians and their valuable help. I express my confidence in the current Government of the United States, and those to come that they will have a clear conscience regarding the importance of these volunteers that with their programs give so many benefits to the less developed countries of America.

Gentlemen, I have faith in the democratic feelings of our countries to perform a great job of mutual benefit in which the most prevailing part is making the land produce.

We have acquired, throughout the years, the technological capacity, the education and the experience. All we need is the understanding and unity necessary to fulfill a job in order to make possible the prosperity of our countries with a symbolic maintenance of our frontiers, and have the peace for which we all long.

I wish to express my respect and favour to all Peace Corps leaders and co-workers here gathered, and my faith in America's destiny.

Thank you.

TRADE REFORM ACT OF 1973: LATIN AMERICA AND THE CARIBBEAN

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, the nations of Latin America and the Caribbean have long been in the forefront of those countries which have urged the United States and other developed countries to offer preferential treatment to exports from the developing nations. In 1969 President Nixon responded to these initiatives by pledging U.S. support for establishment of general trade preferences. In April of 1973, after a long delay, the President finally submitted to Congress his recommendations on trade preferences within the framework of his overall trade reform legislation. That legislation, H.R. 6767, is now pending in the Ways and Means Committee.

In reviewing the legislation submitted by the President from my perspective as chairman of the Subcommittee on Inter-American Affairs of the Foreign Affairs Committee, I have reluctantly been forced to the conclusion that title VI of the act, which would authorize the President to establish trade preference for the developing countries, is in need of considerable improvement if we are to establish a truly meaningful and effective preference scheme.

In response to a request from the Ways and Means Committee for my views on the bill, I have submitted to the committee a statement of my views on how the bill, and particularly the trade preference title, should be improved to more effectively promote hemisphere cooperation.

Because of the great importance of this bill to developing countries, particularly in our own hemisphere, I would like to take this opportunity to call to the attention of every Member of Congress some of the important issues involved in the Trade Reform Act:

ADDITIONAL VIEWS SUBMITTED TO THE WAYS AND MEANS COMMITTEE BY THE HONORABLE DANTE B. FASCELL

I welcome the invitation to submit additional views on the trade bill from my perspective as Chairman of the Foreign Affairs Committee's Subcommittee on Inter-American Affairs.

The foreign trade bill now before the Committee is a most complex piece of legislation. This is inevitable because the issues which it attempts to resolve are themselves immensely complicated. In general, I view the bill recommended by the President as a constructive and well thought out piece of legislation although I, as I am sure does every other member of Congress, have reservations about various aspects of the bill. I will, however, restrict my comments to how I believe the bill should be improved to more effectively serve our own political, economic and security interests by building stronger trade relations with the developing nations, generally, and Latin America and the Caribbean, particularly.

IMPORTANCE OF TRADE TO HEMISPHERE

While trade is of great and growing importance to the United States, it is of substantially greater importance to the other nations of the Hemisphere and absolutely vital to many of the Caribbean countries. Relatively poor and, in many instances lacking the capacity to produce the capital goods needed for sustained economic growth, most of our Hemisphere neighbors simply must import a large volume of goods if they are to have a reasonable chance to generate a sufficient rate of growth to create a better way of life for their citizens. In order to pay for these imports these countries must in turn export enough products to the developed nations to pay for the sophisticated equipment they need. Some nations, such as Brazil, have been able to obtain a high growth rate within the current world monetary and trade structures, but Brazil is a huge nation with a large internal market, vast resources and a seemingly bright economic future. In addition, it has benefited from a huge influx of foreign capital. For many other nations, however, the future is not as bright. They can and will make great sacrifices to improve their own lot but they will continue to need large doses of understanding as well as constructive assistance. In this regard, it is my hope that the trade bill approved by the Ways and Means Committee will reflect a genuine concern for the problems of the developing countries and will fully take advantage of the possibilities of greatly expanding trade with developing countries in this Hemisphere and elsewhere. In my judgment, such an expansion is of great importance to the United States and would pay substantial political and economic dividends to us while at the same time greatly benefiting the developing countries themselves.

H.R. 6767

Before addressing the specifics of Title VI dealing with trade preferences, I will make a few general comments. First, it seems to me that the bill as a whole may be weighted too heavily toward protection of the status quo in the American economy. While I believe it is vital that we protect our citizens from the unforeseen effects of changing patterns of world trade, I do not believe that we should do so at the cost of reducing the flexibility and resiliency of our own economic system. That flexibility is the key to the long-term strength of our economy. In this respect, I would hope the Committee will give serious consideration to the thoughtful alternative suggestions of my colleague from the Foreign Affairs Committee, Congressman John Culver, Chairman of the Subcommittee on Foreign Economic Policy.

A second general comment is that trade expansion with the developing countries is not a matter dealt with solely in Title VI of the bill. The future of trade of third countries is inextricably bound up in the kinds of agreements which may be reached among the developed countries under authority provided in other sections of the bill. In fact, some of the developing nations themselves are apt to seek specific negotiations with the United States.

A last general comment concerns the importance of equal treatment under the bill for developed and developing countries. Developing countries should not be singled out for retaliatory measures affecting trade when such measures would not apply to developed countries under similar circumstances.

HEMISPHERE INTEREST IN PREFERENCES

Of primary concern to developing countries is the section of the bill establishing general trade preferences. This is especially true of the nations of our own Hemisphere. It is fair to say that trade preferences are far and away the number one item of their agenda for U.S. cooperation in the continuing process of development initiated by the Alliance for Progress. Latin America, in fact, is the area where the concept of trade preferences first was seriously put forward and the idea has since then gained acceptance and support throughout the world. As early as May 1969, for example, the Latin countries had already jointly formalized their request for trade preferences in the Consensus of Vina del Mar which stated:

"On the basis of these statements, principles, and affirmations, the Latin American countries, on jointly proposing a dialogue with the United States, have decided to convey to it their principal aspirations with respect to international trade, transportation, financing, investments and invisible items of trade, scientific and technological development, technical cooperation, and social development, with a view to achieving, through appropriate action and negotiation, solid advancement in inter-American cooperation. In these areas they believe it necessary . . .

"To reiterate the urgency of putting into force the system of general, nonreciprocal, and nondiscriminatory preferences in favor of the exports of manufactures and semi-manufactures of developing countries within the time limits provided and with due observance of the calendar of programmed meetings. In this regard action should be considered that will enable the countries of relatively less economic development to make full use of the advantages that may result."

In his response to this request President Nixon on October 31, 1969, stated in part:

"Increasingly, however, those countries will have to turn toward manufactured and semi-manufactured products for balanced development and major export growth. Thus they need to be assured of access to the expanding markets of the industrialized world. In order to help achieve this, I have determined to take the following major steps:

"First, to lead a vigorous effort to reduce the nontariff barriers to trade maintained by nearly all industrialized countries against products of particular interest to Latin American and other developing countries.

"Second, to support increased technical and financial assistance to promote Latin American trade expansion.

"Third, to support the establishment, within the inter-American system, of regular procedures for advance consultation on all trade matters. U.S. trade policies often have a heavy impact on our neighbors. It seems only fair that in the more balanced relationship we seek, there should be full consultation within the Hemisphere family before decisions affecting its members are taken, not after.

"Finally, in world trade forums to press for a liberal system of generalized tariff preferences for all developing countries, including Latin America. We will seek adoption by all of the industrialized countries of a scheme with broad product coverage and with no ceilings on preferential imports. We will seek equal access to industrial markets for all developing countries so as to eliminate the discrimination against Latin America that now exists in many countries. We will also urge that such a system eliminates the inequitable 'reverse preferences' that now discriminate against Western Hemisphere countries."

Since 1969 the Latin American governments have continued to urge that the United States' preference system be put into effect. The Bogota meeting of the Inter-American Economic and Social Council in February 1973, for example, urged that in the review of the inter-American system of cooperation that special consideration be given "to seek the adoption as soon as possible of the general system of preferences by those developed countries that have not done so."

Even more recently Dr. Raul Prebisch, a world famous Latin American economist, spoke out in favor of preferences at a June 1, 1973 meeting of the Inter-American Committee on the Alliance for Progress. I have included Dr. Prebisch's remarks as an appendix to my own statement.

HEMISPHERE VIEWS OF TRADE BILL

Latin American and Caribbean interest in the Trade Reform Act has, of course, centered on Title VI—Generalized System of Preferences. They have been so delighted that after three years of promises the President finally sent a bill to Congress that they have been unusually reticent in offering specific criticism of the bill. In general, however, the Hemisphere countries do appear to feel the preference system proposed is too modest and restricted to stimulate exports to the extent required for more rapid and balanced development. Since it is generally confined to manufactures and semi-manufactures (rather than the agricultural and mineral products that make up most Latin American exports), and since important groups of manufactures such as textiles, footwear and certain steel products would be excluded from these, preferential advantages really would extend to only a small portion of Latin American trade.

This general concern about the fairly restrictive nature of the benefits to be derived from the bill as currently written has led many Latin Americans to the conclusion that their primary concern at this point should be that no further restraints be placed on the negotiating authority requested in H.R. 6767. This is paricularly important in Title VI where restraints beyond those already in the bill should be avoided. Such restraints might take the form of excluding specific products, of limiting the amount by which preferential duties could be reduced, or of limiting the countries eligible for preferential treatment. In this regard they view as especially important retention both of the President's authority to grant exceptions for reasons of national interest from the competitive need limitation in Section 605(c), and of the present discretionary nature of the criteria the President must consider in designating eligible countries in Section 604 (a) (5).

A second very important effort would be to establish a clear legislative history that it is the intent of the Congress that the authority granted in the Trade Reform Act should be implemented in a manner that will stimulate the rapid and mutually beneficial growth of U.S.-Latin American Trade. This is especially important in implementing Title VI, where the intent of the Congress to give particular attention to products that would assist development of Latin American countries should be established, particularly since these countries are not presently members of any preferential arrangement and have been discriminated against under certain such arrangements.

SPECIFIC RECOMMENDATIONS REGARDING TITLE VI

In response to your request, I have carefully reviewed Title VI of the bill and would like to take this opportunity to offer some specific suggestions on how I believe the bill can be improved to the mutual benefit of Latin America and the United States.

Section 602

Section 602 should, in my view, be amended by adding at the end of the section the following language: "(4) the special importance to the United States of the nations of the Western Hemisphere." The addition of this language would accomplish four objectives:

1. It would underscore continued United States recognition of our important special relationships with our neighbors without placing any other developing area on a less than fully equal footing;

2. It would specifically provide a Congressional seal of approval of the President's October 31, 1969 response to a formal Hemisphere request for trade preferences;

3. It would state specifically Congress' agreement with the President's 1969 statement that, if the general preferences by all developed countries envisioned in point (3) of section 602 are not carried out, the United States will give special consideration to our own neighbors; and

4. It would give special recognition to the role Hemisphere countries have played in obtaining preferences for all developing countries.

Section 603

With respect to subsection (a) of section 603, I would make only the general observation that it might be wise to change the wording so that the President would submit to the Tariff Commission, for its advice, lists of articles ineligible for trade preferences rather than lists of eligible articles. Aside from the psychological impact of structuring the subsection in a way consistent with the idea of opening trade opportunities, it would seem from past experiences that it would be administratively simpler and also expedite implementation of our preference scheme.

I have several comments with respect to subsection (b). First, I would hope that the report will make clear that the application of preferential treatment to articles "imported directly from a beneficiary developing country" is not intended to in any way conflict with U.S. support for the concept of economic integration in the Hemisphere. If two or more developing nations wish to share various phases of the production of a particular product, even if it passes from country to country, it should be considered as "directly imported." Likewise, it would seem unwise to arbitrarily prevent a product produced almost completely in a developing country but finished in a developed country from receiving at least some amount of tariff relief. I hope that the Committee will give this potential difficulty serious consideration. To deal with this problem, I suggest that as a minimum the word "country" be changed to "countries" throughout the subsection.

Further modifications to subsection (b) which I suggest are the addition of the words "and the Secretary of State" following the reference to the Secretary of the Treasury and the subsequent insertion of "jointly" before "prescribe" and the change of "Secretary" to "Secretaries" in the last sentence. These changes would assure the impact of important international political and developmental considerations on the formulation of regulations adopted by the United States as a part of our preference scheme. Too frequently in the past our relations with one or another Latin American nation have unnecessarily been adversely affected by the well intentioned but heavy handed actions of agencies not fully informed about major U.S. foreign policy considerations.

Another suggestion with respect to subsection (b) is that the word "shall" in the next to the last sentence be changed to "should." This change would provide important flexibility in administration of the Act. As written the language would appear to require the same percentage to apply equally not only to all countries but to all products. Such a requirement would be unrealistic and unnecessarily restrictive.

One final comment on subsection (b) is that consideration should be given to language either in the bill or the report to the effect that regulations adopted pursuant to the subsection should not unduly inhibit access by developing countries to the benefits envisioned under the preference system nor should the percentage set be so high as to unnecessarily restrict imports from developing countries.

With respect to subsection (c), I am in agreement with the provision that steps should not be taken to make an article eligible for preferences when there is an already pending claim for relief under an existing statute. I do, however, oppose the inflexible extension of this concept to the point where the mere seeking of relief from a trade problem automatically removes an article from the list of articles eligible for trade preferences. One can envision a host of possible abuses of this provision and one can also envision possibly serious political or economic problems arising from the "hair" trigger aspects of such U.S. action. Besides establishing a different standard for developing nations than now applies to developed countries this provision denies the President needed flexibility. I recommend that the second sentence of the subsection be amended by striking out the last nine words and inserting after the comma "the President shall consider immediate termination of the eligibility of the specific article."

Section 604

Subsection (a) should be changed by the elimination of point (2) apparently requiring some kind of direct statement by each developing country as to their desire to be called developing. Such a requirement might lead to unnecessary political complications caused by the necessity for what might be termed a humiliating statement. If the Committee feels strongly about this matter, I suggest inclusion of it in the report. The report also might refer to the Committee's intent that all Latin American and Caribbean countries are considered as eligible countries under point (3).

I feel strongly that one particular part of subsection (a) be eliminated from the bill. I refer to point (5) which for the first time, to my knowledge, makes a direct connection between investment disputes and trade policies. Not only is such a connection unusual, it seems to me to be unwise and unnecessary. If this issue is to be raised at all in connection with the trade bill, it should be in the report. We already have ample provisions in existing law to encourage proper compliance with international law with respect to investment disputes involving U.S. companies. As a practical matter many U.S. companies operating in Latin America have found this kind of provision to be counterproductive. In recent weeks, for examle, the Council of the Americas whose membership repersents almost all of U.S. direct investment in Latin America came out in favor of repeal of exisitng U.S. legislation of this kind. If the U.S. companies which would supposedly benefit from this kind of approach are opposed, I think we should heed their advice.

Subsection (b) of section 604 provides necessary encouragement for development of a fully fair and open world trading system but we should be careful that this section does not unduly injure poorer nations. In particular, I believe that an exception to the January 1, 1976 date should be considered for the Caribbean where many islands are undergoing a difficult period of adjustment due to the changing nature of their relationship with the European Economic Community. This problem can easily be handled by any recommendations with respect to section 605.

Section 605

Subsection (b) as written should be modified to provide needed flexibility for the Caribbean by restructuring the section so that the language that appears at the end of subsection (c) "unless the President determines, etc." applies to point (2).

Subsection (c) should be eliminated. It provides unnecessary and unrealistic restrictions on the amount by which a particular country can benefit from preferences. These restrictions might well operate to discourage the level of investment needed to allow beneficial use of the preference scheme and, therefore, would conflict with the overall purposes of Title VI. It has been estimated that at existing levels of world trade, the present wording of subsection (c) would allow preferences to apply to about ½ of the articles which would otherwise be considered eligible. If this subsection is retained, it should retain the President's waiver authority and be changed by substituting "and" for "or" following the first reference to "the United States." This would permit a higher level of trade from any one country. One further difficulty with the subsection is how articles would be classified. If an article was defined broadly then the ceiling would be quickly reached; if defined narrowly any source country would rapidly reach the 50% ceiling. The Latin Americans have been especially critical of this subsection feeling that its purpose of creating competition is unnecessary and may well conflict with specialized production schemes included in their various regional economic integration organizations. In my view, the subsection should be eliminated.

Section 606

The definition of "country" in (1) should be modified to permit developing countries to cooperate in ways much more informal than that implied by the words "association of countries."

CONCLUSION

I hope that the foregoing comments will be useful. They intend no criticism of your Committee. The bill referred to was recommended by the Executive Branch and I am confident that it will be considerably improved by your action.

One of the major purposes of this bill is to encourage an open world trading system. With respect to trade preferences, the President said he hoped that our proposals through their generous example would encourage wider preferences by other developed countries. I regret that I cannot completely agree that the bill he recommended is more generous than those of other countries. I hope you will be able to make it so because I am convinced that our interests are best served by encouraging strong, healthy and dynamic economies throughout the world and especially here in our own Hemisphere.

WEST AFRICAN DROUGHT DECIMATES SIX NATIONS, U.S. HELP NEEDED

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, only recently have I realized the gravity of the terrible disaster in Western Africa. When a hurricane or earthquake strikes anywhere in the world killing and endangering thousands of people there is an immediate shock and a quick outpouring of aid and sympathy. Drought often builds slowly with a series of bad years culminating in a famine of starlting proportions. Only now that we are in the middle of the disaster is the world community beginning to respond to the drought in western Africa.

The sub-Saharan countries of Chad, Mali, Niger, Mauritania, Senegal, and Upper Volta already among the poorest in the world are faced not only with death, disease, and malnutrition but with the long-term destruction of their economies and their cultures. The drought has already resulted in the death of some 60 percent of the regions' livestock. This represents a great part of the wealth of the population and the basis of life for the nomadic peoples in western Africa.

There are some 30 million people living in the affected areas. While estimates vary widely as to the number of millions in jeopardy there is no question that a great tragedy is in the making. This was the fifth and most severe year of drought for the region. As the flocks die, the nomads flee to the south and to the overcrowded cities in search of food and water. Trees are chopped down for their leaves by herdsmen with dying flocks. As the trees are wiped out, the desert expands. The Sahara is extending further south at a rate of from 1 to 30 miles a year. The cash peanut crop on which these nations depend for foreign currency is at a fraction of normal levels.

If this year's rainfall is again inadequate the future may be too frightening to consider. While the weather will define the parameters of the problem, the solution will depend upon the international community. Past inaction is responsible for much of the present crisis. Neither the countries affected, the United Nations, nor the individual well-to-do nations gave adequate consideration to the drought. The African nations, resentful of the patronizing attitudes of the developed countries, were reluctant to admit the depths of their need. This pride prevented early and large-scale mobilization of public opinion which is necessary in the Western World if adequate emergency aid programs are to be implemented.

That awareness, though late in coming, is now taking hold. The United States with other governments under the coordination of the United Nations has provided food and money. Relief operations are continuing. But they are insufficent both as to short- and long-term needs. Our long-term commitment to rebuilding the area in the wake of the drought is the responsibility of Congress. The sequence of famines the world has experienced in recent years are likely to become more common, and our foreign aid program must deal increasingly with this problem.

However, short term aid must be forthcoming from the administration. AID has already taken a leadership position in the crisis but additional resources must be committed quickly. If we do not act we will share the responsibility for the tragedy.

HUNGRY CHILDREN USED TO BLACKMAIL STRIKERS

(Mr. PODELL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, the Secretary of Health, Education, and Welfare, Caspar Weinberger, has proposed regulations which would allow individual States to prohibit strikers from receiving benefits under the provisions of the aid to families with dependent children program. This ruling is an obvious misinterpretation of congressional intent and should be corrected as quickly as possible. I ask all my colleagues to join me in my efforts to prevent another Executive encroachment upon our powers.

Benefits to children of families where the head of the household is unemployed are intended to be determined solely on the basis of need. It was not the intent of Congress to deny food and clothing to a deserving child simply because his father was on strike instead of being fired. There are no provisions in the law to indicate that strikers should not be included in the definition of unemployed.

Penalizing the innocent children of strikers is the worse kind of blackmail. Yet, that is exactly what the proposed regulations would do.

In proposing these new regulations, the Department of Health, Education, and Welfare has clearly ignored both the expressed will of Congress and the citizens who took the trouble to comment on this matter. Of the more than 10,000 comments received by the Secretary of Health, Education, and Welfare, almost two-thirds were in favor of continued benefits to strikers. The Congress has consistently rejected other attempts to deny Federal assistance to the families of strikers. It is the responsibility of this body to prevent the executive branch from overstepping its authority.

Corporations on strike continue to receive Federal subsidies, contracts, and other assistance to which they are entitled. Secretary Weinberger's decision would clearly place the Federal Government on the side of management in all labor disputes.

I am presently preparing legislation which will further clarify and reaffirm the intent of Congress to include strikers under the aid to families with dependent children program. But, it is my desire that a serious confrontation between the Executive and Congress be avoided. I sincerely hope that Secretary Weinberger will reconsider his decision.

IT MAKES SENSE TO SELL ARMS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, it is heartening to note U.S. arms sales to foreign nations will increase. This is an exercise in commonsense. It will improve our badly unbalanced import-export picture. American workers will manufacture equipment which hitherto has been bought from other countries. Our friends will be in a better position to defend themselves.

There is nothing but sound, hardheaded reasoning behind the change in policy. Nations which want jet aircraft and other weapons will get them elsewhere if they cannot buy from the United States. Other nations, notably France, have profited from America's refusal to sell weapons to foreign nations.

In one instance, a Presidential directive has cleared the way for Latin American countries to buy supersonic military jets from the United States. These countries have long shown interest.

Time was when American policy prevented the sale of arms to many countries. State Department policy and a 1966 law enacted by Congress prohibited many transactions involving sophisticated weapons. The avowed purpose was to prevent the development of an arms race among Latin American countries.

Overlooked was the fact that American industry needs the sales. Our country needs the money and foreign countries are going to buy weapons whether or not the United States thinks it is to their best interest.

Subsequent to the 1966 amendment, countries south of the Rio Grande bought $1.3 billion worth of arms. The United States sold only 13 percent of this. France, Britain and Canada benefited. Cuba bought from Russia.

The United States has been the principal supplier of weapons for Israel. This has caused hard feelings among the Arab nations which have oil that is essential to the United States. Russia has not failed to take advantage of the situation and the great advances made by Russia in the Mediterranean area is obvious.

A particularly strong case can be made for bolstering the military forces of the oil-rich prowestern states on the Persian Gulf. This area is the lifeline for the major share of the western world's oil supplies. It has been demonstrated clearly that the United States will be drawing increasingly on oil from that area. Protection of the oil lifeline is of highest strategic importance. Arms deals with these countries imply a more even-handed approach to the Middle East conflict on Washington's part which in the long run will benefit both Israel and Arab nations if U.S. diplomacy is successful.

Saudi Arabia, among the friendlier Arab nations, wishes to purchase F-4 aircraft from us. They are talking about $1 billion worth of new equipment. Kuwait wishes to purchase $600 million in arms and equipment. Iran has been a constant customer because of the long and close friendship we have enjoyed with that country, a friendship strengthened by Iran's efforts to maintain peace in the Middle East.

The advantages of sales to the Arab nations are obvious. They have money in seemingly unlimited amounts. They want a better understanding with the United States. The purchases they seek to make are not in sufficient quantities to tip the scales too heavily against Israel. A changed attitude on arms sales to the Arab states will place the United States in a better position to help the bargaining between Israel and the Arab countries in the search for peace.

Those who sell arms to other nations have a trade and diplomatic advantage which is also significant. With the delivery of weapons go American personnel to train the user in the maintenance and operation of the weapons systems. In addition to the advantages to be had from these goodwill ambassadors, there are follow-on orders for spare parts which produce additional revenue for U.S. industry and jobs for workers.

It is far better to make friends where we can through trade than to ignore the needs of other people. They like to do business with America. Many of them prefer our products. The opportunity is here. It is common sense to take advantage of it.

STATEMENT UPON INTRODUCTION OF ALLIED HEALTH AND PUBLIC HEALTH TRAINING

(Mr. ROGERS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROGERS. Mr. Speaker, today I and most of the other members of the Subcommittee on Public Health and Environment (Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER, Mr. SYMINGTON, Mr. ROY, Mr. CARTER, Mr. HASTINGS, Mr. HEINZ, and Mr. HUDNUT) are introducing the Public and Allied Health Personnel Act of 1973—H.R. 9341. This is the second of four bills which will be introduced this year by subcommittee members which will substantially revise and extend the existing authority encompassed in the 11 existing titles of the Public Health Service Act.

The first bill in this series, the Public Health Act of 1973, introduced on April 19 as H.R. 7274, has three main purposes. It would revise and extend the authority of HEW to undertake programs in health services research and development, and health statistics; it would revise the authorities for assistance to medical libraries; and it would completely restructure the Public Health Service Act. Hearings were held on this bill in May and it is presently pending subcommittee markup.

The bill we are introducing today, the Public and Allied Health Personnel Act of 1973, revises and extends authorities for two health programs, Allied Health and Public Health training, which would have expired at the end of fiscal year 1973 were not the simple extension bill passed and signed by the President. This bill would repeal existing authorities for assistance to schools and students of public health training and allied health, as well as the training authority presently found in the comprehensive health planning legislation, and replace them with much more specific authorities.

The cosponsors feel that this legislation substantially improves existing law. For example, the present law contains no definition of "public health personnel" or "allied health personnel". Moreover, there is no "quid pro quo" exacted on the schools in return for receipt of grants. Another problem lies in the plethora of different training programs which are considered a part of the allied health field presently.

In the field of public health training, this bill would provide a definition of "public and community health personnel" and provide for award of project grants and contracts to institutions to demonstrate new and innovative methods with respect to education and licensure of public and community health personnel. It also would authorize the award of institutional grants to accredited schools and programs offering graduate degrees in public health, health administration and health planning in return for assurances from the recipient schools with respect to enrollment increases and/or specifications as to the type of people who must be trained. The combined authorization for institutional support and special projects is $20 million. The bill also would continue the award of traineeships to students and institutions in the fields of public and community health. Twelve million dollars is authorized for traineeships.

With respect to allied health training, the bill includes a definition of allied health personnel keyed to the persons who would be assisted by such personnel. It also authorizes special projects for States, schools, and representatives of such schools which would incorporate and modify existing authorities found in the old special projects section. Of particular interest in this new section is a subsection which suggests coordination with a new program, established last year by H.R. 1, which authorizes certain allied health personnel passing proficiency tests to be used in connection with medicare and medicaid programs.

The bill also continues programs of traineeships for allied health personnel as well as continuing a program which authorizes the identification of and assistance to financially, culturally or educationally deprived persons who have a potential to become allied health personnel. While the section of the old allied health law which authorized this program was never adequately funded, the program seems particularly crucial to the increasing problems of obtaining health personnel for rural and inner-city areas.

Finally, in an effort to identify the various types of allied health personnel, to classify these types, to determine the costs of education of personnel in each classification, and to identify shortages within each classification, this bill would request that a study with respect to these matters be undertaken by the Natioanl Academy of Sciences to be completed within 2 years. A report of the results is to be submitted to the appropriate House and Senate committees.

Mr. Speaker, this legislation would take us a few steps further in our restructuring of the Public Health Service Act. It shifts the authority for Public Health Training from title III of the act to title VII—as would H.R. 7274—thus placing these manpower training authorities into the same title as other health manpower authorities. By authorizing only 1 year of support in this legislation, we will give public health training and allied health training a common expiration date with the Health Manpower Training Act. In this way, we will force a review of all similar authorities at the same time, insuring that overlap and duplication will be eliminated.

Mr. Speaker, the Congress has been accused several times this year alone of writing "budget busting" legislation. This bill is not a "budget buster". It authorizes $80.5 million for fiscal year 1974, which is less than half of the fiscal year 1973 authorization for these programs which was $188.95 million, and less than $10 million over the fiscal year 1973 appropriation.

As you know, the fiscal year 1974 budget proposal sought to eliminate funds for public health training, allied health training and the training authorities found in the comprehensive health planning legislation. When the subcommittee held oversight hearings on the HEW budget, and again, when we held hearings on the Health Programs Extension Act, we simply could not get satisfactory answers from the Department of Health, Education, and Welfare as to why these programs should be terminated.

With only 18 schools of public health in the entire Nation to supply all public health officials and most community health personnel needs, and the continuing need for allied health personnel to assist, supplement or complement doctors, dentists, and other health professionals in the delivery of medical care and environmental control activities, there is substantial evidence indicating a necessity for these programs to continue to receive Federal support. The House Committee on Appropriations apparently agreed with this estimation when they appropriated funds for these programs this year. This body also concurred, when we approved the Labor-HEW appropriations bill on June 26.

Mr. Speaker, this bipartisan action by the Subcommittee on Public Health and Environment is meant as a point of departure and we would welcome constructive criticism and suggestions by representatives of the health community. I expect that hearings will be held on this bill before the August recess of the Congress, and that a well-balanced hearing record will affirm the necessity for continuing support for both public health and allied health training.

THE WAR POWERS RESOLUTION

(Mr. ECKHARDT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ECKHARDT. Mr. Speaker, tomorrow the Committee of the Whole House will resume consideration of House Joint Resolution 542, the war powers resolution. On June 26, I stated my opposition to the resolution as it emerged from the Foreign Affairs Committee and included in my statement a substitute which I announced I would offer at the appropriate time. Since then, I have extensively discussed the resolution and the proposed substitute with certain principal authors of the resolution and opponents. Since I share the concern of the authors about overreaching in this area of warmaking of the President's constitutional authority, I have found areas for reconciliation between my substitute and their resolution; and I have made modifications that, I think, achieve the full objectives of the committee resolution but, at the same time, avoid those implications of the resolution which seem to me to extend additional warmaking authority to the President for 123 days.

My principal objections to the resolution are these:

First. That the language of its sections 2 and 3 so manifestly embrace acts of war—committing U.S. forces "to hostilities," committing them to other than supply-type operations in foreign nations "for combat," and enlarging such forces "for combat"—that to provide a means for Presidential reporting and for congressional callback clearly implies prior authorization of short-term warmaking powers available to the President for as much as 123 days.

Second. That the language of its sections 4, 5, and 6, spelling out a procedure, including printing of documents, reporting to the Foreign Affairs and Foreign Relations Committees, setting certain limitations, and otherwise specifying detail, affords an impediment to authority now existing in Congress.

Third. That section 4(b) requires absolute and complete disengagement—which would include cessation of defensive activity that the President could, at that time, engage in under his constitutional authority to act as Commander in Chief—where Congress had failed to act 120 days after the President's report had been submitted.

In spite of the disclaimers of section 8 of the resolution, I find clear intent in the committee report and in floor debate that short-term warmaking powers are intended to be granted to the President by this proposed act of Congress. Since this section will undoubtedly be referred to in answer to my first and foremost objection, I shall state in detail the basis for this conclusion:

Section 8(c) of the war powers resolution, House Joint Resolution 542, states that nothing in this act "shall be construed as granting any authority to the President with respect to the commitment of U.S. Armed Forces to hostilities or to the territory, airspace, or waters of a foreign nation which he would not have had in the absence of the act." This language, attempting to disavow any extension of authority to the President, is controverted by other provisions of the resolution itself, by the report of the House Committee on Foreign Affairs accompanying House Resolution 542, by the war powers hearings conducted by the Subcommittee on National Security Policy and Scientific Developments, and by floor debate. Following is a discussion of each of these four areas as they relate to the question of delegation of congressional war power to the President.

Section 4(b) of House Joint Resolution 542 stipulates that within 123 calendar days—120 days plus 72 hours for reporting—after taking certain enumerated actions committing or enlarging U.S. Armed Forces—see section 3 of House Joint Resolution 542—the President must terminate the action unless Congress has declared war or given specific authorization for the action. If, in making the commitment or enlargement, the President is acting within his own constitutional authority as Commander in Chief, it is inconceivable that Congress could cut off that authority merely by the specification of an arbitrary time period in which the authority can be exercised.

Note that section 8(a) of House Joint Resolution 542 states that nothing in the act is intended to alter the constitutional authority of either the Congress or the President. This of course must be true, for an attempt to alter the constitutional authority of either of these two branches of Government would be an attempt to amend the Constitution by simple congressional action, something which clearly cannot be done.

If Congress cannot, and in fact intends not to, circumscribe the constitutional power of the President, then what activities can it require to be terminated within a 123-day period by a concurrent resolution? The answer is that such must be construed as a withdrawal of warmaking authority.

An aggressive President—like all the wartime Presidents of this century—could be expected to defend his action in this area on the basis of the legislative history of this resolution and the similar one in the Senate.

Thus, a President could logically argue that the act would permit him to make a commitment of U.S. troops to hostilities outside the territory of the United States, arguing that absent specific disapproval by Congress, he has been authorized to engage in the action for a 123-day period. Once the commitment was made, the die would be cast in such a manner that it would be extremely difficult to cross back over the Rubicon. Once the United States becomes embroiled in hostilities, the President can, indeed he must as Commander in Chief, take action necessary to protect U.S. forces. The incursion into Cambodia was justified by invoking the safety of U.S. forces, and House Joint Resolution 542 would not prevent simliar concurrences in the future. Though the President might meet the act's requirement to disengage because the 123-day period has expired, the disengagement could be done over a period and a manner within the judgment and powers of the President as Commander in Chief. The President could use the statutory authority thus granted to justify initial involvement in hostilities and, once there, use his constitutional power as Commander in Chief to contnue the involvement.

REPORT OF THE COMMITTEE ACCOMPANYING HOUSE JOINT RESOLUTION 542

House Report 93-287 accompanying the war powers resolution contains several statements that can be used to support the contention that Congress is extending war powers to the President. For instance, on page 5 of the report, in describing what the resolution does, the committee states that House Joint Resolution 542—

> denies to the President the authority to commit U.S. Armed Forces *for more than 120 days* (emphasis added) without specific congressional approval, while also allowing the Congress to order the President to disengage from combat operations at any time before the 120-day period ends through passage of a concurrent resolution.

The implication that the President is authorized to act for up to 120 days virtually jumps out at the reader.

Again on page 9 of the report, the committee declares that one purpose of section 4 is to—

> deny the President the authority to commit U.S. Armed Forces *for more than 120 days without further specific congressional approval* . . ." (emphasis added).

If further specific congressional approval is required for commitments beyond 120 days, congressional approval must have been necessary for the initial 120 days, and thus the matter treated must have been within the congressional warmaking power.

The use of the concurrent resolution process affords powerful evidence to support the argument that House Joint Resolution 542 is an extension of authority to the President. In its discussion on page 14, the committee states:

> The constitutional validity of such usage of a concurrent resolution is based on the capacity of Congress to limit or to terminate the authority it delegates to the Executive. In the case of the war powers, the Constitution is clear that the power to declare war, as well as the power to raise and maintain an army and navy, belong to Congress. Under the Constitution, the President is designated as the Commander in Chief to prosecute wars authorized by Congress.
>
> When the President commits U.S. Armed Forces to hostilities abroad on his own responsibility, he has, in effect, assumed congressional authority. Under this war powers resolution the Congress can rescind that authority as it sees fit by concurrent resolution and thereby avoid the problem of a Presidential veto.

Here the committee recognizes that a concurrent resolution directing a President to cease certain actions is valid if the Congress is withdrawing authority it delegates to the President. It is not the President's actions under the Constitution which the committee seeks by the resolution to terminate, but only those which are properly exercised only with congressional authority. When the committee says Congress can rescind the authority it must necessarily imply that the authority has been granted.

HEARINGS ON WAR POWERS RESOLUTIONS

House Joint Resolution 542 was a product of 6 days of hearings conducted by the Subcommittee on National Security Policy and Scientific Developments of the House Foreign Affairs Committee and was written only after the hearings. Since House Joint Resolution 542 was not before the subcommittee during the hearings, there is no testimony on its specific provisions. None of the major House bills before the committee contained a section similar to section 4(b): House Joint Resolution 542 requiring Presidential action to cease if specific congressional approval of the action is not forthcoming within a specified period of time. However, S. 440, the Senate version of the War Powers Act, does contain a time period beyond which the President cannot act without specific congressional consent, and S. 440 was considered by the subcommittee. While the Senate bill is somewhat different from the House bill in that it states precisely what actions can be taken by the President, statements and concepts regarding the time period are applicable to House Joint Resolution 542 and do provide an insight into the reasoning of the subcommittee members.

The following are statements in which it is expressly stated or implied that a time period is an extension of authority to the President:

Senator Javits, testifying on S. 440, acknowledges that the President has been granted authority to act within the 30-day time period when he stated: "He (the President) does not have it (authority) *after* 30 days unless he persuades us." (emphasis added, p. 10)

Senator Javits again: "You cannot take away from him constitutional authority by this statute . . ." (p. 13) In other words, the only thing which Congress can take away from the President is authority it has delegated to the President.

"Mr. Findley. 'Another question raised about the 30-day provision is that it might be an invitation to adventurism on the part of some future President.

'He might read this language as an invitation to act a little bit more adventurously than he would otherwise. What is your comment on that point?'

Mr. Javits. "I think that is a question of degree. If we have no authority in the field, the likelihood is of his acting even more adventurously. At least here we can shorten the time under this bill, and we can terminate his authority before the 30-day period expires pursuant to section 6 of S. 440." (p. 15)

"Senator Javits. 'At the end of 30 days, under my bill, the President would *no longer* have legal authority to continue the engagement of our forces, except that he would have the authority to disengage them.'" (p. 20, emphasis added)

Statement of the Honorable Charles N. Brower, Acting Legal Advisr, Department of State, provides a telling insight into the manner in which the Executive would interpret a set time period: "If the President's exercise of certain powers were restricted to a period of 30 days, as a practical matter the President would also become the beneficiary of a 30-day blank check, endorsed by the Congress." (p. 128)

Mr. Findley, questioning Arthur Schlesinger, Jr. and Alexandr Bickel: "I have been inclined to feel that it is most unlikely that Congress would ever use the 30-day time limit rquirement to cut off fighting when the guns are blazing . . . I think it is most unlikely that the Congress would fail to give him the *continuing* authority that he might want under these circumstances," (emphasis added, p. 195) "Continuing authority" implies that some authority would already have been granted.

FLOOR DEBATE

Mr. Findley, an author of the resolution applied the rationale of Prof. Louis Henkin of the University of Pennsylvania and Columbia University to the concurrent resolution provision permitting rescission of authority, quoting Professor Henkin as follows:

By the devices, described, Congress is not repealing or modifying the original legislation but is exercising power reserved in that legislation. Surely Congress should be able to recapture powers it delegates to the President without the consent of the agent."—Congressional Record, June 25, 1973 21220.

Mr. Zablocki, the principal author and floor manager of the resolution engaged in the following colloquy:

Mr. Eckhardt. So on April 14 certain U.S. troops seized the Port of Vera Cruz in order to prevent a German merchantman from bringing arms to Huerta.

"Madam Chairman, would that in the gentleman from Wisconsin's opinion, be one of the acts referred to in section 3 (1) on page 2, that is, committing the U.S. Armed Forces to hostilities outside the territory of the United States, its possessions and territories?

Mr. Zablocki. Yes, it would.

Ibid. 21229.

A coauthor, Mr. du Pont, made the frankest expression of the intent of the legislation to give the President short-term warmaking power. His interchange with Mr. Dennis of Indiana follows:

Mr. Dennis. Madam Chairman, may I ask, does the gentleman believe that if the Congress passes a concurrent resolution under section 4(c) calling for the ceasing of hostilities, that resolution has the force and effect of law binding upon the President?

Mr. du Pont. Yes, sir, I do, because we have the warmaking power to start with, and we are carving out of that an exception and we are giving the President the right to conduct warmaking operations until such time as the two Houses by a simple majority agree we should not do it.

Ibid. 21225.

My proposed substitute does not imply any extension of warmaking authority to the President. It does not permit any time lag for the President to become inextricably enmeshed in hostilities. It requires him to report to Congress on his activities in the area of military engagement deemed within his constitutional authority immediately. And it recognizes Congress right to insist upon disengagement. The substitute may be best explained by its text which follows:

Amend H.J. Res. 542 by striking all of Section 2, beginning on page 1, line 6, and all thereafter and substituting in lieu thereof the following:

"Sec. 2. The President shall not commit United States Armed Forces to situations in which hostilities are inherent or imminent, or substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation, unless

(1) there has been a declaration of war by Congress, or

(2) there has been action by Congress specifically authorizing such commitment or enlargement of forces, or

(3) in the event that the act of the President is within such constitutional authority as he may possess without any authorizing or declaratory action by Congress, he shall, contemporaneously with such act, inform the Speaker of the House of Representatives and the President Pro Tempore of the Senate the circumstances necessitating his action and the constitutional and legislative provisions under the authority of which he took such action.

"Sec. 3. Within 72 hours after the action referred to in section 2, the President shall submit to the Speaker of the House of Representatives and to the President Pro Tempore of the Senate a report in writing setting forth—

(1) the circumstances necessitating his action;

(2) the constitutional and legislative provisions under the authority of which he took such action; and

(3) such other information as the President may deem useful to the Congress respecting such action.

(b) The President shall promptly respond, in person, through the personal appearance and testimony of the Secretary of State, or in writing, to the request of either House or the Committees of either House respecting

(1) the estimated scope of activities embraced within such commitment or such enlargement of forces;

(2) the estimated financial cost of such commitment or such enlargement of forces; and

(3) such other information as the appropriate agencies of Congress may deem useful in the fulfillment of their respective constitutional responsibilities.

Nothing in this subsection shall lessen the authority of Congress, or of either House, or of the Committees of either House to call such witnesses and conduct such hearings and inquiries as they might do were this subsection not in effect.

"Sec. 4(a). In any situation subject to the provisions of section 2(3) of this Act, it is specifically affirmed that Congress may direct by joint resolution that forces committed and enlarged in the manner therein provided shall be disengaged in such manner as Congress shall direct.

(b) In the event that presidential action trenches upon the plenary power of Congress to declare or not to declare war, or to permit or not permit continued engagement in hostilities, it may declare by concurrent resolution that no such delegation or permission has been made or extended and the President shall forthwith discontinue such action and effect complete disengagement in such hostilities.

"Sec. 5. Nothing in this Act

(1) shall be construed to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties;

(2) Shall be construed to represent congressional acceptance of the proposition that Executive action alone can satisfy the constitutional process requirement contained in the provisions of mutual security treaties to which the United States is a party; or

(3) Shall be construed as granting any authority to the President with respect to the commitment of United States Armed Forces to hostilities or to the territory, airspace, or waters of a foreign nation which he would not have had in the absence of this Act.

(4) Shall be construed as recognizing the existence of any inherent power of the presidency to take any act referred to in Sec. 2(3) which is immune from a contrary direction by Congress.

"Sec. 6. (a) Congress declares that care that this law be faithfully executed and that no executive action circumvent Congress' powers under the eleventh clause of Article I, Section 8 of the Constitution is deemed a matter of highest public trust.

(b) It is the sense of Congress that the President does not inherently possess, in the absence of prior congressional declaration of war or other specific authorization, any power whatever to commit forces or to conduct hostilities, other than the power to take such action as may be required by strict necessity, under circumstances making impossible a congressional determination of the requisite timeliness.

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. Danielson (at the request of Mr. O'Neill), for today, on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mrs. Green of Oregon, today, for 30 minutes, to revise and extend her remarks and to include extraneous matter.

Mr. Hechler of West Virginia, today, for 5 minutes.

(The following Members (at the request of Mr. ARCHER) to revise and extend their remarks and include extraneous material:)

Mr. WHALEN, for 5 minutes, today.

Mr. TREEN, for 10 minutes, today.

Mr. CRANE, for 5 minutes, today.

Mr. MCDADE, for 10 minutes, today.

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. HOGAN, for 5 minutes, today.

Mrs. HECKLER of Massachusetts, for 5 minutes, today.

(The following Members (at the request of Miss HOLTZMAN) to revise and extend their remarks and include extraneous material:)

Mr. PODELL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. DANIELS of New Jersey, for 5 minutes, today.

Mr. ASPIN, for 10 minutes, today.

Mr. THORNTON, for 5 minutes, today.

Mr. EILBERG, for 5 minutes, July 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ADAMS, immediately prior to the vote on the conference report on S. 504 today.

(The following Members (at the request of Mr. ARCHER) and to include extraneous material:)

Mr. STEIGER of Wisconsin.

Mr. BAKER.

Mr. ROUSSELOT.

Mr. QUIE.

Mr. WYMAN.

Mr. SMITH of New York in two instances.

Mr. ASHBROOK in three instances.

Mr. DERWINSKI.

Mr. COUGHLIN.

Mr. HOSMER in two instances.

Mr. ESCH.

Mr. FREY.

Mr. RAILSBACK.

Mrs. HOLT.

Mr. DAVIS of Wisconsin.

Mr. FROEHLICH.

Mr. DUNCAN.

Mr. HUBER.

Mr. SPENCE.

Mr. SHOUP.

Mr. WALSH.

Mr. HOGAN.

Mr. KEATING.

Mr. KEMP.

Mr. HANRAHAN.

Mr. STEELE in three instances.

Mr. THOMSON of Wisconsin.

(The following Members (at the request of Miss HOLTZMAN) and to include extraneous matter:)

Mr. O'NEILL.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. HANNA in two instances.

Mr. DRINAN.

Mr. VANIK in two instances.

Mr. TEAGUE of Texas in six instances.

Mr. PICKLE in 10 instances.

Mr. MAZZOLI.

Mr. COTTER in five instances.

Mr. EVINS of Tennessee in two instances.

Mr. ROSE.

Mr. ALEXANDER in 10 instances.

Mr. BRASCO in six instances.

Mr. DOMINICK V. DANIELS.

Mr. REES in three instances.

Mr. BROWN of California in 10 instances.

Mr. BINGHAM in three instances.

Mr. ASPIN in two instances.

Ms. ABZUG in 10 instances.

Mr. HARRINGTON in two instances.

Mr. LITTON.

Mr. RIEGLE.

Mr. ADAMS in two instances.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2323. An act to continue until the close of June 30, 1974, the suspension of duties on certain forms of copper;

H.R. 2324. An act to continue until the close of June 30, 1975, the existing suspension of duties for metal scrap; and

H.R. 6394. An act to suspend the duty on caprolactam monomer in water solution until the close of December 31, 1973.

ADJOURNMENT

Mr. DINGELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 p.m.), the House adjourned until tomorrow, Wednesday, July 18, 1973, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1153. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

1154. A letter from the Acting Secretary of Health, Education, and Welfare, transmitting the annual report for fiscal year 1972 on Federal activities in welfare programs under the Social Security Act, as amended, pursuant to 42 U.S.C. 904; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PERKINS: Committee of conference. Conference report on S. 1423 (Rept. No. 93-378). Ordered to be printed.

Mr. MATSUNAGA: Committee on Rules. House Resolution 493. Resolution providing for the consideration of H.R. 5356. A bill to regulate interstate commerce to protect health and the environment from hazardous chemical substances (Rept. No. 93-379). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 494. Resolution providing for the consideration of H.R. 8449. A bill to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes (Rept. No. 93-380). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 495. Resolution providing for the consideration of H.R. 8929. A bill to amend title 39, United States Code, with respect to the financing of the cost of mailing certain matter free of postage or at reduced rates of postage, and for other purposes (Rept. No. 93-381). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLACKBURN:

H.R. 9313. A bill to amend the Clayton Act to encourage competition in the production, refining, and marketing branches of the petroleum industry by prohibiting any oil company from engaging in more than one such branch of the industry; to the Committee on the Judiciary.

By Mr. BROOKS (for himself and Mr. HOLIFIELD):

H.R. 9314. A bill to amend the Budget and Accounting Act, 1921, to require the advice and consent of the Senate for future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes; to the Committee on Government Operations.

By Mr. BROWN of California:

H.R. 9315. A bill to improve the service which is provided to consumers in connection with escrow accounts on real estate mortgages, to prevent abuses of the escrow system, to require that interest be paid on escrow deposits, and for other purposes; to the committee on Banking and Currency.

By Mr. BROYHILL of Virginia:

H.R. 9316. A bill to regulate the practice of cosmetology in the District of Columbia; to the Committee on the District of Columbia.

By Mr. CLAY (for himself, Mr. HENDERSON, Mr. REUSS, Mr. BUCHANAN, Mr. HARRINGTON, Mr. EDWARDS of California, Mr. WHITEHURST, Mr. RANGEL, Mr. MITCHELL of Maryland, Mr. METCALFE, Mr. YOUNG of Georgia, Mr. DIGGS, Mr. STOKES, and Ms. CHISHOLM):

H.R. 9317. A bill relating to collective bargaining representation of postal employees; to the Committee on Post Office and Civil Service.

By Mr. COUGHLIN (for himself and Mr. RINALDO):

H.R. 9318. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 9319. A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DULSKI (by request):

H.R. 9320. A bill to amend certain provisions of title 5, United States Code, relating to pay and hours of work of Federal employees; to the Committee on Post Office and Civil Service.

By Mr. FRENZEL:

H.R. 9321. A bill to exclude certain lands from the boundaries of the Voyaguers National Park; to the Committee on Interior and Insular Affairs.

By Mr. FREY:

H.R. 9322. A bill to amend the Public Health Service Act to provide assistance for Tay-Sachs disease screening, counseling, and research programs; to the Committee on Interstate and Foreign Commerce.

By Mr. FULTON:

H.R. 9323. A bill for the relief of certain orphans in Vietnam; to the Committee on the Judiciary.

H.R. 9324. A bill to accelerate the effective date of the recently enacted increase in social security benefits; to the Committee on Ways and Means.

H.R. 9325. A bill to amend the Internal Revenue Code of 1954 to provide that the privilege of filing joint returns shall be available only in the case of marriage partners having equal ownership, management, and control of the income, assets, and liabilities of the marriage partnership; to the Committee on Ways and Means.

By Mrs. GRIFFITHS:

H.R. 9326. A bill to suspend for a 2-year period the duty on slabs on zinc; to the Committee on Ways and Means.

By Mr. HOGAN:

H.R. 9327. A bill to amend chapter 83 of title 5, United States Code, to eliminate the survivorship reduction during periods of nonmarriage of certain annuitants, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MILFORD:

H.R. 9328. A bill to amend the Federal Property and Administrative Services Act of 1949 to provide for the use of excess property by certain grantees; to the Committee on Government Operations.

H.R. 9329. A bill to amend the Outer Continental Shelf Lands Act and to authorize the Secretary of the Interior to regulate the construction and operation of deepwater port facilities; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER:

H.R. 9330. A bill to require the Secretary of Housing and Urban Development to furnish additional consumer protection services, and for other purposes; to the Committee on Banking and Currency.

By Mr. SCHERLE:

H.R. 9331. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 9332. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance the national attack on diabetes; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. Devine):

H.R. 9333. A bill to amend the Federal Aviation Act of 1958 so as to specifically provide that remedial orders issued by the Civil Aeronautics Board in enforcement proceedings may require the repayment of charges in excess of those in lawfully filed tariffs; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. Devine) (by request):

H.R. 9334. A bill to amend section 1306(a) of the Federal Aviation Act of 1958 to authorize the investment of the war risk insurance fund in securities of, or guaranteed by, the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. Devine):

H.R. 9335. A bill to ratify certain payments made by the United States under the Federal Airport Act, as amended; to the Committee on Interstate and Foreign Commerce.

H.R. 9336. A bill to amend the Federal Aviation Act of 1958 so as to clarify the powers of the Civil Aeronautics Board in respect of consolidation of certain proceedings; to the Committee on Interstate and Foreign Commerce.

H.R. 9337. A bill to amend the Federal Aviation Act of 1958 to remove the criminal penalty from title XI, section 1101, Hazards of Air Commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. VANIK (for himself, Mr. Won Pat, Mr. Gunter, Mr. Brown of California, Mr. Lehman, Mr. Lent, Mr. Badillo, Mrs. Heckler of Massachusetts, Mr. Eilberg, Mr. Podell, Mr. Seiberling, Mr. Rodino, Mr. Rosenthal, Mr. Denholm, Mrs. Burke of California, Mr. Davis of South Carolina, Mr. Harrington, Mr. Blackburn, Mr. Gude, Mr. Rinaldo, Mr. Stokes, Mr. Pepper, Mr. Dingell, and Mr. Riegle):

H.R. 9338. A bill to provide for the recycling of used oil and for other purposes; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mrs. Schroeder, Mrs. Grasso, Mr. Vigorito, Mr. Dent, Mr. Eckhardt, Ms. Abzug, and Mr. Bingham):

H.R. 9339. A bill to provide for the recycling of used oil and for other purposes; to the Committee on Ways and Means.

By Mr. WHALEN:

H.R. 9340. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. Satterfield, Mr. Kyros, Mr. Preyer, Mr. Symington, Mr. Roy, Mr. Carter, Mr. Hastings, Mr. Heinz, and Mr. Hudnut):

H.R. 9341. A bill to amend the Public Health Service Act to establish new programs of support for the training of public and community health personnel and to revise the programs of assistance under title VII of that act for the training of allied health personnel, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ASPIN:

H.R. 9342. A bill to revise and restate certain functions and duties of the Comptroller General of the United States, and for other purposes; to the Committee on Government Operations.

By Mr. BURKE of Massachusetts (for himself, Mr. Harrington, Mr. Ullman, Mr. Boland, Mr. Conte, Mrs. Heckler of Massachusetts, Mrs. Griffiths, and Mr. Macdonald):

H.R. 9343. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. BURKE of Massachusetts (for himself and Mr. Moakley):

H.R. 9344. A bill to amend section 103(c) of the Internal Revenue Code of 1954 to exempt from income taxation interest on certain governmental obligations issued for the certified restoration of historic structures; to the Committee on Ways and Means.

By Mr. CRONIN:

H.R. 9345. A bill to establish a Standing Committee on Energy in the House of Representatives, and for other purposes; to the Committee on Rules.

By Mr. FRASER (for himself, Mr. Vanik, Mrs. Chisholm, Mr. Conyers, Mr. Dent, Mr. Eckhardt, Mr. Harrington, Mr. Kyros, Mr. McKay, Mr. Price of Illinois, Mr. Riegle, Mr. Seiberling, Mr. Stokes, Mr. Studds, and Mr. Symington):

H.R. 9346. A bill to establish a comprehensive program of trade adjustment assistance, and for other purposes; to the Committee on Ways and Means.

By Mr. HARRINGTON (for himself, Mr. Badillo, Mr. Bell, Mr. Brown of California, Mr. Burton, Ms. Chisholm, Mr. Conyers, Mr. Edwards of California, Mr. Eilberg, Mr. Fraser, Mr. Hungate, Mr. McCloskey, Mr. Metcalfe, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Nix, Mr. Obey, Mr. Podell, Mr. Riegle, Mr. Rosenthal, Ms. Schroeder, Mr. Seiberling, Mr. Symington, Mr. Waldie, and Mr. Won Pat):

H.R. 9347. A bill to amend section 102 of the National Security Act of 1947 to prohibit certain activities by the Central Intelligence Agency and to limit certain other activities by such Agency; to the Committee on Armed Services.

By Mr. HARRINGTON (for himself, Ms. Abzug, Mr. Brown of California, Mr. Broyhill of North Carolina, Mr. Carney of Ohio, Mrs. Chisholm, Mr. Conyers, Mr. Corman, Mr. Eilberg, Mr. Froehlich, Mr. William D. Ford, Mrs. Grasso, Mr. Howard, Mr. Hungate, Mr. Jones of North Carolina, Mr. Matsunaga, Mr. Meeds, Mr. Metcalfe, Mr. Mitchell of Maryland, Mr. Murphy of New York, Mr. Pepper, Mr. Peyser, Mr. Podell, Mr. Roe, and Mr. Rooney of Pennsylvania):

H.R. 9348. A bill to require the President to include in the budget transmitted to Congress additional information showing the regional impact of the budget proposals by State and congressional districts, and for other purposes; to the Committee on Government Operations.

By Mr. HARRINGTON (for himself, Mr. Rose, Mr. Rosenthal, Mr. Sarasin, Ms. Schroeder, Mr. Seiberling, Mr. Waldie, Mr. Won Pat, and Mr. Yatron):

H.R. 9349. A bill to require the President to include in the budget transmitted to Congress additional information showing the regional impact of the budget proposals by State and congressional districts, and for other purposes; to the Committee on Government Operations.

By Mr. RANGEL:

H.R. 9350. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service; to the Committee on House Administration.

By Mr. STAGGERS (for himself and Mr. Devine):

H.R. 9351. A bill to amend the act of June 21, 1940, as amended, to remove the 90-day requirement for the submission of general plans and specifications for altering a bridge in accordance with an order of the Secretary of Transportation; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITTEN:

H.R. 9352. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. BOB WILSON:

H.R. 9353. A bill to increase (effective from the beginning of the Vietnam conflict) the maximum amount of the death gratuity payment to eligible survivors of deceased members of U.S. Armed Forces and of other individuals; to the Committee on Armed Services.

H.R. 9354. A bill to amend title 10 of the United States Code to make widows of certain members of the Armed Forces declared dead as of a date before the effective date of the Survivor Benefit Plan eligible for supplemental annuities under such plan; to the Committee on Armed Services.

By Mr. MITCHELL of New York:

H.R. 9355. A bill to authorize the disposal of copper from the national stockpile; to the Committee on Armed Services.

H.R. 9356. A bill to authorize the disposal of various materials from the national stockpile and the supplemental stockpile, and for other purposes; to the Committee on Armed Services.

By Mr. SNYDER:

H.R. 9357. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Commttee on Ways and Means.

By Mr. STUBBLEFIELD:

H.R. 9358. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

By Mr. BINGHAM:

H.J. Res. 665. Joint resolution, a national education policy; to the Committee on Education and Labor.

By Mrs. GREEN of Oregon (for herself and Mr. Udall):

H.J. Res. 666. Joint resolution proposing an amendment to the constitution of the United States relating to the strengthening of the system of checks and balances between the legislative and executive branches of the Government as envisioned by the Constitution with respect to the enactment and execution of the laws and the accountability to the people of the executive as well as the legislative branches of the Government; to the Committee on the Judiciary.

By Mr. STEELE:

H.J. Res. 667. Joint resolution authorizing the President to proclaim the first week to begin on the first Sunday in September of each year as "National Apprenticeship Week"; to the Committee on the Judiciary.

H.J. Res. 668. Joint resolution, designation of the month of July of each year as "National Drum Corps Month"; to the Committee on the Judiciary.

By Mr. LOTT (for himself, Mr. Baker, Mr. Blackburn, Mr. Buchanan, Mr. Burgener, Mr. Burke of Florida, Mr. Fisher, Mr. Gilman, Mr. Gross, Mr. Gunter, Mr. Huber, Mr. Ketchum, Mr. Rarick, Mr. Rousselot, Mr. Satterfield, Mr. Symms, Mr. Thomson of Wisconsin, Mr. Vander Jagt, Mr. Winn, Mr. Wyman, and Mr. Zion):

H. Con. Res. 268. Concurrent resolution providing for continued close relations with the Republic of China; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

281. The Speaker presented a memorial of the Legislature of the State of California, relative to water pollution control facilities; to the Committee on Public Works.

SENATE—*Tuesday, July 17, 1973*

The Senate met at 9 a.m. and was called to order by the Acting President pro tempore (Mr. Metcalf).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God and Father of all mankind, touch our hearts this moment with the light of Thy presence that through every hour of the day we may have the counsel and companionship of Thy spirit. Keep us in our personal lives and as a "nation under God," knowing that we are always under judgment as well as providence. Lift us above all cynicism and doubt to the cleansing atmosphere of Thy light and love. Show us that we are in the world not only to work and serve but to develop a character worthy of eternal survival. So wilt Thou monitor our thoughts and guide our actions until the shadows lengthen and evening comes; then may we rest with thankful hearts and be at peace.

We ask it in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, July 16, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader desire recognition?

Mr. BEALL. Mr. President, I reserve my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Illinois (Mr. Stevenson) is now recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against the time of the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Illinois (Mr. Stevenson), I yield 1 minute to the distinguished Senator from Alaska (Mr. Stevens).

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized for 1 minute.

TRIBUTE TO SENATOR AIKEN OF VERMONT

Mr. STEVENS. Mr. President, the Christian Science Monitor for Saturday, July 7, 1973, has published a delightful article written by Edwin P. Hoyt, entitled "Vermont's Senator Aiken" about the dean of the Republican side of the aisle.

I ask unanimous consent that the full text of the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Vermont's Senator Aiken

(By Edwin P. Hoyt)

Early each morning, as the mists swirl up along the Potomac and official Washington begins to stir, two men can be found sitting in companionable consultation beneath a glittering chandelier in the dignified quiet of the U.S. Senate dining room. One of them is 70, thin-lipped, lean and angular, dressed in a neat dark suit and conservative necktie. The other, although face and figure belie his age, is a decade older, a short, spare white-thatched man who wears a single-breasted jacket, colored shirt, and—always—a bright red tie.

The younger man is a Democrat, Sen. Mike Mansfield of Montana, Senate majority leader and one of the two most powerful men in Congress. The older man is a Republican, Sen. George D. Aiken of Vermont, dean of the Senate, whose twinkling eyes and ready smile hide one of the shrewdest minds in the Congress. In these brief morning sessions, Messrs. Mansfield and Aiken assess the issue of the moment. Neither tries to sway the other, but says the majority leader, "There are some people whose advice is worth hearing. George is one of them."

"BALANCE OF THE SENATE"

Over his 32 years in the Senate, George Aiken has managed to walk a course all his own. He and Senator Mansfield, for example, vote together about half the time, which is as much as Senator Aiken votes with Republican Party leaders. "He is the balance of the Senate," said former Sen. John J. Williams, Mr. Aiken's old friend from Delaware. "He is neither to the right nor to the left."

The impress of the Aiken personality is felt by many around the Capitol. On the birthday of Sen. John C. Stennis (D) of Mississippi, there appears on his breakfast table a little bottle of maple syrup from the Vermont farm of Senator Aiken's son-in-law, with a few lines of dry humorous verse which Mr. Aiken scrawls for his friends. Freshman senators are surprised and grateful when Senator Aiken suspends his own crowded schedule to befriend them and show them the ropes.

When staff members of the Republican Policy Committee were under fire following publication of a controversial "white paper" on Vietnam, Senator Aiken bounced into the committee rooms to announce with a grin that he wanted a thousand copies. He didn't say he agreed with the document, but he let the staff know that he, for one, stood behind them.

Other senators constantly asked Senator Aiken to cosponsor legislation because they know that his name on a bill will be a big boost for passage (last year he cosponsored 19 bills).

THEY LISTEN WHEN HE SPEAKS

The public seldom sees Mr. Aiken's true effectiveness in the Senate; he prefers to operate behind the scenes. But because of his reputation for quiet competence the Senate listens when he does speak out.

After Easter 1972 the nation was badly shaken by North Vietnam's devastating invasion of the South and President Nixon's counter with renewed bombing and blockade of the North. The Senate echoed with cries to end the war and the House Democratic caucus voted to bring a tabled end-the-war resolution out of committee.

For six years Senator Aiken had opposed the war in Vietnam. "The way to get out of Vietnam is to declare victory and leave," he had said in 1966.

But now, on the morning of April 25, Senator Aiken sat at his desk in carpet slippers and an old rust sweater, writing in longhand on a big yellow pad. At noon he exchanged sweater for suit jacket and put on well-shined black shoes, then headed across Constitution Avenue toward the Senate. There he rose to speak. "We have no other course than the one the President is following," he said. "I am not about to be a party to a no-confidence vote in the President of the United States."

The whole speech took less than 10 minutes. Senator Aiken then went quietly about his other business. He made no calls to other senators, he sought no support from the Republican leadership nor from his many Democratic friends. But in a few hours word had spread from the galleries across official Washington: Senator Aiken had come to the President's support. In the Senate, his speech tilted the balance for the administration. And when report of that speech reached the House, it lent new strength to the Nixon forces and ended a crisis that might have undermined the whole American position in Vietnam.

UNLIKELY MAN OF POWER

As Senator from the third least populous state, Mr. Aiken seems an unlikely man of power. His seniority is overbalanced by Democratic control of the Congress. He has never sought a party position and is not a wealthy man; he was born of a family of teachers, artisans, and farmers that settled in Vermont in colonial days. After high school, Mr. Aiken became a landscape gardener and nurseryman in the town of Putney.

He did not enter politics until he was 39, when he went to the Vermont House of Representatives. Six years later he was a very vigorous governor, and in 1940 was elected senator. Since then, he has quietly become one of the most powerful men in the United States Senate. The explanation may be found in his unique personality.

Today Senator Aiken thinks of himself not as an important man but as a plain farmer. He tries to answer every letter himself. His second wife, Lola, is his unpaid administrative assistant. He lives frugally in a four-room apartment on Capitol Hill. Each morning he walks to work, feeding the pigeons peanuts as he crosses the Capitol Park. His office in the Old Senate Office Building is as plain today as it was when he entered the Senate in 1941.

At least once a month he drives up to Vermont to his house on an unpaved road in Putney, or to Mrs. Aiken's house on a mountain overlooking Montpelier. There, when he is not making speeches or traveling around the state, he chops wood, does the chores, and strolls to town to chat.

On one such trip he stopped to talk to a rural housewife about her washing and learned that she and her neighbors had to scrub by hand or take their laundry to town, the water supply would not permit her to use a washing machine. On study, Senator Aiken discovered that thousands of American villages faced the same problem—their water systems were inadequate for modern demands. The result was the Rural Water Systems Act, which has enabled small communities across America to build new systems.

LAST CAMPAIGN COST $17.09

Mr. Aiken sends out no newsletters, records, or television tapes, and does almost no election campaigning. In 1968 when he ran for his fifth term, he spent $17.09 on his campaign—for postage, transportation, and telephone calls.

When Senator Williams went up to Vermont to make a speech for him in a school gymnasium in Springfield, he found Republican workers tacking up bunting and handing pictures of President Nixon and Vermont Gov. Deane Davis. The meeting chairman was in a panic. No picture of Senator Aiken could be found.

The chairman called the state party office and asked it to get a picture from Senator Aiken's headquarters. Senator Aiken has no headquarters. It was suggested he turn to Senator Aiken's manager. Senator Aiken had no manager. Finally, an hour before the meeting, Senator Aiken turned up and the chairman asked him for a picture. "Didn't have any taken," said the Senator cheerily. "Hell, what do you want a picture for? You've got me."

Senator Aiken is one of the most effective legislators in Washington and is known among colleagues of both parties for his hard work. He is never content to let a committee staff frame a bill, he does it himself, as with the Nuclear Power Control law of 1969.

When this bill was suggested, staff members wanted to bring in lawyers to draft the measure. "Dammit," said Senator Aiken crustily, "I can read just as well as any lawyer. We want a bill that people can understand."

Senator Aiken himself made five drafts of the legislation, then presented it to the committee aplogetically. "It don't stand out like a blackberry in a pan of milk," he said, "but it's a start." The result was a clear law the Department of Justice could enforce.

Senator Aiken's candor and conscience have guided through the treacherous bog of congressional politics some of the most complex legislation of the century, particularly in the agricultural field. Indeed, for 30 years, every agricultural law passed by Congress has borne the Aiken imprint. Anyone you talk to around the Senate gives you the same answer: no man in America has made a larger contribution to the betterment of American rural life than George Aiken.

Senator Aiken's voting—now with the conservatives, now with the liberals—has puzzled many people over the years, including Ralph Nader and his associates, in their recent survey of Congress. Other representatives and senators are perennially concerned with re-election, Mr. Nader noted, but not Senator Aiken.

Finally, the researchers had to admit that Senator Aiken did not fit the round holes or the square holes of their pattern; they concluded that Senator Aiken was successful in walking a path between isolationism and interventionism in foreign affairs and a lonely independent road in national affairs, and that Vermonters seem to be quite satisfied with Senator Aiken's understanding and representation of their interests. In that regard, Senator Aiken is like independent Vermont. He chooses his issues, as he chooses his friends, for the solidity.

NEW PRESIDENT RECEIVES HELP

Harry S. Truman, another small-town boy, was one of Senator Aiken's close friends when both were in Washington. Senator Aiken used to breakfast with Mr. Truman as he does now with Senator Mansfield. The two had a breakfast date on that spring morning in 1945 when the death of Franklin D. Roosevelt catapulted the stunned Vice-President into the leadership of the nation. Mr. Truman could not keep the date, but called Senator Aiken to the White House and poured out his woes.

President Roosevelt, in the American tradition, had kept Vice-President Truman waiting in the wings in virtual ignorance of governmental affairs. Mr. Truman had not attended Cabinet meetings and the President never discussed affairs of state with him. Now he faced decisions that would affect the whole world. What was he to do? he asked.

Senator Aiken told President Truman to call in Col. Ernest Gibson of Army G–2, who had just returned from the South Pacific. Colonel Gibson thought it vital that the new President receive a crash course of briefings. The Pentagon objected, insisting that it would take time to prepare the material.

Senator Aiken, still at the White House, got on the phone to the Pentagon and arranged a meeting between President Truman, Colonel Gibson, and Gen. Carter Clark, then second in command of G–2. The briefing program began that night, and the President never faltered. Nor did the Aiken-Truman friendship, even in the dark days of the 80th Congress which fought the President on nearly every issue.

Since the Truman days Senator Aiken has been a friend and counselor to every president. Dwight D. Eisenhower asked his advice frequently, and so did John F. Kennedy, whose respect for Senator Aiken dated back to the days when they were both members of the Senate's New England bloc. Lyndon B. Johnson sought Aiken support but seldom took his advice.

When Richard M. Nixon came to the presidency, Senator Aiken felt excluded by the tight staff ring around the President. Then, last year came a crisis in foreign affairs. President Nixon had just returned from his successful China trip when the Vietnam war blew sky high.

A summit visit to Moscow in search of peace was already scheduled and publicized, but in May the Soviets began issuing a bitter stream of propaganda against the bombings of North Vietnam, including veiled threats of Soviet counter-measures.

The President called congressional leaders to brief them on his plans for the trip. Some newspapers had suggested the trip would be canceled. After the meeting Mr. Nixon turned sharply to Senator Aiken, eyes searching. "What shall I do, George?" he asked. "Shall I go to Moscow?"

Senator Aiken looked up in his mild way and smiled.

"Aiyup," he said.

The answer, brief and to the point, was typical of Senator Aiken. He had not wasted a word, but as it turned out he was quite right. The independent Senator from Vermont has that habit.

ORDER OF BUSINESS—SUBMISSION OF AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against the time of the distinguished Senator from Illinois (Mr. STEVENSON.)

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STEVENSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Illinois is recognized at this time under the previous order.

(The remarks Senator STEVENSON made on the submission of amendments to S. 372, the Federal Elections Campaign Act Amendments of 1937, and the ensuing discussion are printed in the transaction of morning business section of the RECORD under submission of amendments.)

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that we now have a period for the transaction of routine morning business, with statements limited therein to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PROXMIRE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following any orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAYH, from the Committee on Appropriations, with amendments:

H.R. 8658. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93-321).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 3630. An act to extend for 3 years the period during which certain dyeing and tanning materials may be imported free of duty (Rept. No. 93-322).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Charles S. Whitehouse, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Laos;

Richard E. Pedersen, of California, to be Ambassador Extraordinary and Plenipotentiary to Hungary;

Robert C. Brewster, of Nebraska, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Ecuador;

Robert A. Hurwitch, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Dominican Republic;

Ronal I. Spiers, of Vermont, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Commonwealth of the Bahamas;

William N. Dale, of New Mexico, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Central African Republic;

William Perry Stedman, Jr., of Maryland, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Bolivia; and

Hal F. Reynolds, of Virginia, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development.

(The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominee's commitment to appear and testify before any duly constituted committee of the Senate.)

Mr. ROBERT C. BYRD. Mr. President, as in executive session, on behalf of the distinguished Senator from Washington (Mr. MAGNUSON) I report favorably sundry nominations in the National Oceanic and Atmospheric Administration which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they may lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Walter S. Simmons, and sundry other persons, for permanent appointment in the National Oceanic and Atmospheric Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BIBLE (for himself and Mr. CANNON):

S. 2192. A bill to declare that the United States holds in trust for the Reno-Sparks Indian Colony certain lands in Washoe County, Nev. Referred to the Committee on Interior and Insular Affairs.

By Mr. FULBRIGHT (by request):

S. 2193. A bill to provide for increased participation by the United States in the Asian Development Bank. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIBLE (for himself and Mr. CANNON):

S. 2192. A bill to declare that the United States holds in trust for the Reno-Sparks Indian Colony certain lands in Washoe County, Nev. Referred to the Committee on Interior and Insular Affairs.

Mr. BIBLE. Mr. President, for myself, and my colleague from Nevada (Mr. CANNON), I introduce, for appropriate reference, a bill to declare that the United States shall hold in trust for the Reno-Sparks Indian Colony certain lands in Washoe County, Nev.

This bill, Mr. President, is introduced in an effort to provide improved living conditions and a better community life for the Reno-Sparks Colony. It would add to the colony a 480-acre tract of land currently in the public domain situated near the former Stead Air Force Base. The selected lands are vacant and unappropriated public lands. The only improvements is a drift fence installed by the Bureau of Land Management.

Mr. President, the Reno-Sparks Colony badly needs all the assistance it can get in solving mounting problems of crowding and worsening living conditions. The area surrounding the colony was once a rural farming section, but has now become urbanized and was lately zoned for intense industrial development. These changes, coupled with a growing Indian residential population, have resulted in serious housing, health, and economic problems. Last April the colony was designated as a redevelopment area eligible for assistance under the Public Works and Economic Development Act of 1965. But legislative action is needed to provide additional land to relieve the present overcrowding and to permit the establishment of recreation areas. A portion of the 480-acre tract covered by this bill would also be suitable for light industrial use, and would enable the Colony Indians to expand their economic base.

Plans for the future include the formation of a tribal development corporation owned by the colony members. With income derived from expanded properties, such a corporation could provide services now paid for with public funds. The ultimate goal is a land and economic base that will not only afford decent living and working conditions for the colony but enable its residents to form an active community that is largely self-supporting.

This legislation was introduced in the 92d Congress, but was not acted on. It is overdue and I hope affirmative action will be taken expeditiously in this Congress.

I ask unanimous consent that a January 26, 1970, resolution of the Reno-Sparks Tribal Council in support of the legislation be printed in the RECORD following this statement.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION—RENO-SPARKS TRIBAL COUNCIL

Whereas, the Reno-Sparks Tribal Council has undertaken a study of the present and future prospects concerning the welfare of the residents of the Reno-Sparks Indian Colony and the economic development of the said colony, we take note of the following:

The Reno-Sparks Indian Colony had its genesis in certain acts of Congress which original intent was to provide homes and farm sites for Washoe and homeless Nevada Indians, with adequate water rights. In providing for the purchase of lands which make up the Reno-Sparks Colony, Congress originaly contemplated a resident population of 150 people. This legislation was enacted in 1917. At the time this legislation was passed the area which makes up the Reno-Sparks Colony was on the outskirts of Reno. Under the circumstances which then existed, it was reasonable for Congress to envison a farming community of perhaps 150–200 people occupying the land. However, as most urban and semi-urban areas of the nation have grown and expanded outward to encompass what may have originally been the outskirts of a town or city, the city of Reno has expanded outward, and what was originally a farming area is now the center of industrial growth of Reno and Sparks. Presently the colony is used as residential property by some 600 residents. Even though the property is used as a residential area, it is not located in the residential areas of either Reno or Sparks.

The area surrounding the colony has been zoned by the Washoe County Regional Planning Commission as industrial and is rapidly becoming the industrial area of Reno and Sparks. Located directly east of the colony is a large sand and gravel operation, to the west a number of service industries border on Kietzke Lane, which is becoming the primary area for automobile sale outlets. Further to the west a number of industries are developing, including warehousing and electronics. The overall present growth pattern of the Reno-Sparks area when considered in conjunction with the zoning regulations applicable to the area surrounding the colony and its present population lead inevitably to the conclusion that there is no prospect in the present area for expansion and development of the colony as a residential area.

Among the problems which face the present residents of the colony are as follows: Population density, health, housing, community development and economic development.

As indicated above there are presently 600 residents occupying an area originally intended to serve the needs of some 150 to 200 people. According to statistics in the Overall Economic Development plan of March 1969, the comparison of population density prepared in 1967 indicates a population per square mile of 11,921 for the colony as compared with 6,410 per square mile for the rest of Reno.

Many of the health problems confronting the colony are indirectly caused by the population density and its effects on living conditions. As an illustration, in June of 1969, the colony was faced with an outbreak of hepatitis, which reached epidemic proportions. The disease spread and many more people were infected than would have been because there are 600 people occupying an area originally intended for 150 people.

Housing conditions in the colony are substandard. Although there is presently a mutual self-help housing program which will provide 20 additional units, the program originally contemplated 50 units, but the balance of 30 units cannot be built because of lack of available space. This lack of land area forces many families to double and triple up in houses which were originally intended for one family. Further, the statistics gathered in 1967 for the Overall Economic Development Plan indicates that there are 36 houses which are either unfit for occupancy or are considered to be in poor condition as housing facilities.

The prospects for community and economic development are affected by the nature of the surrounding area. As indicated above the growth pattern of the neighboring properties effectively precludes orderly community development of the colony as a residential area. Because of the limited land area, and the fact the colony is presently used as a residential area, there is virtually no prospect for orderly economic and industrial development.

After a consideration of the foregoing the Reno-Sparks Tribal Council took under advisement, the possibility of acquiring additional unused federal land in close proximity to Reno. Following a review of 18 possible locations, the members of the tribal council and other residents, chose an area in the vicinity of Stead, approximately 6 miles north of Reno. The area comprises 480 acres and is located at township 21 north range 18 east of the Mount Diablo Meridian, the south half of section 10 and the northeast quarter of section 28. The land would be held in trust by the United States of America for the benefit of the Reno-Sparks Indian Colony.

The advantages of such action to the peoples of the Reno-Sparks Colony would be numerous and would have effects as to the following areas; population density, health, housing, the return to the colony of those Indians who have been unable to secure homesites at the present location and Indian self-determination with regard to economic and community development.

As mentioned previously, the present site of the colony is wholly inadequate to meet present population demands. In the Overall Economic Development Plan of 1969, the figures for population by age as of 1967 indicates that 51% of the present population is comprised of people under age 21. Based on these figures, the projected population for 1975 by conservative estimate will be 1100. This will mean a population density per square mile at the colony equal to that of New York City at present. With the addition of the land at Stead, 320 acres is proposed for use for both residential and recreational purposes. Of this, 200 acres would be utilized for residential homesites, which would mean in effect, a population density based on present growth rates of 3300 persons per square mile. The balance of 120 acres, while rough and mountainous, with proper planning could be used for community recreational purposes. The above figures do not take into account those Indians who at present are living off the colony due to unavailable land for assignment purposes. There are many people who have made application for assignment of land in the present colony, but have been refused by the tribal council because there simply is not enough land to fulfill all the requests.

The land at Stead would provide homesites for those people who are presently forced to live off the colony because of lack of available land, as well as alleviating the situation which now exists where two and three and sometimes as many as four or five families are living on one assignment. The return of those Indians now forced to live off the colony would help strengthen the bonds of the overall community for the preservation of family ties and cultural values.

With the acquisition of land at Stead, much would be accomplished in the areas of health and safety. As indicated above, the overcrowded living conditions at the present colony site pose a definite threat to the health of the inhabitants. The proposed site would eliminate the overcrowding, thus removing the main factor which contributes to the spread of communicable diseases at the colony. The zoning of the present area supports industrial development, and it is obvious that the area is becoming increasingly congested with heavy trucking and commercial traffic. With over 20% of the present population age 10 or under, there is a real safety hazard involved with children crossing streets and playing on industrial sites during both working and nonworking hours. The land at Stead would provide an environment which would be far more conducive to the health and safety of the members of the Reno-Sparks Colony.

Of the proposed 480 acres it is envisioned that a parcel of 160 acres, which is located two (2) miles south of the 320 acre residential area, would be used for industrial development. As mentioned previously the present colony site provides no opportunity for industrial development. When the land at Stead is acquired, the present colony site would be used for industrial development. Thus, the people of the Reno-Sparks Colony would have a substantial base with which they would establish a source of tribal income. What is imagined in the near future is a Tribal Development Corporation owned by the members of the colony which, with income derived from the use of these properties, would provide services and facilities now paid for with public funds.

At the present time 17.6% of the labor force at the colony is unemployed, this is three times unemployment rate of Washoe County. One of the basic objectives of economic development would be to eliminate much of this unemployment, thereby reducing the dependence on welfare as means of support. The industrial development would be keyed toward providing jobs for Indian people. This could be arranged through leases to corporations who would draw in the labor market of the nearby Indian community at Stead. Financing for these industries is available through the Economic Planning Unit of the Inter-Tribal Council. Therefore, the people of the Reno-Sparks Colony consider the opportunity presented by acquisition of the land at Stead a monumental step toward long range goals of Indian economic self-determination.

After a careful consideration of all the foregoing points the Tribal Council feels that it is imperative that the land at Stead be acquired to secure the present welfare and future potential for all the residents of Reno-Sparks Colony.

Therefore, be it hereby resolved, that all right, title, and interest in the following vacant and unappropriated public domain land located in Washoe County, Nevada, to wit; south one-half section 10 and northeast one-quarter section 28 in township 21 north, range 19 east, of the Mount Diable Meridean, be declared by the Congress of the United States of America, to be held in trust for the benefit of the members of the Reno-Sparks Indian Colony.

By Mr. FULBRIGHT (by request):

S. 2193. A bill to provide for increased participation by the United States in the Asian Development Bank. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to provide for increased participation by the United States in the Asian Development Bank.

The bill has been requested by the Secretary of the Treasury and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Secretary of the Treasury to the President of the Senate dated July 10, 1973.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the Asian Development Bank Act, as amended (22 U.S.C. 285–285p), is further amended by adding at the end thereof the following new section:

"SEC. 20. (a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to 30,000 additional shares of the capital stock of the Bank in accordance with and subject to the terms and conditions of Resolution No. 46 adopted by the Bank's Board of Governors on November 30, 1971."

"(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated without fiscal year limitation $361,904,726 for payment by the Secretary of the Treasury."

THE SECRETARY OF THE TREASURY,
Washington, D.C., July 10, 1973.
Hon. SPIRO T. AGNEW,
President of Senate,
Washington D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill "To provide for increased participation by the United States in the Asian Development Bank."

The proposed legislation would authorize the United States Governor of the Asian Development Bank to subscribe on behalf of the United States to 30,000 additional shares of the capital stock of the Bank in accordance with the ordinary capital replenishment resolution which was adopted by the Bank's Board of Governors on November 30, 1971. Authorization for an appropriation of $361,904,726 to pay for the increase in the U.S. subscription would also be provided by the legislation.

It is our intent to seek the total appropriation in equal annual installments over a three year period. The first installment has been included in the President's 1974 budget proposals.

The replenishment of the ordinary capital resources of the Bank—the first replenishment since its inception in 1966—provides for an increase of $1,791 million in the authorized capital stock of the Bank. This increase by 150 percent will bring the authorized ordinary capital stock to a new total of $2,986 million. It will permit the Bank's lending operations to grow by 10 per cent *per annum* over the years 1973–1975 without damage to the Bank's liquidity position or over-dependence on borrowing.

The share of the United States in the increased subscription will be less than 20 percent. The cost of the increased United States subscription, assuming approval of the proposed legislation authorizing a change in the par value of the dollar, will amount to $362 million. Of this amount, 80 percent or $290 million will be callable capital and will not involve a budgetary outlay. The remaining 20 percent or $72 million will constitute paid-in capital which is required to be paid over a three-year period. Of the $72 million involved, only $29 million (40%) will be payable in cash while $43 million will be payable in noninterest bearing letters of credit to be drawn down later as needed for disbursement. The required cash outlay resulting from the additional subscription will be substantially less than that relating to the original capital subscription, under which we paid $200 million half in callable and half in "paid-in." Payment for the latter was in the form of equal amounts of cash and letters of credit. This considerable change reflects the fact that the Bank is now recognized as a sound financial institution and can, therefore, readily borrow funds from the private capital markets for its lending operations.

The ordinary capital replenishment became effective in November of last year with the subscription by ADB members, not including the United States, to over 60 percent of the additional shares. As of February 28, 1973, twenty-eight member countries had subscribed to over 113,000 of the authorized 165,000 shares. Indeed, in addition to the United States, only eight countries whose total subscriptions amount to 7,440 shares, have failed to subscribe to the new replenishment.

The failure of the United States to participate in the replenishment has reduced its voting power from 16 percent to 8 percent. As an additional consequence, Japan's voting weight, which had been equal to that of the U.S. at 16 percent under the original scheme of equivalent contributions, rose to 19 percent with the Japanese subscription. The United States is, therefore, currently fourth in voting power behind Japan, India and Australia. The United States must subscribe if it is to regain the voting power it had prior to the coming into effect of the replenishment.

The Bank deserves the active support of the United States. Its record during its five years of lending operations has amply justified the hopes of the founding natiens of Asia, Europe and our own continent. It is a development institution financed to a large degree by the Asians themselves which has used the resources entrusted to it effectively and efficiently in fostering Asian economic development. It has significantly contributed to the economic growth that is so necessary in stabilizing the region. It has loaned $197 million to South Korea, $100 million to the Republic of China, $105 million to the Philippines and $75 million to Thailand.

We can expect the Bank to continue playing an effective role in promoting the economic development of Asia and serving our national objectives. With the cease-fire in Indochina and ADB may be able to have an important part in the reconstruction programs in its member countries of the area—South Vietnam, Cambodia and Laos—in conjunction with the United States and other donor assistance efforts.

I urge the Congress to give the proposed legislation its prompt approval. A Special Report of the National Advisory Council on International Monetary and Financial Policies on the ordinary capital replenishment of the Bank will be transmitted separately to you and to the Speaker of the House of Representatives.

It would be appreciated if you would lay the proposed bill before the Senate. A similar proposal has been sent to the Speaker of the House of Representatives.

The Department has been advised by the Office of Management and Budget that enactment of the proposed legislation would be in accord with the program of the President.

Sincerely yours,
GEORGE P. SHULTZ.

ADDITIONAL COSPONSORS OF BILLS

S. 1098

At the request of Mr. BIBLE, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 1098, to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business.

S. 1769

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Nevada (Mr. BIBLE) was added as a cosponsor of S. 1769, to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes.

SENATE RESOLUTION 143—ORIGINAL RESOLUTION REPORTED ESTABLISHING A LIMITATION ON EXPENDITURES BY THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

(Referred to the Committee on Rules and Administration.)

Mr. McGEE, from the Committee on Post Office and Civil Service, reported the following original resolution:

S. RES. 143

Resolved, That section 2 of Senate Resolution 52, 93d Congress, agreed to February 22, 1973, is amended by inserting immediately before the period at the end thereof a comma and the following: "of which amount not to exceed $5,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended)".

SENATE RESOLUTION 144—SUBMISSION OF A RESOLUTION RELATING TO CONGRESSIONAL PAY RAISE

(Referred to the Committee on Post Office and Civil Service.)

CONGRESSIONAL PAY RAISE

Mr. HANSEN. Mr. President, on Monday, July 9, the Senate passed by a voice vote without debate a bill, S. 1989, to clear the way for an increase in pay this year for Members of Congress, the judiciary, and top-level employees of the executive branch. I am opposed to any such pay increase, and I hope a majority of my colleagues will join with me in working to prevent it.

S. 1989, if approved by the House and signed by the President, would require the President to submit his recommendations with regard to pay raises for the Congress, the judiciary and top levels of the executive to Congress before August 31 of this year. Unless the President's recommendations include a delayed effective date, these raises would take effect in early October of this year. The Congress could prevent the increases from taking effect if either House took specific action to disapprove these increases prior to their effective date.

There are a number of approaches that can be taken to try to prevent this proposed pay raise.

S. 1989 presently is pending before the House Post Office and Civil Service Committee, and I understand it is the subject of hearings today. There is always the possibility the House of Representatives will not agree as quickly and effortlessly as did the Senate to the passage of this bill. However, according to news reports on this issue, the House is expected to approve the measure because members are reluctant to face the pay raise next year—an election year—when, in the absence of S. 1989, the President would be expected to recommend increases under the formula in the existing law governing such matters.

If S. 1989 is approved by the House and sent to the President, the effort could be made to encourage the President to veto the bill. In order to override a Presidential veto, there would have to be a vote on the record, thus enabling the American people to discern where some of their representatives stand on this issue. Or, if the President does sign the bill, he could be urged to recommend zero pay raises for those persons covered by this legislation, or to submit recommendations with a delayed effective date which would be tied to a time when overall economic conditions might warrant increases. I have written the President urging his consideration of these courses in the event the measure is approved by the House of Representatives.

If, in the final analysis, the bill is passed by the House, signed by the President, and the pay increases recommended on June 30 by the Commission on Executive, Legislative, and Judicial Salaries are, in fact, submitted by the President for implementation this year, they can still be prevented from taking effect if either House of the Congress approves a resolution prohibiting the pay raises. I shall introduce such a resolution if events make it appropriate.

Mr. President, Wyoming people have reacted with outrage to views report suggesting congressional pay might be increased this year, and though I have not seen a poll of the overall national public sentiment on this issue, I would suspect the vast majority of citizens everywhere view the prospect with similar feelings.

Watergate aside, the issue that most concerns the American people at this time is the economy. They are unhappy about inflation, about a weakened dollar; they are worried about our economic future; and they are anything but confident about their own economic security as it is affected by national economic policies and trends. The people look to the Congress to exercise good judgment and to seek solutions to our economic problems. They look to Congress, with its responsibility for and control over the national budget, to find ways to cut spending—not increase it. The very last thing the people expect the Congress to do at this point is to permit Members pay to be increased, or to permit pay raises for other top-level Government officials, at a time when the emphasis should be on spending less—not more.

Further, Mr. President, I believe the people are entitled to know where their Representatives in the Congress stand with regard to the question of these proposed pay raises. A citizen should be able to determine whether his Senators and Congressmen are for or against these pay recommendations. I am against them so long as our current economic problems persist, and I suspect a number of my colleagues share the same view. I want the record to show what my position is, and I will vote to deny these increases if circumstances permit.

Mr. President, I am today submitting a "Sense of the Senate" resolution concerning the issue of pay increases for Members of Congress, the judiciary, and top-level employees of the executive branch. If approved, it would express the Senate's view that the President should recommend against these pay increases during fiscal year 1974, and that if the President does recommend such increases, they should be disapproved by the Senate.

I ask unanimous consent that the resolution in its entirety be printed at the conclusion of my remarks, and I invite any of my colleagues who would be so inclined to cosponsor the resolution as a means of making known their position on this issue.

I ask also that the text of my July 17 letter to the President on this subject be printed in the Record.

There being no objection, the resolution and letter were ordered to be printed in the Record, as follows:

S. Res. 144

Resolved, That it is the sense of the Senate that (1) the President should recommend, with respect to his recommendations to be transmitted to Congress during fiscal year 1974 under section 225 of the Federal Salary Act of 1967, that salaries of positions referred to in such section not be increased, and (2) if recommendations are made during fiscal year 1974 for increases in such salaries, those recommendations should be disapproved.

U.S. Senate,
Washington, D.C., July 17, 1973.

Hon. Richard Nixon,
President of the United States,
The White House, Washington, D.C.

Dear Mr. President: It is my intent to make an effort legislatively to prevent pay increases to the executive, legislative and judicial branches of government that would appear to me inordinate and untimely.

The immediate future of the nation's economy at this time, in my opinion, is unclear. I believe it would be unwise and show a poor example for government employees of the higher echelons, elected or appointed, to receive large pay raises.

For example, Members of Congress only five years ago received annual salary increases of more than 41 per cent—from $30,000 to $42,500. To the average American whom we represent, this is a substantial salary, and to increase it further under present economic conditions would damage the national morale and weaken citizen confidence in both the bureaucracy and elected officials.

Therefore, I ask that you consider the several courses of action that presently may be open to you under the law to prevent such increases. I urge you to veto S. 1989, a bill passed by the Senate that would require you to submit salary recommendations to the Congress prior to August 31, 1973, should it pass the House of Representatives. Should you decide not to veto this legislation, I urge that you recommend no increase in salaries for those high-level salaried categories defined in Section 225 of the Federal Salary Act. Should you decide to recommend salary increases, it is my hope that, as the law permits, you will delay the effective date until a time when overall economic conditions might warrant increases.

Knowing of your interest and leadership in efforts to curb inflation, and to reduce federal spending, your support in this matter is earnestly requested.

Kind personal regards,
Sincerely yours,
Clifford P. Hansen,
U.S. Senator.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 123

At the request of Mr. Mondale, the Senator from Delaware (Mr. Biden), the Senator from South Dakota (Mr. Abourezk), the Senator from Iowa (Mr. Clark), the Senator from Minnesota (Mr. Humphrey), the Senator from California (Mr. Cranston), the Senator from Michigan (Mr. Hart), the Senator from Alaska (Mr. Gravel), and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of Senate Resolution 123, to amend the standing rules of the Senate to provide for a question and report period.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENTS

AMENDMENTS NOS. 349 THROUGH 358

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON. Mr. President, we stand amid the aftermath of Watergate, with all its abuses of the democratic process—and on the threshold of another national election. This is an opportune moment for us to act against shoddy campaign practices that undermine our people's faith in their political leaders.

Surely this is the year for us to attack the corruption of campaign financing abuses—and to attack the problem realistically, in a way that will insure the integrity of Government and not more scandals.

We have an opportunity to do so—in the Federal Election Campaign Act Amendments of 1973, S. 372, recently reported by the Rules Committee of the Senate.

Early in June, I submitted a bill, joined by the Senator from Maryland (Mr. Mathias), which promised a strong deterrent against the corrupting power of money in our politics—the Federal Election Finance Act of 1973.

The Rules Committee bill keeps many of the best features of our bill:

It establishes a Federal Elections Commission with power to oversee campaigns for Federal office, to investigate and bring action against violations of law and breaches of good practice.

It sets up a system of strong criminal and civil penalties for violations of elections laws.

It sets limits on the amount that a candidate may spend in his pursuit of Federal office.

Finally, it sets a ceiling on the amount an individual may contribute to a candidate for Federal office.

These are all important and greatly needed reforms—and they represent such progress that none of us should be eager to quibble.

At the same time, however, we cannot afford to be careless about what we write into law; even a good bill can, and should, be better.

In that spirit I am submitting today, again with Senator Mathias, amendments to the Rules Committee bill. They are designed to give additional clarity, force, and meaning to the Rules Committee draft.

They are simple amendments, and I can describe them in brief and simple language:

PRESIDENTIAL CAMPAIGN SPENDING

Existing law places no limits of any sort on campaign spending.

The Rules Committee bill would limit spending by all candidates for Federal office in general elections to 20 cents per eligible voter in each State, respectively. But in the case of Presidential elections, the limit is hardly a limit at all: it would permit Presidential candidates in 1976, for example, to spend more than $60 million each. That is fully $10 million more than was spent last year in the most expensive campaign in history: the campaign to re-elect the President.

Our amendment would prevent such excessive spending by placing lower ceilings on expenditures in Presidential elections: 15 cents per eligible voter in each State.

REPORTING OF LARGE DONATIONS

Existing law requires, in the case of campaign contributions of $100 or more that a report be submitted which includes the donor's name, occupation, and principal business address.

The Rules Committee bill omits the reporting of occupation and principal business address. Reporting would be meaningless without identification of the economic interests the donors represent. So our amendment restores this requirement in the interest of the public's right to know.

CASES OF INSUFFICIENT INFORMATION

This amendment would add a new requirement concerning the handling of contributions of $100 or more. If campagin officials are unable, within 20 days, to obtain after receiving a contribution, sufficient information about the donor for a legal report, the contribution must be returned to its donor. And if not enough information exists within 20 days to permit a return of the donation, it shall revert to the Treasury of the United States.

DISBANDING CAMPAIGN COMMITTEES

Existing law requires that a political campaign committee may disband or dissolve itself at will, simply by notifying the appropriate Federal officials.

The Rules Committee draft has no provision changing this requirement.

Our amendment would require that such a committee notify the Federal Elections Commission of its intent to disband. And in certain cases the committee would be required to delay its dissolution—if it appeared to be in violation of elections laws, tax laws, or in default on campaign debts.

CONVENTION DELEGATES' EXPENSES

Both existing law and the Rules Committee draft are ambiguous on this question: Shall funds raised and spent by a would-be political convention delegate, if he is pledged to a certain candidate, be counted as contributions to that candidate.

Our amendment would make it clear that such funds shall not be counted as contributions to candidates for the purpose of the law.

DEFINIING "A CANDIDATE"

Under existing law, and in the Rules Committee, a candidate is defined as actually becoming a candidate, for purposes of the law, when any of three conditions is met: When he legally files as a candidate; when he raises or spends funds on behalf of his candidacy; when he authorizes someone else to raise or spend funds on his behalf.

Our amendment adds another dimension. It states that a potential officeseeker shall be legally defined as a candidate if he becomes aware that others are raising or spending money on his behalf and does not order his supporters to stop their efforts.

OUTLAWING CASH DONATIONS

Under existing law, a donor may contribute any amount of cash to a political campaign—a fact that literally invites abuse.

The Rules Committee draft would make cash gifts illegal in amounts of $100 or more, and would require that donations of this size be made in a form other than cash.

Our amendment would outlaw not just cash gifts of $100 or more, but those of $25 or more.

REPORTING LATE GIFTS

Existing law requires that gifts of $5,000 and over, if they are received after the legal reporting deadline, shall be reported within 48 hours of their receipt.

The Rules Committee draft would reduce this time requirement from 48 to 24 hours.

Our amendment would affirm that 24-hour limit—and require that not only late gifts of $5,000 and over, but late gifts of $1,500 or over, shall be reported within 24 hours of their receipt.

PARTY COMMITTEES SUBJECT TO THIS LAW

The obligations and requirements outlined in the Rules Committee bill would apply to national and State party committees.

Our amendment would broaden the act's requirements to include county, city, or local party committees which raise or spend over $25,000 in a calendar year, any part of which is used in an election for Federal office.

REPORTING $100 DONATIONS

Existing law requires that for each donation of more than $100 the name, occupation, and principal business address of the donor must be reported. Since many campaign contributions are of exactly $100, our amendment would require such reporting for all donations of $100 or more.

FUTURE AMENDMENTS

There remain several areas of concern in S. 372 which the distinguished Senator from Maryland (Mr. MATHIAS) and I will address with additional amendments. One in particular concerns the amounts which individuals may contribute to political campaigns, and the roll of committees—dummy and otherwise—in political campaign financing.

The law once set some limits on political contributions. But because the law was, in the words of one experienced observer, "more loophole than law," the limits were virtually ignored. And since 1971, there have been no limits on the size of contributions.

In an effort to deal with the skyrocketing and potentially corrupting campaign donations that resulted from this no-holds-barred situation, the Rules Committee has proposed certain limits on contributions: $15,000 to Presidential candidates in any contest: primary, primary runoff or general election; and $5,000 to congressional and senatorial candidates in any contest. This means that a donor could actually contribute up to $45,000 to a Presidential candidate, and up to $15,000 to congressional candidates.

Senator MATHIAS and I are jointly preparing an additional amendment which we believe will be an improvement upon the Rules Committee draft.

Because it is still in progress, and because it represents, in its sweep and complexity, the most important of all the additions we shall suggest for the Federal Election Campaign Amendments of 1973, we have chosen to introduce and discuss this last amendment at a future time.

A few years ago, Mr. President, after he had left the White House and retired to Texas, Lyndon Johnson is said to have reflected on the paradox of his Presidential years: Great reform accompanied by even greater turbulence. "You know," he told a visitor, "reform is like whiskey. The system can take only so much at a time."

I hope his observation is not true of election campaign reform—and I believe it is not. For our danger today is not too much, but too little reform.

I submit that campaign reform legislation, and the amendments I have described, will have, not the staggering effects of whiskey, but the abundant benefits of fresh air. It will purify, refresh, and invigorate our system.

But half-hearted, piecemeal, insufficient reform, like too little air, will leave our system still vulnerable to the diseases of corruption and manipulation and public cynicism. The absence of creative change, like the absence of good, clean air, can most surely weaken, choke and even suffocate the free political system that Lincoln called "the last, best hope of earth."

I commend to the Senate the necessity of campaign reform legislation and the strengthening amendments submitted by Senator MATHIAS and myself.

I send the amendments to the desk for printing, and I ask that they lie at the desk.

The ACTING PRESIDENT pro tempore. The amendments will be received and printed and will lie on the table.

Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for not to exceed 15 minutes.

Mr. MATHIAS. Mr. President, I shall be happy to yield additional time to the Senator from Illinois if he wishes to speak further.

Mr. STEVENSON. I thank the Senator from Maryland; I have completed my speech.

Mr. MATHIAS. Mr. President, I take this opportunity to thank the Senator from Illinois for the leadership he has displayed and to commend the understanding and interest he has exhibited in his investment of time and energy to correct the abuses of our electoral system, abuses which I believe must be corrected. I believe that the correction of these abuses takes the kind of broad and far sighted approach that the Senator from Illinois has demonstrated.

This is not a partisan problem. It is not a problem of factions within parties. It is a problem which is common to the entire American political system. That is the way the Senator from Illinois has approached the question. I thank him for his help and assistance in the whole effort.

In 1971, the Committee on Commerce and the Committee on Rules and Administration reported S. 382, a bill which ultimately became the Federal Election Campaign Act of 1971. The bill made a good many reforms in the electoral system, but I thought at the time that S. 382 could be improved. Accordingly, I offered a number of amendments and was happy when the Senate saw fit to adopt 13 of them. As finally passed, the bill was a major step toward reform of our electoral system.

During the past week, the Committee on Rules and Administration reported S. 372, which is another bill that could be a good step toward reform. But, as in the previous case, I think that this effort toward reform can itself be strengthened. So I am happy to join the Senator from Illinois in submitting at this time a number of amendments to S. 372. In submitting them, I should observe that I think the bill is a step in the right direction as it stands. It contains a number of progressive provisions. Some of the features in the bill were proposed earlier this year by the distinguished Senator from Pennsylvania (Mr. SCOTT), the minority leader, and by the Senator from Illinois (Mr. STEVENSON) and myself.

Perhaps the most important of these, is the independent elections commission which would be charged with the primary responsibility for enforcing the Federal Election Campaign Act. Second, there is the requirement that every candidate designate a single central campaign committee. This would greatly simplify the process of collecting reports from candidates and making them available for public scrutiny.

The bill contains a provision which would, as I have proposed, eliminate the equal time requirement on the media for all Federal elections.

The bill proposes limits on contributions to candidates, the amount of permissable cash contributions, and the amount a candidate can spend in his campaign.

After some debate, both within the Senate and within my own heart, I have come to support the concept of these provisions. I know that some good arguments can be made against them, but I believe the final judgment must be in their favor. I do, however, question the levels set in the bill.

In spite of all these excellent provisions, I think that further improvements can be made. To that end, Senator STEVENSON and I are proposing the following amendments:

First. The present law requires the reporting of contributions "in excess of $100." In S. 1094, we proposed that the wording be changed to cover contributions "of $100 or more". As we know, the common unit of contributions for political causes is $100. For instance, there is the $100-a-plate dinner. It would seem logical that a person would be more likely to give a contribution of $100 than $101, and if the objective of the law is to disclose to the public contributions of the $100 level, we are defeating the purpose of the act by keeping to present language.

The bill seems to invite evasions when it says, "You do not get reported unless you give $101." We, therefore, are renewing our proposal in the form of an amendment.

Second. Also in S. 1094, we proposed that the provision in the present law—which requires that any contribution of $5,000 or more made after the final report before the election be reported within 48 hours—be altered to require reports of $2,500 or larger contributions within 24 hours. The committee bill adopts the 24-hour requirement but retains that $5,000 limit. Since an individual's contribution limit under the bill is $5,000, we believe little is gained by retaining that amount here. Our amendment proposes, therefore, requiring the reporting of contributions of $1,500 or more within 24 hours.

Third. A third proposal that I have offered before was to expand the definition of a candidate to include a person for whom money is being collected or spent and who does not ask that such collecting or spending cease. This additional definition will prevent a person for whom funds are raised or spent—with his knowledge, but without his explicit consent—from avoiding the requirements imposed by the law.

Fourth. The bill proposes to place a limit of $100 on cash contributions. We believe that, while the idea is good, the amount can be lower.

We do not want to discourage the average contributor who wants to make an investment in his nation and in the political system out of his own modest resources, but who may not have a checking account or may not want to bother with a check. It seems to me that contributors are unlikely to want to contribute more than $25 at a time. Therefore, we propose a limit of $25 which would be an even stronger bar to the abuse of the use of cash.

Fifth. The present law requires that candidates report the occupation and principal place of business of any contributor who gives more than $100. The bill proposes to delete this requirement. Two of our amendments propose to require this information with any contribution of $100 or more and to further require that if a contribution is received without the requisite information, and such information is not obtained within 20 days, that the contribution shall escheat to the United States.

I know that those who are required to provide the information under present law consider that it is very burdensome to have to call and find out the full name, address, and occupation of the contributor. Such a procedure is burdensome, and there is no doubt about it. But it is a burden which must be borne if we want our political system to be as it should be and if we want to restore confidence in that system. I believe it is simply one of the burdens we have to share. I do not think it should be avoided. We should not return to the practice where you could simply list a contribution and designate the donor as J. Doe, or D. Smith, or K. Jones. Such a procedure is not adequate to satisfy the requirements of our time.

Sixth. The bill sets expenditure limits for campaigns for Presidential Senate-House elections. For a campaign for the Presidency in a general election the bill permits 20 cents per person of voting age, or about $28 million in 1972. Our amendment proposes lowering this limit to 15 cents per person, or about $21 million in 1972.

I think commonsense would indicate this is more than a sufficient amount to run a campaign. The past election, if it demonstrates anything at all, demonstrates the danger that arises not from having to save and scrimp as you go through a campaign, but the availability of excessive amounts of money.

Seventh. The bill would permit the dissolution of a political committee under certain circumstances. Our proposed amendment would require that a committee intending to disband would have to notify the Commission of its intention, and the Commission would have 30 days within which to halt the disbanding if the committee were out of compliance with any provision of the Federal Elections Campaign Act or the Internal Revenue Code. Thus a committee which was not in compliance would be prevented from disappearing as an entity.

The mind offers many reasons why this is a necessary provision. One that immediately occurs is the case of a committee which incurs substantial financial liabilities and then simply dissolves itself leaving the liabilities in existence with a creditor who did not want to be a donor but was willing to allow the credits to be extended, fully understanding there was little chance they would be repaid. Such a case shows a loophole in the committee bill through which a campaign could be financed. By preventing the disbanding of a committee unless it is in full compliance, I think we close that loophole.

Eighth. The requirements contained in the bill would apply to national and State party committees. Our amendment would broaden the bill's coverage to include county, city or local party committees which raise or spend over $25,000 in a calendar year, any part of which is used in an election for Federal office. This would insure that all committees which attempt to influence Federal elections would be covered by the bill.

Ninth. Finally, we propose an amendment which states that expenditures by candidates for delegate to a national party nominating convention would not be counted as contributions to or expenditures by the candidate for the Presidential nomination to whom the candidate for delegate is pledged unless the money comes from the candidate or his agents or they advise on how the money is to be spent. We have seen many instances in recent Presidential races where many people pledged to the same candidate competed against each other for delegate slots.

I do not believe that it is fair for us to charge the expenditures of those who are really running for the honor of being delegates to national conventions to the candidates that they would ultimately support if they were to become members of that convention. It seems to me, as a matter of equity, that they are really competing in a different contest and that the expenditures should not be charged to the principal candidate who may be competing within the convention once elected.

So, Mr. President, these are some suggestions which we offer.

I think we are all in the debt of the Committee on Rules and Administration and the Committee on Commerce. We are in the debt of those who have worked with these committees to improve the election laws so that the climate within which the political system works will merit a new sense of confidence. We offer these amendments with the hope that they will further improve the recommendations of the Committee on Rules and Administration.

Mr. STEVENSON. Mr. President, I wish to commend the Senator from Maryland. He has demonstrated once again his keen awareness of just how fragile are the threads of decency and trust from which our public institutions are suspended. He brings to this extremely complex and important bill an unusual blend of practicality and idealism, and I am very pleased to join with him in introducing these 10 amendments. In doing so, I think it demonstrates once again that the concern for reform and for the integrity of our political system knows no political party.

Mr. President, I ask unanimous consent to have the amendments printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 349

On page 13, strike everything on line 15.

On page 13, following line 19, insert the following:

"(4) any county, city or local committee of a political party which collects, receives, or expends $25,000 or more in a calendar year, any portion of which is directly or indirectly allocable to an election for Federal office;".

On page 13, line 19, strike everything after "Code;" and insert the following in lieu thereof: "and".

AMENDMENT No. 350

On page 15, line 16, strike "and" and insert in lieu thereof the following: "*Provided*, That with respect to individuals making contributions of $100 or more to any candidate or political committee in any calendar year, 'identification' shall include the occupation and principal place of business, if any, of such individual; and".

AMENDMENT No. 351

On page 16, following line 18, insert the following:

(c) Section 302 of such Act is amended by adding at the end thereof the following new subsection:

"( ) In each case where a contribution of $100 or over is received by a candidate or political committee, and identification required by this Act is not known, the campaign contribution shall be returned to the contributor if the required information has not been obtained within 20 days after receipt of the contribution. If sufficient information is still not known concerning the source of the contribution to permit its return within 20 days after receipt of the contribution, the contribution and its proceeds shall escheat to the United States."

AMENDMENT No. 352

On page 19, following line 2, insert the following:

"(e) Subsection (e) of such section (as redesignated by subsection (a) of this section) is amended to read as follows:

'(e) The filing of a statement of organization required by this section is permanent and establishes the continuing obligation of a covered political committee to file reports under this title unless—

'(1) after filing one or more statements of organization the committee disbands, dissolves, or otherwise terminates its operations and notifies the Commission of its intention to terminate its operations in a manner prescribed by regulation: *Provided*, That no committee which is out of compliance with any provision of this title or with any provision of the Internal Revenue Code or which has outstanding debts or obligations shall be permitted to disband or terminate without the express written consent of the Commission: *Provided further*, That the Commission shall act on notices of intention to terminate not later than 30 days after receipt of such notices; or

'(2) the committee determines that it will no longer receive contributions or make expenditures during any calendar year in an aggregate amount exceeding $1,000 and so notifies the Commission.'"

On page 19, line 3, change "(e)" to "(f)".

AMENDMENT No. 353

On page 19, line 21, strike the numeral and insert in lieu thereof "$1500".

AMENDMENT No. 354

On page 52, following line 18, insert the following:

"Amounts contributed to and expended by any candidate for delegate to a national nominating convention or a State convention or caucus which select delegates to a national nominating convention shall not be counted as contributions to or expenditures by a candidate for his party's Presidential nomination to whom the prospective delegate is pledged, bound or otherwise committed unless the amounts contributed to or expended by the prospective delegate are made by or at the request or suggestion of the candidate, his agents, or political committees operating in his behalf, or in cooperation with them."

AMENDMENT No. 355

Strike everything from line 19 on page 52 through line 10 on page 53 and insert in lieu thereof the following:

"(2) No candidate for election to the office of President may make expenditures in any State in connection with his campaign for election to such office in excess of 75 per centum the amount which a candidate for election to the office of Senator (or to the office of Delegate, in the case of the District of Columbia) might expend within the State in connection with his campaign for election to the office of Senator (or Delegate)."

AMENDMENT No. 356

On page 16, after line 18, insert the following new subsection:

"(3) Section 302 (d) of such Act (relating to preservation of receipts) is amended by—

(a) striking out 'in excess of $100 in amount' and inserting 'of $100 or more'; and

(b) inserting 'equals or' before 'exceeds'."

On page 21, after line 3, insert the following new subsection:

"(2) Subsection (b) of such section 304 is further amended by striking out 'in excess of $100' each place it appears and inserting 'of $100 or more'."

and redesignate subsequent subsections accordingly.

(3) On page 23, line 1, strike "in excess of $100" and insert "of $100 or more."

(4) On page 44, after line 4, insert the following new subsection:

"(D) striking out 'in excess of $100' in paragraph (7) and inserting '$100 or more'."

AMENDMENT No. 357

In section 4(a), after subsection (1), insert the following new subsection:

"(2) at the end of paragraph (b) strike ';' and insert 'or (3) has knowledge or information that any other person or political committee has received contributions or made expenditures for the purpose of bringing about his nomination for election, or election, to such an office and has not notified that person or political committee in writing to cease receiving such contributions or making such expenditures.'"

and redesignate the subsequent subsections accordingly.

AMENDMENT No. 358

On page 59, line 17, strike "$100" and insert "$25".

AMENDMENTS OF FAIR LABOR STANDARDS ACT OF 1938—AMENDMENTS

AMENDMENT NO. 359

(Ordered to be printed, and to lie on the table.)

Mr. CANNON. Mr. President, I send to the desk for myself and Senator BIBLE, an amendment to S. 1861, a bill to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

S. 1861 retains the student certificates provisions of the FLSA and it would also expand the student certificate program to include full-time students employed part-time by their educational institutions and those employed full-time during school vacations by such institutions. This bill would require educational institutions to obtain certificates from the Labor Department in order to employ their own students at 85 percent of the applicable minimum wage.

My amendment would drop the requirement that certificates be obtained from the Labor Department in order for educational institutions to employ their full-time students on a part-time basis at 85 percent of the applicable minimum wage.

While I realize that the purpose of the student certification is to prevent a substantial probability of reducing employment opportunities for other workers, I do not feel that this procedure should be required by schools who provide part-time jobs for their own students. Evidently the House of Representatives is in agreement with me on this point as the minimum wage bill passed by the House earlier last month provided for a similar certificate exemption for educational institutions.

AMENDMENT NO. 360

(Ordered to be printed, and to lie on the table.)

Mr. SCOTT of Virginia submitted amendments, intended to be proposed by him, to the amendment No. 336, proposed by Mr. Buckley to Senate bill 1861, supra.

AMENDMENT NO. 367

(Ordered to be printed, and to lie on the table.)

Mr. McGOVERN submitted an amendment, intended to be proposed by him, to Senate bill 1861, supra.

USE OF THE ARMED FORCES IN THE ABSENCE OF A DECLARATION OF WAR BY CONGRESS—AMENDMENTS

AMENDMENT NO. 361

(Ordered to be printed, and to lie on the table.)

Mr. FULBRIGHT submitted amendments, intended to be proposed by him, to the bill (S. 440) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

AMENDMENTS NOS. 364 THROUGH 366

(Ordered to be printed, and to lie on the table.)

Mr. EAGLETON submitted three amendments, intended to be proposed by him, to Senate bill 440, supra.

AMENDMENT NO. 368

(Ordered to be printed, and to lie on the table.)

Mr. GRIFFIN submitted an amendment, intended to be proposed by him, to Senate bill 440, supra.

AMENDMENT OF TRUTH IN LENDING ACT—AMENDMENTS

AMENDMENTS NOS. 362 AND 363

(Ordered to be printed, and to lie on the table.)

Mr. PROXMIRE submitted two amendments, intended to be proposed by him, to the bill (S. 2101) to amend the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices and for other purposes.

ADDITIONAL COSPONSORS OF AN AMENDMENT

AMENDMENT NO. 252 TO S. 1861

At the request of Mr. Tower, the Senator from North Carolina (Mr. Helms), and the Senator from South Carolina (Mr. Thurmond) were added as cosponsors of amendment No. 252, to the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

ANNOUNCEMENT OF FIELD HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION, SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE

Mr. BIBLE. Mr. President, I wish to announce for the information of the Senate and the public that open public hearings have been scheduled by the Subcommittee on Parks and Recreation at 10 a.m. on July 24, in room 3110, Dirksen Senate Office Building, on the following bills:

S. 333, to establish the Spessard L. Holland National Seashore in the State of Florida, and for other purposes.

S. 1372, to establish the Spessard L. Holland National Seashore in the State of Florida, and for other purposes.

S. 1818, authorizing certain members of the Armed Forces of the United States who were captured and held by an enemy force during the Vietnam conflict to enter, without charge, certain designated units of the National Park System and national recreation areas.

S. 988, to designate certain lands in the Shenandoah National Park, Va., as wilderness.

ANNOUNCEMENT OF FIELD HEARING ON "BARRIERS TO HEALTH CARE FOR OLDER AMERICANS"

Mr. CHURCH. Mr. President, the Subcommittee on Health of the Elderly, U.S. Senate Special Committee on Aging, has conducted hearings in Washington, D.C., and in the field during the past few months on the subject of "Barriers to Health Care for Older Americans." As chairman of the full committee—and after consultation with the subcommittee chairman, Senator Edmund Muskie—I would like to announce that these hearings will continue on at 10 a.m. on August 4 at the gymnasium of the North Idaho College, Coeur D'Alene, Idaho.

NOTICE OF HEARINGS ON VARIOUS PRAYER AMENDMENTS

Mr. BAYH. The Subcommittee on Constitutional Amendments is scheduling hearings on the various prayer amendments which have been introduced in the 93d Congress. These hearings will be held on Friday, July 27, in room 2228, Dirksen Office Building, beginning at 9:30 a.m.

The proposed amendments to be considered at these hearings are Senate Joint Resolution 7, Senate Joint Resolution 10, Senate Joint Resolution 15, Senate Joint Resolution 57, Senate Joint Resolution 84, Senate Joint Resolution 89, and Senate Joint Resolution 122. Although there is some variation in the specific language of these amendments, their common purpose is to amend the Constitution to permit voluntary prayer or meditation in public buildings.

Persons wishing to testify or submit statements and other supplementary material for inclusion in the hearing record should contact J. William Heckman, chief counsel for the subcommittee, at 225-3018, as soon as possible.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Walter J. Link, of North Dakota, to be U.S. Marshal for the District of North Dakota for the term of 4 years, reappointment.

Donald J. Stohr, of Missouri, to be U.S. Attorney for the Eastern District of Missouri, for the term of 4 years, vice Daniel Bartlett, Jr., resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, July 24, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intentiton to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

DÉTENTE, CULTURE AND HUMAN RIGHTS

Mr. JACKSON. Mr. President, today, when East-West negotiations are going forward in a variety of areas, it is vital that we have the deepest possible understanding of the Soviet view of détente and peaceful coexistence. It is equally important that we insure that these negotiations move ahead in accordance with the principle of reciprocal advantage. If détente is to last it must be a two-way proposition which serves the interests of both sides—it will have to be based on true reciprocity, not on a series of unequal bargains.

In particular, I believe the U.S. Government should be taking much stronger initiatives in the area of culture and human rights. Without freer movement of people and ideas across national frontiers, there can be no genuine détente; there can be no real progress toward peace. What we need is a real détente between peoples, not some formulas between governments for capitulation on the issue of human rights.

In this connection, the Permanent Investigations Subcommittee, which I chair, received highly significant testimony last week from Mr. Leopold Labedz, a distinguished British interpreter of international affairs and editor of Survey, the internationally known journal of East and West studies. This testimony was given in the subcommittee's ongoing study on negotiation and statecraft.

I believe my colleagues will find Mr. Labedz' formal statement before the subcommittee of unusual importance in clarifying significant issues in East-West relations.

I ask unanimous consent that Mr. Labedz' statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

DÉTENTE, CULTURE, AND HUMAN RIGHTS

(By Leopold Labedz)

A TENDENCY FOR WISHFUL THINKING IN THE WEST

In his television address to the American public Mr. Brezhnev said that he is convinced that the agreements he signed "will be unanimously approved in the US, as they undoubtedly will in the Soviet Union, and hailed throughout the world." On the middle point he could not be more correct. His conviction must have been confirmed in this respect when, on the previous day, *Pravda* (23 June 1973) reported the results of the local elections in the Soviet Union and Mr. Brezhnev learned that 99.96 of those entitled to vote supported the party of which he is the leader. *Pravda* called it "a striking illustration of the consistently democratic character of the Soviet state," *Izvestiya*—"a triumph of socialist democracy". Mr. Brezhnev no doubt felt relieved: in the circumstances it is indeed unlikely that his American achievements will not be unanimously approved in the Soviet Union.

His other two points may be less well-founded. How can there be unanimity outside the Soviet Union on such a sensitive subject? There never has been and there isn't now. Yet *detente* encourages hopes and summitry reinforces them. As a result there is a tendency for wishful thinking: a sober approach to Soviet political initiatives is lost in the general euphoria over diplomatic incantations about "peace, good will and mutual understanding." Many Western press reactions indicated a preference for taking the ostensible significance of Mr. Brezhnev's public declarations for granted rather than for looking closely at his political aims.

Newsweek (2 July 1973) wrote editorially: "Though they are still rivals, the US and Russia have bound themselves so closely in a network of common interest that cooperation has become as natural today as confrontation was in the past." This *obiter dictum* was not accompanied by any attempt to explain the reasons for such a change in Soviet policy or to critically assess how genuine it is. But, ironically, in the same issue of *Newsweek* the Senior Editor, Arnaud de Borchgrave wrote:

"Only a few experts know or care that Soviet Party chief Leonid Brezhnev won his arguments for a 'new look' foreign policy by convincing his colleagues that it would be the most effective way to break up NATO and neutralize Western Europe. While Moscow has made an important shift in tactics, policy planners say the goals the Kremlin has pursued since the early 1950s are unchanged.

"For practical purposes, Moscow has achieved two of its four main geopolitical objectives: conventional military superiority in Europe over the US and its allies, and recognition of Moscow's hold on Eastern Europe. Next on the Kremlin hit parade is the withdrawal of US forces from Europe and the collapse of NATO. This, in the Kremlin scenario, is to come about as a result of internal pressures in the United States and growing European doubts about American reliability."

If this is the case what is the political basis of the "common interest" between the US and Russia which *Newsweek* discovered as the reason for the transformation of "confrontation" into "natural cooperation" between them?

An original proof of the sincerity of Mr. Brezhnev's assurances that *detente* is irreversible was provided by the Washington correspondent of the London *Observer* (24 June 1973). Quoting Mr. Brezhnev's toast speech made at the gala dinner at the Soviet Embassy in Washington, he commented:

"Given the importance of the formal toast in Soviet usage these could not be idle remarks. Mr. Brezhnev seemed rather to be trying to convince his domestic constituency as well as Americans and international audiences that he would personally defend his policy of ending the Cold War as consistent with the principles of the Russian Revolution."

The official toast has of course no more significance in Soviet usage than other paraphernalia of the official diplomatic game: Stalin even toasted *Der Fuhrer* after the conclusion of the Soviet-Nazi Pact in 1939 in Moscow. What is significant about the *Observer* correspondent's argument is not the piece of anthropological fiction he believes, but the fact that it so well illustrates the more general tendency to take Soviet diplomatic pronouncements at face value. Historical evidence suggests that they should be seen as instruments of wider political strategy and assessed in the light of the contemporary political situation as the Soviet leaders see it.

SOVIET VERSION OF PEACEFUL COEXISTENCE AND DÉTENTE

Is there any reason to believe that a qualitative change has occurred in the political perception and attitudes of the Soviet leaders? Their present interpretation of the "principles of peaceful coexistence" is not fundamentally different from their past interpretation of it. Only such a change would indicate that the present *detente* is not just a breathing space for the Soviet Union, an interval to prepare a further shift in its favour, but the acceptance of a permanent *modus vivendi* on the basis of the *status quo*. Mr. Brezhnev's "offensive of smiles" and the official declarations kindled the hope that such "a new era of cooperation" has actually arrived. But the Soviet leaders continue to speak "with two tongues." They continue at the same time to stress that "the policy of peaceful coexistence in its Leninist understanding signifies neither the preservation of the social or political *status quo*, nor the moderation of the ideological struggle. In fact, it has facilitated and facilitates the development of the class struggle against imperialism inside individual countries as well as on a world scale . . ." [1]

Mr. Brezhnev who in his American television broadcast declared that "mankind has outgrown the rigid 'cold war' armour", previously explained, almost candidly, the tactical motives of *detente* policy in a speech to the Conference of the European Communist Parties in Karlovy Vary on 24 April 1967:

"Experience teaches in particular that the 'cold war' and the confrontation of military blocs, the atmosphere of military threats, seriously hampers the activity of revolutionary, democratic forces. In conditions of international tension in bourgeois countries the reactionary elements become active, the military raise their heads, anti-democratic tendencies and anti-Communism are strengthened. And conversely, the past few years have shown quite clearly that in conditions of slackened international tension the pointer of the political barometer moves left."

Not that Mr. Brezhnev has many illusions about the limits and the temporary nature of *detente*; ultimately he relies on the growing power of the Soviet Union:

"Imperialism, which has reached its highest stage, has become more reactionary and aggressive. And we cannot fail to consider the fact that imperialism still possesses great strength. . . . Therefore, the process of the class struggle in the international arena continues. In the course of this process there are periods of intensification and periods of abatement. . . . At the present time no question of any importance in the world can be solved without our participation, without taking into account our economic and military might." [2]

After the 1972 Moscow agreement on "The Basic Principles of Relations between the United States and the USSR" the Soviet press explained:

"The strategic course of US policy is now changing before our very eyes from 'Pax Americana'—the Americanized formula of world domination—to a definite form of necessity for peaceful coexistence. But we must clearly understand that it is a forced change and that it is the actual power—social, economic and, ultimately, military power of the Soviet Union and other socialist countries—that compels the American ruling circles to make an agonizing reappraisal . . ." [3]

It is not surprising that when Mr. Brezhnev was faced with a direct question during his Washington visit—"how he reconciled the [Soviet military] build-up with his 'peace policy', he laughed it all off as being an aberration of intelligence services of the North Atlantic Treaty Organization." (US News & World Report, 2 July 1973). But the NATO report to the Defence Ministers who gathered in Brussels on 7 June made it clear beyond doubt that the Warsaw Pact is substantially more powerful than it was at the time of the invasion of Czechoslovakia and its strength is growing on the land, in the air and on the sea. At the same time, several NATO countries shortened military service considerably (in Denmark it is now six months, but in the Soviet Union it is still two years). The disparity in conventional arms, already large, is likely to increase and the abandonment of the word "balanced" in the M(B)FR talks does not exactly improve the chances of European security.

In the present phase of *détente* the Soviet leaders' stress is on the consolidation of Soviet gains. At the 24th Party Congress they said that the immediate task is to achieve "the final recognition of the territorial changes which occurred in Europe as a result of the Second World War" and "the convocation of the European Security Conference" (*Izvestiya*, 16 June 1973). Having practically achieved these goals, the objective is to make "the already achieved favorable changes in the international situation irreversible" (*Pravda*, 28 April 1973). But they still stress the dual character of their strategy, "the peace-loving and at the same time revolutionary character of the foreign policy of the Soviet Union" (*Izvestiya*, 29 April 1973).

One of the Senators present at the luncheon at Blair House on 19 June quoted Mr. Brezhnev as saying: "Our policy is not one based on considerations of the moment. It is a long-term policy" (*U.S. News & World Report*, 2 July 1973). The reference was to trade and *détente*. But at the same time *Pravda* reminded its readers that:

"Only naive people can expect that the recognition of the principle of 'peaceful coexistence' by the leaders of the most powerful capitalist country will eliminate or weaken the fundamental contradiction of our epoch: the conflict between socialism and capitalism. Only naive people can expect that the ideological struggle of the two systems will lose its significance". [4]

Perhaps, as Mr. David Rockefeller said, the Soviet leaders do not believe their own propaganda, but they can certainly recognize politically naive people. Anyway, after Mr. Brezhnev's return, while the whole Soviet press waxed over his "historical mission", *Pravda* (29 June 1973) published a Politburo statement welcoming him which included the following passage:

"As before, the Soviet Union will be rebuffing resolutely any intrigues of the aggressive imperialist forces, and will continue to assist the peoples fighting for peace, national liberation, democracy and socialism".

The music never changes. Only the conductor shows different faces to different audi-

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Footnotes at end of article.

ences, particularly during the time of *détente*.

The "offensive of smiles" is of course not Mr. Brezhnev's invention. It has a long history in Soviet diplomacy and foreign policy, in fact as long as the concept of "peaceful coexistence" itself. Each time the Soviet Union needed something from Western powers this tactic was employed.

It was Lenin, Trotsky and Chicherin who first developed it, although the concept of "peaceful coexistence" was not used by Lenin.[5] But Lenin stressed the need for tactical flexibility (while remaining "true to the revolutionary purpose") and of the "breathing space" (peredyshka). He applied it internally in 1921 in his NEP policy and externally in 1922 when the post-war revolutionary expectations faded and it was decided to strengthen the Soviet state by obtaining recognition from more capitalist states and exploiting their "contradictions". At the Genoa Conference in 1922 Chicherin presented "a broad pacifist programme" (endorsed by Lenin) which asserted that "in the present historical epoch, which makes the parallel existence of the old and the nascent new social structure possible, economic cooperation between states representing these two systems of property is imperative".[6] In a letter to Chicherin in which he advised him to remove any references and terms which may frighten "the capitalist states", such as "the employment of violent means" or "the unavoidability of new world wars". He added: "We shall disgrace them and humiliate them 'in a benign manner' ".[7]

Since that time the basic ideas of this political strategy have been used repeatedly, although its concepts have undergone an evolution and were adapted to the changing circumstances. Stalin used dual tactics particularly blatantly in the "Popular Front" period; he began courting the Western powers when he (belatedly) recognized Hitler's menace. But in his case there was no correlation between the internal and the external NEP. On the contrary, the economic and "peace" offensives coincided with the most savage periods of repression under his rule. When he was "liquidating kulaks as a class" and millions died after the forcible collectivization of Soviet agriculture, American and German capitalists were invited to help in the building of factories in the first Five Year Plan. When Litvinov was lecturing the world about the definition of aggression and collective security, in the Soviet Union itself Moscow Trials and the Great Purge, deportations and forced labour camps, were demanding further millions of victims. The "soft sell" in foreign policy and lectures about the indivisibility of peace ended of course with the Stalin-Hitler Pact, but after Hitler's attack, when Stalin became "Good Uncle Joe" in the West, he used "soft sell" in his conversations with Roosevelt and up to the hilt in his propaganda, securing agreements which contributed to the shape of the post-war world.

Nikita Khrushchev made a doctrinal revision of the concept of "peaceful coexistence" finally abandoning the Leninist perspective that in the end "frightful collisions between the Soviet Republic and the bourgeois states will be inevitable". Although at first he rejected Malenkov's thesis that such a war in a nuclear era "would mean the destruction of civilization", he eventually proclaimed the new interpretation of "peaceful coexistence" as a struggle which, although necessary and inevitable, should stop short of general war with its frightful nuclear possibilities. How short he had shown by placing missiles in Cuba, when his own "offensive of smiles" (which led to the "Camp David spirit") did not produce the expected results and the conflict with China was close to the surface.

"Peaceful coexistence" as a doctrine of class struggle without nuclear war remained essentially the same under his successors. Brezhnev was ready to accept as its corollary the SALT I agreement (which established Soviet nuclear parity), but politically it is still the case of the sauce for the goose not being the sauce for the gander:

"Peaceful coexistence . . . rests on a system of principles that make it possible to avoid a major international conflict in the course of development of revolutionary processes within individual countries . . . Ideological struggle and cold war are totally different concepts. Cold war in the ideological sphere, supported by aggressive forces of anti-communism throughout the world, is a slanderous campaign intended to subvert the socialist system and disorientate the masses in order to facilitate the adventurist actions of the imperialists. The struggle against bourgeois ideology, on the other hand, involves proving on the basis of facts and strict scientific analysis the advantages of socialism over capitalism, exposing the ideological myths of anti-communism, affirming the truth and uniting the masses for the struggle for the bright ideals of mankind."[8]

WESTERN REACTION TO SOVIET "OFFENSIVE OF SMILES"

Soviet economic and "peace" offensives have been invariably greeted with sympathy, if not enthusiasm, in the West. Somehow or other they have been seen by sympathizers and "realists" alike as signifying the Great Post-revolutionary Turning Point when the Manichean perspective is given up by the Soviet leaders and "live and let live" becomes the new rule.

The NEP and the Genoa Conference were seen by many as the symptoms of Thermidor, the end of revolutionary aspirations. The building of "socialism in one country" through forceful industrialization was similarly interpreted. The *New Statesman* (4 July 1931) proclaimed that "the whole attitude of the Soviet Government towards the West has changed since the exile of Trotsky and the adoption of the Five Year Plan". The recognition of the Soviet Union by the United States in 1933, accompanied by the official Soviet pledge not to intervene in the internal affairs of the United States, was greeted likewise and so was the dissolution of the Comintern in 1943. After that, Stalin's post-war political and territorial aspirations were seen as simply a case of legitimate concern with defence and security. Under Khrushchev hopes reached a new pitch, in spite of all the previous disappointments, and many optimists persuaded themselves that the Cold War had ended, thus anticipating Mr. Brezhnev. Even Mr. David Rockefeller's remark was preceded ten years earlier by the British press lord, Lord Thompson, who, after his visit to the Soviet Union in 1963, assured the British TV audience that Khrushchev secretly admired capitalists.[9] But, obviously, he could not promote his business in Moscow; he owns the London *Times* and other newspapers. Ironically, The *Times'* own correspondent was not long ago expelled from Moscow.[10]

The most recent example of Western reaction to a Soviet "offensive of smiles" is of course the present one, but as we are still in the middle of it, one can perhaps refrain from quoting similar comments made today: we all read them daily in the press where hope springs eternal in spite of past disappointments. However, even though history points towards scepticism and the Soviet leaders' own Janus-like attitude reinforces it, this is not sufficient to dissuade the optimists from again believing that the Great Turning Point has arrived: After all, history offers no proofs; if it has not happened before, that is no reason why it might not be happening now; as for the Soviet leaders' own words testifying to the contrary, they are just lip-service to the ritually-observed doctrine but have no relevance to the actual political situation; besides, have the Soviet leaders not accepted some of the realities of the situation (such as the nuclear facts of life)? Wouldn't the expansion of trade tie up their foreign policy, making them dependent on the outside world? Is trade not the great instrument of peace as Mr. David Rockefeller announced? And, above all, are we not witnessing ideological exhaustion and a decline of Soviet dynamics in a polycentric world? It was Khrushchev who said (*Pravda*, 6 April 1964):

"If it depended only on our desire to make revolution, I can guarantee you that the Central Committee would have done everything so that there would be no bourgeois world and the Red Flag would wave over the entire world. But comrades, let's not indulge in fantasies, let's be realistic. Just to want something is not enough, even if the Party wants it."

Is not Brezhnev even more realistic? Has he not demonstrated this during his American visit?

NEEDED: A SOBER ANALYSIS OF RISKS

These are seductive questions. How can a reasonable man decide between opposing views here? A reasonable man will judge Soviet policies by actions—not by declarations, by deeds—not by words; he will look closely at the political equation and even if optimistic arguments are not taken by him with more than a grain of salt in view of the Soviet record, he will keep the powder dry and will not go in his own policy beyond limits dictated by the caution which this record must inspire in any reasonable man.

In fact, the answers to the seductive questions enumerated above are to be sought neither in extravagant hopes, nor in a denial that one can learn from the past, but in sober analysis of the risks involved in the present. Anybody approaching the problem from this angle would soon be labeled by Soviet propaganda as a "cold warrior", while Western "realists" would accuse him of indulging in the "politics of nostalgia." Yet this does not alter the necessity for exposing some of the illusions and fallacies contained in the above "questions".

It is true that revolutions and empires do not last forever and that one day there will be a Great Turning Point in the Soviet Union, but that day has not yet come. The diagnosis which might fit the Roman Empire under Emperor Nerva does not fit it under Augustus.

Ideological formulas, however empty and ritualistic, provide the necessary element of legitimacy to Party rule; it cannot be effectively exercised in an ideocratic totalitarian state without ideological authority.

The Soviet leaders were always realistic enough to recognise the obstacles to their ideological and/or power ambitions, but that does not mean that they accept them permanently.

Trade is not necessarily a major factor in political relations between states, as even a cursory glance at twentieth century history would make clear, particularly in the case of states like the Soviet Union where economics is ultimately subordinated to politics. Trade as a paramount road-to-peace formula made Benjamin Constant[11] see the obsolescence of war in the future, a somewhat unfortunate prediction from the perspective of the twentieth century.

Concession to and "accommodations" of the expanding Soviet empire would not make its leaders more "realistic" in accepting the *status quo* as a *modus vivendi*. On the contrary this will only happen if they cannot escape some difficult dilemmas created by their own ideology (for instance the one between the Party's *principio dominandi* and economic efficiency resulting in—say—higher agricultural productivity and greater autonomous innovation). If the West, in response

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Footnotes at end of article.

to *detente* policy, provides unconditional means of escape for them each time the Soviet leaders find themselves on the horns of a dilemma, there will be no incentive leading to an internal evolution in which these leaders would have to become more realistic by abandoning some of their Utopian totalitarian heritage and by accepting both internally and externally a more civilised posture of real *detente* both vis-a-vis their own citizens and foreign countries.

No reasonable man can object to a genuine *detente* and an equitable expansion of trade; the real problem, however, is that a fake *detente* and a trade that is not based on risk capital and ordinary economic calculations of private entrepreneurs may simply result in a further shift in the balance of power—or as the Russians call it: the "correlation of forces"—in favor of the Soviet Union.

Proper safeguards, including political safeguards, would be necessary for the process of civilising the Soviet state rather than allowing the growth of its power. Guaranteed long term credits would permit Brezhnev:

(1) to maintain the present high level of military spending

(2) not to antagonise the Party *apparatchiki* as Khrushchev did when faced with similar politico-economic dilemmas

(3) to consolidate his internal and external power position.

It would seem a good idea for any economic concessions, such as the granting of the Most Favored Nation Clause, to be made dependent on periodic scrutiny of the Soviet performance and of whether the conditions attached to it are being observed.

A headlong rush into economic and technological aid-as-trade, without a clear political perspective, may simply help the Soviet Union to eventually achieve political and military superiority over the United States. It would indeed be a supreme historical paradox if the perennial Soviet goal of "overtaking America" was to be reached through American economic help (and political negligence). The consequences of such development for other countries, particularly for Western Europe, need not be elaborated.[12] It is not difficult to imagine, in the present American disarray, how harmful these consequences would be for both the internal stability and the international position of the United States (which for a variety of reasons can no longer insulate itself against such consequences, however politically isolated it may become from the rest of the world). It may not be what some Senators call "the politics of nostalgia" but it would certainly be the politics of amnesia.

The idea that the risks and dangers inherent in the present *detente* policy of the Soviet Union may be avoided through the creation of economic interdependence ("intermeshing" of vested interests) is an illusion. It is based on the usual fallacy of projecting Western categories on the Soviet scene—the familiar mirror-image misperception. In the Soviet perspective the question would be political: who will become relatively more dependent as a result of the U.S. granting and the Soviet Union receiving long term credits? The answer seems obvious and that is why Mr. Brezhnev is so eager to get them and shows no anxiety about it.

CULTURE AND HUMAN RIGHTS

It is in the sphere of culture and human rights that the real crux of the problem of future Soviet evolution lies. This was generally recognised in the West during the Khrushchev era when those who favored concessions to his foreign policy demands stressed the perspective of the internal liberalisation which would somehow guarantee good Soviet behaviour abroad. Khrushchev demonstrated that such a correlation does not necessarily exist and Brezhnev—that "destalinization" was reversible.

We do not hear much now about the liberalization perspective, although in the early days of *detente* it was frequently invoked as the allegedly inevitable concomitant (and from the Soviet point of view the necessary risk) of *detente*. What has happened so far is precisely the opposite.[13] Censorship has been tightened in the Soviet Union and in Eastern Europe; *Samizdat* has been hit if not silenced; dissenters are imprisoned, exiled, or put into lunatic asylums; the foreign press is still prohibited, foreign broadcasts still jammed, foreign travel still a privilege of the most trustworthy. Yuri Galanskov is dead because of medical neglect in the concentration camp. Andrei Amalrik, having spent three inhuman years in a Magadan concentration camp where he contracted meningitis, was not released at the end of his sentence, but awaits another trial. Vladimir Bukovsky, who has already spent six years in prison where he developed a rheumatic heart, has been sentenced to another twelve years. The tragic list of those rotting in prisons or in exile can be extended: Pavel Litvinov, Anatoly Marchenko, General Grigorenko, Anatoly Levitin-Krasnov, and hundreds of others. The number of inmates in the concentration camps (which were supposed to have disappeared forever after Stalin's dethronement by Khrushchev) is at present estimated at over a million.

The possible positive effects of *detente*—from the Western point of view—have been prophylactically dealt with in the Soviet Union and Eastern Europe. The Western hopefuls are now pointing to the "inevitable" long term liberalization effect of *detente*. But if "irreversible" destalinization proved to be reversible after all, what guarantee is there that *detente* is not reversible either? And if it is, how much hope can one invest in its long term effects? The words written in 1965 [14] by Dr. Kissinger's former adviser on Soviet affairs, Helmut Sonnenfeldt, appear today even more topical than before:

"What the West can do—and this requires perhaps more consistency and harmony than has been feasible of late—is to keep before the minds of Soviet leaders a realisation that the advantages they seek from their dealings with the West must be reciprocated. Without some move on their part to eliminate the abnormality of the division of Europe, without a more constructive approach towards orderly change in the developing world, and without explicit measures to mitigate the alienation of their own people from those of the West, genuine progress in *detente* is unlikely."

NEGOTIATING EFFECTIVELY WITH THE SOVIETS

There is one lesson to be derived from the history of Western negotiations with the Soviet Union—a very simple one: the Soviet Union always tries to get something for nothing and it is ready for a *quid pro quo* only when its opponent is equally stubborn and persevering. The few Western successes in negotiations with and pressures on the Soviet Union show that its usual attitude: "What is mine is mine, what is yours is negotiable" can be overcome. The elimination of the Pishevari regime in Northern Iran after the war, the peace treaty with Austria, and now the reluctant Soviet permission given to some of the Jewish citizens to emigrate to Israel are the not very numerous examples.

Senator Jackson's amendment was greeted with undisguised hostility in the Soviet press. At that time Western correspondents in Moscow were told that Soviet and American legislatures were on a collision course, that the "educational" tax had been introduced and could not possibly be lifted without the Soviet Union losing face, that the Jackson amendment constituted interference in the internal affairs of the Soviet Union, that it would jeopardize *detente*, etc. All this was reported by the Moscow correspondent of a Washington paper with a suggestion that the Senator Jackson initiative should be abandoned for fear of worse consequences. And what happened? Mr. Brezhnev lifted the ransom tax. Even though this permission may only be temporary, it has demonstrated that persistence pays when the Soviet leaders need something and an appropriate pressure is applied.

THE ISSUES AT STAKE

This is the most obvious conclusion that the Western representatives in Helsinki and Vienna, and the American negotiators in SALT II must keep in mind. The course of *detente* until now gives little room for satisfaction. The West has found itself weak, divided and outmanoeuvred. It is on the defensive although the cultural and human rights issues have given it a good opportunity to turn the tables on the Russians and promote its own cultural tradition and values. Instead the West has abandoned its perfectly legitimate position and agreed to a formulation of the agenda which, though "open", omits insistence on the "free circulation of ideas". This cannot but signal to the Russians the psychological readiness of Western negotiators for further concessions. The Chinese proverb says that even the 10,000 mile march begins with one small step. The same applies to the road to capitulation. As Alexander Solzhenitsyn expressed it in his Nobel Prize lecture:[15]

"The spirit of Munich has by no means retreated into the past; it was not merely a brief episode in our history. I would even venture to say that the spirit of Munich prevails in the twentieth century. The timid civilised world has found nothing with which to oppose the onslaught of a sudden revival of barefaced barbarity, other than concessions and smiles."

The Western public is generally ignorant of the issues at stake, of their historical importance, and of the implications of a further shift in the balance of power against the West. The United States, like Europe, could have to either find new reserves of political strength or accept a gradual decline.

FOOTNOTES

[1] Editorial in *Kommunist* (No. 14, September 1970). This point is incessantly repeated in Soviet publications.

[2] Mr. Brezhnev made these points in a speech in Minsk on 14 March 1970. It is reported in V. S. Riabov (Editor), *Dvina*, Moscow, Voenizdat, 1970.

[3] *Komsomolskaya Pravda*, 4 June 1972.

[4] Quoted by the Warsaw weekly, *Polityka* (23 June 1973).

[5] Cf. Frankly Griffiths, "Origin of Peaceful Coexistence", *Survey*, No. 50, Jan. 1964, also Foy D. Kohler et al., *Soviet Strategy for the Seventies*, Center for Advanced International Studies, University of Miami, 1973.

[6] *Materialy Genuezskoi konferentsii* (Moscow, 1922), p. 78.

[7] Lenin, *Sochineniya*, 4th edition, Moscow, 1952, vol. 33 p. 236. When Soviet authors publish articles for foreign consumption hailing Lenin as the father of the concept of "peaceful coexistence" they present him as a benign non-revolutionary statesman. Thus E. Chossudovski in his article in *Foreign Affairs* (April 1972), "Genoa Revisited—Russia and Coexistence" carefully omits to mention Lenin's more candid remarks about the real goals behind his tactics, although he claimed that the "updated case for peaceful coexistence certainly does not lack forthrightness . . . [and] can hardly be likened to a Trojan Horse to entice the capitalist world and lull its vigilance". Similarly, Melor Sturua in his article in *Le Monde* (19 June 1973) refers to Lenin describing himself as "a resolute partisan of economic cooperation with America" in an interview with the correspondent of the *Chicago Daily News*, but he did not mention that Lenin said at the same time: "As soon as we are strong enough to defeat capitalism as a whole, we shall immediately take it by the scruff of the neck." (Lenin, *Selected Works*, Vol. 8, p. 270). It would be easier for Soviet propaganda in the

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West if its representatives, instead of invoking Lenin's parenthood of "peaceful coexistence," could present it as a brand new "Brezhnev's doctrine". This, however, also has some undesirable connotations.

[8] "Problems of War and Peace: A Critical Analysis of Bourgeois Theories," Moscow 1972, quoted in Foy D. Kohler et al., op. cit, pp. 124/5.

[9] Mr. Melor Sturua, who was a Soviet correspondent in London and New York, wrote in his recent article in *Le Monde* (19 June 1973): "The gentlemen from the Chase Manhattan Bank are proud to have their office in Moscow at No. 1 Karl Marx Place. Is it not symbolic?" I think it is.

[10] Cf. David Bonavia, "The Technology of an Expulsion", *Survey,* No. 85, Autumn 1972.

[11] Benjamin Constant, *Oeuvres,* Biblioteque de la Pleiade, 1957. Cf. De l'Esprit de la Conquete et de l'Usurpation, pp. 993–5.

[12] Cf. the articles of the present author in *Survey,* No. 87, Spring 1973 and No. 88, Summer 1973.

[13] Cf. the present author's "Shadows over Helsinki", *Encounter,* June 1973.

[14] In: Leopold Labedz (Ed.), *International Communism after Khrushchev,* The M.I.T. Press, 1965, p. 216.

[15] Leopold Labedz, *Solzhenitsyn, A Documentary Record,* Indiana University Press, 1973, p. 314.

THE COMPREHENSIVE PLANNING GRANTS UNDER HUD

Mr. MATHIAS. Mr. President, on June 30 of this year, this body approved the HUD appropriations bill for fiscal year 1974, H.R. 8825. As ranking minority member of the Appropriations Subcommittee which initially considered this bill, and as its minority floor leader during the full Senate's deliberations, I was most gratified at the support which greeted all of the committee's recommendations, and in particular our recommendation that the full administration budget request of $110 million for section 701 comprehensive planning grants be restored.

As my colleagues are no doubt aware, the House-approved version of H.R. 8825 included a substantial cut in this crucial program, down to only $25 million for fiscal year 1974, a full $85 million below the budget request, and $75 million below the amount we appropriated last year. I viewed these proposed cuts with considerable alarm, because I firmly believe that we must succeed in gearing better planning into our housing development if our other programs are to work, and work satisfactorily.

As my colleagues well know, Mr. President, I have not hesitated in the past to criticize the Department of Housing and Urban Development when its actions—as in the current moratorium on housing programs—appear to me to be counterproductive or shortsighted. But similarly, I do not hesitate to give credit where credit is due, and I believe HUD is to be commended for its strong support of the "701" program, without which many of our cities and metropolitan areas would be hard pressed to undertake even minimal long-range and management planning in the housing field.

It is for this reason that I am heartened by the Senate's support for the full budget request for the "701" program, and would like to state my intention and commitment, as a member of the conference committee, to spare no effort in securing at least the $100 million level of appropriations we approved last year, if not the full $110 million budget request for "701," in the conference which will seek to resolve our differences with the House in these matters.

I am sure every major city in the Nation has a stake in the outcome of this issue. In my own State, for example, the Baltimore City Planning Commission recently passed a resolution regarding funding for the "701" program, and I commend it to the attention of my colleagues in this regard. I ask unanimous consent to have this resolution printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the City of Baltimore has recently received a Federal "701" Planning and Management Grant in the amount of $420,140 for Fiscal Year 1973, and

Whereas, these funds have provided critical support for the City's planning program at a time when the City has been forced to reduce its General Fund appropriation for Planning, and

Whereas, large metropolitan area center cities have recently been recognized under this program for the first time, and

Whereas, the City of Baltimore, and the Baltimore Regional Planning Council, of which the City is a member, depend on the future availability of these funds, and

Whereas, these Federal Planning Grant funds support the local planning reviews required under the Federal A–95 project referral program, support programs required under existing Federal housing, public works, and other programs, and will be needed to provide the planning base required under the new Revenue Sharing programs, and

Whereas, the House Appropriations Committee has reported out H.R. 8825 with a reduction of HUD "701" Planning and Management grant funds from $110 million to $25 million, and the Senate Appropriations Committee is now considering the HUD budget proposal.

Now, therefore, be it resolved, that the Baltimore City Planning Commission, acting in Public Session, urges restoration of the HUD "701" Planning and Management Grant Fiscal 1974 budget to the level of $110 million in the United States House of Representatives, and earnestly requests the Senate Appropriations Committee to approve this program at the same level of funding for Fiscal 1974, and

Be it further resolved, that copies of this resolution shall be forwarded to our Congressional Delegation and to both Senators from the State of Maryland to elicit their active support in restoring this important Federal Planning Grant program to a level commensurate with the needs of our large cities and metropolitan areas.

CHILD ABUSE RECEIVING NEEDED ATTENTION

Mr. RANDOLPH. Mr. President, on Saturday the Senate approved by a vote of 57 to 7, S. 1191, the Child Abuse Prevention and Treatment Act. For far too long, the shocking problem of child abuse has been swept under the rug. More recently the press, all forms of the media, has been attacking this problem, bringing the ugliness of badly beaten and neglected children into the open.

During debate on Saturday, I mentioned an article that was to appear in the Sunday Washington Star-News magazine section, "Washington," entitled "The Brutal Sickness of Child Abuse—Who Beats the Children?" Much of the article centers on Dr. Annette Heiser and her fellow "abused child team" members at the Washington, D.C., Children's Hospital Center.

The subcommittee, under the leadership of Senator MONDALE, on Children and Youth while studying S. 1191, received testimony from the "abused child team" and visited the Children's Hospital Center to view the facilities and the team at work. They are doing a wonderful job of serving abused children and abusive parents in a program that is functioning primarily on a voluntary basis. Because of S. 1191, Children's Hospital and other fine facilities like it will be able to receive Federal support to strengthen their program.

Mr. President, I am hopeful that Senators will read this very informative article. I ask unanimous consent to have the article from the Sunday Star and the Washington Daily News be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHO BEATS THE CHILDREN?

(By Vernon Pizer)

Reaching into her pocket, Dr. Annette Heiser pulled out a thick bundle of photographs. "I carry these around for the skeptics who say child abuse can't be as bad as I say," she explained.

"Look at this"—she held up a rear view of a naked child, a long and ugly arching burn scarring one thin buttock—"it was made by an iron. The mother claimed the iron fell on the floor while she was doing laundry and the child sat on it. There was no way she could describe how an iron can balance itself on its narrow handle with its heavy soleplate sticking straight up. The only way that injury could be caused is by design, with the mother intentionally holding the hot iron against her child's buttock."

Anger tilling furrows in her youthful face, Dr. Heiser held up other photos. "Know what these are? Stab wounds from a fork. These are cigarette burns on the abdomen. This arm was broken with a broomstick. Acid was thrown in this child's face. These lacerations were caused by a wire whip, and those are human bites. Name the horror, and I can show you a picture of it."

Normally soft-spoken and decorous, Annette Heiser becomes assertive and wrathful when she discusses willful mistreatment of the young. And she is convinced that we have yet to touch bottom in this quagmire. At D.C. Children's Hospital, where she is a member of the "abused child team," the statistics bear out her apprehension. "So far in 1973 we are admitting about 10 cases a month," she says. "Last year we averaged about seven abuse and neglect cases a month."

John M. Bischoff, director of D.C. Superior Court's Family Division, reveals that 577 cases of child neglect (of which at least 15 percent were outright physical abuse) were referred to the court in 1972, up 110 from 1971 referrals. "What is as disturbing as the increase is the changing nature of the offenses," he says. "We see less of the old child-in-a-basket kind of thing. Now, instead of abandoning kids as they used to, parents seem more prone to mistreat them seriously."

Abuse is as prevalent on one side of the District line as the other. "Whether in manicured-lawn suburbia or the concreted-over city, parents are turning on their children in record numbers," Bischoff says. Dr. Heiser, pointing out that Children's Hospital is a regional facility, with patients from throughout the area, agrees with him. So do the facts. In March alone, for instance, a Montgomery mother was found guilty in the vicious torture slaying of her 9-year-old stepdaughter; a Montgomery couple was charged with slaying a 3-month-old daughter; a Prince Georges mother was charged in the fatal crowbar-beating of her 4-year-old daughter, and the Alexandria parents of an infant were found guilty in her beating death. If the rate of reported child abuse in Montgomery so far in 1973 holds up, total for the year will be more than 100—as against 53 in 1972 and 12 in 1971. In neighboring Prince Georges parents are being charged on an average of once a month in the death of their offspring.

According to Dr. Philip Calcagno, Georgetown University psychiatrist specializing in child care problems, abuse of the young is a national sickness whose virulence is only now being recognized. "Even with improved reporting systems, nobody can say just how deeply this repugnant disease infects us. The estimated 60,000 child-batterings nationally each year, with perhaps 10 percent resulting in fatalities, are only the tip of the iceberg. Some 15,000 children under 14 die each year from accidents—who can say how many are really accidents and how many are actually lethal abuses? Who can define the point at which a disciplining parent crosses the line from correction to battery? Who can reduce to statistics the terrible harm wrought by less outwardly bruising abuses—lack of proper care, of proper feeding, of a wholesome environment?"

Ann, college-educated and attractive, doesn't think of herself as an abusive mother. "I never beat the boy or starved him," she says, and you must admit that, in a technical sense, she is accurate. But because her husband, refusing the responsibilities of fatherhood, deserted Ann when the child was born, she was hostile toward her son, regarding him as the destroyer of what had been a happy marriage. So she rejected the child's affection, never touched him except coldly, clinically, when contact was unavoidable, never gave him a toy, a smile, a kind word. The scars Ann inflicted on her son are evident as he sits in a corner—withdrawn, apathetic, silently staring fixedly at his hands hour after hour.

Myrtle (Mickey) Wolff, chief of HEW's Division of Vulnerable Children, is convinced that "the truth, however unpalatable, is that parental mistreatment is a part of our heritage. We have a long-entrenched attitude of 'spare the rod and spoil the child,' a historic proclivity for harshness. Add the violence that has characterized so much of society and that shows no signs of abating, and it is no surprise that so many children have been, and continue to be, victimized by parents and guardians. The only thing new about abuse is the growing willingness to face the sordid facts."

Margaret A. Chambers, director of Children's Hospital's Department of Social Work, adds that "traditionally, even the law has been pitted against children. Until fairly recently, they were chattel—things, not persons—under common law. The first abuse case ever tried in the U.S. was only 100 years ago, in New York. Charges had to be brought under the cruelty-to-animals laws, because there was no law in New York or anywhere else in the country to protect children from cruelty. Think of it—we were quicker to protect animals than children. Walk these wards and you have to wonder if we've advanced much from that mentality."

Who are the abusive parents? What leads them to commit what one experienced observer terms "perversions of the human procreative drive"?

Experts seem agreed that few abusers are truly psychotic. Dr. Heiser believes as few as 10 percent may be genuine psychopaths. Dr. Calcagno says, "Given the proper circumstances, almost anyone can at some point be a child-abuser—you, me, or the nice couple down the street."

To an 8-month-old infant, anything within reach of his questing fingers is fair game for tugging. When his father bent over him, the lock of hair hanging down was irresistible. The child grabbed it and yanked. His father, who describes himself as "not a harsh person," later confessed remorsefully that he "hauled off and hit" his son impulsively. The blow shattered the infant's liver, killing him.

Though abusers are as diverse as is society itself, there is a discernable pattern among those who persist in their aberrant behavior. According to Dr. Calcagno, "Often they were themselves abused by their own parents during their childhood. Very frequently they are caught in the vise of stress—a marital rift, an economic crisis, strong social pressures, maybe an overwhelming family health problem. And usually they are impulsive and immature, though not necessarily immature in years, and a relatively minor event can act as a detonator."

Bill is clean-cut, neat, makes a good appearance. But at age 20, with a job that pays poorly and with a tendency toward outbursts of temper—he admits "I have a bad temper when I lose it"—he is ill-suited for parenthood. Exactly how ill-suited was tragically demonstrated on a recent night when, tired and irritable, Bill lay in bed sleepless because of the incessant screaming of his infant son. Finally, enraged, Bill ran to the crib and lashed out until the wailing ceased. In the morning the child's battered body was lifeless. Bill, contrite and freightened, insists that "I don't know how it happened."

The abused, as well as the abusers, follow a pattern. Their most consistent similarity is their extreme youth. "Most are younger than 6, very often less than 2," says Margaret Chambers. Analyzing 1972's 577 referrals to Superior Court, Bischoff says. "It is a curious and tragic commentary on our society that by far the highest number of referrals deal with children in the youngest age category"—57 percent from newborn to 6, 28 percent from 7 to 10.

But more than age draws the dismal lines in the profile of the mistreated. In a multi-child family, frequently one will be singled out for abuse because he is in some way different from his siblings—deformed or retarded or puny, a result of a difficult or unwanted pregnancy, more withdrawn or more mischievous, brighter or duller than his brothers and sisters. The difference, because it is almost always in itself deleterious, should be cross enough for the child to bear, but it is commonly the catapult into the ranks of the abused.

The abuse itself also reveals a pattern. Studies show that most serious mistreatment occurs in the night hours—when parents are tired, their nerves frayed, when children are restless and cranky; the most vulnerable time for the young is midnight to 3 a.m. Esther Pollard, head of the Intra-Family and Neglect Branch of Superior Court, notes an odd correlation between greening of the trees and bruising of the children. "For some inexplicable reason, our cases mount in the spring and reach a peak in July." Another oddity: while every conceivable device—from 2-by-4s to pans of sizzling grease—has been used as an instrument for child torture, there is a predilection for extension cord whippings.

Because parental mistreatment of the young is so loathsome, one might expect those most familiar with the phenomenon—doctors, social workers, legal specialists—to be overwhelmingly bitter and punitive toward the transgressors. This is not the case. Their deep bitterness is directed primarily toward the offense, while their condemnation of the offender is, in most cases, tinged with a measure of sympathy.

"You have to understand that bizarre abuse surpassing all understanding captures the headlines, but most abuse is not so monstrous and most abusers really do not mean to harm their children," Margaret Chambers says. "Let me cite a specific, representative case. Not long ago, we had a mother who was clearly maltreating her children—they were filthy, poorly nourished, and suffering from skin rashes and sores. When we dug into it, we found that the mother was not malicious; she was simply engulfed in a sea of family problems and could not cope with the problems and the children at the same time. We worked with her, guided her, helped cut the problems to manageable size, and showed her how to care for the children properly. She is grateful and, more important, her children are now thriving.

"In other cases, harsh treatment may result from frustration in trying unsuccessfully to have a child accomplish something it is not yet capable of doing, like overcoming bed-wetting. We can correct these situations by altering the parents' outlook, convincing them the child is acting normally and will end the wetting naturally at the proper stage of development. When the outlook changes, the harsh treatment ends."

A Children's Hospital colleague, Rita Giordan, adds that "we are continually surprised by the many abusive mothers who bring their children to us on flimsy excuses—runny noses, minor scratches, that sort of thing. What they are really doing is seeking help in halting their abuse. The runny nose is simply their wedge to break open the real problem and solve it."

One who is familiar with all the painful details of abuse and neglect is Ann Litford. She is a "child advocate," one of a handful of dedicated lawyers serving as unpaid, volunteer attorneys for the children in cases brought before Superior Court's Family Division. (Where there are grounds for criminal action, the parent may be simultaneously charged in Superior Court's Criminal Division.)

"The proceedings are shattering, an emotional bloodbath," Mrs. Litford says. (Each day brings its fresh tragedy—such as Mrs. Litford questioning a little girl to learn how her infant sister choked to death on her own vomit and having the child reply, oblivious to the terrible import of her words, "Mommy held her face in it to teach her a lesson.") "But the cases are not only excruciatingly painful, they are also enormously difficult. You grapple with so many fundamental problems, so many heart-rending situations, always intensely conscious that so much depends on the wisdom of your answers. How can the child's best interests be secured, his safety assured? What of the parent—is this a one-time thing where pressure made an otherwise decent parent boil over? Can we make certain it won't be repeated? What is the soundest, surest way to see that these kids are not denied their unchallengable right to rational, threat-free lives? My colleagues and I speak for children who can't speak for themselves, use our skills to secure for them what they can't secure for themselves."

Neither Ann Litford nor her fellow advocates dissipate their efforts in vindictiveness toward the parents. "Our primary concern is not punishing the parent—that is the role of others—but protecting the child." Ann Litford explains, "We always hope this can be done without permanent removal of the child from his family. The ideal is to maintain integrity of the family unit, but with threat to the child completely erased and replaced by a wholesome atmosphere of being wanted and watched over. And in many, many cases this can be done. I've seen instances where within one month of forensic psychiatric treatment of the parent, it was possible for the child to return home in complete safety. Admittedly, such a rapid turnaround is rare, but it does happen. We strive to make it happen, if possible, and to insure that the child doesn't return until and unless it does. And we enjoin the court to order adequate, continuing follow-up to make sure there is no subsequent reversal."

Sweeping a hand over the documents on her desk, she says, "These are all living, breathing people. It is no easy thing to play God, to conclude that children should be taken from their homes and families forever, that parents are unfit to keep their own children." Then the steel creeps into her voice. "But you never allow a child to remain in hazard. His welfare is paramount; you can't gamble with that. Far better to be placed with a guardian or foster home than remain with natural parents who are a threat."

If there is strong belief among experts that much abuse is correctable and many abusers salvagable without permanent dismemberment of the family, even stronger is their conviction that the upward trend of mistreatment of the young will not be reversed unless fresh, energetic approaches are introduced. Until now, they charge, it has been too little, too late, and too unimaginative.

"We use a fire brigade approach, waiting for the flames to appear and then trying to put them out," Dr. Calcagno asserts. "What is sorely needed is preventive measures, stopping the fire before it starts. We must go into the community actively seeking families with children who are in the kinds of stressful situations that foster abuses, and solve those stresses before the damage is done. We must work with new parents, teaching them how to cope with the needs and quirks of children, creating in them awareness of the natural limitations of the young so they won't expect the impossible, inculcating appreciation of parental responsibilities and understanding of how to discharge those responsibilities intelligently and compassionately. Certainly, we can't weaken efforts to correct abuse, but we must get in much earlier in the game by establishing abuse-prevention agencies and staffing them with energetic, resourceful specialists."

Margaret Chambers points to pediatricians in private practice as a weakness in society's defenses for children. "Most private practitioners are just not attuned to child abuse. They are too unsuspecting, too ready to accept without question a parent's explanation of a child's injury, too unaware of the need to examine each young patient closely for old scars and other signposts of past abuse and neglect. They have to look beyond the injury to its probable cause. A properly trained doctor can examine a fracture and determine whether it is accidental or a result of a viciously twisted limb."

Repeatedly, those most knowledgeable emphasize a serious flaw in metropolitan area child protection: the lack of exchange of abuse information among local jurisdictions. HEW's Mickey Wolff faults the Washington region for not initiating a cooperative central registry. "As it is," she says, "an abusive parent can take a child to a Prince Georges facility for treatment this month, to a D.C. facility next month, and to Fairfax the following month, and none of the medical people involved will be any the wiser, because they have no central registry from which to discover this critically significant pattern." Ann Litford terms the situation ridiculous. "Why is it," she asks, "that local jurisdictions can set up a regional exchange of data on stolen cars but not on mistreated youth? Are cars more important?"

But the experts criticize local agencies for more than insularity. "They need more, better trained personnel, more emergency shelters and foster homes, better around-the-clock availability of people and resources," says Mickey Wolff. Dr. Heiser complains that many administrators don't recognize that specialized child-abuse caseworkers, not across-the-board generalists, are required, and that individual caseloads are seldom kept reasonable enough to permit intensive work and adequate follow-up. This charge is leveled especially against the District, where Protective Services and Special Services—two highly refined units of the Department of Human Resources that deal exclusively with neglect and abuse—are being phased out. After the current phase-out, such cases will go into a common pot to be ladled out to all caseworkers without regard to their expertise in the area of child abuse.

"It's the old numbers game," Margaret Chambers says. "In the past the child-abuse specialist handled about 30 cases at a time and was able to stay with each one, working on it intensively and getting good results through intimate understanding of the problem. Now caseloads will be equalized among all social workers in the department so each will handle as many as 300 cases at a time, all of them running the full gamut of social problems. Child-abuse expertise will be submerged under the deluge, and the children will suffer for it. Child abuse isn't arithmetic—it's life and death.

"The sad truth is that children are victimized by society generally and by budget-makers and priorities-setters specifically, because they are unable to exert leverage. An astute individual once said to me, 'The two greatest handicaps children suffer from is that they neither vote nor pay taxes, which places them at the end of the line when the bureaucrats set up their programs and fund their activities.' His cynicism is well founded."

EPA REGULATIONS WILL HAVE DRASTIC EFFECTS ON ECONOMY

Mr. FANNIN. Mr. President, the antipollution recommendations issued recently by the Environmental Protection Agency have touched off a great deal of debate around the Nation. It is inconceivable that any arm of government would be given the dictatorial powers that the EPA is exercising in carrying out its interpretation of the Clean Air Act of 1970. The regulations proposed by EPA will have drastic effects on our economy, and upon our way of life, especially in the West. Freedom of choice and freedom of movement will be greatly restricted.

For some time I have been convinced that the Congress has acted very unwisely in attempting to set environmental deadlines which were unrealistic. Only now are the people beginning to realize the consequences of these unwise actions.

Mr. President, last Friday the Tucson Daily Citizen ran a series of articles concerning the proposed EPA program for Arizona. These articles gave a sampling of how officials at the State and local levels regard the regulations. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

EPA RULES VERY IMPRESSIVE, BUT WHO WILL OBEY THEM?

(By Marc Adams)

Spokesmen for the national organizations concerned with travel in the cities and on the highways—from the Automobile Association of America to the petroleum industry—concur that anti-pollution recommendations issued by the Environmental Protection Agency last week are impressively strong, but the possibilities for enforcing them are perilously weak.

The agency's western regional office in San Francisco said yesterday much of the enforcement duties would be entrusted to the states, and that further extensions may be offered according to "individual capabilities."

In Los Angeles, the Motorcycle Industry Council of America convened yesterday to discuss legal action to forestall the implementation of regulations imposing a partial ban on the two-stroke motorcycle in Tucson and other cities. One manufacturer chided the federal agency for testing "faulty motorcycles" to determine the percentage of poisonous exhausts.

"We are meeting with the motorcycle council on an informal basis right now," said Paul DeFalco Jr., the environmental agency's regional administrator. "You have to understand that the motorcycle industry is where the automobile industry was 10 years ago. They've made no effort thus far to clean up their engines."

In Washington, Asst. U.S. Transportation Secretary Martin Convisser said his department is prepared for the barrage of requests from cities, including Tucson, which need "the means and the money to compensate for the immobility that will result from the EPA guidelines."

The Automobile Association indicated it would employ its congressional lobby to plead for further delays in the program before its formal adoption next month.

Last Thursday, the Environmental Protection Agency released rigid recommendations for urban centers in Arizona, California, Utah and six other states, most of them destined to replace inadequate guidelines submitted by the states themselves before the June 15 deadline.

Federal officials looked with favor on Arizona's plan to require the installation of the unperfected catalytic converter on most cars at a cost of $7.5 million to the state's motorists, but scuttled the rest of the proposal, and laid down an index of its own that would remove at least 30 per cent of the cars from the roads in five counties, greatly reduce motorcyle licensing and eliminate 20 per cent of downtown parking by 1975.

"Certainly, we're very much concerned about it," said J. K. Aldous, vice president of the Automobile Association of America. "The EPA for the first time, really, is adhering to the strictest letter of the law. And now, for the first time, the public is realizing the price tag of the Clean Air Act of 1970, that it means pure air, not just clean air.

"Some of these standards and numbers have been pulled out of the air arbitrarily," he said, citing the goal of the Environmental Protection Agency to slash automobile travel in the Los Angeles basin by 82 per cent within the next two years. "We're finding now that some of the measurements of the various harmful oxides and pollutants were in error.

"Although we know we've got to develop a pollution-free source of automobile fuel by the end of the decade, it would be economic suicide to follow all of these regulation," Aldous said.

J. S. Streiner, spokesman for the Gulf Oil Corp. southwestern division, criticized the agency for its failure to incorporate petroleum industry recommendations, and said the complexity of the plan could contribute to the possible increase in consumer gasoline prices.

"So the EPA says let's run everybody off the road. Then the question becomes, who shall we allow on it? What I'm saying is that you can only reduce the demand so much, even if there are a lot fewer cars on the road eventually."

Neither the automobile association nor its parallel agencies were consulted to any great extent before the plans were published, and Aldous predicted the lack of coordination would involve the protection agency in procedural wrangles and cripple its enforcement powers.

The Department of Transportation will take no part in the enforcement of the regulations, according to Convisser, but DeFalco said the agency hoped the states would assume that burden by adopting their own statutes equivalent to the new clean air guidelines

Convisser did speculate, however, that highway construction eventually would be de-emphasized. Referring to the administration-backed Mass Transit Capital Grants Communities Program, the assistant secretary said the legislation "does allow local communities greater flexibility in choosing between more highways and mass transit plans."

"For example, additional buses would be the most likely solution in a city like Tucson, and the Mass Transit Act provides $82 million for these purposes," he said.

A. S. Baker, consultant to the National Traffic Engineering Research Institute at Northwestern University in Evanston, Ill., said enforcement simply is a matter of "making it difficult or impossible" for commuter car travel.

"Our interest is in the traffic enforcement problem more than anything else," Baker said. "You just have to make some roads inaccessible enough so the commuter can't use them, then limit the number of garages available, so when he gets to where he's going, he doesn't have anyplace to leave his car.

"But you have to have stiff penalties for violations, otherwise the motorist is going to do what he wants, anyway. Enforcement is expensive."

A spokesman for the American Honda Motor Co., Gardena, Calif., said his firm supports the purpose behind the regulations, but disputes their practicality. Honda, like other manufacturers, foresees an expanded market for its relatively more economical motorcycles if automobile transportation is curtailed, and plans to challenge the proposals.

DeFalco said his agency expected a series of lawsuits and repercussions, but emphasized the regulations are subject to public hearings in Tucson and Phoenix next month, and in other cities before the Senate reviews the program in September.

"I don't think that anyone here is as concerned with the actual regulations as they are with the accomplishment capabilities of the individual states," DeFalco said. "Remember, we only acted on what Congress recommended, and that was as much as a 75 per cent cutback on all auto transportation by 1975. There probably will be some extensions if the states are accomplishing the rules according to their capabilities."

Tucson Leaders See Plan as Unworkable

(By Jerry S. Seper)

The federal government's route to an environmental utopia of unpolluted air resembles Pima County roads after a monsoon—unnavigable.

That's the opinion of most Tucson officials on the U.S. Environmental Protection Agency's recent directive on reducing auto smog. Its means to achieving the end—worthy though it be—are unworkable, they claim.

The directive, copies of which were received only Wednesday by city and county officials, would require limitations on the sale of gasoline and advocates the setting up of a car pool computer system. It also would limit parking spaces in the downtown area and provide special traffic lanes for car pool vehicles and bus use.

Don Bufkin, director of the Pima Association of Governments' transportation planning program, said the proposal is unrealistic.

He said, "Nobody would suggest that the maintenance of clean air is not a worthy objective, but the price of severely restricted urban travel seems too high."

He said a really significant step would completely eliminate the automobile internal combustion engine as the power plant for automobiles "and not just restrict its use."

James A. Betts, Tucson director of Public Works, questions how the directive would be enforced on the local level—particularly relating to the special traffic lanes.

"After just a hasty reading of the directive, I was concerned about the control problems for the proposed car pool and bus lanes. It would be a fantastic job and enforcement by police would necessarily be a momentous effort," Betts said.

He said the directive would have a significant impact on city activities, particularly in the areas of traffic engineering. Betts, however, would not elaborate, pending further study on the directive by his department.

Edward Bell, Tucson's transit manager, is also pessimistic about the EPA directive.

"The purpose of the directive is substantial, but I'm not whole-heartedly in favor of the specifics," he said.

Bell said mass transportation should be offered to the people on a desirability basis—that is, giving commuters the type of transportation they desire and selling others to join in.

"The big thing is to make mass transportation so it is desirable, such as establishing more frequent schedules and more area coverage. I hate, however, to see it forced on the people. The normal reaction, as I see it, will be that it will become distasteful," Bell said.

He said he would rather operate a bus system people wanted to ride than one they had to ride.

The EPA plan would limit all gasoline stations as of July 1, 1974, to annual sale of the amount of gasoline they sold the preceding 12 months. Echoing the sentiments of many Tucson gas retailers, Jim McMahon, who operates a Texaco service station at 3902 E. Speedway Blvd., said the proposal will hurt.

"Of course the allocation plan by the EPA will hurt me, and most service station owners. With the normal increase in population in Tucson, gas usage increases and gas sales rise proportionately. If sales can't increase, we won't be able to keep up with rising costs."

He said the service station owners are limited in how they can respond to the direction.

"We can either cut expenses or raise prices, or both" he said.

The EPA plan also requires developing computerized car pools by businesses with more than 10 employes. This is designed to reduce vehicular traffic by as much as 70 per cent.

The effect of this will be felt most at public parking lots.

Tim Marcy, at Herb's Auto Parks, 70 E. Alameda St., said the directive would "drastically" hurt business.

"Most people who park their cars in parking lots in the downtown area work in the big companies, so it would hurt us pretty bad if they reduced the flow of cars by as much as they hope to," he said.

Bufkin said the local contact with EPA has been minimal and the result is that most officials are not certain exactly how the recommended proposals would be implemented.

"These proposals," he said, "will require significant local planning. The actual means by which we will accomplish them will take a lot of planning and extensive programing."

Bufkin is not a strong supporter of the plan, however. He said the proposals take away a choice from the people of how they will travel in the urban area.

"It's a severe restriction and with severe restrictions come traumas to the community—particularly in the area of development and the economy," he said.

EPA will hold a public hearing on its plan Aug. 8 at the Tucson Community Center Members of the EPA regional council will explain details and record alternative suggestions by groups or individuals.

Bufkins, Bell and Betts think community response will be significant.

"We haven't really heard from the majority yet, and when we do I'm sure the EPA will find out that the people are most unhappy with this plan," Bufkin said.

State Officials Feel EPA Went Too Far

(By Sam Negri)

Gov. Jack Williams and many other government officials say the latest edict from the Environmental Protection Agency to reduce air pollution generated by automobiles is too drastic.

The governor said that while he has not yet studied the EPA decision, "it seems to be unworkable."

He added, "We have our own law which I think is viable. We have not really been briefed on the EPA matter. There's been a great deal of speculative information."

The agency is calling for the state to limit gasoline sales, encourage car pools, improve public transportation system, reduce parking spaces and limit motorcycle licensing.

The governor said he had received some mail from Arizona citizens concerning the EPA ruling, "but not in any great volume." He observed, "I don't even think most people have been following it."

Asked whether he had instructed Atty. Gen. Gary Nelson to examine the legal ramifications of the EPA ruling, the governor said no.

Dr. Ernest Siegfried, director of the Pima County Health Department, summarized the thinking of many other officials when he commented:

"One can't quarrel with the intent that we've got to do something to control carbon monoxides, but the EPA's ruling is pretty drastic. The EPA is going to have to ease off a bit to make the whole thing functional. In reality, EPA will have to compromise."

Most officials said the EPA time schedule is impossible to meet.

But Arizona Health Commissioner Louis Kossuth said the question was more basic than timetables or intent. Kossuth asked of the EPA order, "Is it needed?"

And he replied: "The data we have seen do not indicate health problems of such severity that repressive measures of this type might be needed."

He added, "There is an air pollution problem and it does affect health, but we thought we proposed a good program that could benefit health. We did not feel that the gain that EPA was proposing was equal to the disruption it would cause. Furthermore, the state plan was not only realistic, but as EPA said, it was technically sound."

Kossuth said the federal agency was approaching the problem in the wrong way. What Arizona really needs, said Kossuth, is an alternative to the internal combustion engine.

He does not question the idea that automobiles cause more pollution in Tucson and Phoenix than do copper smelters. "The smelters put out more tons of contaminants," Kossuth commented, but they do not put them out where the people are. There's no question that the automobile affects more people."

Wayne Burt, president of Magma Copper Co., agreed with Kossuth. "The approach being taken is not radically different from what has been applied to smelters," Burt said.

"My feeling is that the approach of the EPA was very arbitrary and based on inadequate information. I think the general feeling is that the EPA is being highly arbitrary in respect to automobiles."

Burt also agreed that automobiles are the most serious polluters in metropolitan areas, and that the EPA action would curtail this pollution.

In his words, "I think it's axiomatic that if you reduce the number of automobiles that it will reduce the pollution in metropolitan areas. If you reduce the fuel burned, you reduce the amount of air pollution."

John Ensdorf, director of Pima County Environmental Health, declared, "I think eventually something good will come out of all this. Somewhere along the line we're going to have to grapple with this problem, and why not now?"

Udall, Fannin Say United States Must Review Goals Versus Reality

(By Phil Hamilton)

The time has come for Congress to decide if it really meant to change the lifestyle of Americans when it passed the Clean Air Act of 1970, say Arizona's congressional spokesmen.

Last week the Environmental Protection Agency sent out a directive that will require limitations on sale of gasoline and parking spaces for Arizona cities as well as requiring car pool computer systems, and special traffic lanes for car pools and bus use.

Similar directives have been sent to other metropolitan areas across the nation.

The result is a confrontation between the goals set down in the Clean Air Act three years ago and the realities of today.

Arizona congressmen agree that the squeeze put on city dwellers by the EPA is not the fault of the agency, but that Congress adopted goals that were unreachable by the time limit set down in 1970.

"There is a move on in Congress now to take a look and see if Congress really intended to take these harsh measures when it passed the Clean Air Act," said U.S. Rep. Morris K. Udall, D-Ariz. "We may have to back off and adjust the timetable."

U.S. Sen. Paul J. Fannin, R-Ariz., echoed Udall, saying: "Congress moved without the studies that should have been made. Consequently we have provided stipulations in the bill that can't be met by 1975."

"I don't think we can retreat from those goals," Udall said, "But the Environmental Protection Agency is saying to Congress, 'We have been given a mandate to clean up the air. This is what it is going to take to do it. Is this what you want? And Congress is going to have to decide."

The legislators agreed that there was no choice except to revise the Clean Air Act to allow more time for reaching the standards, and both expressed hope that breakthroughs could be made that would allow for those standards as quickly as possible.

Fannin, who spent yesterday in hearings with the environmentalists and at a floor debate on the Alaskan oil issue, said that although he had been critical of the auto manufacturers in the past, he felt they would come up with an engine by late 1975 that would cut down on the emissions.

Fannin said he would not favor a federal research program to come up with a pollution-free engine. "I think the industry is doing more research than anyone realizes. I believe the breakthrough will come through private industry."

Udall, who is chairman of the House environment subcommittee, said he had received very little feedback from the EPA directives since they were announced almost a week ago.

FOOD CRISIS

Mr. RIBICOFF. Mr. President, Connecticut shoppers will find no meat and vegetables in the grocery store within the next few weeks unless the present economic control program is ended immediately and replaced by an adequate and reasonable phase 4 economic control program which includes price controls on raw agricultural products.

Phase 3½ has been an economic disaster for Connecticut and the Nation. The price squeeze is forcing retailers and wholesalers to discontinue selling certain food products rather than sell them at a loss. The reason for this is that wholesale and retail prices are frozen but raw agricultural product prices—exempt from the freeze—are continuing to increase. Once these prices exceed wholesale and retail price levels, no grocery store operator or food processor can afford to buy farm products.

In recent weeks my office has been deluged with complaints from food processors, wholesalers, and retailers. They all tell the same story. The present price freeze is driving them out of business. They all want to continue supplying food to the grocery stores and most of them are doing so at a daily financial loss to their businesses. But this situation cannot go on forever. They will soon be forced to shut down.

The result will be empty grocery stores and empty dinner tables.

The Connecticut Food Store Association says there will not be bread, canned goods, fruits and vegetables on many grocery shelves in a few days because of the price freeze.

The Greater New Haven Chamber of Commerce reported a week ago that "extremely serious shortages" of some fresh fruits, baked goods, eggs and poultry products can be expected in a matter of days because food processors are not willing to pay prices being asked at the grower's level. The New Haven Chamber's chairman, Cornelius P. Courtney, pointed out as an example that some stores are having to pay $5.50 to purchase a 100-pound bag of flour but are forced to sell it at $4.89.

Richard Economou of the Connecticut Celery Co. is being forced to cut back on purchase of tomatoes rather than take a loss on resale.

Frank Perri, vice president of R. Perri & Sons of New Haven, a well-established firm in the meat industry has brought to my attention the fact that the present control program may very well force him and many others out of business. At this time at least 40 meat plants nationwide have been forced to close because of the present economic control programs.

Charles Alpert, president of the Herman Alpert Co. of New Haven, Conn., an interstate meat processor, has informed me that the current economic regulations are causing extreme financial hardship which utimately could result in the closing of the company.

The Grote and Weigel Co. of Bloomfield, Conn., is likewise faced with an emergency situation because the prices they must pay for raw products exceeds the prices at which they can sell.

Chester Hale of Eggs, Inc. of Brooklyn, Conn. is forced with a cutoff of feed supplies to feed his chickens because his supplier is caught in the price squeeze.

Many other examples of the price squeeze's economic injury to the egg, chicken, meat, dairy and vegetable industries could be cited. These firms are not seeking merely to increase their profit margin. They are fighting for survival. If they lose the fight we will all suffer.

The result of the ill-considered economic control program will be more food shortages, eventual higher prices, and increased unemployment as those in the food chain are forced to cut back on workers.

These situations could have been averted if Congress had adopted my proposal to place strict controls on farm prices. Unfortunately, on three separate occasions my legislation was defeated.

My office is in constant touch with the Cost of Living Council, the White House and the Agriculture Department urging an end to the present economic control program.

It is time for Congress and the administration to bite the bullet and stand up to the powerful agri-business lobbyists who have worked to defeat my amendments. Price controls must be placed on raw agricultural products and the multibillion farm subsidy program ended.

I ask unanimous consent that the following articles from Connecticut newspapers and communications from Connecticut be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Stamford (Conn.) Advocate, July 12, 1973]

Wholesaler Squeeze Forces Job Layoffs

Hartford, Conn.—The price squeeze on tomatoes and other vegetables has forced a major produce distributor to lay off 25 men, and the firm said the men won't be rehired unless the market becomes profitable.

Richard Economou, vice president of the Connecticut Celery Co., said his firm will reduce its volume or not handle produce that is priced above the frozen wholesalers' price, and "the net result will be lack of employment."

Economou said the firm is handling tomatoes on a very small scale because of an increase in the price. But he said tomato crops in California, Maryland, Virginia and Connecticut will be harvested in the coming weeks, and the price should drop.

Even so, Economou says, high prices for other produce may force the firm to permanently reduce its employment of drivers and other workers.

"We don't anticipate rehiring unless there's an improvement in the situation," he said.

The wholesalers' reluctance to buy produce has led some growers, Economou says, to sell produce in Canada to avoid price controls.

Another distributor, Robert Weiner, vice president of Weiner Bros., said "it's going to get worse as this thing goes along."

"There is absolutely no control on anything that's grown," Weiner said. "The farmer is told he can get anything he wants."

Cornelius P. Courtney, the head of the Connecticut Food Stores Association, also warned Tuesday that consumers can expect serious shortages of fruits and vegetables unless the price ceiling is lifted.

Courtney said processors aren't willing to buy food because they can't make a reasonable profit on it.

[From the Norwalk (Conn.) Hour, July 12, 1973]

Group Claims Freeze on Prices Will Cause Grocery Shortages

The Connecticut Food Stores Association is claiming there won't be bread, canned goods, fruits or vegetables on many grocery shelves in a few days because of the price freeze.

The New Haven Chamber of Commerce is charging that the price freeze's ill effect on business and consumers is not being monitored by the Cost of Living Council.

And the Internal Revenue Service reports it has received over 1,000 complaints from consumers on price freeze violations.

Cornelius P. Courtney, executive director of the 800-member association, said Tuesday that "extremely serious shortages" of some fresh fruits, baked goods, eggs and poultry products can be expected in a matter of days because food processors are not willing to pay prices being asked at the grower level.

"Some retailers are being forced to discontinue certain food products rather than sell them at a loss," Courtney said.

He said some stores are getting a 100-lb bag of flour for $5.50 for resale at $4.89. "Processors are no longer producing because of the high cost of foodstuffs," he said.

He said under the current price freeze, retailers are being made to absorb the high cost of labor and unprocessed foods because they are not frozen.

"We hope that the absolute freeze will be lifted at once, because the longer it lasts, the greater problem it is going to be," the food stores association head said.

The Greater New Haven Chamber of Commerce said the current price freeze "is creating distortions in the economy" because the Cost of Living Council has no way of knowing its ill effects on businesses and consumers to enable it to take corrective measures.

Frederick J. Mancheski, the chamber's board chairman said the council needs information from businessmen on problems as production cutbacks, cancellation of orders, rationing, postponement of shipment and shortages of raw materials.

Mancheski announced that the Chamber of Commerce of the United States has created a price freeze impact data exchange which will receive and transmit hourly information from businessmen to the Cost of Living Council.

The Internal Revenue Service in Connecticut confirmed it was not monitoring information mentioned by the New Haven Chamber of Commerce, but it was filing weekly reports on complaints and price freeze violations to the council.

"We have received over 1,000 complaints from consumers so far, but they were mainly due to misunderstanding," an IRS spokesman said.

She said 90 establishments investigated for alleged violations were found to be in compliance with regulations.

According to her about half of the complaints involved food prices, the rest gasoline prices. She said over 200 retail gas stations were checked last week and 70 per cent were in compliance with the freeze.

The spokesman said consumers were baffled with differing prices. "But even those selling at the highest prices may not be in violation if the figures were in effect between June 1 and June 8," she said.

The IRS said letters are being sent and meetings held to inform the public on the new price freeze.

Senator Abraham Ribicoff,
Old Senate Office Building,
Capitol Hill, D.C.:

The current meat industry ceiling price regulations are directly causing extremely serious financial losses to us. An immediate release of controls must be effected to prevent us and many others from closing our doors. We are an interstate meat processor and an integral part of our area employment picture and the area economy. Your strong immediate influence is urgently requested.

Charles Alpert,
President, Herman Alpert Co., Inc.

Senator Abraham Ribicoff,
Washington, D.C.:

Follow up of our July 6 wire to you. Meat industry ceiling price regulations continue to very seriously cause financial losses in the operation of our sausage manufacturing business. Close down of our business eminent unless controls are immediately lifted or drastically reduced. Our community economic picture will be adversely affected if forced to shut down. We plead for strong immediate influence to correct this tragic condition.

Frank Perri,
Vice President, R. Perri & Sons, Inc.

GENETIC DISEASE

Mr. JAVITS. Mr. President, the Health Subcommittee of the Committee on Labor and Public Welfare—of which I am ranking minority member—has conducted 6 days of hearings on human experimentation in biomedical research. On the hearings' legislative agenda were two bills which I authored: S. 878 which, to protect the rights and welfare of human subjects in all research activities, would set in place the NIH ethical research guidelines as a condition for Federal funding support; and S. 974 which would authorize special project grants to medical schools to establish programs on the ethical, social, legal, and moral implication of advances in biomedical research and technology.

As a result of these hearings, Senator Kennedy and I introduced a bill (S. 2072) incorporating in substantial measure, the provisions of S. 878 and S. 974, and in addition, establishing a Commission to develop the basic ethical principles which should underlie the conduct of research.

An article in the February 1973 Hastings Center Report focuses our attention on one facet of biomedical research—the urgent need to understand and to act as informed citizens regarding the genetic manipulation of our population. The article discusses amniocentesis—a medical procedure, which by inserting a hollow needle through the abdominal and uterine walls into the amniotic sac and withdrawing fluid and cells of the fetus, permits us to diagnose certain genetic abnormalities of the fetus—and its implications for mankind. The article concludes—and I agree—

> We must recognize that we are morally bound to continue in the effort to find cures for those who have genetic diseases whom we currently detect and abort in the womb. The greatest danger of the institutionalization of prenatal diagnosis is that it will so blunt our moral consciousness, that we may forget that a "selective" abortion is only a temporary expedient reflecting our utter helplessness now to deal with the burden of genetic disease.

I commend the article entitled "How Much Do We Want To Know About the Unborn?" to the attention of my colleagues and ask unanimous consent that the full text be printed in the Record at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

How Much Do We Want To Know About the Unborn?

(By Marc Lappe)

(Note.—Dr. Lappe, an experimental pathologist, is the Institute's staff Associate for the Biological Sciences.)

When we are part of a revolution, the truly revolutionizing events may all but be invisible to us. One of the key hidden events that comprise the Biological Revolution may be the advent of techniques which enable us to predict the anatomical, physiological and genetic constitution of the unborn. *Endoamnioscopy* in which a fiber-optic device is used to visually probe, and someday allow surgery on the fetus, and *ultrasound* in which high frequency sound waves are used to locate the placenta and most recently to record whether or not the fetus is breathing, are but two of these techniques. Neither compare in revolutionary impact with the ability to make a prenatal diagnosis of the genetic composition of the fetus. This feat is accomplished by the technique of *amniocentesis.*

Amniocentesis, from the Greek roots *amnion* for lamb, and *kentesis* for puncture, entails inserting a hollow needle through the addominal and uterine walls into the amniotic sac and withdrawing fluid and cells shed by the fetus. This procedure has been heralded as a development which makes it possible for parents to have children free of genetic disease. But the image of the sacrificial lamb conjured up by the Greek etymology of "amniocentesis" is more than accidental: in order to allow the birth of those free of genetic disease, it is necessary to kill those affected by it. It would not be possible for society to blithely accept this equation (as it has) without two prior, equally revolutionary, developments: The Pill and legalized abortion.

The Pill and legalized abortion make it unnecessary for every woman to consider herself fated to bear unlimited numbers of children. Adult genetic testing and prenatal diagnosis make it necessary for *any* woman who wants to bear children to ask herself if she should. The profundity of the questions raised by introducing any technology which can tell a woman whether or not she is an "appropriate" mother are self-evident. The questions posed by prenatal diagnosis and genetic testing of the fetus are no less profound; what is really at stake is the question of whom we are ready to admit into the human community.

IN SEARCH OF "HEALTH"

As John Fletcher has uncovered in the first systematic study of the experience of amniocentesis (*Pastoral Psychology* Vol. 23, April, 1972), discovering the genetic fate of one's children and ending a pregnancy may lead people to the borderline question of the meaning of human existence. For most of the 25 couples he studied (all of whom had already had one damaged child) undertaking amniocentesis was in fact an experiment to get a healthy child. One of the mothers early in the study reflected on this and said, "These days you have a choice about having a healthy baby." In his interviews there was a buoyancy, a hope for the "healthy life," which often split the parents' loyalty to their damaged child from the new norm they imagined was opened to them by amniocentesis. As expected, the values of health and intelligence which their largely middle class style embodied, raised their expectations for these same qualities in their children. More insidiously, however, the very health, intelligence and normality of their yet-to-be-born children became what many of these parents used to formulate their *own* sense of adequacy and success. It was as if the birth of a defective child, in Daniel Callahan's words, would be "the ultimate undoing of themselves."

When, as in three cases, the experiment ended in failure, all of the women elected to be sterilized. When asked why not the husband, one woman replied, "It's my fault, why should he have to pay for it." This self-imposed sense of genetic responsibility and guilt appeared to be markedly impressed on all of the female members of the pregnancy partnerships. One woman receiving a diagnosis of defect in her fetus stated, "You spend all your life looking at pictures of pretty babies and their mothers and thinking that will be you. It's pretty gruesome when you are the one who is different."

Prenatal diagnosis promises then not only to reinforce tendencies towards denial of human frailty and fallibility, but also to raise the specter of parents who believe that they can and *must* guarantee the normality of their children. This is the one thing which prenatal diagnosis *cannot* do. Contrary to offering a test for "normalcy," a prenatal diagnosis only rules out the possibility of (usually) a *single* abnormality. It does little if anything to reduce the average risk of defect which is as high as 1 child in 40.

Apart from the limited benefits and heavy responsibilities it offers to families who must avoid the birth of another like-damaged child, prenatal diagnosis poses profound questions for society itself. The allure of a genetic test for a normal, or in the future an *optimal* baby, threatens to reinforce an inexorable trend in Western society towards typecasting the less-than-optimal into categories for assortment and ultimate disposal. There is a long tradition in the West to regard those whose appearance approximates an idealized image as "normal," and those that fail to miror that image as "defective." The Greeks thought they recognized man's approximation to godhood in the mathematical abstraction of the harmonic mean to the human proportions: yet, they were ready, in Aristotle's words, "to let no child be brought up flawed." It was no accident that the renaissance of that ideal (Michelangelo's *David* or Leonardo's *Man Inscribed in a Circle*) brought with it a wholesale rejection of the imperfect and impure among the varieties of men. Then, as today, the genetic Gypsies of the world were isolated from their normal brethren in institutions that mixed the insane with the genetically damaged. What God had neglected during the Dark Ages, Renaissance Man had now to perfect. After the second Fall, the perfection of His creation desperately needed to be reasserted. Even common barnyard animals whose behavior or appearance transgressed God's Laws (a "cock" laying an egg as a result of normal senile sex reversal in hens, for example) were actually tried in *human* courts of law.

VARIABILITY

It should come as no surprise that a society which derives its historical continuity from this period can still regard homosexuality, transvestism or other gender role distortions as crimes against nature, when our forebearers were burning animals at the stake for like "crimes." It is noteworthy that the key which opened the door to the notion of the intrinsic *variability* of Man—indeed the mutability of all species—was the final acceptance in the mid-1700s that human monstrosities were *part* of Creation.

In this light, Jerome Lejeune, the first to report the chromosomal basis for Down's Syndrome, has argued for the acceptance of the genetically "unfit" as part of the human community. He believes that it is just as wrong to stereotype our notions of the "defective" as we have the "normal." His views are borne out in the most recent review of the physical stigmata of Down's syndrome which listed 18 characteristics of the condition (palmar creases, epicanthic folds, deformed ears, etc.). An individual could have as many as 11 of the stereotyped feature of "Mongolism" and still be normal or as few as 5 features and still have Down's syndrome. Moreover, many individuals with the chromosomal composition signifying "Down's syndrome" are capable of such "normal" human activities as caring, loving and working. The relevance of these observations to the moral decisions involved in prenatal diagnosis and postnatal societal attitudes are obvious.

We are faced then with a paradox; knowledge of the unborn is crucial if we are now to avoid the birth of the untreatably genetically defective and later to treat them—but now do we move from abortion to tentative treatment? Our problem is compounded by the fact that we do not yet know how to interpret all genetic knowledge. We simply do not have the wisdom to decide, for example, if parents should be told their child has an extra Y chromosome, or if a particular balanced chromosomal translocation means the child will be normal or abnormal. We do not know for sure what certain genetic tests mean—not *every* child with a positive test for phenylketonuria develops the mental retardation usually associated with the untreated disease. What then do we do with the onus of genetic information about the unborn which we will inevitably acquire?

BROAD EFFECTS

First, we must be extremely conscious of the broad effects such knowledge may have in shaping our thinking and feeling about the genetically defective already alive. Second, we must resist the tendency to stigmatize those parents who, given full knowledge of the risks of child-bearing, still proceed to have a child with a defect like Down's syndrome. Third, we must incorporate the new technologies surrounding the unborn into our lives as sensitively and ethically as possible. This means that the expedient of selective abortion for the genetically defective must not become the "final solution" in our attempts to ameliorate the sequelae of genetic defects. It would be unthinkable and immoral if in our zeal to "conquer" genetic defects, we failed to recognize that the "defective" we identify and abort are no less human than we. The Tay-Sachs child may have but one out of 10,000 pairs of genes non-functional, yet still be rendered incapable of a truly human existence. Our empathy for the genetically unfortunate should lead us to develop therapies—even for those conditions that we consider so hopeless that all affected fetuses are currently sacrificed.

There will inevitably be those who, armed with cost -benefit analyses, demonstrate that it is always easier and cheaper to terminate a "genetic illness" than to treat the child burdened with it—and cheaper still to prevent the conception of a "defective" in the first place than to have to live with the burden of the person who embodies the defect. Nevertheless, we must recognize that we are morally bound to continue in the effort to find cures for those who have genetic diseases whom we currently detect and abort in the womb. The greatest danger of the institutionalization of prenatal diagnosis is that it will so blunt our moral consciousness, that we may forget that a "selective" abortion is only a temporary expedient reflecting our utter helplessness now to deal with the burden of genetic disease.

ADDRESS BY SENATOR TALMADGE AT 59TH ANNIVERSARY OF DRUID HILLS BAPTIST CHURCH, ATLANTA, GA.

Mr. ERVIN. Mr. President, on July 1, 1973, our colleague, Senator HERMAN TALMADGE, made an eloquent address at the Druid Hills Baptist Church in Atlanta, Ga., on the occasion of the observance of its 59th anniversary. Incidentally, Dr. Louis D. Newton, one of America's most distinguished ministers, was pastor of this church during the 40 years preceding his recent retirement.

This address merits the widest dissemination. For this reason, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered printed, as follows:

ADDRESS BY SENATOR TALMADGE

I greatly appreciate this opportunity to join you this evening in this program.

It is a special pleasure to me, and I know to all of you as well, that we have our old friend Dr. Louis Newton up here with us. I am grateful for his kind introduction.

It is a great honor to temporarily assume a position at the pulpit that was held for so many wonderful years by Dr. Newton.

Louis Newton is a man of great faith who has devoted his entire life to the Baptist Church. Dr. Newton is the personification of devoted ministry, hardworking stewardship, and spiritual leadership that has seen our State and nation through good time and bad.

I am also very proud to join your church in the observance of its 59th anniversary.

This is indeed an important milestone and I congratulate your pastor and all the congregation.

In the biblical description of the Exodus, when God chose to reveal himself and his law to Moses, the Lord said of the children of Israel:

"Let them make me a sanctuary, that I may dwell among them."

More than just bricks and mortar, your church is a sacred place of worship and refuge in your community.

Here in this tabernacle, you find comfort and consolation from the cares of the world. And, as all you well know, our cares today are many and complex.

These are indeed difficult times. Men the world over are greatly troubled. Nations stand in mortal fear and suspicion of one another.

And, here at home, where there ought to be unity and strength, there is too much discord and distrust.

This is also the week that we celebrate the birthday and independence of our nation. It is a week for study and recollection. It is a week to contemplate the heritage of America that has been handed down to us for generations.

On the 50th anniverary of the Declaration of Independence, Thomas Jefferson—the author of that great document—wrote to a friend and recounted the blessings of liberty.

A half century had passed since the American colonists chose to fight for freedom and found a new nation.

Thomas Jefferson wrote to his friend that all eyes are opening to the rights of man, and to the fact that man was born free—and not with a saddle on his back.

At the time he wrote that letter, Jefferson's death was only a few days away. It was one of his final wishes that the Fourth of July be marked as a day for patriotic observance.

Citizens would do well to read again and again the Declaration of Independence. It was the cornerstone for the American Republic.

It is also important to consider the Declaration of Independence along with the Constitution. The Declaration sets forth the principles to which the American people pledged their lives, fortunes, and sacred honor.

The Constitution sets forth the means for carrying out these principles.

Both these documents are approaching their 200th year. But the principles they stand for are timeless.

As a nation of people, we are very often guilty of backsliding. These ideals that made America great, and that kept us free and prosperous, need to be reexamined and strengthened all the time.

One of the strongest characteristics of the Founding Fathers was their strong faith in the Almighty. They believed that no nation could be founded, or could long endure, in the absence of religion.

The Founding Fathers no doubt would be shocked by the present state of the American Republic.

They would find a country torn by dissention and disorder. Principles and institutions that once were cherished by all are now scorned by many.

Old-fashioned ideals of self-restraint, personal initiative have been abused.

Patriotism and loyalty to God and country mean different things to different people—if they mean anything at all.

The Founders of America no doubt would be greatly discouraged. But, this nation was not created by men who lost heart when things were going badly.

By the same token, neither our nation nor our freedom are going to be preserved today by the fainthearted.

Not in recent history has there been a greater need for men to turn to God. Never have we had so much to gain by securing divine guidance, or so much to lose if we do not.

We have in the United States Senate a prayer breakfast group. It meets in the Capitol each Wednesday morning while Congress is in session.

It is an intimate and deeply personal gathering. Each week, a selected member of our group brings a spiritual message.

There are also responses and discussion thereby involving all those present.

I have been a regular participant in the prayer breakfast for the 16 years I have been in the Senate.

I like to think of it as a meeting of the minds and souls of senators in recognition of the higher power that guides all of us in our service to state and nation.

By coming together each week as we do, we pay respect to the eternal truth, as enunciated by the Psalmist.

"Blessed is the nation whose
God is the Lord."

If man cannot attain goodness, greatness, or righteousness in the absence of God—how then can a nation?

Wise old Ben Franklin said it best when he urged that the Constitutional Convention of 1787 be opened with prayer. I still find great meaning in his words.

Said Franklin:

"I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth—God governs in the affairs of men. If a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid?"

We live today in an age of great change.

The environment is changing.

Our rivers and lakes and oceans and our air are being polluted.

The unemployed and the unemployable are abandoning rural areas for cities—which already are overcrowded and have more problems than they can handle.

At the same time, the more affluent city people are fleeing to the suburbs.

We are taking giant strides in science, medicine, and technology.

In short, everything around us is changing, sometimes so fast that we can barely keep up.

There is an old French proverb to the effect that the more things change, the more they seem to be the same.

Charles Dickens, writing around 1848 in "The Tale of Two Cities," about the French Revolution, had this to say:

"It was the Best of Times—It was the Worst of Times."

Our times today can be described in similar terms. In many respects, we have today the best of times.

Unparalleled prosperity.

National wealth in both human and economic resources.

Advances in science and technology that have virtually opened up the world, and indeed even outer space.

A higher standard of living and more freedom than any other society in the world.

Yet, the era today can also be described as the worst of times.

Our nation and the world are moving at a very rapid pace toward greater progress.

But we are going just as fast in another direction.

We are rapidly departing from fundamental national ideals and human principles that are far more important to our well being now, in the future, and for all time, than national wealth and all the things that prosperity can buy.

The poetic lament of William Wordsworth is particularly appropriate:

"The world is too much with us. Late and soon, getting and spending, we lay waste our powers . . ."

In my humble opinion, we need to place a great deal more emphasis on the soul and the spirit of man, than upon his social, scientific, and economic progress.

The Apostle Paul warned against this in his message to the Philippians:

"Whatsoever things are true,
Whatsoever things are honest,
Whatsoever things are just,
Whatsoever things are pure,
Whatsoever things are lovely,
Whatsoever things are of good report;

If there be any virtue, and if there be any praise, think on these things."

We all know the familiar prayer:

"Oh God, give us serenity to accept what cannot be changed; courage to change what should be changed; and wisdom to distinguish the one from the other."

God's love has not changed.

Nor has the immortality of the soul . . . the Gospel message . . . and the need to pray, and the power of prayer.

None of these will ever change.

But, in considering some of the great changes that have taken place in our society, let us turn to an examination of character—the qualities and attributes of our people—to see if there are areas in which no advancement, no change for the better, has taken place.

First, I suggest that in the area of spirituality there has been no improvement in the last two centuries.

Compared with 200 years ago, there is less reverence, less of a feeling that God is a part of our everyday lives, less of a feeling that God rules and that God cares, less of a feeling that we are accountable to God for our actions.

In short, I am concerned that we are no longer the God-fearing nation that we once were, and that we no longer subscribe to the religious principles which guided our forefathers.

In the area of man's ability to live in peace and harmony with his fellow man, there has been little change for the better.

This applies to individual and personal dealings with our own neighbors, as well as relationships between nations.

Also, in the area of individual enterprise, self-reliance, and resourcefulness—what we once called the pioneer spirit—there has been no change for the better.

All too often, the feeling is, let the government do it, let the government assume the burden and pay the cost.

In these areas, all of which have to do with the human character, there has been no change for the better in this so-called age of great change.

To refer once again to Paul, in his epistle to the Colossians, the Apostle wrote further on the real and lasting values in life.

"Set your affection on things above, not things on the earth."

Other nations may some day surpass us in the production of things.

Be that as it may.

But let no one weaken or take from us our faith. Let no one undermine fundamental principles which have guided our country for almost two centuries.

We are a great and powerful nation.

We have the best government in the world.

We have more freedom and more prosperity than any other people.

For these, and all our blessings, we are thankful.

But after all has been said and done, from the highest to the lowest, we are all but mere mortals in the eyes of God.

We are a prosperous nation.

But we have no wealth without the riches that come from the blessings of God.

We are a strong nation.

But there is no real security outside the safety of the Almighty.

We are a free people, but as we are told in Second Corinthians, there is liberty only in the spirit of the Lord.

It is my prayer that we shall always remember that power and love and security come not from the things of this earth.

They are the blessings of faith.

SENATE TOASTMASTERS CLUB ESTABLISHES FINE RECORD

Mr. HANSEN. Mr. President, in April 1972, I was privileged to become a charter member of the U.S. Senate Toastmasters Club, an organization affiliated with Toastmasters International, a group representing 60,000 men and women, here and abroad.

The Senate club has grown rapidly, and now boasts 40 members, the maximum permitted by Toastmasters rules, and has become one of the most active clubs in the country.

One of the past presidents of the club, Mr. Williamson Day, entered the annual Toastmasters speaking contest last March and, since then, has won speech competitions at the club, area, division, district, and regional levels. He now proceeds to the international finals in Houston on August 18, 1973.

Mr. Day's winning speech at the regional level—which encompasses Toastmasters clubs on the eastern seaboard—was titled "Perspective."

I am pleased to share his thoughts with my colleagues.

I ask unanimous consent to have printed in the RECORD the speech by Mr. Day.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

PERSPECTIVE

(By Williamson Day)

"My orders are to kill you—all of you—and to leave you 'til your bodies rot and your bones bleach."

So swore a Government agent in 1830, reflecting frontier policy toward the American Indian, a policy of virtual extermination. That policy came home to me last month when my seven-year-old son said, "Dad, what was it like to be an Indian?" I told him I didn't know, that I had never seen America through the eyes of the First American.

Tonight, for just a few minutes, trade places with the American Indian of the frontier. See if, in part, your perspective changes.

It is 1838, The Great Smokies, North Carolina. You are a Cherokee woman, wife of a brave, and you look at lush woodlands and sparkling streams. You look for the last time. The White Father has torn up his paper that guaranteed you your land in perpetuity. He has found minerals and timber in your hills, so you leave for Indian Territory, 1,000 miles away.

You carry your six-month-old baby and a little dried food. White men force the pace, whipping stragglers, cutting rations. Finally, you can go no further. Your feet bleed in your moccasins. Your child's skin is stretched tight across his ribs; he no longer wakes. It doesn't matter—your breasts are dry.

You drop in the snow and draw a knife from your belt. You have very little strength, but you have enough to kill your child and then yourself. You are one of 4,000 who die, and your march is called The Trail of Tears.

It is 1864, Sand Creek, Colorado. You are Black Hawk, Arapaho brave, waiting for hunters to return with buffalo. The white man has sworn eternal peace, has touched his pen to paper, so your camp sleeps.

Out of the morning mist, without warning, shadowy figures take shape: bluecoat soldiers. Machine guns open fire, ripping teepees, ponies and people. You shout for parley. Old men make the sign of peace. A six-year-old girl holds a white flag on a stick. Their answer: bluecoat bullets.

But you are Black Hawk. You have met the Great Father Lincoln. You carry his flag with its great white stars. You bear his promise: "Under this flag no bluecoat will harm you."

You hold your flag high, and watch as your old men, women and children die. Then you fall, wounded.

In death you clutch your flag: red, white and blue; but now the great white stars are stained blood red.

1877, Fort Reno, Nevada. You are a ten-year old Cheyenne, son of a chief. You stand with your father on white man's reservation, looking at mesquite and brackish water. You are hungry and your sisters whimper for food. Your mother has white man's coughing sickness.

Promised you could leave, you go; you and 300 Cheyenne start North for the Cimarron and your hunting grounds. But the white man changes his mind; and 10,000 bluecoats give chase. Five times they catch you. Five times you escape.

Now it snows. You put on your father's moccasins and he walks barefoot, his cut feet leaving crimson footprints in the snow. You are colder than you've ever been. Your father kills his pony and puts your feet and hands inside to keep warm. He lies close to the pony—very close and very still. You can't feel your feet any more, or your hands, or your face. You want to cry, but sons of chiefs do not cry as they go to their deaths.

And so, my friends, has your perspective changed a shade? Has history one more comma, one more footnote than it had before?

Tell the story of the American frontier. Tell it to your children and your children's children. Tell it to the world. But, if you would serve humanity, tell it with truth and compassion. Tell it, in part, through the eyes of the first American.

THE JAMES A. MAY NOMINATION

Mr. FULBRIGHT. Mr. President, last week the Committee on Foreign Relations approved the nomination of Mr. James A. May for promotion from a U.S. Foreign Service officer of class 3 to class 2, and ordered the nomination reported to the Senate with the recommendation that it be confirmed. The nomination is now pending before the Senate.

Mr. James May's nomination was first included on a Foreign Service promotion list which was submitted to the Senate and referred to the Committee on Foreign Relations on December 1, 1971. This list was returned to the President after the Senate adjourned on December 17, 1971. The next promotion list containing the May nomination was received on June 20, 1972. When the committee considered this list in executive session on June 24, 1972, testimony was received from Congressman Samuel Stratton that the My Lai Incident Subcommittee of the House Armed Services Committee had found—after an investigation completed in July of 1970—that Mr. May failed to make reports of the My Lai incident of which he allegedly had knowledge. Accordingly, the propriety of promoting Mr. May at that time was questioned.

Subsequently, at the committee's suggestion, Ambassador William O. Hall, the Director General of the Foreign Service, appointed a special panel to investigate Mr. James May's alleged involvement in the cover-up of the My Lai incident. On February 9, 1973, the members of that panel—Mr. Robert S. McCollum, a Colorado businessman; former Ambassador Jack K. McFall; and Mr. Henry Leroy Jones, a Washington lawyer—submitted their report to Ambassador Hall, who in turn transmitted it to the Committee on Foreign Relations on February 14, 1973. The panel, after extensive interrogation of alleged participants, concluded as follows:

> We have carefully reviewed all the findings of the My Lai Incident Investigating Subcommittee of the House Armed Services Committee to the extent that they relate to Mr. May or the Quang Ngai Province Advisory Team of which he was the head.
>
> We conclude that Mr. May was never informed of the allegations of a massacre or other atrocity committed by the troops of Task Force Barker on March 16. 1968 in Son My village.
>
> Further, we conclude that there were no circumstances which would justify our finding that Mr. May should have known of the allegations.

On March 13, 1973, the White House submitted another Foreign Service promotion list which included the name of Mr. James A. May. During an executive session held on March 23, 1973, it was decided that, prior to taking final action on the May nomination, each member of the Committee on Foreign Relations should be sent a copy of the House Armed Services Subcommittee report on the My Lai Incident and the full report of the special panel referred to above. Finally, on July 11, 1973, the May nomination was considered in executive session again and the committee, by a voice vote and with a quorum present, ordered it reported favorably to the Senate for confirmation.

Mr. President, I ask unanimous consent that the letter dated February 9 from the members of the special panel to Ambassador Hall and Ambassador Hall's letter dated February 14, which is addressed to me as chairman of the committee, be printed in the Record. The entire report of the special panel, as well as the transcripts relating to the nomination of Mr. James A. May, are available in the committee's offices for any Member who wishes to examine them.

There being no objection, the letters were ordered to be printed in the Record, as follows:

February 14, 1973.

Hon. J. W. Fulbright,
Chairman, Committee on Foreign Relations, U.S. Senate

Dear Mr. Chairman: On August 28, 1972, I informed you that I was naming a Special Panel as you suggested to review the findings of the Report of the Armed Services Investigating Committee of the Committee on Armed Services of the House of Representatives in the matter of Mr. James A. May. The panel, Mr. Robert S. McCollum, a private businessman from Colorado with previous Government experience; former Ambassador Jack K. McFall of Washington; and Mr. Harry Leroy Jones, a Washington lawyer and former Department of Justice attorney, has now completed its investigation.

I am pleased to inform you that they have concluded that Mr. May was never informed of the allegations of a massacre or other atrocities committed during what has come to be known as the My Lai incident. Further, they concluded that there were no circumstances which would justify a finding that Mr. May should have known of the allegations. I am enclosing a copy of their report and conclusions.

In view of these findings, I intend to recommend to the Secretary that Mr. May's name be included in the next list of Foreign Service nominations for promotion. I anticipate this list will be forwarded to the Senate in the near future.

Should you or the staff of the Committee wish to discuss the report with me or the Chairman of the Special Panel either or both of us will be pleased to meet with you or them.

Sincerely yours,

William O. Hall.

Department of State,
Washington, D.C., February 9, 1973.

Ambassador William O. Hall,
Director General of the Foreign Service, Department of State, Washington, D.C.

Dear Mr. Ambassador: On October 4, 1972, you appointed a special panel to investigate the involvement or lack of involvement of Mr. James A. May, FSO, in the activities surrounding the knowledge and reporting of incidents connected with the My Lai Massacre in South Vietnam. The panel has spent three months in reading materials, and in interviewing both civilian and military who might supply our panel with facts related to their knowledge of Mr. May and his possible connection with the so-called "cover-up" of this incident.

We have enjoyed complete cooperation from the Secretary of the Army and from the Secretary of the Navy in the making available of material and personnel which we deemed necessary in our investigation. In addition, we would like to thank the Department for the full cooperation it afforded us. In particular our thanks go to Mr. Ammon Bartley, FSO, who has performed, in a superior way, the staff functions which we required.

The initial part of our investigation was devoted to reading voluminous material about My Lai including articles and books by independent reporters, and in reviewing numerous transcripts taken from the Peers Commission report. These transcripts of testimony by individuals with whom Mr. May had a reasonable measure of contact during the first six months of 1968 were supplied us by the Army. Following this background study, we established a schedule of interviews with approximately thirty individuals who were most closely involved. In addition, of course, we spent considerable time over a one-week period interviewing Mr. May.

Since the transcripts of the My Lai investigation by the My Lai Incident Subcommittee of the Armed Services Committee of the House of Representatives were not made available to us, we requested the assistance of that Committee in supplying names of individuals who they felt were particularly key to our study. The Chairman of this Committee, Congressman F. Edward Hébert, helpfully supplied such a list. Since three of the listed names were Vietnamese, it was decided by the panel that we would be remiss if we did not interview these identified individuals. By coincidence the Panel Chairman, Mr. McCollum, was going to the Far East on a vacation and agreed to spend the necessarry time in South Vietnam to obtain first-hand the required interviews. This was accomplished at considerable savings to the Government since Mr. McCollum's trip to the Far East was at his own expense.

As a result of our intensive investigation it would be possible for our panel to write a report of book size on this investigation which involved conditions in Quang Ngai Province at the time of the My Lai incident; the psychological atmosphere surrounding the post-TET period; the organizational structure of the Province, the relationship between the military and nonmilitary; and the involvement of the Voluntary Agency personnel who were in abundance in Quang Ngai Province during these days. Suffice it to say we are attaching a report in some detail of our investigation. Copies of the exact testimony, as taken by the court reporters provided us by the Department, will be filed with the Department and may be made available to those in the Department or to appropriate Committees of Congress. In addition, the panel stands ready to appear in person before you or any Congressional authority if it should be requested.

As a result of our inquiry, we unanimously conclude that Mr. James A. May, FSO, did not know about the My Lai incident during his stay in Quang Ngai. Any information which might have come to his attention or was reported in the daily briefings was in the context of a minor incident or as another example of VC propaganda. Not one Vietnamese admitted to having talked with Mr. May about the incident. Previous testimony linking him in any way was agreed to have been based on supposition and not on fact. It is particularly important to note that not one Voluntary Agency representative stationed in Quang Ngai acknowledged hearing about any massacre, even in the rumor stage. Had they so heard, they all vehemently agree they would have enthusiastically exposed such charges. Many, at least, admit they are strongly opposed to our involvement in Vietnam. Details of this and other testimony is included in the enclosed report.

Our panel made no attempt to evaluate Mr. May's overall performance in the Foreign Service or his relative merit compared to other FSO's in the same rank classification. Our only assignment was to investigate events connected to My Lai to the extent that we would be able to pass a considered judgment on whether or not Mr. May had knowledge of the massacre and was involved with any "cover-up" of the event. We repeat our conclusion that Mr. May did not in fact have actual knowledge of the My Lai Massacre, nor were there any circumstances from which knowledge of the massacre must be imputed to Mr. May. Mr. May was not involved in any "cover-up" of the incident.

We believe our investigation has been thorough and objective and in thus discharging our responsibilities, we have served the cause of justice regarding one man.

Robert S. McCollum,
Chairman.
Jack K. McFall,
Member.
Harry Leroy Jones,
Member.

THE WATERGATE

Mr. HATFIELD. Mr. President, the facts that have recently surfaced regarding the matter of the Watergate break-in have prompted a great deal of public discussion about the possible damage that these irresponsible acts have wrought upon the confidence in the foundations of our entire system of government.

The concern that these discussions indicate also reveals a fear that indeed the very moral fibre of our Nation has been sapped of strength at a time when confidence in the American system is of great importance to enable us to meet the challenges that confront our great country.

I have had the opportunity to read some very timely and appropriate remarks entitled "The Moral Implications of Watergate" given in an address by Congressman Brooks Hays, a former Member of Congress and former president of the South Baptist Convention on June 26 at Potter's House, a coffee house here in Washington, D.C. which is sponsored by the Church of the Savior.

I ask my colleagues for unanimous consent to include the full text of Congressman Hays' remarks in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

The Moral Implications of Watergate

(Remarks of Brooks Hays)

It is appropriate to speak of public morals in a meeting sponsored by a church organization. While the Church cannot claim a monopoly of moral influences, we can invoke history to confirm that, without the Church, our American political institutions would be quite different. There are moral men outside the church, of course, and even religious men outside the Church, but the Church has been the conduit for the Judeo-Christian morality which underlies our culture.

Our forebears, determined to sever ties to tyrannical forms, left something behind to come to these Western shores, but they also brought something with them. They brought their Biblical faith, the faith which has sustained precious values, many of which have to do with our politics.

These values have been such a natural part of our daily lives that we experience a shock when we find a few men in power displaying an indifference to them and others a defiance of them. The undeniable facts associated with the Watergate experience should and do create a concern that, unchecked and uncorrected, the immoral political practices that are now known will erode these values and permanently damage the political structure in which these values have been conserved.

It is not chauvinism to speak of a special concern for these spiritual values which underlie the American political system. Dreams and hopes were spoken of before the skills of statesmen produced the republic. The religious settlers in Plymouth and Jamestown understood St. Paul's statement, "I am debtor to the Greek". They were also debtors to other older civilizations as we all are, and our special legacy must not blind us to these relationships.

The fashioning of new forms, in other words, was neither an intervention of Providence nor the existence of a special chemistry in the air and soil but rather the flowering of ancient ideals and standards which had not had a fair chance until this new continent provided a fresh experiment. Donald Peattie had that in mind I presume when he said "Our eager soul was born before the body politic". But more than a hope and an ideal is required. The political mechanisms of a free and just society are necessary, and without reverence for these implementations of our principles we cannot survive.

Jefferson produced the most eloquent expressions of this faith. His "Government by Consent of the Governed" was anticipated however, by the Psalmist who proclaimed that God made man "to have dominion" (8th Psalm). The democratic process also had scriptural sanction in the Book of Job, "let us find out among ourselves what is right." (Job 34:4)

What does this have to do with Watergate? Basically, it was distrust, even contempt, for popular rule and judgments that led to the criminal actions that were finally revealed in pleas of guilty and jury convictions for the night-time burglaries and the invasions of opponents' rights of privacy. Related to these overt acts were other depredations which I shall mention later.

The subversion of our political procedures was unprecedented. There have been efforts in every presidential campaign to learn as much as possible of the opposition tactics but generally these were rather innocent and no one can point to a single event in political history to support the claim that "it goes on all the time".

Let me add, however,that most of the public men I know are free from the condemnation of Henry Stimson, one of our greatest public servants, "Cynicism" he said, "is the only deadly sin."

The essential immorality of these activities is their subversive character. Democracy is primarily a process, and men who resort to crime to subvert it commit an assault upon the electorate—upon us all. Thoughtful politicians of both great political parties recognize this. That's why a Democratic mayor says "this hurts us all". It's why the Senate voted unanimously to investigate Watergate and why Republican Members of Congress say "this damages our party".

The convicted perpetrators of these terrible offenses against our electoral system, while never elected to public office, were in a definite sense guardians of a vital part of our government; but that guardianship was betrayed by their execution of directives which they had helped design. A tragic aspect of the event is that apparently sharing in the final decisions were men who held solemn responsibilities to help conduct our campaigns in conformity, not only to law but to the ordinary rules of sportsmanship and decency.

The betrayal of these responsibilities by party functionaries is just as shocking as if committed by occupants of public office.

I stress the point that my approach is nonpartisan. Unfortunately, this is necessary when judgments regarding actions by members of another political party are expressed. I would never assert that "our morals", meaning Democratic morals, are better than "their morals", meaning Republican morals, and referring to both in their corporate character.

And this is not to suggest that partisanship is always an unworthy attribute. In a political forum, critical judgments could well be considered the normal function of "the loyal opposition". Truth itself may on occasion be clearly partisan. It is the morality of results, not the morality of motive, that should engage the electorate in this tragic circumstance.

I believe that I may say, however, that while a loyal party man, I would certainly avoid partisanship where basic morals are involved. I could cite, for example, the comment of a lady in Arkansas who said during the Little Rock school crisis, "I voted for Ike and Brooks—I never split a ticket." President Eisenhower and I were on the same side of a moral issue.

The remedy for Watergate is three pronged—the first two judicial and legislative, are proceeding in traditional fashion but the third remedy, the political one, presents problems. In this area we are all challenged. Leadership is a vital part of the problem of making secure the moral base for a good and a stable society. "If the gold rust, how can the iron be saved?" asked Chaucer. A second question follows. "If the gold does not rust, can the iron even then be saved?" Madison would say in the 20th Century, as he said in the 18th, "without popular education, popular government will be a farce or a tragedy, conceivably both." It then follows that the truth must be revealed and disseminated and respected. If we are fearful of the results of a search for truth we cannot as a nation climb to a finer moral posture.

One way of posing our national problem (considering now, not the sinfulness of the seven wrongdoers, and their accomplices, if any) is to point out that we have not yet learned to live with affluence. This human frailty was also contemplated by the early saints. "Love of money is the root of all kinds of evil," said Paul.

And at least some of the Committee must have seen that there was dubiousness in a forty million dollar campaign budget not only from a practical point of view but also from a moral stance. Republican members of Congress generally supported legislation, modest though it was, to improve procedures.

A footnote to the relevations record is the sad mistreatment of a college student who was talked into posing as a McGovern volunteer while being paid to spy on the Democrats he was deceiving. It would be interesting to know what counter influences are required to dissolve the cynicism produced in this young man's mind regarding the area of politics which is so vital to the happiness of all young men.

This system by which presidents and Congresses are chosen is a valuable heritage. It must be guarded. New legislation will be required. More important, however, is an awakened public conscience and a determination to do all things that will make a recurrence of Watergate impossible. We might well ponder the words of Christopher Morley, "There is nothing so tragic as to find something of value and of beauty committed to the care of those who do not appreciate it." Let succeeding generations find that this generation does appreciate this valuable legacy we call democracy.

Looking at the moral aspects of Watergate one must inevitably turn to theology for the needed words. Love is such a word. The fact is inescapable that those who committed the Watergate offenses were not cultivating a love of people and the peoples' system for electing their president, although that quality is basic for all who function as a part of the election machinery.

Lincoln Steffans, known in his time (50 years ago) as a "muckraker" because he exposed corruption, was once asked by a big city boss, "Why have you been so critical of me?" Steffans replied, "Because you have not been loyal." "But" replied the troubled man, "No one has been more loyal to friends than I"—"Oh, yes, to your allies, but your loyalty to the people has been betrayed. You were indebted to them, not these so-called friends, for your power, and you promised them you would be loyal, but you sacrificed their interests for your henchmen and those in your inner circle—you forgot the people."

To love people means one will resist temptations to promote a special interest which conflicts with their general interests. This quality of love and concern (the Greeks called it philos or agape) is essential to the success of the Senate's Investigation. Without it, there could be no comprehensive judicial probing of the complicated facts.

Sensitive viewers of the T.V. screening of the appearance of Herbert Porter and Jeb Magruder must surely have been moved by the concluding comments of Chairman Ervin and Senator Baker, both of whom exhibited deep sympathy for two men whose remorse over their false steps was obvious. Thus it would appear that the principal business before the Nation and the Congress can be satisfactorily dispatched with due regard to the moral principles upon which our form of government historically rests.

THE GENOCIDE CONVENTION PLACES RESPONSIBILITY ON THE STATE

Mr. PROXMIRE. Mr. President, the Genocide Convention has been constructed in such a manner that no one involved in the act of genocide should be able to go unpunished.

If genocide is instigated by a state—as was the case with Nazi Germany against the Jews in World War II—article VIII of the convention enables any other signatory to bring charges before the United Nations. This is true even if the crimes are committed by one country against an ethnic group within its borders—such as, Cyprus against its Turkish inhabitants. Without the Genocide Convention, a nation could claim that the U.N. had no jurisdiction over this matter because it was a domestic affair. But with this treaty, U.N. intervention in legitimate cases is legalized.

Acts not initiated by the Government are also covered by the Genocide Convention. This provision is especially important at the present time as we witness the actions of Middle Eastern guerrilla groups. Without the treaty, a state could try to absolve itself of the responsibility for the actions of these groups, arguing that, first, the state had no control over them, second, the deeds were the work of individuals, and third, the acts took place outside of the country. But article V nullifies these arguments by requiring contracting parties to punish people guilty of the acts listed in article III—including "complicity to commit genocide."

Thus, the Genocide Convention makes a two-pronged attack on state responsibility for genocide. Officials cannot claim that the acts were "acts of state," nor can the state claim that the acts were "acts of individuals." This is one more reason why this treaty must be ratified without delay.

DEVOTIONAL DELIVERED BY SENATOR SAM NUNN AT THE SENATE PRAYER BREAKFAST ON WEDNESDAY, JULY 11, 1973

Mr. HANSEN. Mr. President, it is my privilege to submit a message which was delivered at this week's Prayer Breakfast by my honorable colleague Senator SAM NUNN.

Senator NUNN's presentation has particular relevance for each of us. It is our pleasure to share his message with you and invite each of you to join us next Wednesday for your presence would add another dimension to our discussions.

I ask unanimous consent to have printed in the RECORD the devotional delivered by Senator SAM NUNN.

There being no objection, the devotional was ordered to be printed in the RECORD, as follows:

Devotional Delivered by Senator Sam Nunn at the Senate Prayer Breakfast on Wednesday, July 11, 1973

As I was struggling to develop a theme for today that might have some meaning to this distinguished group, I remembered a story that I heard as a young boy in Sunday School in my home town church. This story made a lasting impression on me, and though the details are somewhat vague in my mind, I still recall the main thrust.

One evening after an extremely busy day in a large city, a businessman rushed to catch the commuter train which would take him to his suburban home. In the station he noticed a small, poorly clothed, crippled boy selling apples at a small stand. Another man obviously in a great rush accidentally knocked the boy from his stand and all of the little fellow's apples were left scattered over the dirty floor of the station.

The man who caused this accident paused for a brief moment and muttered a meaningless apology before quickly departing in a rush to avoid missing the train. The businessman, also in a hurry, quickly passed by but had a second thought as he started aboard his departing train and returned to the scene.

As he stooped over to help the crippled boy recover his apples from the floor, he suddenly realized that the little fellow was also blind as he groped about in pursuit of his only merchandise.

The businessman who took a little time from his busy life recovered all the apples, brushed each one off with his handerchief and placed them on the fallen stand, which he had re-erected.

In departing he handed the young lad a crisp dollar bill. As the businessman started on his delayed journey, the little crippled boy clutched him by the coat and with large tears in the eyes that could not see, he asked him, "Mr., are you Jesus?"

I have never forgotten that story. It drove home to me the importance that can surround the routine acts of everyday life.

Jesus was saying the same thing when he told the story of the Good Samaritan. We all recall the setting. Along comes the man from Samaria. We don't know his name, but his admirers have called him the Good Samaritan. He is going along on horseback over the road that dips down from Jerusalem toward Jericho and, suddenly, there in the bushes beside the road he sees a groaning Jew, beaten up, bleeding, half-dead, robbed by bandits, helpless and pitiful.

The Priest and the Levite, seeing the man, walked by on the other side, but the Good Samaritan went over to him, poured oil and wine on his wounds and bandaged them. Then he put the man on his own animal and took him to an inn. The next day he took out two silver coins and gave them to the innkeeper. "Take care of him," he told the innkeeper, "and when I come back this way, I will pay you back whatever you spend on him."

We should not just take note of the obvious thing that the Good Samaritan did, but also what he did not do:

He did not wring his hands in pity and murmur, "Poor fellow, how I pity you, my heart goes out to you."

He did not stroke his beard and mutter, "I wonder who this chap is and how it all happened."

He did not unload that product of free advice and say cheerfully, "Come on my man, you must learn to help yourself, on your feet with you."

He did not get official and shake his head and say, "This situation is horrible and when I get to Jericho I shall report it immediately to the proper agency."

The marvel of the whole story is that the Good Samaritan saw a man in trouble; he did something immediately; he did it personally; he did it effectively and furthermore, he did it for someone who meant nothing to him at all.

There was no human attraction in the case; he wasn't playing the gallant knight to a beautiful young damsel in distress. There was no love lost between the Samaritans and the Jews, but he never thought of these things. All he knew was that there, in trouble, was his brother in the great family of humanity—his brother because they were both children of God. So, like a brother, he helped him.

Charity often stops dead in its tracks when there is a cost involved. We often will make the noblest promises, the highest resolves, but then draw back when the sacrifices involved become apparent.

But not the Good Samaritan. It cost him too; it cost him time and trouble, oil and wine; it cost him physical effort. He had to bandage up the poor man as best he could, lift him up on the horse and himself walk along on foot all the way to the village. Yes, and it cost him money, the money he gave the innkeeper. And that's the last we see of the Good Samaritan as he goes riding down the road of history, an obscure and humble figure with no thought of reward or fame.

The Bible is full of such references to seemingly small deeds, and their enduring effect on the lives of others.

I'm sure that each one of us can think of many examples from our own experiences of the abundant fruitfulness of a casual word or deed.

And the lesson proclaimed in these accounts should move each of us to re-examine our lives, our actions, our words, even our thoughts.

As U.S. Senators perhaps we should ask ourselves periodically: Just how important, in God's sight, are the things that can easily totally consume us: committee work, debate, votes on major issues?

Is God measuring us in terms of the magnitude of our world-shaping decisions and the recognition we may receive from man; or is He measuring our performance in terms of our willingness to emulate the life of the Master, who left us with these instructions: "In as much as ye have done it unto the least of these, ye have done it unto me"?

I do not mean to belittle the importance of our legislative tasks. They are essential to an effective government. But let us not forget the importance of the small things we say or do. Every action we take during the day, every word we utter, may have a lasting effect on someone, someone we may never know.

As I prepared my remarks today, I found this old proverb: "Though the words of the wise be as nails, yet their examples are the hammer to drive in the nails to take the deeper hold."

One young man who lives by example is Roger Staubach of the Dallas Cowboys. Asked by a reporter if he was proud to be known as a "square," Roger responded with a strong profession of his personal faith, "I am a Christian caring about other people . . . In this day and age when everyone is doing his own thing, I believe there is something greater that we are here for."

Asked if he thought there were zone defenses in Heaven, Staubach said, "From what I understand every pass you throw up there goes for a touchdown."

We must remember that every deed we perform may enable someone to go for a touchdown.

No other legislative body has the camera of the world turned on it and its individual members with such close scrutiny as the U.S. Senate.

It is incumbent upon us as Senators and Christians to constantly be aware of our opportunity to set an example in everything we do with our lives.

In God's sight and under his law, there is no insignificant life and no unimportant deed. In God's great order and in his good time the small may become vastly large.

As we ponder the great questions before the Senate and think that our lives are so totally involved in what takes place in the Chamber, let us never lose sight of the fact that if we take a careful look some day, we may notice the spilled apples of a blind, crippled boy . . . and we may hear the question: "Mister, are you Jesus?"

THE AUGUST 15 BOMBING DEADLINE

Mr. HARTKE. Mr. President, as a vocal opponent of the war in Indochina for the past 10 years, there is one question which continues to haunt me during this period when the war is supposedly "winding down."

What happens to the August 15 bombing deadline if Congress recesses from August 3 to September 3, as scheduled?

Unless we make preparations now to return to Washington in the middle of the recess, the administration will have 3 more weeks to continue the killing and maiming of innocent Southeast Asians. I know that this Congress has been hard at work during the past several weeks, but I believe that we should be prepared to cut short our vacation so that we can act to stop the bombing of Cambodia should it continue past the August 15 deadline which Congress has established.

Only recently, we learned that the bombing of Cambodia began long before the public was informed. Now, we are faced with the specter of continued bombing past the August 15 deadline. Late last month, I stood on this floor and urged my colleagues to end a decade of vacillation and confront the administration with a resolute determination to end the bombing immediately. We must not allow it to continue for one minute after the August 15 deadline.

We have been told that the level of bombing in Cambodia now surpasses anything undertaken over North and South Vietnam, and we know that more bombs fell there than fell throughout World War II. Will it take years, once again, to discover what our Government is doing in Southeast Asia? For the sake of our own men and the thousands of innocent victims who are being slaughtered, we must end our involvement in Southeast Asia now.

Mr. President, before we take our August recess, I urge that we make provision to come back if it becomes apparent that the administration does not intend to abide by the spirit of the August 15 deadline. Congress is being put to the test: Can we cope with the responsibility of ending a war which has devastated millions? I, for one, am willing to stay in Washington until it is clear that we have met our responsibilities.

THE CRISIS IN OUR FOOD INDUSTRY

Mr. TALMADGE. Mr. President, if the Government had deliberately set out to establish a policy which would have the effect of driving up food prices to consumers, creating severe shortages of basic foods, and generally damaging our food production capacity, I do not believe that a better system than the current 60-day freeze could have been devised.

In the committee resolution that was adopted on June 21, we warned the President exactly what would happen to our food supply of meat, poultry, and eggs. We told him of the liquidation of brood sows by pork producers and reduced herds of beef cattle.

In the intervening month, these events have occurred much more rapidly than even we thought. Already supermarkets in the Washington area report that they are unable to obtain adequate supplies of broilers and pork. I dislike to think of what will happen in a few short months.

This country has many problems right now. The dollar has plummeted in world markets; we have not been able to bring our involvement in Southeast Asia to a successful conclusion; the tight money market is making it impossible for the low- and middle-income family to purchase a home; the Watergate scandal is ever present in the news, but I believe that the most important problem that is facing our Nation at the present time is the growing crisis in our food supply. Already the folly of the past 2 months has created shortages and high prices for the next several months.

As chairman of the Committee on Agriculture and Forestry, I grow increasingly concerned about this impending crisis. Every day I receive numerous calls, letters, and telegrams concerning the disastrous effect of the current price freeze. Yesterday I received a letter from the National Independent Meat Packers Association indicating that the association knows of 40 meat plants that were closed because of the price freeze.

I know of many others where production has been severely curtailed and workers have been laid off. If they are not granted immediate relief, they too will have to close their doors. Processors of many other agricultural products face the same dilemma.

The producers of many foodstuffs have also sharply curtailed production. Dairy farmers are selling their cows for beef, thus cutting back on milk production at a time when domestic milk production is already below national demands. Everyone is familiar with the news accounts of drowning baby chicks and slaughter of pork breeding stock. During the week of June 27, the slaughter of laying hens was up 25 percent over the same week a year ago. The week of July 4 slaughter of laying hens was up 60 percent over the same week last year. These figures give dramatic testimony to the fact that restrictions on the exports of soybeans and other feed components will not stem the tide of liquidation of the broiler and egg industry.

The impending shortage of eggs is being reflected in rapidly escalating prices of shell egg futures. Dollar-a-dozen eggs are a good possibility.

The shortages of pork that are being created by the current freeze will be of longer duration than the poultry and egg shortages. While it takes 6 months to replace a hen that is slaughtered, it will take almost 2 years to bring pork production back to the needed levels. It will take even longer to increase the production of beef.

On June 21, only 8 days after the President announced the price freeze, the Senate Committee on Agriculture, realizing that this policy would prove to be disastrous, adopted a resolution and sent an urgent plea to the President to immediately lift the freeze and go on to a phase 4 program which would be better adapted to the special needs and problems of American agriculture. We have waited anxiously to see whether our advice would be taken. The committee has met on two separate occasions with Cost of Living Council officials. I have met privately with Dr. Dunlop, the Director of the Cost of Living Council and Secretary of Treasury Shultz. On each of these occasions, I have stated my objections to the current disastrous policy in the bluntest manner possible.

In fact, I have repeated the warnings about what is happening to our food supply so often that I feel like a prophet of doom. However, 4 weeks have elapsed since our plea was submitted to the President. I have waited—hoping that sanity would prevail and that the freeze would be lifted. Unfortunately, nothing yet has been done. We hear rumors that the freeze will be lifted any day now, but that a tight phase 4 program will be implemented.

All people who know agriculture know that in order to provide the abundance of food and fiber so necessary for our very existence, it is imperative that our producers have the opportunity, not only to cover costs of production, but to achieve at least a small profit.

This is impossible under existing rules for most of the livestock, dairy, poultry, and egg industries and for some of the fruit and vegetable producers as well.

Therefore, Mr. President, unless phase IV rules are fair and reasonable, I predict that this country and our best foreign markets will suffer immeasurably in the very near future. Shortages of these and other foods will be magnified unless the phase IV regulations recognize the cost-price situation which exists within the entire food industry.

I fully realize that consumers are faced with bulging food prices—but, at least the food is there.

The alternative to a realistic food policy is food shortages, rationing, and black markets.

I hope that the President's phase 4 plan will not be a halfway measure. I hope that it will provide the relief that will enable America's agricultural producers to replenish our depleted food reserves.

The Senate Committee on Agriculture and Forestry reported earlier this year and the Senate passed on June 8 a farm bill that is designed to increase agricultural production. This bill, the Agriculture and Consumer Protection Act of 1973, would encourage adequate production by giving farmers the incentive to produce. Under this target price program, the Federal Government would pay the farmer nothing in years when market prices reach a fair level. However, the farmer would receive a payment in years when the market price falls below the target price. Thus, the farmer would be encouraged to produce because he would receive protection against rock-bottom prices.

Mr. President, the farmer has to face a number of uncertainties. He is at the mercy of floods, drought, hailstorms, and other aberrations in weather. He has no control over the price that he receives for his product. Over the past several decades he has survived by dramatically increasing his efficiency and his productivity. Only the more efficient farmers have survived. However, even these efficient farmers must have a profit to continue farming.

Many farmers have had an opportunity to make a profit this year, but they are being faced with a new uncertainty, a new peril that is as bad as any whim of nature—the heavy hand of Government control. It has created higher prices and short supplies for consumers in the months to come. I hope that the phase IV program of the President will provide relief. I hope we will return to sanity in our food and agriculture policy.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point in my remarks the committee's resolution on the price freeze, a telegram from the United Egg Producers, and a letter from the National Independent Meat Packers Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT ADOPTED AS A RESOLUTION BY THE U.S. SENATE COMMITTEE ON AGRICULTURE AND FORESTRY

Be it resolved that the Committee on Agriculture and Forestry of the United States Senate adopts the following statement regarding the impact of the current price freeze on food supplies:

The Committee wishes to compliment the President on his decisive action to halt inflation. We realize that rapidly escalating food prices have caused a severe hardship on many American consumers.

However, we fear that the present freeze on farm products will result in greatly increased prices in the future and severe shortages of some foods. Although raw agricultural products are supposedly exempt under the regulations implementing the present price freeze, the absolute freeze on all food prices at the retail level does in effect cause a freeze on all raw food prices at the farm level. In his message of June 13, the President stated:

"Because the key to curbing food prices lies in increasing supplies, I am not freezing the price of unprocessed agricultural products at the farm level. This would reduce supplies instead of increasing them. It would eventually result in even higher prices for the foods you buy at the supermarket."

Unfortunately, the freeze on prices of all agricultural commodities at all levels in the marketing chain does have the effect of freezing all prices at the farm level and it will have the effect that the President sought to avoid—it will prevent the increased supplies of food that we must have to meet domestic and world demand. In fact, the Committee fears that the current freeze will result in severe shortages of some agricultural products in the immediate future and make it difficult to buy some foods at any price. On March 29 the President imposed a price ceiling on beef, pork, and lamb. This freeze has already had an adverse impact on meat production, for red meat production was down five percent in the first four months of this year. Pork production was down 11 percent in January–April. There is no indication that beef and pork production can be increased sufficiently to meet increasing domestic demand.

Consumers have traditionally been able to ameliorate the effects of high red meat prices by increased consumption of poultry and eggs. However, rising feed costs have reduced poultry production, and broiler meat output will continue below 1972 levels. Also, egg production, which was down 6 percent during the January–April period, will be below the 1972 levels for the rest of this year. Indications are that turkey output will be smaller this year. The conditions which have produced these shortages are now frozen in.

We have received calls from all over the country expressing dismay and alarm about the impact of the current 60-day price freeze. There are reports of vegetable producers being unable to deliver vegetables at freeze price levels, the liquidation of brood sows by pork producers and reduced herds of beef cattle. There threatens to be an absolute breakdown in the marketing system of some farm products which have traditionally been marketed in an orderly fashion according to the law of supply and demand.

These problems may be further aggravated by a shortage of fuel for agricultural production and harvesting. Also, the shortage of fuel for motor transportation and the shortage of boxcars for rail transportation could seriously hamper the proper distribution of our food supplies.

The Committee recognizes the need to maintain a stable supply of food and to protect consumers from excessive price increases. It knows that the President must take firm action. However, we feel the current 60-day price freeze is not only counterproductive, it could prove to be disastrous. Therefore, we urge the President in the strongest terms possible to remove agriculture from the price freeze at once and place it under a Phase IV plan which hopefully will be better adapted to the special needs and problems of agricultural production.

In writing the Agriculture and Consumer Protection Act of 1973, which was passed by the Senate by a vote of 78 to 9, the Committee attempted to establish a farm program which would guarantee consumers a stable supply of food at fair and reasonable prices while protecting farmers' income. However, the Committee fears that a failure to lift the price freeze on food immediately will make the attainment of this goal impossible.

[Telegram]

UNITED EGG PRODUCERS,
Washington, D.C., July 12, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

Mr. PRESIDENT: Early this week we called your attention to the 25 percent increase over last year in the slaughter of laying hens during the week of June 27 according to USDA report. Today's USDA fowl slaughter report for the week ending July 4 indicated a 60 percent increase in slaughter over the same week last year. This is further evidence that the American egg producer is rapidly liquidating his laying flocks because of the current freeze. It takes six months to replace a hen that is slaughtered. This action is being taken despite the fact our industry's flock size on June 1 was the smallest since 1961. Every day this accelerated slaughter is encouraged to continue by current policy, greater will be the shortage of eggs in future weeks. Only a change in Government policy to return some economic incentive to the marketplace will cause egg producers to discontinue this rapid liquidation of flocks and make plans to meet the needs of America's consumers in the future.

Respectfully,

JERRY BOOKEY, *President.*

The National Independent
Meat Packers Association,
Washington, D.C., July 11, 1973.

Hon. Herman E. Talmadge,
U.S. Senate,
Washington, D.C.

Dear Senator Talmadge: For more than 100 days meat packers have been operating under a ceiling price freeze while their raw materials have remained free of federal intervention.

During 70 days of the freeze period, nonmeat costs increased substantially, all of which had to be absorbed by the packers. Packaging materials, boxes, gas and other fuels, trucks and equipment have all increased substantially with no provisions for a passthrough of these costs.

The demand for meat products is highly seasonal and under normal circumstances prices for wholesale and retail cuts vary substantially from season to season. (Prices for products not in demand are reduced in order to maintain an even flow of all cuts of beef and pork. Prices for other products are raised to offset the lower return from products with little demand.)

Since the advent of the freeze on meat prices on March 29, the meat industry has been prohibited from exercising its traditional pricing mechanism with the result that products in high demand are selling at abnormally low ceilings and other products, of necessity, are being sold below ceiling.

While the meat industry has been laboring under price ceilings and while their nonmeat costs have skyrocketed, other factors have also been working to the detriment of the meat packer—and the consumer.

Feed, equipment and operating costs have also increased for the cattle and hog producer and feeder. Although technically there are no ceilings on the price of raw agricultural products (livestock), in practice, the producers and feeders realize meat packers are limited in the price that can be paid and still stay in business.

Consequently, the livestock and meat industry is going out of business at an ever increasing rate. Livestock producers and feeders cannot raise red meat animals to a marketable weight and sell at a profit. Small cattle feeders are not restocking their feed lots. Commercial feed lots are replacing feeder cattle at much lower rates. Hog producers are getting out of the business at an alarming rate.

While pork production is down as much as 14% from a year ago, sow slaughter is up 2–3%. From 40% to 80% of the sows coming to market have been bred. This means that next winter's pork supply will not be born. As a result an even greater burden will be placed on an already short supply of beef.

Presently, beef production has been reduced 20% because meat packers cannot continue to lose up to $11 per head on all cattle slaughtered and continue to stay in business. Additional cutbacks in production are occurring as packers' earlier earnings are depleted.

Pork production has been reduced more than 20% and is dwindling rapidly. Hog prices have increased an average of $9 cwt since the March 29 freeze began. This has forced pork packers into a substantial loss position after a mediocre year in 1972.

The reduction in the production of beef and pork has necessarily resulted in reduced supplies of meat for the processed meat industry. Many manufacturers of luncheon meats have indicated they have raw materials to last through midweek but have little or no hope for supplies beyond that period.

Plant closings are increasing almost geometrically in rate. A week ago, there were only about 5 known plants that had closed. Today we know of 40 meat plants that have closed because of the price freeze. There are undoubtedly many more that we are not aware of.

As long as the meat price freeze is in effect, livestock production will decrease and meat production will decrease. Livestock men and meat packers cannot be expected to stay in business and operate at a loss. We do not believe that the Economic Stabilization Act was passed with this intent nor do we believe that any industry should be *forced* to operate at a loss—for even a day, much less for weeks and months.

Notwithstanding the deplorable financial situation of the meat industry as a result of the price freeze, the American Consumer is the big loser. Her opportunity to choose among a selection of meat products is rapidly diminishing. Within a few short months, she will no longer be able to go to the market and decide whether she wants to buy meat or what meat product she prefers. Soon she will have to stand in a queue and hope that there is still some meat available when she gets to the head of the line. The price will be low enough but the supply will be low also.

Is all of the foregoing a fairy tale? No, not a bit. It's a recitation of the hard facts resulting from the price freeze imposed on meat, March 29. The meat supply is becoming critical. Fewer products will be in the meat cases beginning this week. Why? Because, the natural supply and demand economy of the livestock and meat industry was disrupted.

If the American Consumer is to have a choice of meat products in the future, the U.S. Government will have to get out of the price manipulation business. No producer nor packer will engage in the business if he does not have an opportunity to make a profit.

True, if price ceilings were removed today, meat prices would increase. But, the incentive to produce livestock would be encouraged and farmers who have gone out of the business would begin to produce again. Within two years, livestock supplies would be back to normal and on the increase. Meat prices would also seek a more reasonable level. And, equally as important, consumers would have a choice of which products to buy or not buy.

The time has come to abandon ill-advised, short-term goals and strive for realistic long-range objectives. The cure for meat prices may result in higher prices in the immediate future but will assure reasonable prices and adequate supplies in the years ahead.

We respectfully request you urge the President to remove price ceilings from all agricultural products, unprocessed and processed. You will be striking a blow for the consumer and the economy.

Very truly yours,

John G. Mohay,
Executive Vice President.

FOOD SHORTAGES: A LONG RUN VIEW

Mr. McGOVERN. Mr. President, we are in the midst of a national debate over food shortages—whether the American consumer will have a sufficient supply of poultry, eggs, milk, and other foods this fall.

But there is an even more disturbing aspect to this debate, one on which very little has been said or written. And that is the long-term prospect for the world's ability to keep its production of food, especially high-protein food, abreast of population growth and increased rates of food consumption.

In a very short time, we have moved in the United States from a surplus mentality, the result of an embarrassment of riches, to a growing awareness that our food production capability may not, in the long run, be adequate to our needs and those who depend on us abroad.

One of the world's leading authorities on the food economy, Lester R. Brown, has written a thoughtful and probing article which appeared in the Outlook section of the Washington Post on Sunday, July 15. Because it is so valuable a contribution to the dialog, I ask unanimous consent that this article and one by L. H. Bean, which appeared in the Washington Post of July 16, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

SCARCE FOOD: HERE TO STAY

(By Lester R. Brown)

This year has witnessed a dramatic upsurge in interest in the world food situation, largely in response to global scarcity and rising food prices. Prices for some of man's principal food commodities—wheat, rice, feedgrains and soybeans—have soared to historic highs in international markets. Rationing has been in effect for at least some foodstuffs in three of the world's four most populous countries: China, India and the Soviet Union.

By summer, food was being airlifted into several countries in sub-Sahara Africa to stave off famine, India and Bangladesh faced critical food shortages. The United States was restricting soybean exports in order to bring internal food prices down. Food scarcity was affecting the entire world, rich countries and poor.

Within the United States, those protesting and boycotting over rising meat prices in recent months hardly know whom to blame. They are not certain that supermarkets bear responsibility, they are not convinced that it is entirely the farmer's fault, and they are not sure who the middleman is.

What most Americans have never stopped to ask is whether we, as consumers and parents, might in any way be responsible for the soaring meat prices. As average American consumers, we have increased our per capita beef consumption from 55 pounds a year in 1940 to 117 pounds in 1972. Meanwhile, as parents, many of us have borne far more children than needed to replace ourselves, expanding our population by 57 percent during this same period. Altogether, our national beef consumption tripled, making us a leading beef importer.

For Americans, soaring food prices and the prospect of sometimes empty meat counters in the months ahead has come as a shock. If there was any sector of our economy which we thought was invulnerable, it was the capacity of U.S. agriculture to provide consumers with an adequate supply of low-cost food. Suddenly this is no longer possible.

A dollar devalued by as much as a third over the past 20 months against major currencies such as the German mark and Japanese yen is enabling two-thirds of a billion high-income consumers in Europe, the Soviet Union and Japan to compete very successfully for our domestically produced agricultural raw materials. Had the administration been willing earlier to reduce the scale of our vast dollar-draining military establishment abroad or to meaningfully address the energy crisis at home by curbing demand through such actions as reducing the size of automobiles, much of the decline in the dollar's value could have been avoided. Inaction on these fronts is now taking its toll at the supermarket checkout counter.

At the global level, the news media have drawn attention to several factors contributing to the food scarcities of 1973. Among these are the poor rice harvest in Asia, the shortfall in the Soviet wheat crop, and the temporary disappearance of the anchovies off the coast of Peru for several months in late 1972 and early 1973. But these are to some extent at least, short-term factors, and they should not be permitted to obscure other, more fundamental long-term trends and forces that are altering the nature and dimensions of the world food problem.

POPULATION AND AFFLUENCE

During the 1960s the world food problem was perceived as a food/population problem, a race between food and people. At the end of each year observers anxiously compared rates of increase in food production with those of population growth to see if any progress was being made. Throughout most of the decade it was nip and tuck. During the 1970s rapid global population growth continues to generate demand for more food, but, in addition, rising affluence is emerging as a major new claimant on world food resources. Historically, there was only one important source of growth in world demand for food; now there are two.

At the global level, population growth is still the dominant cause of an increasing demand for food. Expanding at nearly 2 per cent per year, world population will double in little more than a generation. Merely maintaining current per capita consumption levels will therefore require a doubling of food production over the next generation.

The effect of rising affluence on the world demand for food is perhaps best understood by examining its effect on requirements for cereals, which dominate the world food economy. Consumed directly, cereals provide 52 per cent of man's food energy supply. Consumed indirectly in the form of livestock products, they provide a sizable share of the remainder. In resource terms, cereals occupy more than 70 per cent of the world's crop area.

In the poor countries, the annual availability of grain per person averages only about 400 pounds a year. Nearly all of this small amount, roughly a pound a day, must be consumed directly to meet minimum energy needs. Little can be spared for conversion into animal protein.

In the United States and Canada, per capita grain utilization is currently approaching a ton a year. Of this total, only about 150 pounds are consumed directly in the form of bread, pastries and breakfast cereals. The remainder is consumed indirectly in the form of meat, milk and eggs. The agricultural resources—land, water, fertilizer—required to support an average North American are nearly five times those of the average Indian, Nigerian or Colombian.

Throughout the world, per capita grain requirements rise with income. The amount of grain consumed directly rises until per capita income approaches $500 a year, and then begins to decline, eventually leveling off at about 150 pounds. The total amount of grain consumed directly and indirectly, however, continues to rise rapidly as per capita income climbs. As yet no nation appears to have reached a level of affluence where its per capita grain requirements have stopped rising.

There is now a northern tier of industrial countries—including Scandinavia, Western Europe, Eastern Europe, the Soviet Union and Japan—whose dietary habits more or less approximate those of the United States in 1940. As incomes continue to rise in this group of countries containing some two-thirds of a billion people, a sizable share of the additional income is being converted into demand for livestock products, particularly beef. Many of these countries, such as Japan and those in Western Europe, are densely populated. Others—the Soviet Union, for example—suffer from a scarcity of fresh water. Most lack the capacity to satisfy the growth in demand for livestock products entirely from indigenous resources. As a result they are importing increasing amounts of livestock products or of feedgrains and soybeans with which to expand their livestock production.

Throughout the poor countries, population growth accounts for most of the year-to-year growth in the demand for food. At best only very limited progress is being made in raising per capita consumption. In the more affluent countries, on the other hand, rising incomes account for most of the growth in the demand for food.

LAND AND WATER

As world demand climbs due to these two factors, we face several important constraints in our efforts to expand global food production. The traditional approach to increasing production—expanding the area under cultivation—has only limited scope for the future. Indeed, some parts of the world face a net reduction in agricultural land because of the growth in competing uses, such as industrial development, recreation, transportation and residential development. Few countries have well-defined land use policies that protect agricultural land from other uses. In the United States, farmland has been used indiscriminately for other purposes with little thought to the possible long-term consequences.

Some more densely populated countries, such as Japan and several in Western Europe, have been experiencing a reduction in the land used for crop production for the past few decades. This trend is continuing and may well accelerate. Other parts of the world, including particularly the Indian subcontinent, the Middle East, North Africa, the Caribbean, Central America and the Andean countries, are losing disturbingly large acreages of cropland each year because of severe erosion.

The availability of arable land is important, but perhaps even more important in the future will be the availability of water. In many regions of the world, fertile land is available if water can be found to make it produce.

Yet most of the rivers that lend themselves to damming and to irrigation have already been developed. Future efforts to expand fresh water supplies for agricultural purposes will increasingly focus on such techniques as the diversion of rivers (as in the Soviet Union), desalting sea water and the manipulation of rainfall patterns.

Another disturbing question is the extent to which the trend of rising per acre yields of cereals in the more advanced countries can be sustained. In some countries, increases in per-acre yields are beginning to slow down, and the capital investments required for each additional increase may now start to climb sharply. In agriculturally advanced countries, such as Japan, the Netherlands and the United States, the cost of improving production for some crops is rising. For example, raising yields of corn in the United States from 90 to 100 bushels per acre requires much more nitrogen than was needed to raise yields from 50 to 60 bushels.

What impact the energy crisis will have on food production costs and trends remains to be seen. With a substantial rise in the cost of energy, farmers engaged in high-energy agriculture, as in the United States, will tend to use less, thus perhaps reducing future production increases below current expectations. Rising costs will affect not only gasoline for tractors but other basic items. Nitrogen fertilizer, for instance, often uses natural gas as a raw material, and energy is one of the dominant costs in its manufacture.

BEEF AND SOYBEANS

In looking ahead one must be particularly concerned about the difficulties in expanding the supply of world protein to meet the projected rapid growth in demand.

One important source of protein is beef. Efforts to increase its supply have run into two problems: First, agricultural scientists have not been able to devise any commercially usable means of getting more than one calf per cow per year. For every animal that goes into the beef production process, one adult must be fed and otherwise maintained for a full year. There does not appear to be any prospect of an imminent breakthrough on this front.

The other problem is that the grazing capacity of much of the world's pasture land is now rather fully utilized. This is true, for example, in the U.S. Great Plains, in East Africa and in parts of Australia. Most of the industrial countries in which beef consumption is expanding rapidly, from Ireland through the Soviet Union and Japan, are unable to meet all the growth in demand from their own resources. Either some of the beef, or the feedgrains and soybeans to produce it, must be imported.

Soybeans are a second major protein source which has thus far defied the efforts of scientists to achieve a production breakthrough. A major source of high-quality protein for livestock and poultry throughout much of the world, soybeans are consumed directly as food by more than a billion people throughout densely populated East Asia. They have become the leading export product of the United States, surpassing export sales of wheat, corn and high-technology items such as electronic computers.

In the United States, which now produces two-thirds of the world's soybean crop and supplies more than 90 per cent of all soybeans entering the world market, soybean yields per acre have increased by about 1 per cent per year since 1950; corn yields, on the other hand, have increased by nearly 4 per cent per year. One reason why soybean yields have not climbed very rapidly is that the soybean, being a legume with a built-in nitrogen supply, is not very responsive to nitrogen fertilizer.

The way the United States produces more soybeans is by planting more soybean acreage. Close to 85 per cent of the dramatic fourfold increase in the U.S. soybean crop since 1950 has come from expanding the area devoted to it. As long as there was ample idled cropland available, this did not pose a problem, but if this cropland reserve continues to diminish or disappears entirely, it could create serious global supply problems.

DEPLETED OCEANS

A third major protein source is the earth's oceans. From 1950 to 1968 the world fish catch reached a new record each year, tripling from 21 million tons to 63 millions tons. The average annual increase in the catch of nearly 5 percent, which far exceeded the annual rate of world population growth, greatly increased the average supply of marine protein per person.

Then suddenly, in 1969, the long period of sustained growth was interrupted by a decline in the catch. Since then, it has been fluctuating rather unpredictably, while the amount of time and money expended to bring in the catch continues to rise every year. Many marine biologists now feel that the global catch of table-grade fish is at or near the maximum sustainable level. A large number of the 30 or so leading species of commercial-grade fish may currently be over-fished—that is, stocks will not sustain even the current level of catch.

The 1971 catch of 69 million tons amounted to nearly 40 pounds of live weight a person throughout the world. Of this catch roughly 60 per cent was table-grade fish, the remainder consisting of inferior species used for manufacturing fish meal, which in turn is used in poultry and hog feed in the industrial countries.

The world's major source of fish meal is the anchovy stock off the coast of Peru. Peru has supplied nearly two-thirds of world fish meal exports in recent years. Last year's disappearance of the anchovies, at first regarded as a temporary, recurring natural phenomenon, is now being viewed with considerable alarm by many biologists. There are growing indications that the stock has been seriously damaged by over-fishing.

If, as now seems probable, the global fish catch does not continue rising in the next decades as it did during the last two, the pressures on land-based protein sources can be expected to increase substantially.

Although there are still substantial opportunities for further expanding the world's protein supply, it now seems likely that the supply of animal protein will lag behind growth in demand for some time to come, resulting in significantly higher prices for livestock products during the 1970s than prevailed during the 1960s. We may be witnessing the transformation of the world protein market from a buyer's market to a seller's market, much as the world energy market has been transformed over the past few years.

DWINDLING RESERVES

Since World War II the world has been fortunate to have, in effect, two major food reserves: grain reserves in the principal exporting countries and cropland idled under farm programs, virtually all of it in the United States.

Grain reserves, including substantial quantities of both foodgrains and feedgrains, are most commonly measured in terms of carryover stocks—the amount in storage at the time the new crop begins to come in. World carryover stocks are concentrated in a few of the principal exporting countries—namely the United States, Canada, Australia and Argentina.

Since 1960, world grain reserves have fluctuated from a high of 155 million metric tons to a low of about 100 million metric tons. When reserves drop to 100 million tons, severe shortages and strong upward price pressures develop. Although 100 million tons appears to be an enormous quantity of grain, it represents a mere 7 percent of annual world grain consumption, a perilously thin buffer against the vagaries of weather or plant diseases. As world consumption expands, so should the size of working reserves, but the trend over the past decade has been for reserves to dwindle while consumption has climbed.

In addition, one-seventh of U.S. cropland, or roughly 50 million acres out of 350 million has been idled under farm programs for the past dozen years or so. Though not as quickly available as the grain reserves, most of this acreage can be brought back into production within 12 to 18 months once the decision is made to do so.

In recent years the need to draw down grain reserves and to dip into the reserve of idled cropland has occurred with increasing frequency. This first happened during the food crisis years of 1966 and 1967 when world grain reserves were reduced to a dangerously low level and the United States brought back into production a small portion of the 50 million idle acres. Again in 1971, as a result of the corn blight, the United States both drew down its grain reserves and again brought a portion of the idled acreage back into production. This year, in response to growing food scarcities, world grain reserves once more declined, and the United States dipped much deeper into its idle cropland, permitting at least two-thirds to come back into production.

Now, even with the prospect of record harvests of wheat, corn and soybeans in the United States and a good-to-very-good cereal harvest in the Soviet Union, it does not appear that depleted world grain reserves will be rebuilt much, if at all, this year.

A WORLD FOOD BANK

If world food reserves become chronically low and idle U.S. cropland dwindles or disappears, the result may well be very volatile world prices for the important food commodities. It already is clear that a 25-year era of remarkably stable world prices for the principal temperate zone crops, based on U.S. commodity support levels, has come to an end.

The situation could become even more traumatic for consumers throughout the world if North America, on which the world has become progressively more dependent for its food supplies during this same postwar period, should experience a prolonged drought of several years during the 1970s. There has been such a drought roughly every 20 years since weather records were begun after the Civil War. The most recent drought period, in the early 1950s, was not especially severe, but the preceding one brought on the Dust Bowl crisis of the 1930s.

The prospect of an emerging chronic global scarcity of food calls for serious consideration of the proposal by the Food and Agriculture Organization of the United Nations for an internationally managed world food bank as a means of maintaining some semblance of order and stability in the world food economy. Just as the U.S. dollar can no longer serve as the foundation of the international monetary system, so U.S. agriculture may no longer have sufficient excess capacity to ensure reasonable stability in the world food economy.

A world reserve could be built up in times of relative abundance and drawn down in times of acute scarity. In effect, the cushion that surplus American agricultural capacity has provided for a generation would be provided at least partially by a world food bank. A system of global food reserves would provide a measure of price stability in the world food economy that would be in the self-interest of all nations. It also would provide assurance against famine in the densely populated low-income countries after a poor crop year—an assurance the affluent nations may be less able to provide in the future if the current system of autonomous, nationally oriented planning is allowed to continue without modification.

There is a similarly urgent need to evolve a cooperative global approach to the management of oceanic fisheries. Failure to do this will result in a continuing depletion of stocks, a reduction in catch, and soaring seafood prices that will make those of the early 1970s seem modest by comparison. It is in this context that we, as consumers, have a direct stake in the U.N.-sponsored conference later this year in Santiago.

THE DEVELOPING LANDS

Over the long run, the key to coping with world food scarcity lies in the developing countries. It is here that the population pressures are most severe and furthest from solution; it is here also that the unused potential for expanding food production is the greatest.

On the population front, current trends make possible the stabilizing and eventual halting of growth in the industrial countries. In the poor countries, however, it will be much more difficult to achieve population stability. For one thing, history shows that birth rates do not usually decline unless there is improvement in well-being—a reasonable standard of living, an assured food supply, a reduced infant mortality rate, literacy, and health services.

In short, it may well be in the self-interest of affluent societies, such as the United States, to launch an attack on global poverty, not only to narrow the economic gap between rich and poor nations, but also to meet the basic social needs of people throughout the world in an effort to provide incentives for lowering birth rates. Population-induced pressures on the global food supply will continue to increase if substantial economic and social progress is not made. Populations that double every 24 years—as many are doing in poor nations—multiply 16-fold in scarcely three generations!

The United States could also lead an enlarged effort to expand the world's food supply by concentrating on the unexploited potential of the developing countries. A bipartisan proposal introduced in Congress last month would do this by restructuring the Agency for International Development and increasing by half the support it provides for agricultural and rural development.

Although the introduction of new wheat and rice varieties has increased production substantially in many developing countries, the jump in per-acre yields appears dramatic largely because their yields traditionally have been so far below their potential. But today rice yields per acre in India and Nigeria still are only one-third those of Japan; corn yields in Thailand and Brazil are less than one-third those of the United States. Large increases in food supply are possible in these countries at far less cost than in agriculturally advanced nations if farmers are given the necessary economic incentives and resources.

Concentrating efforts on expanding food production in the poor countries could reduce the pressure on world food prices, create additional employment in countries where continuously rising unemployment poses a serious threat to political stability, and raise income and improve nutrition for the poorest portion of humanity—the people living in rural areas of the developing countries.

The urgency of the food problem is underscored by increasingly frequent reports of starvation in sub-Sahara Africa and of food riots in Asia. Assuring adequate food supplies at reasonable prices may now be possible only through international cooperation. The disappearance of surplus food stocks and the return of idled cropland to production has removed the cushions that once existed as partial insurance against catastrophe for the poor and skyrocketing prices for the rich.

THE DEMAND FOR PROTEIN

(By L. H. Bean)

The sudden rise in the price of soybeans from a normal price of $2 to $3 per bushel to more than $10 has made us aware of the rising demand for protein feed. More of us now know that the major sources of protein are our soybeans, African peanuts and Peruvian fish, most of which is used as feed for poultry, cattle and hogs. There is another bit of knowledge that needs to be brought to the fore. It was contained in the President's Science Advisory Committee report on the World Food Problem released by the White House in May 1967.

That report makes us aware of the fact that protein derived from oil seeds is consumed mostly by animals and that this method of conversion of protein feed into ultimate food is most inefficient. The world, in effect, is feeding two populations, four-legged and two-legged. The animal population yields only a very small fraction of its protein intake for the human population.

On the "Efficiency of Conversion of Feed" the President's Science Advisory Committee says:

> *"One must also consider the competition for food and feed between the human and animal in those areas of the world where food is not plentiful. One must recognize that the greater the percentage of food energy being supplied from animal products, the more land is needed to provide for each person. One must also recognize that the relative productivity of animal protein per acre of land varies with the type of plant grown and with the type of animal fed . . . Human food cannot be produced efficiently when one turns to animal production as when grains are consumed by man himself."*

The report provides data to support these conclusions. It shows that it takes 50 per cent more crop land to supply food energy derived from a high, liberal-cost livestock diet than for a low-cost low-livestock diet. It shows that an acre of soybeans provides several times the protein required daily by a moderately active man than does an acre of feed for livestock products. It shows that in the conversion of ingested protein to edible protein, beef yield only about 5 per cent, swine only about 12 per cent and poultry only about 20 per cent. Thus the four-legged population of cattle and hogs, which in this country are as numerous as the human population, absorbs 100 units of protein and yields only 10.

The report further states that "Technologies exist and new ones are being developed rapidly to produce from these (oil seed) proteins a wide spectrum of food products which include flaked, and extruded cereal protein mixtures, protein beverages, bakery products, desserts, spreads and textured (meat-like) products. Only a small fraction of the proteins in oil seeds is consumed directly by humans . . . One of the greatest opportunities for increasing the world protein supply, without increasing agricultural production is to utilize the presently available oil seed resources directly for humans."

In the seven years since this report was issued food processors have taken the hint, and you can now see a broad range of meat, poultry and dairy substitutes derived from oil seeds on display on supermarket shelves, attesting their growing popularity as consumers seek relief from inflated food prices.

For the Biblical-minded who may be reluctant to shift from their accustomed meat diet, the President's Science Advisory Committee offers a gentle hint. It leads off its section on Oil Seed Proteins with a quotation from the Book of Daniel. Daniel and his three buddies, you may have read, were raised in homes where neither meat nor wine was served. Picked to be reared and educated in the invader King's court, Daniel held out for a meatless diet. The moral of the quotation is clear:

> *Then said Daniel to the steward, "Try thy servants, I beseech thee, ten days; and let them give us pulse to eat, and water to drink. Then let our countenances be looked upon before thee and the countenances of youths that eat of the King's food" . . . and at the end of ten days their countenances appeared fairer and they were fatter in flesh than all of the youths that did eat the King's food.*
>
> *—Book of Daniel 1:3–16*

PHARMACY ECONOMIC SECURITY

Mr. HUMPHREY. Mr. President, the leadership of the National Association of Retail Druggists—NARD—and the American Pharmaceutical Association—APhA—are extremely concerned about the personal economic distress of the Nation's pharmacists and pharmacies. Pharmacists, both salaried and self-employed, must be adequately compensated for their services in order to insure quality professional service and to maintain economic parity among the health professions.

Pharmacists have been caught up in a web of circumstances. While the profession and its practitioners have been busy expanding and improving pharmaceutical services rendered to patients, third parties—government, health organizations, unions, insurance companies, and so forth—are becoming the major consumers of pharmaceutical services. This trend is having a major impact upon the economic welfare of the profession of pharmacy and its practitioners.

During the past few months, the officers of the American Pharmaceutical Association and the National Association of Retail Druggists have held meetings to discuss cooperative efforts that could be lawfully undertaken to improve the economic welfare of pharmacists and pharmacies. As a result of these discussions, the executive committee of the NARD and the board of trustees of the APhA have approved the immediate establishment of an APA-NARD Committee on Pharmacy Economic Security—COPES. Each association will appoint its president, executive body chairman, and executive officer as members of the joint committee. In addition to staff support from APhA and NARD, the joint committee on pharmacy economic security will be assisted by special consultants retained by NARD and APhA.

The purpose of COPES will be to identify courses of action that APhA and NARD collectively and individually may pursue to help pharmacists gain a reasonable return on their educational, professional, and capital investments. While pharmacists are justifiably proud of the unique record they have established in keeping down the cost of pharmaceutical services regardless who has paid for them, pharmacists personally are just as much victims of inflation as other members of society. Those pharmacists who have invested capital to insure the convenience and availability of pharmaceutical service in the neighborhoods of urban communities and on main street in rural towns must have a fair return just as much as do the investors in drug manufacturing, hospitals, clinics, extended care facilities, and nursing homes.

While every effort will be made to help pharmacists and pharmacies improve their efficiency and increase their productivity, the failure to provide adequate return on invested capital for pharmacists can only lead to the retrenchment of a vital health care service.

THE THRESHOLD OF THE SUN AGE

Mr. HUMPHREY. Mr. President, the "energy crisis" that we face in this Nation has both a "short-term" and a "long-term" dimension. Most of the action taken by Congress to date has been aimed at easing the crisis today and for the remainder of this century. However, many experts are now voicing the opinion that no source of energy now available will meet our needs for clean energy during the next century and beyond—except the Sun.

Many have recognized the potential of this greatest and cleanest of all sources of energy and I, for one, have called for stepped-up efforts to tap this tremendous potential for many years. The total Federal effort specifically directed toward solar energy research and development has been totally inadequate, given the energy needs of our Nation and the important researchable projects available.

Expenditures in the 1973 fiscal year for all types of solar energy research and development by all Federal agencies totaled only about $13 million. This amounts to less than 2 percent of the $700 million Federal energy research and development budget and a mere three-one-hundredths of 1 percent of our total Federal R. & D. budget. Certainly the nature of the "energy crisis" demands and the potential for practical uses of solar energy require much greater support from the Federal Government.

The experts generally agree that the need for solar energy exists today and will grow rapidly in the future. They also agree that the present grace period, which permits reliance on traditional fuels, is so short that a much accelerated effort in solar energy research and development is required.

Recently, 600 scientists from around the world met, under UNESCO auspices, to consider the future of solar energy. The conclusions of those discussions were reported by Claire Sterling in a most informative article entitled, "The Threshold of the 'Sun Age'," which appeared yesterday in the Washington Post. This is an important article highlighting what "could be" accomplished if solar energy research and development were adequately supported.

I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Threshold Of the Sun Age

(By Claire Sterling)

Paris.—Six hundred scientists from all over the world gathered under UNESCO's roof here made it clear, in a recent week-long conference, that man is moving into the Sun Age.

Just five years from now, solar heating could be in commercial use around the globe. In less than 10 years, one out of every 10 new homes built in the United States will probably be both heated and cooled by solar rays. In less than 15 years, these rays could be producing commercial electric power. In 20 years, we may well have a 25-million-pound prototype satellite in synchronous orbit 22,300 miles above us in space, beaming power to the planet by microwave. In 50 years, whether by this or other processes, harnessed solar rays could be covering at least 20 percent of all the United States' energy needs—nearly the total consumed altogether in 1970 by the world's most spendthrift nation.

This is not the familiar wishful thinking of solar energy enthusiasts, or cranks, as most of us used to call them. Apart from the prototype satellite—by no means a pipe-dream either—all the above projections were presented to the conference by hardnosed American experts reporting conclusions reached by a NASA-National Science Foundation panel last December. They reflect a dramatic rise in governmental interest, backed for the first time by the promise of big money for research and development. With the latter, in particular, solar energy is moving from the narrow realms of gadgeteering to the big-time.

No great scientific breakthrough was reported here to warrant what looks unmistakably like the take-off. All the so-called "large-power" schemes for harnessing the sun, whether in space or on earth, by solar cell or thermal conversion, are still beset by tormenting difficulties, and certainly offer nothing like a quick fix. Furthermore, practically all the "small-power" devices that might soon become commonplace have been known for centuries: a solar furnace on display in Stockholm Museum, made by somebody in quest of the philosopher's stone in 1612, differs hardly at all in principle from the spectacular one of 1,000-kilowatt capacity presently operating in the French Bas-Pyrenees.

Apart from the French installation, at Odeillo, an infinite variety of solar installations have been functioning the world over for years. Among them are some 2,000,000 solar water-heaters in Japan and 8,000,000 elsewhere around the globe; solar stills to purify and desalinate water, one turning out 10,000 gallons a day on the Greek island of Patmos; "small-power" solar pumps, seven of which are working smoothly in West Africa; and a solar furnace successfully drying industrial timber in Australia.

But scientists might have been puttering around indefinitely with such projects on a cottage-industry level if not for a sudden and extraordinary change in thinking at high government levels in many parts of the world. What has made the difference is that the big energy-using countries did not really believe they had to harness the sun before, and do now.

The difference has been increasingly apparent since President Nixon first spoke of the sun as an "inexhaustible source" of energy in June 1971. His message reflected a growing realization not only that all other energy sources were indeed exhaustible and more or less rapidly approaching exhaustion because of an exponential growth in their use, but that critical shortages might soon create intolerable economic, environmental and, internationally, political strains.

Since then, the energy crisis has become a household word for Americans, and hardly less so for highly industrialized nations everywhere. As William H. Wetmore of the National Science Foundation pointed out to delegates here, the United States now estimates that its deficit in oil supplies alone will reach from 10,000,000 to 16,000,000 barrels a day by 1990, causing a trade imbalance for this one product of about $15 billion a year. It is hardly surprising, then, that the United States should be taking an exponentially rising interest now in the possibilities of tapping an energy source at once eternally renewable, limitless and pollution-free.

Since 1971, accordingly, the National Science Foundation's budget for solar energy research has risen from nearly zero to $13 million for the next fiscal year. While that may be chicken-feed, the NSF–NASA panel has recommended a U.S. government investment of $3 billion in solar research and development over the next 15 years.

Compared to the $21 billion spent on the American space program in 10 years, that may still look like chicken feed. But it has evidently helped awaken American industrialists to what one speaks of as the "staggering possibilities" of a new market in solar heating and cooling that could easily run to a billion dollars or more in barely seven years.

The market, known now as "solar climate control," is already being explored by 26 top-ranking American companies, including Du Pont, Corning Glass, Kennecott Copper and Spectrolab division of Textron. The initiative in forming this imposing group was taken last April by Dr. Pete Glaser, a vice president of Arthur D. Little, Inc., and moving spirit behind the proposed satellite solar power station—under study in his laboratory for several years.

Perhaps more than any single factor at this conference, the willingness of these big American companies to actually put money into solar research and development has brought about a stunning change in thinking. From an essentially "do-good" movement of scientists hoping to help the poor countries of this world with cheap solar cookers, there has suddenly emerged a rich-state research and development movement on a supremely sophisticated technological level. If there is no doubt that success in this endeavor is going to cost many billion dollars in the end, there is no longer much doubt that, in the end, many billion dollars will bring success.

Though the 600 scientists at the conference may disagree violently about almost everything else, they are unanimous in saying that money—an enormous amount of it—is the problem remaining in tapping the energy of the sun. There is essentially nothing left to be solved in a physics laboratory: what remains to be solved is simply a matter of costs.

Where mere costs are concerned, or so the scientists say, there is practically nothing that money could not do. A crash program backed by billions of dollars might eventually bring down the literally astronomic cost of the crucial solar-cell which, whether of silicon or cadmium sulphide, generates electricity directly from the sun—at a price a thousand times higher than the competitive level. Both the National Science Foundation spokesmen and those of Textron's Spectrolab have maintained here that this cost can be reduced to acceptable levels in anywhere from 10 to 20 years, provided enough money goes into the effort.

If that assertion has been heatedly challenged by other delegates here, most have been fairly optimistic about bringing costs down for small power thermal conversion through devices such as flat-plate collectors. Here in particular, they are encouraged (rather perversely) by the fact that while they try to get these costs down, the costs of conventional fuels are going up. Sooner or later, the lines must cross over on the charts, they feel—and in four sizable regions of the United States, where small-powered heating and cooling of buildings can now be done as cheaply by solar devices as by oil, the lines have crossed already.

Time and again during the week of debate, however, the point was made that the question of actually matching costs per kilowatt hour, cent for cent, is not altogether relevant. There are large areas of the world where fuel-free, maintenance-free power would be welcome even at four or five times the price of conventional fuels: In vast rural areas of Soviet Russia, for instance, or in the drought-stricken West Africa, where millions of cattle are dying—and humans are starting to die as well—for lack of water lying underground, which might be brought up by solar pumps far more easily than by diesels requiring maintenance and fuel transported over perhaps 500 miles of desert.

How much West Africa's poverty-stricken Sahelian states might stand to benefit from a crash solar-energy program is another question, however. With the shift of emphasis now to the needs of highly industrialized nations, the take-off will inevitably be in the direction of mass commercial use for relatively rich consumers. Almost certainly the poor states will have to wait 10 or 20 years, or however long it takes, for the spin-off.

NEW FEDERAL DRUG POLICY ON SEARCH-AND-ARREST PROCEDURES

Mr. PERCY. Mr. President, in view of some of the recent outrageous offenses committed by drug law enforcement officials on decent, law-abiding citizens in Collinsville, Ill., in Chicago, and around the country, yesterday's statement on search-and-arrest policy by the new Drug Enforcement Administration represents a welcome and needed clarification of policy. I am especially pleased that "no-knock" forcible entries on private dwellings henceforth will be authorized only by the Administrator or his deputy, and that agents will be required to appear and dress in the manner expected of agents, to wear identifying badges, to conduct themselves judiciously at all times, and to avoid needless seeking of publicity and indiscriminate use of guns.

I would have hoped that the notion of "probable cause" to permit a forcible entry of a private residence could have been better spelled out in the interest of reducing the frequency of dangerous confrontations as well as safeguarding fundamental individual rights.

I ask unanimous consent to print the DEA Statement of Policy in the RECORD.

There being no objection, the statement of policy was ordered to be printed in the RECORD, as follows:

SEARCH AND ARREST: A STATEMENT OF POLICY

INTRODUCTION

Public confidence is the absolute cornerstone of effective law enforcement. It can only be earned by the professional conduct of every agent—no matter how challenging and difficult the circumstances. There is no more difficult area of law enforcement than the suppression of the narcotics traffic. The Drug Enforcement Administration is taking firm steps to insure that public confidence in DEA and the integrity of its personnel will be a continuing asset.

This Statement of Policy outlines the measures taken by the Drug Enforcement Administration to prevent incidents which might infringe on individual rights or jeopardize the successful prosecution of a case. The guidelines require clear-cut lines of command and control in enforcement situations and stress that operations must be carried out in a manner that is legally correct, morally sound, with full respect for the civil rights, human dignity of persons involved, and the sanctity of the home.

It is well recognized in the law enforcement community that agents and officers must not be hamstrung in their efforts by the imposition of arbitrary and unyielding operational parameters. Ours is a dangerous and difficult task requiring judgment, maturity, and courage. Hindsight is easy; to reach the same decision during the excitement and danger of an encounter is a much more difficult task. These policies are also designed to serve another purpose—the protection of DEA Agent personnel. These new procedures are intended to reduce the frequency of dangerous confrontation without a marked reduction in operating efficiency.

MATTERS OF POLICY EMPHASIS

This Section contains matters of new policy as well as matters presently contained in the Agents Manual. All of these policy statements, however, will be incorporated into the Agents Manual by the Office of Enforcement Policy and Communications.

GUIDELINES TO INSURE CONTROL OF ARRESTS AND SEARCHES

1. Use of "no-knock" authority

The "no-knock" authority contained in 21 U.S.C. 879 will not be requested by DEA Agents unless specifically authorized by the Administrator or the Deputy Administrator.

During the 26-month period that the "no-knock" authority has been effective, it has been utilized by drug enforcement agents on limited occasions. This policy does not imply that "no-knock" is without value when used judiciously, but that employment should be preceded by high-level review of existing circumstances.

2. Forced entry for arrest

DEA Agents will not engage in any forced entry of a premise to execute an arrest with or without a warrant except in cases in which the Agents have probable cause to believe that the defendant is within the premises. Only in those cases when it is not practical to secure a warrant, will an agent execute an arrest without a warrant inside a premise. Before entering any premises, the agent will knock and announce his purpose and authority in an audible and distinctive manner.

Only when it is not practical to secure a warrant, should Agents force an entry without a warrant to effect an arrest, such as in "hot pursuit" or destruction of evidence situations. In all other cases, forced entry should not be undertaken without an arrest warrant unless the specific approval of the Group Supervisor is obtained.

3. Dress and identification

The enforcement team will wear distinctive markings, such as badges, caps, or other devices, to identify themselves to the public and their fellow officers in all cases involving forced entry and will give prior notice of authority and purpose before forcing entry after being denied admission. Good judgment will be used at all times regarding dress and appearance. The assistance of uniformed police officers should be requested when their presence will provide recognized authority in appropriate situations, such as forced entry.

Statutes require that an officer must give loud and clear notice of his authority and purpose and be refused admittance before he may forcibly enter a house. It is also essential that the operational team dress in a manner to invite confidence by the public and to lessen the possibility that an Agent be mistaken for someone other than a responsible Federal official. The markings will be also employed so that Agents may easily recognize all enforcement personnel who may accompany the team. The use of a uniformed police officer as part of the enforcement team is encouraged.

4. Planning

A DEA supervisory official will approve all procedures to be utilized in cases which involve the execution of a search or arrest warrant on a premises and he will specifically designate an Agent on the scene to be in charge of the entry if the supervisor does not personally accompany the Agents. When practical, photographs of the premises should be taken.

It is particularly important that good planning be utilized in any case which may involve a forced entry. Every contingency should be examined and intelligence relative to the site and people involved should be considered in preparation of the operational plan. A clear line of authority should exist in any field situation The enforcement team should take a camera with them.

5. Securing the premises

Where a legal entry to a premises has been made, the Agents may secure the premises from the inside, pending the issuance of a search warrant. However, when the Agents have no legal right to enter the premises, they may only secure the premises from the outside while they await the issuance of a search warrant. In all cases, as soon as practicable, before the warrant is issued, the Agents should receive authorization to secure the premises from the United States Attorney's office.

There is no legal authority to enter a premises to "secure" it before warrants are obtained. If, however, an arrest is made from within premises and a search for persons or an arms-length search reveals the probable cause for a search warrant, then Agents may remain within the premises until the warrant is received.

6. Vehicular arrests

DEA Agents should consider all available alternatives to avoid the necessity of arresting a defendant in a vehicle.

Attempts to arrest defendants in vehicles often result in high-speed chases, attempts by defendants to strike the Agents with their vehicles, the use of weapons concealed in the vehicles, and attendant gun battles.

7. Federal/State operations

DEA Agents participating in joint enforcement operations will at all times conduct themselves in compliance with the provisions of the Agents Manual and the guidelines set forth in this Statement of Policy.

It is recognized and expected that DEA Agents will on occasion involve themselves in joint enforcement efforts. When participating in non-DEA sponsored efforts, Agents will nevertheless conduct themselves in accord with Federal standards. Agents will immediately disassociate themselves from compromising situations and report the facts to their Supervisor.

8. Participation of nonenforcement personnel

Unless approved in exceptional cases by the Regional Administrator in advance, no press representative or other non-enforcement personnel will be present during any DEA search or arrest activity.

This procedure will prevent the "Hollywood" type of raids often engendered by the presence of reporters and make DEA searches and arrests low-key professional operations. In the interest of general safety, it is essential that the size of the enforcement team be minimized

9. Reporting use of weapon

Other than during supervised official target practice, no DEA Agent will fire his weapon other than in self-defense or in defense of another person. Every firing of a weapon other than target practice will be immediately reported to the Agent's supervisor.

An Agent is required to exercise discretion and good judgment in drawing his weapon. Any unusual situation requiring the display of firearms—whether utilized or not—shall be detailed in the investigative reports.

10. Conflicting address

In the event that advice is received from local or Federal prosecutors which is in conflict with DEA guidelines, that conflict will be reported to the Regional Administrator, who will seek advice from Headquarters if necessary for resolution.

As a practical matter, the occasion may arise when an Agent receives legal advice from a prosecutive source which may be in conflict with the policy of the United States Attorney, the policies of the Department of Justice, or the enforcement agency concerned. These conflicts, when they occur, will be resolved immediately.

GUIDELINES RELATIVE TO PLACING AGENTS ON LIMITED DUTY

DEA Agents who are involved in specified incidents will be placed on Limited Duty; such duty will consist of (1) no participation in surveillance, arrests, or searches, (2) no development of new enforcement matters, (3) maintaining a presence within the DEA office, and (4) such other restrictions that may be dictated by the Administrator. Limited Duty will continue for an appropriate period of time dependent on the circumstances and investigation necessary to determine the facts of the incident. Limited Duty will occur in the following instances:

1. When a person is shot by a DEA Agent.
2. When it has been determined that a DEA Agent has violated one of the DEA Guidelines to Provide Control of Arrests and Searches.
3. In other situations of alleged misconduct as deemed appropriate by the Administrator.

GUIDELINES RELATIVE TO REPORTING INCIDENTS

In the event of a mistaken arrest or the entry of a wrong premises, the Agent in charge will immediately report the circumstances of such incident via the appropriate channels to the Regional Administrator. The Regional Administrator will notify in a timely manner the Assistant Administrator for Enforcement who will advise the Office of Inspection and the Office of Public Information. Written reports detailing the circumstances of the incident will be submitted to Administration Headquarters within 24 hours.

SOME UNDERLYING PROBLEMS IN MEETING WORLD PROTEIN NEEDS

Mr. HUMPHREY. Mr. President, three articles dealing with related aspects of the impending shortages of meat and eggs appeared in Washington newspapers yesterday. Taken together, they provide important insights into some of the underlying reasons for these shortages from three very different perspectives.

The first article, "The Demand for Protein," by L. H. Bean, from the Washington Post, discusses the growing worldwide demand for protein, the limited sources of protein, and the use made of these protein sources. Mr. Bean points out that the conversion of protein feed into human food through livestock is a very inefficient use of increasingly scarce protein.

The second article, "Cost Rises Linked to Lost Anchovies," from the Washington Star, points out that for the second consecutive year Peruvian fishermen may be forced to cancel the fall anchovy fishing effort. Since anchovies from Peru's coast have traditionally been one of the major sources of protein feedgrain—"fishmeal"—the result of this cancellation will be a continuation of scarce protein feed supplies and higher meat prices.

The third article, "His Egg Operation Is About To Crack," by Lance Gay of the Washington Star, describes the plight of one egg farmer in Virginia. Since phase 3½ began, this farmer has sold off 18,000 of his 30,000 hens. The reason for his action was the fact that he has been losing between 9 and 10 cents a dozen on his eggs. These losses are a direct result of two factors, the President's "price freeze" and continued high costs for high protein feedgrains. This egg farmer details the dilemma he faces of rising costs on items he buys and frozen prices on the eggs he sells.

I ask unanimous consent that these three articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE DEMAND FOR PROTEIN

The sudden rise in the price of soybeans from a normal price of $2 to $3 per bushel to more than $10 has made us aware of the rising demand for protein feed. More of us now know that the major sources of protein are our soybeans, African peanuts and Peruvian fish, most of which is used as feed for poultry, cattle and hogs. There is another bit of knowledge that needs to be brought to the fore. It was contained in the President's Science Advisory Committee report on the World Food Problem released by the White House in May 1967.

That report makes us aware of the fact that protein derived from oil seeds is consumed mostly by animals and that this method of conversion of protein feed into ultimate food is most inefficient. The world, in effect, is feeding two populations, four-legged and two-legged. The animal population yields only a very small fraction of its protein intake for the human population.

On the "Efficiency of Conversion of Feed" the President's Science Advisory Committee says:

"One must also consider the competition for food and feed between the human and animal in those areas of the world where food is not plentiful. One must recognize that the greater the percentage of food energy being supplied from animal products, the more land is needed to provide for each person. One must also recognize that the relative productivity of animal protein per acre of land varies with the type of plant grown and with the type of animal fed . . . Human food cannot be produced efficiently when one turns to animal production as when grains are consumed by man himself."

The report provides data to support these conclusions. It shows that it takes 50 per cent more crop land to supply food energy derived from a high, liberal-cost livestock diet than for a low-cost low-livestock diet. It shows that an acre of soybeans provides several times the protein required daily by a moderately active man than does an acre of feed for livestock products. It shows that in the conversion of ingested protein to edible protein, beef yield only about 5 per cent, swine only about 12 per cent and poultry only about 20 per cent. Thus the four-legged population of cattle and hogs, which in this country are as numerous as the human population, absorbs 100 units of protein and yields only 10.

The report further states that "Technologies exist and new ones are being developed rapidly to produce from these (oil seed) proteins a wide spectrum of food products which include flaked, and extruded cereal protein mixtures, protein beverages, bakery products, desserts, spreads and textured (meat-like) products. Only a small fraction of the proteins in oil seeds is consumed directly by humans . . . One of the greatest opportunities for increasing the world protein supply, without increasing agricultural production is to utilize the presently available oil seed resources directly for humans."

In the seven years since this report was issued food processors have taken the hint, and you can now see a broad range of meat, poultry and dairy substitutes derived from oil seeds on display on supermarket shelves, attesting their growing popularity as consumers seek relief from inflated food prices.

For the Biblical-minded who may be reluctant to shift from their accustomed meat diet, the President's Science Advisory Committee offers a gentle hint. It leads off its section on oil and proteins with a quotation from the Book of Daniel. Daniel and his three buddies, you may have read, were raised in homes where neither meat nor wine was served. Picked to be reared and educated in the invader King's court, Daniel held out for a meatless diet. The moral of the quotation is clear:

Then said Daniel to the steward, "Try thy servants, I beseech thee, ten days; and let them give us pulse to eat, and water to drink. Then let our countenances be looked upon before thee and the countenances of youths that eat of the King's food" . . . and at the end of ten days their countenances appeared fairer and they were fatter in flesh than all of the youths that did eat the King's food. —Book of Daniel 1: 3–16

Cost Rises Linked to Lost Anchovies

For the second consecutive year, Peruvian fishermen may be forced to cancel the fall anchovy season, spelling trouble for that country's export earnings and higher food prices for the American consumer.

The Peruvian anchovy, or anchoveta, a variety of the salted anchovy that adorns Caesar salads and "pizza with," is a prime source of protein-rich fishmeal used to fortify livestock feeds.

Last year, however, the warm Humboldt Current, which appears off the Peruvian Pacific coast about every eight years, drove the anchoveta to inaccessible depths. Consequently, fishing was impractical and the price of fishmeal rose from a 1971 level of from $120 to $150 per ton to about $300 per ton.

This year the anchovetas did not return as expected—only two million to five million catchable tons compared with 15 million tons in an average year. The fishmeal price recently has soared to $700 per ton and experts expect the price to go still higher.

U.S. beef and poultry producers, who must vie with Europeans for this available fishmeal supply, ultimately will have to pass on a proportionate share of the added cost to consumers.

After extensive surveys, Peru's Sea Institute and the United Nation's Food and Agriculture Organization reported that the present anchoveta population is barely large enough to sustain itself.

Cost Squeeze: His Egg Operation Is About To Crack

(By Lance Gay)

MATHEWS, VA.—For the past five years, Robert M. Lewis has battled the weather, disease and wildly fluctuating prices to keep his modest egg farm in Virginia's Northern Neck out of the red.

By this spring, the 63-year-old Mathews County farmer said he thought he'd almost made it. For the first time in three years, he was running in the black and was able to pay off debts accumulated during the bad years.

But then on the heels of U.S.-foreign grain deals came skyrocketing prices for chicken feed topped by President Nixon's 60-day price freeze, and Lewis says he's now caught in a squeeze that threatens to throw him into bankruptcy.

"It's always been up and down," Lewis said of his egg business, "but it's never been down for so long like this. And it's getting worse. We'll be gone soon if things don't change around."

Lewis said that since the price freeze went into effect last month, he and other moderately large egg producers in Virginia have been forced to cut back in the size of their laying flocks rather than lose more money.

In the last month, Lewis said, he has sold off 18,000 hens, leaving him only 12,000 in his half empty coops.

The result of these cutbacks are just beginning to be felt in Virginia's supermarkets, and last week a number of chain stores and independent outlets in the central part of the state reported they temporarily had run out of eggs.

"There's a shortage now and it's just beginning," said the manager of one of the state's largest egg producing farms, who asked not to be identified.

"And it's going to be more severe later this year, "he said." About Christmas time, you will really feel it."

James Fleming, director of government relations for the United Egg Producers Assn.—the egg industry's trade group based in Atlanta, Ga.—said the shortage will be felt sooner and predicted it will show up in the Washington area before the end of the month.

"It could get to the point where the consumer will go to the store not to ask 'What prices are your eggs,' but rather, 'Do you have any eggs for sale,' " Fleming said.

"That sounds a little strong, "he said," but we're already seeing some supermarkets in some states shorted on their egg requests and a 10 percent reduction in egg supplies in some areas of the country."

Fleming pointed out that the size of the nation's flock of laying hens is the lowest this year since 1961.

According to statistics compiled by the U.S. Department of Agriculture, the number of laying hens being slaughtered in the last month since President Nixon put the 60-day price freeze into effect has increased between 10 to 20 percent over last year's figures.

With fewer hens and fresh eggs, this should be one of the best periods for egg producers since there is greater demand.

Last fall, a ton of the feed cost him $78.60. He now pays $161.80 for it.

Last month, he recalls he went into the small office he has in the back of his chicken coop and began to total up his costs.

For each dozen eggs he sells, Lewis says he puts 15 cents aside to buy a new pullet (a hen has an average laying life of 10 months), 4 cents for labor, and 2 cents for supplies and repairs.

In addition, he figures 4 cents from each dozen eggs goes towards interest, mortgage and loans. All these charges are approximately the same as last year.

However, he estimated that last fall he spent 24 cents on chicken feed to produce the dozen eggs, whereas this year he is spending more than 35 cents.

Thus, last fall, Lewis said it cost him 49 cents to produce a dozen eggs, this year it costs him 60 cents.

For the 5,317 dozen eggs that Lewis' hens laid in one week earlier this month, he said he received $2,442 in payment—or about 46 cents a dozen.

"I figure I've been loosing between 9 and 10 cents a dozen on the average," Lewis said.

Lewis said he has also canceled orders he placed at area hatcheries for new laying hens and will try to see through the remainder of the freeze with his present flock, which has about eight months of productivity left.

"When they're gone, if things haven't changed around here, then that's it," Lewis said. "I don't have much of a choice then. If I pay off everything, and stop, then that will be it."

Lewis, noted that Nixon's freeze has caused retailers to set a limit on the price of eggs they sell and that they are refusing to pay more to the farmers during this period.

The manager of the large egg farm said he is not in as critical shape as Lewis, partly because he has been saving some of his feed costs by making his own feed and by reducing labor and other costs.

He said he has not reduced the size of his laying flock because he hopes that the tight egg market in the next few months will turn his profits around.

However, Fleming said that unless the administration removes the freeze on retail farm items soon, there will be no incentive for the moderative or large egg farmers to keep in the operation.

"And once you slit a chicken's throat, that chicken's not going to lay any more eggs" and it will take a long time for the egg industry to recover, he said.

CORPORATE RESPONSIBILITY AND THE CONSUMERS

Mr. PERCY. Mr. President, with respect to legislation I am sponsoring to create a Consumer Protection Agency, I point to some recent enlightened and well-chosen remarks by Mr. Peter Jones, vice president for legal and government affairs of Marcor, Inc., the seventh largest retail corporation in America.

Mr. Jones, speaking before the Urban Affairs Committee of the National Association of Manufacturers, underscored the desirability of a heightened corporate stance toward the American consumer.

In the face of declining public confidence in American business, as evidenced in polls taken by Time magazine, Yankelovitch, and Harris, the business community cannot rest on past laurels.

Rather, businessmen should take a more active part in supporting legislation that, in the final analysis, will help consumers and responsible businesses alike.

Marcor, the parent company, and Mongomery Ward, its subsidiary, have assumed a leadership role in assuring that adequate rules, procedures and safeguards for both Government agancies and business are included in Senate legislation to create an advocate for consumers. The company's endorsement of S. 707, along with that of the Zenith Corp., underpins their fervent hope that a deteriorated public confidence in business can be restored.

Mr. President, I ask unanimous consent to have the remarks of Mr. Peter Jones printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF PETER JONES

In terms of new dimensions of corporate responsibility it may be useful to present a case study as to the need for business selectively to support and shape certain kinds of new legislation concerning corporate responsibility. Professor Ackerman of the Harvard Business School has just described the overwhelming problems standing in the way of our companies doing as much as we know the public demands we ought to. I believe he has strengthened the case that "there ought to be a law . . ."

The case study starts with a press conference on the Consumer Protection Agency called by Senator Charles Percy on September 26, 1972, in Washington. Senator Percy opened by saying:

"For most of you who are here this morning, I don't think it came as any surprise when you heard or read my remarks on the Senate floor last week, during consideration of the Consumer Protection Agency Act of 1972, that the lobbying effort directed at this bill from various segments of the business community has been the most intensive and at the same time ill-founded as any I have encountered in my six years in the Senate.

"From simple epithets such as 'super agency,' to concerns about this 'dreadful legislation,' the statements that the bill constitutes the 'most serious threat to free enterprise and orderly government ever to be proposed in Congress,' the charges abound. Precisely where some of these allegations came from, I guess we'll never know, although the last is a direct quote from the so-called business responsiveness kit authored by the Grocery Manufacturers of America. That national trade association says that it supports the concept of consumer advocacy underlying the bill, but it is nevertheless proposing a crippling 'amicus' amendment, presently the subject of what seems to be an extended debate on the floor of the Senate, which would cut the heart out of the bill. The National Association of Manufacturers is less disingenuous; it says that it opposes the legislation outright and views as the best means of killing it, a motion to refer the bill to either the Agriculture, Banking or Judiciary Committee, take your pick, none of which have any legitimate claim to jurisdiction."

The Senator then added:

"I've called you together today at this press conference to announce that at least one major business firm in this country, one whose contributions to this bill have been responsive as well as substantial, believes as I do that this legislation is in the best interests of consumers, and also of the business community itself. Marcor, the parent company and Montgomery Ward, its subsidiary, have communicated to me their outright endorsement of this legislation and their fervent hope that the Senate will pass into law the Consumer Protection Agency Bill this year so as to strengthen protection for consumers, and public confidence in business now."

This last reference was taken from a letter from the chairman of the board and chief executive officer of Marcor.

As a result of that announcement, we were promptly accused by many of being in effect a corporate traitor to our class. A decent respect for the opinions of our business colleagues requires that we explain the reasons that impelled us to part company and why we believed all corporations should favorably consider like kinds of actions. Unless companies begin to respond selectively in this fashion, public confidence in business will at best remain at less than optimum levels and our enterprise and our society will be the worse for it.

The facts that led us to do what we did have and will repeat themselves time and again and thus warrant your attention. By early '72, there was overwhelming support in both Houses of Congress for a Consumer Protection Agency bill.

The House of Representatives had passed the bill in final form 344 to 44. But of those 44 votes against, 18 voted "no" only because they didn't think the House bill was tough enough. So the real count in favor of a bill was 362 to 26. The House bill did however have a major provision for information-gathering powers which was wide open, without adequate procedures, standards, or safeguards. We felt this was simply bad law.

The Senate, in turn, passed a preliminary version of the same Consumer Protection Agency bill, 74 to 4. Their bill was much worse than the House bill; it was without adequate rules, procedures, safeguards, for either other government agencies or business, in four major areas.

We took a hard look at both bills: the House bill needed some improvements and the Senate bill needed substantially more. We went to our counterparts in the business community and suggested we work together at recommending improvements in the Senate bill so that when the House and Senate in Conference moved toward a compromise on a final bill the end result would be something we could live with which would also serve the national interest. The most common response was that they would concentrate primarily on killing the Senate bill altogether.

We looked around the country and saw that almost every major state legislature today had groups promoting consumer legislation leading to the creation of some sort of consumer protection agency. Yet each state proposal has different standards for what that consumer protection agency is going to do. In addition, some of the municipalities, are now doing the same thing, again with their own varying standards. If we could have one federal agency that was effective, had some reasonable safeguards, with uniform standards, people might be persuaded that that agency ought to be given a chance before 50 more are spawned, each one with a different set of criteria.

Another fact: poll after poll, (Time Magazine, Yankelovitch, Harris and others) stressed the declining public confidence in business. One of the conclusions that seemed fairly obvious was that if business continues to oppose every single piece of legislation that consumers and their representatives propose, we would never convince the public that we mean what we say when we declare that the consumer comes first.

So, in February 1972, Tom Brooker, Chairman of Marcor's Executive Committee, wrote to Senator Percy, indicating that, in principle, the time had come for consumer legislation that could be useful for all concerned if properly implemented. However, we were interested in discussing some major problems in four particular areas of the bill that passed the previous year 74 to 4. Our interest was to help work toward an effective piece of legislation that was fair and practical for all concerned. The Senator's response was affirmative. We then spent considerable time during the following six months with Senators Percy, Ribicoff, Javits and their staffs, recommending—at times literally line by line—drafting and redrafting suggested provisions in an attempt to get the bill to the point where it had reasonable procedures and safeguards. When it was finally voted out of committee 15 to 2, there were sections of the Senate bill that were substantially clearer and more precise in terms of sound administrative agency practice than the House bill. Then, with the addition of two needed amendments, which were worked out by and with the sponsors, we announced we would support the bill as passed by the Senate Committee.

The results were two-fold: First, we really believe that the bill is substantially better than it would have been if all of us in business had completely opposed the Senate bill. We believe there's virtually no way anyone can stop a Consumer Protection Agency bill from passing at some point in 1973–1974 during the 93rd Congress. Thus it is better to work for an improved bill than just to fight it. And as Mr. Brooker wrote Senator Percy, properly implemented, such a bill could be useful for all concerned. In addition, there was the unexpected dividend in the overwhelmingly favorable response from the press, TV, radio regarding the fact that we'd stuck our neck out a bit and supported the bill. Besides favorable editorials and columns in the Washington Post, the Chicago Sun-Times, the Chicago Tribune and Ralph Nader's column, there were news stories in papers in virtually every state in the nation. A column in the Wall Street Journal's National Observer probably summed up the most frequent response we've gotten from public officials, consumer advocates, journalists, lawyers, etc. It also bears on the growing attitude in the country today towards business' traditional opposition to any new legislation.

The editorial pointed out that although business opposition to the proposed law was predicated on concern with "harassment" of business, the bill would have the positive effect of putting housewives and wage earners on a somewhat more equal footing with the major corporations. The proposed agency would have had no regulatory power; it could merely intervene on behalf of consumers in regulatory proceedings before other federal agencies and courts. The column asked, "Why should any honest corporation object to that? And what will the public think of companies that try to suppress participation in governmental affairs by their customers?" The editorial added that such Cro-Magnon attitudes won't improve the business image, and, in all probability, the filibuster in the Senate of the bill in the 92nd Congress only delayed the inevitable. The legislation will be introduced in the next Congress and support for it continues to grow. The last paragraph noted that there was one exception to business opposition and threw a large bouquet to Marcor and Wards.

We agree that business is making a mistake in such cases. When Giant Foods in Washington and Jewel Supermarkets in Chicago took a stand for regulation and innovation on behalf of consumers, sales and consumer loyalty improved. Their positive and reasoned response to certain consumer proposals not only is responsible corporate behaviour, it can be good business too.

This leads to the broader question concerning other kinds of social legislation that many companies will be asked to comment on and react to one way or the other in the coming years. Are we going to continue to join in one lobbying effort after another to kill all such legislation? Or are we going to support, and where needed, try to improve legislation on a selective basis, especially where some new law, bad or good, is likely to pass sooner or later. Federal and state administrative legislatures and agencies are going to put out new rules that will require all of us in the same industry to take on the same new social obligations. Burke Marshall, when he was IBM's General Counsel, preached a sermon to the effect that what business needs—hard as it may be for us to accept it—is more government regulation of this sort rather than less.

Of course, that's anathema and businessmen automatically tend to ask, "Is he out of his mind?" The answer, of course, is "no"—if business is seriously interested in helping to solve society's problems, including that directly related to us. Professor Ackerman has just, rather brilliantly, explained why our companies are not constituted to do so on their own. If one automobile manufacturer puts out a pollution device on its own, declaring it was the socially responsible thing to do, and raising the price of the car $500, it would obviously lose out. But, if you require every automobile company to have an anti-pollutant device, so they're all required to spend money for this purpose, we've accomplished something that one company alone can't do.

The same principle applies in other areas: We were talking about the Civil Rights Act of 1964 at breakfast. No Southern business could have taken the lead in desegregating in any Southern town without going out of business—prior to the passage of the law that made desegregating a requirement of everyone in the land.

And in regard to Burke-Hartke and rising attacks on U.S. foreign investment and foreign trade, I think we're asking for it unless business shows greater concern about unemployment and effectively persuades the Administration to do something more about it, including support for an expanded trade act adjustment assistance program.

On the positive side of this question, Senator Mathias of Maryland wants to hold hearings this spring on the undue restraints that anti-trust put on U.S. business in competing overseas with the Japanese, Germans, and the French who don't have equivalent anti-trust restrictions. On a related aspect of the anti-trust debate, Simon Ramo, TRW Vice Chairman, who is the father of ICBM, points out that in the same way as the ICBM was developed with business support, and as business, academia and government worked together to put a man on the moon, the public is now beginning to demand that we do something about our cities and about cleaning up the Great Lakes. Ramo holds that to do this we've got to change the anti-trust laws. He feels this will come, because business, government and academia are going to have to work together again at some point to launch a Marshall Plan for the cities. If it happens soon enough, with a strong push from business statesmen, we may eliminate the need for some of the major changes in business that Ralph Nader and Professor Kenneth Galbraith are now pushing for.

Ralph Nader is already pushing a federal charter for all the major companies, in which some directors would be publicly elected and others elected by the employees. Galbraith has said that within five years, one of the hottest political issues in the country will be the nationalization of the Fortune 500. Whether it's five, ten or fifteen years to government ownership, or not at all, will depend, in large measure, on what we do. And what we do, especially with the built-in restraints underlined by Professor Ackerman, depends upon whether we're prepared selectively to support, and not always oppose, laws that require us to do some things we're not now doing.

PLASTICS INDUSTRY RESPONDS TO U.S. FIRE PROBLEMS

Mr. SAXBE. Mr. President, the problem of fire in America is a difficult one and I was interested to read an address by G. R. Munger, general manager of The Society of the Plastics Industry, dealing with the industry's reaction to the national fire problem and the role which synthetic materials play. Mr. Munger's address was presented to the National Fire Protection Association, meeting in St. Louis, Mo., on May 18.

Mr. President, because I believe Mr. Munger's comments will be of interest to my colleagues, I ask unanimous consent to print the text of his talk, entitled: "The Plastics Industry's Response to the Fire Problem" in the body of the RECORD following my remarks:

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE PLASTICS INDUSTRY'S RESPONSE TO THE FIRE PROBLEM

(By G. R. Munger, general manager, the Society of The Plastics Industry, Inc.)

Ladies and gentlemen,

For the past week, we have heard about as much as we can absorb at one time on the fire situation in general. I do not intend to go over this ground again. We know that fire can be a wonderful tool for man, or a horrible weapon against him. We are here to try to blunt it as a weapon.

I represent The Society of The Plastics Industry which comprises 1,200 companies in various aspects of the plastics business—raw materials, machinery, and finished products. SPI member companies do about 75 percent of the net dollar volume of the domestic plastics industry.

Our companies have been concerned for many years about the role of synthetic materials in fires. Much of the $30- to $40 million a year they are spending on research within their own firms is devoted to this subject of fire.

In addition, nine separate divisions of SPI—representing interests in various aspects of synthetics—have been involved in fire studies over the years.

Within the last three weeks, SPI announced a new series of research projects supported by our entire membership on such questions as ignition, flame spread, heat release, smoke and gas. I will make an announcement on one of these projects in a few minutes.

To make sure all this research will do the utmost good, SPI also has begun an information and education program to get the results promptly—and in understandable form—to those who need them.

Here I am referring to members of the fire suppression community—chiefs, marshals, firemen— as well as code officials, architects, engineers, contractors, specifiers, and insurors to help reduce fire risk to life and property.

The results of our investigations will not remain buried in reports.

In short, the plastics industry has committed major resources toward this ages-old problem of trying to attain a fire-safe environment.

We intend to be informative and frank about our materials and we expect a similar spirit of cooperation and openmindedness by others. We have supported from the beginning the work of the National Commission on Fire Prevention and Control. In our view, the chairman of that commission, Richard Bland, epitomizes the "keep-it-in-perspective" approach required to achieve the appropriate balances of risk, cost and benefit in the use of materials.

Now, let's get down to some of the fine points.

Why do we have synthetic materials at all?

Simply because they have proved more desirable in so many ways over more traditional materials for certain uses.

Many factors go into determining whether synthetics or natural materials should be used—weight, cost, ease of manufacture or application, appearance, color, durability, maintenance, properties of combustion, light and heat transfer characteristics, and so forth.

I mention these points because in a gathering such as we have here, we intend to focus on a limited aspect of the materials and use picture—in this case the properties of combustion. We must keep the other factors in mind.

What kind of a world would we be living in today without synthetics?

For one thing, the drain on natural resources would likely be much greater. The U.S. Geological Survey just last week released a report stating that severe shortages of minerals will arise in the next few decades unless we stop wasting resources and find better ways of exploiting low-grade ores.

Synthetics comprise a prime example of what is needed. The industry was born of what once were wastes of gas and oil production.

Today, we still rely on gas and oil to produce most plastics and other synthetics, but the industry uses substantially less than one percent of our domestic gas and oil production for feedstock.

One of the questions to be resolved at some time in the future is the role synthetics can play in conserving the earth's very finite deposits of minerals and fossil fuels. We believe it will be a major role which will lead to substantial growth in the use of plastics and other synthetics for building materials and furnishings.

Studies by independent research organizations have established that less energy is used in the production, manufacture and transportation of plastics products than for many similar products made from traditional materials.

And because plastics come from oil and gas, they can be turned back into energy as fuel feedstocks when they have outlived their primary function.

What's that you ask? If plastics are a good fuel, isn't that a reason to keep them out of building materials and furnishings?

The answer is categorically no. Although some of the testing techniques would lead you to believe otherwise, structural fires and incinerator fire present two very different types of burning environments.

The structural fire is a free-form fire with an infinite number of variables in terms of temperature, ventilation, space and so forth. The incinerator or furnace fire takes place in a confined area where the combustion process can be controlled by aeration, fuel feed, etc. We must keep these differences constantly in mind. Materials considered suitable for structural use from a combustibility standpoint might nevertheless burn very well in an incinerator or furnace.

So where does that leave us on the issue of fire safety?

Although the goal of everyone at this conference is to strive for the principle of *absolute* fire safety, we recognize that increased *relative* fire safety is probably the best we can do at present. But the technology is increasing so rapidly that we may see some dramatic improvement in the near future.

Like wood, paper, wool and cotton, plastics are organic and will burn. And, like the other materials, they will give off heat, smoke and toxic gases.

What we must turn our attention to, then, is whether the use of plastics as an alternative in construction and interior furnishings for more traditional materials creates any significant additional threat of harm to life and property, and whether they offer opportunities to decrease such threats.

There are—depending on how you classify them—from 20 to 30 families of plastics. And within each of those groups there are many, many sub-groups. Some types are difficult to ignite, and some burn very easily. Some support flame and some have self-extinguishing characteristics. Each gives off different gases according to its composition, just like other organic materials.

In contrast to many other materials, plastics products are uniquely susceptible to the "designing out," within reasonable limits, of characteristics of combustion. Due to the flexibility of their composition, they can be formulated or modified in a vast variety of ways to meet certain definite performance standards and to overcome weaknesses in previously used materials.

The industry already has designed out some combustion hazards in numerous end-uses, and current research promises further improvements.

As one example, the combustion characteristics of some of the modern foamed urethanes used for insulation today are so different from earlier days that they almost need a new name. They really are different products as far as the construction industry and the fire community are concerned.

These changes do not come about by accident. They stem from constant research by our member companies, both individually and in concert.

One of the organizations within SPI is known as the Urethane Safety Group, which has been and is very active in determining what degree of hazards exists with these products and how they can be reduced.

The Urethane Safety Group's research projects in the past have included:

Corner Wall fire tests of urethane plastics wall insulating materials conduced by Factory Mutual Research Corporation;

A literature search and analysis of the combustion characteristics of urethane carried out by Southwest Research Institute;

A literature search and analysis of the toxicity of combustion products of urethanes conducted by Southwest Research Institute; and

A status report on the safety and environmental aspects of urethane plastics.

Current research projects include:

A new series of Corner Wall tests by Factory Mutual, and

A series of studies on the combustibility and toxicity of flexible urethanes.

A number of other projects are being studied by USG as part of its research and development effort and will be implemented as the program progresses.

Other studies have been conducted by SPI's Coordinating Committee on Safe Use of Plastics, the Cellular Plastics Division, the Plastic Pipe Institute, the Reinforced Plastics/Composite Institute, The Plastics in Construction Council, the Appliance Council, the Furniture Council, and the Foam Tray and Carton Division.

In addition to these industry investigations, we have worked with and cooperated with every branch of government involved in fire safety programs.

Inevitably, government regulations and combustibility parameters of building codes have changed. And just as inevitably, the technology and production of flame retardants for synthetics have increased.

Presently, use of flame retardants is being directed at such markets as automotive and aircraft interiors, various aspects of construction, appliances and furnishings.

While the use of these flame retardants has been extremely successful in increasing the resistance to ignition and the rate of flame spread, questions have been raised in the area of smoke and toxicity. So now we are conducting research to develop smoke retardants, flame retardants and new types of synthetics that will reduce the amount of smoke and toxic gases emitted from burning materials.

As desirable and forward-looking as past programs have been, we recognized that they were not cohesive enough and, in some cases, presented duplication of effort.

Therefore, within the past three weeks, The Society of The Plastics Industry announced the entire SPI membership would sponsor a series of independent studies by both government agencies and independent research organizations in to the relationship of synthetic materials to fire and life safety.

The SPI Board of Directors approved detailed studies involving the following areas:

Investigations of actual case histories of fire situations. Observations and conclusions are expected to aid in development of realistic tests which can be used to reduce or eliminate hazards to life safety;

Analyses of the products of combustion to determine the proper relationship in a fire situation among the variables of oxygen, temperature, carbon monoxide and other gases; and

Research into the biological effects of smoke and gases from burning natural and synthetic materials.

I am pleased to report to you today that we have just signed the first of these contracts—an agreement with the respected Southwest Research Institute—to conduct more than 100 toxicity tests using the 18 cubic foot National Bureau of Standards Aminco test chamber.

SWRI will burn plastic pipe, furniture padding and other major end-use products and take measurements of temperature, carbon monoxide, carbon dioxide, oxygen, hydrogen cyanide, hydrogen chloride and so forth.

Hopefully, these tests will provide us with some guidelines on which products of combustion become hazardous first in each end-use situation.

After a set of basic principles have been developed using the smoke chamber, larger scale evaluations may be desirable.

Details of two other research programs contemplated by SPI will be announced in the near future.

Of themselves, these tests will not provide all the answers. But coordinated and correlated with other research going on by our industry, by other industries, and by government, we will be building a tremendous wealth of helpful information for the future.

The plastics industry fully realizes the difficulty of the task of evaluating and devising meaningful solutions to the fire problems faced by this nation.

They require total solutions involving such diverse groups as the building design and construction community, the fire suppression community, and individual families whose knowledge in such areas as evacuation techniques is virtually nonexistent.

It is clear that the only feasible way of dealing with this total fire problem is through a consciously coordinated systems approach. This approach includes such mechanisms as improved detection, warning, suppression and venting methods, architectural techniques, and public education. It also, of course, includes a consideration of materials used in construction and interior furnishings.

We are convinced that synthetics, properly used in construction and furnishings, do not present additional fire hazards when other factors in this systems approach are recognized and implemented.

The industry recognizes that there is need for improvement in the area of plastics-related combustibility to achieve added safety beyond that available through the use of existing materials. It is with these considerations in mind that we offered to the National Commission a number of specific recommendations which I am passing along to you today.

FIRE DETECTION, WARNING AND SUPPRESSION DEVICES

One of the most effective methods to combat combustibility problems in the built environment is to require installation of fire detection, warning and suppresson devices. This approach recognizes the fact that virtually all organic materials, whether natural or synthetic, will be consumed in a fire, an observation not too surprising in light of the fact that in many fire situations temperatures climb considerably above the ignition points of all commonly used organic materials. In this regard, our Society strongly recommends adoption and enforcement in building code requirements of detection, warning and suppression devices to be installed in all structures of general assembly, and even individual dwelling places.

Added protection can be afforded by systems combining the use of flame retardant plastics and fire-resistant barriers along with the fire detection and suppression systems.

BUILDING CODES

The building code system is the principal method employed today on a nationwide basis to regulate combustibility characteristics of structures. Four model building codes are in existence now. The regulatory scheme of the codes is a functional approach, whereby products and materials generally are governed in terms of their end-use applications in the building rather than on a material-by-material basis.

Plastics products in construction are regulated by the various codes on an end-use basis. The main functions for plastics in construction are (1) light transmission, including skylights, glazing, wall panels and light diffusers, (2) interior finishes, on wall or ceiling surfaces, (3) thermal insulation, (4) electrical insulation and conduit, (5) exterior panels, and (6) bathroom components including bathtubs, showerstalls, sinks and plumbing pipes.

One of the problems is that the combustibility requirements incorporated into the codes are based on test methods that are not necessarily accurate, meaningful or appropriate in all cases.

Another limitation is that code regulation is directed only at materials used in building construction and not at furnishings. Thus, all aspects of flammability within a given room or structure are not regulated.

An added problem is that the model codes are not binding unless specifically adopted by a given state, county, or municipality. Thus, codes are not in force in some areas throughout the United States.

Further, there is an enforcement problem. We strongly advocate a policy of improved enforcement of the building codes so as to preclude, to the extent possible, misuse or misapplication of plastics as well as other products.

We realize, of course, that numerous local code enforcement authorities lack sufficient manpower and funds for adequate enforcement. Therefore, the possibility of a national funding or a national assistance program to aid these localities should be considered.

FEDERAL STANDARDS

Another potential tool for effective regulation is federal standards. The newly created Consumer Product Safety Commission and its broad based standards-making authority may very well be a mechanism by which minimum performance requirements will be promulgated for certain end-uses.

Regulation of the flammability aspects of consumer products used in the built environment might best be achieved through a standards-making program conducted by the joint efforts of government and industry. In instances where public health will legitimately be enhanced by the promulgation of standards, we recognize that the adoption of mandatory, not voluntary, standards is necessary. However, the consensus standards procedure must provide input to the development of these standards.

Voluntary standards have not always been effective because they do not have to be followed by all members of an industry. From the viewpoint of the cost of production, adherence to voluntary standards by the responsible manufacturer has at times penalized him in favor of his less responsible competitors. Furthermore, due to antitrust considerations, a trade association that participates in the creation of voluntary standards on an intra-industry basis may neither police not enforce those standards. It is for these reasons that government enforcement of consumer products safety standards may be needed. However, valid standards cannot be developed without the expertise of industry, and thus, any government mechanism instituted to promulgate consumer product standards should provide for the active participation of industry.

Various degrees of federally and locally created standards and specifications already apply to or are in the process of being developed for products in such markets as clothing fabrics, draperies and curtains, carpets and rugs, bedding materials, automotive interiors, aircraft materials, office furnishings, building materials and electrical equipment. The Plastics Society formally went on record in support of the implementation of standards in each of these areas. This support will continue to be forthcoming.

TEST METHODS, PRESENT AND FUTURE

Fire initiation performance has traditionally been evaluated by a series of standard small-scale tests specified by the National Fire Protection Association, the American Society for Testing and Materials, Underwriters' Laboratories, Factory Mutual Research Corporation, the military, the National Aeronautics and Space Administration, the Federal Aviation Administration, the Port Authority of New York and New Jersey, the Department of Transportation, and other bodies. These tests range from small flame and cigarette exposures to larger tests used to identify "approved" materials for building construction.

While such tests are useful for comparing materials, they do not always predict combustibility performance. They rely on such parameters as ease of ignition, flame spread and fire endurance. The behavior of the same materials when exposed to differing heat sources, air movements, ventilation systems, amounts of humidity and occupancies can vary significantly.

It is generally agreed that these small-scale tests which are useful where their limitations are understood can, at times, be misleading, conflicting or inconclusive. Materials that do not support combustion under one test can burn vigorously under another. Adequate tests do not presently exist for toxicity and/or corrosion factors.

The nomenclature utilized in existing test method systems has also created problems in some instances. Since most plastic products will burn in full-scale fire situations such a term as "self-extinguishing," while meaningful to the industrial expert, has the potential to be misleading to uninformed consumers. As a result of this confusion, SPI has already formally requested that the major quasi-public testing and standards-making organizations take steps to revise the nomenclature system promptly.

It has been suggested to us on numerous occasions—both in public and in private—that we should, as an industry association, establish standards and nomenclature and somehow make certain that our members and their customers adhere to them.

We are advised by counsel that any attempt by plastics manufacturers to develop a uniform system of standards or nomenclature, and impose that nomenclature upon themselves and other industry members through the use of labeling or advertising agreements, would constitute an illegal act under the antitrust laws.

It also has been suggested that plastics manufacturers should insure safe advertising and use practices among themselves and by parties located further down the distributive chain.

Counsel advises that any attempt by industry members or SPI to coerce any other industry member to follow safe practices or to punish a member for not following safe-use practices lead to inferences or findings of undue coercion and group boycotts—activities which have been enjoined on numerous occasions.

We are not trying to beg the issue here. What I am leading up to is that the work of the National Commission on Fire Prevention and Control is bringing into focus the many, many things that must be done to contain fire as a threat to man.

Certainly there are material problems.

But there also are problems of fire and smoke detection and automatic fire suppression systems.

There are problems of proper training and equipment for firemen.

There are problems of keeping architects, engineers and builders informed about the proper use and application of new materials as well as older materials about which new facts are discovered.

There are problems of maintaining up-to-date building codes and then providing the money and manpower for adequate enforcement.

There are problems with devising adequate nomenclature and meaningful test procedures.

And there are problems with problems—such as tailoring code requirements for various types of structures such as nursing homes and hospitals, high rise buildings, one family houses, factories and warehouses.

We believe that given the proper spirit of cooperation among the various segments of industry and government, many of these problems can be solved. Certainly the work of the National Commission has given us all a cause for renewed hope.

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

Mr. PACKWOOD. Mr. President, on Saturday, the Senate passed a vitally important measure designed to establish a National Center on Child Abuse and Neglect and to provide support through Federal agencies for research and demonstration on child abuse and neglect (S. 1191). This is legislation which I cosponsored with the distinguished Senator from Minnesota, Senator MONDALE, and it is gratifying that Senators have recognized the importance of speedy action in passing the bill and sending it to the House for its consideration.

Mr. President, the hideous incidence of child abuse in our society is a virtually undiagnosed problem and/or disease. This is partially due to the fact that its victims are frequently helpless to communicate the horrors of their experiences, or fearful to do so out of terror of reprisals by their tormentors. The emotionalism aroused in us by child abuse and child abusers is probably also partly responsible for the slow legislative action. All too often we have found ourselves temporarily enraged about the emotional issue of battered and neglected children, without any significant follow-up results. If we can clear away some of the emotionalism and get down to the facts and examine the etiology of child abuse, we can certainly come up with some conclusions and suggestions for eliminating the battered and neglected child syndrome altogether. Superficial descriptions of abused children are dramatic and sensational, and make the front page. But they do not serve one whit to help the abusive parent, protect the abused child, or avoid similar tragedies in the future.

To gain the additional knowledge that is so badly needed, we must first improve our investigatory and reporting procedures.

The first studies which appeared in the early 1960's were often more sensational than informative. Since that time, more substantive studies have been conducted, but many of these were conducted on small and nonrepresentative samples of physically abused children. Nationwide studies, such as that by Brandeis University, have helped to fill in the gaps, but there is still a great deal to learn.

We know that the number of cases of abuse reported is only a small fraction of the actual incidents. Estimates have indicated that as many as 60,000 incidents of child abuse a year go unreported. The study conducted by Brandeis University for the Children's Bureau gives startling evidence of the high degree of nonreporting of fatalities despite the passage of child abuse reporting laws in all 50 States. Because of different interpretations of the legislation which require reports, fatal injuries inflicted upon children frequently are not reported as child abuse. In a nationwide screening of the daily newspapers in the United States for a 6-month period the Brandeis survey found newspaper accounts of 164 fatalities due to child abuse. The official information submitted by the 50-State central agencies for the same 6-month period recorded only 17 deaths. That is almost 90 percent of the deaths due to child abuse going unreported. This startling statistic, according to the study, was probably due to the fact that at the time of the survey all but two of the States did not require medical authorities, coroners, or medical examiners to report suspicion of physical abuse as the cause of the child's death. One has to wonder about what happened to the other children in those 147 families where the fatal abuses were not reported.

It is this kind of information which can help us to know where the inadequacies of our current protective laws for children exist. Mr. President, my State of Oregon took several important steps in 1971 to better enable us to deal with child abuse and neglect. The Oregon Legislature in that year enacted mandatory reporting and investigation requirements, and also directed the children's services division to report back with details of child abuse activities and submit recommendations for further legislative action which might be needed. Mr. President, because Oregon is one of the few States to be dealing with child abuse so directly and so forcefully, I ask unanimous consent to have printed at this point in the RECORD the pertinent language in Oregon law, a description of its implementation by the children's services division, and recommendations for additional legislative changes. Additionally I ask unanimous consent to have printed in the Record figures showing cases of child abuse reported during the first year of operation of Oregon's registry. I should note that this registry has been particularly valuable to the children's services division in bringing to their immediate attention and to the attention of law enforcement agencies those cases where there have been previous complaints of abuse.

There being no objection, the material was ordered to be printed in the Record, as follows:

Oregon Child Abuse Statute

418.740 Defintions for ORS 418.740 to 418.775. As used in ORS 146.710 to 146.780, 146.990, 418.740 to 418.775, and 419.476, unless the context requires otherwise:

(1) "Abuse" means:

(a) Any physical injury to a child caused by blows, beating, physical violence or by use of a knife, gun, pistol or other deadly weapon where there is some cause to suspect that the injury was intentionally or wantonly inflicted.

(b) Neglect, including malnutrition, which leads to physical harm. A child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, not be considered a neglected child within the meaning of ORS 146.710 to 146.780, 146.990, 418.740 to 148.775, and 419.476.

(c) Any physical injury or disease caused by an apparent violation of ORS 163.220 as revealed by a physical examination.

(2) "Child" means an unmarried person who is under 15 years of age.

(3) "Public or private official" means:

(a) Physician, including an intern.

(b) Dentist.

(c) School teacher, school nurse or school principal.

(d) Public health nurse employed by a local health department.

(e) Social worker employed by the Children's Services Division, the Public Welfare Division, a county juvenile department, or a licensed child-caring agency.

(f) Peace officer.

(4) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) A county juvenile department.

The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse and to safeguard and enhance the welfare of abused children, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children.

418.750 Duty of officials to report child abuse:

Any public or private official having reasonable cause to believe that any child with whom he comes in contact in his official capacity has suffered abuse shall report or cause a report to be made in the manner required in ORS 418.755. He shall also make a report to his immediate supervisor, if any.

418.755 Report content:

An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing to a law enforcement agency within the county where the public or private official is at the time of his contact. Such reports shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries (including any evidence of previous injuries), the explanation given for the injuries and any other information which the reporter believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

418.760 Duty of law enforcement agency receiving report; investigation; protective services for child:

(1) Upon receipt of oral report required under ORS 418.750, the law enforcement agency shall immediately notify the appropriate medical investigator and the Public Welfare Division. The law enforcement agency and the medical investigator shall cause an investigation to be made to determine the nature and cause of the injuries to the child.

(2) If the law enforcement agency conducting the investigation or the medical investigator finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify the district attorney, the Public Welfare Division and the juvenile department of the county in which it is located within 24 hours of the receipt of the oral report. The Children's Services Division shall offer protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard his welfare.

418.765 Central registry of reports:

Central registries shall be established and maintained by the Children's Services Division. Every law enforcement agency shall forward copies of all reports received to the state registry after investigation has shown that the child's injuries were the result of abuse or if the cause remains unknown. Each registry shall contain information from reports catalogued both as to the name of the child and the name of the family.

(Note.—Section 18, Chapter 451, Oregon Laws 1971, provides: The Children's Services Division shall prepare and present to the Fifty-seventh Legislative Assembly a report detailing the activities in relation to section 6 of this Act and shall make such recommendations for further legislation as it deems appropriate.)

418.770 Confidentiality of records: availability to law enforcement agencies and physicians:

Notwithstanding the provisions of ORS chapter 192 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 418.750 to 418.765 are confidential and are not accessible for public inspection. However, the Children's Services Division shall make records available to any law enforcement agency of this state or any other state for purposes of subsequent investigation of child abuse, and to any physician, at his request, regarding any child brought to him or coming before him for examination, cure or treatment.

418.775 Certain privileges not grounds for excluding evidence in court proceedings on child abuse:

(1) In the case of abuse of a child, as defined in ORS 418.740, neither the physician-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding a child's abuse, as defined in ORS 418.740, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 418.750.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 418.750, either spouse shall be a competent and compellable witness against the other.

IMPLEMENTATION OF CHILD ABUSE STATUTE

To assure the effective implementation of child abuse reporting law and the effective utilization of the central registry, the Children's Services Division developed a reporting form and written procedures.

This information, along with a copy of the statute, was sent to the following departments, organizations and agencies: Oregon Medical Association, Oregon Dental Association, State and County Public Health Departments, State Police, Association of Chiefs of Police, all Sheriff's Offices, and Juvenile Departments, State Department of Education for distribution to all I.E.D.'s, and the District Attorney's Association.

Protective Service's program staff of the CSD held regional meetings with local CSD staff in order to orient them regarding their responsibilities in implementing the statute. They were given the responsibility of organizing meetings with all local departments, organizations, and agencies having a responsibility in implementing the statute. Most of the offices utilized a person from their District Attorney's office to interpret the meaning and intent of the statute.

In most locales, certain law enforcement agencies accepted the responsibility for investigating abuse cases. For example, in Marion and Clackamas Counties, this responsibility was assumed by the Juvenile Departments, utilizing police agencies when appropriate. In most larger cities, the City Police accept the responsibility, while the Sheriff's offices assume the investigation role in the rural areas. Of course, in the City of Portland, the Women's Protective Division, Portland Police, handle all reports of child abuse.

In general, it appears that the child abuse statute has been implemented effectively, its requirements well-accepted, and the central abuse registry working efficiently.

RECOMMENDED CHANGES IN OREGON CHILD ABUSE AND RELATED STATUTES

Following are recommended changes in statutes which curtail the reporting of child abuse cases to law enforcement agencies:

418.740. As used in ORS 146.710 to 146.780, 146.990 [to] *and* 418.740 to 418.775, [and 419.476,] unless the context requires otherwise:

(1) "Abuse" means:

(a) Any physical injury to a child caused by blows, beating, physical violence or by use of a knife, gun, pistol or other deadly weapon where there is some cause to suspect that the injury was intentionally or wantonly inflicted.

(b) Neglect, including malnutrition, which leads to physical harm. A child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for this reason alone, not be considered a neglected child within the meaning of ORS 146.710 to 146.780, 146.990 [,] *and* 418.740 to 418.775 [, and 419.476].

(c) Any physical injury or disease caused by an apparent violation of ORS 163.220 as revealed by a physical examination.

(2) "Child" means an unmarried person who is under 15 years of age.

(3) "Public or private official" means:

(a) Physician, including an intern.

(b) Dentist.

(c) Schoolteacher, school counselor, school nurse or school principal.

(d) Public health nurse employed by a local health department.

(e) [School worker] all social service staff employed by the Children's Services Division, the Public Welfare Division, a county juvenile department, or a licensed [child caring agency] child-service facility.

(f) Peace officer.

(g) Individual providing child foster care or child day care, either in his own home or in other facilities.

(h) Individual or agency providing homemaker services in the child's own home.

(4) "Law enforcement agency" means:

(a) Any city or municipal police department.

(b) Any county sheriff's office.

(c) The Oregon State Police.

(d) A county juvenile department.

DISCUSSION

There has been considerable concern about the omission of the "school counselor," since they oftentimes have a more personal relationship with students than teachers do.

The term "Social Worker" generally does not include an aide or other persons in lower personnel classifications who are actually providing social services.

A number of private individuals are providing professional homemaker services. This is a person trained to observe, evaluate and work with problems in human behavior. By nature of this factor and their almost daily contact with families who have personal/interpersonal relationship problems, the CSD believes they should be included as responsible reporting officials.

418.750 Duty of Official to Report Child Abuse:

(1) Any public or private official having reasonable cause to believe that any child with whom he comes in contact in his official capacity has suffered abuse shall report or cause a report to be made in the manner required in ORS 418.755. He shall also make a report to his immediate supervisor, if any.

(2) Anyone participating in good faith in the making of a report pursuant to ORS 418.750 to 418.760 and who has reasonable grounds for the making thereof, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed wth respect to the making or content of such report. Any such participant shall have the same immunity wtih respect to participating in any judicial proceeding resulting from such report.

DISCUSSION

This is a necessity in a statute requiring persons to report. It was included in the original draft of the statute and we believe it was inadvertently deleted in the final draft.

418.755 Report Content:

An oral report shall be made immediately by telephone or otherwise [and followed as soon thereafter as possible by a report in writing] to a law enforcement agency within the county where the public or private official is at the time of his contact. Such reports shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries (including any evidence of previous injuries), the explanation given for the injuries and any other information which the reporter believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

DISCUSSION

It has been found by the law enforcement agencies and the CSD that requiring a written report of the reporting official has little value and only tends to delay the processing of cases. It is time consuming for the law enforcement agencies to follow-up to insure that oral reports are confirmed in writing. Upon receiving an oral report, they investigate, whether or not it was confirmed in writing. Considering the number of parties having reporting responsibilities and the content required by statute, the CSD saw the necessity for a standardized reporting form. It has been logistically impossible to establish and maintain a supply of these forms with all parties. Rather, it has been the preferred practice in most counties for the law enforcement agencies to keep the forms and complete them upon receiving the oral reports; thus, facilitating the reporting procedure.

Vincent De Francis, Director, Children's Division, the American Humane Association, the leading national child abuse standard-setting agency, states: "The usual reporting process prescribed in these laws sets up a roadblock to free reporting. This is because of their insistence that the immediate oral report be followed by a written report. This writer has serious reservations about the validity of the written follow-up report as a requirement in all cases . . . when the reporter is an individual, and he is reporting as an individual, there will inevitably arise a considerable amount of reluctance to going on record. This would apply with equal force regardless of whether the reporter is a professional person or not. As a matter of fact, a doctor, the usual target professional in reporting laws, who is sensitive about his image in the community would be more likely to be reluctant about sending a written report to a public agency. We strongly suspect that this single requirement in the law is largely responsible for the incidence of reports from doctors in private practice. The probability of more frequent reports from private practitioners would, we think, be greatly enhanced if their reporting could be made orally without the written follow-up. In this manner they would be relieved of the time-consuming burden of the written report and of the necessity of creating a permanent record in the possession of a public agency. Realistically, this would be a step toward making it easier for a doctor to report." [1]

418.760—Duty of law enforcement agency receiving report; investigation; protective services for child. ORS 418.760 is amended to read:

(1) Upon receipt of oral report required under ORS 418.750, the law enforcement agency shall immediately notify the appropriate medical investigator and the [Public Welfare Division] *Children's Services Division*. The law enforcement agency [and the medical investigator], *working in conjunction with other appropriate agencies*, shall cause an investigation to be made to determine the nature and cause of the injuries to the child.

(2) *The CSD shall or, the law enforcement agency conducting the investigation may determine the necessity for placing the injured child, and any other children in the home, in protective custody under paragraph (c) of subsection (1) of Section 16 of this 1973 Act.*

(3) If the law enforcement agency conducting the investigation or the medical investigator finds reasonable cause to believe that abuse has occurred, the law enforcement agency shall notify the district attorney, the [Public Welfare Division] *Children's Services Division* and the juvenile department of the county in which it is located within 24 hours of the receipt of the oral report. The Children's Services Division shall [offer] *provide* protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard his welfare.

DISCUSSION

The CSD is mandated by statute to provide protective social services. Taking an abused child into custody is, without question, a function of a child protective services agency. Since removal of a child from his home is a very traumatic experience, it should only be done after an evaluation by an expert in protective services, except in cases where it is obvious that the child is in extreme danger. It is the intended purpose of CSD's amendment to stress (1) the mandatory role of a child protective services agency to assess the necessity of removing a child from his home and, yet, (2) provide the law enforcement agency sufficient latitude to take a child into custody when delay would further endanger the child.

Vincent De Francis, Director, Children's Division, the American Humane Association, the leading national child abuse standard-setting agency, states, "law enforcement's functional responsibilities and their *modus operandi* are not in tune with the legislative intent of 'invoking the protective social services.' Such a choice would be more compatible with a legislative intent to view the occurrence in terms of crimes and punishment. Social services are not a component of the law enforcement function. Law enforcement personnel are trained to investigate and are oriented to determine whether a crime has been committed. While some personnel in large police forces are given special training as juvenile officers, these constitute but a minute portion of the country's police force." [2]

The picture in Oregon is no different. Once outside of the large cities of the state, requisite knowledge and skills of law enforcement agencies in the area of protective social services are conspicuously absent. Also, jurisdictional disputes between law enforcement agencies are not uncommon. In matters of child abuse, we can ill afford such unevenness in skill or uncertainty in responsiveness.

In summary, the CSD strongly urges that we do not allow our statutory posture to be conditioned by what is practiced in our metropolitan areas unless we can assure ourselves of similar capabilities for the balance of the state.

418.765 Central Registry of Reports:

Central Registries shall be established and maintained by the Children's Services Division. Every law enforcement agency shall [forward copies of all reports received] *report* to the state registry in writing, after investigation has shown that the child's injuries were the result of abuse or if the cause remains unknown. *The written reports shall be on forms prescribed by the CSD.* Each registry shall contain information from reports catalogued both as to the name of the child and the name of the family.

DISCUSSION

This amendment is based on the assumption that "public and private officials" who are required to orally report to a law enforcement agency will not be required to do so in writing per recommended amendments in ORS 418.775.

418.775 Certain Privileges Not Grounds for Excluding Evidence in Court Proceedings on Child Abuse:

(1) In the case of abuse of a child, as defined in ORS 418.740 [neither] the physician-patient [nor] the husband-wife privilege, and the privilege extended to staff members of schools and to nurses under ORS 44.040 shall not be a ground for not reporting suspected child abuse as required in ORS 418.750 or for excluding evidence regarding a child's abuse as defined in ORS 418.740, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 418.750.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 418.750, either spouse shall be a competent and compellable witness against the other.

DISCUSSION

Some school districts have been advised by their legal advisors that if they reported a suspected child abuse case as required by ORS 418.750, they would be violating the confidentiality of information provided to them by a student as defined in ORS 44.040 which may result in the suspension of their certification. We feel that this factor is responsible for only 12 suspected child abuse cases being reported by public schools during the first year of operation of the Central Registry.

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[1] *Child Abuse Legislation in the 1970's*, Vincent De Francis, The American Humane Association, Children's Division.

[2] "Child Protective Services—1967," Vincent De Francis, *Juvenile Court Judges Journal*, Spring, 1968, XIX, No. 1.

SB 551 only provides that ORS 44.040 is not grounds for a teacher to exclude evidence regarding a child's abuse in a judicial proceeding and does not cover the actual reporting of a suspected child abuse case. The CSD is, therefore, recommending that this provision be included in ORS 418.775.

146.750 Injuries to be Reported to Medical Investigator:

(1) Except as required in subsection (3) of this section, any physician, including any intern and resident, having reasonable cause to suspect that a person brought to him or coming before him for examination, care or treatment has had injury, as defined in ORS 146.710, inflicted upon him other than by accidental means, shall report or cause reports to be made in accordance with the provisions of subsection (2) of this section.

(2) An oral report shall be made immediately by telephone or otherwise, and follows as soon thereafter as possible by a report in writing, to the appropriate medical investigator.

(3) When either an injury as defined in ORS 146.710 or abuse as defined in ORS 418.740 occurs to an unmarried person who is under 15 years of age, the reporting and other provisions of ORS 418.740 to 418.775 shall apply.

DISCUSSION

The primary purpose of ORS 146.710 to 146.780 is to ascertain whether or not a crime of violence where a deadly weapon is used has been committed and that the matter be referred to the District Attorney. There is no provision for the protection of the victim.

ORS 418.740 to 418.755 provides that if the physician has reason to believe that such an act has been committed against an unmarried person under 15 years of age, the matter must be reported to a law enforcement agency who, in turn, reports to the appropriate medical investigator and the CSD. This makes it possible for the immediate provision of protective services.

In the case of a child, if a physician chose to report such an act in accordance with ORS 146.750, the provision of protective services might be seriously delayed or never come to the attention of the CSD or a law enforcement agency.

The proposed amendment would eliminate this possibility.

TABLE I.—CHILD ABUSE IN OREGON (NOVEMBER 1971 TO NOVEMBER 1972)

NUMBER AND PERCENT OF CHILD ABUSE VICTIMS BY AGE, OREGON[1]

			Cumulative	
Age category	Number	Percent	Number	Percent
0 to 1	55	14		
1 to 2	46	12	101	26
2 to 4	76	19	177	45
4 to 6	51	13	228	59
6 to 9	57	15	285	74
9 to 11	28	7	313	81
11 to 14	60	16	373	97
14	2	1	375	97
15	5	1	380	98
16	2	1	382	99
Unknown	4	1	386	100
Total	386	100		

[1] In many cases it is impossible to find out exactly how the child was injured. Over ¼ of the child abuse reports involve children 2 years of age and under. Not only are these children unable to defend themselves, but they are unable to tell anyone how they are being hurt.

NUMBER AND PERCENT OF CHILD ABUSE VICTIMS BY SEX, OREGON

Sex category	Number	Percent
Boy	203	52
Girl	183	48
Total	386	100

TABLE II.—NUMBER AND PERCENT OF TYPES OF ABUSE REPORTED, OREGON[1]—NOVEMBER 1971 TO NOVEMBER 1972

Type	Number	Percent
Bruises, welts	265	52
Abrasions-lacerations	65	13
Sexual molestation	31	6
Neglect	28	5
Other[2]	30	6
Malnutrition	21	4
Burns, scalding	17	3
Broken bones, fractures	16	3
Wounds, cuts, punctures	13	3
Skull fractures	11	2
Internal injuries	5	1
Severe beating	7	1
Sprains, dislocations	3	1
Total	512	100

NUMBER AND PERCENT OF REPORTED ABUSERS, OREGON[1]—NOVEMBER 1971 TO NOVEMBER 1972

Suspected abusers	Number	Percent
Mother	130	32
Father	112	28
Both parents	9	2
Stepmother	5	1
Stepfather	42	10
Siblings	6	2
Relatives	1	0
Live-in	4	1
Boyfriend	24	6
Babysitter	5	1
Unknown	51	13
Foster parent	3	1
Other[2]	13	3
Total	405	100

[1] In some cases, more than 1 person may be abusing a child, therefore, the number of children involved and the number of perpetrators may vary. Similarly, a child may receive more than 1 injury, therefore, the number of injuries and the number of children will not correspond.

[2] Other includes hernia, pinch marks, swelling, lesions on penis, old scar, overuse of drugs, convulsions, drowning, exposure-freezing.

TABLE III.—NUMBER AND PERCENT OF CHILD ABUSE VICTIMS RETURNED TO OWN HOME OR PLACED IN ALTERNATIVE RESIDENTIAL CARE, OREGON—NOVEMBER 1971 TO NOVEMBER 1972[1]

Residential placement	Number	Percent
Own home under protective supervision	131	49
Placed in foster care	81	30
Placed in shelter care pending court hearing	49	18
Placed with relatives	4	2
Other	2	1
Total	267	100

NUMBER AND PERCENT OF REGISTERED CHILD ABUSE REPORTS, BY SOURCE, OREGON—NOVEMBER 1971 TO NOVEMBER 1972

Source	Number	Percent
Children's Services Division	114	29
School	12	3
Juvenile departments	50	13
Law enforcement	105	27
Woman's Protective Division[2]	39	10
Physicians	57	14
Parents	2	1
Neighbors	3	1
District attorneys	2	1
Other	2	1
Total	386	100

[1] Number reflects only those children reported and receiving CSD services. Protective services were not provided in 119 cases reported for reasons such as: the complaint was not substantiated, the child was abused by a babysitter who was dismissed, the child was abused while on a home visit from a substitute care placement and visitation was discontinued, etc.

[2] Portland Oregon Police Bureau.

TABLE IV

NUMBER AND PERCENT OF CHILD ABUSE REPORTS, BY REGION, OREGON—NOVEMBER 1971 TO NOVEMBER 1972

	Number	Percent
Region:		
I	190	49
II	43	11
III	22	6
IV	25	6
V	37	10
VI	43	11
VII	26	7
Total	386	100

NUMBER AND PERCENT OF CHILD ABUSERS WITH PREVIOUS RECORDS OF ABUSE, OREGON—NOVEMBER 1971 TO NOVEMBER 1972[1]

Total number of abusers[2]	405	
With previous abuse record	42	
Percent		11

[1] Literature in the field agrees that this suggests that the use of physical abuse tends to be patterned into child-rearing practices, and is usually not an isolated incident.

[2] More than 1 perpetrator may be involved in abusing the same child, therefore, the number of perpetrators and the number of children involved may not correspond.

Mr. PACKWOOD. Mr. President, the second and equally important step in dealing with child abuse, once it has been determined and reported, is to learn why people abuse their children. If we learn what makes a parent abuse or neglect a child, we can take the necessary preventive steps to help the parent deal with his or her problems in ways which are not destructive to the child. The multidimensional causes of child abuse make it difficult to project who may abuse a child and who will not. But the more studies and research we do and the more parents we treat, the more we will know. For example, studies have already established that most abusive parents were themselves abused as children.

It is encouraging that all States have taken at least preliminary steps to deal with child abuse. But much much more needs to be done, and we need to share our knowledge, experiments, and research. Our legislation is a big forward step in this direction, and I urge the other body to take up this measure at the earliest possible time. Every day of delay leaves more children open to abuse and neglect, to destruction of their young minds and bodies.

WHO IS THE PRICE FREEZE HELPING?

Mr. TUNNEY. Mr. President, the administration's present economic program—which might best be called phase 3½—is piecemeal and ill conceived for growers and processors, and disastrous for the Nation's consumers. This latest price freeze has thrown the normal marketing procedures throughout the agricultural industry into a state of economic shock. Growing, processing, canning, shipping, wholesale, and retail sales are in total confusion. This 60-day freeze is seriously damaging the future economic health of the agricultural sector.

In California—the largest agricultural State in the Nation—the situation is reaching the disaster stage. Every grower and processor with whom I have talked views the freeze as totally ineffective. Every consumer group from whom I have heard, including the Consumer Federation of America, has agreed that the freeze will not reduce prices and, in the long run, will obstruct the path toward developing effective methods to halt inflation.

If growers, processors, and consumers are against this latest ill-thought-out price freeze, who is the freeze helping? Let me point out several examples of the impact in California.

Mr. President, 50 percent of all canned fruits and vegetables in the United States come from California. It is an industry which contributes substantially to the national food supply.

At the beginning of the growing season, canners agreed with growers to receive and can fruits but to wait until later to determine a price based on their full costs. Today, the canners and growers are at an impasse: the growers, for legitimate reasons, are demanding a price 50 percent higher than last year. The canners, however, are locked into a fixed price ceiling for their sales, which is less than the grower is demanding for the raw commodity. No one is going to buy a product for more than he can sell it. The canners, therefore, are either going out of business or withholding existing inventories until they can make a profit.

In California, asparagus is already being withheld and there is a strong possibility that apricots and other commodities will soon be in short supply.

This kind of economically forced retaliation causes shortages at the supermarkets and discourages farmers from planting.

The volatile feed grain industry is another example. With these prices skyrocketing, the cattle, hog, and poultry industries cannot afford to feed their stock. In southern California, the poultry feed processing industry is losing an average of $125,000 a week.

As a result, many feed grain processing plants are slowing their operation or shutting down completely because they have no customers. If these plants are shutting down, it is an obvious enough conclusion that livestock and poultry producers soon will be faced with unattractive alternatives: either they will be unable to afford feed or feed will be unavailable at any cost.

Mr. President, it does not take an extraordinary knowledge of agricutural economics to understand that a price freeze on the entire food production chain with the sole exception of the first link—the raw commodity—is "inoperative." Even if the President were to impose an acceptable phase IV today, serious damage has already been done, even without citing dramatic examples of drowning chickens and selling dairy cattle for beef. But it has happened and will continue if something is not done now.

There are pernicious ripple effects of the freeze which are not so obvious. Unemployment, for example, will extend across the industry. In California, nearly 15 percent of the meatpackers already have been laid off. One major porkpacking house in Los Angeles is on the verge of shutting down, thus laying off 700 employees. Now these unemployed workers will be eligible for some kind of unemployment assistance and that is going to be paid for by the Federal Government or the State.

Another side effect will be that of future Government expense. If food becomes scarce—thus more expensive—the cost of Government programs is going to increase. School lunch, commodity distribution, special milk, food stamps, will all be more expensive and it is going to be the taxpayers who will pick up that tab.

The irony and absurdity of this whole situation is that phase 3½ has done nothing—and will do nothing—to stop the rising tide of inflation. In fact, as I have pointed out, there is a real possibility of a sharp increase in prices as a result of supply shortages caused by a curtailment and closure of operations below the wholesale level.

I am as eager as anyone to see some relief in the continuing pressure of rising prices, but we cannot pursue the present course. Moreover, the fact that phase 3½ is such a disaster makes me apprehensive about what to expect from phase IV.

It is absolutely imperative that the President must outline fair and effective phase IV controls without further delay. Phase IV must terminate all agricultural programs which adversely affect the supply of food to the Nation's consumers and which damage the economic health of the agricultural community.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER (Mr. McINTYRE). Is there further morning business? If not, morning business is closed.

FEDERAL LANDS RIGHT-OF-WAY ACT OF 1973—ALASKA PIPELINE

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1081, which the clerk will read by title.

The second assistant legislative clerk read the bill by title, as follows: A bill (S. 1081) to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Maine (Mr. HATHAWAY) is recognized for the purpose of calling up his amendment.

Mr. HATHAWAY. Mr. President, I call my amendment No. 348.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk proceeded to state the amendment.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 348

On page 35, between lines 20 and 21, insert the following:

"SEC. 206. (a) Notwithstanding the provisions of section 104(d) or any other provision of this Act or any other law, the holder of any rights-of-way granted pursuant to this Act for the construction of a pipeline for transporting oil and natural gas resources and the owner or operator of a terminal or vessel engaged in transporting oil or gas shall, except when caused solely by an act of war, be liable for all damages and injuries resulting from their activities in connection therewith, irrespective of fault or wrongdoing.

"(b) Nothing in this section shall be construed to bar any holder of such right-of-way, or any owner or operator of such terminal or tanker, from recouping said damages under applicable law.".

On page 35, line 21, strike out "SEC. 206." and insert "SEC. 207.".

Mr. HATHAWAY. Mr. President, the amendment I am proposing today would provide substantial protection to fishermen, shore-front property owners, and others who may suffer damages as a result of oil spills from pipelines, from terminals engaged in transporting oil from pipelines, or from vessels conveying oil to or from U.S. ports.

The amendment provides absolute liability for all damages and injuries arising from the transportation of oil by any of these means, irrespective of fault or wrongdoing. The absolute liability provision would apply to the holder of any right-of-way granted pursuant to this act for the construction of an oil pipeline, to the owner or operator of a terminal engaged in handling oil, and to the owner or operator of any vessel carrying oil in bulk as cargo.

The liability of these parties to pay damages in the event of an oil spill would be absolute except when the damages were caused solely by an act of war. However, the holder of the right-of-way, or the owner or operator of a terminal or vessel, would have the right to go to court and attempt to recoup the damages if he felt that a third party was at fault, through negligence or for other reasons.

I feel it is essential to pass legislation which gives greater protection to persons who suffer damages or injuries from oilspills. Current law provides liability only for cost of cleanup, and only up to $14 million. There is no protection for the fisherman, the shore-front property owner, or others who may suffer long-term damage to their holdings and to their income as a result of oil spills.

Given the constant increase in tanker traffic, and particularly the strong possibility of hazards arising from the construction of the Alaska pipeline. I think we must pass stronger legislation.

I firmly believe that it is necessary and justifiable to provide absolute liability in the case of oil pipelines, terminals, and tankers. The oil companies know that they are taking a calculated risk in transporting oil by these means, and that the potential damages to be caused by oil spills are great. This is particularly true in the case of the trans-Alaska route, which involves transporting the North Slope oil by pipeline over earthquake-prone territory and then by vessel over stormy seas. The oil companies are willing to take this risk, because of the financial benefits they will get from exploitation of the North Slope oil resources. If they are to reap the benefit, they must also be required to pay the price of a disastrous oil spill. Whether or not the pipeline holder or tanker owner is immediately at fault for such a disaster, the fact that he is responsible for transporting the oil to begin with means that he has provided the conditions under which the oil spill can occur, and thus should be absolutely liable for damages.

In pushing for this absolute liability law, I am particularly concerned about protecting the rights and welfare of individuals—people with few resources, who could be severely hurt by an oil spill. Fishermen, for instance, may find that their catch is way down as the result of an oil spill; they are not protected under existing law for their loss of income. Operators of shore resorts may have to close down for some time when their beaches are covered with oil; they cannot obtain damages under existing law. These omissions must be rectified.

There is a real need for Federal law in this area, despite the existence of some strict liability laws on the State level, such as the law in force in my own State of Maine. State laws vary greatly in terms of strength and extent of coverage; many, for instance, do not extend absolute liability to third parties. Laws in neighboring States may be quite different, even though the problems they face are much the same. Washington State has an absolute liability law; Oregon does not. Given that the oil is transported all over the country, I think that the laws governing its transportation should apply uniformly on a nationwide basis.

I should also like to point out that passage of an absolute liability law by the United States would fill in a legal void that should eventually be filled by an International Convention. The convention, which provides absolute liability for oil spills in international law, has been negotiated but not yet ratified by the member states. If the U.S. Congress adopts such a law, it could speed ratification of this important international agreement.

For all of these reasons, I call for adoption of this amendment to provide absolute liability for damages and injuries arising from the transportation of oil by vessels, pipelines, and terminals.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, as I understand it the amendment of the junior Senator from Maine would impose absolute liability for damage or injury to the United States and to third parties from first, any oil and gas pipeline or terminal, and second, any vessel transporting oil and gas, in the coastwise trade and in international trade. It further provides that anyone making any payments under this provision may recoup them from a third party under applicable law.

Mr. President, S. 1081 as introduced had an absolute liability provision. The committee considered the liability question very carefully during markup of this measure.

At one time during consideration of the bill, the committee considered language similar to amendment No. 338, an earlier amendment by the Senator from Maine, insofar as it applies to pipelines.

Imposition of absolute liability raises very complicated legal questions, particularly where tankers are involved. After review of these questions the committee determined not to attempt to write an all-encompassing absolute liability provision and instead adopted language recommended by the administration.

Section 104(g) of S. 1081 authorizes the Secretary of the Interior to issue regulations designed to protect the United States. It leaves questions concerning liability to third parties to be determined by the operation of State law.

Tankers and on-shore facilities are presently made absolutely liable for the costs of cleaning up oil spills by the Federal Water Pollution Control Act Amendments of 1972. This act limits liability to $14 million for cleanup costs from tanker oil spills and $8 million for spills from on-shore facilities.

At present, many States have laws on absolute liability including the States of Alaska, Washington and Maine.

The objective of the amendment proposed by the junior Senator from Maine is a worthy one. However, the subject it deals with is so complex that the questions raised should be considered very carefully. Hearings should be held and the legislation should be considered in light of the existing body of State, Federal and international law. A number of questions come to mind concerning the measure:

First, imposing absolute liability on all oil and gas pipline regardless of capacity, length, or financial capacity of the operation could work a hardship on small operators.

Second, the effect of the amendment on existing State laws and on the Federal Water Pollution Control Act is uncertain. The amendment may override these acts in part.

Third, the provision for recoupment of losses could be interpreted to run directly contrary to the absolute liability provision.

Fourth, adoption of the amendment could interfere with the United States negotiating position in the United Nation's Intergovernmental Maritime Consultative Organization—IMCO—and in the forthcoming law of the sea conference.

I am sympathetic with the objectives of the amendment. It raises important questions, however, which need to be examined in depth. These issues fall under the jurisdiction of the Committees on Commerce and Public Works as well as the Interior Committee. If the Senator will withdraw his amendment, I can assure him that it will be fully considered by the Interior Committee and that we will hold hearings on it as soon as possible.

Mr. President, I especially want to commend the Senator from Maine for his thorough analysis of this problem and the effective way in which he has presented it. I think he may agree with me that there are some real tough questions that should be explored in a committee hearing, at which time we could get at these special problems where hardship may result rather than accomplishing what we all seek.

The State of Maine and the State of Washington have two things in common: we also have laws that provide for absolute liability.

Mr. HATHAWAY. I thank the Senator from Washington for his very complimentary remarks. I appreciate the shortcomings of the amendment which he has pointed out, although I think that most of those could be cleared up without too much difficulty.

One does pose a problem in the limitation of liability particularly when we would be dealing with small companies. Originally, this amendment covered only the Alaska pipeline and transportation therefrom to the various States, but it was pointed out that that might be a violation of the equal protection clause of the Constitution and that we were discriminating against certain pipelines and certain vessels and terminal operators, and consequently the amendment has been broadened to cover all pipeline right-of-way permits and all vessel owners and terminal operators.

Particularly the imposition of absolute liability on very small operators could prove to be too burdensome. Consequently, I think we should hold further hearings, and I am, therefore, willing to withdraw the amendment.

I assume the Senator from Washington means that we could hold hearings sometime after the August recess, with the goal in mind of bringing to the floor of the Senate before this session is over an amendment to some other bill which would cover this situation.

Mr. JACKSON. Mr. President, that would be the objective and the goal of the chairman of the committee.

Mr. HATHAWAY. I hope that in addition to the points that have been made by the Senator from Washington, in the course of these hearings and the markup, the committee would consider the revision of existing laws. The purpose of this amendment, of course, was to revise existing laws limiting the liability of the owner of a vessel to the value of the vessel and cargo at the time of the accident. But I would hope the committee would consider also the matter of a cause of action for loss of income in the fishing industry. We have already mentioned the consideration we would have to give to the question of dollar devaluation; and I think the committee should also consider carefully any contemplated exception to the absolute liability law.

Mr. JACKSON. Mr. President, I am glad that the able and distinguished Senator from Maine has mentioned the question of fisheries. I believe that in order to adequately protect the fisheries, we will have to do some revising of the language in the pending amendment. I believe the Senator from Maine has made that point.

Fisheries in the State of Washington and fisheries in Maine and Alaska, our respective areas—I speak for the west coast—are very important to the well-being and livelihood of our people, and I believe we ought to have some explicit language. I know the Senator intended to cover that, and I wrestled with this specific problem in the committee, and frankly was not able to come forth with an adequate stipulation that would cover the fishery resources.

The basic problem is the damage to the fish that are not yet in the possession of the fishermen; does the Senator agree on that?

Mr. HATHAWAY. That is correct. There again, the courts have held that fishermen do not have a cause of action for loss of income; but an oil spill could destroy the entire catch for a fisherman for many, many years.

Mr. JACKSON. That is the ironic thing. The Senator from Maine is wise in deferring action now until we have the benefit of the opinions of legal experts on the question the Senator very properly has raised regarding protection to our fishery resources and those who engage in that industry. I again commend him for his objectivity and his thoroughness in trying to tackle this problem in its totality. It is a complicated problem, as my good friend has pointed out, Mr. President.

I believe that the hearings that have been suggested here will go a long way toward dealing with the problem on a comprehensive basis. I am sure this is what the Senator from Maine has in mind. It is what I have in mind, and I assure him we will move forward on it.

Mr. HATHAWAY. I thank the Senator for his assurance of hearings in the fall, and his assurance that we will have as a goal an amendment to some bill that will come to the floor sometime before the end of this session.

Mr. STEVENS. Mr. President, the amendment proposed by Senator HATHAWAY, would cause the owners of a trans-Alaska pipeline and associated facilities to be liable to the United States for any damages resulting from their activities, irrespective of fault or wrongdoing, except when the damages or injuries are caused solely by either an act of war or negligence on the part of the United States. Liability for damages and injuries to third parties is also imposed except when they are caused solely by an act of war or negligence on the part of the third party. Consequently, liability would be imposed in the following situations:

First. When a third party is injured as a result of the sole negligence on the part of the United States;

Second. When a third party is injured as a result of a malicious act or the sole negligence of a fourth party;

Third. When a third party is injured as a result of the concurrent negligent or willful acts of himself and either a fourth party or the United States;

Fourth. When the United States is injured as a result of the malicious act or sole negligence of anyone other than the United States;

Fifth. When the United States is injured as a result of the concurrent negligence of itself and a third party; and

Sixth. When either the United States or a third party is injured solely as a result of an act of God.

In all of these situations liability would be imposed upon the owners and operators of the trans-Alaska pipeline notwithstanding scrupulous adherence to detailed technical stipulations and conformity—in construction and operation—with the highest state of the art.

This amendment would seem to stem from a "deep pockets" theory, rather than from a concern for environmental protection. The Secretary of the Interior has imposed numerous conditions upon pipeline construction and operation which minimize any adverse environmental impact which might be occasioned by a trans-Alaska pipeline. Moreover, even in the highly unlikely event that any damage were to be caused to any "structure, property, land, fish and wildlife habitats, or any other resource by the permittee regardless of fault such property will be reconstructed, repaired and rehabilitated by permittee to the written satisfaction of the authorized officer." Stipulation, hereafter STIP 1.7.1, volume I, Final Environmental Impact Statement. The trans-Alaska pipeline will be constructed and operated in accordance with the strictest safeguards ever developed for any pipeline. If, however, through no fault of the pipeline owners or operators damage were to be inflicted in connection with the construction, operation, maintenance, or termination of the pipeline, the owners and operators will be required to repair the damage.

In addition to requiring repair of any damage caused by pipeline operation—STIP 1.7.1—the Secretary of the Interior has imposed the following requirements upon the right-of-way permittee: Upon failure of the permittee to clean up any discharge from the pipeline, the Authorized Officer will do so at the full expense of the permittee, regardless of whether the discharge was the fault of the permittee—STIP 2.1.4.4; the permittee shall be liable to the United States for any damage suffered by it which in any way arises from the pipeline, except when such damage is caused by employees of the United States acting within the scope of their authority—STIP 1.7.2; the permittee shall indemnify the United States against all demands, claims or liabilities of every nature arising from pipeline activities or the use or occupancy of Federal land which is the subject of any permit or right granted in connection with the pipeline system, except for damages for which the United States may be liable under the Federal Tort Claims Act—STIP 1.7.3; the permittee must also indemnify the United States against any claims or damages arising from the approval by the United States of any design or plan pertaining to the pipeline—STIP 1.7.3; the permittee shall abate any potential harmful pipeline condition and the Authorized Officer may suspend pipeline activities which threaten serious harm to life, property or the environment—STIPS 1.7.1, 1.3.4; and, all of the conditions set forth in the stipulations apply to any agent, subcontractor or employee of the permittee—STIP 1.2.3; and the owners of the pipeline are responsible for compliance by all contractors and subcontractors.

The authority of the Secretary of the Interior to condition the grant of right-of-way to the trans-Alaska pipeline or any other pipeline upon terms such as these is expressly recognized in section 101(c)(3) of S. 1081, as reported. Amendment 348 would largely nullify this authority, the effective exercise of which can be postulated upon the previously drafted stipulations for the trans-Alaska pipeline. These stipulations, prepared by the Secretary of the Interior in conjunction with other Departments and agencies of the Government, are a thoughtful and effective response to what were considered to be the major problems posed by a project of this magnitude.

In less than 20 lines and after having been considered for a negligible period of time, amendment 348 would, at best, statutorily nullify the stipulations drafted by the Secretary; moreover, if the stipulations were to be considered still effective, with the amendment merely superimposing a different liability in certain instances, the extent of the permittee's liability would not be clear. The potential for litigation is manifest. It is altogether possible that neither the intention of Congress nor that of the Secretary would be realized.

In addition to the liability imposed by the stipulations, the State of Alaska has also provided for liability irrespective of fault in the event of an oil spill. I ask unanimous consent that a copy of this Alaskan statute—Alaska Statutes sections 46.03.822 through 828—be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. STEVENS. Amendment 328, which was passed by the Senate on July 13, 1973, would also impose liability upon the right-of-way permittee—without regard to the permittee's negligence—for damages to any Alaska Native or Native Organization in connection with or resulting from use of the right-of-way. Consequently, by virtue of stipulations prepared by the Secretary, Alaskan law, and amendment 328, liability without regard to fault is already imposed upon the grantee of the trans-Alaska right-of-way. Amendment 348 is not only unnecessary but would wreak havoc upon the carefully constructed matrix delineating the scope of liability for the permittee for the trans-Alaska right-of-way.

The trans-Alaska pipeline will be serving a public need.

It is assisting in the production of much needed natural resources, in a time of acute energy shortage. It will function as a common carrier serving not only its owners but all oil producers along the line and will transport not only the privately owned working interests, but also the State of Alaska's royalty interest. Nonetheless, the trans-Alaska pipeline is singled out by amendment 348 as warranting the imposition of absolute liability. This liability is not presently imposed nor has it been imposed on any other oil or gas pipeline in the country—nor would it be applied to a trans-Canada line. By the very terms of amendment 348 this liability is imposed on only one pipeline, the trans-Alaska pipeline. Not only is this unique to the pipeline industry but no other common carrier, whether pipeline, airline, or railway, has ever been required to insure the Federal Government for damages suffered by reason of an act of God or intervening act of a third party merely because the damage is somehow connected with the carrier's operations. The basis for this discrimination is unclear. To impose such liability, in addition to a commensurate liability to third parties, upon the trans-Alaska pipeline is unwarranted and in derogation of the public good.

In sum, amendment 348 singles out one pipeline, in the entire common carrier industry, for absolute liability; however, even aside from its patently discriminating nature, amendment 348 promises to add untold confusion to an area which has thus far been characterized by deliberate and effective draftsmanship. The amendment should not be permitted to pass.

EXHIBIT 1

ALASKA STATUTES—TITLE 46, WATER, AIR, AND ENVIRONMENTAL CONSERVATION

CHAPTER 03. ENVIRONMENTAL CONSERVATION

Article 4. Air pollution control

Sec. 46.03.210. Local air pollution control programs. (b) Municipalities other than those with a population in excess of 1,000 may establish and administer local air pollution programs if the proposed programs meet the requirements of (a) (1)—(4) of this section.

(am § 48 ch 71 SLA 1972)

Effect of amendment.—The 1972 amendment, in subsection (b), substituted "population in excess of 1,000" for "population of less than 1,000."

As the rest of the section was not affected by the amendment, it is not set out.

Legislative committee report.—For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Article 7. Prohibited acts and penalties

Section

822. Strict liability for the discharge of hazardous substances.
824. Damages.
826. Definitions
828. Other rights of action not affected.

Sec. 46.03.822. Strict liability for the discharge of hazardous substances. To the extent not otherwise preempted by federal law, a person owning or having control over a hazardous substance which enters in or upon the waters, surface or subsurface lands of the state is strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by the entry. If an action is brought by the state to recover damages for oil pollution, liability is limited as specified in § 760(b) of this chapter. In an action to recover damages, the person is relieved from strict liability, without regard to fault, if he can prove—

(1) that the hazardous substance to which the damages relate entered in or upon the waters, surface or subsurface lands of the state solely as a result of

(A) an act of war,

(B) an intentional act or a negligent act of a third party, other than a party (or its employees) in privity of contract with, or employed by, the person,

(C) negligence on the part of the United States government or the State of Alaska, or

(D) an act of God; and

(2) in relation to (1) (B), (C) or (D) of this section, that he discovered the entry of the hazardous substance in or upon the waters, surface or subsurface lands of the state and began operations to contain and clean up the hazardous substance within a reasonable period of time. (§1 ch 122 SLA 1972)

Sec. 46.03.824. Damages. Damages include but are not limited to injury to or loss of persons or property, real or personal, loss of income, loss of the means of producing income, or the loss of an economic benefit. (§ 1 ch 122 SLA 1972)

Sec. 46.03.826. Definitions. In §§ 822–828 of this chapter

(1) "act of God" means an act of nature which is unforeseeable in kind or degree;

(2) "economic benefit" means a benefit measurable in economic terms, including but not limited to the gathering, catching, or killing of food or other items utilized in a subsistence economy and their replacement cost;

(3) "hazardous substance" means

(A) an element or compound which, when it enters in or upon the waters or surface or subsurface lands of the state, presents an imminent and substantial danger to the public health or welfare, including but not limited to fish, animals, vegetation, or any part of the natural habitat in which they are found; or

(B) oil;

(4) "oil" means a derivative of a liquid hydrocarbon and includes crude oil, lubricating oil, sludge, oil refuse or another petroleum-related product or by-product;

(5) "owning or having control over a hazardous substance" means producing, handling, storing, transporting or refining a hazardous substance for commercial purposes immediately before entry of the hazardous substance in or upon the waters, surface or subsurface lands of the state, and specifically includes bailees and carriers of a hazardous substance;

(6) "subsistence economy" means an economy which utilizes on a regular basis an item which is owned in common by the people of the state, or the United States, including but not limited to fish, game, fur bearing animals, birds, timber or any part of the natural habitat for noncommercial purposes;

(7) "waters, surface or subsurface lands of the state" means all waters, surface or subsurface lands within the territorial limits of the State of Alaska. (§ 1 ch 122 SLA 1972)

Mr. HATHAWAY. I withdraw the amendment, Mr. President.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. STEVENS. Mr. President, I call up an amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> At the end of the bill, add the following new section: Sec. — If any provision of this Act or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.

Mr. STEVENS. Mr. President, we have but 2 minutes before the unanimous-consent agreement becomes effective. This amendment would provide a separability clause. I feel that in view of the number of amendments and issues involved, it is absolutely necessary to have a separability clause in this bill, and I hope the Senator from Washington will agree.

Mr. JACKSON. Mr. President, I concur in this proposed amendment. It is boilerplate language, it is sound, it is sensible, and it will help, I think, in the future construction by the courts of the language of the statute.

Mr. President, I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. MCINTYRE). All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

The amendment was agreed to.

Mr. STEVENS. Mr. President, I send another amendment to the desk. We will have to discuss it at a later time——

The PRESIDING OFFICER. Under the previous order, at no later than 10 a.m., the Senate will resume consideration of the amendment of the Senator from Alaska (Mr. GRAVEL) (No. 226), on which there is one and a half hours of debate to be equally divided and controlled by the Senator from Alaska (Mr. GRAVEL) and the Senator from Washington (Mr. JACKSON), with the vote to occur thereon at 11:30 a.m.

Mr. JACKSON. Mr. President, at 6:30 p.m. last night, the State Department delivered to me a letter containing a further revision of the response of the Government of Canada to questions concerning Canadian policy with respect to proposals for a trans-Canada line.

I have requested the State Department to furnish us with a full report early this morning on the background of the transmittal of this last-minute revision or last-minute transmittal.

I ask unanimous consent that the letter and attachment be printed in the RECORD.

There being no objection, the letter and attachment were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, D.C., July 15, 1973.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On July 7 I sent you detailed written responses to questions posed by our Embassy in Ottawa to Canadian officials on a possible Canadian alternative to the proposed trans-Alaska oil pipeline route.

We have just today received from our Embassy in Ottawa a revision which the Canadian Government wishes to make in its earlier answer to the question on pipeline ownership and control which appeared at the bottom of page 2 of the report attached to my letter of July 7.

Sincerely,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

Enclosure: Question and revised answer.

QUESTION AND REVISED ANSWER

Q. What is the Canadian Government position likely to be with regard to ownership and control?

A. Speaking to this point in connection with a gas pipeline in the House of Commons on May 22, 1973, Minister Macdonald said—

"Mr. Speaker, I have indicated that the objective of the government would be to give an opportunity to Canadians to acquire 51% ownership in any such pipeline and the expectation that it would remain under Canadian control."

In connection with an oil pipeline which might take US oil to US markets using Canada as a "land bridge", it would not be its policy to require majority Canadian ownership. However, as Canadian oil becomes available it would be expected that the pipeline would be expanded to accept such oil.

In addition, all interprovincial and international pipelines are under National Energy Board control.

Mr. JACKSON. Mr. President, when the full explanation is received I will also make it a part of the RECORD.

It was unfortunate that this information was not supplied last week when we sent a letter up which turns out to contain incomplete information regarding Canada's position with reference to the trans-Canada line.

QUORUM CALL

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Alaska will state it.

Mr. STEVENS. If time under the pending amendment is to be equally divided and controlled, would not any quorum calls also be subject to having the time charged equally while they are in progress?

The PRESIDING OFFICER. Yes, if unanimous consent is requested.

Mr. STEVENS. Mr. President, I make that unanimous-consent request that quorum calls be charged equally against both sides during consideration of the pending amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? The Chair hears none, and it is so ordered; the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, with the permission of the distinguished Senator from Washington, I should like to have 10 minutes.

I understand that the distinguished Senator has just commented on the role of the State Department in the pending debate. I should like to make some further comments along that line.

Mr. President, the actions of the State Department in recent weeks in handling relations with Canada over the question of a trans-Canadian oil pipeline have been alarming.

On June 1, Representative JOHN MELCHER, of Montana, chairman of the Public Lands Subcommittte of the House Interior and Insular Affairs Committee, requested Secretary of State Rogers to inquire of the Canadian Government on a number of points relating to a trans-Canadian oil pipeline. On June 22, the State Department released a letter which purported to state the views of the Canadian Government.

Among other things, this State Department letter stated that—

> Negotiation by the United States of a pipeline agreement with Canada does not appear possible at this time and the Department of State and Interior are convinced that there is no Canadian alternative to the proposed Alaskan pipeline at this time.

In addition, the letter stated that—

> The Canadian government has no strong current interest in the construction of a Mackenzie Valley oil pipeline.

Mr. President, this letter was obviously an attempt to influence the Senate's debate on the central question of whether the Canadian Government was interested in negotiations—meaningful negotiations—for a trans-Canadian pipeline as an alternative to the proposed trans-Alaskan pipeline.

Mr. President, last night I came into possession of a number of State Department documents which reveal the misrepresentations in which the Department has engaged.

I believe the word "misrepresentation" is a euphemism.

First is a document from the State Department to the American Embassy in Ottawa, dated June 8. It directed the Embassy to inquire as to a variety of questions on Canadian attitudes. However, it was done in a manner clearly designed to slant the Embassy's responses. Thus the telegram recited the support of key administration witnesses for the Alaska pipeline, and then noted that—

> It is apparent that some Members of Congress remain unpersuaded by the Administration's case. *In this connection*, the Department urgently requires your current assessment.

In my opinion, the State Department clearly sought to have the American Embassy "persuade" those "unpersuaded" Members of Congress, and to this end urged the Embassy to consult with the Canadian officials it deemed appropriate and forward back its response.

On June 14, over a week before the State Department issued its letter, two documents were transmitted from the American Embassy in Ottawa to the State Department. These were the results of the consultations which the Embassy had undertaken. They indicated the following—and I shall submit all these documents for the RECORD:

Native claims would be no barrier to the construction of a pipeline according to Canadian officials.

The Government of Canada was prepared to consider applications as soon as pipeline companies are ready to file.

Cabinet, but not parliamentary, approval was required, and the entire approval process would take "from 12 to 24 months."

"Federal/Provincial jurisdictional considerations are not expected to delay pipeline decision," and "increasing belief in consuming Provinces such as Ontario that in the next decade they will need Arctic oil as well as gas increases support for the project."

The minority position of the Government would not be likely to impede progress, since the opposition conservatives would support the pipeline.

An "oil pipeline application would not appreciably delay consideration of a gas pipeline application."

Unless and until more oil is discovered in the Canadian North, oil pipeline throughput for indefinite time would be Alaskan oil.

All of these issues were central to the debate which was held earlier. I charge that the State Department deliberately, and for reasons of its preoccupation with support for its position in support of a trans-Alaskan pipeline, deliberately withheld this information from the Senate and misrepresented the position of the Canadian Government, based upon their own inside information sent to them by cablegram from our Embassy in Ottawa.

I submit that these documents consist of cablegrams flowing between our State Department and our Embassy in Ottawa, cablegrams which I think clearly demonstrate the very disturbing public posture of our State Department in the debate.

I said earlier in the debate that our State Department was acting like the front office of Exxon. I take that back: It was much worse.

This memo also revealed some of the negative aspects of a Canadian oil pipeline. But its content—received by the State Department on June 14—was far different than the negative tone of the Department's June 22 letter.

Also received on the 14th of June by the State Department was a document marked "limited official use." This document relayed that Canadian officials "in private conversations, repeatedly express disagreement with certain arguments in favor of Alyeska oil line advanced by U.S. officials" and then cited claims on pipeline capacity and national security as areas in which the Canadians felt the U.S. Government was not accurately representing their position.

Yet in spite of these official documents from our own Embassy received on June 14, the Department, in its letter of June 22, vastly overstated the negative elements on Canadian Government attitudes toward a Canadian oil pipeline.

In my opinion, it has seriously misrepresented the attitude of the Canadian Government to the American people.

This was not the end of the deception, however. On July 6, Canadian Energy Minister Donald Macdonald strongly implied on the floor of the Canadian Parliament that the State Department letter of June 22 had not fully revealed the position of the Government of Canada. As a result of Canadian intentions to make known the official Canadian response to a series of questions subsequently asked by the State Department, and as a result of inquiries from my office and that of the Senator from Indiana (Mr. BAYH), the State Department on July 7 released a version of those questions and answers.

It now appears, however, that even this version was not correct. I am informed that the Canadian Government requested the State Department to change one response which the State Department had received, in order to clear up any misunderstanding that might result. The State Department apparently refused to do so, and as a result an important point has remained confused.

We have heard much in the course of this debate from trans-Alaska pipeline advocates about the impossibility of a trans-Canadian pipeline. A key argument has been their statements that the Canadian Government would require 51 percent Canadian ownership of a trans-Canadian oil pipeline. And, in the questions and answers which the State Department revealed on July 7, this appeared to be the case.

However, the version of this document released in Ottawa had things rather differently. Our State Department apparently knew this, and yet refused to change the version it released. Let me quote from the correct version of this document on the question of Canadian ownership. After quoting Energy Minister Macdonald on the subject of ownership of a gas pipeline, the document put forth the Canadian Government's position:

> In connection with an oil pipeline which might take U.S. oil to U.S. markets using Canada as a 'land bridge', it would not be its policy to require majority Canadian ownership. However, as Canadian oil becomes available it would be expected that the pipeline would be expanded to accept such oil.

In other words, the Canadians would not require majority Canadian ownership for an oil line, and they would expect such a line to carry only U.S. oil to U.S. markets until Canadian oil became available, at which time the pipeline could be expanded, without displacing a drop of North Slope Alaskan oil.

Late yesterday, the distinguished floor manager of this bill forwarded to me a copy of a letter which he had received from the State Department. In this letter, the Department informed him of this discrepancy in the documents, but stated that—

> We have just today received from our Embasy in Ottawa a revision which the Canadian government wishes to make.

Mr. President, I frankly do not believe the State Department when it states that it received this revision yesterday. My office has known of this revision since late last week, and I have been informed that Canadian reporters were given the corrected version on July 6.

Mr. President, the point of all this is quite clear. Our State Department has been involved in misrepresentation, attempting to mislead the Congress on the position of the Canadian Government. State Department documents have misled Members of Congress, and State Department lobbyists were on the Hill in force last week misleading Members of this body with incorrect views on the policy of the Canadian Government with regard to a pipeline.

This is the type of deception which results in the loss of faith in government by our people. It is incredible that this series of intentional attempts to mislead the Senate has taken place—as we sit in the shadow of Watergate.

Mr. President, the documents which I have just discussed clearly indicated that we have not adequately explored Canadian attitudes on an oil pipeline.

In light of that, to accept the Gravel amendment which, among other things, in my opinion, would destroy the National Environmental Policy Act, would be intolerable. For that reason I am very hopeful that the amendment will be rejected and I submit and ask unanimous consent that the State Department documents to which I have referred may be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATUS OF CANADIAN POLICY ON POSSIBLE TRANS-CANADA PETROLEUM PIPELINE

1. As the Embassy is aware, the administration is seeking legislation which would permit early further progress in the construction of the proposed trans-Alaska oil pipeline. Opponents of the project, however, have argued that an oil pipeline up the Mackenzie Valley would be a preferable alternative.

2. Testifying in support of the Trans-Alaska pipeline, various administration spokesmen, including the Secretary of the Interior and the Under Secretary of State for Economic Affairs, have argued that the state of consideration by the Canadian Government of a possible Canadian oil pipeline is such that, even if approved in principle, construction could not begin for several years. While not ruling out an eventual Canadian pipeline as a supplement to a trans-Alaska pipeline, the administration's position is that urgent need for Prudhoe Bay petroleum requires us to proceed as soon as possible with the Alaskan project. When this project is completed, it will mean that our increasing reliance on insecure foreign sources will be lessened by 2,000,000 B/D, and hopefully it will lead to greater oil discoveries in Alaska.

3. It is apparent that some Members of Congress remain unpersuaded by the administration's case.

4. In this connection the department urgently requires your current assessment. Accordingly, the Embassy should, after consultation with those Canadian officials it deems appropriate, provide the department with its judgment on the following elements of the problem, citing where possible recent public statements by Canadian authorities.

(A) What is the current status of relevant Canadian environmental studies? What is the expected date of their completion?

(B) What is the status of consideration of Native claims? What is the expectation as to time required for their settlement?

(C) What is the Canadian Government's position likely to be with regard to ownership and control?

(D) When will the Canadian Government be ready to give active consideration to proposals from the private sector? What would the process of consideration entail (e.g., public hearings and a finding by the National Energy Board prior to consideration by the Government and Parliament) and how long a time would it likely require?

(E) Are there significant provincial/federal differences which are likely to delay an eventual Canadian decisions? To what extent would differences of view between eastern and western Canadians (suggested in news accounts of draft study reported Ottawa 1223) obstruct or delay decisions?

(F) To what extent does the fact of the Canadian Government's minority position in the House of Commons affect its consideration of a possible pipeline?

(G) What is the status of Canadian governmental consideration of a possible Mackenzie Valley gas pipeline?

(H) Would active Canadian consideration of a Mackenzie Valley oil pipeline delay consideration of the prospective application for a gas pipeline? Are there proponents in Canada of the gas pipeline who oppose encouragement of Mackenzie Valley oil pipeline on these grounds?

(I) Any other observations the Embassy deems relevant.

STATUS OF CANADIAN POLICY ON POSSIBLE TRANS-CANADA PETROLEUM PIPELINE

1. This response to Reftel questions, based on continuing discussions with GOC officials and public record, is preliminary, answers to some questions inherent in pipeline projects will depend on GOC review of overall energy situation. Studies on this subject, intended as basis for public discussion, are expected to be published end of this month. Answers are in sequence to questions raised para 4 Reftel.

2. Environmental studies. Environmental and sociological studies under GOC's $20 million program will be completed by fall. All will be published this year, or if not, data would be available for prospective pipeline applicants. Officials state GOC will be ready by end 1973 to examine applications for transportation projects along Mackenzie Valley whether these be gas pipeline, oil pipeline, highway, or railroad.

3. Native claims. GOC officials are confident native claims constitute no barrier to construction of pipeline. Negotiations with non-treaty Indians in Yukon, now getting underway, expected to take about two years, are limited to compensation and constitute no impediment to granting pipeline right-of-way. Indians along Mackenzie Valley, with rights under treaties 8 and 11, are entitled to land settlement but have yet to select land. Even if Indians should select land along right-of-way, treaties permit GOC to take land for projects in public interest upon provision of substitute acreage and compensation for any improvements. We understand Indians seeking challenge treaties but legal precedents indicate treaties will be upheld. Political question nevertheless remains since elements of Canadian public sympathetic to Indians favor pipeline moratorium until claims settled.

4. Pipeline ownership and control. In House of Commons May 22 Energy Mines and Resources Minister Macdonald restated basic GOC objective as "to give opportunity to Canadians to acquire 51 percent ownership." Minister Macdonald has also indicated he expects operational control of Canadian portion of pipeline to be in Canadian hands and for Canadians to supply major inputs in project, including design services. Arctic gas pipeline consortium already has indicated it views 51 percent Canadian equity as feasible. Pipeline would be under Canadian jurisdiction, just as Portland, Maine-Quebec, Lakehead, and Great Lakes Gas transmission lines serving Canada are under U.S. jurisdiction. Unless terms and conditions of operation and control of the pipelines

were satisfactory to the private parties concerned, they would not seem to be practical propositions.

5. Timing of consideration of applications. GOC is prepared consider application as soon as pipeline companies are ready to file. Gas line application expected this autumn. For oil pipeline group, 12 to 18 months of intensive work would be required to prepare applications based upon preliminary feasibility study by Mackenzie Valley Pipe Line Research Ltd.

(Ottawa A–78).

Official consideration would include hearings on right-of-way by Indian and Northern Affairs Department (IAND) and on other elements by National Energy Board (NEB) and, if findings favorable, final determination by cabinet. (Parliamentary approval not required.) Hearings by IAND and NEB could be combined, as favored by pipeliners, but this not yet decided. Hearings, decision, and cabinet approval expected take from 12 to 24 months.

6. Federal/Provisional jurisdiction. These considerations are not expected to delay pipeline decision. Increasing belief in consuming provinces such as Ontario that in next decade they will need Arctic oil as well as gas increase support for project. (Recent Gallup Poll on Mackenzie Valley gas pipeline showed 51 percent of those aware of project favoring it and 21 percent opposed. Support greatest in west. But nearly twice as many Ontarians favored as opposed project.)

7. Effect of Government's Minority Position. Liberal Government (109 seats) on most issues has support of New Democratic Party (31 seats), which recites economic, sociological and environmental grounds in questioning pipelines. Opposition Progressive-Conservatives (107 seats) likely support pipelines (unless issue seemed one on which they could precipitate election on terms they considered favorable). West coast oil pollution issue makes oil pipeline, because it would remove environmental problem to another part of country, more attractive in some political quarters than gas pipeline.

8. GOC consideration of gas pipeline. GOC on record as ready to consider Mackenzie Valley gas pipeline application when consortium is ready to file which consortium states will be this November.

9. Oil versus gas pipeline application. Officials state oil pipeline application would not appreciably delay consideration of gas pipeline application. Second application could be heard prior to decision on first, and resolution of issues related to Arctic environment and peoples in first decision could expedite second. Nevertheless, active proponents of Mackenzie gas pipeline indicate they would welcome final approval for Alyeska line in order to avoid unnecessary and costly delays for their own project. Competing priorities for oil and gas pipelines stem from economic and technical rather than bureaucratic grounds. Financing, including currency transfer problems, and availability of labor, specialized equipment and pipe virtually rule out beginning work on both projects at once, though one year overlap might offer some advantages. Work on gas pipeline is more advanced, for reasons that include relatively easier environmental requirements and large proven gas reserves in Canadian north. Unless and until more oil is discovered in Canadian north—results so far are extremely disappointing—oil pipeline throughput for indefinite time would be Alaskan oil (and, when gas production has begun, natural gas liquids from Canada). In present situation, interim supply of U.S. Puget Sound area with Canadian oil pending completion Mackenzie Valley oil pipeline likely diminish availabilities for other areas of U.S. now importing Canadian oil, and, as local oil industry executive has pointed out to us, supply of Alaskan oil to U.S. West Coast via Mackenzie Valley would be circuitous and expensive.

10. We hope have further information to report next week. Schmidt.

STATUS OF GOC POLICY ON POSSIBLE TRANS-CANADA PIPELINE

Reftel provides our preliminary assessment on subject. Following observations may further illuminate subject.

1. GOC officials, in private conversations, repeatedly express disagreement with certain arguments in favor of Alyeska oil line advanced by U.S. officials. (Arguments based on timing and balance of payments are generally accepted.) Two points most frequently cited by Canadians are U.S. arguments in terms of (a) claims on pipeline capacity and (b) national security. GOC officials from Minister Macdonald on down insist United States would have all the pipeline capacity it wished. They say arrangements for sharing of capacity would assure no displacement of U.S. throughput by Canadian throughput. GOC officials say they seek no fixed share of capacity of either gas or oil line; they obviously would not insist on half of capacity of 48'' oil pipeline since so far they have discovered very little oil in area adjacent to route. (They anticipate availability of about 100,000–150,000 barrels per day of natural gas liquids when Mackenzie gas starts flowing.) Officials say pipeline would be built initially to carry North Slope oil to United States. Subsequently, when Canadian oil discovered, GOC would expect it to have access to pipeline. They insist however this should raise no problems since it would take less time to expand pipeline capacity (to "loop" it) than it would take to bring Canadian fields into production.

2. In respect to security argument, and leaving aside importance Canadians assigned to long tradition of joint defense efforts, GOC officials find no merit in asserting that Canadian pipeline would be less secure for United States than all-U.S. route. They note that GOC has not expressed concern over fact U.S. holds "hostages" in form of pipelines which carry Canadian oil (Lakehead pipe line) and gas (Great Lakes gas transmission) through eastern United States to Canadian markets and which carry non-Canadian oil from Portland, Maine to Montreal market. (One reason security argument appears to raise concern here is fear that similar argument might be advanced by El Paso natural gas in favor of all-U.S. routing (by pipeline, liquefaction and tanker) for North Slope natural gas.) Schmidt.

Mr. MONDALE. Mr. President, in closing I wish to say that in my opinion one of the most remarkable aspects of the history of North America has been the friendship, the confidence, and the respect which the Canadian Government has shown to our Government, and which our Government has shown to the Canadian Government, and which has been reciprocated by the peoples of both countries. I consider it a privilege to represent a State which borders on Canada. I think it is a tragedy that our State Department for any purpose would deal this shabbily with a good friend.

Mr. JACKSON. Mr. President, I spoke earlier this morning on this matter. My good friend from Minnesota was not able to be present at that time.

I received through Mr. William Van Ness, General Counsel, a letter from the State Department at 6:30 last night. The moment it arrived I had him notify Senator MONDALE's staff.

I wish to make a very simple further statement. I deplore the action of the State Department and the way in which this matter was handled. I knew nothing of the information that they sent to the chairman of the committee and which I placed in the RECORD. I knew nothing, I should say, of the additional information they sent yesterday. What I am really disturbed about is that the Senator from Minnesota indicates that his staff or his people had information that the State Department had this information on July 6. Is that the date?

Mr. MONDALE. That is correct.

Mr. JACKSON. That being the case, I think that the State Department should give a full and complete statement of the facts regarding this matter. There is no reason why that information should not have been made available, as I see it.

I must say, on the other hand, that I do not think it would have changed the outcome of the case, but that does not lessen the need to be forthright, candid, and frank. I relied on that statement in my argument. I referred to one of the facts in the checklist as I recall that they would require 51-percent ownership. It turns out that is not a fact.

This is a poor way to improve relations between the State Department and the U.S. Senate. I find no justification for the way in which this has been handled. I shall insist that there be a full, adequate, and complete explanation. If anyone deliberately misled the Senate I think drastic action should be taken. I was misled. I relied on that statement. It is in my argument on the Mondale amendment. I do not think it would have changed the outcome. I do not know whether the Senator agrees with this. But what I am disturbed about is that it did relate to a material fact, and it aggravates our relations with Canada. This is not the time for that type of aggravation.

I have asked for a complete letter of explanation. We insisted that it be here early this morning. Some of us have to get up pretty early to prepare for these debates on the floor of the Senate when we meet at 9 a.m. I hope the State Department has enough energy down there to do the same thing once in a while. We insisted on that information last night and we still do not have it.

Mr. MONDALE. I am deeply grateful to the Senator for his cooperation. It is true and we are most grateful that as soon as the Senator from Washington received the letter from the State Department we were immediately notified. I am most grateful to the Senator for that and I am quite aware that the Senator's version of this difficulty is fully accurate. I am also aware it probably would not have changed the result of the vote. When one loses by 2 to 1, it is a pretty good sign that something else is needed.

Mr. JACKSON. May I say to my friend that I do not like to be used. I relied on that statement.

Mr. MONDALE. I believe in my Government, as does the Senator from Washington, but that kind of behavior is unpardonable. In addition, I hope we can inquire why the State Department would have in its possession the information I have referred to in my remarks and which is expressed to our State Department from official cables from our Embassy in Ottawa, which say the following:

First, that native claims prove no barrier to the construction of the pipeline.

Second, that the Canadian Government was prepared to consider applications as soon as pipeline companies were ready to file them.

Third, cabinet, not parliamentary, approval was all that was required, and that the entire approval process could take place within 12 to 24 months.

Fourth, that Federal-provincial jurisdictional considerations were not expected to delay pipeline decisions. Indeed, there was increasing belief that consuming provinces would support the trans-Canadian pipeline.

Fifth, the minority position of the government would likely not impede progress, since the opposition Conservatives would support the pipeline.

Sixth, an oil pipeline application would not appreciably delay consideration of a gas pipeline application.

Next, unless and until more oil is discovered in the Canadian north, oil pipeline throughput for an indefinite time would be Alaskan oil.

On the basis of this record, which was most supportive in the consideration of a trans-Canadian pipeline, how the State Department could look at the cablegrams and say it is not likely that a Canadian pipeline would be approved, when they say that approval could be completed within 12 to 24 months, and yet tell the U.S. Senate that is not their position, is beyond me. I used the word "misrepresentation." I think that is a very pleasant euphemism. I think we have been had.

Mr. JACKSON. Mr. President, I ask unanimous consent that Miss Paulette Charney, of the committee staff, be granted the privileges of the floor during consideration of S. 1081.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

AMENDMENT NO. 226, AS MODIFIED

Mr. JACKSON. Mr. President, I should now like to speak to the pending amendment, as modified.

There has been a great deal of discussion by the sponsors of this amendment to the effect that it will somehow facilitate construction of the pipeline by avoiding delays arising from litigation under the National Environmental Policy Act. This is an easy promise; a promise which the amendment is incapable of delivering, however. To the contrary, I believe the amendment invites delay by creating numerous new opportunities for litigation. The uncertainty this amendment will create should be known by all Members of this body before they vote upon it.

The amendment presents five problems:

First. It does not exempt the pipeline from NEPA;

Second. It creates at least three new grounds for litigation;

Third. It contains an open invitation for litigation on another separate ground;

Fourth. It appears to exempt the pipeline from all law—contract law, civil rights law, securities law, and all other Federal law; and

Fifth. It sets a dangerous precedent by attempting to exempt a project which all parties admit represents a potential threat to the environment from the requirements of environmental law.

Senators should be aware, in addition, that even if the amendment could accomplish the objectives sought by its sponsors it would not overcome all of the legal obstacles faced. For example, the amendment does not deal with one legal obstacle to pipeline construction that it is just as absolute as the litigation over NEPA. That obstacle is the litigation now underway between the oil companies and the State of Alaska which is now in State courts. This litigation involves important constitutional issues that ultimately may have to be decided by the U.S. Supreme Court.

THE AMENDMENT DOES NOT EFFECTIVELY EXEMPT THE PIPELINE FROM NEPA

First, the amendment does not exempt the grant of a right-of-way for the pipeline from the requirements of NEPA.

Certainly subsection 302(d) would not exempt the pipeline from further litigation concerning NEPA. This subsection purports to state a congressional finding of fact and law. Unanswered is the question of what would be the legal result of a congressional finding that the pipeline is in compliance with NEPA. It is one thing for Congress to make such a finding, and quite another thing for the courts to do so. It is my guess that the courts will still wish to make their own findings as to whether the environmental impact statement is adequate or the other requirements of NEPA have been met. If they do, at best the congressional finding will be weighed by the courts as a factor in favor of issuance of the pipeline permit; at worst, the finding will be ignored.

I believe that there would likely be more litigation and more delay over the question of what is the legal effect of such a congressional finding, than there would be if the litigation concerning the impact statement itself were simply allowed to run its course.

Mr. COOK. Mr. President, will the Senator yield at that point?

Mr. JACKSON. I would like to complete my statement, then I shall be happy to yield, if the Senator does not mind.

Subsection 303(a) purports to authorize and direct Federal governmental action "without further action under the National Environmental Policy Act." By now it should be clear that congressional authorization of a project does not remove it from the requirements of NEPA. There have been dozens of cases where the Congress has authorized and directed a secretary of a department to perform an act and the courts have uniformly held that the performance of the act—building a road, a dam, or whatever—is subject to the requirements of NEPA. Second, it should not take anyone very long to realize the additional language concerning further actions under NEPA in no way precludes litigation on the adequacy of actions already taken—that is, the existing environmental impact statement. Litigation on the adequacy of the impact statement could, in the best legal judgment of the act's author, proceed under this subsection as well as under subsection 303(d).

Finally, there are numerous other Federal decisions and actions not directly related to the construction, operation, and maintenance of the pipeline, but essential to it, which arguably could require impact statements. For example, in the case of the marine leg of the Alaska pipeline, additional licenses and permits by other Federal agencies, particularly the Corps of Engineers, could be challenged as requiring impact statements. Undoubtedly, an adequate statement for the pipeline permit would be found by the courts to be adequate for the other Federal actions, but the purpose which the authors have for this amendment is to insure that the adequacy of the impact statement is never determined. Adoption of this amendment, in my view, will simply invite opponents of the pipeline to shift their cause of action to new grounds. Again, the result could be more, rather than fewer delays due to litigation over NEPA.

THE AMENDMENT CREATES NEW GROUNDS FOR LITIGATION

The authors of the amendment could argue that even if subsections 302(d) and 303(a) fail to exempt the pipeline from NEPA, subsection 303(d) accomplishes the purpose. This subsection purports to prohibit judicial review of all Federal actions with respect to the construction of the pipeline. As already noted, there are a number of other potential causes of action relating to the marine leg which could, however, still be subject to suit. But I believe this subsection presents two of the three new grounds for suit against the pipeline.

As I have noted before, this amendment should be regarded by those who wish to sue against the pipeline as a very friendly amendment. It offers them three new grounds to frustrate the pipeline with litigation.

The first ground has already been mentioned—that is, what is the legal effect of the language of this amendment which purports to exempt NEPA. It will take at least 2 years to decide that; and, if the decision is, as I suspect it will be, that there is no exemption, then all we have done is to delay the process for determining compliance by two full years. The courts will then, and only then, proceed to the NEPA question which they otherwise could address immediately upon final passage of S. 1081.

The second and third grounds for possible litigation are found in subsections 303(d) and (b). Subsection (d) certainly presents some major constitutional questions involving separation of powers. Can Congress so deeply circumscribe judicial review? I read this section as barring review even on constitutional grounds. For example, suit is barred even if stipulations on permits or leases patently violated constitutional rights. It would appear as well to bar judicial review even on criminal charges. Permits issued illegally apparently would be allowed to stand. I, for one, do not wish to grant such a license to unchecked governmental action. Certainly the courts would entertain suits concerning the constitutional validity of this section. But even if it were found constitutional to so limit the ambit of judicial review, I believe the courts would welcome the opportunity to draw parameters around such a vague grant of unbridled, unreviewable discretion to Federal officials—before that discretion can be exercised.

However, the vagueness and potential for the most unfortunate kind of mischief presented by subsection 303(d) is magnified several times over by subsection 303(a). No court could let stand a provision exempting the pipeline from the operation of all law but S. 1081 as this subsection attempts to do.

INVITATION TO LITIGATION ON ANTITRUST GROUNDS

Now, after this amendment attempts to exempt the pipeline from all law—environmental laws, civil rights, contract, and other laws—it quickly offers a suggestion to all potential litigants of an excellent ground for a suit and goes out of its way to preserve intact that litigation option. Section 305 states that, whatever else the amendment purports to do—and we have seen how much it does purport to do—it does not grant laws. Most knowledgable observers regard the antitrust laws as a fertile potential source for litigation involving the pipeline. Important as the antitrust laws are, it seems to me there are many other laws, from which the amendment attempts to free the pipeline, which are at least as important to all of us—environmental and civil rights laws, for example.

PRECEDENT OF SPECIFIC EXEMPTIONS FROM NEPA

Mr. President, I believe all Senators should be fully aware of the unfortunate precedent which would be set by passage of this amendment. It is all too easy to say that the line can be drawn here, but can it? If we exempt the pipeline today from NEPA, what will stop us from exempting other projects important to one or another of our colleagues in the future?

Unfortunately, the answer to that question is that once the precedent is made, future exemption from NEPA will come easier and only an environmental tragedy involving the precedent—the pipeline—will serve to protect NEPA from such exemptions. Certainly, no one wants to see a major pipeline fracture or tanker collision, but believe me, voter ire over our having played fast and loose with NEPA can sure stiffen our resolve not to provide NEPA exemptions again.

Does the sponsor of this amendment, who has often expressed concern over the hazards of nuclear power, want to exempt the breeder reactor program from NEPA and from judicial review?

The State of Alaska has vigorously opposed Federal offshore leasing for oil and gas in the Gulf of Alaska, because of its danger to fisheries and other environmental values. Would the Senators from that State like to have Gulf of Alaska drilling exempt from NEPA and judicial review under cover of the national energy crisis?

Another consequence of the amendment would be to sanctify and freeze the pipeline stipulations already promulgated, which are incorporated by reference into the amendment. This could prohibit the Secretary of the Interior from adding new stipulation; for example, to implement the provisions for the protection of Native rights adopted by this body last week. The Secretary would be precluded from amending those stipulations in any other way, in response either to new information or to changed circumstances.

Finally, construction of the trans-Alaska pipeline is presently blocked, not only by Federal proceedings but also by a legal dispute between the oil companies and the State of Alaska regarding the right-of-way across State land, State regulations of pipeline rates, the basis for calculating production taxes, and a requirement for local hire in pipeline construction.

That litigation is now before the Alaska courts, but it involves fundamental questions of Federal law, States rights under the Federal Constitution, and the interpretation of the equal protection clause of the Constitution. It will probably run the full course of Federal appeals.

If the supporters of this amendment seriously propose to override the legal obstacles to pipeline construction, they must be prepared to support an amendment, now or in the future, that explicitly bars the State's claim of concurrent regulatory jurisdiction over interstate pipelines, that grants Alyeska the power of eminent domain over State land, that prohibits imposition by the State of a tax-reference price for oil and gas, and that bars discrimination in hiring for pipeline construction or operation on the basis of State of residence.

Such an amendment, of course, involves fundamental issues of policy and constitutional law, and I would oppose it on the same grounds that I oppose the Gravel-Stevens amendment for a NEPA exemption. Whatever the merits of urgent action to get the Alaska pipeline built, and the merits are great, this overriding of States rights would not be a precedent to make lightly. Moreover, like the attempt to exempt the right-of-way from NEPA review, such an amendment would not necessarily be successful in speeding construction. It would spawn a new generation of lawsuits and would almost certainly sap the contestants' incentive to resolve the substantive questions while the constitutional issues were being litigated.

The arguments against trying to override NEPA are identical with the arguments against trying to override States rights:

They are both bad policy;

They are both bad precedents; and

They will fail to end litigation and delay and may well spawn more litigation and delay.

Last week the Senate passed an amendment declaring early resolution of the legal disputes over construction of the Alaska pipeline to be a matter of national urgency. I believe that the courts will heed that message. In doing so, they do not need a host of new legal ambiguities and new causes of action.

Mr. President, I should like to say a word on the Federal construction, ownership, and operation of the pipeline.

It is, of course, possible that litigation concerning the environmental impact of the pipeline, antitrust issues, or litigation between the State and the oil companies will not be resolved in time to initiate construction of the pipeline in the spring of 1974.

I have previously announced that if the oil companies and the administration are unwilling or unable, for whatever reasons, to resolve this impasse, I intend to introduce legislation designed to cut through all of the obstacles faced and to do it in a manner which is environmentally sound.

The urgency of our requirement for immediate access to secure and adequate sources of additional petroleum is evident. Positive and timely action is mandatory.

In my view, the only certain way to overcome all of the complex legal issues presented, in a manner that is environmentally sound, is by direct Federal intervention to construct, own, and operate the pipeline. If, in the months ahead, it appears that action on the pipeline will be further delayed beyond the spring of 1974 and Alaska oil will remain in the ground while American consumers run short, I shall propose legislation to authorize Federal construction of the pipeline.

I hope that this will not be necessary. There is, however, no absolute assurance that the legal and other difficulties involved in this matter will be terminated at an early date.

Mr. President, I yield first to the Senator from Kentucky.

The PRESIDING OFFICER (Mr. HASKELL). The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I would like to ask a number of questions of the manager of the bill purely and simply because it seems to me, at least, that in the period of time I have been here, we are kind of a rulemaking body. We set up the procedure and then the procedure has to be adopted and carried through.

It seems to me that in this instance we are substituting our judgment for the judgment of those who shall review and for those who shall require performance.

I wonder, for instance, may I say to the distinguished Senator from Washington—and it is unfair to say this—what is the legal opinion of an amendment that says, as we get down to the bottom of page 3:

> With respect . . . to the construction of such highway; nor any lease or permit granted by the Secretary of the Interior for such airports shall be subject to judicial review.

Then we provide on page 3, line 10:

> *Provided*, That the Secretary may approve amendments to said applications if he deems it appropriate.

I could submit this question to both the Senator from Washington and the Senator from Alaska. Does this mean that we are saying that we can, as of this date, use all the reports that have been filed, with all of the six volumes that have been filed to, if it is necessary in the wisdom of the Secretary of the Interior, make any amendments to this environmental impact study and that he may do so regardless of what amendments or changes he might make, and it is still not subject to judicial review?

I merely pose that question because it seems to me that what we are doing is that we are saying if we establish the rules, that if one cannot get something within a reasonable time frame within the rules, let us just say that it can be done.

I am concerned about this. I am concerned about the fact that this not only asks that an immediate—and, by the way, I am also concerned about the constitutional question as to whether the Congress of the United States can say to a member of the executive branch, "You shall issue"——

The PRESIDING OFFICER (Mr. RANDOLPH). The time of the Senator from Washington has expired.

Mr. JACKSON. I yield the Senator whatever time I have on the bill.

The PRESIDING OFFICER. It is impossible to take time on the bill on account of the vote having been set at a fixed time.

Mr. JACKSON. Mr. President, who has time?

The PRESIDING OFFICER. The Senator from Alaska has 40 minutes.

Mr. GRAVEL. How much time does the Senator want?

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. I do have time on the bill, but as I understand the Chair's ruling, inasmuch as a time certain has been set for the amendment, I cannot draw on the time on the bill; is that correct?

The PRESIDING OFFICER. That would be correct, but only until the opposition has concluded its time. Then it would be in order. They would have the time.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Kentucky may proceed for 2 minutes. That always covers everything.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. There has to be a yielding out of someone's time with a fixed time for the vote at 11:30.

Mr. GRAVEL. Mr. President, I am happy to yield the Senator from Kentucky 2 minutes.

Mr. COOK. That is all I need, and I thank the Senator from Alaska.

Mr. JACKSON. We have avoided a constitutional crisis.

Mr. COOK. I say to the manager of the bill that I am sincerely concerned about the fact that Congress, which established the Environmental Protection Act, is now issuing an edict to the Secretary of the Interior that "he shall issue." I can only say it seems to me that we find ourselves in the position of the legislative branch usurping the authority of the executive branch, and I see very serious constitutional questions. In fact, I must confess I can see as many lawsuits as a result of this amendment as I can see if we go on record as approving the machinery by which this pipeline can be built, which this Senator is in favor of, but I also am concerned about the fact that all of a sudden we have an amendment that says regardless of the problems that exist, we say to the Secretary of the Interior that he shall not only issue the permits for the pipelines and rights-of-way, but issue permits to build a highway and three airports.

That gives this Senator grave concern, and I wish the respective Senators would speak to this issue during the remainder of the time for debate on this issue.

Mr. BUCKLEY. Mr. President, I fully appreciate the sense of urgency that so many feel with respect to the need for the earliest possible completion of the trans-Alaskan pipeline. At the same time, I do not believe that we should allow this to stampede us into legislating shortcuts in established procedures that we can only come to regret.

I speak specifically to the provision in the Gravel amendment that would substitute a congressional judgment for that of the courts as to the adequacy of the Department of the Interior's compliance with the requirements of the National Environmental Policy Act. That act represents a belated recognition on the part of the American people as to the necessity to take into consideration all the consequences—economic, social, security, environmental—attendant on major governmental actions. It is an act that imposes a true and thoughtful sense of preparation and responsibility on us. It is designed specifically to avert precipitous action that could have far-reaching results not anticipated by the decisionmakers.

I have protested in the past, and intend to continue protesting, any attempt to legislate exceptions in specific cases to the procedures required by NEPA. If we adopt the habit of sidestepping its requirements any time they prove inconvenient, then we will have destroyed the act's effectiveness in forcing us to make far-reaching decisions on a truly balanced judgment based on all the relevant factors. I feel, therefore, that it would be worse than short-sighted to adopt the Gravel amendment in the hope of saving a few months in initiating the actual construction of the Alaskan pipeline.

I would also like to suggest, Mr. President, that the Gravel amendment could also prove contraproductive. The lawyers representing groups dedicated to the protection of the environment have shown, if nothing else, an extraordinary legal sophistication and ingenuity. In my judgment and in the judgment of lawyers whom I have consulted, the adoption of the Gravel amendment would give rise to a whole series of new causes of action which could be exploited as delaying tactics. These have been detailed in the excellent analysis just made by the distinguished Senator from Washington (Mr. JACKSON).

Many are of the opinion, I know, that these new causes of action involving, as they would, questions of law, could be more readily disposed of than the questions still remaining to be decided in connection with current litigation. Thus the Gravel amendment might succeed in saving a few months; but I submit that this saving at the expense of the integrity of our basic environmental legislation would represent a very poor tradeoff.

Mr. President, in raising these objections to the Gravel amendment, I do not want to suggest that I consider the NEPA legislation to be in all respects perfect. As with all pioneering legislation, it was impossible at the outset to predict with precision how it would actually work once in operation or how the courts might interpret necessarily ambiguous provisions. If serious flaws in NEPA have come to light, then Congress can reexamine the legislation to see how it can be improved, how its essential aims and objectives can be advanced while correcting its flaws. This should be done, however, not by legislating exceptions in specific cases but through a careful review of the total impact of the procedures mandated by NEPA and, if found deficient, through appropriate amendments to the act itself.

I urge my colleagues to vote against the Gravel amendment.

Mr. JACKSON. Mr. President, I shall be very brief——

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Will the Senator yield me 1 minute?

Mr. GRAVEL. I am happy to yield the Senator from Washington 1 minute.

Mr. JACKSON. Mr. President, I have the very highest regard for my colleagues from Alaska. No one is more anxious to get the oil down from Alaska as fast as possible. I have been working on this problem for several years. I have tried to find the best possible solution. But I must confess that what I see in the amendment is more litigation. I do not believe we can pass an amendment that bars the right of judicial review on these matters. This is elementary law to me.

Mr. President, I have come to the regretful conclusion that if we are stalled here, early next year I give my pledge that I am going to push legislation for the Federal Government to build this line. It does involve a national crisis; it is urgent, and I shall do everything in my power to move that oil. We just have an honest difference of opinion as to how to do it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JACKSON. One additional minute?

Mr. GRAVEL. One additional minute.

Mr. JACKSON. We have an honest difference of opinion as to how to do it, Mr. President. I am concerned, in the last analysis, about the precedent. Unless we are going to repeal the whole National Environmental Policy Act—and I do not see any evidence of that—we will be confronted with requests, for every project under the Sun, for waivers. our final fallback position here, in the interests of time and considering the I want to avoid that, and I must say that urgency of the matter of getting that oil, must be the point that I made at the conclusion of my remarks, for the Federal Government to do what it did in World War II when it built Big Inch and Little Inch.

Mr. GRAVEL. Mr. President, I yield my senior colleague 20 minutes.

Mr. STEVENS. Mr. President, in the time available, I hope to answer the legal arguments concerning our amendment. My colleague will address himself to the policy aspects of it.

Legally, we look at the problem of trying to get the Alaska pipeline underway from the perspective that few projects in the history of man have been studied as acutely as this has before it was commenced. The administration has complied with NEPA, and our amendment takes the position that in view of that compliance, a minority of the extreme environmentalists of the country should not be able to delay the project. This project is as important to the future of this country as was the ABM, and I am sure the Senator from Washington will remember that in a very close 50–49 vote, I voted in favor of that project, and we in fact did not have an environmental analysis of that project. There was no NEPA analysis of the ABM.

We are looking now to the proposition that if the Members of this body are in favor of starting the trans-Alaska pipeline, we must ask ourselves what is necessary to achieve that goal. This amendment sets forth what is necessary to do that.

It does four things: It makes a congressional finding that the National Environmental Policy Act has been complied with. On the basis of that finding, it makes a congressional grant of a right-of-way for the construction of the trans-Alaska pipeline, the airport, and road that are necessary for construction. Having done that, it directs the Secretary of the Interior to issue the permits that are necessary to achieve that objective; and fourth, it says to the courts that the congressional finding of fact and the grant of a right-of-way, and the actions of the Secretary of the Interior in performing ministerial duties in furtherance of this act, are not reviewable by the courts.

Legally, all of this is necessary to comply with the past decisions of the Supreme Court, most notably the comments made by the Chief Justice in the Three Sisters Bridge case. On July 14, I placed in the RECORD a memorandum prepared for my office by the Congressional Research Service, which pointed out the number of times that Congress has in fact made findings of fact and then denied the right to the courts to review those findings.

In the Portal-to-Portal Pay Act, Congress specifically denied the right of the Supreme Court or any court to review its findings. It said, "No court of the United States or any State, territory, or possession of the United States or the District of Columbia shall have jurisdiction of any action or proceeding," et cetera, under the Portal-to-Portal Pay Act.

There have been literally hundreds of times when we have done this.

With regard to the comment made by my good friend from Washington concerning the amendment, this amendment is no different than if we had come to the Senate with a simple little amendment which said, "Notwithstanding any other provision of law, the Secretary of the Interior shall issue the permit for the right-of-way." If we had done that, it would not have disturbed anyone, because we do it every day. Every day someone on this floor stands up and offers an amendment which says, "Notwithstanding any other provision of law, we want the administration to do this."

The only trouble with that is that in order to comply with the past Supreme Court decisions, in a case like this, where we are making the findings of fact, and we are in fact trying to get Congress to substitute its judgment for the judgment of the court in that environmental case and make the decision that NEPA has been complied with, we are not trying to suspend NEPA; we are trying to make a finding of fact that the administration has complied with NEPA. We have it right here in the environmental impact statement—eight volumes in all—it is the total analisis of this project.

My friend from Nevada and I and the Appropriations Committee have asked, time and time again, have asked, "How much will this cost?" This analysis has cost approximately $12 million of taxpayers dollars to study the environmental aspects of this pipeline. This study does comply with NEPA. NEPA was never intended to require a totally complete, minute investigation of all alternatives; the concept required consideration of alternatives—and the impact statement in the Alaska pipeline application does discuss and consider alternatives.

The only thing holding up the pipeline today is the concept raised in the last part of the lawsuit, and that was whether the administration was compelled to go to the extreme of having total information available for the Canadian alternative, whatever that might be. There are three alternatives, not just one, as I pointed out, through Canada. The administration, in the lawsuit brought by the extreme environmental groups had been charged with failure to totally investigate the alternatives through Canada.

Let me say to the Senator from Washington that when we came before this body with a very difficult Alaska problem before, the Alaska Native Claims Act, that was something pending since the time the United States had acquired Alaska as a territory, a problem which had never been solved, and over 100 years had passed. We asked Congress to substitute its judgment for the judgment of the courts. There were potentially 179 to 200 claims which could be filed in the court, and we said that it would take years to do that, so we want you, Members of Congress, to make the judgment, make the judgment as to what is fair and tell the courts they cannot review it. We did that. The Alaska Native Land Claims Act specifically substituted the judgment of Congress for the judgment of the courts and specifically denied the right of the courts to review. It cut off, it extinguished the claims pending before several courts in this Nation. We are asking no more in this. We are asking Congress to substitute its judgment for the judgment of the court in a case brought by extreme environmental groups, a small minority of our population, who say they will use the courts by any means possible to delay the construction of the pipeline.

Finally, I should like to direct myself to the Senator from Washington's comments, that this would prolong litigation. That cannot be true. It cannot be true because the courts in the past have told Congress in effect: "If you want to deny judicial review of the directives of Congress, you may do so, if you do so properly."

I know of no one questioning the technique or the technical details of this amendment. Technically it is good. Technically it has been reviewed by people I consider to be some of the best lawyers in the Nation. They have made suggestions which we incorporated in the amendment to insure that the past decisions of the Supreme Court were met.

My friend says he worries about the change in that 303(b). I direct myself to the Senator from Kentucky and say that that particular section says the route of the pipeline system shall follow the route generally prescribed in the application pending before the Secretary of the Interior, provided the Secretary may approve amendments to that application which he deems desirable. That is in connection with the route. As we go into construction, and we find it is necessary to move the route a quarter of a mile or so in order to preserve a newly discovered antiquity in Alaska, something that should be preserved, should we not give him the right to vary the route? That is what the section says. It does not say that we can change the project or harm the environment. It says that we can change the route if necessary. I think that that is a legitimate discretion invested in the Secretary.

Time after time we have been asked to vote on amendments brought in here that had no relationship to the facts of the case. I am talking about this bill. We have had all kinds of amendments. The bill has become a Christmas tree in terms of the amendments offered, when really all we needed was a very narrow bill saying that the Secretary of the Interior has the right to issue a right-of-way permit wider than 25 feet on either side of the pipeline, and Congress believes that the Interior Department has complied with the NEPA and a decision telling them to get on with the job of constructing the pipeline.

Basically, that is what we need, but we have a very complex bill before us now. From the point of view of the courts, I should like to leave this last question with the Senate——

Mr. BIBLE. I have some questions to ask the Senator, whenever he is ready.

Mr. STEVENS. I would hope that the Senator from Washington would address himself to the situation from the point of view of the courts. There is pending before the courts a case brought by the extreme environmental groups. There is an injunction against the Secretary to prevent action on the right-of-way for the pipeline, airports, and roads. If we pass this bill without these amendments, what can that court find in this bill that says to terminate that court action as quickly as possible because Congress feels that the NEPA Act has been complied with. In any event, I hope that my friend from Washington will agree to the amendment, I will offer to section 205, without regard to the Alaska pipeline amendment. This bill says that we are working on the basis of a two pipeline concept, the first being an Alaska route, and the second being the Canadian, if and when ready to go. This amendment brings the bill in line with the findings of the Committee on Interior and Insular Affairs in its report.

ANALYSIS OF AMENDMENT 226, AS MODIFIED

The purpose of this amendment is to allow the immediate construction of a trans-Alaska pipeline from Prudhoe Bay to Valdez, Alaska for the transportation of the vast reserves of Arctic Alaska crude oil to market. The availability of this resource at the earliest possible time is of critical national importance in view of the increasing crisis of energy supply facing the Nation over the next decade.

The trans-Alaska pipeline controversy has had a lengthy history. The issue has been considered, studied, debated, researched, and publicized in all three branches of our Government, and in the public forum, for nearly 5 years. The industry has devoted over 2,000 man-years of intensive research to insure the success of the project. The executive branch, under the leadership of the Department of the Interior, and including the active participation of an intergovernmental task force, devoted more than 175 man-years of research and analysis to produce the most comprehensive environmental statement ever prepared under the National Environmental Policy Act of 1969. This task force utilized the services of hundreds of leading professional Government career personnel in every applicable discipline with which this project is concerned.

The Congress has held innumerable hearings in various committees of both Houses covering every aspect of the proposal. Congressional activities have culminated in the recent extensive hearings before the Senate and House Interior Committees and in the present consideration and debate on the floor of the Senate.

The courts have also been involved. Challenges to the Secretary of Interior's authority to issue the necessary permits and to the sufficiency of the environmental impact statement have been the subject of a District Court trial, an en banc Court of Appeals review, and a petition for certiorari in the Supreme Court. As we all know, this extended litigation has had two results: First, that the Secretary lacks authority to grant a right-of-way for a modern pipeline because of the width limitations in the Mineral Leasing Act of 1920; and, second, that final adjudication of the so-called environmental issue has been deferred, probably for years. Simply stated, the Court of Appeals took a piecemeal approach to the overall problem, threw half of the problem to Congress for solution and put the other half on the back burner to be left simmering until the legal processes are warmed up again at a later date—cooking time unknown.

S. 1081 is the result of the Congress' quick responsible reaction to solve that half of the problem which the Court specifically referred to us—and it does solve that half of the problem.

But that is not enough. To be truly responsive to the Nation's crying need for energy we must not abdicate our responsibility to consider and solve the total problem if at all possible and appropriate. It is in that vein that we offer and urge the adoption of this amendment.

Certainly Congress should solve the other half of the problem—the half that the Court refused to face up to. Just as Congress has the power to determine the widths of rights-of-way across public lands, so have we have the authority to grant such rights-of-way.

Is such action appropriate in this case? It is not only appropriate, it is essential to avoid intolerable delay in making North Slope oil—comprising 25 percent of our proven domestic crude oil reserves—available to solve our Nation's crucial energy needs. It is appropriate and essential to decrease our balance of payments deficit up to $2.5 billion annually by reducing the amount of foreign oil we must otherwise purchase by one-third of our current imports.

It is appropriate and essential, if we are not to ignore the six-volume environmental impact statement, the reasoned and considered judgment of the Secretary of the Interior based upon years of research and analysis by the Federal task force; and, importantly, unless we are to ignore the opinion of all of the Federal judges who have considered the environmental issue. Those judges—the district court judge who tried the case and three judges of the U.S. court of appeals—all decided that the Secretary has fully complied with the requirements of the National Environmental Policy Act.

In these circumstances it is not only appropriate that Congress accept the responsibility for solving both halves of the problem, it is essential that Congress do so if the country is going to have a total solution within an acceptable time frame. We simply cannot afford the lengthy delay that would be entailed if we return a half-solved problem to the executive branch and the judicial branch for final resolution.

The Secretary has been unable and the courts have been unwilling to take the necessary action to get the North Slope oil and gas to the Nation. There is no possibility they can or will take the necessary actions for many months—or, even several years.

Only the Congress can resolve the matter totally, resolve the matter responsibly, and resolve the matter now.

While several departments and agencies are involved with one or more aspects of the proposed pipeline system, no one authority has overall jurisdiction. Fortunately, the executive branch has been dealing with the problem through an interagency task force which was formed shortly after the Prudhoe Bay discovery. It is this Federal task force which produced the monumental environmental impact statement on the pipeline. With this broadly based record, the Congress is now in a position to undertake the responsibilities of a single authority in order to insure that future administrative actions are coordinated and do not become bogged down in a proliferation of individual, duplicative procedures.

Of course, the courts do not have the jurisdiction to treat this matter in an overall manner. Courts will only decide narrow issues which are presented to them—and, as we have seen in this case, they do not always do that completely.

There is only one sure way to get on with the important job at hand, and this amendment provides the way. It provides that the Congress make a direct grant of the various rights-of-way, permits and other authorizations necessary for the construction of this vital transportation system. After finding that the Secretary of the Interior and the Federal Task Force have complied with the requirements of the National Environmental Policy Act, it grants the necessary rights of way, permits, and authorizations and directs the appropriate Federal officials to issue the necessary documents. This legislation itself requires the necessary Federal action. Congress has the evidence to make the determination that the proposal protects the environment. We have held extensive hearings on the subject and have had access to the environmental impact statement and all other bases for a final determination. We must avoid the delays that would result from further extensive litigation. The amendment therefore prevents additional delaying litigation.

I would next like to analyze the provisions of this amendment section by section.

SECTION 301

Section 301 is the title of the act.

SECTION 302

Section 302 expresses the congressional findings that, early delivery of North Slope oil to domestic markets is in the national interest and that the transportation of oil by pipeline from the North Slope to Valdez and, thence, by tanker to domestic markets will best serve the immediate national interest; furthermore, a trans-Canada pipeline should presently be studied but should not be regarded as a substitute for a trans-Alaska pipeline. Prior actions taken by the Secretary of the Interior respecting the trans-Alaska pipeline constitute compliance with the National Environmental Policy Act of 1969—thereafter NEPA.

SECTION 303

SECTION 303(A)

Section 303(a) includes a direct grant by Congress of all rights-of-way, leases, permits, and other authorizations of any kind, necessary for the construction and operation of the trans-Alaska pipeline system. During the study prior to the drafting of the Final Environmental Impact Statement and during the drafting itself, the Departments of Interior, Defense—including the Corps of Engineers—Transportation, Commerce, Health, Education, and Welfare, Housing and Urban Development, as well as the Office of Science and Technology, the Council on Environmental Quality, and the Environmental Protection Agency all considered the phases of pipeline construction and operation falling within their jurisdiction and expertise. Moreover, all of these Departments and agencies participated in the drafting of the detailed Stipulations. Absent a direct grant of Congress there will be a needless duplication of considerations which, within the context of a comprehensive, interdisciplinary study, have already been made by the various agencies and Departments of the Federal Government.

For instance, the Rivers and Harbors Act of 1899 and the Chief of the Corps of Engineers authorize the construction of any structure within the high water mark of a navigable waterway. The procedures for obtaining such a permit are set forth in regulations of the Corps of Engineers published May 10, 1973, at page 12217, vol. 38, No. 90, of the Federal Register.

Prior to issuance of such a permit, an evaluation is required that a permit should be issued in the public interest. This includes considerations relating to conservation, economics, esthetics, historic values, fish and wildlife values, flood damage prevention, land use classifications, recreation, water supply, and water quality. As indicated previously, however, all of these factors have already been considered during the course of the 175 man-year study conducted at the behest of the Department of the Interior, in conjunction with the other Federal agencies.

Additionally, permits would have to be granted, or some other form of authorization obtained, respecting effluent outflow at the ballast treatment facility, land fill near the terminal site, sewage treatment facilities, and valve locations along the pipeline. These approvals will involve various agencies, such as the Department of Transportation, Environmental Protection Agency, and the Department of the Army. The Coast Guard imposes certain requirements for bridges crossing navigable waterways and requires that advance approval be obtained.

All of these procedural steps are designed to insure that proper consideration is given to various public interests. All of these factors have been considered in depth. A comprehensive grant will merely insure that another, less comprehensive, consideration is not given. Such a piecemeal consideration could also spawn needless litigation.

It is neither the purpose or effect of this subsection to alter the salutary operation of NEPA; rather, this subsection recognizes the comprehensive effort which has been made by the Department of the Interior and other Federal agencies to comply with the requirements of that act and the unavoidable, needless delay which will accompany duplicative administrative authorizations otherwise necessary for the trans-Alaska pipeline system.

A direct grant by the Congress would also obviate a challenge based upon NEPA to the trans-Alaska pipeline, the Congress not being subject to the requirements of that Act.

In *Calvert Cliff's Coordinating Committee* v. *A.E.C.*, 449 F.2d 1109 (1971) the D.C. Circuit considered the extent of the obligation imposed upon Federal agencies by section 102 of NEPA. The Court concluded that:

> [O]nly when . . . specific [statutory] obligations conflict with NEPA do agencies have a right under § 104 and the "fullest extent possible" language to dilute their compliance with the full letter and spirit of the Act.

If the issuance of necessary authorizations and rights-of-way by the Department of the Interior and other Federal agencies and officers—even after a direct congressional grant— were to be regarded as "major Federal actions significantly affecting the quality of the human environment" the requirements of NEPA section 102 would have to be met, absent the "specific statutory obligations" referred to in Calvert Cliffs', supra. By directing the issuance of necessary authorizations and rights-of-way "without further action under the National Environmental Policy Act of 1969" subsection 303(a) creates a specific statutory obligation which insures that the purely ministerial acts to be performed by Federal officers and agencies under this subsection will not trigger section 102 of NEPA. In this instance, the major Federal action will have been taken by Congress.

There is ample precedent for a congressional grant of such a right-of-way. See R.S. 2447, 43 U.S.C. 931.

SECTION 303 (B)

This subsection provides that the route for the trans-Alaska pipeline will follow generally that route described in applications presently pending before the Secretary of the Interior; however, the Secretary may approve appropriate amendments to these applications.

SECTION 303 (C)

This subsection provides that at any time the Secretary performs a ministerial act required by subsection (a), by issuing a right-of-way, lease, permit, approval, or other authorization, he shall make such actions subject to the terms and conditions of the stipulations contained in volume 1 of the Final Environmental Impact Statement.

SECTION 303 (D)

Section 303(a) will, by itself, preclude a successful judicial challenge to the trans-Alaska pipeline; however, prevailing on the merits after extended litigation might well be a pyrrhic victory. It is necessary in order to avoid continued delay, therefore, to prevent any judicial review of Federal agency action taken pursuant to this title. Accordingly, subsection 303(d) provides that no right-of-way, permit, authorization, or any other Federal agency action with respect to construction of the pipeline system, or highways, or airports, referred to in subsection (a), shall be subject to judicial review.

To avoid the inference that by specifically precluding one basis for judicial review, NEPA, Congress intended there to be judicial review available on other bases, the language precluding judicial review is phrased generally.

SECTION 304

Section 304 provides that a right-of-way or permit granted hereunder for a road or airport may provide for the construction of a public road or airport.

SECTION 305

Section 305 provides that the grant of a right-of-way or permit pursuant to this title grants no immunity from the operation of the Federal antitrust laws.

Mr. BIBLE. I should like to ask the Senator one or two questions. I am a little lost as to who is right, because you both cannot be right, obviously. The Senator from Washington argues that the amendment the Senator from Alaska presents does not exempt the pipeline from NEPA. The Senator from Alaska says it does. Am I correct on that?

Mr. STEVENS. No, I do not say that is exempted from NEPA. I say that this is a congressional finding asserting that NEPA has been complied with. In that sense, I assume, we are in agreement with the Senator from Washington. He is taking the same position concerning this amendment that he took with the amendment of the Senator from Minnesota, that being that it does not achieve, what it in fact, tries to do.

Mr. BIBLE. The Senator arrives at the same conclusion then because if we make a finding that NEPA has been compiled with, that resolves that problem, is that true?

Mr. STEVENS. It resolves the problem but it does not set a precedent that the Senator fears, which is that NEPA would be suspended by those who wish to proceed with the project without regard to NEPA. We feel that we have complied with NEPA. I would say to the Senator from Nevada, who was one of our stalwart supporters on the question of the Alaska Native Land Claims Act, that I view it this way: The Senator from Washington will be the chairman of the Senate side of the conference committee. The amendment before us is substantially the same as the Melcher amendment in the House which we have reasonable cause to believe will pass in that body. I say to my good friend from Washington that he does not want to bear the responsibility for the first act which in any way deals with NEPA by the Congress. I can appreciate his attitude but emphasize that we are not avoiding NEPA, I believe his fears in this area are genuine but I do not think he needs to worry.

Mr. BIBLE. Very well, but——

Mr. STEVENS. I am trying to help him. I am trying to have the Senate make that decision for him so that he will not have to make the decision, as chairman of the Senate side in the conference committee, whether to accept the Melcher amendment.

Mr. BIBLE. I appreciate that, and I am sure the manager of the bill appreciates it also. Let me ask the Senator my second question. The Senator from Washington says it will create three new grounds for litigation. The Senator from

Alaska says it does not create three new grounds for litigation.

Mr. STEVENS. I say, one new ground for litigation. That one new ground for litigation is the constitutionality of the finding of Congress and the granting of the right-of-way. I believe that is one ground, not two——

Mr. BIBLE. All right. Assuming one new ground, will that not cause an additional delay even under the Senator's amendment?

Mr. STEVENS. No. I have a subsequent amendment, if this passes, which would set up a three-judge court, and this matter would be terminated here if we adopt this amendment. I do not believe there is an interminable delay involved, and in any event, we could determine that by September. My friend from Washington is prepared for the Federal Government to put up $4 billion to construct the pipeline. It would take us a year to pass legislation of that type. I am sure you would agree that not many people here want to spend money to substitute Federal money for private money available for a project of this type, while I agree with him as to the tremendous urgency. If we get to that point, we will have to do something. I do not believe there is any more delay in the suggestion made by the Senator from Alaska than in the suggestion of the Senator from Washington, that we have a bill come before Congress to authorize the Federal Government to construct this pipeline.

Mr. BIBLE. I am trying to see, on the second ground——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BIBLE. I thank the Senator from Alaska.

The Senator said there are three grounds for litigation. I understand there is one ground that is a constitutional ground.

Mr. STEVENS. The constitutional grounds may involve separate parts that make the three but I believe it is still one constitutional challenge on three grounds. I am sure the three-judge court would not try the case on the merits. The amendment I have contains a 60-day statute of limitations. I feel we could have a decision by the end of this year.

Mr. BIBLE. The Senator is very optimistic. He is a lawyer, and I am a lawyer. Lawyers always find ways to get extensions that will cause delay in the court system.

Mr. STEVENS. We have already agreed to two amendments. We have already said that any litigation concerning the Alaskan pipeline must go to the head of the docket. Second, Congress has directed the judiciary to expedite any matter relating to the Alaskan pipeline. I think that on top of the priority basis, we could finish this litigation this year on the constitutional issues alone.

Mr. BIBLE. But under the Senator's theory, if his amendment is agreed to, and is held in conference and is signed by the President of the United States, the Senator says that the actual construction of the pipeline could be started early next year—1974?

Mr. STEVENS. I believe it would meet the plan for the start of construction in 1974.

Mr. BIBLE. I should like to have the Senator's observation on the alternate proposal made by the manager of the bill (Mr. JACKSON), for whom I have the highest regard, as we all do. He has spent more time, in my judgment, on the Alaskan pipeline than has anybody else in government—perhaps even more time than have the Senators from Alaska; I do not know. But he has certainly spent considerable time, and I consider him to be an authority in this field.

I think we are all in substantial agreement. But as to the alternate situation, if all else fails, he will be prepared in early 1974 to ask the Federal Government to build the pipeline. Would that be something that would be subject to court review?

Mr. STEVENS. It would be a major Federal action and would be subject to review, unless the suggestion by the Senator from Washington would make it not subject to review.

Mr. BIBLE. Would that prevent the Senator from Alaska from going into court?

Mr. STEVENS. No. If we get to the point where the Senator from Washington wants to have the Government build a pipeline, he will have to introduce a bill similar to the amendment we have before us right now, or it will be subject to court review.

There is no way to start a pipeline without stopping all the litigation of the environmental extremists. They are now in the courts trying to obstruct the development of this pipeline, because it means the transporting of oil from the North Slope, and they oppose the development of the North Slope. Of course, they are honest about their intentions.

Mr. BIBLE. That is not the question I am trying to get to at all. If all else fails, and the Senator from Washington introduces the proposed legislation he mentioned in his argument this morning, and Congress passes it and it is signed into law, would that be subject to judicial review?

Mr. STEVENS. Yes, unless we provide that it should not be. We could prevent additional review of a decision to build the pipeline by Federal action. But also, NEPA would have to be suspended to do that.

Mr. BIBLE. I understand that.

One last question. What is the difference in the timetable between the theory of the Senators from Alaska and the committee bill? What does the Senator from Alaska consider to be the difference in time with respect to construction? The Senator has said that if his amendment prevails, if the bill prevails in conference, and if it is signed by the President and becomes law, the Alaskan pipeline would be ready for the start of construction in the spring of 1974.

If the committee bill passes under the same circumstances, unchanged, and is signed by the President of the United States, when would it be possible to start construction?

Mr. STEVENS. Certainly not before the construction season of 1975; and in my opinion, it would be the construction season of 1976.

Mr. BIBLE. Summing up, the Senator would say 1 to 2 years, if the amendment offered by himself and his colleague from Alaska is adopted.

Mr. STEVENS. I would say that the court review of the pipeline concept, under the committee's bill, would take 1 to 2 years' additional time; yes.

Mr. BIBLE. I thank the Senator from Alaska.

Mr. GRAVEL. Mr. President, I yield 1 minute to the distinguished Senator from South Dakota.

Mr. McGOVERN. Mr. President, I have an amendment at the desk, No. 318, which would require each Federal agency and department to report to the Congress through the General Accounting Office certain information concerning,

The amount of petroleum products they have purchased or intend to purchase this year;

The amount of petroleum products they have consumed or intend to consume this year;

What they have used or intend to use petroleum products for;

What stockpiles of petroleum products they have on hand; and

What future deliveries of petroleum products they expect to receive this year.

Mr. President, the U.S. Government is the largest consumer of gas and oil in the world. And in the face of the current oil shortage, one would expect that the Government would make an effort to reduce petroleum consumption, a policy the President has endorsed.

However, the fact is that the Federal agencies are not making great strides in reducing nonessential consumption of gas and oil—as indicated by a GAO report in a reply to a letter from me.

In fact, they cannot even account for what they did with the gas and oil they purchased and consumed last year.

At my request, the General Accounting Office undertook to determine—

First, the amount of petroleum products the Government purchased and consumed in 1972, and

Second, what those petroleum products were used for.

I ask unanimous consent that a copy of my request to the Comptroller General be printed at this point in the RECORD.

Incredible as it may seem, the Government agencies were able to account to the GAO for only approximately 91 percent of the petroleum products they purchased during 1972. They say they purchased 346 million barrels—14.5 billion gallons; but they can account for only 295 million barrels. The GAO hopes to be able to get an accounting for perhaps 25 million more barrels in the next few weeks. But that would still leave 25 million barrels unaccounted for. And that is for last year.

And as to the disposition of these products, the bureaucrats were unable to break down the figures beyond the kinds of fuel purchased. In other words, they were able to say that they purchased approximately 13 million barrels of aviation fuel, 185 million barrels of jet fuel, and 21 million barrels of automobile gas;

but they were unable to say what they did with any of it.

In fact, they indicated that an accounting for use of petroleum products would be very difficult to accomplish.

I ask unanimous consent that my letter to the GAO and the GAO report be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

JUNE 7, 1973.

ELMER B. STAATS,
Comptroller General of the United States,
Washington, D.C.

DEAR MR. COMPTROLLER: I would appreciate receiving the assistance of the General Accounting Office in determining the amount of petroleum products each department or agency of the federal government purchases and consumes on a monthly basis and, to the extent possible, the amount of such products which are used for particular purposes. I would also appreciate receiving whatever information could be obtained on the amount of petroleum products used abroad which is financed by the United States but is not accounted for by the government (for example, petroleum products consumed by the Republic of Korea and the government of South Vietnam).

It seems to me that the federal government could help reduce the shortage of gasoline in the coming months by reducing its consumption in non-essential area. Indeed, the Department of Defense has said it intends to reduce its daily consumption of 80,000 barrels per day by approximately 20 per cent.

My office has made a number of inquiries about the information which I am seeking from you. The problem is that such statistics are not kept on a government-wide basis and in general are not categorized as to use. In other words, the way in which the government records this kind of data makes it impossible for Congress to learn what it needs in order to legislate with respect to this problem.

I would appreciate your having an appropriate member of your staff contact Richard de Saint Phalle, my legislative assistant, as soon as is convenient.

With every good wish, I am

Sincerely yours,

GEORGE MCGOVERN.

FISCAL YEAR 1972—CONSUMPTION (BARRELS)

	Aviation gas	Jet fuels	Automotive gas (all grades)	Distillates and Navy standard distillates	Residuals, Navy special fuel oil	Petroleum products (other)	Total
Worldwide consumption:							
Army	268,000	343,000	9,304,000	17,918,000	3,340,000		31,173,000
Navy	1,940,000	31,008,000	1,411,000	21,858,000	40,771,000		97,188,000
Air Force	7,543,000	146,702,000	2,065,000	4,832,000	1,337,000	35,000	162,514,000
Post Office			2,013,941				2,013,941
Interior[1]							
GSA			1,199,551				1,199,551
Agriculture	109,523		919,047	253,189	35,296		1,317,055
AID[2]							
Other							
Worldwide total	9,860,523	178,053,000	16,912,539	44,861,189	45,683,296	35,000	295,405,547
Total foreign	3,339,000	69,349,000	7,660,000	24,022,000	18,289,000		122,659,000
Total United States and possessions	6,521,523	108,704,000	9,252,539	20,839,189	27,394,296	35,000	172,746,547
Worldwide total	9,860,523	178,053,000	16,912,539	44,861,189	45,683,296	35,000	295,405,547

[1] We have not been able to obtain this information to date, it is being compiled by the agency.
[2] Not possible to determine where or how petroleum products are consumed.

Source: General Services Administration "Monthly Operating Costs and Statistical Report" (period ending June 30, 1972) obtained from GSA "Vehicle Maintenance Cost Report in Dollars/National Summary" (fiscal year 1972) obtained from Post Office. Dept. of Agriculture Summary of Direct Procurement and Credit Card Purchases (fiscal year 1972) obtained from Post Office. AID "Program Assistance Commodity Expenditure Analysis/Worldwide Summary (period ending June 30, 1972) obtained from AID. DO-I & L (Q) 504 "Quarterly Petroleum Products Status and Program Report" (fiscal year 1972) obtained from DFSC.

PETROLEUM PRODUCTS, FISCAL YEAR 1972 PROCUREMENT

[Barrels]

	Aviation gas (all grades)	Jet fuels	Automotive gas (all grades)	Distillates and Navy standard distillates	Residuals Navy special fuel oil	Petroleum products (nonfuel)	Total
Worldwide procurements:							
Army	221,190	299,815	9,513,926	19,430,577	6,070,982		35,538,490
Navy	2,628,167	30,231,296	2,230,965	25,993,075	42,049,957		103,133,460
Air Force	10,647,458	154,209,354	2,534,982	5,976,666	1,896,510		175,164,970
Post Office			2,040,734	525,710	155,909	16,098	2,738,451
Interior[1]	261		201,621	541,852	58,762		802,496
GSA direct procurement			1,199,551				1,199,551
Agriculture	109,523		919,047	253,189	35,296		1,317,055
AID	288,059	145,736	2,491,853	6,504,366	8,216,029	1,451,516	19,097,559
Other[2]	42,319	120,042	633,355	2,219,795	3,214,120	612,556	6,842,187
Worldwide total	13,936,977	185,006,243	21,766,034	61,347,230	61,697,565	2,080,170	345,834,219
Total foreign	5,169,524	65,974,088	10,605,919	25,797,745	34,045,408	2,064,072	143,656,956
Total United States and possessions	8,767,453	119,032,155	11,160,115	35,549,285	27,652,157	16,098	202,177,263
Worldwide total	13,936,977	185,006,243	21,766,034	61,347,230	61,697,565	2,080,170	345,834,219

[1] Does not include credit card purchases or direct purchases by the agency.
[2] Includes all other agencies for which OFSC procures.

Source: "Final Destination of Product Procured By OFSC—By Area and Country" (fiscal year 1972) obtained for OFSC. General Services Administration "Monthly Operating Costs and Statistical Report" (period ending June 30, 1972) obtained from GSA. AID "Program Assistance Commodity Expenditure Analysis/Worldwide Summary" (period ending June 30, 1972) obtained from AID. "Summary of Procurement Statistics," fiscal year 1972, Volume 1 obtained from OFSC. Department of Agriculture Summary of Direct Procurement and Credit Card Purchases (fiscal year 1972) obtained from Department of Agriculture. "Vehicle Maintenance Cost Report in Dollars/National Services" (fiscal year 1972) obtained from Post Office.

FINAL DESTINATION OF PETROLEUM PROCURED BY DFSC—FISCAL YEAR 1973

[In foreign countries]

	Barrels									
Area and country	Jet fuels	Aviation gas	Automobile gas	Residuals	Lubricants	Distillates	Dry cleaning solvents	Miscellaneous	Total barrels	Cost
Africa:										
Angola				19,879		19,239			94,118	357,405
Congo	11,905	1,905			48				13,858	171,320
Guinea	100,000								100,000	249,900
Kenya	4,286	2,143		20,000	48	2,000			28,477	135,362
Liberia	11,905								11,905	122,500
Malagasy Republic				19,463		1,997			21,460	76,958
Mauritius	21,400		2,600	17,501		16,286			57,787	218,825
Mozambique				45,000		2,000			47,000	146,310
Seychelles Islands			988			19,762			20,750	212,638
Senegal	1,190	1,190			2	5,357			7,739	48,597
South and southwest Africa	4,762		217			2,262			7,241	67,201
Total, Africa Area	155,448	5,238	3,805	176,843	98	68,903	0		410,335	1,807,316

Area and county	Barrels									
	Jet fuels	Aviaton gas	Automoble gas	Residuals	Lubricants	Distillates	Dry cleaning solvents	Miscellaneous	Total barrels	Cost
Canada and Northeast Area:										
Canada	11,178	3,543	9,158	47,144		167,580			238,603	1,239,020
Greenland			203			561,042			561,245	2,320,759
Iceland	357,143	95,238	26,929	120,000		293,690			893,000	4,710,638
Labrador	357,143		50,393			380,250			787,786	2,736,504
Newfoundland			9,538	46,267		95,257			151,062	761,419
Total, Canada and Northeast Area	725,464	98,781	96,221	213,411	0	1,497,819	0		2,631,696	11,768,340
Atlantic Islands Area:										
Azores	428,572	160,714	55,121			184,822			829,229	2,856,033
Bermuda	71,429		14,315			98,753			184,497	701,991
Canary Islands						8,373			8,373	37,750
Ascension Islands	74,000	3,000	3,100			47,400			127,500	818,112
Total, Atlantic Islands Area	574,001	163,714	72,536	0	0	339,348	0		1,149,599	4,413,937
Caribbean Area:										
Barbados	23,810	6,429	280		83	22,440			53,042	321,621
Bahamas	2,336	1,715	4,547	25,000	14	50,239			83,851	399,915
Colombia	2,381	1,190			7	357			3,935	26,471
Cuba	71,429	46,488	25,800			155,000			298,717	1,231,815
Jamaica		357			2	1,309			1,688	17,487
Leeward Islands			857			22,500			23,357	105,103
Aruba		1,667			12				1,679	17,832
Trinidad	9,524	7,143	625	6,600	71	3,394			27,357	137,079
Venezuela	1,190	714		8,452	7	4,881			15,244	65,651
Total, Caribbean Area	110,670	65,703	32,109	40,052	196	260,120	0		508,850	2,388,975
Latin America Area:										
Argentina	19,524	714			5				20,243	197,771
Brazil	34,762	17,976			169				52,907	567,604
Chile	14,286	4,762			48				19,096	239,793
Ecuador	3,810	2,857			17				6,684	84,654
El Salvador	1,190	714			4				1,908	32,567
Guatemala	1,190	1,190			12				2,392	37,203
Surinam	7,143	2,381			24				9,548	82,614
Nicaragua	2,857	1,904			7				4,768	57,921
Paraguay	3,452	1,905			19				5,376	87,829
Uruguay	2,381								2,381	18,590
Total, Latin America Area	90,595	34,403	0	0	305	0	0	0	125,303	1,406,552
Middle East Area:										
Bahrein					547				547	20,286
Eritrea-Ethiopia	36,144	2,143	4,387	17,250	7	95,982			155,913	1,047,635
Jordan	2,143								2,143	23,643
Lebanon	5,952	1,190			7				7,149	43,330
French Somaliland				20,000		2,000			22,000	61,378
Saudi Arabia	24,548	3,571		9,500	2	2,000			39,621	298,946
Total, Middle East Area	68,787	6,904	4,387	46,750	563	99,982	0		227,373	1,486,218
South and Southeast Asia Area:										
Hong Kong	3,571	7,143		16,750	71	2,500			30,035	132,745
India	11,905			32,000					43,905	195,710
Laos	25,980	335,734	99,090		14,591	55,582	370		531,347	6,378,050
West Pakistan	11,905	714		15,500	5	2,000			30,124	123,210
Singapore	50,952	2,738		314,381	12	32,000			400,083	1,479,019
Thailand	15,515,791	800,348	359,036	36,000	18,948	844,314	1,096		17,575,533	56,576,746
Vietnam	11,919,857	1,691,471	3,744,168	700,000	486,364	7,619,107	22,738		25,784,205	98,349,689
Total, South and Southeast Asia Area	27,539,961	2,838,148	4,202,294	1,114,631	520,491	8,155,503	24,204		44,395,233	163,234,564
European Area:										
Belgium	1,905	3,572		81,729	10	24,132			111,348	455,056
Denmark	1,905	476		32,191	2	9,997			44,571	189,619
Finland		714		2,500	2	1,000			4,216	28,776
France	503,690	356,785	520,000	2,500	7	331,052			1,714,034	6,608,114
Germany	3,830,187	13,810	959,404	865,251	195	2,604,887	15,773		8,289,507	32,092,844
Netherlands		5,357	202,071	279,987		9,087			496,502	1,530,425
Norway	13,738	3,929		95,273	26	25,980			138,946	608,119
Sweden		714		2,449	10	1,000			4,223	20,335
United Kingdom	2,640,476	51,702	337,181	439,039	24	437,834			3,906,256	16,441,513
Total, European Area	6,991,901	437,059	2,018,656	1,800,969	276	3,444,969	15,773		14,709,603	57,976,201
Mediterranean area:										
Crete	164,286	3,429	6,619		424	29,167			203,925	966,601
Gibraltar		952			5				957	10,754
Greece	107,143	26,191	10,436	35,000	1,616	110,183			290,569	1,475,731
Italy	1,573,517	91,883	264,050	3,866,979	3,315	307,316			6,107,060	24,682,216
Malta	279,762	3,095			36				282,893	1,115,960
Morocco	476	1,905	22,631	10,000		149,548			184,560	1,078,033
Portugal	1,190	1,190		1,013,000	7	4,000			1,019,387	2,669,406
Sicily	707,857	33,333		1,731,424		3,258			2,475,872	9,576,112
Spain	2,615,475	95,982	235,214	824,000	12	165,147			3,935,830	10,921,807
Turkey	896,328	23,890	45,297	175,000	5,807	286,101	1,276	454	1,439,155	6,439,863
Total, Mediterranean Area	6,346,034	281,850	548,247	7,655,403	11,224	1,055,020	1,276	454	15,935,508	59,292,182
Western Pacific Area:										
Australia	26,667	714	4,750		1,309	137,619			171,014	899,268
Antarctica Territory	58,690		4,048			50,429			113,167	377,041
Japan	6,922,619	159,071	757,150	2,973,230	6,544	2,270,283			13,088,899	33,452,327
Korea	1,477,476	60,037	77,284	559,000		704,695			2,895,489	8,922,446
New Zealand	67,381	4,167		107,293	95	13,572			192,505	1,031,208
Philippines	5,509,388	387,414	152,975	9,680,297	25,456	1,046,978			16,802,508	41,810,709
Ryukyus	6,153,811	89,869		530,000					7,073,680	16,920,309
Taiwan	772,888	55,655	83,650	931,500	357	148,339	1,659		1,994,048	6,453,483
Total, Western Pacific Area	21,288,920	756,927	1,099,811	14,781,320	33,761	4,371,915	1,659		42,334,313	109,866,792

FINAL DESTINATION OF PETROLEUM PROCURED BY DFSC—FISCAL YEAR 1973—Continued

Area and country	Barrels: Jet fuels	Aviation gas	Automobile gas	Residuals	Lubricants	Distillates	Dry cleaning solvents	Miscellaneous	Total barrels	Cost
Central Pacific Area:										
Fiji Islands	857	719			2				1,573	13,550
Wake Island	1,857,143	166,667			2,274				2,026,084	13,980,742
Midway	78,571	25,375							103,928	531,915
Total, Central Pacific Area	1,936,571	192,738	0	0	2,276	0	0		2,331,585	14,526,207
Africa	155,448	5,238	3,805	176,843	98	68,903	0	0	410,335	1,807,316
Canada and Northeast	725,464	98,781	96,221	213,411	0	1,497,819	0	0	2,631,696	11,768,340
Atlantic Islands	574,001	163,714	72,536	0	0	339,348	0	0	1,149,599	4,413,937
Caribbean	110,670	65,703	32,107	40,052	196	260,120	0	0	508,850	2,328,975
Latin America	90,595	34,403	0	0	305	0	0	0	125,303	1,406,552
Middle East	68,787	6,904	4,387	46,750	563	99,982	0	0	227,373	1,486,218
South and Southeast Asia	27,539,961	2,838,148	4,202,294	1,114,631	520,491	8,155,503	24,204	0	44,395,232	163,234,564
European	6,991,901	437,059	2,018,656	1,800,969	276	3,444,969	15,773	0	14,709,603	57,976,001
Mediterranean	6,346,034	281,850	584,247	7,655,403	11,224	1,055,020	1,276	454	15,935,500	59,292,182
Western Pacific	21,288,920	756,927	1,099,811	14,781,320	33,761	4,371,915	1,659	0	42,334,313	109,866,792
Central Pacific	1,936,571	192,738	0	0	2,276	0	0	0	2,131,585	14,526,207
Total	65,828,352	4,881,465	8,114,066	25,829,379	569,190	19,293,579	42,912	454	124,559,397	428,107,284
AID financed petroleum products:										
East Asia	12,185	172,905	232,122	1,181,479	26,150	1,138,722			2,763,953	
Vietnam	133,251	115,154	2,259,641	7,034,55	261,982	5,361,487			15,166,065	
Africa/Europe					189,471	4,157			193,628	
Near East-South Asia					973,939				973,939	
Latin America					(26)				(26)	
Total, AID financed petroleum products	145,736	88,059	2,491,853	8,216,029	1,451,516	6,504,366			19,097,559	
Total, DESC foreign procurements	65,828,352	4,881,465	8,114,066	25,829,379	569,190	19,293,579	42,912	454	124,559,397	
Total, AID financed products	145,736	288,059	2,491,853	8,216,029	1,451,516	6,504,366	0	0	19,097,559	
Total, foreign	65,974,088	5,169,524	10,605,919	39,045,408	2,020,706	25,797,945	42,912	454	143,656,956	

Mr. McGOVERN. Mr. President, I want to stress that this report in no sense reflects a formal GAO audit. The figures listed are no more than Agency and Department claims about their purchase and consumption of petroleum products. The GAO has not attempted to verify these claims.

But the important point about the report is that it demonstrates an appalling lack of knowledge on the part of the Government about what it is doing with scarce oil supplies.

No one knows how much gas is being wasted on limousines and nonessential training exercises. I think we should find out.

Once the Congress and the President are appraised of the information which my amendment would provide the White House, or if necessary, the Congress could require a moratorium on nonessential government consumption of gasoline. We could have a moratorium on limousines and war games and other similar uses for the duration of the oil shortage.

We could require that Government-owned gas and oil not essential to the functioning of Government be turned over to farmers for harvest and to consumers in areas where severe shortages develop.

Mr. President, I intend to introduce proposed legislation shortly which would require that relevant information concerning the Government's purchase and consumption of petroleum products be presented to the Congress along with the President's budget each January. In that way we can monitor this problem closely in the future.

But for this year and for the present oil shortage, we immediately need the information my amendment would provide. For government waste oil and gas is the greatest untapped reserve which easily and quickly can be transferred to the American farmer and consumer. I hope that Senators will agree that we should not leave this resource untapped.

Mr. President, I should like to call up my amendment for the propose of further discussion. It is No. 318.

The PRESIDING OFFICER. The Senator cannot call up his amendment until the pending amendment has been disposed of.

Mr. McGOVERN. All right. Under the circumstances, will the Senator yield me an additional minute?

Mr. GRAVEL. I yield.

Mr. McGOVERN I am glad to yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I commend the Senator from South Dakota for his amendment No. 318. The amendment, as I understand it, would require the filing by Federal agencies of certain information concerning their consumption, stocks and requirements for petroleum products with the General Accounting Office.

The purpose of the amendment is to identify stocks of fuels which could be made available in times of shortage to other high priority uses such as agriculture or essential public services.

While I strongly support the purpose and the intent of the Senator from South Dakota's amendment, I believe the amendment should be considered in connection with a number of pending bills that deal with the energy information gathering and analysis functions of the Federal Government. The committee plans hearings on these measures in September and I would urge the Senator to introduce the amendment in bill form so that it may be considered in connection with the committee's consideration of the large information problem and bills on this matter by Senators HUMPHREY, NELSON, and others.

Meanwhile, if I may be of any assistance to the Senator from South Dakota in securing from the Federal agencies the kind of information he seeks I stand prepared to assist him in any manner he desires.

Mr. President, I think the Senator's amendment dramatizes the problem and the difficulty we have. If he will not call up his amendment I can assure him that we will consider it in connection with the other areas as to which we seek information. The Senator has addressed himself to that question.

Mr. McGOVERN. Mr. President, I think the course of action that the Senator from Washington has suggested is wise. Under those circumstances, I will not call up my amendment but will introduce it as separate proposed legislation.

Mr. GRAVEL. Mr. President, I yield 2 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. FANNIN. Mr. President, I am convinced that the Gravel-Stevens amendment could save at least another 2 years of court delay. Let us make clear why we need an Alaskan pipeline now. I have already mentioned the balance-of-payments issue. Another reason is that the security of our imported supply of oil becomes more doubtful every day. Saudi Arabia, for example, is the most pro-American Arab member of OPEC. But King Faisel recently said, "The United States cannot take us for granted any longer." Saudi officials have threatened to cut back production. This is one example of a growing trend. The fact is that the security of our imported supply of oil is becoming increasingly threatened.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Saudis Ponder Whether To Produce The Oil U.S. Needs" published in the Washington Post on July 11, 1973.

There being no objection, the article was ordered to be printed in the Record, as follows:

Saudis Ponder Whether to Produce the Oil United States Needs

(By Jim Hoagland)

Dhahran, Saudi Arabia.—The midnight sky glows in fierce red hues here at the edge of the world's largest oil field, where American companies are racing to escalate production needed to fill spiraling global energy demands.

The dancing, hissing natural gas flares that burn in the horizon ripple in the desert wind.

Across the Arabian Peninsula 1,000 miles away, Saudi Arabian merchants sweep into American banks in Jediah each morning with huge packs of 100 rial notes, each equal to $25. A tidal wave of money is rushing into the country as more oil pours out.

In his modest, green-tile-roofed summer palace in the mountain town of Taif, King Faisal receives visitors with an elegant politeness, standing as they enter and shaking hands with them.

Rapidly and perhaps somewhat reluctantly becoming one of the most powerful leaders in the Arab world, Faisal quickly shows that he is spending much of his time brooding about the twin flows of oil and money and their impact on the entire Middle East.

Suddenly, Saudi Arabia has shifted from being seen as the West's main hope for solving the energy crisis to being another unpredictable factor in the volatile world of oil and politics.

"The United States cannot take us for granted any longer," a Saudi leader, who was educated in the United States and describes himself as pro-American, said strongly. "Cooperation has to work both ways."

The four large American petroleum companies that jointly operate here are pushing ahead with a crash expansion program around Dhahran that could thrust Saudi Arabia beyond the United States and the Soviet Union as the world's largest petroleum producer in four years.

Increasingly, however, company officials wonder if they will be allowed to use the new facilities they are frenetically installing at the rate of $500 milion a year. Specific warnings by the Saudi petroleum and foreign ministers and a more general declaration to this correspondent by King Faisal last week have made it clear that Saudi Arabia is seriously considering blocking future oil production increases because of what is seen here as all-out American support for Israel.

A Saudi decision to freeze production at current levels could create chaos in an energy-hungry world, and competent Saudi officials predict that the psychological impact of such an announcement would drive already rising oil prices upward even more sharply overnight.

The open discussion of such a possibility by the Saudis already amounts to a major policy setback for the Nixon administration in the Middle East.

An unstated but priority aim of the administration has been to keep America's growing need for Arab oil and its support for Israel separated, or, as a member of the Washington foreign policy community put it recently, "on two separate tracks." The pronouncements of Saudi leaders are the first serious merging of the two tracks.

They also signify Saudi Arabia's new awareness of its growing power. Amassing foreign currency reserves at a rate of $100 million a month faster than it can spend them, this nation of about 5 million people is abandoning its traditional isolationism and is cautiously emerging as a major force in international, Arab world and Persian Gulf politics.

"All the Arabs know that it is in the hand of this government alone to 'get the West to behave' as they tell us again and again," a key Saudi policymaker said.

The other major factor in the new Saudi willingness to tie oil to politics is the growing realization here that this desert kingdom's still developing economy cannot absorb the enormous revenues that increased production and higher oil prices are bringing. Given its conservative investment policies and the present uncertainty of international monetary conditions, top Saudi officials feel that production above the 8 million barrels a day figure of May is wasteful for them.

The Saudis have passed this message to Washington through a number of channels. They have not made it clear exactly what they want in the way of a change in American Middle East policy.

But a series of conversations with Cabinet-level officials over the past week did indicate that the Saudis feel they need some public sign of American willingness to consider the Arab cause more seriously, especially in areas like voting in the United Nations Security Council.

"We are not asking for the destruction of Israel," said a Saudi minister. "We want a reasonable policy to bring a settlement."

Other Saudi leaders stress that their government has been "disappointed and embarrassed" by the Nixon administration's failure to move on the diplomatic front while stepping up new military aid to Israel, despite what Saudis insist were clear promises of a shift in the Middle East after President Nixon's reelection last year.

The underlying suggestion is that the Saudis went out on a limb by counseling restraint on other Arab countries, especially Egypt, on the basis of an expected American shift that has not materialized.

Previously undisclosed production statistics for this year underscore the West's increasing dependence on Saudi Arabia, which has oil reserves estimated by the Saudi government at 156 billion barrels, 22 per cent of the non-Communist world's total proved oil reserves.

In May, production by Aramco, the operating company for Exxon, Standard Oil of California, Texaco and Mobil, soared above 8 million barrels a day. If oil industry estimates of Soviet production are accurate, Saudi Arabia has quietly surpassed the Soviet Union as the world's second largest producer by a small margin.

Sand storms in the Persian Gulf hindered ship loading in June and production slipped back to 7.2 million barrels a day for the month, even with the oil port closed 49 per cent of the time. This was the original target figure for average production by Aramco in 1973. Since production usually rises more sharply in the second half of the year, it will easily be exceeded—if Saudi Arabia permits the increases. In the first week of July, Aramco says its production was running at 8.6 million barrels a day. U.S. production is less than 10 million barrels daily.

In six months, Saudi Arabia has increased its total crude oil production by 40 per cent. Aramco's estimated capital budgets of $500 million for 1974 and 1975 indicate that the company plans at least a 20 per cent increase in production in each of those years, meaning that, by the end of 1975, the company sees a worldwide market for Saudi production of 12 million barrels daily.

This month, 500,000 barrels of Saudi oil will be imported into North America. Industry sources predict that the United States will need to import five times that figure by 1975 to keep pace with growing energy demands.

At current production, Saudi Arabia will earn more than $4 billion in oil revenues this year, a 30 per cent increase from last year. At least $1 billion will be added to Saudi Arabia's present foreign exchange holdings of $3 billion.

The rush of new oil revenue into Saudi Arabia has stunned even Saudi financial managers, who until a few months ago were predicting that their sparsely populated country, which has few telephones and long-distance highways, and insufficient numbers of schools, would be able to spend enough of the revenue to make oil production increases worthwhile.

Faisal, who sees a long-term danger to the intensely conservative Saudi society from too much easy money, has resisted large-scale social welfare programs and bureaucracies such as those that have helped other gulf states soak up their oil money.

The national development budget has spurted from virtually zero four years ago to $3 billion in the last fiscal year. But only 62 per cent of the development funds could actually be spent last year.

"We don't have enough contractors to do what we can budget, and what we want to do," Hisham Nazir, president of the government's Planning Organization, said. "There aren't enough contractors in the world."

Nazir's organization is drawing up a new five year economic plan to begin in 1976. It will call for $40 billion to $50 billion total expenditures. The budget figures assume that Saudi oil production will increase only by 10 per cent annually in the future.

"Saudi Arabia must draw a firm policy on oil production," said, Nazir, one of five key officials named by Faisal to the newly formed Supreme Petroleum Council. "The policy will have to put an end to waste" brought about by overproduction, which adds to Saudi internal inflation and the piling up of devaluing dollars.

"We have to strike a balance between competing factors that include our development requirements, prolonging our national oil reserves over the longest period, the absorptive capacity of our economy, the accumulation of monetary reserves that decline in value while prices for oil rise, and world energy requirements."

A Saudi Cabinet minister explained: "We have found that the maximum revenue we can usefully absorb is brought in by production of 7 million barrels a day. Anything we produce over that harms our own interests, by keeping prices down and by disturbing our economic balance.

"We are prepared to go out of our way and produce more. But we have to have a reason."

The Petroleum Council which clearly mixes foreign and oil policy interest, will recommend Saudi Arabia's first national petroleum policy to Faisal. The debate over freezing production at current levels is expected to go on for some months, while the Saudis look for signs of a change in Washington.

Saudi officials stress that in their view they are not talking about "using oil as a weapon" as more militant Arab states have demanded. There are no suggestions here of a complete oil cutoff to Western countries similar to the one that was briefly tried in 1967.

But if Arab-Israeli fighting should resume, these same officials make clear, Saudi oil would be immediately cut off. "If there is a battle, we are in it," said one authoritative source. "People had better understand that now."

One suggestion that will reportedly surface in the Petroleum Council involves freezing production at this year's original target figure, 7.2 million barrels a day, for the rest of this year and 1974. This would have an especially sharp impact on the oil companies, who would see the return on their massive new investment delayed.

The Saudi Finance Minister, which faces difficult decisions on the accumulating revenue increases, is reliably reported to be pushing hard for a production freeze. So is the Foreign Ministry, which must bear the

> brunt of Arab criticism of Saudi Arabia's traditionally close ties to the United States
>
> Saudi Arabia's new activism in Arab affairs was underscored last week when the kingdom granted the Arab Socialist Baath government in Syria a $24 million development loan.
>
> Top aides credit Faisal, 67, with having dissuaded Egypt's President Anwar Sadat from launching a military strike into the Israeli-occupied Sinai Peninsula in early June, and a top envoy was to be dispatched to Cairo this week to assure Sadat of continued Saudi financial support if Egypt stays out of the proposed merger that Libya's firebrand young leader, Col. Muammar Qaddafi, is pushing.
>
> Saudi officials are diplomatically vague when asked what first step the United States could take to evidence a change toward the "evenhanded" policy Faisal called for last week.
>
> "The puzzle is what is it that our American friends want," said Foreign Minister Omar Saqqaf. "Why is the help always for Israel? There are more than 2.5 million Palestinian people either in refuge (abroad) or under occupation. . . .
>
> "If people think this question is going to be as it is now forever, they are wrong," he added. "We are friends with the United States. We want to be friends. But there is always a limit."
>
> * * * incorrect to refer to Libya's posture in the negotiations as one of demanding nationalization. He said his nation wants the companies to remain in Libya as service contractors.

Mr. FANNIN. Mr. President, second, we are told that the amendment would result in litigation. No one can ever stop anyone from filing a lawsuit. The point is that should a lawsuit be filed the judge will have no doubts about what the Congress intended. The judge will know that a pipeline should be built and will, therefore, not tolerate protracted and dilitatory litigation. For these, and other reasons that the Senators from Alaska and others have mentioned the Gravel amendment should be supported.

The years of delay which have been occasioned by the Wilderness Society litigation suggest that unless the possibility for litigation under section 102 of NEPA is legislatively obviated, a comparable period of delay can be expected in the future. Essentially, the same steps followed in the earlier litigation would be followed in challenging the granting of rights-of-way under S. 1081. Instead, however, of being able to base its holding solely upon the width limitations of the Mineral Leasing Act, the court of appeals would be compelled to examine the Environmental Impact Statement in light of what it considered to be the requirements of NEPA. Thus, the time between appeal and final decision by the circuit court of appeals might well be protracted beyond that experienced in earlier litigation.

Additionally, the Supreme Court's denial of certiorari in the Wilderness Society litigation should not be construed as meaning that certiorari would necessarily be denied in a case decided on the basis of NEPA. Therefore, even after a decision by the court of appeals favorable to the Government, there might well be an additional delay of up to a year or more, pending action by the Supreme Court.

Four of the eight judges—at the district court and the court of appeals—who considered the final environmental impact statement in light of NEPA, during the Wilderness Society litigation, determined that the Secretary had fully complied with the requirements of that act. The others did not decide to the contrary but merely delayed consideration of the issue until amendment of the Mineral Leasing Act. The district court found the Secretary had fully complied with NEPA and had authority to permit temporary use of construction area, but the court of appeals—in a 4 to 3 decision—reversed, holding that the Secretary could permit no use of land outside the 50-foot right-of-way. Reasoning that it might take the Congress "several years" to amend the Mineral Leasing Act, after which the Secretary might wish to make further environmental study of the project, the majority judges refused to decide the NEPA issue. In the opinion of the three minority judges, the Secretary had fully complied with NEPA, and all agreed the issue should have been decided by the Court. Judge MacKinnon characterized the majority decision to postpone the NEPA issue as "a monstrous refusal to perform a judicial obligation" and "judicial insouciance" which he felt to be "indefensible."

Even though the final environmental impact statement has received the approval of those judges who addressed the issue there will, nonetheless, be a continued delay resulting from litigation based upon NEPA, challenging the action of the Secretary in granting a right-of-way for the trans-Alaska pipeline system.

This delay would come at a time when the United States is facing an acute energy crisis and is becoming more dependent, by the day, on insecure Middle East sources. Therefore, unless the possibility of NEPA litigation is legislatively precluded, by the Congress, there is every assurance that an already intolerable situation will become much worse.

Mr. GRAVEL. Mr. President, I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I have an amendment at the desk, and I ask unanimous consent that I may call up the amendment at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

The amendment is as follows:

> On page 35, lines 10 and 11, insert the following new section:
>
> SEC. 205. The Congress finds that the trans-Alaska pipeline from the standpoint of time, is the most feasible means to transport Alaska's North Slope crude oil to domestic markets because it could be on stream two to six years earlier than a comparable overland pipeline across Canada and that the trans-Canada route negotiations authorized by this title refer to a subsequent, but not alternative, project for the transportation of Alaska's potential crude oil reserves.

Mr. STEVENS. Mr. President, I have discussed this matter with the Senator from Washington. I believe he is prepared to accept the amendment to clarify the intent of the Senate as appears in the report.

Mr. JACKSON. Mr. President, I support the amendment of the Senator from Alaska (Mr. STEVENS). The amendment restates the major finding and conclusion of the committee which is set forth in italics at the bottom of page 21 of the committee report. This is a restatement of the language in the report. It complies with that requirement.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. PASTORE. Am I to understand this does not obviate the court acting?

Mr. JACKSON. I will read the amendment and the language of the report. The amendment states:

> Section 205. The Congress finds that the trans-Alaska pipeline from the standpoint of time, is the most feasible means to transport Alaska's North Slope crude oil to domestic markets because it could be on stream two to six years earlier than a comparable overland pipeline across Canada and that the trans-Canada route negotiations authorized by this title refer to a subsequent, but not alternative, project for the transportation of Alaska's potential crude oil reserves.

I point out that in the committee report on page 21, near the bottom, it is stated:

> The committee determined that the trans-Alaska pipeline is now clearly preferable, because it could be on stream 2 to 6 years earlier than a comparable overland pipeline across Canada.

We wanted to put it in the statute so there would be no ambiguity.

Mr. PASTORE. The Senator would consider this a serious modification of the Stevens amendment?

Mr. JACKSON. This has nothing to do with the Stevens-Gravel amendment, at all. This is a separate part of the bill. This is a separate part of the bill which simply takes the language out of the report substantively and places it in the statute where it should be.

Mr. STEVENS. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAVEL. Mr. President, I have only 5 minutes remaining. I think it is unreasonable that I grant additional time as a courtesy to anyone else. Since I have only 5 minutes remaining, I think the Senator from New York understands my dilemma.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRAVEL. Mr. President, much has been said about the fact that we would destroy NEPA. I address myself to two editorials, one published in the New York Times and one published in the Washington Post. They are both fine newspapers, but in this instance they are reacting in a knee-jerk fashion.

The environmentalists have long said they wanted the decision made by Congress. I hope it comes as no surprise that today the entire environmental community is behind Congress making a decision. So I am quite chagrined to see statements to the contrary, statements that say we should not make the decision.

I quote from a report and statement by Mr. George Alderson, legislative director, Friends of the Earth. He said:

> We believe Congress should make the final decision in these matters.

Then, Representative LES ASPIN from the other body, on page 470 of part 2 of the report makes a similar statement.

On page 473 Mr. Joel M. Pickelner, on behalf of the National Wildlife Federation said that Congress should make the final decision with respect to NEPA.

Mr. President, with respect to whether or not we are going to be tied up in litigation for the next 2, 3, 5 years, it takes someone to sue. The people who have been fighting this matter in court are the people to whom we should address the question as to whether they will bring this matter to court.

The gentleman representing the Wilderness Society, the Environmental Defense League, and the Friends of the Earth have the matter tied up in court now.

Their counsel, Mr. Dienelt, states:

> Mr. DIENELT. That is correct. Someone could sue. It would be my advice to the clients and the advice to be shared by all the attorneys in the litigation now not to bring any further legal action at that point since there would be no basis for it.
>
> If Congress passed a law, I would then contend there was no recourse in the courts and since Congress had passed the law there would be no further recourse to Congress and it would be my conclusion legally that there would be no basis for any further delay on environmental grounds, and it would be my legal judgment that they would have no ground on which they could possibly succeed. It would be my advice to the environmental groups that legally their best recourse upon finding that the study confirmed what we have been saying all along that the Canadian route was superior, to contact their Congressmen in every way they could because they would not get anything further out of the courts. So I would advise against it and I wouldn't participate.
>
> Senator MCCLURE. I would suggest that you probably won't participate either by your choice or theirs.

Other statements by environmentalist groups with respect to this matter follow:

STATEMENT OF GEORGE ALDERSON, LEGISLATIVE DIRECTOR, FRIENDS OF THE EARTH

On the basis of Secretary Morton's statement, no one should have any illusions that these bills can be considered independently of the Alaska pipeline proposal. The right-of-way issues and the Alaska pipeline issues both deserve the careful consideration of the Congress. Friends of the Earth stands ready to assist this committee in obtaining the facts and the analyses that are thus far lacking both with respect to the Alaska pipeline and with respect to the right-of-way legislation.

We believe that the Congress should make the final decision in both of these matters.

STATEMENT OF HON. LES ASPIN, A U.S. REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN

Mr. Chairman, legislation affecting the right-of-way issue could have a direct impact on the pipeline question. Therefore, this Committee must carefully delineate between issues and offer proper assurances that a right-of-way change bill will not automatically affect the pipeline decision. Otherwise, it is possible that the pipeline issue will be decided de facto by the passage of a change in the right-of-way provisions. I am sure that this is not the intention of the Committee and I am confident that full consideration in the format of extensive hearings on the pipeline issue will be held and that Congress will make a final judgment about whether to build a trans-Alaskan or a trans-Canadian pipeline.

STATEMENT OF JOEL M. PICKELNER ON BEHALF OF THE NATIONAL WILDLIFE FEDERATION

It would be our recommendation that the Congress either recapture the authority it has delegated to the Secretary of the Interior and settle the pipeline issue itself after extensive hearings, to develop all factual information, including the Canadian alternative, or remove the width limitation on the proposed Trans-Alaska Pipeline in the Mineral Leasing Act in order that the Court then could decide the true merits of the case—on whether or not the Secretary, in fact, has complied with the National Environmental Policy Act (NEPA). Then, after separating out the Alaskan Pipeline issue we believe that the Congress should deal with rights-of-way across Federal lands, revising them as necessary after deliberation and public hearings to insure that proper environmental safeguards are instituted and rigidly enforced, and decisions are in the overall public interest.

DEFENDERS OF WILDLIFE,
Washington, D.C., March 21, 1973.

We ask that Congress and not the Secretary of the Interior or the Courts formulate the policies governing the use of public lands and the energy needs of the United States. Moreover, the Congress should reserve for itself the final decision on the important question of how the oil and natural gas of Alaska's North Slope can best serve the needs of the American people.

Sincerely,

MARY HAZELL HARRIS,
Executive Director and Editor.

That clearly states without further dispute what the case would be.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter presented earlier by the Senator from Colorado stating that the amendment would end all further judicial action.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BERLIN, ROISMAN & KESSLER,
Washington, D.C., July 12, 1973.

Senator FLOYD K. HASKELL,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HASKELL: As I believe you know my firm represented the Canadian Wildlife Federation and the Hon. David Anderson in the Alaska pipeline litigation which has precipitated the present debate over S. 1081. We have also represented public interest organizations, in numerous other environmental suits, including *Calvert Cliffs'*, which have resolved disputed interpretations of the National Environmental Policy Act.

As the litigants in the Alaska pipeline case have testified before both the Senate and House Interior Committees they support the Mondale-Bayh amendment to S. 1081, which we know that you also support.

It has come to my attention that questions have been raised about the legal status, under NEPA, of the decision which Congress is to reach on the Canadian-versus-the-Alaskan route after completion of a National Academy of Science study and negotiations with Canada, if the Mondale-Bayh Amendment is passed. Such a Congressional decision, which is called for in Section 203 of the Amendment, would not of course even fall under the provisions of the National Environmental Policy Act. Section 102(2)(C) of that statute, requiring preparation of an environmental impact statement, applies only to "major Federal actions", i.e., the actions of a Federal agency, department, commission, etc. There is no question in my own mind that NEPA does not, and could not, apply to specific actions of the Congress itself, i.e., directing the Secretary of the Interior to grant rights-of-way for whichever route is chosen. For this reason, the Congressional decision does not fall under NEPA and is not subject to the procedural requirements of NEPA.

Of course, the Amendment does incorporate the basic principles of NEPA by requiring that the National Academy of Sciences study cover, among a number of other matters, the same subjects which would have to be discussed in a NEPA impact study. But again, that is a matter of Congress choosing to have such information included in the study, rather than being obligated to do so by the provisions of NEPA.

In short, NEPA, is as a legal question, irrelevant to the Congressional decision mandated by Section 208 of the Mondale-Bayh Amendment since NEPA applies *only* to actions of the executive branch of the Federal government and the Amendment contemplates a decision to be made by the Congress itself as an independent exercise of its legislative function under the Constitution.

Cordially yours,

GLADYS KESSLER.

Mr. GRAVEL. Mr. President, the Nation is hemorrhaging from a dollar crisis, because we have gone from sufficiency to dependency on oil from abroad. We can make our standard of living as high as we want, but we have to buy the energy to do so. This takes dollars. The only way to offset these dollars to any appreciable degree is to produce oil domestically, and the only place we have to supply this oil quantitatively is Alaska. In a decade we will save a billion dollars for the American people if we build the pipeline now. Today it costs the American public $6 million every day. Every day we delay it will cost that much. For the next 2 years it will cost the American people almost $4 billion. I do not think the American public will stand still for this. I have characterized this amendment time and time again as the Tonkin Gulf of the energy crisis. This is an energy crisis that is going to be with us maybe 15 or 20 years.

Those people who are persuaded by a small minority of well-organized extremists can vote that way, but the broad public opinion of this Nation, which turned around last year, indicates 60 percent of the American people are for the immediate construction of the pipeline and 19 or 20 percent are undecided.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. PASTORE. The Senator from Rhode Island is not persuaded with respect to this matter. I am for the Alaska pipeline and I am going to vote for the pipeline, but I am afraid that——

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. ROBERT C. BYRD. Mr. President,

I ask unanimous consent that there may be 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. I am afraid that with this amendment we are biting off more that we can chew. After all, the Senator is saying we ought to expedite production of domestic oil. I agree with that. That is what the bill is intended to do. When it was reported out of the committee, that is precisely what it was intended to do. But we are adding more and more. The Senator is by this step leading to a dangerous precedent. The Senator is saying, "Let us shut off the right to go to court." When we do that, that is proceeding on delicate ground. It will come back to haunt us. I was going to vote for the bill, but if this amendment is adopted, I will have to reconsider.

Mr. GRAVEL. We do not shut off any court action. Obviously Congress cannot do that. What is involved here, as a constitutional crisis, is whether this Nation can be brought to its knees by a small number of people through the use or device of law, or whether this Congress, as the representatives of the people, can make a judgment in the best interests of this country. I would be chagrined if Senators would back away from our ability to make a judgment in the best interests of the country.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, last Friday this body rejected an amendment proposed by the Senators from Minnesota and Indiana that would have postponed authorization of a trans-Alaska pipeline awaiting further negotiations with the Canadian Government about a trans-Canada pipeline. The Senate took this action in the conviction that the Canadian Government was not now prepared to go ahead with approval of such a pipeline.

This conviction was based in part upon communications from the State Department regarding earlier contacts with Canada. Yesterday, some information came to my attention which casts a cloud over the completeness and veracity of the information we have received from the State Department.

On July 7 I learned of a colloquy in the Canadian Parliament the previous day, in which Mr. MacDonald, the Minister of Energy, revealed that his Ministry had submitted a list of written replies to U.S. State Department questions regarding Canada's attitude toward a trans-Canada pipeline. Mr. MacDonald also stated that he hoped that the U.S. Government would make these answers available to Congress before it took any action on pending pipeline legislation.

When I was made aware of the existence of this colloquy and of the questions and answers I immediately asked the State Department for a copy of the questions and answers. I should emphasize that I was not informed of this exchange by the administration, and that the response to my request for it was confused and reluctant. On July 7 I received a list of questions and answers from the Department, accompanied by a letter from Marshall Wright, Assistant Secretary for Congressional Relations.

With unanimous consent I would like to insert these documents at this point in the Record.

The questions and answers were typed on plain paper, without letterhead or other distinguishing signs, and were not accompanied by letters of transmittal either from the Embassy in Ottawa or from the Canadian agencies which purportedly prepared the answers.

Since the questions and answers were released on the 7th, my staff has been hearing from various sources that the document that I received and placed in the Congressional Record was not complete. Last night, the State Department sent me what purports to be "a revision which the Canadian Government wishes to make in its earlier answer to the qeustion on pipeline ownership and control."

With unanimous consent, I would like to insert this revision and its covering letter into the Record at this point.

Although the question of ownership and control was by no means the chief obstacle in my mind to construction and operation of a trans-Canada pipeline, the new answer is, however, in direct contradiction to the repeated statements of Secretary Morton that the Canadian Government would require a 51-percent equity by Canadians in a trans-Canada oil pipeline. A review by my staff of earlier statements by Canadian officials on this issue shows no evidence that they have ever insisted upon 51-percent ownership of a pipeline carrying American oil or gas to American markets.

My own view of the relative merits of the two routes has not changed, because I have not regarded the issue of ownership and control as the central one; my concern has centered about the inevitable delay in designing, organizing, and getting authorization for a new, international pipeline at a time when a wholly domestic project is ready to go.

I am gravely concerned, however, that Congress may have been spoon fed only that information regarding State Department contacts with the Canadian Government and regarding Canadian views that accords with the administration's views.

I requested the State Department to furnish me with a history of its exchanges of communications with the Canadian Government on this matter, together with copies of the original versions of these communications, and a full explanation of any omissions or revisions in the versions made available to Congress.

The State Department delivered a few minutes ago a letter that contains a partial explanation of the discrepancy. I have not had an opportunity to study the letter in depth, but it still seems to leave some vital questions unanswered. I ask that this letter be made part of the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of State,
Washington, D.C., July 17, 1973.

Hon. Henry M. Jackson,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: At the suggestion of the Committee staff, we have reviewed our records regarding the Department's response to the June 1 request of Congressman Melcher, Chairman of the Subcommittee on Public Lands of the House Committee on Interior and Insular Affairs, and your request of June 20 for further information regarding Canadian views on the matter of a pipeline to bring oil from Prudhoe Bay, Alaska, to the lower forty-eight States.

Following the receipt of Congressman Melcher's request and after preliminary inquiries by telephone to our Embassy in Ottawa, the Department prepared and cabled to the Embassy a series of questions to serve as a basis for more detailed conversations with appropriate Canadian officials in Ottawa.

On June 14 the Department received a preliminary written assessment from the Embassy in Ottawa prepared on the basis of discussions held up to that point.

On June 18 Congressman Melcher was informed that Canadian views on the questions he had raised in his June 1 letter were being actively solicited, and the Department requested the Embassy to expedite the completion of its consultations.

You will recall that on June 20 you also wrote to Secretary Rogers asking for the Department's views on recent Canadian attitudes on this subject.

On June 22 the Embassy in Ottawa advised the Department that Canadian officials were preparing a written response to the specific questions we had posed but that it had to be approved by senior Canadian officials before it could be released to the Embassy.

Because of the urgency of the matter the Department on June 22 submitted to you and to Congressman Melcher a report based on the preliminary assessment by the Embassy mentioned above.

On June 27, at the request of Congressman Melcher, more detailed information concerning the problem of native claims in Canada was solicited from Canadian authorities and sent to him.

Late on the afternoon of July 5 the Department received by mail from the Embassy the written Canadian responses to the specific questions we had posed. In a conversation with officials of the Canadian Embassay in Washington on July 6 the Department discovered that the response to one of the questions as given to our Embassy in Ottawa was different from the version the Canadian Government had supplied its own Embassy in Washington. We informed the Canadian Embassy here that we were forwarding to the Congress the version which had been handed our Embassy in Ottawa. We suggested that if it had subsequently been revised, the Canadian Government would wish promptly to call the changes to the attention of our Embassy in Ottawa.

On Saturday morning, July 7, we transmitted to your Committee and to Congressman Melcher the text of the Canadian answers as given in writing to our Embassy in Ottawa.

We also alerted our Embassy in Ottawa to the possibility that their Canadian contacts would be submitting to them a revision of the text and asked that if a revision were received it be promptly forwarded to the Department.

Having heard nothing further regarding a revision, the Department checked by telephone on July 16 with the Embassy in Ottawa. We learned that a revised response to one question had indeed been received and was enroute to the Department by mail. Because of the urgency of the matter we immediately took down the text of the revised answer by telephone. This revised text was transmitted to you and Congressman Melcher on the same day.

Sincerely,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

Mr. METCALF. Mr. President, I ask unanimous consent that the brief note addressed to Senators and three editorials be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 17, 1973.

DEAR COLLEAGUE: The attached editorials from three prominent national newspapers outline very clearly the issue before us today.

If NEPA is to have real meaning, it is imperative that we leave inviolate the principle of citizen lawsuits and judicial review. Congress can, of course, make exceptions to NEPA. But each exception can become a loophole and can cloud the mandate which the courts are expected to apply.

I respectfully request that you honor the mandate already expressed in the National Environmental Policy Act by an overwhelming vote in Congress.

Very truly yours,

LEE METCALF.

[From the New York Times, July 17, 1973]

NEPA IN DANGER

The National Environmental Policy Act of 1969—NEPA—is perhaps the most important single piece of modern environmental law now on the statute books. That law is under attack in the Senate today in the form of a proposal by Senator Gravel of Alaska, it is imperative that the law not be breached or undermined, and that the Gravel amendment be defeated.

NEPA requires that every Federal agency submit to the President and his Council on Environmental Quality a statement detailing what impact any proposed project would have on the environment. These so-called impact statements have proved to be an immensely important way of educating the public and the bureaucracy itself on how man-made changes can or are likely to affect the nations land, water, air, scenery, wilderness, animals and other natural resources. Since the statements are subject to review by the courts, they provide ordinary citizens with a powerful lever to make Federal agencies live up to their own professed standards.

Senator Gravel now wants to make an end-run around the law in order to speed construction of the Trans-Alaska Pipeline to carry oil from the Alaskan North Slope to West Coast ports.

One of the requirements of NEPA is that an agency consider seriously every alternative to make certain that it has chosen the course of action that does the least environmental damage. Many observers believe that an alternative pipeline route from the North Slope through Canada might do less harm to the fragile Arctic environment than the Alaskan route. Moreover, the Canadian route would bring the oil directly overland to the Middle West, while the Alaskan route would require transshipment of the oil in huge tankers to the West Coast. Since tanker accidents are seemingly inevitable, the transshipment would surely mean ruinous oil spills along the coast of British Columbia and in Puget Sound.

But has the Secretary of the Interior dispassionately weighed the environmental risks and advantages of the Alaskan and Canadian routes? The fierce commitment of Interior Secretary Morton and the rest of the Nixon Administration to the Alaskan route strongly suggests that he has not. Whether he has or not, the National Environmental Policy Act provides time-tested procedures to find out and guarantee judicial review as the final safeguard.

Senator Gravel's amendment would destroy that safeguard. So would similar language contained in a bill by Representative Melcher of Montana and under active consideration in a House Interior subcommittee. Both measures declare that the impact statement already issued by Secretary Morton in behalf of the pipeline cannot be reviewed by the courts.

The Gravel amendment even gives the Secretary of the Interior a free hand to permit any construction he sees fit for "the access, communication and transportation of personnel, material, equipment and supplies." That means that highways, airports and other facilities could be built without regard to environmental safeguards.

There is no justification whatsoever for such an outrageously sweeping grant of unchecked power. Although proponents talk glibly of the energy crisis, the truth is that Alaskan oil will by no stretch of the imagination solve that crisis. In fact, it will be at best of marginal importance and cannot in any event be available to the American consumer for some years. If the oil interests are successful in breaching NEPA in this instance, every other major interest pushing for a dam or a highway or a flood control project will soon be seeking a similar exemption from court review.

The nation has made major strides in the last decade in beginning to balance long-range environmental values against immediate economic values. The most important of those strides is the National Environmental Policy Act. Congress cannot in good conscience now take the giant step backward proposed by Senator Gravel and Representative Melcher at the behest of the oil interests. Rather, Congress has a responsibility to stand firm for the procedures of a foresighted and essential law.

[From the Washington Post, July 17, 1973]

A SHOWDOWN TODAY ON THE ALASKA PIPELINE

The attempt by Alaskan and Western political interests, allied with the oil companies, to nail down the Alaska pipeline route and to start building the pipeline now has unfortunately come down to an open assault on the National Environmental Protection Act. For under an amendment to the pipeline bill offered by Sen. Mike Gravel (D-Alaska), the Congress would in effect direct the Interior Department to approve the start of work on the Alaskan project without further regard to the Act's requirements having to do with environmental impact. The vote is scheduled for today.

Conservation groups already have brought suit claiming that Interior's impact statement of last year did not adequately consider the Canadian alternative to the Alaskan route. The Gravel amendment would cut the ground out from under this legal challenge, in the process taking from the courts their proper authority to enforce the National Environmental Protection Act. The result of such a congressional move would be to seriously weaken the Act. Just how sturdy it would prove to be during subsequent legislative attacks is a matter of grave doubt.

It was bad enough that, last Friday, the Senate swept aside an initiative that would have ensured ample study of both the Alaskan pipeline route and the Canadian alternative—from the diplomatic, economic and environmental standpoints—before either was chosen. If the sponsors of that initiative, Sens. Walter Mondale (D-Minn.) and Birch Bayh (D-Ind.) were Midwesterners with a regional interest in promoting the Canadian route in order to serve the energy needs of the Midwest, then they nonetheless were acting in a way consistent with good *national* policy. By contrast, backers of the Gravel amendment are serving a no less legitimate regional economic interest but they are doing so in a way that would weaken the environmental safeguards applying to the whole nation.

It is for this reason, we trust, that the Gravel amendment will be regarded by the Senate not as a regional economic issue but as a national environmental one. We are pleased to note that Interior Committee Chairman Henry Jackson (D-Wash.) opposes the amendment. He takes the enlightened view that the integrity of the Environmental Act should not be impaired. If the amendment is defeated, the Senate will proceed to vote on Mr. Jackson's own bill repealing the obsolete 25-foot right-of-way limitation on pipelines crossing federal lands. Along with the environmental question, this limitation has been a principal obstacle to the Alaskan pipeline.

The more the country gets into these hard collisions of environment and energy, the more we become convinced of the need to make haste slowly. The way to do this is to insist that in each instance the merits of the rival arguments are fairly presented. Economic realities will almost always guarantee that the case for energy will be strongly made. The National Environmental Protection Act is the main instrument available to ensure that the case for the environment will receive due consideration too. To blunt this instrument—as the Gravel amendment would do—would be to risk a measure of permanent environmental damage quite out of proportion to the economic advantages which might or might not accrue from rushing into the Alaskan pipeline.

[From the Christian Science Monitor, July 14, 1973]

ALASKA'S OIL

The soundness of the Alaska oil pipeline decision continues to be more important than the speed with which the decision is made.

True, the American program for tapping the North Slope reserves has been held up for four years. True, the United States is running oil-short. True, the state of Alaska could use the economic boost which development of its resources quite fairly would bring it, and funds for settlement of long-standing Indian claims are tied to exploitation of the oil.

But the delay to date has had its uses too. The original pipeline proposal was dangerously thin on environmental impact and engineering specifications. Reworking of the Alaskan route plans has been necessary.

In a broader sense, the pipeline has been a test case in the establishing of an environmental set of values for America. This set of values has vastly more significance than whether 2 million barrels of oil daily reach the American market from that particular field. Oil spills in coastal waters had shown shameful disregard for environmental precautions, it must be remembered. In other areas too—water pollution, the spoiling of scenic lands, air contamination, noise pollution—Americans were aroused to call a halt to unbridled economic expansion and say, in effect, there must be better rules for the economic game if our civilization is to be worth passing on to our children.

The Senate has been dealing with three vital Alaska oil decisions. One proposal would remove a right-of-way width restriction. A 1920 law sets a maximum of 50 feet for such projects, and it is under this law that the courts have been holding up the Alaska pipeline. Logically, rights of way must be wide enough for pipelines practically to be built.

A second proposal is the Mondale-Bayh amendment, which unfortunately has just been defeated. It advocated a procedure and time schedule for resolving the pipeline issue once and for all. The National Academy of Sciences would study again the Alaska route and the Canadian route through the Mackenzie River valley. The Secretary of State would be asked to breach the Canada route possibility with the Canadians. Within 90 days of getting in hand the State Department and National Academy reports, Congress would have to decide.

This proposal had merit. The basic issue is not really *whether* the Alaskan oil will be brought to market, but whether it will be moved in the right way. The Canadian alternative should not be brushed aside simply because it has not been as fully explored.

A third consideration before the Senate is whether an exemption should be claimed for the Alaska project from the procedures of the National Environmental Protection Act. Such an exemption would be wrong. NEPA was designed to ensure that major government decisions follow sound environmental guidelines. It would greatly weaken the act to see it abrogated in the most celebrated case of its short life.

There are also nonenvironmental reasons for not reacting in haste on the pipeline. If the country rushes to exploit at any environmental cost its oil reserves, there will be less reason to adopt less fuel-intensive lifestyles (mass transit, smaller cars) or to develop other energy sources. The fact that it has oil reserves strengthens American bargaining power with foreign oil sources.

The objection that Canadians would share in the benefits of a Canadian route is unworthy. Of course they would share. But Canada's economy is so interwoven with the American (and so much of it is owned by Americans) that what benefits one would benefit the other. Defense and defense interests are equally interwoven.

Alaskan oil is bound to reach the continental American market. It should and will. But it does not have to come by one particular route. It may eventually come by two or three different routes. It is not necessary to compromise environmental precautions to get it.

Given the alternate Canadian route a responsible review under the Mondale-Bayh amendment would have been in keeping with the prudence shown to date in the handling of this matter. We hope the House will insist on a similar measure.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. GRAVEL) No. 226, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) is necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

The yeas and nays resulted—yeas 49, nays 48, as follows:

[No. 295 Leg.]

YEAS—49

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Brooke
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cotton
Curtis
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Gravel
Griffin
Hansen
Hartke
Helms
Hollings
Hruska
Huddleston
Inouye
Johnston
Long
McClellan
McGee
Nunn
Randolph
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—48

Abourezk
Aiken
Bayh
Biden
Buckley
Burdick
Case
Chiles
Church
Clark
Cook
Dole
Eagleton
Fulbright
Gurney
Hart
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Mansfield
Mathias
McClure
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Stafford
Stevenson
Symington
Tunney
Williams

NOT VOTING—3

Cranston
Magnuson
Stennis

The VICE PRESIDENT. On this vote, the yeas are 49, the nays 48. The amendment is agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The galleries will be in order.

The question is on agreeing to the motion to reconsider (putting the question). The noes appear to have it.

Mr. CASE. Mr. President, I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HUMPHREY. Mr. President, are we voting on a motion to table or on the motion to reconsider?

The VICE PRESIDENT. The Senate is voting on the motion to consider.

Mr. HUMPHREY. On the rollcall vote?

Mr. LONG. Mr. President, are we voting on the motion to reconsider or on the motion to lay on the table?

The VICE PRESIDENT. The Senate is voting on the motion to reconsider.

Mr. LONG. Mr. President, I move to table the motion to reconsider.

The VICE PRESIDENT. The question is on agreeing to the motion to table the motion to reconsider.

Mr. CASE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to table the motion to reconsider. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

The yeas and nays resulted—yeas 49, nays 49, as follows:

[No. 296 Leg.]

YEAS—49

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Brooke
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cotton
Curtis
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Gravel
Griffin
Hansen
Hartke
Helms
Hollings
Hruska
Huddleston
Inouye
Johnston
Long
McClellan
McGee
Nunn
Randolph
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stevens
Taft
Talmadge
Thurmond
Tower
Weicker
Young

NAYS—49

Abourezk
Aiken
Bayh
Biden
Buckley
Burdick
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Eagleton
Fulbright
Gurney
Hart
Haskell
Hatfield
Hathaway
Hughes
Humphrey
Jackson
Javits
Kennedy
Mansfield
Mathias
McClure
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Stafford
Stevenson
Symington
Tunney
Williams

NOT VOTING—2

Magnuson
Stennis

The VICE PRESIDENT. On this question, the yeas are 49 and the nays are 49. The Vice President votes "Yea." The motion to lay on the table is agreed to.

The bill is open to further amendment.

Mr. STEVENS. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate, as well as in the galleries?

The VICE PRESIDENT. The Senate will be in order.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Alaska will state it.

Mr. STEVENS. It is my understanding that the time has been set at noon today to vote in the bill. Is it in order at this time to call up an amendment that is now at the desk?

The VICE PRESIDENT. It is, and there would be no time for debate on it.

Mr. STEVENS. Would it be in order to suggest the absence of a quorum?

The VICE PRESIDENT. It would be in order.

AMENDMENT NO. 341

Mr. STEVENS. Mr. President, I call up my amendment No. 341 and ask that it be stated.

The VICE PRESIDENT. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, add the following new section:

"SEC. . (a) No court of the United States shall have jurisdiction to consider any civil action, suit or proceeding, to which the United States or any of its agencies, or any officer or employee thereof (as such officer or employee), is a party, involving the constitutionality of this Act or any provision thereof, except a district court of three judges in the District of Alaska.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. Will the Senate please be in order. The galleries will please be quiet.

The clerk will continue to state the amendment.

The assistant legislative clerk read as follows:

"(b) Notwithstanding the provisions of subsection (a) of this section, a three-judge district court in the district of Alaska shall have no jurisdiction to consider any such action, suit, or proceeding referred to in subsection (a), unless such action, suit, or proceeding is commenced within the sixty-calendar-day period following the date of the enactment of this Act.

"(c) Any party to any such action, suit, or proceeding referred to in subsection (a) considered by a three-judge district court in the district of Alaska in accordance with the provisions of this section may appeal directly to the Supreme Court any interlocutory or final judgment, decree, or order of such three-judge court holding this Act or any provision thereof unconstitutional."

The PRESIDING OFFICER (Mr. Biden). The Senate will please be in order.

Mr. HUMPHREY. Mr. President, no one can hear what the clerk is reading, and this is very important.

Mr. STEVENS. Mr. President, I ask unanimous consent that we may proceed for 5 minutes on the amendment, with the time to be equally divided between the Senator from Washington (Mr. Jackson) and myself.

Mr. MONDALE. Mr. President, I object—I reserve the right to object, and I will object. This would fundamentally change the whole nature of handling these disputes. The amendment has not been heard. We have had no consideration of it. This morning we learned of the State Department's role on the Canadian pipeline. Now we are asked to go into this amendment right on the eve of voting on final passage of the bill. I object.

The PRESIDING OFFICER (Mr. Johnston). Objection is heard.

Mr. STEVENS. Mr. President, the Senator from Minnesota has debated my amendment and I have had no time to do so.

Mr. JACKSON. Mr. President, I ask unanimous consent that debate may proceed for 2 minutes on this amendment.

Mr. MONDALE. Mr. President, I object. If we are going to vote on this amendment, I want to have a real debate on it, and not have one of these last-minute colloquys. I object.

The PRESIDING OFFICER. Objection is heard. Debate is not in order. Objection is heard.

The question is on agreeing to the amendment No. 341 of the Senator from Alaska (Mr. Stevens).

Mr. STEVENS. Mr. President, I am pleased that the Senate has adopted amendment 226 as modified. This will permit the immediate building of the trans-Alaska pipeline.

One minor problem remains. This is the reason I have introduced amendment 341.

Amendment 341 will do three things:

First, it states that all challenges to the constitutionality of S. 1081, or any provisions thereof, must be brought within 60 days of the effective date of the bill.

Second, it provides that these challenges must be brought before a three judge Federal court in the district of Alaska.

Third, it provides that any appeal from any decision of that court may be direct to the U.S. Supreme Court.

It tracks, as much as possible, the provisions of 28 U.S.C., sections 2282, 2284, 1252, and 1253. These are the provisions concerning the original jurisdiction of three judge Federal courts and the appellate procedure from these courts direct to the U.S. Supreme Court.

At the time I drafted this amendment, I also requested the Congressional Research Service of the Library of Congress to research two specific questions:

First, whether these provisions are constitutional.

Second, whether there is any historic—legislative and judicial—precedent for such provisions.

In response, I received a memorandum from the American Law Division of the Library of Congress analyzing the amendment, primarily two major aspects—the restriction of venue to the district in which the Federal actions mandated by the act are to take place, and the 60-day limitation to the bringing of any constitutional challenge to the act.

The findings of the Library of Congress can be summarized as follows:

First, we see no constitutional prohibition on so limiting venue to challenge the constitutionality of the Act to the District of Alaska.

Second, we also see no constitutionality infirmity to imposition of a statute of limitations on the bringing of suits challenging the constitutionality of an Act of Congress. Thus support can be found for imposition of a 60-day limitation on the bringing of claims arising on the date of enactment of the law.

There is a strong Federal interest in the adoption of the amendment 341. This amendment will significantly expediate the litigation. It will require that it be brought in the jurisdiction in which the land concerned is located. This is Alaska. It will bring it before judges most familiar with the factual situation—the Federal district court for the district of Alaska.

It requires that it must be brought within 60 days of the date of enactment. The United States has a strong interest in securing a final judgment as quickly as possible. The need for Alaskan oil and the reasons for expeditious handling of this matter are set forth fully elsewhere in the legislation and in the committee report and the Senate debate. I will not again belabor them but incorporate them by reference here.

Similarly the need for expedited appeal procedures are supported by these same provisions of the act, report and debate. The sooner we secure a final judgment in the matter, the more quickly Alaskan oil can be brought to the energy-hungry lower 48.

I request unanimous consent to insert in the Record at this point a copy of the memorandum of the American Law Division of the Library of Congress commenting on amendment 341.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

The Library of Congress,
Congressional Research Service,
Washington, D.C., July 16, 1973.

To Honorable Ted Stevens.
Attention Max Gruenberg.
From American Law Division.
Subject: Proposed Amendment to S. 1081, the Federal Lands Right-of-Way Act of 1973, Providing That All Challenges to the Constitutionality of the Act Must Be Brought in District Court of Alaska within 60 Days of the Date of Enactment.

This responds to your request for an analysis of the constitutionality of a proposed amendment to S. 1081 relating to expediting construction of the trans-Alaskan oil pipeline. It is our understanding that the amendment is to be proposed if the Senate adopts Amendment No. 226, printed at 119 *Cong. Rec.* 23326 (daily ed. July 11, 1973). That amendment directs the Secretary of Interior to issue without further compliance with the National Environmental Policy Act or other laws such rights-of-way and other permits as are necessary for construction, operation, and maintenance of the trans-Alaskan oil pipeline over an already determined route corridor. Included is a "congressional finding" that issuance of permits or other actions taken by the Secretary or other federal agencies pursuant to the Act shall not be subject to judicial review. The amendment as to which you request our opinion would further provide that all challenges to the constitutionality of the Act must be brought before a three-judge court in the District of Alaska within 60 days of the date of enactment of the Act. There are thus two main aspects to the amendment: the restriction of venue to the district in which the federal actions mandated by Act are to take place, and the 60-day limitation to the bringing of constitutional challenge to the Act.

We see no constitutional prohibition on so limiting venure to challenge the constitutionality of the Act to the District of Alaska. In *South Carolina* v. *Katzenbach*, 383 U.S. 301, 331–332 (1966), the Supreme Court upheld a section of the Voting Rights Act of 1065 limiting judicial review to one court. Despite South Carolina's argument to the contrary, Congress might appropriately limit litigation under this provision to a single court in the District of Columbia, pursuant to its constitutional power under Art. III, § 1, to "ordain and establish" inferior federal tribunals. See *Bowles* v. *Willingham*, 321 U.S. 503, 510–512; *Yakus* v. *United States*, 321 U.S. 414, 427–431; *Lockerty* v. *Phillips*, 319 U.S. 182. At the present time, contractual claims against the United States for more than $10,000 must be brought in the Court of Claims, and, until 1962, the District of Columbia was the sole venue of suits against federal officers officially residing in the Nation's Capital.[41] We have discovered no suggestion that Congress exceeded constitutional bounds in imposing these limitations on litigation against the Federal Government, and the Act is no less reasonable in this respect.

We also see no constitutional infirmity to imposition of a statute of limitations on the bringing of suits challenging the constitutionality of an Act of Congress. Thus support can be found for imposition of a 60-day limitation on the bringing of claims arising on the date of enactment of the law. In *Yakus* v. *United States*, 321 U.S. 414 (1944), the Supreme Court upheld review procedures established by the Emergency Price Control Act for determining the validity of price regulations. That procedure provided for administrative review as a prerequisite to court review, and administrative review could be had only by filing a protest within 60 days of the issuance of the challenged regulation. In *Yakus*, the Court rejected a contention that the 60 day period was too short to allow persons affected by price orders a reasonable opportunity to be heard. "The sixty days' period allowed for protest of the Administrator's regulations cannot be said to be unreasonably short in view of the urgency and exigencies of wartime price regulation." 321 U.S. at 435. In a footnote the Court referred to other "instances in which comparable or shorter periods periods for resort to administrative relief as a prerequisite to proceeding in the courts have been held to be sufficient," and cited cases involving challenges to tax assessments and eminent domain proceedings.

GEORGE A. COSTELLO,
Legislative Attorney.

Mr. JACKSON. Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 341 of the Senator from Alaska (Mr. STEVENS). All those in favor say "aye."

Several Senators asked for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BUCKLEY (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

The result was announced—yeas 43, nays 54, as follows:

[No. 297 Leg.]

YEAS—43

Allen
Beall
Bellmon
Bennett
Bentsen
Bible
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Cotton
Curtis
Eastland
Ervin
Fannin
Fong
Gravel
Griffin
Hansen
Hartke
Hatfield
Helms
Hollings
Hruska
Huddleston
Inouye
Jackson
Johnston
Long
McClellan
McGee
Moss
Nunn
Randolph
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stevens
Taft
Talmadge
Thurmond
Tower
Young

NAYS—54

Abourezk
Aiken
Baker
Bartlett
Bayh
Biden
Brock
Brooke
Burdick
Case
Chiles
Church
Clark
Cook
Cranston
Dole
Domenici
Dominick
Eagleton
Fulbright
Goldwater
Gurney
Hart
Haskell
Hathaway
Hughes
Humphrey
Javits
Kennedy
Mansfield
Mathias
McClure
McGovern
McIntyre
Metcalf
Mondale
Montoya
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Ribicoff
Roth
Saxbe
Stafford
Stevenson
Symington
Tunney
Weicker
Williams

ANSWERED "PRESENT"—1

Buckley

NOT VOTING—2

Magnuson
Stennis

So Mr. STEVEN'S amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE V—CRUDE OIL SUPPLIES FOR PRODUCTION OF AGRICULTURAL FUELS

SEC. 501. The first provision to section 36 of the Mineral Leasing Act on February 25, 1920, as amended (30 U.S.C. § 192), is further amended to read as follows: "*Provided,* That inasmuch as the public interest will be served by the sale of royalty oil to (1) small refineries serving agricultural areas and (2) refineries not having their own source of supply for crude oil, the Secretary of the Interior, when he determines that sufficient supplies of crude oil are not available in the open market to such refineries, is authorized and directed to grant preference to such refineries in the sale of oil under the provisions of this section and not for resale in kind, and in so doing may sell to such refineries at private sale at not less than the market price any royalty oil accruing or reserved to the United States under the provisions of this Act, except that to qualify as a small refinery serving an agricultural area a corporation or association must engage primarily in the oil and gas business, must employ not more than 3000 persons, must have a daily production of not more than 60,000 barrels of oil, and must sell at least 75 per centum of its production to persons, associations, or corporations engaged in agriculture or in related activities."

SEC. 502. Section 5(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. § 1334(a)(1)) is amended by the addition of the following at the end thereof: "(i) In the sale of royalty oil and gas accruing or reserved to the United States the Secretary shall grant a preference to small refineries serving agricultural areas. To qualify as a small refinery serving an agricultural area a corporation or association must engage primarily in the oil and gas business, must employ not more than 3000 persons, must have a daily production of not more than 60,000 barrels of oil, and must sell at least 50 per centum of its production to persons, associations, or corporations engaged in agriculture or in related activities."

FUELS FOR FARMERS

Mr. DOLE. Mr. President, today I am offering an amendment to help provide farmers in the American Midwest with adequate and reliable fuel supplies.

Briefly, this amendment would expand the eligibility of independent refiners for purchase of Federal royalty oil, and it would establish priority for those independent refineries which serve agricultural customers.

Independent refineries in the Midwest are the lifeline of farmers and ranchers in that area. These refineries do not produce their own crude oil but purchase it in the open market and, because of their landlocked, central locations, they are far removed from easy access to imported crude oil. In the current crude oil shortage period these refineries have been seriously hampered in their efforts to secure additional crude to operate at the full capacity required to meet the rising needs of their farm customers. In fact, over the last two quarters of 1972 and the first quarter of 1973 one independent refinery was able to obtain only about two-thirds of the crude capable of being refined The resulting shortages of refined products have created confusion, uncertainty worry, and a real concern on the part of the farmer with his ability to achieve the increased production needed to meet expanded demands and hold down the pressures on rising consumer costs

Action is needed immediately to deal with this problem and to assure that these independent refiners serving agriculture are able to obtain enough crude oil for producing the fuels our farmers require.

As I indicated, the landlocked position of these refineries makes imported crude oil an impractical and economically unfeasible source of supply. Domestic crude oil production is already spoken for, so some other means must be found to meet their expanded requirements. I believe Federal royalty oil is the obvious and best source available.

This oil is received by the Federal Government as a royalty for wells producing on Federal lands and offshore fields. It constitutes a payment by oil companies to the public for the privilege of operating oil leases on public property. It is available to the Secretary of the Interior for sale according to his discretion in the public interest, particularly to refineries not having their own source of supply for crude oil.

My amendment would further direct the Secretary to give priority to independent refineries serving agriculture, This step is entirely consistent with the philosophy of selling Federal royalty oil in ways which serve the public interest. And I know of no higher public interest than seeking to assure American farmers that they will have the fuel they need to produce the food and fiber on which our country depends to maintain its standard of living and to compete in the international marketplace.

Mr. President, I have discussed this matter with the chairman of the committee. We plan to take it up at the earliest possible time in his committee. Therefore, I withdraw the amendment from consideration now.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment. If there be no further amendment to be proposed the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

PERSPECTIVES ON ENERGY

Mr. DOLE. Mr. President, concern has been frequently expressed in the Senate over energy in the United States. Of course, the production, utilization, and conservation of all forms of energy is a major interest today. I know in Kansas this year's shortages of agricultural fuels and fertilizers, along with limitations on retail gasoline sales, have brought public awareness of these issues to a new high.

But in looking at these questions I believe a full understanding of the issues and the formulation of wise policies to deal with them in the future must rest on a broad appreciation of the total resource picture of which energy is only a part. Rather than a gasoline problem, or a heating oil shortage or an electricity shortage, we are facing a broader range of shortages, shortages of resources—oil, ore, trees—virtually every raw material upon which our economy depends.

A recent article in Business Week magazine placed this fact in clear and rather disturbing perspective. Written by John Cobbs, it is entitled "The Economics of Resource Scarcity," and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

The Economics of Resource Scarcity

(By John Cobbs)

There never was another iron ore deposit like the Mesabi range in Minnesota. Its low hills of soft iron oxide, only lightly covered with glacial clays and gravels, yielded an ore with an iron content of 51% and up. Since 1892, when it opened, 2.8-billion tons of ore have been dug out of the Mesabi, hauled 75 mi. to deep water, and floated down the Great Lakes to the hungry steel mills of the Midwest. For half a century, it was the foundation for the growing dominance of U.S. steelmakers in world markets.

But the shipping ore is gone now. Steelmakers must either grind up and "beneficiate" the hard, low-iron taconite that surrounds the area—or look elsewhere. They have done both. Since 1945, they have sunk $1.8-billion in beneficiation plants. And meanwhile, they have brought higher-quality ore from Venezuela, Canada, and the Bomi Hills of Liberia. It is not entirely coincidental that during this time, the U.S. steel industry has lost its spot as top dog in world markets. It has even lost a substantial part of its home market to competitors in Europe and Japan.

The experience of the steel industry is an example of a disturbing but largely unnoticed trend that is affecting all big industrial countries, subtly shifting cost relationships and changing trade patterns. The world is rapidly using up its raw materials. Copper, zinc, lumber, tin, and nickel are all getting scarcer. Perhaps more important, a worldwide fuel crisis is deevloping because the big energy users are increasingly dependent on imports. The U.S., for one, imported 28% of the petroleum it used last year, at a cost of $5-billion. According to some estimates, these figures could rise to 50% and $15-billion by 1975.

THE IMPACT OF SCARCITY

The consequences of this basic shift in output and use of world resources involve some peculiarly difficult problems for the U.S.

This country is used to relatively cheap raw materials. Historically, U.S. producers have been able to evade the penalties of a high-wage structure because they got their metals, fuels, and lumber at what amounted to bargain prices. U.S. manufacturing tends to be thrifty with labor and careless with materials.

In the days when U.S. mines and forests supplied not only domestic industry but the world, this approach made sense. But now the shipping ore has been dug out of the Mesabi; the Keweenaw peninsula of Michigan, where mines used to yield great boulders of virgin copper, is cleaned out; the softwood forests of the East and around the Great Lakes have been logged off. The U.S. no longer has a wide advantage over other manufacturing nations in acquiring materials and fuels. More and more, it must buy on world markets and pay world prices.

In the home market, this means a steady upward push on prices. It takes more capital and more labor to make steel from taconite than from the old Mesabi ores. One way or another, these extra costs must be recovered. If they are not offset by higher productivity, they inevitably force a price increase.

In other words, the depletion of natural resources gives the economy a chronic inflationary bias. And it also puts an unseen but effective cap on real wage and profit increases. Part of the continuing increase in productivity at the manufacturing level must go to offset the higher cost of materials. If labor and management insist on their customary shares of productivity gains, prices will rise, real wages will not increase, and everyone will be disappointed.

In international markets, U.S. producers must compete head to head with Europeans and Japanese competitors on the basis of labor costs and efficiency. They no longer can count on a cushion of cheap raw materials and fuel to give them a trading advantage.

TECHNIQUE FOR SURVIVAL

All this means that, in world markets, the brass ring will go to the industry that achieves the higest productivity combined with the lowest scrap rate and the smallest power consumption. Only it will not be a brass ring but a plastic one. Substitution of plentiful materials for scarce ones will be a basic survival technique in the years ahead.

Britain and Japan faced this situation long ago. They have mined out their limited resources and now function as processors, importing most of their materials and exporting finished goods. The Japanese do it well; the British have had continuing trouble reconciling the strict discipline that world markets impose on a processor with the demands of an aggressive, consumption-minded labor movement.

Meanwhile, all the great manufacturing nations of the world face the ticklish problem of dealing with the small, often unstable countries that now control some of the best remaining deposits of fuel and materials. The Middle East, for example, has become the world's prime source of oil, and the Organization of Petroleum Exporting Countries (OPEC) has skillfully ratcheted up the price to the point where it is distorting the cost structure of the customer nations. The Mideast oil nations are collecting far more than they can invest at home, and their so-called "Allah dollars" form an increasingly troublesome pool of funds sloshing around the financial markets of the world.

The eventual answer may be economic rather than diplomatic. Overpriced Mideast oil encourages the development of other sources of supply and penalizes waste. President Nixon's new energy program with its emphasis on domestic exploration and conservation reflects this approach. It is a step toward adapting the U.S. economy to life in a world of scarcity.

Mr. DOLE. Thus, the consequences this resource situation holds for America, domestically and in the international arena, reach far beyond questions relating to gasoline supplies or the types of fuel which are burned by electric utility plants. The real issues touch the entire structure of our economy and the habits of our society, and it is clear that major adjustments are going to be required in our institutional, industrial, and national ways of doing business.

IMMEDIATE PROBLEMS

With this point made, however, I believe it is important to give consideration to the immediate problems which confront us and to consider steps which can be taken toward solving them and laying the foundation for policies which will pay substantial benefits over the long term.

IMPORTANCE OF AGRICULTURE

Let me say at the outset that, coming from the State of Kansas with its great farms and ranches and knowing the great importance of agriculture to the entire Nation and all of its citizens, I view the needs, problems and requirements of agriculture in this country as very important. In fact, I believe we must recognize that the agricultural sector is probably the single most important element in our economic and social system.

NUTRITIONAL STANDARD OF LIVING

First, it provides the best nutrition, at the highest productivity and the lowest cost of any nation in the world. These contributions can probably be translated into a statistician's numbers, graphs, and charts. But, to the average American, they are simply reflected in the good diet and varied food and fibers conveniently available to him and his family. It is difficult to put a price tag on peace of mind; but, whatever that pricetage in America, agriculture's share of it is significant.

WORLD TRADE

A second consideration demonstrating agriculture's importance to this country is its place in world trade. It is no exaggeration to say that agricultural products are the most important and most promising exports our country has to offer. In fact soybeans are the most important single U.S. export. Anyone who has traveled across the length and breadth of this land cannot help but be impressed by the richness and vast expanse of its farms and ranches. Experience in other countries only deepens the impression that the quality and quantity of our agricultural richness is unequaled and in most cases not even challenged.

In the past this richness has been a problem as our capacity to produce has outstripped demand, and we have had to cope with surpluses and distorted markets. But as we look ahead and look around at other countries, it becomes clear that agriculture is probably the greatest asset—the most abundant resource—our country possesses. As the economies of other nations grow and become stronger with corresponding increases in their standards of living and populations, the demand for more and better nutrition will also grow. And, due to the limitations on most nations' abilities to produce bountiful foods efficiently, they will increasingly look outside their borders to provide nourishment for their citizens. Just think of Western Europe with more than 400 million people, Japan with more than 100 million, and Russia with more than 250 million. The rising demand for food in these countries is providing and will continue to provide major market possibilities for our agricultural products. And just as some countries possess unique assets in terms of low labor costs, or large petroleum reserves or great ore deposits which provide significant bargaining chips for their international dealings, we will have among our most important trade advantages the products of our agriculture.

So considering these two factors, our domestic nutritional standard of living and the possession of a major trade advantage, it is difficult to underestimate agriculture's great importance to the United States.

But where does all of this fit into the discussion of the energy crisis? It fits very directly, because, like most important aspects of our modern economy, agriculture is dependent on energy to plant, harvest, and process its products.

UNIQUE REQUIREMENTS

To understand the importance of fuel supplies in agriculture, we must first understand farming and nature.

Unlike a regular business or industrial user of fuel and energy, the agricultural sector of our economy is uniquely tied to strict schedules set by climate, rainfall, sunlight, and temperature.

An industry may operate on a tight production schedule, but it is usually capable of altering its operations—in response to economic, political or other outside circumstances—even by cutting back for short periods—without suffering major consequences. Most sectors of our society or economy can be said to be operating on somewhat flexible timetables. Of course, great inconvenience, some increased costs and considerable confusion may be produced by the adjustments required to meet such circumstances, but most industries, businesses, and operations can successfully survive.

But agricultural operations—planting, plowing, fertilizing, harvesting—must be carried out according to nature's timetable, not man's. They cannot be put off to suit a farmer's convenience or to compensate for outside circumstances. There is no flexibility or room for corrective action.

Crops depend on soil and climate, but they also depend on fuel, and a fuel shortage can be as devastating and ruinous as any drought, hail storm or freeze. The only difference is that fuel is a factor which is under man's control.

And this is the danger of the present fuel situation. For example, the summer wheat harvest has been underway for several weeks from Texas, through Oklahoma and into Kansas and on north across the Wheat Belt. Custom harvesters must have fuel to transport their equipment to the fields when the grain is ready. The tractors must roll and operations must begin on time if the crop is to be harvested to maximum efficiency. If fuel shortages keep the tractors and combines from running, there will be no crops. Farmers cannot wait a week or 2 weeks to receive their fuel. They must have it when they need it, or it is of no use to them. A delay of even a few days could spell complete disaster.

The wheat harvest is only one example. In the fall new demand for fuel will be created for harvesting corn and milo, for drying these crops and for additional plowing. Around the country different crops and different seasons will bring other fuel demands, but whether we talk of strawberries in California, wheat in Kansas, or oranges in Florida, the requirement for timely supplies of the right fuel at the right place applies to all of agriculture.

And just as crop losses or reduced production caused by natural conditions have significant effects on food supplies, prices, and products available for export, losses or reductions brought about by energy deficiencies or shortages will be felt by the farmer, the consumer, and our balance of payments.

So when we talk about energy in America, I believe we should be acutely aware that it deeply affects agriculture, and thereby in extremely important ways it affects our way of life and our overall economy.

NATIONAL ENERGY POLICY NEEDED

In all its dimensions energy is truly a national matter, not a regional matter or one affecting only a few economic interests, so the policy to deal with it must also be a national policy. We in Congress and concerned individuals and organizations throughout the Nation have, for some time, been discussing the need for a comprehensive national energy policy to replace the piecemeal, haphazard, and ineffective collection of agencies and approaches which exist today.

The energy message which the President sent to the Congress in April and his followup message of June 29 represent worthwhile first steps toward achieving such a policy. He has clearly discussed the existing situation and the trends which we must consider for the future. He has announced a number of initiatives to deal with current problems and has suggested steps to deal with longer term matters. Particularly important, I feel, are his steps to consolidate and coordinate the formulation and administration of a national energy policy. The appointment of Colorado's Gov. John Love, as the Director of a new White House Energy Office and the proposed formulation of a Federal Department of Energy and Natural Resources are two of the most important and promising of the President's initiatives.

The Congress, too, has been active, and a number of hearings have been held in recent years to consider the great variety of the issues which are involved and the legislation has been proposed.

VITAL ISSUE

Mr. President, I do not wish to go into a detailed discussion of all the different problems and the many proposed solutions at this time; however, I would like to mention one aspect of the energy question which I believe is of critical importance and which requires immediate attention. It deals with the ability of this Nation to supply its own energy needs and thus avoid becoming dangerously dependent on foreign supplies and creating an almost unbearable burden on our balance of payments.

Contrary to some misconceptions, the conventional energy sources within the borders and territorial waters of this country are capable of supplying our energy needs until more exotic sources are available. Coal reserves could do the job alone for more than 200 years, but there are also great quantities of oil, shale oil, and natural gas. The problem, however, is meeting the technological, environmental and economic obstacles to harnessing them. A great number of proposals have been put forward to meet these obstacles. Some are short-term solutions, and others would be effective over a period of many years. But one is of particular importance today, because it can be effected by Congress quickly and can produce results in a fairly short period of time.

CONSTRUCTION OF ALASKAN PIPELINE

I am speaking of the proposal which would enable construction of the pipeline to bring newly-discovered Alaskan oil supplies—nearly 10 billion barrels—into the coterminous or so called "lower 48" States. This proposal has been the subject of much study, extended litigation, and an intense public debate for many years. It is now before Congress again in the form of this bill to authorize the necessary right-of-way through Alaska. I have followed with considerable interest the various arguments, pleas and statistics which have been presented on both sides of the issue. Economic, environmental, regional and a host of other points have been raised.

Second, do I correctly understand that the prime consideration underlying the committee's support for immediate construction of the trans-Alaska pipeline route rather than the Canadian route was the evidence showing that the Alaskan pipeline can be completed and put into operation at a significantly earlier date than the one through Canada?

Third, coming from a Midwestern State, I am concerned that the choice we make at this point does not work against the interest this part of the country has in obtaining adequate petroleum supplies. Therefore, do I correctly understand the committee's report as indicating the evidence shows that the delays which could be expected to be inherent in a Canadian route would more than offset any potential regional advantages it might offer over the Alaskan route?

So in effect the evidence shows: First, that the entire Nation needs the Alaskan oil at the earliest possible date; second, that the trans-Alaska pipeline is the fastest means of bringing this oil to market, and third, that even if a trans-Canada pipeline were to be approved over the Alaska route at this point its possible advantages in terms of economic benefits to the Midwest and other areas east of the Rocky Mountains would be, to quote the report, "more or less wiped out" due to the greater time it would take to complete?

Mr. JACKSON. The answer to each of the questions propounded by the Senator from Kansas is "yes."

Mr. DOLE. I thank the chairman for his response to these questions, for they support the conclusions which I have reached over the relative merits of the Alaskan and Canadian pipeline proposals.

In the last analysis, I feel the controlling points are: First, the need to have these crude oil supplies available to the United States at the earliest possible date; and second, the need to have the construction of this pipeline and the delivery of the products transported through it fully under the control of our country and fully devoted to our needs. On these grounds I feel the Alaskan route is an acceptable and responsible choice.

Mr. HANSEN. Mr. President, we have been debating and amending this bill for more than a week now including last Saturday. The record is replete with the arguments pro and con the Alaska pipeline.

And so now we come down literally to the line—do we build it or do we not?

Some of us here have been debating and speaking about the energy crisis we now face for several years and even before oil was discovered on the Alaska North Slope more than 5 years ago. Other than attempting to summarize the situation as I see it and emphasize the urgency of acting positively here today, I would not try to improve on the most excellent history and analysis of the energy situation in the United States and worldwide as explained so thoroughly by the two able Senators from Alaska during the debate on this bill.

In fact, the white paper furnished to all Senators by the distinguished junior Senator from Alaska (Mr. GRAVEL) and titled "Dollars and Energy: Domestic and International Crises" reminds me of a current beer commercial on TV "when you say Budweiser, you said it all."

I could not agree more with most everything he said and only ask the opportunity now to re-emphasize a few of his excellently taken points.

The main one, I believe, is that we have in Alaska and the Continental United States including our offshore resources under the outer Continental Shelf enough known and probably energy resources to assure this Nation adequate energy for the foreseeable future and then some.

As my friend from the Nation's largest State points out, over half of the world's known coal reserves are in the United States and we have the potential resource of 810 billion barrels of recoverable oil, shale oil, and over 2,000 trillion cubic feet of natural gas. But these resources will be developed only by an industry adequately encouraged with the incentives essential for the huge capital investment and risks involved in such an undertaking.

As the knowledgeable Senator from Alaska points out in his well-researched and documented white paper on "Dollars and Energy," there are accusations that the curent dilemma is a contrivance of major oil and gas suppliers. But, he adds, this notion that we can place the blame for our energy ills and punish the culprits is an exercise in futility. An honest assessment of the energy crisis is imperative now so that we may avert a national paralysis that would result from continued shortfalls.

I could not agree more with my friend from Alaska that prices of energy will inevitably increase due not only to extended inflation but to additional decreases in the value of the dollar and likely increases in the price of crude oil from the Middle East.

Knowledgeable sources predict that by 1980 oil from the Eastern Hemisphere may be costing $7.50 per barrel compared to the present average cost of $3.70.

Unless we act quickly and decisively and do everything right, the United States could be importing 60 percent of its oil from these sources by 1980.

The Senator from Alaska has realistically assessed the price versus supply dilemma by warning that we should not fall prey to hasty short-sighted reactions in an effort to thwart these horrendous hikes in the cost of energy.

The natural gas shortage is the best example I can think of and if we wish to perpetuate that shortage and the oil shortage, the surest way is by continued price control. The consumer will be protected even though he may have to leave his car at home in the garage and use his furnace only on the coldest days.

Personally, I believe that the average consumer is a lot smarter than some of us give him credit for when he knows the facts.

It is certainly understandable that he will have some suspicions when he hears from apparently reputable sources, that is his Congressman or Senator, that this is a contrived shortage and most likely a conspiracy among the major oil companies to raise prices.

Why, then, has domestic production of oil and gas failed to keep pace with growing demands? The decline in our domestic oil and gas exploration and development has resulted from poor economics, not poor geology. From the scientific side, I need only cite the conclusion of the late Dr. William Pecora, Under Secretary of the Interior and an internationally honored Earth scientist. In a speech to the Conference Board in New York, in April 1972, Dr. Pecora warned that steps "must be taken to assure the consumer that adequate domestic oil and gas reserves will be available." Dr. Pecora said in that speech that the potential oil and gas resources remaining to be found and developed "would meet our 1971 needs for these two fuels almost 100 times over." With respect to future development of these domestic resources, Dr. Pecora said, in part:

> If new oil and gas reserves are to be found and developed, federal areas with high potential for discovery must be made available to the producing industry. . . .
>
> If the consumer ultimately is to have adequate domestic sources available, the search for domestic oil and gas must again become an attractive investment to the producing industry.

Addressing this body a few weeks back, the distinguished junior Senator from Tennessee (Mr. BROCK) put the matter in perfect perspective when he asked why all of this domestic oil and gas is still in the ground waiting to be found.

Why? Simply because it is no longer very profitable to drill an exploratory well.

Senator BROCK said he thought that fact is a remarkable representation of just how far afield we have gone from the free enterprise system that Republicans and Democrats alike take as the basis of their economic beliefs. Imagine, in a time of critical shortage and immense demand, it not being worth anyone's while to increase the supply. But that is what has happened. The Government has so overregulated and stifled private initiative that what should be boom-time conditions look more like an era of oversupply.

Taxes, management errors, inflation, and restrictive pricing policies and poorly drawn environmental regulations all played a role in doing what the prospect of 25,000 feet of hard rock could not—they have caused the oilman to decide not to drill.

The Wall Street Journal, a publication that may be suspect of being pro-industry, also had a few editorial remarks, which follows, about fuel shortages and the efforts of Congress and the administration to cure them:

> Unhappily, some kind of mandatory allocation system seems to be in the cards, if only to get the major oil companies off an uncomfortable legal hook. As it is under the voluntary plan, the majors are being threatened with breach-of-contract suits by their contract jobbers and distributors for parceling out a portion of their supplies to the independents. The independents who don't have contracts with the majors and who are not getting what they feel is their due are threatening anti-trust actions. There thus seems to be some sentiment in the industry to let the government take the blame for who gets what and who doesn't.
>
> We would guess that the Nixon administration, which is conducting a review of the voluntary program this week, will find a reason to beat Congress to the blow. At best, it could issue mandatory rules that reaffirm the voluntary practices the major oil companies have been following.
>
> At least this would avoid the administrative and bureaucratic turmoil that would follow if Congress wrote the rules. The Senate bill contains so many exemptions and exceptions that it nearly puts everyone in the highest priority position to get fuel.
>
> All of this is so much twaddle. The avilable supply of gasoline cannot be efficiently allocated as long as the government sits on the price the 23 major oil companies charge their jobbers and distributors. Nor does this practice exactly encourage oil exploration. Supply will meet demand only through the inexorable workings of the price mechanism, and all the quick fixing so popular on Capitol Hill only deludes the public into thinking salvation is at hand. We're really sorry there's no better answer than the market mechanism. We often wish there was.

For its efforts, the petroleum industry has had scant praise. Thanks to the work of the industry itself and the distinguished floor leader of this bill (Mr. JACKSON) several amendments aimed at divestiture and dismantlement of the oil industry were withdrawn. It is to the credit of the sponsors of those amendments that they deferred to separate hearings on their proposals.

It is my hope that by the time those hearings are held, the appropriate committees of the Senate have also held hearings on the President's energy reorganization proposals including a new Department of Energy and Natural Resources, a new R. & D. agency and hearings on deregulation of the wellhead price of natural gas and oil exploration incentive bills. I believe it is time we gave the industry a little encouragement rather the continued harassment it has had so much of.

The industry itself is, I believe, showing signs of coming alive and fighting back. Unfortunately, it does not seem to have gotten its message across to the public and the Congress.

While the start of the Alaska pipeline drags on and on, a group of American companies made a bid to build a proposed Suez-Mediterranean oil pipeline in Egypt. If approved, the pipeline would carry 80 million tons of Persian crude oil a year from the Gulf of Suez to the Mediterranean much more economically and rapidly than tankers that have been forced to travel around the southern tip of Africa since the closure of the Suez Canal in 1967.

It is probably a safe bet that oil from that pipeline will be delivered to Europe and the United States before Alaskan oil helps lessen our dependence on Middle East oil; that is unless the Wilderness Society has a chapter in Cairo.

Hopefully, this bill will enable the United States to take the first big step in reversing our suicidal charge to the precipice of utter and unnecessary dependency on imported oil and gas.

More than 2 years ago, the most able and distinguished Senator from West Virginia (Mr. RANDOLPH) said in support of Senate Resolution 45, the Senate study on national fuels and energy policy:

> This nation and the world community of nations are embarked on a gigantic gamble that we can maintain energy supply reliability compatible with demand. Maintenance of this reliability is dependent on adequate sources of crude oil, natural gas, and coal. But these alone will not be enough. There must be other immense sources of energy, possibly the breeder reactor or fuel cell, to augment the fossil fuels. And there must be more use made of the fossil fuels, such as gasification of coal for on-site power production and for production of pipeline gas to augment the dwindling supply of natural gas. There must, of course, be more exploration for and discovery of both domestic petroleum and natural gas—and they should be encouraged, not impeded. We are too reliant on foreign sources of oil.

That in a nutshell is the message a few of us have been trying to get across to the Congress and the administration for several years.

Mr. DOMINICK. Mr. President, in the course of the debate on this bill many thoughts have been uttered by many of the distinguished Members of this body. Facts have been raised, arguments submitted, and pleas made both pro and con on various aspects of this bill. The word "environment" has played a singularly large role in our discussions, and I say once again for the record that it is my strong belief that the way in which one votes on the pipeline does not determine necessarily if one is an "environmentalist." There exists now a need for balancing all considerations in reaching decisions that will achieve the most benefit for all of us. The environmental work which has gone into the development of this line has been outlined on this floor many times in the past few months.

At the present time the proposed Alaskan pipeline has met all regulatory requirements, the route has been surveyed, and an environmental impact statement has been prepared. Also of prime concern is the fact that financing has been arranged for the Alaskan line.

In a Canadian line, however, there still must be settled Native claims, surveys must be done, environmental litigation must probably be faced, and, last, but certainly not least, financing must be arranged. It would appear that a Canadian line will face many of the same engineering difficulties as well as cover four times as much distance.

Mr. President, the Alaskan route is an enterprise largely financed by American interests. Canadian line enthusiasts clearly are faced with strong indicators that up to 51 percent of such a line would be owned by Canadians and controlled by Canada. Now I am of the opinion that in our present energy posture we need to control as much of our own production as possible to keep us from becoming too dependent on any foreign supplier for our needs. Again I shall reiterate that I do not reject a Canadian line, but I feel we must get moving on the Alaskan line while a Canadian line is being studied.

For my colleagues who do not yet appreciate the gravity of our problems, I invite them to review the critical supply situation in Denver. This past weekend it was estimated that 98 percent of the stations in the city were closed. Motorists had to seek assistance from governmental officials for directions to an open gas station. Under such circumstance our need is clearly immediate.

Lastly, I believe that of all the "authorities" to speak out on the line, Alaskans can speak with an informed voice. Therefore, I request that the accompanying letter and resolutions be printed at this point in my remarks for the RECORD and would again urge my colleagues to get moving on this line.

There being no objection, the letter and resolution were ordered to be printed in the RECORD, as follows:

SOCIETY FOR THE PRUDENT USE AND
ENVIRONMENTAL PROTECTION OF
OUR NATURAL RESOURCES,
Fairbanks, Alaska, July 10, 1973.

Senator PETER H. DOMINICK,
Washington, D.C.

DEAR SENATOR DOMINICK: The action of this society to support the construction of the pipeline through Alaska is spelled out in the attached resolution. The members, individually and as an organization, have studied all aspects of the proposed construction project, and have concluded there are no longer any environmental objections of sufficient magnitude to justify delaying the pipeline construction.

The society might be called a middle-of-the-road group. While the membership believes in the prudent use of natural resources, it places a very high priority on environmental protection. Housewives, teachers, university faculty, business men, professionals, skilled and unskilled labor and technicians are numbered among the members. The diversity of the background can be illustrated by the six named in this communication. Ages 32–65, years in Alaska 8–40, occupations—teacher, plumber, attorney, university dean, labor representative ana cement wholesaler. Native of Kansas, Missouri, Oregon, Oklahoma, Idaho and Minnesota. (Probably every state is represented as the birthplace for some member of this organization.)

If you or any of your constituents were here and had studied the situation as we have, you would take the same position.

Item: The entire pipeline project will involve fewer than 5,000 acres out of the more than 375 million acres in Alaska.

CHARLES W. LAFFERTY,
State President.
EUGENE V. MILLER,
President, Fairbanks Chapter.

RESOLUTION

Whereas the Society for the Prudent Use and Environmental Protection of our Natural Resources has pledged itself to promote use of our natural resources with adequate protection of our environment.

Whereas the nation is feeling the effect of what could become an acute petroleum energy shortage.

Whereas the delivery of North Slope oil to the American market will do much to strengthen the American economy, reduce inflationary pressures, improve the balance of payments, and stabilize the dollar's position in relation to foreign currency, and

Whereas this body in special meeting has been presented with substantial information pertaining to the environmental safeguards planned for the proposed pipeline which indicates the Alaska pipeline has been subjected to the most complete environmental impact study ever devised by man.

Therefore I move that we call upon the Members of the Congress of the United States to contribute their early support to that of the people of the State of Alaska for the construction of the Trans-Alaska Pipeline.

Mr. MOSS. Mr. President, there are some here and around the country who scoff at the energy crisis. To hold this view when gasoline is difficult to find this summer and we face a winter with a concomitant short supply of No. 2 fuel oil for heating purposes is to hide from reality. But to attempt to assess blame and apply recriminations before we solve the immediate problem is like kicking the dog when you are mad at your wife. We here can argue for weeks as to the cause of the energy crisis. Such action at this place in time is a futility. I do not here attempt to gloss over the faults of industry, the Congress, the administration or the environmentalists—all of whom must share responsibility for the present state of affairs.

The facts are that we have grossly underestimated our growing needs for oil and overestimated the potential and present capability of other sources of energy. We have placed stringent controls where the subsequent consequences have "dominoed," resulting in escalated supply and demand problems.

In every facet of our energy situation we are in trouble, whether we are talking about reserves, capitalization, imports or national defense. In December of 1972, the National Petroleum Council projected our total energy demand to increase 4.2 percent per year.

Demand for light finished products east of the Rockies rose at an exceptionally high rate in 1972. Motor gasoline was up 5.6 percent; kerosene and kerosene-type jet fuel, 2.8 percent; distillate oils, 10.2 percent; and total of all light finished products, 6.7 percent. This compares with 1971 increases in demand for motor gasoline of 4.5 percent; kerosene and kerosene-type jet fuel, 1.7 percent; distillates, 3.9 percent; and total light finished products, 4.1 percent.

At the present time demand above domestic capabilities is being met by imports. Imports will continue to increase to the year 1985, under present supply and demand trends.

And that brings us to another problem—the international implications of the energy situation.

For many years this country proceeded on the basis that imports threatened national security and the administration of the import program by the Department of the Interior was bottomed on that premise. This program attempted to limit foreign oil to a small and fixed proportion of domestic production—12.2 percent east of the Rockies.

Imports by 1970 had risen to about 22 percent of total oil supply and current projections are that by 1980 imports will account for as much as one-half of U.S. consumption of oil and one-fourth of total energy supplies.

The energy problem must be reviewed as a whole—shortages in one fuel result in an unprecedented demand on others and shortages in one corner of the globe puts pressures and repercussions all the way across the international scene.

Two years ago the Cabinet Task Force concluded that imports from the Eastern Hemisphere should be held to 10 percent of our total imports and that this figure would not be reached in the near future. Now it is generally estimated that we are already importing more than 10 percent of our requirements from the Eastern Hemisphere.

In addition to the precariousness of our own situation, we find ourselves in competition with our neighbors who also are experiencing increased economic growth rates and resultant energy needs. All of the non-Communist world's industrial powers are shopping in the same marketplace—the Middle East.

The oil-producing countries, working together through OPEC, have us over 500,000,000 barrels—of oil.

We not only suffer from a tremendous increase in balance-of-payments costs, but U.S. companies face demands from OPEC for increased foreign participation in, and part ownership of, the American companies' operations.

According to a Washington Post news story of July 11, 1973, 500,000 barrels of Saudi Arabia oil will be imported into North America in the month of July. Industry sources predict that the United States will need to import five times that figure by 1975 to keep pace with growing energy demands.

The Post story points out that:

> At current production, Saudi Arabia will earn more than $4 billion in oil revenues this year, a 30 percent increase from last year. At least $1 billion will be added to Saudi Arabia's present foreign exchange holdings on $3 billion.
>
> The rush of new oil revenue into Saudi Arabia has stunned even Saudi financial managers, who until a few months ago were predicting that their sparsely populated country, which has few telephones and long-distance highways, and insufficient numbers of schools, would be able to spend enough of the revenue to make oil production increases worthwhile.

At this rate it is obvious the Saudis do not need our money and they could simply leave the oil in the ground or slow down production if they so desired. The leverage in world finance and diplomacy of this foreign oil power is awesome to contemplate. The implications of the energy problem for our foreign relations is painfully obvious.

There are other factors including the need for refineries, storage space and the concomitant need for risk and investment capital which complicate the energy picture.

All of which brings me to the problem at hand. Given time we can develop our vast coal resources, oil shale deposits and bring solar energy to our aid. The crunch is now. That is why I will vote for passage of S. 1081.

I cannot get overly upset about observing the ritual of the mating season for Alaskan caribou when in the city of Denver last weekend it was almost impossible to find gas. How long do you suppose the people of the country will tolerate an empty gas tank while we debate the merit of a pipeline bill to bring 2 million barrels of oil a day over a right-of-way traversing lands of the United States? We can no longer equivocate on this issue.

I would prefer to have had a simple bill amending section 28 of the Mineral Leasing Act to allow appropriate widths for construction of the Alaskan pipeline. We have before us S. 1081, which revises and updates all of the right-of-way laws now in effect for our public lands. So be it. S. 1081 is the best vehicle now available for action. The Interior Committee under the leadership of the able junior Senator from Washington has done an admirable job. Appropriate safeguards are written into this bill, including an appropriate awareness of the Canadian situation in all of its ramifications.

Amendments to apportion equitably the oil from the North Slope among the various regions of this country have already been adopted.

Let us get on with it. I urge passage of S. 1081.

Mr. MUSKIE. Mr. President, our vote today on the Alaskan pipeline is not a choice between adequate energy supplies and protection of the environment. Instead, it constitutes a choice of the mechanism by which our Nation will make environmental decisions.

Regardless of what action the Senate takes today, Alaskan oil will not be available to American consumers until the end of this decade. Our action today will have no impact on the current energy crisis. But it will decide whether the oil and gas we use in the next decade will be produced and transported with the least possible environmental damage.

All Americans hope for an ideal future when our rivers and streams are all clear and free; when the air over all our cities is healthful and pure; when we can be secure in the knowledge that the natural beauty of our land is preserved for our enrichment, for our children's wonderment, and for the well-being of future generations.

But we also recognize that preservation of the environment is merely one value to be weighed against our other needs—our safety, our security, and our economic well-being. When these values conflict, we must balance them—to minimize damage to the environment while promoting economic development. And the mechanism established by Congress for making this balancing judgment is the National Environment Policy Act, which requires that the environmental impact of Government decisions be thoroughly examined.

The question the Senate votes on today is simply whether or not such an examination should be approved as adequate by our courts. As amended this morning, the Pipeline bill would short-circuit this decisionmaking process, and deprive us of the assurance that Alaskan oil will not be provided at unacceptable environmental costs.

Environmental considerations should never blind us to economic needs—but their importance requires that they be given some weight in the balance.

The Pipeline bill would preclude such a rational balancing process—and thus I must oppose it.

Mr. BAKER. Mr. President, in considering S. 1081 and, more specifically, the transporting of the vital Alaska North Slope oil reserves to the "lower 48" States, the Senate is confronted not only with a choice between two or more alternative pipeline routes, but also with temporal considerations of the utmost magnitude. I possess serious reservations concerning the desirability of having Congress approve the adequacy of an environmental impact statement prepared pursuant to section 102 (2)(C) of the National Environmental Policy Act. I am prepared, however, this one time to vote for congressional approval of the trans-Alaska pipeline impact statement, thereby allowing the initiation of the already much delayed construction of the TAPS pipeline.

I wish to make clear that I do not favor and will not support a repeal, either in letter or in spirit, of section 102 of NEPA. Moreover, I will resist further attempts to have Congress participate in ad hoc rulings on the sufficiency of a section 102 statement. But this is an instance where time is too important, where delay prolongs and exacerbates America's dependency upon tenuous foreign sources of petroleum, and where each day of doing without Alaskan oil results in an approximate $6 million increment in our balance-of-payments deficit.

In short, legislative determinations can and must be made in times of crisis, in times where reliance upon administrative and judicial processes would unduly delay the development of vitally needed domestic sources of energy.

I sympathize with the sentiments of my colleagues who rue the lack of an in-depth analysis of the proposed Canadian pipeline route. On the other hand, I fully agree with the report of the Committee on Interior and Insular Affairs finding the trans-Alaska route preferable because a comparison of the respective intensity of preparation indicates that TAPS could become operative 2 to 6 years earlier than the proposed Canadian route. A personal visit to and inspection of the trans-Alaska route during April of 1971, left me convinced that the many environmental concerns have been successfully met. Thus, satisfied that the environmental problems are being solved, and in light of the uncertainty as to the receptiveness of the Canadian Government toward the Mackenzie Valley route, the strong possibility that Canada would require domestic ownership of a Canadian pipeline as well as partial capacity preemption for Canadian oil, and in light of the economic desirability of having the funds expended for pipeline construction accrue to American workers and companies, I believe that Congress should eliminate any additional and possibly disastrous delay in initiating construction of the trans-Alaska pipeline by making a legislative determination that the TAPS impact statement meets the letter and spirit of NEPA.

I view construction of the trans-Alaska pipeline as merely the first step in a comprehensive program for developing the North Slope fields. Although there is continuing debate concerning the existence of sufficient reserves to justify the construction of a second oil pipeline, a strong possibility exists that a second, and probably Canadian, oil pipeline will be constructed. In addition, it seems clear that a trans-Canada pipeline for the transportation of natural gas must be completed as soon as possible. I strongly urge the oil companies and the Department of the Interior to expedite the requisite investigation and planning and then to file comprehensive and sufficient impact statements for any additional pipelines required for I do not want to be confronted again with a situation such as we have now before the Senate.

In this one instance, however, where Congress possesses sufficient information and insight, and where the choice seems clear, I believe that it is our duty to clear the way for the trans-Alaska pipeline and thereby insure that America will be able to develop its vital petroleum resources in an expeditious fashion.

Mr. DOMENICI. Mr. President, after following closely the debate in this Chamber on S. 1081 and after considerable private study of the matter of that bill, I have concluded that I must support it.

I would like, by this statement, to explain the reasoning on which I base that stand.

Fundamentally, I believe that the time has come for our Nation to act in a realistic manner on certain important facts which concern this issue.

The oil under the North Slope of Alaska is the largest discovery of its kind ever made in America. Its presence was established 5 years ago, but it has not yet begun to flow, despite the fact that it is our best concrete hope for increasng domestic oil production, which we badly need.

In the 5 years while the courts and we have deliberated, two things of great economic import to our country have occurred: we have moved closer to a genuine crisis caused by a shortage of energy, and our balance-of-payments problem with other nations has failed to stabilize to our advantage.

In light of the first of those problems, it is hard for me to see how we can any longer fail to utilize the 10 to 15 billion barrels of oil Alaska could produce—almost half the proven reserves in the continental United States, as much oil as we know to be present under Louisiana, Kansas, Oklahoma and half of Texas. When we are using our oil at the rate of 16.6-million barrels a day, as we did during 1972, how can we neglect to use this source of supply which can produce 2-million barrels a day?

But I believe it is the effect of the outflow of American dollars into the world marketplace at the rate at which we are presently experiencing it which disturbs me even more. We must buy outside of the United States every barrel of the oil which we do not presently transport from Alaska, and every barrel we purchase adds to our balance-of-payments problem, which I believe weakens the very fiber of our Nation's economy. By 1980, for example, we expect to be forced to import 4-billion barrels of oil per year and it may cost us $16 billion or more. If we do not have access to this Alaskan oil, every dollar of that cost will go to other nations.

While I do not maintain that Alaska's oil will replace every dollar's worth of such purchases, I believe that, if it replaces as much as 10 percent of our needs for outside resources, we must, out of hardheaded economics, act to see that this oil begins to flow.

I am also moved to my conclusion by a recognition that this single largest construction project ever undertaken by private industry will have sound economic benefits for Alaska and for American shipbuilders. For Alaska, it will provide 26,000 construction jobs, plus the maintenance crews which will be required on a permanent basis to keep the oil flowing. As is equally clear, the royalty income which will accrue to the State will be of great benefit to it in the economic expansion which it needs. Because the Jones Act requires that all such oil must move in American bottoms, 73,000 man-years of American tanker construction will be required to build 33 new tankers as well as 770 man-years maintaining the flow of the oil.

It is my basic belief that the flexibility which America once had in solving its domestic and international crises has begun to wither away. As a consequence, our leadership must be now more willing to act quickly and resolutely in regard to our many problems, such as the energy crisis and our international economic relations. I can think of no more dramatic example of that need than the one we face here today.

I am conscious of the problems this pipeline could cause to the environment. In fact, I compliment those serious environmentalists who have helped us to recognize those problems because I believe they will cause us to have the safest pipeline which has ever been built. For instance, I am moved to remark that the pipeline will be more proof against earthquakes than many of the buildings we occupy, perhaps much safer than this one. I also believe that the danger to the tundra and permafrost can be minimized by sufficiently strong stipulations from the Secretary of the Interior.

I further believe that the spirit which created the National Environmental Protection Act has been satisfied in the $35 million and 100 man-years spent on studies of the environmental impact of the proposed line. It is clear that the environment will be disturbed by such construction; it always is. But our aim must be to minimize that disturbance and make such scarring of the environment a temporary one. I am now satisfied that the most stringent liability requirements ever set will protect the pipeline from spills and minimize disturbance to wildlife, fish, and vegetation.

I can see little good being achieved by further judicial review of these matters, since, as Interior Secretary Morton has observed:

> Open-ended delays make for open-ended difficulties.

I do not consider the provisions of the Mineral Leasing Act of 1920 so sacrosanct that they cannot be changed to comply with the needs of 1973. If more advanced construction techniques have made them obsolete, it is the duty of this body to change them by granting the rights-of-way which are necessary today and directing the Secretary, in this instance, to issue the permit to carry out our grant.

The body has already decided that the development of a Canadian pipeline does not offer a real alternative. I agree with that decision, though I would hope that in time such a Canadian route might become a secondary carrier of this oil.

When I boil down my position, it comes down to this: great quantities of oil are available to us in Alaska; we need that oil for our own uses and for the fact of our economy, which would otherwise dictate that the oil be purchased outside the United States; we can construct a pipeline which will move the oil and supply our needs in as safe a manner as the state of technology presently makes possible.

In the light of these things, I believe it is incumbent upon us here to take the action which needs to be taken to begin providing that oil to our country.

Mr. President, I ask unanimous consent that an editorial taken from the Sunday Star on July 15, 1973, titled "Energy—A Crisis That Won't Wait" be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Sunday Star and the Washington Daily News, July 15, 1973]

ENERGY—A CRISIS THAT WON'T WAIT

No, the country isn't running out of gasoline just yet. This is not, as many Americans had feared, the summer of the great filling station dry-up and the stalling of vacation-bound families all along the highways.

Rather, it is a summer of portents, of our first encounter with real shortages, our first retreat from the high-consumption ideal. We see stations rationing gasoline to their customers, cutting hours of operation and in some cases—if they are independent distributors—shutting down altogether. We are squeaking through, but the signs indicate this is only a foretaste of what's to come next year—and perhaps next winter, where heating and industrial oils are concerned. And with demand racing far ahead of production, the response of both government and the oil industry has been incredibly slow.

At last there is some movement of consequence, however. For the past several days the Senate has been locked in debate on legislation to allow construction of the trans-Alaska oil pipeline, which offers the only hope for a large increase in domestic oil production any time in the near future. Right now the $3.5-billion project is stopped, dead still, by a Supreme Court decision, upholding an old federal statute that doesn't allow enough right-of-way for such a line across federal lands. Changing the law to provide a sufficiently wide corridor is the fervent intent of Chairman Henry M. Jackson of the Senate Interior Committee, and a vote on his proposal is coming up Tuesday.

For several urgent reasons, the national interest demands passage of this measure, and fortunately the Senate seems in a mood to pass it. This is indicated by the two-to-one vote Friday against an amendment that would have held up the Alaska pipeline so the United States could negotiate for a different route through Canada to the Midwest. That could have meant an additional delay of three to five years in tapping the abundant Arctic oil, which was sheer folly even to consider.

In fact, we think the Senate now should adopt an amendment by Senators Gravel and Stevens of Alaska to lessen the danger of further stoppage by environmental lawsuits, which still might stall the work another year or two. After all, the environmentalists—through long delays they already have forced—achieved the inclusion of strong safeguards in plans for the Alaskan line. It's time to begin stringing pipe, for the fast-swelling U.S. reliance on foreign oil threatens a dangerous, destabilizing dollar drain. Add to this the apparent willingness of some Middle East nations to manipulate their vast oil resources as a lever on American foreign policy, and the picture becomes grim indeed.

Even if Congress removes all obstacles, however, the Alaskan oil won't be flowing down from the North Slope for another three years or more, and there seems no prospect of any dramatic increase in U.S. refinery production before then. President Nixon waited about three years too long in easing the import quotas, to permit more foreign oil to enter this country. The petroleum industry, for reasons we cannot begin to grasp, let several years pass without building a single new refinery, so that now there is insufficient capacity to process all the foreign oil which the nation needs to import. Nor is there a single deepwater port capable of handling the gigantic new supertankers that will haul the crude oil to these shores from the Middle East and elsewhere.

How could the United States, with all its economic expertise and sophisticated predicting techniques, ever have gotten boxed into such a predicament? In some quarters there's suspicion that the big oil companies were in collusion to create a shortage, force independent dealers out of business and hike prices. It is well that the Justice Department and the Federal Trade Commission have launched studies to determine if there is any substance to these mutterings. But a few basic facts are beyond dispute—that gasoline consumption has far outrun the government's estimates, and that new car production sales are setting new records. Prosperous America guzzles more and more energy—electricity as well as petroleum—and the day of accounting isn't far ahead.

The fastest that the government can act will not be soon enough, and solid proposals are at hand that must be expedited. The Senate soon will begin hearings on legislation to hasten the building of offshore deepwater ports to receive incoming foreign oil. Anyone doubting the need for this might consider last week's announcement that the first large domestic refinery in three years will be built beside the Mississippi River, above New Orleans. That's good news, but three years will be required for the job, and then the crude oil for this plant—coming from the Middle East—will still have to be unloaded from supertankers at a deepwater port in the Bahamas and towed in barges to the Mississippi. Obviously, this country must have offshore port facilities as quickly as possible, with the best possible environmental safeguards.

And Congress must get cracking, too, on a massive program of research and development across the whole energy field—from solar and fusion electricity to large-scale extraction of oil and gas from coal, which is our only abundant energy resource. This is envisioned in a bill by Senator Jackson that would launch a 10-year, $20 billion effort. Time is critical, for at best we may be well into the 1980s before even the most advanced of these new modes—coal gasification—provides fuel in any significant quantity. And action is imperative on several other measures—to allocate scarce petroleum equitably (which is much better than rationing at this point), and to stimulate refinery construction and natural gas exploration. Congress also should come up with some tax incentives for energy conservation, down to the household level, instead of relying on appeals for voluntary frugality, which is the primary way President Nixon has chosen.

But the President has become a great deal more concerned over the whole menacing matter in recent weeks. In his second energy message of this year (the first one having been considerably too weak), he came out for a $10-billion federal program over five years, to develop new sources of energy, and that represents quite a leap in White House objectives. Highly encouraging, too, is his plan to reduce the government's energy consumption by 7 percent in the next year, as the model for a new national "conservation ethic." He has proposed a sweeping governmental reorganization to consolidate the multitude of endeavors in the energy-fuels field, and persuaded Colorado's popular and persuasive governor, John Love, to resign and come here to head the enterprise.

So an initiative equal to the challenge at last may be in the making, and the question is whether the many wheels of government can turn fast enough. The first vital tests will be in those Senate votes this week on hastening the availability of all that oil in Alaska.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BUCKLEY (when his name was called). Present.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

The result was announced—yeas 77, nays 20, as follows:

[No. 298 Leg.]

YEAS—77

Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Brock
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Gravel
Griffin
Gurney
Hansen
Hartke
Haskell
Hatfield
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Long
Mansfield
Mathias
McClellan
McClure
McGee
McIntyre
Metcalf
Montoya
Moss
Nunn
Pastore
Pearson
Pell
Percy
Randolph
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevens
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—20

Abourezk
Bayh
Biden
Brooke
Case
Clark
Eagleton
Fulbright
Hart
Hathaway
Hughes
Kennedy
McGovern
Mondale
Muskie
Nelson
Packwood
Proxmire
Ribicoff
Stevenson

ANSWERED "PRESENT"—1

Buckley

NOT VOTING—2

Magnuson
Stennis

So the bill (S. 1081) was passed, as follows:

S. 1081

An act to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Lands Right-of-way Act of 1973".

DEFINITIONS

SEC. 2. As used in this Act:

(a) "Right-of-way" means an easement, lease, permit, or license to occupy, use, or traverse Federal lands granted for the purposes listed in this Act.

(b) "Federal lands" means all lands owned by the United States except (1) in the National Park System, (2) lands in the National Wildlife Refuge System, (3) lands on the Outer Continental Shelf, (4) lands in the National Wilderness Preservation System, and (5) lands held by the United States in trust for any Indian or Indian tribe, and lands held or owned by any Indian or Indian tribe under a limitation or restriction on alienation requiring the consent of the United States.

(c) "Holder" means any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving a right-of-way under this Act.

(d) "Secretary" means the Secretary of the Interior.

(e) "Agency head" means the head of any Federal department or agency other than the Secretary of the Interior having jurisdiction over Federal lands.

TITLE I—RIGHTS-OF-WAY ON FEDERAL LANDS

AUTHORIZATION TO GRANT RIGHTS-OF-WAY ON FEDERAL LANDS

SEC. 101. (a) Except as provided in subsection (b) of this section, the Secretary is authorized to grant, issue, or renew rights-of-way over, upon, or through the Federal lands for—

(1) Pipelines and other systems for the transportation of oil or natural gas and storage and terminal facilities in connection therewith;

(2) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(3) Pipelines and other systems for the transportation or distribution of liquids and gases, other than oil, water, and natural gas, and for storage and terminal facilities in connection therewith;

(4) Pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities

for the storage of such materials in connection therewith;

(5) Systems for generation, transmission, and distribution of electric energy, except insofar as the Federal Power Commission has jurisdiction under the Act of June 10, 1920, as amended (16 U.S.C. 796, 797);

(6) Systems for transmission or reception of radio, television, telegraph, and other electronic signals, and other means of communication;

(7) Roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; and

(8) Such other necessary transportation or other systems which are in the public interest and which require rights-of-way over, upon, or through the Federal lands.

(b)(1) Where the surface of all of the Federal lands involved in a proposed right-of-way is under the jurisdiction of one Federal agency or department, the agency head is authorized to grant, issue, or renew the rights-of-way for the purposes set forth in section 101(a) over, upon, or through the Federal lands involved.

(2) Where the surface of the Federal lands involved is administered by two or more Federal agencies or departments, the Secretary is authorized, after consultation with the agencies or departments involved, to grant, issue, or renew rights-of-way over, upon, or through the Federal lands involved. The Secretary may enter into interagency agreements with all other Federal agencies or departments having jurisdiction over Federal lands for the purpose of avoiding duplication, assigning responsibility, expediting review of rights-of-way applications, issuing joint regulations, and assuring a decision based upon a comprehensive review of all factors involved in any right-of-way application. Each agency head shall administer and enforce the provisions of this Act, appropriate regulations, and the terms and conditions of rights-of-way insofar as they involve Federal lands under the agency head's jurisdiction.

(c)(1) Pipelines and other systems authorized under subsection (a)(1) of this section shall be constructed, operated, and maintained as common carriers. The owners or operators thereof shall accept, convey, transport, or purchase, without discrimination, oil or natural gas produced from Federal lands in the vicinity of the pipeline in such proportionate amounts as the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine to be reasonable. The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality, however, where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(2) The Secretary shall at all times be authorized whenever he has reason to believe that any such owner or operator subject to section 101(c)(1) is not operating any oil or gas pipeline in complete accord with its obligations as a common carrier hereunder, to prosecute an appropriate proceeding before the Interstate Commerce Commission or Federal Power Commission or any appropriate State agency or the United States district court for the district in which the pipeline or any part thereof is located, to enforce such obligation or to impose any penalty provided therefor or the Secretary may, by proceeding as provided in section 106 of this Act, suspend or terminate the said grant of right-of-way for noncompliance with the provisions of this section.

(3) The Secretary or agency head shall require prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose any or all plans, contracts, agreements, or other information or material he deems necessary to a determination, in accordance with the provisions of this Act, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. In the case of oil and natural gas pipelines required information may include, but is not limited to: (A) conditions for, and agreement among owners or operators regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand; (B) conditions for adding or abandoning intake or offtake points or facilities; and (C) minimum shipment or purchase tenders.

(4) If the applicant is a partnership, corporation, association, or other business entity, the Secretary or agency head prior to granting a right-of-way pursuant to this Act shall require the applicant to disclose the identity of the participants in the entity. Such disclosures shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(d) Nothing in this Act shall be deemed to limit in any way the authority of the Secretary or agency head to make grants, issue leases, licenses, or permits, or enter into contracts under other provisions of law, for purposes ancillary or complementary to the construction, operation, maintenance, or termination of any facility authorized under this Act.

REVIEW BY ATTORNEY GENERAL

SEC. 102. (a)(1) The Secretary or agency head shall not grant, issue, or renew a right-of-way, not exempted under subsection (d) of this section, until the Secretary or agency head has given the Attorney General a reasonable opportunity of not more than ninety days to comment as to whether the particular facilities, project, or activity involved with the right-of-way would tend to create or maintain a situation inconsistent with the antitrust laws. Whenever the granting, issuance, or renewal of such a right-of-way is contemplated by the Secretary or agency head he shall publish notice of the application in the Federal Register and shall transmit promptly to the Attorney General notice of the application, the probable terms or conditions thereof, and the purposes for which the right-of-way has been requested.

(2) Communications from the Attorney General to the Secretary or agency head pursuant to this subsection shall be advisory only, and the failure of the Secretary or agency head to implement any recommendation of the Attorney General hereunder shall not create a cause of legal action challenging the grant, issuance, or renewal of a right-of-way. Nor shall the advice, opinions, or recommendations hereunder operate in any manner or at any time as a defense to any legal action under the antitrust laws.

(b) Under request made by the Attorney General, the Secretary or agency head shall furnish or cause to be furnished to the Attorney General such information as the Secretary or agency head may possess, have access to, or have knowledge of, and which the Attorney General determines to be appropriate or necessary to enable him to give the advice required by this section. The Attorney General shall have full authority to obtain for any such applicant for such right-of-way all information he deems necessary by civil investigative demand under the Antitrust Civil Process Act (15 U.S.C. 1312 et seq.).

(c) The advice of the Attorney General shall be reviewed by the Secretary or agency head and made available for public inspection.

(d) The Secretary and appropriate agency heads, with the approval of the Attorney General, may exempt from any of the requirements of this subsection classes or types of grants or renewals which they determine would not have any substantive impact under the antitrust laws as specified in subsection (a) of this section.

(e) If the Attorney General determines that operations under the right-of-way may violate the antitrust laws of the United States, he may institute legal action thereunder to enjoin such violation.

(f) Nothing contained in this Act shall impair, amend, broaden, or modify any of the antitrust laws or limit or prevent the application of any such laws to any person under the provisions of this Act.

(g) As used in this section, the term "antitrust laws" includes the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; and sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended.

RIGHT-OF-WAY CORRIDORS

SEC. 103. (a) In order to minimize adverse environmental impacts and to prevent the proliferation of separate rights-of-way across Federal lands, the Secretary shall, in consultation with other Federal and State agencies review the need for a national system of transportation and utility corridors across Federal lands and submit a report of his findings and recommendations to the Congress and the President by July 1, 1975. Following such review, the Secretary shall by July 1, 1976, to the extent practical and appropriate, designate such corridors and require that rights-of-way be confined to them. In designating such corridors and in determining whether to require that rights-of-way be confined to them, the Secretary shall take into consideration National and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as part of the national system without further review.

(b) Except for rights-of-way for which the Secretary or agency head has granted exclusive use in the past, or where exclusive use is determined by the Secretary or agency head, on the basis of the criteria in section 103(a) to be necessary, the Secretary or agency head shall wherever practicable require applicants for rights-of-way under this Act to utilize rights-of-way in common. The Secretary shall, by regulation, establish standards for requiring and granting rights-of-way in common which may include requirements for compensation to an existing holder for any modification of his facilities required by the common use: Provided, That this section does not prohibit the Secretary or agency head from granting, issuing, or renewing rights-of-way prior to the promulgation of regulations.

GENERAL PROVISIONS

SEC. 104. (a) The Secretary or agency head shall specify the boundaries of each right-of-way as precisely as is practicable. Each right-of-way shall be limited to the ground which the Secretary or agency head determines: (1) will be occupied by facilities which constitute the project for which the right-of-way is given, (2) to be necessary for the operation or maintenance of the project, and (3) to be necessary to protect the environment or public safety. The Secretary or agency head may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) The Secretary or agency head shall determine the duration of each right-of-way or other authorization to be granted, issued, or renewed pursuant to this Act. In determining the duration the Secretary shall, among other things, take into consideration the cost of the facility and its useful life.

(c) Rights-of-way granted, issued, or renewed pursuant to this Act shall be given under such regulations or stipulations, in accord with the provision of this Act or any other law, and subject to such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

(d) The Secretary or agency head, prior to granting a right-of-way pursuant to this Act for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by the Secretary or agency head. The Secretary or agency head shall issue regulations or impose stipulations which shall include, but shall not be limited to: (1) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards nor applicable transmission, powerplant, and related facility siting standards established by or pursuant to law; (2) requirements designed to control or prevent (A) damage to the environment (including damage to fish and wildlife habitat), (B) damage to public or private property, and (C) hazards to public health and safety; and (3) requirements to protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes which, in the case of any right-of-way to transport Alaska North Slope oil or gas, shall include liability on the part of the permittee to any Alaska Native or Native organization for damages in connection with or resulting from use of such right-of-way, without regard to whether such damages were due to negligence on the part of the permittee. Such regulations shall be regularly revised. Such regulations shall be applicable to every right-of-way granted pursuant to this Act, and may be applicable to existing rights-of-way or rights-of-way to be renewed pursuant to this Act.

(e) Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws

(f) No right-of-way shall be issued for less than the fair market value thereof as determined by the Secretary or agency head. The Secretary or agency head may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant or holder of right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application and in inspection and monitoring of construction, operation, and termination of the facility: *Provided, however,* That rights-of-way may be granted, issued or renewed to State or local governments or agencies or instrumentalities thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, for such lesser charge as the Secretary or agency head finds equitable and in the public interest.

(g) The Secretary or agency head shall promulgate regulations specifying the extent to which holders of rights-of-way under this Act shall be liable to the United States for damage or injury incurred by the United States in connection with the right-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims arising in connection with the right-of-way.

(h) Where he deems it appropriate, the Secretary or agency head may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to the Secretary or agency head to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary.

(i) The Secretary or agency head shall grant, issue, or renew a right-of-way under this Act only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this Act.

TERMS AND CONDITIONS

SEC. 105. Each right-of-way shall contain such terms and conditions as the Secretary or agency head deems necessary to (a) carry out the purposes of this Act and rules and regulations hereunder; (b) protect the environment; (c) protect Federal property and monetary interests; (d) manage efficiently Federal lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the public lands adjacent to or traversed by said right-of-way; (e) protect lives and property; (f) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purpose; and (g) protect the public interest in the Federal lands.

SUSPENSION OR TERMINATION OF RIGHT-OF-WAY

SEC. 106. Abandonment of the right-of-way or noncompliance with any provision of this Act, condition of the right-of-way, or applicable rule or regulation of the Secretary, or agency head may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and an appropriate administrative proceeding pursuant to title 5, United States Code, section 554, the Secretary or agency head determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed upon condition, event, or time. If the Secretary or agency head determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary or agency head shall give written notice to the holder of the ground or grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with the Act, condition, rule, or regulation, as the case may be. Deliberate failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous two-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided, however,* That where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous two-year period is due to circumstances not within the holder's control the Secretary or agency head is not required to commence proceedings to suspend or terminate the right-of-way.

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

SEC. 107. (a) The Secretary or agency head may reserve for the use of any department or agency of the United States a right-of-way over, upon, or through Federal lands, subject to such terms and conditions as he may impose. The provisions of this Act shall be applicable to such rights-of-way.

(b) Where a right-of-way has been provided for the use of any department or agency of the United States, the Secretary or agency head shall take no action to terminate, or otherwise limit, that use without the consent of the head of that other department or agency.

CONVEYANCE OF LANDS

SEC. 108. If under applicable law the Secretary or agency head decides to transfer out of Federal ownership by patent, deed, or otherwise, any Federal lands covered in whole or in part by a right-of-way, the lands may be conveyed subject to the right-of-way; however, if the Secretary or agency head (where all the Federal lands involved are under the jurisdiction of one Federal agency or department) determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this Act will be carried out, the terms and conditions of the right-of-way complied with, or the Federal lands protected, he shall (1) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (2) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

EXISTING RIGHTS-OF-WAY

SEC. 109. Nothing in this Act shall have the effect of terminating any rights-of-way or rights-of-use heretofore issued, granted, or permitted by any Federal agency, and such rights-of-way or rights-of-use are hereby confirmed in accordance with their terms. However, with the consent of the holder thereof, the Secretary or agency head may cancel such a right-of-way and in its stead issue a right-of-way pursuant to the provisions of this Act.

STATE STANDARDS

SEC. 110. The Secretary or agency head shall respect State standards for right-of-way construction, operation, and maintenance if those standards are more stringent than Federal standards and if the Federal lands are adjacent to State lands.

PUBLIC PARTICIPATION

SEC. 111. The Secretary or agency head by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local government agencies and the public adequate notice and an opportunity to comment upon (1) the designation of transportation and utility corridors, and (2) right-of-way applications filed after the date of enactment of this Act.

RULES AND REGULATIONS

SEC. 112. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act: *Provided, however,* That notwithstanding any other provision of this Act, neither the Secretary nor any agency head by regulation, by stipulation or conditions for right-of-way grants or renewals, or by any other means shall use the position of the

Federal Government as landowner to accomplish, indirectly, public policy objectives unrelated to protection or use of the public lands except as expressly authorized by statute.

EFFECT ON OTHER LAWS

SEC. 113. (a) Nothing in this Act shall be construed to amend, repeal, modify, or change in any way the requirements of section 102(2)(C) or any other provision of the National Environmental Policy Act of 1969 (Public Law 91–190, 83 Stat. 852).

(b) After the date of enactment of this Act, no right-of-way for the purposes listed in the Act shall be granted, issued, or renewed over, upon, or through Federal lands except under and subject to the provisions, limitations, and conditions of this Act: *Provided*, That any application for a right-of-way filed under any other law prior to the date of enactment of this Act may, at the applicant's option, be considered as an application under this Act or the Act under which the application was filed. The Secretary or agency head may require the applicant to submit any additional information he deems necessary to comply with the requirements of this Act.

(c) Nothing in this Act shall be construed to preclude the use of Federal lands for highway purposes pursuant to sections 107 and 317 of title 23, United States Code.

LIMITATIONS ON EXPORT OF NORTH SLOPE CRUDE

SEC. 114. (a) Any crude oil produced from the geographical area in which the President is authorized to establish special national defense withdrawals by section 10(b) 339) shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1969 (Act of December 30, 1969; 83 Stat. 841) and, in addition, before any crude oil subject to this section may be exported under the limitations and licensing requirements of the Export Administration Act of 1969 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of petroleum available to the United States, and are in the national interest and are in accord with the provisions of the Export Administration Act of 1969: *Provided*, That the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a joint resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(b) Any violation of this section shall be subject to the penalty and enforcement provisions of sections 6 and 7 of the Export Administration Act of 1969.

SEC. 115. Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a), as amended by the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 92–340), is hereby amended as follows:

"(C) Rules and regulations published pursuant to subsection (7)(A) shall be effective not earlier than January 1, 1974, with respect to foreign vessels and United States-flag vessels operating in the foreign trade, unless the Secretary shall earlier establish rules and regulations consonant with international treaty, convention, or agreement, which generally address the regulation of similar topics for the protection of the marine environment. In absence of the promulgation of such rules and regulations consonant with international treaty, convention, or agreement, the Secretary shall establish an effective date not later than January 1, 1976, with respect to foreign vessels and United States-flag vessels operating in the foreign trade, for rules and regulations previously published pursuant to this subsection (7) which he then deems appropriate. Rules and regulations published pursuant to subsection (7)(A) shall be effective not later than June 30, 1974, with respect to United States-flag vessels engaged in the coastwise trade.".

SEC. 116. The Secretary of the Department in which the Coast Guard is operating is hereby directed to establish a vessel traffic control system for Prince William Sound and Valdez, Alaska, pursuant to authority contained in title I of the Ports and Waterways Safety Act of 1972 (86 Stat. 424, Public Law 92–340).

TITLE II—PIPELINES FOR ALASKA NORTH SLOPE OIL AND GAS

SEC. 200. (a) The Congress hereby finds—

(1) that the Nation faces a serious energy crisis, created in part by declining domestic production of crude oil and natural gas;

(2) that approximately twenty-four billion barrels of crude oil in place and twenty-six trillion cubic feet of natural gas reserves have been proved on the North Slope of Alaska, and that the probable reserves of that region are many times greater;

(3) that the rapidly growing volume of oil imports poses an increasingly serious threat to the national economy, to the value of the dollar, and to national security;

(4) that the exceptionally low sulfur quality of the crude oil already proved on the North Slope of Alaska can be an important asset in protecting and enhancing the Nation's environment;

(5) that the delivery of North Slope crude oil and natural gas already discovered, and the effort to discover and develop additional reserves, have been postponed by administrative delay, political controversy, and protracted litigation; and

(6) that said postponement has had, and will if prolonged, continue to have an adverse effect upon the national economy, the value of the dollar and national security.

(b) The Congress therefore declares that the following are matters of great national urgency:

(1) the early delivery of North Slope crude oil and natural gas to markets in the United States;

(2) an early resolution of administrative, political, and legal obstacles to completion and operation of an environmentally sound transportation system for delivery of North Slope crude oil and natural gas; and

(3) the most rapid action and disposition, consistent with law, by the United States courts of any litigation regarding or affecting authorization of construction and operation of pipelines for North Slope crude oil and natural gas.

SEC. 201. (a) The Congress hereby finds—

(1) That facilitating the early delivery of the oil and gas available on Alaska's North Slope to domestic markets is in the national interest.

(2) That full development and delivery of Alaska's proved and potential oil and gas may best be attained by utilizing both maritime and overland transportation systems.

(3) That while a specific proposal for the transportation of Alaska's North Slope crude oil over a route that does not traverse any foreign country is at an advanced stage, and proposals for transportation of North Slope natural gas are currently being prepared, it is nevertheless in the long term national interest to initiate early negotiations with the Canadian Government to determine the feasibility of transporting North Slope crude oil on an overland route across Canadian territory.

(4) That the purpose of the Alaska Native Claims Settlement Act was to provide for a speedy and just settlement of the claims of Alaska Natives and Native groups and delay in the construction of a pipeline for the delivery of North Slope oil will prevent timely realization of the revenue sharing benefits of the Native claims settlement.

(b) The Congress declares that it is the purpose of this title to authorize and request the President to initiate negotiations with the appropriate officials of the Government of Canada for the purposes set forth in sections 202 through 204.

SEC. 202. The President of the United States is authorized and requested, utilizing the services of the Secretary and the Secretary of State, to enter into negotiations with the appropriate officials of the Government of Canada to ascertain—

(a) the willingness of the Government of Canada to permit the construction of pipelines or other transportation systems across Canadian territory for the transport of natural gas and oil from Alaska's North Slope to markets in the United States, including the use of tankers by way of the Northwest Passage;

(b) the need for intergovernmental understandings, agreements, or treaties to protect the interests of the Governments of Canada and the United States and any party or parties involved with the construction, operation, and maintenance of pipelines or other transportation systems for the transport of such natural gas or oil;

(c) the desirability of undertaking joint studies and investigations designed to insure protection of the environment, reduce legal and regulatory uncertainty, and insure that the respective energy requirements of the people of Canada and of the United States are adequately met; and

(d) the quantity of such oil and natural gas from the North Slope of Alaska for which the Government of Canada would guarantee transit.

SEC. 203. (a) If the President, on the basis of the negotiations authorized and requested in section 202, determines—

"(1) that the Canadian Government is willing to entertain an application or applications leading to development of a transportation system for the movement of Alaska crude oil to markets in the United States; and

(2) that no technically competent and financially responsible private entity or entities have made and are actively pursuing such an application with the Canadian Government;

the President is authorized and requested to direct the appropriate Federal departments and agencies to initiate and undertake, or to collaborate with appropriate Canadian governmental agencies and responsible private entities in such studies, negotiations, engineering design, and consultations as are necessary to the preparation of an application to the Canadian Government and to enter into specific negotiations concerning the authorization of construction, certification, and regulation of such a transportation system.

SEC. 204. The Secretary shall, within one year of the effective date of this Act, report to the Committees on Interior and Insular Affairs of the House and Senate regarding the actions taken and progress achieved under this title, together with his recommendations for further action.

SEC. 205. The Congress finds that the trans-Alaska pipeline from the standpoint of time, is the most feasible means to transport Alaska's North Slope crude oil to domestic markets because it could be on stream two to six years earlier than a comparable overland pipeline across Canada and that the trans-Canada route negotiations authorized by this title refer to a subsequent, but not alternative, project for the transportation of Alaska's potential crude oil reserves.

SEC. 206. This title shall not be construed to reflect a determination of the Congress regarding the relative merits of alternative transportation systems for North Slope crude oil or regarding the merits or legality of a grant by the Secretary of a right-of-way to construct a crude oil pipeline within Alaska from the vicinity of Prudhoe Bay to Valdez, nor to prohibit such a grant, nor to require that the Secretary in the execution of any of his statutory duties await the results of the negotiations with the Canadian Government provided for in this title before making such a grant.

SEC. 207. (a) The Congress realizes that the delay in construction of a pipeline to transport North Slope crude oil will delay payment into the Alaska Native Fund of revenues resulting from the revenue sharing scheme provided by section 9 of the Alaska Native Claims Settlement Act (Act of December 18, 1971, 85 Stat. 688), and the Congress therefore authorizes a sum of $7,500,000 to be paid from the United States Treasury into the Alaska Native Fund every six months of each fiscal year beginning with the fiscal year ending June 30, 1975, as advance payments against the revenues to be received under section 9 of the Alaska Native Claims Settlement Act, until such time as the delivery of North Slope crude oil to a pipeline is commenced: *Provided,* That if such delivery has not commenced by December 31, 1976, such payments shall not be deemed advance payments under this section for purposes of section 9 of the Alaska Native Claims Settlement Act, as amended.

(b) Section 9 of the Alaska Native Claims Settlement Act is amended by striking the language in subsection (g) thereof and substituting the following language: "The payments required by this section shall continue only until a sum of $500,000,000 has been paid into the Alaska Native Fund less the total of advance payments paid into the Alaska Native Fund pursuant to section 207 (a) of the Federal Lands Right-of-Way Act of 1973. Thereafter, payments which would otherwise go into the Alaska Native Fund will be made to the United States Treasury as reimbursement for the advance payments authorized by section 207(a) of the Federal Lands Right-of-Way Act of 1973. The provisions of this section shall no longer apply, and the reservation required in patents under this section shall be of no further force and effect, after a total sum of $500,000,000 has been paid to the Alaska Native Fund and to the United States Treasury pursuant to this subsection.".

SEC. 208. Such funds are hereby authorized to be appropriated as are necessary to implement the provisions of this title.

TITLE III—SUBPENA AND INJUNCTIVE RELIEF

FINDINGS

SEC. 301. (a) The Congress hereby finds that the investigative and law enforcement responsibilities of the Federal Trade Commission have been restricted and hampered because of inadequate legal authority to enforce subpenas and to seek preliminary injunctive relief to avoid unfair competitive practices.

(b) The Congress further finds that as a direct result of this inadequate legal authority significant delays have occurred in a major investigation into the legality of the structure, conduct, and activities of the petroleum industry, as well as in other major investigations designed to protect the public interest.

PURPOSE

SEC. 302. It is the purpose of this Act to grant the Federal Trade Commission the requisite authority to insure prompt enforcement of the laws the Commission administers by granting statutory authority to directly enforce subpenas issued by the Commission and to seek preliminary injunctive relief to avoid unfair competitive practices.

SEC. 303. Section 5(l) of the Federal Trade Commission Act (15 U.S.C. 45(l)) is amended by striking subsection (l) and inserting in lieu thereof the following new paragraph:

"(l) Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the Attorney General of the United States or by the Commission in its own name by any of its attorneys designated by it for such purpose. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure to obey or neglect to obey a final order of the Commission, each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission."

SEC. 304. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

"(m) Whenever in any civil proceeding involving this Act the Commission is authorized or required to appear in a court of the United States, or to be represented therein by the Attorney General of the United States, the Commission may elect to appear in its own name by any of its attorneys designated by it for such purpose."

SEC. 305. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end thereof the following proviso: *"Provided,* That the exception of 'banks and common carriers subject to the Act to regulate commerce' from the Commission's powers defined in clauses (a) and (b) of this section, shall not be construed to limit the Commission's authority to gather and compile information, to investigate, or to require reports or answers from any such corporation to the extent that such action is necessary to the investigation of any corporation, group of corporations, or industry which is not engaged or is engaged only incidentally in banking or in business as a common carrier subject to the Act to regulate commerce."

SEC. 306. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating "(b)" as "(c)" and inserting the following new subsection:

"(b) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is violating, or is about to violate, any provision of law enforced by the Federal Trade Commission, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission made thereon has become final, would be in the interest of the public—the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon a proper showing that such action would be in the public interest, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond: *Provided, however,* That if a complaint is not filed within such period as may be specified by the court after issuance of the temporary restraining order or preliminary injunction, the order or injunction may be dissolved by the court and be of no further force and effect: *Provided further,* That in proper cases the Commission may seek, and, after proper proof, the court may issue a permanent injunction. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

SEC. 307. Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended to read as follows:

"SEC. 16. Whenever the Federal Trade Commission has reason to believe that any person, partnership, or corporation is liable to a penalty under section 14 or under subsection (l) of section 5 of this Act, it shall—

"(a) certify the facts to the Attorney General, whose duty it shall be to cause appropriate proceedings to be brought for the enforcement of the provisions of such section or subsection; or

"(b) itself cause such appropriate proceedings to be brought."

SEC. 308. (a) Section 3502 of title 44, United States Code is amended by inserting in the first paragraph defining "Federal agency" after the words "the General Accounting Office" and before the words "nor the governments" the words "independent Federal regulatory agencies,".

(b) Chapter 25 of title 44, United States Code, is amended by adding after section 3511 the following new section:

"§ 3512. Information for independent regulatory agencies.

"(a) the Comptroller General of the United States shall review the collection of information required by independent Federal regulatory agencies described in section 3502 of this chapter to assure that information required by such agencies is obtained with a minimum burden upon business enterprises, especially small business enterprises, and other perons required to furnish the information. Unnecessary duplication of efforts in obtaining information already filed with other Federal agencies or departments through the use of reports, questionnaires, and other methods shall be eliminated as rapidly as practicable. Information collected and tabulated by an independent regulatory agency shall, as far as is expedient, be tabulated in a manner to maximize the usefulness of the information to other Federal agencies and the public.

"(b) In carrying out the policy of this section, the Comptroller General shall review all existing information gathering practices of independent regulatory agencies as well as requests for additional information with a view toward—

"(1) avoiding duplication of efforts by independent regulatory agencies, and

"(2) minimizing the compliance burden on business enterprises and other persons.

"(c) In complying with this section, an independent regulatory agency shall not conduct or sponsor the collection of information upon identical item, from ten or more persons, other than Federal employees, unless, in advance of adoption or revision of any plans or forms to be used in the collection—

"(1) the agency submitted to the Comptroller General the plans or forms, together with the copies of pertinent regulations and of other related materials as the Comptroller General has specified; and

"(2) the Comptroller General has advised that the information is not presently available to the independent agency from another source within the Federal Government and has determined that the proposed plans or forms are consistent with the provision of this section. The Comptroller General shall maintain facilities for carrying out the purposes of this section and shall render such advice to the requestive independent regulatory agency within forty-five days.

"(d) While the Comptroller shall determine the availability from other Federal sources of the information sought and the appropriateness of the forms for collecting such information, the independent regulatory agency shall make the final determination as to the necessity of the information in carrying out its statutory responsibilities and whether to collect such information. If no advice is received from the Comptroller General within forty-five days, the independent regulatory agency may immediately proceed to obtain such information.

"(e) Section 3508(a) of this chapter dealing with unlawful disclosure of information shall apply to the use of information by independent regulatory agencies.

"(f) The Comptroller General may promulgate rules and regulations necessary to carry out this chapter."

TITLE IV—EQUITABLE ALLOCATION OF CRUDE OIL AND PETROLEUM PRODUCTS BETWEEN REGIONS OF THE COUNTRY AND THE SEVERAL STATES

SEC. 401. (a) The President is authorized and directed to monitor the availability of crude oil and petroleum products to satisfy the fuel requirement of all regions of the country and of all of the several States. If the President determines that any region or any State is experiencing a shortage of crude oil or petroleum products while at the same time other regions or States are enjoying a surplus, the President is authorized and directed to take any action necessary to insure an equitable allocation of available crude oil and petroleum products among all regions and all of the several States.

(b) In implementing subsection (a) the President shall consider all current and prospective sources of crude oil and petroleum products supply, including but not limited to production from Alaska, the Outer Continental Shelf, the contiguous States, synthetic fuels, opportunities for fuel substitution and conservaton, as well as imports of crude oil or petroleum product from foreign sources.

(c) Whenever the President determines pursuant to subsection (a) that an imbalance in the availability of crude oil or petroleum products exists between regions of the country or between any of the States, he is authorized to take any action necessary to insure an equitable allocation of available crude oil and petroleum products. Such action may include, but is not limited to, direct mandatory allocations of available crude oil and petroleum product supplies; adding additional capacity to existing pipelines; requiring that the flow of existing pipelines be reversed; and directing tankers on the high seas to specified ports of entry.

(d) The President shall furnish the Congress with a report every three months on the availability of sufficient fuel supplies to meet the requirements of all regions and all States. This report shall also contain a summary of any actions that the President has taken under this section, recommendations for any legislation which may be needed to achieve the purposes of this section, and a statement of actions taken by the executive branch to increase the supply of and to reduce the demand for crude oil and petroleum products. This statement on supply and demand shall include actions taken and projected plans concerning energy research and development, adequacy of refinery capacity and transportation systems, the development of synthetic fuel plants, leasing on the Federal lands including the Outer Continental Shelf, the establishment of strategic reserves, and agreements with other nations on the security and expansion of fuel supply.

(e) The President is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this section.

(f) The President may delegate all or any portion of the authority granted under this Act to the head of any Federal agency he deems appropriate.

(g) There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

TITLE V—AUTHORIZATION FOR TRANS-ALASKAN PIPELINE

SHORT TITLE

SEC. 501. This title may be cited as the "Trans-Alaskan Pipeline Authorization Act".

CONGRESSIONAL FINDINGS

SEC. 502. The Congress finds and declares that:

(a) The early delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest.

(b) Transportation of oil by pipeline from the North Slope to Valdez, and by tanker from Valdez to domestic markets, will best serve the immediate national interest.

(c) A supplemental pipeline to connect the North Slope with a trans-Canadian pipeline may be needed later and it should be studied now, but it should not be regarded as a substitute for a trans-Alaskan pipeline that does not traverse a foreign country.

(d) Actions of the Secretary of the Interior and all other Federal agencies and officers heretofore taken on behalf of the executive branch with respect to the proposed trans-Alaska oil pipeline shall be regarded as satisfactory compliance with the provisions of the National Environmental Policy Act of 1969 and all other applicable laws.

RIGHTS-OF-WAY AND PERMITS

SEC. 503. (a) The Congress hereby grants and the Secretary of the Interior and all other Federal agencies and officers are hereby authorized and directed to issue, without further action under the National Environmental Policy Act of 1969 or any other law, and notwithstanding the provisions of any law other than this title, such rights-of-way, leases, permits, approvals, and other authorizations of any kind that they deem necessary for the construction, operation, and maintenance of a trans-Alaskan oil pipeline system, a State of Alaska highway, and no more than three State of Alaska airports, all in accord with applications on file with the Secretary on the date of this Act.

(b) The route of the trans-Alaskan oil pipeline system shall follow generally the route described in applications pending before the Secretary of the Interior on the date of this Act: *Provided*, That the Secretary may approve amendments to said applications if he deems it appropriate.

(c) At any time he complies with the Act by performing the ministerial acts of issuing a right-of-way, lease, permit, approval, or other authorization required under subsection (a) of this section, the Secretary shall make such action subject to the terms and conditions of the stipulations contained in volume 1 of the final Environmental Impact Statement on the proposed trans-Alaskan pipeline issued by the Secretary on March 20, 1972, prepared by him to prevent or mitigate any adverse environmental impact and to the terms and conditions of the stipulation identified at page 43 of Senate Report 93–207, Ninety-third Congress, first session.

(d) No right-of-way, permit, or other form of authorization which may be issued; nor any other action taken by the Secretary of the Interior or by any other Federal agency with respect to the construction of such pipeline system; no public land order or other Federal authorization with respect to the construction of such highway; nor any lease or permit granted by the Secretary of the Interior for such airports shall be subject to judicial review.

PUBLIC ROADS AND AIRPORTS

SEC. 504. A right-of-way or permit granted under this title for a road or airport as a related facility of the trans-Alaskan pipeline system may provide for the construction of a public road or airport.

ANTITRUST LAWS

SEC. 505. The grant of a right-of-way, lease, permit, approval, or other authorization pursuant to this Act shall grant no immunity from the operation of the Federal antitrust laws.

TITLE VI—MISCELLANEOUS

CONFIRMATION OF THE DIRECTOR OF THE ENERGY POLICY OFFICE

SEC. 601. That, effective on the day after the date of enactment of this Act, the Director of the Energy Policy Office in the Executive Office of the President, shall be appointed by the President, by and with the advice and consent of the Senate, and any individual nominated for such position may act unless such nomination shall be disapproved by the Senate.

CONFIRMATION OF THE HEAD OF THE MINING ENFORCEMENT AND SAFETY ADMINISTRATION

SEC. 602. That the head of the Mining Enforcement and Safety Administration established pursuant to Order Numbered 2953 of the Secretary of the Interior issued in accordance with the authority provided by section 2 of Reorganization Plan Numbered 3 of 1950 (64 Stat. 1262), shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

EXEMPTION OF FIRST SALE OF CRUDE OIL AND NATURAL GAS OF CERTAIN LEASES FROM PRICE RESTRAINTS AND ALLOCATION PROGRAMS

SEC. 603. (a) The first sale of crude oil and natural gas liquids produced from any lease whose average daily production of such substances does not exceed ten barrels per well shall not be subject to price restraints established pursuant to the Economic Stabilization Act of 1970, as amended, or to any allocation program for fuels or petroleum established pursuant to that Act or to any Federal law for the allocation of fuels or petroleum.

(b) The agency designated by the President or by law to implement any such fuels or petroleum allocation program shall promulgate and cause to be published regulations implementing the provisions of this section.

SEPARABILITY

SEC. 604. If any provision of this Act or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY FOR SECRETARY OF SENATE TO MAKE CLERICAL CORRECTIONS IN THE ENGROSSMENT OF S. 1081

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and other corrections in the engrossment of S. 1081, and that the bill be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FANNIN. Mr. President, I wish to congratulate the distinguished floor manager and chairman of the committee on his leadership in the handling of this very important legislation. He is to be commended for his insight into our national energy crisis and his efforts to provide some relief from that crisis in the form of this legislation.

Also to be praised for his long and diligent efforts is my good friend from Wyoming who has worked hard in committee and on the floor on his legislation.

The two distinguished Senators from Alaska deserve much praise and credit for their tireless work on this legislation. I remember well how my friend Senator STEVENS attended virtually every executive session in which the committee was considering this bill and how helpful and constructive his comments were to the committee. He has also been on the floor for nearly every minute of debate where he presented his arguments so forcefully and persuasively and was so responsive to the questions of his fellow Senators.

Mr. President, I would like to applaud my colleagues who voted for this important and vitally necessary legislation. It is my hope that the trans-Alaska pipeline may soon become a reality.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HASKELL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 3733. An act to authorize the American Battle Monuments Commission to assume control of overseas war memorials erected by private persons and non-Federal and foreign agencies and to demolish such war memorials in certain instances;

H.R. 8528. An act to provide for increasing the amount of interest paid on the permanent fund of the United States Soldiers' and Airmen's Home; and

H. R. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 2323. An act to continue until the close of June 30, 1974, the suspension of duties on certain forms of copper;

H.R. 2324. An act to continue until the close of June 30, 1975, the existing suspension of duties for metal scrap; and

H.R. 6394. An act to suspend the duty on caprolactam monomer in water solution until the close of December 31, 1973.

The ACTING PRESIDENT pro tempore (Mr. METCALF) subsequently signed the enrolled bills.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 3733. Ant act to authorize the American Battle Monuments Commission to assume control of overseas war memorials erected by private persons and non-Federal and foreign agencies and to demolish such war memorials in certain instances. Referred to the Committee on Interior and Insular Affairs.

H.R. 8528. An act to provide for increasing the amount of interest paid on the permanent fund of the United States Soldiers' and Airmen's Home. Referred to the Committee on Armed Services.

H.R. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina. Referred to the Committee on Agriculture and Forestry.

MANDATORY ALLOCATIONS NOW OR HOME HEATING OIL SHORTAGES LATER

Mr. McINTYRE. Mr. President, the French aristocracy of the 18th century has been recorded in history as a group who remembered everything but learned nothing. This depiction apparently describes the attitude that the present administration is taking with regard to our energy and fuel oil problems.

It is particularly distressing to me to have to stand on the floor of the Senate and make the dire prediction that unless immediate action is taken that this country will experience a heating oil shortage this winter of frightening magnitude. This prediction is based on fact. I have no crystal ball, fortune telling cards, or other supernatural device—I simply have the same facts that the officials in charge of our national energy policy have.

This is not the first time that I have made such an unpleasant prediction. I can assure you, Mr. President, that doing so, in my opinion, is only a sad commentary on this administration's failure to open its eyes and recognize what is happening.

I, for one, would have thought that after last winter's experience that the mistakes made by the White House would not be repeated. It is becoming increasingly more obvious that our Federal oil policy officials either forgot what happened last winter or like the French aristocrats remember but learned nothing.

To refresh the recollection of those who have forgotten, large sections of this country, particularly east of the Rocky Mountains, experienced severe supply problems with regard to home heating oil this past January and February.

In view of the obvious fact that these shortages would continue unless decisive action at the Federal level was taken, I offered an amendment to the extension of the Economic Stabilization Act which was accepted by the Senate Banking Committee and was contained in the legislation signed by the President. The amendment I refer to was sponsored by Senator EAGLETON and myself and provided the President with the authority to allocate petroleum products.

In April of this year, shortages of gasoline developed throughout the United States and a number of Members of Congress at that time urged the President to exercise the authority granted to him in the Economic Stabilization Act and establish an allocation procedure for petroleum products. This advice, however, was not heeded, and it was not until May 10, while testifying before hearings held by the full Banking Committee and the Chairman of the President's Oil Policy Committee, Secretary Simon, finally announced the establishment of a voluntary—and I repeat—voluntary—allocation procedure for petroleum products.

While this action was certainly necessary and while we all hoped that a voluntary procedure would be sufficient, it soon became apparent that unless the allocation program was made mandatory that various segments of the oil industry would refuse to comply.

Because of the obvious failure of this voluntary program, the Senate on June 5 passed and sent to the House mandatory petroleum product allocation legislation.

Because of the urgency of the situation I wrote on June 22 to the Chairman of the President's Oil Policy Committee urging him to immediately implement a mandatory allocation procedure under the authority contained in the Economic Stabilization Act.

On June 28, Secretary Simon responded to my letter and I quote:

> We, too, feel that the program is not working as effectively as it should and are now drafting a mandatory program to take its place.

Needless to say, the Secretary's letter was well received by both myself and other Members of Congress who for some time had urged that the voluntary system be replaced by a mandatory one.

The day after I received Secretary Simon's letter, however, President Nixon appointed Governor John A. Love as the Director of the newly created Energy Policy Office, and Governor Love's first public statement after being appointed to that position was that he was personally opposed to the mandatory allocation of petroleum products. I find it difficult to comprehend the line of reasoning that would justify such a position in view of the established facts.

The danger in such reasoning, I fear, is based upon the supply situation with regard to only one petroleum product, mainly, gasoline. It is becoming increasingly more apparent by the day, however, that, while this country may well be spared a gasoline shortage this summer, heating oil shortages varying in magnitude in different sections of the country will develop during the winter of 1973–74.

Of extreme concern to me is the fact that the refining segment of the petroleum industry is meeting the demand for gasoline this summer at the expense of home heating oil supplies that will be so critically needed this winter. In a letter that I wrote to Governor Love today, I emphasized that unless a decision is made within the next few days to replace the present voluntary allocation procedure with a mandatory one that the chances of having sufficient home heating oil stocks to meet this winter's demand will be impossible.

A gasoline shortage as it relates to the average consumer is a question of possible inconvenience resulting from the limited use of personal automobiles. Home heating oil shortages, however, from a consumer's standpoint bring into play such factors above and beyond convenience, such as, health and safety.

Under the present voluntary allocation program, the Federal Government has the power to urge—and I repeat urge—the petroleum industry to follow a certain procedure but cannot require action. If the refining segment of the petroleum industry does not shift its present emphasis from gasoline production to home heating oil production during the next few weeks, then severe heating oil shortages will develop this winter. I base this statement on the following evidence.

In June of this year, Shell Oil Co. prepared an excellent report entitled "The National Energy Problem—the Short-Term Supply Prospect." In this report, Shell Oil Co. stated that:

> It is easy to see that there is a real danger of fuel shortages next winter if for any reason output falters or consumption rises more than expected.

The report goes on to state that demand for distillate oil east of the Rocky Mountains increased at the phenomenal rate of 10.2 percent in 1972 as compared to a 3.9-percent increase in demand for 1971. Distillate stock figures prepared by the American Petroleum Institute for the week ending June 29 show that on that date in 1971 total U.S. stocks for distillate fuel oil were 149.4 million barrels; on the same date in 1972, 129.3 million barrels; and for the week ending June 29, 1973, 139 million barrels. With regard to petroleum district I, the entire east coast of the United States, stocks of distillate fuel oil on June 29, 1971, were 67.6 million barrels; for the same period in 1972, 50.7 million barrels; and on June 29, 1973, 52.2 million barrels.

It is obvious from these figures that unless immediate action is taken to increase home heating oil production that shortages of this essential product will develop this winter. As of June 29 of this year total U.S. stocks of distillate fuel oil were 10.4 million barrels less than at the same time in 1971 and during the last 24 months demand for this product has increased substantially.

In a recent statement issued by the president of Northeast Petroleum Industries, Inc., of Boston, Mass., Mr. John Kanab, stated that the Northeast part of the United States faces a fuel oil catastrophe this winter unless refined products are allocated on a mandatory basis.

A recently released survey made by the Independent Fuel Terminal Operators Association which serves 25 percent of the consumers along the east coast and 40 percent in New England shows that of a total distillate fuel oil storage capacity of 14 million barrels that this association's members had on hand as of June 1, 1973 less than 1.1 million barrels of this product as compared to 3.1 million at the same time in 1971 and 1972.

I feel that unless corrective action is taken immediately a heating oil shortage of crippling magnitude will develop this winter. Only through the establishment of mandatory allocation procedures will the government be able to handle a situation of this proportion. The crucial problem is that each day of delay only makes my dire prediction that much more of a reality.

It will be impossible in October or November to take the actions necessary to avert serious shortages. Those actions must begin immediately and they must be of a mandatory rather than a voluntary nature. If the refining segment of the petroleum industry is not required before the first of August of this year to shift from maximum gasoline production to maximum distillate production the shortages that were experienced particularly in the upper and far Midwest last winter will be greatly magnified during the upcoming winter.

Mr. President, in closing, I request unanimous consent that the correspondence I refer to in my statement be included in the RECORD along with articles appearing in the July 16, 1973 issue of Oilgram entitled "Fuel Shortage Problems Worsening, Interior Says" and the Oil Daily entitled "Northeast Fuel Crisis Seen if Mandatory Controls Are Nixed."

There being no objection, the letters and articles were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 22, 1973.

HON. WILLIAM E. SIMON,
Deputy Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR BILL: I am extremely concerned about information I have recently received regarding several possible changes that are being contemplated at the present time by the Oil Policy Committee in connection with the petroleum allocation program.

During the first few weeks after your announcement of the voluntary allocation program, there were hopeful signs that the program would be successful. At first a number of refiners indicated to both of us their willingness to cooperate, and your quick actions in issuing regulations and establishing an administrative structure was, in my opinion, a clear indication of the willingness of the Administration to assure that the voluntary program would be workable.

The initial promises of cooperation given by a number of refiners, however, have not been followed up by cooperative action. A large number of independent marketers, both branded and unbranded, still are receiving a lack of commitment by their suppliers to live up to the spirit of the program. While there have been a number of signs of a spirit of cooperation by several major companies, this has been overshadowed by a continuing effort by several companies to thwart, delay, and diminish the effectiveness of the program you announced on May 10, 1973.

Numerous independent marketers are still continuing to go out of business solely because of a lack of supply of gasoline and other petroleum products. In the way of an example of this, I have recently received information indicating that stocks of No. 2 fuel oil currently held by independent marketers in New England represent 50% of what they had on hand during the same period in 1971.

The Office of Oil and Gas in the Department of the Interior has also shown little disposition to enforce the regulations issued by your office, and a shortage of staff and funds has apparently contributed to their inability to handle the present situation. As I understand it, there are presently pending before the Office of Oil and Gas in the neighborhood of 2,000 complaints concerning gasoline supply and that this number is continually increasing.

A further complicating factor is the position taken by several major companies in refusing to comply fully with the voluntary program.

I have been informed that these facts have convinced you that a mandatory oil allocation program must be established in the next few weeks, and I commend and support that decision. I am deeply concerned, however, with reports I have received that the Oil Policy Committee is giving serious consideration to changing the basic structure of the program in a manner in which I am convinced will have a very serious detrimental impact both to the marketing segment of the industry and the consumer.

I understand that you are considering implementing a mandatory allocation program that will, among other things, change the present base period from October 1, 1971 through September 30, 1972 to calendar year 1972, and also redefine the eligibility requirements under the program so that only those marketers purchasing from their supplier on or after April 1, 1973 would be covered under the allocation base period.

I am convinced that if you make these two changes the program will be disastrous. Any mandatory program, if it is to be successful, must be a logical extension of the voluntary allocation system. If the new program is a radical departure from the current one, it will be used by the major suppliers as another excuse to postpone compliance.

I can promise you right now that if you change the allocation base period and redefine by setting a cut-off date who will be eligible for allocations that the same companies who are urging this action now will be the ones to use these changes as an excuse for the destruction of thousands of independent marketers. It is apparent that a number of refiners are attempting to delay and postpone the effective implementation of any workable allocation system. If basic changes in the present program are made, it will only result in more uncertainty and less compliance and more delay.

I am sure that you have been told by a number of representatives of major integrated companies that the present base period for allocations is either unreasonable or difficult to comply with. However, there is great justification in the base period you originally chose in that it was the last period in which so-called normal marketing practices were in evidence. In fact, there was sufficient justification for the base period originally chosen by the Oil Policy Committee to convince the Senate to adopt that same period in S. 1570. One of the major changes in that legislation was a shift of the base period to conform to the voluntary program. This was consciously done so as to avoid any confusion, delay, or non-compliance based on the excuse that a change in the allocation base period required a time period for the industry to readjust.

I also understand that you have recently stated that you are considering the possibility of even eliminating any base period. Such a step in my opinion would be totally unworkable in that it would create chaos in the market-place, destroy confidence in the program, and result in serious competitive injury. A base period is essential to the workability of the allocation program, and it is also essential that after six weeks of operation that the original base period not be changed.

I appreciate and understand your expressed desire to adopt an allocation system which minimizes the Federal government's role. I am firmly convinced, however, that any allocation system not having a base period will be an administrative nightmare that will prove totally unworkable.

Or just as serious concern is the question of establishing a cut-off date relieving refiners from the obligation to supply marketers even though they were purchasing during the base period. As I understand it, serious consideration is now being given by the Oil Policy Committee of establishing an eligibility requirement wherein only those marketers purchasing product as of April 1, 1973 would receive product as entitled under the base period. Action such as this is incomprehensible.

The destruction to competition as a result of such action is immeasurable. What you are doing in attempting such an approach is such a clear and blatant favoritism to the refining segment of the industry that I find it difficult to even believe that such a course of action is even being seriously contemplated.

The major producers in this country had every reason to realize as early as 1970 that serious supply problems would develop. In August of 1971, the Department of the Interior issued a study on refining capacity in this country clearly documenting the fact that we were developing an enormous deficiency.

In September of 1971, I held hearings on the question of refining capacity, the adequacy of supplies of heating oil, and on the Mandatory Oil Import Quota System. That hearing record documents the fact that there are a number of knowledgeable oil experts in this country and one Senator, having no detailed background on the oil industry, who realized that product shortages would develop in the near future.

In April of last year, I wrote to the Director of the Office of Emergency Preparedness indicating then that fuel oil shortages would develop during the 1972–1973 heating season. And, in fact, it is becoming increasingly more apparent now that the heating oil shortages we *will* experience during the 1973–1974 heating season will be substantially more severe than last. The point is the refining segment of the industry had knowledge of the impending shortages several years ago and, in anticipation of these shortages, began canceling large numbers of petroleum product contracts as early as last fall.

The designation of the April 1, 1973 date is no mere coincidence. I am sure that any cursory investigation will show that many large heating oil contracts in this country expired on March 31 of this year. Also, during this period, a number of major suppliers were withdrawing from several marketing territories and retrenching in others.

If you adopt a cut-off date such as April 1, 1973, this single act will encourage more concentration in this country's domestic petroleum industry than all other Federal policies combined. Our lack of Federal antitrust enforcement with regard to the petroleum industry is a national disgrace. The Oil Import Quota System has now been proven to be a failure almost from the beginning, and, if the Federal government now establishes an allocation program with a safety valve provision such as an April 1, 1973 cutoff date, our present petroleum marketing system will be totally unrecognizable within the next few years.

I cannot emphasize too strongly my feelings with regard to this contemplated action.

In closing, I can only add a personal word of commendation to you for your past actions as Chairman of the President's Oil Policy Committee, and I am sure that when you examine the impact of changing an already established allocation base period and the possibility of a cut-off date that you will agree that these two actions are neither justifiable nor in the public interest.

Sincerely,

THOMAS J. MCINTYRE, U.S.S.,
Chairman, Subcommittee on Financial Institutions.

THE DEPUTY SECRETARY OF THE TREASURY,
Washington, D.C. June 28, 1973.

Hon. THOMAS J. MCINTYRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Thank you for your letter of June 22, 1973. I will be out of town for several days and wanted to respond to your letter as soon as possible. For this reason, I am having this letter hand delivered to you.

I recognize your concern about the operation of the voluntary allocation program. We, too, feel that the program is not working as effectively as it should and are now drafting a mandatory program to take its place. This mandatory program will draw upon our experiences with the voluntary program, as well as the Hearings that were held two weeks ago. Surprisingly, many of the major oil companies have favored a mandatory program, while some independents prefer to keep the program voluntary.

One reason why some refiners have not been able to comply with the voluntary program for the allocation of products is the shortage of low sulfur crude oil. This appears to be a critical bottleneck. Many of the smaller, independent refiners have been unable to obtain low sulfur crude oil, which they must have if they are to operate. A mandatory allocation program will help. However, it will not increase total output, and may actually reduce output. The Nation is faced with a serious shortage of low sulfur crude oil and until we do something about relaxing air quality standards, or slowing the implementation of these standards, this shortage will continue.

The Office of Oil and Gas has very literally been deluged with complaints. It is impossible to start up overnight a major undertaking like the allocation program. It will take time to create the administrative apparatus required by an allocation program, whether it is voluntary or mandatory.

Let me turn to our current plans for modifying the program. Please bear in mind that what I say is subject to change.

It is clear that one of the basic problems with which we are faced concerns the appropriate base period. A base period relatively distant in the past will assure an adequate level of crude oil and product to the independent segment of the industry. However, at the same time, it causes extraordinary administrative difficulties. There are many instances where, for example, retail outlets which sold the product of one major oil company are now selling the products of another. To require producers to go back to a distant period to re-establish out-of-date supply relationships could create administrative chaos. This is one reason why several major oil companies have refused to adhere to the voluntary allocation program.

In our current thinking, we have tried to resolve this problem by defining two base periods. First, the base period which shall determine the amount of product supplied to marketers and wholesale customers not affiliated with the major oil companies would be the Calendar Year 1972, and not the last quarter of 1971 and the first three quarters of 1972 specified in the voluntary program. We have made this change for several reasons. Most oil companies, whether majors or independents, have used the calendar year for bookkeeping purposes. Moreover, most companies have chosen to use the calendar year rather than the slightly different period specified in the voluntary program.

Use of the calendar year would involve minimal change from what actually has taken place. It would also involve minimal delay in implementing the mandatory program. There will, however, be a major difference in the way the allocation programs of the major oil companies will operate. Instead of curtailing the 1972 allocations of major company outlets by, let us say, 10 percent and the 1972 allocations of the independent outlets by 80 to 100 percent, the major companies will now be required to curtail evenly across the board. I cannot stress too strongly, however, that use of the 1972 base period rather than the 1971–1972 base period specified in the voluntary program is an essential improvement in the program. It enables the program to better reflect industry practices.

The 1972 base period will determine the level of allocation for independent marketers and other consumers not associated with the major oil companies. We are also considering another base period that would determine which suppliers would be responsible for distributing products to marketers. The date which we have chosen tentatively is March 1973, not April or the period following April which you mention in your letter. In fact, at no time have we considered a post March period precisely for the reason you mention—after April 1, a number of long standing contractual relationships were suspended.

Companies which supplied a particular marketer in March 1973 will be required to continue to supply that marketer for the duration of the allocation program and at levels equivalent to 1972 purchases. It is important to choose as late a date as possible for determining supplier-consumer relationships in order to avoid widespread disruption in the industry.

In addition, we are expanding our list of priorities to include those marketers, distributors, jobbers, and other non-affiliated purchasers who, for some reason, are inadequately supplied under the allocation program. If it turns out that a particular marketer had no supplier in March 1973, he will be able to apply to the Office of Oil and Gas for a priority allocation.

This, in a nutshell, is the program we are considering at present. I hope that this description removes some confusion about the proposed program.

Let me address myself to another matter. Allocation will not solve our nation's energy problems over the long run. In allocating crude oil and product, we have a situation not unlike the passengers on a sinking ship fighting for top position on the mast head. Unless we increase production, we shall all sink sooner or later. This is why it is so important that the Administration and Congress work together to solve the long-run difficulties, particularly the shortfall in production of oil and gas, with which our nation is faced.

As you know, during the past two months there have been a number of announcements by major and independent oil companies of plans to build new refineries or to expand existing refineries. Unfortunately, several recent developments may jeopardize some of these plans. One of these developments is proposed legislation that would require divestiture by integrated oil companies of their marketing operations. This legislation is particularly likely to cause difficulties in New England where a number of independent marketers now plan to build refineries, in effect becoming integrated oil companies. We have received an expression of deep concern from one of these marketers that this legislation would, in effect, prevent him from entering the refinery business. I would hope that the Congress would consider carefully the adverse impact that such legislation would have on needed expansion of the industry.

In closing, let me restate my firm conviction that the independent segment of the industry must be preserved and that an allocation program must be established, whether voluntary or mandatory, that assures that this segment of the industry obtains the crude oil and products that it needs. Let me also restate my firm conviction that allocation alone is not the answer. We must expand our output of crude oil and products, as well as all other energy sources, if we are to supply the energy needs of the country, and we should not act in ways that may redistribute oil in the short-run, but which will worsen the oil shortages that now confront the nation.

Sincerely,

William E. Simon.

[From Oilgram, July 16, 1973]

Fuel Shortage Problems Worsening, Interior Says

Washington July 15.—Latest assessments of nationwide fuel supply situation by Interior Dept.'s Office of Oil & Gas indicate that fuel shortages are continuing to worsen in most geographic and user categories, but that growth rate of shortages seems to be slowing.

Oil & Gas office also reports there is strong possibility of serious shortages developing this winter in supplies of heating oil and diesel and aviation fuels.

Voluntary petroleum allocation program national office has 2,063 active cases of customer complaints on file, broken down as 1,221 gasoline, 583 diesel, 121 heating oil, 100 propane, 9 crude, 11 natural gas and 18 miscellaneous.

Profile of complaints according to users, OOG says, shows 990 are independent retailers, 545 agricultural, 239 transportation, 168 governmental and 121 industrial.

States currently most affected by shortages are Colorado, Illinois, Iowa, Kansas, Missouri, Nebraska, New York, New Jersey, North Carolina, Pennsylvania and Texas, office says.

OOG summaries of regional supply situations are as follows:

Northeast—Independent operators continue to be "seriously affected" by gasoline shortage. Most complaints in area are based on refusals of suppliers to renew contracts. Prices of 50¢/gal for gasoline are reported in some areas.

Southeast—General shortages are reported for No. 2 fuel oil and propane. Natural gas curtailments are widespread, placing pressure on fuel oil supplies.

Midwest—This is worst area of country with respect to fuel shortages. OOG regional office reports "great number" of calls daily from farmers unable to obtain gasoline and diesel fuel. Many municipalities have been unable to fill winter heating fuel contracts.

South Central—General easing of shortages are reported, with exceptions in Texas and New Mexico, Oklahoma wheat farmers are still running short, however.

West Coast—Harvesting and planting operations are experiencing supply problems, and large number of complaints are being received against intermediate independent suppliers who are reportedly refusing to share tightened supplies.

OOG analysts report three major problems currently contributing to increase in number of fuel supply incidents and creating general consensus that voluntary program is not working (see 7/6 Platt's OILGRAM News).

First, officials complain that regional voluntary program offices are understaffed and are unable to handle volume of complaints, thus placing greater pressure on national office.

Second, OOG says, massive publicity campaigns by both government and oil industry have failed to encourage conservation of gasoline. Consumption is at all-time high.

Third, analysis of complaints, officials say, indicates there is confusion among consumers and suppliers concerning amount of fuel to be allocated under base period in voluntary program guidelines.

There is also, officials say, general uncertainty over future of voluntary program itself.

Regarding base period confusion, OOG says that "in many cases, fuel allotments based on this period are insufficient for increased business requirements and do not allow for instances of unusually low purchases during the base period.

"In addition, many petroleum product customers believe that one of the effects of VPAP has been a sharp reduction in contract bidding and the opportunity for business expansion and growth as many suppliers are refusing to bid on or renew contracts."

While OOG attempts to grapple with summer fuel problems, heating oil appears to be developing into full-scale problem for upcoming winter.

Many electric utilities have been unable to get suppliers to bid on contracts for winter requirements, and manufacturing plants previously gas-fueled are having trouble finding alternate fuel sources, OOG reports.

In addition, office says, availability of jet and diesel fuel for winter "is of great concern to the (transportation) industry."

[From the Oil Daily, July 16, 1973]

Northeast Fuel Crisis Seen if Mandatory Rules Are Nixed

(By Jim Drummond)

Houston.—The Northeast U.S. faces a fuel oil catastrophe this winter unless refined products are allocted on a mandatory basis the president of Northeast Petroleum Industries, Inc., Boston, warned at weekend.

John Kaneb released survey findings that some 18,000,000 barrels of storage owned by members of the Independent Fuel Terminal Operators Association contained only 1.3 million barrels of fuel oil July 1 compared with 3,700,000 a year ago.

He accused major suppliers of withholding domestic production from traditional customers and squirreling it away in their own systems.

Kaneb, also vice president of the association, based in Washington, D.C., said it's already too late to hand all the East Coast fuel oil business to the big branders, even if that were somebody's plan.

"Association companies normally handle about 25 percent of the Northeast's fuel oil distribution," he said. "So a sudden change to the majors would require a massive switch in customer affiliations and facilities like tanks and trucks. And what would happen to the personnel involved?

It's not just a bookkeeping or statistical problem. Kaneb emphasized: "The welfare of real people is at stake."

If failure to allocate fuel oils equitably should create a massive shortage, as would appear likely, he said, the government will have to act on an emergency basis and the action will be much more drastic than any contemplated now.

"The problem is approaching with the speed of an express train," he added.

Kaneb said it was his impression nearly everyone favors mandatory controls excepting one or two government officials. He said two or more suppliers might have some reservations, though—"fears they might have to return to some of the marketing areas they had abandoned."

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The **PRESIDING OFFICER** (Mr. Johnston). Under the previous order, the Senate will proceed to the consideration of S. 1861 which the clerk will report by title.

The assistant legislative clerk read as follows:

> A bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with amendments on page 2, line 1, after the word "United", strike out "States and" and insert "States"; in line 2, after the word "a", strike out "State," and insert "State and any agency or instrumentality thereof or interstate governmental agency,"; in line 11, after the word "a", strike out "babysitter), and in" and insert "babysitter) except that such term shall not, for the purposes of section 3(u) include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family. In"; in line 16, after the word "States", insert "the term 'employee'"; in line 19, after the word "agencies", strike out "(other than the General Accounting Office)"; in line 23, after the word "Commission", strike out "(4) in those units of the government of the District of Columbia having positions in the competitive service, (5)" and insert "(4)"; on page 3, at the beginning of line 3, strike out "(6)" and insert "(5)"; in the same line, after the word "of", strike out "Congress, and in the case of any individual employed by any State or a political subdivision of any State means any employee holding a position comparable to one of the positions enumerated for individuals employed by the United States, except that such terms shall not, for the purposes of section 3(u) include any individual employed by an employer engaged in agriculture if such individual is the parent spouse, child, or other member of the employer's immediate family," and insert "Congress. In the case of any individual employed by a State, or the political subdivision of any State, or an interstate governmental agency the term 'employee' shall include any employee of that State, political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency"; on page 4, line

15, after the word "apply", insert "with respect to any tipped employee"; in line 16, after "(1)", insert "such employee has been informed by"; at the beginning of line 17, strike out "has informed each of his tipped employees"; in line 18, after the word "by", strike out "any"; in the same line, after the word "such", strike out "employees" and insert "employee"; in line 19, after the word "by", strike out "such tipped employees" and insert "the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips"; on page 5, line 10, after the word "amended", strike out "(A)"; in line 11, after the word "enterprise", strike out "the parenthetical clause" and insert "and preceding subparagraph (1) the following:"; in line 15, after the word "any", strike out "State)", (B) by striking the word "employees" the first two times it appears in such sentence, and inserting in lieu thereof the words "any employee" and insert "State), which has employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person, and which—"; in line 24, after the word "regular", strike out "employee" and insert "employees"; on page 6, after line 3, insert:

(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

At the beginning of line 20, strike out "(g)" and insert "(h)"; on page 8, line 7, after the word "words", strike out "or" and insert "title IX of the Education Amendments of 1972, or"; on page 21, line 7, after the word "exceed", strike out "eight." and insert "eight; or"; after line 7, insert:

"(21) any employee who is employed with his spouse by a nonprofit education institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, and

"(B) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000."

On page 22, at the beginning of line 21, insert "Title IX of the Education Amendments of 1972,"; at the top of page 23, insert a new section, as follows:

PENALTIES

SEC. 8. (a) The second sentence of section 16(b) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows: "Action to recover such liability may be maintained against any employer (including a State or a political subdivision of a State) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated.".

At the beginning of line 10, strike out "Sec. 8." and insert "(b)"; in the same line, after the word "first", strike out "two" and insert "three"; in line 11, after the word "of", strike out "the Fair Labor Standards Act of 1938, as amended" and insert "such"; in line 15, after the word "under", strike out "section" and insert "sections"; on page 24, at the beginning of line 1, strike out "damages." and insert "damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary;" on page 24, line 21, after the word "considered", strike out "The amount of such penalty, when finally determined may be deducted from any sums owing by the United States to the person charged" and insert "The amount of such penalty when finally determined, may be—"; at the top of page 25, insert:

(1) deducted from any sums owing by the United States to the person charged; or

(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

(3) ordered by the court, in an action brought under section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled "An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes" (48 Stat. 582).

On page 27, line 8, after the word "State", where it appears the second time, insert a comma and "any interstate agency,"; after line 16, insert:

(3) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(4) Section 16 of such Act is amended by striking the figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

On page 28, line 23, after the word "agencies," strike out "(other than the General Accounting Office)"; on page 29, line 3, after the word "in", insert "those units in"; on page 30, line 2, strike out "age." and insert "age; and"; after line 2, insert:

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

At the beginning of line 8, insert "of the Civil Service Commission"; on page 31, after line 13, insert a new section, as follows:

CERTAIN CIVIL ACTIONS PRESERVED

SEC. 13. (a) Section 6 of the Portal-to-Portal Pay Act of 1947 is amended by striking out the period at the end of such section and by inserting in lieu thereof a semicolon and by adding at the end thereof the following:

"(d) with respect to any cause of action brought under section 16(b) of the Fair Labor Standards Act of 1938, as amended, against a State or a political subdivision of a State in a district court of the United States on or before April 18, 1973, the running of the statutory periods of limitation shall be deemed suspended during the period beginning with the commencement of any such action and ending one hundred and eighty days after the effective date of the Fair Labor Standards Amendments of 1973, except that such suspension shall not be applicable if in such action judgment has been entered for the defendant on grounds other than State immunity from Federal jurisdiction.".

(b) Section 11 of such Act is amended by deleting "(b)" after "section 16".

On page 32, after line 8, insert a new section, as follows:

ECONOMIC EFFECTS STUDIES

SEC. 14. (a) The Secretary shall conduct studies—

(1) on the economic effects of the changes in minimum wage and overtime coverage made by this Act, and

(2) on the justification or lack thereof for each of the special exemptions set forth in section 13(a) and 13(b) of the Fair Labor Standards Act of 1938, as amended by this Act.

The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies under clause (1) of the preceding sentence, not later than January 1, 1975, and with respect to the studies under clause (2) of that sentence, not later than January 1, 1976.

(b) There are authorized to be appropriated for the purpose of conducting the studies required by this section such sums as are necessary for the period beginning on the date of enactment of this Act and ending January 1, 1976.

And, on page 33, at the beginning of line 4, change the section number from "13" to "15"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Labor Standards Amendments of 1973".

DEFINITION AND APPLICABILITY TO PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 2. (a) Section 3(d) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States, any State or political subdivision of a State and any agency or instrumentality thereof or interstate governmental agency, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

(b) Section 3(e) of such Act is amended to read as follows:

"(e) 'Employee' means any individual employed by an employer, including any individual employed in domestic service (other than a babysitter) except that such term shall not, for the purposes of section 3(u) include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family. In the case of any individual employed by the United States the term 'employee' means any individual employed (1) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (2) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (3) in the United States Postal Service and the Postal Rate Commission, (4) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (5) in the Library of Congress. In the case of any individual employed by a State, or the political subdivision of any State, or an interstate governmental agency the term 'employee' shall include any employee of that State, political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policy-making level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency."

(c) Section 3(h) of such Act is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(d) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing shall prohibit the pooling of tips among employees who customarily and regularly receive tips."

(e)(1) The first sentence of section 3(r) of such Act is amended by inserting after the word "whether", the words "public or private or conducted for profit or not for profit, or whether".

(2) The second sentence of such subsection is amended to read as follows: "For purposes of this subsection, the activities performed by any person or persons in connection with the activities of the Government of the United States or of any State or political subdivision of any State shall be deemed to be activities performed for a business purpose.".

(f)(1) The first sentence of section 3(s) of such Act is amended by inserting after the words "means an enterprise", and preceding subparagraph (1) the following: "(whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State), which has employees engaged in commerce or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce by any person, and which—"

(2) The last sentence of section 3(s) of such Act is amended to read as follows: "Any establishment which has as its only regular employees the owner thereof or the parent, spouse, child, or other member of the immediate family of such owner shall not be considered to be an enterprise engaged in commerce or in the production of goods for commerce or a part of such an enterprise.".

(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(h) Section 5 of such Act is amended by adding at the end the following new subsections:

"(e) The provisions of this section and section 8 shall not apply with respect to the minimum wage rate of any employee in Puerto Rico or the Virgin Islands employed (1) by an establishment which is a hotel, motel, or restaurant, (2) by any other retail or service establishment if such employee is employed primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs, or (3) by any employer which is a State or a political subdivision of any State. The minimum wage rate of such an employee shall be determined in accordance with sections 6 (a) or (b), 13, and 14 of this Act.

"(f) The provisions of this section and section 8 shall not operate to permit a wage order rate lower than that which would result under the provisions of section 6(c).".

MINIMUM WAGES

SEC. 3. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(1)(A) not less than $2.00 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, and

"(B) not less than $2.20 an hour thereafter."

(b) Section 6(a)(5) of such Act is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.60 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.80 an hour during the second year from such date, not less than $2.00 an hour during the third year from such date, and not less than $2.20 an hour thereafter."

(c) Section 6(b) of such Act is amended—

(1) by inserting after the words "Fair Labor Standards Amendments of 1966,", the words "title IX of the Education Amendments of 1972, or the Fair Labor Standards Amendments of 1973,";

(2) by striking out paragraphs (1) through (5) thereof and inserting in lieu thereof the following:

"(1) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973;

"(2) not less than $2.00 an hour during the second year from such date; and

"(3) not less than $2.20 an hour thereafter.".

(d) Section 6(c) is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) In the case of any such employee who is covered by such a wage order to whom the rate or rates prescribed by subsection (a) or (b) would otherwise apply the following rates shall apply:

"(A) During the first year from the effective date of the Fair Labor Standards Amendments of 1973, for any employee whose highest rate is less than $0.80 an hour, such rate shall not be less than $1.00 an hour.

"(B) During the first year from the effective date of the Fair Labor Standards Amendments of 1973, for any employee whose highest rate is $0.80 an hour or more, such rate shall be the highest rate or rates in effect on or before such date under any wage order covering such employee, increased by $0.20.

"(C) During the second year from the effective date of the Fair Labor Standards Amendments of 1973, and in each year thereafter, the highest rate or rates (including any increase prescribed by this paragraph) in effect on or before such date, under any wage order covering such employee, increased by $0.20 in each year.

"(D) Whenever the rates prescribed by subparagraph (C) would otherwise equal or exceed the rates prescribed in section 6 (a), the provisions of such section shall apply thereafter.

"(3)(A) In the case of any such employee to whom this subsection was made applicable by the Fair Labor Standards Amendments of 1973, the Secretary shall, as soon as practicable after the date of enactment of such amendments, appoint a special industry committee in accordance with section 5. Such industry committee shall recommend a minimum wage rate of $1.60, unless there is substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years, in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage. In no event shall any industry committee recommend a minimum wage rate less than the rate prescribed in paragraph (2)(A) of this subsection. Any rate recommended by the special industry committee within sixty days after the effective date of the Fair Labor Standards Amendments of 1973 shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation, but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1973.

"(B) Upon the issuance of the wage order required by subparagraph (A) of this paragraph, the provisions of paragraph (2) shall apply.

"(4) In the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the following rates shall apply:

"(A) The rate or rates applicable under the most recent such wage order issued by the Secretary increased by (i) the amount by which such employee's hourly wage is increased above such rate or rates by the subsidy (or other income supplement), and (ii) $0.20.

"(B) Beginning one year after the effective date of the Fair Labor Standards Amendments of 1973, the provisions of subparagraph 2(C) and 2(D) of this subsection shall apply.".

(e) Section 6(e) is amended to read as follows:

"(e) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing any contract services under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rates of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351–357), as amended, or to whom subsection (a) of this section is not applicable, wages at rates not less than the rates provided for in subsection (b) of this section.".

(f) Section 6 of such Act is amended by adding at the end thereof the following new subsection:

"(f) Every employer who in any workweek employs any employee in domestic service in a household shall pay such employee wages at a rate not less than the wage rate in effect under subsection (b) of this section, unless such employees compensation for such service would not, as determined by the Secretary, constitute 'wages' under section 209 of the Social Security Act.".

MAXIMUM HOURS

SEC. 4. (a) Section 7 of the Fair Labor Standards Act of 1938, as amended, is amended by striking out subsections (a), (c), and (d) and inserting in lieu thereof the following new subsection (a):

"(a) No employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.".

(b)(1) Subsections (e), (f), (g), (h), (i), and (j) of section 7 of such Act, are redesignated as subsections (c), (d), (e), (f), (g), and (h), respectively.

(2) Subsection (e) (as redesignated by paragraph (1)) of section 7 of such Act is amended by striking out "(e)" in the text of such subsection (e) and inserting in lieu thereof "(c)".

(3) Subsection (f) (as redesignated by paragraph (1)) of section 7 of such Act is amended by striking out "(e)" in the text of such subsection (f) and inserting in lieu thereof "(c)".

(c) Section 7 of such Act is amended by adding at the end thereof the following new subsections:

"(i) No State or political subdivision of a State shall be deemed to have violated subsection (a) with regard to any employee engaged in fire protection or law enforcement activities (including security personnel in correctional institutions) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of twenty-eight consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of—

"(1) one hundred and ninety-two hours in each such twenty-eight day period during the first year from the effective date of the Fair Labor Standards Amendments of 1973;

"(2) one hundred and eighty-four hours in each such twenty-eight day period during the second year from such date;

"(3) one hundred and seventy-six hours in each such twenty-eight day period during the third year from such date;

"(4) one hundred and sixty-eight hours in each such twenty-eight day period during the fourth year from such date; and

"(5) one hundred and sixty hours in each such twenty-eight day period thereafter.

"(j) In the case of an employee of an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit) in determining the hours of employment of such an employee to which the rate prescribed by subsection (a) applies there shall be excluded the hours such employee was employed in charter activities by such employer if (1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment.

PROOF OF AGE REQUIREMENT

SEC. 5. Section 12 of the Fair Labor Standards Act of 1938, as amended, is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulation require employers to obtain from any employee proof of age."

EXEMPTIONS

SEC. 6. (a)(1) Section 13(a)(1) of such Act is amended by striking out everything after the words "Administrative Procedure Act" and before "; or".

(2) Section 13(a)(2) of such Act is amended to read as follows:

"(2) any employee employed by any retail or service establishment (except an establishment or employee engaged in laundering, cleaning, or repairing clothing or fabrics or an establishment engaged in the operation of a hospital, institution, or school described in section 3(s)(4)), if more than 50 per centum of such establishment's annual dollar volume of sales of goods or services is made within the State in which the establishment is located, and such establishment is not in an enterprise described in section 3(s). A retail or service establishment means an establishment 75 per centum of whose annual dollar volume of sales of goods or services (or of both) is not for resale and is recognized as retail sales or services in the particular industry; or".

(3) Sections 13(a)(4), and 13(a)(11) of such Act, relating to employees employed by retail and service establishments, are hereby repealed.

(4) Section 13(a)(6) of such Act, relating to employees employed in agriculture, is amended (A) by striking out clause (C) thereof, (B) by striking out in clause (D) thereof "(other than an employee described in clause (C) of this subsection)", and (C) by redesignating clauses (D) and (E) thereof as clauses (C) and (D), respectively.

(5) Section 13(a)(9) of such Act, relating to employees employed by motion picture theater establishments, is hereby repealed.

(6) Section 13(a)(13) of such Act, relating to employees of logging and sawmill operations, is hereby repealed.

(7) Section 13(a)(14) of such Act, relating to agricultural employees, engaged in the harvesting and processing of shade-grown tobacco, is hereby repealed.

(8) Sections 13(a)(5), 13(a)(6), 13(a)(7), 13(a)(8), 13(a)(10), and 13(a)(12) are redesignated as sections 13(a)(4), 13(a)(5), 13(a)(6), 13(a)(7), 13(a)(8), and 13(a)(9), respectively.

(9) Section 13(a)(9) (as redesignated by the preceding paragraph) is amended by striking out the semicolon and the word "or" and inserting in lieu thereof a period.

(b)(1) Section 13(b)(2) of such Act, relating to railroad and pipeline employees, is amended by inserting the words "engaged in the operation of a common carrier by rail and" following the word "employer".

(2) Section 13(b)(4) of such Act, relating to fish and seafood processing employees, is hereby repealed.

(3)(A) Effective sixty days after the date of enactment of the Fair Labor Standards Amendments of 1973, section 13(b)(7) of such Act, relating to employees of street, suburban or interurban electric railways, or local trolley or motorbus carriers, is amended by striking out ", if the rates and services of such railway or carrier are subject to regulation by a State or local agency" and inserting in lieu thereof the following: "(regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), and if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(B) Effective one year after such date, such paragraph is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(C) Effective two years after such date, such paragraph is repealed.

(4) Section 13(b)(8) of such Act, relating to employees employed by hotels, motels, restaurants, or nursing homes, is amended to read as follows:

"(8)(A) any employee who is employed by an establishment which is a hotel, motel, or restaurant and receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of (i) forty-eight hours in any workweek during the first year from the effective date of the Fair Labor Standards Amendments of 1973, and (ii) forty-six hours in any workweek thereafter; or (B) any employee who is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises, and receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of (i) forty-eight hours in any workweek during the first year from the effective date of the Fair Labor Standards Amendments of 1973, (ii) forty-six hours in any workweek during the second year from the effective date of the Fair Labor Standards

Amendments of 1973, and (ii) forty-four hours in any workweek thereafter; or".

(5) Section 13(b)(10) of such Act, relating to employees employed as salesmen, partsmen, or mechanics by automobile, trailer, truck, farm implement, or aircraft dealers, is amended to read as follows:

"(10) any salesman, partsman, or mechanic primarily engaged in selling or servicing farm implements or any salesman primarily engaged in selling automobiles, trailers, or trucks if employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or".

(6) Section 13(b)(15) of such Act is amended to read as follows:

"(15) any employee engaged in the processing of maple sap into sugar (other than refined sugar) or syrup; or".

(7)(A) Effective sixty days after the date of enactment of the Fair Labor Standards Amendments of 1973, section 13(b)(18) of such Act, relating to employees of catering establishments, is amended by inserting immediately before the semicolon the following: "and receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(B) Effective one year after such date such paragraph is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(C) Effective two years after such date such paragraph is repealed.

(8)(A) Effective one year after the effective date of the Fair Labor Standards Amendments of 1973, section 13(b)(19) of such Act, relating to employees of bowling establishments, is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours."

(B) Effective one year after such date such paragraph is repealed.

(9) Sections 13 (b)(5), 13(b)(6), 13(b)(7), 13 (b)(8), 13(b)(9), 13(b)(10), 13(b)(11), 13(b)(12), 13(b)(13), 13(b)(14), 13(b)(15), 13(b)(16), 13(b)(17), 13(b)(18), and 13(b)(19), are redesignated as sections 13(b)(4), 13(b)(5), 13(b)(6), 13(b)(7), 13(b)(8), 13(b)(9), 13(b)(10), 13(b)(11), 13(b)(12), 13(b)(13), 13(b)(14), 13(b)(15), 13(b)(16), 13(b)(17), and 13(b)(18), respectively.

(10) Section 13(b)(18) (as redesignated by the preceding paragraph) is amended by striking out the period and inserting in lieu thereof a semicolon and the word "or".

(11) Section 13(b) of such Act is amended by adding at the end thereof the following new paragraphs:

"(19) any employee who in any workweek is employed in domestic service in a household; or

"(20) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight; or

"(21) any employee who is employed with his spouse by a nonprofit education institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, and

"(B) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000."

(c) Section 13(c)(1) of such Act is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) the provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or

"(B) is fourteen years of age or older, or

"(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or person standing in place of his parent is employed on the same farm."

LEARNERS, APPRENTICES, STUDENTS, AND HANDICAPPED WORKERS

SEC. 7. Section 14(b) of the Fair Labor Standards Act of 1938, as amended, is amended (1) by inserting following the word "establishments" each time it appears, the words "or educational institutions" and by inserting following the word "establishment" each time it appears, the words "or educational institution", (2) by inserting following the words "Fair Labor Standards Amendments of 1966", the words Title IX of the Education Amendments of 1972, "and the Fair Labor Standards Amendments of 1973", and (3) by inserting, following the words "prior to such", the word "applicable".

PENALTIES

SEC. 8. (a) The second sentence of section 16(b) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows: "Action to recover such liability may be maintained against any employer (including a State or a political subdivision of a State) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated.".

(b) The first three sentences of section 16(c) of such Act are amended to read as follows: "The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under sections 6 or 7 of this Act, and the agreement of any employees to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary."

CIVIL PENALTY FOR CERTAIN CHILD LABOR VIOLATIONS

SEC. 9. Section 16 of the Fair Labor Standards Act of 1938, as amended, is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty when finally determined, may be—

(1) deducted from any sums owing by the United States to the person charged; or

(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

(3) ordered by the court, in an action brought under section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled "An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes" (48 Stat. 582).

RELATION TO OTHER LAWS

SEC. 10. Section 18(b) of the Fair Labor Standards Act of 1938, as amended, is amended (1) by striking out "6(a)(1)" and inserting in lieu thereof "6(a)", and (2) by striking out "7(a)(1)" and inserting in lieu thereof "7(a)".

CONFORMING AMENDMENTS TO OTHER LAWS

SEC. 11. (a) Section 12(a)(2) of the Emergency Employment Act of 1971 (42 U.S.C. 4871) is amended by striking out "section 6(a)(1)" and inserting in lieu thereof "section 6".

(b) Section 9 of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (41 U.S.C. 43), is amended by inserting immediately before the period at the end thereof the following: "or to certain transportation employees of private carriers of property by motor vehicle, as that term is defined in section 203(a)(17) and limited under section 203(c) of part II of the Interstate Commerce Act, where such employees are subject to regulation as to qualifications and hours of service pursuant to section 6(e)(6)(C) and 6(f)(2)(A) of the Department of Transportation Act of 1966".

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 12. (a)(1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, *and any interstate agency*, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(2) Section 11(c) of such Act is amended by striking out ", or an agency of a State or political subdivision of a State, except that such term shall include the United

States Employment Service and the system of State and local employment services receiving Federal assistance".

(3) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy making level or an immediate advisor with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(4) Section 16 of such Act is amended by striking the figure of "$3,000,000", and inserting in lieu thereof "$5,000,000".

(b) (1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency or unit; and

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.".

CERTAIN CIVIL ACTIONS PRESERVED

SEC. 13. (a) Section 6 of the Portal-to-Portal Pay Act of 1947 is amended by striking out the period at the end of such section and by inserting in lieu thereof a semicolon and by adding at the end thereof the following:

"(d) with respect to any cause of action brought under section 16(b) of the Fair Labor Standards Act of 1938, as amended, against a State or a political subdivision of a State in a district court of the United States on or before April 18, 1973, the running of the statutory periods of limitation shall be deemed suspended during the period beginning with the commencement of any such action and ending one hundred and eighty days after the elective date of the Fair Labor Standards Amendments of 1973, except that such suspension shall not be applicable if in such action judgment has been entered for the defendant on grounds other than State immunity from Federal jurisdiction.".

(b) Section 11 of such Act is amended by deleting "(b)" after "section 16".

ECONOMIC EFFECTS STUDIES

SEC. 14. (a) The Secretary shall conduct studies—

(1) on the economic effects of the changes in minimum wage and overtime coverage made by this Act, and

(2) on the justification or lack thereof for each of the special exemptions set forth in section 13(a) and 13(b) of the Fair Labor Standards Act of 1938, as amended by this Act.

The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies under clause (1) of the preceding sentence, not later than January 1, 1975, and with respect to the studies under clause (2) of that sentence, not later than January 1, 1976.

(b) There are authorized to be appropriated for the purpose of conducting the studies required by this section such sums as are necessary for the period beginning on the date of enactment of this Act and ending January 1, 1976.

EFFECTIVE DATE

SEC. 15. This Act shall become effective upon the expiration of sixty days after the date of its enactment.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that during the consideration of the bill (S. 1861) the following staff members be permitted the privilege of the floor: Gene Mittelman, Gerry Feder, Donald Eilsburg, Jeff Dorantz, Peter Terza, and Roger King.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I ask unanimous consent that Chuck Woodruff, of the staff of the Committee on Labor and Public Welfare, be granted the privilege of the floor during debate and during the voting

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that during the consideration of S. 1861, Mr. John Roberts of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUSPENSION OF DUTY ON MANGANESE ORE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of calendar No. 298, H.R. 6676.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

> A bill (H.R. 6676) to continue until July 1, 1976, the existing suspension on manganese ore.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment on page 1, at the beginning of line 5, strike out "Tariff Act of 1930 or any other provision of law, be liqui-" and insert "the appendix to the Tariff Schedules of the United States".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. AIKEN. Mr. President, I send to the desk an amendment to the bill and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> On page 1, after line 11, add the following new section:
>
> SEC. 2. (a) Item 903.90 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "September 5, 1972" and inserting in lieu thereof "September 5, 1975".
>
> (b) (1) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.
>
> (2) Upon request therefor filed with the customs officer concerned on or before the sixtieth day after the date of the enactment of this Act, the entry or withdrawal of any article—

(A) which was made after September 5, 1972, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if the amendment made by the first section of this amendment applied to such entry or withdrawal, shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

Mr. AIKEN. Mr. President, this amendment has been approved twice by the Senate in one form or another without objection. It has been approved once by the House and by all agencies of the Government concerned with it. I am also advised that there is no objection on the part of the Finance Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6676) was read the third time and passed.

The title was amended, so as to read: "An act to continue until July 1, 1976, the existing suspension of duty on manganese ore, and for other purposes."

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Nebraska be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN DEFENSE OF THE PRESIDENT

Mr. CURTIS. Mr. President, there can be little doubt about the overall effects of the Watergate investigation on our country. The facts are it is hurting everybody.

Many people believe that the Watergate investigation is damaging to our economy. It would be difficult to prove otherwise. Certainly it is not doing it any good.

The focusing of so much attention on Watergate very definitely takes the attention of the country away from many other public questions that need attention. We need to get on with the business of the Congress and deal with those economic problems and problems relating to our defense and world affairs. We should put first things first.

There are too many people who are using Watergate as a means to "Get President Nixon." They will fail in this because, in my opinion, history will exonerate him. They are, however, doing great damage.

What individual is responsible for bringing an end to the U.S. involvement in the war in Vietnam?

What individual is responsible for the return of our combat troops from Vietnam?

What individual is responsible for the return of our prisoners of war and for pursuing every means in reference to our men missing in action?

What individual has bought a new day in world affairs and has the United States and the U.S.S.R. talking to each other?

What individual acted so expertly in his successful opening-up of contact with mainland China?

Everyone knows that that individual is the President of the United States—Mr. Nixon. President Nixon is the unquestioned leader of the free world. He has that diplomatic ability to deal with Russia and China without buying the Communist line. It is he who has been a force for peace in the Middle East.

Mr. President, if this Senate permits one of its committees to destroy this man, or even to hamper him and lessen his effectiveness, the American people and the world at large will be the losers.

Mr. President, in my opinion any eighth grader should know that Congress has already gathered all the information that it needs for the purpose of legislating in reference to any election reform proposal that Congress might wish to undertake.

Mr. President, thoughtful Americans everywhere are expressing the hope that the Watergate investigation be dropped. I would like to share a few letters that I received yesterday on this subject.

A man from St. Charles, Mo writes me as follows:

> I want to commend you, and the other Senators involved, for your support of President Nixon. . . . The hearings, at present, only confirm the impression that this is an attempt to lynch Mr. Nixon, by liberal politicians for political gain and by liberal newsmen because they couldn't defeat him last fall and are now out to get him by any means. It may be noteworthy that the account of your *support* of Mr. Nixon was comparatively short and on the back page of the newspaper.
>
> I am by no means a political pundit, but I talk to a lot of people of all kinds, and I think the liberal politicians and newsmen are misreading, or misrepresenting, the mood of the majority of the people. It is claimed the country is in an uproar over Watergate. It isn't, at least not here. Most people are bored and disgusted with it, fed up to the back teeth. . . . When mentioned, the response is usually an expression of disgust, and an irritated wish that Congress would get on to something worthwhile. The few who are interested, and highly concerned, are mostly old Nixon-haters who grab onto Watergate as proof they were right all the time.
>
> The best thing would be to drop it, and the sooner the better. After all, the only thing that can be pinned on President Nixon so far is that it looks like he used poor judgment in the selection and supervision of his staff.

A lady in Charlottesville, Va., sent me a postal card, on which she said:

> Thank you for your support of President Nixon. We have so much to appreciate in what he has done for our country in the way of bringing home the prisoners of war, winding down the war, opening up relations with China, cooling the rioting at home, and providing us with 4 fine new Supreme Court Justices. One wonders what is the matter with those who want to "get" him. . . . Please continue your work for him and our great America.

A business leader from Omaha, Nebr., wrote me on July 13 as follows:

> Congratulations on getting ten Members to call on the President. The President deserves a great deal of credit for all the things he has accomplished in his first term. There is no doubt in my mind that he is innocent of doing anything wrong.

A lady from Bellevue, Nebr., in her letter of July 12 said:

> Dear Senator Curtis, First: Orchids to you for your vote of confidence. Call on our president.

An educator in my State of Nebraska wrote me on July 13 as follows:

> I think one of nicest things that has happened recently in Washington was the instance that you and a few other conservative Senators took time off and visited with the President. If ever anyone needed "friends" Richard Nixon needs them now.

A Presbyterian pastor wrote me on July 13 as follows:

> I'm just writing to let you know that someone sent me the clipping from the New York Times of June 21, in which the speech you made on the Senate floor was reprinted under the title, "A Courageous Leader." I was greatly impressed both with your article and also with your sentiments, that I am in complete agreement with. I just want you to know I agree with you and am grateful to God that you're there, standing up for these things and saying it as well as you did. God bless you.

An individual in Phillipsburg, Kans., wrote to me:

> Having read in the Omaha-World-Herald of your efforts in direct support of our President in these trying times, I decided to furnish you a copy of my letter to ——— (a member of the committee).

In this Phillipsburg, Kans., man's letter to a member of the committee, he said:

> I am a retired person. . . . However I have had time to sit, watch and listen to much of the "Watergate" hearings as exposed on both public and private television, up to this date.
>
> Our President, apparently, has been rather busy trying to de-escalate the war and inflation which grew under previous Administrations and your committee is doing very little to aid him. I do not condone the activities which you purport to investigate, but if you continue the "Comedy of Errors" please do so behind closed doors and let the rest of our official representatives in the Senate and House get on with productive efforts on behalf of our economy and our nation's proper position in world affairs.
>
> It would perhaps be wise if some counterpart of your committee would spend a similar amount of time and effort on informing the public of the beneficial accomplishments of President Nixon rather than presenting this useless and detrimental smear of the best form of government yet devised by mankind. The general business news this week tends to indicate that our economy may recover in spite of "Watergate" and your investigation.

A husband and wife in Fremont, Nebr., sent me a telegram on July 14, as follows:

> Congratulations. The U.S. as did Rome burns while Senator Sam fiddles. No good can come out of further hearings. Let's spend our time on U.S. finances.

I received a letter from Blakely, Pa., bearing date of July 13, which said:

> I feel so grateful to you for the support that you have given to our wonderful President. May I take this opportunity to thank you on behalf of my family and friends.
>
> I have always been . . . a great admirer of President Nixon since he was a Congressman. . . . I am very proud of him and the leadership that he has given this great country. In fact, sir, I sincerely believe he is the greatest President that this country has ever had, and particularly in my life time (52 years).
>
> I, and many others, have resented the fact that the Republican Congressional Members have done little to counter-attack the press and Democrat Congressional Members.
>
> The point I am attempting to make is I have been greatly distressed by the farce going on in Washington at this time. I resent the Republicans more than the Democrats.

A Philadelphia man stated what apparently is on the minds of many people in his letter to me in which he said:

> Let's get Washington back to work. It's time to get the Watergate investigation out of the Senate chambers, out of the television show-business atmosphere, and into the grand jury chambers of the courts. . . .
>
> Meanwhile, let's get the government back to work. Let's let the President go on about the business of running the executive branch. Let's let the Senators go back to being legislators. Let's leave the judging to the judiciary, and the indicting, if there be any, to the citizens empowered to do it, by our legal system.

A businessman in Glendale, Calif., had this to say:

> The Watergate affair is getting pretty tiresome reading. True, it is a giant tempest in a giant teapot, but there are many more important problems facing our country. How about some really serious consideration of how we can halt inflation before we are completely destroyed in a giant depression?

A housewife in St. Louis, Mo., wrote me on July 12, as follows:

> It is with a great deal of relief and gratitude that I see you have come forward with defense of President Nixon. . . . I have written to Senator Ervin, asking why he is doing this, and why he is playing into the hands of the sympathizers of those who would tear our nation apart, and I have also told him that many of us see in this whole debacle a deliberate plan to "get Nixon," just as you have suggested.

Mr. President, in the mail that brought me the letters from which I have quoted there was also one letter critical of my position and only one that was critical of President Nixon. That individual very properly asked in substance if I had satisfied myself as to the noninvolvement of President Nixon in the Watergate affair. I replied that I had very definitely done so. In my mind and heart I do not believe for 1 minute that President Richard Nixon had anything to do with Watergate and that the facts were withheld from him for far too many months thereafter. I hope present hearings can be forthwith terminated and that we can get on about the Nation's business and that our President can without harassment or hindrance go on providing the leadership for our country in world and domestic matters, and continue to provide the leadership for the peace-loving people of the world.

QUORUM CALL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum and yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate resumed the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that they be considered original text for purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, 1 year ago today, the Senate began debate on a bill which would have raised the minimum wage to $2 an hour on the effective date for most covered workers.

The Senate passed that bill and, if it had become law, the minimum wage worker who works full-time, year-round, would now be receiving almost $4,600 a year, somewhat above the poverty line.

Instead, the bill did not become law, and the minimum wage is still $1.60 an hour and, after working full-time for a whole year, the minimum wage worker's annual earnings are still $1,100 below the poverty line.

The bill which the Senate begins to consider today is very similar to the 1972 bill.

The committee did not provide for additional increases in the minimum wage over last year even though galloping inflation and a 1-year delay fully justified such increases.

Instead, the committee decided to stay with last year's rate schedule in the hope that enactment would be expedited if the annual wage bill increase of covered workers required by the bill was only one-fifth of 1 percent on the effective date as compared with one-eighth of 1 percent last year.

In terms of dollars, this year's bill increases the wage bill for the first year following the effective date by $1.8 billion, while last year's bill would have increased the wage bill by $2.8 billion.

The committee bill has a $2 rate on the effective date.

Last year's substitute bill also provided for a $2 rate in 1973.

The question really is how long do we continue to delay this increase for the lower-paid workers?

By the 1-year delay, these workers have lost more than $2.8 billion in wage increases.

This means that employers have already saved this amount due to the delay.

Despite the enormous upheavals in our economy, and despite the erosion of the dollar which causes a strain on all of our budgets, we are proposing what was then, and most assuredly is now, a very modest bill.

For the most part, this legislation does not affect those workers to whom organization and skills have brought a fair share of the fruits of our society.

Rather, its primary design is to benefit that segment of our working population that is unorganized, unskilled, and toiling in poverty.

This bill will incorporate into the Fair Labor Standards Act a breadth of coverage and a minimum wage level which will bring the act closer than at any time in its 35-year history to meeting its basic, stated objective—the elimination of "labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency and general well-being of workers."

The bill seeks to achieve this purpose by extending the law beyond the 47 million currently covered employees to 7 million additional workers employed in retail and service industries, Federal, State and local government activities, on farms and as domestics in private homes; and, by increasing the minimum wage in steps to $2.20 an hour.

The Fair Labor Standards Act represents one of our fundamental efforts to direct economic forces into socially desirable channels.

It was designed to protect workers from poverty by fixing a floor below which wages could not fall, to discourage excessively long hours of work through requiring premium payments for overtime work, and to outlaw oppressive child labor in industry.

The desirability of this effort was emphasized by President Roosevelt, in his Second Inaugural Address:

> I see one-third of a nation ill-housed, ill-clad, ill-nourished * * * The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.

We have made substantial progress in President Roosevelt's 1937 Inaugural Address, but today 24.5 million Americans—12 percent of our population—are still living in poverty by official Government standards.

The present minimum wage of $1.60 yields to a full-time working head of a family of four a gross weekly wage of $64 or $3,200 per year, over $1,000 less than the poverty level and leaves the working-poor family, eligible for welfare.

The wage of $1.60 an hour—$1.30 for farmworkers—was set by the Congress in 1966.

At that time, it was heralded as a wage rate which would move the working poor above the poverty threshold.

However, economic developments in the last several years have drastically curtailed the purchasing power of the minimum wage.

Between 1966, when Congress amended the FLSA to increase the Federal minimum wage from $1.25 to $1.60 an hour, and May 1973, the consumer price index rose 35.3 percent. Between February 1, 1968, the date the $1.60 rate actually became effective for most workers, and May 1973, the consumer price index rose 28.9 percent.

Thus, a substantial increase in the minimum wage is necessary merely to restore the purchasing power of low-wage workers to the levels established by Congress in 1966.

A minimum rate of $2.16 an hour is required merely to compensate for increases in the Consumer Price Index between 1966 and May 1973.

Average hourly earnings have increased by 50 percent since 1966.

The number of people living in poverty increased between 1969 and 1972.

There were almost 300,000 more persons living in poverty in 1972 than in 1969.

Witnesses before the committee differed as to how much of an increase in the minimum wage should be legislated, and how fast that increase should be implemented, but the testimony overwhelmingly pointed up the need for an increase now.

The Secretary of Labor, for example, testified in favor of a minimum wage increase, citing a general rising trend in wages, and particularly rising prices.

Pointing to the rapidly rising cost of living, Secretary Brennan said:

> Workers in the low-wage sectors of our economy have been the hardest hit. Generally, they do not have the skills or bargaining position necessary to increase their wage as the cost of living goes up . . . .

The present bill is an attempt to insure that millions of low-wage workers throughout the Nation—workers whom this act is specifically designed to protect—will regain the ground they have lost because of the inflation which we have experienced in recent years.

Congress has previously recognized in the Economic Stabilization Act Amendments of 1971 and 1973 that these low-wage workers should not be subject to the wage controls currently applicable to other workers, by exempting from controls increases in the minimum wage and defining substandard earnings to mean earnings less than those resulting from a wage or salary rate which yields $3.50 per hour or less.

I do not believe that a successful anti-inflation program depends upon keeping the income of millions of American workers below officially established poverty levels.

I support the committee's view that by raising the minimum wage rate, extending minimum wage protection to millions of low-wage workers who do not currently enjoy such protection, and eliminating overtime exemptions where they have been shown to be unnecessary, the economy will be benefited through the injection of additional consumer spending and the creation of a substantial number of additional jobs.

Establishment of a minimum wage rate at a level which will at least assure the worker an income at or above the poverty level is essential to the reduction of the welfare rolls and overall reform of the welfare system in the United States.

The 29 percent increase in the Consumer Price Index since the last minimum wage increase in 1968 clearly shows the burden which inflation imposes on the minimum wage worker—the worker who typically does not get a raise unless the Congress mandates a raise through FLSA adjustments.

If additional support for a minimum wage increase appears necessary, one needs only to convert into an hourly wage rate the "lower" budget for a family of four.

According to the Bureau of Labor Statistics, this budget by April 1973, costs $7,715 a year, or about $3.70 to $3.85 an hour.

In light of these figures, the recommended rates of $2 and $2.20 appear most conservative.

Opponents of minimum wage legislation raise the specter of across-the-board wage increases following on the heels of an increase in the minimum wage.

It is time that this specter be laid to rest.

Experts who have studied the issue of wages know that most employers pay all of their employees well above the minimum wage.

For these employers, an increase in the minimum wage has no effect on labor cost.

Actually, employers in this group benefit when the minimum is raised to a meaningful level because they recognize that unfair employers will no longer be able to realize a competitive advantage by paying substandard wages.

The second group of employers are those who pay a very small proportion of their employees the minimum wage, but who pay most of their employees well in excess of the minimum.

These employers raise the rates of those paid the minimum wage when the law changes.

They do not raise the wages of most other workers because their wages are considerably above the minimum rate and there is no question of wage competition between the lowest wage, relatively unskilled worker and the average or semiskilled worker, or the high wage skilled worker.

For these establishments, a raise in the minimum wage means a narrowing in the spread of wages between the lowest and highest wages with some movement in the wage interval just above the lowest, but no immediate general upward movement.

The last group of establishments are those marginal employers who pay most of their employees at or close to the minimum wage.

Studies have shown that these employers continue to pay workers the new minimum when the law is changed, and wage increases above those required by law are not granted.

Labor Department studies on effects of minimum wage increases have looked repeatedly into the matter of indirect or ripple effects and have documented the fact that when the minimum is raised, the wage spread is narrowed and there is no general upward movement of wages.

Our testimony has been complete on this, Mr. President, not only in the consideration of the bill this year but also the same testimony in support of the bill last year.

The available statistical evidence simply does not support the thesis that increases in the minimum wage rate have significant indirect effect on workers earning rates above the minimum.

Rather, the evidence is that indirect effects are insignificant, and that when amended, the law accomplishes what it means to accomplish—to raise the wages of workers paid less than the minimum to the minimum.

That there is no discernible increase in unemployment is equally established.

The Bureau of Labor Statistics of the Department of Labor studies show that nonagricultural employment increased after each change in the law and that unemployment actually decreased after all but one of the changes, and in that case, it remained unchanged.

We recognize that a higher minimum wage may mean increased employer costs, but it also means increased purchasing power in the hands of the poor, and a greater demand for goods and services.

For the worker, it means less hardship and greater dignity.

For the Government, it means lower welfare costs.

The economic effects studies of the Labor Department also completely discredit the thesis that minimum wage increases have any discernible effect on inflation.

Previous increases in the minimum wage rate of greater percentage than provided in the present bill have been absorbed easily by the economy, and there is no reason to assume that a different result would obtain under this bill.

Indeed, an economist for the chamber of commerce, testifying before our committe in 1971, took the position that the increases in this bill would not be inflationary.

In fact, the direct payroll costs of the committee bill will be only 0.5 percent of the annual wage bill for covered workers in the first year, 0.4 percent in the second year, 0.3 percent in the third year, and 0.01 percent in the fourth year.

In short, this bill is not inflationary.

Before the 60-day price freeze was imposed a significant number of economists believed that skyrocketing inflation coupled with economic growth would lead us directly into a recession unless drastic action was taken.

The freeze has not reduced the number of economists who question whether inflation can be controlled or whether a recession is unavoidable, nor has it narrowed the range of diverse opinions on the state of the economy.

We do know that economists are in basic agreement on certain economic facts.

Productivity has been rising rapidly—4.6 percent last year—and the increases are reflected in soaring profits and widening profit margins rather than in wages.

Prices have been skyrocketing, but wages appear to have been held in check.

The First National City Bank of New York reports that after-tax profits in the first quarter of 1973 were up 24 percent over 1972, and 1972 was up 15½ percent over 1971, and 1971 was up 14 percent over 1970.

A comparison of the magnitude of these increases with the controlled increases in average hourly earnings of nonsupervisory workers in private nonfarm employment indicates the inequities which continue to characterize our economic policies.

Between April 1972 and April 1973, the hourly earnings index increased 5.4 percent on top of increases of 6.8 percent between April 1971 and April 1972, and 7.3 percent between April 1970 and April 1971.

The minimum wage worker who is still at $1.60 an hour has not shared even in these modest, controlled wage increases.

He is still waiting for the Congress to act.

He cannot help but be disillusioned by the legislative process when he realizes that prices for such items as hamburgers, fish, eggs, chuck roast, and potatoes have increased from 25 to 40 percent since 1971 when he first expected a $2 minimum wage.

I would like to discuss briefly the major provisions of the bill, and I ask unanimous consent to include at this point in the RECORD a comparison of the committee bill, the bill that passed the House, and the principal substitute Amendment No. 330.

The PRESIDING OFFICER (Mr. CLARK). Without objection, it is so ordered.

PROPOSED FAIR LABOR STANDARDS AMENDMENTS OF 1973, 93D CONGRESS

[Comparison of principal provisions of S. 1861 as reported, with present law, Amdt No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall) and H.R. 7935 as passed by the House]

Present law	S. 1861 (Messrs. Williams-Javits) as reported	Amd t. No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall)	H.R. 7935 (Dent) (as passed by the House)
I. MINIMUM HOURLY WAGE FOR MAINLAND EMPLOYEES			
Nonagricultural workers: (1) Covered prior to 1966 amendments, $1.60.	$2 during 1st year; and $2.20 thereafter (also includes Federal employees covered by 1966 amendments).	$1.80 during 1st year; $2 during 2d year; $2.10 during 3d year; $2.20 during 4th year; $2.30 thereafter.	$2 until June 30, 1974; $2.20 thereafter.
(2) Covered by the 1966 amendments, $1.60.	$1.80 during 1st year; $2 during 2d year; $2.20 thereafter (also includes employees covered by the 1973 amendments).	Same as for those covered prior to 1966 amendments. (Also includes employees covered by the 1973 amendments).	$1.80 until June 30, 1974; $2 thereafter until June 30, 1975; $2.20 thereafter. (Also includes employees covered by the 1973 amendments).
Agricultural workers: $1.30	$1.60 during 1st year; $1.80 during 2d year; $2 during 3d year; $2.20 thereafter.	$1.50 during 1st year; $1.70 during 2d year; $1.90 during 3d year; $2.00 thereafter.	$1.60 until June 30, 1974; $1.80 thereafter until June 30, 1975; $2 thereafter until June 30, 1976; $2.20 thereafter.
II. OVERTIME PAY REQUIREMENTS			
1½ times the regular rate for hours over 40 in any work week.	No change from present law	No change from present law	No change from present law.
III. MINIMUM HOURLY WAGE FOR EMPLOYEES IN PUERTO RICO AND VIRGIN ISLANDS			
Determined by special industry committees, but not over $1.60.	Employees making less than $0.80 per hour under most recent wage order, raised to $1 during the 1st year from the effective date. Thereafter, their pay is increased by $0.20 per hour each year until parity with the mainland is achieved. Employees over $0.80 per hour are raised $0.20 per hour on the effective date of the 1973 amendments and $0.20 each year thereafter until parity with the mainland is achieved. Employees newly covered by the 1973 amendments will have minimums set (but not below $1 per hour) by newly appointed special industry committees. Upon the setting of such minimums, the raises for previously covered employees go into effect. Each year, special industry committees may increase the $0.20 per hour raise, but they may not lower it. Certain motel, hotel, restaurant, food service, and government employees are brought up to mainland minimums on the effective date of these amendments. Subsidized agricultural employees will have their increases applied to their wage rates as increased by the subsidy.	Provides for three increases, each of 12½ percent of the rate or rates applicable under the most recent wage order prior to these amendments, the first to become effective 60 days after enactment or 1 year from effective date of the most recent applicable wage order—whichever is later; the second to become effective 1 year later; the third 1 year after that. These increases may be superseded by rates prescribed in wage orders issued pursuant to review-committee recommendations to prevent substantial curtailment of employment in the industry. Amendment No. 330 does not change the present law's special industry committee system for Puerto Rico and the Virgin Islands.	For hotel, motel, restaurant, food service, conglomerate, Federal employees of the govt. of Virgin Islands, minimum wages are the same as those for counterpart mainland employees. For other employees presently covered by a wage order, percentage increases, as follows: For nonagricultural employees covered by 1966 amendments, 25 percent increase during 1st year and 12.5 percent increase during 2d year. For nonagricultural employees covered by 1966 amendments, 3 12.5 percent increases effective in each of the first 3 years. For agricultural employees, 3 15.4 percent increases effective in each of the first 3 years (subsidized agricultural employees will have their increases applied to their wage rates as increased by the subsidy). Such increases may be reviewed by industry committees. Special industry committees to recommend minimum rates for employees covered by 1973 amendments. Requires all industry committees to recommend minimum rates applicable to counterpart mainland employees, except where substantial documentary evidence demonstrates inability to pay. Notwithstanding any other provisional, no minimum rate shall be less than 60 percent of the minimum applicable to counterpart mainland employees.
IV. EXTENSION OF COVERAGE			
(a) Government employees: Limited coverage of some government employees (Federal wage board workers, government employees in State and local government operated schools, nursing institutions, and hospitals). Federal hospitals are not covered.	Coverage for all Federal, State and local government employees, except persons serving in the armed services and certain persons not in the competitive service. Elected officials of State and local agencies and their immediate (non-Naval Service) staff are exempt. With regard to overtime, a special provision for a mutually agreed to 28-day work period is made for averaging overtime hours for State and local law enforcement (including security personnel in correctional institutions) and fire protection employees. Scales down the non-overtime work period during the 28-day work cycle from 192 hours to 160 hours over 4 years. U.S. Civil Service Commission will enforce provisions relating to Federal employees. Individuals or the Secretary of Labor will have right of action to recover back wages against State and local agencies. (Civil actions brought on or before April 18, 1973 are preserved.)	Same as S. 1861, except such newly covered employees are exempted from overtime provisions.	Coverage added for Federal, State and local government employees not subject to the present law, except that the following are exempt from overtime provisions: Newly covered Federal employees, and State and local employees engaged in fire protection of law enforcement activities.
(b) Domestic employees: No coverage	Coverage for minimum wage only included for domestic service employees, except babysitters.	No change from present law	Coverage under minimum wage and overtime provisions for domestic service employees except for employees residing in employer's household.

PROPOSED FAIR LABOR STANDARDS AMENDMENTS OF 1973, 93D CONGRESS—Continued

[Comparison of principal provisions of S. 1861 as reported, with present law, Amdt No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall) and H.R. 7935 as passed by the House]

Present law	S. 1861 (Messrs. Williams-Javits) as reported	Amdt. No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall)	H.R. 7935 (Dent) (as passed by the House)
(c) Retail and service employees: No coverage if annual gross sales volume is below $250,000 (except for specifically listed establishments in "Enterprise" definition; laundering, cleaning, or repairing clothes or fabrics).	Coverage of retail and service establishment employees working in all stores in a large chain. Gross sales volume test remains at present $250,000 level.	do	No change from present law.
(d) Agricultural workers: No coverage unless the employer used more than 500 man-days of agricultural labor during peak quarter in the past calendar year. Local seasonal hand harvest laborers not counted for purposes of man-day test and are excluded from minimum wage. Parents, spouse, child or other member of employer's immediate family are not covered employees in agriculture.	Minimum wage coverage expanded to include local seasonal hand harvest laborers. These are also included for purposes of calculating the number of man-days of labor used by a farm during the peak quarter. 500 man-day test retained for purposes of determining which farms are covered. Exemption for parents, spouse, child or other member of employer's immediate family not changed from present law.	do	Do.
V. EXEMPTIONS			
(a) Minimum wage and overtime exemptions: Specified employment exempt from minimum wage and overtime requirements, includes an establishment which has as its only regular employees the owner or parent, spouse, child or other member of the owner's immediate family.	Minimum wage and overtime exemption repealed for: Motion picture theater employees; shade grown tobacco employees engaged in processing such tobacco; certain telegraph agency employees; certain employees of retail-manufacturing establishments. Minimum wage exemption only repealed for: Logging and sawmill employees. Requires Secy of Labor to conduct an economic effects study of this Act and another to justify overtime exemptions under sections 13(a) and 13(b). Economic effects study to be submitted to Congress by Jan. 1, 1975; overtime report to be submitted by Jan. 1, 1976.	No change from present law. Requires Secretary of Labor to study minimum wage and overtime exemptions under section 13 of present law and submit to Congress within 3 years his recommendations as to whether each exemption should be continued, removed, or modified.	Minimum wage and overtime exemptions repealed for employees of conglomerates with over $10 million in annual salaries. Minimum wage and overtime exemption extended to resident house parents (husband and wife) or individual resident house parent of orphans residing in nonprofit educational institutions, if couple earns at least $10,000 per year, or an individual house parent at least $5,000 per year from such employment. Up to 30 percent of annual compensation may be an allowance for board and lodging.
(b) Overtime exemptions only: Specified employment exempt from overtime requirements only.	Overtime exemption repealed for: Agricultural processing, seafood processing, oil pipeline, cotton ginning, and sugarcane or sugar beet processing employees; partsmen and mechanics in auto, truck, and trailer dealerships, and all employees in aircraft dealerships. Other overtime exemptions modified as follows: Local transit employees—48 hours 1st year; 44 hours 2d year; 40 hours thereafter. Provides for an exemption for voluntary work performed by employees of a local transit company in nonregular charter activities which are covered by prior agreements. Hotel, motel, and restaurant employees: 48 hours 1st year; 46 hours thereafter. Nursing home employees: 48 hours 1st year (as in present law); 46 hours 2d year; 44 hours thereafter. Catering and food service employees: 48 hours 1st year; 44 hours 2d year; 40 hours thereafter. Bowling employees: 48 hours retained for 1st year; 44 hours 2d year; 40 hours thereafter. Creates new overtime exemptions for: Domestic service employees, and husband and wife teams employed by a nonprofit educational institution to serve as house parents of orphan children and are compensated on a cash basis at an annual rate of not less than $10,000.	No change from present law	Agricultural processing exemption retained. Adds an overtime exemption for newly covered Federal employees and newly covered State and local government employees engaged in fire protection or law enforcement activities Adds an overtime exemption for boat salesmen and mechanics employed in boat dealerships comparable to present overtime exemption for employees in auto, trailer, truck, farm implement, or aircraft dealerships. Repeals overtime exemption for local transit employees for work over 48 hours per week during 1st year; 44 hours per week during 2d year; 42 hours thereafter. Hours voluntarily employed in charter activities, if not part of employee's regular employment, excluded in determining hours for overtime purposes. Repeals overtime exemption for maids and custodial employees of hotels and motels. Repeals present overtime exemption for nursing home employees and provides these employees with overtime exemption identical to present exemption for hospital employees, that is, an overtime exemption for work up to 8 hours in a workday and 80 hours in a 2-week period. Treats laundry and drycleaning establishments as service establishments with respecjt to present law's provisions concerning outside salesmen and commission employees.
VI. MISCELLANEOUS PROVISIONS			
(a) Tips: Value of tips may be incuded in determining wages to meet the minimum rate up to 50 percent of the minimum rate.	Tip credit to meet the minimum rate retained at 50 percent of the minimum rate. The employer must inform each of his tipped employees of the provisions of the law regarding tipping. All tips received must be retained by such tipped employee, except that pooling of tips by employees who customarily and regularly receive tips is not prohibited.	Same as S. 1861	No change from present law.
(b) Child labor: 16 years for most covered employment including agricultural workers during school hours or in occupations in hazardous agricultural work. No minimum age for children in nonhazardous agricultural work outside of school hours. 18 years for hazardous nonagricultural work.	Under 12, may not work in agriculture except on farms owned or operated by their parents. Between 12 and 14, may work on a farm only with consent of their parents. Between 12 and 16, may work in agriculture only during hours when school district where employee living while employed is not in session. Provides for a civil penalty of up to $1,000 for any violation of child labor provisions of the	Under 12, may not work in agriculture except on farms owned or operated by their parents. Between 12 and 14, may work on a farm only with consent of their parents. Between 12 and 16, may work in agriculture only during hours when school district where employee living is not in session. Provides a child labor exemption for anyone engaged in delivering shopping news and advertising materials published byweekly and	Do.

Present law	S. 1861 (Messrs. Williams-Javits) as reported	Amdt. No. 330 in Nature of a Substitute (Messrs. Dominick, Taft, and Beall)	H.R. 7935 (Dent) (as passed by the House)
14 years for specified employment outside school hours in nonmanufacturing and nonmining work for limited hours under specified work conditions. Provides child labor exemption for newsboys delivering daily newspapers.	Fair Labor Standards Act. Authorizes the Secretary of Labor to issue regulations requiring employers to obtain proof of age from any employee.	semi-weekly newspapers. Does not create new minimum wage on overtime exemption. Authorizes the Secretary of Labor to issue proof of age from any employee. Provides for a civil penalty of up to $1,000 for any violation of child labor provisions of the Fair Labor Standards Act.	
(c) Youth employment: Provides for wage rates no less than 85 percent of the statutory minimums for: (a) Full-time students working part-time in retail or service establishments and agriculture. (b) Student-learners in vocational training programs. (c) Student workers receiving instructions in educational institutions and employed part-time in shops owned by the institutions. Student certificates are issued by the Secretary of Labor.	Retains present provisions of the Fair Labor Standards Act. Expands student certificate program to include students employed part-time by educational institutions and those employed full-time during school vacations by such institutions.	Provides for employment of youths under 18 (for not more than 180 days) and of full-time students (employed full- or part-time at the educational institution they attend, or part-time (not more than 20 hours per week) at any job) at wage rates not less than 85 percent of the applicable minimum wage or $1.60 an hour ($1.30 an hour in agriculture), whichever is higher. Requires the Secretary of Labor to issue regulations insuring that the special minimum rates for youth will not create a substantial probability of reducing the full-time employment opportunities of adult workers. Removes present law's requirement in sections 14(b) and (c) that employers receive U.S. Labor Department certification in order to employ youths at special minimum rates.	Provides for employment of fulltime students (except in hazardous occupations excludes agricultural processing) at wage rates not less than 85 percent of applicable minimum or $1.60 an hour ($1.30 an hour in agriculture), whichever is higher, pursuant to special certificates issued by the Secretary of Labor for not more than 20 hours in any workweek except during vacation periods. Requires Secretary of Labor to monitor issuance of certificates for student employment at special minimums, to prevent the reduction of full-time employment opportunities of adult workers. This requirement not applicable where student is employed by an educational institution in which he is enrolled.
(d) Liquidated damages: Makes employers in violation of the Fair Labor Standards Act liable to affected employees in an amount equal to unpaid minimum wages plus an additional equal amount in liquidated damages unless the suit involves issues not finally settled by the courts. The Secretary of Labor may bring suit for back pay upon written request of the employee.	Allows the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring written request of the employee and even though the suit might involve issues not finally settled by the Courts. Allows private actions by employees of State and local governments.	Allows the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring written request of the employee and even though the suit might involve issues not finally settled by the courts.	No change from present law.
(e) Canal Zone workers: Covered under the Fair Labor Standards Act.	Increases the minimum wage rate for Canal Zone workers to $1.80 per hour in the 1st year; $2.00 during second year; $2.20 thereafter.	Retains the present minimum wage rate of $1.60 per hour for Canal Zone workers.	Retains the present minimum wage of $1.60 an hour for Canal Zone workers.
(f) Age discrimination in Government Employment: No coverage	Extends coverage of the Age Discrimination in Employment Act of 1967 to Federal, State and local government employees. Gives U.S. Civil Service Commission enforcement power over discrimination in Federal employment.	Extends coverage of the Age Discrimination in Employment Act of 1967 to Federal, State and local government employees. Gives the Federal Civil Service Commission enforcement power over discrimination in Federal employment.	No change from present law.
VII. EFFECTIVE DATE			
	60 days after date of enactment	60 days after date of enactment	1st day of 2d full month after date of enactment or Aug. 1, 1973, whichever occurs first.

Mr. WILLIAMS. Mr. President, the bill provides for a statutory minimum wage of $2.20 an hour for all covered workers, but establishes different time schedules for achieving this standard for various categories of employment.

Fundamental to our deliberations was the notion of parity—that all workers should be treated alike for purposes of minimum wage.

However, we were mindful of the historical development of the Fair Labor Standards Act and the need to mitigate the initial impact of expanded coverage.

Therefore, the bill provides for staged increases in the minimum wage depending upon when specific workers were first brought under the act.

All mainland nonfarm workers covered prior to 1966 will attain a $2.20 minimum wage 1 year from the effective date.

An additional step is provided for nonfarm workers newly covered under the 1966 and 1973 amendments.

They will reach parity with other workers at the $2.20 rate 2 years from the effective date.

Farmworkers will achieve parity at the $2.20 rate 3 years after the effective date.

In addition, special provision is made for achieving minimum wage parity for workers in Puerto Rico and the Virgin Islands.

If the conditions that poverty breeds in this country are to be changed, poverty wages must be eliminated.

These conditions will not change unless the FLSA minimum wage is increased, because minimum wage workers rarely have the bargaining position or the skills necessary to increase their wages as the cost of living increases.

In essence, Congress must act in the interest of the Nation's working poor.

Workers who toil at the minimum wage level are poor people by the standards of our society.

They are working full time, but they are still poor.

In the 1969 report on the minimum wage, Secretary of Labor Wirtz stated that:

> "Poverty" is erroneously identified in loose thinking with "unemployment" * * * In commenting on criticisms of anti-poverty efforts, he stated that a first step in moving people out of poverty is to insure that when a person does work, he gets enough for it to support himself and his family.

In this statement going back to 1969, Secretary of Labor Willard Wirtz, in one of his departing messages—I was almost tempted, Mr. President, to say in the good old days of Secretary of Labor Willard Wirtz—said those words which ring today with the same clarity and depth of humanity and reason as they did back then. That is one of the most significant parts of this opening presentation, the commentary on the words of former Secretary of Labor Willard Wirtz.

A gross weekly income of $64, which is all that the current minimum wage provides to a full-time worker, hardly meets that criterion.

Last year, the Senate rejected an amendment to reduce the proposed wage rates by a vote of 52–42.

The provisions of the committee bill are consistent with the wage provisions of last year's Senate approved bill.

The bill reflects an awareness that to raise the minimum wage without expanding the coverage of the act would serve to deny even the minimum benefits of the act to large groups of workers who have been denied the protection of the act for more than 30 years.

The committee reviewed present coverage as well as the gaps therein, and determined that a strong need exists for covering domestics, additional workers in retail and service industries and in government.

The committee also determined that local seasonal hand harvest laborers should be covered and included for purposes of the 500 man-day test, which covers large farms.

The retention of the 500 man-day test provides that workers on small farms will not be covered.

The committee carefully examined the economic implications of extending coverage and was persuaded that wages should go up for workers on the lowest rung of the wage ladder and that the economy could easily absorb these raises.

I ask unanimous consent to have printed in the RECORD a chart showing the expansion of coverage.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

NUMBER OF NONSUPERVISORY EMPLOYEES

[In thousands]

Industry	Expanded coverage	Present coverage	New coverage under S. 1861
All industries	53, 773–53, 848	46, 950	6, 823–6, 898
Private sector	45, 290–45, 365	53, 497	1, 793–1, 868
Retail trade	7, 205	6, 611	594
Services (except domestic)	6, 589	6, 465	124
Domestic service	955	----------	955
All other	30, 541–30, 616	30, 421	120–195
Public sector	8, 483	3, 453	5, 030
Federal Government	2, 333	636	1, 697
State and local government	6, 150	2, 817	3, 333

Note: Estimates reflect employment in September 1972, except for agriculture (May 1972) and for education (October 1972). Data exclude 2,069,000 outside salesmen.

Mr. WILLIAMS. Mr. President, the committee bill extends the act to employees of individual retail and service establishments—except "Mom and Pop" stores—which are part of enterprises with gross annual sales of more than $250,000.

Under current law, individual establishments which have annual sales less than $250,000 are exempt even if they are part of a chain which has annual sales far in excess of $250,000.

The bill also repeals the exemption for retail and service establishments that also do manufacturing or processing at the establishment and treats those employees like all other manufacturing workers.

The bill would not directly affect franchised or independently owned small—less than $250,000 annual sales—retail and service firms, nor would it extend coverage to the so-called Mom and Pop stores although the annual gross volume would be included for the purpose of the enterprise test if such a store was part of a chain.

The bill would bring under the minimum wage provisions of the act all employees in private household domestic service earning "wages"—$50 per quarter—for purpose of the Social Security Act, except babysitters, but retains an overtime exemption for such domestic service employees.

The reasons for extending the minimum wage protection of the act to domestics are so compelling and generally recognized as to make it hardly necessary to cite them.

The status of household work is far down in the scale of acceptable employment.

It is not only low-wage work, but it is highly irregular, has few, if any, nonwage benefits, is largely unprotected by unions or by any Federal or State labor standards.

S. 1861 extends FLSA coverage to almost 5 million nonsupervisory employees in the public sector not now covered by the act. This is a second major new coverage. I have mentioned domestic; this public sector employment is new coverage also.

In 1966, some 3.3 million nonsupervisory government employees, primarily employees in State and local hospitals, schools, and other institutions, were covered.

With enactment of the amendments contained in S. 1861, virtually all nonsupervisory Government employees will be covered.

Coverage of Federal employees is extended by the bill to most employees including wage board employees, nonappropriated fund employees, and employees in the Canal Zone.

The committee bill charges the Civil Service Commission with responsibility for administration of the act so far as Federal employees—other than employees of the Postal Service, the Postal Rate Commission or the Library of Congress—are concerned.

There are a number of reasons to cover employees of State and local governments.

The committee intends that government apply to itself the same standard it applies to private employers.

This principle was manifested last year when the Senate overwhelmingly voted to apply Federal equal employment opportunity standards to public sector employers.

Equity demands that a worker should not be asked to work for subminimum wages in order to subsidize his employer, whether that employer is engaged in private business or in government business.

Mr. President, we had extensive debate on this part of the bill the last time it was before the Senate. There was compelling testimony at that time for the wisdom of this extended coverage. That wisdom of extended coverage has not changed between the last time we had this bill and this year.

We made an effort to minimize any adverse effects of overtime requirements by providing for a phase-in of hours for those public employees who are most frequently required to work more than 40 hours per week, the public safety and firefighting employees.

The bill includes a special overtime standard for law enforcement and fire protection employees, including security personnel in correctional institutions.

S. 1861 adds to the minimum wage provisions of the Fair Labor Standards Act, coverage for all adult local, seasonal hand harvest laborers.

This group consists of part-year agricultural employees—averaging a 5-week work year—who commute to the farm from their respective local communities.

The immediate effect will be to bring basic minimum wage protection to between 75,000 to 150,000 new farmworkers.

Initially, more than 1 out of 4 will benefit by the $1.60 minimum rate.

S. 1861 provides parity for covered farmworkers.

Under this proposal, the Fair Labor Standards Act would be amended to achieve a $2.20 minimum wage for all covered workers, including those employed in agriculture.

To facilitate adjustments to this new concept of wage equality, a period of staged increments has been introduced.

The schedule would be as follows: $1.60 during the first year after the effective date, $1.80 during the second year, $2.00 during the third year, and $2.20 thereafter.

S. 1861 amends the Fair Labor Standards Act by prohibiting the employment in agriculture of all children under the age of 12, except those working on farms owned or operated by their parents.

Children ages 12 through 15 will be permitted to work but only during hours when school is not in session, provided that all 12- and 13-year-olds must either receive written parental consent or work only on farms where their parents are employed.

Thirty-five years ago Congress reacted to a national outcry by banning industrial child labor.

However, since 1938, the Nation has permitted in the fields what it has prohibited in the factories—oppressive and scandalous child labor.

This bill eliminates the shameful double standard. The fresh-air sweatshop should become a thing of the past.

The bill provides for the gradual achievement of minimum wage parity for workers in Puerto Rico and the Virgin Islands with workers on the mainland.

The minimum wage for certain hotel, motel, restaurant and food-service employees, as well as government workers, will be the same as the minimum wage for counterpart mainland employees on the effective date.

The minimum wage for employees who are covered by industry committee wage order rates of less than $.80 an hour is raised to $1 on the effective date and then is increased by $.20 an hour each year until parity with the mainland is reached.

S. 1861 repeals or modifies a number of the exemptions presently incorporated in the Fair Labor Standards Act, including some of the complete minimum wage and overtime exemptions as well as some which apply only to the overtime standard.

The Fair Labor Standards Act is a complex piece of social legislation.

In large part the complexity of the law is an outgrowth of compromises entered into over a 30-year period in order to achieve, to the fullest extent possible, the basic purpose of the act.

Careful review led us to conclude that a number of the exemptions presently incorporated into the act should now be eliminated.

Mr. President, all workers are entitled to a meaningful minimum wage and to premium pay for overtime work.

We approached the matter of special exemptions by applying a simple rule.

Unless the proponents of an exemption made the case for continuing the exemption in its present form, it was modified or removed.

However, the bill provides for two special studies by the Secretary of Labor.

The first study is of the economic effects of the extensions of minimum wage and overtime coverage made by this bill, and the second study is of the justification, or lack thereof, for all the minimum wage and overtime exemptions remaining under sections 13(a) and 13(b) of the Fair Labor Standards Act.

I ask unanimous consent to have printed in the RECORD, excerpts from the committee report explaining the treatment of exemptions in the bill.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

Motion picture theaters

S. 1861 repeals the minimum wage and overtime exemption currently applicable to all employees of motion picture theaters. Approximately 68,000 workers are currently denied the protection of the FLSA because of this blanket exemption.

A 1966 study of motion picture theaters by the Department of Labor disclosed the prevalence of extremely low wages in the industry. While motion picture projectionists were paid well above the minimum wage, most employees were paid substandard wages. Concession attendants, cashiers, ushers, and janitors were paid well below the minimum wage.

In 1961, when motion picture theaters received a special minimum wage and overtime exemption, the poor economic condition of the industry was cited by industry representatives as a major reason for the exclusion.

This argument was repeated in 1966 when the Congress was considering amendments to the FLSA which would have eliminated this exemption. Industry representatives argued against removing the exemption on the basis that increased labor costs could not be passed on to consumers in the form of higher admission prices by motion picture theaters because of the depressed state of the industry.

However, the validity of this argument is now open to serious challenge. Price data published by the Bureau of Labor Statistics of the Department of Labor indicate that indoor movie admission costs have increased by 39 percent between 1967 and the beginning of 1972. Admission costs in drive-in movies have increased even more—43 percent since 1967. These increases are far in excess of price increases for products of covered industries and for almost all services covered by the Act.

The Congress has long recognized the need for minimum wage and overtime protection for employees in motion picture theaters. Conditions in the industry and the present price structure indicate that removal of this exemption would bring substantial benefits to low-wage workers and could be easily absorbed by the industry. Furthermore, the usual hours of business in this industry, particularly in nonmetropolitan areas, suggest that it can adapt to the overtime standard with relative ease.

Small logging crews

The Committee bill removes the minimum wage exemption currently available to forestry and lumbering operations, with 8 or fewer employees but retains an overtime exemption for such lumbering operations.

Prior to the 1966 amendments, the exemption applied to employers with 12 or fewer employees. In enacting the 1966 amendments the Congress reduced the 12-man test to an 8-man test and the House Committee report commented on the change as follows:

"The decision on eight employees was made after careful consideration and investigation of conflicting facts. The Committee believes the eight-man criterion to be a sound basis for exemption at the present time, but intends to further investigate these logging operations."

According to the Department of Labor, about 45,000 employees are currently exempt under this provision. Many of these workers are paid very low wages and are, in effect, being asked to subsidize their employers.

The Committee found no adverse effect when minimum wage and overtime protection was extended to employers with 8–12 workers. However, employees of such loggers did benefit significantly from the protection of the FLSA. The Committee is persuaded that all logging employees should enjoy the minimum wage protection of the Act, and this can be accomplished with ease at this time. The Committee was not satisfied that a case had been made for a continued minimum wage exemption. The Committee considered removing the complete minimum wage and overtime exemption but elected to retain the overtime exemption at this time. This continues the gradual approach to full coverage which has been applied to this industry.

The Committee considered the recordkeeping problems raised by the industry but concluded that current Department of Labor regulations on this point offered sufficient flexibility to meet the legitimate needs of this industry. The Committee noted in this regard that small loggers have been able to keep tax records and complex piece-rate records for some time.

Shade-grown tobacco

S. 1861 would remove the special minimum wage and overtime exemption available to employers engaged in the processing of shade-grown tobacco prior to the stemming process for use as cigar wrapper tobacco.

Prior to the *Mitchell* v. *Budd,* 350 U.S. 473 (1956) decision, it had been held that the processing of shade-grown tobacco was a continuation of the agricultural process and hence came within the scope of the term "agriculture." However, the U.S. Supreme Court ruled that workers engaged in processing leaf tobacco for cigar wrappers after delivery of the tobacco to bulking plants were not engaged in agriculture and were not exempt as agricultural employees, regardless of whether (1) the plants were operated exclusively for the processing of the tobacco grown by the operators, or (2) the employees who worked on the farms where the tobacco was grown also worked in the plants processing the tobacco. The Supreme Court decision laid particular emphasis on the fact that the processing operations substantially change the natural state of the leaf tobacco and that the farmers who grow the tobacco do not ordinarily perform the processing. Typically, this work is done in bulking plants.

The 1961 amendments to the FLSA provided a special exemption for processing shade-grown tobacco, thus negating the decision of the Supreme Court.

The Committee bill removes the special exemption because it has created a situation in which a tobacco processing employee who would otherwise enjoy the protection of the FLSA, loses such protection solely because he had previously worked in the fields where the tobacco was grown; co-workers who had not worked in the field enjoy "fair labor standards." In this regard, it should be noted that the Committee retained the overtime exemption for agricultural field-workers. Thus field work perfomed in connection with the shade-grown tobacco industry will continue to operate with an overtime exemption and the student certification program under section 14 of the Act will still be applicable to such field work.

Agricultural processing industries

S. 1861 repeals the existing partial overtime exemptions for seasonal employers generally (Section 7c), and seasonal or seasonally-peaked employers specifically engaged in agricultural processing of perishable raw commodities (Section 7d). Based on 1971 Department of Labor statistics, some 26,000 establishments with 694,000 employees utilize these exemptions.

At present under Section 7(c), employers who are determined by the Secretary of Labor to be in industries seasonal in nature are free from FLSA overtime jurisdiction for a 14-week period during which employees may work up to 10 hours a day or fifty hours a week without being subject to a time and one-half wage rate.

Under the existing 7(d) exemption, employers designated by the Secretary of Labor to have either seasonal or seasonally-peaked agricultural processing operations involving perishable raw commodities are entitled to a 14 week period free of FLSA overtime restrictions if their employees do not exceed 10 hours a day or 48 hours a week during that time period.

Both Sections 7(c) and 1(d) which have identical reciprocity clauses entitles any employer who qualified under the definition of both sections to receive an aggregate exemption of two ten-week periods (one under 7(c) and one under 7(d)) outside of the FLSA overtime standard. Several industries have been determined as qualifying for the dual exemption.

The origins of these two sections date to the beginning of the FLSA in 1938. The predecessor of the current Section 7(c) was the former Section 7(b)(3) whose exemption provided for up to 12 hours a day or 56 hours a week before the FLSA overtime standard became effective. The present Section 7(d) is successor to the former section [7(c)], which had permitted among other things, year-round overtime exemptions for several categories of employers, engaged in agricultural processing. In addition, employers qualifying under both former sections could claim up to an aggregate of 28 weeks of exemptions.

However, in 1966, after 28 years of favored treatment, Congress determined that the agricultural processing industry no longer warranted the original Act's broadbrush treatment. Thus, as a result of the 1966 FLSA amendments Congress narrowed the exemptions to their present state.

The complete elimination of the agricultural processing overtime exemption was anticipated in the 1966 FLSA Amendments. The Conference Report stated in part:

"It was the declared intention of the Conferees to give notice that the days of overtime exemptions for employees in the agricultural processing industry are rapidly drawing to a close because advances in technology are making the continuation of such exemptions unjustifiable."

A detailed two-volume Department of Labor survey, entitled "Agricultural Handling and Processing Industries—Overtime Exemptions Under the Fair Labor Standards Act, 1970", found with reference to Sections 7(c) and 7(d):

"(1) Existing exemptions are not fully utilized.

"(2) Many processing establishments are now paying premium rates for hours over 40 a week.

"(3) Currently, some industries which qualify for 20 weeks of exemption are less seasonal than others which qualify for 14 weeks.

"(4) A 40 hour basic straight time standard would eliminate inequities which currently exist between employers who now pay premium overtime rates either because they elect to do so voluntarily or because they are covered by a collective bargaining agreement and employers who avail themselves of the overtime exemption.

"(5) Additional jobs could be created by second and third shift operations in those industries where large shipments of raw materials are received in relatively short periods.

"(6) Technological advances in recent years have lengthened the storage life of perishable products.

"(7) Grower-processor contracts permit the processor to specify the time for planting, harvesting, and delivery, and thus make possible better work-scheduling."

Based on the above finding, former Secretary of Labor (and present Secretary of the Treasury) George Shultz in his "Report to the Ninety-First Congress on Minimum Wage and Maximum Hours under FLSA" (January 1970), concluded:

"The study of overtime exemptions available to the agricultural handling and processing industries indicates the need for reappraising the favored position which has long been given these industries through exemption from the 40 hour maximum work week standard. It is my recommendation that the exemptions currently available under Section 7c, 7d, . . . be phased out."

And most currently, these same thoughts were echoed by the current Secretary of Labor, Peter Brennan, at hearings before the Labor Subcommitee on June 7, 1973. Mr. Brennan stated:

"We believe that the Fair Labor Standards Act can be modified as to its present partial overtime exemption for seasonal industries and industries engaged in processing fresh fruits and vegetables.

"At one time the fresh food processing industry was in a very unusual position. Since it is entirely dependent on the timing and abundance of agricultural produce for its perishable "raw materials", it was necessary to operate almost continuously during harvest season. A great deal of overtime work was required in order to process the fresh food coming in from the farms before it spoiled.

"Advancements in technology, however, have now made it possible for initial processing to be accomplished rapidly and overtime requirements have been reduced. We believe that the present law can now be changed and would be glad to work out language with the Committee that would not adversely affect the employment situation nor add undue pressures to food prices, which are a matter of special concern in the present economic picture."

Thus, the record is clear. Since the 1966 Amendments reduced the overtime exemption for agricultural processing there has been a sharp decline in the amount of overtime worked by employees in the affected industries.

Claims of adverse effects on the industry have been greatly exaggerated. There is every reason to believe that the industry can make the necessary adjustment when these special exemptions are removed.

Railroad and pipelines

The Fair Labor Standards Act currently exempts from the overtime provisions of the Act any employee of an employer subject to the provisions of Part I of the Interstate Commerce Act.

Part I of the Interstate Commerce Act pertains to railroad employment and employees of oil pipeline transportation companies.

The Committee bill would retain the overtime exemption for railroad employees but would remove the overtime exemption for employees of oil pipelines.

The Committee, in reviewing the historical basis for this exemption, found that there was no testimony with respect to oil pipeline transportation companies.

This industry was apparently exempted because it is covered along with railroads under part I of the Interstate Commerce Act and a case had been made for exempting railroad employees.

The Committee has concluded that there is no basis for continuing to provide an overtime exemption for employees of oil pipelines. Employees of gas pipelines are now covered by the overtime provisions of the FLSA. The action of the Committee eliminates a longtime competitive inequity between oil pipelines and gas pipelines.

Seafood processing

S. 1861 repeals the overtime exemption currently available in Section 13(b)(4) for "any employee employed in the processing, marketing, freezing, curing, storing, packing for shipment, or distributing of any kind of fish, shellfish, other aquatic forms of animal or vegetable life, or any product thereof."

The Fair Labor Standards Act as originally enacted provided an exemption under Section 13(a)(5) for:

"Any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or byproducts thereof."

The 1949 amendments retained the complete exemption for fishing and processing, except canning. The minimum wage exemption for canning was eliminated, but the overtime exemption was retained under a new Section 13(b)(4).

The 1961 amendments removed the minimum wage exemption for employees employed in "onshore" operations, such as processing, marketing, distributing and other fish-handling activities. The overtime exemption for "onshore" operations was retained by adding such operations to the exemption already provided for the canning of seafood under Section 13(b)(4).

Removal of the overtime exemption for seafood canning and processing is part of the Committee's effort to achieve parity under the law for all workers to the maximum extent possible at this time. Just as in the case of agricultural processing, no case has been made for continuing the exemption.

Local transit

Currently, the overtime provisions of the Fair Labor Standards Act do not apply with respect to any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway and carrier are subject to regulation by a State or local agency.

The Committee bill would eliminate this overtime exemption in three steps, except with respect to time spent in "charter activities" under specified conditions. The hours of employment will not include hours spent in charter activities if—(1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment. These conditions are set so as to emphasize that the Committee intends that hours spent in "charter activities" as a part of the regular workday or workweek are to be included in the definition of "hours worked" under the Act.

The Committee has been persuaded that the transit industry has been adjusting to a shorter workweek for some time now. Collective bargaining agreements typically call for overtime after 40 hours a week—and in many cases after 8 hours a day. A large segment of the industry is now covered by such contracts. In addition, an overtime standard was applied to nonoperating employees of the industry by the 1966 amendments. The Committee bill requires that employees be paid time-and-one-half their regular rate of pay for all hours over 48 per week, beginning with the effective date; after 44 hours, 1 year later; and after 40 hours at the end of the second year and thereafter. This gradual approach ensures ease of adjustment.

It is noted that by virtue of the Committee's action on coverage of State and local government employment, together with its action on overtime pay in the local transit industry, operating employees of publicly and privately owned transit companies will be treated identically.

A question was raised concerning the applicability of the overtime provisions of the Act in the case of certain collective bargaining agreements involving local transit in the New York area which provide for straight-time pay for certain off-duty hours. The Committee notes that section 7(e)(2) of the FLSA provides that "payments made for periods when no work is performed due to . . . failure of the employer to provide sufficient work . . . are not made as compensation for hours of employment." The Committee also notes that the Department of Labor's regulations concerning "Hours Worked" contain the following provision (29 C.F.R. 785.16(a)):

"OFF DUTY

"(a) *General.* Periods during which an employee is completely relieved from duty and which are long enough to enable him to use the time effectively for his own purposes are not hours worked. He is not completely relieved from duty and cannot use the time effectively for his own purposes unless he is definitely told in advance that he may leave the job and that he will not have to commence work until a definitely specified hour has arrived. Whether the time is long enough to enable him to use the time effectively for his own purposes depends upon all of the facts and circumstances of the case."

Last year, by vote of 68–24 the Senate rejected an amendment to retain the overtime exemptions for local transit.

Hotels, motels, and restaurants

S. 1861 eliminates the complete overtime exemption for employees employed by hotels, motels and restaurants and substitutes a limited overtime exemption. S. 1861 requires the payment of time and one-half the regular rate of pay for all hours over 48 in a week on the effective date, and for hours after 46 in a week at the end of the first year and thereafter.

In setting an overtime standard for employees of hotels, motels and restaurants the Committee recognized that the length of workweeks have been declining in these activities. It is interesting to note that when minimum wage coverage was extended to these workers by the 1966 amendments, the Department of Labor reported to the Congress that there was a reduction in the prevalence of long workweeks in these industries, even though an overtime exemption was retained.

Tip allowance

S. 1861 modifies section 3(m) of the Fair Labor Standards Act by requiring employer explanation to employees of the tip credit provisions, and by requiring that all tips received be paid out to tipped employees.

Currently, the law provides that an employer may determine the amount of tips received by a "tipped employee" and may credit that amount against the applicable minimum wage, but amounts so credited may not exceed 50 percent of the minimum rate. Thus, a tip credit of up to $.80 an hour may currently be deducted from the minimum wage of a tipped employee. (A tipped employee is defined as an employee who customarily and regularly receives more than $20 a month in tips.)

The Committee re-examined the role of tips as wages and the concept of allowing tips to be counted as part of the minimum wage. The Committee reviewed the study of tips presented to the Congress by the Department of Labor in 1971 as well as provisions of State minimum wage laws which permit the counting of tips toward a minimum wage.

The Committee was impressed by the extent to which customer tips contributed to the earnings of some hotel and restaurant employees in March 1970 (the date of the Labor Department survey). After reviewing the estimates in this report, the Committee was persuaded that the tip allowance should not be reduced at this time, but that the tipped employee should have stronger protection to ensure the fair operation of this provision. The Committee bill, in this respect, is consistent with the will of the Senate as expressed in an 89–1 vote last year.

Labor Department Regulations define a tip as follows (Part 531—Wage Payments under the Fair Labor Standards Act of 1938):

"A tip is a sum presented by a customer as a gift or gratuity in recognition of some service performed for him. It is to be distinguished from payment of a charge, if any, made for the service. Whether a tip is to be given, and its amount, are matters determined solely by the customer, and generally he has the right to determine who shall be the recipient of the gratuity."

Under these circumstances there is a serious legal question as to whether the employer should benefit from tips to the extent that he pays his employees less than the basic minimum wage because the employees are able to supplement their wages by special services which bring them tips.

Setting aside for the present the ethical question involved in crediting tips toward the minimum wage, the Committee is concerned by reports that inflation has been deflating tips. The Wall Street Journal (June 19, 1973) carried the following headline "Inflation Deflates Tips as Higher Prices Pinch Customers' Generosity". The story quotes, among others, a Harvey House waitress in Cleveland who "laments a 25% drop in the size of her tips since 1971" and a grocery deliverer who finds his tips have fallen off "quite a bit" in the past four months of surging prices.

In view of these reports the Committee intends that the Department of Labor should take every precaution to insure that the employee does in fact receive tips amounting to 50 percent of the applicable minimum wage before crediting that amount against the minimum wage.

The bill amends Section 3(m) by deleting the following language pertaining to the computation of tip credits: "except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of the tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence." The deletion of this language is to make clear the original intent of Congress to place on the employer the burden of proving the amount of tips received by tipped employees and the amount of tip credit, if any, which he is entitled to claim as to his tipped employees. See *Bingham* v. *Airport Limousine Service*, 314 F. Supp. 565 (W. D. Ark. 1970) in which the court refused to "speculate" as to sums the employees might have received in tips when the employer failed to present "any objective information" on the subject.

The tip credit provision of S. 1861 is designed to insure employer responsibility for proper computation of the tip allowance and to make clear that the employer is responsible for informing the tipped employee of how his wage is calculated. Thus, the bill specifically requires that the employer must explain the tip provision of the Act to the employee and that all tips received by such employee must be retained by the employee as his property. This latter provision is added to make clear the original Congressional intent that an employer could not use the tips of a "tipped employee" to satisfy more than 50 percent of the Act's applicable minimum wage. H. Rept. 871, 89th Cong., 1st Sess., pp. 9–10, 17–18, 31; 111 Cong. Rec. 21829, 21830; 112 Cong. Rec. 11362–11365, 20478, 22649. See *Melton* v. *Round Table Restaurants, Inc.*, 20 WH Cases 532, 67 CCH Lab. Cas. 32,630 (N.D. Ga.).

The tip provision applies on an individual employee basis, and the employer may thus claim the tip credit for some employees even though he does not meet the requirements of this section with respect to other employees. Nor is the requirement that the tipped employee retain his own tips intended to discourage the practice of pooling, splitting or sharing tips with employees who customarily and regularly receive tips—*e.g.*, waiters, bellhops, waitresses, countermen, busboys, service bartenders, etc. On the other hand, the employer will lose the benefit of this exception if tipped employees are required to share their tips with employees who do not customarily and regularly receive tips—*e.g.*, janitors, dishwashers, chefs, laundry room attendants, etc. In establishments where the employee performs a variety of different jobs, the employee's status as one who "customarily and regularly receives tips" will be determined on the basis of the employee's activities over the entire workweek.

Nursing homes

The Fair Labor Standards Act currently provides a partial overtime exemption for employees of nursing homes. The Act provides an overtime exemption for any employee of a nursing home who receives compensation for employment at time and one-half his regular rate of pay for all hours in excess of 48 in a week.

The Committee bill would reduce the straight time workweek to 46 hours one year after the effective date and to 44 hours a year later. This gradual reduction in the basic workweek should present no problem to the industry.

According to a 1969 report of the Department of Labor there had been a marked decline in average hours per week of nonsupervisory employees of nursing homes between April 1965 and October 1967. The report indicates that the application of a 48-hour workweek standard to nursing homes on February 1, 1967 had very little effect as only a small proportion of the workers worked over 48 hours a week even before the Act was extended to the industry. In April 1968, less than 15 percent of all nursing home employees worked over 44 hours in a week.

Salesmen, partsmen, and mechanics

S. 1861 repeals the overtime exemption currently available under section 13(b)(10) for partsmen and mechanics in nonmanufacturing establishments primarily engaged in selling or servicing automobiles, trailers or trucks, but retains the overtime exemption for salesmen in these establishments.

S. 1861 also repeals the overtime exemption for salesmen, partsmen and mechanics in nonmanufacturing establishments primarily engaged in selling or servicing aircraft.

S. 1861 retains the overtime exemption in Sec. 13(b)(10) for salesmen, partsmen, and mechanics in nonmanufacturing establishments primarily engaged in selling or servicing farm implements.

The Committee was persuaded that the application of an overtime standard to partsmen and mechanics in auto, truck and trailer dealerships, and to the presently exempt employees in aircraft dealerships would be likely to generate additional jobs, and to promote the training of workers to fill the job. If the industry continues to expand service hours, as recent trends indicate, the overtime penalty should provide considerable stimulus to the creation of new jobs at a time when our economy is experiencing high unemployment rates and the training necessary for meaningful employment in this industry is or should be readily available.

Cotton ginning and sugar processing

S. 1861 repeals the year-round overtime exemption for cotton ginning and sugar processing employees in Section 13(b)(15) of the Fair Labor Standards Act, but retains the exemption for employees engaged in processing maple sap into maple syrup or sugar.

The 1970 Report of the Department of Labor on the Agricultural Handling and Processing Industries includes the recommendation of the Secretary of Labor that "consideration should be given to the phasing out of the overtime exemptions currently available to the agricultural handling and processing industries under Section 7(c) and 7(d) of the Fair Labor Standards Act . . . Although focusing primarily on Sections 7(c) and 7(d) of the Act, the survey data also indicate that there is no sound basis for the continuation of the year-round exemptions available under Sections 13(b) . . . (15) of the Act . . ."

Few industries are as highly subsidized and so greatly protected as the sugar industry. The Federal Government makes direct payments for sugar production totalling nearly $100 million a year. It sets and enforces production quotas in the U.S. and specifically restricts foreign imports of sugar for an additional benefit of about $400 million annually to the industry.

The industry is also protected by various Federal laws against crop damage resulting from natural causes.

Many of these employees work in shifts of 12 hours a day for six or seven days a week during the sugar processing season (October 15 to January 15). The law does not require that they be paid overtime premium pay although their counterparts in non-subsidized industries are paid time and one-half their regular rates of pay for all hours over 40 in a week.

Section 13(b)(15) of the Act also provides a year-round unlimited exemption from the maximum hours provisions for cotton ginning. Under section 13(b)(15) an employer is eligible for this exemption when: (1) employees are actually engaged in the ginning of cotton; (2) the cotton must be ginned "for market"; and (3) the place of employment is located in a county where cotton is grown in commercial quantities.

In addition, there is a limited overtime exemption under section 7(c) during the period or periods when cotton is being received for ginning. When applicable, the exemption under section 7(c) may be claimed for all employees, including office workers, exclusively engaged in the operations specified in the industry determination. A survey, conducted in 1967 by the U.S. Department of Agriculture, disclosed 3,753 cotton gins that employed 49,500 nonsupervisory employees during the peak work-week.

It is not uncommon in the cotton ginning industry to have employees working in excess of an 80 hour work-week during the peak season. Sixty-hour work-weeks exist with regular frequency. The exemption under 13 (b)(15) enables employers to work their employees often nearly double the normal work-week, without having to pay premium wages. Repeal of this exemption would give cotton ginning employees overtime pay parity with the mainstream of the American labor force.

In the past the industry has made little use of multiple shift operations with only one in four using more than one shift in 1970. Since the majority of the work force consists of "moonlighting" field workers, potential employees are in plentiful supply during the peak season. By using multishifts, cotton ginners could reduce the number of overtime hours, while at the same time alleviating the chronic farm unemployment problem (7.5% versus the national average 4.9% in 1970).

Catering and food service employees

S. 1861 phases out the complete overtime exemption for employees of retail and service establishments who are employed primarily in connection with the preparation or offering of food or beverages either on the premises or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs.

S. 1861 requires that catering and food service employees be paid time and one half their regular rate of pay for hours over 48 per week on the effective date, for hours over 44 after 1 year, and for hours over 40 after the second year.

The elimination of the special exemption for food service employees in retail service establishments eliminates a disparity in work standards for employees of the same establishment. For example, food service employees in covered retail establishments are now exempt from the overtime provisions of the Act while retail clerks, in the same establishments, are covered by both the minimum wage and overtime standard. This has been a major source of friction.

It is expected that the gradual phasing out of the overtime exemption will eliminate excessively long hours in food service and catering activities and thus generate additional jobs. Also treatment of food service employees in this manner permits a similar phasing out of the overtime exemptions for bowling establishments, an exemption predicated in large part upon the food service aspects of such establishments.

Bowling establishments

The Fair Labor Standards Act currently exempts from the overtime provisions of the Act any employee of a bowling establishment if such employee receives compensation for hours in excess of 48 in a workweek at time and one-half the employee's regular rate of pay.

The Committee bill would reduce the straight-time workweek to 44 hours one year after the effective date and to 40 hours one year later.

The Committee notes that bowling fees have advanced by 18 percent since 1967. At the same time, pinsetting machine technology has improved and automatic pinsetters have replaced hand pinsetters throughout the industry. Overtime coverage is easily compatible with the operative characteristics of the industry. The use of automatic pinsetters has eliminated problems which had previously resulted from daily hourly fluctuations in patronage.

House Parents for Orphans

S. 1861 provides a new overtime exemption for any employee who is employed with his spouse by a private nonprofit educational institution to serve as the parents of children—

A. Who are orphans or one of whose natural parents is deceased, and

B. Who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive without cost, board and lodging from such institution, and are together compensated, on a cash basis at an annual rate of not less than $10,000.

The Committee, in proposing this amendment, is primarily interested in insuring that couples who serve as house parents for orphans in educational institutions are assured sufficient flexibility in work standards to protect the interest of the orphans during the periods when such orphans reside in such institutions.

The Milton Hershey School in Hershey, Pennsylvania is one such institution. The Hershey school is a residential vocational school for orphan boys. The students live in 103 separate cottages of 10 to 15 boys each. The Committee has been informed that a married couple lives in each cottage, serving as house parents. The Committee felt that imposition of overtime coverage in this very special employment situation would result in an especially difficult financial and record-keeping situation for such institutions.

The Committee considered, but did not approve, a minimum wage as well as an overtime exemption for such employees. Thus these house parents will continue to be subject to the minimum wage provisions of the Act. An employee and his spouse who serve as house parents of orphans in a nonprofit educational institution, who are paid not less than $10,000 a year in cash wages, and who receive without cost, board and lodging from such institutions would likely be paid in compliance with the minimum wage requirements of the Act.

The Committee recognizes that the Labor Department has issued special rules for calculating "hours worked" for employees residing on employer's premises, including such house parents who have duties which could occur at any time.

It is the Committee's understanding that as to hours worked by such resident employees, the Labor Department's regulations permit a reasonable agreement between the parties which takes into consideration all the pertinent facts surrounding such employment.

Mr. WILLIAMS. Mr. President, the recent history of the Fair Labor Standards Act demonstrates a congressional awareness of the special problems confronting students who need and want to work while attending school on a full-time basis. From 1938 to 1961, there was no special provision in the Fair Labor Standards Act relating to the employment of full-time students at subminimum rates.

There were, and there continues to be, special provisions for employing learners, apprentices, student learners and student workers at subminimum rates.

Section 7 of S. 1861 expands the full-time student certificate program currently applicable to retail and service industries and to agriculture to apply to educational institutions. The bill retains the certification procedure, as it now exists, to insure that students will not be used to displace other workers.

The committee rejected a proposal that the Fair Labor Standards Act be amended by loosening the special student certification program and adding a blanket submission wage for young people below the age of 18 and for full-time students up to the age of 21.

A similar proposal was rejected by the Senate last year by a vote of 54 to 36.

The committee's rejection of this special subminimum rate was based on the conviction that this would violate the basic objective of the act and that such a standard would contribute to, rather than ease, the critical problem of unemployment because it would encourage the displacement of older workers.

We were convinced that a subminimum wage for youth would violate the basic concept of the act which represents an economic charter for the lowest paid workers in the United States.

To achieve its objective, the minimum wage must be an irreducible minimum below which wages for workers will not be allowed to fall.

S. 1861 amends the Age Discrimination in Employment Act of 1967—Public Law 90-202—to include within the scope of coverage, Federal, State, and local government employees.

This amendment is similar to proposals introduced by Senator BENTSEN (S. 635), and Senator CHURCH (S. 1810).

The administration has also proposed such an extension of coverage for State and local government employees.

The amendment is a logical extension of the committee's decision to extend the Fair Labor Standards Act coverage to Federal, State, and local government employees.

The Senate agreed to this extension by a vote of 86 to 0 last year.

Section 8 of the committee bill amends section 16(c) to authorize the Secretary of Labor not only to bring suit to recover unpaid minimum wages or overtime compensation, a right which he currently has, but also to sue for an equal amount of liquidated damages without requiring a written request from an employee.

The addition of liquidated damages is a necessary penalty to assure compliance with the Fair Labor Standards Act.

Currently, all that is required of the employer is that he pay the wages that should have been paid in the first place, without any penalty for violating the act.

This is not a deterrent to future violations.

This section would also allow the Secretary of Labor to bring suit even though the suit might involve issues of law that have not been finally settled by the courts.

At the present time, many of the protections that are written into the act are not being extended to workers because of the current restrictions on the Secretary in bringing suits in areas that have not been finally settled in courts of law.

The act places the primary responsibility for the enforcement of the act on the Secretary of Labor; he should have the right to bring suits directly in order to resolve issues of law.

The committee also acted on an amendment to section 16(b) of the act to make clear the right of individuals employed by State and local governments and political subdivisions to bring private actions to enforce their rights and recover back wages under this act.

This amendment is necessitated by the decision of the U.S. Supreme Court in Employees' versus Department of Public Health and Welfare, Missouri (April) 1973), which held that Congress in extending coverage under the 1966 amendments to school and hospital employees in State and local governments did not explicitly provide the individual a right of action in the Federal courts although the Secretary of Labor was authorized to bring such suits.

In addition, the committee included an amendment to the Portal-to-Portal Act of 1947 which would preserve existing actions brought by private individuals which would otherwise be barred by the statute of limitation as a result of the April decision.

Both of these amendments were included at the request and recommendation of more than one part of the administration, including the Secretary of Labor.

I would add that our committee has been concerned for some time that the Employment Standards Administration of the Department of Labor which now has responsibility for administering the Fair Labor Standards Act appears to be considering reordering its priorities in such a way as to downgrade enforcement of this act. The Department must maintain a vigorous enforcement program under this act.

Coverage should be interpreted broadly, and every effort should be made to insure that those employees who have been the victims of violations of this act are made whole.

Improving the Fair Labor Standards Act is a significant achievement only if it is followed by a vigorous enforcement effort designed to bring covered employers into compliance with the new standards as quickly as possible.

Mr. President, I wish to point out to my colleagues specific language in the committee report on enforcement of the Fair Labor Standards Act with regard to employment of handicapped individuals.

Discussions which I and other members of the committee have had with individuals concerned with equal protection of handicapped individuals have raised certain questions regarding the probability of inadequate enforcement of the Fair Labor Standards Act with respect to the payment of a minimum wage to handicapped individuals in employ in sheltered workshops, and to those who are patients in hospitals and institutions for the mentally retarded and mentally ill.

The practices described to me have been distressingly characterized as "institutional peonage."

The questions raised therefore, require an in-depth examination by the committee, and I am thus directing the committee staff to begin discussions with the Labor Department and other interested organizations so that the committee may resolve these questions in the near future.

In conclusion, Mr. President, S. 1861 is an attempt to address problems of our low-wage workers through the dignity of the work ethic upon which Americans have traditionally placed a high value. This bill embodies that tradition.

Passage will represent a congressional determination that all who are willing and able to work should be governed by certain minimum standards, the very least of which ought to be a living wage.

S. 1861 was reported by a 13-to-3 vote, receiving bipartisan support.

It is a chance for America to redeem a measure of its vision.

I commend it to the Senate in the fervent hope that we can restore a measure of dignity to the working poor of this Nation.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I am authorized by the distinguished majority leader to make the following unanimous-consent requests: They have been cleared with the distinguished Republican leader, the distinguished manager of the bill (Mr. WILLIAMS), the distinguished Senator from New York (Mr. JAVITS), the distinguished Senator from Ohio (Mr. TAFT), the distinguished Senator from Colorado (Mr. DOMINICK), the distinguished Senator from Arizona (Mr. FANNIN), and other Senators on both sides of the aisle.

I ask unanimous consent that time for debate on S. 1861 be limited to 6 hours, to be equally divided between the distinguished manager of the bill (Mr. WILLIAMS) and the distinguished minority leader or his designee; that time on the Tower-Fannin amendment in the nature of a substitute be limited to 2 hours, beginning at 3 p.m. today, with a vote to occur on the substitute at 5 p.m. today; that upon the disposition of the substitute by Senators TOWER and FANNIN, the distinguished Senator from Colorado (Mr. DOMINICK) be recognized to call up a substitute cosponsored by Mr. TAFT; that time on the substitute by Senators DOMINICK and TAFT be limited to 3 hours; but that one hour of the time on the Dominick-Taft substitute be utilized this afternoon and that at the hour of 10:30 a.m. tomorrow, the Senate resume consideration of the Dominick-Taft substitute, with the 2 hours of remaining time to be equally divided and controlled and the vote to occur on the Dominick-Taft substitute at 12:30 p.m. tomorrow; provided further, that a vote occur on final passage of S. 1861 no later than 5 p.m. on Thursday; provided further, that there be a limitation on any amendment in the first degree of 1 hour, and that time on amendments in the second degree, amendments to amendments, and debatable motions and appeals be limited each to 30 minutes; and that the agreement be in the usual form—with the exception of two amendments which may be offered by Senator TAFT and one amendment by the distinguished Senator from South Dakota (Mr. MCGOVERN) which would be excepted from the usual form provision.

Mr. President, I further ask unanimous consent that the time prior to the hour of 3 p.m. today be equally divided between both sides, but that it not be included in the 6 hours of general debate.

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, but I want elucidated certain points which have to be elucidated. One, on amendments, the time, I gather, will be divided between the manager of the bill (Mr. WILLIAMS) and the proponent of the amendment?

Mr. ROBERT C. BYRD. Yes, in accordance with usual form.

Mr. JAVITS. Second, on nongermane amendments which may occur, may it be understood that amendments to those amendments may be germane to the nongermane amendments though not germane to the bill?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. Further, Mr. President, do I understand correctly from the Senator from New Jersey (Mr. WILLIAMS) that he will yield an adequate amount of time, by arrangement with me, to those on this side who may favor the bill in its present form, or generally so?

Mr. WILLIAMS. Mr. President, I certainly will. We have been in this similar position on other occasions and we have worked it out, so that, in fact, we are jointly controlling the time.

Mr. JAVITS. I was seeking to protect anyone who may wish to speak to the bill.

Finally, do I correctly understand that the pending bill succeeding the minimum wage bill will be the war powers bill, and that at least opening statements on the war powers bill may be looked forward to on Thursday, after the final vote on the minimum wage?

Mr. ROBERT C. BYRD. In response to that question, may I say to the able Senator that if the Senate agrees to the pending request, I shall then ask unanimous consent, on behalf of the distinguished majority leader, that upon disposition of the minimum wage bill, the Senate proceed to the consideration of S. 440, with the understanding, in the meantime, that while the minimum wage bill is pending, if we should hit a period when no amendments were being offered, or Senators were not disposed to speak on the minimum wage bill, we could perhaps shift the war powers bill in for a period of time for discussion.

Mr. President, I further ask unanimous consent that rule XII be waived.

The PRESIDING OFFICER (Mr. MCCLURE). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That, during the consideration of S. 1861, a bill to amend the Fair Labor Standards Act of 1938, debate on any amendment (except the Dominick-Taft substitute amendment, on which there will be 3 hours) shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment and the manager of the bill, and that debate on any amendment to an amendment, debatable motion or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of any such motion or appeal and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment (except two amendments to be offered by the Senator from Ohio (Mr. Taft) and one amendment to be offered by the Senator from South Dakota (Mr. McGovern), and germane amendments thereto) that are not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 6 hours, to be equally divided and controlled, respectively, by the Senator from New Jersey (Mr. Williams) and the minority leader, or his designee: *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

Ordered further, That on Wednesday, July 18, 1973, the Senate will resume consideration of the Dominick-Taft substitute amendment at 10:30 a.m., with the vote thereon to occur at 12:30 p.m.

Ordered further, That the vote on final passage of the bill will occur no later than 5:00 p.m. on Thursday, July 19, 1973.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators for their courtesy and cooperation.

Mr. President, I ask unanimous consent that upon disposition of the minimum wage bill, S. 1861, the Senate proceed to the consideration of S. 440, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

CONTROL OF TIME

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. DOMINICK. Who is in control of the time?

The PRESIDING OFFICER. The Senator from New Jersey (Mr. WILLIAMS) is in control of the time for the proponents, and the Senator from Pennsylvania or his designee is in control of the time in opposition.

Mr. DOMINICK. The Senator from Pennsylvania, I believe, has designated us who are in opposition to the bill to be in control. Is that not correct? How much time have we on the bill?

The PRESIDING OFFICER. There are 414 minutes to be equally divided.

Mr. DOMINICK. I am not going to use my whole 207 minutes.

The PRESIDING OFFICER. The Chair has not received a designation from the Senator from Pennsylvania.

Mr. DOMINICK. With the consent of the manager of the bill, I think that, for the time being, I will have control.

Mr. TAFT. Mr. President, we have assurances that the Senator from Colorado does control the time on the part of the minority leader.

Mr. DOMINICK. I thank the Senator from Ohio. Under those circumstances, I yield myself 10 minutes, and I now yield half a minute to the Senator from Virginia.

Mr. SCOTT of Virginia. Mr. President, I appreciate the Senator's yielding. I shall take only a few seconds.

Mr. President, I send to the desk an amendment and ask that it be printed. The amendment, for the information of the Senate, provides, as does the Buckley amendment, the same provisions as for persons 18 years of age and under.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. SCOTT of Virginia. The amendment provides that older Americans—those over 65—will receive 85 percent of the minimum wage. I think that older people sometimes feel neglected and not useful, and are unable to compete with persons who are younger than they are. I will offer the amendment and will explain it in detail at the proper time tomorrow.

Mr. DOMINICK. I thank the Senator from Virginia. I look forward to hearing his argument with great interest.

I have listened to at least part of the presentation made by the manager of the bill as it was reported from committee, and I listened to it with considerable interest. I am opposed to S. 1861 as it has been reported and I so indicated by my vote in committee.

It seems to me at this time that it is worthwhile to summarize my reasons for opposing the bill. I shall not take long, and I shall probably use the remainder of the 10 minutes I have yielded myself.

Mr. President, I agree that an increase in minimum wage rates at this time can be justified on the ground that inflation has eroded the levels established in 1966, when the Fair Labor Standards Act was last amended. But in establishing new rates, I think we should recognize that excessive increases would have substantial inflationary and unemployment effects, and that the very people we are trying to help would suffer the most. The same is true with regard to extensions of coverage.

The importance of carefully weighing these potential adverse effects cannot be overemphasized at a time when we are struggling to control inflation and to reduce unemployment. Despite extraordinary measures to control it, inflation continues at an alarming pace. I do not think any Member of Congress wants to share responsibility for legislation which would undercut the economic stabilization program by contributing to inflationary pressures.

Secretary of Labor Brennan's testimony before the Labor Subcommittee this year recognized that the inflationary and unemployment impact of excessive minimum wage increases could adversely affect the low-wage employees minimum wage legislation it is intended to protect.

This is not a partisan issue. During hearings of the Joint Economic Committee last year, Henry Wallich, a member of the Council of Economic Advisers during the Eisenhower administration, said:

> I would think this is the last moment at which one would stress a measure raising the minimum wage.

Arthur Okun, CEA Chairman under President Johnson, flatly stated:

> I think this would be a good year *not* to take up the minimum wage.

The 1969 annual report of President Johnson's Council of Economic Advisers warned about the unemployment effects of excessive minimum wage increases:

> Although increases in the minimum wage are likely to be reflected in higher prices, society should be willing to pay the cost if this is the best way to help low-wage workers. Yet excessively rapid and general increases in the minimum can hurt these workers by curtailing their employment opportunities.
>
> Since 1956, the federal minimum has gone up about in line with average hourly compensation, while coverage has progressively expanded to cover low-wage industries. In considering the future rate of increase for minimum wages, careful scrutiny should be made of the possibility of adverse employment effects. The benefits of higher minimums should be weighed against alternative ways of helping low-wage workers.

The Secretary of Labor's 1972 report to the Congress pursuant to section 4(d) of the Fair Labor Standards Act recognized the need to carefully consider the inflationary impact of minimum wage increases. Cautioning against the excessive increases proposed in S. 1861—the same bill which has been reported by the committee this year—the report stated:

> The need for congruence of policies as the Congress considers major revisions of the minimum wage, while the Nation for the first time imposes wage and price controls during peace, requires special attention to both wage and price consequences. With broadened coverage, the inflationary potential of a rapid increase in the minimum is much greater than it was prior to 1960. So long as it is necessary to maintain wage controls, there is an added dimension to the concern for the price consequences of a too rapid rise in the minimum. It would be incongruous to enact a 25 percent increase in the minimum in the first year, as in S. 1861, whatever the possible price effects, while at the same time attempting to hold wage increases to a 5.5 percent guideline for workers immediately above the new minimum.

In short, Mr. President, current economic conditions demand that restraint be exercised in making changes in the minimum wage law.

EXCESSIVE WAGE INCREASES

I am convinced that S. 1861, as reported, does not exercise proper restraint, and if enacted would damage the economy. It provides for excessive wage increases and extensions of coverage which would exert strong inflationary and unemployment pressures on the economy. The impact of large increases in labor costs would fall heaviest on small businessmen and farmers. The unemployment effects would be felt most by marginal workers holding jobs which would be eliminated first by employers looking for ways to absorb increased labor costs. Consumers would be forced to pay higher prices for virtually all products.

Under the committee bill, the minimum wage for workers covered by the Fair Labor Standards Act prior to 1966 would go from $1.60 an hour to $2.60 days after enactment, and $2.20 a year later. This amounts to a 25 percent increase within 60 days and a 37.5 percent increase within 14 months. Workers first covered by the committee bill would receive the same increase within a little over 2 years. The minimum rate for farm employees would go from $1.30 to $2.20 within a little over 3 years—a 69.2 percent increase.

These wage increases, combined with the extended coverage to 7 million additional employees would result in an increase of $4.5 billion in the Nation's annual wage bill. This estimate includes only the direct cost of raising wages to the higher minimum rates. It does not include increased overtime costs resulting from the higher minimum rates. Nor does it include the "ripple effect" costs of raising wages which are above the minimum rates in order to maintain existing wage differentials after the higher rates go into effect.

Such precipitous increases in wage costs over such a short time will be difficult for many employers—particularly small businesses—to absorb. The 1966 amendments extended minimum wage and overtime coverage to 649,000 smaller firms. The minimum rate for employees of these firms went from $1 an hour in 1966 to $1.60 on February 1, 1971—a 60 percent increase. The committee bill would further raise the minimum rate for these employees to $2.20 in a little over 2 years—an increase of 37.5 percent, affecting about 3.5 million employees at a cost of $2.7 billion. The total increase since 1966 for these small firms would amount to 120 percent.

The retail and service industries, which encompass most small businesses, would be particularly acutely affected, since they are highly labor intensive. Labor costs average more than 60 percent of operating costs in the retail industry. These industries hire a large proportion of the labor force's unskilled and marginal workers. About 50 percent of employees of retail firms earn less than $2 an hour; 65 percent earn less than $2.20. About 40 percent of employees of service firms earn less than $2; 51.7 percent earn less than $2.20. Since profit margins are too low in these industries—retail firms average 2 percent—to absorb the radical wage increases mandated by the committee bill, employers would be forced to raise prices, reduce employment, or a combination of both. Many marginal jobs could be expected to be eliminated. Some may have no alternative but to go out of business. There were 10,321 small business failures in 1971, 4,428—or 43 percent—of them were retail firms. Moreover, under economic stabilization guidelines, retail firms cannot raise prices to pass through increased operating costs—including labor costs.

The farm economy would also be seriously affected. A 69.2-percent increase in minimum wage rates over 3 years could only accelerate the already too rapid decline of farm employment in this country. At a time when per capita farm income is 25 percent lower than nonfarm income, and virtually everyone is lamenting the fact that small independent farms are being supplanted with big corporate farms, I do not think it would make sense to require them to absorb an additional $174 million in annual wage costs.

The wage increases recommended in the committee bill would seriously threaten the success of the economic stabilization program. The combined effect of the direct costs of raising minimum rates and the indirect "ripple effect" costs would exert enormous inflationary pressures on the entire economy, making the 5.5-percent wage guideline and the 2.5-percent price guideline difficult, if not impossible, to enforce.

These guidelines are based on long-term productivity growth rates of about 3 percent annually. It is worth noting that while the average annual increase in output per man-hour for the postwar period 1947–65 was 3.5 percent, it dropped to 2 percent for the 5-year period 1966–70, the slowest growth in productivity for any 5-year period since the war. Certainly, no one can argue that the wage increases in the committee bill are related to productivity, or that they would in any way enhance productivity.

Wage increases, which are not related to increases in productivity, are, of course, reflected in higher prices, and ultimately in trade deficits due to the inability of American-produced goods to compete in the world market. The excessive increases recommended in the committee bill, with resultant "ripple effect" increases in wages above minimum levels, would worsen our trade situation. I do not think it is mere coincidences that our recent trade and related monetary problems followed substantial minimum wage increases and extensions of coverage in 1966. While average hourly earnings have increased 34 percent since 1966, overall productivity has increased only 10 percent. The consumer price index has risen almost 34 percent over the same period.

The unemployment effects of S. 1861 as reported would be equally serious. Marginal workers who have the greatest disadvantages in competing for jobs—the unskilled, teenagers, the handicapped, and the elderly—would be the most severely affected.

To the extent that employers could not absorb the enormous wage costs mandated by the committee bill through increased prices and reduced profits, they would be forced to eliminate jobs. Jobs held by low-skilled, inexperienced, and less productive workers would be the first to go. Ironically, these low-wage earners are the very ones minimum wage legislation is intended to help.

Admittedly, due to the complexity of our economy and the lack of adequate data, it is difficult to accurately measure the impact of minimum wage adjustments on unemployment. But there are several highly regarded studies demonstrating that minimum wage increases result in corresponding increases in unemployment rates for marginal workers. One of the most thorough is by Economists John M. Peterson and Charles T. Stewart, Jr., in their study, "Employment Effects of Minimum Wage Rates," published by the American Enterprise Institute for Public Policy Research, they conclude:

> Both theory and fact suggest that minimum wage rates produce gains for some groups of workers at the expense of those that are the least favorably situated in terms of marketable skills or location.
>
> Within low-wage industries, higher-wage plants gain at the expense of the lowest-wage plants. Small firms tend to experience serious profit losses and a greater share of plant closures than large firms. Teenagers, non-whites, and women (who suffer greater unemployment rates than workers in general) tend to lose their jobs, to be crowded into less remunerative noncovered industries, and to experience more adverse changes in employment than other workers. Depressed rural areas, and the South especially, tend to be blocked from opportunities for employment growth that might relieve their distress. Given these findings, the unqualified claim that statutory minimums aid the poor must be denied. The evidence provides more basis for the claim that while they help some workers they harm those who are least well off.

There is a shortage of jobs for low-skilled workers now. The number of low-skilled workers has increased more rapidly over the last 10 years than the number of low-skilled jobs. During the 10-year period 1959–69, low-skill jobs increased at less than 10 percent of the rate at which other jobs increased in the manufacturing, retail and service industries. Excessive minimum wage increases would further retard the growth of these low-skill jobs, with the result, again, of hurting the people minimum wage legislation is supposed to help.

In short, Mr. President, I think the predictable inflationary and unemployment effects make it clear that enactment of the excessive wage increases proposed in S. 1861 would be irresponsible. Last year Donald Rumsfeld, then Director of the Cost of Living Council, said:

> All who are serious about wanting to reduce inflation and achieve true peacetime prosperity, must carefully assess the potential impact on unemployment and inflation of the minimum wage legislation now pending in the U.S. Senate. Any proposal which fails to take into account the upward pressure on prices, generated by an abruptly higher minimum wage, poses a threat to the national effort to stabilize costs and prices.
>
> While the direct impact on the total wage bill and on prices of so large an increase in the minimum wage is great, its indirect effects will likely be even more substantial. Adjustment of the Pay Board standards might be necessary to maintain customary wage differentials for workers with higher skill levels, which would result in a significant escalation in labor costs. Those most in need of jobs for the income and work experience they provide will find it more difficult to compete for jobs when employers are prohibited from hiring them at wage levels commensurate with their skills.
>
> Such a large and abrupt change in the minimum wage will lead to additional wage increases for some, which will be paid for by the low-income wage earner in the form of lost employment opportunities, and by the American consumer in the form of higher prices. At a time when the nation is embarked on an effort to reduce inflation, reduce unemployment, and expand job opportunities, the Senate should weigh carefully any proposal which requires large increases in wages and costs.

Those comments are equally applicable this year. The same minimum wage bill is before us, and we are still faced with the need for economic controls.

EXTENSIONS OF COVERAGE

The sweeping extensions of coverage to new categories of employees, combined with complete or partial elimination of many exemptions, would magnify the serious inflationary and unemployment effects of the minimum wage increases recommended in S. 1861. It would extend minimum wage and overtime coverage to about 7 million employees. The minimum rates for these employees would be $1.80 60 days after enactment, $2 a year later, and $2.20 thereafter. Coverage would be extended to three major groups: Employees of small businesses and farms; Federal, State, and local government employees; and domestic workers.

SMALL BUSINESSES AND FARMS

The committee bill would repeal a variety of minimum wage and overtime exemptions established by previous Congresses with the specific intent of protecting small businesses and small farms from the adverse economic effects of minimum wage increases. Minimum wage coverage would thus be extended to roughly 1 million employees of well over 100,000 small businesses and farms. Overtime coverage would be extended to 1.8 million employees in the private sector, many of whom are employed by small businesses.

Although the bill does not propose to reduce the $250,000 enterprise dollar volume test as it did last year, it would repeal the "Establishment" exemption for small retail and service stores which gross less than $250,000 annually, but which are part of an "enterprise" which does exceed that figure. This would extend minimum wage and overtime coverage to 662,000 employees in small retail and service stores. In this connection, it should be noted that inflation since 1961, when this exemption was established, has already operated to extend coverage down to firms which would have grossed only $171,500 at that time.

This change would affect only very small chain stores; none of the large, well-known chains would be affected, because each of their stores does annual business exceeding the $250,000 cut-off for the exemption. These small chain stores are located in small, rural communities primarily in the South and West. Elimination of this exemption will increase the existing pressures on such small chains to consolidate and shift location to larger urban areas. This will reduce job opportunities in, and damage the economies of many small rural communities. Given the current plight of rural America, I think the point that it would be a mistake for Congress to do what the committee bill proposes requires no further elaboration.

By repealing section 13(a)(4) of the act, the committee bill would extend coverage to employees in small retail stores which "make or process" the goods they sell. Under the existing law, employees of small retail firms which are not part of an enterprise grossing more than $250,000 annually are exempt even though their work may be directly related to interstate commerce. Under the committee bill, small retail stores which "make or process" any of the goods they sell would be ineligible for the exemption. The impact of this would be felt primarily by small bakeries, candy shops, ice cream parlors, drug stores, optometrist establishments, lumber yards, and other small businesses which are not part of a chain, and which happen to "make or process" the goods they sell. The impact of this change is potentially as broad as the Labor Department's definition of "making or processing." No one knows how much "processing" of goods would be necessary to disqualify a small store for the exemption. Arguably, anything more than moving merchandise from loading dock to store shelf could constitute "processing."

This exemption was adopted by Congress in order to make it clear that small stores which are essentially retail in nature, would not be disqualified for the $250,000 small store exemption merely because they "make or process" some of the goods they sell. The committee did not state any substantive reason why this exemption is no longer justified.

I do not think this change can be justified on the merits. I just do not understand why a small neighborhood bakery which buys bread and other pastries wholesale and sells them retail should qualify for the exemption, while a store across the street which does the same thing, except that it happens to also sell a few donuts which were baked on the premises, should not. It would appear to be simply another case of small businesses not having enough "political muscle" to retain an exemption originally adopted by Congress to protect them from the adverse economic impact of minimum wage increases.

The overtime exemption under which supervisory personnel in retail and service industries can spend up to 40 percent of their time in nonsupervisory work would also be eliminated. This exemption was adopted in 1961, when coverage was first extended to retailing. It was based on the recognition that "non supervisory" work such as selling and handling stock is an integral part of the duties of "supervisory" personnel such as sales managers and executives in these industries.

Under the committee bill, supervisory personnel in retailing and manufacturing industries would be treated the same, even though they are inherently different. A machine shop foreman has different duties than a department store manager. Congress recognized this difference in 1961, and in the absence of evidence that it no longer exists, should recognize it now. Neither the hearing record nor discussions in Committee have furnished such evidence.

In addition to complete or partial repeal of several broad exemptions affecting businesses of all sizes, the Committee bill would repeal several exemptions which are applicable primarily to small firms. For example, the minimum wage exemptions for motion picture theaters, small loggers and sawmills with eight or fewer employees, and small telegraph companies grossing less than $500 a month, would be repealed.

Minimum wage coverage would be extended to some 150,000 farmworkers by repeal of the exemption for "local, seasonal, hand harvest laborers." This would have the further effect of reducing the size of farms to which minimum wage coverage extends, because such employees would be included for the first time in computing the "500 man-day test." At present, small farms using less than 500 "man-days" of labor during the peak quarter of the preceding calendar year are exempt from coverage. The impact of this change would fall heaviest on fruit and berry farms, which utilize large numbers of hand laborers during a short harvest season. It seems inequitable that a small berry farm should be covered for the entire year, because it requires a large amount of labor during a brief harvest season, while a neighboring farm which utilizes the same amount of labor annually escapes coverage merely because of the different harvest conditions for the crop grown.

The committee bill would extend coverage to further agricultural employees by repealing the existing minimum wage and overtime exemption for shade-grown tobacco farms.

OVERTIME COVERAGE FOR STATE AND LOCAL EMPLOYEES

The committee bill would extend minimum wage and overtime coverage to 1.7 million Federal, and 3.3 million State and local government employees. Although the estimated direct minimum wage impact on State and local governments would be relatively small—$141 million annually—the overtime and "ripple effect" costs would be much greater. Based on Labor Department estimates, the overtime cost could be as much as $305 million annually. The inflationary and unemployment consequences of these increased wage costs could be substantial, particularly in highly labor intensive city governments.

DOMESTIC EMPLOYEES

The direct wage impact of the committee bill's extension of coverage to 1 million domestic employees would be about $833 million annually. About 70 percent of domestic workers currently are paid less than the proposed $2.20 minimum rate. The additional cost, and recordkeeping requirements would result in elimination of many of these jobs. Since most domestic employees are unskilled, and would have difficulty finding employment elsewhere, the committee bill would leave them no alternative, but welfare, once again penalizing those who need help the most. For that reason, Secretary of Labor Brennan opposed extending coverage to domestics. He stated flatly that such an extension would have a "severe disemployment effect."

Further, Mr. President, I think Congress' power to extend coverage to domestic workers is questionable. The Fair Labor Standards Act is based on the commerce power, which, to be sure, is pervasive. But there are limits. My understanding is that Congress can regulate activities which are entirely intrastate, so long as there is a "rational basis" for a finding that the activity affects interstate commerce in a substantial way. Should the issue be tested in the courts, I think the proponents of this extension of coverage will be hard pressed to demonstrate that interstate commerce is substantially affected by employment of domestic workers. The weakness of their position can be illustrated best by quoting from the committee report, which presumably makes their strongest argument on this point:

> The additional question of the constitutionality of coverage of domestics was raised. The Committee found that domestics and the equipment that they use in their work are in interstate commerce. For example, vacuum cleaners are produced in only six states, and laundry equipment is produced in only seven states creating a tremendous flow in commerce of these items used daily by domestics. Also, it is common knowledge that every domestic handles such items as soap, wax and other household cleaners that have moved in interstate commerce. In addition, employment of domestics in households frees time for the members of the household to themselves engage in activities in interstate commerce.

All I can say is that if domestic workers are in interstate commerce by virtue of the fact that they use vacuum cleaners, then the commerce power indeed has no limits.

Mr. President, in addition to these broad extensions of coverage to new categories of employees, S. 1816 as reported would further extend overtime coverage by completely or partially eliminating many exemptions which have long been recognized under the Fair Labor Standards Act.

Overtime coverage would be extended to about 1.3 million additional workers through total or partial repeal of overtime exemptions for the following categories of employees; agricultural processing; seafood processing; cotton ginning; sugar processing; local transit; hotels, motels, and restaurants; nursing homes; auto, aircraft and truck and trailer dealerships; catering and food service, bowling establishments; and oil pipelines. It should be kept in mind that the proposed changes in these exemptions would be likely to drive up the costs of products as well as unemployment rates in the industries affected—especially in the retail-service industries, which employ the greatest portion of the workers to whom coverage would be extended.

MINIMUM WAGE AND POVERTY

The traditional argument made by organized labor in support of large increases in minimum wage rates, and broad extensions of coverage is that they will reduce poverty in this country.

The manager of the bill, Mr. Williams, has just restated it.

S. 1861 is based on this argument. The assertion is made that an increase of $2 this year would be necessary in order to bring the annual earnings of a head of family of four to the poverty level, and that a further increase to $2.20 next year would permanently end welfare for full-time workers. This argument was succinctly stated in the committee report on S. 1861 last year. It had a righteous ring to it:

> If the conditions that poverty breeds in this country are to be changed, poverty wages must be eliminated. These conditions will not change unless the FLSA minimum wage is increased, because minimum wage workers rarely have the bargaining position or the skills necessary to increase their wages as the cost of living increases. In essence, Congress is the bargaining agent for the nation's working poor.
>
> In approving an ultimate-stage increase, the Committee acted to make the sight of a full-time worker on welfare a thing of the past. Of equal importance, the practice of governmental subsidization of wages through welfare payments to the working poor will be at an end, at a tremendous saving to the taxpayers and with a significant boost to the morale and the dignity of the working poor of this country.

Although I think organized labor's historical position on minimum wage legislation is motivated less by a desire to reduce poverty than by a desire to increase their leverage at the collective bargaining table, some observations on the so-called poverty argument are in order. While I share the committee's goal of improving the lot of the working poor, I think the view that minimum wage legislation is an effective way to deal with poverty is totally unrealistic.

First, the poverty level is tied to the consumer price index; as inflation forces the cost of living up, the poverty level moves with it. This exposes as empty rhetoric the claim that an increase to $2.20 will "make the sight of a full-time worker on welfare a thing of the past." Excessive minimum wage increases will not stop inflation; on the contrary, they will contribute to it.

Second, the statement that an hourly wage of $2 is necessary to bring a family of four above the poverty line assumes that there is only one wage earner, when in fact, the average family of four has 1.5 wage earners. This illustrates why, as Congressman John Anderson characterized it during debate on the House minimum wage bill last year, "the minimum wage is a blunt, imprecise instrument for dealing with poverty in America." The minimum wage is not geared to family need. Raising the minimum wage to $2 per hour would increase the annual income of one worker by $800, regardless of whether he is single, the head of a family of four, or a family of six.

The poverty level of an urban family of four is $4,274. It is nearly $5,300 for a family of six, and over $6,400 for a family of seven. It would require $2.65 per hour to bring a family of six with one wage earner up to the poverty level; it would require $3.20 for a family of seven. About 46 percent of the working poor in 1970 were members of families of six or larger. This makes it absolutely clear that to suggest that the minimum wage increases recommended in the committee bill would "put an end" to welfare for full-time workers is to play cynical games with the poor people of this country.

Unemployment contributes to poverty as much as low wages. In 1970, only 37 percent of the heads of working poor families had full-time jobs all year. About 46 percent had part-time jobs, or full-time jobs for less than 26 weeks. The point is that these people are poor primarily because of unemployment, not low wages. Large increases in minimum wage rates would not improve their situation. In fact, to the extent that such increases would reduce job opportunities, that would be to their detriment. The same is true of full-time workers in low-paying jobs. It is difficult to see how the "morale and dignity" of the working poor who receive welfare supplements will be boosted when they are unemployed and entirely dependent on welfare.

Mr. President, I ask unanimous consent that a piece in this morning's Washington Post by George Will, entitled "Another Minimum Wage Hike?" be inserted in the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

Another Minimum Wage Hike?

(By George Will)

Acting in its traditional role of tireless protector of the strong, the Senate is about to follow the House of Representatives in voting to increase unemployment among the nation's vulnerable workers—especially black teenagers.

The Senate will do this in the name of humanitarianism as it votes another increase in the minimum wage. The Senate probably will adopt the House bill, as against the administration's proposals.

The main arguments between the House and the administration concern whether coverage should be extended; how fast the minimum should rise to $2.20 per hour; and whether there should be a "youth differential," whereby anyone under 18 and full-time students could be paid 15 percent less than the regular minimum wage.

The House, reflecting the position of organized labor, wants to extend coverage to domestic and government workers. It wants to go to $2.20 one year quicker than the administration (by 1974) and rejects the "youth differential."

The administration's proposals are less toxic than those of the House. But the really striking and depressing thing in both wings of the Capitol is that so few politicians—Sens. Peter H. Dominick (R-Colo.) and Robert Taft Jr. (R-Ohio) being honorable exceptions—acknowledge that minimum wage legislation usually is harmful to many of the people who are supposed to benefit.

I suspect that one reason economics is known as the "demand science" is that it, unlike other social sciences, is sufficiently rigorous to occasionally reach clear conclusions that can interfere with political desires. Certainly today there is a remarkable consensus among independent economists about the matters relevant to minimum wage legislation:

Blacks suffer more than whites, and teenagers more than adults from sluggish job markets.

Minimum wage legislation makes it harder for blacks and teenagers to find employment in good times, and harder to hold jobs when times are not good.

White adult males benefit most from the effect of minimum wage legislation on lost job opportunities and increased job instability among blacks and teenagers.

There are more poor people whose poverty derives from unemployment than from holding jobs that pay inadequate wages.

While it is true that some workers are paid so poorly they must also draw welfare, it is equally true that raising the minimum wage will cause some of these people to become unemployed people on welfare.

None of these points is surprising. Minimum wage laws hurt marginal workers because their skills are least productive and most easily dispensed with. That is why it does not pay to pay them much.

Minimum wage legislation has a regressive cost-benefit distribution. It puts marginal workers in jeopardy while helping—not surprisingly—those who push hardest for such legislation, organized labor.

Of course, not all economists acknowledge this. The economists who work for organized labor deploy a lot of methodological arguments designed to show that the state of the economist's art is such that we can not know for sure who will be affected how by minimum wage legislation.

There are a couple of things to say about these arguments.

First, if the science of economics is not able to predict dismal results from such legislation, then it cannot predict good results. So we should err on the side of caution and leave bad enough alone.

Second, there is something suspiciously selective about the epistemological scrupulousness of organized labor's economists. When labor is lobbying Congress for laws to protect the republic from Italian shoes, labor's economists are remarkably confident about their ability to say just how many shoemakers will be booted into poverty by a given number of Italian shoes.

Organized labor wants a steadily rising minimum wage in order to raise the general wage floor, thereby giving an upward thrust to the negotiating position of unions that, one would have thought, were already powerful enough.

In addition, organized labor wants a high minimum wage enforced nationwide so there will be less temptation for industry to locate in poorer, low wage (often non-union) areas. The fact that minimum wage legislation causes unemployment in some areas and hinders the growth of employment opportunities in other areas, is of no concern to organized labor.

The only amusing thing about minimum wage legislation is that it, like most other

> things in American economic life, confounds the Marxist prophecy.
>
> Marx said capitalists will always act so as to create a reserve army of the unemployed to use in grinding the face of organized labor. But today it is organized labor, with its racial discrimination; its apprenticeship programs restricting access to professions, and now, again, minimum wage demands that is swelling the reserve army of the unemployed.

Mr. DOMINICK. Mr. President, this view is shared by economists John M. Peterson and Charles T. Stewart, Jr. In their study, "Employment Effects of Minimum Wage Rates," published by the American Enterprise Institute for Public Policy Research, they concluded:

> Great caution should be exercised in raising minimum wage rates and extending their coverage, because adverse effects are a matter of degree related to the size of the imposed wage increase and because as yet economists have no method for determining what a "safe" level might be.
>
> The regressive distribution of the costs and gains of statutory wage minimums—costs to the less advantaged—brings into question both the wisdom and equity of such minimums. Policymakers would be advised to examine critically the contradiction between large public expenditures designed to help small business, depressed areas, and disadvantaged workers on the one hand and minimum wage policy that harms these same groups on the other. They would also be advised to look to means other than statutory minimums for dealing with the problems of low wage rates and poverty.

Poverty is primarily a function of the state of the economy. When the economy is healthy and expanding, the number of people below the poverty level declines. The overall health of the economy has been good over the last 10 years. During that period, the number of people below the Government-established, annually revised poverty level declined by 14.1 million—40 percent—even though our total population increased by 12 percent. Although the number of people below the poverty level increased slightly in 1970 and 1971—recession years—it decreased in 1972.

In view of the argument that minimum wage increases reduce poverty, it is interesting to note that 1970 and 1971 were the last 2 years during which increases in minimum wage rates pursuant to the 1966 amendments to the Fair Labor Standards Act went into effect. But whether the increased poverty in 1970 and 1971 was related primarily to the recession or to the minimum wage increases that went into effect in those years is not important. The important point—and a point on which there is a consensus among economists who have studied it—is that excessive minimum wage increases, whether or not they came at a time when the economy is healthy, adversely affect low-wage earners by reducing marginal jobs. In short, if we really want to reduce poverty in America, enactment of excessive minimum wage increases over too short a period of time is precisely not the way to do it.

The argument is also made that "American workers have an economic and moral right to share in the economy's rising productivity." In this context it should be pointed out that the annual rate of increases in productivity has slowed recently. Overall productivity has grown about 10 percent since 1966. Assuming all workers should share the benefits if increased productivity, I do not understand how this could be the basis for the committee's recommended increases amounting to 25 percent immediately and 37 percent within a year. Moreover, due to the unemployment effects of these increases, marginal workers whom we are ostensibly trying to help, will benefit the least. At best, the committee's recommended 25 percent increase immediately would mean $0.40 an hour to a $1.60 earner, plus an additional $0.60 per hour for overtime pay. At worst, it would mean unemployment. Those who would benefit most are the ones who need help the least—highly paid skilled workers. Assuming existing wage differentials would be reestablished, the 25 percent increase in minimum rates would assure a $4 per hour wage earner a windfall increase of $1 per hour, plus $1.50 per hour in overtime pay. And such workers would not be threatened by unemployment.

In summary, when all of the consequences of S. 1861, the "Fair Labor Standards Amendments of 1973" are taken into account, it becomes apparent that a more appropriate title would be the "Unfair Labor Standards Amendments of 1973:" unfair to marginal workers—the young, the handicapped, the elderly, the poor—who would be priced out of the job market; unfair to farmers, who would be forced to absorb a 69.2 percent increase in labor costs when even with the assistance of numerous Federal programs they are able to maintain only a marginal standard of living, and small farms are rapidly disappearing from the American scene; unfair to small businessmen, who unlike their large corporate competitors, do not have sufficient profit margins or diversification to absorb radical increases in labor costs; unfair to consumers, who would be forced to pay higher prices for goods and services in all segments of the economy; and unfair to poor people of this country to whom false, undeliverable promises would be made.

THE SUBSTITUTE

The substitute—Amendment No. 330—sponsored by myself, Mr. Taft, and Mr. Beall, is essentially the same as S. 1725, which I introduced on May 7 with Senator Taft. Like the committee bill, it provides for substantial increases in minimum wage rates, but stretches them out over a reasonable period of time in order to minimize the inflationary and unemployment effects.

It would increase the minimum wage for all covered nonfarm workers to $2.30 an hour over a 4-year period. The rate for covered farmworkers would be increased from its present level of $1.30 an hour to $2 an hour over a 3-year period.

To avoid worsening the high teenage unemployment rate—14 percent for white teenagers; 31 percent for nonwhites—the substitute provides for a "youth differential" rate of 85 percent of the new rates. It would apply to youths under 18 only during their first 6 months on a job, and to full-time students working at part-time jobs. Employers could use the "youth differential" rate only in accordance with Department of Labor regulations insuring that adult workers would not be displaced.

The substitute provides for extending minimum wage coverage to some 5-million remaining Federal, State, and local employees not covered by the 1966 amendments. Minimum wage coverage would be extended to the same Federal, State, and local employees as are covered in the committee bill—elected public officials and their personal staffs, military personnel, professional, executive, and administrative personnel, employees in noncompetitive positions, and volunteer employees such as those in the Peace Corps and Vista would not be included. But unlike the committee bill, the substitute would not extend overtime coverage to such employees, primarily because of the considerable wage costs this would impose on State and local governments.

The substitute would provide for no other extensions of coverage, and would not revise existing exemptions. Before any attempt is made to revise the many complex exemptions which have been carved out for various industries, I think Congress needs more facts. Accordingly, the substitute would require the Secretary of Labor to do a comprehensive study of the exemptions and submit to Congress within 3 years a report containing recommendations as to whether each exemption should be continued, removed, or modified.

Our substitute differs significantly from the one we offered last year in that it provides for larger increases in minimum wage rates, provides for a "youth differential" with a considerably narrower application, and extends minimum wage coverage to Federal, State, and local government employees. In contrast, S. 1861 as reported by the committee is, with the exception of a few minor changes, identical to the bill reported last year.

REASONABLE WAGE INCREASES

As I mentioned earlier, under the substitute, the minimum wage for nonagricultural employees would be increased from the present level of $1.60 an hour to $2.30 an hour in five steps stretched out over a 4-year period. The minimum wage would be raised to $1.80 an hour on the effective date of these amendments—60 days after enactment—to $2 an hour a year later, to $2.10 an hour 2 years after the effective date, to $2.20 3 years after the effective date, and to $2.30 4 years after the effective date. Assuming these amendments were to go into effect this year, the minimum wage for nonagricultural employees would reach $2.30 an hour sometime in 1977.

Unlike previous increases in minimum wage rates, these increases would apply equally to all nonagricultural employees within coverage of the Fair Labor Standards Act, regardless of when they were first covered. I understand why it is necessary to phase-in newly covered businesses at lower rates initially, but I have never been able to understand why it makes sense to perpetuate the gap. I think the increases this bill proposes are moderate enough to avoid undue hardship on those industries first brought within coverage of the Fair Labor Standards Act by the 1966 amendments.

The substitute would increase the minimum rate for farmworkers from its present level of $1.30 an hour to $1.90 an hour in three steps. It would be raised to $1.50 on the effective date, to $1.70 a year later, to $1.90 2 years later, and to $2, 3 years later.

The minimum rate for employees in Puerto Rico and the Virgin Islands would be increased by 37.5 percent above the most recent rate established by the special industry committees for each industry. The increase would be in three steps of 12.5 percent each, the first taking place on the effective date of these amendments, the second 1 year later, and the third a year after that. The total increase would be roughly comparable to that of employees on the mainland, and the existing industry committee system under which minimum wages are established on an industry by industry basis would be preserved. In establishing higher wage rates in Puerto Rico and the Virgin Islands, it is important to keep in mind the possible unemployment effects—particularly in view of the fact that the unemployment rate there now is about 12 percent.

The minimum rate for employees in the Canal Zone would remain at $1.60 in order to avoid worsening the already great disparity between wages paid workers in the Canal Zone and workers in Panama, where minimum rates range from 40 to 70 cents per hour.

I think the wage increases proposed in this bill are reasonable, and are stretched out over long enough periods of time so that they could be absorbed without a great inflationary impact on the economy. They are based on the recognition that excessive increases have adverse inflationary and unemployment effects, and reflect an effort to minimize those effects.

THE YOUTH DIFFERENTIAL

Mr. President, the current overall unemployment rate is about 5 percent. For youths 16 to 19 years of age, it is 14 percent. The rate for nonwhite youths in the same category is much higher—31 percent. These figures, and their social implications, are alarming. But they are in fact understated, because they are based only on youths who are not looking for employment, either because they have tried, and are discouraged, or because they see all their friends out of work and are convinced no jobs are available. Insufficient data exist regarding the number of youths in this nonparticipating category, but there are undoubtedly enough to affect true unemployment rates considerably—particularly in the inner city areas.

These disquieting facts are attributable primarily to two things which occurred during the decade of the 1960's: First, the teenage population as a percentage of the total population increased from 9 percent to 13 percent. Second, Congress legislated a 60 percent increase in the minimum wage—from $1 to $1.60—and extended coverage to the teenage labor-intensive retail, service, and agriculture industries—the effect of which was to eliminate many marginal jobs held by teenagers. Congress cannot do anything about the first; it can and should do something about the latter.

I do not think it is any longer open to serious question that minimum wage increases operate to reduce job opportunities for teenagers. Teenagers have substantial disadvantages in competing with adults for jobs. They are unskilled and inexperienced; their job search is limited geographically—close to home or school—they need part-time or temporary work compatible with school schedules; they are eligible for the draft; and for a variety of reasons, they have a high turnover rate. Consequently, whenever changed economic conditions—an increase in the minimum wage, for example—exert pressure on employers to reduce labor costs, jobs held by teenagers are among the first to go.

There is general agreement among the experts that minimum wage increases result in decreased job opportunities for low-skilled marginal workers—particularly inexperienced teenagers. The Labor Department's 1973 report to Congress on the Fair Labor Standards Act summarizes three recent studies analyzing the impact of minimum wage increases on youth employment. Each of the studies clearly indicates that youth employment is adversely affected by minimum wage increases.

Studies by Marvin Kosters and Finish Welch for the Rand Corp., Prof. Yale Brozen of the University of Chicago, David Kaun of the University of Pittsburgh, and Prof. John M. Peterson and Charles T. Stewart, Jr., of the American Enterprise Institute, amass convincing evidence that this is true. Professor Brozen's study showed that the ratio of teenage unemployment increased from 2.5 in 1960 to 3.6 in 1968, during which time the minimum wage was increased from $1 to $1.60, and its coverage broadened considerably. The Kosters-Welch study concludes:

> Our evidence indicates that increases in the effective minimum wage over the period 1954–1968 have had a significant impact on employment patterns. Minimum wage legislation has had the effect of decreasing the share of normal employment and increasing vulnerability to cyclical changes in employment for the group most "marginal" to the work force . . . teenagers. Thus as a result of increased minimum wages, teenagers are able to obtain fewer jobs during periods of normal growth and their jobs are less secure in the fact of short-term employment changes.
>
> Minimum wage legislation has undoubtedly resulted in higher wages for some of the relatively low productivity workers who were able to attain employment than these workers would have received in its absence. The cost in terms of lost employment opportunities and cyclical vulnerability of jobs, however, has apparently been borne most heavily by teenagers. And a disproportionate share of these unfavorable employment effects appear to have occurred to non-white teenagers. The primary beneficiaries of the shifts in the pattern of employment shares occasioned by minimum wage increases were adults, and among adults, particularly white adult males.

Since the population growth of white teenagers is expected to decline to 5 percent over the next decade, their unemployment situation may become easier to deal with. But no relief is in sight for black youths. Their projected population growth for the remainder of this decade is 44 percent. The excessive minimum wage increases proposed in S. 1861 as reported would diminish even further the employment opportunities of black teenagers. A study by Thomas Gale Moore, "The Effect of Minimum Wages on Teenage Unemployment Rates," published in the August 1971 issue of the Journal of Political Economy might be interesting to note here. He developed an econometric model based on available data which suggests that past Secretary of Labor Wirtz's proposal to increase the minimum wage to $1.80 in 1970, and to $2 in 1971 would have increased nonwhite teenage unemployment by 4.6 percent in 1971, 11.3 percent in 1972, 14.5 percent in 1973. and 15.6 percent in 1974.

The predictions of that econometric model based on the increases recommended in the committee bill are even more interesting. Dr. Moore testified before the committee this year that, in the absence of a youth differential provision, S. 1861 could cause a 21.9-percent increase in nonwhite youth unemployment rates, and a 7.1-percent increase in white youth unemployment rates by September, 1976.

Economist Milton Friedman describes the minimum wage law as—

> The most anti-Negro law on our statute books—in its effect, not its intent.

Economist Paul A. Samuelson states the problem as succinctly as possible, in the form of a rhetorical question:

> What good does it do a black youth to know that an employer must pay him $1.60 per hour if the fact that he must be paid that amount is what keeps him from getting a job?

Congress recognized when it amended the Fair Labor Standards Act in 1966 that something needed to be done to soften the impact of minimum wage increases on teenage unemployment. A system was established under which employers in retail, service, and agriculture who obtained certificates from the Labor Department could hire full-time students at 85 percent of the applicable minimum rate for up to 20 hours a week. Due to the narrow scope of that system, and the redtape involved in getting certificates, it has gone unused for the most part. The result, as current statistics demonstrate, is that it has been ineffective in reducing youth unemployment.

Opponents of a youth differential system point to the relatively low utilization rate of hours authorized under the existing certification system, and conclude that teenagers will not accept jobs for less than the minimum wage.

While it is true that only about 42 percent of the total hours authorized under certificates were utilized in 1969, the unwillingness of teenagers to work for subminimum wages was not the primary reason. Employers were surveyed by the Labor Department, and the most frequent reason they gave for under-utilization was simply that no jobs were available. Other reasons given were that the work of teenagers is unsatisfactory, and the burdensome recordkeeping requirements and redtape involved in getting certificates. In order to minimize redtape, many employers requested authorization for the maximum hours to which they were entitled, even though they did not have sufficient job openings to utilize them completely.

The committee bill would retain the existing 85 percent certification system essentially unchanged, except for extending it to full-time students employed part-time at educational institutions. This would essentially do nothing to reduce the high youth unemployment rate, or to lessen the adverse impact of the bill's large increases and extensions of coverage on youth unemployment.

The youth differential provision of the substitute is considerably narrower in application than the provision I supported last year. First, the differential rate would be 85 percent of the applicable new minimum rates, rather than 80 percent as previously—it should be kept in mind that under this proposal no youth could be paid less than the applicable minimum rates in effect now—Second, for youths under 18, the differential rate could be paid only during the first 6 months of employment. Full-time students would be eligible for the youth differential, but only for part-time work—not more than 20 hours per week—except where they are employed at the educational institution they are attending. Students working full time at off-campus jobs during vacations would not be eligible for the youth differential rate, except at jobs in the retail-service industries, or agriculture.

This narrowed application of the youth differential should meet the objections of those who felt the provision in our substitute last year would have reduced adult employment opportunities. The 6-month limitation would further reduce the already minimal possibility of competition between adult workers and teenagers for low-skilled jobs. This provision would encourage employers to provide inexperienced young workers with job training opportunities necessary in order for them to acquire marketable job skills. Also, few adults seek the kinds of part-time jobs held by students.

The effect of this youth differential provision would be to preserve job opportunities for students and teenagers which would otherwise be eliminated when existing minimum wage rates are increased. It is not a question of displacing adult workers. It is a question of whether marginal jobs are held by teenagers and students working part time, or whether such jobs are simply eliminated.

In any event, I think that the need to do something to reduce youth unemployment is so imperative that the youth differential concept should be tested now. Its effects can be assessed when minimum wage legislation is again reviewed.

Mr. President, in conclusion I feel our substitute offers a superior alternative to the committee bill. It provides for substantial increases in minimum wage rates, but would minimize the inflationary and unemployment effects accompanying such increases. I ask unanimous consent that a section-by-section analysis of the substitute and a comparison of the major differences between it and the committee bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF THE DOMINICK-TAFT-BEALL AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 1861

SECTION 2

Amends section 3(d) and 3(e) of the Fair Labor Standards Act to include under the definitions of "employer" and "employee" the United States and any state or political subdivision of a state. This would extend minimum wage coverage to an estimated 5 million federal, state and local government employees (1.7 million federal, 3.3 million state and local government). Military personnel, professional, executive and administrative personnel, employees in non-competitive positions, and volunteer-type employees, such as Peace Corps and Vista, would not be included in the extension of coverage, nor would elected officials or their personal staff. (Conforms with S. 1861, except that minimum wage coverage only—not overtime—is extended to such employees.)

Also amends section 3(m), under which tips, up to 50 percent of the applicable minimum wage rate, may be included for purposes of computing wages paid employees. New requirement added, that in order for employer to qualify for tip credit, employees must be informed of the law, and must actually retain all tips received. (Conforms with section 2(d) of S. 1861.)

SECTION 3

Amends section 6(a)(1) of the Fair Labor Standards Act to raise the minimum wage for non-agricultural employees to $2.30 an hour in five steps over a four-year period. The minimum wage would be raised to $1.80 an hour on the effective date of these amendments (60 days after enactment); to $2.00 an hour one year later; to $2.10 two years after the effective date; to $2.20 three years after the effective date, and to $2.30 four years after the effective date. These increases would apply equally to all non-agricultural employees within the coverage of the Act, regardless of when they were first covered.

Amends section 6(a)(5) of the Act to raise the minimum wage for agricultural employees to $1.50 an hour during the first year after the effective date of these amendments, $1.70 an hour during the second year, $1.90 an hour during the third year, and $2.00 an hour thereafter.

SECTION 4

Amends section 6(a) of the Fair Labor Standards Act to retain the present minimum wage of $1.60 an hour for employees in the Canal Zone.

SECTION 5

Amends section 6(c) of the Fair Labor Standards Act to raise the minimum wage in Puerto Rico and the Virgin Islands by three 12½ percent increases over the most recent wage order rate, the first increase to be effective either 60 days after enactment of the bill or one year after the effective date of the most recent wage order, whichever is later. The second increase would be effective one year after the first; the third increase would be effective one year after the second.

SECTION 6

Amends section 12 of the Fair Labor Standards Act to authorize the Secretary of Labor to require employers to obtain proof of age from any employee. This would facilitate enforcement of the child labor provisions of the Act. (Conforms with section 5 of S. 1861.)

SECTION 7

Amends section 13(c)(1) of the Fair Labor Standards Act which relates to child labor in agriculture to prohibit employment of children under 12 except on farms owned or operated by parents; and to prohibit employment of children aged 12 and 13 except with written consent of their parents or on farms where their parents are employed. (Conforms with section 6(c) of S. 1861.)

Amends section 13(d) of the Act to extend the existing child labor exemption for newsboys delivering daily newspapers to newsboys delivering advertising materials published by weekly and semi-weekly newspapers. Does not create a new minimum wage or overtime exemption.

SECTION 8

Amends section 14(b) of the Fair Labor Standards Act to establish a special minimum wage rate for youth under 18 and full-time students of 85 percent of the applicable minimum wage or $1.60 an hour ($1.30 an hour for agricultural employment), whichever is higher. The special minimum wage for the same employees in Puerto Rico, the Virgin Islands, and American Samoa would be 85 percent of the industry wage order rate applicable to them, but not less than the rate in effect immediately prior to the effective date of the Fair Labor Standards Amendments of 1973.

Non-students under 18 would qualify for the "youth differential" rate only during their first 6 months on a job. Full-time students would qualify for the differential rate (a) while employed at the educational institution they are attending; or (b) while employed part-time (not in excess of 20 hours per week) at any job, except that they could work full-time during school vacations at jobs in retail-service industries or agriculture.

The existing requirement in the Act that employers receive Labor Department certification prior to employment of youth at the special minimum rate would be removed. The Secretary of Labor would be required to issue regulations insuring against displacement of adult workers. Employers violating the terms of the youth differential provision would be subject to existing civil and criminal penalty provisions of the Act.

SECTION 9

Amends section 16 of the Fair Labor Standards Act to provide for a civil penalty of up to $1,000 for each violation of the child labor provisions of section 12 of the Act. (Conforms with section 9 of S. 1861.)

SECTION 10

Amends section 16(c) to allow the Secretary of Labor to bring suit to recover unpaid minimum wages or overtime compensation and an equal amount of liquidated damages without requiring a written request from an employee. In addition, this amendment would allow the Secretary to bring such actions even though the suit might involve issues of law that have not been finally settled by the courts. (Conforms with section 8(b) of S. 1861.)

SECTION 11

Amends the Age Discrimination in Employment Act of 1967 (P.L. 90-202) to extend its coverage to federal, state and local government employees. (Conforms with section 12 of S. 1861.)

SECTION 12

Requires the Secretary of Labor to undertake a comprehensive review of the minimum wage and overtime exemptions under section 13 of the Fair Labor Standards Act and to submit to Congress within three years a report containing recommendations as to whether each exemption should be continued, removed or modified.

SECTION 13

Technical amendments.

SECTION 14

Provides that the amendments made by this Act would become effective sixty days after enactment, and authorizes Secretary of

Labor to promulgate regulations necessary to carry out such amendments.

MAJOR DIFFERENCES BETWEEN S. 1861 AS REPORTED AND THE DOMINICK-TAFT-BEALL SUBSTITUTE

S. 1861 as reported

Nonagricultural employees covered prior to 1966 (present minimum wage—$1.60)—$2.00 sixty days after enactment; $2.20 a year later.

Nonagricultural employees covered by 1966 and 1973 amendments (present minimum wage—$1.60)—$1.80 sixty days after enactment; $2.00 a year later; $2.20 thereafter.

Agricultural employees (present minimum—$1.30)—$1.60 sixty days after enactment; $1.80 a year later; $2.00 the following year; and $2.20 thereafter.

Substitute

Nonagricultural employees regardless of when covered—$1.80 sixty days after enactment; $2.00 a year later; $2.10 two years later, $2.20 three years later; $2.30 four years later.

Agricultural employees—$1.50 sixty days after enactment; $1.70 a year later; $1.90 two years later; $2.00 three years later.

ANNUAL WAGE RATES UNDER S. 1861 AND SUBSTITUTE

92D CONGRESS, ASSUMING FIRST INCREASE HAD GONE INTO EFFECT IN 1972

	1972	1973	1974	1975
S. 1861 (as passed by Senate):				
Non farm-covered prior to 1966	$2.00	--------	$2.20	--------
Covered in 1966 and newly covered	1.80	$2.00	--------	$2.20
Farm	1.60	1.80	2.00	2.20
Substitute:				
Non farm-covered prior to 1966	1.80	2.00	--------	--------
Covered in 1966	1.70	1.80	2.00	--------
Farm	1.50	1.70	--------	--------

93D CONGRESS, ASSUMING FIRST INCREASE IS EFFECTIVE IN 1973

	1973	1974	1975	1976	1977
S. 1861 (as reported):					
Non farm-covered prior to 1966	$2.00	$2.20	--------	--------	--------
Covered in 1966 and newly covered	1.80	2.00	$2.20	--------	--------
Farm	1.60	1.80	2.00	$2.20	--------
Substitute:					
Non farm-covered prior to 1966	1.80	2.00	2.10	2.20	$2.30
Covered in 1966 and newly covered	1.80	2.00	2.10	2.20	2.30
Farm	1.50	1.70	1.90	2.00	--------

EXTENSIONS OF COVERAGE

S. 1861 as reported

Coverage extended to following new categories of employees:

1. Federal employees (1.7 million; minimum wage and overtime).

2. State and local government employees (3.3 million; minimum wage and overtime).

3. Domestic employees (1 million; minimum wage).

4. Small business employees—

(a) Small retail and service stores (662,000 employees; minimum wage and overtime)—retail and service "establishment" exemption repealed, extending coverage to stores grossing less than $250,000 if they are part of an "enterprise" which grosses $250,000 annually.

(b) Small bakeries, ice cream parlors, candy shops, drug stores, optometrist establishments, lumber yards, and other small retail businesses which gross less than $250,000 annually, and which "make or process" goods they sell (minimum wage and overtime).

(c) Small logging and sawmill operations with 8 or fewer employees (minimum wage).

(d) Motion picture theatres (minimum wage and overtime).

(e) Small telegraph companies (minimum wage and overtime).

5. Agricultural employees—

(a) Coverage extended to "local seasonal hand-harvest laborers", and such employees included for purposes of the 500 man-day test (75,000–150,000 employees, minimum wage).

(b) Coverage extended to agricultural employees engaged in harvesting and processing of shade-grown tobacco (minimum wage).

Substitute

Extends minimum wage coverage (not overtime) to federal, state, local government employees.

REVISION OF EXEMPTIONS

S. 1861 as reported

Completely or partially repeals exemptions for following categories of employees:

1. Small retail and service establishments grossing less than $250,000, but which are part of "enterprise" grossing $250,000 annually (minimum wage and overtime).

2. Small retail establishments which "make or process" goods they sell (minimum wage and overtime).

3. Administrative and executive employees in retail—service industries—40% allowance for non-supervisory work eliminated (minimum wage and overtime).

4. Local, seasonal, hand-harvest laborers (minimum wage).

5. Agricultural processing (overtime).

6. Seafood processing (overtime).

7. Cotton ginning (overtime).

8. Sugar processing (overtime).

9. Local transit (overtime).

10. Hotels, motels & restaurants (overtime).

11. Nursing homes (overtime).

12. Auto, aircraft & truck & trailer dealerships (overtime).

13. Catering and food service (overtime).

14. Bowling establishments (overtime).

15. Motion picture theaters (minimum wage and overtime).

16. Small loggers and sawmills (minimum wage).

17. Shade grown tobacco (minimum wage).

18. Oil pipelines (overtime).

19. Small telegraph companies (minimum wage and overtime).

Substitute

Changes no existing exemptions and creates no new ones. Directs Labor Department to undertake comprehensive study of all exemptions and submit to Congress within 3 years a report containing recommendations as to whether each should be repealed, retained unchanged or modified.

YOUTH DIFFERENTIAL

S. 1861 as reported

Retains existing 85% student certificate system which applies only to full-time students employed in retail and service firms and agriculture, but extends to full-time students employed part-time at educational institutions they are attending.

Substitute

Replaces student certificates system with new system containing following features:

1. Applicable to full-time students working in part-time jobs (20 hours per week) in any industry (work in excess of 20 hours per week permitted during school vacations in jobs in retail-service industries or agriculture); and non-students aged 16 and 17 during first six months on a job in any industry.

2. Differential rates—non-agricultural work—$1.60 or 85% of applicable minimum rate, whichever higher; and agricultural work—$1.30 or 85% of applicable rate, whichever higher.

3. No requirement that certificates be obtained from Labor Department prior to hiring of eligible youths.

4. Secretary of Labor directed to promulgate regulations insuring that no adult employment would be displaced.

Mr. DOMINICK. Mr. President, I will, together with my colleague, the Senator from Ohio (Mr. TAFT), be bringing up for debate later tonight and tomorrow a substitute for the committee bill which will accomplish what I think is needed at the present time in terms of minimum wage increases, but which does not give what I believe to be the excessive rate called for by the committee bill.

Mr. President, on behalf of the Senator from Texas (Mr. TOWER), I ask unanimous consent that Mr. Gary Lieber be permitted the floor during debate on the pending measure, and on behalf of the Senator from Arizona (Mr. FANNIN), I make the same request for Mr. Tom Shroyer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, as I understood it, time was not subject to be yielded until 3 o'clock, it being understood that the Senator from New Jersey (Mr. WILLIAMS) and I would have the floor.

The PRESIDING OFFICER. The time from 2:06 to 3 p.m. was under control.

Mr. JAVITS. Between the Senator from New Jersey and me?

The PRESIDING OFFICER. However, it was not to be charged to the 6 hours. It was to be under the same control as the basic 6 hours.

The Chair would advise the Senator that the Senator from New Jersey (Mr. WILLIAMS) and the Senator from Pennsylvania (Mr. SCOTT) have control of the time.

Mr. WILLIAMS. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. I would first like to express my gratification for having worked with the Senator from New Jersey (Mr. WILLIAMS) to bring out the measure which is now pending before the Senate. We shall stand together in respect of what I believe is a matter of basic justice for the American people, a redress of grievances that is long since overdue.

This is a bill which is at least 1 year after its time. It is a bill which will enable low-income workers to provide themselves and their families with the essentials of life.

Mr. President, as the ranking minority member of the Committee on Labor and Public Welfare and as the cosponsor of S. 1861, I want to congratulate the distinguished chairman of the committee, Senator WILLIAMS on the work he has done to bring this measure before the Senate. I strongly urge the Senate to approve the committee bill and reject the substitutes which will shortly be offered. The committee bill is basically the same bill approved by the Senate last year, and the passage of a year has made the justification and need for it stronger than ever.

In my view, the establishment of a Federal minimum wage at a level which will enable low-income workers to provide themselves and their families with the essentials of life not only makes good economic sense, but also represents a moral obligation which we in Congress have to insure that all Americans are treated justly and humanely by our economic system.

The issue before the Senate is not whether the minimum wage should be raised—most agree that an increase is warranted—but rather how much and how soon it should be raised. Even the most cursory glance at the cost of living figures in recent years shows that the increases provided for in S. 1861 are, at most, barely adequate to compensate low-income workers for inflation since 1966, the last time minimum wage legislation was enacted.

The committee bill provides for an immediate increase from $1.60 to $2 for industries covered prior to 1966 with a further increase to $2.20 1 year later. For nonagricultural activities first covered in 1966—medium-size retail and service establishments and certain State and local government employees—and activities first covered by this year's bill—primarily domestics, and the remaining Federal, State, and local employees—the immediate increase would be to $1.80 with two annual increases of 20 cents, until the rate of $2.20 an hour is reached. For agricultural employees working on covered farms, the bill would provide an immediate increase from $1.30 an hour to $1.60 an hour and further annual increases of 20 cents an hour until the rate of $2.20 an hour is reached.

Given the fact that since 1968, the date the $1.60 rate became affective for pre-1966 coverage, the cost of living has increased by 28.9 percent, these increases can be hardly deemed excessive. Indeed, a minimum wage rate of $2 an hour will not even provide a full-time worker with an income sufficient to meet the poverty level as defined by the U.S. Government, which now stands at $4,300.

I think we should all bear in mind as we discuss minimum wage rates what we are really talking about in terms of weekly income for a full-time worker earning the minimum wage. For the nonagricultural employee working 40 hours a week, the present minimum wage of $1.60 provides a weekly gross income of $64 and a take-home pay of less than $60. Yearly annual income would be $3,328—almost $1,000 less than the officially defined poverty level. A minimum wage of $2 per hour provides an employee working 40 hours a week with a gross weekly income of $80 per week and take-home pay of less than $75 per week. The same worker's annual income would be $4,160, still $140 below the officially defined poverty level.

Finally a minimum wage of $2.20 per hour next year would provide a full-time worker with the gross weekly income of $88 a week and annual income of approximately $4,600. That amount will be barely sufficient to meet the poverty level next year, at the time the rate is scheduled to go into effect under S. 1861. While these figures demonstrate that the increases provided for in S. 1861 cannot be deemed excessive, in the light of the legitimate economic needs of low-income workers, it should also be emphasized that the committee, continuing the tradition followed in the case of previous minimum wage increases, has taken extra precautions to insure that the increases can be absorbed easily. Thus, as I have pointed out, for all new coverage since 1966 the initial increase will be only to $1.80 per hour rather than $2 an hour. Also, in the case of agriculture workers, the initial increase is only 30 cents an hour with further annual increases of only 20 cents, until parity with other workers is achieved. The bill also will continue to exempt over 90 percent of the farms in the country.

Another example of the committee's concern to insure that this bill will not be disruptive of the economy is the fact that the bill maintains the present $250,000 test for coverage for retail and service establishments, except in the case of chainstores which are part of enterprises whose total gross is more than $250,000. In this respect, my personal view is that the committee has actually leaned back too far. I would have preferred to see the $250,000 retail and service test at least reduced in this bill, with appropriate transitional provisions, but the committee was not sympathetic to that view.

The committee bill before us now is almost precisely the bill that passed the Senate last year. Had that bill been enacted into law last year, the minimum wage would already be at $2, with a further increase to $2.20 scheduled for next year. It is self-evident that if an increase to $2 was justified last year and approved by the Senate, an increase to $2 this year is even more justified and should be approved by the Senate once again.

The committee bill is also preferable to the substitutes which will be offered to it in respect of extensions of coverage. The committee bill would extend coverage to about 6.8 million employees, most of whom fall into three categories: First, domestics; second, State and local government employees not covered in 1966; and third, local hand harvest laborers working on farms.

Insofar as domestics are concerned, there is no question but that these workers, along with agricultural workers, are perhaps the lowest paid of all American workers and, therefore, are the ones who most desperately need the protection of the Fair Labor Standards Act. It is claimed that covering domestics under the minimum wage law will result in harassing housewives throughout all America and in eliminating jobs for domestic workers, particularly in rural areas. The short answer to this contention is that domestic workers have been covered under several State minimum wage laws; for example, Maryland, Massachusetts, Montana, New York, and Wisconsin, and there is no evidence whatsoever that such coverage has resulted in harassment of housewives or a reduction in the demand for domestics. Indeed, in many areas of the country, including New York, the problem is frequently the reverse: there are not enough workers willing to engage in domestic employment to meet the demand. Bringing minimum wage coverage to domestics will be one step, and a very important step, to bringing some measure of dignity to this type of employment and thus serve to attract a more qualified and more stable work force to the job.

With regard to the estimated 4 to 5 million Federal, State, and local employees which would be brought under coverage of the act, we know that the overwhelming majority of these workers already earn more than $2 an hour. Thus, the financial impact of this coverage on governmental units will be minimal. Furthermore, the committee has taken into account the special problems associated with overtime coverage for firemen, policemen, and correctional officers by including in the bill transitional and averaging provisions which will enable governmental units to adjust to these provisions with a minimum of difficulty. Perhaps the best argument for this coverage is that offered by Senator SCHWEIKER in committee. He pointed out that the Government should not be unwilling to give to its own employees the same economic benefits it requires private employers to pay to their employees.

Mr. President, every time minimum wage legislation is considered by the Congress, the opponents make prophecies of economic doom. First, they claim that a minimum wage increase would be inflationary. The answer to this argument is that the historical record indicates the previous increases in the minimum wage have had no discernible effect on the problem of inflation. Indeed, more than not, and as is the case now, we have raised the minimum wage in order to catch up with inflation.

In the Economic Stabilization Act Congress has especially exempted workers with incomes of less than $3.50 an hour from the economic stabilization program. In my view, that exemption represents a congressional determination that the burden of fighting inflation should not fall on low-income workers, who certainly bear no responsibility for the inflation and perhaps are most adversely affected by it. Also, the existence of the stabilization program should not be viewed as a deterrent to increases in the minimum wage but rather as an added reason why we can safely raise the minimum wage now, because it will restrain any ripple effect.

Actually, although there has been a great deal of discussion of the so-called ripple effect of minimum wage increases, the studies conducted by the Department of Labor, which are described in a committee report, pages 10–12, have not substantiated the existence of any significant ripple effect from previous increases in the minimum wage. The direct cost impact of the increases provided in S. 1861 is 0.5 percent of payroll during the first year; 0.4 percent during the second year; 0.3 percent during the third year; and 0.01 percent during the fourth year. Given the fact that any ripple effect would not appear to be substantial, and the fact that greater increases in the minimum wage have been absorbed easily in the past, there is no merit to the charge that the increases provided in S. 1861 would be inflationary.

The second claim made by opponents of minimum wage legislation concerns alleged disemployment effects. Unquestionably, certain economists believe that an increase in the minimum wage may produce adverse employment consequences, especially for the poor, unskilled workers whom the FLSA is designed to benefit. This is another kind of doomsday prophecy which we have heard before but which has been contradicted by our experiences in connection with previous increases in the minimum wage.

The overwhelming weight of the evidence is to the effect that increases in the minimum wage have not produced negative effects on unemployment, particularly when they have occurred in times of rising economic activity such as we are now experiencing. I ask unanimous consent that a table prepared by the Department of Labor showing the unemployment rate on the effective date on each of the changes in the minimum wage law since 1950 and the rate 6 months and 1 year before and after such effective dates be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

SEASONALLY ADJUSTED UNEMPLOYMENT RATES OF PERSONS 16 TO 19 YEARS OF AGE AND 20 YEARS AND OVER ON THE EFFECTIVE DATE OF CHANGES IN THE MINIMUM WAGE UNDER THE FAIR LABOR STANDARDS ACT, AND 1 YEAR BEFORE, 6 MONTHS BEFORE, 6 MONTHS AFTER, AND 1 YEAR AFTER SUCH CHANGES, UNITED STATES, 1950-73

Effective date of change in the minimum wage	Minimum wage rate	Unemployment rate, 16 to 19 years					Unemployment rate, 20 years and over				
		1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change	1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change
Jan. 25, 1950[1]	$0.75	10.0	14.3	15.2	11.2	8.5	3.8	6.2	5.9	4.6	3.4
Mar. 1, 1956[1]	1.00	11.0	11.3	11.5	9.8	11.2	4.2	3.6	3.7	3.5	3.2
Sept. 3, 1961[2]	1.15 and 1.00	14.5	17.1	18.0	15.1	14.5	4.9	6.1	5.8	4.8	4.9
Sept. 3, 1963[1]	1.25	14.5	17.1	17.4	16.3	15.7	4.9	4.8	4.5	4.6	4.2
Sept. 3, 1964[3]	1.15	17.4	16.3	15.7	15.8	14.7	4.5	4.6	4.2	3.8	3.4
Sept. 3, 1965[3]	1.25	15.7	15.8	14.7	13.1	12.8	4.2	3.8	3.4	3.0	2.8
Feb. 1, 1967[2]	1.40 and 1.00	12.4	12.4	13.0	13.4	12.9	3.0	3.0	2.9	2.9	3.0
Feb. 1, 1968[2]	1.60 and 1.15	13.0	13.4	12.9	12.0	11.9	2.9	2.9	3.0	2.7	2.6
Feb. 1, 1969[3]	1.30	12.9	12.0	11.9	12.2	13.3	3.0	2.7	2.6	2.7	3.3
Feb. 1, 1970[3]	1.45	11.9	12.2	13.3	15.7	16.6	2.6	2.7	3.3	4.1	4.8
Feb. 1, 1971[3]	1.60	13.3	15.7	16.6	16.9	18.5	3.3	4.1	4.8	5.0	4.5

[1] Change in minimum rate for previously covered employees only.

[2] Change in minimum rate for previously covered and newly covered employees.

[3] Change in minimum rate for newly covered employees only.

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings."

Mr. JAVITS. As the table shows, in the vast majority of cases, the unemployment rate for both youths and adults was less 6 months and 1 year after the effective date of the minimum wage change than it was on the effective date of the change. Moreover, in many of those instances, the unemployment rate had actually been higher before the change than on the effective date of the change or 6 months or a year thereafter.

The table does show that in the changes in 1969 through 1971 unemployment rates increased for both youths and adults; however, it should be borne in mind that the increases in those years affected only the relatively small number of employees who were first covered under the 1966 amendments.

On the whole, the figures clearly indicate that the economy has absorbed past increases in the minimum wage rate greater in percentage than those which would be provided under S. 1861 with no discernible adverse effects on employment.

It is true, of course, that an increase in the minimum wage will inevitably result in some localized instances of adverse employment effects. But what our historic experience shows is that such local effects are minimal. Indeed, the economic effects studies conducted by the Labor Department during the past years, many of which have focused on the effects of minimum wage changes in special industries, have virtually all shown little or no adverse employment effects from changes in the minimum wage. For example, in agriculture the fact is that although farm employment generally has declined, the decline has been less on covered farms that it has on noncovered farms.

PROVISIONS AFFECTING YOUTH

One of the most controversial issues to surface in connection with S. 1861 has been the desirability of a special youth differential. To put this matter in perspective, I would like to first briefly summarize the provisions in existing law which bear on the problem of youth unemployment. Current law contains several provisions dealing with the special problems of people first entering the work force.

For example, section 14(a) of the act permits the Secretary to issue special certificates for learners and apprentices permitting their employment at minimum wage rates specified in the certificates. There is no minimum fixed in the law that must be paid to such learners and apprentices. Under these provisions the Secretary has wide discretion in fixing minimum wage rates which reflect the low productivity or other problems associated with apprentices and trainees. Obviously, many teenagers first entering the job market fit into this category.

Another provision dealing specially with youth is the full-time student certificate program, under which retail and service establishments may apply for certificates under which they employ a full-time student for part-time work at 85 percent of the minimum wage rate. The proportion of student hours worked cannot exceed the proportion of student hours worked in the 1-year period prior to coverage of the establishment under the minimum wage law. The same program also applies to agriculture, without being limited to the same proportions of students hours worked in any base year. The committee bill would add educational institutions to those establishments qualified to participate in the student certificate program.

Other provisions of the FLSA which have a bearing on the youth problem are those which exempt some establishments from coverage altogether; for example, seasonal recreational and amusement establishments and small retail and service establishments, both of which types of establishments employ youths in significant numbers, are exempt from both the minimum wage and overtime requirements of the law. Also, agricultural workers under 16 are exempt if they are paid the same price rate as adults.

The proponents of a youth differential argue that these provisions are not sufficient to deal with adverse effects of minimum wage increases on youth and that we must approve what amounts to an across-the-board youth differential in order to deal with the problem of increasing teenage unemployment.

I cannot accept such a radical change in our approach to minimum wage legislation without much more conclusive evidence than the proponents of the youth differential have yet been able to offer that the increases in the minimum wage provided for in S. 1861 would have any serious adverse effects on youth employment. This is especially true since the proponents of the youth differential offer no real assurances that an across-the-board differential of the kind that they propose, would not, in at least some instances, serve as an inducement for employers to replace adult employees with youths at subminimum rates of pay.

The economic studies which have been done on the relationship between the minimum wage and teenage unemployment are hardly definitive. Perhaps the most comprehensive study is the one conducted by the Labor Department, the results of which were published in 1970. The Department's report concluded that—

> It was not possible to adequately separate out the effects of minimum wage changes from other developments. A demonstrable relationship exists between minimum wages and youth unemployment rates if other variables are excluded from the analysis, but when other variables such as population and school enrollment changes are taken into account, the effect of changes in the mini-

mum wage upon teenage unemployment becomes obscure.

Unquestionably, some economists do maintain that the minimum wage does adversely affect teenage employment opportunities and recommend a youth differential. However, at least some of their studies have been severely criticized, because of failure to take into account such matters as major demographic changes in the teenage component of the population. As stated by Prof. Michael C. Lovell, of Wesleyan University, in a recent article in the December 1972, issue of the Western Economic Journal:

> To sum up, the proposition that the minimum wage materially affects the level of unemployment receives support provided one is willing to assert as part of the maintained hypothesis that the substantial increase in the teenage population relative to the rest of the labor force has not materially influenced the teenage unemployment problem; but this is a dubious proposition. An optimist can hope that as additional observations accumulate it may eventually be possible with more sophisticated simultaneous equation techniques to segregate adequately the effects of such factors. Pending the results of further study, it seems more reasonable to accept, tentatively and reluctantly, the null hypothesis that the minimum wage has no impact on teenage unemployment.

Another defect in the economic studies which have been done on this problem is the failure to examine the experience of those States which have a youth differential under State minimum wage laws. For example, the minimum wage in the State of New York is $1.85, but the State law provides an across-the-board youth differential of 30 cents per hour for workers under 18, up to 10 percent of the work force of any employer. Not one of the three economists who appeared before the committee to support a youth differential had looked at the experiences under the New York law. In response to my own inquiries I have been informed by the New York State Department of Labor that comparatively few employers have applied for certificates permitting them to pay the youth differential and even those were primarily for part-time workers in retail and service establishments who would be eligible in most States for student certificates under Federal laws. Lastly, and perhaps in the last analysis most important, even those economists who favor the youth differential are unanimous in the view that overall economic performance is of vastly greater importance than minimum wage rates in affecting teenage unemployment.

CHILD LABOR

Mr. President, now I turn to a subject—child labor in agriculture—with which I have been concerned since I have been a member of the Committee on Labor and Public Welfare and one on which I have fought several battles on the Senate floor. Child labor in agriculture is a moral outrage. More than two decades ago, Congress acted to stop a widespread abuse of industrial child labor in industry. Yet, despite the fact that agriculture is classified as one of the most hazardous occupations in which anyone can engage, nothing adequate has been done to curb child labor in agriculture.

The present committee bill would stop, at long last, the shameful exploitation of the very young children in agriculture. At long last, it would permit very young children to remain in school or in the home, where they belong, and protect them from the hazards of field employment, often in 100-degree heat, and what for them are subhuman conditions.

The committee provisions now included in the bill, which I had the honor to author, are similar to those advanced by Senator WILLIAMS, our chairman, and myself in 1966, and which previously passed the Senate in 1961 and 1963. For 12 years we have allowed this situation to continue. Now is the time to end it, once and for all.

Under the bill, children under age 12 would be barred from employment in agriculture except on their parents' farm with parental consent. Children 14 and over could work during nonschool hours.

Examples of abuses of child labor in agriculture are not difficult to find. Present law permits child labor in agriculture during nonschool hours in the district where the child lives while employed. Thus, in Oregon's Willamette Valley in 1970, it was possible for 75 percent of the strawberry field force to be composed of children under age 14. The committee discovered to its shock and consternation that a 6-year-old child of one migrant family worked in the fields for 15 hours per day, 7 days a week, in 100-degree heat, for 23 cents an hour. All members of this body are also familiar with the countless examples of injury to young children employed in agriculture, which I repeat, is classified as one of our more dangerous occupations. Thus, the reasons which persuaded the Senate to adopt a similar provision in 1966 are no less compelling today.

The restrictions in the committee bill apply only to those very young children—under age 12—they do not apply to any child of whatever age, who works on his parents' farm. They are designed only to provide a modicum of safety to those very young children employed and exploited through agricultural labor and to whom the basic child labor provisions of the act have been unavailable for over 20 years.

Almost two generations ago, this Nation outlawed a practice which had become a national scandal—industrial child labor. If anyone in this body has forgotten the practices which, at the turn of the century, built whole industries upon the endless toil of children not yet even in their teens, let him examine the following transcript of the testimony of 8-year-old Helen Susscak answering Judge Gray's questions about her job in a textile mill in 1911:

> JUDGE. Helen, what time do you go to work?
>
> HELEN. Half after 6 evenin's.
>
> JUDGE. When do you come home from the mill?
>
> HELEN. Half after 6 mornin's.
>
> JUDGE. How far do you live from the mill?
>
> HELEN. I don't know, I guess it mostly takes an hour to get there.
>
> JUDGE. And the inspector tells me it's across lonely fields exposed to storms that sweep down the valley. What's your pay, Helen?
>
> HELEN. I gits 3 cents an hour, sir.
>
> JUDGE. If my arithmetic is good that is almost 26 cents for a night's work. Well, now, we do indeed find the flesh and blood of little children coined into money.

But what we condemned with indignation over a generation ago in the textile mills and industrial plants of this Nation we continue to accept in an often equally oppressive form—agricultural child labor. There are the same long hours, the same negligible pay, the same backbreaking work, the same exposure to the elements, the lack of educational opportunity despite the nominal restrictions on working during school hours—all the same practices which deprive the child of a real childhood.

We ought not to look away now from the exploitation of children in agriculture—with all its destructive effects—at the very time when we propose to extend Federal minimum wage protection to other deprived groups in our society.

Can it really be said that these children need protection less than garage mechanics, busdrivers, or retail salesmen?

Can it really be said that 10-year-old children working for hours in the fields harvesting the food we eat are any the less exploited than children were 50 years ago manufacturing the clothes we wore?

In agriculture, as in industry, long ago, it is the same old practice—perhaps less noticed, but just as harmful—and it ought to be stopped.

As a continuing problem, violations of existing child labor laws applying to nonagricultural work are still too frequent. For that reason, last year I offered, and the committee accepted, additional amendments providing for a civil penalty of up to $1,000 to be imposed on employers who violate the child labor provisions of the FLSA and authority for the Secretary of Labor to require employees to obtain proof of age. These provisions are included in the present bill and should give the Department of Labor considerably enhanced power to curtail abusive child labor in all its shameful fashions.

Mr. President, for all of these reasons I urge the Senate will give its approval to S. 1861, as reported by the committee.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 504) to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems.

The message also announced that Mr. HANSEN of Idaho had been appointed as a conferee at the conference on the bill (S. 795) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, vice Mr. LANDGREBE, resigned.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. RIBICOFF. Mr. President, I urge Congress to pass S. 1861 to increase the Federal minimum wage to $2 in October 1973 and $2.20 within a year. This means that 6.7 million Americans would receive a wage increase when the bill becomes law. We must also expand the coverage of the Fair Labor Standards Act to include millions of Americans who are not protected by minimum wage and overtime laws and assure that all workers receive equal pay for equal work.

Skyrocketing inflation is taxing away the incomes of all American wage-earners. Since 1966 when the present $1.60 minimum wage was enacted the overall cost of living has gone up by 35 percent. Food prices are up over 34 percent, transportation costs have increased 33 percent, property taxes have escalated 29 percent, and medical care costs are up 34 percent.

As a result, a minimum wage of over $2 an hour is needed just to maintain the buying power of the rate set by Congress 7 years ago. Workers must be protected against this spiralling inflation. Enactment of S. 1861 as reported out of the Labor and Public Welfare Committee would provide this protection.

S. 1861 would extend important minimum wage protection to an additional 8.4 million Americans, including Federal, State, and local employees, many workers in agriculture, retail, service, and manufacturing, and domestic help. All of these employees deserve the protection of Federal minimum wage laws.

The bill would also assure millions of additional workers of their rights to adequate overtime pay and expand the minimum wage laws to make clear that women are entitled to equal pay for equal work.

The economic impact of increasing the minimum wage would be beneficial to the economy. Arguments that increasing the minimum wage results in decreased employment are not borne out by the facts. Each year the Department of Labor's report to Congress on the impact of the minimum wage has indicated increased employment and beneficial improvements for workers, especially those at the bottom end of the economic scale. No adverse effects have been found.

This legislation is long overdue. Last year the Senate passed a similar bill only to face obstacles in the House. We must act now to protect the income of all American workers.

The PRESIDING OFFICER (Mr. McCLURE). The hour of 3 p.m. having arrived, the Chair now lays before the Senate the amendment of the Senator from Texas (Mr. TOWER) which the clerk will state.

The legislative clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Fair Labor Standards Amendments of 1973".

INCREASE IN MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(1) (A) not less than $1.75 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973,

"(B) not less than $1.85 an hour during the second year from the effective date of such amendments,

"(C) not less than $1.95 an hour during the third year from the effective date of such amendments, and

"(D) not less than $2.05 an hour thereafter."

(b) Paragraph (5) of section (6)(a) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.45 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.55 an hour during the second year from the effective date of such amendments, not less than $1.65 an hour during the third year from the effective date of such amendments, and not less than $1.75 an hour thereafter."

(c)(1) Section 6(b) of such Act is repealed.

(2) Subsections (c), (d), and (e) of section 6 of such Act are redesignated as subsections (b), (c), and (d), respectively.

EMPLOYEES IN THE CANAL ZONE

SEC. 3. Section 6(a) of the Fair Labor Standards Act of 1938 is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new paragraph:

"(6) if such employee is employed in the Canal Zone not less than $1.60 an hour."

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Paragraphs (A) and (B) of section 6(b)(2) of the Fair Labor Standards Act of 1938 (as redesignated by section 3(c)(2) of this Act) as amended to read as follows:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 increased by 8.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1973, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B)(i) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A) increased by an amount equal to 8.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).

"(ii) Effective two years after the applicable effective date under paragraph (A), the rate or rates prescribed by subparagraph (i) of this paragraph increased by an amount equal to 8.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTH; SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER EIGHTEEN AND STUDENTS

SEC. 5. Section 14(b) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(b)(1) Subject to paragraph (2) and to such standards and requirements as may be required by the Secretary under paragraph (4), any employe may, in compliance with applicable child labor laws, employ, at the special minimum wage rate prescribed in paragraph (3), any employee—

"(A) to whom the minimum wage rate required by section 6 would apply in such employment but for this subsection, and

"(B) who is under the age of eighteen or is a full-time student.

"(2) No employer may employ, at the special minimum wage rate authorized by this subsection—

"(A) for a period in excess of one hundred and eighty days any employee who is under the age of eighteen and is not a full-time student; or

"(B) for longer than twenty hours per week any employee who is a full-time student, except in any case in which such student is employed by the educational institution at which he is enrolled: *Provided*, That students covered by this subsection may work on a full-time basis during school vacations.

"(3) The special minimum wage rate authorized by this subsection is a wage rate which is not less than $1.60 an hour during the first two years from the effective date of the Fair Labor Standards Amendments of 1973, and not less than $1.75 an hour thereafter, except that such special minimum wage rate for employees in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Amendments of 1973.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

"(5) For purposes of sections 16(b) and 16(c)—

"(A) any employer who employs any employee under this subsection at a wage rate which is less than the minimum wage rate prescribed by paragraph (3) shall be considered to have violated the provisions of section 6 in his employment of the employee, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of the otherwise applicable minimum wage rate under section 6; and

"(B) any employer who employs any employee under this subsection for a period in excess of the period prescribed by paragraph (2) shall be considered to have violated the provisions of section 6 in his employment of the employee during the period in excess of the authorized period.

"(6) The provisions of this subsection shall not apply to employment in agriculture."

PENALTIES

SEC. 6. The first two sentences of section 16(c) of the Fair Labor Standards Act of 1938, as amended, are amended to read as follows: "The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages."

EXEMPTION REVIEW

SEC. 7. The Secretary of Labor is hereby instructed to commence immediately a comprehensive review of the exemptions under section 13 of the Fair Labor Standards Act of 1938 and submit to the Congress not later than three years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified.

TECHNICAL AMENDMENTS

SEC. 8. (a) Section 6(c) (2) (C) of the Fair Labor Standards Act of 1938 is amended by substituting "1973" for "1966".

(b) (1) Section 6(c) (3) of such Act is repealed.

(2) Section 6(c) (4) of such Act is redesignated as 6(c) (3).

(c) (1) Section 7(a) (1) of such Act is redesignated as 7(a).

(2) Section 7(a) (2) of such Act is repealed.

(d) Section 14(c) of such Act is repealed and section 14(d) is redesignated as 14(c).

(e) Section 18(b) is amended by striking out "section 6(b)", and inserting in lieu thereof "section 6(a) (6)", and by striking out "section 7(a) (1)" and inserting in lieu thereof "section 7(a)".

EFFECTIVE DATE

SEC. 9. Except as otherwise provided in this Act, the amendments made by this Act shall take effect sixty days after enactment. On and after the date of enactment of this Act, the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

The PRESIDING OFFICER. Time is under control. Who yields time?

Mr. TAFT. Mr. President, I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. TAFT. Mr. President, I shall not talk at this time about the Tower-Fannin substitute, as I expect other Senators will be in the Chamber shortly to do so, but I should like to make some remarks at this time with regard to the bill generally which, of course, will be supplemented in considerable detail when the Dominick-Taft substitute is the order of business before the Senate.

Mr. President, there is a need for enactment of an increase in the minimum wage and I am certain that all Members of this body desire to see the elimination of substandard and exploitive wage practices. Consideration must be given, however, to the relatively high level of unemployment still existing in the country and great inflationary pressures present in the economy. In fact, inflation has been such an issue that Senators on both sides of the aisle have expressed concern regarding this most pressing problem.

The President is expected to respond to this problem this week and his proposals under phase IV hopefully will be a constructive vehicle to curb spiraling inflation within the country. This problem, however, is not merely the responsibility of the executive branch, as the legislative branch also must act responsibly in considering matters that have significant economic impact on the Nation's economy. On page 115 of the committee report, Senators DOMINICK, BEALL, and I cite estimates from the Department of Labor that the ripple effect—the cost to employers under the committee bill of restoring existing wage differentials in industries throughout the country as a result of the minimum wage increase—would be approximately $22.5 billion in 1973, $17.1 billion in 1974, $5.6 billion in 1975, and $139 to $143 million in 1976.

As has already been indicated by the distinguished Senator from Colorado in his opening remarks on the bill, this does not take into account the ripple effect and the various other factors that seem likely further to increase in a substantial way the impact involved.

The committee, in attempting to justify its position, which includes the largest one-step dollars and cents increase in the history of the Fair Labor Standards Act, has taken an unrealistic approach that is very difficult to support. The committee assembles a number of charts and cities various statistics which appear, on the surface, to support their position. On closer examination, however, one finds that such information averages out the adverse impact of the committee's proposals, and fails to focus upon many important questions regarding the impact of extending coverage of the Fair Labor Standards Act and increasing the minimum wage. I respectfully question whether the proponents of the committee position are aware that the economic conditions of the Northeast are not necessarily prevalent in other regions of the country. Further, the committee's analysis is deficient with regard to the adverse effect on the segments of the population least able to compete in the labor market and is particularly distressing in that no constructive proposals were submitted to deal with the problem of high youth unemployment.

The committee in reporting S. 1861, rejected every major amendment that Senators DOMINICK, BEALL, and I offered. The proponents of the committee's position, in fact, were unwilling to even discuss any middle ground for agreement. The committee bill unfortunately, is almost an exact copy of the proposal they recommended last year, and represents no modifications or compromise from the bill which was not able to move through Congress. It is also close, indeed, to the now House-passed bill which again thwarted all attempts to arrive at a compromise, taking into account the unemployment factors and taking into account the inflationary factor. This is extremely unfortunate as it seems extremely likely such an attitude will frustrate, if not prohibit, swift enactment of the needed increase in the minimum wage. Senators DOMINICK, BEALL, and I, therefore, plan to call up our amendment No. 330 to S. 1861, which is a substitute proposal for the committee bill. I am hopeful and confident that Senators will closely examine the issues involved in this subject and that they will act in a spirit of compromise for the national interest.

Mr. President, I have noted particularly the article in the Washington Post this morning which the Senator from Colorado placed in the RECORD. I want to call that to the attention of all Senators, and also call their attention to the article printed in the RECORD yesterday by the distinguished Senator from Texas (Mr. TOWER) which bears further on the points I have mentioned.

Mr. President, I yield the floor.

Mr. FANNIN. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. McCLURE). The pending business is the amendment offered by the Senator from Texas (Mr. TOWER).

Mr. FANNIN. I thank the Chair. I understand that is amendment No. 252; is that correct?

The PRESIDING OFFICER. That is correct, amendment No. 252, as modified.

Mr. FANNIN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. Is the Senator acting for the Senator from Texas?

Mr. FANNIN. The Senator is a cosponsor of the bill and I am acting for the Senator from Texas.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. FANNIN. Mr. President, first of all, I should like to explain what is proposed by the Tower-Fannin minimum wage amendment in the nature of a substitute for S. 1861.

One, it increases the minimum wage for those workers covered under the FSLA from $1.75, 60 days after enactment, to $1.85 1 year after, or 1974; $1.95 1 year after that, 1975; and then $2.05 1 year later, which would be 1976.

On agriculture workers, the scale would be $1.45, 60 days after enactment; $1.55 1 year later, 1974; $1.65 1 year after that, 1975; and then $1.75 in 1976. There is also a youth differential.

The differential would be a fulltime student under 21 for a maximum of 20 hours a week; a student under 18 years of age, the rate would be $1.60 until the adult minimum wage goes to $1.95, and then $1.75 at that time.

The coverage would be all nonagricultural industries and the time would be not to exceed 180 days for nonstudents under 18 and for 20 hours a week for students during the school year. The substitute does not extend minimum wage coverage or amend the overtime provisions of the act. Instead, it requires the Secretary of Labor to make a comprehensive 3-year study of all exemptions under the FSLA.

First, I want to speak against the committee bill, S. 1861. This bill is essentially the same bill which passed the Senate last year after the defeat of the Taft-Dominick substitute by a 47-to-46 vote.

While I am no longer a member of the Senate Labor Committee, I have taken the time to study the various bills on minimum wage, because I believe it is one of the most important subjects that Congress will pass on this year. The House has already passed the so-called Dent bill which is similar to the committee bill. In my opinion, if the committee bill passes the Senate, the President should exercise his veto power.

In consideration of this legislation, I have been concerned with two primary goals. I believe we have to broaden the economic opportunities for the young, the disadvantaged, the impoverished, and the marginal worker. I believe we want to reduce unemployment and bring inflation under control. We must attempt to relieve our cities of their financial problems, caused in part by high welfare costs and relief rolls. We must attempt to accelerate development in our rural areas and restore farming to its rightful place in our economy.

The committee bill works contrary to those goals.

I intend to speak later of the effect of higher minimums upon imports, exports, and disemployment. These are the areas which have the greatest impact upon the farmer, especially the growers of citrus fruits and vegetables.

At this time I want to voice my concern with other specific provisions of the committee bill.

The committee bill would extend coverage, but not overtime, to an estimated 1,200,000 domestic service employees. Apparently, the committee majority finds constitutional basis for coverage in the "commerce clause" on the ground that cleaning product sales affect commerce, and domestic employment releases other persons to work in commerce. I had thought that the "commerce clause" had been extended to its outermost limits, but this breaks all bounds.

The Department of Labor has taken the position, both last year and this year, that it would be almost impossible to enforce this provision of the committee bill.

I just cannot imagine the housewife struggling with the paperwork which would be required. I can imagine the housewife giving her husband the alternative of either filling out the forms or dispensing with the domestic and performing half the housework himself. It has been my impression that domestics are in such short supply and in such great demand that they can ordinarily set their own wages.

The extension of coverage to some 5 million State and local government employees is offensive to me. This is a massive intrusion of the Federal Government into State and local governmental affairs. State and local officials can better appreciate the differences in the cost of living, which vary widely between States. The administration is concerned about the vitality and viability of State and local governments. Federal Government regulation of wages of State and local government employees would be at cross-purposes with those goals and would tend to weaken our system of federalism.

The failure of the committee bill to provide a lower minimum for teenagers standing alone provides sufficient reason for me to vote against the bill. Economists from three leading universities advocated a youth differential. Prof. Thomas Moore of Michigan State University estimated that the effect of the committee bill, S. 1861, which has the same schedule of minimums as the House now passed bill, would increase nonwhite teenage unemployment by 11.6 percentage points by September 1974; 18.8 points by September 1975; and around 21 to 23 points each year to September 1979. White teenage unemployment would go up but at a lesser rate, according to Professor Moore.

Many nations, among them the United Kingdom, France, and Japan, have lower minimum wages for youth. The central argument for a lower minimum rate for teenagers in the United States is their very high unemployment rate, and in particular the extremely high unemployment rate of nonwhite teenagers.

Teenage unemployment rates, white and nonwhite

[In percent]

WHITE	
Teenagers (16–19):	
1969	10.7
1970	13.5
1971	15.1
1972	14.2
Total labor force:	
1969	3.1
1970	4.5
1971	5.4
1972	5.0
NONWHITE	
Teenagers (16–19):	
1969	24.1
1970	29.1
1971	31.7
1972	33.5
Total labor force:	
1969	6.4
1970	8.2
1971	9.9
1972	**10.0**

Source: Monthly Labor Review, February 1973.

The ratio of teenage to adult unemployment rates has tended to rise, while the proportion of the labor force in the 16 to 19 age group has also been rising. It has been observed that, apart from this trend, the ratio of teenage to total unemployment rates has risen every time the minimum has been increased. Source: American Enterprise Institute, Legislative Analysis, May 9, 1973, page 16.

Surely the Senate does not wish to accelerate this already alarming increase in teenage unemployment.

The current minimum wage for agricultural workers under FLSA is $1.30 per hour. The committee bill would raise this minimum to $1.60 in 1973, $1.80 in 1974, $2.00 in 1975 and $2.20 in 1976. Mr. President, these increases would destroy the fruit and vegetable industry in my State of Arizona. Our close proximity to Mexico, where the average rate for farm workers is approximately 30 cents per hour, has played a major part in the rapid increase of imports from Mexico. Arizona's fruit and vegetable industry has been hard put to live with the $1.30 present minimum. It simply cannot continue with increases which will go to $2.20 under the committee bill. I intend to discuss this further in a later speech on the effect of higher minimums upon imports.

Mr. President, as we stand on the threshold of uncertainty in our economy, a substantial increase in the minimum wage and extension of coverage would appear to be an untimely action when one relates it to inflation, unemployment problems and international competition.

For these reasons, I have joined Senator TOWER in introducing an amendment in the nature of a substitute for S. 1861. Our bill does not treat the Fair Labor Standards Act as a Federal tool to erase poverty in the Nation. Instead, it recognizes the impact of inflation on marginally and unskilled workers.

Our bill increases the minimum wage for nonagricultural workers from $1.60 to $1.75 60 days after enactment; $1.85 during the 2d year; $1.95 during the 3d year and $2.05 during the 4th year.

The Tower-Fannin amendment would gradually raise the minimum wages for agricultural workers from the present $1.30 per hour to $1.75 over the same 4-year time period. Our substitute amendment contains a "youth differential" for teenagers below age 18 and full-time students below age 21 of $1.60 to be increased to $1.75 when the adult wage rises to $1.95. These special wage rates for non-students could only apply for a maximum of 180 days.

The Tower-Fannin amendment does not make any change in existing coverage, with respect to both application of the minimum wage and the overtime exemptions. Instead, we propose that the Department of Labor undertake a 3-year review of all existing exemptions.

I urge passage of the Tower-Fannin amendment.

Mr. President, one aspect of the minimum wage issue that is frequently overlooked is the devastating effect unrealistic legislation can have on smaller communities. In the June 21, 1973, edition of the Arizona Record, published at Globe, Ariz., Publisher Tom E. Anderson expresses his fears concerning this issue.

I ask unanimous consent that his editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TEENAGERS HIT: UNREALISTIC MINIMUM WAGE HURTS RATHER THAN HELPS

(By Tom E. Anderson)

All businesses are affected by an increase in the federal minimum wage. When the wage floor goes up, wages above the minimum also rise to maintain differentials between skill levels. And when labor costs go up, either prices increase or workers are laid off—to keep total costs at a competitive level.

Hardest hit are workers in low wage, small profit-margin industries. They are the most prone to layoff and can afford it the least. Employers in these industries, as well, may find that costs no longer allow them to be competitive. The result—a shutdown and loss of jobs for the community.

In its zeal to provide everyone with a higher wage, the Democratic leadership of Congress also proposes to close the door of opportunity to those who need it most—our youth. Unemployment rates among those under 21, particularly minorities, are several times the national average.

Many businesses cannot afford to pay teenagers a higher minimum and, given no other choice, simply do not hire them. Colleges and universities, which provide numerous jobs for students, face a similar problem. Financially hard-pressed private institutions may have to lay off some student employees. Public universities would have to demand a larger share of our taxes. Congress, in acting on minimum wages, should certainly provide provisions for a youth opportunity wage. The three-step proposal, which would raise the present $1.60 an hour minimum wage to $2.20 over three years, would raise the minimum to $1.90 this year, then to $2.00 and $2.20 in annual steps. It would fix a special rate for workers 18 years old and under of 80 per cent of the minimum during their first six months on the job and hold the coverage where it is now.

The three-step proposal was offered by a coalition of Republicans and Southern Democrats but was defeated in favor of the two-step leadership-backed bill which would raise the minimum to $2.00 this year and to $2.20 a year later. The latter would also bring 3.3 million state and local employees under coverage, 1.7 million federal workers and one million household domestics. At present about 46 million workers are covered. No differential is provided for teenagers.

The key vote in the House came on the move by the coalition to substitute the Erlenborn bill for Dent's Democratic leadership bill. Voting for the substitute were all three of Arizona's Republican representatives—Conlan of our district, Rhodes and Steiger. Voting against the substitute, also predictably, was Arizona representative Udall. The vote was 218–199 against the substitute.

Attention on the matter will now shift to the Senate where Arizona senators Fannin and Goldwater are again expected to support a substitute bill.

I know from our own experience and what I have observed in Globe-Miami that voting a straight-laced minimum wage bill may be great politically but is not beneficial for teenagers and not conducive to holding down the rate of unemployment.

ELIMINATION OF EXEMPTIONS

Mr. FANNIN. The committee bill would further extend coverage by completely eliminating many exemptions which have long been recognized under the Fair Labor Standards Act.

Minimum wage coverage would be extended to some 150,000 farmworkers by elimination of the exemption for "local, seasonal, hand harvest laborers" section 13(a)(6). This would have the further effect of reducing the size of farms to which minimum wage coverage extends, because such employees would be included for the first time in computing the 500 man-day test. The impact of this would fall heaviest on fruit and berry farms, which utilize large numbers of hand laborers during two short harvest seasons.

Sections 7 (c) and (d) of present law provide exemptions or partial exemptions from overtime for seasonal employment. Section 7(c) provides a 10 hour workweek in a seasonal industry if employees receive premium pay for hours in excess of 10 in 1 day or 50 in 1 week. The committee bill eliminates this partial exemption from overtime.

Section 7(d) of present law provides the same partial exemption from overtime premium pay for "recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparin, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state."

Mr. President, these provisions have been carefully limited by the Secretary of Labor by regulations which the affected industries understand. Under those regulations, as I have pointed out, some dozen of the major packing and canning companies have moved major operations into Mexico to take advantage of the cheaper wage rates. Does the committee honestly desire to drive the remaining canners and packers out of the United States and throw additional thousands of employees out of work?

The committee bill first raises the present minimum for agricultural workers from $1.30 per hour to $1.60 immediately and to $2.20 per hour ultimately. It then proceeds to knock out the exemptions which have made it possible for farmers to survive. Still not content with the havoc it would bring, the committee bill goes forward to destroy many of the exemptions from overtime provided by section 13(b) of present law. Since my State of Arizona is a large producer of cotton, I was particularly alarmed by the elimination of section 13(b)(15). This subsection exempts from premium overtime pay "any employee engaged in ginning of cotton for market, in any place of employment located in the county where cotton is grown in commercial quantities." I suggest that other Senators give particular attention to what the committee bill does to section 13 and determine how it would affect industries of large importance in their States.

Mr. TOWER. I yield myself such time as I may require.

Mr. President, I strongly oppose S. 1861, as reported by the Senator Labor and Public Welfare Committee. My opposition extends to nearly every major provision of the bill. Enactment of this will negate any positive efforts that have been or will be implemented in our battle against inflation and unemployment. If Congress passes minimum wage legislation similar to S. 1861 or the House passed bill, I shall implore the President to exercise his veto prerogative.

Unfortunately, an opponent of this bill is quickly labeled as being motivated by a feeling of total disregard and lack of compassion for the downtrodden and disadvantaged.

This myth has been perpetuated despite massive economic evidence backing up the contention that legislation like the pending bill can have adverse impacts on just those groups of workers the Fair Labor Standards Act is intended to aid.

I very much regret that this debate is again taking place. The same pro and con arguments that were debated last year will again be repeated. Had the spirit of compromise been realized this might have been avoided and the Congress would not be faced with the distinct possibility of taking all or nothing of a 37-percent increase in the minimum wage within a year and 2 months—an increase from $1.60 to $2.20, the largest monetary incremental increase in the history of the Fair Labor Standards Act.

Mr. President, I am sure that other Senators will discuss in depth the various provisions of S. 1861 and why they are ill-conceived. Briefly, I would like to discuss this matter by emphasizing my disagreement with the committee's decisions and its analyses within the context of the following broad category areas:

First. Minimum wage increases for covered employees.

Second. Extensions of coverage and repealing of overtime exemptions.

Third. The absence of an effective provision to improve the youth unemployment problem.

The 37 percent increase in the minimum wage is based upon the committee's belief that this is an effective mechanism to restore the consumer purchasing power of the "working poor" and that therefore, by a touch of the congressional magic wand, poverty in America will diminish to a more tolerable level, if not automatically disappear. The same reasoning is being employed with respect to farm workers whose minimum would be increased to $2.20 after three years from the bill's effective date.

There is no rational basis for such conclusions on at least two grounds. First, as pointed out in so many instances, the conditions of the poor are not geared to wage rates but to family size and general employability in the free market. In 1971 only 37 percent of head of households of working poor families were employed for a full year at a full-time job. Another 46 percent held varying types of part-time jobs. Nearly half of the working poor were members of families with six people or more. It is therefore simplistic at best to call for a $2.20 artificially set minimum wage having no relationship whatsoever to supply and demand factors.

To be consistent, the committee should have reported a $2.65 minimum wage since that level corresponds to the Labor Department's poverty level for a family of six. However, a $2.65 minimum wage or a $2.20 minimum to become effective within such a short period of time fails to recognize the important fact that the average working poor family contains more than one worker.

This factor, of course, tends to destroy the underlying foundation of S. 1861.

Instead, Mr. President, the needs of the working poor relate to expanded employment opportunities. I have introduced with Senator FANNIN a minimum wage bill because its provisions recognize the major objective of the law—to insure against the abuse of low skilled workers. We surely do not believe that this government intrusion into the free market can erase poverty; in fact unless the act is amended in the fashion we have proposed, it is our firm belief that poverty will be increased rather than decreased.

The deciding factors to be weighed in minimum wage debate must be analyzed by utilizing a broad based cost-benefit study. John Peterson and Charles Stewart stated in their important study "Employment Effects of Minimum Wage Rates"—

> The government's studies have demonstrated repeatedly that some workers receive higher wages when minimums are increased. This is undoubtedly true. But it should be

> stressed that unless the wage gains of some workers exceed the employment losses of others (including reduced hours of work), workers as a group do not gain. The fundamental objective of minimum wage legislation is not just higher wages for some workers at the expense of others but larger total payroll.

Therefore, disemployment or the loss of jobs due to increased minimum wages can and have in the past canceled out the benefits obtained by some workers. Economic conditions of the working poor will improve when the economy is thriving and therefore will not be advanced through huge minimum wage increases that contribute to unemployment. In this light a vast majority of economists who have studied the matter suggest that minimum wage increases have an adverse effect on low and unskilled employees or potential employees.

As in the case of so many well intended social programs, the Fair Labor Standards Act has retarded the economic growth of just those groups of people which the act was intended to assist.

The sectors of the economy most affected by the Fair Labor Standards Act are the retail and service industries and certain types of manufacturing. A study by William Shkurti and Belton Fleisher concluded that retail employment grew at only one-fourth of the rate of sales from 1960–65. It was in this period that retail businesses became most affected by the minimum wage.

Studies by Yale Brozen of the University of Chicago conclude that those few workers helped directly by rapid minimum wage increases would have received comparative wage increases without Government intervention anyway within a short period of time.

On the other hand, Mr. Brozen states that these type of increases have tended to restrict the expansion of low-wage manufacturing industries in the South and that workers so displaced have crowded into the uncovered areas, thereby resulting in depressed economic conditions for the poor.

The Peterson and Stewart study concludes that:

> 1. Existing evidence on the effects of minimum wage rates is substantial and should serve to sharpen the focus of further research and debate in the field.
>
> 2. The impression created in most government studies that federal minimum wage policy has produced no adverse employment effects is erroneous.
>
> 3. The weight of the evidence produced by academic research is that adverse relative employment effects are related to the relative wage impact of statutory minimums.
>
> 4. The general model of economic theory most nearly corresponds to the observed results of statutory minimums, whereas the alternative models used to support minimum wage advocacy have been shown to be non-predictive in theory and in fact.
>
> 5. Minimum wage rates produce gains for some groups of workers at the expense of others, with the adverse employment effects greatest among workers who are the most disadvantaged in terms of marketable skills or location. The unqualified claim that statutory minimums help the poor must be denied.
>
> 6. As to the policy implications of these findings, perhaps the most important is that the regressive distribution of the effects of raises in statutory wage minimums brings into question both the wisdom and equity of such minimums.

In addition to discounting real economic data, proponents of the 37-percent increase deny that the legislation is inflationary, leading to Government imposed pressure on the entire economy for comparable wage increases. The committee report maintains that the Congress must be the bargaining agent for the working poor and that huge minimum wage increases represent a successful negotiation. This reasoning is downgraded by the evidence I have already presented and that will be no doubt expanded upon by other Senators who will speak to this issue.

As far as inflationary pressure is concerned, the effects come not from the comparatively small aggregate payroll increases obtained by workers in order to bring them within the new statutory minimum, but rather from indirect wage increases required to maintain wage differentials. It is admitted that it is difficult to quantify in dollars and cents this "ripple effect." However, to deny its existence seems to me to ignore basic factors in labor-management relations. Witness, for instance, the NLRB case cited in the minority report that an employer was charged with an unfair labor practice for failing to consult the union before restoring wage differentials caused by a recent minimum wage increase.

The real benefactor of this legislation is organized labor. The irresponsible elements within the leadership of organized labor have no need for the unskilled marginal worker, often black, often young. These workers, many of whom will be unemployed, are the least ripe for union organizing due to their status in transitional rather than normal employment patterns.

On the other hand, those who benefit from the ripple effect will be implored to recognize that minimum wage legislation would not have passed Congress but for the presence and influence of organized labor.

EXTENSIONS OF COVERAGE AND REPEAL OF EXEMPTIONS

S. 1861 extends coverage to more than 7 million workers. Such an expansion of coverage can have the same negative effects as the 37-percent increase in the minimum wage for those already covered by the Fair Labor Standards Act.

For instance, the bill extends minimum wage and overtime coverage to domestic employees. While I believe that the argument that this provision will be generally impossible to enforce is a sound one, I feel there are even better grounds for opposition.

First, there is no rational basis for the conclusion that domestics are in interstate commerce, and thereby can be reached by Federal legislation. The belief that the interstate commerce connection attaches due to the equipment they use in their work is dubious at best. That the commerce clause has been stretched far beyond the intentions of the Founding Fathers is readily admitted by most knowledgeable observers. However, affirmation of this reasoning put forth in S. 1861 would put the last nail in the coffin of the commerce clause. The Founding Fathers, in their wisdom, may have realized the need for a flexible constitutional interpretation of the commerce clause in order to take into consideration the development and evolution of the country. On the other hand, I seriously doubt that the Founding Fathers ever intended that the commerce clause be rendered meaningless.

Secondly, I cannot accept the reasoning of the proponents of this provision that minimum wage coverage will bring to the domestic servant occupation a spirit of pride and dignity that for some reason doesn't exist now. Such reasoning implies that domestic service employees lack the sense of dignity and pride that other workers have. Such a broad conclusion defies logic and to the extent it may be true in individual cases, I cannot begin to believe that minimum wage coverage is going to achieve a spiritual restoration in job pride.

The economic effects of this extension will likewise produce negative results, unless our sole objective is providing a basis for organized labor to organize domestics on the grounds that they were responsible for the passage of the legislation. At a time when Congress has taken positive action to encourage the employment of housewives, I think it unwise to contradict that policy through the minimum wage law. Particularly outside the Northeastern part of the country, employers of domestics will either cease employing them or reduce their hours per week. This will result in disemployment and reduced purchasing power for the working poor family. Overall employment in the country will be reduced since many housewives will no longer consider it economically feasible to obtain part-time work.

Mr. President, with equal vigor I strongly oppose extension of the Fair Labor Standards Act to State and local government workers. Besides the constitutional questions that clearly arise, I object to this callous invasion of federalist principles which in recent decades has been greatly weakened to the disadvantage of States and municipal governments. As in the case of domestics, this represents hypocritical Federal policy. The revenue sharing concept has been accepted as a forward looking approach to both problem solving and as a means to restore the basic tenets of American federalism. Extension of minimum wage to State and local governments represents a step backward in our quest to achieve this national objective.

The National League of Cities—Conference of Mayors has contacted my office, informing me of the immense problems cities will face if this provision is enacted. Particularly with respect to overtime coverage, cities will be forced to readjust their particular employment systems that are geared to local needs and demands because of a foreign edict enforced by a Federal Government that has no understanding of their problems.

S. 1861 would revise by modifying or eliminating no less than 19 separate exemptions from minimum wage coverage. I do not believe that a substantial case has yet to be presented for eliminating any of these exemptions. It is for this reason that the Tower-Fannin substitute instead requires the Secretary of Labor to undertake a 3-year comprehensive study of all current exemptions.

Within that time frame the Secretary would report his findings and recommendations as to the feasibility of retaining, modifying or eliminating each and every exemption. This is the kind of analysis that needs to be done before Congress embarks upon a systematic review of exemptions. It should be recalled that each and every exemption was put into the act for specific reasons, whether it be because of the abnormal working hours and conditions in the industry or a scarcity of labor in the particular business. Those who desire to remove any of these exemptions must bear the burden of proving that they are no longer necessary or desirable.

I do not intend to discuss every one of the 19 changes S. 1861 proposes. I would however like to allude to one or two as examples pointing out the undesirable effects of the changes proposed.

The committee bill removes the overtime exemptions for local transit operators. This action has been proposed despite the enormous financial difficulty facing this industry. Since 1954 at least 268 local bus companies have gone out of business and operating losses for the entire industry were $427 million in 1971 alone!

Removing the overtime exemption for transit workers would only add to these already enormous losses and would result in either more cities without public transit facilities, increased fares or further Federal subsidization of transit systems throughout the country.

When transit systems fail, those who have the greatest need for low-cost transportation—the needy, the aged, the young and the handicapped are hurt the most. The Senate has gone on record in support of increased federal support for mass transit. To remove this overtime exemption at this time would not be consistent with our past actions.

Mr. President, I am very much concerned about the committee action as it relates to agriculture. In particular I call to the attention of the Senate the removal of overtime exemptions for agricultural processing, sugar processing, cotton ginning as well as the extension of coverage to local, seasonal hand harvest laborers, for determining whether a farm meets the act's 500-man-day test. I know that Senator FANNIN and others will speak in detail about the detrimental effect which S. 1861 will have on American agriculture. I ask unanimous consent at this time to place in the RECORD the statement in support of the retention of the cotton ginning exemption by Mr. Tony Price of the Texas Cotton Ginning Association.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON S. 1861 BY J. H. TONY PRICE

This statement is presented for the Texas Cotton Ginners' Association, a trade organization representing the 1,004 cotton gin establishments in Texas with headquarters at 3724 Race Street in Dallas, by J. H. Tony Price, executive vice president of the Association.

This Association strongly urges the Senate Subcommittee on Labor to amend S. 1861 in its present form so as to retain the exemption from overtime authorized in Section 13 (b) (15) of the Fair Labor Standards Act (as amended), and to retain the partial exemption from overtime authorized in Section 7(c) for certain seasonal agricultural processing industries. This request for retention of the overtime exemptions is made for the following reasons: the conditions which originally justified the exemptions in Section 13(b) (15) and Section 7(c) still exist in the cotton ginning industry.

Obviously, ginning is a seasonal process directly related to the harvest of the cotton crop. A cotton gin cannot be used for any other purpose than to separate lint from seed, and plants are idle up to 10½ months per year. The rate of ginning is directly responsive to the harvest rate of the crop and ginning employers have no control over the volume of cotton received. Nor does the ginning employer have any control over weather interruptions. These two factors make inapplicable employment practices used in other industries and through the years have seriously eroded the quantity of labor supply available to do this seasonal, sometimes intermittent work.

Cotton gins in the past have drawn heavily from labor on surrounding farms. With mechanization and the sharp drop in number of jobs on farms, this source of labor is no longer stable. Since the gins operate only a short period each year, only one or two employees are maintained on a year-round basis. Thus, the bulk of the labor currently used by cotton gins in Texas comes from "moonlighters" and the migrant labor stream. The latter also continues to dwindle, according to Texas Employment Commission reports.

To sum it up; our industry is affected by a severe labor shortage that can not be resolved by an increase in wages, or payment of overtime.

Historically, the payment of overtime has been to encourage increased employment by dividing work into shifts. With the shortage of seasonal labor, this concept isn't applicable in the ginning industry. Less than 20% of the gins in Texas now operate with two shifts as opposed to over 65% five years ago. The decline in two shift operations is directly caused by the shortage of seasonal labor.

Thus, the removal of overtime exemptions in the cotton ginning minimum wage structure would not accomplish the objective of this particular concept of overtime. The elimination of overtime exemptions would cause many gins to close—conservatively, we estimate 15 to 20 percent of those now operating in Texas—and thus abolish extra income jobs for that segment of our work force which we describe as "moonlighters." This source of workers usually are individuals who supplement income from other seasonal jobs or use vacation time from other full time jobs. The industry also employs many individuals 60 years old and older who would be affected by any change in employment practices.

Also, it should be recognized that cotton ginning, unlike most other agricultural processing establishments, is a service business. Cotton gin management does not take title to the commodity being processed. Ownership remains with the producer of the cotton throughout the process and it is sold only after it is "ginned." History has shown that it is difficult, and often works hardships, for service industries completely responsive to customer demands to operate on other than straight time labor arrangements.

Under present ginning practices, labor costs based on overtime payments and minimum wages proposed in S. 1861, would increase by at least 85%. Although there has been some misunderstanding on this point, the cotton gin receives no federal government subsidy in any form. The payments made to cotton producers do not pass through to the cotton gin and there should be no confusion on this point. Charges for ginning service would remain the same regardless of payments to customers from any outside source. Much of the ginning industry's processing capability was installed 5 to 12 years ago and was designed to handle a much larger crop than now exists under federal programs. When the current Agricultural Act went into effect in the 1960s, ginning volume was automatically decreased nearly one-third.

On the basis that removal of overtime exemptions would not accomplish any beneficial purpose to the employee, or employer, this Association respectfully requests the inclusion of exemptions now authorized under Section 13(b) (15) and Section 7(c) in any new amendments to the Fair Labor Standards Act. We believe these exemptions are justified under present conditions more so than they were when the Act was passed in 1938 and amended in 1966.

Thank you.

Mr. TOWER. Mr. President, I think a strong case is made for the retention of existing exemptions at least until the Congress has had time to analyze a comprehensive analysis of the pros and cons of each exemption. Tampering with these particular occupational classifications will result in the same economic effects as a general 37-percent increase in the minimum will have. The wholesale repeal of these exemptions will force low paid workers into the few remaining even lower paid occupations exempt from the act. One of these occupations is unemployment, which I dare say S. 1861 tends to promote as the major exemption that would remain within the Federal wage and hour law.

YOUTH EMPLOYMENT OPPORTUNITIES

The most disappointing feature of the committee bill is its failure to do something about the youth unemployment problem. It is so distressing because it is so obvious that a serious problem exists. While I understand that Senator BUCKLEY who has led the fight in Congress for a youth differential wage intends to speak on this matter at length, its crucial, intricate relationship to the broad policy questions encircling this debate compels me to speak to this issue.

The proponents of this legislation would have you believe that they recognize the problem and intend to do something about it. What S. 1861 does include is the retention of a precertification program that has been most ineffective. Moreover, the provision in S. 1861 does nothing for nonstudents under 18, the category where the unemployment problem is so serious.

The unemployment rate for teenagers as a whole is approximately three times the rate of adults. It has not been under 10 percent for 20 years. The unemployment rate for black youths is over 30 percent.

The overwhelming evidence points to a direct relationship between the Federal minimum wage and teenage unemployment.

For instance, a report entitled "Youth Employment Minimum Wages," was compiled by the Bureau of Labor Statistics. It outlines several studies which show adverse effects of the minimum wage. The reasons for this relationship between minimum wage increases and higher youth unemployment are obvious.

First. Most employees are less willing to hire inexperienced and less productive young people than older, more productive workers, even when older workers have to be paid higher wages.

Second. When young and inexperienced workers must be paid the same wages as more productive and experienced workers, marginal jobs will be phased out rather than filled with the younger worker.

Third. Reduction of job opportunities affects teenagers more than adults. Most teenagers, especially those just beginning to work, are unskilled. The unskilled are usually first to be let go because their work is the least essential.

Concurrently, most teenagers have little or no work experience. This makes them less desirable to an employer than an equally skilled adult who has worked before, and has learned to adjust to the discipline of regularity of work.

The committee rejects any youth differential despite the fact that it is favored by learned individuals of varying ideologies. It rejects the views of Dr. Milton Friedman who has labeled the minimum wage law as the most anti-Negro statute on the books today; and it has rejected the thinking of the Nobel Prize winning economist Paul Samuelson who has asked:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour, or $2.00 an hour, if the fact that he must be paid that amount keeps him from getting a job?

The massive Kosters and Welsh study covering the years of 1954–68 concluded:

> Evidence indicates that increases in the effective minimum wage over time have had a significant impact on unemployment patterns. Minimum wage legislation has had the effect of decreasing the share of normal employment . . . of the group most marginal to the work force type, teenagers. Thus, as a result of increase in minimum wages, teenagers are able to obtain fewer jobs and their jobs are less secure.

Columnist Milton Viorst has urged a two-tier minimum wage system with separate minimum wage rates for teenagers. He took fellow liberals to task for not seeing the wisdom of finding employment for these young people, instead of having them standing idle on street corners.

Andrew Brimmer, one of the Federal Reserve Governors, examined the labor market for 1961 through 1972. Governor Brimmer stated:

> On balance, the evidence tentatively suggests the changes in the Fair Labor Standards Act may have some adverse impact on teenage employment. The youth differential may, to some extent, alleviate the burden of youth on employment.

Douglas Adie of Ohio University, in his booklet, "Teenage Unemployment in Real Federal Minimum Wages" reaches three conclusions:

> Increases in federal minimum wage cause unemployment among teenagers. The effects tend to persist for considerable periods of time. The effects seem to be strengthening as coverage is increased and enforcement of the laws becomes more severe.

Sar A. Levitan, Director of George Washington Center for Manpower Policy Studies, and Robert Taggart, Executive Director of the National Manpower Policy Task Force reported this year:

> To one extent, the employment problems of the young are aggravated by the labor market regulations. State and Federal minimum wage laws have also contributed to the rising rates of teenage unemployment. The major relevant Federal law is the Fair Labor Standards Act.

The Kosters and Welch study indicates teenage employment in 1971 would have been lowered by 8 percent, or 565,000 jobs if the minimum wage had been increased to $2 an hour, from $1.60. There are those today who are advocating a raise to $2.20 an hour, claiming that there will be no impact on youth. Since 1950, when the minimum wage was only 75 cents an hour, the labor force participation rates for black teenagers 16 and 17 plummeted from 59.8 to 34.8 percent, and the rates for black 18 and 19 year olds dropped from 77.5 to 61.8 percent. Clearly, minimum wage laws are discouraging these young workers from even entering the labor market.

Statistics do indicate the teenage unemployment rate has risen relative to that of adults each time the minimum wage rate has been increased during the post-war period, and that the disparity became substantially larger during the 1960's when a large number of service and retail employees were brought under the act. These industries have traditionally provided considerable experience for new workers, but the requirement to pay minimum wage rates may be discouraging employers from hiring inexperienced workers.

Supporters of the youth differential point out that many other industrialized countries, such as Great Britain, the Netherlands, and Germany, have much lower youth unemployment rates relative to adults, and that young workers in these countries typically start at wage rates substantially below those for more experienced workers.

We do not yet have adequate institutions and procedures in the United States to bridge the transition between formal schooling and the job market. A youth differential could help close this gap, as do lower wage rates in other countries, by encouraging employers to hire first-time job seekers, thereby providing the work experience and job discipline that is necessary for successful entry into mainstream employment.

The differential would not displace adult workers. Teenage and adult labor markets basically do not overlap, so there is little direct competition for jobs. About 90 percent of 16- and 17-year-old nonagricultural workers hold part-time jobs, while only about 4 percent of family heads—male—are employed in these jobs. The Labor Department estimates that less than 1 percent of older workers would find themselves in direct competition with teenagers as a result of the youth differential position.

Nor will the end of the "baby boom" entry into the labor market result in a gradual disappearance of the youth employment problem. Teenage unemployment is especially severe among black teenagers—who have had unemployment rates as high as 40 percent in some areas during recent years—and the black teenage labor force is expected to continue to grow at the same high rate during the coming decade.

The youth differential provision in the Tower-Franklin substitute provides for employment of youth under age 18, or who are full-time students at wage rates not less than $1.60 an hour, rising to $1.75 when the statutory minimum rises to $1.95 per hour. Such employment is subject to a period of not longer than 180 days for any employee who is under the age of 18 and not a full-time student at the special minimum wage rate.

The committee's nonresponse to this problem and its general feeling that if there is such a problem it is caused by racial discrimination is not only simplistic but unfortunate in that such an unsubstantiated charge cannot do anything but retard the steady movement toward social justice and equality under the law.

It is most regretful that the proponents of this legislation do not recognize the youth unemployment problem now. I am sure that my good friend from New York, Senator JAVITS, who I have great respect for, and other will raise the problem as they have in the past in conjunction with the appropriations for the Neighborhood Youth Corps and related programs.

Why is it that Congress has only recognized the youth employment problem when it comes to the implementation of grant-in-aid programs which oftentimes result in make-work and temporary job situations and on the other hand has bypassed meaningful youth differential proposals that offer to the youth of this country concrete opportunities to learn a skill and become productive participants in the private sector economy?

Unless a meaningful youth development opportunities provision is enacted I, myself, will feel hard pressed to justify further taxpayer expenditures for narrowly constructed categorical programs of the kind just mentioned.

CONCLUSION

Mr. President, the substitute Senator FANNIN and I have offered today takes a reasonable approach to the broad policy issues confronting the Congress. It provides for a $1.75 minimum for all nonagriculture workers now covered by the act with successive 10 cents increase in the next 3 years, culminating in a $2.05 minimum. The substitute contains similar increases for farmworkers.

It is a fair proposal for all of the country unlike S. 1861 which fails to take into consideration wage and cost of living standards on a regional basis. Our substitute does not extend coverage and amend existing overtime exemptions since we feel that such action would result in serious disemployment as well as in some instances being constitutionally suspect and contrary to current announced national objectives. We do recognize that there may be a need to adjust current exemptions and therefore our substitute provides for a 3-year study of all exemptions by the Secretary of Labor and the requirement that he report his findings and recommendations to Congress within that time period.

Last, the substitute contains a meaningful youth employment opportunity provision. The intent of the Tower-Fannin substitute is to provide the necessary protection for unskilled and low-skilled while at the same time eliminating the possibility that this protection will extend only in theory and that in practice disemployment and inflation will be produced.

All the benefits theoretically conceivable under the Fair Labor Standards Act are irrelevant if the individual worker finds himself unemployed.

Mr. President, I urge adoption of the pending substitute.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself at this point such time as I may require.

Let me say at the outset, having served with the Senator from Texas on the Committee on Banking, Housing and Urban Affairs, and having shared positions with him on the Securities Subcommittee, and having found ourselves in so much agreement on securities legislation, I have to sort of take a moment here to shift gears when I find myself in strong opposition to the position of my friend from Texas, though he did open on one hopeful note. It was a small note, but the Senator from Texas did say that he was opposed to nearly all the provisions of S. 1861, the bill we are debating here, which I introduced with Senator JAVITS and others.

I underline the word "nearly" all of the provisions. Evidently as to some parts of S. 1861 we are in agreement. If I may take the moment I have to highlight some of the points as to which we are in agreement, I believe one is the provision dealing with liquidated damages, which provides that the Secretary of Labor can sue for liquidated damages, which is in the nature of a deterrent penalty for the violator of the law paying less than the minimum. Certainly the wage earner should be able to ask the Secretary of Labor to sue for him and come out with the money due and the deterrent in the form of liquidated damages. So I am encouraged there.

I do not think we are on all fours on the study by the Secretary of Labor on some of the exemptions that remain, but while not on all fours, we are somewhat in philosophical agreement on S. 1861, and that agreement applies to the amendment offered in the nature of a substitute by the Senator from Texas and the Senator from Arizona.

The Senator from Texas raised the specter of a Presidential veto of this legislation, if S. 1861 should be passed and sent to the White House. I would suggest to the Senator from Texas that while this is always a possibility where legislation differs from administration and White House proposals, the same thing applies to the Senator's own amendment.

It, too, is vetoable because it is clearly not nearly adequate from the standpoint of the administration. As I understand the amendment that is before us, the minimum wage in 1973 would go to $1.75, then $1.85 in 1974, then $1.95, and then to $2.05 by 1976. This is far short of the administration's proposal, which would carry the minimum wage to $1.90 this year, then to $2.10, then to $2.20, and then to $2.30. As a matter of fact, the $2.30 of the administration's proposal is a level that has not even been reached by the Javits-Williams proposal in S. 1861. So if veto is the whole problem, and if that impresses anyone around here, I would say the Tower-Fannin proposal is vetoable, too.

Mr. President, with reference to the Tower-Fannin amendment, I am in complete and total opposition to the amendment No. 252 proposed by my distinguished colleague from Texas in the nature of a substitute for the pending bill S. 1861.

There are some economists and others who have long resisted the entire theory of minimum wage legislation.

They view such legislation, be it for a minimum wage or for a child labor prohibition, as an unwarranted restriction on the free market economy. I accept their view for the academic theory that it is and I hope that they understand that our society has rejected that theory since 1938 when the Fair Labor Standards Act was passed.

In 1938 it was a noble venture to provide a minimum wage. It was a new and novel theory, but, Mr. President, it is no longer a new and novel theory. It is a matter of urgent economic necessity and the basis of economic survival for millions of American workers.

The amendment which is pending before us, if passed, would make the consideration of any further activity on this bill absurd. It is offered in the nature of a substitute.

I consider it a callous approach to the needs of the many millions of Americans who are currently at or close to the present minimum wage. This amendment would do no good and in fact the passage of this amendment would do great harm.

I say that it would do great harm because I believe that adoption of this amendment would be a congressional message to the low-wage worker that Congress is not concerned about the rising consumer price index and the erosion of his dollar counts for naught.

The first step increase in this amendment would provide a percent increase of less than 10 percent. It is outrageous when you consider that the consumer price index has risen close to 29 percent in the 5 years since the last minimum wage went into effect. To adopt a wage scale that would come to $2.05 in 4 years when a minimum wage of more than $2 an hour is needed today just to keep at the poverty line is cruel, harsh, and unfeeling in my judgment, Mr. President.

I ask, How can we overlook the fact that the $1.60 an hour fixed in 1966, which became effective in 1968, requires for equivalence $2.16 today? As a matter of fact, the review of the minimum wage of $1.60, and in the years since it was enacted in 1966, its equivalence in those successive years is exactly this:

To equal $1.60 in 1966, in 1967 we needed $1.64; in 1968, $1.71; in 1969, $1.81; in 1970 it came to $1.99; in 1972, $2.06; and in 1973, $2.14.

As a matter of just home economics, the $1.60 minimum wage worker has been getting, not an increase in his wages, but an annual reduction of his wages. To carry him over the Tower 4 years would not even bring him up to $1.60 an hour in terms of 1968 values.

That is why this is a cruel, harsh hoax—callous, indeed. All of this economic theory of righteous concern for the wage earner in his job is, in my judgment, a lot of poppycock.

I am sorry the distinguished Senator from Texas (Mr. TOWER) is not here at this point to hear my saying that the economics of going to $2.05 an hour by 1976 is not even giving the wage earner $1.60 an hour in terms of what the law was when it became effective in 1968.

It takes today, to equal 1968's, $1.60, $2.16. So I do not see how it can be anything other than a cruel trick to talk minimum wage increases when we are using the levels included in the Tower-Fannin amendment.

Mr. President, there will be another substitute to follow this one, if the amendment in the nature of a substitute is defeated. There are some differences between the other proposal which will be sponsored by the Senator from Colorado (Mr. DOMINICK) and the Senator from Ohio (Mr. TAFT), two most valued members of the Committee on Labor and Public Welfare.

I consider the substitute that will come up also to be unacceptable, but at least there is a recognition in their basic wage package that we do have a serious economic need to improve the wage levels for low wage workers.

Even the Secretary of Labor and the administration strongly recommend an increase in the minimum wage to at least the level of the first step of S. 1861. Frankly I fail to perceive how anyone should take seriously an amendment which has as its last step 4 years later, a nickel an hour more than the first step proposed under the pending legislation.

Moreover, I note that this amendment would maintain the present wage inequities in Puerto Rico, would provide no additional coverage, would abandon the concept of parity for farmworkers, and would not extend the coverage even to employees of Federal, State, and local governments.

In short, Mr. President, this is an amendment that has no positive attributes to it. It is a negative amendment and I believe that it should not be given extensive consideration by this body. It should promptly and overwhelmingly be defeated.

If there is to be an issue as to the extent to which minimum wage legislation should be improved I believe that we should be in a position to vote on a serious proposition. I say this with all due respect to my colleagues who have offered it because I believe I understand their theory which is as I said at the outset that minimum wages are not good, that minimum wage legislation is wrong, and that whatever needs to be done to avoid any legislation is proper.

If that is their view I respect them for it but I certainly hope that no one is fooled by an appearance that this is reasonable or fair legislation or that there is any economic justification whatsoever for these low-level increases.

I hope also that there is no Member of the Senate who is fooled for a minute into thinking that a vote against this amendment will make a vote for the forthcoming substitute respectable. Each amendment must be considered on its own as an individual matter. We all know that. I expect to address a good deal more time to the merits of the next proposed substitute rather than the present amendment No. 252, if the present amendment is defeated which I earnestly hope it will be.

Mr. President, I have no immediate requests for time in opposition here and I yield the floor.

Mr. TOWER. Mr. President, I yield such time as he may require to the distinguished Senator from North Carolina (Mr. Helms).

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I have listened with considerable interest to the distinguished Senator from Texas (Mr. Tower) and the distinguished Senator from New Jersey (Mr. Williams), and with particular interest in the adjectives used by the Senator from New Jersey who described the Tower-Fannin amendment as "cruel, harsh, and unfeeling."

It occurred to me, as I listened to the Senator from New Jersey, that it might be reasonable to wonder how "cruel, harsh, and unfeeling" those will feel who will lose their jobs as a result of this sort of continued intervention by the Government.

Of course, there are many in this country, I am afraid—an increasing number of people—who feel that the law of supply and demand is, as the Senator from New Jersey suggested, an "economic theory" that is a "lot of poppycock," to quote exactly the words of the distinguished Senator from New Jersey.

But, in any case, Mr. President, I wholeheartedly support the Tower-Fannin substitute. Contrary to what else may be said about it, it is a reasonable compromise with those who are endeavoring to get Congress to legislate benefits in the private sector of the economy. It provides for step increases to $2.05 by 1976 for nonagriculture workers and $1.75 by 1976 for agriculture workers.

Although the vast majority of workers are well above these levels already, it is a normal phenomenon for minimum wage increases to ripple upward through the economy because of the necessity to preserve wage distinctions between different classes of work. At a time when inflation is already bringing ill-advised Government intervention into the economy, the Congress should not be fueling the fires with enormous step increases in wages. S. 1861, as reported by the committee, would provide for a 37-percent increase in some categories by 1976. The only word for such a proposal is "irresponsible."

It seems to me that you have to have a willing suspension of disbelief to maintain that Government fiat can establish wage rates in private enterprise. Such belief overlooks the fact that supposedly we still live in a free country. The Government does not yet force an employer to hire an employee if that employee does not earn his keep. When wages are raised in excess of what a worker's production is worth, the employer, if he wishes to stay in business, will either do without the services of the employee or invest in machinery which will enable him to get along with fewer employees. That precisely is what is happening and has been happening throughout the country, of course.

The true name of S. 1861 perhaps should be "The National Unemployment Act of 1973." This is particularly so because of the broad extensions of coverage into areas which were never covered before because of the marginal skills of the workers involved. Precisely because they are marginal, such skills are the easiest to do without. This bill is taking away from the unskilled the opportunity to earn their own way. The inclusion of domestics is a case in point. There may be some who secretly rejoice that many households that presently employ domestics would have to do without. I doubt that those who would lose their jobs will have the same pleasure.

Another name for S. 1861 could be "The National Big Business Act of 1973." Needless to say, I have nothing against private enterprises that are successful, efficient, and profitable so that they are able to grow to considerable size. This is what the free economy is all about. But on the other hand, Federal legislation should not discriminate against the small business, the individual proprietorship, and the family firm by imposing unfair burdens upon them. Small business simply does not have the overhead or the scale to charge off increased costs of unskilled labor against the earnings of more profitable jobs. Small retail stores, service industries, food processors, small restaurants, little logging operations and the like are often already struggling to survive because their wage scale cannot compete with bigger firms. Government intervention in the labor market in the form of higher minimum wage rates could easily tip the scales against them.

The same is true of agricultural employees. The vast majority of farms in my State are family farms. They are able to survive because they have a nucleus of workers in the family unit. At harvest time, however, they need outside help. They cannot get along without part-time and transitory workers. This is especially true in tobacco growing because of the enormous amount of hand labor involved. By 1976, this bill, S. 1861, would be paying such workers the same minimum as paid to urban dwellers in big cities. It is manifestly unjust to expect the same minimums to be paid to workers in a rural economy, where the cost of living is lower, as to workers in an urban area, where all costs are higher.

Finally, I would note that S. 1861 does nothing to improve the employment rate among youths and students. It continues the present cumbersome arrangements which make it almost too much trouble for businesses to employ many young people. Some people seem to feel that youth employment takes jobs away from older workers. But such discrimination against youth is unjust. It is precisely at this time in life when young people should receive the opportunities to be trained in the habits that enable them to become useful and disciplined members of society. The Tower-Fannin substitute provides for a youth differential which would tend to maximize youth employment in jobs suited to their abilities.

Mr. President, if we could repeal the law of supply and demand as it relates to the labor market, then perhaps I would have no objections to increasing the minimum wage to the levels in S. 1861. Indeed, why not set the minimum wage at $10 an hour, instead of $2.20? To do the one is as easy as to do the other. The market would adjust to the one as well as to the other. The only difference would be in the rate of unemployment. I oppose the concept of the minimum wage because it is unjust to the worker, particularly to the worker with marginal skills. The minimum wage literally prevents him from being hired at all at a rate at which he pays his own way. The minimum wage law makes him a social cripple. It is a deception to hold out the promise of higher wages when you are really, when all is said and done, squeezing him out of the job market.

In a period of rampant inflation, the Tower-Fannin substitute makes some adjustments which are close enough to the practical realm to be absorbed. But if the worker at the lower end of the wage scale is having trouble making things meet, the way to help him most is to stop inflation. I have spoken about this many times on the floor of the Senate. To do this, we have to stop Government spending in excess of what the Government takes in. And we should stop intervening in the economy in ways which push the spiral up. S. 1861, with its exorbitant increases, is this kind of rash intervention. In my judgment, it pushes prices up and pushes marginal workers out of their jobs. If this is the way to help the poor man, then the poor man doesn't need that kind of help.

Mr. President, my staff advises that our office has received more than 700 pieces of mail concerning this question. Only 16 have favored S. 1861 as reported the the Committee on Labor and Public Welfare. Nine of the 16 have come from national labor union leaders. The other seven have come from North Carolina labor union leaders. On the other hand, we have more than 700 letters from mayors, from college officials, and from various other citizens who described what will happen to them if this bill is approved. I ask unanimous consent to have these communications printed in the Record.

There being no objection, the communications were ordered to be printed in the Record, as follows:

Charlotte, N.C.,
June 21, 1973.

Senator Jesse Helms,
Capitol Hill, D.C.:

Oppose minimum wage and overtime inclusions to the Senate Labor and Public Welfare Committee.

Mayor John M. Belk.

Weldon, N.C.

Senator Jesse Helms,
Senate Office Building,
Washington, D.C.:

Urge opposition to S B. 1725 and S B 1861 minimum wage local governments.

S. W. Oakley, *Mayor.*

Oxford, N.C.

Senator Jesse Helms,
U.S. Senate,
Washington, D.C.:

Re Senate Bills 1725 and 1861, minimum wages applicable to municipalities. The city of Oxford, N.C., urges your opposition to the subject bills.

H. T. Ragland, *City Manager.*

Raleigh, N.C.

Hon. Jesse Helms,
Senate Office Building,
Washington, D.C.:

This city cannot absorb the proposed overtime and other burdens proposed in H.R. 7935, S. 1725 and S. 1861. Congress should leave local government employees to local government.

W. H. Carper, *City Manager.*

Campbell College,
Buies Creek, N.C., June 12, 1973.

Hon. Jesse Helms,
U.S. Senate,
Washington, D.C.

Dear Senator Helms: It is my understanding that the Congress soon will increase the minimum wage to $2.00 per hour, effective immediately and $2.20 per hour next year.

While I can understand and deeply appreciate the desire for all of our people to have a better life, I have to question the wisdom of the present plan to raise the minimum wage particularly as it applies to our own campus. Presently, Campbell College is paying $1.79 per hour to 176 hourly employees. We estimate that the first increase alone will cost us approximately $73,216 and that additional adjustments that will have to be made as a result of the first increase will amount to approximately $80,000. Unfortunately, we were not aware of these increases at the time we made our budget, and no provision was made for them. Our payment in the second year will be approximately $150,000.

During the past year we employed approximately 510 students. The increase in the minimum wage for our students will amount to $34,000 in the first year with an additional cost of $51,000 in the second year.

Colleges and universities can get funds from only three sources—freshmen, friends and the government. If we continue to increase the minimum wage without any exemption for those who are employed by colleges, I feel that the time will soon arrive when because of inability of colleges to continue their programs of employment, many young people will have no option except to enter public colleges and universities.

In North Carolina it costs the State about seven times more to educate the students in the public sector than in the private sector. Thus, the overall impact of the increase in the minimum wage is going to be particularly great on families, colleges and the government.

We realize the pressures that are brought upon you daily and regret them, but we thought you ought to know the problems that are confronting those of us who have to meet the requirements of the new legislation with unbudgeted funds.

Sincerely yours,

Norman Adrian Wiggins,
President.

Hickory, N.C., *July 12, 1973.*

Senator Jesse Helms,
Dirksen Office Building,
Washington, D.C.:

We urge your opposition to S. 1861 and your support of the Taft-Dominick substitute, S. 1725. The inclusion of a youth wage differential is of great importance to Catawba County.

C. Hugh Moretz,
President, Catawba County Chamber of Commerce.

Lincolnton - Lincoln County
Chamber of Commerce,
Lincolnton, N.C., July 6, 1973.

Hon. Jesse Helms,
Senate Office Building,
Washington, D.C.

Dear Senator Helms: I am sure you agree that continuing inflation constitute the greatest threat to the economy of our country. In my opinion, the principle reasons for run away inflation are the fact that the federal government continually spends more than its income and new legislation such as Senate Bill S1861 continues to be favored in the halls of Congress. This bill would create more inflation and more unemployment, particularly among young people and minority groups.

I think I represent a majority of your constituents in asking that you oppose this measure.

Sincerely,

Hugh Sawyer,
Executive Vice President.

Winston-Salem Retail Merchants Association,
Winston-Salem, N.C., July 16, 1973.

Hon. Jesse Helms,
U.S. Senate,
Washington, D.C.

Dear Senator Helms: If we must have an increase in the minimum wage, please support S. 1725 sponsored by Senators Taft and Dominick.

Sincerely,

Ernest Yarbrough,
Managing Director.

North Carolina Innkeepers
Association, Inc.,
July 2, 1973.

Senator Jesse Helms,
Senate Office Building,
Washington, D.C.

Dear Senator Helms: On behalf of the lodging industry of North Carolina, I urge you to support Senate Bill 1725, sponsored by Senators Dominick and Taft.

It is of great importance that we be allowed to maintain the "overtime exemption" as described in this Bill.

We sincerely hope that you will support and vote for S. 1725.

Thank you for this and for all you are doing for our industry and the great State of North Carolina.

Sincerely yours,

Eleanor F. Upton.

Durham N.C.

Senator Jesse Helms,
U.S. Senate,
Washington, D.C.:

Your support of Dominick-Taft bill (S. 1725) on minimum wage would help hold down rising costs of health care.

John T. Kerr,
North Carolina Health Care Facilities Association.

Charlotte, N.C.

Senator Jesse Helms,
Capitol Hill, D.C.:

Respectfully request your support of S. 1725 rather than S. 1861 which is highly inflationary.

G. Everett Suddreth.

S & W Cafeterias, Inc.,
Charlotte, N.C., June 1, 1973.

Hon. Jesse Helms,
Senate Office Building,
Washington, D.C.

Dear Senator Helms: We are not opposed to a reasonable and workable increase in the minimum wage. But we are concerned that some bills now introduced are neither reasonable nor workable. One reason is that they propose annual increments to the minimum wage that are too large and too fast. Annual increments greater than 10¢ an hour will work a severe hardship on our business. A modest and gradual increase in the minimum wage is necessary for our economic health.

We are already absorbing a large part of the spiraling cost of food. This is made necessary by strong consumer resistance to menu price increases.

The Erlenborn Bill (H.R. 2831) is a realistic approach to the problem of increasing the minimum wage.

I urge your support for H.R. 2831.

Yours very truly,

John D. Lineberger,
Vice President.

Rose's Stores, Inc.,
Henderson, N.C., June 19, 1973.

Hon. Jesse Helms,
U.S. Senate,
Washington, D.C.

Dear Jesse: As a representative of retailing in our good state of North Carolina and southeastern United States, we ask that you give careful study to the two proposed minimum wage bills now before the Senate Subcommittee—Dominick-Taft Bill S. 1725 and Williams-Javits Bill S. 1861.

Of the two bills, retailing can more readily adjust to the Dominick-Taft Bill S. 1725. We favor the Dominick-Taft Bill S. 1725 which would raise the present minimum from $1.60 to $1.80 upon the effective date of this bill—60 days after enactment, to $2.00 a year later, to $2.10 the following year, to $2.20 the next year, and finally to $2.30. These raises would be the same for those covered by the 1966 amendments to the FLS as it would for those covered prior to 1966. This bill is very similar to the Erlenborn Substitute which had unanimous support of our North Carolina Representatives even though it was barely defeated by 19 votes—due to votes from northern and western states which were highly industrialized.

We are vitally opposed to the Williams-Javits Bill S. 1861 which calls for an immediate boost to $2.00 and 2.20 in 1974, which also contains other onerous provisions for retailers.

A relatively smooth curve of increases as contained in Bill S. 1725 is less disruptive for the economy than an immediate increase to $2.00, for as you know, when the federal minimum is raised, the entire rate structure is moved upward. Past experience in retailing has indicated that for every dollar spent in coming up to the minimum approximately another two dollars is spent in accommodating higher wages to this minimum. The ripple effect is immediately felt since employers cannot raise the minimum wage of affected employees without considering at the same time the wages of their superiors or other jobs within the store. It is our sincere belief that this will certainly result in tremendous inflationary impact on the products and services we buy; on the consumer; and on the already overwrought economy.

We ask you to support the Dominick-Taft Bill S. 1725.

Yours very truly,

John T. Church,
Chairman of the Board.

Piedmont Casket Co., Inc.,
July 10, 1973.

Senator Jesse A. Helms,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Helms: As a business owner, in your district, may I strongly urge you to oppose Senate Bill 1861 and support Senate Bill 1725 as it relates to the minimum wage legislation this year.

As a small business in a very competitive market, we feel there is simply no way that Senate Bill 1861, with this fast progressing minimum wage amounts, be compatible with our industry. It is simply too much too fast.

We are in strong support of fair wages, however, I cannot endorse this 37½ percent boost particularly when it is coming at a time that business is hampered by such strict controls.

Please support Senate Bill 1725.

Yours truly,

A. L. AYDLETT, Jr.,
Secretary and Treasurer.

CROSS POULTRY CO.,
Raleigh, N.C.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.:

Urgently request that you support the Dominick-Taft S1725 minimum wage bill substitute and vigorously oppose the inflationary minimum wage bill introduced by Senator Williams S1861.

Respectfully,

C. H. CROSS.

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes in opposition?

Mr. WILLIAMS. I yield.

Mr. JAVITS. Mr. President, I have heard with great interest the position of our colleagues on the Tower-Fannin substitute, and I think the key to it is their reliance on the law of supply and demand. This, it seems to me, fails to take account of the reason why we have a minimum wage bill at all.

If we were relying, in respect of the minimum wage, upon the law of supply and demand, we would be back to the 1840's, the 1850's, and the 1860's in the English industrial development. They relied on the law of supply and demand, and it brought on the doctrines of Karl Marx, which were very much apposite to that disastrous human experience and are entirely inapposite today.

We legislate a minimum wage precisely because we wish to place a floor under the economy, for social and economic reasons; and we realize that by placing that floor under the economy, we are interposing government for important social purposes, rather than allowing the law of supply and demand to work its will, which would result in some people working at subhuman wages—wages that we regard as socially unacceptable.

Therefore, I believe that the analysis made by Senator WILLIAMS on behalf of this bill, that if we take the minimum wage as it was and adjusted it to today's cost of living, it would be $2.16 an hour, is the proper standard of judgment.

Second—and very important—I do not think anybody believes the administration is trying to give our economy away. Even the administration, in the bill which Senator DOMINICK and Senator TAFT are sponsoring, in essence contemplates a materially increased minimum wage, stepping up from $1.80 to $2, $2.10, $2.20, and to $2.30—far beyond the schedule which is contained in the Tower-Fannin substitute.

In addition, I find the absence of coverage of domestics and State and local employees to be something which I cannot conceive the Senate accepting. There are about a million domestics who are going to be covered if this bill becomes law. All of us have had experience with domestics. Aside from big metropolitan centers where competition is very heavy, it represents a depressed and often oppressed occupation; and yet it should be one which has distinction. We gave domestics coverage under social security and in many States they are covered by unemployment compensation. This answers the question of hardship on the housewife. She is making out social security quarterly statements now for domestic employees and paying the social security tax, so she knows what she is paying and what the domestic gets every quarter.

In my State and in other States we pay unemployment compensation for domestic workers, and they are covered by the minimum wage law. Those of us who employ domestic workers are much better off giving them the dignity of a calling rather than the position of a servant. The inclusion of the minimum wage contributes to that end and in addition lends dignity and humanity in terms of society for people that work very hard.

Mr. President, State and local employees also work very hard. We have been over that time and again. This is the most numerous group to be covered under S. 1861, as reported, with about 5.5 million workers to be covered. How can we establish a minimum wage for 47 million Americans and fail to establish a minimum wage for those who work for the government?

Finally, a very signal omission in Tower-Fannin is anything on child labor in agriculture. A mere reading of the child labor provisions as they stand now gives one a chill. The only child labor provisions now in effect cover hazardous agriculture. There is no minimum age for children in nonhazardous agriculture outside of school hours. This is where the horrible examples actually take place. For industry, 14 years is specified for employment outside of school hours in nonmanufacturing work.

Reform in agricultural employment with respect to child labor is long overdue, yet the Tower-Fannin substitute contains no provisions dealing with this problem.

Mr. President, with all of those deficiencies I cannot conceive of our turning the clock back, even on what the administration has sought, by adopting the Tower-Fannin substitute. I hope it is defeated.

I thank the Senator for yielding.

AMENDMENT OF LABOR MANAGEMENT RELATIONS ACT, 1947—CONFERENCE REPORT

Mr. WILLIAMS. Mr. President, I submit a report of the committee of conference on S. 1423, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MCCLURE). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT (S. REPT. 320)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1423) to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That section 302(c) of the Labor Management Relations Act, 1947, is amended by striking out "or (7)" and inserting in lieu thereof "(7)" and by adding immediately before the period at the end thereof the following: "; or (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: *Provided*, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: *Provided further*, That no such legal services shall be furnished: (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959".

And the House agree to the same.

HARRISON A. WILLIAMS,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
THOMAS P. EAGLETON,
HAROLD E. HUGHES,
WILLIAM D. HATHAWAY,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
ROBERT TAFT, Jr.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

CARL D. PERKINS,
FRANK THOMPSON, Jr.
WILLIAM L. CLAY,
JOHN BRADEMAS,
JAMES G. O'HARA,
WILLIAM D. FORD,
Managers on the Part of the House.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum, to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, do we have a time limitation on this matter?

The PRESIDING OFFICER. There is not a time limitation.

Mr. JAVITS. I thank the Chair. I shall only be a moment.

The PRESIDING OFFICER. The Senator may proceed.

Mr. JAVITS. Mr. President, this is a conference report dealing with the establishment, through collective bargaining, of plans for the giving of legal services to workers.

One of the main problems we had in this connection in the conference related to the choice of such plans by workers that is, whether it should be a closed panel, which means lawyers within a given plan, or an open panel, which means that the worker is going to get his own lawyer and the plan is to pay for it.

Our general intention was to make both available through collective bargaining, rather than to limit it to either one. We spelled out that intention in language. As the Senator who moved that the Senate recede with an amendment, I think that our intention should be clear in respect of the legislative history we are making here. Unions and employers will have the same freedom that they now have in setting up medical and hospital plans, to establish closed panel or open panel plans.

I respectfully ask my colleague, the Senator from New Jersey (Mr. WILLIAMS) who chaired the conference and led the Senate conferees, if this is his understanding of the provisions we drafted.

Mr. WILLIAMS. That certainly is my understanding. We preserved the freedom of choice and selection in collective bargaining.

Mr. President, on May 16, 1973, this body, by a vote of 79 to 15 passed S. 1423, a bill to amend the Labor-Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

As I made clear in presenting this legislation to the Senate on that date,

> It is important to note that this bill will not direct the establishment of such programs.
>
> It will not dictate the terms and conditions of such programs, and it will not interfere in any way with the operations of such programs. It will not finance such programs.
>
> Rather, it will bring such joint programs within the scope of collective bargaining by removing an unwarranted and unintended Federal roadblock to the establishment of such programs by the private sector with private funding.
>
> This measure will not replace national, State, or local bar association procedures with Federal procedures.
>
> It will not subvert State control over the practice of law with Federal control.
>
> It will neither require nor prohibit open panels or closed panels, and it will neither require nor prohibit the establishment of such programs.
>
> It will not require labor or management to agree to any such program, and, within, the limits provided herein, the parties will be free to determine the types of benefits and the manner in which legal services will be provided.
>
> Nothing in this measure will affect the traditional relationship between lawyers and their clients nor the duty of lawyers to fully represent their clients.

Mr. President, during deliberations on this legislation in the other body last month, an amendment was agreed to which was apparently intended to require labor and management to agree to the use of so-called "open-panel" plans to the exclusion of "closed-panel" plans or a variation of either. The intent of this amendment was to insure to the employees "freedom of choice" in legal services. While the Senate conferees completely agree to the concept of free choice, we wished to insure true free choice to the parties to the legal services trust funds which will be established under this legislation.

We therefore, reluctantly, but unanimously, agreed to recede to the House amendment, with an amendment, designed to insure the greatest degree of flexibility to the parties in the collective bargaining process. This was accomplished by adding the two words "or plan" to the House amendment making it read in relevant part, "for counsel or plan of their choice."

As thus amended, the bill, while preserving the concept of "freedom of choice" expressed in the House bill, would also:

First, add to and expand upon the concept of free choice to encompass the right of employers, unions, and workers, to freely choose in each particular case the type of plan they feel best meets their needs, whether open, closed, or the limitless gradations in between;

Second, eliminate any constitutional objections to the present language of the House bill;

Third, promote the development of choice of lawyer plans by bar associations, insurance companies, and other groups;

Fourth, insulate the Congress from regulating the practice of law, under this legislation;

Fifth, permit experimentation designed to hold down the cost of such programs; and

Sixth, eliminate any discrimination against jointly trusted plans, thereby permitting the parties in this early stage to experiment with different approaches in the consumer marketplace.

While the merits of unrestricted and limited use plans have been debated endlessly in legal forums, the managers on the part of the Senate believed that the inclusion of freedom of choice of attorneys would add a significant value that would not be available in limited plans. We believe, therefore, that the parties should be encouraged to give full consideration to "free choice" features as well as to other factors. But the choice, under our system should be reposed in the parties and not imposed upon them by governmental fiat.

Freedom of choice, if it is to be truly meaningful, should be left to the bargaining groups to fashion for themselves the type of legal service plan which can best fit the needs of their particular group in that particular area. Federal dictation of the pattern of legal service plans, while well intentioned, removes the freedom of choice available to the parties. The amendment, therefore, would maximize freedom of choice. In so doing, it accords with the statutory scheme of section 302, which in analogous areas such as health care, leaves the formulation of any plan to the parties.

The language of the House bill required modification to meet applicable constitutional standards. In four cases decided over the past decade *United Mine Workers* v. *Illinois State Bar*, 389 U.S. 217 (1968); *Brotherhood of Railroad Trainmen* v. *Virginia State Bar*, 377 U.S. 1 (1964); *NAACP* v. *Button*, 371 U.S. 415 (1963); and *United Transportation Union* v. *Michigan State Bar*, 401 U.S. 576 (1971) the U.S. Supreme Court upheld the constitutional right of trade unions and other consumer groups to decide for themselves what kind of legal service plan best fitted the needs of their group. All four cases involved direct attempts to outlaw closed panel arrangements with lawyers by consumer groups.

The Supreme Court held in these cases that the freedom of these groups to set up plans of their own choice was protected by both the first and 14th amendments to the U.S. Constitution and that no body or group could amend or abridge their right to make such arrangements with such attorneys whom they felt would best meet the legal needs of their group. As a result, the American Bar Association amended its canons in 1969 to permit group arrangements and thereafter all State bar associations followed suit so that today the various types of group arrangements are permissible—providing they conform with applicable bar standards such as preserving the attorney-client privileges, no advertising, and do not prohibit a member of the group from using the services of other attorneys. The managers on the part of the Senate were concerned that the House bill, as written, might directly impinge upon the fundamental first amendment right of groups to enter into arrangements with lawyers.

If unions and other consumer groups have first amendment rights to enter into arrangements for their membership, these rights cannot be diluted, denied, or abridged simply because an additional party, that is, an employer, is added to the administration of the legal services program. The employer contributing the money—and the union negotiating the contribution—and the worker whose moneys are being contributed to the fund should not be deprived of the right to decide for themselves the type of plan they feel would best meet their needs in each particular case.

The language of the conference amendment would enhance the maximum unfolding of free choice plans, whereas in our judgment, the House bill without perfecting amendment, would not have accomplished its desired objective of promoting the use of open panel plans. Following on the heels of the four Supreme Court decisions well over 4,000 group arrangements were entered into—none of which were of an open panel nature. The ABA formed a special legal services committee to determine if open panel plans could be fostered. Over a 3-year period, the ABA committee sponsored the Shreveport prepaid open panel experiment, is supporting the proposed California bar open panel experiment, stimulated State bar associations and other groups to design open panel plans, and developed interim standards regulating all such plans—such as reporting, provision for advisory board on all plans, including bar association designees—and has proposed to the forthcoming August 1973 ABA convention that the ABA itself set up a national nonprofit corporation which would perform the same functions in the legal services field as the Blue Cross-Blue Shield did in the health care field.

The bar, the insurance industry, fringe benefit consultants, and many other interested organizations are poised to market open panel plans from one end of this country to the other, looking only to the speedy enactment of this amendment to section 302 to stimulate these offerings. These groups are convinced they can thereby emulate the past experience of the medical field, where today, well over 90 percent of the employees are covered by open panel health care plans, through Blue Cross-Blue Shield insurance companies or self-insured programs.

In addition, today all employee plans are union-designed and administered. Amendment of section 302 adding the requirement that employers participate equally in joint plans will serve to guarantee that full and complete consideration will be given to all options—including open panel plans. Likewise, most employee legal service plans—as in the health care and pension fields—will be purchased and provided directly by employers rather than by jointly trusteed funds. Finally, prepaid bar and insurance company plans will be made available to nonemployee groups such as property owners, credit union members, farmers, et cetera.

In short, the bar and insurance companies and other experts, based upon 3 full years of investigation, solid study, experiments and planning, support the modification, confident that in open and free competition in the marketplace their efforts will result in a dominating role for open panel plans.

The House bill—without modification—would impose Federal regulation over the manner of practice of law by private practitioners, a subject which hitherto has been left to State and local bar associations. During the course of the hearings, testimony was received concerning the relevant merits of various types of arrangements. The Senate bill, as I have previously noted, properly left to State and local bar associations the regulation of these group arrangements.

If today the Congress tips the scales in one direction by legislating compulsory open panel plans by jointly trusteed funds, what is to preclude it tomorrow from changing its mind and legislating in favor of compulsory closed panel plans—either for jointly trusteed funds, or for unilaterally administered funds—employers, trade unions and all groups—or to fix the maximum price that can be charged by attorneys for a given service to any such plan—or any citizen; or legislating—adding to or removing—qualifications which attorneys must possess in order to practice under the plan—or generally.

The House bill would have unintentionally discriminated against jointly trusteed funds. Employers and unions are each free today to provide closed arrangements for their members. Nothing contained in the House bill would preclude unilateral employer or union closed panel plans. The anomalous result would be that employers would continue to remain free to provide closed arrangements for their employees, and unions for their membership, but jointly-trusteed plans would be so prohibited. Furthermore, employers and unions in the public sector—Federal, State and local—would not be precluded from entering into closed group arrangements. And consumer groups, church groups, farmers, students, civil rights groups, et cetera, would not be prohibited from entering into closed arrangements.

Moreover, closed arrangements are an integral part of our business life—whether in government, corporations, trade associations, employer groups, et cetera. For example, insurance policies of all types provide for representation by counsel selected by the insurance company. The examples are endless.

Legal service plans are in their infancy. The parties should be free to experiment to determine the most appropriate methods for the delivery of quality legal services at a reasonable cost. At a time when the costs of medical services are rising out of sight, and Congress is providing financial incentives to encourage closed group arrangements in the medical field the House bill would not only have failed to provide incentives for group practice or even equality of treatment, but would have foreclosed any possibility of such group arrangements. It thus denied the purchasers of such services any voice in controlling costs. The role of trustees would have been restricted to money pay outs.

Mr. President, although the managers on the part of the Senate would have preferred the Senate passed bill, unamended, we unanimously agree to recommend to this body the conference report on S. 1423 as a reasonable resolution of the differences between the two houses and recommend that the conference report be agreed to.

Mr. JAVITS. I thank my colleague very much. With that, I wish to state to the Senate that I favor adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the adoption of the conference report.

The report was agreed to.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate resumed the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, will the Senator from New York yield me time on the bill?

Mr. JAVITS. How much time does the Senator desire?

Mr. TOWER. Would the Senator yield to me for 5 minutes?

Mr. JAVITS. I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, S. 1861 will especially have a negative impact in the South, the Midwest, and the Mountain States. It is simply a fact of life that the economic condition of the Northeast are not the same as those in other parts of the country. The adverse employment effects of S. 1861 may be minimal in the Northeast but I submit that they will be quite severe in other sections of the country.

Due to the economic differences which do exist, an increase in the manner so contemplated by S. 1861 places artificial pressures on those areas of the country that have lower labor costs and a lower cost of living. A motivating force, therefore, for this legislation, is regional economic warfare. Prof. Marshall Colberg of Florida State University put it this way:

> Basically, the national minimum wage, as applied to manufacturing at least, is a device for waging regional economic warfare. It wipes out by government decree a part of the attraction which labor surplus areas should properly have for new capital in a private enterprise economy.

Dr. Douglas K. Aide and others that appeared before Congress this year made note of this regional economic impact.

Dr. Aide said:

> The employers whose costs are increased by minimum wages tend to be in the less industrialized parts of the country—in the South and West rather than the North and East. Increases in the minimum wage render them less able to compete with industries in other parts of the country and retards their economic development relative to other parts of the country.

To a certain extent, State minimum wage laws reflect this economic disparity. For instance, New York and Massachusetts have State minimum wages of $1.85 an hour and will automatically be increased if the Federal wage is increased. Texas, on the other hand, has a State wage of $1.40 and the wage minimum in Arizona is below that.

Cost-of-living standards vary from region to region and State to State. The cost of living for a family of four in New York City is 32 percent higher than for a family of four in Austin, Tex. The proponents of this legislation may maintain that these economic differences are unfair and that the Federal Government should actively seek to do away with them. I, for one, am pleased that Texans do not have to face up to a New York City cost-of-living basis.

If regional economic distinctions are to disappear it should transpire through the forces of the marketplace and not through the imposition by Congress of unreasonable, artificial wage regulations.

To return to a point I made earlier, although I am certain it was not the intent of the sponsors of the bill to do this, because I know the sponsors to be men of good will and men who are well-motivated, the practical effect of the bill will be to discriminate, in my own State, against those blacks and Mexican Americans who can only work in a marginally employable capacity in many instances. These are the very people who need help the most.

I know when the last minimum wage increase was approved, a number of small businesses closed in my State and my hometown. I anticipate, if this bill is enacted, that many employers will close their businesses before they will absorb the additional cost of the higher minimum wage.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I have some remarks that were prepared by the Senator from Arizona (Mr. FANNIN) for delivery on this issue. He is necessarily absent being detained at the White House. I ask unanimous consent that his remarks be printed in the RECORD in the context of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Effect of Higher Minimums Upon Imports, and Disemployment

(Statement of Senator Fannin)

Mr. President, increases in the minimum wage have always been supported by the stated objective: to bring about a reduction or elimination of poverty. While I have no quarrel with that objective, in determining the amount of any increase and any extension of coverage, I firmly believe we must consider the side effects on inflation and foreign trade.

Foreign trade—A higher minimum wage will tend to raise prices in low-wage industries. The international competitive position of these industries will tend to be weakened. Exports may decline and imports rise. The shift of spending, from domestic production to imports, has consequences quite different from the shift between firms and industries at home. If domestic competitors take over the market of a firm that is driven out by high costs, they can absorb most of its employees. But when the competition is foreign, or when a whole industry is undermined, many more workers lose their jobs than just those whose pay was previously below the minimum wage, and all the secondary effects on employment are negative.

Since my state of Arizona, like Florida, is a large producer of citrus fruits and vegetables, I have taken the time to read the statement of the Florida Fruit and Vegetable Association presented before the Labor Committee of the House. The end of the Bracero program in 1964 cut off a vast supply of immigrant labor and increased costs of labor for the U.S. horticultural industry. However, there was no corresponding cost increase in Mexico. "U.S. horticultural imports from Mexico have risen from around $15 million 12 years ago, to $200 million last year and much of this production for export is at least partially financed and directed by American interests."

Eight major U.S. vegetable processing and canning companies have established plants in Mexico. They are: H. J. Heinz of Pittsburgh, Campbell Soup of New Jersey, Corn Products of New York, General Foods of New York, Gerber Products of Michigan, California Packing of California, and Green Giant of Minnesota. While Mexican tax credits and weather conditions play a part in the motivation to move, the major consideration is the low rates in Mexico. I cannot document the average hourly rate for farm labor in Mexico. Those rates are not published by the Mexican government. However, individual growers and farm trade organizations inform me that the average rate is about 30¢ per hour for a nine-hour day.

The Committee bill raises the minimum wage for Agricultural workers from the present rate of $1.30 per hour to $1.60 in 1973, to $1.80 in 1974, to $2.00 in 1975 and to $2.20 in 1976. The American fruit and vegetable farmers in states like Arizona, California, Texas and Florida cannot compete with Mexico if the committee bill becomes law. The list of major packers and canners establishing plants in Mexico cannot help but double. The result will be more and more unemployment in the United States.

I have some personal knowledge about farming. I have great sympathy for the farm laborer. He performs a lot of back-breaking work. I do not want to see the employment of these people with minimum marketable skills drastically reduced if not eliminated. We are all concerned about the depopulation of many rural areas and the concentration of our population in urban areas. We want to reverse those trends.

Unfortunately, when minimum wage levels are increased, the next level of employees, who are already above the minimum wage level, feel that they must have a gradient increase to put them in a more favorable comparison, and the effect is that wages are bumped all along the line. This will not only affect the ability to employ the less skilled at levels that are increasingly pricing them out of the market, but has a pervasive influence of affecting the employability of people at all levels of wages.

The net consequence of this is to have a debilitating effect on employment, thus making it more difficult to solve the unemployment problem.

Foreign industrial wages—As of March 1, 1973, based on the market rates of exchange, the average hourly earnings in the ten most industrialized nations are as follows:

Italy	$1.40
United Kingdom	1.55
France	1.60
Japan	1.90
Netherlands	2.10
Belgium	2.15
West Germany	2.55
Sweden	3.35
Canada	3.55
United States	3.80

(SOURCE.—International Economic Report of the President, pg. 40)

All average earnings have increased greatly in the last two years with the greatest being in Japan and West Germany.

AVERAGE GROSS MONEY WAGES PER WAGE EARNER IN MANUFACTURING IN LESS DEVELOPED COUNTRIES (FROM LIBRARY OF CONGRESS, JUNE 19, 1973)

Country	Year	National currency	U.S. dollars[1]
Brazil (cruzeiros)	1970	429.2 per month [2]	86.71
Chile (escudo)	1971	1,480.7 per month	93.72
Colombia (peso)	1970	5.9 per hour	.31
Korea (won)	1971	16,978 per month [3]	45.52
Mexico (peso)	1971	1,851 per month	[4] 148.20
Philippines	1971	245 per month	38.10
Taiwan (dollars)	1971	8.43 per hour [5]	.21
Venezuela (bolivar)	1971	999.4 per month	227.14

[1] End-of-year exchange rates (from International Monetary Fund) used in computation.

[2] Includes salaried employees.

[3] Includes family allowances.

[4] 82 cents; 45-hour week.

[5] U.S. Bureau of Labor Statistics estimate.

Source: National currency wage data from International Labor Office.

Minimum wage legislation cannot be considered independently of other factors. We are living in an interdependent society, an interdependent world. We cannot ignore the economic competition in which our country is engaged related to other developing and developed nations. America's average wage level is already significantly high in relation to other nations' wages. To aggravate this comparison further would be unwise.

Of course, if average and basic wages domestically were not keeping up with domestic inflation trends, then there might be some justification for elevating the wage ranges through the mechanism of raising the base. But this disparity is not the fact. Our average wages are more than keeping up with domestic inflationary pressures.

For example, in January, 1966, the U.S. average rate of pay for manufacturing employees on a forty hour basis was $2.62 per hour. In January, 1973, this figure averaged $3.90, an increase of over 50%. The BLS cost of living index for January of 1966 was 95.4. In January of 1973 this index was 127.7, an increase of about one-third. Wages were advancing more than inflation.

In the state of Arizona, for the periods of time, the average rates of pay in certain of Arizona's major industries, including electronics, increased from 2.70–80 to 3.97. So in Arizona, wages are also more than keeping up with the rate of inflation.

In the hearings on multinational corporations conducted by the Finance Committee this spring, the witness for IBM was asked to compare the wage rates paid in comparable IBM plants in Lexington, Kentucky and Amsterdam, Holland. His answer was that if wages and benefits costs were $100, in Lexington, they would be $70, in Amsterdam.

I have already referred to the average hourly earnings in the ten most industrial nations, and other nations which may be described as rapidly developing in the industrial field.

With the Asian wages, I have attempted to secure more recent data upon the average hourly earnings including fringe benefits. I find that in Taiwan it is 29¢ per hour and in South Korea it is 39¢ per hour.

For Mexico, I have quoted agricultural witnesses as testifying to a 30¢ per hour average wage for farm labor. I find that the average wage in the electronics industry is about $1.00 per hour.

If the Senate is interested in safeguarding American jobs in low-wage industries, we will have to choose between increased protection which has the effect of a tax on consumers or leaving the minimum wage where it is. For my part, I prefer the latter.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time consumed be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time? The Senator from New Jersey has 14 minutes remaining.

Mr. WILLIAMS. Mr. President, is that all the time remaining?

The PRESIDING OFFICER. The Senator is correct.

Mr. HANSEN. Mr. President, I would like to address myself at this time to the several proposals in this Congress for raising the statutory minimum wage under the Federal Fair Labor Standards Act from its present levels of $1.60 an hour for nonfarm workers and $1.30 for agricultural workers. The House-passed legislation provides for an increase to $2 until June 30, 1974 followed by an increase to the level of $2.20. The committee bill, S. 1861 calls for an initial $2 hourly minimum for nonagricultural employees, to be increased after 1 year to $2.20. My concern about these proposals stems from my belief that they will increase unemployment, aggravate the existing inflationary spiral and harm the marginal, low-income workers we might delude ourselves into thinking we are assisting.

No one can be absolutely certain that raising the Federal minimum wage would cause layoffs or curtail job opportunities. But evidence from the past leads to that conclusion, and I am inclined to agree with past experiences.

When an employer is forced by law to increase wages to those of his employees earning less than the new minimum, his costs directly are increased by the legally required amounts. They are further increased to the extent that employers raise the wages of those already earning at the new minimum wage level or higher, in order to maintain some or all of the occupational differentials existing in the wage structure of his establishment. A higher minimum wage would increase costs for overtime pay as well as regular pay, since by law overtime must be recompensed at the premium rate of 1½ times the base rate.

The Senate bill, S. 1861, would further increase labor costs by covering under the FLSA for the first time sizable numbers of employees not now subject to law.

What does an employer do when faced with higher labor costs? In some cases he can absorb them from his profits. Such a response is not likely in the highly competitive, low-profit industries where the minimum wage hits the hardest. But to the extent that increased costs are absorbed from profits, this would subtract from the capital funds available to employers for the expansion, the growth, the new product lines which are the source of additional jobs in our economy.

The employers faced with an increased payroll because of a higher statutory minimum wage may simply go out of business, or discontinue less profitable product lines. He may lay off his least productive employees or switch them from full-time to part-time work. He may try to make do with one worker where two were employed before. He may heighten his efforts to improve worker performance and productivity, to enhance the efficiency of his operation. He may introduce machinery as a substitute for some of his workers. All of these adjustments create further unemployment.

Of course he may also raise prices to absorb higher labor costs. No doubt this would be the favored reaction of an employer to the extent that he could do so in the face of competition from other firms in his line of business and from alternative products. Where an increase in prices results in a loss of sales, this too may create unemployment. Most firms paying wages below $2 an hour nowadays are labor-intensive employers. They do not operate heavily mechanized establishments; gains in sales and losses in sales therefore are rather directly translated into gains and losses in employment.

It is often claimed that an increase in the minimum wage will create jobs because of greater purchasing power achieved by the low-wage workers whose earnings go up. These workers will spend more, sales will grow, new jobs will be the result.

Such an argument overlooks the fact that this added purchasing power in the hands of workers formerly earning below the new minimum wage is not really an aggregate increase in buying power at all, but only a transfer. The money to pay for the higher minimum wage comes from other people's pockets, possibly from profits, but more probably from consumers in the form of higher prices. There is no creation of total buying power in a minimum wage increase—only a redistribution, and no increase in aggregate sales or in total number of jobs. The conclusion that increases in Federal minimum wage levels are bound to cause some loss in the number of jobs and job opportunities is inescapable.

The New York State Department of Labor evaluated the impact of State minimum wage legislation after the statutory hourly minimums in New York were raised in the retail trades to $1 in larger cities and to 90 cents in smaller communities, from previous minimums ranging from 65 to 75 cents an hour. The evaluation found that employers affected by the increased wage rates took a variety of actions to adjust to the higher costs. Weekly payroll savings of $79,000, nearly one-fourth of the total increases in wage costs, were achieved by reduced hours, layoffs and quits not replaced. Five percent of the stores affected by the wage increase also reported reduction in the hiring of extras. Altogether nearly 1,000 employees reportedly lost their jobs as a result of the minimum wage boost, and another 500 who quit were not replaced.

Such legislation is primarily intended to help the low-wage worker—the unorganized, the rural, those in low-productivity work, the least skilled, the uneducated, the young, minority groups, and others. Yet it is precisely among those categories that the job-displacement impact of higher minimum wage rates falls most drastically.

George Will in an editorial in this morning's Washington Post pointed to some of the fallacies of a "humanitarianism" based on increasing the statutory minimum wage. Will found that those who suffer the most are the "Nation's vulnerable," as they are the first to be displaced.

The editorial writer lauds the Taft-Dominick approach, calling it an exception because it acknowledges that minimum wage legislation is harmful to many of the people who are supposed to benefit.

In part, George Will states:

> Acting in its traditional role of tireless protector of the strong, the Senate is about to follow the House of Representatives in voting to increase unemployment among the nation's vulnerable workers—especially black teenagers.
>
> The Senate will do this in the name of humanitarianism as it votes another increase in the minimum wage. The Senate probably will adopt the House bill, as against the administration's proposals.
>
> The main arguments between the House and the administration concern whether coverage should be extended; how fast the minimum should rise to $2.20 per hour; and whether there should be a "youth differential," whereby anyone under 18 and full-time students could be paid 15 per cent less than the regular minimum wage.
>
> The House, reflecting the position of organized labor, wants to extend coverage to domestic and government workers. It wants to go to $2.20 one year quicker than the administration (by 1974) and rejects the "youth differential."
>
> The administration's proposals are less toxic than those of the House. But the really striking and depressing thing in both wings of the Capitol is that so few politicians—Sens. Peter H. Dominick (R Colo.) and Robert Taft, Jr. (R-Ohio) being honorable exceptions—acknowledge that minimum wage legislation usually is harmful to many of the people who are supposed to benefit.
>
> I suspect that one reason economics is known as the "dismal science" is that it, unlike other social sciences, is sufficiently rigorous to occasionally reach clear conclusions that can interfere with political desires. Certainly today there is a remarkable consensus among independent economists about five matters relevant to minimum wage legislation:
>
> Blacks suffer more than whites, and teenagers more than adults from sluggish job markets.
>
> Minimum wage legislation makes it harder for blacks and teenagers to find employment in good times, and harder to hold jobs when times are not good.
>
> White adult males benefit most from the effect of minimum wage legislation on lost job opportunities and increased job instability among blacks and teenagers.
>
> There are more poor people whose poverty derives from unemployment than from holding jobs that pay inadequate wages.
>
> While it is true that some workers are paid so poorly they must also draw welfare, it is equally true that raising the minimum wage will cause some of these people to become unemployed people on welfare.
>
> None of these points is surprising. Minimum wage laws hurt marginal workers because their skills are least productive and most easily dispensed with. That is why it does not pay to pay them much.

Professor Friedman continues:

> Unquestionably, the most important effect of the minimum wage rate is unemployment.

So says Prof. Milton Friedman, one of this country's leading economists:

> Of all the laws on the statute books of this country, I believe that the minimum wage law probably does the Negroes the most harm. It is not intended to be an anti-Negro law but, in fact, it is.

Lest the opinions of Professor Friedman be discounted by some as coming from a very conservative economist, I wish to stress here that a growing and politically diverse number of economists are convinced that, by eliminating marginal job opportunities, the minimum wage is hurting people it is supposed to help, striking hardest at blacks and teenagers.

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

This question comes from Paul Samuelson, a Nobel Prize winner for his contributions in economics and generally considered to be in the liberal camp. Legislators who really wish to help the poor may benefit from the following judgment of another liberal economist, James Tobin, a member of the Council of Economic Advisers under President Kennedy:

> People who lack the capacity to earn a decent living should be helped, but they will not be helped by minimum wage legislation, trade-union pressures or other devices which seek to compel employers to pay more than their work is worth. The likely outcome of such regulations is that the intended beneficiaries are not employed at all.

The destructive impact of minimum wage legislation on employment among youth is stressed by a recent, well-regarded study by two Ohio University researchers, Douglas Adie and Gene L. Chapin. Their conclusion is as follows:

> We feel that the results of our study are unambiguous. Increases in the Federal minimum wage cause unemployment among teenagers; the effects tend to persist for considerable periods of time and seem to be strengthening as coverage is increased and as enforcement become more rigorous.

Mr. President, the two most pressing problems in the American economy are unemployment and inflation. We all desperately seek solutions for these two problems. Raising the Federal minimum wage at this time is not part of the solutions we need; on the contrary, such a step will only aggravate the problem.

There are approximately 5-million people unemployed in this country. The unemployment rate is twice that of the national average for blacks and other minorities. How are we going to help these people find jobs if we make it impossible for American business to hire them? We cannot force anybody to hire a disadvantaged worker if the output of that worker yields less than his cost.

Mr. President, my experience with the minimum wage law goes back to my years as Governor of Wyoming. I recommended during the time I was Governor that we increase the minimum wage in Wyoming. Following my recommendation, that action was taken by the legislature. I began later to have misgivings as to the wisdom of my conclusion.

I have since had the opportunity to visit with Daniel Patrick Moynihan several years ago when he was a domestic adviser to the President. Mr. Moynihan told the members of the Finance Committee that increasing the minimum wage was the greatest disservice that would be done to the people of this country with the fewest labor skills.

In the words of editorial writer George Will, let us not in the name of humanitarianism vote to increase unemployment among the vulnerable and provide an impetus for continued inflation through enacting the committee bill.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The order is for the vote to come at 5 o'clock. It would take unanimous consent to alter that previous order.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. Mr. President, is that order for no later than 5, or precisely at 5?

The PRESIDING OFFICER. At 5 o'clock.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE FLOOD CONTROL ACT OF 1968

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside for not to exceed 10 minutes, and that the Senate proceed to the consideration of Calendar No. 294, H.R. 6717.

The PRESIDING OFFICER (Mr. McClure). Without objection, it is so ordered. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 6717) to amend section 210 of the Flood Control Act of 1968.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

> That the first paragraph of section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4601–5), is amended to read as follows:
>
> "(b) Special Recreation Use Fees.—Each Federal agency developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense: *Provided*, That in no event shall there be a charge for the day use or recreational use of those facilities or combination of those facilities or areas which virtually all visitors might reasonably be expected to utilize, such as, but not limited to, lightly developed or back-country campgrounds, picnic areas, boat ramps where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors' centers, scenic drives, and toilet facilities."

Mr. BIBLE. Mr. President, the Interior Committee amended H.R. 6717 by striking out all after the enacting clause and substituting in lieu thereof the language of S. 1381, a bill which originated in the Interior Committee and which would amend the Land and Water Conservation Fund Act to prohibit the charging of recreation user fees by any Federal agency except at specialized facilities. S. 1381 was passed by the Senate on May 16, 1973.

It is the conviction of the Interior Committee that there should be a uniform Federal fee system to be used by all agencies for comparable services and facilities provided. This is also in line with the intention of the Senate and House conferees when the Land and Water Conservation Fund Act was amended in 1972.

The provisions of H.R. 6717, as amended, spell out and make clear that Congress does not intend to authorize fees for those facilities or combination of facilities which visitors have traditionally received free.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

Mr. BIBLE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BIBLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Bible's amendment is as follows:

> On page 3, after line 17, add a section 2 as follows:
>
> "Sec. 2. Section 4(a)(2) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 879; 16 U.S.C. 4601–5), is amended to read as follows:
>
> " 'Reasonable admission fees for a single visit at any designated area shall be established by the administering Secretary for persons who choose not to purchase the annual permit or who enter such an area by means other than by private, noncommercial vehicle. A "single visit" means that length of time a visitor remains within the exterior boundary of a designated fee area beginning from the day he first enters the area until he leaves, except that on the same day such admission fee is paid, the visitor may leave and re-enter without the payment of an additional admission fee to the same area.' "

Mr. BIBLE. Mr. President, H.R. 6717, as amended by the Interior Committee, amends the Land and Water Conservation Fund Act. This act, as amended by the 92d Congress, prohibits any Federal agency from charging an "entrance" or "admission" fee to any recreation area except at designated units of the national park system administered by the Department of the Interior and national recreation areas administered by the Department of Agriculture. No admission fees of any kind shall be charged or imposed for entrance into any other federally owned areas used for outdoor recreation purposes.

An annual permit called the Golden Eagle Passport is authorized for sale which would allow entry without further fees for the bearer and those who accompany him in a private vehicle. If a visitor does not purchase a Golden Eagle, the law provides for the Park Service or Forest Service, as the case may be, to charge "reasonable admission fees for a single visit at any designated area."

Somehow in the interpretation of this language the executive agencies have construed a single visit to mean a daily visit and that an entrance charge can be made for each continuous day a visitor is in the park. The only reference to a daily charge in the law refers to "daily use fees for overnight occupancy * * * " at campgrounds, et cetera.

When the Land and Water Conservation Fund Act was amended in the 92d Congress, it was the intention of the Senate and House conferees that if a person entered a fee area of the park system, he would have to pay an entrance fee whether he was there for 1 day or several days. As long as he stayed within the boundaries of the park, he would have no more admission fees to pay. Obviously, if the person was camping he would incur a daily user fee charge, but unless he went out of the park and came back in after the day on which he entered, he would only pay a single entrance charge. In other words, a single visit is just that. A single visit could be 1 day or it could be more than 1 day. It is a charge to get in—not a charge to stay.

My amendment, Mr. President, is intended to clarify the existing law and to spell out more clearly the intention of the Congress when it amended the Land and Water Conservation Fund in the 92d Congress.

The Senator from Oklahoma is intensely interested in this entire problem. He called it to our attention earlier in the session. I think we have made our application uniform, and with this amendment, I think, the bill will meet most of the objectives of the distinguished Senator from Oklahoma.

I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, line 13, strike the words "lightly developed or back-country campgrounds,".

On page 3, line 17, strike the quotation mark and add a new sentence as follows: "No fee may be charged for access to or use of any campground not having the following—flush restrooms, showers reasonably available, access and circulatory roads, sanitary disposal stations reasonably available, visitor protection control, designated tent or trailer spaces, refuse containers and potable water."

Mr. BARTLETT. Mr. President, first I would like to thank and compliment the Senator from Nevada for his interest in this area. His amendment was very much needed, and is consistent with the legislative intent of the original act. It is also consistent with the thrust of the bill I introduced in the Senate, which is the language that he is amending here.

My amendment which was just read spells out in detail when fees may be charged for the use of campgrounds for overnight camping. I think the adoption of this amendment would eliminate any misconstruction or difference of opinion as to when facilities should be charged for and when they should not be charged for. I have discussed the amendment with General Morse, of the Corps of Engineers. He said that he would favor having the whole matter very clearly spelled out, as this does, and that this was acceptable to him.

Mr. BIBLE. Mr. President, will the Senator yield?

Mr. BARTLETT. I yield.

Mr. BIBLE. Mr. President, the Senator has discussed his amendment with me. I think it falls very clearly in line with the language of this particular section. We have worked on the section for a long period of time, and I think once and for all we have made clear to the administrative people exactly what we mean. I believe it is a good amendment, and I think it should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was agreed to.

Mr. BARTLETT. Mr. President, I ask unanimous consent to have printed in the RECORD at this point remarks on this subject by the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR DOLE

LIMITATION ON USER FEES

As one of the original sponsors of S. 1381, the Senate-passed bill to limit user fees charged at federal lakes administered by the Corps of Engineers, I am pleased to urge passage of the House companion bill by the Senate today. In fact, I would point out that as reported this bill is substantially the same as the Senate bill.

This bill was introduced in an effort to meet a basic unfairness, a distortion of congressional intent and a clear case of administrative impracticality. I would point out these matters briefly, for I have earlier detailed the circumstances leading to introduction of this bill.

THREE FACTORS

First, the Corps of Engineers, quite unadvisedly in my opinion, issued a very high-handed and inaccurate announcement of its user fee policies. This announcement led to widespread alarm among thousands of campers, boaters and picnickers in Kansas and elsewhere that they were to have their recreation activities taxed beyond their ability to afford them—perhaps as much as $30 for a family of four per weekend. As it turned out the actual fees were finally established at a much lower and more reasonable level. But, nonetheless, a great deal of ill-will and irritation was generated by the handling of these proposals.

Second, as the fees were finally set they included assessments on the utilization of so-called day-use recreation facilities. These fees were not so excessive as originally feared, but a serious question arose about Congress' intent that such fees were to be charged at all. These day-use areas are the types of facilities which almost every visitor to a lake could be expected to use, and it was felt that Congress never intended to impose a tax on everyone who comes for a hike, a picnic, an afternoon in the sun or a day's fishing.

Third, although these fees were not set on a per-person basis as the original announcement indicated, even collecting a charge from each car load of visitors to an area will be such a costly, time consuming operation that these collections will never break even. Manpower and administrative costs will almost inevitably consume more than the revenues brought in by the fees, so it does not appear to make much sense to collect them. In addition the irritation and inconvenience—both to visitors and Corps of Engineers personnel—will further add to the overall negative aspects of these fees.

URGE SENATE APPROVAL

So, Mr. President, I firmly support this bill and urge that my colleagues in the Senate will again vote it their approval. Its passage will be a further step toward successful elimination of an unnecessary, unwise and useless irritation and inconvenience to the millions of Americans who each year enjoy the attractions of our federal lakes and recreation areas.

I am hopeful that the House and Senate conferees can follow favorable Senate action with their agreement, so this measure can become law at the earliest possible date.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6717) was read the third time, and passed.

The title was amended so as to read: "An act to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes."

Mr. BIBLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending question is on agreeing to amendment No. 252, as modified, to S. 1861.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to the previous order, the hour of 5 p.m. having arrived, the question is on agreeing to the amendment of the Senator from Texas (Mr. Tower), No. 252, as modified.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. Magnuson) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. Dole) is necessarily absent.

The result was announced—yeas 19, nays 78, as follows:

[No. 299 Leg.]

YEAS—19

Bartlett
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Cotton
Curtis
Eastland
Ervin
Fannin
Goldwater
Hansen
Helms
Hruska
McClure
Scott, Va.
Thurmond
Tower
Young

NAYS—78

Abourezk
Aiken
Allen
Baker
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Domenici
Dominick
Eagleton
Fong
Fulbright
Gravel
Griffin
Gurney
Hart
Hartke
Haskell
Hatfield
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Mansfield
Mathias
McClellan
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Sparkman
Stafford
Stevens
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NOT VOTING—3

Dole
Magnuson
Stennis

So Mr. Tower's amendment (No. 252) as modified, was rejected.

Mr. WILLIAMS. Mr. President, I move that the Senate reconsider the vote by which the amendment was rejected.

Mr. HUMPHREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 330

The PRESIDING OFFICER. Under the previous order, the senior Senator from Colorado (Mr. Dominick) is recognized for the purpose of calling up an amendment.

Mr. DOMINICK. Mr. President, I am not certain whether, under the rule, I may modify the amendment I am about to call up, since the Senator from Ohio (Mr. Taft) has asked for the yeas and nays. I state that as a parliamentary inquiry.

The PRESIDING OFFICER. Since the amendment has not been formally offered, the Senator has a right to modify it prior to offering it.

Mr. DOMINICK. I thank the Chair. I send to the desk amendment No. 330 together with a modification and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask that the further reading of the amendment be dispensed with and that the amendment be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

Strike all material after the enacting clause and, in lieu thereof, insert the following: That this Act may be cited as the "Fair Labor Standards Amendments of 1973".

DEFINITIONS AND APPLICABILITY TO GOVERNMENT EMPLOYEES

Sec. 2. (a) Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee, including the United States, any State or political subdivision of a State, and any agency or instrumentality thereof or interstate governmental agency, but shall not include any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

(b) Section 3(e) of such Act is amended by adding at the end thereof the following: "In the case of any individual employed by the United States, 'employee' means any individual employed (i) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (ii) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (iii) in the United States Postal Service and the Postal Rate Commission, (iv) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (v) in the Library of Congress. In the case of any individual employed by a State, or the political subdivision of any State or any interstate governmental agency the term 'employee' shall include any employee of that State, political subdivision, or agency but the term shall not include any individual elected to public office in any State or political subdivision of any State by the qualified voters thereof or any person chosen by such officer to be on such officers' personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government or political subdivision or applicable to an interstate governmental agency."

(c) Section 3(h) of such Act is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(d) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips."

(e) (1) The first sentence of section 3(r) of such Act is amended by inserting after the word "whether", the words "public or private or conducted for profit or not for profit, or whether".

(2) The second sentence of such subsection is amended to read as follows: "For purposes of this subsection, the activities performed by any person in connection with the activities of the Government of the United States or any State or political subdivision shall be deemed to be activities performed for a business purpose.".

(f) The first sentence of section 3(s) of such Act is amended by inserting after the words "means an enterprise", the parenthetical clause "(whether public or private or operated for profit or not for profit and including activities of the Government of the United States or of any State or political subdivision of any State)".

(g) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress, to provide for the carrying out of his functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is responsible for administering the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the United States Postal Service and Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(h) Section 13(b) of such Act is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(20) any employee employed by the United States (A) as a civilian in the military departments as defined in section 102 of title 5, United States Code, (B) in executive agencies as defined in section 105 of title 5, United States Code (including employees who are paid from nonappropriated funds), (C) in the United States Postal Service and the Postal Rate Commission, (D) in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and (E) in the Library of Congress; and any employee employed by any State or a political subdivision of any State and any agency or instrumentality thereof or interstate governmental agency, except any such employee brought within the purview of Section 7 of this Act by the Fair Labor Standards Amendments of 1966."

INCREASE IN MINIMUM WAGE

SEC. 3. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(1) (A) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973,

"(B) not less than $2 an hour during the second year from the effective date of such amendments,

"(C) not less than $2.10 an hour during the third year from the effective date of such amendments,

"(D) not less than $2.20 an hour during the fourth year from the effective date of such amendments, and

"(E) not less than $2.30 an hour thereafter."

(b) Paragraph (5) of section (6)(a) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1973, not less than $1.70 an hour during the second year from the effective date of such amendments, not less than $1.90 an hour during the third year from the effective date of such amendments, and not less than $2 an hour thereafter."

(c)(1) Section 6(b) of such Act is repealed.

(2) Subsections (c), (d), and (e) of section 6 of such Act are redesignated as subsections (b), (c), and (d), respectively.

EMPLOYEES IN THE CANAL ZONE

SEC. 4. Section 6(a) of the Fair Labor Standards Act of 1938 is amended by striking out the period at the end of paragraph (5) of such section and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new paragraph:

"(6) if such employee is employed in the Canal Zone not less than $1.60 an hour."

EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. Paragraphs (A) and (B) of section 6(b)(2) of the Fair Labor Standards Act of 1938 (as redesignated by section 3(c)(2) of this Act) are amended to read as follows:

"(A) The rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 increased by 12.5 per centum unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a review committee appointed under paragraph (C). Such rate or rates shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1973, or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B)(i) Effective one year after the applicable effective date under paragraph (A), the rate or rates prescribed by paragraph (A), increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C).

"(ii) Effective two years after the applicable effective date under paragraph (A), the rate or rates prescribed by subparagraph (i) of this paragraph increased by an amount equal to 12.5 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary prior to the effective date of the Fair Labor Standards Amendments of 1973 unless rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendation of a review committee appointed under paragraph (C)."

PROOF OF AGE REQUIREMENT

SEC. 6. Section 12 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulations require employers to obtain from any employee proof of age."

CHILD LABOR IN AGRICULTURE

SEC. 7. (a) Section 13(e)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) the provisions of section 12 (relating to child labor) shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or

"(B) is fourteen years of age or older, or

"(C) is twelve years of age or older, and (i) such employment is with the written consent of his parent or person standing in place of his parent, or (ii) his parent or such person is employed on the same farm.".

(b) Section 13(d) of such Act is amended to read as follows:

"(d) The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills, or other type of advertising material) published by any weekly, semiweekly, or daily newspaper."

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTH; SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER EIGHTEEN AND STUDENTS

SEC. 8. Section 14(b) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(b)(1) Subject to paragraph (2) and to such standards and requirements as may be required by the Secretary under paragraph (4), any employer may, in compliance with applicable child labor laws, employ, at the special minimum wage rate prescribed in paragraph (3), any employee—

"(A) to whom the minimum wage rate required by section 6 would apply in such employment but for this subsection, and

"(B) who is under the age of eighteen or is a full-time student.

"(2) No employer may employ, at the special minimum wage rate authorized by this subsection—

"(A) for a period in excess of one hundred and eighty days any employee who is under the age of eighteen and is not a full-time student; or

"(B) for longer than twenty hours per week any employee who is a full-time student, except in any case in which any such student (i) is employed by the educational institution at which he is enrolled, or (ii) is employed during a school vacation in a retail or service establishment or in agriculture.

(3) The special minimum wage rate authorized by this subsection is a wage rate which is not less than the higher of (A) 85 per centum of the otherwise applicable minimum wage rate prescribed by section 6, or (B) $1.30 an hour in the case of employment in agriculture or $1.60 an hour in the case of other employment, except that such special minimum wage rate for employees in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Act of 1973.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.

"(5) For purposes of sections 16(b) and 16(c)—

"(A) any employer who employs any employee under this subsection at a wage rate which is less than the minimum wage rate prescribed by paragraph (3) shall be considered to have violated the provisions of section 6 in his employment of the employee, and the liability of the employer for unpaid wages and overtime compensation shall be determined on the basis of the otherwise applicable minimum wage rate under section 6; and

"(B) any employer who employs any employee under this subsection for a period in excess of the period prescribed by paragraph (2) shall be considered to have violated the provisions of section 6 in his employment of the employee during the period in excess of the authorized period."

CIVIL PENALTY FOR CERTAIN LABOR VIOLATIONS

SEC. 9. Section 16 of the Fair Labor Standards Act of 1938 is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged; or

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court, in an action brought under section 17 to restrain violations of section 15(a) (4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (48 Stat. 582)."

PENALTIES

SEC. 10. (a) The first three sentences of section 16(c) of the Fair Labor Standards Act of 1938, as amended, are amended to read as follows:

"The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under sections 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right be may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary of Labor in an action under this subsection in which a recovery is sought of unpaid wages or unpaid overtime compensation under sections 6 and 7 or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary."

(b) Section 11 of the Portal-to-Portal Pay Act of 1947 is amended by deleting "(b)" after "section 16".

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. 11. (a) (1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency but such term does not include the United States, or a corporation wholly owned by the Government of the United States.".

(2) Section 11(c) of such Act is amended by striking out ", or any agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

(3) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision.".

(4) Section 16 of such Act is amended by striking the figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

(b) (1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit;

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law.".

EXEMPTION REVIEW

SEC. 12. The Secretary of Labor is hereby instructed to commence immediately a comprehensive review of the exemptions under section 13 of the Fair Labor Standards Act of 1938 and submit to the Congress not later than three years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified.

TECHNICAL AMENDMENTS

SEC. 13. (a) Section 6(c) (2) (C) of the Fair Labor Standards Act of 1938 is amended by substituting "1973" for "1966".

(b) (1) Section 6(c) (3) of such Act is repealed.

(2) Section 6(c) (4) of such Act is redesignated as 6c(3).

(c) (1) Section 7(a) (1) of such Act is redesignated as 7(a).

(2) Section 7(a) (2) of such Act is repealed.

(d) Section 14(c) of such Act is repealed and section 14(d) is redesignated as 14(c).

(e) Section 18(b) is amended by striking out "section 6(b)", and inserting in lieu thereof "section 6(a) (6)", and by striking out "section 7(a) (1)" and inserting in lieu thereof "section 7(a)".

EFFECTIVE DATE

SEC. 14. Except as otherwise provided in this Act, the amendments made by this Act shall take effect sixty days after enactment. On and after the date of enactment of this Act, the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act.

Mr. DOMINICK. Mr. President, the amendment I have offered is No. 330, in the nature of a substitute. The modification is simply a correction of a draftsmanship error in the preparation of the amendment. The 1966 amendments extended minimum wage and overtime coverage to certain State and local government employees in hospitals, extended care institutions, schools, and certain local transit agencies. The committee bill this year extends minimum wage and overtime coverage to most of the remaining Federal, State, and local government employees not covered by the 1966 amendments. Our substitute, since it is intended to extend minimum wage coverage only to these employees contains a specific overtime exemption for them. The overtime exemption was inadvertently drafted so that it applies to all Federal, State, and local employees, including those State and local employees to whom overtime coverage was extended in 1966. Since we do not intend to cut back on existing overtime coverage, this modification is necessary to make sure the overtime exemption in our substitute does not apply to State and local employees covered in 1966.

Having called up the amendment, I think we have enough Senators present so that I may ask for the yeas and nays on the amendment which I understand will occur at 12:30 p.m. tomorrow. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOMINICK. Mr. President, I am going to be very brief. I yield myself 5 minutes. I think other Senators desire to speak for awhile tonight and then also tomorrow.

I reluctantly voted against the Tower-Fannin amendment because I personally, having been involved in the discussions within the committee, felt that it does not go far enough toward making up for the lapse in the minimum wage legislation which we passed since 1966.

The amendment which we are offering, and which I have just brought up on behalf of myself, the Senator from Ohio (Mr. Taft), and the Senator from Maryland (Mr. Beall), is a substitute for the committee bill.

This amendment is essentially the same as S. 1725, which I introduced on May 7 with Senator Taft.

It provides for increasing the minimum wage for all covered nonfarmworkers to $2.30 an hour over a 4-year period. The rate for covered farmworkers would be increased from its present level of $1.30 an hour to $2 an hour over a 3-year period.

To avoid worsening the high teenage unemployment rate—14 percent for white teenagers; 31 percent for nonwhites—the substitute provides for a "youth differential" rate of 85 percent of the new rates. It would apply to youths under 18 only during their first 6 months on a job, and to full-time students working in part-time jobs. Employers could use the youth differential rate only in accordance with Department of Labor regulations insuring that adult workers would not be displaced.

The substitute provides for extending minimum wage coverage to the remaining Federal, State, and local government employees not covered by the 1966 amendments. No exemptions would be repealed, but the Labor Department would be directed to undertake a comprehensive study of the 36 or more existing minimum wage and overtime exemptions, and submit to Congress a report containing recommendations as to whether each should be retained, repealed, or modified.

Our substitute differs significantly from the one we offered last year in that it provides for larger increases in minimum wage rates, provides for a youth differential with a considerably narrower application, and extends minimum wage coverage to Federal, State, and local government employees. In contrast, with the exception of a few minor changes, S. 1861 as reported by the committee, is identical to the bill reported last year.

Again, I am strongly opposed to S. 1861 as reported. I think the minimum wage increases and extensions of coverage it provides for will have serious inflationary and unemployment effects throughout the economy. I think the consequences will be felt primarily by those who are most vulnerable: small farmers and small businessmen, who will be forced to absorb large increases in labor costs over a short period of time; marginal workers—the young, the handicapped, the elderly, the poor—who would find it more difficult to obtain employment; and consumers, who would be forced to pay higher prices necessitated by large increases in labor costs in all segments of the economy.

The committee bill would raise the minimum wage for most workers from its present level of $1.60 an hour to $2.20 an hour next year—a 37.5-percent increase. It would extend minimum wage and overtime coverage to about 7 million new employees. The result will be an estimated $4.7 billion increase in the Nation's annual wage bill. This estimate includes only the direct cost of raising wages to the higher rates. It does not include increased overtime costs resulting from the higher rates. Nor does it include the "ripple effect" cost of raising wages which are above the minimum rates in order to restore existing wage differentials after the higher rates go into effect. Based on Labor Department figures, this "ripple effect" cost could be in excess of $45 billion.

I think the wage increases provided for in the committee bill should be stretched out over a longer period of time. I think steps should be taken to lessen the adverse employment impact of these increases on youth. I think it is a mistake for the Federal Government to mandate overtime coverage for domestic household workers. I think it is a mistake to repeal 18 minimum wage and overtime exemptions until we have more complete information regarding whether the reasons for which they were originally adopted by Congress still exist.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate while the Senator is explaining the amendment?

The PRESIDING OFFICER. The Senate will be in order. Persons desiring to converse will please leave the Chamber. The Senator may proceed.

Mr. DOMINICK. The net result of the youth differential provision we have put in is to circumscribe it very sharply to get it away from the certification procedure which is not working at all because it is so filled with redtape that very few companies understand the instructions, and we still give opportunity for the young people in this country to be able to get jobs. They are among the highest number of unemployed we have, particularly black young people. This will give them an opportunity to get into the job stream which they do not now have.

Without going into great detail at this time, I think that I should also say that if the committee bill should pass the way it is now, the House having passed a similar bill, it faces a very dubious future. I would like to see us do something in the way of improving the minimum wage structure we now have. This will be accomplished by our substitute. It will not be accomplished by the committee bill, because of the nature of the bill itself, plus what I suspect will be done downtown if the bill goes through in that form.

Mr. President, it is a little ironic that organized labor—the chief proponent of the committee bill—is solely responsible for the 1-year delay we have had in legislating a minimum wage increase. They chose to scuttle the minimum wage bill last year, rather than go to conference with the House bill, which contained a youth differential provision. They appear to be willing to postpone an increase for another year by refusing to compromise. S. 1861 as reported, is identical in all material respects, to the bill reported out last year. It would appear they feel it is more important to have a "political issue" than to increase wages for the poor people they say they are trying to help.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. HANSEN. Mr. President, I ask unanimous consent that a member of my staff, Miss Jody Reed, may be permitted on the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator's 5 minutes have expired.

Mr. DOMINICK. I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOMINICK. Mr. President, at this time I ask unanimous consent to have printed in the Record a letter from the American Farm Bureau Federation, dated July 16, 1973, commenting on the minimum wage legslation and sharp opposition to the committee bill as it was presented to the Senate. In this letter they do not take any strong position in connection with the provisions of the substitute except at the end where they say, "The substitution of the Dominick-Taft proposals for the provisions of S. 1861 would substantially reduce the adverse effects of minimum wage legislation."

There being no objection, the letter was ordered to be printed in the Record, as follows:

American Farm Bureau Federation,
July 16, 1973.

Hon. Peter H. Dominick,
U.S. Senate,
Washington, D.C.

Re: Minimum Wage Legislation

Dear Senator Dominick: In the near future the Senate will take action on the minimum wage bill, S. 1861. This letter is to set forth Farm Bureau's views on the issues involved.

We respectfully recommend your support for the Dominick-Taft substitute for S. 1861.

We believe rapid increases in minimum wage levels and the repeal of most exemptions as proposed in S. 1861 would have substantial adverse consequences. We set forth below as briefly as possible a few of the reasons for our convictions in this respect.

The schedule of rapid increases proposed in S. 1861 would push up costs and prices. The impact of the upward thrust on costs and prices would not be limited to the actual increases required by the bill but would affect the whole wage-price situation as workers sought to reestablish customary wage differentials between skills and categories of workers. Thus the enactment of S. 1861 would make it more difficult to moderate inflationary trends by fiscal and monetary measures.

The youth differential provisions of the Dominick-Taft substitute are, we believe, essential to preserve employment opportunities for young workers. Employment of young people is essential for them to learn to work. The enactment of higher minimum wages inevitably will make their employment more difficult. The inclusion of a youth differential would substantially moderate the adverse consequences of minimum wages on employment opportunities for young workers.

Our chronic balance of payments problem and our continuing adverse trade deficit situation are symptomatic of a loss of the competitive strength of U.S. industry in the world and U.S. markets. No effective solutions have been developed. The accumulation of dollar surpluses by other countries and the steady expansion in ownership of U.S. businesses by foreign owners continues. The rapid minimum rate increases involved in S. 1861 would make it more difficult to deal with these fundamental problems.

An important aspect of the U.S. economy has been its flexibility to adjust to new circumstances and developments. One important area of flexibility is the ability of our enterprises to respond to changes in demand by changing hours of employment.

This is more important for some economic functions than for others. The Fair Labor Standards Act, at least partially, has recognized the importance of maintaining such flexibility by providing exemptions from overtime requirements under certain limited circumstances. The enactment of S. 1861 would repeal most of these exemptions and reduce the capacity of our economy to respond or adjust to new developments and emergency situations.

To summarize, it is our conviction that these are all important problems—important to the whole society. These are problems for which adequate solutions have not been adopted. The impact of excessive minimum wage increases and restrictive overtime provisions on these problems is adverse. The extent of the adverse effects is substantial.

The substitution of the Dominick-Taft proposals for the provisions of S. 1861 would substantially reduce the adverse effects of minimum wage legislation.

May we express our appreciation for your consideration of these views.

Sincerely yours,

William J. Kuhfuss,
President.

Mr. DOMINICK. Mr. President, I yield 15 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. BEALL. Mr. President, I rise in support of amendment No. 330, which I cosponsored with Senators Dominick and Taft. The issue presented to the Senate today is not whether there should be an increase in the minimum wage, but rather the amount and the period of time in which the proposed increases will become effective. Indeed, it should be noted that the substitute amendment provides ultimately for a higher minimum wage of $2.30 an hour but it does so over a 4-year period, whereas the bill as recommended by the committee would increase the minimum wage to $2.20 an hour over a 14-month period.

Mr. President, the Nation has had a difficult battle with inflation over the past years—inflation, which has hit all families across the country, but in particular, those living on a fixed income. Indeed, inflation and the rise in the cost-of-living is probably the No. 1 issue on the minds of the American public. Every American citizen has a stake in the success of our antiinflation efforts.

The President of the United States in response to those pressures is expected to announce this week a new phase IV program in an effort to stabilize the economy.

There are some encouraging indications that inflation may run only about 4 percent for the remainder of the year, if so, this would be encouraging since it would represent a drop from the recent rate of approximately 6 percent. The point I wish to make is that in our economic decision, it is important that we strike a balance to avoid again the dangers of overheating our economy this year as well as the overcooling or a recession next year.

Admittedly, no one knows precisely what course we should follow to avoid these twin dangers, but I believe that there is general agreement that the situation calls for restraint and moderation. The Taft-Dominick-Beall substitute, in my judgment, by providing for a reasonable increase, represents such an approach.

To achieve the goal of real growth and not inflated growth, I believe, calls for considerable amount of statesmanship on the part of the Congress. We cannot do all things for all people. We simply cannot satisfy all of the demands that are made upon the Federal Treasury. Only last week it was reported that the Congress thus far has increased fiscal 1974 spending by 1 billion over the administration's budget ceiling. As the Senate knows, we, on two occasions, have voted for a budget ceiling which is $700 million less than the administration's ceiling, the Office of Management and Budget Director, Mr. Ash, recently was quoted as saying that if Federal out-lays rise much above the administration's $268.7 billion target that "we should have some tax increase."

Mr. President, from discussons I have had with fellow Marylanders I am convinced that they believe that one-third of the dollar value of the national output is more than enough for the tax collectors.

It should be pointed out that in 1929 the Government spending came to about 10 percent of the dollar value of our National out-put. Since then, it has risen from 20 percent in 1940 to 30 percent in 1965 and to 35 percent last year. This is particularly true because the people believe that the expansion of Government spending and programs have not produced benefits that the programs promised when they were enacted.

So Mr. President, we have passed the point when we can pass and add program after program to old programs and pay for our generosity through increased borrowing and bigger deficits. Since 1960 we have had a deficit every year with the exception of 1969.

My concern over the inadequate attention given to the Congress with respect to the budgetary process prompted me to introduce S. 758, the "Congressional Budget Control and Oversight Improvement Act." I am encouraged with the growing interest in the Congress in improving the budgetary process and in our ability to evaluate programs.

The work of the Joint Committee on Budget Control and the Government Operations Committee will, I hope produce needed action by Congress this year. We, in the Congress, simply must put our own house in order. We cannot continually decry the erosion of congressional powers to the executive branch unless we, in the Congress, are willing to face up to our responsibilities.

I read with considerable interest Senator Proxmire's July 7 speech in which he pointed out the alarming increases in interest rates and in wholesale prices, and urged Congress to make a $5 billion reduction in the President's budget. With two devaluations of the dollar already taking place, and the continued pressure on the dollar, although I believe that the dollar is undervalued and there are recent indications that the international markets are recognizing this fact, we cannot afford or risk large budget deficits.

More specifically to the issue before the Senate, the measure reported by the committee would increase the nonagriculture employees from the present $1.60 an hour minimum to $2 an hour 60 days after enactment—and this would represent the largest one step monetary increase in the history of the Fair Labor Standards Act—and to $2.20 an hour 1 year thereafter.

For nonagriculture workers covered by the minimum wage after 1966, the committee bill raises the minimum to $1.80 an hour 60 days after enactment; $2 an hour 1 year later; and $2.20 an hour the following year. This amounts to a 37.5 percent increase over 26 months.

For agriculture employees, the reported bill increases the minimum to $1.60 an hour 60 days after enactment; $1.80 an hour 1 year later; $2 an hour 2 years later and $2.20 an hour the following year. This increase would represent the largest percentage increase, of 69.2 percent over 38 months, for farmworkers in the history of the minimum wage act. On the other hand, the Dominick-Taft-Beall substitute provides for an increase over a 4-year period to $2.30 for both pre and post nonagriculture employees as follows: $1.80, 60 days after enactment; $2 a year thereafter; $2.10 the second year; and $2.20 the third year; and $2.30 the fourth year.

For agriculture employees, the substitute would increase the minimum wage from $1.30 to $2 an hour over a 3-year period as follows: $1.50 60 days after enactment; $1.70 a year thereafter; $1.90 the second year; and $2 an hour the third year.

Mr. President, when the minimum wage is increased, additional costs to those affected industries follows. This is elementary. Inflationary impact can be minimized to the extent that minimum wage increases are absorbed by profits.

It needs to be emphasized that the impact of minimum wage tends to be concentrated in low-wage manufacturing industries, in retail trade and service industries, and farming. These industries typically have lower profit rates and are highly competitive. The failure rate of businesses in trade services is high.

Dun & Bradstreet statistics indicate that 43 percent of small businesses and industrial failures in 1971 occurred in retail trade. One of the primary reasons was the increased cost of doing business, including wages.

Last year the committee bill attempted to substantially lower the $250,000 small business test, but the committee action was reversed on the Senate floor and this year the committee wisely decided not to lower the small business enterprise test. I certainly am pleased and applaud this decision.

The committee bill would also extend minimum wage coverage to an estimated 4.9 million Federal, State, and local government employees. I am in agreement that the same basic wage level should be applicable to both private and public employees and in agreement with the committee's extension of minimum wage coverage for public employees.

There are, however, some unique problems with respect to extension of overtime to State and local employees, as desirable as this may be, particularly with respect to those employees involved in public safety work. While the committee bill would phaseout the overtime exemption, the minority views point out some potential problems with this approach and raise questions with respect to its actual impact on the Nation's fire and police forces and local governments.

In addition, the reported bill would repeal the various minimum wage and overtime exemptions in present law, whereas the substitute would retain such exemptions.

In committee, we offered an amendment which called for a study of such provisions so that information upon which to base an informed decision would be available. Unfortunately, this amendment was defeated.

Also, the committee would extend minimum wage coverage to some 1 million domestic employees. While the intent of the committee is commendable, that is, to raise the wages of domestic employees, I am deeply concerned with the practical effect of this amendment. Labor Secretary Brennan, in testifying before the Labor Subcommittee, posed the difficult problem presented by covering domestics.

> This is a difficult problem and the Department finds itself on the horns of a dilemma. For example, in large metropolitan areas such as Washington, New York, or Boston, domestics are already receiving more than the minimum wage we propose for other employees. There, this amendment will have little, if any, effect. In other areas of smaller cities and towns, domestics receive considerably less than the present minimum. The problem with applying the minimum wage to them has, as analysis clearly shows, a severe disemployment effect. This would reduce the income of many families where a member was employed either full-time or part-time in household work. Domestic service is in some respects unique from other forms of employment. A household who hires a maid typically has just so much budgeted for that purpose with no more available. She also has no opportunity to pass on any higher wage cost. If it comes down to it, the housewife can substitute her labor and that of other family members for the domestic. Few employers in other fields can do so.

I tried to moderate the impact of the amendment by phasing-in the domestic coverage on a more gradual basis, but the committee rejected this amendment. In addition, I feel that an exemption for families with incomes, say around $15,000 from the minimum wage coverage would be appropriate. Analogous to the exemption given to small businesses, such an exemption might reduce the disemployment effect of the committee's proposal. Again, I could not muster sufficient support.

Mr. President, the situation varies significantly between States and even within States. Domestics in the Washington, D.C. metropolitan area are probably already making minimum, as the Secretary stated. But in other areas of Maryland—western Maryland, the Eastern Shore, and southern Maryland, the situation and the income levels are considerably different. Also, the administration and enforcement of minimum wage coverage to domestics poses very serious problems.

It is probably unrealistic to expect housewives to maintain the records required by minimum wage.

Finally, the committee's definition of domestics leaves a lot to be desired as it would appear that a teenager doing lawn work, if he earned over $5 a week during the summer, would be brought under this coverage.

Mr. President, one of the most serious difficulties with the bill as reported by the committee is its failure to deal with the youth unemployment issue. In the first quarter of this year the unemployment rate for workers 16 to 19 years was 14.7 percent, a rate that is nearly 4 times the rate for adult workers. These statistics are particularly appalling for the Nation's black youth, with nearly one out of every three black teenager unable to find employment.

The youth differential that appears in the substitute is modified from the version that was before the Senate last year. A youth differential of 85 percent of the statutory minimum for employment of nonstudent youths under 18 is provided and this is limited to 6 months.

For fulltime students, the differential would apply only to youth employed full or part-time at an educational institution which they are attending or for employment positions that the student accepted which provided not more than 20 hours of work per week.

Finally, in response to the concern about the displacement of adult workers as a result of youth employment, the proposal requires the Secretary of Labor to issue regulations to make certain that the youth differential would not create a substantial probability of reducing the full-time employment opportunities of adult workers.

The youth differential has the support of many prominent economists. One of the better known studies in support of a youth differential was completed last year by Finis Welch, now a member of the National Board of Economic Research and Marvin Kosters, an assistant director of the Cost of Living Council, their study advocated a youth differential even greater than the one proposed in the pending substitute. Their study concluded:

> Minimum wage legislation has apparently played an important role in increasing the cyclical sensitivity of teenage unemployment.

They found that:

> As the minimum wage rises, teenagers are able to obtain fewer jobs, and their jobs are less secure over the business cycle. A disproportionate share of these unfavorable employment effects accrues to nonwhite teenagers.

Economist Paul Samuelson put the issue this way:

> What good does it do a black youth to know that an employer must pay him a $1.60 an hour if the fact that he must be paid that amount is what keeps him from getting a job?

Mr. Andrew F. Brimmer, a member of the Federal Reserve Board also discussed the changes in the minimum wage and their adverse impact on job opportunities for teenagers stating:

> A number of studies by economists have shown that the progressive extension of minimum wage coverage to retail trade and service industries may have had an adverse impact on teenage employment.
>
> Teenage employment is heavily concentrated in retail trade and service establishments. For example, over three-fifths of all young workers held jobs there in 1972. These are areas in which average wages are typically below the average for the economy as a whole and where extension of FLSA coverage would have had a noticeable impact. Although it is difficult to measure the impact of teenage employment, it would seem that raising labor costs may have provided a disincentive for employers to hire teenagers. Young people searching for their first job typically have no vocational training or experience. They need extra training and more instruction than an older worker, and all of this is costly to employers. Raising the wages of these inexperienced workers may become too costly to the employer, and job opportunities for young workers may be adversely affected. Given this situation, the implication is clear: Teenagers occupy jobs in industries where a further extension of coverage and an increase in the statutory minimum might further diminish employment opportunities for young people.
>
> To help forestall such a prospect, I urge the adoption of a special entry wage for young workers. The Administration proposal for a youth minimum wage would meet this need. The case for an entry wage rests mainly on the incentive it would give employers to help pave the way for young people to begin productive careers in the working world.

Similarily, Prof. James Coleman of Johns Hopkins University, the author of the so-called Coleman Report, sees minimum wage laws as an obstacle to young employment and urges their relaxation. In a February 1972 article in "Psychology Today" he writes:

> The new goal must be to integrate the youth into functional community roles that move them into adulthood. To accomplish this goal requires fundamental changes in the relationship of the youth to the community. Practices currently barring youth from productive activity in many areas—such as minimum wage laws and union membership barriers against the youth—must be relaxed.

In fact, Professor Coleman has indicated, and I am paraphrasing his comments, that one of the traditional means of upward mobility in this Nation has been the step-by-step advance up the job ladder. Professor Coleman views increasing the minimum wage as, in effect, removing some of the lower rungs and thus making it more difficult for youth and others on the labor market fringes to start in the job market.

In addition to the appalling high rate of unemployment, I believe the unrest and discontent of our youth could partially be answered by a meaningful experience and contact with the real world of work. I believe that the young people could profit from this productive activity and society as a whole could profit from their idealisms, enthusiasm, and energy.

The Congress itself in 1966 recognized the need to do something about youth employment when it authorized special certification under which fulltime students were permitted to be employed at 85 percent of the applicable minimum wage in retail and service establishments and farms. However, the system just has not worked due to all of the red tape involved.

It should be pointed out that no youth could be paid less than the present minimum rates in effect now. The red tape would be eliminated and the Secretary of Labor would promulgate regulations to insure that no adult employment would be displaced.

Mr. President, the present youth unemployment trend cannot be continued. While no one can say for certain that this program will work, many economists and a number of studies indicate that it is worth a try. A lower minimum wage should encourage employers to hire teenagers. A lower minimum wage should induce the creation of jobs which at present are not worth the standard wage but may be worth a somewhat lower wage. The benefits of work experience may be even greater than the job and the income for the youth. In addition, such early employment will not only acquaint students early with the world of work and the occupations that they might wish to pursue in their adulthood, but also likely lead to higher incomes in their future careers. The alternative is to maintain the status quo and the intolerably high unemployment rate among youth.

Mr. President, last year during consideration of the minimum wage bill I quoted an editorial from the Baltimore Sun which argued for a reasonable increase in the minimum wage such as I believe is representative in the Dominick-Taft-Beall substitute, saying:

> It says something about the temper and wisdom of majority forces in the Congress that they pick a time of stubborn and painfully high unemployment-cum-inflation to push a 25 percent boost in mandated minimum wage. Neither on the liberal nor the conservative side of the permanent economic debate can they find much doctrinal comfort. Lord Keynes warned that employers wouldn't employ unless they saw a fair value-from the wage money they put out. And he assumed, without thinking it necessary to explicate, the primordial fact of economic life never more persuasively put than by Calvin Coolidge: "For a man to have a job, some one has to hire him."

So Mr. President, for all these reasons I believe that the Dominick-Taft-Beall substitute bill approach is fair to employees, fair to employers and in the best interest of the country on the whole. I urge its enactment.

For all these reasons, I believe that the Dominick-Taft-Beall substitute bill approach is clearly in the best interest of the country as a whole.

I think an important point was made at the conclusion of his remarks by the Senator from Colorado. There are indications that the bill that has been brought from committee will not be received very favorably downtown.

The indications are, and I think they are quite convincing, that we can be looking forward to a veto if the bill passes the Congress in its present form.

There are some Members of the House that have the same feelings as I do.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BEALL. Mr. President, I yield myself 1 additional minute.

Mr. President, I think that we have a choice here. We can either have a political issue in which we will be able to say that the Preident may kill the minimum wage bill, or we can reasonably get an increase in the minimum wage for the lower income, disadvantaged people in this country.

This year I hope that Congress will in its wisdom adopt the substitute that provides the kind of a compromise that I think would be received favorably all over this Nation and would provide an increase to many people who are disadvantaged.

Mr. DOMINICK. Mr. President, I think the Senator from Maryland's remarks are very cogent. I am delighted to be a cosponsor of the amendment with the Senator from Maryland. He has been very constructive in committee and has suggested several compromise proposals, none of which, unfortunately, were adopted. However, I hope that we can get some of them adopted through our substitute.

Mr. JAVITS. Mr. President, I yield myself 3 minutes in opposition.

Mr. President, I shall be very brief. I do think that the record ought to show opposition by the managers of the bill tonight and the basic reasons for it.

I have heard with interest the suggestion of a veto. However, we are a long way from that stage. After the Senate passes the bill, it will have to come to agreement with the other body.

As to what the President will or will not do, I remember a lot of times when there was no veto and a final agreement was made with the President on a program, or there was an override. I have also heard complete silence when there was a veto. I do not think we ought to be overwhelmed by that consideration at this stage of the legislation.

Mr. President, this substitute is better than the Tower-Fannin substitute, but it still has very serious deficiencies. The fact is that it does not do what needs to be done respecting millions of people who need the basic economic protection that the Fair Labor Standards Act affords, and the increases in the minimum wage provided in S. 1861, as reported.

This substitute does not include domestics under the FLSA. The fact is that there are almost 900,000 social security returns made by families who employ domestics. That indicates that we are not going to put some kind of a new or heavy burden on housewives. They already carry a pretty heavy burden, even though not everyone files a return.

There is also the matter of overtime exemptions. This substitute promises a study of all exemptions, and does nothing about phasing out or eliminating those, such as agricultural processing which are no longer justified, even according to the findings of the Labor Department.

The Williams-Javits bill is also much better than the substitute for the 5 million local and State government employees who would not otherwise get overtime protection. I note that S. 1861, as reported, does make allowances for the special overtime problems of security personnel, such as firemen and policemen.

Mr. President, I ask unanimous consent that a list of the major deficiencies of the Dominick-Taft substitute, as compared with S. 1861, as reported be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 330—(S. 1725)

1. The minimum wage increases are smaller and are spread over a greater period of time.
2. Fails to extend coverage to domestics.
3. Retains the $250,000 test for small businesses which are part of large chain-store operations.
4. Retains the $1.60 minimum wage in the Canal Zone.
5. Provides only three 12.5% increases in the minimum wage in Puerto Rico.
6. Fails to extend overtime coverage to Federal, State, and local government employees.
7. Provides an 85% youth differential for youths under 18 and full-time students, thus creating the danger of wholesale replacement of adults by youths subminimum rates.
8. Fails to raise the minimum wage for agricultural workers to parity with nonagricultural workers.
9. Fails to include the hours worked by local seasonal hand harvest laborers in the 500 man-days test.
10. Fails to extend coverage to local seasonal hand harvest laborers.
11. Fails to repeal the following overtime exemptions:
    (a) Agricultural processing;
    (b) Seafood processing;
    (c) Oil pipeline;
    (d) Cotton ginning and sugarcane and sugar beet processing; and
    (e) Partmen and mechanics in auto, truck and trailer dealerships and all employees in aircraft dealerships.
12. Fails to modify the following overtime exemptions:
    (a) Local transit employees;
    (b) Hotel, motel and restaurant employees;
    (c) Nursing home employees;
    (d) Catering and food service employees; and
    (e) Bowling employees.
13. Fails to repeal the following minimum wage and overtime exemptions:
    (a) Motion picture theater employees;
    (b) Shade grown tobacco employees engaged in processing such;
    (c) Certain telegraph agency employees; and
    (d) Certain employees of retail-manufacturing establishments.
14. Fails to repeal minimum wage exemption for logging and sawmill employees.

Mr. JAVITS. This is a bill whose time has come because of inflation and because of the basic requirements of our society.

I hope very much for these reasons and for other reasons which we will advance as the debate continues, that the pending substitute will be rejected.

Mr. DOMINICK. Mr. President, I yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. TAFT. Mr. President, I thank the Senator for yielding. I am delighted to be a sponsor of the amendment with the Senator from Colorado and the Senator from Maryland.

The considerations and the circumstances regarding consideration of minimum wage legislation are different this year.

In the first place, the House has acted differently. Last year the House passed a bill that was similar in certain aspects to the proposed Dominick-Beall-Taft substitute. The House-passed bill never went to conference, but at least was a constructive starting place. Unfortunately, this is not the case this year.

I think there should be a change in the minimum wage rate. I think there should be a reasonable increase in the minimum wage.

The question before the Senate, however, is whether we will get a minimum wage bill very quickly, or wait until December.

Mr. President, I think realistically that those who want to see an immediate enactment of a minimum wage bill should support the substitute.

It has been said earlier that the Tower substitute was just as subject to a veto as the committee bill because the figures in the Tower proposal were below those in the administrative proposal. I did not vote for the Tower proposal because the wage rate figures involved were too low. I do not think this argument however, is a good one to oppose the Dominick-Beall-Taft substitute.

I think that realistically the Senate must recognize that there is great doubt that any compromise bill will be accepted by the conference committee due to the attitudes that presently exist on the part of the House and on the part of the principles in the Senate involved in the consideration of this legislation.

Mr. President, I hope for a change in that attitude. I think that if we can bring about a change in that attitude, perhaps we will eventually get a workable bill in December even after a veto occurs.

The Senator from New York said that we cannot always be sure of a veto. It is true that we cannot always be sure of a veto on any piece of legislation. However, I can assure the Senate that I think the pending legislation in its present form, as it presently exists before the Senate in the committee bill, is about as certain to be vetoed as any measure that I think has come through the Senate since I have served here, and perhaps even during my service in the House of Representatives as well.

Mr. President, I would like to talk for a moment about the deficiencies that have just been mentioned by the distinguished Senator from New York on the matter of coverage of domestics.

Again, here there is a question of disemployment. As the committee report points out, we are dealing with an area in which, for many families, there is no flexibility whatever to increase the wage level for domestics without cutting back on the hours worked or cutting back entirely on their employment. The Senator from Maryland made an excellent suggestion in committee that might have gone some distance toward solving this particular problem, but he was unable to obtain approval of his proposal due to the position of the proponents of the committee bill.

The other area I would like to stress is the matter of youth unemployment. Last year the youth differential issue was considered, and if there was any single issue on which the committee bill is deficient, it is the youth differential issue.

Youth unemployment figures have not improved since last year, as the committee report points out. Youth unemployment has continued to go up, particularly with regard to black youth. The 1972 figures showed 16.4 percent unemployment among 16-year-old white youth, and 35.1 percent among male 16- to 17-year-old black youth. This is a major problem.

Because this is an issue on which many Senators may tomorrow decide how to cast their vote, I would like to talk about it in some depth.

Mr. President, the lack of a youth training wage or a youth differential in the committee bill demands the attention of every Member of the Senate.

Unemployment among teenagers has been a perplexing problem and we must not add to it by the action we take on minimum wage legislation. In his testimony before the House General Subcommittee on Labor, the Secretary of Labor testified:

> In March of this year there were 627,000 sixteen and seventeen year olds who were unemployed. This was 17.2 percent, seasonally adjusted, of the total of this age group in the labor force as compared with a 4 percent unemployment figure among adult workers age 20 or over in March.

Thus, it appears that even under the existing minimum wage rate of $1.60 many employers have found they could not afford to employ inexperienced untrained help at the minimum rate.

In view of the fact that the committee proposal would increase the minimum wage rate for nonagricultural and agriculture workers so dramatically with its consequential disemployment affect for young people, it is incumbent upon us to take action to halt the reduction of employment opportunities.

To provide job opportunities for young people, employers must be given an inducement to hire them.

The proposed substitute would accomplish this by establishing payment of a special youth minimum rate of 85 percent of the prevailing minimum wage, or $1.60, whichever is higher, for nonstudent youth and 85 percent of the prevailing minimum of $1.30, whichever is higher, for youths seeking farm jobs.

To assure that the special youth rates do not reduce the number of jobs available to older workers, the substitute authorizes the Secretary of Labor to prescribe standards and requirements to guard against loss of employment opportunities for adults.

I know that the Department of Labor is engaged in doing much to reduce the incidence of unemployment among the Nation's youth. However, more must be done. All these efforts will be diminished, if private employers refuse to meet the surplus of youths seeking jobs because of the inequitable increase in the minimum wage proposed by S. 1861 which prices unskilled, disadvantaged young people out of the job market.

Another obstacle to youth unemployment is the existing requirement authorizing prior certification by the Department of Labor before an employer can hire a youth at a lower wage. The substitute would eliminate this cumbersome certification procedure while the committee bill seeks to perpetuate it.

Most youngsters want to work, either out of necessity or to help advance their education and future job potential. These youths must be given a chance to work—to become a part of society. I believe the youth differential proposal will help provide them with the entry they seek into the work force. I strongly urge its adoption.

Mr. President, I also call to the Senate's attention the table on page 127 of the committee report, outlining the unemployment rates for 16- and 17-year-olds from 1963 to 1972.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. DOMINICK. I yield the Senator 5 more minutes.

Mr. TAFT. For male white 16- and 17-year-olds the figures started in 1963 at 17.8 percent. It drifted along, went down somewhat in 1964, 1965, and 1968. Then the unemployment figures started up slightly, and now are at 16.4 percent.

In the case of black youth, however, we see little improvement except in the year 1968 or 1969, when the 27 percent figure, which started in 1963, went down to about 25 percent.

Unfortunately, in 1972, however, we find it back up to 35 percent. I certainly think the Senate should consider this fact.

Further, I call to the attention of the Senate the table on page 130 of the committee report, where Senators DOMINICK, BEALL, and I have included a table from Dr. Thomas Moore showing the added youth unemployment effect that S. 1861 is projected to have. Let us take a look at those figures for a moment.

The effect of S. 1861 on teenage unemployment rates in added percentage points of unemployment is predicted to occur at a particularly alarming rate.

It is estimated that the total increased percentage that would be involved in September 1974, would be 11.6 percent. By 1975 these figures climb to 18.8 percent, in 1976 to 21.9 percent, and ultimately, by September 1979, to almost 23 percent increased unemployment among nonwhite teenagers. These figures are over and above the already too high figures and are only nonwhite figures.

It is little wonder, then, that Mr. Andrew Brimmer of the Board of Governors of the Federal Reserve System, and one of our more prominent black citizens in this country, wrote to me in alarm. I have included his letter on this subject in the minority views of the committee report at pages 130 to 132. Mr. Brimmer points out that he felt it would be extremely disadvantageous insofar as black youth is concerned not to include some type of youth differential in the minimum wage increases to be enacted.

These figures are shocking and it is very difficult to understand why proponents of the bill continue to ignore this most pressing problem.

The real basis of the majority report of the committee is that the minimum wage must be increased quickly to end poverty in this country.

I do not agree with this proposition as it is inflationary, and not in the best interests of the individuals involved who are as they will be most hurt by inflation, especially those at the very low income level.

The PRESIDING OFFICER (Mr. HASKELL). The 5 minutes of the Senator have expired.

Mr. DOMINICK. I yield the Senator 2 more minutes.

Mr. TAFT. Mr. President, Congress must try to alleviate poverty and unemployment. There are many other programs to meet these problems, which should be acted upon. But poverty is not going to be solved by the minimum wage law. Unfortunately, the higher we raise the minimum wage, the more the disemployment effect. The committee bill really goes too far and will increase poverty rather than help to correct poverty problems.

Opponents to the youth differential argue that: First, a lower teenage minimum would discriminate against older adult workers and simply shift unemployment from teenagers to adult workers; Second, a lower minimum wage would reduce the wages of teenagers who otherwise would be working at the standard minimum wage; and Third, teenagers will not take jobs at a subminimum wage. None of these arguments is based on factual analysis.

The argument that a lower teenage minimum would discriminate against older workers and thus displace adults is the most often cited reason for opposition to a youth differential. It is important to remember, however, that the youth differential is only applicable to youths under 18 and to full time students. Thus, the category of prospective employees is largely limited to students, as the average age of a high school graduate in this country is 18.1 years. Thus, the type of job opportunities sought will be part time and vacation oriented. Seasonal, recreational positions, training and intern positions, and marginal service employment are the employment opportunities most sought after by youths. These are the types of jobs adults do not actively seek, and in fact, very often adults refuse to consider these types of positions.

If there would be any adult employment displacement, as a result of youth differential—a notion which has never been statistically proven—it would be so small and so limited as to have no discernable effect on the adult job market. The adults involved, if any, would be those who do not have the skills or experience to obtain better employment and should be provided with manpower training.

The PRESIDING OFFICER. The 2 minutes of the Senator have expired.

Mr. TAFT. Mr. President, I do not care to elaborate further on the youth differential provision tonight. I believe the principal points with regard to it have been made and I hope they will be helpful to Senators in studying the bill. I will elaborate further tomorrow when the Senate returns to debate the Dominick-Beall-Taft substitute.

Mr. WILLIAMS. Mr. President, will the Senator from Ohio yield?

Mr. DOMINICK. On your own time.

Mr. TAFT. I am glad to yield——

Mr. WILLIAMS. On my time, yes. You keep the floor for some questions and it will be on my time for that purpose.

Mr. President, I oppose amendment No. 330 which is the so-called substitute amendment for S. 1861. This amendment is a replay of last year's arguments and last year's views. This amendment was defeated in the Senate last year because it was recognized that it was an insufficient response to the vital need represented by the committee bill.

The substitute amendment would have the effect of undercutting the careful work of the committee which considered each of the provisions of S. 1861 last year and this, as well as the deliberations of the Senate on this bill last year. Adoption of this amendment would preclude Senate debate on matters of vital importance to the working poor of this country.

The long suffering people who will receive the benefit of an amendment to the minimum wage bill are owed at least an open and free debate on each of the issues raised in the committee reported bill, S. 1861.

For example, the substitute amendment is deficient in two principal elements; that is, the minimum wage rate and the expansion of coverage.

In addition the substitute incorporates a differential subminimum rate for young people, a provision which, as we have explained in some detail in the committee report, has the potential for undermining this country's long standing policy of a floor on wages.

In light of a 35-percent increase in the cost of living since 1966, when Congress last legislated an increase in the minimum wage, the increases called for in the substitute are wholly inadequate.

They provide only a 12½-percent increase at this time in the minimum rate, thus legislating a further slippage in the battle against the rising cost of living for the working poor.

S. 1861, as reported by the committee, at least provides a wage increase that will leave the minimum wage worker in approximately the same position that he was in 1966 with regard to the cost of living.

I recognize that the substitute and its wage rate actually goes to a higher scale of $2.30 in the fifth year. I would be frank to say that Congress ought to be in a position to be addressing itself to the needs of the low-wage workers at that time and not be bound to a wage rate which in 5 years will be hopelessly outdated.

I think the Members of this body ought not be fooled by the endloading procedure of the substitute bill. Yes, it looks good or reasonably so 4 or 5 years down the line, but that is really only part of the question. The basic and critical issue which the Congress must face today when we vote on this amendment—is whether or not the Congress is going to provide an adequate wage level for the millions of low wage workers now. It is not a question of what we do next year or the year after or the year after that. The question really is what we failed to do last year, failed to do the year before and must do now. I would note in passing that had we passed even the substitute bill last year the current wage rate under that bill would be the same $2 an hour that is in the committee bill. The administration proposed a $1.90 wage package and in fact the Secretary of Labor during his testimony reflected that he could take a $2 minimum wage now. The substitute is deficient because it fails to recognize the $2 now.

In addition the substitute wage rate is deficient because it again provides a cynical approach to the needs of the American worker by suggesting that our economy can only stand a 10 cents an hour increment in any given time.

In this connection the treatment of farmworkers under this substitute is likewise cynical. The plight of the farm worker deserves better than a 20-cent-an-hour raise from the $1.30 an hour situation where the farmworker has been for the last 4 years. The farmworker deserves better than a minimum wage of $2 an hour in 4 years and a perpetual 30 cents an hour differential from the industrial wage rate. It is unneeded, unnecessary, and uncalled for.

I do not believe that we can in good conscience legislate a minimum rate that totally fails to recognize the plight of this Nation's work force.

Of equal importance to the wage rate deficiency in the substitute is the lack of any extensive expansion of coverage of the Fair Labor Standards Act except with respect to Federal, State, and local government workers.

I believe that the Senators who offered the substitute ought to be commended for at least accepting a proposition that public employees are to receive the minimum wage along with the millions of other covered workers, although I disagree with their failure to allow these workers overtime compensation protection. But there are many workers in the private sector whom the committee bill would assist and I believe that substitute is insensitive to these needs.

Since 1961 Congress has recognized that expansion of coverage goes hand in hand with an increase in the minimum wage in order to insure that the Fair Labor Standards Act provides adequate protection for those workers who need us. In my judgment the denial of overtime protection to public employees and the failure to repeal any of the minimum wage and overtime exemptions presently in the law are irresponsible oversights.

The hearings in the 92d Congress and the extensive record in the 93d Congress hearing reflect without question the need to eliminate or modify many of the exemptions in the private sector. The proponents of the substitute offered an amendment in committee which would have eliminated the repeal of the exemption substituting instead their proposition that the Department engage in additional studies of exemptions.

I would suggest to my distinguished colleagues that the department has spent nearly $15 million in the last 15 years studying exemptions. All of those studies have concluded that most of these exemptions are unnecessary and no longer warranted. The Secretary of Labor in testimony before this committee of this year made much of the same judgment. It is time to end the studies and repeal the exemptions.

I urge opposition to this amendment.

Mr. President, I did not have the opportunity to hear all of the Senator's discussion of this legislation and the substitute he has joined the Senator from Colorado in offering, but as I was trying to talk to some of the exemptions that are dealt with in the legislation, I think I did hear the word "veto" mentioned again. So I am wondering whether the Senator could repeat what is the concern, what part of S. 1861 is basic to his veto concerns? It certainly is not the wage rates in the bill; is it? It cannot be the wage rates in the bill because Secretary Brennan, as he appeared, and I trust he speaks for the admnistration, and he is, in this connection, the administration's spokesman, said that he is ready for $2 an hour now. That is exactly what S. 1861 does. So, is it the wage rate that has brought this specter of a veto, this vague cloud suggested that will come over the bill if it should be passed here?

Mr. TAFT. I believe that this is certainly one of the items involved——

Mr. WILLIAMS. Notwithstanding what Secretary Brennan said?

Mr. TAFT. Yes.

Mr. WILLIAMS. In other words, the administration is vetoing the Secretary of Labor?

Mr. TAFT. I do not believe the administration and the Secretary are necessarily apart. I know the section in the transcript to which the Senator refers. I was present when the Secretary of Labor made the statement. I disagreed with it then and I do so now. I do not know precisely what the Secretary would say today, but I am certain he would reflect concern for curbing inflationary pressures in the economy.

The effect of the committee bill would be substantial to the economy. There is, as the Senator, I am sure, knows, a great body of economic opinion which feels that there is a ripple effect of very considerable substance when the minimum wage is increased. But more than that, psychologically other pressures are present in the economy. Inevitably if the Senate passes this bill, particularly with the largest increase in dollars and cents we have ever put into any one jump in a minimum wage bill, it will build a sizeable demand pressure in the economy for higher wages and a possible breaking away from the wage guidelines. I want to commend organized labor on the fact that they have shown restraint in their wage demands in the major settlements made recently. I am encouraged by that. I hope this situation continues. I believe it also must continue in the Congress on this issue.

Mr. WILLIAMS. The things that have happened in the economy since make it even more demanding that the $1.60 an hour be raised, that the worker get a little more money in order to pay that grocery bill.

Mr. TAFT. The Senator is suggesting the poverty argument set out in the committee report. I frankly disagree with that argument. I do not think this is the way to handle the problem of poverty. Some workers affected by this bill, unfortunately, will, under the pressures of today's economy, lose their jobs or have to work shorter hours.

Mr. WILLIAMS. The Senator comes from a State that is known for its institutions of higher learning. I had the benefit of learning my economics at Oberlin. I have learned enough to study those who are economists and every economist has said that no increase in the minimum wage has caused unemployment.

Mr. TAFT. We had testimony exactly to that point from Dr. Adie of Ohio University.

Mr. WILLIAMS. They did not say that other increases in past years did. They were suggesting that this bill would. Dr. Adie was projecting, but it was not on the basis of experience.

Mr. TAFT. He and the other economists on the panel agreed that as a classic economic opinion on the subject of minimum wage increases generally—not merely this particular bill. He was talking about what economists generally feel about a minimum wage increase. I am not saying we should not have one, but we have to recognize it is inflationary in certain aspects.

Mr. WILLIAMS. Well, we will deliberate overnight on our resources here and come in tomorrow morning and compare authorities. I think that on the authority that has come to us, we have relied heavily on the Department of Labor over the years on this one question of the relationship between increasing the minimum wage and unemployment following that increase. My conclusion is drawn from the——

Mr. TAFT. Is the Senator talking about unemployment or inflation?

Mr. WILLIAMS. Unemployment and also inflation. These are two of the factors that have been presented to us, that unemployment does not follow an increase in the minimum wage.

Mr. TAFT. Unfortunately, unemployment of youth is clearly shown from the figures cited, and can be affected by an increase in the minimum wage. This is a specialized group. I have said that I do not think the unemployment of youth particularly affects adult unemployment.

As a matter of fact the 1969 Annual Report of President Lyndon Johnson's Council of Economic Advisers warned about the unemployment effect of excessive minimum wage increase, as follows:

> Although increases in the minimum wage are likely to be reflected in higher prices, society should be willing to pay the cost if this is the best way to help low-wage workers. Yet, excessively rapid and general increases in the minimum can hurt these workers by curtailing their employment opportunities.
>
> Since 1956, the federal minimum has gone up about in line with average hourly compensation, while coverage has progressively expanded to cover low-wage industries. In considering the future rate of increase for minimum wages, careful scrutiny should be made of the possibility of adverse employment effects. The benefits of higher minimums should be weighed against alternative ways of helping low-wage workers.

Mr. WILLIAMS. Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the "seasonally adjusted unemployment rates of persons 16 to 19 years of age and 20 years and over on the effective date of changes in the minimum wage under the Fair Labor Standards Act, and 1 year before, 6 months before, 6 months after, and 1 year after such changes."

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SEASONALLY ADJUSTED UNEMPLOYMENT RATES OF PERSONS 16 TO 19 YEARS OF AGE AND 20 YEARS AND OVER ON THE EFFECTIVE DATE OF CHANGES IN THE MINIMUM WAGE UNDER THE FAIR LABOR STANDARDS ACT, AND 1 YEAR BEFORE, 6 MONTHS BEFORE, 6 MONTHS AFTER, AND 1 YEAR AFTER SUCH CHANGES, UNITED STATES, 1950–73

		Unemployment rate, 16 to 19 years					Unemployment rate, 20 years and over				
Effective date of change in the minimum wage	Minimum wage rate	1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change	1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change
Jan. 25, 1950 [1]	$0.75	10.0	14.3	15.2	11.2	8.5	3.8	6.2	5.9	4.6	3.4
Mar. 1, 1956 [1]	1.00	11.0	11.3	11.5	9.8	11.2	4.2	3.6	3.7	3.5	3.2
Sept. 3, 1961 [2]	1.15 and 1.00	14.5	17.1	18.0	15.1	14.5	4.9	6.1	5.8	4.8	4.9
Sept. 3, 1963 [1]	1.25	14.5	17.1	17.4	16.3	15.7	4.9	4.8	4.5	4.6	4.2

Footnotes at end of table.

EASONALLY ADJUSTED UNEMPLOYMENT RATES OF PERSONS 16 TO 19 YEARS OF AGE AND 20 YEARS AND OVER ON THE EFFECTIVE DATE OF CHANGES IN THE MINIMUM WAGE UNDER THE FAIR LABOR STANDARDS ACT, AND 1 YEAR BEFORE, 6 MONTHS BEFORE, 6 MONTHS AFTER, AND 1 YEAR AFTER SUCH CHANGES, UNITED STATES, 1950-73—Continued

Effective date of change in the minimum wage	Minimum wage rate	Unemployment rate, 16 to 19 years					Unemployment rate, 20 years and over				
		1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change	1 year before change	6 months before change	On effective date of change	6 months after change	1 year after change
Sept. 3, 1964 [3]	$1.15	17.4	16.3	15.7	15.8	14.7	4.5	4.6	4.2	3.8	3.4
Sept. 3, 1965 [3]	1.25	15.7	15.8	14.7	13.1	12.8	4.2	3.8	3.4	3.0	2.8
Feb. 1, 1967 [2]	1.40 and 1.00	12.4	12.4	13.0	13.4	12.9	3.0	3.0	2.9	2.9	3.0
Feb. 1, 1968 [2]	1.60 and 1.15	13.0	13.4	12.9	12.0	11.9	2.9	2.9	3.0	2.7	2.6
Feb. 1, 1969 [3]	1.30	12.9	12.0	11.9	12.2	13.3	3.0	2.7	2.6	2.7	3.3
Feb. 1, 1970 [3]	1.45	11.9	12.2	13.3	15.7	16.6	2.6	2.7	3.3	4.1	4.8
Feb. 1, 1971 [3]	1.60	13.3	15.7	16.6	16.9	18.5	3.3	4.1	4.8	5.0	4.5

[1] Change in minimum rate for previously covered employees only.

[2] Change in minimum rate for previously covered and newly covered employees.

[3] Change in minimum rate for newly covered employees only.

Source: U.S. Department of Labor, Bureau of Labor Statistics, "Employment and Earnings."

Mr. WILLIAMS. I point out that Secretary Hodgson said in his 1972 report:

> On balance, the wage increases granted to 1.6 million workers to $1.60 minimum wage standard had no discernible adverse effect on overall employment levels and relatively little impact on overall wage or price trends.

This was Secretary Brennan's predecessor, but I will say that he is the custodian of the most comprehensive national records on the figures dealing with employment and price trends.

Mr. TAFT. As I pointed out earlier, we were dealing with a particular time and with a particular economic situation at that point. We were in a wartime economy.

Also, the Secretary of Labor's 1972 report to Congress, pursuant to section 4(d) of the Fair Labor Standards Act, recognized the need to carefully consider the inflationary impact of minimum wage increases, cautioning against the excessive increases proposed in S. 1861.

Mr. WILLIAMS. We have considered them carefully and they are not excessive. I do not think I am going to convince the Senator from Ohio, and, conversely——

Mr. TAFT. This discussion has been going on for some months, and I am delighted to carry on the colloquy with the chairman. I think the colloquy started with the discussion as to why there might be a veto; and I would like to come back to that point. I have learned nothing in the last few days that does not persuade me that that veto is a very likely possibility on a number of points.

Mr. WILLIAMS. That is very likely.

Again, if we try to guess every element that might go into a veto I doubt that we would get our job done as we should. We are a branch of the Government and have our job to do; and if it is vetoed, we know that we have to take other action.

Mr. TAFT. I do not completely agree. I feel that there is a duty on the part of the legislative branch and the executive branch to try to solve problems in a spirit of compromise, not to make a political issue by putting a bill on the desk of the President which he then vetoes.

Mr. WILLIAMS. We are not in quite that close a discussion or negotiation process once the bill is here on the floor. That precedes. But the negotiations here toward meeting the possibility of a veto are not as they were earlier, before we got to the floor of the Senate.

Mr. TAFT. I do not want to say that the reasons I have given would be the only reasons that might result in a veto, and I think the veto would be sustained. There are other provisions.

While I go along with it—and the Senator from Colorado has—I think the Senator from New Jersey knows that this was indicated as an area of disagreement——

Mr. WILLIAMS. I do not think it is the rate or the extended coverage. It seems to me that the major problem is the youth differential, and here it is just a matter of adjusting no further. We will vote up or down on that issue.

The problem is that the substitute of the Senator from Ohio takes the whole thing and gives us one vote on all these propositions, and that is one of the regrets I have about that approach.

Mr. TAFT. Am I to understand that the chairman would support a separate amendment offered if the substitute should fail, regarding the youth differential question?

Mr. WILLIAMS. I have adjusted my thinking on the student differential. We now have an accommodation here, and we have extended the youth differential to students at institutions of higher learning. This is an extension of a differential, and that is in the bill I have introduced with Senator JAVITS.

The Fair Labor Standards Act currently permits the employment of full-time students at a wage rate not less than 85 percent of the applicable minimum wage.

This subminimum rate applies to part-time employment during school time or full-time employment during vacations and holidays in retail and service establishments and in agriculture.

The subminimum wage can be utilized by employers upon the issuance of a certificate by the Secretary of Labor.

According to the Department of Labor, almost 50 million hours were authorized for the employment of full-time students at subminimum rates by certificates in effect on June 20, 1972.

A 1970 Department Analysis of Certificate Utilization shows that only 42 percent of the man-hours authorized at 85 percent of the statutory minimum wage were used.

Even more significantly, the analysis shows that one-fifth of the establishments holding certificates did not use them. Evidently, employers did not view the certificate application as a burden when they applied even when they had no immediate need.

Furthermore, the Department of Labor estimates that less than 2 percent of the applications for student certificates were denied in fiscal 1972.

S. 1861 expands the full-time student certificate program to apply to educational institutions, thereby increasing student employment opportunities.

The bill retains the certification procedure because it has proven to be a proper mechanism for insuring that students will not be used to displace other workers.

The youth subminimum contained in the amendment under discussion would violate the basic concept of the act which represents an "economic charter" for the lowest paid workers.

The only exceptions to the wage base concept have been full-time students, learners, apprentices, and handicapped workers.

To achieve its objective the minimum wage must be an irreducible minimum below which wages for workers will not be allowed to fall.

For this reason, the rate has always been set conservatively below the level which could be justified by economic data.

For example, the minimum wage rates specified in S. 1861 are considerably below the $3.55-$3.70 hourly rate which the Bureau of Labor Statistics "lower budget" would have required in autumn 1972.

The $2 an hour minimum wage rate which is set for the effective date of S. 1861 will mean wage increases for only 7½ percent of all covered workers.

The $2 an hour minimum rate is only half of the average hourly earnings for production workers in manufacturing.

Obviously, such a rate is intended only for the young, the unskilled and the untrained.

Frequently these workers are members of minority groups.

Mature, skilled and trained workers are paid considerably more.

In this period of unacceptable unemployment, we should not, in my judgment, jeopardize the employment of adults by a subminimum wage rate for young people.

Secretary of Labor Brennan expressed his views on this problem at the hearing on his nomination.

The Secretary stated:

> I believe in a realistic and adequate (minimum) wage.
>
> I am aware of the problem of youngsters, many of whom have to pay their way through school, but I am fearful if we have a difference of wages with the youngsters and their fathers in the area where minimum wage is so important, this could create problems.
>
> If they are going to perform the same duties, the same responsibilities, I do not see why there should be any difference in the rate.

In the hearings on such proposals in 1971, former Secretary of Labor Hodgson said:

> I recognize that there may be some concern that a lower minimum wage for young people under age 18, for full-time students, and for young job-starters may reduce employment opportunities for older workers.
>
> There may be some risk in marginal cases.

It is well known that the minimum wage worker is typically regarded as a "marginal" worker.

The Secretary's 1971 statement is hardly reassuring for the minimum wage employee who must bear the risk of losing his job because of a youth subminimum wage.

The proposed amendment would make it the Goverment's policy to move unemployed 16- to 17-year-olds to the front of the hiring line by allowing employers to pay them substandard wages while placing older unemployed workers at a competitive disadvantage, even though their problems of getting jobs, once unemployed, are far more serious in family and social terms.

Such a policy simply makes no sense.

The argument that an increase in the minimum wage rate increases youth unemployment is unconvincing.

Although certain economists have concluded that a minimum wage increase would adversely affect teenage unemployment, others have criticized such studies on various grounds.

However, the massive study prepared by the Department of Labor in 1970 concluded that they were unable to establish any relationship between minimum wage increases and youth unemployment.

Mr. TAFT. I am glad that the Senate has studied this problem. But I point out that the problem of youth unemployment is not one that only relates to full-time students. It also relates to people who are not in school.

Mr. WILLIAMS. I do not know if it is this way in the State of Ohio, but I know that in the State I have the honor to represent, the State of New Jersey, in those areas where we have the highest levels of youth unemployment, we also have our highest levels of adult unemployment.

It seems to me that there is a grave risk in going with discriminatory, cheap labor offered to youth. It would encourage teenagers to drop out. The risk is that the jobs will go to them and that they will replace jobs that might be there for the main breadwinner of the family, the adults.

Mr. TAFT. As I have indicated, there is no evidence that this has occurred in the past, and I do not think there will be any evidence that it would occur in the future. If it should occur, any effect would be maintained by the 6-month limitation which the substitute places on the application of the youth differential and by the power given to the Secretary of Labor to see that a particular employment pattern does not result in job displacement for adult workers.

Mr. WILLIAMS. If there is a better way to deal with it than patterns or practices after the fact, it is to precertify the youth to insure that the youth job does not take a job from an adult.

Mr. TAFT. As the Senator is aware, the reason why the substitute does away with the certificate system is that it has not proven to be practical or workable.

The PRESIDING OFFICER. The 1 hour allocated on the Dominick-Taft amendment for this evening has expired. The time will now have to be on the bill.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time during the remainder of the day not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that the time during the 2 hours of debate on the substitute tomorrow, preceding the vote at 12:30, be equally divided between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS. I yield.

Mr. DOMINICK. I just want to add to what the Senator from Ohio has said.

The Senator from New Jersey will recall that Secretary Brennan's testimony was strongly against the increased coverage of domestics in the bill which the Senator offers; that he was in favor of a youth differential; and that we felt the committee bill would add to the inflationary cycle. This would seem to mean that this bill, as reported by the committee, is not favorably received even by the Secretary of Labor.

I also invite the attention of the Senator from New Jersey to a chart on page 240 of the RECORD which was put in by the Labor Standards of the Department of Labor concerning what an increase in the minimum wage does to employment. I believe this was inserted in the RECORD by the Senator.

The Senator will note that on the effective date of the 1969 increase, there was 11.9 percent unemployment among youth aged 16 to 19. One year later, that unemployment had gone up to 13.3 percent in 1970, when the minimum wage rate went up to $1.45, the same figures are from 13.3 unemployment to 16.6—1 year later. In 1971, when it became $1.60, it went from 16.6 to 18.5.

So it seems to me that if we look at least at those 3 years, following the increase in the minimum wage, there was an increase in teenage unemployment, which is exactly what we have been trying to say.

It does not do any good to tell a kid he can get $2.20 an hour if he does not have a job. We are saying he should be given a chance to have a job, to get into the workstream all the way through. So, I am delighted the Senator has inserted this chart furnished by the Labor Department into the RECORD. It helps demonstrate what we have been trying to get across—that wage increases, without a meaningful youth differential provision, have adverse effects on teenage employment.

As far as domestics are concerned, for the life of me, as I said earlier today, I simply cannot understand how the Interstate Commerce Clause can be spread sufficiently wide to get that in. For the RECORD, I wish to read the definition of a domestic worker or private household worker within the Department of Labor, which is backed up so far as domestic workers being household workers in Webster's Dictionary.

They include—

> Maids, housekeepers, practical nurses, domestic workers, day workers, house cleaners, grass cutters, handymen, window washers, chauffeurs, yard workers, cooks, companions, gardeners, laundresses, caretakers, charwomen, butlers, waiters, kitchen workers and babysitters.

Granted the Senator has eliminated babysitters from the domestics, they include everything else. If any housewife, when a young man comes around to mow the lawn, has to pay him the minimum wage, withhold, and all the rest, I think that is going to make liars out of a lot of people. It will be almost as bad as prohibition with respect to disregard for the law.

Mr. WILLIAMS. With regard to unemployment, this chart is further evidence that economic conditions have a great deal to do with unemployment figures, too.

The period the Senator cited was the period during the last administration of economic recession and the unemployment figures generally follow the same trend as the youth unemployment during the period.

Mr. DOMINICK. But did not the Senator put that chart in the RECORD as indicating there is no increase in unemployment?

Mr. WILLIAMS. Certainly. And following that I will place in the RECORD a description of the point I am making, that economic conditions have a great deal to do with these levels of employment in all groups, including youth.

The chart shows that before 1969, every time the minimum wage was increased, the teenage unemployment rate, 1-year later was lower than on the date of the increase. Additionally with the exception of 1962 and 1964—where the difference was statistically insignificant—one-tenth of 1 percent—the rate 6 months after the date of the increase was also lower than on the date of the increase.

In 1969–71, the years cited by Senator DOMINICK, the only workers subject to minimum wage increases were those newly covered by FLSA in 1966. This amounted to 10 million workers, out of 45 million then covered by the act. Indeed, the 1969 4(d) report suggests that only 2 million workers were subject to wage increases due to the minimum wage increases that went into effect in 1969. By contrast, in 1968, when 7 million workers were affected, the unemployment rate for teenagers dropped almost

1 percent in the 6 months following the effective date of those increases.

We are all aware of the recession which occurred during 1969–71. As the chart shows, unemployment for both adults and teenagers increased during that period, as one would expect. There is no justification whatsoever for attributing this increase to the increases in minimum wages which went into effect for a very limited number of workers during this period. On the contrary, the record in the years prior to 1969 demonstrates that the minimum wage, by itself, has had no demonstrable adverse effect on either adult or youth unemployment.

Mr. DOMINICK. All I can say is that we do have the chart in the RECORD and the chart speaks for itself.

Mr. BEALL. Mr. President, I wish to observe in connection with the colloquy between the chairman of the committee and the Senator from Ohio in discussing certification, that I believe certification is indeed a discouragement for those seeking employment. Certification generally tends to discourage people from engaging in certain activities. We have an example in connection with the guaranteed loan program in higher education where last year we required certification from the college to the bank that people are qualified for loans. It is reported by the banks that it caused a 40-percent reduction in the number of applications. So certification tends to discourage people rather than to encourage them to a particular activity. Certification in youth employment is an important factor that should be considered when we discuss this matter.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of the remarks by the Senator from Wisconsin (Mr. PROXMIRE) tomorrow there be a period for the transaction of routine morning business, not to extend beyond the hour of 10:30 a.m., with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10 a.m.

After the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes.

There will then be a brief period for the transaction of routine morning business not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes each.

At 10:30 a.m. debate will resume on the amendment offered by the Senator from Colorado (Mr. DOMINICK) and the Senator from Ohio (Mr. TAFT).

A rollcall vote will occur on the Dominick-Taft amendment at 12:30 p.m.

Other amendments will be called up during the afternoon. Rollcall votes can be expected to occur thereon.

If a slack period should occur during which no amendments are being offered to the minimum wage bill, the Senate may turn temporarily to the consideration of S. 440, the so-called war powers bill, for opening statements tomorrow.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock a.m. tomorrow.

The motion was agreed to; and, at 6:27 p.m., the Senate adjourned until tomorrow, July 18, 1973, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 17, 1973:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

David Olan Meeker, Jr., of Indiana, to be Assistant Secretary of Housing and Urban Development, vice Floyd H. Hyde.

IN THE ARMY

The Army National Guard of the United States officers named herein for promotion as Reserve Commissioned Officers of the Army under the provisions of title 10, United States Code, section 593a and 3392:

To be major general

Brig. Gen. William McGilvery Buck, SSN, [redacted].

Brig. Gen. Evan Albert Turnage, SSN [redacted].

EXTENSIONS OF REMARKS

ONE HUNDRED SCIENTIFIC-MINDED YOUTH STUDY IN NATIONAL YOUTH SCIENCE CAMP IN WEST VIRGINIA—VISIT CAPITOL AND HEAR JOHN NASSIKAS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 17, 1973

Mr. RANDOLPH. Mr. President, during these summer months there are many groups of young people visiting the historic monuments and governmental centers of the Nation's Capital. I call attention to one such group which is both unique and representative of the Nation as a whole. Last week 100 young high school seniors at the National Youth Science Camp visited the Capitol, and attended a luncheon in the Senate Dirksen Building at which I was privileged to serve as host, as I have for 10 years.

This year the National Youth Science Camp is in its 11th year of operations in the hills of West Virginia. The camp originated in 1963 as part of the West Virginia centennial celebration, and was so enthusiastically received that the State has continued to support it. After 10 years of operation, the NYSC program of varied scientific and human relationships continues to challenge the 100 delegates. These delegates—two from each State selected on the basis of their scientific abilities and achievements—live for 3 weeks in a wilderness environment while probing life's marvels and mysteries through seminars with top scientific personnel.

The camp was founded with the idea of recognizing promising high school graduates in a distinct way. At the same time, the outdoor experience provides them with a greater awareness of their world and its dimensions. Problems that face the scientific community demand the attention of young minds. The NYSC is one means by which these developing minds can be exposed to some of the realities facing scientific disciplines, while at the same time providing them with a broad view of the opportunities which daily life provides.

These 100 young campers are housed at Camp Pocahontas, a former 4–H camp located near Durbin, in the beautiful Monongahela National Forest. Nearby is the National Radio Astronomy Center at Greenbank, where leading scientists are probing the secrets of the universe.

I said these 100 young men—unfortunately the available facilities cannot accommodate their female counterparts—are unique. Perhaps this is not wholly accurate, for in their wide range of activities, they mirror the intellectual and athletic interests of all American youth. Certainly their academic and leadership credentials—determined by school selection committees in each State—would impress any college recruiter.

Twenty-three of the students were finalists in National Merit Scholarship competition. Seventeen received commendations in the Westinghouse Science Talent Search. Seven are bound for the Massachusetts Institute of Technology and five are headed for Harvard University.

They are a multitalented group, including an all-American quarterback who flies his own plane, a track star who builds lasers in his spare time, and a mathematical wizard who has developed a method of picking locks using modular arithmetic. Another placed first in the National Mathematics Tournament sponsored by the Mathematical Association of America 2 consecutive years, and won first place in the U.S.A. Mathematical Olympiad this year—a feat never before accomplished.

An example of the talents among these youths was the organization of an 18-member choir during the first 2 weeks of camping. Led by counselor Haywood D. McCallum, Jr., president of the 1969 NYSC class and a music major at Virginia State College, the choir entertained the luncheon audience with two near-professional selections, "America the Beautiful," and "Keep America Singing."

At last Wednesday's luncheon, 35 Senators came in person to meet or dine with their State delegates; many others with conflicting schedules conveyed personal messages or sent their aides. Senator HUBERT HUMPHREY, in a brief address to the NYSC delegates, challenged them to expand their technological interest—ranging from agronomy to zoology—to better serve mankind.

Federal Power Commission Chairman John N. Nassikas, the principal speaker, told the youths:

> The challenge which the energy crisis poses for the nation's scientific community is awesome. Failure to meet it could result in a total, and in my view, regressive alteration of our national way of life.

Honored guests for the 10th annual NYSC luncheon included:

Dr. Sydney P. Marland, Jr., Assistant Secretary of the Department of Health, Education and Welfare for Education; Dr. Edward P. Todd, Acting Assistant Director for Research of the National Science Foundation; Robert W. Fri, Acting Administrator for the Environmental Protection Agency; former U.S. Senator John Sherman Cooper; and national newspaper columnist Holmes Alexander. Prof. Joseph M. Hutchison, Jr., director of NYSC, and Roderick Wilson, assistant director, represented the delegates at the head table. The Reverend Edward L. R. Elson, Senate Chaplain, gave the benediction.

Mr. President, in order that each Senator may know the two outstanding young men who represent their State at the National Youth Science Camp, I am listing their names and home States, in alphabetical order. I also will ask unanimous consent that there be printed in the RECORD excerpts from the prepared remarks by FPC Chairman Nassikas, who reminded the young people that there must be a trade-off between the Nation's economy and ecology. But, he concluded, in the long view, any economic penalties we must pay today will provide much greater benefits to future generations.

The NYSC delegates are:

William Cotter, Alabama; Stuart F. Bockman and Reed Copsey, Alaska; Richard Crowell and Stanley Reynolds, Arizona; William T. Pennington and Terald Edwin Smith, Arkansas; Shawn Lee Morgan and Kurt Arthur Wood, California; Gregory Scott Bell and William N. Shaffner, Colorado; Martin Louis Marchese and Ronald A. Soltz, Connecticut; James Bernard Huffman and William Leo Holstein, Delaware; William Shannon Patton and Mark C. Schendel, Florida; Gilbert Louis Mobley and Jack B. Straus, Georgia; Wayne Mitsuo Fukunaga and John Carl Hamilton, Hawaii; Craig Conrad Alford and Edwin D. Dykes, Idaho; Joel Marc Weinfeld and Daniel Hayes, Illinois; Larry Dale Gatewood and Jeffrey Kent Marchal, Indiana; Donald Kirchner and Gordon Waite, Iowa;

James Joseph Hamilton, Jr., and Carl Richard Anderson, Kansas; David M. Maddy and Charles O. Lewis, Kentucky; Christopher Albert Fields and Lester Ernst Hurrelbrink III, Louisiana; Peter C. Bals and Alexey Vladimir Orlovsky, Maine; William James Adkins III and William Henry Nicholson, Maryland; Stephen Robert Cloutier and Todd M. Stolzbert, Massachusetts; George A. Rozanski and Peter M. Schemm, Michigan; Leroy A. Andresen and Steven Theodore Engen, Minnesota; Michael Harry Brown and Jerome A. Gilbert, Mississippi; Jeffrey B. Rubins and Douglas Bryan Schwartz, Missouri; Kip Anthony Kramer and John Mallan Lynn, Montana; Stephen Seberger and Matthew Travers, Nebraska; Michael Charles Lasage and Jim Snyder, Nevada;

Jonathan Wayne Fraser and David Martin Wilterdink, New Hampshire; Kurt Reynolds Johmann and Anthony V. Roubik, New Jersey; George Melvin Foglesong, Jr., and David Doyle Welter, New Mexico; Sanford Ross Climan and Sheldon H. Katz, New York; John Donald Hiatt, Jr., and Raleigh Bradford Perry, Jr., North Carolina; Reginald Walter Geck and Frederick Mitzel, North Dakota; Clifford Lau and William Steers, Ohio; Vernon Leroy Gowdy III and Kevin Mitchell Vaughn, Oklahoma; Roderick Wells Lewis and George Martin Sampson, Oregon; Anthony Grace and Joseph Charles Kaczmarek, Pennsylvania; Michael I. Grant and Michael Jeffrey Kornstein, Rhode Island; William Joseph Hollins II and Patrick Graham Jobe, South Carolina; Mark James Hildman and Samuel J. Simons, South Dakota; William Thomas Mueller and Ricky Lynn Smith, Tennessee; Richard Louis Johnson and Keith Sebastian Pickens, Texas; Mark A. Martin and Kraig Patterson, Utah; George Safford Putnam and Norman Charles Smith, Vermont; William Henry Graybeal and Warren Boyd Jessee, Jr., Virginia; Gordon H. Cougdon and George T. Hashisaki, Washington; David R. Blum and Eugene Kitts, West Virginia; Gary B. Beecham and John Kenneth Riege, Wisconsin; and James Scott McNiven, Jr., and Norman R. Schaible, Wyoming.

These names are added to the 1,000 young men—20 from each State, who form this unique fraternity of interests and scientific talents. From this list, in the years ahead, will come highly capable scientists and engineers who will form the front ranks of our technological society. Accompanying these young men to Washington for visits to the National Academy of Sciences and the National Aeronautics and Space Administration were 34 members of the NYSC staff, including many former campers who return year after year to assist in the project.

In addition to Director Hutchison, Rod Wilson and Haywood McCallum, they are:

William J. Hilton, Jr.; Charles R. Carlson; Don Strader; James C. Shuman; Sidney Barker; Stacy L. Groscup; Richard Lemuth; Jerry Johnson; Cecil Pauley; David Brookman; Kip Dopp; James Michael Crum; Samuel D. Hensley; Michael Gregory Luke; David F. Smith; James O'Boyle; Cliff Petterson; Norman S. Strouse; H. Gehrig Coleman; Larry Hill; Don Ristroph; Jill Cochran; Michael Maxon; Larry Eugene Morse; John Stewart; Victoria Keith; Linda Jones Acord; Susan Jo McClinchie; and Pauline Shaver. West Virginia archeologist Bette J. Boyles and Prof. Violet Phillips, resident botanist, accompanied the staff.

Mr. President, I ask unanimous consent that the text of the speech by FPC Chairman Nassikas be printed at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

RESEARCH AND DEVELOPMENT TO COPE WITH THE ENERGY CRISIS

(By John N. Nassikas)

I welcome this opportunity to explore with you today some of the realities of our developing energy crisis, since the paths that many of you will follow may be specifically directed toward its resolution. It is now quite evident that only through scientific research and development can our future needs for adequate energy resources be provided. I will not attempt a technical presentation of energy research requirements, as unlike yourselves, I am not a scientist but a lawyer. Rather, I should like to examine the broader aspects of the energy problem, both in terms of its immediacy and its impact.

The achievement of our national economic, social and environmental objectives require an ever increasing supply of energy.

Our goals of full employment and a high material standard of living for all Americans depend for their realization upon the continued growth and health of our industrialized economy. Such economic dynamism in turn is dependent upon secure, abundant and economical sources of energy. At the same time, our national interest requires a simultaneous growth in pollution control technology to insure that an increase in material benefits for our people is not accompanied by degradation of the natural environment.

However, the technology for recycling, secondary and tertiary treatment of water wastes, maintenance of air quality standards, and advance techniques of land restoration will likewise require substantial energy inputs. By way of illustration, it is estimated that with present technology, 18 percent more energy will be needed to meet 1975 automobile emission standards. In order to control thermal pollution and remove particulates and sulphur oxides, it is estimated that power plants will require 7 percent more energy.

Absent radical and fundamental societal changes, past trends indicate even higher levels of energy consumption than is presently the case. It is therefore critical that we identify and correct the conditions which have resulted in the present energy supply shortages.

The dimensions of the energy crisis may be better appreciated by reference to current estimates of the extent of our remaining domestic energy resources:

Potentially recoverable petroleum resources would be adequate to meet future demand growing at the rate of 3 percent yearly for 44 years;

Recoverable shale oil reserves at present demand levels to implement oil supplies for about 35 years after depletion of present potentially recoverable oil reserves;

Potentially recoverable gas resources would be adequate to meet future demand growing at the rate of 1.4 percent yearly for 65 years;

Identified coal resources would be equivalent to 300 years' supply at a growth rate of demand of 2.4 percent yearly;

Recoverable uranium resources at $30 per pound would be adequate to meet the projected levels of nuclear generation under present technology (without the breeder reactor) growing at the rate of 18 percent yearly for 32 years.

From these estimates, it would appear that substantial energy reserves remain. In absolute terms this is true, but in practical terms of energy that is actually deliverable to consumers, very real domestic shortages exist with respect to natural gas, petroleum, and possibly uranium.

As only partial recovery of these resources may be possible because of economic and environmental limitations, the supply of deliverable, usable, energy may be significantly less than the order of magnitude represented by these estimates.

* * * * *

At this point, I would like to turn to some suggested initiatives for resolving the energy crisis and the issues raised if those initiatives are in fact pursued.

If there may be said to be one guiding policy objective which has near unanimous support among those trying to alleviate the energy crisis, it is the need for energy self-sufficiency. Continued and increasing reliance on foreign energy resources is wholly unsatisfactory, whether in terms of supply dependability, national security or balance of payments disequilibrium, although for the short-term such reliance on imports appears unavoidable.

The President's Energy Message of April 18, 1973, outlines proposals ultimately directed at the restoration of a self-supporting national energy resource base. Among these are a deregulation of the price of natural gas at the wellhead, immediate construction of the Alaska pipeline, an expanded offshore leasing program, a restructuring of the Oil Import Program, deepwater port construction to facilitate the handling of petroleum supertankers, and a program to expedite site selection and construction of electric power facilities. The President's Energy Message of June 29, 1973, urged a commitment by all sectors of society to an energy conservation ethic and called for a major reorganization and expanding of our energy research and development efforts.

In my view, these proposals require immediate implementation. Voluntary action by industry and private individuals to conserve energy is particularly important, for dramatic results can be achieved with only minimal alterations in our everyday energy consumption patterns. For example, as noted by the President, a potential 2 percent fuel savings nationwide is possible from a 10 mph highway speed reduction by all drivers. By raising thermostat settings on air conditioners by four degrees, the amount of energy now consumed for air conditioning purposes could be reduced by 15 to 20 percent. Likewise, home heating energy requirements could be reduced by up to 10 percent with a lowering of home heating temperatures by five degrees.

The President has also ordered a government-wide review of energy consumption by Federal departments and agencies in an effort to achieve an anticipated 7 percent government energy consumption reduction over the next 12 months, and has urged State and local governments to undertake similar programs. In addition, the Secretary of Transportation is asking the air transport industry to consider immediate reductions in flight frequencies and aircraft cruising speeds. An aircraft speed reduction of 3 percent adds 12 minutes to a transcontinental flight, but could save 200 million gallons of jet fuel yearly. Likewise, reducing flight frequencies to raise national average aircraft load factors from 52 percent to 60 percent could save as much as 1.3 billion gallons of jet fuel yearly.

The announcement of a greatly expanded energy research and development program in the June 29 Energy Message, as recommended by Senator Randolph and Senator Jackson, is a recognition by the President that solution of our energy problems requires a massive scientific effort. In raising his sights to accord with Senator Randolph's view, the President has proposed an additional $100 million for priority energy R&D projects over and above the $25 million already requested in the fiscal 1975 budget, in addition to an overall proposal of $10 billion for energy R&D for the next five years beginning in 1975.

Corresponding to this funding increase, the President has also proposed to consolidate current Federal energy research and development efforts in a single body, the Energy Research and Development Administration. The ERDA would build upon the scientific and technical base of the Atomic Energy Commission, using the AEC's technical management and laboratory resources, while adding the fossil-fuel research and development operations of the Department of Interior.

Approval of these proposals by Congress will contribute immeasurably to the attainment of the following basic objectives of our energy research and development activity.

An initial goal of our energy R&D program should be to improve our technological capacity for full development of our domestic resource base, consistent with the preservation of environmental integrity. For example, we need to expand and accelerate the projects now underway for utilization of our abundant coal resources. These include, among others, gasification of coal to produce natural gas, refinement of coal to produce low sulfur content derivative fuels, coal liquefaction, strip mining reclamation technology, and improved stack gas desulfurization and cleaning techniques associated with coal consumption.

The accessibility problems created by the search for oil and gas in deep water and arctic environments must be addressed, in addition to the development of an adequate pipeline technology for delivering the oil and gas produced in these remote areas. Likewise, an environmentally acceptable extraction method must be devised to take advantage of our potentially enormous shale oil reserves.

A second major R&D goal should be to improve the conversion efficiency of our primary energy resources, essentially a problem of energy conservation. The nuclear breeder reactor program now underway will result in a 40-fold increase in the energy output of uranium. Further, research is needed in the area of superconducting power transmission, a process for moving large blocks of electrical power at near absolute zero temperatures and resulting in a virtual elimination of resistance to the flow of electricity. Generating technology demands immediate attention to reduce the present 70 percent loss in energy efficiency through conversion to electricity by fossil-fuel steam electric plants.

Above all, there must be a concerted R&D effort to provide new sources of energy for the use of future generations. A breakthrough at least equivalent to the discovery of nuclear energy is essential. The potential of exotic energy sources should be fully explored, in line with the work now being done to harness solar and geothermal energy.

In addition, expanded research in fuel cell technology, fusion, and magnetohydrodynamics may afford the basis for the power systems of the 21st century.

The challenge which the energy crisis poses for the nation's scientific community is awesome. Failure to meet it could result in a total, and in my view, regressive alteration in our national way of life.

I would hope today to impress upon you, as the most able young scientists in America, the need for the commitment of your talents to this critical enterprise.

LONG ISLAND'S FIRST LADY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. WOLFF. Mr. Speaker, I wish to mention the unceasing efforts expended by Gertrude Merinoff in behalf of the Association for the Help of Retarded Children. Mrs. Merinoff was recently chosen as the recipient of the 13th annual Humanitarian Award of the Nassau County chapter of AHRC.

Mrs. Merinoff and her late husband, Charles, gave generously of themselves to enable AHRC to reach ever-increasing numbers of young children who might otherwise be forced to live their lives in uncaring and inadequate institutions.

The Charles and Gertrude Merinoff Center will be built in Brookville to commemorate their contributions. It is designed to enable retarded children to transfer from specialized educational facilities into classroom situations with normal children. The center will offer classroom services for young, preschool, retarded youngsters. A description of the center and its plans follows these remarks.

Mrs. Merinoff was honored for her dedicated service and oustanding generosity on behalf of retarded children at the 20th annual Rose Ball for the Benefit of Retarded Children on June 16 at the New York Hilton. She was presented with a statue entitled, "Love," bearing this inscription:

She reached out to our children and encircled them with the warmth of her heart. With love and gratitude, Nassau County Chapter, New York State Association for Retarded Children.

Further praise is due Helen Kaplan, executive director of the Nassau County chapter. Mrs. Kaplan, a Baldwin resident, was one of the founders of the AHRC, and has been with the Nassau County chapter for almost 25 years, spending over 10 years as executive director. Without her continuing efforts and enthusiasm, the AHRC in Nassau would not be the vital organization it is today.

My congratulations to AHRC for a well-chosen honoree, to Helen Kaplan, and to Ruth Drucker and Herman Merinoff, Gertrude and Charles Merinoff's children.

The description follows:

THE CHARLES AND GERTRUDE MERINOFF CENTER

Situated on the 18 acres of the Educational Center of the Association for the Help of Retarded Children in Brookville, Long Island, the Charles and Gertrude Merinoff Center will offer classroom services primarily for young, pre-school retarded children. After about two years at the Center, most of the children will then be ready to transfer to special classes in the public schools.

The professionally staffed, well equipped building will contain eight classrooms accommodating 75 children on a regular 5 day basis throughout the school year. At other times it will be available to enhance and supplement other AHRC programs already in operation such as the summer camp program now providing recreation and training to 400 youngsters each summer.

In addition, the Center will include a well-equipped dental clinic . . . a satellite of the Dentistry Department of Long Island Jewish Hospital. All dental services which can be performed without general anesthesia will be available to any retarded child, or adult, in need of clinic services in Nassau County. Whereas some of the dental personnel will be employed by AHRC, there will be additional voluntary dental service through the hospital.

Included in the plans of the approximately 15 thousand square foot building is a speech and hearing center. It will be the first of its kind in Nassau County since it will be designed to focus only on the speech and hearing needs of the marginal to profoundly mentally retarded population. The extended space will give us the opportunity to design a language environment more conducive to speech as well as audiological assessment. Our current affiliations with local universities may also be extended as a result of the new center which will result in our ability to service still more children.

An all-purpose playroom, with specially designed equipment for the pre-school age group is a feature of the new building. In addition to school offices, a conference room/lecture hall will serve the dual purpose of a lecture room for the great number of visitors who come to AHRC to learn the content of our program, as well as a conference room for staff.

TAKING STOCK

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 17, 1973

Mr. THURMOND. Mr. President, the Augusta Chronicle, Augusta, Ga., published an editorial on Wednesday, July 4, 1973, which is worthy of note.

This editorial, entitled "Taking Stock," presents some serious thoughts we all should consider. It calls upon the Members of Congress and all Americans to restore the spirit of 1776 to this great Nation.

Mr. President, I ask unanimous consent that this editorial be printed in the Extension of Remarks at the conclusion of my comments.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TAKING STOCK

No time is more appropriate for a Nation to take stock of itself than on its birthday—in the case of the United States, July 4.

On this Independence Day, few Americans can fail to be disturbed, as they take stock of our strengths and weaknesses, by the multiplicity of the latter.

We are, as a Nation, fascinated by a performance in the Senate which centers around a parade of unsupported statements, insinuations and hearsay testimony that would never be admitted as evidence in a court of law, and we are in the process of forming our attitudes on the basis of this Roman holiday. Every bit of real evidence, down to the final crossed "t" and dotted "i," ought to be elicited—but in accordance with sound judicial procedure.

We are degraded by the fact that, in some manner, a President of the United States could have become surrounded by a group of assistants to whom honor apparently was an unknown word. The urgent question is, "Why? And how can such a situation be prevented from happening again in either a Republican or Democratic administration?"

We are shamed by Senate action which has forced the President of the United States to agree to remove, within less than two months, any possibility that we might reinforce the ceasefire which so many thousands of our men died to achieve. If this is followed by rapid conquest of the anti-Communist peoples of Southeast Asia, the blood of Americans and Asians alike will be on the hands of elected senators and representatives who are not worthy successors of George Washington, John Adams, Thomas Jefferson, James Madison and all the others who put liberty above personal security.

We are tormented by an unnatural economy which has had to be twisted into a socialistic type of control, and—even with that—is malfunctioning to the extent that food shortages threaten. Freedom, forced to retreat in many parts of the world, has disappeared from our economy for the time being when poultry growers as a result of inept government action feel impelled to slaughter hundreds of thousands of baby chicks in the face of meat shortages.

Our school funds are eaten up by expensive, time-consuming, dangerous and frustrating busing while our children do without needed teachers who could remedy shortcomings in learning.

We spend ever-larger amounts of money for poverty projects, only to see the relief rolls steadily expand.

Moral standards are thrown in the trash can as millions wallow in pornography—literary and cinematic—and in the sort of life that such filth reflects, and then wonder sadly why their every action seems to lead to frustration and despair.

Is this the sort of society that the men of 1776 died to establish?

Isn't it about time the Spirit of 1776 was restored again by latter-day Patrick Henrys, Thomas Paines and John Peter Zengers?

If, as historian Arnold Toynbee has said, history is the record of challenge and response, isn't it high time that the challenge of what we see in a frank and candid stocktaking today is followed by the kind of response that brought us the Declaration of Independence on this day in 1776?

REINTRODUCTION OF THE NATIONAL OIL RECYCLING ACT OF 1973

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. VANIK. Mr. Speaker, I take great pleasure in joining with 30 of my colleagues in reintroducing the National Oil Recycling Act of 1973. In this period of energy shortages and environmental concern, the problem of waste oil stands as an area where positive Federal action is not only possible but also vitally needed.

The extent of the waste oil problem is staggering. Industry produced roughly 330 million gallons of waste oil in 1971. The automobile contributed close to another 700 million gallons. All of this used oil—over 1 billion gallons—can be recycled to produce a useful resource for our Nation's economy. Unfortunately, only a fraction of our total oil waste is now reused. Most of our used oil is disposed of in ways which threaten the quality of our environment—it is spread on roads to control dust, burned, or simply dumped into land fills, waterways, or sewers.

Used oils pose a significant environmental threat because of their chemical characteristics. Additive packages, introduced into new oil by producers interested in improving the performance of their product, increase the chemical stability of the oil. When this oil is finally discarded, these synthetic compounds retard the natural processes which work to decompose the oil.

Additionally, waste oil contains toxic materials which makes the careless disposal of waste oil even more worrisome. Zinc, lead, barium, phosphorus, boron, and copper are among the elements which find their way into our air and water through the vehicle of used oil.

Beyond the tremendous pollution threat that the improper disposal of waste oil poses, we are also unnecessarily wasting an available energy source in a time of acute energy shortage. The technology exists to refine this oil into a satisfactory fuel. In fact, a corporation under contract with EPA has demonstrated that a "clean" fuel oil can be produced from waste oil.

In view of the potential resource of waste oil and the hazardous alternative of careless disposal, it is distressing that until very recently the Federal Government has done little to promote the recycling of used oil. Instead, an ill-conceived patchwork of tax provisions and uninformed rulings by the Federal Trade Commission have created a series of unnecessary barriers to a vigorous program of waste oil recovery. The legislation my colleagues and I are introducing today removes some of these inequities and makes a positive first step to the development of a national strategy for using our tremendous volumes of waste oil.

In section 4 of the bill, a coherent tax policy to recycled and new oil is formulated. Under present law undue tax discriminations are placed on the rerefiner. These discriminations are directly responsible for the drop in domestic rerefiners from 150 in 1965 to 48 today.

The second key feature of this bill mandates that all rerefined oil be labeled "recycled oil." In addition, all automotive and industrial oil, whether new or recycled, must be sold in containers which bear the inscription:

> It is in the national interest to recycle this product after use.

Under present rulings of the Federal Trade Commission, all recycled oil must be labeled, "previously used." This requirement represents another unnecessary discrimination for the rerefiner trying to market his product.

Beyond these two provisions, the National Oil Recycling Act makes a positive step toward an activist waste oil recovery policy. The problem of recycling oil is essentially twofold. First, there is the need to establish an effective program for collecting, storing, and reprocessing used oil. Second, there is the problem of the growing number of individuals who handle waste oil—the "do-it-yourself" oil changer. Recent data indicates that as much as 30 percent of automotive waste oil is disposed of directly by individuals.

An effective national policy must balance incentive with regulation. This legislation confronts the twofold problem with a comprehensive response:

All automobile oil sold to the consumer for self-service shall be sold in resealable containers to facilitate recycling. A 10-cent deposit will be offered on each container.

Any person selling automobile oil shall maintain collection facilities for waste oil.

Users of more than 100 gallons of industrial oil will be required to keep complete records of the fate of the oil they use.

In addition, this legislation authorizes $25 million to be available to the States to encourage the recovery of waste oil. It is on the State level—in Massachusetts, Maryland, Wisconsin, and Hawaii—that the most innovative work has been done to promote recycling practices. In addition, a number of local governments—such as Schenectady, N.Y.—have taken significant steps in this area.

This legislation also authorizes moneys for the improvement of technologies of recycling. More extensive research is needed to insure that the full resource potential of waste oil can be exploited.

Mr. Speaker, the National Oil Recycling Act makes a significant contribution to the solution of the problem of waste oil. It is my hope that this legislation will help mold a new national ethic of economy and thrift in the use of our country's irreplaceable resources.

WESTERN EUROPE'S DRIFT TOWARD NEUTRALISM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. CRANE. Mr. Speaker, the soft words which are being heard from the Soviet Union at the present time should not blind us to the reality of the real goals inherent in their current approach.

The Soviet Union seeks to disarm the West, and particularly Western Europe, and it has decided that the best way to implement such a policy is to cause the leadership and people of Western Europe and the United States to believe that communism is no longer a threat, and no longer is pursuing a policy of world domination.

Writing in The World Today, Malcolm Mackintosh points out that:

> The Soviet leaders hope that, by skillful and patient tactics over a long period, they and their successors could influence West European politics. Even in the short term an atmosphere might be fostered in which NATO found it difficult to maintain its military strength; differences within the Western alliance might be exploited; and an attempt made to inhibit the enlarged EEC from moving forward toward political integration.

Mr. Mackintosh cautions that:

> However remote it may seem, one should not lose sight of the kind of Europe which the present Soviet leaders would like to see: an Eastern Europe firmly under Soviet domination, its political systems and frontiers unchallenged by the West; a Western Europe divided both politically and economically, without binding military ties or defense links to the United States; each country with minimum forces deployed only on its own territory, and, hopefully persuaded of the need to make its own bilateral deal with the Soviet Union on foreign policy issues.

The signs of European lack of willingness to defend against Soviet incursions are mounting. A report drawn up by a team of crisis-studies specialists at Munich University claims that secondary and high school students in West Germany are increasingly rejecting the idea of compulsory military service and that the teachers' union is waging a campaign against military service. The report indicated that educated youth in general does not feel threatened by any outside power, ignores the power of potential enemies, and even rejects information dealing with the necessity of protecting peace. Similar reports have come from France, Belgium, Holland, and other NATO countries.

Recently, NATO released an intelligence study of Soviet military strength in Eastern Europe, showing that Warsaw Pact armies had deployed 6,000 additional tanks—to increase their advantage 4 to 1—and the number of Russian aircraft poised against Western Europe is up 50 percent.

Discussing this news, Arnaud de Borchgrave, writing in Newsweek, notes that—

> On the Belgium Radio news . . . these sensational disclosures were buried after a long story about a truck spilling a load of milk . . . when NATO Foreign Ministers gathered in Copenhagen . . . they faced a twofold threat: a Soviet buildup that cannot be ignored, and a public that increasingly doesn't give a damn.

Mr. De Borchgrave writes that—

> Western Europe is sliding toward neutralism. And in off-the-record talks in six capitals, I was told by key foreign and defense policy planners that they are powerless to reverse the drift . . . the West European inclination to let down its guard has been encouraged by the mistaken notion . . . that detente-minded doves in the U.S.S.R. have won a Kremlin showdown.

The situation facing us is one in which the Western nations are doing precisely the things the Communist leadership wants them to do, and in the process are endangering the freedom of their peoples and the security of their countries. I wish to share with my colleagues the article, "Western Europe's Drift Toward Neutralism," by Arnaud de Borchgrave in the June 25, 1973 issue of Newsweek, and insert it into the RECORD at this time:

WESTERN EUROPE'S DRIFT TOWARD NEUTRALISM

(By Arnaud de Borchgrave)

Two weeks ago, NATO released an intelligence study of Soviet military strength in Eastern Europe—and the details were startling. In the past five years, Warsaw Pact armies have deployed 6,000 additional tanks (to increase their advantage to 4 to 1), and the number of Russian aircraft poised against Western Europe is up 50 per cent. But on the Belgium Radio news that night, these sensational disclosures were buried after a long story about a truck spilling a load of milk. Then, when NATO Foreign Ministers gathered in Copenhagen last week for their spring meeting, they faced a twofold threat: a Soviet buildup that cannot be ignored, and a public that increasingly doesn't give a damn.

Indeed, Western Europe's attitude toward the Soviet Union can be paraphrased as: "Don't bother us with news that disturbs our vision of a new era in which defense is obsolete." Under the magic spell of "pan-European vistas," Western Europe is sliding toward neutralism. And in off-the-record talks in six capitals, I was told by key foreign and defense policy planners that they are powerless to reverse the drift. The press recently hailed as a Western "victory" at Helsinki the Russians' agreement on a European-security-conference agenda that included some noncommittal verbiage about "freer circulation of people, ideas and information." But much more significant than this victory was the deadlock in Vienna, where the Russians have dragged their feet on agreeing to a date for the start of talks on mutual and balanced force reductions. By procrastinating in Vienna but appearing reasonable in Helsinki, Moscow made sure that Western Europe would continue what amounts to unilateral withdrawal.

The West European inclination to let down its guard has been encouraged by the mistaken notion—spread by Soviet diplomats on the cocktail circuit—that detente-minded doves in the U.S.S.R. have won a Kremlin showdown against expansion-minded hawks. Only a few experts realize or care that Soviet party chief Leonid Brezhnev won his arguments for a "new look" foreign policy by convincing his colleagues that it would be the most effective way to break up NATO and neutralize Western Europe. While Moscow has made an important shift in tactics, policy planners say the goals the Kremlin has pursued since the early 1950s are unchanged.

HIT PARADE

For practical purposes, Moscow has achieved two of its four main geopolitical objectives: conventional military superiority in Europe over the U.S. and its allies, and recognition of Moscow's hold on Eastern Europe. Next on the Kremlin hit parade is the withdrawal of U.S. forces from Europe and the collapse of NATO. This, in the Kremlin scenario, is to come about as a result of internal pressures in the United States and growing European doubts about American reliability. Despite Secretary of State William Rogers' effort to reassure America's allies last week, many openly voiced fears of a "new Yalta"—a Nixon-Brezhnev deal behind NATO's back on troop cuts— which would leave Europe in the lurch. The fourth Kremlin goal—to put the productive capacity of the West to work for the Soviet Union—is also very much on track. An analysis of Brezhnev's recent visist to West Germany shows that the Russians certainly got the better of the economic bargain.

West German Chancellor Willy Brandt's preoccupation with Ostpolitik and the strengthening of Germany's economic ties with Russia, moreover, will delay and hinder the consolidation of the West European community. But the biggest obstacle to real European union remains France—whose concept of a united Europe is Paris thumbing its nose at the United States. What other European officials are saying about the French isn't fit to print in a family magazine. So in studied disunity, West European nations go on spending $28 billion a year on independent conventional forces that have little if any credibility. Budget and personnel problems grow more serious by the month. Denmark cuts back its armed forces and postpones modernization. Belgium further reduces compulsory military service, and West Germany's Second Army Corps drops to 42 per cent of combat strength.

The real problem for Mr. Nixon and the Europeans is that as long as Western Europe does not exist as a strong entity that can stand up to the Soviet Union, there is no substitute for American power. U.S. disengagement from Europe would be an open invitation to Russia to become the military supervisory power on the Continent—an intolerable shift in the world balance of power. But for the United States to continue playing its defensive role, the Europeans—with monetary reserves twice the size of America's—will have to contribute more. Despite vehement disclaimers from Paris, international monetary reform, the Nixon round of trade negotiations and the U.S. presence in Europe are inextricably linked.

Two months ago, the Nixon Administration asked Europe what sort of relationship it wanted with the United States over the next decade. Not only has there been no concerted European answer; unreconstructed Gaullists even objected to any discussion of the question. But in Copenhagen last week, France agreed to let NATO at least think about a new "conceptual framework" for the alliance. The one they come up with had better be good. For unless the Atlantic concept is revived and strengthened—based on today's realities and with the understanding and support of the people—protectionist, isolationist and neutralist forces will scuttle what's left of the partnership.

CONTINUATION OF A GOOD ALLIANCE WITHIN NATO

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 17, 1973

Mr. THURMOND. Mr. President, an editorial entitled "NATO a Good Alliance, Must Be Kept Intact," appeared in the Friday, July 6, 1973, issue of the Aiken Standard newspaper in Aiken, S.C.

This editorial drives home the importance of maintaining a credible deterrence in NATO and the need for solidarity among all the NATO partners.

Mr. President, I ask unanimous consent that this editorial be printed in the Extensions of Remarks at the conclusion of my comments.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NATO A GOOD ALLIANCE, MUST BE KEPT INTACT

Foreign Minister Michel Jobert of France, whose country is often the maverick among the 15 nations making up the North Atlantic Treaty Organization, managed to give an upbeat tone to his parting remarks at the recent NATO ministers conference in Copenhagen. "We have a good alliance—let's keep it!" he declared.

NATO indeed is a good alliance and it must be kept. The French depend on it as much as any Europeans. The question Mr. Jobert left dangling was whether France and other Western European nations are prepared to make the changes in their policies toward NATO—and in some cases toward each other—which are necessary to keep the alliance strong.

Mr. Jobert remained aloof when other ministers at Copenhagen acknowledged that their nations may have to dig deeper into their own pockets to help defray the $1.5 billion annual cost of maintaining 300,000 U.S. troops in Europe—the backbone of NATO. Secretary of State William Rogers apparently convinced most if not all of the ministers that our troop commitment is in trouble in Congress, both as an item in a tight defense budget and as a drain of dollars overseas.

That issue is an old one, however, and our NATO partners are simply tardy in attending to it. What should concern the ministers as much are strains which current political and economic problems are placing on the Atlantic Alliance, and the abiding need for review of its underlying principles in a "new Atlantic Charter."

Most countries of Western Europe are wrestling with inflation problems worse than our own. Both Italy and Denmark are in the midst of governmental crises. Greece has been wrenched by the dethronement of its exiled king and the beginning of what could be a perilous transition back toward democratic government. Great Britain and Iceland are locked in a "cod war" over fishing rights, and Iceland is threatening to expel NATO from the Keflavik base used to monitor Soviet maritime traffic in the North Atlantic.

Meanwhile, a new status quo is emerging in Central Europe. The new pacts between West and East Germany, and their forthcoming admission to the United Nations as separate states, cannot be ignored for their impact on the Atlantic Community. Like it or not, NATO faces the fact that much of the diplomatic script in Europe is being written by the independent-minded West German Chancellor Willy Brandt.

Secretary of State William Rogers has assured our NATO partners that the summit meeting between President Nixon and Soviet Chairman Leonid Brezhnev will bring them no unpleasant surprises about America's commitment to European defense. The NATO ministers have assured Mr. Rogers they understand the need for solidarity in the Western approach to the European Security Conference in Helsinki and the force reduction talks between NATO and the Warsaw Pact in Vienna.

These assurances would be far more comforting if the nations which must back them up were exhibiting more of the community of interest and dedication to common goals that brought NATO into being in the first place.

"DELTA QUEEN"

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. RAILSBACK. Mr. Speaker, H.R. 5649, the bill to extend until November 1, 1978, the existing exemption of the steamboat *Delta Queen*, is scheduled for consideration today, Tuesday, July 17. Recently I ran across an article in the Christian Science Monitor which should be of interest to my colleagues.

The article points to an important aspect of the *Delta Queen* not mentioned in the bill—its educational aspect. The floating seminars for young people are certainly "an intimation of the boat's potential as an on-moving educational resource," bringing young people together to exchange ideas. The *Delta Queen* stands for much more than nostalgia. I support H.R. 5649 so that the last paddlewheeler can continue to be a source of education as well as history for years to come.

Mr. Speaker, I include in the RECORD the following for the review of my colleagues:

SAVING THE LAST PADDLEWHEELER

(By William Marlin)

Somewhere up the darkened Mississippi from the New Orleans levee, paddlewheeler boatmen would drop a line and shout, "Mark Twain!" Hearing it, a captain would adjust course toward more dependable depths. A hand named Samuel Clemens would adjust his toward literary greatness. And an expansive era of American history would take soundings of its own.

Plying out of that period, and into our own, only one paddlewheeler remains—the 285-ft. Delta Queen. To the chagrin of many who relish a revival of leisure-time river traffic, she may be scuttled if the National Trust for Historic Preservation and allied groups do not get their way in Congress.

The Mississippi is federal water, which means the Delta Queen comes under the safety at sea law—the measures of which her owners, the Greene Line steamers, have successfully met.

But even with safety improvements, the existing congressional exemption from the law will run out on Nov. 1, and the boat's backers are seeking a five-year extension.

Fortunately, the extension may "float," so to speak. But the question of an extension, however much it is to be prized, may be detracting attention from the central issue. This is the Delta Queen's long-term survival as a roving ambassador of American history, tying up at various cities and towns along the nation's major river system.

Last spring, for example, members of the national trust used the Delta Queen for a week-long cruise which included educational programs for 25 young people between 9 and 16. Just as important as the floating seminars and discussions, however, were the meetings which occurred on the levees, or on visits to various landlocked landmarks en-route. That kind of elbow-rubbing between people, and between the present and past, came through as cheerfully as the Delta Queen's calliope—an intimation of the boat's potential as an on-moving educational resource.

There are a number of pending bills which would prevent her hitting bottom next November. H.R. 5649 was introduced last March by Rep. Leonor K. Sullivan (D) of Missouri, who is chairman of the House Committee on Merchant Marine and Fisheries. Mrs. Sullivan's measure would exempt the Delta Queen until Nov. 1, 1978—five years to bide time, finish building a second, spanking new Delta Queen (now in construction), and find a way to keep the original for good.

A bill introduced by Sen. Robert Taft (R) of Ohio, in April, is similar to the Sullivan measure; his S. 1625 awaits hearings before the Senate Commerce Committee. During testimony late last May before Representative Sullivan's committee, Coast Guard officials insisted that the Delta Queen is unsafe, even though later testimony confirmed that she is regularly inspected. Evidence of crew competence (75 hands) and safety precautions was presented.

So was evidence of ardent public support for the boat's new lease on life. In light of this, the Coast Guard might do well to scrub its decks of some of the legal barnacles of the safety at sea law. Modern-day techniques allow a boat like the Delta Queen to be perfectly safe—despite the law. Properly maintained and inspected, and equipped with up-to-date navigational devices, there is no reason why this venerable vessel should have to bow out of the American scene.

It is not for nostalgia that the Congress should pass favorably on the pending measures. The preservation and operation of the Delta Queen pertain to a very real need—that of education, the exchange of ideas in a setting which is both physical and symbolic. It is to be hoped that the Delta Queen would help us landlubbers gain a greater sense of history, of each other. Those arc lights on her bridge might just illuminate more than the shore.

IRA L. GREENHUT TO RETIRE FROM 82D DIVISION ASSOCIATION

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 17, 1973

Mr. TALMADGE. Mr. President, the 82d Division Association was formed to serve as a means of communication among veterans who served in one of our most outstanding military units during World Wars I and II.

These men distinguished themselves in times of great national need. Often when a person leaves the armed services, he loses touch with many close friends, but because of the association, the 82d Division remains unified and in contact.

One man in particular has worked long and hard, for 20 years, at maintaining a bond of friendship among the division's veterans. Ira I. Greenhut has given voice to their postservice activities as editor of the association's All American News, and is now retiring from those duties.

Mr. Greenhut has done an excellent job, working without salary and promoting the finest ideals of Americanism. A man of distinguished background, he attended New York Law School and graduated in the class of 1918. For 54 years, he has been a member of the Lexington, Ky., McKee Post of the Veterans of Foreign Wars. He also is a member of the Order of Lafayette. Now he has completed two decades of outstanding work for the 82d Division Association, and his presence there will be sorely missed by all members and readers. I pay tribute to his diligent, good work and I wish him well in whatever he next undertakes.

Mr. President, I ask unanimous consent that my comments be printed in the Extensions of Remarks.

SAINT EARL'S EPISTLES TO THE CONSUMERS

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. BRASCO. Mr. Speaker, Agriculture Secretary Earl L. Butz has blamed consumers for the administraton's recent price freeze. Speaking before young civic leaders at Kenansville, N.C., he contended that consumers with more spending money are causing soaring food costs, which in turn mandated the freeze.

According to him, even though consumers are to blame, they do not realize the enormity of their deeds. It seems we dare to blame the administration and bankrupt farm polices for the present catastrophic state of affairs. He places the blame where it belongs; on the American consumer.

How dare we insist on eating meat, thereby hiking ground beef prices to $1.27 per pound? How could America's shoppers be so dense as to drive the price of lettuce to 70 cents per head by insisting on green salads? For shame. A massive act of public contrition is in order.

The Secretary should be singled out for praise for calling attention to this outrageous situation. Nor is this the first time he has spoken out in such a manner. Remember when meat boycotts started, and he claimed consumers were to blame for meat prices?

Such wisdom, courage, and perspicacity must be recognized and rewarded. Butz should be accorded a place in history alongside other government immortals, such as Calvin Coolidge, who said:

> The business of America—is business.

If thumping non sequiturs do not move you, then perhaps we might refer to Commodore Vanderbilt's immortal words, akin to Butz' latest:

> The public? The public be damned.

Let us not forget Marie Antoinette, of revered memory, who, in the same spirit, when informed that her subjects were hungry and lacked bread, piped up:

> Then let them eat cake.

However, insofar as Butz is concerned, it may best be summed up by a memorable cartoon of Anthony Comstock standing before a scowling judge, holding a terrified young woman by the scruff of her neck. He is saying, in high dudgeon:

> Your honor, this shameless woman dared to give birth to a naked child.

They all fit like the proverbial glove. So let us be thankful for his fleeting presence, to remind us of how unworthy we are of him.

ACLU BRINGS FORCED STERILIZATION SUIT IN NORTH CAROLINA

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Ms. ABZUG. Mr. Speaker, in the shadow of the highly publicized Relf sterilization case are countless anonymous instances whereby poor black women became helpless victims of forced sterilization procedures. Horrified by such unlawful brutality, I joined several groups across the Nation in demanding a prohibition against the sterilization of minors. In addition, I voiced the need for more stringent regulations governing the sterilization of retarded persons. I hope that within the next 2 days, Health, Education, and Welfare Secretary Caspar Weinberger will present the safe and equitable guidelines which he promised upon temporarily suspending sterilization funds recently.

The flagrant abuse of current sterilization law is graphically demonstrated by the case of Nial Ruth Cox of North Carolina. The American Civil Liberties Union has recently brought a class action suit challenging a State statute providing for sterilization of mentally defective persons. ACLU lawyers seek a declaratory judgment that the statute is unconstitutional as well as $1 million in damages for the physical and emotional injury suffered by Nial Ruth Cox as a result of the sterilization operation.

Following is an ACLU statement describing Ms. Cox' case:

> Nial Ruth Cox, a black woman, was 18 at the time of the operation, a minor under North Carolina law. Neither she nor her mother understood the nature of the operation performed on her. She is not, and never has been, mentally defective, despite an assertion by the doctor who performed the operation that she was an "18 year old mentally deficient Negro girl." Nial Ruth's mother, Devora Cox, under threat of removal from the welfare rolls of her entire family, "consented" to what she was told was a *temporary* tying of her daughter's tubes. There are no procedural safeguards in North Carolina to prevent the sterilization of minors if a parent or guardian gives consent. "Consent" in this case was to a temporary procedure—

under coercion—which was not explained to, or understood by, either Nial Ruth Cox or her mother. Neither plaintiff nor her mother was accorded at any other time an opportunity to question the proceedings. ACLU lawyer, Brenda Feigen Fasteau, Coordinator of the Women's Rights Project, contends that plaintiff Nial Ruth Cox has been "deprived of substantive and procedural due process and equal protection of the laws, that her privacy has been invaded, that the statute providing for the sterilization of 'persons mentally defective' is impermissibly vague and that Nial Ruth Cox has been the victim of cruel and unusual punishment. This sterilization operation undoubtedly occurred because the plaintiff is a black woman, who at the time of the operation was a minor and a member of a welfare family," Ms. Fasteau observes.

Plaintiff Nial Ruth Cox describes what happened to her as follows: "I was living with my mother and eight sisters and brothers. My father, who was married to my mother until I was six, is dead. My family was on welfare, but payments had stopped for me because I was eighteen. We had no hot or cold running water, only pump water. No stove. No refrigerator, no electric lights. It got cold down there in the winter. I got pregnant when I was 17. I didn't know anything about birth control or abortion. When the welfare caseworker found out I was pregnant, she told my mother that if we wanted to keep getting welfare, I'd have to have my tubes tied—temporarily. Nobody explained anything to me before the operation. Later on, after the operation, I saw the doctor and I asked him if I could have another baby. He said that I had nothing to worry about, that, of course, I could have more kids. I know now that I was sterilized because I was from a welfare family."

PRESIDENTIAL AIDE ILLEGALLY HOLDS TWO JOBS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. ASPIN. Mr. Speaker, although it is illegal to serve as an active duty general and a White House aide at the same time, Presidential assistant, Alexander Haig is staying in the Army until August 1 in order to boost his retirement pay by more than $3,300 per year.

August 1 is the first day that General Haig can retire and receive a full general's retirement pay of $24,403.

Mr. Speaker, Haig's decision to stay on illegally until August 1 to boost his annual retirement pay by more than $3,300 is one of the chintziest deals I have ever heard of.

The General Accounting Office has already ruled that Haig is illegally serving in a civilian office while continuing on active duty. But, for General Haig an extra $3,300 of booty in his own pocket is more important than obeying the law. General Haig is obviously willing to break the law rather than lose a little retirement pay.

Mr. Speaker, Haig's insistence on staying in the service until August 1 is a sleazy deal designed to lap up a few extra monetary goodies.

As my colleagues know, Haig was appointed as a replacement for H. R. (Bob) Haldeman by the President on May 4, 1973. On June 6, 1973 the White House announced that Haig would retire from the Army on August 1.

Mr. Speaker, General Haig should have resigned his commission immediately after his appointment as a White House aide even if he would lose a little retirement pay.

Mr. Speaker, I am also concerned about the unwillingness of Attorney General Elliot Richardson to enforce the GAO's ruling that Haig was illegally serving at the White House.

It is incredible that this administration continues to condone flagrant lawbreaking by White House officials. Mr. Richardson should put a halt to this illegal money grabbing scheme immediately by enforcing Comptroller General Elmer Staats' ruling which held that Haig could not hold both jobs.

We have in this Nation a strong tradition of civilian control over the military. General Haig's continued service as an active duty officer while occupying the position of Assistant to the President undermines and erodes that basic principle that the military is subject to civilian control. We are setting a very bad precedent that may be repeated in the future to the detriment of civilian control over the military and ultimately affect the vigor of our democratic institutions.

FRINGE BENEFIT ADOPTION

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. HOGAN. Mr. Speaker, in recent years adoptions have increased in number to the point where there is now a long wait before one can adopt a child. This has been true in spite of the fact that private industry and government have refused to grant to adoptive parents the same fringe benefits it gives natural parents. I certainly believe that the adoptive parents should be given these benefits so that they too, can have the time to adjust to the new situation and bring their child up in a natural atmosphere.

On July 9 and 10, WRC-TV editorialized on this issue and I would like to share that editorial with my colleagues:

FRINGE BENEFIT ADOPTION

An innovative, equitable and eminently fair approach to the high cost of adoption has come to our attention. We'd like to pass it along.

For years, industry and government have subsidized biological, natural parenthood. This has been done by many health insurance plans paying for almost all pre and post natal costs and hospital expenses. In addition the natural mother, in most cases, is given a leave of absence from her job for anywhere from several weeks to six months to recover and get to know her child.

In our opinion the family who chooses to adopt a child should receive some of these same benefits.

Adoption costs are high, oftentimes too high for the low to middle income family, and surely an adoptive family needs the same amount of time as a natural family to get to know their new child.

What makes this idea all the more alluring is that there are many hundreds of children waiting to be adopted, especially the older, handicapped or minority child, who might be placed in a loving permanent home more easily if the inital costs were paid.

We also favor subsidized adoption by the states for low income families who are willing to take into their homes hard to place children.

Company insurance plans are set up to serve employee disabilities of one form or another. The great majority of families who choose to adopt cannot have children of their own. That is certainly a major disability.

Industry, and in Washington, government, could aid both its employees and the community by granting to adoptive parents the same fringe benefits it gives natural parents.

INFLATION: A WORLDWIDE DISASTER

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. YOUNG of Georgia. Mr. Speaker, everywhere in the United States, inflation has become the No. 1 economic and social problem. All sections of our people are being hurt, but the deepest hurts are felt by the tens of millions who are least able to defend themselves—our senior citizens, minorities, unemployed, sick, the young, the majority of industrial workers, managers, and so forth. Only the speculators and sharpsters profit at the expense of others, while our entire society and its Government reel under the strong blows of inflation. Leaders in public and private life at every level are rightfully deeply worried.

For this reason, I am particularly pleased to bring to the attention of my colleagues a new, highly original and most timely book, "Inflation: A World-Wide Disaster." It is written by the eminent economist of international repute, Dr. Irving S. Friedman. I have just read this book with great interest and profit. It is lucidly written and, in addition, is the most readable economics book that I know of.

The author draws on many years of firsthand experience in dealing with the economic problems of countries throughout the world as a senior official of the U.S. Treasury, the International Monetary Fund and the World Bank. His careful examination of our present-day inflation has led him to conclude that it is not merely a U.S. problem but it is rather a worldwide epidemic generating economic and social dislocations on a global scale. Every day we read accounts of events which repeatedly confirm the accuracy and wisdom of the analyses and prognostications set forth in "Inflation: A World-Wide Disaster."

The author explains that in the past the experiences of inflation were generally local and temporary. He analyzes why the policies followed by governments since World War II have resulted in continuing inflation which has had much more destructive consequences than temporary inflation and further why the elimination of persistent inflation requires different solutions from those traditionally used to eliminate temporary inflation. Friedman stresses that many of our political and social problems such as the public's weakening confidence in government, urban decay, and increasing crime are intensified by the effects of persistent global inflation. He discusses the deep social and political roots of inflation and urges that these social and political roots and the pervasive and harmful effects of inflation be realistically appraised in order to find successful solutions to the overcoming of persistent inflation.

Dr. Friedman explains how modern objectives to which our country is deeply committed can be reconciled with the achievement of noninflationary conditions if nations will undertake some hard-headed changes in their priorities and practices. Indeed, he argues convincingly that the achievement of desirable modern objectives are gravely endangered as well as made more difficult by our failure to eliminate persistent inflation and the expectations of continuing inflation which have now become worldwide. Thus, the author is not a doomsday prophet but is deeply convinced that we have no alternative but to face up to the problem of persistent inflation and take the decisions needed to create an environment in which we can hope to do that which we agree is necessary and desirable. I commend this book to all concerned with the all-important problems of inflation.

SEWAGE TREATMENT

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. EILBERG. Mr. Speaker, the water department of the city of Philadelphia continues to be a leader in the development of new methods for sewage treatment.

A new technique for the removal of pollution from our waters is under study by the water department.

At this time I enter into the RECORD an article released by the city of Philadelphia on its new method of water pollution control:

SEWAGE TREATMENT

A new type of rotating disc offers hope of cleaner streams, Water Commissioner Carmen F. Guarino said today.

Guarino said that 80 visiting engineers will watch a set of polyethylene discs in action at the Northeast Water Pollution Control Plant on Wednesday evening. The long roller-like discs, which revolve in sewage, have been under study by the Water Department for four months.

The visiting engineers, representing the Philadelphia section of the American Society of Civil Engineers, will see a film and slides and then visit the site of the pilot study. Michael D. Nelson, acting chief of water pollution control, will speak to the group.

Although the pilot study is on a small scale, Guarino said that the discs were being evaluated for possible incorporation on a large scale in new sewage plants which the Water Department will build in the next three years. The pilot study shows that the discs can remove more than 90% of biochemical oxygen demand (a rough measure of pollution) from sewage. At present the city's plants remove a combined average of 55%.

As the discs rotate, they pick up a film of sewage on which aerobic bacteria grow. These bacteria break down the wastes in the tank, converting them to carbon dioxide and water. They also convert sewage ammonia to nitrate.

Guarino said that the discs, technically called "bio-surf", represent the latest in a series of experiments by the Water Dept. with new methods for treating sewage. He said that his department is looking for the most effective methods for incorporation into its future sewage plant.

NATIONAL APPRENTICESHIP WEEK

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. STEELE. Mr. Speaker, Daniel Webster said that:

> Labor is one of the great elements of society—the great substantial interest on which we all stand.

I would add that time has only increased the validity of Mr. Webster's sentiment; and along with this, the increased need for skilled tradesmen has proven a thousand times over the need for recognition, continuation, and expansion of the vital apprenticeship programs throughout the Nation.

I am today introducing legislation as a tribute to apprentice training and to the essential role which that training plays in our society and economy. This legislation calls for the establishment of a National Apprenticeship Week to be designated on the first week to begin on the first Sunday of September of each year. This legislation is, however, more than a tribute. By establishing a permanent National Apprenticeship Week we would establish a permanent reminder of over 300 apprenticeable occupations which touch our lives and serve our communities each day.

Apprenticeship has evolved from indentureship existing in the early days of our country to play a vital role in replenishing and expanding our increasingly sophisticated production force today. Those skilled craftsmen and women emerging from the competitive and rigorous work involved in completing a 2- to 4-year training program become our small independent businessmen, our public employees, our industrial workers, and our labor leaders. Their role is central in keeping our country moving and deserves our recognition and encouragement.

I ask you to review the following partial list of specialized occupations made available through apprenticeship programs conducted by cooperation between labor, management, schools, and the Government—and accordingly, urge your support of National Apprenticeship Week:

FAMILIAR APPRENTICEABLE OCCUPATIONS

Aircraft fabricator.
Airplane mechanic.
Arborist.
Asbestos worker.
Automotive body repairman.
Automotive mechanic.
Baker.
Barber.
Blacksmith.
Boilermaker.
Bookbinder.
Brewer.
Bricklayer.
Butcher-meat cutter.
Cabinetmaker-millman.
Candy maker.
Canvas worker.
Carman.
Carpenter.
Cement mason.
Cook.
Cosmetician.
Dairy products maker.
Draftsman-designer.
Electrical worker.
Electroplater.
Electrotyper.
Engraver.
Fabric cutter.
Farm-equipment mechanic.
Floor coverer.
Foundryman.
Furrier.
Glazier-glass worker.
Heat treater.
Ironworker.
Jeweler.
Lather.
Leadburner.
Leatherworker.
Lithographer.
Machinist.
Mailer.
Maintenance mechanic repairman.
Metal polisher and buffer.
Millwright.
Model maker.
Musical instrument mechanic.
Operating engineer.
Optical technician.
Orthopedic prosthetic technician.
Painter-decorator.
Patternmaker.
Photoengraver.
Photographer.
Plasterer.
Plate printer.
Plumber-pipe fitter.
Printer.
Printing pressman.
Rigger.
Roofer.
Rotogravure engraver.
Sheetmetal worker.
Sign, scene, and pictorial artist.
Silversmith.
Stationary engineer.
Stereotyper.
Stoneworker.
Stonemason.
Tailor.
Telephone worker.
Textile technician.
Tile setter.
Tool and die maker.
Upholsterer.
Wallpaper craftsman.
Wire weaver.

JAMES V. SMITH

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. DUNCAN. Mr. Speaker, I would like to join my colleagues in expressing my sympathy to the family and friends of James V. Smith, who died in a tragic accident on June 23 in Oklahoma. Many of us became familiar with Jim's dedication and leadership when he served in the 90th Congress as Representative from the Sixth District of Oklahoma. Jim continued to use his talents in public service as Administrator of the Farmers Home Administration, a position which he held until January of this year.

I am sure that I speak for all of my colleagues when I say that Jim Smith was an outstanding public servant who will be greatly missed by those whose admiration and respect he so justly earned.

WHAT THE PRESIDENT SHOULD HAVE DONE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. KEMP. Mr. Speaker, I believe the phase 3½ controls which have caused such havoc in the marketplace are a tragic mistake and I have strongly urged that the President immediately put an end to the present freeze.

Controls treat the symptoms rather than the causes of inflation, and, as we are already seeing, controls create shortages of goods. Supermarket owners are expressing concern over the unavailability of foods such as tomatoes, celery, potatoes, apples, vegetable oil, and eggs; virtually all the same supermarket chains are finding poultry and pork suppliers limiting them from 75 to 20 percent of the amounts ordered. Clarence G. Adamy, president of the National Association of Food Chains, reported last Friday that—

> We have received a number of wires from . . . members warning of serious shortages of fresh and processed pork products such as bacon, along with poultry, in most parts of the country . . .

As I have continually stressed, only one thing causes inflation, high prices and the spiraling cost of food and that is unsound fiscal and monetary policy. Government's own policy of running huge budgetary deficits and continuously increasing the supply of credit and paper money has brought about the inflation which is plaguing us today.

History shows that controls only conceal rather than solve inflation. Controls are unfair in their application and are difficult to administer. They play havoc with our economy and bring shortages, rationing, and eventually a black market. Inflation can be cured and prices brought under control only if the fiscal fat is cut out of the Federal budget and the increase in the supply of paper money and credit is restrained.

Mr. Speaker, the brilliant economist, Milton Friedman, has included in his Newsweek column of July 16, an abbreviated draft of the speech which he suggests that President Nixon should have given on June 13 concerning the price freeze. I wish to associate myself with Milton Friedman's remarks and I strongly recommend his column to the attention of my colleagues:

WHAT THE PRESIDENT SHOULD HAVE DONE

(By Milton Friedman)

(As a severe critic of the new price freeze, I have repeatedly been asked, "What should the President have done instead?" Herewith is an abbreviated draft of the talk that I wish he had given instead of the one that he did give on June 13. The quoted passages are from his actual talk.)

"In August 1971, I announced the New Economic Policy," in which, against my better judgment, I imposed a 90-day freeze on prices and wages to be followed by more flexible controls.

Ever since my Inauguration, I had been trying to avoid such controls. Again and again, I had warned the American people that controls threaten our freedom and our prosperity. But when inflation proved unexpectedly stubborn, a consensus developed among legislators in both parties, among businessmen, and among citizens at large, in favor of controls. Reluctantly, I yielded to this consensus.

Twenty-two months later, it is clear that controls have been an utter failure. Prices are now rising more than twice as fast as in early 1971. We can now see that controls only concealed inflation; they did not eliminate inflation. As soon as phase two was eased, controlled prices bounded forward, joining the rapidly rising prices of uncontrolled foods.

What should we do now? One thing we are not going to do: "put the American economy in a straitjacket. We are not going to follow the advice of those who have proposed actions that would lead eventually to a permanent system of price and wage controls. Such actions would bring good headlines tomorrow and bad headaches six months from now for every American family."

We must tackle the basic causes of inflation: ever-rising government spending financed by the erection of money. These are the flames that have caused the economic pot to boil. We must turn them down, not simply put a heavier brick on top of the pot.

Accordingly, I am today asking Congress to enact an emergency across-the-board reduction of 5 per cent in every item of government spending that is not mandated by contractual arrangements already entered into. I am today requesting the independent Federal Reserve System to hold the growth in the quantity of money to not more than 5 per cent a year for the next two years. I am today abolishing all controls over prices, wages, interest rates, dividends and rents that were imposed under phase three and its predecessors.

These measures will simultaneously turn down the heat and remove the brick from the pot. They will set free the unrivaled energies of our citizens cooperating through a free market.

Once inflation has gotten the start it has here, there is simply no way to stop it without some hardship, without at least a temporary slowdown in the economy while prices and wages are adapting to the new realities. To make certain that the burden does not fall on those least able to bear it, I am today asking Secretaries Weinberger and Brennan to survey our unemployment-insurance and welfare programs to assure that no family suffers acute distress because of the necessary economic adjustment. The adjustment will be far less painful if we take these measures today than if we let the inflationary virus grow by what it feeds on, or seek to suppress it by more rigid controls.

"Let there be no mistake: if our economy is to remain dynamic, we must never slip into the temptation of imagining that in the long run controls can substitute for a free economy or permit us to escape the need for discipline in fiscal and monetary policy. We must not let controls become a narcotic—and we must not become addicted . . .

"Today, in America, we have a magnificent opportunity. We hold the future—our future—in our own hands. By standing together, by working together, by joining in bold yet sensible policies to meet our temporary problems without sacrificing our lasting strength, we can achieve what America has not had since President Eisenhower was in this office: full prosperity without war and without inflation. This is a great goal, and a goal that together we can reach."

This hypothetical talk reflects President Nixon's basic principles far better than the talk he did give. More tragically, it also responds far better to the nation's true need.

We shall come to this policy in the end, but only after much needless travail, only after the narcotic of controls has permanently weakened the foundations of this great nation.

PROTECTION OF POLAR BEARS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. FRASER. Mr. Speaker, I have received from the State Department a reply to an inquiry I made about action being taken to protect the polar bear.

The letter informs me that plans are moving forward for the circumpolar nations to sign an interim agreement providing for a moratorium on the killing of polar bears on the high seas. The U.S. negotiating position originally included a provision calling for a convention protecting polar bears both on the high seas and in national territories; however the draft interim agreement accepted by the circumpolar nations did not include this provision.

The United States is now seeking the incorporation of a provision in the interim agreement which would call for the negotiation of a full treaty at some future date to protect the polar bear both on the high seas and within national territories.

I have asked the State Department to report to me again after the interim agreement has been signed. I am placing in the RECORD at this point the recent exchange of letters I have had with the State Department on this subject:

JUNE 5, 1973.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: An international moratorium on the killing of polar bears on the high seas was the subject of House Joint Resolution 1268, passed by the House last September. The Senate passed the resolution, in modified form, in October. I am writing today to request a report from the Department on the action taken since then on this subject in our government and in the international community.

I am interested in a general account of what progress has been made through negotiations for an international agreement pursuant to the provisions of House Joint Resolution 1268. Specifically, the following questions come to mind: 1. Has the United States expressed support for a ban on killing on landed territory in our communications with the other four circumpolar nations? 2. What are the attitudes of other countries toward a ban on killing on landed territory as well as on pack ice? 3. What exceptions from the moratorium on killing are now included in the draft Interim Agreement and what is the estimated total kill per year under these exceptions? 4. After the Interim Agreement has been signed, what plans are there for negotiation of a full treaty later and what additional provisions will the United States seek which differ from those in the Interim Agreement?

Could you also explain why the polar bear was not included in Appendix I of the Convention of International Trade in Endangered Species?

I understand that the present negotiating schedule aims for a conference sometime this fall at which the Interim Agreement would be signed. I would be most grateful if at the conclusion of that conference the Department would furnish me with a report on its outcome. I will appreciate any assistance you can give me in this matter.

Sincerely yours,

DONALD M. FRASER,
Chairman, Subcommittee on International Organizations and Movements.

DEPARTMENT OF STATE,
Washington, D.C., July 12, 1973.

Hon. DONALD M. FRASER,
Chairman, Subcommittee on International Organizations and Movements, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of June 5, 1973, in regard to an international moratorium on the killing of polar bears on the high seas.

As you know, the International Union for the Conservation of Nature and Natural Resources (I.U.C.N.) in September, 1972, circulated to the United States and the other four circumpolar nations a draft interim agreement providing for a moratorium on the killing of polar bears on the high seas, including the area of the circumpolar pack ice, except in accordance with the traditional rights of local people who depend on that resource. The U.S. took the lead in responding and proposed a few modifications. The I.U.C.N. in turn recirculated the agreement as modified by the U.S. proposals. Norway and Canada have responded with their comments on the modified draft. The Canadian comments are tentative since they have not yet received the clearance from the provinces which are required under the Canadian constitution.

Norway on June 13 invited the U.S. and the other three concerned nations to attend a meeting of technical experts to conclude the agreement. Our formal reply, which will be affirmative, is being held temporarily while the Norwegians clarify whether they wish to have the agreement signed by the experts at the meeting or by diplomatic representatives shortly thereafter.

Regarding your specific questions: Question 1: The United States in its proposed changes to the I.U.C.N. draft suggested the inclusion of a section calling for the negotiation of a convention protecting polar bear populations both on the high seas and in national territories. Question 2: The Soviet Union banned polar bear hunting in 1956, but no other nation has taken a similar position. Question 3: The exceptions allowed under the draft interim agreement, as currently amended by the U.S., Canadian and Norwegian suggestions, would allow the hunting, killing and capture of polar bears for a) scientific purposes, b) as a continuation of the traditional hunting rights of local people, c) and for the protection of human life or property.

The necessary scientific data is not available for estimating what the total kill would be under these exceptions. However, the agreement would almost completely stop sport hunting of polar bears in the U.S. where virtually all the bears are on the pack ice, severely curtail it in Greenland and Norway where most of the bears are on the pack ice, but have little effect in Canada where the bear hunting is largely conducted on the land. Of course, hunting by natives, which is probably responsible for killing the most bears, would not be affected by the agreement.

Question 4: As stated above, the U.S. wishes the interim agreement to incorporate a provision which would call for the negotiation of a treaty to lend protection to the polar bear both on the high seas and within national territories.

The Department of Interior specialists believed that the polar bear only qualified for protection under Appendix II on which it was finally placed. Some countries believed it did not qualify for inclusion on that appendix.

I trust this information has been responsive to your inquiry. However, if you have any further questions please let us know.

Sincerely yours,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

TRIBUTE TO MERVYN LEROY

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. REES. Mr. Speaker, as a Californian I have on several past occasions, with great pride, saluted various persons who have contributed to the greatness of our motion picture industry—an industry which has provided enjoyment for countless billions of people throughout the world.

Recently I found myself again viewing, and again enjoying, the motion picture "The Wizard of Oz," which was produced by a neighbor of mine in California, Mr. Mervyn LeRoy. I would like to spend a few minutes today calling to your attention the achievements of this remarkable man, who can truly be termed one of the giants of his industry.

Mr. LeRoy—as a director and as a producer—has given the screen some of its most unforgettable masterpieces—such films as "Little Caesar," "I Am a Fugitive From a Chain Gang," "Tugboat Annie," "Gold Diggers of 1933," "Anthony Adverse," "Five Star Final," "Quo Vadis," "The Wizard of Oz," "Madame Curie," "Little Women," "Mister Roberts," "Thirty Seconds Over Tokyo," "The Bad Seed," and "Gypsy," to name but a few of his 75 motion pictures.

His talent and his good taste have enriched all of our lives. Many of his films are considered among the greatest ever made.

Mervyn LeRoy is, however, much more than an accomplished director and producer. He is a bold and courageous innovator; a humanitarian who has sought to inform as he also entertains; to illumine even as he has explored some of the social ills of the turbulent decades in which he has worked.

Mr. LeRoy is a starmaker, having discovered, nurtured, and brought to full bloom such talents as Edward G. Robinson, Paul Muni, Robert Taylor, Judy Garland, Lana Turner, Greer Garson, and many more.

In a career that has spanned more than 40 years, this gentleman has been a credit to his industry, his Nation, and to the city in which he works and lives. His efforts have earned many awards from his peers and from other persons and nations. He has been honored with the Star of Italy from the Italian Government, the Victoire du Cinema Francais Award from France, the Christopher Award, the Foreign Press Association's Cecil B. DeMille Award, the World Brotherhood Award of the National Conference of Christians and Jews, the B'nai B'rith's Man of the Year Award, several Academy Award nominations, and a special Oscar for "The House I Live In," as well as innumerable other citations for work well done.

Mervyn LeRoy directed his first film in 1928. During his early years in Hollywood it was not at all unusual for him to direct as many as seven pictures in a year. His passion for Hollywood and for hard work were paramount in his rise to prominence.

He is a native Californian, born in San Francisco, who has worked in Hollywood most of his adult life. His father died when Mervyn was 10 years old, and the youngster soon thereafter got his first job in the theater. He toured in vaudeville, then acted in silent films. Finally, he was given the opportunity to direct a picture, "No Place To Go," and the die was cast. Directing and producing became his life.

If Mervyn LeRoy had never produced any other film except "The Wizard of Oz," his name would still be assured of a unique place in screen history. A film that appeals to the child in all of us, that picture will be playing to audiences longer than any of us will remain on Earth. Mr. LeRoy has said that it was necessary to have the heart and mind of a youngster to make that film. He has them—in all their beautiful purity and idealism.

Jack L. Warner, himself a titan in the motion picture industry and a man for whom Mervyn directed some of his big hits, has said that LeRoy, more than any other director who worked for Warner Bros., helped shape the history of that company.

Mervyn LeRoy has long been a champion of social reform, evidenced by such early pictures as "I Am a Fugitive From a Chain Gang," which was an attack against the maltreatment of prison inmates; "They Won't Forget," the film that introduced Lana Turner to the screen, but which is also memorable for its attack on the principle of the lynch law; "Blossoms in the Dust," a treatise against the labeling of children as illegitimate; and "The House I Live In," a documentary film which pleads for brotherhood.

Mr. LeRoy is, in addition to all else, a humanitarian, known for his personal philanthropies and his constant readiness to aid a worthy cause. His intimates are also aware of his numerous unpublicized acts of kindness and help to his fellowman.

He is also a sportsman, in the finest tradition of that word. As president of Hollywood Park he labors tirelessly to bring added prestige to the sport of kings, and enjoyment to those who love horses.

Mervyn LeRoy has filled his life with achievement and with honor, and it is my pleasure to salute him today.

NATIONAL TAY-SACHS DISEASE CONTROL ACT

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. FREY. Mr. Speaker, I am today introducing the National Tay-Sachs Disease Control Act in an effort to reduce the numbers of Jewish children who die each year with Tay-Sachs disease.

This disease strikes 25 percent of the offspring of Jewish parents who carry the abnormal gene responsible for the disease.

The death is a horrible one.

Often not detected until the fourth or fifth month of life, the disease attacks the infant's coordination and mental capacity and the infant begins to waste away.

Three or 4 years later, the retarded and blind child, unable to eat, smile, turn over, or show any other signs of emotion, dies.

While there is no known cure for Tay-Sachs, often referred to as the "Jewish disease," there have been sufficient breakthroughs in research which enable us to detect carriers of the gene.

I propose, through my amendment to the Public Health Service Act, that Congress act promptly in appropriating $3 million for research, detection, and screening. The legislation also authorizes counseling of those found to carry the genes responsible for Tay-Sachs.

Tay-Sachs is an inherited disorder caused by an absence of a vital enzyme in the body and resulting in the destruction of the nervous system. The disease is transmitted as an autosomal recessive trait and is invariably fatal.

It is estimated that there are between 175 and 250 cases of Tay-Sachs disease each year in this country.

The disorder occurs 100 times more often in Ashkenazi Jews than in non-Jews, and in this group—which constitutes 90 percent of the U.S. Jewish population—it is believed that one out of every 30 persons is a Tay-Sachs carrier.

Current interest in Tay-Sachs stems from the fact that although the disease is incurable, recent advances in research have made the disorder detectable before birth.

There are three main reasons why Tay-Sachs disease is very conducive to mass screening programs:

First, it affects a definite population group;

Second, its carriers can be identified by a simple blood test which measures the presence or absence of a crucial enzyme; and

Third, an affected fetus can be detected in the uterus, through a process by which a small amount of fluid around the unborn child is removed.

The idea in the screening programs is to detect the hidden gene which is responsible for the disease. The normal gene produces an enzyme called hexosaminidase A, or hex A, which breaks down fatty material in nerve cells. When this enzyme is absent, fatty material begins to accumulate in the nerve cells, eventually destroying them and leading to the progressive deterioration of the nervous system.

There is no treatment for the disease.

The only hope lies in screening programs to identify carriers of the disease.

The first pilot program for screening Tay-Sachs carriers was carried out by the John F. Kennedy Institute of the Johns Hopkins University under the direction of Dr. Michael Kaback.

It was designed not only to do large-scale blood sampling, but also to offer genetic counseling to those couples who were identified as Tay-Sachs carriers. The total cost of the Baltimore-Washington pilot program was estimated around $100,000.

According to the National Tay-Sachs and Allied Diseases Association there are currently only 14 screening programs being conducted in major cities in this country and these are privately funded.

If the screening programs for Tay-Sachs are successful, they will hopefully serve as prototypes for the detection and prevention of other genetic disorders, including sickle cell anemia—an inherited disorder specific to the black population which attacks one chlid in every 400 black births—and cystic fibrosis—a genetic disease carried by about one in 20 Americans of northern European ancestry.

According to the National Institute of Neurological Diseases and Stroke, there is now no specific funding level provided for Tay-Sachs disease through the National Institutes of Health.

Mr. Speaker, I ask my colleagues to give consideration to enactment of this bill, a very necessary step in the direction of detecting, and perhaps ultimately eliminating, this dread disease which preys on the Jewish population.

TROOPS ARE BARGAINING CHIP

HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. THOMSON of Wisconsin. Mr. Speaker, my friend and colleague, the gentleman from Wisconsin (Mr. ZABLOCKI) recently chaired joint hearings of the full Foreign Affairs Committee on the question of unilateral withdrawal of American troops from Europe. During the course of those hearings, Mr. ZABLOCKI made his opposition to such a unilateral withdrawal abundantly clear. I concur with his views and would commend his rationale to other Members of the Congress.

Recently, the Milwaukee Journal editorially took note of the gentlemen's position and endorsed it. Considering the general editorial policy of the Journal, I believe the newspaper's comments of July 13 are particularly pertinent.

The newspaper article follows:

TROOPS ARE BARGAINING CHIP

Wisconsin Rep. Zablocki's House subcommittee is holding hearings on the question whether to unilaterally withdraw American troops from Europe. Zablocki has made it clear that he opposes such a move. It is hoped that the subcommittee will reach the same collective decision.

Zablocki believes that this is not an auspicious time to bring US forces home. He is correct. Formal negotiations with the Soviet bloc on mutual reduction of forces are scheduled to begin this fall in Vienna. Why should the Russians negotiate if the US unilaterally undertakes what the Kremlin would like to see—a lessening of American military strength in Europe?

In the opening of the closely related Helsinki negotiations on European security, the Soviet Union let it be known that it had no intention of giving anything away in Eastern Europe. Moscow acknowledged the Western aim of more East-West contact, but stated its priorities in terms of "institutions, organizations and people." Such a listing indicates that contacts would be closely controlled, with individual contacts receiving little more than lip service approval. Nor did the Russians rule out repeating of the 1968 invasion of Czechoslovakia. Under such circumstances the West needs every tool it has to bargain. The presence of US troops in Europe is an essential one.

H.R. 8949 AND H.R. 9048

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mrs. HOLT. Mr. Speaker, generally bills which come to the floor under suspension of the rules are noncontroversial pieces of legislation of little import. Today, however, we will consider two bills, H.R. 8949 and H.R. 9048, which are extremely important to our Nation's veterans and which I feel deserve some comments.

The elimination of the interest rate ceiling on VA guaranteed or insured loans through the enactment of H.R. 8949 is a matter of pressing urgency. The expiration of June 30 of the Secretary of HUD authority to adjust interest rates above the permanent ceiling of 6 percent has effectively halted VA activities in the mortgage market. The net result is that no VA loans have been made since July 1 of this year.

My office has received numerous calls from constituents who have had their plans totally disrupted by this event. They have proceeded as far as final settlement, their belongings are packed, their present home sold, yet they find that they cannot complete the transaction because of congressional inaction.

The enactment of H.R. 8949 will provide a simple solution to this problem and prevent its recurrence in the future. The flexible authority to adjust interest rates will also allow veterans to better compete for funds in tight money periods and, by minimizing loan discounts, increase the number of properties which can be sold through VA financing.

The Veteran's Health Care Expansion Act of 1973, H.R. 9048, is of equal, if not more, importance to those who have served in our Nation's Armed Forces. The House and Senate Veteran's Affairs Committee's oversight hearings on medical care conducted during 1970 and 1971 clearly revealed that an increasing strain would be placed on the VA hospital and medical system due to the influx of Vietnam era and aging World War II veterans.

The major objective of H.R. 9048 is to improve the ability of the VA to meet this increased demand for its services and allow it to provide quality medical care to its beneficiaries. The expansion of eligibility, benefits, and VA facilities as specified in this bill will go a long way toward achieving this objective.

I have every hope that both of these important pieces of legislation will pass the House today and receive prompt action by the other body. They represent minor rewards for those who served their country so valiantly.

EMERGENCY MEDICAL SERVICE SYSTEMS ACT OF 1973

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. ADAMS. Mr. Speaker, I was very pleased that the House voted 305 to 111 to support the conference report on the Emergency Medical Service Systems Act of 1973. I hope this indicates that the Congress supports the program of emergency medical services and the continuation of the Public Health Service hospital system. I am aware the Secretary of Health, Education, and Welfare on July 16, 1973, on page 24075 indicating the opposition of the administration to the emergency medical services and their opposition to the Public Health Service hospitals. Since the House was aware of administration opposition and passed the bill by this number of votes, I would hope that the administration does not veto this bill.

I believe that the Federal Government should be expending funds on necessary local hospital facilities as one of the Nation's top priorities. When one considers the small amount involved in maintaining the Public Health Service hospital facilities as compared to the amounts we are spending on military operations, the argument of the administration that this is costly or not administratively sound seems very foolish.

Let us hope that this bill will be signed by the President and we will continue to provide some measure of medical services for our people rather than going to a system where we are closing hospitals and thus denying services which are needed.

TVA PAYMENTS TO U.S. TREASURY TOTAL $74 MILLION THIS YEAR

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. EVINS of Tennessee. Mr. Speaker, the Tennessee Valley Authority under the TVA Act is required to pay into the U.S. Treasury annually a return on the appropriations investment in the agency.

In this connection TVA has just issued a press release announcing that the agency this week will pay $46,892,225 to the Treasury from the agency's electric power revenues—making a total of nearly $75 million paid into the U.S. Treasury this fiscal year.

Because of the interest of my colleagues and the American people in this important matter, I place the release from TVA in the RECORD herewith. The release follows:

TVA PAYMENTS TO U.S. TREASURY TOTAL $74 MILLION THIS YEAR

On Friday the Tennessee Valley Authority will pay $46,892,225 to the U.S. Treasury out of the agency's electric power revenues, making a total of nearly $74 million paid in the fiscal year that ends this week.

The TVA electric power system is not operated for profit, but it is required by law to pay its own way, including these specified payments to the Treasury on account of government funds used in the past to build the power system.

When TVA was established 40 years ago, hydroelectric power plants were financed with appropriations from Congress as part of the agency's system of multipurpose dams and reservoirs. As the years passed and the power operation proved financially sound, earnings were plowed back into the system to help offset the need for Federal funds.

After World War II the region's power requirements began to outgrow the waterpower available at dams, and TVA began building coal-burning power plants to meet the increasing need. By the late 1950's these plants provided the major share of TVA's power supply, and the financing of the power system was revised to reflect this change.

In 1959 legislation, TVA was authorized to issue bonds and notes to provide—along with earnings—the capital for additional facilities needed to keep up with the continuing growth in the region's use of electricity.

At the same time TVA was required to make two kinds of payments on the appropriations previously invested in the system. One is an annual repayment—currently $20 million—until the agency has repaid a billion dollars of the $1.2 billion appropriation investment at the time of the 1959 legislation.

The other is an annual dividend to the Treasury on the remaining appropriation investment, at a rate based on the average interest rate payable on the Treasury's marketable public obligations at the start of the fiscal year. In simpler terms, the dividend paid by TVA offsets the Treasury's own interest costs for an amount of money equal to the remaining appropriation investment in the TVA power system.

This year's dividend of $53.8 million was based on a Treasury interest rate of 5.1 percent at the start of the fiscal year, applied to an appropriation investment of $1,055 million. Next year's dividend will be over $60 million because the average interest rate on Treasury securities has now increased to about 6 percent.

When TVA began selling power bonds in 1961, investment in the power system totaled about $1.8 billion—including the $1.2 billion from appropriations and roughly $600 million from reinvested earnings.

That picture has changed sharply. More new generating capacity must be built each year to keep up with power demands, and construction costs nationally have zoomed in the past 12 years. As a result TVA power construction now requires some $500 million in capital funds a year, compared with about $150 million in 1961. Reinvested earnings provide some of these funds, but most of them must come from the sale of bonds and notes.

More than half the $4 billion net investment in the power system now is from these borrowings:

Appropriation investment:	
June 30, 1961	$1,193
March 31, 1973	1,055
Reinvested earnings:	
June 31, 1961	581
March 31, 1973	836
Bonds and notes:	
June 30, 1961	50
March 31, 1973	2,235
Total:	
June 30, 1961	1,824
March 31, 1973	4,126

The interest rate on TVA power bonds, established by competitive bidding, was less than 4½ percent on the first bond issue in 1961. Recent issues have sold at interest rates between 7 and 7½ percent.

With this rise in interest rates, and the large-scale borrowings that have been necessary to finance new facilities, interest expense and payments to the Treasury this year will total more than $200 million. That is four times as much as in fiscal year 1961, when capital costs included $51 million in payments to the Treasury and $1.5 million in interest on the first bond issue.

The power program is financially separate from other TVA programs such as flood control and navigation development. Since 1961 TVA has paid more into the U.S. Treasury under the power financing law than it has received in Federal appropriations for its other resource development activities.

TVA now has paid more than a billion dollars to the Treasury from proceeds of the power program, including $623 million in dividends and $185 million in repayments under the 1959 legislation, plus $250 million repaid previously. An additional $42 million has been paid to the Treasury from proceeds of other TVA programs.

PORT WASHINGTON NEWS: 70 YEARS OF OUTSTANDING SERVICE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. WOLFF. Mr. Speaker, this week the community of Port Washington, within my Sixth Congressional District salutes one of its finest institutions. The Port Washington News, as it heralds 70 years of continuous publication.

The Port Washington News, an exceptional weekly newspaper, pursues a vigorous course to chronicle local events and to keep tabs on the community's growth and development. It not only acts to promote the general welfare of the community and to provide a sounding board for local opinion, but it reacts through its editorial columns to speak out on matters of concern to all segments of the populace.

The Port Washington News truly is a community newspaper and its dedication to high journalistic standards merits our recognition and praise. Its reputation as a pillar of the free press is widely known.

Mr. Speaker, it is my district privilege and pleasure to join in this community tribute and I heartily commend the Port Washington News to my colleagues.

CONTINUING NEED FOR IMPROVEMENT IN GREAT LAKES WATER LEVEL MANAGEMENT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. VANIK. Mr. Speaker. I would like to take this time to remind my colleagues of the still unresolved problems encountered by residents and property owners along the shores of our Great Lakes. The unprecedented rainfall in the Midwest last spring and the columns and columns of news accounts of the disasters it brought have largely faded from our minds.

Unfortunately, we have also forgotten the terrible misfortunes still being felt by Great Lakes residents. Millions of dollars of land and personal property have already found a grave in one lake or another, with more homes still threatened or crumbling.

It appears that the levels of all the Great Lakes will equal or exceed their historical records this summer. Some of the lower lakes are almost 3 feet above normal levels, with each additional inch of water exacerbating storm or wind damages.

On the 16th of July, the International Joint Commission—IJC—held a meeting to brief House Members on recommendations by the IJC to help minimize damage from high water levels around the lakes downstream from Lake Superior.

The IJC offered a continuing careful scrutiny and control of the amount of water released from Lake Superior at the St. Mary's River. This reduction can mean the lakes downstream, Michigan, Huron, Erie, and Ontario can expect their levels to go down more than would otherwise be possible—given a stability of the other factors of climate, etc. But, we cannot expect the levels to go down much, nor can we expect the reductions to be immediately observable.

Although its water level will rise with the additional impounded waters, Lake Superior can most afford an increase since its level is only 0.6 foot above normal, while lakes downstream have up to 2.6 feet more water than normal levels.

But Mr. Speaker, despite the IJC's recent action, I am disappointed with the general lack of action by the Commission. Since its inception in 1914, the IJC has remained low-key to say the least. In the first decade or two, when leadership and initiatory action was needed, it appears the IJC has usually been forced into action only by prodding from legislators, shoreline residents or executive agencies.

In 1964, the Commission started a comprehensive study of Great Lakes water level fluctuations in order to present courses of action that would benefit all the many areas and interests affected. That study has taken almost 9 years and will not be completed until this October. At the July 16 IJC meeting. Mr. Christian Herter, Jr., Chairman of the United States section of the Commission, could not say assuredly that the report would indeed by complete by October.

Mr. Speaker, I want to be entirely fair to the IJC. It appears that no amount of foresight and preparation could have prevented all of last spring's lakeshore erosion damages—we could not predict the long term heavy rainfall of the last year, but we could have done more to reduce the long term high water levels that softened us up for the big punch. Every inch of water above normal levels means more damage—so every step must be taken to reduce lake levels those inches.

Mr. Speaker, I want my colleagues to know of the concern felt for this issue by bodies other than our own. For that reason, I am including in the RECORD at this point a resolution introduced and recently passed in the State of Ohio General Assembly.

The resolution follows:

RESOLUTION

Requesting the President to enter into negotiations with Canada to take measures to maintain navigation and protect shorelines on the Great Lakes

Be it resolved by the General Assembly of the State of Ohio,

Whereas, The Great Lakes comprise the largest system of fresh water lakes in the world, and these lakes form a vital element in the economic health of the United States as well as an invaluable source of recreation for the people of the United States; and

Whereas, The public ability to use and benefit from the lakes is curtailed during periods of excessive high- and low-water levels; and

Whereas, The water levels of the Great Lakes are now reaching unprecedented high levels, which will cause flooding, enormous property loss, and accelerated erosion of the shorelines impose a threat to human life; and

Whereas, These high-water levels follow a period of extremely low-water levels only ten years ago, which caused serious economic loss to shipping, industry, and recreational interests along the lakes; and

Whereas, It has been demonstrated on Lake Superior and Lake Ontario that the water levels of those lakes can be controlled within a range of maximum and minimum levels; now therefore be it

Resolved, That the Ohio House of Representatives hereby requests the President of the United States, acting through the Secretary of State, to enter into negotiations with the Government of Canada (one) for the purpose of establishing for each of the Great Lakes a maximum and minimum range of water levels in order to maintain navigation and protect shorelines against erosion and flooding, and (two) for the purpose of entering into suitable agreements on the construction of necessary public works to maintain such water levels within such ranges; and be it further

Resolved, That the Clerk of the House of Representatives cause this resolution to be sent to the President of the United States, and that copies be forwarded to both Ohio Senators and to all Ohio members of the United States House of Representatives.

HIGHWAY TRUST FUNDS NEEDED FOR MASS TRANSIT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. BIAGGI. Mr. Speaker, an assistant administrator of the Environmental Protection Agency recently addressed a group of citizens at Pace College in New York City regarding the need to allow States and localities to use a portion of their highway trust fund appropriations for mass transit purposes. I will include a report on his remarks in the RECORD at the end of mine.

In his talk, he points out once again, that the automobile is receiving large amounts of subsidies from general revenues, while mass transit is receiving very little.

I urge my colleagues on the Conference Committee, Congressmen JAMES WRIGHT, JOHN BLATNIK, JOHN KLUCZYNSKI, HAROLD JOHNSON, WILLIAM STANTON, WILLIAM HARSHA, GENE SNYDER, JAMES CLEVELAND, and DON CLAUSEN, who are trying to resolve differences between the House and Senate versions of the highway bill to accept the Senate language permitting use of the trust funds for mass transit purposes. If we are to save the air in our cities and provide better transportation for all citizens, this is a necessary step in our overall efforts.

EPA OFFICIAL URGES MORE SUBSIDIES FOR RAPID TRANSIT TO CURB AIR POLLUTION

Mass transit deserves subsidies at least as great as those provided unknowingly to private vehicles, a top official of the Environmental Protection Agency said today.

Robert L. Sansom, EPA Assistant Administrator for Air and Water Programs, noted that cities like Philadelphia now subsidize private cars out of general revenues at $50 per car per year. In a recent year, highway-related spending in 43 major cities cost $676 million while highway revenues were only $305 million.

To achieve the goal of healthy air, Sansom declared, "reason dictates we must allow cities to use their share of the highway trust fund for mass transit, if they see fit." He emphasized that all governments, particularly local governments, "provide massive subsidies to the private automobile."

The Assistant Administrtor made his remarks at a citizens briefing at Pace College in New York City today, in a speech titled "Rethinking Your Automobile—No. 2."

Transportation control plans for 38 cities to meet clean air staindards show that in many cases auto emissions must be reduced 70 to 90 percent, Sansom noted.

Among the most important measures proposed are restrictions on auto traffic and improved mass transit.

"It seems clear," Sansom declared, "that under appropriate conditions very high levels of transit usage can be achieved, for example, in New York City which has a substantial, unified transit system."

In New York, he said, 27 percent of all trips and 83 percent of downtown trips take place by transit, compared to Los Angeles where only 3 percent of trips are by transit. If Los Angeles could achieve the ridership of New York, in fact, its auto use might be reduced by 25 percent, he added.

Sansom suggested that the best way to achieve clean transport is "to look at the most successful cities and use them as measuring rods for what others can do." Citing a number of municipalities where transit experiments have attracted new riders, Sansom said, "The first key to a realistic transportation control policy is to set high mass transit goals that can be demonstrated achievable by the exemplary cities."

The speaker pointed out that already some cities are subsidizing mass transit as a matter of course. "Communities such as New York, Philadelphia, Boston, San Francisco, and others use general revenue funds. Some enlightened officials consider such subsidies as legitimate as police and fire fighting."

Sansom said some cities with critical air problems must also use land use planning to assure that enough future trips can be handled by mass transit. "This means focusing growth along corridors and leaving open spaces in between. Instead of devoting one-third of our cities to roads and parking lots, we need to devote one-third to parks and open spaces," he explained.

In the final analysis, such actions will make our cities more livable, Sansom said.

CHANCE TO CLEAN HOUSE

HON. JESSE A. HELMS

OF NORTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Tuesday, July 17, 1973

Mr. HELMS. Mr. President, Station WSOC–TV and its radio counterparts in Charlotte, N.C., recently presented a thoughtful editorial on the subject of the Supreme Court's decision concerning pornography.

The vice president and general manager of this excellent broadcasting company is a longtime friend of mine, Freeman R. Jones.

I commend to the attention of my colleagues this fine editorial, and ask unanimous consent that it be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WSOC-TV EDITORIAL

In its latest decision on pornography, the Supreme Court offered every community in America a chance to clean its own house. So, now the burden of what to do about "X" rated movies, live stage acts and printed material is yours. And that's the way it ought to be. The Supreme Court has finally turned something . . . and a very important something at that . . . over to local folks to decide. How far we go with smut is up to the people on the other side of this picture. If you want the type of trash they seem to go for in some cities, then it's yours . . . if the old fashioned waltz is as far as you want to go in entertainment, then waltz on, Carolina. And, anything in between is simply a matter of your judgement. We appreciate that. It should have been done long ago.

STILL IN THE SUCKER ROLE

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. GAYDOS. Mr. Speaker, the two Germanys, the Associated Press has learned, will be asked to pay about 8 percent of the annual costs of the United Nations when they are admitted to membership in the world organization.

This amount, the AP reports, has been determined by the 13-member Committee on U.N. Contributions as part of a new scale of assessments for the coming 3 years. The People's Republic of China reportedly is on the list for a 1½ percent increase to 5½ percent; the U.S. assessment is to be dropped from the current 31.25 to 25 percent. Obviously, the U.N. Committee has heard the complaints made across the country that this Nation is paying far too much.

In my judgment, the new 25 percent rate is still too much when we compare it with those paid by the world's new financial giants. The two Germanys are enjoying periods of vast prosperity. Indeed, the dollar's plight in Europe is caused in large part by the preference over there for the supposedly stronger West German mark.

Under what formula, therefore, should we with our weakened dollar and our immense debt and our multibillion deficits pay only 8 percent? The same question is raised by matching our assessment with that of the Soviet Union whose total, including those of Ukrainia and Byelorussia, amounts to only 16.55 percent.

In recent days we have heard the leaders of both our Nation and Russia equate their countries as the world's greatest and most powerful. If there is this similarity in globale stature, why should we pay so much more to the U.N.?

We have seen Japan rise in recent years to a position in which its industry challenges us in our own market and around the globe—this Oriental power of unprecedented economic achievement. And still Japan, spared what would be its normal defense costs while living securely under the U.S. military umbrella, continues to enjoy a U.N. break also. Its assessment is only 5.40 percent, or about a sixth of ours.

Why, too, should Great Britain be assessed only 5.90 percent and France, that demanding European power, only 6 percent? Certainly, in view of present economic circumstances, these are modest charges and patently unfair to the American people who are paying 31.52 percent now and, on the new scale, still will be shouldering one-fourth of the entire load.

My concern with this is based mostly on my resentment over the way this country has been played for the patsy for far too long a time, not only in the instance of U.N. costs, but in every other international arrangement which finds money involved. It may have been reasonable, in the immediate wake of World War II, for undamaged America to take on the lion's shares. But I insist that times have changed—that this country no longer is the lone rich boy in the global block and that others have made their fortunes and should now be paying their full share.

A protest against the U.N.'s lop-sided way of assessing us is nothing new. Even back in 1945 when the assessment committee first set to work, Senator Arthur H. Vandenberg, one of the U.N.'s most influential sponsors, objected strongly to a proposal that we pay 49.89 percent. He insisted that it was not wise to make the U.N. dependent on one member for so much of its expenses and suggested that no country be assessed for more than a third of the total. We won only part of his argument. Our first charge was set at 39.89 percent "temporarily" and, after 28 years, it currently is down to only 31.52.

Now, so the AP informs us, the rate may be cut to 25 percent which, in my opinion, would still be too high when we realize that others would pay.

One of the big jobs begging for attention today is that of getting the world functioning on an equitable basis with an end to the habitual overdependency on the U.S. on matters of cost. The U.N. assessment on us needs to be fully justified against those of the other big nations and this has to be done before the 20 percent rate is fixed and accepted for the next 3 years. My plea is to get Uncle Sam out of that sucker position in which he has been trapped and badgered for a generation.

CONCERN OVER LORTON REFORMATORY

HON. STANFORD E. PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. PARRIS. Mr. Speaker, I include an editorial from the Manassas, Va., Journal Messenger which comments on the growing concern in northern Virginia about the Lorton Reformatory, a facility which although located in Fairfax County, Va., is operated by the District of Columbia Department of Corrections.

Although the Journal Messenger's solution to the problem of Lorton may be somewhat unrealistic in view of the tremendous capital outlay already invested in the Lorton facility, I think it is a clear indication of the increasing concern over this problem and heightens the need for action on H.R. 3844 which I have introduced before this House and which would transfer the control of this facility from the D.C. Department of Corrections to the Federal Bureau of Prisons.

LORTON MUST GO

The Lorton prison complex has long been a festering sore on the Northern Virginia countryside. Even though there have been fewer reports of escapes than there were a few months ago, this institution stands as a threat to the safety of the citizenry in Prince William and Fairfax Counties.

We had previously raised the question of why this Commonwealth is saddled with someone else's penal problems. We realize that any such question is purely academic at this point in time and that there is little likelihood that Lorton Prison will pick itself up and go back across the Potomac where it belongs.

Several recent developments could hold forth a ray of hope for Virginians that this complex be removed from our midst. These are the objective of the District's new corrections chief to replace the current prison with a new modern structure, the strong possibility of home rule for the District, and the phasing out of Bolling AFB from military use.

Home rule in the District should strengthen our contention that the District of Columbia is analogous to a state and should therefore solve its own penal problems within its own borders. Can you conceive a situation in which the State of New Jersey would permit a prison within its borders to house felons convicted by the courts of New York City? Why should Virginia house D.C. felons?

If a new prison complex is to be built, it should be built at a different location than Lorton or any other spot in Virginia. Even if the administration and management of the prison should achieve a Utopian excellence—which it won't—the time is long past for this situation to be terminated. The prison belongs elsewhere.

Finding new prison sites in a congested metropolitan area is not an easy thing, but the apparent availability of land on the site of Bolling AFB should provide a solution to this problem. With a new modern facility within easy reach, D.C. residents would be better served as would the people of Virginia with the excision of the festering sore of Lorton.

We call on our Eighth District Representative, Sanford Parris, and on Virginia's U.S. Senators, William L. Scott and Harry F. Byrd Jr., to explore the possibilities of such a course.

We believe that mere transfer of the current Lorton complex to Federal control is not an adequate solution to the continuing presence of alien felons in our midst. District of Columbia prisoners must be moved out of the State of Virginia. If Virginians speak out loudly enough, this can become a reality.

IMPROVED MEDICAL CARE TO VETERANS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. YOUNG of Florida. Mr. Speaker, today the House has approved H.R. 9048, the Veterans Health Care Expansion Act of 1973. I was pleased to vote for this bill to provide improved medical care to veterans, to provide hospital and medical care to certain dependents and survivors of veterans, and to improve recruitment and retention of career personnel in the Department of Medicine and Surgery of the Veterans' Administration.

On April 2 of this year, I sponsored H.R. 6426, a bill to make certain totally disabled World War II servicemen and their dependents eligible for CHAMPUS benefits. Therefore, I am delighted that section 103(b) of H.R. 9048 does authorize the Administrator of VA to provide hospital and medical care to survivors and dependents of totally and permanently disabled service-connected veterans under contract with CHAMPUS or a private insurance plan. In addition, care may be provided for these individuals in VA facilities in those cases where there are specialized facilities which are not being used for care of eligible veterans.

Survivors and dependents of totally disabled veterans now residing in the Sixth District of Florida will appreciate this action by the House to meet their health care needs.

YOUTH CAMP SAFETY

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. DOMINICK V. DANIELS. Mr. Speaker, on July 11, 1973, the Dispatch, a leading newspaper in northern New Jersey, turned its editorial spotlight on the problem faced by parents of juvenile campers interested in insuring that their offspring will be safe.

Mr. Speaker, for many years I have been fighting for a youth camp safety bill only to have my bill sidetracked at the behest of interest groups more concerned with making a buck than the safety of thousands of young people. Two years ago a study was authorized. Of course, a study was not needed, but in a sensitive area such as this, it is a most effective way to oppose needed legislation. Few Members of this House want to go on record as being opposed to a bill which deals with the safety and, yes, the very lives of young campers. Voting for a study indicates a sense of concern without actually doing anything about the situation.

The Dispatch has very clearly and factually labeled the opposition as being very likely motivated by the fact that safety will cost money—a fact which may motivate the opposition to this bill. No reputable camp owner, and this includes the vast majority, is against this measure. Only the fast buck minority—who ought to be put out of business anyway—oppose this bill. Soon all Members will have a chance to go on record about youth camp safety. I urge all Members to look into the facts, lest they be misled.

The issue is too serious for anyone to be taken into "camp" a second time. The press across the Nation is now aware of the real equities involved, and an aroused Nation wants action now.

Mr. Speaker, the Dispatch editorial follows:

HE IS AIMING AT SAFETY

There have occasionally been snide remarks in Trenton and Washington that officials from Hudson County are solely interested in what they can do for their county. By the very nature of politics this, to an extent, is so. But, let's not make a too-general rule of thumb.

Rep. Dominick V. Daniels of the 14th District has once again proposed in the house strong legislation calling for national standards on the operation of the country's 10,600 summer camps. He's primarily concerned with the safety of all the young people involved.

It's estimated that each year 250,000 children are injured in camping accidents. This is a high toll and some of the accidents unquestionably must have resulted from a lack of certain safety facilities. Too many camps skimp on safety when cutting budgets.

Mr. Daniels would have national standards to be administered by the states but he has opposition to this most commendable proposal. It comes from camp owners who point to too much federal interference, but more probably involves dollars and cents.

It's about time that someone, somewhere, thought about the children involved and not in the camps making money. This is the point that concerns Rep. Daniels and he is correct. It's good that he has brought up his bid for safety again.

NEW POLICY ON PRESENTATION OF VIEWS RELATING TO PRESIDENTIAL ADDRESSES

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. ESCH. Mr. Speaker, on June 6, CBS Television and Radio Network disclosed that news analysis of Presidential speeches would no longer immediately follow the Presidential addresses, but rather be incorporated into the next regularly scheduled newscast.

I feel CBS deserves much recognition and commendation for their new policy which should add more balanced coverage to issues. The network is not abandoning analysis of Presidential speeches nor is it eliminating the opportunity of direct replies to the President by those who oppose his views. They are merely rescheduling the time for news analysis. time which may be utilized toward more thoughtful preparation of the analysis. As Eric Sevareid stated—New York Times, Thursday, June 7, page 83:

> Instant analysis works okay when you get an advance text of a speech, or a briefing on its content, but if you don't have those advantages, what comes out on the air is poor journalism. We're not being fair to ourselves or our audiences.

I am inserting a copy of the June 6 CBS press release announcing their new policy:

CBS CHAIRMAN WILLIAM S. PALEY ANNOUNCES NEW POLICY ON PRESENTATION OF VIEWS RELATING TO PRESIDENTIAL ADDRESSES

CBS has adopted a new policy providing for presentation of views contrasting to those expressed in Presidential broadcasts "on matters of major policy concerning which there is significant national disagreement," CBS Chairman William S. Paley announced today.

Mr. Paley said that such broadcasts will be scheduled as soon after the President speaks as practicable but generally in no later than a week's time. They will be presented on the CBS Television and Radio Networks, with which some 500 stations throughout the country are affiliated.

"Fundamentally," Mr. Paley said, "this decision is an application of a long-standing CBS policy—a cardinal principle of our news operation since its inception—of providing fair and balanced coverage of public issues. Traditionally as times have changed CBS has sought new approaches to serving the public interest through expanding the public dialogue on national issues.

"Recent Presidents," Mr. Paley noted, "have conceived as one of the main functions of the Executive the focusing of national attention on public issues. To accomplish this, they have turned more and more to broadcasting as a means of direct access to the people. This in turn has increased the need for broadcasting to develop new avenues to provide a broad spectrum of significant views and a multiplicity of representative voices on public issues.

"Fulfilling our journalistic responsibilities to present issues objectively and fairly, generally speaking CBS has followed two basic approaches. First, in our regularly scheduled news broadcasts we provide continuous opportunity not only for the views of the Administration whose actions make news, but also for significant differing views. Second, CBS News presents coverage of points at issue on such broadcasts as Face the Nation, Spectrum, 60 Minutes and on documentary and special broadcasts. The new policy, by providing an additional dimension to the coverage of public issues, institutes a third approach."

The main elements of the new CBS policy, which is effective immediately, follow:

1. Whenever the President speaks to the Nation on radio or television on matters of major policy concernnig which there is significant national disagreement, CBS will present a broadcast of other viewpoints related to those matters of major policy.

2. The length, format and persons appearing on such broadcast will be determined by CBS News in light of the relevant facts of the Presidential appearance. The broadcast will be scheduled as soon as practicable, but generally no later than one week after the President speaks.

Simultaneously, CBS announced that henceforth CBS News will not provide news analyses immediately after Presidential appearances, nor after broadcasts presenting views contrasting to those expressed in Presidential broadcasts. Such analyses will be scheduled by CBS News during the normal CBS News broadcast schedule.

WATERGATE

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. LITTON. Mr. Speaker, like many Americans, I am anxious to bring the so-called Watergate affair to a speedy conclusion so that we can concentrate our thoughts and attention on some of the many problems facing this country and devote more of our time and thinking toward those things which we were elected to do.

We have both an energy and a food crisis on our hands. We are facing both inflation and unemployment. We are spending more money than we make and we are buying more than we sell. It is difficult enough to seek solutions to these mammoth problems under normal conditions, but almost impossible now when the thoughts of all America, including both those who must seek out legislative solutions as well as those who must administer them, are turned to the Watergate matter.

This week, startling revelations were made by Alexander Butterfield, assistant to former White House Chief of Staff H. R. Haldeman. In his testimony before the Watergate hearings and before the whole world, Mr. Butterfield has given us hope that the Watergate hearings can be brought to a speedy conclusion so that we can once again turn our attention to some of the other problems facing the people of this great Nation.

We have learned to our surprise that tape recordings of the very conversations in the Oval Room of the White House, as well as those on the telephone which have been the subject of such debate, rumor, and conflicting statements, do exist. By making these tapes available to the Senate committee immediately the President can, by this one act, help to bring a speedy conclusion to the Watergate hearings, erase questions that might exist throughout history, and permit us to once again turn our thoughts to some of the other important matters facing this country.

Many Members of Congress are stunned and outraged that the President, all along, has been in a position to take a more judicious course of action than he has taken in the Watergate affair. To many it is incredible that he has withheld such a mighty storehouse of relevant information from the committee—not to mention the American people who have been demoralized by the events depicted in the televised Senate hearings.

Perhaps the President seeks to protect some of his closest associates who it would appear have not acted in the best interest of the President: In so doing, the President is only causing greater suspicion with regard to his only possible involvement in Watergate as is shown by a recent poll which indicated that 71 percent of the American people believe he was involved in either the planning of or the cover-up of the Watergate affair, both Federal crimes.

For months now, the tedious probing for the truth has continued. The affairs of the Nation have been delayed and disrupted. The prosecutors, the Senate committee, the Congress, the American people and suspecting neighbors abroad have been reaching for the truth.

The budget to conduct such investigations which must be borne by the American taxpayers, not counting additional costs caused by either the disruption or the failure to act by a Congress and administration bogged down by the Watergate affair, will continue to be diverted from constructive purposes to benefit Americans unless the situation is reversed. Now we find these proceedings can be quickly concluded if only the President will turn over the tapes in question to the investigating committee.

Why should the people of this country be demoralized by further delay? Why should this Nation remain the object of pity and scorn in the face of other nations? Why should the office of the Presidency be dragged through further hearings and innuendos if we can answer many of the most pertinent questions by one set of tapes?

Now we face further accusations by foreign heads of state who have just learned that their most private conversations with the President, both in the Oval Room of the White House and on the telephone, were not so private. In view of these revelations one must wonder how the President can expect candid advice from advisors, associates, and Government leaders in the future, knowing that neither the President's "hot line" nor the Oval Room of the White House offers the sanctity of privacy one would expect.

Some have said that for the President to appear personally before the Senate committee would be a breakdown of the balance of powers in our checks and balance system. It has further been pointed out that executive privilege is imperative in matters connected with the President's performance of the duties of his office. However, since the conversations in question do not deal with the President's carrying out the constitutional duties of his office, but instead deal with discussions of Watergate and the reelection campaign, the turning over of these tapes to the Senate committee would not violate the principle of division of powers.

Let us not prolong the agony and embarrassment and continue the slowdown of our Government by dragging out information piece by piece over the next year or two when we now have actual tape recordings of the very conversations in question. These taped conversations will not provide us with any different conclusion than we will eventually get through months or perhaps years of testimony, hearings, and long drawn-out court proceedings.

We are more interested in getting to the bottom of the truth quickly, making legislative changes to see that any wrongdoings do not recur, and restoring confidence to our Democratic system than we are in "nailing" the guilty. Punishing those who have violated the law is important and should not be overlooked, but of immediate concern is the matter of getting to the truth and restoring faith in our Government at home and abroad.

In my home State of Missouri, Republican Governor Kit Bond has called on the President to make a full disclosure to the American people. I join him and millions of other Americans who are anxious to bring the Watergate hearings to a speedy conclusion so we can turn our attention to some of the other problems facing our Nation.

We now have a way to bring these hearings and the Watergate matter to a conclusion and I urge the President to make these tapes available to the Senate committee before there is further deterioration in the respect and confidence in both our Government and the Office of the Presidency. The fact that 71 percent of the American people, according to a recent poll, feel the President was a party to either the planning or cover-up of the Watergate affair and only 18 percent favor his impeachment, is ample proof of the respect the American people have for the Office of the President. If the President is innocent of any wrongdoing, he owes it to these people to make these tapes available immediately. I pray to God that he will.

A FURTHER INGATHERING OF THE EXILES

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. BRASCO. Mr. Speaker, this has been largely a century of turbulence around the world. Decade after decade, mankind has plunged into a variety of conflicts, which have spread ever outward to engulf virtually every continent. One depressing result of all this has been the uprooting of peoples and their dispersal across the globe. Refugees in all their misery have become an all too common sight to the world.

Americans have been particularly touched by such scenes because we are a nation composed of the descendants of immigrants, who came to these shores largely to avoid persecution of many kinds. In effect, then, we are the descendants of refugees. And our country, concerned and compassionate, has time and again reached out the hand of assistance to such people. Our willingness to help has usually been in evidence, regardless of who those in need are and in spite of any special background they have possessed. Such behavior has become one of the hallmarks of America, and perhaps our special saving grace.

When one speaks of exiles, dispersal, refugees and persecution, however, one must again and again return to the original people to whom these words have a timeworn, unique meaning; the Jews.

For the past 20 centuries, they have written the original script in regard to these unhappy experiences. Every era has witnessed another kind of oppression directed at them. Every harsh regime has, for one reason or another, found it convenient to single them out for persecution. As one boundary was opened to them, another slammed shut. When one ruler allowed them to exist, another instituted calculated policies of violence against them.

In the Middle Ages, cruel discriminations and massacres were their lot, as mankind, its mind beclouded by superstition, took out its hatreds and fears upon these people. Capping centuries of agony was the inquisition, complete with torture, forced conversion and public executions of Jews, known as auto-da-fes. Yet worse awaited them.

As the last century drew to a close, one of the most tolerant, civilized societies in Europe was torn asunder by the Dreyfus Affair, as France exiled an innocent man whose sole crime was to be a Jew.

The memories of Nazi Germany are today still too vivid to be relegated to library shelves. Never before in modern recorded history had a great state mobilized its resources to annihilate a people, small in numbers, from the face of the Earth. Six million Jews, including 1 million small children, were systematically murdered by Germany.

From the ashes of Hitler's crematoriums arose the phoenix we know today as Israel. One of the first acts of that newly born democracy was to proclaim a policy known as the "Ingathering of the Exiles." In effect, it was the fulfillment of an ancient prophecy. From the four corners of the Earth, the Jewish people gathered from the Diaspora, or dispersal, to create a viable, vibrant free society, which today is one of the wonders of the world.

Surrounded on all sides save one by harsh regimes sworn to have her life's blood, this tiny state vigorously holds aloft the light of hope to all of these people who are victims of oppression. Since 1948, whenever Jews anywhere have been confronted by the cruelly familiar face of hate and violence, Israel has offered itself as an alternative, preventing a reoccurrence of what took place in the late thirties, when the Jews of Europe sought escape but found only closed doors and violent death.

Israel has become the door to life where before there was no alternative but surrender, resignation, and oblivion.

Today a new chapter is being written in Jewish history, replete with similarities to old persecutions. In Russia, whose history is replete with anti-Semitism, 3½ million Jews are not allowed to practice their faith. It is assimilate as the regime commands or face the consequences, which are unpleasant in the extreme.

Hundreds of thousands of these Jews, determined to live as they see fit in terms of religion and personal identity, have defied the regime in an unheard of manner.

It is to the everlasting credit of the United States that as a nation we have taken a stand on their behalf, contributing significantly to the grudging agreement of the Soviet regime to allow a trickle of these people to leave and seek new lives elsewhere, notably in Israel.

A new ingathering of the exiles is taking place daily in Israel, as planeloads of immigrants, quivering with hope, arrive in the land of their fathers. In all turth, the dream becomes reality and the words of the prophets come alive before our eyes.

America has done more than just speak up. She has done more than just seek the release of these people. Once released from Russia, their odyssey is just begun. Once in Israel, they must proceed to absorption centers. Housing is a vital necessity. Medical and nursing care must be provided. Training for some and retraining for others is essential if they are to be able to earn livings.

In all these elements of resettlement, the United States is playing a crucial role, mounting a $50 million program to assist these new immigrants. That program had its birth and approval in the Congress, and received strong backing from a wide variety of Members. Last week a number of contracts were let by our Government committing much of that assistance for this year. It could not have come at a more important moment.

Each of these people is in the tradition of the American immigrant. They seek the same things our forebears sought: Freedom, religious liberty and a chance to better themselves. It is altogether fitting for this Nation to extend the hand of assistance at this time in their experience.

There are a few voices raised against this dramatically successful undertaking. To them I must offer a voice from America's past. It belongs to a former Governor of Illinois named John Peter Altgeld, a Czech immigrant who might have been President but for his foreign birth.

When becoming governor, he investigated the trial and sentencing of the Haymarket bombing anarchists, who had been either hanged or sentenced to life terms because of their supposed role in that infamous affair. He discovered, as an attorney, that they had not received any kind of fair trial, and were, in all likelihood, totally innocent; in effect, sacrificial victims of the outcry of vengeance at someone's expense that went up at the time. Upon announcing his intention of pardoning the survivors, who had languished in prison for a number of years, his confidants and staff remonstrated against the move at length and with great passion, indicating that it would end his political career. He responded with a simple sentence, which suffices to explain why we do what we do regarding these refugees.

"I do this because it is right."

Those pardons cost Altgeld his career. But he is remembered today as one of the finest exemplars of what the American immigrant experience produced. It is worth pondering.

U.S. BOMBING OF CAMBODIA IN 1969 AND 1970

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. SPENCE. Mr. Speaker, yesterday the press reported on allegations made to the Senate Armed Services Committee that limited bombing was conducted in Cambodia in late 1969 and early 1970, before the Cambodian incursion of the spring of 1970 and at a time when the United States officially regarded Cambodia as "neutral."

The question of the wisdom of concealing these military operations from the American public at the time is a complex one, and one which can be hotly debated. I should like, however, to consider whether the bombings themselves—which the Pentagon has admitted took place—were permissible from the point of view of international legality. The press at least implies that they were not.

The issue in this case is now whether Cambodia had formally proclaimed its neutrality under Prince Sihanouk, as it did, or whether the United States claimed to respect that neutrality, at least in principle. The issue is whether the theoretically neutral country of Cambodia was in fact being used as a staging and supply ground for Vietcong and North Vietnamese attacks on South Vietnam.

The Cambodian incursion of late April 1970 showed conclusively to all who would not recognize it earlier, that Cambodian territory was in fact being used for such purposes. It is irrelevant whether Cambodia permitted this use of its territory or was unable to prevent it: the important point is that Cambodia was involved in the Southeast Asian belligerency in fact. Cambodian neutrality at that time was a sham neutrality, a figleaf which, unfortunately, the United States was willing to respect for too long a time.

Given the fact that Cambodia was indeed involved in supporting and supplying Communist troops in their aggression against South Vietnam, there is nothing in international law which would forbid military action against Cambodia, either in the form of carefully limited bombing strikes or the very restricted Cambodian incursion of the spring of 1970, which aroused such misguided indignation in this country. This elementary principle of international law stands in need of restatement. The United States and South Vietnamese military were quite justified in doing what they did in late 1969, in the winter of 1970, in the spring of 1970 and since, from the point of view of military necessity and international law.

CAPTIVE NATIONS WEEK

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. O'NEILL. Mr. Speaker, this week marks the 14th anniversary of the national observance of Captive Nations week. Hence, it is particularly appropriate at this time that we understand the frustration and desperation that confronts the peoples of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Poland, and Romania, who must live under Soviet domination of their economies, political institutions, and private lives.

Need we be reminded of how ruthlessly the Soviets established their control after World War II? Need we be reminded the steps they have taken in recent years to maintain control of these small defenseless countries?

The seed of nationalism remains in the minds of these oppressed people. And although we observe their plight for only 1 week out of the year, we must continually remind ourselves that we, as the arsenal of democracy, are their friends. Even though this week of captive nations comes in the shadow of talks between the United States and the Union of the Soviet Socialist Republics, we must continue to be aware of the denial of these peoples' freedoms.

Some 32 years ago, President Franklin Delano Roosevelt presented to Congress, and to all the oppressed people of the world, four freedoms, freedoms that we, as Americans, cherish. The people of the captive nations cannot enjoy those freedoms. Freedom of expression and speech—their press is censored. Freedom to worship—the Communists' governments do not allow free exercise of religion. Freedom from want—the Communists now rely upon American agricultural products for their existence. Freedom from fear—the people of these captive nations live in everyday fear that the police will imprison them for no reason.

Mr. Speaker, it is fitting that we, as the representatives of the American people, encourage and support the freedom that the people of the captive nations deserve and have a right to expect.

AXEL SPRINGER INTERVIEWED ON BERLIN BY L'EXPRESS—PART I

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. HUBER. Mr. Speaker, the noted West German publisher, Mr. Axel Springer, who has become a symbol of Berlin's determination to remain free, was recently interviewed by the French magazine L'Express on the 20th anniversary of the revolt in Berlin. This interview appeared on pages 70–78 of the June 18 issue of that magazine and this English translation was prepared with the permission of L'Express. His comments are certainly pertinent as the Congress and the President consider our future role in Europe and the best course to follow in negotiations with the Soviet Union. The first part of the interview follows:

AXEL SPRINGER INTERVIEWED ON BERLIN BY L'EXPRESS—PART I

L'EXPRESS. Twenty years ago, on June 17, 1953, Berlin rose against the Soviet troops. How is Berlin now, twenty years later?

Mr. Brezhnev has just visited West Germany for the first time. Chancellor Willy Brandt has—for the first time—paid an official visit to Israel. And when this interview appears. Mr. Nixon and Mr. Brezhnev will be meeting in the United States.

You, who have staked everything on Berlin who live in and for Berlin, who have become a kind of "Monsieur Berlin"—how do you view from here the great changes which have happened in the world.

AXEL SPRINGER. Yesterday I put on a black suit and went to the funeral of a little boy. This five-year-old had fallen into the River Spree, which at that particular point belongs to East Berlin, while the bank on this side is West Berlin territory. Nobody helped him. The West Berlin police had no right to intervene, and those of East Berlin had to consult their superiors first. So this little boy drowned.

It is the second child that this very simple family has lost, for a daughter was killed and the murderer threw the body into the Spree almost at the same spot.

I interested myself in this family and went to the funeral. It was a painful surprise to see that this time I was the only one. Ten years ago one would have seen the mayor of Berlin there as well. That is no longer so.

L'EXPRESS. Will you celebrate the 20th anniversary of the 1953 uprising in Berlin, as you do every year?

AXEL SPRINGER. I will. But our government now prefers to display great discretion with regard to all these things.

When I came to Berlin—called upon by the then mayor, Willy Brandt, who feared that the isolated city would be abandoned—there were huge demonstrations in front of the Reichstag every year on May the first, Labor Day. Like many others, I marched with the workers. All the parties spoke of liberty. Once a black singer was engaged to sing a song about freedom. Those were great times for Berlin.

In the other part of Berlin the German Communist Army marched the goose step in uniforms which recalled for some the old Wehrmacht, for others the Russian Army's. They marched, although their presence was a breach of the Allied agreements on Berlin. Today, they still go on marching. But we on this side of the wall unobstrusively held a meeting of the trade unions in a closed hall of the Radio House on May 1. That is all.

You have to be a dreamer to live in hope in this city.

L'EXPRESS. To dream of what?

AXEL SPRINGER. An Israeli friend, a distinguished scientist, recently sent a book with the following inscription: "It's an old story, but remains for ever true: Only the dreamers of great dreams are the creators of the future." Berlin must survive. Berlin is the heart of Europe—I know no other. That is the constant vision, the obsession, with which one must be filled. It is by Berlin's survival, its elan, that one will be able to measure the value of any policies, whatever they are. To measure, for example, the value for the future of liberty. If it has a future.

L'EXPRESS. In this future the Soviet Union will play a great part, at least for Berlin?

AXEL SPRINGER. I would like to remind you that many years ago, in 1958, I went to Moscow to help create better relations with the Russians. I had consulted about it with leading members of the Bundestag. It is, of course, an urgent necessity to establish good and significant relations with Moscow.

But one must not forget that the present Soviet Ambassador in Bonn has several times in the past stated that the integration of the entire city of Berlin, within the Eastern empire is only a matter of time, that this process is part of the logic of history . . . As a German I have learned to give great attention to statements by totalitarian states. They always say aloud, what their goals really are. Far too many people, however, do not want to believe it.

The "New York Times", a newspaper which closely observes developments in Berlin, recently wrote that the problems of Berlin seen in the framework of a wider politics between East and West, were apparently minimal, but that they were decisive questions on which the survival of a free Europe depended. And that the Chancellor should have insisted on clear guarantees for Berlin when he was dealing with Mr. Brezhnev. I fully agree with the "New York Times" on this point.

L'EXPRESS. Why this Springer House in the heart of Berlin, why this passion and this risk, why did you come to Berlin?

AXEL SPRINGER. I am not a Berliner by birth; I have become one since. When the Berlin situation became dramatic, on the eve of what has been called "the second Berlin crisis", during the so called Khrushchev ultimatum, I came here. I did so against the advice of all my staff. And I did it, totally, without reservation and for ever, and for one reason only:

The independence of this city is vital for the future of the entire West, to the future of every free society in Europe, perhaps in the world. The life of Berlin, that is the sign. And this sign was menaced by death twenty years ago; just as today it runs the risk of being menaced in another way. There must be no illusions.

When in 1961 I had made my decision to go on building despite the wall, Willy Brandt wrote me a letter: "Dear Mr. Springer, I just wanted to say a word in this way of my personal and official joy at your plans in Berlin. You will surely not mind if we describe you as an example of German investment in Berlin." Such was the climate at that time.

I want to say clearly that for many years of my life I have been closer to the Social Democratic Party than to any other.

During the National Socialist Regime I managed not to be called up as a soldier. That was pretty difficult for a "tall blond from the north". I went under cover with my parents in the Lueneburger Heath. My relations to Germany as a young man were deeply disturbed. I aspired to freedom of speech. I dreamed of freedom of expression. But I had to submit like everybody else.

The Swastika flag waved over every city in my country and very soon over Europe, and yet I built in my dreams the publishing house which I hoped one day to found. The letters I wrote to my friends at the time (in a converted stable) were always signed: "Your 'Giant Publisher' Axel Springer".

My parents were a little worried. My father sometimes said to my mother: "I believe our son is mad. But my mother, an absolutely wonderful woman, always answered: "With Axel you never know. Who knows?"

After the Nazi nightmare it was some of the well-known Social Democrats, Ernst Reuter and others, who reconciled me to Germany. Because I had gone through their school I could become a German again. And that is why I went to Berlin later, when "things went badly", although I am not a Berliner. This city is the heart of Germany.

L'Express. When did the influence of Social Democrats like Ernst Reuter begin to work on you?

Axel Springer. After the war Ernst Reuter, Wilhelm Kaisen and Max Brauer helped me to find my cordial and emotional contact with my country again. Max Brauer was like my spiritual foster father. Like me, he comes from Altona, near Hamburg.

Before this building in Berlin was inaugurated I visited the Mayor of Jerusalem, my friend Teddy Kollek. He took me to the roof of his office. There he told me that in the event of a future reunification of Jerusalem it was imperative to stay as close as possible to the notorious wall and build. I replied, "What are you telling to whom?"

Incidentally, one of the most impressive moments I ever experienced was directly after the six days' war when I walked at five o'clock in the morning with Teddy Kollek round the Arab Quarter of Jerusalem. Afterwards I was so moved that for two hours I could not speak. After this visit I went to the Vatican at the request of Israeli friends to plead for the cause of the reunification of Jerusalem—quite unusual for a German and a Protestant at that. But for me these two dedicated cities, Berlin and Jerusalem, are bound together by destiny.

Let me say now a few words about France.

The day my family learned of the defeat of France was one of our blackest days. For we could not grasp how a "valet"—Hitler—could become the ruler over Paris, this symbol of liberty. The thought was unbearable.

Now I am sorry I do not know France very well. Born on the outskirts of Hamburg, I am more oriented towards England. But I can promise Mr. Pompidou that he will never need to use the Force de Frappe against Germany. . . . .

Here in Berlin the French troops have always behaved exemplarily. Relations with the local population are excellent. Every year on July 14th there is the Franco-German People's Fete, a brilliant event.

In the other provinces of Germany there is not the same reception on this scale, not the same open spirit. Berlin is the only real metropolis in Germany.

L'Express. Are you afraid that Chancellor Brandt may go further than you believe would be good for the freedom of Germany? More precisely, what gives you most concern with regard to Germany and of course Berlin in the present state of world history?

Axel Springer. Willy Brandt certainly does not wish to make any decision which would have negative consequences for Germany. But despite this, it may happen.

I believe that the building of the wall, the inactivity of the protecting powers, particularly of the Americans, gave Willy Brandt a shock. His apprehensions have grown that some day America may leave Europe in the lurch. When the Social Democrat Floor Leader, Herbert Wehner, once spoke about this in the Bundestag, Brandt applauded demonstratively. This present misgiving in regard to the Americans is the germ of the Ostpolitik, this concern which has grown into a conviction that the Soviet Union either is, or soon will be the dominant political and military factor in Europe.

It is obvious—and I said before that we must reach detente with the countries of the East. But a detente policy pushed through in haste, whose result gives the other side far, far more advantages than it gives us, I just cannot support.

When I was with Khrushchev in Moscow in 1958, he revealed the Soviets' long-term plans for Germany quite openly. What was aspired to then has now been laid down in the treaties. What has been lauded everywhere as the new German Ostpolitik is really nothing but a—unfortunately only too successful—Soviet Westpolitik.

In a speech, I once contrasted the "Pax Sovietica" for Europe which Moscow is heading for and the "Pax Americana" I would like to see. A letter writer corrected me: We should aim at a "Pax Europeana", a peace settlement for Europe closely associated with America. I would be glad to subscribe to that.

Detente with the East under conditions which really will lower tensions is something we should talk about. And also about conditions that everybody can accept with all their hearts.

Berlin could be an example, a test case, the key to everything. We will and should talk about that.

I have studied the possibilities for economic cooperation between Germany and the Soviet Union. I have ascertained that in these German-Soviet exchanges we have long been the ones who have given the most in advance. This would, in itself, not be a bad thing if our other engagements did not suffer because of it.

What counts today in the long view—beyond texts, treaties and diplomacy—is economic development. Since the war we Germans and the Japanese have been quick to recognize this. The Americans showed us the way. All the free countries of Europe have taken this path.

The Soviets, too, know that the future lies in the economy. Years ago, Konrad Adenauer told me that one of the Soviet's goals was to tie the West German economic capacity to that of the East. The Soviets would then have won the conflict with the West.

Limited to their own forces they will never manage to outstrip the West. They have not managed to do so in 50 years. That is why they are so extraordinarily interested in economic collaboration with Western countries. Economic questions dominate Brezhnev's visit to Bonn, just as they do the visit to Washington.

I say, conditionally, "Yes" to economic cooperation, one can almost call it economic aid. However the prerequisite is that the economy is not used as a vehicle for domination.

What part can Berlin play in such a framework of economic cooperation? Let us speak about that later.

Today Berlin is a threatened, secondary scene of German and international East-West politics. The Soviets and their allies, particularly East Berlin, try for instance to exclude West Berlin from all agreements which concern West Germany. If we allow that, we have lost the battle. If we were to allow Berlin to decline, the way would actually be free for the Kermlin's expansionist policy. What we in the West need is firmness and perseverance.

For two thousand years the Jews in the world have been saying: "Do not forget Jerusalem". It is this thought which has helped them to survive despite all resistance against them, and all tragedies. For each of us the word for the future must be: "Do not forget Berlin."

From this an extraordinarily vast field can open up. I am personally acquainted with the fate of Pasternak. And of course I know the fate that the persecuted writers and others in the Soviet Union are suffering. As a German, I am particularly sensitive when free men are in captivity. We must do everything to help them, to open up their prisons.

If the "opening to the East" leads to the "opening of the prisons" then we will have the correct Ostpolitik. In this Ostpolitik I could fully agree with Willy Brandt.

It may seem strange to speak of morality in our age, but I like to classify all political ideas according to an ethical scale of values. You can see at the back of my office a portrait of Bismarck. He was without doubt a great man, but naturally he applied the methods of a different century. He tried to realize the dream of German unity. He opposed the German Princes and even his King in order to impose his ideas, and in the euphoria of victory had the German Reich proclaimed in Versailles, not in Berlin.

This Reich has gone. It will only arise again—in a purified form—when the place of power is taken by morality. Then one will again see all of Germany again united for the sake of freedom, and integrated in a free Europe. I am convinced of this. I would gladly live to see this happen, but if not, my son will be there.

I want to stress that I long with all my heart for the reunification of Germany, but I am not a fanatic or reunification. If the Germans on the other side of the wall lived in freedom, I would not be upset at having to show my identity card when I crossed the boundary.

As a result of the Second World War, for which we were responsible, two German states? All right with me, if freedom and human rights are guaranteed in both.

The day when the basic treaty, the Grundvertrag, between the two German states was initialled I was visited by the Ambassador of a great power who seemed to regard the partition of Germany into two states as a natural thing. We had a very lively discussion. I told him it was not so much a matter of Germany; it was a matter of a part of Europe which must live in freedom. This Europe can only be realized in mutual respect and provided that each helps the other. Here in Berlin the idea of such a Europe falls on fruitful ground.

CAPTIVE NATIONS WEEK

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. PRICE of Illinois. Mr. Speaker, this week of July 15–21 has been set aside as Captive Nations Week. Once again, for the 15th time since the observance began in 1959, we honor those European nations whose people reach out for freedom and cannot seem to grasp it.

My colleagues and I all know the contributions made to civilization by citizens of these countries and their descendants. In my own district, those of central and eastern European origin are counted among the most outstanding and patriotic residents and I am sure that this is true in many other areas.

These men and women have brought to their new country all the virtues of the Old World and have joined their neighbors in helping to make the United States the great nation which it is. But at the same time, these people look back into their pasts and see what has become of the lands of their parents and grandparents—shut off from the rest of the world and locked out of the brotherhood of free nations through no fault of their own. And for 1 week each year descendants of the captive nations ask that all Americans join with them in their efforts to make these nations free once more.

Mr. Speaker, scarcely 2 weeks ago we celebrated the independence of our country with fireworks, parades, and picnics. Families came together to enjoy a day devoted to the celebration of freedom. During this coming week let us turn our thoughts to the family of man and work toward that day when we may all join together throughout the world to enjoy the freedom which only a few now know.

IN DEFENSE OF SHORT HAIR

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. **DERWINSKI**. Mr. Speaker, as a devote of the American "crewcut", I especially was interested in an article in the Monday, July 16, issue of the Evening Star and News, by Russell Baker. The tremendous effectiveness of the editorial should be recognized.

IN DEFENSE OF SHORT HAIR

(By Russell Baker)

This is in defense of zeal, Madison Avenue, short hair and Southern California. It is not a spirited defense. How could it be? It is no pleasure defending Madison Avenue. One rises in court depressingly aware that it is Madison Avenue that has committed commercial television in the first degree. Southern California which regularly commits grave offenses against taste.

In brief, one rises in court with a heavy heart, but with a nagging sense of a man's obligation not to acquiesce silently in foolishness.

In the facile generalizations about the Watergate affair, they are painted as prime villains. Zeal, for example, is frequently blamed for causing the whole affair.

The Nixon people were the first to try to hang the rap on zeal. When Watergate was still a mere "caper," they explained it as a simple case of zeal gone astray. '"Oh, maybe a few overzealous White House flunkies have overstepped the bounds. Still hardly a federal case.'")

As matters became graver, White House defenders became tougher with zeal. Explaining how such princes as Haldeman and Ehrlichman could have been involved, they found a moral lesson to expound. Too much zeal. Very bad stuff, all that zeal.

Nowadays zeal is commonly spoken of as an offense comparable to the mutilation of small children.

Columnists, bounded by their trade to find universal lessons thrice weekly in meaningless events, have eaten so well off zeal that the more reckless are beginning to say there will be much less zeal in future elections.

Here is a flat prediction that is absolutely certain to prove correct: There will be just as much zeal (maybe more) in the 1976 presidential campaign as there was in the 1972 campaign.

Presidential campaigns run on zeal. Eugene McCarthy, who saw the corruption of it, has been denounced ever since by his young idealists for "not wanting it enough" to emulate the zeal of the Kennedys. Kennedy campaigns were famous for zeal, but when Kennedy zealots did unpleasant things to elect their man they were said to be practicing "pragmatism," a doctrine that is always praised in Washington-type circles.

The generalization about Madison Avenue—the ad-man mentality—being the real root of Watergate is not worth long argument, for truckloads of facts will not stop Americans from ascribing disagreeable political events to Madison Avenue. Briefly then: John Mitchell is not an ad man, but a lawyer; so is Ehrlichman; so is Dean; so is the President.

Ah, but the real root of the business is Southern California, you see. Place breeds this sort of thing; with its birchers, freeway culture, boobs racing off to drive-in, human-sacrifice ceremonies. That's what gave us Watergate-ism, Nixon and all.

In fact, as Carey McWilliams noted recently on the op-ed page of the New York Times, McGovern carried Los Angeles in 1972 and Nixon has never been able to establish a stable political base in California.

Finally, hair. Nobody is actually saying that Nixon-esque short hair caused Watergate, though it may yet come to that. The close barbering of all the characters involved in Watergate has, however, begun to make a neat hairline suspect. Parents begin to report that the hairy son's squelch to the plea to thin his knotted locks is becoming: Do you want me to grow up to be like that Watergate gang?"

This is bad—tonsorial tidiness falling victim to guilt by association. It can also be depressing if young people, who have had to listen to old folks' bigotry about hair for years, are going to take up the line that hair makes the man.

The moral—this being a newspaper column, there must be one—is that we ought to resist Watergate's temptation for us to draw nonsensical morals about man and hair, and about almost everything else that soothes a good old prejudice while making the wits nod.

IN MEMORY OF FRIDGE L. JESTER

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. MATSUNAGA. Mr. Speaker, Hawaii mourns the loss of a special friend, Mr. Fridge L. Jester, who passed away on the morning of June 6. Mr. Jester originally served with the office of the Doorkeeper from 1955 to 1957. He rejoined the office in 1961 to serve as attendant to the Capitol Prayer Room until his retirement in 1970. It was while he was serving in this capacity that I became acquainted with Mr. Jester.

Since I first came to Congress in 1963, I have been particularly interested in the Prayer Room. As many of my colleagues know, on April 4, 1965, a Buddhist memorial service was held in the Prayer Room for my father. This history-making service was conducted by Rev. Shojo Honda, formerly of Hawaii, now a Washington, D.C. resident.

During Fridge Jester's years as attendant to the Capitol Prayer Room, a close attachment developed between him and the frequent visitors from Hawaii. To these visitors Mr. Jester's personalized greeting, often expressed in the Hawaiian tongue, was a warm reminder of aloha hospitality in their home State.

Mr. Speaker, in behalf of the people of Hawaii, and for myself, I wish to pay tribute to the memory of Fridge Jester who served the Congress and the Nation with great dedication. May he rest in peace.

OPEN LETTER TO MOBIL OIL CO

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. OBEY. Mr. Speaker, as we all know, Mobil Oil Co. ran ads last week in the hometown newspaper of every Member of Congress setting forth their position on why we have an energy crisis.

I took the liberty of publicly answering their "open letter" and ask that it be printed below together with a copy of the ad as it appeared:

[Mobil Oil Co. Advertisement]

AN OPEN LETTER ON THE GASOLINE SHORTAGE TO SENATOR JOHN DOE AND REPRESENTATIVE RICHARD ROE

We are publishing this letter in your hometown newspaper, and in those of the other Members of Congress, because we want you and your constituents to have the facts about the gasoline shortage as we see them. We are doing this because many people are being misled by the absolute nonsense, totally unsupported charges, and outright lies being spread around by a variety of people. For example:

"There are sufficient supplies available to the oil industry so that there need be no serious shortage of gasoline or any other petroleum product for any purpose in this nation."

"But the fact is, much of the so-called energy crisis is being concocted in the board rooms and public relations offices of the nation's major oil companies."

"I suggest that circumstantial evidence supports the conclusion that the major oil companies are using the fuel shortage they helped create to drive out their competition."

What these and other such statements boil down to is a series of charges that the shortage is contrived. That it is a hoax perpetrated by oil companies to raise prices and drive unbranded marketers out of business. That it is a massive conspiracy, a price gouge to end all price gouges.

Not one of these charges is true. All are based on misinformation. Some are outright lies. Here are the facts.

I. GASOLINE PRODUCTION IS AT AN ALL-TIME HIGH

When they hear the word "shortage," many people think the industry must be supplying *less* than before. Far from it.

The U.S. oil industry is making *more* gasoline than ever before—5% more than last year. That translates into an increase of 13,700,000 gallons a day above 1972—*which would have been more than enough to meet the demand growth of almost any previous year in history*. The problem is that with gasoline production up 5% over last year, demand is up about 6.2%. The shortages, which may come and go due to temporary swings in demand and supply, have shown up in the fact that some service stations occasionally run out of gasoline, and many dealers have chosen to operate on shorter hours and to close on Sundays.

II. POLITICAL DECISIONS HAVE PRODUCED THE SHORTAGE

The following factors, *all essentially resulting from political decisions,* have produced today's shortage:

(1) While potentially large oil reserves are believed to lie off the U.S. East and West Coasts—our most promising oil province, since the onshore U.S. has been more heavily drilled-up tnan any other part of the world—these offshore areas are barred to exploration, and U.S. crude production is dropping. *Oil companies had no control over this.*

(2) Over five years after the largest oil field ever discovered in North America was found on the North Slope of Alaska, construction of a pipeline to bring this oil to market is still stalled. *Oil companies had no control over this.*

(3) The United States is short of refining capacity, and will be critically short in a year or two, as a result of erratic government import policies, environmental constraints, and inability to bring the largest, most economical tankers into U.S. ports. *Oil companies had no control over this*

(4) In terms of volumes, demand for gasoline is growing well over twice as much as it did during the 1960s, with pollution-control equipment and convenience devices such as air-conditioners accounting for a large part of this year's increase. *Oil companies had no control over this.*

(5) The shortage of natural gas caused by ill-advised government regulatory policies has forced industrial users to use large quantities of heating oil, which has caused a shortage of that product for the consumer. *Oil companies had no control over this.*

(6) Two of the major oil-exporting countries in the Middle East and North Africa have reduced crude oil production. *Oil companies had no control over this.*

(7) Price controls are impeding the importation of higher-priced oil products into our country. *Oil companies had no control over this.*

III. IS THERE A CONSPIRACY? IS THE SHORTAGE CONTRIVED?

If there was every an industry in which it would be impossible to conspire, it's oil. Conspiracy requires secrecy. If you stop to think of all the bodies of government—in every branch of government, at every level—that have long involved themselves in our business, you'll realize we couldn't conspire if we wanted to. We operate in a fish bowl.

Dozens of agencies of the federal government, a horde of Congressional committees, and agencies of the 50 states and various municipalities regulate, investigate, or monitor the oil industry's activities.

Further, oil companies—even the largest ones—are so widely divergent in their size, their interests, their needs, their opportunities, and their views that it would be impossible to put a conspiracy together. Oil is one of the least-concentrated major industries in the world. No oil company supplies as much as 9% of the U.S. gasoline market.

IV. THE "INDEPENDENT" MARKETERS

You have doubteless seen charges that "the major oil companies" are cutting off gasoline supplies to non-major-brand ("independent") marketers to drive them out of business.

You should know that the overwhelming majority of service station dealers in this country are independent businessmen, whether they sell under the Mobil brand name or the brand of one of our major competitors or under their own private brand. All these dealers set their own retail prices, their working conditions, and usually their hours of operation.

Many non-major-brand marketeers have in the past chosen to rely on day-to-day purchases of gasoline from oil companies instead of entering into long-term supply arrangements. This policy worked to their advantage as long as supplies were adequate, and especially when there were surpluses. Now that the surplus has disappeared, they are having difficulty obtaining gasoline.

As for Mobil, we have established an allocation system to ensure fair treatment of our customers. We believe this system will enable us to supply these customers at least as much gasoline and other refined products this year as last year.

V. WHERE DO WE GO FROM HERE?

It's going to take several years to remedy the situation. A pipeline has to be built to move the oil discovered over five years ago on the North Slope of Alaska. The outer continental shelf off the U.S. East and West Coasts has to be opened to exploration for new reserves of oil and natural gas. Superports have to be built. Oil companies must be enabled to obtain satisfactory sites for new refineries. Massive research and development programs have to be undertaken to make the production of non-conventional oil and gas from oil shale and coal economically feasible and environmentally safe. Construction of nuclear power plants to generate electricity must be accelerated. All of these require long lead times, and they can't be accomplished by the oil industry alone.

This is why Mobil has been running newspaper ads across the country, and doing a good many other things, to urge people to conserve gasoline and to use all energy more efficiently. As a further step in this direction, we have totally eliminated our gasoline advertising and are focusing our efforts on providing greater public information on how our country can tackle its energy problems rationally and equitably.

VI. WHY THIS LETTER

Our intention is not to get into a posture of charges and counter-charges, but rather to accomplish two things:

(1) To set the record straight on the gasoline shortage and to put the lie to the charge of conspiracy; to help people understand the shortage is real and will be with us for some while; and to suggest practical ways to cope with it.

(2) To try to elicit from you and your constituents a national effort, such as our country has not seen since World War II, to use wisely the energy resources available to us and to establish new policies to alleviate energy problems in the years just ahead.

JULY 11, 1973.

Mr. RAWLEIGH WARNER, Jr.,
Chairman and Executive Officer,
Mobil Oil Corp.,
New, York, N.Y.

DEAR MR. WARNER: Today your company ran a newspaper ad in my hometown newspaper, the Wausau Daily Record Herald, to "set the record straight" on the gasoline shortage and to blame the present crisis "on political decisions" over which you "had no control" rather than on shortcomings of the American oil industry.

That "open letter" is evidently part of a national campaign by Mobil which includes the placement of ads in the hometown newspapers of every Member of Congress in the country.

Because I do not have the financial resources available to Mobil Oil Corp., I cannot afford to answer your ad with one of my own. I would like, however, to respond to your company's ad with a few questions of my own regarding the assertions in your open letter.

MOBIL AD CLAIM A

All charges that the gasoline shortage is a manufactured shortage are untrue.

Question: But, is it not true that for years the oil industry has vigorously opposed the one action that could have prevented a shortage of oil and gas in this country, namely the elimination of the oil import quota system which for 13 years has restricted the supply of oil in this country and made your profit-making easier?

Has not the current "shortage", in fact, been a convenient excuse for improving the competitive position of the major oil companies by pushing upwards of 1200 independent dealers out of business in the past five months—competitors who often were selling gas across the street from the major dealers for from 4¢ to 6¢ cheaper than the major prices?

Do you really expect the American public to believe that Mobil and other oil companies regret the elimination of your competition?

How do you respond to New York State's chief anti-trust officer who recently pointed out in hearings in Washington that gas reserves totaled 202.5 million barrels as of June 1, 1973, but that least year—when no "crisis" existed—stocks were 1.6 million to 9.6 million barrels less?

MOBIL AD CLAIM B

The present shortage is not a conspiracy of the major producers and there is, in fact, vigorous competition in the oil industry.

Question: What about the just released Federal Trade Commission staff report which concluded after a two year study that major oil firms do not compete on price, "consistently appear to cooperate rather than compete in all phases of their operation," and have "attempted to increase profits by restricting output"?

Just what competition has there been other than advertising cleaner restrooms and glassware givaway programs?

MOBIL AD CLAIM C

Environmentalists are responsible for the present shortage because of their resistance to the development of U.S. government offshore oil reserves.

Question: Do you deny the facts contained in the just released General Accounting Office report in which that agency is highly critical of the haphazard regulations and inspections governing present offshore oil drilling operations; facts which indicated that the Geological Survey, which is responsible for regulating oil drilling on the Outer Continental Shelf, provided no formal training for those who inspected the offshore drilling operation; that only 4 of 69 oil-producing structures in 1972 were re-inspected within the required 6 month interval; and that those companies who had leased offshore lands from the government were slow to take corrective action where violations of drilling regulations occurred?

Is not the real answer to these problems oil companies support for greatly improved regulations and inspections of offshore operations, and by committing additional research to both prevention and clean-up of future oil spills?

MOBIL AD CLAIM D

Environmentalists have also been responsible for the shortage by their opposition to the Alaskan pipeline.

Question: Is it not true that the President of Atlantic-Richfield oil company himself, on a national television program, publicly credited environmentalists with pressuring the oil companies into substantially improving their proposed construction techniques for the trans-Alaskan pipeline, thereby enabling them to build a much safer line?

Why are the oil companies so opposed to a pipeline through Canada, which I support, which will ship oil to the section of the country which most needs that oil, the Midwest?

Is it not true that if a pipeline is constructed from Proudhoe Bay to Valdez, rather than across Canada to the Midwest, all the Alaskan oil will be shipped to the U.S. west coast which will then have more oil than it can use? And is there not then a much greater likelihood because of the high cost of transporting that oil to the Midwest, that much of the new Alaskan oil could be sold by oil companies to Japan at a good price?

If Congress authorizes the construction of the trans-Alaskan pipeline, which will put oil on the west coast, would your company support a prohibition on the export of any of that oil?

MOBIL AD CLAIM:

The government's anti-pollution regulations are helping to cause the gasoline shortage.

Question: Is it not true that President Nixon's own appointee to head the Council on Environmental Quality, Russell Train, remarked just last month that emission controls account for only 7% of increased fuel consumption by automobiles and that added weight and air conditioning have, in fact, had a greater impact on the gas mileage than exhaust emission controls?

Do you disagree with the results of an EPA study which found that a change of only 500 pounds in weight of 1973 vehicles—from 3,000 to 3,500 pounds—can lower the mileage from an average of 16.2 miles per gallon to 14.0 miles per gallon, a decrease in fuel economy of nearly 14%?

Do you not agree that increased fuel consumption traceable to emission control systems could have been partly avoided if Detroit had dropped its stubborn resistance to change, reduced its advertising budgets and increased its research budgets to develop new kinds of automobile engines?

Mr. Warner, I will agree that all of the blame for the energy crisis certainly does not fall on the shoulders of the major oil companies in this country, and that political decisions—or the lack of them—have in fact been one of the root causes of the present energy crunch. It is certainly true that we have not had a President as long as I have been in politics who has shown any basic understanding of the energy problems in this country, and the Congress has not been much better.

I agree with you that legislative action is required, but I suspect that the legislative prescription I would require would be quite different from your own. We could do a great deal to solve the energy crisis by: (1) dramatically increasing the amount of money we spend on research to develop alternate sources of power; (2) refusing to guarantee huge increases in profits to the major oil and gas producers in hopes they will beneficiently do more exploration and development of American oil reserves; (3) by having the government itself develop the offshore oil and gas reserves and oil reserves on federally-owned lands which both, after all, belong to the American people and not the American oil manufacturers; and (4) by prohibiting the complete wellhead-to-gas pump control that major oil companies now have over their products.

Vertical integration, especially in the energy industry, is a dangerous, monopolistic practice which places in the hands of a very few American corporations, including your own, almost life and death control over the American economy. It seems to me that politicians ought to own up to their past mistakes which, as I see it, have been not in their resistance to the suggestions of the oil industry, but rather in their almost total capitulation to its suggestions, demands and its economic interests.

In closing, let me say that I find your company's ad novel in only one respect: you are trying to do publicly what the major oil companies have been doing privately and very successfully over the past 20 years—controlling the Congress and the decisions it makes about your industry.

Finally, since you've taken the liberty to write me, in addition to answering the above questions, I would like to have the answers to three others: first, how much did this entire ad "campaign" cost those who purchase Mobil products; second, how does that expenditure compare with the amount of money Mobil or its executives have previously spent by contributing to Presidential or Congressional campaigns in an effort to affect decisions made in Washington; and third, do you regard this coast-to-coast propaganda campaign as a so-called "ordinary and necessary" business expense to be deducted from the company's taxable income?

Sincerely yours,

DAVID R. OBEY,
Member of Congress.

TRINITY CHURCH AT 100

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mrs. GRASSO. Mr. Speaker, on July 10, the members of Trinity Church, Lime Rock, Conn., along with their friends and neighbors, celebrated the 100th anniversary of the laying of the church's cornerstone.

In the past century Trinity has stood as a center of religious worship and a focal point of community activity. The church was designed by Richard Upjohn, and his son—the same architects who designed the State capitol building in Hartford. One of the founders of the church was William H. Barnum, U.S. Senator from 1876 to 1879.

Mr. Speaker, in recognition of this auspicious occasion, I would like to insert the following article in the RECORD. The attached article from the Lakeville Journal, by Faith Campbell recount highlights in the history of this beautiful Connecticut landmark:

TRINITY CHURCH AT 100

(By Faith Campbell)

Trinity Church in Lime Rock launched its Centennial Year Tuesday evening, celebrating the 100th anniversary of the laying of the church cornerstone.

Members of the parish, friends and neighbors turned out for the event, which was the first of several planned for this anniversary year.

After a beautiful concert and cantata by the Boys' and Girls' Choir of St. Michael's Church, who had come from Litchfield to perform "Joseph and His Amazing Technicolor Dreamcoat," a visit was paid to the cornerstone.

Sealed inside it are a prayer book, church almanac, copies of "The Churchman" for 1873 and of "The Connecticut Western News," for July 4 of that year. It also contains cards of the Bishop of Connecticut, who presided at the first service on the site of the church, and of other attending churchmen, including the Rev. William Allen Johnson, rector of St. John's, Salisbury, in whose parish the new church was built.

LIME ROCK THEN

At the time when the idea of an Episcopal Church for Lime Rock first took shape, this was an industrial village, its mills powered by a series of falls where the Salmon Kill descended to The Hollow.

Its furnaces were supplied with high-grade ore from Ore Hill, fluxed by limestone from local quarries and fired by heat from charcoal made in the forests of Sharon Mountain.

The two families who ran all this business, the Barnums and the Richardsons, had built up much of the village. It was a model company town with its rows of neat small houses for workers, great houses for the managers, and recreational areas where company teams played baseball and everyone could listen to band concerts on summer evenings.

The post office, general store, barbershop and even the railroad station (two miles east of the carwheel shops) with its long loading platform, were all tied in to the nationally-important manufacturing of the village.

William H. Barnum, one of the owners, was already an important figure in state and national Democratic politics.

There had been a small church on Barnum Avenue (now White Hollow Road) supplied by Methodist ministers. The Barnums and the Richardsons and some other families, however, attended St. John's, driving their stylish carriages over six miles of dusty rutted roads in summer, and icy drifted roads in winter.

HOW THE CHURCH BEGAN

Julia Emmons Goodwin, in her "History of Trinity Church" (1949), wrote that it was Mrs. Barnum's determination that Lime Rock should have its own Episcopal Church that brought Trinity into being.

"She interviewed the heads of the Protestant families and secured so many pledges of support that her husband told her to carry out her idea and he would finance the undertaking."

James and Julia Goodwin Ensign gave a parcel of land from the Goodwin farm, on the main road just opposite the cemetery. Richard Upjohn was asked to design the church.

THE ARCHITECT

Upjohn had been designing great churches modeled on English Gothic revival lines and was a leading architect of the time. Although he had done beautiful Trinity Church in New York at the head of Wall Street, on Broadway, many imposing private residences, and was the founder and first president of the American Institute of Architects, he also loved to design small country churches.

His plans for Trinity, Lime Rock, showed his loving care. For it he chose tan sandstone from a quarry on Sharon Mountain. According to Miss Goodwin, there was great interest all during its building: "when the time came to raise the bell, a large crowd gathered to watch two yokes of oxen pull the rope that lifted it to its place in the belfry."

The church was completed and consecrated Nov. 4, 1874, and in May, 1875, the parish was separated from St. John's. The first rector was the Rev. Millidge P. Walker.

GOOD YEARS AND LEAN

The church has had its full years and its lean. A funeral of national interest was held there in May, 1889, when William H. Barnum died. Attending the funeral was ex-President Grover Cleveland, who gave the eulogy; so many important men in the state and national Democratic parties came that the church couldn't hold the crowds.

During its first 100 years Trinity Church has improved its fabric, built a series of parish houses (the present one was completed in 1962, and later named in honor of A. Scott Walker, senior warden emeritus and son of the first rector); built a rectory, designed to harmonize with the lines of the church; added a rector's office to the parish house wing in 1971, and a new garage in 1972.

AN ACTIVE PARISH

To support itself, the congregation and its active Woman's Auxiliary put on a yearly Christmas pageant in the 1940s. Since then the annual Shrove Tuesday Pancake Lunch and the famous Salisbury Antiques Fair have been important to the community as well as to the church. (The Fair will have its 17th production the first weekend in October).

The goal for the Centennial year is to bring the Endowment Fund to $100,000. Special festivals and events to help achieve that goal are still in the planning stage.

HON. DOLPH BRISCOE, GOVERNOR OF TEXAS, SPEECH TO MIDWESTERN GOVERNORS' CONFERENCE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. TEAGUE of Texas. Mr. Speaker, the Honorable Dolph Briscoe, Governor of the State of Texas, addressed the Midwestern Governors' Conference on July 9, 1973, at their meeting in Rapid City, S. Dak. His subject was our energy crisis, the critical energy shortage, and his views as to the course of action we should take.

Under leave to extend my remarks in the RECORD, I include the Governor's remarks:

ADDRESS BY GOV. DOLPH BRISCOE

Governor Ray—I am honored to be invited to address this most distinguished group of State leaders on the most critical problem of energy shortages our Nation now faces. It is a subject of vital concern to me, to you and to the welfare of this great Nation. And it is a problem that has been building up for more than twenty years, due largely to a lack of effective national leadership to formulate a comprehensive national energy policy which could have prevented the situation we now face from ever occurring.

We have not done this, so today we are running *out of gas—and oil*—and we have run out of time and the Country is in trouble. We have dealt in stop-gap measures in times of crisis and then quickly abandoned them when the crisis subsided.

In my judgment, most of our problems today have been generated by a series of errors in the past.

The abundant supply of natural gas and the low cost, which is due to Federal Power Commission well head pricing, have served to stimulate the demand for gas, keep the price of oil severely depressed, and have driven coal almost completely out of the domestic market.

Natural gas is today our cleanest and most desirable fuel, and this un-natural restriction of price by governmental control has resulted in lavish and wasteful use which now threatens to exhaust the supply. If the government were to require that cadillacs and chevrolets be sold for the same price, there would, doubtless, be few Chevrolets sold, and they would soon be out of production. In effect, this is what federal price control has done in the use of natural gas as opposed to coal and oil.

Probably, the most serious error of all was the veto of the bill passed by Congress in 1956 that would have freed natural gas from the disastrous effect of the Federal Power Commission's well head pricing. It forced an alien system of economics upon our traditional concept of free enterprise and attempted to place a commodity—natural gas—into a form of utility regulation.

This action changed the energy consuming habits of both industry and the homeowner.

For example, in 1950, fossil fuels supplied some ninety-seven percent of the total energy requirements of this Country. Today, with energy requirements much greater, fossil fuels still provide ninety-eight percent of the Nation's total energy requirements—but in very different proportions.

In 1950, coal, which is today our most abundant source of fuel and energy, contributed thirty-eight percent; now it contributes only twenty percent.

Natural gas contributed twenty percent in 1950, and has risen to thirty-three percent—while during this same period, oil moved from thirty-nine percent to forty-five percent.

The remaining three percent in 1950 was a product of hydro-electric power, which has not significantly increased in more than twenty years, and with the addition of nuclear power, the two combined furnish the remaining two percent at the present time.

If during this period, coal's share in the energy market had risen ten to twelve percentage points—instead of an eighteen percent decline, we would now be in good shape.

Artificially low prices imposed on the petroleum industry and the impact of other regulations at the federal level are largely responsible.

Certainly also, the reduction of the oil depletion allowance and the continuous threat of reducing other tax incentives for investors have acted to slow down exploration for new wells by the oil and gas industry, and to reduce the investment of needed capital by outside investors into high risk drilling programs. Recent considerations before the National Congress—which would provide that intangible drilling costs can no longer be expended for individuals who are not primarily in the oil business—has already discouraged drilling investments, and is further slowing down our already lagging domestic exploration program.

The uncertainty over delivery of crude oil and uncertainty over the type of gasoline that will be permissible under EPA regulations means that for the first time in recent history, no new refineries are presently under construction and haven't been for five years—even though the demand for petroleum products continues to increase. And it now takes about three years to get siting approval on a refinery and about ten years to build a nuclear power plant.

Surely the clash between environmentalists and energy proponents has helped to cause our shortage. Environmental concerns have blocked the way for offshore oil production and construction of the Alaskan pipeline. Also, more and more rules are being enforced to prevent the use of coal because of undesirable effects on the environment—and coal is today our most abundant source of fuel and energy.

Environmental considerations are crucial—but they do not override all other considerations. This Nation must reclaim its land and preserve its environment, and at the same time provide the fuel necessary to meet our needs, and I am convinced that we can do both—safely and effectively.

The fuel needs of all of the states must be met whether we are a producing or solely a consumer state.

As Governor of an energy-producing State, I intend to do everything in my power to see that this is done and to seek solutions to both onr short and long range problems.

Today, Texas is supplying approximately twenty-five percent of the total energy demands of this Nation. More than one-half of the natural gas produced in Texas is transported out-of-state, and yet it is ironic that the State—which once literally sat upon one of the largest reserves of oil and gas in the world—now finds it is one of the first to feel the crippling effects of an inadequate gas supply.

The President, the National Congress, all of our Governors, federal and state agencies, environmentalist and conservation groups, the energy industry and business leaders in general must all pull together to solve our energy problems and the time to act is now.

First, we must move strongly to conserve our energy and fuel supplies.

I feel that state government should set the example and on June eighth, I appointed General Jim Rose of my staff to head up a State Energy Conservation Task Force involving all of the two hundred and forty state agencies in a massive and aggressive program of conservation.

All State Agencies have been directed to implement strict and effective conservation plans, and we are disseminating all of the known conservation ideas to the agencies.

We have called for a thirty percent reduction in the use of electrical power with all known economy measures in force at all times.

Working through our Board of Control, which handles State purchasing and contracting, we have established a control over the distribution of gasoline and diesel fuel to State Agencies, holding them to last year's levels.

In meeting with our largest agencies Thursday, we have found that they can live with these amounts without reducing essential services.

We are developing an intensive public service advertising and promotion program for energy conservation which will involve a series of television and radio spots, printed ads for newspapers, trade publications, pamphlets and useful give-away items. This publicity program will be State-Wide in scope and projected to develop an "Awareness" throughout the State in government, business, industry and among all of our citizens in general.

Our short range goals include the task of finding immediate ways and means of conserving energy in our State government agencies as well as finding ways of encouraging proper conservation practices throughout the State both in our business operations and in our homes.

Our long range goals include the task of finding solutions to our energy shortages.

By conserving the energy resources we have, we can gain the time to seek and find solutions to the overall problem of inadequate reserves to meet the ever-growing needs of our expanding population.

Our conservation efforts are working, and we are receiving outstanding cooperation from our State Agencies.

This planning is not only saving our vital fuel resources, but it is helping us to stay within the State budget requirements while fuel costs are moving upward.

Our lowest bids for next year's State requirements came in three cents per gallon higher on gasoline, and four cents higher on diesel.

Most important, we are getting the people of Texas thinking about energy conservation. Our "Awareness" program is making headway, and we are receiving many fine suggestions and ideas from business owners, people in government and citizens all across our State.

I have also created a Governor's Energy Advisory Council with the primary goal of recommending to me a State Energy Policy which will draw together the policy making activities of the public and private sectors of the State.

Our Texas Offshore Terminal Commisison has just completed its interim report, and we are now pushing hard toward the construction of deep water terminals off the coast of Texas to receive the new super-tankers or very large crude carriers. These ships of over three hundred thousand tons can move crude oil over long distances for less than half the cost of an "average" thirty thousand ton tanker.

In 1971, Texas exported to other oil-using regions of the United States an average of one point six million barrels of crude oil per day.

In 1980, the National Petroleum Council estimates that Texas will be importing three and one-half million barrels of crude oil each day, and this will increase to more than five and one-half million barrels per day by 1985.

Practically all of the oil imported into Texas after 1980 will have to come from the Persian Gulf, a distance of twelve thousand miles from the Texas Coast. Only supertankers, with the economics of scale they offer, can deliver crude oil to Texas refineries at reasonable cost.

We must build these deep water terminals, and we must have cooperation and assistance from the Federal Government to simplify the procedures. To construct them will require thorough planning and coordination among federal, state and local agencies.

We need a single Federal Agency to handle these super port applications with a legislative mandate that requires *precise and expeditious* handling.

Even then, it will take several years to construct these terminals and we will have to double our refineries, pipelines and other transportation capability.

One thing is very certain—there is no assurance that the supply of foreign oil will be available in the quantities that we will need by 1980. Since by 1980, the world's consumption will have almost doubled. Surely the price will have gone up too.

In my judgment, our Nation is already dangerously dependent on foreign oil imports at a rate of more than one-third of what we consume.

I think it is imperative that the United States strive to regain its lost ability to meet most of its own *domestic* needs from *domestic* sources, and this should be a part of our National Policy.

We must develop *all* of the Nation's potential energy resources, not just oil and gas, but our coal, tar sands, nuclear potential, thermal well resources, solar—in fact, every possible energy resource.

This will require the cooperation of the federal government, state governments, and business and industry.

It will require the necessary incentives for the entry of new private companies into energy production and the adoption of more reasonable land use programs at both Federal and State levels that will promote, not discourage, the orderly development of public energy resources.

A primary goal must be the protection of our environment. We must find ways of using all of the sources of energy—safely, and efficiently to meet our Nation's energy needs and still assure that our children and grandchildren have a clean and safe America tomorrow.

As a start, the Federal Government should conduct a state-by-state inventory to identify:

The amount of energy now being consumed in that State.

The primary energy sources and the extent of other possible supplies.

The legal prohibitions that exist in the state—such as laws against strip-mining, or location of refineries. We need to know whether or not the coastal states have restricted offshore drilling or the development of deep water terminals.

And we must have an inventory that would show attitude, assets and liabilities of the state to meet its own needs.

We must look at a state to determine from what source that state should receive its supply. And we must utilize the fuel closest to the source.

Every state should develop its own ability to assess and develop its own energy resources.

And then—and only then—look outside the state to meet its additional needs.

Many states have energy resources that for one reason or another have not been developed while they import heavily from other areas. We must now fully develop all of our energy sources in all of our states.

Whatever it takes to get the job done, we must do. If new federal or state legislation is needed, we must push for it.

We must build the Alaskan pipeline.

We must build the needed refineries.

We must mine our coal and also reclaim the land for effective use.

We must develop our nuclear capability—and safety.

We must build our deep water terminals.

We must re-double our efforts to develop mass transit systems in our urban areas.

We must solve the pollution problems and protect our environment and keep a balanced environmental program going.

Throughout the long course of history of this great Country of ours, whenever the existence of the Nation was threatened from without or within, She has always responded strongly to meet the challenge. Such was the case in the dark days of World War Two when our survival was threatened by a force superior in numbers and weaponry—and we had to find a faster way to victory. From this challenge to freedom came the "Manhattan Project" and atomic power which brought an early end to the war and also changed the entire world.

Once again, we are besieged—but in a different way—but also in a way that affects our position and power in the world and our capability to defend our Nation. So, here today, I call on the President of the United States and the National Congress to establish a Manhattan Project for the research and development of energy resources:

To form all of the federal energy offices and departments in existence, and those proposed by the President along with the best expertise from the private sector in the fields of science—engineering—industry and education into a combined team as we did in Manhattan and NASA.

To incorporate the energy research and development administration the President is proposing into this task force.

To provide whatever financial support and governmental direction that is required to attract the finest talent in our land.

To support this force to the fullest to improve the technology, invent new equipment, discover new sources of fuel, develop new ways and methods to re-claim our land, to control pollution and to protect our environment without impeding industrial progress.

To step up educational grants for research in the energy fields at our colleges and universities.

Just as we brought the finest scientific, industrial, and engineering and military capability of the Nation together for the Manhattan Project to produce the atomic bomb—and again in our NASA Space Project to explore outer-space and put-a-man-on-the-moon—we must now do the same thing to solve the severe energy problems facing this Country. We must again explore and discover and find a way to eliminate pollution, re-claim our land, protect our environment and still develop and utilize all of our fuel sources, coal, nuclear power, oil, gas, tar sands, thermal well resources, solar and others we do not now know about. If the government provides the financial support and the organization and direction as they did in Manhattan and NASA, then I am confident the solutions will be found.

In short, just as we did during World War Two—to find the fastest way to victory—

All of this can be done—and it must be done.

For many years, Texas has made a significant contribution to the energy needs of the United States and the world.

And we shall continue to do so.

MURDER BY HANDGUN: A CASE FOR GUN CONTROL—NO. 4

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. HARRINGTON. Mr. Speaker, on a recent hot summer evening, Luis Torres and his wife, Carmen, were sitting in a park in The Bronx, N.Y., enjoying the night air. Mr. Torres was on a 2-week vacation from his factory job. His three young children were vacationing in Puerto Rico.

The night began peacefully and pleasantly, but it ended tragically. For without warning and without reason, a teenage robber fired two shots at Luis Torres with a pistol. The victim slumped to the ground, fatally wounded in the head and neck.

In a moment's time, one man was dead, one woman widowed, and three children were left fatherless.

Luis Torres' murder is the fourth one we have chronicled in the CONGRESSIONAL RECORD, and it is one of 21,000 senseless deaths by handgun each year. An Associated Press Survey covering March 4 to March 11 of this year showed that in 1 week alone, 350 men, women, and children in the United States were shot to death, a 70-percent increase over the figure recorded in a similar survey 4 years ago.

The teenage boy who killed Luis Torres had no reason to shoot. But he had a pistol in his hand, and he used it. Our lax gun control laws have made killing very easy—far too easy. As long as people continue to own handguns, the opportunity to use them for violent ends will remain.

A strong Federal gun control law to control the sale and possession of handguns is vitally needed. It will come too late for Luis Torres, but it may save other human beings from useless, tragic deaths.

The article from the July 15 New York Times follows:

MURDER SCENE IN BRONX AN OASIS FOR MORRISANIA—SLAIN MAN HAD GONE THERE TO SEEK RELIEF FROM THE HEAT

(By Christopher S. Wren)

For the residents of the Morrisania section of the Bronx, Claremont Park is a vital urban oasis. During the day, the leafy green triangle, with its swimming pool, ballfields and playgrounds, belongs to the children.

At night, their parents, most of them black or Puerto Rican, come to claim it as a retreat from the stifling city heat.

But last Friday, the cycle of leisure in Claremont Park was interrupted. Luis Torres, a 28-year-old father of three children, was gunned down beside a park bench by one of two teen-age muggers, who then rummaged in vain through their victim's pockets while his terrified wife looked on.

"It was hot and so we went to take some air," recalled Carmen Torres yesterday. She sat with a few friends in the Torres's five-room apartment at 1365 College Avenue. Only a week earlier, Luis Torres had moved his wife and children from their old apartment several blocks north of Selwyn Avenue. The rent at the new place, Mrs. Torres explained, was less.

WERE DANCING

With their children vacationing back in Puerto Rico and Mr. Torres winding up a two-week vacation from his factory job, the couple had the evening to themselves. They strolled over to the park with their portable radio-tape recorder. "We were playing music and dancing," said Mrs. Torres.

About 10:30 P.M., as she rested on the bench, two teenagers sauntered up through the shadows to ask the time.

"I don't have a watch," Mr. Torres explained. He turned to walk over to his wife.

The older of the two teenagers pointed a small-caliber pistol and fired twice. Mr. Torres collapsed on the asphalt footpath, fatally wounded in the head and neck.

"They wanted to take the tape recorder," Mrs. Torres said. "When I saw my husband fall, I started screaming. I took the recorder and ran over to another bench."

The assailants paused long enough to search Mr. Torres before running from the park and down East 170th Street. Passers-by rushed over to help the dying man. A friend who came up said he found Mrs. Torres hysterical.

"Everybody was calling the police, calling the ambulance and nobody came," said Mrs. Torres. "The police came more than an hour later."

The victim died before he reached Morrisania Hospital.

"We had 10 years together," said Mrs. Torres. She planned to take her husband's body home to Mayaguez, P.R. She didn't know whether she would leave today or tomorrow, she explained, "because it's a homicide and I don't know if I can get his body from the morgue."

SIN NINGUNA RAZÓN

No one in the red brick tenement really knew the new couple. But upstairs, a neighbor shook her head and lamented, "Sin ninguna razón." She repeated in English, "There wasn't any reason."

On the front stoop, Kim Mason, 23, waited for the drizzle to stop.

"Everybody from this neighborhood goes up there and sits in the park and drinks beer and listens to the radio," he explained. "That's why I can't understand why it happened. It is usually crowded, especially on Friday and Saturday nights."

Some residents noted that two youth gangs skirmished at the swimming pool in Claremont Park only last week.

LACK OF POLICE CITED

"Mostly younger people go to the park," said Mr. Mason. "Older people won't go up there any more because it's too dangerous. There are foot cops on 170th Street in the daytime, but you never see them at night."

Although residents felt that the slayers were not from the neighborhood, detectives were searching the vicinity of the park for the two suspects, whom they said were about 17 and 19 years old. "We're looking primarily in that area," said Detective Warren Marschat, "seeking witnesses and confidential information if possible."

Yesterday, the park was nearly deserted in the rain, Carlos Rivera, a 16-year-old who lives across the street, pointed out the dark splotch on the asphalt where Mr. Torres had bled.

"At night, you'd always see people sitting around here and talking," said the youth. "But after the shooting, the people tipped [left]. And they haven't come back."

A WHITE HOUSE HOMILY—UNDELIVERED

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. DRINAN. Mr. Speaker, I bring to the attention of the Members of the Congress an extraordinarily perceptive editorial in America, the national Catholic weekly.

This editorial was writen by Father Donald R. Campion, S.J., the editor-in-chief of America magazine.

The editorial raises some of the basic moral questions now confronting the White House.

This undelivered White House homily follows:

A WHITE HOUSE HOMILY—UNDELIVERED

(The Word of God is something alive and active: it cuts like any double-edged sword but more finely; it can slip through the place where the soul is divided from the spirit, or joints from the marrow; it can judge the secret emotions and thoughts.) (Heb. 4:12)

Mr. President, members of the White House family: The Bible tells us that God's word is a two-edged sword. Sociologists tell us much the same thing when they point out that the role of religion in society is twofold: to canonize and to criticize, to support society but also to judge it. Some of the most distinguished churchmen in America have, at your invitation, Mr. President, spoken at these White House Sunday services. My words this morning cannot be as reassuring as theirs often were. We would not be faithful to God's word or to you who listen to that word with us, if we did not speak this morning to what a member of the White House family has recently called a "political and constitutional crisis," so clearly also a moral crisis, the crisis of Watergate.

To remind ourselves that there are important moral issues involved in the complicated history that is emerging from the Senate hearings might seem unnecessary. It is all too obvious that blackmail, invasion of privacy, bribery, perjury, defamation of character, all involve moral values. Yet one of the chilling revelations has been the complete absence of moral concern at any stage of the conspiracy. The questions asked were pragmatic; the doubts and hesitations concerned expense or deniability. No one asked: Is this just and good?

It has been suggested that the Watergate conspirators were influenced by the spirit of civil disobedience that characterized the antiwar movement and were led into the activists' error of justifying means by ends. The analogy is misleading. It is not necessary to approve every instance of civil disobedience in the peace movement to recognize the vast difference between public protest and secret subversion. Those who protested against the war appealed to conscience and moral values and accepted the sanctions of the state as a part of their protest. The Watergate conspirators made every effort to conceal their actions and escape the sanctions of the state. And can the goals of the antiwar activists and the conspirators really be compared? An end to bloodshed has been the goal of all Americans, whatever their disagreement on the means to achieve it. The goal of the Watergate conspiracy—to dictate the result of a free election—is repudiated by all Americans, whatever their political differences.

It is important to be clear on what kind of moral issue was involved. One of the most prominent religious spokesmen in the United States has called Watergate the culmination of a national moral decline, the result of an era of permissiveness. Such a call for penance and discipline is always salutary, but in the present instance it blurs the nature of the evil we confront. The men of Watergate were not playboys of permissiveness but true believers in the work ethic. In the words of one of their colleagues, men of high private morality but lacking in a sense of public morality.

Prestige, money, advancement, the usual idols of the "American dream," were not completely absent from the motivation of the conspirators. Yet for all that, Watergate still represents a new kind of political corruption. American politics has known before men who abused positions of power for private gain. The Watergate conspiracy betrayed the public trust in more deadly fashion. It stole our birthright.

The actual incident of June 17, 1972, as is now abundantly clear, was no isolated adventure. It was part of a deliberate plan to subvert the process of democratic election. When those who broke the law were apprehended, some of the most highly placed men in the government attempted to enlist government institutions in a conspiracy against justice. If all this were simply an excess of campaign zeal, the result would be tragic enough. The apparent mandate the President received in November would be forever stained by the tactics employed in its pursuit. These tactics, however, cannot be isolated from the philosophy of the White House for the past five years.

There is much pressure at the present time, Mr. President, to determine who was ultimately responsible for Watergate in its various phases. The possibility of your personal involvement poses an embarrassing dilemma even for your friends. If you were aware of the conspiracy, you have participated in a crime. If you were unaware of the conspiracy, which touched at one point or another the most important personalities and agencies in your government, then the failure in leadership is, in a sense, even more disturbing.

As serious as this dilemma is, however, it is not the most important question to be asked this morning. The crisis the nation faces, regardless of your particular role in the Watergate conspiracy, is still rooted in the fundamental mentality of your Administration. It is a mentality that could be described as absolute righteousness, holding itself above and beyond the law. Absolute righteousness quickly becomes absolute ruthlessness.

Basically this mentality rests on the mistaken assumption that the origin of legitimate power in government is the White House and not the people of the United States. The result is that the men you selected and inspired, Mr. President, used the tactics of the police state to meet what they describe as threats to national security. The plans for domestic intelligence-gathering launched by your Administration, the special investigative unit attached to the White House and privately financed, illegal wire tapping, illegal entry, the use of tax audits against political opponents, the withholding and falsifying information given to the public—these were the real dangers to national security, the real subversion. An Administration parading under the banner of law and order, considered itself above the law. A President, whose extraordinary career had been on battling subversives, surrounded himself with men who made subversion the game plan.

How could this happen? Did the mistake lie in a fondness for the corporation mystique, an admiration for the methods of men who made money? Was the mistake to impose the techniques of American business on the process of American government? Was there too much of the image-maker's concern with selling the product, along with this occupational cynicism about telling the truth?

Or should we look further and find some clue in that rare, unguarded moment last November, Mr. President, when you told an interviewer that the American people needed to be disciplined like children? Children must, of course, be protected from freedom; Dostoevski's Grand Inquisitor argued that point quite well. But the American experiment was founded on the idea that citizens were not children but sovereigns.

No one ever claimed that a society of citizen kings could be a model of management efficiency. American democracy, with its clash of opinions and its checks and balances, is an untidy business. But when the last demonstrator has been swept from the sight of the White House, when all government agencies have become "politically responsive," when a cooperative media tells the American people only what is best for them to know, then the American experiment will be over, the victim of subversion in the name of security.

Mr. President, it is always unfair for the preacher to single out one member of the congregation for advice and admonition. But our Sunday worship in the White House today is not typical. Like the other ministers of the Gospel who have preceded me here, I have come, in a sense, to your church rather than you to mine. It is your wish that we pray together here at the center of the nation's life, that we listen, reflect and respond to God's word. The double-edged sword that is God's word does not deal in comfortable images but in painful truth. It inevitably presents us with a crisis, a turning point, a time for judgment—the kind of crisis to be resolved only through honesty and courage, not through counterattack. Quite simply, the crisis God's word presents is a call for conversion.

This morning, then, may we suggest that our national crisis, like the biblical crisis, calls for conversion. The people need and wait for some clear-cut sign, some evidence of a change in mentality, some realization that the direction of the past five years must be reversed. The answer does not lie in withdrawal, retreat within an ever more narrow circle and a claim that the President has been the victim of Watergate rather than its intended beneficiary. The pattern of insulation must be broken decisively, dramatically, before it works its ultimate disaster.

The American people need a sign in order to regain their confidence in their government. They need to see a change in direction, not a display of stubbornness under seige. They need to see a government that will be open, that recognizes the necessity of an informed citizenry, with a faith in the intelligence of the community that is an essential condition of democracy, and a healthy detachment toward its own positions that is a protection against demagoguery. They need to see a government committed to the untidy process of democratic debate rather than the efficiency of the game plan. Most of all, they need, for the rest of your tenure, a deliberately nonpartisan Administration that will guarantee the political independence of our system of justice.

Is it presumptuous to speak of such things from a pulpit? Ordinarily, perhaps. But on this particular Sunday morning conversion has become not only a test of personal integrity but a condition of political stability. Only your action, Mr. President, can restore the faith of our people, and indeed of the world, in the integrity and stability of American government. The crisis will not be solved by silence.

ANOTHER MINIMUM WAGE HIKE?

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. QUIE. Mr. Speaker, George Will, a very perceptive columnist who writes occasionally for the Washington Post, has written an extremely thoughtful column in today's issue which cites the possible consequences of denying a minimum wage youth differential, as well as the possible effects of the law on other marginal, unskilled workers. I urge my colleagues in the Senate to consider the arguments raised in this column:

ANOTHER MINIMUM WAGE HIKE?

(By George Will)

Acting in its traditional role of tireless protector of the strong, the Senate is about to follow the House of Representatives in voting to increase unemployment among the nation's vulnerable workers—especially black teenagers.

The Senate will do this in the name of humanitarianism as it votes another increase in the minimum wage. The Senate probably will adopt the House bill, as against the administration's proposals.

The main arguments between the House and the administration concern whether coverage should be extended; how fast the minimum should rise to $2.20 per hour; and whether there should be a "youth differential," whereby anyone under 18 and full-time students could be paid 15 per cent less than the regular minimum wage.

The House, reflecting the position of organized labor, wants to extend coverage to domestic and government workers. It wants to go to $2.20 one year quicker than the administration (by 1974) and rejects the "youth differential."

The administration's proposals are less toxic than those of the House. But the really striking and depressing thing in both wings of the Capitol is that so few politicians (Sens. Peter H. Dominick (R-Colo.) and Robert Taft Jr. (R-Ohio) being honorable exceptions) acknowledge that minimum wage legislation usually is harmful to many of the people who are supposed to benefit.

I suspect that one reason economics is known as the "dismal science" is that it, unlike other social sciences, is insufficiently rigorous to occasionally reach clear conclusions that can interfere with political desires. Certainly today there is a remarkable consensus among independent economists about five matters relevant to minimum wage legislation:

Blacks suffer more than whites, and teenagers more than adults from sluggish job markets.

Minimum wage legislation makes it harder for blacks and teenagers to find employment in good times, and harder to hold jobs when times are not good.

White adult males benefit most from the effect of minimum wage legislation on lost job opportunities and increased job instability among blacks and teenagers.

There are more poor people whose poverty derives from unemployment than from holding jobs that pay inadequate wages.

While it is true that some workers are paid so poorly they must also draw welfare, it is equally true that raising the minimum wage will cause some of these people to become unemployed people on welfare.

None of these points is surprising. Minimum wage laws hurt marginal workers because their skills are least productive and most easily dispensed with. That is why it does not pay to pay them much.

Minimum wage legislation has a regressive cost-benefit distribution. It puts marginal workers in jeopardy while helping—not surprisingly—those who push hardest for such legislation, organized labor.

Of course, not all economists acknowledge this. The economists who work for organized labor deploy a lot of methodological arguments designed to show that the state of the economist's art is such that we can not know for sure who will be affected how by minimum wage legislation.

There are a couple of things to say about these arguments.

First, if the science of economics is not able to predict dismal results from such legislation, then it can not predict good results. So we should err on the side of caution and leave bad enough alone.

Second, there is something suspiciously selective about the epistomological scrupulousness of organized labor's economists. When labor is lobbying Congress for laws to protect the Republic from Italian shoes, labor's economists are remarkably confident about their ability to say just how many shoe makers will be booted into poverty by a given number of Italian shoes.

Organized labor wants a steadily rising minimum wage in order to raise the general wage floor, thereby giving an upward thrust to the negotiating position of unions that, one would have thought, were already powerful enough.

In addition, organized labor wants a high minimum wage enforced nationwide so there will be less temptation for industry to locate in poorer, low wage (often non-union) areas. The fact that minimum wage legislation causes unemployment in some areas, and hinders the growth of employment opportunities in other areas is of no concern to organized labor.

The only amusing thing about minimum wage legislation is that it, like most things in American economic life, confounds the Marxist prophecy.

Mark said capitalists will always act so as to create a reserve army of the unemployed to use in grinding the face of organized labor. But today it is organized labor, with its racial discrimination, its apprenticeship programs restricting access to professions, and now, again, minimum wage demands that is swelling the reserve army of the unemployed.

CAPTIVE NATIONS WEEK

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. COUGHLIN. Mr. Speaker, 15 years ago this week President Eisenhower proclaimed the first Captive Nations Week which we have observed every year since then. Today, as world powers begin to exhibit signs of détente and a relaxation of tensions which divide them can be felt, we must not forget the many peoples around the globe who still do not determine their daily lives.

We in the United States have just celebrated the 197th birthday of a nation whose foundation remains the inalienable rights of the individual. For those in captive nations who do not share in the blessings of free speech, religion, and movement, we must extend our sincerest hope that the spirit of reapproachment of the 1970's will lead all nations to acknowledge the right of all peoples to determine their form of government. In observing Captive Nations Week, we recognize that the freedoms guaranteed us by the Bill of Rights are valid for all men and that political boundaries should not be barriers to individual freedoms.

Let us hope that our observance of Captive Nations Week will serve as an impetus for other nations to join in our efforts to promote the self-determination of all peoples.

INDEPENDENCE DAY ACTIVITIES

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. BUCHANAN. Mr. Speaker, during the July 4 recess, it was my privilege to participate in the official Independence Day activities of the city of Birmingham, Ala., sponsored by WBRC–TV and to hear an excellent address by a very distinguished representative of the U.S. Marine Corps, Lt. Gen. R. P. Keller.

The general is currently the commanding general of the Marine Corps Development and Education Command, Quantico, Va. He holds a bachelors degree from the University of Maryland and a masters degree from George Washington University.

He entered the Marine Corps during World War II and rose to the rank of major, having served as commanding officer of Marine Fighter Squadron 223 and later of Marine Night Fighter Squadron 533 in Okinawa. He was among the initial Marine Corps forces deployed to Korea in 1950.

He later served as assistant wing commander of the 1st Marine Aircraft Wing in Vietnam and later became assistant chief of staff, Pacific Command. General Keller's awards include the Silver Star, Distinguished Flying Cross with two gold stars, the Air Medal with one silver and three gold stars and three Legion of Merit citations.

General Keller offered a message which is particularly relevant in our times and I submit it for the edification of my colleagues:

GEN. R. P. KELLER OFFERED A MESSAGE

Congressman Buchanan, Mayor Seibels, distinguished platform guests, ladies and gentlemen, Birminghamians, Mrs. Keller and I are most happy to be in this fine city to participate in commemoration of Independence Day.

It is appropriate that at this gathering today we recall to mind the circumstances which led to the founding of our nation. We were born out of mankind's relentless pursuit of freedom, man's abhorrence of tyranny, his willingness to risk all to ensure that freedom will prevail. The urge and surge and strivings of man to attain the capacity for free determination of his own destiny are basic to his soul, are an unalterable and fundamental part of his total being. We stand here at this flag raising event keenly aware of the character and strength exhibited by patriots in generations past. From their example, and the inspiration of such occasions as this, today's patriots can draw sustenance and strength and purpose for their continuing efforts in furtherance of a free and responsible society.

Just two dozen days ago I was privileged to attend another flag-raising ceremony, that one at Fort McHenry near Baltimore, Md. There, on the day marking the commencement of National Flag Week, a replica was flown of the flag that inspired Francis Scott Key to write the words of our national anthem. Now, as then, I ask who here does not thrill to the soaring lilt of that stirring music, the inspired prose of those lyrics; who here does not feel strongly emotional impact, viewing the flag with its bright colors snapping in a brisk breeze, as it swiftly climbs the staff towards the blue sky or slowly descends late in the day to be enfolded in reverent arms and readied for hoisting on the morrow.

Surely it is well that our reactions are so, but here now—at this moment—we perhaps should examine more in depth why they are "so" and why that should be "well."

Certainly there is other music that evokes emotion. There are other banners that thrill us at their sight—but those of which now we speak are unique in their symbolism. They embody the exquisitely beautiful and simple concept which has been pursued by our people for two centuries—the concept that all men are created free and equal, and in possession of the essential right to opportunity—opportunity to make of their life what they will in a free and orderly society. We can recognize the merit of this concept, thrill to it, strive in its support, and simultaneously understand that absolute attainment of its full scope thus far has eluded us. Yet, more has been accomplished in our Nation, for more people than in any other society of which at least this speaker is aware. We build more libraries and institutions of learning, we give more to those in need both at home and abroad, we do more to defeat the scourges of disease, we do more to expand man's scientific and technological frontiers. We do all this and yet we do still more. We have battled—then bound the wounds of our opponents; we have accepted on our shores the poor, the ill, the repressed from other lands and given them and their children unparalleled personal freedom and precious opportunity. We have provided our support, our treasure, and indeed our blood, unselfishly, in the interests of our friends. Even so, realistically, we do recognize there exist doubters and critics and they may have their place, too, within reason, for our people are human, and subject to the frailties of mankind. We need to keep our perspective in our own best interests, and it helps greatly in that regard to be questioned, examined, made to think.

But what should our "perspective" be? Let me suggest that, first and foremost we need clearly to appreciate our Nation's goals and purposes so that we may consistently endeavor to achieve them. If we can do this, the validity of our perspective is assured. However, one legitimately may ask at this juncture what are these national goals and purposes: Peace?—Full employment?—A healthy population?—In a sense, yes. These and others represent some of our strivings. But even more fundamentally and comprehensively our national goals are eloquently inscribed in one special document—the Constitution of the United States. The preamble to that document states the purpose it is designed to serve and in doing that illumines these words, which are so familiar to us all—

"We the people of the United States in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America"

Ladies and gentlemen, consider the effect of the provisions of that document, dedicated toward those purposes and adopted by a fledgling nation when its populace was fewer than 4 millions. Those provisions have defined and established the essential framework within which our people have developed into a nation increased by two hundred millions of citizens. We have built a society and transitioned it from little more than a simple agricultural community to one which spews forth an unparalleled scope and quantity of goods and services and opportunity toward an improved quality of life for our own citizens and, yes, millions upon millions of people of other nations. These surely are worthy accomplishments of which we always should be mindful and they have come about through the combined efforts of all major segments of our society, including that segment which I represent today.

Ladies and gentlemen, I stand here in uniform, in a uniform of which I am deeply proud. In so doing I represent all those who wear this or other uniforms of our defense establishment. As yet I have expressed no particular view as to our place in the present day and in the future. Perhaps, for part of our "perspective" appreciation, that should be done now. After all, each of us recognizes there continue to exist—and likely always shall, differences of opinion as to the merit of investing in certain military capabilities, compared to what otherwise might feasibly be accomplished for the public good in their stead. Certainly, there is room for discussion and consensus determination as to what portion of our national means should be dedicated to the defense of our Nation and all its people. However, there is one overridingly fundamental consideration which we would do well to keep in mind. It has been magnificently stated by Sir John Slessor in his book "Strategy for the West." He wrote—

"It is customary in democratic countries to deplore expenditures on armaments conflicting with the requirements of the social services. There is a tendency to forget that the most important social service that a government can do for its people is to keep them alive and free".

And that is what our armed forces really are designed to do—to keep our people alive and free. Then all other objectives can be sought. In slavery and death, all is lost. I believe history illustrates that we can have solemn and deeply rooted confidence in the validity of the collective judgment of our people as it affects *all* important national matters—not just that of defense. Under this representative government of ours we have done something less than perfectly—but surely, better than any other nation with regard to the scope of freedom and opportunity open to all its citizens. Accepting that premise, as I do, one still may agree with Johann Wolfgang Goethe, as do I, who has offered this thought—

"I find the great thing in this world is not so much where we stand, but in what direction we are moving."

Where, in fact, are we going as we commence the 198th year of our national independence? In my estimation the response to that question can only be "excelsior"—onward and upward. We are aware of our significant problems and they are being addressed with ingenuity and energy and by the application of our formidable resources both material and spiritual. The outcome will be favorable; we will preserve our fundamental, free, national institutions. We will defend our people. We will protect our Nation's water and air and land from encroaching despoilment. We will expand the opportunity for all our people to live a meaningful life in a responsible society. We will continue to be good neighbors to our friends and formidable opponents to those who seek our ill. If we but remain humbly proud, unswervingly dedicated, compassionately disciplined, thoughtfully determined, and hard working, there is no limit in sight as to what we can accomplish for our people and mankind as a whole, Under no more appropriate symbol than the stars and stripes could such gloriously heroic and epochal efforts proceed.

Ladies and gentlemen, may I now share with you the beautiful words of Henry Holcomb Bennett, "The Flag Goes By":

Hats off!
Along the street there comes
A blare of bugles, a ruffle of drums,
A flash of color beneath the sky:

Hats off!
The flag is passing by!
Blue and crimson and white it shines,
Over the steel-tipped, ordered lines.

Hats off!
The colors before us fly;
But more than the flag is passing by:
Sea fights and land fights, grim and great,
Fought to make and to save the State:
Weary marches and sinking ships;
Cheers of victory on dying lips;
Days of plenty and years of peace;
March of a strong land's swift increase;
Equal justice, right and law,
Stately honor and reverent awe;
Sign of a nation, great and strong
To ward her people from foreign wrong;
Pride and glory and honor—all live in the
colors to stand or fall.

Hats off!
Along the street there comes
A blare of bugles, a ruffle of drums;
And loyal hearts are beating high:

Hats off!
The flag is passing by!

A COMMITMENT TO MILITARY MANPOWER REFORM

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. STEIGER of Wisconsin. Mr. Speaker, the new Secretary of the Army—our former colleague "Bo" Callaway—has tackled his new assignment with vigor. His first major address outlines his belief in a strong, vibrant, and innovative military posture. I am inserting in the RECORD the text of his speech, along with an informative summary from the Army Times:

[From the Army Times, July 18, 1973]

DRAFT REMAINS OUT—CALLAWAY

LAS VEGAS.—There's no chance now that the Army can go to Congress and ask for reinstatement of the draft, the Secretary of the Army says.

In his first speech as Secretary of the Army, Howard H. (Bo) Callaway told the Reserve Officers Association that the service is dedicated to fulfilling its global mission without a draft. "And we are not going back to Congress to ask for a draft," the official said.

"That is not within the realm of political possibility today."

The new Army will be recruited with higher pay, better living conditions, more barracks privacy, freedom from unnecessary harassment and better educational opportunities, the Secretary said.

But Callaway, as did his predecessor Robert F. Froelke, pledged today's Army will be disciplined.

"We may not have reveille any more and this may bother some of you," he told ROA. "We may not be the spit-and-polish kind of Army that you and I grew up with. It's going to be different.

"The soldier is going to return to soldiering, and I give you my absolute pledge this is not going to be a permissive Army."

Without saying how it would be achieved, Callaway pledged the Army would be representative of U.S. society with soldiers from all walks of life, economic levels, regions and ethnic groups.

REMARKS BY HOWARD H. CALLAWAY

Today is the first day of my second month in office and it is the first occasion that I have had to leave Washington to address a military group. I want to thank you for inviting me so soon after taking office to be here with the Reserve Officers Association. I am very pleased that you want to hear from the Army. That's important to us, and I hope that the fact I'm here to make my first speech is a signal of the importance that the Army places on ROA and on Reserve affairs.

I realize that others on the program have already discussed many of the details that I am going to mention. I want to start from a very simple basis about the overall Defense Establishment followed by some specific comments on the Army. And to those of you who are non-Army, I hope that you will find that the things I have to say about the Army have a common interest with those of the other services.

As we all know, within the last four years we have had many changes in our Defense Establishment. In our relations with certain nations we have moved from an era of confrontation to an era of negotiation. We are moving from arms competition to arms limitation. We have seen the first two agreements between the USA and USSR limiting strategic weapons. Mutual and balanced force reduction negotiations are to commence in October as agreed to in exploratory talks. We are moving from a draft environment to an all-volunteer environment. We are also moving from a budget that was dominated by Defense to one that is now dominated by social needs. In other words, we have moved from war to peace in four years, from a wartime economy to a peacetime economy.

Four years ago the American people insisted upon a reordering of our national priorities, but very few in America realize how well we have succeeded and what a change there has been. Four years ago, Defense amounted to almost ten percent of the Gross National Product. Today it's about six percent. In 1968, 42½ percent of the Federal budget was spent on Defense. Today it's less than 30 percent. As a matter of fact, in Fiscal '73, we have, in constant dollars, the lowest Defense budget in 20 years, and it's going further down, not up. Twenty years ago, Defense spending was twice the total of all other Federal spending, and today that has been exactly reversed.

This reordering of national priorities has affected all the services, and it has certainly affected the Army. I would like to pause here and describe some of those effects.

Our most pressing problem for the last four years, of course, has been Vietnam. I say this with pride, because the Army faced a situation in Vietnam that was as difficult as any service has ever faced in history, and the Army performed superbly. Without mobilizing our Reserves, relying upon young men and women, many of whom did not agree with the war that was being fought, the Army conducted itself with great honor, and the Army can be justly proud of what it did in Vietnam! But the Vietnam experience was costly for the Army. To accomplish its mission in Vietnam, the Army had to drop almost everything else. This involved enormous personnel turnover and turbulence, and we saw in the Army a situation where too many people were transferred too often. This resulted in Company Commanders, platoon leaders, and senior non-commissioned officers serving less than six months in their units. This meant that they had no knowledge of the people they were training and little chance to master the essentials of command. In many cases, the Army ignored the principles of leadership upon which the Army had been based for so long, because nobody stayed in any job for very long. And as it always happens when we have ignored the lessons of history, we have paid the penalties. You have seen and read about the penalties of poor race relations, drug abuse, and a lack of discipline. And it has affected the Army very severely.

Now we find ourselves in a new world with new challenges. We have been called upon to accomplish something that the Army has never been asked to do in our history. We have been tasked with a large global mission, a mission with major requirements in Europe and Asia, as a large part of the Nixon Doctrine. We have been tasked to maintain 13 Active divisions plus Reserve Components—and all of this with no draft. The Army has maintained itself without a draft in the past, but never with such large commitments. How do we solve it? What can we do? It's never been tried before. I think we must all realize, and particularly the Reserve Components, that this is a new ball game. Many of our traditions, many of the things that we have always believed in, are going to be changed. We just can't continue business as usual. We must do a lot of things differently.

We are going to solve this problem in the Army in two basic ways. First, I want to clearly state that we are dedicated to solving the problem of having a global mission without a draft, and we are not going back to Congress to ask for a draft! That is not within the realm of political practicality today.

We are going to go about it in two basic ways; first, by making life within the Army the kind of life that a young man or a young woman, performing the same kinds of duties, would have in civilian life. This means all the things you read about in the press. It means higher pay, and I applaud that; it means better living conditions; it means privacy in barracks, better barracks; it means freedom from unnecessary harassment; it means better educational opportunities; and it means a standard of living that we can be proud of for our young men and women serving in the Army. This is essential. I don't think it's fair to ask our young men and women to make a financial sacrifice in order to serve their country. And we need your help, and certainly the help of Congress to bring this about.

This is only one half of the problem, and perhaps the other half is more important—what the soldier does to accomplish his mission. On this score I want to make several pledges to you today, and I cannot overemphasize the importance of these pledges:

First, today's Army will be a disciplined Army, prepared to perform its mission, and its mission is to fight. We may not have reveille any more—and this may bother some of you. We may not be the spit and polish kind of Army that you and I grew up with—it's going to be different. But as far as performing its mission, it will be a disciplined Army. We are going to treat today's soldiers as mature adults. We are gong to expect them to do their own thing, but it is not going to interfere with their mission. We are going to have a mission-oriented Army. The soldier is going to return to soldiering, and I give you my absolute pledge this is not going to be a permissive Army. Those of you who know our great Chief, Abe, know that he agrees with me on this point.

Second, our Army is going to be broadly representative of America. It is going to represent all walks of life, all economic levels, all parts of our country, all ethnic groups. It is going to be a mirror of our country. It's not going to be all-pro, all-south, or all-any one thing. It's going to be an all-American Army, and as such it's going to be just as strong as our country. This is important because the people in our country can trust the Army as long as it represents the mainstream—and it will.

Third, we will have a high quality Army. This is easier said than done, but it is going to be a high quality Army. We will continue to resist the pressure to man the Army with numbers, and we will insist upon high quality. It is going to be the kind of Army in which young men and women can be proud to serve and of which our nation can be proud.

Fourth, service in today's Army is going to be a meaningful experience. This is the key to today's Army. A young man or woman will be proud of his or her service in our Army. It is not going to be looked upon as an interruption. It is going to be looked upon as a vital and important part of the life of the young man or woman who serves. And as the people who serve in the Army can be proud of it, the wives and sweethearts and mothers and fathers to whom they return can also be proud.

I have been speaking primarily of the Active Army, but everything I say applies to the Reserves also. How do the Reserve Components fit into today's Active Army? As you well know, particularly with the Active Army's preoccupation with Vietnam, the Reserves have often been second best. We know that. The Reserves had a questionable mission when in 1965 the decision was made not to call up the Reserves in Vietnam, and to use the draft instead. They traditionally lacked equipment, just having whatever was left over from the Active Army. And, of course, the Army, particularly in Vietnam, has been preoccupied with its own problems, not with the problems of the Reserves.

That brings us to where we are today. Today we hear a lot of talk about a total force concept—one Army—but I am sure that some of you question whether we really mean it. I pledge to you that we do mean one Army when we say it. There is no way the volunteer Army can accomplish its global mission without Reserve Components. We must rely on our Reserve Components. We simply cannot man a large enough Active force to do the job. Secondly, we cannot afford to do it on today's budget with all Active forces. Today's Reserve Components, as you well know, envisions 8 combat divisions, 21 combat brigades, 13 training divisions, and hundreds of supporting troop units. All of this put together at approximately one-sixth of the cost of Active Forces.

You have probably never thought about it in this way, but someone figured out the cost of the entire Reserve Components to every man, woman and child in America. It's $9.77 a year; $9.77 a year. What else can you buy with that? Well, you can buy a fifth of Scotch; you can buy a nine-month subscription to Playboy, you can buy six cans of shaving cream, the kind Joe Namath uses. You can also have 8 combat divisions, 21 combat brigades, 13 training divisions, and support units. And for $9.77 I think it's worth it. I think we must have it and it must be a top priority for our nation.

Just in case you are saying, we have heard this before, and you are still wondering whether we really mean it, I am going to talk about a couple of specifics affecting our Reserve Components. I hope you are aware of many of these and I hope putting them together will be of interest to you. I don't know how many of you have had a chance to read today's newspaper, but if you did, it was announced at eleven o'clock yesterday that we have replaced Al Haig as the Vice Chief of Staff of the Army—we have replaced him with a man who is familiar to many of you, General Fred Weyand. Fred Weyand is an ROTC graduate from the University of California, and I think that in itself is significant. The Army thinks enough of an ROTC graduate to make him the number two man in the Army. Furthermore, he is the former Chief of the Office of Reserve Components, the highest Reserve office in the United States Army, and a man who has had an active career as a strong proponent of the Reserve. Now this man is at the very highest level of the Army, and I can promise you that he will be effective in promoting the Reserve Components of the Army. I think that's important.

At long last we have made the PX fully available to Guardsmen and Reservists of the Selected Reserve during the day or days of their performance of inactive duty training. This is long overdue. It removes an irritant that was not necessary. Instructions are going to the field now to put this in effect.

We are also reorganizing the Army with more active commitments to Reserve Components than ever before, and Guard and Reserve support will be a primary dedicated mission of a number of senior Army Commanders.

We are seeking to guarantee training spaces for most of the MOSs used by the Guard and Reserves and we think we will be able to tell the potential Guard and Reserve enlistee when he can serve, when he can begin his training, and this is of tremendous importance.

We are also going to begin almost immediately some experiments with the six year obligation. To an 18 year old, six years is forever. This is one of our problems. We hope to have some plans within 90 days, one option perhaps for three years in a unit, three years in the individual Ready Reserves. We hope that things of this kind will help in recruiting Reserve Components. We are pushing hard for Reserve Component enlistment and reenlistment bonus legislation that is now before Congress. We support this strongly, and of course need your help. The Serviceman's Group Life Insurance coverage for Reserves has passed the House and we hope the Senate will pass it soon. These are a few of the things we are going to try to show the members of the Reserve Components that it is one Army and that we are all part of the same Army.

I want to re-emphasize that there is no way that today's Army can possibly accomplish its mission without well-trained Ready Reserves. As the Reserve Officers Association has correctly pointed out, you have never failed our nation, and I am sure you never will. I also want to say that the Reserves have never been more important to our country. Their mission is more important today perhaps than ever before. Because today we are plowing new ground. We are on an unchartered course. We do have a mission that is important, difficult, and without a draft it is a mission that we have never performed before. It is not going to be easy. We do not have simple solutions. We are still experimenting with many, many things, both with the Active and Reserve Components in order to solve this problem. But we are going to do it, and we are going to do it thanks to your help, to the help of the people of our country who believe in a strong Defense. Our Army will meet the challenge and prove worthy of our nation's trust.

JAMES V. SMITH

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. COLLIER. Mr. Speaker, the sudden passing of our former colleague and friend, James V. Smith, was a reminder that in the midst of life we are in death. Seemingly in the price of life, it appeared to me that he was destined for many years of service to his fellow men.

Although he was with us in this great body for but a short time, I was greatly impressed by his qualifications, his knowledge of the legislative processes, and his devotion to the interests of his district, his State, and the Nation.

My sympathies are extended to his loved ones. May the Almighty comfort them and ease the anguish of their bereavement.

MASS TRANSIT WILL HELP ALLEVIATE ENERGY CRISIS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Ms. ABZUG. Mr. Speaker, distressed as I am by some evidence of a national energy crisis, I remain skeptical of the efforts of the major oil companies designed to perpetuate the same transportation systems which currently devour one-fourth of our energy supplies. The pitifully low efficiency level of the internal combustion engine, the tremendous land waste necessary to maintain our automobile culture, and the poisonous pollutants pouring into our atmosphere all indicate the impracticality of reinforcing and developing our current automobile-oriented transportation system.

Recognizing this, former Secretary of the Interior Stewart Udall recently wrote a perceptive column in The New York Times in which he called for the construction and development of urban and intercity mass transit systems. I wholeheartedly agree with this fundamental reorientation of our resources and submit the text of Mr. Udall's column for the consideration of the other Members.

The column follows:

THE ABC'S OF ENERGY REFORM

(By Stewart L. Udall)

WASHINGTON.—Various experts recently proposed assorted remedies for the oil-auto energy crisis. Dr. Arthur Burns of the Federal Reserve has suggested a horsepower tax; Secretary Morton has urged the states to lower their speed limits, and Secretary Shultz has proposed voluntary car pools. My quarrel with such proposals is that they assume the petroleum crunch will diminish if we merely exercise a little self-restraint and make some modest adjustments in our automobile etiquette, all the available facts deny the validity of such assumptions.

Petroleum consumption is increasing 7 per cent each year, and we are manufacturing and buying a record number of new autos this year. The official statistics show that the U.S. oil shortage is worsening daily—and it will grow until we take drastic action to reverse our voracious consumption of petroleum products. It is urgent to deter wasteful travel now; but it is ten times more important to initiate sweeping changes in our whole petroleum-based transportation system.

What might be the first part of such a two-step program has been proposed by Dr. Paul W. McCracken, President Nixon's first chairman of the Council of Economic Advisers. Mc-

Cracken called for an immediate increase of ten cents per gallon in the Federal tax on gasoline—and an additional ten-cent tax in 1974. He reasoned that such a stiff increase in the gas tax would dampen demand by penetrating the consumer's "threshold of awareness" of the energy shortage. In all likelihood, McCracken's plan would curtail unnecessary travel and help us cut oil consumption in the near term. However, his stopgap measure does nothing to bring about the structural changes in our transportation system that can save us from a far worse crisis a few years from now.

Bold action is imperative. I propose that we convert McCracken's short-term deterrent into a dynamo for long-run reform. The McCracken tax (a ten-cent Federal gas tax will produce over $10 billion in annual revenues) should be enacted and allocated to an emergency transportation fund. This fund should be expended on a crash program to rebuild our public transportation systems, reduce our consumption of oil, and avoid our impending economic bondage to a few nations in the Middle East.

How would the money be spent?

As a starter, we should subsidize current intracity mass transit systems to the point that fares are free—or at least dirt cheap. (This would be a temporary act of equity to low-income people who would be hurt by the regressive nature of the McCracken tax.)

The cities (most of which are ready for action and begging for funds) should be given billions to build and subsidize versatile mass transit systems—everything from bikeways to modern bus systems to monorails. The construction of cheap, pleasant and convenient public transportation would make our one-man, one-car transportation system obsolete. Indeed, "second cars" would soon become an intolerable expense. (We have the technology—and the nearby example of Toronto—so let no one argue that this is an impractical plan.)

The railroads should be subsidized and encouraged to produce a new generation of fast trains that would shift much of our intercity passenger and freight traffic from highways and aircraft to fuel-saving railways.

The automakers should be encouraged (to the extreme of a partial subsidy if necessary) to bring about a swift transition to small, lower-horsepower, 25-miles-per-gallon automobiles. (And Congress could do its part by mandatory laws regulating the weight of autos and the size of their engines.)

The environmental and energy-economy dividends to the nation from such a program would be enormous.

We would cut back the air pollution which is choking our cities.

We would save precious land by slowing down urban sprawl. (In fact, we should spend 10 to 15 per cent of the fund on emergency grants to cities to enable them to purchase open space and greenbelts that would check sprawl and guide urban growth.)

We would probably save at least 15,000 lives annually by reducing and decelerating auto travel.

We would avoid the periodic dollar devaluations that will inevitably plague us if we become economic satraps of the oil-producing countries.

A program of this magnitude would get at the roots of the oil-auto energy crisis and force us to come to terms with our own gluttony and waste. Last year, for example, we burned nearly 55 per cent of the world's gasoline. The behemoth "American car" is now an economic hemorrhage and an energy disaster. Drastic reforms are needed now. Unless the President's new "energy czar" produces a program of the scope I have suggested, hardships and dislocations will impinge on the lives of millions before this decade has run its course.

RETAIL CLERKS BEGIN PREVENTIVE HEALTH-CARE PROGRAM

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. COTTER. Mr. Speaker, at a time of increasing concern over preventive health care, the action of the Retail Clerks Local 919, in Hartford, Conn., is noteworthy.

This farsighted group of workers purchased six healthmobiles to upgrade preventive care for their members.

I know my colleagues, and the readers of this RECORD, will appreciate a description of this worthwhile action.

The description follows:

SIX HEALTHMOBILES KICK OFF GIANT PREVENTIVE HEALTH-CARE CAMPAIGN FOR UNION IN CONNECTICUT

Six fully-equipped healthmobiles have been brought to Hartford by the Retail Clerks Local 919 to dramatically announce the start of a major preventive health-care program for their members.

Called "Multiphasic Screening," and available to each member at no cost, the tests consist of electrocardiograms, tuberculin skin tests, x-rays, blood pressure, height, weight, tonometry test (glaucoma) and numerous tests on a small sample of blood to determine many liver, kidney, heart ailments, and diseases. For the convenience of the Retail Clerk members and to insure the greatest participation, the healthmobiles will be brought right to the store. Meaning, that after Hartford, the units will visit every city and village in Connecticut that employ Retail Clerks to examine them right at their place of employment.

To witness its introduction onto the labor-management scene in the Hartford Area, Arnaldo Espinosa, President of the Retail Store Employees' Union, Local 919, invited labor leaders; local, state and federal officeholders; leaders of industry; and members of his and other unions to come by on Tuesday, June 19, 1973, to see "Tomorrow's Health Care in Action Today."

Mr. Espinosa is careful to point out that this complete set of tests is not designated to replace the physician, but (1) the screening results that fall outside the norm are forwarded to the family physician for his determination, or (2) in a case where the participant, outside the norm, does not have a physician, the program is designed to encourage members to establish a medical relationship with a personal physician.

The results of the tests, carried out by United Health Maintenance, Inc., are completely confidential. The medical information, Mr. Kenneth Blum, President of UHM, points out, is not available to either the Union or to the employer.

Mr. Blum also points out that information gathered on the UHM healthmobiles is evaluated by specialists in the medical field and the information is then sent to the participants' own physician.

The mobile screening, which was negotiated by the Retail Store Employees' Union with the company employers, will be administered by the Retail Clerks' Health and Welfare Fund. Mr. Espinosa states that the tests will also cover eligible members over the entire state and part of Massachusetts.

Mr. Espinosa, in viewing the expanding benefits for the Retail Store Employees' Union, later said, "I will not really be satisfied until every union member in the Connecticut area and then every union member in the United States receives one of these health care screenings each year." Mr. Espinosa then added, "If there is anything more humane than curing an illness, it has to be in preventing one."

WHAT THE FLAG MEANS TO ME

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. MAZZOLI. Mr. Speaker, the American Legion, Dixie Post 220, in Louisville, Ky., recently sponsored their annual essay contest. The subject of the essay—"What the Flag Means to Me."

I have had the privilege of reading the three winning essays submitted by Miss Angie Carby, Mr. Tony Bell, and Miss Karen Newton, all students in my congressional district.

These youngsters have, in their essays, done a fine job of recapturing the key elements of that traditional love of country known as patriotism. Their words reflect an awareness of what it really means to be an American and to live beneath the Stars and Stripes.

I think we of the "older generation" might well gain needed inspiration for the work we are trying to do from a careful reading of these essays.

At this point in the RECORD, I would like to insert the full texts of the winning essays on "What the Flag Means to Me."

The essays follow:

OUR AMERICAN FLAG AND WHAT IT MEANS TO ME

(By Angie Carby)

The American flag is a great emblem to me because of the beauty it brings to any place at all. The American flag shows pride, beauty, warmth, love, encouragement, and other great things. But most of all I love to hear the "Pledge of Allegiance." It goes like this:

"I pledge allegiance to the flag of the United States of America and to the republic for which it stands; one nation under God, indivisible, with liberty and justice for all."

I like that speech or whatever you want to call it. Whenever I grow up I want to help my country any way I can but while I'm young I'm going to do as much as possible. I think everyone should try to help as much as they can no matter what age. It doesn't take much effort to say the "Pledge of Allegiance." Or put their hand over the heart. When I do any one of these I get a warm, deep feeling inside. But I guess that's natural for me. At my school I'm on the "School Safety Patrol Team." And when I watch the boy patrols put up the flag it makes you think twice before you make your move. But when I watch other people just ignore it like it wasn't even there it makes me and some other people pretty sad.

The reason I'm writing this essay isn't because I have to or because I could possibly win four great prizes but I've been thinking about the POW's and how they can still stand up to their country and stand up to their flag, and say "God Bless America" after being tortured and walking the path to death.

Getting back to the flag, I know that white stands for purity, but to me it means the paleness in the mother's face as her son leaves for war. I know that red stands for hardness, but to me it means that hundreds of boys have shed blood for our country, flag, and freedom. I also know that blue stands for justice, but I think it shows the beauty of the sea and sky. To me the flag is a beautiful symbol of love.

What the American Flag Means to Me

(By Tony Bell)

The first Flag made by Betsy Ross, on June 14, 1777 which is known today as Stars and Stripes, had 13 stars and 13 stripes. When I look up at the flag it reminds me of our nation being a free and independent nation. Francis Scott Key saw the American Flag still flying after the war, so he decided to write about it. It is better known today as "The Star Spangled Banner." Every morning before school we say the Pledge of Allegiance to the Flag.

I feel very fortunate to have been born in this land of freedom. We have a choice of what we want to do with our lives. We have laws to insure everyone's rights.

Because of our great Flag the United States is a democracy. Democracy is a form of Government in which all the people together have the power to decide what the laws will be, and how the Government should be run. Sometimes we take our Flag, country and freedom for granted. We seldom stop to think how fortunate we are to have them. In many countries of the world, the people do not control the Government; a few of the people, who are rich or noble or powerful in a big political party, can decide what all the other people do or must do. Because of these very great and meaningful words, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness." The Declaration of Independence was really written for each and every one of us.

Because of our flag we have so many rights and choices but I think the greatest of all is the right to choose what religion we feel in our hearts. We are free, every day if we wish to go to church and adore our God. I wish that every child could be as fortunate as me and been born under a flag so free.

Our American Flag and What It Means to Me

(By Karen Newton)

To me, the Flag represents a country united under stars and stripes. Everyone who ever was or is a citizen of the United States has pledged allegiance to the Flag.

Our Flag also symbolizes the union of the greatest Republic on earth. Over a half million human lives have been laid on the altar of Freedom so that our Stars and Stripes might fly over a free and peaceful land. When we look at "Old Glory" we must realize how lucky we are in this great place.

The Flag means a lot to most people. It stands for our country and all the people in it. There is a certain day when people all over the United States show a special respect for the Flag. This is Flag Day, which is celebrated on June the fourteenth. Everyone displays their flag with honor and respect.

Betsy Ross is the "mother" of the Flag. President Washington personally asked her to make it in 1777. From then till 1794 the Flag had thirteen stripes and thirteen stars. This symbolized the original thirteen colonies.

On January thirteenth, 1794, a new flag was made. This flag had fifteen stars and fifteen stripes. Eight stripes were red and seven were white. Our flag looked like this from 1795 until 1818. This was the flag Francis Scott Key saw flying over Fort McHenry the night he wrote "The Star-Spangled Banner."

On April fourth, 1818, Congress passed a law reducing the number of stripes to the original thirteen. Congress also decided that when a new state was admitted to the Union, they would add a star, but not a stripe.

It's odd to think that a piece of cloth can represent a whole country, and that people can love and respect it. But all people do, and they always will. I have deep feeling for the flag and a deep respect. I know I always will.

SCHOOL DESTRUCTION

HON. LAMAR BAKER

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

OF TENNESSEE

Mr. BAKER. Mr. Speaker, volumes have been written about the hardship and real tragedy to which we are subjecting our children by requiring more and more crosstown busing in order to achieve some sort of mythical racial balance.

Every poll of public opinion shows additional opposition to this abuse of little children. A recent poll by the U.S. Catholic Magazine, generally considered as being read by moderate or middle-of-the-road Americans, indicates that more than 80 percent oppose busing, and favor the neighborhood school where possible.

Despite much crosstown busing in my hometown of Chattanooga, the courts continue to be dissatisfied with the situation and have ordered the school board back to the drawing boards to come up with a plan which will make additional mass transportation by bus mandatory. This means more small children will be standing on corners waiting for buses which may be late or will be left on the street when they are even a minute late for the school bus. It means more disruption of education, separation of school friends, breaking up of basketball, baseball, and football teams, bands, and other groups in order that the time may be spent simply getting to and from school on a bus.

The well-known columnist, Lester Kinsolving, who can hardly be called a segregationist, discussed the problem recently in his column. Mr. Kinsolving said:

> It is my conviction based upon reading, listening and observing, that most people, including many black and white progressives—and almost all parents of small children—don't approve of busing.
>
> Neither black nor white children should be used as pawns in games their parents and local, state and national governments are playing. Being thrust unwanted into a group of strange and different children, who can be cruel, may or may not damage their psyches and may or may not risk the chance of making them bigots.
>
> It is simply another form of racism to assume that although white parents may object, black parents will be delighted with the prospect of their children being bused into the land of wild white yonder.

Let us stop playing games with the lives of our children and their parents. Let us return to them the freedom to attend their neighborhood school should they so desire. To do otherwise is to fail our obligation as their representative.

I insert the editorial entitled "School Destruction" from the June 28th edition of the Chattanooga News Free-Press in the RECORD at this point:

School Destruction

Under federal court pressures, the Chattanooga School Board is attempting to draw up plans that will do the very disagreeable thing of destroying the city school system.

It is as plain as that.

If the full "desegregation" plan is put into effect, the school board's information shows, most of the city schools will have black majorities, with many students being prompted to flee the city system and others being dislocated from their neighborhoods and transported to distant and, for many, unacceptable circumstances.

This would not favor black students or white students. It would destroy the hope of quality education in the city system and lose the taxpayer support that is necessary for the kind of educational progress that is desirable for all.

It should be remembered that what the city schools are being forced to do is not be free from racial discrimination but to impose racial discrimination to bring about artificial patterns of attendance. This is exactly opposite the "color blind" standard that was established when the Supreme Court first moved unconstitutionally into the field of school mastering in 1954.

The question in Chattanooga, sadly, is not whether there is going to be good and improving public education to the satisfaction of its people, but to what degree there will be destruction of the school system and how fast. It is not a question of whether there will be integration but how rapid will be the resegregation as high-handed plans force those who can to leave conditions they do not like.

There was a real, fair, honest solution available. It was freedom of choice, allowing each student and his family to decide freely and without discrimination where he would like to attend. But the courts would not allow that constitutional, sensible approach.

So we have the destructive one. Some don't like to face up to the truth and call it what it is. But it is evident.

YATES COUNTY CELEBRATES 150TH ANNIVERSARY

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. WALSH. Mr. Speaker, on Friday, July 27, Yates County in the Finger Lakes area of New York State celebrates its 150th anniversary. This birthday is a milestone for Yates County—a county which has contributed much to the progress and development of New York and the Nation. The story of that 150 years is one that I would like to share with my colleagues.

Yates County was formed from Ontario on February 6, 1823, and named for Joseph Yates, then Governor of New York State. Barrington and Starkey were added from Steuben in 1824. The early history of the county is closely associated with the history of the "Friends," a religious sect founded by Jemima Wilkinson. Her first settlement in 1790 was near the present village of Dresden, but a few years later was moved to the Town of Jerusalem.

The Friend was a patron saint to all the early settlers and her large fields of grain and herds of cattle were a source of supply on which pioneers drew for a start in the new country. The grist mill built by her people was one of the first in western New York and people came many miles to have their grain made into flour.

During the year 1816, in which frost occurred every month, many new families would have died of starvation had not the Friend been pleased to share her abundant stores with them.

After her death in 1819, the Society which she had established and kept active, gradually ceased to exist.

Another early local historical figure was Marcus Whitman, American missionary and pioneer born in Rushville in 1802. He married Narcissa Prentiss, also a missionary. The two, accompanied by the Reverend and Mrs. Henry Spaulding and W. H. Gray, journeyed west to Oregon where they worked among the Indians. The Whitmans and 11 of their associates were massacred by the Cayuse Indians in 1847.

At Dresden, the famed agnostic, writer and orator, Robert Ingersoll, was born.

Penn Yan, the seat of county government was incorporated in 1833. The first Yates County courthouse was erected there in 1824, but destroyed by fire in 1834. In 1835, the present red brick building was erected at a cost of $12,000. A jail, detached, was built the same season. These two buildings with modern additions are still in use.

Yates County has nine townships: Barrington, Benton, Italy, Jerusalem, Middlesex, Milo, Potter, Starkey and Torrey. Yates is located in the Central Finger Lakes region and is 22 miles wide and contains only 344 square miles, but makes up for its smallness in natural beauty. Seneca Lake forms the eastern boundary and Canadaigua Lake part of the western boundary. Keuka Lake, the only Y-shaped lake in the Northern Hemisphere, is near the center of the county. The topography and climate make this country an ideal location for grape culture and general farming. Each year, thousands of tourists and summer residents enjoy the beauty and recreational and cultural advantages of the area.

The cultivation and production of grapes began in Yates County in 1853 with a vineyard of 3 acres of catawbas along the shore of Keuka Lake. During the next 25 years, hundreds of acres were planted throughout the county. At the present time there are at least 6,000 acres of vineyards with more being planted each year. The four leading varieties are Concord, Catawba, Delaware, and Aurore, a French hybrid. Demand for the wines of the Finger Lakes is credited with the rapid growth of the industry in our area.

In 1875, the Yates County Grange was organized with 400 members. Throughout the years the grange has continued to take an active part in agricultural affairs.

For 50 years, the Finger Lakes Association, which has its main office in Penn Yan, has promoted recreational activities and facilities. There is a 500-acre State park near Branchport, numerous small parks, several boat launching sites and marinas, campgrounds, and motels. There is no finer fishing anywhere than in the three lakes.

Special area events include the Glenora Music and Art Festival, the Starkey Antique Show, and Antique and Art Show at Esperanza, an historic landmark completed in 1838 and the Festival of Lights around Keuka Lake. There are many festivals, carnivals, antique shops, flea markets, and the Penn Yan and Dundee Fairs. Lakeside Country Club has a nice nine-hole golf course on the eastern shore of Keuka Lake. Sailboat races are run each summer weekend from the Keuka Yacht Club on the west shore. Airports in Penn Yan and Dundee are busy centers for business and pleasure.

Keuka College, on the west shore of Keuka Lake, is a small 4-year liberal arts college for women. It is noted for its field period, a program combining classroom learning with work experience. As a center of cultural activities for the area, the influence of the college is widespread. It sponsors movies, musical events, theater, and lectures.

The Yates County branch of the American Association of University Women is very active in cultural, political, and social affairs.

There are fine public libraries in Penn Yan, Branchport, and Dundee; the rural areas also receive added library service from the Southern Tier Library System Bookmobile.

Stately Oliver House on Penn Yan's Main Street is the home of the Yates County Historical Museum. Guyanoga Chapter, DAR, is also very active in historical affairs.

The first public school in the county was the old log meetinghouse of Jemima Wilkinson. It was built in the town of Torrey in 1790. Here, Sarah Richards, manager of temporal affairs for the Friends, taught the first classes in the county. In 1848, Starkey Seminary in Eddytown—now Lakemont—was incorporated by the regents as a secondary coeducational school. Dundee Academy in 1855 and the Penn Yan Union School District in 1857 were incorporated. At the present time, there are two large centralized school districts within the county at Dundee and Penn Yan. St. Michaels Catholic Church in Penn Yan has elementary classes in its parochial school.

After the Society of Friends, the First Methodist Society in western New York was organized in Yates in 1792. At the present time there are churches in every hamlet and village. Throughout the county the programs of lodges and service clubs add to the betterment of the communities.

The county medical society was organized in 1823 with 12 members. Soldiers and Sailors Memorial Hospital serves the entire community with modern facilities, efficient personnel and dedicated volunteer groups. Yates County Medical Health Services has offices in the hospital. Community-sponsored Penn Yan Manor Nursing home is run in conjunction with the hospital. In downtown Penn Yan, St. Marks Terrace is an apartment complex for senior citizens.

Although primarily an agricultural area, Yates County has several large business and industrial plants. Among these are Transelco Inc., Greenidge New York State Electric and Gas generating plant, Lakeland Farms Co., and a branch of Mercury Aircraft in Dresden. The U.S. Navy also maintains a testing station there.

In Penn Yan, are located Penn Yan Express, and interstate trucking service; Penn Yan Boats Inc.; Birkett Mills, the largest producer of buckwheat products in the world; Michaels Stern and Co., manufacturer of men's clothing; Coach and Equipment Sales Corp.; a branch of Seneca Foods Corp.; Walkerbuilt Woodwork, Inc., and Barden and Robeson, makers of baby furniture.

In Himrod, Morton Salt has a very large mining operation. Rushville has Comstock Greenwood Foods, Inc.; in Middlesex are Beacon Farms and Lohmann Foods, Dundee has the home plant of Seneca Foods.

Fire protection for the county is ably handled by dedicated volunteer companies in various locations.

There are four banks in the county, the Dundee State Bank being the only one independently owned.

The Penn Yan Chronicle Express and the Dundee Observer, weekly newspapers, provide their readers with local news. Radio Station WFLR, in Dundee, broadcasts daily on AM and FM a wide variety of news, sports and music.

How can one help but agree with Stafford Cleveland when he said:

> Few localities in all our favored country are so rich as this in advantages of soil, climate, scenery and situation. Its abundant products find an easy and convenient market, and the fatness of the land has been well transmuted into wealth and easy conditions of life by its enterprising farmers. If salubrity, material prosperity and very advantage of mental and moral culture at their doors, can make a happy, intelligent and exemplary community, we should expect to find it here. Beginning with pioneers of the better class, it must be admitted there has been on deterioration, but a gratifying progress in social elevation.

TILLEDA, WIS., CENTENNIAL

HON. HAROLD V. FROEHLICH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. FROEHLICH. Mr. Speaker, this weekend, July 20–22, the community of Tilleda, Wis., is celebrating the 100th anniversary of its founding. I am delighted to take this opportunity to congratulate the residents of Tilleda and to wish them continued success in the years to come.

Located in the heart of Shawano County, Tilleda was named after a town in what is now East Germany. Like many communities in northeastern Wisconsin, the settlement's early history was closely associated with the logging industry. It has often been the experience that when a logging camp closes, the town where it was located also closes. I am pleased to say that this was not the case with Tilleda. When floods washed out the sawmill, dam and bridge in 1912, the logging camp soon died, but the hardy community lived on.

Today, Tilleda's citizens embrace an exceptional sense of civic spirit and responsibility. Approximately half of the hamlet's 66 residents are serving on a planning committee for the Centennial celebration. This willingness to contribute has been the key to Tilleda's past development, and, no doubt, will continue to guide the community's future growth.

While the population of Tilleda may be small, the pride of her citizens is immense. Extending an invitation to one and all, their centennial theme bids, "Come See How We've Grown."

Mr. Speaker, I join with the citizens of Tilleda, Wis., in commemorating their 100th anniversary. The civic spirit of this proud little community is an example that the rest of the Nation should admire. My warmest congratulations and best wishes to the people of Tilleda.

TRIBUTE TO MR. THOMAS C. KEMPIN

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. EILBERG. Mr. Speaker, it was my privilege and pleasure to be the guest speaker at a dinner at the Frankford Arsenal on July 2, 1973. The purpose of the dinner was to pay tribute to one of my constituents, Mr. Thomas C. Kempin, who was retiring from the Frankford Arsenal upon completion of 32 years and 5 months of loyal service to his Government. At the time of his retirement, Mr. Kempin had served in the capacity of civilian executive at the Frankford Arsenal for 20 years. As the top civilian, Mr. Kempin provided continuity of administration at that installation through change of command for 11 commanders.

Mr. Kempin had a stellar career. He began his Federal service on October 2, 1939, as an apprentice tool, die, and gage maker and rose through the ranks of management to the senior civilian position at an almost meteoric rate. In 1942 he interrupted his civil service career to enlist in the U.S. Army where he served as Chief of the Fire Control Section of the 283d Medium Maintenance Ordnance Company. Upon completion of his military service, Mr. Kempin returned to Frankford Arsenal but took a leave of absence in 1946 to organize Catholic War Veteran Posts throughout the United States. It was upon his return to the Frankford Arsenal in 1948 that Mr. Kempin began his rapid rise through the management ranks to the position of civilian executive.

In this latter position Mr. Kempin developed a program of liaison with Federal, State, and municipal elected and appointive officials which contributed immeasurably to improved service to the various constituents who worked at Frankford Arsenal. In fact, many of the gentlemen present in this Chamber today have had direct dealings with Mr. Kempin and are well aware of the responsiveness and sense of urgency with which he handled their inquiries and representations.

At the beginning I noted my attendance at his retirement dinner. I want to tell you how impressed I was with the many testimonials which were tendered to Mr. Kempin that evening. Over 200 turned out to honor Mr. Kempin. It was my privilege to have the opportunity to recognize Mr. Kempin for his executive talents, his many efforts to aid the Frankford Arsenal and its employees and his many contributions to the entire Philadelphia community. It is primarily through Mr. Kempin's efforts that the Frankford Arsenal survived attempts in 1969 to transfer its research, development, and engineering missions and to place the installation in an inactive status. Indeed, the entire Delaware Valley area is deeply indebted to Mr. Kempin for his help in the retention of the $60 million annual payroll of Frankford Arsenal in that section's economy.

I might add that Mr. Kempin has been very active in community affairs having served as president of the Philadelphia Business Association and the William Penn Chapter of the Association of the U.S. Army. He also served as a member of the executive committee of the Philadelphia Federal Executive Board and was chairman of the Cancer Crusade for the northeast Philadelphia region. He is chairman of the Catholic Charities Campaign for his parish.

A singular honor was paid to Mr. Kempin at the dinner when the commanding officer, Col. James L. Wallace, on behalf of the Secretary of the Army presented him with the Civilian Meritorious Service Award for his outstanding work as the civilian executive. In addition, Mr. Kempin received testimonial letters from each member of the Philadelphia congressional delegation, including the Senate minority leader and the junior U.S. Senator from Pennsylvania, the mayor of Philadelphia, the Honorable Frank L. Rizzo, and many other governmental and civic leaders.

During his career as civilian executive, Mr. Kempin received six outstanding performance ratings, three sustained superior accomplishment awards, and three quality step increases.

Of equal import to this occasion, I believe, was the fact that the date of the dinner occurred on the occasion of his mother's 83d birthday, which resulted in a chorus of 200 voices singing happy birthday since Mrs. Catherine M. Kempin was in attendance with Mr. Kempin's charming wife, Betty, and their two children, Mary Ann 10, and Mary Elizabeth, 6.

VITAMIN BILL REMAINS TOPIC OF CONCERN

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. HOSMER. Mr. Speaker, WTAQ radio in LaGrange, Ill., recently aired an editorial about the Food and Drug Administration ruling that many of the vitamins and food supplements now sold over the counter are to be available only by prescription as of January 1, 1974.

I have introduced a bill, H.R. 643, to counteract the FDA's authority in restricting the manufacturing and sale of vitamins and food supplements. Currently there are 160 Members of the House of Representatives who have joined me as cosponsors of this legislation.

Also, we have received many letters of support for H.R. 643 from individuals across the Nation.

The WTAQ editorial, which follows, supports H.R. 643 and points out why the FDA's ruling should be of concern to us all.

The editorial follows:

WTAQ EDITORIAL

The bureaucrats at the Food and Drug Administration in Washington, D.C. have outdone themselves in the pursuit of the absurd and outrageous in coming up with a ruling that should be of concern to us all, whether or not we have any interest in the specific involved.

The F.D.A. has ordered that as of January 1, 1974, about 80% of the vitamins and minerals now sold freely over the counter are to be available only by prescription.

Now mind you, the agency doesn't even claim that these substances do harm to the human body . . . except when consumed in enormous and unheard of quantities. Rather, the restrictions are based on the F.D.A. *claim* that it is aware of no benefit to the human body achieved by consuming the dietary supplements.

The most startling provisions of the F.D.A. ruling constitute a blatant violation of the constitutional right of freedom of speech. It actually prohibits public statements which ever, or even suggest or imply that dietary supplements are helpful in any way to prevent, treat or cure disease: that any diet of ordinary foods cannot supply adequate nutrients; that inadequate or insufficient diet is due to or in any way related to the lack of minerals in, or fertility of, the soil in which food is grown; or that refining, transportation, storage, preservation or cooking foods may result in inadequate or deficient diet.

We believe this extraordinary regulation is but another of the government's steady, gradual steps in its attempt to control every facet of the lives of the American people, and so does Congressman Craig Hosmer of California who has introduced a bill designed to override part of the F.D.A.'s edict.

We recommend support of Congressman Hosmer's bill, H.R. 643, and believe that no government in a free country has a right to forbid its citizens from stating publicly what they believe are the benefits of food supplements. Furthermore, we oppose any regulation restricting easy access to safe, non-toxic food supplements.

CAPTIVE NATIONS

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. SMITH of New York. Mr. Speaker, in our pursuit of détente with the U.S.S.R. and Communist China, let us not forget those people who are forced unwillingly into the Communist alliance—those we remember this week during the 15th observance of Captive Nations Week.

Let us continue to applaud and encourage trade, travel, cultural and scientific cooperation and mutual reductions of weapons and forces as a means of easing tensions in this atomic age. However, we should not forget our principles of freedom. In our negotiations with the U.S.S.R., let us continue to support the rights of those in Communist-held countries to individual freedom and national self-determination.

For example, I believe we should stand firmly behind Hungary's right to full member status at the mutual balanced force reduction—MBFR—talks in Geneva this fall. Peaceful coexistence should not have to be maintained by a show of arms.

The intention of the conference was to have all Central European countries participate and to plan mutual cuts of all stationed troop forces—with no exceptions. We should not allow the Soviet Union to force us to accept observer status for Hungary. How can we expect the conference to be effective if even one area is excluded?

LET US RETURN TO THE FREE ENTERPRISE SYSTEM

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. ROUSSELOT. Mr. Speaker, there is now a great deal of discussion as to what phase 4 of the Economic Stabilization Act of 1970 will bring to the American consumer. Several of us who are members of the House Committee on Banking and Currency, have recommended that we return to the free-market system which has proven to be the most stable and productive in the world—that is, when it is allowed to function fully and freely.

Several newspapers, in their editorial sections, and various television and radio stations have commented on wage and price controls and I believe that my colleagues would be very much interested in an editorial broadcast by KNX radio in the Los Angeles area on June 28, 1973. It reiterates the theme: Why do we not bring the free enterprise system back to America? In another broadcast, June 26, the KNX editors discuss President Nixon's phase 3½. I recommend that my colleagues review the ideas that are presented in these two editorials:

WHY DON'T WE BRING THE FREE ENTERPRISE SYSTEM BACK TO AMERICA?

Today, we end our series on consumer prices with a radical idea. It's this: why don't we bring the free enterprise system back to America?

We have been taught that the free enterprise system is the best way of producing and distributing goods and services. It is the most efficient. It is the fairest. It is the ideal.

We have been taught this by our schools, our Republican President, and our Democratically-controlled Congress. At least, we have heard them all *talk* about free enterprise.

Yet, there is nothing praised as highly by politicians with words and more consistently ignored in action. It has been hobbled, hampered, and hamstrung by politicians who obey the demands of special interests. These are often too inefficient to meet competition in the open market. So, they get Congressmen and State Legislators to legislate the free enterprise system out of existence.

Consider just a few items: government permits artifically set prices for many farm products, airlines and so-called fair traded items. It mandates that laborers must join a union, which, in turn, sets the price of labor. It indirectly sets interest rates charged by banks. It uses tax money to encourage farmers not to grow things. It bails out inefficient companies with subsidies and loan guarantees and that drives prices up. It provides numerous tax loopholes that favor one segment of the economy over another. And, on and on and on.

KNX believes in the free enterprise system. We think it should be brought back into use in America. That will happen only when government stops meddling, mixing and mucking up our economy.

PRESIDENT NIXON'S PHASE 3½

President Nixon has brought us Phase 3½. He has bought some time with some words. That's the only bargain in town.

Following his speech, the Democrats who control Congress gave us their ideas on stopping runaway consumer prices. Both continue to be long on talk and short on action. The result is a spiral of inflation unmatched in a generation.

Once again, the President has used his favorite gimmick of selective controls. Everything produced is a combination of raw materials, labor, capital, and management. Mr. Nixon has consistently put controls on only some of these things.

He has, for example, frozen retail food prices at their all-time high. He has not frozen raw food prices. So, we have controlled retail prices floating on top of uncontrolled raw food prices. The President refuses to control profits. This, in the face of record level First Quarter profits. The Wall Street Journal, for example, reports the after-tax profits of 655 major companies were up 27.8% in the first quarter.

The President refuses to control interest rates. So, the rates are going through the roof. June 8th, the Federal Reserve Board jacked up its discount rate to the highest point since 1921. Commercial banks have been raising rates over and over again in recent months.

KNX opposes President Nixon's idea of selective controls. They help the wealthy corporations and banks and hurt you.

However, the Democratically controlled Congress is also to blame for inflation. Tomorrow, we'll look at that.

NATURAL RESOURCES AND HUMAN SURVIVAL

HON. DICK SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. SHOUP. Mr. Speaker, Prof. R. W. Behan of the University of Montana School of Forestry made some interesting comments concerning the Earth's rapidly dwindling resources. Professor Behan concludes that we have infinite quantities of resources, many of which are considered neutral now, but we must develop technology to adapt them for human use. He points out that social problems are of a higher priority that are those concerning resources and our attention should be directed accordingly. I would like to share with you a paper he presented to the annual meeting of the Pacifiic Division of the American Association for the Advancement of Science which occurred on June 12 in Salt Lake:

NATURAL RESOURCES AND HUMAN SURVIVAL

I suppose it is axiomatic that human survival depends upon natural resources. Theodore Roosevelt and Glifford Pinchot preached this in the first great conservation movement some 65 or 70 years ago, and we hear the same kind of rhetoric today.

We have come to be rather certain that the earth and its resources are fixed and finite. The current and popular books make this case in unequivocal terms. One is particularly apropos with respect to our symposium today; it is entitled *Blueprint for Survival*. It is a fine, lively, incisive, and polemical bit of purple nonsense that advocates a steady-state equilibrium between population and natural resources. The other book is also a fine, lively, incisive and polemical bit of nonsense, but it relies less on purple prose and much more on the M.I.T. computer and the book, of course, is *The Limits to Growth*. This book, too, sternly advocates a steady-state balance between people on the one hand and natural resources on the other.

I want at this point to disclaim a number of accusations that might come my way. I am highly critical of the two books I have mentioned, by no means do I favor the orthodox counter-arguments frequently offered by the business community.

I am firmly convinced, for example, that a great deal of our National Product is gross, indeed, and I do not advocate unlimited economic growth simply for the sake of more consumer durables per capita. My home today contains more goodies and toys than I have time to play with, and I suspect yours does too. Neither do I wish to be allied with corporate capitalism, for I think the pathologies of the institution are abundant, conspicuous, and serious.

I am concerned with these books and others like them because they rest on a faulty assumption of comprehensive resource scarcity; I do not think mankind faces such scarcity, and my argument will comprise most of this paper. But I am also concerned that the books maintain an old image that is faulty, too. This is the image of a balance of nature or, in more arcane terms, the idea of ecological equilibrium.

The survival problem is formulated in terms that are far too simplistic when we become enraptured with equilibrium, all we have to do to survive is to adjust human numbers to the output of a natural, homeostatic system. So goes the standard refrain.

I am convinced that such a problem formulation, such simple minded thinking, can lead to disastrous responses, both in terms of individual and social behavior and in terms of public policy. There are good and legitimate reasons why minority groups are glaringly absent in our domestic polities of the environment. And there are good and legitimate reasons why the developing nations were less than enthusiastic a year ago at the UN conference on the Human Environment, held in Stockholm.

My discomfort rests on a conviction that mankind's social problems are far more crucial than his resource problems. Historically the record is clear: we have learned how to survive in nature; we need to learn how to live with each other. And if we spend all our energies trying to solve a trivial issue—the problems of man and nature—we are distracted from the more important one—the problems of man and man. Well, I am soaring off into vague ambiguities here that are more fun to articulate than to listen to.

The orthodox survival problem is formulated in the well-known Malthusian equation. $S.L.=R/P$. or, in words, standard of living is determined by the ratio of resources to population.

The resource term, typically, is subdivided into categories. We have a stock of nonrenewable resources on one hand, and flows of renewable resources on the other. In either case, however, the resource is a particular substance, and it is quantified by a static or dynamic inventory. We might say the $R=S$; resources are substances, and the inventories of substances are fixed and finite.

The flow-inventories of renewable substances—food, fiber, wildlife, water—are fixed by the balance ecosystem on which man depends. The image here is one of an equilibrium-seeking production mechanism, and its maximum output will determine the carrying capacity of Spaceship Earth. And, according to much of the environmental rhetoric today, there is only one decision-variable that is available, if we are to avert disaster.

That is the denominator in the fraction, the human population term. According to accepted doctrine, we *must* reduce human population, to align it with that carrying capacity which is determined, we know, by the natural production of renewable resources. With natural production and human consumption in balance, we will achieve a global equilibrium, and that is what *Blueprint for Survival* calls for, and so does *The Limits to Growth.*

But the human population, if we found Paul Ehrlich compelling, is growing exponentially, beyond human comprehension and control, becoming an ominous *Population Bomb.* Facing the spectre of this population explosion, we have been treated to such staggering nonsense as *Famine, 1975!* by the Paddock brothers, who seriously suggested writing off 600 million people in India as lost and hopeless.

We have, then, an exploding population pressing on a fixed base of resources as inventories of substances. The ratio R/P is seen distinctly as an independent variable, and the consequence is alarming. The standard of living *must* decline, and we see this term distinctly, too, as a *dependent* variable, wholly determined by the R/P ratio.

In order to avert the disastrous decline in standard of living, we must bring the human population within the carrying capacity of the renewable natural resources that a homeostatic nature provides. Survival is thereby assured.

And that, I submit, is not only redundant with respect to my paper here, but it is also orthodox nonsense. The arithmetic involved, and the quantitative relationships, are intractable, of course. Given all the implicit assumptions and concepts, disaster is inescapable. We would be well advised, I suppose, to inspect the assumptions and concepts.

I don't really think human population is exploding beyond human comprehension and control. Quite the contrary we comprehend human population growth quite well, and we are very much in control of it.

All of the apocalyptic-environmental reports that I have read assert one outstanding premise: "if present trends continue". *Because* human population is determined by human decisions made in family situations all over the world, present trends have *never* continued. Families assess their environments with values provided by their cultures, and family sizes and hence social populations—are adjusted accordingly; assessments have changed, and so have both family size and populations. My most recent information about U.S. birth rates, for example, is really alarming. We are now producing babies at less than replacement levels, and if that trend continues, Zero Population Growth is unattainable; we will achieve instead, obviously, Zero Population.

I also think the concept is faulty that resources are inventories of substances. At best, the notion "resource equals substance" is incomplete, because there is an enormous amount of substance aboard Spaceship Earth that we don't recognize as "resources" at all. We see a great deal of excess baggage. And in addition to the excess baggage of substance, there are enormous reservoirs of unused energy sources as well—tidal flows, geothermal sources, and direct solar energy come to mind.

In an ingenious book with an inauspicious title, *World Resources and Industries,* Eriea Zimmermann uses the term "neutral stuff" to describe the excess baggage aboard Spaceship Earth.

What is the distinction between "resources," then, and "neutral stuffs." One distinction, presumably, is the *utility* we perceive in certain naturally occurring substances, energy source, and amenity services in our environment, and fail to perceive in others. Another distinction relates to our stock of knowledge; we need to know how to translate the potential utility in neutral stuff into the actuality of realized satisfactions. I prefer to call this knowledge "technology," and add quickly, if awkwardly, that technology by any other name is still human knowledge and ingenuity: malignantly no more and benignly no less.

It seems to me that a resource is uniquely and completely determined, then, not by a single factor, but by all three: a resource is a function of neutral stuff, technology and utility. One of my students, in a moment perhaps of insight *and* malice, formulated the relationship as $R=f(N.U.T)$: the rest of the class, with a sense of subdued but nearly unanimous glee, quickly named it the Nut Theorem, and preferred this formulation to others equally, I imagine, as rigorous.

Several consequences are immediately apparent when we conceive of resources as functions rather than inventories. One, of course, is the paramount significance of human decisions: utilities and technologies achieve parity with the neutral stuff involved, and they are both products of human perception and imagination. At least indirectly, this does away with the image of a balanced nature providing man's needs. Quite directly, on the contrary, man provides man's needs: it is irrigated, fertilized, hybridized, and often corporate agriculture that feeds us, not a balanced, climax ecosystem. And a second order consequence may be more alarming to conventional thinking: in anything but the very short run, resources so conceived are not comprehensively scarce at all. As utilities and technologies change, so do the neutral stuff parameters, and resources as functions become comprehensively abundant.

The relevant questions, accordingly, become different questions. We needn't be terribly concerned about the sufficiency of iron ore to build more and more automobiles. Instead we can ask what other neutral stuffs, with what other attendant technologies, are available or discoverable with which to make auto bodies. Fiberglass? Or old car bodies perhaps? Or we can inquire about the utility variable: do we want to build more automobiles at all, or are there other means for moving people to and from their jobs, schools, and vacation sites? On my campus I have noticed our parking lots becoming increasingly vacant as the number of bicycles increases: I see this as a tangible example of resource abundance. And I see this example as ho-hum typical, for all resources, and even in physical terms; we are on the technical brink, so to speak, of a 10-billion-year supply of energy when we look at the fusion reaction of deuterium, the hydrogen isotope in seawater.

We needn't resort to that degree of utopianism, I suppose, to make my point: resouces as functions are comprehensively abundant, and we can substitute a term now in the Malthusian equation:

$$S.L.=f(N,U,T)/Population$$

Having done that we can breath a great deal more easily about doomsday.

But a further consequence is more interesting, at least from an analytical point of view. I have argued that human population is the collective result of human decisions, and I think, obviously, that's true. (If we have a population problem, it is a fairly difficult and ugly problem at that: the decisions of other people and other cultures, about how many people is too many people, simply don't agree with our own.) Population then, the denominator, is decision determined. And so, it should be obvious, is the resource numerator: we decide on utilities and technologies continuously, adopt one sort or another of neutral stuff, and resource are decision-determined, accordingly. And this can only mean one thing: the R/P ratio cannot possibly be an independent variable, as the orthodox Malthusian equation would have us believe.

And neither, of course, is the standard-of-living variable *dependent* on the ratio of resources to people. Indeed, we choose our standard-of-living first and independently: we fashion our family size accordingly, collectively determining population, and we make our utility-technology-neutral stuff decisions, accordingly, as well.

These relationships or something similar, prompted UN Secretary General U Thant to make this statement several years ago:

"The truth, the central stupendous truth, about developed countries today is that they can have—in anything but the shortest run—the kind and scale of resources they decide to have . . . It is no longer resources that limit decisions. It is the decision that makes the resources. This is the fundamental revolutionary change—perhaps the most revolutionary mankind has ever known."

And therein lies my major concern: survival—in terms of resource sufficiency—is guaranteed in circumstances where "decisions make the resources." But not, it is apparent, under other circumstances, where the grinding intractability of Malthusian law still holds.

In many of the developing countries today these circumstances are realities, and we need desperately to help, as humanely and magnanimously as we can, to change these circumstances. We need, in short, to foster the development of these countries.

And there are many sectors of the American society as well—we have called them disadvantaged minorities—that face circumstances of scarcity, poverty, and need. This, I think, constitutes a problem of distribution, not of development, but the effects are no less crucial to those who face them.

Worldwide, I think our species has learned quite well—in some cases too well—how to live in the physical realm of nature. Human survival no longer depends upon—nor is it constrained by—the physical aspects of natural resources. Instead it depends on our successful efforts to share our knowledge, our compassion, and our wealth. We have learned to live with nature, as I suggested earlier; we have not to learn to live with each other. For I agree, finally, with author Richard Neuhaus: "The goal is not survival, but survival as human beings."

ANOTHER MINIMUM WAGE HIKE?

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. LANDGREBE. Mr. Speaker, having passed this House on June 6, this year's minimum wage legislation will be taken up by the Senate before the end of this week. I retain the serious reservations that I voiced about the bill during its consideration by the Committee on Education and Labor and the full House, and I want to commend to the attention of my colleagues an excellent column on this issue by George Will which appears in the July 17 edition of the Washington Post.

Mr. Will reiterates the point that many of us tried to make during the House debate that "minimum wage legislation usually is harmful to many of the people who are supposed to benefit." For example, despite the emotional cries of "child labor" that were bandied about by advocates of the House bill, it is very clear in this case that the lack of a "youth differential" provision will harm the employment prospects of those young people who most need to work—high school drop-outs and especially those from minority groups.

With the distinct possibility of a House-Senate conference on this legislation, not to mention a Presidential veto, I ask my colleagues to take the time to consider Mr. Will's cogent arguments. The full article is reprinted herein below:

Another Minimum Wage Hike?

(By George Will)

Acting in its traditional role of tireless protector of the strong, the Senate is about to follow the House of Represenatives in voting to increase unemployment among the nation's vulnerable workers—especially black teenagers.

The Senate will do this in the name of humanitarianism as it votes another increase in the minimum wage. The Senate probably will adopt the House bill, as against the administration's proposals.

The man arguments between the House and the administration concern whether coverage should be extended; how fast the minimum should rise to $2.20 per hour; and whether there should be a "youth differential," whereby anyone under 18 and full-time students could be paid 15 per cent less than the regular minimum wage.

The House reflecting the position of organized labor, wants to extend coverage to domestic and government workers. It wants to go to $2.20 one year quicker than the administration (by 1974) and rejects the "youth differential."

The administration's proposals are less toxic than those of the House. But the really striking and depressing thing in both wings of the Capitol is that so few politicians—Sens. Peter H. Dominick (R-Colo.) and Robert Taft Jr. (R-Ohio) being honorable exceptions—acknowledge that minimum wage legislation usually is harmful to many of the people who are supposed to benefit.

I suspect that one reason economics is known as the "dismal science" is that it, unlike other social sciences, is sufficiently rigorous to occasionally reach clear conclusions that can interfere with poiltical desires. Certainly today there is a remarkable consensus among independent economists about five matters relevent to minimum wage legislation:

Blacks suffer more than whites, and teenagers more than adults from sluggish job markets.

Minimum wage legislation makes it harder for blacks and teenagers to find employment in good times, and harder to hold jobs when times are not good.

White adult males benefit most from the effect of minimum wage legislation on lost job opportunities and increased job instability among blacks and teenagers.

There are more poor people whose poverty derives from unemployment than from holding jobs that pay inadequate wages.

While it is true that some workers are paid so poorly they must also draw welfare, it is equally true that raising the minimum wage will cause some of these people to become unemployed people on welfare.

None of these points is surprising. Minimum wage laws hurt marginal workers because their skills are least productive and most easily dispensed with. That is why it does not pay to pay them much.

Minimum wage legislation has a regressive cost-benefit distribution. It puts marginal workers in jeopardy while helping—not surprisingly—those who push hardest for such legislation, organized labor.

Of course, not all economists acknowledge this. The economists who work for organized labor deploy a lot of methodological arguments designed to show that the state of the economist's art is such that we can not know for sure who will be affected how by minimum wage legislation.

There are a couple of things to say about these arguments.

First, if the science of economics is not able to predict dismal results from such legislation, then it cannot predict good results. So we should err on the side of caution and leave bad enough alone.

Second, there is something suspiciously selective about the epistemological scrupulousness of organized labor's economists. When labor is lobbying Congress for laws to protect the republic from Italian shoes, labor's economists are remarkably confident about their ability to say just how many shoemakers will be booted into poverty by a given number of Italian shoes.

Organized labor wants a steadily rising minimum wage in order to raise the general wage floor, thereby giving an upward thrust to the negotiating position of unions that, one would have thought, were already powerful enough.

In addition, organized labor wants a high minimum wage enforced nationwide so there will be less temptation for industry to locate in poorer, low wage (often non-union) areas. The fact that minimum wage legislation causes unemployment in some areas and hinders the growth of employment opportunities in other areas, is of no concern to organized labor.

The only amusing thing about minimum wage legislation is that it, like most other things in American economic life, confounds the Marxist prophecy.

Marx said capitalists will always act so as to create a reserve army of the unemployed to use in grinding the face of organized labor. But today it is organized labor, with its racial discrimination, its apprenticeship programs restricting access to professions, and now, again, minimum wage demands that is swelling the reserve army of the unemployed.

NIXON USES DOUBLE-THINK, DOUBLE-TALK

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. RIEGLE. Mr. Speaker, some weeks ago Journalist Ray Stephens, head of the Washington bureau of the Booth Newspapers, wrote a compelling analysis of the Presidential role in the Watergate case.

Although his analysis was published in the Flint Journal of May 27, it makes valuable reading today. I insert the article for the interest of my colleagues.

Nixon Uses Double-think, Double-talk

(By Ray Stephens)

WASHINGTON.—President Nixon's 4,000-word rationalization of his own contribution to the Watergate scandal amounts to a denial that he violated the law or ordered anyone else to do it.

But beneath the disclaimers and repreated protestations of innocence, the President concedes that he was fully prepared to authorize such violations, even to breaking and entering.

"It is not my intention to place a national security 'cover' on Watergate," The President said. Whereupon he proceeded to do exactly that.

Protecting the "National security" is the only defense offered by Nixon in a statement that is a remarkable example of both double-think and double-talk.

In short, he contends that the ends justified the means. Ironically, that was precisely the unsuccessful defense offered by Watergate conspirator James McCord Jr. at his trial.

McCord had argued he was justified in breaking the law because he acted solely out of concern for the President's safety.

National security is a legitimate and basic concern of government. It also is a euphemism frequently employed to justify suppressing political skeletons as well as military secrets.

Nixon's statement indicates that his close associates, if not the President himself, were at least as concerned with the former as with the latter.

The President admitted as much. At critical points in the events surrounding Watergate, he said, various people "saw the same situation with different eyes and heard the same words with different ears."

"What might have seemed insignificant to one seemed significant to another," the President continued. "What one saw in terms of public responsibility, another saw in terms of political opportunity; and mixed through it all, I am sure, was a concern that the Watergate scandal should not be allowed to get in the way of what the administration sought to achieve."

Precisely. And, two examples make the point.

The President's overriding concern, by his own admission, was to ensure that an investigation of Watergate did not expose covert operations of the Central Intelligence Agency (CIA) "nor the operations of the special investigations unit."

Why, you may ask, should the President fear that the CIA might somehow be involved in a purely domestic matter?

The answer, in Nixon's statement, is that the President himself sought in 1970 to enlist the CIA in investigations of domestic dissent—anti-war demonstration and the like—despite the fact that the law flatly prohibits that espionage agency from taking part in any form of internal security work.

Furthermore, the White House investigators had obtained CIA cooperation in what that agency had to know was an internal matter, even if it didn't know that the plan involved breaking into the office of Daniel Ellsberg's psychiatrist.

Not that the CIA should, or would, have been surprised. According to the President, his 1970 plan for coordinated domestic intelligence "included authorization for surreptitious entry—breaking and entering, in effect. . . ."

That plan, Nixon said, was never put into effect, but he made no bones of the fact that he approved it; that he was prepared to countenance the commission of felonies.

The President again cited national security as justification, implying that violence by antiwar and racial militants threatened to undermine the Republic. Whether or not you accept that as true, you must also concede that the dissidents' success in generating opposition to Nixon's policies posed an even bigger threat to his political future.

Nixon's determination to protect the secrecy of his own special investigations unit raises a question as to how far you can carry concealment before it becomes the crime of obstructing justice.

The early reports on Watergate, the President said, "led me to surmise, correctly, that since persons originally recruited for covert national security activities had participated in Watergate, an unrestricted investigation of Watergate, might lead to and expose those covert national security operations."

Therefore, he ordered his two top aides, H. R. Haldeman and John Ehrlichman, to ensure that the existence of the special unit be kept secret from FBI agents then investigating the case.

It must be remembered that the special unit was under the overall supervision of Ehrlichman, and under the direct command of his No. 1 assistant, Egil Krogh.

Further, it was Krogh who authorized E. Howard Hunt and G. Gordon Liddy, the men who subsequently were to lead the Watergate raid, to burglarize the office of Ellsberg's psychiatrist.

The president's order to Haldeman and Ehrlichman thus amounted to blocking any inquiries that might connect Hunt and Liddy to the White House unit.

"It now seems that later, through whatever complex of individual motives and possible misunderstandings, there were apparently wide-ranging efforts to limit the investigation or to conceal the possible involvement of members of the administration and the campaign committee," Nixon said.

Given their instruction, it is difficult to see how the President's aides could have done anything less. Protecting the secrecy of the special investigations unit demanded that Ehrlichman cover his own tracks since he was the man in charge.

Since the central question to the Watergate burglary was, and still is, not who carried out the crime but who ordered it, the effect of the President's order was to impede the investigation, and shield his associates.

OUR ECONOMY—TELL IT LIKE IT IS

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. HANNA. Mr. Speaker, those responsible for our economy must have the courage to acknowledge past mistakes and to tell it as it is to the American consumer—even if that reality presents some bleak prospects. The harsh reality is that as a result of past economic mistakes, we are now confronted by substantial supply shortages in energy, agricultural commodities, and ferrous scrap. These shortages will inevitably lead to price increases once the present freeze is over, and the American consumer should be prepared for those increases. Moreover, these shortages are not temporary phenomena; they are long-term problems which demand long-term solutions directed at allocating existing stocks and increasing future supply. Short-term attempts to deal with these shortages—without long-term solutions—may only exacerbate the problem.

In a recent telegram, C. W. Cook, chairman of General Foods Corp., has had the courage to tell it like it is. His concise, but alarming, remarks are worthy of our attention:

Our Economy—Tell It Like It Is

Several factors inherent in our country's food supply and pricing systems, I am convinced, make it inevitable that food prices will rise significantly in the months ahead. As the administration develops phase four of its economic control program and as Congress deliberates the farm bill, it is imperative that we face squarely the facts as they are. As chief executive of a major food processor, I feel obliged to provide you with this unpleasant information as an aid in considering legislation and to assist you in communications with constituents on this subject.

Because of the manner in which phase two, phase three and the present freeze have been supplied, today's food prices are deceptively low. They are based on farm prices far below present levels because of controls at wholesale and retail. Current controls result in costing ingredients at original price and not at replacement, and this results in a time lag in reflecting rising farm prices in finished products. When sharp commodity price increases are reflected at retail, as ultimately they must be, the resultant rise in food costs is certain to shock consumers. And as higher priced agricultural products work their way through inventories, the situation is certain to be aggravated further. Even excellent crop prospects this year will not be sufficient to curb this spiral significantly.

For these reasons I and many of my industry colleagues believe food prices are destined to rise sharply this year regardless of provisions for control that may be incorporated in phase four regulations. We believe the consuming public should be made aware of this distasteful prospect now because we fear many consumers expect food prices to hold steady or possibly decline once new crop estimates are in. We believe both industry leaders and elected public servants have this obligation.

The foregoing is predicated on the assumption that phase four will permit pass-through of all cost increases. Any continued squeezing of processors' and distributors' margins will only result in sharply reduced food supplies with all that implies, and simply delay but aggravate the price increases which are inevitable.

OLDER BUT NEVER OLD

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. BINGHAM. Mr. Speaker, my congressional district in the Bronx is fortunate in having many lively and concerned senior citizens who take an active role in their community. One such senior citizen is Mr. Paul Leith, whose exceptional record of involvement in organizations and concerns for the elderly deserves particular recognition.

Mr. Leith founded and was for 5 years president of the Senior Citizens Club of Crompond, N.Y., in Westchester County. He is, at age 79, an active member of the Gerontological Society, the National Council on the Aging, the National Council of Senior Citizens, and the American Association of Retired Persons. He is currently a columnist for City News of Co-op City in the Bronx, and recently organized a session on "The Experience of Retirement" as part of Fordham University's weeklong conference on "Aging—Its Challenge to the Individual and to Society."

I am submitting for the Record excerpts from two of Mr. Leith's weekly "Older But Never Old" columns dealing with the Fordham University session. I find his statement stressing "the importance of social action and legislative activity by the elderly in their own behalf and for all other Americans," particularly noteworthy.

The excerpts follow:

Older but Never Old

(By Paul Leith)

Bronx Senior Citizens attend a Professional Conference on Aging. With permission from the sponsors, I organized a group of ten senior citizens from the Bronx to attend without charge the Wednesday afternoon June 20th session of the all-week Pastoral Psychology Institute at Fordham University (Bronx) on "Aging—Its Challenge to the Individual and to Society" (June 18–22). The Wednesday afternoon session dealt with "The Experience of Retirement."

The group consisted of Mr. Charles Alverez of the South Bronx, a Vice President of the Greater New York Congress of Senior Citizens; Mrs. Madeline Aurichio from the Boston-Secor Senior Center; Mrs. Virginia McGuinness and Mrs. Nora O'Brien from the Eastchester Senior Center; Mrs. Harriet Conway and Mrs. Elizabeth Williams from the William Hodson Senior Center; Mr. Fred Berkowitz, president of the Friendship Senior Citizens Club of Co-op City; and Mrs. Esther Leith from the Retired Members Local, District 65, Distributive Workers of America. Mr. Daniel Sullivan from St. Michaels Parish of Co-op City could not attend, due to the death of a relative.

After the talks by scheduled speakers, Mr. Alverez, Mrs. McGuinness, Mrs. Conway and your columnist spoke. Mrs. McGuinness explained the telephone reassurance program of the Eastchester Center. Mrs. Conway outlined the many activities of the William Hodson Center, and expressed her pleasure from participating in these programs. Mr. Alverez stressed "the misery that befalls a great proportion of our elderly when they retire or lose their mate." He cited as the three main problems facing the elderly: income, health and loneliness. He declared that "use must be found for the vast knowledge that the elderly possess, thus assuring them that they are a needed element in our daily lives" and he called on the Conference delegates "to show the retired that they are needed." The remarks of your columnist will be printed next week.

Older But Never Old

(By Paul Leith)

My Remarks at the Fordham Institute Session on "Experience of Retirement." Last week, I referred to the participation of nine Bronx senior citizens, including three from Co-op City, in the June 20th afternoon session of the Fordham University Conference on Aging, and to the talks by three of them. This is a revised version of my talk. (I am availing myself of the privilege of Congressmen to revise their speeches before they are printed in the Congressional Record).

"My experience indicates that a meaningful life in retirement is best attained by activity in senior citizens groups affiliated with the National Council of Senior Citizens; and by membership in national professional organizations like the Gerontological Society, by attending their national Conferences on Aging, and by reading their Journals. Contributing a weekly column "Older But Never Old" to the City News, a neighborhood paper in Co-op City, Bronx, N.Y. requires that I keep in touch with happenings in Washington, Albany and New York City on the legislative front, and with the activities of senior citizens center and clubs. I have tried, since retirement in 1958, to be active, but always looking for new challenges.

"I should like to stress the importance of social action, of legislative activity by the elderly in their own behalf and for all other Americans; especially on behalf of the poor, and the low middle income people.

"On all sides, we hear rejoicing over every step, however small, to benefit the elderly. But I should like to emphasize the failure of our society to provide for the elderly a fair share of the products of industry, of services, of medical, educational and recreational resources. I welcomed the establishment of Social Security, Medicare, the Older Americans Act and programs like Foster Grandparents. But all of these programs leave the elderly in an inferior position. The various programs like Foster Grandparents which provide partial employment benefits only a comparatively handful of elderly poor people. This is tokenism, not justice. Medicare is becoming more costly for the elderly. The percentage of total medical costs paid to the elderly by Medicare has dropped from 1966 to 1972. In 1966, Medicare paid 50 percent; but in 1972, it dropped to 42 percent! Furthermore, President Nixon has proposed in his budget for the fiscal year 1974 to make the elderly pay more for hospitalization and doctor's fees.

"Loud hosannas are exclaimed about the number of older people who reach up to the poverty level, but what's there to brag about when the total income of a single person reaches $40 a week, and of a couple $50 a week?

"Dedicated professionals working with older people should be doing all they can to have the elderly get a fair share of what is produced in the United States. Are you professionals concerned with this?

"The 1971 White House Conference on Aging urged participation of senior citizens in planning and carrying out programs affecting them. Is this the practice in your organizations which have such programs?

"Elderly people are urged on all sides to adjust to their new situation, when they retire. This means generally to adjust to an income about or less than half of what they earned while working. In 1967 in New York City one out of every three elderly households had an annual income of less than $2000 a year, and an additional 18 percent (about one out of every five) had an income between $2000 and $3000. Together, 51 percent (one out of two elderly households) had an income of less than $3000 a year. Despite Social Security benefit increases since then, there is still a wide gap between the elderly and those working, as far as income is concerned.

"We hear, especially during election campaigns, about the great contributions made by the elderly to the building up of this country to the point where those now employed have a standard of living much higher than that which the present elderly had when they were employed. But the reward for such contributions to society is still pitifully small.

"During the past decade, millions of elderly people have not been meekly adjusting to their disadvantaged position, but have been demanding the right to live decently and in dignity.

"On March 6th of this year, thousands of elderly people, on the call of the Greater New York Congress of Senior Citizens, presented their demands to the New York State Legislature leaders in Albany. On June 6–8, ten thousand senior citizens went to Washington to attend the National Legislative Conference of the National Council of Senior Citizens. I urge all of you professionals to support the senior citizens in the legislative proposals."

Do you agree with this estimate? Is it too harsh? Does it tell it as it is? Let me know.

THE CIVIL AIR PATROL

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. WOLFF. Mr. Speaker, I have the honor of serving as the commander of the Congressional Squadron of the Civil Air Patrol, USAF Auxiliary. Created in 1941 as part of our domestic defense operation during World War II, CAP has continued its existence since 1948 as the official auxiliary of the Air Force. Brig. Gen. Leslie J. Westberg, USAF, commands USAF personnel assigned as CAP advisors. General Westberg is also National Commander of the CAP and advises and assists CAP in carrying out its responsibilities as a private, nonprofit corporation.

CAP members give generously of their time and effort in search and rescue operations, particularly during disasters, such as plane crashes in isolated areas, flood, tornado and other severe weather-induced catastrophes. They serve ceaselessly, using their own equipment, collecting only reimbursements for their expenses, when governmental facilities are taxed to their utmost.

Mr. Speaker, I am pleased to commend the many thousands of CAP members around the Nation—young and old. I am certain I speak for all Members of Congress when I extend my personal thanks to CAP members for their dedication to the principles which led to the birth of the United States, for these are truly the Minutemen of the skies.

In their honor, I would like to include a recent article from the July issue of the Civil Air Patrol News, which describes the formation of the CAP and a few of their many contributions to this country's well-being.

CAP: ITS CONTRIBUTIONS

(By Brig. Gen. Leslie J. Westburg, USAF)

In March of this year, a letter of Background Data on Civil Air Patrol was forwarded to the Congress of the United States and provided those who read it a capsule report of the history, organization and recent achievements of CAP. Also, detailed and documented were the benefits this nation, and the Air Force, have derived from Civil Air Patrol.

I believe that it is vital that each CAP member know and understand the contributions Civil Air Patrol and the Air Force have made to each other, and, in turn, what both have done for the nation. That is why this month, General duPont has agreed to relinquish the space for his column so that this data can be shared with you. For the remainder of this year, the CAP NEWS will extract and reprint portions of the supporting documents that we supplied to the members of Congress.

I hope each member will clip and save this column, and the ensuing items, as a personal reference file. In my estimation, all members can greatly benefit Civil Air Patrol by sharing this information with their neighbors and the people they come in contact with on a day-to-day basis. The initial data follows:

The Civil Air Patrol was organized on Dec. 1, 1941, as a part of the United States' civil defense structure. From that time until the end of World War II, CAP performed coastal and border patrol duty, primarily along the Nation's eastern and southern coast lines.

Following the War, in 1946, CAP was established as a private, nonprofit corporation under Public Law 476, 79th Congress. Two years later, Public Law 557, 80th Congress, designated CAP the only official auxiliary of the Air Force.

CAP has a current membership of 62,000, including 27,000 cadets between the ages of 13 and 21, and 35,000 adult, senior members. Organizationally, CAP is divided into eight geographical areas called Regions, each Region being composed of at least five states or Wings. In all, there are 52 Wings in CAP, one in each state, plus one each in Puerto Rico and the District of Columbia. The basic unit of organization within CAP is the Squadron. There are nearly 2,100 Squadrons within CAP, ranging in number per Wing from 135 in California to 10 in Delaware. Each Region and Wing has a commander and headquarters staff to direct the activities of its various subordinate units.

On the National Level, CAP is governed by a National Board, which is composed of a Board Chairman, several special staff officers, the eight Regional Commanders, and the 52 Wing Commanders. The National Board elects the Chairman and establishes board corporate policies. The National Executive Committee, which has the same membership as the National Board minus the 52 Wing Commanders, is responsible for conducting most of the Corporation's business. Much of the routine management of CAP is handled by the Exectuive Director, a paid civilian employee of the Corporation.

Public Law 557; which established CAP as the official auxiliary of the Air Force, also authorized the Secretary of the Air Force to assign members of the Department of the Air Force to duty with CAP at National, Region, and Wing levels. There are currently 116 officers, 128 enlisted personnel, and 106 civil service employees in the Air Force assigned to duty with CAP. These personnel, who are assigned to Headquarters CAP–USAF are under the direct command of Brig. Gen. Leslie J. Westberg. General Westberg is not only the Commander of CAP–USAF, he serves as National Commander of CAP as well. In this latter capacity, he is a voting member of CAP's National Board and National Executive Committee. Neither General Westberg nor any members of his CAP–USAF are empowered to exercise any direct control over the activities of CAP. Their role is confined to advising and assisting the Corporation in carrying out its mission.

At the present time, 132 of the 350 members comprising Headquarters CAP–USAF are located at Maxwell AFB, Ala. The remaining 218 members are performing field liaison duty with CAP and are located throughout the country at Region (multi-state) and Wing (state) levels. National Headquarters for CAP is co-located with Headquarters CAP–USAF at Maxwell AFB, Ala.

As it has always been, CAP's mission is primarily humanitarian. Foremost among its activities are search and rescue (SAR), disaster relief, and civil defense. Approximately 70 percent of all the search and rescue missions undertaken each year in the United States are flown by CAP personnel using their own or Corporation-owned aircraft and other equipment. In 1971, CAP flew nearly 31,000 hours on 389 officially-authorized USAF missions. In 1972, CAP expended 27,400 flying hours on 349 officially-authorized USAF missions. CAP responds nation-wide to such disasters as tornadoes, hurricanes, snow storms, forest fires, floods, and earthquakes with every kind of emergency relief assistance it can provide. During the past two years, CAP personnel have participated in 35 significant disaster-relief missions. As for CAP's involvement in civil defense, should a national emergency arise, each Wing is prepared to fly lifesaving missions and otherwise lend strong support to its state's civil defense efforts.

To help defray the costs involved in flying USAF-directed missions, the Air Force is authorized under Public Law 557 to reimburse individual CAP members for the expenses they incur for aviation fuel and oil and communications while participating in Air Force-authorized search and rescue missions, and civil-defense missions. In 1972, Air Force reimbursements to members of CAP flying search and rescue mission averaged about $9.50 per authorized flying hour, or approximately 2.5 percent of the amount it would cost the Air Force to fly these missions using its own personnel and aircraft ($400.00 per hour). As a result, CAP saves the U.S. government and the Air Force several millions of dollars annually. In 1971, it is estimated that these savings amounted to more than $12,000,000 and in 1972 more than $10,000,000.

CAP's support of aerospace power through its numerous aerospace education programs constitutes yet another corporate endeavor. Included in these programs is the CAP Cadet Aerospace Education Program, which seeks to develop within the cadet a greater understanding of the total impact of aerospace on our society while providing training in leadership and citizenship.

One of the most successful features of the CAP Cadet Aerospace Education Program is the International Air Cadet Exchange, which has served for many years to promote understanding, good will, and friendship among the young people of the world by providing them with the opportunity to visit in foreign countries. Since 1948, more than 6,000 air cadets in this country and 41 foreign countries have participated in this reciprocal visitation program.

Another significant benefit accruing to the Nation through CAP's affiliation with the Air Force is CAP's proven value as a source for volunteer recruits in the Air Force. By joining CAP, the cadet demonstrates his interest in aerospace, his acceptance of a military-type uniform, and his willingness to work within a quasi-military organization. His training in CAP further orients him toward Air Force life. The net result is that a relatively high percentage of CAP cadets are motivated to join the Air Force when they reach enlistment age. This recruiting advantage assumes even more importance as this country moves closer toward the goal of an all-volunteer military force.

CAP obtains much of its equipment, including aircraft, and supplies through DOD excess sources. This was made possible under another provision of Public Law 557. However, this is the extent to which the Corporation currently receives federal support, except for the reimbursements mentioned earlier that are made to individual CAP members by the Air Force for the costs they incur while participating in officially authorized USAF missions. As for income to support its numerous programs and activities, CAP relies mainly on dues from members, donations, and monies resulting from various local fund-raising activities. Some states also help support their CAP wings through grants of funds.

At the present time, CAP has a fleet of some 6,100 aircraft. Approximately 800 of these belong to the Corporation, while the remainder are privately owned by CAP citizen members. In addition to having virtually every type of civilian light aircraft made in its inventory, CAP also has numerous T-34, U-3, U-6, T-41, and O-1 aircraft, all of which have been obtained through military excess sources.

CAP also operates some 17,500 licensed citizen radio stations; some of this equipment has also been obtained from military excess.

Though much more could be written of CAP, the foregoing should suffice to show the importance of this all-volunteer, humanitarian organization to the American people. Without the personal sacrifices made by the dedicated members of CAP, who willingly give their time, talents, and personal treasure to provide vital volunteer services to their fellow Americans, this Nation and the Air Force would be hard pressed in numerous ways.

RULES CHANGES PROPOSED FOR FEDERAL PAY, WORK HOURS

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. DULSKI. Mr. Speaker, the Civil Service Commission has recommended to the Congress certain adjustments and improvements in existing statutes as they apply to pay and hours of work of Federal employees.

Chairman Robert Hampton of the Commission has submitted a proposed text for legislation and a full explanation in a letter to the Speaker.

I am today introducing the recommended legislation so that it will be before our committee for consideration.

As part of my remarks, I am including the text of Chairman Hampton's transmittal letter to the Speaker, as well as the text of the Commission's statement of purpose and justification.

U.S. CIVIL SERVICE COMMISSION,
July 13, 1973.

Honorable CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Civil Service Commission submits with this letter for consideration by the Congress proposed legislation to make certain adjustments and needed improvements in existing statutory provisions relating to pay administration in the Federal Service.

Enactment of this proposal will provide greater flexibility in fixing the initial salaries of superior-quality appointees to positions under the General Schedule; extend eligibility for within-grade increases under the General Schedule to employees serving under temporary or limited appointments and provide that certain pay adjustments and actions are not equivalent increases; make the requirement for premium pay for work in excess of eight hours a day inapplicable when such duty results from the establishment of special tours of duty to permit employees to attend educational institutions; authorize the establishment of stipends for certain postdoctoral and other research associates; and permit compensation for Federal employees on special projects under nationwide economic or educational opportunity programs to be fixed by methods more suited to the nature and purpose of their employment.

A more detailed description of these provisions is contained in the accompanying statement of purpose and justification.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation.

A similar letter is being sent to the President of the Senate.

By direction of the Commission:

Sincerely yours,
ROBERT HAMPTON,
Chairman.

STATEMENT BY CIVIL SERVICE COMMISSION

Mr. Speaker, following is the statement submitted by the Chairman of the Civil Service Commission to describe the purpose and the justification of the bill to amend title 5, United States Code, relating to pay and hours of work of Federal employees:

STATEMENT OF PURPOSE AND JUSTIFICATION

SUPERIOR QUALITY APPOINTMENTS

The first section of this proposal would authorize appointments of certain individuals at rates above the minimum of the rate range in the first 17 grades of the General Schedule on the same basis that they are now authorized in grades GS-11 and above—the candidate's existing salary, unusually high or unique qualifications, or a special need of the Government. In addition to its existing responsibility for issuing regulations to govern appointments under this law, the Civil Service Commission would be given discretion to prescribe conditions under which an agency could take final action on such an appointment without prior approval by the Commission as is now required.

Extending flexibility of this type to all grades in the General Schedule could mean that by paying say $300, $600, or perhaps $900 more per annum in beginning salary the Government could get the services of a talented individual who might be particularly needed to begin a career in an important social, economic, or scientific program or the services of an experienced technician who might be needed for a specialized occupation.

Given the challenge of its programs, the good opportunities for advancement, and Federal salaries which are generally comparable with private enterprise salaries, the Government could well expect to retain the individual's services for years to come. An inadequate and noncompetitive initial salary offer, on the other hand, could be the deciding element in that individual's decision to start with another employer.

In the case of beginning professional employees, the additional expense to the Government would be limited to the first year or two, because upon promotion most would be entitled to the same rate they would have received had they originally been appointed at the beginning salary for the particular grade.

The added flexibility afforded by this amendment is intended especially to permit the Government to compete for the services of superior candidates with a bachelor's or master's degree in specializations for which there is a particular need. It would, however, be available also for the appointment of other persons at rates above the minimum of the range where appropriate under the statutory criteria and the Commission's regulations.

The Commission can, and does, under section 5303 of title 5, United States Code, authorize special salary ranges where it finds the Government is significantly handicapped in recruiting or retaining well-qualified personnel by substantially higher rates paid by private enterprise.

While the situation is different at present, in recent years the labor market at times has been so competitive that without these special rates Government recruiting in many occupations would have been almost impossible. Nevertheless, when special rates have been authorized the Government has not always been able to compete on even terms with industry especially for candidates with graduate training in certain fields.

On the other hand, the Commission may find that although private employers are paying higher salaries on the average to candidates in some occupations the Government recruitment picture does not warrant the establishment of special rates under 5 U.S.C. 5303.

For example, no special rates have been established for persons with a masters' in business administration (MBA). These candidates are basically eligible for entry into the Federal service at grade GS-9 with a current entry rate of $11,614 a year. Yet according to College Placement Council data, industry is offering $14,000 to $15,000 a year to those graduates from leading universities such as Harvard, MIT, and Stanford.

Federal agency needs for MBA graduates are highly selective and involve searching for quality candidates who can bring to bear their specialized backgrounds and training on complex programs. Recruiting for MBA graduates is highly individualistic and extremely competitive for the most part. Therefore, the greater salary flexibility proposed by this draft bill is needed in addition to the authority that is available under 5 U.S.C. 5303.

Below the college entry level, authority to make superior quality appointments would be particularly pertinent for one- or few-of-a-kind positions such as medical machine technicians, health technicians, and pharmacy assistants in GS-2, GS-3, and GS-4. In a Veterans hospital, for example, one or two vacancies may occur for medical support personnel where it would be unnecessary to authorize special rates under 5 U.S.C. 5303 and to make the accompanying adjustments for on-duty personnel as well, if the authority to make superior quality appointments above the normal minimum salary were available.

If the Government is to receive maximum benefit from the superior quality appointment authority in 5 U.S.C. 5333, it is highly desirable that the Commission be in a position to permit agencies to make firm on-the-spot offers under certain limited circumstances. The present requirement that each appointment be approved in advance by the Civil Service Commission reduces an agency's responsiveness in the recruitment of highly qualified candidates often where the agency has the greatest need to be in a position to make an immediate and firm offer. While the Commission makes every effort to act expeditiously on agency requests, there are occasions when the time required for an agency to prepare the submission, transmit it to the Commission, and receive a response may unavoidably result in the loss of superior candidates.

Amending the present authority to permit the Commission to prescribe conditions under which an agency may take final action on certain kinds of superior quality appointments would not diminish the Commission's control over such appointments. Under the amendment proposed in this draft bill, the Commission could still require prior approval in each individual case where it is deemed appropriate.

However, in its discretion, the Commission would be able to prescribe conditions under which an agency could take final action on certain superior quality appointments. These conditions could be modified or withdrawn by the Commission at any time. The Commission could review the appropriateness of quality appointments made by the agencies by requiring periodic reports on the actions taken.

PERIODIC STEP-INCREASES

Section 2 amends the eligibility requirements for periodic step-increases under 5 U.S.C. 5335 to provide more equitable treatment for employees in General Schedule positions.

One of its provisions eliminates the requirement that an employee must occupy a "permanent" position to be eligible for a periodic step-increase under the General Schedule. This requirement was evidently intended to exclude from eligibility employees whose service, because of its temporary nature, could not be properly evaluated in terms of efficiency and conduct for purposes of determining entitlement to salary advancement.

If an employee has met the minimum 52-week service requirement for a within-grade increase, however, there would seem to be sufficient time to evaluate his performance. Under the law as presently written, most employees whose appointments are limited to a specified period are not eligible for their increases even though their tenure may exceed the prescribed waiting periods.

Frequently in authorizing Schedule A appointments outside the competitive service the Commission finds it appropriate to limit such appointments to specified periods but in some instances to permit certain extensions. For example, an authority may limit initial appointments to two years but provide that, with the approval of the Commission, the total employment may be for as long as three years. Or the authority may simply limit total employment to a specified number of years (e.g., four years) or provide that an appointment may not exceed a specified date. Although individuals serving under these authorities may remain in Federal service for a number of years under a series of appointments, they cannot earn within-grade increases because of the limitations on their tenure.

One particular kind of inequity this amendment seeks to correct may be illustrated by a situation that arose in the Bureau of Customs a few years ago. To aid in the reorganization of that bureau under Reorganization Plan No. 1 of 1965, the Civil Service Commission authorized the retention of certain former Presidential appointees as staff assistants (Program Advisors) under Schedule A appointments for not more than three years. While the purpose of continuing these employees on the rolls was to take advantage of their years of experience in the Bureau of Customs, they became ineligible for within-grade increases because of the three-year limitation on their tenure.

Section 2 also amends 5 U.S.C. 5335 so as to exclude general adjustments in prevailing wage and administratively determined salary schedules from consideration in determining whether an employee who moves to a General Schedule position has received an "equivalent increase" for periodic step-increase purposes. When an employee receives an "equivalent increase" (that is, an increase in dollar amount to a step-increase) he must begin a new waiting period for his next periodic step-increase.

Under present law and interpretations of the Comptroller General, only those increases "granted by statute" are excluded from consideration as equivalent increases for this purpose. Although the present rule may have been reasonable years ago, when wage schedules rose every year and adjustments in the General Schedule were few and far between, the two systems are now quite similar in the frequency and bases for schedule adjustments.

They are also both subject to central, Government-wide coordination, whereas wage schedule increases were then within the uncoordinated discretion of individual agencies. While administratively determined salary schedules are still adjusted by the individual agencies, the common practice is to make the amount of increase and the effective date coincide with adjustments in the General Schedule.

There is also a provision in section 2 to remove the requirement that under certain circumstances an employee must be treated as having received an "equivalent increase" on promotion when in fact there has been little or no change in his rate of pay. This situation arises when an employee who has been demoted with salary retention is promoted to a higher grade and continues to receive the same dollar amount as his retained rate.

The Comptroller General has ruled that the rate the employee would have been receiving in the lower grade if he had not been entitled to salary retention, rather than his retained rate, must be used in determining whether he has received an equivalent increase. The following example illustrates what may happen:

An employee demoted from GS-7 to GS-5 has a "retained" rate of $10,471 and a "constructed" rate of $10,007. If he is promoted to GS-6, an intermediate grade, his salary would be fixed at $10,574, the lowest rate that would give him two step-increases over his "constructed" rate of $10,007. Although his new rate is only $103 over the "retained" rate he was receiving at the time of his promotion (actually giving him much less than the equivalent of a one step-increase in the lower grade), he must begin a new waiting period for his next periodic step-increase.

Even more inappropriate is the situation where the employee receives no actual increase in salary at all. If this same employee's "retained" rate had been $10,788, there would be no change in his salary rate on promotion to GS-6. He would continue to receive that rate until the expiration of the two-year retention period at which time he would be reduced to the rate to which he would have been promoted if he had not been receiving a retained rate (i.e., $10,574, step 8 in GS-6). His 156-week waiting period for advancement to step 9, however, must be computed from the date of the promotion.

VARIATIONS IN WORKWEEKS FOR EDUCATIONAL PURPOSES

Section 3 makes a minor perfecting change in the statutory provisions authorizing agencies to establish special tours of duty for employees attending educational institutions. The present language, which was intended to provide flexibility without requiring the Government to pay premium compensation, proscribes payment of permium rates for Sunday, night, or holiday duty due solely to variations in workweeks for educational purposes.

Shortly after this language became law, a new provision was enacted requiring payment of overtime for work in excess of eight hours a day. The proposed amendment will restore the intended flexibility by adding a proscription against premium pay for work in excess of eight hours a day.

RESEARCH AND SPECIAL PROJECT EMPLOYEES

Sections 4, 5, and 6 are designed to permit greater flexibility in fixing pay for special groups of employees who will be designated, with the approval of the Civil Service Commission, as "research associates" and "special project employees".

Research Associates—The proposed amendments relating to this group are intended principally for application to postdoctoral research associates in programs sponsored by the National Research Council but they are broad enough to permit application to other employees in positions established primarily to provide an opportunity for advanced professional training.

They would not authorize any new positions or any new programs for the employment of research associates but would simply permit agencies, with the approval of the Civil Service Commission, to designate employees in positions under existing programs, or under programs subsequently established under other authority, as research associates.

Greater flexibility in selecting appropriate rates of compensation for these research associates will be provided by exempting the positions from the General Schedule classification system and the usual premium pay provisions in title 5, United States Code.

When a position has been designated as a research associate position under these new provisions, the Civil Service Commission will issue regulations governing the fixing of the stipend for the position. As appropriate the Commission may consult with the agencies and the National Research Council in fixing these limitations. Different rates or minimum and maximum rates can be set for different classes of positions.

Stipends for individual research associate will be fixed by the agencies in accordance with the Commission's regulations. If for a particular type of position a single uniform Government-wide rate is deemed desirable, the Commission could fix a specific amount thus leaving no discretion to agencies. In other cases, it could provide minimum and maximum limits within which the agencies may select appropriate stipends.

It is believed that with these proposed amendments a more suitable method of compensation can be provided for a person who is assigned to work in a laboratory or other Government activity, not primarily for accomplishing the mission of the activity, although this might be an important aspect of the assignment, but primarily for the purpose of developing the individual's skills and expanding his worth to the profession.

Freedom from the General Schedule classification system is needed because of the substantial learning-experience element in the position and because the usual concept of assigned duties and responsibilities is not really applicable. Greater freedom in selecting appropriate rates of compensation is needed because, at the present time, for postdoctoral research associates there is little alternative to simply using the beginning rate of either GS–11 or GS–12. While the beginning rate of GS–11 is currently used, there is no assurance that either of these rates will in the future be suitable.

Special Project Employees—This group will include employees designated by the agencies, with the approval of the Civil Service Commission, who enter the Federal service on a parttime or temporary basis under special economic or educational opportunity programs like those related to the Federal Summer Employment Program for Youth and the President's Stay-in-School Campaign.

Under the proposed amendments, the Civil Service Commission will be authorized, for the purpose of employment under these programs, to approve exemptions from the statutory classification and pay provisions and to issue regulations governing pay for such employment.

Individuals employed on these programs are not required to meet the usual qualification standards for appointment or to maintain the performance standards expected of regular employees. Accordingly the usual compensation provisions are not always suitable.

In view of the nature and purpose of nationwide programs of this type, Federal agencies should be free to compensate their participating employees in a manner similar to that followed by private employers without regard to the normal requirements for classification of positions on the basis of duties and responsibilities.

The pay of individuals already on the rolls in positions designated under the proposed new authority as either "research associates" or "special project employees" will be preserved by the provisions in section 7 of the draft bill.

EFFECTIVE DATE

Section 8 fixes the effective date of the amendments in the bill not later than the beginning of the first pay period which begins on or after 120 days following the date of enactment except where an earlier date, after enactment, is provided by the Civil Service Commission in appropriate regulations.

OIL SHORTAGE?

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. SMITH of New York. Mr. Speaker, no one can escape the seriousness and confusion that has engulfed the current energy issue. We are all being presented "facts" suggesting we face serious shortages of petroleum products to the point where gasoline rations may be required, yet, at the same time hear that "in truth" no shortage exists at all but the current problems are the result of conspiracy by the Nation's major oil companies to raise prices and drive independents out of business.

During the 93d Congress, over half of the 38 congressional committees have held hearings which relate to the energy crisis. In this time more than 300 days of hearings have been completed with many more yet scheduled.

I believe it imperative that we receive the most accurate assessment possible of our present position in order to establish a sound foundation for policies and programs that will guide us in the future.

I submit the following editorial from the Buffalo Evening News, "Dispel the Oil Shortage Confusion," for the benefit of my colleagues.

[From the Buffalo Evening News, July 11, 1973]

DISPEL OIL SHORTAGE CONFUSION

The causes of the nation's spotty gasoline shortages are complex, but no more so than getting at the truth of the charges attributing these to monopolistic-type marketing practices by the major oil companies.

A suit brought by the Florida attorney general against 15 companies charges a conspiracy to keep gasoline prices high and drive out independent competitors. Congress, meanwhile, is feeling intense pressure from the non-brand-name service stations, nearly 2000 of which have either closed down already or are on the verge. The independent dealers blame their scarcity of supplies on the big "integrated" oil companies which control oil production from the time it comes out of the ground and is refined until it is pumped into auto gas tanks.

The inference here is that the major companies are using a gas shortage as an occasion to squeeze out their small competitors. While supporting that charge, a report by Federal Trade Commission investigators goes beyond it to suggest federal anti-trust action to separate the crude-oil production business from refining and marketing operations.

We use the word "suggest" advisedly, because it is hard to tell from what is being leaked from the report by Sen. Henry M. Jackson (D., Wash.) just what the FTC's intentions are. If the FTC after two years' investigation has solid evidence to substantiate its inferences of exclusionary marketing practices, it should bring it out in the open.

Emphatically denying any plot to throttle competition, the petroleum industry insists that the "energy shortfall" is anything but artificial, and blames it on skyrocketing consumer demand, environmental restrictions on new oil supplies, and on ill-advised federal regulatory policies.

While these certainly were significant factors, we venture that Sen. Jackson is right in also citing such other factors as the oil industry's faulty predictions that refinery capacity was sufficient to satisfy demand, and the government's delay in lifting import restrictions on foreign crude oil.

Errors of judgment or shortages aggravated by such unforeseen developments as delays in the Alaska pipeline and the impact of auto emission controls on gas consumption, hardly lend support to claims of a calculated conspiracy to engineer a temporary shortage for profit and market advantage.

The causes of present shortages aside, however, the allegations that the big vertically-organized oil companies are favoring their own retail outlets over independent low-price competitors does raise searching questions about an industry structure which roughly resembles that of the movie industry before the divestiture of producers' control over theater chains.

In any case, the public's interest lies in whatever national fuel-allocation requirements are needed, beyond voluntary guidelines, to ensure that an energy squeeze doesn't eliminate healthy competition. And as for the confusion over whether the energy shortage is genuine or contrived, let Congress and FTC investigators produce whatever objective data they have to support or refute charges of improper market practices. If the public is to take the energy crisis seriously, it must have all the facts.

SKYLAB MISSION TO STAND AS TRIBUTE TO SPACEMEN'S INGENUITY, PERSISTENCE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. TEAGUE of Texas. Mr. Speaker, Mr. Patrick Young writes in the National Observer of June 30, 1973, of the ingenuity and persistence of the Skylab astronauts in their contribution to our national space program. These outstanding men—astronauts Charles "Pete" Conrad, Jr., Dr. Joseph P. Kerwin, and Paul J. Weitz—have not only performed an exceptional mission in space which contributed both new scientific knowledge and practical benefits but also rescued a mission which could have ended in failure. The astronauts intervention and repair of Skylab ranks as a major first in our national space program. It points out the advantages that will accrue from the development of the Space Shuttle for space transportation which is now underway. When the Space Shuttle is available, refurbishment, repair, and recovery of expensive hardware will become routine. Mr. Young, in his description of the first of three Skylab missions, signals the importance of this activity as part of the foundation for the use of space in future years. The article follows:

SKYLAB MISSION TO STAND AS TRIBUTE TO SPACEMEN'S INGENUITY, PERSISTENCE

(By Patrick Young)

For Skylab, it's one down and two to go.

Astronauts Charles "Pete" Conrad, Jr., Dr. Joseph P. Kerwin, and Paul J. Weitz splashed down safely into the Pacific Ocean last week after a record-setting mission of 28 days and 50 minutes during which they traveled some 11.5 million miles in earth orbit. It was the longest manned space mission yet, surpassing by more than four days the Soviet Soyuz 11 flight in 1971, which ended in the deaths of three cosmonauts when their cabin depressurized at landing. And it set the stage for the longer July and October Skylab missions.

It was not a letter-perfect mission for Skylab. But the fact the flight took place at all was a tribute to the ingenuity and persistence of the crew and National Aeronautics and Space Administration (NASA) personnel who overcame the obstacle of a seriously damaged craft.

EMERGENCY REPAIRS

During Skylab's May 14 launch, a shield designed to protect it from micrometeorite punctures ripped free, taking one panel of solar cells with it and jamming a second so it wouldn't open properly. This cut Skylab's power supply in half. And since the shield was painted to ward off the sun's heat, its loss sent temperatures in the space station soaring above 120 degrees Fahrenheit.

After a 10-day delay, the crew rocketed to a rendezvous with Skylab and installed a sun shade that had been hastily designed and stitched together on earth. It worked, lowering temperatures to livable levels. Later Conrad and Kerwin, in a dramatic space walk, cut a thin metal strip blocking the jammed solar panel and then popped it into proper position.

These two emergency repairs, and several more minor ones, saved the first mission and left NASA officials confident the two remaining flights, both planned for 56 days each, could go ahead.

LOSS OF MUSCLE TONE

The crew apparently survived its month in the weightlessness of space in good physical condition. "I think I'm in as good shape now almost as when I left," Conrad said less than two days before landing. And Kerwin, the first physician in space, commented, "I'm tremendously encouraged about the future of long-duration flight."

The astronauts did lose some weight and muscle tone, and on landing they had difficulty walking. But this was expected. Soviet cosmonauts had reported similar problems after long flights. The reason, NASA doctors explained, was that the heart does not have to pump as hard without gravity and the body's cardiovascular system grows weak. When spacemen return to earth it takes time for their hearts and blood vessels to regain their full strength.

More than 30,200 photographs of the sun came back with the crew, including pictures of a solar flare, a giant explosion on the solar surface.

"Flares are the most intriguing solar-physics phenomena," says Guisseppi Vaiana, one of the scientists working with Skylab's solar telescopes. "We do not understand how this energy is stored and how it is released. Now we've been able to observe a flare with the best instruments ever built."

If all goes well, the new space record will fall soon. Skylab's second crew—Alan L. Bean, Owen K. Garriott, and Jack R. Lousma—is set for launch in late July on a planned 56-day mission. They will carry out solar-astronomy, medical, earth-resources, and technological experiments similar to those just completed. The third and final Skylab mission is set to begin in October.

WATERGATE: PARALYSIS OR JUST THE "BUG"

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. HARRINGTON. Mr. Speaker, many commentators have attributed America's financial difficulties, both at home and abroad, to fallout from the Watergate. Several articles have come to my attention, especially in foreign newspapers, which claim that Watergate has paralyzed the Government and has impaired America's ability to deal with economic issues.

One of the most enlightening comments in this regard appeared in the New York Times of July 16, 1973, in a story by Edwin L. Dale, Jr. Mr. Dale develops the argument that although what we may have is governmental paralysis of a sort, the disease reaches much deeper than Watergate. We in Congress should examine his contention that the paralysis stems more from the President's relations with Congress—over spending—than with Senator ERVIN and Special Prosecutor Cox. The so-called battle of the budget has not been lost by the administration or won by Congress, is an issue that will confront us for some time to come, with or without Watergate.

The text of the article follows:

WATERGATE WEIGHED AS A PARALYZER

(By Edwin L. Dale, Jr.)

WASHINGTON, July 15—"There were early market expectations that the Government would act resolutely to deal with this unfavorable development [a further increase of the rate of inflational], but the Watergate inquiry apparently immobilized governmental economic decision-making . . ."—Salomon Brothers, in the firm's recent review of the bond market for June.

"It is not that the currency dealers are worried about who bugged whom, but that the scandal has literally paralyzed the United States Government at a time when it is facing a formidable resurgence of price inflation at home and major international negotiations on monetary and trade reform."—John Palmer in the Guardian, of Britain.

Has Watergate paralyzed the United States Government and, in particular, the Presidency, as the current talk here and abroad would have it?

The answer turns out to be a good deal more subtle than the citations above imply. Indeed, a case can be made that if there is paralysis at all, at least in the economic policy area, it is for reasons other than Watergate.

An exploration of this subject must begin with an appreciation of how the American Government works. A good starting place, obvious perhaps, but often overlooked, is the Federal Reserve System.

If the Fed is paralyzed, it would be hard to find a bank or a money-market operator who thinks so. The nation's central bank has not, of course, been touched in any way by the scandals. In any case, it has been conducting a much tougher monetary policy of late, with both publicly announced actions and daily operations in the money market.

Monetary policy is at least as important as anything else the Government does under the heading of "economic policy." And the anti-inflation effort there has obviously proceeded with full vigor, regardless of varying views of the rightness of the policy.

BUSINESS AS USUAL

Elsewhere, the Treasury Department continues to roll over and otherwise "manage" the national debt. The United States position in the international monetary reform negotiations continues to be developed. The regulatory process including such vital matters as the future of the Penn Central Railroad proceeds at a pace neither slower nor faster than before.

What is more, there have even been some agonizing difficult decisions made by the President, during this period.

One was the price freeze—a decision that more and more people are coming to regard as a mistake, but still a decision.

Another, equally tough, was to impose exports control on many farm products and iron and steel scrap—a move that involved partial abrogation of contracts in some cases and major outcries from foreign countries.

But despite these things, a case that something like paralysis exists might yet be made.

TAX POSSIBILITIES

By far the best example is the issue of whether to take the painful step of proposing a tax increase of some kind as a decisive measure to cool the boom and curb inflation.

To the person who strongly believes such a step is necessary, the failure of the President to take it is evidence of "paralysis". But the real problem is not Watergate.

Although Arthur F. Burns, chairman of the Federal Reserve Board, strongly favors a tax measure, the advice Mr. Nixon is getting is by no means unanimous on the point. Secretary of the Treasury George P. Shultz, for example, strongly indicated to reporters last week that he was against it.

And there is the problem of Congress. Could Congress possibly pass a tax increase in time to cool the boom, or would it wait so long that the increase would wind up, as one official put it, by "kicking the boom when it's down"?

In brief, a seeming paralysis on the tax question results far more from the inherent dilemmas in the problem than from anything to do with Watergate.

And the same thing goes for Phase 4 of price and wage controls.

Here again, there are simply no good answers, and the officials involved, such as John T. Dunlop, director of the Cost of Living Council, are the first to admit it. The President had begun to tackle the issue just before his recent illness, and he did so as soon as it was presented to him—in the same week that the labor-management advisory committee unanimously recommended a complete end of controls by the end of the year.

CRITICAL RELATIONS

The true problem of paralysis stemming from Watergate, if there is one, comes not in those things but in a different area: The President's relations with Congress and his centrally important effort to try to check the rise of Government spending.

Here there are several things that observers in the capital point out.

The first is that the President's "leverage" over Congress has probably been weakened though the degree cannot be measured. His general reputation with the public has dropped—at least as measured in the polls. That is bound to hurt him somewhat in any struggle, as the one over spending, with a Congress in the control of the opposite party.

But the other side of the coin is the remarkable growth of consensus in Congress itself than an outer limit on total spending in this fiscal year of $268.7-billion, as proposed by Mr. Nixon, is good economic policy—though there are all sorts of disagreements on how this huge pie should be sliced.

Congress has not yet found the way to exact an effective spending ceiling, and it will probably alter the President's priorities to a significant degree, but there is no desire to be spendthrift.

While Mr. Shultz expressed fears last week that Congress was falling back into its old habits of raising spending in piecemeal actions on individual bills—and while bills already enacted would raise spending by about $1-billion over the budget—the basic "battle of the budget" is by no means lost, Watergate or no Watergate, according to a fairly general assessment here.

Mr. Shultz took heart in the outcome of the sudden move late last month to increase Social Security benefits, a move originating in the Senate Finance Committee. After much maneuvering, a key vote in the House changed the measure so that the benefit increase would be delayed until next June and would be "paid for" by a higher Social Security tax-wage base. In Mr. Shultz's view this reflected not only a victory for the Administration position but also a basic sense of fiscal responsibility, at least in the House.

DISEASE IN CONGRESS

In any event, the difficulty of the budget issue, from the point of view of the President as well as of the Congressional budget reformers, would be great even if Watergate had never come up. If there is paralysis, it is because of a disease that began to afflict Congress long before Watergate. Most members know this and many are trying to do something about it.

Even if one concludes that the case for paralysis as a result of Watergate, certainly in economic policy, is a weak one, that does not change the separate, but related, problem of psychology, or confidence.

If people think there is paralyses, they sell stocks or in the foreign exchange market, dollars. By the confidence measure, Watergate may well have affected markets whether the Government is or is not actually hampered in its functioning.

ST. MARY'S PARISH, EAST HARTFORD: 100 YEARS OF SERVICE

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. COTTER. Mr. Speaker, Saint Mary's Parish in East Hartford, Conn., has been an historic participant in the growth of the Hartford area. This year begins the 100th anniversary of this great parish, which is a monument to the dedicated parishioners and religious leaders who have made this parish a noteworthy addition to Connecticut's history.

The history follows:

HISTORY OF ST. MARY'S PARISH

On August 1, 1873, Saint Mary's Parish of East Hartford, Connecticut was formed. The area of the parish was East Hartford, South Windsor, Glastonbury, South Glastonbury, Wethersfield and Rocky Hill. The same area today is served by 14 parishes in addition to Saint Mary's. Until the formation of Saint Mary's, the area was part of Saint Patrick's Parish in Hartford, Connecticut.

The first pastor was Rev. Patrick F. Goodwin who served from August 1, 1873 to February 15, 1877. He was a native of County Tyrone, Ireland and at the time of his appointment to Saint Mary's he was serving as a curate at Saint Patrick's in Hartford.

The first masses of Saint Mary's were celebrated at Elm Hall on Main Street near Church Corners. Father Goodwin purchased land for the first church on the corner of Woodbridge Avenue and Main Street.

Father Goodwin died on February 15, 1877 and on February 22, 1877, the Rev. John A. Mulcahy was assigned as second pastor.

Father Mulcahy continued with the plans for the church and on April 1, 1877, ground was broken; on June 3, 1877 the corner stone was laid and on November 11, 1877, the church was dedicated by Bishop Galberry. The church was built by John Mead of Hartford and had a seating capacity of 600.

On April 11, 1878, the corner stone was laid for a mission church, Saint Augustine's of South Glastonbury and in that same year, land was purchased in Wethersfield for the Sacred Heart Church. Money was also set aside for the erection of a church in Rocky Hill.

Father Mulcahy was transferred to Saint Patrick's in Thompsonville on November 1, 1878 and Rev. John T. McMahon was assigned third pastor.

Father McMahon planned the dedication of Saint Augustine's in South Glastonbury and on November 17, 1878, the Very Rev. Thomas Walsh, Vicar General officiated at the ceremony.

Rocky Hill was cut from Saint Mary's Parish in 1880, and was placed under the jurisdiction of Saint John's Parish in Cromwell. This was the first break in the original parish.

The first curate to be assigned to Saint Mary's on March 31, 1881 was Rev. J. Curtin.

The fourth pastor, Rev. James T. Gleeson, a native of New Haven, Connecticut was assigned to Saint Mary's on November 1, 1884.

The first rectory was built on Woodbridge Avenue, behind the church in August 1888.

In 1902, electric lights were installed in the church and Saint Augustine's of South Glastonbury became a parish. The second part of Saint Mary's to go on their own.

Father Gleeson was moved from Saint Mary's and the new pastor, Rev. Thomas S. Duggan, came to East Hartford from Saint Joseph's Cathedral in Hartford.

Land was purchased for a cemetery in the Burnside area of East Hartford, and on May 17, 1903, the ceremony of consecration was performed by Bishop Tierney.

For many years, the "Sisters of Mercy" sent nuns to Saint Mary's to assist with the Catholic education of the children, and on April 23, 1904, land and a house were purchased for them on Main Street. Four nuns were assigned to the parish with Sister Mary Leonard as the Superior. The house was converted to a convent.

May 19, 1905, Father Duggan returned to the Cathedral as Rector and was replaced by Rev. Dennis P. Hurley, a curate from Saint Patrick's in Hartford. Father Hurley equipped a library of over 500 volumes that was used in connection with the Sunday School. The school had an enrollment of 400 and an average attendance of 300.

Rev. Timothy E. Sullivan, curate at Saint Joseph's in Chester, replaced Father Hurley as pastor on September 4, 1919. Father Sullivan immediately purchased land at the corner of Main and Stanley Streets where it was planned to erect a recreation building. Father Sullivan died in December of 1922 and his successor, Rev. Dennis F. Baker was appointed seventh pastor. At the time of his appointment to Saint Mary's, Father Baker was serving as pastor of Saint Augustine's in South Glastonbury. Much of his time and effort was spent in organizing the parish into clubs and societies. The "Guild of Saint Mary's" was organized in January 1927 and is still active.

Father Baker was transferred on June 16, 1928 and was replaced by Rev. Thomas J. Drennan, D.D. Prior to his appointment to Saint Mary's, Father Drennan was Vice-President of Saint Thomas Seminary in Bloomfield.

In January of 1929, Father Drennan announced plans to build a school on the property at Main and Stanley Streets. Ground was broken in August, and the school was open to students in September 1930. Saint Mary's was the first Junior High School to be built in the Hartford Diocese, which at that time was the entire State of Connecticut. In 1959, there were 609 students enrolled at Saint Mary's.

1941 saw another section of Saint Mary's set aside for a new parish. This time, it was the South Windsor section, and was named Saint Francis of Assisi.

During World War II, a part of Saint Mary's School was turned over to the 198th Coast Artillery.

Father Drennan saw his parish through the great depression of the 30's. It took many years and great effort to clear the school of debt but it was accomplished.

Father Drennan died on June 7, 1959, and was replaced by Father John Dial. Before coming to East Hartford, he was Principal of the Sacred Heart School in Waterbury. Father Dial faced the problem of rebuilding. The church, rectory and convent were old and the school was in need of repairs. The building program was launched immediately. On December 22, 1962, Archbishop Henry J. O'Brien dedicated the present church that is located on the corner of Main Street and Maplewood Avenue. Adjacent to the church, on Maplewood Avenue, the rectory was built and in 1963, a 16-room convent was erected on the site of the original church.

In January of 1973, Father Dial announced his retirement and his replacement by a "team" pastorate. He was appointed Pastor Emeritus by Archbishop John Whealon, and in March 1973, Father James Smith and Father James Nock were appointed co-pastors.

In February 1973, the Sisters of Mercy were removed from Saint Mary's. This was followed by the announcement in April, that due to financial reasons, Saint Mary's School would be forced to close in June.

Saint Mary's Parish is embarking on its second 100 years. Time has brought many changes since 1873 for the people of the parish, and the people of today face the future with faith. The parishioners of 1973 are the beginning of the second 100 years and they mean to have it said, "They made a good beginning".

COMPREHENSIVE CHILD DEVELOPMENT EXPERIMENTS CONTINUE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. RARICK. Mr. Speaker, comprehensive child development, the theory of collectivist child rearing which has caused a great deal of alarm to many parents in this country, apparently is becoming more comprehensive as educational experiments continue.

Psychological probing into the minds of American children as early as 2 weeks of age is being undertaken in Brookline, Mass., under the name of the Brookline Early Educational Project—BEEP. Tests of mental and physical development administered by BEEP psychologists begin soon after birth and continue until the child reaches regular school. The announced purpose of the experiments is to program the infant so that he will earn better grades when he entered elementary school 6 years later.

According to Harvard educator, Burton L. White, who researched the methodology a child who is 6 months behind at the age of 3 "is not likely to be successful in his future educational career." So the answers presented is to trap the child into a controlled environment where his behavior can be monitored from his earliest weeks. Other educational planners are working on additional methods of modifying children's behavior to conform to a new set of standards dictated by faceless psychologists.

If we are to follow the recommendations of some educational scientists, our classrooms would become laboratories to change the behavior of the students, rather than to present them with the information needed for a viable education. The theories of a number of modern planners move toward "correcting" the values and standards established in the home. If the attitudes a child develops at home can be "overcome in the classroom," comprehensive child development shall become a reality in this country.

BEEP is funded with $750,000 from the Carnegie and Robert Wood Johnson Foundations for its first 2 years. But White is quick to point out that if the program's experiments are successful, BEEP has "an interesting potential for drastically altering the pay public money is spent for education."

The cradle-to-the-grave monitoring of the activities and minds of the American people by elite groups of psychotherapists is a dangerous step toward limiting individual liberty in a free society.

The great national debate on child rearing called for by President Nixon continues on a one-sided basis, funded by tax-free foundations. The side of the American parents, however, is not being heard.

I ask that the related news clipping follow:

[From the Washington Post, July 7, 1973]

Suburban Schools Begin Tests of Children Aged 2 Weeks

(By Andrew Barnes)

Brookline, Mass.—For most of the babies born in this Boston suburb during the rest of this year, public school will start at the age of two weeks.

It will not be the school of books and yellow buses, but an experimental program aimed at producing children who earn better grades six years later.

A baby's first introduction to this unusual education will be a new and thorough test of his mental and physical development, administered by a physician from the Harvard Medical School. These tests will continue until the baby enters regular school.

The other major aspect of the experiment will be instruction for parents in how to do a better job of raising children. No one style of child rearing will be advocated. Rather, parents will be taught to understand the likely effects of what they are doing, and the possible alternatives.

The experiment was conceived when school officials found that even here, in a wealthy community where most children do well on tests and get into choice colleges, some children get to school at the age of six already in a "cycle of failure," and they never pull out of it.

Brookline schools, for all their excellent reputation, did not make much difference for these children. Those who started behind, stayed behind.

Attempts to prevent these school failures by starting children in school at four years of age and then three years of age, like the national Project Head Start, have not proven consistently effective.

The Brookline Early Education Project, known here as BEEP, is focusing on even younger children, and on families instead of schools, as the result of research by Harvard educator Burton L. White.

White's central conclusion is that a child who is six months behind at the age of three "is not likely ever to be successful in his future educational career."

The education of children in these earliest years is up to families, and yet "we do not prepare prospective parents to do the job of helping children acquire the foundation requirements for formal education," according to White.

Robert Sperber, Brookline's superintendent of schools, was persuaded by White's ideas, and the Carnegie and Robert Wood Johnson foundations have given $750,000 for the first two years of what will be a five-year tryout of White's proposal.

And so, all over this town of 60,000, there are posters proclaiming "Give your child a good start. BEEP will help you, mothers and fathers, with diagnostic exams for your new baby, with educational ideas, and much more, free."

BEEP's medical aspect begins with an hour and 15 minutes of neurological tests.

The physician follows an intricate pattern of stroking and thumping to test reflexes, clapping his hands and clicking his fingers to see the child react, pushing on the newborn's feet to see how strongly he pushes back.

The doctor shines lights into the baby's eyes, spins him around to see whether the eyes can keep up with the body's motion. Changes in the baby's mood, from smiling to bawling, are also noted.

The reactions on these tests vary with age, and the tests are repeated every three months.

The Dutch physician who developed the test, Heinz Prechtl, has been able to use it to identify problems of tiny infants that lead to later school failures, and the Harvard doctors hope to be able to duplicate Prechtl's results.

To allay apprehensions, Dr. Melvin Levine assures parents their child cannot "pass" or "fail" the Prechtl test. The results are intended to spot development peculiarities that may cause the doctor to suggest remedies to avoid later difficulties.

The examinations will also spot hearing loss and bad eyesight so they can be corrected before they become major obstacles to a child's learning.

The family instruction aspect of BEEP is of tremendous importance to the child's later school success, Professor White believes.

"If a mother does a fine job in the preschool years, subsequent educators, such as teachers, will find their chances for effectiveness maximized," White has written.

Teaching parents to do a better job means seminars with child development experts and other parents, home visits, and use of the BEEP facility, conveniently located next to a midtown shopping center.

The central theme of the seminars and home visits is assisting a parent in observing the child's development.

As Marsha Rogers, one of the home visitors, describes it, she begins a visit by asking what a baby has been doing. The mother's first answer is often, "Oh, nothing much."

She is then able to elicit from the mother that the baby has used new words, or learned to handle new words, or learned to handle new situations. She also helps parents perceive how they are acting toward their baby.

The home visitor might make the parents aware of alternative ways of handling their child. To a mother who kept her infant in a playpen all day, it might be suggested that more varied surroundings would interest the baby and help it grow.

Rather than teaching any particular techniques, the visits and seminars will focus on the situations and problems of the individual families in each group.

Simply providing someone to talk to about the problems of being a parent will be important in improving the job parents do, the BEEP organizers believe.

Parents are encouraged to drop in at the BEEP offices. There is a room where mothers can sit and chat, a coffee pot down the hall and a playroom for older children.

Educational toys can be borrowed, free, and there is a library of books about children and families. For many parents, this is the first exposure to the varied materials and ideas that are available.

If this all sounds a little formal and instructive, the parents more often see it as helpful and enjoyable. "Little things we can try with our babies" and assistance in understanding their development were welcomed by all the mothers present in the center recently.

All the children in BEEP will get the full diagnostic testing. They will be divided into three groups, at random, for the home visits and seminars.

One group will cost $400 per child, one $800, one $1,200 varying according to the amount of followup the staff will provide. The foundation grants will meet all expenses. The intent is to find out how expensive such a program needs to be in order to be effective.

Because BEEP is an experiment, voluminous records are kept, but nothing is written down that parents may not see.

The program is voluntary, and so Professor White says potential charges of meddling in the private affairs of the family are not valid. "I have no desire to help any family that doesn't want to be helped."

Offering the program to all families in the community, not just to the poor, will make it more politically acceptable here, and possibly elsewhere as well, White says.

If it works, BEEP has "an interesting potential for drastically altering the way public money is spent for education," White says.

"I want to see if we can make a difference of real significance," he says. "We need to be able to show something fairly dramatic."

Success will be measured in terms of standardized tests, and also by tests of maturity and capability in non-school areas.

If a whole class of abler children and parents is indeed the result, teachers will have to be retrained, and the entire reading and arithmetic curriculum may have to be redrawn, according to Superintendent Sperber.

Plans call for 225 children in BEEP by next Jan. 1, with about 60 being black and Spanish speaking from Boston, included to create a more representative sample than the white affluent Brookline population.

The hope is that at least 100 will stay in the area for the next six years so their school success can be charted. They will be compared with a control group of children one year older who have not taken part in BEEP.

DISABLED AMERICAN VETERANS

HON. CHARLES ROSE III

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. ROSE. Mr. Speaker, on Saturday, the 14th of July, it was my privilege to address the 51st annual convention of North Carolina's Disabled American Veterans in my hometown of Fayetteville, N.C.

The men and women who make up this organization have all made tremendous sacrifices for the United States of America. This organization exists because somebody somewhere along the way taught these people that they had an obligation to their country. And when their country called them, they came forward and fulfilled that responsibility. They did not flee their country, they did not dodge the draft, and after the conflict ceased, they did not ask for special permission to be excused from obeying the law. No, they gave their lives and their limbs and their physical health to keep freedom strong in this country.

This year, the convention honored as the Disabled American Veteran of the Year, in North Carolina, Mr. George A. "Sack" Little. The presentation of this award was made by Robert L. Lowder, adjutant of Chapter No. 12, DAV.

George A. "Sack" Little enlisted in the U.S. Marines on September 6, 1942. He completed basic training at Parris Island, S.C., and was assigned to the 2d Marine Division. His first combat action was on Guadalcanal where he was wounded in the leg.

"Sack" earned the Silver Star while serving in Saipan and the Tinian Islands. The survivors of several Marine units had been joined with new recruits to form the 6th Marine Division for the assault on Okinawa, and "Sack" was a rifleman in C Company, 1st Battalion, 29th Regiment. While in charge of a patrol, he spotted a fleeing Japanese lookout. Realizing that to fire a shot would give away their position, "Sack" gave chase on foot up a narrow, winding road with bayonet in hand. As he rounded a curve, a machinegun bullet ripped into his face near the left eye. Staggering backwards, "Sack" collapsed face down, permanently blinded from his wound. Before his discharge in November 1946, "Sack" had undergone 27 different operations.

Returning to his home at Oakboro, N.C., George A. Little married his sweetheart, Miss Marie Smith. Together they purchased a farm and built an eight-room house. For the next 10 years, "Sack" raised chickens, building the flocks to 12,000 layers. A continuing eye infection in "Sack's" damaged eye finally prompted his doctors to order him to get out of the poultry business.

"Sack" and Marie rented their farm and moved to Norwood, N.C. George supervised and helped build a structure to house the town's first laundry and dry-cleaners. Singlehandedly, the Littles built a successful business. "Sack" learned to repair his machines and did his share of the other labor. After 6 years, he sold his business to one of his own salesmen, naming his own price.

George and Marie moved back to Oakboro and began remodeling their home. Upon completion of this project, their neighbors contracted with them to remodel their homes. "Sack" hired a couple of carpenters, and before he knew it he was in the construction business.

Today, "Sack" is owner of George A Little, Inc., Construction and Realty Co. He is the first blind person to be licensed in North Carolina as a general contractor. "Sack" and Marie are both licensed real estate brokers in North Carolina.

During the last 12 years, "Sack" has constructed hundreds of homes, commercial complexes, churches, and the Disabled Veterans Service Center, home of Chapter No. 12, DAV, of which he is a life member.

"Sack" and Marie are the parents of a son and daughter, both of whom have completed their college education. The daughter is married, and she and her husband have one child, a daughter, whom "Sack" promptly spoiled.

After these accomplishments were made known to the convention in Fayetteville, George Little was led to the front by his wife, Marie. Through tears of appreciation, he told the convention that there were four things in this life that were important to him. First, he said, was God Almighty; second, was his wife, Marie, who had stayed by his side; third, was his two children; and fourth, was the United States of America.

Mr. Speaker, George Little is a great American, and I hope that the news of what this man has accomplished will travel from one end of this country to the other.

THE DRUG PROBLEM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. RANGEL. Mr. Speaker, recent editorials by WCBS–TV in New York concerned themselves with the American problem of addiction.

In that they made some excellent points, I am submitting two of the editorials for the collective attention of my colleagues and all CONGRESSIONAL RECORD readers.

THE DRUG PROBLEM—7

Broadcast: June 12, 1973

The drug problem to most people is synonymous with heroin. Stop the traffic in heroin, they think, and you've got the problem licked. Well, the use of heroin appears to be levelling off across the country, in part due to strong law enforcement efforts that have cut down the supply of heroin. But the theory that a heroin drought would drive addicts into treatment programs or reduce the number of drug abusers appears so far to be wrong.

What seems to be happening instead is that heroin is going out of fashion and young people are turning to other drugs like black market methadone, cocaine and a variety of pills—especially barbiturates and a sedative called methaqualone. At parties and at so-called "juice bars," young and not-so-young people are mixing these pills, sometimes with alcohol, and the combination can be lethal.

What this means is that some people are becoming addicted to more than one drug. And this mixed addiction presents new problems for drug experts. For withdrawal, particularly barbiturate withdrawal, is more dangerous than heroin withdrawal and can lead to convulsions, psychosis and even death. Although government officials and drug experts recognize the growing problem of these pills, little government effort is directed at helping thousands of pill-using addicts. Most government addiction programs are concerned with heroin, and while we don't question that these programs must also be continued, they should also be changed and expanded to include those addicted to barbiturates and other pills.

Right now in New York City there are not enough facilities to handle the increasing number of cases requiring barbiturate detoxification—a process much more difficult medically than heroin detoxification. Existing treatment programs lack the psychiatric services to deal with the problems of multiple drug users—problems thought to be more acute than those of heroin addicts.

THE DRUG PROBLEM—10

Broadcast: June 20, 1973

Heroin, cocaine, LSD, even marijuana—tend to horrify most Americans. These drugs are not only illegal and some highly addictive, but they symbolize an alien and evil culture. But other mind-affecting and addicting drugs, like alcohol and some sedatives, are considered quite respectable—even necessary.

This complacency about legal drugs is insidious. Far more damage to individual's and society is inflicted by these drugs than by illegal drugs. That's why any solution to the drug problem must be framed in a perspective that includes legal as well as illegal drug use.

The basic premise of the drug problem is that dependence on mind-altering drugs must decrease. But this dependence is something that people give up most reluctantly. That's why there are no simple answers or short cuts for the drug problem. It will require a persistent attack on many fronts—an attack in which government, the family, the medical profession, drug companies—and yes, even the media—all have roles to play.

First it means cutting back the supply of drugs through strong law enforcement aimed at big-time traffickers in heroin and other illegal drugs. But cutting back on drugs must also include tighter controls over the manufacture of legal mind-altering pharmaceuticals, and it must also mean greater restraints on the part of physicians in prescribing these drugs. The resulting scarcity should put increased pressure on those already addicted and should decrease the numbers of new recruits. Then, every effort must be made to encourage addicts to go into treatment, either after they are arrested for drug-related crimes, but preferably before. Most addicts do not appear motivated to seek treatment but in a climate of real drug scarcity, they should be more inclined to do so.

At the same time, the attitudes and behavior of so-called "straight" America must begin to change. That means playing down and deglamorizing alcohol. It also means swallowing fewer pills to change the way we feel.

We can't expect the movies, the media, advertising agencies, the liquor industry and drug manufacturers to do the whole job. If we are really serious about diminishing drug dependency, we have to take a good look at ourselves—at our behavior and our values. If we want to begin to solve the drug problem in America, that's probably what it's going to take.

ILLUSION AND REALITY

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. EVINS of Tennessee. Mr. Speaker, many of those who have had some reservations about revenue sharing have had their skepticism reinforced by the actual implementation of this program.

In this connection, the Nashville Tennessean, in a recent editorial entitled "Illusion and Reality" provides an interesting insight on the use of revenue sharing funds and points out furthermore that it was the understanding of many municipal leaders that revenue sharing was to be a supplement to grants-in-aid.

As we all know, subsequent developments have proven that revenue sharing embraces the concept of a phasing out and terminating of many vital and important programs, the net effect of which results in lesser funds for our cities and counties because of the termination of grants-in-aid programs provided by Congress and of proven value.

Because of the interest of my colleagues and the American people in this most important subject, I place the editorial in the Record herewith.

The editorial follows:

Illusion and Reality

When revenue sharing was launched as a new method of solving America's problems, it was frequently alluded to as a means of returning power to the people and giving them a choice in setting priorities.

Revenue sharing is not the Aladdin's Lamp its proponents indicated it would be and random surveys across the country have made it plain that social services generally do not have a very high priority in spending.

In New Jersey, for instance, only 1% of revenue sharing funds in counties and cities have been earmarked for social services. In other counties and municipalities across the country, the spending is largely aimed at capital improvements or equipment—from fire trucks to electronic equipment.

In St. Louis, controversy erupted recently over a plan to spend some revenue sharing funds for a golf course.

One might assume from the various ways the county and city governments are earmarking spending is that priorities of the people at local levels tend to be for new public safety buildings, shiny cars and new tennis courts.

That is not to say these are irrelevant. The needs of local governments tend to be many. But on the question of priorities, it isn't clear that the citizenry has more voice than before.

It sounds nice for somebody in Washington to say that local people know more about their problems than some bureaucrat in Washington. They certainly ought to, but that doesn't mean the citizens are given much choice, much voice, or even adequate information about revenue sharing funds.

At the beginning, many people were led to believe—and the administration helped that belief—that revenue sharing was a supplement to grants in aid. The administration now makes it crystal clear it considers revenue sharing a replacement for, and not a supplement to such programs.

Thus complaints of cuts in funds to libraries, health, housing and other social services draw a stock answer that any losses can be made up through revenue sharing.

A good many who had doubts about such a program from the first are finding those doubts justified, but that will be of cold comfort unless Congress can somehow keep vital grants-in-aid programs alive.

OIL COMPANY MANIPULATIONS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. ASPIN. Mr. Speaker, last week the American Petroleum Institute announced that it was changing the method by which refining capacity utilization is calculated. Apparently, the API and big oil have been stung by criticism from many Members of Congress concerning the industries obvious under-production of gasoline early this year and underproduction of fuel oil early last fall. It was not until prices had dramatically risen that the major oil companies really utilized their refining capacities.

Mr. Speaker, the major oil companies are manipulating their own statistics in order to cover up any future attempt to underproduce gasoline during a shortage and then dramatically increase production once prices go up. The change proposed by the American Petroleum Institute increases by 5 percent the rate at which U.S. refineries are operating during the week of July 6. API is proving once again the old adage that figures do not lie, but liars can figure.

During the first 20 weeks of 1973 refineries operated at less than 90 percent of capacity. Once gasoline prices increased by 33 percent, production skyrocketed and U.S. refineries operated at more than 93 percent of capacity. Oil companies are juggling their own figures in an attempt to hide future production holdbacks while they wait for prices to increase.

Mr. Speaker, this change in statistical methods is another conscious attempt by the oil industry to deceive the American people. The only group in the country with a wider credibility gap than big oil today is the former officials involved in the Watergate scandal.

Mr. Speaker, it is also disturbing to note that it was a self-serving industry group that announced this change in statistical methods. The U.S. Bureau of Mines, despite its statutory responsibility to collect data on the petroleum industry is going along as a patsy with the oil companies and their statistical scheme. The Bureau of Mines theoretically compiles statistics on the oil industry for the Government, but, in reality, they depend almost entirely on self-serving industry data. It is the Government that should be compiling these statistics and reporting them regularly—not a self-serving industry group.

This API statistical change, while technical in nature, will give the appearance of higher U.S. refinery utilization than is actually occurring. Obviously, the oil industry is embarrassed by its own statistics which indicate that it caused the shortage and held back production until prices had risen dramatically. This is just the latest in a series of cheap tricks and deceptions used by the oil industry to cover up the gouging of the consumers.

SENATE—*Wednesday, July 18, 1973*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. Eastland).

PRAYER

Rabbi Kenneth I. Segel, Rodef Shalom Temple, Pittsburgh, Pa., offered the following prayer:

God of all generations—These, Thy children, seek Thy help. In loving kindness guide and protect them. Through their efforts may hope be sustained, faith strengthened and human dignity and decency upheld. May the blight of war be forever banished so peace in freedom may prevail.

Attune our hearts for communion with Thee. Aid us to be uncomplaining and unafraid. Teach us to face life with the confidence and courage that we may see the blessings hidden away even in its discords and struggles. May we realize that life calls us not merely to enjoy the fatness of the Earth but to exult in heights attained after the toil of climbing. Thus will our darkness be illumined by Thy light and our weakness made strong by Thy strength, lifting us above fear and defeat and sustaining our steps with an immortal hope. Praised be Thou, O God, whom alone we serve in reverence. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, July 17, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 299 and 300.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LOAN GUARANTY PROGRAM FOR VETERANS

The Senate proceeded to consider the bill (S. 2087) to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans, which had been reported from the Committee on Veterans' Affairs with an amendment on page 1, line 5, after the word "thereof", strike out "a period." and insert "the following: 'except that in establishing the rate of interest that shall be applicable to such loans, the Administrator shall consult with the Secretary of Housing and Urban Development regarding the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter.' "; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1803(c)(1) of title 38, United States Code, is amended by striking out the semicolon and all that follows thereafter and inserting in lieu thereof the following: ", except that in establishing the rate of interest that shall be applicable to such loans, the Administrator shall consult with the Secretary of Housing and Urban Development regarding the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter."

Mr. HARTKE. Mr. President, I rise in support of passage of S. 2087 which I introduced and which the Committee on Veterans' Affairs, which I am privileged to chair, unanimously ordered reported to the Senate on July 13. Young prospective veteran home buyers are today faced with an unprecedented crisis caused by the lapse of statutory authority on June 30 of the Veterans' Administration's power to set interest rates on guaranteed, insured, and direct loans in excess of 6 percent. S. 2087 as reported by the committee would authorize the Administrator of the Veterans' Administration to set such maximum interest rates as he determines the loan market demands, following consultation with the Secretary of Housing and Urban Development, regarding the rate of interest that the Secretary considers necessary to meet the mortgage market for FHA insured loans. S. 2087 further directs that, to the maximum extent practicable, the Administrator of Veterans' Affairs shall carry out a coordinated policy on interest rates on loans insured by the Veterans' Administration and the Federal Housing Administration.

Close to 70,000 veterans will be adversely affected in the months of July and August alone if remedial action is not taken immediately. Concern over these and other veterans who will be denied mortgages has been strongly registered by the American Legion, the Veterans of Foreign Wars, and the National Association of Concerned Veterans.

Mr. President, I ask unanimous consent that communications received from these concerned organizations be inserted in the Record at this point.

There being no objection, the letters were ordered printed as follows:

July 12, 1973.

Hon. Vance Hartke,
Chairman, Senate Committee on Veterans' Affairs, Washington, D.C.:

The American Legion is extremely disappointed at the failure of the Congress to act timely to extend authority to set interest rates of VA guaranteed loans before the delimiting date of June 30, and the ill advised, premature announcement by the Secretary of HUD to raise interest rates to 7¾ percent. These actions have halted the VA loan guaranty program thereby depriving some 50,000 veterans of securing 7 percent loans which were being processed.

The American Legion has long supported enactment of legislation to grant the Administrator of Veterans' Affairs with the continuing authority to regulate interest rates on home loans to meet the demands of the changing mortgage market. Had this been done, veterans attempting to purchase homes would not be faced with the present chaotic dilemma.

Accordingly, The American Legion strongly supports the provisions of S. 2087, granting such authority of the Administrator and urges early consideration and passage of the bill.

Herald E. Stringer,
Director, National Legislative Commission, the American Legion.

Veterans of Foreign Wars,
Washington, D.C., July 17, 1973.
Hon. Vance Hartke,
Chairman, Committee on Veterans' Affairs, Washington, D.C.

My Dear Mr. Chairman: This is to indicate the support of the Veterans of Foreign Wars for S. 2087, which relates to the authority of the Veterans Administration to establish interest rates on GI home loans guaranteed or provided by the Veterans Administration.

The Veterans of Foreign Wars was deeply disappointed when a number of years ago authority to establish interest rates on GI home loans was vested in the Secretary of HUD, with the VA playing a very minor role.

It is noted under the terms of your bill, S. 2087, authority to establish interest rates on GI home loans will once again be vested in the Veterans Administrator, with the Secretary of HUD to be consulted on a coordinating basis.

Establishment of interest rates on veterans housing loans by the Veterans Administration is in keeping with long-standing V.F.W. policy that all veterans programs should be handled by the Veterans Administration. From the Congressional standpoint, all veterans programs should be handled by your Veterans' Affairs Committee. We have seen the almost tragic result of legislation regarding rates of interest on veterans home loans becoming bogged down because of amendments unrelated to veterans home loan programs.

Therefore, the reestablishment of the independent authority of the VA to set maximum interest rates on GI home loans is most attractive to the V.F.W. from the standpoint that responsibility for this veterans program will be vested in the Veterans Administration, and should make it clear that this veterans program should be handled by the Veterans' Affairs Committee, which has the oversight responsibility of veterans programs administered by the Veterans' Administration.

Most important, the approval of S. 2087 will eliminate a GI home loan crisis by making VA home loans available. S. 2087 will permit the VA to establish an interest rate which will make GI home loans competitive and obtainable during this period of tight money and hard-to-get home loans. While the GI home loan program is important to all veterans, it is of special significance to Vietnam veterans who are making a successful readjustment to civil life.

For these reasons, the Veterans of Foreign Wars supports S. 2087 and we urge its immediate passage, which will restore a most important veterans right, which since June 30, 1973 has come to a halt.

With kind personal regards, I am,
Sincerely,

Francis W. Stover,
Director, National Legislative Service.

National Association of Concerned Veterans,
July 12, 1973.
Hon. Vance Hartke,
Chairman, Senate Committee on Veterans' Affairs, Washington, D.C.

Dear Mr. Chairman: The National Association of Concerned Veterans fully supports the provisions of S. 2087, as amended. This bill, if enacted, would rectify a very unjust situation.

As of July 1, 1973, the Administrator of Veterans Affairs and the Secretary of Housing and Urban Development have no authority to adjust mortgage interest rates above the statutory limit of 6 percent.

Because of this development, the Veterans Administration home loan program is at a standstill. This predicament is causing undue hardships for many veterans.

If enacted, S. 2087, as amended, would give the Administrator of Veterans Affairs authority to adjust mortgage interest rates without regard to section 203(b) of the National Housing Act. This action would enable the Veterans Administration to begin certifying home loans for veterans once again.

According to recent VA statistics the number of its home loans have reached a 16 year high, and nearly 70 percent of its FY 1973 home loans were made for veterans under 35 years of age.

Since the NACV is primarily a Vietnam era veterans' organization, we strongly suggest that any delay in the passage of S. 2087 will cause even further hardships and expense for young veterans.

Respectfully yours,

James M. Mayer,
President.

Mr. HARTKE. But, I do not need to supply my colleagues with statistics or show them the concern which has been expressed by major veterans' organizations to bring home the effect that this lapsed authority has had on our Nation's veterans. Every Senator has received numerous phone calls and letters which reveal in graphic and poignant terms the hardships faced by those who are unable to purchase a home.

The impasse which the Senate finds itself today concerning housing legislation is an unfortunate one. While it is inappropriate for me to comment in this context as to the merits of the various contentions, I believe that we can all agree that veterans should not become casualties of an ideological crossfire which is not germane to the issue of flexible interest rates for VA home loans. In this connection, I want to extend my deep appreciation to the chairman of the Banking, Housing and Urban Affairs Committee, Mr. Sparkman, for his aid in helping us to expedite action on this bill. Senator Sparkman and the deciated staff of the Banking Committee have been most helpful in resolving the problem currently faced by veterans.

Mr. President, S. 2087 as reported will, I believe, correct not only the immediate problem, but will also prevent the situation from again arising in the future.

Mr. President, I ask unanimous consent that appropriate excerpts from the report to S. 2087, setting forth the intent of the committee, be inserted in the Record at this point.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Discussion

VETERANS' ADMINISTRATION HOME LOAN AUTHORITY

The temporary congressional authority for the Veterans' Administration to set flexible interest rates on guaranteed, insured, and direct loans to veterans in excess of 6 percent expired on June 30, 1973. Prior to that time, the VA was authorized to guarantee home loans at the then current rate of 7 percent (prospectively increased to 7.75 percent on July 5, 1973 under the assumption that authority for flexible higher rates will be legally restored). The impact of the expiration of flexible interest rate authority on the VA program is considerable. As of the end of fiscal year 1972 the Veterans' Administration had guaranteed on a cumulative basis 7.8 million home loans totaling in excess of $89 billion. During the fiscal year ending June 1972, the VA had guaranteed or insured some 359,000 loans, the highest yearly total since 1957 which was due in part to a large increase in eligible veterans and favorable housing conditions of available private funds and lower finance costs. Preliminary estimates for the fiscal year that ended on June 30, 1973 indicate that the Veterans' Administration guaranteed 866,554 loans with a face value of $8.4 billion or a 2.1 percent increase over the preceding record breaking year. Comparative figures of loans granted for the three preceding fiscal years are shown in the following table:

TABLE 1.—VETERANS' ADMINISTRATION GUARANTEED OR INSURED LOANS

	Cumulative through June 30, 1973[1]	Fiscal year—		
		1973[1]	1972	1971
Number of loans, total	8,507,407	366,554	359,010	197,915
Home	8,196,419	360,685	354,571	197,606
Mobile home	10,574	5,860	4,430	278
Farm	71,157	6	4	19
Business	229,257	3	5	12
Amount of loans, total (thousands)	$98,615,588	$8,374,154	$7,860,833	$4,112,014
Home	97,587,739	8,322,538	7,822,580	4,109,367
Mobile home	91,850	51,521	38,118	2,211
Farm	283,853	53	88	334
Business	652,146	42	47	102
Amount of guarantee and insurance total (thousands)	$50,757,981	$4,067,664	$3,921,657	$2,133,214
Home	50,425,464	4,052,208	3,910,178	2,132,351
Mobile home	27,517	15,426	11,428	663
Farm	120,000	21	41	168
Business	185,000	9	10	32

[1] June 1973 data estimated.

Title 38, United States Code currently provides that any veteran loan guaranteed or insured under chapter 37 shall bear interest not in excess of such rate as the Administrator from time to time finds the loan market demands "... *except that such rates shall in no event exceed that in effect under the provisions of section 203(b)(5) of the National Housing Act.*" Prior to the approval of Public Law 90–301, the maximum interest rate limitation under section 203(b)(5) of the National Housing Act was 6 percent. Public Law 92–301 approved on May 7, 1968, authorized the Secretary of Housing and Urban Development after consulting with the Administrator of Veterans' Affairs to make necessary adjustments in the mortgage rates above the statutory limitation of 6 percent to meet the current mortgage market conditions. This authority of the Secretary of HUD to adjust home mortgage rates was extended by Public Law 92–351 until January 1, 1972, and further extended for 6 months by Public Law 92–213. Public Law 92–335 extended the authority until June 30, 1973.

NEED FOR LEGISLATION

The following table shows the maximum allowable interest rates in effect during the period when the VA had flexible authority:

TABLE 2.—ALLOWABLE MAXIMUM INTEREST RATES ON VA-GUARANTEED AND FHA INSURED HOME LOANS UNDER FLEXIBLE AUTHORITY

	Allowable maximum (percent)
May 1968 to Jan. 1969	6.75
Jan. 1969 to Jan. 1970	7.5
Jan. 1970 to Dec. 1970	8.5
Dec. 1970 to Jan. 1971	8.0
Jan. 1971 to Feb. 1971	7.5
Feb. 1971 to Dec. 1971	7.0
Jan. 1972 to Dec. 1972	7.0
Jan. 1973 to July 1973	7.0

This authority is now expired and the interest rate has now reverted to a permanent 6 percent. Neither H.R. Res. 512 which would extend this authority for one year nor S.J. Res. 129 which would authorize a simple thirty-day extension of authority have been approved.

The termination of flexible interest rate authority and the resulting decrease in the maximum rate to the permanent statutory 6 percent level effectively denies VA guaranteed or insured loans to our veteran population. Given recent money market conditions, few lenders are willing to make VA guaranteed loans at the 6 percent statutory rate without the collection of very substantial discounts. Even with the maximum rate at 7 percent, prior to June 30, the average discount on no down-payment GI loans was 5.61 percent as of the end of May this year. The average discount or "points" charged on no down-payment loans of existing construction was 6.04 percent. Further, on July 5th, the Secretary of Housing and Urban Development announced his intention (which is applicable to VA insured or guaranteed loans also) to increase the maximum allowable interest rate permitted for mortgages insured by HUD's Federal Housing Administration from 7 percent to 7.75 percent. This change is based on his feeling that the increase in the interest rates is necessary to prevent mortgage money from drying up at a time when better yields are available elsewhere and also to reduce the number of points that the seller of a home must pay in order to sell to a buyer with a VA mortgage. It is obvious to the Committee that the reduction of the maximum interest rate to 6 percent seriously jeopardizes the availability of financing for GI loans, and such financing as would be available will involve such substantial discounts that they will be considered prohibitive by most sellers and lenders.

The Veterans' Administration operating budget plans for FY 1974 reveal an estimated volume of closing of 31,000 GI loans for July and 33,400 in August which are affected by the current lack of flexible loan authority. The Veterans' Administration also anticipated loan applications would otherwise have been 36,000 for July and 37,000 for August. These latter figures represent the approximate number of veterans who in all probability will be denied GI loans in July and August if the present conditions are allowed to exist throughout these months.

But, these figures do not reveal the anguish and personal hardships which have been recited daily to various Senator's offices since the authority expired.

Nor do the problems presented by the lapse of Veterans' Administration authority to guarantee or insure loans in excess of 6 percent appear to be easily resolvable by the traditional method of congressional extension of temporary authority as is currently proposed by either H.J. Res. 512 or S.J. Res. 129. As of this moment, both measures are apparently inextricably bound to continuing disputes over other housing provisions including the question of the authority of the Executive Branch to suspend or withhold funds for various housing programs including sections 235, 236, public housing, rent supplement, rehabilitation loans, college housing, and rural housing. There is also sharply divided opinion on proposed expansion of current law to allow purchasers of FHA homes to be reimbursed for the cost of repairing structural defects in their home under certain conditions.

While the Committee recognizes the intrinsic importance of these issues they have little, if any, direct relevance to flexible VA interest rate authority and do nothing to resolve the problems faced by young veteran prospective home buyers who are unable to secure mortgage financing from the private sector.

PURPOSE OF BILL

Given the present crisis, the primary objective of the Committee is to immediately restore VA loan authority at a viable interest rate. The flexible authority to adjust home loan interest rates is desirable because it makes possible the prevention of a substantial cutback in funds available for VA home loans. It allows veterans to better compete for funds in tight money periods and by minimizing loan discounts, and increases the numbers of properties builders and other sellers offer for sale through VA financing.

Apart from the immediate problem, a second, but no less important objective of the Committee is to ensure in the future that the Veterans' Administration's authority to set flexible interest rates will continue without periodic disruption whether it be in thirty days, sixty days, or even one year from now.

In pursuing these objectives, the Committee is cognizant of the legitimate concern expressed by those who suggest that as a general principle, FHA and VA interest rates should for the most part during normal circumstances be similar. This concern was expressed, for example, by the distinguished chairman of the Banking, Housing and Urban Affairs Committee (Mr. Sparkman), on June 28, 1972 when the Senate last acted to increase the temporary flexible authority. He expressed his conviction at that time that there should be general coordination of interest rates between FHA and VA.

S. 2087, as originally introduced, would simply strike the language in 1803(c)(1) which currently limits VA authority to set flexible interest rates. The legal effect of the bill as introduced would be to give the Administrator of Veterans' Affairs independent authority to adjust the rate of interest on guaranteed loans commensurate with the changing loan market demands without regard or reference to the maximum interest rate on FHA home loans insured under section 203(b) of the National Housing Act. The House of Representatives has twice previously passed identical legislation and just recently on June 28, 1973, unanimously ordered reported an identical bill H.R. 8949 (H. Rept. No. 93-348) which would grant such independent authority.

The Committee notes that if this bill were enacted it would grant the Administrator independent authority similar to his authority with regard to VA mobile home loans. Under the provisions of section 1819(f) of title 38, United States Code, the Administrator may establish an appropriate rate of interest for mobile home loans without regard to what the Secretary of Housing and Urban Development establishes as a maximum interest rate for FHA section 203(b) loans. This authority extends not only to the purchase of the mobile home itself, but also that portion of the mobile home loan which finances the purchase of a lot and the cost of necessary site preparation. Finally, the Committee is assured that even if the Administrator were also given legally independent authority to set interest rates on *all* VA guaranteed home loans, existing policy and procedures by the Executive Branch would ensure that FHA and VA rates were in normal tandem.

Despite the foregoing, in order to further emphasize the desirability of a coordinated Federal interest rate structure and in deference to the concerns expressed by the Administration and some members of Congress, the Committee amendment in the nature of a substitute to S. 2087, while granting the Administrator independent authority to set flexible interest rates, provides that in establishing such rates of interest he shall consult with the Secretary of Housing and Urban Development in order to ensure to the "*maximum extent practicable*" that there is a "*coordinated policy on interest rates*" on loans insured under section 203(b) and under chapter 37 of title 38. An obvious example of where it would *not* be practicable to have similar rates would be in a situation such as is being currently experienced when, because of a lapse in statutory authority, FHA rates were forced to drop back to the 6 percent rate which is not in consonance with the private mortgage market. In such circumstances, a higher VA maximum interest rate would obviously be justified.

The bill as amended would further strengthen the present requirement of consultation which exists pursuant to section 1709-1 of title 12, United States Code. That section provides that the Secretary of HUD in setting interest rates for FHA loans is required to "*. . . consult with the Administrator of Veterans' Affairs regarding the rate which the Administrator considers necessary to meet the mortgage market for guaranteed or insured home loans to veterans under chapter 37 of title 38.*" S. 2087, as amended would impose identical responsibilities and duties on the Administrator of Veterans' Affairs in determining appropriate interest rates as are currently required of the Secretary of Housing and Urban Development. The bill as reported mandating mutual consultation is expressly intended to ensure a true and equal partnership by the Administrator and the Secretary in determining what the appropriate coordinated interest rate for FHA and VA loans will be.

By way of observation, the Committee notes that it would certainly appear that such consultation practices as now exist could be substantially improved. One obvious illustration is the apparent premature announcement of the interest rate increase from 7 percent to 7.75 percent by the Secretary of Housing and Urban Development on July 5th which the Committee is informed may produce unfortunate consequences for as many as 50,000 veterans who were engaged in the closing stages of obtaining mortgage financing at the time the increased rate was announced.

In determining the appropriate maximum interest rates, the Administrator, of course, should keep in mind that the primary objective of the VA loan program is to assist veterans to obtain financing under the best terms available for the purchase of homes. In order to accomplish such objectives, the maximum permissible contract interest rate on VA loans should be set at a level which, as nearly as possible, achieves a balance between costs to veteran home-buyers and yields demanded in the loan market.

The actual yield on a PA loan is based on the contract rate applicable and the discount, if any, charged by the lender to place the loan, or the price, either at a discount or premium, at which the loan is sold in the secondary market. Discounts and premiums provide the means for mortgage lenders and investors to fine-tune the yield on VA loans to reflect conditions of money markets in different parts of the country and to compensate for short term changes in market conditions generally.

Discounts or premiums charged or collected at any given time are indicative of the then effectiveness of the contract loan rate, inasmuch as any disparity in relation to yields demanded in the loan market is thereby disclosed and measured. The VA should continue to keep close watch on such developments by means of monthly reports from field stations on the loan market across the country. Additionally, the biweekly auctions of VA-FHA loans by FNMA obviously provide a further insight into yield levels sought by mortgage investors. The regular monitoring of conditions in other sectors of the capital markets by the Veterans' Administration is also appropriate because of the impact of such conditions upon the availability of funds for mortgage loans.

When the results of continuing analyses indicate that the rate for VA loans is or will be ineffective, i.e., discounts are deepening to the point where home sellers are reluctant to sell to veterans using VA financing and yields available to investors from alternative investments are so attractive as to divert funds from placement in VA loans, the Veterans' Administration should promptly initiate consultation with the Secretary of Housing and Urban Development concerning possible adjustment in the maximum permissible rate on VA loans to provide a yield on such loans that would be competitive with alternative investments. Coincident to the mutual consultation with the Department of Housing and Urban Development, the VA should submit such recommendations for a revised rate as it deems appropriate to the Treasury Department, the Council of Economic Advisers, and Office of Management and Budget, which exercise the primary responsibilities for broad policy determinations in respect to interest rates.

In its report to the Committee, the Veterans' Administration following clearance from the Office of Management and Budget formally opposes the enactment of S. 2087 as introduced or as amended and formally registers its preference for the enactment of H.J. Res. 512. At the same time the report acknowledges the problem currently faced by veterans because of the expiration of flexible authority and states that it has no objection to legislation which would allow the Administrator to set a higher interest rate in those situations where the temporary authority of FHA to set rates in excess of 6 percent is not in effect.

COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress), the committee, based on information supplied by the Veterans' Administration, estimates that enactment of this bill would not result in any significant cost impact on the administration of the VA loan guarantee program.

TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, there were no tabulations of votes to report; the Committee unanimously ordered the bill, with the Committee substitute amendment, reported favorably.

Mr. HARTKE. Mr. President, yesterday the House of Representatives passed a similar bill, H.R. 8949, by the overwhelming vote of 411 to 3. I think it appropriate to briefly describe how S. 2087 differs from that measure. The House-passed bill would—as did S. 2087 as introduced—simply strike the language of section 1803(c)(1) of title 38 which currently limits VA authority to set flexible interest rates by providing that in no event shall the rate exceed that in effect under provisions of section 203(b)(5) of the National Housing Act. The legal effect of the House-passed bill thus would be to give the Administrator independent authority to adjust the rate of interest on VA loans without regard to maximum interest rates on FHA home loans. As the managers of the House bill noted yesterday on the floor of the House of Representatives, existing practice and procedures within the executive branch would probably insure that FHA and VA rates would be in normal tandem despite the grant of this legally independent authority. The Senate committee is aware of the legitimate concern which has been expressed by those who suggest that as a general principle FHA and VA interest rates should for the most part during normal circumstances be similar. In order to further strengthen this policy and to reassure those who have expressed concern, S. 2087 while granting the Administrator independent authority to set flexible rates also provides that in establishing these rates, the Administrator shall consult with the Secretary of Housing and Urban Development in order to insure to the maximum extent practicable that there is a coordinated policy on the interest rates on VA and FHA loans. A similar requirement of consultation is currently imposed on the Secretary of Housing and Urban Development under section 1709-1 of title 12 which requires him to consult with the Administrator of Veterans' Affairs prior to setting FHA rates. The effect of adoption of S. 2087 will thus be to mandate mutual consultation and impose the same duties—no more, no less—on the Administrator of Veterans' Affairs as are presently required of the Secretary of Housing and Urban Development. This should provide for a truly coordinated policy on FHA-VA interest rates in which both the Administrator and the Secretary have equal input rather than a policy which is dictated by the Secretary of Housing Urban Development to the Administrator or conversely by the Administrator to the Secretary.

Mr. President, I urge the Senate to approve S. 2087 and I also want to assure my colleagues that I have reason to believe that the House will be favorably disposed to the modifying amendment which we adopt today.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WHITE HOUSE CONFERENCE ON HANDICAPPED

The Senate proceeded to consider the joint resolution (S.J. Res. 118) to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States which had been reported from the Committee on Labor and Public Welfare with amendments on page 3, line 7, after the word "and", strike out "action" and insert "activity"; in the same line, after the word "the", strike out "field of" and insert "areas affecting"; on page 4, line 12, after the word "and", strike out "parents of handicapped persons" and insert "members of their families"; on page 5, line 12, after the word "distribute", insert "such"; in line 14, after the word "be", strike out "exigent" and insert "appropriate"; at the beginning of line 7, strike out "parents of handicapped persons" and insert "members of their families"; in line 16, after the word "exceed", strike out "$75 per day," and insert "the daily rate prescribed for GS–18 under section 5332, title 5, United States Code,"; in line 19, after the word "duties", strike out "as members of the Advisory Committee"; in line 20, after the word "so", strike out "engaged" and insert "serving"; in line 21, after the word "they", strike out "may" and insert "shall"; in line 23, after the word "the", where it appears the second time, strike out "expenses" and insert "expense"; and, in line 24, after the word "section", strike out "5703 of" and insert "5703,".

Mr. JAVITS. Mr. President, I urge Senate passage of the joint resolution before us, Senate Joint Resolution 118, for a White House Conference on the Handicapped, a measure of which I am a cosponsor. The Congress has in recent years enacted much legislation of benefit to the handicapped—among them the Education of the Handicapped Act, the Javits-Wagner-O'Day Act, the H.R. 1 social security amendments—and the White House Conference contemplated by Senate Joint Resolution 118 will help focus on how existing programs might be best utilized and what further steps must be taken so that the handicapped might become full, contributing, and independent citizens as is their desire.

I wish to invite particular attention to a provision of which I was the author, clause 11, which directs attention to "the special problems of handicapped veterans." Of special concern to us all are the problems of readjustment that are faced by these men whose world has so completely changed as a result of injuries in service to our country. While our thoughts first turn to veterans of the Vietnam conflict, whose problems are at this time the greatest, we cannot ignore the difficulties faced by those handicapped in other wars whose special situation is affected by the passage of time.

The sponsor of this resolution, the distinguished chairman of our committee, Senator WILLIAMS, is to be congratulated for his foresight and interest. A similar measure was approved by the Senate in August of last year, too late in the session for House action. I join in the hope that the House now will avail itself of the opportunity to approve Senate Joint Resolution 118 so that it may become law.

Mr. DOLE. Mr. President, today I join in support of Senate Joint Resolution 118, requesting the President to call a White House Conference on the Handicapped. It is the intent of this conference to focus greater public attention on the problems and needs of handicapped people and to strengthen the commitment which the United States must have in overcoming these problems.

In 1969, upon coming to the Senate, I recommended the creation of a Presidential task force to review private and public programs and funds, and derive better means to serve the total needs of handicapped persons. I was extremely gratified when the President appointed two task forces to study the physically and mentally handicapped. The reports of those task forces were of value to both the administration and the Congress in the formulation and administration of programs to aid the handicapped.

Much has been accomplished—many new and outstanding programs are underway and functioning. We cannot, however, be fully satisfied until every handicapped American is receiving the services for his particular needs.

The task forces on the physically and mentally handicapped accomplished a great deal. Studies were conducted on maternal and infant care, prevention, education of the handicapped and their families, employment, the handicapped elderly, research and training programs, and the severely handicapped.

The recommendations of the task forces were extensive. Legislation and new programs evolved from those recommendations and I feel the task forces fostered greater awareness of needs of handicapped people.

It is now necessary to conduct an indepth evaluation of areas not studied in the previous task forces. It is essential that new programs are initiated and existing programs expanded and improved. The purpose of requesting a White House Conference on the Handicapped is to examine what areas need expansion and improvement.

The conference members would be directed to make full use of recommendations made by past and existing advisory committees and task force panels on the handicapped in preparing background materials for delegates to the State and the White House conferences.

Present estimates of handicapped citizens in this country range from 28 million to over 50 million. The inability to compile a more accurate figure is reason enough for requesting a conference. If we do not know how many individuals are handicapped, what forms of disability they have and what kind of services they receive, how can we assume that handicapped people are receiving appropriate services?

It is an enormous task to properly assess the many, far-reaching effects of business and industry, churches and private voluntary organizations in education, employment, health care; in rehabilitation and research for the handicapped. I shall not today single out the achievements of the voluntary groups involved in aiding the handicapped. But let me say that without the sincerity, scope and success of their efforts—in employment and training, public information, fundraising and support to research, and in upgrading health care and education personnel and facilities—the prospects for the handicapped would not have progressed to the point they are today.

There still remain many handicapped people who sincerely believe there are better ways we can demonstrate our concern and thereby better achieve for the person with handicaps the security, independence and dignity to which he is entitled.

I trust we would all agree that it is the person, not the program that is of the greatest importance. By emphasizing the individual first, I believe we can begin to open new, more meaningful vistas for more persons with handicaps.

It is no doubt that to date we have been involved in efforts which have been creditable.

We must now continue to progress toward our maximum potential.

With this in mind, I lend my support to my distinguished colleague from New Jersey, Senator WILLIAMS, in requesting the President to call a White House Conference on the Handicapped.

In this resolution, the President of the United States is directed to convene a White House Conference on the Handicapped to develop recommendations for further research and action in areas relating to the handicapped. In order to utilize the experience and expertise of all persons involved in programing for the handicapped, the conference is directed to bring together representatives of Federal, State and local governments, professional and lay individuals, and the general public, including the handicapped and parents of handicaped children. Involving the handicapped and their families is a most wise provision. Who better knows the needs and problems of this group than the handicapped themselves?

There are major areas in which the conference is directed to consider strategies by which attitudes toward the handicapped can be changed. Study shall be directed to formulate an information system about handicapped individuals, the services they receive and the seriousness of their disability. Also to be considered is expanding the scope of services to the severely and multiply handicapped, including the aged, the disabled veteran, and the disadvantaged.

Thorough examination will be given to many other areas with emphasis on research and prevention, early diagnosis, evaluation and treatment, education, employment, and residential treatment.

I know of no more important subject matter than the handicapped, not solely because of my personal interest, but because of the thousands of American citizens suffering from a physical, mental or emotional handicap. It is the hope that a White House Conference on the Handicapped will help initiate progress and expansion of programs for the handicapped.

The amendments were agreed to.

The joint resolution, as amended, was passed.

The preamble was amended, as follows:

On page 2, in the subparagraph numbered "(1)", after the word "children", insert "early"; in the same line, after the word "that", strike out "handicapped" and insert "handicapping"; in the same subparagraph. line 3 thereof, after the word "and", strike out "treated early" and insert "treated"; on page 3, in the first line of the subparagraph numbered "(10)", after the word "all", strike out "Federal" and insert "governmental"; in line 2 thereof, after the word "in", strike out "the area" and insert "areas"; in the same line, after the amendment just stated, strike out "of the" and insert "affecting"; in line 3 thereof, after the word "handicapped", insert "individuals"; at the beginning of line 4 thereof, strike out "Federal" and insert "public"; after the line above mentioned, insert a new subparagraph, as follows:

(11) resolved the special problems of handicapped veterans, and

And, at the beginning of the next subparagraph, change the number from "(11)" to "(12)".

The preamble, as amended, was agreed to.

The joint resolution, as amended, with its preamble, reads as follows:

Whereas this Nation has achieved great and satisfying success in making possible a better quality of life for a large and increasing percentage of our population; and

Whereas the great benefits and fundamental rights of our society are often denied those who are mentally and physically handicapped; and

Whereas there are seven million handicapped children and countless numbers of handicapped adults; and

Whereas equality of opportunity, equal access to all aspects of society and equal rights of the handicapped are of critical importance to this Nation; and

Whereas the primary responsibility for meeting the challenge and problems of the handicapped has been that of the States and communities; and

Whereas all levels of government must necessarily share responsibility for developing opportunities for the handicapped; and it is therefore the policy of the Congress that the Federal Government shall work jointly with the States and their citizens, to develop recommendations and plans for action, consistent with the objectives of this resolution, which will serve the purposes of—

(1) providing education, health, and diagnostic services for all children early in life so that handicapped conditions may be discovered and treated;

(2) assuring that every handicapped person receives appropriately designed benefits of our educational system;

(3) assuring that the handicapped have available to them all special services and assistance they need to live a full and productive life;

(4) enabling handicapped persons to have equal and adequate access to all forms of communication and transportation services and devices, especially in time of emergency;

(5) examining changes that technological innovation will make in the problems facing the handicapped;

(6) assuring handicapped persons equal opportunity with others to engage in gainful employment;

(7) enabling handicapped persons to have incomes sufficient for health and for participation in family and community life as self-respecting citizens:

(8) increasing research relating to all aspects of handicapping conditions;

(9) assuring close attention and evaluation to all aspects of diagnosis, evaluation, and placement of handicapped persons;

(10) assuring review and evaluation of all governmental programs in areas affecting handicapped individuals, and a close examination of the public role in order to plan for the future;

(11) resolving the special problems of handicapped veterans, and

(12) promoting other related matters for the handicapped; and

Whereas, it is essential that recommendations be made to assure that all handicapped persons are able to live their lives in a manner as independent and self-reliant as possible, and that the complete integration of all the handicapped into normal community living, working, and service patterns be held as the final objective: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized and requested to call a White House Conference on the Handicapped within two years of the date of enactment of this joint resolution in order to develop recommendations for further research and activity in the areas affecting the handicapped, and to further the policies set forth in the preamble of this joint resolution: Such conference shall be planned and conducted under the direction of the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") with the cooperation and assistance of such other Federal departments and agencies, including the assignment of personnel, as may be appropriate.

(b) For the purpose of arriving at facts and recommendations concerning the utilization of skills, experience, and energies and the improvement of the conditions of the handicapped, the conference shall bring together representatives of Federal, State, and local governments, professional and lay people who are working in the fields of the handicapped, and the general public, including handicapped persons and members of their families.

(c) A final report of the White House Conference on the Handicapped shall be submitted to the President not later than one hundred and twenty days following the date on which the conference is called and the findings and recommendations included therein shall be immediately made available to the public. The Secretary shall, within ninety days after the submission of such final report, transmit to the President and the Congress his recommendations for the administrative action and the legislation necessary to implement the recommendations contained in such report.

Sec. 2. In administering this joint resolution, the Secretary shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate;

(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on the handicapped prior to the White House Conference on the Handicapped;

(3) prepare and make available background materials for the use of delegates to the White House Conference on the Handicapped as he may deem necessary;

(4) prepare and distribute *such* interim reports of the White House Conference on the Handicapped as may be *appropriate;* and

(5) engage such handicapped persons and additional personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

In carrying out his functions under this joint resolution, the Secretary shall employ handicapped persons.

Sec. 3. For the purpose of this joint resolution the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Sec. 4. (a) The Secretary is authorized and directed to establish an Advisory Committee to the White House Conference on the Handicapped composed of twenty-eight members of whom not less than fifteen shall be handicapped or *members of their families.*

(b) (1) Any member of the Advisory Committee who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by him in the performance of his duties.

(2) Members of the Advisory Committee, other than those referred to in paragraph (1) shall receive compensation at rates not to exceed the *daily rate prescribed for GS–18 under section 5332, title 5, United States Code,* for each day they are engaged in the performance of their duties including traveltime and, while so *serving* away from their homes or regular places of business, they *shall* be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the *expense* authorized by section *5703,* title 5, United States Code, for persons in Government service employed intermittently.

(c) Such Advisory Committee shall cease to exist ninety days after the submission of the final report required by section 1(c).

Sec. 5. There is authorized to be appropriated to carry out this joint resolution $2,000,000.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar, under New Reports, will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

The second assistant legislative clerk read the nomination of Hal F. Reynolds, of Virginia, to be U.S. Alternate Executive Director of the International Bank for Reconstruction and Development for a term of 2 years and until his successor has been appointed.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the National Oceanic and Atmospheric Administration which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SCOTT of Pennsylvania. I yield back my time.

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

THE MILITARY ESTABLISHMENT GROWS SOFT

Mr. PROXMIRE. Mr. President, certain facts made available to Congress in the past year strongly indicate that many officers of the U.S. Military Establishment have grown so soft from self-indulgent luxuries that our military posture has been impaired dangerously.

I do not say this lightly. Of course, I recognize that there are many officers who have served this country with unparalleled loyalty, conviction, and honesty. These men should be the example, the standard we look to for the new volunteer army. There is no way to repay the sacrifice some of these men have made of themselves and their families.

Unfortunately, this type of high-standard, scrupulous military service is fast becoming a thing of the past.

Let me put it bluntly. Discipline has broken down at the highest level of the Military Establishment. Generals and admirals are providing the worst kind of example to new recruits. Many of them have flouted the military system by providing themselves with unbelievable luxuries and special privileges at public expense. As a result, the command quality of our military is suspect.

FREE AIRPLANE VACATION TRIPS

Just what are these luxuries? First is the little publicized privilege of free airplane transportation and use of support facilities supposedly on a "standby" basis.

The use of this free travel anywhere in the world is astounding. The Military Airlift Command—MAC—the agency charged with the responsibility for scheduling and operating aircraft to meet the air transport requirements of the various military services, provided free overseas flights for over 336,000 passengers in fiscal year 1972. Each of these individuals, traveling in a nonofficial capacity, covered an average of 4,400 miles at taxpayer expense.

These "space-available" seats became available because 10 percent of the space-required—paying—passengers did not appear as originally scheduled. In fact, a recent House Appropriations Committee study shows that the military departments overforecast for 23 consecutive months—July 1970–May 1972—the number of passenger spaces needed, and this undoubtedly contributed heavily to MAC's net operating loss of $26.1 million in fiscal year 1972. Yet cargo forecasts for the same period were, on the average, significantly closer to what was actually required.

Although all military personnel are afforded the privilege of free vacation flights anywhere in the world, officers above the rank of major, dependents, and certain retired officers possess distinct advantages over other military personnel. These senior officers can make reservations 30 days in advance of their desired travel date using Government communication lines. They may make these reservations at MAC air terminals for up to five destinations in order to be assured of a timely departure.

In contrast, individuals below the rank of colonel can register only when they arrive at the departure terminal and they are dropped from the space-available list if not ready to travel. Colonels and above, however, can stay at the top of the register by phoning ahead to say that they will be delayed. As a result of these procedures, an estimated 99 percent of these senior officers travel as planned.

All officers of the rank of colonel and above, both active and retired, are classified as "distinguished visitors." This entitles them to baggage handling by military personnel, personal escorts to and from the plane and through customs, on- and off-base ground transportation, guest house quarters at $3 to $5 per day, use of the distinguished visitors' lounge, officers' club, post exchange, swimming pool/beach, and golf course. Also, within 30 minutes of a distinguished visitor's departure, MAC personnel are required to advise the destination by priority communication that the ranking officer is due to arrive there and will require special treatment.

I have been informed by the Comptroller of the Defense Department that the total cost of providing space-available transportation is only $1,200 per year. Yet the House Appropriations Committee presents costs for processing, travel registers, 30-day reservation messages, and lounges totaling more than $3 million. Furthermore, this figure does not reflect the cost of extra flights which I am sure result from this advance reservation system. The prospect of turning away high-ranking officers puts an inordinate pressure upon MAC's scheduling staff that certainly means further expense to the taxpayer.

SPECIAL TRANSPORTATION FOR PENTAGON BRASS

Pentagon-based brass are afforded other privileges that would make most Washington bureaucrats blush with envy. For example, just in case the brass have to make a quick trip, there are at least 45 limousines on standby, complete with chauffeurs if requested. These limousines vary from Cadillacs assigned to the highest civilian and military posts to medium sedans for those less fortunate. The Pentagon has firmly stated that there is no reason for eliminating any of these vehicles.

If a private chauffeured limousine is not fast enough, the brass can call on a fleet of 62 helicopters based in the Washington area. The Pentagon says these are not meant for use as a taxi service, but since they are in the area and need the training anyway—well, why not use them to provide transportation for the brass? The taxpayers spend $5.1 million, not including training costs, for this incidental luxury.

OTHER BRASS NOT LEFT OUT

Now this is not to say that other high-ranking brass are left out in the cold. That would not be equitable. One hundred and seventy-eight planes are assigned to senior military officers worldwide at an annual cost of $39.2 million. These aircraft are justified as administrative support aircraft necessary to carry out designated missions. There may be some truth in this. But it is also clear that in many cases these planes are used for personal purposes and are considered to be private aircraft by the generals to which they are assigned.

One such aircraft assigned to the commander of the Air Force Logistics Command, Gen. Jack Catton, was recently remodeled by the general at a cost of $430,000. The newly outfitted jet aircraft required 27,000 man-hours of work to install a luxury interior with special furniture, stereo system, bar, trash compactor, and wall-to-wall carpeting. I wonder what the cost of outfitting the other 177 planes has been?

MILITARY SALARIES PADDED BY FRINGE BENEFITS

Mr. President, at one time the military officers and enlisted men of this country were grossly underpaid. For many it was a subsistence wage at best and a hardship on the military family. It is a credit to the Department of Defense and Congress that this condition has been eliminated. Military personnel now are paid salaries comparable to their civilian counterparts.

In the days before this correction was made, however, the difference between the low military wage and a civilian job was partially compensated for by granting the military officers certain perquisites or privileges of rank. Now, with the equality in salaries between civilian and military, their perquisites are still retained, even though the original purpose has disappeared. In light of the changing condition of military compensation, it is time that these perquisites be reexamined.

First is the quartering of high-ranking officers. Each officer receives a yearly housing allowance for his quarters. This amounts to over $3,000 a year for the rank of colonel/Navy captain and above, or about $250 a month. A look at nearby military bases will quickly confirm that many officers live in quarters that are worth far more than $250 a month if they were on the civilian market.

Second is the question of military retirement. Military personnel do not contribute toward their retirement fund which is carried in the Department of Defense budget as a separate item. A full general or admiral accrues the benefit of $3,000 a year as a result of this noncontributory status.

But this still does not tell the whole story. In addition to the normal basic pay, quarters and subsistence of $40,030, a full general or admiral receives the equivalent of $3,106 in Federal tax advantages due to the nontaxable status of some of this money. To this should be added increments reflecting retirement and medical benefits and commissary privileges, which would result in a new total of over $51,000 a year. When you consider that there are 1,284 generals and admirals on active duty, the magnitude of this extra compensation can be judged.

As if these special allotments were not enough, the highest ranking officers also are given pocket money, called personal money allowance to spend as they see fit. Lieutenant generals and vice admirals get $500 a year, generals and admirals receive $2,200 and members of the Joint Chiefs of Staff get $4,000. The Navy has five additional positions paid as much as $5,200.

The special privileges do not stop with wages. As I have pointed out on numerous occasions, generals and admirals have enlisted men assigned to their personal staffs to act as servants. A General Accounting Office study concluded that this costs $22 million a year. Even though the Pentagon has begun a 28-percent cutback, there still will be over 1,000 military servants in the U.S. Military Estabilshment.

FLIGHT PAY AND DISABILITY

Two specific issues provide evidence that this soft-life atmosphere is corrupting the military establishment. The first is flight pay. Exactly 29,457 nonflying officers in the U.S. armed services currently are paid flight pay running $75.6 million a year. This includes 6,628 majors and lieutenant commanders, 8,640 lieutenant colonels and commanders, 4,626 colonels and Navy captains, and 467 generals and admirals.

The second is the practice of unusual disability retirements. In the past 8 years, 53 percent of all Air Force generals retired on disability even though 77 percent of these received flight pay for hazardous conditions in the prior years. What is so strange about disability ratings? They allow the recipient to receive his retirement tax free. This can be a substantial savings for generals and admirals, and the statistics suggest that there has been a systematic corruption of the disability granting process. I recommend that all military officers be checked by a civilian board of qualified physicians before they retire.

TOPHEAVY COMMAND STRUCTURE

A few more statistics put these luxuries into perspective:

There are now more generals, admirals, lieutenant generals, vice admirals, colonels, captains, lieutenant colonels, and commanders than at the height of World War II, but there are 10 million fewer men in the military.

From fiscal year 1964 to fiscal year 1973 the number of captains, lieutenants, and warrant officers declined by 18,698 but the number of general, flag and field rank officers increased by 6,907. As a result of this topheavy command structure, the United States has the worst combat-to-support ratio of any major military establishment in the world.

In fiscal year 1974 we will train more administrative specialists and clerks than infantry gun crew and seamen specialists.

MILITARY EFFECTIVENESS IMPAIRED

Mr. President, taken collectively these statistics point to the degeneration of the U.S. military machine. It is fast becoming luxury-bound and any military historian will describe what happens when an army is allowed to get fat.

There are too many chiefs, too many command echelons, too many headquarters, too much self-indulgence, too much money, and too little performance.

The officer clique has grown so strong that internal abuses are covered up for fear of offending a fellow officer. Favors and special privileges are the accepted daily fare. Pampering has been elevated to a way of life.

What has happened to that old-fashioned army of dedicated Spartan officers that placed country above false disability ratings, that thought of public service before accepting flight pay for not flying, that trained hard instead of taking worldwide free trips? Where is the officer that would absolutely turn down an invitation to become involved in the political process? Where have they gone?

It is time to return to the "lean, mean" officer corps concept that is so necessary for military preparedness.

THE ALASKA PIPELINE

Mr. STEVENS. Mr. President, I want to thank all those who assisted in connection with S. 1081, the right-of-way bill that was sponsored by the distinguished Senator from Washington (Mr. JACKSON). All of the Senate knows, I believe, my high regard for the junior Senator from Washington and how much I feel Alaska's debt to him and his colleague, the senior Senator from Washington (Mr. MAGNUSON).

I worked a great deal with the ranking Republican on our committee, the Senator from Arizona (Mr. FANNIN), and, through his courtesy and the courtesy of Senator JACKSON, chairman of the committee, even though I was not a member of the committee, I was permitted to attend all the executive sessions and the markup sessions of the bill.

I am grateful to them for having included in the bill, before it came to the floor, many of the suggestions I made. Above all, I am grateful to my good friend, the Senator from Arizona (Mr. FANNIN) for permitting me to use the time which would have been allocated to him to be able to answer the questions that were presented on the floor concerning the amendment that was offered by me and my colleague from Alaska. I think it was quite beneficial to the outcome of that vote. Senator FANNIN's understanding and friendship are deeply appreciated.

I am grateful also to the Senator from Wyoming (Mr. HANSEN), the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Texas (Mr. TOWER) for their assistance and cosponsorship of the amendment we offered and all other Members of the Senate who supported our amendment which seeks to eliminate further delay in the construction of the trans-Alaska pipeline.

I believe the record should show the diligent work of many members of the staff who were present on the floor during the entire consideration of S. 1081. I mention in particular Dave Stang, minority counsel to the Committee on Interior and Insular Affairs, and of course the counsel to the committee, Bill Van Ness.

I think they did an extremely able job in keeping those amendments straightened out and assisting all who were concerned with the legislation which means so much to our State.

On the floor or assisting me at that time were Lyell Rushton and Carl Bogan; my staff legislative counsel, Max Gruenberg; and my staff assistants, Mike Todd and Hilary Hilscher.

The record should also show that our Governor, William Eagan, and the attorney general of our State, despite the fact that we are on opposite sides politically, worked closely with me in the past weeks and assisted to a great extent in explaining what we were trying to do. My thanks go to them as well as to the leaders of the Alaska Native Community who were here—John Borbridge, Willie Hensley, Sam Keto, and others who were here here previously, such as John Sachett, Laura Berget, as well as others, including members of the Alaska Pipeline Study Committee.

I think the effort involved in the Alaska pipeline bill is equal to the effort put forward by those of us who were involved in the original statehood movement for Alaska. To me, this effort and the outcome yesterday means as much to our State as did the vote on the floor of the Senate in 1958, when the Senate agreed to the proposition that Alaska should become a State.

I am extremely grateful to the leadership for their cooperation and for all the kindness shown to us during that debate.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHILES). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business.

MODIFICATION OF TIME LIMITATION AGREEMENT ON S. 782

Mr. ROBERT C. BYRD. Mr. President, with respect to the agreement previously entered on S. 782 to amend the antitrust laws, under which there was a time limitation of one-half hour for debate, at the request of the distinguished Senator from New York (Mr. JAVITS) I ask unanimous consent that time for debate on that bill be limited to 1 hour instead of one-half hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

Report on Actual Procurement Receipts for Medical Stockpile of Civil Defense Emergency Supplies and Equipment Purchases

A letter from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, that no property was procured during the quarter ended June 30, 1973. Referred to the Committee on Armed Services.

Donation on Certain Surplus Property by Department of Navy

A letter from the Chief of Legislative Affairs, Department of the Navy, reporting, pursuant to law, the intention of the Department of the Navy to donate certain surplus property to the Bradley Air Museum, Connecticut Aeronautical Historical Association, Hartford, Conn. Referred to the Committee on Armed Services.

Report on Coast Guard Activities in Ports and Waterways Management

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on Coast Guard activities in ports and waterways management (with an accompanying report). Referred to the Committee on Commerce.

Proposed Legislation From Secretary of Transportation

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes (with accompanying papers). Referred to the Committee on Commerce.

Reports on Welfare Programs Under Social Security Act

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the annual report of Federal activities in welfare programs under the Social Security Act, for the period July 1, 1971, to June 30, 1972 (with an accompanying report). Referred to the Committee on Finance.

Report on Projects Selected for Funding Through Grants, Contracts, and Matching or Other Arrangements With Certain Institutions

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report on projects selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

Third Preference and Sixth Preference Classifications for Aliens

A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

Report of National Academy of Sciences S. Doc. No. ———

A letter from the President, National Academy of Sciences, transmitting, pursuant to law, a report of that Academy, for the fiscal year ended June 30, 1970 (with an accompanying report). Referred to the Committee on Labor and Public Welfare, and ordered to be printed as a Senate Document.

Proposed Legislation From Civil Service Commission

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide for additional positions in grades GS-16, 17, and 18 (with accompanying papers). Referred to the Committee on Post Office and Civil Service.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of California. Referred to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 14

"Joint resolution relative to prosecution of interstate motor vehicle thefts

"Whereas, Motor vehicle thefts have increased an average of 8 percent per year over the last three years and has resulted in one out of six major crimes in California being a vehicle theft; and

"Whereas, Many such thefts of motor vehicles have been in violation of the National Motor Vehicle Theft Act; and

"Whereas, The United States Attorney General is responsible for prosecuting alleged violators of the National Motor Vehicle Theft Act, also known as the Dyer Act; and

"Whereas, For the past two years the United States Attorney General has severely diminished his level of effort and involvement prosecuting Dyer Act cases; and

"Whereas, This reduction of activity by the United States Attorney General has resulted in an increased workload and expense to state and local agencies in California; and

"Whereas, This general absence of prosecuting authority has often resulted in the necessary release of apprehended suspects charged with violation of the Dyer Act; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the United States Attorney General is hereby requested to fulfill his responsibility for transportation of stolen vehicles; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Attorney General, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Federal Bureau of Investigation, and to the California Attorney General."

A joint resolution of the Legislature of the State of California. Referred to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 27

"Joint resolution relative to escheat of intangible abandoned property

"Whereas, In Texas v. New Jersey, 379 U.S. 674 (1965), it was held that (1) the state of the last known address of the owner as shown by the records of the holder may escheat abandoned intangible personal property and (2) if the records do not shown an address of the owner, the property may be escheated by the state where the holder is domiciled; and

"Whereas, In Pennsylvania v. New York, 407 U.S. 206 (1972), it was held that the rules of Texas v. New Jersey govern which state may escheat abandoned sums payable on money orders and (by necessary implication) on other similar instruments; and

"Whereas, The states wherein the purchasers of money orders and travelers checks reside should, as a matter of equity among the several states, be entitled to the proceeds of such instruments in the event of abandonment of the sums payable on such instruments; and

"Whereas, The books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and travelers checks often do not as a matter of business practice show the last known addresses of purchasers of such instruments; and

"Whereas, It is now necessary for each state (other than the state that is the domicile of the issuer) to enact legislation requiring banking and financial organizations and business associations engaged in issuing and selling money orders and travelers checks to make and maintain a record showing the last known address of the purchasers of such instruments in order that the state be entitled to escheat the amount it is entitled to escheat under Texas v. New Jersey and Pennsylvania v. New York; and

"Whereas, Obtaining, maintaining and retrieving such records often serves no purpose other than to protect the interest of the state in being entitled to escheat abandoned sums payable on such instruments and imposes a significant cost on the holder of the abandoned property; and

"Whereas, The great majority of the purchasers of money orders and travelers checks reside in the state where such instruments are issued or sold; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation that would provide for the escheat of any abandoned sum payable on a money order, travelers check, or similar written instrument to the state of origin of the transaction wherein such money order, travelers check, or similar written instrument was issued; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 6691. An act making appropriations for the legislative branch for the fiscal year ending June 30, 1974, and for other purposes (Rept. No. 93-323).

By Mr. MONDALE, from the Committee on Labor and Public Welfare, without amendment:

S. 5. A bill to promote the public welfare (Rept. No. 93-324), together with minority views.

EXECUTIVE REPORT OF A COMMITTEE

Mr. PASTORE. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Bruce C. Skinner, and Bruce A. Patterson, members of the permanent commissioned teaching staff of the U.S. Coast Guard, for promotion to the grade of commander;

James W. Cratty II, licensed officer of the U.S. Merchant Marine, to be a permanent commissioned officer in the Regular Coast Guard; and

William W. Barker III, and sundry other Reserve officers, to be permanent commissioned officers in the Regular Coast Guard.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SCOTT of Pennsylvania:

S. 2194. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BENTSEN:

S. 2195. A bill for the relief of Mae Rhodora Maria Rabuyo. Referred to the Committee on the Judiciary.

By Mr. FONG:

S. 2196. A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for certain additional persons. Referred to the Committee on Commerce.

By Mr. CLARK:

S. 2197. A bill to amend the Communications Act of 1934 with respect to the operation of certain broadcasting stations. Referred to the Committee on Commerce.

By Mr. BROCK:

S. 2198. A bill to create an Office of Federal Procurement Policy within the Executive Office of the President, and for other purposes. Referred to the Committee on Government Operations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCOTT of Pennsylvania:

S. 2194. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes. Referred to the Committee on the Judiciary.

Mr. SCOTT of Pennsylvania. Mr. President, I am today introducing legislation to eliminate several unfair practices which have developed subsequent to the enactment of certain amendments in 1965 to the Immigration and Nationality Act. My bill would provide for additional special immigrant visas, on an annual basis, to each country of the Eastern Hemisphere, and would trim the backlog in visa issuance in the so-called fifth preference category—brothers and sisters of U.S. citizens.

Very simply, the old system for selecting immigrants to the United States was based on a national origins quota concept. Legislation passed by the Congress replaced that system with an overall ceiling on a first-come, first-served basis, within various preference categories. However, during the phaseout period of the old system, the backlogs in some oversubscribed preferences were not removed. Furthermore, immigration from the former high quota countries was adversely affected. Immigration, particularly from Ireland, was cut back severely while the "brothers and sisters" backlog particularly from Italy was reduced by a very small amount.

The bill I am introducing today, restores to these countries the immigration benefits originally intended for them. One purpose of the bill is to facilitate the immigration of aliens chargeable to the beneficiary countries who would not otherwise qualify for immigration or who would experience a delay in obtaining an immigrant visa because of the oversubscription of the Eastern Hemisphere preference classification to which they were entitled. The special visas granted would primarily benefit Germany, Great Britain, Ireland, and Poland.

A second purpose of the bill is to reduce the backlog in the "brothers and sisters" preference. The old national origins systems provided disproportionate national quotas, to govern the admission of immigrants, without regard to the reunification of families. In the transition to the new system, some countries, particularly Italy, were discriminated against. Under my bill, the special visas issued would benefit Italy, Greece, Poland, and Portugal.

Mr. President, it seems to me that if we are to continue our immigration and nationality program, we ought to make it fair and equitable, especially for the countries, such as Ireland and Italy, which have been adversely affected. I am hopeful that this new legislation will move us closer to that goal.

By Mr. FONG:

S. 2196. A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for certain additional persons. Referred to the Committee on Commerce.

Mr. FONG. Mr. President, because the continuation of the highly successful senior citizen discount air fare rates in my State of Hawaii by Hawaiian and Aloha Airlines since 1965 has been ordered halted by the Civil Aeronautics Board pursuant to its recent decision which labeled youth standby, youth reservation, and family fares unjustly discriminatory, I am introducing a bill today for reference to the appropriate committee which would authorize those airlines so wishing to offer reduced fares for senior ciitzens 65 years of age or older and to individuals 21 years of age or younger both on a standby basis, and to restore the availability of family discounts.

Mr. President, I introduce this bill in an attempt to insure the continuance of discount fares to the senior citizens of Hawaii, recognizing the importance and need of reduced fares in my home State's inter-island travel. In Hawaii, where our State is composed of six main islands, the only reasonable means to visit relatives on the outer islands is by air. No other mode of public inter-island transportation is available, no inter-island bus, no inter-island railroad, and no inter-island ferry.

The success of Hawaiian and Aloha Airlines in promoting senior citizen discount programs is well known. Since instituting the fares in 1968, Hawaiian experienced a 400 percent increase in senior citizen passengers, while at the same time achieving only a 38-percent increase in overall passengers. During the same time Hawaiian Airlines has seen senior citizen standby revenues increase by more than 400 percent.

Since the Civil Aeronautics Board has recently ordered all carriers to eliminate youth and other discounts by June of 1974, airlines have already started phasing out discount fares.

Mr. President, for the record I would like to point out that the Civil Aeronautics Board's decision was a split 2-to-2 decision. Members G. Joseph Minetti and Robert T. Murphy dissented, voting for the continuance of youth and family fares. They considered that each of the discount fares, as modified and adjusted upward by Administrative Law Judge Arthur S. Present in his initial decision, was reasonably related to the cost of service, fairly reflected the promotional nature of the fare, the value of the service, and bore a proper relationship with the full-fare and the other discounts under review in the case. Rather than burden full-fare passengers, they said, the discount fares benefit them by contributing to common fixed costs.

Family fares, they continued, have advanced the developmental aims of the Federal Aviation Act of 1958, and were available to a broad segment of the public, and successfully generated traffic and benefited the entire air transportation system, including normal-fare passengers. In addition, they said, the record clearly indicates that family fares were endorsed and their retention was supported by the 19 airlines who were parties to the investigation.

If the discounts are as counterproductive as some indicate, airline managements should be able to discover this for themselves, and the discounts will be eliminated by the mere force of economic considerations as the market grows and they begin to fill up their seats. In the meantime, let airlines have the freedom of choice to give these discounts if they so desire.

By Mr. BROCK:

S. 2198. A bill to create an Office of Federal Procurement Policy within the Executive Office of the President, and for other purposes. Referred to the Committee on Government Operations.

Mr. BROCK. Mr. President, I am today introducing a bill to establish an Office of Federal Procurement Policy within the Executive Office of the President.

The purpose of such an office is to provide overall leadership and direction for the development of procurement policies, regulations, procedures, and forms for executive agencies in implementation of procurement statutes.

The need for this legislation has been clearly established by the Commission on Government Procurement, which reported to the Congress earlier this year, and by many other expert witnesses who have documented the sorry state of Government procurement policies at this time.

Annual Federal procurement today amounts to the staggering figure of $60 billion, and that sum alone clearly, illustrates that a coordinated, rational policy is essential. Unfortunately, we have no such policy.

What we have instead is a maze of regulations by the various agencies, each independent of each other, stultifying in their total effect, and virtually incomprehensible to potential vendors, let alone the general public.

They are also costly. The Blue Ribbon Defense Panel estimated in 1970 that for the Department of Defense alone the cost of management systems imposed upon contractors by regulation was $4.4 billion.

These figures, and the basic facts of life faced by American businesses in their dealings with the Government establish a clear need for clarification and simplification of our procurement policy.

Of particular concern to me is the basic competitive disadvantage that this labyrinth of regulations and counter-regulations imposes upon the smaller business.

The small businessman simply cannot hope to be competitive in bidding for Government contracts by the time he has costed the overhead in complying with the existing regulations.

My bill would be an important step in rectifying his disadvantage. It would do so by replacing the multiplicity of agency-by-agency regulations with a single, comprehensive set of rules which would apply across the board.

The Congress has a clear obligation to see to it that Government procurement is strictly regulated. Failure to do so would open the door for the worst sort of abuse of agency-vendor relationships. Clearly too, in our complex times such regulation will not be a simple thing. But even if a new policy office simply required that standard formats and forms should be used, the benefit to small business, and to all contractors would be felt. If he could effectuate just a 2-percent saving, we would save the American people a billion dollars every year, and that is something worth talking about.

In addition, an Office of Procurement Policy could work to minimize redtape, clarify priorities, and reduce the paperwork burden.

In the end, it would mean greater fairness among potential suppliers and contractors, increased efficiency within the Government, and benefits for all the people.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 626

At the request of Mr. MOSS, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 626, to provide increases in certain annuities payable under chapter 83 of title 5, United States Code, and for other purposes.

S. 1418

At the request of Mr. HATFIELD, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 1418, to provide a fitting memorial to our 31st President, Herbert Hoover.

S. 1604

At the request of Mr. BROCK, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 1604, to prevent discrimination on the basis of sex in housing.

S. 1845

At the request of Mr. BAYH, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1845, a bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes.

S. 1868

At the request of Mr. HUMPHREY, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1868, to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome and to restore the United States to its position as a law-abiding member of the international community.

S. 1998

At the request of Mr. SCHWEIKER, the Senator from North Dakota (Mr. YOUNG), the Senator from Massachusetts (Mr. BROOKE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 1998, the Community Mental Health Centers Extension Act of 1973.

S. 2005

At the request of Mr. HUMPHREY, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 2005, a bill to provide for adequate reserves of certain agricultural commodities, and for other purposes.

SENATE RESOLUTION 145—SUBMISSION OF A RESOLUTION TO AMEND RULE XXV OF THE RULES OF THE SENATE

(Referred to the Committee on Rules and Administration.)

Mr. MATHIAS (for himself and Mr. BROCK) submitted the following resolution:

S. RES. 145

Resolved, Rule 25 of the Rules of the Senate is amended to read as follows:

"8. The Minority party on any standing committee and subcommittee thereof is entitled, upon request of a majority of such minority, to not less than one-third of the funds provided for the appointment of committee staff pursuant to each primary or additional expense resolution. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the staff until such appointment is made. Each staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable."

ADEQUATE STAFF FOR A RESPONSIBLE CONGRESS

Mr. MATHIAS. Mr. President, in 1962, Senator HUGH SCOTT made the following statement before this body:

> We may disagree as to the exact form staffing arrangements should take, but we should all agree that good government suffers when the minority is deprived of the means to: First, develop constructive alternatives; second, offer sound criticism and evaluation; third, document and communicate its views; and fourth, check information supplied by the majority against impartial sources.

I do not think that the reasons for giving adequate staffing to the minority could be stated more succinctly. The ability of the Congress to function up to its full potential as an institution, and the minority's ability to play its full role in helping to reach that potential, are dependent in large measure upon the availability of adequate staff. I am, therefore, pleased to join with Senator BROCK in introducing a resolution which would guarantee to the minority party at least one-third of the staff resources of the committees of the Senate.

In spite of the fact that the resolution would guarantee resources to the minority party, I do not believe this is a partisan question. First, since party majorities tend to change over time, the party which is now in the majority is likely to be in the minority at some future date. Thus the Members on the other side of the aisle would be well served by viewing this question independently of the present division in this body.

But beyond that, and far more important, is the fact that we are dealing here with the ability of Members of the Senate to adequately do the job that their constituents elected them to do. I would ask the Members of the majority, in reflecting on this issue, to consider how well they could meet their responsibilities if they were permitted no personal staff. I think they would admit that the task would be very difficult. Many of the minority are in a not dissimilar position in regard to committees. It is almost impossible for us to adequately participate in committee business with only 16 percent of the staff resources.

I hope that the Senate will speedily enact this resolution. If not, it will not be we minority Senators who are the losers, but the Constitution and the people we are to represent.

Mr. BROCK. Mr. President, I am today joining Senator MATHIAS in submitting a Senate resolution to establish the right of the minority party in this body to a minimum of one-third of the staff resources of the various committees of the Senate.

Our Nation has devoted a great deal of attention in recent years to the problems of minority groups, with the result that blacks, Chicanos, Indians, the poor, the aged, youth, and women have gained new guarantees of their rights, and have made impressive new advances into the oft-discussed "mainstream" of American society.

In all of this, one important group of Americans has been rather monumentally overlooked, and that minority resides right here in the Halls of Congress.

Although 43 percent of the Senators here are Republicans, only 16 percent of the staff resources are presently controlled by the minority party.

This is a remarkable injustice, and it seriously damages the ability of the Senate to represent the American people. It is important too, to point out that the issue transcends mere partisanship. If history is any guide, we may determine that congressional majorities do not endure permanently, and therefore that both parties have an interest in assuring that whichever may be in the minority at a given time is guaranteed adequate resources to do its job.

Too little attention has been paid to the emerging importance of staff in our times. In the early days of the Republic, staffs were minimal, and the minority may be said to have been adequately represented by the simple existence of its adherents who sat as Members of the legislative body.

We must realize, however, that the vast complexities of modern day Government require greatly expanded staff operations, and no Senator may truthfully say that he is adequately representing his constituents unless he can assemble a competent staff.

At the same time, and for many of the same reasons, the importance of committees in the Senate has expanded, and we are all aware of the fact that, in the words of the clichemongers, "the real work of the Senate is done in committee."

In this regard, it should be obvious that such an immense disparity of staff allocation has tended to disenfranchise the millions of voters who elected Senators whose party wound up in the minority of the Senate.

This is a tragic development, and it is a clear injustice. A sense of fair play and ethics cannot conceivably justify the continuation of such a situation.

In this regard, the majority party has a great opportunity to display its fealty to such principles, and to the concept of one man, one vote, and above all to the two-party system, by giving support to the resolution I propose.

I am quite aware that such a position by the majority will require a high degree of statesmanship, and the setting aside of short-term partisan advantage. Nonetheless, I earnestly hope that they may take such an attitude, and come forth with strong support.

On behalf of what I obviously consider a temporary minority, I urge the passage of this resolution, whose long-term benefits will accrue to both parties, and more importantly, to the American people.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENTS

AMENDMENT NO. 369

(Ordered to be printed, and to lie on the table.)

Mr. NELSON. Mr. President, I have today submitted an amendment to S. 372, the Rules Committee bill amending the Federal Election Campaign Act of 1971.

This amendment makes four major changes in S. 372. First, it drastically reduces the total amount a candidate would be allowed to spend in his primary and general elections, but maintains the base limits for the general elections.

Second, this amendment provides that no individual may make contributions over $500 to one candidate, and over $2,500 to all candidates and committees in the aggregate. The Rules Committee bill sets varied limits for contributions to candidates for the Senate and House, and a $100,000 limitation on all contributions. This amendment further includes all political committees in the contribution limitation, including labor unions and other special interest committees.

Third, the amendment increases both the $1 tax checkoff for Presidental candidates, and the tax credit allowed for contributions to political candidates and organizations.

Fourth, and most important, the amendment establishes a program of public subsidy for candidates for the Senate and House in general elections. Along with the 10 cents per eligible voter subsidy levels, candidates are allowed to raise up to one-third of their total subsidy in contributions, and all contributions are deducted from the subsidy which they are eligible to receive.

In order to assure that every Senator has adequate information about this amendment, I ask unanimous consent that the text of the amendment, a summary of its provisions, and a cost analysis be printed in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 369

On page 14, strike out lines 8 through 10, and substitute the following:

"(5) Striking out subparagraph (2) of paragraph (e) and redesignating subparagraphs (4) and (5) as (3) and (4), respectively;"

On page 14, strike out lines 13 through 18, and substitute the following:

"(j) 'identification' means the full name, full address of principal place of residence, occupation, and principal place of business, if any;"

Strike everything between page 19, line 18, through page 20, line 3.

On page 20, on lines 16 and 17, strike out the words "of contributions of $5,000 or more".

On page 49, strike lines 7 through 10, and substitute the following:

"(3) The limitation on expenditures imposed by this subsection shall apply to the total campaign period from the initial qualification of an individual as a candidate as defined in section 301(b) to the general election in which the candidate participates."

6. On page 50, strike Section 17.

7. Strike everything from page 50, line 19 through page 52, line 5, and substitute the following:

"SEC. 18. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 614. Limitation on expenditures generally.

"(a) (1) Except to the extent that such amounts are increased under subsection (d) (2), no candidate (other than a candidate for nomination for election to the office of President) may make expenditures in connection with his primary or primary runoff campaign for nomination for election to Federal office in excess of the greater of—

"(A) 5 cents multplied by the voting age population (as certified under subsection (e) of the geographical area in which the election for such nomination is held, or

"(B) (i) $100,000 if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative, or

"(ii) $75,000, if the Federal office sought is that of a Representative from a State which is entitled to more than one Representative.

"(2) Except to the extent that such amounts are increased under subsection (d) (2), no candidate (other than a candidate for election to the office of President) may make expenditures in connection with his general or special election campaign for election to Federal office in excess of the greater of—

"(A) 10 cents multiplied by the voting age population (as certified under subsection (e) of the geographical area in which the election is held, or

"(b) (i) $175,000 if the Federal office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative, or

"(ii) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Representative."

Strike everything from page 56, line 8, through page 58, line 7, and substitute the following:

"§ 615. Limitations on contributions by individuals and persons.

"(a) No individual or person shall make any contribution during any calendar year to or for the benefit of any candidate which is in excess of the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of a particular candidate, would equal $500.

"(b) No individual or person shall make contributions during any calendar year to or for the benefit of any candidates or any political committees which is in excess of the amount which, when added to the total amount of all contributions made by that individual and the members of his family or that person to or for the benefit of all candidates and all political committees during that calendar year, would equal $2,500.

"(c) The limitations imposed by this section shall apply to the total calendar year."

At the end of the bill, add the following new section:

"Sec. —. Section 6096(a) of the Internal Revenue Code of 1954 is amended by striking out "$1" wherever it appears and inserting in lieu thereof "$2", and by striking out "$2" wherever it appears and inserting in lieu thereof "$4".

At the end of the bill, add the following new section:

"Sec. —. Section 9006(a)(2) of the Internal Revenue Code of 1954 is amended by striking out the words "as provided by appropriation Act."

At the end of the bill, add the following new section:

"Sec. —. Section 41(b)(1) of Subpart A of part IV of Chapter 1 of the Internal Revenue Code of 1954 is amended to read:

"(b) Limitations.—

"(1) Maximum Credit.—The credit allowed by subsection (a) for a taxable year shall be limited to $25 ($50 in the case of a joint return under section 6013)."

At the end of the bill, add the following new section:

"Sec. —. Congressional Election Campaign Fund Act

"The Federal Election Campaign Act of 1971 is amended by adding at the end thereof, the following new title:

"TITLE V—CONGRESSIONAL ELECTION CAMPAIGN FUND

"Sec. 501. This title may be cited as the 'Congressional Election Campaign Fund Act.'

"DEFINITIONS

"Sec. 502. For purposes of this title—

"(1) 'Commission' means the Federal Elections Commission established in the 'Federal Election Campaign Act Amendments of 1973'.

"(2) the term 'authorized committee' means, with respect to the candidates in a general election for a federal office, which is authorized in writing by such candidates, as defined in section 310 of the Federal Election Campaign Act Amendments of 1973;

"(3) The term 'federal office' means the office of Senator, or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States;

"(4) The term 'family' means any child, parent, grandparent, brother, sister, or spouse of the candidate, any dependent of the candidate or of his spouse as defined by the Internal Revenue Code of 1954, and the spouse of any such individual;

"(5) The term 'candidate campaign account' or 'campaign account' means the bank or banks as established under section 311 of the Federal Election Campaign Act Amendments of 1973;

"(6) the term 'fund' means the Congressional Campaign Election Fund as established under this Title.

"(7) the term 'contribution' means anything donated to a campaign commitee, candidate or political organization as defined under Title III of this Federal Election Campaign Act of 1971, including the transfer of funds between political committees;

"(8) the term 'expenditure' means any expenditure for the purpose of promoting the candidacy of a candidate for nomination to election, or for election to a federal office, as defined under Title III of the Federal Election Campaign Act of 1971.

"(9) the term 'persons' means any individual, partnership, company, association, firm, society or other organization or group of people.

"(10) the term 'voting age population' means resident population, eighteen years of age or older. Within sixty days after the enactment of this Act, and during the first week of January 1974, and every year thereafter, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of each State and Congressional district for the last calendar year ending before the date of certification.

"(11) the term 'candidate' means an individual who seeks nomination for election, or election, to Federal office, as defined under Title III, Sec. 301 of the Federal Election Campaign Act of 1971.

"(12) the term 'state' means each of the United States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

"(13) the term 'qualified candidate' means an individual who is a general election candidate of a party which has met one of the following conditions, as election determined by the Commission:

(a) received at least 10% of the total vote in the last general election for that particular office, or

(b) received at least 10% of the total vote cast in the most recent primary election for that office, if the party was ineligible to run candidates in the last general election or

(c)(i) has submitted petitions containing signatures totaling at least 5% of the voting age population in the state, for candidates for the Senate, or in the district, for candidates for the House of Representatives, and

(ii) which petitions contain signature from each county, in the case of Senate and multi-county Congressional districts, equal to the percentage which is obtained by dividing the total voting age population of the state or district into the total voting age population of each county.

"Sec. 503. Establishment of Fund.

"(1) There is established within the Treasury a trust fund to be known as the 'Congressional Campaign Election Fund' There is authorized to be appropriated to the fund $200,000,000 out of amounts in the general fund of the Treasury not otherwise appropriated. Any money in the fund not needed for current operation shall be invested in bonds or other obligations of, or guaranteed by, the United States. The fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it and any interest earned by such amounts invested in bonds or other obligations, and amounts otherwise covered into the fund by the Commission under this Act.

"(2) Administration of the fund shall be directed by the Federal Elections Commission, under procedures specified under this Act.

"Sec. 504. **Determination of qualified candidates.**

"(1) The Commission shall monitor the appropriate activities and legal requirements in each state for the determination of candidates who qualify for each state's general elections for federal office, and

"(2) Upon the completion of such legal requirements in each state, the Commission shall certify, within ten days, the candidates who qualify to receive federal subsidy for their general election campaign, as determined by Sec. 502(13) of this Act.

"(3) No individual who was a qualified candidate in a primary election for federal office and who was defeated in that primary election shall be eligible to receive subsidy payments for a general election campaign.

"(4) The Commission shall promulgate appropriate regulations pertaining to the filing of petitions for qualification for general election campaign subsidy payments.

"Sec. 505. Payments from the Fund.

"(1) Each candidate who qualifies for general election campaign subsidy payments under Sec. 502(13) and Sec. 504 of this Title, shall, upon the date of such certification, file with the Commission—

"(a) sworn evidence satisfactory to the Commission that he has qualified under applicable state laws for election to the office which he seeks;

"(b) a sworn statement in which he agrees to maintain and make available to the Commission such books and records and any other information as the Commission may require;

"(c) in a form prescribed by the Commission, a sworn statement of all campaign expenditures made prior to the date of such statement and all contributions received which have been used for campaign expenditures or which remain available for campaign expenditures. The statement shall include the date, amount and nature of each expenditure, the date and amount of each contribution, and the name, address, occupation and principal place of business of each contributor. The statement shall also list each amount of the personal resources of the candidate which have been used for campaign expenditures, or which remain available for campaign expenditures, the date such amount was made available, and the source of the amount.

"(2) Upon being certified as a qualified candidate for federal office in a general election, the Commission shall transfer to the bank account designated by the candidate the amount to which he is entitled from the fund for payment of his campaign expenses. The amount to which a candidate is entitled shall be transfered in approximately equal installments paid not less frequently than semi-monthly during the period beginning on the date the candidate is notified of his eligibility and ending on the date of the election. Amounts determined under this Title shall be transferred not later than twenty days after the date of certification.

"(3) The Commission may, upon demonstration of reasonable need by the candidate under procedures prescribed by the Commission, make transfers to the candidate campaign account in uneven amounts as requested by the candidate, except that in no instances shall transfers be made in installments less than two in number.

"(4) Prior to the receipt of the first, and any subsequent transfers from the fund to the candidates campaign account, the candidate shall furnish the Commission with a report of all contributions received, all amounts made available from the candidates personal resources to the campaign, and all expenditures made since the last report. The report shall include the same information regarding each such expenditure, contribution and amount made available from the personal resources of the candidate as is required in the initial filing with the Commission under Sec. 505(1)(c).

"(5) If only one candidate qualifies for a general election subsidy, the remaining eligible candidate shall receive in the manner prescribed by Sec. 504 (1), (2), (3) and (4) no more than one-third of the subsidy to which he is entitled under this Act.

"(6) Whenever the Commission determines that amounts remaining in, or available to, the fund will be, or may expected to be, inadequate to meet obligations arising under this Act, it shall—

(a) advise the Congress of its determination, together with a recommendation concerning the amount which must be added to the fund in order to meet fully the obligations during the current fiscal year; and

(b) notify by degistered or certified mail each candidate currently entitled to receive transfers from the fund that the amount which is available to him under the provisions of this title may be reduced.

"(7) Whenever the Commission makes a determination under Sec. 504 (6), it shall reduce the amount available for transfer to the campaign account of each candidate by a percentage equal to the percentage obtained by dividing (a) the total amount to which all qualified candidates are entitled (less any amounts already transferred to such candidates) into (b) the amount remaining in the fund at the time of such determination. The Commission shall notify such candidates by registered mail of the reduced amounts available to them. If, as a result of a reduction under this section in the amount available to any candidate, transfers have been made from the fund to the candidate's account in excess of the amount to which he is entitled, such candidate shall be liable for repayment to the fund of the excess under such procedures as the Commission may prescribe by regulation. If it is necessary to reduce the amount transferable out of the fund to a campaign account, the Commission shall increase the amounts which that candidate may receive as contributions under this Act by an equal amount to the amount of the reduction.

"SEC. 506. Determination of Amounts Transferable.

"(1) The amount which is to be transferred out of the Fund to the Campaign Account of a qualified candidate for federal office is the greater of:

(a) 10 cents multipled by the voting age population of the state or district from which he seeks election, or

(b) (i) $175,000, if the office sought is that of Senator, Delegate Resident Commissioner, or Representative from a State which is entitled to only one Representative, or

(ii) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Represenative.

"(2) No amount made available for the payment of campaign expenses incurred in connection with a primary election campaign. may be expended for any debt incurred in conection with a primary election campaign.

"(3) (a) For the purpose of paragraph (b)—

(A) the term 'price index' means the average over a calendar year of the Consumer Price Index (all items—United States city average) compiled monthly by the Bureau of Labor Statistics.

(B) The term 'base period' means the year 1972

(b) At the beginning of each calendar year (commencing in 1976) as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Attorney General and publish in the Federal Register the per centum difference between the price index for the twelve months preceding the beginning of each calendar year and the price index for the base period. Each amount determined under this Section shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

"(4) In the case of a candidate in a primary election who wins such primary and who qualifies for payments from the fund, any funds remaining in the campaign account raised in the primary election campaign under the limitations established in the Federal Elections Campaign Act Amendments of 1973 shall be counted against the total subsidy which that candidate may receive as a qualified candidate and shall be subtracted from the total amount that candidate is eligible to receive prior to transfer of any funds.

"(5) The total amount which may be transferred to a campaign account of a qualified candidate for federal office in a general election shall be reduced by an amount equal to the total contributions received by that candidate as reported to the Commission, except that at no time shall any candidate accept contributions which, in the aggregate, exceed one-third of the total subsidy to which that candidate would be eligible.

"(6) Deductions made under paragraphs (4) and (5) shall be made from the payment immediately following the reported contributions or primary funds remaining. Should any determination of deduction be made after the final subsidy payment is made, the candidate shall be liable for repayment to the fund of an equal amount to the contribution received.

"SEC. 507. This Title shall take effect on January 1, 1976."

ANALYSIS OF NELSON AMENDMENT TO S. 372

SEC. 1. Reinstates the provision that the "transfer of funds between political committees" is to be included in the definition of a "contribution." This provision was eliminated in the Rules Committee bill.

SEC. 2. Provides that the term "identification" includes not only the names and address, but also the "occupation and principal place of business." The latter was removed by the Rules Committee bill.

SEC. 3. Eliminates the section requiring the reporting of all late contributions over $5,000. Inasmuch as all contributions over $500 would be prohibited by this amendment, this section is unnecessary.

SEC. 4. This is another technical amendment corresponding to Title III.

SEC. 5. Provides that the limitation on expenditures of personal resources of the candidates (President—$50,000, Senate—$35,000, House—$25,000) is applied to the whole campaign period, not to just each election individually.

SEC. 6. Reinstates the provision which prohibits government contracting labor unions and corporations from establishing political action committees. The Rules Committee bill eliminates the provision from the law.

SEC. 7. Makes the following changes in expenditure limitations: The greater of: *Primary elections* (and Presidential primary candidates in each state)

Rules Committee Bill, 15 cents per eligible voter;

Nelson Amendment, 5 cents per eligible voter; or

Rules Committee Bill, $175,000 for Senate, or House candidates from single district states;

Nelson Amendment, $100,000 for Senate, or House candidates from single district states; or

Rules Committee Bill, $90,000 for House candidates in multi-district states;

Nelson Amendment, $75,000 for House candidates in multi-district states;

General Elections (and state expenditures for general election Presidential candidates) The greater of—

Rules Committee Bill, 20 cents per eligible voter;

Nelson Amendment, 10 cents per eligible voter; or

Rules Committee Bill, $175,000 for Senate, or House candidates in single-district states;

Nelson Amendment, same; or

Rules Committee Bill, $90,000 for House candidates in multi-district states;

Nelson Amendment, $90,000 for House candidates in multi-district states.

SEC. 8. Contributions by all individuals and organizations are limited to $500 to any one candidate, and an aggregate total of $2,500.

SEC. 9. The Presidential check-off is increased from $1 per person and $2 per couple to $2 per person and $4 per couple.

SEC. 10. The Presidential subsidy program is made automatic, not "as provided by appropriation act."

SEC. 11. The tax credit for political contributions is increased from $12.50 per person and $25.00 per couple to $25.00 per person and $50.00 per couple.

SEC. 12. This section establishes the Congressional Election Campaign Fund, as Title V of the Federal Election Campaign Act of 1971. It contains the following provisions:

501. Title.

502. Definitions. Along with the automatic definitions needed to clarify the act, Section 502 defines a candidate qualified to receive subsidies in a general election as follows:

"The term 'qualified candidate' means an individual who is a general election candidate of a political party which has met one of the following conditions . . . :

(a) Received at least 10% of the total vote in the last general election for that particular office, or

(b) received at least 10% of the vote cast in the most recent primary election for that office, or

(c) (i) files petitions containing at least 5% of the voting age population in the state or district,

(ii) which petitions contain signatures from each county, in the case of multi-county districts, equal to the percentages which is obtained by dividing the total voting age population of the state or district into the total voting age population of each county."

Section (c) (ii) means that within each district, each county must contribute its proportionate share of the petition signatures comparable to its proportionate share of the district's population.

503. A fund is established with authorizations of $200,000,000. The fund is administered by the Federal Election Commission.

504. Procedures are established for the Commission to certify candidates as qualifying for the general election subsidy. No individual who was a candidate in a primary and lost that primary is eligible to receive subsidy through other qualification means. The Commission is authorized to establish regulations regarding the petitions to be filed.

505. Candidates are required, upon certification that they qualify for subsidy, to file statements of qualification, or agreement to abide by the rules of the Commission, and of all campaign contributions and expenditures to that date.

Subsidy payments are made in two-week periods, and candidates are required to file financial statements with contributions and expenditures detailed prior to each subsidy payment.

If only one candidate qualifies for a subsidy, he shall receive only one-third of the amount which he would otherwise be eligible to receive.

If the Commission determines that not enough money remains in the account to pay the subsidies, it shall report that fact to Congress with a recommendation for additional appropriations, and notify each candidate of such a lack of appropriate funds. Should additional funds not be forthcoming from Congress, each candidate's subsidy allotment would be reduced proportionately.

506. Subsidy amounts payable to each candidate are the greater of:

(a) 10¢ per eligible voter;

(b) $175,000 for Senate, or Representative from a single-district state;

(c) $90,000 for Representatives from multi-district states.

There is an automatic price index raise computed at the beginning of each year, based upon the change from the current year to the base year, which is 1972.

Any funds remaining in the account of a primary election candidate who qualifies for a general election subsidy are to be subtracted from the total subsidy a candidate would receive.

Candidates may receive up to one-third of their subsidy in contributions, but all contributions are to be deducted from the subsidy allocations.

Attached is a state-by-state and Presidential calculations of the total subsidies, contribution allowances, and total cost of the Congressional Election Campaign Act.

ANALYSIS OF NELSON CAMPAIGN SUBSIDY PLAN

State	Estimated voting population	State maximum primary expenditures	State general election subsidy	State general election fund-raising limit (estimated)
Alabama	2,274,000	$113,750	$227,500	$76,000
Alaska [1]	200,000	100,000	175,000	58,300
Arizona	1,239,000	100,000	175,000	58,300
Arkansas	1,310,000	100,000	175,000	58,300
California	13,945,000	697,250	1,394,500	464,800
Colorado	1,558,000	100,000	175,000	58,300
Connecticut	2,106,000	105,300	210,600	70,000
Delaware [1]	371,000	100,000	175,000	58,300
District of Columbia [1]	518,000	100,000	175,000	58,300
Florida	5,105,000	255,250	510,500	170,000
Georgia	3,104,000	155,200	310,400	103,000
Hawaii	531,000	100,000	175,000	58,300
Idaho	479,000	100,000	175,000	58,300
Illinois	7,542,000	377,100	754,200	251,400
Indiana	3,509,000	175,450	350,900	116,900
Iowa	1,909,000	100,000	190,900	63,500
Kansas	1,541,000	100,000	175,000	58,300
Kentucky	2,206,000	110,300	220,600	73,500
Louisiana	2,339,000	116,950	233,900	77,960
Maine	666,000	100,000	175,000	58,300
Maryland	2,688,000	134,400	268,800	89,600
Massachusetts	3,955,000	197,750	395,500	131,800
Michigan	5,874,000	293,700	587,400	195,800
Minnesota	2,560,000	128,000	256,000	85,330
Mississippi	1,403,000	100,000	175,000	58,300
Missouri	3,266,000	163,300	326,000	108,800
Montana	460,000	$100,000	$175,000	$58,300
Nebraska	1,022,000	100,000	175,000	58,300
Nevada [1]	348,000	100,000	175,000	58,300
New Hampshire	521,000	100,000	175,000	58,300
New Jersey	5,025,000	$251,250	$502,500	$167,500
New Mexico	636,000	100,000	175,000	58,300
New York	12,773,000	638,650	1,277,300	425,760
North Carolina	3,463,000	173,150	346,300	115,400
North Dakota [1]	402,000	100,000	175,000	58,300
Ohio	7,185,000	359,250	718,500	239,500
Oklahoma	1,812,000	100,000	181,200	60,400
Oregon	1,500,000	100,000	175,000	58,300
Pennsylvania	8,161,000	408,050	816,100	272,030
Rhode Island	673,000	100,000	175,000	58,300
South Carolina	1,706,000	100,000	175,000	58,300
South Dakota	434,000	100,000	175,000	58,300
Tennessee	2,713,000	135,650	271,300	90,400
Texas	7,681,000	384,050	768,100	256,000
Utah	689,000	100,000	175,000	58,300
Vermont [1]	309,000	100,000	175,000	58,300
Virginia	3,197,000	259,850	319,700	106,560
Washington	2,371,000	168,550	237,100	79,030
West Virginia	1,182,000	100,000	175,000	58,300
Wisconsin	2,955,000	147,750	295,500	98,500
Wyoming [1]	225,000	100,000	175,000	58,300

[1] In States with only 1 Congressional District, their primary spending limitation is $100,000, and their general election subsidy is $175,000.

Note: In States with more than 1 Congressional District, the primary spending limitation is $75,000. In those States, the general election subsidy is $90,000.

Cost Analysis of Nelson Amendment to S. 372.

Senate races (2 in every state in six years)—2 candidates in each race—$65,384,000; 4 candidates in each race—$30,768,000.

House races (3 in every state in six years)—2 candidates in each race—$98,076,000; 4 candidates in each race—$196,152,000.

Total Cost for a six year period—2 candidates in every race—$164,152,000; 4 candidates in every race—$328,304,000.

Cost per capita eligible voters (based on 140,000,000):

Cost per capita with 2 candidates in each race—$1.00/6 years, 16¢/per year.

Cost per capita with 4 candidates in each race—$2.30/6 years, 38¢/per year.

NOTE.—The above figures are determined on the basis of candidates accepting the subsidy and not raising any funds. Any funds raised by qualified candidates in general elections are, according to the amendment, deducted from the total subsidy received.

AMENDMENT NO. 382

(Ordered to be printed, and to lie on the table.)

CAMPAIGN FINANCING—A RETREAT FROM FULL DISCLOSURE

Mr. MONDALE. Mr. President, the Senate Rules Committee, in reporting the Federal Elections Campaign Act Amendments of 1973 (S. 372) last week, made what I believe to be an unfortunate retreat from the full disclosure requirements of the 1971 Act.

The committee struck out the requirement that the occupation and place of business of those persons contributing more than $100 be reported and publicly disclosed.

I am today submitting an amendment to S. 372 restoring this requirement for contributions of over $100. The text of the amendment appears at the end of my remarks.

The committee also struck out the requirement that occupation and place of business be recorded for contributions of between $10 and $100. This part of the committee's action is reasonable, since contributions of $100 or less need not be reported, and my amendment would leave this modification intact.

The value of full disclosure for large contributions of over $100 far outweighs any moderate inconvenience candidates and contributors may suffer.

The news is filled every day with stories of corporations and their employees being pressured into contributing to campaigns. It has been alleged, for example, that the Nixon administration compiled a list of corporations in trouble with the Government, seeking favors from it, or regulated by it. These corporations were then assigned quotas of $50,000 or $100,000 to be contributed to the Nixon campaign. In most cases, apparently, these quotas were filled by contributions from corporate executives, but in at least one case—that of American Airlines—corporate funds were used in violation of the law. Even when executives make contributions with their own funds, it sometimes happens that they are reimbursed with bonuses, salary increases, or padded expense accounts—which the corporation can then deduct on its tax return.

The atmosphere of this activity has been well described by American Airlines board chairman George A. Spater. In acknowledging American's illegal $55,000 contribution to the Nixon campaign, Spater said that:

> Under the existing laws, a large part of the money raised from the business community for political purposes is given in fear of what would happen if it were not given.

In light of all of this, it is difficult to contend that the occupation and place of business of those making large contributions is irrelevant and need not be reported. If 20 executives of a large corporation all contribute on the same day to a candidate, is not their corporate affiliation important? If a corporation gets a favorable Government decision in a controversial case, is not the public entitled to know how much its executives contributed and to whom?

The editorial reaction to the Rules Committee's action has been uniformly negative.

The Wall Street Journal on July 11 said:

> We now learn that the Senate Rules Committee has moved to water down [the disclosure requirements of the 1971 Act], a prospect could scarcely seem less appropriate. If anything, the requirements should be strengthened.

On the same day, the New York Times called the committee action "astounding," saying:

> Undoubtedly, the existing requirement is now somewhat burdensome to campaign treasurers, but once it is widely known, it will become a matter of simple routine. It is no more onerous for the contributor than providing identification to get a check cashed. If addresses and occupations are not listed, the reports on contributions become much less meaningful.

An editorial in the July 13 Washington Post referred to the weakening of the disclosure laws as "astonishing" in the light of the American Airlines revelations.

Mr. President, I ask that the text of the amendment I am introducing be printed in the RECORD at this point, along with the editorials I have referred to and newspaper articles entitled "Inquiries Into Nixon's Reelection Funds Turning Up a Pattern of High Pressure"—New York Times, July 15, 1973—and "Disclosure, Aim of First Election Reform, May Be Lost in Second"—Washington Post, July 14, 1973:

There being no objection, the amendment and material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 382

On page 16, after line 18, insert the following new paragraph:

(3) Section 302(c) of such Act is further amended by striking the semi-colon at the end of paragraph (2) and inserting "and, if a person's contributions aggregate more than $100, the account shall include occupation, and the principal place of business (if any);".

On page 21, line 1, strike out "paragraphs (2), (9), and (10)" and insert in lieu thereof "paragraphs (9) and (10)".

On page 21, strike out lines 4 through 8, and insert in lieu thereof:

(2) Subsection (b)(5) of such section 304 is amended by striking out "lender and endorsers" and inserting in lieu thereof "lender, endorsers, and guarantors".

[From the Wall Street Journal, July 11, 1973]

SHAKEDOWNS AND BRIBES

American Airlines is getting high marks for candor for admitting that corporate funds were used in a $75,000 kitty that went to the Committee to Re-Elect the President. We think the marks would be more deserved were it not for suggestions by "insiders" that the airline was about to be found out anyway.

Common Cause, a "citizens lobby" that focuses a great deal of its non-partisan attention on miscreants of a Republican persuasion, was hot on the trail of a donor list that might have disclosed the gifts. Also, the incident should not pass without someone noting that it would have been perfectly possible for Americans to rebuff this bit of illegality in the first place. Still, we do rate the airline's candor far higher than that of the re-election committee and its minions, who claim no knowledge of anything unseemly about the contribution.

We find it hard to know where to begin a discussion of this wearying subject, except to say that we have little sympathy for anyone whose political machinations carry him beyond the law or propriety. Corporate executives seek to make a case that politicians blackmail them into illegal campaign contributions. The politicans insist that they are constantly being offered slightly soiled dollars that they can refuse only on penalty of losing an election. Civil servants insist that they would remain pure and free of involvement in these political games were it not for the pressures applied to them by the political operators higher up.

Let us take the first claim. American Chairman George A. Spater insists that the political fund-raising system in this country is beset with evils. Some other businessmen claim that it falls little short of extortion; the fund-raisers, so we are told, have a habit of suggesting that helping a politician win can mean favors that are important to corporations.

We have very little trouble imagining such goings on. Government's power to bestow favors or inflict injury on corporations has been growing steadily for years as succeeding Congresses have expanded a web of federal regulation and supervision in matters ranging from the worthiness of auto bumpers to the fidelity of televised glimpses of breakfast food. There are all sorts of ways for bureaucrats to cause businessmen problems.

But we doubt that many businessmen would come to real disaster from refusing improper advances from political fund-raisers. Put another way, we suspect that there is about a 50–50 split on which side makes the first pass.

In our system, no politician—even the President—is powerful enough to fix every federal problem a donor might encounter. The fact that civil servants and even some political appointees don't always bow to pressures from higher up has been one of the more reassuring disclosures from the Watergate hearings. We suspect that those big donors who expect a quid pro quo often get less than their money's worth.

But civil servants are not entirely blame-proof either. Some, we suspect, play their own political games, helping or attacking the friends of this or that elective official to achieve ends of their own. We have no illusions, particularly after Watergate, that the inner workings of politics are simple or the methods and motivations of politicians anything less than complex.

We also have no simple solutions. But the recent revelations do encourage us to think that maybe the tough disclosure requirements in the Federal Election Campaign Act of 1971 have proved to be more effective than anyone imagined they would be. We now learn that the Senate Rules Committee has moved to water down those requirements, a prospect that could scarcely seem less appropriate. If anything, the requirements should be strengthened.

In the final analysis, tough disclosure requirements probably serve as well as anything as a remedy. What we may be seeing now is not so much the ills of the system but the 1971 remedy finally at work to purge some of the ills. Let's stick with it awhile and see.

[From the New York Times, July 11, 1973]

LOOKING BACKWARD

Like a major earthquake, the Watergate scandal has transformed the political scene. But politicians, like other human beings, prefer to look backward and cling to old ways. The members of the Senate Rules Committee, in particular, seem unable to comprehend how much the ground has moved under their feet.

While tens of millions of Americans have sat transfixed for hours before their television screens listening to testimony about secret political contributions, attaché cases stuffed with hundred dollar bills, and dirty political tricks financed by cash from concealed sources, the Rules Committee has quietly been meeting to draft amendments to weaken the Federal Election Campaign Act.

When that law went into effect on April 7 last year, it established reporting procedures which were intended to take some of the mystery out of how political campaigns are financed. Each new revelation about the financing of last year's campaign—mostly before April 7—has brought fresh proof of the need to strengthen rather than weaken the new law and extend the reforms.

American Airlines, for example, has disclosed to Watergate Special Prosecutor Archibald Cox that it contributed $55,000 in corporate funds to the Nixon campaign. Such contributions are illegal under the new law, as indeed they were under the old but unenforced Corrupt Practices Act of 1925. Eastern Airlines has announced that it refused a similar solicitation from the Nixon campaign, but Mr. Cox reportedly has in his possession a secret list compiled for the White House of other corporations which did contribute.

A stockholder's suit against International Telephone and Telegraph Corporation has brought to public attention a memorandum from a former I.T.T. official detailing how he was pressured by his corporate superiors to contribute to Lyndon B. Johnson's Vice-Presidential campaign in 1968 with the understanding that he would be reimbursed out of corporate funds if he filed a fake expense account. Political observers agree that I.T.T. is hardly unique in this devious practice.

* * * Investigation is also under way into the contributions to the Nixon campaign by the Teamsters Union after a Presidential commutation unexpectedly released former Teamsters president James R. Hoffa from prison.

Against the background of these developments it is astounding that the Senate Rules Committee has the temerity to report out two amendments to the new law which would narrow its scope. The first would remove the requirement that each contributor list his name, address and occupation. Instead, only his name would be reported. Undoubtedly, the existing requirement is now somewhat burdensome to campaign treasurers, but once it is widely known, it will become a matter of simple routine. It is no more onerous for the contributor than providing identification to get a check cashed. If addresses and occupations are not listed, the reports on contributions become much less meaningful.

Another amendment would repeal a section of the law forbidding any individual member of a corporation or union which holds a Government contract—as some unions do under the manpower training program—from making donations to a company-controlled political fund. These funds too easily become vehicles for some of the abuses which the Watergate investigations are bringing into view.

There is need for a strengthening of the existing law and combining it with provision for new sources of campaign financing from public funds. The objective is to achieve a balance between many modest contributions from individual citizens and limited public subsidy for some campaign expenses. There is no need for a return to the mystification and corruption-breeding practices permitted by the old weak law.

Members of the Senate who think they can slip back to the bad old days are misreading the public's post-Watergate sophistication. They run the risk of being retired from public life altogether.

[From the Washington Post, July 13, 1973]

AMERICAN AIRLINES SETS A GOOD EXAMPLE

Washington has been buzzing for at least a year with stories about how the incredible amounts of money for the re-election of Richard Nixon were raised. The titillation quotient of the stories rose with each additional effort on the part of Mr. Nixon's re-election apparatus to shield its donor lists from public view and with each enticing behind-the-scenes glimpse the public was able to get. There have been reports about the money laundered through Mexico, the money in Bernard Barker's bank account, the milk money which began to flow just before the milk price support decision was reversed in favor of the dairymen, the Vesco cash in a briefcase and much more. Some of these reports remain murkier than others. But now comes American Airlines' disclosures and, in one blinding flash, we can see a lot more clearly just how this sleazy business really works.

Special Watergate Prosecutor Archibald Cox announced last Friday that American Airlines had voluntarily disclosed that it had made an illegal cash contribution of $55,000 from corporate funds to the effort to re-elect Mr. Nixon. George A. Spater, the airline's board chairman, elaborated in a formal statement which revealed that company officials, acting at his direction, had delivered a total of $75,000 in cash to the Nixon effort, but that $20,000 of that sum came from "non-corporate sources."

Mr. Spater's rather poignant statement tells us a great deal in general about the confluence of money, politics and American business, and quite a lot in particular about how those forces came into play in the Nixon campaign in 1972. Mr. Spater said, "I was solicited by Mr. Herbert Kalmbach, who said that we were among those from whom $100,000 was expected . . . I knew Mr. Kalmbach to be both the President's personal counsel and counsel for our major competitor. I concluded that a substantial response was called for."

Well, we'd say that is roughneck politics by any standard. Now it is true that Mr. Kalmbach issued his own statement indicating that he had neither cash nor a corporate contribution on his mind when he made the solicitation, and the Finance Committee to Re-elect the President rushed into print denying that it had "used extortion methods" to raise campaign funds. What they couldn't deny was that Kalmbach had two roles—one as Mr. Nixon's personal lawyer and the other as attorney for United Airlines. Nor can it be denied that $100,000 is a whale of a lot of money and that American Airlines is in an industry regulated by the government. More to the point, American then had a merger pending before the government and its chief competitor, United, was opposing it. The proposal was later turned down, so both of Mr. Kalmbach's clients won while American lost.

In any case, Mr. Spater and Mr. Kalmbach are grownups, Mr. Kalmbach knew whom he represented—the President *and* United Airlines—and he knew that Mr. Spater also knew. Mr. Spater had available to him sufficient legal talent to find out what campaign contributions from corporate funds were illegal, even if he didn't know it when he talked to Mr. Kalmbach. So, there was a need not only for a "substantial response" but for one that would be difficult to trace. Thus, according to reports, there was a Lebanese "laundering" operation for American's $55,000 so that the money would come through as untraceable cash. Moreover, it was all delivered before the more stringent campaign financing law went into effect in April 1972.

It just happens that the records for some of those pre-April contributions have been lost or destroyed by Mr. Nixon's finance committee. Maurice Stans, Mr. Nixon's finance chairman, testified before the Ervin committee that there was nothing illegal about destroying those records. He justified his insistence on maintaining the confidentiality of his donor lists on grounds of high principle. "The committee's position all along," he said, "was that non-disclosure created no advantage to it, but that privacy was a right of the contributor which the committee could not properly waive. The right to live without undue intrusion is a long-respected benefit of the American system."

But it turns out that, indeed, there was an "advantage to it"—the advantage of a shelter behind which to hide violations by the donor, and possibly by the committee, of the criminal code of the United States. Mr. Spater gave a little different and, under the circumstances, probably a more candid view of the operation of the system. "Under the existing laws," he said, "a large part of the money raised from the business community for political purposes is given in fear of what would happen if it were not given."

So there was fear and there was secrecy and, with fellows like Mr. Kalmbach and Mr. Stans stalking through the corporate jungle, not even a wink or a nod was needed to get the message across. Mr. Cox says he hopes that other corporations will follow Americans' admirable example and make the tough, but in our view, correct decision to disclose voluntarily any illegal contributions. And so do we. Perhaps if enough corporations come forward and confess, before the government has to go through the arduous and costly process of investigating and prosecuting them, the public will see this shakedown for what it is and bring pressure for tough and sweeping reform of the campaign financing process.

Incredibly, the Senate Rules Committee hasn't yet gotten that message; it recently reported out two amendments to the campaign financing law which would weaken, rather than strengthen, it. More voluntary disclosure by corporations and greater public revulsion might well reverse this astonishing move by the Rules Committee and encourage a trend the other way—toward real reform. The big donors would benefit from this. But the general public would benefit far more. For the result would be cleaner, better government. If we've learned nothing else in this Watergate year, we've learned that dirty money, no matter how thoroughly it's laundered, makes for dirty politics and corrupt government.

[From the New York Times, July 15, 1973]

INQUIRES INTO NIXON'S REELECTION FUNDS TURNING UP A PATTERN OF HIGH PRESSURE

(By Ben A. Franklin)

WASHINGTON, July 14.—Government investigators say that they are finding a pattern of high pressure solicitation from very large contributions to President Nivon's 1972 reelection campaign among executives in the country's most powerful corporations.

The investigators, representing both the Senate Watergate committee and the special Watergate prosecution team under Archibald Cox, have been following the footsteps of Maurice H. Stans and Herbert W. Kalmbach, Mr. Nixon's principal fund-raisers in last year's record harvest of some $55-million for the Republican Presidential campaign. As a result, the investigators say, they believe that the aggressive Nixon money drive may have led to sometimes winked-at violations of Federal election law.

Thus far, the investigators have declined to discuss in detail new cases that Mr. Cox hinted broadly last week may duplicate or go beyond the illegal contribution acknowledged on July 6 by American Airlines.

Both the Senate committee and the Cox office are working from a list of about 2,000 actual, though still unreported and undisclosed, executive gifts to the Nixon campaign that totaled some $19-million.

In offering American Airlines possible mitigation of prosecution for confessing its illegal act—and in obvious reference to other names on the secret list—Mr. Cox warned other unnamed company officers last week that "whether they come forward or not, we intend to get to the bottom of illegal funding proctices."

$100,000 CALLED STANDARD

Without benefit of any names on the secret list, The New York Times this week conducted a telephone survey of the heads of scores of major corporations. The survey disclosed that the standard Stans-Kalmbach request among business leaders was for $100,000 in individual executive contributions—contributions that would be legal.

Last week, American Airlines, which had a proposed merger with Western Airlines pending before the Government, admitted that it had given the Nixon campaign an illegal corporate donation of $55,000 after, it said, Mr. Kalmbach had requested $100,000. The merger was later rejected.

In the wake of American's admission, The New York Times conducted its survey. The survey disclosed that the Stans-Kalmbach requests were customarily for $100,000 but sometimes the request was for 1 per cent of the executives' combined net worth, a figure that could have been higher than $100,000.

The Times' list of companies that the two men were said to have visited—a sample of about 100 corporations—indicated that they had solicited most, if not all, of the prime defense contractors. The list also indicated that they had called on other companies in trouble with or awaiting rulings from government agencies and boards controlled by the Administration.

American Airlines said its illegal gift had been made "in fear of what would happen if it were not given."

Many of Mr. Stans' and Mr. Kalmbach's corporate hosts said they had been invited to use a loophole in the Federal law, since closed, that allowed them to avoid public disclosure of their contributions.

The Times' survey brought responses from those who had given large amounts and those who had resisted the reported appeals.

CALIFORNIA VISIT RECALLED

Fred L. Hartley, president of the Union Oil Company, said, for example, that Mr. Stans and Leonard K. Firestone, the chief Nixon fund-raiser in California, had requested $100,000 from him during a call at his office in February, 1972.

Mr. Hartley, whose company was involved in the notable oil spill crisis in 1969 in the Santa Barbara Channel, said this week that he had declined the request "of such great magnitude" on his personal fortune and that he had told his callers he would make public disclosure of his contributions, if any.

Mr. Hartley also recalled that he had felt obliged to remind his visitors that it was "illegal for a corporation to give a campaign contribution in a Federal election." He later gave $3,000, duly reported. He has since tried and failed to get it back.

Government investigators believe the nationwide Stans-Kalmbach solicitations were guided in part by a secret list of such companies. But the approach does not appear to have worked well in every case.

For example, officials of the Greyhound-Armour Corporation, which had been seeking but had failed to get authority to operate wider buses on interstate highways, said this week that they were visited by Mr. Stans last year.

A spokesman said that Greyhound's president, R. F. Shaffer, had "complained so bitterly about the treatment Greyhound was getting from the Nixon Administration that Stans never had a chance to ask for money."

Mr. Stans was also said to have called mistakenly on some Democrats. John T. Connor, chairman of the Allied Chemical Corporation and a Democrat then supporting the nomination of Senator Hubert H. Humphrey, said he was telephoned by Mr. Stans early in 1972 and asked for a collection among Allied executives that would meet a $50,000 quota.

Mr. Connor said that Mr. Stans had suggested that the Allied gift should be made early—before the new Federal disclosure requirement covering contributions took effect last April. Mr. Conner refused. Later he gave $1,125 to Democrats for Nixon. Allied, like other chemical concerns, had had confrontations with the Government on pollution issues.

More often, the Republican approach seems to have worked extremely well.

Early in 1972, for example, Mr. Stans was said to have solicited in California an "old friend," Charles B. Thornton, the head of Litton Industries, a conglomerate under strong official crticism for delivery delays and cost overruns on defense contracts.

The request was for $100,000—"or it may have been more," a spokesman for Mr. Thornton said this week. Mr. Stans "did not indicate whether he wanted cash or a check," the spokesman added.

Mr. Thornton was said to have told Mr. Stans "there was no way" Litton executives could be asked to pool such a large contribution because Litton stock had declined in price "placing the fellows in a bind on their [company stock] options."

"Nonetheless, Mr. Thornton said that personal contributions by himself and Roy L. Ash, then Litton president and now director of the Office of Management and Budget in the White House, had probably brought total Litton executives gifts close to $100,000.

LOCKHEED FALLS SHORT

The Lockheed Corporation chairman, Daniel Haughton, said Mr. Stans had also sought $100,000 from him, to be collected from executives of his company, which also was in difficulty with cost overruns on defense contracts. Mr. Haughton said some funds had been raised but the total "did not approach $100,000."

Through a spokesman for the Olin Mathieson Chemical Corporation, Keith Funston, the former chairman, said that his "good friend," Mr. Stans, had been invited late last February to visit with Olin executives at a game shoot at the company's private hunting preserve in southern Illinois, but that Mr. Stans had not solicited funds. John M. Olin, the honorary chairman, later gave the Nixon campaign $101,500.

Mr. Stans reportedly visited Eli Lilly & Company executives last June 26, along with other business leaders in Indianapolis. A Lilly spokesman said that Mr. Stans had not mentioned a company quota but had "suggested a reasonable contribution from responsible executives equivalent to 1 per cent of net worth."

Lynn A. Townsend, the board chairman of the Chrysler Corporation, said that Mr. Kalmbach called on him in Detroit in August, 1971, and asked for an amount he cannot now recall.

Representatives of the American Motors Corporation, a smaller company, were later solicited for $100,000. This was at a time when the auto industry—and particularly Chrysler—was preparing an aggressive campaign to relax or delay the Federal air pollution standards on engine exhaust emissions required by the Clean Air Act of 1970, which the Nixon Administration also had opposed.

Mr. Townsend said that individual Chrysler executives, pooling their gifts through a company-administered fund, had given the Nixon campaign an undisclosed amount. The emission standards were later postponed for a year.

$110,000 FROM FORDS

The Ford Motor Company said it had not been approached by any Republican fundraiser. But Mr. Kalmbach was identified in a statement released on Thursday by Pierre V. Heftler, the personal lawyer of Henry Ford 2d, as the solicitor early in 1972 of an unreported $50,000 given to the Nixon campaign directly from Mr. Ford. Other members of the Ford family as individuals, later raised the family total to more than $110,000.

According to a spokesman at General Motors, both Mr. Stans and Mr. Kalmbach were "among others" who got in touch with G.M. executives for contributions in late 1971. "We don't know who contributed or how much," a spokesman said.

Carl Gerstacher, chairman of the Dow Chemical Company, said Mr. Stans had called on him for a contribution of "$100,000 or more." He said he had given $2,000.

Last July 27, Mr. Stans, who had resigned five months earlier as the Nixon Administration's Secretary of Commerce met at the White House with executives of the carpet industry from the South who were anxious about the scope of Federal fabric flammability standards then pending in the department.

Within two weeks, two Georgia carpet executives, Martin B. Seretean of Coronet Industries and Eugene T. Barwick of Barwick Industries, Inc., began a flow of Nixon contributions that eventually appeared in campaign disclosure reports as $108,000 from Mr. Seretean and $100,000 from Mr. Barwick.

The flammability standards, now under the jurisdiction of the independent Consumer Protection Agency, still have not been set.

SAMPLES FROM LIST

The list of other company executives who told The Times this week they had been approached by Mr. Stans or Mr. Kalmbach—in person or by phone, telegram and letter—included those of International Business Machines, W. R. Grace, Inc., the Firestone Tire and Rubber Company, the General Electric Company, the General Dynamics Corporation, the Georgia-Pacific Corporation and the American Express Company.

Spokesmen for about 60 other companies said their executives had had no known contact with Mr. Stans or Mr. Kalmbach.

The Times survey thus reached only a sample of corporations that have been involved with the Government under the Nixon Administration, as defendants or supplicants.

The recently subpoenaed but still secret list of 2,000 contributors being used by the Government investigators has been dubbed "Rose Mary's baby" because it was compiled by Rose Mary Woods, Mr. Nixon's personal secretary. Its existence had been denied until recently by Republican finance officials.

One corporate official interviewed this week said that further admissions almost certainly would take time. The spokesman, who asked not to be named, said that it had taken American Airlines about three weeks of hectic board meetings, executive arguments, legal consultations and negotiations with the Government prosecutors to complete its admission and make it public. He speculated, accordingly, that other companies might not begin to come forward until they, too, had completed similar "in-house gyrations" by about the end of the month.

[From the Washington Post, July 14, 1973]

Disclosure Aim of First Election Reform, May Be Lost in Second

(By Morton Mintz)

Congress waited almost 50 years before undertaking to reform an election-campaign financing statute that was, as the late President Lyndon B. Johnson once put it, more loophole than law. The overriding purpose of the reform law Congress finally enacted was disclosure, mainly, to enable voters to find out who gave how much to whom.

The reform law has been in effect only six months and has been tested in only one election. Even so, Congress is in the process of enacting still tighter controls. The reason, of course, is the Watergate scandal.

Ironically, however, the reform bill, reported this week by the Senate Rules Committee, puts the disclosure requirement of the existing law in severe jeopardy.

The 1971 law provides that committees must report not only the name of each contributor of more than $100, but also his occupation and principal place of business.

Members of the Rules Committee, along with numerous other legislators, say the requirement is onerous. Senate minority whip Robert P. Griffin of Michigan, for example, told fellow members of the Rules Committee that the requirement inconvenienced his campaign staff and annoyed contributors. Other committee members agreed and voted unanimously on June 27 to delete the requirement.

Not that the committee view is universally held. Griffin's Democratic opponent, Michigan Attorney General Frank P. Kelley, didn't find the requirement a serious burden, one of Kelley's campaign aides said. Neither did Sen. Walter F. Mondale (D–Minn.), who had to send out only an occasional postcard or make an occasional phone call to identify a contributor.

Last year, even with the benefit of a listing of occupations and business addresses, newsmen found it difficult to provide voters with useful disclosures about contributors when it was most useful—before election day.

For one thing, the disclosure requirement was sometimes violated. The solution suggested by Common Cause, the citizens' lobby, is to require candidates to return contributions that remain inadequately identified five days after receipt.

Other difficulties were more basic. To take a major case in point, the Democratic and Republican presidential campaign organizations confused and delayed processing of their financing reports by the General Accounting Office and reporters simply by creating multitudes of paper committees. The purpose of this was to divide up large contributions so that the donors could avoid gift taxes.

Nor were these the only obstacles. Campaign committees commonly listed a husband's contribution separately from his wife's, or from his son's, say, impeding efforts to assemble contributions in illuminating patterns. The same was true of gifts from executives in a single business enterprise.

One gift may be listed to "John T. Doe" and another to "J. T. Doe." A clerk may innocently make a typing error, so that the donor you suspect to be Doe appears as say, "John T. Woe."

Especially on Capitol Hill, where Congress provided newsmen with personnel but cramped, inadequate facilities, an additional problem was created by numerous special-interest committees. These concealed their gifts to specific congressional candidates by "laundering" them in pass-through Democratic and Republican congressional committees. The candidate's report then usually would list the pass-through committees rather than the original donor.

The overall result was that the identification provided under the 1971 law, even if highly useful to anyone wanting to fully identify contributors, was nonetheless insufficient for all but well-known contributors, such as W. Clement Stone, who was President Nixon's most generous donor, and Stewart Mott, who was Sen. George McGovern's. Many new donors in 1972 were listed for large sums—more than $200,000 each, in many cases—but were unknowns.

To be useful, all of the checking and digging must be completed in time to permit reasonably full disclosure to the voters before they go to the polls. If the law is changed as proposed by the Senate Rules Committee, the job will become more difficult, if not impossible, according to reporters who checked out contributors last year.

The committee did create a loophole. It approved a proposed independent elections commission empowered to adopt disclosure rules. Conceivably, the commission would do administratively what the committee would not do legislatively.

Meanwhile, other proposals to simplify the disclosure process have been made by, among others, Secretary of the Senate Francis R. Valeo. In testimony to the Rules Committee, he suggested, for example, that contributors be required to disclose a family relationship. Another idea, suggested by Sen. Lowell P. Weicker (R-Conn.) and Valeo, is to list a contributor's Social Security number.

Mondale, in any event, has decided not to take a chance on what the independent commission may do and has announced that he will seek to restore the existing disclosure requirement when the committee bill comes up on the Senate floor, probably late this month.

FAIR LABOR STANDARDS AMENDMENTS OF 1973—AMENDMENTS

AMENDMENT NO. 370

(Ordered to be printed, and to lie on the table.)

Mr. PACKWOOD. Mr. President, I am sending to the desk an amendment which I intend to offer to S. 1861, dealing with the discretionary treatment of news delivery boys delivering nondaily newspapers. I ask unanimous consent to have the text of my amendment printed at this point in the Record, along with a brief explanation of its purpose.

There being no objection, the amendment and explanation were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 370

On page 22, between lines 11 and 12, insert the following:

"(d) Section 13(d) of such Act is amended to read as follows:

"'The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills or other type of advertising material) published by any weekly, semiweekly, or daily newspaper.'"

PACKWOOD NEWSBOY AMENDMENT

Newspaper delivery boys are presently exempt from the child labor restrictions of the Fair Labor Standards Act. Under regulations issued by the Labor Department, however, those newsboys who deliver daily papers are treated differently from those who deliver newspapers one or perhaps two days a week and deliver supplements (in the form of circulars or advertising materials published by the newspapers) on another day or days. Under the present regulations, only newsboys delivering daily newspapers are considered eligible for the child labor exemption. Supplements "inserted or stuffed in" the daily paper are permissible. However, newsboys who deliver newspapers on other than a daily basis and deliver other printed materials, such as shopping guides, handbills or advertising materials on non-newspaper days, lose the exemption.

The Packwood amendment would eliminate this inequity by specifically extending the child labor exemption (but not the newsboy minimum wage and overtime exemption) to newsboys delivering shopping news advertising and other supplements published by the newspaper, on non-newspaper days.

This amendment was accepted without controversy by the Senate Labor Committee last year, and was included in the bill passed by the Senate.

AMENDMENTS NO. 371

(Ordered to be printed, and to lie on the table.)

Mr. CANNON submitted an amendment, intended to be proposed by him, to the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

AMENDMENT NO. 372

(Ordered to be printed, and to lie on the table.)

Mr. BUCKLEY submitted amendments, intended to be proposed by him, to the Senate bill 1861, supra.

AMENDMENT NO. 374

(Ordered to be printed, and to lie on the table.)

Mr. SCOTT of Virginia submitted amendments, intended to be proposed by him, to Senate bill 1861, supra.

AMENDMENT NO. 376

(Ordered to be printed, and to lie on the table.)

Mr. TOWER submitted amendments, intended to be proposed by him, to Senate bill 1861, supra.

AMENDMENT NO. 377

(Ordered to be printed, and to lie on the table.)

Mr. FANNIN submitted an amendment, intended to be proposed by him, to Senate bill 1861, supra.

PROCLAMATION OF "HOBBY MONTH"—AMENDMENT

AMENDMENT NO. 373

(Ordered to be printed, and referred to the Committee on the Judiciary.)

Mr. JAVITS submitted an amendment, intended to be proposed by him, to the joint resolution (S.J. Res. 46) to authorize and request the President to proclaim April 1973 as "Hobby Month."

WAR POWERS ACT—AMENDMENT

AMENDMENT NO. 375

(Ordered to be printed, and to lie on the table.)

Mr. DOMINICK submitted an amendment, intended to be proposed by him, to the bill (S. 440) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

PENSION REFORM—AMENDMENTS

AMENDMENTS NOS. 378 AND 379

(Ordered to be printed, and to lie on the table.)

Mr. MONDALE submitted two amendments, intended to be proposed by him, to the bill (S. 4) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans.

AMENDMENTS NOS. 380 AND 381

(Ordered to be printed, and referred to the Committee on Finance.)

Mr. MONDALE submitted two amendments, intended to be proposed by him, to the bill (H.R. 4200) to amend section 122 of the Internal Revenue Code of 1954.

PENSION REFORM AMENDMENTS

Mr. MONDALE. Mr. President, no question before the Senate is more important than protection of the pension right of the 30 million American men and women who now participate in private pension and profit sharing plans.

Major legislation to prevent abuses—S. 4, the Retirement Income Security for Employees Act—has been reported to the Senate by the Committee on Labor and Public Welfare. Similar legislation is now under consideration by the Committee on Finance. As a member of both committees, I am confident that the Senate will act in the near future to provide a strong set of minimum standards, and Federal insurance in case of plan termination, to protect pension plan participants.

I am deeply concerned, however, by an important problem not addressed by the pending proposals.

Fewer than 2 percent of elderly widows receive any benefits from private pension or profit-sharing plans, even though roughly half of our working force is covered by such plans. Yet, surviving widows of workingmen comprise one of the most impoverished and financially helpless groups in our society. Median income for elderly women living alone in this country is less than half the median income for younger women living alone. And in 1972, the median income of women over 65 years of age was only $1,899 a year.

The Treasury Department reports that approximately 23 million persons participate in fixed-benefit pension plans. The large majority of these participants—88 percent according to census information—will have a dependent spouse as they approach retirement age. I believe we must do all we can to assure that these elderly women have the financial security that allows them personal dignity in their old age.

Some studies have shown that many private pension plans provide some sort of death benefit for the dependents of deceased participants. The information about the nature and magnitude of these benefits is woefully inadequate. But we also know that many plans now do not provide any benefits to the surviving spouse of a deceased participant. This means that the death of a participant totally deprives the spouse of all support from the pension. Yet, many pension participants wrongly believe that they are building for the future security of their families.

I am submitting today an amendment which will require all plans covered by the pending pension legislation to offer participants an option—a choice—to elect a benefit which would continue income payments to a spouse after the death of the participant.

Plan participants will be able to choose to receive a smaller primary benefit—the one he would ordinarily receive from the pension—in exchange for continued benefits for the surviving spouse.

My amendment provides that the reduction in the primary benefit would be computed according to actuarial methods approved by the Secretary of Labor.

This amendment will not significantly increase cost to employers, because the surviving spouse's benefit will be compensated for by an actuarially computed reduction in the basic benefit.

In order to allow sufficient time for implementation, this amendment would become effective 3 years after the bill is approved.

The bill reported by the Labor and Public Welfare Committee, S. 4, would require a survivor's option—if it exists—to be affirmatively rejected by the participant after full explanation to him of the choice. That requirement guarantees that—if my amendment is adopted—every participant in a plan covered by the legislation would automatically earn a survivor's benefit unless he or she specifically rejected it.

I would also like to call to the attention of the Senate a second amendment which I am offering today to the pension legislation. This amendment prohibits discrimination based on race, color, national origin, or sex by any plan covered by the Act.

Millions of Americans are dependent on private pension plans for security in their retirement. We cannot permit even the possibility that benefits may be denied them on grounds which violate the most fundamental American principles of justice.

Mr. President, I ask unanimous consent that the text of my amendments be printed at this point in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 378

At the appropriate place in the bill insert the following:

SURVIVING SPOUSE'S BENEFITS

SEC. —. (a) Pursuant to regulations which shall be established by the Secretary of Labor, every pension plan subject to this Act which provides for benefits for any participant shall provide that—

(1) such participant may (in addition to any other election under such plan) elect a surviving spouse's annuity, and (2) if the participant makes such election, the participant's benefit may be reduced, and such surviving spouse's annuity shall be computed, in accordance with reasonable actuarial methods approved by the Secretary.

Nothing in this section shall require that a pension plan provide an election for a surviving spouse's annuity to be paid for a period in excess of the period to which the participant would have been entitled had he lived.

(b) Regulations established pursuant to subsection (a) of this section shall become effective three years following the date of enactment of this Act.

AMENDMENT No. 379

At the appropriate place in the bill insert the following:

NONDISCRIMINATION

SEC. —. No person shall be subjected to discrimination based upon race, color, national origin or sex under any plan subject to the jurisdiction of this Act.

AMENDMENT No. 380

At the appropriate place in the Act insert the following:

SURVIVING SPOUSE'S BENEFITS

SEC. . (a) Pursuant to regulations which shall be established by the Secretary of Labor, every pension plan subject to this Act which provides for benefits for any participant shall provide that—

(1) such participant may (in addition to any other election under such plan) elect a surviving spouse's annuity, and (2) if the participant makes such election, the participant's benefit may be reduced, and such surviving spouse's annuity shall be computed, in accordance with reasonable actuarial methods approved by the Secretary.

Nothing in this section shall require that a pension plan provide an election for a surviving spouse's annuity to be paid for a period in excess of the period to which the participant would have been entitled had he lived.

(b) Regulations established pursuant to subsection (a) of this section shall become effective three years following the date of enactment of this Act.

AMENDMENT No. 381

At the appropriate place in the Act insert the following:

NONDISCRIMINATION

SEC. . No person shall be subjected to discrimination based upon race, color, national origin or sex under any plan subject to the jurisdiction of this Act.

AMENDMENT OF WILDERNESS ACT—AMENDMENT

AMENDMENT NO. 383

(Ordered to be printed, and referred to the Committee on Interior and Insular Affairs.)

Mr. METCALF submitted an amendment, intended to be proposed by him, to the bill (S. 1010) to amend the Wilderness Act (78 Stat. 890) to preserve the unique and irreplaceable ecological values of wilderness areas by providing for the termination of the application of mining and mineral leasing laws to, and of continuous mineral prospecting activities in, such areas, and for other purposes.

ANNOUNCEMENT OF HEARINGS BY THE DISTRICT OF COLUMBIA COMMITTEE

Mr. EAGLETON. Mr. President, on behalf of the District of Columbia Committee, I wish to announce that at 9:30 a.m. on Wednesday, July 25, 1973, a public hearing will be held on the reappointment of Orman W. Ketcham and Edmond T. Daly to be associate judges of the Superior Court of the District of Columbia.

Persons wishing to testify on these nominations should contact Andrew Manatos, associate staff director of the District of Columbia Committee, 6222 Dirksen Senate Office Building.

NOTICE OF HEARINGS ON THE SALE OF GRAIN TO THE SOVIET UNION

Mr. JACKSON. Mr. President, on Friday, July 20, the Senate Permanent Subcommittee on Investigations will begin 3 days of hearings on the massive sale of grain to the Soviet Union.

The hearings will be held in room 3302 of the New Senate Office Building and will begin at 10 a.m. Additional hearings will be held Monday and Tuesday, July 23 and 24.

These are the first hearings the subcommittee has held on the grain sale since the staff began investigating this subject in March.

Witnesses Friday will be Clarence Palmby and Bernard Steinweg.

Mr. Palmby, as Assistant Secretary of the Department of Agriculture for International Affairs and Commodity Programs, was the senior Agriculture official negotiating an agreement for the Soviet Union to buy grain in the United States through private grain companies. Before this agreement was signed, Mr. Palmby left the Government to become an officer in the Continental Grain Corp. After the agreement was signed, the Soviet Government purchased massive amounts of grain in the United States and the Continental Grain Corp. was the major seller of this grain to the Soviet Union.

Mr. Steinweg is the executive vice president of the Continental Grain Corp.

The impact of the grain deal has not been a favorable one for average Americans. If anything, it has worked a hardship on them.

The grain sale has meant that Americans pay more money for the food they buy. Bread, meat, eggs, and many more farm products cost considerably more today because of the grain sale.

The sale of the grain to the Russians seriously depleted the supply here at home. The price went up. Then the price of everything related to grain went up—and that includes almost all the basic foods Americans eat.

In addition, American taxpayers paid almost $400 million in direct subsidies in connection with the grain sale. These subsidies, in effect, enabled the Russians to buy the grain at a lower price while the grain companies were paid top dollar. The American taxpayer got stuck with the difference.

The Russians did not even have to put up their own cash to buy the grain. They negotiated the purchase on 3-year credit terms our Government provided them.

Finally, there were many problems created in the American shipping industry by the grain sale. Many of these problems still exist—at considerable expense and major inconvenience to Americans.

For example, many of our ports—particularly those in our Gulf States like Houston, Galveston, and New Orleans—have been bogged down by the heavy traffic resulting from the grain deal. Shipping lines in the Mississippi Valley have been overloaded by the grain sale. All this has had a detrimental effect on the ability of our freight industry and our ports to move important commodities. It is impossible for anyone to measure the ill effects these transportation slowdowns have had on our own commerce.

Meanwhile, the price of food in America goes up while the shortage of grain gets worse.

The subcommittee will begin this series of public hearings by hearing from the U.S. Department of Agriculture and other Federal and business officials. We will want to know what kind of long-term planning went into the sale to the Russians.

We will be asking questions like these: Did our Government realize that by selling enormous quantities of grain and related farm products to the Russians the price of bread and meat and eggs and almost all other foods would increase significantly in America?

Did the Government realize that food shortages would result from the grain sale?

Did the Government examine the transportation capabilities of this Nation and seek to coordinate shipment of grain to ports with a minimum of confusion and drain on other shipping requirements in the Nation?

There is considerable evidence that the grain sale was a good idea but that it was poorly planned and ineptly executed. We want to find out why it went wrong and why average American families are paying for it with higher food prices.

Is there the proper arm's length distance between the grain dealers of America and the Federal Government? The subcommittee will want to carefully examine possible conflicts of interest and the appearance of improprieties in the close affinity that exists between the U.S. Department of Agriculture and the big grain companies.

We want to examine very closely the conduct of the large grain companies whose desire for secrecy may have resulted in questionable actions taken not only by them but by the Department of Agriculture.

Mr. President, the staff of the Permanent Subcommittee on Investigations has assembled a chronology of events surrounding the grain sale. It is, to my knowledge, the most thorough chronology on this subject which has yet been made public. It shows that Agriculture had many early warning signs on the potential Soviet crop failure. But USDA failed to release this information to the public. The chronology indicates that the large grain companies struck their deals with the Russians and then had almost a month of secrecy to quickly cover their short positions. It reveals a complete lack of planning with regard to the subsidy by Agriculture and points to a failure to take the subsidy into consideration in its negotiations.

Mr. President, this is a detailed, thorough chronology. But it also has some gaps. We intend to fill in these gaps with testimony from witnesses at our hearings. Only then will we have a complete picture of a sale once touted to be the greatest agricultural sale in history but which has worked serious hardship on the American people.

I ask unanimous consent that the chronology be printed in the RECORD at this point.

There being no objection, the chronology was ordered to be printed in the RECORD, as follows:

THE RUSSIAN GRAIN DEAL BACKGROUND

The USSR is one of the world's major producers of grain, especially wheat. At the same time it is also one of the world's major consumers of grain. The Soviet Union frequently, in the past, has had wheat and other grains available for export but in the last few years the Soviet Union has been moving in the direction of becoming an importer of grains. The 1971 grain crop in the Soviet Union was one of the largest in its history; in spite of this, however, the Soviet Union went out in the world market and purchased substantial amounts of grain including wheat from Canada and feed grains from the United States.

A new Five Year Plan was announced in 1971 by the Soviets which called the sizable grain production goals based on both increases in grain acreage and grain production. The specific grain production goal for the 1972–73 season was more modest; 190 million gross tons of grain production which was under the Five Year Plan objective but still above the 1971–72 production of 181 million gross tons.

The Soviet Union wheat and grain belt covers a vast area but it is all sensitive to weather conditions, much more so than the grain belt in the United States, because practically all the grain producing areas in the Soviet Union lie north of the latitude for Minnesota.

The season begins in the fall with the planting of winter grain. Snow cover is necessary during the winter months to protect the seed from freezing in the ground due to the bitter cold winters. The planting of spring grains begins in April. Winter kill of the crops planted in the fall is by no means uncommon. It can be coped with by fertilization of the winter crops in the spring or by ripping the crops out of the ground and replanting new spring crops in their place.

There has been considerable difficulty in obtaining accurate and timely information as to the status of Russian crops or harvest or estimates as to future production. The United States has two qualified agricultural attaches assigned to the American Embassy in Moscow. They are subject to severe travel restrictions, being required to obtain prior approval for any travel beyond 50 miles from Moscow and travel approval is frequently ignored or disapproved.[1] The Soviet Union publishes only a limited amount of agricultural statistics, nothing like the vast quantity of information which flows out of our Department of Agriculture.

The United States agricultural experts were alert as the 1972/73 season approached for indications as to the future course of Soviet grain policy including whether the importation of grain would continue or increase and whether this might afford the United States an opportunity to increase its grain exports and to reduce the large quantities of grain stored in the USA.[2]

CHRONOLOGY

January 31, 1972: Henry A. Kissinger wrote to the Secretaries of State, Commerce and Agriculture as follows:

"One of the possible areas for increased trade with Russia relates to agricultural products and CCC outlets. Agriculture should take the lead in a new public discussion. If negotiations with the Soviet should take place, the United States team should be headed by a representative of the Secretary of Agriculture."

February 9, 1972: Reports from the Agricultural Attaché in Moscow indicated that the winter grain crop had suffered significant damage. The damage was caused by a lack of adequate snow cover on the fields and very low temperatures resulting in winter kill. Doubt was already expressed that the Soviet's annual grain production goals for 1972–73 could be achieved. An opinion was expressed that the Soviets may be back in the market to buy sizeable quantities of feed grains later in the year.

February 10, 1972: Significant damage to winter grain confirmed by Izvestia of February 9 which said that necessary resowing of affected winter grain in the Ukraine would be larger than usual.

February 14, 1972: Henry A. Kissinger wrote to the Secretaries of State, Agriculture and Commerce as follows:

"The Department of Agriculture in cooperation with other interested agencies should take the lead in developing for the President's consideration of position and a negotiating scenario for handling the issue of grain sales to the USSR. This should include a recommendation on how the private transactions of the US grain sales would be related to Government actions including the US opening a CCC credit line and a Soviet commitment to draw on it. In cooperation with the Department of State, Agriculture should explore with the USSR the time and modalities of beginning such negotiations as soon as possible. This should be submitted to the President by no later than February 28."

February 1972: The Soviet Union contracted with the Canadian Wheat Board to purchase 3.5 million tons of wheat from Canada plus an option to purchase an additional 1.5 million tons to be shipped before the end of 1973. The Department of Agriculture has no information available as to the price the Soviet Union paid for this wheat.

February 18, 1972: Agriculture attache reports from Moscow that more foreign grain purchases before the end of the year may be needed to protect livestock feeding plans.

February 22, 1972: The State Department advised Agriculture that the subject of US grain sales to the Soviet Union had been raised with Soviet officials and particularly the availability of US credit. The Soviets indicated discussion on this subject would be set up later.

February 23, 1972: Clarence Palmby, Assistant Secretary of Agriculture, sent a memorandum to Secretary Butz saying that representatives of the Foreign Agricultural Service, Agriculture, met with Soviet officials in Washington this date. The Soviets indicated that Secretary Butz would be given an invitation to visit the Soviet Union. Mention was also made by Soviets of the need for White House action on credit for USSR purchases of agricultural items. Palmby called Secretary Butz's attention to the White House directive.

February 23, 1972: State Department advised Agriculture that Soviet officials indicated that the Soviet Union may need to import grain if shortfall materializes because of winter damage. Also stated that Soviets seriously preparing for such a contingency.

February 25, 1972: A memo was sent on this date from Secretary Butz to Henry A. Kissinger and Peter M. Flanigan. The memo was prepared by C. G. Pulvemacher, General Sales Manager, Export Marketing Service, and approved by C. D. Palmby. The following is the negotiating scenario contained in this memo:

"1. Agriculture recommends working toward an understanding whereby CCC would agree to approve an adequate credit line for export financing of privately owned grain stocks under announced terms of its CCC export sales program. In exchange, the Soviet Union would commit itself to buy agreed quantities of US grain for shipment within specified periods. Purchases would be made through private trade channels as they were in the recent feed grain transaction.

"2. Credit would be extended through the US exporter to Exportkhleb (Soviet State Trading Company) for periods up to three years. Irrevocable letters of credit from foreign or US bank would be required to assure repayment to CCC. . . .

"3. If agreement can be reached with the Soviet Union, Agriculture proposes to formalize it in a memo of understanding. . . .

"4. Sales against the credit can only be consummated by commercial trade firms if the understanding with the maritime (union) works whereby they agree to load vessels of any flag remains in effect."

March 6, 1972: Clarence D. Palmby wrote to James T. Lynn, Under Secretary of Commerce. The memo forwards an estimate of the volume of commodity exports to the USSR for the next five years, the probable coastal pattern of shipments, the amount of credit that might be involved and the impact on US agriculture.

"The current consensus among commodity experts is that the USSR imports of feed grains would again be about 5 million metric tons in the year ahead and would increase by about 10% annually over a five-year period. With competitive terms regarding both price and other supply arrangements the US could supply 80% of USSR requirements. With respect to wheat which the USSR can use either for feed or to release its domestic wheat for feed, a similar consensus would point toward further imports of about 4 million metric tons annually remaining stable at this level for the next five years. Although the US has not sold wheat to the USSR since 1963–64, a competitive offer should permit the US to supply about ⅓ of this continuing USSR wheat imports."

Table of estimated U.S. exports to U.S.S.R.

(Million tons)

Feed grains:	
1972–73	4.0
1973–74	4.4
1974–75	4.8
1975–76	5.2
1976–77	5.6

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[1] Similar travel restrictions are applicable to Soviet officials in the United States but they are not enforced.

[2] "The Wheat Situation", February 1972 a quarterly publication of the Department of Agriculture, showed that as of January 1, 1972, wheat stocks on hand in the United States amounted to 1.5 billion bushels, approximately 700 million privately owned and 850 million controlled by the Commodity Credit Corporation.

Wheat:

1972–73	1.3
1973–74	1.3
1974–75	1.3
1975–76	1.3
1976–77	1.3

Not only were the estimated figures far below the actual exports but Agriculture's emphasis on the need for the United States to be competitive proved erroneous since the United States, in effect controlled the world market.

March 23, 1972: Secretary of Agriculture Butz accepted an invitation to visit the Soviet Union and it was agreed that his visit would be combined with the visit of a US team headed by Clarence Palmby who were to visit Moscow to negotiate and conclude a long-term agreement on the sale of grain on credit terms.

March 31, 1972: Information was received from the Agricultural Attaché in Moscow that 10 million hectares (25 million acres) of winter wheat had been killed in the fields in the Soviet Union. It was further reported that conditions for spring planting were not favorable due to low soil moisture.

Undated April, 1972: A memo from Secretary Butz to the President stated that our objective will be to negotiate an understanding whereby the CCC would provide credit for the export financing of grains and the Soviet Union would in turn commit itself to buy agreed quantities of grain and perhaps other commodities from the US through private trade channels for shipment within specified periods. This agreement would be formalized in a Memo of Understanding.

April 8, 1972 to April 14, 1972: Secretary of Agriculture Butz; Assistant Secretary Clarence D. Palmby; Clifford G. Pulvemacher, General Sales Manager, Export Marketing Service, Department of Agriculture; and a group of grain experts traveled to Moscow to discuss the possible expansion of Soviet grain purchases. The discussion centered around credit terms. No agreement was reached.

Secretary Butz wrote a report of this trip which appeared in "Foreign Agriculture" May 8, 1972. In this report Secretary Butz referred to the winter kill of wheat, and the lack of moisture in Russian soil. The following is quoted:

"It might well be that we will be negotiating for annual sales in excess of $200 million worth of coarse grains and soybeans. This is based upon our best calculations—and frank discussions with General Secretary Brezhnev and Minister Matskevich—of the amount of grain Russia will need to boost her meat supply enough to keep the commitment made to the Russian people."

April 11, 1972: Secretary Butz and party of U.S.D.A. officials were given a two day tour of Crimea. The State Department advised Agriculture that "The American party noticed a significant amount of grain winter kill and a general lack of moisture in the Crimean sector. The Russians said it had been dry last fall and that there had been little snow cover during the winter in the southern Ukraine. Even Moscow had little snow observers noted. Whether this condition extended throughout the grainbelt of the entire Ukraine was not certain. If the droughty conditions do prevail generally throughout the Russian grain district, it will have an important bearing on the grain talks starting Tuesday morning."

April 17, 1972: Secretary Butz wrote to the President transmitting a summary report of the visit to Moscow in April. The report was prepared by Secretary Butz and Assistant Secretary Clarence D. Palmby.

"Clarence Palmby was in the USSR as head of the United States negotiating team on possible grain sales following preliminary discussions on such sales after visit of Secretary Stans to USSR last December and after visit of Minister Matskevich to the United States" . . .

While expressing interest in purchasing substantial volume of grain annually on suitable terms from the United States over the next few years, the Russians said that the CCC credit terms were unsatisfactory.

"The Russians acknowledged their need for grain and frankly stated that purchases from the United States in the level of $250 million did not scare them."

An offer was made to them for a credit line for 3 years with a maximum exposure of $500 million, which if used by the Soviets, would help make it possible for them to develop a more efficient livestock and poultry industry. It was recommended that the offer remain open if they agree to a multi-year supply arrangement for grain.

April 24–25, 1972: The Agricultural Attaché in Moscow submitted reports which warned of the possibility of a spring drought in Russia. The weather in Moscow itself was unseasonably warm and dry and there was indirect evidence available of warm, dry conditions generally in existence throughout the crop areas. This situation was not favorable to the normal germination and development of spring grains.

May 1972: "The Wheat Situation," an official publication of the Economic Research Service, U.S. Department of Agriculture, issued four times a year, predicted in the May 1972 edition that wheat production for 1972/73 would be substantial and unless exports were increased sharply, there would be a big increase in the carryover of wheat stocks on hand at the end of the 1972/73 marketing year.

May 9, 1972: Clarence Palmby wrote a memo to Secretary Butz, Secretary Peterson of Commerce, Henry A. Kissinger and Peter M. Flanigan. The memo is a report of Palmby's meeting on this date in Washington, D.C. with the USSR representatives on proposed grain sales. The discussions lasted 1¼ hours and concerned the Soviets' desire for more favorable credit terms. The following is quoted:

"There were brief references to the possibility of (1) purchase under the barter program (2) direct purchases from US Government stocks (3) some relationship between natural gas and grain."

Mr. Palmby informed the Soviet officials that he could not conceive of the barter program as being either useful or applicable and that whether purchases involved grain from Government or private stocks, the channel of purchasing would be through private commercial exporting firms.

May 18, 1972: Clarence D. Palmby wrote a memo to Secretary Butz, attaching a Memorandum of Understanding taken to Moscow, but never shown to the Soviets which it was noted was also supplied to Mr. Flanigan at his request. The draft Memorandum of Understanding is almost identical with the Sales Agreement later signed by the Soviets. The basic elements: an agreement by the Soviet Union to buy a minimum of $750 million worth of grain within three years with the credit terms proposed remaining unchanged, in the formal agreement.

May 26, 1972: The Summit Conference in Moscow was under way. The State Department advised Agriculture the Soviets agreed to purchase U.S. grain during 1972 for cash approximately in the amount of $130 million but were unwilling to commit themselves further, saying that in 1973 they would be willing to negotiate again on the basis of their needs.

On the same date a communication was sent from Moscow to Agriculture for the attention of Clarence Palmby asking urgently for an estimate of savings in all costs to the U.S. Treasury for each one hundred million dollars in grain sales to the Soviet Union.

May 27, 1972: The first reply from Agriculture to the request for the estimate of savings was non-responsive. On May 27, 1972 Peter Flanigan in Moscow now requested that information as to the annual budgetary savings resulting from contract per million tons per year of grain purchased for cash in a one-year contract; a two-year contract and a three-year contract to be furnished as soon as possible.

May 27, 1972: The reply to the second request was drafted by Andrew Mair, Deputy Assistant Secretary of Agriculture. (Clarence Palmby by this time had resigned from Agriculture and was in process of accepting employment by Continental Grain Company.)

"Annual budgetary saving resulting from contract per million tons per year of grain purchased for cash:

A. For one year contract. Savings of 5.8 million dollars assuming savings would be for storage costs only.

B. For two year contract. Savings of $40 million assuming set aside payments to farmers for approximately 40 million bushels would not be required.

C. For three year contract. Savings of $40 million assumption same as B above."

It should be noted that in this reply, the Agriculture Department gave no consideration to the fact that if the grain sold was wheat, the budgetary savings quoted would be offset by the subsidy payments made to the exporting companies.

In fact, the investigation disclosed that at no time between January 1972, when this sales project began, and August 1972 did the Agriculture Department or any other department or agency make any estimate or analysis of the possible effect of such grain sales on export subsidies; on the domestic prices of commodities; on transportation and shipping facilities; or on the budget of the Agriculture Department or the Commodity Credit Corporation.

June 16, 1972: The Agricultural Attache in Moscow in reporting observations of crops in travel in the Ukraine and Moldavia reported spring grain appeared to be fair to poor over the entire route.

June 26, 1972: The Agricultural Attache in Moscow reported that he estimated ⅓ of the winter grain acreage or 27 million acres was killed by winter weather conditions.

June 27, 1972: The Agriculture Department was advised by the State Department that the Soviet Minister of Foreign Trade Kuzmin who was in Washington for talks on Soviet/USA trade was being joined by specialists in grain purchasing, maritime shipping and financing: N. A. Belousov, Chairman of Exportkhleb, the Soviet Government Trading Agency; L. N. Kalitchenko, Director of the Grain Department of Exportkhelb; and Pavel I. Sakun, Chief of Administration, Ministry of Foreign Trade left Moscow June 28, arrived same date in New York City and proceeded to Washington, D.C. It was commented that this seemed to indicate the Soviets had a new proposal on grain purchases following the discussions held with Soviet officials by Rogers and Peter M. Flanigan in Moscow in May 1972.

June 28, 1972: A request was made by the Foreign Agricultural Service to the Agricultural Attache in Moscow for immediate information as to the best current guess for 1972 Soviets grain area and production by individual grains, wheat broken down by winter and spring.

June 29, 1972: A group of Soviet officials began meetings at the Department of Commerce with representatives from Commerce and Carroll G. Brunthaver, Assistant Secretary of Agriculture (Palmby's successor) and Claude Coffman, Deputy General Counsel, Agriculture. The Soviets began the meetings by indicating they were ready to accept generally the terms which had been set out by Palmby in the draft Memo of Understanding, and which had been discussed with them at the Summit.

At the same time, another group of Soviets based first in the Madison Hotel in Washington, D.C. and later in the Hilton Hotel in New York City began negotiations with a number of grain companies which led to the execution of a series of contracts for massive grain sales.

July 5, 1972: The Soviet traders in New York City executed contracts with the Continental Grain Company to buy 4.5 million tons of corn, 3,650,000 tons of hard winter wheat and 350,000 tons of soft white wheat.

July 5 1972: The Agricultural Attache in Moscow submitted his estimate of Soviet grain production. The 1971–72 Soviet production amounted to 181 million tons and the Soviet goal for 1972 was 191 million tons. However, the Agricultural Attache's estimate for 1972/73 taking into account the winter kill and the spring and summer unfavorable weather was 171 million tons, 10 million tons below the 1971/72 total. Further, in wheat production, the estimate was a downfall of 20 million tons below 1971/72.

Because of the magnitude of the predicted downfall, this report was received with skepticism within Agriculture.

July 8, 1972: The President announced the negotiation of an agreement between the Soviet Union and the United States whereby the Soviet Union agreed to buy a minimum of $750 mililon in U.S. grain within the next 3 years. The United States in turn agreed to supply credit. The credit was to be made available through the funds of the Commodity Credit Corporation and not more than $500 million was to be outstanding at any one time. By this time the Soviets had already executed contracts for almost 4 million tons of wheat and 3.6 million tons of corn when this announcement was made.

Nothing in the press release or in subsequent press releases or public statements by Agriculture officials indicated that Russia was interested in wheat. In fact, public statements stressed the possibility of Russian purchases of feed grain (corn, etc.) rather than wheat although Russia does use wheat extensively as a feed grain.

July 10, 1972: The Soviet traders in New York City executed contracts for 1 million tons of wheat from the Cargill Corporation and 750,000 tons of wheat from Louis Dreyfus Corporation.

July 11, 1972: The Soviet traders bought 500,000 tons of durum wheat from Continental and 600,000 tons of wheat from Cook Industries.

July 14, 1972: Special Highlight #73 was published by the Economic Research Service of Agriculture concerning Soviet Grain Crop prospects. The following is quoted:

"Foodgrain production, primarily wheat, is estimated to be roughly 20 million tons smaller than the 113 million harvested in 1971. Grain production in the Soviet Union was planned to reach 190 million tons this year. At present, a harvest of almost 10% less than this planned level seems most probable for 1972."

July 20, 1972: The Soviet traders bought another 1,000,000 tons of wheat from Continental and 200,000 tons of wheat from Garnac. Following this, they returned to the Soviet Union.

July 27, 1972: State advised Agriculture that visas were issued to Belousov, Kalitchenko and Sakun with their purpose being "to negotiate with Continental Grain."

August 1, 1972: The Soviet traders returned to the USA late in July and bought on this date 1,750,000 tons of corn plus substantial quantities of barley and grain sorghum. They also bought 1.5 million tons of wheat from Dreyfus.

August 2, 1972: The Soviet traders bought 350,000 tons of wheat from Garnac and 600,000 tons from Bunge.

August 4, 1972: The Soviet Traders bought 300,000 tons of wheat and 1 million tons of soybeans from Cook.

August 1972: "The Wheat Situation" is an official publication of the Economic Research Service, USDA, issued in February, May, August and November. The August, 1972 edition forecast that the U.S. production for the year would be the third largest on record. It refers to the recent Soviet agreement on credit for grain purchases and says that sizeable wheat purchases may be expected.

The following excerpts are quoted: "Wheat Exports—could rise around a fourth (258 million bushels) from the 632 million bushels in 1971/72 in light of Soviet purchasers, continued strong demand in Far Eastern Markets and lower exportable supplies in Argentina and Australia."

". . . the quantity and kind of grain are not specified in the (Soviet) agreement. There are indications that Soviet wheat purchases could easily exceed the 65 million bushels of 1963/64."

Note that when this was published the Soviets had already purchased nearly 400 million bushels of wheat in the USA.

August 9, 1972: The Soviet Traders bought 1 million tons of wheat from Cargill.

August 9, 1972: The Office of Management and Budget, Executive Office of the President, has the responsibility to exercise budgetary control over the funds of the Department of Agriculture and the Commodity Credit Corporation. OMB noted that within three days between August 3 and August 7, the closing price of Kansas City wheat futures rose 28c. Inquiry disclosed this was attributed to the Russian wheat purchases which by now were receiving widespread publicity in the press. OMB recognized that this price rise had an effect on the export subsidy which in turn affected the Agriculture budget. In addition to the budgetary problem, OMB felt that the continuance of the subsidy was contributing to domestic inflation by causing an increase in the domestic price of wheat with collateral effects on other commodities. OMB began on this date, a series of meetings attended by Carroll Brunthaver, Assistant Secretary of Agriculture (who had replaced Clarence Palmby); representatives of OMB; the Council of Economic Advisors; the Council on International Economic Policy and others. The purpose of these meetings was to estimate the effect of the export subsidy on the budget and on domestic prices with a view toward eliminating it.

August 25, 1972: A meeting was held this date to finalize action to terminate the subsidy. The six major grain companies had been notified by phone that a change was forthcoming in the subsidy program. All grain exporting companies were given similar notice.

Agriculture indicated at the meeting that a conference was set with the grain exporters that day. The grain companies would be asked to furnish information as to the volume of their foreign sales and how much had been covered by domestic purchases. Following this a period of grace would be given to allow the exporters to register their past sales and then the subsidy would be terminated.

The meeting with the grain companies was opened by Assistant Secretary Brunthaver following the OMB meeting with a statement that the volume of export sales had caused fear of a shortage of certain type of wheat in the USA. He asked that the grain companies voluntarily disclose their sales commitments. Company representatives responded they would comply provided the information was kept confidential. The press representatives refused to leave the meeting and the meeting broke up without action.

Later that day, the Agriculture Department announced the 2 tier subsidy system. The system was apparently prepared that date by Charles Pence, Export Marketing Service and approved by Assistant Secretary Brunthaver. It provided for a one week period of grace for the grain companies to register their past sales. It also provided for the increase of the subsidy from 38¢ to 47¢ per bushel for export sales registered during this period of grace.

The system also provided that the grain companies were permitted to continue the registration for subsidy for anticipated future sales which had not been consummated but at lower subsidy rates.

NOTICE ON INDEFINITE POSTPONEMENT OF HEARINGS ON S. 1483 AND S. 1774

Mr. INOUYE. Mr. President, it is with great disappointment that I must announce the indefinite postponement of hearings on S. 1483 and S. 1774, which were originally scheduled for July 20, 23, and 27.

The reason for the postponement is quite simple—the executive departments and independent agencies, with some exceptions, have been unable to provide the Commerce Committee, which has jurisdiction over these bills, with adequate witnesses and spokesmen.

The bills which would have been considered were drafted to assist the American business community in its exporting efforts. S. 1483 conforms to suggestions made by Miles Kirkpatrick, former Chairman of the Federal Trade Commission. Hearings on this bill have already begun as part of the hearings on other export expansion bills.

S. 1774 was introduced by request by Senator MAGNUSON, chairman of the Commerce Committee, Senator COTTON, ranking minority member of the committee, and myself as chairman of the Subcommittee on Foreign Commerce and Tourism. It is purportedly an administration bill which represents a consensus of views within the executive branch.

The members of the Commerce Committee are fully cognizant of the dimensions of the balance-of-trade and balance-of-payments crises and have attempted to be very cooperative. The bill was introduced on May 9, and hearings on it were announced soon thereafter on June 19. The departments and agencies concerned have thus had more than adequate time in which to prepare their comments.

We looked forward to expediting consideration of the bills and to have full, open discussions about the merits of this proposed legislation. In spite of my Watergate Committee responsibilities, I agreed to chair hearings so that the bills could receive prompt, equitable treatment.

We scheduled these hearings as early as possible to insure prompt Senate consideration. The reluctance of the administration witnesses to appear to offer their views and suggestions is both disturbing and puzzling.

When administration nominees are confirmed, a condition is usually attached to that confirmation. Nominees know, and always assure the respective Senate committees, that confirmation is subject to their willingness to appear and testify before the committees of Congress upon reasonable request.

We are reasonable men. We are willing to hold these hearings at some later date. But if the administration is truly concerned about the balance-of-payments deficit and our status as an exporting nation, then I would think that these administration witnesses would be willing to give of their time to assist the committee in its consideration of this important legislation. Since the attitude of the administration appears to have become more agreeable within the past few days, I am hopeful that we shall be able to work out a mutually acceptable schedule.

This postponement, which was necessitated by the reluctance of administration and agency witnesses to appear, casts a poor light on the entire export expansion program of the administration. Our inability to schedule hearings may be due to the witnesses' lack of preparation, their unwillingness to appear before a congressional committee or their sheer inability to confront important international trade policy questions.

Private citizens who have expressed an interest in appearing before the committee are invited to submit their written statements to the committee. We shall continue to work on these bills and as such time that hearings are rescheduled, if at all, they will be invited to testify.

In spite of the administration's and agencies' unresponsiveness, the committee will forge ahead with its export expansion program. We believe that the administration's attitude makes it even more imperative that the Congress make independent judgments about our trade problems and their resolution. It appears that we have very little choice.

ADDITIONAL STATEMENTS

NATIONAL CONVENTION OF VETERANS OF FOREIGN WARS

Mr. **SCOTT** of Pennsylvania. Mr. President, next month the Veterans of Foreign Wars will go to the beautiful city of New Orleans, La., for their national convention. This will be the first year in more than a decade that overseas veterans can meet in a time free from war.

The Veterans of Foreign Wars have given much to our Nation over many years, and I wish their deliberations much success. In my own Commonwealth of Pennsylvania, there are many thousands of VFW members who are community leaders at home. Nearly 26,000 Pennsylvanians, in fact, are members of 19 VFW posts of 1,000 or more members—in Uniontown, Mechanicsburg, Kingston, Butler, Hazleton, Lebanon, Canonsburg, West View, Bristol, Mount Pleasant, Johnstown, Sellersville, Bellefonte, Indiana, Stroudsburg, Huntingdon, Coraopolis, Waynesburg, and Chambersburg.

Mr. President, as representatives of these and other VFW posts throughout the Nation join together in the historic city of New Orleans from August 17–24, let us all hope that these veterans of wars in America's past can guide us all in charting our hope for continued peace in America's future.

DEFENSE COSTS CONTINUE TO RISE

Mr. **PROXMIRE**. Mr. President, only infrequently does a reporter get a chance to write a full length analytical article in a chosen field. When they do appear, these in-depth articles present a flavor and mix of opinions that enrich the news media.

One such article recently was printed in the Wall Street Journal under the byline of Richard J. Levine. Its multiple title reflects the nature of the article: "The Price of Peace: Nation's Defense Outlay Continues to Increase Despite Calm in World: Pentagon Blames Inflation, Critics Cite Costly Arms and Grim View of 'Perils.' "

By blending Pentagon statements, General Accounting Office data, and the criticisms of certain Members of Congress, Mr. Levine superbly sets the tone and direction of the current debate over military spending. It makes for good reading.

Mr. President, I ask unanimous consent that this article by Richard J. Levine from the Wall Street Journal be printed in the Record.

The Price of Peace

(By Richard J. Levine)

Washington.—When President Nixon welcomed Soviet boss Leonid Brezhnev to the White House recently, he spoke of "lifting the burden of armaments from the world and building a structure of peace."

Noble and heartening words, surely. But at almost the same hour they were delivered, James Schlesinger, Mr. Nixon's new Defense Secretary, was telling Senators that bigger Pentagon budgets are inevitable. "Just to stay even, the military budget will rise," he said.

Together, the two statements point up an irony of life in Washington these days: Peace seems likely to carry a higher price tag than war. Despite Washington's improving relations with Moscow and Peking, despite the U.S.-Soviet agreement to limit strategic arms, despite the Vietnam cease-fire agreements, despite the coming end to American bombing in Cambodia and despite sharp cutbacks in U.S. military forces, the Pentagon budget threatens to continue rising inexorably.

Defense spending for the fiscal year that began July 1 is projected at $79 billion, up $4.2 billion from a year before, a shade above the Vietnam-war peak and a shade below the World War II pinnacle. While the White House talks detente, the Pentagon speaks of growing Soviet military power and the likelihood, given further price and pay inflation, of $100 billion-plus military budgets by the end of the decade. "We are the ones who measure (Russian) capability, and that capability exists," declares Deputy Defense Secretary William Clements. "It isn't a dream."

PENTAGON CITES INFLATION

But whether the capability is a fact or a dream, a growing number of lawmakers and non-Pentagon defense experts—some of them lifelong backers of the military—find it increasingly difficult to reconcile ever-bigger defense budgets with President Nixon's promised "generation of peace."

Their frustration is reflected in a rhetorical question framed by Rep. George Mahon, the conservative Texas Democrat who runs the House Appropriations Committee: "Why does peace cost more than war?"

The Pentagon places the blame squarely on inflation of prices and military pay. "The cost of acquiring and operating an effective aircraft, just like the cost of beef, automobiles and services, is increasing," explains Gen. John Ryan, the Air Force Chief of Staff. Military pay raises totaling 134.5% during the past decade have swelled manpower costs. Trying to offset the increases, the Pentagon has slashed troop strength to 2.2 million, the smallest force since 1950, and it's closing 40 U.S. bases and shrinking 219 others, for an expected saving of $3.5 billion during the coming decade. But the economy efforts are being overwhelmed.

(When measured to eliminate differences caused by price inflation and pay boosts, Pentagon economists say, defense spending is actually $34 billion less this year than at the peak of the Vietnam war in 1968.)

The Pentagon's challengers—in Congress, the State Department, the National Security Council staff and the private think-tanks—don't deny that price inflation and rising pay have ballooned military budgets. But they insist there are other, shakier reasons for the high cost of peace.

CRITICS CITE OTHER REASONS

In general, they believe the military clings to expensive and outmoded concepts, strategies and customs as well as to an unrealistically grim view of foreign perils. ("We must tailor our military forces to meet world conditions as they are, not as they were," counsels the House Appropriations panel.) More specifically, the critics argue the cost of peace is rising because:

Development of costly strategic weapons, like the Trident-missile-firing submarine, has been needlessly accelerated to enhance their value as "bargaining chips" in arms-limitation talks with the Soviets, rather than for sound military reasons.

Unchecked interservice rivalry is producing duplication of weapons; a favorite example of Pentagon critics is the insistence by the Army, Navy, Air Force and Marines that each must have its own battlefield-support aircraft.

The military's continued demand for overly sophisticated weapons is driving up the price of ships, tanks, missiles and warplanes.

Military manpower, an increasingly expensive commodity, is used inefficiently; there are too many high-ranking officers and noncoms, too many support troops and too many aides for the brass.

One top defense official, with experience at both the Pentagon and the National Security Council, declares: "If someone was willing to address the very difficult, gutty defense issues and make hard decisions, you ought to be able to hold the budget level, even knock it back—without cutting the number of guys with guns in their hands." Recently, a group of former national security officials, including former Deputy Defense Secretary Roswell Gilpatric, issued a report asserting that "a conservative analysis shows that some $14 billion" could be safely trimmed from the Pentagon budget.

Cuts of that magnitude seem politically impossible. But those who know Mr. Schlesinger believe the new Defense Secretary, a self-assured man with a deep background in defense issues, may control military spending more tightly than did his recent predecessors, Elliot Richardson and Melvin Laird. Despite his bigger-budget prediction, Mr. Schlesinger has spoken out against "service parochialism" and has warned "there are luxuries that we shall have to do without."

And should the current U.S.-Soviet arms talks succeed in reducing long-range offensive weapons, the military spending trend might flatten. The same might be true if East-West negotiations starting next fall should bring mutual troop reductions in Europe.

LECTURE FROM MR. NIXON

But in the meantime, any opportunity for big savings is likely to be limited. Commander-in-Chief Nixon has indicated repeatedly that he isn't unhappy with the size or shape of U.S. forces, in view of their value as a tool in arms negotiations. "You can't get something in a negotiation unless you have something to give," Mr. Nixon has lectured. "If we cut our defense before negotiations begin, any incentive for other nations to cut theirs will go right out the window."

This "bargaining chip" strategy can be expensive, expecially in the realm of strategic arms. The current budget provides $1.7 billion for accelerated work on a new generation of missile-firing submarines, which will cost over $1 billion each when fully outfitted, and almost half of a billion for continued development of the B1 bomber.

Yet many strategic-weapons experts believe the Trident submarine and B1 bomber work could be safely slowed; they argue that the U.S. could acquire enough bargaining leverage just through modest development efforts. Two Brookings Institution staffers, Alton Quanbeck and Barry Blechman, have advocated B1 and Trident cutbacks in a study suggesting a six-year 20% reduction in spending for strategic forces.

In the Pentagon's push for the B1, the Air Force desires to keep a major strategic-weapons role bulks large. With its land-based Minuteman missile likely to become increasingly vulnerable to Russian rockets, the Air Force is eager to move the B1 into production. Yet building $55 million bombers in an age of intercontinental missiles makes little sense to many lawmakers.

Service pride also helps explan the demands of the Army, Navy, Air Force and Marines for their own aircraft to provide close air support to ground troops. While the Pentagon holds that the aircraft are "complementary" rather than "duplicative," Sen. Barry Goldwater, the Arizona Republican who is a strong-defense man, complains: "We have four tactical air forces. . . . Our last figures show a total inventory cost of around $13 billion, and I think a total inventory that would do just as good a job could be had for under $5 billion."

CLIMBING PRICES

The increasing complexity of modern weapons systems is also driving up the price of peace. New fighter aircraft now being developed will cost five to six times as much as the planes they replace, mainly because of the sophistication of the air frames, engines, electronic systems and weapons. Thus the Navy's swing-wing F14 is armed with a missile system designed to knock down six enemy planes simultaneously at ranges well over 50 miles. Each missile and warhead will cost over a quarter of a million dollars.

Often, prices for planes climb to prohibitive heights. Because the F14 fighter bears a $19.2 million price tag, defense chiefs have restricted the Navy to about 300 planes and told it to find a simpler, cheaper substitute. Even a staunch airpower advocate like Sen. Goldwater is appalled. "I am reaching the point where I can't find it in my good judgment to say that $19 million has been justified for one fighter plane," he says.

The General Accounting Office, Congress' fiscal watchdog agency, reports that the total eventual cost of 116 weapons systems now being developed is $153 billion, $89 billion of which Congress hasn't yet appropriated. "We can't afford war any more," concludes Rep. William Dickinson, an Alabama Republican who sits on the House Armed Services Committee. "We can't afford the technology we're capable of developing."

With prodding from Congress, the Pentagon has begun to search for cheaper weapons. But preliminary results aren't encouraging. In late 1971, Congress killed the Army's MBT70 tank, then still in development, because the price had climbed to $948,000. The effort to find a less costly substitute now has produced a design that eventually will cost $921,000.

Along with worrisome weapons costs, Congress has started to eye the use of military manpower. Its ranking expert on the subject, Democratic Rep. Otis Pike of New York, has concluded that the military establishment has grown "too fat" with highly paid generals and admirals, colonels and captains, majors and lieutenant commanders, sergeants and petty officers.

"TOO MANY CHIEFS"

"Our military has too many chiefs and not enough indians," he says. "If we had today's force and simply shaped the grade structure the way it was shaped in World War II, we could save some $2.7 billion a year without losing a man."

Pentagon statistics do, in fact, disclose startling comparisons between the present officer corps and that of June 1945, just before the end of World War II. Then there were 12.1 million men and women in uniform; today there are 2.2 million. But today's array includes 172 three-or four-star generals and admirals, 33 more than in 1945. (One of the Air Force's three-star luminaries, Lt. Gen. Daniel James, serves as principal deputy assistant secretary of defense for public affairs—a post never before held by such a high-ranking officer.) There are also more colonels and Navy captains today (16,194) than in 1945 (14,989).

The cost of this "grade creep" has been estimated at $1.3 billion annually. But, as one insider says, "there's great reluctance in the military to make changes because everyone's promotion depends on the size of the top of the pyramid."

While they have been trimming officer strength in recent years, military-manpower experts contend that there are good reasons for the general proliferation in officers' stars and stripes since 1945. For one thing, says Lt. Gen. Leo Benade, deputy assistant defense secretary for military personnel policy, today's grade structure "has to provide reasonable opportunity for promotion;" in 1945, he adds, the only need was to win the war.

The Pentagon also stresses that military jobs are more complex and demand higher skills today and that there are more important commands to be headed. Which is exactly the problem, says one Congressman: "We have unified commands, joint commands, combined commands absolutely coming out of our ears."

Many defense experts favor a hard look at the support forces, since a larger portion of military personnel serves in noncombat jobs than ever before. In the Army, 24% of the men have assignments whose "primary duty is to fire at the enemy"; in the Navy, the combat total is 12%, and in the Air Force it is only 8%.

"We've modernized the combat forces," says Martin Binkin, a former Pentagon analyst who has written a Brookings Institution paper on defense support costs, "but we haven't modernized the support forces." He suggests, among other things, automating more logistics functions, reducing headquarters manpower and shortening training.

Congress is chipping away at what it considers some of the more blatant abuses of military manpower. This spring, under pressure from Capitol Hill, the Defense Department agreed to reduce the number of enlisted aides to generals and admirals to 1,245 from 1,722. The aides, who serve meals, clean quarters, cut grass and tend bar for the brass, were costing taxpayers $21.3 million a year before the cutback.

Congress has also voted to end flight pay, which can range up to $245 a month, for officers above the rank of colonel serving in noncombat assignments. But the services are fighting back, and the issue is still unsettled.

Despite closer scrutiny of Pentagon budgets recently, Congress must share the blame for the high price of peace. Many lawmakers concede that Congress hasn't adequately policed military plans over the years. One reason given is that Congress lacks the staff needed to challenge Pentagon assertions on weapons and force levels. House Appropriations Chairman Mahon says a bit glumly: "You just can't break through the military bureaucracy very well."

SPACE POWERPLANTS

Mr. MATHIAS. Mr. President, 6 weeks ago I rose in this Chamber to voice my strong support for NASA's Space Shuttle program as a sound investment with the potential to yield a wide range of scientific and technological benefits for our society. More recently, this body has considered and approved the HUD-Space-Science-Veterans appropriations bill, H.R. 8825, which included a substantial degree for funding for the continuation of the Space Shuttle program. As minority floor leader for that bill, I was pleased to see such funding included, and took that opportunity to reiterate my belief that dollars spent on the future exploration of the possibilities of space are not wasted dollars.

In particular, I have long held the view that our ultimate fulfillment of energy demands may well be achieved eventually through progress made in space—demands which are clearly becoming more critical every day, on our relatively small planet with its limited supply of natural resources.

In this connection, Mr. President, I would like to commend to the attention of my colleagues—especially to my colleagues who may still have lingering doubts about the long-range value of the space program—an article which recently appeared in the Petoskey, Mich., News-Review, on the potential for space powerplants to provide an adequate and clean energy supply for our planet. I ask unanimous consent to have this article printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Astronaut Sees Space Powerplants as Clean Energy for Earth's Crisis

(By John Swartley)

The national space program was given a boost here by a man who has been to the moon and walked in space 78,000 miles from the earth.

"I really think that the salvation of the earth is to go into space," Col. Alfred M. Worden told a crowd of more than 300 at a dinner of the Michigan Sheriffs Association convention at the Petoskey Holiday Inn.

"There are a lot of things we need to do here on earth which can be done most efficiently from what we gather from space exploration," said Worden, the command module pilot of the Apollo 15 mission to the moon in 1971.

The NASA scientist explained that today's methods of generating power here on earth have dumped too much heat into our atmosphere, and that if the present rate of added heat continues, we will find ourselves in a virtual earthbound sauna bath, with air temperatures ranging well above 100 degrees by the year 2050.

"We've got to develop a new way to generate powers without dumping all that heat into the atmosphere," Worden stated, "and the best way to do this is from space."

He mentioned orbiting nuclear and solar powers plants as only two possibilities in solving the problem. From these mechanisms, we would be able to create the power source in outer space and then beam it back down to the earth without the heat loss experienced by our present earth systems, explained the ex-astronaut. With the cleaner space power plants, we would also be saving on our natural resources as well as reducing the amount of pollution here on earth.

"I think it would be a tragedy if the level of technological sophistication we have achieved to this point were to be dropped," Worden said.

NO NASA CUT FORESEEN

In an interview after the banquet, Col. Worden stated his belief that funding for the National Aeronautics and Space Administration program will not be reduced any further.

"I think we are seeing a steady-state NASA program at this point," the space pilot said. "Any cuts we experience from here on out will be the result of an across the board cut in all federal agencies rather than in our program alone."

Worden is presently working out of Moffett Field, California, in basic reserach and analysis for the space shuttle program, slated to begin in 1980.

"SKYLAB A SUCCESS"

Worden also expressed his views on the NASA Skylab mission which was recently completed.

"The purpose of Skylab was quite a bit different from the purpose of the Apollo program," he said. "Skylab wanted to find out how useful man can be when he works for an extended period of time in space and was not concerned with exploration, as Apollo was."

Worden felt that the mission was a success in that it definitely proved man can maneuver and work easily under the prolonged weightless condition, as borne out by the repair job done by the orbiting astronauts in the lab. Even though the three men were faced with the task of saving a $250 million project in front of the entire world, Worden did not feel the pressure upon them was all that much.

"There wasn't too much on them, really. On the contrary, during the whole episode, they were told to go slow and go easy, and don't get into any trouble. If there was any pressure at all, it was from this type of restraint," Worden replied.

LUNAR TOURIST

Worden's presentation to the convention meeting was very casual and easy-going. With a screen to his right, where pictures taken from the orbiting command module of the moon's suraface below were shown, Worden began his address with the ultimate in understatement,

"I'd like to chat with you a little bit about a trip I made a couple of years ago."

From that point on, he continually referred to himself as being merely a "tourist", the module as a "tour bus", and the entire mission as a "vacation."

"The moon is a very, very dead planet, but it is a very beautiful place to visit," joked the NASA colonel, who was born and raised in Jackson, Michigan.

Apollo 15 was the fourth lunar landing mission in the Apollo series and explored Hadley's Rille and the Apennine Mountains on the moon surface. Worden did not set foot on the moon, but instead he remained in the module while crew members David Scott and James Irwin conducted experiments on the lunar surface.

Worden said the most significant findings from the mission were the discovery of "cinder-cones," residues of volcanic ash, in certain areas of the moon's surface. Before this discovery, scientists were not sure if the surface of the moon has been partially formed by volcanic activity or purely by meteor impact.

DEEP-SPACE EVA

On the return trip to earth, Worden performed a space walk in order to retrieve film canisters from the service module which was later ejected. He was 78,000 miles from earth at the time, but "when you are out that far, it doesn't really matter how many miles away you are," Worden said.

The extra-vehicular activity (EVA) lasted a total of 38 minutes but that was enough to leave a profound effect on the astronaut.

"When I got out on the EVA, I retrieved the film and then had a chance to look around," Worden recalled.

"I looked over my right shoulder and I could see the earth. When I looked out past my left shoulder, I could see the moon. And there I was, thousands of miles out in space, hanging between the two."

Worden then stated: "When I looked over my shoulder at the moon, just to the left was Jim Irwin's face in the hatch of the command module. That really blew my mind."

Worden read several of his poems that he has written about the trip to the audience, with photographs of the moon and earth in the background.

When asked if he would go back if he had the chance, the colonel didn't hesitate a bit in answering.

"You bet I'd go back again."

Col. Worden said that he learned something from his trip which he wishes everyone could experience.

"It's one thing to go to the moon," Worden said. "But I'll guarantee that when you go out there and then start to head back for home, there's no question that the earth is the most beautiful thing in the sky."

MBFR NEGOTIATIONS AND HUNGARY

Mr. GOLDWATER. Mr. President, testifying before the House Foreign Affairs Committee of the House of Representatives, the present NATO Supreme Commander, Gen. A. J. Goodpaster stated on July 11, 1973:

> In Central Europe, the ground forces of the Soviet Union and her Warsaw Pact Allies outnumber the forces of the West in terms of divisions, firepower, and manpower.
>
> In addition, the Warsaw Pact divisions are steadily increasing in combat power as they receive new tanks, new personnel carriers, and additional artillery. These forces are far larger than would be necessary for defense. In terms of air strength, the Warsaw Pact has twice as many combat aircraft as NATO. They have more aircraft, more airfields, more shelters, more command and control facilities, and more antiaircraft defenses. Moreover newer types of high-performance aircraft have been introduced by the Soviets into their air forces and those of their Warsaw Pact Allies.

This eloquent statement demonstrates our dilemma at the MBFR talks. After recognizing nuclear parity, or sufficiency, we are now driving for a "freeze" of NATO's conventional inferiority in Europe. However, perhaps under the present circumstances, the best we could do is to preserve this precarious balance without increasing the imbalance.

In this connection many American and Western European experts, average citizens and press reporters displayed increasing concern about the compromise reached at the recent preliminary conference on MBFR in Vienna which were concluded on June 28. As my colleagues know the main conference will start on October 30.

The first compromise concerned the omission of Hungary from the list of full participants, a Soviet demand parrotted after a short time interval, also by the Hungarian Government which is totally dependent on Soviet goodwill. This means that the 40,000 elite Soviet land and tactical air forces in Hungary would be excluded from a future MBFR agreement and from any of its constraints to be agreed upon. Gen. Lyman L. Lemnitzer, former NATO Supreme Commander and former Chairman of JCS, in his luncheon speech before the American Institute on Problems of European Unity, Inc., in Washington stated on June 14, 1973, in this regard:

> To exclude Hungary with 40,000 elite Soviet troops, land forces and tactical air force, is from the military point of view very difficult to understand. It is the opinion of many military people with whom I am associated, that if accepted permanently, Hungary's exclusion would gravely affect the situation in Central Europe. It certainly does not spell any hope for the satellite countries to achieve a greater degree of sovereignty, and particularly, would not spell hope for Hungary. It gives the Red Army and Red tactical air forces a beachhead, or as I would put it, a sanctuary right at the crossroads of Europe where they can move forces and equipment into, and still be excluded from the area of a MBFR agreement.

Mr. President, I am joining my colleagues in both Houses of Congress in urging the administration to utilize the reservation made by the NATO partners in the May compromise, that is, to raise the issue of Hungary's status at the outset of the main conference, and to insure that the Soviet forces of Hungary and Hungarian territory are included in any future MBFR agreement.

BUDGETING TO PROMOTE PEACE

Mr. SCOTT of Pennsylvania. Mr. President, the former Secretary of Defense, Melvin Laird, has authorized a penetrating and thought-provoking article in the latest issue of the VFW magazine.

The article is entitled "Budgeting To Promote Peace." It is worth reading and presents some challenging views.

Mr. President, I ask unanimous consent that the article by former Defense Secretary Laird be printed in today's Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Budgeting To Promote Peace

(By Melvin R. Laird)

The budget request for the 1974 Fiscal Year, beginning July 1, seeks to prevent higher taxes and to control inflation, goals all Americans support.

Increased effectiveness of modern deterrent weapons systems the U.S. has developed has enabled it to reduce safely the size and cost of its military forces without jeopardizing safety or abandoning commitments to friends and allies. There is, however, a limit to the reductions this country can safely make because the U.S. clearly cannot negotiate a significant reduction of world tensions if it creates vacuums in the international structure of security by any unilateral disarmament.

The last four years of the Nixon Administration have been a transition from war to a beginning of peace, from a wartime economy to a peacetime economy, from a federal budget dominated by defense expenditures to one dominated by human resource programs, from an era of international confrontation to an era of negotiation and from arms competition to arms limitation.

U.S. national security and foreign policies seek to establish for this country an international role that encourages an environment in which negotiations really can become the overwhelmingly dominant means of resolving conflicts. But, for such an environment to be viable, a country as powerful as the U.S. must participate actively, must be committed to peaceful resolution of contentious issues among states and—of critical importance—must have credibility in the international area.

To establish and maintain such credibility which is not the same as predictability, the U.S. must adhere to word and commitment and must sustain the military capability to back up its negotiating posture.

Now the U.S. is entering the post-Vietnam era. The Administration is devoting even greater attention to America's long-range security needs of adequate, peacetime deterrent forces and to the urgent necessity of assuring continued U.S. technological superiority. Guidelines call for no more than 2.5 million volunteers in the active military forces, backed by a strengthened National Guard and Reserve, and for an allocation to national defense of no more than 7% of the expected GNP.

What has been done in the past four years now makes it possible to put net assessment, total force and long-range planning to work for peace.

The first is the comparative analysis of military, technological, political and economic factors which impede or can impede the achievement of national security objectives. An assessment must be made of the increasing military capability of Soviet and Chinese weapons' development in relation to what the U.S. and its allies must do in response. For example, the ballistic missile submarine force of the Soviet Union could be as large as the Polaris-Poseidon submarine force this year.

Beginning in 1965 when the U.S. was diverting so much of its effort and technology to Vietnam, the Soviet Union stepped up its research and development efforts and began to produce many of the advanced weapons systems deployed today. The USSR has now reached a position where—unless this country takes action now—there could be new technological surprises in the years ahead.

The American people may be willing to accept parity in the development of strategic nuclear weapons, but they will never accept inferiority. The $598 million increase in FY 1974 for research and development over last year is aimed at maintaining an absolutely essential technological superiority.

In total force planning the strategy of Realistic Deterrence emphasizes the need for optimum use of all available military and related resources to maintain U.S. security, assist in maintaining that of friends and allies and in protecting vital overseas interests. The aggregate of these resources with those of friends and allies is Total Force. I am confident the peacetime force structure will be adequate if Congress votes the funds necessary to make total force planning effective.

One of the first actions being taken as part of Long Range Planning is to place greater reliance on National Guard and Reserves. The Administration intends to have a National Guard and Reserve manned, equipped and trained to mesh on short notice with active forces.

There can be no excuse for wasting talents and willingness of many National Guard and Reserve air squadrons, for example. Many pilots and technicians in these units are combat-experienced and want to do something more than simply participate in routine training exercises not directly related to specific national security missions under the new strategy. That is why President Nixon's budget calls for a $400 million increase for National Guard and Reserve forces. The budget provides for them to receive more equipment in FY 1974 than in any other year in our history.

As we look to the future, manpower, our most precious asset, will take on new significance. The Administration's responsibility, working with Congress and with the approval and support of the American people, will be to complete a revised personnel program. We have now reached a baseline force of 2.3 million men and women appropriate to fulfill essential peacetime security requirements. This is 397,000 fewer than the 1964 manpower total prior to the Vietnam buildup.

Winding down the war has brought substantial savings. Much of that money has been reallocated within the defense budget to the needs of military and civilian defense personnel and their dependents. Our military men and women had been underpaid for too long. Failure to pay adequate military salaries, particularly to those in the enlisted ranks, represents grossly unjust treatment. We must also improve military housing and educational benefits. Most of all, we need to ensure that servicemen and their families receive the recognition and appreciation they deserve from the American people for their devoted service to our country.

Congress and the Department of Defense share the responsibility of meeting and solving these problems. In the last analysis, national defense is the responsibility of all the American people. Thus, there is a great need for public dialogue on our objectives for the future of this country and its people. Most Americans want a strong country, but they also demand and deserve reasons the détente without defense is delusion. I believe a national consensus on the importance of peacetime deterrent forces is obtainable.

To the maximum extent possible and as a former Secretary of Defense, I plan to visit with citizens throughout the U.S. to share with them my thoughts and to hear directly from them their views on the major elements of our strategy. I believe each member of Congress will be interested, too, in hearing these views from where they count most—from the American people.

AMERICAN INDIAN POLICY REVIEW COMMISSION

Mr. ABOUREZK. Mr. President, on Monday of this week I introduced Senate Joint Resolution 133, to provide for the establishment of the American Indian Policy Review Commission.

The resolution has basically four purposes.

First, to reaffirm the unique and longstanding relationship between the Indian people and the U.S. Government, and to recognize that this unique relationship forms the basis to undertake fundamental reform of Indian policies, and to recognize further that it can serve as a springboard for new policies to better serve the Indian people.

Second, to admit openly that the Federal trust responsibility for the Indian people has not been fulfilled, and to admit further that by that failure Indian people have been denied full opportunity.

Third, to recognize that it is high time we took a long look at our Indian policies, and had a comprehensive review of the historical and legal elements which make that relationship unique, and to proceed from there to determine where our Indian policies ought to aim.

Fourth, to create a National Commission composed of 15 members, five from the Senate, five from the House of Representatives, five from the Indian community, to undertake that review.

The Commission will be charged with conducting hearings throughout the United States at places accessible to Indians. It will study and analyze treaties, statutes, judicial interpretations, executive orders and the Constitution to determine the legal relationship between the Government and the Indians and their natural resources. It will review past policies, practices and structures of Federal agencies to determine their inadequacies, and to come up with a set of legislative recommendations for the Congress.

Mr. President, to put it simply, our legal relationship with the Indian people is a complex mess.

No rational, uniform policy seems to be growing out of it.

But every day, in some sort of headless, directionless way, it is shaping, or misshaping the lives of Indian people.

Trying to make sense out of our Indian policy, that is, trying to come up with some coherent, rational, clear definition of it, is presently impossible.

Our policy is labyrynthian. It is like a catacomb. It is layer upon layer of patchwork. Trying to sort it out makes playing three-dimensional chess look like child's play.

If you put all the treaties, statutes, judicial interpretations, jurisdictional confusions, programs, Presidential pronouncements, executive orders, and whatnot into the computer, and then if you overlaid that information with a description of the poverty, unemployment, bad housing, malnutrition, poor education, and institutional breakdown which characterizes the social fabric of the Indian communities, and then if you add as sort of a common denominator the tendency of bureaucracies to confuse, befuddle, misconstrue, and maladminister, and then you asked the computer to tell you what it all means, do you know what would happen? The computer would blow a fuse.

Yet we in this Congress, as human beings, are asked to govern this ungovernable mess. Human lives are placed in our trust.

We have two options.

We can try and muddle through, put our heads down and charge, and hope that we break through to the light at the end of the tunnel, instead of running up another blind alley and only making things more confused, more frustrating, and just plain worse in the end.

Or we can try to clear the air and get some sort of clear notion about what directions our amorphous policies are pulling, to evaluating the motivations behind them, to weigh them against Indian-determined goals, and to know where we want to go and what we must do to get there.

With two violent incidents borne out of frustration and despair behind us, I opt for the latter.

That is the purpose of this resolution, which I introduced on Monday.

I hope we can pass it and get on with the incredibly tough job of straightening out the complex mess which some people call "our policy," making some sense out of it, and making some hope of it.

Thank you.

GETTING ALONG WITH RUSSIA

Mr. AIKEN. Mr. President, on July 11 the distinguished chairman of the Foreign Relations Committee addressed the American Bankers Association.

While I do not claim to agree with every statement he made, I do find that his remarks give much school for thought and deserve the attention of the public.

Therefore I ask unanimous consent to have Senator FULBRIGHT's address printed in the RECORD.

GETTING ALONG WITH THE RUSSIANS

(Statement by Senator J. W. FULBRIGHT, July 11, 1973)

When Chairman Khrushchev visited the United States fourteen years ago, he was received with the cordiality one might extend to an outlandish creature from outer space. Having witnessed the smug display of American kitchen gadgets in Moscow, Mr. Khrushchev came on the scene boasting of Soviet sputniks and rockets and the alleged superiority of socialist enterprise. We Americans were already in a lather over the threat to "bury" us, which we had taken as a threat of war, although Chairman Khrushchev was at pains to explain that he had been talking about economic competition. The atmosphere at the time was charged with tension—the Berlin crisis seemed to threaten the peace, and the U–2 and the Cuban missile crises still lay ahead. Under the circumstances we were scarcely disposed to credit Khrushchev's statements of peaceful intent.

His assurances, nonetheless, seem worth recalling. On the occasion of his visit to the Foreign Relations Committee on September 16, 1959, for example, Chairman Khrushchev suggested that we lay aside the polemics of the past, and he then said:

"We must face the future more and have wisdom enough to secure peace for our countries and for the whole world. We have always had great respect for the American people. We have also been somewhat envious of your achievements in the economic field, and for that reason, we are doing our best to try to catch up with you in that field, to compete with you, and when we do catch up, to move further ahead. I should say that future generations would be grateful to us if we managed to switch our efforts from stockpiling and perfecting weapons and concentrated those efforts fully on competition in the economic field."

Renewed cold war soon shattered the 1959 "spirit of Camp David." The competitiveness became more intense than ever during the Kennedy Administration. The outlook of the time was expressed by President Kennedy in his first State of the Union message when, speaking of Russia and China, he said, "We must never be lulled into believing that either power has yielded its ambitions for world domination—ambitions which they forcefully restated only a short time ago." In this frame of mind we plunged into Vietnam. Too prudent to fight the Russians directly, but too suspicious to try to cooperate with them, we chose instead to engage them—and the Chinese—along the periphery. We would show them—so we thought—that they could could not conquer the world through "wars of national liberation," just as we had shown Stalin that he could not do it by "direct" aggression in Europe.

Now, after a long, costly and inconclusive war, another Soviet leader, Mr. Brezhnev, has visited us and reiterated Khrushchev's request for businesslike dealings with the United States. It is tempting, but probably not worthwhile, to speculate on what might have been accomplished a decade ago—in disarmament, trade, perhaps even the avoidance of war in Vietnam—if the two great powers had been willing to experiment with cooperation. What matters now is whether, in the wake of costly experience, we are prepared to build upon the cooperative measures initiated by President Nixon and Dr. Kissinger. In Moscow last year significant agreements were reached in the field of arms control—especially the ABM treaty—and for cooperation in such fields as space, science and health. Now the Russians are interested primarily in trade and investment, and without being gullible or naive, surely we owe it to ourselves to give openminded consideration to Mr. Brezhnev's assurance to members of Congress: "We came here to consolidate good things, not to quarrel."

Why indeed should we cooperate with the Soviet Union, a country whose social system is inimical to our own? The answer is simplicity itself: we have to get along with the Russians because, in matters of world peace, we cannot get along without them. The threat of nuclear destruction has become a commonplace, so much so that we tend to dismiss it. But the fact remains that the leaders of the two nations have the means at their disposal at any time to destroy each other's cities and much or most of each other's populations. American pioneer families helped each other to build cabins and clear the land because the job was too big to do alone—cooperation was a matter of survival. Similarly, the Bedouin Arabs have an ancient etiquette of hospitality—a traveller across the desert cannot be refused food and water, because the host knows that he too may someday journey across the desert. Here too it is a matter of survival—not of affection or friendship or religion or ideology. That is the sum and substance of it: in matters of war and peace Russians and Americans are wanderers in the same desert, and in that desert it is not ideology that counts but food and water—the "food and water" of trade, arms control, political cooperation and cultural exchange.

I. AREAS OF COOPERATION: ARMS CONTROL

We have gotten off to a fairly good start. In the year 1972 alone more Soviet-American agreements were signed than in all the years since diplomatic relations were established in 1933. Following upon the Moscow agreement of May 1972, agreements were concluded in Washington in June 1973 for cooperation in oceanography, transportation, airline service between the two countries, agricultural research, expanded cultural exchange, taxation, atomic energy, credits for the construction of a large fertilizer complex in Russia, a declaration of principles for the prevention of nuclear war, and guidelines for the current negotiations on strategic arms limitations known as "SALT II."

By far the most important agreement reached to date was the ABM treaty concluded last year in Moscow. Under that agreement—which confines both powers to no more than two anti-ballistic missile sites—the two nations in effect have committed themselves to permanent coexistence. Insofar as each side abandons the effort to make itself invulnerable to attack or retaliation, it also commits itself to peace and to the survival of the other's power and ideology. The Russians in effect abandon the Marxian dream of a world communized by war; we in turn lay to rest the last vestige of the old idea of a global crusade for freedom.

Building on the logic of the ABM treaty, President Nixon and General Secretary Brezhnev issued in Washington last month a general declaration for the prevention of nuclear war. Under the terms of the agreement the two countries agree to "act in such a manner" as to "avoid military confrontations" and to "exclude the outbreak of nuclear war" between themselves and between themselves and others. Framed in the most general terms, this agreement will be significant or not according to its implementation. Like the much derided Kellogg-Briand Pact to "outlaw war" in 1928, the nuclear agreement may collapse under a wave of crises and confrontations. But if followed up with precise and practical agreements—not only in arms control but in trade and other fields—it may prove to have been a milestone, a marker of the point in Soviet-American relations at which the two super-powers recognized—for the most unsentimental of reasons—that they had much to gain by cooperation and everything to lose by fighting. Perhaps Mr. Brezhnev was not off the mark in suggesting to the American people that the agreement to prevent nuclear war was "one of historic significance." He was surely on the mark in asserting that, "Mankind has outgrown the rigid 'cold war' armor which it was once forced to wear. It wants to breathe freely and peacefully." [1]

On a somewhat more tangible level President Nixon and Mr. Brezhnev pledged to accelerate the current SALT talks so as to conclude a permanent treaty limiting offensive strategic weapons before the end of 1974. This would follow up the ABM treaty and the five-year interim agreement reached in Moscow last year, which puts limits on each side's land-based and submarine-launched offensive missiles. Under a new permanent treaty the two superpowers would undertake to cut back their strategic armaments and not merely to put limits on them. The history of disarmament negotiations provides little basis for optimism that the world will soon be relieved of the crushing cost of armaments, but at least a start is being made and the "basic principles" agreed to by Mr. Nixon and Mr. Brezhnev look in the right direction.

In the past both sides have approached the SALT talks in the belief that they must come to the bargaining table weighed down with "bargaining chips." According to this self-defeating theory you must arm to the teeth before entering an agreement to disarm so as to have the greatest possible leverage with your negotiating partner. Since both sides engage in the practice, the very prospect of arms limitations has the effect of accelerating the arms race, so that the final agreement—if there is one—can actually sanction a higher level of armaments than the putative disarmers started with.

This absurdity remains a threat to the current SALT talks, despite the agreement to prevent nuclear war and the "basic principles" for arms limitations adopted at Washington last month. Although both the Soviet Union and the United States have honored last year's interim agreement, they have pressed on with the arms race in the broad areas not covered by that agreement. For our part, the Defense Department shows no sign of willingness to cut back on strategic spending. Congress is being asked to appropriate more than three-quarters of a billion dollars this year for Minuteman III missiles, and another half-billion in fiscal 1974 to convert our Polaris-missile submarine to Poseidon. In addition, still another half-billion dollars is being requested for the new B–1 supersonic bomber to replace the giant B–12. and $1.7 billion is being sought for the development of still another ballistic missile submarine, the Trident. Another factor on the negative side was the failure of the Washington summit to make any progress with the long delayed comprehensive test ban. We are bound, therefore, to temper the

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Footnotes at end of article.

cautious optimism engendered by the recent sumit meeting with an awareness that these agreements can be crushed into oblivion under a mountain of "bargaining chips."

With each of the two super-powers possessing the capacity to destroy the other many times over, the irrationality of the arms race is difficult to overstate, all the more for the fact that the ABM treaty binds us to the role of each other's hostages. Under these circumstances the only real effect of the competition in overkill is the squandering of our resources. Since World War II the United States has spent about $1.3 trillion on arms and the Russians have spent about $1 trillion, at incalculable cost to their respective internal needs. There is now everything to be said for putting limits on this prodigal waste because, higher or lower, the strategic balance remains the same. The multiple warhead Poseidon missiles—called "MIRV's"—from a single nuclear submarine could hit 160 Soviet targets simultaneously and these submarines are invulnerable to attack. However many of these we may construct and deploy, and however many more land-based intercontinental missiles we deploy above the more than one thousand we now have deployed, the central fact will remain that our security rests upon mutual fear and that fear is now complete. Fear has done all that it can for us, and if we still feel insecure—as surely we do—then we must look elsewhere for security, from mutual fear to its opposite, to the beginnings of mutual trust.

II. TRADE AND THE JACKSON AMENDMENT

There is no more promising field for the cultivation of trust than trade and investment, which in fact were Mr. Brezhnev's primary interests during his recent visit. In his speech to the American people the General Secretary stressed that the "long-term and large-scale deals" now in negotiation "are bound to yield real and tangible benefits to both sides," including political benefits. The political implications of Soviet-American trade are as important as the economic, although not so important as to warrant the buying of pigs-in-pokes. There is no reason at all to consider trade with the Soviet Union as some kind of philanthropy, or to plunge into improvident transactions such as last year's sale of wheat at bargain-basement prices. Legitimate questions are being raised about the wisdom of extending huge, long-term credits at low interest rates for the development of Siberian resources of uncertain quantity and quality. Quite properly, American businessmen are requesting rights of survey, information on hitherto secret Soviet economic data, and adequate managerial facilities in Moscow.

The Soviets, for their part, hope to double or quadruple the volume of Soviet-American commerce over the $500 million in trade between the two countries in 1972. Provided adequate credits are made available, there is no visible limit to the prospective Soviet demand for American industrial equipment and advanced technology. Soviet exports to the United States, on the other hand, have been limited to such mineral products as chrome, diamonds and platinum, and luxury items such as furs and vodka. The Soviet Government quite evidently has made a policy decision to bolster the country's lagging technology and lagging consumer economy through large-scale economic dealings with western countries, especially the United States. They are seeking to draw American industrialists into arrangements extending over twenty or thirty years. The Occidental Petroleum Corporation, whose chairman, Armand Hammer, has been doing business with the Soviet Union since the early 1920's when he dealt with Lenin himself, has concluded a twenty-year fertilizer deal and has also signed a preliminary agreement for the shipment of some $10 billion worth of Siberian natural gas to the United States over a period of twenty-five years. Before entering into such enormous, long-term transactions, American industrialists and bankers and appropriate government agencies should give close and careful scrutiny to the costs of Soviet gas and oil, to sound credit arrangements, investment guarantees and reliability of supply.

Without losing sight of the political benefits of trade—benefits which Mr. Brezhnev rightly commends to us—we must bear in mind that the political benefits of trade are mutual and that neither side can legitimately demand a political price for its economic cooperation. Suggestions by the Russians that a trade agreement would improve the prospects for SALT II are properly responded to with the reminder that the Russians have as much at stake in the SALT talks as we do and can expect no commercial inducements for an arms agreement. Indeed, we are entitled to remind the Russians that the immediate and tangible gains of expanded trade—credits and technology—will be primarily theirs, whereas the economic benefits to the United States, though potentially great, are less certain and will not be available for years to come. Under these circumstances the two countries would be wise to shape their commercial transactions according to commercial criteria—treating them as politically significant in context to be sure, but economically autonomous in their specifications.

If indeed political conditions are attached to economic transactions, there can be neither trade nor détente. Soviet and American societies remain in many respects inimical to each other. We dislike the lack of personal liberty in the Soviet Union, the censorship of speech and writing, the suppression of dissident groups and the confinement of political prisoners in labor camps. The Russian people in turn are said to be dismayed by aspects of American life—such as unemployment, crime, drugs, political assassinations, and the high costs of medical care and college education. To the extent that the two peoples are interested in alleviating the injustices that each perceives in the other's society, the proper means are not commerce but cultural relations and educational exchange, and even these are unlikely to turn the Soviet Union into a bastion of human liberty or the United States into a socialist paradise.

It is for these reasons that when Senator Jackson advocates a "détente based on freedom and individual liberty," he is in effect calling for no détente at all, but rather a renewal of the cold war. In a recent speech the Senator from Washington averred that "Without bringing about an increasing measure of individual liberty in the Communist world there can be no genuine détente, there can be no real movement toward a more peaceful world." In practice Mr. Jackson has channeled his idealistic efforts toward the redress of only one of the many injustices of the Soviet system—the restrictions which in the past have been put upon the emigration of Soviet Jews. If we are to have a "détente based on freedom and individual liberty," should we not also insist upon redress of all the injustices of the Soviet system, not only to the Russian people but to the satellite states of eastern Europe? Should we not insist, as a condition of détente, that the Czechs and Poles and Hungarians be allowed to choose their own form of government, Communist or not, free of the overbearing power of the Soviet Union? In logic and in justice, I suppose we should, but in practice I subscribe to the aphorism that "the best is the enemy of the good."

With a view to coercing the Soviet Government into removing present and all future restrictions on Jewish emigration, Senator Jackson has offered an amendment to the trade bill pending in Congress which would deny most-favored-nation trade treatment as well as credits to "nonmarket economy" countries—which is to say Communist—which deny or heavily tax emigration by their citizens. Most-favored-nation treatment, as you know, is not a special privilege but simply a promise not to discriminate against any one country's trade as against another's; withholding most-favored-nation treatment is therefore a sanction, serving to injure or discriminate against a country's trade. I emphasize this well-known fact so as to make it clear that the issue is not one of privileged treatment for the Soviet Union, which I do not favor, but one of discrimination against the Soviet Union, which I also do not favor.

I do not favor this discrimination because the purpose it is meant to serve exceeds the interests and responsibilities of the United States. In a world beset with dangers and injustices, it is essential to discriminate between the greater and the lesser and to concentrate your efforts on those areas which are both important and tractable. Learning to live together in peace is the most important issue for the Soviet Union and the United States, too important to be compromised by meddling—even idealistic meddling—in each other's affairs. It is simply not within the legitimate range of our foreign policy to instruct the Russians in how to treat their own people, any more than it is Mr. Brezhnev's business to lecture us on our race relations or on such matters as the Indian protest at Wounded Knee. We would, quite properly, resent it, and so do they.

Consider how the American people would have responded if Mr. Brezhnev had cancelled his recent visit because of the Watergate, or taken the occasion to lecture us on political corruption. We would, of course, tell Mr. Brezhnev to get stuffed, regardless of our own dismay over the Watergate. In fact the General Secretary was the model of propriety. Before leaving Moscow he told a group of American reporters that "it would be quite indecent and quite unsuitable for me to intervene in that affair in any way. . . ." His attitude toward President Nixon, he added, was one of "very great respect," based, he said, on the President's "realistic, constructive approach to the problem of improving relations between our two countries. . . ."[2]

As to the Jackson amendment, Mr. Brezhnev pointed out that the Soviet Union had in fact relaxed its emigration controls. Although the extent of that relaxation is disputed, it is acknowledged even by supporters of the Jackson amendment that the Soviet Government has in fact suspended its emigration tax, and has in fact permitted the emigration of a great many Soviet Jews. Mr. Brezhnev, as James Reston commented, "has tolerated American interference with his internal laws more than any American President would have tolerated similar interference from the Soviet Union."[3] In his interview with the American reporters in Moscow, the Soviet leader also pointed out that his country had never raised with the United States any question regarding *its* emigration policies.

There is no limit to the mischief to be wrought by a policy of basing détente upon sweeping standards of morality. The Jackson amendment would deny nondiscriminatory trade treatment to any "nonmarket economy country" which denies its citizens, or heavily taxes, their right of emigration. Why just "nonmarket" countries? Should a country be exempted from punishment for confining its citizens simply because it has a capitalist economy? Is the right of emigration sacred only as applied to socialist countries? The answer of course is that many countries impose emigration taxes, and in order to enforce the right of emigration upon all countries, we would have to renegotiate many

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Footnotes at end of article.

or most of our foreign trade agreements, or if necessary cut off trade with an indeterminate number of countries, at incalculable cost to our balance-of-payments.

In support of his amendment Senator Jackson invokes Article 13 of the United Nations' Universal Declaration of Human Rights, which states that "Everyone has the right to leave any country, including his own, and to return to his country." Note that the article refers not only to the right to *leave* but also to the right to *return*. The latter right is invoked by the displaced Palestinians, who are denied repatriation to their own former homes within the territory of Israel. Is the right of Palestinians to return to homes from which they were expelled any less fundamental than the right of Soviet Jews to make new homes in a new land? As long as we are to use trade sanctions to enforce one part of the Universal Declaration of Human Rights, why not enforce another part of it, or all of it for that matter? Why not deny most-favored-nation trade treatment to any country, market or nonmarket, which denies its citizens the right to emigrate, or the right to repatriate, or any of the other rights we hold dear—speech, religion, press, the works? Why not universalize the Jackson amendment and make it a vehicle to redress a wide range of the world's injustices?

Even if Senator Jackson were willing to broaden his amendment in these ways, I am bound to confess that I still would not support it. Although I believe that the world can be made better, and that man is capable of aiding its betterment, I am equally a believer in selectivity of means. Important as it is to know what we hope to achieve, it is equally important to know what we are incapable of achieving; which is to say that humane aspiration must be tempered by realism.

This does not mean that we cannot sometimes pressure another country—even a big country like the Soviet Union—into changing its domestic policies. If the Russians want our trade badly enough, they will bend to the Jackson amendment; they largely have already. But let us not pretend that this is a victory for human rights; at most it is a victory for the rights of a small fraction of the millions of persecuted people upon the earth, and they by no means the worst persecuted. It is a victory, moreover, purchased at the cost of intruding in the internal affairs of a proud and powerful nation, a nation which can no more be expected to endure our intrusions than we would endure theirs, a nation—and this is the central point—whose cooperation is absolutely essential if we are to protect the most fundamental of all human rights—the right of innocent people to stay alive in the age of nuclear weapons.

III. ENDING THE COLD WAR

In nineteenth century Europe the nations convened from time to time in great "congresses." Initiated with the Congress of Vienna in 1815, their declared purpose was to consult and take measures "the most salutary for the repose and prosperity of nations, and for the maintenance of the peace of Europe" On the whole the "Concert of Europe," as it was called, was a success; it did not prevent war altogether, but it helped give Europe its most peaceful century, with no general war from 1815 to 1914.

The "Conference on European Security and Cooperation" which convened its first phase in Helsinki on July 3 has at least a superficial resemblance to the nineteenth century congresses. The meeting of the thirty-four foreign ministers of Europe and of the United States and Canada may accomplish nothing more than the so-called "Holy Alliance" which has joined along with the congress system after the Napoleonic wars, and which was described by knowing contemporaries as a piece of "sublime nonsense." Or, like the Concert of Europe, the European security Conference may represent the start of an era of practical accommodations. The likelihood is for some combination of the two—a few nuggets of practical accommodation wrapped up in layers of magnificent rhetoric, much of it "sublime nonsense."

The European security conference was conceived and advocated by the Soviet Union for the most interesting of reasons: the consolidation and legitimization of the European *status quo*. Dominating half the continent, and lacking the desire or opportunity to take over the rest, the Soviet Union has ceased to be the harbinger of world revolution and become instead a conservative, *status quo* European power. If the cold war is running out, the essential reason is the running down of the Russian Revolution, which has come into its "Thermidor," that stage at which a revolution has run out of steam, its fire-breathing radicals exhausted or displaced, and normalcy and routine are restored. As an historian of revolutions has written, "there is no eternal fanaticism or, at any rate, there has not yet been an eternal fanaticism."[4]

The Russians desired at Helsinki in 1973 what Metternich desired at Vienna in 1815: arrangements for the perpetuation of a favorable *status quo*. They want the West, once for all, to acknowledge the division of Europe, Soviet hedgemony in eastern Europe, and the sovereignty of East Germany. These objectives have already been achieved in fact. As far as "liberation" and "rolling back the iron curtain" are concerned, we climbed that rhetorical mountain with John Foster Dulles in the 1950's and prudently backed down when put to the test in Hungary in 1956 and Czechoslovakia in 1968—just as the Russians backed down before our huffing and puffing when they trod on our Caribbean turf in the Cuban missile crisis. All that remains of the "liberation" policy are the mewlings of Radio Free Europe and Radio Liberty, which liberate nobody but greatly annoy the governments of eastern Europe. The Western foreign ministers at Helsinki are stressing "human contacts"—freer access to ideas and information, tourism and cultural exchange. These, as distinguished from futile ideological propaganda, are well worth pursuing as means of improving East-West relations.

The principal author of detente in Europe has been Chancellor Willy Brandt of West Germany. Through his *Ostpolitik* Chancellor Brandt has concluded treaties of non-aggression with the Soviet Union and Poland, accepted East Germany *de facto* as a separate state, and renounced any German claims upon the present territory of Poland and Czechoslovakia. In June 1972 a final agreement was concluded on the status of Berlin and Western access to it across the territory of East Germany. Chancellor Brandt and his countrymen can hardly have been pleased to make these accommodations, involving as they do the acceptance of the division of their country for the indefinite future. The *Ostpolitik* represents a statesmanlike accommodation to an unalterable *status quo*. The Federal Republic in effect has accepted the outcome and consequences of the Second World War, and in so doing, has grealty alleviated the cold war in Europe.

Gratified by these accommodations, Mr. Brezhnev visited Bonn in May, where he declared that the Soviet Union was now prepared to "step over the past" in relations with the country which twice invaded Russia in this century and to "implement a radical turn toward détente and peace." With so much less at stake, we Americans can only welcome and support Chancellor Brandt's policy. Taken together, the arms limitation agreements of 1972 and 1973, the prospective opening up of large-scale trade between the United States and the Soviet Union, the parallel development of more cordial relations between western and eastern Europe, and Chancellor Brandt's *Ostpolitik*, represent a coming to terms by all concerned with the power balance which emerged from the Second World War.

Under the altered circumstances of Europe, the United States can safely reduce its own involvement by withdrawing some of our present force of about 300,000 men from the European continent. When American troops were first assigned to NATO in 1951, western Europe was still enfeebled by the ravages of World War II; Stalin was alive and the Soviet threat though probably exaggerated, was plausible. In the early 1970's western Europe is, for the most part, politically stable and economically powerful, with national economies healthier than that of the United States and collective resources at least as great as those of the Soviet Union. At the same time, as we have noted, the Soviet Union has shown itself to be far more interested in formalizing the European *status quo* than in trying to alter it and shows no inclination to try to occupy western Europe with ground forces. Indeed the nuclear stalemate has made such an attack all but inconceivable.

Under these circumstances, and for the sake of further advancing the East-West détente, we could safely and sensibly reduce the American ground forces in Europe to half its present numbers, or even fewer. A symbolic ground force is desirable as a demonstration of American loyalty to the North Atlantic Alliance, more specifically as token of the availability of American nuclear power for the defense of Europe, but there is no need of an American army of 300,000 men to protect Europeans against an all but inconceivable Soviet ground attack.

Conceding implicitly, that we do not need this large army in Europe, the Nixon Administration nonetheless dissuaded Congress from legislating troop withdrawal by stressing the usefulness of our forces as "bargaining chips" for reciprocal Soviet troop withdrawals from central Europe. Under an agreement reached with the Russians at the Moscow summit in 1972, talks on "mutual and balanced force reduction" were begun in February 1973. Thus far the talks have scarcely advanced beyond procedural wrangling, and they are now in recess until fall. If these "MBFR" talks make no progress within a reasonable time, Congress will be obliged to consider again whether it wishes to maintain force levels in Europe which far exceed the requirements of our own and European defense.

Although the post-war balance of power has long since been stabilized, it went unacknowledged for almost twenty-five years, principally because of the ideological conflict between the Communist East and the non-Communist West. Our redoubtable cold warriors still do not acknowledge the new balance of power simply because they dislike it: it has put a crimp in their ideological crusade. Another reason the new balance-of-power went unacknowledged was the lingering in Western minds of the old Munich syndrome—the belief that Stalin and his successors must surely be as mad and insatiable as Hitler, and the concomitant belief that any coming to terms with a rival is a form of shameful appeasement. Now, belatedly, these myths have been partially dispelled and we have advanced toward reality in our dealing with the Russians, and also with the Chinese.

The *de facto* settlement of 1945, shaped by the lines of military demarcation at the end of the Second World War, has shown itself to be durable. It is not the just and rational peace we once hoped for, but it is the only peace we have or can expect to have in the foreseeable future. That is why it makes sense to acknowledge and formalize it. And for those who retain some spark of hope for the United Nations Organization which was formed with that peace in 1945, it even provides a basis of idealism, of hope for a more civilized and humane world in the years to come.

FOOTNOTES

[1] Television address to the American people, June 24, 1973.

[2] Hedrick Smith, "Brezhnev Praises Nixon for 'Realistic' Approach," *New York Times*, June 15, 1973.

[3] "The Nixon-Brezhnev Promises," *New York Times*, June 22, 1973.

[4] Crane Brinton, *The Anatomy of Revolution* (New York: Vintage, 1965), p. 234.

GENOCIDE CONVENTION PLACES RESPONSIBILITY ON PRIVATE INDIVIDUALS

Mr. PROXMIRE. Mr. President, I spoke yesterday of provisions in the Genocide Convention which would force governments to assume responsibility for genocidal acts, be they instigated by the State or not. But this treaty extends criminal liability to include private individuals as well.

This feature is particularly important when certain aspects of World War II are recalled. For instance, many members of the Japanese Imperial Army behaved in a barbaric manner during the campaign for the Philippines; yet they later claimed that they were only acting under orders given by their superiors. Similarly, many German civilians tolerated and staffed concentration camps that were functioning short distances away. These people also claimed afterward that they committed these barbarian acts because they were obligated to follow orders. This defense was accepted by the courts in many instances, and consequently, there were persons who should have been punished but were not.

Article IV of the convention states that—

> Persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.

This means that no one could use the "only following orders" excuse in order to escape responsibility for his actions. Anyone who is an accomplice to an act of genocide must personally bear responsibility for it and take the consequences.

Thus the Genocide Convention guarantees that all those who play a role in genocidal acts will be punished. Officials cannot blame the state, governments cannot blame individuals, and conversely, individuals cannot escape blame by accusing their superiors. The Senate has stalled long enough—the time has come for ratification of the Genocide Convention.

THE REJECTION OF MR. GODLEY'S NOMINATION

Mr. SCOTT of Pennsylvania. Mr. President, over the weekend both Washington papers, the Star-News and the Post editorialized over what one of them termed a "diplomatic disservice" when the Senate Foreign Relations Committee rejected the nomination of a career Foreign Service officer to become an Assistant Secretary of State.

The Star-News said it was an "absurdity" to punish G. McMurtrie Godley, former Ambassador to Laos for carrying out policies of the administration. Mr. President, Mr. Godley was a career Foreign Service officer upholding the oath of office. He was doing the job to which he was assigned.

The Post said the Foreign Relations Committee made "an unhappy error of judgment."

Both newspapers reminded their readers of the witch hunts and purges that existed against China hands in the State Department after World War II. We also know history has disproved these men were disloyal.

Mr. President, the Godley affair must not go unnoticed. The Godley affair must not be repeated if we are to expect to encourage good men and women to make a career out of serving their country and upholding the office they are serving.

Mr. President, I ask unanimous consent that these two editorials be printed in today's Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

The Godley Affair

We are not in the least concerned about the professional career of our former ambassador to Laos, G. McMurtrie Godley. Being one of the best professional Foreign Service officers in the business and having been rejected by the Senate Foreign Relations Committee as the future assistant secretary of state for East Asian affairs, he can presumably write his own ticket so far as his next assignment is concerned. The only pity is that he wanted the murderous job to which he had been assigned and that the nation will be the real loser as the result of the committee's action.

We are very much concerned, on the other hand, by the capricious vindictiveness of the nine members of the Foreign Relations Committee who voted against the confirmation of Godley's nomination. This small group of men, it seems, is determined to perpetuate indefinitely the bitterness that divided, not only the government, but the whole American people over the war in Indochina. It has also succeeded in raising, in the words of Secretary of State William Rogers, "profound questions for a career service which is charged with carrying out policy under whatever administration it serves."

The absurdity of punishing Godley for "over-enthusiasm" in carrying out his assignment in Laos may be self-evident, but it is also as sinister as anything that has happened in the Senate since the days of the late Senator Joseph McCarthy. The one thing the country does not need at this point is a senatorial witchhunt against government officials who have faithfully carried out the policies of successive governments with respect to the war in Indochina. If the members of the Foreign Relations Committee think that this is a legitimate way of asserting a role in American foreign policy, they are grievously mistaken.

Diplomatic Disservice

The Senate Foreign Relations Committee made an unhappy error of judgment, we believe, in rejecting 9 to 7 the nomination of G. McMurtrie Godley—a career diplomat who served most recently as ambassador to Laos—to be assistant secretary of state for East Asian affairs. The nomination was set aside, Chairman Fulbright explained, because in Laos Mr. Godley was "so intimately associated with Vietnam policy and such an enthusiastic activist" that he should not serve in a responsible East Asian position under the new conditions emerging now. Yet how could any ambassador to Laos fail to be "intimately associated with Vietnam policy"? Should a bureaucrat whose competence is otherwise acknowledged be penalized because he was "enthusiastic" about the policy he was obligated by his oath to carry out? The President made essentially this point in his strong protest to the committee over its handling of the appointment. By the logic of Mr. Fulbright, Foreign Relations would confirm for new Asian posts only those diplomats who, in their last Asian jobs, had resigned.

It is hard to avoid wondering if the committee took on Mr. Godley not so much out of reservations about his personal fitness but out of its own bitterness over Mr. Nixon's Indochina policy and its own rivalry with the President over policy-making power. The diplomat is in that sense a victim of disputes not of his own making. We say this not because of any admiration for the policy in Laos which Mr. Godley supervised—a policy we have ourselves repeatedly faulted. The point is, however, that it is much to the nation's interest to keep its career diplomatic service insulated from the policy arguments and institutional power struggles which are inevitably the stuff of politics. No way else can the independence of judgment and the integrity of the foreign service be bettter protected. One would have thought the point had been adequately made by the purge of the State Department's China hands which the late Senator McCarthy pressed a generation ago. We would not deny Senator Fulbright's contention that the choice of men serving at Mr. Godley's level can affect the shaping of policy. But we would reply that congressional attempts to fine-tune policy by manipulating the career of professional foreign service officers are laden with heavy risk.

There is, after all, no shortage of legitimate ways in which a determined legislature can effectively make its mark on foreign policy. It can legislate. It can use its power of the purse. It can hold hearings, disseminate information and otherwise attempt to influence public and official opinion. It can block confirmation of policy-level presidential appointees, such as the secretary of state. Intervening in the workings of the career foreign service is not only a troubling but also a rather ineffectual way to send a President the message that his foreign policy is not what the Congress thinks it ought to be.

MARYLAND SENATE RESOLUTION ON HOUSING FOR THE ELDERLY

Mr. MATHIAS. Mr. President, in January of this year, the Department of Housing and Urban Development imposed a freeze, or moratorium, on the major housing programs which have been authorized by law, pending the outcome of a thorough study and reevaluation of the effectiveness of these programs and the development of its own recommendations for new housing programs, which have been promised to be submitted to Congress no later than September of this year.

When this housing freeze was first announced, I registered a strong protest with then-HUD Secretary Romney. My view then, as now, was that while study and evaluation are always essential components of any effort to pursue sound policy, there is neither wisdom nor justification in halting crucial housing programs and impounding funds which have been duly authorized and appropriated by

Congress, before viable alternative programs have been prepared and approved under law.

In the intervening months, I have repeatedly expressed this view to Secretary Romney's successor, Secretary Lynn, and I would like to take this occasion to emphasize it again: I do not believe that we can afford to allow progress in our cities to grind to a halt merely because we do not yet have the final answers or most perfect solutions while our hard-pressed citizens search for decent housing. It seems to me that even in cases where programs admittedly are not going to the root of the problem, they have at least provided the means of continuing the life of the cities and their citizens from day to day, and we must consider that before we arbitrarily suspend them. In the long run, such a start-stop tactic can only cost the Nation more money, not less, and cause more hardship, not less, in all those efforts that must be undertaken to provide decent housing for all our citizens.

One of the groups hardest hit by this policy is our elder citizens—many of whom can barely afford to pay for housing of any kind, and for whom Congress has established a long-standing commitment to provide adequate housing at a reasonable cost. With new housing projects specifically designated for the elderly, under both local housing authorities and non-profit sponsorship, indefinitely held up under the HUD freeze, their problem is becoming critical.

At this time, Mr. President, with both Houses of Congress considering a variety of anti-impoundment provisions which could affect this HUD freeze, I would like to remind my colleagues how crucially important it is that we not overlook the housing needs of our elder citizens. In this connection, therefore, I commend to the attention of my colleagues a resolution which was formally adopted by the Maryland State Senate on April 9, 1973, under the sponsorship of State Senators Schweinhaut and Hodges. I ask unanimous consent to have this resolution printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION NO. 66

Senate Resolution on behalf of the senior citizens of Maryland, recognizing their need for proper housing; and its dissatisfaction of the Federal Administration's policy of impoundment of funds for housing programs designed to meet the need of elderly citizens

Whereas, The senior citizens of this State have been for many years productive and participating members of our society, contributing to the well-being of our State; and

Whereas, Great numbers of our senior citizens find it increasingly difficult, if not impossible, to live in this great State of Maryland on a fixed income through this period of inflation; and

Whereas, There are specific housing programs designated for the elderly, under local Housing Authorities and non-profit sponsorship; and

Whereas, The need for such housing has been demonstrated time and time again; and

Whereas, In Montgomery County alone over 700 elderly persons await decent, safe, and sanitary housing at a price they can afford with a similar need existing in every area of the State; now, therefore, be it

Resolved by the Senate of Maryland, That the Senate expresses its dissatisfaction of the Federal Administration's policy of impoundment of funds for housing programs designed to meet the need of elderly citizens for decent housing and of the freeze on the acquisition and construction of dwelling units by local Public Housing Authorities; and be it further

Resolved, That copies of this Resolution be forwarded to the entire Maryland Delegation in the Congress of the United States.

PUBLIC FINANCING OF PRESIDENTIAL CAMPAIGNS

Mr. MONDALE. Mr. President, the July 16 St. Paul Pioneer Press contained an excellent article discussing the need for public financing of Presidential campaigns.

The Watergate affair, the editorial notes, illustrates the "dangers to honest Government which arise from current methods of financing Presidential election campaigns."

The editorial continues:

> The Watergate exposures combined with other unsavory funding episodes of the past, should be sufficient to bring about enactment of legislation strong enough to assure future presidential campaigns a healthier financial atmosphere. No other single reform would do more to protect the integrity of the national political system.

I could not agree more. I shall, therefore, introduce legislation next week that will provide for public financing of Presidential campaigns, including both primaries and the general election. This legislation will build on the $1 checkoff system of financing Presidential general elections—which is already in the law—and will permit modest private contributions to supplement public funds.

I ask unanimous consent that the full text of the Pioneer Press editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MONEY ROLE IN POLITICS

Many questions raised by the Watergate investigations must naturally be left unanswered pending further developments, but there is one aspect of the scandals which already is definite and conclusive. This is the expose of dangers to honest government which arise from current methods of financing presidential election campaigns.

While Watergate has produced evidence of illegal and unethical fund collections by President Nixon's reelection organization, such abuses are not limited to one political party. The temptation to barter political favors for cash contributions is built into the system.

Sen. Walter Mondale of Minnesota, an advocate of public campaign financing, made this point in a talk to the Texas AFL–CIO convention last week. Watergate revelations, he said, "have effectively dramatized just how corrupting big money is in the political process." But he added: "My own (Democratic) party's record of political fund raising—while never in the same league as the Republicans in 1972—has not always been as open and forthright as I would like it to have been. The chief fault lies in the system itself, a system which forces candidates to rely on excessively large contributions if they hope to compete effectively in a modern presidential campaign."

Mondale's recommendation for reform, which agrees with the views of numerous others in both major parties, is for severely limiting the size of individual contributions while simultaneously providing substantial public funds for national campaigns.

Congress has often considered this approach in the past, but has not agreed on effective action. The Watergate exposures, combined with other unsavory funding episodes of the past, should be sufficient to bring about enactment of legislation strong enough to assure future presidential campaigns a healthier financial atmosphere. No other single reform would do more to protect the integrity of the national political system.

FOOD PRICE CONTROL

Mr. YOUNG. Mr. President, farmers in general have had their ups and downs—mostly downs, at least during this century. An interesting article entitled "Woodrow Wilson, Herbert Hoover, and Food Price Control" was written by Mr. Tom G. Hall, an assistant professor of history at California State University, and reprinted in the June 27, 1973, edition of the Washington Agricultural Record. Mr. Hall's article concerns wheat shortages and price problems previous to World War I.

It is interesting to note that many of the same tactics were used to hold down prices then as are used now; tactics such as limiting imports and setting maximum prices.

Farmers are caught in an unhappy position of having their markets curbed and price ceilings imposed when shortages occur. Usually these same people who are instrumental in imposing these restrictions on farmers are opposed to any minimum price support legislation that would help keep farmers from going bankrupt.

Mr. President, I ask unanimous consent that Mr. Hall's article "Woodrow Wilson, Herbert Hoover, and Food Price Control," as reprinted in the Washington Agricultural Record of June 27, 1973, on wheat supplies and prices be printed in the RECORD as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WOODROW WILSON, HERBERT HOOVER, AND FOOD PRICE CONTROL

(By Tom G. Hall)

Complaints about the "high cost of living," suspicions that farmers and food processors were hoarding food, and demands for government action were as familiar to Americans living in the early twentieth-century as they are to us in the 1970's. Like today, consumers were responding to inflated food costs. From 1900 to 1914 prices increased moderately. But after 1914 they became erratic and then suddenly shot up by 46 percent between July 1916 and April 1917, rising another 45 percent by December.

By the time the United States went to war in April 1917 the country faced a food crisis. Poor harvests in 1916 coupled with enormously expanded foreign demand has so reduced domestic reserves that it was doubtful whether the country could supply the Allies. At the same time, civilian discontent over prices threatened the war effort and President Woodrow Wilson's administration.

President Wilson had to stabilize prices and expand production. In doing so he singled out wheat for special consideration, for the 1916 and 1917 grain harvests were among the lowest on record, exports had doubled, and prices had reached $3.24 a bushel in May 1917. More importantly, wheat was, as the symbolic "staff of life," the focus of public discontent, and one of the vital "materials of war" because it was so easily stored and shipped. Ultimately wheat prices were stabilized but only after the government had assumed the radically new task of coordinating the agricultural economy. The timing and nature of this coordination was determined by Woodrow Wilson's political philosophy, by his foreign and domestic policies, and by the distribution of power among consumers, farmers, and middlemen.

Wilson's initial response to the food crisis stemmed from his belief (shared by many Americans) that greedy food processors, grain dealers and other middlemen were hoarding food and manipulating the commodity markets. (As a progressive reformer he believed that "unnaturally" large business combinations caused most of the nation's economic problems and wanted to return to a small-unit economy presided over by a limited interventionist state.) In August 1914 he ordered the Justice Department to bring the "food gamblers" to court. These investigations lasted for nearly two years without reducing prices or uncovering any evidence of conspiracy. Nevertheless, in December 1916 he renewed the investigations and in February 1917 transferred the work to the Federal Trade Commission despite protests from the FTC's chairman that investigations would have no impact on prices.

A smaller group of Americans associated with a different wing of the progressive movment believed that an inefficient distribution system had caused the food crisis. They sought to reduce prices by creating state marketing bureaus, public markets, and direct farm-to-consumer marketing programs. In general, they wanted to reduce the number of middlemen standing between the producer and the consumer. Many of their proposals were implemented after 1914, but prices continued upward.

Finally, the food trades and particularly the flour millers and grain dealers, as represented by their trade associations and the Chicago Board of Trade, attempted by private means to stabilize the market. From 1914 to 1917 they restricted commodities trading to "legitimate" traders, increased margins on futures contracts, brought pressure on an overburdened railway system to maintain the flow of food, and sought ways to prevent wholesalers and retailers from speculating in food. Prices, however, remained erratic.

By the end of 1916 a system in which private groups coordinated the economy while government reinforced an outdated code of economic behavior had clearly failed to solve the food crisis. Why then after two years of a fruitless hunt for the food hoarder did Wilson renew the search in December 1916?

Wilson was drawn inexorably back to the "food gambler" because he sought to protect his last major attempt at ending World War I from being disrupted by a virulent domestic dispute over prices that developed after August 1916. Impatient with the government's failures, the National Association of Master Bakers, the American Federation of Labor, the National Housewives League, and urban congressmen began agitating in August for an export embargo on wheat and other foods. This proposal, which quickly picked up support across the nation, drew fire from farmers, who looked forward avidly to continued high prices in 1917, and flour millers, grain dealers, and Eastern export interests. At first Wilson ignored the issue. He was running for reelection on a platform of "peace and progressivism"—in 1916 the latter meant "prosperity." He had no desire to shoulder prosperity's burdens or to alienate the vital farm and business vote by mentioning food prices or the embargo. Immediately after the election, however, the President declared publicly that embargoes should not be used to reduce prices at home and that, as far as he was concerned, inflation was "entirely a domestic issue." These statements were directed at the Allies, particularly the British. He was, in effect, warning them that a future embargo, which he planned to impose if necessary, would be directed at drigin the belligerent power to the bargaining table, and not at satisfying American consumers. Wilson next moved swiftly to implement this position and to discourage urban congressmen from introducing embargo legislation. In mid-November he called on farmers to produce "big crops" so that middlemen could not use shortages as an excuse to boost prices. On December 1 he ordered the Justice Department to renew its investigations and two days later announced that the administration could do no more to reduce prices.

By the beginning of February Wilson's peace initiative had failed: he severed relations with Germany. His advisors wanted him to prepare the nation for war. The President, however, moved slowly, first because he still hoped peace could be preserved, and secondly because he was reluctant to make any move, even remotely connected with war, until he had the nation's complete backing. When, for instance, Congress demanded that he transfer the food investigation from the Justice Department to the FTC, Wilson stalled and then decided on February 7 to make the transfer only if Congress would appropriate the necessary funds. Wilson was obviously testing congressional support. Debate later in the month indicated the deep divisions over prices. Congressmen from farm states accused their urban colleagues of driving "one class to penury that the other may continue to revel in extravagance," and insisted that only the "stern necessity of war" could justify government action. Urban congressmen on the other hand accused farmers of hoarding food and the administration of stalling on the issue.

A series of crises during the next several months broke the deadlock. On February 19 violent food riots broke out in New York City and spread quickly to Boston and Philadelphia. The riots spread fears of serious social disruption and caused progressive reformers to demand direct federal price control. During April and May the grain trade's attempts to stabilize the market collapsed when the Allies cornered the futures market. Partly to protect its members from bankruptcy and partly to forestall federal regulation the Chicago Board of Trade suspended futures trading and called for government control over foreign buyers. At the same time the milling industry, now faced with dwindling supplies and the possibility of Canadian competition, also came out for federal control. Finally, the declaration of war itself created a sense of emergency and national unity that made it dfficult for farmers to resist the idea of federal intervention.

Despite the fact that these events made the idea of price control politically possible, there were still tremendous obstacles to overcome before prices could be stabilized. Most Americans assumed that since their duty was to supply the Allies with "abundant food," the government should give farmers a "guaranteed" wheat price; farmers would then "surpass all previous records of production" and the food crisis would be solved. But this assumption ignored a number of crucial facts: incentives would not increase production in 1917 since the winter wheat crop was already in the ground; that crop would be short, the Department of Agriculture estimated; the Allies' needs were larger than the American Market could supply without shortages and increasing prices at home. Price incentives alone would not be enough.

These were painful realities which Americans did not adjust to readily. When in late April the administration asked for authority to fix minimum, maximum and guaranteed prices, power to control food distribution, and funds to expand the Extension Service, Congress, farmers and the food trades haggled over the bill until late August.

Herbert Hoover became the administration's chief negotiator and later the Food Administrator. Americans believed that Hoover was a food expert because of his role in the Commission for Relief in Belgium. Hoover was no expert, but he was a man of considerable ability who was anxious to administer the nation's food resources. After some delay Wilson gave him the post. The President told Secretary of the Navy Josephus Daniels that Hoover as "Almoner of Starving Belgium needed to do nothing but let the papers glorify his Belgian record to open all doors to him." Moreover, Hoover had a plan that appealed to Wilson's desire to limit the government's intervention in the economy.

Hoover proposed to sail the nation safely past state socialism by organizing a temporary agency staffed by the country's "industrial brains," and presided over by a "single responsible executive." He planned to stabilize prices by controlling all exports, by maintaining in the country a supply sufficient to meet domestic demand, and by "reflecting" this price back to the farmers and forward to the consumers through a series of agreements made with elevator operators, flour millers, and grain dealers. Business would, Hoover confidently told the President, voluntarily cooperate with the government. In a word, Hoover proposed to manage prices, not fix them or ferret out food speculators.

Much to Hoover's surprise and anger Congress balked at placing agriculture in his hands. It wanted a board or a commission to administer the law. At Hoover's insistence, Wilson swiftly squelched that idea. Hoover was less successful with congressmen from the wheat belt who were convinced that the administration meant to fix prices at a low level. They delayed the bill's passage until the administration granted an important concession: farmers would be guaranteed a minimum price of $2.00 a bushel for the 1918 crop. Flour millers, far better organized than consumers or farmers, exacted even more significant concessions. Their power stemmed partly from their superior organization, and partly from their control over approximately 80 percent of the nation's wheat supply which Hoover needed if prices were to be reduced, and from their monopoly of the knowledge and manpower necessary for the administration of food control. From the Food Administrator the millers wanted control over all milling regulations, guarantees of sufficient grain to maintain capacity production, pledges that shipments to the Allies be in the form of flour instead of bulk wheat, profits at least double pre-war levels, and assurances that Hoover would not tamper with certain industry practices. The "Food Czar," involved in creating a government coordinating agency where none had existed, had no choice but grant the industry's demands by creating an autonomous Milling Division under the direction of James F. Bell, one of the nation's largest millers.

When the Food Control bill became law in August 1917 Hoover created a special price commission that established $2.26 as the 1917 wheat price. (Farmers who had assumed there would be no price ceilings were outraged but could do little except accuse Hoover of robbing them of just profits.) Then he organized the Food Administration Grain Corporation, headed by Julius H. Barnes, the nation's largest grain exporter, which bought and sold enough wheat to maintain prices at $2.26. The Corporation along with the Milling Division allocated supplies between domestic consumers and Allied governments.

Barnes in late December 1917 aptly summarized how the Wilson administration ultimately solved the food crisis when he wrote his "Chief," Herbert Hoover, "By directing the movement [of wheat] into depleted markets, and by keeping at all times a sufficient current of supplies, to avoid inflation of prices by scarcity, we have the strongest weapons possible for the prevention of inflated and unequal prices."

EFFECT OF TIME ZONES ON THE UNITED STATES

Mr. MATHIAS. Mr. President, Mr. Paul Mullinax, of Silver Spring, Md., has done extensive research into the question of the effect of time zones on an industrially progressive nation like the United States. An article authored by Mr. Mullinax appeared in the April 1973, United Airlines magazine, The Mainliner, and I request unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A CASE FOR U.S.A. TIME

Four different time zones for the continental United States has not been a practical idea since the invention of the telephone and the airplane. One of the best solutions for modernizing time in the United States is to create a single time belt. We call this U.S.A. Time.

U.S.A. Time, a concept of it being 10 a.m. in New York, Chicago, Denver and Los Angeles simultaneously—rather than our present system of one hour differences between Eastern, Central, Mountain and Pacific time—could provide instant relief for the communications and travel problems of the millions of business people who keep the heart of America pumping.

Then why don't we adopt U.S.A. Time?

Your first reaction might be that it is a "slap in the face of Mother Nature." Before 1880, your opinion would have been popular, since our forefathers operated on the Mother Nature system of time. The instant the sun reached overhead in their home cities, they designated it "high noon" or 12 o'clock. This was a good system, provided you never left your hometown. Each city was on a different time. If you traveled a hundred miles in any direction from your city, the base time would vary several minutes.

Mother Nature complicated this further by her inconsistency. The sun would not be directly overhead at the same time on any given day in any given city since the difference between the shortest day of winter and the longest day of summer is more than five hours.

THE RAILROADS PUSHED FOR A CHANGE

By the 1880s, high noon city-by-city time became obsolete due to the increased speed of telegraphic communication and railroad travel. The railroads found scheduling impossible on the high noon system. They pushed for a change. It worked.

In 1883, Time Zones—approved by international conventions—were introduced. The United States adopted Eastern, Central, Mountain and Pacific Time Zones with one hour differences. In an age when it took a full day to cross one of the wide U.S. time zones, this new system was practical. Besides, the country was sectionalized and the time zone boundaries usually ran through relatively uninhabited areas of the country.

The practicality of the new Time Zone decreased as the speed of travel and communication increased. Over the decades, progress has been made in other obvious areas—cars replaced horses, paved highways replaced dirt roads, planes began to be a major form of commercial travel, then faster planes replaced them, jets replaced props, until finally we were a jet age nation. Jet age, yes, but a country which still operates on an 1883 railroad time system.

Modern America began to play with the clock in the 1940s. During World War II we moved the national clock ahead one hour and called it Daylight Savings Time. After the War, Daylight Savings Time was observed by local option.

This caused more confusion than can be described. While most cities observed Daylight time only in the summer, many cities ended it in September, others October. Often towns within 10 miles of each other would split over the time. Town A would go on Daylight Time, Town B would decide to remain on standard.

In 1967, the Uniform Time Act divided the United States and its possessions into eight time zones; Atlantic, Eastern, Central, Mountain, Pacific, Yukon, Alaska/Hawaii and Bering.

The Act also said that all states, possessions and the District of Columbia *must* observe Daylight Savings Time from 2 a.m. on the last Sunday of April until 2 a.m. on the last Sunday of October. Did this solve any problems? Some.

However, the Act also allowed any state, by legislative action, to exempt itself from going on Daylight Savings Time. Hawaii, Arizona, Michigan and Indiana chose this way out.

In 1972, the Act was further watered down when the states were allowed to split themselves into time zones and to exempt either part. As a result western Indiana observes Daylight Time; eastern Indiana does not.

States which have been allowed to split themselves between time zones are Michigan, Utah, North Dakota, Nebraska, Kansas, Oregon, Texas and Indiana.

One thing is certain, the Uniform Time Act has done very little to eliminate the confusion caused by multiple time zones and Daylight Savings Time. It definitely has not simplified the job of interstate commerce or travel.

HOW CAN U.S.A. TIME BE ACCOMPLISHED?

The change to U.S.A. time could come in two phases. Phase I would establish only two zones—Eastern and Western. Then Phase II would combine these with a half-hour change.

The change to U.S.A. Time should be enthusiastically embraced by those Americans living in the Central and Mountain Time Zones. Under Phase I they would not change. They also would not go on Daylight Savings Time.

The plan for U.S.A. Time concerns only the continental United States. (We would also recommend that Alaska drop its four time zones and standardize on Alaska/Hawaii Time; and that Puerto Rico and the Virgin Islands move from Atlantic Time to the new Eastern Time.)

Eastern (now Central Time Zone) and Western (now Mountain Time Zone) would become the standards for a two-zone continental system. Here's how it would work.

In the continental United States, we would divide into two time zones—Eastern and Western. Residents in the Pacific Time Zone would go on a year-around Daylight Time, in effect, moving their clocks forward one hour to Mountain Standard. Time. This shouldn't be difficult since the four states in the Pacific Zone all now go on Daylight Time each summer anyway.

Major objections most logically would come from residents in our present Eastern Standard Time Zone. They would set their clocks back one hour to Central Standard Time under the new system.

The East has a high concentration of businesses, however, which are involved with interstate commerce. Our present railroad-inspired zones adversely affect them. Therefore, resistance might not be as great as anticipated since there would be many obvious advantages to dealing with the Midwest on the same time.

Assuming the Pacific, Mountain and Central Standard Time zones residents could persuade the Eastern Standard Time Zone residents to move their clocks back one hour—which is a reasonable assumption—Phase I of U.S.A. Time would be accomplished.

Examine the following illustration, and it explains that Phase I of the U.S.A. time change would nearly double the number of convenient hours to telephone coast-to-coast during the normal business day. More work would be done simultaneously.

Example: There are only three convenient hours to telephone from New York to Los Angeles today. This is due to different starting times, quitting times and lunch times.

Today you can only conveniently reach the East from Los Angeles from 10 a.m. to 12 noon, and from 1 p.m. to 2 p.m. Under the new system, calls from west to east would be regularly placed from 9 a.m. to 11 a.m., and from 1 p.m. to 4 p.m. From east to west, New Yorkers could call from 10 a.m. to noon, and from 2 p.m. to 5 or 6 p.m.

PROBLEMS OF THE PRESENT SYSTEM ARE MANY

The problems wrought by our present system are many. Those businessmen involved with the stock market and any of its related activities must make personal adjustments to impersonal zones. Since market operations must begin simultaneously across the U.S. (to prevent trading advantages), brokers in San Francisco must rise three hours earlier than their eastern counterparts in New York in order to be ready for the market's early morning operations.

Shippers must constantly plot arrival and departure times for shipments in distant locales. Businesses with scattered branch offices must fight time differences daily.

Network television spends millions because it must reschedule, retape and rebroadcast thousands of hours of programming to serve the present zoning system. It has, however, already accomplished Phase I by combining the Central and Eastern Time Zones into one. There have been few complaints.

Jet lag for air travelers is a real problem which affects the normal eating and sleeping patterns of passengers arriving at a transcontinental destination.

Today when a passenger leaves Los Angeles for New York, he is literally on a five-hour air trip. However, when he arrives, he discovers that the trip has actually taken *eight* hours by the clock.

Suppose he leaves Los Angeles at 5:30 after the closing of a business day. He boards, jets away, and instead of arriving at 10:30 p.m. (still a decent hour), he arrives at 1:30 a.m. New York time. If his business meeting the following day is scheduled for 9 a.m., he gets up at 7:30 New York time. However, his mind and body are still attuned to Los Angeles time which is 4:30 a.m. His body reacts accordingly out of habit.

Does anyone really know what time it is? Yes, it's time for a change.

WHY PHASE I AND PHASE II CAN WORK

Let's look at the four major time zones across the United States and how they can be eliminated.

Phase I, as mentioned earlier, would form two zones instead of four, thus making the difference between New York and Los Angeles only one hour instead of three.

This would be done by combining the Eastern and Central Zones, and the Mountain and Pacific Zones. We would now have only Eastern (now called Central) and Western (now called Mountain) time. This would result in no change across most of the country and a change of one hour for the Coasts.

Now there would be no time change on flights between New York and Chicago, Memphis and Atlanta, New Orleans and Miami. In the West, we'd travel with ease between Los Angeles and Denver, Phoenix and San Francisco, Seattle and Salt Lake City without disruption of time change.

PHASE II WOULD BE CRUCIAL TO UNIFICATION OF TIME

The final step would combine the remaining two zones into a single zone from Maine to California. At that time, we would have to change our clocks only 30 minutes. The east would turn its clocks back 30 minutes; the West would move 30 minutes ahead. Now we would be on standardized U.S.A. Time.

Though it will aid airlines and their passengers greatly, it will, in fact, benefit every citizen of the country. Families with scattered members will be able to communicate with ease. The problems mentioned earlier—shippers, brokers and television delays—will be resolved. Efficiency will increase and we will have truly entered the jet age.

Objections will be raised. The first will be that changing the zones will not actually change anything—that there will *still* be three hours difference between New York and Los Angeles and that darkness will still come to New York three hours before it comes to Los Angeles. This is essentially true, but one part is based on a misconception and the other on a failure to understand the full impact of U.S.A. time.

SOME PARTS OF THE WORLD HAVE ALREADY OPTED FOR STANDARD TIME

Several countries or regions have already united under the same time zone.

All world time is measured from Greenwich Mean Time, based on the London suburb of Greenwich. Yet, even before they entered the Common Market, Great Britain and Ireland joined Europe in the summer by going on Daylight Time which moved them an hour ahead and into step with the rest of western and central Europe. Now the continent from Portugal to Poland and from Ireland to Yugoslavia tells time the same.

The People's Republic of China, a nation which is broader from east to west than the United States, has been unified under one national time.

India, another large country, has combined her time zones into one by moving the eastern part of the country back a half hour and the western part ahead a half hour.

All of southern Africa, from the Atlantic to the Indian Oceans, maintains the same time. While political problems keep these nations apart, at least keeping the same time may help them talk about their differences.

OTHER COUNTRIES ALSO HAVE COMPLICATED TIME ZONE PROBLEMS

While the continental United States puzzles through the problems of four time zones, other parts of the world have managed to confuse their citizens even more.

Canada has seven different time zones; the Soviet Union, an incredible eleven. Brazil, a country equal to the United States in size, divides itself into three zones with her island possessions in a fourth.

As mentioned earlier, our own State of Alaska, where air travel is sometimes the *only* means of transportation, copies the "lower 48" and splits itself into four unnecessary time zones.

Australia, a nation also as large as the continental United States, divides herself into three zones—and further confuses the matter by having the central zone be only 30 minutes behind the eastern zone, while it is 90 minutes ahead of the western zone.

The Arab world invites problems of unity as it maintains six different kinds of time.

Most baffling of all is Saudi Arabia which keeps Arabic Time. This time is based on the concept that each day begins and ends at sundown which makes midnight different every day of the year.

In short, if time zone reform is accomplished in the continental United States, it would point the way for other nations to reduce or eliminate the hours which divide their people.

Americans, who pride themselves on progress, should take a look at the needs of their countrymen and what they must do to standardize time. It will literally take an "act of Congress" to change to Phase I or II of U.S.A. Time, but the impetus for this change begins with each of us.

AMATEUR ATHLETIC ACT OF 1973

Mr. TUNNEY. Mr. President, on June 26, 1973, the Senate Commerce Committee voted to report favorably the Amateur Athletic Act of 1973. This bill represents a major attempt to protect the interests of amateur athletes representing the United States in international competitions such as the Olympics, to end the senseless bickering between feuding sporting bureaucracies, and to significantly improve the programs in this country which are responsible for development of athletes.

In the months during which Senators Pearson, Cook, Gravel, Thurmond, and myself have been considering this issue, there have been a number of articles appearing in newspapers, magazines, and other publications across the country. These articles outline the issues and problems with which this legislation is concerned.

Because much misinformation and many misinterpretations have been circulated about this legislation, it is especially important that my colleagues be informed of the facts about this vital bill. It represents a major step toward protecting the rights of athletes and giving millions of young athletes the opportunity to develop their athletic skills.

I am convinced that as the facts come to light, the Senate will see fit to approve the Amateur Athletic Act of 1973. Accordingly, I ask unanimous consent that the following articles selected from a representative sampling of those which have appeared throughout the country be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the San Francisco Chronicle, July 17, 1973]

Tunney Defends His Sports Bill

New York.—Senator John Tunney yesterday labeled as clap trap the arguments of opponents to the Amateur Athletic Act and termed the proposed bill the "most important piece of sports legislation in the history of Congress."

Tunney (Dem-Calif.) said those in charge of the U.S. Olympics operations in 1972 "lived in a cocoon" and said it is time for Americans to ask "if we are going to allow some international association to dictate how we are going to manage U.S. athletes . . .

"It is a sad day if we are going to do so.

"They—the members of the International Olympic Committee—are completely out of touch with reality," the senator told a news conference.

Tunney, son of former world heavyweight champion Gene Tunney, was in New York to push enactment of the bill, which would create a U.S. Sports Board as an independent agency of the federal government to license sports organizations.

To the argument against federal control of sports, he pointed out that the U.S. Olympic Committee was created by an act of the Congress.

"Our proposal is merely a modification of currently effective federal legislation," the senator said.

The Sports Board actually would control only organizations involved in international sports participation. All charters issued by the board "would expire every four years after the Olympic Games, summer or winter," the act states.

Amateur athletes would represent at least one-fifth of the board's voting membership.

The senator said participating athletes finally would have a voice in selection of coaches and trainers, which they don't now have in international competition.

Tunney said the bill, actually proposals by four members of the Congress incorporated into one measure, would revitalize the U.S. Olympic Committee and its method of operation, as well as end the long power struggle between the National Collegiate Athletic Association and the Amateur Athletic Union.

[From the San Diego Union, July 17, 1973]

Tunney Backs Sports Bill Against "Cocoon Living" IOC

New York.—A U.S. senator labeled as clap trap yesterday the arguments of opponents to the Amateur Athletic Act and termed the proposed bill the "most important piece of sports legislation in the history of Congress."

Sen. John Tunney, D-Calif., said those in charge of the U.S. Olympics operations in 1972 "lived in a cocoon" and said it is time for Americans to ask "if we are going to allow some international association to dictate how we are going to manage U.S. athletes . . ."

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Tunney said the bill, actually proposals by four members of the Congress incorporated into one measure, would revitalize the U.S. Olympic Committee and its method of operation as well as end the long power struggle between the National Collegiate Athletic Association and the Amateur Athletic Union.

He also maintained that enactment would create a development program so that a greater number of persons could become involved in amateur sports.

And, the senator said, federal government involvement would be only to the extent of protecting athletes from overbearing sports organizations.

Tunney, whose father, Gene, was once heavyweight boxing champion of the world, released a statement in which he was joined by Sens. Marlow Cook, R-Ky.; Strom Thurmond, R-S.D.; James V. Pearson, R-Kan.; and Mike Gravel, D-Alaska, criticizing opposition to the proposal.

"An intensive lobbying effort is being conducted to defeat the measure," the statement said.

"The efforts consist primarily of extraordinary statements which are based on misinformation, misinterpretation and conjecture."

[From the New York Times, July 17, 1973]

Tunney Scores Critics of Omnibus Sports Bill

(By William N. Wallace)

John V. Tunney, the Democratic Senator from California, yesterday answered the critics of the omnibus sports bill, the Amateur Athletic Act of 1973 that he co-sponsored, and the 38-year-old son of the one-time heavyweight champion in effect put on boxing gloves.

"They have lived in a cocoon. They don't know what the real world is all about," said Tunney in reference to those administrators in opposition to the bill who come from the International and the United States Olympic Committees, the Amateur Athletic Union and the National Collegiate Athletic Association.

The executive committee of the U.S.O.C. on Saturday announced a unilateral opposition to the bill, soon to be voted on by the Senate, charging among other things a government take-over of amateur sports.

Tunney, at a news conference here in Gallagher's Steak House, said: "This is simply not true. This [the bill] is a package designed to protect athletes, not to start some kind of a bureaucracy."

The Senator added: "An intensive lobbying effort is being conducted to defeat the Amateur Athletic Act of 1973, recently reported by the Senate Commerce Committee. The effort has consisted of extraordinary statements which are based on misinformation, misinterpretation and conjecture."

In his refutation, Tunney said that the legislation would have nothing to do with the conduct of intercollegiate or high school sports or those of such groups as American Legion, Police Athletic League or Little League.

"The focus of the legislation," he said, "has been only on competitions which must comply with international rules, particularly Olympic sports."

MAXIMUM STAFF OF 35

To charges about the creation of a "massive" bureaucracy, the Senator said: "Again this is a wild exaggeration. The bill provides an annual operating budget of only $1.1-million, compared to the $1.148-million for the Environmental Protection Agency for example. There would be a maximum staff of only 35 which compares to an average Senator's office staff."

The bill has four features. It would create a commission to make a one-time study of the United States Olympic effort. "There was incredible maladministration," he said with regard to the last United States Olympic effort. "The Olympic Committee was chartered by the Congress and it must be responsible to the Congress."

A second feature would be the enactment of a National Sports Foundation to fund, with Federal and private monies up to $100-million, sports in all aspects of society. "It's obvious there is a crying need for development funds in sports. They [current sports administration] are not doing the job."

A third aim, one which has caused much technical criticism, would be the creation of the United States Sports Board to issue charters to individual sports groups in international competition and thereby take away much of the power of the feuding A.A.U. and N.C.A.A.

[From the Washington Post, July 17, 1973]

Sponsors Defend Bill To Regulate Athletics

A U.S. senator yesterday labeled as clap trap the arguments of opponents to the Amateur Athletic Act and termed the proposed bill the "most important piece of sports legislation in the history of Congress."

Sen. John Tunney (D-Calif.), meeting with reporters in New York City, said those in charge of the U.S. Olympics operations in 1972 "lived in a cocoon" and said it is time for Americans to ask "if we are going to allow some international association to dictate how we are going to manage U.S. athletes . . .

"It is a sad day if we are going to do so.

"They—the members of the International Olympic Committee—are completely out of touch with reality."

Tunney is pushing enactment of a bill, which would create a U.S. Sports Board as an independent agency of the federal government to license sports organizations.

To the argument against federal control of sports, he pointed out that the U.S. Olympic Committee was created by an act of the Congress.

"Our proposal is merely a modification of currently effective federal legislation," the senator said.

The Sports Board would control only organizations involved in international sports participation. All charters issued by the board "would expire every four years after the Olympic Games, summer or winter," the act states.

Amateur athletes would represent at least one-fifth of the board's voting membership.

Also in support of the bill was Sen. James B. Pearson (R.-Kan.), who yesterday in Washington attacked what he called "a lobbying effort" to defeat the bill.

Pearson, co-sponsor of the measure, said sports groups "have been led to believe the bill would result in the regulation of amateur sports on every level, including intercollegiate and high school programs."

Pearson said this was not true, and that the bill specifically provides that no high school game, meet or tournament and no intercollegiate, American Legion or YMCA contest would be regulated under the bill.

[From the Washington Post, July 15, 1973]

AAU Lets Diplomats Know Who Really Runs Things

(By Shirley Povich)

The same people who helped make a mess of the 1972 Olympic Games for the United States have now stuck both of their left feet into U.S. foreign policy. They have suspended the coach, two swimmers and a team official of a 14-person swim group that had the impudence to tour China while knowing it would displease the Amateur Athletic Union.

Of no importance to the AAU was the truth that the China trip originated from an invitation by Chairman Mao Tse Tung, who cleared it with Henry Kissinger who cleared it with the White House, which told the State Department's Bureau of Cultural Exchange to get to work on it. AAU policy does not allow for camaraderie with countries outside the holy family of Olympic nations, and the U.S., by mixing into swimming affairs, was clearly in violation of the separation of powers.

This example of arrant pomposity by the AAU is most timely for backers of a Senate bill that would re-structure the whole, bickering, set-up that now controls U.S. amateur athletics and breeds the incompetence of the Olympic committee. The Tunney-Pearson-Cook bill that has been reported out favorably by a Senate committee would put the supervision of amateur athletics under scrutiny of a U.S. Amateur Sports Council.

The major opposition to the bill is coming from, as expected, the AAU, the colleges' NCAA, and the U.S. Olympic Committee, each of them eager to maintain their tight little holds over their own domains. It is precisely because they have specialized in trumping each other's blunders that an independent federal agency has been put in the works.

The AAU's decision to go it alone and not recognize China is typical. The NCAA can't laugh much, however. The other day a UCLA scholarship athlete was quoted as swearing under oath he was getting good marks in classroom courses he was not even attending. Neither are the U.S. Olympic Committee people distinguished for their intellects. When all the scandal was raging over drugs in the U.S. compounds at Munich, and the wrong starting times given U.S. trackmen who missed their events, the solution of the USOC president was to demand that the nosy press be kept out of Olympic Village.

It profits the Tunney bill to be known by its enemies. One of these is the good old reliable National Rifle Association, no stranger to powerful lobbying techniques. The NRA, which certifies U.S. Olympic marksmen, sees the Federal Amateur Athletic Council as a burden to the taxpayers. The NRA does not mention the $50 million proposed to finance the council, but cleverly relates it to the "Civil Service Commission (which) administers the affairs of government employees at the expense of approximately $8 billion annually."

In a letter to Senator Tunney, the NRA advised him that its opposition represented the sentiments of "more than one million members of this association." Tunney said, "If the NRA opposes it, I'd say my bill can't be all bad." He also said he estimated that NRA opposition would be worth 30 favorable votes in the Senate.

In suspending only four of the 14 who took the China trip, the AAU was selective. It punished the four who held committee positions in swimming, and might have moved up in the AAU hierarchy if they had minded their manners. Now they'll be missing out on those plush trips to the Olympics and other fringe benefits like official Olympic gear, including those expensive, tailored blazers.

Every other aspiring AAU official would now get the message. Play the game. Don't buck the system. One who got it and begged off as coach of the China-bound team was Peter Deland, a USC coach, who frankly told the State Department he was "being pressured" to leave the team. He did, and saved his appointment as head coach of the U.S. team that will later visit Moscow for the AAU-approved World Games.

[From the New York Times, July 8, 1973]

U.S. Sports Bill Approaches Ring—Tunney Carrying Fight Into Teeth of Opposition

(By William N. Wallace)

In an effort to explain a major piece of legislation and certainly the most significant one having to do with sports in the history of the Congress, Senator John V. Tunney plans to hold a press conference here Friday.

The Senator, a Democrat from California whose father wrested the heavyweight boxing championship from Jack Dempsey, thereby will be carrying the fight for the bill, the Amateur Athletic Act of 1973, to the opposition, namely the United States Olympic Committee, the Amateur Athletic Union and the National Collegiate Athletic Association.

The bill would affect these three organizations, whose reputations within the Congress are already tarnished, and usurp portions of their power. The bill is expected to be introduced on the floor of the Senate during the week of July 16, and a fight is anticipated because the governing sports bodies like the United States Olympic Committee have been busy stirring up Senators. On the other side, there have been some athletes lobbying for the bill, which would give them a stronger voice in running sports organizations and making policy.

OUT IN THE OPEN

The debate will bring to a head, at least, criticism over the blunders of last year's Olympic effort and abuse of athletes by the

A.A.U. or the N.C.A.A. in preventing them from competing as they wish.

There are four general points of contention about the bill, which would, at the top, create a five-man United States Amateur Sports Board.

The critics, such as Philip O. Krumm of Kenosha, Wis., president of the United States Olympic Committee, says the board would have too much power and introduce government interference. In a somewhat hysterical statement last Thursday, Krumm called the Amateur Athletic Act "a most dictatorial assault on the freedom and civil rights of the American people."

Senator Tunney countered by saying that the role of government was to be mild at best, and existing sports organizations had done such a poor job that they had better accept some Federal guidance now rather than face demands later for much more following further chaos.

The Sports Board is given the power to recognize ruling groups for various sports by issuing charters and it can revoke those charters if those groups fail to meet certain criteria, such as giving the athletes a say.

The critics, such as Ollan Cassel, executive director of the A.A.U., say such an approach would never work because these sports groups must be sanctioned first by the international sports federations, like track and field's International Amateur Athletic Federation. There would be danger of the United States being kicked out of some federations and of our athletes being denied the chance to compete internationally.

This feature is the work of Senator James Pearson, Republican of Kansas, who served on the Kheel Commission that tried unsuccessfully for almost two years to resolve the conflict between the N.C.A.A. and A.A.U. over sanctioning.

Pearson, mild but persistent and a onetime blocking back on Wallace Wade's Duke football teams before World War II, claims to know about international sanctioning and he insists that his plan will work and be accepted by international federations.

Since no chartered group could control more than three sports, the A.A.U. would be diminished. It now controls eight sports: track and field, swimming, boxing, wrestling, weight lifting, judo, bobsledding and luge.

There are those who claim that the bill would encourage dissident groups within a sport like volleyball, for example, to apply to the board for the charter, thus creating internal strife. Any reform is good reform, such is the state of amateur sports, retort the bill's authors.

Another point of contention is that Krumm and the U.S.O.C.'s executive director, Colonel Don Miller, says the legislation is so antithetical to Rule 25 of the International Olympic Committee that the United States might be thrown out of the Olympics.

Rule 25 states, "National Olympic Committees must be completely independent and autonomous and must resist all political, religious or commercial pressure."

Senator Tunney cannot believe that the I.O.C. would suspend the United States on the basis of the bill and points out that government sports organizations exist in Britain, France, Canada as well as in the Soviet Union and others in its bloc.

Neither the U.S.O.C. nor the N.C.A.A. like the concept that Federal funds would finance, on a matching basis with private donations, the bill's National Sports Foundation. The latter is a development project designed to speed support funds into all sorts of sports on all levels of society.

[From the Washington Star, May 25, 1973]

TUNNEY OFFERS HOPE

(By Morris Siegel)

It has long been the contention of this advocate that the principal reason for the fouled-up shape of amateur athletics in this country is that they are run by amateurs.

Apparently Congress has come around to that conclusion, as witness the round of hearings on the subject conducted the last three days by Sen. John Tunney, D-Calif.

This is not the first time these matters have been brought to the attention of Congress. It has been a relatively on-going process for almost 20 years.

With its characteristic penchant for indifference or procrastination, Congress has done practically nothing except convene additional hearings.

Now, at long last, there is a hopeful feelling, certain in the mind of Chairman Tunney, that the time for fiddle-faddle is over and something not only has got to be done but will be done.

The "can-do" attitude Tunney is trying to promote does not on its own merit him consideration for distinguished service in amateur sports.

Other chairmen at other times promised cleanups and changes. Unfortunately, they all ended just as they began—with promises.

The sordid, scandalous state of affairs of amateur sports, particularly as they relate to the stupid, back-biting jealousies between the NCAA and the AAU, rightfully have been called the "Watergate of Sports."

There are refreshing signs that something of a constructive nature will emerge from the latest hearings.

For one thing, the committee seems to have resolved its own jealousies. There are five bills in the Senate alone aimed in one way or another toward restoring some semblance of order.

The sponsors have agreed for the time being, to forego ego trips and work together for the common good, just as they have fruitlessly urged the disputants to do over the years with no permanent results.

"This time we will," Tunney says, with great confidence.

Candidly, Tunney is not certain precisely what final form federal action will take, only that there will be action. There is no doubt in his mind that Congress has the authority to act, certainly in the field relating to the Olympics, where national prestige is involved.

"The United States Olympic Committee was chartered by Congress 23 years ago," Tunney reminds those who remind him they have heard Congressional pledges before in this field.

Tunney sees the establishment of a commission to survey the damage as the first order of priority.

"Then we could name another commission to supervise the recommendations made, but they would have the backing of government," he said.

What Tunney wants and will insist on getting is more representation from athletes themselves on the USOC and total phase out of the AAU people on that committee whose achievements he has reason to doubt.

"They have been too far removed from the scene and what's going on for years," he argues.

Tunney envisions the government not only in the role of a super athletic director, but also as a Big Brother, kicking in financial aid to match private funds to be used for better training facilities, better coaching and a better understanding of the real purpose of the Olympic mission.

"We cannot tolerate another Munich, where two of our best sprinters didn't get to the track on time, where one of our swimmers won a gold medal and then was disqualified because of our own foulup, and many more embarrassments.

"We need and we will get top-flight people to run the program.

Congress already has the power and the right to enforce its recommendations under terms of the USOC charter. Why then, Tunney was asked, did Congress finally resolve to do something about the rotten state of affairs in amateur sports?

"Because it has worsened and worsened," he answered.

The mere recognition of this is progress in itself.

[From the Washington Post, May 24, 1973]

SENATE URGED TO INTERVENE: END U.S. OLYMPIC BUNGLING

(By Nancy Scannell)

The bungling and ineptitude of some U.S. Olympic Committee officials that so embarrassed American athletes last summer have made Munich a word they would like to drop from the sports vocabulary, witnesses told the Senate Commerce Committee yesterday.

The administrative nightmares surrounding the 1972 Olympics and suggestions for preventing recurrences were discussed at some length during the second of three days of hearings on the state of amateur athletics.

Seeking to end the ancient feud between the NCAA and the AAU that has hampered the progress of amateur athletics in the United States, the committee is considering several measures that would restructure the organization and operation of amateur sports.

The effort is one that has been made several times before. But in this congressional session, said Sen. John V. Tunney (D-Calif.), who is chairing the committee's investigation, as he pounded his fist on the table, "I'm going to do it!"

He and other committee members said their aim is to have a new regulatory body functioning in ample time to make changes in the procedures, for qualifying and participating in the 1976 Olympics.

Among the six witnesses yesterday was ABC sportscaster Howard Cosell, who said, "I want to see our young (athletes) protected and they haven't been getting (protection) for the 20 years I've been in broadcasting." Other witnesses expressed similar sentiments.

Cosell ticked off a list of what he called "inexcusable" foulups by USOC officials that contributed to the Munich fiasco for Americans:

"When a teen-ager from California (Rick DeMont) wins a gold medal and it's taken away from him . . . because the USOC doctor failed to notify (proper Olympic authorities) the boy had to take medication for asthma, it's inexcusable."

"When two kids (Rey Robinson and Eddie Hart) from the ghetto work all their lives to get to the Olympics to race . . . (and) then don't even get to the starting gate" because someone got the times confused, it is also inexcusable.

"Why was there no member of the USOC to argue the U.S. case on the scene (during some highly disputed calls against Americans in the basketball competition)? Why did a film producer and a film director, whose major effort up to then had been 'Nanny and the Professor,' have to argue the case?"

"It has become absolutely necessary to have government intervention in this area" to assure fair future participation in the Olympics and to end the "senseless, intolerable hassle" between the NCAA and AAU, Cosell said.

He favored a bill sponsored by Sen. Marlow Cook (R-Ky.) to create a permanent federal amateur sports commission.

The bill provides for the presidential appointment of a three-member commission that in turn would appoint an eight-member advisory board, with an initial commission budget of $3 million for the fiscal year ending June 30, 1975.

The commission would investigate the relations among amateur sports organizations, efforts to improve safety and health, the development of programs to promote and improve the performance of American athletes in international competitions and methods of constructing and improving athletic facilities.

Cosell also said he believes charter changes being considered by the USOC are only "token" ones and that most of its members are not "contemperate" enough to bring about substantive changes.

From his observation of the USOC, he added in response to a question, "I don't think the USOC actively thinks about" whether it is selecting the best athletes to play on American teams.

Another witness, Gen. James M. Gavin of Arthur D. Little, Inc., who did an extensive study on the USOC in the mid-1960s. strongly endorsed a bill calling for a National Amateur Sports Development Foundation.

The function of the foundation would be similar to that of Cook's proposed commission, but Gavin said he favors the foundation approach because it would be more program-oriented than organization-oriented.

Other witnesses included Edward Steiz, president of the Basketball Federation of the U.S.A.; Clifford Fagan of Association of High School Coaches; Cecil Coleman, athletic director of the University of Illinois, and Fred Thompson, a New York lawyer who founded the Atoms Track Club for girls.

They had several recommendations, including placing more emphasis on developing talents at an earlier age and creating training camps and coaching clinics.

In a related development yesterday, committee members expressed anger at the International Amateur Swimming Federation's refusal Tuesday to allow a U.S. swimming team to compete in the People's Republic of China because the Chinese do not have the sanction of the federation.

Sens. Tunney, J. Glenn Beall (R-Md.) and James B. Pearson (R–Kan.) said they would press for a reversal of that decision which would bar U.S. swimmers from other international competition if they went to the meet without AAU sanction.

"What colossal arrogance," said Beall. "If they're (AAU) interested in promoting the interest of athletics as well as the United States, they should be saying 'How can we help this thing along?' rather than 'How can we stop it?' "

[From the New York Times, May 20, 1973]

AMATEUR SPORTS INQUIRY SLATED BY SENATE GROUP

(By William N. Wallace)

Hearings by the Commerce Committee of the United States Senate this week in Washington may go a long way toward solving the obvious problems surrounding sports in America.

The hearings, from Tuesday through Thursday, will address themselves to the Olympic program, the need for a national sports development fund and the practicality of a Federal sports commission that might at last resolve the confrontation between the Amateur Athletic Union and the National Collegiate Athletic Association.

But the hearings will reach far beyond the A.A.U.-N.C.A.A. matter. That is the promise of the chairman, John Tunney, the Senator from California and son of Gene Tunney, former world heavyweight boxing champion. Nineteen witnesses are expected to testify and they are indeed a diverse group.

Hal Connolly will head a panel of recent Olympic athletes that includes Suzy Chaffee, Willie Davenport, Donna de Varona, Tom McMillan and Bill Toomey. They are to recount their experiences and offer solutions.

In the wake of the American travail at Munich last summer, the Olympic Committee will be a target. Its president, Philip Krumm, will be called for an accounting of the alleged new reforms of that group.

Other anticipated witnesses include Gen. James Gavin, whose interest is the creation of a development fund; Howard Cosell, the broadcaster; Fred Thompson, the lawyer and coach of the famous Atoms track team of Brooklyn; Ralph Metcalfe, the Representative from Chicago who almost beat his friend, Jesse Owens, in the 1936 Olympic; plus David Rivenes, new president of the A.A.U. and Walter Byers, chief executive of the N.C.A.A.

Four sports bills have been introduced in the current Senate session. They are not competing bills. The goal of the hearings is to compile testimony that will make feasible a meld of the different approaches to federal involvement in sports for one over-all bill, or two at best.

The bills are:

Senator Tunney proposes the formation of a national commission on the Olympic Games that would in effect replace the present U.S.O.C. The commission's nine members would be appointed by the President.

The National Sports Development Foundation would be the creation of a bill introduced by Senators Mike Gravel of Alaska and Strom Thurmond of South Carolina. Under a federal charter, this foundation would collect and dispense federal and private funds to go to sports groups at all levels for facilities, instruction and competition. The foundation would be run by an independent board of trustees whose maximum term of office would be four years.

Senator Marlow Cook of Kentucky has introduced a bill to create the Federal Amateur Sports Commission. It would set all the rules for United States athletes' participation in international competitions in lieu of the A.A.U. and other present sports bodies.

It would make available the facilities of any institution receiving federal funds so Vince Mathews, the Olympian from Brooklyn, no longer would have to climb a fence to work out, for example.

The United States Amateur Sports Association Board would be the creation of an omnibus bill introduced by Senator James Pearson of Kansas. The board would control existing sports organizations or charter new ones to govern all amateur sports competition. The five board members would be appointed by the President.

The hearings may immediately have to contend with amateur, a word several of the athletes will ask be dropped for practical reasons and to dispel present hypocrisy.

One of the goals will be to steer clear of the battle between the A.A.U. and the N.C.A.A., which such luminaries as Gen. Douglas MacArthur and Theodore Kheel, the labor lawyer, failed to solve over the last two decades.

"The Senators are sick and tired of that," said a spokesman for the Commerce Committee. "We expect a working hearing that will make swift progress toward developing pertinent legislation which can pass through this Congress."

There have been many sports bills proposed in the past suggesting czars, authorities, commissions, foundations. None have completed the rocky legislative passage through Congress. But this trip may be different. "The time is now," continued the spokesman. "The Congress knows it. The public knows it. All we seek is to reach a consensus on the needs, and the procedures to achieve them.

WHAT THE AMERICAN FLAG MEANS TO ME

Mr. MATHIAS. Mr. President, the American Legion Ladies Auxiliary of Post 39, in Harford County, Md., annually sponsors an essay contest on a topic relating to the freedom and independence we enjoy as American citizens. The winner this year was Paul A. Tarantino, 11 years old, a sixth grade student at St. Margaret School in Bel Air, Md. Paul's essay, entitled "What the American Flag Means to Me," also won second place in the American Legion Northern Central District essay contest this year. I share with the members of American Legion Harford Post 39, with Paul's family and friends, and with the citizens of Harford County, a deep pride in Paul's statement. It was published in the July 5, 1973, issue of the Aegis, an outstanding local newspaper in Harford County, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

WHAT THE AMERICAN FLAG MEANS TO ME

(By Paul A. Tarantino)

This is my Flag.

"I pledge" is to promise my faith to my country for a better future.

"Allegiance" that I shall be loyal and devoted to my fellow countrymen.

"To the Flag" the red, white and blue—courage, purity, and justice. For each state which has entered the Union, a star has been added to represent a unified continuation.

"Of the United States of America" the land which I was born in. I am proud to be a part of it because of the freedom of speech, press and religion.

"And to the Republic" to give us the honor of choosing our own government and changing it as we deem necessary.

"For which it stands" the right to allow everyone a choice.

"One Nation" united as one powerful contingent.

"Under God" to feel secure and protected under the hand of God who protects us all.

"Indivisible" so strongly united that we may never be pulled apart.

"With liberty" to have the freedom to love as we choose within basic limits.

"And justice for all" the most rewarding of all, fairness and equal rights to each and every person regardless of race, sex, color or creed.

When my country's Flag blows in the sweet smelling breeze it gives me an assured feeling.

When my country's Flag is unfurled it makes me think of a scroll such as the Declaration of Independence.

When I go to a ball game and hear the National Anthem being played it makes my heart swell to hear the melodious tune of my country's song, the symbol of our Nation.

When I see the Flag being treated wrong and being displayed without respect, I wonder why they are not satisfied with their Flag and country which are so beautiful and free. This is an act of destroying my Flag, and makes me feel unhappy.

If people just thought about the men who gave their lives for their country they might have more respect for all that one finds in the symbolic touch of the cloth of the American Flag.

This is my Flag the one I love and will die under.

NAVAL FACILITIES AT NEWPORT, R.I.

Mr. PELL. Mr. President, last week there came to my attention an excellent suggestion for making use of the naval facilities at Newport, R.I., which the Navy seems determined to vacate in this fiscal year.

This suggestion was made by the Environmental Protection Agency, in commenting on plans to dredge the Thames River in Connecticut in order to accommodate the new SSN 688 class submarine at New London.

EPA suggested that the Navy explore using the facilities in Narragansett Bay as an alternative to the expensive and environmentally damaging dredging of the Thames River. I find that an excellent idea, and I have written to John W. Warner, Secretary of the Navy, urging him to give consideration to this plan. I ask unanimous consent that my letter to Secretary Warner be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 13, 1973.

Hon. JOHN W. WARNER,
Secretary of the Navy,
Washington, D.C.

DEAR JOHN: I am writing to you concerning the home porting of the new SSN 688 class submarines.

At present, the plan is that they be located in New London. However, the recent environmental statement promulgated by the United States Environmental Protection Agency indicated opposition to this site.

Because of this opposition and also because of the immense economic impact of the Navy's departure from Narragansett Bay, which I believe was amply demonstrated during the Armed Services Committee hearings, I do hope that you will give serious thought to stationing the SSN 688 submarines at Melville, Rhode Island.

You may recall that, when you gave me a lift to Washington, we flew over Melville. I believe, too, I mentioned to you the role I played in convincing the Kennedy Administration of the advisability of locating a Polaris submarine base in Narragansett Bay.

The enclosed letter from the then Under Secretary of the Navy, Paul B. Fay, Jr. affirms this fact, and hence, in view of Melville's original intended purpose and of the depth of the waters off Melville, this site could be also used by the new SSN 688 submarines.

I do hope you will move along these lines.

Ever sincerely,

CLAIBORNE PELL.

Mr. PELL. Mr. President, it is not widely known just how wonderfully suited the Newport facility is for these new submarines and I would like to bring to the attention of the Senate some personal background on this question.

In the early 1960's, when the Polaris fleet ballistic missile submarine was being developed I suggested that a section of the Newport Naval Base, known as Melville, be used as a home port for the Polaris.

I had many conversations with Paul Fay, Under Secretary of the Navy, and several conversations with the late President Kennedy on this idea. I was able to persuade the Navy to go ahead with the building of the Melville facility as a Polaris base. The base was constructed at a cost of $1.5 million in 1963. I ask unanimous consent that a letter to me from Under Secretary Fay regarding the construction of Melville be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF THE NAVY,
Washington, D.C., November 12, 1964.
Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR PELL: Now that the creation of the Polaris site in Melville, Rhode Island, is well underway, I would like to take this opportunity on behalf of the Navy for your more than considerable help in assisting us in making this site a reality. Your helpful suggestions, continuous giving of your time, and your appreciation of the role of the Navy and its task down through the years is indicative of why we have such a great Navy-Marine Corps team.

I am sure when the full military population of approximately a thousand, half of which will have families, is on-board in the Newport area, they, as individuals, will be more than appreciative of the efforts of the Senator from Rhode Island, for his role in bringing another Navy activity to this already important Navy area.

Our sincere appreciation to you.

Respectfully,

PAUL B. FAY, Jr.

Mr. PELL. Mr. President, I regret to say that, after the assassination of President Kennedy, the Navy Department decided to use Charleston, S.C., rather than Melville as the Polaris home port.

In the subsequent years this base at Melville has not been used for the purpose for which it was built although it was named as a standby base to be used in the event Polaris submarines were withdrawn from Rota, Spain, or from Holyloch, Scotland.

Mr. President, this facility is sitting there waiting for use. I believe the need for a home port for the 688, the so-called Los Angeles class of submarine, would provide an ideal use.

This new submarine has a draft of 32 feet, some 6 feet more than the existing attack submarines. Much dredging, costing at least $10 million would be needed to base the 688 at New London. Little, if any, dredging would be needed to base it at Melville.

All that would be needed would be the location at Melville of a submarine tender, similar to the tender that is used to service the submarine fleet at Charleston.

As I wrote to Secretary Warner, the decision to close the Newport Naval Base would have immensely adverse economic impact on my home city of Newport and on my entire State. I strongly disagree with this decision. I believe, however, this impact could be relieved considerably by a decision to base the 688's at Melville.

I believe such a decision would be not only good for Rhode Island. It would also be good for our environment and good for our Nation's taxpayers as well.

BARRIERS TO HEALTH CARE FOR OLDER AMERICANS

Mr. PERCY. Mr. President, on May 16, the Special Committee on Aging's Subcommittee on Health Care for the Elderly held a hearing in Springfield, Ill., as one of a series of continuing hearings in the subject of barriers to health care for older Americans. The witnesses, including Illinois State officials, leaders of Senior Citizens groups, and private elderly citizens, commented on a variety of problems they view as being barriers to health care for our senior citizens. Some of the problems mentioned were:

Medicare does not cover costly prescription drugs and medical devices—hearing aids, glasses, et cetera.

High medicare deductibles result in postponement of health care until the patient's condition is acute.

Medicare does not provide sufficient help for those people not needing any hospitalization but requiring continual or recurring care. Barriers to the provision of home health care as an alternative to institutionalization for the elderly were discussed at the most recent hearings of the subcommittee, held here in Washington on July 11 and 12. The unintended consequence of current policies in several Federal agencies seems to be to reduce the availability of this highly desirable alternative.

The differences in requirements and in coverage between medicare and medicaid cause confusion to patients and doctors who cannot anticipate which services will be paid for and those which will not.

Medicare financing methods place too much burden on the fixed incomes of the elderly.

Health care facilities are frequently not accessible to the elderly who experience financial and physical difficulty with transportation.

The physician shortage is particularly acute in inner cities and in rural areas where many elderly people live.

The study of gerontology is neglected by the medical profession.

The elderly feel that the public and the medical profession generally have an unsympathetic attitude toward them.

Because of irregular care, the elderly often have a fear of medical professionals and institutions.

Nursing homes often do not offer adequate or high quality care.

Private insurance companies that provide coverage to those Americans aged 55 to 65 and to middle-class, middle-aged Americans do not have standardized reimbursable benefits.

I was very pleased to chair the Springfield hearing for it has given me a current, firsthand understanding of the special health care problems of the elderly. Understandably, the administration's proposal to increase the share of medical bills under medicare paid by the patient himself is of tremendous concern not only to medicare participants but to the Congress as well.

As I told the senior citizens assembled at the Illinois hearing, Congress is not about to allow the medicare programs, already hampered with numerous problems and inequities, to be further crippled. More than 50 fellow Senators and I cosponsored a resolution, introduced by Senator MONDALE, which expresses our disapproval of the medicare changes proposed in the President's budget. Approximately 30 of my colleagues and I also cosponsor Senator CHURCH's resolution asking the President to submit recommendations for improvements in the medicare program. We simply do not intend to allow an even greater financial responsibility to be placed upon our already overburdened elderly citizens.

The comments of the hearing witnesses are of great assistance to me as I continue to study and work on legislative proposals designed to improve the health care delivery system, not only for our senior citizens, but for all Americans. The elderly of this Nation may be assured that increased and not diminished medicare assistance will be provided, at least until the time that an alternative system can be implemented to serve every American and to address the special health care problems of our senior citizens.

Mr. President, I would also like to take this opportunity to express my gratitude to Senator MUSKIE, the chairman of the subcommittee, and to the effective and efficient staff of the Aging Committee who assisted in making not only the Springfield hearing, but the other hearings on barriers to health care for older Americans as well, successful in pinpointing and suggesting solutions to the special health care problems our elderly Americans face.

ADDRESS OF HON. THEODORE R. McKELDIN, FORMER GOVERNOR OF MARYLAND, AT SCHOOL OF X-RAY TECHNOLOGY OF THE SOUTH BALTIMORE GENERAL HOSPITAL

Mr. MATHIAS. Mr. President, on Wednesday, June 20, 1973, Theodore R. McKeldin, twice Governor of Maryland and twice mayor of Baltimore, was invited to speak at the graduation of the students of radiology of the School of X-Ray Technology of the South Baltimore General Hospital. His message on that evening was distinguished by its eloquence and profundity.

I characterize Governor McKeldin's remarks as eloquent because he persuasively and gracefully addressed an issue which is prominent in America today, the need for honesty and integrity in our professional lives. His remarks were equally profound by virtue of the fact that they penetrated the obvious distinctions between the life of a public official and that of a technologist to focus on a common responsibility that we all share, the obligation to make democracy work.

Mr. President, I commend the Governor's remarks to every Member of the Senate and I ask unanimous consent that the full text of his remarks may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE THEODORE R. MCKELDIN, FORMER GOVERNOR OF MARYLAND

It is the season of the year when people in my position, people whose days of formal schooling are far behind, and especially those who have spent many years in public service are called on to make encouraging speeches to graduating classes all over the country. The temptation in such cases is always to fall back on old proverbs and time-tested sayings of wise men in the past. All of it is sound advice, but all of it you have heard before and the effect, I fear, would be to leave you more drowsy than inspired.

To be sure, the world is now before you. To be sure, your place in it will depend on your own efforts, not on those of the instructors who have hitherto been striving to prepare you to face the tests that every day will bring. To be sure, your achievement henceforth is limited only by your own talents and industry.

But you know all that. It applies to any man or woman who has successfully passed the period of preparation to do any kind of useful work in the world. I would like to stress today a principle that, while it is general in that it applies to all men, applies with especial force to anyone whose work is in any part of the great field of science, which includes X-Ray Technologists.

It is not strictly a scientific principle, in the sense that it was not enunciated by any of the great scientists, but by an authority who, as I believe, surpasses any scientists, even Roentgen, discoverer of the X-Ray. It is a moral principle, which is to say it applies to science, art, philosophy and every other activity of the human mind.

That principle was first stated in these words: "You shall know the truth, and the truth shall make you free," and it was stated in those words by Jesus of Nazareth.

Am I then going to preach you a sermon? Not at all. Certainly the words have a religious application, but they are the very mud-sill of all modern science. The scientist, of all men, is most solemnly obliged to know such truth as is known before he tries to take the next step toward discovery of some truth as yet unknown, or, in the case of a medical scientist, before he tries to correct some morbid or abnormal condition. And in many cases, his work will depend for its success on the accuracy of the work of his X-ray technologist.

That is to say, you are links in the chain that connects the human race with freedom from a vast number of the ills that afflict it. And no chain is stronger than its weakest link. If your work is bad, it may condemn people whom you never saw to slavery to some affliction from which they might be set free.

This, you may be thinking, is anything but encouraging, this is a warning, and a stern one. It does not free us, it binds us to hard and exacting labor. So it does. But I make no apologies for it, because of all the lies that the Father of Lies has invented to mislead the human race, one of the worst is the doctrine that irresponsibility is freedom. For the man who is responsible for nothing is not a free man. He is himself a nothing, a cipher, a mere parasite.

The only road to freedom is not to avoid responsibility, but to discharge it. In your case, your responsibility is to make your finished work accurate to the last degree that your equipment can achieve. In that way, you know the truth, and can pass it on to the man who is responsible for the next step. You have done your duty, and you know it; and then you are indeed free.

What if it is hard work? What if it does require rigorous attention to every detail? What if you do have to overcome exasperating and frustrating difficulties? Nevertheless, it is the road to freedom, and when you have arrived there, all the labor and strain will fade out, but the freedom will remain. That is what is meant by "the truth shall make you free."

But it must be truth, which is not exactly the same as fact. A darker or a lighter spot on your photographic plate is a fact, but what that spot means is the truth. The full interpretation of the fact leads, of course, into other fields of science, but your responsibility ends when you know that it does *not* signify any inattention on your part, or any faulty adjustment of your apparatus, or any carelessness in handling the material. Thereafter, you are free, and the burden passes to the next man in the line that leads from the bondage of ignorance to the liberty of true knowledge.

Am I saying, then, that this day, which marks your passage from the labor of learning to the labor of doing, lays a new burden on your shoulders? Yes, I am saying exactly that. But I am also saying another thing that is a great deal more important. I am saying that this day opens before you a door to a kind of freedom that you could reach in no other way—the freedom of a person who has done his part in the endless search for truth, which is to say, no cipher, but somebody, not a parasite, but a real person doing real work in the real world.

Yes, you are taking up a burden and a heavier one than is carried by a man who has never acquired any special skill, but you are also beginning to enjoy a freedom that the unskilled laborer never attains. Let me assure you that it is worth having and, in this world, nothing worth having ever comes free. Some things, including many of the most valuable, you can't buy with money, but you pay for them just the same, with sweat, by swallowing many a disappointment and taking many a hard blow. But they are the price of any real freedom, which is the knowledge that one is a real person, doing his part in the world's work.

Some people seem to be gaining the reward without ever having paid the price, but that is an illusion. The price has been paid by somebody, and the reward gained is not the real thing, it is a token, a make-believe. A father may leave his son so much money that the son can subsist without labor, but no man can bequest manhood to his son. That the son must acquire for himself, and he has to do it exactly in the same way that you and I have to do it. Certainly, he may eat daintier food, and wear better clothes, and live in a finer house, but those things never made a man or a woman, much less a free citizen of a free country. That title belongs of right only to those who have done what they could to keep the country free, and that can be accomplished only by seeking the truth, for by knowing it we shall be free—in science, in politics, in religion, in business, or in any other walk of life.

Professionally, you have qualified to seek the truth in X-ray technology, and that is unquestionably your first duty, but it is not your only one, for you are not merely technologists. You are also citizens of a nation in which sovereignty, that is, the final power, belongs to the people, a self-governing people. Therefore, you are as deeply obligated to try to know the truth in government as in your technology, for it is only the truth that will make us free, politically as in other ways.

I stop with that because my own experience has been in public affairs rather than in science, or philosophy, or theology or business. But I believe that any honest man experienced in any of those other fields will give you the same advice.

What I have just said to you I believe to be truth, but I admit it is stern truth. Yet this is, in fact, an auspicious occasion, and not only because you have successfully passed tests qualifying you to take your places as adults, helping to do the work of the adult world.

But as men and women who are also citizens of the United States you are henceforth participants in one of the greatest political experiments ever undertaken. Nearly two hundred years ago the founders of this nation staked their lives, their fortunes, and their sacred honor on a theory still unproved, although it had repeatedly been tried. It was the theory that a people, left free and kept informed, could govern themselves better than any man, or small group of men, could govern them.

Ancient Athens had tried it, and failed. Republican Rome had tried it, and failed. A number of Italian and other city-states had tried it, and all had failed. We called it, for short, "democracy," and every democracy preceding ours had ended in dictatorship and tyranny. It is no wonder that to many intelligent men of the eighteenth century, it was madness.

Our first effort, the Articles of Confederation, also failed, but instead of abandoning the effort, we merely rebuilt the framework of government on a new design, the Constitution of the United States. And we have made it work for nearly two hundred years.

Not perfectly, of course. Perfection is not to be attained in this imperfect world. We have had to put twenty-six patches—we call them amendments—on the original Constitution, but in so doing we have made it work well enough for the republic not only to survive, but to increase prodigiously in population, in wealth, and in power.

But the fact that it is not yet perfect makes us, Americans of the present generation, a part of that experiment begun so long ago. Our predecessors have proved beyond a reasonable doubt that there is some truth in the theory of democracy, but how much remains to be discovered, and to make that discovery is the obligation of those who now exercise the sovereign power, that is to say, you and me.

The discovery of even part of the truth by those who went before us made them, if not perfectly free, yet by far the freest great nation on the surface of the globe. It may be that we, too, shall pass without knowing the whole truth, but there is every reason to believe that the more we do know, the more it will make us free.

I submit that it is a great thing, a magnificent thing, to be part of such an experiment. On this day you become full participants in that mighty task, and on that I congratulate you with all my heart. Certainly it is onerous. Certainly it is dangerous. Certainly it is probable that we shall not succeed completely. But even a small advance will make not only us, but all mankind more free, and that is worthy any labor and any danger. So I sum up my message with two quotations from the old Book on which our fathers relied.

Here is the message: from David the Psalmist, "Rejoice with trembling:" and from Paul the Apostle, "Again I say to you, rejoice!"

A "NO" VOTE ON THE ALASKA PIPELINE

Mr. HART. Mr. President, I voted against S. 1081, the Alaska pipeline bill for two reasons.

First. Because a case for congressional intervention in the procedure established by the National Environmental Policy Act had not been made, passage of the bill, as amended, could set an unwise precedent for dealing with difficult environmental economic questions in the future.

Second. During the debate it became clear that west coast markets could not absorb all of the oil production anticipated from Alaska's North Slope, and that large quantities of Alaska oil might be sold to foreign countries. In light of the fact that there appears to be a serious shortage of petroleum products in our country, particularly in the Midwest, passage of a bill which could result in the export of needed domestic oil seemed poor national policy.

As I understand the amendment sponsored by the Senators from Alaska and accepted by the Senate, the Secretary of the Interior would be relieved of his obligation to comply with section 102 (2)(c) of the National Environmental Policy Act. While the amendment does not, as I read it, relieve him from meeting other requirements of that section and of section 101, I believe Congress should not deny court challenges to the adequacy of an environmental impact statement unless a compelling case can be made.

This view is not to imply that Congress should never take such action, but only to warn that in doing so in the case of the Alaska pipeline question, we may well set a precedent which will return to haunt us as we consider other difficult environmental issues in the future.

The time to have intervened, if ever, would have been following the completion of study that adequately assessed the alternative of a route through Canada.

And my position, and the position of those who supported the Mondale-Bayh amendment requiring such a study, can only be strengthened by disturbing reports that Congress received less than accurate reports from our State Department on the view of the Canadian Government toward construction of a pipeline through their country.

Equally disturbing to me is that the oil companies seemed to have changed arguments in midstream as to the desirability of making full use of domestic oil supplies at home.

For years we were told that oil import quotas—quotas which cost the consumer an extra $5 to $8 billion a year—were needed to guard the Nation against becoming too dependent on foreign oil reserves.

The result of that policy was to speed depletion of domestic reserves and to help, in part at least, to create the current shortage. Ironically, we are now in the process of becoming ever more dependent on foreign oil at a time when foreign nations with these needed reserves are becoming more militant in securing increased payments for their resources.

Now, facing a shortage of petroleum products—a shortage which will drive up prices even more—the oil companies tell us they desperately need the North Slope oil to help relieve that shortage.

The newspaper ads which delivered that message to the American people, did not, to my knowledge, also report that because the west coast market would not need all the oil which might be delivered from the North Slope, some of that oil might be sold abroad.

No one has explained to me why it is now wise national policy to build a pipeline which could result in the sale of Alaska oil to a foreign country with a shortage existing in our domestic supply, when once, and at great expense to consumers, it was considered wise national policy to encourage full use of domestic oil supplies. Neither policy makes sense to me.

No one has explained to me why it would not have been wise national policy to build a pipeline which would have delivered Alaska oil to existing Canadian lines, which, in turn, could have transported the oil both to the west of the Rocky Mountains and to the east, where the oil is and will be needed.

Any gain in balance of payments resulting from the sale of oil abroad will be offset by the need to import offsetting quantities of foreign oil.

For both these reasons then, enactment of the Alaska pipeline bill, as amended, sets poor national policy.

WHY CITIZEN ACTION

Mr. MATHIAS. Mr. President, recently Mary K. Ryan, Consumer Counsel to the Cost of Living Council, addressed a group of talented and intelligent young Americans at the Annual MEMCO Scholarship Awards Dinner. I found her comments and advice to these young people to be most inspiring and ask unanimous consent that they printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

WHY CITIZEN ACTION

(By Mary K. Ryan)

This is indeed a happy occasion and I thank you for including me. It is the kind of event to which public officials should be invited more often. Why? Because we can approach it with great enthusiasm. It really is a treat to witness one stage in the metamorphosis of the next generation's leaders. This, after all, is what public officials are working for. And it is interesting to speculate whether any of the contestants here in this room, for example, will someday preside over one of our large corporations, or occupy positions of influence in our government or will be cited for outstanding service to mankind. Every contestant has this potential knowing that such success is indeed achievable. Our dinner's sponsors should be commended for creating a forum so that all of you could "show your stuff".

Before going on, I think I should admit I feel a little like the "Guest Who Came to Dinner"—that is, the one that was not really wanted. By this I mean—everyone in this room is sitting on the edge of his or her chair waiting to hear who the 9 winners are. Consequently, there is serious doubt in my mind whether anything I say will be heard, let alone remembered. I recall all too vividly an occasion when I won first prize and when the award was presented in a very elaborate ceremony and setting such as this. There was a speaker who was portrayed as a very prominent personage, etc. However, let me assure you that today I do not even recall his name let alone what he said that evening! Thus I am most sympathetic to your anxiety and fully expect to have my appearance here tonight meet the same fate of total non-recall.

However—give an Irishman an audience and he can't resist the challenge.

The subject I wish to discuss with you tonight is skepticism—cynicism that results in tragic public apathy. This may seem much too serious a topic for such a happy occasion, but it was suggested by the very nature of the contest which produced the 71 finalists (whom I consider all winners) in this room tonight.

Consider for a moment the substance of the contest in which you all have a stake in one form or another. What were the topics? The 18 year old voter and his obligations; the nature and function of the taxing authority in a democracy; government programs to control inflation (by the way, I would have given anything to have heard the advice you would have given the President!) and finally, fiscal and monetary policy, specifically the national debt. Why were these topics chosen over many others that might conceivably have interested high school students? It seems implicitly clear to me they were chosen because they're damned important! They are the issues of the day and they raise questions about the very roots of our political economic system. They also command a deep understanding of our country's structure and tradition if they are to be discussed intelligently. More importantly they challenge the fertile young adult's mind to be coldly analytical about the system in which we operate. In addition the structure of a contest, i.e., the system of tangible reward for effort expanded, invites *personal involvement*—I want to underscore the phrase "personal involvement".

But what about tomorrow?

What about 5 years from now?

Will you be as interested and, more important, will you be as involved 10 years from now when society's problems and solutions seem less clear cut; when the "rewards" do not seem tangible at all; when you have experienced a series of failures and have had too few successes? Will the effort of personal involvement seem too costly?

The fear that you will imitate the poor example set by my generation and those that preceded me is disheartening. Unfortunately, the evidence—although scanty—seems to indicate you may be starting down the same road of apathy and may be succumbing to the forces that appear to overwhelm the "System". The evidence to which I am referring is the poor turnout of the 18 year olds in the last elections. I thought it was very exciting to see the seasoned political pros of both parties trying to speculate on how the 18 year olds would vote and, moreover, being worried by this new force that was to appear on the land. That was a very healthy phenomenon. But somehow or other, the force never achieved its optimum potential. These new voters obviously didn't see that they were a force to be contended with. They did not seize the initiative that was there. Instead they mimicked the apathy of our generation by turning out in much smaller numbers than originally anticipated.

Why?

I suppose if we were to ask each of you that question, the answer might vary—but I suspect it would not vary very much. A good many might give a variation on the theme that "it doesn't really mater much"; politics is dirty" and "there is nothing the little guy can do about it". I don't need to see the results of Harris polls to know that many people distrust government or that they think the economic power of vested interests cannot be overcome no matter how hard ordinary citizens try.

Indeed if you persist in that belief, the belief will become a self-fulfilling prophecy. Vested interests that are inimical to your interests will continue to influence government more than you wish unless you set in motion a countervailing force—unless you bring enough pressure on government so that it is impelled to listen to you—so that it must at least give you your day in court.

To evaluate this, it might help you to know that I am in government by choice; I am not a political appointee, I am a career civil servant by choice; and I do not remain in government solely to obtain financial security. I am the original pollyanna and the perennial optimist. By this I mean, I am totally committed to our system; but I also believe that if this country is to continue its record of greatness, it must constantly be in a state of reformation in order to satisfy changing needs and shifting societal values. A viable society is always in flux and a viable government must be equally so. What concerns me most as a public servant is public indifference—especially since I know that citizens can have significant impact on the system if they will but just try.

Some of you probably remain skeptical. This is understandable since we may not give as much publicity as we should to the accomplishments of citizens. For the record then, let's review a few succes stories:

Betty Furness, former Consumer Advisor to the President, has a favorite story about a group of housewives in Buffalo who became concerned over the pollution of one of the Great Lakes. They could see the flaura and fauna dying before their very eyes. They approached the supermarket chains in the area to ask them to stop selling detergents containing phosphates. Their request was unceremoniously refused. Discouraged, they returned home and said, "What do we do now." Well, what they did was proceed to educate themselves on the causes of pollution. They had no prior education on the subject. They had to start from scratch. In their research they discovered that phosphates were damaging the sewerage system of the city as well as polluting the lake. Armed with technical documentation, they besieged the City Council and succeeded in getting an ordinance banning phosphates in the City of Buffalo. Their story does not end there. When the Federal Trade Commission held hearings on a proposed Trade Regulation Rule to require the disclosure of phosphate amounts in all detergents, these women were expert witnesses—I emphasize "expert" and today they are considered a force to be contended with by the industry.

Closer to home there are other success stories. Lynn Jordan, of the Virginia Citizens Consumer Council, and Ann Brown, leader of a D.C. organization, have conducted price surveys of both food and drug chains to evaluate the availability of advertised specials. Their surveys uncovered poor performance by the chains. This resulted in a Federal Trade Commission Rule that requires stores to have available for sale a sufficient quantity of advertised specials to meet reasonably anticipated demand. Their work has also resulted in a proposal by the Federal Trade Commission to conduct food surveys nationwide and to publish the results by store name and location. This means that consumers would know which store charged the least for a specific marketbasket of goods.

Finally, the success story we can all identify with is the ecological revolution. This was "people power" at its finest hour. The issue really took off when college students—who at the time could not vote—grabbed hold of it and ran away with it. There was "Earth Day" and the next thing we know there was the Environmental Protection Agency!

Each of these stories is concrete evidence that citizen action pays off. Citizen action forces society to examine itself from a different point of view; it can and has raised the level of public conscience on many significant issues. The tragedy is that, despite the successes, not nearly enough citizens are involved. Too many problems remain unnoticed and undebated. The only explanation I have to offer is that the rewards of involvement seem too minuscule. Violations of our antitrust laws for example generally involve the transfer of only pennies from millions of consumers. But those pennies become millions and billions in the hands of the violators. Are we satisfied with that transfer of funds from the many to the few? Perhaps many might be, but to arrive at that conclusion shouldn't we be certain that we know what really is at stake?

Just consider how often we pass judgment on our System—without knowing the tradeoffs we are making. Are our judgments informed? For example, each election we are asked to evaluate on our elected officials; implicitly we are also asked to pass judgment on the performance of government agencies not subject, except indirectly, to the power of our vote. How well do we prepare ourselves?

That is my message. You have been involved. You have competed in a contest for very specific rewards. You have studied and analyzed very important issues. Please don't stop. Don't get jaded or discouraged with the passage of time. Remember this country got started when concerned citizens threw some tea in Boston Harbor. Freedom was at stake then. Today a better society is at stake. I am a firm believer that the extent to which society and government improve is a direct correlation of citizen concern. Thus, to all 71 of you who have been concerned, my congratulations. And, although only nine of you will receive special recognition tonight, remember all of you are winners because you are better informed than you were before.

Congratulations. Do more of the same.

ENERGY RESEARCH AND DEVELOPMENT FUND

Mr. COOK. Mr. President, on July 13 I introduced a bill, S. 2167, for myself, Senators Rorert C. Byrd and Baker, which would provide for the establishment of a Federal energy research and development fund. The fund would receive $2 billion annually from payments made by the energy industry to explore for and produce oil and gas on the Outer Continental Shelf. The figures available to me at that time indicated that there would be ample proceeds from these sales to support this fund. On Tuesday, July 17, the Department of the Interior released a proposed scheduling calling for 15 oil and gas leases on the Outer Continental Shelf during the next 5 years. This announcement is in keeping with the President's energy message, and I call it to the attention of my colleagues because it was on the anticipation of this announcement that I based my statement concerning the realization of adequate funds to support the energy trust fund.

I request unanimous consent that the attached release be printed in the Record.

There being no objection, the release was ordered to be printed in the Record, as follows:

Interior Releases Proposed 5-Year Leasing Schedule for OCS

The Department of the Interior today released a proposed leasing schedule calling for 15 possible oil and gas lease sales on the Outer Continental Shelf during the next five years. An earlier leasing schedule, issued in June 1971, was revised in response to President Nixon's Energy Message delivered to Congress on April 18.

Interior officials stress that the new schedule is a planning document and that no decision to hold any sale appearing on the schedule will actually be made until environmental, technical, and economic studies have been completed. The Department will also hold public hearings before any decision to hold a sale is made. Moreover, a proposed sale in the Cook Inlet of Alaska will have to await the outcome of pending litigation concerning State and Federal areas of jurisdiction.

No sale is now scheduled for the Atlantic Outer Continental Shelf or the Gulf of Alaska. However the schedule indicates that lease sales for one or both areas may be added to the schedule as soon as possible when the Council on Environmental Quality indicates that development in these areas can proceed without undue harm to the environment.

The new schedule proposes a sale on the

Pacific Outer Continental Shelf beyond Southern California's Channel Islands in September 1974. The public hearing for this sale is tentatively set for May 1974.

The revised proposed schedule, being published in the Federal Register, is attached.

PROPOSED SCHEDULE—PROVISIONAL OCS LEASING, JULY 1973

	1973												1974											
Sales	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
32: Mississippi, Alabama, Florida	C		ND		T		DES	PH		FES	N	SALE												
33: Louisiana				C		ND		T		DES	PH		FES	N	SALE									
34: Texas						C		ND		T		DES	PH		FES	N	SALE							
35: Southern California								C		ND		T		DES	PH				FES	N	SALE			
36: Louisiana and Texas										C		ND			T			DES	PH				FES	N
37: Louisiana and Texas														C		ND			T			DES	PH	
38: Gulf of Mexico																		C		ND			T	
39: Gulf of Mexico																						C		ND
40: Gulf of Mexico																								
41: Southern California																								
42: Gulf of Mexico																								
43: Alaska (lower Cook Inlet)																								
44: Gulf of Mexico																								
45: Gulf of Mexico																								
46: Alaska (Bering Sea Shelf)																								
	1975												1976											
32: Mississippi, Alabama, Florida																								
33: Louisiana																								
34: Texas																								
35: Southern California																								
36: Louisiana and Texas	SALE																							
37: Louisiana and Texas			FES	N	SALE																			
38: Gulf of Mexico		DES	PH				FES	N	SALE															
39: Gulf of Mexico			T			DES	PH				FES	N	SALE											
40: Gulf of Mexico		C		ND			T			DES	PH				FES	N	SALE							
41: Southern California						C		ND			T			DES	PH				FES	N	SALE			
42: Gulf of Mexico										C		ND			T			DES	PH				FES	N
43: Alaska (lower Cook Inlet)														C		ND			T			DES	PH	
44: Gulf of Mexico																		C		ND			T	
45: Gulf of Mexico																						C		ND
46: Alaska (Bering Sea Shelf)																								
	1977												1978											
32: Mississippi, Alabama, Florida																								
33: Louisiana																								
34: Texas																								
35: Southern California																								
36: Louisiana and Texas																								
37: Louisiana and Texas																								
38: Gulf of Mexico																								
39: Gulf of Mexico																								
40: Gulf of Mexico																								
41: Southern California																								
42: Gulf of Mexico	SALE																							
43: Alaska (lower Cook Inlet)			FES	N	SALE																			
44: Gulf of Mexico		DES	PH				FES	N	SALE															
45: Gulf of Mexico			T			DES	PH				FES	N	SALE											
46: Alaska (Bering Sea Shelf)		C		ND			T			DES	PH				FES	N	SALE							

NOTES

C=Call for nominations, ND=Nominations due, T=Announcement of Tracts, DES=Draft Environmental Statement, PH=Public Hearing, FES=Final Environmental Statement, N=Notice of Sale.

A decision whether to hold any of the lease sales listed will not be made until completion of all necessary studies of the environmental impact and the holding of public hearings; as a result of the environmental, technical, and economic studies employed in the decisionmaking process, a decision may, in fact, be made not to hold any sale on this schedule.

If CEQ's study of the environmental impact of oil and gas production on the Atlantic Outer Continental Shelf and in the Gulf of Alaska determines that development in these areas can proceed in an environmentally satisfactory manner, lease sales in one or both areas will be added to this proposed schedule at the earliest practicable time.

The holding of sale 43 is contingent upon the outcome of pending litigation with Alaska regarding jurisdiction over this area.

THE TRANS-ALASKA PIPELINE

Mr. BIDEN. Mr. President, yesterday the Senate voted on final passage of S. 1081, the bill often referred to as the trans-Alaska pipeline bill. At that time, I issued a statement explaining my position on that bill. I ask unanimous consent that my statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JOE BIDEN ON THE TRANS-ALASKA PIPELINE BILL

When the so-called Alaska Pipeline Bill was reported out from the Senate Interior Committee, I had every hope that during the course of floor consideration an acceptable bill would evolve that would make available the vast stores of urgently needed crude oil to be found in Alaska, but assuring that reasonable environmental standards would be maintained. As it has turned out, the bill was not improved as a result of floor consideration, but rather its effectiveness was actually lessened.

The need in this country for additional crude oil is beyond question. It became quite clear to me in the course of debate that little if any Alaska oil would find its way directly to the East Coast of the United States. However, anything that would help bring more oil anywhere into the country, without reliance on the OPEC countries, would help eventually on a nationwide basis. I therefore supported and still do support the need to get the oil out of Alaska and into the other 48 continental States.

During floor consideration, I supported a number of amendments that I believed could improve the bill. Undoubtedly the most important of these was one offered by Senator Mondale. His amendment would have held the Alaska pipeline in abeyance while two things were done: (1) preliminary discussions were held with Canada about an alternate route across Canada to bring the crude oil to the mid-west and (2) a study was made by the prestigious National Academy of Sciences of the relative merits of the Alaska route and the alternative trans-Canada route. The National Academy of Sciences would be required to report back to Congress less than a year after passage of the act. On the basis of its study, Congress could then select one or both of the routes. While a year may seem like a considerable delay, this approach seemed fastest and most reasonable when one considers that such a study would have eliminated the likelihood of litigation. There is presently pending litigation in the courts (and it is likely that more will be brought) that may well delay the beginning of any pipeline much longer than one year.

Another factor in my support of the Mondale amendment was that a trans-Canada pipeline would deliver the crude oil to Chicago, much closer to the areas of fuel shortage and much closer to the East Coast. It seemed reasonable to me that this pipeline would do more to help us in Delaware than would the Alaska pipeline. In fact, there was substantial discussion that oil from Alaska would travel through the Alaska pipeline to ships which would take much of it to Japan. Japan in turn would be expected to secure rights to a similar amount of crude from the Middle East which would be shipped by tanker to the East Coast. So there we would be still dependent on the OPEC nations while Japan got American oil, and while even more pressure built up to build superports off the Delaware coast. Thus it made eminently good sense to me to support a thorough study of the trans-Canada line in terms of the East's problem. In addition, it might provide a route which would do less damage potentially to the environment.

Unfortunately, the Mondale amendment was defeated, opposed by the groups that insisted that Alaskan oil must be delivered their way and no other way. I also supported an alternative proposal by Senator Eagleton. This one, like the Mondale amendment, also called for negotiation with Canada and a study of the alternative routes. However, unlike the Mondale amendment, it would not have held up construction of the Alaska line pending the outcome of the study. For my purposes, even this amendment might have been satisfactory since it would have assured an impartial study of the trans-Canada route which I believed would be most beneficial to the East Coast. Unfortunately, again a majority of my colleagues disagreed, and this amendment was also defeated.

At this point, while discouraged about the lack of consideration being given to the Mid-West and East, I was still prepared to vote for the bill. Then, unfortunately, another amendment was offered which made the bill highly unpalatable from a legal and moral point of view.

The first provision of the amendment said that all action previously taken by all Federal agencies was regarded as satisfactorily complying with the provisions of the National Environmental Policy Act. This Act is the basic law which assures our Nation of clear air, good water, and a healthy environment. I had never seen, been presented with, or read the evidence that everything done so far conformed to the provisions of the NEPA. In fact, this very question is currently under litigation in the courts. So I was being asked to override the jurisdiction of the court and make a finding of which I had no firsthand knowledge. Further, I was being asked to vote for a terrifying precedent that whenever a Senator did not like proceedings under the NEPA, all he had to do was come and get Congress to override the law. If we are serious about clean air and clean water, we cannot cavalierly override our environmental statutes. In fact, as a member of the Air and Water Pollution Subcommittee of the Senate Public Works Committee, I feel a special obligation to uphold from indirect attack the environmental law of our country.

The Gravel amendment had a number of other unfortunate provisions including authorization to issue all licenses, permits, etc. for the pipeline, a highway, and three airports without regard to the NEPA or any other provision of law. This was an amazingly wide open grant of power, because we could not really be sure what provisions of law we were waiving. A further provision said that the Secretary of the Interior could change the pipeline route if necessary without regard to the NEPA, a potentially more outrageous assault upon the NEPA than the initial mandate of the route by Congress. Finally, the amendment in effect provided that any further permit issuances or other actions by the Secretary of the Interior or other Federal agency could not be subject to judicial review, even though patently illegal.

This amendment also passed by a vote of 49 to 48. In a subsequent vote which would have permitted a reconsideration of the vote on the amendment, the vote was 49 to 49, and Vice President Agnew cast the deciding vote which cut off further consideration of the amendment.

An effort was also made to adopt an amendment which would have by-passed regular court procedures in any litigation involving this bill. Fortunately, this amendment failed, but it indicates the frame of mind of those attempting to get this bill passed.

Under the circumstances, I felt that, despite my great desire to make Alaskan crude oil available to the American public, I could not go along with a bill that so blithely ignored alternative routes that might have served Delaware better, and that did so much damage to our hard-won environmental statutes.

YOUTH CONSERVATION CORPS

Mr. DOMENICI. Mr. President, I have recently joined as cosponsor of Senator Henry Jackson's bill S. 1871, a bill to expand the Youth Conservation Corps into a full-scale, permanent youth natural resources conservation program.

This measure will expand the existing YCC program to provide summer employment for approximately 150,000 American youth, and will also enable the States to benefit from a cost-sharing arrangement with the Federal Government by operating the YCC programs.

I feel, however, that the most important aspect of this legislation is that it is open to all youth between the ages of 15 and 18 from all social, economic, and racial backgrounds. I think this point should be emphasized strongly—young men and women, meeting the age requirements, will be provided with an opportunity to work regardless of their backgrounds and their status in life. It is a program which enables the youth of our Nation to share an affinity with one another while performing purposeful work.

For 2 years now, our pilot program of the Youth Conservation Corps has established its own merit and effectiveness. Since the program began in the summer of 1971, there has been an overabundance of applicants and an overwhelming number of young people have been turned down due to the unavailability of positions. The popularity of the program with our youth is quite evident and for just reasons.

The program does not "drum-up" work for youth, nor is it a part of an endless job-training cycle for the participant. Instead, it is a program which provides worthwhile work and renders a feeling of "self-pride for each young participant—self-pride which comes through being paid for a task accomplishment and through performing a task which directly improves our Nation."

So far, I have mentioned only one beneficiary of the YCC program—our American youth—but the American Nation is also an important recipient of the program. America has a critical backlog of conservation work. The Youth Conservation Corps, in its 2 years of operation, has nearly returned every dollar we have appropriated to it in the form of direct improvements in wildlife habitat, the replanting of range and forest land, campsites, picknicking facilities, and a vast number of other improvements in the area of natural resources conservation.

I ask unanimous consent that an article concerning the plans for this summer's activities at a YCC camp in my State be printed in the Record to provide a specific example of YCC service along these lines.

There being no objection, the article was ordered to be printed in the Record, as follows:

New Mexico: Yucca YCC Camp

Three Las Cruces Public School System teachers have been selected by the Bureau of Land Management to staff the Youth Conservation Corps camp which will be located here this coming summer, Kirby Kline, recreation director and project manager announced.

Elza Paul, physical education teacher and coach at White Sands Missile Range Junior High School, was named camp director. Education and recreation coordinator will be Clarence Fielder, social studies teacher and assistant coach at Alameda Junior High School. Clement Mancini, physical education instructor and coach at Mayfield High School, was named work coordinator.

Fielder was named New Mexico Teacher of the Year in 1971 by the state teachers' association.

J. W. Young, BLM district manager, said 20 youths from Dona Ana County and El Paso schools will be employed in the program. Housing and other subsistence will be provided by New Mexico State University under contract with BLM.

Young added that applications for employment with the corps will be handled by Richard Bright, in-school Neighborhood Youth Program director, whose office is located at the School Administration Offices, 301 W. Amador.

Kirby said the project will get under way June 12 and be closed Aug. 6. YUCCA Camp, Youth United to Conserve our Country's Assets, enrollees will be aged 15 to 19, including 10 girls and 10 boys.

The youths will be paid about $300 each for the 56-day work period, and all will be housed in the NMSU dorms.

Kirby said preliminary plans are for the girls to landscape scarred areas along roads and at Aguirre Springs Recreation Site. They also will paint and repair picnic facilities and build and erect bird feeders and wildlife habitat coverts.

The boys will terrace eroded portions of the Pine Tree and Baylor Pass Trails. They also are scheduled to construct two primitive camp sites and three overlooks on these two trails, the only ones in New Mexico that are included in the National Recreation Trail System, Kirby noted.

Kirby added that this is the second year of Youth Conservation Corps pilot program authorized under Public Law 91–378 and signed by President Richard Nixon Aug. 13, 1970.

He explained:

"The purpose of the program is to provide gainful summer employment to American youth, representing all segments of society, in the healthful outdoor atmosphere afforded on public lands and to help create opportunity for understanding and developing appreciation of the nation's natural environment and heritage. It is the purpose of YCC to further the development and maintenance of the natural resources of the United States by youth upon whom will fall the ultimate responsibility for maintaining and managing these resources for the American people."

Mr. DOMENICI. Mr. President, improvements to our natural resources through the conservation efforts of the YCC can also be measured—$2.7 million worth of improvements to our natural resources were accomplished by last year's program. We are being given profitable evidence as a means to determine the actual return of our tax dollars. We must not, however, think only of the monetary outcome of the program, but, more importantly, of its long-range benefits: In the gainful employment opportunity we are providing the youth of our Nation, we are also establishing a habit in our youth to cherish and preserve the natural resources of our country. Young people participating in the YCC program will, hopefully, spread their achieved environmental awareness and understanding to other members of the upcoming generation. In this manner, the Youth Conservation Corps builds a healthy consciousness which will conserve and preserve our natural resources.

I urge your support of this legislation, because the Youth Conservation Corps is a program which involves youth in public service type work. We must extend the current program which has only authorized appropriations through the summer of 1974; if we do not, we are letting a program which yields two-fold benefits slip through our hands—one which both aids and guides all our youth and one which conserves a vital part of our country, our natural resources.

NO DECENCY LEFT

Mr. BROCK. Mr. President, excessive zeal and a lack of respect for others in the conduct of congressional investigations has been, in times past, an item of substantial concern for liberal politicians and commentators, who noted such a tendency in the conduct of Senator Joseph McCarthy and, later, of the House Un-American Activities Committee.

These commentators have been remarkably silent on this item as it affects the current congressional investigation into the 1972 Presidential campaign.

I would therefore like to commend to their attention, a cogent essay by Columnist William Safire, which deals directly with this subject.

Safire notes the remarkable uncivility with which a junior committee counsel treated witness Richard Moore, and recalls the pointed comment of Mr. Joseph Welch, a man not unlike Mr. Moore, to Senator McCarthy. "Have you no decency left, sir?" Welch asked.

A popular topic of civil libertarians in those days was the damage done to the careers and reputation of innocent persons by hearings which inherently lack the safeguards of jurisprudential procedures.

In that regard, it is cause for wonder what the future holds for Mr. Moore, who is apparently innocent of any wrongdoing. Will he continually be tagged as "a man called up before the Watergate Committee?" Will that fact, true on its face, be extended in mind or word to "a man linked to the Watergate scandal?" Will civil libertarians rise in outrage, as they quite properly did for Welch and others, or as they have for the likes of Daniel Ellsberg?

These are provocative questions, by which fair-minded citizens may judge the intellectual honesty of those who profess concern for civil liberties.

I would ask unanimous consent that Mr. Safire's remarks appear in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

NO DECENCY LEFT

(By William Safire)

WASHINGTON.—A vicious attack by a 33-year-old Democratic lawyer, bedazzled by his moment in the limelight, upon the only witness to come before the Watergate committee with clean hands—an upright, respected, gentle human being of 59 named Richard Moore—is proof that the purpose of the Ervin committee is not to bring out the truth but to bring down the President.

Richard Moore, of all the men on the White House staff, comes closest to being a hero on the Watergate matter: when in March he had evidence that a crime was being covered up, he urged the man who knew most about it—John Dean—to go to the President and tell him all he knew. One reason Dean then did so, after nine months of duplicity, was the knowledge that if he did not immediately spill all he knew to the President, Richard Moore would go in with whatever he had.

So there was Moore, a man not "involved"; not seeking immunity; not the target of an investigation; a man of substance and lifelong good repute, and a witness to some crucial meetings between Mr. Dean and the President, coming before the Senate committee.

Moore had been told on Monday evening that he would be called to testify on the coming Thursday. He began preparing his testimony, but was interrupted the next day by Special Prosecutor Archibald Cox, who wanted his information first and took most of the next day. That left Moore all day Wednesday to get ready for the Ervin committee, and he concentrated on the period central to the whole investigation—"what the President knew and when he knew it."

After a few hours' sleep, Moore went to the committee; briefly, at lunchtime, committee lawyers went over the area of testimony to be covered that day, centering on the crucial March meetings with the President and Dean.

Then Moore's turn came. His prepared statement refuted John Dean's central conclusion that the President was aware of the cover-up. Moore said no; the first the President had known was on March 21, 1973, when Mr. Dean came clean.

Then young Terry Lenzner tore into him—not into the blockbuster testimony Mr. Moore had just given, nor on the matters about which Moore had properly been concentrating, but on some meetings that had taken place on another subject over a year ago. The line of questioning was a non sequitur; it had nothing to do with the matter at hand; in the language of football, he "blindsided" the witness.

Moore was taken aback; Lenzner bored in with demands for dates and facts on an extraneous matter, effectively confusing and thereby discrediting the witness—after all, had not John Dean come equipped with every fact and date at his fingertips?

Next day, under questioning by others who wanted to find out what evidence he could contribute, Mr. Moore answered with some wit and the kind of occasionally precise recall that has an honest ring, and contrasts sharply with the carefully rehearsed stories of con men out to save their skins.

Because Moore did not lash into anybody, because his subsequent testimony showed he is a person not motivated by hatred, the unfairness of the attempted humiliation by Lenzner was underscored.

The thought must have occurred to many viewers of the two men in confrontation, who would be a better adviser to any President of the United States?

Terry Lenzner, born to wealth, captain of the Harvard football team, protégé of Ramsey Clark and lawyer to the Rev. Philip Berrigan, is the essence of radical chic. He is a man on the make who strikes the pose of a stern guardian of civil liberties, but who has shown he has not the most rudimentary understanding of fairness and civility in human relationships.

Richard Moore, whom he sought to discredit, emerges from the hearings with dignity, good humor, and integrity intact. Viewers who do not automatically assume anybody connected with Mr. Nixon to be evil see Mr. Moore as the kind of man Presidents need to protect them from the gung-ho, ends-justify-the-means "team players" who flutter around the center of power.

The fury of the attack on a good man who did the right thing recalls the pivotal question asked by Joseph Welch, a man like Mr. Moore, at the Army-McCarthy hearings a generation ago: "Have you no decency left, sir?"

The Lenzner attack—which Senator Ervin made no effort to stop—is sure to be mentioned when the President confronts the Senator, and, with personal civility and all constitutional respect, tells him where to get off.

MIDWEST CRISIS CONFERENCE ON FUEL AND FOOD PRODUCTION

Mr. HUMPHREY. Mr. President, today I received a lengthy telegram detailing the results of a conference held Saturday in St. Paul, Minn. The conference brought together representatives from six Midwestern States to discuss the relationship between fuel and food production.

Reports received from the conference were most discouraging. Let me quote from the telegram:

> It was apparent from the testimony heard from farmers, suppliers, food handlers, processors, cooperative and commodity spokesmen, that the fuel shortage has not eased up, but that, in fact, the crisis is about to become much more widespread and damaging.

Mr. President, harvesting is beginning in our Midwestern States, the breadbasket of the Nation, and yet no one seems to be able to give our farmers assurances that adequate supplies of propane gas and other fuels will be available for crop drying and other agribusiness necessities.

Witnesses at the St. Paul conference were emphatic in terming the present voluntary allocation plan a failure. The conference urged the Congress and the executive branch to move immediately to a mandatory fuel allocation program to insure needed supplies of fuel to farmers and the food business.

Tuesday's edition of the Oil Daily, the daily newspaper of the energy industries, and an article in Wednesday's Washington Post indicate that the administration is expected to announce a mandatory plan shortly. I certainly hope these reports are true, for the consensus of opinion is clearly that the voluntary program has been, for the most part, unsuccessful.

However, I wish to make clear at this point that no mandatory plan will be successful either unless our food and fiber industry gets the fuel it needs. Under the present voluntary fuel allocation plan agriculture is specified as a priority category and yet, look at the situation in our farm States. Not only are farmers having difficulty in getting fuel for their tractors and farm equipment, in many cases they are getting no supply at all. As the telegram from representatives at Saturday's meeting in St. Paul stated:

> When one of our farm supply cooperatives runs out of fuel for its farm patrons and requests help the only result of having an "agricultural priority" is that the cooperative is given a phone number which can be called to purchase fuel at what appears to us to be approaching black market prices.

Mr. President, I ask, what good is it to be categorized as a priority customer if one gets no supply, or if one has to pay exorbitant prices for fuel so vital to our food and fiber production? It is no help to be listed as a priority customer if you do not get the fuel.

We need less semantics and more action to resolve the critical fuel supply situation. I urge the administration to immediately announce a mandatory fuel allocation plan—a plan that will truly take into account the serious problems our Nation's farmers are facing at this very moment.

If the administration fails to act, it is up to Congress to do so, and I would urge the House Interstate and Commerce Committee to report the Emergency Petroleum Act of 1973 which passed the Senate as S. 1570 on June 5 by a wide margin.

If action is not taken quickly we face a food crisis of major proportions.

I ask unanimous consent that the telegram I referred to and the articles in the Oil Daily and the Washington Post be printed in full in the RECORD.

There being no objection, the telegram and articles were ordered to be printed in the RECORD, as follows:

ST. PAUL, MINN.,
July 17, 1973.

Senator HUBERT H. HUMPHREY,
Russell Senate Office Building,
Washington, D.C.:

On Saturday, July 14, a six-state crisis conference on fuel for food production was held at Saint Paul.

It was apparent from the testimony heard from farmers, suppliers, food handlers and processors, cooperative and commodity spokesmen, that the fuel shortage has not eased up, but that in fact, the crisis is about to become much more widespread and damaging.

With small grain harvest about to begin, or just under way, some local fuel suppliers have already used up their July allocations and are drawing on August allocations.

No one seems able to give assurances that adequate supplies of propane gas will be available for crop drying, turkey production, and other agri-business uses. There were widespread shortages of propane already in the fall of 1972. Now, it appears that the industry will start out 25 percent short of the volume needed to handle the larger crop. Because of the lateness of the 1973 planting season, a larger share of the 1973 crop may need drying.

It was also brought out that the inability of farmers to obtain assurances that supplies of fuel and propane will be uninterrupted has caused uncertainty about future production and that there may well be a cutback in production of turkeys, hogs, and other livestock and poultry products.

It was the concensus of those attending and participating in Saturday's conference that the documentation of the situation, its possible result in a sharp reduction of production, and its impact on consumer supplies and prices should be submitted to the appropriate Federal agencies and to Members of the U.S. House and Senate from the six States; Minnesota, Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin.

Witnesses were most emphatic in terming the present voluntary allocation plan a failure and I subscribe to that viewpoint personally although the voluntary allocation plan has helped in some isolated instances, it has given the public an impression that the problem is being adequately handled, while in truth, problems are not being met head on.

The oft-repeated statement that, "agriculture has a Number 1 priority is untrue. Agriculture is one of eleven uses on the so-called priority list. When one of our farm supply cooperatives runs out of fuel for its farm patrons and requests help, the only result of having an "agricultural priority" is that the cooperative is given a phone number which can be called to purchase fuel at what appears to us to be approaching black market prices.

The conference urged the Congress and the Executive Branch to move immediately to a mandatory fuel allocation to assure needed supplies to farmers and the food business.

We are appreciative of your genuine concern about agriculture and our family farm system, and know you will give this your most serious consideration.

A summary of the major points made during the testimony and discussion at the July QC conference follows by mail. Witnesses included:

Jon Wefald, Minnesota Commissioner of Agriculture.

E. W. Smith, vice president, National Farmers Union.

Robert Hurner, presenting statement of Senator Walter F. Mondale.

Tom Muckn presenting Statement of Attorney General Warren Spannaus.

Allan Bucke, South Dakota Farmers Union.

Lowell Gose, president, Iowa Farmers Union.

Milton D. Hakel, president, Minnesota Consumers League.

Evan Bosch, president, Kandiyohi County Farmers Union.

Melvin Miller, state representative, Minnesota.

M. F. Ophaug, vice president for merchandising, Lindsay Bros. Co.

Roy Munson, executive secretary, Minnesota Turkey Growers Federation.

Phil Stocker, vice president for general services, Land of Lakes, Inc,

Leonard O. Lashomb, Minnesota AFL-CIO Federation of Labor.

Al Bloomquist, American Crystal Sugar Cooperative and Red River Valley Sugar Beet Producers.

Robert Regnell, board member, Morrison County Cooperative, Little Falls.

Norman Larson, president, Minnesota NFO.

Vincent Ritter, vice-president, Minnesota Farmers Union.

George Kliber, board member, Mid-America Dairymen, Inc.

Calvin Johnson, Atwater, Minn. Farmer.

Vernon Lund, manager, Ortonville Cooperative Oil Company.

Russell Anderson, president, Big Stone County Farmer Union.

Harlow Berg, president, Swift County Farmers Union.

Leo Zimmerman, president, Morrison County Farmers Union.

Mrs. Caspar Fiedler, Farm Wife, Stearns County, Minn.

Statements were filed on behalf of:

U.S. Representative Donald M. Fraser.

Elton Berckn, president, Nebraska Farmers Union.

Gilbert Rohde, president, Wisconsin Farmers Union.

Robert Handschin, economist, Farmers Union Grain Terminal Association.

Associated Milk Producers, Inc., Northern Region.

Minnesota Pork Producers Association.

Minnesota Public Interest Research Group.

C. CARPENTER,
President, Minnesota Farmers Union.

[From the Washington Post, July 18, 1973]

UNITED STATES EXPECTED TO REQUIRE OIL, GAS ALLOCATION

(By Thomas O'Toole)

The Nixon administration is expected to impose mandatory allocations of fuel oil and gasoline on the petroleum industry to head off the worst effects of the ongoing fuel shortage.

Discussions on how to impose allocations on the oil industry have been under way for the last three weeks at the Treasury Department, where authority to lay down mandatory allocations would lie.

"The finishing touches are being put on recommendations right now that will be sent to the White House," a source close to the Treasury Department said yesterday. "These recommendations could go to the White House as early as this week."

The recommendations are understood to involve arrangements for oil companies to "pool" a fraction of their refined products to be allocated to states, counties, cities, farmers, bus companies and independent gas stations that are having a hard time getting the gasoline and fuel oil they need. Many have paid almost black market prices for oil and gasoline to stay in business.

"These are the people that are hurting from the fuel shortage," one source said, "not the motorists."

Treasury's recommendations are also understood to include an appeals system to take care of hardship cases, where retailers like new gas station owners can come to get gasoline if major oil companies refuse to accommodate them.

"This will be the key of any mandatory allocation system Treasury comes up with," an oil industry executive said yesterday. "You've got to have a satisfactory appeals court to get teeth into any allocation system you come up with."

While a step closer to rationing, Treasury's concept of mandatory allocations is still a long way from any rationing of gasoline or fuel oil. It does not involve motorists, ration books or any of the formality that rationing implies.

"Rationing means you're restricting demand," one Treasury official said, "Allocations mean you're spreading out the shortage, to make certain essential services do not get curtailed."

The recommendations that go to the White House on mandatory allocations will mark the second time that such recommendations have gone there from the Treasury Department. The first recommendations are understood to have been rejected by White House energy czar John A. Love, who is reported to have said he was against mandatory allocations.

"I think he meant to say he was against unworkable mandatory allocations," a source close to Love said. "Not that he was against all allocations."

One source said it was his understanding that Treasury's recommendations would include an insistence that oil companies open up their books to federal investigators to show they are complying with the allocation system. This source said that if the oil company records show noncompliance they will be subject to fines.

A major goal of mandatory allocations is to get more crude oil to independent refiners, who have been complaining they can't get enough crude oil to run their refineries at more than 75 per cent of capacity.

Statistics released yesterday by the American Petroleum Institute showed that major oil company refineries ran at 99.3 per cent of capacity in the week ending July 6. These refineries processed 13,464,000 barrels of crude oil in that week, producing more than 280 million gallons of gasoline.

The API said these statistics represent a change from its prior technique of recording refinery runs, a change that shows "operable" refining capacity in the United States dropping 53,000 barrels.

"I realize that some critics of our industry may accuse us of changing the rules in the middle of the game, but the change is imperative," John E. Hodges, director of API's division of statistics and economics said.

"We have already waited too long to make it, particularly in view of the fact that refinery statistics are now of such great interest to the government, the press and the consuming public."

Meanwhile, the Associated Press reported that the most severe period of the gasoline shortage appears to be over, according to a government fuel expert and the American Automobile Association.

An AAA weekly gasoline survey indicated that despite the generally adequate supply, shortages may develop in individual areas.

"We're optimistic the worst is over," said James West, an assistant to the assistant secretary for energy and minerals in the Department of Interior.

R. Donald Strickland, an AAA spokesman, said motorists should not have great difficulty in finding adequate supplies.

"Stockpiles seem to be slightly down but there's enough to make it through the summer," he said. "A significant number of service stations feel very confident they have enough for the summer."

The AAA's weekly check of gasoline stations along major travel routes and at major destinations throughout the continental United States showed a slight improvement in the availability of gasoline since last week.

[From the Oil Daily, July 17, 1973]

Mandatory Allocation Plan Ready for Love, Nixon OK

(By Jim Collins)

WASHINGTON.—The odds were high Monday that the Nixon administration will opt for a full mandatory program to allocate crude oil and petroleum products, especially gasoline this summer and heating oil next winter.

The program was in final shape. The Oil Daily learned, awaiting only a final review by Colorado Governor Love, who returns to Washington Tuesday to take up full-time duties as President Nixon's special assistant on energy.

Love, it was understood, has been reluctant to go the mandatory route on allocations, apparently influenced by optimistic assessments of the present voluntary system by Charles DiBona, who remains at the White House as an assistant to Love.

OUTRUNS USEFULNESS

However, virtually every other government official working on the oil supply-demand problem was reportedly convinced that the voluntary program has about run out of its usefulness and that only mandatory allocations can avoid serious distribution problems for oil suppliers and consumers.

Changes in distribution since a year ago, withdrawals from some markets by some suppliers, problems surrounding contract demands and other tangles—including priority demands and "newcomers"—have all contributed to a gradual dimunition of the voluntary systems' usefulness, some officials were arguing.

Several "option" plans have been developed, but the one that is expected to get the green light, despite DiBona's foot-dragging, is a full mandatory program. Continuation of the voluntary program a mixture of voluntary and mandatory controls, and a totally mandatory program have all been considered.

MIDWEEK CLEARANCE

If the mandatory program is cleared by Love and signed by President Nixon, it may be announced by mid-week or so.

There were reports that the mandatory program was being printed up Monday, in anticipation of its approval by top officials later in the week, including President Nixon.

The latest reports on Monday were that the base period to be used will be the year 1972.

Suppliers, generally, would provide crude oil and gasoline to the same customers as in 1972, proportionately to their supplies then.

PRODUCT PRIORITIES

In addition, a system of product priorities would be set up to take care of the needs of such customers as farmers, food processors and others.

"Newcomers," and those who felt they were not receiving their fair share of supplies would be handled by an appeals board, to be set up under the new system.

The system would be run by the Office of Oil and Gas in the Interior Department. The "voluntary petroleum allocation" branch of OOG, under the direction of Robert Plett, is expected to be given the task of administering the new mandatory program.

The advantages of a mandatory system, run by the federal government, would be that it would override individual state plants, a number of which are now under consideration and could create a patchwork of varying controls that oil suppliers would have great difficulty complying with.

PROVIDES PROTECTION

It would also provide "force majeure" protection for suppliers whose compliance with the new mandatory system might require rewriting of contracts, officials said.

The program is expected to cover crude, gas liquids, and major petroleum products, but it was not known whether at the start full mandatory controls would be imposed on all major products, in addition to gasoline.

One major reason that a number of top officials are arguing that a mandatory system must be put in place soon is that Congress will almost certainly enact detailed legislation—already passed by the Senate and now pending in the House Commerce Committee—if the administration does not act.

The Commerce committee in the House held four days of hearings last week with a number of government and industry witnesses and action is now pending there on an allocation measure.

SOLAR ENERGY

Mr. MOSS. Mr. President, the Aeronautical and Space Sciences Committee in its authorization for NASA included a modest sum of $2 million for research on solar energy. This is, of course, a mere drop in our energy bucket.

In 1972 testimony on solar energy, NASA reached the following conclusions:

Solar energy is received in sufficient quantity to supply all the future U.S. heat and power requirements.

There are numerous methods by which solar energy can be converted to heat and power, that is, thermal, photoconversion, photovoltaics, wind, and ocean thermal differences.

There are no technical barriers to wide application of solar energy to meet U.S. needs.

The technology of terrestrial solar energy conversion has been developed to its present limited extent through private funding and modest Government support.

For most applications, the cost of converting solar energy to useful forms is now higher than conventional sources.

Assuming a substantial development program can achieve the necessary technical and economic objectives, by the year 2020 solar energy could economically provide up to: first, 35 percent of the total building heating and cooling load; second, a part of the Nation's gas fuel; third, 10 percent of the liquid fuel; and fourth, 20 percent of the electric energy requirements.

If solar development programs are successful, building heating could reach public use in 5 years, building cooling in 6 to 10 years, synthetic fuels from organic materials in 5 to 8 years, and electricity production in 10 to 15 years.

There are no significant environmental disadvantages to the wide use of solar energy.

NASA then made the following recommendations:

The Federal Government undertake a program of research and development directed toward the practical application of solar energy to the heat and power needs of the United States.

The solar energy R. & D. program provide for simultaneous effort on three main objectives: First, economical systems for heating and cooling of buildings, second, economical methods for producing and converting organic materials to liquid, solid, and gaseous fuels, and third, economical methods for generating electricity.

Research and development proceed on various methods for accomplishing the above objectives and that programs be established which provide concept, appraisal and choice of options at the end of designated phases.

For those developments which show good technical and economic promise at the phased decision point, the Federal Government continue and augment development, pilot plant, and demonstration programs over appropriate portions of a long-range period.

Environmental, social, and political consequences of solar energy utilization be continually appraised and the results employed in development program planning.

A Washington Post editorial of July 18 points up the need for action in the field of solar energy.

I ask unanimous consent that the article be printed in the RECORD for the benefit of the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOLAR ENERGY

U.S. scientists, according to report by Claire Sterling which was published on this page the other day, told a recent UNESCO conference in Paris that harnessing sunshine to reduce man's dependence on scarce and polluting fuels is no longer a matter of wishful thinking of solar energy enthusiasts. Ten years from now, representatives of a NASA-National Foundation panel reported, one out of every 10 new homes built in this country could be heated and cooled by solar rays. In less than 15 years, sun rays could produce commercial electric power. In 20 years a satellite could be in synchronous orbit beaming power down to earth by microwave. In 50 years, solar energy could supply at least 20 per cent of all the United States' energy needs. And there is no limit to where technology might advance from there if you consider the abundance of solar radiation: it is so plentiful that the energy arriving on 0.5 per cent of the land area of the United States is more than the total energy needs of this country projected for the year 2000.

Harnessing this energy, however, will require "an effort comparable in spirit and commitment to the one we put into the space program in the 1960's," according to former Rep. George P. Miller (D-Calif.), past chairman of the House Science and Astronautics Committee. So far, we have only made a hesitant beginning. The federal government, to be sure, has now at last recognized the potentials of solar energy and organized the NASA-National Science Foundation task force to explore it. Congress has appropriated $12 million for the purpose in the current fiscal year, an amount most experts consider totally insufficient. It is less than two per cent of the total amount of government research and development funds spent on conventional energy resources such as converting coal into gas and nuclear engineering.

What is needed, according to the NSF-NASA panel, is a federal investment of $3 billion in solar research and development over the next 15 years. And what is needed, most of all, as Mr. Miller has said, is a federal commitment that must be 1) focused, 2) integrated, 3) intense and 4) continuing. In other words, laboratory research grants and small scale experimentation are not sufficient to launch the "sun age." Before solar energy becomes a substantial source of clean energy, industrial ingenuity and productive know-how must be mobilized to produce the hardware and services necessary to make the conversion devices economical. Most companies look for short term projects for new enterprises that promise a return on their investment in two or three years. Long range projects present great risk and investment capital is scarce unless there is confidence that the government is really serious about it and ready to provide the direction and incentives. A firm assertion of a national priority for solar energy "R and D" is also needed to engender the public confidence essential to assure industry of public acceptance and a market.

There is little time to lose. Nuclear generating plants are as yet producing less than one per cent of our total energy needs and public apprehension about them seems to be mounting. Planning and construction of additional nuclear plants is years behind schedule. Uranium is in short supply. Liquid metal fast breeder reactors will not make a significant contribution for at least a decade. Fusion reactors seem even further off. Experts say that the first demonstration fusion reactor will probably not be built before the year 2000. Energy consumption and energy cost, meanwhile, keep increasing rapidly. In 1970, school districts across the nation, for instance, spent an average of $26.70 per pupil per year for energy. The projections of the U.S. Interior Department, which may be conservative, indicate a tripling of energy cost by 1985 and a quadrupling by 1992. In the year 2000, then, we can expect to pay $106.80 per pupil per year.

Compared to such cost, the $3 billion required to advance solar energy energetically is a bargain. It would be folly to wait for a real scare to produce the crash program that clearly has become necessary.

BARGAIN BASEMENT PRICES FOR U.S. AEROSPACE INDUSTRY

Mr. MOSS. Mr. President, a very small percentage of the U.S. dollars in foreign hands will buy complete control of every major aerospace company in the United States. Forbes magazine put this in perspective this month by pointing out that the $2.5 billion which is being spent by England and France to develop the Concorde would buy 51 percent of the 18 top U.S. aerospace companies based on June prices. With 100 billion U.S. dollars in foreign hands and with Saudi Arabia alone having a favorable balance of payments of 100 million per month, we would be very foolish to presume that foreign interests would overlook this possibility.

The American aerospace industry has been built on Government research and development money. It is an investment which has paid off handsomely for this country. The U.S. aerospace industry had a positive balance of payments in 1972 of $3.2 billion at a time when our overall balance of payments was a negative $6.4 billion. Our extremely successful competition in the foreign aerospace markets has been based on an extremely advanced and dynamic U.S. aerospace science and technology.

I am very concerned about the state of the aerospace industry.

With control of our aerospace industry available to foreign investors at bargain basement prices, I cannot avoid the worry that our leadership in this field might be in some jeopardy. As the chairman of the Aeronautical and Space Sciences Committee, I am especially mindful of my duty to insure that we remain strong in aerospace science and technology. I strongly favor and encourage foreign cooperation in the aerospace field, but foreign control and domination of this field would be intolerable. It is my intent, therefore, to hold hearings this fall to determine American ability to maintain leadership in aeronautical and space science.

I request unanimous consent that the July 15 Forbes article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW DOES THIS GRAB YOU?!!!

Britain and France, spurred mainly by the desire to stay in the air transport business *vis-a-vis* the United States, are spending about $2.5 billion developing the supersonic Concorde—which, aside from their own captive airlines, has as yet no customers, and only dubious questions of national prestige will get it airborne. In terms of economic, it will never fly.

But, *psst*—for less than $2.5 billion, England and France could today buy control, by 51%, of every major American aerospace company.

Yup, *every major company*.

As the accompanying table on market valuations indicates, the British and French could more easily, more successfully stay competitive with the Americans in the field of air transportation and space by simply buying our own industry.

Companies	Price June 1973	Shares outstanding (millions)	51 percent of total market value (millions)
McDonnell Douglas	23	37.7	$441.9
Rockwell International	27¼	28.7	399.0
Bendix	31⅝	12.3	199.1
Raytheon	24	15.6	190.5
Boeing	17⅛	21.7	189.4
Martin Marietta	15⅞	23.2	187.5
United Aircraft	28⅜	12.1	175.4
Teledyne	12⅜	23.7	149.3
General Dynamics	17	10.5	91.4
Curtiss-Wright	20⅜	8.7	90.5
Cessna Aircraft	17¾	7.6	68.4
Lockheed Aircraft	5⅞	11.4	34.0
Northrop	16⅝	3.9	33.1
Beech Aircraft	12⅞	4.7	30.6
Grumman	8½	6.8	29.5
Rohr Industries	13⅝	4.0	27.9
Collins Radio	16½	3.0	25.0
Fairchild Industries	6	4.6	16.9
Total			$2,376.6

Note: Because of rounded-off figures, totals do not compute exactly.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for the transaction of routine morning business has expired.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the hour of 10:30 a.m. having arrived, the Senate will now resume consideration of the unfinished business, S. 1861, which the clerk will report.

The assistant legislative clerk read the bill by title, as follows: a bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

The PRESIDING OFFICER. The previous question is on the substitute amendment by the Senator from Colorado (Mr. DOMINICK) No. 330, with the vote thereon to occur at 12:30 p.m.

TOXIC SUBSTANCES CONTROL ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, that the Senate turn to the consideration of Calendar No. 240, S. 426, that there be a time limitation of 10 minutes for its consideration, with the time equally divided between the majority leader and minority leader or whomever they may designate.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? Without objection, it is so ordered.

The clerk will read the bill by title.

The assistant legislative clerk read the bill by title, as follows: a bill (S. 426) to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all after the enactment clause and insert:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Toxic Substances Control Act of 1973".

(b) Table of contents.

Sec. 1. Short title and table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. Test standards.
Sec. 5. Premarket screening of new chemical substances.
Sec. 6. Existing chemical substances.
Sec. 7. Restrictions on use or distribution.
Sec. 8. Imminent hazard.
Sec. 9. Seizure.
Sec. 10. Reports.
Sec. 11. Exemptions and relationship to other loans.
Sec. 12. Chemical Substances Board.
Sec. 13. Research.
Sec. 14. Administrative inspections and warrants.
Sec. 15. Exports and imports.
Sec. 16. Confidentiality.
Sec. 17. Prohibited acts.
Sec. 18. Penalties and remedies.
Sec. 19. Citizen civil actions.
Sec. 20. Environmental prediction and assessment.
Sec. 21. Cooperation of Federal agencies.
Sec. 22. Health and environmental data.
Sec. 23. State regulations.
Sec. 24. Regulations, procedure, and judicial review.
Sec. 25. National security waiver.
Sec. 26. Authorization for appropriations.

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) Human beings and the environment are being exposed to a large number of chemical substances each year.

(2) Among the many chemical substances constantly being developed and produced there are some which may pose an unreasonable threat to human health or the environment.

(3) The effective regulation of interstate commerce in such chemical substances neccessitates the regulation of transactions in such chemical substances in interstate commerce as well.

(b) It is the policy of the United States that—

(1) New chemical substances and hazardous or potentially hazardous existing chemical substances should be adequately tested with respect to their safety to human beings and the environment. It should be the responsibility of those who produce such chemicals, to conduct such tests.

(2) Adequate authority should exist to restrict the distribution and use of chemical substances found to pose an unreasonable threat to human health or the environment.

(3) Authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances does not pose an unreasonable threat to human health or the environment.

(4) As set forth herein, citizens should be encouraged to participate and to assist in carrying out the purposes of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "Byproduct" means a chemical substance produced as a result of the production, manufacture, processing, use, or disposal of some other chemical substance.

(3) "Chemical substance" means any organic or inorganic substance of a particular molecular identity, or any uncombined chemical radical or element.

(4) "District of the United States", which court shall have jurisdiction over actions arising under this Act, includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii.

(5) "Environment" includes water, air, land, all living things therein, and the interrelationships which exist among these.

(6) "Existing chemical substance" means any chemical substance which has been produced or imported into the United States in commercial quantities prior to one hundred eighty days after the date of enactment of this Act.

(7) "Indemnity" means any payment made to a person as reimbursement for loss or damage other than a payment made in accordance with a judgment of any court in an action brought at common law or under section 1346 of title 28, United States Code.

(8) "Intermediate chemical substance" means any chemical substance to the extent that such substance is converted chemically or used as a catalyst in the manufacture of other chemical substances subject to this Act.

(9) "Laboratory reagent" means any chemical substance produced, distributed, or used for scientific experimentation or chemical research or analysis.

(10) "Manufacturer" means any person engaged in the production or manufacture of chemical substances for purposes of sale or distribution in commercial quantities, or an importer of such substances.

(11) "New chemical substance" means any chemical substance which has not been produced or imported into the United States in commercial quantities prior to one hundred eighty days after the date of enactment of this Act: *Provided,* That after such substance is first produced or imported in commercial quantities it shall be regarded thereafter for purposes of this Act as an "existing chemical substance".

(12) "Person" includes an individual or a corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or trustee of any of the foregoing, State, municipality, or political subdivision of a State.

(13) "Processor" means any person engaged in the preparation of a chemical substance or a product containing such substance for distribution or use either in the form in which it is received or as part of another product, as defined by regulations of the Administrator.

(14) "Protect health and the environment" means protect against any unreasonable threat to human health or the environment resulting from the use or distribution of a chemical substance or any product containing such substance, taking into account the benefits of such use or distribution as compared to the risks of such use or distribution to human health or the environment.

(15) "Restrict the use or distribution" means to prescribe the amount of a chemical substance or a product containing such substance which may be sold to given types of processors, or to limit the type of processor to whom such substance or product may be sold, or to prescribe the amount of such substance or product which may be utilized by a given type of processor, or to limit the sale of such substance or product or the manner in which such substance or product may be used, handled, labeled, or disposed of by any person, including self-monitoring requirements for manufacturers and processors to insure that the substance or product being manufactured or processed is of reasonably consistent composition. Such restriction on use or distribution may be applied on a geographic basis and may include a total ban.

(16) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(17) "Test protocol" means a standardized procedure for performing tests as required by this Act pursuant to regulations promulgated by the Administrator, the results of which will provide a basis for judging the effects of a chemical substance on human health or the environment.

TEST STANDARDS

SEC. 4. (a) Within one year after the date of enactment of this Act and from time to time thereafter, the Administrator shall issue proposed regulations to establish such standards for test protocols for various chemical substances or classes of chemical substances or uses thereof and for the results to be achieved therefrom as are necessary to protect health and environment. Such regulations shall apply to those chemical substances or classes or uses of chemical substances which are produced in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment. To the extent feasible, such regulations shall indicate the use or distribution of a chemical substance which will be permitted upon and only upon the attainment of specified test results.

(b) In issuing the proposed regulations required under subsection (a) and in issuing any subsequent final regulations, the Administrator shall consider all relevant factors including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) any benefit of the chemical substance and the availability of less hazardous substitutes for any use or distribution of such substance;

(4) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substance on health or the environment; and

(5) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol.

(c) Test protocols established under this section may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative properties of the substance, the synergistic properties of the substance and other types of hazards, and epidemiological studies of the effects of the chemical substance.

(d) The Administrator shall specify in any proposed or final regulations developed under this section the date on which such regulations shall take effect, except that such regulations shall take effect as soon as feasible allowing sufficient time for the execution and reporting of required tests as may be required by sections 5 and 6 of this Act.

PREMARKET SCREENING OF NEW CHEMICAL SUBSTANCES

SEC. 5. (a) One hundred and eighty days after the date of enactment of this Act, and thereafter, any manufacturer of a new chemical substance shall notify the Administrator, at least ninety days in advance of the commercial production of such substance, and when tendering such notice such manufacturer shall submit to the Administrator the information referred to in section 10(a) of this Act insofar as it pertains to such substance. If in the judgment of the Administrator a substance is of no unreasonable environmental or public health threat, he may reduce the number of days after submission may not occur. The Administrator shall give priority attention to information covering a substance where serious economic or other hardship will result from unnecessary postponement of commercial production.

(b) After the effective date of regulations promulgated pursuant to section 4 of this Act, any manufacturer of a new chemical substance (i) to which such regulations are applicable and (ii) who first produces or imports such substance into the United States in commercial quantities after the effective date of such regulations, shall submit to the Administrator in lieu of the information required in subsection (a) of this section, at least ninety days in advance of the commercial production or importation of such substance, the test data developed in accordance with such regulation for the intended use or distribution of such substance.

(c) Subject to section 16 of this Act, the Administrator shall promptly publish in the Federal Register the identity of such chemical substance, the use or distribution intended, and a statement of the availability of any test data submitted.

(d) If warranted by data or the absence of data available to him, the Administrator may propose by regulation to restrict the use or distribution of any new chemical substance in accordance with section 7 of this Act. If such regulation is proposed prior to the expiration of the ninety-day period referred to in subsection (a) or (b) of this section such proposed restrictions on use or distribution shall apply, pending the outcome of administrative proceedings on such proposal, to any subsequent commercial production of such new chemical substance as if such proposed regulation were final. After such regulation is proposed, the Administrator may refer it to the Board referred to in section 12(c) of this Act. The Administrator shall refer such proposal to such Board if requested by any interested party.

(e) The Administrator may extend the date after which a new chemical substance may be commercially produced under this Act for any particular use or distribution beyond ninety days from the submission of information required under this section for an additional period, not to exceed ninety days, for good cause shown. Subject to section 16 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final action subject to judicial review in accordance with section 24(d) of this Act.

(f) If the Administrator fails to propose a restriction on use or distribution with respect to a chemical substance within ninety days of submission of information or data under subsection (a) or (b) of this section, (or in the case of information submitted under subsection (a) such shorter period of time as the Administrator may consider appropriate) or to extend the time, pursuant to subsection (e), for consideration of information submitted, commercial production of such chemical substance may begin. Nothing in this section shall be construed to prohibit the Administrator from restricting the use or distribution of any chemical substance pursuant to section 7 of this Act after commercial production of such substance has begun or from taking action against any substance which is found to be an imminent hazard pursuant to section 8 of this Act.

(g) (1) The Administrator may exempt any person from the obligation to submit test data under this section if he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with this section, except that such person shall not commercially produce such new chemical substance prior to the commercial production of the new chemical substance for which test data were submitted under this section. Any chemical substance or member of a class of chemical substances or any manufacturer or processor thereof referred to under the preceding sentence shall be subject to all the other provisions of this Act.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted test data and if such exemption takes effect during the reimbursement period for such data (defined in paragraph (3)), then unless the parties can agree on the amount and method of reimbursement the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount and subject to conditions determined under rules of the Administrator)—

(A) to any person who previously submitted test data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action, for the purposes of judicial review.

(3) For purposes of paragraph (2), the reimbursement period for any previously submitted test data is a period—

(A) beginning on the earliest date (after submission of such data) on which a person who previously submitted test data on which the exemption was based was no longer prohibited from the proceeding with the manufacture and distribution in commerce of a chemical substance to which such data applied, and

(B) ending two years after such date (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted test data).

EXISTING CHEMICAL SUBSTANCES

SEC. 6. (a) The Administrator shall issue, within one year after the date of enactment of this Act and from time to time thereafter, proposed regulations specifying those existing chemical substances or classes or uses of chemical substances which are produced or imported into the United States in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment. Concurrently with each proposal to specify such existing chemical substance, the Administrator shall propose regulations under section 4 of this Act, if he has not previously done so, which are applicable to each existing chemical substance so specified. On or before the effective date of any applicable regulation under section 4 of this Act, any manufacturer of an existing chemical substance shall furnish the test data developed in accordance with such regulations of the Administrator. Subject to section 16 of the Act, the Administrator shall, upon receipt of such test data from a manufacturer, promptly publish in the Federal Register the identity of such existing chemical substance, the uses to which the substance is put, and a statement of the availability of test data.

(b) The Administrator may, in appropriate cases, permit manufacturers of an existing chemical substance for which testing is required under subsection (a) of this section to designate one or more of their number or to designate a qualified independent third party to perform the tests required under subsection (a) of this section and permit the sharing of the costs of such tests. If such manufacturers are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, the Administrator may order one or more of such manufacturers or may designate a qualified independent third party, to perform the required tests, and may order such manufacturers to contribute to the costs of such tests.

(c) Manufacturers of existing chemical substances for which testing is required under subsection (a) of this section shall not be required to submit test data which would duplicate applicable test data submitted previously by other manufacturers. Such chemical substances and the manufacturers and processors thereof shall be subject to all other provisions of this Act. In the event a manufacturer is exempted from submitting data under this subsection, the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement in accordance with procedures set out in section 5(g) of this Act.

(d) Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a use or distribution for which a regulation under section 4 of this Act is applicable and with respect to which the Administrator has not received test data for such use or distribution pursuant to subsection (a), the manufacturer shall be required to follow the procedures of this section notwithstanding the fact that no objection has been raised to other uses. Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a new use one hundred and eighty days following the date of enactment of this Act, and thereafter the manufacturer shall be required to follow the procedures of section 5 of this Act before such substance may be commercially produced for such use or distribution.

RESTRICTIONS OF USE OR DISTRIBUTION

SEC. 7. (a) If warranted by data available to him, or in the absence of acceptable test data required under sections 5 or 6 of this Act, the Administrator may issue proposed regulations (1) to restrict the use or distribution of any chemical substance or products containing such substance to the extent necessary to protect health and the environment; (2) to require that any or all persons engaged in the distribution of the chemical substance or product so regulated give notification to purchasers or other recipients of the substance or product of such restrictions in such form and manner as the Administrator determines is necessary to protect health and the environment including labeling requirements on such chemical substances or products containing such substances with appropriate warning provisions and directions for use and disposal; and (3) to require such other action as may be necessary to carry out such restrictions including recalling and remedying, replacing, or refunding the purchase price of such products or substances.

(b) In issuing proposed regulations under subsection (a) and in issuing any subsequent final regulations, the Administrator shall consider all relevant factors including—

(1) the effects of the substance on human health;

(2) the effects of the substance on the environment;

(3) the benefits of the substance for various uses;

(4) the normal circumstances of use;

(5) the degree to which the substance is released to the environment;

(6) the magnitude of exposure of human beings and the environment to the substance; and

(7) the availability of less hazardous substitutes.

The Administrator shall specify in the regulation the date on which it shall take effect, which shall be as soon as feasible. All data relevant to the Administrator's findings shall be available to the public subject to section 16 of this Act.

(c) Whenever the Administrator has good cause to believe that a particular manufacturer or processor is producing or processing a chemical substance or product not in compliance with a particular restriction on use or distribution requiring reasonably consistent composition of such chemical substance or product—

(1) he may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance or product; and

(2) if he thereafter determines that such noncompliance is attributable to the inadequacy of the manufacturer's or processor's control procedures, he may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer or processor to revise such quality control procedures to the extent necessary to remedy such inadequacy.

(d) Notwithstanding the provisions of section 11(a)(1) of this Act, no indemnity payment shall be made to any manufacturer, wholesale distributor, retailer, or other vendor of a chemical substance or to any other person as a result of any action taken under this section, under any other provision of this Act, or under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135).

(e) Notwithstanding any provision of section 11 of this Act, the Administrator shall by contract or other arrangement commission a study of all Federal laws administered by the Environmental Protection Agency for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any law administered by such agency. This study shall—

(1) be conducted outside of the Environmental Protection Agency under the direction of a university or recognized research center by an interdisciplinary group, none of the members of which may have a financial interest or conflict of interest (other than any fee paid by the Administrator for serving as a member of such group) with respect to the findings and conclusions of such study;

(2) include an estimate of the probable cost of any indemnification programs which may be recommended;

(3) include an examination of all viable means of financing the cost of any recommended indemnification;

(4) be completed no less than two years from the date of enactment of this Act; and

(5) be submitted, upon completion, simultaneously to the Administrator and to the Congress without prior clearance or review by the executive branch.

(f) Notwithstanding the requirements of section 11 of this Act, section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135) is hereby repealed.

IMMINENT HAZARD

SEC. 8. (a) An imminent hazard shall be considered to exist when the evidence is sufficient to show that the manufacture, processing, distribution, uses, or disposal of a chemical substance or product containing such substance will result in any unreasonable threat to human health or the environment prior to the completion of an administrative hearing or other formal proceeding held pursuant to this Act.

(b) If the Administrator has reason to believe that an imminent hazard exists he may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to restrict the use or distribution of the chemical substance or product responsible for the hazard, or to take such other action as is authorized under section 7 of this Act. The Administrator shall simultaneously, if he has not done so, propose any regulation which may be warranted under section 7 of this Act.

SEIZURE

SEC. 9. (a) Any chemical substance or product containing such substance which the Administrator finds (1) is manufactured, processed, distributed, used, or disposed of in violation of section 5, 6, or 7 of this Act, where there is reason to believe such substance or product poses an unreasonable threat to human health or the environment, or (2) constitute an imminent hazard under section 8 of this Act shall be liable to be proceeded against by the Administrator or the Attorney General on libel of information and condemned in any district court of the United States within the jurisdiction of which such substance or product is found. Such subtance or product shall be liable to seizure by process pursuant to the libel. In cases under this section, the procedure shall conform, as nearly as may be, to a proceeding in rem in admiralty.

(b) Any substance or product condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States; but such substance or product shall not be sold under such decree contrary to the provisions of this title or the laws of the jurisdiction in which sold: *Provided*, That after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such substance or product shall not be sold or disposed of contrary to the provisions of this Act or the laws of any State in which sold, the court may by order direct that such substance or product be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act under the supervision of an officer or employee duly designated by the Administrator. The expenses of such supervision shall be paid by the persons obtaining release of the substance or product under bond.

(c) When a decree of condemnation is entered against the substance or product, court costs and fees, and storage and other property expenses, shall be awarded against the person, if any, intervening as claimant of the substance or product.

REPORTS

SEC. 10. (a) The Administrator shall require all manufacturers of chemical substances or, where appropriate, processors to submit reports to him annually and at such more frequent times as he may reasonably require containing any or all of the following—

(1) the names of any or all chemical substances produced, imported, or processed in commercial quantities by the manufacturer or processor thereof;

(2) the chemical identity and molecular structure of such substances insofar as is known to him or is reasonably ascertainable by him;

(3) the categories of use of each such substance, insofar as they are known to him or are reasonably ascertainable by him;

(4) reasonable estimates of the amounts of each substance produced or processed for each such category of use; and

(5) a description of the byproducts, if any, resulting from the production of each such substance, and, insofar as they are known to him or are reasonably ascertainable by him, from the processing, use, or disposal thereof.

(b) The Administrator may, by regulation, exempt manufacturers from all or part of the requirements of subsection (a) of this section if he finds that such reports are not necessary to carry out the purposes of this Act.

(c) Whenever the Administrator determines that such action would be necessary to assist him to carry out his responsibilities and authorities under this Act, he may publish a notice in the Federal Register to invite and afford all interested persons an opportunity to provide to him in writing information with respect to the human health or environmental effects of a chemical substance or products containing such substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 11. (a) This Act shall not apply to—

(1) pesticides and chemical substances used in such pesticides, except that if a chemical substance which constitutes such a pesticide or such an ingredient is or may be used for any non-pesticidal purpose which is not regulated by the Federal Insecticide, Fungicide, and Rodenticide Act, this Act shall apply to such other uses;

(2) foods, drugs, devices, and cosmetics subject to the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 321), as amended, foods subject to the Federal Meat Inspection Act (56 Stat. 351), the Egg Products Inspection Act (21 U.S.C. 1031), and the Poultry Products Inspection Act (21 U.S.C. 451), and chemical substances used therein, except that if such an item or substance is or may be used for any purpose which is not regulated by such Act this Act shall apply to such other uses;

(3) any source material, special nuclear material or byproduct material as defined in the Atomic Energy Act of 1954 (42 U.S.C. 2011), as amended, and regulations issued pursuant thereto by the Atomic Energy Commission;

(4) the transportation of hazardous materials insofar as it is regulated by the Secretary of Transportation;

(5) except for section 10 of this Act, intermediate chemical substances, unless the Administrator finds that such chemical substances cannot be sufficiently regulated by the Clean Air Act (42 U.S.C. 1857), as amended, or the Federal Water Pollution Control Act (33 U.S.C. 466), as amended, to the extent necessary to protect health and the environment;

(6) except for section 10 of this Act, any other chemical substance that the Administrator finds can be regulated more effectively by the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended, to the extent necessary to protect health and the environment;

(7) laboratory reagents, except those where there is reason to believe the manufacture, processing, distribution, use, or disposal of the reagent may produce an unreasonable threat to human health or the environment;

(8) tobacco and tobacco products; and

(9) any extraction of any mineral deposit covered by the mining or mineral leasing laws of the United States, unless the Administrator finds, by regulation, that such extraction of such mineral deposit poses an unreasonable threat to human health or the environment which cannot be effectively regulated under any other provision of law.

(b) To the extent that such chemical substances are subject to regulation by other Federal laws, including the Occupational Safety and Health Act of 1970 (29 U.S.C. 651) and the Consumer Product Safety Act (86 Stat. 1207), the Administrator shall not regulate the use or distribution of a new or existing chemical substance on the basis of any possible hazard to employees in their place of employment, or the hazard directly to consumers resulting from the personal use, enjoyment, or consumption of marketed products which contain or might contain the substance: *Provided*, That the Administrator shall take such hazards into account in determining what standards for test protocols, results to be achieved therefrom, and restrictions on use or distribution are appropriate.

(c) If it appears to the Administrator that any such substance may pose a hazard when transported, or when used on or in food or as a drug or cosmetic, he shall transmit any data received from manufacturers or processors or data otherwise in his possession which is relevant to such hazards to the Federal department or agency with authority to take legal action if a hazard is found to exist.

(d) The Administrator shall coordinate actions taken under this Act with actions taken to implement the Federal Water Pollution Control Act and the Clean Air Act, and shall, where appropriate, use the authorities contained in such Acts to regulate chemical substances.

(e) The Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of other appropriate Federal agencies in administering the provisions of this Act. The Administrator shall report annually to the Congress on actions taken to coordinate with other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in this section.

(f) This Act shall not be construed as superseding or impairing the provisions of any other law or treaty of the United States.

CHEMICAL SUBSTANCES BOARD

SEC. 12. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members to the Board from a list of individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member to the Board from whatever source he desires. No more than one-third of the members of such Board shall represent the chemical industry. None of the members of such Board, other than chemical industry representatives, may have any significant economic interest in the chemical industry. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Therefore, one-half of the members of the Board shall be appointed every two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The Administrator is authorized—

(1) at the request of the Board to enter into appropriate arrangements with the National Academy of Sciences to provide assistance to the Board in the conduct of independent scientific reviews required by this section; and

(2) at his own discretion, to request such additional scientific advisory services from the National Academy of Sciences as may be required in carrying out other provisions of this Act.

In making such arrangements with the National Academy of Sciences, the Administrator shall assure that conflicts of interest do not exist in the membership of any study committees subsequently convened which will prevent an objective scientific review of the questions referred to the National Academy of Sciences by the Board.

(c) (1) Except as provided in section 5(b) of this Act, before proposing any regulations under section 4, 6, or 7 of this Act, the Administrator shall refer his proposed action and the available evidence to the Board and shall, concurrently with such referral, publish in the Federal Register a notice of the referral identifying the proposed action. The Board shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days, as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines that the extension is necessary and that the Board has made a good-faith effort to report within the initial forty-five-day period. All such views shall be given due consideration by the Administrator. If the Board fails to report within the specified time, the Administrator may proceed to take action under this Act. The report of the Board and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(2) The Administrator may, at his discretion, also request the Board to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(d) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(e) Members of the Board who are not regular fulltime employees of the United States shall, while serving on business of the Board, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS-18 of the classified civil service, including traveltime. While serving away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH

SEC. 13. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. Such research and monitoring may be undertaken to (i) determine proper standards for test protocols and results to be obtained therefrom under section 4 of this Act, (ii) determine what existing chemical substances might present unreasonable hazards under section 6 of this Act, (iii) monitor chemical substances in man and in the environment as is necessary to carry out the purposes of this Act, and (iv) confirm the results of tests required by this Act. To the extent possible, such research and monitoring shall not duplicate the efforts of other Federal agencies or the research required of manufacturers under this Act. In order to carry out the provisions of this section, the Administrator is authorized to make contracts and grants for such research and monitoring. The Administrator may construct research laboratories for the purposes of this Act (i) after fully utilizing the personnel, facilities, and other technical support available in other Federal agencies, (ii) when authorized by the Congress to plan, design, and construct such laboratories, and (iii) subject to the appropriation of funds for this purpose by the Congress.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 14. (a) (1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act and to otherwise facilitate the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances or products containing such substances are manufactured, processed, stored, held, or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and to conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance or a product containing such substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of regulations issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any other situation where a warrant is not constitutionally required.

(c) Administrative inspection warrants shall be issued and executed as follows—

(1) Any judge or magistrate of the United States or a judge of a State court of record may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this Act, and seizures of property appropriate to such inspections. For purposes of this subsection, "probable cause" means a valid public interest in the effective enforcement of this Act or regulations issued thereunder sufficient to justify administrative inspections of an area, premises, building, or the contents thereof, under the circumstances specified in the application for the warrant.

(2) A warrant shall be issued only upon the affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the facts alleged and the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to be-

lieve they exist, he shall issue a warrant identifying the area, premises, or building to be inspected, the purpose of such inspection, and where appropriate, the type of property to be inspected, if any. The warrant shall—

(A) identify the items or types of property to be seized, if any;

(B) be directed to a person authorized under subsection (a)(2) of this section to execute it;

(C) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(D) command the person to whom it is directed to inspect the area, premises, or building identified for the purpose specified, and, where appropriate, to seize the identified property;

(E) direct that it be served during normal business hours; and

(F) designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date of issuance unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time. If property is seized pursuant to such warrant, the person executing the warrant shall give a copy of the warrant and a receipt for the property taken to the person from whom or from whose premises the property was taken, or shall leave such copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory. Such inventory shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall cause a copy of such inventory to be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS AND IMPORTS

SEC. 15. (a) Notwithstanding any other provision of this Act, no chemical substance or product containing such substance shall be deemed in violation of this Act when intended solely for export to any foreign nation except that—

(1) test data which would be required to be submitted under section 5 or 6 of this Act if such substance were produced for domestic use, shall be submitted to the Administrator in accordance with such sections;

(2) such chemical substance shall be subject to the reporting requirements of section 10 of this Act, and

(3) no such substance or product containing such substance may be exported if the Administrator by regulation finds that such substance or product as exported and used will, directly or indirectly, pose an unreasonable threat to the human health of persons within the United States or to the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 5 or 6 of this Act, or restrictions on use or distribution have been proposed or requested for a chemical substance or product containing such substance under section 7 or 8 of this Act, the Administrator, subject to section 16 of this Act, shall furnish to the governments of the foreign nations to which such substance or product containing such substance may be exported (1) a notice of the availability of the data submitted to him under section 5 or 6 of this Act concerning any such substance or product, (2) any restrictions on use or distribution of such substance or product that have been imposed or proposed or requested by him or the Attorney General with respect to such substance or product.

(c) The Secretary of the Treasury shall refuse entry into the United States of any chemical substance or product containing such substance offered for entry if it fails to conform with regulations promulgated under this Act. If a chemical substance or product is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or product refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or product pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or product, together with the duty thereon, and on refusal to return such substance or product of any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (c) of this section.

CONFIDENTIALITY

SEC. 16. (a) Copies of any communications, documents, reports, or other information received or sent by the Administrator or the Chemical Substances Board under this Act shall be made available to the public upon identifiable request, and at reasonable cost unless such information may not be publicly released under the terms of subsection (b) of this section.

(b)(1) The Administrator or any officer or employee of the Environmental Protection Agency or the Chemical Substances Board shall not disclose any information referred to in section 1905 of title 18, United States Code, which has commercial value and which, if disclosed, would result in significant competitive damage to its owner, except that such information may be disclosed by the Administrator—

(A) to other Federal Government departments, agencies, and officials for official use, upon request, and with reasonable need for such information;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

(D) if relevant in any proceeding under this Act, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

(E) to the public in order to protect their health, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the manufacturer of any product to which the information appertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health).

In no event shall the names or other means of identification of injured persons be made public without their express written consent.

(2) Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter then under consideration in a rulemaking or adjudicative proceeding in the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (b) of this section.

PROHIBITED ACTS

SEC. 17. The following acts and the causing thereof are prohibited—

(1) the failure to comply with any final regulation or order issued by the Administrator or the Secretary of the Treasury pursuant to this Act;

(2) the failure to provide information as required by section 5, 6, or 10 of this Act;

(3) the failure to permit entry and administrative inspection pursuant to section 14 of this Act;

(4) the manufacture, processing, sale, distribution, or importation into the United States of a chemical substance or product containing such substance whenever such manufacture, processing, sale, distribution, or importation is known to be or should have been known to be for use in violation of regulations promulgated under section 4 or 7 of this Act, and the use, including disposal of any such substance or product when such use or disposal is known or should have been known to be in violation of such regulations; and

(5) the failure of any person who purchases or receives a chemical substance or product containing such substance and who is required to be given notice of restrictions on use or distribution of such substance or product pursuant to section 7(a)(2) of this Act, to comply with such restrictions on use or distribution.

PENALTIES AND REMEDIES

SEC. 18. (a) Any person who willfully violates section 17 of this Act shall on conviction be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

(b)(1) Any person who violates section 17 of this Act other than willfully shall be liable to the United States for a civil penalty of a sum which is not more than $25,000 for each day of violation. The amount of such civil penalty shall be assessed by the Administrator after notice and an opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

(2) Upon the failure of the offending party to pay such civil penalty, the Administrator may commence an action in the appropriate court of the United States for such relief as may be appropriate or he may request the Attorney General to commence such an action.

(c) The Attorney General or the Administrator may bring an action in the appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of section 17 of this

Act. The district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

CITIZEN CIVIL ACTIONS

SEC. 19. (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including the United States or any other governmental instrumentality or agency to the extent permitted by the elevenh amendment to the Constitution) alleged to be in violation of any regulation or order promulgated under section 4 or 7 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator of the regulation or order, or

(B) if the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the regulation or order: Provided, That any person may intervene as a matter of right in any such actions;

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any other statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

(f) When any actions brought under this subsection involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may be order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 20. The Environmental Protection Agency shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 21. Upon request by the Administrator, each Federal agency is authorized—

(a) to make its services, personnel, and facilities available with or without reimbursement to the greatest practicable extent within its capability to the Administrator to assist him in the performance of his functions; and

(b) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

HEALTH AND ENVIRONMENTAL DATA

SEC. 22. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access information respecting such materials.

STATE REGULATIONS

SEC. 23. (a) Nothing in this Act shall affect the authority of any State or local government to impose more stringent restrictions on the use or distribution of chemical substances or products containing such substance, or to establish and enforce more stringent standards for test protocols for various classes and uses of such substances and products and for the results that must be achieved therefrom, to protect health and the environment, except that—

(1) if the Administrator issues a final regulation under section 7 of this Act restricting the use or distribution of a chemical substance a State or local government may not enforce any such restriction of its own for purposes similar to this Act after the effective date of such regulation, other than a total ban on use or distribution; and

(2) if the Administrator issues a final regulation under section 4 of this Act a State or local government may not enforce any standards for test protocols and the result to be achieved therefrom after the effective date of such regulation.

(b) The Administrator may by regulation, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section, or from the prohibitions contained in any other Federal law administered by the Environmental Protection Agency against the regulation by State or local governments of the manufacture, use, or distribution of chemical substances or products containing such substances with respect to a substance or product if such exemption will not, through difficulties in marketing, distribution, or other factors, result in placing an unreasonable burden upon commerce.

REGULATIONS, PROCEDURES, AND JUDICIAL REVIEW

SEC. 24. (a) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act and to amend or rescind such regulations at any time.

(b) The Administrator shall publish any regulations proposed under this Act in the Federal Register at least sixty days prior to the time when such regulations shall become final. The Administrator shall also publish in the Federal Register a notice of all petitions received under subsection (a) and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(c) Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and shall state the relationship of such findings to the regulations issued.

(d) Any judicial review of final regulations promulgated under this Act and final actions under section 5(e) of this Act shall be in accordance with sections 701–706 of title 5, United States Code, except that—

(1) with respect to regulations promulgated under section 4, 6, or 7 of this Act, the findings of the Administrator as to the facts shall be sustained if based upon substantial evidence on the record considered as a whole; and

(2) with respect to relief pending review, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay (i) is likely to prevail on the merits in the review proceeding and (ii) will suffer irreparable harm pending such proceeding.

(e) Except as expressly modified by this section, the provisions of chapter 5 of title 5 of the United States Code shall apply to proceedings conducted by the Administrator under this Act.

(f) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either (1) that the information is material and was not available at the time of the proceeding before the Administrator or (2) that failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendation, if any, for the modification or setting aside of his original order.

NATIONAL SECURITY WAIVER

SEC. 25. The Administrator may waive compliance with the provisions of this Act, in whole or in part, upon receiving information from the Secretary of Defense that such waiver is in the interest of national security.

Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for good cause shown by the Secretary of Defense in the interest of national security, unless the Administrator has been requested by the Secertary of Defense to omit such publication because such publication would be contrary to the interests of national security.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 26. (a) There is hereby authorized to be appropriated such sums as may be necessary, but not to exceed $9,940,000, $11,550,000, and $10,300,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to plan, design, or construct any research laboratories unless specifically authorized by the Congress by law.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may by regulation require the payment of a reasonable fee from the manufacturer of each chemical substance for which test data is required to be submitted under this Act.

(c) On or before August 1 of each year, the Administrator shall prepare and submit concurrently to the President and to the Congress budget estimates to carry out the provisions of this Act and all other authority of the Administrator for the following year. Whenever the Administrator submits any budget requests, supplemental budget estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to the President or to the Office of Management and Budget, he shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to request or require the Administrator to submit his budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

Mr. TUNNEY. Mr. President, it is indeed a pleasure for me to open the debate on S. 426, the Toxic Substances Control Act of 1973. This is a vital piece of legislation and one which is absolutely necessary to provide protection against environmental threats from chemical substances which are occurring now and those which have yet to become manifest.

The goal of the Toxic Substances Control Act is to prevent unreasonable threats to human beings or the environment from the use of chemical substances and products containing chemical substances. To accomplish this, the Environmental Protection Agency would be authorized to restrict the use or distribution of chemicals or products containing such chemicals. In addition to providing direct control over the manufacture of chemicals, the bill contains a number of regulatory tools including labeling requirements, prohibitions against misuse, recall, seizure of substances or products in violation of use or distribution standards, and citizen suits to enforce the act.

The legislation was first introduced at the request of the Environmental Protection Agency in the 92d Congress. The EPA recommendation was based on information contained in a report of the Council on Environmental Quality entitled "Toxic Substances." The Council's report showed very clearly that a large number of chemicals were being produced, used, and disposed of in a manner which was untouched by existing regulatory mechanisms. The Council went on to cite some rather glaring statistics which indicate a growing threat from toxic chemical substances.

In the last 20 years the U.S. consumption of metals and new metallic compounds has increased dramatically. The consumption of the metal beryllium, for example, has increased by 507 percent; selenium by 82 percent; cadmium and nickel by 70 percent; and mercury by 63 percent.

Few in this Chamber have escaped familiarity with such problems as phosphates in detergents, mercury in tuna fish, PCB's in meat and poultry products, or the hazards of asbestos exposure to workers and consumers. These and other problems have been described in great detail in over 1,600 pages of hearings by the Committee on Commerce in this Congress and in the last Congress.

But in addition to controlling existing hazards such as these, the legislation provides a mechanism for protecting us from future "mercuries." The chemical abstracts service registry number system has registered some 1.8 million chemical compounds. Approximately 250,000 chemicals are added to this list each year with 300 to 500 being introduced annually into commercial use.

It is safe to say that among these 300 to 500 new chemicals commercially produced each year are many which may inflict serious harm to man and the environment. In my view, the day has long since passed when we should exercise control over an environmental contaminant only after the damage is done. Not only must we gain knowledge of hazards of new chemicals before the hazards become a reality, but we must also apply an effective means of regulation at that point as well.

To accomplish this, the bill requires EPA to develop a list of those new chemicals which "there is reason to believe may pose unreasonable threats to human health or the environment." Manufacturers of new chemicals which appear on that list must furnish test data, the identity of the chemical substance, and intended uses to the Environmental Protection Agency 90 days before commercial production begins. During this period, EPA will review the information it has and decide whether to impose regulatory restrictions prior to the commercial production of the chemical. If EPA takes no action, the manufacturer would be free to commercially produce the chemical substance at the end of the 90-day period. EPA would be authorized to extend the period for up to an additional 90 days for good cause shown.

In order to avoid unnecessary testing of other new chemicals, the bill provides that manufacturers of new chemicals which do not fall within the list developed by the EPA must only furnish a notification to EPA containing certain data as to the identity, uses, and other information, but test data would not be required to be submitted at that time. If EPA has no interest in the chemical, commercial production could begin in 90 days or sooner if EPA determines unreasonable risks will not result. During the 90-day notification period, EPA would decide whether to propose restrictions. Any restrictions so proposed by EPA would be binding pending the outcome of administrative review. The information so submitted would be required in any case under the reporting provisions of the act after commercial production had begun. The notification procedure should therefore place little additional burden on manufacturers of those new substances or substances for new uses which are not likely to pose an unreasonable threat to health or the environment.

The manner in which test requirements will be defined by EPA should provide flexibility in the types of tests that will be required. This bill directs the Administrator of EPA to specify standards for test protocols and the results to be achieved therefrom rather than being required in all cases to spell out the actual test procedures or protocols which are to be used. Thus, the Administrator might specify only the basic parameters or principles of testing and not the details of test methodology. This should alleviate the potential burden on those conducting tests in that, as long as the basic principles are followed, they will be free to determine details such as whether to use white mice or brown rats or exactly what brand of equipment should be used to measure results.

If the Administrator were required to be very specific in all cases then tests done in the past, say on guinea pigs, might necessarily be invalidated because the Administrator's protocol called for the use of some other test animals. In many cases, exact procedures such as this will not make any difference in the validity or the usefulness of test results.

Of course, where specific procedures are necessary to obtain valid results, EPA should be as specific as possible. Effects testing is still a young and fast developing field. By making the test requirements general, innovation and flexibility in developing the specific tests should be preserved.

One final note of explanation is in order with respect to sections 5(g) and 6(c) of the act which provides for reimbursement of the manufacturer of a chemical substance who initially submits data by each subsequent manufacturer who would use that data. The subsequent manufacturer would be exempted from submitting test data himself in order to avoid duplicative testing.

The chemical industry has expressed concern that the EPA Administrator would exempt subsequent manufacturers from submitting data without a good basis for doing so. The exemption for subsequent manufacturers from the obligation to submit test data is intended to apply only when such manufacturers can demonstrate to the satisfaction of the

Administrator that the test data for which the exemption is sought is indeed applicable to the chemical substance in question. In most cases, this would be a demonstration that the chemical substance initially tested is indeed the same chemical substance for which the exemption is sought. In some cases, however, data may be applicable to a class of chemicals and thus the subsequent manufacturer could only have to show that his chemical is indeed a member of that class.

Nonetheless in each case the burden is on the manufacturer seeking the exemption to convince EPA that the data previously submitted applies to his chemical substance.

Since the initial legislative proposal was introduced in 1971, 11 days of hearings have been conducted on this and similar legislation by the Committee on Commerce. The Committee on Commerce has worked hard and thoughtfully on this bill. In my view, the legislation begs for enactment and I urge my colleagues in the Senate to give it favorable consideration.

The **PRESIDING OFFICER.** Who yields time?

Mr. **MANSFIELD.** Mr. President, I yield my 5 minutes to the distinguished Senator from West Virginia (Mr. Randolph).

Mr. **STAFFORD.** Mr. President, I yield my time to the distinguished Senator from Kentucky (Mr. Cook).

The **PRESIDING OFFICER.** The Senator from West Virginia is recognized.

Mr. **RANDOLPH.** Mr. President, I send to the desk an amendment and ask that it be stated.

The **PRESIDING OFFICER.** The amendment will be read.

The assistant legislative clerk read the amendment, as follows:

> On page 68, strike lines 5 through 10 and insert in lieu thereof the following:
>
> "(6) restrictions on use or distribution under section 5(d) or section 7 of this Act (other than restrictions initiated for the purpose of obtaining test data) with respect to any chemical substance on the basis of its presence in industrial effluents or emissions, unless the Administrator finds that its presence in such industrial effluents or emissions cannot be as effectively controlled by the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended;"

Mr. **RANDOLPH.** Mr. President, this amendment is intended to clarify the relationship between the regulatory authority over toxic substances in S. 426 and the requirements of the Clean Air Act and the Federal Water Pollution Control Act. The Committee on Public Works, which I chair, has worked hard over the last few years to produce these two key environmental statutes, and we want to assure that in the area of controlling industrial effluents and emissions, the requirements of these two carefully worked out statutes are the basic law which will be followed.

The Toxic Substances Control Act is valuable and needed legislation. Its purpose, however, has always been considered to be providing authority supplementary to that in the Clean Air and Federal Water Pollution Control Acts. The President's proposed Toxic Substances Control Act was described in the third annual report of the Council on Environmental Quality—1972—as follows:

> Its aim would be to control problems of environmental contamination for which air and water pollution laws are inapplicable—such as PCB contamination—or for which such laws provide only belated, after-the-fact controls.

That, of course, is still the intention of the legislation before us today, and I only seek to clarify the supplemental nature of this bill's authority as to substances which, because of their presence in industrial effluents or emissions, might be subject both to the Clean Air or Water Pollution Acts and to this act.

Neither these amendments nor anything else in the Toxic Substances Control Act in any way changes the requirements, standards, or authority of the Clean Air Act or the Federal Water Pollution Control Act. That is clearly stated in section 11(f) of S. 426. One effect of these amendments is to remove the phrase "to the extent necessary to protect health and the environment" from the context of evaluating effective regulation under the Clean Air or Water Pollution Acts. This, I am sure, is consistent with the intention of the authors of the pending legislation that regulation under the Clean Air and Water Pollution Acts not be judged by any other standard or criteria than those contained in such acts.

The purpose of these amendments is to make it clear that for controlling substances in industrial effluents or emissions, the Clean Air Act and the Federal Water Pollution Control Act are the regulatory mechanisms of choice. Restrictions on use or distribution of a chemical substance may be imposed on the basis of its presence in an industrial effluent or emission under the provisions of the Toxic Substances Control Act only if the presence of the substance in industrial effluent or emissions can be more effectively controlled under the Toxic Substances Act than under the Clean Air or Water Pollution Acts.

There is no intention on my part to tie the hands of the Administrator in using the authority of the Toxic Substances Control Act, or to impose a heavy burden of proof he must sustain before he has access to the sanctions of that act. I simply desire that the environmental laws on which we have labored so long are fully used for the purposes for which they were intended.

I emphasize that the language of section 11(a)(6) as it would read with my amendment is not intended to convey or create any greater authority to require or obtain test data than that already contained in the Toxic Substances Control Act. It simply refers to those provisions for data acquisition and reporting on substances presently in the reported bill. The language of my amendment acts only as a limitation on those provisions dealing with restrictions on use or distribution.

The purpose of the amendment is to implement the intent of the Congress in passing the Clean Air and Federal Water Pollution Control Acts by clarifying the primary regulatory responsibility of those acts over substances in industrial effluents or emissions.

I hope that the Senate and Senators who are in charge of this measure will accept the proposal that I have sent to the desk.

Mr. **TUNNEY.** Mr. President, I am happy to accept the amendment. As I understand it, the purpose of the amendment is to more clearly establish the relationship between the authority contained in S. 426 and the existing authority of the Federal Water Pollution Control Act and the Clean Air Act.

As I understand it, the amendment would give primacy to the Clean Air Act and the Federal Water Pollution Control Act with respect to the regulation of industrial effluents and emissions. This is proper as that is the obvious purpose of those statutes.

But there may be instances where the authority contained in S. 426 may be the more desirable vehicle for exercising control of a chemical substance found in an effluent or emission. For example, it may be far more effective to prevent or to limit the industrial use of a chemical substance for the purpose of controlling an effluent or emission than it would be to monitor that effluent or emission for the presence of the chemical substance. This is an important enforcement tool for EPA and should be preserved.

The amendment prohibits the EPA Administrator from imposing restrictions on the use or distribution of a chemical substance under this act on the basis of its presence in any industrial effluent or emission unless he finds that its presence in such effluent or emission cannot be as effectively controlled by the air and water laws. The amendment would operate only with respect to the control of a chemical in an effluent or emission and would not affect the authority of the Administrator to require test data for any such substance or to make other requirements under the Toxic Substances Control Act.

In determining whether the Toxic Substance Control Act would be a more effective regulatory tool than the Clean Air Act or the Federal Water Pollution Control Act, the Administrator should consider the enforcement burdens which might occur under each authority. For example, if the technology to monitor the presence of a chemical substance in an effluent or emission involves an expensive procedure or one which does not give reliable results, it would be difficult both for EPA and for the dischargers to monitor. In that case, EPA could choose to use the authority contained in the Toxic Substances Control Act to prohibit or limit the use of the industrial chemical responsible for the effluent or emission.

The amendment does not alter the criteria for regulation under the Clean Air Act or the Federal Water Pollution Control Act, nor does any other provision of the Toxic Substances Control Act. Both the provisions of this act and the provisions of the Federal Water Pollution Control Act and the Clean Air Act may operate simultaneously with respect to the control of any chemical substance in any emission or effluent. Where the air or water laws contain a more stringent restriction on an effluent or emission, the imposition of a regulation under this act, may also be desirable in order to lessen the monitoring burden of complying with the more stringent standard.

As the Clean Air Act and the Federal Water Pollution Control Act would be the primary means of controlling industrial effluents and emissions, the decision of the Administrator to rely on those acts for such control would not be subject to judicial review. On the other hand, if the EPA Administrator decides to use the Toxic Substances Control Act for control of a substance subject to that act, that action would be reviewable. It is my understanding, however, that any such judicial review must occur at the same time that the final regulation specifying the restriction on use or distribution controlling the effluent or emission is ripe for review.

The amendment is indeed welcome and I urge its adoption by the Senate.

The PRESIDING OFFICER. The question is on adoption of the amendment to the committee amendment.

The amendment was agreed to.

Mr. COOK. Mr. President, S. 426—the Toxic Substances Control Act of 1973—is a vital piece of legislation. As such, this legislation supplements existing Federal laws by authorizing the EPA to develop a comprehensive and systematic approach to the task of protecting health and environment from hazardous chemical substances. Under present law the Environmental Protection Agency focuses on the specific problems of air and water pollution by controlling production and effluents. This bill gives the EPA the additional authority to oversee and direct a larger range of chemical substances activities—from extraction—to production—to consumer use—and ultimately to disposal.

It should be noted that shortly after introduction of his legislation the chemical industry expressed great concern that its effects would be economically severe. These concerns were handled in committee and as a result changes have been made which are now incorporated in the original legislation.

Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment to the committee amendment will be read.

The assistant legislative clerk proceeded to read the amendment to the committee amendment.

Mr. COOK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment to the committee amendment is as follows:

On page 59, line 14, strike out the words "a new use" and insert in lieu thereof the following: "a significant new use, as defined in regulations to be issued by the Administrator,"

Mr. COOK. Mr. President, the purpose of this amendment is to give the Administrator the power to define the term "new use" for the purposes of the bill.

Under the provisions of section 6(d), every manufacturer of every chemical substance must go through the premarket screening or premarket notification provisions of section 5 whenever he proposes to commercially produce an existing chemical substance for a new use.

Concern over this provision can be best illustrated by an example. Steel—or iron—are chemical substances within the definition of the bill, and this provision would presently require a steel manufacturer to go through the procedure of section 5 every time he decided to make a new kind of paring knife or a new kind of toaster. Such a requirement would be burdensome on manufacturers and on the Administrator.

The amendment simply gives the EPA administrator the power to define significant new uses, so that he can administer this section reasonably and meaningfully in terms of new uses which are significant to health or environment.

I ask for adoption of the amendment.

Mr. TUNNEY. Mr. President, let me make completely sure that I understand the amendment of the Senator from Kentucky. The amendment would apply to new uses of existing chemical substances. The legislation now requires that manufacturers which propose to use existing chemical substances for new uses be required to follow the premarket screening procedures of section 5 with respect to such new uses. The amendment would change those provisions to make it applicable only to "a significant new use, as defined by regulations to be issued by the Administrator."

It is my concern that the Administrator may not have knowledge of all the new uses to which an existing chemical substance may be put. Thus, there is the possibility, if not the likelihood, that the EPA Administrator could very well miss a significant new use of an existing chemical substance which would be hazardous and about which he would know nothing. Given that, is it the understanding of the Senator from Kentucky that the regulations developed by EPA would define what a significant new use is not, rather than what a significant new use is? In that way, the provision would still remain applicable to those new uses about which the EPA Administrator had no advance knowledge and could not predict hazards.

Mr. COOK. That is correct.

Mr. TUNNEY. I am happy to accept the amendment.

The PRESIDING OFFICER. The question is on adoption of the amendment of the Senator from Kentucky to the committee amendment.

The amendment to the amendment was agreed to.

Mr. MANSFIELD. Mr. President, on behalf of Senator TUNNEY, the bill manager, I send to the desk two amendments, and ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The clerk will read the amendments.

The assistant legislative clerk proceeded to read the amendments.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the amendments be considered as read, because I understand they have been cleared all around.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

S. 426

On page 63, line 1, immediately following the second "the", insert "appropriate committees of the".

On page 93, between lines 15 and 16, insert the following:

"SEC. 26(a) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Administrator or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans or other arrangements referred to in subsection (a)."

On page 93, line 17, strike "26" and insert in lieu thereof "27".

THE INDEMNITY STUDY

Mr. TUNNEY. Mr. President, the amendments are noncontroversial. The purpose of the first is to perfect section 7(e) of the bill dealing with the report to Congress of a study by EPA to determine under what conditions, if any, indemnification should be accorded to any person as a result of action taken under any law administered by EPA.

Under the bill reported by the Committee on Commerce, the report of such study would be submitted to the Congress. As the study will affect the jurisdictions of more than one committee of Congress the amendment would merely change that language to require that the study be submitted to the "appropriate committees of Congress."

I believe there is no objection to the amendment and I ask that it be given favorable consideration.

THE GAO COMMITTEE AMENDMENT

Mr. President, the second amendment is also noncontroversial.

In its legislative report to the Committee on Commerce on S. 426, the General Accounting Office suggested some language which would require each recipient of financial assistance under this act to keep such records as the EPA Administrator shall prescribe. The language also would authorize EPA and GAO to have access to any books, documents, papers, and records of recipients of financial assistance for the purpose of audit and examination.

Section 13 of the act authorizes EPA to conduct research by contract and grant. Other duties of EPA under the act may likewise be performed by contract for other arrangement. It certainly seems wise that the recipients of any financial assistance be required to keep records accounting for any funds granted and to allow EPA and GAO access to the relevant books, documents, papers, and records for the purpose of audit and examination.

It is my understanding that there is no objection to the amendment and I urge its adoption.

Mr. COOK. Mr. President, may I say I am aware of the amendments and have no objection to them.

The PRESIDING OFFICER. The question is on the adoption of the amendments en bloc to the committee amendment.

The amendments en bloc to the amendment were agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The amendment, as amended, was agreed to.

Mr. COOK. Mr. President, I ask for a third reading.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 426) was passed, as follows:

S. 426

An act to regulate interstate commerce by requiring premarket testing of new chemical substances and to provide for screening of the results of such testing prior to commercial production, to require testing of certain existing chemical substances, to authorize the regulation of the use and distribution of chemical substances, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Toxic Substances Control Act of 1973".

(b) Table of contents.

Sec. 1. Short title and table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. Test standards.
Sec. 5. Premarket screening of new chemical substances.
Sec. 6. Existing chemical substances.
Sec. 7. Restrictions on use or distribution.
Sec. 8. Imminent hazard.
Sec. 9. Seizure.
Sec. 10. Reports.
Sec. 11. Exemptions and relationship to other laws.
Sec. 12. Chemical Substances Board.
Sec. 13. Research.
Sec. 14. Administrative inspections and warrants.
Sec. 15. Exports and imports.
Sec. 16. Confidentiality.
Sec. 17. Prohibited acts.
Sec. 18. Penalties and remedies.
Sec. 19. Citizen civil actions.
Sec. 20. Environmental prediction and assessment.
Sec. 21. Cooperation of Federal agencies.
Sec. 22. Health and environmental data.
Sec. 23. State regulations.
Sec. 24. Regulations, procedure, and judicial review.
Sec. 25. National security waiver.
Sec. 26. Authorization for appropriations.

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) Human beings and the environment are being exposed to a large number of chemical substances each year.

(2) Among the many chemical substances constantly being developed and produced there are some which may pose an unreasonable threat to human health or the environment.

(3) The effective regulation of interstate commerce in such chemical substances necessitates the regulation of transactions in such chemical substances in intrastate commerce as well.

(b) It is the policy of the United States that—

(1) New chemical substances and hazardous or potentially hazardous existing chemical substances should be adequately tested with respect to their safety to human beings and the environment. It should be the responsibility of those who produce such chemicals, to conduct such tests.

(2) Adequate authority should exist to restrict the distribution and use of chemical substances found to pose an unreasonable threat to human health or the environment.

(3) Authority over chemical substances should be exercised in such a manner as not to unduly impede technological innovation while fulfilling the primary purpose of this Act to assure that such innovation and commerce in such chemical substances does not pose an unreasonable threat to human health or the environment.

(4) As set forth herein, citizens should be encouraged to participate and to assist in carrying out the purposes of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "Byproduct" means a chemical substance produced as a result of the production, manufacture, processing, use, or disposal of some other chemical substance.

(3) "Chemical substance" means any organic or inorganic substance of a particular molecular identity, or any uncombined chemical radical or element.

(4) "District of the United States", which court shall have jurisdiction over actions arising under this Act, includes the District Court of Guam, the District Court of the Virgin Islands, the District Court of the Canal Zone, and in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii.

(5) "Environment" includes water, air, land, all living things therein, and the interrelationships which exist among these.

(6) "Existing chemical substance" means any chemical substance which has been produced or imported into the United States in commercial quantities prior to one hundred eighty days after the date of enactment of this Act.

(7) "Indemnity" means any payment made to a person as reimbursement for loss or damage other than a payment made in accordance with a judgment of any court in an action brought at common law or under section 1346 of title 28, United States Code.

(8) "Intermediate chemical substance" means any chemical substance to the extent that such substance is converted chemically or used as a catalyst in the manufacture of other chemical substances subject to this Act.

(9) "Laboratory reagent" means any chemical substance produced, distributed, or used for scientific experimentation or chemical research or analysis.

(10) "Manufacturer" means any person engaged in the production or manufacture of chemical substances for purposes of sale or distribution in commercial quantities, or an importer of such substances.

(11) "New chemical substance" means any chemical substance which has not been produced or imported into the United States in commercial quantities prior to one hundred eighty days after the date of enactment of this Act: *Provided*, That after such substance is first produced or imported in commercial quantities it shall be regarded thereafter for purposes of this Act as an "existing chemical substance".

(12) "Person" includes an individual or a corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or trustee of any of the foregoing, State, municipality, or political subdivision of a State.

(13) "Processor" means any person engaged in the preparation of a chemical substance or a product containing such substance for distribution or use either in the form in which it is received or as part of another product, as defined by regulations of the Administrator.

(14) "Protect health and the environment" means protect against any unreasonable threat to human health or the environment resulting from the use or distribution of a chemical substance or any product containing such substance, taking into account the benefits of such use or distribution as compared to the risks of such use or distribution to human health or the environment.

(15) "Restrict the use or distribution" means to prescribe the amount of a chemical substance or a product containing such substance which may be sold to given types of processors, or to limit the type of processor to whom such substance or product may be sold, or to prescribe the amount of such substance or product which may be utilized by a given type of processor, or to limit the sale of such substance or product or the manner in which such substance or product may be used, handled, labeled, or disposed of by any person, including self-monitoring requirements for manufacturers and processors to insure that the substance or product being manufactured or processed is of reasonably consistent composition. Such restriction on use or distribution may be applied on a geographic basis and may include a total ban.

(16) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(17) "Test protocol" means a standardized procedure for performing tests as required by this Act pursuant to regulations promulgated by the Administrator, the results of which will provide a basis for judging the effects of a chemical substance on human health or the environment.

TEST STANDARDS

SEC. 4. (a) Within one year after the date of enactment of this Act and from time to time thereafter, the Administrator shall issue proposed regulations to establish such standards for test protocols for various chemical substances or classes of chemical substances or uses thereof and for the results to be achieved therefrom as are necessary to protect health and environment. Such regulations shall apply to those chemical substances or classes or uses of chemical substances which are produced in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment. To the extent feasible, such regulations shall indicate the use or distribution of a chemical substance which will be permitted upon and only upon the attainment of specified test results.

(b) In issuing the proposed regulations required under subsection (a) and in issuing any subsequent final regulations, the Administrator shall consider all relevant factors including—

(1) the effects of the chemical substance on health and the magnitude of human exposure;

(2) the effects of the chemical substance on the environment and the magnitude of environmental exposure;

(3) any benefit of the chemical substance and the availability of less hazardous substitutes for any use or distribution of such substance;

(4) the extent to which the test protocol is reasonably predictive of the potential adverse effects of the chemical substance on health or the environment; and

(5) any data concerning the safety of the chemical substance which may affect the requirements of the test protocol.

(c) Test protocols established under this section may include tests for carcinogenesis, teratogenesis, mutagenesis, persistence, the cumulative properties of the substance, the synergistic properties of the substance and other types of hazards, and epidemiological studies of the effects of the chemical substance.

(d) The Administrator shall specify in any proposed or final regulations developed under this section the date on which such regulations shall take effect, except that such regulations shall take effect as soon as feasible allowing sufficient time for the execution and reporting of required tests as may be required by sections 5 and 6 of this Act.

PREMARKET SCREENING OF NEW CHEMICAL SUBSTANCES

SEC. 5. (a) One hundred and eighty days after the date of enactment of this Act, and thereafter, any manufacturer of a new chemical substance shall notify the Administrator, at least ninety days in advance of the commercial production of such substance, and when tendering such notice such manufacturer shall submit to the Administrator the information referred to in section 10(a) of this Act insofar as it pertains to such substance. If in the judgment of the Administrator a substance is of no unreasonable environmental or public health threat, he may reduce the number of days after submission of such information during which commercial production may not occur. The Administrator shall give priority attention to information covering a substance where serious economic or other hardship will result from unnecessary postponement of commercial production.

(b) After the effective date of regulations promulgated pursuant to section 4 of this Act, any manufacturer of a new chemical substance (i) to which such regulations are applicable and (ii) who first produces or imports such substance into the United States in commercial quantities after thet effective date of such regulations, shall submit to the Administrator in lieu of the information required in subsection (a) of this section, at least ninety days in advance of the commercial production or importation of such substance, the test data developed in accordance with such regulation for the intended use or distribution of such substance.

(c) Subject to section 16 of this Act, the Administrator shall promptly publish in the Federal Register the identity of such chemical substance, the use or distribution intended, and a statement of the availability of any test data submitted.

(d) If warranted by data or the absence of data available to him, the Administrator may propose by regulation to restrict the use or distribution of any new chemical substance in accordance with section 7 of this Act. If such regulation is proposed prior to the expiration of the ninety-day period referred to in subsection (a) or (b) of this section such proposed restrictions on use or distribution shall apply, pending the outcome of administrative proceedings on such proposal, to any subsequent commercial production of such new chemical substance as if such proposed, regulation were final. After such regulation is proposed, the Administrator may refer it to the Board referred to in section 12(c) of this Act. The Administrator shall refer such proposal to such Board if requested by any interested party.

(e) The Administrator may extend the date after which a new chemical substance may be commercially produced under this Act for any particular use or distribution beyond ninety days from the submission of information required under this section for an additional period, not to exceed ninety days, for good cause shown. Subject to section 16 of this Act, notice of such extension and the reasons therefor shall be published in the Federal Register and shall constitute a final action subject to judicial review in accordance with section 24(d) of this Act.

(f) If the Administrator fails to propose a restriction on use or distribution with respect to a chemical substance with ninety days of submission of information or data under subsection (a) or (b) of this section (or in the case of information submitted under subsection (a) such shorter period of time as the Administrator may consider appropriate) or to extend the time, pursuant to subsection (e), for consideration of information submitted, commercial production of such chemical substance may begin. Nothing in this section shall be construed to prohibit the Administrator from restricting the use or distribution of any chemical subsance pursuant to section 7 of this Act after commercial production of such substance has begun or from taking action against any substance which is found to be an imminent hazard pursuant to section 8 of this Act.

(g) (1) The Administrator may exempt any person from the obligation to submit test data under this section if he determines that the submission of test data by such person would be duplicative of data previously submitted in accordance with this section, except that such person shall not commercially produce such new chemical substance prior to the commercial production of the new chemical substance for which test data were submitted under this section. Any chemical substance or member of a class of chemical substances or any manufacturer or processor thereof referred to under the preceding sentence shall be subject to all the other provisions of this Act.

(2) If the Administrator, under paragraph (1), exempts any person from submitting data under this section because of the existence of previously submitted test data and if such exemption takes effect during the reimbursement period for such data (defined in paragraph (3)), then unless the parties can agree on the amount and method of reimbursement) the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement (in an amount and subject to conditions determined under rules of the Administrator)—

(A) to any person who previously submitted test data on which the exemption was based, for a portion of the costs incurred by him in complying with the requirement under this section to submit such data, and

(B) to any other person who has been required under this paragraph to contribute with respect to such data.

An order under this paragraph shall be considered final agency action, for purposes of judicial review.

(3) For purposes of paragraph (2), the reimbursement period for any previously submitted test data is a period—

(A) beginning on the earliest date (after submission of such data) on which a person who previously submitted test data on which the exemption was based was no longer prohibited from proceeding with the manufacture and distribution in commerce of a chemical substance to which such data applied, and

(B) ending two years after such date (or, if later, at the expiration of a period after such date equal in length to the period which the Administrator determines was necessary to develop the previously submitted test data).

EXISTING CHEMICAL SUBSTANCES

SEC. 6. (a) The Administrator shall issue, within one year after the date of enactment of this Act and from time to time thereafter, proposed regulations specifying those existing chemical substances or classes or uses of chemical substances which are produced or imported into the United States in commercial quantities and which the Administrator has reason to believe may pose an unreasonable threat to human health or the environment. Concurrently with each proposal to specify such existing chemical substance, the Administrator shall propose regulations under section 4 of this Act, if he has not previously done so, which are applicable to each existing chemical substance to specified. On or before the effective date of any applicable regulation under section 4 of this Act, any manufacturer of an existing chemical substance shall furnish the test data developed in accordance with such regulations to the Administrator. Subject to section 16 of the Act, the Administrator shall, upon receipt of such test data from a manufacturer, promptly publish in the Federal Register the identity of such existing chemical substance, the uses to which the substance is put, and a statement of the availability of test data.

(b) The Administrator may, in appropriate cases, permit manufacturers of an existing chemical substance for which testing is required under subsection (a) of this section to designate one or more of their number or to designate a qualified independent third party to perform the tests required under subsection (a) of this section and permit the sharing of the costs of such tests. If such manufacturers are not able to agree upon a designee within a reasonable time, or if the agreed-upon designee is not acceptable to the Administrator, the Administrator may order one or more of such manufacturers or may designate a qualified independent third party, to perform the required tests, and may order such manufacturers to contribute to the costs of such tests.

(c) Manufacturers of existing chemical substances for which testing is required under subsection (a) of this section shall not be required to submit test data which would duplicate applicable test data submitted previously by other manufacturers. Such chemical substances and the manufacturers and processors thereof shall be subject to all other provisions of this Act. In the event a manufacturer is exempted from submitting data under this subsection, the Administrator shall order the person granted the exemption to provide fair and equitable reimbursement in accordance with procedures set out in section 5(g) of this Act.

(d) Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a use or distribution for which a regulation under section 4 of this Act is applicable and with respect to which the Administrator has not received test data for such use or distribution pursuant to subsection (a), the manufacturer shall be required to follow the procedures of this section notwithstanding the fact that no objection has been raised to other uses. Whenever a manufacturer of an existing chemical substance proposes to commercially produce such substance for a significant new use, as defined in regulations to be issued by the Administrator, one hundred and eighty days following the date of enactment of this Act, and thereafter the manufacturer shall be required to follow the procedures of section 5 of this Act before such substance may be commercially produced for such use or distribution.

RESTRICTIONS OF USE OR DISTRIBUTION

SEC. 7. (a) If warranted by data available to him, or in the absence of acceptable test data required under sections 5 or 6 of this Act, the Administrator may issue proposed regulations (1) to restrict the use or distribution of any chemical substance or products containing such substance to the extent necessary to protect health and the environment; (2) to require that any or all persons engaged in the distribution of the chemical substance or product so regulated give notification to purchasers or other recipients of the substance or product of such restrictions in such form and manner as the Administrator determines is necessary to protect health and the environment including labeling requirements on such chemical substances or products containing such substances with appropriate warning provisions and directions for use and disposal; and (3) to require such other action as may be necessary to carry out such restrictions including recalling and remedying, replacing, or refunding the purchase price of such products or substances.

(b) In issuing proposed regulations under subsection (a) and in issuing any subsequent final regulations, the Administrator shall consider all relevant factors including—

(1) the effects of the substance on human health;

(2) the effects of the substance on the environment;

(3) the benefits of the substance for various uses;

(4) the normal circumstances of use;

(5) the degree to which the substance is released to the environment;

(6) the magnitude of exposure of human beings and the environment to the substance; and

(7) the availability of less hazardous substitutes.

The Administrator shall specify in the regulation the date on which it shall take effect, which shall be as soon as feasible. All data relevant to the Administrator's findings shall be available to the public subject to section 16 of this Act.

(c) Whenever the Administrator has good cause to believe that a particular manufacturer or processor is producing or processing a chemical substance or product not in compliance with a particular restriction on use or distribution requiring reasonably consistent composition of such chemical substance or product—

(1) he may require such manufacturer or processor to submit a description of the relevant quality control procedures followed in the manufacturing or processing of such chemical substance or product; and

(2) if he thereafter determines that such noncompliance is attributable to the inadequacy of the manufacturer's or processor's control procedures, he may, after notice and opportunity for hearing pursuant to section 554 of title 5, United States Code, order the manufacturer or processor to revise such quality control procedures to the extent necessary to remedy such inadequacy.

(d) Notwithstanding the provisions of section 11(a)(1) of this Act, no indemnity payment shall be made to any manufacturer, wholesale distributor, retailer, or other vendor of a chemical substance or to any other person as a result of any action taken under this section, under any other provision of this Act, or under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135).

(e) Notwithstanding any provision of section 11 of this Act, the Administrator shall by contract or other arrangement commission a study of all Federal laws administered by the Environmental Protection Agency for the purpose of determining whether and under what conditions, if any, indemnification should be accorded any person as a result of any action taken by the Administrator under any law administered by such agency. This study shall—

(1) be conducted outside of the Environmental Protection Agency under the direction of a university or recognized research center by an interdisciplinary group, none of the members of which may have a financial interest or conflict of interest (other than any fee paid by the Administrator for serving as a member of such group) with respect to the findings and conclusions of such study;

(2) include an estimate of the probable cost of any indemnification programs which may be recommended;

(3) include an examination of all viable means of financing the cost of any recommended indemnification;

(4) be completed no less than two years from the date of enactment of this Act; and

(5) be submitted, upon completion, simultaneously to the Administrator and to the appropriate committees of the Congress without prior clearance or review by the executive branch.

(f) Notwithstanding the requirements of section 11 of this Act, section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135) is hereby repealed.

IMMINENT HAZARD

SEC. 8. (a) An imminent hazard shall be considered to exist when the evidence is sufficient to show that the manufacture, processing, distribution, use, or disposal of a chemical substance or product containing such substance will result in any unreasonable threat to human health or the environment prior to the completion of an administrative hearing or other formal proceeding held pursuant to this Act.

(b) If the Administrator has reason to believe that an imminent hazard exists he may petition an appropriate district court of the United States, or he may request the Attorney General to do so, to restrict the use or distribution of the chemical substance or product responsible for the hazard, or to take such other action as is authorized under section 7 of this Act. The Administrator shall simultaneously, if he has not done so, propose any regulation which may be warranted under section 7 of this Act.

SEIZURE

SEC. 9. (a) Any chemical substance or product containing such substance which the Administrator finds (1) is manufactured, processed, distributed, used, or disposed of in violation of section 5, 6, or 7 of this Act, where there is reason to believe such substance or product poses an unreasonable threat to human health or the environment, or (2) constitute an imminent hazard under section 8 of this Act shall be liable to be proceeded against by the Administrator or the Attorney General on libel of information and condemned in any district court of the United States within the jurisdiction of which such substance or product is found. Such substance or product shall be liable to seizure by process pursuant to the libel. In cases under this section, the procedure shall conform, as nearly as may be, to a proceeding in rem in admiralty.

(b) Any substance or product condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States; but such substance or product shall not be sold under such decree contrary to the provisions of this title or the laws of the jurisdiction in which sold: *Provided*, That after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficent bond conditioned that such substance or product shall not be sold or disposed of contrary to the provisions of this Act or the laws of any State in which sold, the court may by order direct that such substance or product be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act under the supervision of an officer or employee duly designated by the Administrator. The expenses of such supervision shall be paid by the persons obtaining release of the substance or product under bond.

(c) When a decree of condemnation is entered against the substance or product court costs and fees, and storage and other property expenses, shall be awarded against the person, if any, intervening as claimant of the substance or product.

REPORTS

SEC. 10. (a) The Administrator shall require all manufacturers of chemical substances or, where appropriate, processors to submit reports to him annually and at such more frequent times as he may reasonably require containing any or all of the following—

(1) the names of any or all chemical substances produced, imported, or processed in commercial quantities by the manufacturer or processor thereof;

(2) the chemical identity and molecular structure of such substances insofar as is known to him or is reasonably ascertainable by him;

(3) the categories of use of each such substance, insofar as they are known to him or are reasonably ascertainable by him;

(4) reasonable estimates of the amounts of each substance produced or processed for each such category of use; and

(5) a description of the byproducts, if any, resulting from the production of each such substance, and, insofar as they are known to him or are reasonably ascertainable by him, from the processing, use, or disposal thereof.

(b) The Administrator may, by regulation, exempt manufacturers from all or part of the requirements of subsection (a) of this section if he finds that such reports are not necessary to carry out the purposes of this Act.

(c) Whenever the Administrator determines that such action would be necessary to assist him to carry out his responsibilities and authorities under this Act, he may publish a notice in the Federal Register to invite and afford all interested persons an opportunity to provide to him in writing information with respect to the human health or environmental effects of a chemical substance or products containing such substance.

EXEMPTIONS AND RELATIONSHIP TO OTHER LAWS

SEC. 11. (a) This Act shall not apply to—

(1) pesticides and chemical substances used in such pesticides, except that if a chemical substance which constitutes such a pesticide or such an ingredient is or may be used for any non-pesticidal purpose which is not regulated by the Federal Insecticide, Fungicide, and Rodenticide Act, this Act shall apply to such other uses;

(2) foods, drugs, devices, and cosmetics subject to the Federal, Food, Drug and Cosmetic Act (21 U.S.C. 321), as amended, foods subject to the Federal Meat Inspection Act (56 Stat. 351), the Egg Products Inspection Act (21 U.S.C. 1031), and the Poultry Products Inspection Act (21 U.S.C. 451), and chemical substances used therein, except that if such an item or substance is or may be used for any purpose which is not regulated by such Acts this Act shall apply to such other uses;

(3) any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act of 1954 (42 U.S.C. 2011), as amended, and regulations issued pursuant thereto by the Atomic Energy Commission;

(4) the transportation of hazardous materials insofar as it is regulated by the Secretary of Transportation;

(5) except for section 10 of this Act, intermediate chemical substances, unless the Administrator finds that such chemical substances cannot be sufficiently regulated by the Clean Air Act (42 U.S.C. 1857), as amended, or the Federal Water Pollution Control Act (33 U.S.C. 466), as amended;

(6) restrictions on use or distribution under section 5(d) or section 7 of this Act (other than restrictions initiated for the purpose of obtaining test data) with respect to any chemical substance on the basis of its presence in industrial effluents or emissions, unless the Administrator finds that its presence in such industrial effluents or emissions cannot be as effectively controlled by the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended;

(7) laboratory reagents, except those where there is reason to believe the manufacture, processing, distribution, use, or disposal of the reagent may produce an unreasonable threat to human health or the environment;

(8) tobacco and tobacco products; and

(9) any extraction of any mineral deposit covered by the mining or mineral leasing laws of the United States, unless the Administrator finds, by regulation, that such extraction of such mineral deposit poses an unreasonable threat to human health or the environment which cannot be effectively regulated under any other provision of law.

(b) To the extent that such chemical substances are subject to regulation by other Federal laws, including the Occupational Safety and Health Act of 1970 (29 U.S.C. 651) and the Consumer Product Safety Act (86 Stat. 1207), the Administrator shall not regulate the use or distribution of a new or existing chemical substance on the basis of any possible hazard to employees in their place of employment, or the hazard directly to consumers resulting from the personal use, enjoyment, or consumption of marketed products which contain or might contain the substance: *Provided*, That the Administrator shall take such hazards into account in determining what standards for test protocols, results to be achieved therefrom, and restrictions on use or distribution are appropriate.

(c) If it appears to the Administrator that any such substance may pose a hazard when transported, or when used on or in food or as a drug or cosmetic, he shall transmit any data received from manufacturers or processors or data otherwise in his possession which is relevant to such hazards to the Federal department or agency with authority to take legal action if a hazard is found to exist.

(d) The Administrator shall coordinate actions taken under this Act with actions taken to implement the Federal Water Pollution Control Act and the Clean Air Act, and shall, where appropriate, use the authorities contained in such Acts to regulate chemical substances.

(e) The Administrator shall consult and coordinate with the Secretary of Health, Education, and Welfare and the heads of other appropriate Federal agencies in administering the provisions of this Act. The Administrator shall report annually to the Congress on actions taken to coordinate with other Federal agencies and actions taken to coordinate the authority under this Act with the authority granted under other Acts referred to in this section.

(f) This Act shall not be construed as superseding or impairing the provisions of any other law or treaty of the United States.

CHEMICAL SUBSTANCES BOARD

SEC. 12. (a) There shall be established in the Environmental Protection Agency a Chemical Substances Board (hereinafter referred to as the "Board") consisting of twelve scientifically qualified members. The Administrator shall appoint eleven members to the Board from a list of individuals recommended to him by the National Academy of Sciences, and the Secretary of Health, Education, and Welfare shall appoint one member to the Board from whatever source he desires. No more than one-third of the members of such Board shall represent the chemical industry. None of the members of such Board, other than chemical industry representatives, may have any significant economic interest in the chemical industry. Members of the Board shall serve one term of four years, except that one-half of the members initially appointed shall serve one term of two years. Thereafter, one-half of the members of the Board shall be appointed every two years. Members of the Board shall not be reappointed for consecutive terms. One of the members shall be designated by the Administrator to serve as Chairman of the Board.

(b) The Administrator is authorized—

(1) at the request of the Board to enter into appropriate arrangements with the National Academy of Sciences to provide assistance to the Board in the conduct of independent scientific reviews required by this section; and

(2) at his own discretion, to request such additional scientific advisory services from the National Academy of Sciences as may be required in carrying out other provisions of this Act.

In making such arrangements with the National Academy of Sciences, the Administrator shall assure that conflicts of interest do not exist in the membership of any study committees subsequently convened which will prevent an objective scientific review of the questions referred to the National Academy of Sciences by the Board.

(c) (1) Except as provided in section 5(b) of this Act, before proposing any regulations under section 4, 6, or 7 of this Act, the Administrator shall refer his proposed action and the available evidence to the Board and shall, concurrently with such referral, publish in the Federal Register a notice of the referral identifying the proposed action. The Board shall conduct an independent scientific review of the proposed action and shall report its views and reasons therefor in writing to the Administrator, within a reasonable time, not to exceed forty-five days, as specified by the Administrator. Such time may be extended an additional forty-five days if the Administrator determines that the extension is necessary and that the Board has made a good-faith effort to report within the initial forty-five-day period. All such views shall be given due consideration by the Administrator. If the Board fails to report within the specified time, the Administrator may proceed to take action under this Act. The report of the Board and any dissenting views shall be considered as part of the record in any proceeding taken with respect to the Administrator's action.

(2) The Administrator may, at his discretion, also request the Board to consider other actions proposed to be taken under this Act. In such case all provisions of this section shall apply.

(d) The Administrator is authorized to reimburse the National Academy of Sciences for expenses incurred in carrying out this section.

(e) Members of the Board who are not regular full-time employees of the United States shall, while serving on business of the Board, be entitled to compensation at rates fixed by the Administrator, but not exceeding the daily rate applicable at the time of such service to grade GS-18 of the classified civil service, including traveltime. While serving away from their homes or regular places of business, such members may be allowed travel expenses including, per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

RESEARCH

SEC. 13. The Administrator is authorized to conduct such research and monitoring as is necessary to carry out his functions under this Act. Such research and monitoring may be undertaken to (i) determine proper standards for test protocols and results to be obtained therefrom under section 4 of this Act, (ii) determine what existing chemical substances might present unreasonable hazards under section 6 of this Act, (iii) monitor chemical substances in man and in the environment as is necessary to carry out the purposes of this Act, and (iv) confirm the results of tests required by this Act. To the extent possible, such research and monitoring shall not duplicate the efforts of other Federal agencies or the research required of manufacturers under this Act. In order to carry out the provisions of this section, the Administrator is authorized to make contracts and grants for such research and monitoring. The Administrator may construct research laboratories for the purposes of this Act (i) after fully utilizing the personnel, facilities, and other technical support available in other Federal agencies, (ii) when authorized by the Congress to plan, design, and construct such laboratories, and (iii) subject to the appropriation of funds for this purpose by the Congress.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 14. (a) (1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this Act and to otherwise facilitate the carrying out of his functions under this Act, the Administrator is authorized, in accordance with this section, to enter any factory, warehouse, or other premises in which chemical substances or products containing such substances are manufactured, processed, stored, held, or maintained, including retail establishments, and to conduct administrative inspections thereof.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Administrator. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premise (A) appropriate credentials and (B) his administrative inspection warrant or a written notice of his other inspection authority, shall have the right to enter such premises and to conduct such inspection at reasonable times.

(3) Except when the owner, operator, or agent in charge of such premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data;

(C) pricing data;

(D) personnel data;

(E) research data (other than data required by this Act); or

(F) process technology other than that related to chemical composition or the industrial use of a chemical substance or a product containing such substance.

(b) A warrant under this section shall not be required for entries and administrative inspections (including seizures of chemical substances or products containing chemical substances manufactured in violation of regulations issued under this Act)—

(1) conducted with the consent of the owner, operator, or agent in charge of such premises; or

(2) in any other situation where a warrant is not constitutionally required.

(c) Administrative inspection warrants shall be issued and executed as follows—

(1) Any judge or magistrate of the United States or a judge of a State court of record may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this Act, and seizures of property appropriate to such inspections. For purposes of this subsection, "probable cause" means a valid public interest in the effective enforcement of this Act or regulations issued thereunder sufficient to justify administrative inspections of an area, premises, building, or the contents thereof, under the circumstances specified in the application for the warrant.

(2) A warrant shall be issued only upon the affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the facts alleged and the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, or building to be inspected, the purpose of such inspection, and where appropriate, the type of property to be inspected, if any. The warrant shall—

(A) identify the items or types of property to be seized, if any;

(B) be directed to a person authorized under subsection (a)(2) of this section to execute it;

(C) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(D) command the person to whom it is directed to inspect the area, premises, or building identified for the purpose specified, and, where appropriate, to seize the identified property;

(E) direct that it be served during normal business hours; and

(F) designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date of issuance unless, upon a showing by the United States of a need therefor, the judge or magistrate allows additional time. If property is seized pursuant to such warrant, the person executing the warrant shall give a copy of the warrant and a receipt for the property taken to the person from whom or from whose premises the property was taken, or shall leave such copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory. Such inventory shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall cause a copy of such inventory to be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

EXPORTS AND IMPORTS

SEC. 15. (a) Notwithstanding any other provision of this Act, no chemical substance or product containing such substance shall be deemed in violation of this Act when intended solely for export to any foreign nation except that—

(1) test data which would be required to be submitted under section 5 or 6 of this Act if such substance were produced for domestic use, shall be submitted to the Administrator in accordance with such sections;

(2) such chemical substances shall be subject to the reporting requirements of section 10 of this Act, and

(3) no such substance or product containing such substance may be exported if the Administrator by regulation finds that such substance or product as exported and used will, directly or indirectly, pose an unreasonable threat to the human health of persons within the United States or to the environment of the United States.

(b) If submittal of test data is required for a chemical substance under section 5 or 6 of this Act, or restrictions on use or distribution have been proposed or requested for a chemical substance or product containing such substance under section 7 or 8 of this Act, the Administrator, subject to section 16 of this Act, shall furnish to the governments of the foreign nations to which such substance or product containing such substance may be exported (1) a notice of the availability of the data submitted to him under section 5 or 6 of this Act concerning any such substance or product, (2) any restrictions on use or distribution of such substance or product that have been imposed or proposed or requested by him or the Attorney General with respect to such substance or product.

(c) The Secretary of the Treasury shall refuse entry into the United States of any chemical substance or product containing such substance offered for entry if it fails to conform with regulations promulgated under this Act. If a chemical substance or product is refused entry, the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the disposal or storage of any substance or product refused delivery which has not been exported by the consignee within three months from the date of receipt of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe, except that the Secretary of the Treasury may deliver to the consignee such substance or product pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such substance or product, together with the duty thereon, and on refusal to return such substance or product for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond. All charges for storage, cartage, and labor on substances or articles which are refused admission or delivery under this section shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

(d) The Secretary of the Treasury, in consultation with the Administrator, shall issue regulations for the enforcement of subsection (c) of this section.

CONFIDENTIALITY

SEC. 16. (a) Copies of any communications, documents, reports, or other information received or sent by the Administrator or the Chemical Substances Board under this Act shall be made available to the public upon identifiable request, and at reasonable cost unless such information may not be publicly released under the terms of subsection (b) of this section.

(b)(1) The Administrator or any officer or employee of the Environmental Protection Agency or the Chemical Substances Board shall not disclose any information referred to in section 1905 of title 18, United States Code, which has commercial value and which, if disclosed, would result in significant competitive damage to its owner, except that such information may be disclosed by the Administrator—

(A) to other Federal Government departments, agencies, and officials for official use, upon request, and with reasonable need for such information;

(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceeding;

(D) if relevant in any proceeding under this Act, except that such disclosure shall preserve the confidentiality to the extent possible without impairing the proceeding; and

(E) to the public in order to protect their health, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the manufacturer of any product to which the information appertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health).

In no event shall the names or other means of identification of injured persons be made public without their express written consent.

(2) Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552, title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(c) Any communication from a person to the Administrator or any other employee of the Environmental Protection Agency concerning a matter then under consideration in a rulemaking or adjudicative proceeding in the Environmental Protection Agency shall be made a part of the public file of that proceeding unless it is a communication entitled to protection under subsection (b) of this section.

PROHIBITED ACTS

SEC. 17. The following acts and the causing thereof are prohibited—

(1) the failure to comply with any final regulation or order issued by the Administrator or the Secretary of the Treasury pursuant to this Act;

(2) the failure to provide information as required by section 5, 6, or 10 of this Act;

(3) the failure to permit entry and administrative inspection pursuant to section 14 of this Act;

(4) the manufacture, processing, sale, distribution, or importation into the United States of a chemical substance or product containing such substance whenever such manufacture, processing, sale, distribution, or importation is known to be or should have been known to be for use in violation of regulations promulgated under section 4 or 7 of this Act, and the use including disposal, of any such substance or product when such use or disposal is known or should have been known to be in violation of such regulations; and

(5) the failure of any person who pur-

chases or receives a chemical substance or product containing such substance and who is required to be given notice of restrictions on use or distribution of such substance or product pursuant to section 7(a)(2) of this Act, to comply with such restrictions on use or distribution.

PENALTIES AND REMEDIES

SEC. 18. (a) Any person who willfully violates section 17 of this Act shall on conviction be fined not more than $25,000 for each day of violation or imprisoned for not more than one year, or both.

(b)(1) Any person who violates section 17 of this Act other than willfully shall be liable to the United States for a civil penalty of a sum which is not more than $25,000 for each day of violation. The amount of such civil penalty shall be assessed by the Administrator after notice and an opportunity for an adjudicative hearing conducted in accordance with section 554 of title 5, United States Code, and after he has considered the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any good-faith efforts to comply with such provisions.

(2) Upon the failure of the offending party to pay such civil penalty, the Administrator may commence an action in the appropriate district court of the United States for such relief as may be appropriate or he may request the Attorney General to commence such an action.

(c) The Attorney General or the Administrator may bring an action in the appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of section 17 of this Act. The district courts of the United States shall have jurisdiction to grant such relief as the equities of the case may require.

CITIZEN CIVIL ACTIONS

SEC. 19. (a) Except as provided in subsection (b) of this section, any person may commence a civil action for injunctive relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including the United States or any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) alleged to be in violation of any regulation or order promulgated under section 4 or 7 of this Act, or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. Any action brought against the Administrator under this paragraph shall be brought in the District Court of the District of Columbia.

The district courts shall have jurisdiction over suits brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator of the regulation or order, or

(B) if the Administrator or Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States to require compliance with the regulation or order: *Provided*, That any person may intervene as a matter of right in any such actions;

(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any other statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

(f) When any actions brought under this subsection involving the same defendant and the same issues of violations are pending in two or more jurisdictions, such pending proceedings, upon application of the defendant reasonably made to the court of one such jurisdiction, may, if the court in its discretion so decides, be consolidated for trial by order of such court, and tried in (1) any district selected by the defendant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the defendant may apply to the court of one such jurisdiction, and such court (after giving all parties reasonable notice and opportunity to be heard) may by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the applicant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case the date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

ENVIRONMENTAL PREDICTION AND ASSESSMENT

SEC. 20. The Environmental Protection Agency shall, in cooperation with the Council on Environmental Quality and other Federal agencies, develop the necessary personnel and information resources to assess the environmental consequences of the introduction of new chemical substances into the environment.

COOPERATION OF FEDERAL AGENCIES

SEC. 21. Upon request by the Administrator, each Federal agency is authorized—

(a) to make its services, personnel, and facilities available with or without reimbursement to the greatest practicable extent within its capability to the Administrator to assist him in the performance of his functions; and

(b) to furnish to the Administrator such information, data, estimates, and statistics, and to allow the Administrator access to all information in its possession, as the Administrator may reasonably determine to be necessary for the performance of his functions as provided by this Act.

HEALTH AND ENVIRONMENTAL DATA

SEC. 22. The Council on Environmental Quality, in consultation with the Administrator, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, and the heads of other appropriate Federal, State, and local departments or agencies, the scientific community, and the chemical industry, shall coordinate a study of the feasibility of establishing (1) a standard classification system for chemical compounds and related substances, and (2) a standard means for storing and for obtaining rapid access information respecting such materials.

STATE REGULATIONS

SEC. 23. (a) Nothing in this Act shall affect the authority of any State or local government to impose more stringent restrictions on the use or distribution of chemical substances or products containing such substance, or to establish and enforce more stringent standards for test protocols for various classes and uses of such substances and products and for the results that must be achieved therefrom, to protect health and the environment, except that—

(1) if the Administrator issues a final regulation under section 7 of this Act restricting the use or distribution of a chemical substance a State or local government may not enforce any such restriction of its own for purposes similar to this Act after the effective date of such regulation, other than a total ban on use or distribution; and

(2) if the Administrator issues a final regulation under section 4 of this Act a State or local government may not enforce any standards for test protocols and the result to be achieved therefrom after the effective date of such regulation.

(b) The Administrator may by regulation, upon the petition of any State or local government or at his own initiative, exempt State and local governments from the prohibitions of subsection (a) of this section, or from the prohibitions contained in any other Federal law administered by the Environmental Protection Agency against the regulation by State or local governments of the manufacture, use, or distribution of chemical substances or products containing such substances with respect to a substance or product if such exemption will not, through difficulties in marketing distribution, or other factors, result in placing an unreasonable burden upon commerce.

REGULATIONS, PROCEDURES, AND JUDICIAL REVIEW

SEC. 24. (a) At his own initiative, or upon the petition of any person, the Administrator is authorized to issue regulations to carry out the purposes of this Act and to amend or rescind such regulations at any time.

(b) The Administrator shall publish any regulations proposed under this Act in the Federal Register at least sixty days prior to the time when such regulations shall become final. The Administrator shall also publish in the Federal Register a notice of all petitions received under subsection (a) and, if such petition is denied, his reasons therefor. Such notice shall identify the purpose of the petition and include a statement of the availability of any data submitted in support of such petition. If any person adversely affected by a proposed regulation files objections and requests a public hearing within forty-five days of the date of publication of the proposed regulation, the Administrator shall grant such request. If such public hearing is held, final regulations shall not be promulgated by the Administrator until after the conclusion of such hearing. All public hearings authorized by this subsection shall consist of the oral and written presentation of data or arguments in accordance with such conditions or limitations as the Administrator may make applicable thereto.

(c) Proposed and final regulations issued under this Act shall set forth findings of fact on which the regulations are based and shall state the relationship of such findings to the regulations issued.

(d) Any judicial review of final regulations promulgated under this Act and final actions under section 5(e) of this Act shall be in accordance with sections 701–706 of title 5, United States Code, except that—

(1) with respect to regulations promulgated under section 4, 6, or 7 of this Act, the findings of the Administrator as to the facts shall be sustained if based upon substantial evidence on the record considered as a whole; and

(2) with respect to relief pending review, no stay of an agency action may be granted unless the reviewing court determines that the party seeking such stay (i) is likely to prevail on the merits in the review proceeding and (ii) will suffer irreparable harm pending such proceeding.

(e) Except as expressly modified by this section, the provisions of chapter 5 of title 5 of the United States Code shall apply to proceedings conducted by the Administrator under this Act.

(f) If the party seeking judicial review applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court either (1) that the information is material and was not available at the time of the proceeding before the Administrator or (2) that failure to include such evidence in the proceeding was an arbitrary or capricious act of the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, and to be adduced upon the hearing, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file with the court such modified or new findings and his recommendation, if any, for the modification or setting aside of his original order.

NATIONAL SECURITY WAIVER

SEC. 25. The Administrator may waive compliance with the provisions of this Act, in whole or in part, upon receiving information from the Secretary of Defense that such waiver is in the interest of national security. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for good cause shown by the Secretary of Defense in the interest of national security, unless the Administrator has been requested by the Secretary of Defense to omit such publication because such publication would be contrary to the interests of national security.

RECORDKEEPING OF RECIPIENTS OF FEDERAL ASSISTANCE

SEC. 26. (a) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Administrator or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans or other arrangements referred to in subsection (a).

AUTHORIZATION FOR APPROPIATIONS

SEC. 27. (a) There is hereby authorized to be appropriated such sums as may be necessary, but not to exceed $9,940,000, $11,550,000, and $10,300,000 for the fiscal years ending on June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the purposes and administration of this Act. No part of the funds so authorized to be appropriated shall be used to plan, design, or construct any research laboratories unless specifically authorized by the Congress by law.

(b) To help defray the expenses of implementing the provisions of this Act, the Administrator may by regulation require the payment of a reasonable fee from the manufacturer of each chemical substance for which test data is required to be submitted under this Act.

(c) On or before August 1 of each year, the Administrator shall prepare and submit concurrently to the President and to the Congress budget estimates to carry out the provisions of this Act and all other authority of the Administrator for the following year. Whenever the Administrator submits any budget requests, supplemental budget estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to the President or to the Office of Management and Budget, he shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to request or require the Administrator to submit his budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

Mr. COOK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

The PRESIDING OFFICER. The question recurs on the Dominick amendment No. 330, with a vote to occur at 12:30 p.m. today.

Who yields time?

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Mr. President, what is our time situation at the moment?

The PRESIDING OFFICER. There are 55 minutes remaining to each side.

Mr. DOMINICK. Mr. President, how did we get down to 55 minutes for each side? I thought we had at least an hour.

The PRESIDING OFFICER. Time was yielded to the other side by unanimous-consent agreement for the consideration of other business.

Mr. WILLIAMS. Mr. President, in view of the time that was taken from the consideration of this substitute amendment, I ask unanimous consent that that time be taken out of the opponents of the substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I thank the Senator.

I yield 6 minutes to the Senator from New York (Mr. BUCKLEY).

The PRESIDING OFFICER. The Senator from New York is recognized for 6 minutes.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that two members of my staff, Suzanne Rauge and Roger Levy, be given the privilege of the floor during the debate and the votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUCKLEY. Mr. President, I would like to commend my colleagues, the Senator from Colorado (Mr. DOMINICK) and also the Senator from Ohio (Mr. TAFT) for proposing a sensible and reasonable substitute to the minimum wage legislation reported out of the Senate Committee on Labor and Public Welfare. The minimum wage legislation (S. 1861), represents an ill-advised legislative package which would have serious adverse effects on marginal workers and on the economy.

S. 1861 has a number of unworkable features which simply do not meet the essential tests of sound economic analysis. These defects are well documented in the minority views of the Senator from Colorado and his colleagues, and they have been discussed in detail on the Senate floor. They include, of course, the drastic increases in wage rates—up to 37.5 percent within 13 months—the "ripple effect" costs of raising wages which are above the minimum rates in order to maintain existing wage differentials, and broad extensions of coverage to new categories of employees.

More importantly, they will have the effect of squeezing the old, the disabled, and the young out of the labor market.

In addition, the committee bill would completely or partially eliminate numerous prudent exemptions which protect workers from inclusion under legislation which historically and predictably leads to unemployment. The proposed increases in minimum wage legislation would also affect our balance of payments, since some of the firms involved in exporting would have to increase prices as a result of their increased costs attributable to the higher wage rates paid to its employees that are retained. As that competitive posture continues to be compromised, these firms may well find themselves in that familiar trend of facing a reduced demand for their products, curtailing output, and restricting employment opportunities for affected workers.

Of course, minimum wage legislation has historically resulted in considerable hidden costs. Those who have lost jobs or cannot find jobs at the legislated minimum rates increase the welfare burden and the drain on unemployment insurance. In addition, there are many firms, often small in size, which are immediately or eventually forced not only to curtail employment but even to close their doors. These firms are typically in declining or marginally productive industries.

What appeals to me most in the substitute bill proposed by the distinguished Senator from Colorado is its recognition of the effect of the minimum wage levels on those people who are trying to enter the labor market.

I am talking about teenagers, and particularly teenagers from disadvantaged backgrounds, who have not, as a result of their environment, developed the work habits and disciplines which are required in order for them to be able to find jobs at the minimum rate of pay.

Because of my concern for those groups of workers most perversely affected by minimum-wage legislation, especially the young and nonwhite, I support the Dominick substitute to S. 1861.

It is to this aspect of the Dominick-Taft substitute that I would like to address myself.

There is no substitute for jobs—real jobs—that are obtained in the marketplace. This is especially true for our teenagers. Jobs are the only proven way for them to increase their skill and experience levels. Jobs are the only way for them to become self-sufficient young adults, with the special self-confidence that can only come through knowing that, free from government hand-outs, one has the abilities to support oneself. Jobs play a unique part in a teenager's development, and nothing else can fill that role.

This is why the Nation's teenage unemployment figures are so tragic. Those figures—13.7 for white teens and 30.3 for nonwhite teens, represent something much more serious than is initially apparent. On the surface, those rates mean that there are 3,709,000 teenagers who are looking for jobs but cannot find work. Many young people who need money are unable to earn it, and the long hours of idle time they are faced with is often spent in less-than-constructive pursuits. But to me the much larger tragedy is that these out-of-work teenagers are losing a very vital link in their development to productive adulthood.

What is this need that employment fills in young people? It is the need to develop the work habits and skill that will enable them to hold regular jobs and earn good salaries as adults. So many young people lack not only the specific skills that a job may require, but also the behavioral disciplines that maintaining a steady job requires. These include the motivation and ability to simply get to work on time every day, to take and follow instructions, and to adjust to the other workers and the routines of the business. To those who have been working for many years, these things probably seem more like natural habits than acquired skills. However, for a young person who has never worked, these are part of a work ethic which must be acquired over time.

Americans often proudly note that our workers are the most highly skilled in the world. We do not have this skill level at birth, and do not acquire them simply by growing up in America. The skilled adult worker developed his abilities over time, through on-the-job experiences. And, the average American worker, who is able to provide a comfortable living for his family, did not start out earning the salary he presently does. He started out, often as a single person, earning a low wage. Then, as both his skill level and financial needs grew, so did his income.

This is the path that must be open to America's youth, especially the least skilled. And, it is a path that has been closed to a growing percentage of teenagers over the last 25 years. In 1948, when the minimum wage was 40 cents an hour, the white teenage unemployment rate was about twice the general level, and the nonwhite rate was about three times that level. In 1956 the minimum wage was raised 33 cents to $1 an hour. One year later the white teen rate was 2.5 times the general rate, and the nonwhite rate was four times that rate. Today, white teenagers experience almost three times the average level of unemployment and their nonwhite counterparts over six times that rate. These increases in the teenage unemployment levels, have occurred consistently after every increase in the minimum wage rates. Today, an overwhelming majority of the academic economists agree that there is an inverse relationship between these two rates.

The nonminimum wage explanation of the youth unemployment rates are very unconvincing. First, prejudice against minorities is often blamed because in the past 25 years nonwhite unemployment has gone from 20 to 120 percent higher than the white rate. Yet this flies in the face of the fact that jobs have never been as open to all Americans as they are today. Increased racism does not explain the use that has also occurred in the rate of white teens. Economist Yale Brozen has shown that the teenage unemployment rates increased markedly after each increase in the minimum wage. General, ongoing market forces would not have caused that phenomenon. Finally, many cite the increase in the number of teenagers as the cause of the unemployment. The larger number of teens, coupled with the minimum wage no doubt made the unemployment rates higher than they would have been if the population had stayed constant. However, the larger population alone would not have brought unemployment, only lower wages. In addition, steady growth in the youth population we have experienced could not have produced the sharp increase in the rate of change in the unemployment levels. that Professor Brozen found to occur after each increase in the minimum wage.

Economists, from such prestigeous men as Milton Friedman and Paul Samuelson on down the line, have been steadfast and vehement in accusing the minimum wage of creating the high teenage unemployment rates. In its report to the 93d Congress on the minimum wage, the Department of Labor, whose 1970 study is so frequently cited by those who say the minimum wage-unemployment relation for teens is unclear—it is cited so often because it is just about the only study that came to that conclusion—finds in all four studies that it cites concerning youth that there is a positive relation found between youth unemployment and the minimum wage.

The language used by economists in their own minimum wage studies is strong and unequivocal. The frequently quoted statement of Milton Friedman's states the situation accurately:

> The Fair Labor Standards Act of 1938 which is the basis of minimum wages, is the most anti-Negro law on our statute books.

The following statements are taken from several economic papers on the minimum wage: Douglas K. Adie states:

> The results of this study indicate that (1) increases in the federal minimum wage cause unemployment among teen-agers; (2) the effects tend to persist for considerable periods of time; and (3) the effects seem to be increasing through time.

Marvin Kosters and Finis Welch stated:

> Our evidence indicates that increases in the effective minimum wage over the period 1954–68 have had a significant impact on employment patterns. Minimum wage legislation has had the effect of decreasing the share of normal employment and increasing vulnerability to cyclical changes in employment for the group most "marginal" to the work force—teen-agers. Thus, a result of increased minimum wages, teenagers are able to obtain fewer jobs during periods of normal employment growth and their jobs are less secure in the face of short-term employment changes.

Yale Brozen stated:

> The overall general effect (of minimum wage laws) in big cities is a bigger police problem, more juvenile delinquency, a problem of frustrated kids who are unable to obtain the initial training and skills they need so that they can move on to higher-rate jobs.

After hearing these statements by economists whose business it is to study and understand such phenomenon, I would find it incredible that any Senator could deny the connection between the minimum wage and youth unemployment.

How is it that the youth differential wage can generate so much opposition? What other legislation that was so certain to create employment for our Nation's teenagers could engender such animosity? What other legislation that promised to reverse the increase in the unemployment rates of our minority teenagers—at a time when that rate is over 30 percent—could arouse such opposition in this age of concern for the Nation's disadvantaged. I find this situation as baffling as it is unfortunate.

The **PRESIDING OFFICER** (Mr. ABOUREZK). The time of the Senator has expired.

Mr. **DOMINICK**. Mr. President, I yield 1 additional minute to the Senator from New York.

Mr. **BUCKLEY**. Mr. President, in summary I would like to say that Congress cannot legislate against the rules of the marketplace. An employer will not hire someone for a price that is higher than that person can contribute to his particular business. It is a demonstrable fact, proven by careful study and by academic economists, that each increase in the minimum wage has been reflected in ever greater increases in the unemployment rates for teenagers.

The **PRESIDING OFFICER**. The additional minute of the Senator has expired.

Mr. **DOMINICK**. Mr. President, I yield

1 additional minute to the Senator from New York.

Mr. BUCKLEY. Because of the high youth employment rates, we must face the fact that if we want younger people to learn essential job skills and if we want to help them to be employable at the minimum wage, we must provide some kind of a differential that will give them access to the job market. This is the only way that they will be able to learn these essential skills.

Mr. President, I commend the Senator from Colorado for proposing a most sensible provision possible to our existing minimum wage legislation.

Mr. DOMINICK. Mr. President, I thank the Senator from New York for his highly complimentary remarks.

It has taken a great deal of work.

The PRESIDING OFFICER. The additional 1 minute has expired.

Mr. DOMINICK. Mr. President, I yield myself 5 minutes.

Mr. President, I appreciate the remarks of the Senator from New York, I would point out that we have had a lot of people working at this. I wish that all of the people who have been working on this matter could have been listening to the Senator's remarks because they have been extremely helpful and extremely valuable. They contain some philosophical implications which, all too often, are overlooked in getting measures through Congress.

We lose sight of these things in the process of making subjective judgments about whether the legislation is good or bad.

I think that one of the more interesting things the Senator from New York pointed out is that we cannot regulate private enterprise or jobs, because they simply will not hire someone unless that person can produce.

If we are going to do something about getting people into the training cycle, we must do something about getting them to the point where they can be hired.

We said yesterday that it does not do any good to make a minimum wage of $5 an hour if they cannot get work. It does not help anyone.

That does not help anyone, either the person who is supposedly getting the minimum wage or the business itself, which has to pass on all these costs in terms of price increases.

I very much appreciate the comments of the Senator from New York.

Mr. BUCKLEY. If the Senator will yield further——

Mr. DOMINICK. Yes.

Mr. BUCKLEY. No one wants to see anyone working for starvation or so-called slave wages. Proper minimum wage rates are generally stated as the wage rates that it takes the theoretical family of four to keep itself above that level.

On the other hand, teenagers in our urban areas, according to studies, have a subsistence rate requirement of only two-thirds that amount. In other words, in this bill, we are requiring minimum earnings for teenagers to keep their standard of living above the level that we as humanitarians require for the theoretical family of four. Thereby, we deprive them of acquiring the ability to provide for families at the same minimum level when they are older and do have families.

Mr. DOMINICK. The Senator is absolutely correct. These are points we tried to make in committee, but it would appear that the majority of the committee did not want to listen to this very carefully, or if they did, they discarded the argument on the theory of "broad" humanitarianism. But it is not in fact broad humanitarianism because it is a fact that in raising the minimum wage to the level that the committee did, we create inflation and lack of jobs, rather than more jobs. That is what the committee did.

I thank the Senator from New York.

Mr. President, in just a few short minutes, I thought I should repeat once again what I endeavored to say yesterday, which is that the major portion of the committee bill as it was presented was based on the fact that we are trying to fight poverty this year, in that we are creating a better standard of living.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOMINICK. I yield myself another 5. That we are creating a standard of living which will be better for everyone. Mr. President, the facts just do not bring that into focus at all. The facts indicate exactly the contrary. A chart which was put into the RECORD by the Senator from New Jersey, I believe, yesterday, shows quite clearly that on at least three occasions when the minimum wage went up, the unemployment rate of teenagers also went up, and went up quite dramatically.

Second, there have been a number of studies on this subject. One of the most comprehensive was done by Economists John Peterson and Charles Stewart. In their study, "Employment Effects of Minimum Wage Rates," published by the American Enterprise Institute for Public Policy Research, they conclude:

> Both theory and fact suggest that minimum wage rates produce gains for some groups of workers at the expense of those that are the least favorably situated in terms of marketable skills or location.
>
> Within low-wage industries, higher-wage plants gain at the expense of the lowest-wage plants. Small firms tend to experience serious profit losses and a greater share of plant closures than large firms. Teenagers, non-whites, and women (who suffer greater unemployment rates than workers in general) tend to lose their jobs, to be crowded into less remunerative noncovered industries, and to experience more adverse changes in employment than other workers. Depressed rural areas, and the South especially, tend to be blocked from opportunities for employment growth that might relieve their distress. Given these findings, the unqualified claim that statutory minimums aid the poor must be denied. The evidence provides more basis for the claim that while they help some workers, they harm those who are least well off.

I bring that up because I think it is important, and it deals with the whole philosophy of the majority report, plus the effort that was made by Senator TAFT, Senator BEALL, and myself to change this around, to be able to put in an increase in minimum wage rates which will reflect a good deal of the inflationary impact which we have had in our economy since 1966, but without creating new forces for additional inflation. That is exactly what we have been trying to do.

Mr. President, along this same line, Mr. Rumsfeld, now our Ambassador to SHAPE and formerly Director of the Cost of Living Council, said last year:

> All who are serious about wanting to reduce inflation and achieve true peacetime prosperity, must carefully assess the potential impact on unemployment and inflation of the minimum wage legislation now pending in the U.S. Senate. Any proposal which fails to take into account the upward pressure on prices, generated by an abruptly higher minimum wage, poses a threat to the national effort to stabilize costs and prices.
>
> While the direct impact on the total wage bill and on prices of so large an increase in the minimum wage is great, its indirect effects will likely be even more substantial. Adjustment of the Pay Board standards might be necessary to maintain customary wage differentials for workers with higher skill levels, which would result in a significant escalation in labor costs. Those most in need of jobs for the income and work experience they provide will find it more difficult to compete for jobs when employers are prohibited from hiring them at wage levels commensurate with their skills.
>
> Such a large and abrupt change in the minimum wage will lead to additional wage increases for some, which will be paid for by the low-income wage earner in the form of lost employment opportunities, and by the American consumer in the form of higher prices. At a time when the nation is embarked on an effort to reduce inflation, reduce unemployment, and expand job opportunities, the Senate should weigh carefully any proposal which requires large increases in wages and costs.

This was with reference to the committee bill last year, but applies equally to the bill this year, since it is vitally identical.

That is the second quotation which I think is important bearing on the total trend of the committee bill. It simply does not do any good to create inflation at the very time when my friends on the other side of the aisle are asking for stricter controls under phase IV in order to hold down the price levels and the wage levels which are now, presently, besetting most of the people in this country. Here we are, going along in what I consider a highly irresponsible manner, trying once again to create a fan under the inflationary fire to make it into a total holocaust. That makes no sense to me.

The next reference that I wish to make is to the question of——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 42 minutes remaining.

Mr. DOMINICK. I yield myself an additional 10 minutes.

The poverty level which is referred to by the Senator from New Jersey and the senior Senator from New York is, of course, tied to our consumer price index. As inflation forces the cost of living up, obviously the poverty level moves with it. So this exposes as empty rhetoric the claim that an increase to $2.20 in 14 months, which is inflationary to the extent of a 37.5-percent increase, will make the sight of a full-time worker on welfare a thing of the past. That simply is not so. If we increase the consumer price index, which we will by this bill, as inflation forces the cost of living up the poverty level goes with it, and we have not improved anyone's situation except for the highly paid worker who will get a very substantial raise.

In other words, excessive minimum wage increases will not stop inflation; they will contribute to it.

Second, the statement is made that an hourly wage of $2 is necessary within 60 days to bring a family of four above the poverty line assumes only one wage earner when, in fact, the average family of four according to labor statistics has 1.5 wage earners. This illustrates why, as Mr. Anderson characterized it during debate on the House minimum wage bill last year, "the minimum wage is a blunt imprecise instrument for dealing with poverty in America."

The minimum wage is really not geared to family need. Raising the minimum wage to $2 would raise the annual income of one worker by $800, regardless of whether he is single, the head of a family of four, or a family of six.

The poverty level for an urban family of four is $4,274, $5,300 for a family of six, and $6,400 for a family of seven. It would require $2.65 per hour to bring a family of six with one wage earner up to the poverty level, and would require $3.20 for a family of seven. About 46 percent of the working poor in 1970 were members of families of six or larger. This makes it absolutely clear that to suggest that the minimum wage increases recommended in the committee bill would "put an end" to welfare for full time workers is to play cynical games with the poor people of this country.

Mr. President, the poverty level for a single person is $2,107. $1.60 an hour yields $3,328 annually if they are working full time. $2 yields $4,160, and $2.20 yields $4,576. So it is obvious that we simply cannot deal with poverty in a minimum wage bill. To the extent minimum wage increases affect poverty, they in fact, increase it.

Now it is interesting to note that the number of people in poverty increased in 1970 and 1971. These were the last 2 years during which increases in the minimum wage rates, pursuant to the 1966 amendments, went into effect. Whether the increased poverty in 1970 and 1971 was related primarily to the recession, as has been claimed by the distinguished Senator from New Jersey, or to the minimum wage increase that went into effect in those years, is not really important. The important point, and a point on which there is a consensus among economists who have studied the matter, is that excessive minimum wage increases, whether or not they come at a time when the economy is healthy, adversely affect low wage earners by reducing marginal jobs. In short, if we want to reduce poverty in America, the enactment of excessive minimum wage increases over too short a period of time is precisely not the way to do it.

In summary, when all the consequences of S. 1861 are taken into account, it becomes apparent that a more appropriate title, as I said yesterday, would be the "Unfair Labor Standards Act of 1973."

Mr. President, I want at this point to take a few minutes to go into the substitute, to highlight what it would do. It would try to catch up with the inflation which occurred since 1966 and which has not been dealt with by Congress insofar as the minimum wage is concerned. It does it by increasing it to $1.80 within 60 days and $2 within a year. It goes to 10 cents, to 20 cents, to 30 cents, over the next 3 years, to keep up with what I think we could almost forecast will be the probable level of inflation based upon what has happened in the past 15 years and certainly what has happened since 1966 in this country.

The second thing we do is to try to hold down the changes in the scope of the bill. The committee bill has dealt, among other things, with exemptions. We have had, for a period of time in the minimum wage bill, certain exemptions from a broad minimum wage and also from overtime conditions which were designed to reflect particular conditions and particular industries.

Now the change in S. 1861 on this is pretty dramatic. I realize that there are not many Senators in the Chamber at the moment. I realize also that I will not persuade the Senator from New Jersey or the senior Senator from New York to my opinion, but to build a record, I think it is worthwhile to say something about this.

The PRESIDING OFFICER (Mr. Abourezk). The 10 minutes of the Senator from Colorado have expired.

Mr. DOMINICK. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 10 minutes.

Mr. WILLIAMS. Mr. President, yesterday, I gave a number of reasons for my opposition to this substitute amendment for S. 1861. Simply put, the proposal of my colleagues from Colorado, Ohio, and Maryland, is not a sufficient response to the urgent needs of this Nation's low wage workers to have an immediate improvement in their situation. The committee has carefully considered each of the provisions of this year's revision of S. 1861, and the revision of last year's bill, which was S. 1861 also. The substitute amendment in last year's bill, Senators will recall, was passed. This is very close to the Senate-passed bill of last year.

The substitute amendment has a deficient minimum wage rate; it has an unacceptable and ill-conceived subminimum rate for youth; it precludes overtime payments to newly covered public employees, and it ignores the committee's effort to remove or modify a number of anachronistic exemptions.

It does not even meet the administration's proposals. The administration's wage rate proposal, given to us in testimony by the Secretary of Labor, speaking for the administration, is $1.90 or $2 an hour now and repeal or modification of many of the exemptions. It boggles me that the proponents of the substitute would have even a more restrictive measure than the present administration has recommended to Congress.

Mr. President, there has been a 35 percent increase in the cost of living since 1966, when Congress last legislated an increase in the minimum wage. The value of the present minimum of $1.60 an hour, which was enacted back in 1966, was effective in 1968. That $1.60, at the values of those years, has now sunk to $1.25.

At least $2.16 an hour would be required now just to keep the minimum wage worker up with the cost of living increases.

The wage rate proposal in the substitute would be a defeat in the efforts to assist the working poor in their fight against the rising cost of living.

The Senator from Ohio spoke yesterday of the current problems in our economy and of the need to take action. I do not disagree with that need, but I believe it can be done without penalizing those who are least able to help themselves. Even in the Economic Stabilization Act we recognized that controls should not apply to those earning less than $3.50 an hour.

Mr. President, the Department of Labor has a mission which includes the study of economic effects of increases in the minimum wage.

The hearing record contains a comprehensive analysis of 23 years of those studies by the Department.

I ask unanimous consent to have printed in the Record that analysis, which represents the thinking of five administrations, Republican and Democrat.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

Analysis

The economy should be capable of adjusting successfully—and with only rare instances of adverse effects in isolated cases—as has been achieved during past adjustments to increases in the federal minimum wage.

The Labor Department has studied the effects of each increase in the minimum wage and extension of FLSA coverage. And the Secretary of Labor has reported these findings to the Congress, as required by the Act.

In 1950, when the minimum wage went to 75 cents an hour, total employment grew 1,300,000. Reporting on the effects of increasing the minimum wage from 40 cents to 75 cents an hour, the Secretary of Labor concluded: "Though causing significant payroll increases, the 75 cent rate had only very minor determinable effects on employment and other non-wage variables in the five low-wage manufacturing industries surveyed. Even within a selected group of establishments as those with reported adjustment problems, the non-wage consequences of the 75 cent requirement were on a whole not very substantial."

In 1956, when the minimum wage was raised to $1.00, total employment again increased, by 1,600,000 workers. The Labor Department studied the effects of this rise of the minimum wage in seven low-wage, small-city areas. The Secretary of Labor concluded, "Few employers in subject industries indicated that they found it necessary to discharge workers in adjusting to the higher federal minimum."

In 1962, after the $1.15 minimum wage had gone into effect in late 1961, total employment increased 1 million, following a slight decline during the recessions of the previous year.

The report of the Secretary of Labor stated: "The 1961 minimum wage increases had no discernible effect on the nation-wide level of employment in the industries affected. On an overall basis employment has risen in these industries since the 1961 amendments took effect."

In 1966 after evaluating the effects of the $1.25 minimum wage, which became effective in September 1963, the Secretary of Labor reported: "On balance it would appear that the $1.25 minimum wage was adjusted to without adverse employment effects in these low-wage, high impact areas. . ." This conclusion was based on a study of 15 low-wage areas particularly affected by changes in the minimum wage.

The Secretary of Labor reported to the Congress in January 1966:

"The period during which the 1961 amendments have become effective has been one of extraordinary price stability. The general wholesale price level in April 1964 (seven months after the $1.25 rate went into effect for the majority of covered employees) was almost exactly the same as it had been in April 1961 (five months before the effective date of the first step increase from $1.00 to $1.15)."

After trying to find a possible disemployment impact from the increase in the minimum wage to $1.40, which went into effect on February 1, 1967, the Labor Department could find only 63 people in the whole country whose layoffs may have been related in some form or other to the higher minimum wage.

As for total employment in the nation, it expanded 1.8 million in 1961, after the $1.25 an hour minimum wage became fully effective. And it rose 1.5 million in 1967 and another 1.5 million in 1968, as the 1966 amendments went into effect.

In January 1969, the Secretary of Labor reported to the Congress:

"The increases in the minimum wage required by the 1966 amendments became effective during a period of rising prices. That the minimum wage had little influence on this trend is evidenced by comparing the price movement during the first 6 months of 1966, before the 1966 amendments went into effect, with the trend in the first 6 months of 1967 and 1968, when the first two phases of the amendments became effective. The Consumer Price Index increased 1.7 percent in the first half of 1966 as compared with 1.1 percent in the corresponding period of 1967 and 1.9 percent in that of 1968. Wholesale prices of industrial commodities advanced significantly less in the first half of 1967 and 1968 (0.2 percent and 0.9 percent) than in 1966 (1.4 percent) . . .

"A continuation of the special study of the relationship between price changes and minimum wage impact in laundries, initiated last year, lends additional support to the conclusion that factors other than minimum wages were determinants of price rises. These data do not indicate any consistent pattern between the degree of impact of the minimum wage and the prevalence and extent of price changes. For example, a large proportion of the laundries which paid no workers less than $1.15 an hour prior to February 1, 1968, the date on which that rate became the minimum, increased prices. Price increases of 5 percent or more were more prevalent among laundries where the impact of the minimum wage was small than among those where it was large."

Summarizing the employment effects of the 1966 amendments, the Secretary of Labor reported to the Congress in January 1969:

"*Regarding the Impact of the 1966 amendments:* Employment in the areas affected by the extensions of coverage has increased, and there is no evidence of any restraining effect on the broader coverage on employment opportunity. The increased minimum wage levels set in 1966 have not contributed to the current inflationary spiral to an extent which permits reasonable questioning of their net value in strengthening both the position of low-paid workers in particular and the economy in general.

"All of the major nonagricultural industry divisions showed employment gains over the period from September 1966 to September 1968, except construction. The largest increase in the private sector in relative terms was in the services group, where the minimum wage has had the largest impact."

In January 1970, Secretary of Labor Shultz reported to the Congress:

"Overall it can be stated that the educational and hospital sectors have had little evident difficulty adjusting to the minimum wages established by the 1966 amendments."

Secretary Shultz went on to report:

"There was continued economic growth during the period covering the third phase of the minimum wage and maximum hours standards established by the Fair Labor Standards Amendments of 1966. Total employment on nonagricultural payrolls (seasonally adjusted) rose in 28 out of the 32 consecutive months between January 1967 and September 1969. In the most recent 12-month period, employment climbed 3.2 percent, from 68.2 million in September 1968 to 70.4 million in September 1969. Employment rose in all major nonagricultural industry divisions in the 12-month period between September 1968 and September 1969. In the retail, services, and State and local government sectors—where the minimum wage had its greatest impact in 1969, since only newly covered workers were slated for Federal minimum wage increases—employment rose substantially."

The phased escalation of the minimum wage provided for in the 1966 amendments to the FLSA occurred during periods of generally rising prices. The upward spiral of prices, however, began in 1966, prior to the enactment of the amendments. It would, therefore, be inappropriate to attribute responsibility to the minimum wage for any significant movements in overall prices.

The report of Secretary of Labor Hodgson in January 1971, again highlights the favorable employment trends:

"Although the economic indicators just noted increased at a fairly rapid rate in the year in which the Federal minimum wage for the newly covered group was raised 15 cents, it is significant that employment in retail trade and services—the industries where the newly covered group is largely concentrated and hence most likely to manifest some impact from the wage increase—fared better than industries unaffected by the statutory escalation in the minimum wage. Thus, while seasonally adjusted employment in the goods producing industries dipped from 24 million to 22.9 mililon between January and December 1970, employment in the service producing industries (excluding government) at 34.7 million in December was slightly above the January level."

In January 1972, Secretary Hodgson reported:

"On balance, the wage increases granted to 1.6 million workers to meet the $1.60 minimum wage standard had no discernible adverse effect on overall employment levels, and relatively little impact on overall wage or price trends."

Different Secretaries of Labor in different Administrations, representing both Republican and Democratic parties, have reported their detailed findings to the Congress that adjustments to each increase in the federal minimum wage and extension of FLSA coverage were accomplished successfully—with increasing total employment, very little direct impact on prices and only rare, isolated instances of adverse impacts.

Mr. WILLIAMS. Mr. President, I should like to refer to a couple of succinct points that bear on our discussion. This is drawn from the studies of the Labor Department:

> The economy should be capable of adjusting successfully—and with only rare instances of adverse effects in isolated cases—as has been achieved during past adjustments to increases in the federal minimum wage.
>
> The Labor Department has studied the effects of each increase in the minimum wage and extension of FLSA coverage. And the Secretary of Labor has reported these findings to the Congress, as required by the Act.
>
> In 1950, when the minimum wage went to 75 cents an hour, total employment grew 1,300,000. Reporting on the effects of increasing the minimum wage from 40 cents to 75 cents an hour, the Secretary of Labor concluded: "Though causing significant payroll increases, the 75 cent rate had only very minor determinable effects on employment and other non-wage variables in the five low-wage manufacturing industries surveyed. Even within a selected group of establishments as those with reported adjustment problems, the non-wage consequences of the 75 cent requirement were on a whole not very substantial."

I think the Record should include these findings of the absence of adverse effects on employment, when Congress has dealt with the minimum wage and has increased it, as it has done several times over the last three decades.

The studies show that increases in the minimum wage do not contribute significantly to unemployment or to inflation, as I have said. They also find that increases are not a contributing factor to inflation in any degree. Our hearing record is replete with testimony that inflation is not an argument to be successfully used against an increase in the minimum wage. It is getting a little redundant, but I think it should be said again that even the chamber of commerce economists have come to this conclusion. A minimum wage increase in this degree is not inflationary.

I would say again that the basic issue which Congress must face now is whether we are going to provide an adequate wage level for millions of low-wage workers now—not in 1974, 1975, or 1976, but now.

We must do today what we failed to accomplish last year. We did our job in the Senate. The job that was done in the House was different. They had problems with the subminimum—that is, a discriminatory rate that applied to young people. We never got to conference because the majority in the House, not being able to break through and get an agreement by the full House, was unable to go to conference on the bill last year. So we must provide now a minimum wage rate for the working poor.

Again, I would remind Senators that under the substitute bill of last year, the current wage rate would be the same $2 an hour that is provided by S. 1861.

Moreover, the wage proposal in the substitute that is urged upon the Senate is also deficient because it again provides such a slow approach to the needs of the American worker by suggesting that our economy can stand only a 10-cent-an-hour increase at any given time. I find it hard to believe that such an argument can be advanced to any degree of economic reality—the inability of the lowest rate wage earners to move faster than 10 cents an hour a year in trying to bring them up to a minimum living standard wage.

The treatment of the farmworkers under the substitute is equally unacceptable.

The PRESIDING OFFICER. The 10 minutes of the Senator from New Jersey have expired.

Mr. WILLIAMS. I yield myself an additional 5 minutes.

The farmworker deserves better than a wage of $2 an hour in 4 years and the perpetual 30-cent-an-hour differential from the industrial wage rate as embodied in the substitute. It is time to stop placing the workers on our farms in a permament category of second-class treatment

I could go on at length in dealing with this discrimination that would exist under the substitute between the industrial worker under a roof and the industrial worker out on the farm. The farming industry, anyway one approaches it, has all the elements of hard labor equal to any covered over industrial plant. These factories in the field, believe me, represent hard and demanding jobs on the workers. This is shown in other ways, too. We look at the accident rate in the various categories and we find that farmwork ranks No. 3 in hazardous employment.

I cannot understand a Congress that is so knowledgeable of the importance of the farm economy and responding to the needs of agriculture and at the same time persisting in making agriculture work a second-class category.

Our bill, in phases and stages, brings the farmworker into the full economic situation. The substitute would perpetuate the farmworker in that second-degree category of economic citizenship. I also oppose the substitute because it does not have expansion of coverage of the Fair Labor Standards Act beyond the minimum wage extension to Federal, State, and local government workers. Expansion of coverage is a necessary measure along with increases in the minimum wage. The denial of overtime protection to public employees and the failure to repeal any of the minimum wage and overtime exemptions presently in the law are unfortunate omissions.

Our committee hearing record in the last two Congresses thoroughly demonstrates the need to eliminate or modify many of the exemptions in the private sector.

The amendment in committee to have the Department engage in additional studies of exemptions instead of taking action now is hard to comprehend.

The Department of Labor has spent nearly $15 million in the last 15 years studying exemptions. The reports run to thousands of pages.

Mr. President, I have before me a voluminous study which, of course, I cannot include in the RECORD but it is here for those who wish to see it. We have gone along with the Department of Labor as they, over the period from 1961 to 1973, have spent $14,337,000 to study exactly what we are talking about here, of the need to analyze these exemptions, and out of all these studies comes the conclusion, even by the Department, that the exemptions, so many of them, are unnecessary and no longer warranted. If some of them are still needed we will recognize that but we will also recognize they will not be needed forever and will phase them out over a period of years.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAMS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. WILLIAMS. Finally, on the substitute differential, I mentioned earlier that it seems that it is not the time to discriminate against young people in wages when we have just welcomed youth into full citizenship in voting, and at a time when we have called upon them to go to the last measure in war. It is not the time to say that a young man working side by side with an adult is going to make less money on the same job.

If we have this substitute subminimum, we are going to have young people, ages 16 and 17 taking the jobs of adults. There are no two ways about it. Some of those adults whose jobs will be taken are young people who, in my judgment, deserve the jobs most, those who have gone to war and come back, ages 18, 19, 20, 21, 22, 23, veterans of a tragic war who are out of jobs today.

The Department has given us the last figure they have on Vietnam veterans who are looking for full-time work and who are unemployed today. The figure is a quarter of a million of American youth who would not benefit by any discriminatory wage rate. It would be in competition with these young people who would be given less than the minimum. For many reasons it is tragic to consider this.

As a matter of fact, the bill reaches those young people who on a part-time basis are working and going to school. We recognize that on that part-time basis the educational institution should be encouraged to hire them. So we do recognize such situations for young people. But we know that across the board to have a different wage, a lower wage, a subpoverty wage for young people, is a mistake.

To think this is some great training to bring them into a work economy is a hoax. It is 6 months at the extreme, on a temporary basis. So it would be a rollover, showing a youngster a job, using him at less than the minimum wage, and throwing him out after 6 months and then to bring on another. This would be a cruel way to train them, and it does not support the thesis of the Senator from New York (Mr. BUCKLEY) that somehow this is wholesome and good and gets the young man on his great road of gainful employment. It is a temporary job and at less than a working wage. That is about what the subminimum boils down to.

Mr. President, I see that the Senator from New York is seeking recognition. When it comes to understanding the needs of the working people and translating that into intelligent action, nobody is superior to my colleague, the ranking minority member of the Committee on Labor and Public Welfare, the Senator from New York (Mr. JAVITS). I am glad he is seeking recognition.

Mr. JAVITS. Mr. President, will the Senator yield to me for 10 minutes?

Mr. WILLIAMS. I am happy to yield to the Senator from New York.

Mr. JAVITS. Mr. President, I think that elementary prudence dictates the rejection of this substitute for this reason: If the substitute is accepted that is the end of the debate; no other amendments are in order. Therefore, the Senate would take the package, all or none. If the Senate takes it then it is stuck with every provision; that is the end of the debate; and the bill goes to conference.

On the other hand, if the Senate rejects the substitute Senators have the opportunity to propose any amendment, and I have little doubt that its proponents will do that. Each Senator, acting on his own may propose anything, including modifications. Hence, it seems to me on that ground alone, on the ground of the Senate working its will, the substitute should be rejected.

Second, the apparition of a veto is dangled before us. Vetoes do not just mature from thin air. They are directed at the final bill. This bill still has to go through a considerable route of conference and discussion before it is final.

Also, as in the tango, it takes two to do it—Congress and the President. The President may think, by looking over the Senate bill he does not like it and will veto it. Let us assume that happens. He may have a different view after he sees the bill that emerges from conference.

For the acid test is that even as to the substitute, by implication, its proponents themselves say, "Well, if the Senate votes for the substitute and that emerges roughly as the final bill, the President will not veto it." It seems to me the President would not unless he is more doctrinaire than I think he is, veto the bill on the ground of the minimum wage, because even the substitute takes the minimum wage to $2.20, albeit 2 years later than the bill of the Senator from New Jersey and myself, and even higher than that, to wit, makes a commitment 3 years later to go to $2.30.

So the essential thrust of the substitute, as it is put forth by the proponents, is not very much different as far as concerns its effect on inflation, on business confidence, and so forth.

The establishment of the increase which the committee recommends, the $2, has been the norm generally accepted for a year, and it has undoubtedly come to be expected to be enacted into law, and the least surprised of all in that will be the business community.

Aside from that, the only real place where the substitute materially differs from our bill is in respect of the various categories of coverage and the elimination or modification of certain minimum wage and overtime exemptions. The whole purpose of granting the exemptions is that they were to be gradually phased out as soon as no longer required. If we are going to have our feet fixed in concrete and just ask for studies when we phased out a number of the individual items, we will never bring them out of the exemption status.

One statement I noticed in the minority views which just is not true is that the bill my colleague from New Jersey (Mr. WILLIAMS) and me does not call for review of these exemptions. On the contrary, it does exactly that.

I ask unanimous consent that section 14 of the bill that we reported from the committee be made a part of my remarks.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

ECONOMIC EFFECTS STUDIES

SEC. 14. (a) The Secretary shall conduct studies—

(1) on the economic effects of the changes in minimum wage and overtime coverage made by this Act, and

(2) on the justification or lack thereof for each of the special exemptions set forth in section 13(a) and 13(b) of the Fair Labor Standards Act of 1938, as amended by this Act.

The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies under clause (1) of the preceding sentence, not later than January 1, 1975, and with respect to the studies under clause (2) of that sentence, not later than January 1, 1976.

(b) There are authorized to be appropriated for the purpose of conducting the studies required by this section such sums as are necessary for the period beginning on the date of enactment of this Act and ending January 1, 1976.

Mr. JAVITS. Mr. President, that not only directs the study, but it gives a limitation of time within which it must be submitted, and authorizes appropriations for it, and directs it not only as to the exemptions, which will continue even after we pass this bill, but also as to the changes in exemptions and in the minimum wage which we are making in this bill, so that there will be an adequate evaluation and monitoring of the whole situation.

Finally, I would like to address myself to the point which I gather was made this morning by my colleague from New York (Mr. BUCKLEY) about the opportunities for the individual youth. Mr. President, we faced exactly that situation in respect of the Emergency Employment Act, or the Public Service Employment Act, when we juxtaposed that to the Neighborhood Youth Corps. In that case I determined then that one should not have to fire the father to hire the son. I take exactly the same position today. All youth is being offered under the substitute is a revolving door opportunity. They go in for 6 months, and then they go out. They, under the minimum wage, will be hired for 6 months, and then they will go out. This is hardly an auspicious opportunity for individual youth. It seems to me that, with the apprenticeship and student provisions in the present law, we adequately deal with the situation.

One last thing of critical importance: The big sticking point with respect to minimum wage last year was the youth differential. That is where the administration and organized labor absolutely parted company. We know very well we are running our heads right up against a brick wall if we legislate this youth differential in the substitute. There is no question about that. We will face exactly the same deadlock which resulted in our not getting a minimum wage law, which even the proponents of this substitute, by implication, want, because they, too, are raising the rates at this time. The youth differential argument simply has to be bypassed until such time as there is a better climate in which it can be settled.

I think it can be generally agreed by those who are solicitous of trying to get justice for workers, and a fair underpinning in our economic system, that the youth differential just is not worth wrecking the bill over.

That is exactly what we would be running into if we swallowed whole hog the substitute, because it takes absolutely the one-sided view of the administration on the youth differential and guarantees the deadlock, just as we had it last year.

For all of those reasons, Mr. President, I believe the Senator from New Jersey (Mr. WILLIAMS) and I and the committee, in reporting this bill to the Senate, have really listened when it comes to what the needs are and have really tried to shape the extension of coverage and the phasing out of a certain number of these exemptions in a way which would conform to experience as experience has developed, with the basic intendment that, as soon as possible, the totality of the workers should be under the Fair Labor Standards Act.

I think this measure is a very reasonable approach to that and is the most logical bill to present to the Senate.

Beyond that, as I pointed out before, and I think it is an irrefutable argument against the substitute, if we enact the substitute, we lock ourselves in. That is it. That is the end of every provision of it. On the other hand, if we defeat the substitute, individual Senators still have the opportunity to have the Senate vote for any number of amendments which will accomplish whatever an individual Senator may consider to be desirable with respect to this particular minimum wage bill.

Mr. President, as to the overall proposition that the minimum wage of this country should reflect the basic economic realities of this country, there can be no question. Any American can ask himself whether or not he does not have the deep belief that everybody ought to earn at least $80 a week for a 40-hour week, or, when the rate goes up in a year, $88 a week for a 40-hour week for sustained labor. After income taxes, social security deductions, and so forth are taken out, we all know it is impossible to live on that sum. It is the very least which ought to be the base of the economy.

It is for that reason that the Senator from New Jersey (Mr. WILLIAMS) and I have joined in doing our utmost for this measure, which is modeled with a scalpel, not a cutlass, and why we feel very strongly the Senate should not abort itself in adopting an overall substitute which will give us no further opportunity to work our will in a specialized way with respect to individual items of the bill we have offered to the Senate.

I hope very much the substitute will be rejected.

Mr. DOMINICK. Mr. President, I yield myself 5 minutes first. I just want to answer some of the arguments that have been made.

I always get interested and sometimes entertained by listening to my distinguished colleagues from New Jersey and New York. Sometimes it seems to me that we ought to do a little correction of the RECORD.

If we should pass the substitute, we can, thank heavens, stop worrying about the problems of inflation, the adverse effect on employment, and so on, which the committee bill would cause. We do not then have to approach it piecemeal.

The second point I want to make is this. I do not know whether either the Senator from New Jersey or the Senator from New York has a son who is working now. I do, and he is just getting into the labor market and is being paid the minimum wage of $1.60, and he is doing it and is able to maintain himself. I can also say I am not sure a bit he is worth much more than $1.60. I can say that because he is moving from one job to another, whichever fits in with what he wants to do at the moment, which is fine with me. He is able to get positions. He is not displacing individuals who might be put out of jobs because of that, because nobody else in general wants those jobs. That fact should be taken into consideration. If we raise the requirement that they must be paid $2.20, I doubt if he would get hired by anybody anywhere.

So I just want to bring that up as a personal observation.

The point I want to make is with respect to the comments that were made by the distinguished Senator from New Jersey, insofar as whether or not there is a disemployment effect and whether or not there has been any proof of this in any of the studies which have gone on. I read from the Labor Department's 1959 "Economic Effects Study" submitted to Congress pursuant to section 4(d) of Fair Labor Standards Act—survey of impact on low-wage industries primarily in the South of $1 minimum which went into effect in 1956—

> The wage increases resulting from the $1.00 minimum were not only these direct or required increases, but also increases to workers already receiving more than the minimum. The surveys indicate that these indirect increases on the effective date amount in the median situation to approximately 40 percent of the directly-required increases in the low-wage industries.
>
> The surveys indicated that the $1.00 minimum had effects in raising wages in exempt portions of covered industries and to some extent also in employments not covered by the Act.
>
> The surveys also disclosed that the $1.00 minimum stimulated employers to reduce costs through productivity improvement as well as raising of production quotas, especially in piece-rate industries, dismissal of least efficient workers, and elimination of premium overtime. There were also indications of some shifting to different price lines, substitution of cheaper materials, and in-

> creased prices. The latter was not always possible, but sales and employment were maintained in many situations because higher prices offset rising wage costs under generally favorable demand conditions.
>
> Nonetheless, the surveys present evidence of disemployment apparently related to the increase in the $1.00 minimum, despite the fact that the economy was rising at that time and there were increases in the general level of prices which facilitated adjustment to the $1.00 minimum. Employment tended to decline in the low-wage industries, and in most cases more markedly in those segments of the low-wage industries where wage rates had been increased most. According to monthly data published by the Bureau of Labor Statistics, 16 out of 22 low-wage industries showed a noticeable drop in employment, while only 2 out of 13 high-wage industries showed a decline in the few months bridging the effective date of the $1.00 minimum. These employment developments were, of course, influenced by many factors in the whole economic situation. They are much more marked, however, than would be expected in the exceptionally favorable economic circumstances of the time.

The Labor Department's 1972 "Economic Effects Study" submitted to Congress pursuant to section 4(d) of the Fair Labor Standards Act—analysis of potential effects of S. 1861—states:

> With broadened coverage, the inflationary potential of a rapid increase in the minimum is much greater than it was prior to 1960.
>
> While it is probably not possible to demonstrate what contribution the pay increases under the increased minimum rates had in the price inflation in the late 60's, they were not quantitatively unimportant. The estimated $2¼ billion direct effects required on February 1, 1968, for example, compares with a total increase in the wage bill of about $41.5 billion in 1968, part of which was accounted for by a simultaneous increase in total labor input. In addition to the direct wage impact of the minimum, there are indirect effects on the whole wage structure above the minimum of no inconsiderable (if difficult to estimate) amount as differentials are restored.
>
> Admittedly these considerations are difficult to quantify, as are potential disemployment effects, but in present circumstances they can be quite important. For example, the direct wage bill increases that would be required by S. 1861 approximate $3.7 billion in 1972, $4.6 billion in 1973, and $3.6 billion in 1974. These magnitudes are not a trifling addition to wage costs and they exclude the indirect effect of wages above the minimum.
>
> The wage structure is a continuum of rates, and even under ordinary circumstances, as illustrated by the history of minimum wages, there are strong market and bargaining pressures to restore differentials.

So when we say that we do not have any evidence, we do have it. We have it from the Labor Department, and we have it back in 1959 and 1972. It is not accurate to say that we do not have it.

So, having gotten that far, let me go into a couple of other matters. We talk about a revolving gate for youngsters. At least we have a gate to start with. We do not have any gate with a $2.20 minimum. They cannot get in to get started. So, it makes more sense for the youth differential, as far as I am concerned, to get people started than to say, "You don't have a chance to begin with unless you are already skilled."

Mr. President, I have a third point to make, and I will then yield to my good friend, the Senator from Ohio.

My third point is that what the committee bill has done is what our substitute will not do. The committee bill has said that we extend coverage to further new categories of new employees with respect to overtime. This alone will mean every person in the State and local government. There are 3.3 million people employed there, and there are people in the fire departments and in the police departments who have union agreements and will find themselves in trouble when they have to start paying overtime. Many of those people work on a different clock schedule than a lot of other people.

We have an estimated 1 million domestic employees on the minimum wage only. This includes, as I have said, people who cut the lawn, people who come to wash windows, people who come in to do catering jobs. All of these occupations are considered as involving domestic employees under the labor regulations now. And, obviously, if we ask the housewives to make reports on these and if we make them file on them and make sure that the minimum wage is paid, we will either have the greatest breach of law or a revolt by both the people occupied and the housewives of the country, one of the two. I will go into that in more length if I have to.

Here are some others. The list includes small bakeries, ice cream parlors, candy shops, drugstores, optometric establishments, lumber yards, and all other small businesses having a gross of less than $250,000 annually and which make or process the goods they sell. They are in the committee bill under the minimum wage and overtime provisions.

So a small business that is trying to do something for themselves will suddenly be put under this law and the salaries they pay will be raised and they will not be able to pass it on. How does one sell an ice cream cone for 25 cents if they make their own ice cream when a retail establishment down the block will sell one for 20 cents.

We then have employees of theaters covered under the minimum wage and overtime provisions of the committee bill, as well as telegraph companies. We also have the agricultural employees about which the Senator from New Jersey was showing concern. They will go to a 69.2-percent increase at a time when the farmers are having problems in making ends meet.

And this happens to be the first year when they have had prices sufficient to be able to get out from under some of the mortgages and other financial problems they have had for many years.

I have listed here 19 different types of occupations which will be covered under the minimum and overtime provisions under the committee bill without any hearings on most of them as to what the effect would be insofar as the country is concerned.

Mr. President, I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

S. 1861 AS REPORTED

Completely or partially repeals exemptions for following categories of employees:

1. Small retail and service establishments grossing less than $250,000, but which are part of "enterprise" grossing $250,000 annually (minimum wage and overtime).
2. Small retail establishments which "make or process" goods they sell (minimum wage and overtime).
3. Administrative and executive employees in retail—service industries—40% allowance for non-supervisory work eliminated (minimum wage and overtime).
4. Local, seasonal, hand-harvest laborers (minimum wage).
5. Agricultural processing (overtime).
6. Seafood processing (overtime).
7. Cotton ginning (overtime).
8. Sugar processing (overtime).
9. Local transit (overtime).
10. Hotels, motels & restaurants (overtime).
11. Nursing homes (overtime).
12. Auto, aircraft & truck & trailer dealerships (overtime).
13. Catering and food service (overtime).
14. Bowling establishments (overtime).
15. Motion picture theaters (minimum wage and overtime).
16. Small loggers and sawmills (minimum wage).
17. Shade grown tobacco (minimum wage).
18. Oil pipelines (overtime).
19. Small telegraph companies (minimum wage and overtime).

SUBSTITUTE

Changes no existing exemptions and creates no new ones. Directs Labor Department to undertake comprehensive study of all exemptions and submit to Congress within 3 years a report containing recommendations as to whether each should be repealed, retained unchanged or modified.

Mr. TAFT. Mr. President, will the Senator yield at that point?

Mr. DOMINICK. I yield.

Mr. TAFT. Mr. President, I appreciate the Senator's having the list printed in the RECORD. The thing that I would like to clear up is in the committee report, and I refer to page 120 regarding the study made before the enactment of these provisions. The bill goes ahead and removes 19 exemptions. It calls for this removal without any study. I consider that to be a felony, and then by admitting that there ought to be a study as to the future exemptions, it compounds the felony.

Mr. DOMINICK. The Senator is totally correct. It makes no sense to me to legislate now and study later.

Mr. WILLIAMS. Mr. President, would the Senator yield for a question?

Mr. DOMINICK. I yield for a question.

Mr. WILLIAMS. Mr. President, the Senator from Colorado has been discussing the 19 exemptions that are in the bill and that have been repealed by the action of the bill. Is that correct?

Mr. DOMINICK. The Senator is correct.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WILLIAMS. Mr. President, on my time, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. WILLIAMS. Mr. President, has the Senator also addressed himself to those that have been retained both as to minimum wage coverage and overtime exemptions?

Mr. DOMINICK. No; this does not. What I refer to here is the revision of exemptions which are made by the committee bill which are not made by the substitute bill which calls for a study to determine which ones might be changed at a later time.

Mr. WILLIAMS. Mr. President, I think it should be pointed out—on my own time, Mr. President—that the bill does retain 30 exemptions in one or the other of the categories.

Mr. President, I ask unanimous consent to have these printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

EXEMPTIONS REMAINING IN S. 1861

Subsection 6(a) of S. 1861 retains minimum wage and overtime exemptions with some modifications as follows:

13(a)(1) which describes any employee employed in a bona fide executive, administrative, or professional capacity, or in the capacity of outside salesman, but repeals the 40 percent tolerance for non-exempt activities thereby effecting a reduction to 20 percent tolerance for non-exempt activities, as established by Department of Labor regulation;

13(a)(3) employees of seasonal amusement and recreational establishments;

13(a)(5) employees engaged in certain seafood harvesting and processing;

13(a)(6) employees in agriculture if employer uses 500 or fewer man days of hired labor during a peak quarter, but the provision exempting local seasonal hand harvest laborers regardless of the size of the farm on which they work is repealed;

13(a)(7) certain learners, apprentices, students, or handicapped workers;

13(a)(8) employees of small newspapers;

13(a)(10) switchboard employees of small telephone companies; and

13(a)(12) seamen on other than an American vessel.

13(a)(13) logging and sawmill operations employees is repealed, thereby removing the minimum wage exemption; but the overtime exemption is retained in a new paragraph of section 13(b).

Subsection 6(b) of S. 1861 retains overtime exemptions permitted by section 13(b) as follows:

13(b)(1) employees for whom the Secretary of Transportation may establish qualifications and maximum hours of service;

13(b)(2) employees of railroads. However, employees of oil pipelines have their exemption repealed;

13(b)(3) employees of air carriers;

13(b)(5) outside buyers of dairy products;

13(b)(6) seamen;

13(b)(9) certain employees of small radio or television stations;

13(b)(10) employees employed as salesmen by motor vehicle dealers, or as salesmen, partsmen or mechanics by farm implement dealers;

13(b)(11) local drivers and drivers' helpers;

13(b)(12) certain agricultural employees;

13(b)(13) employees engaged in livestock auction operations;

13(b)(14) employees of country elevators;

13(b)(15) employees engaged in processing maple sap into sugar or syrup;

13(b)(16) employees engaged in transportation of fruits and vegetables; and

13(b)(17) taxicab drivers.

Subsection 6(b) also modifies overtime exemptions permitted by section 13(b) as follows:

13(b)(8) employees of nursing homes must be paid time and a half after 48 hours first year (as in present law), after 46 hours second year, and after 44 hours thereafter;

13(b)(8) employees of hotels, motels, and restaurants must be paid time and a half after 48 hours first year, and after 46 hours thereafter.

Subsection 6(b) repeals overtime exemptions for certain employees in stages as follows:

13(b)(7) employees of street, suburban or interurban electric railways, or local trolley or motor bus carriers must be paid time and a half after 48 hours first year, 44 hours second year, and the exemption is repealed thereafter (all hours exclusive of voluntary charter time);

13(b)(18) and 13(b)(19) employees of food service and catering establishments and bowling establishments must be paid time and a half after 48 hours during the first year, 44 hours during the second year, and the exemptions are repealed thereafter.

Subsection 6(b) further amends section 13(b) to provide new overtime exemptions for the following employees:

13(b)(19) newly covered domestic service employees;

13(b)(20) newly covered logging employees previously exempt from minimum wage and overtime in 13(a);

13(b)(21) employees who reside at nonprofit educational institutions with their spouses as house-parents to orphans living at these institutions and receive without cost, board and lodging, and in addition be paid at least $10,000 a year per couple.

Mr. DOMINICK. Mr. President, if the Senator would yield on my time, I just want to say that the Senator may have left some in. However, we have left them all in pending a study. We do not act first and study later. We study first and then try to act.

Mr. WILLIAMS. That requires a surrebuttal at this point, Mr. President.

Mr. DOMINICK. On the time of the Senator from New Jersey.

Mr. WILLIAMS. Fifteen million dollars have gone into the studies of all of this by the Labor Department in all labor sectors. Most of these exemptions have been individually studied by the Labor Department.

Mr. President, I think this is some of the best evidence that we did deal, as the Senator from New York said, not with a cutlass but with a scalpel in molding these changes and repealers and retentions. Thirty have been retained, and out of those studies we have found, with the help of the Labor Department, that we feel there will be no adverse effect by cutting out these exemptions that have, by this bill, been scheduled to be repealed with the broad blessing of the Labor Department, which has been in charge of $15 million worth of studies.

We are leaving 30 exemptions in. They should be further studied, because it impresses me that if we can find that day when there will be a parity of working people in terms of the lowest minimum wage, we should try to reach that situation.

Mr. JAVITS. Mr. President, will the Senator yield to me for a question of fact, on my time?

Mr. DOMINICK. I am happy to yield to the Senator.

Mr. JAVITS. Mr. President, it is amazing to me that the substitute does not even meet the administration recommendation. Secretary Brennan testified that the exemptions for agricultural processing should be modified. That testimony is found at pages 242 and 243 of the hearings record. He says:

> At one time the fresh food processing industry was in a very unusual position. Since it is entirely dependent on the timing and abundance of agricultural produce for its perishable "raw materials," it was necessary to operate almost continuously during harvest season. A great deal of overtime work was required in order to process the fresh food coming in from the farms before it spoiled.
>
> Advancements in technology, however, have now made it possible for initial processing to be accomplished rapidly and overtime requirements have been reduced.

That is backed by a study. The study is dated 1970, entitled "Minimum Wage and Maximum Hours Studies Under the Fair Labor Standards Act, Agricultural and Food Producing Industry." I ask unanimous consent that the conclusion of the study be printed in the RECORD.

There being no objection, the conclusions were ordered to be printed in the RECORD, as follows:

AGRICULTURAL HANDLING AND PROCESSING INDUSTRIES

The Fair Labor Standards Act currently provides a 14-week partial overtime exemption for agricultural handling and processing industries which have been found by the Secretary of Labor to be of a seasonal nature or characterized by marked annually recurring seasonal peaks of operation at places of first marketing or first processing of agricultural or horticultural commodities from farms within the meaning of section 7(c) or section 7(d) of the Act. If both sections 7(c) and 7(d) apply, the exemption period is limited to 20 workweeks, 10 weeks under each exemption. The exemptions are partial in that they are for limited periods of time and during exempt workweeks employees must be paid not less than one and one-half times their regular rate for daily hours worked in excess of 10 or for weekly hours worked in excess of 50 (section 7(c)) or 48 (section 7(d)).

A study of agricultural handling and processing industries was conducted to provide data useful in ascertaining the relative importance of the partial overtime exemption under section 7(c) and/or section 7(d) of the Fair Labor Standards Act and in assessing the relevance of selected factors which are often used to justify the continuance of these exemptions. Because of the complexity of the survey procedure, the study was done in two parts. The first part related to eight industries qualifying for 14 weeks of partial overtime exemption under section 7(c) or section 7(d) of the Act. The second part provided separate data for the four segments of the fresh fruit and vegetable industry and the four sugar cane processing areas—Louisiana, Florida, Hawaii and Puerto Rico. All industries included in the second part except sugar cane processing in Louisiana and Hawaii qualify for exemption under both sections 7(c) and 7(d). Sugar cane processors in Louisiana may claim exemption under section 7(c) only and those in Hawaii may not claim exemption under either section 7(c) or 7(d).

The survey data are also useful in evaluating the year-round exemptions available under sections 13(b) (14), (15) and (16) of the FLSA. The first of these is applicable to employees of small country elevators located within the area of production and the second, to employees engaged in ginning cottton for market in establishments located in counties where cotton is grown in commercial quantities, or in the processing of sugar beets, sugar-beet molasses and sugar cane into sugar. Section 13(b)(16) applies to employees engaged in certain transportation activities in the fresh fruit and vegetable industries.

FINDINGS AND RECOMMENDATIONS

The survey findings clearly indicate that consideration should be given to the phasing out of the overtime exemptions currently available to the agricultural handling and processing industries under sections 7(c) and 7(d) of the Fair Labor Standards Act, even though this would affect a significant proportion of man-hours in two of the industries studied. Although focusing primarily on sections 7(c) and 7(d) of the Act, the survey data also indicate that there is no sound basis for the continuation of the year-round exemptions available under sections 13(b) (14), (15), and (16) of the Act nor for the overlap that presently exists between the exemptions under sections 7(c) and/or 7(d) and those under section 13(b).

The favored position held for three decades by agricultural handlers and processors because of full and partial exemption from the 40-hour weekly overtime standard applicable to most industries covered by the FLSA needs reexamination:

1. Existing exemptions are not fully utilized. The degree of utilization, however, varied among the industries studied—it was markedly higher in two of the industries than in the rest.

2. Many establishments are presently paying premium rates of not less than one and one-half times the regular rate for hours worked in excess of 40 a week. Consequently, the continued existence of seasonal variations or the prevalence of long employee workweeks is not necessarily a conclusive indicator of the need for an overtime exemption.

3. Under the current exemptions provisions, some industries that qualify for 20 weeks of exemption under sections 7(c) and 7(d) appear to be less seasonal than others that qualify for only 14 weeks of exemption either under section 7(c) or section 7(d).

4. A universal 40-hour workweek standard would remove intraindustry inequities which currently exist for employers who pay premium rates for hours over 40 because such rates are required in labor-management agreements, or to maintain a competitive position in a specific labor market area, or simply because they believe in fair labor standards.

5. The use of second and third shifts could be increased in some industries. This is one adjustment that could be made to ease the pressure of intensive deliveries of raw materials in relatively short periods of time while at the same time reducing the need for employee workweeks in excess of 40 hours.

6. In some of the agricultural processing industries, the processing period has been lengthened as a result of technological advances in methods of extending the storage life of perishable products through temporary treatment such as fast freezing, cold storing, waxing and the use of chemicals. Control over the length of the processing season is also exerted through the grower-processor contract which often permits the processor to specify the precise time for planting, harvesting and delivery.

7. There was a sharp drop in man-hours over 40 a week during the periods the exemptions were most likely to be claimed. The drop in man-hours over 40 a week generally occurred before the expiration of the exemption period. Thus, over the exemption period presently provided—14 weeks or 20 weeks—the exemptions declined in importance to handlers and processors as man-hours over 40 a week diminished. This indictates that a gradual annual cutback in the length of the exemption period would provide for orderly adjustment to the standard applied in other industries 30 years ago.

Mr. JAVITS. Finally, our bill does not just study the past; it also studies the future. But it studies the past in order, in all fairness, to evaluate the results of exemptions of which we now have a record, and which are taken out of the exemption category.

It seems to me that you could not be more fair than not only to study what you have not studied, which is fair enough, but also to evaluate and monitor what you are already doing, even though you have already studied it.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, I yield 10 minutes to the Senator from Ohio.

Mr. TAFT. I thank the Senator for yielding.

Mr. President, there has been some discussion on which I should like to follow up at this point as to the disadvantage of adopting the substitute because of the fact that amendments would be precluded.

In that regard, I just wonder whether it is the intention of the manager of the bill and the ranking minority member of the committee to agree to and adopt some of the amendments that may be proposed at a later time. We keep getting rumors to that effect, but essentially those who are interested in some of the differences between the substitute and the bill as it came out of committee may want to have such information, and may want to know before they are called upon to vote on the substitute. Is it the intention of the chairman of the committee to go along with certain amendments that may be proposed, as to exemptions and otherwise.

I shall be glad to yield to the chairman for that purpose.

Mr. WILLIAMS. Certainly I can say at this point that there is no specific amendment that I know of that I am going to support, that deals with this bill. Under the unanimous-consent agreement there is one amendment to be offered by the Senator from South Dakota (Mr. McGOVERN), which does not deal with minimum wages, and I believe he will ask for a record vote. I shall vote for it. It deals with the price freeze in connection with poultry. The junior Senator from New York has some amendments, and I shall not accept them but will oppose them and vote against them.

Mr. TAFT. It is not the intention of the Senator, then, to accept an amendment pertaining to the processing of sugar?

Mr. WILLIAMS. At this point I have no commitments to accept any amendments in any area, as I have said, and it is not my intention to do so unless something is presented that appeals to me.

Mr. TAFT. That particular amendment, of course, or that particular provision, did pass the committee, and the Senator has not changed his position on it, I gather.

Mr. WILLIAMS. On——

Mr. TAFT. On the sugar processing question.

Mr. WILLIAMS. I stand on the bill at this point. I will say we are dealing with a substitute which sweeps so much away that I honestly suggest I think that is unwise. After that is dealt with, if it should fail, one by one we will consider these matters.

Mr. TAFT. I would like to point out, of course, that from a procedural point of view there is absolutely no reason for concern whatsoever. One reason that I asked for the rather long amount of time on the substitute was to provide the opportunity to any Member of the Senate who wished to come in and offer an amendment to our substitute to do so. The Senate in fact has had a choice. If any Senator, the Senator from New York, the Senator from New Jersey, or any other Senator wishes to offer an amendment to our substitute, the substitute is open for amendment, and in fact I would be glad even at this time to ask unanimous consent for additional time so that those who wish to offer further amendments to the substitute could do so. I have had no requests along that line.

Mr. WILLIAMS. I hope that the Senator is not suggesting that Members who might have amendments to the committee bill are guilty of any kind of laches in not coming in and offering amendments to the substitute. In the normal course, I believe it is expected that Senators who have amendments would rather work them on the committee bill, the reported bill, rather than the substitute.

Mr. TAFT. With the substitute pending, they, of course, have the opportunity, and they can take their choice.

I bring this up not in trying to put anyone on the spot or for a long discussion, but because it seems to me that the question is really one of procedure. This procedure is perfectly proper for working the will of the Senate. I think this approach is correct and preferable to going amendment by amendment through the bill.

I think the substitute makes a good deal of sense, and I am rather surprised that there would be criticism of adopting the substitute as a proper way for the Senate to go about considering the minimum wage question.

I would go on and point out, of course, with the parliamentary situation, with the House having already passed a bill very similar to the committee bill, by the adoption of the substitute we would still leave a good deal of leeway for consideration of the differences represented between the committee bill and the substitute.

Last evening, I was speaking on the importance of including a youth differential in any minimum wage legislation that is enacted by Congress this session. The committee bill, S. 1861, in essence provide absolutely no hope to solve the extremely high youth unemployment in this country. I believe this action is extremely unfortunate, as the unemployment rate among youth eighteen years of age and under has continued to climb, especially among black youth. It should be emphasized that the rate of teenage has risen every time the minimum wage has been increased and it seems that the proponents of the committee bill are not concerned with this fact.

It is the black youth of America that suffer the most from the minimum wage increase and it is this very group that suffers such a high rate of unemployment. The ratio of black unemployment to white rose nearly 2 to 1 in 1963 to about 3 to 1 in 1972. As I pointed out last evening during the Senate floor debate, economists who have studied this problem have almost with unanimity endorsed the concept of a youth differential. I would call to your attention the article that has been placed on every Senator's desk by Andrew Brimmer, of the Federal Reserve Board, outlining the necessity for a youth differential.

It is argued that a youth differential will displace adults from employment positions. This argument, I think is totally without foundation and has never been documented.

Second, it is argued that a lower minimum wage for youth would reduce the wages of teenagers who otherwise would be working at the standard wage. This argument falsely assumes, however, that the same number of jobs for youth would be available at the minimum rate established in the committee bill and the rate established under the youth differential in the substitute. As mentioned previously, job training and seasonal employment are the two main areas that most vitally concern youth. It is interesting to note that the committee left in the Fair Labor Standards Act the exemption for both minimum wage and overtime for seasonal amusement parks that operate less than 7 months a year. The committee's rationale for this action was that youth were primarily employed in these types of positions and that they did not want to destroy these job opportunities by applying the minimum wage. It is difficult to understand the committee's opposition to a youth differential given its thinking in this area.

An even more compelling reply, however, can be given in the field of job training and placement. In this area, the rate of pay is not the important factor. The prime objective is finding an employer who is willing to train an individual. The objective for on the job training is especially important for our country's vocational education programs.

Third, it is argued that youth will not take jobs that are available at an adult subminimum wage. For on-the-job training and apprenticeship programs this is simply not true. More students and trainees are seeking employment under these programs than can be placed.

In the nonvocational and training areas the demand by youths for jobs greatly surpasses the supply. Most of our Nation's communities have instituted programs to increase the number of summer and part-time employment opportunities. Federal Government programs such as Neighborhood Youth Corps, in which the distinguished Senator from New York has been such a leader and with whom I have been glad to work, even if fully funded, would not be enough to fill the employment slots needed by youth. More action is needed in this area and it is unfortunate that the committee completely disregards this most crucial special problem.

The committee received testimony from three expert economists on the youth issue—Dr. Douglas Adie, professor of economics at Ohio University; Dr. Thomas Moore, professor of economics at Michigan State University; and Dr. Finis Welch. These economists testified quite strongly that a youth differential was absolutely necessary to curtail youth unemployment and to save existing jobs for youth.

The conclusions that these economists reach have been verified by many others in the academic community, including the Honorable Andrew F. Brimmer, member of the Federal Reserve Board. Mr. Brimmer has conducted a number of studies regarding this subject and his conclusions are perhaps best summarized in a letter he sent to me last month, and which is set out in the minority views in the committee report.

I think the need to do something to reduce youth unemployment is so imperative that the youth differential concept should be tested now.

I ask unanimous consent that a publication by the Department of Labor entitled "Youth Unemployment—Time To Do Something About It" be printed in the Record.

There being no objection, the publication was ordered to be printed in the Record, as follows:

Youth Unemployment—Time to Do Something About It

(Note.—Charts referred to are not printed in the Record.)

For four decades the nation has watched with growing concern as the level of unemployment among its job-seeking teenagers grew steadily worse. The Federal Government, through manpower programs such as the Neighborhood Youth Corps, has taken steps to help youths obtain jobs. But the problem clearly needs to be attacked in more fundamental ways. This pamphlet summarizes some of the facts about youth unemployment and suggests a course of action—a special minimum wage rate for youth.

There are many disadvantages and risks associated with hiring young people. Some employers hesitate to hire teenagers because they have unformed work habits, change jobs frequently, require special scheduling for part-time work, are inexperienced, or lack career-plans. Lower rates of pay for such younger workers would offset some of these disadvantages and would help to increase job opportunities for the greatly expanded number of teenagers who are seeking work.

A statutory differential between the minimum wage for young workers and adults would also eliminate the red tape now involved in obtaining certificates for employment of younger workers at subminimum rates.

A lower minimum wage rate enhances youth employment opportunities. These pay rates would be a step toward easing the transition from school to work and would preserve jobs that are otherwise likely to disappear—jobs where machines might replace workers or part-time jobs that are useful to employers but may simply not be worth the adult minimum wage.

I. UNEMPLOYMENT OF YOUTHS AND ADULTS

Although young workers have always had higher unemployment rates than adults, their unemployment experience has grown progressively worse in the last 20 years.

Chart I shows the ratio of the unemployment rate of 16–17 year olds to the adult rate in 1970 and compares it with two earlier years when the adult unemployment rate was at the same level as in 1970. The unemployment rate for 18–19 year olds is also much higher than the adult rate but not as severe as that for 16–17 year olds.

Chart II plots the unemployment rates of teenagers and adults over the past two decades.

II. THE POPULATION EXPLOSION

In the last 20 years the population explosion has increased the total number of teenagers at four times the rate of adults (Chart III). There has been no comparable increase in the number of jobs available for new entrants into the labor market. With more in this age group looking for jobs and with limited growth in the number of available jobs, a traditional problem has worsened. Hence, more suitable teenage jobs need to be developed by providing employment incentives.

III. MOST TEENAGERS WORK IN INDUSTRIES ONLY RECENTLY COVERED BY THE FAIR LABOR STANDARDS ACT

The Fair Labor Standards Act has been extended in the past decade to three industries (agriculture, retail trade, and services) that have traditionally been the major sources of employment for teenagers (Chart IV). This extension has probably limited the growth of new job opportunities for teenagers in an area that should provide greatest employment opportunity for them. This makes it important to have a pay rate differential.

IV. EFFECTS OF STAYING IN SCHOOL

A growing proportion of teenagers (Chart V) are staying in school while working. In order to improve the opportunity for these students to gain work experience and add to their income, it will be necessary to encourage creation of more part-time jobs. Many of the existing jobs are marginal and may disappear if employers are required to pay higher wage rates.

The growing gap between unemployment of 16- and 17-year-olds (the age group most likely to be in school) and 18- and 19-year olds is shown in Chart VI. Although unemployment was high for both age groups, it was especially severe for 16 and 17 year olds.

V. STATE MINIMUM WAGE PATTERNS

In employment not covered by federal legislation a lower minimum wage for teenagers, learners or students is the pattern in most States. (Chart VII)

VI. EFFECTS OF A YOUTH DIFFERENTIAL ON FAMILY INCOME

One of the major reasons for raising minimum wages is to raise the standard of living of low-income families. A lower-minimum wage for young people would not make a significant change in family income.

Most young people do not make substantial contributions to the family—7 out of 10 working teenagers add less than 10 percent to family income. (Chart VIII) Therefore modest variations in their wage rates are not critical to family support but are important in opening up job opportunities for them.

VII. A DIFFERENTIAL WILL HELP OUR YOUTH

Young persons face many hurdles in trying to find employment. The high unemployment rates among this group indicate a basic problem in our economic system. Despite their lack of experience and the other disadvantages that they bring into the labor market, we make it difficult for our youth to enter jobs at less than the full adult minimum wage. Paradoxically, this denies them access to the experience which can make them more productive and higher-earning workers in the future.

This is a very serious problem. Jobs are important in helping teenagers gain work-experience and in providing the feeling of independence and self-reliance that young people seek. They also contribute to a reduction in high school dropout rates.

A youth differential in the minimum wage would offset some of the hurdles that young people face in finding employment and would open more job opportunities to young people.

The PRESIDING OFFICER (Mr. HUDDLESTON). The time of the Senator has expired.

Mr. TAFT. Mr. President, I yield myself an additional 5 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 additional minutes.

Mr. TAFT. Mr. President, Congress must remember that many sections of the Fair Labor Standards Act have a significant impact on the small businesses throughout this Nation. The committee bill fails to realize this fact and would repeal a variety of minimum wage and overtime exemptions established by previous Congresses.

The specific intent of many of these provisions is to protect small businesses and small farms from adverse economic effects of minimum wage increases. Under the committee proposal, coverage would be extended to roughly 1 million employees of well over 100,000 small businesses and farms. Overtime coverage would be extended to 1.8 million employees in the private sector, many of them employed by small businesses.

Although the bill does not propose to reduce the $250,000 enterprise dollar volume test, as it did last year, it would repeal the "establishment" exemption for small retail and service stores which gross less than $250,000 annually, but which are part of an "enterprise" which does exceed that figure. This would extend minimum wage and overtime coverage to 662,000 employees in small retail and service stores. In this connection, it should be noted that inflation since 1961, when this exemption was established, has already operated to extend coverage down to firms which would have grossed only $171,500 at that time.

This change would affect only very small chain stores; none of the large, well-known chains would be affected, because each of their stores does annual business exceeding the $250,000 cutoff for the exemption. These small chain stores are located in small, rural communities primarily in the South and West. Elimination of this exemption will increase the existing pressures on such small chains to consolidate and shift location to larger urban areas. This will reduce job opportunities in, and damage the economies of many small rural communities. Given the current plight of rural America, I think the point that it would be a mistake for Congress to do what the committee bill proposes, requires no further elaboration.

By repealing section 13(a)(4) of the act, the committee bill would extend coverage to employees in small retail stores which "make or process" the goods they sell. In this connection, let me say it is said in the committee report, in the majority views, that the bill does not affect the "momma and poppa" stores. Nothing could be more untrue when we review this particular area. There certainly is no exemption for the "momma and poppa" type of store if that type of store, as is often the case, is engaged, in one way or the other, in making or processing the goods they sell.

Under the existing law, employees of small retail firms which are not part of an enterprise more than $250,000 annually are exempt even though their work may be directly related to interstate commerce. Under the committee bill, small retail stores which "make or process" any of the goods they sell would be ineligible for the exemption. The impact of this would be felt primarily by small bakeries, candy shops, ice cream parlors, drugstores, optometrist establishments, lumber yards, and other small businesses which are not part of a chain, and which happen to "make or process" the goods they sell. The impact of this change is potentially as broad as the Labor Department's definition of "making or processing." No one knows how much "processing" of goods would be necessary to disqualify a small store for the exemption. Arguably, anything more than moving merchandise from loading dock to store shelf could constitute "processing." Certainly this is borne out by the past rulings on this subject.

This exemption was adopted by Congress in order to make it clear that small stores which are essentially retail in nature, would not be disqualified for the $250,000 small store exemption merely because they "make or process" some of the goods they sell. We have been unable to glean from the committee any substantive reason why this exemption is no longer justified for such an establishment.

These steps taken by the committee are indeed unfortunate with regard to small businesses in this country. These actions, however, are not unexpected, as it is very difficult for the small business community in this country to match the political muscle that organized labor exercises in the Congress. Hopefully, in the future the Congress will be more responsive to the needs of this most important segment of the American economy.

Finally, Mr. President, there have been many unfortunate aspects of the committee bill discussed last evening and this morning. One important point has just come to my attention regarding the effect that the committee bill will have on day care centers throughout the country. The rapid wage increment proposed in S. 1861 will force costs up for day care centers throughout the Nation. This I think would be extremely unfortunate and perhaps cause many centers severe financial difficulty.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMINICK. I yield the Senator 5 additional minutes.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. DOMINICK. I yield 4 minutes to the Senator.

Mr. TAFT. I ask unanimous consent to have printed in the RECORD a letter to the editor in the Washington Post dated June 29, 1973, from Mr. Wayne Smith; a letter from Mrs. Joyce Hatton to me on the subject; and an editorial dated July 11, 1973, published in the Cincinnati Enquirer, regarding the adverse effects of S. 1861.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 29, 1973]

INFLATION AND DAY CARE

The plight of the United States dollar is illustrated startlingly by an advertisement appearing in your June 20th editions. The advertisement, designed to attract U.S. citizens to travel in Eastern Europe gives the fares only in German marks and Russian rubles. Until recently, the ruble was the object of ridicule, but now it has become the standard by which affluent United States citizens are to be guided in estimating expected outlays for foreign travel.

This may be only the beginning if the present inflationary trend continues, and if the cycle is worsened by reason of enactment of the minimum wage legislation into law. The irony is that, in early childhood education, the greatest weight will fall upon those whom it is intended to benefit. New regulations from the Social and Rehabilitation Service of the Department of Health, Education and Welfare, sharply limit access to publicly financed day care. At present our member schools have fees which can be met by many mothers for whom the new regulations make publicly provided day care no longer possible. But—if the new minimum wage is approved—the mother of an infant in one of our member schools will find that 40% of the increase received in moving from the old minimum to the new minimum will need to be paid out in higher infant care charges which would ascend from $22.00 to $28.67 per week. If her child has passed beyond the infant and toddler stages, the mother's school fee would rise from $18.00 to $23.46, or just about one-third.

Schools have no choice except to pass along the percentage of labor costs to gross income factor as imposed on them by minimum wage. Since the mother gets no more for her money, it is obviously a cruel hoax to pretend that there will be a genuine rise in anything but inflation.

WAYNE J. SMITH,
Executive Director, National Association for Child Development and Education.
WASHINGTON.

YOUNG WORLD, INC.,
Lansing, Mich., July 5, 1973.

Hon. ROBERT TAFT,
U.S. Senate,
Washington, D.C.

DEAR BOB: I am very concerned about the proposed 40% increase in the minimum wage bill and would like to explain how it might affect the 1500 parents that we served this past year.

Although I have been in the nursery school and day care business since 1957, only recently has day care become well known to the general public. My company, Young World, Inc. is the largest owner and operator of day care centers in Michigan and also one of the largest in the United States.

The company provides education and day care for children between the ages of 2½ and 8 years of age. Eight centers are operated in Michigan, each licensed to accommodate approximately 100 full-time children.

Three new centers with indoor swimming pools are under construction this summer, and several other sites are under consideration for additional centers.

Day care centers are subject to state and local government regulation and licensing. These governmental agencies review the safety, fitness and adequacy of the buildings and equipment, the ratio of staff personnel to enrolled children, the dietary program, the daily curriculum and compliance with health standards. All Young World centers meet the requirements which allow for federal and state financial support through Title IV A of the Social Security Act. The program provides funds for paying all or part of the tuition for certain children. Approximately 50% of our company's revenues comes from this source.

Because we must meet stringent staff-pupil ratios (one adult to five children if we are to qualify for Title IV A funds), the teacher aides' beginning wage is $1.60/hour. If the minimum is raised from $1.60 to $2.20/hour the increase of almost $5.00 per week per child must be passed on to the parent. In the case of welfare families, the increased cost would have to be absorbed by the day care operator, because reimbursement is predetermined by the state government, and the company has no assurance that this amount will be changed just because a new minimum wage law is enacted. If our parents are earning $2.20 per hour already, they would have no change in their rate of pay, but they would have to pay $5.00 more per week for their child's care. (What may happen then is the child may be placed in a private situation where no minimum wage or any other standards are enforceable.)

Many of the part-time aides we hire are students at local colleges or people, young and old, who enjoy working part of the day with young children. The company encourages new staff to continue their education so they can advance to lead teaching positions. Also, during the summer months, there is a surplus of young adults who are anxious to have some teaching and work experience, but if the new minimum wage becomes $2.20 per hour, this group will have much greater difficulty finding work with us or others in a similar business.

I look forward to hearing your opinion on the minimum wage bill, and whether or not there is something I can do about it.

Sincerely,

JOYCE V. HATTON,
President.

WHO WILL CLIMB?

It appears a certainty that the nation's federally mandated minimum wage will rise from the $1.60 it has been for five years to $2.20 an hour by the middle of next year.

The House has voted, 287–130, to increase the minimum wages for nearly 35 million workers, by stages, to $2.20 an hour within a year and to extend coverage for the first time to about a million household servants (except those residing where they work).

Since the President has backed an unsuccessful substitute bill providing for essentially the same thing in principle (an increase in three steps over two years, but not covering any additional workers), it seems unlikely he will veto the bill when it passes the Senate, as now appears likely.

The House action, we believe, is less of a "breakthrough" for allegedly underpaid persons than a breakdown in sound economic reasoning. For example, the legislators narrowly (215–199) and inexplicably rejected a Republican attempt to add a "youth differential" to provide for a job-creating lower minimum scale for youth under 18 and to exempt full-time college students. We would urge the Senate to insert such a provision, fight for it in conference, and reject the whole bill if the motion does not accede.

At the risk of sounding like a frustrated Canute yelling "stop" under a waterfall, we would review just why we feel that raising the legal minimum wage substantially higher than the one prevailing in the marketplace is counterproductive.

It will be inflationary, both in its immediate impact, and in its inevitable tendency to raise those wages just above the minimum levels.

It will abolish many marginal but vital jobs for youth, college students, Negroes, unskilled workers and domestics.

It insidiously tends to blunt the healthy discontent which helps keep people job-hopping for self-improvement in a classless, mobile society; it can tend to imprison them in dead-end jobs because the economic incentive of a lower wage is removed. On an economic ladder without a real bottom rung, who will climb?

If these factors are not reason enough to reject such a precipitous raising of the wage floor, Sen. Robert Taft, Jr., (R–Ohio) questions whether the bill as drafted is even constitutional. He asks whether household work is "work" in interstate commerce and thus subject to federal regulation.

Congress is not serving the nation well by yielding to the temptation to provide fleeting political relief instead of looking for lasting, statesmanlike solutions to the nation's job marketplace problems.

Mr. TAFT. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Wall Street Journal of today, July 18, 1973, entitled "Why It Could Hurt the Poor." This is an editorial I submitted as a guest editorialist. I bring it up particularly to explain that it is the joint work of the distinguished Senator from Colorado (Mr. DOMINICK) and myself. Why the Wall Street Journal chose to leave Mr. DOMINICK's name off the editorial is something that has not been explained to me adequately as yet. But this is what occurred, and the RECORD should be made clear on that subject.

Mr. WILLIAMS. Why not put in the whole page from the Wall Street Journal?

Mr. TAFT. I ask unanimous consent to have printed in the RECORD the editorial written by the Senator from New Jersey, in opposition.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

WHY IT COULD HURT THE POOR

(By Senator ROBERT TAFT Jr.)

While we all desire to see the elimination of substandard and exploitive wage practices, in considering an increase in the minimum wage and extension of the coverage under the Fair Labor Standards Act (FLSA), we must give consideration to the related inflationary pressures present in the economy.

We do not contend that an increase in the minimum wage and the proposed extension of coverage under the FLSA will necessarily result in massive unemployment and spiraling inflation. It is our view, however, that great care must be exercised in acting in this area, as increments in the minimum wage do place marginal employe positions in jeopardy and do have a rippling effect, creating pressures for wage and price increases throughout the economy.

It must be remembered that the FLSA is basically small business legislation and any attempt to make it other than that could be fatal to many of our nation's small employers and their employes. Unfortunately, S. 1861, the minimum-wage bill that has been reported to the Senate by the Labor and Public Welfare Committee, follows an approach that fails to consider these factors and would make job opportunities more difficult for the poor, the young, and the unskilled and for those who find it difficult to enter the mainstream of the American economy.

The bill, which provides for the largest one-step dollars and cents increase in the history of the Fair Labor Standards Act, is not realistic. The Committee's analysis is deficient with regard to the adverse affects on the segments of the population least able to compete in the labor market and is particularly distressing in that no constructive proposals were submitted to deal with the especially serious problem of high youth unemployment.

The argument which has always been used by organized labor in support of large increases in minimum wage rates, and broad expansions of coverage is that they will reduce poverty in this country. S. 1861 is based on this argument. The assertion is made that an increase to $2 this year would be necessary in order to bring the annual earnings of a head of a family of four to the poverty level, and that a further increase to $2.20 next year would permanently end welfare for full-time workers. This argument was stated succinctly in the Committee report on S. 1861 last year. It has a righteous ring to it:

"If the conditions that poverty breeds in this country are to be changed, poverty wages must be eliminated. These conditions will not change unless the FLSA minimum wage is increased, because minimum-wage workers rarely have the bargaining position or the skills necessary to increase their wages as the cost of living increases. In essence, Congress is the bargaining agent for the nation's working poor.

"In approving an ultimate-stage increase the Committee acted to make the sight of a full-time worker on welfare a thing of the past. Of equal importance, the practice of governmental subsidization of wages through welfare payments to the working poor will be at an end, at a tremendous saving to the taxpayers and with a significant boost to the morale and the dignity of the working poor of this country."

THE "POVERTY ARGUMENT"

Although we think organized labor's traditional position on the minimum wage legislation is motivated less by a desire to reduce poverty than by a desire to increase their leverage at the collective bargaining table, some observations on the so-called "poverty argument" are in order.

First, the poverty level is tied to the Consumer Price Index; as inflation forces the cost of living up, the poverty level moves with it. This exposes as empty rhetoric the claim that an increase to $2.20 will "make the sight of a full-time worker on welfare a thing of the past." Excessive minimum wage increases will not stop inflation; on the contrary, they will contribute to it.

Second, the statement that an hourly wage of $2 is necessary to bring a family of four above the poverty line assumes that there is only one wage earner, when in fact, the average family of four has 1.5 wage earners. The minimum wage is not geared to family need. Raising the minimum wage to $2 per hour would increase the annual income of one worker by $800, regardless of whether he is single, the head of a family of four, or a family of six.

The poverty level for an urban family of four is $4,274. It is nearly $5,300 for a family of six, and over $6,400 for a family of seven. It would require $2.65 per hour to bring a family of six with one wage earner up to the poverty level; it would require $3.20 for a family of seven. About 46% of the working poor in 1970 were members of families of six or larger. This makes it absolutely clear that to suggest that the minimum-wage increases recommended in S. 1861 would "put an end" to welfare for full-time workers is to play cynical games with the poor people of this country.

Unemployment contributes to poverty at least as much as low wages. In 1970, only 37% of the heads of working poor families had full-time jobs all year. About 46% had part-time jobs, or full-time jobs for less than 26 weeks. The point is that these people are poor primarily because of unemployment, not low wages. Large increases in minimum-wage rates would not improve their situation. In fact, to the extent that such increases would reduce job opportunities, they would be to their detriment. The same is true of full-time workers in low-paying jobs. It is difficult to see how the "morale and dignity" of the working poor who receive welfare supplements will be boosted when they become unemployed and entirely dependent on welfare.

Poverty is primarily a function of the state of the economy. When the economy is healthy and expanding, the number of people below the poverty level declines. The overall health of the economy has been mostly good over the last 10 years. During that period, the number of people below the government-established, annually revised poverty level declined by 14.1 million—40%—even though our total population increased by 12%. Although the number of people below the poverty level increased slightly in 1970 and 1971—recession years—it decreased in 1972.

If we really want to reduce poverty in America, enactment of excessive minimum-wage increases over too short a period of time is precisely the wrong way to do it.

Since the Fair Labor Standards Act was enacted in 1938, Congress has exercised great care in legislating increases to the minimum wage. For farm workers increments proposed by S. 1861 represent the largest monetary and percentage increase in the history of the Act and amount to a 69.2% increase in 38 months.

The bill also extends coverage to approximately 7 million workers, which would bring under coverage of the Act 130,000 new establishments, and 836,000 households, employing domestics. The total wage cost for this approach would be in excess of $4.5 billion, not including increments in fringe benefits and the added upward push of labor costs generally due to the ripple effect.

These factors were only summarily considered in deliberations by the majority of the Committee and seemed to be of little concern to proponents of the Williams-Javits bill as reported. In view of the relatively high unemployment and inflationary pressures present in the economy, such action by the Congress would be economically irresponsible, inflationary, and in direct opposition to the goals of the Economic Stabilization Program.

A EUPHORIC VIEW

Proponents of the Committee bill cite the added cost of living as the primary necessity for their approach to increasing the minimum wage, but fail to consider that an increase in the minimum wage helps the low-wage worker only to the extent that it is neither dissipated in higher prices nor results in unemployment.

Proponents of the Williams-Javits approach argue that inflation can be avoided and profits maintained if productivity is increased. This euphoric view, i.e. *that minimum-wage increases accelerate productivity gains*, is a variance with past trends in low-wage industries. The gain in productivity output per man-hour in the private nonfarm economy was only 3.8% between 1967 and 1970, far below the long-term trend, and recent figures show only slight improvement. Low productivity has been particularly identifiable as to low wage trade and services, whose productivity gains lag substantially behind those of the economy as a whole.

The burden of an increased minimum wage then falls heaviest on those least able to justify their employment, especially the young. The ratio of teenage to adult unemployment rates has tended to rise, while the proportion of the total labor force in the 16–19 age group also has been rising. The ratio of teenage unemployment to total unemployment has also risen every time the minimum wage has been increased. Statistics also indicate that young blacks suffer the most from minimum wage increases.

Unfortunately, the Committee was unwilling to consider any type of youth differential proposal. Organized labor's inflexible opposition to such proposals is, of course, why minimum-wage legislation was not enacted last year.

If there would be any adult employment displacement, as a result of youth differential, it would be so small and so limited as to have no discernable effect on the adult job market. The adults involved, if any, would be those who do not have the skills or experience to obtain better employment and should be provided with manpower training. They should not be left for the rest of their lives to keep fighting for marginal employment positions.

Second, it is argued that a lower minimum wage for youth would reduce the wages of teenagers who otherwise would be working at the standard wage. This argument falsely assumes, however, that the same number of jobs for youth would be available at the minimum rate established in the Committee bill and the rate established under the youth differential in the substitute.

The committee bill, in sum, certainly provides a bleak outlook for many of the nation's working poor as they face higher prices for food, products and services, possible curtailment or abandonment of services and, most important, even face the potential loss of their jobs.

WE NEED A HIGHER MINIMUM WAGE

(By Senator HARRISON A. WILLIAMS, Jr.)

The Senate is expected to vote today on a minimum-wage bill. Last month the House approved liberal minimum-wage legislation, backed by organized labor but opposed by the Nixon administration. Senator Williams (D. N.J.), is chairman of the Senate Labor Committee and Senator Taft (R. Ohio), is a member of the panel.

We have made substantial progress in eliminating poverty in America since President Roosevelt's 1937 Inaugural Address, but today 24.5 million Americans—12% of our population—are still living in poverty by official government standards.

The present minimum wage of $1.60 an hour yields to a full-time working head of a family of four a gross weekly wage of $64 or $3,200 a year, almost $1,000 less than the poverty level and leaves the working-poor family eligible for welfare. Thus, the standards incorporated in the present law both in terms of scope and coverage and the level of the minimum wage now fall short of insuring that every person in this country who works fulltime, year-round, will be able to provide his or her family with the basic necessities of life without reliance upon welfare.

The present $1.60 minimum wage ($1.30 for farm workers) was set by Congress in 1966. At that time it was heralded as a wage rate which would move the working poor above the poverty threshold. But economic developments have drastically curtailed the purchasing power of the minimum wage. Between 1966, when Congress amended the Fair Labor Standards Act to increase the minimum wage to $1.60 from $1.25, and May 1973, the Consumer Price Index rose 35.3%. Thus a substantial increase in the minimum wage is necessary merely to restore the purchasing power of low-wage workers to the levels established by Congress in 1966.

INCREASES IN THE CPI

A minimum rate of $2.16 an hour is required merely to compensate for increases in the Consumer Price Index between 1966 and May 1973. In addition, average hourly earnings have increased by 38% since February 1968 (when the present $1.60 actually became effective) and by 50% since 1966. Of great significance is the fact that the number of people living in poverty increased by almost 300,000 between 1969 and 1972.

These facts and figures alone explain the necessity for a minimum-wage increase at this time.

American workers have also traditionally shared, through increased wages and fringe benefits, in rising productivity. Between 1966 and the first quarter of 1973, productivity rose more than 12.6% and experts from the government and the business community have projected an average yearly increase of about 3% for the decade ahead. Low-wage workers should share in the benefits of increased productivity, just as other workers do.

Moreover, the minimum wage rate enacted by Congress has traditionally reflected not only increases in the cost of living and increases in productivity, but also increases in the standard of living enjoyed by most Americans. In 1968, the ratio of the minimum wage rate to the average manufacturing rate was 55%. Based on the present average manufacturing wage of $4.04 an hour, maintenance of that ratio would justify an immediate increase in the present minimum wage rate to $2.21.

The present bill is an attempt to insure that millions of low-wage workers throughout the nation—workers whom this Act is specifically designed to protect—will regain the ground they have lost because of the inflation which we have experienced in recent years

Each time Congress has considered minimum-wage increases and expansions of coverage under the law, opponents have raised the specter of economic doom. Congress was warned on each of those occasions that the legislation would cause spiralling inflation and increased unemployment. Yet a close examination of the economic data shatters this illusion of doom. Every economic-effects study by the Labor Department, under both Democratic and Republican administrations, demonstrates this fact. In the words of the 1972 report by then Secretary of Labor James Hodgson:

"On balance, the wage increases granted to 1.6 million workers to meet the $1.60 minimum wage standards had no discernable adverse effect on overall employment levels, and relatively little impact on overall wage or price trends."

That there is no discernable increase in unemployment is well established. A review of the employment-unemployment series published by the Bureau of Labor Statistics of the Labor Department shows that non-agricultural employment increased after each change in the law and that unemployment actually decreased after all but one of the changes and in that case it remained unchanged:

On Jan. 25, 1950, the minimum wage was increased from $0.40 to $0.75 an hour and non-agricultural employment rose from 43,778,000 in 1949 to $45,222,000 in 1950.

On March 1, 1956, the minimum wage was increased to $1 an hour and non-agricultural employed rose from 52,408,000 in 1956 to 52,894,000 in 1957.

On Sept. 3, 1961, the minimum wage was increased to $1.15 an hour and non-agricultural employment rose from 54,042,000 in 1961 to 55,596,000 in 1962.

On Feb. 1, 1967, the minimum wage was increased to $1.40 an hour and non-agricultural employment rose from 65,857,000 in 1967 to 67,284,000 in 1969.

On Feb. 1, 1968, the minimum wage was increased to $1.60 an hour and non-agricultural employment rose from 67,915,000 in 1968 to 70,284,000 in 1969.

These studies also completely discredit the thesis that minimum-wage increases have any discernable effect on inflation. Previous (1949–56) increases in the minimum-wage rate of greater percentage than provided in the present bill have been absorbed easily by the economy, and there is no reason to assume that a different result would obtain under this bill. Indeed, an economist for the Chamber of Commerce, testifying before the Senate Labor Committee in 1971, took the position that the increases in this bill would not be inflationary. In fact, the direct payroll costs of the Committee bill will be only 0.5% of the total national wage bill in the first year, 0.4% in the second year, 0.3% in the third year, and 0.1% in the fourth year.

SOME THINGS NOT FROZEN

In short, this bill is not inflationary.

Before the 60-day price freeze was imposed, a significant number of economists believed that skyrocketing inflation coupled with economic growth would lead us directly into a recession unless drastic action was taken. The freeze has not reduced the number of economists who question whether inflation can be controlled or whether a recession is unavoidable. Nor has it narrowed the range of diverse opinions on the state of the economy.

Economists' recommendations on the shape of Phase 4 range, for example, from those who predict that a recession can be avoided only if tougher controls than the Phase 2-type are imposed to those who warn that the possibility of a recession will be increased by the freeze and subsequent controls.

It is difficult to predict the future. But let us look back on what has actually been happening. Productivity has been rising rapidly —4.6% last year—and the increases are reflected in soaring profits and widening profit margins rather than in wages. Prices have been skyrocketing but wages appear to have been held in check.

The First National City Bank of New York reports that after-tax profits in the first quarter of 1973 were up 24% over 1972 and 1972 was up 15.5% over 1971, and 1971 was up 14% over 1970.

A comparison of the magnitude of these increases with the controlled increases in average hourly earnings of nonsupervisory workers in private nonfarm employment indicates the inequities which continue to characterize our economic policies. Between April 1972 and April 1973, the hourly earnings index increased 5.4% on top of increases of 6.8% between April 1971 and April 1972, and 7.3% between April 1970 and April 1971.

The minimum-wage worker who is still at $1.60 an hour, or $1.30 if he's in agriculture, has not shared even in these modest, controlled wage increases. He is still waiting for Congress to act. He cannot help but be disillusioned by the legislative process when he realizes that prices for such items as hamburgers, fish, eggs, chuck roast and potatoes have increased from 25% to 40% since 1971 when he first expected a $2 minimum wage.

I, for one, refuse to believe that a successful anti-inflation program depends upon keeping the income of millions of American workers below officially established poverty levels.

LEAVE OF ABSENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that I be excused from voting in the Senate until I return, following the votes that will be cast here today. I have received word that my eldest brother is in a terminal condition, and I do not know how long I will be absent from the Senate, but I want the RECORD to show that I am excused.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Colorado has 2 minutes, and the Senator from New Jersey has 11 minutes.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged against me.

The PRESIDING OFFICER. The Senator does not have sufficient time. The Senator might yield back his time and then suggest the absence of a quorum.

What is the pleasure of the Senate?

Mr. WILLIAMS. Mr. President, I yield myself such time as I need, within the limitations of the time I have.

I ask unanimous consent, if it was not accomplished during the colloquy with the Senator from Ohio in connection with the Wall Street Journal editorials, to have printed in the RECORD two submissions from Members of the Senate in this morning's paper—one by the Senator from Ohio and one that I submitted. The Senator from Ohio's statement is longer than mine. It is not equal time, but I guess it is balanced because mine was put on the top of the page.

I do not consider these editorials. These were submitted upon request of the Wall Street Journal. We were asked to submit them. It was, I thought, the mark of a great newspaper that they would, particularly on this day, ask two Senators who have been very active in a legislative matter to submit statements of their reasons for the positions they have taken. The statement I submitted is entitled "We Need a Higher Minimum Wage."

We have been about the discussions of that matter on this bill, both last year and this year, and it really boils down to just this: The minimum wage today of $1.60 an hour is not approaching a living wage. That was enacted at a time when $1.60 had a certain meaning. It went into effect when $1.60 had a certain meaning.

Well, $1.60 minimum in 1968 is about $1.25 today, so the poor working people of this country over the last 5 years have had as a result of inflation, in fact, a wage reduction.

The Senator from Ohio, in his statement, said:

> It could hurt the poor.

For the life of me I cannot see how giving a minimum floor to working people of $2 an hour, and for so many of them over a period of time, is going to hurt the poor. If there is anything any poor person should expect out of a day's work it is a wage that will let him keep body and soul together. That is what the $2 an hour is designed to move us toward, a basic minimum living standard as a floor, in these days when we recognize that $3.50 is that level that we will look to as not being affected by the Stabilization Act.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. AIKEN. As the Senator knows, there has been a rather persistent report that the salaries of Members of Congress are to be raised $10,000 to $12,000 a year. I would ask the Senator if he knows whether that increase in the pay for Members of Congress and other Government officials is to be spread over a 4-year period or over a 3-year period, as is now proposed for the people earning $5,000 or $6,000 a year?

Mr. WILLIAMS. I do not believe so. Legislation dealing with congressional salaries and other higher grades in Government are not part of the jurisdiction of the Committee on Labor and Public Welfare. We deal with much lower levels of income and as a result of that, as the Senator suggests, if we raise the minimum, we do it over a stage or period. I do not believe salaries for Congress have a stage.

Mr. AIKEN. Why have one rule for people earning $42,000 and another for people earning $4,200 a year?

Mr. WILLIAMS. It seems to me that anyone arguing against this minimum wage bill today should be uncomfortable if at the same time he is arguing for a one fell swoop increase of congressional salaries from $42,000 to $52,000.

Mr. AIKEN. I have not had any response to that inquiry from Members of Congress, but I did learn from one person that it might be all right to spread the increase in congressional salaries over 4 years, provided 98 percent is given in the first year and the other 2 percent over the next 3 years. I hope Members of Congress give full consideration to that suggestion.

Mr. WILLIAMS. I understand the committee that deals with that pointed to the fact that since the last congressional increase the cost of living increased 24 percent, so they use that as a partial explanation of their acquiescence in the Commission finding that there should be an increase.

In these last moments I would like to deal with the poor people of this country with respect to the minimum wage. I would like to yield to the Senator from New York.

Mr. AIKEN. I yield back all time granted me by the Senator from New Jersey.

Mr. WILLIAMS. I am glad the Senator from Vermont has raised that point. Certainly it is inappropriate to push poor workers aside while we are considering increasing salaries around here.

Mr. AIKEN. I thank the Senator for the suggestion.

Mr. JAVITS. Mr. President, I would like to make one or two points in closing. First, I wish to call attention to an article that has just come in. It is often thought that in New York and New Jersey, big industrial States, we are not affected by minimum wage and that we are trying to shove it down the throats of the rest of the country. That is not so. The Department of Labor has announced the simultaneous filing of 52 civil injunction suits against New Jersey and New York flat track owners and trainers for violation of wage and hour laws. It could not be more pinpointed.

Mr. WILLIAMS. I appreciate that.

Mr. JAVITS. Mr. President, to conclude our argument, in the first place, the substitute does not go as far as the administration.

Secretary Brennan testified that the minimum they were ready for in 1973 is $1.90. The substitute stops at $1.80 for this year. Even he testified as in favor of phasing out the overtime exemption for agricultural processing. So the basic fact is that we have a substitute and if it is approved, that will be that. Whereas, if we reject the substitute, we can still work our will on every individual item, and separately.

It seems to be that that alone is sufficient reason for rejecting the substitute, which I hope the Senate will do.

Mr. President, S. 1861 is justice and decency long overdue. It is high time that we set this as the standard. We are at least a year late; let us not be any later. I hope that the substitute will be rejected.

If the Senator from Colorado is willing, we can yield back the remainder of our time.

Mr. DOMINICK. I think 2 minutes are left. I will take the last 2 minutes.

Mr. President, I oppose S. 1861 for a variety of reasons. Since I have expressed them in detail during the course of this debate over the last 3 days, let me just summarize them here in broad terms.

First, I think it would contribute substantially to inflation. And it could not come at a worse time. No better plan than the radical minimum wage increases and sweeping extensions of coverage it proposes could be devised to blow the economic stabilization program right out of the water. A lot of dust has been raised by the conflicting arguments on the inflation issue during this debate. But I think the proponents of this bill clearly have the burden of overcoming the strong presumption that minimum wage increases of 37.5 percent within 14 months for most nonfarm employees, and 69.2 percent within 3 years for farm employees, are not inflationary.

I am confident that when the dust settles, everyone will recognize that burden has not been carried. If a majority of my colleagues do not see it, they will be reminded soon enough by their constituents, who will be complaining about even higher prices for virtually every consumer product. They will also be reminded by small businessmen and farmers, who would bear the brunt of the considerable increases in labor costs.

I am opposed to this bill because it clearly will not do what its supporters say it will. They pronounce that it will put an end to welfare for the working poor in this country. As I have said earlier, this is an undeliverable promise which amounts to nothing more than a cynical joke on the poor. The minimum wage would have to be increased immediately to $2.65 per hour to raise the income of a family of six with one wage earner to the poverty level. The figure for a family of seven is $3.20. Forty-six percent of the working poor are members of families of six or larger. To them, the realization that this promise was totally undeliverable from the start will not be a very funny joke.

Worse than not delivering on promises to the poor, the committee bill would actually harm them. Marginal workers wonder whether welfare is really a better alternative. They will have difficulty seeing why their "morale and dignity" should be "boosted," as the proponents of this bill suggest. The only workers whose morale will be boosted are those who least need help—well-paid skilled workers with secure jobs. Due to the "ripple effect" from these large increases in minimum wages, they will receive disproportionate windfalls when, through the collective bargaining process or otherwise, previous wage differentials are restored.

I believe the substitute we have offered is a realistic alternative to the committee bill. A summary of the most important differences between it and the committee bill, along with a section-by-section analysis, are on your desks. It provides for substantial increases in minimum wage rates, but would minimize the inflationary and unemployment impact by confining such increases to presently covered employees. In an attempt to deal with the serious teenage unemployment problem ignored by the committee bill, it would establish a youth differential to replace the obviously unsuccessful present student certificate system.

On this issue, it is a little ironic to observe how those who view themselves as forward thinking and progressive argue vehemently to preserve a very unsatisfactory status quo. All we are saying with the youth differential is—"Look, we have a problem—an alarmingly high teenage unemployment rate which has broad and harmful social implications. Let us try to do something about it. Here is our proposal." As legislators to whom the people of this country look for solutions to difficult problems, I think we should feel compelled to give this proposed solution a fair chance to stand or fall on its own merits. It is not going to cause any sudden disaster. It is not as if we would be making a decision which is irreversible for all time. If, after enough evidence is in, it appears to be ineffective, we can modify it or simply repeal it and look for something better. But do not let us just turn our backs on the teenage unemployment problem, as the committee bill would, because it is not likely to solve itself.

Mr. President, in conclusion, let me just say that I do not view this as a partisan issue. I do not think the consumers, marginal workers, small businessmen, and farmers, who would suffer the adverse effects of the committee bill, see it as a political issue. High prices and unemployment do not recognize party lines. I strongly urge my colleagues to support this substitute.

I would just add that while I have found myself at odds with my distinguished colleagues from New Jersey and New York on this legislation, I do appreciate and always enjoy the fairness with which they and their staffs have dealt with me and my staff in committee and during this debate.

Mr. JAVITS. I should like to say, in the 30 seconds we have remaining, that I am gratified that the Senator from Colorado (Mr. DOMINICK), the Senator from Ohio (Mr. TAFT), and the Senator from Maryland (Mr. BEALL) agreed to keep the child labor provisions in the bill. On that we have all agreed.

Mr. WILLIAMS. I think one thing can be said, regardless of how we may all feel about the substitute, that the work of the Senator from Ohio (Mr. TAFT), the Senator from Colorado (Mr. DOMINICK), and the Senator from Maryland (Mr. BEALL) in the Committee on Labor and Public Welfare is complete. They are dedicated members of the committee. We may differ in our conclusions on some of the issues; but that is the one thing that commends itself to me, personally.

But I earnestly hope that the substitute amendment will be rejected soundly.

Mr. PACKWOOD. Mr. President, in studying the amendments we have before us today, to increase the minimum wage and expand coverage to millions of new employees in private industry, Federal, State, and local government, I began by reviewing the stated findings and declaration of purposes of the original Fair Labor Standards Act. Congress therein declared its concern over the—

> existence . . . of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

The act further states the congressional declaration of policy—

> to correct and as rapidly as practicable to eliminate [these conditions] without substantially curtailing employment or earning power.

Now, Mr. President, it seems to me that our predecessors in this great Congress have left for us the challenge of meeting both the objectives stated in this declaration of policy. For some reason, many are pursuing the former policy objective with little or no examination of the second part of the congressional policy—to avoid unemployment effects. Mr. President, what they are forgetting is that we are not operating in a vacuum. We have the responsibility and the obligation to examine all effects of our actions, both good and bad. My personal examination of all aspects and effects of the proposed amendments now before us has led to the undeniable conclusion that the increases proposed in the Dominick-Taft-Beall substitute will much more effectively meet both demands of the Fair Labor Standards Act than the amendments approved by the Senate Labor Committee.

Mr. President, the committee approved bill requires an immediate 25-percent increase in the minimum wage for most nonagricultural employees, and an immediate 23-percent increase for agricultural employees. In many cases, industries paying the minimum wage are the most labor intensive industries. Therefore the burden of any minimum wage increase—at whatever rate—falls doubly on the same industries. This being the case, we cannot ignore the impact of a sudden 25-percent increase on personnel costs, with an additional 10-percent increase within the year. Although the Dominick substitute provides for higher rates eventually, the increase is more gradual, and so more easily absorbed.

The ramifications—in terms of increased labor costs being passed along to the consumer, in the form of higher prices—are obvious. Let me clarify, however, that I for one am not prepared to have our lowest-income workers suffer unilaterally for our inflationary problems, and so would not use inflationary impact as a deciding factor in determining an appropriate minimum wage increase.

But sharply increased labor costs, particularly in labor intensive industries, have a further negative effect which we in Congress see in unemployment rates, but which individual low-income earners feel more directly—by losing their jobs. A higher minimum wage means little if it is accompanied by a rising cost of living; it means even less when a bread winner has no job to earn the dollars needed to support a family.

Mr. President, the question we must all ask ourselves is, at what point does our effort to assist our low-income citizens become counterproductive? At what point, in increasing the minimum wage, do low-income earners lose their jobs because employers can no longer afford the rate? Marginal workers are the ones we most want to help, but ironically, they are also the ones most vulnerable to job loss.

Mr. President, we have the responsibility to achieve a balance which will help, and not hurt our low-income wage earners. I am convinced that the Dominick substitute provides this balance, but that the committee approved bill will only be self-defeating and counterproductive.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment in the nature of a substitute. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. SPARKMAN) is necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

The result was announced—yeas 40, nays 57, as follows:

[No. 300 Leg.]

YEAS—40

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Brock
Buckley
Byrd, Harry F., Jr.
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hollings
Hruska
Johnston
McClellan
McClure
Nunn
Packwood
Roth
Saxbe
Scott, Va.
Taft
Talmadge
Thurmond
Tower
Young

NAYS—57

Abourezk
Aiken
Bayh
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Eagleton
Fulbright
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Pa.
Stafford
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NOT VOTING—3

Magnuson
Sparkman
Stennis

So the amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, today I voted for S. 1725, Senators DOMINICK and TAFT substitute bill for a reasonable minimum wage increase. There are, I believe, many good points in both the committee bill, S. 1865 and the substitute measure—and, both bills have their share of imperfections. However, I was most impressed with the provision in the substitute bill which was designed to protect youth working opportunities in this country. As there is certainly a place for adult workers, there is also a place for young people learning the work ethic.

It has been pointed out that in the United States today there are 3,709,000 teenagers who are looking for work, but cannot find jobs. This is nearly 4 times the rate for adults. These figures represent a 13–14 percent unemployment rate for white teenagers, and a 30.3 percent unemployment rate for their nonwhite contemporaries.

The reason for this unemployment rate seems obvious. As those of us in this room entered the job market, I would wager that there was a risk involved by every employer who took us on the payroll. Would we show up for work on time; would we work with a minimum of supervision? Too many young unemployed persons do not have the elementary skills or work habits that are largely acquired through work experience; and the more disadvantaged our backgrounds, the less apt we were to have these skills. Thus, a lower initial wage—at least during the first few months on a new job—would give young people a better chance to compete in the labor market. Studies support this rationale and eminent economists have concurred.

Furthermore, at this time I would also like to correct some mistaken impressions made by those who opposed the substitute bill. For example, there were some who charged "child labor" such as what this country witnessed in the early 1900's. A look at the facts would show a different story. S. 1725 would allow employment for full-time workers below the age of 18 at only 85 percent of the minimum wage or $1.60 an hour, whichever is higher. It is obvious that neither one of these figures deserve the child labor rhetoric.

In addition, there appears to be concern over the possibility of a displacement of adult workers as a result of youth employment. However, a closer look would show a built-in safeguard against this concern. The Secretary of Labor would be required to issue regulations to make certain that adult workers would not be adversely affected. There is no reason to assume the Secretary of Labor would ever approve regulations which would adversely affect those workers over 18, the breadwinners of this country. In addition, very few employers would hire and fire every 6 months just to take advantage of a youth differential salary scale. It simply would be bad business. I am also aware that some young people marry and have families before they are 18. About 5 percent of those aged 16 to 19 are heads of households. It has been argued that the substitute bill would have discriminated against these wage earners. Initially, I think we would all agree that this group represents a very small ratio of family supporters in this country.

Furthermore, some individuals in this group are students—whether in a college or a vocational school. In either situation, these married individuals would be more likely to find employment if paid at the lower 85 percent rate, which, again, would only last 6 months if the employee were not a full-time student. Administrators of most vocational schools in New Mexico point out the fact that it is crucial to the success of their programs to have their students on "training" work projects. This provides an opportunity for students to learn on the job as well as in the classroom.

Those who marry at an early age might then be enticed into continuing their education—to break the chain of unemployment that is so prevalent among those in low economic groups who tend to be the ones to leave school and marry at an early age. I would like to keep the educational doors open for these persons. Without the differential provision, employers have told me that they are less likely to hire students or unskilled workers.

On this same point, Mr. President, I would like to mention that representatives of most institutions of higher education in New Mexico have written or called to advise me of their support for the substitute measure. These are not individuals who are making a profit in a business. Their business is only to educate students, to provide a learning climate in as many ways as possible. These administrators pointed out the fact that the majority of working students are employed by the schools they attend. The universities, colleges and vocational schools cannot absorb a 30- to 40-percent increase in student salaries. They would be forced to hire fewer students. This would cause severe problems for the students, their families, and the schools.

Furthermore, I believe that students feel their first loyalty, their first priority of time should go to their classes and studies. As a former working student, I can testify that this was certainly the case. Because of the first priority, I was less inclined to assume the full responsibility for the continued operation of those establishments which employed me. I was free to come and go according to my schedule rather than at the convenience of my employers. That is not the case with full-time employees who do assume their job to be a top priority. I felt when I was a student that I should not have been paid the full salary offered more "serious" employees, but yet I expected a fair wage for the time I did work in order to pay my way through undergraduate and law school. All young students I have questioned on this same issue have agreed with this concept.

I am sorry the substitute bill did not pass today. However, this provision may again come to the attention of the Senate and I hope at that time my colleagues will come to understand the wisdom in voting for the youth differential pay rate.

Mr. John Whiteside, President of the New Mexico Association of Student Financial Aid Administrators, and Financial Aid Administrator at Eastern New Mexico University in Portales, called my office in support of the youth differential provision. He said he had been in contact with several student financial aid administrators in New Mexico and they unanimously agreed that without the youth differential amendment fewer students could be financially assisted. Those contacted include:

Jack Sheehan—Financial Aid Department, University of New Mexico.

Greely Myers—Financial Aid Department, New Mexico State University.

Dennis Marquez—New Mexico Highlands University.

Jim Slaton—University of Albuquerque.

Robert Bell—New Mexico Military Institute.

John Malone—New Mexico Junior College, Dean of Students.

Carl Newlin—Albuquerque Technology Vocational Institute.

Lupeta Murphy—Financial Aid Department, Western New Mexico University.

John Kitchens—Assistant Dean, Eastern New Mexico University.

Also calling my office in support of the youth differential was Mannie Blaugand—Albuquerque American Furniture Co.

CLOVIS, N. MEX.,
July 11, 1973.

DEAR SENATOR DOMENICI: I fully support the wage differential for youth in the S. 1725 bill with one reservation. Both bills being introduced are inflationary and detrimental to our economy and for several reasons:

1. Higher minimum wage eliminates marginal jobs and increases welfare rolls.

2. Consumers are required to pay this increased pay roll expense at a disproportionate rate for value received.

3. It cheapens the dollar at a time when we as a nation can ill afford it . . .

Sincerely,

MR. RICHARD DOBBS.

VADITO, N. MEX.,
July 9, 1973.

DEAR SENATOR DOMENICI: I understand the House has passed a minimum wage bill which would raise minimum wages to $2.00 per hour immediately and up to $2.20 per hour on July 1, 1974.

It seems that everytime the government does something the little businessman gets it in the neck.

A wage increase such as this will force us to lay off some of our help—our business cannot afford to pay $2.00 per hour for the kind of help we are now using (mostly student and uneducated labor). It is either that or go broke, unless inflation goes up enough so we can raise our prices to make up the difference. So everyone is back where we started.

As you can see, this bill will not only hurt our business, but also the marginal worker. I feel this has been pushed in the House by influence of the unions in order to raise the pay scale all the way down the line. It is inflationary. Please consider the consequences and damage this bill will do if it becomes law. Do not let it pass.

Thank you,

LLOYD BOLANDER,
Sipapu Lodge.

NEW MEXICO RESTAURANT
ASSOCIATION, INC.,
Albuquerque, N. Mex., July 9, 1973.

The Hon. PETE DOMENICI,
Senator,
New Senate Building,
Washington, D.C.

DEAR PETE: We had hoped to visit with you personally during the 4th of July recess; however, since your schedule did not permit a return to Albuquerque we are taking this opportunity of visiting with you briefly by letter.

We understand that some time this month the Senate will be considering federal minimum wage legislation covered in the following bills; Senator William's bill S. 1861; the Dominick-Taft substitute S. 1725 and the substitute sponsored by Tower-Fannin.

Our Executive Committee and Board of Directors have discussed these measures in depth and want you to know our assessment of these items.

The Williams bill would raise wages in a two-year period from $1.60 per hour to $2.20 per hour, or an increase of 37½%. While our industry can absorb wage increases on a gradual scale, such a big jump as reflected in the William's bill would obviously add to the inflation we are all presently suffering and could not be absorbed in that much of a jump in our menu prices. In brief, the 37½% increase in two years would make no difference in New York and Washington, but it would make a big difference here in New Mexico where our economy is on a different scale.

The William's bill would apply the $250,000 dollar volume test only to enterprises. The current law applies the test to individual establishments. For example, the William's proposal would cover a drive-in operator who has two or more operations and who collectively grosses over $250,000.00. This would mean that EACH of his drive-in operations would be under federal minimum wage standards. This arrangement would not make it possible for such an operator to profitably operate his two or three separate units; this, in turn, would obviously necessitate closing of one or more operation and resultant unemployment.

We have heard the proponents talk about "poverty level income". These figures are based on a breadwinner's earnings for a family of four. Most of the employees in our industry are not heads of families but are part-time workers who are supplementing family income.

The Dominick-Taft bill will raise the minimum wage to $2.00 just as fast as the Williams bill would and will thus make up for inflation that has occurred since the last adjustment of minimum wage. However, the William's bill will continue the inflationary pressure with another 20c jump beyond the $2.00. The Dominick-Taft bill provides for the stretch-out we need.

We need to change the law covering the hiring of people under 21 years of age at 85% of the minimum wage. We would like to hire young people who are not students at the same special minimum wage but current law will not allow this. It does not make sense to perpetuate a system that makes it most difficult to employ young people, particularly since the unemployment rate for young people remains high in New Mexico and nationally.

In summary, we want to urge you to first support the Tower-Fannin substitute and, if this fails, we urge you to support the Dominick-Taft bill as a reasonable compromise.

We will be most happy to answer any of your questions and are planning to hold a conference call with you sometime in the next ten days to clarify our position.

Cordially,

HOWARD M. COWPER,
Executive Director.

STATE OF NEW MEXICO,
Santa Fe, N. Mex., July 11, 1973.

Hon. PETE V. DOMENICI,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: In response to your Mailgram dated July 9, 1973 concerning the Minimum Wage Legislation debate scheduled for July 16th I offer the following comments as it relates to the "Youth Differential" provisions.

For those vocational education students employed part-time as student trainees in Cooperative Distributive Education programs, as well as in other approved Cooperative Vocational Education programs, a reduction provision in the Minimum Wage Law has been the determining factor in many instances in the past in allowing a particular business establishment to participate in a cooperative education training program.

Mr. Bill Jackson, State Supervisor for Industrial Cooperative Training Programs in New Mexico joins with me in requesting your support of the "Youth Differential" provision of the bill in question.

Thank you for soliciting my opinion on this matter.

Respectfully,

BILLY BELL,
State Supervision, Distributive Education.

LUNA COUNTY FARM AND
LIVESTOCK BUREAU,
Deming, N. Mex., July 12, 1973.

Senator PETE DOMENICI,
U.S. Senate,
Washington, D.C.:

The Luna County Farm & Livestock Bureau would like to urge you to use your influence in supporting the Dominick-Taft Farm Labor bill, S1725, as a substitute on the Senate floor for S 1861 by Senator Harrison Williams.

Sincerely,

DARRELL MCCAULEY,
President.

T. G. & Y. STORES, CO.,
Albuquerque, N. Mex., July 12, 1973.

Hon. PETE V. DOMENICI,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOMENICI: The Williams Bill (Fair Labor Standards Act) in my judgment goes too far and too fast in increasing the minimum wage and in removing exemptions. Productivity in a retail store simply cannot be increased that fast. At this point in time I doubt that anyone knows just how this bill will affect the economy.

I am in the retail business with the above firm and am vitally interested in keeping a healthy climate for our business in New Mexico. I know that you too are interested in the same thing and want to do the right thing, therefore I urge you to give serious thought to voting for the Dominick-Taft Bill.

Yours truly,

A. A. MUSICK.

ROSWELL CHAMBER OF
DEVELOPMENT AND COMMERCE,
Roswell, N. Mex., July 11, 1973.

Senator PETE V. DOMENICI,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR: We realize that a vote is imminent on the minimum wage bills in the Senate, and would like to give you our views and feelings on the two bills being considered.

First, let us say that it seems ill-advised to pass a minimum wage bill at this time, but there seemingly is little choice. We wish to put our support behind Senate Bill 1725, sponsored by Senators Taft and Dominick. Bill 1725 appears to be much more reasonable in that there is a slower escalation, and provides the 85% minimum for employment of youth under 18 years of age. Passage of this bill could mean a great deal to our youth, as well as giving employers a chance to spread the work in a more meaningful manner. Senate Bill 1725 will also require the Secretary of Labor to make a comprehensive study of exemptions and does not attempt to predetermine the necessary exemptions at this time.

We urge your serious consideration of this matter, and do thank you very much for your consideration of our desires.

Sincerely,

JOE KEY,
President.
ROD STARKEY,
Executive Vice President.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

Mr. SYMINGTON. Mr. President, will the Senator yield me 2 minutes?

Mr. McGOVERN. Mr. President, I yield 2 minutes to the Senator from Missouri.

CAMBODIAN BOMBING

Mr. SYMINGTON. Mr. President, there follows, month by month, the number of B-52 and fighter bombing raids, including tons of munitions dropped, over Cambodia in the months prior to the ground invasion by United States troops in May 1970.

None of this information was given to me until last week. The only information I received started back in 1965 when all planes, including B-52's, were rerouted to defend the special forces camps on the Cambodian border in case those camps came under sudden attack. Our pilots told me at that time it was very difficult to determine where the South Vietnam border stopped and the Cambodian border started.

Based on this record, once again high credit should be given the distinguished senior Senator from Iowa, Senator HUGHES, for bringing this matter to the attention of the American people.

In accordance with a letter written yesterday to the Secretary of Defense, the Armed Services Committee intends to find out where these orders originated.

Mr. President, I ask unanimous consent that the letter in question and a tabulation of the fighter-bomber attack sorties be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FIGHTER-BOMBER ATTACK SORTIES

	North Vietnam	South Vietnam	Laos	Cambodia	Total
1965:					
January	0	737	66	0	803
February	211	1, 179	188	0	1, 588
March	585	1, 834	381	0	2, 800
April	1, 498	1, 991	420	0	3, 909
May	1, 511	2, 634	344	0	4, 489
June	2, 307	2, 525	296	0	5, 128
July	3, 143	8, 121	1, 005	0	12, 269
August	3, 431	8, 738	724	0	12, 893
September	3, 983	8, 654	1, 041	0	13, 678
October	3, 441	9, 210	966	0	13, 617
November	3, 118	10, 071	1, 469	0	14, 658
December	2, 170	10, 227	3, 023	0	15, 420
Total	25, 408	65, 921	9, 923	0	101, 252
1966:					
January	132	9, 278	8, 000	0	17, 410
February	2, 809	10, 149	5, 262	0	18, 220
March	4, 484	12, 286	6, 247	0	23, 017
April	5, 261	8, 891	6, 044	0	20, 196
May	4, 362	9, 147	4, 300	0	17, 809
June	7, 522	9, 960	3, 442	0	20, 924
July	9, 955	12, 053	2, 134	0	24, 142
August	11, 790	11, 118	820	0	23, 728
September	12, 243	10, 274	1, 261	0	23, 778
October	8, 654	9, 472	2, 312	0	20, 438
November	7, 257	10, 410	3, 027	0	20, 694
December	6, 668	10, 607	4, 841	0	22, 116
Total	81, 137	123, 645	47, 690	0	252, 472
1967:					
January	6, 598	11, 934	5, 443	0	23, 975
February	5, 482	11, 476	6, 683	0	23, 641
March	8, 491	13, 998	5, 109	0	27, 598
April	8, 945	13, 402	4, 866	0	27, 213
May	11, 276	15, 603	2, 557	0	29, 436
June	11, 457	13, 915	1, 441	0	26, 813
July	11, 235	15, 401	1, 289	0	27, 925
August	11, 725	13, 902	1, 263	0	26, 890
September	8, 470	14, 763	1, 698	0	24, 931
October	8, 987	14, 102	2, 939	0	26, 028
November	7, 192	13, 455	4, 392	0	25, 039
December	5, 718	13, 152	6, 722	0	25, 592
Total	105, 576	165, 103	44, 402	0	315, 081
1968:					
January	6, 351	14, 652	8, 191	0	29, 194
February	3, 281	16, 070	6, 091	0	25, 442
March	5, 106	17, 114	7, 105	0	29, 325
April	7, 259	16, 578	6, 866	0	30, 703
May	9, 739	20, 034	3, 598	0	33, 371
June	10, 375	19, 502	2, 363	0	32, 240
July	14, 339	17, 338	2, 728	0	34, 405
August	12, 940	18, 750	2, 556	0	34, 246
September	10, 593	16, 490	3, 071	0	30, 154
October	11, 836	13, 754	4, 749	0	30, 339
November	330	14, 441	12, 796	0	27, 567
December	75	15, 535	15, 133	0	30, 743
Total	92, 224	200, 258	75, 247	0	367, 729
1969:					
January	26	14, 483	13, 507	0	28, 016
February	6	13, 073	12, 529	0	25, 608
March	27	15, 029	13, 157	0	28, 213
April	10	14, 913	12, 689	0	27, 612
May	92	15, 100	11, 537	2	26, 731
June	75	15, 179	11, 547	8	26, 809
July	4	13, 663	11, 324	0	24, 991
August	6	13, 995	10, 655	0	24, 656
September	2	10, 273	10, 329	0	20, 604
October	4	8, 134	10, 421	0	18, 559
November	33	8, 421	11, 472	2	19, 928
December	0	8, 058	13, 335	8	21, 401
Total	285	150, 321	142, 502	20	293, 128
1970:					
January	10	8, 209	13, 759	0	21, 978
February	20	6, 677	12, 515	0	19, 212
March	128	7, 823	12, 332	0	20, 283
April	54	8, 886	10, 294	2	19, 236
May	489	8, 148	8, 701	5, 032	22, 370
June	22	7, 158	4, 724	3, 401	15, 305
July	6	7, 486	5, 874	754	14, 120
August	11	6, 827	4, 864	1, 398	13, 100
September	8	5, 586	3, 501	1, 056	10, 151
October	0	2, 738	4, 828	393	7, 959
November	253	2, 482	7, 058	327	10, 120
December	2	2, 192	9, 030	2, 199	12, 423
Total	1, 003	74, 212	97, 480	13, 562	186, 257
1971:					
January	9	2, 100	9, 991	1, 482	13, 582
February	77	1, 649	9, 651	1, 635	13, 012
March	265	1, 745	12, 705	1, 559	16, 274
April	18	2, 487	9, 182	1, 624	13, 311
May	16	1, 387	8, 937	1, 290	11, 630
June	1	1, 529	6, 293	1, 646	9, 469
July	4	1, 334	3, 633	881	5, 852
August	14	1, 602	3, 216	743	5, 575
September	208	1, 113	3, 818	825	5, 964
October	4	865	3, 451	953	5, 273
November	33	218	5, 748	1, 228	7, 227
December	1, 056	94	5, 689	1, 288	8, 127
Total	1, 705	16, 123	82, 314	15, 154	115, 296
1972:					
January	61	172	7, 256	778	8, 267
February	183	1, 510	6, 457	1, 108	9, 258
March	132	400	8, 663	885	10, 080
April	1, 891	10, 523	2, 136	440	14, 990
May	6, 042	12, 267	734	193	19, 236
June	6, 417	9, 538	368	446	16, 789
July	6, 651	8, 770	160	383	15, 964
August	6, 991	8, 205	259	829	16, 284
September	6, 343	5, 469	568	496	12, 876
October	5, 077	6, 318	862	400	12, 657
November	3, 364	7, 702	1, 800	319	13, 185
December	3, 034	5, 790	1, 997	405	11, 226
Total	46, 186	76, 664	31, 260	6, 702	160, 812
1973:					
January	1, 663	6, 695	4, 721	777	13, 856
February	0	0	6, 199	327	6, 526
March	0	0	0	3, 477	3, 477
Total	1, 663	6, 695	10, 920	4, 581	23, 859

Source: 1965 to 1971—OPREA file; 1972 to March 1973—SEADAB and JCS MINEA files.

B-52 SORTIES

	North Vietnam	South Vietnam	Laos	Cambodia	Total
1965:					
January	0	0	0	0	0
February	0	0	0	0	0
March	0	0	0	0	0
April	0	0	0	0	0
May	0	0	0	0	0
June	0	27	0	0	27
July	0	140	0	0	140
August	0	165	0	0	165
September	0	322	0	0	322
October	0	291	0	0	291
November	0	310	0	0	310
December	0	283	24	0	307
Total	0	1, 538	24	0	1, 562
1966:					
January	0	347	24	0	371
February	0	274	39	0	313
March	0	332	66	0	398
April	44	261	112	0	417
May	0	309	102	0	411
June	0	330	65	0	395
July	0	413	18	0	431
August	0	411	39	0	450
September	93	292	48	0	433
October	57	286	65	0	408
November	0	504	27	0	531
December	86	531	42	------------	659
Total	280	4, 290	647	0	5, 217
1967:					
January	6	594	120	0	720
February	0	630	76	0	706
March	0	574	205	0	779
April	18	473	322	0	813
May	41	685	97	0	823
June	0	645	162	0	807
July	30	539	192	0	761
August	133	583	116	0	832
September	432	401	0	0	833
October	386	422	39	0	847
November	145	493	146	0	784
December	229	336	243	0	808
Total	1, 420	6, 375	1, 718	0	9, 513
1968:					
January	15	675	231	0	921
February	0	1, 299	160	0	1, 459
March	35	1, 633	184	0	1, 852
April	3	1, 463	320	0	1, 786
May	48	1, 355	451	0	1, 854
June	23	1, 611	129	0	1, 763
July	308	1, 307	199	0	1, 814
August	101	1, 741	6	0	1, 848
September	53	1, 656	78	0	1, 787
October	100	1, 478	271	0	1, 849
November	0	1, 125	661	0	1, 786
December	0	1, 162	687	0	1, 849
Total	686	16, 505	3, 377	0	20, 568
1969:					
January	0	788	1, 066	0	1, 854
February	0	1, 041	618	0	1, 659
March	0	1, 536	238	48	1, 822
April	0	946	738	96	1, 780
May	0	1, 469	264	100	1, 833
June	0	1, 247	261	203	1, 711
July	0	1, 224	417	90	1, 731
August	0	930	145	369	1, 444
September	0	653	286	407	1, 346
October	0	746	352	363	1, 461
November	0	505	565	335	1, 405
December	0	440	617	395	1, 452
Total	0	11, 525	5, 567	2, 406	19, 498
1970:					
January	0	442	680	323	1, 445
February	0	209	792	305	1, 306
March	0	279	902	262	1, 443
April	0	495	579	334	1, 408
May	0	721	371	350	1, 442
June	0	481	561	353	1, 395
July	0	584	669	191	1, 444
August	0	400	597	234	1, 231
September	0	308	574	104	986
October	0	81	930	3	1, 014
November	0	7	942	24	973
December	0	62	921	33	1, 016
Total	0	4, 069	8, 518	2, 516	15, 103
1971:					
January	0	51	950	19	1, 020
February	0	43	846	40	929
March	0	30	1, 108	105	1, 243
April	0	274	818	108	1, 200
May	0	195	933	112	1, 240
June	0	324	598	68	990
July	0	319	662	42	1, 023
August	0	380	585	52	1, 017
September	0	343	519	131	993
October	0	186	602	223	1, 011
November	0	148	648	188	984
December	0	123	607	248	978
Total	0	2, 416	8, 876	1, 336	12, 628
1972:					
January	0	240	668	109	1, 017
February	0	481	562	181	1, 224
March	0	689	617	256	1, 562
April	82	1, 608	68	48	1, 806
May	1	2, 223	39	27	2, 290
June	271	2, 191	88	196	2, 746
July	327	2, 576	8	147	3, 058
August	563	2, 307	20	181	3, 071
September	411	2, 154	123	297	2, 985
October	586	1, 914	210	215	2, 925
November	846	1, 766	149	163	2, 924
December	1, 353	1, 281	92	48	2, 774
Total	4, 440	19, 430	2, 644	1, 868	28, 382
1973:					
January	533	1, 652	386	198	2, 769
February	0	0	1, 449	60	1, 509
March	0	0	0	1, 225	1, 225
Total	533	1, 652	1, 835	1, 483	5, 503

Source: January 1965 to December 1966—JCS Stratops File. January 1967 to May 1970—OSD table Y, as modified. June 1970 to December 1970—JCS OPREA File. January 1971 to March 1973—SAC COACT File.

FIGHTER-BOMBER MUNITIONS

[Tons]

	North Vietnam	South Vietnam	Laos	Cambodia	Total
1966:					
January	273	15, 290	13, 506	0	29, 069
February	4, 780	13, 356	10, 205	0	28, 341
March	7, 728	14, 473	7, 698	0	29, 899
April	7, 810	10, 602	6, 721	0	25, 133
May	7, 472	8, 715	4, 901	0	21, 088
June	10, 646	9, 988	3, 260	0	23, 894
July	16, 098	12, 521	2, 010	0	30, 629
August	17, 325	12, 713	700	0	30, 738
September	16, 074	11, 356	333	0	27, 763
October	12, 898	12, 038	1, 428	0	26, 364
November	11, 142	15, 824	3, 664	0	30, 630
December	10, 948	16, 226	6, 126	0	33, 300
Total	123, 194	153, 102	60, 552	0	336, 848
1967:					
January	11, 372	19, 148	9, 392	0	39, 912
February	10, 430	18, 227	11, 514	0	40, 171
March	15, 861	20, 747	9, 334	0	45, 942
April	17, 256	21, 579	9, 440	0	48, 275
May	20, 601	25, 462	4, 894	0	50, 957
June	24, 179	24, 738	2, 324	0	51, 241
July	20, 925	28, 141	1, 836	0	50, 902
August	22, 189	23, 025	2, 512	0	47, 726
September	17, 080	26, 577	3, 170	0	46, 827
October	18, 430	29, 987	6, 585	0	55, 002
November	14, 777	29, 554	9, 868	0	54, 199
December	12, 685	26, 090	12, 042	0	50, 817
Total	205, 785	293, 275	82, 911	0	581, 971
1968:					
January	14, 449	26, 996	14, 364	0	55, 809
February	7, 756	30, 066	10, 863	0	48, 685
March	9, 663	23, 970	10, 572	0	44, 205
April	19, 604	28, 979	13, 844	0	62, 427
May	21, 352	31, 317	7, 327	0	59, 996
June	24, 934	31, 661	6, 476	0	63, 071
July	30, 872	28, 430	4, 992	0	64, 294
August	28, 739	30, 816	5, 314	0	64, 869
September	24, 072	30, 153	6, 680	0	60, 905
October	25, 897	23, 180	8, 543	0	57, 620
November	638	24, 918	25, 681	0	51, 237
December	92	24, 481	30, 378	0	54, 951
Total	208, 068	334, 967	145, 034	0	688, 069
1969:					
January	21	29, 877	30, 637	0	60, 535
February	26	24, 934	30, 612	0	55, 572
March	72	32, 512	34, 066	0	66, 650

	North Vietnam	South Vietnam	Laos	Cambodia	Total
1969—Continued					
April	76	29,979	31,282	0	61,337
May	213	28,525	27,295	0	55,997
June	190	31,221	29,947	0	61,358
July	2	33,119	31,164	0	64,285
August	32	31,899	28,853	0	60,784
September	1	21,164	26,271	0	47,436
October	2	15,429	24,798	0	40,229
November	24	16,857	29,007	0	45,888
December	0	13,396	32,619	0	46,015
Total	659	308,912	356,551	0	666,086
1970:					
January	25	15,451	38,093	0	53,569
February	59	13,878	32,390	0	46,327
March	10	12,418	26,970	0	39,398
April	13	14,336	22,567	0	36,916
May	14	16,719	19,151	6,724	41,608
June	48	14,502	11,369	4,531	30,450
July	15	15,184	14,019	996	30,214
August	24	13,364	11,590	2,006	26,984
September	18	10,677	8,349	1,594	20,638
October	0	5,412	11,293	759	17,464
November	600	4,972	16,850	681	23,103
December	6	4,282	22,439	1,866	28,593
Total	832	141,195	235,080	19,157	396,264
1971:					
January	6	4,627	23,842	1,992	30,467
February	3	6,340	23,829	2,284	32,420
March	6	6,662	33,212	2,449	42,329
April	12	8,204	26,363	2,284	36,863
May	39	5,162	24,899	2,286	32,386
June	6	4,261	16,878	3,650	24,795
July	5	3,709	10,020	1,352	15,086
August	17	6,825	8,745	1,387	16,974
September	693	3,398	11,959	3,378	19,428
October	2	2,061	9,354	2,099	13,516
November	64	661	13,451	1,012	15,188
December	989	253	14,435	5,810	21,487
Total	1,842	52,163	216,987	29,947	300,939
1972:					
January	62	1,457	17,828	875	20,222
February	272	3,717	14,915	1,925	20,829
March	183	888	19,366	1,100	21,537
April	4,796	24,883	4,468	867	35,014
May	13,383	27,611	1,441	241	42,676
June	12,716	22,309	660	1,365	37,050
July	16,663	23,539	315	638	41,155
August	16,717	20,225	527	3,906	43,175
September	21,239	14,073	1,374	656	37,342
October	19,774	14,715	3,453	679	38,621
November	7,648	19,671	5,696	563	33,578
December	7,528	11,620	7,363	3,978	30,489
Total	120,981	184,708	77,406	16,793	399,888
1973:					
January	4,251	13,004	14,186	1,608	33,049
February	0	0	19,749	802	20,551
March	0	0	0	9,847	9,847
Total	4,251	13,004	33,935	12,257	63,447

Source: January 1966 to May 1970—ASD (C), table Y. June 1970 to December 1971—Computer using factors and sorties from JCS OPREA file. January 1971 to March 1973—7AF SEADAB and MINEA file.

B-52 MUNITIONS (TONS)

	North Vietnam	South Vietnam	Laos	Cambodia	Total
1965:					
June	0	550	0	0	550
July	0	2,843	0	0	2,843
August	0	3,419	0	0	3,419
September	0	6,720	0	0	6,720
October	0	6,071	0	0	6,071
November	0	6,470	0	0	6,470
December	0	5,467	469	0	5,936
Total	0	31,540	469	0	32,009
1966:					
January	0	6,030	412	0	6,442
February	0	4,756	673	0	5,429
March	0	6,160	1,226	0	7,386
April	1,011	5,961	2,566	0	9,538
May	0	6,709	2,225	0	8,934
June	0	6,420	1,259	0	7,679
July	0	8,136	348	0	8,484
August	0	7,616	735	0	8,351
September	1,740	5,455	898	0	8,093
October	1,131	5,711	1,293	0	8,135
November	0	10,042	540	0	10,582
December	1,828	11,234	893	0	13,955
Total	5,710	84,230	13,068	0	103,008
1967:					
January	120	12,413	2,248	0	14,781
February	0	15,890	1,615	0	17,505
March	0	16,140	5,163	0	21,303
April	493	12,674	7,929	0	21,096
May	950	18,056	2,073	0	21,079
June	0	17,969	4,226	0	22,195
July	721	14,997	5,368	0	21,086
August	3,526	16,927	3,056	0	23,509
September	13,553	11,226	0	0	24,779
October	10,101	11,684	913	0	22,698
November	4,556	14,836	4,453	0	23,845
December	7,605	11,158	8,070	0	26,833
Total	41,625	173,970	45,114	0	260,709
1968:					
January	481	20,181	6,638	0	27,300
February	0	37,838	4,991	0	42,829
March	1,036	47,035	5,399	0	53,470
April	101	41,815	9,220	0	51,136
May	1,285	39,716	12,702	0	53,703
June	495	48,069	3,139	0	51,703
July	8,842	37,764	6,690	0	53,296
August	2,624	50,444	144	0	53,212
September	1,446	46,199	2,526	0	50,171
October	2,661	40,257	7,362	0	50,260
November	0	29,772	17,507	0	47,279
December	0	33,218	18,265	0	51,483
Total	18,971	472,308	94,583	0	585,862
1969:					
January	0	22,476	31,583	0	54,059
February	0	29,301	17,160	0	46,461
March	0	41,067	8,706	1,374	51,147
April	0	23,252	19,025	2,748	45,025
May	0	41,307	7,454	2,863	51,624
June	0	33,520	7,043	5,812	46,375
July	0	35,281	11,455	2,577	49,313
August	0	26,900	3,978	10,567	41,445
September	0	19,083	8,247	11,656	38,986
October	0	22,483	10,294	10,386	43,163
November	0	15,003	16,454	9,591	41,048
December	0	13,756	18,092	11,307	43,155
Total	0	323,492	159,491	68,881	551,801
1970:					
January	0	13,256	19,640	9,247	42,143
February	0	7,018	23,371	8,731	39,120
March	0	8,592	26,788	7,500	42,880
April	0	11,866	15,296	9,562	36,724
May	0	17,312	8,770	8,242	34,324
June	0	13,228	14,923	8,260	36,411
July	0	16,060	17,795	4,469	38,324
August	0	11,000	15,880	5,476	32,356
September	0	8,470	15,268	2,434	26,172
October	0	2,228	24,738	70	27,036
November	0	193	25,057	562	25,812
December	0	1,705	24,499	772	26,976
Total	0	110,928	232,025	65,325	408,278
1971:					
January	0	1,226	22,684	457	24,367
February	0	1,032	20,275	962	22,269
March	0	908	32,472	2,997	36,377
April	0	9,408	27,875	3,593	40,876
May	0	5,571	26,472	3,039	35,082
June	0	7,755	14,339	1,615	23,709
July	0	7,604	15,723	1,011	24,338
August	0	9,060	13,897	1,232	24,189
September	0	8,212	12,449	3,109	23,770
October	0	4,459	14,223	5,298	23,980
November	0	3,542	15,187	4,450	23,179
December	0	2,848	14,420	5,936	23,204
Total	0	61,625	230,016	33,699	325,340
1972:					
January	0	5,768	13,670	2,485	21,923
February	0	11,584	13,603	4,345	29,532
March	0	16,599	14,994	6,114	37,707
April	2,252	38,472	2,429	1,179	44,332
May	0	49,859	867	506	51,232
June	6,474	38,836	2,059	3,706	51,075
July	7,194	44,153	172	2,708	54,227
August	12,900	35,761	445	3,686	52,792
September	9,651	33,999	2,777	5,079	51,506

B-52 MUNITIONS—Continued

[Tons]

	North Vietnam	South Vietnam	Laos	Cambodia	Total
1972—Continued					
October	11,789	32,866	5,041	4,053	53,749
November	18,718	26,474	3,324	2,803	51,319
December	28,924	18,983	2,011	749	50,667
Total	97,902	353,354	61,392	37,413	550,061
1973:					
January	11,096	27,910	10,364	3,558	52,928
February	0	0	32,426	1,300	33,726
March	0	0	0	24,309	24,309
Total	11,096	27,910	42,790	29,167	110,963

Source: June 1965 to December 1965 JCS STRATOPS FILE; January 1966 to May 1970 ASC(C) table Y, as modified; June 1970 to March 1973 SAC COACT.

JULY 17, 1973.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: In your letter to me of July 16, you say that "representatives of the Department of Defense are available to brief in greater detail on these operations (by U.S. aircraft in Cambodia) should you so desire."

In view of recent public admissions by other Administration officials regarding these strikes, as well as partial disclosures regarding information about them, the Armed Services Committee would appreciate a list of all persons with pertinent knowledge about these matters so that appropriate witnesses can be called to testify; also who you believe would be say the best two witnesses from the standpoint of our receiving complete information.

In particular, the Committee would like the names of those persons you and your people believe are the most informed to testify as to:

(1) the origin and implementation of the decisions to conduct secret strikes in Cambodia;

(2) the origin and implementation of the decision to handle this information through secret channels and special reporting procedures;

(3) the method of reporting on these raids, from Saigon up through the chain of command;

(4) the full facts about the strikes in sorties were conducted each month, how much tonnage was dropped each month, and what targets were struck;

(5) the coordination of this special reporting with other operational assessment;

(6) the decisions on the extent of information to be provided to the Congress—who was informed, when, how, and who was deliberately not informed, and why.

Kindly let us know about this at your earliest convenience.

Sincerely,

STUART SYMINGTON,
Acting Chairman.

LIMITATION OF DEBATE ON DISTRICT OF COLUMBIA APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 8658, the District of Columbia appropriation bill, is called up and made the pending question before the Senate there be a limitation thereon of 2 hours, to be equally divided between the Senator from Maryland (Mr. MATHIAS) and the Senator from Indiana (Mr. BAYH); that there be a limitation of one-half hour on any amendment, debatable motion, or appeal; and that the agreement be in the usual form as to the division and control of time. This request has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 1413) to increase the authorization for fiscal year 1974 for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped.

The message also announced that the House had passed the bill (S. 2120) to amend the Federal Railroad Safety Act of 1970 and other related acts to authorize additional appropriations, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5649. An act to extend until November 1, 1978, the existing exemption of the steamboat *Delta Queen* from certain vessel laws;

H.R. 6078. An act to include inspectors of the Immigration and Naturalization Service or the Bureau of Customs within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of certain employees engaged in hazardous occupations, and for other purposes;

H.R. 8245. An act to amend Reorganization Plan Numbered 2 of 1973; and

H.R. 8949. An act to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 5649. An act to extend until November 1, 1978, the existing exemption of the steamboat *Delta Queen* from certain vessel laws. Referred to the Committee on Commerce.

H.R. 6078. An act to include inspectors of the Immigration and Naturalization Service or the Bureau of Customs within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of certain employees engaged in hazardous occupations, and for other purposes. Referred to the Committee on Post Office and Civil Service.

H.R. 8245. An act to amend Reorganization Plan No. 2 of 1973. Referred to the Committee on Government Operations.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. McGOVERN. Mr. President, I call up my amendment No. 367 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. The Economic Stabilization Act of 1970 is amended by inserting after section 203 the following new section:

"§ 203A. Agricultural commodities

"The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973), or any subsequent Executive order promulgated hereunder, for any agricultural commodity (at any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the commodity will be reduced to unacceptably low levels as a result of any price control or freeze order (or regulation) promulgated hereunder and that alternative means for increasing the supply are not available.".

The PRESIDING OFFICER. Will the Senate be in order. Conversations will take place in the cloakroom.

Mr. ROBERT C. BYRD. Mr. President, I hope the Chair will continue to insist on there being order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. McGOVERN. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. The yeas and nays were ordered.

Mr. McGOVERN. Mr. President, I ask unanimous consent that there be a time limitation of 10 minutes on the amendment, with 5 minutes to the side.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from South Dakota? The Chair hears none, and it is so ordered.

Mr. McGOVERN. Mr. President, this amendment is virtually identical to my amendment which the Senate adopted on June 30 by a vote of 61 to 1 which Senator LONG characterized as "the amendment to insure that the price of the chicken exceeds the cost of the feed."

The amendment requires an adjustment in the maximum price which can be charged for agricultural commodities under any price control order when the Secretary of Agriculture certifies that price controls are creating a shortage in a given agricultural commodity and there are no alternative means for increasing the supply of that commodity.

The price freeze has created a very real threat of food shortages in the near future, and that fact is well documented in an article entitled "Chains See Shortages of Food for This Week," written by Major Wells and published in yesterday's Washington Post, which I ask unanimous consent to have printed in the Record, together with my remarks on this subject on June 30, at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. McGOVERN. The reason for adding this measure to the pending bill is that it is the quickest means for it to become law. The bill we amended, H.R. 2261, was not able to be acted upon by the House in their rush to adjournment on June 30.

The matter is not controversial in the House since it adopted the McGovern amendment as an amendment to the farm bill earlier this week. Unfortunately, however, the farm bill will not be sent to the President for some weeks.

I feel we must insure that this amendment is sent to the President before the August recess. For if we do not do this acute shortages in certain commodities may develop by the time Congress returns in September. The minimum wage bill offers the best vehicle for doing this.

I have spoken to the Senator from New Jersey (Mr. Williams), the floor manager of the pending bill, who has supported the amendment before and supports it now. I am joined in cosponsoring this amendment by the Senator from Kansas (Mr. Dole). The original amendment was cosponsored by Senators Mansfield, Dole, Nelson, Pastore, Cranston, Curtis, Hughes, McGee, Abourezk, Hart, Bentsen, Allen, Fulbright, McClellan, Robert C. Byrd, and Talmadge.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. HUMPHREY. The Senator left my name off. I want to be sure he includes that.

Mr. McGOVERN. I thank my colleague for calling my attention to that. The Senator from Minnesota is one of the most important cosponsors of this measure.

Mr. HUMPHREY. It is a very important piece of legislation, and we are all indebted to the Senator from South Dakota for this measure.

The PRESIDING OFFICER. The name of the Senator from Minnesota will be added.

Mr. McGOVERN. Mr. President, I am sure that the Senator from New Jersey will accept this amendment, and I am hopeful it will be agreed to without dissent at this time.

Exhibit 1

[From the Washington Post, July 17, 1973]

Chains See Shortages of Food for This Week

(By Major Wells)

A shortage of pork, poultry and other food items is likely to occur this week because of poor crop yields, high feed and grain costs and the June freeze on retail prices, spokesmen for Washington's three major supermarket chains predicted yesterday.

"The already limited supplies of pork and poultry will increasingly drop as the week goes by," said Clarence G. Adamy, president of the National Association of Food Chains.

"There is a raffling for products," he said. "There will be more and more shortages as the 60-day freeze continues. There also will be fewer meat advertisements, because no one can afford to promote without a supply."

The 60-day freeze is expected to be lifted by Aug. 15.

Virginia's famous ham-curing town of Smithfield has two casualties among the 17 hog processing plants that have closed nationally in the last three weeks, according to the National Association of Food Chains. Other plants are laying off employees and curtailing production.

Poultrymen in Virginia's Shenandoah Valley have begun to sell outright to the Rockingham Poultry Marketing Cooperative, hoping that the cooperative will have more access to feed.

The 60-day freeze locked in the prices they can receive for their product while permitting the cost of feed—a raw agricultural product exempt from price ceilings—to continue to rise.

Although the spokesmen for the three big supermarket chains said they were not experiencing any critical shortages yesterday, two of them said they were operating on a day-to-day basis. The third said he was on an hour-to-hour schedule.

"The only solution is to let the American economy operate freely," said Vincent Maguire, merchandising director for Grand Union.

"As the supply goes down," he said, "the demand goes up. As the demand goes up, the price goes up."

"We're not having any shortages," said Barry Scher, communications manager for Giant Food. "We're not able to buy the quantities we'd like to buy from our suppliers. Relief is needed from the Price Commission."

"Everything is tight from watermelons to tomatoes and potatoes," said John Shepherd, a Safeway spokesman.

According to Harry Deakton, a specialist with the National Council of Equal Business opportunity and interim manager of the Big V chain, meat packers and processors are curtailing their production because prices they are being asked to pay for meat are too high for a profitable operation by them.

"It's not a question of what the wholesale cost is," Deakton said, "but whether you can procure the item and sell it within the cost guidelines and limitations."

He described the present food prices as "out of kilter. Unless the ceiling is taken off," he added, "there will be a marked change in the eating habits of the American public."

In some cases, supermarket owners are expressing concern over the unavailability of supplies of celery, eggs, vegetable oil, vine-ripened tomatoes, potatoes and apples.

The price of soybeans is three to four times as high as a year ago, spokesmen said. So there is also a shortage of vegetable and soybean oil and margarine, because they are dependent on corn, soybeans and other feed grains.

Contributing to the grain shortages are many factors, including bad weather during growing seasons, international trade, inflation and market speculation.

Exhibit 2

Protecting Food Producers and Food Consumers

STATEMENT BY SENATOR GEORGE M'GOVERN

Mr. President, on behalf of myself, the distinguished majority leader, Senator Mansfield, Senator Dole, Senator Nelson, Senator Cranston, Senator McGee, Senator Abourezk, Senator McClellan, Senator Talmadge and Senator Curtis, I send to the desk and call up an amendment. This amendment would require an adjustment in the price for agricultural commodities when the Secretary of Agriculture determines that the current price freeze will produce a short of that commodity and there is no alternative means for increasing the supply.

Mr. President, if things remain as they are, consumers will soon find it as hard to buy certain agricultural products such as eggs, chicken or milk, as it is now to get gas on a Sunday afternoon. This is because the costs of producing these products, particularly feed grains, has gone up even faster than the cost of living. The result of the price freeze is that the farmer cannot get from the middleman or the store a sufficient price to cover his costs.

Consumers understand this problem. Many of them have written to me expressing their concern.

And so we see on television 100,000 baby chicks being destroyed. Because they also depend on high intensity feed, the same thing will happen to countless young hogs and lambs. The dairy farmer will sell off his herd if milk production continues to mean losses. And the cattle rancher will not put yearling steers and heifers on the feedlot if he knows his costs will exceed sales price.

And in the end it is the consumer who will pay the most for these shortages unless we act promptly now. The pattern reported in the press for broiler chickens is already being seen in eggs. For example, an egg producer in South Dakota told me this week that his cost of soybean meal has increased from five cents to twenty-five cents per dozen eggs in the past year. He will not continue producing eggs, even for a short time, if he is likely to lose money on every case of eggs he ships. And other products raised on high intensity feeds are not far behind.

So the government must move promptly to insure that the consumer has food products to buy.

The bill we are offering today offers the quickest and in the long run least expensive way to do this. It would require in emergency situations an adjustment in the maximum price for agricultural commodities whose supply is being reduced by the freeze. This would provide sufficient incentive to keep farmers producing products consumers need.

Of course, there are other methods too.

The Administration announced two days ago that it has prohibited further exports of soybeans and cottonseed and their products, in an effort to stem the export of feed grains. Let us hope that these actions will retard the catastrophic increases in the prices of processed feeds which have occurred in recent weeks; however, it may be some days before we can know its effect.

Another method might be to determine immediately how Phase IV can operate for food, and move rapidly to a special Phase IV for food while working out the details for other sectors of the economy. The Administration is working toward that goal, but it appears some time off.

Yet another method might be to institute an emergency supplemental payment from the Treasury to food producers who are forced to sell at less than cost. Such an approach is not without merit, but it, too, involves complexities and may require some time to implement.

But none of these methods would be able to take hold for some time. By then it would be too late to bring back to life countless young animals needlessly slaughtered. Our amendment would be effective right away.

This amendment, Mr. President, offers a simple and effective method of dealing with a problem of potentially major proportions. It has the support of urban Senators, whose consumer constituents need an adequate food supply; it deserves and has the support of my colleagues from farm states, where adequate income is of paramount concern.

Mr. President, the other members of the Agriculture Committee and I met yesterday with John Dunlop, the Director of the Cost of Living Council. But while he agreed with the action the cosponsors of this amendment and I suggest, he said the administration would not act until the middle of July.

Mr. President, we cannot wait that long for the administration to act. And so, I urge that we pass this amendment today.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I associate myself with the remarks of the Senator from South Dakota. I think it is even more important now, with the pending announcement of phase IV later on today, that we take action to demonstrate the concern which Congress has about possible food shortages and the effect of any subsequent controls, whether phase IV, phase V, or whatever the number.

In any event, as the Senator has pointed out, this measure passed the Senate by a vote of 61 to 1, and there is no reason why it should not be adopted today. In the event that the House should take action on the farm bill, and the amendment will become law at some earlier time, of course, that would be helpful, because the amendment is urgently needed.

So I am pleased to again join with the senior Senator from South Dakota in this effort to provide relief to the producers of our country's food supplies.

It should be understood that this amendment is not merely in the interests of our food producers, but it directly serves the American consumer in seeking to avoid shortages in the food supplies he purchases at the retail level.

The amendment would require emergency adjustments of the maximum prices for agricultural commodities which are being forced into short supply because of the freeze. And by requiring these adjustments, this amendment will provide the quickest, most effective and, in the long run, the least costly relief for the critical conditions which are today stifling the food production industry at an alarming rate.

By way of explanation, I would point out that this has been a hard year for American agriculture. It has not been hard in the usual sense of nature's droughts or hailstorms or disease, rather it has been hard in terms of the effects of man's policies—or lack thereof.

First, there is the fuel crisis which has fostered great uncertainty and anxiety among farmers at a time when their confidence and enthusiastic efforts to increase production are needed to meet the demands of our domestic and international markets. It has had a definite effect on production which is expected to be felt throughout the entire food and commodity system in this and future crop years.

Second, economic conditions have resulted in the imposition of a broad wage-price freeze which has placed many elements of the agricultural sector in intolerable positions between greatly increased costs and frozen prices. The result has been the threat of major food shortages.

Recently, I called the Senate's attention to an article in the June 28 Wall Street Journal which points the picture in stark detail with its opening sentence:

> The Nation's food-production machinery is starting to grind to a halt.

While a number of factors are contributing to the impact of the freeze in agriculture, perhaps the most crucial is the significantly higher prices for various commodities which, when tied into a frozen price structure for finished products, make the costs of production far in excess of retail prices. For example, it costs feed producers money—as much as $20 to $50 per ton—to deliver their products. The same is true for egg and chicken producers, vegetable packers, beef producers, and flour millers. No sensible businessman is going to keep going under such conditions. It is cheaper for him just to shut down. And many are doing so every day.

The consequences to the food producing industry are disastrous. We have already seen baby chicks destroyed. Cattle and hog production is being curtailed. Milk production is suffering.

The freeze of phase 3½ is threatening to destroy our food producing system and put the American consumer in the worst supply position that has ever been known in war or peace.

I am hopeful that this afternoon's announcement of the phase IV economic policy will provide some indication that the food producer's plight is being recognized. However, phase 3½ still has nearly a month to run, and many growers and producers cannot survive for that long under current freeze conditions.

They need relief at the earliest possible moment, and this amendment will provide the authority for the Secretary of Agriculture to grant that relief. This authority would also extend to any other controls imposed under phase IV or additional programs carried out under the authority of the Economic Stabilization Act.

The amendment was previously approved by the Senate on June 28 as an addition to the Renegotiation Act, but a means of providing the most speedy possible approval is required. Therefore, we are seeking to attach it to the minimum wage bill, and hopefully it can thus become law even sooner.

This amendment seeks to serve the interest of every American by assuring adequate food supplies and the maintenance of our Nation's high nutritional standard of living.

Mr. MUSKIE. Mr. President, the combination of the administration's lack of action on the economy in the earlier part of this year, and the stringent 60-day freeze imposed last June, have created serious hardships for food producers—and the prospect of food shortages for consumers.

The Senate today is considering an amendment which would alleviate the prospect of food shortages. This measure would require that adjustments be made in food price controls whenever the Secretary of Agriculture certifies that food supplies would otherwise "be reduced to unacceptably low levels."

The problem this amendment would correct is dramatically illustrated by the current difficulties of the poultry industry in Maine. The freeze allowed poultry feed grain prices to remain at historically high levels, but prevented poultry feed processors and poultry producers from accounting for these increased costs in their prices. Similar problems have been encountered by the Maine dairy and meat processing industries.

George Humphrey, president of the Maine Poultry Industry Association, summed up this problem in a recent letter to me. He wrote:

> The total result of the price freeze on the poultry industry is the elimination of the economic incentive to produce. Economic incentive is the single factor that will cause poultry and egg producers to produce in the future. The present situation in the poultry industry, if continued, can only lead to reduced productivity.

This decreased productivity carries the threat of serious food shortage. To protect the consumer from these shortages, I urge my colleagues to adopt the amendment before us today.

Mr. President, I ask unanimous consent that Mr. Humphrey's letter, and other relevant correspondence, be inserted in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Maine Poultry Industry Association,
Orono, Maine, June 28, 1973.
To: Maine Senators and Congressmen.
Re: Recent Price Freeze.
Senator Edmund S. Muskie,
Senator William D. Hathaway,
Congressman Peter N. Kyros,
Congressman William S. Cohen.

Dear Senators and Congressmen: Further explanation of the effect of the recent price freeze on the poultry industry, both in the Nation and in Maine, is probably not needed at this time. We are sure you have been made aware of the financial stress on producers of poultry products. However, the enclosed is further evidence.

There are many examples of hardship and near disastrous results which we could cite in Maine. However, of major concern is the fact that the total result of the price freeze on the poultry industry is the elimination of the economic incentive to produce. Economic incentive is the single factor that will cause poultry meat and egg producers to produce in the future.

One of the keys to future price stability according to George P. Schiltz, Chairman of the Cost of Living Council, is improvement in productivity throughout the food industry. The present situation in the poultry industry, if continued, can only lead to reduced productivity. This is contrary to views of the Cost of Living Council.

We in Maine urge your prompt attention to the problems of the poultry industry resulting from the price freeze.

Sincerely,
George Humphrey, *President.*

[From the Bangor Daily News, June 27, 1973]

Poultry Industry Feeling Pinch

(By David Bright)

The recent price freeze imposed by President Nixon is beginning to be felt within the poultry industry, both in the nation and in Maine.

The problem now threatens temporarily to put feed, bird and egg producers out of work or at least on a diminished scale of operation. And it will begin to affect the consumer soon as eggs and poultry begin to vanish from grocers' shelves.

The situation results from Nixon's orders that all processed foodstuffs be frozen on the retail level at the price they were commanding during the week of June 1 to 8, and that all wholesale prices after the first sale be frozen at that same level. The President failed, however, to act on raw farm prices, including soybeans, corn and other products which go into feed.

As a result, feed producers who deal in a processed product, are finding it costs them more to produce and market feed than they are being paid for it. Similarly, egg farms and broiler firms, who mix their own feed, cannot raise prices to retailers enough to cover the increased costs of buying feed ingredients.

Dean K. Webster, president of the H. K. Webster Company Inc., which markets Blue Seal brand feed to most areas in Maine, said that his firm is now losing between $15 and $20 a ton on poultry feed.

The situation has gotten so bad, Webster said, that even a freeze on feed ingredients wouldn't help at this point, since costs would still tower over the frozen price levels.

Frank Reed, a former extension economist and now executive director of the New England Grain and Feed Council, pegged the government's export policies on grain as one cause for concern. Without control on exports, he said, grain dealers can get the prices they ask in foreign trade. To compete, domestic buyers must pay the prices.

In a letter to his customers this week, Webster noted that his losses "will grow more substantial every day and every week that the price freeze remains in effect."

Egg producer George Humphrey of Gray, who has his own feed mill, estimates he is now losing $3,000 a week because of the freeze. The retailers now work on such a small profit margin, he said, that they cannot afford to buy eggs unless the wholesale price is dropped back to correspond with the lowering of retail prices to the June 1 to 8 level.

"That limits my price," he said, "but costs for my feed will continue to rise. Soybean meal, a processed product, is frozen at a record high price, while corn continues to rise."

As a result Humphrey said, he is now selling every bird with an egg production below 65 per cent, and predicted that the volume of the egg business soon will fall. It takes 18 months to produce a layer, he said, so the effects of the freeze will be felt long after the freeze is lifted.

The traditional Thanksgiving turkey could also be a rarity this year, he said. Those birds are just beginning to be bred now, but many farmers are holding back, knowing that it takes about 100 pounds of feed to produce a full-sized turkey.

At Penobscot Poultry in Belfast, Herbert Hutchins said the firm will sell a breeder flock Wednesday to cut down on the number of birds. He said that unless something was done immediately, the firm will begin to take other measures to reduce the volume of birds.

Hutchins said that the firm is now losing $30,000 to $50,000 a week because it is costing more to grow the birds than it can get for them. A sideline feed business is losing $40 a ton, he said, and probably will be discontinued.

And what about the consumer? Doug Brown of Bangor, who operates a chain of grocery stores in Maine, doubts that the shelves will be empty, but said prices will continue to be high. There will be no more specials on poultry (which accounts for 15 per cent of all meat sales) and possibly no specials on other items.

J. L. HAYES & Co., INC.,
Lewiston, Maine, June 25, 1973.

Senator EDMUND MUSKIE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: Enclosed is a copy of a letter sent to President Nixon this date, outlining some of the difficulties being experienced by small businessmen because of the 60 day freeze.

Respectfully,
NORMAN E. HAYES, *President.*

J. L. HAYES & Co., INC.,
Lewiston, Maine, June 25, 1973.

Hon. RICHARD M. NIXON,
President of the United States,
Washington, D.C.

DEAR MR. PRESIDENT: I am just one of the many small businessmen being eased out of business by the 60-day price freeze. I could list at least a hundred items on which I have had to absorb a price increase these past two weeks, but I'll restrict myself to two items on which I simply cannot absorb the increase and continue to sell the item.

I contacted the Internal Revenue Service representative in Maine only to realize that it would take too long for an exemption request to be processed to afford me any relief. I cannot absorb the loss involved while awaiting the decision. I was told that I could expedite the process by forwarding the request and then flying to Washington, D.C., for an appointment with Mr. Kirk. Unfortunately, during the height of my busy season I cannot afford the time to spend a day or two in Washington.

I requested permission to increase my prices while awaiting a decision provided I would refund the increase if my request were denied. I cannot even do this. I cannot raise my prices because of the freeze. I cannot sell goods for less than they cost me. What do I do?

What do I do in my feed grain operation? I buy a railroad car of feed from a mill in New York every 10 to 14 days. My ceiling prices are based on the car shipped the end of May. However, the mill increased its prices a minimum of $6 per ton the first week of June. Hence, I'll be unloading, warehousing, and delivering feed out of the car I received this date for less than $4 per ton. I cannot operate like this for very long. Furthermore, one particular feed, a 14% coarse non-urea Dairy ration, is costing me $1.80 per ton more than I can sell it for. Since I allow a customer a $2 per ton discount on deliveries of a ton or more, I'll be unloading, warehousing, and delivering this feed for $3.80 less than it costs me.

My only alternative is to sell this car of grain at a loss and then retreat from the feed business. Since the other grain dealers are faced with the same problem, it would not surprise me to see sales of feed grain drop by 50% in this area. This will cause a shortage of eggs, milk, etc., as dairy herds, poultry flocks are trimmed back 50%. We need your immediate attention to and resolution of this problem. Since it takes about three weeks to receive a car of grain, I must decide now whether to remain in the grain business. I cannot wait for an exemption request to be processed.

What do I do in my grass seed operation? I supply local contractors with grass seed mixtures for housing projects, city parks, etc. I booked one particular grass seed, Kentucky Bluegrass, at 48c a pound nine months ago. It will cost me $1.20 a pound for the same seed today which is 25% above my ceiling price for contractors. What do I do? I cannot afford to sell grass seed for less than it costs me.

The basic problem is that many small businessmen, like myself, order once a month or once a quarter. Hence, we find ourselves in a bind since costs have legitimately increased to us, but we cannot pass on the increase. Since I operate a business characterized by very small mark-ups, I cannot tolerate this squeeze for very long and maintain a healthy business. We, the small businessmen, need your immediate assistance. There simply is not enough flexibility in the present freeze.

I would welcome the opportunity to discuss my particular problems with any representative you might have in this area. I have several constructive ideas I feel should be incorporated into Phase IV to make Phase IV more equitable to the small businessman.

Please help! The present situation is intolerable.

Respectfully,
NORMAN E. HAYES, *President.*

JUNE 21, 1973.

Hon. EDMUND S. MUSKIE:

Part of the following information on Maine milk prices paid to dairy farmers on the Boston market was provided by Mr. Ed Micka of the University of Maine.

Milk Prices: April 1973 $7.50 per cwt. Out of this we pay .64 per cwt. for hauling, .05 Maine tax, and .03 per cwt. for the Market Administrator. April 1972, we received $7.00 per cwt. Out of this came the same hauling and taxes as above, or an increase of slightly over 7%. May 1973, we received $6.93 per cwt. with the same deductions as above, or a decrease of approximately 8% in 30 days.

Grain Prices: June 1972 at the Agway Store in Skowhegan, Maine, grain was $3.68 per cwt. June 1973, the same grain, at the same store was $5.62 per cwt. or an increase of over 50%. These prices are based on bulk feed delivered in 6 ton lots. The price would be approximately $14.00 per ton more in bags. Attached is USF Bulletin showing the increase in all feeds.

Gas: June 1972 gasoline in Skowhegan was 33.9 per gallon. June 1973 at the same place, gas was 39.9 per gallon, if you are lucky enough to get any, or an increase of approximately 18%. Fuel is an absolute necessity if the farmer is to continue operating. Some farmers have already been refused gasoline.

Fertilizer: In May 1972, 15–8–12 was $69.50 per ton in bags. Today the same fertilizer, at the same store is $87.80, or an approximate increase of 30%.

The following items have all increased at about the same rate: barbed wire, baler twine, veterinary and milkroom supplies, building supplies for upkeep of the buildings, new machinery and replacement parts.

We read in our farm magazine, June 25th issue of Hoards Dairyman, page 778, that the government is now proposing to import an increase of a billion dollars entirely accounted for by the dairy products which will further suppress our prices. The following is a quote from the editorial of Hoards Dairyman. "Dairy producers in foreign countries do have advantages over dairy farmers in this country when it comes to production costs. Their labor costs are much lower, and they aren't required to meet the strict sanitation requirements imposed upon our producers. This latter point always has been of real concern to us. Our dairy products must compete with cheaper foreign products on which no on-farm inspections are required. Unless foreign dairy products meet the same high standards imposed on our dairymen, the administration is creating a double standard for dairy products, which is unfair to both American Consumers and American Dairy Farmers."

Some years ago the Federal Marketing Administrator moved their office and the personnel from the State of Maine. Since that time there has been a great deal of dissatisfaction with results of the services of that office. It seems to us their checks of our butter fat samples are not handled in the proper manner. Class II and surplus milk from other markets are finding their way into our Class II markets. The order seems concerned merely with the dealer and very little concern with the producer even though we are being forced to support this office with finance from our milk checks.

We have to operate under the Louisville Plan, which in farmers language means that money is taken out of our milk checks in flush season. If we do not produce as much milk in the fall as we do in the spring, we do not get back all of the money that was taken out. We feel that this plan should be done away with. For the milk that we produce today we do not receive any money for at least thirty days.

If we were fortunate enough to be producing milk for the Maine market, these price increases may not seem as severe to us, or had we been fortunate enough to have been one of the counties to receive surplus grain last winter, it would have been somewhat easier.

We would like to extend our appreciation to Mr. Muskie, his aide, Mr. Charles Micoleau, and Mr. Muskie's office staff for their time and efforts in this matter.

Armour & Co.,
Rockland, Maine, July 11, 1973.

Senator Edmund Muskie,
Congress of the United States, Washington, D.C.

Dear Senator Muskie: The price ceilings that have been established on Food Products has resulted in reduced production of meat and poultry which in the long run will mean shortages and higher prices for Consumers.

We are now feeling an acute shortage of all pork products. It is reported that Poultry Producers are selling Breeder Flocks and destroying Baby Chix.

Due to reduced production in Meat and Poultry Plants, workers are being laid off.

Will you please use all of your influence to have Ceiling Prices removed from Food Products immediately.

Sincerely yours,
Robert C. Hanscom, *Manager.*

Joseph Kirschner Co., Inc.,
Augusta, Maine, July 11, 1973.

Senator Edmund S. Muskie,
Senate Office Building,
Washington, D.C.

Dear Senator Muskie: Some time ago we wrote to you about the problems that we were having because of the ceilings imposed on the meat industry by the President on March 29.

At the time of the imposition of the ceilings we had been selling our products at a loss, so the ceilings locked us into a loss position.

A request for exception to increase some of our ceiling prices was prepared by our Company and filed with the Cost of Living Council on May 9, 1973. A copy of their reply to this is enclosed, along with a letter from our attorney.

We find this a very difficult decision to accept. As businessmen we do not feel that we can offset our increased costs of raw materials by reducing our operating expenses. If we could reduce our operating expenses, we would already have done so. The meat packing industry has always operated on a very low profit margin, and because it is so competitive, those of us who have been able to survive over the years have been able to do so only *because we already had kept our operating expenses at a minimum.*

All we are asking is that we be allowed to pass through on a dollar for dollar basis per pound of raw material price increases—we are *not* asking for this on a percentage basis.

Our Company would greatly appreciate any action you could take to help relieve our situation; and any action you might take to insure that the Cost of Living Council, in formulating Phase IV, takes into account the factors set forth above.

Very truly yours,
Vincent Kirschner,
President.

Mr. McGOVERN. I thank the Senator from Kansas. Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield back my time.

Mr. McGOVERN. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Huddleston). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from South Dakota (Mr. McGovern). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Sparkman) is necessarily absent.

I further announce that the Senator from Washington (Mr. Magnuson) is absent on official business.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. Magnuson) would vote "yea."

Mr. SCOTT of Pennsylvania. I announce that the Senator from Michigan (Mr. Griffin), the Senator from Ohio (Mr. Saxbe), and the Senator from Texas (Mr. Tower) are detained on official business.

The result was announced—yeas, 90, nays 4, as follows:

[No. 301 Leg.]

YEAS—90

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Johnston
Kennedy
Long
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Tunney
Weicker
Williams
Young

NAYS—4

Case
Javits
Ribicoff
Stevens

NOT VOTING—6

Griffin
Magnuson
Saxbe
Sparkman
Stennis
Tower

So Mr. McGovern's amendment was agreed to.

Mr. McGOVERN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I ask unanimous consent that Mary McCullough of my staff may have the privilege of the floor during the consideration of this bill and the amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. WILLIAMS. I ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 334

Mr. BUCKLEY. Mr. President, I call up my amendment No. 334.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record.

The amendment, ordered to be printed in the Record, is as follows:

On page 6, beginning with line 20, strike out through line 13 on page 7.

On page 8, beginning with line 18, strike out through line 9 on page 11.

On page 11, line 10, strike out "(e)" the first time it appears in such line and insert in lieu thereof "(d)".

On page 11, line 20, strike out "(f)" and insert in lieu thereof "(e)".

Mr. BUCKLEY. Mr. President, the effect of my amendment No. 334 is simplicity itself. It strikes from S. 1861 all provisions dealing specifically with Puerto Rico. By doing so, it will protect Puerto Ricans and their gradually developing economy from the well-intentioned paternalism of the Committee on Labor and Public Welfare.

Mr. President, I do not intend to bring

this amendment to a vote. I have been asked not to do so, relying on the conference proceedings to iron out flexibility in the minimum wage provisions that would affect Puerto Rico. But I do believe it is important that this body should understand the unique situation in the Commonwealth and the impact S. 1861 would have on the economy of the Commonwealth if its Puerto Rican provisions become law. As I have said, I am relying on the conference procedure to insert in the Senate version those elements of flexibility that are necessary.

The purpose of the committee is wonderfully humane. It is to bring the minimum wage rates applicable in Puerto Rico to the much higher levels obtaining on the mainland. Thus by legislative fiat, the committee intends to jack up the standard of living on the island commonwealth a notch or two a year until all Puerto Ricans are receiving at least the minimum wages mandated on the mainland—all Puerto Ricans who happen to be able to find a job, that is.

This is all very wonderful, Mr. President, except for the fact that the practical effect of the committee's well-intentioned efforts would be to sharply increase the already excessive rates of unemployment now existing in Puerto Rico, and to render still more difficult the efforts now underway to attract capital investment, create new jobs, develop a mere skilled and productive labor force, and establish an economic base that will make possible a steady increase in the standard of living and in the earnings of all the inhabitants of the commonwealth.

This is why, Mr. President, there is so much opposition among responsible Puerto Ricans to the committee's benign interference in their affairs.

Mr. President, at this point I ask unanimous consent to have printed in the Record, at the conclusion of my remarks, a letter from the Honorable Resident Commissioner of Puerto Rico to the chairman of the committee expressing the Puerto Rican concern, together with a copy of a report prepared by Robert R. Nathan Associates on the minimum wage issue in Puerto Rico.

The PRESIDING OFFICER. Without objection, it so ordered.

(See exhibit 1.)

Mr. BUCKLEY. Mr. President, Puerto Rico currently faces many problems which the United States has already gone a long way toward solving, or which we have been fortunate enough not to have had to face. Among these are low per capita income, overpopulation, few natural resources, and low educational levels. But by far the largest problem for Puerto Rico is unemployment. The present unemployment rate in Puerto Rico is 12.1 percent. This contrasts sharply with the 5 percent unemployment on the mainland. In the years since we last considered minimum wage legislation, the mainland's unemployment rate has gone down by 0.9 of a percent, but the rate in Puerto Rico has actually gone up by 0.2 of a percent.

Puerto Rico relies a great deal on outside investment to provide jobs. Most of the firms that locate in Puerto Rico do so because of inexpensive labor, and they use labor-intensive production methods. This is just what Puerto Rico needs. Industries that come in and employ large numbers of people are the best way for Puerto Rico to improve the standard of living for the entire island, gradually upgrading the skills and therefore the earnings of the people. Businesses in the United States, for example, do not automatically establish plants in Puerto Rico if they are seeking a low-wage location. Countries like Korea, Taiwan, Spain, and the Dominican Republic, whose wage scales make Puerto Rico's look high, have been creating very tough competition for Puerto Rico for capital investment. A concrete example of this is that between 1969–71, Puerto Rico lost 82 firms and 4,641 net jobs in the textile and leather industries alone to foreign competition.

Minimum wages are much more significant for Puerto Rico than they are for the mainland United States. On the mainland, the average hourly earnings in manufacturing is $3.99, or more than twice the current minimum wage. But in Puerto Rico, the minimum wage often forms the average wage. Therefore, increases in the minimum wage require much larger increases in the total wage bill in Puerto Rico than they do in the United States. This means that any adverse effect on employment that the minimum wage laws have in the United States would be greatly magnified for Puerto Rico.

The minimum wage effect that will be all too evident if S. 1861 is enacted unaltered in its treatment of Puerto Rico is unemployment. Because the vast majority of American workers receive wages far above the minimum wage, increases in the minimum have had little effect on adult unemployment rates. But in Puerto Rico, where most of the wages are so close to the minimums, a 25-percent increase in the minimum would mean an almost 25-percent increase in the wage bill of many businesses—if unemployment did not occur. But of course, unemployment would occur. Unemployment would increase not only from easily observable reductions in present work forces and business relocations in different countries. Probably the most important source of unemployment would be from the businesses that decided not to locate in Puerto Rico and not to expand their operations in Puerto Rico as a result of such legislation. This effect, of course, would be difficult to measure, but economists agree that applying the U.S. minimum wage to Puerto Rico would speed up the current trend for businesses to locate in other low-wage countries instead of Puerto Rico. This is something that Puerto Rico clearly cannot afford.

If Puerto Rico presently had little unemployment, and was seeking a gradual rise in wage scales without a significant increase in unemployment, S. 1861 might not be so disastrous for Puerto Rico. But Puerto Rico's unemployment rate is 12.1 percent. It is clearly not acceptable to just maintain that rate, much less take action that is guaranteed to raise it even higher. Two economists who wrote a book on Puerto Rico and its minimum wage estimated that the elasticity of demand for labor in Puerto Rico is one. This means that a 25-percent increase in wages, which could easily occur and may actually be a conservative estimate for Puerto Rico under S. 1861, would increase unemployment in Puerto Rico by 3.025 percentage points to 15.135 percent.

Puerto Rico's labor situation is clearly different from that of the mainland's. The present Fair Labor Standards Act recognizes that difference, and permits Puerto Rico to establish its own minimum wages. Puerto Rico presently has 191 different "industry committees" which review the wages set for each industry and decide on any changes that are warranted. Thus the minimum wage for each industry is set specifically for it. The goal of the committees is to achieve the highest possible wages while maintaining employment and the health of the industries involved. These committees, which are manned by three representatives from each of labor, industry, and the public, are able to weigh the unique situation in each industry and then determine the appropriate wages to be set. It is inconceivable that the Congress of the United States could set minimum wages more sensitively for Puerto Rico than these committees are able to do, or that the Congress has a greater concern for the wage-employment situation in Puerto Rico than the Puerto Ricans do themselves.

The enactment of S. 1861's provisions for Puerto Rico will quite predictably reduce the availability of jobs. But it will also codify a most unfortunate attitude toward Puerto Rico. S. 1861 can only be viewed as being paternalistic and authoritarian in its treatment of Puerto Rico. Puerto Rico, which has no representation in the Senate, has heretofore been allowed to determine its own minimum wage structure. S. 1861 would not only impose on Puerto Rico minimum wages which were selected for the economy of the mainland United States, but it would allow no opportunity for reconsideration or adjustment to the very different economic circumstances that exist in Puerto Rico. We must recognize that there is a very good reason why in most cases Puerto Rico has decided not to set its own minimum wages at the levels obtaining on the mainland. That reason is not to hold down the wages and standard of living in Puerto Rico. That reason is not to slow Puerto Rico's development. The reason is that Puerto Ricans, who are close to and concerned about the economics of the island have determined that the wholesale adoption of the mainland's minimum wage rates would increase unemployment and seriously damage Puerto Rico's ability to develop a stronger economy capable of sustaining its people at ever higher standards of living.

My amendment would eliminate this threat to the island's economic development. It would do so simply by striking the language in S. 1861 which deals with Puerto Rico, leaving the situation as it currently exists, with Puerto Ricans able to determine their own minimum wage levels. We cannot permit what are no doubt good intentions to blind us to the economic realities with which Puerto Rico must deal. It would be wrong for us to suppose that we can do a better job of choosing the proper minimum wages than Puerto Rico's industrial committees. It would be wrong for us to impose higher unemployment rates on Puerto Rico through higher minimum wages.

As I indicated earlier, after consultation with Commissioner BENITEZ on Tuesday, I decided that it would not be advisable to bring this matter to a vote, but rather to rely on the good sense of the conferees, when they try to match up the different versions of the proposed legislation, to consider the specific problems of Puerto Rico. I am also informed that Commissioner BENITEZ will be able to take part in the conference negotiations.

So I would urge the chairman of the committee and the other conferees to consider carefully the particular positions that pertain in the commonwealth and preserve a degree of flexibility. This way we will be sure that no one acts counter-productively in mandating levels of wages which would result not in benefiting the welfare of the people of Puerto Rico, but rather in causing increasing unemployment, which the island clearly cannot accept.

EXHIBIT 1

MINIMUM WAGE ISSUE IN PUERTO RICO, 1973

(A summary of a comprehensive report under the same title submitted to the Commonwealth to Puerto Rico by Robert R. Nathan Associates, Inc., on April 30, 1973)

A number of unique economic characteristics underlies Puerto Rico's continued need for flexibility in the application of U.S. minimum wage legislation. It is the reconciliation of these unique economic factors with Puerto Rico's pursuit of the highest feasible minimum wages that necessitates maintaining the special provisions concerning Puerto Rico in the present Fair Labor Standards Act. Puerto Rico has achieved substantial economic progress but has by no means fully overcome her many economic disadvantages. These include her high-density population; limited arable land and other natural resources; insufficient domestic savings for investment; lower levels of education, skills and managerial experience; the small domestic market which inhibits the achievement of economies in scale of production; lower than mainland levels of productivity and output per head, accompanied by correspondingly lower levels of income and living; and higher production costs resulting from two-way transportation and higher power rates, as well as higher financial costs.

The notable expansion and modernization of Puerto Rico's economy have been attributable to major governmental efforts and special incentives, but not enough new jobs have been created to come anywhere near to providing employment for all Puerto Ricans in the labor market. To attract investments essential to job creation, especially in labor-intensive industries, wage levels appropriate to Puerto Rican conditions rather than to conditions of the United States have been necessary. Also of great importance in this regard has been the fact that in Puerto Rico the minimum wage—unlike in the United States—has largely determined the average wage. Thus, minimum wage levels have exerted, and continue to exert, a much greater influence on the overall wage, cost and profit structures in Puerto Rico than in any state on the mainland.

The Congress in its wisdom made special provision in 1940 for Puerto Rico (and the Virgin Islands) by providing for tripartite committees to recommend, and for the Wage-Hour Administrator to promulgate, a separate minimum rate for each Puerto Rican industry engaged in interstate commerce, in accordance with its ability to pay. This flexible application of the mainland minimum wage, which was designed to avoid curtailing employment in Puerto Rican industries without giving them an undue competitive advantage over mainland industries, has been in effect in diminishing degree ever since. Under this flexible system, Puerto Rico has made remarkable and impressive progress in economic growth, productivity, wages and levels of living.

Average hourly earnings in manufacturing in Puerto Rico were only 57 percent of the statutory $0.75 minimum in 1950, but by 1972 had risen to more than 1¼ times the $1.60 prevailing minimum. Put another way, while the U.S. minimum more than doubled, average hourly earnings in manufacturing in Puerto Rico nearly quintupled. This, in some degree at least, reflects Puerto Rico's determination to move toward high wages.

A number of industries in Puerto Rico still have minimums below $1.60, but many have been increased recently through the flexible system to within a few cents of the Federal minimum. The weighted average minimum wage of Puerto Rican workers in industries covered prior to the 1961 amendments, including those at the Federal minimum as well as those below, is now $1.55—nearly 97 percent of the Federal minimum—providing further evidence that the flexible system is not a means to elude the purpose of the Fair Labor Standards Act.

An analysis of all industries currently covered under the Fair Labor Standards Act and all amendments shows that the weighted average minimum wage in all covered industries as of March 1970 was $1.46. This average includes those industries then at the $1.60 Federal minimum as well as those below that minimum. As of that date, about 59 percent of all covered workers were employed in industries operating at the $1.60 minimum. At the other extreme, nearly 14 percent were in industries with minimums below $1.30; this group was largely comprised of workers in industries first covered under the 1961 and 1966 amendments. No specific analysis has been made of the increases in minimums through the industry committee procedures in those industries brought under coverage since 1961, but certainly an up-to-date review would show a substantial narrowing of the numbers of workers and sizes of variations below the $1.60 Federal minimum.

The impressive gains over the years in minimum and average wage levels in Puerto Rico have been achieved, it should be noted, with the full cooperation and support of the Commonwealth Government. The clear and affirmed policy objective of Puerto Rico has consistently been to promote the highest possible wages compatible with the expansion of the economy, with rising living standards for the people of Puerto Rico, and with continued progress in the reduction of unemployment and underemployment.

The effectiveness of Puerto Rico's tax exemption incentive to inspire industrial investment has depended on anticipated profits calculations. This prospect of profitability in turn—in the face of higher nonlabor costs than on the mainland—depended on a level of labor costs per unit of production that made it possible to compete in the states. In this context the role of the flexible minimum wage system in the manufacturing expansion which sustained the island's economic growth and which made possible rapidly rising wage levels is clear beyond doubt Universal and rigid imposition of Federal minimum wage levels would have seriously curtailed Puerto Rico's economic progress and greatly aggravated the continuing high level of unemployment among Puerto Ricans. The flexible system has been prerequisite to the island's growth, but it may not have been sufficiently flexible to permit the needed rate of economic growth essential for a healthy economic situation in Puerto Rico.

The progress which has been attained in Puerto Rico has not been adequate to approach full employment. The most serious persisting problem has been the continuation of high-level unemployment—over 12 percent in 1972. In the absence of sizable net migration to the mainland, the level of unemployment would have been far higher over the past decades. Certainly, if industrialization had taken place at a slower rate, the levels of unemployment or of migration, or both, would have been substantially higher.

More than a million Puerto Ricans have migrated to the U.S. mainland, most of them since World War II. Far more jobs have been created for Puerto Ricans on the mainland since 1940 than the 270,000 added jobs created in Puerto Rico during this time. Although migration to the mainland has been and undoubtedly will continue to be an important safety valve for unemployment in Puerto Rico, there are many cogent reasons—social and cultural, as well as economic—for Puerto Rico's employment problem to be solved in Puerto Rico, rather than on the mainland. Whatever the costs and benefits of such migration, it should not be a byproduct of disincentives associated with economic policies than dim Puerto Rico's economic prospects.

Puerto Rico is faced with sharply increased competition from extremely low wage countries. This development is immediately pertinent to the question of an appropriate minimum wage policy for Puerto Rico. In combination with the last increase in the minimum wage to $1.60 and with the tightening of the legislated criteria for special industry review of hardship cases, it has created serious problems for many Puerto Rican producers. There has been an alarming slowdown in the rate of employment growth in Puerto Rico's manufacturing industries. The situation becomes more serious as added special incentives are being introduced in the lowest-wage countries, designed to increase exports.

For some 13 Caribbean, Latin American, European and Asian countries, very large differentials in average hourly wages in all manufacturing industries and in the apparel and clothing trades are revealed in comparisons with Puerto Rico. For all manufacturing, only two of the 13 countries—Japan and Italy—show average hourly earnings as much as half the prevailing Puerto Rican hourly rate. The others range from 40 percent to less than 10 percent of Puerto Rico's wage rates.

In the apparel trades, the comparison is even more striking. Of the 13 countries, only Italy (at 52.4 percent) and Japan (at 42.3 percent) pay average hourly earnings more than two-fifths of the Puerto Rican level. Panama's rate is only slightly less than two-fifths, and the Dominican Republic rate is a little over one-third. The others range down to less than 10 percent of the Puerto Rican wage input cost. No matter how imprecise comparisons are between countries, these differences are so great as to demonstrate beyond any doubt the serious implications for Puerto Rico in competing with these countries for the mainland market.

It is little wonder that labor-intensive imports from these and other countries have increasingly penetrated the U.S. market, slowing the growth of production and employment that Puerto Rico would otherwise have achieved. In fact, in many cases, previously established Puerto Rican markets in the United States have tended to shrink or disappear. The pace of increase in Puerto Rico's minimum wages has served to intensify the difficulties encountered by Puerto Rican producers in competing for the mainland markets with producers in the low-wage countries in increasing numbers of products and industries.

The experiences of 10 industry groups which were denied petitions for hardship review in 1966 are significant. These industries had achieved an employment gain of more than 16,000 (53.3 percent) from 1961 to 1966, but they actually lost nearly 3,000 employees (6 percent) from 1966 to 1971. If they had continued the same rate of growth through 1971 as in the preceding 5 years, they would have added some 25,000 more workers to their payrolls by 1971. At least part of the real cost in employment and output was imposed on these industries and on Puerto Rico's economy by the failure to review their minimum wage problems in realistic, pragmatic terms. The figures suggest what may happen to many other Puerto Rican industries in the coming years if their individual circumstances are not taken into account in applying whatever new U.S. minimum wage level is enacted in 1973.

This prospect emerges starkly from an examination of the calculated impact of proposed minimum wage increases on 16 relatively low wage manufacturing industries in Puerto Rico which employed some 59,000 workers in 1971–72. Within each of these industries currently there is at least one segment with a minimum wage under the $1.60 standard. The calculations, based on the distribution of employment within each industry (in 1971 and 1972) at various wage minimums and prevailing wage levels, show that wage costs for all 16 industries would rise by an average of 11.9 percent in the event of a $0.40 increase in existing minimums, and by 21.9 percent in the event of an automatic increase to a $2 per hour minimum for all these industries.

More importantly, they show that the automatic application of a $0.40 per hour increase in each industry would raise wage costs by at least 15.5 percent and by as much as 36.4 percent for seven of the 16 industries, which seven employ a total of some 24,000 workers. The automatic application of a $2 minimum wage would result in wage cost increases ranging from 21.4 percent to 87 percent for 11 of the 16 industries, employing 35,000 workers.

When an economy is experiencing 12 percent unemployment and finds that many plants cannot survive despite sizable incentives, then one must analyze the significance of minimum wage policy with extreme care, especially with respect to some degree of needed flexibility. Endless numbers of prospective investors have reviewed prospects in Puerto Rico and have come to negative conclusions because of cost factors. Potential investors in search of submarginal wage levels should not be welcome, but it would be unfortunate if too many prospective employers were turned away because of rigidity in applying the Federal minimum wage standard.

It is of course difficult to forecast how much unemployment might result from either of these proposed minimum wage actions. Such judgments could best be made by those most familiar with the specific industries concerned—their markets, their competition, their potentials for production economies, their price elasticity, and so on. Such knowledge has been sought, in varying degree, in the industry committees which, under the flexible minimum wage administration system, have studied and adjudicated the capability of each industry to absorb higher minimum wages. The automatic imposition of any given wage increase, in the absence of such knowledge, may impose genuine hardships on such industries and—albeit unintentionally—substantially curtail employment.

The Puerto Rican Government is dedicated both to full employment and to the highest feasible minimum wages and a high and rising living standard for all Puerto Ricans. Considerable progress has been made toward the achievement of these objectives, but the persistent high levels of unemployment and the difficulties encountered in promoting new industries indicate continuing problems that will not be easily or soon overcome. In these contexts minimum wage policy has great significance. The guideline that minimum wage administration should avoid the substantial curtailment of employment needs to be considered in the context of the overall employment situation and outlook. It should not impede Puerto Rico's achievement of full employment within a reasonable period of time. Further, U.S. minimum wage policy must take into account the unique facts of economic life in Puerto Rico as well as the strategy Puerto Rico must pursue to achieve full employment and to optimize her limited economic comparative advantage. These considerations require the flexibility appropriate to Puerto Rico's situation, constraints and goals.

It has been proposed by some that any remaining gaps between any particular industry's minimum wages in Puerto Rico on the one hand and the new higher statutory minimum to be enacted in the United States should be closed by a predetermined series of steps over a set period of years. The rationale behind such a proposal is summed up in the statement "30 years is a long time for a special exemption." This is an oversimplification and a misconception. Flexible application is a far cry from exemption. Under flexible application of the minimum wage law, as we have seen, proportionate increases in minimums in Puerto Rico have been at a far more rapid rate than in the United States, and have exceeded the U.S. increases even in absolute terms.

Moreover, it is meaningless to suggest that 30 years is too long a time for a very small and economically lagging region to catch up, in terms of ability to pay, with the pace set in the richest nation on earth. In terms of individual output, skills, technology, income, wealth and minimum living levels, it is incontestable that Puerto Rico has done a phenomenal job of catching up thus far. Given a fair chance, Puerto Rico will continue to narrow the gap. The flexible system under which so much progress has been achieved should be permitted to continue. Rigid applications of the mainland standards could not only slow the island's economic growth, but could actually curtail employment and bring increasingly untenable levels of unemployment.

Because of higher costs, Puerto Rican entrepreneurs find it harder to compete with imports from the very low wage countries than do mainland employers and workers. The imports from those countries concentrate more heavily in those labor-intensive manufacturing industries which give Puerto Rico its chief comparative advantage *vis-a-vis* the United States. The United States has good prospects to continue and even enhance its comparative advantage relative to many other nations, but Puerto Rico has limited opportunities to export its products to areas other than the mainland.

As of now, a sudden and sizable rise in wages across the board in Puerto Rico would give still further competitive advantages to producers in Mexico, Brazil, Japan, Spain, Italy, Korea, Taiwan, Singapore, Hong Kong, and other countries whose exports of manufactured products to the U.S. market have skyrocketed in the last decade. Such competition must be met, in the first instance, by determined efforts to improve productivity and reduce unit costs. This certainly does not imply that any and all wage increases are intolerable. On the contrary, minimum and prevailing wage rates in Puerto Rico should be increased as rapidly as is economically feasible and compatible with policies designed to move perceptibly toward full employment. The minimum wage increases determined for selective Puerto Rican industries should be determined in the light of the economics of that individual industry, and in the even broader perspective of Puerto Rico's need and determination to achieve relatively full employment within a reasonable period of time.

House of Representatives,
Washington, D.C., June 6, 1973.

Hon. Harrison A. Williams, Jr.,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: I am writing in reference to your bill, S. 1861, to amend the Federal Labor Standards Act of 1938. I should appreciate your making this letter, which expresses the position of the Government of Puerto Rico, and its enclosures, a part of the permanent record of hearing on your bill.

Our government shares fully your own objectives and aspirations pertaining to just and fair wages. It hopes to achieve the highest levels of compensation for all Puerto Rican workers. We are engaged at present, and have been engaged over the years, in a program of industrialization, of education, of health and overall social improvements directed towards the equalization of opportunities in Puerto Rico. We aim to do so in ways commensurate with, and, in so far as feasible, better than the prevailing norms and standards in continental United States.

We have endeavored to achieve these objectives starting from a most inadequate and uneven base. This circumstance has determined our simultaneous insistence on a reduction of the high percentage of unemployment still prevailing as well as the preservation of procedures facilitating a wage-scale flexibility indispensable to accommodate a developing economy.

The two principal bills under consideration before the Congress of the United States, the Dent Bill and your own, are very similar in most respect as they apply to Puerto Rico. The Dent Bill provides for an increase of 25% over present minimums which would result in an immediate increase for most already-covered industries of from 32 cents to 40 cents an hour. Your own bill provides for a yearly increase of 20 cents until such time as parity with United States is achieved. While the Dent Bill provides for a higher yearly increase for most industries, it retains alongside provision for review committees charged with the responsibility of assessing claims of hardships calling for lesser increases than those provided by the formula. It is this flexibility to protect against possible additional unemployment that we regard as indispensable for a reasonable opportunity for the retention for some years of a number of labor-intensive industries presently established which are sharply affected by foreign competition. Both bills provide for a flat basic minimum throughout Puerto Rico of no less than $1.00 an hour.

The Governor of Puerto Rico, the Hon. Rafael Hernández Colón, expressed some relevant considerations most forcefully in a message delivered to the New York Chamber of Commerce on June 1, 1973, pertinent extracts of which follow:

"While governments come and go, one factor remains a constant in the Puerto Rican equation, and that is the problem of unemployment. Over the past quarter-century we have made enormous strides towards alleviating this terrible social and economic ill. But looking back with satisfaction to the past will not provide an acceptable answer to the question: 'What are we going to do to guarantee the opportunity for a worthwhile and productive job to the still shameful number of our fellow citizens who are without work, and to the many thousands of Puerto Ricans who join the labor force every year?'.

"This is indeed a grave social problem. And so our social policy—the broad program which promotes the welfare and well-being of our community—must, in a very important sense, also be an economic policy. What this means is simply that to solve the social problems of Puerto Rico, we must have jobs. In order to get jobs, we must promote a thriving and prosperous business and industrial sector. This is basic economics. All the academic theories in the world cannot get around this solid fact. Thus it is that we recognize that our social and economic policies must promote and support each other.

"The whole picture of minimum wages in Puerto Rico is an extremely complicated one, due in part to our special economic circumstances and to the fact that Federal Minimum Wage Standards are applicable in a country which has only recently emerged from an almost totally stagnant agricultural economy.

"Naturally, we desire that our working force receive the highest possible wages for their labor. However, the various administrations of Puerto Rico have always been extremely alert to the fact that we must retain our competitive labor position if we are to attract investment and develop industry. This view has generally been understood and shared by the labor sector and its leaders as well.

"Up until now, the Federal Minimum Wage system has not caused undue hardship because it retained for Puerto Rico the flexibility of the Hardship Review Boards. These boards are entitled to fix lower minimum wages for those industries covered by the federal law which would be adversely affected by having to pay the full Federal Minimum Wage.

"Unfortunately, current legislation before the Congress would do away with the Review Committees and fix a standard minimum wage across the board, including Puerto Rico. We are battling this legislation with our full resources. The Resident Commissioner in Washington, the Secretary of Labor, the Administrator of Fomento, and other local officials are devoting their energies to a full-scale attempt to influence and convince the Congress that doing away with the Review Committees would work a real hardship on local Puerto Rican industry.

"With regard to local minimum wage provisions, my administration has presented a bill to the Legislative Assembly of Puerto Rico calling for a $2.50 minimum wage.

"First I want to say that apart from the basic reason of doing justice to Puerto Rican workers, one of the additional reasons we have submitted this bill is to demonstrate our good faith to Congress wtih the expectation that the flexible review system with its obvious benefits to local industry, will be maintained in the Federal law. Another reason is that with a margin for action in terms of wages, we would avoid having to get into the whole problem of increased fringe benefits, with the possible abuses that this area entails, often resulting in lower production.

"Second, I want to point out that the term 'minimum' wage, with regard to the Puerto Rican legislation, past and present, is really a misnomer. The $2.50 figure which we have called for, as with the Minimum Wage figures of the past, is really a maximum minimum wage; that is, it is the highest wage that can be set for any industry.

"For example, in 1966, the average real wage being paid at that time in some of the chemical products industries was $1.10. Next year, 1967, the Minimum Wage law was amended and the maximum minimum wage was set at $1.60. However, these industries did not reach that figure until 1970.

"In the drug industries, the minimum wage as set by law in 1961 was $1.25. In that year the average real wage was $0.68. It was not until just before 1970 that the minimum wage was reached in that industry.

"Thus, it should be clear—and this is the basic idea which should be kept in mind—that the Puerto Rican minimum wage is a goal and not a starting point. The rate at which a given industry reaches this goal, is determined by its ability to absorb the increased costs. In other words, we recognize and have built into our minimum wage legislation over the years, the fundamental proposition that improvement of wages and working conditions for the labor force depends strictly on the real progress of our business and industry.

"Now let's glance briefly at how the system operates in Puerto Rico.

"The Minimum Wage Acts of Puerto Rico are administered by the Minimum Wage Board. The Board has jurisdiction over both local and interstate industries. By law, the Board revises wages, vacations, and sick leave in a given industry every two years. When the time comes for revision in your industry, the necessary economic studies are made and public hearings are called by a Minimum Wage Committee appointed by the Board from names submitted by management and labor, and including figures representing the public interest.

"The Minimum Wage Committee conducts public hearings to determine classifications within the industry based on occupation, groups of occupants, zones, classes, categories, and so forth, and the minimum wage for each classification up to the maximum fixed by law. This maximum would now be $2.50 should our legislation be passed. The minimum fixed for the industry by the Committee should be the highest that can reasonably be paid without curtailing employment. Basic considerations fed into this determination are the cost of living and the economic and competitive conditions of the industry in question.

"After the determination of the Committee is concluded and published, ample time and means are allowed to all concerned to appeal the decision through various levels of reviews.

"I think you can see now why our minimum wage policy reinforces and promotes our industrial policy. As industry strengthens its profitability and competitiveness, wages advance towards the minimum goal set by law. Or put it in another way: minimum wages go up only in response to the increase in the cost of living and the economic progress of each industry.

"This flexible industry-by-industry system of progress towards salary goals has been one of the prime ingredients of our economic progress. You can understand why we are concerned that a similar system be retained with regard to Federal legislation. Blanket, across-the-board hikes in minimum wages without taking into consideration the economic position of the various industries in Puerto Rico can only result in severe problems resulting in unemployment, shutdowns and a worsening of labor progress.

"Before leaving the subject of minimum wages, I want to stress as strongly as possible, that my administration, like the past administrations of Puerto Rico, is totally committed to improving economic conditions for our workingmen and women. But we are equally committed to the idea that economic progress for both business and labor can only be achieved jointly, that one depends strictly on the other. This has been a cornerstone in Puerto Rico development and will continue to be so under my government."

In conclusion, Mr. Chairman, I should like to send along the independent, expert conclusions of Robert R. Nathan Associates, Inc. entitled Minimum Wage Issue in Puerto Rico, 1973: Summary, which underscores the plea of the Government of Puerto Rico for flexibility in the application of U. S. minimum wage legislation.

With high regards, I remain
Yours sincerely,
JAIME BENITEZ.

Mr. WILLIAMS. Mr. President, I want to first state to the Senator from New York that in the conference with the House, which we trust will follow passage of the bill, the Senate conferees will give the closest attention to the economic realities as they are presented on the Commonwealth of Puerto Rico.

Basic, of course, to our developing this legislation and following the policy of the Fair Labor Standards Act, we have been guided by the ultimate objective of seeing that minimum wage levels are equitable under our approach to all covered workers.

We have recognized that this cannot be done with one legislative stroke and that it has to be done in some situations over a period of years.

Certainly our approach in the pending bill follows that pattern, and parity is only arrived at after long and realistic periods of staging and of phasing up the minimum wage. So, that would be basic to our considerations. However, within that principle, we will certainly recognize and receive all of the economic information that we need, I hope to wisely deal in conference with the problems and the economy of Puerto Rico. We should be mindful of the obligation we are here to realize and achieve for all workers, including the workers in Puerto Rico.

Mr. President, the basic principle of S. 1861 is that the Fair Labor Standards Act must establish a minimum wage level which is equitable for and applicable to all covered workers.

Toward this end, it has always been clear that the FLSA is designed to achieve ultimate parity between workers on the mainland and in Puerto Rico and the Virgin Islands.

Section 8(d) of the act sets forth this policy:

> The policy of this Act with respect to industries or enterprises in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce is to reach as rapidly as is economically feasible without substantially curtailing employment the objective of the minimum wage prescribed in paragraph (1) of Section 6(a) in each such industry.

The minimum wage for hotel, motel, restaurant and certain food service employees, as well as government workers, will be the same as the minimum wage for counterpart mainland employees on the effective date.

The minimum wage for employees who are covered by industry committee wage order rates of less than $0.80 an hour is raised to $1 on the effective date and then is increased by $0.20 an hour each year until parity with the mainland is reached.

I am aware that the policy of the law is not accomplished through one bold stroke of the pen, but the handwriting is clear and the future looks promising.

The bill provides for the gradual achievement of minimum wage parity for workers in Puerto Rico and the Virgin Islands with workers on the mainland.

The minimum wage for employees who are covered by a minimum wage order rate of $0.80 an hour or more is raised by $0.20 an hour on the effective date, and by $0.20 an hour each year thereafter until parity with the mainland is achieved.

Employees in Puerto Rico and the Virgin Islands newly covered by this act will have their minimum rates determined by newly appointed special industry committees.

The recommendations of such committees will be issued within 60 days of the effective date of the Fair Labor Standards Amendments of 1973 and shall be effective on the effective date of the wage order but not before 60 days after the effective date of the proposed 1973 amendments.

No rate below $1.60 may be set unless there is substantial documentary evidence covering a period of years which establishes that the industry is unable to pay the wages.

In no event may an industry committee establish a rate lower than $1 for such newly covered employees.

For agricultural workers in Puerto Rico whose incomes are supplemented under Puerto Rican guaranteed income legislation, the bill provides for an immediate 20-cent-an-hour increase over their current wage order rate as supplemented under this legislation.

Thus, their wage rate would be $1.25 an hour during the first year from the effective date.

The committee understands that it is the intention of the government of the Commonwealth to change the guaranteed income program in order to assure a continued subsidy at present levels to farmers, notwithstanding the wage increases proposed by this bill.

After the initial rates are set, annual increases of $0.20 per hour are automatically applied until parity with the mainland rates are achieved.

In each of the categories where annual stepups of $0.20 an hour are prescribed, special industry committees are authorized to raise rates by more than the $0.20 per hour but not by less than that amount.

The bill would terminate the so-called special hardship review committees whose functions have heretofore been to reduce increases in the minimum rates prescribed by Congress.

Provisions permitting the setting of lower rates by industry committees in Puerto Rico and the Virgin Islands were incorporated into the FLSA in June 1940, 33 years ago.

In the course of various evaluations of the industry committee procedures, questions have been raised as to whether a need still exists for such special industry committee action.

The procedure has been criticized as time-consuming, mostly, and unfair to mainland employers.

Opponents of the present procedure have also noted how little progress has been made in raising the wage floor in some industries, despite improved economic conditions, and substantial increases in productivity.

This reason, among others, persuaded the committee to provide for eventual parity by eliminating the hardship review committees.

Consideration was given to the fact that the cost of living has been rising almost as rapidly on the islands as on the mainland.

The consumer price index—1967=100—for all items in 1972 was 117.9 in Puerto Rico and 125.3 on the mainland.

It has been argued that due to the high unemployment rate in Puerto Rico, and in consideration of attempts to lower this unemployment rate by competing with such countries as Korea, Taiwan, and Spain for labor intensive industry, that we should leave the minimum wage procedures in Puerto Rico and the Virgin Islands untouched.

The fallacy in this argument lies in the fact that wage levels in Puerto Rico and the Virgin Islands are already considerably higher than in other countries which seek to lure industry with cheap and plentiful labor.

In addition, profit margins of establishments in Puerto Rico are usually greater than for their national counterparts, and employers already enjoy special advantages, such as exemption from Federal income taxes, subsidies, and exemption from local income taxes for a period of from 10 to 17 years, depending on the location of the business.

The schedule for achieving parity, as set forth in the bill, makes it possible for employers to make long-range plans for adjusting to the scheduled wage changes.

The increase in wage order rates of $0.20 on the effective date—for most activities—on the islands is equal to the increase in the mainland for new coverage areas, but is only half as great as the increase set for pre-1966 coverage.

The committee was impressed by the extensive financial and tax incentives designed to attract business to Puerto Rico.

These incentives range from a 100-percent exemption from income tax on industrial development income for qualified firms to such special location incentives for operations in areas outside of metropolitan San Juan as offsets for costs of training, salaries, rents, and mortgages.

The committee compared the advantages designed to attract business to Puerto Rico with available wage data.

According to one reliable survey, the average hourly wage in 1969 for 20 industry groups in Puerto Rico was $1.82.

The comparable figure for the mainland was $3.10.

The committee's intent is to improve the status of the Puerto Rican worker; parity with mainland workers with respect to minimum wage is a necessary first step.

The provisions of the committee bill would allow workers in Puerto Rico and the Virgin Islands to earn enough to live decently, while the pending amendment would condemn them for several more years to substandard wages.

The scheduled increases in the minimum wage, as proposed by the committee, reflect an awareness that living costs on the islands are rising almost as fast as on the mainland.

Immediate increases in the minimum rate are overdue.

Parity in minimum wages, as the explicit goal of the Fair Labor Standards Act, is long overdue.

It would be manifestly unfair to workers in Puerto Rico and the Virgin Islands, as well as a failure on our part, to work toward the goal of parity, enunciated by the FLSA for us to exclude Puerto Rico and the Virgin Islands from minimum wage increases at this time.

The program of gradual increases, over an extended period of time, has been designed with acute awareness of the special circumstances and problems that workers and employers in the Islands face.

I urge rejection of the pending amendment.

Mr. DOMINICK. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The amendment of the Senator from New York is pending. Who yields time?

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I have just been informed by Mr. Mark Trice, secretary for the minority, that he has been in touch with the Senator from New York (Mr. BUCKLEY). In his name, I withdraw the amendment of the Senator from New York.

The PRESIDING OFFICER. The amendment is withdrawn.

WAR POWERS ACT

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the unanimous-consent request I am about to make is agreeable with the distinguished manager of the pending bill and the Senator from Colorado.

Mr. President, I ask unanimous consent that the unfinished business be temporarily set aside and that the Senator proceed to the consideration of the war powers bill with the understanding that after some debate, and perhaps action, on that bill this afternoon, if any Senator wants to offer an amendment to the unfinished business, the minimum wage bill, the leadership will accommodate such Senator by shifting back to the minimum wage bill.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

> Calendar No. 209, S. 440, a bill to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. I believe there was a time limitation agreed to. Would the Chair please state the time agreement?

The PRESIDING OFFICER. There are 6 hours on the bill, to be equally divided between the majority and minority leaders and/or their designees. One hour is provided for each amendment, the time to be equally divided, except for an amendment by the Senator from Missouri (Mr. EAGLETON), for which 2 hours is allotted.

Mr. MANSFIELD. Mr. President, may I suggest that the distinguished Senator from Arizona have control, at least for the time being, of the time of the minority, and I will yield my time to the Senator from Maine (Mr. MUSKIE) when he arrives?

Mr. GOLDWATER. That is agreeable. My statement is not very long.

Mr. President, I realize this is a little out of order, for the opponents of legislation to make opening statements before the proponents, but we are faced with a rather unusual situation this afternoon, in that the Research and Development Subcommittee of the Armed Services Committee is trying to get its legislation reported, and I have to attend that meeting at 2:30. So I shall precede the distinguished senior Senator from New York (Mr. JAVITS), and make my opening statement now.

A CHALLENGE TO SPONSORS OF WAR POWERS CURBS—ANSWER 25 PROBLEMS RAISED BY S. 440

Mr. President, once again the Senate has before it a bill which seeks to cut the war powers of the President. This is nothing new. Congress and the President have clashed over questions of war and peace ever since George Washington issued a proclamation of neutrality keeping the United States from joining France in war with Great Britain under the French Treaty. In making this decision, Washington beat down the narrow reasoning that Congress alone had the ultimate power to decide matters of war or peace by virtue of its declaration of war power. Clinton Rossiter, the well-known historian, writes that Washington's rejection of this construction is generally credited with establishing from that time forward the principle of Presidential primacy in the making of foreign policy.

Since then there have been numerous contests between the President and Congress with nearly each President having been pilloried at one time or another from the forum of Congress, because of his military initiatives. What distinguishes the pending bill from these past efforts is the fact that never before—I repeat, never before—in the country's history has Congress ever seen legislation which is so sweeping and inflexible as S. 440. Unlike earlier challenges to the President's prerogatives, the war powers bill is not cast in terms of the precise time and setting of the specific foreign policy crisis involved.

Instead, the war powers bill seeks to establish a permanent restriction for infinite situations, totally unrelated to knowledge of what the incident at hand will be. The bill sets out only four narrow situations in which it authorizes military defensive action to commence. If a situation does not fit one of the imminent emergencies which the draftsmen of the bill have foreseen, the President is prohibited from taking any action at all until Congress so authorizes him, no matter how untenable the situation may become as a result of our failure to act.

Even when the President is allowed to act, the bill states that his activity shall not continue beyond 30 days unless Congress grants an extension of his authority. Another provision of the bill allows Congress to stop whatever action the President has started even before these 30 days are up.

Mr. President, this kind of legislation is unrealistic, unwise and, in my opinion, unconstitutional. It is dangerous from the standpoint of safe or intelligent military planning. It is disruptive of our entire mutual security system which now safeguards world order. And it may well lead to war not peace by depriving the President of essential flexibility in meeting unexpected threats.

Mr. President, in this, my opening remarks on the war powers bill, I wish only to identify the many fallacies of the bill in a general way. I have compiled a list of 25 major problems raised by S. 440 and I will insert a memorandum documenting each of these unsettled questions at the end of my remarks. During the debate over the bill, I shall explore these major fallacies in some detail, particularly from the standpoint of the fundamental constitutional objections which the bill presents.

Mr. President, I might say at this point that I can well understand the feelings of the proponents of the bill. I can well understand the hope of the majority who have gone along as cosponsors of the bill. I can understand Americans across this country in their attitude of opposing war.

But I hold, in my arguments, that this problem is not going to be solved by action on the floors of Congress. It should be solved, if solve it we must, by constitutional amendment which makes it perfectly clear that power now given the President as Commander in Chief does not—I repeat, does not—include his authority to go to war. The President is the only person in the country who can take troops to war. Congress can declare war every 5 minutes, but we do not have the power of making war, and I hope I can make this abundantly clear during the course of several speeches I shall make on this subject.

To get back to the mistakes in this bill, the 25 grave, practical, and constitutional problems which remain unanswered by the advocates of the war powers bill include the following:

First. The bill prevents "show of force" and other mere deployments of troops or arms.

I might inject that the show of force has done more to keep peace in the history of the world than the actual deployment of arms. Great Britain, with her mastery of the seas and her willingness to use her fleet, kept peace, a comfortable peace, for nearly 200 years. On the occasions when the United States has been forced into a show of force, we have prevented hostilities on at least five occasions since World War II.

Second. U.S. forces cannot be used in defense against any threat which poses a future, rather than immediate, danger to the United States, even if the ultimate safety of the Nation is clearly at stake.

Third. The bill endangers the entire structure of American mutual security agreements which now stand as the greatest safeguard of global peace.

Fourth. The bill repeals outstanding area resolutions, such as the Middle East resolution.

Fifth. The bill blocks U.S. humanitarian relief missions, such as the 1964 joint United States-Belgian rescue operation in the Congo.

Sixth. The bill prohibits any military action by the President designed to defend the overseas economic position of the United States.

Seventh. The bill prohibits U.S. personnel in the NATO integrated commands from exercising any functions—any functions—during a crisis.

Eighth. The bill may trigger world war III by causing foreign adversaries to believe the United States will not respond to threats to world peace, because of legislative restrictions.

Ninth. The bill compels a vote by Congress shortly after each crisis occurs and might precipitate a legislative reaction far more dangerous than the response the President has chosen.

Tenth. The bill uses three totally different and unexplained terms to describe the nature of the threat which must exist before the President can respond to foreign dangers.

Eleventh. The 30-day limit of the bill, after which troops cannot be used, even in emergency situations, is unrealistic and dangerous.

Twelfth. The President could not protect U.S. fishing vessels against attack in territorial waters claimed by another nation.

Thirteenth. The bill provides no authority for immediate action designed to rescue U.S. citizens hijacked on an aircraft flying through international airspace.

Fourteenth. The President lacks any authority under the bill for the protection of U.S. citizens on vessels within international straits.

Fifteenth. The 30-day time restriction on emergency military actions might pressure a President to go all out by resorting to total war during the short period of time allowed him.

I lay particular stress on that, because so many Members of Congress, in their understandable efforts to seek peace at almost any price, forget that we have a red button in the White House. There is also a red button in Moscow. If the President is forced to make a decision that entails the protection of U.S. interests that he will not be able to protect in the 30-day period, he might—I am not saying that he would—but he might punch that red button. Many of the things that those who seek peace at any price might say might actually encourage the use of nuclear weapons, whereas today, the use of nuclear weapons is as far and remote as anything can be in anyone's mind.

Sixteenth. The bill attempts to do what the Founding Fathers felt they were not wise enough to do, anticipate the unlimited and unexpected variations of future events when defensive measures may be needed.

Seventeenth. The Declaration of War clause is an outmoded and invalid basis for passing legislation which prevents Presidential defensive reactions against foreign dangers.

I remind this body once again that in the nearly 200 years history of this Republic, we have had nearly 200 cases where the President has, in effect, called out the troops without a declaration of war by Congress, except in five instances, and two of those occurred in one war—World War II.

The power to declare war was given to Congress by the Founding Fathers after they had lived through the Continental Congress and its constant intercession in the affairs of George Washington as he led our armies against the British—intercession which nearly lost that war. The Founding Fathers very wisely gave the power to go to war to the President and the power to declare war—which means not much—to the Congress.

Eighteenth. The bill erroneously assumes that the power "to declare war" means the same thing as the sole power "to make war"—which, I just explained, it does not.

Nineteenth. The Necessary and Proper Clause does not give Congress power to define and restrict the constitutional functions of the President.

Twentieth. There is not a single statutory precedent for war powers controls covering unnamed geographic areas and unforeseen situations.

Twenty-first. Historical usage has conclusively established the constitutional basis of Presidential defensive reactions against foreign dangers on his own authority and initiative.

Twenty-second. It is an historical mistake of monumental proportions to assume the war powers bill would stop future Vietnam, when under its terms it would not have prevented Vietnam itself.

Twenty-third. The bill creates a dangerous uncertainty for the country in time of crisis by denying to the President any judgment and discretion of his own to determine if an emergency exists which authorizes use of military force.

Twenty-fourth. S. 440 will incite one of the gravest constitutional crises in American history without a means of resolution, because the Supreme Court treats the use of troops as a political question not subject to judicial decision.

Twenty-fifth. S. 440 ignores the true purpose of the Founding Fathers to prevent a recurrence of the interference with military operations which Washington experienced with the Continental Congress.

Mr. President, I issue a challenge—although I should probably say an invitation—to the authors of war powers restrictions. I ask those who favor curbs on the President's war powers to answer unequivocally each and every one of the fallacies in the bill which I am documenting today. Unless the sponsors of the bill can come up with a clear and satisfactory reply to each of these objections, I respectfully suggest that it would be most imprudent of the Senate to move forward with this legislation.

Mr. President, as I said earlier, I am a little bit out of order in appearing before the proponents have made their statements, but I do have an important hearing this afternoon bearing on the Armed Services and I know that the senior Senator from New York will understand my usurping, in effect, his prerogative to open this debate.

I intend to use the time allowed me to make a number of very short speeches on this subject. It is a subject which has interested me very deeply since 1964, when I made a rather unfortunate decision, but it was a decision which forced me to study the war powers of the President in the hope that I might, some day, have that responsibility.

Ever since that time, 9 years ago, I have continued to study them, not only by myself but through Terry Emerson, my legal assistant, through every living Secretary of State, through every man I have known in the State Department and out of the State Department, and every good historian and legal mind in America; so that I think we have compiled the best evidence, the best set of papers on the subject that has ever been prepared in the history of this country.

Mr. President, so that the proponents of the bill may understand better the 25 specific objections I have raised to the bill and the points that I have asked they answer, I ask unanimous consent that a memorandum of Law and Facts Establishing 25 Unanswered Practical and Constitutional Questions Raised by S. 440 be printed in the Record.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Memorandum of Law And Facts Establishing 25 Unanswered Practical And Constitutional Questions Raised By S. 440

There are at least 25 grave practical and Constitutional problems remaining unanswered in the War Powers Bill, S. 440, reported by the Senate-Committee on Foreign Relations. A detailed statement of law and facts establishing each of these questions follows:

1. "SHOWS OF FORCE" AND OTHER MERE DEPLOYMENTS OF TROOPS OR ARMS ARE PROHIBITED

No matter how much the sponsors of the bill now deny it, the specific text of S. 440 would bar a show of force in crisis areas. The sending of reinforcements to Berlin, for example, such as occurred in 1961, would be barred because it involves a definite risk of involvement in hostilities.

The sweeping prohibition of section 3 restricts the introduction of troops into situations whenever imminent involvement in hostilities is clearly indicated unless the nation or our armed forces are already under attack or the "direct and imminent threat" of attack. In addition, it is the express purpose and policy of the bill, as stated in section 2, to keep United States forces away from hot spots where a hostility might ensue unless Congress has given its approval to the introduction of American forces.

This logically would prohibit both "shows of force" and reinforcements. If American forces are not under threat in their present position so long as they keep away from a trouble spot, the bill prohibits them from being moved into the crisis area because of the danger of it leading to hostilities. This provision would prevent the U.S. Sixth Fleet from being redeployed in the Mediterranean during moments of crisis, such as in the six-day Middle East War of 1967 when President Johnson moved the Sixth Fleet into the danger area in order to forestall Russian pressure against Israel. At that time, the United States itself was not directly threatened with attack by any of the adversaries, nor was there any imminent threat to American forces. There was, however, an open threat made by Russia against Israel, if it did not cease its fighting immediately. President Johnson's prompt response would be illegal under S. 440 because no threat had been made against our own forces or country.

The primary author of the bill, Senator Javits, agreed that it is a purpose of the bill to apply to deployments during a colloquy with Arthur Goldberg at the October 6, 1971 hearing on war powers legislation. The exchange reads:

"Mr. Goldberg. Widespread deployments of troops without explicit Congressional authority raises to me Constitutional questions because of the danger of it leading to war, and that is covered by the resolution Senator Javits has been working out with Senator Eagleton.

"Senator Javits. Right.

"Mr. Goldberg. Deployment is a great problem and I believe Congress is the body to authorize substantial deployment of troops. I don't believe that that power is vested in the President by his role as Commander in Chief."

Senator Spong, an original coauthor of legislation identical to S. 440, also argued that this legislative effort to provide Congress with a stronger role in foreign policy "would require that Congress have a voice in the deployment of troops." Senator Spong explained, "The probability of war is closely related to the deployment of troops. The deployment of troops often increases the chances for conventional war are conventional war increases the prospect for nuclear reliance."

The sponsors of the bill cannot have it all ways. They must either retract these earlier statements and alter the stated purpose of the bill, with conforming changes to the text of the legislation, or admit that the bill does indeed cover mere "shows of force" and other types of deployments of the armed forces.

2. U.S. FORCES CANNOT BE USED IN DEFENSE AGAINST ANY THREAT WHICH POSES A FUTURE, RATHER THAN IMMEDIATE, DANGER TO THE NATION

Section 3 of S. 440 requires that before the President takes any defensive action there must be an actual armed attack on the United States or our armed forces or "the direct and imminent threat" of such an attack. Professor Alexander Bickel, who is credited by the Foreign Relations Committee in its report as offering the definitive testimony relating to the construction of the "direct and imminent threat" clause, defined the provision as applying only to situations where an attack on the United States might occur immediately, that is, today or tomorrow.

Professor Bickel said, by way of explanation, "So somebody drops an atomic bomb on Paris or somebody marches into Paris, it is, I think, Constitutionally open to the President, and I take it Senator Javits agrees it is open under his bill, for him to say, 'I know what that means; that means that tomorrow morning they are coming at us. I am going to react to that threat,' the way after all President Kennedy reacted to what was only a threat implicit in the Cuban situation."

Senator Spong, the Floor manager of the War Powers Bill in 1971, also indicated how restrictive the "direct and imminent threat" clause is to be read. In an exchange with Mr. William D. Rogers at the July 27, 1971 hearings, Senator Spong drew a definite distinction between the terms "imminent" and "future."

After Mr. Rogers recommended that the bill allow the President to forestall an imminent attack, as well as an actual attack, Senator Spong asked, "But you are distinguishing imminent attack from future attack?" Mr. Rogers replied, "Yes." Senator Spong added, "Now, you know the word 'future' is used in the Stennis and Bentsen legislation." Mr. Rogers interjected, "Future nuclear, I think." Senator Spong responded, "Future attack. He can act to repel what he believes to be future. I think there is a distinction here. Imminent, I look at as something much more likely to occur."

Thus, an original coauthor and the Floor Manager of the War Powers Bill explained that his interpretation of "imminent" attack excluded the idea of a "future" attack. Again, the present sponsors of S. 440 have not retracted these earlier descriptions; nor has any qualifying definition of "direct and imminent threat" been added to the bill.

The significance of the limitation is that under section 3 the United States could not respond to an attack against a foreign nation, such as Turkey or Israel, where the attack is not accompanied by an immediate attack on our nation or troops, even though the attack would set in motion a chain of events certain to endanger the United States in the future.

3. THE BILL ENDANGERS THE ENTIRE STRUCTURE OF AMERICAN MUTUAL SECURITY AGREEMENTS

Section 3(4) of the bill expressly mandates that statutory authorization for military initiatives by the President shall not be inferred from any existing treaty, nor from any treaty hereafter ratified unless such treaty is implemented by legislation specifically permitting the introduction of military forces in hostilities. Thereby, the bill places all of our treaty obligations in a state of permanent doubt. No ally can know if the United States has the will to stand by it in time of mutual danger or not.

Professor Richard B. Morris, who testified in support of war powers legislation at the hearing of March 9, 1971, nevertheless wrote in an afterthought to Senator Eagleton of his fears that NATO would be damaged by the bill. In his letter, sent after his original testimony, Professor Morris warned, "I might add that the effect could conceivably be mischievous were Congress at this time to decide, for example, that NATO was not self-executing. Such a resolution might encourage the aggressive forces in Europe who would no longer see in NATO an effective deterrent to their expansionist aims."

4. OUTSTANDING AREA RESOLUTIONS, SUCH AS THE MIDDLE EAST RESOLUTION, ARE REPEALED

Section 3(4) provides that no provision of law in force now shall be construed as authority for use of the armed forces unless it "specifically authorizes" the introduction of troops in crisis situations.

The sponsors of S. 440 argue that any language in law which provides for an American response to be "in accordance with the Constitution," as is generally used in our mutual defense treaties, means that *no* specific authority is granted under this language. Applying their own interpretation to the parallel language contained in the Middle East Resolution, which declares that the use of armed forces shall be consonant "with the Constitution of the United States", this means the Middle East Resolution does not specifically authorize the commitment of American forces in hostile situations. If the authors of S. 440 wish to construe the Middle East Resolution as being self-executing, then they must also admit that the NATO and other treaties which include the words "in accordance with Constitutional processes" are also self-executing.

Furthermore, the Middle East Resolution merely declares "the United States is prepared to use armed forces." The Cuban Resolution uses somewhat similar language which states only that "the United States is determined" to take certain steps. Neither of these resolutions specifically provide that "the President of the United States is authorized to employ the armed forces" or any other language so unequivocal. Unless amended, section 3(4) would repeal both the Cuban and Middle East Resolutions as authorities for emergency use of American forces.

5. UNITED STATES HUMANITARIAN RELIEF MISSIONS, SUCH AS THE 1964 U.S.-BELGIAN RESCUE OPERATION IN THE CONGO, ARE PROHIBITED

Section 3(3) provides authority for the rescue only of American citizens and nationals. No specific authority is granted for joint international rescue missions such as the 1964 Congo rescue effort which saved 2,000 persons, including about 60 Americans, who were being held hostage by rebels. Insofar as the military operation affected 97% of the persons evacuated, it would not have been legal under S. 440 because these individuals were not United States citizens. This interpretation of the provision seems compelled because otherwise the provision might authorize the President to employ troops anywhere in the world under the excuse of protecting our citizens, though the main purpose or result reaches far beyond that end, in light of the fact that United States citizens can be found today in every other nation of the world, including Communist China. Assuming it is not the intent of the authors to so enlarge the President's authority, the only reading of the provision one is left with is that it must prohibit United States participation in international humanitarian missions except for the exclusive purpose of saving American lives alone.

6. ANY MILITARY ACTION DESIGNED TO DEFEND THE ECONOMIC POSITION OF THE UNITED STATES ABROAD IS PROHIBITED

Section 3 specifically restricts defensive action to situations where there is an actual armed attack upon the physical United States, or upon our armed forces. If an enemy should occupy and seal off from the free world the Suez Canal, or the Strait of Malacca, for example, the United States could not respond because the hostile action is not an attack upon any actual territory of the United States, or our forces not in that area at the particular moment, although the attack represents an extremely grave threat ultimately to the economic position and the fundamental welfare of the United States. By the time Congress might act to grant authority for a United States reaction, we would be faced with an accomplished fact and a situation in which it would be far more difficult and dangerous to alter the situation.

7. U.S. PERSONNEL IN THE NATO INTEGRATED COMMANDS ARE PROHIBITED FROM EXERCISING ANY FUNCTIONS DURING A CRISIS

Section 3(4) flatly states that specific statutory authorization is required for the assignment of members of the armed forces of the United States to "command" or "coordinate" in the movement of the military forces of any foreign country or government at any time when there exists an imminent threat that our forces will become engaged in hostilities. Thus, at the very moment when our participation in the NATO Unified Command would be most needed, the bill squarely prohibits U.S. personnel from exercising any functions at all.

8. THE BILL MAY TRIGGER WORLD WAR III BY CAUSING FOREIGN ADVERSARIES TO BELIEVE THE UNITED STATES WILL NOT RESPOND TO THREATS AGAINST WORLD PEACE

At the War Powers hearings, Professor James MacGregor Burns, a Pultizer Prize historian, testified that any legislation which would encumber the President's ability to respond and adjust to changing world situations will remove the one essential ingredient preventing World War III—flexibility. Doctor Burns warned that imposing artificial restrictions on Executive discretion "may not lead to peace but to war, as foreign adversaries estimate that the United States will not respond to a threat to world peace because of legislative restrictions on the Executive."

Former Under Secretary of State George W. Ball also testified that war powers legislation could inhibit the President in doing what is necessary to avert some future catastrophe similar to the way the Neutrality Acts adopted in the aftermath of World War I "very probably" impeded the United States from taking the steps which would have averted World War II.

9. BY COMPELLING A VOTE OF CONGRESS DURING THE PEAK OF EACH CRISIS, THE BILL MIGHT PRECIPITATE A CONGRESSIONAL REACTION FAR MORE DANGEROUS THAN THE RESPONSE THE PRESIDENT HAS CHOSEN

Professor Arthur Schlesinger testified in March of this year that the 30-day requirement of section 5, under which Congress must vote on the use of the armed forces in hostilities not later than 30 days after the outbreak of a crisis, is "filled with bobby-traps." As Doctor Schlesinger indicated, one need go back no further than the Cuban Missile Crisis to recall that Congressional leaders, when informed by President Kennedy of the naval quarantine, felt that he should take more forceful action, including a military attack or invasion.

It must be recognized that the key legal principle on which the bill is based is that the President must carry out the policy directives of Congress in the initiation and prosecution of military hostilities and that the President has no power to contravene such directives. This is the plain legal position taken by Senator Javits, the prime author of S. 440, in a legal brief which he offered in support of the bill at the Senate hearing of March 24, 1971. According to this principle, the President would be required to engage the country into broader hostilities than he wishes in any event when Congress passes legislation directing that he take stronger action than he had planned. A bill constructed on the supposition that Congress is more peace-minded than the Executive may, as Doctor Schlesinger testified, "have unexpected consequence when, as has been so often the case in our history, it is the Congress which is seeking war and the President restraint."

10. S. 440 USES THREE TOTALLY DIFFERENT AND UNEXPLAINED TERMS TO DESCRIBE THE THREAT WHICH MUST EXIST BEFORE THE PRESIDENT CAN RESPOND TO FOREIGN DANGERS

Section 2 of S. 440 refers to the power of the President to respond to "the imminent threat of attacks" upon the United States or its armed forces, but sections 3 (1), (2) and (3) refer to authority for the President to forestall only "the direct and imminent threat" of such attacks. To confound matters worse, the introductory language of section 3 prohibits the introduction of United States troops into situations where "imminent involvement in hostilities is clearly indicated."

The bill does not define when an attack is "imminent" but not both "direct and imminent". Nor does the bill define when our involvement in hostilities is "clearly indicated" but the threat of attack against American forces is not yet "direct and imminent."

Even though the terms of the bill apply to situations in which the life or death of the nation and its citizens may be at stake, the sponsors of S. 440 have made no effort to clarify their use of three different methods of describing "imminent" hostilities. The authors of S. 440 have never explained why they use three different terms and what meaning these differences are to have in situations where the nation appears threatened by foreign danger.

11. THE 30-DAY LIMIT OF THE BILL, AFTER WHICH TROOPS CANNOT BE USED, IS UNREALISTIC AND DANGEROUS

Section 5 of S. 440 provides that the use of American forces in hostilities, even in emergency circumstances, shall not be sustained beyond 30 days without specific legislation thereafter enacted for that purpose by Congress. Henry Brandon, dean of the international journalists corps in Washington, writes in his latest book, *"The Retreat of American Power,"* "In the case of the War Powers Act, the 30-day authorization period, after which the President could not continue a military involvement, does not sound practical in our time. It would mean arguing the case for some 20 days in Congress, and the consequences of such a discussion on the credibility of international American commitments is easily visualized."

Mr. William D. Rogers, a specialist in international law, who supports legislative limits on war powers, nevertheless attacks the 30-day provision of the bill. He testified in 1970 at a House hearing on war powers legislation, "I think the Javits proposal requiring the President in effect to get out if Congress does not act within 30 days is dangerous."

In essence, the 30-day limit provision would give Congress something the Founding Fathers never intended it to have, a veto over the President's judgment that continued defensive measures are required after 30 days. Congress is thereby establishing itself as 535 Commanders in Chief, which is not where the Constitution vests that function.

12. THE PRESIDENT COULD NOT PROTECT UNITED STATES FISHING VESSELS AGAINST ATTACK IN TERRITORIAL WATERS CLAIMED BY ANOTHER NATION

Sec. 3(3) of S. 440 allows the President only to protect while evacuating citizens from "any situation on the High Seas" or "any country in which such citizens and nationals are present."

But it is well-settled under international law that the term "High Seas" does not include the waters known as "territorial waters." Indeed, the two terms are given mutually exclusive definitions by the two 1958 Geneva Conventions on the High Seas and the Territorial Seas. Accordingly, the bill leaves unexplained how the President could protect U.S. citizens or fishing vessels attacked within the Territorial Seas of foreign coastal nations which often extend up to two hundred miles from the coast.

Since these waters are neither within the "High Seas" nor the country proper, the bill must be amended to clearly allow protection of Americans in these circumstances or else no protection can be given.

13. S. 440 PROVIDES NO AUTHORITY FOR RESCUE OPERATIONS DESIGNED TO PROTECT U.S. CITIZENS HIJACKED ON AIRCRAFT FLYING THROUGH INTERNATIONAL AIR SPACE

Under Section 3(3) of the bill, U.S. citizens can be protected only while being evacuated from any situation "on the High Seas" or in another country. Obviously the "High Seas" do not include the "blue skies" and the term "country" does not include international air space. Therefore, the bill provides absolutely no means for immediate action leading toward the rescue of hijacked citizens on aircraft while it is still in flight until such aircraft has landed in some country, by which time the chance for important steps which might have averted disaster would have been lost forever.

14. NO AUTHORITY EXISTS FOR PROTECTING UNITED STATES CITIZENS ON VESSELS WITHIN INTERNATIONAL STRAITS

Again, section 3(3) permits protective reactions only as to citizens on the High Seas or within another country. However, under international law, the term "High Seas" is given an entirely different and exclusive meaning from the term "International Straits."

15. THE THIRTY DAY TIME LIMIT MIGHT PRESSURE A PRESIDENT TO RESORT TO TOTAL WAR WITHIN THE BRIEF TIME MILITARY ACTION IS AUTHORIZED

During the Senate hearings on April 23, 1971, Senator Javits, the prime author of S. 440, gave an indication the bill might lead to total war when he admitted there is nothing in his bill to stop it. Senator Javits stated, "Couldn't you wage a pretty good war if it were nuclear, and the President's immediate response were nuclear?" *There is nothing in my bill that stops him from doing that."*

16. IT IS IMPOSSIBLE TO PROPHESY, AS S. 440 ATTEMPTS, ALL THE UNEXPECTED AND UNLIMITED VARIATIONS OF EVENTS WHEN DEFENSIVE ACTION MAY BE NECESSARY WITHOUT ADVANCE CONGRESSIONAL APPROVAL

Former Under Secretary of State George Ball testified at Senate hearings on July 27, 1971, that "The lesson one learns from the active practice of foreign policy is how often and at what critical times the totally unexpected event occurs to dominate and transform the scene." For this reason, Mr. Ball testified that the War Powers Act is "an attempt to do what the Founding Fathers felt they were not wise enough to do . . . anticipate at any given moment the unlimited variations which the future is capable of presenting."

Similarly, Professor Abram Shayes, who supports the policy of war powers controls, nevertheless vigorously opposed in testimony at 1970 House hearings on war powers legislation all "bills that seek to lay out a detailed blueprint in advance to govern the relations between the President and the Congress in the exercise of the national war power in all possible contingencies."

17. THE "DECLARATION OF WAR" CLAUSE IS AN OUTMODED AND INVALID BASIS FOR RESTRICTING PRESIDENTIAL DEFENSIVE REACTIONS AGAINST FOREIGN DANGERS TO THE NATION

Judge Philip C. Jessup of the Council on Foreign Relations, who was cited by Senator Javits as being in support of the War Powers Bill, nevertheless wrote in a letter inserted in the Senate hearings of March 24, 1971, that "the concept of 'declaration of war' . . . is now an outmoded concept." He added, "Because of my belief about the lack of real legal relevance of the declaration in these times, I would hesitate to tie new legislation so tightly to the 'declaration of war' clause of the Constitution."

The idea that the only way the United States can enter into war is through a declaration by Congress is a myth. The vast majority of wars both in American and Western European history have been begun without any declaration. This fact was well known to the Founding Fathers.

In the eighty-seven years preceding the Constitutional Convention, thirty-eight wars held in the Western World and thirty-seven of them were without any declaration of war. Alexander Hamilton's statement in the Federalist No. 25 that delarations of war were in disuse in the 18th Century, proves that the Founders themselves knew of this condition. Thus, when the Constitutional Convention narrowed the authority of Congress by substituting "declare" for "make war" the framers understood that many wars had occurred and could continue to exist without a declaration. If the Founders intended for the declaration clause to be the sole way in which the United States could engage in war, why did the framers use a method which was already then in disuse?

18. S. 440 ERRONEOUSLY ASSUMES THE POWER "TO DECLARE WAR" MEANS THE SAME THING AS THE SOLE POWER "TO MAKE WAR'

Samuel Johnson's Dictionary of the English Language, which was the standard dictionary used by learned Americans during the period of the Constitutional Convention, defines "declare" as simply meaning "to make known" or "to proclaim." On the other hand, "to make" was defined as meaning "to create" or "to bring into any state or condition." Thus, when the Constitutional Convention struck out "to make" from the Constitutional draft and substituted in its place "declare" it removed from Congress the power to bring the country into the state of war and left with it only the power to proclaim its purpose of bringing the total resources of the nation in support of an existing war. The declaration might also have been conceived at that time as being a method by which the United States could enter into "offensive war" such as might have existed if the United States had acted under the French treaty in 1793 to join France in war with Great Britain instead of taking a position of neutrality. If President Washington had put Naval forces in the French islands of the Caribbean and repelled British attacks on those islands, for example, we would have been acting offensively in support of the territorial integrity of an ally in circumstances when there was no actual attack or threat of attack against the United States itself or our own citizens. In these circumstances, as distinguished from situations where the President may determine to use force to repel or head off dangers against the United States, the framers may well have intended for the declaration of war clause to apply. The authors of S. 440 have confused "offensive war" from the defensive measures which the President may bring to bear under his independent authority whenever he perceives a foreign threat to the security of the United States or its citizens.

19. THE "NECESSARY AND PROPER CLAUSE" DOES NOT GIVE CONGRESS THE POWER TO DEFINE AND RESTRICT THE SEPARATE CONSTITUTIONAL FUNCTIONS OF THE PRESIDENT

The United States Supreme Court held in the case of *Myers* v. *The United States*, 272 U.S. 52, 127 (1926) that Congress cannot vary the exercise of the President's separate powers under the Necessary and Proper Clause or any other power. Chief Justice Taft wrote that this "would be a delegation by the [Constitutional] Convention to Congress of the function of defining the primary boundaries of another of the three great divisions of government."

The Supreme Court also took a restrictive view of the Necessary and Proper Clause in *Kinsella* v. *Singleton*, 361 U.S. 234, 247 (1960). The Court held this Clause "is not a grant of power" but merely means that Congress may implement the powers it is *otherwise* vested with under the Constitution. The notion that Congress can restrain Presidential military measures under the Necessary and Proper Clause was repudiated over 100 years ago when William Whiting counselled President Lincoln that Congress is "bound to pass such laws as will *aid* him" in carrying into execution his military defensive powers. In line with this interpretaton, the Library of Congress compiled a report for me in 1972 which concluded that Congress may act to aid the President in the exercise of his functions, but not restrict him, under the Necessary and Proper Clause.

20. THERE IS NOT A SINGLE STATUTORY PRECEDENT FOR WAR POWERS CONTROLS COVERING UN-NAMED GEOGRAPHIC AREAS AND UNFORESEEN SITUATIONS

S. 440 is not an exercise in legislating under the appropriation power of the purse. The bill lays down broad and general rules which apply for all time and to all settings and is not tied in any way to Congressional oversight with respect to funds which may be needed to finance military operations now or in the future. A close and extensive study of authorities has not turned up a single precedent for this kind of legislation in the entire history of the United States under the Constitution. Nor have the sponsors of S. 440 cited any prior statute as a precedent. The truth is S. 440 is an entirely unprecedented effort at usurping Presidential powers over national defense.

21. HISTORICAL USAGE CONCLUSIVELY ESTABLISHES THE CONSTITUTIONAL AUTHORITY OF PRESIDENTIAL DEFENSIVE REACTIONS AGAINST FOREIGN DANGERS

There have been at least 204 foreign military hostilities in the history of the United States and only five of them were declared. A complete list identifying each of these incidents is included as an exhibit with my testimony at the Senate hearings on War Powers Legislation of April 1973.

These historical precedents establish a consistent practice by which almost all American presidents have responded to foreign dangers with whatever force they perceived to be necessary and technologically available at the particular moment in time. The incidents were not limited to the Western Hemisphere or to small-scale skirmishes. At least 103 of them took place outside the Western Hemisphere and one, the Filipine Insurrection, involved the employment of over 126,000 United States troops in a war begun and ended without any declaration.

This usage is conclusive of Constitutional interpretation. The United States Supreme Court applied the principal of usage as a determining factor in Constitutional interpretation in at least two cases involving the power of the President in relation to Congress. *The United States* v. *Midwest Oil Company*, 236 U.S. 459 (1915) and *Myers* v. *United States*, 272 U.S. 52 (1926).

In *Myers*, the Court held that Congress could not shift gears after seventy-three years of a particular practice and begin setting conditions on a Presidential practice which Congress had never before overridden by statute, even though the practice had often been the subject of bitter controversy, even as the question of war powers has often been debated, but never legislated against, in the Halls of Congress.

The Supreme Court held:

"Nor can we concur . . . that when Congress after full consideration and with the acquiescence and long-practice of all the branches of the government, has established the construction of the Constitution, it may by its mere subsequent legislation reverse such construction. It is not given power by itself thus to amend the Constitution." 272 U.S. 175.

In agreeing with me that the President possesses independent powers of reacting against foreign dangers, Professors Myers S. McDougal, perhaps the prominent authority on foreign relations law under the Constitution, wrote to me in January of this year "that a people's genuine 'Constitution' is in how they live and cooperate under a basic charter and that the most important authority in a democratic community is in the expectations that people create in each other by such living and cooperation."

22. IT IS AN HISTORICAL MISTAKE OF MONUMENTAL PROPORTIONS TO ASSUME THE WAR POWERS BILL WILL STOP FUTURE VIETNAMS

There are at least twenty-four statutes in which Congress participated jointly with the President in approving United States activities in Indo-china, the SEATO Treaty and the Tonkin Gulf Resolution being only two among numerous other such examples of Congressional collaboration in the Indochina war. These statutes, all of which specifically identified the war in Vietnam or Southeast Asia, would have constituted the specific statutory authority called for by S. 440.

Even if not, Arthur Schlesinger is undoubtedly correct in his observation, made while testifying on S. 440, that President Johnson could have gotten all the Congressional blessing he wanted at any point up to 1968 and if S. 440 had been on the books, "It would not have arrested American participation in the war; it would only have locked Congress deeper into the escalation policy."

23. S. 440 CREATES DANGEROUS UNCERTAINTY IN TIME OF CRISIS BY DENYING TO THE PRESIDENT ANY "JUDGMENT AND DISCRETION" TO DETERMINE IF AN EMERGENCY EXISTS WHICH AUTHORIZES USE OF MILITARY FORCE

Nowhere in S. 440 is there any language providing that the President may make an independent judgment of any kind under the bill. To the contrary, a legal brief introduced in the Senate hearings by Senator Javits, the primary author of S. 440, argues that the bill rests upon the proposition that the President is the mere "executive arm of Congress" who must follow the "policy directives" of the Legislative Branch. This strict proposition allows of no discretion or judgment for the President, but rather contemplates that the President is tightly bound to refrain from any action unless it is clearly consistent wtih the directives of Congress. Under this position, the President must return to Congress on each occasion when there is any doubt over the Congressional purpose of language used in S. 440. If the bill intends to grant the President flexibility of interpretation, it should specifically say so.

24. S. 440 MAY INCITE ONE OF THE GRAVEST CONSTITUTIONAL CRISES IN AMERICAN HISTORY

Congress should not create a crisis by placing the Supreme Court in a position where it must take sides with one of the two political branches. The Supreme Court has never directly considered the question of the legality of Presidential use of troops during any ongoing hostility. The Court has historically determined that it is not the function of the Judiciary to entertain litigation which challenges the legality, the wisdom, or the propriety of the Commander in Chief in sending our armed forces abroad or to any particular region. These matters have invariably been held to be plainly within the exclusive province of the political power and not subject to judicial decision. *State of Mississippi* v. *Johnson*, 71 U.S. 475 (1866); *Oetjen* v. *Central Leather Company*, 246 U.S. 297, 302 (1918); Johnson v. Eisentrager, 339 U.S. 763, 789 (1950); *Mora* v. *McNamara* 389 U.S. 934 (1967) and 373 F. 2nd 664–666 (1967).

An almost unchallengable line of cases can be mustered which proves that the Supreme Court will not consider any statute governing the President's deployment of troops. It goes without saying that our country would be placed in a bad constitutional state of confusion in the event Congress and the President would be so left without any arbiter to resolve the legality of S. 440.

At the Senate hearings of April 23, 1971, Senator Javits admitted in a colloquy with me that the Supreme Court would not consider his legislation. He said, "I agree that no Supreme Court is going to deal with this legislation. . . ."

25. S.440 IGNORES THE TRUE PURPOSE OF THE FOUNDING FATHERS TO PREVENT A RECURRENCE OF THE INTERFERENCE WITH MILITARY OPERATIONS WHICH WASHINGTON EXPERIENCED WITH THE CONTINENTAL CONGRESS

General Washington's troubles with the Continental Congress must be remembered in any effort to get at the purpose of the Founding Fathers in vesting the President with the exclusive power of Commander in Chief of all the American armed forces. It is universally recognized that from the beginning of his commission as General of the Continental Army to the end, it was a constant struggle for George Washington to overcome the obstacles put in his way by Congress. Required by his commission "punctually to observe any such orders and directions" as he should receive from Congress, then clothed with the powers of an executive, Washington was harrassed, second-guessed, and over-ruled with respect to his military plans and strategy throughout the War of Independence.

A prominent military historian has written, "The amount of harm, caused by the unwise military control usurped by Congress, can only be measured in terms of the appalling sufferings of the American soldiers at Valley Forge, which Washington was powerless to prevent." T. Frothingham, *Washington Commander in Chief* 234 (1930).

The sponsors of S. 440 would have us revert to this discredited system. But, the Founding Fathers realized that Congressional control of military functions had very nearly led to disaster during the Revolutionary War. For this reason, the use of the armed forces in the defense of American rights and freedoms was left with the President as Commander in Chief.

The framers had witnessed at first hand the terrible inefficiency of the Legislature interfering with military operations. They unquestionably made up their minds that the new government which they formed would have a Commander in Chief who possessed real power to act with promptness, directness, and unity of action.

As Alexander Hamilton wrote in the Federalist No. 73, "Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority."

It must also be recalled that in centralizing the national defense powers in the President, the framers were influenced by the writings of Locke, Montesquieu, and Blackstone, all of whom saw the making of defensive war and of foreign policy decisions as being properly the function of the Executive and with whose writings the members of the Constitutional Convention are known to have been closely familiar.

Thus, S. 440, which is an effort to seize the function of military command powers into the Legislative Branch, runs directly counter to the purpose of the Founding Fathers to place the direction of war into a single hand, the President as Commander in Chief.

BARRY M. GOLDWATER,
U.S. Senate.

Mr. DOMINICK. Mr. President, will the Senator from Arizona yield?

Mr. GOLDWATER. I am happy to yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, the distinguished Senator from Arizona and I were on the same side when this bill was debated last year. I believe that we were the two principal opponents at that time in trying to talk about it. We were caught—I was, anyway, I do not know whether the Senator from Arizona was—

a little unaware at that time that the bill would be brought up and moved on quite as rapidly as it was, so that we were obviously not so prepared as we are today by the excellent presentation just made by the Senator from Arizona.

Mr. President, I want to associate myself with the remarks of the Senator from Arizona immediately. They are extremely appropriate. They are right on the button insofar as commonsense is concerned.

For the purposes of the RECORD, I invite attention to the phraseology in section 3 of the bill

> SEC. 3. In the absence of a declaration of war by the Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, only—

Then it goes on, one, two, three, four, and so forth. The first one points out that if one happens to be a soldier, officer, or enlisted man stationed in the United States, he can specifically not only repel an armed attack against him but he can take necessary and appropriate retaliatory action.

Under subsection 2, this wording ". . . take necessary and appropriate retaliatory action" is omitted from all U.S. citizens who happen to be stationed overseas.

That means that if one is a soldier—it would seem to me—who was attacked in Korea, say, the only thing he could do would be to defend himself but he could not do anything back, either by way of a counterattack or anything else.

We brought that up the last time, and I specifically mentioned it twice. I had hoped the committee would change that wording before we got through. I expect to offer an amendment to take that action in the event it is not adopted just by voice vote or something in the Senate.

It makes no sense to me to have people ordered overseas, whether regular, reserves, or National Guard, to defend U.S. interests and then say, "If you get attacked, boys, all you can do is to defend yourself. You cannot retaliate."

That is the kind of problem raised by the bill.

I want to congratulate the Senator from Arizona. He has done a magnificent job in thoroughly presenting the constitutional problems involved in this matter.

Mr. GOLDWATER. I thank the Senator from Colorado.

I recall the debate last time and the fact that we did not have much time. I am just as disappointed as is the Senator from Colorado in the fact that the Committee on Foreign Relations did not seemingly allow any opposition witnesses. I requested to be heard before the committee, but I was not given a chance to be heard, so I have to be heard on the floor.

Also, there is grave doubt in my mind that the Foreign Relations Committee has much to do with this kind of legislation. I think that before them would come the Committee on the Judiciary, because this matter involves a question of the Constitution; and certainly the Committee on Armed Services should be heard on this matter, particularly in view of the mistakes that the Senator from Colorado has pointed out.

I will add that this bill is shot full of mistakes. In fact, I am certain that if the majority of the people who are cosponsoring the proposed legislation would study its context and listen to the opposition, I do not see how they could ever support a bill that, in my opinion, the President will have to veto regardless of how much it is amended. Not only is the bill unconstitutional, but also, it is a bill that takes the subject in the wrong direction. If the bill is passed and becomes the law of the land, I cannot imagine an enemy of the United States wanting anything better than this kind of legislation. In effect, it would tie the strategic and tactical judgment of the President; it would tie the use of troops; it would tie any power he has in foreign policy.

I believe the adoption of this measure would, in effect, jerk the rug of peace and world understanding right out from under the feet of the United States.

I hope that sometime during this debate we can have the idea—at least the faint hope—that our colleagues will participate in some way in trying to become better acquainted with a subject which my research indicates has received very little study in the nearly 200 years of our Republic.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged against both sides equally on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I yield myself, with the permission of the Senator from Maine (Mr. MUSKIE), 15 minutes.

The PRESIDING OFFICER. The Senator is recognized on the time of the Senator from Maine.

Mr. JAVITS. Mr. President, there is no longer any serious argument as to the existence of a constitutional crisis over the exercise of the Nation's war powers. The pertinent question is: What will the Congress—and the President—do about this crisis? The deep wounds of the Vietnam experience inescapably remind us that the de facto concentration of plenipotentiary war powers in the hands of the President has subverted the letter and the spirit of the Constitution and has placed an almost intolerable strain on our national life. The War Powers Act (S. 440), which is identical to the legislation passed by the Senate on April 13, 1972 by a vote of 68 to 16 and which now has a total of 62 cosponsors, seeks to redress this aberration from the original intent and spirit of the Constitution.

For out of the crisis of World War II and the ensuing cold war, lawyers for the President had spun a spurious doctrine of "inherent" Commander-in-Chief powers—broad enough to cover virtually every "national security" contingency that could be thought of. And, recently, this spurious doctrine has been found to have developed even a lethal mutation—the "national security" cover for criminal acts which as used in the Watergate scandal became a political instrument. The now almost unlimited power of the Presidency with respect to matters of "national security" is a unilateral power not only to defend our Nation wisely but also a unilateral power to involve us in the quagmire of a Vietnam or even in a thermonuclear holocaust.

The severe imbalance which has developed between the power of the President and that of Congress has evoked many charges of "usurpation." While "usurpation" is a heady word which may help to assuage our feelings, a review of the record of the past 30 years leading up to our present predicament does not, in my judgment, allow us the solace of attributing the result solely to Presidential usurpation. The Congress has given away its authority—not only by default and acts of omission—but also in an endless series of loosely worded and broadly drawn delegations of authority to the President. To cite one example, but they are numerous, how many of us—including myself—who voted for the Tonkin Gulf Resolution in 1965 do not feel uncomfortable today in rereading its extraordinary language:

> The United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force.

The Tonkin Gulf Resolution gave authority without defining responsibility, and thus created a situation of desperate confusion over the questions of authority and responsibility as the Congress sought to wrestle with the issue of ending the Vietnam war. As a result, the related issue—accountability, the keystone of democratic government—never came into focus.

Our experience of the last 5 years or more has demonstrated how much harder it is to get out of an undeclared war than it is to get into one. In dealing with the situation retrospectively, Congress has been forced to rely solely on its "power of the purse" over appropriations. We have seen how difficult and unsatisfactory it is for Congress to try to get a meaningful hold on the Vietnam war through the funds cutoff route.

Yet there is a group of pundits, historians, and commentators who would have us fly directly in the face of this tortuous experience and confine ourselves to the funds cutoff route. Those who would so advise us are unwilling to try even institutional reform. They would have us face the Presidential war power so often used by Presidents as a fine tuned, subtle, and decisive instrument with a clumsy, blunt, and obsolescent tool—the fund cutoff remedy—which is there now and will be there when the war powers bill becomes law. It can be a sanction, but it is not a substitute.

Coming after so many years of struggle and so many preceding end-the-war efforts in the Congress, the recent action to cutoff funds for U.S. bombing in Cambodia on August 15 contains an element of anticlimax. For those who seek to restore the constitutional balance in war powers, there is a vital lesson to be learned from the August 15 deadline measure; it proves the inherent weakness and indeed vice of the funds cutoff route as the way to assert Congress war powers.

The weakness of the funds-cutoff route as a vehicle for exercise of the war powers of Congress enumerated in article I, section 8 of the Constitution is laid bare for all to see. The war powers of Congress were intended by the Founding Fathers to be plenary in nature. Their most striking characteristic is that they are so molded as to give Congress the controlling authority—and responsibility—of deciding whether or not the United States should be in war. That being conceived as the crucial policy decision—whether to initiate war—the constitutional war powers of Congress have—when the will exists to exercise them—a "front-end load" characteristic to them.

The weakness of the funds-cutoff route derives precisely from its after-the-fact, "tiger by the tail" nature. So awesome is the momentum of war, once really underway, that the braking devices of our system of government do not work effectively—only the withholding of basic authority can do so. Particularly within the executive branch the fever of war seems to negate the normal patterns of restraint—thus highlighting the indispensability of Congress role.

Another part of the lesson is parliamentary in nature but of crucial substantive and psychological significance. The "compromise" nature of the August 15 deadline legislation—permitting 6 additional weeks of abhorrent bombing—derived from the desire to avoid a Presidential veto.

The Constitution provides that Congress shall declare war. This requires a simple majority of both Houses of Congress. But it takes two-thirds of both Houses to override a Presidential veto. Thus, if Congress attempts to exercise its constitutional responsibility of "deciding on war" through after-the-fact, funds-cutoff legislation, the veto power gives the President an enormous tactical advantage. In effect, it enables the President to make war with the support of only one-third of either House of Congress.

While taking great care to lodge the plenary power of deciding on war in the Congress, the Founding Fathers did recognize the "sudden attack" contingency, as expressed in Madison's note explaining why the power of Congress to "make war" was modified to "declare war"—"leaving to the Executive the power to repel sudden attacks." But from this modest and sensible root of legitimacy, an illegitimate practice has grown which threatens to consume our whole constitutional system.

If James Madison had pressed his point on September 7, 1787, during the debate in the Constitutional Convention, we might not be faced with our current agonizing dilemma. Madison proposed then that two-thirds of the Senate be authorized to make treaties of peace without the concurrence of the President. He said,

> The President would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede a treaty of peace.

However, Madison withdrew his proposal without putting it to a vote.

Presidents themselves have tended to see their role, as Commander in Chief conducting a war, as the decisive power of the Presidency. President Nixon articulated this view very precisely, when he said in April 1972:

> Each of us in his way tries to leave [the Presidency] with as much respect and with as much strength in the world as he possibly can—that is his responsibility—and to do it the best way that he possibly can. . . . But if the United States at this time leaves Vietnam and allows a Communist takeover, the office of President of the United States will lose respect and I am not going to let that happen.

It almost seems as if proponents of the Presidency have neglected to read what the Constitution in fact says about the war powers. Article I, section 8 of the Constitution enumerates the war powers of Congress. The list of these powers is both detailed and comprehensive:

> Provide for the common defense.
>
> To define and punish . . . offenses against the law of nations.
>
> To declare war.
>
> To raise and support armies.
>
> To make rules for the government and regulation of the land and naval forces.
>
> To provide for calling forth the militia to execute the laws . . . and repel invasions.
>
> To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States.

The powers of Congress which I have just listed are extensive and specific, but the Founding Fathers went even further to buttress the power of Congress in this field. They did this by concluding article I, section 8 with an all-inclusive power—the "necessary and proper" clause, which empowers Congress:

> to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and *all other powers vested by this constitution in the government of the United States, or in any department or office thereof.* (Italics added.)

And, compared with the war powers of Congress so specifically enumerated in the Constitution, let us examine the war powers actually granted to the President in the Constitution. These powers at best can be described as sparse and cryptic. Article II, section 1 states:

> The executive power shall be vested in a president of the United States of America.

Article II, section 2, states, without further elaboration:

> The President shall be Commander in Chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States;

Clearly, the drafters of the Constitution had the experience of the Continental Congress with George Washington in mind when they designated the President as "Commander in Chief" in article II, section 2. Thus, the "legislative history" of the constitutional concept of a commander-in-chief was the relationship of George Washington as colonial commander in chief to the Continental Congress.

That relationship is clearly defined in the Commission as Commander in Chief which was given to Washington on June 19, 1775, and which was formally returned by him to the Continental Congress on December 23, 1783.

I would like to quote the final clause of this Commander in Chief's Commission because it established the relationship of the Congress to the Commander in Chief as envisaged by the Founding Fathers:

> And you are to regulate your conduct in every respect by the rules and discipline of war (as herewith given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed.

Nonetheless, out of the sparse and cryptic language of article II, section 2 of the Constitution there has grown up an extraordinarily overblown doctrine of so-called Commander in Chief powers. The outer limits of this doctrine is cited as a barrier against even the exercise by Congress of its own clearly enumerated war powers. For instance, in his 1971 testimony before the Senate Foreign Relations Committee, Secretary of State Rogers approvingly quoted the following assertion of the Truman administration:

> The President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof.

We have reached a point where proponents of the strong Presidency seem to be claiming that the power of the Commander in Chief is what he himself defines it to be in any given circumstance. Indeed, testifying for the administration on war powers in the House on March 13, 1973, the State Department Acting Legal Adviser advanced just such a doctrine:

> [A]n enumeration detailing the precise hypothetical situations where the President might have authority to commit military forces to action . . . is fundamentally extremely difficult, if not impossible, to do . . . it is inherent in our approach to this constitutional problem that one simply cannot define a whole list of circumstances in which the President will have authority or will not have authority.

This is the challenge that must be met by the Congress. If this challenge is not met successfully by the Congress, I do not see how it can prevent the further erosion of its powers and ultimately to jeopardize freedom itself.

The real question is—and the State Department has thus posed it, independently of Congress—to what extent the President has the power to use the Armed Forces by virtue of his role as Chief Executive, as Commander in Chief, and in the conduct of foreign relations. In practice, the question has been answered over the past several decades, in effect, by no limits being placed on this power as the Commander in Chief so that the President has been able, in effect, to commit the people to extended war.

In effect, all he has asked from Congress is that it provide the money and the men. But this is almost an imperial doctrine, not that any American President so intends it, but he is driven to it by some awful logic if this claim of power by the Executive is acquiesced in by Congress and the Nation as valid under the Constitution. It is not valid if the Congress chooses to exercise its power under the "necessary and proper" clause to define by law the President's and its own role in making war. And when the President's authority is so defined, as it will be if the War Powers Act becomes law, then the issue of authority is determined in an authoritative way, and, I have little doubt, will be carried out to the best of his ability in good faith by any American President.

EXPANSION OF THE BILL

The provisions of this bill govern the use of the Armed Forces: "In the absence of a declaration of war by the Congress." In this bill we are dealing with undeclared wars—wars which have come to be called Presidential wars because the constitutional process of obtaining congressional authorization has been short circuited.

Section 1 of the bill contains its short title—the "War Powers Act."

Section 2 is a self-explanatory short statement of "purposes and policy," stressing the intention to "insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances."

Section 3 consists of four clauses which define the conditions or circumstances under which, in the absence of a congressional declaration of war, the Armed Forces of the United States "may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances."

The first three categories are codifications of the emergency powers of the President, as intended by the Founding Fathers and as confirmed by subsequent historical practice and judicial precedent. Thus, subsections (1), (2), and (3) of section 3 delineate by statute the implied power of the President, in his concurrent role as Commander in Chief, with respect to emergency use of the Armed Forces.

The authority of Congress to make this statutory delineation is contained in the enumerated war powers of Congress in article I, section 8, of the Constitution, and especially in the final clause of article I, section 8, granting to Congress the authority:

> To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

REPELLING ARMED ATTACK ON THE UNITED STATES

Subsection (1) of section 3 confirms the emergency authority of the Commander in Chief to:

> repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack;

It should be noted that this subsection authorizes the President not only to repel an attack upon the United States and to retaliate but also "to forestall the direct and imminent threat of such an attack." The inclusion of the words grants a crucial element of judgment and discretion to the President. While it was thought by some that the power to "forestall" was inherent in the power to "repel," it was decided expressly to include the forestalling power to avoid any ambiguity domestically or in the eyes of any potential aggressor.[1]

While the President clearly must apply his discretion and judgment to the implementation of this authority, it is by no means a "blank check." For the President to take forestalling action, the threat of attack must be "direct and imminent." Moreover, he must justify his judgment on this point under the mandatory reporting provisions contained in section 4.

REPELLING ATTACK ON U.S. ARMED FORCES

Subsection (2) further defines the emergency power of the President:

> to repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack;

The authority contained in this subsection recognizes the right, and duty, of the Commander in Chief to protect Armed Forces deployed outside the United States. Just as the President would not have to wait until the bombs actually started landing on our soil to act against an attack upon the United States, similarly our forces would not have to wait until enemy bullets and mortars hit them before they could react.

Nonetheless, it will be noted that the power to repel attacks upon the Armed Forces located outside the United States is less comprehensive in one respect than the power to repel attacks upon the United States itself. While the subsection contains the authority to repel and forestall, it does not include the separate and broader power to retaliate.

The wording of this provision is meant to retain safeguards against wider embroilment resulting from incidental attacks upon U.S. forces, or attacks resulting from questionable actions by local U.S. commanders. Thus, for instance, an attack upon a Marine guard at an embassy would not trigger an authority to retaliate by seizing the country. Likewise, for instance, a sneak attack on security guards at one of our airbases would not trigger an authority to retaliate by launching search and destroy missions.

PROTECTING U.S. CITIZENS ABROAD

Subsection (3) codifies the authority of the President to rescue U.S. citizens and nationals abroad and on the high seas. By defining the circumstances and procedures to be followed, this subsection is a conscious movement away from some of the excesses of 19th century gunboat diplomacy.

The tightly worded language of this provision grants the President the authority only to rescue endangered American citizens. He may not use the circumstance of their endangered position to pursue a policy objective beyond safe and expedient evacuation. Even before the President can take action under subsection (3) he must ascertain that the government of the country in question is either incapable of protecting Americans or is itself presenting a threat to them.

NATIONAL COMMITMENTS

Subsection (4) is perhaps the most significant part of the bill. For, while subsections (1), (2), and (3) codify emergency powers of the President as Commander in Chief, section 3(4) deals with the delegation by the Congress of additional authorities which would accrue to the President as a result of statutory action by the Congress and which he does not, or would not, possess in the balance of such statutory action.

The key phrase in this subsection is contained in its initial five words: "Pursuant to specific statutory authorization." The rest of the subsection is an explanation, elaboration and definition of the meaning—for the purposes of the bill—of the words "pursuant to specific statutory authorization." In an important sense, this subsection gives legislative effect to Senate Resolution 85, the National Commitments Resolution adopted by the Senate on June 25, 1969 by a vote of 70 to 16 which states:

> That a national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment.

The significance of subsection (4) is multiple. First, it establishes a mechanism by which the President and the Congress together can act to meet any contingency which the Nation might face.

There is no way to legislate national wisdom but subsection (4) does provide important protection to the American people by requiring that the Congress as well as the President must participate in the critical decision to authorize the use of the Armed Forces of the United States in hostilities, other than hostilities arising from such "defensive" emergencies as an attack upon the United States, our Armed Forces abroad, or upon U.S. citizens abroad in defined circumstances. It provides as much flexibility in the national security field as the wit and ingenuity of the President and Congress may be jointly capable of constructing.

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[1] In *Martin v. Mott* (12 Wheat.) 18, 29 (1827), Justice Story speaking for the Supreme Court affirmed the constitutional authority of Congress to "provide for cases of imminent danger of invasion." He stated further: "In our opinion, there is no ground for a doubt on this point, . . . for the power to provide for repelling invasions includes the power to provide against the attempt and danger of invasion, as the necessary and proper means to effectuate the object.

There is a clear precedent for the action anticipated in subsection (4)—the "area resolution." Over the past two decades, the Congress and the President have had considerable experience with area resolutions—some of it good and some quite unsatisfactory. In its markup of the War Powers Act, the Foreign Relations Committee considered this experience carefully in approving the language of subsection (4). The wording of the final clause of subsection (4) holds the validity of three area resolutions currently on the statute books. These are: the "Formosa Resolution" (H.J. Res. 159 of January 29, 1955); the "Middle East Resolution" (H.J. Res. 117 of March 9, 1957, as amended); and the "Cuban Resolution" (S.J. Res. 230 of October 3, 1962).

The question may be asked: What is to guard against the passage of another resolution of the Tonkin Gulf type? The answer is that any future area resolutions, to qualify under this bill as a grant of authority to introduce the Armed Forces in hostilities or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, must meet certain carefully drawn criteria—as spelled out in the language of subsection (4). The pertinent language is:

> Unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act.

In other words, any future area resolution must be a specific grant of authority which would contain a direct reference to the bill now under discussion. The phrase "exempts * * * from compliance with the provisions of this Act" is included to insure that the precise intention of the grant of authority is clearly established with reference to the War Powers Act. The exemption could of course establish other procedures—or it could reaffirm all, or part, of the provisions of S. 440. The bill thus allows for as much flexibility with respect to handling of any developing crisis or sudden emergency as the Congress and the President may jointly deem prudent.

Following the passage of this bill, Congress will have to review closely the three area resolutions which are left standing by the provision of subsection (4) and the administration should review the world situation carefully and take the initiative in coming to the Congress with recommendations respecting the existing area resolutions—as well as recommendations for any new ones which the President may feel are needed for our national security.

Requests for new authority pursuant to subsection (4), do not qualify for the "Congressional Priority Provisions" contined in section 7. However, it is contemplated that congressional consideration of new subsection (4) grants of authority can generally be undertaken in the absence of an imminent threat or emergency in a deliberative way, including committee hearings. The point here is to obviate a repetition of the unfortunate experience of the Congress with the Tonkin Gulf Resolution, which it was later realized went through the Congress without enough inquiry in the respective committees and in the related floor debate.

RENEWING CLOSE CONSULTATION

Last minute "crunches" can be avoided by a renewal of the earlier practice of continuing close consultation between the executive branch and the relevant committees of Congress. The Executive will be obliged to make the Congress, again, its partner in shaping the broad, basic national security and foreign policy of the Nation well in advance of the exercise of the war power.

CONGRESSIONAL AUTHORITY AND PRESIDENTIAL FLEXIBILITY

Some have argued that seeking congressional authority to use the armed forces with respect to developing crisis situations would deprive the President of flexibility—or introduce ambiguity—in the conduct of foreign policy during crisis situations. It is said that the President would have to "telegraph his punches" and thus remove surprise from his diplomatic arsenal.

However, the President would not be compelled or obliged to use the armed forces just because the Congress granted him the authority to do so. Moreover, this legislation would not inhibit the President's capacity to deploy the Armed Forces, that is, to move elements of the fleet in international waters. To give a specific example, there is nothing in the bill which would have affected the President's decision to move elements of the Sixth Fleet into the eastern Mediterranean during the 1970 Jordanian crisis. The right of U.S. naval forces to operate freely anywhere in international waters would not be abridged by this bill.

An important provision of subsection (4) is contained in its first qualifying clause (A). The purpose of this clause is to counteract the opinion in the Orlando against Laird decision of the Second Circuit Court holding that passage of defense appropriations bills, and extension of the Selective Service Act, could be construed as implied congressional authorization for the Vietnam war.[2]

TREATIES

One of the most far-reaching aspects of subsection (4) is its provisions respecting treaties. Throughout the past 2 decades there has been continuing confusion respecting a crucial phrase that is standard in our Nation's collective and bilateral security treaties; to wit, that implementation of such treaties, as to involvement of U.S. forces in hostilities, will be in accordance with the "constitutional processes" of the signatories.[3]

In an important sense, subsection (4) defines "constitutional processes" for the first time, as it relates to treaty implementation by the United States. The definition of "constitutional processes" respecting treaty implementation is both negative and positive.

Subsection (4) makes a finding in law that no U.S. security treaties can be considered self-executing in their own terms. With respect to existing treaties the bill states:

> No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation.

Additionally, the subsection states that authorization for introducing the Armed Forces in hostilities shall not be inferred.

> From any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act.

It is important to bear in mind that these provisions with respect to treaties must be considered in conjunction with the authority of the President in subsections (1), (2), and (3). The authority contained in those subsections is in no way abridged or diminished by the provisions on treaties per se.

Moreover, as the language of the subsection makes clear, the bill envisages the adoption of treaty implementation legislation, as deemed appropriate and desirable by the Congress and the President. Such implementing legislation would constitute the authority "pursuant to specific statutory authorization" called for by subsection (4).

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[2] Judicial opinion has shifted on this point. In *Mitchell* v. *Laird* (D.C. Cir. No. 71–1510 March 20, 1973) Judge Wyzanski speaking for the Court of Appeals stated: "This court cannot be unmindful of what every schoolboy knows: that in voting to appropriate money or to draft men a Congressman is not necessarily approving of the continuation of a war no matter how specifically the appropriation or draft act refers to that war. A Congressman wholly opposed to the war's commencement and continuation might vote for the military appropriations and for the draft measures because he was unwilling to abandon without support men already fighting. An honorable recent, compassionate act of aiding those already in peril is no proof of consent to the actions that placed and continued them in that dangerous posture. We should not construe votes cast in pity and piety as though they were votes freely given to express consent. Hence Chief Judge Bazelon and I believe that none of the legislation drawn to the court's attention may serve as a valid assent to the Vietnam war.

[3] In its Report in 1949 to the Senate recommending approval of the North Atlantic Treaty, the Foreign Relations Committee stated: "The committee wishes to emphasize the fact that the protective clause 'in accordance with their respective constitutional processes' was placed in article 11 in order to leave no doubt that it applies not only to article 5, for example, but to every provision in the treaty. The safeguard is thus all-inclusive.

"The treaty in no way affects the basic division of authority between the President and the Congress as defined in the Constitution. In no way does it alter the constitutional relationship between them. In particular, it does not increase, decrease, or change the power of the President as Commander-in-Chief of the armed forces or impair the full authority of Congress to declare war." (Senate Executive Report No. 8, 81st Congress, 1st Session, p. 18)

There are two principal reasons for including these provisions with respect to our collective and bilateral security treaties. First, is to ensure that both Houses of Congress must be affirmatively involved in any decision of the United States to engage in hostilities pursuant to a treaty. Treaties are ratified by and with the consent of the Senate. But the war powers of Congress in article I, section 8 of the Constitution are vested in both Houses of Congress and not in the Senate—and President—alone. A decision to make war must be a national decision. Consequently, to be truly a national decision, and, most importantly, to be consonant with the Constitution, it must be a decision involving the President and both Houses of Congress.

Second, the provisions with respect to treaties are important so as to remove the possibility of future contention such as arose with respect to the SEATO Treaty and the Vietnam war.

Treaties are not self-executing. They do not contain authority within the meaning of section 3(4) to go to war. Thus, by requiring statutory action, in the form of implementing legislation or an area resolution of the familiar type, the War Powers Act performs the important function of defining that elusive and controversial phrase—"constitutional processes"—which is contained in our security treaties.

Subsection (4) contains one additional important provision. It states:

> Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

The purpose of this provision is to prevent secret, unauthorized military support activities and to prevent a repetition of many of the most controversial and regrettable actions in Indochina. The ever deepening ground combat involvement of the United States in South Vietnam began with the assignment of U.S. "advisors" to accompany South Vietnamese units on combat patrols; and in Laos, secretly and without congressional authorization, U.S. 'advisors" were deeply engaged in the war in northern Laos.

REPORTING REQUIREMENT

Section 4 requires the President to report "promptly" in writing to both Houses of Congress any use of the Armed Forces covered by section 3 of the bill. The provisions of this section are clear and simple. In his report to Congress, the President is required to include:

> A full account of the circumstances under which . . . [he has acted] . . . the estimated scope of such hostilities or situation, and the consistency of the introduction of such forces in such hostilities or situation with the provisions of section 3 of this Act.

In addition, the President is required to make periodic, additional reports so long as the Armed Forces are engaged in circumstances governed by section 3. Such additional reports shall be submitted at least every 6 months.

It will be noted that the President is required to report "promptly". This word has been used in preference to "immediately" or a possible specific time limit such as 24 hours. The important thing is that the report must be prompt but it must also be comprehensive. It might take a few days for the executive branch to assemble all the facts and reports from the field, as well as to assemble the various intelligence reports and, most importantly, to prepare an informed judgment on the "estimated scope of such hostilities."

What is intended is a full and accurate report of events, combined with an authoritative statement by the President of his judgment about the direction in which the situation is likely to develop. The Congress can act intelligently and responsibly only when it has the necessary information at hand.

The reporting requirements of the bill apply independently of the provisions of sections 5, 6, and 7. The President's mandatory report is not to be considered a request for an extension of authority as might be granted subsequently under section 5. Such a request can only be introduced by a Member of Congress.

Moreover, it is entirely possible that even a majority of the actions taken under the President's direction pursuant to section 3 will be shortlived, one-shot actions completed well within the 30-day time period, and thus requiring no extension in time of the authority spelled out in section 3.

30-DAY AUTHORIZATION PERIOD

Section 5 (along with section 3) is the heart and core of the bill. It is the crucial embodiment of Congressional authority in the war powers field, based on the mandate of Congress enumerated so comprehensively in article I, section 8 of the Constitution. Section 5 rests squarely and securely on the words, meaning, and intent of the Constitution and thus represents, in an historic sense, a restoration of the constitutional balance which has been distorted by practice in our history and, climatically, in recent decades.

Section 5 provides that actions taken under the provisions of section 3:

> Shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces in hostilities or in any such situation unless (1) the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities; or (2) Congress is physically unable to meet as a result of an armed attack upon the United States; or (3) the continued use of such Armed Forces in such hostilities or in such situation has been authorized in specific legislation enacted for that purpose by the Congress and pursuant to the provisions thereof.

Section 5 resolves the modern dilemma of reconciling the need of speedy and emergency action by the President in this age of instantaneous communications and of intercontinental ballistic missiles with the urgent necessity for Congress to exercise its constitutional mandate and duty with respect to the great questions of war and peace.

The choice of 30 days, in a sense, is arbitrary. However, it clearly appears to be an optimal length of time with respect to balancing two vital considerations. First, it is an important objective of this bill to bring the Congress, in the exercise of its constitutional war powers, into any situation involving U.S. forces in hostilities at an early enough moment so that Congress actions can be meaningful and decisive in terms of a national decision respecting the carrying on of war. Second, recognizing the need for emergency action, and the crucial need of Congress to act with sufficient deliberation and to act on the basis of full information, 30 days is a time period which strikes a balance enabling Congress to act meaningfully as well as independently.

It should be noted further, that the 30-day provision can be extended as Congress sees fit—or it can be foreshortened under section 6. The way the bill is constructed, however, the burden for obtaining an extension under section 5 rests on the President. He must obtain specific, affirmative, statutory action by the Congress in this respect. On the other hand, the burden for any effort to foreshorten the 30-day period rests with the Congress, which would have to pass an act or joint resolution to do so. Any such measures to foreshorten the 30-day period would have to reckon with the possibility of a Presidential veto, as his signature is required, unless there is sufficient congressional support to overridge a veto with a two-third majority.

The issue has been raised, quite properly, as to what would happen if our forces were still engaged in hot combat at the end of the 30th day—and there had been on congressional extension of the 30-day time limit. The answer is that, as specified by clause (1), the President would not be required or expected to order the troops to lay down their arms.

The President would, however, be under statutory compulsion to begin to disengage in good faith to meet the 30-day time limit. He would be under the injunction placed upon him by the Constitution, which requires of the President that: "he shall take care that the laws be faithfully executed."

The wording of section (5)(1) is very specific and tightly drawn. It is to be emphasized that section (5)(1) is in no sense to be construed as a loophole giving the President discretionary authority with respect to the 30-day disengagement requirement. It is addressed exclusively to the narrow issue of the security of our forces in the process of prompt disengagement. The criterion involved is the security of forces under fire and it does not extend to withdrawal in conformity with some broader strategy or policy objective. No expansion of the 30-day time frame is conveyed other than a brief period which might be required for the most expeditious disengagement consistent with security of the personnel engaged. Moreover, it requires the President's certification in writing that any such contingency had arisen from "unavoidable military necessity."

Section (5) (2) provides for suspension of the 30-day disengagement requirement in the event "Congress is physically unable to meet as a result of an armed attack upon the United States."

The question has been raised whether there can or should be any time limitation on the President's emergency authority to repel an attack upon the United States and take the related measures specified in section (3) (1). The bill rejects the hypothesis that the Congress, if it were physically able to meet, might not support fully all necessary measures to repel an attack upon the Nation. Refusal to act affirmatively by the Congress within the specified time period respecting emergency action to repel an attack could only indicate the most serious questions about the bona fides of the alleged attack or imminent threat of an attack. In this context, the admonition articulated in 1848 by Abraham Lincoln is most pertinent.

> Allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion, and you allow him to do so, whenever he may choose to say he deems it necessary for such purpose—and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect . . . If, "today, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us," how could you stop him? You may say to him, "I see no probability of the British invading us" but he will say to you "be silent; I see it, if you don't."

Section 5(3) provides for:

> The continued use [beyond thirty days] of such Armed Forces in such hostilities or in such situation [provided it] has been authorized in specific legislation enacted for that purpose by the Congress and pursuant to the provisions thereof.

It is to be noted that authorization to continue using the Armed Forces is to come in the form of specific statutory action for this purpose. This is to avoid any ambiguities such as possible efforts to construe general appropriations or other such measures as constituting the necessary authorization for "continued use." Moreover, just as the Congress under the Constitution is not intended to be under any obligation to declare war against its own better judgment, so under section 5(3) of the War Powers Act there is no presumption, or obligation, upon the Congress to enact legislation for the continued use of the Armed Forces, as covered by the bill, except as it is persuaded by the merits of the case presented to it, and consequent to appropriate reflection and due deliberation.

It is further to be noted that any "continued use" which might be authorized by the Congress must be "pursuant to the provisions" of such authorization. The Congress is not faced with an all or nothing situation in considering authorization for "continued use." It can establish new time limits, provisions for further review by the Congress, as well as other limits and stipulations within the ambit of the constitutional powers of the Congress.

TERMINATION PRIOR TO 30 DAYS

Section 6 provides that the Congress can, through statutory action, foreshorten the 30-day provisions of section 5. In such instances, the President is protected by his veto power regarding the basic 30-day emergency period specified to him with respect to the authorities contained in section 3. Clearly, effective congressional action under section 6 would be likely in extraordinary circumstances wherein two-thirds of both Houses of Congress were convinced that the President had acted against the national interest or with great improvidence. Just as the burden of proof lies with the President to persuade that his use of the Armed Forces under section 3 merits prolongation in the national interest beyond 30 days, the burden of proof, in effect, lies with the Congress to foreshorten the 30-day period.

PRIORITY CONSIDERATION

Section 7 establishes procedures to assure priority action in Congress to consider legislation to extend under section 5, or to foreshorten under section 6, the 30-day time limit. The provisions of section 7 are, thus, a safeguard against the possibility that congressional action with respect to such measures could be obstructed or delayed through a filibuster or committee pigeonholing. Section 7 also provides that the respective Houses of Congress can modify the priority consideration provisions by majority vote. In this way, provision is made for a majority of either House to determine by yeas and nays an alternative procedure—for instance, directing a committee to hold hearings and report back by a certain date. Section 7 is shaped so as to assure that control of the consideration of legislation to extend or foreshorten the 30-day period is in the hands of the majority and that a minority cannot obstruct the will of the majority in this respect through procedural means. It should be noted that requests for statutory authorization under section 3 (4) do not qualify for the priority consideration provisions of section 7 as explained above.

SEPARABILITY CLAUSE

Section 8 contains a standard separability clause which simply provides that if any provisions of the bill should be held invalid, this would not effect the validity of the rest of the bill.

NOT EX POST FACTO

Section 9 has two parts. The first part makes clear that the bill is not ex post facto legislation respecting the Vietnam war. The second part makes clear that the provisions of section 3(4) would not require, for instance, the withdrawal of U.S. military personnel from NATO command headquarters in the event that forces of other NATO nations became engaged in hostilities unrelated to NATO, or in hostilities in which the introduction of U.S. forces were not authorized under section 3(1), 3(2), or 3(3) of this act or by other specific statutory action of the Congress. However, in the absence of specific statutory authorization members of the U.S. Armed Forces pursuant to section 3(4) could not by reason of the NATO Treaty "command, coordinate, participate in the movement of, or accompany" the regular or irregular forces of a NATO country engaged in hostilities.

The "high-level military commands" referred to in this section are understood to be those of NATO, the North American Air Defense command (NORAD) and the United Nations command in Korea (UNC).

The overall purposes of the War Powers Act are to codify the "emergency" powers of the Commander in Chief, in the absence of a declaration of war, to introduce the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, and, very importantly, to establish a methodology to assure that Congress is not foreclosed by the practice of undeclared war from exercising its constitutional responsibilities respecting the awesome decision of putting the Nation at war.

Mr. President, I read a lot of speculation in the press as to the bill in the other body, a bill which is under debate also today. It gives me great cause for concern because of the length of time in which the President is given autonomous authority under that bill—120 days—and because of the danger that even that defect, which I consider fatal, will be further compounded by amendment permitting the authority of the President to continue his warmaking until it is cut off by Congress. This is really forfeiting the authority of Congress and absolutely defeating the purpose and intent of any war powers bill.

The basic element of the war powers bill must be that the authority to act in emergencies must be defined and understood and it ends unless Congress gives the authority to continue beyond an emergency period. That is the purpose, intent, and thrust of the Constitution. It is that which has induced such distinguished Senators as the Senator from Mississippi (Mr. STENNIS)—who has been absent from us for so long because of the terrible blow which struck him down, although he is recovering very well—the Senator from Missouri (Mr. EAGLETON), who has been of enormous assistance and a pillar of strength in the fashioning of the proposed legislation; the Senator from Ohio (Mr. TAFT); the Senator from Texas (Mr. BENTSEN); and other Senators, who have joined, to be so true to the basic principle of the bill.

While I am dealing with that subject, I should like to refer to the resolution introduced by the Senator from Illinois (Mr. PERCY) in May 1970, which also raised this basic problem. I wish to pay my tribute to the Senator from Illinois for the research and thoughtfulness which went into the resolution. It is a tribute to him that when our bill came along, he saw it as a better course and promptly joined as a cosponsor and adopted this position.

Mr. President, there will be amendments offered to this measure. I would have hoped that the measure, which is exactly as one the Senate approved by a vote of 68–16 on April 13, 1972, would go through without amendments. But, Mr. President, some Senators, including our very devoted champion of the bill, the Senator from Missouri (Mr. EAGLETON), feel that they have amendments to improve the bill. I certainly will examine, for myself, every amendment that is offered with complete objectivity, in the hope that whatever is done by the Senate will improve the bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. I give myself 1 more minute.

But I very much hope, Mr. President, that the Senate will realize that this bill is in very fine balance achieved among Senators of very diverse views, and that the balance of the measure, the interrelationship of its various parts, is so important and so critical to the operation of a bill of such vital nature that it will be understood if I, generally speaking, for myself oppose all amendments. But I repeat, I shall certainly examine them and hear the arguments with the greatest objectivity, and if I am in conscience convinced that their worth is superior to what I consider to be the really unbelievably good balance of the bill, I shall certainly make that clear to the Senate. But on the whole, I believe we would be better off if we adopted the bill as it is, as we voted it before, without amendment. I know that Senator STENNIS shares that attitude.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, will the Senator from Maine yield to me?

Mr. MUSKIE. I yield the Senator from Missouri such time as he may require.

Mr. EAGLETON. Mr. President, let me extend my commendation to the distinguished Senator from New York (Mr. JAVITS), not only for the presentation he has just made on the floor of the Senate in assessing the principal thrust and the features of the war powers bill, but also for the yeoman effort he has put into this piece of prospective legislation, which was the first war powers bill to be introduced 2 or 3 years ago in the Senate. After he had broken this legislative ice, so to speak, other bills have followed, but his was the first. His was the primary bill, and he has been the preeminent leader insofar as fashioning this legislation is concerned. It has been a distinct pleasure for me to work with the Senator from New York (Mr. JAVITS) and the Senator from Mississippi (Mr. STENNIS) in fashioning what I hope is an acceptable piece of legislation.

As will be evident from my remarks I do not deem it to be a perfect piece of legislation. I daresay no bill is. Since the time of the Ten Commandments, I doubt if mankind has achieved anything legislatively that is close to perfection. At a later time, perhaps tomorrow, I shall take up two or three amendments which I think are noncontroversial, and which I hope will be acceptable by the Senator from New York and the Senator from Maine, they being more or less housekeeping amendments; and another, which unquestionably is a controversial amendment, I shall go into at a later date.

Mr. President, some prematurely suggest that the United States is entering an era of congressional predominance—that the power of the Presidency is on the wane. Such prognostications make good press, but they do not yet reflect reality.

In the past year the bold attempt by this administration to usurp the constitutional powers of Congress has placed great stress upon our legal system. Even today, at a time when Congress enjoys some small increased measure of public support, we must fight desperately for the legislative majorities we require to take positive action.

Congress remains weak because it has failed to correct its institutional deficiencies that inhibit Congress in its effort to perform its constitutional duties. If Congress is to become a positive force within our system—if it is to recapture its constitutional prerogatives—then Congress must be willing to use its ultimate power—the power to legislate—to serve itself in battle for coequal status with the executive branch.

There is no more important responsibility assigned to Congress under the Constitution than the responsibility to authorize war. In the recent past Congress has delegated that responsibility to the President. The legislation we propose today will return to Congress its right to determine when our Nation goes to war.

It has taken over 10 years and over 50,000 dead to realize the consequence of our failure to follow the process established by our Founding Fathers by which our Nation would decide questions of war and peace. Justice Joseph Storey expressed a fundamental principle of our Constitution in 1833 when he said:

> It should be difficult in a republic to declare war; but not to make peace.

Our Indochina experience demonstrates in tragic terms that we reversed that important axiom. When Congress was asked to authorize our involvement in Southeast Asia in the Gulf of Tonkin resolution, we authorized war too easily. And when the error of our policy became obvious, peace was too difficult to attain.

Many have assigned blames for the erosion of congressional war powers to Presidential aggressiveness. Presidents have usurped congressional power, but only because Congress willingly deferred its responsibilities to the President.

The erosion of congressional war powers is manifested not only in expanded claims of Presidential power, but also in the lack of awareness Congress has for its own constitutional responsibilities. The recent decision to grant the President authority to bomb in Cambodia until August 15 demonstrated that, despite the rhetoric, some in Congress still believe that the President has the primary role in the decision to go to war. But Congress has an exclusive responsibility to authorize war—a responsibility that should never be subjected to compromise. The bill we consider today is designed to assure that Congress will accept that burden in the future.

The tendency for those of us in political life to avoid difficult decisions is, unfortunately, to be expected. It is a tendency that should never be condoned, but if we are to design a process which will force Congress to check such weaknesses, we must first understand what those weaknesses are.

Congress should have shared the blame for the failure of our Indochina experience. But instead of perceiving ourselves as accountable, we blamed the President, first Johnson and then Nixon.

In delineating the war powers of Congress and the President, we are attempting to establish a mechanism whereby the American people will be the final judge of the question of legal responsibility when the United States becomes involved in war. The underlying premise of S. 440 is the same premise that underlies the Constitution—that Congress and the President should be held equally accountable for the consequences if our Nation should again make a commitment to go to war.

I am pleased again to join with the distinguished Senator from New York (Mr. JAVITS) and the distinguished chairman of the Armed Services Committee, Senator STENNIS, in introducing the War Powers Act. Each of us has advocated his own approach to this complex subject, and this bill is the result of our combined efforts.

Certain aspects of the compromise bill before us today were somewhat troublesome for me, just as I am sure Senators JAVITS and STENNIS would have preferred their own approaches to war powers legislation. Nonetheless, this bill is consistent with my reading of constitutional law and it represents the best effort to date to return our system to the decisionmaking process intended by the Founding Fathers.

One issue that was discussed at great length among the sponsors was the matter of recognizing the President's power to "forestall" an attack on the United States or on American forces stationed abroad. Senator FULBRIGHT has again raised this issue in his additional views to the committee report on S. 440.

My original war powers bill only recognized the Commander in Chief's power to repel sudden attacks. It did not specifically acknowledge his power to forestall such an attack. Court decisions have leaned in favor of granting such discretion but the issue remains a bit ambiguous. I remain somewhat skeptical, but I believe that we have taken precautions in the drafting of the compromise bill.

S. 440 does not give the "forestall" discretion without strings. Under our bill the burden is on the President to prove that an attack is "direct and imminent." If the President fails to demonstrate that his actions are in accordance with the provisions, his authority can be taken away by immediate action of the Congress.

The questions of whether to expressly prohibit the President from initiating a preemptive nuclear attack was debated at some length. I finally had to concede that, in the final analysis, all any legislation can expect to achieve is to hold the President legally and politically accountable for his actions. The consequences that would follow a first strike nuclear attack by the United States would make the question of political and legal responsibility moot.

Several who have expressed concern over the degree of discretion afforded the President under the "forestall clause" have proposed abolishing the codification of emergency powers contained in S. 440. Such an approach would have the unintended effect of presenting the President with wide discretion in all matters involving his emergency powers.

If we fail to delineate the limits of the President's emergency power, then we invite the President to continue to define that power any way he sees fit. The President, Congress, and the American people must understand the legitimate role of the Commander in Chief—and they must understand that that role does not include taking unilateral military action when there is no emergency threat to the United States, its forces or its citizens.

Should the President exercise his emergency powers, the struggle between him and Congress will be for public support. If the sole issue of the public debate which ensues is the President's policy, then contemporary experience shows that the President will inevitably win his battle. It is to check this tendency that this legislation insists on codification. The more simple and easy to understand signposts that Congress can hold up for public inspection, the more likely it will be that Congress can prevent a President from usurping his powers—and the more likely it will be that Congress can stop him, if he acts illegally.

No matter how tightly we circumscribe the Commander in Chief's emergency role, however, we should not satisfy ourselves that that role would never be abused. Even if Presidents executed the provisions of the War Powers bill in good faith, it would still be possible for them to use the discretion then retained as Commander in Chief to move our Nation from a defensive conflict to an offensive one. Whether this occurred inadvertently or not, Congress must possess the legislative mechanism that would enable it to protect its own prerogatives.

Congress alone must decided whether we will enter an offensive war. And Congress alone must have the means to stop a President when he moves beyond the strictly defensive powers he derives from the Constitution.

Some have argued that the power of the purse would, in itself, be sufficient to protect Congress right to declare war. In other words, if the President entered an offensive war without the consent of Congress, we could then cut off funds for that war and thus impose our will.

The only practical way Congress can use its power of the purse, however, is to cut off funds for a particular conflict in a bill which affects the operation of Government far beyond the money expended for the conflict. If we were forced to depend upon such an absolute mechanism, we would constantly be going to the brink of governmental crisis in order to effectuate our constitutional prerogatives. Far more flexibility than that was built into the Constitution and the bill we propose today will offer an alternative to the type of crisis situation with which we were recently faced over the issue of Cambodian bombing.

To impose the will of Congress, therefore, we have chosen to limit the President's emergency powers in a quantitative manner by requiring congressional approval within 30 days if he wishes to continue his action. If such approval is not forthcoming, then the emergency action must be terminated automatically—the only exception being that the President would have the right to protect our forces in the process of disengagement.

The choice of 30 days has been criticized by some as too short and by others as too long. Admittedly it is an arbitrary period, but both these arguments can be answered by the same procedural explanation.

The passage of our bill will provide a constant warning not to give away the fundamental power of Congress even in a period of crisis. When Members of Congress are statutorily forced to uphold their responsibility, I expect that they will be very leery of either delegating it away too soon or allowing it to be abused by improper Presidential action.

If, therefore, Congress feels a longer period is needed to consider the President's request it can extend the authorization period for as long as it wants without ever losing control of the decision to declare offensive war. If, on the other hand, the President has clearly and blatantly abused his emergency authority, Congress may act to stop him immediately, even before the 30-day period is completed.

Mr. President, it is unfortunate that we in Congress, and Americans in general, have a tendency to overlook serious situations until they erupt into a crisis. There should be little doubt by now that the gradual erosion of congressional war powers has grown to crisis proportions. If we fail to act now, after the horrors of Vietnam have so clearly exposed the danger of individual warmaking, we may never again see the questions of war and peace being decided by the sobering and deliberative processes inherent in the concept of collective judgment.

Mr. MUSKIE. Mr. President, I should like to take a moment to express my appreciation to the distinguished Senator from Missouri as well as the distinguished Senator from New York (Mr. Javits) for the leadership they have shown in developing the proposed legislation which I have the privilege to floor manage and support.

It is relatively easy today to be for this concept and to be for this formula to deal with the problem. At the time the Senator from Missouri and the Senator from New York—and, I might add, the Senator from Mississippi (Mr. Stennis)—initiated this whole effort, the area was uncharted, the formula was undefined, and the objective was vaguely connected with our frustrations and dissatisfactions in connection with the war in Vietnam. But out of that effort in that period has come what I think is a remarkably creative and innovative approach to the problem of redressing the imbalance between Congress and the President with respect to the warmaking power.

I simply wanted to take a moment to commend the distinguished Senator from Missouri for the role he has played over these years.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. EAGLETON. I am deeply grateful to the distinguished Senator from Maine (Mr. Muskie) for the complimentary and laudatory remarks he has just uttered. I am very pleased, on behalf of the majority, as a member of the Committee on Foreign Relations, that he has agreed to floor manage this bill; because in the minds of the Senators he mentioned—Javits, Stennis, and Eagleton—this is a significant piece of legislation, to use the word of the Senator from New York, an historic piece of legislation. The prestige and the ability of the Senator from Maine as the floor manager thereof enhances its chances of ultimate success. We are very grateful to him for this willingness to participate in this matter.

Mr. MUSKIE. I thank the Senator from Missouri.

Mr. President, I ask unanimous consent to have printed at this point in the Record a statement by the distinguished Senator from Mississippi (Mr. Stennis) on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Stennis

It is with hope, pride, and strong convictions that I submit this statement in support of S. 440, the War Powers Bill.

First of all, I hope to see the efforts of Senator Javits, Senator Eagleton, former Senator Spong, myself, and others, finally bear fruit in the form of a law of the land. I have been personally involved with this legislation for two years, having introduced a war powers bill in 1971, testified at the Senate Foreign Relations Committee hearings, and cosponsored the bill that passed the Senate last year. This year I submitted a statement to the Foreign Relations hearings favoring war powers legislation. It is time that we placed legislation on the books on this matter. The American people expect and are entitled to an expression from the Congress on this important and sensitive subject.

The Senate passed the war powers bill last year by a vote of 68–16, and is on the way to another historic vote on the same bill, I believe, as S. 440 has over 60 cosponsors. The House is now debating a bill which, though different from the Senate bill, would move in some measure to restore the proper constitutional balance between the Congress and the Executive in the area of war powers. It is my hope that the House and Senate will be able to agree on a strong bill that will clearly define the powers of the Congress and of the Executive.

I am proud to support this bill because it is an important step by the Congress to assume its duty in representing the people of this nation. The discussion of this subject of war powers often focuses on rights. But it is far more important that we see that if this bill becomes law it will signal that the members of Congress are willing to assume a heavy duty—the duty to use their best judgment and to share with the President the responsibility for the most important decision a nation can make, the decision of whether or not to go to war.

The Congress—and this includes me—has, in the past, sometimes allowed the Executive branch to decide the major question of whether or not this country will go to war. Under our Constitution, that is a question for the representatives of the people to decide. As a practical matter, the President will always have a major role in helping the Congress decide the question. But the final responsibility rests with the Congress.

We have learned in very recent history that a war, if not supported by a majority of the people, can lead to damage of the national spirit, less tangible than loss of men and resources, but even more important.

It is of the utmost importance to the future of this nation that we not again slip gradually into a war that does not have the moral support and sanction of the American people.

I do not believe that we will be able to check this tendency in the future without taking legislative action. The Constitution itself shows us the way to do this, by establishing a mechanism, under the necessary and proper clause, for Congress and the President to exercise their responsibilities together. Unless this is done, the precise scope of responsibility will remain unclear, and Congress will again some day fail to live up to its responsibilities. I believe that Congress must define and establish procedures for the exercise of responsibility in a declarative and binding fashion before it can effectively resume the exercise of that responsibility. I am supporting S. 440 because I believe it is the best way to establish such a framework.

The teeth in the legislation before the Senate today is in the delineation between those circumstances in which the President can first act unilaterally, and those in which prior authority by Congress is required before armed forces can be used. In most cases in which use of the country's armed forces is contemplated, the President would be required to come to Congress for prior authority under Section 3(4) of the bill. The authority of the President to use the armed forces without prior congressional approval is recognized in the event of armed attacks upon the United States or its forces, and in the event such use is required to evacuate American citizens from danger abroad. Some say that the specific delineation would constrain a President in the conduct of our foreign affairs. I believe that the constraints in the bill are flexible, but that they are still definite enough that it will be more difficult for a President to take some types of military actions unilaterally than would be in the case if the bill were not law. He would have to take into consideration the Congress and the people it represents before involving the nation in war, and, consequently, a certain element of caution would be introduced into his thinking.

Restoring a proper share of responsibility to Congress will by no means ensure its wise exercise. There is no assurance of wisdom in Congress any more than in the Presidency. As Professor Alexander Bickel has said, "the only assurance there is lies in process—in the duty to explain, justify and persuade, to define the national interest by evoking it, and to act by consent." Enactment of the war powers bill will not be a panacea, but it will, I believe, realign the workings of this government with the Constitution that created it. It will reduce the chance that this nation will again go to war without unity; without an expression of national will through Congressional authorization. It will start us back along the right path. We are just emerging from a long war that has been expensive in every major way, loss of life, physical injuries and staggering money costs.

The results have been far from satisfactory, and worse still, our people have been divided. It was an undeclared war. Even though the war was undeclared and the people were divided, we had such a strong reservoir of patriotism in the minds and hearts of our people, we were able to hold together and endure. We will not be able to do this again. I believe that the people will not again support a war that Congress is unwilling to declare. During the two hundred years that we have been blessed to live as a nation, naturally many legal points have arisen that found their way to the courts that concern war or some phases of it, or incidents. There needs to be a clarification of these precedents, many of which conflict. What we need is a restatement of the law on the subject in the context of our time. This is exactly what this bill does; and it stands on that clause of our Constitution which provides: "The Congress shall have the power . . . to declare war."

Mr. MUSKIE. Mr. President, it is appropriate that the statement by Senator STENNIS appear at the forefront of this debate. We all regret that he cannot be here to deliver this statement and to lend his support to the floor debate.

We are all heartened by the news of his progress and his improving health. I had the pleasure of talking to him yesterday, and I must say that if the sound of his voice is any indication, he is approaching his customary vigor.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. EAGLETON. Mr. President, I ask unanimous consent that my staff member, Mr. Brian Atwood, have the privilege of the floor during the pendency at all times of the war powers bill, whether today, tomorrow, or the next day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that my administrative assistant, Maynard Toll, have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I yield 5 minutes to my distinguished colleague from Maine (Mr. HATHAWAY).

Mr. HATHAWAY. Mr. President, I thank my distinguished colleague from Maine for yielding to me at this time to speak on what I consider to be the most important issue to come before Congress in this session and perhaps in other sessions as well.

As we all know we have been trying for some time to come to some resolution of the war powers problem, as to just what the authority of the President shall be and what the authority of Congress shall be.

Last year or the year before, both the House and the Senate passed war powers bills, but we were unable to come to any agreement in conference. I am hopeful that the bill that we will ultimately pass in the Senate and the one that will be passed in the House will be close enough so that we will be able to come up with some legislation in this very important field.

Mr. President, the war powers legislation which we consider here today does not seek to alter the constitutional balance of power between Congress and the President; it simply seeks to restore it. It seeks to restore it to a balance achieved by the framers of the Constitution, but a balance since tipped, not by the conscious abuse of a wanton Executive, but by the encroachment of a series of well-meaning Executives onto an area of power ill-defined and, indeed, ill-recognized by most Members of past Congresses.

In the case of *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952), Mr. Justice Jackson spoke of a "zone of twilight" beyond the area of power rightfully belonging to the Executive; this is that area of power in which the President and Congress "may have concurrent authority, or in which its distribution is uncertain." This is the area of power, this "zone of twilight," through which the Executive has moved in its quest of the power to make war. This is the area in which the Executive would have the people believe lies the basis for the right to make war. And because the right to make war lies in this hazy area, the Executive, it is said, must be given a free hand, for today we live in a world of instantaneous and devastating attacks rather than the framers' world of foot soldiers and sailing ships. In today's world, the argument goes, this "zone of twilight" must be given over to the Executive, for only in that branch lies the special capacity for fast, efficient, and decisive response to a determined attack by an enemy.

But is that correct? Does this power to make war lie within the "zone of twilight" between the Commander in Chief and Congress? Or has the Executive already passed beyond that zone and into a zone that lies exclusively within the realm of Congress? In the view of James Madison, the issue was quite clear; and I read from his papers:

> Every just view that can be taken of this subject, admonishes the public of the necessity of a rigid adherence to the simple, the received, the fundamental doctrine of the Constitution, that the power to declare war, including the power of judging the causes of war, is fully and exclusively vested in the Legislature; that the Executive has no right, in any case, to decide the question, whether there is or is not cause for declaring war; that the right of convening and informing Congress, whenever such a question seems to call for a decision, is all the right which the Constitution has deemed requisite and proper?

Even Hamilton, the great proponent of a strong executive branch, felt bound to say that the war power belongs to Congress.

This brings us to the purpose of the war powers bill. This purpose is not to encroach on the power of the executive branch, or even to limit that power, but to define that power, to make it abundantly clear to the people and to the President that in this area there is no "zone of twilight," that, as James Wilson, who with Madison was the great architect of the Constitution, said:

> No single man (can) . . . involve us in such distress.

Yet, Congress is aware of the exigencies of the modern world. Indeed, Mr. President, the purpose of this bill should not be seen as an effort to limit the Executive power, but an effort to legitimize that power when it is used to deal with the emergency situations that can arise in our modern world of rockets, bombs, and nuclear warfare.

Mr. President, the war powers bill is not a tipping of the balance in favor of Congress; it is a reestablishing of the balance outlined in the Constitution, but it is a reestablishing of that balance in keeping with the necessities and requirements of the modern world. It is a bill to make clear to a future Executive that he is authorized by Congress to act in a situation of real emergency, but if he should try to move from that emergency situation into a nightmarish situation of war without the consent of Congress, not only will he have to abuse the Constitution; he will have to violate the mandate of law.

I thank my good friend, the senior Senator from Maine, for yielding to me this time to speak on this very important matter.

Mr. MUSKIE. I thank my distinguished colleague from Maine.

Mr. President, I now yield 10 minutes to the distinguished Senator from Texas (Mr. BENTSEN) who also has been one of the leaders in the development of this legislation.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Maine. I appreciate the leadership he has exercised on one of the most fundamental issues that we face today.

I am pleased again to join with my distinguished colleague in support of the war powers bill which I fervently hope is going to pass in this session of Congress.

At a time when we have nuclear energy, atomic weapons, atomic missiles and laser beams, there are those who say, "Is there a place for representative government in this type decisionmaking? Is there time for a consensus type decision? Is there a place for a people's branch in arriving at this type decision?" I think fundamentally there is because there is no more important decision that affects this Nation than whether or not our sons go to war. We are all aware of the erosion of the balance of powers within our Government.

I know there are those who would try to say that the balance of powers is really not an efficient form of government; but I would quote the comments of Justice Brandeis when he said that the convention of 1787 really was not striving for the most efficient form of government, but by setting up the three branches of government but was trying to insure that we would not have an arbitrary exercise of power.

This has been the subject of considerable discussion of late and indeed of recrimination. But let me point out that it is not entirely the fault of the Executive. Congress, to a large degree, has not only stood silently by and watched its powers erode; it has also actually given its authority away and acquiesced in various executive actions tending toward usurpation of congressional prerogatives. The Gulf of Tonkin resolution and our present involvement in Vietnam are examples which leap immediately and tragically to mind.

We must now repair this erosion of the delicate executive-legislative balance in order to restore respect for the very institution of government. It is not just the balance of power that is vital to our survival as a democracy; we must restore a balance of trust. There will be and there should be disagreement between the President and the Congress but there need not be distrust.

The fact that a policy is carried out in secrecy and remoteness does not necessarily insure its success. The public business must be conducted in an atmosphere of mutual respect and confidence that will in turn inspire the respect and confidence of every citizen.

If we are going to understand why a decision is made and make intelligent contributions through the legislative process then we must be informed and we must have access to the policymakers who are responsible in the executive branch. This will not only insure public understanding but greater public support as well.

As a step toward restoring the peoples shaken confidence in its representative institutions, I suggest that Congress assume its responsibility to the electorate and indicate that we are prepared to meet our constitutional obligations in the formulation of foreign and domestic policy. We will not leave vital decisionmaking solely to the Executive, whether through default, inefficiency, lack of will or Executive usurpation.

There are those who have said if we had been faced with the issue of war or no war in South Vietnam, the Senate, Congress would have gone along. That may be the case, but what the war powers measure would do would be to say that the Senate, Congress must face that issue squarely; that a Member will not be able to waffle his position; that he will have to bite the bullet and decide if he is voting for America's sons to go to war or not. The Founders of this country came here with the idea that no one man, no matter how wise or benevolent he might be, could decide whether or not his son went to war, that this must be the collective judgment of the representatives of the people.

When Congress exercises its rightful powers and meets its full responsibilities, when it insists on full deliberation and sharing in decisions—that is, if the proper constitutional procedures are followed—the democratic process is strengthened. We must not allow a growing lack of confidence in the institutions of democratic government to call into question the viability of these institutions. We have a fundamental obligation: To keep our Government strong and make our Nation whole again.

It is imperative that we insure that responsibility for future foreign policy decisions be shared. Democratic government "derives its just powers from the consent of the governed."

It is a question of communication between the executive branch, between cabinet officers and Congress if we are to make the system viable. If the people do not know what the decisions are or what the processes of decisionmaking are, then the Executive is not held accountable. The momentous decisions of war and peace must be made by the elected representatives of the people.

In the words of Woodrow Wilson we must insist upon: "Open covenants . . . openly arrived at" if we are to protect our democratic processes.

This proposed legislation does not challenge the President's authority as Commander in Chief nor his constitutional right to conduct the war in the way he sees fit. It does not intend to tie the President's hands for we realize that there are emergency circumstances under which a President may have to respond in defense without explicit congressional approval, and this bill so provides.

But the Congress would be negligent of its own constitutional responsibilities if it relegated to one man the decision to send our sons to war. What confronts us is one of the most significant questions to emerge from the continuing debate over the Indochina conflict: The question of who decides when and where America goes to war. There is little question that Congress is vested with the sole right to initiate war. This is clearly spelled out in article 1, section 8 of the Constitution. We must never again permit an extended commitment of American lives to be made unless the representatives of the people explicitly authorize it.

Assumption of congressional responsibility is a burden we must pick up again for without it the institutions of government will remain in disrepute. The democratic process is at stake. It cannot thrive under a strong executive with a weak legislature any more than it can thrive when the executive falters and the legislature dominates. The constitutionally guaranteed balance between the executive and legislative branches in the making of foreign policy is delicate and we must make special efforts to strengthen it, thereby reaffirming the belief of the American people and the world in the efficacy of our particular form of government.

Assumption of our responsibility in the foreign policymaking process is a burden we in Congress must pick up again. I believe Congress has awakened to the dangers inherent in the current imbalance between the executive and the legislative branches.

Mr. President, I am convinced that the war powers bill is one of the most needed pieces of legislation that this Senate will consider this year, and I am most pleased to be joining with the distinguished Senator from Maine, who is handling the bill on the floor.

Mr. MUSKIE. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Again, Mr. President, I would like to compliment the distinguished Senator from Texas. I must say I am proud to be standing with him on this issue. From working closely with him on other matters in the Senate, I know that the kind of effort he is capable of producing augurs well for the future of this legislation, as well as for him.

Mr. BENTSEN. I thank the Senator.

Mr. MUSKIE. Mr. President, the purpose of the war powers bill, S. 440, as explained by the report of the Foreign Relations Committee, is not to alter the Constitution, as executive branch officials profess to believe, but to restore and fulfill the intent of the Constitution in matters of war and peace. The essential purpose of the bill is to define—more exactly to reaffirm—the constitutional authority of Congress to decide whether and when our country will go to war. In no sense is this legislation intended to encroach upon or to detract from the authority of the President as Commander in Chief, including his authority to repel attacks upon the United States or its Armed Forces.

It is sometimes contended that declarations of war are obsolete in international practice, and that because they are, the power of Congress to "declare" war is also obsolete. This argument is spurious. The framers of our Constitution did not confer upon Congress a power to use those magical words "declare war" and no others; the power they conferred upon Congress was to decide whether or not, and under what circumstances, the United States would make war upon another sovereign nation. A leading student of the war power has written:

> It was not a special license to use the word "declare war" that the Founding Fathers gave to Congress. Rather it was the full, red-blooded reality of deciding that another country is our enemy and that war—any form of war—should be levied upon it. The power is not basically changed or diminished because current circumstances call for a different method of using it when necessary.[1]

Nor is the war power in the slightest degree ambiguous, as advocates of Executive latitude profess to believe. The framers of the American Constitution were neither hesitant nor vague in their conferral of the war power upon Congress. The reasoning of the Founding Fathers is a matter of historical record: dismayed by the arbitrary power of the British Crown to drag the American Colonies into unwanted wars, they vested the authority to initiate war in the Legislature, transferring that power, as Jefferson put it, "from those who are to spend to those who are to pay." [2] In testimony before the Foreign Relations Committee in support of S. 440, Prof. Raoul Berger of the Harvard Law School stated:

> The power to wage war, it may be categorically asserted, was vested by the Constitution in Congress, not the President.

Said Professor Berger with reference to the current legislation:

> If this be so, your bill merely seeks to restore the original design. It cannot be unconstitutional to go back to the Constitution.[3]

I. WHAT THE BILL PROVIDES

The war powers bill, S. 440, makes ample provision for Presidential use of the Armed Forces in a national emergency. Section 3 of the bill defines the emergency conditions in which, in the absence of a declaration of war by Congress, the Armed Forces of the United States may be introduced in hostilities, or in situations where imminent involvement in hostilities is indicated by circumstances. The conditions under which the President may make such emergency use of the Armed Forces are defined with a view to reconciling modern conditions of warfare and politics with the intent of the framers of the Constitution. These emergency conditions are quite simple. They are:

First, to repel, retaliate against, or forestall an armed attack upon the United States, its territories and possessions;

Second, to repel or forestall an armed attack against the Armed Forces of the United States; and

Third, to protect American citizens and nationals while evacuating them as rapidly as possible from any country in which their lives are endangered.

It is important to specify these conditions in advance. If the President is given a general authority to use the Armed Forces for a period of time in any condition he considers to be an emergency—as is done in the House bill—the legislation loses most of its teeth.

The bill goes on to specify—in subsection 4 of section 3—that the President may otherwise use the Armed Forces only "pursuant to specific statutory authorization;" but authority to use the Armed Forces only "pursuant to specific statutory authorization;" but authority to use the Armed Forces is not to be inferred from any provision of law, including appropriations, unless such authority is explicitly provided. It has been argued—and at least one lower court decision has ruled [4]—that appropriations for military operations constitute implied approval of an act of war in which the President may be engaged and, therefore, serve as authorization for its continuation. The bill rejects this view. The "approval" implied by an appropriation for the Department of Defense as a whole is no more an authorization for a specific war than is the appropriation to pay the President's salary. In the words of a noteworthy article published in the June 1968 edition of the Harvard Law Review:

> The more blatant the *fait accompli* which forces Congress' hand, the less should exercise of its power of appropriation be taken as "consent" to the action. Even where there is no *fait accompli*, if the power over appropriations had been thought a sufficient safeguard against Presidential war making, it becomes difficult to understand why the framers were so concerned about withholding the war power from the executive in the first place.[5]

Subsection 4 of section 3 specifies that no treaty, existing or future, may be construed as authorizing use of the Armed Forces without implementing legislation. The treatymaking power has been held not to extend "so far as to authorize what the Constitution forbids." [6] This limitation is properly construed as preventing the President and the Senate from exercising by treaty a power vested elsewhere by the Constitution. The President and the Senate could not, for instance, use the treaty power to abridge the Bill of Rights; nor can a treaty be used to abridge the war-declaring power, which is vested not in the Senate alone, but in both Houses of Congress. The framers of the Constitution considered and rejected the possibility of vesting in the Senate alone the power to declare war. That power was deliberately vested in the Congress as a whole; a decision to initiate war must be made by both the Senate and the House of Representatives and cannot, therefore, be made by treaty. None of our existing treaties in any case require automatic military action. All specify that, in the event of an armed attack, each signatory will act in accordance with its constitutional processes—which means, in the case of the United States, that the matter must be referred to Congress.

Section 4 of the war powers bill specifies that any emergency use of the Armed Forces shall be reported promptly in writing by the President to the Speaker of the House of Representatives and the President of the Senate, together with a full account of the circumstances and authority under which action was being taken and its projected scope. The President would be further required to make periodic reports on any military action outside of the United States, and in no event less often than every 6 months.

Along with section 3, the heart and core of the bill is section 5, which provides that the use of the Armed Forces under any of the emergency conditions spelled out in section 3 shall not be sustained for a period beyond 30 days unless Congress adopts legislation specifically authorizing the continued use of the Armed Forces.

Section 6 complements the restriction spelled out in section 5 by specifying that Congress may terminate a military operation prior to the end of the 30-day period by act or joint resolution. Serious constitutional questions are presented by attempting to provide for such termination by a simple concurrent resolution, as is provided in the House bill.

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[1] Merlo J. Pusey, *The Way We Go To War* (Boston: Houghton Mifflin Company, 1969), p. 138.

[2] *The Papers of Thomas Jefferson*, 17 volumes (Julian P. Boyd, ed., Princeton: Princeton University Press, 1955) vol. 15, p. 397.

[3] "War Powers Legislation," *Hearings Before the Committee on Foreign Relations*, U.S. Senate, 93rd Congress, 1st Session, (Washington: U.S. Govt. Printing Office, 1973), p. 21.

[4] *Orlando* v. *Laird*, 317 F. Supp. 1013 (E.D. N.Y. 1970), affd. 443 F. 2d 1939 (2d Cir. 1971), *cert. den. sub nom Orlando and Caplan* v. *Laird*, 40 Law Week 3166 (1971).

[5] Harvard Law Review, June 1968. Reproduced in *Documents Relating to the War Power of Congress, the President's Authority as Commander-in-Chief and the War in Indochina*, 91st Congress, 2d Session, compiled by Senate Foreign Relations Committee (Washington: Govt. Printing Office, 1970), p. 68.

[6] *Geofroy* v. *Riggs*, 133 U.S. 258, 267 (1890).

Section 7 spells out mandatory procedures for expeditious action within the committees and on the floor of both Houses of Congress with respect to any legislation authorizing the continued use of the Armed Forces beyond the 30-day period of the President's emergency powers. The purpose of this section is to eliminate the risk of dilatory tactics to prevent or delay a congressional decision with respect to the use of the Armed Forces.

Section 8 contains a separability clause, specifying that, if any provision of the bill should be held invalid, the remainder would not be affected thereby.

Section 9 specifies that the bill would take effect on the date of its enactment but would not apply to hostilities in which the Armed Forces of the United States were involved prior thereto. The effect of this provision would be to exempt current military operations in Indochina from the application of the war powers bill.

II. THE PURPOSES OF S. 440

The war powers bill is properly regarded as legislation which should not have been necessary, and would not have been necessary if Congress and the President had remained within their respective constitutional spheres.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. Mr. President, I yield myself another 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for another 5 minutes.

Mr. MUSKIE. Mr. President, three decades of total war, limited war and cold war have propelled the American political system far along the road to executive domination in the conduct of foreign relations. So far has this process of expanding Presidential power in foreign policy advanced that, in the Foreign Relations Committee's publicly recorded view:

> It is no longer accurate to characterize our government, in matters of foreign relations, as one of separated powers checked and balanced against each other.[7]

It serves no useful purpose to recriminate over how and why the power to initiate war passed out of the hands of Congress and into the hands of the President. To some degree it was the result of Presidential usurpation; to some degree it was the result of congressional lassitude and unquestioning support of Presidential leadership. But most of all, it has been the result of war itself, and of these past three decades of constant crisis and disruption. Alexis de Tocqueville, that most astute of observers of American democracy, wrote:

> War does not always give democratic societies over to military government, but it must invariably and immeasurably increase the powers of civil government; it must almost automatically concentrate the direction of all men and the control of all things in the hands of the government. If that does not lead to despotism by sudden violence, it leads men gently in that direction by their habits. All those who seek to destroy the freedom of the domecratic nations must know that war is the surest and shortest means to accomplish this. That is the very first axiom of their science.[8]

The committee report summarizes the steady growth of Presidential power over the years, a process which has been greatly accelerated over the last three decades. It suffices here to point out that, as matters now stand, the Congress exercises no more than a marginal influence on decisions as to whether the Nation will be committed to war. The purpose of S. 440 is to draw the Congress back from the periphery to the center of this most crucial area of decisionmaking. To this end it is neither sufficient nor necessary for Congress to come to the Executive as a suppliant, pleading for and relying upon promises of consultation. Experience has shown that such vague reassurances are readily given but rarely implemented. If Congress is to recover its war power, it will have to do the job for itself—that is a certainty.

The view of the Executive—executives, I might add, of both parties—has been amply demonstrated in the course of the war in Indochina, which was preeminently a Presidential war. For a time, the controversial and unlamented Gulf of Tonkin resolution provided at least a facade of constitutionality for the war. President Johnson himself, however, while maintaining that the Tonkin resolution was a valid authorization, also maintained that he needed no authorization. He expressed this view in a press conference on August 18, 1967, stating that the purpose of the Tonkin resolution had been to allow Congress to "be there on the takeoff" as well as on the "landing," although Mr. Johnson stressed, "we did not think the resolution was necessary to do what we did and what we're doing."

When the Tonkin resolution was finally repealed on January 12, 1971, the repealer went virtually unnoticed—clearly indicating its insignificance. The Nixon administration did not even bother to oppose the repeal of the Tonkin resolution, quite obviously because the President thought himself at liberty to pursue the war without it. The Nixon administration explained that it "has not relied on or referred to the Tonkin Gulf resolution of August 10, 1964, as support for its Vietnam policy."[9]

Throughout the course of the Vietnam war, and especially after the repeal of the Tonkin resolution, the Nixon administration maintained that its authority to wage war in Indochina was based upon its obligation to "protect" the American troops that had been placed there by the Johnson administration. The general thesis of the Nixon administration was reiterated by Secretary of Defense Laird when he was asked on April 18, 1972, to explain on what authority the President had renewed the heavy bombing of North Vietnam. The Secretary answered:

> It is the protection of the American personnel. . . . You don't need any more authority than that . . . that is sufficient, complete and total. . . .[10]

Now that the troops have been withdrawn, and the Tonkin resolution repealed as well, the administration has been forced to retreat to new and even swampier ground for the defense of its continuing air war in Cambodia. Its explanations to date can scarcely be dignified as legal arguments—they are more in the nature of evasions and rationalizations. Earlier this year, for instance, Assistant Secretary William Sullivan was unable to explain the legal basis for the Cambodian bombing, but he volunteered the information that "two lawyers" in the State Department were working on a new constitutional justification. Apparently confident that the "two lawyers" would cook something up, Mr. Sullivan added that "for now I would just say the justification is the reelection of President Nixon."[11]

Attorney General and former Secretary of Defense Richardson has been equally at a loss to justify the bombing of Cambodia. When President Nixon withdrew the American ground forces from Cambodia, he said, on June 3, 1970:

> The only remaining American activity in Cambodia after July 1 will be air missions to interdict the movement of enemy troops and material where I find that this is necessary to protect the lives and security of our forces in South Vietnam.

Reminded of this statement, Mr. Richardson could come up with nothing better than the assertion that the President now retained the authority to bomb Cambodia in order to clear up a "lingering corner" of the war. On a subsequent occasion Mr. Richardson told newsmen:

> What we are doing in Cambodia is continuing to support our ally there against the continuing efforts to disrupt communications, to isolate Phnom Penh. We are engaged in air strikes only at the request of the Cambodian government.[12]

The reference to Cambodia as an "ally" is interesting indeed, since we have no treaty of alliance with Cambodia and the Cambodian Government has repeatedly and emphatically refused the protection of the SEATO treaty. No less puzzling is Mr. Richardson's implication that the request for air strikes on the part of this so-called "ally" somehow gives the President authority to take military action without authorization by Congress. Under this interesting interpretation of the law, it would seem that the Cambodian regime has supplanted Congress as the lawful warmaking authority for the United States.

Speaking on "Meet the Press" on April 1, Secretary Richardson was again asked to explain the constitutional basis for the bombing of Cambodia. He replied that he did not think it would be difficult to supply such an expanation—"unless you are looking for some line in the Constitution that deals specifically with this kind of situation." That, of course, is exactly what we are looking for and what we ought to be looking for—"some line in the Constitution that deals specifically with this kind of situation." The patent inability of the executive to come up with any semblance of authority for its continued military activities in Indochina is only the latest of a long series of unauthorized actions which point up the necessity for war powers legislation. For until Congress acts under the "necessary and proper" clause, to give more specific content to its own and the executive branch's responsibilities, this type of confusion will continue.

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[7] "National Commitment," Report of Committee on Foreign Relations to accompany S. Res. 85, 91st Congress, 1st Session (Washington: U.S. Govt. Printing Office, 1969), p. 7.

[8] Alexi de Tocqueville, *Democracy in America* (New York; Harper and Row, Publishers, 1966), Vol. II, Ch. 22, p. 625.

[9] Executive Comments on the proposed repeal of the Gulf of Tonkin Resolution and other resolutions, March 12, 1970.

[10] "A Bill to Amend the Foreign Assistance Act of 1961," *Hearings Before the Committee on Foreign Relations,* April 18, 1972, p. 241.

[11] *Washington Post,* March 28, 1973.

[12] Remarks to newsmen on March 28, 1973. Quoted by John W. Finney in "Richardson Sees Clear Authority to Bomb Cambodia," *New York Times,* March 29, 1973, pp. 1, 15.

In the end, advocates of unrestricted Presidential war power are forced back upon the contention that the framers of the Constitution were uncertain and ambiguous about where they wished to vest the authority to initiate war. So Secretary Rogers contended in his presentation to the committee on May 14, 1971. So, too, the State Department memorandum of April 30 commends the framers of the Constitution for "leaving considerable flexibility for the future play of political forces." For my own part, I share the view spelled out in the committee report that—

> The Constitution is not at all imprecise in allocating the war powers; on the contrary, the Constitution is quite specific—as the framers intended it to be—in giving Congress the authority to decide on going to war and in giving the President the authority, as Commander in Chief, to respond to an emergency and to command the armed forces once a conflict is underway. In brief, the Constitution gave Congress the authority to take the Nation into war, whether by formal declaration of war or by other legislative means, and the President the authority to conduct it.[13]

In order to restore this classical constitutional definition of authority, I commend to the Senate the adoption of the War Powers Act of 1973.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

I should like to express my great appreciation to the Senator from Maine (Mr. MUSKIE), not only for his eloquence, but also for his erudiate statement. He has not only gone to the extent of setting forth references, but has also explained them in careful detail, so that they may be carefully studied.

Also, I should like to express my appreciation to the Senator from Arkansas (Mr. FULBRIGHT), chairman of the Committee on Foreign Relations, for naming Senator MUSKIE to handle the bill on the floor of the Senate. His prestige and distinction as a Senator and a major leader in our country give added weight and import to the discussion of the bill which we are considering. This is essentially a matter of importance to me, as Senator FULBRIGHT is himself for the bill but has an amendment to the bill of a major nature. I am sure Senator FULBRIGHT realizes better than anyone else that he was not helping himself in getting amendments through by making so capable a Senator and so experienced a debater as the distinguished Senator from Maine (Mr. MUSKIE), the floor manager. It is quite characteristic of the committee, however, that this should have been the attitude of our Chairman.

So, Mr. President, again I wish to express my appreciation to the Senator from Maine and to congratulate him on being named to manage such a historic bill as S. 440.

Mr. MUSKIE. Mr. President, may I respond to the distinguished Senator from New York. As I said earlier, I am privileged to have this assignment to press this legislation, which is a product of the distinguished Senator from New York as the first Senator to introduce war powers legislation. The Senator from Mississippi (Mr. STENNIS) and the Senator from Missouri (Mr. EAGLETON) have worked hard and effectively to produce this bill.

To me, it is a remarkable piece of legislation which so carefully defines without adding to or changing the constitutional authority bearing on the warmaking powers. It is a remarkable example of legislative power, so I pay this tribute again to the Senator from New York.

Mr. JAVITS. I thank my colleague very much.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum with the time to be equally charged against both sides.

The PRESIDING OFFICER (Mr. SCOTT of Virginia). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, the distinguished Senator from New Mexico (Mr. MONTOYA), preoccupied elsewhere in the Capitol these days, has asked me to insert in the RECORD a statement by him on this legislation and I ask unanimous consent for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MONTOYA

Today the Senate of the United States is considering S. 440, the War Powers Act, a bill which I am pleased to cosponsor.

This is a most propitious time for us to consider this legislation. We are, as a nation, in an ambiguous position at this moment in regard to the proper authority for beginning and ending hostilities. We are in the midst of a constitutional debate about the warmaking responsibilities and duties of two branches of government—the Executive and the Congress. We have recently faced a Constitutional crisis based on exactly that disagreement.

It is the removal of that ambiguity which is the purpose of this legislation. Surely there is no man in this body who does not wish to remove that cloud of doubt, or desire to make clear again to the people of this nation and the world exactly how our governmnet will respond to attack or threat of attack and who in our government will put American troops into either a declared or undeclared war.

The American people believe they have the right to know how decisions which affect their lives and the lives of their children are made. They believe they have the right to know who makes those decisions—to demand accountability. They believe they have the right to know if international agreements have been made in their name and if they have been committed to defend other governments. They believe they have the right to ask us to turn to the Constitution in these matters—or for a clear explanation if we do not.

Who, under the American Constitution, is given the responsibility for declaring war? Who is given the responsibility for providing funds for war? Who is most accountable to the people?

I find that I cannot read my copy of the Constitution without being brought up short by the simple phrases which answer these questions.

The Congress has the power to "pay the debts and provide for the common defense and general welfare of the United States . . . to declare war . . . to raise and support armies . . . to provide and maintain a navy . . . to make rules for the government and regulation of the land and naval forces . . . to provide for calling forth the militia . . . to provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States . . ." The only limitation put upon those Congressional powers by the Constitution is the requirement that no appropriation should be for longer than two years if the money is to be used for raising and supporting armies.

It seems abundantly clear to me that the framers of the Constitution believed that Congress should be responsible for the awful decision between war and peace, and that even Congress should have to reconsider expenditures for war every two years. They were quite properly fearful of the temptation uncontrolled military power might offer. They wished to make war difficult and peace easy.

Clausewitz' famous statement that "War is the continuation of politics by other means," would have been understandable to them, but they would have preferred, I think, the statement historian Harvey Wheeler made in 1968: "Politics is the continuation and sublimation of warlike feuds by other, nonviolent means." That was the goal of those early Americans: a design of government which would encourage politics and discourage war. In their eagerness to find a way to control what one of them called "the dogs of war" they made their position clear to us through their writings.

The report of the Foreign Relations Committee on S. 440 is a compendium of proofs that the authors of the Constitution considered this decision about the war powers to be a most basic element of their grand design for representative democracy. Hamilton, Jefferson, Madison, Adams, Monroe, Mason, and a host of others made it clear that they believed the danger of war would be decreased if the power were placed in many hands and not in those of a single man. While they recognized the need for the Executive to respond to sudden attack or invasion, and gave him the power to do that under the Constitution, they gave all other powers to initiate hostilities or control the military to the Congress. The direction of war *once declared* they gave to the President as Commander in Chief, but as Hamilton made clear in the Federalist Papers, they saw this power as "nothing more than the command and direction of the military and naval forces, as first General and admiral . . ." They thus put the most serious power—the power to declare and to fund a war—in the hands of as many men as possible, and divided other responsibilities in what seemed to them the best way to provide for the defense of the nation while maintaining firm civilian control through the direct representatives of the people.

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[13] "War Powers Legislation," p. 18 and 19.

Nothing could be less in doubt than their intention. Through their action they wanted to make it possible for citizens to control their own lives especially in respect to war. It was an important moment in history. For the first time people in a democratic nation attempted to provide for their own defense and at the same time to protect themself against either an autocratic or a foolish executive.

In 1776 men understood these dangers well. They knew that if their democratic experiment were to succeed they must find a way to protect against the dangers which had been so apparent in the rule of Kings. For Kings—like Presidents—do not always receive good advice from their own aides. They do not always receive all the information which they should have. It is almost impossible for an all powerful ruler—even an elected ruler—to be assured that he is receiving accurate and complete information or disagreeable news. We should not really be surprised at this. It is the most tragic flaw in autocratic rule: as power grows, open and honest debate shrinks. Dissent then becomes "disloyalty" and disagreement becomes "error," so that ultimate power hears and sees only a reflection of its own prejudice.

Our present position is the result of erosion in this century of Congressional power and responsibility. It is not a new thought that this created a vacuum into which Executive power naturally flowed.

However, on May 31 of this year the Congress made a first and important step toward a return to Constitutional law. Through their amendment cutting off funds for the continuation of the war in Indochina they made clear to the people and to the White House that they would insist on an end to that war. The people understood the meaning, the intent, and they applauded the action.

However, because of a Presidential veto and the failure to override that veto, we are still in the murky situation where neither branch of government is clearly responsible for war actions still being taken.

The President, although rejecting the first action of Congress, accepted a compromise which put a time limit on the war. He thus accepted the principle of Congressional control of the war-making process.

In agreeing to the compromise the Congress demonstrated its willingness to consider a Presidential request and to make reasonable and limited concessions where the two branches differ.

However, Mr. President, that temporary compromise does not satisfy nor end the problem. It did not satisfy the people. They see our present situation as a continuation of the insecurity which the last few years of undeclared and unexplained war have brought to them. They see that neither Congress nor the President has yet reaffirmed the Constitution through a clear statement of responsibility and authority. They know that undeclared and unaccountable conflict after conflict—some open and some secret—have been the record of the last ten years.

I think it is significant that in this same period we have seen a loss of confidence by the American people in their government, its spokesmen and its representatives. We have seen a corresponding growing distrust of our traditional allies.

No one can truly say today whether we are "at war" or "at peace."

No legislator can point to the Constitution as the legal base for our current dilemma. We have ourselves blurred the constitutional authority and accountability. Without that accountability the essence of representative government falls.

If we do not act now to return to the rule of law we will continue to face constitutional crises.

Yet for nearly two centuries the genius of our Constitution was clearest in its power to avoid just that kind of confrontation.

Our most precious heritage is the belief that we are a government of laws and not of men. There was a time in the memory of many of us here in the Senate when the faith of the people in their government was unquestioned. They believed, Mr. President, that their government protected their individual rights and liberties. They believed their government provided security for the nation against enemies from without and security within the nation from the usurpation of power by any one man or group of men. They would not have believed that a time would ever come when a majority of the American people distrusted and disbelieved the word of Senators, Congressmen or Presidents.

Yet we are at that day now. There are young men and women today who cannot remember when people believed that the control of government was truly in the hands of the people through their representatives in Congress.

The legislation we consider today will go a long way toward restoring that faith, Mr. President. It would remove us from the embarrassment and ambiguity of our present situation and would return us to the Constitution and its historic controls. It would demonstrate clearly to the people of this nation and to our neighbors in other nations, where the authority for war rests in the United States. It would establish a clear delineation of war powers, so that the President would be free to respond to attack or threat of attack, and the Congress would be responsible for a continuation of that hostility beyond thirty days. Thus the intentions of the founding fathers would be preserved at the same time that we provided for the contingencies of a nuclear world.

The powers of both branches of government will be enhanced and strengthened by this simple reinforcement and reinvigoration of the spirit and the word of the Constitution.

I urge the support of my colleagues for this important and necessary legislation.

QUORUM CALL

Mr. MUSKIE. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum with the time to be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 59) to amend title 38 of the United States Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

REHABILITATION ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 301. S. 1875.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 1875) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities; and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with amendments on page 2, in the table of contents, under the heading "Title IV—Administration and Program and Project Evaluation", after "Sec. 406. Sheltered workshop study." insert "Sec. 407. State allocation study."; on page 3, line 9, after the word "individuals,", strike out "serving first" and insert "providing special emphasis on providing services to"; in line 15, after "(3)", strike out "develop implement and provide comprehensive" and insert "conduct a study to develop methods of providing"; on page 4, at the beginning of line 12, strike out "and" and insert "or"; in line 14, after "(7)", strike out "direct the"; in the same line, after the word "conduct", strike out "of"; on page 5, line 3, after the word "existing", strike out "housing" and insert "architectural"; at the beginning of line 11, insert "appointed by the President"; in line 17, after the word "Such", strike out "delegatioin" and insert "delegation"; on page 6, line 6, after "(b)", strike out "The Commissioner shall be appointed by the President."; at the beginning of line 8, strike out "(c)"; at the beginning of line 21, strike out "(d)" and insert "(c)"; on page 24, line 22, after the word "shall", strike out "insure that" and insert "provide for special emphasis to"; in line 24, after the word "handicaps", strike out "receive equal consideration with other handicapped applicants"; on page 38, line 4, after the word "to", strike out "such portion of the"; in line 17, after the word "or", strike out "$2,000,000" and insert "the alternative minimum amount provided for under paragraph (2) of this subsection,"; after line 25, strike out:

> (2) For the fiscal years ending after June 30, 1973, each State shall be entitled to an allotment, in addition to the allotment to which it is entitled under paragraph (1), of an amount equal to—
>
> (A) Two-thirds of the product obtained by multiplying—
>
> (i) the excess (if any) of the total amount appropriated for such year for allotment un-

der this section in excess of the amount obligated under such section or predecessor authority for such purpose for the fiscal year ending June 30, 1973, over the total amount so appropriated for the fiscal year ending June 30, 1973, by

(ii) the quotient obtained by dividing the population of such State by the population of all the States, plus

(B) One-third of the product obtained by multiplying—

(i) the excess (if any) of the total amount appropriated in excess of $590,000,000 for such appropriated for such year for allotment under this section in excess of the amount obligated under such section or predecessor authority for such purpose for the fiscal year ending June 30, 1973, over the total amount so appropriated for the fiscal year ending June 30, 1973, by

(ii) the quotient obtained by dividing the allotment percentage of such State by the sum of the allotment percentages of all the States.

And, in lieu thereof, insert:

(2) the alternative minimum amount of the allotment as provided for under paragraph (1) of this subsection will be $2,000,000, except that such amount will be $1,000,000 in the event that application of such $2,000,000 minimum amount would reduce the amount which any State would receive in any fiscal year below the amount which such State received under section 2 of the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973.

On page 40, line 12, after the word "determines", insert a comma and "after reasonable opportunity for the submission to him of comments by the State agency administering or supervising the program established under this title,"; on page 44, line 24, after "$50,000", strike out "(or such other amount as may be specified as a minimum allotment in the Act appropriating such sums for such year)"; on page 47, line 25, after the word "demonstration", strike out "project" and insert "projects"; on page 49, line 20, after the word "this", strike out "paragraph" and insert "paragraph,"; on page 50, line 1, after the word "title", insert "there is authorized to be appropriated"; on page 55, line 15, after the word "been", strike out "achieved," and insert "reached,"; in line 24, after the word "Adults," insert "and"; on page 62, line 1, after the word "services", strike out "to individuals with spinal cord injuried, older blind individuals, and deaf individuals whose maximum vocational potential has not been achieved," ; in line 6, after the word "handicaps", insert a comma and "including, but not limited to, individuals with spinal cord injuries, older blind individuals, and deaf individuals, whose maximum vocational potential has not been reached,"; at the beginning of line 19, strike out "injuried" and insert "injuries,"; on page 63, line 15, after the word "rehabilitation", strike out "srevices" and insert "services"; on page 65, line 17, after the word "appropriated", strike out "$1,200,000" and insert "$1,200,000,"; in line 18, after the word "such", insert "additional"; in line 21, after the word "until", strike out "expended" and insert "expended,"; in line 22, after the word "appropriated", strike out "for such purposes"; on page 72, line 17, after the word "through", strike out "IV" and insert "III"; on page 74, line 25, after the word "Effective", strike out "January" and insert "July";

On page 80, after line 8, insert:

(e) Not later than thirty days after the appropriation Act containing sums for carrying out the provisions of this Act is enacted for each fiscal year, the Secretary shall set aside out of sums available to carry out this section or available pursuant to any other Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section and shall notify the appropriate committees of the Congress of the amount so set aside, the number of personnel necessary for such purpose, and the basis for his determination under this subsection and his reasons therefor.

On page 81, after line 15, insert a new section, as follows:

STATE ALLOCATION STUDY

Sec. 407. (a) The Secretary shall conduct a thorough study of the allotment of funds among the States for grants for basic vocational rehabilitation services authorized under part B of title I of this Act, including a consideration of—

(1) the needs of individuals requiring vocational rehabilitation services;

(2) the financial capability of the States to furnish vocational rehabilitation assistance including, on a State-by-State basis, per capita income, per capita costs of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services;

(3) The continuing demand upon the States to furnish vocational rehabilitation services, together with a consideration of the factor that no State would receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilitation Act in the fiscal year immediately prior to the enactment of this Act.

(b) Not later than June 30, 1974, the Secretary shall report to the Congress his findings and recommendations, including recommendations for additional legislation, with respect to the study required by this section, which report shall include recommendations with respect to allotment of Federal funds among the States and the Federal share of the cost of furnishing vocational rehabilitation services by the States.

On page 84, line 16, after the word "instrumentality", insert "(including the United States Postal Service and the Postal Rate Commission)"; on page 85, at the beginning of line 3, strike out "after consultation with the Committee,"; in line 4, after the word "determines", insert a comma and "after consultation with the Committee,"; on page 90, line 20, after the word "by", insert "any"; on page 91, line 1, after the word "section", strike out "7(7)" and insert "7(6)"; and, in line 21, after the word "section", strike out "7(7)" and insert "7(6)"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1972".

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DECLARATION OF PURPOSES

Sec. 2. The purpose of this Act is to provide a statutory basis for the Rehabilitation Services Administration, and to authorize programs to—

(1) develop and implement comprehensive and continuing State plans for meeting the current and future needs for providing vocational rehabilitation services to handicapped individuals and to provide such services for the benefit of such individuals, providing special emphasis on providing services to those with the most severe handicaps, so that they may prepare for and engage in gainful employment;

(2) evaluate the rehabilitation potential of handicapped individuals;

(3) conduct a study to develop methods of providing rehabilitation services to meet the current and future needs of handicapped individuals for whom a vocational goal is not possible or feasible so that they may improve their ability to live with greater independence and self-sufficiency;

(4) assist in the construction and improvement of rehabilitation facilities;

(5) develop new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations;

(6) initiate and expand services to groups of handicapped individuals (including those who are homebound or institutionalized) who have been underserved in the past;

(7) conduct various studies and experiments to focus on long neglected problem areas;

(8) promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place such individuals in employment;

(9) establish client assistance pilot projects;

(10) provide assistance for the purpose of increasing the number of rehabilitation personnel and increasing their skills through training; and

(11) evaluate existing approaches to architectural and transportation barriers confronting handicapped individuals, develop new such approaches, enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities and study and develop solutions to existing architectural and transportation barriers impeding handicapped individuals.

REHABILITATION SERVICES ADMINISTRATION

SEC. 3. (a) There is established in the Department of Health, Education, and Welfare a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the "Commissioner") appointed by the President. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency for carrying out this Act. The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner unless the Secretary shall first submit a plan for such delegation to the Congress. Such delegation is effective at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the plan for such delegation is transmitted to it: *Provided, however,* That within thirty days of such transmittal, the Secretary shall consult with the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives respecting such proposed delegation. For the purposes of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day and sixty-day periods.

(b) The Secretary, through the Commissioner in coordination with other appropriate programs in the Department of Health, Education, and Welfare, in carrying out research under this Act shall establish the expertise and technological competence to, and shall, in consultation with the National Science Foundation and the National Academy of Sciences, develop and support, and stimulate the development and utilization (including production and distribution of new and existing devices) of, innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems, and be responsible for carrying out the activities described in section 202(b)(2).

(c) The Secretary shall take whatever action is necessary to insure that funds appropriated pursuant to this Act, as well as unexpended appropriations for carrying out the Vocational Rehabilitation Act (29 U.S.C. 31–42), are expended only for the programs, personnel, and administration of programs carried out under this Act.

ADVANCE FUNDING

SEC. 4. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, the authority provided by subsection (a) of this section shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

JOINT FUNDING

SEC. 5. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Rehabilitation Services Administration, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements of the administering agency under or pursuant to this Act.

CONSOLIDATED REHABILITATION PLAN

SEC. 6. (a) In order to secure increased flexibility to respond to the varying needs and local conditions within the State, and in order to permit more effective and interrelated planning and operation of its rehabilitation programs, the State may submit a consolidated rehabilitation plan which includes the State's plan under section 101(a) of this Act and its program for persons with developmental disabilities under the Developmental Disabilities Services and Facilities Construction Amendments of 1970: *Provided,* That the agency administering such State's program under such Act concurs in the submission of such a consolidated rehabilitation plan.

(b) Such a consolidated rehabilitation plan must comply with, and be administered in accordance with, all the requirements of this Act and the Developmental Disabilities Services and Facilities Construction Amendments of 1970. If the Secretary finds that all such requirements are satisfied, he may approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein, or he may advise the State to submit separate plans for such programs.

(c) Findings of noncompliance in the administration of an approved consolidated rehabilitation plan, and any reductions, suspensions, or terminations of assistance as a result thereof, shall be carried out in accordance with the procedures set forth in subsections (c) and (d) of section 101 of this Act.

DEFINITIONS

SEC. 7. For the purposes of this Act:

(1) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(2) The term "criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication, or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(3) The term "establishment of a rehabilitation facility" means the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject however, to such limitations as the Secretary may determine, in accordance with regulations he shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of such facilities), and the initial equipment for such buildings, and may include the initial staffing thereof.

(4) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational rehabilitation services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services;

(E) referral;

(F) the administration of these evaluation services; and

(G)(i) the provision of vocational rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a handicapped individual for whom a vocational goal is not possible or feasible (as determined in accordance with section 103(c)), or neither such individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

(5) The term "Federal share" means 80 per centum, except that it shall mean 90 per centum for the purposes of part C of title I of this Act and as specifically set forth in section 301(b)(3): *Provided,* That with respect to payments pursuant to part B of title I of this Act to any State which are used to meet the costs of construction of those rehabilitation facilities identified in

section 103(b)(2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 301(b)(3) applicable with respect to that State and that, for the purpose of determining the non-Federal share with respect to any State, expenditures by a political subdivision thereof or by a local agency shall, subject to such limitations and conditions as the Secretary shall by regulation prescribe, be regarded as expenditures by such State.

(6) The term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursuant to titles I and III of this Act.

(7) The term "local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has an agreement with the State agency designated pursuant to section 101(a)(1) to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from utilizing another local public or nonprofit agency to provide vocational rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(8) The term "nonprofit", when used with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(9) The term "public safety officer" means a person serving the United States or a State or unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces.

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(10) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly on in combination one or more of the following services for handicapped individuals: (A) vocational rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(11) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) The term "severe handicap" means the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure, respiratory or pulmonary dysfunction, and any other disability specified by the Secretary in regulations he shall prescribe.

(13) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 101(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

(14) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to handicapped individuals under this Act.

ALLOTMENT PERCENTAGE

Sec. 8. (a)(1) The allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (A) the allotment percentage shall in no case be more than 75 per centum or less than 33⅓ per centum, and (B) the allotment percentage for the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands shall be 75 per centum.

(2) The allotment percentages shall be promulgated by the Secretary between July 1 and September 30 of each even-numbered year, on the basis of the average of the per capita incomes of the States and of the United States for the three most recent consecutive years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning on the July 1 next succeeding such promulgation.

(3) The term "United States" means (but only for purposes of this subsection) the fifty States and the District of Columbia.

(b) The population of the several States and of the United States shall be determined on the basis of the most recent data available, to be furnished by the Department of Commerce by October 1 of the year preceding the fiscal year for which funds are appropriated pursuant to statutory authorizations.

AUDIT

Sec. 9. Each recipient of a grant or contract under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or funds thereunder used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant or contract under this Act which are pertinent to such grant or contract.

NONDUPLICATION

Sec. 10. In determining the amount of any State's Federal share of expenditures for planning, administration, and services incurred by it under a State plan approved in accordance with section 101, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any other provision of law, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds. No payment may be made from funds provided under one provision of this Act relating to any cost with respect to which any payment is made under any other provision of this Act.

TITLE I—VOCATIONAL REHABILITATION SERVICES

Part A—General Provisions

DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

Sec. 100. (a) The purpose of this title is to authorize grants to assist States to meet the current and future needs of handicapped individuals, so that such individuals may prepare for and engage in gainful employment to the extent of their capabilities.

(b)(1) For the purpose of making grants to States under part B of this title to assist them in meeting costs of vocational rehabilitation services provided in accordance with State plans under section 101, there is authorized to be appropriated $590,000,000 for the fiscal year ending June 30, 1973, $610,000,000 for the fiscal year ending June 30, 1974, and $640,000,000 for the fiscal year ending June 30, 1975; and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary.

(2) For the purpose of carrying out part C of this title (relating to grants to States and public and nonprofit agencies to assist them in meeting the costs of projects to initiate or expand services to handicapped individuals, especially those with the most severe handicaps) and part D of this title (relating to the study of comprehensive service needs of individuals with the most severe handicaps), there is authorized to be appropriated $35,860,000 for the fiscal year ending June 30, 1973, $37,000,000 for the fiscal year ending June 30, 1974, and $39,000,000 for the fiscal year ending June 30, 1975, and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph for each such fiscal year, $1,000,000 in each such year shall be available only for the purpose of carrying out part D of this title.

STATE PLANS

Sec. 101. (a) For each fiscal year in which a State desires to participate in programs under this title, a State shall submit to the Secretary for his approval an annual plan for vocational rehabilitation services which shall—

(1)(A) designate a State agency as the sole State agency to administer the plan, or to supervise its administration by a local agency, except that (i) where under the State's law the State agency for the blind or other agency which provides assistance or services to the adult blind, is authorized to provide vocational rehabilitation services to such individuals, such agency may be designated as the sole State agency to administer the part of the plan under which vocational rehabilitation services are provided for the blind (or to supervise the administration of such part by a local agency) and a separate State agency may be designated as the sole State agency with respect to the rest of the State plan, and (ii) the Secretary, upon the request of a State, may authorize such agency to share funding and administrative responsibility with another agency of the State or with a local agency in order to permit such agencies to carry out a joint program to provide services to handicapped individuals, and may waive compliance with respect to vocational rehabilitation services furnished under such programs with the requirement of clause (4) of this subsection that the plan be in effect in all political subdivisions of that State;

(B) provide that the State agency so designated to administer or supervise the administration of the State plan, or (if there are two State agencies designated under subclause (A) of this clause) to supervise or administer the part of the State plan that does not relate to services for the blind, shall be (i) a State agency primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, (ii) the State agency administering or supervising the administration of education or vocational education in the State, or (iii) a State agency which includes at least two other major organizational units each of which administers one or more of the major public education, public health, public welfare, or labor programs of the State.

(2) provide, except in the case of agencies described in clause (1) (B) (i)—

(A) that the State agency designated pursuant to paragraph (1) (or each State agency if two are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit which (i) is primarily concerned with vocational rehabilitation, or vocational and other rehabilitation, of handicapped individuals, and is responsible for the vocational rehabilitation program of such State agency, (ii) has a full-time director, and (iii) has a staff employed on such rehabilitation work of such organizational unit all or substantially all of whom are employed full time on such work: and

(B) (i) that such unit shall be located at an organizational level and shall have an organizational status within such State agency comparable to that of other major organizational units of such agency, or (ii) in the case of an agency described in clause (1) (B) (ii), either that such unit shall be so located and have such status, or that the director of such unit shall be the executive officer of such State agency; except that, in the case of a State which has designated only one State agency pursuant to clause (1) of this subsection, such State may, if it so desires, assign responsibility for the part of the plan under which vocational rehabilitation services are provided for the blind to one organizational unit of such agency and assign responsibility for the rest of the plan to another organizational unit of such agency, with the provisions of this clause applying separately to each of such units;

(3) provide for financial participation by the State, or if the State so elects, by the State and local agencies to meet the amount of the non-Federal share;

(4) provide that the plan shall be in effect in all political subdivisions, except that in the case of any activity which, in the judgment of the Secretary, is likely to assist in promoting the vocational rehabilitation of substantially larger numbers of handicapped individuals or groups of handicapped individuals the Secretary may waive compliance with the requirement herein that the plan be in effect in all political subdivisions of the State to the extent and for such period as may be provided in accordance with regulations prescribed by him, but only if the non-Federal share of the cost of such vocational rehabilitation services is met from funds made available by a local agency (including, to the extent permitted by such regulations, funds contributed to such agency by a private agency, organization, or individual);

(5) (A) contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including a description of the method to be used to expand and improve services to individuals with the most severe handicaps; and, in the event that vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, show (i) the order to be followed in selecting individuals to whom vocational rehabilitation services will be provided, and (ii) the outcomes and service goals, and the time within which they may be achieved, for the rehabilitation of such individuals, which method of selection for the provision of vocational rehabilitation services shall provide for special emphasis to individuals with the most severe handicaps and shall be consistent with outcome and service goals for serving handicapped individuals, established in regulations prescribed by the Secretary, and

(B) provide satisfactory assurances to the Secretary that the State has studied and considered a broad variety of means for providing services to individuals with the most severe handicaps;

(6) provide for such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary for the proper and efficient administration of the plan;

(7) contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, and (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services, but the Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provision;

(8) provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) of subsection (a) of section 103, and the remainder of such services specified in such section after full consideration of eligibility for similar benefits under any other program, except that, in the case of the vocational rehabilitation services specified in clauses (4) and (5) of subsection (a) of such section, such consideration shall not be required where it would delay the provision of such services to any individual;

(9) provide that (A) an individualized written rehabilitation program meeting the requirements of section 102 will be developed for each handicapped individual eligible for vocational rehabilitation services under this Act, (B) such services will be provided under the plan in accordance with such program, and (C) records of the characteristics of each applicant will be kept specifying, as to those individuals who apply for services under this title and are determined not to be eligible therefor, the reasons for such determinations;

(10) provide that the State agency will make such reports in such form, containing such information (including the data described in subclause (C) of clause (9) of this subsection, periodic estimates of the population of handicapped individuals eligible for services under this Act in such State, specifications of the number of such individuals who will be served with funds provided under this Act and the outcomes and service goals to be achieved for such individuals in each priority category specified in accordance with clause (5) of this subsection, and the service costs for each such category), and at such time as the Secretary may require to carry out his functions under this title, and comply with such provisions as he may find necessary to assure the correctness and verification of such reports;

(11) provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for handicapped individuals, veterans programs, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health, Education, and Welfare, the Veterans' Administration, and other Federal, State, and local public agencies providing services related to the rehabilitation of handicapped individuals;

(12) provide satisfactory assurances to the Secretary that, in the provision of vocational rehabilitation services, maximum utilization shall be made of public or other vocational or technical training facilities or other appropriate resources in the community;

(13) (A) provides that vocational rehabilitation services provided under the State plan shall be available to any civil employee of the United States disabled while in the performance of his duty on the same terms and conditions as apply to other persons, and

(B) provide that special consideration will be given to the rehabilitation under this Act of a handicapped individual whose handicapping condition arises from a disability sustained in the line of duty while such individual was performing as a public safety officer and the proximate cause of such disability was a criminal act, apparent criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution, and administration of law or fire prevention, firefighting, or related public safety activities;

(14) provide that no residence requirement will be imposed which excludes from services under the plan any individual who is present in the State;

(15) provide for continuing statewide studies of the needs of handicapped individuals and how these needs may be most effectively met (including the State's needs for rehabilitation facilities) with a view toward the relative need for services to significant segments of the population of handicapped individuals and the need for expansion of services to those individuals with the most severe handicaps;

(16) provide for (A) periodic review and reevaluation of the status of handicapped individuals placed in extended employment in rehabilitation facilities (including workshops) to determine the feasibility of their employment, or training for employment, in the competitive labor market, and (B) maximum efforts to place such individuals in such employment or training whenever it is determined to be feasible;

(17) provide that where such State plan includes provisions for the construction of rehabilitation facilities—

(A) the Federal share of the cost of construction thereof for a fiscal year will not exceed an amount equal to 10 per centum of the State's allotment for such year,

(B) the provisions of section 305 shall be applicable to such construction and such provisions shall be deemed to apply to such construction, and

(C) there shall be compliance with regulations the Secretary shall prescribe designed to assure that no State will reduce its efforts in providing other vocational rehabilitation services (other than for the establishment of rehabilitation facilities) because its plan includes such provisions for construction:

(18) provide satisfactory assurances to the Secretary that the State agency designated pursuant to clause (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational rehabilitation services (or, in appropriate cases, their parents or guardians), working in the field of vocational rehabilitation, and providers of vocational rehabilitation services; and

(19) provide satisfactory assurances to the Secretary that the continuing studies required under clause (15) of this subsection, as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Secretary may require, of appropriate amendments to the plan.

(b) The Secretary shall approve any plan which he finds fulfills the conditions specified in subsection (a) of this section, and he shall disapprove any plan which does not fulfill such conditions. Prior to such disapproval, the Secretary shall notify a State of his intention to disapprove its plan, and he shall afford such State reasonable notice and opportunity for hearing.

(c) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this section, finds that—

(1) the plan has been so changed that it no longer complies with the requirements of subsection (a) of this section; or

(2) in the administration of the plan there is a failure to comply substantially with any provision of such plan,

the Secretary shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that such further payments will be reduced, in accordance with regulations the Secretary shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until he is satisfied there is no longer any such failure. Until he is so satisfied, the Secretary shall make no further payments to such State under this title (or shall limit payments to projects under those parts of the State plan in which there is no such failure).

(d) If any State is dissatisfied with the Secretary's action under subsection (b) or (c) of this section, such State may appeal to the United States district court for the district where the capital of such State is located and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code.

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

SEC. 102. (a) The Secretary shall insure that the individualized written rehabilitation program required by section 101(a)(9) in the case of each handicapped individual is developed jointly by the vocational rehabilitation counselor or coordinator and the handicapped individual (or, in appropriate cases, his parents or guardians), and that such program meets the requirements set forth in subsection (b) of this section. Such written program shall set forth the terms and conditions, as well as the rights and remedies, under which goods and services will be provided to the individual.

(b) Each individualized written rehabilitation program shall be reviewed on an annual basis at which time each such individual (or, in appropriate cases, his parents or guardians) will be afforded an opportunity to review such program and renegotiate its terms. Such program shall include, but not be limited to (1) a statement of long-range rehabilitation goals for the individual and intermediate rehabilitation objectives related to the attainment of such goals, (2) a statement of the specific vocational rehabilitation services to be provided, (3) the projected date for the initiation and the anticipated duration of each such service, (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and, (5) where appropriate, a detailed explanation of the availability of a client assistance project established in such area pursuant to section 112.

(c) The Secretary shall also insure that (1) in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each handicapped individual primary emphasis is placed upon the determination and achievement of a vocational goal for such individual, (2) a decision that such an individual is not capable of achieving such a goal and thus not eligible for vocational rehabilitation services provided with assistance under this part, is made only in full consultation with such individual (or, in appropriate cases, his parents or guardians), and only upon the certification, as an amendment to such written program, that the evaluation of rehabilitation potential has demonstrated beyond any reasonable doubt that such individual is not then capable of achieving such a goal, and (3) any such decision shall be reviewed at least annually in accordance with the procedure and criteria established in this section.

SCOPE OF VOCATIONAL REHABILITATION SERVICES

SEC. 103. (a) Vocational rehabilitation services provided under this Act are any goods or services necessary to render a handicapped individual employable, including, but not limited to, the following:

(1) evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate, examination by a physician skilled in the diagnosis and treatment of emotional disorders, or by a licensed psychologist in accordance with State laws and regulations, or both;

(2) counseling, guidance, referral, and placement services for handicapped individuals, including follow-up, follow-along, and other postemployment services necessary to assist such individuals to maintain their employment and services designed to help handicapped individuals secure needed services from other agencies, where such services are not available under this Act;

(3) vocational and other training services for handicapped individuals, which shall include personal and vocational adjustment, books, and other training materials, and services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals: *Provided*, That no training services in institutions of higher education shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time, (B) necessary hospitalization in connection with surgery or treatment, (C) prosthetic and orthotic devices, (D) eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select, (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals suffering from end-stage renal disease, and (F) diagnosis and treatment for mental and emotional disorders by a physician or licensed psychologist in accordance with State licensure laws;

(5) maintenance, not exceeding the estimated cost of subsistence, during rehabilitation;

(6) interpreter services for deaf individuals, and reader services for those individuals determined to be blind after an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(7) recruitment and training services for handicapped individuals to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for the blind;

(9) occupational licenses, tools, equipment, and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service; and

(11) telecommunications, sensory, and other technological aids and devices.

(b) Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) in the case of any type of small business operated by individuals with the most severe handicaps the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, alone or together with the acquisition by the State agency of vending facilities or other equipment and initial stocks and supplies; and

(2) the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one handicapped individual.

NON-FEDERAL SHARE FOR CONSTRUCTION

SEC. 104. For the purpose of determining the amount of payments to States for carrying out part B of this title, the non-Federal share, subject to such limitations and conditions as may be prescribed in regulations by the Secretary, shall include contributions of funds made by any private agency, organization, or individual to a State or local agency to assist in meeting the costs of construction or establishment of a public or nonprofit rehabilitation facility, which would be regarded as State or local funds except for the condition, imposed by the contributor, limiting use of such funds to construction or establishment of such facility.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

STATE ALLOTMENTS

SEC. 110. (a)(1) For the fiscal year ending June 30, 1973, and for each fiscal year thereafter with respect to appropriations under subsection (b)(1) of section 100 each State shall be entitled to an allotment of an amount bearing the same ratio to the amount appropriated under subsection (b)(1) of section 100 for allotment under this section as the product of (1) the population of the State and (2) the square of its allotment percentage bears to the sum of the corresponding products for all the States. The allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under the first sentence of this subsection for any fiscal year which is less than one-quarter of 1 per centum of the amount appropriated under subsection (b)(1) of section 100, or the alternative minimum amount provided for under paragraph (2) of this subsection, whichever is greater, shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining such States under the first sentence of this subsection, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(2) the alternative minimum amount of the allotment as provided for under paragraph (1) of this subsection will be $2,000,000, except that such amount will be $1,000,000 in the event that application of such $2,000,000 minimum amount would reduce the amount which any State would receive in any fiscal year below the amount which such State received under section 2 of the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973.

(b) Whenever the Secretary determines, after reasonable opportunity for the submission to him of comments by the State agency administering or supervising the program established under this title, that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this title, he shall make such amount available for carrying out the purposes of this title to one or more other States to the extent he determines such other State will be able to use such additional amount during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

PAYMENTS TO STATES

Sec. 111. (a) From each State's allotment under this part for any fiscal year, the Secretary shall pay to such State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for such State approved under section 101, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its allotment under subsection (a) of section 110 for such year and such payments shall not be made in an amount which would result in a violation of the provisions of the State plan required by clause (17) of section 101(a), and except that the amount otherwise payable to such State for such year under this section shall be reduced by the amount (if any) by which expenditures from non-Federal sources during such year under this title are less than expenditures under the State plan for the fiscal year ending June 30, 1972, under the Vocational Rehabilitation Act.

(b) The method of computing and paying amounts pursuant to subsection (a) shall be as follows:

(1) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amount to be paid to each State under the provisions of such subsection for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation, as the Secretary may find necessary.

(2) The Secretary shall pay, from the allotment available therefor, the amount so estimated by him for such period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid the State for any prior period under such subsection was greater or less than the amount which should have been paid to the State for such prior period under such subsection. Such payment shall be made prior to audit or settlement by the General Accounting Office, shall be made through the disbursing facilities of the Treasury Department, and shall be made in such installments as the Secretary may determine.

CLIENT ASSISTANCE

Sec. 112. (a) The Secretary shall set aside out of funds appropriated under section 303 for special projects and demonstrations up to $1,500,000 but no less than $500,000 for the fiscal year ending June 30, 1973, and up to $2,500,000 but no less than $1,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, to establish in no less than 10 nor more than 20 geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "projects") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this Act and to assist them in their relationships with projects, programs, and facilities providing services to them under this Act.

(b) The Secretary shall prescribe regulations which shall include the following requirements:

(1) All employees of such projects shall not be presently serving as staff or consultants or receiving benefits of any kind directly or indirectly from any rehabilitation project, program, or facility.

(2) The staff of such projects shall be afforded reasonable access to policymaking and administrative personnel in State and local rehabilitation programs, projects, and facilities.

(3) The project shall submit an annual report, through the State agency designated pursuant to section 101, to the Secretary on the operation of the project during the previous year, including a summary of the work done and a uniform statistical tabulation of all cases handled by such project. A copy of each such report shall be submitted to the appropriate committees of the Congress by the Secretary, together with a summary of such reports and his evaluation of such projects, including appropriate recommendations.

(4) Each State agency may enter into cooperative arrangements with institutions of higher education to secure the services in such projects of graduate students who are undergoing clinical training activities in related fields. No compensation with funds appropriated under this Act shall be provided to such students.

(5) Reasonable assurance shall be given by the appropriate State agency that all clients or client applicants within the project area shall have the opportunity to receive adequate service under the project and shall not be pressured against or otherwise discouraged from availing themselves of the services available under such project.

(6) The project shall be funded, administered, and operated directly by the State agency designated pursuant to section 101.

PART C—INNOVATION AND EXPANSION GRANTS

STATE ALLOTMENTS

Sec. 120. (a)(1) From the sums available pursuant to section 100(b)(2) for any fiscal year for grants to States to assist them in meeting the costs described in section 121, each State shall be entitled to an allotment of an amount bearing the same ratio to such sums as the population of the State bears to the population of all the States. The allotment to any State under the preceding sentence for any fiscal year which is less than $50,000 shall be increased to that amount, and for the fiscal years ending June 30, 1973, and June 30, 1974, no State shall receive less than the amount necessary to cover up to 90 per centum of the cost of continuing projects assisted under section 4(a)(2)(A) of the Vocational Rehabilitation Act, except that no such project may receive financial assistance under both the Vocational Rehabilitation Act and this Act for a total period of time in excess of three years. The total of the increase required by the preceding sentence shall be derived by proportionately reducing the allotments to each of the remaining States under the first sentence of this section, but with such adjustments as may be necessary to prevent the allotment of any of such remaining States from thereby being reduced to less than $50,000.

(b) Whenever the Secretary determines that any amount of an allotment to a State for any fiscal year will not be utilized by such State in carrying out the purposes of this section, he shall make such amount available for carrying out the purposes of this section to one or more other States which he determines will be able to use additional amounts during such year for carrying out such purposes. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for purposes of this part, be regarded as an increase of such State's allotment (as determined under the preceding provisions of this section) for such year.

PAYMENTS TO STATES

Sec. 121. (a) From each State's allotment under this part for any fiscal year, the Secretary shall pay to such State or, at the option of the State agency designated pursuant to section 101(a)(1), to a public or nonprofit organization or agency, a portion of the cost of planning, preparing for, and initiating special programs under the State plan approved pursuant to section 101 to expand vocational rehabilitation services, including programs to initiate or expand such services to individuals with the most severe handicaps, or of special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor, and responsibility for whose treatment, education, and rehabilitation is shared by the State agency designated in section 101 with other agencies. The Secretary may require that any portion of a State's allotment under this section, but not more than 50 per centum of such allotment, may be expended in connection with only such projects as have first been approved by the Secretary. Any grant of funds under this section which will be used for direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals must have the prior approval of the appropriate State agency designated pursuant to section 101.

(b) Payments under this section with respect to any project may be made for a period of not to exceed three years beginning with the commencement of the project as approved, and sums appropriated for grants under this section shall remain available for such grants through the fiscal year ending June 30, 1975. Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

(c) Payments under this section may be made in advance or by way of reimbursement for services performed and purchases made, as may be determined by the Secretary, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section.

PART D—COMPREHENSIVE SERVICE NEEDS

SPECIAL STUDY

SEC. 130. (a) The Secretary shall conduct a comprehensive study, which may include research and demonstration *projects* of the feasibility of methods designed (1) to prepare individuals with the most severe handicaps for entry into programs under this Act who would not otherwise be eligible to enter such programs due to the severity of their handicap, and (2) to assist individuals with the most severe handicaps who, due to the severity of their handicaps or other factors such as their age, cannot reasonably be expected to be rehabilitated for employment but for whom a program of rehabilitation could improve their ability to live independently or function normally within their family and community. Such study shall encompass the extent to which other programs administered by the Secretary do or might contribute to the objectives set forth in clauses (1) and (2) of the preceding sentence and the methods by which all such programs can be coordinated at Federal, State, and local levels with those carried out under this Act to the end that individuals with the most severe handicaps are assured to receive the kinds of assistance necessary for them to achieve such objectives.

(b) The Secretary shall report the findings of the study, research, and demonstrations directed by subsection (a) of this section to the Congress and to the President together with such recommendations for legislative or other action as he may find desirable, not later than January 1, 1975.

TITLE II—RESEARCH AND TRAINING

DECLARATION OF PURPOSE

SEC. 200. The purpose of this title is to authorize Federal assistance to State and public or nonprofit agencies and organizations to—

(a) plan and conduct reesearch, demonstrations, and related activities in the rehabilitation of handicapped individuals, and

(b) plan and conduct courses of training and related activities designed to provide increased numbers of trained rehabilitation personnel, to increase the levels of skills of such personnel, and to develop improved methods of providing such training.

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) In order to make grants and contracts to carry out the purposes of this title, there is authorized to be appropriated:

(1) For the purpose of carrying out section 202 of this title, $20,346,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, and $25,000,000 for the fiscal year ending June 30, 1975; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph, 15 per centum, 20 per centum, and 25 per centum of the amounts appropriated in the first, second, and third such fiscal years, respectively, shall be available only for the purpose of carrying out activities under section 202(b)(2).

(2) For the purpose of carrying out section 203 of this title, there is authorized to be appropriated $27,700,000 for the fiscal year ending June 30, 1973, $27,700,000 for the fiscal year ending June 30, 1974, and $27,700,000 for the fiscal year ending June 30, 1975; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary.

(b) Funds appropriated under this title shall remain available until expended.

RESEARCH

SEC. 202. (a) The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially those with the most severe handicaps, under this Act. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques; studies and analyses of industrial, vocational, social, pscyhological, economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; studies and analyses of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and individuals with the most severe handicaps.

(b) In addition to carrying out projects under subsection (a) of this section, the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to pay part or all of the cost of the following specialized research activities:

(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation and training of rehabilitation research personnel, including, but not limited to, graduate training. Grants may include funds for services rendered by such a center to handicapped individuals in connection with such research and training activities.

(2) Establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with State agencies designated pursuant to section 101 in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

(3) Conduct of a program for spinal cord injury research, to include support of spinal cord injuries projects and demonstrations established pursuant to section 303(b), which will (A) insure dissemination of research findings among all such centers, (B) provide encouragement and support for initiatives and new approaches by individual and institutional investigators, and (C) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts, in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) Conduct of a program for international rehabilitation research, demonstration, and training for the purpose of developing new knowledge and methods in the rehabilitation of handicapped individuals in the United States, cooperating with and assisting in developing and sharing information found useful in other nations in the rehabilitation of handicapped individuals, and initiating a program to exchange experts and technical assistance in the field of rehabilitation of handicapped individuals with other nations as a means of increasing the levels of skill of rehabilitation personnel.

(c) The provisions of section 305 shall apply to assistance provided under this section, unless the context indicates to the contrary.

TRAINING

SEC. 203. (a) The Secretary, through the Commissioner, in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to and contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the numbers of personnel trained in providing vocational services to handicapped individuals and in performing other functions necessary to the development of such services.

(b) In making such grants or contracts, funds made available for any year will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to include projects in rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthotics, specialized personnel in services to the blind and the deaf, recreation for ill and handicapped individuals, and other fields contributing to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals and handicapped individuals with limited English-speaking ability. No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.

REPORTS

SEC. 204. There shall be included in the annual report to the Congress required by section 404 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational rehabilitation services to handicapped individuals and those with the most severe handicaps under this Act.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

DECLARATION OF PURPOSE

SEC. 300. The purpose of this title is to—

(1) authorize grants and contracts to assist in the construction and initial staffing of rehabilitation facilities;

(2) authorize grants and contracts to assist in the provision of vocational training services to handicapped individuals;

(3) authorize grants for special projects and demonstrations which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, including individuals with spinal cord injuries, older blind individuals, and deaf individuals whose maximum vocational potential has not been reached, which experiment with new types of patterns of services or devices for the rehabilitation of handicapped individuals (including opportunities for new careers for handicapped individuals, and for other individuals in programs serving handicapped individuals) and which provide vocational rehabilitation serivces to handicapped migratory agricultural workers or seasonal farmworkers;

(4) establish and operate a National Center for Deaf-Blind Youths and Adults; and

(5) establish uniform grant and contract requirements for programs assisted under this title and certain other provisions of this Act.

GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 301. (a) For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, initial staffing, and planning assistance, there is authorized to be appropriated $550,000 for the fiscal year ending June 30, 1973, $500,000 for the fiscal year ending June 30, 1974, and $500,000 for the fiscal year ending June 30, 1975; and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or initial staffing grants made under this section prior to July 1, 1977.

(b)(1) The Secretary is authorized to make grants to assist in meeting the costs of construction of public or nonprofit rehabilitation facilities. Such grants may be made to States and public or nonprofit organizations and agencies for projects for which applications are approved by the Secretary under this section.

(2) To be approved, an application for a grant for a construction project under this section must conform to the provisions of section 305.

(3) The amount of a grant under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share which is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a)), in such State, except that if the Federal share with respect to rehabilitation facilities in such State is determined pursuant to subparagraph (b)(2) of section 645 of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations prescribed by the Secretary designed to achieve as nearly as practicable results comparable to the results obtained under such subparagraph.

(c) The Secretary is also authorized to make grants to assist in the initial staffing of any public or nonprofit rehabilitation facility constructed after the date of enactment of this section (whether or not such construction was financed with the aid of a grant under this section) by covering part of the costs (determined in accordance with regulations the Secretary shall prescribe) of compensation of professional or technical personnel of such facility during the period beginning with the commencement of the operation of such facility and ending with the close of four years and three months after the month in which such operation commenced. Such grants with respect to any facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following the month in which such operation commenced, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

(d) The Secretary is also authorized to make grants upon application approved by the State agency designated under section 101 to administer the State plan, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning rehabilitation facilities and the services to be provided by such facilities.

VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated $10,300,000 for the fiscal year ending June 30, 1973, $10,300,000 for the fiscal year ending June 30, 1974, and $12,000,000 for the fiscal year ending June 30, 1975; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary.

(b)(1) The Secretary is authorized to make grants to States and public or nonprofit organizations and agencies to pay up to 90 per centum of the cost of projects for providing vocational training services to handicapped individuals, especially those with the most severe handicaps, in public or nonprofit rehabilitation facilities.

(2)(A) Vocational training services for purposes of this subsection shall include training with a view toward career advancement; training in occupational skills; related services, including work evaluation, work testing, provision of occupational tools and equipment required by the individual to engage in such training, and job tryouts; and payment of weekly allowances to individuals receiving such training and related services.

(B) Such allowances may not be paid to any individual for any period in excess of two years, and such allowances for any week shall not exceed $30 plus $10 for each of the individual's dependents, or $70, whichever is less. In determining the amount of such allowances for any individual, consideration shall be given to the individual's need for such an allowance, including any expenses reasonably attributable to receipt of training services, the extent to which such an allowance will help assure entry into and satisfactory completion of training, and such other factors, specified by the Secretary, as will promote such individual's capacity to engage in gainful and suitable employment.

(3) The Secretary may make a grant for a project pursuant to this subsection only on his determination that (A) the purpose of such project is to prepare handicapped individuals, especially those with the most severe handicaps, for gainful and suitable employment; (B) the individuals to receive training services under such project will include only those who have been determined to be suitable for and in need of such training services by the State agency or agencies designated as provided in section 101(a)(1) of the State in which the rehabilitation facility is located; (C) the full range of training services will be made available to each such individual, to the extent of his need for such services; and (D) the project, including the participating rehabilitation facility and the training services provided, meets such other requirements as he may prescribe in regulations for carrying out the purposes of this subsection.

(c)(1) The Secretary is authorized to make grants to public or nonprofit rehabilitation facilities, or to an organization or combination of such facilities, to pay the Federal share of the cost of projects to analyze, improve, and increase their professional services to handicapped individuals, their management effectiveness, or any other part of their operations affecting their capacity to provide employment and services for such individuals.

(2) No part of any grant made pursuant to this subsection may be used to pay costs of acquiring, constructing, expanding, remodeling, or altering any building.

SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 303. (a)(1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated $12,200,000 for the fiscal year ending June 30, 1973, $15,000,000 for the fiscal year ending June 30, 1974, and $17,000,000 for the fiscal year ending June 30, 1975; and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary.

(2) Of the amounts appropriated pursuant to paragraph (1) of this subsection, 10 per centum in each such fiscal year shall be available only for the purpose of making grants under subsection (c) of this section, and there is authorized to be appropriated in each such fiscal year such additional amount as may be necessary to equal, when added to the amount made available for the purpose of making grants under such subsection an amount of $5,000,000 to be available for each such fiscal year.

(b) The Secretary, subject to the provisions of section 305, shall make grants to States and public or nonprofit agencies and organizations for paying part or all of the cost of special projects and demonstrations (and research and evaluation in connection therewith) (1) for establishing programs and facilities for providing vocational rehabilitation services which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals, especially those with the most severe handicaps, including, but not limited to, individuals with spinal cord injuries, older blind individuals, and deaf individuals, whose maximum vocational potential has not been reached, and (2) for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals for other individuals in programs servicing handicapped individuals). Projects and demonstrations providing services to individuals with spinal cord injuries shall include provisions to—

(A) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

(B) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

(C) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

(D) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

(c) The Secretary, subject to the provisions of section 305, is authorized to make grants to any State agency designated pursuant to a State plan approved under section 101, or to any local agency participating in the administration of such a plan, to pay up to 90 per centum of the cost of projects or demonstrations for the provision of vocational rehabilitation services to handicapped individuals, as determined in accordance with rules prescribed by the Secretary of Labor, are migratory agricultural workers or seasonal farmworkers, and to members of their families who are with them, including maintenance and transportation of such individuals and members of their families where necessary to the rehabilitation of such individuals. Maintenance payments under this section shall be consistent with any maintenance payments made to other handicapped individuals in the State under this

Act. Such grants shall be conditioned upon satisfactory assurance that in the provision of such services there will be appropriate cooperation between the grantee and other public or nonprofit agencies and organizations having special skills and experience in the provision of services to migratory agricultural workers, seasonal farmworkers, or their families. This subsection shall be administered in coordination with other programs serving migrant agricultural workers and seasonal farmworkers, including programs under title I of the Elementary and Secondary Education Act of 1965, section 311 of the Economic Opportunity Act of 1964, the Migrant Health Act, and the Farm Labor Contractor Registration Act of 1963.

(d) The Secretary is authorized to make contracts or jointly financed cooperative arrangements with employers and organizations for the establishment of projects designed to prepare handicapped individuals for gainful and suitable employment in the competitive labor market under which handicapped individuals are provided training and employment in a realistic work setting and such other services (determined in accordance with regulations prescribed by the Secretary) as may be necessary for such individuals to continue to engage in such employment.

(e) (1) The Secretary is authorized, directly or by contract with State vocational rehabilitation agencies or experts or consultants or groups thereof, to provide technical assistance (A) to rehabilitation facilities, and (B) for the purpose of removal of architectural and transportation barriers, to any public or nonprofit agency, institution, organization or facility.

(2) Any such experts or consultants shall, while serving pursuant to such contracts, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the pro rata pay rate for a person employed as a GS-18, under section 5332 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 304. (a) For the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, there is authorized to be appropriated $1,200,000, and such additional sums as the Congress may determine necessary for construction for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, which shall remain available until expended, and there is further authorized to be appropriated for each such year such additional sums as the Congress may determine to be necessary for the operation of such Center.

(b) In order—

(1) to demonstrate methods of (A) providing the specialized intensive services, and other services, needed to rehabilitate handicapped individuals who are both deaf and blind, and (B) training the professional and allied personnel needed adequately to staff facilities specifically designed to provide such services and training to such personnel who have been or will be working with deaf-blind individuals;

(2) to conduct research in the problems of, and ways of meeting the problems of rehabilitating, deaf-blind individuals; and

(3) to aid in the conduct of related activities which will expand or improve the services for or help improve public understanding of the problems of deaf-blind individuals;

the Secretary, subject to the provisions of section 305, is authorized to enter into an agreement with any public or nonprofit agency or organization for payment by the United States of all or part of the costs of the establishment and operation, including construction and equipment, of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, which center shall be known as the National Center for Deaf-Blind Youths and Adults.

(c) Any agency or organization desiring to enter into such agreement shall submit a proposal therefor at such time, in such manner, and containing such information as may be prescribed in regulations by the Secretary. In considering such proposals the Secretary shall give preference to proposals which (1) give promise of maximum effectiveness in the organization and operation of such Center, and (2) give promise of offering the most substantial skill, experience, and capability in providing a broad program of service, research, training, and related activities in the field of rehabilitation of deaf-blind individuals.

GENERAL GRANT AND CONTRACT REQUIREMENTS

SEC. 305. (a) The provisions of this section shall apply to all projects approved and assisted under this title. The Secretary shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this title, except projects authorized under section 302.

(b) To be approved, an application for assistance for a construction project under this title must—

(1) contain or be supported by reasonable assurances that (A) for a period of not less than twenty years after completion of construction of the project it will be used as a public or nonprofit facility, (B) sufficient funds will be available to meet the non-Federal share of the cost of construction of the project, and (C) sufficient funds will be available, when construction of the project is completed, for its effective use for its intended purpose;

(2) provide that Federal funds provided to any agency or organization under this title will be used only for the purposes for which provided and in accordance with the applicable provisions of this section and the section under which such funds are provided;

(3) provide that the agency or organization receiving Federal funds under this title will make an annual report to the Secretary, which he shall summarize and comment upon in the annual report to the Congress submitted under section 404;

(4) be accompanied or supplemented by plans and specifications in which due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project), and which comply with regulations prescribed by the Secretary related to minimum standards of construction and equipment (promulgated with particular emphasis on securing compliance with the requirements of the Architectural Barriers Act of 1968 (Public Law 90–480)), and with regulations of the Secretary of Labor relating to occupational health and safety standards for rehabilitation facilities; and

(5) contain or be supported by reasonable assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by payments pursuant to any grant under this section will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with Davis-Bacon Act, as amended (40 U.S.C. 276a–276a5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) Upon approval of any application for a grant or contract for a project under this title, the Secretary shall reserve, from any appropriation available therefor, the amount of such grant or contract determined under this title. In case an amendment to an approval application is approved, or the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the appropriation from which the original reservation was made or the appropriation for the fiscal year in which such amendment or revision is approved.

(d) If, within twenty years after completion of any construction project for which funds have been paid under this title, the facility shall cease to be a public or nonprofit facility, the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of construction of such facility.

(e) Payment of assistance or reservation of funds made pursuant to this title may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(f) A project for construction of a rehabilitation facility which is primarily a workshop may, where approved by the Secretary as necessary to the effective operation of the facility, include such construction as may be necessary to provide residential accommodations for use in connection with the rehabilitation of handicapped individuals.

(g) No funds provided under this title may be used to assist in the construction of any facility which is or will be used for religious worship or any sectarian activity.

(h) When in any State, funds provided under this title will be used for providing direct services to handicapped individuals or for establishing facilities which will provide such services, such services must be carried out in a manner not inconsistent with the State plan approved pursuant to section 101.

(i) Prior to making any grant or entering into any contract under this title, the Secretary shall afford reasonable opportunity to the appropriate State agency or agencies designated pursuant to section 101 to comment on such grant or contract.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUTION

ADMINISTRATION

SEC. 400. (a) In carrying out his duties under this Act, the Secretary shall—

(1) cooperate with, and render technical assistance (directly or by grant or contract) to States in matters relating to the rehabilitation of handicapped individuals;

(2) provide short-term training and instruction in technical matters relating to vocational rehabilitation services, including the establishment and maintenance of such research fellowships and traineeships, with such stipends and allowances (including travel and subsistence expenses), as he may deem necessary, except that no such training or instruction (or fellowship or scholarship) shall be provided any individual for any one course of study for a period in excess of four years, and such training, instruction, fellowships, and traineeships may be in the fields of rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, prosthetics and orthotics, recreation for ill and handicapped individuals, and other specialized

fields contributing to the rehabilitation of handicapped individuals; and

(3) disseminate information relating to vocational rehabilitation services, and otherwise promote the cause of the rehabilitation of handicapped individuals and their greater utilization in gainful and suitable employment.

(b) The Secretary is authorized to make rules and regulations governing the administration of this title and titles I through III of this Act, and, except as otherwise provided in this Act, to delegate to any officer or employee of the United States such of his powers and duties under such titles, except the making of rules and regulations, as he finds necessary to carry out the provisions of such titles. Such rules and regulations shall be published in the Federal Register, on at least an interim basis, no later than ninety days after the date of enactment of this Act.

(c) The Secretary is authorized (directly or by grants or contracts) to conduct studies, investigations, and evaluation of the programs authorized by this Act, and to make reports, with respect to abilities, aptitudes, and capacities of handicapped individuals, development of their potentialities, their utilization in gainful and suitable employment, and with respect to architectural, transportation, and other environmental and attitudinal barriers to their rehabilitation, including the problems of homebound, institutionalized, and older blind individuals.

(d) There is authorized to be included for each fiscal year in the appropriation for the Department of Health, Educatiton, and Welfare such sums as are necessary to administer the provisions of this Act.

(e) In carrying out his duties under this Act, the Secretary shall insure the maximum coordination and consultation, at both national and local levels, with the Administrator of Veterans' Affairs and his designees with respect to programs for and relating to the rehabilitatiton of disabled veterans carried out under title 38, United States Code.

PROGRAM AND PROJECT EVALUATION

SEC. 401. (a) (1) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, in order to determine their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administratiton of the program or project evaluated.

(2) In carrying out his responsibilities under this subsection, the Secretary, in the case of research, demonstrations, and related activities carried out under section 202, shall, after taking into consideration the views of State agencies designated pursuant to section 101, on an annual basis—

(A) reassess priorities to which such activities should be directed; and

(B) review present research, demonstration, and related activities to determine, in terms of the purpose specified for such activities by subsection (a) of section 202, whether and on what basis such activities should be continued, revised or terminated.

(3) The Secretary shall, within 12 months after the date of enactment of this Act, and on each April 1 thereafter, prepare and furnish to the appropriate committees of the Congress a complete report on the determination and review carried out under paragraph (2) of this subsection, together with such recommendatitons, including any recommendations for additional legislation, as he deems appropriate.

(b) Effective July 1, 1974, before funds for the programs and projects covered by this Act are released, the Secretary shall develop and publish general standards for evaluation of the program and project effectiveness in achieving the objectives of this Act. He shall consider the extent to which such standards have been met in deciding, in accordance with procedures set forth in subsection (b), (c), and (d) of section 101, whether to renew or supplement financial assistance authorized under any section of this Act. Reports submitted pursuant to section 404 shall describe the actions taken as a result of these evaluations.

(c) In carrying out evaluations under this title, the Secretary shall, whenever possible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this Act about such programs and projects.

(d) The Secretary shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness no later than ninety days after the completion thereof. The Secretary shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this Act shall become the property of the United States.

OBTAINING INFORMATION FROM FEDERAL AGENCIES

SEC. 402. Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this title shall be made available to him, upon request, by the agencies of the executive branch.

AUTHORIZATION OF APPROPRIATIONS

SEC. 403. There is authorized to be appropriated for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 per centum of the funds appropriated under titles I, II, and III of this Act or $1,000,000, whichever is greater, to be available to conduct program and project evaluations as required by this title.

REPORTS

SEC. 404. Not later than one hundred and twenty days after the close of each fiscal year, the Secretary shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include (1) statistical data reflecting, with the maximum feasible detail, vocational rehabilitation services provided handicapped individuals during the preceding fiscal year, (2) specifically distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop or rehabilitation facility, employment as a homemaker or unpaid family worker, and provision of other services, and (3) include a detailed evaluation of services provided with assistance under title I of this Act to those with the most severe handicaps.

SECRETARIAL RESPONSIBILITIES

SEC. 405. (a) It shall be the function of the Secretary, with the assistance of agencies within the Department, other departments and agencies within the Federal Government, handicapped individuals, and public and private agencies and organizations, through the Office of the Secretary, to—

(1) prepare for submission to the Congress within 18 months after the date of enactment of this Act, a long-range projection for the provision of comprehensive services to handicapped individuals and for programs of research, evaluation, and training related to such services and individuals;

(2) analyze on a continuing basis and include in his report submitted under section 404, a report on the results of such analysis, program operation to determine consistency with applicable provisions of law, progress toward meeting the goals and priorities set forth in the projection required under clause (1), and the effectiveness of all programs providing services to handicapped individuals, and the elimination of unnecessary duplication and overlap in such programs under the jurisdiction of the Secretary;

(3) encourage coordinated and cooperative planning designed to produce maximum effectiveness, sensitivity, and continuity in the provision of services for handicapped individuals by all programs;

(4) develop means of promoting the prompt utilization of engineering and other scientific research to assist in solving problems in education (including promotion of the development of curriculums stressing barrier free design and the adoption of such curriculums by schools of architecture, design, and engineering), health, employment, rehabilitation, architectural, housing, and transportation barriers, and other areas so as to bring about full integration of handicapped individuals into all aspects of society;

(5) provide a central clearinghouse for information and resource availability for handicapped individuals through (A) the evaluation of systems within the Department of Health, Education, and Welfare, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources, which provide (i) information and data regarding the location, provision, and availability of services and programs for handicapped individuals, regarding research and recent medical and scientific developments bearing on handicapping conditions (and their prevention, amelioration, causes, and cures), and regarding the current numbers of handicapped individuals and their needs, and (ii) any other such relevant information and data which the Secretary deems necessary; and (B) utilizing the results of such evaluation and existing information systems, the development within such Department of a coordinated system of information and data retrieval, which will have the capacity and responsibility to provide general and specific information regarding the information and data referred to in subclause (A) of this clause to the Congress, public and private agencies and organizations, handicapped individuals and their families, professionals in fields serving such individuals, and the general public.

(b) In selecting personnel to assist in the performance of the functions assigned in subsection (a) of this section, the Secretary shall give special emphasis to qualified handicapped individuals.

(c) The functions assigned to the Secretary by this section will not be delegated to any persons not assigned to and operating in the Office of the Secretary, except that he may establish an Office for the Handicapped in the office of an appropriate Assistant Secretary of the Department of Health, Education, and Welfare to carry out such functions.

(d) There are authorized to be appropriated such sums as the Congress may determine necessary for carrying out this section for the fiscal year ending June 30, 1973; and there is authorized to be appropriated for such purpose $500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975.

(e) Not later than thirty days after the appropriation Act containing sums for carrying out the provisions of this Act is enacted for each fiscal year, the Secretary shall set aside out of sums available to carry out this section or available pursuant to any other Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section and shall notify the appropriate communities of the Congress of the amount so set aside, the number of personnel necessary for such purpose, and the basis for his determination under this subsection and his reasons therefor.

SHELTERED WORKSHOP STUDY

SEC. 406. (a) The Secretary shall conduct an original study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in sheltered workshops. The study shall incorporate guidelines which are consistent with criteria provided in resolutions adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both.

(b) The study shall include site visits to sheltered workshops, interviews with handicapped trainees or clients, and consultations with interested individuals and groups and State agencies designated pursuant to section 101.

(c) Any contracts awarded for the purpose of carrying out all or part of this study shall not be made with individuals or groups with a financial or other direct interest in sheltered workshops.

(d) The Secretary shall report to the Congress his findings and recommendations with respect to such study within twenty-four months after the date of enactment of this Act.

STATE ALLOCATION STUDY

SEC. 407. (a) The Secretary shall conduct a thorough study of the allotment of funds among the States for grants for basic vocational rehabilitation services authorized under part B of title I of this Act, including a consideration of—

(1) the needs of individuals requiring vocational rehabilitation services;

(2) the financial capability of the States to furnish vocational rehabilitation assistance including, on a State-by-State basis, per capita income, per capita costs of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services:

(3) the continuing demand upon the States to furnish vocational rehabilitation services, together with a consideration of the factor that no State would receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilitation Act in the fiscal year immediately prior to the enactment of this Act.

(b) Not later than June 30, 1974, the Secretary shall report to the Congress his findings and recommendations, including recommendations for additional legislation, with respect to the study required by this section, which report shall include recommendations with respect to allotment of Federal funds among the States and the Federal share of the cost of furnishing vocational rehabilitation services by the States.

TITLE V—MISCELLANEOUS

EFFECT ON EXISTING LAW

SEC. 500. The Vocational Rehabilitation Act (29 U.S.C. 31 et seq.) is repealed ninety days after the date of enactment of this Act and references to such Vocational Rehabilitation Act in any other provision of law shall, ninety days after such date, be deemed to be references to the Rehabilitation Act of 1972. Unexpended appropriations for carrying out the Vocational Rehabilitation Act may be made available to carry out this Act, as directed by the President. Approved State plans for vocational rehabilitation, approved projects, and contractual arrangements authorized under the Vocational Rehabilitation Act will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

EMPLOYMENT OF HANDICAPPED INDIVIDUALS

SEC. 501. (a) There is established within the Federal Government an Interagency Committee on Handicapped Employees (hereinafter in this section referred to as the "Committee"), comprised of such members as the President may select, including the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Civil Service Commission, the Administrator of Veterans' Affairs, and the Secretaries of Labor and Health, Education, and Welfare. The Secretary of Health, Education, and Welfare and the Chairman of the Civil Service Commission shall serve as co-chairmen of the Committee. The resources of the President's Committees on Employment of the Handicapped and on Mental Retardation shall be made fully available to the Committee. It shall be the purpose and function of the Committee (1) to provide a focus for Federal and other employment of handicapped individuals, and to review, on a periodic basis, in cooperation with the Civil Service Commission, the adequacy of hiring, placement, and advancement practices with respect to handicapped individuals, by each department, agency, and instrumentality in the executive branch of Government, and to insure that the special needs of such individuals are being met; and (2) to consult with the Civil Service Commission to assist the Commission to carry out its responsibilities under subsections (b), (c), and (d) of this section. On the basis of such review and consultation, the Committee shall periodically make to the Civil Service Commission such recommendations for legislative and administrative changes as it deems necessary or desirable. The Civil Service Commission shall timely transmit to the appropriate Committees of Congress any such recommendations.

(b) Each department, agency, and instrumentality (including the United States Postal Service and the Postal Rate Commission) in the executive branch shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Civil Service Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals in such department, agency, or instrumentality. Such plan shall include a description of the extent to which and methods whereby the special needs of handicapped employees are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for handicapped individuals.

(c) The Civil Service Commission, after consultation with the Committee, shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans' programs, or any other program for handicapped individuals, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

(d) The Civil Service Commission, after consultation with the Committee, shall, on June 30, 1974, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of and achievements in hiring, placement, and advancement of handicapped individuals by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation which have been submitted to the Civil Service Commission under subsection (a) of this section, or other appropriate action to insure the adequacy of such practices. Such report shall also include an evaluation by the Committee of the effectiveness of the Civil Service Commission's activities under subsections (b) and (c) of this section.

(e) An individual who, as a part of his individualized written rehabilitation program under a State plan approved under this Act, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(f) (1) The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized and directed to cooperate with the President's Committee on Employment of the Handicapped in carrying out its functions.

(2) In selecting personnel to fill all positions on the President's Committee on Employment of the Handicapped, special consideration shall be given to qualified handicapped individuals.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 502. (a) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed of the heads of each of the following departments or agencies (or their designees whose positions are Executive Level IV or higher):

(1) Department of Health, Education, and Welfare;

(2) Department of Transportation;

(3) Department of Housing and Urban Development;

(4) Department of Labor;

(5) Department of the Interior;

(6) General Services Administration;

(7) United States Postal Service; and

(8) Veterans' Administration.

(b) It shall be the function of the Board to: (1) insure compliance with the standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968 (Public Law 90–480), as amended by the Act of March 5, 1970 (Public Law 91–205); (2) investigate and examine alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals, particularly with respect to public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing; (3) determine what measures are being taken by Federal, State, and local governments and by other public or non-profit agencies to eliminate the barriers described in clause (2) of this subsection; (4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968; (5) make reports to the President and to Congress, which shall describe in detail the results of its investigations under clauses (2) and (3) of this subsection; and (6) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (2) of this subsection.

(c) In carrying out its functions under this section, the Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b). The provisions of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review.

(d) The Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

(e) The departments or agencies specified in subsection (a) of this section shall make available to the Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Board may appoint such other advisers, technical experts, and consultants at it deems necessary to assist it in carrying out its functions under this section.

(f) The Board shall, at the end of each fiscal year, report its activities during the preceding fiscal year to the Congress. Such report shall include an assessment of the extent of compliance with the Act cited in subsection (b) of this section, along with a description and analysis of investigations made and actions taken by the Board, and the reports and recommendations described in clauses (4) and (5) of subsection (b) of this section and shall, while attending meetings or conferences thereof or otherwise serving on business of the Commission, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily pay rate, for a person employed as a GS-18 under section 5332 of title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

(g) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section such sums as the Congress may determine appropriate for the fiscal year ending June 30, 1973; and there is authorized to be appropriated for such purpose $1,250,000 for the fiscal year ending June 30, 1974, and $1,500,000 for the fiscal year ending June 30, 1975.

EMPLOYMENT UNDER FEDERAL CONTRACTS

SEC. 503. (a) Any contract in excess of $2,500 entered into by *any* Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that, in employing persons to carry out such contract the party contracting with the United States shall take affirmative action to employ and advance in employment qualified handicapped individuals as defined in section 7(6). The provisions of this section shall apply to any subcontract in excess of $2,500 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after the date of enactment of this section.

(b) If any handicapped individual believes any contractor has failed or refuses to comply with the provisions of his contract with the United States, relating to employment of handicapped individuals, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant consistent with the terms of such contract and the laws and regulations applicable thereto.

NONDISCRIMINATION UNDER FEDERAL GRANTS

SEC. 504. No otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

APPROPRIATIONS FOR FISCAL YEAR 1973

SEC. 505. The paragraph entitled "Social and Rehabilitation Services" of chapter IV of the Supplemental Appropriations Act, 1973 (Public Law 92-607) is amended by striking out "section 103" and inserting in lieu thereof "section 110" each place it appears and striking out "section 104" and inserting in lieu thereof "section 120".

Amend the title so as to read: "A bill to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps, to expand special Federal responsibilities and research and training programs with respect to handicapped individuals, to establish special responsibilities in the Secretary of Health, Education, and Welfare for coordination of all programs with respect to handicapped individuals within the Department of Health, Education, and Welfare, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on this bill of not to exceed 30 minutes, with a time limitation on amendments not to exceed 10 minutes, and that the order be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered and agreed to en bloc.

Mr. STAFFORD. Mr. President, for myself and Senator CRANSTON, Senator RANDOLPH, and Senator WILLIAMS, I send certain technical amendments to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

On page 1, line 4, strike out "1972" and insert in lieu thereof "1973".

On page 3, immediately before line 1, strike out "Sec. 505. Appropriations for fiscal year 1973.".

On page 40, line 4, strike out "the" the first time it appears and insert in lieu thereof "The."

On page 92, strike out all on lines 1 through 7.

Mr. CRANSTON. Mr. President, these are technical committee amendments we are offering. They are agreed to on both sides and offered for myself, Senators STAFFORD, RANDOLPH, and WILLIAMS. They would change the short title of the bill to the "Rehabilitation Act of 1973," rater than 1972, and delete the last section of the bill, now rendered moot by the expiration of fiscal year 1972 and the enactment, since the date the committee ordered the bill reported, of similar corrective legislation on July 1 in The Second Supplemental Appropriations Act, 1973 (Public Law 93-50).

The PRESIDING OFFICER. Is all time yielded back on the amendments?

Mr. ROBERT C. BYRD. I yield back my time.

Mr. STAFFORD. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. STAFFORD. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I rise in support of this latest effort to honor our Nation's promise to millions of crippled Americans and to their families and loved ones.

If there is a primary purpose to S. 1875, the Rehabilitation Act of 1973, it is to broaden the participation of the Federal Government in the effort to assist millions of Americans to achieve greater independence despite the weight of handicaps imposed upon them by fate or their fellow man.

Senators know the legislative and political history of this effort by now. They will hear versions of that history outlined time and again today, and there is no reason for me to dwell upon them at this time.

Let me say, however, that the bill before the Senate at present represents an honest compromise between the desires of the Committee on Labor and Public Welfare and the financial restraints set down by the administration.

S. 1875 is not as ambitious as I think it should be at this time. But it will get the Nation started in the right direction, and it is flexible enough to permit the Federal Government to accelerate movement in that direction if circumstances become more favorable in the future.

The Committee on Labor and Public Welfare can place this bill before the Senate with honor. And, this bill has the support of the administration. This is a bill that can become law quickly, and I hope the Congress will move swiftly to achieve that goal.

We have not retreated from the basic goals that have been previously approved by the Senate, even though we have agreed to move more slowly to suit the demands of limited financial fueling.

The need for this legislation remains unchallenged. The most recent hearings, along with those hearings held last year, produced evidence that services provided at present do not reach those who are in the greatest need of rehabilitation services.

Administration witnesses say 7 million

Americans could benefit from rehabilitation services. Other witnesses put that figure at 12 million Americans. The difference between those estimates, in itself, suggests there is a need for greater effort on the part of the Federal Government—if only to identify the amount of need that exists.

There was agreement, however, that only slightly more than 1 million crippled persons are reached by the rehabilitation services. Of that total only about 325,000 are designated as severely handicapped.

Since more than 1 million persons are added to our total handicapped population each year, it is clear that we must provide more services for more people. And, it is equally clear that we must focus special emphasis on services to those with severe handicaps.

The hearings indicated that a large segment of this needy population cannot be served under the present program because of the inability of the system to identify achievable vocational goals for them. This bill seeks to overcome that barrier by stressing services to the more severely handicapped.

The broad goal of the legislation, then, is to prepare individuals with the most need for entrance into the program and to help them to achieve more independence in life.

Mr. President, I ask unanimous consent that a chart prepared with figures supplied by the Rehabilitation Services Administration regarding the Nation's handicapped population be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TOTAL DISABLED POPULATION VERSUS NUMBER SERVED AND REHABILITATED IN FISCAL YEAR 1972, BY STATE

State or territory	Total number disabled	Number served by (fiscal year 1972) vocational rehabilitation	Number rehabilitated fiscal year 1972	Fiscal year 1972 vocational rehabilitation dollars spent
Total	9, 778, 942	1, 111, 045	326, 138	547, 782, 565
Connecticut[1]	110, 000	9, 319	2, 438	4, 419, 988
Maine[1]	35, 245	3, 201	829	2, 131, 468
Massachusetts[1]	135, 325	16, 934	5, 148	11, 360, 714
New Hampshire	33, 719	3, 158	765	1, 886, 846
Rhode Island[1]	36, 455	6, 653	1, 622	2, 095, 214
Vermont[1]	15, 757	2, 394	655	1, 388, 272
New Jersey[1]	569, 000	26, 729	9, 900	13, 105, 065
New York[1]	816, 930	53, 316	13, 717	30, 770, 834
Puerto Rico	135, 600	20, 518	4, 289	16, 124, 320
Virgin Islands	8, 000	370	121	340, 557
Delaware[1]	51, 440	3, 371	734	1, 148, 032
District of Columbia	158, 000	10, 261	3, 638	4, 318, 323
Maryland	205, 000	26, 353	8, 788	8, 288, 376
Pennsylvania[1]	858, 000	74, 138	21, 145	31, 966, 879
Virginia[1]	355, 135	35, 039	12, 782	15, 163, 406
West Virginia	88, 208	17, 271	7, 279	7, 667, 121
Alabama	210, 000	26, 898	7, 770	15, 750, 809
Florida[1]	245, 200	46, 284	13, 253	20, 668, 031
Georgia	111, 546	37, 058	12, 592	16, 971, 584
Kentucky	284, 410	24, 828	10, 534	11, 107, 798
Mississippi[1]	97, 717	18, 340	6, 353	11, 520, 065
North Carolina[1]	185, 863	45, 512	14, 605	19, 184, 417
South Carolina[1]	143, 214	34, 855	11, 002	11, 250, 405
Tennessee[1]	94, 372	26, 080	7, 265	11, 045, 036
Illinois	383, 550	39, 443	14, 315	20, 704, 483
Indiana[1]	508, 000	13, 588	3, 140	5, 408, 043
Michigan[1]	312, 758	37, 657	10, 642	19, 809, 266
Minnesota[1]	128, 540	25, 552	6, 072	10, 673, 096
Ohio[1]	370, 000	34, 256	10, 092	23, 990, 307
Wisconsin	332, 000	32, 379	9, 896	12, 270, 770
Arkansas[1]	73, 085	17, 945	5, 850	9, 023, 266
Louisiana[1]	223, 922	29, 047	5, 737	14, 629, 484
New Mexico[1]	12, 000	5, 078	1, 498	4, 056, 540
Oklahoma	215, 349	30, 471	7, 560	9, 337, 877
Texas[1]	539, 206	80, 505	24, 735	37, 677, 025
Iowa[1]	144, 890	18, 680	4, 143	8, 152, 485
Kansas[1]	98, 843	6, 516	2, 305	4, 459, 331
Missouri[1]	197, 370	19, 321	7, 299	13, 357, 605
Nebraska[1]	126, 891	7, 839	1, 917	4, 137, 523
Colorado	62, 138	11, 895	3, 287	6, 300, 698
Montana[1]	43, 500	6, 783	1, 265	2, 440, 247
North Dakota	50, 000	5, 405	1, 363	2, 410, 718
South Dakota[1]	12, 525	4, 882	913	2, 415, 917
Utah	35, 700	11, 666	2, 486	4, 011, 796
Wyoming	21, 011	2, 067	573	1, 045, 783
Arizona[1]	68, 425	6, 658	1, 932	5, 688, 546
California	370, 922	56, 708	12, 990	35, 287, 323
Guam	8, 219	332	116	533, 927
Hawaii	56, 335	3, 987	873	1, 864, 125
Nevada[1]	27, 465	2, 435	738	1, 000, 000
Alaska	63, 376	2, 045	390	1, 000, 000
Idaho[1]	60, 920	4, 385	1, 030	2, 609, 470
Oregon[1]	58, 763	9, 557	2, 297	5, 918, 251
Washington[1]	144, 152	15, 093	3, 460	7, 895, 103

[1] Separate blind agency.

Mr. STAFFORD. Mr. President, this data clearly demonstrates the need for an expanded program and for a program that will supply additional services to those most in need.

As is so often the case in matters where the need is so clearly demonstrated, efforts designed to meet that need run afoul of varying estimates of our Nation's financial ability to respond to the need.

The bill includes a mechanism designed to make available minimum amounts of money for rehabilitation services, and also to permit the Federal Government to increase its investment if that becomes possible in the future.

Let me point out two of the other important provisions of this legislation. The bill would:

First. Establish an Inter-Agency Committee to create affirmative action plans to encourage the Federal Government to hire more handicapped individuals. This policy will not only broaden employment opportunities for the handicapped, but it will also bring the wisdom and experience of handicapped Americans into our policymaking processes of government.

Second. Establish an Architectural and Transportation Barriers Compliance Board with a charge to guarantee all Americans access to all Government buildings. Too many cripped Americans with keen skills are denied employment opportunity because they are unable to negotiate flights of stairs. The simple goal is to eliminate existing man-made handicaps and to ensure that we do not continue to construct barriers to millions of Americans as we build public facilities.

I do not want to take the time of the Senate to mention each of the many improvements this legislation would make in existing law, but I think it would be well to get some of those points into the RECORD.

To achieve that goal, Mr. President, I ask unanimous consent that an edited text of my remarks on S. 7, earlier legislation on this subject, made on the floor on February 28, 1973, be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ROBERT T. STAFFORD ON S. 7, THE REHABILITATION ACT OF 1972

FEBRUARY 28, 1973.

MR. PRESIDENT: The Rehabilitation Act of 1972, S. 7, is designed to help handicapped individuals achieve their full potential in our society.

The tentative findings of the most recent study by the General Accounting Office have led us to the conclusion that the present legislation in this field has failed to achieve that goal.

The Vocational Rehabilitation law, which would be amended by S. 7, was a first step in seeking ways to help the handicapped assume meaningful roles in our society. S. 7 is the logical second step. It will provide no final solutions, but I am convinced it will be effective primarily because it will give handicapped citizens the opportunity to help decide their own future.

Mr. President, there are an estimated seven to twelve million handicapped individuals in our nation who have not realized their full potential in performing at some job. In the last fiscal year, it was estimated that one million disabled persons were served by state vocational rehabilitation agencies and approximately 300,000 of those individuals were reported to be rehabilitated. It is clear that we still have a long way to go, just as it is clear that this legislation and the funds authorized by it will not meet all of our national needs. But, this legislation can guarantee that many more individuals with severe handicaps will receive more responsive services than at present.

The Rehabilitation Act of 1972 has been delayed too long and it is now time to pass this bill and get it enacted into law.

In the past, the Vocational Rehabilitation Program has tried to provide services to those individuals whose handicaps have been substantial enough to limit their participation in the employment process of the society around them.

When the program was originated in 1920 (Smith Fenn Act), it was designed to help the handicapped individual cope with his environment and to obtain gainful employment. In the 53 years of the program, its basic frame work has remained intact although the program has been substantially enlarged over the years.

Tentative findings of the GAO study, which was available to the Subcommittee, portray a program which seems to have lost some of initial direction and has gotten snarled in the bureaucratic numbers game. The GAO found that (1) the programs once so heralded were not serving individuals with substantial handicaps, nor (2) was the program beginning to serve the increment of increase in the handicapped population. The hearings held last year by the Subcommittee on the Handicapped and again updated by submitted testimony this year bore out this tentative finding to the satisfaction of the Subcommittee members. Thus, we have chosen to amend the existing "Vocational Rehabilitation Act" with the "Rehabilitation Act of 1972."

Hopefully, we have brought forth a program that will redirect needed services to some of those individuals whose handicaps are most severe. I think that certain provisions, such as the individualized written program, client assistance, Office of the Handicapped, and new initiatives in mid-range research, will redirect the program towards those handicapped individuals most in need of services. I shall not dwell on those areas of the bill which have been covered except for one or two which I feel do the most to humanize the rehabilitation "system."

I would again like to review for my colleagues testimony the Subcommittee heard on May 26th of 1972 from Mr. James Stearns, a senior at Dartmouth College, who came to the Subcommittee as a consumer of services under the Vocational Rehabilitation Program. Mr. Stearns, who suffers from cerebral palsy, had this to say to us:

"Granted. I have had some personal, physical obstacles to overcome during my lifetime and I do have certain physical limitations which I must live with.

"However, I do not consider myself to be handicapped either in the traditional sense or the literal sense. I am not handicapped because of the understanding and the attitude that has prevailed in my own home throughout my lifetime.

"My parents instilled in me a value system and an outlook on life in which handicap was never a factor that I had to contend with. I am one of the more fortunate people in this world, because, Mr. Chairman, there are individuals in this country who have cerebral palsy who will never achieve anything that I have achieved. In fact, many may never be able to walk by themselves, feed themselves, or even talk and communicate as I am doing here today."

Mr. President, I would like to take time to acquaint my fellow Senators with what I consider some very important aspects of Mr. Stearns' testimony and the dialogue that we had afterwards.

"Mr. Chairman, if I leave any message with you today it is my belief that the disabled have to get up and fight for the things they believe in because only they are in a position to know what this Government should do for them.

"We are in a new age in rehabilitation. We have opportunities opened up that, when I was growing up, never existed. Yet new opportunities always bring new responsibilities. If the disabled of this country assume their responsibilities in shaping the policy that affects them, the rehabilitation program will be one of this Nation's lasting successes.

"I hope, therefore, that whether you write it into the law or write strong report language, you specifically recognize the need to involve the handicapped themselves in this program at all levels; that the handicapped themselves be given a strong voice so that they may become contributors to this program and not merely recipients of it."

"Senator STAFFORD. I would like to join in what you have just said and tell you, Mr. Stearns, that we certainly as a committee appreciate the effort you have made to come down here as an individual, not representing any group.

"I think on the basis of your presentation here that Dartmouth College would be pleased to claim you as their representative in front of this committee.

"I do have one or two questions for you.

"Taking into consideration your experience, what would you consider should be a major element in the vocational rehabilitation program that we provide?

"Mr. STEARNS. Senator Stafford, perhaps the most important thing is that idea of consumer participation which you have already talked about. Consumer participation is important because the critical factor in the minds of most handicapped people is whether they are able to develop a sense of independence.

"If I may illustrate my point with some experiences of my own, if there was one reason why I was able to be at Dartmouth College this year instead of out of school, it was that my family and community pushed me to develop a sense of independence. In every program I had, doctors, therapists, and my family consulted me on everything that was going on, and demanded that I make the final decisions in those programs, although some of those decisions were pretty hard to make.

"That prescription did instill in me a sense of independence and has enabled me to make my own judgments and to get on in the outside world.

"That is why every rehabilitation program must have a mechanism for consumer participation. If you do not develop that sense of independence, there comes a day when you are so used to having other people make your decisions that you are not able to get out in that outside world and participate and become rehabilitated.

"Senator STAFFORD. In your prepared statement, you say, 'If I leave any message with you today, it is my belief that the disabled have to get up and fight for the things they believe in because only they are in a position to know what this Government should do for them.'

"Could you elaborate for the committee on this statement?

"Mr. STEARNS. Certainly, Senator Stafford.

"I think it is quite obvious that the best person to tell you about disability is the handicapped person himself. He is the only person who has lived through it. He is the only person who really knows what is going on in his head.

"My study has been directed toward the goal of developing those tools necessary to make the disabled active participants in the political process. I have tried to do three things; one, outline what the Federal Government has done, up to the present time, for the disabled; what rights do they have; what benefits do come their way; do that first of all.

"Second, outline what the Federal Government is contemplating doing—so that the disabled will understand what may come in the future, and can come down here and give you some input on proposed legislation.

"Third, and probably most important, Senator Stafford, is to analyze simply how policy for the disabled is made and what specific types of input the Members of Congress, of the executive branch and of State agencies would like to have.

"I think this is most critical.

"Mr. Chairman and Senator Stafford, when I was growing up, I was not aware of many of the benefits that could have come my way. I was even less aware of what I should do to get those benefits. I suggest in this new age of rehabilitation we must have a consumer group of disabled who are knowledgeable, they know what to do, to come down here and effectively influence legislation. I think if we could develop a disabled consumer group, we are going to have better legislation coming.

"Senator STAFFORD. One more question.

"I am considering strengthening the existing legislation by requiring that under basic rehabilitation programs that priority be given to those whose handicaps are most severe.

"What would your reaction be to such a proposal?

"Mr. STEARNS. Senator Stafford and Mr. Chairman, everything I can say is that this—has got to be what comes. I had a lot of experience in debating in high school. But I wish I could be more eloquent here and try to tell you why.

"Let me tell you a short story of my growing up.

"When I was 5 or 6, we had 10 cerebral palsy cases in the room. We had a special nursery. When I was 6, I got out of the room. I did not have much of a disability. Once I got into the Laconia Schools, I went on to prep school and Dartmouth.

"But one person made it out of that room. Senator Stafford—one out of 10. The others had very severe handicaps, just as good minds, but more severely physically handicapped.

"I go back there every once in a while, and see those people on the streets. I say, 'Well, what are you doing now? How are you?' They say, 'I am not doing anything, just nothing at all.'

"You know, they still cannot get those services they need.

"Mr. Chairman, people like myself, we can make it. I do not think we need the services that much. We can make it. But we want those disabled who are more severely impaired to make it with us; because if they do not make it with us, then our making it just does not have any meaning at all.

"I just hope, I just hope we can get that emphasis on this severely disabled.

"Senator STAFFORD. I think your appearance here is a great credit to you and will be helpful and an inspiration to this committee.

I thank you very much."

After listening to and later rereading a couple of times the statement and questions and answers, I felt that Mr. Stearns' point about the client participation in his own program and the system was probably the most important one that could be introduced into the rehabilitation system. It is to this end that the Individualized Written Rehabilitation Program was placed in the original bill and remains in S. 7. It is apparent from what Mr. Stearns said and from the testimony of other witnesses that the handicapped client was not being consulted or contributing to the rehabilitation plan that was being constructed to help him. The concept of the written program is basic to the individual's rights under the program. It offers both the system and the client an opportunity to work together in developing a program that is designed for the rehabilitation of the client.

The written program should serve as a road map for the rehabilitation process and it should provide for intermediate goals through which the counselor and the client can measure progress. The written program must be formulated with a vocational goal as its objective. While it is realized that every client may not be able to achieve a vocational goal, the opportunity for that achievement must be available to him, at least until such time as the counselor can beyond a reasonable doubt support such a change in goal. The client must also be an equal participant in that decision.

There also could develop a situation where outside influences could modify the plan, such as as lack of available funds or insufficient services. These factors might alter timetables but they should not affect the long range goal of the individual. To quote the report on S. 7:

"The individualized written rehabilitation program represents an understanding between the vocational rehabilitation agency and the handicapped individual. It is expected that its terms will be carried out, unless there are special mitigating circumstances. In such cases it is expected that alternative service approaches or timetables will be sought and that rehabilitation objectives previously agreed upon will not be altered unless renegotiated by both parties."

Besides providing the individual and humane influence on the system, this written program can also serve as a yardstick for the evaluation of the system at all stages of operation. The individualized written rehabilitation program is important to help make this new system work for the handicapped individual be his disability severe or the most severe.

It should also be noted that this bill, for the first time in legislative language, places special emphasis on the severely handicapped and has the state establish a priority order of services to be given to the individual client. I feel very strongly that the system should immediately redirect its priorities, and that in 1976 when the legislation comes up for renewal, it should be convincingly demonstrated that the program is performing the function for which it was established. I am quite aware, as is the Committee, that in order to achieve the goal of redirection of the priorities of services that RSA must quickly establish a new system of reporting which does away with numbers and concentrates on the quality of the services provided. I hope I do not hear about sheer numbers rehabilitated at the next set of hearings, all the while knowing that the GAO study is saying that those being served have questionable handicaps and other individuals are being denied services, as was the case during the 1972 hearings on this bill, and the releases from RSA after the President pocket vetoed the bill in October of 1972.

Providing services to the severely handicapped individual is costly and time consuming and presents many new problems for the rehabilitation system. It was brought to the Committee's attention that quotas were imposed on counselors by the numbers reporting system and that this quota system is most effective in excluding those individuals whose handicaps are most severe. Thus, it is incumbent upon the Administrator of RSA to develop as soon as possible a new system of reporting which emphasizes *quality* and not merely quantity.

The system of client assistance worked out in conference last year is again an attempt on the Committee's and Congress's part to instill in the system a responsiveness to the human needs of the handicapped individual while he is participating in the system. I think that the client assistance system is needed and will serve as a perfect complement to the individualized written rehabilitation program. The rights of the client to participate in the shaping of his own future and to receive speedy service from the system are undeniable.

Mr. President, there are many more aspects of "The Rehabilitation Act of 1972", that deserve to be dealt with before I close but time is of utmost importance so I will only take a few more minutes to comment on the necessity for redirection of research, the sheltered workshops study and my two amendments on employment of handicapped individuals within the government.

First, the Committee, after hearing much testimony last year, decided that the primary function of research under this Act should be directed to alleviating the problems of the handicapped individuals. The mid-range research goal and engineering center are designed to provide needed devices and practical solutions to problems encountered daily by handicapped individuals. It was strongly felt that all research programs and projects should be coordinated within HEW so as to obtain the maximum use of the limited dollars available. Thus, it is RSA's primary function to respond to the needs of the handicapped in the research area. An important addition to the evaluation system is a provision I introduced and which was accepted for continued observation of research to make sure it is directed toward the goals which will benefit the handicapped individual.

The sheltered workshop study of Section 505 of S. 7 (Sec. 406 of S. 1875) was written in response to what was felt to be a general lack of objective knowledge about workshops and their functions in the system. The objectivity of the study is its prime merit and the functions supplied by resolutions of the Committee supply some of the basic questions that remain unanswered. The misinformation that seems to permeate the subject area of workshops is reenforced by both sides of the argument. I should like to add that the report language specifies this study is to be comprehensive, and the Committee still feels that a significant portion of the funds under Title V should be used in this study. It is also expected that the study should be an original and not a compilation of past studies.

The study is important if the Committee is to act wisely when the program comes up for review.

Last, I would like to comment on the two of last year's amendments offered by me; one which was adopted in Committee last year to Title VI of S. 7, the Office of the Handicapped Sec. 405 of S. 1875; and the second to the President's Committee on the Employment of the Handicapped section offered by me and adopted by the Senate. The rationale for these amendments again simply stated is: a handicapped individual has more insight into the problems of the handicapped than does a non-handicapped individual.

For many years the Federal Government, through the Congress, has voiced its feeling that, given the opportunity and training, most of America's handicapped individuals are capable of supporting themselves and of contributing fully to society. My amendments simply take the Federal Government at its word and say that a qualified, handicapped person should be employed in the federal program. This is a small start in what I think is an important direction for the handicapped and for the Government programs which try to deal with the problems of the handicapped, both in rehabilitation and in everyday life.

Mr. Presdent, the Rehabilitation Act of 1972 represents a good step in the right direction and I wholeheartedly support it. It is my hope that after this long delay in enactment, the President will sign the bill into law so there will not be any more delays and hardship for our nation's handicapped.

Mr. STAFFORD. In conclusion, Mr. President, may I voice my conviction that S. 1875 as reported by the Committee on Labor and Public Welfare is worthy legislation. It retains the essence and the philosophy of the legislation that has previously won the approval of the Congress, even if the fuel tank has been drained slightly.

Further confrontation will not serve the needs of the millions of crippled Americans who await passage of this legislation. The compromise bill has the support of all members of the committee, including the distinguished chairman of the Committee on Labor and Public Welfare, the Senator from New Jersey (Mr. WILLIAMS); the distinguished Senator from West Virginia (Mr. RANDOLPH), the chairman of the Subcommittee on the Handicapped who, as always, provided so much wisdom, and leadership, and the distinguished Senator from California (Mr. CRANSTON), the ranking majority members of the subcommittee, who worked so long and so hard on this effort.

I urge adoption of S. 1875 by the Senate.

Mr. JAVITS. Mr. President, the work which has been done by Senator STAFFORD and Senator CRANSTON and the Committee on Labor and Public Welfare, of which I have the honor to be ranking member, is really remarkable, in finally getting an agreed position on this measure, which is so vital to many hundreds of thousands of Americans. The Senators have worked out something which now looks as though it is on the track to become law.

It earns them the gratification and thanks of the hundreds of thousands who are affected by the Vocational Rehabilitation Act and all their friends and relatives and the people generally.

I wish to spread upon the record my great respect for the unbelievable diligence and perseverance and tact and delicacy and skill which have brought about what now seems to be an agreed upon result with the administration.

Mr. STAFFORD. Mr. President, I appreciate the gracious remarks of the distinguished senior Senator from New York, who is the ranking Republican on the committee.

FINALE OF A LONG STORY: S. 1875: REHABILITATION ACT OF 1973

Mr. CRANSTON. Mr. President, there is no need for me to elaborate on S. 1875. I think we all understand the basic purposes and provisions of the bill. Its substantive provisions are largely those contained in S. 7, which was unanimously passed by Congress last March but later vetoed by the President.

INTRODUCTION

Mr. President, before we turn to the reported bill, I wish to express my deep gratitude to the chairman of the Subcommittee on the Handicapped, the distinguished Senator from West Virginia (Mr. RANDOLPH), for his enormous assistance and leadership on this legislation. In the last Congress, he requested that I serve as acting chairman of the subcommittee for the purpose of consideration of the legislation to extend the Vocational Rehabilitation Act, which expired on June 30, 1972. I am privileged to continue to carry these responsibilities in this Congress at Senator RANDOLPH's request.

Also continuing to provide great input and leadership in the drafting and movement through committee of this legislation was the distinguished Senator from New Jersey (Mr. WILLIAMS), the chairman of the full Committee on Labor and Public Welfare. He has been of outstanding assistance.

This bill continues to be a truly bipartisan one. The contributions of the Senator from Vermont (Mr. STAFFORD), the distinguished ranking minority member of the Subcommittee on the Handicapped, and those of the Senator from New York (Mr. JAVITS), the able ranking minority member of the full committee, have been most substantial and their cooperation and bipartisan spirit have been indispensable to our efforts.

Mr. President, I also wish to note my appreciation for the hard and able work of the staff members representing these Senators: Bob Humphreys on behalf of Senator Randolph; Lisa Walker on behalf of Chairman Williams; Roy Millenson on behalf of Senator Javits and the committee minority; Mike Francis on behalf of Senator Stafford; and Mike Burns and Jon Steinberg who have worked with me.

PURPOSE OF THE BILL

Mr. President, the Committee bill, S. 1875, is the result of a negotiated agreement on the part of the Committee and the Administration. Following the second veto of this legislation by the President—the veto of S. 7—and the failure of the Senate to override that veto, I, along with other members of the Committee on Labor and Public Welfare, proposed certain changes to respond to points of the veto message and met with the Administration to explore avenues of agreement.

Despite changes made in this legislation following the first veto of H.R. 8395 which the Committee felt were responsive to the objections contained in the Memorandum of Disapproval on H.R. 8395, a second veto occurred because the President apparently believed that sufficient points of disagreement still remained between the Congress and the Administration.

Because we believed that further delay in enacting this legislation would only jeopardize many of the important but less controversial changes made by this authorizing legislation, the Committee has made certain changes and has received strong assurances from the Administration that the agreed legislation as represented in S. 1875 will be implemented in accordance with Congressional intent. The Committee reiterates its strong belief in the original purposes and format of the Rehabilitation Act of 1973, and its belief that generally the most important changes are retained in S. 1875 as reported.

HISTORY OF H.R. 8395 AND S. 7

Mr. President, hearings held as part of the Committee's consideration of the Rehabilitation Act of 1972 provided extensive testimony regarding current operation of the basic State-Federal vocational rehabilitation program, and ancillary grant programs for research, training and special projects in rehabilitation. Highlighted in these hearings were particular problems which may be summarized as follows: (1) failure of the basic vocational rehabilitation program to respond to the particular needs of individuals with the most severe handicaps; (2) lack of alternative services within the community to provide services to individuals with the most severe handicaps who do not *at the present time* have identifiable vocational goals but who could be brought to that point through the provision of self-help services and training; (3) diminution of emphasis at the Federal level on research and training of personnel in rehabilitation problems, particularly in the areas of medical technology and bio-medical engineering, and the failure of the program to make use of existing technology for rehabilitation needs; (4) the lack of special emphasis on target populations whose needs were not being met through rehabilitation programs; (5) the lack of action in areas related to rehabilitation which limits a handicapped individual's ability to function in society, for example, employment discrimination, lack of housing and transportation services and architectural and transportation barriers, and (6) the failure of leadership in the area of vocational rehabilitation by the responsible Federal agency, the Rehabilitation Services Administration.

Prior bills reported by this Committee (H.R. 8395 in the 92nd Congress and S. 7 in the 93rd Congress) made procedural and substantive changes in existing law in order to solve or stimulate solutions to these problems and meet these unmet needs.

Inherent in the purpose of the prior legislation were changes designed to provide flexibility in the basic vocational rehabilitation program to ensure full services to handicapped individuals and to better enable this program to serve individuals with the most severe handicaps. Because we believed that it was necessary to emphasize that the final goal of all rehabilitation services was to improve in every possible respect the lives as well as livelihood of individuals served, we placed particular emphasis on developing a method of providing services which would be responsive to individual needs and would ensure that no individual would be excluded from the program merely because his handicap *appeared* to be too severe. The Committee thus expanded the range of services to be provided and sought to assure that there would be a first priority to serve those individuals with the most severe handicaps.

Included in this expansion of services, Mr. President, were comprehensive rehabilitation services to enable individuals for whom a vocational goal was *not presently* possible, to prepare to live more independently. But, in recognition that a productive and financially independent life is of primary importance, the Committee in both of the earlier bills provided for certain procedural safeguards designed to ensure that no individual would be excluded from vocational counseling, training and related rehabilitation services aimed at a vocational goal without thorough and detailed evaluation of the individual's rehabilitation potential and an explicit statement by the rehabilitation counselor encompassing the reasons why he concluded beyond a reasonable doubt that a vocational goal was not possible for such an individual.

The earlier bills also placed greater emphasis on research and training of rehabilitation personnel, and on the development of innovative rehabilitation techniques, equipment, and devices which would ameliorate the effects of handicapping conditions and make employment more feasible for an individual with a severe handicap. By increasing appropriations authorizations available for these purposes and by vesting in the RSA Commissioner the specific statutory responsibility for carrying out the provisions of this Act, the Committee sought to place greater emphasis on the potential of rehabilitation services, special projects, and related research and training of personnel for improving the lives of handicapped individuals.

The Committee further responded to the needs of certain target populations (including spinal cord injured persons, those suffering from end-stage renal disease, severely handicapped deaf, deaf-blind and older blind individuals, and handicapped migrants) for whom services were clearly inadequate by providing special categorical programs to develop services responsive to their needs.

In addition, in prior bills, we established a number of programs spanning both the Department of Health, Education and Welfare as well as many other Executive Branch Departments in order to deal with problems of discrimination in Federal employment and Federal grants and contracts, the elimination of architectural barriers, and the coordination and improvement of programming and information dissemination for handicapped individuals.

Such matters could not be dealt with alone by the Rehabilitation Services Administration, but very clearly have a profound effect on the delivery of relevant and effective rehabilitation services to handicapped individuals.

SUMMARY OF DIFFERENCES BETWEEN S. 1875 AND S. 7 AS VETOED

However, we were not able to convince the Administration in our negotiations to retain all of the emphasis, programs, and provisions included in the prior bills. Thus, I would like to summarize for the Senate the major changes from the Rehabilitation Act legislation which was vetoed (S. 7). In each case, the Administration has agreed to these compromises and has indicated that the provisions will be carried out expeditiously and fully in accordance with Congressional intent.

1. APPROPRIATIONS AUTHORIZATION AUTHORITY WHICH EXCEEDS BUDGET REQUEST

The major point of criticism in the veto message was appropriations authorization authority which far exceeds the President's budget request *S. 1875 (sections 100, 201, 301, 302, 303, 304, 400, 403, 405, and 502) cuts back authorizations to a level only $92 million over the budget request for the three-year life of the bill.* The Committee bill, however, also authorizes for each program such additional sums as the Congress may deem necessary to carry out the purposes of the program. We view the specific dollar authorizations as a floor for use by the Appropriations Committee and have added the "such sums" add-on in each case to express our strong belief that these "floor" amounts do not fully meet the program needs.

2. CATEGORICAL PROGRAMS

S. 1875 as reported eliminates categorical programs for spinal cord injured individuals, persons with end-stage renal disease, older blind and deaf individuals, comprehensive rehabilitation services for severely handicapped individuals, and for mortgage insurance and annual interest grants for rehabilitation facilities.

The Committee bill contains a special project grant authority (section 304) in which the need for projects for spinal cord injured, older blind and deaf individuals, and individuals, with severe handicaps has been specifically highlighted because a strong case was made during hearings on the prior legislation that new approaches were needed in these areas. It is particularly regrettable to me that it was necessary in order to reach an agreement with the Administration to eliminate the specific authorities for these needed services.

The Committee has also deleted the title II program contained in S. 7, comprehensive rehabilitation services for severely handicapped individuals. Instead, the Committee added a provision (section 130) directing the Secretary to undertake a special study of methods by which individuals with the most severe handicaps who cannot be determined to have a vocational goal *at the present time* may be prepared for entrance into the basic vocational rehabilitation program—such a person remains eligible for the title I basic vocational rehabilitation program unless his or her counsellor determines "beyond any reasonable doubt that such individual is not then capable of achieving such a goal . . ."—, or may be provided with services (covered under the deleted title II only) which will enable them to live more independently. This study must examine other Federal government programs which provide services to such individuals for a determination of how these programs may be utilized to reach these goals. The results of the study are to be reported to the Committee no later than January 1, 1975, with recomendations for necessary legislative or other action. We fully intend to reexamine this issue at that time.

3. ORGANIZATIONAL RIGIDITY

S. 1875 as reported, Mr. President, continues to establish in the statute (section 3) a Rehabilitation Services Administration headed by a Commissioner to be appointed by the President, and to direct the Secretary to take all action necessary to ensure that funds appropriated pursuant to this Act are used only for programs, personnel and administration of programs under this Act.

Rather than vest all authority for the operation of programs under the Act in the Commissioner, however, the Committee bill provides that the Secretary cannot approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner without first submitting a plan for such delegation to the Congress. Administrative authority for rehabilitation programs under the Act is provided to the Secretary, to be carried out through the Commissioner.

Whereas S. 7 created a Division of Research, Training and Evaluation, directed by an Assistant Commissioner and an Office for Technology Assessment and Application within such division, S. 1875 provides that the Secretary through the Commissioner, shall establish the expertise and technological competence to develop and support and stimulate the development and utilization to innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems. The Committee points out that the Secretary has given his assurances that all available resources of the Department will be mobilized to carry out this provision. This is a responsibility I feel is of the greatest importance.

Rather than create an Office for the Handicapped, the Committee after receiving strong assurances from the Secretary that adequate funds will be made available for these purposes, added section 405 to the bill directing the Secretary to carry out the functions assigned to this office under S. 7. The bill permits him to delegate this responsibility to someone not assigned and working in his Office only if he creates an Office for the Handicapped in the office of an appropriate Assistant Secretary to carry out functions.

4. OTHER CHANGES

Severely handicapped individuals—S. 1875 as reported (section 101(a)(5)) requires the States to demonstrate that the method of selecting individuals for services shall give special emphasis to individuals with the most severe handicaps, rather than providing a priority for serving first those individuals with the most severe handicaps. This was really not a significant change from the intention underlying the prior provision. The Committee recognized the technical difficulty with the "serving first" language which was in the earlier bills.

(b) *Commissions and Councils*.—S. 1875 as reported deletes a provision setting up a National Commission on Transportation and Housing for Handicapped Individuals, a provision for the National Advisory Council on Rehabilitation of Handicapped Individuals, and a provision for State Advisory Councils, provisions to which the Administration objected very strongly and which the Committee believed were desirable but not essential. The bill also revises the provisions for the Federal Interagency Committee on Handicapped Employees to provide the bulk of the responsibilities to the Civil Service Commission (CSC) and to expand the scope of these responsibilities, which the Committee expects the CSC to carry out vigorously. In my opinion, we may well have strengthened this provision by these changes, and I look forward to a productive relationship with the CSC such as I have had on the Federal Government EEO statutory authority which I authored last Congress.

(c) *Allotment formula*.—Finally, Mr. President, S. 1875 as reported (section 407) directs the Secretary to undertake a study and submit recommendations by June 30, 1974, on the distribution of funds to the States which would take into consideration the needs of individuals requiring vocational rehabilitation services, the financial capability of the various States, and the continuing demand for vocational rehabilitation services in the various States. The bill also includes a provision deferring the application of the new $2 million State minimum allotment under title I and holding it at $1 million, as under present law, until sufficient funds are appropriated and made available so that no State will receive less than it received in fiscal year 1973—approximately a $3.2 million increase will be required to activate the $2 million minimum. Furthermore, the reported bill bases the allotment formula on amounts appropriated rather than amounts authorized to be appropriated, as under present law. This change was strongly pressed by the Administration.

Following the Presidential veto of S. 7, and the failure in the Senate to override this veto—a 60-36 vote was taken on April 3, 1973—as I have said memberss of the Committee met with the Administration to discuss possible avenues of compromise. On May 23, 1973, we introduced S. 1875 the product of those negotiations.

During the week of June 18, the Subcommittee unanimously reported S. 1875 to the full Committee. On June 27, the full Committee met in executive session and by a unanimous vote ordered S. 1875 favorably reported to the Senate.

SUMMARY OF PROVISIONS

BASIC PROGRAM

Mr. President, this is the major piece of legislation affecting handicapped individuals in the United States. Over the 2 new years of authorized programs in the bill, as reported, there are authorized to be appropriated $1,492.65 million in order to carry out the five titles of the bill.

In fiscal year 1972, approximately 1,110,045 disabled persons were served by State vocational rehabilitation agencies, and the Rehabilitation Services Administration in HEW reports that 326,138 of them were considered to be rehabilitated. This is not an insignificant achievement if these figures can indeed be verified, but even this number of successful cases must be taken in the context of the estimated from 7 to 12 million—to use conservative estimates—who have not realized their vocational potentials.

With the minimum level of funding for fiscal years 1974 and 1975 for the basic State grant program authorized in the reported bill—expressed by the dollar figures included, $610 and $640 million—rehabilitation services could be provided to a total of approximately 2.5 million handicapped individuals over the next 2 fiscal years if today's per case cost continues in the future.

This would mean adding 280,000 handicapped persons who, at today's spending level of $560 million would not be served.

However, Mr. President, figures provided to us earlier this year by the Rehabilitation Service Administration in HEW show an estimated 9.8 million handicapped individuals who would be eligible and who would benefit from vocational rehabilitation services provided under the basic State grant program. Thus, Mr. President, even if we were able to achieve full appropriations of the "floor" dollar amounts authorized for fiscal years 1973 and 1974, at a minimum more than 7.3 million disabled persons would continue to be without services that they need in order to prepare themselves for work and to end their dependence on friends, families, and Federal welfare or social security payments.

So quantity of clients is not the principal thrust of this bill. Even if we had retained the higher authorization levels included in S. 7, the committee recognized that there would not be available sufficient funds to serve anywhere near the numbers requiring vocational rehabilitation. Thus, the thrust of this bill, in terms of the basic vocational rehabilitation program, is to stress services for more individuals with severe handicaps than are served at present with the unfortunately limited funding available to this program.

Mr. President, the crucial emphasis in the title I provisions in the reported bill is to eliminate the creaming and shift the focus to harder cases in order to serve individuals with more severe handicaps.

In addition, it seemed clear to us that, generally, Mr. President, in order to carry out this new special emphasis on serving those with the most severe handicaps, more funds would be required if we are to avoid a severe cutback in the numbers of handicapped individuals helped by this program. Because of this and because the estimates of the total number of handicapped individuals requiring vocational rehabilitation services range from 7 to 30 million, we authorized the appropriation of $140 million more over the next 2 years for the basic State grant program rather than the $560 million expended in fiscal year 1973.

INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM

Mr. President, in recognition that the final goal of all vocational rehabilitation services must be to improve the vocational potential of the individuals served if that is at all possible, this bill places particular emphasis on a method of providing services, through a requirement of an individualized written rehabilitation program, which will be responsive to individual needs, and will insure that no individual will be excluded from the program merely because his handicap appears at the outset to be too severe.

The committee bill provides that no individual may be excluded from vocational training, counseling, and related vocational rehabilitation services without thorough and detailed evaluation of his rehabilitation potential and an explicit statement by the rehabilitation counselor encompassing the reasons why he has concluded beyond a reasonable doubt that a vocational goal is not achievable.

CLIENT ASSISTANCE PROJECTS

The belief of the committee is that a client advocacy system is needed to serve all vocational rehabilitation projects and programs in order to provide clients and client applicants with the opportunity to achieve a fair shake from the system. Such a system was provided for originally in last year's Senate-passed bill.

After a great deal of consideration, a compromise was reached in the House-Senate Conference on H.R. 8395 in the 92d Congress on this provision—section 112 of the reported bill. There are now authorized in the bill between 10 and 20 client assistance projects with up to $2.5 million in fiscal years 1974 and 1975, available for this purpose from special projects and demonstrations appropriations under section 303 of the bill. Most significantly, however, the bill earmarks no less than $1 million in these fiscal years for the purpose of establishing those client assistance projects.

If these client assistance projects prove themselves to be useful and effective in improving the sensitivity and responsiveness of projects, programs, and facilities, a system of client assistance should be established to serve all programs under the State plan, as was provided for in the Senate bill last Congress.

Mr. President, we intend to watch very closely the administration of these new projects and expect the Rehabilitation Services Administration to devote substantial time and energy to designing the most appropriate and effective client assistance projects possible, and to consult with and keep closely advised the appropriate congressional committees.

RESEARCH AND TRAINING

In addition, the committee bill in title II continues to place greater emphasis on research and on the development of innovative rehabilitation techniques, equipment, and devices which will ameliorate the effects of handicapping conditions and make employment more feasible for handicapped individuals with the most severe handicaps. By increasing funding and authority available for these purposes, and directing that the statutory authority be carried out through the Commissioner of the Rehabilitation Services Administration for all vocational rehabilitation services, research, and training in connection with services to handicapped individuals, the committee bill seeks to place greater emphasis on expanding and improving the provision of services to handicapped individuals, with particular emphasis on the needs of more severely handicapped individuals.

Title II in the reported bill includes special emphasis on the establishment of Rehabilitation Engineering Research Centers which would seek to apply the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation programs, including the design, development, and production of suitable equipment and devices. It is a crime, in my judgment, Mr. President, that this country, so wealthy in technology and so rich in scientific achievement, has made only the most minimal use of this science and technology for the benefit of handicapped individuals.

Many European countries have developed and made available to handicapped individuals far more sophisticated orthotic and prosthetic devices, as well as other mechanisms and devices for handicapped individuals, than are generally available here. Moreover, although there may be isolated instances where certain rather sophisticated mechanisms have been produced and made available to enhance the living and employability of handicapped individuals, these advances are generally available only to a few and there is no central agency charged with responsibility for developing, producing, and disseminating these devices throughout the country.

I believe that our science and technology belong to all Americans. That is one of the reasons I strongly support the space program. I believe that our science and technology should not be withheld from those less fortunate persons, who because of their handicaps, cannot take full advantage of much of the technology we take for granted. There are millions and millions of handicapped Americans—perhaps 30 million—and I think that simple justice requires that we give them the benefit of a more independent, self-sufficient, and remunerative existence.

This is what the bill's provisions seek to do by requiring that the Rehabilitation Services Administration establish the scientific and technological competence to conduct a new, vigorous applied technology research and development program, and by earmarking 20 percent in fiscal year 1974 and 25 percent in fiscal year 1975 for the establishment of rehabilitation engineering research centers to be coordinated by those individuals with this special competence.

Also, Mr. President, more focus and expanded authority, again to be carried out through the RSA Commissioner, is provided in the committee bill to attempt to meet the enormous need for the training of specialized personnel to serve in the programs authorized by this bill, as well as other programs serving handicapped individuals. The hearings have illustrated a very dramatic shortage of such rehabilitation manpower. The bill places special emphasis on the need to train bilingual individuals so that bilingual/bicultural barriers and problems, which limit drastically the effectiveness of vocational rehabilitation services to persons whose primary language is other than English, can be dealt with and hopefully overcome.

Mr. President, I wish to add one additional note regarding research and training. I have discussed this matter with Senator WILLIAMS, who has advised me that he has been assured by HEW officials that experts in the rehabilitation field from throughout the country in the areas of research, training, and applied research will be utilized by the Rehabilitation Services Administration and the Department to review proposals for research, training, and related special projects. I know that my colleague from New Jersey had under consideration offering an amendment to this bill in committee and on the floor which would have established a peer review system for these project proposals. I share his concerns that the Department presently lacks the in-house expertise and that it has not involved non-Federal personnel who have specialized in working in areas with great potential for ameliorating the problems of handicapped individuals. He has decided not to offer such an amendment, because the administration has agreed to utilize outside experts in the field for such review purposes.

TARGETED PROGRAMS

Mr. President, the committee bill also responds to the need for services within certain target populations—including spinal-cord-injured individuals, severely handicapped deaf, and older blind individuals, and handicapped migrants—for whom services are presently inadequate, by specifying these groups as particularly important for section 303 special projects. These programs are described extensively in the committee report.

GOVERNMENT-WIDE PROGRAMS

The committee bill also deals comprehensively with problems such as discrimination in Federal employment and under Federal grants, elimination of architectural and transportation barriers, and the coordination and improvement of programing to, and dissemination of, information for handicapped individuals, problems which because of their Government-wide applicability are not assigned to RSA.

Mr. President, I ask unanimous consent that appropriate excerpts from the committee report No. 93-318 on S. 1875 be set forth in the Record at this point.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

COMMITTEE AMENDMENTS

The Committee on Labor and Public Welfare considered S. 1875 in executive session on June 27, 1973, after the bill had been reported from the Subcommittee on the Handicapped unanimously, and adopted the following substantive amendments to the bill:

1. Language requiring the States to demonstrate that methods of selecting individuals to receive vocational rehabilitation services give equal consideration to individuals with the most severe handicaps was changed to require such methods to provide special emphasis to individuals with the most severe handicaps. (Sec. 101(a)(5))

2. (a) A proposed change in the allotment formula was deleted; thus the allotment formula for States contained in the bill as reported is the same as was included in the two vetoed bills (S. 7, and H.R. 8395 in the 92d Congress).

(b) The committee adopted an amendment which specifies that in the event that application of the new $2 million minimum State allotment will reduce the amount which any State would receive below the amount it received in Fiscal Year 1973 the minimum will remain at $1 million. The Committee understands that an appropriation of approximately $3.2 million above the FY 1973 appropriation level would be necessary to activate the $2 million minimum.

(c) An Amendment was adopted requiring the Secretary to undertake a study of the allotment of funds under part B of title I of the Act, and to submit recommendations by June 30, 1974, on the distribution of funds under the Act which will take into consideration, needs for vocational rehabilitation services, financial capabilities of the States, and continuing demands in the States to furnish such services.

3. An amendment was adopted to require the Secretary to give any State affected advance notice and an opportunity to comment prior to the reallocation of funds based on the Secretary's determination that a State will not utilize its full allotment.

4. An amendment was adopted requiring the Secretary not later than 30 days after the enactment of an Appropriations Act for carrying out the provisions of the Rehabilitation Act, to set aside such sums under such Act or available pursuant to any other Act as he determines are necessary to carry out his coordinating responsibilities under section 405 and to notify the appropriate Committees of the Congress of the amount so set aside, the personnel needed for that purpose, and the basis for these determinations.

5. The long title of the bill was amended to reflect the contents and emphasis of the bill as reported.

The following table compares the authorization of appropriations levels for vocational rehabilitation programs in S. 1875 as reported, S. 7 as vetoed, the actual fiscal year 1972 spending levels, the original fiscal year 1973 budget request, the fiscal year 1973 revised budget request as submitted with the President's fiscal year 1974 budget, and the fiscal year 1974 budget request:

TABLE I.—APPROPRIATIONS AUTHORIZATIONS, REHABILITATION ACT OF 1972, S. 7 (AS VETOED) COMPARED TO REHABILITATION ACT OF 1973, S. 1875 (AS REPORTED), FISCAL YEAR 1972 EXPENDITURES, AND BUDGET REQUESTS

[In millions of dollars; fiscal year]

	1972 authorizations	Actual 1972 spending levels	1973 budget request	Revised 1973 budget request	S. 7, 1973	S. 1875 as reported, 1973	1974 budget request	S. 7, 1974	S. 1875, as reported, 1974	S. 7, 1975	S. 1875, as reported, 1975
Title I—Vocational rehabilitation services:											
Part B—Basic services	700	[560]	[610]	590	700	*590	[610]	800	*610	0	*640
Part C—Innovative and experimental grants	10	[41.8]	[49.35]	[35.86]	50	*[4]35.86	30	60	*[4]37	75	*[4]39
Title II—Comprehensive rehabilitation services					10	(**)		25	(**)	50	(**)
Title III—Special Federal responsibility:											
Construction grants		[.55]	[.55]	[.55]	10	*.55	[.5]	10	*.5	10	*.5
Vocational training services (302)	30	[12.85]	[12.30]	[10.3]	15	*10.3	[8.3]	25	*10.3	30	*12
Mortgage insurance (303)					(1)	(**)		(1)	(**)	(1)	(**)
Annual interest grants (304)						(**)		2	(**)	4	(**)
Special project and demonstrations (305)		[3.2]	[12.2]	[12.2]	[2]22.5	*[5]12.2	[13.7]	[2]50	*[5]15	[2]75	*[4]17
Center for deaf-blind (306):											
Construction		[.6]	[.6]	[.6]	5	(6)	[.6]		(6)		(6)
Operations					.5	SS		.6	SS	.7	SS
Centers for deaf individuals (307)					2	(**)		3	(**)	5	(**)
Centers for spinal cord injuries (308)					8.5	(**)		25	(**)	30	(**)
Renal disease (309)					8.5	(**)		20	(**)	25	(**)
Older blind individuals (310)					5	(**)		15	(**)	30	(**)
National advisory counsel (311)					.05	(**)		.10	(**)	.15	(**)
State advisory counsels (312)					.15	(**)	.15	.5	(**)	.75	(**)
Title IV—Research and training:	140										
Research (402)		[35.26]	[31.69]	[20.346]	40	*20.346	[19.996]	75	*25	100	*25
Training (403)		[22.26]	[27.7]	[27.7]	32.5	*27.7	[17]	50	*27.7	75	*27.7
Title V—Administration and evaluation					[3]1	[3]1		[3]1	[3]1	[3]1.5	[3]1
Title VI—Office for the handicapped					1	[7]SS		1.5	[7].5	2	[7].5
Title VII—Miscellaneous:											
Interagency employment committee (701)					0	0		1.25	0		0
Compliance board (703)					.5	SS		1.5	1.25	1.5	1.5
Vocational evaluation	100										
Yearly total	980	[676.52]	[744.390]	[697.556]	913.2	698.556	[700.096]	1,171.45	728.85	515.60	764.20

[1] Such sums; limit of $250,000,000 on total mortgages insured.

[2] Plus amounts for migrants.

[3] or ½ percent of appropriations under titles I to IV, whichever is greater.

[4] Includes $1,000,000 set aside for study; comparable provision in S. 7 is title II.

[5] For fiscal year 1973, $500,000 to $1,500,000 set aside for client assistance; fiscal year 1974, 1975; $1,000,000 to $2,500,000 plus 10 percent set aside for migrants with authorization up to $5,000,000.

[6] $1,200,000 for fiscal year 1973-75 (no single year authorization).

[7] Comparable provision in S. 1875 contained in sec. 405.

Note: Grand total:
S. 7—2,600.25; S. 1875—2,191.606; 3-year difference—408.44. The figures in brackets represent expenditures or budget requests.
SS—Such sums.

*Authorization amount plus such sums.
**Not contained in S. 1875 as reported.

DISCUSSION

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ACTION IN THE 92D CONGRESS

Early in 1972 the Congress began reviewing the Vocational Rehabilitation Act for extension. Hearings were held in the House Select Subcommittee on Education on January 31, and February 1, 2, and 3, 1972, on H.R. 8395, H.R. 9847, H.R. 12742, H.R. 7949, H.R. 7526 and H.R. 12644. During these hearings, and the subsequent Senate hearing later in the year, it became clear that major changes were needed in the Act in order to ensure that the Vocational Rehabilitation program would better meet its goal of providing more comprehensive rehabilitation services to handicapped individuals. Most prominent in these hearings was the testimony of witnesses that the Vocational Rehabilitation program was not reaching that population who needed services the most, those individuals with severe handicaps.

These witnesses pointed out that the program in the States often served only those individuals who were easiest to serve; who could be helped by one referral. The result was exclusion from the service system of many of those individuals who were difficult to serve, and inappropriate and incomplete services for those severely handicapped individuals who were accepted by the program. Witnesses also described the lack of follow-up with individuals after they had been placed in employment, with the effect that the individual failed to receive additional services while on the job, and thus lost the job. Testimony was also presented by medical personnel citing the lack of support for organized and coordinated research and training efforts on the part of the Rehabilitation Services Administration (RSA), often meaning that breakthroughs in the applied areas of rehabilitation engineering and new techniques and models of rehabilitation were not being translated to professionals in the field.

The House Committee on Education and Labor responded to these problems by reporting H.R. 8395 with amendments on March 16, 1972, and the House passed the reported bill unanimously on March 22, 1972.

In the Senate, the Subcommitee on the Handicapped of the Committee on Labor and Public Welfare held full-day hearings on May 15, 18, and 26, 1972, as well as on June 2 and 6, 1972. In the course of these five days of testimony, more than forty witnesses were heard. They were representatives of the Administration, the groups representing persons with various disabilities and consumers of vocational rehabilitation services as well as providers of services, the State agencies, rehabilitation medicine physicians, and other concerned persons. The Committee believed that this was at least as comprehensive a set of hearings as had ever been held on the Vocational Rehabilitation program. In addition, numerous written statements were taken for the record. The combination of the two produced a most extensive hearing record.

The bills included in the hearings were the House-passed measure, H.R. 8395; S. 3368, the bill introduced on behalf of the Administration, as amendments to the present Vocational Rehabilitation Act; S. 3158, to create an Office for the Handicapped; S. 1030, to provide rehabilitation services for older blind individuals; S. 41, to provide a National Information Center for the Handicapped; and S. 2812, to provide treatment for end-stage renal disease.

The Senate Committee, while adopting a different approach to solving the problems, agreed with the House on the need for a major revision of the law, and unanimously reported S. 3987 on September 20, 1972. The Senate on September 26, 1972, passed H.R. 8395, with a complete substitute text incorporating S. 3987 as reported from the Committee and modified somewhat by noncontroversial strengthening amendments and a restoration of the allotment formula for the basic program to the formula in the Vocational Rehabilitation Act and also now contained in S. 7 as introduced and reported. The Conferees met to work out the differences between the House bill and the Senate substitute, and filed Report No. 92-1581 on the "Rehabilitation Act of 1972" on October 11, 1972. The Report was agreed to unanimously by the Senate on October 13, 1972, and by the House on October 14, 1972.

FIRST PRESIDENTIAL VETO

On October 27, 1972, President Nixon announced his pocket veto of H.R. 8395, issuing a Memorandum of Disapproval. (For the text of this memorandum and the Committee rebuttal, see Senate Report No. 93-48 accompanying S. 7, pp. 10-17.)

PREVIOUS ACTION IN THE 93D CONGRESS

On January 11, 1973, the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare held hearings on S. 7. Statements were submitted by more than 30 witnesses, in most instances in supplementation of the views they had expressed at the hearings in May and June, 1972, on H.R. 8395, the predecessor bill in the 92d Congress. The witnesses were generally unanimous in (1) endorsing the provisions of S. 7; (2) outlining the perilous situation confronting vocational rehabilitation programs due to the Administration's freeze of $50 million resulting from its insistence on interpreting the $610 million appropriation—$50 million more than was expended in FY 1972—for this program in the Supplemental Appropriations Act, 1973, as technically not available for this fiscal year due to the veto of H.R. 8395, and calling for speedy Committee and Congressional action on S. 7; and (3) rejecting the reasons set forth in the President's October 27, 1972, Memorandum of Disapproval (see Senate Report No. 93-46, pp. 10-17). On February 6, 1973, Administration witnesses testified in support of some of the provisions in S. 7 and in opposition to others, expanding on those reasons set forth in the President's Memorandum of Disapproval.

On February 6 and 19, 1973, the Subcommittee met in executive session to consider S. 7. On February 19, 1973, the Subcommittee unanimously ordered S. 7 favorably reported to the full Committee, with amendments. On February 19, 1973, the full Committee considered S. 7 in executive session, adopted the amendments reported from Subcommittee and further amendments, and unanimously, by a 16-0 roll call vote, ordered S. 7, as so amended, favorably reported to the Senate.

On February 28, 1973, S. 7 passed the Senate by a vote of 86 to 2. On March 8, the House passed S. 7, with an amendment in the nature of a substitute. (See H.R. 17, House Report No. 93-42). The Senate agreed to the House amendment with an amendment, and the House agreed to the Senate amendment by unanimous voice vote on March 15, 1973.

On March 27, 1973, President Nixon vetoed S. 7, issuing the following veto message:

To the Senate of the United States:

I am returning today without my approval S. 7, the "Rehabilitation Act of 1972."

This bill is one of several now before the Congress which mask bad legislation beneath alluding labels.

Their supporters would have the American public believe that each of these bills would further an important social cause, but they neglect to warn the public that the cumulative effect of a Congressional spending spree would be a massive assault upon the pocketbooks of millions of men and women in this country. They also fail to warn us that simply throwing money at problems does not solve anything; it only creates poor legislation which frequently misses the target.

As President, it is my duty to sound the warning—and to defend the public interest by vetoing fiscally irresponsible, badly constructed bills that come to my desk from Capitol Hill. S. 7 is such a bill.

Over the past nineteen months, we have made significant headway toward a goal that has eluded America for nearly two decades: full prosperity without war.

But all of our economic progress—and all of our hopes—will be washed away if we open the floodgates on the Federal budget.

S. 7, if enacted, would result in an increase in Federal outlays of some $1 billion above my budget recommendations for fiscal years 1973-1975.

To some Members of the Congress, a $1 billion increase in Federal spending may seem only a small crack in the dam. But there are more than a dozen other bills already before the Congress which also carry extravagant price tags. And more seem likely to follow during the remainder of the year.

If we allow the big spenders to sweep aside budgetary restraints, we can expect an increase of more than $50 billion in Federal spending before the end of fiscal year 1975. This would force upon us the unacceptable choice of either raising taxes substantially—perhaps as much as 15% in personal income taxes—or inviting a hefty boost in consumer prices and interest rates.

The American people have repeatedly shown that they want to hold a firm line on both prices and taxes. I stand solidly with them. At a time when the world is watching to see if we can demonstrate our willingness to hold down inflation at home while we seek monetary stability abroad, this resolve is more important than ever. I shall therefore veto those big-spending bills which would jeopardize our economic hopes for the future.

I would emphasize that even if S. 7 were not fatally flawed by its large expense, I would have serious reservations about signing it, for it also contains a number of substantive defects. Among them:

It would divert the Vocational Rehabilitation program from its original purposes by requiring that it provide new medical services. For instance, it would set up a new program for end-stage kidney disease—a worthy concern in itself, but one that can be approached more effectively within the Medicare program, as existing legislation already provides.

Vocational Rehabilitation has worked well for over half a century by focusing on a single objective; training people for meaningful jobs. We should not dilute the resources of that program or distort its objective by turning it toward welfare or medical goals.

Secondly, S. 7 would create a hodge-podge of seven new categorical grant programs, many of which would overlap and duplicate existing services. Coordination of services would become considerably more difficult and would place the Federal Government back on the path to wasteful, overlapping program disasters.

By rigidly cementing into law the organizational structures of the Rehabilitation Services Administration and by confusing the lines of management responsibility, S. 7 would also prevent the Secretary of Health, Education, and Welfare from carrying forward his efforts to manage vocational rehabilitation services more effectively.

Finally, by promising increased Federal spending for this program in such a large amount, S. 7 would cruelly raise the hopes of the handicapped in a way that we could never responsibly hope to fulfill.

Through past increases in funding and by our efforts to find more effective means of providing services, this Administration has demonstrated its strong commitment to vocational rehabilitation. Funding for the Vocational Rehabilitation program will reach $650 million under my budget for the coming fiscal year, an increase of 75 percent over the level of support when I took office. To other source of funding for rehabilitation of the handicapped, the Disability Insurance Trust Fund and the new Supplemental Security Income program, will provide another $100 million. Altogether during the coming year, the Vocational Rehabilitation program should provide services for about 1.2 million people—an increase of more than 50 percent over the figure of four years ago.

This is a good record and one that provides promise for the future. I shall thus look forward to working with the Congress in developing a more responsible bill that would extend and strengthen the Vocational Rehabilitation program.

This Administration has submitted recommendations to both the 92nd and 93rd Congresses which would accomplish these purposes. The 92nd Congress passed a bill which contained some of my recommendations but was so inordinately expensive that I felt compelled to veto it. In returning S. 7 without my approval, I ask the 93rd Congress now to turn its attention to the substitute recently offered by Representative Earl Landgrebe.

My decision to disapprove S. 7 should be seen by the Congress as more than just an isolated rejection of a single piece of unwise legislation. It is part of my overall commitment to hold down taxes and prices. I remind the Congress of that determination, I ask the Congress to consider carefully the implications of spend-thrift actions, and I urge the Congress to be more reasonable and responsible in the legislation it passes in the future.

RICHARD NIXON.

THE WHITE HOUSE, *March 27, 1973.*

On April 3, 1973, the Senate failed to override the President's veto, by a vote of 60 in favor of override and 36 against.

DISCUSSION OF S. 1875 AS REPORTED

SUMMARY OF PROVISIONS

1. Services to individuals with the most severe handicaps

(*a*) Provisions have been included in the State plan requirements to ensure that special emphasis is given to serving those individuals with the most severe handicaps.

(*b*) An important procedural provision has been included in the Committee bill requiring an individualized written rehabilitation program be drawn up for every handicapped individual served, and be drawn up in consultation with that individual. The counselor is required to explore every means for establishing a vocational or job-oriented goal for each individual, and to specify fully in the written program the reasons why this was impossible if he finds beyond a reasonable doubt that the individual cannot realize a vocational goal.

(*c*) The Secretary is directed to undertake a comprehensive study of the feasibility of the methods designed to prepare individuals with the most severe handicaps for entry into vocational rehabilitation programs, and to improve the ability of such individuals to live independently or function normally within family and community. Such study should encompass the extent to which other programs may be utilized to reach these goals, and the findings shall be submitted to the Congress with recommendations for action no later than January 9, 1975.

(*d*) The Secretary is directed to undertake a study of the basic vocational rehabilitation State grant allotment formula and report alternative formulas to the Congress by June 30, 1974. Also, the reported bill bases the allotment formula on amounts appropriated rather than amounts authorized to be appropriated.

2. Rehabilitation Services Administration Research and Training

(*a*) The Committee bill provides a statutory basis for the RSA, provides for Presidential appointment of the RSA Commissioner, and provides that all authority for carrying out of functions under titles I, II, and III of the Act shall be administered by the Secretary through the Commissioner of RSA. Such authority may only be delegated to any other officer upon submission of a plan for such delegation to the Congress. The Secretary is further directed to establish through the Commissioner the necessary expertise and competence to develop and support, and stimulate the development and utilization of, innovative methods of applying advanced medical technology, scientific achievement and psychological and social knowledge to solve rehabilitation problems.

(*b*) The bill emphasizes applied research and the development of technology and devices to aid in solving rehabilitation problems of handicapped individuals. Besides the general research authority and establishment of the personnel competence, discussed under item (*a*) above, the bill directs RSA to establish and operate Rehabilitation Engineering and Research Centers in order to aid in the development of this technology. In addition, for the first time, telecommunication, sensory, and other technological devices are specified as services under the basic vocational rehabilitation program.

(*c*) A program of international research and exchange of personnel and technical assistance is also included so that the United States may more fully make use of the many scientific and technological applications that have been made overseas.

3. Other provisions

(*a*) The Committee bill includes a consolidated special project authority, with special emphasis on projects for spinal cord injured, severely handicapped deaf and older blind individuals, and an earmarking of money under special projects for migratory agricultural workers.

(*b*) The Committee bill creates a Federal Interagency Committee on Handicapped Employees (and directs it to undertake an affirmative action program for hiring in each Federal agency), an Architectural and Transportation Barriers Compliance Board, requires affirmative action in employment of handicapped individuals in employment under Federal contracts, and prohibits discrimination against qualified handicapped individuals under Federal grants.

NEED FOR LEGISLATION

The Committee, after careful consideration of all prior hearing testimony and a review of the present RSA program, concluded that substantial legislative changes were necessary. The Rehabilitation Services Administration and the States which provide 20 percent of the funds for the program are not reaching those who are in the greatest need of rehabilitation services. During the hearings in the 92d Congress, and the subsequent hearings held on the legislation in the 93d Congress, the Committee heard varying estimates of the numbers who could benefit from rehabilitation services in the United States. Administration witnesses placed the number at near 7 million individuals. Other witnesses claimed the total to be as high as 12 million. The actual numbers, or even an accurate approximation, is not known, and the Committee believes that such data must be collected as soon as possible.

Whichever figures is accepted, it is known that rehabilitation agencies last year reached only slightly more than one million handicapped people, and about 325,000 of those were classified as having severe handicaps. The Committee saw the need for definite legislation which would not only provide more service for more people, but provide special emphasis on services to those with severe handicaps.

The focus of the Committee bill is very much on that group, and the burden of reaching them has been placed squarely on the rehabilitation agencies throughout the bill. Giving RSA and the Commissioner thereof direct statutory authority for the first time is aimed at creating greater accountability for the way in which the program is carried out.

The Committee also found that there was a large segment of the handicapped population that could not be served under the present program parameters due to the fact that no vocational goal could be achieved, or might not seem achievable *at the time* the individual attempts to enter the program. The Committee feels a strong responsibility to see that these individuals do receive the services that they need, particularly that maximum efforts are made to develop a vocational goal for them. The bill attempts to achieve these objectives, by stressing services to more severely handicapped individuals and directing the Secretary to undertake a comprehensive study of the feasibility of methods of preparing individuals with the most severe handicaps for entrance into the program or to live more independently.

INTENT OF THE BILL

The key to the intent of the bill is the Committee's belief that the basic vocational rehabilitation program must not only continue to serve more individuals, but must place more emphasis on rehabilitating individuals with more severe handicaps. It is the bill's intent to be more responsive to the needs of the handicapped individual by providing a better basic program of service as well as an emphasis within special project authority for target populations whose needs are not now being met within the basic program. Additionally, the Committee has added provisions designed to focus research and training activities on making employment and participation in society more feasible for handicapped individuals.

SHORT TITLE

The short title of the bill, the "Rehabilitation Act of 1972", which no longer includes "Vocational", expresses the new thrust of the bill that individuals who apply for services must be given every opportunity to achieve a vocational goal. The bill allows entrance into the program for those whose eventual vocational outcome may not be obvious when they first apply. While the Committee expects and mandates in the Act that the program will remain vocationally oriented, it does believe that there are handicapped individuals whose handicaps are so severe, or because of other circumstances, such as age, that they may never achieve employment. The Committee feels that they should not be denied services.

Providing service to such individuals may have the eventual outcome of freeing other members of the handicapped individual's family to return to employment, with a resultant gain in tax revenue and a rise in the standard of living of the family. Thus, while the Committee bill has deleted a program for providing direct services to such individuals, it has directed the Secretary to study methods by which such individuals may gain entrance to the vocational rehabilitation program or may be enabled to live more independently. It is the Committee's intent in mandating such a study that action recommendations will be made which will be designed to ensure that these individuals will be able to function more normally within their communities.

DECLARATION OF PURPOSE

The Committee agreed that there should be a well-defined declaration of purpose contained in the law. There is not now such a provision. In general terms it spells out the programs that are authorized under the bill and provides a summary of the purposes the Committee wishes to be carried out by RSA.

REHABILITATION SERVICES ADMINISTRATION

Throughout hearings on the vocational rehabilitation program, the Committee heard overwhelming testimony, pointing to the failure of the program to meet its stated goals, and, in particular, the failure of the program to meet the needs of individuals with more severe handicaps, and to utilize effectively funds for research and training. Responding to this problem, the Committee in S. 7 and (in the 92d Congress) S. 3987 provided statutory authority for the Rehabilitation Services Administration, and vested all authority for the carrying out of the basic State program, and over research and training funds and funds for special projects, in the hands of the Commissioner of RSA. Furthermore, in those bills the Committee authorized additional personnel, and created within RSA, a new Division of Research, Training and Evaluation, and a Center for Technology Assessment and Application, headed by an Assistant Commissioner in order to provide the emphasis upon research and training, especially in the areas of utilization of technology, which the Committee believed was essential to meeting the needs of handicapped individuals.

The Committee reiterates its firm belief than an effective RSA requires that it be the focal point for the utilization of technology, increased emphasis on medical and technological research, and the training of personnel, all as an essential base to strong and vigorous State programs. It points out that in order to meet the objections of the

Administration to the creation of organizational rigidity through the creation of new offices, the agreement between the Administration and the Committee retains a statutory base for RSA, a Commissioner appointed by the President, and provides that RSA shall be the principal agency for carrying out titles I, II and III of this Act.

Furthermore, the bill prohibits the delegation of any function of the Commissioner by the Secretary to any officer not directly responsible to the Commissioner unless the Secretary first submits a plan for such delegation to the Congress, and provides that in order for such delegation to become effective, the Secretary must consult with the appropriate Committees of the Congress within thirty days of transmittal.

Although the bill does not vest all authority for programs under the Act directly in the Commissioner, the Committee points out that authority for research and training programs is vested in the Secretary, to be carried out *through* the Commissioner, and has mandated that the Secretary take all action necessary to ensure that funds appropriated pursuant to this Act are expended only for those programs, personnel, and administration of programs carried out under this Act.

The Committee points out that even though the bill no longer provides for a Division of Research, Training and Evaluation, nor for a Center for Technology Assessment and Application within such Division, the bill does mandate the Secretary to establish through the Commissioner the necessary expertise and competence, by assembling persons with such capacities in RSA, in order to develop and support, and stimulate the development and utilization of innovative methods of applying advanced medical technology, scientific achievement and psychological and social knowledge to solve rehabilitation problems. The Secretary has given his assurances to this Committee that he will take all necessary action to carry out this provision of law and the intent of the Committee to place heavy emphasis on the utilization of technological research and existing technology, and the Committee urges the Secretary to initiate such action as soon as possible.

ADVANCE FUNDING

The Committee recognizes that in order to have more efficient programs and prudent planning, it is desirable to have advance funding made available for the program. The Committee feels that this is a most desirable feature and hopes the Administration will request and the Appropriations Committee will approve appropriations on an advance funding basis.

DEFINITIONS

The Committee chose to consolidate all of the definitions which are used throughout the bill in one section. Most definitions have not been significantly changed from present law, but there are several departures that should be noted in order to better understand the philosophy of S. 1875.

Consistent with changes the Committee has made in the operation of the basic State program for the provision of vocational rehabilitation services, the committee has emphasized in the definition of handicapped individuals that the program is expected to serve those individuals who have substantial handicaps to employment as long as there is a reasonable expectation that they can benefit in terms of employability from the provision of services. While existing law conditions the provision of services on a reasonable expectation that the individual will be rendered fit to engage in a gainful occupation, the committee believes that a change is needed in this part of the definition. The bill thus extends services to individuals who may not, at the time of application appear to have a vocational goal because the individual may be brought to a point, through the provision of services, where a vocational goal is then possible. The Committee believes that the definition in existing law is too limiting, making the assumption that no change will occur over time. This limitation can operate to exclude many handicapped individuals who could greatly benefit from the program, and often denies services to those individuals most in need.

The Committee is very clear in its conviction that individuals who have severe handicaps can and should have vocational goals, and that maximum effort must be expended to provide these individuals with a broad range of services to enable them to realize this potential. A new definition has, therefore, been added defining certain "severe" handicaps as those which generally require "multiple services over an extended period of time." The Committee is cognizant of the fact that it may take greater effort to set up a rehabilitation program for these individuals, and it fully expects rehabilitation counselors to make this effort.

However, the Committee, in changing the definition of handicapped individuals, also recognizes that there are handicapped individuals who may have a vocational goal due to the severity of their handicap, their age, or other factors, but who can greatly benefit from rehabilitation services. While emphasizing that every effort should be expended to provide services to individuals so that they may reach a vocational goal, the Committee also believes that individuals can benefit from services which will enable them to live more independently and to be more self-sufficient, and has directed the Secretary to study the feasibility of methods of accomplishing these goals.

The bill defines, for the first time, evaluation of rehabilitation potential, including all those services which are contained in section 15 of the existing law as mandatory services under the basic program to be provided to handicapped individuals.

The definition of Federal share is changed somewhat from existing law. While the Committee has retained the Federal share at 80% under part B for the basic formula grant program, the Federal share for part C, Innovation and Expansion Grants has been set at 90% for all such grants rather than the current Federal share, under section 3(b) of the Vocational Rehabilitation Act, of 90 percent only for the first 3 years a State receives such a grant and 75 per centum for the next 2 years. The Committee believes that this additional support from the Federal Government is needed in order to assist the States to expand their services and provide opportunities for individuals whose handicaps are more severe. Unless otherwise specified in the bill, the Federal share is 80%, except for construction grants where the Committee has retained the matching requirements of existing law. (See section 301(b)(3) in the "Section-by-Section Analysis".)

Finally, the Committee points out that it has included Indian tribal organizations, or a combination of such organizations, in the definition of local agency.

TITLE I. VOCATIONAL REHABILITATION SERVICES

State plans

Part A of title I provides all of the administrative provisions for the title, and includes State plan provisions, most of which are unchanged or only slightly changed from present law. As in present law, a single State agency must be designated, unless the State has a separate State agency for the blind, in which case such separate agency would be designed to administer that part of the plan which deals with the blind. The bill requires that the basic State agency selected must be primarily concerned with the rehabilitation of handicapped individuals or with education or vocational education needs. Further, the plan must provide for the required State participation in the funding of the program before the Federal share can be released.

The State plan must set forth the priority of selection of individuals for services and must show that methods of selecting individuals will provide special emphasis to those with the most severe handicaps. It is the Committee's strong feeling that this emphasis should not, in light of the appropriations authorizations contained in the bill, lead to any significant diminution in the number of individuals who are being served in the program under present law.

The bill also provides in the State plan requirements that the Commissioner of RSA shall establish priorities for services and that the order of priorities in the State plan shall be consistent with outcome and service goals prescribed in regulations by the Secretary. It should be noted that the Committee, in giving RSA greater control over, and therefore accountability for, establishing these priorities, intends the Administration to exert more leadership in assisting the States to aid their handicapped population. The Committee has been concerned with reports that emphasis has been placed in the past few years on serving welfare recipients whose handicaps in terms of this bill are questionable. The Committee does not intend this agency to place any greater emphasis on services to such welfare recipients, except on the basis of reimbursement through welfare funding under the Social Security Act.

The bill also directs the State to consider in its plan a broad range of services for individuals with the most severe handicaps. The Committee wishes to point out that homebound individuals should be given special attention. It was apparent in testimony received by the Committee from a number of witnesses that homebound individuals are not now being served, even in a superficial way, under the present Vocational Rehabilitation Act.

The bill directs the State to provide as mandatory services under the State plan evaluation of rehabilitation potential, counseling, guidance, referral, placement, vocational and other training services and related family services and to provide the remainder of all vocational rehabilitation services after consideration of eligibility for similar benefits under other programs. The Committee believes that physical and mental restoration services and maintenance during rehabilitation are necessary and very important services, and wishes to ensure that handicapped individuals will be provided these services as soon as possible. The Committee, therefore, has specified that eligibility considerations will not be required where it will delay the provision of such services to any individual and when such delay will mean any discomfort and hardship for the individual.

The State plan must also provide that the State will continue to study new methods of meeting the statewide needs of handicapped individuals most effectively with a view towards the relative needs of significant segments of the State's handicapped population and the need for expansion of services to these with the most severe handicaps.

The State plan must provide for a periodic review of all those individuals who have been placed in extended employment in rehabilitation facilities, especially sheltered workshops, with the aim to remove them from this type of employment and move them into the competitive labor market as quickly as possible. It is the Committee's position that the sheltered workshop is an acceptable place for transitional employment for handicapped individuals. But overwhelming testimony in the hearings suggested that for too many individuals are placed in workshops in a "terminal" employment situation. The Committee suggests that this is not a wise course to follow in rehabilitation. There is a substantial body of testimony that far too many States overuse the workshop as a substitute for employment and not enough effort is made to run a vigorous employment placement program. In the Committee's opinion, the sheltered workshop has become far too convenient a placement site. The Committee, therefore, strongly believes that maximum efforts should be made to use public and private training and education programs available in the community as alternatives to workshop placements.

Finally, the plan requirements direct the State to include in its report on the operation and administration of the State plan periodic estimates of the population of handicapped individuals eligible for services and specification of the number of individuals who will be served, the outcomes and service goals to be achieved for such individuals, and an estimate of the service costs. The Committee believes that far too little emphasis has been placed on comprehensive planning for and surveying of the needs of handicapped individuals in the States, and therefore expects RSA to require the States to place greater emphasis on such concrete planning in the future.

Consolidated rehabilitation plan

The Committee did not wish to mandate the filing of a consolidated rehabilitation plan—under this Act and the Development Disabilities Act. It did feel that States, at their option, should be permitted to consolidate the two programs as long as all statutory requirements under both Acts are met.

Individualized written rehabilitation program

After hearing extensive testimony and reviewing the data supplied to the Committee by the Department of Health, Education, and Welfare, it became apparent that the individual client was not being sufficiently consulted on his own behalf in tailoring the rehabilitation program to his individual needs. This concern led to the adoption in section 102 of the bill of the formal written rehabilitation program requirement for every individual who is served under the vocational rehabilitation program.

It should be expressed clearly at the outset that the Committee's purpose was in no way to attempt to burden the counselors and rehabilitation coordinators with unnecessary and cumbersome paperwork. Rather, it was felt that the requirement of section 102 will work to improve communication between the handicapped individuals to be served and the rehabilitation counselors who sincerely wish to see them served. A written program, with the required annual review of the program by the handicapped individual and the counselor, should serve both as a way to ensure that the rights of the individual are being protected and that the counselor feels satisfactory progress is being made toward a stated goal.

It is the purpose of the Committee, in requiring an individualized written rehabilitation program, to assure that each handicapped individual has an opportunity to participate in the decisionmaking regarding services he is or is not to receive; to have a written understanding that specifies the services to be provided and the objectives they are to achieve; to be able to obtain information on the progress he is making with regard to the objectives of the program; and to rewrite jointly with the rehabilitation agency the program when it is apparent that the stated objectives cannot be achieved. In order to ensure that such individuals are not refused services when they could be beneficial, it must be demonstrated beyond a reasonable doubt that the individual cannot achieve a vocational goal, before the individual can be determined ineligible for services because he has no vocational potential. Such a decision must be made with the full consent of the individual and full documentation on this decision must be included in the written program developed for him.

The Committee wishes to make clear that this written plan is also to serve as a blueprint for the rehabilitation of the individual with a severe handicap. The reported bill stresses that the program should be developed with a vocational goal always in mind. Should that goal not be achievable, it will be up to the agent of the State, after the fullest consultation with the client, to demonstrate in writing beyond any reasonable doubt the infeasibility of achieving a vocational goal.

The individualized written rehabilitation program represents an understanding between the vocational rehabilitation agency and the handicapped individual. It is expected that its terms will be carried out unless there are special mitigating circumstances. In such cases, it is expected that alternative service approaches or timetables will be sought and that the rehabilitation objectives previously agreed upon will not be altered unless renegotiated by both parties. Each handicapped individual is to have the right to review his plan at least annually and, together with the rehabilitation agency, to revise the program terms if the objectives of the program are not being achieved.

The Committee expects that the RSA Commissioner will utilize the written programs as a means of assessing the effectiveness of rehabilitation services in achieving the stated objectives. The Committee realizes that there may be mitigating circumstances as to why indicated objectives are not achieved. These might be, for example, lack of available funds or services. In his annual report to the Congress on the effectiveness of rehabilitation services, the bill directs the Secretary to include specifically his assessment of the degree to which rehabilitation objectives are or are not being achieved. This report will document the reasons why such objectives have not been achieved and recommend corrective legislation or propose appropriate administrative action. Records of the characteristics of each applicant are to be kept, specifying, as to those individuals who apply for services and are determined not to be eligible, the reasons why such a determination was made. The Committee directs the Secretary, not only to review these data to determine that the purposes of the individualized plan are being carried out, but also to utilize these data in conducting his evaluation of effectiveness of the basic program.

Scope of vocational rehabilitation services

The scope of services that are required under the bill and the services which may be provided are specified in section 103, rather than in a definition provision as in present law. Added to those services presently specified in existing law are the individual written rehabilitation program, which has been described above; follow-up services, which refer to services given normally for one year after case closure; follow-along services, which refer to services which are necessary in particular cases and are provided for longer than one year; and telecommunications, sensory, and other technological aids and devices. In the latter connection, the Committee believes that such rehabilitation aids and devices covered by this section should be prescribed by appropriate licensed health professionals.

The Committee also limited the use of program funds for individuals who are pursuing higher education paid for by this program to those for whom all alternative means of funding have been sought and were not available. The Committee feels that the costs for instruction at colleges should be borne by some other source of funds if in any way possible, and points out that a substantial new student assistance program is available through P.L. 92-318, the Education Amendments of 1972. Statistics provided to the Committee show that many States do not limit the amount that may be spent on a handicapped individual's higher education, thus substantially diminishing basic program monies available for other services, especially those needed by individuals with more severe handicaps. The Committee does not wish to limit a handicapped individual's opportunity to pursue postsecondary education, but does believe that other sources of funds should be explored with diligence.

In view of the fact that the resources available to treat handicapped individuals and to provide for their rehabilitation will obviously not be unlimited in the foreseeable future, it is the intent of the Committee to stress and provide special emphasis on services to those with the most severe handicaps.

While it is fully recognized that there is justification for serving those individuals whose only handicap may be their environment or social disadvantagement, the Committee feels that, to the extent possible, these individuals who have no handicap as defined in section 7(6) of the reported bill should be served under programs already in existence for their express benefit.

The Committee also notes that statutory age limitations were removed from the program in the 1965 Amendments to the Vocational Rehabilitation Act. The current regulations are clear in their intent that planning for individual clients should begin when it is determined that the point at which vocational training is appropriate has been reached. Information received by the Committee indicates that some State agencies are still adhering to the prior criteria and thus anyone under the age of 16 years old, or the age up to which school attendance is required, is not being served. It is the Committee's view that services which enhance the long-term vocational potential of an individual should be provided as soon as they will be effective. Exclusion of all youths below the age of 16 years may be arbitrary, and the Committee believes that RSA and the State agencies should be cognizant of the fact that prospective clients may benefit from services and planning at an age earlier than 16. The Committee expects that regulations implementing this Act will make clear that such individuals are not to be excluded based solely on the age factor.

Allotment formula

The Committee has preserved the same allotment formula as now exists in law with the following exceptions: (1) Allotments are based on actual appropriations instead of being based on the authorization of appropriations figure. This follows the practice in other grant-in-aid programs and has been strongly urged by the Administration. (2) The minimum allotment for a State has been increased from $1 million to $2 million, with modifications as described below under the heading "Minimum allotment". (3) Puerto Rico has been added to the definition of "State."

State allocation study

In its report last year on the Rehabilitation Act of 1972, S. 3987, the Committee noted:

"For some time questions have been raised with respect to the State program allocation formula under the Vocational Rehabilitation Act. This formula is the product of population multiplied by the square of a reversed per capita income factor. It is this squaring aspect which, it has been felt, distorts the desirable policy of giving States low per capita income a formula advantage, by creating widely varying differences among what various States receive for each handicapped individual residing there. Thus, while the average per capita vocational rehabilitation grant for handicapped for the

Nation is $81.30, seven States receive less than $50 per capita while six States receive more than $100 per capita, as do the Virgin Islands, Puerto Rico, and the District of Columbia.

The questions referred to by the Committee in its report last year persist. After carefully examining a wide variety of suggested approaches to formula reform, the Committee concluded that a feasible solution could not be enacted at this particular juncture when we are endeavoring to secure as soon as possible (in order to provide authority for appropriations) a vocational rehabilitation bill which can be enacted and does not possess the usual flexibility of time and maneuver.

However, we do believe that it would not be responsible to abandon the effort of formula reform. Therefore, the Committee included as Section 407 a provision requiring the Secretary of Health, Education and Welfare to conduct a study, and submit recommendations by June 30, 1974, on distribution to the States of vocational rehabilitation program funds which would take into consideration such factors as the needs of individuals requiring vocational rehabilitation services, the financial capability of the various States to render vocational rehabilitation assistance (including consideration of such factors as per capita income, per capita costs of services, State tax rates, ability and willingness to match), and the continuing demands for services in the States so that no State would be faced with a diminution of Federal grant assistance. The study and recommendations would include all aspects of the distribution of Federal grant-in-aid vocational rehabilitation State program funds to the States, including allocation formulas, and Federal and State share and matching requirements.

Reallocation notice

This section also provides that reallocation of State program funds may be made only after the Secretary has provided to the State whose funds are being reallocated advance notice and opportunity to submit comments to the Secretary.

Minimum allotment

Present law provides for a $1 million minimum allotment to each State for Basic Vocational Rehabilitation Services. This amount has proven to be inadequate for less populous States. The Committee recognizes that a certain minimum level of funding is necessary to conduct an adequate program in any State, but once that minimum is achieved the minimum should be allowed to expand in relation to the total amount of funds available for matching.

Therefore, the minimum available to each State has been increased from $1 million to $2 million or ¼ of 1 percent of the amount appropriated, whichever is greater, and extends this minimum to Puerto Rico. The Committee further provided in Section 110 (b) that in the event that application of this $2 million minimum amount would reduce the amount which any State would receive below the amount which it received in FY 1973, the minimum amount will remain at $1 million. Thus, the increased minimum allotment provision will not result in a diminution of part B funds received by any State below that which it received in the last fiscal year.

Client assistance

The hearing testimony pointed up a serious lack of communication between the counselor and the client, and the administrator of a facility and the client, and the inability of the average client truly to understand the maze of bureaucratic procedures in the program. The Committee felt strongly that this was a marked deficiency in the program which must be remedied. To this end, the individualized written rehabilitation program was established and mandated as a basic service that must be provided to the handicapped individual. This step insures that the client will understand what is being done, what he can expect to be done in his behalf, and what his alternatives are if his progress is not satisfactory.

The Committee felt, however, that this awareness by the client may not be of great value unless the system could be made to work for him not on or at him. The Committee recognizes that many handicapped individuals need a way to have the system translated to them in terms they understand, and conversely, have the system understand their wishes through the same type of translation. The client assistance method was agreed to as a viable method to attempt to achieve these goals and was endorsed by virtually every witness that appeared before the Committee.

In view of that testimony, and the Committee's belief in this type of system as an excellent way to achieve translation of the system to the client and the translation of the client's needs and desires to the system, client assistance projects were authorized in the bill. There is no similar provision in present law. It is intended that the function to be performed by the client assistance projects is to seek to resolve difficulties that the client is having with the program as quickly and amicably as possible.

The Committee feels that the client assistance worker must also be responsive to the program; that it is within his function to act as liaison between the individuals responsible for the programs and treatment functions as well. In order to do this and do it well, the client assistance worker of necessity must have prompt and reasonable access to the appropriate personnel in the state agencies and the regional and central offices of RSA.

The client assistance worker is further charged with the responsibility to report fully its activities to the Commissioner, including any recommendations to make the program more responsive both for the client and to aid the administration of the program. The State agency should make every effort to enter into arrangements, where possible, with institutions of higher learning in order to draw upon the students in clinical training in certain disciplines to assist in performance of the client assistance function. The client assistance project shall at no time be a client or former client of the State agency nor an employee of the State agency whose task it is to administer the plan.

The Committee fully recognizes the fact that a close relationship between client and counselor is most important for a successful rehabilitation program. It is not intended that the client assistance project should stand in the way of that relationship, nor supplant or reduce it in any way. The function of the client assistance project is merely to see that the written rehabilitation program is determined and carried out to the benefit of the handicapped individual and that complex issues which might arise are minimized quickly. Access to the client assistance project must be assured if it is to aid the program and the client. The client must know that the client assistance project is available; the State agency, therefore, is required to make sure that the client assistance projects are available to the client as part of the process of formulating his written rehabilitation plan. It is the Committee's firm belief that a better program should result by the client assistance project working actively with the client and the agency.

The proposal for client assistance projects to serve vocational rehabilitation clients has its genesis in the growing number of hospitals which are establishing patient advocates to attempt to give the institutionalized person a sense of being able to affect the environment in which he is confined and the rules and regulations in his day-to-day existence. The Committee believes that the ombudsmen-type of approach is ideally suited to the structure of the rehabilitation program at this time, and further believes that this program, if successful, could be the forerunner of client assistance programs in numerous federal, state and local services programs.

The Committee envisions that a typical client assistance for a medium-sized city could be structured approximately as follows:

1. Out of the funds reserved for establishing client assistance, the State agency would hire two full-time client assistance workers, who might be beginning their careers in fields such as law, social work, public administration, or psychology, and 1 or 2 clerical assistants.

2. The State agency and the client assistance workers hired for the project in this city could then contact the local colleges and universities and attempt to arrange for graduate students, engaged in clinical programs, to carry out their academic responsibilities for a given period of time (a quarter, a semester, or even a full year) by working as assistants to the client assistance workers in the project and operating under the direct supervision of the full-time client assistance workers. The assistance would very likely be assigned responsibility for preliminary interviews with client complainants and the initial follow-up to determine whether or not a *prima facie* case exists. After a sufficient period of experience, such an assistant might well be assigned the resopnsibility for conciliating particular grievances. At all times, however, they would be in contact with the full-time worker supervising their work.

3. Based upon a prototype for this sort of program carried out quite recently, there is strong reason to believe that universities would be extremely interested in placing graduate students in such a program. This would have a double benefit: first, of providing energetic, committed, and talented young professional students to invigorate the system; and second, of involving in the client assistance project, on an informal basis, all of the good services and offices available from any college or university and particularly from the instructor or professor responsible for the clinical clerkship of the assistant client assistance worker. This academic relationship should provide an objectivity to the process because the graduate students would not be remaining in the program long enough to develop a vested interest in any particular bureaucratic structure or relationship.

4. This client assistance system—blending the expertise of the full-time advocate and the objectivity, freshness of approach and energy of the graduate students—would be responsible for handling client grievances for all of the rehabilitation programs and projects in the particular city. It is believed that after the break-in period, a substantial amount of expertise will be developed in handling client grievances and that resolution, particularly in cases of poor communication and misunderstanding, will be quickly forthcoming.

5. Moreover, it is anticipated that the very existence of an objective and concerned client assistance project will serve to produce considerable interpersonal sensitivity on the part of the rehabilitation programs after they have had initial experience with an effective grievance investigation and resolution process carried out by the project. Thus, although at first the case load will undoubtedly be substantial, in time this should level out and probably drop once the project proves its effectiveness in securing equity for the client—in an even-handed manner with sensitivity to the problems faced by the bureaucracy as well—to the satisfaction of

both individual clients and rehabilitation projects and programs.

Innovation and expansion grants (*part C*)

The Committee, as well as placing the authority for making innovation and expansion grants in RSA, has also allowed each State to establish project priorities within the purposes of statutory provisions with respect to no less than 50 percent of its formula allotment under this part (which is generally determined according to population with a $50,000 minimum). With respect to the remaining allotment funds, the Commissioner may fund projects which he deems to be of a priority nature. The bill directs that these grants should be used to improve and expand services for the classes of individuals for whom rehabilitation may be retarded by socio-economic factors or who have other serious problems in connection with their rehabilitation. These grants are also expected to be used to improve services and programs to those with the most severe handicaps. In order to provide maximum incentives, Federal payments for these projects are set at the level of 90 percent and are to be used particularly for those individuals whose rehabilitation needs are also the responsibility of other State or Federal agencies, and the allotment for each State is determined on a formula based on population (with a $50,000 State minimum). The Committee feels that too liberal an interpretation by RSA of the "in kind" provision regarding the 10 percent non-Federal share could, in some cases, significantly decrease services being given to handicapped individuals requiring them and, therefore, urges that special care be given with respect to the evaluation of the in-kind component.

Special study of comprehensive service needs (*part D*)

Of particular concern to the Committee in reviewing operations of the vocational rehabilitation program was the need for services to individuals with the most severe handicaps. In agreeing that such individuals must be given more opportunities to be served and achieve a vocational goal, the Committee also recognizes that some individuals with the most severe handicaps would not have vocational goals *at the outset*, or might never have vocational goals but might be assisted in order to live a more independent life, thus relieving their families and their communities of the many burdens of their care. In addition to providing that each State's vocational rehabilitation program must provide for special emphasis on services to individuals with the most severe handicaps and building in procedural protections to ensure that such individuals would be given every opportunity to achieve a vocational goal, the Committee under the bill which was vetoed in the 93rd Congress (S. 7) provided a special grant program for comprehensive services to those individuals who could not *at the outset* be deemed to have a vocational goal, but could through the provision of comprehensive services be brought to a point where they could be served under the basic program or could be assisted to live a life less dependent on public funds and family.

The Committee re-emphasizes its belief that a broad continuum of community services must become available for such severely handicapped individuals. Such services must include those designed to enable each individual to develop as fully as possible his or her capabilities and his or her ability to live independently in society. While the Committee believes that this continuum of services is most appropriately placed with the agency which has the experience and expertise to provide vocational rehabilitation services because vocational training is central to an individual's ability to function in society, the bill as reported from Committee has deleted the prior title II grant program for providing comprehensive services to the severely handicapped.

Under the agreement with the Administration, S. 1875 instead directs the Secretary to undertake a comprehensive study of the feasibility of methods designed to prepare individuals with the most severe handicaps for entry into vocational rehabilitation programs or to assist such individuals to live more independently. Such study will also include a review of other programs administered by the Secretary to determine how they might contribute to these objectives, and how all such programs can be coordinated to provide all the services needed by such severely handicapped individuals.

The Committee points out that its intent is to enable as many individuals to make use of the basic vocational rehabilitation program as possible. Thus, in recognition of the fact that individual conditions are not static and that training can be progressive, the study should attempt to develop procedures, in addition to the individualized written rehabilitation program requirement in the bill, to ensure that a vocational goal is not discarded for an individual with a severe handicap unless it becomes absolutely clear that such a goal will never be possible.

The Committee also continues to believe that many individuals now judged unable to achieve a vocational goal can lead full and productive lives, given the full promise of technology and knowledge currently available in this Nation. Furthermore, the Committee reiterates that the goal of independent living is a legitimate one for Federal recognition and support, and one which will benefit not only the individual but his family, friends and society. It, therefore, urges the Secretary to explore all possible methods of providing community-based services, and stresses that such methods should include services to individuals who are currently homebound. The Committee urges the Secretary to act rapidly to set up and pursue this vital study.

TITLE II. RESEARCH AND TRAINING

RSA responsibility

Title II of the bill consolidates all research and training authority in existing law and includes it in one title to be administered by the Secretary of Health, Education, and Welfare through the Commissioner of RSA. It specifically mandates four major priorities; the establishment and support of Rehabilitation Research and Training Centers; the establishment and support of Rehabilitation Engineering Research Centers; the conduct of a program for spinal cord injury research; and the conduct of a program for international rehabilitation research and the international exchange of personnel and technical information.

Under the agreement which was worked out with the Administration, the Committee bill places authority and control over the expenditure of research and training funds with the Secretary through the RSA Commissioner, but with an explicit provision directing the Secretary to take whatever steps necessary to ensure that funds that have been authorized for the purposes of research in rehabilitation methods and techniques and training of specialized personnel for delivery of such services to handicapped individuals will be used for *only* that purpose. The Committee emphasizes that rehabilitation of handicapped individuals is the only thrust of the Rehabilitation Act of 1972, and this rehabilitation involves complex problems and specialized needs which do not necessarily apply to the general population of persons served by other HEW programs. Until these problems have been solved and these specialized needs have been served, the Committee does not wish to have research and training funds expended to solve more generic problems. With the tremendous technological, scientific, and medical knowledge within the United States, there is no excuse for failure to make full use of that knowledge. The Committee has emphasized throughout the bill the need for RSA to expand its services to individuals whose handicaps are the most severe and to improve the effectiveness and focus of its services for all eligible handicapped individuals. The emphasis applies to the title II Research and Training authorities.

There is no question that in order to carry out the research program envisioned by the Committee, a tremendous increase in knowledge, innovative methods, devices and techniques will be needed. In order to provide the technical assistance that will be necessary, a substantial and imaginative research program must be undertaken.

The Committee expects RSA to be in the forefront of major technological breakthroughs in biomedical engineering and applied technology which would ameliorate many of the handicapping conditions of the individuals it serves. In the future, the Committee will ask the Administration to provide, in its required annual report on research, full explanation and justification for its activities, goals and priorities in the areas of research and training, focusing on the targeting of research and personnel on particular problems affecting particular disability groups.

The Committee wishes to stress that it firmly expects the research orientation to be aimed at overcoming the disability itself, not just solving a few minor service-related problems, and that the goal should be to enable the handicapped individual to be employed or to receive further training or education whenever feasible.

Research, training, and evaluation

Under S. 7, which was vetoed, the Committee had established within the Rehabilitation Services Administration, a Division of Research, Training and Evaluation, and within such Division a Center for Technology, Assessment and Evaluation; and had provided RSA with authorization for 10 additional personnel of outstanding medical and scientific achievement to ensure that this Division and its subordinate Center would have individuals of outstanding expertise to provide direction and evaluation of the program. The Committee had also specified that the Division will carry out its duties and functions with the advice and consultation of the National Science Foundation and the National Academy of Sciences.

The Committee reiterates its strong belief that much more emphasis must be put on research and training, especially in areas of biomedical engineering and technological research. Although the provisions for a Division of Research, Training and Evaluation and the Center for Technology Assessment and Evaluation and authorized additional personnel have been deleted in the agreement with the Administration, the Committee points out that the Secretary has agreed to a provision directing him to establish the expertise and technological competence in the Department necessary to develop, support and stimulate the development and utilization of innovative methods of applying medical and scientific technology and knowledge to solving rehabilitation problems. Such efforts will take place in coordination with related HEW Departmental programs and in consultation with the National Academy of Sciences and the National Science Foundation.

The Committee cannot emphasize too strongly that it expects the Secretary to carry out this agreement with diligence and dispatch and to ensure that RSA becomes the primary authority within the Department of Health, Education, and Welfare on rehabilitation technology, research and training.

The Committee reviewed during the hearings the specialized needs in research and training, and was impressed with the potential of applied research in solving the problems of individuals with severe handicaps. It thus reiterates that it provides general authority for research grants and projects only insofar as they bear directly on development of methods, procedures and devices to assist in provision of services to handicapped individuals as well as individuals with severe handicaps.

New research priorities

In view of these longer term needs, the Committee believes that a commitment must be made now in the training of rehabilitation research personnel, the development of new techniques, methods and devices, and the sharing of information across international boundaries.

To this end the Committee bill mandates four major priorities:

(1) the establishment, extension, and support of Rehabilitation Research and Training Centers, to be operated in collaboration with institutions of higher education, to train rehabilitation research personnel who will be needed to develop new methods, techniques and devices for the rehabilitation of handicapped individuals;

(2) the establishment and support of Rehabilitation Engineering Research Centers to develop new methods of applying technology, breakthroughs in medical and other scientific knowledge, and to develop methods of information exchange to aid in the prompt utilization and application of engineering and other knowledge to rehabilitation problems;

(3) the carrying out of a program of spinal cord injury research, in support of and, where appropriate, in conjunction with special projects and demonstrations for spinal cord injury established pursuant to section 303(b), to encourage the sharing of new knowledge and the support of new approaches, and to coordinate efforts in research carried on by other governmental and voluntary agencies; and

(4) the conduct of a program of international rehabilitation research and training so that all knowledge may be utilized and shared across international boundaries.

In order to emphasize even more strongly the importance it places on the application of technology to the rehabilitation of handicapped individuals, the Committee earmarked 15%, 20%, and 25% of the total funds available for research for the next three fiscal years to be used for the establishment and support of Rehabilitation Engineering Research Centers. It expects that these Centers will be a major force in the extension of medical, technological and scientific knowledge to rehabilitation problems, and has directed these Centers to cooperate with State agencies, to insure that prompt utilization is made of new developments.

The Committee is aware of many developments in the area of rehabilitation that have been made in other countries, and encourages the fullest possible utilization of this knowledge and expertise and the sharing of scientific information. It, therefore, directs RSA to undertake the above program of information, personnel and research exchange and to apply the results as soon as possible.

Training

The Committee bill also provides general authority for the training of rehabilitation personnel and specifically directs RSA to utilize funds available in any year to support a balanced program of assistance to meet personnel training needs. Testimony has indicated a great shortage of skilled rehabilitation personnel at all operational levels and in all professional categories. For example, it is estimated that to meet adequately projected rehabilitation needs in FY 1974, 4,000 more physical medicine and rehabilitation physician specialists are needed.

In addition to providing for more funding for training of rehabilitation personnel, the bill places an emphasis on training of individuals to work in certain specialized areas where shortages are even more severe, and stresses the needs of homebound and institutionalized individuals.

Moreover, it came to the Committee's attention after hearings last year that there was a lack of focus on handicapped individuals, and on the training of personnel to serve them, who have limited English-speaking ability. The Committee expects the RSA Commissioner to provide for the expansion of services available to these individuals. In this regard, the Committee added to the bill specific reference to the need to train rehabilitation personnel to work with individuals of limited English-speaking ability so that services to such individuals can be provided on a more equitable basis, with particular attention to bilingual/bicultural needs.

The Committee disagrees strongly with the Administration's annnounced policy of cutting back and eventually phasing out the training of rehabilitation personnel. The Committee finds this a shortsighted policy and hopes the Secretary will reconsider it as part of an overall Department reassessment of comparable policies applied to Federal support of the training of all health and health related personnel.

Integrated research and training approach

The Committee has combined all research and training in this title and specified four major priorities because it wishes to make very clear the importance it places on a coordinated research and training endeavor in the area of rehabilitation. The Committee was informed in hearings that although many of the priorities specified in this title are being carried out now under the authority of the Vocational Rehabilitation Act, research efforts are piecemeal and little effect is being felt in the field. The Committee is disturbed about the budgeting trend as very clearly reflected in the FY 1974 budget to eliminate research funds and cut back on training funds, and the concomitant diluting of emphasis on the particular needs of handicapped individuals. It fully expects the Administration under the agreement to establish the necessary expertise and competence in the Department to undertake a major effort to expand and coordinate research and training programs in the area of rehabilitation, in order that these efforts will have a more profound and direct effect on the lives of individuals with handicaps. The Committee was greatly impressed with testimony reporting the development of many exciting, innovative techniques and believes that RSA should make a special effort to ensure that developments can be transferred to programs in the field as soon as possible.

Reports

In line with the integrated training and research approach, the bill requires a special annual report on title II activities and the extent to which they have contributed directly to the rehabilitation needs of handicapped individuals, especially those with the most severe handicaps and how these activities have been coordinated with the study undertaken by the Secretary under part D of title I examine methods of preparing individuals with more severe handicaps for vocational rehabilitation or independent living.

TITLE III. SPECIAL FEDERAL RESPONSIBILITIES

Title III of the bill contains all special programs, grants and related service activities which are not carried out by the State rehabilitation agency, but provide the basis for improvement of services and expansion of services to special target populations of handicapped individuals. This title incorporates, with changes and additions, the following provisions from the Vocational Rehabilitation Act: Section 4(a)(2), with the exception of expansion grants; section 12, construction of facilities and initial staffing programs; section 13, programs related to vocational training services to handicapped individuals (including maintenance payments during training); section 16, the National Center for Deaf-Blind Youths and Adults; and section 17, the special program for handicapped migratory and seasonal farmworkers.

In addition, title III consolidates into a single special project authority most of the categorical programs contained in S. 7.

Special projects and demonstrations

Section 303 of the bill contains all authority for making grants for special and demonstration projects which hold promise of expanding and improving rehabilitation services to handicapped individuals, especially those individuals with the most severe handicaps. The Committee points out that this section includes authority for special projects to the developmentally disabled, and for individuals who are homebound or institutionalized.

New Emphases

Under the bill which was vetoed (S. 7), the Committee had provided authority for a limited number of categorical programs for special target populations which have been traditionally underserved, or have specialized needs. The Committee bill has consolidated authority for these categorical programs into a special single project and demonstration authority, and emphasizes that facts regarding the needs of these populations have not changed. The Committee therefore expects the Rehabilitation Services Administration to undertake to explore methods of providing better service to such populations, including deaf individuals above age 16 who have not yet reached their full vocational potential, individuals with spinal cord injuries, older blind individuals, and migratory and seasonal farmworkers.

The provision of S. 7 relating to services for individuals suffering from end-stage renal disease has been eliminated in the knowledge that such services will be provided under Social Security Amendments of 1972 (H.R. 1), beginning July 1, 1973. Such services will, however, continue to be available under title I of the reported bill to fill gaps in the Social Security coverage.

Migrants

The bill included under special projects a provision for grants for vocational rehabilitation services for migratory agricultural workers (including seasonal farmworkers), a provision contained in section 17 of existing law which has never been funded. The Committee believes strongly that the provision of services to migrants and seasonal farmworkers is a priority. In order to achieve the required result, the bill earmarks 10% of all sums appropriated for special projects to be used for projects to provide vocational rehabilitation services to handicapped migrants and their families, and provides an additional authorization of appropriations if sums appropriated for special projects are not sufficient to result in the availability of $5 million for such services.

The Committee is well aware of the difficulties faced by migrant and seasonal agricultural workers in receiving their fair share of social services, and urges the Secretary through the Commissioner to search for innovative projects which may serve as models for the delivery of other social services to such individuals. The Committee believes that difficulties of delivery of such services can be overcome, and considers the implementation of this provision a priority.

Special projects, in general, are an important method of experimentation and development of new patterns of service delivery, and should lead to the development of techniques which can greatly improve services to handicapped individuals throughout the nation. The Committee has directed the Secretary through the Commissioner to give special emphasis to projects which will improve services to individuals whose handicaps are more severe, and believes that projects ought to be awarded with distinct goals in mind for this improvement, and for the extension of techniques, methods and patterns of delivery of services to the basic rehabilitation program throughout the States.

Projects for Deaf Individuals

During hearings, the Committee was told that rehabilitation services do not always meet the needs of deaf individuals. Quite often counselors are not available who can communicate with deaf clients, and services for individuals with severe communicative disorders designed to deal comprehensively with the individual's total needs are seldom provided. Witnesses from the deaf community also reported to the Committee that there were limited training options available for deaf individuals who leave secondary schools with no technical skills and thus have great difficulty finding employment. This is especially a problem for the more profoundly deaf individual with limited communicative abilities and some behavioral disorders, many of whom are multiply-handicapped. Witnesses further testified that while facilities exist for higher education and post-secondary technical training for deaf individuals, academic post-secondary training is not feasible for those deaf individuals with severe and multiple handicaps and that existing facilities such as Gallaudet College in Washington, D.C., the National Technical Institute for the Deaf in Rochester, N.Y., and facilities at Hot Springs, Arkansas, and Delevan, Wisconsin, cannot fill the national need. For individuals who are older, specialized training programs may well be needed, separate from other programs for handicapped individuals who do not have such severe communicative disorders. The Committee, however, also heard testmony questioning the wisdom of creating separate facilities which would further segregate certain deaf individuals from the deaf population and from the society at large.

The Committee recognized the need to act to provide assistance in coping with the severe problems of training for deaf individuals with behavioral and communicative limitations. However, the Committee is concerned that the creation of permanent facilities for so-called "low-achieving" deaf youths and adults, especially for young deaf individuals, as suggested in legislation in the 92d Congress House bill, might provide an additional avenue by which the existing educational system could further dispose of those individuals who are more difficult to provide with adequate services. The Committee, therefore, emphasizes the need for improvement of services to deaf individuals who are 16 years of age or older who have passed the age of compulsory school attendance for the State in which they reside. This authority includes training of necessary personnel and the Committee believes that emphasis within training should include counselors for rehabilitation agencies and trained counselors who can work with individuals, especially younger individuals, through the school system.

The Committee has limited this authority to individuals who are beyond school age because it did not wish to provide other program authority for facilities and services which should be available through education programs, but are not. The Committee directs RSA to require that any grants made under this authority be planned jointly or approved by the appropriate educational agency and rehabilitation agency within the State.

Projects for individuals with spinal cord injuries

Of particular note in hearings on H.R. 8395 in the 92d Congress, reaffirmed in the hearings on S. 7 in this Congress, was stress placed on the need for a regional program of spinal cord injury services which would have the capacity of providing rehabilitation services through a team of multidisciplinary staff, and which could provide acute medical care. This testimony also emphasized the need for a coordinated system of provision of services and for cooperation among all organizations and agencies which provide services to individuals with spinal cord injury, and the need to provide assistance to help cover the cost of services.

The Committee believes that the testimony on the effectiveness of a regional system for provision of services was compelling, and that the effectiveness of such a system should be tested. Often the effectiveness of treatment and the ability for restoration depend entirely on prompt and thorough treatment at the site of injury and immediate care following. Yet current methods in general use for providing services to those with the spinal cord injuries cannot provide this immediate care because of a lack of accessible facilities equipped with modern equipment and multidisciplinary team of attendants. Therefore, the special emphasis provided in the Senate bill is designed to assist in the creation of a regional system for the delivery of rehabilitation services (including acute medical care), to assist in meeting the costs of services, and to assist in the development of methods for provision of services and achieving cooperation with all organizations and agencies concerned with spinal cord injuries.

In order to test the effectiveness of a regional system, preference should be given to proposals to establish, on a regional basis, a multi-disciplinary system of providing rehabilitation services, which will test and evaluate the benefits and cost effectiveness of such a regional system. The hearings highlighted the increasing incidence of spinal cord injury among our population, and the Committee was impressed by the testimony of witnesses about the development of new techniques, methods and equipment which are able in many instances to recapture much of the ability the individual has lost through spinal cord injury, and wishes to place emphasis on the awarding of grants and contracts to the evaluation of such methods, and the evaluation of new methods of outreach and community education so that individuals with spinal cord injuries will not continue to be limited by societal barriers.

Projects for Older Blind Individuals

The Senate bill provides authority for special services needed to rehabilitate older blind individuals, for training personnel for research, and for related activities which will expand services or improve public understanding of problems confronted by older blind individuals defined as age 55 or older—all purposes to be achieved under S. 1030 in the 92 Congress. More than 75% of all blind individuals are middle-aged or older, as a result of severe vision impairment occurring later in life, often accompanying or precipitated by some other health problem. This is especially true in the case of diabetics. Estimates show that 1 out of every 6 blind individuals was blinded by diabetes.

Witnesses pointed out that becoming blind late in life often produces a total change in an individual's life, yet avenues to employment are closed off, rehabilitation services are more difficult to obtain, and sources of other support are limited. In addition, they cited a need for mobility training services and comprehensive counseling for which social welfare agencies will not provide money. Recognizing the size of the population of older blind individuals, and the severity of their handicap and agreeing with the needs pointed out above, the Committee emphasizes the need for services for this population.

Provisions for facilities

Sections 301, 302, and 305 of the bill contain provisions relating to rehabilitation facilities, including construction and initial staffing grants, project grants for vocational training of handicapped individuals within rehabilitation facilities, including weekly allowances for such individuals while undergoing vocational training programs, and general grant and contract requirements for facilities. Except for the latter requirements, these provisions are extensions of authority in existing law, with minor changes. (For comparison, see Appendix.)

National Center for Deaf-Blind Youths and Adults

Section 304 continues the authority for the construction and operation of the National Center for Deaf-Blind Youths and Adults, and authorizes $1.2 million, plus such additional sums as the Congress may determine to be necessary, over fiscal years 1973, 1974, and 1975 for construction, and such sums as may be necessary for operations. The amounts authorized for construction were identified during the prior hearings as required amounts to complete construction of the National Center and provide sufficient operating funds. The Committee was impressed with the plans for the Center and the range of services which this Center promises to provide for deaf-blind individuals. Recognizing that this Center will not be able to serve the estimated 10,000 deaf-blind population of the country, the Committee would urge that this Center and the Industrial Home for the Blind undertake plans to ensure that techniques and methods of providing services to deaf-blind individuals developed in the Center will be transferred to the entire population of such individuals. The Committee therefore expects the Center to enter into cooperative and coordinated arrangements with schools and other institutions which provide services to individuals who are both deaf and blind so that these institutions may further benefit from the experience of the Center.

General provisions

The bill also combines in one section (305) all general requirements for grants and contracts approved under title III. This section contains provisions relating to: uses of facilities constructed under Federal contract (including a prohibition of use for religious or sectarian activities), uses of Federal funds, submission of annual reports, inclusion of excellence of design and architecture in plans for construction, conformance with the Architectural Barriers Act (P.L. 90–480), conformance with the Davis-Bacon Act (wage payments and labor standards), payment provisions, residential accommodations in rehabilitation facility construction, and general conformance with the State plan for the provision of vocational rehabilitation services.

Most of the general provisions of section 305 are contained in existing law. However, the bill also requires that emphasis be placed on the requirement that facilities be in compliance with occupational health and safety regulations and with the provisions of the Architectural Barriers Act. The Committee heard repeated testimony during hearings on this legislation that many of the rehabilitation facilities do not meet minimum standards for safety of the individuals to whom they are providing training or evaluation services. In order to meet this concern, the Committee has directed the Secretary to prescribe regulations which bring these facilities into compliance with the Architectural Barriers Act and with occupational health and safety standards prescribed by the Secretary of Labor.

TITLE IV. ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Title IV combines provisions of existing law in the Vocational Rehabilitation Act relating to Secretarial responsibilities for administration and evaluation, and includes, with changes and additions, the following: Section 7, relating to administration; section 8, promotion of employment opportunities; section 9, submission of reports; section 10, appropriations for administration; and section 13(c), provision of technical assistance and consultants. In addition, title IV of the bill contains new provisions relating to secretarial duties for carrying out program and project evaluation, and directs the Secretary to undertake a comprehensive study of sheltered workshops (and wage payments).

Specifically, the title contains provisions for Secretarial administration, including authority for technical assistance to the States, short-term training and instruction, dissemination of information, the making of rules, regulations and delegation of powers, and the conduct of studies and obtaining information from Federal agencies. In addition, however, the Committee is concerned that little coordination and cooperation exists between the Department of Health, Education, and Welfare and the Veterans' Administration with regard to comparable programs for rehabilitation. While the Committee recognizes that responsibility for such coordination rests on both administrators, the Committee directs the Secretary to ensure that maximum coordination and consultation takes place with the VA at the national and local levels with respect to rehabilitations services and related programs for disabled veterans.

Program and project evaluation

The Committee bill contains new provisions relating to program and project evaluation which the Committee believes are necessary to help determine program effectiveness. The Committee directs the Secretary to evaluate all programs authorized by this Act to determine their effectiveness in achieving stated goals.

The Committee finds it necessary to question the effectiveness of the vocational rehabilitation programs in meeting stated goals. Witness after witness during the hearings raised questions regarding the population that State agencies are serving, and whether the program was being as effective as it might be in delivering services to those handicapped individuals who are most in need of the program's assistance. Although the vocational rehabilitation program continues to serve a larger number of individuals in each fiscal year, questions which were raised made it necessary for the Committee to reiterate in the bill that the program should be serving only handicapped individuals whose handicap constitutes a *substantial* handicap to employment, and to provide special emphasis on serving those with the most severe handicaps. The Department produced figures which indicated that 25% of the caseload of the basic program were severely handicapped individuals; however, the Committee does not find that a 25 percentage is high enough, nor does it know whether all of the 25% cited by the Department are in fact persons with severe handicaps (particularly as that term is now defined in section 7(12) of the bill).

With regard to the review of the basic program, it is especially important that data collected from the States on the individualized written programs be fully utilized. Especially with regard to research, demonstrations, and related activities carried out under title III, the Committee directs the Secretary to reassess priorities for such activities on an annual basis and to review each project to determine whether and on what basis it should be continued, and to report to the Congress the results of the evaluation of research activities within 12 months after enactment, and on April 1st each year thereafter. Thus, a system of checks and balances is established with respect to research and training for which operational responsibility is assigned to the Secretary through the RSA Commissioner but priority assessment and redirection and project evaluation is left to the Secretary to carry out based on his agencywide overview.

The Secretary is also directed to develop and publish general standards for evaluation, against which he shall determine whether funds under the basic State grant program shall be denied a State submitting a State plan under the Act.

Weighted reporting and closures and annual report

Meetings have been held with officials of the General Accounting Office to discuss their findings regarding the administration of and services provided under the Vocational Rehabilitation Act in several States. Those findings indicated that not only was there reason to question the eligibility of some of the individuals being provided services under the program, but that many of the individuals served did not receive all of the services which would have benefited them. GAO findings also indicated that followup procedures were not consistent; and, for that reason, many individuals who were in fact rehabilitated and placed in employment lost that employment a short time after their cases were considered "closed". Tentative though these findings were, they do suggest that improvements are badly needed in the program.

The bill specifically directs the Secretary to develop appropriate reporting and evaluation procedures which will enable the Committee to evaluate how funds are used. The Committee would like to know what services individuals receive, the duration and cost of these services, and the time individuals spent with counselors.

The Committee wishes to stress, furthermore, that it believes that more detailed information is necessary on the closure system used by State agencies. Specifically, the Committee believes it is necessary to know more about the reasons for exclusion of individuals from the State program, and the reasons why individual cases are closed and individuals not rehabilitated.

Toward this end, the Committee bill requires the Secretary to submit an annual report to the Congress on the operation of the program, to be submitted not more than 120 days after the close of each fiscal year, and directs the Secretary in that report to distinguish among rehabilitation closures attributable to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop or rehabilitation facility, and employment as a homemaker or unpaid family worker, and to provide information on provision of vocational rehabilitation services to handicapped individuals with the most severe handicaps.

During the hearings over a year ago, the Administration witnesses reported that to set up a weighted closure system which would build in incentives for provision of services to individuals with the most severe handicaps would take approximately 18 months to develop—of which 14 months has already elapsed. The Committee expects the Secretary to continue the development of this system with the maximum possible speed, and to report to the Congress on the status of that system in each of his annual reports.

Given the fact that Federal and State resources for rehabilitation will be limited for the foreseeable future, thereby compelling choices to be made in terms of whom to serve, the Committee expects the Secretary and the RSA Commissioner to explore in depth and to develop appropriate measures to reach those who have the most severe physical and mental handicaps.

In line with this, the Committee would like to know more about the quality and quantity of services under the program to individuals with permanent handicapping conditions, particularly those with severe handicaps, such as paraplegia, hemiplegia, quadriplegia, cerebral palsy, psychosis, bilateral orthopedic conditions, deafness, blindness, and mental retardation. The Committee recognizes the longstanding concern of both State vocational rehabilitation agencies and RSA to develop reasonable measures for equating the degree of difficulty faced by the agency staff in serving and rehabilitating various kinds of disabled individuals, but feels that a new system of measuring and reporting should be developed and implemented as soon as possible.

The Committee, therefore, directs the Secretary (to be carried out through the Commissioner) in the development of regulations to implement the priorities expressed in this legislation, to place special emphasis on measurement systems which will aid in defining the characteristics of those handicapped individuals to be served. Such measures should take into account: (1) those conditions of existence which the specific disability imposes on the handicapped individual, and (2) the social and individual cost benefits which can reasonably be expected as a direct result of rehabilitation services. The latter condition shall not be construed as an attempt by this Committee to turn the rehabilitation program into a welfare program. Indeed, the Committee generally believes that the rehabilitation of welfare recipients should be funded with Social Security Act appropriations. However, the Committee also recognizes that, other conditions being similar, a handicapped individual from a welfare recipient family is likely to derive greater benefit from services under this Act than one from a wealthy family and that it is, therefore, appropriate to consider income as one of the many determinants of priority.

The Committee emphasizes that it has provided for a client assistance project program. The Committee expects this program to be implemented immediately and directs the Secretary to report on this project as soon as possible.

SECRETARIAL RESPONSIBILITIES (SECTION 405)

Title VI of S. 7 which was vetoed established an Office for the Handicapped in the Office of the Secretary of the Department of Health, Education and Welfare. Rather than establish this office, under the agreement with the Administration the Committee bill assigns such functions to the Secretary of Health, Education, and Welfare to be carried out within his office, or in an Office for the Handicapped which he establishes in the office of an appropriate Assistant Secretary of the Department. It should be made clear, however, that this change was agreed to on the basis of strong assurances by the Secretary to the Committee that he would carry out all of the functions and purposes of the Office contained in S.7.

The Committee bill further directs the Secretary to set aside out of sums available to carry out section 405 or available pursuant to any other Act, an amount he determines is necessary to carry out the provisions of section 405 and to notify the appropriate Committees of the Congress of the amount so set aside, the number of personnel necessary, and the basis for this determination.

Under this new section the Secretary is directed to prepare, with the assistance and in consultation with agencies of the Department and other departments and agencies, handicapped individuals and public and private agencies and organizations, a long-range projection for the provision of comprehensive services to handicapped individuals, with the understanding that such projection shall relate individual agency plans to one another in order to provide maximum effectiveness, sensitivity and continuity in the provision of services to handicapped individuals. It should be clear that this long-range projection for services shall represent the intended direction of the Department in providing services to handicapped individuals, and shall include a plan for implementation, including the costs of such plan. The Committee, however, does not intend that this projection shall be implemented without the opportunity for Congressional review and enactment of any necessary authorizing legislation.

The Secretary is further directed to analyze program operation to determine progress toward meeting the goals set forth in such projection, the effectiveness of all programs providing services to handicapped individuals, and progress toward elimination of unnecessary duplication and overlap in programs under his jurisdiction; provide assistance to advisory committees and programs which serve agencies having responsibilities for programs for the handicapped; take steps to assure the prompt utilization of engineering and other research which will aid handicapped individuals; and evaluate existing information systems in order to develop a coordinated system of information retrieval and dissemination to the public.

The Committee wishes to make clear its intent that the individual and necessary supporting staff carrying out these responsibilities in the office of the Secretary are to have coordinating functions and shall act as an advisor to the Secretary on the needs of handicapped individuals, and to the many programs within the Department which provide services to such individuals. The Committee has, therefore, agreed that such individual and necessary supporting staff shall be assigned to and operate in the Office of the Secretary so that they may perform this advisory function, and so that they will have access to information about all programs run within the Department which affect handicapped individuals. The Committee does not intend, however, that any operating program shall report to or through such individual and support staff to the Secretary.

The Committee has identified a number of functions that it believes are essential to the coordination of services and priorities. The first is the preparation of a long-range projection for provision of services, research, training and evaluation. Recognizing that the needs of different disability groups are vast and that the functions of the many programs in the Department diverse, the Committee believes that the identification of priorities and the relating of individual programs to these priorities are essential to avoid a scattershot of emphases which may result in far less than the services needed. The Committee believes that by concentrating on a number of goals and focusing an all out effort toward meeting these goals the Department will be better able to meet the needs of handicapped individuals.

The Committee is aware that the President, the Secretary of Health, Education and Welfare, the Commissioner of Education and the RSA Commissioner have recently proposed a series of goals for handicapped individuals. The Committee is encouraged by these actions, and believes that these ends will be met much sooner with the assistance of an individual and necessary supporting staff in the office of the Secretary with coordinating functions. The Committee does not expect this projection to take the place of program innovation and new legislation. Rather, this plan is intended to be a working document, and a guideline by which programs can measure their effectiveness. The Committee further believes that focusing on the broad needs of handicapped individuals will make very clear where new program initiative is needed, and will, in fact, stimulate new legislative proposals.

The Committee bill further directs the Secretary to analyze program operation to evaluate progress toward meeting the goals of the projection. The Committee believes that this analysis is necessary to the Secretary and to the Congress, for it believes that many individual programs within the Department are not always aware of similar programs and projects being undertaken by other agencies. The Committee wishes to make very clear, however, that it expects no program consolidation to take place as a result of this analysis and review. One fear that was raised during hearings on this legislation was that the creation of a new Office would result in program consolidation across disability group and functional responsibilities, thus resulting in a lack of sensitivity and consideration given to the different problems of disability groups. The Committee emphasizes that is not its intent.

The Committee expects that the coordinating authority of this title will provide a central location within the Department for developing and providing information and assistance to programs for handicapped individuals. The Committee believes that an important function will be performed if there is a single individual within the Office of the Secretary who is aware of all programs for handicapped individuals in the Department, and is able to lead individuals in one agency working on a particular problem to other individuals in other agencies who are similarly interested. The Committee also is aware that many programs deliver services to the same individual although it may be at different times, for different services. The Committee believes that there are too many junctures and too many problems which confront an individual with a handicap which may result in that individual falling through the cracks of different service systems. The Committee emphasizes that it is important, especially early in life, that these services be available as a continuum, and be delivered in such a way that is sensitive to all of the disparate problems which may afflict that handicapped individual. Therefore, the Committee has mandated the coordinated and cooperative planning of services and service delivery.

The Committee has also directed the Secretary to evaluate all existing information and data systems which provide information to, for and about handicapped individuals, and to develop a comprehensive system of information and data retrieval and dissemination. The Committee has been distressed to discover how little information is available, and is most concerned that no definitive information exists about, the number of Americans with handicaps, the extent of their handicaps, and the services they are receiving. Estimates of this population vary widely and have to be compiled from separate agencies and programs if they are to be obtained at all.

The Committee found during the hearings on the Vocational Rehabilitation Act in the 92d Congress, that although needs could be expressed for various disability groups, no one knew with any degree of certainty what the size of the population was that they were representing. The Committee believes that this information is essential to program and service needs, and therefore, the Committee expects this study to be undertaken as soon as possible in coordination with RSA activities under the new State plan requirements in title I of the bill.

The Committee is aware of over one hundred programs within the Federal Government which provide services to handicapped individuals, and more than 50 programs in the Department of Health, Education, and Welfare, itself. The Committee expects these new statutory responsibilities to create and advocate for the handicapped with respect to the programs within the Department, who will relate these programs also to other programs which are administered by the Department of Housing and Urban Development, the Veterans' Administration, and other Federal agencies. Because the Committee believes that handicapped individuals themselves are often their own best advocates, the Committee has directed the Secretary in selecting all personnel to carry out these responsibilities to give special emphasis to the hiring of handicapped individuals.

The Committee strongly believes that coordination across programs has become essential and therefore expects the Secretary to provide for these essential functions, and hire personnel to carry them out, as soon as possible.

The Committee has been concerned that changing priorities within the Department quite often means a dilution of services for handicapped individuals. The Committee points out that it has been faced with one of two strategies in trying to ensure that handicapped indiviudals are served by Federal programs: it has had either to earmark money within a program for the handicapped, or to provided separate authority for a program for handicapped individuals. The Committee need only point out the difficulty it has had in trying to ensure that programs run under the Office of Child Development specifically Head Start, serve handicapped children. After much effort was expended in trying to achieve this without legislation, the Committee in the 92d Congress had to include legislative language directing the Secretary to ensure that at least 10% of all enrollment opportunities in the Head Start program are available for handicapped children. The Committee emphasizes that this is only one example.

In addition, there are programs administered by different agencies which could benefit from coordination because they deliver the same or similar services to individuals. Rather than providing the focus on comprehensive needs of handicapped individuals, lack of coordination has led to a diversity of purpose and a failure to provide services to as many individuals as possible.

The Committee believes that it is time for all programs to examine their priorities and to develop coordinated approaches so that individuals to whom services are delivered receive the full benefit of all programs, and do not have to expend the effort themselves to coordinate all of the services that are available to them. There are obvious areas in program planning where needs could be met jointly, and where coordination and joint funding could help effect a comprehensive services system which would reduce uncertainty in the field and create new models for service systems to solve severe gaps in service.

The Committee has been concerned that insufficient utilization is made of the results of scientific, medical and technological research which could alleviate the effects of handicapping conditions. It has, therefore, directed the Secretary to develop methods to ensure more prompt use of such research and technology. The Committee expects the Secretary to explore alternate methods of provision of this technology to handicapped individuals, and to look into all related problems. The Committee believes that many new devices and techniques have been developed which could ease the lives of handicapped individuals, and that the Federal Government must find a way to ensure that handicapped individuals have access at minimal cost to these devices.

Sheltered workshop study

The reported bill directs the Secretary to undertake an original comprehensive study of the role of sheltered workshops in the rehabilitation and employment of handicapped individuals, including a study of wage payments in such workshops. Witnesses reported that workshops provide training programs for handicapped individuals as it suits them, that training porgrams for handicapped individuals were often interrupted whenever the workshop obtained a new contract for that workshop and often acted as a holding ground for individuals with severe handicaps who were "dumped" at the end of 18 months when their VR funding expired, and that the best workers were retained, without attempts being made to place them.

The Committee did not believe it could act on allegations, denied by other witnesses, and generally felt constrained by a lack of good information on the functioning of workshops. It has, therefore, directed the Secretary to undertake a comprehensive study of workshops, and has subsequently acted on a resolution which details criteria for this study.

The Committee stresses that this study must be comprehensive, and has formulated a series of questions relating to the role of workshops, the number of individuals employed in workshops, the amount of funding provided to workshops under this Act and the Vocational Rehabilitation Act, and the relationship between workshops and other programs for handicapped individuals and programs for vocational training. The Committee includes the following questions which it believes should be covered in the study:

1. What should be the role of sheltered workshops or rehabilitation facilities?

2. How many sheltered employment settings (workshops, rehabilitation facilities, work-activity centers, etc.) are now in existence? How many handicapped individuals do they employ?

3. What standards are used by vocational rehabilitation agencies to determine that a sheltered workshop is the most suitable in the community or State for training or employing a handicapped individual?

4. How many handicapped individuals are placed in workshops by State vocational rehabilitation agencies for training and evaluation? How many handicapped individuals are placed in sheltered workshops for extended evaluation?

5. How many handicapped individuals are in extended or terminal employment in sheltered workshops? What is the nature and degree of their disability?

6. What methods are utilized to determine wages for handicapped individuals in workshops?

7. How often do officials of the Wage and Hour and Public Contracts Division of the Department of Labor inspect sheltered workshops and work-activity centers to determine violations of minimum wage laws? How often do officials of the Department of Health, Education, and Welfare and officials of State agencies inspect sheltered workshops?

8. What fringe benefits are provided to handicapped individuals in extended or terminal employment in the sheltered workshops, such as unemployment compensation, health care, and retirement plans to which other non-handicapped workshop employees are entitled?

The Committee believes it is important that this study be as comprehensive and as objective as possible, and, therefore, directs that no individual or interest group with a financial or other direct interest in workshops may be awarded a contract to undertake this study. The Committee wishes to make clear that this prohibition includes groups which have waged considerable criticism against the role of workshops as well as individuals and groups which are involved in the running and operation of workshops.

Finally, the Committee expects that a substantial proportion of title IV appropriations will be used for this study. The full text of the Resolution of the Senate Committee on Labor and Public Welfare, adopted September 22, 1972, appears in the statement of managers of the Conference Report on H.R. 8395 (92nd Congress), which has been made a part of the hearing record on S. 7, and which resolution is reflective as the position of the Managers on the part of the House as well. The Committee strongly reaffirms the content of this resolution.

TITLE V. MISCELLANEOUS

Repeal of prior law

Under this title, the existing Vocational Rehabilitation Act (29 U.S.C. 31–42) is repealed ninety days after the date of enactment of this Act and any unexpended sums under that statute may be used under this Act as directed by the President. Activities which are ongoing at that time shall be recognized under comparable authority in the new Act.

Federal Interagency Committee on Handicapped Employees

The Committee bill creates a Federal Interagency Committee on Handicapped Employees, comprised of the Chairman of the Civil Service Commission (CSC), the Administrator of Veterans' Affairs, and the Secretaries of Labor and Health, Education and Welfare, with the CSC Chairman and the Secretary of Health, Education and Welfare serving as co-chairman of the Committee. The Interagency Committee is directed to review on a periodic basis the adequacy of hiring, placement and advancement practices with respect to handicapped individuals, and to make recommendations to the Civil Service Commission with regard to necessary administrative and legislative changes. Furthermore, the Committee has required each department, agency and instrumentality (including the Postal Service and Postal Rate Commission) of the executive branch to submit to the CSC within 180 days of enactment of this Act, an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals, for approval by the Commission if such plan is determined by the CSC, in consultation with the Interagency Committee, to provide sufficient assurances, procedures, and commitments for adequate hiring, placement, and advancement opportunities for handicapped individuals.

The Civil Service Commission is also charged with developing, after consultation with the Interagency Committee, policies and procedures which will facilitate the hiring, placement, and advancement of individuals who have received vocational rehabilitation services and other handicapped individuals within appropriate State agencies.

The Committee bill requires a report on all such activities authorized under this section on June 30, 1974, and at the end of each subsequent fiscal year, to be completed by the CSC in consultation with the Interagency Committee.

Hearings in the 92nd Congress on vocational rehabilitation pointed out that despite the Civil Service Commission's experience and actions in this area, Federal employment policies with regard to handicapped individuals continued to be found wanting. The Committee emphasizes that the Federal Government must be an equal opportunity employer, and that this equal opportunity must apply fully to handicapped individuals. The Committee, therefore, expects the CSC to ensure that there is no discrimination in employment for handicapped individuals within the Federal Government, and to take all necessary steps to ensure that the special needs of handicapped individuals are met.

Architectural and transportation barriers compliance board

The Committee is aware through testimony on this legislation, not only of strong attitudinal barriers, but also enormous physical barriers to the mobility of the handicapped individual. The Committee strongly believes that a new Federal board is necessary to insure compliance with the present Federal statutes regarding architectural barriers since compliance has been very spotty and there is no such comparable compliance unit in existence at this time. Such a unit will enhance the effectiveness of the other provisions of the bill since even were the maximum employment opportunities for the handicapped fully created, they could not be filled without the ability of handicapped individuals to get their jobs. Barrier-free design in Federal buildings and in Federally-assisted projects is mandated in present law, but has never been adequately enforced. The Committee feels that to justify the expenditures authorized under this bill it is imperative that handicapped individuals be given the opportunity to move freely in the society into which they must integrate themselves. The Committee believes this Board can serve to accomplish this.

In connection with this provision, the Committee is aware that the obligation to eliminate architectural barriers to handicapped individuals' access to Federal buildings weighs even heavier upon the Congress in the control of its own buildings. If we are to require assurances that all Federally controlled or assisted facilities be fully accessible to handicapped persons, we must perforce put our own house in order. The Capitol Hill complex should stand as a model of accessibility.

It is for this reason that by unanimous agreement of the Subcommittee on the Handicapped, Subcommittee Chairman Jennings Randolph wrote the Architect of the Capitol urging him to undertake, as soon as possible, "remedial action through which the Capitol, the Senate Office Buildings, and the House Office Buildings, may be improved for the purpose of providing full access for handicapped individuals to all areas of such buildings." The Subcommittee met on February 21 with the Architect to follow up on this letter and to devise a procedure for implementing this goal on a short-term and longer-term basis. The Committee notes that subsequent meetings have taken place with the Architect and that the Committee is pleased with the progress to date. Through these efforts, the entrance to the New Building at First and C Sts., N.E., have been made accessible, and the Architect has engaged the services of an architect especially knowledgeable in this area. With the Architect's cooperation, the Committee intends to continue to pursue this matter to a satisfactory conclusion.

Employment under Federal contracts and nondiscrimination under Federal grants

Also included in this title is a provision to ensure any qualified handicapped individual shall be given full and fair consideration for employment by any contractor who seeks to contract with the Federal Government. Exempted are contracts involving less than $2,500 because of the administrative difficulties associated with contracts involving less than that amount. Committee bill requires the President to issue regulations ninety days after enactment of this bill to insure that there is an affirmative action plan implemented to this effect. The bill further provides that a handicapped individual who has a discrimination complaint against a Federal contractor may file a complaint with the Department of Labor.

The bill further includes a provision proclaiming a policy of nondiscrimination against otherwise qualified handicapped individuals with respect to participation in or access to any program which is in receipt of Federal financial assistance.

COST ESTIMATE PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (P.L. 91-510), the Committee estimates that if all funds authorized were appropriated during fiscal year 1974 and the succeeding fiscal year, the five-year costs occasioned by S. 1875, as reported, would be as follows:

TABLE II.—S. 1875: REHABILITATION ACT OF 1972 (AS REPORTED) AUTHORIZATIONS OF APPROPRIATIONS

[Millions of dollars]

	Fiscal year—				
	1973	1974	1975	1976	1977
Title I, vocational rehabilitation services:					
Pt. B, basic services	*590	*610	*640	-----------	
Pt. C, innovation and expansion grants and pt. D, comprehensive service needs	[1] *35.86	[1] *37	[1] *39	-----------	
Title II, Research and training:					
Research (sec. 202)	*20.346	*25	*25	-----------	
Training (sec. 203)	*27.7	*27.7	*27.7	-----------	
Title III, special Federal responsibilities:					
Grants for construction (sec. 301)	*.55	*.5	*.5	-----------	
Vocational training for handicapped individuals (sec. 302)	*10.3	*10.3	*12	-----------	
Special project and demonstration (sec. 303)	[2] *12.2	[2] *15	[2] *17	-----------	
National center for deaf-blind individuals (sec. 304)	([3])	([3])	([3])	-----------	
Title IV, Administrative and progress and project evaluation	[4] 1	[4] 1	[4] 1	-----------	
Secretarial responsibilities (sec. 405)	†	.5	.5	-----------	
Title V, Miscellaneous:					
Arch. and trpn. barriers compliance board (sec. 502)	†	1.25	1.5	-----------	
Total	698.556	728.85	764.20	-----------	
Grand total		2,191.606			

[1] Includes $1,000,000 set aside for pt. D study.

[2] For fiscal year 1973, $500,000–$1,500,000 set aside for client assistance projects (sec. 112); for fiscal year 1974–75 $1,000,000–$2,500,000 set aside for client assistance projects; also 10 percent set aside for migrants projects (sec. 303(c)) with authorization to appropriate additional funds up to $500,000,000.

[3] $1,200,000 for fiscal year 1973–75 (no single year authorization).

[4] ½ percent appropriations for titles I–III, or $1,000,000, whichever is greater.

†Such sums.

*Authorization amount plus such sums.

TABLE III.—*Vocational Rehabilitation Act*

[Authorizations in current law—fiscal year 1972]

Vocational rehabilitation services	$700,000,000
Innovation project grants	10,000,000
Research, demonstrations, training, and expansion	140,000,000
Construction and staffing	30,000,000
Rehabilitation facility improvement	30,000,000
Vocational evaluation and work adjustment	100,000,000
National Center for Deaf-Blind	([1])
Migratory agricultural worker grants	([1])
Total	1,010,000,000

[1] No authorization provided in law.

SECTION-BY-SECTION ANALYSIS

Section 1

The first section designates the bill and its table of contents as the "Rehabilitation Act of 1972". The retention (from S. 7 and H.R. 8395 of the 92nd Congress) of the "1972" was intended, at the time S. 1875 was ordered reported, to activate the availability of the full $610 million appropriated for carrying out the "Rehabilitation Act of 1972" in the (First) Supplemental Appropriations Act, 1973 (P.L. 92-607). See the discussion of section 505 at the end of this Section-by-Section Analysis.

Section 2

This section describes the purposes of the Rehabilitation Act of 1972 by delineating in general terms the goals of most of its provisions, including the provision of vocational rehabilitation services to handicapped individuals, providing special emphasis to those with the most severe handicaps, evaluation of rehabilitation potential, construction of facilities, research and training, innovation and expansion of services, and studies of various areas of need, including how best to provide services to those for whom a vocational goal is not feasible, alternatives to the basic State grant allotment formula, and the elimination of architectural and transportation barriers.

Section 3

(a) This subsection establishes in the Department of Health, Education, and Welfare a Rehabilitation Services Administration headed by a Commissioner appointed by the President. The Administration is to be the principal agency for carrying out the Act, except with respect to titles IV and V. Delegations of the Commissioner's responsibilities to others is prohibited unless accompanied by a plan submitted to, and not disapproved within 60 days by, the Congress. The Secretary is further required to consult with the Senate Committee on Labor and Public Welfare and the House Committee on Education and Labor concerning such plan within 30 days after its submission.

(b) This subsection requires the Secretary, through the Commissioner, to establish competence for, and development, support, and stimulation of, production and distribution and utilization of new technology, new devices, and innovative methods of solving rehabilitation problems; and requires that the Secretary, again through the Commissioner, be responsible for carrying out research activities under section 202(b)(2).

(c) This subsection requires the Secretary to take any steps necessary to assure that funds appropriated under this Act or the Vocational Rehabilitation Act are expended only for programs, personnel, and administration under this Act.

Section 4

Authority for forward funding is provided in this section so that funds may be appropriated one year prior to the fiscal year to which they apply and for which they are to be obligated. The section permits, for the purpose of transition to the forward-funding concept, appropriations in the first year for both that year and the next succeeding fiscal year. Thus, for example, appropriations may be enacted during this fiscal year for both year 1973 and 1974.

Section 5

This section provides that where more than one Federal agency provides funds for a single project to an agency or organization assisted under this Act, the President may, pursuant to regulations consistent with the provisions of this Act, designate as the single agency to administer such funds the agency which is providing the principal share of the funds. A single non-Federal share requirement may be established, and if RSA is the principal agency, it may waive grant or contract requirements governing the other agency which are inconsistent with those under this Act.

Section 6

This section authorizes States to submit a consolidated rehabilitation plan which includes its developmental disabilities program, provided that the agency administering such program in the State concurs and that the consolidated plan meets all requirements under this Act and the Developmental Disabilities Services and Facilities Construction Amendments of 1970. This Secretary may approve such a plan or he may advise that separate plans be submitted.

SECTION 7

Section 7

This section provides the definition applicable to all the operative provisions of the Act.

(1) "Construction" means construction of new buildings, acquisition, expansion, remodeling or alteration of existing buildings, and provision of initial equipment. The cost of such construction includes architects' fees and land acquisition.

(2) "Criminal act" is a crime posing a substantial threat of personal injury, regardless of the legal capability of the perpetrator to commit a crime.

(3) "Establishment of a rehabilitation facility" means acquisition, equipment, or improvement of existing buildings to adapt them to rehabilitation purposes subject to regulations of the Secretary to prevent duplication or impairment of other Federal laws assisting such facilities. The term may also include initial staffing.

(4) "Evaluation of rehabilitation potential" is a term which includes the various diagnostic studies and services utilized to ascertain the services and goals needed for appropriate and complete rehabilitation of handicapped individuals, and includes extended evaluation for periods up to 18 months with reassessment at least once in every ninety-day period.

(5) "Federal share" means 80 per centum, except that for part C of title I it means 90 per centum and for construction grants it is determined in accordance with section 301(b)(3).

(6) "Handicapped individual" means one whose physical or mental disability constitutes for such individual a substantial handicap to employment, and who can be expected to benefit in terms of employability from vocational rehabilitation services provided under title I or title II.

(7) "Local agency" means a local government or Indian tribal agency which, under

agreement with and supervision by a State agency, conducts a vocational rehabilitation program.

(8) "Nonprofit" means, as related to rehabilitation facility, a facility which is exempt from payment of Federal income taxes.

(9) "Public safety officer" means a Federal, State or local official whose activity relates to enforcement of laws, a correctional program or facility or a court where the activity is potentially dangerous, or fire fighting or rescue.

(10) "Rehabilitation facility" means one whose primary purposes are to provide vocational rehabilitation services, and which provides one or more such services. The definition includes a list of services which are provided by such facilities, including speech and hearing therapy (which shall be construed to include appropriate speech and hearing testing and diagnosis).

(11) "Secretary," except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) "Severe handicap" is a disability requiring multiple services over extended time, resulting from one or more of a number of handicapping conditions such as amputation, blindness, spinal cord injury, deafness and others.

(13) "State" includes all U.S. possessions and territories, the District of Columbia, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

(14) "Vocational rehabilitation services" means the services identified in section 103 provided under this Act.

Section 8

This section specifies the "allotment percentage" used in the formula for allocation of funds to States under the Act, requires the Secretary to update such percentages every two years, and specifies how the population of States and of the United States shall be determined.

Section 9

This provision requires grant recipients to keep such records as the Secretary may prescribe, including amounts and disposition of funds received, and other records to facilitate an effective audit. The section authorizes access by the Secretary and Comptroller General to any books or records pertaining to such grants.

Section 10

This section requires that expenditures under a State plan financed by other Federal funds and any non-Federal funds shall be disregarded in determining the amount of a State's Federal share. Duplication of payment through different provisions of this Act is prohibited.

TITLE I—VOCATIONAL REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

Section 100

This section sets forth the purpose of title I and authorizes appropriations for grants. Part B funds for vocational rehabilitation services are authorized at levels of $590,000,000 for FY 1973; $610,000,000 for FY 1974; and $640,000,000 for FY 1975; plus such additional sums as the Congress may determine are necessary for each such year. For part C (innovation and expansion grants) and part D (study of comprehensive service needs of those with the most severe handicaps) there is authorized to be appropriated $35,860,000 for FY 1973; $37,000,000 for FY 1974; and $39,000,000 for FY 1975; plus such additional sums as the Congress may determine to be necessary for each such year. Of sums appropriated, $1,000,000 shall be available only for purposes of the part D study.

Section 101

(a) This subsection details the requirements to be met by the States in developing State plans for the provision of rehabilitation services under title I. Approval of such annual plan by the Secretary is required prior to the release to a State of funds under the Act.

(1)(A) A single State agency must be designated to administer the plan, except that, if there is a State agency for the blind, that part of the plan relating to the blind may be administered by such agency for the blind. The Secretary may waive the sole agency requirement where a State wishes to carry out a joint program with another State or local agency.

(1)(B) The single State agency must be primarily concerned with vocational rehabilitation or handicapped individuals, or with education or vocational education, or be an agency which includes at least two other major units which administer education, health, welfare, or labor programs in the State.

(2) The State agency must conform to certain organizational and staffing requirements under this provision.

(3) The plan must provide for the required financial participation by the State, and, if it elects, political subdivisions.

(4) The plan must be in effect in all political subdivisions, which requirement the Secretary may waive under certain conditions.

(5)(A) The plan must detail the plans, policies, and methods to be used in administering and carrying out the provision of vocational rehabilitation services, including a description of the method to be used to expand and improve services to those with the most severe handicaps; and where services cannot be provided to all who are eligible, show the order of selection and their outcomes and service goals, which method of selection shall provide special emphasis to individuals with the most severe handicaps.

(5)(B) Satisfactory assurances must be provided that the State has considered a variety of means of providing services to those with the most severe handicaps.

(6) The plan must provide for approved methods of administration.

(7) The plan must set forth personnel standards, consistent with State licensure laws, including minimum standards governing rehabilitation facilities and personnel.

(8) The plan must assure that the State will provide the vocational rehabilitation services identified in section 103(a)(1) through (3), and provide the remainder of such services after full consideration of eligibility for such services under other programs, except that such consideration of alternatives need not be given for services under clauses (4) and (5) where such consideration would delay provision of such services.

(9) The State plan must provide that an individualized written rehabilitation plan will be developed for each individual served, that services will be provided pursuant thereto and, that records of ineligible applicants be kept which give the reasons for ineligibility.

(10) The State agency is required to make such reports on a timely basis as the Secretary may reasonably require, including estimates of the handicapped population within the State, numbers to be served, outcomes and goals for each priority category, and service costs.

(11) The State plan must provide for entering into cooperative arrangements, involving services and facilities, with State agencies administering public assistance, veterans, manpower, and employment, and other related programs, with comparable Federal agencies, and with other Federal, State, and local public agencies.

(12) The plan must require maximum utilization of public or other vocational or technical training facilities and resources in the community for the provision of services.

(13)(A) The plan must assure that any civil employee of the United States may have access to services on the same basis as any other handicapped individual.

(13)(B) This provision requires that special consideration be given to rehabilitation of public safety officers handicapped in the line of duty because of a criminal act or hazardous condition.

(14) The plan must prohibit the imposition of any residency requirement excluding services to any individual present in the State.

(15) The plan must provide for continuing statewide studies of the needs of handicapped individuals and the means of meeting such needs, including the needs of all significant segments of the handicapped population and expanding services to those with the most severe handicaps.

(16) The plan must provide for periodic review and reevaluation of the status of handicapped individuals in extended employment in workshops and other rehabilitation facilities so that such individuals may, where appropriate, be employed or trained for employment in the competitive labor market.

(17) The plan must provide that the Federal share of the cost of construction of rehabilitation facilities shall not exceed an amount equal to 10 per centum of the total allotment to the State in any year, that contract requirement the provisions of section 305 shall apply, and that the State will maintain its efforts to provide such services and not reduce them because of construction.

(18) The plan must assure that the views of recipients, and of workers in, and providers of, vocational rehabilitation services are taken into account by the State and local agencies in administering the plan.

(19) The plan must assure that the studies required by clause (15) and an annual evaluation of the program will form the basis for amendments to the State plan.

101(b) This subsection requires the Secretary to approve any plan which meets the requirements of subsection (a), and to disapprove plans which do not meet such requirements. The Secretary is to give notice and opportunity for hearing where he intends to disapprove a plan.

(c) This subsection directs the Secretary, after notice and hearing, to discontinue, reduce, or partially suspend payments to a State under this title in the event that any of the requirements of subsection (a) are not being met.

(d) This subsection provides that States may obtain judicial review of any action taken by the Secretary under subsections (b) or (c).

Section 102

(a) This subsection requires the Secretary to insure that the individualized written rehabilitation program required under section 101(a)(9) is jointly developed by the vocational rehabilitation counselor or coordinator and the handicapped individual.

(b) Such program shall be reviewed annually, and shall include a statement of goals and other requirements. The individual shall be afforded an opportunity to review his program annually and renegotiate its terms. Contents of such programs are specified in this subsection.

(c) Subsection (c) requires the written program to emphasize a vocational goal or objective for the individual, and where it is determined that no such goal can be met, safeguards are required to insure that such a determination is absolutely necessary. Such a determination must be reviewed at least once each year.

Section 103

This section lists the vocational rehabilitation services which are provided under title I. Such services include the following: evaluation of rehabilitation potential; individualized rehabilitation written programs;

counseling, guidance, referral, and placement services; training services including personal and vocational adjustment and family services (but higher education may not be provided unless maximum efforts have been made to obtain other assistance); physical and mental restoration services (including a list of such services); maintenance during rehabilitation; interpreter services and reader services; recruitment and training services in public service fields; teaching, orientation, and mobility services for the blind; trade necessities; transportation; and telecommunications, sensory, and other technological aids and devices. When provided to groups of individuals, such services also may include management services, equipment, and initial supplies, and construction or establishment of rehabilitation facilities.

Section 104

This section requires the inclusion of amounts of private contributions as part of the non-Federal share in determining amounts of payments to States under part B of title I.

PART B—BASIC VOCATIONAL REHABILITATION SERVICES

Section 110

(a) This subsection provides the allotment formula for allocation of funds to the States for title I services. The formula is determined by multiplying the population of a State by the square of its allotment percentage and placing the result in ratio to all other States. Adjustments are to be made for any State including the District of Columbia and Puerto Rico allotted less than ¼ of 1 percentum, or $2,000,000, whichever is greater. The formula is identical to that contained in the existing Vocational Rehabilitation Act, except for the provision that the allotment formula shall be based on amounts appropriated (rather than authorized to be appropriated as in present law), for a raise in the minimum from $1 to $2 million, and for the applicability of the minimum to Puerto Rico. The subsection further provides that in the event that application of the $2 million minimum would result in any State receiving less than it received in FY 1973, the minimum amount shall remain $1 million.

(b) The Secretary may transfer funds not used by one State to one or more other States. Such additional sums reallotted to a State are deemed to be an increase in such State's allotment for that year. Reallotment is to be made only after notice to the losing State and an opportunity to submit comments to the Secretary.

Section 111

This section requires the Secretary to pay grants under title I to States with approved plans, limited in amount to allotment under section 110(a). Payments shall be reduced where non-Federal funds expended are below those in fiscal year 1972. The section outlines the means by which payment estimates are to be made by the Secretary, and requires quarterly adjustments to such payments.

Section 112

(a) This subsection requires the Secretary to set aside from special project funds under section 303 not less than $500,000 nor more than $1.5 million for fiscal year 1973, and up to $2.5 million but no less than $1 million each for fiscal years 1974 and 1975, to establish between 10 and 20 geographically dispersed client assistance pilot projects.

(b) This subsection requires the Secretary to promulgate regulations which include (1) project employees may not be staff, consultant, or beneficiaries of any rehabilitation program, (2) staff shall have reasonable access to policy-making personnel in State and local programs, (3) projects will submit annual reports through the State agency to the Secretary, (4) State agencies may secure graduate students in clinical training for such projects, but no funds under this Act may be used to compensate such students, (5) the State agency shall assure that clients may avail themselves of project services without pressure or discouragement, and (6) the project is to be controlled by the State agency.

PART C—INNOVATION AND EXPANSION GRANTS

Section 120

(a) This subsection establishes State allotments on the basis of population, with a minimum allotment to any State of $50,000. The Secretary shall pay a portion of the cost of planning, preparing for and initiating programs for services to handicapped individuals, particularly those with the most severe handicaps, and to classes of handicapped individuals with unusual and difficult problems of rehabilitation, particularly those who are poor. Grants to be used for direct services or for establishing facilities must be approved by the State agency administering the plan.

(b) This subsection provides that the Secretary may transfer unused funds from one State to another State or other States, the additional funds so transferred shall increase such State's allotment for that year.

Section 121

(a) This subsection directs the Secretary to pay to each State, or to another designated agency, a portion of the cost of planning, preparing for, and initiating programs to expand services to handicapped individuals, including those with the most severe handicaps, and to those with unusual and difficult rehabilitation problems, especially handicapped individuals who are poor. The Secretary has the right to approve projects representing up to 50 per centum of a State's allotment. Payments may be made for three years. The Secretary may require that no more than 50 per centum of a State's allotment under this section shall be expended for projects approved by him, the remainder to be expended in accordance with priorities established by the State consistent with the provisions of this section.

(b) This subsection provides that payments of such grants may be made for up to three years for any project, and the Federal share may not exceed 90 per centum.

(c) This subsection permits payments by advancement or reimbursement.

PART D—COMPREHENSIVE SERVICE NEEDS

Section 130

(a) This subsection requires the Secretary to conduct a study, which may include research and demonstration projects, on the feasibility of methods of (1) preparing individuals with the most severe handicaps to enter programs under the Act and (2) assisting such individuals in improving their ability to live independently or function normally in family and community.

(b) This subsection requires the Secretary to report to Congress and the President concerning the study by January 1, 1975.

TITLE II—RESEARCH AND TRAINING

Section 200

This section declares the purpose of this title: to authorize Federal assistance to States and agencies to plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and plan and conduct courses of training to increase the number of skilled rehabilitation personnel and to improve the existing skills of such personnel.

Section 201

(a)(1) This paragraph authorizes appropriations for research in the amount of $20,346,000 for FY 1973; $25,000,000 for FY 1974; and $25,000,000 for FY 1975; plus such additional sums as the Congress determines to be necessary for each such year. Of amounts appropriated, 15 per centum for FY 1973, 20 per centum for FY 1974, and 25 per centum for FY 1975 shall be available for carrying out section 202(b)(2).

(a)(2) This paragraph authorizes appropriations for training in the amount of $27,700,000 for each of the three fiscal years 1973, 1974, and 1975, plus such additional sums as the Congress determines to be necessary.

(b) This subsection provides that funds appropriated under this title shall remain available until expended.

Section 202

(a) This subsection authorizes the Secretary, through the Commissioner, to make grants to and contracts with States and other organizations to pay part of the cost of projects to plan and conduct research, demonstrations, and related activities to develop methods, procedures, and devices to provide vocational rehabilitation services to handicapped individuals. Such projects may include medical, scientific and other investigations into the nature of disability, methods of analyzing it, and restorative techniques, studies and analyses of factors affecting the rehabilitation of handicapped individuals, and special problems of homebound and institutionalized individuals, and related activities which hold promise of increasing knowledge and improving methods in rehabilitating handicapped individuals and individuals with the most severe handicaps.

(b) This subsection establishes, in addition to those in subsection (a), specialized research categories as follows:

(1) This paragraph authorizes grants to pay part or all of the costs of activities to establish and support Rehabilitation Research and Training Centers operated with institutions of higher education to coordinate and advance programs of research and training in rehabilitation.

(2) This paragraph authorizes grants for the establishment and support of Rehabilitation Engineering Research Centers to apply advanced technology and other knowledge in solving rehabilitation problems through research, including cooperative research with other organizations, designed to produce new knowledge, equipment and devices. The paragraph also provides for cooperation with State agencies in developing information exchange systems and coordination to promote utilization of engineering and other research.

(3) This paragraph authorizes a program for spinal injury research including support of projects under section 303(b). The purpose of such program is to insure dissemination of research findings among all spinal cord injury centers, provide encouragement and support for new approaches, and establish close working relationships with other organizations to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigators.

(4) This paragraph authorizes a program for international rehabilitation research, demonstration, and training to develop new knowledge in rehabilitating handicapped individuals. The program would establish cooperation with other nations in sharing and developing information in rehabilitaton, and initiate a program to exchange experts and technical assistance with other nations.

(c) This subsection applies the general provisions of section 305, unless the context indicates to the contrary; particularly applicable is the provision that funds used for direct services to handicapped individuals shall not be inconsistent with the State plan approved under section 101.

Section 203

(a) This subsection authorizes the Secretary, through the Commissioner, to pay part of the cost of training and related activities to increase the number and skills of trained rehabilitation personnel.

(b) This subsection provides that funds under this section will be utilized for projects in rehabilitation medicine, rehabilitation counseling, rehabilitation social work, phsyical therapy, occupational therapy, speech pathology and audiology, rehabilitation nursing, workshop and facility administration, prosthetics and orthotics, psychology, specialized personnel for deaf and blind persons, recreation for ill and handicapped individuals and other fields contributing to rehabilitation, including for homebound and institutionalized individuals and individuals with limited English speaking ability. The subsection limits education grants to not more than 4 years.

Section 204

This section requires the inclusion in the annual report to Congress under section 404 of a report with respect to research and training activities undertaken pursuant to this title, wtih emphasis on the direct contribution of such activities to the improvement of vocational rehabilitation services.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

Section 300

This section sets forth the purposes of title III by briefly describing each section therein.

Section 301

(a) This subsection authorizes appropriations for construction, planning, and initial staffing of rehabilitation facilities in the amounts of $550,000 for the fiscal year 1973, and $500,000 each for the fiscal years 1974 and 1975, plus such additional sums as Congress determines to be necessary for each such year. Amounts so appropriated shall remain available for expenditure until July 1, 1977.

(b) This subsection authorizes the Secretary to make construction grants to States and public and private nonprofit organizations. Approval is conditioned on conformity with the general provisions in section 305. The Federal share of the cost of construction is specified to be the same as that for rehabilitation facilities under section 645 of the Public Health Service Act. That Act provides, with respect to rehabilitation facilities, that the Federal share is an amount determined by the State agency, but not more than 66⅔ per centum, or the State's allotment percentage, whichever is lower, with a minimum of 50 per centum. An exception, under which the Federal share may be up to 90 per centum (which includes the Federal share described above plus an incentive per centum) is provided for projects which are determined by the Secretary to provide services primarily for persons in a rural or urban poverty area.

(c) This subsection authorizes the Secretary to make grants for the initial staffing of rehabilitation facilities constructed after enactment of this Act, in amounts not exceeding 75 per centum of professional or technical staffing costs in the first 15 months of operation, 60 per centum of such costs for the following year, 45 per centum of such costs for the second following year, and 30 per centum for the third following year.

(d) This subsection authorizes grants for planning rehabilitation facilities.

Section 302

(a) This subsection authorizes appropriations for grants to provide vocational training services to handicapped individuals in the amounts of $10,300,000 for FY 1973; $10,300,000 for FY 1974; and $12,000,000 for FY 1975; plus such additional sums as Congress determines to be necessary for each such year.

(b) This subsection authorizes the Secretary to pay up to 90 per centum of the cost of training services in rehabilitation facilities, to include occupational skill training, work evaluation and testing, provision of tools and equipment, job tryouts, and payment of weekly allowances. Allowances may not be paid to an individual for more than two years, and shall not exceed $30 per week plus $10 for each dependent, or $70, whichever is less. Grants may be made only if the project's purpose is to prepare the handicapped individual for gainful employment; if those to be trained are deemed suitable for such purpose by the State agency; if the full range of training services is available to all; and if the project meets other requirements the Secretary may prescribe.

(c) This subsection authorizes the Secretary to make grants to rehabilitation facilities to improve management effectiveness and other assistance to improve the operation of such facilities, but prohibits grants under this subsection being used for construction.

Section 303

(a) This subsection authorizes appropriations for special projects and demonstrations (and research and evaluations related thereto) in the amounts of $12,200,000 for FY 1973; $15,000,000 for FY 1974, and $17,000,000 for FY 1975; plus such additional sums as the Congress determines to be necessary for each such year. Ten per centum of amounts appropriated shall be available for making grants for migratory and seasonal agricultural workers under subsection (d), and additional appropriations are authorized for this purpose up to a total of $5,000,000 for both the earmarked and separate appropriation amounts.

(b) This subsection authorizes the Secretary to make grants for special projects and demonstrations for establishing programs and facilities for services to individuals with spinal cord injuries, older blind individuals, and deaf individuals who have not reached their maximum vocational potential, and especially to those with the most severe handicaps. Grants are also to be available for applying new types or patterns of services or devices. Services to individuals with spinal cord injuries must include establishment of a regional, multidisciplinary system of providing services, and demonstration and evaluation of benefits of such a system, new methods of care, and community outreach.

(c) This subsection authorizes the Secretary to make grants to a State or local agency to pay up to 90 per centum of the cost of providing services to handicapped migratory agricultural workers or seasonal farmworkers and their families, including maintenance and transportation. The grantee must cooperate with other agencies skilled in providing services to such workers, and administration of this provision shall be coordinated with other Federal laws dealing with such workers.

(d) This subsection authorizes the Secretary to make contracts with employers and organizations to carry out employment programs for handicapped individuals.

(e) This subsection authorizes the Secretary to provide by contract or directly, technical assistance to rehabilitation facilities, and, with respect to removal of architectural barriers, to any agency. Experts or consultants are authorized compensation up to GS-18.

Section 304

(a) This subsection authorizes appropriations to establish and operate a National Center for Deaf-Blind Youths and Adults in the amount of $1,200,000 plus such additional sums as Congress determines to be necessary for construction in fiscal years 1973, 1974, and 1975, and such additional sums for operation of the Center as Congress determines to be necessary for each such year.

(b) This subsection authorizes the Secretary, subject to the general provisions of section 305, to enter into an agreement to pay the costs of construction, equipment, and operation of a vocational rehabilitation center to demonstrate methods of providing services to, and training personnel to provide such services for, deaf-blind individuals; to conduct research in rehabilitation problems of deaf-blind individuals; and to improve public understanding of problems of deaf-blind individuals.

(c) This subsection provides that an agency desiring to participate shall submit a proposal to the Secretary, who shall give preference to proposals which promise maximum effectiveness in operating the center, and promise of the most skill and capability in providing a broad service program for deaf-blind individuals.

Section 305

(a) This section applies to all projects assisted under title III the general provisions contained in this section, and directs the Secretary to assure compliance with the section, except with respect to section 302.

(b) This subsection requires that a construction project must be used as a public or nonprofit facility for not less than 20 years. Sufficient funds must be available to meet the non-Federal share. Federal funds are to be used only for the purpose provided. Annual reports must be submitted to the Secretary. Plans and specifications must give due consideration to excellence of architecture and design, and inclusion of works of art, comply with regulations on safety and health, and emphasize compliance with the Architectural Barriers Act of 1968. The application must provide that laborers and mechanics employed by contract shall be paid prevailing wage rates, and contain other conditions as the Secretary deems necessary.

(c) This subsection provides that the Secretary shall reserve from available appropriations the amount involved in those grants approved, and permits payment from the original appropriation in the event of an upward revision of cost estimates for such grant in a subsequent fiscal year.

(d) This subsection provides that the Federal Government shall be entitled to reimbursement from a facility for uses made other than as a public or nonprofit facility where such use occurs within 20 years after completion of construction.

(e) This subsection provides that payment of grants or reservation of funds may be made in advance or by reimbursement.

(f) This subsection provides that workshops may, where necessary to effective operation, be awarded grants for construction of residential accommodations.

(g) This subsection prohibits the use of funds provided under this title for construction of so much of a facility as will be used for religious worship or sectarian activity.

(h) This subsection provides that where funds are used to provide direct services under this title, services must be consistent with the State plan under section 101.

(i) This subsection requires the Secretary to afford State agencies reasonable opportunity to comment on grants or contracts under this title prior to their being made.

TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

Section 400

(a) This subsection requires the Secretary in administering that portion of the Act under his jurisdiction to cooperate with and render technical assistance to States in the rehabilitation of handicapped individuals, provide short-term training and instruction in technical matters for not more than 4 years in fields which are similar to those listed under section 203, and disseminate information on vocational rehabilitation services and promote such services.

(b) This subsection authorizes the Secretary to make rules and regulations in the administration of titles I through III of the Act, and, except as otherwise provided, to delegate necessary powers and duties. The subsection requires rules and regulations to be published in the Federal Register on an interim basis within 90 days after enactment of the Act.

(c) This subsection authorizes the Secretary to conduct various studies, investigations, and evaluations of programs authorized under the Act and to make reports thereon. Special mention is made of reports concerning abilities and aptitudes of handicapped individuals, development of their potentialities and the use thereof in gainful and suitable employment, and problems involved in architectural, transportation, and other environmental and attitudinal barriers, including problems of homebound, institutionalized and older blind individuals.

(d) This subsection authorizes for purposes of administration appropriation of such sums as are necessary.

(e) This subsection requires the Secretary and the Commissioner to insure the maximum coordination and consultation with the Administrator of Veterans' Affairs concerning programs for rehabilitation of disabled veterans.

Section 401

(a) This subsection requires the Secretary to evaluate all programs authorized under the Act to determine their effectiveness, including their cost, structure, and mechanism for delivery of services. Evaluations shall be conducted by persons who are not immediately involved in the administration of the program or project evaluated. The provision requires that in the case of section 202 research, demonstration, and related activities, the Secretary is to reassess priorities for such activities, and review existing research, demonstrations, and related activities to determine the basis for their continuation, revision or termination. The Secretary is required, within 12 months after the date of enactment and each April 1st thereafter, to submit a report to the appropriate committees of Congress on the determination and review carried out under this subsection including recommendations for additional legislation.

(b) This subsection requires the Secretary, effective July 1, 1974, to publish standards for evaluation of program and project effectiveness, and to consider the extent to which such standards have been met in deciding whether to renew or supplement financial asistance under the Act. Actions taken shall be described in the annual report to the Congress required by section 404.

(c) This subsection requires the Secretary in carrying out activities under this title, to the extent possible, to obtain the views of persons participating in the program and projects assisted under the Act.

(d) This subsection directs the Secretary to publish the results of research and summaries of evaluations of the programs within 90 days after completion, and submit copies to the appropriate committees of Congress.

(e) This subsection requires the Secretary to take whatever action is necessary to insure that studies, evaluations, proposals, and data produced under this Act shall become the property of the United States.

Section 402

This section requires that other agencies of the executive branch provide to the Secretary upon request such information as the Secretary deems necessary for his evaluations under this title.

Section 403

This section authorizes appropriations for the purpose of conducting program and project evaluations under this title in amounts the Secretary may require, not to exceed ½ of 1 per centum of the total funds appropriated under titles I, II, and III of the Act or $1,000,000, whichever is greater

Section 404

This section requires the Secretary, within 120 days after the close of each fiscal year, to submit to the President and to Congress a full and complete report on activities carried out under the Act. Such reports shall include statistical data, in the maximum feasible detail, relating to services provided to handicapped individuals during the preceding fiscal year, and shall specifically distinguish between rehabilitation closures attributed to physical restoration, placement in competitive employment, extended or terminal employment in a sheltered workshop, and provision of other services. Such report shall also evaluate the use of funds provided under title I for those with the most severe handicaps.

Section 405

(a) This subsection requires the Secretary to submit to Congress within 18 months a long-range projection of comprehensive services, research, evaluation, and training related to handicapped individuals; analyze program operation and its effectiveness, which analysis is to be included in the report required by section 404; encourage coordination of planning for services; develop means of promoting the prompt use of engineering and other research to assist in the solution of a wide range of problems encountered by handicapped individuals; and provide a central clearinghouse of information and resources through systems evaluation and development of a coordinated information and data retrieval system serving Congress, agencies, organizations, and individuals.

(b) This subsection requires the Secretary to give special emphasis to qualified handicapped individuals in selecting personnel to perform the functions required by subsection (a).

(c) This subsection prohibits the delegation of functions assigned under this section except to an Office for the Handicapped established in the Office of an appropriate Assistant Secretary.

(d) This subsection authorizes appropriations for carrying out this section of such sums as the Congress determines to be necessary for FY 1973, and $50,000 each for FY 1974 and FY 1975.

(e) This subsection requires the Secretary to set aside from amounts available under this Act or other funds available to the Secretary, within 30 days after appropriations for this Act in each fiscal year, amounts necessary to carry out this section, and to notify the appropriate Committees of Congress of the amounts so set aside, the number of personnel necessary, and the basis for determination of such amounts.

Section 406

(a) This subsection requires the Secretary to conduct an original study of the role of sheltered workshops in rehabilitation and employment of handicapped individuals, including a study of wage payments. Such study is to incorporate guidelines in accordance with resolutions adopted by the Committee on Labor and Public Welfare of the United States Senate or the Committee on Education and Labor of the United States House of Representatives, or both. Such a resolution has been adopted and is described in the body of the report.

(b) This subsection requires the conduct of site visits and interviews of handicapped trainees or clients in the course of such study.

(c) This subsection prohibits the awarding of contracts under this section to individuals or groups with financial or other direct interest in sheltered workshops.

(d) This subsection requires the Secretary to report to the Congress his findings and recommendations on such study within 24 months after enactment of the Act.

Section 407

This section directs the Secretary to study allotment of funds to States under part B of title I, including the need of individuals for rehabilitation services, the financial ability of States to provide assistance (including per capita income, per capita cost of services, State tax rates, and ability to provide the non-Federal share), and the continuing demands on States for services, together with assurance of Federal funding at a level no lower than that for each State immediately prior to enactment of this Act. This Secretary is to report to Congress on his study by June 30, 1974, with recommendations.

TITLE V—MISCELLANEOUS

Section 500

This section repeals the existing Vocational Rehabilitation Act (and deems references to such Act as to this Act) effective 90 days after the date of enactment of this Act, and provides for transition from that Act to this Act, to prevent disruption of ongoing activities for which there is continuing authority.

Section 501

(a) This subsection establishes in the Federal Government an Interagency Committee on Handicapped Employees, comprised of members appointed by the President to include the heads of the Civil Service Commission (CSC), the Veterans Administration, the Departments of Labor and Health, Education, and Welfare and of such other agencies as the President may designate. The Secretary of HEW and the CSC Chairman serve as co-chairmen of the Committee. The subsection specifies the purposes of the Committee to provide a focus for Federal and other handicapped employment, review with the CSC the adequacy of hiring, placement, and advancement practices of Federal agencies, consult with CSC on its functions under subsections (b), (c), and (d), and make recommendations.

(b) This subsection requires each department, agency, and instrumentality in the executive branch of government to submit to the CSC within 180 days after enactment an affirmative action program plan for the hiring, placement, and advancement of handicapped individuals in such entity, to be updated annually and reviewed and approved by CSC if the Commission, determines, after consultation with the Federal Interagency Committee, that such plan provides sufficient assurances, procedures, and commitments to provide adequate hiring, placement, and advancement opportunities for handicapped individuals.

(c) This subsection requires the CSC to develop and recommend to the Secretary procedures and policies to facilitate the hiring, placement and advancement of handicapped individuals who have received rehabilitation services. The Secretary shall encourage the State agencies to adopt and implement such policies and procedures.

(d) This provision requires the CSC on June 30, 1974, and in each subsequent fiscal year to make a complete report to the appropriate Committees of Congress on the hiring, placement, and advancement of handicapped individuals in the Federal government, and its recommendations as to legislation or other action to insure the adequacy of such practices. Such report is to include the Committee's evaluation of CSC's activities under subsections (b) and (c).

(e) This subsection provides that unpaid work experience of an individual within a Federal agency shall not be considered Federal employment for purposes of Federal personnel laws and regulations.

(f) This subsection requires the cooperation of the Departments of Labor and HEW with the President's Committee on Employment of the Handicapped and requires that Committee to give special consideration to qualified handicapped individuals in its hiring.

Section 502

(a) This subsection establishes an Architectural and Transportation Barriers Compliance Board composed of the heads (or other designees holding at least Executive level IV appointments) of the Department of Health, Education and Welfare, the Department of Transportation, the Department of Housing and Urban Development, the General Services Administration, the Department of Interior, the United States Postal Service, the Veterans' Administration, and the Department of Labor.

(b) This subsection specifies that the function of the Board is to insure compliance with standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968, as amended, investigate and examine alternative approaches to architectural, transportation and attitudinal barriers confronting handicapped individuals, especially in Federally controlled or regulated areas, determine what measures are being taken by Federal, State and local governments to eliminate such barriers, make reports to the President and Congress detailing its investigations, and provide such recommendations as it deems necessary to eliminate such barriers.

(c) This provision requires the Board to conduct investigations, hold public hearings, and issue necessary orders to insure compliance with the cited acts. The provision requires the application of the Administrative Procedure Act in any action taken by the Board, including provision for judicial review.

(d) This subsection authorizes the Board to appoint as many hearing examiners as are necessary, and specifies that provisions of law with respect to hearing examiners generally shall be applicable.

(e) This subsection requires the agencies involved in membership on the Board to make available to the Board such administrative or other assistance as is necessary to carry out the Board's functions, and permits the Board to appoint such other advisors and experts as are necessary.

(f) This provision requires the Board to submit a report to the Congress on its activities during the preceding fiscal year, including an assessment of the extent of compliance with the Architectural Barriers Act, as amended, and a description and analysis of investigations, as well as reports and recommendations under subsection (b) (4) and (5), made by the Board.

(g) This subsection authorizes the appropriation of such sums as the Congress may determine to be necessary for FY 1973, $1,250,000 for FY 1974, and $1,500,000 for FY 1975.

Section 503

(a) This subsection requires that any contract in excess of $2,500 entered into by any Federal department or agency for personal property or services shall contain a provision requiring contractors to take affirmative action to employ qualified handicapped individuals. The President shall implement the provisions of this section through regulations promulgated by him within 90 days after enactment of this Act.

(b) This subsection permits any handicapped individual affected by a refusal or failure to comply with the provisions of this section to file a complaint with the Department of Labor, which shall investigate such complaints and take such actions as are necessary.

Section 504

This section prohibits discrimination, exclusion or denial of benefits to otherwise qualified handicapped individuals by any program or activity receiving Federal financial assistance.

Section 505

This section was intended to correct certain citations to this Act (section 110 and 120) contained in the Supplemental Appropriations Act, 1973 (P.L. 92-607), in order to assure expenditure of $610 million for vocational rehabilitation services in fiscal year 1973, as had been included in the First Supplemental Appropriations Act, 1973 (P.L. 92-607). This Act, S. 1875, was ordered reported prior to the enactment of H.R. 9055, the Second Supplemental Appropriations Act, 1973 (P.L. 92-607).

CONCLUSION

Mr. CRANSTON. Mr. President, it is most significant to note in closing, this program is actually a revenue raiser not spender. The benefits of the national rehabilitation program relative to costs are conceded by all to be extremely high. Over 3 million handicapped Americans have been returned to productive and meaningful lives because of assistance from the program. In fiscal year 1972 alone, the estimated annual earnings of the 326,138 individuals rehabilitated total $1 billion—a net increase of $750 million in earnings from the time these individuals entered the rehabilitation system.

The Rehabilitation Services Administration estimates that, in addition to this contribution to the GNP, these individuals, at a minimum, will be contributing approximately 5 percent of their income—or $58 million each year—in taxes to Federal, State, and local governments. And these figures do not reflect the approximately $33 million in savings to Federal and State governments in 1972 caused by removal of many rehabilitated persons from the public assistance rolls.

This $91 million figure over 20 years would return more than $3 for every $1 of the $560 million spent in fiscal year 1972.

Thus, Mr. President, humanitarian, social and economic considerations all strongly support favorable acts on S. 1875 as reported, and I know that my colleagues will once again evidence their dedication to meeting the needs of handicapped persons by unanimously passing this urgent measure.

SENATOR RANDOLPH URGES PASSAGE OF S. 1875, THE REHABILITATION ACT

Mr. RANDOLPH. Mr. President, today marks the third occasion in the past 9 months on which I, as chairman of the Subcommittee on the Handicapped, and as a principal author of the pending measure, have expressed to the Senate my support for favorable consideration of legislation to revamp the vocational rehabilitation program.

I spoke in support of S. 3987 last fall. I spoke in favor of S. 7 this February. I now urge the adoption of S. 1875.

It is my fervent and sincere hope that, with the enactment by Congress of this necessary measure, a reinvigorated Federal-State rehabilitation program will soon be underway.

Efforts to improve this program for the rehabilitation of handicapped individuals began in the Senate Subcommittee on the Handicapped in March of 1972. The able floor manager of S. 1875 and ranking majority member of the subcommittee, Senator CRANSTON, at my request, began exhaustive hearings on the needs of the handicapped and on ways to improve the rehabilitation program. This was the genesis of the most careful legislative scrutiny the vocational rehabilitation program has undergone in its 50-year history.

I was gratified with the efforts of our committee and of the House Education and Labor Committee in forging a measure which was thorough, fully justified in its cost, and full of hope for millions of handicapped citizens. President Nixon on October 27, 1972 pocket vetoed H.R. 8395, to my great regret and keen disappointment.

In the beginning days of the 93d Congress, I introduced, with 19 cosponsors, a new Rehabilitation Act, S. 7. By reducing the level of authorizations in S. 7 as compared by H.R. 8395, the committee believed that the President, this time, would sign the new bill. Although S. 7 enjoyed overwhelming support in both House and Senate, the President again vetoed the Rehabilitation Act on three grounds: Excessive authorization levels, proliferation of categorical programs, and organizational rigidities. The Senate failed, by a margin of four votes, to override the veto.

In recognition of the need to present to the President a measure which he could find acceptable, negotiations with representatives of the administration were begun, led by the ranking minority member of the Subcommittee on the Handicapped, Senator STAFFORD. Those negotiations, joined in by other members of the committee, resulted in an agreement on a measure which the administration found acceptable. S. 1875 is the product of those negotiations.

At this point I state to the community of handicapped individuals who have looked to the Congress for improvement in their program of rehabilitation, that I do not consider S. 1875 to be a perfect bill, or in all honesty, even an adequate bill. It is, however, in the judgment of those who have engaged in negotiations with the administration, and I count myself among these, a measure which preserves a great number of the innovations and improvements of the previously vetoed bills. It is also a measure which, we are assured, will not be vetoed. As an indication of the Senate support for S. 1875, I might point to the large number of cosponsors of the new bill—34 Senators have affixed their names to the measure.

I would be remiss, Mr. President, if I did not outline the major improvements which will result from the enactment of S. 1875. Although the provision of comprehensive rehabilitation services for those with the most severe handicaps has been eliminated, along with specific target programs for older blind individuals, victims of end-stage renal disease, spinal cord injured individuals, and centers for deaf individuals, the needs of these individuals will be at least partially met through identification and emphasis of them in the special projects section. The Architectural and Transportation Barriers Compliance Board, the Federal Interagency Committee on Handicapped

Employees, the antidiscrimination and affirmative action provisions are preserved. These will help expand the vistas of opportunity for handicapped individuals across our land. Establishment by statute of the Rehabilitation Services Administration will assure continuing and expanded emphasis on the needs of handicapped individuals. Research and training will, as in the previous Rehabilitation Acts, receive major new impetus under S. 1875. The individualized written rehabilitation program required for each individual service recipient is a major improvement in personal attention to handicapped clients. The client assistance projects retained from H.R. 8395 and S. 7 will further aid the handicapped individual in coping with the rehabilitation system.

S. 1875 is only a beginning in the process of assuring that all handicapped individuals who can be rehabilitated, will be rehabilitated. The lives of 12 million handicapped individuals in this Nation could be improved through rehabilitation, and the program has barely scratched the surface. S. 1875 is just a beginning. But the success of the program changes which will be effected by S. 1875 will be the best advertisement for improving the program yet further.

Mr. President, I express my sincere appreciation for the efforts of the Senators and their staff personnel in bringing this measure to the Senate for the third time. I particularly single out for their dedicated work, Senator ALAN CRANSTON, Senator ROBERT STAFFORD, Senator HARRISON WILLIAMS, and Senator JACOB JAVITS.

Mr. President, I urge the adoption of S. 1875.

Mr. TAFT. Mr. President, I am heartily in support of S. 1875, a bill to amend the Vocational Rehabilitation Act to extend and improve vocational and other rehabilitation services for the handicapped.

The basic purpose of vocational rehabilitation continues to be to help physically and mentally handicapped individuals achieve the ability to work, earn, and live independently in their communities. I am sure that all of us are proud of the way the vocational rehabilitation program has grown and developed since its inception more than 50 years ago. Yet in spite of the relatively high success of this program, we still have a long way to go to make sure that every handicapped person is assured adequate services. Too many handicapped Americans are not served at all, too many lack jobs, and too many are underemployed—utilized in capacities well below the levels of their training, education, and ability.

However, if we are to assure that all handicapped persons may participate fully in the rewards made possible by the vocational rehabilitation program, we must devote more of our energy toward the elimination of the most disgraceful barrier of all—discrimination.

Vocational rehabilitation is essential to the development and well-being of the handicapped. There are some cases where people with physical or mental handicaps never need the organized help of the State-Federal program. On the other hand there are many individuals whose ability to cope with their physical or mental problems is so impaired that they could not possibly make it without outside help. In some families, vocational rehabilitation is the only program that can offer such an opportunity. The measure before us today provides that opportunity on a sound and positive basis so that our Nation's handicapped may return to their rightful place in their families and communities as effective participating members as well as become contributors to our economy.

Mr. JAVITS. Mr. President, I urge passage of the bill now before the Senate, S. 1875, the Rehabilitation Act of 1972, of which I am a cosponsor. This expansion and extension of the 53-year-old Federal vocational rehabilitation program has traveled over a rocky road. Vetoed last year and this year, the measure reported by the committee and now brought before the Senate is the result of a compromise reached with the administration and enjoys the administration's support. This is most heartening and assures, I feel, the prospect of a future of orderly growth for the vocational rehabilitation program—which has so well proved its worth over more than a half century.

When the vocational rehabilitation bill was before the Senate last year, there was particular contention and debate regarding a proposed new allocation formula. The bill now before us avoids this controversy. After carefully examining a wide variety of suggested approaches to formula reform, it was concluded that a feasible solution could not be enacted at this particular juncture when we are endeavoring to secure as soon as possible—in order to provide appropriation authority—a vocational rehabilitation bill which can be enacted into law.

Thus, the committee has preserved the same allotment formula as now exists in law, with three exceptions: One, allotments are based on actual appropriations instead of being based on the authorization figure, following the practice in other grant-in-aid programs, a change which has been urged by the administration; two, the minimum allotment for a State has been increased from $1 million to $2 million, with modifications to prevent any State from receiving less funds should appropriations be insufficient; and, third, Puerto Rico has been added to the definition of State.

However, it would not be responsible to abandon the effort of formula reform. Therefore, the committee included as section 407 a provision requiring the Secretary of HEW to conduct a study, and submit recommendations by June 30, 1974, on distribution to the States of vocational rehabilitation program funds which would take into consideration such factors as the needs of individuals requiring vocational rehabilitation services, the financial capability of the various States to render vocational rehabilitation assistance—including consideration of such factors as per capita income, per capita costs of services, State tax rates, ability and willingness to match—and the continuing demand for services in the States so that no State would be faced with a diminution of Federal grant assistance. The study and recommendations would include all aspects of the distribution of Federal grant-in-aid vocational rehabilitation State program funds to the States, including allocation formulas, and Federal and State share and matching requirements. This, it seems to me, is a practical approach to a nettling problem.

This measure contains most of the program provisions of the previous bills. Authorizations are lowered to meet administration objections. In essence, the bill before us is a workable compromise, will advance the program and merits Senate approval.

Mr. WILLIAMS. Mr. President, I am pleased to join my colleagues from the Committee on Labor and Public Welfare, Senators CRANSTON, RANDOLPH, STAFFORD, and JAVITS, in bringing to the floor S. 1875, the Rehabilitation Act of 1972. This bill is the result of changes made by the committee following two vetoes of earlier versions of this legislation.

It was clear following the last veto, and the failure of the Senate to override this action, that sufficient points of difference still remained between the Congress and the administration, which would require changes to be made in the legislation. The bill before us today, S. 1875, embodies such modifications. However, I must make clear to my colleagues that most of the important initiatives made by the committee and the Congress in the original versions of this measure are retained in S. 1875. And, most important, it is the committee's understanding that it has the commitment of the administration to carry out in full the provisions of this bill.

It is important in discussing this new bill to review the findings of the committee emanating from the hearings on the Rehabilitation Act in the 92d and 93d Congress. Central to these findings was a sincere concern that the vocational rehabilitation program was failing to meet the needs of individuals with the most severe handicaps. Furthermore, the hearings demonstrated that individuals with the most severe handicaps often were excluded from the program from the outset because of the superficial attitude that their handicaps were too severe to make vocational training a feasible goal.

The committee found that decreasing emphasis has been placed on the very important auxiliary programs for research and training especially in the areas of applied technological research, biomedical engineering, and training of personnel in these highly necessary and promising areas. The committee also found it necessary to place special emphasis on target populations whose needs were not being met, and to grapple with problems, which while not related solely to rehabilitation, pose serious problems for handicapped individuals in becoming employed, staying employed, and generally supporting themselves within their communities. In this respect the committee payed special attention to the problems of employment, discrimination, lack of housing and transportation facilities, and the prevalence of architectural and transportation barriers.

Mr. President, S. 1875 retains many of the provisions contained in the previous legislation. These include:

First, individualized written rehabilitation program, to be negotiated between the counselor and the client; the client assistance pilot projects; and changes in procedures for evaluation of rehabilitation potential and time periods for extended evaluation—all of which provisions are focused at assuring that services are made more responsive to the handicapped individual;

Second, the Architectural and Transportation Compliance Board; prohibitions against discrimination in employment in programs assisted with Federal funds; and

Third, renewed emphasis on the need for increased research and training of personnel especially in areas related to technology and biomedical advances.

S. 1875 does, however, differ from the earlier bills and these changes should be discussed with my colleagues. First, in responding to the veto message objecting that the original authorizations which far exceeded the President's budget, the committee has cut specific authorizations to an amount totaling only $92 million over the President's budget. However, let me point out that for most programs the committee bill also authorizes "such additional sums as the Congress may determine necessary." Thus, it should be clear that the committee views the specific dollar authorizations in S. 1875 as a floor for funding by the Appropriations Committee.

Second, the committee has deleted a provision which created a Division of Research Training and Evaluation and a Center for Technology Assessment and Evaluation to be set up within the Rehabilitation Services Administration. However, it has replaced this with legislative language directing the Secretary to establish such expertise and competence necessary to develop and support and stimulate the development of innovative methods of applying advanced medical technology, scientific achievement, and knowledge to solve rehabilitation problems. The administration has made a firm commitment that the Department will pull together all expertise available within the Department to fulfill this legislative mandate so that real advances will be made in this area. This provision has been included with the clear understanding that much greater emphasis will be placed on research and training of personnel. Let me point out that it is further my understanding that experts in the rehabilitation field from throughout the country in the areas of research, training, and applied research will be utilized by the Rehabilitation Services Administration and the Department to review proposals for research, training, and related special projects. I point out to my colleagues that I had intended to offer an amendment to this bill on the floor which would have established a peer review system for these proposals because of my real concerns that the Department does not have the inhouse expertise and has not involved non-Federal personnel who have specialized in working in areas which have great potential for lessening the problems of handicapped individuals. Because the administration has agreed that experts in the field will be utilized for such review purposes, I will not offer this amendment. But I would like to take this time to reemphasize my deeply held belief that this area is so vital to the future of rehabilitation that we must make use of all knowledge available, including that from experts abroad.

Third, I point out that the functions of my proposal to establish an Office for the Handicapped are retained in this bill. However, under S. 1875, these functions are assigned as responsibilities of the Secretary, and can be delegated to an Office for the Handicapped with direct reporting responsibility to an appropriate Assistant Secretary if the Secretary chooses not to assign such functions to an individual and supporting staff operating in and assigned to his immediate office. I have agreed to this provision only after having received a clear commitment by the Secretary that all of the functions of this Office for planning and reviewing programs in the Department, for coordination of program priorities, and for establishing an advanced data system within the Department will be carried out as outlined in the committee bill and in accordance with the legislative history surrounding this proposal. In order that we can review actions taken by the Secretary with respect to the functions required by this provision, the Secretary is directed, within 30 days following the enactment of appropriations to carry out this act, to set aside the amounts he determines are necessary to carry out these planning and coordinating functions and to notify appropriate congressional committees the amounts set aside, the number of personnel necessary, and his reasons for making these determinations.

Fourth, under S. 1875 as introduced, language providing a priority in service for individuals with the most severe handicaps was substituted with language stating only that individuals with the most severe handicaps were to be given equal consideration with other applicants. In my statement on introduction of S. 1875 I expressed to my colleagues my concerns about this language. Equal consideration as it applies to handicapped individuals always means unequal consideration, and often means no consideration at all. I am pleased therefore that the committee accepted my amendment in mark up of the bill to insert, instead, language providing "special emphasis on those individuals with the most severe handicaps" because I believe this emphasis is vital.

Fifth, Mr. President, let me point out that while the committee has deleted the special categorical programs for the spinal cord injured, the older blind, and deaf individuals, it has directed that emphasis be given to these areas in a consoliated special project authority contained in title III.

Sixth, the committee has directed the Secretary to undertake a comprehensive study of the formula in this bill to determine alternate formulas which are more equitable to some States, such as my own, whose population and urban problems are not dealt with in an even-handed manner by the present formula. The committee itself had considered a wide range of formulas during the bill's consideration, but did not wish to delay the enactment of this bill further in order to work out this very complex and difficult problem. We give notice, however, that the formula is still a concern.

Finally, Mr. President, the committee has directed the Secretary to undertake a study of methods by which individuals with the most severe handicaps but without an immediately identifiable vocational goal might make use of the services under this act, and may be enabled to live more independently in their communities. Clearly, this area was one of great concern to the committee, and we had included a categorical program for these individuals in S. 7. I must say that I believe that the vocational rehabilitation program has the experience and the expertise to work in this area, and hope that the Secretary will begin this study as soon as possible so that we might reduce the dependency of many individuals who are severely handicapped, but have the potential of overcoming their disabilities.

Mr. President, I wish to commend my colleagues for their deep commitment to this legislation over the last 14 months. The times have not always been easy, and I believe that the investigation that the subcommittee led by Senators CRANSTON, RANDOLPH, and STAFFORD has made into this area is a tribute to the first year of existence of the Subcommittee on the Handicapped, and to the dedication and hard work of my colleagues.

Mr. MONDALE. Mr. President, I would like to commend my colleagues on the Subcommittee on the Handicapped, Senators CRANSTON, RANDOLPH, and WILLIAMS, for the many months of hard and diligent work that they have put into S. 1875, the Rehabilitation Amendments of 1973. I know that they have done their best to work out legislation that we could reasonably expect to be enacted this year. I am a cosponsor of the original legislation and a supporter of the measure before us today.

I am aware that that the bill before us today does not offer everything that those of us who strongly support the vocational rehabilitation program would like to see in it. Many of us have been disappointed as the program was negotiated into narrower and narrower confines in recent months.

Two groups which have particular reservations about provisions in this bill have requested that I place a statement of their concerns in the RECORD, and I am happy to do so. I ask unanimous consent that a statement prepared by the Council of State Administrators of Vocational Rehabilitation and the National Rehabilitation Association concerning S. 1875 be printed in the RECORD at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT WITH RESPECT TO CERTAIN PROVISIONS OF S. 1875 BY THE COUNCIL OF STATE ADMINISTRATORS OF VOCATIONAL REHABILITATION AND THE NATIONAL REHABILITATION ASSOCIATION

The Council of State Administrators of Vocational Rehabilitation, the organization of state vocational rehabilitation agencies administering the state-Federal vocational rehabilitation program, and the National Rehabilitation Association, which has the largest constituency in the rehabilitation field, appreciate the work the Committee on Labor and Public Welfare has done on S. 1875, the proposed Rehabilitation Act of 1972, including its efforts to work out a compromise with the Administration which will assure the President's signature. We, however, must raise questions about the legislation and, in the absence of full explanations, we feel that our concerns are warranted.

The Council of State Administrators and the National Rehabilitation Association have expressed our views on these matters to the members of the Senate Subcommittee for the Handicapped both by letter and in conference with staff members of the Subcommitte on June 12. We are greatly concerned that S. 1875 appears to provide that allotments to the states will be made upon the basis of authorizations as in the present Vocational Rehabilitation Act. It should be remembered that the Congress instituted this allotment procedure to encourage states to increase their contributions to the program and to give them a basis for long range planning, at the same time maintaining upper limits for the total Federal contribution.

For states to plan realistically for the program, they must do so on the basis of a reasonable projection of the dollar resources at their disposal. The authorization level establishes, through the allotment process, Federal funds available for future years. State legislatures, on the basis of information on future Federal resources, are in a more reasonable position to make appropriate decisions to maximize State appropriations; and it is certainly a stated goal of the Administration to help states develop an improved capability for more effective planning.

The present allotment procedure has been a very successful arrangement and is still needed. We understand that the House version of the legislation, H.R. 8070, does not change the present allotment language.

The Administration's 1974 budget would make allotments to the states on the basis of a $645 million allotment base and would appropriate $610 million as the amount necessary to pay the Federal share on this basis. The authorization in S. 1875 is $610 million for 1974 and $640 million for 1975. If allotments are to be made based on these amounts, it is evident that all states will have allotments lower than they would have had under the $645 million allotment base in the Administration's 1974 budget. We realize that the bill permits appropriations of "additional sums," but we share the concern that the specified amounts may be interpreted by the Administration and the appropriations committees of the Congress as maximums instead of minimums. We understand that this, of course, may not be the intention of the authors of S. 1875, but we greatly fear this would be the result, if passed in its present form.

We hope that the final version of S. 1875 will include safeguards to insure this. H.R. 8070, as passed by the House, calls for an authorization of $660 million for 1974 and $690 million for 1975. The state allotments based on these authorization figures would assure that each state would receive at least as much as it received in fiscal year 1973, if the Administration's budget request is accepted by the Congress. It also assures that Congress will have the opportunity to provide for a degree of increased growth if the nation's fiscal policy warrants.

With respect to other parts of the bill, we would have preferred the original version, but we notice that the Committee has included authority for almost all of the programs that would have been established under S. 7 in the general authority for special projects. With such low appropriation authority for Special Projects, however, it is clear that no measurable progress can be made on programs for the deaf, for the spinal cord injured, and for the older blind. It seems to us that it would be better to authorize "such sums as are necessary" than to restrict programs two years in advance to such meager appropriation authority.

Under the present Administration, the vocational rehabilitation program has steadily decreased in percentage of financial growth. We now ask the Congress to at least assure that the program does not become static and that, at least, a small growth be recognized and desired by the Congress.

It is not our intention to delay final consideration of this bill, but we believe these questions deserve an answer.

Mr. DOLE. Mr. President, on May 23, I joined the distinguished Senator from West Virginia (Mr. RANDOLPH) and several other Senators in introducing S. 1875, the Vocational Rehabilitation Act of 1973. This bill is designed to extend and revise the authorization of grants to States for use in providing services to those with severe disabilities.

I am pleased to see this bill before the Senate today, for it confirms the expectation and faith I placed in the Senate's commitment to the handicapped in March when an earlier measure came before us. At that time, a question of budgetary responsibility required opposition to a bill that exceeded the bounds of reasonable generosity and concern. When the vote was taken I had no doubt that Congress would pass a sound, generous, and responsible vocational rehabilitation bill which would meet with full approval of Congress and the President. Today we are provided the opportunity of voting on such a bill.

NEEDS OF HANDICAPPED

Mr. President, I believe in America's handicapped citizens, and I have a deep appreciation for the immense potential for contribution to our society which the handicapped possess. Along with this great potential there is a great need for understanding—of the problems the handicapped face—of the assistance they require to fulfill their potential—and of priorities for the limited resources available to attain this goal. A handicapped person must be recognized as an individual—with the same needs, desires, motivations, and expectations as anyone else in our Nation.

Each person has the common needs of all people for adequate income, decent housing, health care, recreation, education, and opportunities for developing vocational talents, personal relationships, and employment skills. But beyond these basic needs, handicapped people have special requirements to enable them to maximize their potentials for individual, social, and professional development.

In recognition of these special needs of the handicapped, the committee has written a bill which should be satisfactory to both Congress and the administration.

GOALS OF ACT

The primary goal of this bill is to assist handicapped individuals in achieving their full potential for participation in our society. The vocational rehabilitation act has undergone many changes since hearings were held initially in the Senate more than 1 year ago. This bill contains significant reforms and establishes important priorities in the program that existed in S. 7, the original bill, and I would say that the fundamental thrust of S. 7 has been retained.

In my estimation this bill is a solid improvement, bringing together the best points from both S. 7 and from S. 1431, the bill introduced on behalf of the administration. I believe this bill will work to the real benefit of America's disabled.

This bill contains the State plan requirements, the individualized written programs, strong emphasis on research and training, and antidiscrimination provisions, which were included in the first bill.

Also retained is statutory creation of the Rehabilitation Services Administration and its Commissioner. However, the Secretary of Health, Education, and Welfare may delegate the authority of this administration to other than the Commissioner if he submits a reorganization proposal to Congress.

S. 1875 requires the States to demonstrate that the method of selecting individuals for services shall give special emphasis to individuals with the most severe handicaps, rather than providing a priority for serving first those individuals with the most severe handicaps. It also includes a consolidated special project authority, with special emphasis on projects for spinal cord injured, severely handicapped deaf, and, older blind individuals. The functions of the office of the handicapped are also included with organizational responsibility resting with the Secretary.

There has been considerable concern about Government spending and about the types of actions which lead to or avoid increasing the tax burdens of the American people. The authorization levels of S. 1875 total approximately $2.2 billion over a 3-year period, a sum which is $92 million above the amounts projected for the President's budget for the same 3 years—much more in line with the President's budget than the previous bill which was some $700 million over the projected budget. This new bill directs the vocational rehabilitation program toward coverage of many more handicapped individuals. Yet, the amount of money has been reduced from the vetoed bill by some half billion dollars.

HANDICAPPED IN KANSAS

Of the approximately 44 million handicapped citizens in our country, the latest figures show that in my own State of Kansas there are some 106,645 disabled and handicapped individuals eligible to receive the services provided by the vocational rehabilitation program. Of these 106,645 individuals, during this year alone, 10,535 have been provided services, of which 1,922 have been reported to be rehabilitated.

I think most of my fellow Kansans would agree that in observing the numbers of people served and rehabilitated, this program has a way to go before we can provide the full services for the needs of all handcapped individuals.

CENTRAL INFORMATION SYSTEM

A significant and common problem of the handicapped is access to information on proven solutions to problems common to the disabled. The handicapped need assistance to resolve their endless task of searching, calling, and waiting for information from vast numbers of sources.

For the past several years I have supported the establishment of a National Information and Resource Center for the Handicapped. In the 93d Congress I introduced legislation to create such a Center for the third time. This Vocational Rehabilitation Act includes my proposal of a central information system for the handicapped. The Secretary of Health, Education, and Welfare is directed to evaluate all existing information and data systems which provide information to, for, and about handicapped individuals, and to develop a comprehensive system of information and data retrieval and dissemination.

An information system would be of great assistance to the handicapped in areas of employment, rehabilitation, health care, transportation, education, recreation, and housing. These are areas of concern to nearly every handicapped individual during every day of his life. The information system will seek to close the "information gap." Much information on and for the handicapped exists, as do many services and some financial aid; but none of it is of any use unless it is known and easily accessible to those persons who are in need.

This fact is both encouraging and frustrating in that we presently have the know-how and the resources to restore many more of the disabled to productive lives than are now being served. An information system will connect the two together: The disabled and the available resources. This union can result in benefits both to the handicapped individually and to our Nation's economy. These gains would far outstrip the funds or energy expended in establishing such a system. The information system is designed to insure that all information relating to the handicapped is coordinated and made available to those individuals in the form they can use and will hopefully function as a key to all vocational rehabilitation programs.

I feel that the bill we are voting on today maintains the philosophy Congress set forth in S. 7 while overcoming the administration's objections to that bill.

CONCLUSION

I believe this bill reaffirms the Senate's dedication to the handicapped citizens of this Nation. The handicapped represent a large minority group who have suffered a great many injustices. They face what seem to many, insurmountable barriers. As a minority, the handicapped have always known exclusion—exclusion from an adequate opportunity to develop and contribute to their fullest capacity. We must make available the best possible programs to each handicapped American and assure the assistance he or she requires to fulfill their potential. The bill before us today provides for the expansion and improvement in rehabilitation programs and I urge immediate action on this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from its consideration of H.R. 8070, the companion bill to S. 1875, and that H.R. 8070 be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (H.R. 8070) to authorize grants for vocational rehabilitation services, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to strike all after the enacting clause of H.R. 8070 and to substitute in lieu thereof the text of S. 1875, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read "A bill to replace the Vocational Rehabilitation Act, to extend and revise the authorization of grants to States for vocational rehabilitation services, with special emphasis on services to those with the most severe handicaps, to expand special Federal responsibilities and research and training programs with respect to handicapped individuals, to establish special responsibilities in the Secretary of Health, Education, and Welfare for coordination of all programs with respect to handicapped individuals within the Department of Health, Education, and Welfare, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 8070 be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 1875 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of the war powers bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The bill was stated by title as follows:

A bill (S. 440) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, the Senator from Colorado (Mr. DOMINICK) or the Senator from Vermont (Mr. STAFFORD) may utilize the time of the minority leader and yield to the Senator from Massachusetts.

The PRESIDING OFFICER. Does the Senator from Colorado desire to be recognized?

Mr. DOMINICK. Yes.

The PRESIDING OFFICER. The Senator from Colorado may proceed.

Mr. DOMINICK. Mr. President, I engaged in a short colloquy with the Senator from Arizona (Mr. GOLDWATER) earlier this afternoon in connection with the bill. I hope that at some stage it will be possible to coordinate the debate in the RECORD so that those who study this matter as it goes through the RECORD will have a clear explanation of the points the Senators are making about the measure.

My opinion is that bill has a great number of constitutional problems, in addition to which it has specific problems in the wording. I have an amendment for printing to be taken up, I assume, when we get through with the minimum wage measure.

Mr. President, in taking up the War Powers Act, the Senate is attempting to enter an area which involves not only difficult and ambiguous constitutional considerations, but also frightening implications for the ability of this country to pursue a comprehensive and integrated foreign policy. On first reading, the bill appears rather harmless. It reflects on face value the desire for the Congress to reassert its powers in the warmaking process and calls upon the President to provide the Congress with that information necessary to make objective and sound decisions in the event of U.S. confrontations around the globe. However, with careful study of the bill, it is my feeling that, as written, not only is the bill's constitutionality in doubt in many areas, but it would virtually abrogate our 42 defense treaties around the world, severely limit our role in NATO and thereby render NATO itself much weaker in the event of a serious confrontation, would possibly deprive the President of the authority he needs to carry on a forward defense, would preclude U.S. forces from protecting U.S. nationals on the high seas, and would severely limit our credibility with our allies.

There are countless historical precedents in the attempt of Congress to put statutory limits on and codify the President's power to deploy American forces. However, each case in the past was so rampant with variables, constitutional question marks and "what if's" that passage of specific guidelines became virtually impossible, and statutory limitations of this nature have never materialized. This is what we face with the Javits proposal. Personally, I do not feel that passage of this bill would be in the best interest of the country, even though it might be helpful in bolstering the ego of the Senate.

The experience of the Vietnam war has whetted the appetites of most Senators, myself included, for more information upon which to judge the progress of and reasons for U.S. troop involvements. Often, those of us on the Armed Services Committee find it frustrating or difficult to assess accurately the intent and purposes behind some military decisions without more extensive and immediate information upon which to base our judgments. However, I don't think that this desire for more immediate and detailed information should properly extend to statutory limits on the President's powers as Commander in Chief.

S. 440 states and I quote that—

> It is the purpose of this Act to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities . . .

Mr. President, collective judgment, in my mind, is one thing, while collective decisionmaking in a hostile confrontation requiring rapid response is quite another.

So once again, we are plunging into a mental exercise in trying to establish the intent of the framers of the Constitution.

The Constitution of the United States has served us remarkably well for nearly two centuries, primarily because of its flexibility and its ability to accommodate the requirements of a technologically advancing world. With new problems born of a world with rapid communication and nuclear power, relevant change has emerged in the role and power of Congress in meeting pressing needs, both foreign and domestic. An example of this is a changing interpretation of the declaration-of-war authority which the Congress holds under the Constitution. One hundred years ago, the consequences of issuing a declaration of war were quite different from those today. For example, one practical reason for Congress' failure to declare war in all but four of our U.S. history is the fact that a formal declaration could call into play the active belligerence of adversaries under provisions of their treaties of which we may have no knowledge. In the Vietnam war, we did not know what secret treaties might have existed between Hanoi and Moscow or Peking. In this context, I believe that risks should be limited to what circumstances require, not enlarged just to meet constitutional formalism. I am suggesting that there are perfectly adequate constitutional means for Congress to exercise this power short of a formal declaration of war. As Vincent Davis of the Patterson School of Diplomacy at the University of Kentucky commented:

> In one sense, the Constitution sets up an inherent conflict between the Congress and the President in matters of war and peace. It is a case of shared powers rather than separation of powers. The Congressional involvement stems from the constitutional provisions for (1) creating the armed forces, (2) declaring war, (3) the crucial "power of the purse," and (4) Senate advise-and-consent powers on treaties. But, with respect to deploying forces, the Congressional authority to "declare war" is in effect obsolete and something of a dead letter. This constitutional provision stems from an ancient American idea that war and peace are black-and-white, clearly separate circumstances, but this is seldom true. Even when the Congress did "declare war" this tended to be merely a legalistic ratification of a curcumstance which already existed de facto.

Is the will of the Congress any less clear, or its purpose any less certain, if it chooses to authorize hostilities or deployment in the threat of hostilities by a resolution or by adopting a series of appropriation measures specifically designed to initiate, slow or stop a U.S. military confrontation instead of a formal declaration? I think not.

To render judgment properly, whether by informal or formal means, however, Congress should be kept fully informed as to areas of tension, problems which might arise and, in most instances where security would not be jeopardized, the proposed mechanisms by which the problem will be met.

The focus of attention in the course of this debate has been on the power of the President as Commander in Chief to commit American forces to hostilities without the approval of Congress. The authority of the President to commit troops in limited conflict has not gone unchallenged. Congress has confronted an exercise of the use of this alleged executive authority more than once. President Truman's commitment of troops in Korea in response to a U.N. resolution without prior approval of, or subsequent formal ratification by, Congress led to the great debate of 1951.

President Truman had relied upon his authority as Commander in Chief and upon resolutions of the U.N. Security Council declaring that armed aggression existed in Korea and calling upon U.S. members to assist in halting that aggression. He cited the history of actions by the Commander in Chief to protect American interests abroad. He characterized the U.N. Charter as the cornerstone of our foreign relations and singled out article 39 which authorizes the Security Council to recommend action to members to meet armed aggression.

The President's opponents noted that all treaties are not self-executing and that, until implemented by Congress, nonself-executing treaties confer no new authority on the President. Article 39, it was said, was not self-executing. Article 43, which provides expressly for the commitment of troops by members in accordance with their constitutional processes, had been implemented to the extent of Congress authorizing troop agreements, but since no agreements had been entered into, it was inoperative—so went the argument. Without any added treaty authorization, the President's action must be viewed solely in terms of his basic constitutional authority, it was said, and this authority does not extend to long-term commitments of troops in numbers ranging up to 300,000 men.

While scholarly views were quoted on both sides of the issue, and the congressional debate raged from January to April, there was no legal resolution to the President's authority in light of the U.N. Charter or independent of it. Nevertheless it is clear that Congress acquiesced in the President's action; and since judicial precedents are virtually nonexistent on this point, the question is one which must of necessity be decided by historical practice. Viewed in this light, congressional acquiescence in President Truman's action furnishes strong evidence that this use of his power as Commander in Chief was a proper one. If history and precedent are relevant, it appears that there is a strong case to be made for the power of the President to commit American forces abroad without the explicit permission of Congress, even though that commitment may lead to war. This power is not unlimited, but it cannot be easily circumscribed or easily dismissed just because those of us in Congress are bitter about the times over the last 7 years in which we were taken by surprise or were confronted with mounting public and personal opposition to the Vietnam war.

Now it strikes me that it is appropriate to ask why the power of the President in the realm of foreign affairs has grown so great. Is it because Presidents are usurpers? Or is it because events have necessitated it? Do the conditions of the world allow us safely to conduct our foreign policy on the floor of Congress? Can we safely attempt to substitute our judgment for that of the President at times of immediate crisis, when circumstances are such that only he can have all the facts available and only he can promptly act?

I know there is a belief among some of my colleagues that Congress has abdicated much of its responsibility in this and other matters to the executive branch, but we should not use this bill as a vent for our frustrations—adding insult to injury as far as the constitutional process is concerned.

I would be the first to support any feasible measures which would insure the Congress more immediate information upon which to judge our decisions concerning military and foreign policy. However, as I said before, the Senate should be extremely careful not to get so carried away with having such information or with being an integral partner in formulation of our foreign and military policies that we attempt to cloak ourselves, by statute, with powers never intended to reside in the Halls of Congress.

More important, however, than the constitutionality question is the very practical consideration of whether or not the War Powers Act would dangerously limit the ability of this country to respond, even in a limited sense, to a confrontation. And second, if we give the appearance around the world of having limited this ability, we will have snatched from our allies their ability to rely on any credible protection from the United States.

Various situations come to mind, even with the most sketchy consideration of this bill, which bring up the "what if" problems in the event of hostilities.

In the event of an attack on NATO forces, other than U.S. forces, the proposed bill would preclude action or assistance by U.S. forces. U.S. assistance would require specific congressional authorization. It can be argued that this restriction does not change anything since the Senate in giving its advice and consent to the North Atlantic Treaty never intended for the President to have the authority to involve U.S. forces in the case illustrated without further approval of the Congress.

I would suggest that is a far different interpretation than was originally implied and intended when the Senate ratified that treaty. The legislative history is clear in that the strength of the treaty rested in the collective intentions of the signatories to respond quickly as one. Otherwise there could be little purpose in banding together as one and declaring in article V, "that an armed attack against one or more of them in Europe or North Africa shall be considered an attack against them all."

The strength of the NATO treaty is in the collective unity of the members which announces to any potential aggressor that if you attack one of us you have, in effect, attacked us all. This is the heart and power of the treaty and if the President were precluded from promptly taking those actions he felt were in the best interest of the United States and the NATO alliance the security of both would be seriously endangered.

Such restrictions as proposed by the bill would remove the option of the initiative from our commanders. It could well be, in the situation postulated, that the President would wish to consult with the Congress on a mutually agreed course of action. But it could just as well he might not because of the time element which necessitated immediate action to forestall and preclude a far more serious situation from developing.

Again, in the NATO area, the proposed bill would preclude continuation in command by U.S. officers assigned to NATO when an attack was mounted against other than U.S. forces. This would literally devastate the entire command structure of the alliance and greatly aid any enemy. It will be difficult enough to make the command structure funcion in a crisis environment brought on by an attack, let alone having all U.S. personnel pack up and go home or remain immobile during the middle of a crisis. Would any nation or group of nations trust its security to a commander whose participation can be manipulated by the nature of a would-be adversary's attack—by an attack on NATO troops where no U.S. troops are positioned?

Even with the exceptions granted to the President under section III there is a serious oversight. This section does give the President authority to repel an attack against the United States and to take necessary retaliatory actions. Section III does give the President authority to repel an attack against U.S. forces outside the United States but, in this case, it does not give him authority to retaliate.

Why? Why should an aggressor against U.S. forces outside the United States be any less immune from retaliatory action? Admittedly, an attack against the United States, its territories and possessions may be more serious but, in my mind, any enemy that attacks an American, regardless of where he may be, should understand such actions will automatically be repelled and may bring rapid retaliatory action by the United States. To limit any response by U.S. forces to "repel only" clearly restricts the ability of a commander to protect his forces. And what, by the way, is the meaning of repel within the context of the bill?

Does it relate to defensive actions only? Would a U.S. Navy ship on the high seas subjected to an attack by cruise missiles only be able to try and repel those missiles? Would the U.S. ship commander be allowed to attack the vessel that launched the missiles? Would he be allowed to attack an enemy picket ship that was relaying data information to the enemy attacker?

Such restrictions, it seems to me, would impair the ability of our commanders to defend their forces and would communicate to any potential attacker the limits of the response our forces could take. It would further require each commander to carry a checklist of what he could do and I suggest he might be seriously impaired as a commander for fear he would violate some predrawn rule of engagement.

Mr. President, whenever the President takes an action authorized by section III he must come to the Congress at the end of 30 days to get continuation authorization, if such is needed. Such a restriction could lead to a piecemeal strategy in countering an attack or threat of attack. This raises the question of whether military commanders are to include in all plans a contingency for withdrawal after 30 days. It further raises the possibility that the President would, if he were doubtful continuation authorization would be granted by the Congress, adopt an overkill strategy in the action taken—a strategy that might be far more than was required to handle the crisis at hand.

Mr. President, there are several other situations that come to mind that I would like to bring to the attention of the Senate.

Nothing in the proposed legislation permits U.S. forces to protect American nationals on the high seas. Are we to assume the United States cannot immediately go to the assistance of an American merchant vessel and take what action is required to assure the safety of those on board? Does the Congress seriously believe it has time to debate the merits of such an action, assuming it is even in session?

Again, the sponsor of the bill (Mr. JAVITS) states this is not the case and such actions are not precluded. Nevertheless, this point should be expanded and clarified.

The proposed bill, in my opinion, would preclude a show of force, for example, to the Eastern Mediterranean in response to increased Israel-Egyptian tension. Let us not kid ourselves that the world situation has evolved to the point that force, or the threatened use of force, is no longer a necessary instrument of national power. The insertion of U.S. military forces in an area where hostilities are "imminent" could well, as it has in the past, preclude those imminent hostilities from developing. And again, the effectiveness of such an action on our part does not allow time to debate and authorize the President to take those actions he deems necessary in support of national interests and policy. Again, the bill's sponsor states this is not the case and would be authorized. Nevertheless, it continues to bother me that there is so much ambiguity in the proposed bill and that completely opposite interpretations are possible.

The proposed bill makes no mention of intelligence activities; for example, intelligence flights. Are they prohibited or not? It may be distasteful but it is necessary for the United States to engage in these activities and there are adequate examples in the past of their necessity. Certainly intelligence flights in the Cuban missile crisis should come to mind.

And then I wonder how the bill would affect the operation of U.S. patrols in the Korean DMZ. It is not clear to me whether the provisions of section 9 are applicable or not, since, although we are in a truce situation and peace negotiations are continuing, the atmosphere there is certainly tense.

Mr. President, I am also disturbed by other language in section III of the proposed bill. In particular, I refer to the use of the term "imminent threat." If we assume the proposed bill becomes law, does not the possibility arise that if the President took action under section III in response to his interpretation of an imminent threat, the Congress could fault his actions as not being within its interpretation of "imminent threat"? It it not possible, because of this difference of interpretation, the Congress could take other measures designed to prohibit further action by the President even before the 30 day period had expired?

There is only room for one Commander in Chief, not 535. Only one individual, the President, has the facts immediately at hand necessary to determine what is best in a crisis situation for the national security. So even though the proposed bill purports to guarantee the President can take those actions he deems necessary in certain situations, it really jeopardizes and endangers his ability to do so.

Mr. President, I am very much concerned that many Senators may not have studied this bill thoroughly enough to realize the many dangerous consequences of some of its provisions. In essence, this bill would make null and void, without initial authorization from the Congress, our defense commitments under the North Atlantic Treaty, the SEATO Treaty, the United Nations Charter and many others. Can we honestly take upon the shoulders of the Congress not only the final authority in a President's decision to deploy troops in the event of hostilities but also attempt to become the repetitive top authority on all negotiated U.S. treaty commitments, even after the Senate has had one opportunity to ratify and consent to the original negotiation of each of our standing treaties?

Our allies would soon gain the impression that we were incapable of acting swiftly under the conditions of our mutual security agreements. I am sure, for example, that our friends in Western Europe would find little comfort in the fact that under this law, Congress would have to give its approval before the United States could participate in NATO command activities in the event of an attack on West Germany. Can we justify creating a situation in which our commanding officers in NATO cannot even participate in the planning and execution of operations of NATO troops until we get the Congress collective interpretation of an "imminent threat"? How many of our allies would soon begin to feel that they were not in fact our allies at all?

Many will say that nothing regarding our treaty commitments would be changed by this legislation. They will argue that as our treaties are not self-executing and as most contain a clause which reads "in accordance with our own constitutional processes" the Senate is already authorized to initiate implementing legislation. However, the fact that our treaties contain this provision has never altered the reality that throughout our history Congress has performed an ex post facto role in this regard. This reality has come from a basic recognition on the part of many consecutive Congressess that prior consultation with and authorization from the Congress cannot in fact provide the necessary prompt response to our treaty commitments. This situation has not prevailed for nearly 200 years because Presidents have ignored the Congress. It has prevailed for the very practical reason that consultation in the midst of initial hostilities, which this bill would in many areas require, is not only impractical but self-defeating. Under the Javits bill, however, Congress would have to give legislative authorization before the President could dispatch troops in accordance with treaty commitments. There is a world of difference between the two approaches and the latter approach certainly precludes rapid response to an attack on allies or forward deployments and reinforcements to prevent such an attack.

Would this bill necessarily accomplish the goal of making more information available to Congress? I don't believe so. As written, whenever the President takes action authorized by the bill, he must come to the Congress at the end of 30 days to get continued authorization. Might not a President, realizing that he had only 30 days to act before coming to the Congress for further authorization, be tempted in a "hostile" situation to do some "quick striking" or go further than he otherwise would have in order to accomplish as much as possible before congressional review? Would a President be tempted to give the Congress less, rather than additional, information because of the necessity for him to avoid congressional interference? Would it not be more expedient for a President to simply announce that on the basis of highly classified intelligence made available to him he was taking authorized action under the bill, accomplish as much as possible before the 30-day limitation, and indeed continue by maximizing the appearance of hostilities supposedly justified by classified informaation? Taking this one step further, would a President be tempted to provoke the hostilities he would need under the bill in order to obtain further authorization from the Congress?

Another important point should be made in connection with the 30-day limitation provision. Such a proviso could lead to a piecemeal strategy in countering an attack or threat of attack. Do we seriously want this kind of approach to our military policy around the world when we have just begun to emerge from the ridiculous situation of a limited, tep-by-step war such as Vietnam? This is further illuminated by the prospect that once the Congress gave its initial authorization for the President's introduction of troops in a hostile situation it could continue to put time limits on his use of those troops. The introduction of this element of uncertainty into military planning would place the United States in a situation of always being "too little too late."

Perhaps the most frustrating aspect of this bill is its utter vagueness. In considering the merits of a proposal such as this, it is necessary to consider all possible interpretations under every conceivable circumstance, and having done that, it seems to me that we are dealing with a bill which would be at least as subject to interpretation as the U.S. Constitution. Any time you can count as many lawyers on one side of a bill as you can on the other, it seems it would be rather difficult to respond with a real consensus.

One key to the very nature of this bill is the number of times the word "imminent" occurs. This word is usually accompanied by the word "hostilities." That is all very fine, but I wish someone would tell me how we would define these two words within the time period necessary to give the President the authority to respond to a military threat.

The bill should be defeated, but at the very least it should be referred to the Judiciary Committee to determine its constitutionality and to interpret its meaning.

Mr. President, I ask unanimous consent that an article by Yale Law Prof. Eugene V. Rostow entitled "Great Cases Make Bad Law" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Great Cases Make Bad Law

(By Eugene V. Rostow)

Responding to the tragedy of Vietnam, a group of Senators led by Jacob K. Javits proposes a fundamental change in the constitutional relationship between President and Congress in the field of foreign affairs. They wish to accomplish their goal without the inconvenience of the amendatory process, by legislation alone, based on new perspectives they have discovered in the "necessary and proper" clause of the constitution.

They assert that the underlying cause of the Vietnam tragedy is a modern and most unconstitutional excess of presidental power, caused by presidential "usurpations" since the time of McKinley, and especially those they claim Johnson made with regard to Vietnam. Ignoring their own repeated votes for Vietnam, these Senators say "we live in an age of undeclared war, which has meant Presidential war. Prolonged engagement in undeclared, Presidential war has created a most dangerous imbalance in our constitutional system of checks and balances." Although Senator John Sherman Cooper has rightly criticized their theory as a rewriting of history, Senator Javits and his colleagues are pushing a Bill which in their view would correct nearly two hundred years of error, strip the Presidency of many of its most essential powers, and restore what they fondly imagine was the constitutional model of 1787.

Holmes once said that great cases, like hard cases, make bad law. The Javits Bill confirms Holmes' quip more vividly than any proposal since the Bricker Amendment. But it is a more serious attack on the constitution, and the security of the nation, than any of the Bricker Amendment proposals. They would have required affirmative Congressional action before treaties became operative as the supreme law of the land. The Javits Bill would deprive the President of powers which were used routinely by Washington, both Adams', Jefferson, Madison, Monroe, and by nearly every President since—powers to use or threaten to use force in aid of diplomacy which experience, and the Supreme Court, have found indispensable to the effective functioning of the nation in the society of nations. The armed forces of the United States have been used abroad more than 150 times since 1789, only 5 times under declarations of war, and only a few dozen times pursuant to congressional action that could arguably be construed to authorize what in fact the President did. In this respect American practice corresponds to that of all other nations in the 18th, 19th, and 20th centuries. There is nothing special, under either international law or American constitutional law, about "undeclared" limited war in time of peace, or campaigns handled by the executive alone. In the nuclear age, as the Cuban Missile Crisis and several subsequent crises demonstrate, these are the flexible powers the nation needs most if there is to be any hope of avoiding nuclear war.

With admirable candor, Senator Javits has said that the purpose of his Bill is to reduce the elective Presidency, which the Founding Fathers were at pains to establish as a third autonomous and co-equal branch of the government, to the humble posture of George Washington during the Revolution, when he functioned as Commander-in-chief, appointed by the Continental Congress, and its creature, or the creature of its committees, in every respect.

Congress has made no bid for supremacy so bold, and so foreign to the basic ideas of the American constitution, since the impeachment of Andrew Johnson. The legal theory on which the Bill rests would permit a plenipotentiary Congress to dominate the Presidency (and the courts as well) more completely than the House of Commons governs in Great Britain.

I reach this conclusion not as an advocate of increased Presidential power, but as a defender of the constitutional pattern of enforced cooperation between President and Congress we have inherited, for all the friction it inevitably generates. I disagree with the arguments for enlarged Presidential power advanced in recent years by McGeorge Bundy, James McGregor Burns, Richard Neustadt, and Senator Fulbright, among others. In my experience, the respective powers of each branch are indispensable if the making and execution of foreign policy are to remain under effective democratic control. Our practice is strenuous. But a quiet life for Presidents or members of Congress is not a very important goal of our constitutional arrangements.

The corollary of this principle, however, is democratic responsibility. It is not seemly for astute and worldly men who spoke and voted for SEATO, the Tonkin Gulf Resolution, and other legislative steps into the Vietnam War now to claim that they were brainwashed, and therefore that we—and the world—should treat public acts of the United States as if they never happened. These men were not brainwashed. They knew everything the executive branch knew. But their argument has no bearing on the problem in any case. Even if they had been brainwashed, their votes stand. Their claims recall the arguments that the Fourteenth Amendment was a nullity, and could be ignored, because many of the legislatures which ratified it voted under circumstances of fraud, or the coercion of military occupation.

The Javits Bill is full of paradox. While it purports to assure the nation that a pacific Congress will staunchly keep future Presidents from engaging in limited wars like Vietnam, the Bill would not have prevented the campaign in Vietnam if it had been enacted thirty years ago. The procedures used to bring Congress and the Presidency together behind the campaign in Vietnam fully comply with the substantive standards of the Javits Bill. Our participation in Vietnam was specifically authorized by Eisenhower's SEATO Treaty, and by several subsequent pieces of legislation, including the Tonkin Gulf Resolution, enacted for the purpose of approving the use of armed force to uphold the commitment of the Treaty. In the case of Korea, the Javits Bill would have required Truman to obtain a congressional Resolution within 30 days supporting the action he took in Korea under the United Nations Charter, which has the status of a treaty in our internal law. Such a Resolution could surely have been obtained at the time, although the President and the Congressional leaders thought it unwise and unnecessary to do so under the circumstances.

But if the Javits Bill had been on the books, it would have prevented Kennedy from handling the Cuban Missile Crisis as he did, by the skillful and minimal deployment of our armed forces as an instrument of deterrrence and persuasion, in order to protect our interests without a confrontation that could have led to limited or unlimited war with Cuba, or the Soviet Union, or both. Under the Javits Bill, President Johnson could not have employed the implicit threat of force to keep the Soviet Union out of the Six Day War in 1967. President Nixon could not have used the same methods to avert a general war in the Middle East in September, 1970, or to confine and contain the India-Pakistan war of 1972. Similarly, earlier Presidents could not have used or threatened to use the armed forces of the nation to persuade France to leave Mexico in 1865–1866, to avoid war with Spain or Britain over Florida, with France over Hawaii, or to send Commodore Perry on his fateful voyage to Japan.

The Javits Bill would annul the military provisions of all our outstanding treaties and congressional Resolutions authorizing the use of force by the President, including NATO and the Middle Eastern Resolution of 1957, which was renewed in 1961. Equally, it would annul all Presidential commitments, some of immense sensitivity and importance, of like effect.

The country is in the midst of a profound foreign policy crisis. It is not a constitutional crisis requiring a redefinition of the historical relationship between the President and Congress in the making and execution of foreign policy, but an intellectual and emotional crisis caused by the growing tension between what we do and what we think. The ideas that have shaped our policy since 1947 have suddenly lost their power to command. We can resolve that crisis only through a disciplined consideration of what foreign policy is for—an examination of what the nation must do, given the condition of world politics, to preserve the possibility of surviving as a democracy at home. That process is difficult. The relevant Congressional Committees, and the Congress as a whole, should be leading the nation in a courteous and sustained debate, through which we could hope to achieve a consensus as vital as that which sustained the line of policy which started with the Truman Doctrine, NATO and its progeny, and the Point Four Program.

Instead, the Senate Foreign Relations Committee has chosen to escape from the demanding but finite task of reality by plunging into the insoluble, and dangerous one of constitutional myth.

Korea and Vietnam did not come about because the Presidency arrogated Congress' powers over foreign policy. The Congress fully supported those efforts when they were undertaken. Those who now believe these campaigns were an error should recall the prudent wisdom of an earlier time, when the Supreme Court left the powers of the Supreme Court untouched even after the catastrophic error of Dred Scott. Errors are inevitable in the making and execution of policy, both by governments and by other institutions. In the turbulent and unstable world in which we live, the strong Presidency which has developed in the crucible of nearly 200 years of intense experience has never been more needed than it is today.

Mr. DOMINICK. Mr. President, I wish to call to the attention of Senators and those who read the Record the provisions of sections 3 and 4, dealing with NATO. This particular section specifically provides that authority to introduce the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances:

> Shall not be inferred (a) from any provision of law hereafter enacted, including any provision contained in any appropriation act, unless such provision specifically authorizes the introduction of such Armed Forces in hostilities.

Then it states that it should not be inferred:

> From any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such a situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of the act.

The section goes on to state:

> Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities. No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation, within the meaning of this clause.

Mr. President, what this means in terms of NATO would seem perfectly apparent. If we have our troops there and those troops should not be the direct focus of attack but our allies should be attacked, we could not take any action. It also prohibits the fact that any of our officers could participate in the command structure. That means that under those circumstances the enemy could determine that an attack on Germany, or German forces, whatever forces might be there, we could not operate nor could the command structure of NATO operate without specific authorization after such an attack.

It just does not seem to me that that does us any good in our foreign policy. I do not think it does any good in an effort to try to reduce our forces unilaterally, with respect to the Warsaw Pact countries and NATO countries on our side, and I do not think it adds in any way to a deterrent to a threat against Europe, if there should be a threat.

We are not dealing, as the Senator from Arizona said, in a Vietnam situation or in a Cambodian situation today. We are dealing far down the road of history. I would suggest to Senators that it is not easy to do that at the very best and is certainly not easy to do it in situations as complex as they are in today's world.

In the absence of a declaration of war it provides that—

> The President can use the armed forces only to protect while evacuating citizens and nationals of the United States from any situation on the high seas involving a direct and imminent threat.

What are we going to do in the event someone turns the tap off or decides to intercept tankers we are using to try to get oil from the Middle East so that we will have the necessary energy in this country? I understand from this measure that that kind of situation would be prohibited. We would not be permitted even in an emergency to act in that situation.

I suggest to my friend from New York under those circumstances, with the energy crisis we have, all we are doing is to make it more difficult in getting those imports and putting them to use in this country.

There are a lot of other specifics which I could mention.

I mentioned earlier, when the Senator from New York was not on the floor, the specific differentiation that is made between sections 3(1) and 3(2), whereby this country is entitled to repel an armed attack on our forces here or in our territories or possessions and to retaliate, but the retaliation phrase is totally eliminated in the event the attack comes on any forces stationed overseas.

So it is perfectly obvious that if the Commander in Chief, or the Defense Department, or simply the commander in control sends someone either to Okinawa, Korea, or Europe, he is entitled to protect himself, but he is not entitled to retaliate in any way whatsoever until Congress has come to the conclusion as to what is going on and whether or not we ought to act.

If we are attacked overseas, it strikes me that the best way to protect ourselves would be perhaps to launch an air attack—that has been part of the strategic study—against the force backing the attacking force. But we are not allowed to do that according to this provision. What happens to the command structure and tactics, insofar as NATO is concerned, while they wait on Congress to decide whether this is the opportunity we would like to avoid or whether we ought to go out to meet it with full force and effect? I would say people stationed overseas in those circumstances are going to be put into a great deal of additional danger.

I have, therefore, introduced an amendment to try to take care of that particular phase, which I will bring up at a later time.

Mr. JAVITS. Mr. President, I yield to the Senator from Massachusetts (Mr. BROOKE) 5 minutes out of the time allocated to the Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BROOKE. Mr. President, I am pleased to speak in support of S. 440, the War Powers Act of 1973. This bill, and an idential measure passed by the Senate last year, is the culmination of extensive and thoughtful efforts to reconcile certain of our constitutional principles with the realities of armed conflict in the modern world. It accomplishes this goal admirably and deserves the support of the Congress and the American people.

I would be remiss if I did not acknowledge the instrumental contribution of the distinguished senior Senator from New York (Mr. JAVITS), who has labored long and hard to perfect this important piece of legislation. Numerous other Senators, including the distinguished chairman of the Armed Services Committee (Mr. STENNIS), have also played important roles in the legislative process that has produced this bill.

Mr. President, recent history has shown that the crucial decision to go to war is far too great a responsibility to place in the hands of one man—the President. Nor is it wise to ignore the insights of our Founding Fathers who recognized that great dangers inherent in unitary authority to both declare and wage war. To counter this danger, they separated the war-waging from the war-initiating powers. As Thomas Jefferson stated:

> We have already given in example one effectual check to the Dog of war by transferring the powers of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.

In the era of crisis that has characterized the international system since the late 1940's, this wise approach to the problem of war has been replaced by the dangerous practice of allowing the Executive almost unchallenged freedom to determine when and under what conditions U.S. Armed Forces will engage in hostilities. We have reaped, in the Vietnam conflict, the whirlwind of our failure to abide by our constitutional principles. However, if out of this tragedy comes the impetus to correct our mistakes, we may avoid repeating past follies brought on by a failure to learn from history. Enactment of the War Powers Act will be one important indication that we possess sufficient desire to do so.

The American people, through their elected Representatives in Congress, must make the ultimate decision to commit their lives and their resources to extended armed conflict. This was the principle accepted by Jefferson. It is a principle equally applicable today when war has proven increasingly expensive, both in terms of human suffering and monetary cost.

In seeking to implement this tenet, the War Powers Act reconfirms and defines with precision the authority of Congress to exercise its responsibility to determine when the United States should go to war. It also clarifies the way in which this responsibility relates to that of the President as Commander in Chief.

In an age of revolutionary change and shifting relationships in the world, proponents of the War Powers Act recognize that the President must possess sufficient latitude to initiate military action without prior congressional consent in certain selected circumstances. Those are:

> First, to repel, retaliate for, or forestall an armed attack upon the United States, its territories and possessions.
>
> Secondly, to repel or forestall an armed attack against U.S. forces outside of the United States, its territories and possessions.
>
> And finally, to protect the lives of U.S. citizens during evacuation of such citizens from situations where their lives are threatened.

In these circumstances, the President can continue military hostilities for a period not to exceed 30 days unless first, Congress authorizes continuation of such activities; second, Congress is physically unable to meet because of an armed attack upon the United States; or third, the President certifies to Congress that a further continuation of U.S. military activities is necessary in order to bring about a prompt U.S. disengagement from such hostilities.

In enacting this legislation, the Congress will implicitly accept a responsibility to possess the knowledge and expertise needed to make intelligent decisions regarding the many complex issues extant in any situation threatening to engulf the Nation in war. We must take the steps necessary to insure that we can continue to fulfill this responsibility in the period ahead. I refer here to the need to have sufficient information gathering capabilities and sufficient staff to process and assimilate the same.

Criticism has been voiced that the Congress, composed of 535 individuals, will lack sufficient unity to make the immediate decisions necessary to compensate for the exigencies of modern conflict. I believe, conversely, that the potential magnitude of the disaster of modern conventional warfare, creates a greater need for deliberative rather than reactive decisionmaking than has been the case in the past. The intimate involvement of the legislative branch in the decision whether or not to wage war will hopefully result in a more sanguine approach to the warmaking issue than has been the case recently when we have experienced almost total dependence upon Presidential discretion in this area.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. BROOKE. I ask for half a minute.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. BROOKE. In sum, I am convinced this legislation will allow both the Congress and the Executive to fulfill their respective obligations under the Constitution in regard to the decision to engage in and wage war. It represents a justified reassertion of congressional prerogatives in an area of vital concern to our domestic tranquillity and our national security. It merits the firm and unequivocal support of the Senate.

I thank my distinguished colleague from New York for yielding me time.

Mr. JAVITS. Mr. President, I express my deep gratitude to the Senator from Massachusetts (Mr. BROOKE) for his splendid statement which is so very helpful in supporting this truly historic legislation.

Mr. PERCY. Mr. President, on June 29, the President and the Congress reached an agreement to cut off all United States combat operations in Indochina, effective August 15. The President further agreed not to reinitiate hostile actions by U.S. forces in Indochina until and unless he obtained the explicit authorization of the Congress.

Although I regretted that the bombing of Cambodia was not ended immediately, it seemed clear that the necessary majorities were unobtainable in the Congress to override a Presidential veto of an immediate cutoff. Therefore, I was persuaded that the agreement was a sensible way out of a constitutional crisis affecting other urgent matters. Moreover, the agreement established an important precedent by committing the President for the first time to a definite end of U.S. combat involvement in Indochina.

It is important now that the agreement of June 29, which represented a successful negotiation between the executive and legislative branches, be followed by enactment of S. 440, the War Powers Act, which will reassert the constitutional role of the Congress in the ultimate question of foreign policy, whether this Nation will or will not go to war.

In light of the effective presentations of Senator JAVITS and others among his cosponsors in articulating and interpreting the provisions of the War Powers Act, I will not take the time of my colleagues to elaborate on the details of the bill or its origins, except to reflect with some satisfaction that in May 1970, when U.S. ground forces were committed to combat in Cambodia, I introduced a progenitor of this bill to focus attention on the need to reaffirm the role of the Congress in decisions on warmaking, as envisioned by the Founding Fathers when they wrote and adopted the Constitution.

I would also like to note the great contributions of Senator STENNIS to the development of this bill, and I regret that he cannot be in the Chamber today to argue its merits. I am pleased that the distinguished Senator from Mississippi has sent us a detailed statement emphasizing his continued strong support for the measure.

The debate which begins today is an important one, with historic significance. I have confidence that it will be concluded with a major victory for this legislation.

QUORUM CALL

Mr. JAVITS. Mr. President, I believe that we are about to have a change of bills. I therefore ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTITRUST PROCEDURES AND PENALTIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 1861, the unfinished business, and S. 440, the War Powers Act, the pending business, be temporarily laid aside and the Senate proceed to the consideration of calendar No. 280.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

Calendar No. 280 (S. 782) a bill to amend the antitrust laws of the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and without objection, it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments on page 1, line 10, after the word "as", strike out "(h)" and insert "(i)"; on page 2, line 2, after the word "civil", strike out "or criminal"; at the beginning of line 7, insert "Any written comments relating to the proposed consent judgment and any responses thereto shall also be filed with the same district court and published in the Federal Register within the aforementioned sixty-day period. Copies of the proposed consent judgment and such other materials and documents which the United States considered determinative in formulating the proposed consent judgment shall also be made available to members of the public at the district court before which the proceeding is pending and in such other districts as the court may subsequently direct."; on page 3, at the beginning of line 11, insert "actually considered"; on page 4, at the beginning of line 1, strike out "(c)" and insert "(d)"; at the beginning of line 15, strike out "(d)" and insert "(e)"; in line 18, after the word "interest", insert "as defined by law"; in line 19, after the word "court", strike out "shall" and insert "may"; in line 23, after the word "remedies", insert "actually considered"; on page 5, at the beginning of line 6, strike out "(e) In making its determination under subsection (d)" and insert "(f) In making its determination under subsection (e)"; on page 6, line 6, after the word "subsection", strike out "(c)" and insert "(d)"; at the beginning of line 10, strike out "(f)" and insert "(g)"; in line 22, after the word "communications", insert "known to the defendant or which the defendant reasonably should have known"; at the beginning of line 24, strike out "(g)" and insert "(h)"; in line 25, after the word "sections", strike out "(d) and (e)" and insert "(e) and (f)"; on page 9, line 13, after the word "of", strike out "justice; or" and insert "justice."; after line 13, strike out:

"(2) the Attorney General files in the district court a certificate stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice; or

"(3) the district judge who adjudicated the case, sua sponte, enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice.

And, in line 22, after "(1)", strike out "or (3) or a certificate pursuant, to (2)"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Procedures and Penalties Act".

CONSENT DECREE PROCEDURES

SEC. 2. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 16), is amended by redesignating subsection (b) as (i) and by inserting after subsection (a) the following:

"(b) Any consent judgment proposed by the United States for entry in any civil proceeding brought by or on behalf of the United States under the antitrust laws shall be filed with the district court before which that proceeding is pending and published in the Federal Register at least sixty days prior to the effective date of such decree. Any written comments relating to the proposed consent judgment and any responses thereto shall also be filed with the same district court and published in the Federal Register within the aforementioned sixty-day period. Copies of the proposed consent judgment and such other materials and documents which the United States considered determinative in formulating the proposed consent judgment shall also be made available to members of the public at the district court before which the proceeding is pending and in such other districts as the court may subsequently direct. Simultaneously with the filing of the proposed consent judgment, unless otherwise instructed by the court, the United States shall file with the district court, cause to be published in the Federal Register and thereafter furnish to any person upon request a public impact statement which shall recite—

"(1) the nature and purpose of the proceeding;

"(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

"(3) an explanation of the proposed judgment, relief to be obtained thereby, and the anticipated effects on competition of that relief, including an explanation of any unusual circumstances giving rise to the proposed judgment or any provision contained therein;

"(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that the proposed judgment is entered;

"(5) a description of the procedures available for modification of the proposed judgment;

"(6) a description and evaluation of alternatives actually considered to the proposed judgment and the anticipated effects on competititon of such alternatives.

"(c) The United States shall also cause to be published, commencing at least sixty days prior to the effective date of such decree, for seven days over a period of two weeks in newspapers of general circulation of the district in which the case has been filed, in Washington, District of Columbia, and in such other districts as the court may direct (i) a summary of the terms of the proposed consent judgment, (ii) a summary of the public impact statement to be filed under subsection (b), (iii) and a list of the materials and documents under subsection (b) which the United States shall make available for purposes of meaningful public comment, and the places where such material is available for public inspection.

"(d) During the sixty-day period provided above, and such additional time as the United States may request and the court may grant, the United States shall receive and consider any written comments relating to the proposed consent judgment. The Attorney General or his designate shall establish procedures to carry out the provisions of this subsection, but the sixty-day time period set forth herein shall not be shortened except by order of the district court upon a showing that extraordinary circumstances require such shortening and that such shortening of the time period is not adverse to the public interest. At the close of the period during which such comments may be received, the United States shall file with the district court and cause to be published in the Federal Register a response to such comments.

(e) Before entering any consent judgment proposed by the United States under this section, the court shall determine that entry of that judgment is in the public interest as defined by law. For the purpose of this determination, the court may consider—

"(1) the public impact of the judgment, including termination of alleged violation, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of the judgment;

"(2) the public impact of entry of the judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint, including consideration of the public benefit to be derived from a determination of the issues at trial.

"(f) In making its determination under subsection (e), the court may—

"(1) take testimony of Government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

"(2) appoint a special master, pursuant to rule 53 of the Federal Rules of Civil Procedure, and such outside consultants or expert witnesses as the court may deem appropriate; and request and obtain the views, evaluations, or advice of any individual group or agency of government with respect to any aspect of the proposed judgment of the effect thereof in such manner as the court deems appropriate;

"(3) authorize full or limited participation in proceedings before the court by interested persons or agencies, including appearance amicus curiae, intervention as a party pursuant to rule 24 of the Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate;

"(4) review any comments or objections concerning the proposed judgment filed with the United States under subsection (d) and the response of the United States to such comments or objections;

"(5) take such other action in the public interest as the court may deem approprite.

"(g) Not later than ten days following the filing of any proposed consent judgment under subsection (b), each defendant shall file with the district court a description of any and all written or oral communications by or on behalf of such defendant, including any officer, director, employee, or agent thereof, or other person except counsel of record, with any officer or employee of the United States concerning or relevant to the proposed consent judgment. Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this section have been complied with and that such filing is a true and complete description of such communications known to the defendant or which the defendant reasonably should have known.

(h) Proceedings before the district court under subsections (e) and (f), and public impact statements filed under subsection (b) hereof, shall not be admissible against any defendant in any action or proceeding brought by any other party against such defendant under the antitrust laws or by the United Sttaes under section 4A of this Act nor constitute a basis for the introduction of the consent judgment as prima facie evidence against such defendant in any such action or proceeding."

PENALTIES

SEC. 3. Sections 1, 2, and 3 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (26 Stat. 209; 15 U.S.C. 1, 2, and 3) are each amended by striking out "fifty thousand dollars" and inserting "five hundred thousand dollars if a corporation, or, if any other person, one hundred thousand dollars".

EXPEDITING ACT REVISIONS

SEC. 4. Section 1 of the Act of February 11, 1903 (32 Stat. 823), as amended (15 U.S.C. 28; 49 U.S.C. 44), commonly known as the Expediting Act, is amended to read as follows:

"SECTION 1. In any civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, wherein the United States is plaintiff and equitable relief is sought, the Attorney General may file with the court, prior to the entry of final judgment, a certificate that, in his opinion, the case is of a general public importance. Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case, or the chief judge of the district court if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

SEC. 5. Section 2 of that Act (15 U.S.C. 29; 49 U.S.C. 45) is amended to read as follows:

"(a) Except as otherwise expressly provided by this section, in every civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted in which the United States is the complainant and equitable relief is sought, any appeal from a final judgment entered in any such action shall be taken to the court of appeals pursuant to sections 1291 and 2107 of title 28 of the United States Code. Any appeal from an interlocutory order entered in any such action shall be taken to the court of appeals pursuant to sections 1292 (a)(1) and 2107 of title 28 of the United States Code but not otherwise. Any judgment entered by the court of appeals in any such action shall be subject to review by the Supreme Court upon a writ of certiorari as provided in section 1254(1) of title 28 of the United States Code.

"(b) An appeal from a final judgment pursuant to subsection (a) shall lie directly to the Supreme Court if—

"(1) upon application of a party filed within five days of the filing of a notice of appeal, the district judge who adjudiciated the case enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice.

A court order pusuant to (1) must be filed within fifteen days after the filing of a notice of appeal. When such an order or certificate is filed, the appeal and any cross appeal shall be docketed in the time and manner prescribed by the rules of the Supreme Court. That Court shall thereupon either (1) dispose of the appeal and any cross appeal in the same manner as any other direct appeal authorized by law, or (2) in its discretion, deny the direct appeal and remand the case to the court of appeals, which shall then have jurisdiction to hear and determine the same as if the appeal and any cross appeal therein had been docketed in the court of appeals in the first instance pursuant to subsection (a)."

SEC. 6. (a) Section 401(d) of the Communications Act of 1934 (47 U.S.C. 401(d)) is repealed.

(b) The proviso in section 3 of the Act of February 19, 1903, as amended (32 Stat. 848, 849; 49 U.S.C. 43), is repealed and the colon preceding it is changed to a period.

SEC. 7. The amendment made by section 2 of this Act shall not appy to an action in which a notice of appeal to the Supreme Court has been filed on or before the fifteenth day following the date of enactment of this Act. Appeal in any such action shall be taken pursuant to the provisions of section 2 of the Act of February 11, 1903 (32 Stat. 823), as amended (15 U.S.C. 29; 49 U.S.C. 45) which were in effect on the day preceding the date of enactment of this Act.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jon Steinberg have the privilege of the floor from now until the Senate disposes of S. 1148.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that during the consideration of S. 782, the Antitrust Procedures and Penalties Act, Gene Mittelman, one of the staff members of the Committee on Labor and Public Welfare, may have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I ask unanimous consent that Rick Rubin, of my staff, be granted the privilege of the floor during the consideration of the pending bill and during any votes that may be had thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, S. 782, entitled the Antitrust Procedures and Penalties Act, was reported unanimously by the Judiciary Committee. When I introduced this measure along with my distinguished colleague from Florida, Senator GURNEY, I observed that the Nation's antitrust laws have become antiquated and are no longer doing the job of protecting the public against abuses by the giant corporate conglomerates. The concentrations of economic power and the corrosive political influence which often results from such a closed system of enterprise has meant the loss of millions of dollars to the consumer.

These facts were borne out in testimony from eminent members of the private bar, from Federal judges, law school professors, attorneys specializing in antitrust cases, and by the Antitrust Division of the Department of Justice. In extensive hearings held over 3 days, all who testified were in basic agreement that greater ventilation of the consent decree process—the process by which over 80 percent of all antitrust cases are disposed of—is vitally needed, that the opportunity for informed public comment must be extended, and that the courts must make an independent determination in approving consent judgments.

The distinguished judge of the U.S. Court of Appeals for the District of Columbia, J. Skelly Wright, put the reasons for this legislation in the proper perspective when he stated in his testimony before the Antitrust and Monopoly Subcommittee:

> By definition, antitrust violators wield great influence and economic power. They often bring significant pressure to bear on government, and even on the courts, in connection with the handling of consent decrees. The public is properly concerned whether such pressure results in settlements which might shortchange the public interest.

And later in his prepared statement, Judge Wright stated the matter even more pointedly when he said:

> Because of the powerful influence of antitrust defendants and the complexity and importance of antitrust litigation, the public reasonably asks in many instances whether in reaching a settlement, the government

> gave up more than it need have or should have. Some response to this public concern is desirable, in my opinion, not only to ensure that the compromise struck by the Justice Department is fair from the public's point of view, but also to alleviate fears which, even if unfounded, are unhealthy in and of themselves.

I think Judge Wright gets to the heart of the problem—it is the excessive secrecy with which many consent decrees have been fashioned, and the almost mechanistic manner in which some courts have been, in effect, willing to rubber stamp consent judgments.

The history books are replete with instances of antitrust settlements hammered out behind closed doors completely out of public view, and with virtually no regard for the requisites of due process. As early as 1959, a House Antitrust Subcommittee expressed its misgivings about such proceedings when it recommended that every consent decree be accompanied by an Antitrust Division statement articulating, first, its views of the facts of the case; second, the goal the decree seeks to achieve; and third, a detailed interpretation of the key provisions.

Among the more blatantly inequitable and improper antitrust settlements was the 1941 case of United States versus Atlantic Refining Co. which charged 22 major vertically integrated oil companies, 379 of their subsidiaries and the American Petroleum Institute with a vast array of antitrust violations. While the original complaint sought sweeping divestitures in the oil industry, the eventual consent decree only resulted in the divestment of 2,500 Sinclair service stations in 14 sparsely populated Midcontinent States. But Sinclair had already decided to sell these properties because of their low rate of return.

The 1956 consent decree in the celebrated ATT-Western Electric case permitted the telephone giant to retain its manufacturing monopoly notwithstanding overwhelming evidence of improprieties.

In the Von's Grocery Store case of 1966, Von's was ordered to divest a certain number of acquired stores, but when the consent decree failed to specify which ones, Von's obligingly jettisoned its 40 least profitable outlets.

A 1969 consent decree in the so-called smog case contained no affirmative provision requiring the auto industry to undo its past damage, by retrofitting antiemission exhaust devices on cars in the California market which was the primary site of the conspiracy.

In the El Paso case—perhaps the leading atrocity in the whole litany of antitrust suits—after 17 years of inconclusive litigation, the U.S. Supreme Court, in language which some have described as unique for that body, accused the Antitrust Division of "knuckling under" to the El Paso Natural Gas Corp.

More recently, the International Telephone & Telegraph Corp., America's largest corporate conglomerate, gave up Canteen & Grinell Corp. and four other holdings, but was allowed to retain the Hartford Fire Insurance Co., its most profitable subsidiary and most liquid asset. Furthermore, it was not forced to disgorge the profits made between acquisition and divestiture, a retention which can only offer incentives to others to strive for similar short-run profit taking.

With greater public awareness, these abuses might have been stopped. At the very least public vigilance and the insistence on stricter Government surveillance of corporate conduct will make it more likely that firms will compete. Vigorous competition we have learned through sad experience, is the most trustworthy weapon against greater inflation. The eminent economist, Gardiner Means, has estimated that up to 90 percent of our inflation is due to the market power of the largest firms.

A 1969 White House economic staff report was able to say:

> At unemployment rates of 4 percent, we may expect an annual inflation rate of 1 percent when manufacturing profits average 10.1 percent of net worth. But with profit rates among the concentrated industries of 14.6 percent, we may expect an annual inflation rate of 3 percent.

Spurred by the mergers and consolidations among the largest companies, which have occurred in cycles since 1898, with an average of 3,605 mergers annually in the period between 1967 and 1969, the trend toward giantism has put tremendous strain upon the courts and the Government, who are both custodians of the antitrust laws. Tools invented essentially in the 1890's are being used to deal with the economic marketplace of the 1970's.

In his book, "The Closed Enterprise System," Mark Green traces the trend toward bigness:

> Between 1962 and 1968, 110 of *Fortune's* 500 largest industrials disappeared by merger. Moreover, between 1948 and 1968 over 1,200 manufacturing companies with assets of $10 million or more were merged with other firms. Such companies are the type expected to grow and challenge entrenched oligopolies; their disappearance negated whatever competitive potential they possessed. In all, between 1948 and 1968 the 200 top firms acquired assets in excess of $50 billion. American industry in these two decades underwent a face-lift unmatched in its history.

CONSENT DECREE PROVISIONS OF S. 782

Having taken this brief glance at antitrust history, I want to turn to an explanation of my legislation. Put simply, the Antitrust Procedures and Penalties Act would change certain specifics in the manner in which consent decrees in civil antitrust cases are formulated, would increase the penalties levied upon antitrust violators, and would modify the procedures established in the Expediting Act (S.S.C. 28) for appellate review of antitrust cases.

The measure is divided basically into three separate sections as follows:

When a consent decree is filed with the district court, the Justice Department would now also be required to file and publish a "public impact" statement which explains the nature and purpose of the relief, the alternatives actually considered by the Justice Department in deciding on such relief, and the procedures available for modification of the proposed judgement.

The period for consideration of the decree is extended from 30 to 60 days, during which time written public comment is invited and the Justice Department is required to give its answers to such comment.

The decree, the public impact statement and the comments and replies to them must be published in the Federal Register. Summaries of the consent decree and the public impact statement must also be published in newspapers of general circulation for 7 days over a period of 2 weeks.

Within 10 days of the filing of the decree, the defendant must list with the court its lobbying contacts, other than communications made by or in the presence of counsel of record with the Attorney General or the employees of the Department of Justice which are excluded from this requirement.

Before entering the decree, the court must find that it is in the public interest as defined by law. In reaching its decision the court may, in its discretion, review both procedural and substantive factors which the bill enumerates. The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.

PRESENT PRACTICE

Under present procedures, when the Department enters into a consent decree, it signs a stipulation with the respondent which says that that proposed decree shall be entered as final within 30 days after it is filed. The stipulation provides, however, that the Government has the right to withdraw its consent decree at any time during the 30 days. The private party is bound during that time and may not withdraw its consent.

On the filing day, the Department presently issues a press release advising the public of the terms of the consent decree and describing the illegal action alleged in the complaint. It also asks for public comment to the court and to the Department for 30 days prior to the entry of the judgment. The Department is not obligated to respond to written comments received. This is the crux of the present consent decree process.

What the Justice Department has promulgated by administrative regulation, S. 782 would codify and ratify as the law. But the guiding principles remain the same: On the one hand, the court must obtain the requisite information to enable it to make an independent determination. On the other hand, it is most important that the consent decree be preserved as a viable settlement option. This is the Government's philosophy and this remains the philosophy of our bill.

S. 782 would transform a procedure which was generally accomplished in a series of private, informal negotiations between antitrust lawyers and attorneys for the defendant, into one that is exposed to the full light of public awareness and judicial scrutiny.

But it would not compel a hearing or a trial on the public interest issues. It only asks that the trial judge elicit the needed information through the least complicated and least time consuming means. Where the public interest can be meaningfully evaluated merely on the basis of good briefs and careful oral arguments, then that is the approach which should be followed.

One further point should be stressed. In arriving at its public interest determination, the bill enumerates some additional factors which it would have the court consider—but that consideration is purely discretionary.

The criteria are only guideposts, not designed to put strictures upon the court's freedom, but rather to encourage even greater illumination of the facts that governed the deliberations that preceded the fashioning of the consent decree.

There should also be no misunderstanding about the intent of the bill with respect to potential private plaintiffs. We do not seek to open the floodgates to litigation, nor has anyone argued that the bill, in its final version and as it was endorsed by all members of the Judiciary Committee, would do so. Provision 2(f)(3), which provides that a court may authorize participation in its proceedings upon a proposed consent decree by interested persons or agencies, is not intended to broaden the existing right of intervention.

The bill only reinforces the fundamental policies of the Antitrust Division in its enforcement of the laws: the desirability of obtaining a judgment, either litigated or consensual, which will adequately protect the public by ensuring healthy competition and the elimination of all illegal restraints upon trade. It was the strong feeling of the committee and it is the belief of this Senator that in the majority of instances the interests of private litigants can be accommodated without the risk, delay, and expense of the Government going to trial.

The objective of sound antitrust law enforcement and our obligation to protect the public interest are mutually compatible. This legislation only makes governmental aspiration a legal reality.

Thus where the Government now invites public comment, we extend the period of invitation; where the Government already has access to the information determinative in the fashioning of the consent decree, we ask that the public and the courts have equal access; where the Government now issues a press release explanatory of the reasons for its decision, we simply ask that it explain more; where the Government now makes available to the court to assist the court's review of the proposed consent decree, we ask that it provide more information by way of a public impact statement and responses to public comment; where the Government has given limited public notice of its findings, we expand that notice by requiring publication in summary form of the consent decree and the public impact statement in the Federal Register and in the newspapers.

The public impact statement, perhaps the most novel feature of the bill, is similar to the environmental impact statement presently called for under the National Environmental Protection Act. It is, therefore, not without precedent, but rather reflects a continuing concern on the part of Congress to assure that decisions having a major public impact be arrived at through procedures which take account of that impact.

These provisions add nothing which could in any way stymie or frustrate the efforts of the Department of Justice in carrying out its duties in the antitrust area. The extension of the public comment period to 60 days, the strengthened publication requirements, the necessity for listing lobbying contacts, and the need for a public interest determination all had the explicit support of the chief spokesman for the Antitrust Division, Thomas E. Kauper, in testimony before the committee.

INCREASE IN PENALTIES

The second major section of S. 782 would increase the maximum criminal fines for violations of the antitrust laws from $50,000 to $100,000 for individuals and to $500,000 for corporations. At a time when the profits garnered through the flouting of antitrust laws can run into the millions of dollars, such increases are way overdue.

The Ralph Nader study group report on antitrust enforcement pointed out that between 1955 and 1965, corporate fines averaged $13,420 and individual fines $3,365. Unless the courts are prepared to make these penalties financially prohibitive, the rewards for breaking the law will continue to outbalance the deterrent value of the fines.

The Justice Department is also on record in support of increasing penalties. In testimony before the Judiciary Committee on this legislation, Thomas Kauper, the Assistant Attorney General in charge of the Antitrust Division pointed out that his department urged Congress in the past to increase Sherman Act fines.

If we are to command respect for the antitrust laws, and support the Government in administering them, we must be willing to assess fines that have some bite.

REVISIONS TO THE EXPEDITING ACT

The third and last section of my bill seeks to amend the Expediting Act to improve the procedures for appeals in antitrust cases, and also to permit immediate Supreme Court review in certain instances.

In brief, the section would require that final judgments and interlocutory orders in certain civil antitrust cases if appealed, be heard by the circuit courts of appeals.

Specifically, it would amend section 1 of the Expediting Act (15 U.S.C. 28, 49 U.S.C. 44) providing for a three-judge district court in civil actions where the United States is the plaintiff under the Sherman or Clayton Antitrust Acts or certain sections of the Interstate Commerce Act, upon the filing by the Attorney General with the district court of a certificate that the cases are of general public importance. This proposal would eliminate the provision that a three-judge court be impaneled, and would allow, instead, that upon application of either party a single judge could certify cases of general public importance for direct appeal to the Supreme Court.

S. 782 would also amend section 2 of the Expediting Act (15 U.S.C. 29, 49 U.S.C. 45) providing only for direct appeals to the Supreme Court of any final judgment, and instead would require that only those cases of general public importance be appealable directly to the Supreme Court with normal appellate review and discretionary review by the Supreme Court in all other cases.

The need for such change is dictated by the fact that, when the Expediting Act was written into law in 1903, the Sherman Act was still a relatively new and untried method of restraining combinations and trusts. Some had fears that the newly created appellate courts would be unfamiliar with the new laws and thus might delay and even thwart efforts to control the growth of monopolies. As a result the expediting legislation was adopted at the behest of the Attorney General.

The educational process for the appellate courts is now rather complete, and it is the Supreme Court which needs to be relieved of some of the burden of hearing the many cases coming to it under the Expediting Act.

A further consideration was the adequacy of direct review by the Supreme Court. Without having before it the record of the appellate court's disposition of the case, the high court has been at some disadvantage in deciding such litigation. Thus, by implementing procedures for appellate review in many antitrust cases, not only will the number of cases that come before the Supreme Court be reduced, but the issues will come to the highest court refined, and after litigants have had the opportunity of appellate review of the district court decrees, decrees that are seldom reviewed by the Supreme Court under current practice.

These are the nuts and bolts of this legislation. If I could sum up the true meaning and purpose of this act, I would cite the crisp and clear words of Justice Louis Brandeis:

> Sunlight is the best of disinfectants.

It is more sunlight that we are seeking to shed on the methods and manner by which we settle complex and costly antitrust suits through the consent decree process.

GOVERNMENT EFFORTS PRAISED

In the Report on S. 782 just issued by the Committee on Trade Regulation of the Bar of the City of New York, the following summary of the committee's position was offered:

> The Committee favors adoption of S. 782 insofar as it relates to consent decree procedures, . . . We believe these provisions will, if adopted, significantly improve the content of consent decrees, assist Government attorneys in recognizing the effect of a proposed decree on commerce and the public, and dispel the atmosphere of apparent impropriety which occasionally surrounds contacts between Government decisionmakers and corporate officials. The Committee also advocates adoption of the provisions of the bill providing for increased penalties . . . since we believe these provisions will increase compliance with the strictures of the antitrust laws.

I would add one fact. This bill in no way denigrates the considerable efforts of the Antitrust Division under a succession of administrations, both Republican and Democratic, to cope with a steadily mounting workload. On the contrary, it is in recognition of the substantial legal skills and economic expertise of this division that I have asked for certain basic reforms whch I feel will supply them with added muscle in enforcing the laws.

While there have been some notorious lapses in the performance of the Department, and while it is true that the courts have not been ever vigilant to correct the errors that others either willfully or accidentally made, there have also been some notable successes.

It was action by the Antitrust Division against five drug companies which directly reduced prices to the consumer of the important antibiotic tetracycline by 95 percent; it was antitrust action against a number of electrical equipment manufacturers that led to treble damage settlements resulting in a savings of more than $500 million to consumers through reduced utility rates. Yet while settlements such as the electric industry one could have met the division's current budget for more than 40 years, the Division's total budget, when measured in 1958 dollars, has actually decreased since 1950 while the size of the economy has been doubling.

In 1950, the Antitrust Division had 314 professional staff lawyers and economists. Today, it has 354 professional personnel, a mere 12-percent increase in over two decades. By comparison during this same period, the 200 top industrial firms increased their control over manufacturing assets from approximately 46 to 66 percent.

For a trillion-dollar economy with 52 percent of all manufacturing assets in the hands of 115 "billion-dollar" firms, 354 legal guardians is clearly inadequate, and the $13 million for the division which I see was requested by the administration for fiscal year 1974 is plainly too little.

In a letter to Senator PASTORE's Appropriations Subcommittee, I joined Senator HART, the distinguished chairman of the Antitrust and Monopolies Subcommittee, and other colleagues in asking for an increase of $3 million in the budget for the Antitrust Division of the Department of Justice. We made this request, mindful of widespread concern about inflation and the effect of Government spending on the economy, because we agree with economists of many persuasions, including Dr. Arthur Burns, Chairman of the Federal Reserve Board, and Dr. Pierre Rinfret, formerly special economic adviser to President Nixon, who have stated that the most effective method of controlling prices is to increase competition in the marketplace. That is exactly what the antitrust laws are designed to do.

Mr. President, it is past the time when we needed to implement these basic changes in the Nation's antitrust laws. Longer study will probably reveal that additional changes must be made to adapt to the rapidly changing economic structure in this country. But it is already certain that excessive secrecy in the affairs of Government, and negotiating sessions conducted in total isolation from the public eye, create the potential for grave excesses that undermine the very framework of democratic government. Such clandestine action is not alien to some of the world's most repressive dictatorships, but it must never be permitted to become an acceptable feature of our landscape.

The corporate sector was never constitutionally intended to wield power equal to or greater than that retained by the branches of Government charged by law to oversee its conduct.

But abuses will not stop unless the public is permitted to know what they are. Vigorous competition, we have learned through sad experience, is the most trustworthy weapon against greater inflation; but an informed public may be the best device for insuring such competition.

This bill would hasten the achievement of those common goals. I strongly urge that my colleagues vote in support of it.

I also ask unanimous consent that Mr. Tom Brennan of the Judiciary Committee staff be allowed the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator request that the committee amendments be considered en bloc?

Mr. TUNNEY. Yes.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

Mr. TUNNEY. I ask unanimous consent to have printed in the RECORD a statement on this measure by the Senator from Florida (Mr. GURNEY).

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR GURNEY

The consent decree is an important and useful tool in the enforcement of our antitrust laws. The antitrust procedures and penalties act, by amending the existing antitrust laws to make more information available to the courts and to the public about proposed consent decree settlements of antitrust cases, promises to shape the consent decree into a more important and more effective device.

This, in turn, should enhance the very free enterprise business system which the antitrust laws themselves are designed to protect.

The importance of consent decrees is difficult to understate. The vast bulk of antitrust judgments entered annually are implemented by these decrees.

Consider, for example, the following statistics regarding the use of consent judgments. During the years from 1955 to 1967, 81 percent of all antitrust judgments were represented by consent decrees.

The annual percentage of antitrust judgments represented by consent decrees during the period 1955 to 1972 are represented by the following table.

	Percent
1955	91
1956	91
1957	88
1958	88
1959	82
1960	100
1961	70
1962	100
1963	82
1964	88
1965	75
1966	80
1967	53
1968	66
1969	57
1970	84
1971	93
1972	76

It shows again the number of antitrust consent decrees and these figures certainly indicate the importance of the consent decree in antitrust enforcement.

In none of the 18 years listed did the percentage of consent decrees constitute less than half the total number of judgments in antitrust litigation.

In only two years, 1963 and 1969, did the percentage even approach the 50 percent mark, and in two years, 1960 and 1962, 100 percent of all the judgments entered were pursuant to the consent decree.

The antitrust laws of the United States are the bulwark of our free enterprise system. Without effective operation of the laws against trust and monopoly power, competition is eroded and the quality of our commerce is correspondingly reduced.

Competition in the marketplace is virtually indispensable to the production of high quality goods at the lowest possible price. Without it, the advantages of a free enterprise system are lost, with consequent loss of efficiency and economy.

Now, the Antitrust Procedures and Penalties Act is designed to enhance the value and effectiveness of the consent decree as a tool of public policy.

Specifically, the bill establishes a specific but reasonable set of standards and guidelines to govern the settlement of antitrust cases and, in particular, the procedures by which consent judgments are entered into.

Its most important advantage will be to increase public confidence in the administration of antitrust settlements, by expanding upon existing law without working undue hardship.

The first section of S. 782 would require that any consent decree proposed by the Department of Justice must be filed with the court and published in the Federal Register 60 days before it is intended to take effect, and by amendment there are certain requirements for publication in newspapers of general circulation. Also there are certain filing requirements relating to written comments and the like.

At the same time, the Department would be required to file a "public impact" statement, analogous to that required under the National Environmental Protection Act, listing information on the case, the settlement proposed, the remedies available to potential private plaintiffs damaged by the alleged violation, a description of the alternatives to the settlement, and the anticipated effects of such alternatives.

The extra time and additional information that the bill thus requires is for the purpose of encouraging, and in some cases soliciting, additional information and public comment that will assist the court in deciding whether the decree should be granted.

To ensure that public comment receives consideration, a further provision requires that the Justice Department file a formal response to it.

The bill further requires that the court accept a proposed consent decree only after it determines that to do so is in the public interest as defined by the antitrust laws of the United States. The bill specifies criteria the court may consider in deciding whether the judgment would in fact be in the public interest so defined. This is a particularly important provision, since after entry of a consent decree it is often difficult for private parties to recover redress for antitrust injuries.

In some cases, the court may find that it is more in the public interest, for this reason and others, that the case go to trial instead of being settled by agreement.

It is not the purpose of S. 782 to undo the effectiveness of the consent decree. The bill explicitly provides that proceedings before the district court in connection either with the decree itself or the required public impact statements are not admissible against any defendant in any antitrust action, nor may they be used as a basis for introduction of the decree itself as evidence.

By declining to give it prima facie effect as a matter of law, the attractiveness of the consent decree is thereby preserved.

The other portions of the bill are valuable too. They raise the penalties for criminal violations of the antitrust laws, and improve the appellate procedures for antitrust cases.

This will help solve the inadequacies of the present $50,000 maximum fine. And strengthening procedures for immediate review of cases of general public importance will benefit everyone concerned, either as an individual connected with the suit itself or as a member of the general public.

The antitrust procedures and penalties bill has been the subject of extensive hearings and comments before the antitrust subcommittee, and without dissenting vote it has been favorably reported out of both the antitrust subcommittee and the judiciary committee. This legislation will serve to strengthen our antitrust laws and enhance public confidence in procedures by which they are administered. This is an important bill which meets an important problem. I hope my colleagues will join with me in supporting and voting for this bill.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. Mr. President, it is my understanding that the time on this bill is divided between the manager of the bill, myself, and the designee of the minority leader, the Senator from New York (Mr. JAVITS). Is that correct?

Mr. JAVITS. Mr. President, I understand it is the designee of the minority leader, though I have not been designated.

Mr. ROBERT C. BYRD. Mr. President, the time on passage of this bill has been divided between Mr. JAVITS and Mr. TUNNEY.

Mr. JAVITS. Fine. Mr. President, if I may, then, I will yield myself 5 minutes. I am not on the Judiciary Committee, but I have a very deep interest in the antitrust laws, and for a very considerable period of time have been concerned with the revision of those laws, which I deeply believe ought to be reviewed in the light of modern economic developments.

In pursuance of that interest, I examined carefully Senator TUNNEY's bill and came to the conclusion that, on the whole, it made a desirable reform but that it had some defects. In the course of seeking out the question of the defects, I communicated with the Department of Justice and the Assistant Attorney General in charge, Thomas E. Kauper, who wrote me a letter on July 12, 1973, stating his objections to the bill.

He said:

The amendments made to the proposed bill do not meet our objections—

Meaning the Department of Justice—

to the bill as originally introduced and, as noted above, are in some cases objectionable to us in themselves. The Department therefore continues to oppose enactment of S. 782.

Mr. President, I ask unanimous consent to have the entire letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., July 12, 1973.

Hon. JACOB K. JAVITS,
U.S. Senate,
Washington D.C.

DEAR SENATOR JAVITS: Your staff has requested that we comment on S. 782, as amended and reported by the Subcommittee on Antitrust Monopoly of the Senate Judiciary Committee. I testified before the Subcommittee opposing the bills as originally written. I enclose a copy of my statement at that time.

We continue to oppose S. 782 and are of the view that the amendments made by the Subcommittee are not sufficient to insure that our consent decree program will not be unnecessarily impeded by persistent judicial review of a large number of consent decrees proposed by the Department. The amended bill leaves with the courts discretion to consider the public impact of the judgment including a number of issues purportedly related to that public impact. This is a modification of the original version, which would have made such consideration mandatory. In my judgment, however, the legislation still unnecessarily invites extended judicial hearings. These matters, along with detailed comments and objections on the content of the "public impact" statement and the subjects to be inquired into by the court, are discussed in my previous statement. I will not repeat them here.

The bill, as reported out, provides that the United States shall file, in addition to that which it already files, "other materials and documents which the United States considers determinative in formulating the proposed consent judgment." This conceivably could require production of virtually every piece of paper generated by the staff of the Antitrust Division, outside reports of complainants and the like, as such documents may be considered in one way or another to have entered into the determination of the government to enter the settlement, and thereby would be "determinative." This is particularly troublesome in view of the further provision that the public impact statement describe and evaluate all alternatives "actually considered," presumably by Antitrust Division staff. These two provisions, taken together may well require production of a wider range of staff documents.

I consider this legislation as still presenting the danger that the government will be unable to maintain an orderly consent decree program. There is a considerable likelihood that substantial resources of the Antitrust Division will be tied up in judicial hearings throughout the country looking into the "public impact" of consent decrees we file. At a time when our case backlog is higher than it has been in the last seven years, this could in turn drain resources that would otherwise be used to prosecute other antitrust violations and could seriously undermine our ability to enforce the antitrust laws.

I am also of the view that production of documents discussed above would have a "chilling effect" on the full and free exchange of ideas among the Antitrust Division personnel and could impede access of the Department to industry complainants and informants which might not come forward if there was likelihood that their identity would be revealed.

We also note that the bill as reported out does not give the Attorney General the right to certify cases of national importance under the antitrust laws to the Supreme Court. We prefer that right of certification as contained in the original bill.

The amendments made to the proposed bill do not meet our objections to the bill as originally introduced and, as noted above, are in some cases objectionable to us in themselves. The Department therefore continues to oppose enactment of S. 782.

Sincerely yours,

THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division.

Mr. JAVITS. Now, Mr. President, specifically objection was taken in Mr. Kauper's letter to one point which interested me upon which I will, in due course, propose an amendment. That point is the following:

The bill, as reported out, provides that the United States shall file, in addition, to that which it already files, "other materials and documents which it is considered determinative in formulating a proposed consent judgment."

Mr. President, this conceivably could require the production of virtually every piece of paper generated by the staff of the Antitrust Division, outside reports of complainants and the like, as such documents may be considered in one way or another to have entered into the determination of the Government to enter the settlement and, thereby, would be "determinative." This is particularly troublesome in view of the further provision that the public impact statement describe and evaluate all alternatives "actually considered," presumably by the Antitrust Division staff. These two provisions, taken together, may require production of a wider range of staff documents.

Now, in deference to that objection, which I thought was valid, because it could compromise trade secrets, or other material which is confidential, and could compromise the work product of Justice Department attorneys. It could compromise material which could be used damagingly by competitors and, in addition, could involve the disclosure of intraoffice memoranda which could be unevaluated in the office of the Attorney General, in charge of the antitrust laws.

The Department of Justice, as I understand from Senator TUNNEY, has drawn two amendments to bring about the necessary change which, at the appropriate time, I will offer as amendments to the bill and which I understand are acceptable to Senator TUNNEY.

Mr. TUNNEY. I have had the opportunity to discuss the amendments of the Senator from New York (Mr. JAVITS) and I think that they have the effect of improving the legislation. So when they are offered, I shall accept them.

With respect to the filing with the court of the material and documents, I think that what the committee intended was to have the material and documents filed with the courts but certainly not stacked at random. I do not feel that it would be appropriate in this legislation to have those documents which would be protected from disclosure under the Freedom of Information Act produced and made available publicly.

It is my understanding that the Senator's amendment as it relates to the filing of materials and documents would reference the Freedom of Information Act and say that those documents which are privileged under section 552(b) of the Freedom of Information Act would be privileged under this bill.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There being a sufficient second, the yeas and nays were ordered.

Mr. JAVITS. Mr. President, in response, I may say that these two amendments, I understand, were drawn up by the Department of Justice to cover this particular point. The Department has other points of opposition, but I have not undertaken to stand for the Department's position, other than as to these changes, which I favor, so someone else will have to take up the cudgels for the Department. I do wish to make two other points, and I am glad the Senator from Michigan (Mr. HART) is in the Chamber to hear them.

I have for some time been working on a bill to establish a commission to study the antitrust laws and how they should be revised to accord with modern economic necessity in this country. I believe that the present bill deals partially with the problems of the antitrust laws, dealing with the methodology by which they may be enforced.

What we are beginning to see is a piecemeal approach to changing the antitrust laws. A bill went through the other day, dealing with a unique aspect of the antitrust laws as it relates to bottlers of soft drinks. Several years ago we enacted legislation giving special treatment to so-called failing newspapers. I find this trend toward ad hoc, piecemeal legislation disturbing.

I know that the Senator from Michigan is willing to hold hearings on my bill, S. 1196, which takes a broader approach and I wish to ask him, while he is in the Chamber, if he would be good enough to respond to the question of granting hearings on S. 1196, to create a study commission. I yield to him for that purpose.

Mr. HART. Mr. President, the Subcommittee on Antitrust and Monopoly has already scheduled hearings, beginning on July 12, on a bill that has been introduced. It was indicated to the chairman of the subcommittee, the Senator from Michigan, that the one witness we would certainly be able to hear on July 12 is the able Senator from New York (Mr. JAVITS), but that additional witnesses who were sought, as I understand it, through the office of the minority chief counsel, Mr. Chumbris, were not able to arrange their schedules for testimony to be received.

However, I welcome the opportunity to advise the Senator from New York that the Antitrust and Monopoly Subcommittee is scheduling hearings for some time in October. The exact date has not as yet been fixed. But, as I understand it—and again, this is largely through the efforts of Mr. Chumbris—arrangements are being undertaken to insure that on such days as may be set in October, witnesses will be available to testify in support of and, if any oppose, in opposition to the bill.

The Senator from New York has urged upon me over a long period of time the necessity to hold hearings.

Mr. JAVITS. I thank the Senator very much. I shall be prepared to testify. I appreciate very much the opportunity to have hearings on the bill.

I am prepared to yield back the remainder of my time; but first, I ask that I may yield to the Senator from Maryland (Mr. BEALL).

Mr. BEALL. I think I have had experience with the legislation that is proposed, but I believe that other Senators would like to be heard on it.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum, the time not to be charged to either side.

Mr. HART. Mr. President, will the Senator withhold his request momentarily?

Mr. JAVITS. Yes.

Mr. HART. In order to save time, I should like to offer an amendment which I think can be handled very quickly. In the meantime, perhaps other Senators who have amendments, and who are not on the Senate floor, could be alerted.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. As I understand, amendments may not be offered until the time for debate on the bill has expired. Is that correct?

The PRESIDING OFFICER. The Senator is incorrect.

Mr. JAVITS. They may be offered?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. That is fine. Then, I do not yield back the time, and I am perfectly willing to have amendments offered.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. TUNNEY. Mr. President, will the Senator from Michigan yield so that I can offer a technical amendment?

Mr. HART. I yield.

Mr. TUNNEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 9, after line 5, strike on down to and including the words "subsection (a)." on page 10, line 9, and insert in lieu thereof "(b) An appeal from a final judgment pursuant to subsection (a) shall lie directly to the Supreme Court if, upon application of a party filed within five days of the filing of a notice of appeal, the district judge who adjudicated the case enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice. Such order shall be filed within fifteen days after the filing of a notice of appeal. When such an order is filed, the appeal and any cross appeal shall be docketed in the time and manner prescribed by the rules of the Supreme Court. The Supreme Court shall thereupon either (1) dispose of the appeal and any cross appeal in the same manner as any other direct appeal authorized by law, or (2) in its discretion, deny the direct appeal and remand the case to the court of appeals, which shall then have jurisdiction to hear and determine the same as if the appeal and any cross appeal therein had been docketed in the court of appeals in the first instance pursuant to subsection (a)."

Mr. TUNNEY. Mr. President, the committee amendment changes no language in the bill. It only changes the numbering and the lettering of various provisions of the bill. It is purely a technical amendment and was suggested by the staff.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. TUNNEY. I yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HART. Mr. President, I call up the amendment I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 6, line 15, insert the following: after the word "person", strike "except counsel of record, with any officer or employee of the United States concerning or relevant to the proposed consent judgment." and insert in lieu thereof "with any officer or employee of the United States concerning or relevant to the proposed consent judgment: *provided* That, communications made by or in the presence of counsel of record with the Attorney General or the employees of the Department of Justice shall be excluded from the requirements of this subsection."

Mr. HART. Mr. President, this bill, which reflects the deep concern of Senator TUNNEY—who was joined, I should add, in the committee by the able Senator from Florida (Mr. GURNEY)—to improve the public acceptance of consent decrees, is a most worthwhile effort. I hope that we will promptly adopt it. I am grateful to those two Senators for their leadership in the effort.

The amendment I offer seeks to close what may have been an inadvertent but gaping hole and to improve the likelihood that a free exchange may be engaged in by counsel and defendant with officers and employees of the Department of Justice.

As the bill was reported, the subsection requires that all communications with any employee or officer of the Government be disclosed, except those made by counsel of record. As I have said, I think that perhaps inadvertently this is wide of the mark.

As I read the language, it appears that all contacts by the counsel of record are exempt from disclosure. In other words, so long as he does not have his client with him, a counsel can wander through the White House and the Department of Commerce and the Department of the Treasury and any other agency of government and lobby against the merits of the pending litigation which has been brought by the Antitrust Division. There may be nothing inherently wrong in that, nothing sinister in going outside the department to seek to raise a concern that a citizen might have. But it is precisely the kind of contact which ought to be disclosed to the court. Thus, the policy which this section seeks to implement—namely, that of disclosure—could easily be avoided.

By the same token, as presently written, the subsection would hamper the kinds of contacts which ought to be encouraged. In other words, if the counsel of record engages in negotiations looking toward a settlement with the Antitrust Division and takes his client along, those contacts must be disclosed. I think we all recognize that in the give and take of protracted negotiations, it would be important that officers or employees of the client be present.

In short, I would suggest that these are the kinds of contacts which ought to be encouraged. In this regard, Mr. Kauper, the Attorney General in charge of the Antitrust Division, testified:

> I would, frankly, not want to do anything which would diminish the ability of counsel to bring essentially his client in. The client, after all, is frequently the repository of information and it can be very useful to have him there.

Mr. President, I have given thought to drawing a line above which disclosure should be made at the Assistant Attorney General in charge of antitrust; but, after all, the decisionmaking power in litigation of this kind does rest at that level in all but a few cases.

The fact is that the responsibility for enforcing antitrust laws rests with the Attorney General, and the assistant in charge of the division is responsible to him and obviously works under his supervision. Thus, I think it is appropriate that all contacts made by the counsel of record or by the client in the presence of counsel of record throughout the Department of Justice be excluded from disclosure.

This bill is designed to reinforce the confidence of the public in the validity and the justice of a consent decree; and I think the amendment I have offered reflects what, in the minds of most of us as we processed this bill, we thought we were achieving. I hope very much that the amendment is adopted.

Mr. TUNNEY. Mr. President, it is my understanding that the amendment offered by the Senator from Michigan would do two things, basically.

First, it would say that if an official of the corporation, the defendant, comes with counsel of record to visit a member of the Justice Department—the Attorney General or a member of the Antitrust Division—it would not be required to indicate that the meeting took place and that the contents of the meeting be filed with the court of record.

Mr. HART. That is correct.

Mr. TUNNEY. Second, it is my understanding that if the counsel of record should meet with other governmental officials besides the Attorney General or members of the Antitrust Division of the Justice Department, such a meeting would be required to be filed with the court, and a summary of the purpose of the meeting would be filed, also.

Mr. HART. That is correct.

Mr. TUNNEY. I have had an opportunity to discuss this matter with the cosponsor of the bill, Senator GURNEY—who, unfortunately, is unable to be on the floor at the moment—and Senator GURNEY and I would like to clarify one point.

Nothing in this amendment would be construed to require an attorney of record to divulge any private communications with his client which are protected under the law as a part of the legitimate attorney-client relationship, would it?

Mr. HART. Certainly, the amendment which is pending does not go to the point that the Senator from California is discussing. It seeks not to change in any respect the degree of confidentiality attached to the basic documentation. It seeks only to insure, as the Senator from California well stated, that the counsel and the client can discuss with the Department of Justice matters bearing on the litigation and not be required to file that with the court.

Second, if the counsel of record goes to other sources than the Government—as, for example, White House assistants—that action and a summary of the discussion should be filed.

Mr. TUNNEY. I understand that.

As I understand the Senator's amendment, if the attorney of record would go to see a White House official, he would not subsequently be required to divulge private conversations he had had exclusively with his client, which he had heard at some other time even though they might be somewhat relevant in a broader context to the conversation he had had with that White House official.

It would only be the conversation he had with the White House official that would be relevant so far as the filing is concerned in the Senator's amendment.

Mr. HART. It would be whatever disclosure that would be required by the basic language in section (g), whether it was in connection with a White House official or anyone else.

Mr. TUNNEY. Yes. Anything that was discussed with any third party other than the Justice Department relating to the proposed consent decree obviously would have to be subject to the filing provision.

Mr. HART. I think my best answer and our clearest understanding would be for me to say that in the language of the bill there should be filed in court a written description of all communications by and on behalf of such defendant with any officer or employee of the United States bearing on the proposal.

Mr. TUNNEY. I think I understand completely the Senator's amendment. I believe that on that basis both the Senator from Florida and I would accept the amendment. I think it improves the bill. It certainly gives to the Justice Department an opportunity to get the kind of information from an official of the corporation who would accompany the counsel of record that the Justice Department would not have if that official of the corporation did not attend the meeting, and yet if the corporation felt there was going to be a public record of conversations had with the Justice Department he might be reluctant to come down to the Justice Department. So I think to expedite the antitrust laws and to make sure we have a fair determination in an antitrust suit, the Senator's amendment strengthens the legislation. Therefore, I accept it.

Mr. HART. I am prepared to yield back my time.

Mr. GRIFFIN. Mr. President, I rise to support the bill. The proposed amendment offered by the Senator from Michigan (Mr. HART) would strike, in line 15 on page 6 in subsection 2(g) the language "except counsel of record" and add a proviso at the end of that sentence to the effect that contacts by or in the presence of counsel of record exclusively with employees of the Department of Justice need not be listed in the description of written and oral communications by or on behalf of a defendant with officers or employees of the Government.

The present section, as drafted, it seems to me is deficient in two respects. First, it permits counsel of record to contact any officer or official of Government, however illegitimate or lacking his interest in a particular case pending before the Department of Justice may be, without listing that contact in the description filed with the court. Second, I thing it would tend to have a chilling effect upon totally legitimate contacts with the staff of the Antitrust Division.

The amendment would make two improvements in the bill. One would require the reporting by or on behalf of defendants of all contacts with Government officials other than those in the Department of Justice which is, in reality, the party litigating the action on behalf of the United States. And the other would make clear that perfectly legitimate contacts in the presence of counsel of record by responsible officers of antitrust defendants are not discouraged. Both of these suggested improvements in the bill would have a salutary effect and I wish to indicate my support for the amendment.

The PRESIDING OFFICER (Mr. KENNEDY). Do Senators yield back their time?

Mr. TUNNEY. I yield back my time.

Mr. HART. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. GRIFFIN. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment as follows:

> On page 9, line 8, strike the word "five" and insert the word "fifteen".
>
> On page 9, line 23, strike the word "fif-

teen" and insert in lieu thereof the word "thirty".

Mr. GRIFFIN. Mr. President, I am not a member of the committee but I present this amendment on the part of the Department of Justice. It is essentially a technical amendment which would extend the period for filing an application before the district court for a certification of the case directly to the Supreme Court from 5 to 15 days and for the entry of an order of certification from 15 to 30 days.

In cases where the United States has been successful in the district court and the defendant files a notice of appeal, normal processing of a copy of such a notice through the mails to the Department of Justice and to responsible officials in the Department may simply require more than 15 days. Accordingly, this amendment is proposed so that the period for applying to the district court for an order of certification is not allowed to run inadvertently.

I understand that the amendment is known to the manager of the bill and if he agrees it is essentially a technical amendment to carry out the purposes of the bill, I hope it might be accepted.

Mr. TUNNEY. Mr. President, I have seen the amendment the Senator is offering, and I believe it is technical in nature in that it would only extend the application filing period for district court certification from 5 to 15 days, and would extend the period for entry of the district court's certification order from 15 to 30 days. This strengthens the bill because I can anticipate complicated cases where it would take longer than the time periods now required by the bill to make the necessary determinations.

Therefore, I accept the amendment.

The PRESIDING OFFICER. The Chair states that the amendment is not in order. It amends language which has previously been struck from the bill by the Senator from California and other language has been put in.

Mr. TUNNEY. Can it be offered as a substitute?

The PRESIDING OFFICER. The Chair states that the amendment could be offered as an amendment to the amendment of the Senator from California, but by unanimous consent and the amendment would have to be redrafted.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that it be in order to offer an amendment to the language which already has been adopted in the form of an amendment offered by the Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, the revised amendment is pending at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On line 2, of the amendment by the Senator from California (Mr. TUNNEY) strike the word "five" and insert the word "fifteen". On line 6 strike the word "fifteen" and insert in lieu thereof the word "thirty".

Mr. TUNNEY. Mr. President, I accept the amendment that has been offered by the Senator from Michigan. It is the discussed and to which I have responded already. It strengthens the bill.

I yield back the remainder of my time.

Mr. GRIFFIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I call up an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 3, lines 11 and 12, strike "and the anticipated effects on competition of such alternatives".

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HRUSKA. Mr. President, this amendment proposes to strike, at lines 11 and 12 of page 3, the language in subsection 2(b)(6) "and the anticipated effects on competition of such alternatives." If adopted, the bill would retain a requirement that the public impact statement disclose a description and evaluation of alternatives which were actually considered by the Antitrust Division in formulating a proposed consent judgment.

The language proposed to be stricken would require the staff of the Antitrust Division to speculate publicly as to the various effects upon competition which would be generated by various alternatives to the proposed consent judgment. These anticipated effects quite clearly can be speculated upon by the district court considering a proposed consent judgment or by other interested parties. The court retains the right under section 2(e)(1) of the bill to consider these predicted effects.

There is no reason, however, to require the staff of the Antitrust Division, at the peril of later embarrassment, to make a public prediction as to the competitive effects of various alternatives which it has considered. It is sufficient if the various alternatives are disclosed to the court and to the public. Then, in an atmosphere infused with comments from the public, from customers, from suppliers, and from competitors, the court can make an informed judgment as to whether the proposed consent decree is in the public interest.

It is my belief that the amendment would subserve the intended effect of the bill as considered by the committee.

Mr. TUNNEY. Mr. President, the Senator from Nebraska gave me the opportunity to review the amendment before bringing it to the floor and I am in agreement with its basic intent. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I call up for immediate consideration an amendment which lies at the desk.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

On page 5, lines 3 through 5, strike the comma after the word "complaint" and strike "including consideration of the public benefit to be derived from a determination of the issues at trial".

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

The language proposed by the amendment to be stricken from the bill appears totally inconsistent with the intention of the committee as stated in the report. The report states that section 2(e) is not "intended to force the Government to go to trial for the benefit of potential private plaintiffs." However, inclusion of this language in the bill is an invitation to the court to require the Government to go to trial, for some unstated reason, even though the relief secured by the Government in a proposed consent decree is fully adequate to protect the public interest in competition.

The language which should be retained in subsection 2(e)—to the effect that the court may consider "the public impact of entry of the judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint"—is fully adequate to protect the public interest. It seems, therefore, that the only effect of the language which is proposed to be stricken from the bill would be to induce a district court to consider whether requiring the Government to go to trial would aid private treble damage plaintiffs—an effect which the report accompanying the bill specifically disavows.

I believe adoption of the amendment will comply with the purported and reported intent of the committee when it reported the bill favorably.

Mr. TUNNEY. Mr. President, the Senator from Nebraska has given me the opportunity to look at this amendment prior to bringing it up on the floor. I am familiar with it. I think he is correct in the statement he has made to the Senate. I think the language he is suggesting be stricken is surplusage.

Therefore, I accept the amendment.

Mr. HRUSKA. Mr. President, I yield back the remainder of my time.

Mr. TUNNEY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send two amendments to the desk and ask that they be considered en bloc.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendments will be read.

The legislative clerk read the amendments, as follows:

On page 2, line 8, after the word "thereto", and before the word "shall", insert ", other than those which are exempt from disclosure under section 502(b) of title 5, United States Code,".

On page 2, line 13 after the word "judgment", and before the word, "shall", insert ", other than those which are exempt from disclosure under sections 552(b)(4) and (5) of title 5, United States Code."

Mr. **JAVITS**. Mr. President, I yield myself such time as I may require.

These amendments, as I understand, were drawn by the Justice Department and deal with the matter of disclosure in the filing with the Court of necessary documentation in respect of consent decrees. The purpose of the amendment is to exclude improper material insofar as disclosure is concerned because of prejudice, confidential information, trade secrets, inter- and intra-office memoranda, et cetera; but it is designed to afford to the public access to the material which is relevant to a fair consideration and desirability under the criteria set forth in the bill for a consent decree.

These are amendments which the Senator from California has reviewed, and as he said before, I hope they are acceptable to him.

Mr. **TUNNEY**. Mr. President, is the Senator offering these two amendments en bloc?

Mr. **JAVITS**. Yes.

Mr. **TUNNEY**. Mr. President, I accept both amendments. I have had an opportunity to discuss them with the Senator from New York prior to his offering the amendments on the floor.

With regard to the amendment that relates to comments and Government responses, I think this amendment would merely reaffirm existing law, as established in the Freedom of Information Act, and make clear that competitors, suppliers, and customers may supply certain data to the Justice Department in confidence with respect to what this data states as to the merits or lack of merits of a proposed consent decree.

With regard to the second amendment, materials and documents, I believe that it also would merely reaffirm existing law, by referencing certain sections of the Freedom of Information Act protecting certain internal memoranda and work products from disclosure.

It was not our intent that this section have an inhibiting effect by requiring the publication of virtually all internal staff memoranda by division attorneys in a way which might curtail their ability to discuss and comment freely upon matters pertaining to the proposed consent decree.

I do not understand this amendment to preclude the disclosure of information volunteered by a person from outside the Department on a nonconfidential basis pertaining to the economic consequences of particular antitrust action. I am thinking here of the so-called Ramsden memorandum whch was important in the ITT case.

My main concern, and the cornerstone of this bill, is that there be ample public disclosure, and I do not construe either of these amendments as militating against this objective.

I would hope that the Senator from New York would agree with that interpretation.

Mr. **JAVITS**. Mr. President, that sounds like a reasonable interpretation to me. However, I understand that this is the language desired by the Department, and I am glad to accommodate them.

Mr. **TUNNEY**. Mr. President, it is language that the Department desires. And I think that this is language that will strengthen the bill. Therefore, I accept both amendments.

Mr. **JAVITS**. Mr. President, I yield back the remainder of my time.

Mr. **TUNNEY**. Mr. President, I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time has been yielded back. The question is on agreeing to the amendments en bloc. [Putting the question.]

The amendments were agreed to en bloc.

The **PRESIDING OFFICER**. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER**. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **ROBERT C. BYRD**. I announce that the Senator from Alabama (Mr. SPARKMAN), the Senator from Alaska (Mr. GRAVEL), the Senator from Maine (Mr. HATHAWAY), and the Senator from Montana (Mr. MANSFIELD) are necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yea."

Mr. **GRIFFIN**. I announce that the Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The Senator from Utah (Mr. BENNETT) is detained on official business.

The result was announced—yeas 92, nays 0, as follows:

[No. 302 Leg.]

YEAS—92

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd,
  Harry F., Jr.

Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin

Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye

Jackson
Javits
Johnston
Kennedy
Long
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya

Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe

Schweiker
Scott, Pa.
Scott, Va.
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—8

Bennett
Gravel
Hathaway

Magnuson
Mansfield
Sparkman

Stennis
Stevens

So the bill (S. 782) was passed, as follows:

S. 782

An act to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the Expediting Act as it pertains to Appellate Review.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Procedures and Penalties Act".

CONSENT DECREE PROCEDURES

SEC. 2. Section 5 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 16), is amended by redesignating subsection (b) as (i) by inserting after subsection (a) the following:

"(b) Any consent judgment proposed by the United States for entry in any civil proceeding brought by or on behalf of the United States under the antitrust laws shall be filed with the district court before which that proceeding is pending and published in the Federal Register at least sixty days prior to the effective date of such decree. Any written comments relating to the proposed consent judgment and any responses thereto, other than those which are exempt from disclosure under section 552(b) of title 5, United States Code, shall also be filed with the same district court and published in the Federal Register within the aforementioned sixty-day period. Copies of the proposed consent judgment and such other materials and documents which the United States considered determinative in formulating the proposed consent judgment, other than those which are exempt from disclosure under sections 552(b)(4) and (5) of title 5, United States Code, shall also be made available to members of the public at the district court before which the proceeding is pending and in such other districts as the court may subsequently direct. Simultaneously with the filing of the proposed consent judgment, unless otherwise instructed by the court, the United States shall file with the district court, cause to be published in the Federal Register and thereafter furnish to any person upon request a public impact statement which shall recite—

"(1) the nature and purpose of the proceeding;

"(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

"(3) an explanation of the proposed judgment, relief to be obtained thereby, and the anticipated effects on competition of that relief, including an explanation of any unusual circumstances given rise to the proposed judgment or any provision contained therein;

"(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that the proposed judgment is entered;

"(5) a description of the procedures available for modification of the proposed judgment;

"(6) a description and evaluation of alternatives actually considered to the proposed judgment.

"(c) The United States shall also cause to be published, commencing at least sixty days prior to the effective date of such decree, for seven days over a period of two weeks in newspapers of general circulation of the district in which the case has been filed, in Washington, District of Columbia, and in such other districts as the court may direct (i) a summary of the terms of the proposed consent judgment, (ii) a summary of the public impact statement to be filed under subsection (b), (iii) and a list of the materials and documents under subsection (b) which the United States shall make available for purposes of meaningful public comment, and the places where such material is available for public inspection.

"(d) During the sixty-day period provided above, and such additional time as the United States may request and the court may grant, the United States shall receive and consider any written comments relating to the proposed consent judgment. The Attorney General or his designate shall establish procedures to carry out the provisions of this subsection, but the sixty-day time period set forth herein shall not be shortened except by order of the district court upon a showing that extraordinary circumstances require such shortening and that such shortening of the time period is not adverse to the public interest. At the close of the period during which such comments may be received, the United States shall file with the district court and cause to be published in the Federal Register a response to such comments.

"(e) Before entering any consent judgment proposed by the United States under this section, the court shall determine that entry of that judgment is in the public interest as defined by law. For the purpose of this determination, the court may consider—

"(1) the public impact of the judgment, including termination of alleged violation, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of the judgment;

"(2) the public impact of entry of the judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint.

"(f) In making its determination under subsection (e), the court may—

"(1) take testimony of Government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

"(2) appoint a special master, pursuant to rule 53 of the Federal Rules of Civil Procedure, and such outside consultants or expert witnesses as the court may deem appropriate; and request and obtain the views, evaluations, or advice of any individual group or agency of government with respect to any aspect of the proposed judgment of the effect thereof in such manner as the court deems appropriate;

"(3) authorize full or limited participation in proceedings before the court by interested persons or agencies, including appearance amicus curiae, intervention as a party pursuant to rule 24 of the Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate;

"(4) review any comments or objections concerning the proposed judgment filed with the United States under subsection (d) and the response of the United States to such comments or objections;

"(5) take such other action in the public interest as the court may deem appropriate.

"(g) Not later than ten days following the filing of any proposed consent judgment under subsection (b), each defendant shall file with the district court a description of any and all written or oral communications by or on behalf of such defendant, including any officer, director, employee, or agent thereof, or other person with any officer or employee of the United States concerning or relevant to the proposed consent judgment: *Provided,* That communications made by or in the presence of counsel of record with the Attorney General or the employees of the Department of Justice shall be excluded from the requirements of this subsection. Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this section have been complied with and that such filing is a true and complete description of such communications known to the defendant or which the defendant reasonably should have known.

"(h) Proceedings before the district court under subsections (e) and (f), and public impact statements filed under subsection (b) hereof, shall not be admissible against any defendant in any action or proceeding brought by any other party against such defendant under the antitrust laws or by the United States under section 4A of this Act nor constitute a basis for the introduction of the consent judgment as prima facie evidence against such defendant in any such action or proceeding."

PENALTIES

SEC. 3. Sections 1, 2, and 3 of the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (26 Stat. 209; 15 U.S.C. 1, 2, and 3) are each amended by striking out "fifty thousand dollars" and inserting "five hundred thousand dollars if a corporation, or, if any other person, one hundred thousand dollars".

EXPEDITING ACT REVISIONS

SEC. 4. Section 1 of the Act of February 11, 1903 (32 Stat. 823), as amended (15 U.S.C. 28; 49 U.S.C. 44), commonly known as the Expediting Act, is amended to read as follows:

"SECTION 1. In any civil action brought in any district court of the United States under the Act entitled 'An Act to protect trade and commerce against unlawful restrains and monopolies', approved July 2, 1890, or any other Acts having like purpose that have been or hereafter may be enacted, wherein the United States is plaintiff and eqiutable relief is sought, the Attorney General may file with the court, prior to the entry of final judgment, a certificate that, in his opinion, the case is of a general public importance. Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case, or the chief judge of the district court if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited."

SEC. 5. Section 2 of that Act (15 U.S.C. 29; 49 U.S.C. 45) is amended to read as follows:

"(a) Except as otherwise expressly provided by this section, in every civil action brought in any district court of the United States under the Act entitled 'an Act to protect trade and commerce against unlawful restraints and monopolies', approved July 2, 1890, or any other Acts having like purpose that have been or hereinafter may be enacted, in which the United States is the complainant and equitable relief is sought, any appeal from a final judgment entered in any such action shall be taken to the court of appeals pursuant to sections 1291 and 2107 of title 28 of the United States Code. Any appeal from an interlocutory order entered in any such action shall be taken to the court of appeals pursuant to sections 1292(a)(1) and 2107 of title 28 of the United States Code but not otherwise. Any judgment entered by the court of appeals in any such action shall be subject to review by the Supreme Court upon a writ of certiorari as provided in section 1254(1) of title 28 of the United States Code.

"(b) An appeal from a final judgment pursuant to susection (a) shall lie directly to the Supreme Court if, upon application of a party filed within fifteen days of the filing of a notice of appeal, the district judge who adjudicated the case enters an order stating that immediate consideration of the appeal by the Supreme Court is of general public importance in the administration of justice. Such order shall be filed within thirty days after the filing of a notice of appeal. When such an order is filed, the appeal and any cross appeal shall be docketed in the time and manner prescribed by the rules of the Supreme Court. The Supreme Court shall thereupon either (1) dispose of the appeal and any cross appeal in the same manner as any other direct appeal authorized by law, or (2) in its discretion, deny the direct appeal and remand the case to the court of appeals, which shall then have jurisdiction to hear and determine the same is if the appeal and any cross appeal therein had been docketed in the court of appeals in the first instance pursuant to subsection (a)."

SEC. 6. (a) Section 401(d) of the Communications Act of 1934 (47 U.S.C. 401(d)) is repealed.

(b) The proviso in section 3 of the Act of February 19, 1903, as amended (32 Stat. 848, 849; 49 U.S.C. 43), is repealed and the colon preceding it is changed to a period.

SEC. 7. The amendment made by section 2 of this Act shall not apply to an action in which a notice of appeal to the Supreme Court has been filed on or before the fifteenth day following the date of enactment of this Act. Appeal in any such action shall be taken pursuant to the provisions of section 2 of the Act of February 11, 1903 (32 Stat. 823), as amended (15 U.S.C. 29; 49 U.S.C. 45) which were in effect on the day preceding the date of enactment of this Act.

The title was amended, so as to read: "A bill to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the Expediting Act as it pertains to Appellate Review."

The PRESIDING OFFICER. What is the will of the Senate?

ORDER FOR ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY MEDICAL SERVICES CONFERENCE REPORT—ORDER FIXING TIME FOR VOTING AND ORDER FOR THE YEAS AND NAYS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur on the conference report on emergency medical services (S. 504) at the hour of 10:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask unanimous consent that it be in order to order the yeas and nays at this time on the conference report on S. 504.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes today. I understand that various Senators are in agreement, however, on a bill (S. 1148), the Domestic Volunteer Service Act of 1973, which could be passed by voice vote; I therefore ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 293, S. 1148.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1148) to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act, with the following table of contents, may be cited as the "Domestic Volunteer Service Act of 1973":

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TITLE I—NATIONAL VOLUNTEER ANTI-POVERTY PROGRAMS

PART A—VOLUNTEERS IN SERVICE TO AMERICA

STATEMENT OF PURPOSE

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

AUTHORITY TO OPERATE VISTA

SEC. 102. The Director shall recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purposes of this part.

ASSIGNMENT OF VOLUNTEERS

SEC. 103. (a) The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, shall assign such volunteers to work in the several States in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under the Economic Opportunity Act of 1964, as amended.

(b) The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Prior to the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer.

(c) Except as provided in subsection (d), the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Volunteers under this part shall not be assigned to duties or work in any State unless such program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned not later than thirty days after such request has been made, or at a time after such request has been made as agreed upon by such Governor or chief executive officer of the State concerned and the Director.

TERMS OF SERVICE

SEC. 104. (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b) Volunteers serving under this part

shall be enrolled for two-year periods of service, including or excluding periods of time devoted to training as the Director may determine, except that volunteers serving under this part may be enrolled for periods of service of no less than one year when the Director determines, on an individual basis, that a period of service of less than two years is necessary to meet a critical scarce-skill need. Volunteers serving under this part may reenroll for no more than one two-year period of service. No volunteer shall serve for more than five years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 5(j) of the Peace Corps Act, as amended (22 U.S.C. 2504 (j)): *Provided*, That persons legally residing within a State but who are not citizens of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter information regarding such procedure and the terms and conditions of their service.

SUPPORT SERVICES

SEC. 105. (a) (1) The Director shall provide a stipend to volunteers under this part while they are in training and during their assignments. Such stipend shall not exceed $50 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a period of service; except that in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b) The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the poor of the communities to be served by volunteers under this part, under part B, and under any other provision of this title in programs serving the poor, shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the poor served by such agencies shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

PARTICIPATION OF OLDER PERSONS

SEC. 107. In carrying out this part and part C of this title, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty population, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

PART B—SERVICE-LEARNING PROGRAMS

STATEMENT OF PURPOSE

SEC. 111. This part provides for the University Year for Action (UYA) program of full-time volunteer service by students enrolled in institutions of higher learning, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their periods of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time, self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service learning by secondary and post-secondary school students to strengthen and supplement efforts to eliminate poverty.

AUTHORITY TO OPERATE UNIVERSITY YEAR FOR ACTION

SEC. 112. Except as otherwise provided in this part, the Director shall conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of subsections (b) and (d) of sections 103 and subsection (d) of section 104, and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

PRIORITIES

SEC. 113. In carrying out programs under this part, the Director shall insure that priority shall be given—

(1) to the enrollment of persons who have successfully completed their service as low-income community volunteers under part A of this title or under part A of title VIII of the Economic Opportunity Act of 1964, as amended, to military veterans (as defined in section 101 of title 38, United States Code), and to low-income persons;

(2) to arrangements with institutions agreeing to waive tuition for participants in such program, where such waiver is not prohibited by law; and

(3) to arrangements with institutions at which students and faculty, on a self-supporting basis, have carried out necessary and appropriate planning for such programs.

SPECIAL CONDITIONS

SEC. 114. (a) Volunteers serving under this part shall be enrolled for one-year periods of service and may receive academic credit for such service in accordance with the regulations of the sponsoring institution.

(b) Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

(c) (1) In making grants or contracts for the administration of programs under this part, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 80 per centum of the total direct cost (including planning costs) of such program. Each such grant or contract shall require a commitment from the institution to assume the full cost of continuing a program (including the provision of any stipends, allowances, or other support to participating students), of at least the same size for at least one year, carrying out the purposes of this part after such institution has received support for three years, except that the Director may provide assistance for up to an additional two years in exceptional circumstances, under this part or title VIII of the Economic Opportunity Act of 1964, as amended, or both.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of the Department of Health, Education, and Welfare of the extent of each such institution's compliance.

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 115. (a) Of the funds appropriated for the operation of programs under this part, up to 10 per centum may be used, notwithstanding any other provisions of this part, to encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in- or out-of-school basis in assignments of a character and on such terms and conditions as described in subsections (a) and (c) of section 103.

(b) Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

(c) Persons serving as volunteers under this section shall receive no living allowance or stipend and only such other support or allowances as the Director determines, pursuant to regulations which he shall prescribe, are required because of unusual or special circumstances affecting the program.

PART C—SPECIAL VOLUNTEER PROGRAMS

STATEMENT OF PURPOSE

SEC. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

AUTHORITY TO ESTABLISH PROGRAMS

SEC. 122. (a) The Director is authorized to conduct or make grants or contracts, or both, for special volunteer programs or demonstration programs designed to stimulate and initiate improved methods of providing volunteer services, to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts, and to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part.

(b) Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as full-time volunteers in a program of at least one year's duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this title, as he determines are necessary to carry out the purpose of this part.

SPECIAL EMPHASIS PROGRAM TO PROVIDE ALTERNATIVES TO THE INCARCERATION OF YOUTHFUL OFFENDERS

SEC. 123. (a) The Congress finds that the incarceration of youthful offenders under sentence and awaiting trial is often not successful in rehabilitating juvenile delinquents, generally fails to prevent juvenile crime, and is more costly than alternative approaches to corrections, and that a large proportion of adults arrested for serious crimes are individuals who society failed to rehabilitate as young offenders. It is the purpose of this section to provide for a special emphasis volunteer program to supplement and strengthen efforts to prevent delinquency through pretrial, community-based, and other alternatives to the incarceration of youthful offenders under sentence and awaiting trial.

(b) The Director, utilizing not less than 5 per centum of the funds made available pursuant to section 501 for carrying out programs under this part in each fiscal year and in consultation with the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, and appropriate State officials, shall conduct a program in furtherance of the purpose of this section under which—

(1) volunteers serving under part A, B, or C of this title, with special emphasis on the recruitment, selection, training, and assignment as volunteers to such program under this section of persons who are themselves rehabilitated criminal offenders, are assigned to a department of corrections or a parole, probation, or other social services agency in a State, county, city, or school district to support and expand existing pretrial, community-based, and other alternatives to incarceration for delinquency prevention, and to foster the creation of such alternatives to incarceration where they do not yet exist; and

(2) such volunteers, wherever possible, work in cooperation with existing Federal agency and other personnel engaged in programs similar to those authorized by this section.

SPECIAL EMPHASIS PROGRAM TO PROMOTE EDUCATIONAL OPPORTUNITIES FOR VETERANS

SEC. 124. (a) The Congress finds that fewer than one-half of the Vietnam-era veterans eligible for educational assistance benefits under the GI Bill of Rights (chapters 31 and 34 of title 38, United States Code) are taking advantage of such benefits, that only 25 per centum of such eligible veterans who have not received a high school diploma or the equivalent are taking advantage of such benefits, and that many of such veterans are unemployed or underemployed and are unaware of the economic and social opportunities available to them under such law and other laws and programs. It is the purpose of this section to provide for a special emphasis volunteer program to supplement and strengthen efforts to provide outreach, counselling and other assistance to such veterans, particularly those who are educationally disadvantaged, in enrolling such veterans in academic or vocational institutions, on-job training programs, or farm cooperative programs, and in securing gainful employment for such veterans.

(b) The Director, in consultation with the Administrator of Veterans' Affairs, the Commissioner of Education in the Office of Education, Department of Health, Education, and Welfare, and the Secretary of Labor and utilizing not less than 5 per centum of the funds made available pursuant to section 501 for carrying out programs under this part in each fiscal year, shall conduct a program in furtherance of the purpose of this section under which—

(1) volunteers enrolled under part A, B, or C of this title are assigned, with special emphasis on the recruitment, selection, training, and assignment to programs under this section as volunteers of persons who themselves are military veterans of the Vietnam era (as defined in section 101 of title 38, United States Code); and

(2) such volunteers work in cooperation with existing Veterans' Administration (including veterans carrying out student services pursuant to section 1685 of title 38, United States Code), institution of higher education, veterans' organization, or other personnel engaged in programs similar to those authorized by this section.

SPECIAL EMPHASIS PROGRAM TO PROVIDE COMMUNITY-BASED PEER GROUP COUNSELING AND OUTREACH FOR DRUG ABUSERS

SEC. 125. (a) The Congress finds that one of the most successful methods of helping persons, especially younger persons, suffering from all forms of drug addiction and abuse (including alcoholism) is to provide concerned, sympathetic peer-group members to conduct outreach, counseling and related activities in community-based drug treatment and rehabilitation programs. It is the purpose of this section to provide for a special emphasis volunteer program to supplement and strengthen drug treatment and rehabilitation efforts in communities by providing outreach, counseling followup, and related services for persons (especially younger persons and military veterans of the Vietnam era (as defined in section 101 of title 38, United States Code)) suffering from drug addiction or drug abuse (including alcoholism).

(b) The Director, utilizing not less than 5 per centum of the funds made available pursuant to section 501 for carrying out programs under this part in each fiscal year and in consultation with the Director of the Special Action Office on Drug Abuse Prevention in the Executive Office of the President (or his successor as Federal Government program coordinator), the Director of the National Institute of Mental Health in the Department of Health, Education, and Welfare, and the Administrator of Veterans' Affairs, shall conduct a program in furtherance of the purpose of this section under which—

(1) volunteers enrolled under part A, B, or C of this title are assigned, with special emphasis on the recruitment, selection, training, and assignment as volunteers to such program under this section of persons (particularly such military veterans of the Vietnam era) who are themselves considered by competent medical authority as recovered addicts or abusers; and

(2) such volunteers, whenever possible, work in cooperation with existing Federal agency and other personnel engaged in programs similar to those authorized by this section.

TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

PART A—RETIRED SENIOR VOLUNTEER PROGRAM

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 201. (a) In order to help retired persons to avail themselves of opportunities for voluntary service in their community, the Director shall make grants to State agencies (established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with regulations he shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals aged sixty or over will be enrolled as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provides for the payment of the reasonable expenses of such volunteers while undergoing such training;

(4) the program is being established and will be carried out with the advice of persons competent in the field of service involved, and of persons with interest in and knowledge of the needs of older persons; and

(5) the program is coordinated with other related Federal and State programs.

(b) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)), such agency itself is the recipient of the award or such agency has been afforded at least sixty days in which to review the project application and make recommendations thereon.

PART B—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 211. (a) The Director shall make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to volunteers serving under this part) designed for the purpose of providing opportunities for low-income persons aged sixty or over to serve as volunteers to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services as Foster Grandparents to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if he determines, in accordance with regulations he shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 611(a) of the Older Americans Act of 1965, as amended (42 U.S.C. 3044b) or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b) The Director is also authorized to make grants or contracts to carry out the purpose described in subsection (a) of this section in the case of persons (other than children) having exceptional needs, including services by volunteers serving as Senior Health Aides to work with persons receiving home health care, nursing care, or meals on wheels or other nutritional services, and as Senior Companions to persons having developmental disabilities or other special needs for companionship.

CONDITIONS OF GRANTS AND CONTRACTS

SEC. 212. (a)(1) In carrying out this part, the Director shall insure that volunteers receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency established or designated under section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)) is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted, in consultation with, or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 304 (a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)), such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section means a community action agency as defined in title II of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781–2837).

PART C—GENERAL PROVISIONS

COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 221. In carrying out this title, the Director shall consult with the Office of Economic Opportunity, the Department of Labor and Health, Education, and Welfare, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this title with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized under this title.

PAYMENTS

SEC. 222. Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

MINORITY GROUP PARTICIPATION

SEC. 223. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

TITLE III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY SMALL BUSINESS PROPRIETORS

AUTHORITY TO COOPERATE IN THE OPERATION OF SCORE/ACE

SEC. 301. In order to assist persons engaged or seeking to engage in small business enterprises, especially economically disadvantaged persons, the Director, pursuant to agreements with the Administrator of the Small Business Administration (hereinafter referred to as the "Administrator") which shall be published in the Federal Register, shall cooperate with the Administrator in carrying out the Service Corps of Retired Executives (SCORE) and the Active Corps of Executives (ACE) program pursuant to section 8(b)(1) of the Small Business Act, as amended (15 U.S.C. 637(b)(1)), by—

(1) conducting a national publicity and recruitment effort to encourage eligible businessmen to serve as volunteers in the SCORE/ACE program and to form SCORE chapters;

(2) providing general budgetary planning for the SCORE/ACE program and such logistical support (including office space and clerical services, and supplies when not available from the Small Business Administration), subject to the provisions of subsection (c) of section 302 of this title, to SCORE/ACE volunteers serving Small Business Administration clients as the Administrator, with the concurrence of the Director, determines are necessary and appropriate to carry out such section 8(b)(1); and

(3) expanding the application of the expertise of such SCORE/ACE volunteer business proprietors to other projects and agencies to carry out other programs authorized in this Act and the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781–2837) (particularly title VII thereof), and budgeting and planning for and carrying out such expanded projects.

AUTHORITY TO ESTABLISH TERMS AND CONDITIONS OF ASSIGNMENTS

SEC. 302. (a) Except as provided in subsection (c) of this section, the assignment of volunteers enrolled in programs carried out pursuant to clause (3) of section 301 shall be on such terms and conditions as the Director, in consultation with the Administrator, shall determine.

(b) Such volunteers, while engaged in programs under this title or under section 8 (b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)), shall be considered employees of the Federal Government for the purposes of the Federal tort claims provisions in title 28, United States Code, and for the purposes of the provisions relating to compensation to Federal employees for work injuries in subchapter I of chapter 81 of title 5, United States Code.

(c) The Director is authorized to reimburse SCORE/ACE volunteers serving pursuant to agreements entered into under section 301 only for transportation, meals, telephone calls, and other out-of-pocket expenses incident to their provision of services or coordination of programs under this Act or the Small Business Act (15 U.S.C. 637 (b)(1)).

(d) Notwithstanding any other provision of law, in order to exercise the authority to reimburse expenses of volunteers serving pursuant to section 8(b)(1) of the Small Business Act, as amended (15 U.S.C. 637(b) (1)), the Administrator shall delegate payment responsibility to the Director, making reimbursement to the ACTION Agency in connection with subsequent expenditures by such Agency.

(e) Volunteers serving pursuant to agreements entered into under section 301 shall in no event (1) participate on behalf of the Small Business Administration (rather than on behalf of their clients) in any screening or evaluation activities in connection with applications for loans from such Administration, or (2) provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

TITLE IV—ADMINISTRATION AND COORDINATION

ESTABLISHMENT OF AGENCY

SEC. 401. There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level III of the Executive Schedule under section 5314 of title 5, United States Code. There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such agency four Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code. Each such Associate Director shall perform such functions as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director primarily responsible for programs carried out under parts

A and B of title I of this Act and one Deputy Associate Director primarily responsible for programs carried out under title II of this Act, who shall be appointed by the Director.

AUTHORITY OF THE DIRECTOR

SEC. 402. In addition to the authority conferred upon him by other sections of this Act, the Director is authorized to—

(1) appoint in accordance with the Civil Service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein, fix the compensation of such personnel in accordance with chapter 51 of title 5, United States Code;

(2) (A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5 United States Code, except that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5332 of such title, including travel-time; and (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and (D) annually renew contracts for such employment under this clause;

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act and, as necessary or appropriate, delegate any of his powers under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agenices of such State or subdivision without reimbursement;

(5) accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this Act, or of any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, device, bequest, or otherwise;

(6) accept voluntary and uncompensated services;

(7) allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this Act as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10, United States Code), expenditure for construction, repairs, and capital improvements;

(8) disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as he shall deem appropriate to public agencies, private organizations, and the general public;

(9) adopt an official seal, which shall be judicially noticed;

(10) collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations in accordance with the Federal Claims Collection Act of 1966 (31 U.S.C. 951–53):

(11) expend funds made available for purposes of this Act as follows: (A) for printing and binding, in accordance with applicable law and regulation; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this Act, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

(12) notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this Act (except for volunteers serving under part A of title I thereof), which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this Act to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, make such payments (in lump sum or instalments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments); and

(15) generally perform such functions and take such steps, consistent with the purposes and provisions of this Act, as he deems necessary or appropriate to carry out the provisions of this Act.

POLITICAL ACTIVITIES

SEC. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971 (Public Law 92–225), and the term "Federal office" has the same meaning given such term by section 301(c) of such Act.

(b) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than 30 days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

SPECIAL LIMITATIONS

SEC. 404. (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible cost consistent with the effective operation of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who which to become volunteers as he determines will further the purposes of this Act.

(f) Notwithstanding any other provision of law and except as provided in the second and third sentences of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out functions under this Act only to persons appointed or employed pursuant to clauses (1) and (2) of section 402, and persons assigned or delegated such substantial responsibilities on the effective date of this Act and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5, United States Code, on such date shall, by operation of law on such date, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. Notwithstanding any other provisions of law, in order to achieve the appointment of personnel pursuant to cause (1) of section 402 and title 5, United States Code, as directed by the first sentence of this subsection, the number of positions authorized by section 5108(a) of title 5, United States Code, and assigned to the ACTION Agency, is increased by a number equal to the number of persons whose level of compensation on the day prior to the effective date of this Act requires their assignment to such positions. The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq) within six months after the effective date of this Act. This subsection shall not apply in the case of persons carrying out administrative functions in support of other than program-related activities described in section 504.

(g) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any other governmental program.

NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

Sec. 405. (a) There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of 25 members appointed, not later than sixty days after the date of the enactment of this Act, by and serving at the pleasure of the President. Such members shall be representative of public and private oragnizations, groups, and individuals interested in serving and benefited by programs carried out under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.), including, in approximately equal numbers, representatives of beneficiaries of programs established under this Act, nations hosting Peace Corps volunteers, present and former volunteers, and national coalitions representing such groups. The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after appointment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council, shall be entitled to receive compensation and travel expenses as provided in section 402(2) of this Act with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this Act and the Peace Corps Act and make recommendations (including such proposals for changes in such Acts as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of such Acts.

(c) Not later than March 31 of each calendar year beginning with the calendar year 1974, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President, within thirty days of the receipt thereof, to the Congress together with his comments and recommendations.

LABOR STANDARDS

Sec. 406. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numberd 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, ch. 482, as amended; 40 U.S.C. 276c).

REPORTS

Sec. 407. Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal by the President, within thirty days of the receipt thereof, a full and complete report to the Congress on the activities of the ACTION Agency during such year.

JOINT FUNDING

Sec. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

PROHIBITION OF FEDERAL CONTROL

Sec. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

COORDINATION WITH OTHER PROGRAMS

Sec. 410. The Director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this Act.

PROHIBITION

Sec. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purpose of this Act, no funds appropriated to carry out this Act shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

APPEALS, NOTICE, AND HEARING PROCEDURES

Sec. 412. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this Act be denied, unless the recipient has been given reasonable notice and opportunity to show cause publicly why such action should not be taken; and

(2) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

DURATION OF PROGRAM

Sec. 413. The Director shall carry out the programs provided for in this Act during the fiscal year ending June 30, 1974, and the three succeeding fiscal years. For each such fiscal year, only such sums may be appropriated as the Congress may authorize by law.

DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

Sec. 414. The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this Act will be distributed equitably between residents of rural and urban areas.

ADVANCE FUNDING

Sec. 415. For the purpose of affording adequate notice of funding available under this Act, appropriations for grants, contracts, or other payments under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

APPLICATION OF FEDERAL LAW

Sec. 416. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

(b) Individuals serving in programs authorized by parts A and B of title I of this Act, and individuals serving in programs authorized by part B or C of title I of this Act who are enrolled as full-time volunteers in a program established as a program of at least one year's duration, shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of title 5, United States Code, be deemed persons employed in the executive branch of the Federal Government, and (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer, trainee, or volunteer leader shall be deemed to be performed in the employ of the United States, and (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be deemed employees of the United States, except that for the purposes of computation, the monthly pay of a volunteer serving for one year or less shall be deemed to be that received under the entrance salary for GS–7 under section 5332 of such title.

(c) Any period of service of a volunteer under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program of at least one year's duration established under part B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Volunteers serving pursuant to part A of title I of this Act, and volunteers serving pursuant to title VIII of the Economic Opportunity Act of 1964, as amended (42

U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of title I of this Act.

EVALUATION

SEC. 417. (a) The Director shall periodically measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) Before funds are released or assistance is provided for the programs and projects covered by this Act after January 1, 1974, the Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluations carried out under this section.

(c) In carrying out evaluations under this title, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

NONDISCRIMINATION

SEC. 418. (a) The Director shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, color, national origin, sex, age, physical or mental disability, political affiliation, or belief.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Director shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Section 603 of such Act shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

ELIGIBILITY FOR OTHER BENEFITS

SEC. 419. Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to titles II and III of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after the effective date of this Act.

LEGAL EXPENSES

SEC. 420. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this Act or section 8(b)(1) of the Small Business Act, as amended (15 U.S.C. 637(b)(1))) serving under this Act have been made parties.

GUIDELINES

SEC. 421. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register and submitted to the appropriate committees of the Congress at least thirty days prior to their effective date.

DEFINITIONS

SEC. 422. For the purposes of this Act—

(1) the term "Director" means the Director of the ACTION agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, territories of the United States, the Virgin Islands, Puerto Rico, Guam, and American Samoa and, for the purposes of title II of this Act, the Trust Territory of the Pacific Islands;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. 2971d).

AUDIT OF THE COMPTROLLER GENERAL

SEC. 423. (a) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, loans or other arrangements referred to in subsection (a).

TITLE V—AUTHORIZATION OF APPROPRIATIONS

NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SEC. 501. (a) There are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, $61,000,000 for the fiscal year ending June 30, 1975, and $76,000,000 for the fiscal year ending June 30, 1976, respectively to be used for the purpose of carrying out title I of this Act of which (1) the amount of $30,000,000 for the fiscal year ending June 30, 1974, $35,000,000 for the fiscal year ending June 30, 1975, and $45,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for carrying out full-time volunteer programs designed to strengthen and supplement efforts to eliminate poverty under part A of such title; (2) the amount of $12,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for carrying out programs designed to strengthen and supplement efforts to eliminate poverty under part B of such title; and (3) the amount of $8,000,000 for the fiscal year ending June 30, 1974, and the amount of $11,000,000 for the two succeeding fiscal years shall be available for carrying out programs under part C of such title: *Provided*, That not less than 12 per centum of the sums appropriated for carrying out programs under such part C shall be used for carrying out programs, on a cost-reimbursable basis, authorized by part A of such title.

(b) If the sums authorized to be appropriated under subsection (a) of this section are not appropriated and made available in full, then such sums as are so appropriated and made available for such fiscal year shall be allocated so that (1) any amounts appropriated not in excess of $22,300,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year endng June 30, 1975, and $26,000,000 for the fiscal year ending June 30, 1976, respectively, shall be used for carrying out programs designed to strengthen and supplement efforts to eliminate poverty under part A of such title; (2) any amounts appropriated in excess of $22,300,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $26,000,000 for the fiscal year ending June 30, 1976, respectively, but not in excess of $29,600,000, $33,500,000, and $34,500,000 for each such fiscal year, respectively, shall be used for programs designed to strengthen and supplement efforts to eliminate poverty under part B of such title; (3) any amounts appropriated in excess of $29,600,000 for the fiscal year ending June 30, 1974, $33,500,000 for the fiscal year ending June 30, 1975, and $34,500,000 for the fiscal year ending June 30, 1976, respectively, but not in excess of $37,600,000, $44,500,000 and $45,500,000 for each such fiscal year, respectively, shall be used fcr carrying out programs under part C of such title; and (4) any amounts appropriated in excess of $37,000,000 for the fiscal year ending June 30, 1974, $43,500,000 for the fiscal year ending June 30, 1975, and $44,500,000 for the fiscal year ending June 30, 1976, respectively, shall be apportioned for use for carrying out parts A and B, respectively, of this title for each such fiscal year in an amount for each such part bearing the same ratio to the total of such excess amount made available for each such year as the amount set aside for use for each such year under each such part in clauses (1), (2), and (3), respectively, of this subsection bears to the total of such amounts set aside for use for each such fiscal year under each such parts.

NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS

SEC. 502. (a) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1974, $40,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976, respectively, to be used for the purpose of carrying out programs under part A of title II of this Act.

(b) (1) There are authorized to be appropriated $52,000,000 for the fiscal year ending June 30, 1974, $63,000,000 for the fiscal year ending June 30, 1975, and $74,000,000 for the fiscal year ending June 30, 1976, respectively, for the purpose of carrying out programs under part B of such title of which (A) $45,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, and $65,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (a) of section 211 of part B of such title and (B) $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection are not appropriated and made available in full for each such fiscal year, then such sums as are appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $32,000,000 for the fiscal year ending June 30, 1974, $33,000,000 for the fiscal year ending June 30, 1975, and $34,000,000 for the fiscal year ending June 30, 1976, respectively, shall be used for grants or contracts for such fiscal years under such subsection.

NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY SMALL BUSINESS PROPRIETORS

SEC. 503. There are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1974, $1,500,000 for the fiscal year ending June 30, 1975, and $2,000,000 for the fiscal year ending June 30, 1976, for the purpose of carrying out programs under title III of this Act.

ADMINISTRATION AND COORDINATION

SEC. 504. (a) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1974, $16,000,000 for the fiscal year ending June 30, 1975, and $17,000,000 for the fiscal year ending June 30, 1976, for the administration of this Act as authorized in title IV of such Act: *Provided*, That amounts expended for such purpose in any such fiscal year shall be used for salaries and expenses of persons carrying out functions under this Act only if the Director determines, in accordance with regulations he shall prescribe, that such persons are engaged in carrying out such functions for a substantial portion of their time and that such functions constitute a substantial portion of their responsibilities.

(b) The total administrative expenditures in support of other than program-related activities, including the compensation of Federal employees, incurred under the authority of this Act for any fiscal year shall not exceed the lesser of (1) 10 per centum of the total amount appropriated and made available pursuant to this title for such year, or (2) an amount which bears the same proportion to the total amount appropriated and made available for such expenditures in such year from (A) amounts appropriated and made available pursuant to this Act, (B) amounts appropriated and made available pursuant to the Peace Corps Act (22 U.S.C. 2501 et seq.), and (C) amounts appropriated and made available pursuant to any other law for which implementing responsibility is delegated or transferred to the Director in such year as the total amount appropriated and made available pursuant to this title bears to the total amount appropriated and made available pursuant to the authorizations specified in subclauses (A), (B), and (C) of this clause: *Provided*, That grants, subsidies, and contributions, and payments to individuals, other than Federal employees, shall not be counted as an administrative expenditure.

AVAILABILITY OF APPROPRIATIONS

SEC. 505. (a) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

(b) There shall be no limitation on the use of funds appropriated to carry out any program under this Act other than limitations imposed by or pursuant to the provisions of this Act; nor shall any funds appropriated to carry out any program under this Act be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified or provided in this Act.

TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

SUPERSEDENCE OF REORGANIZATION PLAN NUMBER 1 OF JULY 1, 1971

SEC. 601. (a) Sections 1, 2(a), and 3 of Reorganization Plan Numbered 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of on-going activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, his designee, or any person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or undergoing training under the title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

CREDITABLE SERVICE FOR CIVIL SERVICE RETIREMENT

SEC. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and "or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (— U.S.C. —)" after "Economic Opportunity Act of 1964."

REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

SEC. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), is hereby repealed.

REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

SEC. 604. Title VI of the Older American Act of 1965, amended (42 U.S.C. 3044–3044e), is hereby repealed.

The PRESIDING OFFICER. There is a time limitation on this bill of one-half hour, to be controlled by the senior Senator from New York and the senior Senator from California. Who yields time?

Mr. CRANSTON. Mr. President, I yield myself such time as I may require.

I am delighted that we are today considering S. 1148, the proposed "Domestic Volunteer Service Act of 1973," which is a bipartisan measure unanimously approved by both the Special Subcommittee on Human Resources and the Committee on Labor and Public Welfare.

Mr. President, this month marks the second anniversary of ACTION, the agency created on July 1, 1971, by Reorganization Plan No. 1 of 1971, to consolidate and administer the Nation's federally sponsored volunteer programs, which include the Peace Corps, VISTA, the Foster Grandparent program, and the SCORE/ACE program, a corps of volunteer small business counselors.

During this 2-year period the ACTION Agency has operated without the benefit of specific authorizing legislation. It has had to look for its authorizations of appropriations to four different pieces of legislation. It has been responsible to more than 15 committees and subcommittees of the Congress.

Today we have the opportunity to provide the Agency with one piece of authorizing legislation for its domestic volunteer service programs. S. 1148, the proposed "Domestic Volunteer Service Act of 1973," would supersede the domestic program and administrative provisions of Reorganization Plan No. 1 by providing a 3-year appropriations authorization and a unified set of statutory authorities for the domestic programs of the ACTION Agency in one piece of enabling legislation.

I introduced S. 1148 on March 8, 1973, for myself and for the chairman of the full Labor and Public Welfare Committee (Mr. Williams); the ranking majority member of the full committee and of the Special Subcommittee on Human Resources, (Mr. Randolph); and the former chairman of the Special Subcommittee on Aging of the committee (Mr. Kennedy). We were later joined in sponsorship of the bill by the ranking minority member of the full committee, Mr. Javits; the ranking minority member of the subcommittee, Mr. Beall, as well as by our distinguished colleagues on the full committee, Mr. Mondale and Mr. Pell, the chairmen of the Subcommittee on Children and Youth and the Subcommittee on Education, respectively.

BASIC THRUST OF S. 1148

Mr. President, S. 1148 incorporates into positive law the basic existing legislative foundations of the domestic programs to the ACTION agency—VISTA, the foster grandparent program, the retired senior volunteer program—RSVP—and the Service Corps of Retired Executives and Active Corps of Executives—SCORE/ACE—as well as many of the constructive suggestions for enhancing those programs which were presented during the subcommittee's March 15, 1973, hearings on the measure and through correspondence from many individuals involved in varying aspects of these programs. We held 5 full days of hearings during the spring of 1972 on the administration's proposed legislation which I had introduced by request during the 92d Congress—S. 3450.

In addition, on March 22, 1973, the ranking minority member of the Special Subcommittee on Human Resources, Senator Beall, introduced, by request of the administration, S. 1338, the proposed "ACTION Domestic Programs Amendments of 1973." I was pleased to join Senator Beall in cosponsoring of this measure, many comparable provisions of which are included in S. 1148. Among these are provisions which would provide the Agency with entirely new authority contained in part C of title I to carry out and stimulate domestic volunteer programs aimed at alleviating problems not directly related to poverty. This is an authority sought by the administration in its legislative proposals in the 92d Congress (S. 3450) as well as in S. 1338.

TITLE-BY-TITLE DESCRIPTION OF THE REPORTED BILL

Mr. President, title II of S. 1148 as reported provides in part A for VISTA—volunteers in service to America—now carried out under part A of title VIII of the Economic Opportunity Act—and in part B for the university year for ACTION—UYA—program—now carried out under part B of such title VIII. In part C it provides for new voluntary activities and demonstration programs to meet a broad range of human and social needs, particularly those arising out of poverty, and establishes three new special emphasis volunteer programs in which VISTA, UYA, and short-term and part-time volunteers will be enrolled: namely, a special emphasis program to provide alternatives to the incarceration of youthful offenders, one to promote educational and job opportunities for returning veterans, and one to provide community-based peer group, counseling and outreach for drug—including alcohol—abusers, especially those who are returning veterans.

The VISTA authority is currently contained in title VIII of the Economic Opportunity Act of 1964, as amended. The reported bill retains the antipoverty nature of the program, provides for a 2-year term of service for VISTA volunteers rather than the 1-year term they now serve, and provides for host community and VISTA volunteer participation in decisionmaking regarding programs involving them.

The UYA program was established as a demonstration VISTA program by the ACTION Agency. The reported bill provides for its continuation and expansion by establishing it as a permanent antipoverty volunteer program. The reported bill requires a greater reliance on the resources of participating UYA grantee universities, insures the participation of low-income student volunteers, and encourages student and faculty major participation in planning for UYA programs.

The total title I authorization of appropriations is $50 million for fiscal year 1974—with earmarking for parts A, B, and C at amounts included in the administration's budget request—$61 million for fiscal year 1975, and $76 million for fiscal year 1976, with earmarking levels as shown on the table which I will insert in the Record later in my remarks.

Title II of the bill as reported, Mr. President, provides in part A for the RSVP and in part B for the Foster Grandparent programs currently authorized by title VI of the Older Americans Act, and provides for two new older American programs—senior health aides and senior companions—modeled on the Foster Grandparent program except that the volunteers will provide companionship and services to older persons rather than children. I was the author of these provisions added to title VI of the Older Americans Act this past May with enactment of Public Law 93-29. The language is virtually unchanged here. A new section to promote minority group participation in these older American programs has also been added in response to testimony indicating that generally minority group persons age faster and have a shorter life expectancy and thus have not been represented proportionately in these programs.

The total authorization of appropriations for these title II programs is $82 million for fiscal year 1974—with earmarking for FGP at the budget request level—$103 million for fiscal year 1975, and $124 million for fiscal year 1976. I will also include tables of these funding levels later in my remarks.

Mr. President, title III provides a restatement of the division of responsibility under Reorganization Plan No. 1 of 1971 between the ACTION Agency and the SBA with respect to the SCORE/ACE program, provides for the expansion of that program to include other than SBA clients, clarifies the responsibilities of the ACTION Agency vis-a-vis the SCORE/ACE volunteers, and delineates the ACTION SCORE/ACE volunteer's role as client oriented, as opposed to SBA oriented.

The total authorizations of appropriations for these title III programs is $1 million for fiscal year 1974, $1.5 million for fiscal year 1975, and $2 million for fiscal year 1976.

Title IV of S. 1148 as reported, Mr. President, contains a unified set of administrative provisions in accordance with the legislative establishment of the ACTION Agency. The authorities are drawn from title VI of the Economic Opportunity Act and title VII of the Older Americans Act, as well as S. 1338, the administration bill.

It also limits the performance of substantial nonsupport functions for domestic volunteer programs to persons appointed under the civil service system—general schedule employees—and provides sufficient civil service positions for present incumbents in order to carry out this statutory direction. It also includes for the first time for the Agency a separate authorization of appropriations for administrative purposes—$15 million for fiscal year 1974, $16 million for fiscal year 1975, and $17 million for fiscal year 1976, and adds certain limitations on administrative expenditures for joint domestic/international so-called "support" administration purposes.

Title V of the bill, as reported, Mr. President, contains authorizations of appropriations for each title of the bill, and earmarks levels of funding to protect the antipoverty programs in the bill—VISTA, UYA, foster grandparents.

Title VI contains provisions to repeal title VIII of the Economic Opportunities Act—VISTA authority—and title VI of the Older Americans Act—RSVP and foster grandparent authority—provisions to supersede appropriate domestic sections of Reorganization Plan No. 1, and provisions of Civil Service retirement credit for VISTA, UYA, and other title I volunteers serving for at least 1-year terms.

Mr. President, I ask unanimous consent that certain authorization of appropriations tables from the committee report be set forth in the Record at this point.

The **PRESIDING OFFICER.** Without objection it is so ordered.

TABLE 1.—AUTHORIZATIONS OF APPROPRIATIONS

THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973—AUTHORIZATION OF APPROPRIATION BY PROGRAM AND TITLE

[In millions of dollars]

	Title I			Title II					
	VISTA	UYA	Special programs	RSVP	FGP	OACSP	Title III, score/ace	Title IV, administration	Annual total, all programs
Fiscal year:									
1974	30	12	8	30	45	7	1.0	15	148.0
1975	35	15	11	40	55	8	1.5	16	181.5
1976	45	20	11	50	65	9	2.0	17	219.0
Total	110	47	30	120	165	24	4.5	48	548.5

S. 1148, THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973, AUTHORIZATION OF APPROPRIATIONS FOR TITLE I

[In millions of dollars]

		Authorization			Earmarked			Full Appropriation Add on (percent up to)[1]		
	Total	A	B	C	A	B	C	A	B	C
Fiscal year:										
1974	50	30	12	8	22.3	7.3	8	7.7(75.3)	4.7(24.7)	0
1975	61	35	15	11	25.0	8.5	11	10.0(74.6)	6.5(25.4)	0
1976	76	45	20	11	26.0	8.5	11	19.0(75.4)	11.5(24.6)	0
Total	187	110	47	30	73.3	24.3	30	36.7	22.7	0

[1] The percentage shown in the parenthetical would be multiplied by the amount available for obligation in excess of the total of the amounts earmarked for pts. A, B, and C ($37,600,000 for fiscal year 1974; $43,500,000 for fiscal year 1975; and $44,500,000 for fiscal year 1976) up to the dollar amount shown.

THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973, AUTHORIZATION OF APPROPRIATIONS FOR TITLE II, PT. B

[In millions of dollars]

		Authorization		Earmarked		Add on	
	Total	A	B	A	B	A	B
Fiscal year:							
1974	52	45	7	25	0	20	0
1975	63	55	8	25	0	30	0
1976	74	65	9	25	0	40	0
Total	189	165	24	75		90	

MAJOR PROVISIONS OF THE REPORTED BILL

Mr. **CRANSTON**. Mr. President, the reported bill, then, provides a single piece of enabling legislation for all of the Action Agency's programs—repealing title VIII of the Economic Opportunity Act and title VI of the Older Americans Act—with a unified set of administrative provisions and incremental increases in the appropriations authorizations for the basic programs, including new demonstration programs and, for the first time, a specific appropriations authorization for administrative support expenses for all domestic programs.

Mr. President, it fully preserves and protects the antipoverty mission of the Agency's basic programs by earmarking the first expenditures of funds for antipoverty programs, particularly VISTA, UYA, and the foster grandparent program.

It provides for manageable expansions of the proven programs of the Agency—VISTA, UYA, foster grandparents, RSVP, and Score/Ace—while also providing for more unified terms and conditions of volunteer service for full-time volunteer programs under the Agency—including Federal Tort Claims Act and workmen's compensation—Federal Employees Compensation Act—coverage and a 2-year term of service and payment of certain legal expenses for VISTA volunteers—for greater contributions of local university resources under UYA; for expanded eligibility—particularly for minority group older persons; for participation in foster grandparents and RSVP programs; and for protection of the volunteer community service orientation of the Score/Ace volunteers.

S. 1148, as amended provides for host community and VISTA volunteer participation in decisionmaking regarding programs involving them.

It sets up a procedure to attempt to ensure fair handling of all actions affecting grant renewals and terminations.

It provides for new voluntary activities to meet a broad range of human and social needs beyond the strict antipoverty guides, and establishes three new special emphasis volunteer programs for the use of VISTA, UYA, and short-term and part-time domestic volunteers—namely, a special emphasis program to provide alternatives to the incarceration of youthful offenders; one to promote educational and job opportunities for returning veterans; and one to provide community-based peer group counseling and outreach for drug—including alcohol—abusers, especially those of returning veterans.

The bill, as reported, provides for two new older American programs, "Senior Health Aides" and "Senior Companions," to expand the opportunities for foster grandparent-like services, while at the same time preserving the present fiscal year 1973 funding—annual obligations—for the foster grandparent program.

It provides for the development of new programs and program opportunities to utilize the skills of Score/Ace volunteers beyond the counseling of Small Business Administration—SBA—clients, especially in connection with community economic development programs, as funded under title VII of the Economic Opportunity Act and the Office of Minority Business Enterprise, the latter being under the jurisdiction of the Small Business Subcommittee which I chair on the Banking Committee.

S. 1148 as reported, Mr. President, provides a restatement of the division of responsibility set forth in Reorganization Plan No. 1 of 1971 between the ACTION Agency and the SBA with respect to the Score/Act program, particularly focusing the ACTION Agency function on the volunteer.

It provides, in keeping with the volunteer concept of the program that as to retired volunteers in Older American or Score/Ace programs and community low-income volunteers in VISTA and VISTA-type programs, no support payments or services shall in any way affect their eligibility for pension, social security, medicare, medicaid, public assistance, or other governmental benefits to which they are entitled such as housing and food stamps. This includes all payments to foster grandparent volunteers under section 211, which are exempted totally under present law in section 611(d) of the Older Americans Act of 1965, as added by title VI, which I authorized in Public Law 93–29.

It provides authority for expanded activities by the Agency to promote education and career opportunities for its former volunteers, including providing generally for—in a way comparable to benefits provided Peace Corps volunteers now—civil service entry-level eligibility and retirement credit for full-time service of 1 or more years, in VISTA, UYA, or a volunteer experimental program.

It provides a single piece of enabling legislation for all of the ACTION Agency's programs—repealing title VIII of the Economic Opportunity Act and title VI of the Older Americans Act—with a unified set of administrative provisions and incremental increases in the appropriations authorizations for the basic programs, including new demonstration program and, for the first time, a specific appropriations authorization for administrative support expenses for all domestic programs.

And it provides for a greater role for returning veterans in ACTION Agency volunteer programs.

COMMITTEE AMENDMENTS TO S. 1148

The Committee on Labor and Public Welfare, made a number of substantive amendments to S. 1148 as introduced. These changes include the following:

First. Language in the statement of purpose for parts A and B of title I was modified so that VISTA and University Year for ACTION—UYA—volunteers working to strengthen and supplement efforts to eliminate poverty may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self advancement by persons afflicted with such problems. This language makes clear the committee's recognition that volunteer efforts in problem areas such as lead-based paint poisoning and rehabilitation of criminal offenders are legitimate, poverty-related activities to be carried out by VISTA and University Year for ACTION volunteers, even though the recipients of these volunteer efforts might not technically fall at or below the official poverty line. This language, then, is merely a clarification and does not in any way authorize non-antipoverty activities under VISTA.

Second. Provisions establishing volunteer councils enabling VISTA and UYA volunteers to consult with the Director on grievance procedures and terms and conditions of service were deleted from the bill and replaced by substitute provisions. Concern was expressed that the legislative establishment of volunteer councils could be construed as inconsistent with the volunteer nature of the VISTA and University Year for ACTION programs. The substitute provisions require the Director to establish a procedure, including notice and opportunity to be heard, for volunteers to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. It further directs him to promptly provide to each volunteer in service on the date of enactment of the act and to each volunteer beginning service—entering training—thereafter information regarding such procedure and the terms and conditions of their service. The committee expressed the view that the grievance and termination procedures to be established should be similar to those affecting Peace Corps volunteers.

Third. The provision ensuring participation of beneficiaries of antipoverty programs under title I was strengthened, as recommended by witnesses presenting testimony on the bill, to provide that the Director, after consultation with sponsoring agencies—including volunteers assigned to them—and the poor served by such agencies shall take all necessary steps to establish a continuing mechanism for the meaningful participation of program beneficiaries.

Fourth. The requirement that the Director pay stipends to University Year for ACTION—UYA—volunteers at the same level received by VISTA volunteers was modified so that the Director may determine to reduce or eliminate the stipend to UYA volunteers on the basis of the value of benefits provided those volunteers by the institution in question. The stipend, for instance, might be reduced at institutions waiving tuition. The committee expressed the view that it does not anticipate, however, that stipends will necessarily be paid to students enrolled in institutions after the phase out of support under grants or contracts from the ACTION Agency.

Fifth. A parenthetical was added to the provision requiring University Year for ACTION grantees or contractees to assume the full cost of continuing a program of at least the same size for at least 1 year of title I after that contractee or grantee received support from the ACTION Agency for 3, or under special circumstances, up to 5 years. The parenthetical makes clear that the Agency is not authorized to continue any costs of a UYA program, for instance the cost of stipends, after this period, but also makes clear that the school need not pay stipends—or any particular stipend amount—if it so chooses after it assumes the full cost of the program.

Sixth. Language was added to the provision in part C of title I—special volunteer programs—authorizing the Director to establish programs designed to stimulate and initiate improved methods of providing volunteer services to enable him to establish programs to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts. Under this change, for example, individuals such as aged pensioners, who do not live in readily recognizable poverty areas could be served. The committee anticipates that the new part C authority would be effectively utilized by the use of longer-term volunteers, such as women, who have family responsibilities, on a part-time but substantial basis.

Seventh. New provisions were added so that volunteers serving under the part C of title I authority who are enrolled in full-time programs of at least 1 year's duration are eligible for stipends and support allowances, but to limit them to amounts not in excess of those authorized for VISTA volunteers.

Eighth. Language clarifying the intent of the special emphasis program to provide alternatives to the incarceration of youthful offenders was added to the bill. The committee expressed its intention that alternatives to the incarceration of youthful offenders apply to both those youth under sentence and those awaiting trial. It also broadened the scope of the alternatives to include, in addition to community-based, pretrial and other alternatives, and clarified the scope of assignments to include parole, probation, or other social service agencies in addition to departments of corrections.

Ninth. The committee restored the age of eligibility for participation in title II—Older American volunteer programs—from age 55, as in S. 1148 as introduced, to age 60—the age presently in the Older Americans Act, since it felt that the lowering of the age might tend to discriminate against the oldest Americans eligible for participation. To address the concern that minority group individuals age more quickly than do nonminority group individuals and that the higher eligibility age fails to take that fact into consideration, the committee included a new section in title II on minority group participation which requires the Director to take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals 60 years and older from minority groups to serve in the title II Older American volunteer programs.

Tenth. The committee modified the provisions of section 401 of the bill to provide for a Deputy Associate Director primarily responsible for programs carried out under title II—Older American volunteer programs. This Deputy Associate Director, as well as the one primarily responsible for the VISTA and UYA programs, shall be appointed by the Director, but does not necessarily report directly to him.

Eleventh. The committeee broadened the provisions of clause (14) of section 401 to enable the Director to enter into contracts and agreements with public agencies and private organizations and persons. The committee felt such authority was necessary to enable the Director to carry on the provision, through contractual or other agreements, of volunteer training, supervision, transportation, and other necessary support, but stressed that the comparable authority in the Economic Opportunity Act of 1964 from which this clause is derived has been interpreted as not authorizing that primary responsibility for the title I, part A, VISTA program be contracted out. The Agency has concurred that neither this clause, nor any other provision of the committee substitute, would permit operation of the VISTA program under administrative arrangements other than the national emphasis operation now obtaining.

Twelfth. The committe—based on informal consultations with Finance Committee staff—deleted the sections in titles IV and VI relating to tax treatment of volunteer stipends and allowances, since such revenue matters must originate in the House of Representatives.

Thirteenth. The committee increased the authorization level of title I programs from $60 to $61 million for fiscal year 1975 and from $75 to $76 million for fiscal year 1976 in order to provide an additional $1 million for part C programs in those fiscal years.

In addition, in order to afford the Agency greater flexibility in the expenditure of its funds as earmarked in the bill for the part C programs of title I, the committee agreed to reduce the earmarked part A—VISTA—amount from $27.5 to $26 million and the UYA earmarked amount from $10 to $8.5 million for fiscal year 1976, thereby making additional moneys available for part C programs in that fiscal year. The committee further agreed that funds made available over the earmarked levels should be apportioned proportionately among parts A, B, and C of title I.

Fourteen. In order to afford the ACTION Agency greater flexibility in the expenditure of its funds for foster grandparent and older Americans community service programs under part B of title II, the committee agreed to permit prior year's unobligated appropriations which are authorized by section 505(a) to be carried over to be included in making up the sum which totals the $25 million earmarked in annual obligations for the traditional foster grandparent program.

Fifteen. The committee deleted a section which would have extended the tolling period for GI Bill benefits to veterans who enrolled in either the Peace Corps or VISTA, University Year for ACTION, or other full-time domestic volunteer programs of at least 1 year's duration under title I, after informal discussions with the Senate Veterans Affairs Committee, since title 38 of the United States Code falls under the jurisdiction of that committee. The committee hopes that the Veterans Affairs Committee will consider this question in its total review of pending proposals to modify or extend the present 8-year GI Bill entitlement period.

Sixteen. The committee—based on informal discussions with Finance Committee staff—deleted provisions in the bill which would have afforded VISTA volunteers the same tax and social security treatment afforded Peace Corps volunteers. This is simple justice. Since revenue measures by tradition have originated in the House of Representatives, I hope that the House will include these provisions, as well the titles IV and VI tax provisions which were deleted from S. 1148, in its reported bill.

If not, I intend to press ahead with an amendment to an appropriate Finance Committee bill to make these changes.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point excerpts from the committee report (No. 93–311), including a history of committee action, a discussion of the bill and of the agency's legislative record over the past 2 years, and a very detailed section-by-section analysis of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION

S. 1148 was introduced on March 9, 1973, by Senator Alan Cranston. Joining him in cosponsoring the bill were Senator Harrison Williams, Senator Jennings Randolph, and Senator Edward Kennedy. Senator J. Glenn Beall, Senator Jacob Javits, Senator Walter Mondale, and Senator Claiborne Pell subsequently joined in cosponsorship.

The Special Subcommittee on Human Resources held hearings on S. 1148 on March 15, 1973. All the witnesses, other than those from the Administration testifying on behalf of the ACTION Agency who took no position on the bill, were in support of passage of S. 1148. In addition, the Subcommittee received from witnesses who testified during the last Congress at hearings on domestic volunteer programs communications which lend support for the bill. These are incorporated in the hearing record appendix on S. 1148. The Subcommittee also received written testimony on the bill, all of which, except for that from the Small Business Administration, expressed support for S. 1148.

In executive session on March 28, 1973, the Subcommittee considered and unanimously ordered S. 1148, with several substantive and technical amendments, favorably reported to the full Labor and Public Welfare Committee. The Committee on Labor and Public Welfare met in executive session on April 5, 1973, and unanimously approved and ordered favorably reported S. 1148, as reported from the Subcommittee, adding two additional substantive amendments, with an amendment in the nature of a substitute.

The Committee deferred filing this report for a number of reasons. First, the Peace Corps authorization legislation for FY 1974 (H.R. 5293) was under consideration by the Senate Foreign Relations Committee and the Senate in April, May, and June. That bill as reported from Committee included several administrative expenses limitations, which if enacted could have seriously impaired the domestic operations of the ACTION Agency, thereby perhaps requiring either recommittal of S. 1148 to Committee or at least a substantial treatment in the committee report on the bill. Through the cooperation of Foreign Relations Committee members, however, two of the provisions in question were dropped during Senate floor action and another in conference. The bill was thus enacted on June 25, 1973, without provisions which might adversely affect the domestic operations of the agency. In addition, the Committee continued to receive suggestions—many of which had been solicited by the Subcommittee Chairman—until well into June from concerned individuals and groups, including a May 15 very detailed report from the General Accounting Office, suggesting the need for technical changes in the bill and clarifications of Committee intent in the report. Finally, the Committee wanted to provide an opportunity to the new ACTION Agency Director, Michael P. Balzano, whose nomination was confirmed by the Senate two days after the bill was ordered reported, to familiarize himself with the legislation and to raise questions which might be able to be effectively clarified or dealt with in the committee report.

* * * * *

DISCUSSION

THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973—MAJOR PROVISIONS

The reported bill supersedes the program and administrative provisions of Reorganization Plan No. 1 by providing a 3-year appropriations authorization and a unified set of statutory authorities for the ACTION Agency in one piece of enabling legislation.

TITLE I. NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

Title I of the reported bill is derived from the VISTA authority contained in title VIII of the Economic Opportunity Act of 1964, as amended.

VISTA

Part A of title I provides specifically for the VISTA program of fulltime volunteer service to strengthen and supplement efforts to eliminate poverty and poverty related problems. The reported bill changes the basic period of VISTA service from 1 to 2 years in keeping with prior ACTION Agency recommendations and the desires of VISTA volunteers regarding the need for a substantially longer period of service. Section 105 contains a provision to assure that VISTA volunteers are provided the necessary allowances and support, such as transportation, to enable them to effectively carry out their assignments.

Section 416(d) provides that those volunteers who, subsequent to the successful completion of their VISTA service, enter the Federal Civil Service, may do so in the same manner as Peace Corps Volunteers as prescribed in the Executive Order—No. 11103, April 10, 1963—which enables the head of any agency in the executive branch to appoint such former volunteers in the competitive service subject to passing an examination prescribed by the Civil Service Commission. This provision is made retroactive to apply to VISTA volunteers whose service began or was completed under title VIII of the Economic Opportunity Act.

With respect to low-income VISTA community volunteers, title I specifically encourages their recruitment, and in section 103, requires that prior to assignment an individual plan designed to provide opportunities for job advancement or for transition to gainful employment be provided for each low-income VISTA community volunteer and that this plan be updated and reviewed with the voluntteer 120 days prior to the volunteer's completion of service. In addition, section 404(g) assures low-income VISTA community volunteers that their VISTA allowances and stipends will not have the effect of reducing or eliminating their or their families' level of eligibility for assistance or services, such as Medicaid, received under any other governmental program at any governmental level.

University Year for ACTION

Part B of title I provides authority for the University Year for ACTION (UYA) program and similar service-learning programs on the secondary, the secondary vocational, or postsecondary school levels.

It authorizes the Director of ACTION to conduct or make grants or contracts for the UYA program, but stipulates that the programs must be in accordance with the authorities and subject to the restrictions of the VISTA program. For example, UYA volunteers must be subject to the same selection criteria and terms and conditions of assignment as VISTA volunteers, except that they will serve for only a one-year term of service, need not necessarily receive the same amount of stipend as VISTA volunteers, and that UYA projects will not be subject to the same Governors' scrutiny.

Section 113 requires that among equally qualified applicants priority be given to the enrollment in the UYA program of low-income persons, persons who have successfully completed VISTA service as low-income community volunteers, and Vietnam era military veterans.

Section 113 also requires that priority be given to arrangements with institutions which agree to waive tuition where legally possible for UYA participants and with institutions which plan their programs with strong student/faculty participation and without the assistance of an ACTION UYA planning grant. The Committee wishes to emphasize that it most certainly is not intended by this provision that the ACTION Agency relax its standards for quality program planning. Rather, it is intended to encourage those institutions with the greatest amount of initiative and interest in establishing this innovative program.

One of the purposes of the program is to encourage the involvement of educational institutions in the problems of the low-income communities of which they are a part. Section 114(b) includes a requirement that contracts with participating institutions stipulate that they open their available facilities to those communities. Such facilities could include human resources, and it is anticipated by this provision that community tutorial and related programs would be fostered.

Section 114(c) provides that participating institutions contribute to the cost of the program, and make a commitment that after they receive financial support from the ACTION agency for a total of 3 years—or in exceptional circumstances, where determined by the Director, for a total of up to 5 years—they continue to support a similar service learning program for at least a year.

The National Student Volunteer Program, which was transferred from the Office of Economic Opportunity to ACTION by the reorganization plan, and which provides technical support to educational institutions having their own volunteer service programs, would be eligible to be continued under the support authorities provided by section 115.

Special volunteer programs

Part C of title I provides the ACTION agency with a demonstration and special project authority to develop various programs designed to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty. Section 122 provides the Director with the authority to determine the general terms and conditions of assignment of volunteers serving pursuant to the part—except that the political activities provisions of section 103(c) shall apply. It is intended that the agency utilize this authority to develop its cost-shared or cooperative programs whereby it is reimbursed for support costs expended for volunteers serving pursuant to the part.

Three special emphasis programs are specified to be carried out each with 5 percent of part C funds, as follows:

Special emphasis program to provide alternatives to the incarceration of youthful offenders

Section 123 provides for a special emphasis volunteer program to assist and foster community-based programs offering alternatives to the incarceration of youthful offenders. It is based on findings that the incarceration of youthful offenders is often not successful in rehabilitating juvenile delinquents, generally fails to prevent juvenile crime, is more costly than alternative approaches to corrections, and that a large proportion of adults arrested for serious crimes are those whom society failed to rehabilitate as young offenders. The section requires that the Director make special efforts to recruit as volunteers for this program persons who are themselves rehabilitated criminal offenders.

Special emphasis program to promote educational opportunities for veterans

Section 124 provides for a special emphasis volunteer program to provide outreach assistance, job placement assistance, and other services to Vietnam-era veterans who are not taking advantage of educational assistance benefits afforded them under the GI Bill—chapters 31 and 34 of title 38, United States Code.

It is based on findings that fewer than one-half of the Vietnam-era veterans eligible for this assistance are taking advantage of it, and only about a quarter of those with less than a high school diploma or the equivalent have done so since the program began in 1966.

The aim of this special emphasis program would be to assist in enrolling these veterans in academic or vocational institutions, on-job training programs, or farm cooperative programs, and in assisting them in securing gainful employment. The section requires the Director to make special efforts to recruit as volunteers for this program persons who are themselves Vietnam-era veterans.

Special emphasis program to provide community-based peer group counseling and outreach services for drug abusers

Section 125 provides for a special emphasis volunteer program to supplement and strengthen drug treatment and rehabilitation efforts in communities by utilizing sympathetic peer group members—an effort which can be further enhanced through the use of skilled ACTION volunteers—to provide outreach, counseling, and followup services for younger persons and Vietnam-era military veterans who are suffering from the tragedy of drug abuse, including alcoholism. The section requires the Director to make special efforts to recruit as volunteers for this program persons—particularly Vietnam-era veterans—who are themselves considered by competent medical authorities to be recovered addicts and drug abusers.

TITLE II. NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

Foster grandparent and RSVP programs

Title II of the reported bill is derived from title VI of the Older Americans Act of 1965, as amended. It provides for the Retired Senior Volunteer Program (RSVP) for the Foster Grandparent Program, and for new Older American Community Service Programs.

Stylistic and clarifying changes have also been made from the present language of title VI of the Older Americans Act of 1965.

The Committee wishes to refer back to an important section in the Senate Committee Report (No. 93–19) on S. 50, the "Older Americans Comprehensive Services Amendments of 1973," which has now been enacted as P.L. 93–29, dealing with language in the present part B, title VI, authority in the Older Americans Act of 1965, since the clarification it provides applies as well to the basic provisions contained in title II, part B, of the reported bill. The committee report states the following at pages 15–16:

In addition, there are two matters regarding language retained from the present law in section 611(a) which require further clarification: the effect of the "person-to-person" provision and the language "including services as 'Foster Grandparents' to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs."

The Committee does not intend "person-to-person" services which Foster Grandparents are authorized to provide under this section to be limited to those in a direct one-to-one relationship with a particular child. Rather, it would be consistent with the Committee's intention for a Foster Grandparent to serve in a project or program where he or she inter-relates with several children. The Committee expects, however, that the major thrust of the subsection (a) program—bringing older persons in direct and personal contact with a child or several children with the purpose of developing an enriching relationship between them, as in a surrogate grandparent/grandchild relationship—will be carried out in programs conducted under this subsection.

Second, the Committee wishes to make clear that it does not agree with the restrictive interpretation apparently given by ACTION to the "including" clause at the end of the subsection. The Committee's view is that this language is not, and was not, exclusive with respect to the places where Foster Grandparents could serve children and that service in a private home or other non-institutional setting, as well as in "hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs" is permissible as long as the other basic requirements of the title are satisfied.

The Committee repeats this explanation because it is most important in view of the ACTION Agency's previous restrictive interpretation—which was inherited from the Administration on Aging—of this authority.

Older American community service programs

Subsection 211(b) of title II authorizes the Director to carry out programs similar to Foster Grandparents, but under the category of Older American Community Service programs. In these new programs, low-income retired Americans aged 60 and over would work with persons, other than children, with special needs in the same manner as Foster Grandparents work with children. This would include, for instance, volunteer service as Senior Health Aides working with persons receiving home health care and nursing care, or delivering meals and services as part of nutritional programs for older Americans and as "Senior Companions."

TITLE III. NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTARY SERVICE BY SMALL BUSINESS PROPRIETORS

Title III of the reported bill resolves the most pressing problems which have arisen in the administration of the SCORE/ACE program since implementation of Reorganization Plan No. 1 which gave joint authority to the ACTION Agency and the Small Business Administration for carrying out this program. The reported bill attempts to codify much of the substance of the February 22, 1973, memorandum jointly issued by ACTION and the SBA regarding this matter.

Section 301 authorizes the Director of the ACTION agency and the Administrator of the Small Business Administration to enter into agreements as to how their joint authority shall be exercised and to publish those agreements in the Federal Register. It directs the Director to cooperate with the Administrator in operating the program by carrying out the following functions: to conduct national publicity and recruitment efforts and to form new SCORE chapters; to provide general budgetary planning for the SCORE/ACE program, to provide logistical support, including office space, clerical services, and supplies and necessary secretarial support (not available from the SBA) to the volunteers; and to expand the program by locating new clients, projects, and programs, particularly those funded under the OEO community economic development program, which would benefit from the expertise of SCORE/ACE volunteers.

For the first time, under this legislation SCORE volunteers would be eligible to receive reimbursement for their out-of-pocket expenses in connection with their volunteer service (presently only travel expense reimbursement is available under the Small Business Act and only for trips of more than 50 miles). And related to this, section 419(c) provides that this reimbursement shall not be considered income for reducing Social Security benefits or for other purposes. This provision applies to the title II older American volunteer programs as well.

The title further prohibits the utilization of services of SCORE/ACE volunteers (jointly administered with the ACTION agency) to act on behalf of the SBA—as distinguished from acting *for* their small business clients and not *for* the SBA—to screen and evaluate applications for SBA loans and from providing services to an SBA client with a delinquent loan outstanding unless specifically requested in writing by that client after the loan has become delinquent. This prohibition is designed to protect the volunteer from legal actions which might be taken by the aggrieved client and to avoid real or apparent conflicts of interest by keeping in the forefront the identity of the SCORE volunteer as serving the client, not the SBA.

TITLE IV. ADMINISTRATION AND COORDINATION

Title IV of the reported bill contains provisions for the administration and coordination of programs authorized by the proposed Domestic Volunteer Service Act of 1973.

Section 401 provides a concrete statutory basis to the ACTION agency and establishes its functions and responsibilities as a matter of law. It also contains provisions similar to those in Reorganization Plan No. 1, except that it also authorizes the position of Deputy Associate Director responsible for the VISTA and University Year for ACTION programs and the position of Deputy Associate Director responsible for the Older Americans Programs.

Clause (13) of section 402 requires the Director of the ACTION agency to provide or arrange for educational and vocational counseling of volunteers and recent former volunteers who have served in ACTION programs so as to encourage them to use in the national interest the skills and experience they have gained from their volunteer experience, and to promote the development of avenues in which that skill and experience can be utilized. The provision attempts to ensure that the knowledge and expertise of these dedicated individuals will be utilized to the maximum extent possible after the completion of their volunteer service.

Of particular note, too, is section 404(a) which prohibits the assignment of volunteers to activities that would otherwise be performed by employed workers or that would supplant the hiring of or result in the displacement of employed workers, or would impair existing contracts for service. This section is included in the bill as a result of reservations expressed by labor groups in testimony before the Committee about some of the experimental programs the ACTION agency had anticipated developing. A similar section is included in the title VIII VISTA authority contained in the Economic Opportunity Act, but section 404(a) strengthens that prohibition.

Section 404(f) prohibits the Director from assigning or delegating any substantial responsibility for carrying out domestic program functions under this Act to persons other than those appointed pursuant to Civil Service regulations or experts and consultants appointed pursuant to the Administrative Expenses Act of 1946. Thus, no substantial domestic responsibilities are to be exercised by persons holding Peace Corps Act Foreign Service Staff or Reserve appointments except for support personnel—and no moneys authorized and appropriated for carrying out domestic volunteer programs may be used to pay the salaries of Foreign Service personnel who have as their primary responsibilities the carrying out of program functions in international volunteer service programs (Peace Corps). Also, section 504 contains appropriate percentage and proportional limitations on expenditures for nonprogram support administrative functions. These provisions should result in greater accountability as to how funds appropriated for domestic volunteer programs are allocated and expended. Further, they can serve to resolve one of the most troublesome issues hindering the efficient administration of the ACTION Agency, that of merging two personnel systems—the Civil Service and the Foreign Service Staff and Reserve—in the ACTION Agency.

TITLE V. AUTHORIZATION OF APPROPRIATIONS

Title V of the reported bill contains separate authorization of appropriations for the administration of programs under the Act, and for all the programs themselves.

The authorizations for title I—National Volunteer Antipoverty Programs, including VISTA and the University Year for ACTION programs—and for title II—National Older Americans Volunteer programs, including the Retired Senior Volunteer program and the Foster Grandparent program are earmarked in such a way as to ensure that the successful VISTA, UYA, and Foster Grandparents programs are carried on at levels comparable to present levels. The breakdown of those authorizations and the authorization levels for all titles by program is contained in the following table:

TABLE 2.—THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973—AUTHORIZATION OF APPROPRIATION BY PROGRAM AND TITLE

[In millions of dollars]

	Title I			Title II			Title III	Title IV
	VISTA	UYA	Special programs	RSVP	FGP	OACSP	SCORE/ACE	Administration
Fiscal year:								
1974	30	12	8	30	45	7	1.0	15
1975	35	15	11	40	55	8	1.5	16
1976	45	20	11	50	65	9	2.0	17
Total	110	47	30	120	165	24	4.5	48
3-year grand total				548.5				

HISTORY OF LEGISLATION AFFECTING THE ACTION AGENCY

The ACTION Agency came into being on July 1, 1971, the result of Reorganization Plan No. 1 of 1971, which was intended to consolidate into a single agency a number of voluntary action programs operating throughout the executive branch of the Federal Government. Those programs are:

VISTA—Volunteers in Service to America—previously administered by the Office of Economic Opportunity, a full-time, full-year volunteer program established to strengthen and supplement efforts to eliminate poverty;

The Peace Corps, a full-time, 2-year program established to assist underdeveloped nations through the use of American volunteers;

The National Student Volunteer Program, previously administered by the Office of Economic Opportunity, a program to foster student volunteer programs dealing with the problems of the poor;

The Foster Grandparents program, previously administered by the Administration on Aging in the Department of Health, Education, and Welfare, a program to provide opportunities for low-income older Americans to assist needy children.

The Retired Senior Volunteer Program (RSVP), previously administered by the Administration on Aging, a program to enable retired persons to perform needed voluntary services in their communities;

Service Corps of Retired Executives and Active Corps of Executives (SCORE and ACE) previously administered by the Small Business Administration and, under the terms of the reorganization plan, to be jointly administered by the Small Business Administration and the ACTION Agency, a program providing assistance to small businessmen utilizing the expertise of retired and active executives.

President Nixon transmitted the plan to the Congress on March 24, 1971. His transmittal letter and the text of Reorganization Plan No. 1 are as follows:

REORGANIZATION PLAN NO. 1 OF 1971, TO CONSOLIDATE VARIOUS VOLUNTARY ACTION PROGRAMS

To the Congress of the United States:

America is a nation unique in the political history of the world. More than any other nation, it is the sum of the energies and efforts of all of its people. The American tradition of voluntary involvement—of freely committing one's time and talents in the search for civic improvement and social progress—gives an extra dimension to the meaning of democracy. In the past decade, the Federal Government has built on this tradition by developing channels for joining the spirit of voluntary citizen service in America with public needs, both domestically and abroad. Many of these efforts have had marked success. But the circumstances in which these efforts were conceived have changed.

National and international needs have altered. The opportunities for voluntary service must be adapted and improved to meet these new needs.

Recognizing that private channels of voluntary action are a vital source of strength in our national life, I have supported the establishment and development of the National Center for Voluntary Action. The National Center is a private, non-profit partner in the effort to generate and encourage volunteer service. The Center works to promote the establishment of local Voluntary Action Centers, as well as to assist in the expansion of voluntary action organizations already in existence. It stimulates voluntary action by providing information on successful voluntary efforts, and it assists in directing those who wish to volunteer services to areas and endeavors in which their services are needed.

The National Center for Voluntary Action is functioning now to fill a vital need in the private voluntary sector. Now we must turn our attention to bringing government volunteer programs into line with new national priorities and new opportunities for meeting those priorities. We must take full advantage of the lessons of the past decade, and we must build on the experience of that period if we are to realize the full potential of voluntary citizen service. This is no longer a matter of choice. We cannot afford to misuse or ignore the considerable talents and energies of our people. In the coming years, the continued progress of our society is going to depend increasingly upon the willingness of more Americans to participate in voluntary service and upon our ability to channel their service effectively.

One matter of consequence to the problems of properly channeling volunteer services and expanding government's role in the development of volunteer resources is the proliferation of government volunteer programs. It was perhaps inevitable that these programs would be generated almost at random across the spectrum of government concern for human needs. This occurred in a period when the Federal Government was still attempting to define its relationship with, and its purposes in, the area of voluntary service. Now the role of government has been confirmed and its responsibilities and obligations are clear. Meeting these responsibilities and obligations will be a long, difficult, and challenging adventure. But it is an adventure we can look to with excitement and with the knowledge that the only sure source of failure can be a failure of the will of the American people. I do not believe it will fail.

The foundation for a greatly expanded government contribution to volunteer service already exists. Now we must consolidate that foundation in order to build on it. To accomplish this, I propose a reorganization of the present volunteer service system. Accordingly, I herewith transmit to the Congress Reorganization Plan No. 1 of 1971, prepared in accordance with chapter 9 of title 5 of the United States Code. Reorganization would bring together within a single agency a number of voluntary action programs presently scattered throughout the executive branch of the Federal Government. The new agency would be called Action.

Composition

Under the reorganization plan Action would administer the functions of the following programs:

Volunteers in Service to America: VISTA volunteers work in domestic poverty areas to help the poor break the poverty cycle.

Auxiliary and Special Volunteer Programs in the Office of Economic Opportunity: At present the National Student Volunteer Program is administered under this authority. This program stimulates student voluntary action programs which deal with the problems of the poor.

Foster Grandparents: This program provides opportunities for the elderly poor to assist needy children.

Retired Senior Volunteer Program: RSVP provides opportunities for retired persons to perform voluntary services in their communities.

Service Corps of Retired Executives: SCORE provides opportunities for retired businessmen to assist in the development of small businesses.

Active Corps of Executives: ACE provides opportunities for working businessmen to assist in the development of small businesses.

After investigation I have found and hereby declare that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which would result from this action.

Upon the establishment of Action, I would delegate to it the principal authority for the Peace Corps now vested in me as President and delegated to the Secretary of State. In addition, the function of the Office of Voluntary Action, now operating in the Department of Housing and Urban Development, would be transferred to the new agency by executive action.

Finally, I will submit legislation which would include the transfer of the functions of the Teacher Corps from the Department of Health, Education, and Welfare to the new agency. This legislation would expand authority to develop new uses of volunteer talents, it would provide a citizen' advisory board to work with the director of the new agency, and it would provide authority to match private contributions.

Goals

Although reorganization is only a step, it is the essential first step toward the goal of a system of volunteer service which uses to the fullest advantages the power of all the American people to serve the purposes of the American nation.

In pursuing this goal, the new agency would, first, expand the testing and development of innovations in voluntary actions. Health services, housing, the environment, educational development, manpower, and community planning are just a few of the areas in which we would act to accomplish more through voluntary service, and I intend to ask for additional funds and additional authority for Action to explore new approaches to these and other problems.

In the future, we are going to have to find new ways for more people to fulfill themselves and to lead satisfying and productive lives. The problems are of concern even now, but they must be put in perspective quickly because they will soon be upon us. I believe at least some of the answers will be found in volunteer service. Action would work to find those answers and apply them.

Second, there are many Americans who want to contribute to our national life through voluntary citizen service, but who cannot serve full time. Their contributions must not be wasted. Volunteers in full-time service would work with part-time volunteers and the new agency would develop and provide opportunities for more people to give part-time service.

Third, Action would bring together in one place programs which appeal predominantly to younger Americans with those that appeal to older Americans, and would work to bring the energy, the innovative spirit, the experience, and the skills of each to bear on specific problems. The generations in America share America's problems—they must share in the search for solutions so that we all may share in the benefits of our solutions.

Fourth, Action would develop programs for combining foreign service with domestic service to accommodate volunteers interested in such an opportunity. I believe that young people in particular would be interested in the chance for this experience and would greatly benefit from it. I know there would be great value, for example, in permitting those who have served the needs of the poor abroad to turn their skills and experience to helping the poor at home, and vice versa. In addition, if volunteers are to reap the full benefit of serving, and if they are to be able to provide others the full benefit of their service, then we must open the doors to a fuller exchange of ideas and experiences between overseas and domestic volunteer efforts. These exchanges would considerably enhance the value of the experience gained in these endeavors by broadening the areas in which that experience is applied.

Fifth, at the present time valuable professional skills offered in voluntary service are too frequently limited by narrow categorical programs when their broader application is urgently needed. For example, the contributions of businessmen made through SCORE and ACE are provided only through the Small Business Administration. We know that the skills of business can be used in many areas where they are not used presently. Action would open new channels for service and would permit a more extensive utilization of business and other vocational and professional abilities.

Finally, by centralizing administrative functions of the volunteer services, the new agency would provide a more effective system of recruitment, training, and placement of full-time volunteers than the present circumstances permit. It would provide a single source of information and assistance for those who seek to volunteer full-time service. And it would permit more effective management of services than is currently possible in the administration of volunteer programs, as well as the more efficient use of resources.

Principles

In restructuring our system of volunteer services, we can accomplish the goals which I have set forth. But we must do more than this. We must restructure our thinking about volunteer services. We must determine how to use our volunteer resources to accomplish more than they accomplish now. We need an increased effort to stimulate broader volunteer service, to involve more volunteers, and to involve them not simply as foot-soldiers in massive enterprises directed from the top, but in those often small and local efforts that show immediate results, that give immediate satisfaction—those efforts that return to citizens a sense of having a hand in the business of building America. Part of our rethinking of this matter must look to the past so that we may properly meet the needs of the present and prepare for the possibilities of the future.

Volunteer service in poverty areas is a case in point. We already have considerable experience in dealing with the problems of poverty through the use of volunteers. Now we must build upon this experience and find new ways to use more effectively the volunteers presently serving in poverty areas, as well as in all other areas, and to stimulate new programs so that additional numbers of volunteers can assist in the solution of community and national problems.

In line with this effort to build on what we have learned, Action would function with particular concern for these basic principles:

It would encourage local initiative, and would support local programs to solve local problems.

Where appropriate, the new agency would assign volunteers to assist, and work under the technical supervision of other Federal agencies, State and local agencies or organizations, and private sponsors.

The services of local part-time volunteers would be sought and supported in the effort to accomplish specific jobs. They would be assisted, when necessary, by full-time volunteers.

Universities and colleges, State, city and private organizations must be engaged in the effort to broaden opportunities for volunteer service and under the new agency they would be assisted in these efforts.

Finally, to meet the increasing need for skilled volunteers Action would give increased emphasis to recruiting and applying the skills of trained craftsmen and professional workers.

Funding

To insure that the new agency has the financial resources to begin working toward the goals I have outlined, I will seek for this agency an additional $20 million above the budget requests. These funds would be directed primarily to finding new ways to use volunteer services.

Conclusion

The early nineteenth century observer of America, Alexis de Tocqueville, was intrigued by the propensity of Americans to join together in promoting common purposes. "As soon as several of the inhabitants of the United States have taken up an opinion or a feeling which they wish to promote in the world, they look out for mutual assistance, and as soon as they have found one another out, they combine. From that moment they are no longer isolated men, but a power seen from afar * * *."

Though we have seen the success of Government volunteer efforts in the past ten years, I believe voluntary citizen service is still little more than a power seen from afar. In relation to its potential, this power is virtually undeveloped. We must develop it.

There are those today, as there always will be, who find infinite fault with life in this Nation and who conveniently forget that they share responsibility for the quality of life we lead. But our needs are too great for this attitude to be accepted. America belongs to all of its people. We are all responsible for the direction this Nation will take in the century ahead, for the quality of life we will lead and our children will lead. We are all responsible, whether we choose to be or not, for the survival and the success of the American experience and the American dream.

So there is little room for the luxury of making complaints without making commitments.

America must enlist the ideals, the energy, the experience, and the skills of its people on a larger scale than it ever has in the past. We must insure that these efforts be used to maximum advantage. We must insure that the desire to serve be linked with the opportunity to serve. We must match the vision of youth with the wisdom of experience. We must apply the understanding gained from foreign service to domestic needs, and we must extend what we learn in domestic service to other nations. And in all these endeavors I believe, we can bring the power seen from afar to focus clearly on the problems and the promise of our time.

RICHARD NIXON.

THE WHITE HOUSE, *March 24, 1971.*

REORGANIZATION PLAN NO. 1 OF 1971

(Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 24, 1971, pursuant to the provisions of chapter 9 of title 5 of the United States Code)

Reorganization of Certain Volunteer Programs

SECTION 1. *Establishment of agency.* (a) There is hereby established in the executive branch of the Government an agency to be known as "Action."

(b) There shall be at the head of Action the Director of Action. He shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(c) There shall be in Action a Deputy Director of Action who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Director shall perform such functions as the Director of Action shall from time to time assign or delegate, and shall act as Director of Action during the absence or disability of the latter or in the event of a vacancy in the office of Director of Action.

(d) There shall be in Action not to exceed four Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). Each Associate Director shall perform such functions as the Director of Action shall from time to time assign or delegate.

SEC. 2. *Transfer of functions.* (a) The following described functions are hereby transferred to the Director of Action:

(1) The functions of the Director of the Office of Economic Opportunity under Title VIII of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2991–2994d (relating to Volunteers in Service to America and Auxiliary and Special Volunteer Programs, including the National Student Volunteer Program).

(2) The functions of the Secretary of Health, Education, and Welfare under Title VI of the Older Americans Act of 1965, as amended, 42 U.S.C. 3044–3044e (relating to the Retired Senior Volunteer Program and the Foster Grandparent Program).

(3) The functions of the Small Business Administration under section 8(b) of the Small Business Act, as amended (15 U.S.C. 637(b)), insofar as they relate to individuals or groups of persons cooperating with it in the furtherance of the purposes of that section: *Provided,* That such individuals or groups of persons, in providing technical and managerial aids to small business concerns, shall remain subject to the direction of the Administration.

(4) So much of other functions or parts of functions of the transferor officers and agencies affected by the foregoing provisions of this section as is incidental to or necessary for the performance by Action or by the Director of Action of the functions transferred by those provisions, respectively, including, to the same extent, the functions conferred upon the Director of the Office of Economic Opportunity by section 602 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2942).

(b) The function conferred upon the Director of the Peace Corps by section 4(c)(4) of the Peace Corps Act, as amended (22 U.S.C. 2503(c)(4)), is hereby transferred to the President of the United States.

SEC. 3. *Performance of transferred functions.* The Director of Action may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of Action.

SEC. 4. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of Action or to Action by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to Action at such time or times as the latter Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. *Interim officers.* (a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Director of Action until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorized any such person to act as Deputy Director, authorize any such person to act as Associate Director, and authorize any such person to act as the head of any principal constituent organizational entity of Action.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entiled.

SEC. 6. *Effective date.* The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1971, whichever is later.

RESOLUTIONS OF DISAPPROVAL

Under the terms of the Reorganization Act of 1949, as amended, plan for reorganizing the executive branch automatically becomes law 90 days after being submitted to the Congress (or on any later date specified in the Plan) unless disapproved by a majority vote of either House of Congress within that 90-day period.

Resolutions of disapproval of the plan were subsequently introduced in both Houses of Congress. On April 26, 1971, Chairman Harrison Williams of the Senate Labor and Public Welfare Committee introduced Senate Resolution 108 to disapprove the plan. On April 28, 1971, Charman Carl D. Perkins of the House Education and Labor Committee, introduced House Resolution 411 to disapprove the plan. Among the reasons cited for the disapproval were the following:

That the provisions of Reorganization Plan No. 1 were lacking in detail and specificity;

That the persons most directly affected by the plan opposed it. These groups included the National VISTA Alliance, an organization of more than 2,000 VISTA volunteers; the Steering Committee of SCORE which passed a unanimous resolution of disapproval of the proposal; and the National Retired Teachers Association and the American Association of Retired Persons;

That the plan left too many unanswered questions, among them being how the merger of the Civil Service and Foreign Service Staff and Reserve employment systems was to be accomplished;

That the element of volunteerism was an inappropriate common denominator linking the programs involved, that solving a problem or working in a particular program area was a more appropriate agency mission than seeking to find new ways for people to volunteer;

That the existing programs to be merged might lose their identity;

That the plan would not reduce expenditure or increase efficency since it would require a new domestic administrative mechanism.

Hearings on the resolutions were held by the Government Operations Committees of both House and Senate in late April and early May of 1971. Both resolutions of disapproval were defeated; in the House of Representatives on May 25, 1971, by a vote of 224 to 131 and in the Senate on June 3, 1971, by a vote of 54 to 29. So on July 1 of 1971, Reorganization Plan No. 1 was implemented and the ACTION Agency, headed by the then Peace Corps Director Joseph H. Blatchford came into being.

LEGISLATION AFFECTING ACTION AGENCY DOMESTIC PROGRAMS

VISTA, Auxiliary, and Special Volunteer Programs

92d Congress

Continuing authority for VISTA and auxiliary and special volunteer programs for FY 72 and 73 was contained in S. 2007, the Economic Opportunity Act Amendments of 1972, which was introduced by Senator Gaylord Nelson on June 4, 1971, and in H.R. 10351, similar legislation introduced in the House by Congressman Carl Perkins on August 3, 1971. As finally passed by the Congress on November 29, 1971, S. 2007 authorized VISTA under the same program guidelines as in the previous fiscal year and at a funding level of $45 million for FY 1972 and 73. However, S. 2007 was vetoed by the President on Dec. 10, 1971, and was not enacted over the veto.

On Dec. 13, 1971, Senator Nelson introduced S. 3010 and on Dec. 15, Congressman Perkins introduced H.R. 12350, both modifications of the vetoed legislation. Hearings were held on H.R. 12350 by the House Committee on Education and Labor on January 25 and 26, 1972. However, officials from ACTION did not participate. The Senate did not hold further hearings on the OEO legislation, and reported the bill on May 16, 1972 (Rept. No. 92–792). H.R. 12350 was reported from the House Committee on February 2, 1972 (Rept. No. 92–815). The bill passed the House on February 17, and the Senate on June 29, 1972.

A Conference Committee was selected and met, and on July 26, the Conference Report was filed in the House (Rept. No. 92–1246) and in the Senate (Rept. No. 92–987). However, the Report was recommitted to the Conference Committee on August 11 in order to change those portions of the bill which some felt might evoke another Presidential veto. Another Conference Report was filed in the House August 18, (Rept. No. 92–1367) and in the Senate September 5, (Rept. No. 92–1086). The Senate agreed to the Conference Report on September 5, and the House agreed on the same date. H.R. 12350 was signed by the President on September 19, 1972 and became Public Law 92–424.

The enacted legislation authorized all programs through FY 1974 with the exception of the ACTION programs under title VIII which were authorized only through FY 1973. The basis for this was that an ACTION bill would be enacted to provide authority for FY 74 and subsequent fiscal years for title VIII programs as well as other ACTION domestic programs. For FY 1973, H.R. 12350 provided an authorization of $58 million for title VIII of the Economic Opportunity Act with a $37 million earmark for regular VISTA, an $8.5 million ceiling for UYA and a $5 million ceiling for other demonstration and experimental programs. This legislation further specified that any money appropriated over these basic figures would go to regular VISTA, with the effect that if the full $58 million authorized was appropriated then $44.5 million would be for regular VISTA.

An amendment sponsored by Senator Griffin on the Senate floor also clarified existing authority for VISTA volunteers to work on environmental problems with a focus primarily on the needs of low-income persons and the community in which they reside. However, language in the authorization of appropriations reinforce that such programs must be anti-poverty in nature.

Also included in H.R. 12350 was a provision authorizing the appropriation of $16 million of the $20 million in supplemental funds which the President had indicated he would seek to enable ACTION to start in pursuit of its primary goal of finding new ways to use voluntary services. (The other $4 million had been apportioned to the Agency out of the FY 1972 appropriations for the Office of Economic Opportunity.) Since the $16 supplement was intended to be from FY 72 funds and enactment of H.R. 12350 did not come until well into FY 73, the legislation stipulated that $8 million of the $16 million would remain available for ninety days after enactment of H.R. 12350 and the other $8 million would remain available through June 30, 1973. However, these funds were never sought by the Administration or appropriated due to the timing of the authorization and the effect on the President's FY 73 budget request.

The lack of involvement of ACTION in the Economic Opportunity Act Amendments until the late summer of 1972 was attributed to the Agency's efforts to gain Congressional approval of an Administration proposal which would have consolidated the extension of all of ACTION's domestic program authorities into one bill under their current authorities in title VIII of the Economic Opportunity Act and title VI of the Older Americans Act.

The proposed "ACTION Act of 1972" was transmitted to the Congress in March of 1972 and introduced in the Senate (by request) by Senator Alan Cranston (S. 3450) and in the House by Congressman Albert Quie (H.R. 14828). In the Senate, this legislation was assigned to the Special Subcommittee on Human Resources, chaired by Senator Cranston. Extensive hearings were held in April, May, and June of 1972 at which ACTION officials and numerous outside witnesses testified. In the House, one day of hearings were held in August before the full Education and Labor Committee. However, a bill was not reported in either the House or Senate.

93d Congress

S. 1148, introduced by Senator Cranston and cosponsored by Senators Williams, Kennedy, and Randolph (later joined by Senators Beall, Javits, Mondale, and Pell) on March 9, 1973, and the subsequent hearings on this legislation on March 15 have been a continuation of the Human Resources Subcommittee's consideration of the ACTION legislation during the spring of 1972. The principal change in the format of S. 1148 and that of the Administration proposal introduced by Senator Cranston in March of 1972 is that S. 1148 not only provides continuing authority for ACTION domestic programs in one bill but repeals the current authorities for these programs, i.e., title VIII of the Economic Opportunity Act and title VI of the Older Americans Act, and establishes new and somewhat revised authorities within a Domestic Volunteer Service Act of 1973.

S. 1148 is also designed to address and provide solutions for many of the problems and questions raised during consideration of the resolutions of disapproval of Reorganization Plan No. 1.

On March 19, 1973, the ACTION Agency transmitted to the Congress the Administration's proposed ACTION legislation. This bill, S. 1338, was subsequently introduced in the Senate (by request) by Senators Beall and Cranston. S. 1338 would give permanent authority for ACTION domestic program under their current authorizing statutes, a 2-year term of service for VISTA volunteers, grants authority for payment of out-of-pocket expenses to SCORE Volunteers regardless of the distance travelled, alter the tax treatment of stipends and allowances for VISTA volunteers in order to put them on an equal footng with Peace Corps Volunteers, and provide that payments to Foster Grandparent, RSVP, and SCORE/ACE volunteers shall not be considered income. H.R. 7265 was introduced in the House on April 19, 1973, in virtually identical form to S. 1148, as reported, by Congresswoman Mink and Congressmen Hawkins and Steiger (Wisconsin). Hearings were held on June 13, 1973.

Older American Volunteer Programs—Foster Grandparent Program and Retired Senior Volunteer Program

92d Congress

At the time of the merger of the Older American Volunteer Programs into the ACTION Agency, RSVP and the Foster Grandparent Program were authorized under title VI of the Older Americans Act of 1965, until June 30, 1972. Consequently, there was no legislative action affecting either of these programs after the merger until December 2, 1971, when Congressman Brademas introduced H.R. 12017, the Older Americans Act Amendments of 1972. This legislation simply provided continuing authority for the title VI programs through FY 1975.

Hearings were held by the House Select Subcommittee on Education, chaired by Congressman Brademas, on March 22, 1972, at which ACTION Director Blatchford testified. A clean bill, H.R. 15657, was reported out of Committee on June 29 (Rept. No. 92–1203) and passed by the House on July 17.

H.R. 15657 was then considered, along with several Senate bills amending the Older Americans Act, by the Aging Subcommittee of the Senate Labor and Public Welfare Committee. Initially, an agreement had been made with the Human Resources Subcommittee that the title VI programs would be included in the ACTION bill rather than in the Older Americans Act Amendments. However, by late September, when the Senate Committee completed action on the aging legislation, it was determined that the Human Resources Subcommittee would not have time to report an ACTION bill; and some of the administration's title VI amendments were included in S. 4044, the clean bill reported by the Labor and Public Welfare Committee. Senator Cranston did propose, however, and the Committee agreed, to include in S. 4044 provisions he felt should be included in any subsequent ACTION Agency legislation to broaden the Foster Grandparent concept using new funds above the present FGP program level by providing for programs which would include services to persons other than children and to other than institutionalized children. Also included were provisions prohibiting payments to RSVP and Foster Grandparent volunteers from being considered as income.

On October 3, H.R. 15657 passed the Senate after that body had substituted the provisions of S. 4044. A conference was held, and the Conference Report was filed on October 11 (Sen. Rept. No. 92–1287; House Rept. No. 92–1572). The Conference Report passed the Senate on October 12 and the House on October 14. However, H.R. 15657 was vetoed by the President on October 30, making it necessary for the ACTION Agency's Older American Volunteer Programs to continue operating under a continuing resolution.

The language in title VI of the vetoed bill was the same as in the bill reported by the Senate Committee, S. 4044, with the exception of the eligible age for FGP and RSVP volunteers. The Senate had lowered the age to 55, but the conferees restored it to the current 60 age level.

93d Congress

The vetoed older Americans legislation was reintroduced in the House on January 3, 1973, as H.R. 71 and in the Senate on January 4 as S. 50. Both the House Select Education and Senate Aging Subcommittees held one day of hearings to question Administration witnesses on the basis for the President's veto. S. 50 was passed by the Senate on February 20 and H.R. 71 by the House on March 13. Differences between the House- and Senate-passed bills were resolved in an effort to prevent or withstand another Presidential veto.

The result was that the bill was enacted on May 3, 1973, as P.L. 93–29.

The only change which was made in the vetoed language is the addition of a funding formula for FGP, which would be applicable if the appropriation is less than the authorized levels for this program and additional clarifying language enabling ACTION to spend for expansion of FGP carryover balances otherwise available for obligation under a $25 million appropriation.

SCORE/ACE Program

The SCORE/ACE program provisions are permanently authorized under section 8(b) of the Small Business Act of 1958. Authority to reimburse SCORE volunteers for out-of-pocket expenses is included in both S. 1148 and S. 1338. S. 1148 also specifically delineates ACTION responsibilities in co-administering SCORE/ACE and represents the first effort to establish SCORE/ACE as a program name in statute.

APPROPRIATIONS FOR DOMESTIC PROGRAMS UNDER ACTION

Fiscal Year 1972

In his message to Congress regarding Reorganization Plan No. 1 of 1971 (March 24, 1971), the President said he would seek for the ACTION Agency "an additional $20 million above the budget requests I have already submitted for the component agencies. These funds would be directed primarily to finding new ways to use volunteer services." Although Senator Cranston authored a provision authorizing the appropriation of an additional $16 million for the ACTION Agency in the Economic Opportunity Act Amendments of 1972, this money was never requested by the Administration or appropriated.

During FY 1972 the ACTION Agency operated on the transfer of funds from those agencies which had authority over ACTION Agency programs prior to Reorganization Plan No. 1 of 1971:

1. Programs under the Office of Economic Opportunity including VISTA and NSVP (title VIII of the Economic Opportunity Act) operated under a continuing resolution for FY 1972 until December, 1971. Public Law 92–184, approved December 15, 1971, providing supplemental appropriations for FY 1972, included $37,765,000 for VISTA. $37 million of this figure had been transferred to the ACTION Agency in July of 1971. The remaining $765,000 came to the ACTION Agency in March of 1972.

2. In FY 1972, the original budget request by HEW for Older Americans Volunteer Programs was $17,750,000. This was included in Public Law 92–80, approved August 10, 1971. The total amount had been transferred to the ACTION Agency in July under continuing resolution authority, along with $433,000 for administrative costs (also in P.L. 92–80). Supplemental Appropriations for FY 1972, enacted of December 15, 1971 (Public Law 92–184), provided an additional $22,250,000 for Older Americans Volunteer Programs. The net effect of this was a doubling of Foster Grandparent funds—from $12,750,000 to $25,000,000—and a tripling of RSVP funds—from $5 million to $15 million. This brought the total FY 1972 appropriations for ACTION's Older Americans Programs to $40 million.

3. In July of 1971, the Small Business Administration transferred to the ACTION Agency for SCORE/ACE $214,000 appropriated under Public Law 92–77, approved August 10, 1971.

4. HUD transferred to the ACTION Agency in July, 1971 for activities of the Office of Voluntary Action Liaison $310,000 appropriated under Public Law 92–78, approved August 10, 1971.

5. In addition to the above-listed transfers, the ACTION Agency received a total of $892,000 to fund the pay raise effective January, 1972.

Fiscal year 1972

Initially, it was anticipated that the ACTION Agency's FY 1973 appropriations for its domestic programs would be included in the FY 1973 Labor-HEW appropriations. However, because action on the Agency's FY 1973 authorization legislation was not completed in time, ACTION received its first direct appropriation in the FY 1973 Supplemental Appropriations Act (Public Law 92–607), approved October 31, 1972. This supplemental provided $94,107,000 for the ACTION Agency's domestic programs, the figure recommended by both House and Senate Committees. However, this figure was $4,318,000 less than the budget request, a cut made by the House Appropriations Subcommittee on Labor-HEW from an $8,636,000 increase requested by the Administration for ACTION's new initiatives programs. Following is a breakdown by program of the $94,107,000 appropriated to the Agency for FY 1973:

VISTA	$24, 700, 000
UYA	8, 500, 000
Other anti-poverty and related programs	5, 482, 000
FGP	25, 000, 000
RSVP	15, 000, 000
Program support	15, 425, 000

Fiscal Year 1974

ACTION'S FY '74 budget request for domestic programs is as follows:

Activity 1–VISTA and related full-time volunteer programs:	
A. VISTA	$22, 300
B. Cooperative programs	3, 000
Subtotal, Activity 1	25, 300
Activity 2—UYA and development programs:	
A. University Year for ACTION (UYA)	7, 300
B. Development programs	3, 750
C. Part-time programs:	
1. Voluntary action centers	1, 000
2. National student volunteer program (NSVP)	250
Subtotal, Activity 2	12, 300
Activity 3—Older Americans:	
A. Foster grandparents (FGP)	25, 000
B. Retired senior volunteers (RSVP)	15, 000
	40, 000
Activity 4—SCORE/ACE	208
Activity 5—Program support	14, 591
(Shart of Agency-Wide Support)	−6, 439
Subtotal, Activity 5	14, 591
Total domestic programs	92, 399
Multi-year Adjustments	0
Obligations	92, 399

House Appropriations hearings on this request were held in May 1973 and a clean bill, H.R. 8877, was reported to the House on June 21, 1973, and passed the House on June 26. H.R. 8877, was reported to the House on June 21, 1973, and passed the House on June 26. H.R. 8877 included $43,004,000 for the ACTION Agency, specifically program monies for the SCORE/ACE and Older American Volunteer Programs, and $3 million in administration monies. No action was taken on the $49,395,000 request for VISTA since there is no authorization of appropriation beyond June 30, 1973, for that program. Pending further action, the Agency will operate under a continuing resolution for FY 1974 (P.L. 93–52).

AUTHORIZATION AND APPROPRIATION FOR THE PEACE CORPS

Fiscal year 1972

The Peace Corps was transferred to ACTION on July 1, 1971, pursuant to Executive Order No. 11603. Functions which had theretofore been performed by the Secretary of State were transferred to the Director of the ACTION Agency.

The Foreign Relations Authorization Act of 1971, enacted on October 8, 1971, authorized $77,200,000 for the Peace Corps for FY '72. On December 6, the House Appropriations Subcommittee on Foreign Operations reported an appropriation for the Peace Corps of $60,000,000. This appropriation was increased to $68,000,00 on the House Floor. The Senate passed the Foreign Assistance Appropriations Act on January 25, including $77,200,000 for the Peace Corps, the figure reported from the Appropriations Committee. A conference agreed upon an appropriation of $72,000,000 for the Peace Corps, which was approved by the House and Senate. The Foreign Assistance Appropriations Act of 1971 was enacted on December 18, 1971, as P.L. 92–201.

Fiscal year 1973

In early 1972, the House Foreign Affairs Committee reported and the House passed the Foreign Relations Authorization Act of 1972, which authorized the appropriation of $88,027,000 for the Peace Corps in FY 1973. However, the Senate Foreign Relations Committee reported this legislation with a spending level of only $77,000,000 for the Peace Corps, which was sustained in the bill passed by the Senate. However, in Conference the higher authorization was agreed upon and the bill was enacted on July 13, 1972, as P.L. 92–352. This legislation also amended the Peace Corps Act by increasing the amount available for encouragement of multinational volunteer programs from $300,000 to $350,000 and by abolishing the Peace Corps National Advisory Council.

On September 21, 1972 the House passed an appropriation bill providing $81 million for the Peace Corps for FY 1973. The Senate subsequently approved $88,027,000 for the Peace Corps on September 28. However, because the Peace Corps appropriations was tied in with appropriations for other foreign assistance legislation which failed to receive authorization, a conference was never held on the Peace Corps appropriation bill.

Until June 30, 1973, Peace Corps operations were funded pursuant to the provisions of P.L. 93–9, a continuing resolution which provided for spending by the Peace Corps in FY 1973 at the level of $81 million, the lower of the House and Senate figures.

Fiscal year 1974

On February 27 the Administration transmitted its Peace Corps authorizing legislation for FY 1974 and 1975 to the Congress. This legislation was subsequently introduced by Congressman Thomas Morgan in the House (H.R. 5293) and by Senator William Fulbright in the Senate (S. 1170). It provides for a 2-year authorization for the Peace Corps at a spending level of $77,001,000 (the budget request) for FY 1974 and for such sums as may be necessary for FY 1975. The full House Foreign Affairs Committee held one day of hearings on March 20 and immediately following reported out H.R. 5293 providing for an authorization of the requested $77,001,000 for FY 1974 and $80 million for FY 1975. On March 29, H.R. 5293 passed the House as reported from Committee.

Senate hearings before the Foreign Relations Committee were held on April 13.

On May 18, 1973, the Senate Foreign Relations Committee reported the House bill to the Senate with a one year authorization of the requested amount. The Senate passed the bill on May 21, after several provisions limiting administrative expenditures were dropped from the reported bill. On June 12, a conference report, approving the Senate authorization but without certain further restrictive language was agreed to in both Houses, and the bill was enacted as Public Law 93–49 on June 25, 1973.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the Act may be cited as "The Domestic Volunteer Service Act of 1973".

TITLE I—NATIONAL VOLUNTEER ANTI-POVERTY PROGRAMS

Part A—Volunteers in Service to America

Section 101 contains a statement of purpose for part A of title I of the Act. The part provides for the Volunteers in Service to America (VISTA) program of full-time volunteers who work to strengthen and supplement efforts to eliminate poverty in the United States. The part also provides the powers and responsibilities designed to assist in the development and coordination of the VISTA program. The part is derived from part A of title VIII of the Economic Opportunity Act of 1964, as amended, authorizing the VISTA program of full-time volunteer service, and is intended to authorize the kinds of programs presently being carried out under that authority. It contains several changes designed to facilitate the carrying out of the program.

The bill as reported makes clear that the Committee recognizes that volunteer efforts in poverty-related problem areas, such as lead-based paint poisoning and rehabilitation of criminal offenders, are legitimate VISTA activities, even though the recipients of these efforts might not technically fall at or below the official poverty line.

Section 102 provides the Director of ACTION with the authority to recruit, select, and train persons to serve in the VISTA program.

Section 103(a) provides that the Director of ACTION shall assign VISTA Volunteers, upon the request of Federal, State, or local agencies or private nonprofit organizations in the United States, to "appropriate" projects (that is, those, within the limits of appropriations and pursuant to the purposes and provisions of this Act, which promise to be most successful) meeting the health, education, welfare, or related needs of Indians living on reservations or Federal Trust lands, of migratory and seasonal farmworkers and their families, or of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands; for the care and rehabilitation of the mentally ill, developmentally disabled, and other individuals with severe handicaps who are under the supervision of non-profit institutions or facilities; and in connection with programs or activities authorized, supported, or of a character eligible for assistance under the Economic Opportunity Act of 1964, as amended. This would include, for instance, assignments as Head Start aides or teacher aides in elementary or secondary classrooms eligible for assistance under title I of the Elementary and Secondary Education Act.

The section is similar to section 810(a) of the Economic Opportunity Act of 1964, as amended. Changes in language include the addition of the term "Federal Trust Lands" since there are a substantial number of low-income Indians who live on other than reservations, and deletion of authority to assign VISTA volunteers to the Trust Territory of the Pacific Islands. This deletion was made after consultation with the Senate Foreign Relations Committee, in consideration of the fact that Peace Corps Volunteers are eligible to be assigned to the Trust Territory, and that the Trust Territory considers itself to be a foreign nation rather than a part of the United States.

The Committee wishes to reiterate its intent that volunteers requested to assist in meeting these needs not assume leadership roles in the communities to which they are assigned, but rather act as catalysts for change. A situation was brought to the Committee's attention where a VISTA volunteer became an elected official of a community. The Committee is clear in its view that any such overt leadership role is the wrong one for a VISTA volunteer.

Section 103(b) concerns the assignment of low-income VISTA volunteers. The section directs the Director, wherever feasible, to assign low-income VISTA volunteers to serve in their home communities in teams with nationally-recruited VISTA volunteers having an appropriate specialty which would benefit that community. The section further directs the Director to ensure that, on an individual basis, each low-income VISTA volunteer, prior to assignment, is provided a plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment, and that such plan is updated and reviewed with the volunteer 120 days prior to the volunteer's completion of service. The section was included after testimony on related legislation revealed that many low-income VISTA Volunteers were previously welfare recipients, and that often, when their VISTA assignment was completed, they had nowhere to turn except back to the welfare rolls. This section carries out the purpose of the part to help the poor secure and take advantage of opportunities for self-advancement.

Section 103 (c) and (d) are derived from section 810(b) of title VIII of the Economic Opportunity Act of 1964, as amended (the present VISTA authority). They provide the Director with the authority to determine the terms and conditions of volunteer assignments, for Governors' review of VISTA projects and for Governors' participation in the termination of service of individual VISTA volunteers, respectively. Subsection 103(d) differs from section 810(b) in that whereas formerly no VISTA project could become operational without the consent of the Governor, the new subsection (d) places a forty-five day time limit on the Governor to disapprove a project. This change allows for more efficient administration of VISTA projects by providing a fixed time during which a project can be disapproved. Like section 810(b), subsection 103(d) requires the Director to terminate the assignment of an individual VISTA volunteer within thirty days of a Governor's request, or within a mutually agreeable time frame.

Section 104(a) is similar to section 811(a) of the Economic Opportunity Act of 1964, as amended. It requires that VISTA volunteers make a full-time, personal commitment to combating poverty, including, to the extent practicable, a commitment to live among and at the economic level of the people with whom they are assigned to work, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave. As the section implies, VISTA volunteers are expected to be on call twenty-four hours a day. Their assignment calls for a commitment greater than the forty-hour a week traditional interpretation of a full-time job commitment.

Section 104(b) authorizes a two-year term of enrollment for VISTA volunteers, rather than the one-year term prescribed in section 811(b) of the Economic Opportunity Act. It does, however, provide for exceptions in the case of scarce-skill volunteers who are critically needed by providing that they may serve for no less than one year upon determination of the Director. It also provides that volunteers may re-enroll for one additional two-year term of service (or for such other periods of time as the Director may determine), but under no circumstances may the terms of an individual volunteer's service be greater than five years. This limitation is imposed to prevent individuals from becoming "professional volunteers" and to encourage a turnover of people serving under this part so that the VISTA program retains freshness and vigor. In the case of older persons who are retired and who wish to continue serving in a volunteer capacity, it is anticipated that the Director will encourage them to participate in one of the other programs authorized by this Act, which do not have comparable service period limitations.

Section 104(c) provides that VISTA Volunteers shall take the same oath as is prescribed in section 5(j) of the Peace Corps Act for Peace Corps Volunteers and other individuals in the Federal service. Section 811(c) of the Economic Opportunity Act requires that VISTA volunteers serving under that authority take the same oath as is prescribed for Job Corps enrollees. The section has been changed in the reported bill to have the VISTA oath conform with the Peace Corps oath so that those serving in programs under the ACTION Agency take the same oath. A new provision in the section provides the Director with the authority to allow foreign nationals who wish to serve in the program to take an alternative oath or affirmation.

Section 104(d) requires the Director to establish a procedure, including notice and opportunity to be heard, for volunteers to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. It further directs him to promptly provide to each volunteer in service on the date of enactment of the Act and to each volunteer beginning service thereafter (at the time of entry into training) information regarding such procedure and the terms and conditions of their service. The Committee expects that the grievance procedures to be established will be similar to those affecting Peace Corps volunteers.

Section 105(a) is similar to section 812(a) of the Economic Opportunity Act. It authorizes the Director to provide stipends to volunteers serving under this part and establishes certain conditions in connection with the payment of stipends, including providing for advance payment of accrued stipends and payment in the event of the death of a volunteer during service, as were provided for in section 812(b) of the Economic Opportunity Act. In the bill as reported, language was included to ensure that volunteer leaders are considered leaders by other volunteers as well as by Agency personnel.

Section 105(b) directs the Director to support volunteers serving under this part through living allowances, travel allowances, and leave allowances, and through housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and any other support which he deems necessary or appropriate for volunteers to carry out their assignments. It is similar to section 812(a) of the Economic Opportunity Act, but goes further to stipulate that the Director must supply each volunteer or see that each volunteer has at his disposal all allowances and support necessary to enable him to carry out the purpose of this part and to effectively perform the work to which he is assigned. For instance, VISTA sponsors, where able, could provide such support, but it would be the Director's responsibility to ensure that necessary support was in fact provided. This new language was added after testimony on related legislation pointed out that such necessary support as transportation was often denied volunteers, thus hindering the effective performance of their jobs.

Section 106 provides that, to the maximum extent practicable, the poor of the communities to be served by volunteers under this title shall participate in the planning, developing, and implementing of those programs. This section is in keeping with the philosophy of the Economic Opportunity Act to foster maximum feasible participation of the poor in its programs. In the bill as reported, the section was strengthened by providing that the Director, after consultation with sponsoring agencies, including volunteers assigned to them, and the poor served by such agencies shall take all necessary steps to establish a continuing mechanism for the meaningful participation of program beneficiaries.

Section 107 is the same as section 832 of the Economic Opportunity Act, concerning participation of older persons in VISTA. The section applies to part C (short-term and part-time) volunteers as well.

Part B—Service-learning programs

Section 111 contains a statement of purpose for Part B of title I of the Act. The part provides for the University Year for

ACTION program of full-time volunteer service of students enrolled in institutions of higher learning who satisfy one year's traditional course work by working for a year to strengthen and supplement efforts to eliminate poverty. A subsidiary purpose of the part is to promote expansion of service-learning programs at such institutions, and participation by educational institutions in meeting the needs of the poor and to encourage students and faculty to engage in volunteer service. It further provides for related service-learning programs on the secondary and post-secondary school level. In the bill as reported, conforming language was added to the section to make clear the Committee's understanding that VISTA and UYA volunteers are authorized to work in poverty-related problem areas in the same way as the Committee has always understood this to be true for VISTA volunteers under title VIII.

Section 112 directs the Director of ACTION to conduct, and/or make grants or contracts for, the University Year for ACTION (UYA) program, but requires that the program be subject to the same restrictions and operate in accordance with the authorities set forth in part A, other than those concerning Governor's review (section 103(d)) and establishment of grievance procedures (section 104 (d)) and except where provided otherwise under part B. In the bill as reported, the requirement that the Director pay stipends to UYA volunteers was modified so that the Director may determine to reduce or eliminate the stipend to UYA volunteers on the basis of the value of other benefits provided those volunteers by the institution in question. The stipend, for instance, might be reduced at institutions waiving tuition.

Since the circumstances of volunteers in the UYA program differ from those in VISTA, it is not anticipated that the career development provisions of section 103(b) will affect UYA.

Section 113 stipulates that, in selecting participants for the UYA program, priority among equally qualified applicants should be given to low-income persons, low-income VISTA Community Volunteers, and Vietnam era military veterans. No priority is intended to be implied in the order of the listings. It further stipulates that in conducting or contracting for UYA programs, priority should be given to those institutions which agree to waive tuition for participants where that is legally permissible under applicable State law, and that, in conducting or contracting for University Year for ACTION programs, priority should also be given to those institutions which involve students and faculty in a meaningful way in planning projects and which plan and make arrangements for the program without the financial assistance of an ACTION planning grant. This does not remove authority to make such planning grants, which is an authority implicit in section 114(c)(1) where it is specified that the amounts of any such planning grants must be counted as part of the total 80 percent maximum Federal share for UYA programs. Further, the Committee wishes to make clear that it is not intended by this provision that the ACTION Agency relax its standards in selecting high quality UYA institution participants. Indeed, the first priority implicit in the statement of the purpose (section 111) is that the participating institution be able to operate an effective anti-poverty program.

Section 114(a) provides for a one-year term of enrollment for UYA volunteers and provides that they may receive academic credit for such service in accordance with the regulations of the sponsoring institution. It is not intended to limit re-enrollments or extensions of service in UYA programs.

Section 114(b) stipulates that students who participate as UYA volunteers must be substantially involved in the planning of the project to which they will be assigned. It further stipulates that institutions participating in the program must agree to make available to the poor in the surrounding community those of its facilities which are available. Such facilities include human resources such as tutorial services. This student and institutional participation commitment must be a part of any grant or contract made to operate a UYA program. However, there is no intention to require schools to alter commitments for use of facilities which have already been made. What facilities are "available" will be a case-by-case proposition.

Section 114(c) requires the Director, in making grants or contracts for the establishment and operation of a UYA program, to allocate to any one participating institution no more than 80 percent of the total direct cost of the program including any amount of any planning grant for such program. The term "direct cost" means the participating institution must contribute at least 20 percent of the total outlay for the program. The non-Federal share of the total direct cost of the program may be made up of both cash and in-kind contributions of a nature which is in accordance with standards in the regulations currently governing all Federal agencies for domestic assistance programs (currently Office of Management and Budget Circular No. A102 of September 8, 1972). The section provides that the participating institution shall make a commitment in the grant or contract to carry out a program, meeting the purposes of the part as specified in section 111, although not necessarily all of the detailed aspects of the program, with no financial support from ACTION after it has received such support for a total period of three years (including any prior support under title VIII of the Economic Opportunity Act) or in exceptional circumstances, where determined by the Director, for a total of up to five years. Such circumstances could be the relative lack of financial resources of the particular school, special circumstances in the case of a highly effective program, unique reasons why the full amount of funds are not available at the end of three years, or special circumstances affecting programs funded under the Economic Opportunity Act prior to the enactment of these provisions. Although such special circumstances must exist to extend the phase-out date contractual commitment for the additional two years, the Committee understands that exceptions could become more the rule in their total number. This is not inappropriate as long as in each case a careful particularized finding is made by the Director personally. The purpose of this requirement is to produce the maximum utilization of limited Federal funds, not to lead to the discontinuation of effective UYA programs after three years of Federal support.

It further requires the Director to take necessary steps to monitor the extent of compliance by participating institutions with the special conditions and commitments set forth in the subsection and to advise the Secretary of the Department of Health, Education, and Welfare of the extent of such compliance (for consideration by the Secretary in carrying out his discretionary authority to make certain higher education grants).

The bill as reported includes language to make clear that the institutions carrying out the program after their ACTION Agency financing has been phased out must do so without further ACTION Agency stipends or other Agency support. The Committee also feels strongly that institutions receiving ACTION Agency support for a 4th or 5th year should be contributing more than 20% of the total cost of the program.

Section 115(a) authorizes the Director to use up to 10 percent of the funds appropriated to carry out the purpose of part B to foster secondary, secondary vocational, and post-secondary schools' participation in service-learning programs. The nature of assignments of such volunteers shall be those of a character (set forth in section 103(a)) and under the same terms and conditions of service (regarding political activities in section 103(c)) as specified for VISTA volunteers, but the duration and part- or full-time nature of such assignments is left totally flexible. It is intended that continuation of the National Student Volunteer Program would be carried out under this authority.

Section 115(b) provides that persons participating in service-learning programs under this section shall not be deemed to be Federal employees for any purpose.

Section 115(c) requires the Director to prescribe rules and regulations concerning the support necessary to carry out service-learning programs under this section, but it prohibits provision of stipends or living allowances for participants in these programs. Hence, a UYA participating school could enroll volunteers (such as graduate students) for terms of less than one year and have them participate in the UYA program in all respects except for receipt of a stipend from the agency. This historic one-year service distinction is continued in the legislation—the agency has requested no change in this respect—in recognition that the VISTA stipend (which is to be paid on termination of service generally) was modeled on the Peace Corps readjustment allowance, the purpose of which was to assist in readjustment for those who, like GI Bill trainee veterans, had significantly interrupted their lives to serve their country.

Part C—Special Volunteer Programs

Part C of title I of this Act provides entirely new authority to the agency to carry out and stimulate domestic volunteer programs aimed at alleviating problems not directly related to poverty. This is an authority sought by the Administration in its legislative proposal in the 92nd Congress (S. 3450) and this Congress (S. 1338). The Committee agrees that this is a worthwhile new purpose that should be pursued to widen the impact and focus of the ACTION Agency programs, while at the same time continuing with at least the present level of the agency's anti-poverty efforts through VISTA (title I, part A), UYA (title I, part B), and the Foster Grandparent program (title II, part B). The amounts authorized to be appropriated and earmarked for each fiscal year are the same ($8 million for FY 1974; and $11 million each for FYs 1975 and 1976).

The Committee recognizes that it is desirable to provide flexibility to the agency to carry out parts A, B, and C of title I in a coordinated and complimentary way and that, specifically, the same sponsor may wish to use parts A, B, and C volunteers in an integrated program. This would certainly be permissible as long as the agency establishes a clear bookkeeping system for itself and such a sponsoring agency so that funds available under each part are separately accounted for and traceable.

Section 121 contains a statement of purpose for part C of title I of this Act. The part provides for special emphasis and demonstration volunteer programs. The purpose of these programs is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty. Only this part, part A of title II, and the title III programs of the Act are not solely anti-poverty in nature.

Section 122(a) authorizes the Director to conduct, and/or make grants or contract for, special or demonstration volunteer programs of a full-time, part-time, or short-term nature to further the purposes of the part. In the bill as reported, language was added to authorize the Director to establish programs to identify particular segments of the poverty community which could benefit from volunteer and other anti-poverty efforts.

Section 122(b) requires the Director to determine the terms and conditions of assignment of volunteers serving in programs conducted to further the purposes of the part. Part C programs are not subject to Governors' review.

Section 122(c) was added to the bill as reported. It enables the Director, in accordance with regulations, he shall prescribe, to provide to persons serving as full-time volunteers in a program of at least one year's duration under part C—Special Volunteer Programs—support, allowances and stipends, so long as they are not in excess of those authorized and provided for VISTA Volunteers.

SPECIAL EMPHASIS PROGRAM TO PROVIDE ALTERNATIVES TO THE INCARCERATION OF YOUTHFUL OFFENDERS

Section 123(a) contains a declaration of findings concerning the failure of rehabilitating juvenile delinquents through incarceration and a statement of purpose for the section. The section provides for a special emphasis program to strengthen and supplement efforts to prevent delinquency through community-based alternatives to such incarceration. In the bill as reported, language was added clarifying the intent of the Committee that alternatives to the incarceration of youthful offenders apply both to those youths under sentence as well as those awaiting trial. The Committee also broadened the scope of the alternatives to include, in addition to community-based alternatives, pre-trial and other alternatives, and it broadened the scope of assignments to include (in addition to departments of corrections) parole, probation, or other social services agencies.

Section 123(b) directs the Director, in consultation with the Attorney General and the Secretary of HEW, to conduct the special emphasis program by assigning VISTA, UYA, or other ACTION volunteers to departments of corrections, parole, probation, or other social service agencies in a State, county, city, or public school district in furtherance of the purpose of the section. It directs him to place special emphasis on the recruitment of rehabilitated criminal offenders as participating volunteers. It further directs him to see that, wherever possible, volunteers work in cooperation with Federal agency or other personnel engaged in similar programs, for instance Law Enforcement Assistance Administration personnel, personnel involved in the implementation of the Juvenile Delinquency Prevention Act, or personnel involved in the implementation of any related legislation which may be enacted. At least 5 percent of the funds made available for part C programs must be used to carry out this program.

SPECIAL EMPHASIS PROGRAM TO PROMOTE EDUCATIONAL OPPORTUNITIES FOR VETERANS

Section 124(a) contains a declaration of findings concerning the need for outreach and assistance to Vietnam-era veterans, especially educationally disadvantaged such veterans, who are unaware of the educationally-related economic and social opportunities available to them (especially under the GI Bill). The section provides for a special emphasis program to assign VISTA, UYA, or other ACTION volunteers to strengthen and supplement efforts to provide such outreach and assistance to veterans in order to enroll them in academic and vocational institutions, on-job training programs, farm cooperative programs, and other programs under the GI Bill, or assisting them in securing gainful employment (in concert with the Veteran Administration job fairs or similar activities or Department of Labor direct or indirect veterans' employment activities).

Section 124(b) directs the Director in consultation with the VA Administrator, the Commissioner of Education, and the Secretary of Labor, to conduct a program in furtherance of the purpose of this section, with special emphasis on the recruitment as volunteers of persons who are Vietnam-era veterans. It further directs him to see that, wherever possible, volunteers work in cooperation with existing VA (including the new veteran student services program in title 38, section 1685), college and university, veterans' organization, or other personnel engaged in similar veteran outreach and counseling programs. At least 5 percent of the funds made available for part C programs must be used to carry out the program.

SPECIAL EMPHASIS PROGRAM TO PROVIDE COMMUNITY-BASED PEER GROUP COUNSELING AND OUTREACH SERVICES FOR DRUG ABUSERS

Section 125(a) contains a declaration of findings concerning successful methods of helping persons, especially younger persons, suffering from all forms of drug abuse and addiction, including alcoholism. The section provides for a special emphasis program to supplement and strengthen drug treatment and rehabilitation efforts (including methadone maintenance) in communities by utilizing methods whereby sympathetic peer-group members provide outreach, counseling, follow-up and related services for persons, especially younger persons and Vietnam-era military veterans, who are suffering from drug addiction or drug abuse, including alcoholism.

Section 125(b) directs the Director, in consultation with the Director of the Special Action Office on Drug Abuse Prevention (or any successor Federal coordinating office), the Director of the National Institute of Mental Health, and the VA Administrator, to conduct the special emphasis program by assigning VISTA, UYA, or other ACTION volunteers to programs in furtherance of the purpose of this section. It directs him to place a special emphasis on the recruitment of persons, particularly Vietnam-era veterans, who are themselves considered by competent medical authority as recovered addicts or abusers. It further directs him to see that, wherever possible, volunteers work in cooperation with existing Federal agency and other personnel engaged in programs similar to those authorized by this section. At least 5 percent of the funds made available for part C programs must be used to carry out the program.

TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

Part A—Retired Senior Volunteer Program

This part is substantially the same as part A of Title VI—National Older Americans Volunteer Program, of the Older Americans Act of 1965 providing for the Retired Senior Volunteer Program (RSVP), as amended by S. 50, the Older Americans Comprehensive Services amendments of 1973 (P.L. 93–29), enacted on May 3, 1973. Differences are that under this Act, the section concerning the displacement of workers has been omitted, since a more comprehensive section dealing with this problem has been included in the Administration title (title IV) of this Act. The authorization of appropriations is contained in title V of this Act. In the bill as reported, the age of eligibility for participation in this program was restored to age 60, as it is presently in the Older Americans Act, from age 55 as in S. 1148 as introduced, since the Committee felt that lowering the age would tend to discriminate against the oldest of the persons eligible for participation. The question of minority group participation, which the lower entry age sought to promote, was dealt with directly in a new separate section 223. In addition, language was modified to require the Director to carry out the RSVP program rather than to authorize him to do so. This change was made to conform to other titles in the bill.

Language in clause (1) of section 201(a) concerning reimbursement of out-of-pocket expenses does not preclude the provision of complementary meals or other fringe benefits.

Part B—Foster Grandparent Program and Older American Community Service Programs

Section 211(a) contains provisions for the Foster Grandparent program similar to those contained in part B of title VI of the Older Americans Act of 1965, as amended, providing for the program. Differences include the following: the section concerning the displacement of workers has been omitted, since a more comprehensive section dealing with this problem has been included in the Administration title (title IV) of this Act; and the Director is given authority (previously implicit in section 611 of the Older Americans Act of 1965, as amended) to make payments to volunteers under this part—which in practice generally has been at around the Federal minimum wage level.

As with the RSVP authority, the age of eligibility was restored in the bill as reported to 60 years of age (and section 223 added), and conforming language requiring the Director to carry out the Foster Grandparent Program was substituted for authorizing language.

Subsection (b) has been added identical to the subsection (b) added to section 611 by P.L. 93–29, to authorize the Director to fund programs similar to the Foster Grandparent programs wherein older persons would work as volunteers with persons, other than children, having exceptional needs, including services as Senior Health Aides to work with persons receiving home health care, nursing care, or nutritional services, including meals on wheels, and as Senior Companions to persons with developmental disabilities and others lacking meaningful human relationships.

Section 212 outlines the conditions of grants and contracts and is similar to section 612 of the Older Americans Act.

It should be noted that parts A and B of this title and the authorization of appropriations in section 502 are similar to the provisions in title VI of the Older Americans Comprehensive Services Amendments of 1972 (S. 50, as reported—Report No. 93–19) as passed by the Senate on February 20, 1973 and enacted on May 3 as P.L. 93–29.

Part C—General Provisions

Section 221 requires the Director to coordinate programs under this title with relevant programs in other Federal agencies in disseminating information about the availability of assistance under this title, and in promoting the identification and interest of older persons whose services may be utilized under this title. The section is similar to section 613 of the Older Americans Act of 1965, as amended.

Section 222 provides for advance payment, reimbursement, or installment payment for programs under this title.

Section 223 was added to the bill as reported to require the Director to take appropriate steps to ensure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to participate in the Older American Volunteer Programs under this title. The section was added in conjunction with restoring the age of eligibility for these programs to age 60. The lower age (55) provided for in the bill as introduced was intended to address the fact there is strong evidence indicating that minority groups members grow older more quickly than do nonminority group members.

TITLE III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY SMALL BUSINESS PROPRIETORS

Title III of the reported bill restates and codifies in statute form the division of authority between the ACTION Agency and the Small Business Administration (SBA) concerning the SCORE/ACE (Service Corps of Retired Executives and Active Corps of Executives) program—which provides managerial and other assistance, at no cost, to small business proprietors—responsibility which was transferred to ACTION by Reorganization Plan No. 1 of 1971. Under the terms of Section 2(a)(3) of the Reorganization Plan, the functions of the SBA under section 8(b)(1) of the Small Business Act, with respect to individuals or groups of persons providing volunteer services, were transferred to the ACTION Agency. The SBA retained programmatic responsibility for the direction of such individuals or groups of persons when providing technical and managerial aids to small business concerns whereas the ACTION Agency was given programmatic responsibility for SCORE/ACE involvement with ACTION Agency clients.

The bill also codifies the clarification of the division of authority between SBA and the ACTION Agency which is contained in a February 22, 1973, joint memorandum, and provides expanded authority for the Director to utilize SCORE/ACE volunteers in non-SBA related activities.

Section 301 provides that the Director of the ACTION Agency and the Administrator of the SBA enter into agreements as to how this division of authority shall be exercised and to publish these agreements in the Federal Register. Specifically, the Director of ACTION is directed to cooperate with the SBA Administrator in carrying out the program and in particular the central areas of responsibility. These specific areas of responsibility generally parallel a list of such responsibilities set forth in material submitted during the Congressional hearings on Reorganization Plan No. 1 and are contained in the February 22, 1973 memorandum. They include: (1) the conduct of national publicity and recruitment efforts and the formation of new SCORE chapters; (2) the provision of general budgetary planning for the SCORE/ACE program and logistical support, including office support, clerical services, space and supplies (not available from the SBA) to the volunteers; and (3) the expansion of the program to utilize the expertise of SCORE and ACE volunteers by locating new clients projects and programs authorized under this or the Economic Opportunity Act of 1964, especially those funded under the OEO community economic development program (title VII of the Economic Opportunity Act of 1964, as amended), who would benefit from the expertise of SCORE/ACE volunteers. The third authority—for the expansion of the program—will be primarily the responsibility of ACTION, and consultation by the ACTION Agency with the SBA concerning both the scope of the program and the conditions of services of volunteers, would be called for only in situations where the expanded activities involve matters directly affecting the SBA or its programs.

Section 302(a) requires the Director to work in consultation with the Administrator of the Small Business Administration in prescribing the terms and conditions of service of SCORE volunteers working on other than SBA projects. Since the Director will have the full responsibility for administering these programs to the extent that they are unrelated to the SBA program, the Committee believes that the Administrator of the Small Business Administration should be consulted by the Director only to assure that there is no conflict between the expanded program and on-going SBA programs.

Section 302(b) declares that such volunteers, while working on SBA projects or new programs under this title, shall be considered Federal employees for the purposes of coverage regarding Federal tort claims and compensation for work injuries. Insofar as coverage while in SBA projects is concerned, this authority confirms the current practice of SBA to provide for torts claim and FECA coverage.

Section 302(c) authorizes the Director to reimburse SCORE/ACE volunteers for transportation (including parking and mileage in the event of appropriate use of private automobile), meals, telephone calls, and other out-of-pocket expenses incident to their service (including the cost of necessary temporary secretarial services not available from the ACTION agency or SBA, and attendance at official workshops and meetings).

Section 302(d) in connection with reimbursement described in section 302(c) requires the SBA Administrator to delegate payment responsibility to the Director of the ACTION Agency, and to reimburse the agency for expenses paid to SCORE/ACE volunteers under section 8(b)(1) of the Small Business Act, which authorizes the payment of certain expenses of volunteers who must travel more than 50 miles to serve SBA clients. This delegation and reimbursement provision is designed only to ensure a unified disbursing source—The ACTION Agency—and not to encourage continued use of the section 8(b)(1) authority once the broader section 302(c) of this Act is enacted.

Section 302(e) prohibits SCORE/ACE volunteers from participating in any screening or evaluation activities on behalf of the SBA in connection with applications for loans from the Administration (they may assist their clients in applying for SBA loans as long as they do not undertake to advise the SBA regarding the loan except in a manner which serves their clients' interests and is fully disclosed to the client in question), and prohibits them from providing services to a client of the SBA with a delinquent loan outstanding except when specifically requested by such a client after the loan has become delinquent.

TITLE IV—ADMINISTRATION AND COORDINATION

Section 401 provides for a Director, a Deputy Director, four Associate Directors, and two Deputy Associate Directors (one for Older American Programs and one primarily responsible for VISTA and UYA, both to be appointed by the Director but not necessarily directly responsible to him). The first six officials are to be appointed by the President, by and with the advice and consent of the Senate; their compensation levels are provided in the section as well. It is derived from section 1 of Reorganization Plan No. 1, 1971.

Section 402 provides the Director with general authorities which are in addition to and in aid of those given him by other provisions of this Act and derive from section 602 of the Economic Opportunity Act. They include the authority to:

(1) appoint Civil Service personnel and fix their compensation;

(2) employ consultants and experts who may serve for no more than 100 days in any fiscal year and who may be eligible for compensation at rates not to exceed that payable to a GS-18 level employee, and for travel expenses while away from their homes or regular places of business (this would include such expenses for ACTION employees or other Federal Government employees in connection with the service on or to the new National Voluntary Service Advisory Council established by section 405 of the reported bill);

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the Director's powers or responsibilities under the provisions under this Act, and, as necessary or appropriate, to delegate or authorize the redelegation of any of such powers or responsibilities;

(4) utilize, with their consent, the services and facilities of Federal agencies, States, or political subdivisions of States, without reimbursement;

(5) accept in the name of the Agency and utilize gifts to the Agency;

(6) accept voluntary and uncompensated services (notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)));

(7) allocate, expend, or transfer to other Federal agencies for expenditure funds made available under this Act as he deems necessary to carry out its provisions;

(8) disseminate information (as to title II Older American programs in coordination with the activities of the Commissioner on Aging under section 204 of the Older Americans Act of 1965, as added by section 201 of Public Law 92-29);

(9) adopt an official seal to be judicially noticed;

(10) collect or compromise all obligations for or held by him and all legal or equitable rights accruing to him in accordance with Government-wide regulations;

(11) expend funds for printing and binding and for rent of buildings and space in buildings for repair, alteration and improvement of buildings and space in buildings rented by him when such space is unavailable in the quantity, quality, time frame, form, or conditions necessary, subject to prior notification to the Administrator of the General Services Administration;

(12) make grants to or contracts with Federal or other public agencies and private nonprofit organizations (notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))) for the assignment or referral of volunteers under this Act, except those serving under Part A of title I—VISTA—which may provide that the agency or organization pay all or a part of the costs of the program (this clause, along with the section 103(a) provision for the assignment of VISTA volunteers to Federal programs and agencies (see H.R. Rept. No. 88-1458, page 38) and the section 404(c), prohibition against Federal agencies requesting or receiving any compensation for the services of volunteers assigned to them under this Act, authorizes any Federal department or agency to use the services of agencies using volunteers under parts B and C of title I and under titles II and III—whether the volunteers are assigned or referred on a cost-shared basis—so as to meet the requirement in 31 U.S.C. 665(b) that no officer or employee of the United States accept voluntary services "in excess of that authorized by law");

(13) provide or arrange for educational and vocational counselling of volunteers and recent former volunteers under this Act or any predecessor authority to encourage them to use in the national interest skills and experiences which they have derived from their training and service, particularly in combatting poverty as members of the helping professions, and to promote the development of opportunities for the use of these skills and experiences, and for the placement of volunteers in the programs he develops;

(14) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, and, in the bill as reported, enter into such contracts and agreements with public agencies and private organizations and persons, and make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments); and

(15) generally perform such functions and take such steps as necessary or appropriate to carry out this Act, consistent with the provisions of the Act.

In the bill as reported, the Director's clause (14) authority to enter into contracts and agreements with public agencies and private organizations and persons will enable him to provide, through contractual or other agreements, volunteer training, supervision, transportation, and other necessary support. The provisions of clause (14) are the same as those in section 602(n) of the Economic Opportunity Act of 1964, as amended, and the Committee has been assured by the agency and fully expects that contract authority with respect to the VISTA program under part A of title I will be used only to the extent that such authority has been exercised under such section 602(n).

Section 403 prohibits funds appropriated to carry out programs under this Act or to carry out the Act from being used to finance any political activity or election, and directs the Director to issue rules and regulations for the enforcement of these political prohibitions and similar prohibitions in any programs assisted under this Act. The provisions of this section derive from section 603 of the Economic Opportunity Act.

Section 404(a) directs the Director to prescribe rules and regulations and to carry out the provisions of this Act so as to assure that the service of volunteers assigned or referred under the Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service. The provisions of this section are derived from and are intended to strengthen the provisions of section 834(a) of the Economic Opportunity Act.

Section 404(b) stipulates that all support shall be furnished at the lowest cost possible consistent with the effective operation of programs under this Act. It is the same as section 834(b) of the Economic Opportunity Act.

Section 404(c) prohibits agencies or organizations to which volunteers are assigned, or which operate or supervise any volunteer program authorized by this Act, from requesting or receiving any compensation for services of those volunteers. It is the same as section 834(c) of the Economic Opportunity Act.

Section 404(d) prohibits the use of funds authorized to be appropriated under this Act from being used to finance labor or anti-labor organization activities. It is derived from section 834(d) of the Economic Opportunity Act.

Section 404(e) directs the Director to prescribe requirements for volunteer service in programs authorized by this Act and requires volunteers and prospective volunteers to provide information concerning their qualifications. The section also authorizes the Director to establish special procedures for low-income persons wishing to enroll in these programs. It is the same as section 834(e) of the Economic Opportunity Act.

Section 404(f) prohibits the Director from assigning or delegating any substantial responsibility for carrying out the provisions of this Act (except for the agency-wide support provisions as described in section 504) to persons not appointed or assigned in accordance with Civil Service regulations or as experts or consultants in accordance with the Administrative Expenses Act. This subsection stipulates that, on the effective date of this Act, all persons assigned to carry out such substantial domestic program responsibilities coming under the provisions of this Act who have not been employed or assigned in accordance with Civil Service law or with the Administrative Expenses Act shall be assigned a Civil Service rating affording a compensation rate no less than what such persons received prior to the effective date of this Act. In order to achieve the appointment of such persons to the Civil Service, the subsection provides that the number of supergrade positions authorized and assigned to the ACTION agency shall, by operation of law, be increased by a number equal to the number of persons whose level of compensation on the day prior to the effective date of this Act requires their assignment to these positions.

An exception to the conversion requirement in this subsection is authorized to be made by the Director when he personally determines that an individual will be assigned to carry out functions under the Peace Corps Act within six months after enactment of this Act, so that such an employee could be retained during such period in an FSS or FSR appointment while carrying out substantial, non-support domestic operations program responsibilities for such limited period of time. This exception does not apply to those individuals whose responsibilities will deal substantially with domestic programs and support.

Section 404(g) provides that, notwithstanding any other provision of law, payments to any volunteers enrolled in programs under this Act shall not in any way reduce or eliminate the level of eligibility for assistance or services these volunteers may be receiving under any other governmental program. This section applies, for instance, to former welfare recipients who may lose Medical benefits for their dependents as a result of their VISTA service.

Section 405(a) establishes in the ACTION Agency a National Voluntary Service Advisory Council to be composed of not more than 25 members appointed by (within 60 days of the enactment of this Act) and serving at the pleasure of the President. This Council is intended to replace the Peace Corps Advisory Council, the authorizing legislation for which in prior Peace Corps Act section 12 was repealed by P.L. 92–352 in anticipation of enactment of an agency-wide Advisory Council provision. The members of the new Council shall be representative of public and private organizations, groups, and individuals interested in serving in programs and being benefited by programs carried out under this Act and the Peace Corps Act. Such members shall include in approximately even numbers representatives of beneficiaries of programs established under this Act, nations hosting Peace Corps volunteers, present and former volunteers, and national coalitions representing such groups. The section provides that the President shall designate a temporary chairperson from the members and shall call the initial meeting of the council within 30 days after appointment of the Council. Members of the Council shall designate a permanent chairperson from among themselves, and shall meet at the call of the chairperson, but not less than four times in each year. Members of the Council, except those regularly employed by the Federal Government (who may receive travel reimbursement as official business from the departments or agencies by which they are employed), shall be entitled to receive appropriate compensation and travel expenses while attending council meetings. The Director and Deputy Director of the ACTION Agency are made ex-officio members of the Council.

Section 405(b) provides that the Council shall advise the Director with respect to administrative and policy matters arising under this Act, and, at his request, review the effectiveness of the programs operating under this and the Peace Corps Act and make recommendations to him (including changes in law) concerning the improvement of these programs, the elimination of duplication of effort, and the coordination of these and other Federal Government programs designed to assist the beneficiaries of these Acts. The Council shall make an annual report of its findings.

Section 406 provides that not less than the prevailing wage as determined in accordance with the Davis-Bacon Act shall be paid to laborers and mechanics employed in connection with programs assisted by this Act. It is the same as section 607 of the Economic Opportunity Act.

Section 407 directs the Director to prepare and submit to the President for transmittal to the Congress an annual report on the activities of the ACTION Agency. It is similar to section 608 of the Economic Opportunity Act.

Section 408 provides for joint funding of programs and projects authorizing the designation of the principal agency to administer funds provided for programs assisted under this Act when such programs involve more than one Federal agency, and provides for the waiver of grant or contract requirements pursuant to any law other than this Act by the ACTION Agency when it is the principal agency involved if those requirements are inconsistent with those of this Act. It is derived from section 612 of the Economic Opportunity Act, and is virtually identical to Section 209 of the Older Americans Act of 1965, as added by Section 201 of P.L. 93–29 and Section 5 of S. 7, 93d Congress, 1st Session, as passed by both Houses.

Section 409 prohibits the Federal Government and its employees from exercising any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system. It is the same as section 614 of the Economic Opportunity Act.

Section 410 directs the Director to coordinate the volunteer programs under this Act with one another, with community action programs, and with other related Federal, State, and local programs, and to take necessary steps to encourage the greater use of volunteer services in those programs.

It is derived from section 613 of the Older Americans Act (which is substantially reenacted as section 212 of this Act) and from the first two sentences of section 634 of the Economic Opportunity Act. Section 410 continues the emphasis from such latter section on the importance of including volunteer programs under this Act within, or carrying them on in combination with, community action programs being carried out under the Economic Opportunity Act of 1964, as amended.

Section 411 prohibits the use of any funds appropriated to carry out this Act from being used to establish any new department or office when the intended function is being performed by an existing department or office. It is derived from section 636 of the Economic Opportunity Act.

Section 412 requires the Director to prescribe procedures to ensure that (1) financial assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions and that applications for refunding shall not be denied unless the recipient has been given reasonable notice and opportunity to show cause publicly why such action should not be taken, and that (2) financial assistance shall not be terminated unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing. It is derived from section 604 of the Economic Opportunity Act.

Section 413 requires that programs under this Act shall be carried out for four years beginning June 30, 1973 (one year beyond the three years for which funds are authorized to be appropriated) and restricts appropriations to those authorized by law. This section is similar to section 615 of the Economic Opportunity Act.

Section 414 directs the Director to adopt appropriate administrative measures to assure that the benefits of and services under this Act will be distributed equitably between residents of rural and urban areas. It is the same as section 617 of the Economic Opportunity Act.

Section 415 provides that for the purpose of affording adequate notice of funding available under this Act, appropriations for grants, contracts, or other payments may be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. It is derived from section 622 of the Economic Opportunity Act.

Section 416(a) provides that volunteers shall be deemed to be Federal employes only for the purposes of computing time towards Civil Service retirements as provided in section 8332 of title 5, United States Code, and for the purposes set forth in subsections (b), (c), (d), and (e) of this section. It is similar to section 833(a) of the Economic Opportunity Act.

Section 416(b) provides that VISTA and UYA volunteers, and part C volunteers serving in full-time programs of at least one-year's duration, shall be deemed to be Federal employees for purposes of the political activity prohibitions set forth in subchapter III of chapter 73 of title 5, United States Code, for purposes of the Internal Revenue Code of 1954 and title II of the Social Security Act, for purposes of the Federal Employees Compensation Act relating to compensation for injuries, and for purposes of the Federal Tort Claims Act provisions of title 28, United States Code. In computing compensation for injuries, volunteers specified above shall be deemed to be paid at the entrance salary for GS–7 Federal Civil Service employees. This section is derived from, but substantially broader than, section 833(b) of the Economic Opportunity Act and from former Peace Corps Act section 5(d)—now 5 U.S.C. 8142 (with respect to Peace Corps Volunteer service).

Section 416(c) provides that VISTA and UYA volunteers, and part C volunteers serving in full-time programs of at least one-year's duration shall be credited in connection with subsequent employment in the Federal Government in the same manner as a like period of civilian employment for the purposes of United States Government retirement systems, for determining seniority, reduction in force, layoff rights, and leave entitlement, and any other rights and privileges afforded United States Government employes based on length of service. It is similar to section 833(c) of the Economic Opportunity Act.

Section 416(d) provides that VISTA volunteers and former VISTA volunteers who have successfully completed their term of service shall be eligible for appointment to the career Civil Service in the same manner as Peace Corps Volunteers have been made eligible under Executive Order No. 11103 of April 10, 1963.

Section 416(e) provides that VISTA and UYA volunteers, and part C volunteers serving in full-time programs of at least one-year's duration shall be treated for the purpose of any other law as if their service had been performed under the part A VISTA authority in title VIII of the Economic Opportunity Act of 1974, as amended. This specifically is intended to deal with references in the Civil Service law pertaining to VISTA volunteer service contained in 5 U.S. §§ 3332(b)(7) through 8332(j), as well as reference in the Higher Education Act of 1965, as amended, regarding non-accrual of interest and deferred repayment in connection with certain Federal or Federally-guaranteed education loans (20 U.S.C. §§ 425(b)(1)(A)(iii) and 1087dd(c)(2)(A)(iv).

Section 417 is derived from section 207 of the Older Americans Act of 1965, as added by section 201 of P.L. 93–29, the Older Americans Comprehensive Services Amendments of 1973, and requires the Director to evaluate the effectiveness and impact of programs authorized by this Act, to publish general standards for evaluation, to take into consideration the opinions of program participants in such evaluations, to publish summaries of the results of such evaluations, to assure that related data and the evaluations themselves become the property of the United States, and to use such sums as are required to conduct such evaluations so long as those sums do not exceed 1 per centum of the total amount of funds appropriated under this Act.

Section 418 prohibits the Director from providing financial assistance for any program under this Act unless the financial arrangement specifically prohibits discrimination against qualified persons based on race, creed, national origin, sex, physical or mental disability, political affiliation, or belief. It further prohibits the grounds of sex to be used to exclude anyone from participation in, benefiting from, being denied employment, or being subjected to discrimination under any program or activity receiving assistance under this Act. The Director is directed to enforce these provisions in accordance with section 602 of the Civil Rights Act of 1964, and section 603 of the Civil Rights Act is made applicable to any enforcement action taken by the Director. This section is the same as section 624 of the Economic Opportunity Act as added by P.L. 92–424, the Economic Opportunity Amendments of 1972, with the addition of "physical or mental disability."

Section 419 exempts payments for supportive services or reimbursement for out-of-pocket expenses made to retired persons serving in the RSVP, Foster Grandparents and other part B title II programs, and SCORE volunteers serving under title IV from any tax or charge for the purposes of unemployment, temporary disability, retirement or similar benefit payments, or minimum wage laws. It is the Committee's intention that meals or other benefits of monetary value received by such volunteers shall also be free from any such tax or charge. Since these volunteers are not considered members of the labor force, in accordance with the special limitations contained in section 404(a), this section provides that these payments shall not be considered as if their recipients were a part of the labor force—that deductions shall not be made for purposes of reducing Social Security benefit payments, for unemployment insurance, or similar purposes.

Section 420 authorizes the Director, pursuant to regulations, to assume the legal expenses incidental to the defense of full-time volunteers serving in programs under this Act and such expenses for part-time volunteers for matters arising directly out of their service under this Act. This section makes available with respect to domestic full-time volunteers the same authority provided with respect to Peace Corps volunteers under section 5(*l*) of the Peace Corps Act.

Section 421 requires the Director to see that all rules, regulations (including all delegations of authority), guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register and submitted to the appropriate Committees of the Congress at least thirty days prior to their effective date.

Section 422 defines certain terms used in this Act.

Section 423 requires the Director to ensure that each recipient of Federal assistance under this Act maintain records of amounts and dispositions of funds allocated to it in order to facilitate effective audit, and provides that the Director and the Comptroller General of the United States or their representatives shall have access to those records for the purpose of audit or examination until the expiration of three years after completion of the project or undertaking receiving such assistance.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

Section 501 authorizes appropriations for title I of this Act for the fiscal years 1974, 1975, and 1976 ($50 million, $61 million, and $76 million, respectively). The authorization levels are earmarked in such a way as to ensure the VISTA program receives top priority for funding if the appropriations made available for this title are less than those authorized, and that the University Year for ACTION program receives second priority. The earmarking for FY 1974 is identical to the amounts in the President's budget request; the earmarked amounts for FY 1975 and 1976 provide for small increases largely to meet anticipated inflation in program costs. Monies appropriated above the total of the earmarked levels for parts A, B, and C under title I are to be apportioned to parts A and B of title I in the same proportion as the earmarked amount for each part bears to the total amount earmarked for those parts.

The following chart provides a breakdown of the funding authorized, by part, for title I, the funding earmarked by part, and the additional funding available (and the percentage used to compute such allocations), by part, if full funding is provided for title I:

TABLE 3.—S. 1148—THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973, AUTHORIZATION OF APPROPRIATIONS FOR TITLE I, BY PART

[In millions of dollars]

		Authorization			Earmarked			Full authorization add on (percent up to)[1]		
	Total	A	B	C	A	B	C	A	B	C
Fiscal year:										
1974	50	30	12	8	22.3	7.3	8	7.5(75.3)	4.7(24.7)	0
1975	61	35	15	11	25.0	8.5	10	10.0(74.6)	6.5(25.4)	0
1976	76	45	20	11	26.0	8.5	10	19.0(75.4)	11.5(24.6)	0
Total	187	110	47	30	73.3	24.3	28	36.7	22.7	0

[1] The percentage shown in the parenthetical would be multiplied by the amount available for obligation in excess of the total of the amounts earmarked for pts. A, B, and C ($37,600,000 for fiscal year 1974; $43,500,000 for fiscal year 1975; and $44,500,000 for fiscal year 1976) up to the dollar amount shown.

Section 502 authorizes appropriations for title II (Older American Volunteer Programs) of this Act for fiscal years 1974, 1975, and 1976.

Subsection (a) provides authorizations for the RSVP program ($30 million, $40 million, and $50 million, respectively).

Subsection (b) provides authorizations for the Foster Grandparent program ($45 million, $55 million, and $65 million, respectively) and the new programs authorized by subsection (b) of section 211 ($7 million, $8 million, and $9 million, respectively). These authorizations are earmarked in such a way so as to ensure that the Foster Grandparent program receives top priority funding (at the fiscal year 1973 funding level of $25 million) in the event the appropriations made available for this section are less than those authorized. The bill as reported permits prior year's carryover balances to be included in the $25 million earmarked in annual obligations for the traditional Foster Grandparent Program. Funds that are not specifically earmarked for the Foster Grandparent Program may be used for such program or the new programs in section 211(b). This is the same earmarking as contained in section 614(a) of the Older Americans Act of 1965, as added by section 601 of P.L. 93–29.

The following chart provides a breakdown of the funding authorized and earmarked for title II, part B:

TABLE 4.—THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973, AUTHORIZATION OF APPROPRIATIONS FOR TITLE II, PT. B

[In millions of dollars]

		By subsection		Earmarked		Add on	
	Total	A	B	A	B	A	B
Fiscal year:							
1974	52	45	7	25	0	20	0
1975	63	55	8	25	0	30	0
1976	74	65	9	25	0	40	0
Total	189	165	24	75		90	

Section 503 authorizes appropriations for carrying out title III of this Act for the National Volunteer Programs to Assist Small Businesses and Promote Voluntary Service by Small Business Proprietors for fiscal years 1974, 1975, and 1976 ($1 million, $1.5 million, and $2 million, respectively).

Section 504(a) authorizes appropriations for title IV of this Act for Administration for fiscal years 1974, 1975, and 1976 ($15 million, $16 million, and $17 million, respectively). It provides that amounts expended for Administration purposes in any fiscal year can be used for salaries and expenses of only those persons who the Director determines, according to regulations he must prescribe, are responsible for or engaged in carrying out functions of the Domestic Volunteer Service Act (as opposed to functions of the Peace Corps Act) for a substantial portion of their time.

Section 504(b) requires that in any one fiscal year the total administrative expenditures for agency-wide support costs (as opposed to program—related administrative expenditures costs), including the compensation of Federal employees, shall not exceed either—whichever is less—(1) 10% of the total amount appropriated and made available pursuant to this title, or (2) an amount which is the same proportion of total agency-wide administrative costs as the total amount appropriated and made available under this Act is of the total amount appropriated and made available from (A) amounts appropriated and made available pursuant to this Act, (B) amounts appropriated and made available pursuant to the Peace Corps Act, and (C) amounts appropriated and made available pursuant to any other law for which implementing responsibility is delegated or transferred to the Director. A proviso in the subsection, taken from section 619 of the Economic Opportunity Act, makes clear that grants, subsidies, contributions, and payments to individuals who are not Federal employees shall not be counted as an administrative expenditure.

Section 505 provides that funds appropriated for any fiscal year to carry out programs under this Act or any predecessor authority shall remain available for obligation and expenditure until expended, and that there shall be no limitation on the use of funds appropriated to carry out programs under this Act other than those imposed by or pursuant to this Act, and that any funds appropriated to carry out a program under this Act shall not be distributed in any manner or by any method different from that specified in this Act.

TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

Section 601 contains provisions for the orderly transfer of all the functions presently being performed by the ACTION Agency, established by Reorganization Plan No. 1, to the ACTION Agency established by this Act. It is the intention of the Committee that the program and administrative responsibilities of the agency, as well all financial and other obligations, shall be assumed by the new ACTION Agency, except as specifically provided to the contrary by this Act.

Section 601(a) supersedes the program and administrative provisions of Reorganization Plan No. 1 relating to domestic volunteer programs. It does not affect the provisions relating to the Peace Corps.

Section 601(b) provides that the personnel, property, records and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by section 2(a) and (4) of such Reorganization Plan are by operation of law transferred to the ACTION Agency established by section 401 of the reported bill. All grants, contracts, and other agreements awarded or entered into under the authority of such Reorganization Plan for which there is continuing authority under this Act are recognized as a matter of law under comparable provisions of this Act so that there is no disruption of on-going activities for which there is continuing authority.

Section 601(c) provides that all official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such Reorganization Plan which are in force on the effective date of this Act and for which there is continuing authority under this Act shall continue in full force and effect until modified, superseded or revoked by the Director.

Section 601(d) directs that all references to ACTION, or the Director of ACTION in any statute, reorganization plan, executive order, regulation or other official document or proceeding shall, on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

Section 601(e) provides that no suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such Reorganization Plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act.

Section 601(f) directs that persons appointed by the President by and with the advice and consent of the Senate to positions requiring such advice and consent under such Reorganization Plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

Section 602 provides the VISTA and UYA volunteers, and volunteers serving in full-time programs of at least one year's duration under part C of title I of this Act, who subsequently become members of the Federal Civil Service shall have their volunteer service time counted as creditable toward Civil Service retirement, in accordance with the provisions of section 416(a) of this Act. This is derived from the original Peace Corps Act section 21—now 5 U.S.C. 8332(j) with respect to Peace Corps Volunteer service.

Section 603 provides for the repeal of title VIII of the Economic Opportunity Act of 1964, as amended. Title VIII contains the VISTA authority which this Act replaces.

Section 604 provides for the repeal of title VI of the Older Americans Act of 1965, as amended. Title VI contains the RSVP and Foster Grandparent authority which this Act replaces.

ACTION PROGRAMS IN CALIFORNIA

Mr. CRANSTON. Mr. President, VISTA Volunteers, University Year for ACTION volunteers, Foster Grandparents, RSVP volunteers, and SCORE/ACE volunteers are effectively working in my State of California. I believe their activities illustrate the enormous contribution these dedicated individuals are making to our Nation on a person-to-person, piece-by-piece basis.

Over 6,000 ACTION volunteers are providing assistance to local communities throughout California.

On a full-time basis, Vista volunteers, numbering 230 and serving on 29 projects, and University Year for ACTION volunteers, numbering 139 and serving under the sponsorship of four universities, are working in poverty areas dealing with the problems of housing, education, health, juvenile delinquency, community planning, and related poverty concerns.

On a part-time basis, 785 Foster Grandparents are serving over 1,500 children with special needs in institutional settings and, under broadened legislative authority this year, in education and day-care sites in Redding, Calif. Thrcugh the Retired Senior Volunteer program—RSVP—4,800 older Americans are serving in 44 local programs throughout the State, providing volunteer services on a part-time basis.

And 350 retired executives in Score are making their management know-how available on a no-cost, as needed basis to developing or struggling small businesses.

In several areas of the State, volunteers from more than one of the separate ACTION agency programs are working side by side, sharing local sponsorship. In Santa Cruz, 40 Foster Grandparent and 100 RSVP volunteers serve under the sponsorship of Project SCOUT; in Ukiah, North Coast Opportunities, Inc., which has been the sponsor for 65 Foster Grandparent volunteers will now, with a new ACTION agency grant, sponsor 150 Retired Senior Volunteers. And at Pepperdine College, one of the first UYA grantee schools, 43 UYA volunteers and 100 Foster Grandparents serve jointly in providing services to the mentally retarded and physically handicapped. In Santa Monica, Vista volunteers, under the sponsorship of Family Services have had the assistance of RSVP volunteers through the Santa Monica Volunteer Bureau in providing service to the elderly poor in the community.

CONCLUSION

Mr. President, in closing I wish to thank for their fine work on this bill Mrs. Fran Butler, for whom this has been a major labor of love, John Steinberg, counsel to the Human Resources Subcommittee, Dave Rust for Senator BEALL, and John Scales for Senator JAVITS and the committee minority.

Mr. President, the dilution of the Federal Government's involvement in innovative anti-poverty efforts and other social service programs which we have witnessed in recent years, highlights the importance of the ACTION Agency as a symbol of our Nation's concern for achieving social change and improvements by human interaction and our commitment to help those less fortunate to help themselves.

Let us join today in approving S. 1148 and providing the ACTION Agency with a legislative framework from which it can more efficiently, effectively and compassionately carry out this lofty mandate.

Mr. President, I believe that this matter is noncontroversial and has been cleared on both sides of the aisle.

However, the Senator from Massachusetts (Mr. KENNEDY) has an amendment which I believe is technical in nature, and at this point I yield to him.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CLARK). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY's amendment is as follows:

On page 127, line 7, insert "(a)" after "604"; and after line 9, insert the following new subsection;

(b) Section 908 of the Older Americans Comprehensive Services Amendments Act of 1973 (Public Law 93–29) is amended by striking out "1973," and "1974," and inserting in lieu thereof "1974," and "1975,", respectively.

Mr. KENNEDY. I ask unanimous consent that the names of the Senator from Missouri (Mr. EAGLETON), the Senator from California (Mr. CRANSTON), and the Senator from Maryland (Mr. BEALL) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I yield myself such time as I may require.

In the conference agreement on S. 50, the Older Americans Comprehensive Services Amendments of 1973, agreement was reached on authorization for title 9, the older workers community services employment program, for an authorization of $60 million in fiscal year 1974 and $100 million in fiscal year 1975.

Through a typographical error, the fiscal years were printed in the bill as 1973 and 1974.

This amendment will reflect the actual agreement.

I believe the amendment is agreeable to everyone concerned, and I hope it will be acceptable to the Senator from California.

Mr. CRANSTON. Mr. President, this amendment is technical in nature. As I understand it, the administration has no objection to it. It has been cleared with Senators on both sides of the aisle who are principally interested in it. It would be germane because section 604 of the bill already amends the Older Americans Act, and I therefore have no objection and support the amendment.

Mr. BEALL. Mr. President, I have been apprised of this amendment. It is technical in nature. It carries out the intent of the committee. I am happy to be a cosponsor of the amendment, and I hope it will be agreed to.

The PRESIDING OFFICER (Mr. CLARK). Is all time yielded back on the bill?

Mr. CRANSTON. I yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. CRANSTON. There is one other amendment, of which I am a cosponsor, to be offered by the distinguished ranking minority member of the Committee on Labor and Public Welfare, the Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President on behalf of myself and the Senator from California (Mr. CRANSTON), I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 94, line 25, strike "four" and insert in lieu thereof "two".

On page 95, line 3, beginning with the word "Each", strike out all through the period on line 5 and insert in lieu thereof the following: "One such Associate Director shall be designated 'Associate Director for Domestic and Anti-Poverty Operations' and shall carry out operational responsibility for all programs authorized under this Act and the other such Associate Director shall be designated 'Associate Director for International Operations' and shall carry out operational responsibility for all programs authorized under the Peace Corps Act (22 U.S.C. 2501 et seq.). There shall also be in such agency no more than two Assistant Directors appointed by the President by and with the advice and consent of the Senate, who shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5 United States Code. Each such Assistant Director shall perform such staff and support functions for such Associate Directors as the Director shall from time to time prescribe."

On page 95, line 6, insert a comma and "under the Associate Director for Domestic and Anti-Poverty Operations," after "Director".

On page 95, line 8, insert a comma and "under the Associate Director for Domestic and Anti-Poverty Operations," after "Director".

Mr. JAVITS. Mr. President, I am pleased to support S. 1148, the Domestic Volunteer Services Act of 1973, a bill to provide for operation of all domestic volunteer service programs by the ACTION Agency.

This bill would consolidate under one authority the domestic volunteer programs conducted by the agency under Reorganization Plan No. 1 of 1971; it consists of the following basic titles: Title I—VISTA, part A; University Year in ACTION, part B; special volunteer programs, part C; title II—retired service volunteer program, part A and foster grandparent programs, part B; title III—SCORE/ACE programs; title IV—administrative provisions; title V—authorizations, by title and earmarks; title VI—repealer.

TITLE I

Mr. President, when Reorganization Plan No. 1 was considered in 1971 by the Committee on Government Operations, I, as a member of that committee and as the ranking minority member of the Committee on Labor and Public Welfare, sought to insure that in the transfer of VISTA and other domestic programs to the new ACTION agency the basic antipoverty thrust of the effort would be maintained. With that purpose in mind, and as a condition to my support of the reorganization plan, I elicited and received written commitments from George Shultz, then Director of the Office of Management and Budget, relating to the charter of new organization, its organizational structure and its disposition toward the continued participation of volunteers and beneficiaries in its programs; these commitments were set in a letter to me dated May 20, 1971, from Director Shultz.

I am very pleased that this bill by virtue of provisions that I and other members of the committee have supported, very closely reflects these same commitments.

First, the statement of purpose for parts A and B of title I—which deal with VISTA and the university year in ACTION programs—make clear that focus while recognizing that volunteer efforts in related problem areas such as lead base paint poisoning and rehabilitation of criminal offenders are also legitimate activities to be carried out by VISTA and university year in ACTION volunteers.

The committee quite properly resisted any diversion of volunteers to other efforts, which while important in themselves, do not maintain an antipoverty focus; these are covered under part C of title I.

Second, to further insure this focus the committee bill would earmark for part A of title I under which the VISTA program is operated, a minimum of $22.3 million in fiscal year 1974 and proportional amounts in the two subsequent years; the amount of $22.3 million is exactly the administration's own request for fiscal year 1974.

In his letter Director Shultz cited as the basic goal of the domestic and antipoverty component as one—

> To extend opportunities for volunteer services and to bring a wide range of volunteer groups to bear in a concerted attack on poverty-related problems.

These provisions I have noted will help to implement that commitment.

Fourth, the bill also includes provisions to insure the participation of beneficiaries of antipoverty programs, requiring the Director to take all necessary steps to establish a continuing mechanism for the meaningful participation of program beneficiaries. These provisions are also consistent with the commitment made by former Director Shultz in stating in the letter to which I referred:

> I wish also to affirm that as we implement the plan, we intend to ascertain and take into account the views of the people served and the volunteers themselves as to shaping the programs, providing the appropriate organizational structure, and their ideas about key personnel.

Fifth, under an amendment which I shall offer to this bill, the Associate Director for Domestic and Antipoverty Operations will have equal status with the Associate Director for International Operations and both will clearly have "line" authority vis-a-vis the Assistant Directors will serve a staff function in areas such as recruitment, placement, and other essentially supportive functions.

As I shall explain in offering that amendment, this stems too from a specific commitment by the administration.

Mr. President, in addition to these aspects I have mentioned, the committee bill includes an amendment which I offered to authorize the Director to establish special programs designed to stimulate and initiate improved methods of providing volunteer services for identification of particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts; these provisions will enable the Director to deal with problems of particular ethnic groups such as the Jewish poor in New York City who have heretofore been neglected under many of the antipoverty programs.

Also the bill includes a provision to which I contributed to insure that volunteer programs for youthful offenders apply both to youth under sentence and those awaiting trial. This authority will be a very meaningful authority to supplement other efforts such as the provision of manpower training services for this group which I have included in S. 1559, the "Job Training and Community Services Act of 1973," which Senator NELSON and I have coauthored.

TITLE II

In addition, I strongly support the improvements to the foster grandparent and RSVP programs which are made by title II of the reported bill. While this ground was covered previously in the enactment of the Older Americans Comprehensive Services Amendments of 1973, the codification of these improvements within the ACTION framework is needed to reinforce the intent of Congress to make the ACTION Agency serve as the principal vehicle for domestic volunteer efforts in the aging area. I hope that any questions arising from any House-passed measure in this connection, and specifically with respect to the earmarking of funds, will be resolved expeditiously so that the overall pattern of authority for the ACTION Agency is clear and susceptible of effective implementation.

TITLE III

Mr. President, title III of the bill concerns itself with two significant national volunteer programs which provide managerial and other assistance, at no cost, to small business proprietors, that is the Service Corps of Retired Executives—SCORE—and the Active Corps of Executives—ACE.

In addition to codifying the present division of authority between the SBA and ACTION, pursuant to the Reorganization Plan No. 1 of 1971, the bill requires the Director of ACTION to cooperate with the SBA Administrator in carrying out the various SCORE/ACE programs and authorizes the Director to utilize SCORE/ACE volunteers in non-SBA related activities. Title III also provides that SCORE/ACE volunteers be considered Federal employees for purposes of Federal tort claims, authorizes a reimbursement procedure for certain expenses and under certain circumstances, prohibits SCORE/ACE volunteers from participating in any screening or evaluation activities on behalf of the SBA in connection with loan applications and delinquent loans.

In effect this title clarifies the management and financial line of authority between the SBA Administrator and ACTION directors and allows for the expansion of the SCORE/ACE programs by locating new clients, projects, and programs authorized under the OEO Act of 1964.

Mr. President, at this time I wish to note the leadership taken in respect to these matters by Senator CRANSTON, the author of this bill and by Senator BEALL, the ranking minority member of the Subcommittee on Human Resources as well as the efforts of the ACTION Agency itself, which I believe has been very diligent in carrying out its charter under the reorganization plan, which this authority would replace.

I ask unanimous consent that a copy of the letter from Director Shultz, dated May 20, 1971, be printed at this point in the RECORD, as well as a chart prepared by my office comparing the authorizations under this bill with appropriations requests and allowances for each of the fiscal years 1972–74.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR JAVITS: I am pleased to have your views on ways to improve and clarify the organization and program direction of ACTION, the volunteer service agency proposed by Reorganization Plan No. 1 of 1971.

Your discussions with Arnold Weber have been most helpful in identifying a number of improvements which I agree should be made. These changes involve significant points of emphasis in the organizational structure of the new agency and other changes, in the level of executive positions which will be incorporated in legislation to be submitted by the Administration.

1. The Associate Director for Domestic Operations will be redesignated as Associate Director for Domestic and Anti-Poverty Programs to emphasize more visibly and forcefully the commitment of all of the elements of this organization to anti-poverty efforts.

2. The Associate Directors for Program Development, Administration, and Recruitment-Selection-Placement will be redesignated as Assistant Directors to indicate their staff role as supportive to the line Associate Directors who have primary program responsibility.

3. The formal organizational structure will be modified to underscore the fact that the two Associate Directors will be line operators of ACTION's programs and will be supported in a staff capacity by the Assistant Directors. The net result of these changes will be to show that the two Associate Directors will be the ACTION program operators. In that capacity, and in full recognition of their substantial responsibilities, I agree that they should be upgraded from Level V, as indicated in the Reorganization Plan, to Level IV. Because the Reorganization Plan as submitted cannot be modified, this change will be sought through legislation which we will submit shortly.

I also recognize the concern of you and others that the Associate Director for Domestic and Anti-Poverty Programs is committed to the importance of anti-poverty activity in ACTION's Program. I believe the organizational changes we have agreed to, give much stronger institutional recognition to this commitment. I wish also to affirm that as we implement the plan, we intend to ascertain and take into account the views of the people served and the volunteers themselves as to shaping the programs, providing the appropriate organizational structure, and their ideas about key personnel, including the Associate Director for the domestic and anti-poverty component. The Associate Director, of course, will have the special experience and insight necessary to carry out the basic goal of this component which is to extend opportunities for volunteer service and to bring a wide range of volunteer groups to bear in a concerted attack on poverty-related problems.

I appreciate your assistance in providing us with an opportunity to sharpen the Administration's commitment to the domestic program of ACTION, and to clarify our intent to support fully the use of volunteer resources in attacking the problems of poverty in local communities.

Sincerely,

GEORGE P. SHULTZ, *Director*.

[In millions of dollars]

Program	Appropriation [1]			Authorization [2] (under S. 1148, the "Domestic Volunteer Service Act of 1973")					
	1972	1973	1974	1974 amount	1974 earmarks	1975 amount	1975 earmarks	1976 amount	1976 earmarks
Title I:									
VISTA	22.889	25.249	22.3	30	22.3	35	25	45	26
UYA	4.281	8.498	7.3	12	7.3	15	8.5	20	8.5
Special programs	(3)	(3)	(3)	8	8	11	10	11	10
Title II:									
RSVP	14.25	15.0	15.0	03		40		50	
FGP	24.081	25.0	25.0	45	25	55	25	65	25
OACSP	(4)	(4)	(4)	7		8		9	
Title II: SCORE/ACE	[5].117	[5].132	.208	1.0		1.5		2.0	
Title IV: Administration	13.067	15.009	14.591	15		16		17	

[1] ACTION fiscal year 1974 Budget Submission to the Congress.

[2] Report of the Senate Committee on Labor and Public Welfare on the "Domestic Volunteer Service Act of 1973" (No. 93-311).

[3] Breakdowns not available, however, ACTION advises that the total demonstration effort for fiscal 1973 was $3,500,000 and its request for fisca. 1974 is $6,750,000.

[4] Funds not available.

[5] Funds were appropriated to the Small Business Administration.

Mr. JAVITS. Mr. President, now as to my amendment to S. 1148, the "Domestic Volunteer Service Act of 1973," which is now pending before the Senate.

The purpose of my amendment is to provide that the ACTION Agency shall have two line Associate Directors—one for "Domestic and Antipoverty Operations" and one for "International Operations," each appointed by the President and subject to advice and consent of the Senate, thus representing the two major areas of operation of the Agency; each would be at level V of the Executive Schedule.

It would provide also for the appointment by the President, of not more than two staff Assistant Directors, also subject to the advice and consent of the Senate, to be compensated at the rate provided for level V of the executive schedule. Each Assistant Director shall perform such staff and support functions for the Associate Directors as the Director shall from time to time prescribe.

This amendment would implement a commitment made personally to me in writing on May 20, 1971, by then Director of the Office of Management and Budget, George P. Shultz, at the time that Reorganization Plan No. 1—under which ACTION was formed—was under consideration by the Subcommittee on Executive Reorganization of the Committee on Government Operations.

As ranking Republican member of that subcommitte and of the Senate Committee on Labor and Public Welfare which has jurisdiction over this and the other domestic volunteer programs, I was very concerned that the major programmatic thrust of these programs might be swallowed up in an organizational structure emphasizing volunteerism per se, or that the domestic efforts might be downplayed vis-a-vis the international activities.

In the material part of Director Shultz' letter a commitment was established by the administration to submit legislation under which:

1. The Associate Director for Domestic Operations will be redesignated as Associate Director for Domestic and Anti-Poverty Programs to emphasize more visibly and forcefully the commitment of all of the elements of this organization to anti-poverty efforts.

2. The Associate Directors for Program Development, Administration and Recruitment-Selection-Placement will be redesignated as Assistant Directors to indicate their staff role as supportive to the line Associate Directors who have primary program responsibility.

3. The formal organizational structure will be modified to underscore the fact that the two Associate Directors will be line operators of ACTION's programs and will be supported in a staff capacity by the Assistant Directors. The net result of these changes will be to show that the two Associate Directors will be the ACTION program operators. In that capacity and in full recognition of their substantial responsibilities, I agree that they should be upgraded from Level V, as indicated in the Reorganization Plan, to Level IV. Because the Reorganization Plan as submitted cannot be modified, this change will be sought through legislation which we will submit shortly.

Mr. President, unfortunately, for various reasons, these commitments were never honored and the ACTION Agency now has five Associate Directors, each level V as follows: "Domestic and Antipoverty," "International Operations," "Citizens Placement," "Policy and Program Development," and "Administration."

Under the current practice it is not clear that the two Associate Directors for Antipoverty and International Operations are clearly in "line" positions vis-a-vis the others.

The proposed amendment would implement these commitments except for the aspect noted in paragraph 3 of Director Shultz' letter that the two Associate Directors be upgraded to level IV.

This aspect has been foregone in light of the fact that such an elevation could not be made without raising to level III the Deputy Director of ACTION, now at level IV and raising the Director of ACTION from III to II. An equally unacceptable alternative would have been to lower the other "Associate Director," below a level V, an action which would be unfair to those persons now holding these positions.

Mr. President, as noted on pages 3–4 of the report on S. 1148, the members of the Committee on Labor and Public Welfare consider it desirable to amend the bill as I have proposed.

As the changes made under this amendment, would also affect the Associate Director for International Operations, who is under the jurisdiction of the Committee on Foreign Relations, on which I serve, I brought this matter to the attention of the members of that committee in connection with their consideration of H.R. 5293, "the Peace Corps Act Amendment of 1973."

The report on that bill (Rept. No. 93–161) by the Committee on Foreign Relations cites the report language in this bill and contains a statement that the members of that committee—

> Are in basic agreement with the above views and hope to join in a floor amendment to that bill (S. 1148) or otherwise to accomplish their objectives.

I have consulted also with the chairman of the Committee on Government Operations and he has no objections to this amendment.

It is acceptable also to Mr. CRANSTON, chairman of the Subcommittee on Human Resources, the sponsor and manager of this bill, a cosponsor of the amendment, and to Mr. BEALL, the ranking minority member of that subcommittee, as it is to all members as indicated in the report on this bill.

Mr. CRANSTON. Mr. President, I am delighted to join in cosponsoring this amendment to provide more clearly defined organizational line responsibilities for the ACTION Agency's domestic and international operations, respectively. We all are grateful to the Senator from New York for his efforts to secure the agreement of the members of the Senate Foreign Relations Committee to this amendment. I note that that committee in its report on the Peace Corps Act Amendments of 1973 (Rept. No. 93–161) indicated its "basic agreement with" such an amendment.

This amendment was discussed in the full committee executive session on S. 1148 and has the general concurrence of the committee as set forth on pages 3 and 4 of the committee report on the bill. I should note that although under the amendment, the Agency could have only two Assistant Directors compensated at executive level V, as the statute would provide for under this amendment, the amendment is not intended to, and would not, preclude the Agency administratively establishing a third Assistant Director. It now has five Associate Directors, one of whom is not provided for in the Reorganization Plan No. 1 basic ACTION enabling authority and thus is not subject to Senate confirmation. The third Assistant Director would presumably carry out the functions presently carried out by the fifth Associate Director.

Mr. President, I ask unanimous consent that this material from the committee report be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Section 401 of the Committee bill would follow generally the provisions of Reorganization Plan No. 1 of 1971, which provides for a Director, a Deputy Director, and no more than four Associate Directors.

However, the Committee believes that the purposes for which the Agency was established may best be effectuated by the designation of two Associate Directors: one for "Domestic and Anti-Poverty Operations" and one for "International Operations"; each subject to advice and consent of the Senate and each responsible to the Director, as well as to the Deputy Director as directed by the Director.

At the present time, the ACTION Agency has five "Associate Directors": "Domestic and Anti-Poverty Operations", "International Operations", "Citizens Placement", "Policy and Program Development", and "Administration and Finance", each designated, except in the case of the latter, under the provisions of the Reorganization Plan.

The Committee considers it desirable to redesignate as "Assistant Director", each of the Associate Directors for "Citizens Placement", "Policy and Program Development", and "Administration and Finance" to emphasize that these functions, while also key to the success of the agency, are basically supportive to the Domestic and Anti-Poverty and International programs to be carried out by the two Associate Directors.

This formulation would implement the Administration's own original plans for the organizational structure of the ACTION Agency as expressed in a letter dated May 20, 1971, to Senator Jacob K. Javits from former Director of the Office of Management and Budget George Shultz, submitted at the time the Reorganization Plan was being considered by the Congress.

Since the Committee on Foreign Relations and the Committee on Government Operations share the Committee on Labor and Public Welfare's interest in these matters, the Committee has not included provisions to implement this formulation in this legislation.

However, when the bill is considered by the Senate, Committee members hope to join with interested members of the other committees in a floor amendment to this bill reflecting these proposed or other appropriate changes. Comparable language was contained in the Senate Foreign Relations Committee report (No. 93-161) on H.R. 5293, the Peace Corps Act Amendments of 1973, including a statement that that Committee's "members indicate that they are in basic agreement with the above views and hope to join in a floor amendment to that bill [S. 1148] or otherwise to accomplish these objectives."

Mr. CRANSTON. Mr. President, I am ready to accept the amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. CRANSTON. I yield back my time.

Mr. JAVITS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back on the amendment.

The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CRANSTON. Mr. President, I move that the Senate agree to the committee amendment in the nature of a substitute, as amended.

Mr. BEALL. Mr. President, I should like to get 2 minutes to speak——

Mr. JAVITS. Mr. President, I will be glad to reserve 2 minutes to the Senator.

Mr. CRANSTON. May we have a response from the Chair on my motion?

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. CRANSTON. Mr. President, I believe the Senator from Maryland (Mr. BEALL) wishes to speak.

Mr. JAVITS. Mr. President, I ask unanimous consent that the Senator from Maryland may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered, and the Senator from Maryland is recognized.

Mr. BEALL. Mr. President, it was my pleasure to work with the distinguished Senator from California (Mr. CRANSTON) and the Senator from New York (Mr. JAVITS) on this bill and I am happy that it has finally come to the floor of the Senate for consideration and is about to be passed by the Senate.

It is, indeed, a piece of legislation that is much needed. It is indeed a pleasure to participate in this legislation. I can only say that the chairman of the subcommittee (Mr. CRANSTON) was most accommodating in considering some of the proposals and objections that I had to the original legislation. I thank him for that consideration. In my opinion, this is the best possible bill to pass the Senate at this time and I am happy to support it.

Mr. President, it gives me great pleasure, as the ranking minority member on the Labor and Public Welfare Committee's Subcommittee on Human Resources, to participate in the Senate's consideration of the "Domestic Volunteer Service Act of 1973." This legislation is of special importance because it establishes the basic legislation for the ACTION Agency and all of its domestic programs.

I would like to note, at the outset, that although I am a cosponsor of this bill, I still have some reservations about certain provisions. The bill, as reported from the committee is a vast improvement over the original version of S. 1148. Since almost all legislation is the product of compromise and the distinguished subcommittee chairman (Mr. CRANSTON) did seek to accommodate many of my most serious reservations, I am satisfied that this is the best possible bill that we could produce in the Senate at this time.

As my colleagues may recall, the Subcommittee on Human Resources has had similar legislation under consideration for approximately 2 years. Early in our deliberations, many of the members were reluctant to sanction in law the ACTION Agency which was created by the President's Executive Reorganization Plan No. 1 in 1971. This reorganization plan created a single agency under whose umbrella various existing volunteer programs such as the Peace Corps, Volunteers in Service to America, Foster Grandparents, Retired Senior Volunteers, Senior Corps Retired Executives, Active Corps of Executives, University Year for Action, and the National Student Volunteer program are administered. Inherent in the reorganization plan was the expressed goal of expanding as well as integrating all of the existing federally sponsored volunteer programs and finding new ways and means of fostering volunteer service.

During the deliberations in 1972, there was a noticeable reluctance on the part of the subcommittee to develop and consider flexible, forward-looking legislation that would allow the ACTION Agency to achieve the goals which had been set for it. Instead, we enacted piecemeal legislation that served to extend many of the programs administered by the ACTION Agency as part of existing statutes. The unwillingness of Congress to codify the ACTION Agency's existence, cast a cloud over its programs.

The President created the ACTION Agency primarily to overcome the parochial interest which had divided the domestic volunteer programs among various agencies, thus lessening their effectiveness and impact on our society. The ACTION Agency was established to maximize the opportunities for volunteer service and harness, to the greatest extent possible, the human resources inherent in volunteerism for the purpose of meeting the needs of those suffering from poverty as well as a broad range of serious human and social problems. I have consistently felt that the ACTION Agency would have to have the ability to generate nationwide support, reaching all the way down into every community in America if it is to develop the long range interest and support needed for an effective domestic volunteer service. Such broad based support is absolutely vital if the ACTION volunteers are to be an effective resource for finding solutions to the various problems related to poverty, the aged, and the general economic and social well-being of our communities.

Mr. President, I am pleased to note that, contrary to the negative attitude of 1972, our subcommittee has approached its consideration of S. 1148 with a new and positive attitude. S. 1148 is organic legislation that will serve to codify the existence of the ACTION Agency. It repeals all of the individual authorizations currently used by the ACTION Agency to operate its various programs and it reestablishes and expands these authorities under the new agency. In addition, S. 1148 provides the necessary administrative authority needed to coherently administer this agency.

On the whole, this legislation is a substantial improvement over last year's bill, and although I think it can still be improved, it will receive my affirmative vote today. However, I would like to take this opportunity to express to my colleagues some reservations I have with regard to the legislation we are acting upon today.

As the committee report indicates, we completed action on S. 1148 prior to the confirmation of ACTION's new Director, Dr. Michael P. Balzano. Although Dr. Balzano testified before the full Labor and Public Welfare Committee with regard to his confirmation, he was not in a

position to participate in the development of this legislation. The subcommittee did receive testimony from the able Acting Director, Mr. Walter C. Howe, Jr., but it was obvious to me that the subcommittee deliberated, for the most part, without the benefit of the administration's views. Mr. Howe stated that the Agency's position was undetermined in the absence of a confirmed director. Even though the Agency was accorded the opportunity to comment on the committee report, in an effort to clarify certain sections of S. 1148, I am sure that my colleagues will all agree that this is not the same as having the benefit of the administration's input prior to the bill's being ordered reported by the full committee. I have become increasingly concerned that S. 1148 contains provisions which may not reflect many of the lessons the ACTION Agency has learned in operating its domestic programs. I think that this may be especially true of the programs conducted under the authority on titles I, II, and III. In addition, I believe that all of us are aware of the administration's opposition to legislation which contains unnecessary administrative constraints and/or excessive authorization levels with attendant inflexible funding formulas.

As a matter of fact, Dr. Balzano did express his concern regarding these issues during his testimony before the House Education and Labor Committees' Subcommittee on Equal Opportunity. After thorough consideration, I am of the opinion that Dr. Balzano's remarks are well founded, and I only wish that our committee could have had the benefit of his thinking prior to its consideration of S. 1148. Mr. President, I ask unanimous consent that the text of Dr. Balzano's June 13 testimony be printed in the Record at this point in my statement.

There being no objection, the testimony was ordered to be printed in the Record, as follows:

Testimony of Dr. Michael Balzano

Mr. Chairman and Members of the Subcommittee, I am particularly pleased to be here this morning representing ACTION. Accompanying me are Mr. Jorge Córdova, ACTION's General Counsel; Mr. Christopher Mould, Associate Director of ACTION for Domestic Operations; Mr. Charles Ervin, Associate Director for Policy and Program Development; Mr. Nicholas Craw, Associate Director for Citizens Placement; Dr. Frank Williams, Director of VISTA; Mr. Victor Hruska, Director of ACTION's Older Americans Programs; Mr. Elmer Lange, Director of SCORE/ACE; Mr. Jerry Brady, Director of ACTION's Education Programs; and Mr. Emerson Markham, ACTION's Director of Budget.

I am hopeful that today will mark the beginning of a sustained cooperative relationship between the Subcommittee and the Agency, under your able leadership, Mr. Chairman. Like this Subcommittee, ACTION is a new organization. It is an organization which represents thousands of dedicated volunteers and the people they serve in communities across the United States:

VISTA's transferring their skills, energy, and enthusiasm to the residents of poverty-stricken, urban and rural areas;

UYA volunteers bringing the energies of students and the resources of the university to bear on the problems of the poor in a tested new application of the basic VISTA model;

Older Americans serving as Foster Grandparents and Retired Senior Volunteers, filling the vacuum of needed one-to-one companionship for thousands of handicapped children, and taking part in local community service programs; while they are, at the same time, adding new meaning to their own lives through a renewed sense of usefulness in our society;

And, SCORE and ACE volunteers drawing on expertise gained from long experience and successful business records both to help prevent small business failures in this country and supplement the efforts of VISTA and UYA volunteers.

With appropriate enabling legislation and approval of our budget request, ACTION domestic volunteers will be almost 125,000 strong by the end of fiscal year 1974. More than 7,000 will be serving in a full-time capacity, while the rest will be applying their energies on a part-time basis. All will be a part of the effort to marshall the willingness of Americans of all ages, backgrounds and skills to freely contribute their services to fellow Americans less fortunate.

I feel, Mr. Chairman, that we are in a stronger position than ever before to carry out the mission of marshalling and developing new ways to apply the enormous reservoir of volunteer energies available in Americe. When Federal volunteer programs were merged under a single management, one of the benefits anticipated was that it would lead to greater inter-program cooperation, with volunteers in the different programs mutually supportive of each other. *This has happened.*

ACE volunteers are currently assisting VISTA community workers in establishing a small factory in Cumberland, Virginia.

Hurricane Agnes brought VISTA and SCORE volunteers together for relief and cleanup jobs in Harrisburg and Wilkes-Barre, Pennsylvania.

UYA volunteers have often been the catalyst for Foster Grandparent and RSVP programs.

It was further anticipated that the creation of ACTION under Reorganization Plan No. 1 of 1971 would result in the stimulation of new opportunities for volunteers to serve and new ideas for the mode of service. *And this has happened.*

The University Year for ACTION Program, launched shortly after ACTION's beginning, has flourished since, and we estimate that by the end of this fiscal year we will have 1,700 student volunteers taking up the challenge to learn outside of confines of the classroom while providing substantial benefits to the poor in the communities in which they serve.

ACTION is continuing to initiate other pilot efforts, and we are confident that we will be able to duplicate the success of UYA in other models.

Thirdly, it was anticipated that the creation of ACTION would provide an effective mechanism by which the merged programs would be strengthened. *This has happened.*

We have established ACTION-wide program offices in most states. These offices are inherently structured to be closer to the communities served, the volunteers and the projects and thereby insure the Agency and programs' responsiveness to needs of those being served. In many cases this entails assisting communities in developing applications which reflect the specific conditions and the individuality of each community and state.

New VISTA criteria have been implemented which guide the program development process so projects and volunteer activities will be goal-oriented. There is also a new priority given to the participation of locally recruited volunteers and the involvement of the target community in project planning.

The Retired Senior Volunteer Program has been strengthened through the 2-year State Developmental grants which have brought news of the program and how to apply to every corner of every state and enabled the enlistment of over 18,198 older American volunteers in over 307 programs.

Finally, it was anticipated that the creation of ACTION would help produce efficiencies through consolidation of recruitment activities and other services. *This too has happened.*

We have calculated that if recruitment were still carried on separately by Peace Corps and VISTA in FY 1974, total recruiting operations would cost about $13 million. We are currently estimating that the consolidated operation will cost only a little over $7 million, a savings of almost $6 million, or 46 percent.

I might also point out—and I am proud of this—that ACTION's recruitment effort has been especially responsive to the needs of special groups of Americans. Successful and continuing efforts have been made to encourage minority participation in ACTION service programs. Special efforts have been made, too, in recruiting our Nation's veterans, with the result that some 550 veterans have begun Peace Corps or VISTA service in the past year.

ACTION LEGISLATION

Mr. Chairman, we are a unified Agency in which many programs work together and thousands of people serve together. We have achieved this coordination in spite of having to operate under several different authorities. As an example, our total fiscal year 1974 budget request of $92.4 million for ACTION's domestic volunteer programs is based on *three separate* enabling statutes. This situation results in inefficiency and administrative confusion leading to red tape and waste. In the interest of the programs and the volunteers, the situation should, and can, be corrected now.

Prompt enactment of organic legislation for ACTION did not appear until recently to be a possibility for which we should plan. Therefore, with some of our present authorities expiring, as in the case of the Older Americans Act and VISTA, the Agency transmitted to the Congress legislation which would provide permanent authority in one bill for ACTION domestic programs under their respective statutes. The Administration proposal was introduced in the Senate as S. 1338.

However, it now appears that the Congress is rapidly developing an organic "ACTION bill." Only last month the Senate Labor and Public Welfare Committee completed consideration of S. 1148, the Domestic Volunteer Service Act of 1973.

Mr. Chairman, we believe that the interest shown in the Senate, coupled with the subsequent introduction in the House by yourself, Mrs. Mink and Mr. Steiger of an identical measure, H.R. 7265, provides strong evidence of support for ACTION and is a commentary on the success of its programs. Among all of the issues confronting the Congress today, we are encouraged by the amount of time and concern which has been devoted to clarifying ACTION's legislative foundation.

H.R. 7265 represents a large step forward in consolidating legislation for ACTION's programs, and with certain modifications should provide a flexible framework that can respond to changing social and human problems and times as well as a framework within which we can continue to improve and expand the already significant contributions made by ACTION volunteers. We are especially grateful, Mr. Chairman, that this legislation would give ACTION authority to be more responsive in the development of new volunteer concepts and programs than is currently possible under Sec. 821 of the

Economic Opportunity Act. The language in H.R. 7265 would enable us to experiment with programs and volunteers in a broad range of human, social and environmental problems—particularly as they relate to poverty conditions. ACTION's mail is bursting with the new ideas of American communities, Mr. Chairman—ideas which seek to address problems taking a toll on the poor, but which go beyond strict definitions which have been used to distinguish poverty over the past eight years. Ideas which will serve the needs of many more people. Legislative authority along the lines embodied in H.R. 7265 will enable us to test the best of these ideas and approaches.

As you know, I assumed my duties at ACTION only a short time ago. Since that time, I have been concentrating much of my energy on reviewing the various legislative proposals for the Agency. I believe it is important for me to make this my first order of priority since legislation for ACTION this year will, in effect, become ACTION's constitution and set a course for the Agency for some time to come. I want to insure that we try to serve as many people as possible who need help, and that as many people as possible who want to serve can serve.

From what I've discovered about ACTION, I conclude that the legislation which you are now considering needs to be modified in several important areas. One aspect of the broadened authority provided by H.R. 7265 concerns me, and that is the requirement that a significant amount of the funds budgeted for developmental programs must be applied to certain categorical programs. We share enthusiasm for programs aimed at helping youthful offenders, drug abusers and veterans. We have *already* responded to *all* of these problems with a number of effective programs. In light of these efforts, I would hope you would share with me the opinion that it is unnecessary and undesirable to establish in statute the requirement that ACTION conduct particular volunteer projects with earmarked authorizations for each. Such statutory requirements would decrease the ability of the ACTION programs to be flexible and responsive as needs and resources change. In addition to this concern for categorizing the Agency's developmental authority, I am troubled by the statements of purpose for VISTA and the University Year for ACTION program, certain restrictions placed on UYA, and the sections providing authorization and availability of appropriations.

With regard to the purpose of both VISTA and UYA, we would encourage this Committee's consideration of a broadening of this purpose and thereby expanding the responsibility of the VISTA and UYA volunteers. Such authority would give a renewed boost to the goals of these programs and enable the volunteers to serve more communities, more projects, more people in need. Currently, and as proposed in H.R. 7265, the legal authority binds us to a strict dollar figure—I'm referring to the OEO poverty guideline—in determining whom VISTA and UYA volunteers can serve and whom they must turn away.

Let me give you a few examples of how this authority has served to work against persons whom you might say are near-poor rather than poor and who have needs related or identical to persons the OEO guideline officially defines as poor. In the Seattle area, for example, VISTA volunteers were requested to work with the local Boys Club to help provide a healthy environment for counterculture boys to alter their drift into self-destructive isolation. However, there was no guarantee that the boys the volunteers would work with would now qualify as "poor," and the project was abandoned. Still another example is Kedren, which is a mental health education program in the Watts area of Los Angeles. Since the program was not directly aimed at a cause or effect of poverty, VISTA's did not participate. I could go on but I think you probably understand the two points I am trying to make—the inappropriateness of applying the OEO poverty guideline to all communities and all types of problems and the need to enlist the energies of entire communities by broadening the services of volunteers to the human, social and environmental problems which have their greatest impact on the poor but spread their blight among the near-poor as well.

The desire to move the program in this direction does not come from me or anyone else at ACTION headquarters. Rather the source of this idea is in the community—the volunteers, sponsors and field personnel working close to these problems. A final point which I cannot stress enough is that the thrust which I am endeavoring to give to these programs is not intended to deemphasize poverty. Rather we are seeking to re-examine the conditions and problems of poverty in the context of the vast scope of social and economic problems and thereby sharpen the relevance of volunteer activity.

Two other major concerns have to do with certain provisions in Part B of Title I "Service Learning Programs." The first concern is with regard to the provision which would require the Agency to terminate UYA grants in three years in most cases. This is especially unrealistic and unfair when applied to the ongoing UYA programs, some of which are already well into their second grant period. This provision, coupled with the condition that the schools must then continue a program of at least the same level for at least a year without any federal support is going to stifle severely the great enthusiasm which universities have expressed. The majority of these schools are not well-endowed. Rather, they are poor schools serving poor areas. It is these schools which would obviously be eliminated from participation in the program if a rigid three-year phase-out requirement were implemented. I wish to make it very clear that ACTION is not seeking to maintain or create a dependence of these schools on the federal treasury. Indeed, we have always emphasized planning with the goal of an increasing amount of the costs being borne by non-federal sources. Most of these schools have done this, principally through mobilizing outside resources, particularly from sponsors. However, since learning of these proposed guidelines, a number of schools have conveyed in very strong terms their concern that the 3-year phase-out is unrealistic and would have the effect of killing the program.

My second concern with regard to the Service Learning Programs is the 10 percent earmarking limitation in Section 115(a), which authorizes "Special Service-Learning Programs." This is an area which shows great promise and provides a vehicle for students in most educational settings to recommit themselves to helping their community in appropriate projects. Consequently, the restriction in statute of the proportion of funds which could be expended on service learning programs other than UYA is undesirable and unnecessarily restrictive on the future development of such programs.

Another modification which we feel is critical to enactment of this legislation is in the level of funds authorized to be appropriated for all of the programs and in the funding formula established for Title I of the Act. The amounts authorized to be appropriated are in considerable excess to the President's 1974 budget request and higher than those which can reasonably be expected to be funded or expended. With regard to the formula, in the event the Congress enacts an appropriation below the request for Title I programs, H.R. 7265 would require that all of this cut come from the new programs area. In practice, Congress, without expressly amending the appropriate sections of this bill, would be unable to exercise its will on any specific program authorized in Title I without affecting other Title I programs. Therefore, I would urge that the bill be modified to authorize "such sums as necessary" for these programs. This would give the Agency budget flexibility and maintain for the Congress final approval over program funds in the yearly appropriation process.

My last major concern regarding H.R. 7265 is with Subsection (b) of Section 505. This is an anti-impoundment provision. Inclusion of such a provision would, we believe, impede the effective management of resources as provided in the Anti-deficiency Act.

There are other modifications of a more technical nature, Mr. Chairman, but instead of using up the Subcommittee's time this morning on them, I would just like to indicate that I will continue to make my staff available to work out those changes which are mutually desirable following these proceedings.

As you may know, ACTION is about to have its second anniversary. From the vantage-point of a new Director, it is gratifying to be able to report on the progress that has been made in the two short years since the Agency was formed: progress in the growth of the volunteer programs themselves, and progress in the development of administrative systems to support those programs, and encourage creative cross-fertilization and cooperation between them. But much remains to be done. Before concluding my statement this morning, I would like to take just a few more minutes of the Committee's time to say something about the goals I hope to see ACTION achieve while I am its Director.

Before I leave ACTION, I hope to see ACTION's projects serving many more communities than they now serve, and working more broadly in every community to meet every need which volunteers can and should meet.

Before I leave ACTION, I hope to see every ACTION volunteer, and every ACTION program officer, skillfully and imaginatively drawing upon the full range of resources available in the community to achieve the purposes of the projects, and working closely with the governments and organized groups of the communities we serve to ensure close cooperation and real contribution.

Before I leave ACTION, I hope to see greatly increased participation of citizens from all walks of life in the design, and implementation of Volunteer Programs operated with ACTION's help.

And, before I leave ACTION, I hope to see new successes in ACTION's efforts to work closely with communities where new ideas about how to utilize the resource of voluntarism are being tried, refined and encouraged.

In summary, as ACTION goes ahead into its third year of growth, I expect to be working with the ACTION staff, with the sponsoring organizations, and with ACTION's thousands of volunteers—both present and newly enrolled—to design a program flexible enough to meet the full range of poverty-related problems, inventive enough to make full use of the resource of volunteers for the solution of the problems of America's communities and responsive enough to meet those needs in the ways which will be of greatest and most long-lasting assistance to the people and communities we serve.

Thank you for your attention. I will answer any questions you may have.

Mr. BEALL. Mr. President, it is interesting to note that the House of Representatives, having had the advantage of Dr. Balzano's views, has structured its legislation somewhat differently than ours. H.R. 7265 was identical to S. 1148 at the time of its introduction. I have been in touch with the chairman and ranking member of the Subcommittee on Equal Opportunities from the other body—Congressman HAWKINS of California and Congressman STEIGER of Wisconsin—and they have shared with me and my colleague from California. Mr. CRANSTON, the text of their working document. It is my understanding that this amended bill will be the basis on which the subcommittee will officially act next Thursday. I feel that many of the amendments and modifications that have been made to the bill by the House subcommittee are positive and, in fact, strengthen the bill, and I ask unanimous consent Mr. President, that the text of the modified House bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BEALL. Mr. President, one of the outstanding strengths of our National Legislature is its ability to bring together various points of view and create constructive legislation. I think most of us would agree that the legislation improves as it works its way through the complex legislative procedure in our bicameral Congress, and I believe that the Domestic Volunteer Service Act of 1973 is no exception. I think that it is vitally important for the Senate to act affirmatively on S. 1148 today in order to insure final passage of this much needed legislation at the earliest possible time. I strongly believe, Mr. President that Senate passage of S. 1148 and the approval by the House of H.R. 7265 will allow us to proceed in conference to resolve the remaining substantive issues.

EXHIBIT 1

TITLE I—NATIONAL VOLUNTEER ANTI-POVERTY PROGRAMS

PART A—VOLUNTEERS IN SERVICE TO AMERICA

STATEMENT OF PURPOSE

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and related human, social and environmental problems in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

AUTHORITY TO OPERATE VISTA

SEC. 102. The Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purposes of this part.

SEC. 103. (a) The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, may assign such volunteers to work in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this Act and the Economic Opportunity Act of 1964, as amended.

(b) The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Prior to the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer.

(c) Except as provided in subsection (d), the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Volunteers under this part shall not be assigned to duties or work in any State unless such program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned not later than thirty days after such request has been made, or at a time after such request has been made as agreed upon by such Governor or chief executive officer of the State concerned and the Director.

TERMS OF SERVICE

SEC. 104. (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and related human, social and environmental problems. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their term of service, except for authorized periods of leave.

(b) Volunteers serving under this part may be enrolled for periods not exceeding two years. Volunteers may reenroll for such periods, not exceeding two years, as the Director may determine. No volunteer shall serve for more than five years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 5(j) of the Peace Corps Act, as amended (22 U.S.C. 2504(j)): *Provided*, That persons legally residing within a State but who are not citizens of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the services of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service.

SUPPORT SERVICES

SEC. 105. (a) (1) The Director may provide a stipend to volunteers under this part while they are in training and during their assignment. Such stipend shall not exceed $50 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a term of service; except that in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b) The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the people of the communities to be served by volunteers under this title shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

PARTICIPATION OF OLDER PERSONS

SEC. 107. In carrying out this part and part C of this title, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the povrety group, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

PART B—SERVICE-LEARNING PROGRAMS

STATEMENT OF PURPOSE

SEC. 111. This part provides for the University Year for Action (UYA) program of full-time volunteer service by students enrolled in institutions of higher learning, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty and related human, social, and environmental problems by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their term of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time, self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service learning by secondary and post-secondary school students to strengthen and supplement efforts to eliminate poverty and related human, social, and environmental needs.

AUTHORITY TO OPERATE UNIVERSITY YEAR FOR ACTION

SEC. 112. Except as otherwise provided in this part, the Director may conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of subsections (d) of sections 103 and 104, and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

SPECIAL CONDITIONS

SEC. 113. (a) Volunteers serving under this program shall be enrolled for one-year periods of service and may receive academic credit for such service in accordance with the regulations of the sponsoring institution.

(b) Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institution in order to assist in meeting the needs of such poor persons.

(c)(1) In making grants or contracts for the administration of this program, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director in consultation with the institution may determine for no more than four additional years. Each such grant or contract shall stipulate that the institution will make every effort to assume an increasing proportion of the cost of continuing a program carrying out the purposes of this part while the institution receives support under this part or Title VIII of the Economic Opportunity Act of 1964, as amended, or both.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of the Department of Health, Education, and Welfare of the extent of each such institution's compliance.

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 114. (a) Of the funds appropriated for the operation of programs under this part, up to 10 per centum may be used, notwithstanding any other provision of this part, to encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in- or out-of-school basis in assignment of a character and on such terms and conditions as described in subsections (a) and (c) of section 103.

(b) Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

(c) Persons serving as volunteers under this section shall receive no living allowance or stipend and only such other support or allowances as the Director determines, pursuant to regulations which he shall prescribe, are required because of unsual or special circumstances affecting the program.

PART C—SPECIAL VOLUNTEER PROGRAMS

STATEMENT OF PURPOSE

SEC. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of projects such as but not limited to—

(1) a program to provide alternatives to the incarceration of youthful offenders;

(2) a program to promote educational opportunities for veterans;

(3) a program to provide community-based peer group outreach and counseling for drug users.

The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

AUTHORITY TO ESTABLISH PROGRAMS

SEC. 122. (a) The Director is authorized to conduct or make grants or contracts for special volunteer programs or demonstration programs designed to stimulate and initiate improved methods of providing volunteer services and to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part or to identify particular segments of the poverty community which could benefit from volunteer and other anti-poverty efforts.

Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as full-time volunteers in a program of at least one year's duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this title, as he determines are necessary to carry out the purpose of this part.

TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

PART A—RETIRED SENIOR VOLUNTEER PROGRAM

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 201. (a) In order to help retired persons to avail themselves of opportunities for voluntary service in their community, the Director is authorized to make grants to State agencies (established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with such regulations as he may prescribe, that—

(1) volunteers shall not be compensated for other than transportation, meals, and other out-of-pocket expenses incident to their services;

(2) only individuals aged sixy or over will provide services in the program (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (a) on publicly owned and operated facilities or projects, or (b) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating; and provides for the payment of the reasonable expenses of trainees;

(4) the program is being established and will be carried out with the advice of persons competent in the field of service being staffed, and of persons with interest in and knowledge of the needs of older persons; and

(b) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

(c) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older American Act of 1965, as amended such agency itself is the recipient of the award or such agency has been afforded not less than sixty days in which to review the project application and make recommendations thereon.

(d) Notwithstanding any other provision of law, no compensation provided to individual volunteers under this part shall be considered income for any purpose whatsoever.

PART B—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

GRANTS AND CONTRACTS FOR VOLUNTEER PROJECTS

SEC. 211. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects designed to provide opportunities for low-income persons aged sixty or over to render supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services as "Foster Grandparents" to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs.

(b) The Director is also authorized to make grants or contracts to carry out the purposes described in subsection (a) in the case of persons (other than children) having exceptional needs, including services as "senior health aides" to work with persons receiving home health care and nursing care, and as "senior companions" to persons having developmental disabilities.

(c) Payments under this part pursuant to a grant or contract may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Commissioner may determine.

(d) Notwithstanding any other provision of law, no compensation provided to individual volunteers under this part shall be considered income for any purpose whatsoever.

CONDITIONS OF GRANTS AND CONTRACTS

SEC. 212. (a) (1) In administering this part, the Director shall assume that volunteers receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency (established or designated under section 304 (a) (1) of the Older Americans Act of 1965, as amended (a) (1)) is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurance that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which subparagraph (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurance that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 304(a) (1) of the Older Americans Act of 1965, as amended (a) (1)), such agency has had not less than 45 days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section, means a community action agency established under title II of the Economic Opportunity Act of 1964 as amended.

PART C—GENERAL PROVISIONS

COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 221. In administering this title, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs and shall promote the coordination of projects under this part with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this title.

MINORITY GROUP PARTICIPATION

SEC. 222. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

TITLE III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTARY SERVICE BY BUSINESSMEN

STATEMENT OF PURPOSE

SEC. 301. This title provides for programs in which businessmen volunteer to assist persons, especially the economically disadvantaged, who are engaged in, or seek to engage in, small business enterprises, and make available their expertise, as volunteers to agencies carrying out programs authorized by, or of a character eligible for assistance under, this act or the Economic Opportunity Act of 1964 (particularly Title VII thereof).

AUTHORITY TO ESTABLISH AND OPERATE PROGRAMS

SEC. 302. (a) The Director is authorized to establish and conduct, and to make grants or enter into contracts for the conduct of volunteer programs to carry out the purposes of this title, including a Service Corps of Retired Executives (SCORE) and an Active Corps of Executives (ACE), provided, however, that the services of volunteers who are assisting persons or enterprises seeking to obtain, or receiving financial assistance from the Small Business Administration shall be performed under the supervision of the Administrator of the Small Business Administration (hereinafter referred to in this title as the "Administrator").

(b) The assignment of volunteers enrolled in programs under this Title shall be on such terms and conditions with the Administrator before establishing the terms and conditions of service of volunteers who assist persons or enterprises seeking to obtain, or receiving financial assistance from the Small Business Administration.

(c) Volunteers under this Title, while engaged in authorized activities shall be considered Federal employees for the purposes Title 28, United States Code.

(d) The Director is authorized to reimburse volunteers under this title only for such necessary out-of-pocket expenses incident to their provision of services under this Act as he shall by regulation determine, and, while they are away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by Section 5703 of Title 5, United States Code for individuals serving without pay.

(e) Volunteers authorized by this title shall in no event provide services to a client of the Administration with a delinquent loan outstanding, except upon a written request for such assistance signed by the client.

AUTHORITY TO USE SMALL BUSINESS ADMINISTRATION FACILITIES

SEC. 303. The Administrator shall permit volunteers under this title, or volunteer groups, such use of the office facilities and related materials and services of the Small Business Administration as he, after consultation with the Director, deems appropriate to carry out their tasks, including authorized meetings of groups of volunteers.

RELATIONSHIP TO SMALL BUSINESS ACT

SEC. 304. To the extent that programs authorized by this Title are also authorized by Section 8(b) of the Small Business Act, (15 U.S.C. 637(b) (1), they shall be carried out under this title.

TITLE IV—ADMINISTRATION AND COORDINATION

ESTABLISHMENT OF AGENCY

SEC. 401. There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such Agency four Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. Each such Associate Director shall perform such functions as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director primarily responsible for programs carried out under parts A and B of title I of this Act and one Deputy Associate Director primarily rseponsible for programs carried out under title II of this Act, who shall be appointed by the Director.

AUTHORITY OF THE DIRECTOR

SEC. 402. An addition to the authority conferred upon him by other sections of this Act, the Director is authorized to—

(1) appoint in accordance with the civil service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and, except as otherwise provided herein, fix the compensation of such personnel in accordance with the provisions of title 5, United States Code;

(2) (A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS-18 employee under section 5332 of such title, including traveltime; (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and (D) contracts for such employment under this clause may be renewed annually;

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act and, as necessary or appropriate, delegate any of his powers under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) with their consent, utilize the services and facilities of Federal agencies without re-

imbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(5) accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this Act, or of any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(7) allocate and expand, or transfer to other Federal agencies for expenditure, funds made available under this Act as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10, United States Code), expenditure for construction, repairs, and capital improvements;

(8) disseminate, without regard to the provisions of section 4154 of title 39, United States Code, data and information, in such forms as he shall deem appropriate, to public agencies, private organizations, and the general public;

(9) adopt an official seal, which shall be judicially noticed;

(10) collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection;

(11) expend funds made available for purposes of this Act as follows: (A) for printing and binding, in accordance with applicable law and regulation; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this Act, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

(12) notwithstanding any other provision of law, make grants or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this Act (except for volunteers serving under part A of title I thereof), which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this Act to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein, of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and arguments with public agencies and private organizations and persons, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments); and

(15) generally perform such functions and take such steps, consistent with the purposes and provisions of this Act, as he deems necessary or appropriate to carry out the provisions of this Act.

POLITICAL ACTIVITIES

Sec. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971 (Public Law 92–225), and the term "Federal office" has the same meaning given such term by section 301(c) of such Act.

Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for not more than 30 days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

SPECIAL LIMITATIONS

Sec. 404 (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible cost consistent with the effective operations of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organizations or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who wish to become volunteers as he determines will further the purposes of this Act.

(f) Notwithstanding any other provision of law and except as provided in the second sentence of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out programs under this Act only to persons appointed or employed pursuant to clause (1) of section 402, and persons assigned or delegated such substantial responsibilities on the effective date of this Act and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5, United States Code, on such date shall, by operation of law on such date, be assigned a grade level pursuant to such provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date.

The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons whom he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after the effective date of this Act.

(g) Notwithstanding any other provision of law except as may be proivded expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any other governmental program.

NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

Sec. 405. (a) There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of not more than 25 members appointed by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.). The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after establishment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council, shall be entitled to receive compensation and travel expenses as provided in section 402(b) of this Act with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this Act and the Peace Corps Act and make recommendations (including such proposals for changes in such Act as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of such Acts.

(c) Not later than the date of enactment of this Act of each calendar year beginning with the calendar year 1974, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President of the Congress together with his comments and recommendations.

LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan No. 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133–133z-15), and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276c).

REPORTS

SEC. 407. Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal to the Congress a full and complete report on the activities of the ACTION Agency during such year.

JOINT FUNDING

SEC. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

PROHIBITION OF FEDERAL CONTROL

SEC. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

COORDINATION WITH OTHER PROGRAMS

SEC. 410. The Director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pusuant to this Act.

PROHIBITION

SEC. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this Act, no funds appropriated to carry out this Act shall be used o establish any new department or office when the intended function is being performed by an existing department or office.

APPEALS, NOTICE, AND HEARING PROCEDURES

SEC. 412. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this Act be denied, unless the recipient has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

DURATION OF PROGRAM

SEC. 413. The Director shall carry out the programs provided for in this Act during the fiscal year ending June 30, 1974, and the three succeeding fiscal years. For each such fiscal year, only such sums may be appropriated as the Congress may authorize by law.

DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

SEC. 414. The Director shall adopt appropriate administrative measures to assure that the benefits of this Act will be distributed equitably between residents of rural and urban areas.

APPLICATION OF FEDERAL LAW

SEC. 415. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, vounteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal offices and employees and Federal employment.

SEC. 416(b). Individuals serving in programs authorized by Parts A and B of Title I of this Act, and individuals enrolled for a period of at least one year and serving as full-time volunteers in programs authorized by Part C of Title I of this Act shall, with respect to such service, including training, (1) be deemed, for the purposes of subchapter III of Chapter 73 of Title 5, United States Code, persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq) and Title II of the Social Security Act (42 U.S.C. 401 et seq) be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of Title 28, United States Code, be considered employees of the United States and (4) for purposes of subchapter I of Chapter 81 of Title 5 of the United States Code (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in Section 8101 of Title 5, United States Code, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS-7 employee, and sections 8113(a) and (b) of Title 5, United States Code, shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

(c) Any period of service of a volunteer under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program of at least one year's duration established under parts B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946, and every other Act establishing or governing terms and conditions of service of service of civilian employees of the United States Government: *Provided,* That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Volunteers serving pursuant to part A of title I of this Act, and volunteers serving pursuant to title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their term of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order No. 11103 (April 10, 1963).

(e) Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one years' duration under part A, B, or C of title I of this Act.

EVALUATION

SEC. 416. (a) The Director shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

The Director shall develop and publish general standards for evaluation of the program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluations carried out under this section.

(c) In carrying out evaluations under this title, the Director shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriated therefor) shall be reduced accordingly.

NONDISCRIMINATION

SEC. 417. (a) The Director shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, color, national origin, sex, age, physical disability, or political affiliation.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Director shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

LEGAL EXPENSES

SEC. 418. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers serving under this Act have been made parties.

GUIDELINES

SEC. 419. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register and submitted to the appropriate committees of the Congress at least thirty days prior to their effective date.

DEFINITIONS

SEC. 420. For the purposes of this Act—

(1) the term "Director" means the Director of the ACTION agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and American Samoa;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92-424 (42 U.S.C. ——): *Provided*, "in determining who is 'poor' or 'low-income' the Director shall take into consideration existing poverty guidelines as appropriate to local situations."

TITLE V—AUTHORIZATION OF APPROPRIATIONS

NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SEC. 501. There are authorized to be appropriated $37,600,000 for the fiscal year ending June 30, 1974, and such sums as may be necessary for the fiscal years ending June 30, 1975, and June 30, 1976, for the purpose of carrying out title I of this Act: *Providing*, that not less than $22.3 million be expended on programs authorized under part A of title I in each such fiscal year.

Any sums authorized to be appropriated for title I of this Act in excess of $37,600,000 shall be reflected in a commensurate increase in the sums to be made available for part A of that title.

NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

SEC. 502. (a) There are authorized to be appropriated, for grants or contracts under section 201 of this Act, $17,500,000 for the fiscal year ending June 30, 1974, and $20,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively.

(b) (1) There are authorized to be appropriated for grants or contracts under subsections (a) and (b) of section 211, $32,500,000 for the fiscal year ending June 30, 1974, and $40,000,000 for the fiscal year ending June 30, 1975, and June 30, 1976, respectively, of which

(A) $26,500,000 for the fiscal year ending June 30, 1974, and $32,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (a) of section 211, and

(B) $6,000,000 for the fiscal year ending June 30, 1974, and $8,000,000 for the fiscal years ending June 30, 1975, and June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection for fiscal years beginning after June 30, 1974, are not appropriated and made available for each such fiscal year, then such sums as are so appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $31,000,000 for the fiscal year ending June 30, 1974, and $33,000,000 for the fiscal years ending June 30, 1975 and 1976, respectively, shall be used for grants or contracts for such fiscal years under subsection (a) of such section.

NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTARY SERVICE BY SMALL BUSINESS PROPRIETORS

SEC. 503. There are authorized to be appropriated "$208,000 for the fiscal year ending June 30, 1974, and such sums as shall be necessary for the fiscal years ending June 30, 1975, and June 30, 1976, for" the purpose of carrying out programs under title III of this Act.

ADMINISTRATON

SEC. 504. (a) There are authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, respectively, for the administration of this Act as authorized in title IV of such Act.

AVAILABILITY OF APPROPRIATIONS

SEC. 505. (a) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

(b) There shall be no limitation on the use of funds appropriated to carry out any program under this Act other than limitations imposed by or pursuant to the provisions of this Act; nor shall any funds appropriated to carry out any program under this Act be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified or provided in this Act.

TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

SUPERSESSION OF REORGANIZATION PLAN NUMBERED 1 OF JULY 1, 1971

SEC. 601. (a) Sections 1, 2(a), and 3 of Reorganization Plan Numbered 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 3 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of on-going activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991-2994d) on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

CREDITABLE SERVICE FOR SERVICE RETIREMENT

SEC. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and "or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (—U.S.C.—)" after "Economic Opportunity Act of 1964."

REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

SEC. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991-2994d), is hereby repealed.

REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

SEC. 604. Title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3044-3044e), is hereby repealed.

Mr. CRANSTON. Mr. President, I thank the Senator from Maryland for his good work on this legislation, and for his good words today. It has been a great pleasure to work with him, and his able staff assistant, Dave Rust, on the bill. The cooperative relationship that we have had, together with other Senators and their staff, had contributed a great deal to the fact that we have been able to come up with such a very fine bill today.

I believe we are ready to vote.

Mr. TUNNEY. Mr. President, I am pleased to join my colleague from California (Mr. CRANSTON) as a cosponsor of S. 1148, the proposed "Domestic Volunteer Service Act of 1973."

As a member of the Special Committee on Aging, I am particularly pleased with the provisions of the bill relating to older Americans. During the 92d Congress—on August 17, 1972—I introduced S. 3926, the proposed "National Senior Service to the Committee on Labor and Public Corps Act of 1972," which was referred to Welfare. I have worked with Senator CRANSTON, the author of S. 1148, to insure that the programs which my bill proposed would be carried out under the authorities of the legislation we have before us today.

Section 107 of S. 1148 as reported—Participation of Older Persons—requires the Director of the ACTION Agency to take necessary steps, including the development of special projects where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the VISTA program and in the new part C—special volunteer programs—which S. 1148 authorizes. My bill would have established a separate, new National Senior Service Corps modeled on the VISTA program, which would have included participation by people of all ages. I feel, however, that the retention of and the emphasis on the older persons participation directive—which originated in the Economic Opportunity Act—in the new VISTA authorities provided for in S. 1148, coupled with the expansion of that directive to the new part C programs, effectively accomplishes what I had envisioned in the introduction of my bill last year.

I want to thank Senator CRANSTON for including this provision carrying out the concept of my bill in S. 1148, and join him in urging prompt passage of this measure.

The PRESIDING OFFICER. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 1148

An act to provide for operation of all domestic volunteer service programs by the ACTION Agency, to establish certain new such programs, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Domestic Volunteer Service Act of 1973":

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TITLE I—NATIONAL VOLUNTEER ANTI-POVERTY PROGRAMS

PART A—VOLUNTEERS IN SERVICE TO AMERICA

STATEMENT OF PURPOSE

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate poverty in the United States by encouraging and enabling persons from all walks of life and all age groups, including elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems.

AUTHORITY TO OPERATE VISTA

SEC. 102. The Director shall recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purposes of this part.

ASSIGNMENT OF VOLUNTEERS

SEC. 103. (a) The Director, upon request of Federal, State, or local agencies, or private nonprofit organizations, shall assign such volunteers to work in the several States in appropriate projects and programs—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps, under the supervision of nonprofit institutions or facilities; and

(3) in connection with programs or activities authorized, supported, or of a character eligible for assistance under the Economic Opportunity Act of 1964, as amended.

(b) The Director, wherever feasible and appropriate, shall assign low-income community volunteers to serve in their home communities in teams with nationally recruited specialist volunteers. Prior to the assignment of any such community volunteer, the Director shall insure that each such volunteer is provided an individual plan designed to provide an opportunity for job advancement or for transition to a situation leading to gainful employment. One hundred and twenty days prior to the completion of such community volunteer's term of service, the Director shall insure that such plan is updated and reviewed with the volunteer.

(c) Except as provided in subsection (d), the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(d) Volunteers under this part shall not be assigned to duties or work in any State unless such program has been submitted to the Governor or other chief executive officer of the State concerned, and has not been disapproved by him within forty-five days of such submission. The assignment of a volunteer shall be terminated by the Director when so requested by the Governor or chief executive officer of the State concerned not later than thirty days after such request has been made, or at a time after such request has been made as agreed upon by such Governor or chief executive officer of the State concerned and the Director.

TERMS OF SERVICE

SEC. 104. (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty. To the maximum extent practicable, this shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b) Volunteers serving under this part shall be enrolled for two-year periods of service, including or excluding periods of time devoted to training as the Director may determine, except that volunteers serving under this part may be enrolled for periods of service of no less than one year when the Director determines, on an individual basis, that a period of service of less than two years is necessary to meet a critical scarce-skill need. Volunteers serving under this part may reenroll for no more than one two-year period of service. No volunteer shall serve for more than five years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed in section 5(j) of the Peace Corps Act, as amended (22 U.S.C. 2504(j): *Provided*, That persons legally residing within a State but who are not citizens of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter information regarding such procedure and the terms and conditions of their service.

SUPPORT SERVICES

SEC. 105. (a) (1) The Director shall provide a stipend to volunteers under this part while they are in training and during their assignments. Such stipend shall not exceed $50 per month during the volunteer's service, except that the Director may provide a stipend not to exceed $75 per month in the case of persons who have served for at least one year and who, in accordance with standards established in regulations which the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(2) Stipends shall be payable only upon completion of a period of service; except that in extraordinary circumstances the Director may from time to time advance all or a portion of the accrued stipend to or on behalf of a volunteer. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b) The Director shall also provide volunteers such living, travel (including travel to and from places of training), and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, technical assistance, and such other support as he deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the poor of the communities to be served by volunteers under this part, under part B, and under any other provision of this title in programs serving the poor, shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the poor served by such agencies shall take all necessary steps to establish, in regulations he shall prescribe, a continuing mechanism for the meaningful participation of such program beneficiaries.

PARTICIPATION OF OLDER PERSONS

SEC. 107. In carrying out this part and part C of this title, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of older persons and older persons membership groups as volunteers and participant agencies in the various programs and activities authorized under such parts and, because of the high proportion of older persons within the poverty population, shall encourage the development of a variety of volunteer services to older persons, including special projects, to assure that such persons are served in proportion to their need.

PART B—SERVICE-LEARNING PROGRAMS

STATEMENT OF PURPOSE

SEC. 111. This part provides for the University Year for Action (UYA) program of full-time volunteer service by students enrolled in institutions of higher learning, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to eliminate poverty by enabling students at such cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of such students' course work during their periods of service while attending such institutions, in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. Its purpose further is to encourage other students and faculty members to engage, on a part-time, self-supporting basis, in such volunteer service and work along with volunteers serving under this part; and to promote participation by such institutions in meeting the needs of the poor in the surrounding community through expansion of service-learning programs and otherwise. Its purpose further is to provide for a program of part-time or short-term service learning by secondary and post-secondary school students to strengthen and supplement efforts to eliminate poverty.

AUTHORITY TO OPERATE UNIVERSITY YEAR FOR ACTION

SEC. 112. Except as otherwise provided in this part, the Director shall conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of subsections (b) and (d) of section 103 and subsection (d) of section 104, and except that the Director may, in accordance with regulations he shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

PRIORITIES

SEC. 113. In carrying out programs under this part, the Director shall insure that priority shall be given—

(1) to the enrollment of persons who have successfully completed their service as low-income community volunteers under part A of this title or under part A of title VIII of the Economic Opportunity Act of 1964, as amended, to military veterans (as defined in section 101 of title 38, United States Code), and to low-income persons;

(2) to arrangements with institutions agreeing to waive tuition for participants in such program, where such waiver is not prohibited by law; and

(3) to arrangements with institutions at which students and faculty, on a self-supporting basis, have carried out necessary and appropriate planning for such programs.

SPECIAL CONDITIONS

SEC. 114. (a) Volunteers serving under this part shall be enrolled for one-year periods of service and may receive academic credit for such service in accordance with the regulations of the sponsoring institution.

(b) Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

(c) (1) In making grants or contracts for the administration of programs under this part, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 80 per centum of the total direct cost (including planning costs) of such program. Each such grant or contract shall require a commitment from the institution to assume the full cost of continuing a program (including the provision of any stipends, allowances, or other support to participating students), of at least the same size for at least one year, carrying out the purposes of this part after such institution has received support for three years, except that the Director may provide assistance for up to an additional two years in exceptional circumstances, under this part or title VIII of the Economic Opportunity Act of 1964, as amended, or both.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of the Department of Health, Education, and Welfare of the extent of each such institution's compliance.

SPECIAL SERVICE-LEARNING PROGRAMS

SEC. 115. (a) Of the funds appropriated for the operation of programs under this part, up to 10 per centum may be used, notwithstanding any other provision of this part, to encourage and enable students in secondary, secondary vocational, and post-secondary schools to participate in service-learning programs on an in- or out-of-school basis in assignments of a character and on such terms and conditions as described in subsections (a) and (c) of section 103.

(b) Persons serving as volunteers under this section shall not be deemed to be Federal employees for any purpose.

(c) Persons serving as volunteers under this section shall receive no living allowance or stipend and only such other support or allowances as the Director determines, pursuant to regulations which he shall prescribe, are required because of unusual or special circumstances affecting the program.

PART C—SPECIAL VOLUNTEER PROGRAMS

STATEMENT OF PURPOSE

SEC. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of human, social, and environmental needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs.

AUTHORITY TO ESTABLISH PROGRAMS

SEC. 122. (a) The Director is authorized to conduct or make grants or contracts, or both, for special volunteer programs or demonstration programs designed to stimulate and initiate improved methods of providing volunteer services, to identify particular segments of the poverty community which could benefit from volunteer and other antipoverty efforts, and to encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part.

(b) Except as provided in subsection (c) of this section, assignment of volunteers under this section shall be on such terms and conditions as the Director shall determine, pursuant to regulations which he shall prescribe.

(c) The Director, in accordance with regulations he shall prescribe, may provide to persons serving as full-time volunteers in a program of at least one year's duration under this part such allowances and stipends, to the extent and in amounts not in excess of those authorized to be provided under part A of this title, as he determines are necessary to carry out the purpose of this part.

SPECIAL EMPHASIS PROGRAM TO PROVIDE ALTERNATIVES TO THE INCARCERATION OF YOUTHFUL OFFENDERS

SEC. 123. (a) The Congress finds that the incarceration of youthful offenders under sentence and awaiting trial is often not successful in rehabilitating juvenile delinquents, generally fails to prevent juvenile crime, and is more costly than alternative approaches to corrections, and that a large proportion of adults arrested for serious crimes are individuals who society failed to rehabilitate as young offenders. It is the purpose of this section to provide for a special emphasis volunteer program to supplement and strengthen efforts to prevent delinquency through pretrial, community-based, and other alternatives to the incarceration of youthful offenders under sentence and awaiting trial.

(b) The Director, utilizing not less than 5 per centum of the funds made available pursuant to section 501 for carrying out programs under this part in each fiscal year and in consultation with the Attorney General, the Secretary of Health, Education, and Welfare, the Secretary of Labor, and appropriate State officials, shall conduct a program in furtherance of the purpose of this section under which—

(1) volunteers serving under part A, B, or C of this title, with special emphasis on the recruitment, selection, training, and assignment as volunteers to such program under this section of persons who are themselves rehabilitated criminal offenders, are assigned to a department of corrections or a parole, probation, or other social services agency in a State, county, city, or school district to support and expand existing pretrial, community-based, and other alternatives to incarceration for delinquency prevention, and to foster the creation of such alternatives to incarceration where they do not yet exist; and

(2) such volunteers, wherever possible, work in cooperation with existing Federal agency and other personnel engaged in programs similar to those authorized by this section.

SPECIAL EMPHASIS PROGRAM TO PROMOTE EDUCATIONAL OPPORTUNITIES FOR VETERANS

SEC. 124. (a) The Congress finds that fewer than one-half of the Vietnam-era veterans eligible for educational assistance benefits under the GI Bill of Rights (chapters 31 and 34 of title 38, United States Code) are taking advantage of such benefits, that only 25 per centum of such eligible veterans who have not received a high school diploma or the equivalent are taking advantage of such benefits, and that many of such veterans are unemployed or underemployed and are unaware of the economic and social opportunities available to them under such law and other laws and programs. It is the purpose of this section to provide for a special emphasis volunteer program to supplement and strengthen efforts to provide outreach, counseling and other assistance to such veterans, particularly those who are educationally disadvantaged, in enrolling such veterans in academic or vocational institutions, on-job training programs, or farm cooperative programs, and in securing gainful employment for such veterans.

(b) The Director, in consultation with the Administrator of Veterans' Affairs, the Commissioner of Education in the Office of Education, Department of Health, Education, and Welfare, and the Secretary of Labor and utilizing not less than 5 per centum of the funds made available pursuant to section 501 for carrying out programs under this part in each fiscal year, shall conduct a program in furtherance of the purpose of this section under which—

(1) volunteers enrolled under part A, B, or C of this title are assigned, with special emphasis on the recruitment, selection, training, and assignment to programs under this section as volunteers of persons who themselves are military veterans of the Vietnam era (as defined in section 101 of title 38, United States Code); and

(2) such volunteers work in cooperation with existing Veterans' Administration (including veterans carrying out student services pursuant to section 1685 of title 38, United States Code), institution of higher education, veterans' organization, or other personnel engaged in programs similar to those authorized by this section.

SPECIAL EMPHASIS PROGRAM TO PROVIDE COMMUNITY-BASED PEER GROUP COUNSELING AND OUTREACH FOR DRUG ABUSERS

SEC. 125. (a) The Congress finds that one of the most successful methods of helping persons, especially younger persons, suffering from all forms of drug addiction and abuse (including alcoholism) is to provide concerned, sympathetic peer-group members to conduct outreach, counseling and related activities in community-based drug treatment and rehabilitation programs. It is the purpose of this section to provide for a special emphasis volunteer program to supplement and strengthen drug treatment and rehabilitation efforts in communities by providing outreach, counseling, followup, and related services for persons (especially younger persons and military veterans of the Vietnam era (as defined in section 101 of title 38, United States Code)) suffering from drug addiction or drug abuse (including alcoholism).

(b) The Director, utilizing not less than 5 per centum of the funds made available pursuant to section 501 for carrying out programs under this part in each fiscal year and in consultation with the Director of the Special Action Office on Drug Abuse Prevention in the Executive Office of the President (or his successor as Federal Government program coordinator), the Director of the National Institute of Mental Health in the Department of Health, Education, and Welfare, and the Administrator of Veterans' Affairs, shall conduct a program in furtherance of the purpose of this section under which—

(1) volunteers enrolled under part A, B, or C of this title are assigned, with special emphasis on the recruitment, selection, training, and assignment as volunteers to such program under this section of persons (particularly such military veterans of the Vietnam era) who are themselves considered by competent medical authority as recovered addicts or abusers; and

(2) such volunteers, whenever possible, work in cooperation with existing Federal agency and other personnel engaged in programs similar to those authorized by this section.

TITLE II—NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS

PART A—RETIRED SENIOR VOLUNTEER PROGRAM

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 201. (a) In order to help retired persons to avail themselves of opportunities for voluntary service in their community, the Director shall make grants to State agencies (established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service programs under this section, if he determines, in accordance with regulations he shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals aged sixty or over will be enrolled as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the program includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provides for the payment of the reasonable expenses of such volunteers while undergoing such training;

(4) the program is being established and will be carried out with the advice of persons competent in the field of service involved, and of persons with interest in and knowledge of the needs of older persons; and

(5) the program is coordinated with other related Federal and State programs.

(b) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 304(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a)(1)), such agency itself is the recipient of the award or such agency has been afforded at least sixty days in which to review the project application and make recommendations thereon.

PART B—FOSTER GRANDPARENT PROGRAM AND OLDER AMERICAN COMMUNITY SERVICE PROGRAMS

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 211. (a) The Director shall make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to volunteers serving under this part) designed for the purpose of providing opportunities for low-income persons aged sixty or over to serve as volunteers to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs, including services as Foster Grandparents to children receiving care in hospitals, homes for dependent and neglected children, or other establishments providing care for children with special needs. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if he determines, in accordance with regulations he shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 611(a) of the Older Americans Act of 1965, as amended (42 U.S.C. 3044b) or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b) The Director is also authorized to make grants or contracts to carry out the purpose described in subsection (a) of this section in the case of persons (other than children) having exceptional needs, including services by volunteers serving as Senior Health Aides to work with persons receiving home health care, nursing care, or meals on wheels or other nutritional services, and as Senior Companions to persons having developmental disabilities or other special needs for companionship.

CONDITIONS OF GRANTS AND CONTRACTS

SEC. 212. (a) (1) In carrying out this part, the Director shall insure that volunteers receiving assistance in any project are older persons of low income who are no longer in the regular work force.

(2) The Director shall not award a grant or contract under this part which involves a project proposed to be carried out throughout the State or over an area more comprehensive than one community unless—

(A) the State agency established or designated under section 304(a) (1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024(a) (1)) is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project; and

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted, in consultation with, or with the participation of, such agency.

(3) The Director shall not award a grant or contract under this part which involves a project proposed to be undertaken entirely in a community served by a community action agency unless—

(A) such agency is the applicant for such grant or contract or, if not, such agency has been afforded a reasonable opportunity to apply for and receive such award and to administer or supervise the administration of the project;

(B) in cases in which such agency is not the grantee or contractor (including cases to which clause (A) applies but in which such agency has not availed itself of the opportunity to apply for and receive such award), the application contains or is supported by satisfactory assurances that the project has been developed, and will to the extent appropriate be conducted in consultation with, or with the participation of, such agency; and

(C) if such State has a State agency established or designated pursuant to section 304 (a) (1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3024 (a) (1)), such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

(b) The term "community action agency" as used in this section means a community action agency as defined in title II of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781–2837).

PART C—GENERAL PROVISIONS

COORDINATION WITH OTHER FEDERAL PROGRAMS

SEC. 221. In carrying out this title, the Director shall consult with the Office of Economic Opportunity, the Departments of Labor and Health, Education, and Welfare, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this title with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized under this title.

PAYMENTS

SEC. 222. Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

MINORITY GROUP PARTICIPATION

SEC. 223. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

TITLE III—NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY SMALL BUSINESS PROPRIETORS

AUTHORITY TO COOPERATE IN THE OPERATION OF SCORE/ACE

SEC. 301. In order to assist persons engaged or seeking to engage in small business enterprises, especially economically disadvantaged persons, the Director, pursuant to agreements with the Administrator of the Small Business Administration (hereinafter referred to as the "Administrator") which shall be published in the Federal Register, shall cooperate with the Administrator in carrying out the Service Corps of Retired Executives (SCORE) and the Active Corps of Executives (ACE) program pursuant to section 8(b) (1) of the Small Business Act, as amended (15 U.S.C. 637(b) (1)), by—

(1) conducting a national publicity and recruitment effort to encourage eligible businessmen to serve as volunteers in the SCORE/ACE program and to form SCORE chapters;

(2) providing general budgetary planning for the SCORE/ACE program and such logistical support (including office space and clerical services, and supplies when not available from the Small Business Administration), subject to the provisions of subsection (c) of section 302 of this title, to SCORE/ACE volunteers serving Small Business Administration clients as the Administrator, with the concurrence of the Director, determines are necessary and appropriate to carry out such section 8(b) (1); and

(3) expanding the application of the expertise of such SCORE/ACE volunteer business proprietors to other projects and agencies to carry out other programs authorized in this Act and the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2781–2837) (particularly title VII thereof), and budgeting and planning for and carrying out such expanded projects.

AUTHORITY TO ESTABLISH TERMS AND CONDITIONS OF ASSIGNMENTS

SEC. 302. (a) Except as provided in subsection (c) of this section, the assignment of volunteers enrolled in programs carried out pursuant to clause (3) of section 301 shall be on such terms and conditions as the Director, in consultation with the Administrator, shall determine.

(b) Such volunteers, while engaged in programs under this title or under section 8(b) (1) of the Small Business Act (15 U.S.C. 637(b) (1)), shall be considered employees of the Federal Government for the purposes of the Federal tort claims provisions in title 28, United States Code, and for the purposes of the provisions relating to compensation to Federal employees for work injuries in subchapter I of chapter 81 of title 5, United States Code.

(c) The Director is authorized to reimburse SCORE/ACE volunteers serving pursuant to agreements entered into under section 301 only for transportation, meals, telephone calls, and other out-of-pocket expenses incident to their provision of services or coordination of programs under this Act or the Small Business Act (15 U.S.C. 637(b) (1)).

(d) Notwithstanding any other provision of law, in order to exercise the authority to reimburse expenses of volunteers serving pursuant to section 8(b) (1) of the Small Business Act, as amended (15 U.S.C. 637(b) (1)), the Administrator shall delegate payment responsibility to the Director, making reimbursement to the ACTION Agency in connection with subsequent expenditures by such Agency.

(e) Volunteers serving pursuant to agreements entered into under section 301 shall in no event (1) participate on behalf of the Small Business Administration (rather than on behalf of their clients) in any screening or evaluation activities in connection with applications for loans from such Administration, or (2) provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

TITLE IV—ADMINISTRATION AND COORDINATION

ESTABLISHMENT OF AGENCY

SEC. 401. There is hereby established in the executive branch of the Government an agency to be known as the ACTION Agency. Such Agency shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level III of the Executive Schedule under section 5314 of title 5, United States Code. There shall also be in such agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Deputy Director shall perform such functions as the Director shall from time to time prescribe, and shall act as Director of the ACTION Agency during the absence or disability of the Director. There shall also be in such agency two Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United

States Code. One such Associate Director shall be designated "Associate Director for Domestic and Anti-Poverty Operations" and shall carry out operational responsibility for all programs authorized under this Act and the other such Associate Director shall be designated "Associate Director for International Operations" and shall carry out operational responsibility for all programs authorized under the Peace Corps Act (22 U.S.C. 2501 et seq.). There shall also be in such agency no more than two Assistant Directors appointed by the President, by and with the advice and consent of the Senate, who shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code. Each such Assistant Director shall perform such staff and support functions for such Associate Directors as the Director shall from time to time prescribe. There shall also be in such agency one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under parts A and B of title I of this Act and one Deputy Associate Director, under the Associate Director for Domestic and Anti-Poverty Operations, primarily responsible for programs carried out under title II of this Act, who shall be appointed by the Director.

AUTHORITY OF THE DIRECTOR

SEC. 402. In addition to the authority conferred upon him by other sections of this Act, the Director is authorized to—

(1) appoint in accordance with the Civil Service laws such personnel as may be necessary to enable the ACTION Agency to carry out its functions, and except as otherwise provided herein, fix the compensation of such personnel in accordance with chapter 51 of title 5, United States Code;

(2)(A) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that no individual may be employed under the authority of this subsection for more than 100 days in any fiscal year; (B) compensate individuals so employed at rates not in excess of the daily equivalent of the rate payable to a GS-18 employee under section 5332 of such title, including traveltime; and (C) allow such individuals, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently, while so employed; and (D) annually renew contracts for such employment under this clause;

(3) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act, and, as necessary or appropriate, delegate any of his powers under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the ACTION Agency and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the ACTION Agency and the furnishing of such information by the ACTION Agency to such other agencies;

(4) with their consent, utilize the services and facilities of Federal agencies without reimbursement, and, with the consent of any State or a political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision without reimbursement;

(5) accept in the name of the ACTION Agency, and employ or dispose of in furtherance of the purposes of this Act, or of any title thereof, any money or property, real, personal, or mixed, tangible or intangible, received by gift, device, bequest, or otherwise;

(6) accept voluntary and uncompensated services;

(7) allocate and expend, or transfer to other Federal agencies for expenditure, funds made available under this Act as he deems necessary to carry out the provisions hereof, including (without regard to the provisions of section 4774(d) of title 10, United States Code), expenditure for construction, repairs, and capital improvements;

(8) disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as he shall deem appropriate to public agencies, private organizations, and the general public;

(9) adopt an official seal, which shall be judicially noticed;

(10) collect or compromise all obligations to or held by him and all legal or equitable rights accruing to him in connection with the payment of obligations in accordance with the Federal Claims Collection Act of 1966 (31 U.S.C. 951-53);

(11) expend funds made available for purposes of this Act as follows: (A) for printing and binding, in accordance with applicable law and regulation; and (B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by him; but the Director shall not utilize the authority contained in this subclause (B)—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this Act, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form, or under the conditions in which, it is needed, and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of his intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority;

(12) notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under this Act (except for volunteers serving under part A of title I thereof), which may provide that the agency or organization shall pay all or a part of the costs of the program;

(13) provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this Act to (A) encourage them to use in the national interest the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (B) promote the development, and the placement therein of such volunteers, of appropriate opportunities for the use of such skills and experience;

(14) establish such policies, standards, criteria, and procedures, prescribe such rules and regulations, enter into such contracts and agreements with public agencies and private organizations and persons, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of grants otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments); and

(15) generally perform such functions and take such steps, consistent with the purposes and provisions of this Act, as he deems necessary or appropriate to carry out the provisions of this Act.

POLITICAL ACTIVITIES

SEC. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the ACTION Agency, shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the ACTION Agency, who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 301(a) of the Federal Election Campaign Act of 1971 (Public Law 92-225), and the term "Federal office" has the same meaning given such term by section 301(c) of such Act.

(b) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. The Director, after consultation with the Civil Service Commission, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than 30 days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

SPECIAL LIMITATIONS

SEC. 404. (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible cost consistent with the effective operation of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any volunteer program hereunder, shall request or receive any compensation for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or antilabor organization or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who wish to become volunteers as he determines will further the purposes of this Act.

(f) Notwithstanding any other provision of law and except as provided in the second and third sentences of this subsection, the Director shall assign or delegate any substantial responsibility for carrying out functions under this Act only to persons appointed or employed pursuant to clauses (1) and (2) of section 402, and persons assigned or delegated such substantial responsibilities on the effective date of this Act and who are receiving compensation in accordance with provisions of law other than the applicable provisions of title 5, United States Code, on such date shall, by operation of law on such date, be assigned a grade level pursuant to such latter provisions so as to fix the compensation of such persons under such authority at no less than their compensation rate on the day preceding such date. Notwithstanding any other provisions of law, in order to achieve the appointment of personnel pursuant to clause (1) of section 402 and title 5, United States Code, as directed by the first sentence of this subsection, the number of positions authorized by section 5108(a) of title 5, United States Code, and assigned to the ACTION Agency, is increased by a number equal to the number of persons whose level of compensation on the day prior to the effective date of this Act requires their assignment to such positions. The Director may personally make exceptions to the requirement set forth in the first sentence of this subsection for persons he finds will be assigned to carrying out functions under the Peace Corps Act (22 U.S.C. 2501 et seq.) within six months after the effective date of this Act. This subsection shall not apply in the case of persons carrying out administrative functions in support of other than program-related activities described in section 504.

(g) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any other governmental program.

NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

SEC. 405. (a) There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the "Council") to be composed of 25 members appointed, not later than sixty days after the date of the enactment of this Act, by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups, and individuals interested in serving and benefited by programs carried out under this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.), including, in approximately equal numbers, representatives of beneficiaries of programs established under this Act, nations hosting Peace Corps volunteers, present and former volunteers, and national coalitions representing such groups. The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after appointment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson, but not less than four times in each year. Members of the Council, other than those regularly employed by the Federal Government, while attending meetings of such Council, shall be entitled to receive compensation and travel expenses as provided in section 402(2) of this Act with respect to experts and consultants. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

(b) The Council shall—

(1) advise the Director with respect to policy matters arising in the administration of this Act and the Peace Corps Act (22 U.S.C. 2501 et seq.); and

(2) upon the request of the Director, review the effectiveness and the operation of programs under this Act and the Peace Corps Act and make recommendations (including such proposals for changes in such Acts as the Council deems appropriate) concerning (A) the improvements of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of such Acts.

(c) Not later than March 31 of each calendar year beginning with the calendar year 1974, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President, within thirty days of the receipt thereof, to the Congress together with his comments and recommendations.

LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, ch. 482, as amended; 40 U.S.C. 276c).

REPORTS

SEC. 407. Not later than one hundred and twenty days after the end of each fiscal year, the Director shall prepare and submit to the President for transmittal by the President, within thirty days of the receipt thereof, a full and complete report to the Congress on the activities of the ACTION Agency during such year.

JOINT FUNDING

SEC. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the ACTION Agency, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

PROHIBITION OF FEDERAL CONTROL

SEC. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

COORDINATION WITH OTHER PROGRAMS

SEC. 410. The Director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing a connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this Act.

PROHIBITION

SEC. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this Act, no funds appropriated to carry out this Act shall be used to establish any new department or office when the intended function is being performed by an existing department or office.

APPEALS, NOTICE, AND HEARING PROCEDURES

SEC. 412. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days, nor shall an application for refunding under this Act be denied, unless the recipient has been given reasonable notice and opportunity to show cause publicly why such action should not be taken; and

(2) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

DURATION OF PROGRAM

SEC. 413. The Director shall carry out the programs provided for in this Act during the fiscal year ending June 30, 1974, and the three succeeding fiscal years. For each such fiscal year, only such sums may be appropriated as the Congress may authorize by law.

DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

SEC. 414. The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this Act will be distributed equitably between residents of rural and urban areas.

ADVANCE FUNDING

SEC. 415. For the purpose of affording adequate notice of funding available under this Act, appropriations for grants, contracts, or other payments under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

APPLICATION OF FEDERAL LAW

SEC. 416. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

(b) Individuals serving in programs authorized by parts A and B of title I of this Act, and individuals serving in programs authorized by part B or C of title I of this Act who are enrolled as full-time volunteers in a program established as a program of at least one year's duration, shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of title 5, United States Code, be deemed persons employed in the executive branch of the Federal Government, and (2) for the purposes of the Internal Revenue Code of 1954 26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer, trainee, or volunteer leader shall be deemed to be performed in the employ of the United States, and (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be deemed employees of the United States, except that for the purposes of computation, the monthly pay of a volunteer serving for one year or less shall be deemed to be that received under the entrance salary of GS–7 under section 5332 of such title.

(c) Any period of service of a volunteer under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program of at least one year's duration established under part B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Civil Service Commission, the Foreign Service Act of 1946, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial period or completion of any service requirement for career appointment.

(d) Volunteers serving pursuant to part A of title I of this Act, and volunteers serving pursuant to title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations he shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of title I of this Act.

EVALUATION

SEC. 417. (a) The Director shall periodically measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) Before funds are released or assistance is provided for the programs and projects covered by this Act after January 1, 1974, the Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluations carried out under this section.

(c) In carrying out evaluations under this title, the Diretcor shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

NONDISCRIMINATION

SEC. 418. (a) The Director shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any such program because of race, creed, color, national origin, sex, age, physical or mental disability, political affiliation, or belief.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Director shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1). Section 603 of such Act shall apply with respect to any action taken by the Director to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

ELIGIBILITY FOR OTHER BENEFITS

SEC. 419. Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to titles II and III of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after the effective date of this Act.

LEGAL EXPENSES

SEC. 420. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this Act or section 8(b)(1) of the Small Business Act, as amended (15 U.S.C. 637(b)(1))) serving under this Act have been made parties.

GUIDELINES

SEC. 421. All rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this Act shall be published in the Federal Register and submitted to the appropriate committee of the Congress at least thirty days prior to their effective date.

DEFINITIONS

SEC. 422. For the purposes of this Act—

(1) the term "Director" means the Director of the ACTION agency;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, territories of the United States, the Virgin Islands, Puerto Rico, Guam, and American Samoa and, for the purposes of title II of this Act, the Trust Territory of the Pacific Islands;

(3) the term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(4) the term "poor" or "low-income" persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92–424 (42 U.S.C. 2971d).

AUDIT OF THE COMPTROLLER GENERAL

SEC. 423. (a) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Director shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, loans or other arrangements referred to in subsection (a).

TITLE V—AUTHORIZATION OF APPROPRIATIONS

NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

SEC. 501. (a) There are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, $61,000,000 for the fiscal year ending June 30, 1975, and $76,000,000 for the fiscal year ending June 30, 1976, respectively to be used for the purpose of carrying out title I of this Act of which (1) the amount of $30,000,000 for the fiscal year ending June 30, 1974, $35,000,000 for the fiscal year ending June 30, 1975, and $45,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for carrying out full-time volunteer programs designed to strengthen and supplement efforts to eliminate poverty under part A of such title; (2) the amount of $12,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for carrying out programs designed to strengthen and supplement efforts to eliminate poverty under part B of such title; and (3) the amount of $8,000,000 for the fiscal year ending June 30, 1974, and the amount of $11,000,000 for the two succeeding fiscal years shall be available for carrying out programs under part C of such title: *Provided*, That not less than 12 per centum of the sums appropriated for carrying out programs under such part C shall be used for carrying out programs, on a cost-reimbursable basis, authorized by part A of such title.

(b) If the sums authorized to be appropriated under subsection (a) of this section are not appropriated and made available in full, then such sums as are so appropriated and made available for such fiscal year shall be allocated so that (1) any amounts appropriated not in excess of $22,300,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $26,000,000 for the fiscal year ending June 30, 1976, respectively, shall be used for carrying out programs designed to strengthen and supplement efforts to eliminate poverty under part A of such title; (2) any amounts appropriated in excess of $22,300,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $26,000,000 for the fiscal year ending June 30, 1976, respectively, but not in excess of $29,600,000, $33,500,000, and $34,500,000 for each such fiscal year, respectively, shall be used for programs designed to strengthen and supplement efforts to eliminate poverty under part B of such title; (3) any amounts appropriated in excess of $29,600,000 for the fiscal year ending June 30, 1974, $33,500,000 for the fiscal year ending June 30, 1975, and $34,500,000 for the fiscal year ending June 30, 1976, respectively, but not in excess of $37,600,000, $44,500,000 and $45,500,000 for each such fiscal year, respectively, shall be used for carrying out programs under part C of such title; and (4) any amounts appropriated in excess of $37,600,000 for the fiscal year ending June 30, 1974, $43,500,000 for the fiscal year ending June 30, 1975, and $44,500,000 for the fiscal year ending June 30, 1976, respectively, shall be apportioned for use for carrying out parts A and B, respectively, of this title for each such fiscal year in an amount for each such part bearing the same ratio to the total of such excess amount made available for each such year as the amount set aside for use for each such year under each such part in clauses (1), (2), and (3), respectively, of this subsection bears to the total of such amounts set aside for use for each such fiscal year under each such parts.

NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS

Sec. 502. (a) There are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1974, $40,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976, respectively, to be used for the purpose of carrying out programs under part A of title II of this Act.

(b) (1) There are authorized to be appropriated $52,000,000 for the fiscal year ending June 30, 1974, $63,000,000 for the fiscal year ending June 30, 1975, and $74,000,000 for the fiscal year ending June 30, 1976, respectively, for the purpose of carrying out programs under part B of such title of which (A) $45,000,000 for the fiscal year ending June 30, 1974, $55,000,000 for the fiscal year ending June 30, 1975, and $65,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (a) of section 211 of part B of such title and (B) $7,000,000 for the fiscal year ending June 30, 1974, $8,000,000 for the fiscal year ending June 30, 1975, and $9,000,000 for the fiscal year ending June 30, 1976, respectively, shall be available for such years for grants or contracts under subsection (b) of such section.

(2) If the sums authorized to be appropriated under paragraph (1) of this subsection are not appropriated and made available in full for each such fiscal year, then such sums as are appropriated and made available for each such fiscal year shall be allocated so that—

(A) any amounts appropriated not in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $25,000,000 shall be used for grants or contracts under such subsection; and

(B) any amounts appropriated in excess of a sum which when added to carryover balances otherwise available for obligation under subsection (a) of section 211 equals $32,000,000 for the fiscal year ending June 30, 1974, $33,000,000 for the fiscal year ending June 30, 1975, and $34,000,000 for the fiscal year ending June 30, 1976, respectively, shall be used for grants or contracts for such fiscal years under such subsection.

NATIONAL VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSES AND PROMOTE VOLUNTEER SERVICE BY SMALL BUSINESS PROPRIETORS

Sec. 503. There are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1974, $1,500,000 for the fiscal year ending June 30, 1975, and $2,000,000 for the fiscal year ending June 30, 1976, for the purpose of carrying out programs under title III of this Act.

ADMINISTRATION AND COORDINATION

Sec. 504. (a) There are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1974, $16,000,000 for the fiscal year ending June 30, 1975, and $17,000,000 for the fiscal year ending June 30, 1976, for the administration of this Act as authorized in title IV of such Act: Provided, That amounts expended for such purpose in any such fiscal year shall be used for salaries and expenses of persons carrying out functions under this Act only if the Director determines, in accordance with regulation he shall prescribe, that such persons are engaged in carrying out such functions for a substantial portion of their time and that such functions constitute a substantial portion of their responsibilities.

(b) The total administrative expenditures in support of other than program-related activities, including the compensation of Federal employees, incurred under the authority of this Act for any fiscal year shall not exceed the lesser of (1) 10 per centum of the total amount appropriated and made available pursuant to this title for such year, or (2) an amount which bears the same proportion to the total amount appropriated and made available for such expenditures in such year from (A) amounts appropriated and made available pursuant to this Act, (B) amounts appropriated and made available pursuant to the Peace Corps Act (22 U.S.C. 2501 et seq.), and (C) amounts appropriated and made available pursuant to any other law for which implementing responsibility is delegated or transferred to the Director in such year as the total amount appropriated and made available pursuant to this title bears to the total amount appropriated and made available pursuant to the authorizations specified in subclauses (A), (B), and (C) of this clause: *Provided*, That grants, subsidies, and contributions, and payments to individuals, other than Federal employees, shall not be counted as an administrative expenditure.

AVAILABILITY OF APPROPRIATIONS

Sec. 505. (a) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

(b) There shall be no limitation on the use of funds appropriated to carry out any program under this Act other than limitations imposed by or pursuant to the provisions of this Act; nor shall any funds appropriated to carry out any program under this Act be allotted, apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified or provided in this Act.

TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

SUPERSEDENCE OF REORGANIZATION PLAN NUMBER 1 OF JULY 1, 1971

Sec. 601. (a) Sections 1, 2(a), and 3 of Reorganization Plan Numbered 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of on-going activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, his designee, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or undergoing training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d) on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action, or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in his official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

CREDITABLE SERVICE FOR CIVIL SERVICE RETIREMENT

Sec. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and "or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (—U.S.C.—" after "Economic Opportunity Act of 1964."

REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

Sec. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), is hereby repealed.

REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

Sec. 604. (a) Title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3044–3044e), is hereby repealed.

(b) Section 908 of the Older Americans Comprehensive Services Amendments Act of 1973 (Public Law 93–29) is amended by striking out "1973," and "1974," and inserting in lieu thereof "1974," and "1975,", respectively.

Mr. JAVITS. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that S. 1148 be printed as passed by the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged against either side on any bill during the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of the unfinished business, Calendar No. 282.

There being no objection, the Senate continued with the consideration of the bill, S. 1861, to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOAN GUARANTEE PROGRAM FOR VETERANS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8949.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate a bill, H.R. 8949, to amend title 38 of the United States Code relating to basic provisions of the loan guarantee program for veterans, which was read twice by its title.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to strike all after the enacting clause of H.R. 8949 and that the text of S. 2087, as it passed the Senate earlier today, be substituted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill—H.R. 8949—was read the third time and passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move that S. 2087 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, how much time remains on the war powers bill?

The PRESIDING OFFICER. The Senator from Maine has 69 minutes remaining. The Senator from Arizona has 127 minutes remaining.

Mr. ROBERT C. BYRD. In other words, something over 2 hours was taken up on the bill today.

The PRESIDING OFFICER. Two hours and 44 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:45 a.m.

After the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) will be recognized for not to exceed 15 minutes; after which the junior Senator from New York (Mr. BUCKLEY) will be recognized for not to exceed 15 minutes.

At the hour of 10:15 a.m., a rollcall vote will occur, without debate, on the conference report on S. 504, the Emergency Medical Services Act.

Following the disposition of the conference report, the Senate will resume the consideration of the unfinished business, the fair labor standards measure, S. 1861, under a time agreement. Amendments will be offered to the bill, and yea-and-nay votes will occur during the day. Under the agreement, the vote on the final passage of S. 1861 is to occur not later than 5 p.m. tomorrow.

Upon the disposition of the unfinished business, the so-called minimum wage bill, the Senate will return to the consideration of the war powers measure, S. 440. Yea-and-nay votes may occur on amendments thereto tomorrow. It is conceivable that final passage of that bill, S. 440, could occur tomorrow.

ADJOURNMENT TO 9:45 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 6:18 p.m. the Senate adjourned until tomorrow, July 19, 1973, at 9:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 18, 1973:

DEPARTMENT OF STATE

Charles S. Whitehouse, of Virginia, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Laos.

Richard F. Pedersen, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Hungary.

Robert C. Brewster, of Nebraska, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ecuador.

Robert A. Hurwitch, of Illinois, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Dominican Republic.

Ronald I. Spiers, of Vermont, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of the Bahamas.

William N. Dale, of New Mexico, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

William Perry Stedman, Jr., of Maryland, a Foreign Service Officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bolivia.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

Hal F. Reynolds, of Virginia, to be United States Alternate Executive Director of the International Bank for Reconstruction and Development for a term of 2 years and until his successor has been appointed.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

National Oceanic and Atmospheric Administration nominations beginning Walter S. Simmons, to be commander, and ending Ronald W. Jones, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the Congressional Record on July 9, 1973.

HOUSE OF REPRESENTATIVES—*Wednesday, July 18, 1973*

The House met at 12 o'clock noon.

Rev. John H. Craven, chaplain, U.S. Navy, offered the following prayer:

To You alone, Lord, to You alone, and not to us, must glory be given, because of Your constant love and faithfulness.—Psalms 115: 1.

Uncrowd our hearts, O God, until silence speaks in Thy still small voice; turn us from the hearing of words, and the making of words, and the confusion of much speaking that we may possess ourselves for this brief moment, undistracted, and hear Your sure word of wisdom. O God, amid the perplexities and doubts which torment and divide us, open a plain path wherein we may walk with assurance and faith. Keep us compassionate of heart and strong in courage as we serve our fellow citizens of these United States to the honor and glory of Your holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6676. An act to continue until July 1, 1976, the existing suspension of duty on manganese ore; and

H.R. 6717. An act to amend section 210 of the Flood Control Act of 1968.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1423) entitled "An act to amend the Labor Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services."

PRESIDENTIAL WIRETAPPING

(Mr. WALDIE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WALDIE. Mr. Speaker, I am certain I share the concern that many share with the revelation yesterday that the President had secretly wired the White House for sound, and that all visitors to the President and all telephone conversations with the President, unbeknownst to the visitors or those who were talking to the President on the telephone, were being recorded.

My objections to that odious practice of clandestine electronic surveillance are well known and of long standing.

But, Mr. Speaker, what disturbs me most about this sordid tale is not only the practice by and of itself, but what it demonstrates must be the emotional condition of the President. A President who apparently is plagued with unreasonable fear and distrust and suspicions of his fellow Americans is a most insecure individual, and does not possess the stability of character upon which decisions can be fairly based and hopefully made for the good of this country.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make an announcement.

The Chair has again been advised that the electronic voting system is at the present time not operating. Until further notice, therefore, all votes and quorum calls will be taken by the standby procedures which are provided in the rules.

CALL OF THE HOUSE

Mr. CONABLE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 348]

Ashley
Bergland
Blackburn
Blatnik
Brasco
Burke, Calif.
Chamberlain
Clark
Collins, Ill.
Danielson
Davis, Ga.
Dickinson
Downing
Fisher
Foley
Froehlich
Gibbons
Gray
Gubser
Hébert
Hicks
Kemp
Landgrebe
McEwen
Mills
Murphy, N.Y.
Pritchard
Reid
Rooney, N.Y.
Sandman
Talcott

The SPEAKER. On this rollcall 402 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

WAR POWERS OF CONGRESS AND THE PRESIDENT

Mr. ZABLOCKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution (H.J. Res. 542) concerning the war powers of Congress and the President.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution, House Joint Resolution 542, with Mrs. GRIFFITHS in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. When the Committee rose on Monday, June 25, 1973, the Clerk had read through section 1 ending on page 1, line 5, of the joint resolution.

Mr. ZABLOCKI. Madam Chairman, I move to strike requisite number of words.

Madam Chairman, I rise to remind our colleagues that this is a historic day in Congress.

The decisions we are about to make on the exercise of the war powers may have importance for our Nation long after we are gone.

It is my hope that as many Members as possible will stay on the floor to listen to the debate and to participate as they see the need.

Our consideration of this legislation—House Joint Resolution 542—the war powers resolution of 1973—has been somewhat unusual.

The House engaged in 3 hours of debate on the resolution more than 3 weeks ago—on June 25.

Reading of the measure for amendment under the 5-minute rule was, however, postponed until today because of the press of appropriations bills and other business.

I believe that this delay has served an importan purpose.

It has permitted the Members of this body to give careful consideration to the war powers resolution of 1973, as well as to various alternatives which have been proposed.

From my own experience in working on war powers legislation during the past 3 years, I know that proposals that often look attractive at first blush, often grow pale—and undesirable—upon more careful scrutiny.

The resolution which has been reported by the Committee on Foreign Affairs stands up under scrutiny. It represents the work and best thinking of a number of Members of this body.

It is the result of more than two dozen days of hearings with testimony of many experts over a period of three Congresses.

It is the result of four arduous markup sessions in subcommittee and three more sessions in the full Committee on Foreign Affairs.

No claim is made for perfection in this legislation. At the same time, I believe that it offers a good, sensible solution to the problem of restoring the constitutionally mandated balance between Congress and the President in the area of war powers.

Therefore, I have been concerned about allegations which have been made to the effect that House Joint Resolution 542 is flawed because it would permit Congress, through inaction, to make major policy decisions.

Such an interpretation does the resolution an injustice.

The bill must be read and considered in its entirety—not simply through a narrow reading of one provision—subsection 4(b).

That provision would require that any commitment of American troops into combat by the President would be automatically terminated if Congress failed to give its positive approval within 120 days after such a commitment had been reported.

In its totality, however, inaction is a concept alien to this resolution.

If the resolution is approved, Congress would be given a much more active role in consulting with the President on important issues involving the commitment of American Armed Forces.

The Congress would be actively involved in receiving a complete and factual report from the President when he found it necessary to take certain steps delineated in the resolution.

Moreover, under the resolution's priority provisions the Congress would be actively involved in considering legislation either approving or disapproving the Presdent's action virtually from the moment such legislation would be introduced.

It takes only 1 Member out of 535 Members of the House or Senate to trigger the mechanism that requires that both bodies eventually are called upon to take an "up or down" vote.

It may be "up or down" on a resolution of approval. It may be "up or down" on a resolution of disapproval. In the case of the latter, a disapproval would be subject to a veto. Such a development would give one-third of either house the opportunity to continue the commitment of troops. The will of the majority would be thwarted. I submit therefore the 120-day termination is a necessary, vital and key provision of the resolution.

But there will be action.

Congress will be making major policy decisions because it will vote major policy decisions.

Therefore, I once again recommend that this body here and now make a stand for its constitutional rights and authorities under the Constitution by passing this war powers resolution of 1973 as reported from the Committee on Foreign Affairs.

Mr. FRELINGHUYSEN. Madam Chairman, I move to strike the necessary number of words.

Madam Chairman, we have just heard the gentleman from Wisconsin say that the lapse of over 3 weeks since debate on this resolution has given the membership time to give sober second thought to its detailed provisions. I hope they have done so, but I would like to suggest that the lapse of time is unfortunate because no matter what the interest may be, there has been a considerable passage of time to dim what has been said for and against this proposal. To suggest that the passage of time means that the provisions of this bill stand up surely does not stand up as a proposition itself.

The gentleman from Wisconsin has said that some see section 4(b) as a fatal flaw in the resolution. I am one of those who do so. It is quite obvious, no matter how we read it, and whether we read it narrowly or broadly, it seeks to capitalize on the possibility that Congress may take no action. It is that which I think is most undesirable. If the point of the whole operation of providing 120 days is to goad Congress into action it seems to me the necessity should be on us to decide whether we are for or against what the President has done with respect to committing troops. And yet the fact is that even though a process is proposed for enabling us to consider what to do, there is no assurance that anything will take place at all, either for or against the commitment.

I do think that this is a fatal flaw. To suggest that this is a necessary and vital provision if the will of Congress is to be asserted, is simply not to look at what the language proposes. The language envisages a change of national policies if the will of the Congress is not expressed at all. If we do not take a position for or against what the President is doing, there is going to be a change in national policy.

Therefore, my strong criticism of this provision is that it emphasizes what has been altogether too characteristic of Congress in the past. That is, we have not felt it necessary to assert ourselves.

So, I would suggest that what the gentleman from Wisconsin stresses as a core of the resolution is its fatal weakness. I hope we either drop that provision entirely, or at least modify it in such a way that positive action is required by Congress, either to support the President or to decide that he was unwise in committing troops.

I might say that we have had war powers legislation considered in the past on several occasions, but we have not approved language like this. It is my fundamental feeling that what we need is what we supported in the past, that is, full and adequate information from the President as to the nature of the crisis that leads to a commitment of troops. That information should key what reaction we should make.

We should not get involved in whether or not we have 30 days to act, whether or not we have 90 days to act, or whether or not we have 120 days to act. We should be aware of the fact that something of importance is going on as soon as troops are committed. Presumably we should be aware of a crisis before the commitment to commit troops is made, and we should act positively and not simply allow indecision to result in a drastic shift in national policy.

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Madam Chairman, will the gentleman agree that the warmaking powers of this Nation reside in the Congress?

Mr. FRELINGHUYSEN. Madam Chairman, the powers do in part, as the gentleman knows. I am not sure what the question involves, but the Constitution gives some of the warmaking powers to the President and some to Congress.

I am not saying we should not assert ourselves. It is because we have not asserted ourselves that there is any justification for this kind of proposal. What I am saying is that there is not a definition of the division of responsibility. The attempt to make a definition such as is proposed by this resolution is moving us in the wrong direction. It is underlining the practical recognition on the part of Congress that we are not likely to move. We actually count on the fact that there must be some change if we do not move.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DENNIS

Mr. DENNIS. Madam Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DENNIS: Strike out all after the resolving clause and insert in lieu thereof the following:

SECTION 1. In the absence of a declaration of war by the Congress or of a military attack upon the United States, its territories or possessions, the Armed Forces of the United States shall not be committed to combat or introduced into a situation where combat is imminent or likely at any place outside of the United States, its territories and possessions, without prior notice to and specific prior authorization by the Congress, except in case of emergency or necessity, that existence of which emergency or necessity is to be determined by the President of the United States.

SEC. 2. Whenever, in the absence of a declaration of war by the Congress or of a military attack upon the United States, its territories or possessions, the President of the United States nevertheless determines that an emergency or necessity exists which justifies such action, and shall, by consequence, commit the Armed Forces of the United States to combat or shall introduce them into a situation where combat is imminent or likely at any place outside of the United States, its territories or possessions, without prior notice to and authorization by the Congress, as is provided and authorized in such cases under and pursuant to the provisions of section 1 of this Act, the President shall report such action to the Congress in writing, as expeditiously as possible and, in all events, within twenty-four hours from and after the taking of such action. Such report shall contain a full account of the circumstances under which such action was taken and shall set forth the facts and circumstances relied upon by the President as authorizing and justifying the same. In the event the Congress is not in session the President shall forthwith convene the Congress in an extraordinary session and shall make such report to the Congress as expeditiously as possible, and, in all events, within forty-eight hours from and after the taking of such action.

SEC. 3. Not later than ninety days after the receipt of the report of the President provided for in section 2 of this Act, the Congress, by the enactment within such period of a bill or resolution appropriate to the purpose, shall either approve, ratify, confirm, and authorize the continuation of the action taken by the President and reported to the Congress, or shall disapprove and require the discontinuance of the same.

SEC. 4. If the Congress, acting pursuant to and under the provisions of section 3, shall approve, ratify, and confirm and shall authorize the continuation of the action taken by the President and so reported to the Congress, the President shall thereafter report periodically in writing to the Congress at intervals of not more than six months as to the progress of any hostilities involved and as to the status of the situation, and the Congress shall, within a period of thirty days from and after the receipt of each such six-month report, again take action by the enactment of an appropriate bill or resolution, to either ratify, approve, confirm, and authorize the continuation of the action of the President, including any hostilities which may be involved, or to disapprove and require the discontinuance of the same.

SEC. 5. If the Congress shall at any time, acting under the provisions of section 3 or section 4, disapprove the action of the President and require the discontinuance of the same, then the President shall discontinue the action so taken by him and so reported to the Congress, and shall terminate any hostilities which may be in progress and shall withdraw, disengage, and redeploy the Armed Forces of the United States which may be involved, just as expeditiously as may be possible having regard to, and consistent with, the safety of the Armed Forces of the United States, the necessary defense and protection of the United States, its territories and possesions, the safety of citizens and nationals of the United States who may be involved, and the reasonable safety and necessities, after due and reasonable notice of allied or friendly nationals and troops.

SEC. 6. For the purposes of this Act the Panama Canal Zone shall be taken and deemed to be a territory or possession of the United States.

SEC. 7. Nothing contained in this Act shall alter or abrogate any obligation imposed on the United States by the provisions of any treaty to which the United States is presently a party.

SEC. 8. If any provision of this Act or the application thereof to any particular circumstance or situation is held invalid, the remainder of this Act, or the application of such provision to any other circumstance or situation, shall not be affected thereby.

SEC. 9. This Act shall take effect on the date of its enactment but shall not apply to hostilities in which the Armed Forces of the United States are involved on the effective date of this Act.

The CHAIRMAN. The gentleman from Indiana is recognized for 5 minutes in support of his substitute amendment.

(By unanimous consent, Mr. DENNIS was allowed to proceed for 5 additional minutes.)

Mr. FINDLEY. Madam Chairman, will the gentleman yield for a question?

Mr. DENNIS. I would rather make my statement first.

Mr. FINDLEY. We do not have copies of the amendment.

Mr. DENNIS. Yes, we do. There are copies at the desk.

Madam Chairman, this is a very serious and fundamental matter which we are considering here today, and it is for that reason, after giving the matter considerable study over a period of more than a year, I have ventured to try to offer a substitute amendment. I have done so in full recognition of the fact that the members of the distinguished committee, on which I do not have the honor to serve, and on both sides of the aisle have labored long and hard on this matter. I feel, however, that the matter is of such an extraordinarily serious nature that any Member of this House who feels he can contribute usefully to the debate ought to do so, acknowledging as he does his debt to all the members of this distinguished committee and to the other people who have worked on the proposition.

Madam Chairman, rising as I do to offer a substitute to the work of the committee, I feel strongly that it is incumbent upon me to state, as clearly as I am able to state it, what my bill contains and to point out as clearly as I can the differences between my substitute and the provisions in the committee bill and the reasons why I think the substitute is a better measure.

Now, what my substitute does is this:

First, it recognizes specifically and in so many words that ordinarily the President of the United States should not commit troops to combat or to combat situations abroad in the absence of a declaration of war or an attack upon this country without prior authorization by the Congress.

And, of course, prior authorization necessarily imports prior consultation.

The bill has no application if there is an attack upon this country. It has no application if there is a declaration of war. That removes a great many of the constitutional questions which arise under some of the other war power bills.

Now, the next thing my measure says is that while ordinarily the President must have prior authorization to commit troops to combat abroad, I recognize that emergency situations may arise where that is not possible. I do not attempt, as the Javits bill does in the other body, to define what those emergency situations may be or to say that only in those cases may the President act without prior authority, because I do not think we are intelligent enough to sit here and foresee all the possible circumstances which may arise.

We know now that he sometimes has acted without prior authority and has come back to us later. My bill concedes to the President the right to act in a case of emergency if he sees fit. It leaves that up to him, which is, in fact, the situation today. But the next thing my substitute does is to provide for something we do not have today, and that is a requirement that if the President so acts, he must immediately make a written report to the Congress of the United States of what he has done, why he has done it, and the basis upon which he has acted.

Then the Congress within a maximum of 90 days must act. We can do it as soon as we want to, but within a period of not over 90 days, we must act to vote by bill or resolution appropriate to the purpose either approving of the Presidential action or disapproving.

Madam Chairman, that is one of the big differences between the substitute and the committee bill. The substitute requires a vote within 90 days. We have an inescapable duty to do that. We must vote it up, vote approval of the action taken by the President, or we must vote it down. One or the other we must do. So the policy will be determined as it should be, in my judgment, by action taken by this body and not, as the gentleman from New Jersey has pointed out, something which can eventuate, as under the committee bill, by mere inaction on our part.

There is another feature in my measure which is lacking in the committee bill and which I think is important. That provides for continuing congressional participation, because it is required that if hostilities are going on or action is taking place and we have approved it the President must make periodic reports to the Congress as to the status of the situation, at intervals not to exceed six months, although he can make them oftener. Every time he makes such a report, within 30 days thereafter we are again required to vote approval or disapproval. We must act within 30 days on these subsequent occasions.

If and when we ever adopt a measure here in the Congress, whether a bill or a resolution appropriate to the purpose, disapproving what the President has done, then he must terminate hostilities and withdraw troops and break off action as soon as it can be expeditiously and reasonably done. That also is a requirement of law written into the statute.

Those are the chief provisions of the substitute.

Further provisions provide that we do not purport to affect whatever treaty obligations may now exist, but which I do not try to define, and we do not apply the bill to any combat which might be in progress and already going on, such as a war, for instance, when enacted, but it is only for the future.

I point out what I am trying definitely to do is this: I think the successful conduct of war in this country requires the cooperation of the Executive and the Congress. I am trying to suggest a long-range measure which will not hamstring the Executive and will not tie his hands and will not deny him flexibility but will still assure us of congressional participation and continuing participation.

I submit it is a measure that we can live with and operate under.

Mr. BINGHAM. Will the gentleman yield?

Mr. DENNIS. I am happy to yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding.

I would like to have a clarification of one point. The gentleman says action by the Congress disapproving of Presidential hostilities would be by bill or resolution appropriate to the purpose. Does the gentleman mean by that a concurrent resolution?

Mr. DENNIS. I gladly address myself to that question because it is another difference between the committee bill, which, as the gentleman knows, says "concurrent resolution," and my substitute. I assume that is written into the committee bill on the theory that a concurrent resolution does not have to be referred to the Executive and therefore any possibility of a veto would be avoided.

I would say to the gentleman from New York that that is an undecided and very difficult and debatable constitutional question. One of my quarrels with the committee bill is that it locks that constitutional question into law, and there is no escape from it.

When I say bill or resolution appropriate to the purpose, I do not try to answer that unanswered question but I leave it up to the Congress which is confronted with that action at the time.

Generally it refers, as the gentleman

from New York knows, to the constitutional scheme——

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. BINGHAM, Mr. DENNIS was allowed to proceed for 2 additional minutes.)

Mr. DENNIS. I thank the gentleman.

Generally, as he knows, under our constitutional scheme legislative action or anything which is to have the force and effect of law does necessarily require both congressional action and presentation to the Executive and action on his part.

There is an argument made that in this particular field that scheme can be avoided by means of concurrent resolution. I have my doubts about that. I think if you use a concurrent resolution, which is to be binding law, which we do not usually use it for, that under article I, section 7, it has to be presented to the President, anyway.

But if that is not true you can still use a concurrent resolution under this subsitute because I say a resolution appropriate to the purpose. If the Congress decides on a concurrent resolution, that that is the appropriate way to go at that time, they can go that way. If they are wrong, and the courts say they are wrong, which could happen, they can still use the joint resolution or bill, but under the committee bill they are stuck under those circumstances.

Mr. BINGHAM. In other words, the gentleman from Indiana is really deferring one of the essential considerations here, which is whether we should proceed in this situation by concurrent resolution or joint resolution. The gentleman from Indiana prefers to defer that until this arises, with all the problems that would be concurrent at the moment, rather than trying to decide it now?

Mr. DENNIS. I would say to my friend, the gentleman from New York, that the courts will have to decide this ultimately because it is an undecided and a very difficult question. I think it is wiser to leave it flexible and give the Congress, which is faced with the issue, the option, rather than to buy a lawsuit in the bill we are writing, which is already going to be complicated enough.

Mr. ECKHARDT. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Madam Chairman, I think the remarks of the gentleman from Indiana are extremely well taken with respect to concurrent resolutions, because in the bill it says the initial ACTION of passing the bill, which apparently gives certain additional authority to the President for a temporary making of war, is done by an act. It seems to me it is very strongly arguable that any change in that authority or any rescission of that authority must be done in the same way.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(On request of Mr. YATES, and by unanimous consent, Mr. DENNIS was allowed to proceed for 2 additional minutes.)

Mr. DENNIS. I thank the gentleman from Illinois for yielding me the additional time.

Mr. YATES. I did so so the gentleman from Indiana might respond to the inquiry posed by the gentleman from Texas (Mr. ECKHARDT).

Mr. DENNIS. I was merely going to say to the gentleman from Texas that I agree with the gentleman. And also add the fact that it seems to me that whatever the legal situation may be, that a veto of such a resolution or bill, or whatever it is, in that situation, after the Congress has voted down the war by both Houses, would be a very unlikely thing as a practical matter. And if it ever did happen that would be the time to start talking about the cutting off of funds and other actions of that sort.

Mr. BIESTER. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Pennsylvania.

Mr. BIESTER. Madam Chairman, I thank the gentleman for yielding to me.

I would ask the gentleman from Indiana does the substitute contain language that would provide for expediting the consideration of a bill or appropriate bill?

Mr. DENNIS. Well, I have not attempted to do that except by saying that we must vote within 90 days when the war is first reported, and within 30 days in the case of subsequent reports. I presume that, faced with that legal deadline we would address it by whatever means they decide to use in respect to amendment of the rules.

Mr. BIESTER. Madam Chairman, if the gentleman will yield still further, am I correct, then, that the provisions of section 6 of the substitute provide that in the event the Congress takes no action, I presume the Presidential action would take effect in the event a majority of the Congress voted for some action like an appropriate resolution, or bill, and this was vetoed by the President and we failed to muster a two-thirds majority to override the veto.

Mr. DENNIS. As a matter of fact, section 6 as written in the original bill is not in the substitute that I offered, but it was obvious in terms of what would occur. We have to vote it down, but if we do not vote it down it is still in effect.

Mr. BIESTER. But if this veto of an appropriate resolution or bill is made, then unless two-thirds of a majority of the Congress vote to override that veto, the President's war may continue.

Mr. DENNIS. That is assuming, I may say to the gentleman from Pennsylvania, that again it would be vetoed, and we get back to the same argument we had a minute or two ago, but if there was a veto one cannot avoid it in any case.

Mr. MAILLIARD. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I should like to ask a couple of questions of the gentleman from Indiana.

There are two things I would say to the gentleman from Indiana about his substitute that give me some worry. One of them has already been raised, and that is that there is nc procedure by which a resolution would be expeditiously brought to action. I do not anticipate any problem, frankly, under the rules of the House, but I am a little concerned about the rules of the other body where such a resolution could be filibustered if a few of the Members of the other body were of a mind to do so. I do not know, without making some such provision, how we can guard against this.

Mr. DENNIS. I would say to the distinguished gentleman from California, the ranking minority member of the committee, that I would have no serious objection to writing such provisions in the bill, although it makes a rather clumsy vehicle when we attempt it. But I must assume, and I do assume, that if and when we pass a measure which says it is the law that we must act within a certain length of time, that not only will this body do it but even the other body will arrange to do this.

Mr. MAILLIARD. I do not totally share the gentleman's confidence in the other body's changing its rules, which I think would be necessary.

Mr. DENNIS. I assume that rules would be adopted to carry out the mandate of the statute.

Mr. MAILLIARD. Let me ask the gentleman one additional question, if I may. The gentleman is a distinguished member of the bar, which I am not. Does he really believe that in section 2 at the end of the last sentence, which says: "The President shall forthwith convene the Congress in an extraodinary session" that the Congress has the power under the Constitution to tell the President when and under what circumstances he shall exercise powers that are granted to him by the Constitution?

Mr. DENNIS. I confess that the gentleman has raised a question I had not really thought about, but again I would say that if we pass a law that says the President shall not under certain circumstances, my opinion the President of the United States will obey the statute as we passed it.

Mr. MAILLIARD. He might comply, but I seriously doubt that we have this right. The same provision was in the original bill considered by our subcommittee, and after considering it, we changed the language to say that the Speaker of the House and the President pro tem of the Senate should request the President to take this action, because we believe that was as far as we had constitutional power to go.

Mr. DENNIS. The gentleman may be correct. I have felt that it was a weakness of the committee bill that it not only said we would request but it provided that we would request an extraordinary session, as I read the bill, only if the President pro tem and the Speaker saw fit; so that under the committee bill if they do not think anything is going on, as far as I can see, they can just forget it. I think we ought to try to make the Congress act on this thing, if that is the situation.

Mr. MAILLIARD. I do not disagree with the gentleman on that point, but I think we can by statute compel action by our own leaders. I doubt, however, that we can compel the President to exercise a power that is granted solely to him by the Constitution.

Madam Chairman, let me just say I think that all of the Members know that there are several substitutes that are floating around the House Chamber today. I have tried to examine them all. Each of them, I think, has defects that we attempted to correct in committee consideration of the bill. As I have set forth in the report, and as I said during general debate several weeks ago, I agree with those who think that section 4(b), as in the present bill, is a fatal defect. I could visualize the situation very simply where the President might take certain action where all of the Members of the House, or at least a very substantial majority, might concur that the action was a proper action and be willing to support it. But 50 Members of the other body could prevent that body from acting—and, incidentally, the way the provision is written, they do not have to vote on the substance; they can just vote not to vote on it.

So we could have a situation where 50 out of 535 Members of this Congress could totally thwart the will of the President of the United States and the remainder of the Congress. That is why I think to have major policy changes occur by the inaction of the Congress is the fatal defect in the committee bill.

Mr. WOLFF. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, the gentleman mentioned in his remarks that the objective of this amendment was to insure we would wage successful war, so that we could get support for a successful war. I think what we are trying to do with this bill is to establish a method of maintaining the peace.

The gentleman talks as well about the flexibility, but what we are trying to do is eliminate some past flexibility. Really the amendment the gentleman talks about is arrogating power to the President he does not have today.

Mr. Jefferson, in a message to Congress in 1805, said:

> Considering that Congress alone is constitutionally invested with power of changing our condition from peace to war I have thought it my duty to await for their authority for using force in any degree which could be avoided.

Daniel Webster, as Secretary of State, said:

> I have to say that the war-making power in this Government rests entirely with the Congress.

I could go on quoting from our Founding Fathers.

Abraham Lincoln said:

> The provision of the Constitution giving the war-making power to Congress was dictated, as I understand it, by the following reasons: Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This our convention understood to be the most oppressive of all kingly oppressions, and they resolved to so frame the Constitution that no one man should hold the power of bringing oppression upon us.

John Marshall said:

> The whole powers of war being, by the Constitution, vested in Congress, the acts of that body alone can be resorted to as our guides in this inquiry—opinion in *The Amelia,* 1801.

James Buchanan said:

> The executive government of this country in its intercourse with foreign nations is limited to the employment of diplomacy alone. When this fails it can proceed no further. It cannot immediately resort to force without the direct authority of Congress, except in resisting and repelling hostile attacks.

What is involved here is lack of positive action by the Congress, is action itself. Since the warmaking power resides in the Congress and not in the President, the failure to declare war is an action of itself. It is an action of refusal to confirm an "extralegal" act that may be committed by a President which commits us to war, except in defense of this Nation.

Also, the full measure of this amendment is to provide reports. I do not think we need any more reports. I think we have had enough in the way of reports to the various committees. What we do need here is a return to the full authority that was intended by our Founding Fathers in the Constitution.

Madam Chairman, I urge my colleagues to defeat the amendment and support the committee bill.

Mr. BUCHANAN. Madam Chairman, I rise in strong support of the Dennis substitute and wish my colleague from Indiana as much success in its passage as he has already had in outflanking the members of the Foreign Affairs Committee, including the one in the well, in getting his amendment to the floor ahead of others which were to be offered.

I did submit certain amendments based on the Dennis bill to the committee and urged their adoption and failed. Some of these amendments based on the Dennis approach will also be offered in the Committee of the Whole House should the substitute fail, but I do not share with some of my colleagues either in their enthusiasm for the committee bill as it stands nor in their questions and criticisms concerning the Dennis substitute.

May I say in the first place that this is a stronger resolution, not a weaker resolution but a stronger resolution than the one which the committee has produced. The reason this is the case is simply first of all that it requires congressional action. It says to Congress the Constitution says we have the responsibility to declare war. The people expect us as the people's branch of Government to stand up and fulfill this constitutional responsibility and we are saying to the Congress as a matter of law that it must act to vote up or down. We cannot legislate by inaction. We cannot make major decisions by, as one Member so aptly described it, copping out altogether and doing nothing. This is stronger because it says to Congress we must act.

There is, however, a second respect in which it is a stronger resolution and this is very important. How did we get into trouble with the Gulf of Tonkin resolution and the situation which evolved into Indochina and Vietnam? It was not because there was no congressional action at the time. The Gulf of Tonkin resolution was adopted. It then formed the basis for a long, sustained and very extensive and very costly war on our part.

What the Dennis resolution says is not only must the President report to Congress when he takes emergency action, as the committee resolution would do, not only must the Congress vote up or down and take a stand and act on the question of whether the President has congressional approval or disapproval of this action, but also the Dennis resolution says the President must regularly report back to the Congress and the Congress must then approve or disapprove the continuation of that action.

This is stronger legislation, and it means a stronger and more responsive role on the part of the Congress.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Madam Chairman, I thank the gentleman from Alabama for his remarks. I just want to take the time to express my appreciation for his support. The gentleman was a cosponsor of my substitute amendment when it was an independent bill, and I thank him.

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Madam Chairman, what will happen in the event neither the House nor the Senate can agree upon a declaration of war? Would the war continue if the President got involved in a war?

Mr. BUCHANAN. Madam Chairman, let me answer the gentleman in this respect: The committee bill provides that by concurrent resolution the Congress may act to stop it.

Mr. WOLFF. Prior to the 120 days?

Mr. BUCHANAN. Prior, that is true.

The Dennis approach says, "By an appropriate resolution." Some of us have misgivings as to whether or not a concurrent resolution can be used to legislate in a substantive way. It never has been; perhaps it can be.

The distinguished gentleman from Delaware, a member of the committee, has pointed out that in the committee bill the Congress is delegating to the President a portion of its warmaking powers only under certain emergency conditions. The President can act, but the Congress retains the power by concurrent resolution to cut off that action. If this is true, then a concurrent resolution under the Dennis substitute at that time could do the same thing. We simply are not making a judgment on this constitutional question. If Congress wants to try a concurrent resolution, it can. Nor do we deal with the question of what happens if Congress does not obey the law. We are assuming that it will.

Mr. STRATTON. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Madam Chairman, I just want to say that I support the Dennis substitute. I think this is an improvement over the committee bill. I think it would be most unfortunate if

Congress were to take these basic decisions by inaction.

Madam Chairman, I would like to say that if the Dennis substitute fails, I have a much simpler way of accomplishing the same thing and will offer that amendment at the proper time.

Mr. DON H. CLAUSEN. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Madam Chairman, I rise in support of the Dennis amendment and to make some related remarks. I am extremely pleased we have before us this afternoon legislation to define in more specific and more easily understood terms the so-called warmaking powers of the Congress and of the executive branch.

In my judgment, there is no question that the Constitution charges both the President and the Congress with certain expressed duties and responsibilities with respect to committing this Nation to a "shooting war." However, over the years and particularly since the end of World War II, several implied powers have emerged whereby the President, as Commander in Chief, is empowered to invoke executive authority in dealing with possible nuclear confrontations and the outbreak of unconventional or guerrilla-type conflicts directed against traditionally pro-Western countries. And, thus it has been in this latter area of unconventional wars and U.S. involvement in them, that the scales have been tipped in favor of the Chief Executive, rather than the Congress, assuming responsibility for American involvement in hostilities abroad.

Major conflicts in Korea and Vietnam have focused attention on the compelling need to clarify and define warmaking authority both within the context of the Constitution and as it relates to the development of new guidelines for our future security to meet the threats posed by any future unconventional wars wherein there is a direct U.S. interest or involvement.

The experiences of the past decade have clearly revealed a serious gap in the ability and willingness of the traditional American political process to deal with this area of unconventional or guerrilla warfare. And, as we all know, our American society has become divided as never before in our history simply because we had no firm guidelines regarding the commitment of U.S. troops on foreign soil in situations where there was no precedent.

The warmaking powers, as they stand now, relate to a variety of situations, responsibilities and authorities. For example, our nuclear defense capability and the decision to respond quickly and decisively to a nuclear attack directed against the United States rests solely with the President. While we all hope and pray that this awesome responsibility and authority need never be exercised, it is generally recognized that the need for timely and decisive action demanded by a nuclear missile attack on our homeland can and should rest with the President and Commander in Chief. On the other hand, the decision as to whether or not to respond to an attack against the United States or U.S. citizens or property abroad by conventional warfare methods should and indeed must rest with the Congress. It was this type of warfare that was familiar to and fresh on the minds of our Founding Fathers and, thus, became the basis for warmaking authority conferred upon the Congress by the Constitution. But, what about unconventional warfare: The area that some are now calling the "twilight zone" or "gray area" of authority shared by the Congress and the President with respect to the warmaking power?

We, as a nation, have ignored this problem too long. While our definition and understanding of war has changed drastically during the 20th century, both the legislative and executive branches of our Federal Government have failed to recognize that the internal strength of this great country requires unity of purpose which can and indeed has been strongly influenced by our external policies and practices. Today, we belatedly and I must say somewhat reluctantly recognize that we must begin now to work toward establishing firm guidelines for our future security that the vast majority of our people will understand and accept.

However, in addition to building a domestic consensus for such guidelines between the public and their representatives as well as between the legislative and executive branches of Government, we must also look toward a restructuring of our international commitments, alliances, relationships and treaty organizations in order to delineate more clearly our individual and mutual responsibilities in coping with hostile situations abroad.

House Joint Resolution 542, the War Powers Act of 1973, is no doubt one of the most important and most controversial proposals in the field of foreign affairs ever considered during my years in the Congress. While we, as legislators, have debated it and sought either to improve or reject it, public support for this legislation has been increasing. Recently, I sent out a postal patron questionnaire to my constituents and, based on a tabulation of the first 5,000 returned, I find that 3,921 favor passage of this legislation, 891 are opposed, and 143 either had no opinion or were undecided.

One of the most common misconceptions about this legislation is perhaps the notion that its net effect will be to "tie the hands" of the Commander in Chief or our field commanders in responding to an emergency wherein there is a direct threat to American lives and property. Try as I may, I can find absolutely nothing in this resolution to give credence to such fears.

The single reservation I have with the legislation now before us, which I hope will be amended, is the thrust of section 4(b) whereby the President must forthwith end U.S. involvement in hostilities after the prescribed number of days if Congress fails to act. Legislation of this magnitude whereby we are attempting to reassert congressional authority in the field of warmaking, should not permit congressional inaction, in my judgment. In the war powers bill which I authored, Congress would, within the prescribed period of time, be required to vote either approval or disapproval and I firmly believe this positive provision should be included. Quite frankly, I consider it highly irresponsible and even dangerous for the Congress to seek to determine whether a course of action taken by the President should be continued or discontinued through its own inaction. The people want the Congress to take a stand on warmaking powers, eliminate "buck passing" and avoid legislating itself "cop-outs" which are all part of the problem we now face. What is needed is absolute and shared "accountability and responsibility" between Congress and the executive branch of Government.

Recognizing that war powers are, and legally must be shared between the elected legislative and executive branches in this country I consider this legislation a vital first step in improving the relationship between the President and Congress in establishing new guidelines for future security both for ourselves and for future generations of Americans.

What we are addressing ourselves to here today, is not the declaring of war, but a concept of strategy that will avoid the kind of overinvolvement such as occurred in Vietnam—a concept of restructured security alliances with newly and clearly defined parameters of responsibility, by all participants that can serve as a bulwark and deterrent against the "terrorist-type protracted warfare" now being employed throughout the world.

The Constitution provides that Congress shall have the power to—

> make all laws which shall be necessary and proper for carrying into execution the foregoing powers [to declare war and to make rules for the government and regulation of the land and naval forces] vested by this Constitution in the Government of the United States, or in any department or officer thereof.

In shaping this legislation to that purpose, I will conclude my remarks by reiterating a provision from the report by the Committee on Foreign Affairs dealing with this resolution.

> The intention was not to reflect criticism on activities of Presidents, past or present, or to take punitive action. Rather, the focus of concern was the appropriate scope and substance of Congressional and Presidential authority in the exercise of the power of war in order that the Congress might fulfill its responsibilities under the Constitution while permitting the President to exercise his responsibilities.

Ever since the "police action" in Korea and more recently the "conflict" in Vietnam and throughout Indochina, the people of this country have been concerned about the question of legality of our commitments. I have described it as a "gray area" of authority that has never been properly evaluated, considered or addressed by the Congress and the executive branches of our Government. Both the Congress and the executive administrations of the past 23 years have, in my judgment, been derelict in not resolving this problem associated with the "gray area" of legal authority as expressed above.

It is for this reason that I will support the Dennis amendment and the War Powers Resolution of 1973, and strongly encourage my colleagues to support it as well.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(By unanimous consent, Mr. BUCHANAN was allowed to proceed for an additional 2 minutes).

Mr. MARTIN of North Carolina. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN of North Carolina. Madam Chairman, I rise in support of the amendment to be proposed by the gentleman from Alabama (Mr. BUCHANAN). This amendment will cure, to my way of thinking, the only major defect in the war powers resolution, which otherwise I fully support. It is a responsible provision which puts the monkey in this matter right where it belongs—on our backs as the elected representatives of the people of the United States. It will prevent the Congress from being able, through inaction, to abdicate its decisionmaking role in questions of the most urgent national importance; especially in that such inaction ironically will have been able to determine our national policy.

This amendment says, in effect, that the Congress must act on the decision made my the Executive, voting up or down on the continued commitment of American forces by executive action. Much of the criticism leveled at the Congress centers on our inaction real or imagined. If we were to vote down this amendment we would give great substance to that criticism since a "no" vote would be to allow the Congress to dodge the very question we are debating, the question of the making of war.

A "yes" vote on this amendment will saddle the Congress with a heavy responsibility, a real burden—making a decision we all agree is our constitutional duty to make. It will only require that we vote. And that, it seems, is what we were elected to do.

The bill, as presently written, allows congressional inaction to abort executive action. Another draft that had been circulating would have had our inaction serve as confirmation of executive action. Neither language would be desirable. Both would permit yet another abdication of responsibility, and either one, while serving the purposes of a minority in either body, could operate counter to any given present Member's idea of how it might operate, since today's minority may be tomorrow's majority and today's proponents of inaction may not be tomorrow's. Those are practical considerations. Since mandating that our inaction at some future time will have a given effect cannot guarantee it will work to anyone's benefit 2, 10, or 20 years from now, as a practical matter we are better off mandating instead a commitment that we must take ourselves out and do what the people elected us to do, and do what we here say is our constitutional obligation.

This amendment requires that we take up the question of making war when it is pending and give the American people an answer.

Mr. McCLORY. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Madam Chairman, in endeavoring to resolve the conflict which appears to exist in the Constitution between the warmaking authority of the Congress and the authority of the President as Commander in Chief of the Army and Navy of the United States, it would seem that our function is simply one of establishing guidelines for interpreting the respective constitutional authorizations. We cannot, indeed, alter the Constitution nor in response to the acknowledged challenge to our authority can we arrive at the elbow of the President and review the executive actions which he is authorized to take.

Madam Chairman, the President's actions which under his broad authority require use of American troops outside the United States should be reported promptly to the Congress, as required specifically by the Dennis substitute. In addition, the Congress should be directed to approve or disapprove of the Presidential action within a period of 90 days as is also set forth in this measure. It follows that if the Congress by bill or resolution disapproves of the Presidential action the hostilities in which U.S. troops have become involved should be terminated and the troops withdrawn "as expeditiously as possible."

Madam Chairman, I am proud to be a cosponsor of this amendment and of the legislation in which its provisions are embodied (H.R. 3046). It is my considered opinion that this legislation can and would enable us to avoid future Koreas and Vietnams in which the Congress has been virtually ignored or at least inadequately informed.

Madam Chairman, I hope the Dennis substitute can be adopted and that the War Powers Act, as thus amended, may be promptly enacted by the Congress. Although I have no advance knowledge as to the President's attitude I see no reason why the President should not be willing to adopt the guidelines which are embodied in this measure and to gage the future conduct of our foreign affairs based upon the provisions of this legislation.

I urge the committee to act favorably on the Dennis substitute.

Mr. GUYER. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Ohio (Mr. GUYER).

Mr. GUYER. Madam Chairman, I am wholeheartedly in favor of the Dennis substitute to the bill. I remind the body that not since 1941 has Congress taken concerted action in either making or declaring war. This is positive and affirmative, and does not take away from the Commander in Chief his inherent right.

Mr. BUCHANAN. Madam Chairman, I would like to conclude. Can we bind a future Congress to act as prescribed in the Dennis substitute? If not, neither can sections 5 and 6 of the committee bill do so, and these provisions will not prevail. The committee bill changes the rules of the other body and creates new procedures out of step with any precedents or practices in history. If we cannot bind a future Congress, therefore, the committee bill is defective in its provisions. However, we say that we can bind the Congress to obey the law.

The Constitution says that the Congress shall act. People say that the Congress shall act on this critical question, and we are saying as a matter of law that Congress must act. While a future Congress can overrule actions of the present Congress by the passage of new law, I do not believe it can disregard or disobey the law.

Mr. FINDLEY. Madam Chairman, I rise in opposition to the amendment offered in the nature of a substitute.

Madam Chairman, I think before we make up our minds to embrace this substitute, we ought to read very carefully the language set forth. I hope each Member has a copy of the Dennis substitute. I secured a copy, although it was not easy, and I hope ample copies are available. It would be most unfortunate if anyone votes for this substitute, not having seen the Dennis substitute amendment.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Madam Chairman, I just want to make this one comment. This substitute amendment has been sent to every Member of the House, including the gentleman in the well. It has been printed in the CONGRESSIONAL RECORD and is on both tables on the floor of the House.

Madam Chairman, I just wanted to comment on that.

Mr. FINDLEY. I am glad the gentleman has clarified that. I should like to add that the language which was handed to me as being the substitute now is amended by striking section 6, so I believe it is very appropriate for me to urge Members to read carefully what is in the substitute.

I draw attention first of all to the language on the top of page 2, the words reading:

> except in case of emergency or necessity, the existence of which emergency or necessity is to be determined by the President of the United States.

Those words in effect give to the President and to the President alone the right to define the reserve powers of the President in the warmaking field.

During the deliberations of our subcommittee witness after witness appeared before the subcommittee urging the subcommittee to define the reserve powers of the President. I believe the Senate has taken up the Javits bill, which does include a definition of reserve powers. Every witness who appeared before us who supported a definition of reserve powers in the bill urged us to make the most limited possible definition of reserve powers.

There was a witness or two who advised against trying to define reserve powers of the President, but every witness who wanted a reserve powers definition cautioned us to make that as strict as possible.

This language goes to the extreme. This permits the President and the

President alone to determine what emergency or necessity requires that use of U.S. military forces. I cannot imagine a broader definition of reserve powers.

I would also draw the attention of Members to the language on page 4, particularly the language on lines 12, 13, and 14. This has to do with the withdrawal on order of the Congress, by some appropriate resolution, of military forces from hostile engagement. But this language commands the President by statute to have due regard in setting the timetable, the time required to effect this withdrawal, for the safety and necessities of allied or friendly nationals and troops.

There is still some serious question as to whether the reserve powers of the President actually extend to the safety of our own nationals on foreign territory. It just depends upon the circumstances. But here in this bill we are asked to convey to the President a mandate by statute. That is what this is all about; it is a mandate by statute to have due regard for the safety and the necessities of allied or friendly nationals.

Is that wise, for us to spell out in this bill an injunction to the President to plan the withdrawal of our forces only after due regard has been given to the safety and necessities of foreign nationals? Do we really want to go that far?

This could be the very circumstance that caused us to be involved in the hostile action in the first place, the very circumstance which caused the President to send military forces into foreign combat, the very circumstance that the Congress might want to terminate, might want to get our forces to disengage from. Yet the basic statute here, which we are asked to support, would spell out the mandate to the President that he would have to take into account the safety and necessities of friendly and foreign nationals in scheduling the withdrawal.

I believe it is a most unwise substitute we are asked to support.

Mr. BIESTER. Madam Chairman, I rise in opposition to the amendment in the nature of a substitute.

Madam Chairman, with respect especially to the remarks of the gentleman from Alabama (Mr. BUCHANAN) who focused on the characterization of the Dennis substitute as a stronger bill and a stronger measure than the committee bill, I would like to dwell, if I might, for a few moments on what we mean by "strong." If we mean by "strong" that it is a bill which is going to restore to a majority of the Members of Congress who represent a majority of the American people the guarantee that they shall make the final determination with respect to the general warmaking powers, then the committee bill is the stronger bill, and that is the reason I support it.

The Dennis substitute is in that respect a far weaker bill. First of all, under the Dennis substitute a minority of the other body could prevent the arising of this question on the floor of the other body, and, therefore, a minority of the membership of the entire Congress could frustrate the will of the majority under the Dennis substitute.

Second, under the Dennis substitute, in the event that a majority of both Houses of Congress passed a bill which prohibited the continuation of the Presidential war and the President chose to veto that bill, then under the Dennis substitute the majority will of the Congress, unless it could muster a two-thirds majority, would not be able to override the Presidential veto and would not be able to prevent the Presidential war.

Now, with respect to the committee bill, we have handled, it seems to me, both of those problems. First, with respect to expediting the consideration of the measure in question, we provide in section 5 a whole range of methods by which we give special urgent scheduling in both Chambers for the consideration of the appropriate bill or resolution. Now, that guarantees at least that a majority of the Members of those Chambers will have their say.

Second, with respect to the matter of Presidential veto, what the committee did was to begin with the Constitution and the fact that the Constitution gives to the Congress the power to make war, and we, therefore, felt that it was important to prevent a Presidential veto from having the effect of frustrating the majority will of the American people as expressed by the majority of their Houses of Congress, in determining not to make war.

Therefore, we provided that unless the Congress acts, the action of the President must terminate. What does that mean if we project ourselves down the legislative road? It means that if the President vetoes what the majority of Congress has wrought, then there is no legislative action, and he is bound under those circumstances to terminate the hostilities he has engaged us in. And that means that vetoing the bill will not be sufficient to frustrate the majority will of the Congress and thus will not be sufficient to frustrate the majority will of the people of the country.

Madam Chairman, the gentleman from Indiana referred to a "successful war." I do not know what a totally successful war is, but it seems to me that a war which is fought by the people of this country is not going to be in any degree a success unless it is supported by a majority of the people of this country. That is the purpose of the committee bill.

Madam Chairman, I urge the rejection of the substitute, and I urge that we approve the committee language.

Mr. FRELINGHUYSEN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I think the discussion, even though it is being held before a comparative handful of Members, indicates the fact that we are dealing with a very difficult situation. We have before us a major alternative, which in my opinion is preferable to the proposal submitted by the committee, because it does require affirmative action in order to change national policy with respect to a commitment of troops.

I would guess that very few Members have been able to follow the detailed discussions pro and con about the Dennis substitute. Yet what we do with respect to this resolution and whether or not we accept this substitute may make a very substantial difference in our capacity to handle a crisis situation.

I would like to point out a couple of things which to my mind make the Dennis substitute preferable to what is being proposed.

On page 4, as an example, if there should be a decision by the Congress that hostilities should end, there is a provision, and I quote from the language:

> the President shall discontinue the action so taken by him and so reported to the Congress, and shall terminate any hostilities which may be in progress and shall withdraw, disengage, and redeploy the Armed Forces of the United States which may be involved, just as expeditiously as may be possible having regard to, and consistent with, the safety of the Armed Forces of the United States, the necessary defense and protection of the United States, its territories and possessions, the safety of citizens and nationals of the United States who may be involved, and the reasonable safety and necessities, after due and reasonable notice, of allied or friendly nationals and troops.

I might say there are no such qualifications regarding the obligation that would be imposed on the President in the committee bill. No attention is given there to what might be the effect on the safety of our own troops and the impact on the allies fighting alongside our own troops. I think at the very least, if there is to be a termination decided by the Congress, we at least ought to allow for a reasonable withdrawal such as provided for by the Dennis substitute.

Mr. DENNIS. Will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman.

Mr. DENNIS. I would like to say I appreciate very much the comments of the gentleman from New Jersey on this particular matter.

My friend, the gentleman from Illinois, animadverted on that subject considerably and, of course, what I am doing here is saying that if we vote disapproval, we should withdraw as expeditiously as possible, and then having due regard to cerain things; and what is due regard is left pretty much to the Executive. These are guidelines that he needs and we should give him, and about all we can give him in a statute. If we have friends helping us, we want at least to tell them that we are going to pull our troops out.

I do not think that is objectionable even to my friend from Illinois.

Mr. FRELINGHUYSEN. I might say criticism was made of the Dennis proposal because no provision was made for expeditious action by the Congress.

I am not sure what the point of a war powers resolution is. Is it to remind us of our obvious, and inescapable, response so that Congress can worry about the fact that our troops are actually committed to hostilities and, if so, whether we should take appropriate action either to support the commitment or to say that we think it is unwise? Why do we have to spell out a 120-day provision so the Congress of the United States can make up its mind on a matter of this consequence?

What has already been said underlines the fact that if the Congress has sufficient details about why the President is about to commit, or has committed, troops, we should be able to have a prompt reaction, either of support or criticism of that action. I do not think we should be trying to impose an inflexible time period, where the President is assumed to have the responsibility without action by the Congress but after a deadline is not allowed to have responsibility unless the Congress has acted.

The gentleman from Texas (Mr. ECKHARDT) is quite right in saying the 120-day provision, no matter how written, is implicitly at least recognizing that the Congress gives the President certain responsibilities in situations of this kind.

There is no attempt to define the nature of this Presidential responsibility, as the Senate has done. However, I should warn the House no matter what we end up with finally, if we do end up with anything at all, we shall have to cope with different approaches that may be made by the Senate. We may end up, instead of 120 days leeway for the President to act, with something else, or we may have a specific definition of the President's responsibility.

SUBSTITUTE AMENDMENT OFFERED BY MR. BENNETT FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DENNIS

Mr. BENNETT. Madam Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. DENNIS).

The Clerk read as follows:

Substitute amendment offered by Mr. BENNETT for the amendment in the nature of a substitute offered by Mr. DENNIS: Strike out all after the resolving clause of House Joint Resolution 542, and insert in lieu thereof:

SECTION 1. This measure may be cited as the "War Powers Resolution of 1973".

SEC. 2. The President shall consult with the leadership and applicable committees of Congress before substantially enlarging United States Armed Forces in any foreign nation; and before placing any United States Armed Forces in any foreign nation where none had been immediately prior to such placement.

SEC. 3. The President upon doing any of the things set forth in section 2 shall submit within seventy-two hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating his action;

(B) the constitutional and legislative provisions under the authority of which he took such action;

(C) the estimated scope of activities;

(D) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to placing or enlarging United States Armed Forces abroad.

SEC. 4. (a) Within one hundred and twenty calendar days after a report is submitted or is required to be submitted pursuant to section 3, the President shall remove such enlargement of Armed Forces and terminate such placement of Armed Forces with respect to which such report was submitted, unless the Congress enacts a specific authorization for such use of Armed Forces.

(b) Notwithstanding subsection (a), at any time that the United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories such forces shall be disengaged by the President if the Congress so directs by concurrent resolution.

SEC. 5. (a) Any resolution or bill introduced to terminate the utilization of United States Armed Forces as above described or to provide for disengagement as referred to in section 4(b) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Senate Foreign Relations Committee, and one such resolution or bill shall be reported out by such committee, together with its recommendations, within thirty days.

(b) Any resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three legislative days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a resolution or bill passed by one House shall be referred to the appropriate committee of the other House and shall be reported out within fifteen days. The resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three legislative days after it has been reported, unless such House shall otherwise determine by yeas and nays.

SEC. 6. For purposes of subsection (a) of section 4, in the event of the termination of a Congress before the expiration of the one hundred and twenty-day period specified in such subsection (a) without action having been taken by the Congress under such subsection, such one hundred and twenty-day period shall not expire sooner than forty-eight days after the convening of the next succeeding Congress, provided that a resolution or bill is introduced, pursuant to such subsection (a), within three days of the convening of such next succeeding Congress.

SEC. 7. Nothing in this Act (a) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties;

(b) Shall be construed to represent congressional acceptance of the proposition that Executive action alone can satisfy the constitutional process requirement contained in the provisions of mutual security treaties to which the United States is a party; or

(c) Shall be construed as granting any authority to the President with respect to the commitment of United States Armed Forces to hostilities or to the territory, airspace, or waters of a foreign nation which he would not have had in the absence of this Act.

SEC. 8. All commitments of United States Armed Forces to hostilities existing on the date of the enactment of this Act shall be subject to the provisions hereof, and the President shall file the report required by section 3 within seventy-two hours after the enactment of this Act.

SEC. 9. This Act shall take effect on the date of its enactment.

Mr. BENNETT. Madam Chairman, I am presenting House Joint Resolution 653 as a substitute for the Dennis amendment in the nature of a substitute for House Joint Resolution 542. This bill is set out on page 24136 of the Monday, July 16 Extensions of Remarks of the CONGRESSIONAL RECORD. So if the Members want to read it word for word, they can at that page.

The essential part of the change is in section 2 where the bill I have introduced reads as follows:

SEC. 2. The President shall consult with the leadership and applicable committees of Congress before substantially enlarging United States Armed Forces in any foreign nation; and before placing any United States Armed Forces in any foreign nation where none had been immediately prior to such placement.

This will substitute for the language of House Joint Resolution 542 which reads as follows:

The President in every possible instance shall consult with the leadership and appropriate committees of the Congress before committing United States Armed Forces to hostilities or to situations where hostilities may be imminent, and after every such commitment shall consult regularly with such Members and committees until such United States Armed Forces are no longer engaged in hostilities or have been removed from areas where hostilities may be imminent.

The purpose of this change that I have suggested is that House Joint Resolution 542 assumes that the President has the power to put the United States at war under certain circumstances, and I oppose writing that into a statute. I oppose that because that could be construed as an act by Congress giving the President that power, which I deny that he has under the Constitution without an act by Congress.

On the other hand, the bill I have introduced, House Joint Resolution 653, gives no such war powers to the President and only applies to the enlarging of the U.S. Armed Forces in any foreign nation or placing them there in the first place.

I may say that, of course, everything that can be done to end hostilities under the committee bill can likewise be done under the bill which I have introduced. The only thing that the committee bill does which my bill does not do is to give war powers to the President that he does not have under the Constitution. The remainder of the bill I have introduced requires the President to go through the same reporting process and receive the same consent of Congress as the committee bill does. Although quite a few words are changed, this is the sole, central difference between these bills.

As I mentioned, my bill is set out in haec verba in the Monday, July 16, CONGRESSIONAL RECORD in the Extensions of Remarks at page 24136. I found in reading again House Joint Resolution 653, my bill, that there were typographical errors made on page 3, at lines 5 and 23, which have been corrected in my proposal and the reading just now has reflected those corrections.

Mr. STRATTON. Madam Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from New York.

Mr. STRATTON. I just want to clarify this matter a little bit with the gentleman from Florida because these bills are all rather complicated, and I think they all sometimes get a little confused. The gentleman is offering his amendment, as I understand it, as a substitute for the substitute offered by the gentleman from Indiana; but if I understand the gentleman's explanation correctly, his bill is actually almost identical with the committee bill, with the sole exception that the powers granted to the President under the committee bill he feels may be too extensive and, therefore, his bill is even more restrictive of the President's authority than the committee bill.

Mr. BENNETT. My bill does not grant

any powers to the President. It puts limitations on the President.

Mr. STRATTON. That is the way I understood it. The gentleman's bill is, therefore, more limiting on the President than the committee bill; is that not correct?

Mr. BENNETT. Very much so.

Mr. STRATTON. Whereas the Dennis substitute, if I understand it correctly, is less limiting on the President than the committee bill and gives the President a little bit more leeway. In particular, the Dennis substitute eliminates the provision of the committee bill that the President must withdraw the troops at the end of the stated period, even if Congress has taken no action at all.

Mr. BENNETT. I must say I have not heard any suggested language by anyone, other than myself, prohibiting granting additional powers to the President under this bill. I do not want to grant any additional powers to a President to put this country in a war without action by Congress. There are two things of malaise today in the country with respect to war powers. One of them is the begining of war in the first place; and the other one is the continuing of the war after it starts, regardless of who starts it.

The committee primarily was looking at the second problem. I had looked at the second problem in the same way as the committee, accepting the same procedures they suggested as these seem to be valid procedures. The only difference is that my bill does not give any new powers to the President to start a war. I believe that the committee bill does, unfortunately, give the President additional powers to begin a war. We do not need that.

Mr. BINGHAM. Madam Chairman, I would like to make a few general comments about this bill. Participating in the work of the subcommittee under the leadership of the gentleman from Wisconsin, the chairman (Mr. ZABLOCKI), on this bill was one of the most satisfying experiences I have had since I have been in the House of Representatives. We came together a disparate group with rather substantially different points of view on the solutions to this war powers problem and we emerged with a very considerable degree of agreement and overwhelming support in the subcommittee. I think the chairman of the subcommittee deserves a great deal of credit for that, and so do the Members. I think it is a tribute to the committee and to the legislative process that is carried on here under the best of circumstances that we did emerge with this kind of consensus.

In the committee, we wrestled with many of the problems that have been reflected in the debate here today. We came out with a solution which is no doubt not perfect. I myself had a different approach to begin with but it is an essentially sound solution. All I have heard here today has confirmed me in the conviction that the committee bill is the best proposition to deal with this war powers problem which has been put before the House.

A word about the substitute offered by the gentleman from Florida (Mr. BENNETT). I do consider it superior to the Dennis substitute as it comes closer to the committee bill. But I believe the gentleman is worrying about a nonexistent problem when he says the committee resolution gives to the President powers which he does not now have. The resolution in Sec. 8 specifically states as clearly it is possible to state it that it does not confer any new or additional powers on the President that he does not now have.

The resolution deals with a practical problem which has been existing since the founding of this Republic, that the President on over 100 occasions has insubstitute in that it would not deal with a naval war. There is nothing in it to deal with that problem in this resolution. We certainly are not creating it with the passage of this bill.

There is also a weakness in the Bennett substitute in that it would deal with a naval war. There is nothing in it to deal with war which might begin at sea.

As far as the Dennis substitute is concerned, let me concentrate my remarks on two problems. First of all we can say we will obligate a future Congress to take action on a matter at a particular time, but we cannot make them do it. There are all kinds of reasons why Congress might be frustrated from taking action. It might be frustrated from action by a filibuster in the other body. It might be frustrated from action because, while a majority voted to disapprove a Presidential war, it might not have the votes to override a veto. We cannot guarantee that action will be taken one way or another in any specified period of time. We simply cannot do that. So we have to provide what the consequences will be if the Congress fails to act.

The original Dennis resolution provided that failure to act would be construed as approval. He has dropped that out, so therefore that question is left up in the air. The committee resolution says the consequence of no action is disapproval.

A number of Members, Members I respect have argued that the Congress should not be opening the road to action by nonaction, but there is nothing so new about that. That is contemplated in the Constitution when it says the Congress will have the power to declare war. The Constitution does not say the Congress shall vote yes or no on a declaration of war. It says the Congress shall have the power to declare war. What happens if the Congress does nothing? Then there is no declaration of war, so that is action by inaction, if you will, right in the Constitution.

Another key question in his bill is the matter of concurrent versus joint resolution. The gentleman from Indiana proposes to leave that question to be settled at a future time. To me, that is the worst of all possible solutions. We should answer that question in the legislation before us. Granted, it is a controversial question; granted, there is some constitutional question about it, but there are well-established precedents that the Congress can act by law to establish a procedure whereby it can do something in the future by concurrent resolution. We have done that on many occasions. We have done it in various resolutions dealing with foreign affairs where the Congress provides that the force of the resolution may be reversed later by concurrent resolution.

If we do not provide specifically that a congressional veto over a Presidential war may be exercised by concurrent resolution, we are not doing anything worthwhile. If we say merely that the House and Senate may or must act at some future date by joint resolution or other enactment of law we might as well quit and go home, because we will have provided the Congress with no tool it does not already have to cope with Presidential wars.

Mr. GERALD R. FORD. Madam Chairman, I move to strike the requisite number of words.

Mr. BUCHANAN. Madam Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred two Members are present, a quorum.

Mr. GERALD R. FORD. Madam Chairman, at the outset let me state my own position categorically. I support the Dennis substitute. If that is unsuccessful, I will vote to amend sections 4b and 4c. In the event that either the Dennis substitute does not prevail or those specific sections are not modified or deleted, it is my intention to vote against the bill on final passage.

Madam Chairman, in the last 20-some years, because of our experiences in Korea and in Vietnam, many within the Congress and many throughout the country sincerely believe that we ought to improve the role of Congress in these problems involving peace or war.

I have indicated at the outset that I think we can. On the other hand, in my judgment, to go down the wrong path makes the problem more difficult and worse, and therefore rather than bad legislation, as I see it, I would prefer none.

Madam Chairman, let me add another comment, if I might. I deny, and deny it emphatically, that Congress has not had the tools in the last 20-some years to play a more effective role. We have had the appropriation process every year; the Defense Department appropriation bill and the foreign aid appropriation bill. At the same time, every year we have had various authorization bills where we could have done something if a majority of the Members felt so inclined.

During the last several years, a majority of the other body sought to take some action. During that period of time, up until a few weeks or a month ago, there was not a majority in the House that voted that way. But, the capability existed, and, therefore, we have not been without a tool or without a weapon to meet the problem.

Some have the impression, Madam Chairman, that the President is opposed to any—and I underline "any"—war powers bill.

During the latter part of June, when this joint resolution was on the floor in general debate, I consulted with the White House and the Department of

State. I have found out through a telegram sent to me by the President that he is in favor of working with the Congress to achieve a war powers bill. With the permission of the Members I will read the telegram that was sent to me June 26, 1973, which does express the President's viewpoint on this important situation. I emphasize he does want to work with the Congress and indicates that he will try to come up with a new and better way to meet the problem with which we are concerned.

The telegram reads as follows:

> As the House begins consideration of H.J. Res. 542, the war powers bill, I want you to know of my strong opposition to this measure.
>
> I am unalterably opposed to and must veto any bill containing the dangerous and unconstitutional restrictions found in sections 4(B) and 4(C) of this bill.
>
> However, I fully support the desire of Members to assure Congress its proper role in national decisions of war and peace, and I would welcome appropriate legislation providing for an effective contribution by the Congress.
>
> I urge you to reject H.J. Res. 542 and to work instead for legislation that I can sign and which can enhance the ability of Congress and the Executive to fulfill their historic constitutional roles and do so in a way that reinforces the strength of both.
>
> RICHARD NIXON.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. GERALD R. FORD was allowed to proceed for 5 additional minutes.)

Mr. GERALD R. FORD. I believe this telegram I have just read from the President to me, dated June 26, clearly indicates his willingness to cooperate in putting together legislation that will make the Congress and the Executive partners in the process when these problems of war and peace come before us.

Therefore, I believe, in light of what the President has said, as to sections 4(b) and 4(c) in House Joint Resolution 542, that we would be well advised in the first instance to accept the Dennis substitute. If we are unsuccessful in convincing the Committee of the Whole that it is the right procedure, we should then modify or delete sections 4(b) and 4(c).

The President has gone a long way, let me assure the Members, from an attitude I understood was his point of view a few months ago. I understand the attitude of the Department of State has changed. Previously, it was my understanding it was very inflexible. I believe this telegram is quite clear in stating that flexibility is now the policy of the executive branch.

So with these new efforts and this new attitude, I believe we would all be better off to accept the Dennis substitute and, if that is unsuccessful, to try to amend or modify sections 4(b) and 4(c).

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to my friend from New York.

Mr. WOLFF. The distinguished minority leader read a telegram from the President as to what the President did not want. However, I wonder if the minority leader could tell us what the President thinks the warmaking powers of the Congress are?

Mr. GERALD R. FORD. Well, in this telegram the President simply expresses the point that he believes the Congress is trying to go too far. In a telegram of this nature, I would not expect him to clearly define the war powers or the lack of war powers.

Mr. WOLFF. Madam Chairman, that is what we are planning to do here, and that is why a telegram from the President at this point is somewhat of a self-serving document. What we are trying to do is to limit the powers of the President.

Mr. GERALD R. FORD. Madam Chairman, the gentleman from New York, of course, understands that there are some Members on his side who think that the committee bill expands the power of the President. So there is not unanimity from the gentleman's side as to whether there is a contraction or an expansion of the President's warmaking powers.

Mr. FRELINGHUYSEN. Madam Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the genlteman from New Jersey.

Mr. FRELINGHUYSEN. Madam Chairman, I thank the gentleman for yielding.

Let me begin by saying that I did not realize until now that the President had indicated that he would veto House Joint Resolution 542 as it came out of the committee, but in my "Dear Colleague" letter in June I predicted that I saw no alternative but a veto if the language were not changed.

It does seem to me that we are trying to play with a very basic responsibility of the President, both with respect to a concurrent resolution and an attempt to require a termination of hostilities by the President by inaction, a failure to act on the part of the Congress. I would hope that we would move along the lines of positive action by Congress in order to establish whether or not we approve of what the President has done.

Madam Chairman, if the gentleman would allow me to proceed, the gentleman from Michigan says the Congress has for 20 years had the tools to do more than it has. This is quite obvious to most of us who have been here for any length of time that we have used those tools on a number of occasions. We have approved on several occasions a variety of resolutions, not only with respect to the Tonkin Gulf but with respect to the Mideast and with respect to Quemoy and Matsu, to mention just three. I feel in many cases such resolutions, if offered in the future, may be more specific than they have been in the past. But we have had the capacity, and we have faced up to our responsibilities in the past. I believe our reaction in the future should be dependent upon what the nature of that future crisis is rather than try to write legislation which will cover all future situations.

Mr. ZABLOCKI. Madam Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Madam Chairman, several Members have expressed the desire that the telegram be reread. After it has been reread, I hope that the gentleman from Michigan will indicate whether the President indeed has some specific language that he endorses. Perhaps the gentleman could tell us whether the President is in favor of the resolution that is pending now in the other body.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. GERALD R. FORD) has expired.

(On request of Mr. ZABLOCKI and by unanimous consent, Mr. GERALD R. FORD was allowed to proceed for 5 additional minutes.)

Mr. GERALD R. FORD. Madam Chairman, I will say to my friend, the gentleman from Wisconsin, that I cannot give him any more specifics as to what the President is proposing affirmatively than those broad suggestions he makes in the telegram. He is very specific and categorical in reference to House Joint Resolution 542, and by inference certainly opposes the companion bill in the other body.

Mr. ZABLOCKI. And if the gentleman will yield further, is that true with respect to any other bill and with respect to the substitute now being considered?

Mr. GERALD R. FORD. No. In my discussions with the White House, I believe there is—and they say it by inference in the telegram—a sympathy with the approach that is suggested by the gentleman from Indiana or to some amendments to sections 4(b) and 4(c) if the Dennis substitute does not prevail.

I do not have any concrete or specific language which they have submitted to me. The President simply has indicated that one is objectionable, and he hopes that something is adopted that works toward a better partnership between the Executive and the Congress.

Madam Chairman, if I might, I would like to make a comment or two, and then I will yield to the gentleman from New York.

During the last 4 or 5 months I have heard a great deal in this Chamber and from the other Chamber, and I have read a great deal all around the country to the effect that the Congress has given up authority and that the Congress ought to do something to retrieve that authority.

Allegations have been made that we have given up certain legislative prerogatives, and we ought to insist that those prerogatives come back into our bosom.

Now, here is a clear-cut issue. In the committee bill there is an almost unbelievable approach from a procedural point of view. If what I just said a minute ago was the desire of the majority of the Members of Congress, you are going to reassert or retrieve that jurisdiction, prerogative, and privilege by doing nothing. How silly and asinine can we be?

If you want to assert a right, you ought to be willing to stand up and say, I will vote for or against a certain power, or privilege or prerogative. However, under the committee bill, the Congress, in my opinion, just backs away from any courage in meeting the challenge of a tough issue. You say if we in the Congress do nothing in a legislative way, "You, Mr. President, cannot continue a military conflict." Well, if we do not want a military conflict continued, then the Congress ought to have the guts and the will to stand up and vote against it instead of saying 'You cannot do it," by doing nothing.

No Congress should be so weak willed that a majority would be unwilling to stand up and be counted in a crisis.

Mr. EVANS of Colorado. Will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. EVANS of Colorado. Is that not exactly what the Constitution of the United States says? That without an act by the Congress the President has no power to wage war? It does not say anything about courage or guts, but it says act.

Mr. GERALD R. FORD. Why has not some action been taken if a majority of the Members were convinced? By the Congress not doing something, then what is your interpretation on the last 7 or 8 years that we were in the war in Vietnam?

Mr. EVANS of Colorado. Two things. First, historically, for about 200 years our Presidents have been doing this without any Congress acting.

Mr. GERALD R. FORD. Doing what?

Mr. EVANS of Colorado. Involving this country in military activities without specific action by the Congress.

Number two, because of Vietnam this Congress is trying to clear up the situation. But certainly the committee resolution is four-square with the Constitution because it says that the power to declare war rests with the Congress and requires that we act.

Mr. GERALD R. FORD. But if the Congress is as brave as some people say it is and if it is as sincere as some people allege it is about wanting to do something affirmatively, then it ought to have the courage to stand up and vote for it.

Mr. STRATTON. Will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from New York.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. STRATTON, Mr. GERALD R. FORD was allowed to proceed for 2 additional minutes.)

Mr. STRATTON. I thank the minority leader for yielding to me.

Is the question not involved in this legislation not simply the matter of a war declaration but, even more significantly, the use of the President's powers as Commander in Chief and as the only individual who is qualified under the Constitution to deal with foreign governments?

If we tie the President's hands, particularly in this negative way as the gentleman indicated, by inaction on the part of the Congress, are we not really undermining the deterrent power of American forces as exercised by the President in negotiations with other countries? If the other countries know that anything the President says can be negated in 30 days simply by inaction of the Congress, they will certainly not pay much attention to him, will they?

Mr. GERALD R. FORD. I think the gentleman from New York is precisely right. What we really want is deterrence and not war.

Mr. STRATTON. Will the gentleman yield further?

Mr. GERALD R. FORD. I yield.

Mr. STRATTON. Would not President Kennedy have found it a lot harder to get Khrushchev to back down in Cuba in 1962 if he had had his hands tied in this way while trying to deal with Mr. Khrushchev?

Mr. GERALD R. FORD. I do not want to get into personalities, but I just think that the capability of a President to act without his capability being hindered by inaction of the Congress is bad policy.

It is no good policy for the country nor is it very brave on the part of the Congress to hamstring the Commander in Chief by no legislative action.

Mr. GUBSER. Madam Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from California.

Mr. GUBSER. I thank the gentleman from Michigan for yielding to me.

Madam Chairman, if the very rigid and strict construction of the Constitution, as made by the gentleman from Colorado (Mr. EVANS), were to be valid, would it not be true that the President would have no right to make any troop commitment whatsoever, even for the 120 days provided in this bill?

Mr. GERALD R. FORD. I think that is correct.

Mr. GUBSER. I think that very thoroughly explodes the argument presented by the gentleman from Colorado (Mr. EVANS).

Mr. BIESTER. Madam Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Pennsylvania.

Mr. BIESTER. Would the gentleman agree that it is a worthwhile objective for the House this afternoon to arrive at a process by which a majority of the Congress could express its will, despite a Presidential veto, so far as warmaking powers are concerned?

Mr. GERALD R. FORD. I agree, and I said earlier, by the appropriation process or by the authorization process, a majority of the Congress can do it just as they could do it for the last 200 years.

I for one am not going to undercut the war powers of a President by the traditional system or procedure of a Presidential veto and one-third of the Members of this body or the other body having the capability of sustaining a veto. That system has worked pretty well over the years, and I will not undercut it with any language or provisions in new legislation.

Mr. FRASER. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the pending amendment.

Mr. SEIBERLING. Madam Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Madam Chairman, I thank the gentleman for yielding to me. I wonder if we could have the distinguished gentleman from Michigan read us again the telegraph from the President of the United States, since we do not have any written copies available for the Members.

Mr. GERALD R. FORD. Madam Chairman, if the gentleman from Minnesota will yield, I will be glad to do so. I have just asked one of our staff members to make copies, and as soon as they are available I will be glad to distribute them.

Madam Chairman, the telegram is directed to me. It is dated June 26, and it reads as follows:

> As the House begins consideration of H.J. Res. 542, the war powers bill, I want you to know of my strong opposition to this measure.
>
> I am unalterably opposed to and must veto any bill containing the dangerous and unconstitutional restrictions found in sections 4(b) and 4(c) of this bill.
>
> However, I fully support the desire of Members to assure Congress its proper role in national decisions of war and peace, and I would welcome appropriate legislation providing for an effective contribution by the Congress.
>
> I urge you to reject H.J. Res. 542 and to work instead for legislation that I can sign and which can enhance the ability of Congress and the Executive to fulfill their historic constitutional roles and do so in a way that reinforces the strength of both.
>
> RICHARD NIXON.

Mr. SEIBERLING. Madam Chairman, I thank the gentleman from Michigan.

Mr. FRASER. Madam Chairman and Members of the Committee, I will address my remarks primarily to the amendment offered by the gentleman from Indiana (Mr. DENNIS) because I think the significance of that proposal should not be overlooked.

If the Dennis proposal were accepted, for the first time in the history of the United States we would have conferred upon the President an open-ended authority to use troops wherever and whenever he determined that an emergency or necessity existed, without reference to any other constraints of the Constitution or of any treaty procedures, or any other statutory provision.

In other words, rather than the bill being some kind of a restraint or establishing some kind of safeguards on the President's authority to commit U.S. forces to hostility, it would open the door wide open, wider than it has ever been in the history of the United States.

It gives by statute the authority exclusively to the President to determine when an emergency exists—it says "to be determined by the President of the United States," not by the Supreme Court, not by the Congress, but by the President alone. He would have a sole and exclusive discretion to determine when and where an emergency existed and, having made that determination, could use our forces anywhere in the world without any constraint of any kind.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. FRASER. I would prefer to finish my statement, and I will yield to the gentleman in a moment.

That, in my judgment, is such a disastrous provision that if there are some who do not want any War Powers Act, they ought to vote for the Dennis amendment because, in my judgment, it would then be terribly urgent to defeat the whole measure. I, for one, would never be willing to go back to my district and say that I had given the President carte blanche authority to use troops, to use the Air Force, to use the Navy whenever he found an emergency, without any standards, without any constraints, without any judicial review of any kind.

The other part of the Dennis amendment is meaningless. What it says is that Congress shall by law have the authority, in effect, to regulate the President. Of course, we have that now, so that means nothing. It is a nullity. The big threat in this bill is this provision that gives the President the sole authority without standards to determine when and where forces shall be used around the world.

With respect to the Bennett substitute, may I say that since it does not deal with warmaking powers, I do not think it ought to be adopted. It may be an interesting exercise with respect to the deployment of troops, but it specifically excludes any reference to commitment of troops to hostilities, and, therefore, it should not be of primary interest to the House, even though the proposal otherwise, I think, merits some respect and consideration.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Indiana.

Mr. DENNIS. I thank the gentleman for yielding.

I should like to point out to the gentleman from Minnesota that the very first thing my bill states is the principle, which I consider important, that the President should not commit troops to combat unless there has been an attack on the country or a declaration of war, without prior congressional approval. Then I recognize his right to do so in an emergency. But I would suggest to the gentleman that he has that right and exercises it today, and he today determines when there is such an emergency and when he acts without consultation with the Congress, so it is nothing different or new. What is new is that I thereafter require him to report to us and require us to vote it down if we feel we should.

Mr. FRASER. Why did not the gentleman, if he wanted to write this loophole a little more carefully, add only the words "except in case of emergency or necessity"? Why did the gentleman give the President the exclusive authority to make that determination? That is where the disaster lies in the provisions of this bill.

Mr. DU PONT. Madam Chairman, I move to strike the requisite number of words.

Mr. THONE. Madam Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from Nebraska.

Mr. THONE. I support this War Powers Act. I do agree with the minority leader, the gentleman from Michigan (Mr. GERALD R. FORD) that there must be a provision here requiring affirmative action by the President and Congress.

Future Vietnams would be prevented by passage of the congressional war powers resolution. This will have my vote on final passage.

The resolution would: First, direct the President to consult with congressional leaders and appropriate committees in cases involving commitment of U.S. forces to hostilities abroad; second, require a formal Presidential report to Congress within 72 hours of such commitment without prior congressional authorization; third, permit Congress by a majority vote of both Houses to halt such combat; fourth, prohibit a filibuster against a resolution to stop a conflict; fifth, specify that the measure would not alter provisions of any existing treaty; and sixth, be directed toward any commitment of U.S. forces abroad existing at the time of enactment of this resolution.

There are some changes that I hope to see made in the original resolution. As it is now written, it will require the President to stop a foreign battle if Congress does nothing. This may be unconstitutional. I will support an amendment that would require the Congress to pass a resolution against the combat before the President is forced to end it.

An amendment is expected that would allow the President to veto such a resolution by Congress. I will oppose this.

Under the Constitution, Congress is given the power to declare war and the President has authority over the Armed Forces as Commander in Chief. At the time the Constitution was up for adoption, Alexander Hamilton wrote concerning the President's warmaking powers:

> It would amount to nothing more than the supreme command and direction of the military and naval forces . . . while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies—all which, by the Constitution under consideration, would appertain to the legislature.

There is no question but that in recent years a series of Presidents have taken war powers away from Congress.

To illustrate how little Congress had to say about recent wars, let us review how we got involved in Vietnam. President Eisenhower sent a few military men into South Vietnam as teachers to help train the armed forces of that nation.

In President Kennedy's term, advisers and observers in American uniforms became so numerous that they were accompanying South Vietnam soldiers into combat. The first U.S. military casualty in Vietnam in December 1961 was one of these advisers.

Under President Johnson, American commitments were greatly increased.

It was not until after three Presidents had involved us in the Vietnamese war that Congress in 1964 approved the Gulf of Tonkin resolution which gave congressional authorization to the President to use U.S. military force in Vietnam.

Another example of military action without congressional approval was Laos, where U.S. bombing began in 1965. Four years passed before the public or most Members of Congress were informed that it was taking place. Only this month have we found out how soon it started.

There is an ancient Vietnamese legend concerning Son Tinh, God of the Mountain, and Thuy Tinh, God of the Water. They became involved in battle. It never ended because whenever Thuy Tinh tried to destroy his enemy by raising his raging waters higher, Son Tinh just raised his mountain higher.

President Johnson found himself in such a dilemma. The higher he raised the U.S. commitment in South Vietnam the more Communists poured down from North Vietnam.

When President Nixon came into office, more than half a million U.S. ground troops were in South Vietnam. I supported the President through 4 years of efforts which succeeded this year in extricating us from the situation he had inherited.

It is my hope that no President will ever again lead us into war, bit by bit, without action by Congress. Passage of the congressional war powers resolution will insure that the public as well as Congress will have a chance to express themselves before our Nation makes an extended commitment to combat.

Mr. DU PONT. Madam Chairman, it is with humility that I rise to state my opposition to the views of the President of the United States. The President of the United States has very grave responsibilities in the field of foreign policy, and as the Chief Executive of our Nation his opinion demands respect and very careful consideration. But as a member of the legislative branch of the Government, a coequal branch, I think we must recognize that we have responsibilities, too. And our responsibilities in the exercise of foreign policy are also of utmost importance.

So I must respectfully disagree with the President's interpretation of 4(c) of this bill, that section which gives the power to the Congress to terminate Presidential military action by a concurrent resolution.

The President believes that section is unconstitutional; I disagree. I believe very strongly that it is constitutional, and, further, that it is an intelligent approach to the problem of allocating warmaking powers, and, further still, that it is a wise exercise of our legislative power.

I base my argument on the Constitution of the United States. The Constitution sets forth our legislative power very clearly in article I, section 8. Let us look at what it says. It says that the Congress shall have the power to provide for the common defense; that the Congress shall have the power to raise and support armies; to provide for a navy; to repel invasions. And it says that the Congress of the United States shall have the power to declare war.

In contrast to that it simply says in article 2, section 2, that the President is the Commander in Chief of the Armed Forces. That is all. It is the Congress that has the power to make war. That power comes from the Constitution.

The framers of the Constitution intended that we should have that power. Debate during the Constitutional Convention made it very clear that the delegates felt that the risk of economic and physical sacrifice during a war, and the serious legal and moral consequences that flow from the use of force against a foreign sovereign, were sufficiently grave that the elected representatives of the people should express their approval of such action.

The argument in favor of section 4(c) is very clear on two grounds. First, if we have the power to start with, we can carve out an exception and give the President the power to make war until we take that power back from him. And second, if we have the power under the Constitution to declare war by a simple majority, then we have the power under the Constitution to stop it by a simple majority.

We in the legislative branch have the power, so why do we not exercise it? What is wrong with using the power of the Constitution of the United States? I think it is time that we begin to exercise that power, time that we stood up and did what ought to be done. I believe that this resolution, and section 4(c) thereof, is a good piece of legislation, a piece of legislation that allows us to exercise our power responsibly. I believe the time to exercise it is now.

I strongly urge support of the committee bill and defeat of the various amendments to it.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

I commend the gentleman for his statement and particularly a point that I think is often ignored, overlooked or that is not stressed sufficiently. If Congress has the right to declare war by simple majority action, and the country can go to war when the President signs the bill, then Congress should have the right to undeclare war by a simple majority.

This should be possible without regard to the fact that we have other tools available to us, either through the appropriation process or otherwise. Those other tools are available to us now.

Mr. DU PONT. I think that is correct. When the draftsmen of the Constitution gave us that power, they gave us that power by a simple majority, not by a two-thirds vote or the opportunity to override a veto, but by a simple majority. To gain authority under the Constitution to conduct a war, the President must have a majority vote of the Congress. To stop the conduct of a war, a majority vote of the Congress should also be sufficient.

Mr. BIESTER. Madam Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from Pennsylvania.

Mr. BIESTER. Madam Chairman, will the gentleman agree with my view that with respect to some of the substitutes we will consider this afternoon, the only vehicle that guarantees the majority and not two-thirds majority vote on the exercise of that power is the committee bill?

Mr. DU PONT. That is correct.

The CHAIRMAN. The time of the gentleman from Delaware has expired.

(On request of Mr. MCCLOSKEY, and by unanimous consent, Mr. DU PONT was allowed to proceed for 2 additional minutes.)

Mr. McCLOSKEY. Madam Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from California.

Mr. McCLOSKEY. Madam Chairman, as I have listened to this debate I have begun to wonder whether we can improve on the Constitution, but I would like to ask the gentleman this question: Is there any precedent or authority as to whether or not a declaration of war as an act of the Congress cannot also be vetoed by the President? We seem to accept this concept of a majority vote to get us into a war but is there not a possibility that the President might veto a declaration of war?

Mr. DU PONT. I believe a declaration of war has never been vetoed in fact by the President, but it is my impression that such a veto would probably lie.

Mr. McCLOSKEY. Then we possibly cannot go to war without the same two-thirds majority to end the war as would be required under this resolution. Is that the gentleman's position?

Mr. DU PONT. No. My position is that for the legislative branch to declare a beginning of a war we need a simple majority to put us on record. The same should be true of ending a war.

Mr. McCLOSKEY. We would clearly need that, but could we go to war if the President vetoed the declaration and we did not have a two-thirds majority?

Mr. DU PONT. I would say to the gentleman we have been at war without a two-thirds majority so I do not know how to answer this question exactly.

Mr. McCLOSKEY. We were interested in this problem a few weeks ago on the Cambodian question on bombing and I wonder with all due respect to the committee whether the way to insure congressional control over this is not in each appropriation bill we pass, to include the provision that funds under it cannot be used for war for more than 30 days without congressional consent. I do not see how we can do it otherwise without providing for congressional action which would be subject to the Presidential veto power, and thus require a two-thirds majority.

The CHAIRMAN. The time of the gentleman from Delaware has again expired.

(At the request of Mr. BIESTER and by unanimous consent, Mr. DU PONT was allowed to speak for an additional 2 minutes).

Mr. BIESTER. Will the gentleman not agree, however, that the country should not go to general war without the approval of the majority of both Houses of Congress?

Mr. DU PONT. That is correct.

Mr. BIESTER. Therefore, what we are dealing with here is the impact of the necessitous act of a majority of the Congress rather than whether, in fact, we approach the problematic question of a Presidential veto in that event?

Mr. DU PONT. I think that is right. I would further say that the gentleman from California (Mr. GUBSER) made some comments a few moments ago about the President not having the power to go to war even for the first 120 days. I would say to the gentleman that I agree with him that the President does not have the power to launch offensive war in the first 120 days without the approval of the Congress.

Mr. WHALEN. Madam Chairman, will the gentleman yield?

Mr. DU PONT. I yield to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Madam Chairman, the gentleman would concede that in the history of our country, our troops have been involved in numerous hostilities without a declaration of war. Has this ever been tested in the courts as to whether this is proper under the Constitution?

Mr. DU PONT. The Vietnam situation was tested in the courts a number of times; yes.

Mr. WHALEN. And determined that this was constitutional.

Mr. ZABLOCKI. Madam Chairman, I wonder if we could get approval to end debate on the Dennis amendment and all amendments thereto at 3 o'clock?

Madam Chairman, I ask unanimous consent that all debate on the Dennis amendment and all amendments thereto close at 3 o'clock p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. YOUNG of Florida. Madam Chairman, I object.

Mr. ZABLOCKI. Madam Chairman, I ask unanimous consent that all debate on the Dennis amendment in the nature of a substitute and all amendments thereto close at 3:15 o'clock p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. DENNIS. Madam Chairman, reserving the right to object, I just want to ask the chairman to state his request again.

Mr. ZABLOCKI. Madam Chairman, I ask unanimous consent that all debate end at 3:15 p.m. on the Dennis amendment in the nature of a substitute, on the substitute amendment for the Dennis amendment, and all amendments thereto.

The CHAIRMAN. The request is that all debate close at 3:15 p.m. on the amendment in the nature of a substitute offered by the gentleman from Indiana, Mr. DENNIS, on the substitute for that amendment and all amendments thereto.

Mr. DENNIS. Madam Chairman, reserving the right to object, are there further amendments pending to the Dennis substitute amendment?

The CHAIRMAN. There are some further amendments at the desk.

Mr. DENNIS. To the substitute. Are there amendments pending to the substitute?

The CHAIRMAN. There are.

Mr. DENNIS. May I inquire how many there are?

The CHAIRMAN. There is one amendment to the amendment in the nature of a substitute.

Mr. FRELINGHUYSEN. Madam Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WHITE. Madam Chairman, I rise to speak on behalf of the Bennett amendment.

Mr. SISK. Madam Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from California (Mr. Sisk).

Mr. SISK. Madam Chairman, we have under consideration today House Joint Resolution 542, the war powers resolution of 1973 which would reassert the constitutionally defined and prescribed role of the Congress in the warmaking area by placing certain restraints on a President in the commitment of our Armed Forces.

Before us is one small step for the Congress to stand up and be counted today, but it may well be a giant stride forward for future Congresses.

This bill is not as strong as some of us would have liked, but it is that first small step. This body, over the past few years, has on a number of occasions seriously debated our involvement in Southeast Asia, and now we are taking some strong steps to eliminate the involvement. If such legislation as that before us were law today or yesterday, this Nation would not have been involved in the first place. If we were involved, it would have been done with congressional approval, which is the only method I feel is correct.

This resolution does not usurp the President's responsibilities as Commander in Chief of the Armed Forces—none of us would want that. But neither does it yield to that Office the power to change direction on foreign policy which is constitutionally vested in the Congress.

What we are insisting on, and I think rightfully so, is that before this Nation ever again commits American troops and money, that we, the Congress, either approve or disapprove the action. This does not have to be done by a declaration of war, but as a resolution either in support of or against a President's actions.

This and future Congresses are deliberative bodies, not rubberstamps. Passage of this piece of legislation could be an excellent example of this and restore at least to some degree the public's faith in our form of government.

Mr. WHITE. Madam Chairman, I rise in support of the Bennett substitute and against the Dennis amendment.

It seems to me that there are some very basic differences between these two amendments which must be focused on by this House. It has already been spoken of by the gentleman from Minnesota as to the enlargement of powers by the President at his discretion determining the emergency or necessity of involving our troops abroad. I think it is imperative, that if we are going to pass this particular amendment, that there be some definitions in the bill as to what is an emergency or a necessity. This, I think, is fundamental.

More than that, the Bennett amendment requires notice to Congress prior to any action of hostilities, as I understand it. In the Dennis amendment, the President can act on his own and get us into war and engage our forces without notice, and then give notice to the Congress. The Bennett amendment is consonant with constitutional powers of Congress to declare war by an overt act before hostilities can proceed, or continue. Under the Bennett amendment, there must be an overt act on the part of the Congress to engage in hostilities, as I understand it.

Under the Dennis amendment we have the very dangerous situation in which hostilities can commence without notice and will continue until the Congress, meaning both Houses of the Congress, shall negate the action of the President. We know there are all types of procedural delaying actions which can be taken in one House or another to thwart the desire of Congress to negate the President's action. One could have a filibuster in the Senate during a hostility in which our troops were engaged by the action of the President, which would continue because of such a procedural tie-up. Then contrary to the true will of Congress our country would become more deeply involved in a war.

In reading the Dennis amendment I really cannot understand how one could get into a little war. This is trying to assume one is going to engage a weaker enemy. Suppose we got into a hostility with a foreign power of strength at the President's discretion before notice to Congress or condonation by Congress. How could we suddenly disengage under such circumstances, after the President promulgated us into war?

I believe the Congress should look at the problem prior to that time. Congress, as the representative of the people, should determine whether or not an international situation is the type of hostility of necessity or emergency in which our troops should be engaged.

The gentleman from Indiana (Mr. Dennis) should define his terms, as to necessity and emergency, before we pass his amendment. Congress itself should take overt action to say whether we should continue and engage in hostile action.

Therefore, I urge the defeat of the Dennis amendment and support of the Bennett substitute.

Mr. YOUNG of Florida. Madam Chairman, I move to strike the last word.

Madam Chairman, I take this time to discuss an amendment I hope to offer, if the parliamentary situation permits, and debate time is not cut off.

I want to commend and compliment the members of the committee who have presented this piece of legislation, for I know, through discussions with them and through attempting to draft legislation of my own, how difficult the task has been.

I have discussed my proposal with the members of the committee. I have provided in the Record, on page 21901, June 27, 1973, a copy of my proposal. I believe it does deserve consideration by the House, and not for 30 seconds or 1 minute only, or under a time limitation of that nature.

I have a change in the amendment that I would offer to the Dennis amendment if the Bennett substitute amendment is defeated, as I hope it will be. Then I will have the opportunity to present my amendment.

I propose a change in section 3, which was called to the attention of the committee by the leaders on both sides of the Committee on Foreign Affairs, relative to the language directing the President to call the Congress into session to consider the President's report on military action he might have taken.

My amendment will provide the language included in the committee bill, so there should be no constitutional question there.

I am concerned about the committee proposal, and I am concerned about all the other substitutes I have read, except the Dennis substitute, and I even have some questions about that, as to whether or not we are talking today about a war powers limitation measure or a war powers expansion bill. I am afraid this joint resolution is just that, an expansion of war powers.

If any Member will read it closely, I am satisfied he will find many ways in which one could argue it is in fact an expansion of the war powers of the President.

Back in our State of Florida at certain times of the year it is very dry, and fires rage out of control in the woodlands. Many times these raging infernos, which are out of control, were started innocently by someone striking a match to a few sheets of trash paper or a pile of leaves or clippings. What was intended to be a small brush fire then is turned into a raging inferno, exactly like Vietnam, where the small advisory action was turned into a small police action and then turned into a war out of control for a number of years.

The amendment I propose to offer will add that one very definite section, that none of the others have. That is a new section 4, which says:

> The President may not commit United States Armed Forces to hostilities in any case in which he is not exercising his constitutional authority or acting pursuant to a treaty obligation of the United States unless the Congress enacts a declaration of war or other specific authorization for the use of such forces.

Now, what about the President's constitutional authority? That has been determined by the courts. He has not only authority under the Constitution as the Commander in Chief of the armed services, but also as the Chief Executive Officer of the United States, and as early as 1863 in the Prize case, and as late as 1973 in the Mitchell against Laird case, the courts have held that the President does have certain constitutional authority to deploy U.S. troops in combat.

Madam Chairman, a second provision in my bill, after guaranteeing the constitutional right of the President, will deal with treaties, because we do have an obligation under our Constitution when treaties are in effect. Now, when treaties are in effect, I would then use language much like that proposed by the gentleman from Indiana (Mr. Dennis) that if the President commits forces under a treaty, he then must report to the Congress as soon as possible, at least within 24 hours, and the Congress within 120 days would have the opportunity to either reject or confirm the action of the President.

With respect to one of the discussions we have had as to whether or not inaction on the part of the Congress should mean legislative action, I speak to that point in this way: if the Congress does not act, then ratification or confirmation is assumed by the legislation. I agree with those who take the position that Congress cannot affect the outcome of a military conflict merely by sitting down and doing nothing. I believe the Congress should have the obligation to make a determination, and if, in fact, the President does commit troops to hostilities under a treaty commitment, he must immediately report to the Congress, and within 120 days the Congress would have an obligation to make a decision. If Congress agreed to the President's action, then the President would be required to report to Congress on the conduct of military activity at least every 6 months.

Mr. FINDLEY. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Illinois.

Mr. FINDLEY. Madam Chairman, may I ask, has the gentleman found any treaty which obligates the United States to go to war without the approval of the Congress? I cannot think of any.

Mr. YOUNG of Florida. Madam Chairman, I do not cite any treaty in the legislation. I merely provide for that possibility and go further, using language much like that which is in the committee bill, and say that we do not abrogate any treaty requirement.

PARLIAMENTARY INQUIRY

Mr. ZABLOCKI. Madam Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ZABLOCKI. Madam Chairman, my parliamentary inquiry is this: As I understand it, there is an amendment in the nature of a substitute pending as offered by the gentleman from Indiana (Mr. DENNIS) and there is pending the substitute of the gentleman from Florida (Mr. BENNETT) and that there are several amendments to the Dennis substitute.

In order to bring the others in order, the disposition of the Bennett version would have to be acted upon first?

Is that not correct?

The CHAIRMAN. Any amendments which are offered to the Dennis amendment in the nature of a substitute will have to be voted upon before the substitute for the Dennis amendment in the nature of substitute is voted upon.

Mr. ZABLOCKI. In that case, Madam Chairman, I ask unanimous consent that all debate on the Bennett amendment terminate at 3 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. DENNIS. Reserving the right to object, Madam Chairman, I would like to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. DENNIS. Madam Chairman, I would appreciate the Chair stating again the order of vote. Did the Chair say that any pending amendments to my substitute must be disposed of before the Bennett substitute?

The CHAIRMAN. The gentleman is correct.

Mr. DENNIS. Madam Chairman, how many amendments, if I may ask, are there?

The CHAIRMAN. The Chair has no knowledge of that.

Mr. DENNIS. Madam Chairman, I mean those which have been offered.

The CHAIRMAN. Two amendments are at the desk.

Mr. DENNIS. Madam Chairman, further reserving the right to object, may I ask the gentleman from Wisconsin (Mr. ZABLOCKI) what was his request? Will the gentleman repeat his request.

Mr. ZABLOCKI. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Madam Chairman, it is my understanding that the gentleman from Indiana understandably wants to protect his position should there be amendments to his amendment, and that the amendment offered by the gentleman from Florida would have to be disposed of first.

Therefore, it is the intent of the gentleman from Wisconsin to limit time, if possible, on the Bennett amendment, and I have asked unanimous consent for that purpose.

Mr. DENNIS. On the Bennett amendment only?

Mr. ZABLOCKI. On the Bennett amendment only.

The CHAIRMAN. The Chair would like to point out that if the committee votes on the Bennett amendment and the Bennett amendment prevails, there will be no further opportunity to amend the Dennis amendment.

PARLIAMENTARY INQUIRY

Mr. FASCELL. Madam Chairman, I thought I had the parliamentary matter straight in my mind, but I would like to inquire. Do I understand correctly from the Chair that the present parliamentary situation we find ourselves in is that the gentleman from Indiana offered an amendment in the nature of a substitute and the gentleman from Florida offered a substitute?

The CHAIRMAN. To the gentleman's amendment in the nature of a substitute.

Mr. FASCELL. And the amendment would have to be perfected first before we could proceed to act on the substitute?

The CHAIRMAN. The committee must dispose of amendments that are offered to the Dennis amendment, if they are offered before the vote on the substitute.

Mr. FASCELL. I think that is the answer to my question, but I am not sure and I want to be absolutely clear.

Did I understand the Chair to say in response to the parliamentary inquiry that we would have to act on amendments to the amendment first before we could dispose of the substitute?

The CHAIRMAN. If there are amendments that are offered.

Mr. FASCELL. I thank the chairman.

Mr. ZABLOCKI. Madam Chairman, I withdraw my request.

The CHAIRMAN. The Chair recognizes the gentleman from Texas.

AMENDMENT OFFERED BY MR. DE LA GARZA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DENNIS

Mr. DE LA GARZA. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. DE LA GARZA to the amendment in the nature of a substitute offered by Mr. DENNIS: Amend the Dennis substitute by striking out the words "bill or" in section 3 of said substitute and insert therein the word "concurrent".

Mr. DE LA GARZA. Madam Chairman, first let me apologize to the majority and minority for not making available copies, as I have only one copy. It is a very simple one.

Where the gentleman provides in section 3 of his substitute "by bill or resolution," I simply say "by concurrent resolution."

First let me say I do not notice that the minority leader is here, but I very respectfully take exception to the words he uttered about courage and guts as having something to do with the legislation before the Congress.

I know this is a very serious constitutional confrontation between the Congress and the President. Certainly it is a most difficult constitutional question for us to be working on. I do not think the language as expressed by the minority leader should have any place in this debate.

Coming from Texas and from a Spanish-Mexican ancestry, I challenge anyone to question my courage or guts in any manner. My family has served this country, all who were able to serve have served. One died and several were wounded in action. I went twice to serve this country.

Because I am a Member of Congress with constitutional duties to my district and the people of my district I disagree with the fact that debate on any particular piece of legislation should challenge the motives or the courage or the lack of courage of anyone.

I will not yield at this time, but let me go on further to say this.

The question is very serious. I recognize that. I have offered this amendment, because my district probably had the most people serving in Vietnam per capita and probably the most dead in Vietnam, and yet they instructed me to steadfastly stand here and support the President of the United States. When the Presidency changed from Johnson to Nixon, they still insisted that I support the President.

And I did.

But now they say, "No more." They say, "The Congress, you as our Representative must have some say-so."

I say that the question of a veto of a bill or joint resolution is eminently derogatory to the power of the Congress to supersede the wishes of the President.

That is why I say I am in agreement

basically with what the gentleman from Indiana has been saying about a positive approach, but I change it to concurrent resolution.

I would like to ask the gentleman from Indiana another question.

The gentleman from Indiana and the distinguished minority leader were positive in their statements. So I ask why, then, should there be section 6 in the bill? Would the gentleman agree to strike out that section?

Mr. DENNIS. Madam Chairman, if the gentleman will yield, I am not sure which document the gentleman from Texas has in front of him.

Mr. DE LA GARZA. I do not have the mimeographed copy but, in any case, it is where it says also by inaction has approved what the President has done.

Mr. DENNIS. Madam Chairman, if the gentleman will yield further, in response to the inquiry of the gentleman from Texas, the bill that I believe the gentleman from Texas has in front of him originally had a section 6, which did say what the gentleman from Texas has said, that if there was inaction, it spelled out that did not terminate anything. I would say that that was obviously true, because it was only on a disapproving vote that the Executive action was terminated. So I took that out.

Mr. DE LA GARZA. The gentleman from Indiana has withdrawn that section?

Mr. DENNIS. That is correct.

Mr. DE LA GARZA. I then have an incomplete copy in front of me.

Mr. DENNIS. I am sorry about that.

Mr. DE LA GARZA. Madam Chairman, I commend the gentleman from Indiana for this. And then I ask if the gentleman would also agree with me on what I said about what the minority leader said in challenging the guts and the courage of certain Members?

Second, as a Member from the 15th District of Texas, I have the constitutional right to protect the interests of my people. Third, that with my Texas-Spanish ancestry I do not lack in courage or guts. And, fourth, if the gentleman from Indiana will agree to accept my amendment, which is a simple amendment, just changing it to concurrent resolution.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. DENNIS. Madam Chairman, I rise to oppose the amendment offered by the gentleman from Texas (Mr. DE LA GARZA).

Madam Chairman, first I wish to say that I have the greatest respect and regard for my friend, the gentleman from Texas, who just left the floor. I have less regard, however, for the amendment the gentleman has offered.

The amendment the gentleman from Texas has offered brings back the question we discussed here several times before, which simply seeks to substitute for the words "bill or resolution appropriate to the purpose," as describing the vote of approval or disapproval which we would take of the President's action, the words "concurrent resolution."

Concurrent resolution is what is in the committee bill. So we are back to the argument we plowed over before. The question is can you do it by concurrent resolution? Can you make a concurrent resolution have the binding force and effect of law? It is very doubtful in my opinion that you can.

Therefore, Madam Chairman, as I said before, it seems to me a mistake to lock that constitutional problem into this bill and give yourself no other option.

When you say "bill or resolution appropriate to the purpose," if the court some day wants to say a concurrent resolution is appropriate, then you can still use it, but if it turns out not to be appropriate, as it very well may be, you can use a joint resolution or a bill. We should remember that the whole constitutional scheme normally requires presentation to the President, and action by him, if you are going to make anything legally binding as a matter of law.

Mr. EVANS of Colorado. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I will yield to the gentleman in just one moment. Please permit me to finish my statement.

We should not forget that the Constitution provides that every order, resolution, or vote to which the concurrence of the House and the Senate may be necessary, shall be presented to the President of the United States.

As a matter of English that would include any kind of resolution. By practice we have not included concurrent resolutions normally, but the reason is that we have not normally used them for legislative purposes or for anything which was going to have the binding force and effect of law. We have used them for housekeeping matters, with which the President has no concern. This is not just my idea. There is no definitive determination on the subject, but it has been discussed.

Professor Corwin in his book on the Constitution says:

> In a report rendered by the Senate Judiciary Committee in 1897 it was shown that the word "necessary"—

In the clause I just read—

> has come in practice to refer to the necessity occasioned by the requirement of other provisions of the Constitution whereby every exercise of legislative powers involves the concurrence of the two Houses or, more briefly, "necessary" here means necessary if an order, resolution, or vote is to have the force of law.

I suppose we want this one to have the force of law. That is why I am skeptical that we can do it by a concurrent resolution, but, if we can, the form of my substitute would still permit it. What I object to is locking ourselves into that box.

Mr. EVANS of Colorado. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the distinguished gentleman for yielding.

Does not the question of the constitutionality and the effectiveness of a joint resolution standing by itself disappear—whether it is the gentleman's substitute or the committee resolution which refers to a concurrent resolution—if it is passed by a majority of the House and a majority of the Senate, sent to the President, vetoed by the President, and then the veto is overridden so that it thereby becomes a law, which law just simply refers to action in the future by means of a concurrent resolution? I think under those circumstances there should be no question about it being a constitutional negation of what the President may do by a simple concurrent resolution, because it has its roots in something that has been previously passed and passed over the veto of the President.

Does the gentleman not agree?

Mr. DENNIS. I do not know whether I completely understand the gentleman. I suppose if we pass something over a veto, it becomes a law. That is normal procedure.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ECKHARDT, and by unanimous consent, Mr. DENNIS was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Texas.

Mr. ECKHARDT. I think the gentleman from Colorado is talking about what is generally called a legislative veto, and it is based upon the theory that the previous act, having delegated to Congress authority to rescind, constitutes legislative authority to act in that manner without the veto.

I have serious doubts about that, and I should like to have the gentleman's comments on it. If the original act is passed as a bill, and if what is envisaged is concurrent action of both Houses changing or rescinding policy of the original act, it seems to me that this is indistinguishable from a bill of the nature that the Constitution is referring to when it states that any concurrence of the two bodies must be subjected to Presidential veto.

Mr. DENNIS. Of course, let us say we pass the bill here. I thought about that. The bill says that when we take this action voting a resolution of disapproval of some kind, certain actions follow. The President must pull the troops out. This President signs that bill and it is the law. Maybe we do not have to have a veto under those circumstances, but I am skeptical of that situation. I doubt that we can arrive at that result because of our basic constitutional scheme which does require presentation to the executive. But if we can, well and good, we can still do it under my proposal but under the committee bill we assume that this very difficult constitutional question is going our way.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(On request of Mr. DU PONT, and by unanimous consent, Mr. DENNIS was allowed to proceed for 3 additional minutes.)

Mr. DU PONT. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Delaware.

Mr. DU PONT. If I might ask the gentleman a question, does he not believe that the either/or provision of his substitute and the Whalen-Buchanan amendment will lead to playing a political game with war powers? If the Foreign Affairs Committee is controlled by a majority of a different party than the President, there may be a tendency to make the resolution concurrent. If they are the same, there may be the tendency to make it joint. It seems to me an either/or approach is going to inject a frivolous possibility into deciding whether or not we are going to engage in a military campaign.

Mr. DENNIS. I do not really think that is a serious problem; no. I say again we have a very difficult constitutional question here before us in trying to legislate in the field of war powers at all. I simply cannot understand why the gentleman wants to further complicate that field by writing into the statute unnecessarily another subordinate but equally difficult constitutional problem. Let us take one thing at a time.

Mr. DU PONT. If the gentleman will yield further, it seems to me just the opposite is true. What I am trying to do is get rid of the element of chance that will lead a Foreign Affairs Committee in the future to try to work the situation to its own political advantage. Let us have a clear proposition here.

Mr. DENNIS. What the gentleman is trying to do is to have a conflict between the executive and the legislative. You assume that the executive is going to try to veto anything we do. I do not know. Perhaps some court is going to have to decide this question some day, but I do not make your assumption. I think if we pass a resolution saying to the President of the United States he has got to stop this, he would stop it. I think he would. And if he would not, then is the time to talk about cutting off funds or taking other drastic action, if he is ignoring the statutes.

Mr. YOUNG of Florida. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Madam Chairman, the gentleman has made his argument very well in favor of the position he has taken. In support of that position, I would like to call his attention to Jefferson's Manual and Rules of the House which state:

> A concurrent resolution is binding on neither House until agreed to by both. Since it is not legislative in nature, it is not sent to the President for approval.

Then in Cannon's Precedents of the House, volume 7, page 150, it states:

> A concurrent resolution is without effect beyond the confines of the Capitol.

I think the gentleman's arguments against use of a concurrent resolution in this regard are very well founded.

Mr. FRASER. Madam Chairman, I move to strike the requisite number of words.

I wonder of the gentleman from Indiana would be willing to pursue this question a moment more.

Mr. DENNIS. I will be happy to discuss the matter with the gentleman.

Mr. FRASER. Let us suppose the Congress enacted a law that said that when the United States enters into a treaty of mutual security with another nation and when that other nation is attacked, that the President then has the authority to use U.S. forces in defense of that other country without further congressional approval. In other words we, in effect, build into the treaty the authority to use force in support of the treaty commitments. But then supposing that same law goes on to say, "provided however, that this authority shall expire or terminate upon the passage of a concurrent resolution by the Congress." My question to the gentleman under those circumstances is this.

Mr. DENNIS. If the gentleman will yield, what goes on to say that?

Mr. FRASER. Assume we pass a law that says when we enact a mutual security treaty the President shall have the authority to use force without coming to Congress for more specific authority.

Then, we go on to say in the same law that Congress by concurrent resolution may withdraw that power at any time. In view of the gentleman from Indiana, would that provision calling for the withdrawal of authority by concurrent resolution be appropriate and enforceable?

Mr. DENNIS. The gentleman, of course, as he well knows, is asking me some deep constitutional law questions to which there really is not much law, or at least as far as I know.

My view has always been that Congress could, by taking action subsequent to a treaty, change the treaty authority, because we granted it and I think we can change it. A treaty is the law of the land and I think we can change the law.

My feeling also would be that we would probably have to do it by an act of Congress, but I have not researched the subject the gentleman is discussing.

Mr. FRASER. Madam Chairman, let me pursue that, if I may. In the Gulf of Tonkin resolution, it was provided that the resolution could be rescinded by a concurrent resolution. Now, the Gulf of Tonkin resolution did afford a basis on which the President could use force. In the view of the gentleman from Indiana, was that provision in the Gulf of Tonkin resolution providing for its repeal by concurrent resolution constitutional?

Mr. DENNIS. As the gentleman knows, the question was never tested.

Mr. FRASER. I am asking him to review the issue.

Mr. DENNIS. I frankly do not know the answer to that queston. What I am saying and have said again and again, is that I do not think the gentleman knows either, but he is assuming and his cohorts on the committee all seem to be assuming that they do know the answer, that they are bound to be right, and that therefore it is safe to write it into law.

I say that is a mistake, because nobody can tell whether the committee is right or not, and it is locking itself in there and putting a constitutional question in the bill which does not have to be there.

Mr. FRASER. Madam Chairman, let me make this observation: Where the Congress by law gives authority, it can at the same time say that the authority may be rescinded by concurrent resolution. That is an integral part of the initial grant of authority, that it can terminate the authority in the nature of a condition subsequent.

We had a case where the President assigned four transport planes to the Congo in support of the United Nations action. He did not come to Congress. I assume the President probably argued that his authority came from the United Nations Participation Act, or from the action of the Security Council.

My point is, that when we pass the kind of bill the committee has recommended, in effect we are saying that these kinds of statutory grants from which there may be inferred an authority to act, are to be limited thereafter by the provision that a concurrent resolution may withdraw the authority, referring specifically to any implied authority.

I want to say that I think this is a sufficiently arguable proposition so that we ought to put it into the bill. Let us assume that the court holds it unconstitutional. We have lost nothing, because we always retain the authority to act by law. When we propose a joint resolution, which is the same as a law or a bill, we add nothing to the power we already have under the Constitution. In that case, it is just simply restating a power Congress already has.

Mr. BUCHANAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would like to have the attention of the gentleman from Minnesota (Mr. FRASER). As he well knows, I am a layman and not a distinguished attorney such as himself or the gentleman from Indiana.

However, is the gentleman saying, as the gentleman from Delaware has earlier said that what we are in fact doing is saying to the President that under certain emergency conditions we are delegating to him certain powers to act?

Mr. FRASER. Not under this bill. This bill provides the President with no authority to act which he does not have in its absence.

Mr. ECKHARDT. Then how can a concurrent resolution prevail?

Mr. FRASER. Because, when the President acts, what he will do is cite other acts of Congress such as the SEATO Treaty, the Gulf of Tonkin resolution, the United Nations Participation Act or whatever. Whatever he gets the Nation into, he then infers authority to act from some prior congressional actions or treaty. What we are doing is coming along and saying, "If you do that, let it be understood that any such inference of authority is explicitly subject to the concurrent resolution which terminates it."

Mr. BUCHANAN. I do not know whether the gentleman is correct. As he has said, the Court would have to make that determination.

I want to underline the fact that while the committee measure does put the Congress in an inflexible position of prescribing a concurrent resolution to cut off Presidential action, the Dennis substitute does not take that inflexible position, nor does it prohibit a future Congress, if in its judgment the gentleman's view is correct and a concurrent resolution should be tried, from doing so. It could do so, under the Dennis substitute.

I want to lay to rest the idea that somehow the Dennis substitute prohibits action by the Congress by concurrent resolution to attempt to cut off the conflict, because it does not. It uses the language "a resolution appropriate to the purpose."

Like the gentleman, I would be happy to try the concurrent resolution approach, to see if the courts would let it prevail. The Dennis substitute permits such an effort, as it is written.

Mr. FRASER. I would say to the gentleman that where the language uses the phrase "appropriate resolution" I would think that any court would construe that to require a bill or a joint resolution, because to argue for a concurrent resolution I believe one would have to say so explicitly.

Mr. BUCHANAN. We are here making legislative history. As someone who is a cosponsor of the Dennis proposal and a strong supporter of the amendment, I am saying I believe the language makes a concurrent resolution possible by the Congress.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Indiana.

Mr. DENNIS. I should like to say to my colleague and cosponsor that when we say it is a resolution appropriate to the purpose it means any resolution which is found to be and is in fact appropriate to the purpose.

Mr. FRASER. Would that include a resolution by one House alone? Would that be appropriate?

Mr. ECKHARDT. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Texas.

Mr. ECKHARDT. I wonder if the gentleman is troubled by the same point I am. The gentleman from Minnesota (Mr. FRASER) has described a measure which grants authority and makes a condition subsequent that permits a concurrent resolution to withdraw that authority. If that be true, that grant of authority must be the grant of the war power authority.

Mr. BUCHANAN. I believe the gentleman is correct.

Mr. ECKHARDT. Yet he says it is not.

Mr. BUCHANAN. There is clearly a delegation for a 120-day period to the President of the congressional warmaking authority under the committee measure, and that is in complete conflict with the provisions of section 8, which says we are not doing it.

Mr. ECKHARDT. Madam Chairman, will the gentleman yield further?

Mr. BUCHANAN. I yield further.

Mr. ECKHARDT. If, therefore, the original act reserves a method of rescinding war authority by concurrent resolution it must have originally granted war authority, as I see it.

Mr. BUCHANAN. I believe it clearly has done so.

Mr. FRASER. Madam Chairman, will the gentleman yield on that point?

Mr. BUCHANAN. I yield to the gentleman from Minnesota.

Mr. FRASER. Let me say, first, there is a provision which I authored, so I am familiar with it, which says that absolutely nothing in the measure gives the President authority to act that he did not have before.

I am talking, in effect, about amending any other act of this Congress or any other treaty by the provision that termination may occur by concurrent resolution. I am not talking about this being the source of the authority. I am talking about the concurrent provision being in effect an amendment to any other legislative enactment from which the President infers the power to act.

I want the record to be clear on that.

Mr. BUCHANAN. The gentleman is an attorney, and I am not, but I might say this really is a unique experiment. What we are saying is that an act of Congress, by joint resolution or bill, can be revoked by a concurrent resolution of the Congress, regardless of the President's position, whereas at the outset, had this been the case, it would have required a two-thirds vote by the Congress to accomplish the purpose.

We are saying, after the fact and subsequently, a mere majority vote of the Congress can do it in the committee bill, if the interpretation of the gentleman from Minnesota is correct.

Mr. FINDLEY. Madam Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. DE LA GARZA).

I do so with some trepidation, because I would not want to leave the impression that I feel the amendment, if accepted, will make the Dennis substitute a good proposition. Quite to the contrary, I feel it would still be a very serious mistake for this body to embrace other provisions of the Dennis substitute.

But nevertheless the amendment offered by the gentleman from Texas (Mr. DE LA GARZA) certainly is an improvement. It does replace with a very precise term, "concurrent resolution" the ambiguity and the uncertainty of the type of resolution that would be required to terminate hostilities.

I would also make the point that there is judicial notice of the use of the concurrent resolution as a means by which the Congress can terminate, or reverse the action of the executive branch. I call attention to the 1941 case before the Supreme Court, the case of Sibbach against Wilson & Co., and the issue was the question of whether or not the use of a concurrent resolution in the statutes as means by the Congress can negate executive action relating to rules of civil procedure for the district courts was constitutional. And the court stated as follows:

> Moreover, in accordance with the Act, the rules were submitted to the Congress so that that body might examine them and veto their going into effect if contrary to the policy of the legislature.
>
> The value of the reservation of the power to examine proposed rules, laws and regulations before they become effective is well understood by Congress. It is frequently, as here, employed to make sure that the action under the delegation squares with the Congressional purpose . . . That no adverse action was taken by Congress indicated, at lease, that no transgression of legislative policy was found.

At this point I stop quoting from the decision of the U.S. Supreme Court, which I think certainly upholds the constitutionality of the use of a similar use of a concurrent resolution. So far as I know, it is the only circumstance in which the Supreme Court has seen fit to rule on the question of using the concurrent resolution. But despite the fact that only one test case has occurred may have occurred many laws have provided either for the use of a concurrent resolution to establish the right of Congress to negate or reverse an executive action or the right of Congress to employ a simple resolution of one House which would have that same effect.

So, Madam Chairman, I think this amendment is definitely an improvement in the Dennis bill, but I would remind my colleagues that the language at the top of page 2 is an unconscionable conveyance to the President of the right to define the "war powers" of the President. It would give statutory sanction to such definition.

My colleague, the gentleman from Michigan (Mr. FRASER) very eloquently pointed out the dangers of letting by statute the President decide on his own what emergencies are sufficient to justify his use of the military force on foreign territory.

Now, this question also remains: Who is going to decide under the terms of the Dennis substitute what type of resolution is appropriate? The language of the bill does not suggest any answer to the question, but I think in all practicality we must assume that when the time comes, the President is going to be the one who decides what is appropriate. And he is going to decide on the form of resolution which is most to his advantage. Of course, the form most to his advantage is the joint resolution approach which would enable him to veto the action of the House and therefore be able to sustain his position with the support of only one-third of one body.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Florida.

Mr. FASCELL. Madam Chairman, in addition to the unusual grant of authority to the executive branch, for the first time in history as in the Dennis substitute, what does the gentleman from Illinois think about the provisions of paragraph 3 which put a restriction or attempt to put a restriction of time upon the Congress?

Of course, we all know some Member is going to have to introduce a bill or a resolution or take some action, but what happens if, just by some chance, no Member introduces a bill, and the Congress does not act up or down in the courageous manner anticipated by previous speakers?

Mr. FINDLEY. Madam Chairman, I presume that the authority under which the Congress could act would expire?

Mr. FASCELL. At least the inference is there that if the Congress did not act in that period of time, the Congress would forfeit the right to act, which of course is impossible.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. DE LA GARZA), to the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. DENNIS).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. REGULA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DENNIS

Mr. REGULA. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. REGULA to the amendment in the nature of a substitute offered by Mr. DENNIS:

Insert at the end of section 5 a new section as follows and renumber the remaining sections:

SEC. 6. (a) Any bill or resolution introduced pursuant to and under the provisions of section 3 or section 4 of this act, either approving or disapproving the action of the President shall, if cosponsored by one-third or more of the total number of Members of the House of Congress in which such bill or resolution originates be considered reported to the floor of such House no later than one day following its introduction, unless the Members of such House otherwise determine by yeas and nays; and any such bill or resolution referred to a committee after having passed one House of Congress shall be considered reported from such committee within one day after it is referred to such committee, unless the Members of the House referring it to committee shall otherwise determine by yeas and nays.

(b) Any bill or resolution reported pursuant to subsection (a) shall immediately become the pending business of the House to which it is reported, and shall be voted upon within three days after such report, unless such House shall otherwise determine by yeas and nays.

Mr. REGULA. Madam Chairman, the distinguished gentleman from New York (Mr. BINGHAM) mentioned earlier that under the provisions of the various bills Congress could be frustrated by having no machinery to provide for action. The objective of my amendment is to provide some machinery to get action and get this issue before this body.

On May 21, 1973, I introduced legislation designed to delineate and clarify once and for all, the warmaking powers of the executive and legislative branches of our Government. That legislation is very nearly identical to my colleague, Mr. DENNIS' amendment in the nature of a substitute, save for a section that sets forth the procedures whereby action by both Houses of the Congress, either in approval or disapproval of Presidential warmaking action can be moved through the Congress in an expeditious fashion. This procedure should be enacted now rather than in the heat of controversy in the event this legislation is used.

House Joint Resolution 542 has serious defects which my colleague's amendment would correct, but unlike my colleague's amendment, House Joint Resolution 542 does contain language in sections 5 and 6 that stipulate congressional priority procedure for consideration of a relevant bill or resolution introduced either in approval or disapproval of Presidential action.

I believe that such procedures are essential unless we want, like the Cheshire cat in Lewis Carrol's "Alice in Wonderland" to say that the mirror image of our inaction in fact is affirmative action.

The procedures spelled out in House Joint Resolution 542 are needlessly complex whereas, in my amendment, they are simple and straightforward.

My amendment provides that any bill or resolution in approval or disapproval of Presidential action, if cosponsored by one-third or more of the Members of the House in which it is introduced is automatically considered reported to the floor 1 day following this introduction. The Members of the House may, by vote, determine otherwise. Further, once having passed one House the bill or resolution is automatically considered reported to the floor of the other House within 1 day after it has been referred to a committee of that House. Again, the Members of that House may determine otherwise by a vote. Subsection (b) of my amendment provides that the bill or resolution immediately becomes the pending business of the House to which it is reported. Further, I require that it be voted upon within 3 days after it has been reported. Again, the House which is considering it may determine otherwise by a vote.

So essentially the controls remain with the House dealing with this matter.

Madam Chairman, it seems to me that these provisions are straightforward and are not subject to varied interpretations. The antifilibuster provision of House Joint Resolution 542 is, by contrast, perplexingly complex. One must be a mathematician versed in the law of probability to determine whether or not a bill or resolution falls within the congressional priorities spelled out in section 5(a) and 7.

Of course, Madam Chairman, I would support the amendment offered by the gentleman from Indiana (Mr. DENNIS) in the nature of a substitute. I think that it is essential that Congress take a positive action in the event this matter comes before it, but I believe that my amendment would strengthen and delineate the procedures that are necessary to deal with matters of this serious nature.

The approach taken by House Joint Resolution 542 is a negative one. The substitute amendment will correct that. House Joint Resolution 542 would, pursuant to sections 4 (b) and (c) force the President to act as a result of congressional inaction.

There is no argument that the power to declare war—requiring an affirmative act—rests with the Congress and only with the Congress. Section 4 would, however, deprive the President of rightfully exercising the power he constitutionally shares with the Congress, that is the power to make war, whenever the 535 Members of the Congress failed to act or simply refrained from acting.

A war powers bill has been necessitated by the growth of powers claimed as inherent in the Executive under article II, section 2, of the Constitution. Congress, by its inaction, can take a good share of the blame for that.

Are we now to sanction congressional inaction by changing the rules and calling that which we failed to do implied censure?

I do not believe that we can by inaction do that which the framers of our Constitution said we must affirmatively do.

Article I, section 9 of the Constitution gives Congress the power to declare war as well as such related functions as raising and supporting armies and providing and maintaining navies. Each enumerated authority requires an affirmative act. While we are finally, by this legislation, clarifying the gray area between the explicit grant of war powers to the President under article II, section 2—which makes the President Commander in Chief of our Armed Forces—and article I, section 9, let us not muddy the waters by saying that whenever the Congress does not act, the negative shall be implied.

The substitute amendment offered by Mr. DENNIS does require the Congress to act either in approval or disapproval of the President's action. There is no room for an inference to be drawn. Either we approve or we do not and we say so.

The argument that the concurrent resolution is not constitutionally effective is a spurious argument.

The U.S. Constitution section VII, article 1 says that for a concurrent resolution to have legislative effect, the President must approve it or veto it. Congress can override the veto. The framers of our Constitution contemplated and provided for the use of a concurrent resolution.

But, if the President ignores a concurrent resolution by both Houses of the Congress, it has absolutely no legislative effect. In theory, we could have a situation in which no one in the U.S. Government would have the responsibility of handling a national security crisis under section 4(B) of House Joint Resolution 542. The Constitution is clear. The veto is built into the constitutional scheme of things. The only way that a concurrent resolution can have legislative effect is through the established legislative process.

House Joint Resolution 542 does not provide for contingencies when the President has been directed to cease hostilities and disengage forces. The substitute introduced by my colleague from Indiana does provide for contingencies in that event. It gives him that authority, at least.

Section 5 says that when the President is required to disengage, he does it with due regard to the safety of the forces of the United States, the necessary defense and protection of the United States, the safety of other nationals, and the reasonable safety of allies and friendly nationals and troops.

Mr. MAILLIARD. Madam Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from California.

Mr. MAILLIARD. Madam Chairman, I thank the gentleman for yielding. I would just say, speaking for myself, that I would strongly support the amendment offered by the gentleman from Ohio, because I thought that one of the defects in the Dennis amendment was the lack of a procedure that would guarantee that filibustering could not occur, or that a committee that may not have the same view that the House as a whole has, could button up a measure that might disapprove the President's action. I think this considerably improves the Dennis amendment.

Mr. REGULA. Madam Chairman, I thank the gentleman from California, and I emphasize again that when the matter is before the Congress is not the time to decide on procedural questions, but that it should be done as an overall package.

Mr. BINGHAM. Madam Chairman, I move to strike the last word.

Madam Chairman, I agree with the distinguished ranking minority member of the committee that the proposal made by the gentleman from Ohio would improve and strengthen the Dennis amendment. However, I would point out that the provisions in this amendment are not as well drawn and not as thoroughly drawn as similar provisions in the committee bill. This illustrates some of the difficulties of trying to rewrite on the floor legislation which has been carefully considered in committee.

The provisions in the gentleman's amendments are, I believe, identical with the provisions on this subject in the Javits bill in the other body; they do not provide for adequate committee consideration. They would short circuit the committee process in the House. For that reason I think these changes, while they would guarantee to some extent against a filibuster, they would not provide adequate consideration for matters of this importance. I will vote for the amendment offered by the gentleman from Ohio (Mr. REGULA) because I think it does represent an improvement, but it certainly does not come as close to meeting the problem of priority procedures as the committee bill.

I will certainly vote against the amendment offered by the gentleman from Indiana (Mr. DENNIS) in the nature of a substitute, when the time comes to vote on that, for reasons that have been previously explained.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Florida.

Mr. FASCELL. Will the gentleman from New York comment on the difference in the provisions whereby in the committee bill one person who sets out to get priority action in the House may do so, and which also preserves the right of the committee. Whereas under the pending amendment it would take one-third of the House in order to achieve priority?

Mr. BINGHAM. The gentleman from Florida has stated it so well there is no need for me to repeat it.

Mr. DENNIS. Madam Chairman, I rise in opposition to the amendment, and I move to strike the requisite number of words.

Madam Chairman and members of the committee, I appreciate my colleague, the gentleman from Ohio, in his support of the general thrust of my substitute amendment. However, I oppose the amendment offered by the gentleman from Ohio not because it is ill intended, because the idea is to make sure that we get a prompt decision on this matter when the time to vote comes up on approving or disapproving of an action of the President, but because I think it is unnecessary, and unduly complicates the situation. In illustration of that, my two distinguished colleagues, the gentleman from Florida and the gentleman from New York, have pointed out two fallacies in the proposal. There are other similar provisions in the committee bill which the committee prefers, which my friend, the gentleman from Ohio, does not prefer. All of these procedural matters need consideration, and none of them are foolproof, but under the gentleman's proposal a certain number of people have to sponsor the proposal, and a majority of the House can set the whole procedure aside, if I understand the proposal.

What I tried to do was to draw a relatively simple bill. I do not think we can assume that the Congress is not going to obey its own statute. If the Members pass my amendment, my substitute, and it becomes law, we have a positive duty to vote within a certain length of time. So does the other body. It is a legal obligation. In due course and with plenty of time to consider it, rather than on the floor when we are considering other things, but well before the time would come up when we would have to use it, I would assume that our distinguished Committee on Rules, seeing this law on the book, will sit down and come up with a rule for this body to adopt which will implement the requirement to vote within 90 days. I say let us leave it to them at that time. Let us not try to write those procedural matters here in the statute on the floor.

Mr. KAZEN. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

The gentleman has just said that he had a time frame within which the House would act, and I think that under his bill the House has 60 days—the Congress has 60 days—am I correct?

Mr. DENNIS. Ninety days on the first occasion and 30 days on the subsequent reports.

Mr. KAZEN. All right. Let me ask my distinguished friend this: Suppose the Congress does not act within that time frame; then what happens?

Mr. DENNIS. I say again to the gentleman I am assuming—and I think I have a right to—that if we pass a law saying we must act, we will act, but, of course, obviously if we do not act, nothing happens.

Mr. KAZEN. The war continues?

Mr. DENNIS. That is right.

Mr. KAZEN. Why does not the gentleman spell that out in the bill?

Mr. DENNIS. I did at first, and then some of my colleagues objected. They said that it was self-evident, and I agreed with them, so I took it out.

Mr. KAZEN. In other words, the difference in that particular item between the gentleman's proposal and the committee's proposal is that if in one instance the Congress does not act, the war ends; in the other, if the Congress does not act, the war continues. I submit to the gentleman that under his proposition he is enlarging the powers of the President.

Mr. DENNIS. The gentleman is so right about the difference. I say if we want to stop a war, we ought to have the courage to vote it up. We should not determine national policy just by sitting around here on these benches and doing nothing. That is the trouble with the committee bill. That is what we were arguing about before.

Mr. ZABLOCKI. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

By the same token, should not we have the courage to affirm a commitment of troops abroad if we agree with the President?

Mr. DENNIS. Under my bill we have to do one or the other. What is wrong with that? Do it, up or down.

Mr. ZABLOCKI. Madam Chairman, will the gentleman yield further?

Mr. DENNIS. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Should not we have the courage today to vote our convictions and responsibilities that the war powers be returned to balance between the executive branch and the Congress?

Mr. DENNIS. I think it is a mistake to decide these things by inaction.

Mr. BURGENER. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from California.

Mr. BURGENER. I thank the gentleman for yielding.

In the gentleman's research on this matter of declaring war, am I correct in my assumption that the last declaration was in 1941?

Mr. DENNIS. I believe so.

Mr. BURGENER. In that case I believe the President asked the Congress to declare war, and the vote was virtually unanimous. Does anyone recall the document? What was the document that was used by the Congress?

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

I just checked with the Parliamentarian of the House within the last half hour. It was done by joint resolution of the Congress and required a Presidential signature.

Mr. DENNIS. I thank the gentleman.

Mr. BUCHANAN. Madam Chairman, I rise in support of the amendment.

Madam Chairman, I think the gentleman from Ohio brought forth a good amendment, and I urge support of his amendment. I do not know whether we can bind a future Congress to fulfill sections 5, 6, and 7 of the committee bill, or to fulfill the procedures which the gentleman from Ohio set up in this amendment. But I believe we can and I think we should try. I would point out if one can set up these procedures and bind a future Congress by such procedures one can also say to that future Congress that it must act. It is the same thing. And the Dennis resolution says Congress must act. It says if Congress does not act Congress is disobeying the law. If Congress will disobey the law in not acting as the Dennis proposal requires, then Congress can just as well disobey the law in not going through the procedure the gentleman from Ohio now prescribes or that the committee bill requires and we will be in the same basic position of those procedures being disregarded.

But I say if we can mandate congressional action as to procedures and mandate them in a future Congress, and I believe we can, then the procedures of the gentleman from Ohio would be valid and what the gentleman from Indiana is doing to mandate the Congress to act to approve or disapprove Presidential action is valid as well.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Indiana.

Mr. DENNIS. Madam Chairman, I would like to say I concur completely with my friend, the gentleman from Alabama, as to the fact that this proposed law, the substitute, definitely requires action, and as I said before I have assumed that we are not going to disobey our own law. I completely agree with the gentleman in what he says about the procedural proposition. If we put it in I assume we will obey that, too. It is the same thing. The only thing on which I do not agree with my friend is on the proposition that we ought to write procedure here.

Mr. BUCHANAN. Heaven help the country if Congress ever practices civil disobedience.

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from New York.

Mr. WOLFF. What will happen if an impasse occurs so the Congress could not act?

Mr. BUCHANAN. The Congress is mandated to act.

Mr. WOLFF. If there is a disagreement between the House and the Senate?

Mr. BUCHANAN. Then that disagreement would have to be resolved.

Mr. WOLFF. But by what means?

Mr. BUCHANAN. By the same means as at present, in conference or in consultation, as we do on appropriation bills on which we must also act if the Government is to stay in business.

Mr. DU PONT. Madam Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Delaware.

Mr. DU PONT. I believe the gentleman from New York has made a very important point because the gentleman's language requires the House to act to obey the law and requires the Senate to act to obey the law, but it does not require the conference committee to act to obey the law. We have seen the situation before that the House and Senate have been unable to act.

Mr. BUCHANAN. I would say to my friend, the gentleman, the rules of the House so provide and that is our clear intention. I would say the gentleman should have faith. If he has faith as a grain of mustard seed, he can move mountains. I say also to the gentleman that he should store up treasures in heaven and not on earth. He can do so by having faith.

Mr. DU PONT. If the gentleman will yield, I have been here only 3 years but I have lost my faith already when it comes to prompt action by the Congress.

Mr. ANDERSON of Illinois. Madam Chairman, I move to strike the last word.

Madam Chairman, I think that the debate this afternoon has been very useful in outlining some of the difficulties with which we are confronted when we try to legislate in an area, an admitted gray area involving the respective constitutional powers of the President and the Congress.

Let me assure the gentleman from Indiana at the outset, a Member of this body for whom I have the very highest regard and affection and respect, that ever since he unveiled his proposal before the Rules Committee and asked for a rule that would specifically make it in order, I have tried as best I can and as conscientiously as I can to consider his proposal, and I applaud him on the amount of work that he has done and on the very conscientious study that he has made of this very grave and important issue.

I also realize that the very heart and kernel and core of his proposal is in the section, I believe 3 under his latest version, that would require affirmative action by the Congress with respect to either the approval or disapproval of the deployment of troops abroad.

I support him in that principle, and it is only because I believe that another opportunity will be offered this body in an amendment to be offered by the gentleman from Ohio (Mr. WHALEN) and the gentleman from Alabama (Mr. BUCHANAN) and I am not going to support his substitute. If he had stopped with that particular principle, I would have supported his substitute on the floor this afternoon.

However, it seems to me that he has gone much further than that, and as others have pointed out, in the language that he has included in section 1, in essence what we have are some self-canceling clauses.

First of all, it states that troops shall not be committed except with a declaration of war on an attack upon the United States without the prior specific approval of the Congress. Then, he goes on to cancel that out by saying that the President in his own discretion, in his sole discretion, may determine that an emergency or necessity requires the commitment of those troops for up to 90 days under the language of his amendment. It seems to me that that represents an enlargement of the warmaking power of the President to which I would not want to acquiesce by voting for his substitute amendment.

The other thing which troubles me about his substitute is in section 5 of the present version of his bill, where he provides that if Congress does provide by resolution or appropriate act for the withdrawal of troops or termination of hostilities, that—

> The termination shall be consistent, among other things, with the necessary defense and protection of the United States, its territories and possessions.

What that means to me is this: That after Congress has spoken, after we have enacted a bill or a resolution saying that the troops shall be withdrawn, the President could still say, "No, I am not going to withdraw those troops because that would not be consistent with the necessary defense and protection of the United States."

We would be right back where we started from. We would be relitigating the very question which we thought we had determined by the adoption of the resolution.

Finally, I am also troubled by the language in the substitute in section 4, which provides, as far as I can interpret it, a war by the installment plan, that every 6 months the President shall report to the Congress and that within 30 days after the receipt of each such report, once again we have to gear up the machinery and go into this whole process by appropriate bill or resolution ratifying, approving, confirming and authorizing the continuation of the effort. I think that is the area where we would be tying the hands of a President. Once we have decided and approved, we have ample opportunity, I think, through the appropriations process to manifest our continued support or lack of support of that initial authorization.

However, to say that we will repeatedly, every 6 months, go through this identical process, I think would be very divisive within the country and be a tremendous strain on the constitutional tie of cooperation that ought to exist between the President and Congress.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent Mr. ANDERSON of Illinois was allowed to proceed for an additional 2 minutes.)

Mr. ANDERSON of Illinois. Very respectfully, therefore, I suggest that, saluting as I do what I understand to be the central purpose of the gentleman's substitute amendment, I think he has so encumbered it with these other provisions and this additional language that I would prefer that it be voted down and that we wait for an appropriate occasion in the debate this afternoon to accept an amendment which would comply and put the Congress on record as mandating the necessary or affirmative action by this Congress in the event of the deployment of troops abroad.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Madam Chairman, I

thank the gentleman for yielding to me. The gentleman is a Member for whom I have the greatest regard.

I would like to discuss with him for a moment a number of his objections. In the first place, as to section 1, the first thing section 1 says is that normally the Congress should give prior authority before the Executive acts.

Then it simply recognizes the idea, that there are emergency situations where that may not be possible.

Mr. ANDERSON of Illinois. May I interrupt at that point? Is the gentleman not then saying we are giving the President, contrary to the requirements of section 8, article I of the Constitution, for at least 90 days, this authority, and we are telling the President, "You do have the power to declare war when you decide an emergency or necessity, undefined, exists."

Mr. DENNIS. I do not believe we are giving him a thing he does not have today. I am recognizing the emergency situation, as Madison recognized the right to repel sudden attacks, as he said. I am stating the present situation. Then I am introducing something that is new, which is giving to the President the duty to report and to us the duty to vote, neither of which now exists. So I feel I am curtailing the President's powers.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 2 additional minutes.)

Mr. ANDERSON of Illinois. Madam Chairman, I yield further to the gentleman from Indiana.

Mr. DENNIS. I pass to section 4. The gentleman says, "War by the installment plan." I cannot really agree with that. I am surprised by the gentleman's objection to this. I thought this would appeal to the gentleman.

Here we are, for instance, in a situation like Vietnam where probably 90 percent of those here supported it. Everybody voted for the Gulf of Tonkin resolution.

Mr. ANDERSON of Illinois. Will the gentleman allow me to intervene and to suggest that we got into the war in Vietnam by gradual stages. It seems to me the provision here is almost an invitation for the Congress to go ahead and vote the authorization now because 6 months from now we will reconsider and if we do not like what is happening we can get out. That is what I want to avoid.

Mr. DENNIS. The point I am making is that conditions change. At one time we may all be for a war, and 5 years later most of us will be against the war.

I believe it is important to have a continuing participation by the Congress and an opportunity to reaffirm and support our position, or to tell the Executive we have changed our minds. That is a very important feature of my proposal, which ought to appeal to the gentleman, and I am surprised it does not.

Mr. ANDERSON of Illinois. It does not for the reason that I believe getting into war is such a serious business from now on. If Vietnam has taught us anything, it should have taught us that unless the fundamental security of this country is involved we are not going to pursue that kind of an adventure.

Mr. DENNIS. That is the purpose of my proposal, really, for us to take a supervisory role, which I believe most of us here would favor.

Finally, on section 5, the gentleman neglects to point out the first thing said, and very positively said, is that the President shall withdraw and disengage just as expeditiously as may be possible. I give him certain guidelines, under those circumstances, to which he should pay some attention while withdrawing.

I would be very much surprised if the gentleman from Illinois did not believe that while withdrawing he should be able to pay attention to the safety of our Armed Forces.

Mr. ANDERSON of Illinois. If the genman will permit, we have already made that decision in the Congress. When we pass a resolution or a bill which says to withdraw, then we have decided the question, that the defense and security of this country are not involved. Why go back and relitigate the same question?

Mr. DENNIS. But we ought to withdraw with due deliberation and not sacrifice perhaps a division while we do it. That is all this means.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(On request of Mr. TAYLOR of North Carolina, and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 1 additional minute.)

Mr. TAYLOR of North Carolina. Madam Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. I should like to commend the gentleman on his statement and state that I, too, favor a requirement of positive action by the Congress.

I should like to call the attention of the Members of the House to the results of a questionnaire which I mailed to constituents less than a month ago. One question was:

> Do you favor legislation which I am cosponsoring providing that in the future our Nation not be taken into any war except a purely defensive action for a limited period of time unless the war has been declared by Congress?

The result was that 92 percent said, "Yes;" only 8 percent said, "No."

Madam Chairman, I would say that these American citizens, 92 percent of the ones responding, are asking that our Nation not be taken into any war unless that war has a significant degree of public support so that Congress in its judgment would vote for a declaration of war.

Mr. KETCHUM. Madam Chairman, I move to strike the necessary number of words.

Madam Chairman, I have listened patiently to our very distinguished attorney colleagues here today, and for the past 7 months, and I must say that I am constrained to say that time and time again I have been forced to wonder as a dirt farmer whether they have the capacity to organize a two-car funeral in less than 6 months.

We have been debating this bill for almost 4 hours. I would just like to comment upon my experiences in Congress as a freshman Member. Every day since I have been here, both on the floor and in committee and in subcommittee, I have heard reference made to the fact that depending upon your philosophy, the Congress has either abdicated its responsibilities to the President of the United States or that the President of the United States has usurped the powers of Congress.

Now, I quite agree with most of the Members on this floor in the feeling that we do need or do desire a war powers bill, but we need a war powers bill that makes sense. It seems to me at least—perhaps it is my opinion only—that the committee bill, despite the fact that it has had much work and much debate, represents a negative approach to the people of the United States, by saying that we will still have the best of both worlds and, therefore, we can sit on our hands for 120 days and then the President has to discontinue any operations.

Madam Chairman, I do not think that the American people are a negative people. I think the American people are an affirmative people and that they expect affirmative action from their Congressmen. Therefore, I definitely support the Dennis amendment and the Regula amendment thereto as evidence of affirmative action on the part of a viable, live body instead of a body which is foreever sitting on its hands.

Mr. MIZELL. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the substitute offered by the gentleman from Indiana (Mr. DENNIS).

Throughout this session of Congress, there has been a great hue and cry about the need for Congress to reassert its authority, especially on the great issues of war and peace.

Yet the legislation before us today would, in effect, require of Congress not an authoritative voice but an apathetic silence. Its emphasis is upon the Congress failing to act, rather than acting decisively.

Mr. DENNIS' substitute does what House Joint Resolution 542 should do—it requires of the Congress either an act of approval of a presidential action to deploy combat troops, or an act of disapproval.

With the series of interim reports called for in the Dennis amendment, the Congress would clearly and actively be involved in any such operation from start to finish, and it could at any time express by appropriate legislation its belief that such a military operation should be halted.

Madam Chairman, I believe the Dennis substitute offers us the best opportunity to prevent our becoming involved in another Vietnam.

I, for one, never want to see the United States of America involved in a war which takes the lives of more than 50,000 brave young men without allowing them to pursue victory.

If the war is important enough to commit American troops, it should be important enough to win and to be supported by the Congress and by the American people.

This is the policy I want to see adopted, and I am convinced the Dennis amendment would best suit the implementation of that policy. I urge my colleagues to join me in voting for its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Regula) to the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. Dennis).

The question was taken; and on a division (demanded by Mr. Dennis) there were—ayes 45, noes 48.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DENNIS

Mr. ECKHARDT. Madam Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Eckhardt to the amendment in the nature of a substitute offered by Mr. Dennis: Page 1, in section 1, strike out the last words of the section which read: "the existence of which emergency or necessity is to be determined by the President of the United States" and substitute therefor the following: "of a nature which makes impossible a congressional determination of the requisite timeliness."

Mr. ECKHARDT. Madam Chairman, I intend to test the gentleman from Indiana's determination not to enlarge Presidential power by section 1. If he does not wish to enlarge Presidential power one iota, he will not then delegate to the President the determination as to whether or not that power needs to be enlarged but will join me in providing that the only exceptional situation is a situation of a nature which makes impossible a congressional determination of the requisite timeliness.

If there is a possibility of congressional determination of whether or not we go to war of the requisite timeliness, then Congress should have the opportunity to make it and nobody else. The President should not be permitted to make that decision. That is a decision that should be ultimately made by Congress itself.

I hope that the gentleman will join me in that amendment, because I do not believe it hurts his bill in its competition with the committee bill.

Mr. DENNIS. Will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman.

Mr. DENNIS. Would the gentleman be good enough to repeat his language again? I do not have a copy of it.

Mr. ECKHARDT. The language reads this way, and let me read the section so that we have it in context:

> In the absence of a declaration of war by the Congress or of a military attack upon the United States, its territories or possessions, the Armed Forces of the United States shall not be committed to combat or introduced into a situation where combat is imminent or likely at any place outside of the United States, its territories and possessions, without prior notice to and specific prior authorization by the Congress, except in case of emergency or necessity of a nature which makes impossible a congressional determination of the requisite timeliness.

Mr. DENNIS. I would say to my good friend from Texas, with whom I always enjoy discussing these matters that are constitutional problems, that my greatest problem with his amendment is that I really do not see exactly how we are to determine, or who is to make the determination, of whether or not the emergency is of a nature which makes impossible the congressional determination of timeliness. It is all right in principle, maybe, but how do you do it?

Mr. ECKHARDT. Will the gentleman yield back to me at that point?

Mr. DENNIS. Of course.

Mr. ECKHARDT. Let me say to the gentleman that I am doing precisely the same thing he was doing with respect to his reluctance to choose between a concurrent and a joint resolution. I am simply saying the decision should be made as a matter of principle by Congress if there is the requisite timeliness.

Mr. DENNIS. Yes.

Mr. ECKHARDT. And I think that that issue will have to be determined, but I do not want to leave it altogether up to the President, because it might be determined by the Supreme Court or by the Congress.

Mr. DENNIS. If the gentleman will yield further, I would like to remind my friend that by definition we are dealing with an emergency and we are not going to have time for a congressional debate or a court decision about it.

What the gentleman from Texas is suggesting is an impossible standard in practice.

Mr. ECKHARDT. Let me see if I am. I am merely stating that if it is not impossible for Congress to make the determination with requisite timeliness, Congress should make it. That is all I am saying, and I assume the President is going to act on that basis. But I am certainly not willing to write into this bill an open-ended invitation to the President to simply determine that it is an emergency with no standards attached. I am establishing standards of requisite timeliness.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Florida.

Mr. FASCELL. Madam Chairman, the gentleman from Texas (Mr. Eckhardt) has performed a very valuable service by offering his amendment, in pointing out very clearly what the gentleman from Indiana (Mr. Dennis) has so modestly tried to say, which is that he is not doing anything new to the war powers of the President. It is quite clear, in opposition to the amendment offered by the gentleman from Texas (Mr. Eckhardt) that the gentleman from Indiana has done quite to the contrary when for the first time in history it institutionalizes the right of the President to initiate action, and then goes further and wants to make the decision rest upon the passage of his amendment.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. Fascell, and by unanimous consent, Mr. Eckhardt was allowed to proceed for 1 additional minute.)

Mr. FASCELL. Madam Chairman, if the gentleman from Texas will yield further, does not the gentleman from Texas agree that, following the logic and theory of the gentleman from Indiana (Mr. Dennis), if the Congress today votes for the amendment offered by the gentleman from Indiana, we would in effect be determining now and for all time every emergency and necessity as the President may see fit?

Mr. ECKHARDT. Precisely. If the gentleman from Indiana really did not want to enlarge the authority of the President he would permit us to write into the bill the standard that if Congress can act with requisite timeliness Congress should have the ultimate and sole authority. That is what the Constitution says. That is all I want to put into this bill.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Indiana.

Mr. DENNIS. Madam Chairman, I would like to point out two things to my friend, the gentleman from Texas. The first is that under my bill we are actually not dealing with the kind of situation where you can make the kind of determination his language would call for; rather we are dealing with an emergency.

Mr. ECKHARDT. There is nothing in my language that says so. All my language does is to set a standard, and the President must comply with the standard.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(On request of Mr. Dennis and by unanimous consent, Mr. Eckhardt was allowed to proceed for 1 additional minute.)

Mr. DENNIS. Madam Chairman, if the gentleman will yield further, the second point I wanted to make was, and the gentleman may agree with me on this, that under the committee bill the same problem, if any, arises; because it too contemplates that the President may on occasion commit troops without prior congressional authority.

Mr. ECKHARDT. The gentleman is correct, there are many defects in the original bill. I feel that this is such a serious defect in the amendment offered as a substitute that unless the gentleman agrees with me on my amendment, it seems to me that it is overwhelmingly convincing that the amendment in the nature of a substitute clearly enlarges the authority of the President from that which now exists.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Eckhardt) to the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. Dennis).

The question was taken; and on a division (demanded by Mr. Eckhardt) there were—ayes 49, noes 41.

Mr. DENNIS. Madam Chairman, I demand tellers.

Tellers were refused.

So the amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Florida (Mr. BENNETT) for the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. DENNIS).

The substitute amendment for the amendment in the nature of a substitute was rejected.

SUBSTITUTE AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DENNIS

Mr. YOUNG of Florida. Madam Chairman, I offer a substitute amendment for the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. DENNIS).

The Clerk read as follows:

Substitute amendment offered by Mr. YOUNG of Florida for the amendment in the nature of a substitute offered by the gentleman from Indiana, Mr. DENNIS: Strike out all after the resolving clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This measure may be cited as the "War Powers Resolution of 1973".

CONSTITUTIONAL AUTHORITY OF THE PRESIDENT NOT IMPAIRED

SEC. 2. Nothing in this Act shall be construed to impair the authority of the President to commit United States Armed Forces to hostilities in any case of attack, or threatened attack, on the United States, or any possession or territory of the United States, to the extent that the President has such authority under the Constitution.

TREATY OBLIGATIONS

SEC. 3. (a) If the President commits United States Armed Forces to hostilities pursuant to any treaty obligation of the United States without prior declaration of war or other specific congressional authorization for the use of such forces, the President shall report such action to the Congress in writing, as expeditiously as possible but not later than twenty-four hours after the taking of such action. Such report shall contain a full account of the circumstances under which such action was taken and shall set forth the facts and circumstances relied upon by the President as authorizing and justifying the same. In the event the Congress is not in session when the report is transmitted, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable, shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to the section.

(b) Not later than one hundred and twenty days after the receipt of the report of the President provided for in subsection (a), the Congress, by the enactment within such period of a bill or resolution appropriate to the purpose, shall either approve, ratify, confirm, and authorize the continuation of the action taken by the President and reported to the Congress, or shall disapprove and require the discontinuance of the same.

(c) If the Congress, acting pursuant to and under the provisions of subsection (b), shall approve, ratify, and confirm and shall authorize the continuation of the action taken by the President and so reported to the Congress, the President shall thereafter report periodically in writing to the Congress at intervals of not more than six months as to the progress of any hostilities involved and as to the status of the situation, and the Congress shall, within a period of thirty days from and after the receipt of each such six-month report, again take action by the enactment of an appropriation bill or resolution, to either raitfy, approve, confirm and authorize the continuation of the action of the President, including any hostilities which may be involved, or to disapprove and require the discontinuance of the same.

(d) If the Congress shall at any time, acting under the provisions of subsection (b) or (c), disapprove the action of the President and require the discontinuance of the same, then the President shall discontinue the action so taken by him and so reported to the Congress, and shall terminate any hostilities which may be in process and shall withdraw, disengage, and deploy the United States Armed Forces which may be involved, just as expeditiously as may be possible having regard to, and consistent with, the safety of such forces, the necessary defense and protection of the United States, its territories and possesions and the safety of citizens and nationals of the United States who may be involved.

(e) In the event that the Congress, despite the provisions of subsections (b), (c), and (d) of this section, shall, nevertheless, in any instance, fail to adopt legislation either approving or disapproving the action of the President, as provided and required by such subsection, such failure to act on the part of the Congress shall be taken and deemed to be an approval, ratification, and confirmation of the action of the President, and an authorization of the continuation thereof. Disapproval of the President's action, with the consequences attendant thereupon as provided in subsection (d), shall result only from action by the Congress affirmatively disapproving and requiring the discontinuance thereof, as provided in such subsection. Any such failure to act on the part of the Congress shall not relieve the President of the duty to make periodic reports as provided in subsection (c).

OTHER HOSTILITIES

SEC. 4. The President may not commit United States Armed Forces to hostilities in any case in which he is not exercising his constitutional authority or acting pursuant to a treaty obligation of the United States unless the Congress enacts a declaration of war or other specific authorization for the use of such forces.

CERTAIN TREATY OBLIGATIONS

SEC. 5. Nothing contained in this Act shall alter or abrogate any treaty to which the United States is presently party.

SEVERABILITY

SEC. 6. If any provision of this Act or the application thereof to any particular circumstance or situation is held invalid, the remainder of this Act, or the application of such provision to any other circumstance or situation, shall not be affected thereby.

EFFECTIVE DATE AND APPLICABILITY

SEC. 7. This Act shall take effect on the date of its enactment but shall not apply to hostilities in which the Armed Forces of the United States might be involved on the effective date of this Act.

Mr. YOUNG of Florida (during the reading). Madam Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. YOUNG of Florida. Madam Chairman, earlier in the debate I took 5 minutes to mention what I intended for this amendment to do. I should like to take this time now to discuss the amendment itself and briefly reiterate my concern that the measures that we have before us in the form of a committee bill and many of the other amendments that will be offered as amendments or as substitutes, in my opinion, are in fact not limitations of warmaking powers, but are in fact extensions of warmaking powers. I cite the example of a brush fire that can so easily get out of control and turn into a forest fire, like what happened in Vietnam.

I should like to have the Members consider very seriously this amendment because it goes to the heart of that.

Section 1 of the amendment says:

> This measure may be cited as the "War Powers Resolution of 1973".

Section 2 of the bill that I propose says:

> Nothing in this Act shall be construed to impair the authority of the President to commit United States Armed Forces to hostilities in any case of attack, or threatened attack, on the United States, or any possession or territory of the United States, to the extent that the President has such authority under the Constitution.

I cite the Prize case in 1863 and I cite the case of Mitchell against Laird in 1973 as a very recent case, where the Federal courts have held that the President does in fact have certain constitutional authorities and in fact certain constitutional obligations to protect the United States. So I guarantee that in this proposal.

Section 3—we all know that the United States has certain treaty commitments. We know that we are involved with NATO and we know that we are involved with SEATO. Section 3 goes to the question of any military action the President might embark upon if he determines it to be in conjunction with a treaty of some type. I do not specify any treaty. I do not cite any specific treaty, but merely say that if the President does deploy U.S. troops in the case of a treaty, then he must report to the Congress immediately, and no later than 24 hours, the action that he has taken, and the Congress, they will have 120 days to make a determination that they either ratify the President's action or they reject the President's action.

In the case of no action on the part of the Congress then the President's action will be considered to be ratified. This is one of the basic arguments we have had all day today. I am concerned about a situation where a bomb might be dropped on this Capitol and there would not even be a Congress to take action and of course the President cannot be handcuffed in that respect.

Secondly, Congress has an obligation to meet its responsibility and should not just sit idly by and do nothing and have its doing nothing in fact become legislative action. So I take the position that Congress must act in order to negate the action on the part of the President.

The main part of the amendment I propose and the main concern I have is dealing with other types of hostilities where a President might, without concurrence of Congress, deploy U.S. troops and might involve us in combat that might turn into a full-scale war. And this is what I want to prevent and I believe Members want to prevent and I believe the people of America want to prevent. We do not want any more Vietnams where we actually slide into a full-scale war without fully realizing what has been done or in hindsight being able clearly to determine who did it.

In section 4 my amendment talks about other hostilities, saying the President may not commit U.S. Armed Forces to hostilities in any case in which he is not exercising his constitutional authority, which I mentioned previously, or acting pursuant to a treaty obligation of the United States, which I also mentioned previously, unless a Congress enacts a declaration of war or other specific authorization for use of such forces.

If Congress is talking about a limitation of warmaking power we have to include this type of language specifically stating that a President cannot embark in these other areas without specific approval of the Congress.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Florida (Mr. YOUNG) for the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. DENNIS).

The substitute amendment for the amendment in the nature of a substitute was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. DENNIS).

RECORDED VOTE

Mr. DENNIS. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by clerks; and there were—ayes 166, noes 250, not voting 17, as follows:

[Roll No. 349]

AYES—166

Abdnor
Andrews, N. Dak.
Archer
Arends
Ashbrook
Bafalis
Baker
Beard
Bell
Blackburn
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Davis, Wis.
Dennis
Devine
Dickinson
Dorn
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Flynt
Ford, Gerald R.
Forsythe
Frelinghuysen
Frey
Froehlich
Gettys
Ginn
Goldwater
Goodling
Gross
Grover
Gubser
Guyer
Haley
Hammerschmidt
Hanrahan
Hansen, Idaho
Harvey
Hébert
Hillis
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Pa.
Keating
Ketchum
Kuykendall
Landrum
Latta
Lent
Lott
Lujan
McClory
McCollister
McEwen
Madigan
Mailliard
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller
Mitchell, N.Y.
Mizell
Moorhead, Calif.
Myers
Nelsen
O'Brien
Parris
Pettis
Powell, Ohio
Price, Tex.
Quillen
Regula
Rhodes
Robinson, Va.
Roncallo, N.Y.
Rousselot
Runnels
Ruth
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Sikes
Skubitz
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Symms
Taylor, Mo.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Veysey
Waggonner
Walsh
Wampler
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Tex.
Zion

NOES—250

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Annunzio
Armstrong
Ashley
Aspin
Badillo
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blatnik
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Carter
Casey, Tex.
Chappell
Chisholm
Clark
Clay
Cohen
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Daniels, Dominick V.
Davis, Ga.
de la Garza
Dellenback
Dellums
Denholm
Dent
Derwinski
Diggs
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, William D.
Fountain
Fraser
Frenzel
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Gunter
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Holifield
Holtzman
Horton
Howard
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCloskey
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mahon
Mallary
Mann
Matsunaga
Mazzoli
Meeds
Metcalfe
Mezvinsky
Milford
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
O'Neill
Owens
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Quie
Railsback
Randall
Rangel
Rarick
Rees
Reid
Reuss
Riegle
Rinaldo
Roberts
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Shipley
Shuster
Sisk
Slack
Smith, Iowa
Smith, N.Y.
Staggers
Stanton, James V.
Stark
Steed
Steele
Stokes
Stubblefield
Studds
Sullivan
Symington
Taylor, N.C.
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waldie
Whalen
White
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Yates
Yatron
Young, Ga.
Zablocki
Zwach

NOT VOTING—17

Danielson
Delaney
Downing
Evins, Tenn.
Fisher
Kemp
King
Landgrebe
Melcher
Mills, Ark.
Minshall, Ohio
Patman
Pritchard
Saylor
Talcott
Young, Ill.
Young, S.C.

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Madam Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ECKHARDT: Strike out all after the Resolving Clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This measure may be cited as "The War Powers Resolution of 1973".

SECTION 2. The President shall not commit United States Armed Forces to situations in which hostilities are inherent or imminent, or substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation, unless

(1) there has been a declaration of war by Congress, or

(2) there has been action by Congress specifically authorizing such commitment or enlargement of forces, or

SEC. 3. (a) Within 72 hours after the action dent is within such constitutional authority as he may possess without any authorizing or declaratory action by Congress, he shall, contemporaneously with such act, inform the Speaker of the House of Representatives and the President Pro Tempore of the Senate the circumstances necessitating his action and the constitutional and legislative provisions under the authority of which he took such action.

SEC. 3. Within 72 hours after the action referred to in section 2, the President shall submit to the Speaker of the House of Representatives and to the President Pro Tempore of the Senate a report in writing setting forth—

(1) the circumstances necessitating his action;

(2) the constitutional and legislative provisions under the authority of which he took such action; and

(3) such other information as the President may deem useful to the Congress respecting such action.

(b) The President shall promptly respond, in person, through the personal appearance and testimony of the Secretary of State, or in writing, to the request of either House or the Committees of either House respecting

(1) the estimated scope of activities embraced within such commitment or such enlargement of forces;

(2) the estimated financial cost of such commitment or such enlargement of forces; and

(3) such other information as the appropriate agencies of Congress may deem useful in the fulfillment of their respective constitutional responsibilities.

Nothing in this subsection shall lessen the authority of Congress, or of either House, or of the Committees of either House to call such witnesses and conduct such hearings and inquiries as they might do were this subsection not in effect.

SEC. 4. (a) In any situation subject to the provisions of section 2(3) of this Act, it is specifically affirmed that Congress may direct by joint resolution that forces committed or enlarged in the manner therein provided shall be disengaged in such manner as Congress shall direct.

(b) In the event that presidential action trenches upon the plenary power of Congress to declare or not to declare war, or to permit or not permit continued engagement in hostilities, Congress may declare by concurrent resolution that no such delegation or permission has been made or extended and the President shall forthwith discontinue such action and effect complete disengagement in such hostilities.

SEC. 5. Nothing in this Act—

(1) shall be construed to alter the constitutional authority of the Congress or of the treaties;

(2) shall be construed to represent congressional acceptance of the proposition that Executive action alone can satisfy the constitutional process requirement contained in the provisions of mutual security treaties to which the United States is a party; or

(3) shall be construed as granting any authority to the President with respect to the commitment of United States Armed Forces to hostilities or to the territory, airspace, or waters of a foreign nation which he would not have had in the absence of this Act.

(4) shall be construed as recognizing the existence of any inherent power of the presidency to take any act referred to in Sec. 2(3) which is immune from a contrary direction by Congress.

SEC. 6. (a) Congress declares that care that this law be faithfully executed and that no executive action circumvent Congress' powers under the eleventh clause of Article I, Section 8 of the Constitution is deemed a matter of highest public trust.

(b) It is the sense of Congress that the President does not inherently possess, in the absence of prior congressional declaration of war or other specific authorization, any power whatever to commit forces or to conduct hostilities, other than the power to take such action as may be required by strict necessity, under circumstances making impossible a congressional determination of the requisite timeliness.

Mr. ECKHARDT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Madam Chairman, this is an amendment that has been in the RECORD of yesterday, printed today, and is substantially the same amendment as was printed some time ago. It was available to the Members when this bill came up for the first time. I believe the amendment as presently drafted accomplishes the purposes of the committee resolution but avoids several very important objections to the committee resolution. Let me explain briefly what it does.

The crux of the amendment is in section 2, where it is provided that the President shall not commit the troops of the United States to situations in which hostilities are inherent or imminent unless: One, there has been a declaration of war by the Congress; or two, there has been action by Congress specifically authorizing such commitment and enlargement of forces—that is the Tonkin Gulf situation, or three, and this is limited to the case where the President has already the power to act as, for instance, he might put carriers in Tonkin Gulf—he has reported to Congress what he is doing.

Section 3 contains substantially the same type of reporting as the committee bill except that section 2, as the Members will notice, requires that the President immediately report the reasons for his action. He must report that immediately. He cannot wait 72 hours to give the reasons for it. But within 72 hours the President shall submit to the Speaker of the House and the President pro tempore of the Senate a report in writing setting forth: First, the circumstances necessitating his action; second, the constitutional and legislative provisions under the authority on which his action was taken; and, third, such other information as the President may deem useful for the Congress respecting such action.

That same language is in the committee bill. I think it is good, but I do not require the President to give economic justification within 72 hours, as the committee bill does. I do not think that is feasible.

Then, under the provisions of section 3(b), the President is required to report promptly in person, through the personal appearance and testimony of the Secretary of State, or in writing, upon the request of either House or the Committee of either House respecting: First, the estimated scope of activities embraced within such commitment or such enlargement of forces; and, second, the estimated financial cost of such commitment or such enlargement of forces.

This the committee amendment required within 72 hours. I think that should be responsive to congressional investigation and request. I think, practically speaking, this method would be a better way to adduce the desired information than by a hastily prepared report.

Essentially that is the reporting provision.

Then section 4—and I think this is extremely important—section 4 says:

> In any situation subject to the provisions of section 2(3) of this act—

Section 2(3) of this act covers those acts that the President can do under his existing constitutional authority—

> it is specifically affirmed that Congress may direct by joint resolution that forces committed or enlarged in the manner therein provided shall be disengaged in such manner as Congress shall direct.

The reason that has to be done by a bill subject to veto, is because it is dealing with authority that the President has without asking authority from Congress. When we, Congress, direct the President or any other person to do something which he has a right not to do, or when we tell him not to do something that he would otherwise have a right to do, we can only do it by act, which would, of course, be subject to veto.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 5 additional minutes.)

Mr. ECKHARDT. But (b) deals with those activities that the President has usurped or taken unto himself when in fact Congress has the right to do it, and only Congress can give the authority to do it.

Section 4(b) says:

> In the event that presidential action trenches upon the plenary power of Congress to declare or not to declare war, or to permit or not to permit continued engagement in hostilities, Congress may declare by—

Now, mind you, the word is "declare"—

> by concurrent resolution that no such delegation or permission has been made or extended and the President shall forthwith discontinue such action and effect complete disengagement in such hostilities.

Why do I say this can be done by concurrent resolution? Because nowhere in section 2 was the President given any authority to trench on congressional authority. So all we are doing in 4(b) is saying by concurrent resolution, "we have not given you any authority, Mr. President." And you can do that by concurrent resolution because all you are doing is declaring that Congress has not given up any of its powers.

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New York.

Mr. WOLFF. I thank the gentleman for yielding.

The gentleman requires that Congress take action; is that correct?

Mr. ECKHARDT. That is right.

Mr. WOLFF. Where does it state in the Constitution that the President has even the remotest authority, outside of an emergency, to commit troops of the United States?

Mr. ECKHARDT. There is not anything in the Constitution, but just for the same reason that the committee bill says in section 4(c) that Congress may order by concurrent resolution that the President cease engaging in activities which he has no power to engage in in the beginning, I feel that there is the necessity of providing for this situation in which the President has trenched upon the congressional powers.

Then section 5 of the bill provides that nothing shall be construed to alter constitutional authority, just like the committee bill. But section 6 goes considerably further, and I think it ties the question down as tightly as possible so that Congress retains its authority. It extends none of its authority to the President for even 120 days or for 90 days or for any time. Congress declares that care that this law be faithfully executed, and that no executive action circumvent Congress powers under the 11th clause of article I of section 8 of the Constitution is deemed a matter of highest public trust.

I have used constitutional language there about care that the law be faithfully complied with, because I want to make it perfectly clear that a violation of this act is the highest type of crime or misdemeanor. I want to make that absolutely clear, and that really is the ultimate means of enforcement of the act.

Section 6(b) says it is the sense of Congress that the President does not inherently possess, in the absence of prior congressional declaration of war or other specific authorization, any power whatever to commit forces or to conduct hostilities, other than the power to take such action as may be required by strict necessity under circumstances making impossible a congressional determination of the requisite timeliness. Incidentally, that last section is what was put by my amendment into the Dennis amendment, which was just defeated.

Let me say here that I know the authors of this bill, those who have brought it out from the committee, are most sincerely interested in curtailing Presidential power, and I know they are acting in absolutely good faith, but I want to suggest that when they argue that some authority has been granted which may be pulled back by concurrent resolution, they have to imply that the President is given some additional authority that he does not have unless Congress acts, and this is replete in the legislative history of the bill. I have put that in my explanation which I put in yesterday's RECORD.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. The legislative history is replete on this point. In the first place, I pointed out that the internal language of the bill implies that that additional power is extended. In the committee hearings there was considerable discussion, for instance, between Senator JAVITS and Mr. FINDLEY, in which Senator JAVITS said:

> I think that is a question of degree. If we have no authority in the field, the likelihood is of his acting even more adventurously. At least here we can shorten the time under this bill. . . .

In other words, shorten the time in which he is exceeding his authority to the number of days prescribed in the bill in question.

Then in floor debate when I asked the distinguished Chairman of the subcommittee whether or not the section of the committee bill, section 3, would apply to a situation like the landing of troops in Vera Cruz which would, of course, be an act of war, he agreed that it would be within that section.

Then I think the real clincher was the statement of the gentleman from Delaware (Mr. DU PONT) on this floor in answer to the gentleman from Indiana (Mr. DENNIS).

> Mr. DENNIS. Madam Chairman, may I ask does the gentleman believe that if the Congress passes the concurrent resolution under section 4(c) calling for the ceasing of hostilities, that the resolution has the force and effect of law?
>
> Mr. DU PONT. Yes, I do because we have the warmaking power to start with and we are carving out of that an exception and we are giving the President the right to conduct warmaking operations until such time as the two Houses by a simple majority agree we should not do it.

If that does not extend the warmaking power for 120 days, I do not know how to do it. I do not want to give the President the power to extend it for 120 days, or for one day, or for any time.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from Texas, Mr. ECKHARDT. I rise reluctantly to oppose my distinguished colleague. I know that he is learned and creative, and has a sincere interest in this subject matter, since this amendment represents his second effort to overcome the objections, as he sees them, to the pending committee proposal.

However, I have grave reservations about the pending amendment because, in my opinion, it could be interpreted in a way which has not yet been alluded to. Specifically, I believe it would permit the President unlimited and unrestrained power, force a constitutional crisis, and mandate an impeachment as the means of enforcement.

In section 2, the Eckhardt substitute provides:

> . . . the President should not commit United States Armed Forces to situations in which hostilities are inherent or imminent, or substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation, unless
>
> (1) there has been a declaration of war by Congress, or
>
> (2) there has been action by Congress specifically authorizing such commitment or enlargement of forces, or
>
> (3) in the event that the act of the President is within such constitutional authority as he may possess without any authorizing or declaratory action by Congress, he shall . . .

Then the amendment goes on to provide that in such cases the President must inform the Speaker; submit a report in a prescribed period of time, and provides for the guidelines of such report.

In section 4(a) the amendment provides that in any action taken under the previous section 2(3), that is, where the President acts "within such constitutional authority as he may possess without any authorizing or declaratory action by Congress," it is provided that the Congress, by joint resolution, may direct the President that the forces shall be disengaged.

Since the general rule of law is that whenever the President acts, it is presumed that he acts constitutionally, and since it may be reasonably inferred notwithstanding, that the President could and would cite his right to act pursuant to the quoted section 2(3) as being constitutional. In other words, the determination, both by presumption and by statement, of the President could be used in every case that the President decided to act, thereby investing him by statutory citation with unlimited authority to engage in hostilities which are inherent or imminent, or would substantially enlarge the United States Armed Forces equipped for combat already located in a foreign nation.

These are the very acts in section 2 which the gentleman from Texas suggests he wishes to subject to the control of Congress. Yet, under section 4(a), once the President has acted under the statutory citation in section 2(3) of the amendment, either by presumption of law or by his own declaration of constitutionality, the Congress would be required to act by joint resolution.

A majority of the Congress could, by joint resolution, direct the President to disengage. The President could veto the joint resolution. The Congress might be unable to get a ⅔ majority to override the veto. Therefore, a ⅓ majority could thwart the will of the majority, thus leaving us in exactly the same position that we now are in—with one big exception, however—section 2(3) of the amendment would be cited ad infinitum as congressional authority for the President to act as he saw fit.

Obviously, the distinguished gentleman from Texas, a learned lawyer recognizing the potential mischief under these circumstances, ingeniously sought to cope with this difficulty in section 4(b).

That section provides that the Congress could act by concurrent resolution to direct the President to disengage or stop his action as stated under the previous sections. But what are the conditions laid down in section 4(b) for Congress so to act?

Here is the exact language:

> In the event that Presidential action trenches upon the plenary power of Congress to declare or not to declare war, or to permit or not to permit continued engaging in hostilities, it may declare by concurrent resolution that no such delegation or permission has been made or extended, and the President shall forthwith discontinue such action and effect complete disengaging in such hostilities.

Here the distinguished gentleman from Texas gives an equal right to the Congress to determine that the President has acted unconstitutionally whenever, in the opinion of Congress, Presidential action impinges on the plenary power of the Congress.

But the section also provides that the Congress must do something else. The Congress must likewise declare "that no such delegation or permission has been made or extended." In other words, the Congress must find that the President has violated the Constitution. Thus, in order to obtain the right of the Congress to use the concurrent resolution, the amendment mandates an immediate constitutional crisis. For the finding of the Congress in the concurrent resolution, as required under section 4(b), is actually the commencement of impeachment proceedings against the President, in the event he does not acquiesce forthwith to the requirements of the concurrent resolution which presumably is not subject to his veto.

That this sequence of events is called for is made quite clear by the language contained in section 6(a).

In that section, the full authority is set forth for the consideration of the declaration by the Congress pursuant to the authority of section 4(b) as fulfilling the requirements of a vote of the House of Representatives on articles of impeachment. Section 6(a) restates the constitutional charge that the President shall take care that the laws be faithfully executed and declares that the Congress makes such requirement a matter of "highest public trust," thereby setting the predicate for impeachment under article 2, section 4 of the Constitution. The sequence of authority and events mandates a constitutional crisis; lays the predicate for impeachment; may impede the President in emergency actions; and may actually restrict the Congress because it may be reluctant to adopt such a strong posture.

The difficulties which are presented by the gentleman's substitute are further complicated and compounded by the effort of clarification contained in section 6(b). This makes a present congressional declaration that the President has no authority, in the absence of prior congressional action, nor any power whatever to commit forces or to conduct hostilities, with a broad and vague exception.

That exception reads as follows:

> Other than the power to take such action as may be required by strict necessity under circumstances making impossible a congressional determination of the requisite timeliness.

Here in my judgment, while attempting to provide for legitimate or necessary emergencies, the gentleman from Texas has closed the door and then opened it wide.

Accordingly, Mr. Chairman, for these reasons I urge that the amendment in the nature of a substitute now pending and offered by the distinguished gentleman from Texas, be defeated. I sincerely believe it would cause more mischief than it seeks to cure.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKHARDT. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by clerks; and there were—ayes 153, noes 262, not voting 18, as follows:

[Roll No. 350]

AYES—153

Abdnor
Abzug
Adams
Anderson, Calif.
Arends
Bafalis
Baker
Beard
Bennett
Blackburn
Boggs
Bolling
Bray
Breckinridge
Broomfield
Brotzman
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Butler
Camp
Carter
Cederberg
Chamberlain
Chisholm
Clancy
Clausen, Don H.
Cleveland
Cohen
Collier
Collins, Tex.
Conlan
Conyers
Coughlin
Culver
Daniel, Robert W., Jr.
Davis, Wis.
Dellums
Dickinson
Drinan
Eckhardt
Erlenborn
Eshleman
Evans, Colo.
Evins, Tenn.
Ford, Gerald R.
Ford, William D.
Gonzalez
Grasso
Green, Pa.
Gross
Gubser
Gude
Gunter
Guyer
Hanrahan
Hawkins
Hechler, W. Va.
Heckler, Mass.
Hillis
Hinshaw
Holt
Holtzman
Hosmer
Howard
Huber
Jarman
Johnson, Colo.
Johnson, Pa.
Jordan
Kastenmeier
Koch
Latta
Leggett
Lent
McClory
McEwen
McKinney
Macdonald
Madigan
Mailliard
Maraziti
Martin, N.C.
Mathias, Calif.
Mezvinsky
Miller
Mink
Minshall, Ohio
Mizell
Moorhead, Calif.
Nelsen
O'Brien
O'Hara
Pettis
Peyser
Pike
Podell
Quie
Quillen
Randall
Rarick
Regula
Reuss
Rhodes
Roncalio, Wyo.
Roncallo, N.Y.
Ruth
Ryan
Sarasin
Sarbanes
Schneebeli
Schroeder
Seiberling
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Snyder
Stanton, J. William
Stark
Steele
Steelman
Steiger, Wis.
Studds
Sullivan
Symms
Taylor, Mo.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Veysey
Waldie
Walsh
Ware
White
Winn
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Ga.
Young, Ill.
Young, Tex.
Zwach

NOES—262

Addabbo
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Boland
Bowen
Brademas
Brasco
Breaux
Brinkley
Brooks
Brown, Calif.
Brown, Mich.
Brown, Ohio
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chappell
Clark
Clawson, Del
Clay
Cochran
Collins, Ill.
Conable
Conte
Corman
Cotter
Crane
Cronin
Daniel, Dan
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Diggs
Dingell
Donohue
Dorn
Dulski
Duncan
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Esch
Fascell
Findley
Fish
Flood
Flowers
Flynt
Foley
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Goodling
Green, Oreg.
Griffiths
Grover
Haley
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hays
Hébert
Heinz
Helstoski
Henderson
Hicks
Hogan
Holifield
Horton
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Karth
Kazen
Keating
Ketchum
Kluczynski
Kuykendall
Kyros
Lehman
Litton
Long, La.
Long, Md.
Lott
Lujan
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McSpadden
Madden
Mahon
Mallary
Mann
Martin, Nebr.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Milford
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Neill
Owens
Parris
Passman
Patten
Pepper
Perkins
Pickle
Poage
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Railsback
Rangel
Rees
Reid
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
St Germain
Satterfield
Sebelius
Shipley
Shoup
Sisk
Slack
Smith, Iowa
Spence
Staggers
Stanton, James V.
Steed
Steiger, Ariz.
Stephens
Stokes
Stratton
Stubblefield
Stuckey
Symington
Taylor, N.C.
Thompson, N.J.
Tiernan
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Wampler
Whalen
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Young, Alaska
Young, S.C.
Zablocki
Zion

NOT VOTING—18

Blatnik
Danielson
Downing
Fisher
Fulton
Gray
Kemp
King
Landgrebe
Landrum
Mills, Ark.
Patman
Pritchard
Roybal
Sandman
Saylor
Scherle
Talcott

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL ANNOUNCEMENT

Mr. YOUNG of Illinois. Madam Chairman, I move to strike the last word.

Madam Chairman, while conferring with representatives of the EPA on legislation for tomorrow, I missed rollcall vote No. 349 on the amendment in the nature of a substitute offered by the gentleman from Indiana (Mr. DENNIS). I would like the RECORD to show that I was in favor of that amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONSULTATION

SEC. 2. The President in every possible instance shall consult with the leadership and appropriate committees of the Congress before committing United States Armed Forces to hostilities or to situations where hostilities may be imminent, and after every such commitment shall consult regularly with such Members and committees until such United States Armed Forces are no longer engaged in hostilities or have been removed from areas where hostilities may be imminent.

REPORTING

SEC. 3. In any case in which the President without a declaration of war by the Congress—

(1) commits United States Armed Forces to hostilities outside the territory of the United States, its possessions and territories;

(2) commits United States Armed Forces equipped for combat to the territory, airspace, or waters of a foreign nation, except for deployments which relate solely to supply, replacement, repair, or training of United States Armed Forces; or

(3) substantially enlarges United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within forty-eight hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating his action;

(B) the constitutional and legislative provisions under the authority of which he took such action;

(C) the estimated scope of activities;

(D) the estimated financial cost of such commitment or such enlargement of forces; and

(E) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

CONGRESSIONAL ACTION

SEC. 4. (a) Each report submitted pursuant to section 3 shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same day. If Congress is not in session when the report is transmitted, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable, shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section. Each report so transmitted shall be referred to the

Committee on Foreign Affairs of the House of Representatives and to the Senate Foreign Relations Committee for appropriate action, and each such report shall be printed as a document for each House.

(b) Within one hundred and twenty calendar days after a report is submitted or is required to be submitted pursuant to section 3, the President shall terminate any commitment and remove any enlargement of United States Armed Forces with respect to which such report was submitted, unless the Congress enacts a declaration of war or a specific authorization for the use of United States Armed Forces.

(c) Notwithstanding subsection (b), at any time that the United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or other specific authorization of the Congress, such forces shall be disengaged by the President if the Congress so directs by concurrent resolution.

CONGRESSIONAL PRIORITY PROCEDURE

SEC. 5. (a) Any resolution or bill introduced pursuant to section 4(b) at least forty-five days before the expiration of the one hundred and twenty-day period specified in said section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Senate Foreign Relations Committee, and shall be reported out by such committee, together with its recommendations, not later than thirty days before the expiration of the one hundred and twenty-day period specified in said section.

(b) Any resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three legislative days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a resolution or bill passed by one House shall be referred to the appropriate committee of the other House and shall be reported out not later than fifteen days before the expiration of the one hundred and twenty-day period specified in said section. The resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three legislative days after it has been reported, unless such House shall otherwise determine by yeas and nays.

SEC. 6. (a) Any resolution introduced pursuant to section 4(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Senate Foreign Relations Committee as the case may be, and shall be reported out by such committee together with its recommendations within fifteen calendar days.

(b) Any resolution so reported shall become the pending business of the House in question and shall be voted on within three legislative days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three legislative days, unless such House shall otherwise determine by yeas and nays.

INTERPRETATION OF ACT

SEC. 7. Nothing in this resolution (a) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties;

(b) shall be construed to represent congressional acceptance of the proposition that Executive action alone can satisfy the constitutional process requirement contained in the provisions of mutual security treaties to which the United States is a party; or

(c) shall be construed as granting any authority to the President with respect to the commitment of United States Armed Forces to hostilities or to the territory, airspace, or waters of a foreign nation which he would not have had in the absence hereof.

EFFECTIVE DATE

SEC. 8. This resolution shall take effect on the date of its enactment.

Mr. ZABLOCKI (during the reading). Madam Chairman, I ask unanimous consent that the remainder of the joint resolution be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

COMMITTEE AMENDMENTS

Mr. ZABLOCKI. Madam Chairman, I ask unanimous consent that the committee amendments may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read as follows:

Committee amendments: On page 2, line 19, strike out "forty-eight" and insert in lieu thereof "seventy-two".

On page 4, line 19, insert "one such resolution or bill" immediately after "and".

On page 5, line 15, insert "one such resolution" immediately after "and".

On page 6, immediately after line 3, insert the following:

"TERMINATION OF CONGRESS

"SEC. 7. For purposes of subsection (b) of section 4, in the event of the termination of a Congress before the expiration of the one hundred and twenty-day period specified in such subsection (b), without action having been taken by the Congress under such subsection, such one hundred and twenty-day period shall not expire sooner than forty-eight days after the convening of the next succeeding Congress, provided that a resolution or bill is introduced, pursuant to such subsection (b), within three days of the convening of such next succeeding Congress."

On page 6, line 16, strike out "7" and insert in lieu thereof "8".

On page 7, line 3, strike out "hereof" and insert in lieu thereof "of this Act".

On page 7, immediately after line 3, insert the following:

"APPLICABILITY TO CERTAIN EXISTING COMMITMENTS

"SEC. 9. All commitments of United States Armed Forces to hostilities existing on the date of the enactment of this Act shall be subject to the provisions hereof, and the President shall file the report required by section 3 within seventy-two hours after the enactment of this Act."

On page 7, line 11, strike out "8" and insert in lieu thereof "10".

On page 6, line 16 and page 7, line 11 strike out "resolution" and insert in lieu thereof "Act".

The CHAIRMAN. The question is on the committee amendments.

Mr. FRELINGHUYSEN. Madam Chairman, I rise in opposition to the committee amendment on page 7, line 4, inserting section 9.

The CHAIRMAN. Is there objection to the other committee amendments? If not the Chair will put the question on the remaining committee amendments.

There was no objection.

The remaining committee amendments were agreed to.

The CHAIRMAN. The Chair would now like to ask the gentleman, does he wish to oppose the committee amendments?

Mr. FRELINGHUYSEN. Madam Chairman, I rise in opposition to the committee amendment which starts on line 4, page 7, and runs through line 9.

The CHAIRMAN. All other committee amendments have been agreed to. The gentleman will be recognized in opposition to the committee amendment.

Mr. FRELINGHUYSEN. Madam Chairman, I rise in opposition to the committee amendment, adding section 9. This makes this proposal apply to existing commitments.

I think the action that was taken 3 weeks ago with respect to the hostilities still continuing in Southeast Asia indicates quite clearly that the way to deal with existing commitments is through specific action and not by generalities. I know of no other hostilities that such language might apply to but the ongoing hostilities in Southeast Asia.

Quite obviously, the reference to all commitments of U.S. Armed Forces to hostilities existing on the date of the enactment of this Act refers to nothing, unless it refers to the commitment in Southeast Asia. Quite obviously, we have reached agreement about how we feel on that subject, and what the relationship between the Executive and the legislative branches of our Government should be with respect to that conflict.

There was discussion in committee about the advisability of trying to make this kind of language specifically apply to Southeast Asia. However, it was felt that it might rock the boat; that we should not get involved in existing commitments. The decision was deliberately made to leave this general language in. I would hope that Members would see that it obviously means nothing. In fact, it detracts from the possible meaning of this resolution to future conflicts to give some kind of a green light to the Executive for 120 days for an existing commitment. Presumably he, the President, is under tighter restraints than that with respect to the hostilities which are unhappily still continuing in Southeast Asia.

I would trust that we could drop this language as being inappropriate to a resolution which, if it means anything, should have meaning with respect to future conflicts only.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from Indiana.

Mr. DENNIS. Is it not true that if this language remains in the bill and we should unfortunately by the time this effort here becomes a law, which may be some days down the road, be already engaged in a major war of some sort, we would then be confronted with the situation, even though we were involved in hostilities on a wide scale, of having to backtrack and apply the untried provisions of this bill to a situation which already existed, and which existed prior to the time the bill was amended?

I say to the gentleman this is one of my reservations about the advisability of trying to put us into a legislative straitjacket with respect to future commitments of the troops and the fact that there may be an actual commitment of troops in some part of the world to which this language would apply gives me no comfort. I would like us to take each situation as it may come and act appropriately on the basis of information to be provided by the Executive about the reason why there has been a commitment of troops, but quite obviously it could apply to a conflict which has not yet broken up and it would make an automatic application to such a conflict.

Mr. McKINNEY. Madam Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Madam Chairman, I concur with the gentleman's remarks completely.

The issue before us today rests at the heart of the constitutional crisis facing the United States today. For years, the Congress of the United States has, in essence, abdicated its power to the executive and judicial branches of government. A long and sad history of this abdication through the years is very obvious and, in such areas as Vietnam and school busing, tragic.

Nowhere, however, is the slide from power more obvious than in our failure to enforce our constitutional responsibility to send American men to war and their possible death. The court decisions listed below are a sad record of our slide from 1871, when the court said, "The war making power is by the Constitution vested in the Congress, and the President has no power to declare war or conclude peace . . .", to 1970 when in Berk against Laird the court said:

> Notwithstanding the lack of explicit declaration of war, Congress has authorized hostilities in Vietnam in a manner sufficiently explicit to satisfy constitutional requirement.
>
> PERKINS AGAINST ROGERS—1871
>
> The war making power is by the Constitution vested in Congress and the President has no power to declare war or conclude peace except as he may be empowered by Congress.
>
> GREENVILLE ENTERPRISES AGAINST JENNINGS—1947
>
> A formal declaration by Congress is essential not only to place the country in a state of war but to terminate a state of war theretofore declared to exist.
>
> WESTERN RESERVE LIFE INSURANCE AGAINST MEADOWS—1953
>
> Although Congress has sole power with respect to declaring the state of war, no such provision exists with reference to termination of war.
>
> BERK AGAINST LAIRD—1970
>
> Congressional power to declare war as conferred by Constitution was intended as an explicit restriction upon power of executive to initiate war on his own prerogative.
>
> ATLEE AGAINST LAIRD—1972
>
> Constitutional provision vesting in Congress power to declare war was intended to make it more difficult for nation to engage itself in war by lodging power in body of men rather than permitting one man to make such decision.
>
> ORLANDO AGAINST LAIRD—1971
>
> Congressional action, including the furnishing of manpower and materials of war for protracted military operations in Vietnam was sufficient, without an explicit declaration for making of war by the president, to authorize or ratify military activity in Vietnam, and thus executive officers did not exceed their constitutional authority by ordering servicemen to participate in war.
>
> BERK AGAINST LAIRD—1970
>
> Notwithstanding lack of explicit declaration of war, Congress has authorized hostilities in Vietnam in a manner sufficiently explicit to satisfy Constitutional requirements.

In other words, in both the Korean Police Action, and in the Bay of Tonkin Resolution, we have started a process which when abetted by appropriations and authorization have but the indirect stamp of approval of the legislature on undeclared, and in effect, unconstitutional war.

The time has come for Congress to either stop all talk of equality, responsibility and its role in the constitutional setup of our Government, or to act. Impoundment, budget responsibility, confirmation—all under attack—have already weakened this body to a point of impotence. Nothing in the make-up of this great democracy is more important than the people's representatives again assuming their rightful power, elected obligation, and constitutional responsibility to declare war.

Mr. DERWINSKI. Madam Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Madam Chairman, I think the gentleman from New Jersey is offering one of the practical amendments of the day and I urge support for his amendment.

Mr. RANDALL. Madam Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from Missouri.

Mr. RANDALL. Madam Chairman, I ask the gentleman, is the possibility that if this section would stay in, this would extend the existing, and I think the gentleman said, our present unhappy war, another 120 days?

Mr. FRELINGHUYSEN. I think the fact that Congress has already acted in one direction and what would seem at some future time would be another direction would not be helpful toward solving whatever that particular conflict is, so I think it is particularly unhelpful with respect to the agreement which has been struck between the President and the Congress in that respect.

Mr. RANDALL. The gentleman is on the committee. Does he believe the retention of this section might cause us to be in Cambodia 120 days beyond August 15?

Mr. FRELINGHUYSEN. I would say I would hope that would not be the case.

Mr. RANDALL. I am sure we all hope that does not happen and for that reason the section in order to avoid any possible ambiguity should be removed from the resolution.

Mr. WOLFF. Madam Chairman, I rise in support of the committee amendment.

Madam Chairman, I take this time to inform this body that this amendment passed the committee 33 to 3.

I rise today to speak briefly about one part of the bill we are considering now—section 9, which would assure that, upon the enactment of this law, all hostilities existing will be subject to the provisions of this historic law. This section closes an important gap that would be present in the War Powers bill, were section 9 not included.

First, let us suppose that between today and the final signing of this bill into law, the President commits American troops into hostilities anywhere in the World. Without section 9, the Congress retains no clearly defined jurisdiction to extricate our Nation from the hostilities then ongoing, other than the hazy arguments that have encouraged the continuance of Presidential war in Southeast Asia for so many years. While I firmly believe that the commitment to military hostilities is the constitutional prerogative of the Congress of the United States in almost all cases, we would, under the situation I have described, be without the adequate legislative powers to deal with the situation.

Second, and perhaps even more likely, if renewed hostilities break out in Vietnam or Indochina, and I emphasize that I am talking about actions either prior or subsequent to the enactment of this legislation, it is not inconceivable to me, and indeed is really quite likely, that the administration would argue in the absence of section 9 that such hostilities are not new hostilities undertaken following the enactment of this law, but rather in the nature of continuing hostilities and therefore not subject to its provisions. I need not elaborate too extensively on the implications of such reasoning. Even though we have substantially discontinued the war in Indochina, we still retain thousands of American civilians and support officials, and it would not be unheard of for an American administration to undertake hostilities under the guise of "protection" of those American nationals. And in that case, it is imperative that this bill, which establishes a comprehensive scheme for clarifying the congressional role in such situations, not be crippled by the self-serving arguments of the administration that undertook the renewed hostilities.

There have been questions raised as the interrelation of the August 15th cutoff date agreed upon by the Congress and the President and this provision of the War Powers Act. Certainly, as a valid congressional act, the August 15th cutoff of funds stands—there is no way that the enactment of the War Powers Act extends that date. Such an interpretation would go directly against the clear intention of the Congress, as well as the clear meaning of the wording of this provision. The August 15 cutoff clearly supersedes any implication of an extension in this bill, because any extension of that date must be made by specific authorization of the Congress upon the President's specific request. And indeed of the President should ask for further authorization to carry on the hostilities in Indochina, prior to the enactment of this law, this bill enacted with section 9, would serve to place an additional legal restraint on such activity and would require further consideration by the Congress. And this is as it should be, because we are now saying to the American people that Congress is restoring unto itself the powers of warmaking arrogated to it under the supreme law of the land, the Constitution of the United States.

Madam Chairman, it is only with the strongest reluctance that I am emphasizing the possibility of a recurrence of military hostilities in Indochina, but unfortunately, that possibility may not be so terribly remote. For this and the other reasons I have stated, I believe it is extremely important that section 9 remain in this bill, for it is imperative that we leave no gaps, no glaring loopholes in this legislation, and that we look into our constitutional responsibility as we are defining it today, the possibility of any resumption of hostilities in Indochina.

Mr. McKINNEY. Madam Chairman, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Madam Chairman, I would suggest to the gentleman that the August 15 cutoff date is applicable and, if he would look at the decision of the Court on September 1, he would see that the war in effect was approved because Congress had acquiesced through funding and through manpower authorizations.

Mr. WOLFF. But it is only a cutoff of funds on August 15.

Mr. McKINNEY. But I think the gentleman would agree if this situation existed and we would become involved in Thailand tragically or in some other part of Southeast Asia.

Mr. WOLFF. We could not become involved in Thailand because we are not involved in war in Thailand.

Mr. McKINNEY. That is a final point.

Mr. ROSENTHAL. Madam Chairman, I move to strike the last word.

Madam Chairman, I was one of the three that voted against this amendment in committee. I feared that, this amendment being included in this legislation, there was the outside possibility, albeit not a strong one, that this could extend for 120 days hostilities in Southeast Asia. It does seem to me that this amendment is in some ways inconsistent with the August 15 deadline and that some people might want to argue that the August 15 deadline, insofar as it applies to air bombardment in Cambodia and Laos, would soon supersede this language.

I still have grave doubts about this language because any one of a series of events could renew hostilities in Southeast Asia, even in a very small and exquisite and narrow area. Some people could make the argument that the President then had an additional 120 days to continue that kind of involvement in that area of the world. I do think it is a precarious section to remain in the bill.

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to my colleague from New York (Mr. WOLFF).

Mr. WOLFF. Madam Chairman, the August 15 date supersedes the element of the 120 days and takes precedence as existing legislation.

Mr. ROSENTHAL. I do not think so. My own view is that it does not supersede.

Mr. WOLFF. If the gentleman will read the bill——

Mr. ROSENTHAL. I know that there is a dispute. I know that the gentleman's point of view is that the August 15 date supersedes it. My own view is that there is a good possibility that one could make a persuasive argument, if one were in that situation, that this extends the President's options for 120 days.

Mr. BINGHAM. Madam Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to my colleague from New York (Mr. BINGHAM).

Mr. BINGHAM. Madam Chairman, I would like to associate my remarks with the remarks of the gentleman from New York (Mr. ROSENTHAL).

I believe that this section presents or raises unnecessary questions. I think we would be better off leaving this section out, because we have dealt with the problem of Indochina and are dealing with that in other legislation. I think it is simply confusing to say that this legislation deals with the problems of Indochina, so I hope that this committee amendment will be defeated.

Ms. ABZUG. Madam Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Madam Chairman, I have many disagreements with this bill because I do not think we should give the President 120 days authority to conduct a war, a power he does not have constitutionally. But it seems to me that not to apply this bill to existing hostilities is a big mistake. We do have rather tenuous conditions in Indochina; not only in Cambodia, but in Vietnam itself, I believe this bill should be able to reach into all situations where the President has acted without authority and is doing so right now.

Therefore, whereas I am not a proponent of this bill. I would certainly keep this provision in it.

Mr. FRELINGHUYSEN. Madam Chairman, will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Madam Chairman, I just want to point out that the action taken by the committee approving section 9 was before the vote in the House and Senate with respect to the Cambodian situation. Also, it was done even though the subcommittee which has the primary responsibility for developing the language of the resolution felt that—I think I am speaking correctly—felt that the situation should apply to future situations and not to current ones.

Mr. WOLFF. Madam Chairman, will the gentleman yield further?

Mr. ROSENTHAL. I yield to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. I thank the gentleman for yielding. In the absence of this provision, what would happen in the event there were some hostilities that came about between the time of this act and the signing of the bill?

Mr. ROSENTHAL. In the war in Southeast Asia, my view of the temper of the Congress is that they would cut it off in a lot less than 120 days.

Mr. WOLFF. They could, under the provisions of this bill, they could cut it off in 1 day. One Member could do that. That is the purpose of this bill. This is an outside limit failing all other measures and in no way substitutes the 120-day provision for the August 15 cutoff. I voted at all times to cut off the war immediately and did not desire to continue the war in Indochina 1 more day. If I thought there was any chance of this I would have asked this amendment be deleted.

The CHAIRMAN. The question is on the committee amendment to section 9.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. FRELINGHUYSEN. Madam Chairman, I demand a division.

PARLIAMENTARY INQUIRY

Mr. ZABLOCKI. Madam Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ZABLOCKI. The vote on the committee amendment was announced, and I did not observe the gentleman standing. What are we voting on?

The CHAIRMAN. The Chair is trying to protect the gentleman's rights.

On a division (demanded by Mr. FRELINGHUYSEN) there were—ayes 45, noes 70.

So the committee amendment was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 7 after line 3 and after section 8, add the following new section:

"SEC. 9. It is the sense of Congress that the President does not inherently possess, or possess by virtue of this Act, in the absence of prior congressional declaration of war or other specific authorization, any power whatever to commit forces or to conduct hostilities, other than the power to take such action as may be required by strict necessity, under circumstances making impossible a congressional determination of the requisite timeliness."

Redesignate section 9 and section 10 as section 10 and section 11, respectively.

Mr. ECKHARDT. Madam Chairman, this is precisely the same amendment in substance and in spirit that I offered to the Dennis amendment in the nature of a substitute. What it says is what the committee says the resolution does. The Committee says the resolution does not at all enlarge Presidential power.

If the there is a time to take action through congressional action, then the matter is not within the power of the President to act upon.

So all this amendment does is to assure that the act has no intention of enlarging Presidential powers one whit. That is what the committee told us the joint resolution does. I hope the committee will go along with me on this amendment, as it did to put it on the Dennis.

Mr. FRASER. Madam Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Minnesota.

Mr. FRASER. I like the amendment up to the last phrase, when in effect it says it is all right for the President to act if he does not have time to consult with Congress.

Let me ask the gentleman a question. Suppose India were about to invade Pakistan and the action were so limited, and Congress was out of session so that there was no time for Congress, and the President felt there was some valid U.S. interest in the situation. As I read the amendment it would by implication say that the President could go ahead and assign forces. The gentleman has made timeliness the single criteria that opens up a Pandora's box. That is precisely the kind of provision I fear.

Mr. ECKHARDT. Madam Chairman, I should like to ask unanimous consent to withdraw my amendment and to substitute for it an amendment reading the same but striking the words "of the requisite timeliness."

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FRASER. Madam Chairman, may the amendment, as modified, now be read?

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 7 after line 3 and after section 8, add the following new section:

"SEC. 9. It is the sense of Congress that the President does not inherently possess, or possess by virtue of this Act, in the absence of prior congressional declaration of war or other specific authorization, any power whatever to commit forces or to conduct hostilities, other than the power to take such action as may be required by strict necessity, under circumstances making impossible a congressional determination."

Redesignate section 9 and section 10 as section 10 and section 11, respectively.

Mr. ECKHARDT. Madam Chairman, does the gentleman now find fault with my amendment?

Mr. FRASER. Madam Chairman, what the gentleman is saying is that the President decides what the "strict necessity" is?

Mr. ECKHARDT. Madam Chairman, I do not say that in any place in the amendment. I thought I had satisfied the gentleman's objections. If the gentleman has some other objection, I would be glad to try to accommodate him, but there is absolutely no language in this provision that says that the President makes that determination.

Mr. FRASER. Madam Chairman, let me read the language of this amendment as it appears now, and ask the gentleman what it means.

The language is: "other than the power to take such action as may be required by strict necessity."

What in the world does that mean?

Mr. ECKHARDT. It means that the President cannot take the power of declaring war unless Congress under the strict necessity of the occasion cannot do it under the circumstances.

Mr. FRASER. Well, no matter where in the world it is and no matter what the level of interest of the United States might be?

Mr. ECKHARDT. Why surely. Congress ought to make the determination if it can possibly do so.

Mr. FRASER. Madam Chairman, I would agree if the gentleman would stop with that. I was for the gentleman's amendment, but now he says that he does not have to come to Congress.

Mr. ECKHARDT. Madam Chairman, if the gentleman wants to cut the amendment off at some other place to make it suitable to him, I do not know at what place we can do that.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Florida.

Mr. FASCELL. Madam Chairman, I appreciate the gentleman's yielding to me.

I must confess that I find the same strong reservations in regard to the amendment. I know what the gentleman is trying to do. When we take out that clause, when we take out the timeliness clause, the fact is we institutionalize the right of power by the President, and in that way we might find that we have done something we have tried to avoid for 4 years.

Mr. ECKHARDT. Madam Chairman, the bill as it presently reads, as I see it, may give the President some authority beyond that which must be given by strict necessity, because of the necessity of taking action immediately. All I am attempting to do by this amendment is to say that we are not giving him any other authority than that which he possesses at the present time.

Mr. ZABLOCKI. Madam Chairman, I rise in opposition to the amendment.

The committee bill in section 8 does very clearly and in strong language in the legislation spell out the provisions which the gentleman from Texas apparently intends to clarify, but if I am reading his "sense of Congress" provision correctly, it only raises questions and muddies the water. Therefore, I suggest that the amendment be defeated.

Mr. BINGHAM. Madam Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from New York.

Mr. BINGHAM. Madam Chairman, I thank the gentleman for yielding.

I reluctantly must oppose this amendment also. I think this illustrates the difficulty of writing into a law any definition of the powers of the President in this situation. The language in the Senate bill, the Javits bill, tried to spell out the situations under which the President can act. It has four categories. One can argue that they are too broad; one can argue that they are too narrow.

In the subcommittee we wrestled with this, and in the full committee we wrestled with it. The representatives of the executive branch agree that it is impossible to define the limits of the President's authority and the limits of the congressional authority.

As we have clearly stated in the committee bill, the bill does not add to the President's existing authority. We will be muddying the waters if we try to spell out what we mean by that.

Mr. FRELINGHUYSEN. Will the gentleman yield?

Mr. ZABLOCKI. I am glad to yield to the gentleman.

Mr. FRELINGHUYSEN. I would like to say that I, too, rise in opposition to the amendment and hope it is defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT), as modified.

The amendment was rejected.

AMENDMENT OFFERED BY MR. WHALEN

Mr. WHALEN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHALEN: Page 3, strike out line 24 and all that follows down through line 5 on page 4 and insert in lieu thereof the following:

(b) Within one hundred and twenty calendar days after a report is submitted or is required to be submitted (whichever is earlier) pursuant to section 3, the Congress, by a declaration of war or by the passage of a resolution appropriate to the purpose, shall either approve, ratify, confirm, and authorize the continuation of the action taken by the President and reported to the Congress, or shall disapprove such action in which case the President shall terminate any commitment and remove any enlargement of United States Armed Forces with respect to which such report was submitted.

Mr. WHALEN. Madam Chairman, in discussing this amendment I will touch on three points. First, I will explain what the amendment proposes to do; second, I will cite arguments in behalf of the amendment; and, third, I shall address myself to the principal argument that has been logged against this amendment by its opponents.

First, what does this amendment do? It is very simple. It amends section 4(b) of the bill by providing that once the report of the President is received by the Congress, within 120 days the Congress shall vote yes or no on this report. This vote may be taken in the form of a declaration of war or it may be taken either in an affirmative or a negative resolution. I further point out that this resolution may be either a concurrent resolution or a joint resolution.

Second, what are the arguments in favor of this amendment? Let me cite the two most important in my opinion.

It has been pointed out during the debate that one of the great issues which confronts Congress periodically is the commitment of American troops into combat. Time after time American troops have been committed to combat without a formal declaration of war. This resolution is designed to prescribe procedures Congress will follow in the event that we either enlarge our troop placement or in the event we actually commit them to combat without a declaration of war.

I think the bill is a good one. I think it prescribes procedures which heretofore have been lacking. But I believe it it deficient in one respect. While it is designed to give Congress a voice, it also permits Congress through inaction to make an important policy decision. In any question as important as the life and death of American servicemen, the Congress should decide yes or no as to whether or not these troops should be committed to that possible fate. This is what this amendment will do.

The next argument is an institutional

one. We have heard throughout the past years criticism leveled against the U.S. Congress because on occasion Congress has abrogated its responsibilities. I think this bill is designed to reaffirm congressional responsibilities with the exception, as I said, that in the instance of 4(b) a major policy decision can be made with no congressional action. It seems to me, therefore, that this approach perpetuates the faint-hearted image which Congress rightly or wrongly has been tarred with in the past number of years.

My amendment simply makes Congress face its responsibility with a yes or not vote on the question of war and peace.

Let me make the third point. The principal argument that has been lodged against this bill by its opponents was outlined in a memorandum sent to all Members of this body by members of the Committee on Foreign Affairs. In this memorandum it was indicated that one of the fears was that if Congress votes to halt the commitment, the President can veto the resolution and continue the conflict in the event that the Congress cannot muster a two-thirds vote in each Chamber to override that veto.

I would point out, Madam Chairman, that if this occurred, the Congress simply has the opportunity of using the concurrent resolution approach which section 4(b) permits.

Or there is another alternative, and that is to use the provisions of section 4(c). Further, the Congress always has as a last resort the power of the purse through appropriations.

So I think that this argument is specious and is really without foundation.

Madam Chairman, let me say, in conclusion and before responding to questions, that I think it is important that in a matter as urgent as the life and death of American troops, Congress go on record one way or another, either in support of the President, or requiring that the President terminate hostilities.

Mr. ROBISON of New York. Madam Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from New York.

Mr. ROBISON of New York. Madam Chairman, I rise in support of the Whalen-Buchanan amendment and in support of final passage of House Joint Resolution 542, so amended. Since my remarks come very near the end of years of scholarly discussion, extended committee hearings and lengthy congressional debate on the subject of the respective war powers of the Congress and the Executive, there is little I need add—or would presume to add—by way of further footnotes to the considerable discussion of constitutional powers and interpretation which has elapsed. My remarks, then, will be of a personal rather than a scholarly nature; and this tone is most appropriate for me since my interest in the war powers discussion, and my support for the legislation before us, derives basically from a strong intuition that something is very wrong with the way our Government has gone about committing U.S. troops during the last 25 years.

Were I to elaborate on this contention in an informal conversation, I imagine I would take a vaguely philosophical tack and look for derelictions in human judgment rather than for short circuits in the governmental system itself. As we have been reminded repeatedly during the course of this debate, the Members of Congress who had the opportunity to determine the future of the Indochinese war through their votes on the Gulf of Tonkin resolution provided an emotional "aye" for the President's determination to expand U.S. military presence in Vietnam.

That hindsight has certainly bothered me during many difficult days of the past few years when the House was faced with other votes which would influence the future of that war; and I would venture that every one of us who voted on the Tonkin Gulf resolution has, at one time or another, looked back to wonder how he would have voted if he had it to do again.

In a manner, we are attempting to do it again today through passage of House Joint Resolution 542. Through procedural changes and, perhaps, more importantly through a significant act of congressional will, we are saying that we want better checks on our own judgment in Congress, and on the collective judgment of the President and his Cabinet. Through House Joint Resolution 542, Congress is attempting to set the criteria for any sort of reasoned judgment on the propriety of engaging U.S. Armed Forces; and we are attempting to assure that, in transmitting his report to the Congress as required in section 3 of the resolution, the President has, at the outset of any military engagement or insertion of troops, sufficiently considered the implications of such a military commitment.

Among those considerations, as required by the legislation before us the President is to provide Congress with an "estimated financial cost of such commitment or such enlargement of forces." Something about this requirement grates on the sensibilities. We would, I imagine, all like to think that when the Congress and the President are willing to commit our young men to battle, we are doing so for reasons so important and so compelling that—and this is always unspoken—cost is no consideration.

Well, we need only look at the requested defense appropriation for fiscal year 1974, if not to the past several years, to say in another voice that cost is most certainly a consideration. Unlike the halcyon days when the total strength of this country's Armed Forces was less than 175,000—and that was as recently as 1915—our total Armed Forces have numbered near 3 million men for the last two decades. To engage a relatively small segment of these forces with their sophisticated weaponry and necessary logistical support still requires millions of dollars a day.

To the degree that even a "ball park" cost figure causes a pause—causes decisionmakers in both the executive and legislative branches to stop for a second to determine what the economic cost of another Vietnam will be to the Nation—then it is eminently reasonable that Congress require the President to report the estimated financial cost. At the same time, one can only hope—and trust—that during this time for reflection, and we are thinking about other "limited" wars like that in Vietnam and not about responding to something like another Pearl Harbor, both President and Congress would consider those other "costs," not measurable in dollars, of going to war.

It is incontestably a comment on the times that Congress must attempt to institutionalize this reporting procedure; and it is no less true that this legislation itself is a mark of the times. America has been for most of its history a minor power in the world, and only since the Second World War has our foreign policy bound this country so tightly to the defense of nations in every corner of the world. The international alliances of the postwar era have certainly been stabilizing forces during a period when emerging superpowers were defining their own spheres of interest and protecting their own governmental systems from expected encroachment. Yet, it is also true that our alliances have provided an intricate set of triggers, which could conceivably demand the presence of U.S. forces in various parts of every continent.

These new responsibilities and the new forms of warfare which have emerged during this century have placed new stresses on the decisionmaking processes of our Government. It is already a truism of this debate that the executive has accumulated more than its constitutional responsibility for committing Armed Forces; yet the technology and high speed communications of our age demand quick assessments and quick judgments; and, in the blur of events, Congress has allowed the executive to become the repository of both the information on which to base such a decision and authority to make a decision to use armed force.

There have been, as well, too many confidences and assumptions during the past decades which allowed congressional acquiescence when a President sent U.S. troops to a Lebanon or a Dominican Republic. Often, information which came after the act questioned the action of the executive; yet a chain of rationalizations or, perhaps, the relatively short duration of the action were sufficient to uphold the reliance of the Congress on the judgment of the executive branch.

The long night of Vietnam has, however, challenged those working assumptions and confidences of Congress so completely that we now must find, as we seek to do today, more careful and more demanding standards of judgment for those in Congress and the executive who must consider the use of our Armed Forces. In a manner, we have found part of the solution by simply debating this legislation. The "war powers bill" is a strong signal of congressional intent to take up its delegated responsibility to control the commitment of U.S. military force; and, I believe, Madam Chairman, that House Joint Resolution 542, with the addition of the Whalen-Buchanan amendment, is the proper means whereby we can exercise that responsibility.

By seeking the consultation of the President whenever hostilities are imminent, by requiring that the President share with Congress the best information available on the developing situation, and by specifying that Congress actively exercise its own powers of decision—as does the Whalen-Buchanan amendment—this body is attempting to fit the workings of Government to the times.

It must be emphasized, however, that these provisions are intended to right the checks and balances between the two branches of government, and not to reverse the dominance of one branch over the other. What we must do here—and what I believe we are seeking to do—is provide the best means whereby the individuals who make up both the legislative and executive branches can exercise their responsibilities as carefully and as conscientiously as possible.

This kind of reasoning leads me to voice my emphatic support for the Whalen-Buchanan amendment. These gentlemen have provided a most essential check to the decision which Congress must make when called upon to commit American forces. If, at the approach of possible hostilities, Congress has not acted to continue or to halt the President's suggested military response, it is necessary, according to the Whalen-Buchanan amendment, that sometime within the next four months the legislative branch move toward its own decision on the correctness of the President's action. Decision by inaction—as the committee bill would have it—is not the kind of decision we must demand from legislators who are participating in sending their constituents to war. Individual Members of Congress must say "yes" or "no" after studying the best information available, after hearing from their constituents, and after searching their own souls.

Only then can we trust that this country will not venture into war without exercising the best powers of judgment of every individual in the legislative and executive branches.

Madam Chairman, I urge my colleagues to vote favorably on the Whalen-Buchanan amendment and, then, for final passage of the amended bill. At this moment, I have not fully firmed up my vote on the committee bill should the Whalen-Buchanan amendment fail. Key to that decision, I have to assume, would be our judgment relative to the President's attitude toward an unamended committee bill. I listened, early this afternoon, to the minority leader's comments in this regard but found them less than clear. He left the impression with us that the President might favorably consider the basic legislation if the so-called Dennis substitute were adopted. If such were not the case, he hinted that some "modification" of sections 4(b) and 4(c) of the committee bill might avert a Presidential veto, leaving us—for the moment—in the dark as to whether the Whalen-Buchanan language would constitute an acceptable modification. I have, accordingly, given serious consideration to the arguments of the Gentleman from Indiana (Mr. DENNIS) in support of his substitute and—though I wish to congratulate him for the solid contributions he has made to this most interesting debate—some parts of the substitute bother me enough to lead me not to now support it, but to support the Whalen-Buchanan language instead for reasons mentioned.

In the end, I shall probably vote for the committee bill—even if unamended—for, despite the then-uncertain fate of this legislative attempt, I feel the attempt must be made, and the President will have to make his decision, even as we must now make ours.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(On request of Mr. FISH, and by unanimous consent, Mr. WHALEN was allowed to proceed for 2 additional minutes.)

Mr. BROOMFIELD. Madam Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Madam Chairman, I rise in strong support of the amendment offered by the gentleman from Ohio (Mr. WHALEN).

Madam Chairman, I rise in support of the Whalen amendment to section 4(b) to require the affirmative action of Congress to terminate military activities undertaken by the authority of the President.

As it now stands, section 4(b) is susceptible to a most unusual and, I believe, most foolhardy procedure wherein lack of congressional action or agreement is capable of negating actions of the President commisioned under authority of his equally valid constitutional warmaking power.

I have sponsored legislation to reaffirm the warmaking powers of Congress for the past three Congresses. I believe that such legislation is long overdue. Congress has and must exercise its shared responsibility in the field of war powers. Nevertheless, I cannot bring myself to believe that section 4(b), as written, is either prudent or constitutional.

In atempting to remedy the trend toward undue reliance upon the Presidency in the field of war powers, section 4(b) would operate to create a new, but equally serious, error in which undue authority would be placed in the hands of Congress.

Madam Chairman, does anyone seriously believe that the authors of the Constitution ever intended that inaction or silence by the Congress would ever be enough to counterbalance and negate the authority of the executive in this area of shared responsibility? That is what 4(b) would do. It says one equal branch of our Government, the executive, can be overridden by one-half of another equal branch—the Congress. One House could support the President unanimously while a majority of one in the other House could disagree and that minority would prevail. Worse, the entire Congress could sit on its hands, do nothing, and still prevail.

On the other hand, the perfecting amendment would guarantee to the American people that Congress will not sit on its hands. It assures the American people that their elected representatives will exercise their judgment, and I can think of no other time when that judgment will be more urgently needed.

Considering the recent swing toward consolidation of warmaking powers in the Presidency, at the expense of Congress, one would think that we would at the very least all agree that from now on Congress must work its will in the field of war powers. In the past Congress has too often been unwilling or unable to do that. Many times it was because Congress felt it lacked the necessary information to make a sound decision.

This resolution would provide that information in future crises and, this amendment would mandate a decision.

Ironically, section 4(b) would reward and indeed encourage the same silence and inaction that first generated the congressional war powers crisis we seek to remedy.

Madam Chairman, past history and a reasoned view of the future warns us otherwise. I urge that we pass the Whalen amendment to section 4(b).

Mr. FISH. Madam Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from New York.

Mr. FISH. Madam Chairman, first I thank the gentleman from Ohio for yielding to me. As I understand it, Madam Chairman, this amendment offered by the gentleman from Ohio requires the Congress to take legislative action to either approve or disapprove Presidential action. Could the gentleman from Ohio tell us what would happen in the event the House or the Senate did not agree to the same measure as the other body, and that disagreement could not be reconciled in conference prior to the expiration of the 120 days?

Mr. WHALEN. May I say to the gentleman from New York (Mr. FISH) that this question was raised before, and I am glad that the gentleman has restated the question, because I did promise during the debate to provide an answer to this question.

By this amendment we are mandating the Congress to act "yes" or "no." If there is a disagreement between the two Chambers, and it cannot be resolved within the 120-day period, then both bodies can enact simple extenders for 15 or 30 days until the conflict is resolved.

Mr. FISH. Madam Chairman, if the gentleman from Ohio will yield further, that would mean that we would pass the 120-day period, and that the President could continue with the hostilities.

Mr. WHALEN. That is correct. As I say, this amendment does mandate action by the Congress, and would require unanimity on the "yes" or "no."

Mr. FISH. Madam Chairman, if the gentleman will yield still further, I would point out to the gentleman from Ohio that we have conferences today that are still in dispute on various problems, and that last year we had several bills that were in conference that never came out of conference.

Mr. WHALEN. If I may cite a more analogous situation, I would refer to the recent continuing resolution that had to be concluded by June 30 if the Government was to continue to operate in the ensuing fiscal year. I think that is very much analogous to this situation.

Mr. DENNIS. Madam Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Indiana.

Mr. DENNIS. Madam Chairman, I thank the gentleman for yielding, and I would like to associate myself strongly with the amendment that has been offered by my distinguished friend, the gentleman from Ohio (Mr. WHALEN) who is now in the well, and who is a distinguished member of this committee and who has worked long and hard on this matter.

I might add that we have discussed this same thing a while ago, when I was on the floor on the subject of the amendment in the nature of a substitute that I had offered. I thoroughly agree with the gentleman from Ohio, and I urge that the gentleman's amendment be supported.

Mr. GUYER. Madam Chairman, will the gentleman yield?

Mr. WHALEN. I yield to my colleague the gentleman from Ohio (Mr. GUYER).

Mr. GUYER. Madam Chairman, I thank the gentleman from Ohio for yielding to me. I want to express my strong support in the amendment the gentleman has offered. I do think that we have overlooked one thing today. We are mandating the Congress and the President, but we have overlooked the American people, and they will give us the indication of what to do themselves, and they will do it loudly and clearly. That is why they have elected us to represent them, and they want us to act responsibly.

They will say:

> We did not send you to the House of Representatives to be indifferent.

Mr. DU PONT. Madam Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Delaware.

Mr. DU PONT. I thank the gentleman for yielding.

I might be tempted to vote for this amendment except for the fact that it did not provide for vote by concurrent resolution. Could I ask the gentleman why?

Mr. WHALEN. The legislative history would certainly show that it would be possible for the Congress, if it so chose, to act through concurrent resolution, or it chose to act through joint resolution that would be possible.

Mr. DU PONT. Would the gentleman not be willing to specify in his amendment that it be by concurrent resolution?

Mr. WHALEN. I would say to the gentleman from Delaware that we are not talking about 1973 when we have divided authority—a Congress of one party and a Chief Executive of the other party. We are talking about 10 or 20 or 30 years from now. I certainly would not want to bind the Congress as to what legislative procedure they should follow.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. BUCHANAN, and by unanimous consent, Mr. WHALEN was allowed to proceed for 2 additional minutes.)

Mr. BUCHANAN. Madam Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

It is not true that the gentleman and I in working on this amendment, with which I fully associate myself, which I offered in substance in committee and the gentleman supported, devised language to specifically provide that it could be by concurrent resolution if a future Congress should see fit to try that mechanism?

Mr. WHALEN. That is correct.

Mr. BUCHANAN. With the advice of counsel we so revised it, so that this would be possible; is that not correct?

Mr. WHALEN. That is correct. This certainly is an answer to the argument that has been lodged against it.

Mr. GILMAN. Madam Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

I rise in support of the Whalen and Buchanan amendment. I think that this amendment materially adds to the committee proposal. I urge my colleagues to support it.

Mr. WHALEN. I thank the gentleman.

Mr. KEATING. Mr. Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from Ohio.

Mr. KEATING. I thank the gentleman for yielding.

I rise in support of the amendment. The gentleman has explained the amendment very clearly and very succinctly. It is an important amendment, and its passage makes a difference as to whether or not I can support this bill.

Mr. WHALEN. I thank the gentleman.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. WHALEN. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

I believe the President should have some emergency powers. There is a 120-day time limit set up, and certainly in 120 days we are not engaging in an emergency situation; we are waging a war. I believe that the President's right to wage a war should be able to be declared illegal without the Congress doing anything at all, because he has no power to wage war. I believe that if we do force action on the Congress, then the Congress is giving something up to the Executive which the Executive should not have, so I am forced to oppose the gentleman's amendment.

Mr. MAILLIARD. Madam Chairman, I move to strike the last word.

Madam Chairman, I do not want to take the 5 minutes. I just want to make it clear to the Members on the floor that this is probably the most crucial amendment we are going to deal with. I supported certain substitutes that were offered earlier because they differed in this respect. Frankly, there were provisions in some of those substitutes that I did not like as well as I like the general provisions of the committee bill, but I figured that we could work those out in conference and come out with a satisfactory bill.

I suspect that there are many of us that, if this amendment is adopted, can support the bill.

The minority leader has already indicated that if this provision is not modified, the President has indicated that the bill will be vetoed. There may be other provisions in whatever bill might come out of the House and the Senate that the President might find objectionable and conceivably even if this section is modified, there could be a veto. But I think that I would say to the principal proponents of the bill that the best chance of getting war powers legislation enacted and on the books is if we today eliminate this automatic effect of no action by the Congress. I suspect that very few Presidents like to have their power restricted, and whatever we have in the bill—and this is obviously our intention—I would suspect could be passed over the President's veto if we can get enough support for the bill on the floor of the House.

I know I have colleagues on the committee who would oppose the bill even if this amendment is adopted, but there are quite a few of us, I think, who can support it if this amendment is adopted, who will find it not possible to vote for this bill if this provision remains unchanged.

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. MAILLIARD. I yield to the gentleman from New York.

Mr. WOLFF. If this amendment passes and we strike the triggering clause from the resolution, then what do we as Congress gain that we do not have?

Mr. MAILLIARD. I would say to the gentleman I think there are many other operative provisions of the resolution that have not been on the books before. There is the procedure for reporting, the procedure for expediting congressional action to make sure it is not subject to filibuster in the other body and not subject to excessive delay on the part of a committee that might view things differently than the majority of the Members of the House. I would say to the gentleman I think we have a great deal. And in section 4(c), which I know there are objections to, we do at least attempt, and I do not know whether we can constitutionally do it or not, to provide a mechanism by which by a simple majority vote of both Houses we can negate a Presidential action of which we disapprove. So we have all those things so I would consider the resolution for that reason a highly desirable resolution.

I find the notion however of a major change in national policy by failing to act so personally repugnant, and I am pretty sure it is unconstitutional, that I cannot vote for the resolution if that remains in.

Mr. WOLFF. Is it true the President said he would veto the resolution if both (c) and (b) were in the resolution.

Mr. MAILLIARD. That was the point I was trying to make if anybody cares about having to pass it over a Presidential veto, and that this automaticity, the effect of inaction by the Congress, may make the difference between having the votes and not having them.

Mr. ZABLOCKI. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, 4(b) is the heart of the war powers resolution. In past Congresses we have passed resolutions which have provided for consulting and reporting. In the last Congress some of the criticism we heard was that after Congress received the report the legislation did not provide what Congress should do with it. Therefore, our committee in this session of the Congress wrestled for days and for weeks with the language. The very people who are now amending the language were parties to the effort of trying to bring in legislation which would be within the Constitution, and would be in keeping with the authority of the Congress under the Constitution in the warmaking powers. We came up with section 4(b).

The proposals by the gentleman from Ohio and the gentleman from Alabama are trying to correct what they claim or allege is a shortcoming of the committee version. They contend the committee version terminates commitment of troops by inaction, but the versions of the gentleman from Ohio (Mr. WHALEN) and the gentleman from Alabama (Mr. BUCHANAN) do not indicate, or do not spell out exactly, by what committee or what congressional action, whether by concurrent resolution or by joint resolution, how a termination or what they call a positive affirmation action will be taken.

I submit that, as I said earlier at the beginning of today's debate, the entire resolution must be taken into consideration and that section 4(b), which provides for congressional action must not be taken singly.

There are 535 Members of Congress, and I am sure one Member of either the Senate or the House of Representatives certainly would introduce a resolution affirming that we approve or disapprove, and an affirmative action will thereby be taken because of the provisions of the resolution triggering the legislative action.

One point we must bear in mind, that if the Congress passes a disapproving resolution, invariably the President will veto it. Then, the majority of the Congress, the will of the majority of the Congress is thwarted. One-third of either body will thwart the will of the majority. Here is where the 120-day termination comes into play.

When a President vetoes a resolution of disapproval and there is not a sufficient vote to override the veto, then within the 120 days the commitment of troops will terminate. I think this is indeed affirmative action.

Mr. WHALEN. Madam Chairman, will the gentleman yield?

Mr. ZABLOCKI. I yield to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. If it is a concurrent resolution, is it subject to Presidential veto?

Mr. ZABLOCKI. Of course, the gentleman from Ohio fully knows that a concurrent resolution is not subject to Presidential veto.

Mr. WHALEN. Under the provisions of section 4(b), if Congress decides to resort to a concurrent resolution, then it would not be subject to Presidential veto.

Mr. ZABLOCKI. If the gentleman's amendment would provide that a resolution of approval be a concurrent resolution, and such a resolution was termed appropriate, using the gentleman's earlier language, appropriate for disapproval, then I believe he would have an amendment I could even support.

Mr. WHALEN. Madam Chairman, if the gentleman will yield further, we have heard a great deal today about why Congress should be required to vote one way or another on the question of war or troop involvement.

Could the gentleman give us the reason why we should not be required to? I do not think this question has been touched upon today.

Mr. ZABLOCKI. There is no doubt in my mind that we need not direct the Congress and require it to vote. I believe when we do have a commitment of troops in the future with a resolution introduced of approval or disapproval, the Congress will act.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FRELINGHUYSEN. Madam Chairman, I rise in support of the amendment.

Madam Chairman, the gentleman from Wisconsin has given an astonishing criticism of this proposal. He said that in previous years, war powers resolutions did no more than require reports and consultation by the Congress, and we had to do something with the reports. Then, in the next breath, he admits that 4(b) requires the Congress to do nothing.

He is against, in fact, Congress doing anything, either for or against action on the reports. I would simply like to repeat the question which the gentleman from Ohio asked him. Why should there be this fear of requiring action by Congress, if the reports point out that there is a significant development involving the commitment of our troops to hostilities?

The gentleman from Wisconsin has given an answer, and I hope he has a better one than he gave. That was, he is fearful of a veto if we should express our decision against what the President is doing.

I would suppose that if the executive and the legislative branches are on collision courses and both refuse to see the necessity of reaching agreement, that there is going to be trouble.

If we in effect recognize that the only way by which Congress can stop something of consequence is by inaction, then we are simply underlining our own futility.

I can see no justification for going to all the trouble of getting information about an involvement of our Armed Forces in hostilities, and then being unable to come to any judgment for a 120-day period; not to say the President's action is good, not to say it is bad—not to take any position but a position of doing nothing. If there is any way of demonstrating our own futility, it seems to me that this is it.

Mr. ZABLOCKI. Madam Chairman, will the gentleman yield?

Mr. FRELINGHUYSEN. I yield to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Madam Chairman, I do not think that one-third of either body, either the House or the Senate, should control the constitutional question of war powers. Therefore, I say to the gentleman, the resolution from the committee, House Joint Resolution 542, does indeed provide for action.

There is no question that there is legislative, congressional action provided.

Mr. FRELINGHUYSEN. I might say to the gentleman that this resolution provides for action but it anticipates inaction. Of course it is possible for us to act. We do not need a 120-day period written into a law to give us the possibility of acting. That is there. That is an inherent part of our responsibility.

What proponents say is that it is possible Congress may act but we want to guard against the possibility we may not act, and we want to have a transformation of national policy on the basis of inaction. To my mind that makes no sense at all.

I have at the desk a provision to change the "concurrent resolution" in section 4(c) to "joint resolution." It seems to me we need to face up to the necessity of getting agreement between the executive and the legislative, and this may not be easy to achieve.

I might also point out that a declaration of war by Congress, which is our essential constitutional responsibility, takes the form of a joint resolution. It is conceivable that the President might not agree with a Congress bent on declaring war, and he would not want to implement it, and he might not sign that. Nonetheless even a declaration of war must be signed by the President. We do not declare war by a concurrent resolution because we fear a veto.

Let me say that I believe the intentions of the gentleman are certainly good, but I cannot see how he is adding one iota to our power by giving us the power to transform national action by doing nothing. This would be a reflection on our capacity.

Mr. ZABLOCKI. The concern of the gentleman from Wisconsin was as to how we would cope with the problem of one-third of the Congress dealing with this very important issue. How would the gentleman from New Jersey advocate that we correct this shortcoming in dealing with war powers, where really the majority will of the Congress should prevail?

Mr. FRELINGHUYSEN. I do not know whether the gentleman is suggesting that we should not have a bicameral legislature. Because of the nature of the legislative beast it is not easy to reach a decision. That is no excuse to say, because it is not easy, that on a matter of highest national consequence we should affect the result by doing nothing.

Mr. BINGHAM. Madam Chairman, I

move to strike the requisite number of words.

Madam Chairman, I rise in opposition to this amendment. I do so with reluctance because I have great respect for the sponsors of it.

I believe we must recognize that this amendment goes to the heart of this committee measure. As I indicated before, we have to recognize that there is no way—but no way—that the Congress can guarantee that a future Congress will take action, that it will say "yes" or "no". Many contingencies might prevent that, as has been pointed out.

Let us say the two Houses are not in agreement. The gentleman from Ohio was unable to answer the question as to what happens if the two Houses are in disagreement.

What will happen if in spite of the best laid antifilibuster plans there is a filibuster in the Senate, so we do not get action by the Senate?

We simply cannot guarantee action by the Congress up or down. We can only provide for what will happen if the Congress does not take action.

In our resolution we provide in that event the President's authority to carry on hostilities will terminate. There is nothing new about this action by inaction.

The power to declare war that the Congress has under the Constitution is an affirmative power. The Constitution does not say that Congress must vote "yes" or "no" on a declaration of war. If the Congress does not vote a declaration of war, if it is inactive and does nothing, there is no declaration of war.

What we have been seeking for in this legislation is some way to preserve the constitutional power of the Congress over basic questions of war and peace absent a declaration of war.

Madam Chairman, we have had over a hundred cases of hostilities where there has been no declaration of war in our history; we have had only a few where there has been a declaration of war. We are trying here to set up something comparable to a declaration of war, and that is an affirmative action which Congress would take to approve the hostilities the President has inaugurated after a certain length of time.

Now, on the question of the leaving for future decision whether it is going to be a concurrent resolution or a joint resolution, I simply cannot understand the position of the sponsor of the amendment. There is a question as to whether action by concurrent resolution will be constitutional, but it will be certainly a much more difficult question if we do not provide in this bill as a matter of law that the Congress can at some future time take action by concurrent resolution. If we leave that matter for future decision, for future argument, for future submission to a court, we are not fulfilling any responsibilities, we are not answering the question; we are asking for future trouble.

I hope this amendment, in spite of its excellent motivation, will be defeated.

Mr. du PONT. Madam Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Delaware.

Mr. du PONT. Madam Chairman, if I may refer to the point made by the gentleman from New Jersey, what this amendment really is doing is changing the presumption. Under the committee bill the presumption is that if nothing happens, the military action stops; under the amendment the presumption is that if nothing happens, the military action continues.

I believe that under the Constitution the presumption ought to be in favor of the Congress and not the executive.

Mr. BINGHAM. Madam Chairman, I thank the gentleman for his remarks.

Mr. FINDLEY. Madam Chairman, I rise in opposition to the amendment.

One would almost assume, Madam Chairman, from hearing the discussion during the last couple of hours that inaction on the part of the Congress is a very novel and strange way that the Congress has to prevent unwise policy. Exactly the opposite is the case.

Inaction has been the traditional way by which the Congress has rejected unwise policy, not only in the foreign field, but in the domestic field as well.

I call to the attention of the Members the simple fact that almost 9,000 bills have been introduced in this chamber this year alone, all of them recommending affirmative policy by the Government. Thank heaven we have not been required to vote yes or no to accept or reject all 9,000 of these bills.

I think it is hardly surprising really to learn that the President or that any President would resist an effort to enhance the authority of the Congress in the field of war powers.

Mr. YOUNG of Florida. Madam Chairman, will the gentleman yield?

Mr. FINDLEY. Madam Chairman, I have a few remarks to make first, and then I will yield to the gentleman.

Madam Chairman, the purpose of war powers legislation is to reduce the likelihood of Presidential wars—especially long ones—and to enhance the role of Congress in the war powers field.

This amendment has to be considered in the light of that purpose.

By any reasonable test, it is a serious mistake and should be rejected. It works just backward.

It inevitably will have the effect of enhancing the President's war powers.

It will reduce the likelihood that a future President will ask the Congress for a declaration of war, because any President will quickly conclude that the Congress is less likely to halt his action through the operation of the Whalen amendment.

Under it, the President will terminate the engagement in hostilities only if both Houses agree to direct the termination. Under the traditional war declaration, one House—just one—can cause the declaration to fail and therefore, war policy to fail.

A war declaration must pass both the House and Senate to be effective. Thus one House can effectively veto a war by failing to approve the declaration.

With the Whalen language, a President will be less likely to use the war declaration approach in dealing with Congress.

Also, the Whalen amendment does not say whether the resolution by which Congress may disapprove a war will be concurrent or joint.

By leaving the ambiguous language "appropriate to the occasion" in describing the type resolution to be used by Congress, the bill yields control to the President.

In signing or vetoing this bill, President Nixon—or any President will likely announce that the appropriate resolution must be a joint resolution. Can we expect anything else? He will be protective of Presidential power, as every other President in history has been, and do his best to protect full Presidential flexibility in war-making. He will say that a concurrent resolution, or a simple resolution, is inappropriate to any such occasion.

This interpretation would not, of course, be binding on future events, but inevitably it would be cited by a future President if the section became operative in a crisis.

This would mean that a President could seek to nullify by veto a resolution by the Congress to disapprove.

In this case the power of the President would be immensely enhanced, because only by two-thirds vote of both Houses, could the Congress effectively stop a Presidential war.

The Whalen language would reverse exactly the roles of the Congress and President. Instead of just one House being able to veto a war, the President would be able to veto a resolution agreed to by both Houses to stop a war.

The vote recently on the supplemental appropriations override illustrates perfectly the position in which the Congress will find itself if the Whalen amendment is adopted. The President wanted to continue acts of war in Cambodia. By majority vote the Congress voted to halt these acts of war. Because of the Presidential veto and the failure of bombing critics to muster two-thirds vote in both Houses, the bombing goes on.

Under the Whalen amendment Presidents in the future will be able to continue indefinitely Presidential wars simply by retaining the support of one-third of either House.

Mr. WAGGONNER. Madam Chairman, I rise in support of the amendment.

Madam Chairman, I had not planned to say anything on this proposal today, but there are two or three things I believe we need to put into perspective before we vote.

First of all, I think we could all almost agree that with the confusion that exists we should probably not be doing anything here today, because we cannot agree as to what we should really do. Most everyone would like to help, but the question is how. Certainly Mr. ZABLOCKI is deserving of praise for his responsible efforts as many are.

Here just a few days ago, before we adjourned for the 4th of July recess, this Congress day in and day out, over and over again was told that Congress should make decisions and have responsibilty for what was being done in Southeast Asia and other military actions of this country because of what had turned out to be a bad experience with regard to Vietnam. Almost everybody I know had some misgivings from the very outset about Vietnam, and, boy, as Vietnam progressed we had more and more misgivings about Vietnam and the way Vietnam was conducted. But this Congress passed the Tonkin Gulf resolution to authorize the President to do what he thought he had to do in the best interests of this country. I think that President Johnson and President Nixon both did what they thought was best for this country under the conditions of that resolution.

However, whether you agree with me or not, it seems to me we are amending the Constitution here today by legislative act which we can't do by forbidding the Commander in Chief of the defense forces of the U.S. Government from taking police actions that he considers to be in the best interests of this country and which he believes to be necessary and in the best interests of this country, by causing him to cease some such actual action by not approving what he does. You choose now to legislate by inaction.

Now, you cannot have it both ways. You cannot stand up here when the shoe is on one foot and say that this is a congressional responsibility and Congress should stand on its two feet and assert its rights and lead the people to believe that you want to make these decisions and then turn around and say, "Well, maybe Congress should not become involved in these issues." If we do not act the President will have to halt action. Let him take the heat.

Let me tell you something: there is a vast gap between a police action and a declaration of war. There are some actions short of war that the Commander in Chief ought to take that are in the best interests of this country, and in some cases these actions might be terminated in less than 120 days, and in others it might take more than 120 days. Do you want to make the decisions or do you just want to criticize those who do make them?

Now, if you believe that Congress ought to make the decision, either approving or disapproving a police action such as this, then I suggest that you vote for this amendment, because I want to point out that if you do not, and you legislate by inaction that the only thing that the Commander in Chief has to do, if Congress does not act to approve or disapprove his actions or again I say set them aside because of inaction of the Congress, all the President has to do is to just wait 1 day after he has terminated these activities, and start all over again. That is all that it takes. He can start over for another 120 days. What would you do then? Are you in effect authorizing war for 120 days?

It might well be that public reaction would force the end to such actions, and force the Congress to come back and do something in a positive way, but we cannot have it both ways. We either believe it is congressional prerogative and congressional responsibility, or we believe it is the responsibility of the Chief Executive, the President of the United States. But, nevertheless are we willing to stand on our two feet and say "I approve," or "I disapprove"? Make a judgment as to whether it is in the best interests of our country, the United States of America, and say "I approve," or "I disapprove, Mr. President, what you are doing."

We cannot have it both ways.

But we will be legislating by inaction. Whereas just a few days ago this Congress was being told day in and day out that we have got to stand on our two feet and assert our congressional prerogatives. We run for cover now. What are you going to do if we become involved in the Middle East?

I say that we ought to, if we really believe that, vote for this amendment.

Mr. GOLDWATER. Madam Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from California.

Mr. GOLDWATER. Madam Chairman, I thank the gentleman from Louisiana for yielding to me. I would like to commend the gentleman on his remarks.

Madam Chairman, everyone of us is dismayed over what has happened in Southeast Asia for the past 9 years, but we must not let this experience, no matter how distasteful, lead us into precipitous action that we may later regret.

We are treading dangerous ground here. We are rearranging the Constitution, and I am not at all sure the Constitution can stand the disruption. It is indeed a flexible document. But, the bill before us today denies flexibility. It places rigid, almost fatal controls, on the constitutional prerogatives of the President as Commander in Chief. I do not think we want to do this. When the American people realize what we have done, if Heaven forbid, we do, then the hue and cry over this contemplated abolition of the constitutional doctrine of the "separation of powers," will be heard throughout the Nation.

Like everyone in this Chamber, I fervently want to restore the power of Congress. In my brief political career, nothing has characterized my political philosophy more than the desire to have government returned to the people and their elected officials. Only Congress can do this. But, in so doing, we have picked an item that can cause more confusion than a restoration of congressional power.

If Congress is going to assert itself and restore power to people, let us give our first priority to something we should know something about—domestic affairs. It seems to me that where Congress has failed most is on the domestic front. We created the Federal bureaucracy, not the executive branch of government. We passed the domestic legislation that created more unnecessary Federal programs than the taxpayer can afford. We gave the executive departments open-ended laws to be interpreted at some bureaucrats' whim and fancy. We created OSHA and EEOC, and other programs too numerous to mention, that are helping to destroy the free enterprise system by forcing the small businessman out of business. We gave the President wage and price controls which are blatantly unconstitutional. My colleagues the list is endless.

Yet, when we should be correcting these ills that have led to the current crisis in the "separation of powers," we find ourselves symbolically putting on the military tunic with pronouncements of "war powers."

Madam Chairman, history records that another Congress did the same thing back during the American Civil War, and it almost resulted in a divided nation. It seems that a Member of the other body with no military experience—although he possessed a commission as colonel—decided to lead some troops against some battle-hardened Confederates. Well, he got himself killed down the Potomac River at a place called Ball's Bluff. He had no business there. The Union troops had combat-tested commanders. But, those of you who know the story realize what happened. Congress formed a committee to investigate the loss of one of its own. The committee stayed in existence, and it hamstrung President Lincoln in his conduct of the war.

Let us not do the same thing here today. As many of my colleagues have so succinctly pointed out; we have proven methods of restricting the President from instigating dangerous foreign policy moves. We can cut off funds. The President is also subject to the voters. He is also subject to public opinion and the media. Yes, he is also subject to impeachment.

I sincerely believe had there been no Vietnam, had there been no congressional desire to atone for Gulf of Tonkin, we would not be here today, or at least we would be considering something else. The passage of this bill is not going to bring back the 50,000 brave Americans who died in Vietnam. It will not even restore an economy that has almost been wrecked by a guns-and-butter policy.

But passage of this bill will signal to both the free world and the controlled world that we are hereby abdicating our responsibilities in the community of nations. It will signal to the world that we prefer isolation, discredited as it is. It will signal to the world that the President of the United States, and hence the United States, is a paper tiger. It will be an invitation to Vietnam after Vietnam after Vietnam in every part of the globe.

We cannot stop war by enacting war powers. We could well perpetuate war, or at a minimum, encourage aggression which leads to war.

This is well-meaning legislation. It represents a thoughtful and legitimate desire on the part of all of us to prevent another Vietnam. I can assure my colleagues, however that it will not. We are a world power, like it or not. We are looked upon as a world power, like it or not. But, what the free nations of the world want to know is whether we are going to act like a world power. If not, then there could well be a rearranging of traditional alliances, especially among the smaller nations of the world. We turned away from the world after World War I. It got us World War II. The war powers legislation today is a turn away from the world. We may not think so now, but it is. You cannot deny the leader of the most powerful democracy in the world the flexibility he needs to protect our interests and the aspirations of all people who yearn to be free.

Lets not make the mistakes of the past again. We can and should play a major role in foreign policy. But we must do it as a deliberative body. We can and should control the Executive within constitutional limits. But, let us not place the national security of the Nation in danger in our desire to reestablish congressional prerogatives.

Mr. FRASER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I was not going to speak, but when I listened to the last speaker I thought perhaps the gentleman needed to be reminded of what the bill provides.

The bill provides, as it now stands, that both Houses shall vote on any resolution offered by a single Member of either House who supports the action of the President. In other words, if the President has a single supporter in either the House or the Senate that measure then must come to a vote on the floor of each of those bodies. So that there is absolutely no question about the fact that the House and Senate will have an opportunity to go on record.

What we are dealing with here is the case where the House and Senate cannot agree on a position, where they cannot come to some affirmative position in support of what the President is doing. Then, as the gentleman from Delaware (Mr. DU PONT) pointed out, in that case then the presumption lies with the Congress, and its constitutional responsibility to declare war or not to declare war, rather than leaving the presumption in favor of the President to continue on with a military action for which he has no specific authority.

But the main point I want to stress is that the way the bill reads now there must be a vote of both Houses.

So it is a great mistake to suggest that anybody is ducking any responsibility. We are dealing only with the contingency that the House and Senate may not agree.

Mr. FASCELL. Madam Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Florida.

Mr. FASCELL. Madam Chairman, I thank the gentleman from Minnesota for yielding to me.

Madam Chairman, as a matter of fact, the question of whether the Congress wants to take affirmative action is confronting us right now with respect to the issue that is raised by this amendment.

It is whether the Congress is going to have the courage to stand up now and be counted on whether they want a war to continue when the Congress has not acted. The question right now is whether we are going to have the courage for the Congress to speak affirmatively, that the presumption shall be that there can be no hostility or war without action by the Congress; and not that the President shall have the right to engage in hostilities or go to war without action of Congress until Congress either subsequently affirms or denies. The amendment thus disguises the whole issue. The test of affirmative action by the Congress will be met today and also any time under the pending bill when the President takes any action without authority of Congress.

Mr. FRASER. I just want to say this. I am very much troubled by this phrase "resolution appropriate to the purpose." I really do not know what that means, and given the importance of this matter, I think it really is not acceptable to leave it unresolved.

Mr. WHALEN. Madam Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Ohio.

Mr. WHALEN. I thank the gentleman for yielding. I think the gentleman has made a strong and most persuasive case for the Whalen amendment. The gentleman has indicated that it is almost certain that there will be a vote in Congress. That being the case, what objection does the gentleman have to putting it in black and white in section 4(b) as I propose?

Mr. FRASER. The problem is, it is one thing to force a vote on the floor of the House or the floor of the Senate. It is another thing to get an agreement by both Houses. All we are saying in effect is that in that case, then the presumption lies that the Congress does not authorize the war and the President must bring it to a halt.

Mr. WHALEN. The gentleman suggests, then, that in the event that 435 Members of the House of Representatives favor continuation of the involvement and 50 Members of the Senate disfavor it, the presumption is in favor of the 50 Senators?

Mr. FRASER. The idea is that under the Constitution it is only the Congress who has authority to declare war. The fact is, as it has been pointed out here repeatedly, there is no provision in the Constitution that says that if Congress cannot agree to declare war, the President can go ahead and make war anyway. But that is precisely what the gentleman's amendment will do.

Mr. BIESTER. Madam Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Pennsylvania.

Mr. BIESTER. I thank the gentleman for yielding.

Would it be correct that under the language of the Whalen amendment the majority of both Houses of Congress might have voted to stop a war then going on but not by a two-thirds majority, and the President had vetoed the action they took, and the war went on for months and perhaps for years, while a majority of the people have said it should be stopped? Is it possible under the Whalen amendment that that could happen?

Mr. FRASER. I think quite possible.

Mr. BIESTER. Would that be possible under the committee bill?

Mr. FRASER. No, it would not.

Mr. MAILLIARD. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from California.

Mr. MAILLIARD. I thank the gentleman for yielding.

I should just like to correct the record. The gentleman said emphatically that under the bill as now written there must be a vote on the issue of approving or disapproving what the President has done.

Mr. FRASER. Providing there is at least one supporter, of course, in each body.

Mr. MAILLIARD. I would suggest that the gentleman read the bill, because there is an escape clause which says that "unless such House shall determine otherwise by the yeas and nays. So if one House decides to vote not to vote on the issue, then the whole national policy is immediately changed.

Mr. FRASER. That is similar to a motion to table, a motion to postpone, or a motion to defer.

SUBSTITUTE AMENDMENT OFFERED BY MR. STRATTON FOR THE AMENDMENT OFFERED BY MR. WHALEN

Mr. STRATTON. Madam Chairman, I offer a substitute amendment for the amendment offered by the gentleman from Ohio.

The Clerk read as follows:

Substitute amendment offered by Mr. STRATTON for the amendment offered by Mr. WHALEN: On page 4, line 2, after the comma, strike out "unless"; and strike out everything on lines 3 through 11; and insert the following: "If within that time the Congress has enacted appropriate legislation specifically disapproving such use of United States Armed Forces."

Mr. STRATTON. Madam Chairman, I hesitate to take the time of the Committee at this hour, but there are still a couple of major issues presented by this legislation that are troubling me, and I think they ought to be presented in the debate, whether they are approved or not approved, because, after all, we are legislating here for the future and not just for the moment.

I am troubled by the amendment offered by the gentleman from Ohio (Mr. WHALEN) for two reasons: first of all, because he requires that there shall be a vote taken. I do not know how anybody can actually require that Congress vote if Congress does not want to vote. This raises some serious problems. I think the most expeditious way of handling the matter would be under the procedure that we have long followed in the Reorganization Act where proposed reorganizations go into effect unless Congress specifically disapproves. So under my amendment if the President as Commander in Chief has committed armed forces, he can continue to employ them unless Congress specifically disapproves. That basically, of course, was the issue presented in the substitute offered by the gentleman from Indiana (Mr. DENNIS) but his substitute had a lot of additional wording.

My amendment would put this issue clearly and squarely in section 4(b) by providing that the President can continue unless Congress by appropriate legislation specifically disapproves his action.

The second thing that disturbs me is that the gentleman from Ohio does nothing about section 4(c), and section 4(c), as the gentleman from New Jersey (Mr. FRELINGHUYSEN) pointed out a little while ago, gives Congress the power to rescind the President's action merely by concurrent resolution, which again raises a question of constitutionality and the query whether we can properly short-cut the actual legislative process in a matter of this magnitude.

So my amendment simply involves these two points. In place of the amendment offered by the gentleman from Ohio (Mr. WHALEN), it says first, that if we want to stop the action we have got to pass a positive act of disapproval and if we do not take that action the President can continue. Secondly, it eliminates this suggestion that we can properly take this act of disapproval by concurrent resolution. Those are the two basic issues to which my substitute addresses itself.

The reason I make these points is that I believe we are legislating for the future here tonight. I am no more enchanted by what we are hearing these days over the television on Watergate than anybody else. But I do not think it is a question here of whether we like Richard Nixon or whether we do not like him. We are trying to set legislation for all future Presidents of the United States. Who knows, we may have a Democratic President of the United States in 1977. I think we have got to think of what is best for this country and not what is best under the immediate political circumstances.

If we undertake to circumscribe the President of the United States it may have far-reaching consequences primarily because, as I indicated in the colloquy with the gentleman from Michigan (Mr. GERALD R. FORD), by putting too many restrictions on him, we could undermine the deterrent power of the President in dealing with potential foreign threats.

The President is after all Commander in Chief of the Armed Forces, and we are not changing that; and he is the only one who can properly negotiate with foreign governments. If the foreign governments know that Congress has him hog tied in advance, and that a third of one body of Congress can block anything he does the foreign governments are not really going to be deterred by what he says, are they? I wonder if President Kennedy could have gotten Khrushchev to back down in the Cuban missile crisis in 1962 if this legislation had been on the books at that time?

Finally I believe we ought to recognize that this legislation is a lot like the 22d amendment to the Constitution. The Republicans got that one through in an effort to try to repeal the third and fourth terms of Franklin Roosevelt, after the fact. This bill today is an effort to repeal the Vietnam war and the Gulf of Tonkin resolution, after the fact. I think both actions are silly, both of them are futile, and as a matter of fact both will turn out to have been mistakes, as the Republicans found in 1968 when they could have run President Eisenhower for a third term and he would have won, too, if it had not been for the 22d amendment.

So let us not think about the political game at present. Let us think about what we are doing to the security of this country and to our deterrent power by unwise and ill understood, as this debate today demonstrates, limitations on the power of any President of the United States.

Mr. MILFORD. Madam Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Texas.

Mr. MILFORD. Madam Chairman, I commend the gentleman for his statement and I would like to associate myself with his remarks.

There is one basic fact that this body seems to be overlooking: "The need of this Nation to have an ability to deter wars."

Many more lives are saved by preventing wars than by fighting them. If a farmer has a mean looking dog tied near his door, it will deter burglars. On the other hand, if the burglar knows that the dog has no teeth, he will walk right through the farmer's door.

This bill, as presented by the committee, literally pulls the President's teeth. Any intelligent person—from anywhere in the world—knows that it takes a considerable amount of time for the Congress to act on complex matters. War or military actions are certainly complex.

I agree with just about every Member in this Chamber that the Congress should retain the power to declare war. Further, I agree that no combat action should be sustained without congressional approval. Parenthetically, no combat action should be stopped without a positive mandate by the Congress.

My reasons are really quite simple. Each of you, like me, have no more than 16 people on your staff. None of us have daily intelligence reports, confidential embassy reports, analysis teams, nor vast investigative groups. The President does.

None of us have dedicated staffs that spend full time evaluating foreign intelligence. The President does. None of us have people on staff that can minutely follow the vast economic and political situations taking place in every nation in the world. The President does.

The Congress, given enough time, certainly has the ability to oversee all of these functions. But the key word and key problem is time. The 120-day limitation in this bill is not sufficient time for individual Congressmen to become fully aware of the vast complexities that can produce a combat action. By acting, without complete information, we could do this Nation a horrible disservice.

The fate of the United States can easily depend on the actions of a few very small countries. A good example is our dependence upon a few small nations in the Middle East for oil. Even now, these nations can bring the United States to its knees by simply turning off the tap that feeds oil to the tankers.

They will not, lest the big dog at the door be turned loose. But, if the big dog is reduced to a debating session with no assurance that anyone can turn the dog loose, then this nation is simply inviting trouble.

Members must keep in mind that laws are made for all Presidents and for all situations. They are not enacted just to satisfy a Vietnam situation or a Watergate President.

I remind you that our President is elected by the people and, like you, accountable to the people. He is not a dictator. His powers, like yours, are clearly spelled out in our Constitution. It has served us for nearly 200 years and I still believe in it.

I would also like to remind you that all nations in this world are not like ours. We are a democracy. We understand government by the people. Other nations do not. They only understand power or implied power.

There are many nations that will react irrationally and unreasonably against another country if they feel that they have an advantage. This bill would give them that advantage.

I feel that the Stratton amendment, if adopted, would leave a deterrent power in the hands of the President, while also affirming the powers of the Congress. I would urge that you adopt it.

If the committee bill is not amended, it will certainly be vetoed by the President. In good conscience, I must agree with him and vote against the bill.

Mr. WOLFF. Madam Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Madam Chairman, the gentleman obviously disagrees with the Founding Fathers and particularly Alexander Hamilton in his definition of the Commander in Chief because Hamilton said that the President's power would be much less than the power of a British king and it would amount to nothing more than being the supreme commander of the forces.

Mr. STRATTON. I cannot yield further, but of course I do not disagree with the Constitution. But the Constitution is not what Hamilton said. It is what has been written down in that document itself plus the way those words have been interpreted over the years.

Mr. WHALEN. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I oppose this amendment to the Whalen amendment for two reasons. First, like the language of the present resolution, the Stratton language creates an escape hatch for the Congress. Congress is not mandated to vote on the important question of troop commitment to combat. Second, in enabling Congress to escape its responsibilities, this amendment, if adopted, would permit the continuation of combat in the absence of congressional action.

Therefore, I urge my colleagues to oppose the Stratton amendment.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from New York (Mr. STRATTON) for the amendment offered by the gentleman from Ohio (Mr. WHALEN).

The question was taken; and on a division (demanded by Mr. STRATTON) there were—ayes 25; noes 79.

So the substitute amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WHALEN).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WHALEN. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by clerks, and there were—ayes 200, noes 211, not voting 22, as follows:

[Roll No. 351]

AYES—200

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bell
Blackburn
Bolling
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dorn
Duncan
Edwards, Ala.
Erlenborn
Eshleman
Flynt
Ford, Gerald R.
Forsythe
Frelinghuysen
Frey
Froehlich
Gettys
Gilman
Ginn
Goldwater
Goodling
Grover
Gubser
Guyer
Haley
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Hébert
Heinz
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Pa.
Jones, Okla.
Keating
Ketchum
Kuykendall
Landrum
Latta
Lent
Lott
Lujan
McClory
McCollister
McDade
McEwen
McKinney
Madigan
Mailliard
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Mosher
Myers
Nelsen
Nichols
O'Brien
Parris
Passman
Pettis
Peyser
Pickle
Powell, Ohio
Price, Tex.
Quie
Quillen
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rousselot
Roy
Ruppe
Ruth
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Symms
Taylor, Mo.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Vander Jagt
Veysey
Waggonner
Walsh
Wampler
Ware
Whalen
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Young, Tex.
Zion
Zwach

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Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bowen
Brademas
Brasco
Breaux
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Chappell
Chisholm
Clark
Collins, Ill.
Conte
Conyers
Corman
Cotter
Culver
Daniels, Dominick V.
Davis, Ga.
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, William D.
Fountain
Fraser
Frenzel
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Gude
Gunter
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Henderson
Hicks
Holifield
Holtzman
Howard
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCloskey
McCormack
McFall
McKay
McSpadden
Macdonald
Madden
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Owens
Patten
Pepper
Perkins
Pike
Poage
Podell
Preyer
Price, Ill.
Randall
Rangel
Rarick
Rees
Reid
Reuss
Riegle
Rinaldo
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Stubblefield
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Yates
Yatron
Young, Ga.
Zablocki

NOT VOTING—22

Blatnik
Clay
Danielson
Downing
Fisher
Griffiths
Gross
Kemp
King
Landgrebe
Mills, Ark.
Patman
Pritchard
Railsback
Rooney, N.Y.
Sandman
Saylor
Sikes
Stokes
Talcott
Teague, Tex.
Whitten

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. ZABLOCKI. Madam Chairman, I ask unanimous consent that all debate on all amendments end at 7:15.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Since there is no objection, all debate will close at 7:15 on the bill and all amendments thereto.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. BUCHANAN.)

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 4, lines 11 and 12, strike out the word "concurrent resolution" and substitute therefor the words "Bill or resolution appropriate to the purpose."

Mr. BUCHANAN. Madam Chairman, my amendment simply writes into section 4(c) the flexibility we sought to write into section 4(b). That is, it would provide that Congress could try a concurrent resolution to overrule Presidential action, but would not be confined to that.

The President has said that with no change in this language, he will veto the bill. This is the second provision which is required before final passage today, to avoid a certain veto. I think this puts the Congress in a more flexible position. It does not force the constitutional question.

I hope the amendment will be adopted.

As to the bill itself, I think we are trying to accomplish by a joint resolution what can be accomplished only by a constitutional amendment. The committee's attempt to clarify or change the constitutional powers of the Congress and the President through the joint resolution before us is imaginative, innovative, creative and ambitious. It is as imaginative as Alice in Wonderland, and approximately as rational. It is an innovative as the Edsel, and as viable a concept. It is as creative as the most advanced modern art, architecture or music, and about as understandable to ordinary citizens such as your humble servant in the well. It is as ambitious an undertaking as the construction of the Tower of Babel, and will bring like results of failure and confusion.

Madam Chairman, I must oppose this resolution on final passage precisely because it cannot achieve its desired end of reaffirming the constitutional prerogatives and warmaking powers of the Congress—an aim which I fully support. This can only be done, in my considered judgment, by means of a constitutional amendment or by the appropriations process such as in the recent Cambodian limitation in which case a simple majority of both Houses of the Congress can clearly prevail. These two courses are without question open to us. No other can succeed. The committee's course, however well intended, can only lead to frustration and failure, and I must firmly, if reluctantly, oppose it.

The CHAIRMAN. Are there other Members in the Chamber who wish to speak on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN)?

Mr. DU PONT. Madam Chairman, I desire to speak on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The CHAIRMAN. The gentleman from Delaware is recognized.

Mr. DU PONT. Madam Chairman, this amendment in my opinion goes to the very heart of the bill. It is the worst amendment that has been offered today. We must keep the question of setting the war powers policy within the Congress by a simple majority where the Constitution has placed it, and it is not a question of trying to override a veto that the Executive should not be permitted to exercise.

I very strongly urge the defeat of this amendment.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Alabama (Mr. Buchanan).

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. Frelinghuysen).

AMENDMENT OFFERED BY MR. FRELINGHUYSEN

Mr. FRELINGHUYSEN. Madam Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. Frelinghuysen: Page 3, line 1, insert "and" after the semicolon.

Page 3, strike out lines 2 and 3.

Page 3, line 4, strike out "(E)" and insert in lieu thereof "(D)".

Mr. FRELINGHUYSEN. Madam Chairman, my amendment is simple, and I hope noncontroversial. There is a requirement in the bill that the President report within 72 hours a number of things, including the estimated financial cost of the commitment of troops. My amendment would drop the requirement for an estimate of financial cost. In the first place, it would not be easy to determine how much the cost would be. If there were figures available, it would be of little value to us, and might be of great value to an enemy where troops are involved.

It is my hope that we simply drop the requirement for an estimated cost, because it does not make sense.

The CHAIRMAN. Are there other Members who wish to speak for or against this amendment who are on this list? If not, the question is on the amendment offered by the gentleman from New Jersey (Mr. Frelinghuysen).

The amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Wiggins).

Mr. WIGGINS. Madam Chairman, the issue presented by this legislation has been before the Congress for several months. My first impression was that the enactment of a precise statutory scheme to involve the Congress in ratifying or rejecting any military activities to which the President has committed our forces was unnecessary, but that such an enactment would do little harm. This initial impression was based upon a recognition that the President could not normally engage our forces in any significant combat operations in secrecy, and that once engaged, such an involvement could not long continue without the acquiesence of the Congress.

Historically, Congress has been a willing partner in military operations which may have been initiated by Presidential action, with or without the concurrence of the Congress. Vietnam was no exception to this historical pattern.

Why, then the need for this legislation? Its proponents urge that it is necessary to reassert the proper role of the Congress under the warmaking power. I have always felt that this assertion is more rhetoric than substance. In my view, the ultimate power is vested in Congress. It always has been, and no statutory support is needed to buttress the plain command of the Constitution.

Even though the legislation adds nothing to the power of the Congress, it might be supported nevertheless on the theory that it is desirable to clarify the procedure under which Congress is to assert its power. But such a theory is hardly persuasive.

The initiation of major military action by this country is not a routine occurrence. It has occurred in the past at moments of great international stress. It is idle to think that any future decision of such magnitude is going to fit neatly into a preplanned scenario. It is far more realistic to assume that given an international state of affairs which has impelled a President to commit our forces, that President will report promptly to the Nation—not just the Congress—justifying his actions as necessary to the security of the United States or to peace in the world. It is also realistic to believe that the Nation—including the Congress—will, at least temporarily, rally in support of the President and will take such action at that time as may appear to be necessary. In my view, it will take such action notwithstanding any careful statutory scheme which we may enact today in an atmosphere which is absent the emotion of a national crisis and a Presidential appeal to patriotism.

In short, Madam Chairman, I view our debate today as perhaps necessary to our congressional egos, but as largely meaningless in terms of dictating a required course of action in the future.

Personally, I do not need to be reassured that Congress can, if it wishes, control the warmaking power of the President. Since it is my view that this legislation if ultimately enacted would be overlooked or repealed by a future Congress in responding to a future crisis, it is not my intention to participate in an idle act by supporting this bill today.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Biester).

Mr. BIESTER. Madam Chairman, as a member of the National Security Policy Subcommittee which considered House Joint Resolution 542, war powers legislation, I am pleased to have participated in the efforts which can lead to a reassertion of congressional prerogative and influence in war power decisionmaking. The need is for legislation which will assure the exercise by Congress of its proper share of the responsibilities called for during the critical initial stages of a war effort. House Joint Resolution 542 satisfies this need.

In accepting a difficult challenge, Congress has undertaken to conceive legislation which both recognizes the mandate of the Constitution in conferring upon Congress the warmaking power and the reality of a 20th century world in requiring the President to respond flexibly to emergency situations.

At this point I would like to compliment my colleague, the subcommittee chairman (Mr. Zablocki), for his untiring efforts to report an effective war powers bill, and extend my personal appreciation to the other members of the subcommittee, as well as the full Foreign Affairs Committee, for the extensive and spirited discussion which characterized the deliberations on this essential piece of legislation.

House Joint Resolution 542 attempts to fill gaps that have developed over the years as technology and the nature of world relations have outgrown a strict implementation of the Constitution's language in the area of war powers.

The American people have wearied of the drain of prolonged "undeclared" wars, and the experience of Indochina has convinced them that mechanisms must be instituted which would allow the legislative branch—the branch to which they are closest—a greater degree of determination and participation in decisions involving the ultimate commitment of resources, both human and financial. While I cannot speak for my colleagues or their constituents, residents of my congressional district have expressed a very definite opinion that the President's power to commit troops in an undeclared war must be limited. Responding to a recent district-wide questionnaire, 75 percent of my constituents back such a limitation. I believe this sentiment is shared by a majority of Americans.

According to the provisions of House Joint Resolution 542, the President retains authority to commit U.S. troops at a moment's notice in those situations where our national interest is under direct or imminent threat. To every extent possible, however, the President is urged to consult with Congress before such action is undertaken, and he must report to Congress, in writing, within 72 hours of such a commitment. Then, the President is given a 120-day period in which he may continue military activities without direct congressional approval. During this time, the President will have the opportunity to work with Congress in formulating this policy and to justify his actions before Congress and the American people. At any time within these 4 months, Congress may, through the passage of a concurrent resolution, revoke the President's authority to continue a military commitment. By the end of the 120 days, if Congress has not already enacted legislation either specifically granting the President the power to proceed with military activities or denying him the power through the passage of the concurrent resolution, those activities must cease.

This bill approaches a very serious problem in a very reasonable manner by attempting to codify how the decisionmaking operation should actually function in such a situation. The President is allowed to make the initial commitment of U.S. forces in his role as Commander in Chief, with or without specific congressional consultation. Within a 3-day time span, he must explain his actions to Congress, and by the end of the 120 days, if he has not been able to convince Congress of the rightness of his actions, his authority to continue is terminated.

If Congress were required to pass legislation denying the President the power to continue a U.S. military commitment, the President could veto such a measure and have his action upheld by a one-third plus one minority of only one House of Congress. In effect, then, a minority of either House could continue the combat commitment which originally had been rejected by a definite majority in both

Houses. Such a provision would further serve to strengthen the President's war powers and thwart the will of a congressional majority. When we speak of effective war powers legislation, the inclusion of a provision posing such an obvious threat to the will of the majority in such a critical situation is not what we should have in mind.

It is significant to note, I believe, that Congress only 3 weeks ago indicated its support for the concept of war powers as embodied in House Joint Resolution 542. The August 15 bombing halt provision and its inclusion in the second supplemental appropriations bill offer parallels to the legislation before us today. The passage of the second supplemental and its enactment by the President represent a compromise accepted by both Congress and the President. In it, Congress has permitted the President to continue his policy in Cambodia until a certain date while he has conceded that his authority will expire by that date. Congress has stipulated, and the President has concurred, that he may continue military activity only if Congress specifically grants him the authority to do so through legislation.

The similarities between the provisions of this resolution and the August 15 bombing halt measure are apparent. Furthermore, by its recent vote, Congress has underscored the importance it attaches to the proposition that if hostilities are to continue beyond the cutoff date it is incumbent upon proponents of continuance to initiate congressional action to that end. This is the process embodied in House Joint Resolution 542.

Concern has been expressed that a deadline date is, in effect, a license for whatever action, however extreme, the President may deem necessary. During the 120-day period, so this argument goes, the President could engage in excessive military hostilities in order to commit the United States to a particular position and gain public support for that position. While this is, of course, entirely conceivable, we cannot say with any real assurance that the imposition of a deadline necessarily will set in motion a rash of precipitous military actions. The lack of any congressionally imposed deadlines during our Indochina involvement did not discourage two Presidents from engaging in numerous extreme military initiatives for almost a decade; but the failure of Congress to set any deadlines did permit these Presidents a great deal of leeway to do as they pleased, including commitments that further escalated the war.

Under war powers legislation, a deadline date could elicit from the President a more careful planning of his course of action and a more prudent evaluation and assessment of the wisdom of its continuation. Failure to do so could easily serve to undermine whatever case he might try to build for its continuation beyond the deadline date. Therefore, although a 120-day period could afford a President the opportunity to be intemperate, it could just as logically convince him to be more restrained.

The burden of proof is on the President. He must demonstrate that the continuation of such action beyond 120 days is warranted. The responsibility for the decision to continue his action must be made jointly by Congress and the President. If Congress is to accept that responsibility, it must act affirmatively. Because the positive burden of proof is with the President—who initiated the military action and seeks to continue it—Congress can concur with his action only through an affirmative vote to endorse what he has done and what he intends to continue.

Given circumstances where a majority of Congress disagrees with a Presidential decision to commit troops, Congress must be in a position to have its will carried out. This legislation does provide the mechanism for such an affirmative action on the part of Congress. Sections 5 and 6 of the resolution provide for specific congressional priority procedures for the consideration of any relevant bill or resolution, and any Member may take advantage of the priority procedures through the introduction of a concurrent resolution.

If Congress agrees that a continued military commitment should be considered, it would bring such a matter up for a vote before the 120-day expiration date, and if the President has demonstrated the validity of his position to the satisfaction of Congress the commitment would be ratified by Congress through affirmative action.

I strongly believe that this legislation does not, as some Members contend, overlook Congress' responsibility to act affirmatively. Explicit provisions are made for this in the bill. Those who seek to end the hostilities even before the 120-day deadline can still do so, and the procedure is specified. Those who wish to continue the hostilities can do so, and procedures for this are also enumerated.

The critical distinction which must be made clear is that the burden of proof and the obligation to bring the matter to a vote lies with those who support the commitment and wish to see it continued beyond the 120 days. If such action fails it is not because Congress failed to act affirmatively but because Congress, through its deliberations, had decided that the President's position had failed to be justified.

In past decades when Congress has declared war, it has done so within a matter of hours of the act which precipitated the declaration. Times have changed as has the nature of war. But it seems doubtful to me that the President and Congress would be unable to determine, within the period of 120 days, whether a commitment of American troops and other resources was necessary and should be formalized. The specific time restriction on these deliberations forces a decision to be worked out. It avoids the costly and devisive indecision and delay which characterized our involvement in Indochina.

How we view the world may have a bearing on how we approach this resolution. If we accept violence and conflict as a "given"—a constant factor and the "way things are"—then, perhaps, a state of war is nothing out of the ordinary and should not be treated as such. In this case, war should not require any justification; it has built-in legitimacy. On the other hand, if our world view holds that peace, or the absence of conflict, should be the normal and desired state of affairs, those who wish to disturb the eqilibrium should bear the responsibility of proving the reasons why. The resolution before us, as it is presently worded, views conflict—not its absence—as the state which requires justification. It is a strangely ironic position that would have us defend the maintenance of peace rather than the continuation of war as a national policy.

The National Security Policy Subcommittee and the full Foreign Affairs Committee have labored to draw up a bill realistic in its method of restoring a balance to shared Executive-legislative war powers authority. The Constitution sets forth the broad language within which we have worked, and we have taken great care to neither restrict the constitutional power of either branch nor expand the power of either beyond its legal limitations. This objective, I believe, has been successfully conceptualized in House Joint Resolution 542.

The danger in those amendments and substitutes which will be offered to section 4(b), in particular, is that they not only inhibit an appropriate delineation of congressional power which is constitutionally both proper and necessary, but they would serve to further increase Presidential authority in war powers decisionmaking. Alternate language being considered could provide the President with discretion he does not now possess or justify Presidential actions having no legal foundation. The purpose of war powers legislation should be the reassertion of the congressional role in deliberations, not amplification of the President's.

I am certain we can all agree in hoping that there will never be occasion to invoke the procedures contained in this legislation. But I also feel we should have learned some lessons from our drawn-out engagement in Indochina. One of those is that a mechanism is needed to assure Congress its rightful participation in the critical early decisions that can so easily lead to a much greater military commitment. What is more, the mechanism should include an effective means of restricting that commitment if sufficient congressional support for it does not exist. House Joint Resolution 542, as reported by the Foreign Affairs Committee, accomplishes this, and I urge its passage.

The CHAIRMAN. The Chair recognizes the majority leader, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Madam Chairman, I rise in strong support of House Joint Resolution 542, the war powers resolution, as reported by the Foreign Affairs Committee. And I want to heartily commend and congratulate Chairman CLEM ZABLOCKI and the members of the subcommittee who have worked so long and diligently to give us a war powers resolution that has teeth in it. For this resolution is the product of a careful and conscientious study of the war powers issue over the past 3 years by the National Security Policy Subcommittee. In my opinion, it is a rational and reasonable resolution, and it is the best possible approach to reassert congressional prerogative in the war and peace decision-making process.

The need for this resolution was apparent 3 years ago when the Cambodian incursion was ordered by the Nixon administration without any prior consultation with Members of the House and Senate. The truth of the matter is that the accumulated experience of 535 popularly elected Members of Congress should be brought directly to bear on decisions of war and peace. I firmly believe that the executive branch does not have a monopoly of wisdom in matters affecting national security.

All this resolution asks is that Congress be included in the war decision-making process.

All this resolution asks is that Congress, the voice of the American people, be consulted prior to the commitment of U.S. Armed Forces to hostilities abroad.

All this resolution points out is that only through such congressional and executive discussion and cooperation can the national unity necessary to support such commitments be obtained.

I think there is general concensus among the Members of this House that a need exists for legislation which would reassert the role of Congress in the warmaking area. And the congressional action provisions contained in this resolution are the heart of any effective war powers legislation. For the central problem that war powers legislation must confront is the introduction and commitment of U.S. forces into hostilities abroad without prior congressional authorization. Vital to the preservation of the congressional power to declare war is the provision for automatic termination of hostilities unless Congress specifically approves the Presidential commitment of troops.

This resolution enables Congress to play an effective and useful role in the decisions of war and peace. To function effectively, particularly in the times of national emergencies, our system of government must exhibit a maximum amount of cooperation and communication between the executive and legislative branches. Only through this cooperation and communication can we achieve successful policy decisions.

House Joint Resolution 542 is a giant step toward achieving that objective, and I urge all my colleagues to support this important measure as reported by the Foreign Affairs Committee.

Madam Chairman, I want to congratulate the chairman of the subcommittee and the members of the committee for their outstanding work that they have done. It is my opinion that it is a rational and reasonable solution, and it is the best possible approach to restate the congressional prerogatives involving war and peace.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Madam Chairman, I should like to have supported a good war powers bill, but unfortunately, with the defeat of the Whalen amendment, the bill as it stands leaves the President of the United States without the most elemental necessary power to even take necessary action to defend this country under definite and difficult circumstances, and I will have to oppose this ill-starred and sorry bill.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Madam Chairman, I yield to the minority leader, the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Madam Chairman, unfortunately, the Committee of the Whole has not been successful in amending and changing the committee bill. I want a war powers bill, but, as I said during my comments in the amending stage, if we cannot get the House to play a positive role along with the Senate, in my judgment the committee bill ought to be defeated.

I urge the defeat of the committee bill.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Madam Chairman, I should like to ask the Chairman a question.

The bill does not have a definition of the term "Armed Forces." I should like to make sure that it is intended to include the activities of the Central Intelligence Agency where they carry out the same functions, or the functions that would be carried out under the Armed Forces. There is such an amendment pending in the other body. Would the Chairman look with favor upon this amendment in conference?

Mr. ZABLOCKI. First of all, the amendment deals with U.S. Armed Forces. But the gentleman from New York has called to my attention the proposal of Senator EAGLETON in the other body. I have had only a brief opportunity to look the amendment over.

Let me assure him that if the Senate passes that amendment, as a probable conferee, I will give it the fullest consideration and I believe my colleagues will do likewise.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Madam Chairman, I sympathize with the intent of the Foreign Affairs Committee in presenting this bill and I appreciate the time and effort spent in its deliberations. But I fear that H.R. 542 will do the reverse of what is intended and I therefore cannot support its enactment. I regret the rejection of several Eckhardt amendments, which I believe would have eliminated any possibility of undercutting the Congress constitutional warmaking authority.

Rather than limiting the power of the President to wage undeclared war, H.R. 542 may have the effect of enlarging that power. Section 2 of this bill directs the President "in every possible instance" to consult "with the leadership and appropriate committees of Congress before committing U.S. Armed Forces to hostilities or to situations where hostilities may be imminent."

This is a loophole wide enough to fly a whole sortie of B–52's through. A President could claim that national security prevented his consulting Congress, especially when he is the judge of whether hostilities are imminent. It is difficult to imagine a situation in which it would be impossible for the President to consult Congress except in case of a nuclear attack, when the President clearly would be free to respond immediately.

The other major deficiency in H.R. 542 is that it allows the President up to 120 days to continue a military action in the absence of a congressional declaration of war or a specific authorization for the use of U.S. Armed Forces. I am aware that section 4c provides that if the Congress should fail to act after 120 days the President would be required to terminate unauthorized military activity and that within those 120 days the Congress may require the President to disengage U.S. Armed Forces from hostilities abroad by concurrent resolution.

I favor these concepts, and recognize that they are the unique feature of this bill, but the fact remains that if H.R. 542 becomes law and we become engaged in military hostilities, if Congress, for whatever reason, should fail to act to stop the war within those first 120 days, the President would have 4 months of a warmaking power which he does not now have under the Constitution.

Our experience with the Gulf of Tonkin resolution leads me to the conclusion that Congress should carefully avoid adopting any legislation that might be interpreted as enlarging the authority of the President to wage war.

Today marks 132 consecutive days in the latest round of illegal U.S. bombing of Cambodia, over the expressed objection of both houses of Congress and the American people.

In the last few days, we have learned to our shocked amazement that the executive branch's illegal actions in Cambodia extend far back beyond the time when the Government first conceded that it was extending the war to Cambodia, unsanctioned and unauthorized as it was even then.

Yesterday, as a result of hearings by the Senate Armed Services Committee, the Defense Department admitted that in 1969 and 1970 at least 3,500 raids were staged by American B–52s on neutralist Cambodia. Records of these illegal bombing actions were deliberately falsified with the intent of concealing them from the Senate committee, the entire Congress, and the public. And all these illegal actions and the coverup were sanctioned by the President of the United States. If the Nation was not so absorbed at this time in the Watergate revelations, I believe that these latest disclosures of secret, illegal war actions, accompanied by deliberate falsifying of records and deception of the legislative branch, would by themselves be enough to indict the conduct of the President.

I believe it is of the utmost importance to prevent a recurrence of the Cambodian situation in which for 2 years the President, the National Security Council, and the Defense Department deceived the Congress by concealing the information that American forces were bombing a neutral nation. This shameful violation of the law points up, I believe, the value of enacting legislation to require the President to report to Congress any military action undertaken without the authorization of Congress. Implicit in such a requirement would be that refusal by the President to provide the Congress with such information would be deemed malfeasance in office.

Under its existing powers, Congress has the authority to declare war or to stop any military action undertaken by the Executive. The Eckhardt amendments, whose adoption I supported, addressed themselves to those instances in which the President might act within what he veiws as his constitutional authority and provided that he then could not extend such action if the Congress ordered him to desist by concurrent resolution.

In the absence of these safeguarding amendments and in view of the 120-day warmaking authority allowed to the President under H.R. 542, I believe the wise course is not to attempt to rewrite the Constitution in this way and to reject this bill.

The **CHAIRMAN**. The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. **HOLTZMAN**. Madam Chairman, it is with great regret that I rise in opposition to the bill. I understand that the members of the Foreign Affairs Committee have submitted this bill with the greatest and most meritorious intention. I agree with that intention. But, I believe the bill instead of limiting Presidential war powers enshrines the unilateral warmaking powers on the part of the President for 120 days. I have studied the Constitution very carefully, and I do not believe the President has the power to begin or carry on a war without congressional approval for even 1 day, except in an emergency to repel an attack on this country. Nor, should he have that power.

House Joint Resolution 542 is therefore unwise if not unconstitutional. Instead of limiting the Presidential warmaking powers it legitimizes some of the worse abuses that have arisen.

Article 1, section 8, of the Constitution specifically grants to the Congress the power to declare war as well as raise armies. Although article II provides that the Executive shall be "Commander in Chief of the Army and Navy," this provision does not diminish the power granted to the Congress under article I.

The intention of the drafters of the Constitution with respect to the warmaking powers was very plain. They were well aware of the bitter experience under the British monarchy in which the king had the sole power to start a war and continue it without anyone's approval. The framers of the Constitution did not want to import into our Republic the abuses of an absolute monarchy. They, therefore, decided to split the warmaking powers into two parts.

First was the power to start a war. This they explicitly placed in the hands of the Congress.

Second was the power to carry on a war once it was authorized. This was explicitly placed in the hands of the President of the United States.

This premise is well documented in the accounts of the debates at the Constitutional Convention. For example, Messrs. Madison and Wilson both agreed that "executive powers . . . do not include the rights of war and peace." And Mr. Gerry expressed the view that he "never expected to hear in a Republic a motion to empower the Executive alone to declare war."

Alexander Hamilton, one of the strongest exponents of a strong Chief Executive, said:

> It is the peculiar and exclusive province of Congress, when the nation is at peace to change that state into a state of war; whether from calculations of policy, or from provocations, or injuries received: in other words, it belongs to Congress only, to go to war.

Subsequent statements also confirm that Congress has the sole right to commence a war, except in limited circumstances where the President, under emergency conditions, has the power to repel attacks on this country.

Thus, for example, in the middle of the 19th century, Abraham Lincoln, in voting against President Polk's unconstitutional military excursion into Mexico, stated:

> The provision of the Constitution giving the war-making power to Congress was dictated by the (fact that) kings had always been involving and impoverishing their people in wars . . . and they resolved so to frame the Constitution that no one man should hold the power of bringing oppression upon us.

The purpose of placing the power to commence a war in the hands of Congress was not simply to restrain Presidential action. It was also designed to prevent this country from getting into wars and sacrificing American lives and tax dollars without careful reflection and without a national consensus. In other words, by precluding war without congressional approval the Constitution's framers intended to make it more difficult to get into war.

As Jefferson stated in a famous letter to James Madison:

> We have already given, in example, one effectual check to the dog of war, by transferring the power of declaring war from the executive to the legislative body, from those who are to spend to those who are to pay.

Despite, however, the plain intent of the framers of the Constitution and the clear language of the Constitution itself, this bill permits the President to commence a war and continue it for 120 days without any approval from Congress.

Moreover, even the 120-day limitation on the President's ability to wage war is illusory. It does not contemplate the fact that in this age of advanced nuclear technology the President could launch without congressional consent a nuclear attack which could, within hours, destroy the face of the Earth. The fact that Congress has the right to stop unilateral Executive actions prior to the expiration of the 120-day period, or the fact that the President must cease such activity within a 120-day period absent congressional approval is totally irrelevant in this nuclear context. In effect, by passing House Joint Resolution 542, we would be conceding to the President the unilateral right to declare nuclear war, which in almost all instances would be terminated for good or for bad before Congress could take any action.

Even in conventional military endeavors, past experience demonstrates that allowing a President the right to unilaterally engage American forces into hostilities creates a momentum which is difficult for Congress to overcome even in the most reckless of circumstances. Men are lost in action. Prisoners are taken. And disengagement of troops is impossible due to their vulnerability. After the expiration of 120 days, Congress could be placed in a position of having to support the President lest the lives of American fighting men be endangered. It must do so, despite the fact that if it had had the opportunity to pass judgment on the initial effort, it would never have approved the President's actions.

In addition, by allowing the President to make unilateral decisions about warmaking even for 120 days, Congressional prerogatives are not only usurped in international affairs, but in domestic areas as well. For example, if Congress is to abide by a spending limit, as the President and Congress both agree it should, then the extent to which the President can unilaterally decide to spend money on military activities in essence determines the amount available to Congress for domestic needs. The Congress cannot capture control over domestic priorities if the pie to be divided here at home is going to shrink as result of the President's unilateral warmaking powers.

The price of our Indochina conflicts, for example, has been a rapid inflation, and the price of that inflation in one respect has been that we in Congress cannot enact desperately needed social programs in health, education, job training, and economic development, except by overriding Presidential vetos—justified in part on the grounds of inflation that was created in the first place by a war that the executive entered into unilaterally.

The second price we pay similarly is in the area of impoundment in which the President ostensibly on the basis of inflation imposes restrictions on spending in housing, education, and veterans' benefits. Thus, the Congress is left to pick up the pieces of military actions that it never in the first place declared.

Clearly therefore it is crucial to reassert the rights and responsibilities of Congress over the warmaking power in accordance with the Constitution. The way to do it, however, is not implicitly to grant to the President—as this bill does—the power to commence and conduct a war for 120 days in the absence of congressional approval.

The **CHAIRMAN**. The Chair recognizes

the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Madam Chairman, I rise in support of the resolution. I think the very opposite is true of what the previous speaker, the gentlewoman from New York (Ms. HOLTZMAN) has said. House Joint Resolution 542 in fact signifies a reassertion of the sole constitutional authority of the Congress to declare war, and affords us our first opportunity to do so in this 93d Congress. I urge my colleagues to vote for passage of the resolution.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. CARNEY).

Mr. CARNEY of Ohio. Madam Chairman, I support this legislation. It is not everything I would like but I have never voted for a bill in my life which was everything I would like unless I wrote the bill, and then it was usually amended. This is as good a bill as can be expected. It reasserts the right of Congress to declare war. I am for the bill.

The CHAIRMAN. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN).

Mrs. GREEN of Oregon. Madam Chairman, I commend the committee for bringing this legislation to the floor. There has been much discussion about 4(b) in the legislation. I happen to agree with the committee. I see no reason why Congress should be affirmatively required to nondeclare a war. I hope the legislation will become law.

Madam Chairman, I want to sincerely compliment the Committee on Foreign Affairs for the legislation that is being debated today. I hope that this bill—or something very like it—soon becomes law.

It is idle to speculate whether or not such a law, had it been in effect a decade ago, would have prevented the tortuous years of the Vietnam conflict. No one here can know the answer to that. But what it hopefully would prevent is any future congressional abdication of its responsibilities to participate in the decisions to wage war. This, I believe, is the crux of the matter. We need some legislative mechanism to alert us to the possibility of literally backing into a full fledged war as we never intended to do—but did—in Vietnam. It may be proper to demand of youth to share in sacrifices made by the entire Nation, even as their forefathers did, but it is intolerable to send them off to fight and die for vaguely defined causes in undeclared wars while the rest of the Nation goes on with business as usual. The least we owe those who have elected us to represent them in the national legislature is the willingness to face that hardest of all decisions—whether or not to commit the Armed Forces of this Nation to war.

Some believe that section 4(b) of this legislation—the section which mandates a return of the troops if Congress does not affirmatively approve the President's action within 120 days—permits Congress to avoid that hard decision. I do not agree. This bill carefully provides for expeditious congressional consideration of solutions favoring or disapproving the President's action. I find it hard to imagine an instance when no resolution would be debated. But if such a situation occurred, I think it could only mean one thing: That the Congress universally disapproves continuance of the battle. Such a "no" nonvote could hardly be more deafening. Moreover, Congress should not have to affirmatively "nondeclare" a war. If the wisdom and necessity of the President's action is so much in doubt that he cannot convince the Congress to even vote on the matter, the battle should end.

Some have billed this legislation as an effort to curb Presidential power. I certainly see it that way also. But I prefer to give greatest emphasis to the positive—to the view that this legislation demonstrates congressional acceptance of its obligations to participate in crucial choices. If representative government means anything, it means collective decisionmaking on the countless solemn, painful, options constantly presented for our review. There is no way to insure that collective decisions will be wiser than those made by one person. A majority can be just as wrong as a minority and frequently is. This legislation does not guarantee that there will be no future Vietnams. All this legislation does is reassert the congressional duty to share in those choices for right or for wrong.

It is far easier to relinquish responsibilities than it is to discharge them. There are other areas—notably that of budget making—which Congress has also permitted to devolve mainly upon the executive. It is my belief that we must establish some mechanism similar to the Office of Management and Budget for our use here in the Congress if we are to once again fully discharge our obligations to decide on appropriate programs and appropriate funding for them on a national basis. Just as it has become clear that we lack the machinery to really effectively control the budget so it has also become clear in these last few years that we lack the legislative mechanism to really control the warmaking powers. This legislation simply provides that mechanism. All in all it would be easier to blame the executives for whatever failures we endure in foreign and domestic policy but I find that a singularly inglorious tactic. If we are to be judged wrong let us have the courage to be judged wrong for what we do, not for what we do not do. Let us accept our obligation to participate in the admittedly harrowing decisions that must be made. This legislation establishes the machinery for us to take our rightful place as our coequal branch of the Government in making that most awful decision of all—to wage war or not. I strongly support it, Madam Chairman, and I hope that the majority of this House will also.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Madam Chairman, I can only say that when our next President or this President gets us into our next venture I predict now that this act will never be cited in a brief of the State Department as giving the President authority to involve us in overseas hostilities. The resolution is explicit on that point. We have nothing to worry about on that score and those who do worry about that simply have not read the resolution.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. FISH).

Mr. FISH. Madam Chairman, I hope that the committee bill will be approved by the House. It is my purpose to raise a question concerning the meaning of section 4(c) which I hope will be considered carefully by the conferees.

The significant provision of House Joint Resolution 542 is congressional oversight of the Executive. I understand section 4(c) is designed to extend the duration of that oversight and insure that Congress may review when it feels necessary the prudence of its earlier judgments and the actions of the President. Our experience in Vietnam and our inability to end that conflict after approving the Gulf of Tonkin resolution, stand as eloquent yet painful testimony to the need for binding congressional review of the President.

It is vitally important that House Joint Resolution 542 clearly address itself to a review of Presidential action and congressional response after the 120-day period. It is imperative that a procedure be spelled out in the language of the bill to guarantee the possibility of reconsideration. I do not think that as written section 4(c) does what is intended. Assuming an affirmative congressional response under section 4(b) the language of section 4(c) is inoperative and I fail to see where else reconsideration is authorized.

Madam Chairman, many of us perhaps feel that Congress already possesses the power to reconsider its legislation by amendments to authorization and appropriations bills. The problems we have had with just these types of measures demonstrate that this is not so. Numerous times, one or both Houses have passed end-the-war amendments only to be frustrated by failure to agree or by Presidential veto.

There are additional, valid reasons for the need of congressional review. In the initial report from the President, Congress may not receive sufficient or accurate information from the Executive. The revelations this past week by the Secretary of Defense that American planes were bombing Cambodia in 1969 and 1970 without the knowledge, much less the consent of Congress, illustrate this point.

Madam Chairman, I hope thought will be given to what I am sure will improve this important measure.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Madam Chairman, this is indeed an historic occasion. We have engaged in a full and very productive and free debate on an issue which is of the utmost importance to the people of our country, the question or the issue of peace and war. I believe the resolution before the House is a good resolution. I urge its passage.

Mr. BROYHILL of North Carolina. Madam Chairman, the issue that we are discussing today is a fundamental constitutional issue. Congress must attempt to define a line between the proper war-executing powers of the President and his authority for committing U.S. military troops in a new hostile conflict. In certain circumstances, Congress can turn to clear constitutional language and historical precedent as a guide. Only Congress has the power to declare war, and the President as Commander in Chief has the clear responsibility to execute and direct that war.

The Indochina conflict, however, again raised an issue that has been plaguing constitutional experts for years: What is the role of Congress in a conflict without a declaration of war? The constitutional answer of prior years—congressional control over the Federal pursestrings—has proved inadequate. The complexities of the budget, the rapidity of events in the international arena, and the workings of the appropriations process have all served to point out the defects in the present approach to congressional control over the initiation of foreign military operations.

So the question is posed today: Can we fashion appropriate legislation that, cognizant of modern realities, will require Congress to exercise a responsible role in the foreign military operations of America and yet not infringe on the constitutional war-executing powers of the President? It has been argued that this legislation is not necessary because Congress already has the requisite authority. It is true that Congresss can withhold funds, pass substantive legislation, or declare war. The fact is that while Congress has had these authorities, it has not made use of them. This bill gives Congress clear and definitive procedures to be used if it again faces a situation involving the commitment of U.S. troops abroad. I am hopeful that Congress will responsibly exercise its power to define by law the limits of Presidential authority and congressional responsibility in warmaking. The effect will be a more realistic and thoughtful policy to guide the United States should it be confronted again as it has in the past with committing its Armed Forces to hostile conflict.

There are, I understand, several amendments that are being offered today to improve the committee bill, House Joint Resolution 542. I would like in particular to mention the amendment that will be offered by the gentleman from Alabama (Mr. BUCHANAN) and the gentleman from Ohio (Mr. WHALEN). The suggested amendment corrects some serious technical and procedurial flaws in section 4(b) of the committee bill.

As section 4(b) is now worded, a simple failure of Congress to act in the situation defined by House Joint Resolution 542 would prohibit the President from sustaining a U.S. troop commitment even for emergency conditions. Quite frankly, this section is an encouragement to Congress to take a walk when it should provide clear public leadership. One of the major complaints about U.S. involvement in Vietnam, in the mid-1960's, both in Congress and across the Nation was the failure of the White House to give firm guidance and a public commitment as to U.S. goals and efforts in Indochina. The history of the past decade shows the necessity of making a wise but clear public commitment as to our intentions. Section 4(b) fails that crucial test.

Clearly, if Congress is to enact substantive war powers legislation which would place Congress in the role of exercising warmaking responsibilities, that legislation must also authoritatively place upon Congress the necessary burden of responsible action.

The Buchanan-Whalen amendment corrects this default. It mandates Congress to make a decision, on the public record, as to the wisdom and necessity of taking military action. I am convinced that mandate is in the best interests of a constructive balance between the executive and legislative branches, a sound and judicious public policy and responsive and responsible government.

Mr. PRICE of Illinois. Madam Chairman, the tragedy of Vietnam has taught us, if nothing else, that a cognizance of the pitfalls of incrementalism must govern our future military operations. The series of decisions made during the course of the conflict in the name of protecting our interests and furthering our goals in fact accomplished what no one could anticipate with any certainty and, to be sure, what no one desired. The war of attrition has been more costly than any mere lesson should ever be.

The Congress has been slowly gathering steam for affirmative action directed toward a reaffirmation of the constitutional power the legislative branch possesses in committing the Nation to particular military operations and a clarification of the twilight zone of concurrent authority which the framers of the Constitution gave the Congress and the President in the realm of the Federal Government's war powers. The Committee on Foreign Affairs has presented the Members with a resolution which would attempt to lead us from this bramble bush of authoritative crisis. I would commend utmost caution to my distinguished colleagues in this sensitive area. Ratification of the current manner of Presidential conduct will prolong the problems we are trying to eliminate, but stripping the Commander in Chief of emergency discretion would require close examination of congressional efficiency in times of crisis.

A compromise must be reached. In a matter which goes to the heart of our national security, we must be confident that our compromise is the correct one.

Mr. RARICK. Madam Chairman, I, too, am concerned over the usurpation of congressional prerogatives by the Office of the President. I do not, however, share some of my colleagues' emotional support for legislation advanced as limiting the President's powers while in reality approving this usurpation.

This is the case with the legislation before us—which is being sold to the House as necessary to limit the President's war powers. The Constitution clearly gives the Congress the exclusive power to declare war—it does not give this power to the President. I can see no advantage to the American people in giving in to the President and delegating to him a portion of that authority reserved by the Constitution to the American people through their elected representatives in Congress.

The Constitution is very clear and concise on the subject we are debating today. The language of the Constitution cannot be improved.

The Constitution cannot be amended by an act of Congress.

I will, therefore, cast my people's vote against this legislation before us. I am convinced that we must act and act now to keep the Government of the United States where it belongs—with the people as protected by the Constitution.

Mr. REID. Madam Chairman, I rise in support of the bill as reported by the Foreign Affairs Committee.

While not absolutely perfect, and while the 120-day limit should in my view be a much shorter period, nonetheless this bill does provide a new mechanism whereby Congress and, indeed, any Member of Congress can bring to a vote a preferential motion to end hostilities where U.S. troops have been committed. Moreover, the mechanism provided authorizes congressional action under a concurrent resolution, a vehicle which is not subject to Presidential veto, and requires a simple majority vote of both bodies of the Congress. If a veto were authorized, on the other hand, it could be sustained in either body of Congress by a simple one-third plus one. I believe the bill we have before us tonight would return the power to end hostilities to the American people, and to a majority of their elected representatives.

This legislation provides that any hostilities the President unilaterally enters into or any significant enlargement of hostilities already in progress shall automatically be terminated within 120 days unless, of course, Congress declares war or enacts special authorizing legislation.

In sum, I believe that this bill returns a specific measure of balance to the Congress and returns to them mechanisms to enable them to uphold their constitutional powers.

Mr. HARRINGTON. Madam Chairman, I rise today in support of the war powers resolution.

For the last 10 years, the American people have witnessed the unilateral commitment of American military forces to hostilities abroad by the President without prior consultation with, or authorization by, the Congress. The unparallelled expansion of Presidential warmaking power which has increased markedly since the early 1960's has now reached dangerous limits which threaten to undermine the system of checks and balances underpinning our constitutional system of government. The war in Vietnam and the Cambodian and Laotian incursions since 1970 have provided the initial impetus for a number of bills and resolutions of the war powers. The lack of prior consultation with Congress in all of these commitments has brought about a crisis in the relations between the executive and legislative branches.

Under the Constitution there exists a concurrent authority over the warmaking powers of the National Government between the Congress and the President. Since World War II, Congress power to initiate war has been severely eroded. Up to now, it has accepted the President's explanations and, therefore, must share part of the blame for any constitutional imbalances, but I believe that some Members of Congress have come to see their mistake.

One of the major political phenomena of the last decade has been the simultaneous assumption of warmaking power by the President and the decentralization of that power within the executive branch. In the case of the Vietnam war, not only did the Congress lose control over the decision to go to war, but the President himself lost control over the bureaucracy and the military decisions being made at the Pentagon and in the field. This disturbs me as much, if not more than the debate between the Congress and the President. The answer to the problem lies not in reform of the executive branch, but in a return of authority over war power to the Congress. To restore the balance provided for and mandated in the Constitution, Congress must reassert its own prerogatives and responsibilities.

Madam Chairman, the war powers resolution now before us will insure the restoration of congressional authority. It directs the President to consult with Congress before and during commitment of U.S. forces to hostilities or to situations in which hostilities may arise, and requires submission of a formal report to Congress when such actions are taken without a declaration of war.

The resolution also denies the President authority to commit forces for more than 120 days without specific congressional approval, and permits the Congress to order the President to disengage from combat actions any time in the 120-day period. Legislation relating to such actions would receive priority congressional consideration.

In addition, the resolution makes clear that it is not intended to alter the constitutional authority of either the Congress or the President or alter existing treaties. The reporting requirements of the resolution would apply to any commitment of U.S. forces to hostilities at the time of enactment.

Finally, this resolution will insure that the system of checks and balances and the democratic process, explicitly delineated in the Constitution, will be restored in its proper form. The framers of the Constitution—sensitive to the warmaking powers of British kings—were explicit in their desire that the power to declare war and to raise armies be left to the legislature, the President acting as Commander in Chief after the onset of hostilities. The commitment of U.S. forces—except in dire situations which directly threaten national survival—should be taken only after full congressional and public discussion, if the country is going to be called upon to support commitments with its blood and treasure. Only through such discussion can the national unity necessary to support such commitments be attained.

The Executive does not have a monopoly on wisdom in matters affecting national security, and the accumulated experience of 535 popularly elected Members of Congress should be brought directly to bear on decisions affecting war and peace. By restraining rash executive action, House Joint Resolution 542 is entirely consistent with the Nixon doctrine, which would help foreign nations defend themselves with supporting and military aid, but reserve the commitment of U.S. forces only when our national interests are genuinely threatened.

Since 1970 we have seen a great number of war powers bills, resolutions, and joint resolutions introduced. They have all been of varying degrees of comprehensiveness. After some debate and amendment, the war powers resolution before us today emerged from committee on June 15, 1973. It provides the necessary flexibility for Presidential action in the advent of unforeseen circumstances, while assuring that Congress maintains its warmaking authority over the unchecked, unilateral decision of the executive branch.

The Foreign Affairs Committee, of which I am a member, has held hours of hearings on this legislation and listened to all points of view. I believe that the bill before us today is a decent one which deserves overwhelming support.

In the past month we have witnessed several clear examples of the unparalleled assumption of warmaking powers by the President and of congressional weakness in the face of such action. On Monday, the Pentagon confirmed the assertions of former Maj. Hal M. Knight that, even though B–52 bombing raids in Cambodia were not announced until May 1970, systematic bombing over Cambodia had been conducted since 1969 with the President's personal authorization.

It was also confirmed that the records of these illegitimate raids were falsified and/or destroyed under orders of superiors starting in February 1970. Today, we have learned the Pentagon has acknowledged that prior to March 1970, American B–52's staged repeated raids on Laos—also a neutral country. The magnitude of this coverup of illicit military activity, cloaked and spuriously justified in the name of national security impells Congress to assert its legitimate constitutional authority.

And yet last month Congress demonstrated its weakness in the fact of executive strong-arming when it failed to override the President's veto of the second supplemental appropriations bill containing an amendment to immediately cut off funds for the bombing of Cambodia. Instead, the majority of the Members of Congress agreed to a compromise bill, tailored to the administration's specifications, which allows the killing to continue legitimately until August 15. Worse yet, we abdicated congressional power and responsibility to stop the President and/or other administration officials from transgressing the congressional mandate because Congress will be in recess on August 15 and can only reconvene by Presidential order.

It is clear that the potential for such actions by the executive branch in the future are very real and must be eliminated now. The war powers amendment now before us must have the overwhelming support of the House. The failure to obtain the two-thirds majority necessary to override the veto of the second supplemental appropriations legislation cannot happen again. We need the support of the 35 Members who voted to sustain that veto to insure an override of the probable war powers veto.

We cannot abdicate congressional power totally. It is time to finally stand up for the constitutional rights we took an oath to uphold. The bill must pass without crippling amendments.

Mr. HANLEY. Madam Chairman, I do not believe that we are meeting here today to change the law of the land but rather to clarify it. The bill before Congress does not seek to mark new and unfamiliar paths. Neither should it be considered a result of partisan politics, for in delineating the subject of war powers in respect to the President and the Congress the bill seeks to affect not the parties or the officeholders but the institutions themselves. In placing a limit on the Presidency in this matter, our purpose is not to radicalize but to conserve, not to usurp unwarranted or unauthorized power but to insure that the powers intended by the Constitution for the Congress remain under the jurisdiction of the Congress.

It is a meeting which we have been slow to call to order. If the conflict in Indochina had not occurred we might never have had to confront this issue. For occasional manifestations of excessive executive action have characterized our history from the beginning and until now have not brought forth legislation of this type. Why now? Why should the Congress move to alter a system which has existed for the life of the country?

The answer can be found in the realization that excessive executive action during the last decade has been substantially different in both kind and degree than that which preceded it. The frequency and flagrancy of these acts, especially in regard to the Indochina engagement, necessitate that Congress take some sort of action.

Due to the lack of clear and concise definition as to the exact number in which troops can be committed to armed conflict, the Presidents during the past decade have been able to circumvent the Congress, to avoid bringing the issue of foreign troop commitments before the Congress. The country was able to function in the past with this ambiguity because of a mutual understanding and respect between the two branches over this matter. This understanding and respect has been seriously undermined in the last few years.

From recent events it seems clear that the Government cannot function in the manner envisioned by the Constitution if it must rely on ambiguities and understandings. The time has come to legislate and, therefore, to make clear an area where exploitation by the executive branch has effected a weakening of the intended system of checks and balances.

It often appears that the country's problems hardly have time to wait for the Congress. Year by year the 20th century with its frantic pace and its incessant demand for immediate attention seems farther removed from the more determined pace of Congress. Ours is a time, whether we like it or not, that responds to executive rather than legislative action. The unilateral mandate of Executive order expedited by instant translation into newspaper headlines and television screens is cleaner, quicker, and more direct than congressional action requiring consensus.

Often it is necessary. The Congress recognizes this, especially in reference to the severe crisis which requires immediate armed response. By granting the President 120 days the bill reconfirms the Congress' expectation that on occasions which demand it the President will be able to respond without hesitation. Yet, acknowledging this, the Congress must also insure that simply because executive action is more decisive and direct it does not, therefore, become the accepted operating procedure of the country. Accountability to the people as represented by the Congress should not be considered by either the people or the administration as a complication to be avoided. It is a necessary and vital aspect of a functioning democracy.

Opponents of the bill fear that the restrictions and requirements will hamper the conduct of armed engagements. They foresee congressional action stranding the President in an embarrassing and even dangerous situation. In reply I can only say that there comes a point when further provisions become useless. Instead of entrusting the burden of whether a conflict should be continued or terminated to one man, his personal opinions and political persuasions, the burden will be shared by 535 others. In terms of the future of the Republic, this is where the decision rightfully belongs. We must eventually trust these people. We cannot insure that what they do will always be the best solution, but we can insure that the solution they reach is the consensus of the country rather than of one man.

Mr. MATSUNAGA. Madam Chairman, I rise in support of and strongly urge the approval of House Joint Resolution 542, the war powers resolution. This measure once enacted, will reassert the Congress' constitutional authority in the most important issue faced by any nation—the fateful issue of peace or war.

The gentleman from Wisconsin (Mr. Zablocki) and his subcommittee are to be congratulated for bringing this most necessary piece of legislation for consideration of the House. As a sponsor of similar legislation, I am pleased to support the pending resolution. Its principal provision are:

First, it specifies that the President should consult in every possible instance with congressional leaders before committing American troops to hostilities.

Second, in every case where Congress has not declared war, it requires the President to submit a written report to Congress within 72 hours after he commits U.S. forces to combat outside the United States, sends combat-ready troops to any foreign nation, or substantially enlarges the number of combat-ready troops in any foreign country.

Third, unless Congress authorizes the President's actions within 120 days, House Joint Resolution 542 would require the cessation of the U.S. troop commitment. The commitment could be ended earlier by positive action of the Congress.

Regardless of the position we may have taken on our recent involvement in Indochina, Madam Chairman, we cannot deny that that war caused grave divisiveness among our own people. Certainly, one of the major underlying causes for this divisiveness was the lack of a declaration of war by that governmental body which is closest to the people and which has the sole constitutional authority to declare war—the Congress of the United States.

If we have learned but one lesson from the tragedy in Vietnam, I believe it is that we need definite, unmistakable procedures to prevent future undeclared wars. "No more Vietnams" should be our objective in setting up such procedures. The time for Congress to take this action and to reassert its constitutional role is long overdue.

Six times in the past 12 years, Presidents have mounted major military interventions without prior consultation with the Congress:

First, the Bay of Pigs, second, the intervention in the Dominican Republic, third, the bombing of North Vietnam, fourth, the incursion into Cambodia, fifth, the incursion into Laos, and sixth, the latest cycle of bombing in Cambodia.

Whatever our individual beliefs may be, relative to the merits of these unilateral actions by the Executive, I believe we can all agree that Congress should have played a more significant role in the decision to mount each of these actions.

Distinguished historians have assembled evidence on this matter which points inescapably to the conclusion that the Constitution envisions the Congress as the sole and exclusive repository of the power both to declare war and to judge its propriety.

It is my firm conviction, Madam Chairman, that this war powers legislation will, if enacted, serve the cause of peace by reestablishing the rightful constitutional role of the Congress in the warmaking process.

As Members of that separate and independent branch of Government known as Congress of the United States, we have to a degree been guilty of acquiescing to the usurpation of congressional powers by the Executive. Perhaps, now is the time when we should take heed of the words of Justice Jackson who once wrote:

> We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers.

By acting favorably on House Joint Resolution 542, we will prove to the American people that we do not intend to abandon our constitutionally granted powers and responsibilities.

I urge my colleagues to support the pending resolution.

Mr. ANNUNZIO. Madam Chairman, I rise today in support of House Joint Resolution 542, and I commend the Foreign Affairs Committee for introducing what I feel is a reasoned and reasonable response to this serious constitutional problem facing our country today. For more than 10 years, this Nation has been engaged in an undeclared war in Southeast Asia which has drained our resources, divided our people, and overshadowed our relations with all the other nations of the world. Even now, after the signing of the second cease-fire, the warfare continues in the air over Cambodia. At this time, within a week of our historic vote on prohibiting the use of any and all funds for continuation of this conflict, I feel it is important for this Congress to go on record strongly favoring controls which will help to prevent Presidents, using the vehicle of their Commander in Chief powers, from committing this country to large-scale hostilities which are undeclared by the Congress.

In drafting our Constitution, the Founding Fathers, ever wise to the ways of powerful kings, determined that in the United States it should be difficult for any President to get us involved in warfare. For this reason, although the President was granted the power of Commander in Chief and the spokesman for the country in the area of foreign affairs, the Congress was given equally powerful controls over the warmaking ability of this Commander in Chief. To the Congress was granted the power to raise and support the Armed Forces, to declare war, and "to make rules for the Government and regulation of the land and naval forces." The atomic bomb and the cold war changed this rather clear distinction between the powers of the President and those of the Congress. With the seemingly permanent need of this country for a standing army of some 3 million men, and sophisticated weaponry requiring several years of advanced research and development, the traditional role of Congress in planning for war evolved into a responsibility to maintain the country in constant readiness for war. And with this evolution, and the need to maintain secrets from the enemy, it became harder and harder for the Congress to maintain controls on the President and his foreign policy. However, this evolution in warfare and national security in no way diminishes the Congress' obligation under the Constitution to play an important part in determining when this Nation should involve itself in major hostilities, committing large numbers of troops and large quantities of our national treasure.

This practice of presidentially initiated warfare is actually a relatively recent phenomena. The point has frequently been made that, throughout our history, the United States has engaged in nearly 200 actions in foreign military hostilities in our Nation's history without a congressional declaration of war. But while it is true that this involvement at the President's discretion has often taken place, the Korean war was actually the first commitment of U.S. troops to a major war which did not involve the Congress in the decisionmaking process. As Senator Stennis recalled, in introducing his war powers bill during the 92d Congress:

> I remember I was standing at the desk which is behind me now when the news came

> into this Chamber that troops had been ordered into Korea. I knew that was the first time in our history a deliberate decision had been made to land troops, an army, in a war against another nation without a declaration of war by the Congress of the United States.

Since that time, Presidents, whether Republican or Democratic, have assumed the power to deploy troops, literally at their will, with justification after justification, and examples of the grave dangers to our national security if such action had not been taken quickly, and without consultation with the Congress. And we in the Congress have allowed this usurpation to go on without challenge—until perhaps today.

If we have learned anything at all from the Vietnam war, it must be that this Nation cannot tolerate a war in which the Congress and the Nation at large are not generally in agreement with the actions of the President. If the antiwar demonstrators, and our draft-age children have taught us anything, it is that the commitment of men and the authorization of money to carry on a major war must be a joint decision of the President and the elected representatives of the American people, the Congress. Ten years, 40,000 American lives, and countless billions of dollars after our initial involvement in Vietnam, we are faced with one of the greatest breakdowns in Executive/Presidential relations in our history. And all of this should not, must not, happen again.

It seems to me that now, as the Vietnam war draws to a close, is an especially good time to consider legislation which would help us to avoid similar situations in the future. As Secretary of State Rogers mentioned in his testimony on the war powers bill in 1971, war powers legislation should be considered "after the passions of Vietnam have faded into the past." This bill is not meant to curb the powers of a particular President. Rather, it is an attempt to curb any President in his response to the temptation afforded any Commander in Chief by the presence of an army of some 3 million men, many of them stationed in Europe and Asia, and a world where declarations of war seem less and less a part of warfare.

It has often been said that war is too important to be left in the hands of generals. I would like to add to that statement my feeling that war is far too important to be the decision of any one man. In these turbulent times, war and peace require the vigilance, expertise, and all-out effort of many loyal and patriotic men, and an informed and committed nation. It is foolish, in these days of nuclear weaponry, to isolate the President and his advisers from the advice and consent of the Congress, and to isolate the Congress and the American people from the reasoning of their President and his advisers. What is needed is more cooperation between the President and the Congress, not less. House Joint Resolution 542 admirably responds to the needs of our Nation today. It does not deprive the President of the ability to act in emergencies, in fact it gives him 120 days to act in an emergency situation. But it also requires cooperation between the branches by requiring that the President consult with the Congress, and it gives the Congress the opportunity to debate his action throughout that 120 days, and to curtail the use of U.S. forces if they feel the action is not justified.

We owe it to ourselves, and to our constituents, to create a situation, in law, which will prevent a future Vietnam. We must create a situation, in law, where Americans can know that their sons will be sent into hostilities which are clearly understood and clearly accepted, and that unless that action has the approval of the Congress, it should not continue until it becomes, like the Vietnam war, the longest war ever fought in our history, for a purpose still not clearly understood, and against an enemy still not clearly defined.

It is my feeling that this bill, House Joint Resolution 542, is a landmark in our history. It is an important step in returning balance to our governmental system, and it is my sincere hope that it can also prevent another Vietnam.

Mr. GUBSER. Madam Chairman, for several years I have felt the need for legislation which would curb the power of any President of any party to commit American forces to combat under circumstances which could lead to a prolonged conflict. Specifically and speaking in retrospect, I now believe that the manner in which we became involved in Southeast Asia was totally wrong and in conflict with the spirit of our Constitution.

I had hoped that the legislation currently under consideration would provide a vehicle where proper congressional curbs against Presidential warmaking authority could be enacted. But, unfortunately, this particular bill contains serious defects.

Much has been said about the need for Congress to reassert itself in the question of committing American forces to combat. I recognize that need, but this bill does not truly introduce congressional decisionmaking into each individual situation. It will not allow for a judgment of the facts and circumstances prevailing at the moment. This bill treats every incident which might occur in the future in the same manner. Congress would not vote affirmatively or negatively on the question of whether a combat commitment made by the President should be continued after the period of time specified in the bill. If Congress wishes to become a part of this decisionmaking process, then it should have the courage to vote for or against the commitment made by the President.

But I have a greater concern which is not readily apparent. In permanent legislation we must anticipate future possibilities. Let us assume that some future President, either a Democrat or a Republican, makes a determination that it is in the national interest to meet some international emergency with a combat commitment. Let us assume further that that President does not enjoy a friendly Congress. My question is: "If that President is so concerned with the national interest that he makes the commitment in the full knowledge that Congress would probably not approve this action at the end of a 120-day period, then is it not obvious that he would employ military power to an extraordinary extent in order to achieve his objective before expiration of the specified time period?"

This attempt by Congress to participate in the making of foreign policy without assuming the responsibility of voting for or against a Presidential act could then make a conflict so severe that it would have a greater chance of becoming a nuclear conflict than otherwise. Furthermore, a future enemy would not be inclined to negotiate in good faith knowing that an unfriendly Congress would effectively "pocket veto" a Presidential action within a specified period of time.

In such a circumstance we would be tipping our hand and minimizing the possibility for a negotiated settlement.

I think this bill is bad policy and I fully expect it to be vetoed if passed in its present form. The principle involved is so essential to the future of this Nation that I must, despite my objections, vote to give the House-Senate conferees a chance to remedy the defects. If the conferees bring back a bill which will require each and every Congressman and Senator to stand up and be counted and make the determination that the President's action should be continued or discontinued, I will support the conference report. If it does not contain such a provision, it will be necessary for me to oppose the report on the grounds that the bill would be compromising the negotiating position of those who constitutionally are responsible for the conduct of our foreign policy.

Mr. MORGAN. Madam Chairman, much has been said in this great debate about the Constitution, the war powers, and the ways in which those powers should be used.

In some respects, this debate has served to sharpen our understanding of the issues involved. In other respects, it may have helped to cloud them.

The latter is certainly the case on the basic issue involved in section 4(b) of the war powers resolution reported by the committee.

The issue here is not whether the Congress should act to stop a President from continuing a war—but who, under our Constitution, has the power to make war.

The Constitution, it seems to me, is very clear on this point.

It says simply that the power to make war is the power reserved to the Congress—and to no one else.

Now there was a very good reason why our Founding Fathers placed that provision in the Constitution—and no one should mistake their intent.

For centuries, wars were made by kings and rulers—not by the people. And the kings, in making their wars, sometimes for silly reasons, ruined their countries and subjected the masses of the people to tremendous hardships.

The costs of war have always been carried by the people—or taken out of their backs.

Our Founding Fathers did not want that situation to continue on this continent, in our country.

They wanted the people to make the decision whether or not our country would go to war.

That is why they reserved the power to make war to the representatives of the people, assembled in the Congress.

So we must start with that basic principle. The power to make war is the power of the Congress—not of the Executive.

This is the principle on which section 4(b) of the resolution before us is based. It says in plain terms that the President may not continue a war—or continue to involve our country in a situation which is likely to result in a war—without express authorization of the Congress.

That is why, after 120 days, the engagement of U.S. forces in hostilities abroad must stop unless the Congress says that it can continue.

Point No. 2, Madam Chairman, is that nowhere in the Constitution is there any provision that the Congress can only exercise its war powers by a two-thirds vote of both Houses.

Yet that is exactly what the proponents of the Buchanan-Whalen amendment are saying.

They are telling us that the Congress must be able to override a Presidential veto in order to stop the President from continuing to involve our Armed Forces in a war.

There is nothing in the Constitution that says that. Under the Constitution, the Congress can use its war powers by a majority vote—and make it stick.

Again, this is exactly what section 4 of the resolution provides.

It says that it takes a majority vote of the Congress to approve a war—and a majority vote, by the passage of a concurrent resolution which is not subject to a veto, to stop a war.

I hope, Madam Chairman, that we can keep those points in mind and not try to rewrite the Constitution this afternoon.

For this reason, I urge that the amendment and the substitutes be defeated.

Mr. GILMAN. Madam Chairman, certainly the serious business of warmaking should not be contingent upon inaction within the Congress. A firm support or refusal to support combat activities by a "yea" or "nay" vote on a resolution, as proposed by the gentleman from Ohio and the gentleman from Alabama, only strengthens the committee's war power resolution.

Madam Chairman, if Congress is to disapprove of military operations carried on in any part of the world, it is incumbent upon each Representative to voice his disapproval. By refusing to do so, our inaction is mere acquiescence to Executive powers.

Historically, the House of Representatives was not founded on the principle of inaction. The events of the past two centuries of American history would be radically altered if any Congress had relied on this paralyzing principle of inaction with regard to any of the critical issues confronting it. Certainly we should not begin to establish such a precedent with the serious content of our war powers resolution.

Madam Chairman, I strongly support the efforts of the Foreign Affairs Committee in restoring to Congress its constitutional responsibility of determining war policy and urge my colleagues to accept this responsibility.

Additionally, I concur with the thoughts of my two colleagues from the Foreign Affairs Committee and urge my colleagues in the House to voice their support of this strengthening amendment.

Mr. RAILSBACK. Madam Chairman, since the beginning of this century—and most dramatically since World War II—the decision to involve American forces in hostilities abroad has been concentrated increasingly in the executive branch of Government. Under the past six Presidents, it has become more common for the executive branch to commit Armed Forces of the United States to foreign lands without congressional approval. Korea and Vietnam, of course, stand out as the primary examples, but other examples, from the Congo to the Dominican Republic, may also be cited as cases in which the President has initiated action without the approval of Congress. Often the situations have been such that the President deemed that immediate action was necessary. However, such crises severely limit the constitutional requirement that the President come before Congress and ask for a declaration of war.

The Constitution assigns to the President the role of Commander in Chief. To the Congress, on the other hand, the Constitution gives the power to declare war, to raise and support armies, and navies, and "to make rules for the Government and regulation of the land and naval forces." The constitutional role of the Congress to declare war has given way to the maintenance of a military posture at all times ready for war. This, in no way, diminishes the Congress' obligation under the Constitution to play an important part in determining when this Nation should involve its armed forces in hostilities. It is clear to me that we must reassert our responsibilities. Henceforth, war must be the result of a collective decision by the President and Congress, and not an undefined involvement which grows and grows until the entire fiber of our Nation is torn.

It is for precisely this reason that I have sponsored legislation in this area and that I fully endorse and support House Joint Resolution 542. This resolution contains the best of many bills. I am convinced it is imperative that a firm agreement on constitutional roles of the executive and legislative branches of our Government be reached in this Congress. Without it, the cooperation which is essential for our national security will not be realized. I urge adoption of House Joint Resolution 542.

Mr. BOLAND. Madam Chairman, I support House Joint Resolution 542, the War Powers Resolution of 1973.

This resolution would reassert the constitutionally defined role of the Congress in the war making area. It places significant restraints on Presidential commitment of U.S. Armed Forces to combat activity without congressional consent.

There has been an increasing concern on the part of the American people and Members of Congress over the war powers issue in recent years.

My desire to arrive at some reasonable solution to the issue was expressed in legislation I have sponsored, H.R. 1477, which would provide a procedure for the exercise of congressional and Executive powers over the use of any Armed Forces of the United States in military hostilities.

Madam Chairman, American ground troops have been withdrawn from Vietnam and Congress has voted to cut off all appropriations for American bombing and combat activities in Cambodia and Laos by August 15.

Now is the time for Congress to define the powers of the President to engage in military hostilities abroad without a congressional declaration of war.

With this resolution, the American people through their 535 elected Members of Congress, will have a greater voice in expressing their views on National decisions affecting war and peace or the lives and deaths of American servicemen.

The resolution reported from the House Foreign Affairs Committee is a reasonable and responsible solution to the very challenging and complex war powers issue. I want to commend the gentleman from Wisconsin (Mr. ZABLOCKI) and members of his subcommittee for the fine job they have done in achieving this objective.

The resolution directs the President to consult with Congress before and during commitment of U.S. forces to hostilities or to situations in which hostilities may arise.

It requires submission of a formal report by the President to Congress when such actions are taken without a declaration of war.

Also, the resolution denies the President authority to commit forces for more than 120 days without specific congressional approval.

It further permits the Congress to order the President to disengage from combat actions any time in the 120-day period. Legislation relating to such actions would receive priority congressional consideration.

Mr. DRINAN. Madam Chairman, the war powers legislation before us—House Joint Resolution 542—proposes an unconstitutional delegation of authority to the President. Article I, section 8, of the Constitution specifically grants to the Congress the power to declare war as well as raise armies. Although article II provides that the Executive shall be "Commander in Chief of the Army and Navy;" this provision does not diminish the power granted to the Congress under article I. Congress cannot give to the President the power to make war unilaterally.

As Jefferson pointed out in a 1789 letter to Madison, the purpose of placing the power to declare war in the hands of Congress was to aid the cause of peace:

> We have already given, in example, one effectual check to the dog of war, by transferring the power of declaring war from the Executive to the legislative body, from

> those who are to spend to those who are to pay.

The only exception to this constitutional requirement has been carved out pursuant to the "sudden attack doctrine." This doctrine recognizes that the Executive can respond to an unannounced, belligerent attack or other grave emergency pending congressional authorization where the failure of the Executive to act unilaterally would paralyze the country. The President is nonetheless required to come to Congress as soon as practicable.

The legislation before us will permit the President to wage war, or launch nuclear war, for up to 123 days without any check. While it is true that Congress may, by acting affirmatively prior to the expiration of 123 days, inhibit the President from making war, the damage would already be done. The psychology of the Vietnam war relied upon by the executive branch through these long years of killing in Southeast Asia, has been that the American public cannot make decisions which will affect our POW's, our men missing in action, and our ground troops, which would be precipitous. One of the fallacies of the proposed legislation is that this same psychology will be immediately available to an Executive who is permitted to wage war unchecked for 123 days, and who can then claim to have lost prisoners of war, to have men missing in action, and the need for protecting troops in vulnerable positions.

Specific language in this bill also troubles me. For instance, section 2 provides that—

> The President in every possible instance shall consult with the leadership and appropriate committees of the Congress before committing United States Armed Forces to hostilities or to situations where hostilities may be imminent.

What is "every possible instance?" Who are the "leadership and appropriate committees?" Does pushing a button and launching nuclear warfare constitute "committing Armed Forces?" What are "hostilities?" When are those hostilities "imminent?" And who decides whether there are hostilities and whether they are imminent? The bill is silent in answer to all of these questions.

In section 4(b) of this bill, I read that the President shall terminate any commitment and remove any troops unless the Congress enacts a declaration of war "within 120 calendar days after a report is submitted or is required to be submitted." What happens if this report is submitted 3 years later? Should not the language rather read, "within 120 calendar days after a report is submitted or is required to be submitted, whichever is earlier"? A similar problem is raised by section 5(a) of this bill, which provides that any resolution or bill introduced pursuant to section 4(b) at least 45 days before the expiration of the 120-day period shall be reported out to the full House.

The question of what happens if the bill is introduced 44 days before the expiration of the 120-day period is left unanswered.

Perhaps the most intriguing statement in the Act is proposed in section 8, which states that—

> Nothing in this Act 8(a) is intended to alter the Constitutional authority of the Congress or of the President . . .

Have we not learned from our Cambodian bombing that the Administration is capable of carrying out the kind of military effort that the Constitution expressly prohibits through the safeguard of congressional approval. The need here is to place a real check on the Executive branch. The Congress must enforce the constitutional requirements that war cannot be conducted in the absence of its formal and exclusive declaration. This bill carves out of this congressional power an exception to give the President the right to conduct warmaking operations until such times as the two Houses of Congress by a simple majority agree that we should not do it. I cannot support any bill which proposes such an extension of warmaking authority to the President. The Constitution does not give the Congress the right to insist upon disengagement, it gives Congress "the power to declare war."

We must not willfully erode the power of Congress. To the contrary, we should reassert our constitutional role by defeating this legislation.

Mr. LENT. Madam Chairman, I rise to state some of the reasons why I am voting against final passage of House Joint Resolution 542, the War Powers Act of 1973. While I believe the time is long overdue for the Congress to reassert its historical and constitutional responsibilities over war powers, House Joint Resolution 542 contains a basic defect which constrains me to vote against it. Specifically, section 4(b) requires the President to terminate any troop commitments after 120 days, unless Congress enacts a declaration of war or a specific authorization for use of U.S. Armed Forces. In other words, congressional inaction would have the effect of making national policy through default, the very effect we are trying to avoid.

The Whalen amendment, which I supported, would have corrected this flaw in the committee bill by requiring that within 120 days of the receipt of a report of the President as required by section 3 of the act, Congress must take affirmative action by either approving, through appropriate resolution or a declaration of war, or disapproving, the Presidential action. Likewise, the Dennis and Eckhardt substitutes, which I also supported, would have corrected this flaw and enabled each Member to declare his views—yes or no—when the President commits U.S. Armed Forces to combat. Regrettably, all of these alternatives failed to pass, leaving intact the basic committee bill, with its premium on inaction and potential for dangerous uncertainties.

This particular attempt to limit the President's responsibility and ability to defend the United States strikes me as grossly ill conceived and is probably unconstitutional, as well. Is this body so weakened and ineffective that it would even consider inaction on a matter of such national consequence as the commitment of U.S. Armed Forces to combat?

As most of this House is aware, I am a firm opponent of unlimited Presidential authority with regard to the use of our Armed Forces, and a strong supporter of a constitutional pattern of shared responsibility in this area as between the executive and legislative branches of Government. But that pattern, which requires concurrence and cooperation between Congress and the President, should not be constructed upon inaction on the part of Congress as one of its mainstays. This is too uncertain a foundation on which to build a workable constitutional relationship, and will do nothing to instill in the American people confidence that the system can work, or respect for the Congress as a legislative body.

Madam Chairman, I do support the concept of a war powers act. Those provisions in House Joint Resolution 542 that require the submission of Presidential reports to Congress on the commitment of U.S. Armed Forces are highly commendable, as is the imposition of a time limitation on the commitment of U.S. troops without congressional approval. But I cannot understand how we would be adding one iota of power to Congress by providing that, as a matter of highest national consequence, we should affect the result by doing nothing. For this reason, I urge the defeat of the resolution now before us.

Mr. LEGGETT. Madam Chairman, I would like to commend Mr. ZABLOCKI and the Foreign Affairs Committee for bringing the important matter of the Congress war powers before the House at this time.

The timing is particularly appropriate, if not downright psychic. Last month, this body put an end to that Indochinese albatross that has hung around the neck of this Nation for some 19 years. If this House goes ahead and passes an effective war powers resolution today, this session will probably go down as one of the most historic in the history of the Republic. Before we begin to celebrate, however, I think that we better be very careful what we do in the war powers area.

It seems clear to me that the reason it took 19 long years to recognize our mistake in Vietnam was that the Congress, during this period, played second fiddle to the White House as far as orchestrating national foreign policy was concerned. Vietnam cost us some 56,000 American lives and $200 billion in direct expenditures. It obligated us for another $200 billion in veterans' benefits, and has caused the greatest national rift since the War Between the States. Yet, technically Vietnam was not a war, as it was never declared by Congress.

The Vietnam tragedy began within the impermeable walls of the executive branch, and it was largely conducted within those same walls with little or no congressional input. All four Executives that prosecuted the Vietnam war came to the Congress for advice as little as possible. President Johnson did come down here long enough to sell us the Tonkin Gulf resolution, but after we gave him that broad authority he rarely bothered with us.

President Nixon has been even less responsive to congressional will. Despite the repeal of the Tonkin resolution, and the numerous expressions of congressional opposition to the war, this administration set about to prolong the war in the south for 4 needless years, engage in massive bombing of the north, as well as expand American involvement to the jungles of Laos and Cambodia.

It now appears that this nightmare may end on August 15, but do not hold your breath. As Clayton Fritchey pointed out in the Washington Post on Monday:

> The President is a very resourceful politician and he still has some cards to play in the continuing fight with Congress over ending all U.S. military action in Cambodia, Laos, and Vietnam.

I would expect that before the first of the month the President will say that an extension of the bombing is necessary because the negotiations are at a critical level. Do not believe it. We are no more nearer a peace in Cambodia than we are to one in South Vietnam.

Whatever we do today, we better make certain that this situation cannot reoccur. While I do believe that House Joint Resolution 542 is an aggressive measure, and is a definite improvement over both the Senate and the former House version, I think it contains certain liabilities.

The main section of this resolution provides that within 120-calendar days of submission of a Presidential report to the Congress regarding commitment of U.S. forces the action must cease unless Congress enacts a declaration of war or provides specific authorization for the action. The intent of the section is to force the President to seek congressional ratification for any involvement of U.S. troops on or over foreign soil. I certainly agree with that intent. What I do question is whether it is going to work.

Under present circumstances, it is the executive branch that controls the mood and scope of any debate of national significance. Presidents Eisenhower, Kennedy, Johnson, and Nixon, with their immense political power and their vast access to the media, succeeded in defining for the country and the Congress what Vietnam was all about—what constituted victory and what constituted defeat. The Congress, in Vietnam, was faced with a fait accompli; it was either support the troops or face the extermination of those troops in South Vietnam. Given this state of affairs, it is not surprising that we tended to accede to the President. The situation may not be any different under this measure.

The Stennis, Javits, Eagleton war powers bill would allow the President to commit U.S. troops for up to 30 days in certain specified circumstances. While I think that 30 days is preferable to 120, I do not believe that a 30-day time limit will prevent the President from embroiling this Nation in a conflict from which we cannot withdraw.

Looking back on Vietnam, one of the biggest impediments to the successful formation of an antiwar sentiment in this country was simply a lack of independent information. For years, the only news we received from the war zone came straight from Pentagon briefings. Not surprisingly, for years this Nation was getting a picture of Vietnam taken through rose colored glasses. Not until the press stopped relying on "5 o'clock follies" did the Congress and the Nation get a clear, unbiased view of what was going on over there.

Under House Joint Resolution 542 the Congress will have to seek out independent information on the President's action, and they will have to get at that information in less than 120 days.

There is no simple resolution to this question. The President, as Commander in Chief, should be able to defend the country from direct attack, but he should not be allowed to commit us to an extended conflict without prior congressional approval. The answer, it seems to me, would be to explicitly define just how far the President can go as Commander in Chief.

At the beginning of the 93d Congress I introduced House Joint Resoution 315, which exemplifies my thinking on this matter. This resolution would explicitly define "war" as used in the Constitution as any international combat situation to which 5,000 air, sea, or land armed combat forces are committed outside the United States for more than 10 days.

The President could respond to a Pearl Harbor type situation, but if he intended to commit troops for more than 10 days he would have to come to the Congress for support. It may be that even 10 days is too long. It is conceivable that even in this short span of time the President could exert enough influence to make congressional input moot. Nevertheless, I am convinced that we must establish a clear, and hopefully effectual, limitation on Presidential prerogative in this area, and retrieve our constitutionaly authorized "power to make war" and save the peace.

Mr. DONOHUE. Madam Chairman, I most earnestly urge and hope that House Joint Resolution 542, will be resoundingly approved by the House.

This resolution is designed to reassert and reaffirm the traditional constitutional prerogative of the Congress to participate in the war and peace decisions of our National Government that so vitally affect the lives and destiny of the American people and the inhabitants of other countries throughout the world.

Madam Chairman, there is little question but that there exists a substantial majority feeling among the Members of this House that the time has come to revive and renew the role and responsibility of the Congress in the warmaking and peace settlement determinations of our Government and the effect of this resolution will be to convert that feeling into the reality of participating action.

In our deliberations on this resolution, Madam Chairman, let us wisely and pointedly emphasize the truth of past and modern history, that no American military engagement can be successfully carried out without the full understanding and support of the great majority of the American people.

Madam Chairman, in substance all that this resolution asks is that the Congress, as the voice of the people, be consulted before any Chief Executive commitment of the Armed Forces of the United States to hostilities in another country.

Let us further remember that the understanding and support of our priority national goals, by the American people, is best inspired by their observation that the executive and legislative branches of the Government are working together and sharing responsibility with the utmost cooperation and good will.

Madam Chairman, in my deepest conviction the adoption of this resolution will effectively serve to help restore the confidence of our people in the National Government, at a time when such confidence is critically urgent and I, therefore, hope that this measure is overwhelmingly accepted by the House.

Mrs. HOLT. Madam Chairman, this bill purports to define Presidential authority and congressional responsibility for the commitment of U.S. troops in combat situations.

Though I fully support legislative efforts to define such authority and responsibility, I am casting my vote against this resolution because I maintain that it does not achieve its stated objectives.

This resolution would grant the President unlimited warmaking powers for a period of 120 days, at which time congressional approval would be required to sustain the troop commitment. The end result is that Congress, by passage of this resolution, is relegating itself to a passive role in the development and implementation of foreign policy. Congressional inaction, the unwillingness or inability to make a decision, under the terms of this resolution is all that is needed to halt U.S. involvement in a conflict situation.

It seems to me that the American people have a right to look to the elected representatives for leadership in areas of domestic and foreign policy. Elected officials have an obligation to accept this responsibility and provide such leadership. House Joint Resolution 542 is, in my opinion, an evasion of responsibility.

Mr. BROYHILL of Virginia. Madam Chairman, the War Powers Resolution of 1973 is unwise and possibly unconstitutional legislation, and I oppose it.

Our Founding Fathers knew exactly what they were doing when they granted Congress the power to declare war but not conduct war, and reserved the right to act as Commander in Chief of our Armed Forces to the President of the United States. As Commander in Chief he must be able to commit troops in any emergency, and unnecessary arbitrary procedures for doing so and restrictions on the time within which he must act serve only to handicap him in fulfilling his responsibilities with regard to the safety of our Nation's people.

This resolution is obviously directed at the unpopular conflict in Southeast Asia. Yet it comes not during the heat of the conflict, but at a time when it is virtually at an end. Had it been on the books 10 years ago, I am convinced it would not have changed the role of Congress in that conflict, or in its conclusion. It would have given us no powers we did not already possess nor would it have altered the course we took. With the situation as it was presented to Congress at the time of the Gulf of Tonkin Resolution, Congress would undoubtedly have voted the approval of the President's decisions, and might even have declared war. That action would have had no effect on the struggle there, and a declaration of war would have made it even more difficult for the President to fulfill his commitment to get our troops out of South Vietnam.

One of the most dangerous effects passage of this resolution might have is the effect it will have on the President's ability to conduct our foreign policy. As some of our colleagues have noted, we have commitments to nations all over the globe for mutual defense. Tying the hands of the President to act quickly and decisively in emergencies will confuse both our friends and our enemies, and may well encourage our enemies to commit more acts of aggression. As we all know, many nations will act irrationally and unreasonably against another country if they feel they have an advantage. This resolution will, I believe, give them that advantage.

Proponents of this legislation acknowledge that the President as Commander in Chief has power under the Constitution to commit troops in times of crisis, yet they propose to deny him authority to commit them for more than 120 days. If he has the power, how can it be abrogated by the passage of a fixed time schedule? Why 120 days? Why not 30 days—or 200 days? If he has the constitutional right how can we say that right expires after 120 days simply because we do not affirm it by a vote in Congress?

It seems both foolish and foolhardy to establish a procedure where Congress by inaction can force the President to withdraw American troops without regard to the dangers of a hasty retreat, in any emergency commitment he may have made. If the point is to allow 120 days to goad Congress into action it seems to me that the burden should be on us to decide whether we approve or disapprove the President's action. The language of this resolution envisages a change of national policy if the will of Congress is not expressed at all. By taking no position either for or against the President's action we change national policy.

We have heard a lot of talk about the need for Congress to reassert its control and take away some of the powers of the White House. There is one area, though, where there is no question about our authority, and that is in appropriations, in the budgetmaking. But here we are 18 days into the new fiscal 1974, and we have yet to come up with an alternative to the budget the President proposed back in January. We have had the recommendations of the Joint Study Committee on Budget Control before the House Rules Committee since April, but in the meantime we are still in the old business of passing individual appropriation bills without knowing what they add up to, and in some cases running the Government on continuing resolutions because we cannot get a handle on controlling Government spending.

I feel strongly that in a matter as important as the lives of American servicemen it is imperative that Congress stand up and be counted either for or against the commitment of troops. I therefore intend to support the amendments which require such action of Congress and to oppose this resolution on final passage should the amendments fail.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mrs. GRIFFITHS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the joint resolution (H.J. Res. 542) concerning the war powers of Congress and the President, pursuant to House Resolution 456, she reported the joint resolution back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 244, nays 170, not voting 19, as follows:

[Roll No. 352]

YEAS—244

Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Boland
Bowen
Brademas
Brasco
Brooks
Broomfield
Brotzman
Brown, Calif.
Broyhill, N.C.
Burke, Mass.
Burlison, Mo.
Burton
Byron
Carey, N.Y.
Carney, Ohio
Carter
Chamberlain
Chappell
Chisholm
Clark
Clausen, Don H.
Cleveland
Cochran
Cohen
Conlan
Conte
Corman
Cotter
Coughlin
Cronin
Daniel, Dan
Daniels, Dominick V.
Davis, Ga.
de la Garza
Delaney
Dellenback
Dent
Diggs
Dingell
Donohue
Dulski
du Pont
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Forsythe
Fountain
Fraser
Frenzel
Frey
Froehlich
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Gonzalez
Grasso
Gray
Green, Oreg.
Griffiths
Gubser
Gude
Guyer
Hamilton
Hanley
Hanna
Hanrahan
Hansen, Wash.
Harrington
Harvey
Hastings
Hays
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks
Hillis
Holifield
Horton
Howard
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, Md.
McClory
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mahon
Mann
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Nichols
Nix
Obey
O'Hara
O'Neill
Patten
Pepper
Pettis
Peyser
Pickle
Pike
Poage
Podell
Preyer
Price, Ill.
Quie
Railsback
Randall
Rees
Regula
Reid
Reuss
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Seiberling
Shipley
Sisk
Slack
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steiger, Wis.
Stephens
Studds
Sullivan
Symington
Taylor, N.C.
Teague, Calif.
Thompson, N.J.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Whalen
White
Wilson, Charles H., Calif.
Wilson, Charles, Tex
Winn
Wolff
Wright
Wyatt
Wyman
Yates
Yatron
Young, Ga.
Young, Ill.
Zablocki

NAYS—170

Abdnor
Abzug
Archer
Arends
Bafalis
Baker
Beard
Bennett
Blackburn
Boggs
Bolling
Bray
Breaux
Breckinridge
Brinkley
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Butler
Camp
Casey, Tex.
Cederberg
Clancy
Clawson, Del
Clay
Collier
Collins, Ill.
Collins, Tex.
Conable
Conyers
Crane
Culver
Daniel, Robert W., Jr.
Davis, S.C.
Davis, Wis.
Dellums
Denholm
Dennis
Derwinski
Devine
Dickinson
Dorn
Drinan
Duncan
Eckhardt
Eshleman
Flynt
Ford, Gerald R.
Ford, William D.
Frelinghuysen
Gettys
Ginn
Goldwater
Goodling
Green, Pa.
Grover
Gunter
Haley
Hammerschmidt
Hansen, Idaho
Harsha
Hébert
Hechler, W. Va.
Hinshaw
Hogan
Holt
Holtzman
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Jarman
Johnson, Pa.
Jones, Tenn.
Keating
Ketchum
Kuykendall
Landrum
Latta
Lent
Long, La.
Lott
Lujan
McCloskey
McCollister
McEwen
Madigan
Mailliard
Mallary
Maraziti
Martin, Nebr.
Mezvinsky
Michel
Milford
Miller
Mink
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moorhead, Calif.
Moss
Myers
Natcher
Nedzi
Nelsen
O'Brien
Owens
Parris
Passman
Perkins
Powell, Ohio
Price, Tex.
Quillen
Rangel
Rarick
Rhodes
Roberts
Robinson, Va.
Roncallo, N.Y.
Rousselot
Ruth
Satterfield
Scherle
Schneebeli
Schroeder
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Smith, Iowa
Spence
Stark
Steed
Steiger, Ariz.
Stokes
Stratton
Stubblefield
Stuckey
Symms
Taylor, Mo.
Thomson, Wis.
Thornton
Towell, Nev.
Treen
Waggonner
Walsh
Wampler
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, S.C.
Young, Tex.
Zion

NOT VOTING—19

Blatnik
Danielson
Downing
Fisher
Gross
Hawkins
Kemp
King
Landgrebe
Mills, Ark.
Patman
Pritchard
Rooney, N.Y.
Sandman
Saylor
Steelman
Talcott
Teague, Tex.
Zwach

So the joint resolution was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Rooney of New York for, with Mr. Saylor against.
Mr. Hawkins for, with Mr. Fisher against.
Mr. Pritchard for, with Mr. King against.
Mr. Sandman for, with Mr. Kemp against.
Mr. Steelman for, with Mr. Talcott against.

Until further notice:

Mr. Blatnik with Mr. Landgrebe.
Mr. Downing with Mr. Zwach.
Mr. Danielson with Mr. Teague of Texas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO MAKE CORRECTIONS IN THE ENGROSSMENT OF HOUSE JOINT RESOLUTION 542

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that in the engrossment of House Joint Resolution 542 the Clerk be authorized to make corrections in punctuation, section numbers and cross references to reflect the actions taken by the House.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE A REPORT ON H.R. 9286

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight to file a report on H.R. 9286, the Armed Forces authorization bill for fiscal year 1974.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

EDITORIAL BY GEORGE W. IRELAND FOR THE GENERAL AVIATION OPERATORS COUNCIL

(Mr. MILFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MILFORD. Mr. Speaker, Mr. George W. Ireland recently retired from the Federal Aviation Administration, after 33 years of service, to general aviation. For the last several years he has served as division chief in Fort Worth. I would like to share with you and my colleaues an editorial written by Mr. Ireland for the General Aviation Operators Council. I believe Mr. Ireland's insights into problems currently being experienced by the general aviation industry and his recommendations for some sort of a viable solution are excellent and merit every just assessment and consideration. I insert this editorial in the RECORD:

EDITORIAL BY GEORGE W. IRELAND

A recent DOT Cost Allocation Study has recommended very extreme taxes and fees for all general aviation users as the general aviation share in paying for the costs of the federal aviation system. But what about the monies now building up in the Airways Users Act Taxes? These monies by law can *only* be used for costs of facilities, (towers, centers, ILS, radars, airports and improvements) but the *operating* funds of the FAA must still be appropriated thru Congress. Operating funds include salaries and associated costs for training, travel, etc., so therefore the recommendation for additional taxes and fees to cover such costs.

Few will deny the need for airports, their improvement, and for many of the additional airways facilities. These additional facilities, of course, require additional people to operate and maintain.

The real problem is the tendency of large government organizations to generate and develop systems that promote and perpetuate themselves. And in FAA this is always under the guise of greater safety. Even though, in my opinion, the FAA is a most effective, efficient and service oriented government agency, it too is guilty of such conduct.

Are you aware, for instance, that the Air Traffic personnel salary classification grades and *numbers* of people are generally based on the numbers of operations and radio contacts for VFR and IFR flights. In the last several months a new program called STAGE III has been introduced to Towers for VFR operations. Basically it establishes the same control for entering and departing control airports in VFR as when IFR. It was proposed and adopted to improve safety and is *supposed* to be optional. However, to the pilot operating into and out of such control airports VFR it is a directed control with little option unless the pilot openly refuses to go to Approach or Departure control when requested by the Tower or Ground control. A three mile separation is required, therefore long unnecessary delays to aircraft operating in VFR conditions.

As a result of this Stage III program many control tower facilities such as Little Rock, Ark., Tulsa, Okla., and El Paso, Tex. have been reclassified so all personnel in the facility are promoted one grade resulting in approximately a $3,000.00 per year salary increase per person. The additional radio contact counts also leads to additional personnel. Are you aware that a minimum journeyman grade controllers salary at those locations is GS–12 $16,682 with tops to $21,686. A GS–13 controller $19,700 to $25,613. Each Supervisor or Specialist GS–14 $23,088 to $30,018. The Chief of these newly upgraded facilities is GS–15 at $26,898 to $34,971. The same upgrading is occurring on a national scale. It should be interesting to note that even during the recent government salary freezes these upgradings were exempted for controllers.

Now perhaps you can understand the incentive and motivation to give more and more control but the question is, at whose expense?

There is no question but that most Air Traffic personnel are very dedicated, concerned and competent. But the bureaucratic system of classification generated too many systems and programs that are promoted as safety and service, but when thoroughly analyzed are more self-serving than beneficial to industry. It should also be pointed out that the unionization in Federal agencies and particularly the Air Traffic Service has had marked effect on much that will affect your costs.

Formerly, before the massive build-up in FAA several years ago, the system was truly to serve the safety and needs of the pilot, but now with the growth, the complexities and the predominance of non-pilot controllers, the system has seemed to change to where the pilot must serve, the needs of the controller and the system. What a price to pay for progress or as the saying goes—"the tail is now wagging the dog."

So the point was well made by John Tucker, MidCoast Aviation, St. Louis in his article on "The Splintered Industry" that time is fast running out for all of General Aviation organizations representing all the industry, ie: Fixed base operators, manufacturers, air taxis, executives, business pilots, industrial operators, maintenance facilities, owners and just plain pilots and mechanics to join in a common goal to monitor each act or proposal within the FAA and speak out in *unison* on those that have questionable value to General Aviation.

The need would seem urgent to form a General Aviation Committee consisting of representatives of the various "splintered" organizations to be concerned with monitoring not only the regulatory activities but also internal program and system proposed changes by FAA. Many of the internal policies have a greater impact on the cost of operating than the regulatory changes.

A very important consideration for relief would be to seek a congressional change in the Airway User Tax Act to allow these funds to also pay for the operating costs directly associated with the operating and maintenance of the airways facilities and airports.

Whatever must be done the choice seems clear for General Aviation:

Continue to be "Splintered" to financial disaster or "Unification" to a financially sound industry.

PAR VALUE MODIFICATION ACT, EXTENSION OF REGULATION Q, AND EXTENSION OF FHA INSURANCE AUTHORITY

(Mr. FRENZEL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, on May 31, H.R. 6912, the Par Value Modification Act, went into conference. After two meetings the conference seems to have dissolved, and the other body apparently has no interest in further meetings.

On May 23, H.R. 6370, the extension of Regulation Q, went into conference. At this point, meetings are not being held and the other body seems not to care about this bill, either.

Shortly before the close of the fiscal year, the House passed the extension of the FHA insurance authority. The other body has taken no action, and apparently does not care that the FHA is not able to issue insurance commitments.

These three citations are stunning examples of the other body's disregard for the welfare of this country. Each of these bills is a priority matter. Yet the other body has allowed the devaluation bill, which was accepted by the rest of the world in February, to lie on the shelf; it has allowed Regulation Q, a necessary control feature for our country's financial system, to expire; worst of all it has allowed the FHA insurance authority to expire which imperils our country's housing market.

It is obvious that the other body does not have enough time or interest to take care of the people's business.

FROEHLICH AMENDMENT TO H.R. 8860, TO EXTEND AND AMEND AGRICULTURE ACT OF 1970

(Mr. FROEHLICH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FROEHLICH. Mr. Speaker, this afternoon a "Dear Colleague" letter was distributed by Congressman BENJAMIN ROSENTHAL, indicating that he would ask for a record vote, possibly tomorrow, on my amendment to the agriculture bill which was adopted by the Committee of the Whole, and urging our colleagues to oppose this amendment.

I have issued a "Dear Colleague" letter rebutting the statements made in the Rosenthal letter, and it should be distributed in the first mail tomorrow.

With the thought that many of my colleagues may not see my letter prior to tomorrow's session, I would like to read it at this time:

[Urgent—Member's Attention]

CONGRESS OF THE
UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 19, 1973.

DEAR COLLEAGUE: Yesterday afternoon you received a "Dear Colleague" letter from Ben Rosenthal announcing his intention to request a record vote on my amendment to the Agriculture bill, and stating his reasons for opposing the amendment. I would like to take this opportunity to discuss the points he raised and to provide you with my thinking on what I consider to be one of the most crucial and compelling issues of our time.

My amendment requires an adjustment in the price for agricultural products where the Secretary of Agriculture determines that the current price freeze or future controls will produce a shortage of that product and there is no alternative means for increasing the supply.

The 60-day price freeze, and, in fact, many of the economic controls we have witnessed since the President's economic program began, have had disastrous effects on distributors who are caught in the middle. Producers are bound by no price ceiling, and can increase charges to distributors at will. At the same time, present regulations freeze the prices distributors can charge. The focus of the problem has shifted to the point where the crucial question is not the high price of food, but the virtual unavailability of food at all, as slaughterhouses, processing plants and distributors are forced out of business because the freeze compels them, as an alternative to ceasing operation, to sell at a price lower than their purchasing price.

My amendment addresses itself to this disaster but it is by no means a carte blanche for the Secretary of Agriculture to wield the "absolute discretion and arbitrary power" to make the "unilateral" decisions which Rosenthal alleges. The decision as to actual adjustments of maximum prices for agricultural products would be made by the President, after the Secretary of Agriculture has certified that the supply of the product will be reduced to unacceptably low levels as a result of the freeze and that alternative means for increasing the supply are not available.

It is patently unfair to criticize the Secretary of Agriculture for food shortages and high food prices. He does not control the weather which has led to a scarcity of feed grain and the subsequent increase in the prices farmers must require for such grain. He does, however, head up the Department which oversees the entire agricultural sector of our economy and, in this position, he is clearly the sound and logical choice to make the kinds of determinations about agricultural product availability which will be necessary before price adjustments can be made. Notice I have said determinations, not decisions. The ultimate decision is left in the hands of the President.

The Cost of Living Council has been unwilling to take the actions needed in this area. If we continue to allow them sole control over food price regulations we can expect to see barren grocery shelves, skyrocketing food prices, and a famine which will make the days of the Depression look like a Lenten fast.

I can think of no stronger justification for the adoption of my amendment than the inclusion of provisions in the Phase IV guidelines issued yesterday afternoon which provide that food prices may be increased immediately to reflect raw agricultural cost increases since June 8, on a dollar-for-dollar basis. At the same time, I feel that the need for my amendment still exists for two important reasons. First, under the new regulations, the ceiling on beef prices continues until September 12, thus failing to provide the relief so urgently needed by many packing houses for an additional two months. Second, my amendment will apply from the time of enactment, through Phase IV and beyond, thus making any future freezes or regulations subject to the sound and equitable policy provided by such a pass-through authority.

It is also of interest to note that the Senate has twice in recent weeks approved a similar amendment—once by voice vote, and as recently as yesterday, by a record vote of 90 to 4.

I hope I can count on your support. If you have any further questions regarding the intent or impact of my amendment, my office will be glad to answer them for you.

Sincerely,
HAROLD V. FROEHLICH,
Member of Congress.

INVESTIGATION OF OIL MONOPOLY JUSTIFIED BY LOW RATE OF FEDERAL CORPORATE TAX PAID BY OIL GIANTS

(Mr. VANIK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, this morning's newspapers reported the welcome news that the Federal Trade Commission has filed an antitrust action against the eight major oil companies of the Nation alleging anticompetitive practices.

During the past 2 years, I have been conducting an extensive study of the effective tax rate paid by the Nation's largest corporations. My study of the top 146 American corporations for tax year 1972 is almost complete, and I will be releasing the full text of the study within the near future. Last year my study showed a shocking number of major corporations made substantial profits and paid no Federal corporate income taxes. This year's study will show the same trend—a trend which, unfortunately, is accelerating.

In light of the action by the FTC, I would like to provide for the RECORD today, the approximate current Federal income tax paid by the giant oil companies now under investigation by the FTC and their adjusted net income before Federal income tax.

As the following figures show, not only have these companies been highly profitable, but they have generally been even more successful in reducing their effective tax rate to extremely low levels—levels generally below that paid by the average individual taxpayer. My corporate tax study will show that the tax code has helped companies grow larger, encouraged the creation of monopolies, and allowed the larger companies to nearly eliminate their contributions to the Federal Treasury as effectively as they have eliminated competition.

The table follows:

TAX RATE OF GIANT OIL COMPANIES

Oil companies 1972	Adjusted net income before Federal income tax (thousands)	Approximate current Federal income tax (thousands)	Effective rate (percent)
1. Exxon	(1)		
2. Mobil Oil	$589,413	$17,300	2.9
3. Texaco Inc.	869,711	23,600	2.7
4. Gulf Oil	233,000	12,000	5.2
5. Standard Oil (California)	334,207	19,400	5.8
6. Standard Oil (Indiana)	390,096	74,682	19.1
7. Shell Oil	(1)		
8. Atlantic Richfield	211,901	16,141	7.6

(1) Due to the manner in which the income of these companies was reported, it is impossible to accurately determine their adjusted net income and approximate Current Federal Income Tax at this time.

Source: Figures from Joint Committee on Internal Revenue Taxation.

The independents who refine, transport, and market petroleum have been drawn inescapably within the web of the major oil companies. The majors—who were induced to expand their production by the depletion allowance and other tax devices—now control the vital sources of supply to the entire industry. This control has worked to isolate the majors from the pressure to the marketplace. While crude oil shortages have pushed independents to the brink of economic failure, the majors have enjoyed healthy profits. The listing below illustrates some of the first quarter gains of the eight fully integrated majors:

PROFITS AND SALES OF THE EIGHT INTEGRATED OIL COMPANIES—1972—73

	Sales, 1st quarter 1973 (millions)	Percent change from 1st quarter 1972	Percent profits change from 1st quarter 1972
Atlantic Richfield	$997.6	+5	+52
Exxon	5,674.0	+13	+43
Gulf Oil	2,103.0	+9	+19
Mobil Oil	2,790.0	+13	+10
Shell Oil	1,089.5	+12	+49
Standard Oil (Indiana)	1,469.0	+11	+12
Standard Oil (California)	1,608.4	+17	+24
Texaco	2,495.0	+14	+15

THE POSITION OF INDEPENDENT OIL COMPANIES WITH RELATION TO THAT OF THE MAJOR OIL COMPANIES

(Mr. HANNA asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. HANNA. Mr. Speaker, I noted in the newspapers that the FTC is bringing some action against the major oil companies relative to the pricing that is going on now and the position of the independents, which brings me to state that I think there is a story that now should be told about the position of the independents relative to the majors.

During the Eisenhower administration we had an action which curtailed imports of oil. The decision to restrain imports came at the behest of certain majors who had acting as their representative a big, very attractive fellow from Texas called "Big John." As a result of this, imports of oil were only possible if one had a ticket. This gave those who had large fields in the United States the opportunity to really get the maximum out of reserves of the United States and minimize the imports.

The independents, from that time in 1959 until very recently got their oil by trading their tickets for imports to the majors so that they could take domestic crude oil into the independent refineries. It is interesting to see what the next step of that story is as to what happened when the Nixon administration decided that tickets were not necessary for imports, and what happened to the poor little independents.

Since the scuttling of the volumetric import quota system in May, the majors who own or control 95 percent of the crude oil production in California are unable or unwilling to provide enough crude for the independent refiners. In California, the independent refiners are operating at 25 percent less than capacity. This is partially attributed to their inability to trade with the majors for crude oil. The independents are now short 46,000 barrels a day in California. This results in 12 million gallons of gasoline less a month for Californians. The independents refine 12 percent of the crude oil in California and constitute the only competition to the majors to keep prices down. Due to their small size they are unable to compete for foreign crude oil because of astronomical spot charter tanker rates, plus excessive premiums to foreign potentates necessary to purchase small amounts of crude oil. By 1974, California independents will be operating at only 56 percent of capacity. If this happens, they will leave the California market without effective competition and the "Big Johns" will have won again at our expense.

THE 1973 CAPTIVE NATIONS WEEK—THE 15TH OBSERVANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, this 1973 Captive Nations Week represents the 15th observance of an annual event that signifies to the world our firm politico-moral commitment of 1 billion souls in Communist captivity.

The Congress provided for this in 1959 when it passed the Captive Nations Week resolution, which President Eisenhower signed into Public Law 86-90. And in every year since, Americans, and even friends in foreign countries, have observed this important annual event and each President has issued his proclamation of the week, followed by the majority of our Governors and mayors of major cities.

Led by the National Captive Nations Committee, groups are fervently observing this week throughout the country in the very shadow of the recent summit meeting. As was pointed out to each Member in a letter sent by NCNC's chairman, Dr. Lev E. Dobriansky of Georgetown University, the recent talks with Brezhnev cannot conceal the brutal fact that the captive nations in central Europe, within the U.S.S.R., and in Asia and Cuba still are very much captive.

Actually, Moscow's oppression of Soviet Jews, its mass arrests of Ukrainian intellectuals, its Russification policy in the Baltic States, Ukraine, Byelorussia, and the other non-Russian nations in the U.S.S.R. show that this captivity is being tightened in a general consolidation policy that also embraces the captive nations of central Europe.

Mr. Speaker, it must be emphasized that no logical contradiction exists between a pragmatic pursuit of detente and our principled support of the captive nations.

The cautious pursuit of detente with the totalitarian Communist regimes can be undertaken at no sacrifice whatsoever to our fixed politico-moral commitment to the captive peoples. Indeed, the proofs of their willingness to intensify peaceful relations and broaden human contacts will be measured by their treatment of the underlying captive populace.

This 15th observance, Mr. Speaker, is an excellent occasion to sound the concomitant themes of caution, challenge, and compassion.

Caution when a Brezhnev in his TV address stressed Lenin's concept of peaceful coexistence, which first was deceptively applied to the independent non-Russian nations that now are captive in the U.S.S.R.

Challenge when the Red regimes plead a desire for world peace and compatible relations.

And compassion as concerns the persistent and invincible aspirations of all the captive nations and peoples for freedom and national self-determination, particularly those within the U.S.S.R. itself, the center of our chief and sole threat.

Concretely, we can proceed along the lines indicated by—

First, supporting the establishment of a Special Committee on Captive Nations to oversee the willingness of the Red regimes to achieve world peace, and

Second, very concretely soon holding hearings on the resolutions calling for the resurrection of the Ukranian Orthodox and Catholic Churches in the U.S.S.R. in line with the religious freedom articles of the U.S.S.R. Constitution itself.

Mr. STRATTON. Mr. Speaker, this week marks the annual observance of Captive Nations Week, an observance which since 1959 has served to remind all Americans of the plight of those trapped behind the Iron Curtain.

This year's observance takes on added significance as the European Security Conference convenes in Helsinki and as a new era of cooperation between nations appears, at least on the surface, to be developing. While we all hope and pray for world peace, we must not be lulled into forgetting the atrocities that have been committed by the Communists, and the nations that still remain captive of the Communist powers in Eastern Europe and in Asia. The freedoms which many Americans may take for granted are still being denied to those enslaved by the Communists in the captive nations, including Poland and Czechoslovakia. Those who try to practice their religion in their own way or to express thoughts critical of the government are dealt with swiftly and harshly by the Communist officials.

So this week let us reaffirm again our national commitment to freedom for all people of all nations, and let us always carry that commitment to our relations with other nations, particularly with regard to the Helsinki conference and the upcoming Geneva talks. Let us seek peace and détente in Europe; but let us not forget those who are enslaved and held captive, and let us not secure this peace at the expense of the long-sought freedom of these unfortunate peoples.

Mr. HANRAHAN. Mr. Speaker, this week is the 15th annual Captive Nations Week. The Captive Nations Week was authorized by a joint resolution of Congress on July 17, 1959, Public Law 86-90.

It authorized and requested President Eisenhower to issue a proclamation designating the third week in July as Captive Nations Week, and to issue a proclamation each year, the third week in July of every year until such time as freedom and independence shall have been achieved for all the captive nations.

Since that time, each U.S. President has issued a similar proclamation and reaffirmed the support of freedom for the captive nations and urged the people of the United States to recommit themselves to the just aspirations of the peoples of those nations. Similar proclamations are issued each year by the Governor of Illinois, General Assembly of Illinois, and the mayor of Chicago commemorating the plight of the captive nations.

We in Congress join with millions of fellow Americans in expressing to the world our firm determination never to forget the freedom aspirations of all the captive nations and to work in every possible way for their right to self-determination.

Mr. WHALEN. Mr. Speaker, I am pleased to take this opportunity to join with so many of my colleagues in observing the 15th anniversary of Captive Nations Week.

Despite today's changing international climate we must not lose sight of the fact that the populations of these captive nations still are denied fundamental political and human rights. We can only hope that recent events may prove the catalyst for substantial amelioration of these captive peoples' plight.

Past penetrations of the Iron Curtain by those espousing the cause of freedom must continue in the future. Mindful of the lack of human rights in these countries, we must persevere in our efforts to improve the lot of their populations. We must hope that, through the mechanisms of trade and cultural exchange, exert a beneficial influence upon the daily lives of these peoples. Exposure to the West cannot but have a significant effect on the attitudes and lifestyles of those in the captive nations, both rulers and ruled.

The intent of the captive nations resolution passed by Congress 15 years ago was the ultimate attainment of full freedom and independence for all nations. Today, as a spirit of détente permeates the air, let us hope that this spirit will aid us in fulfilling the worthy aim set in 1959.

Mr. PATTEN. Mr. Speaker, since 1959 the third week of the month of July has been designated and observed as Captive Nations Week under Public Law 86–90.

Since the law was passed, nothing has changed as to the basic captivity of nations and peoples in Central Europe, in the Soviet Union, Asia, and Cuba. This year, however, there is finally some cause for hope due to the recent summit talks between President Nixon and Soviet Party Leader Brezhnev, and the improving relations in general between the United States and Russia.

Whether we want to face it or not, the massive reality of the captive nations exist. Nothing can overshadow this basic reality and tragedy; nor can the indifference in our own country and in most Western countries, similarly gripped by apathy, conceal this. The Communist regimes, even the most progressive, suppress the free nationalism of the subjugated nations, and in varying degrees exploit their economic resources in behalf of the different courses taken toward the attainment of world Communists.

I appeal to the citizens of the United States and all over the world to remain cognizant of the destiny of these countries in captivity and to remember that individuals in these countries once tasted the sweet fruits of national freedom and economic self-determination that we now enjoy—and that they will hopefully be able to enjoy again some day.

Mr. GERALD R. FORD. Mr. Speaker, this week we mark the 14th anniversary of a testament to freedom first proclaimed by the late President Dwight D. Eisenhower. This is the 14th annual observance of Captive Nations Week, authorized by congressional resolution in 1959. That resolution empowered American Presidents to proclaim Captive Nations Week each year until "such time as freedom and independence shall have been achieved for all captive nations of the world."

This 14th anniversary of the observance of Captive Nations Week takes on special significance because it comes while the Soviet Union is making moves toward détente with the nations of the free world. This is therefore a most fitting time to look at the original captive nations resolution and to ask ourselves some searching questions about the meaning and purpose of Captive Nations Week.

The original resolution told it like it is. It said:

> The imperialistic policies of Communist Russia have led through direct and indirect aggression to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukrainia, Czechoslovakia, Latvia, etc.

In all, 22 nations were listed as having lost their independence because of Communist aggression. The last on the list was North Vietnam.

Today we are discussing improved trade relations with the Soviet Union, the possibility of a mutual balanced reduction of forces in Europe, and further curbs on nuclear arms. But whatever we do in these areas, we must still maintain our policy of refusing to recognize the Soviet acquisition of these territories.

And whatever is involved in the intricacies of current diplomacy with the Soviet Union, we still must tell it like it is as regards the captive nations.

We still weep for the Polish workers of Poznan so brutally suppressed when they rose in revolt 17 years ago against their Communist puppet rulers. We still are outraged over the bloodbath 17 years ago in Hungary when security forces fired upon the people and the Communist puppet rulers there called in Soviet troops to put down the uprising. Our hearts go out to the people of Czechoslovakia, invaded by the Soviet Union and four other Warsaw Pact nations August 20, 1968, in a move to stamp out the freedoms being enjoyed by the Czechs and Slovaks.

What tremendous courage was displayed by the Poles of Poznan, the freedom fighters of Hungary, and the Czechoslovakians resisting the Soviet occupation and the reimposition of tyranny and censorship in their country.

It is this that points up the significance of Captive Nations Week and the dedication of Americans to the nurturing of freedom throughout the world.

There is a truth that no arms and no occupation can kill. The truth is that within the hearts of the enslaved peoples there burns a love of liberty which is a constant threat to their rulers—a yearning for freedom which will ultimately prevail. And this truth gives meaning to our Captive Nations Week observance.

Mr. Speaker, I believe the United States should seek enforceable agreements with the Soviet Union aimed at avoiding a third world war.

But it would be the greatest hypocrisy to close our eyes to the wrongs that the Soviet Union has done to millions of human beings deprived of individual freedoms and national independence.

There are some Americans who think that Captive Nations Week should be soft-pedalled or forgotten. I strongly disagree.

Americans must continue to make known their deep concern about the people of the captive nations and convey this message to the captive world.

Americans should continue to make known their refusal to accept the regimes imposed upon these unfortunate victims of tyranny.

Americans should continue to promote the basic human rights and fundamental freedoms which are the God-given rights of all people—and not talk of them only when it may be expedient to do so.

Americans must never accept the view that freedom is foreclosed for the now-enslaved peoples of the world. Consistent with our own national interests, America should constantly explore all avenues that might lead to a lessening of their plight.

Let us continue to inform the captive peoples of our full and uncompromising support for their unquenchable goal of national and individual freedom. Let them ever know that Americans are dedicated to the furtherance of freedom throughout the world.

Let us keep faith with the people of the captive nations.

Mr. BURKE of Massachusetts. Mr. Speaker, Captive Nations Week, July 15 to 21, is a time for us Americans to reflect upon the plight of the people in Eastern Europe, who are involuntarily dominated by the brutal and harsh hand of communism. It is most appropriate that this observance comes so shortly after our own Independence Day, so that even while we celebrate our own freedom, we may be ever mindful that not all people are so fortunate as we, and so that we may continue our support for those struggling to obtain personal and political liberty.

Too often, Mr. Speaker, Americans are apt to take the precious gift of freedom for granted. We treat ever so lightly the valuable liberties we possess. Yet when reminded of the political situations in Eastern Europe—the oppression, the persecution, and the denial of basic human rights—we cannot help but be more appreciative of those freedoms we have.

We Americans can learn much from these oppressed people. They have had a continuous struggle to achieve the right of self-determination as a people, and their valor and determination is an example to us all. Although we hear little news from the Eastern European nations, stories that do leak out through the Iron Curtain demonstrate that the people have not yet given up hope. Perhaps the most publicized of the recent events was the 1968 uprising in Czechoslovakia, so savagely quelled by the Soviet Red Army.

During Soviet Leader Leonid Brezhnev's recent visit to the United States, the two countries made firm commitments to peace. We have declared that the cold war is over, and that an everlasting peace will be our goal. This decision is indeed a wonderful thing, but we must not let all the ceremony and rhetoric blind us to the reality of Eastern Europe's situation. The public must be aware of the importance of the fate of 100 million fellow human beings.

I am most honored to remember these brave people today, to pay a well-deserved tribute to courageous, freedom-loving people. I pray that the eternal flame of hope may burn in their hearts, to help them realize a goal so precious as the one they seek.

Mr. DERWINSKI. Mr. Speaker, I

commend the gentleman from Pennsylvania (Mr. FLOOD) for taking the leadership in the House commemoration of Captive Nations Week.

How well I recognize that a certain amount of imaginative coverage, in addition to the official statements during the recent Nixon-Brezhnev meeting, have led many people to believe all the world problems will be resolved as a result of United States-U.S.S.R. negotiations.

Mr. Speaker, I certainly do not see a contradiction between pragmatic foreign policy developed by President Nixon and the support of captive nations which is based on the principle of self-determination.

Captive Nations Week fully retains its relevance in the light of developments in Europe, and specifically the internal situation in the captive nations.

May I quote the 1973 manifesto issued by the Assembly of Captive European Nations in New York?

> This year's Captive Nations Week will be observed against the background of the recent summit meetings between President Nixon and Leonid Brezhnev, Secretary-General of the Soviet Communist Party. In the interest of peace, we accept the need for continuing diplomatic talks with the Soviets, despite the moral and ideological chasm that separates the Free World from the Communist World. But we must point out that Soviet promises and Soviet assurances cannot be accepted at face value. Indeed, their entire record since the outbreak of World War II is an unbroken litany of solemn agreements entered into—and then flagrantly violated. In connection with Captive Nations Week it is appropriate to recall, in particular, that the Captive Nations of Central and Eastern Europe are still awaiting fulfillment of the Soviet's wartime pledges concerning the right of self-determination and the holding of free elections.
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> The European Security Conference which is about to begin in Helsinki has long been sought by the Soviet Union—for the two-fold purpose of achieving formal Western recognition of the Soviet imposed regimes and frontiers in Eastern Europe, and for the purpose of giving the Kremlin for the first time a degree of influence over the policies of the Western European governments. The Helsinki Conference can only turn out to the Soviet advantage unless the Western governments move to counteract their efforts to use the Conference for the purpose of stabilizing their empire. This should be the prime purpose of the United States at Helsinki.
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> It is not a matter of choosing between what is morally right and what is politically expedient. In the final analysis, we are confronted with a situation where what is morally right is politically right—and what is politically right is morally right. Nothing would contribute more to the prospects for a stable peace and to the security of the Western nations than a forthright effort by the West at Helsinki to raise the question of the right of self-determination, in accordance with the U.N. Charter and postwar agreements, for the captive nations of Central and Eastern Europe. And while committing itself to this basic goal at Helsinki, the West should simultaneously seek to obtain guarantees of freedom of expression and freedom of movement, and freedom of immigration and of all other basic rights for the still captive people of the Kremlin's European empire.

Mr. Speaker, at the risk of oversimplification, may I remind my colleagues, the world cannot exist half slave and half free. Communism, by its very nature, is a rigid totalitarian oppressive system. It cannot be reformed. Communism does not mellow. Events in Czechoslovakia and Hungary prove that point.

The people behind the Iron and Bamboo Curtains deserve the freedoms that we so often take for granted. They deserve to prosper under governments of their own choosing, governments which represent their historical greatness.

I am convinced that the world will enter into a long era of peace only when all peoples who presently are held captive by Communist governments once again become free.

Mr. ROONEY of New York. Mr. Speaker, once again and for the 15th year we are sharing in the observance of Captive Nations Week. What the people and the leaders of this Nation say here today will be watched by millions and millions of people around the world—in Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Poland, and Roumania in Europe, and many millions more in Asia and elsewhere in the world. It is unfortunate that for many people of our own country what we do today will be considered by them to be an exercise in futility but such is far from being the case.

As the enslaved peoples of the world continue to cry out for our support and help, as these people of the captive nations yearn to be assured that we have not abandoned them and that we no longer share with them their dream of independence and their desire for freedom, a strong and positive stand in their behalf would be most productive at this time.

The recent visit of Brezhnev and the various pact discussions and treaty negotiations between ourselves and the Red Russians are being used as Communist propaganda to make the captive peoples who oppose their Communist oppressors think that they stand alone. But this is not so—they are not and must not be alone. I am convinced that we the people of the United States are still determined to stand with them and that we will do so until they are free.

Unfortunately, Brezhnev's visit, the treaty negotiations and the whole array of indications of a thaw in East-West relationships have led some of our people to assume that the enslaved peoples no longer seek freedom or that the importance of summit meetings and political and economic matters under discussion seem to make the freedom of these people of secondary importance. Such assumptions are entirely false. The enslaved people covet as strongly as ever their freedom from the enslavement which they have now endured for more than 30 years. Communism has not succeeded in stifling their desire to be free nor has it quenched the flames for self-determination. For example, take the case of the smallest of these captive nations—tiny Lithuania. Overrun more than 33 years ago by the Red Communists who have maintained since that illegal invasion a campaign of terror, murder, forced deportation, and God knows what other form of depredation upon a helpless nation, the Lithuanian people still fight and die for freedom. It has been only within recent weeks that three young Lithuanian patriots immolated themselves to call the attention of the world to the tyranny and oppression which they and their fellow countrymen suffer. Bear in mind, too, that all of these young men were born into a totalitarian society and they had never personally known freedom. Even the Communist efforts to woo the young and capture their minds at an early age failed to erase the inborn spirit of patriotism in these young people.

Even for those of us who have long fought for the freeing of these enslaved people, we must steel ourselves against wishful thinking and the fake hopes of a real achievement of improved United States-U.S.S.R. relationships.

Let us bear in mind that the prime objectives of Brezhnev's recent visit were to get more food—grain—for the Russian people and to get long-term credits for his country to meet the food shortages and economic problems which the Soviet Union faces because of crop failures.

We must not forget that his "hail fellow well met" stance, his empty smiles and his frequent champagne toasts could not fully disguise his real self or the real motives behind his visit.

We must continue to note that in the highly publicized negotiations which have been underway for months, some even concluded, the Soviets have put little or nothing of value of their own on the bargaining table. Instead they seem to want to bargain for the things which we already possess. Our confidence in their integrity and our confidence in any real or lasting benefits resulting from these discussions would be enhanced if we could see a Soviet offer of some magnitude such as freedom for the people of the captive nations. Such an overture which is long overdue would indeed give all Americans a renewed belief of the importance of these negotiations.

All America stands united behind the recent action taken by the Polish-American Congress, the Czechoslovak National Council and the American Hungarian Federation when those fine organizations sent an open letter to Brezhnev asking for removal of Soviet troops from the territories of Eastern and Central Europe because the fulfillment of political, economic, and ideological aspirations of these people are blocked by this unwarranted Soviet military occupation.

Mr. Speaker, this Government should support that petition officially and move forward at once to assure its being given highest priority consideration in the upcoming United States-U.S.S.R. talks.

We must be constantly alert during this period when the bars of the Iron Curtain seem to be somewhat lowered that we are not lulled into a false sense of security or a blind stupor of overlooking the crimes and injustices of which the Godless Communists have been guilty and for which no redress has ever been made. We must keep in mind the true intentions of Soviet imperialism such as was revealed at the recent European Security Council meeting in Helsinki where during a press conference a high Soviet official stated bluntly that Russia would again intervene militarily as it did in the case of Czechoslovakia.

It should be clear to all of us that what Soviet Russia wants to gain from the Helsinki meetings is a recognition on the part of the Western World of a status quo of the forcible conquest of several hundred millions people in Central and Eastern Europe. The free West should unite to preclude such a Soviet gain by insisting that the plight of the captive nations be placed on the agenda of the upcoming September meeting and we must exercise leadership in this respect. The traditional role of the United States as the champion of the oppressed cannot be lessened in these extremely important days. Our friends in Poland, in Hungary, in Czechoslovakia and elsewhere who have all risen valiantly against the massive might of Communist Russia must not be allowed to feel they have been forsaken or their efforts in vain. We owe it to them to convince them of our firm belief that the people of the captive nations will eventually be free and that we are determined to do our utmost now to hasten that eventuality.

For ourselves, Mr. Speaker, we must assure that as a nation we must not waver one iota from our firm commitment that so long as nearly a third of the world's population is held in captivity, we will not diminish our efforts to see that justice will prevail and they will be free.

Mr. ROUSSELOT. Mr. Speaker, it is right that our colleague (Mr. Flood) has taken this time to remind the House of this important event—Captive Nations Week. The recent Nixon-Brezhnev summit meeting was marked by a renewed effort on the part of the Soviets to press their demand to be accorded "most-favored-nation" treatment by the United States. As one of 285 Members of the House who have cosponsored the Freedom of Emigration Act of 1973, I have endorsed the concept that most-favored-nation treatment, and all other favorable trade concessions, should be denied to the Soviet Union as long as it continues to impose restrictions upon the right of its citizens to emigrate.

My concern extends to all Soviet citizens who may desire to exercise the fundamental right to "vote with their feet." Tens of thousands of Soviet Jews who have applied for exit visas have suffered the loss of their jobs and the imposition of prohibitive "education taxes." Their applications have been denied more often than not, either for reasons of national security or for no reason at all. There are also many German and Ukrainian Soviet citizens who seek to join relatives in West Germany and Canada, respectively, as well as untold others who would quickly leave the Soviet Union if they were permitted to do so.

In addition to freedom of emigration, I believe there are several other problems which must be addressed if we are to develop a constructive and realistic approach to East-West trade. For example, as I understand it, the concept of most-favored-nation treatment, by its very nature, requires that there be convertibility of currencies, a condition which does not exist at the present time with respect to the Soviet Union. Moreover, one of the basic elements of the concept, as it is embodied in the General Agreement on Tariffs and Trade, involves antidumping protection. This means that nations will not disrupt the economies of their trading partners by selling goods at below-cost prices. Since the Soviet Union has a command rather than a free market economy, it is virtually impossible to obtain reliable figures on the actual production costs of Soviet goods.

My position is not based on any blind prejudice against East-West trade. I am merely urging that the United States take the same prudent precautions in its dealings with other nations that any reasonable businessman would take in conducting his own affairs. For example, before we sign any agreements to obtain natural gas from Soviet Siberia, let us insist that our geologists be permitted to inspect the Russian gas fields to determine whether or not the proveable reserves are sufficient to justify the investment of huge amounts of American capital, with all of the attendant risks, years before any return can be realized.

I could go on indefinitely discussing my reservations regarding the manner in which our trade with the Soviets has been conducted. I have on two occasions, on May 17 and July 10 of this year, expressed my opposition to the subsidized sale of wheat to the Soviet Union. My reservations are not based on opposition to trade with the Soviet Union per se but rather on the belief that such trade must be conducted on a realistic basis in which American interests and concerns are protected and where we get fair value in return for any concessions we make. So far, I have yet to see this attitude reflected in our dealings with the Soviets.

In conclusion, I should like to return to the subject of freedom of emigration, for, as important as this concept is, it is of little benefit to the citizens of such captive nations as Latvia, Lithuania, and Estonia, which have been invaded and annexed by the Soviet Union. The only answer to the plight of these people, whose homelands are occupied by Soviet troops is to restore the national independence which they enjoyed before the Russians intruded. Last Saturday, on July 14, 1973, I joined with many leaders of Los Angeles and others who attended a captive nations rally at MacArthur Park, in the commemoration of Captive Nations Week. At that rally a resolution was circulated which called for the liberation of the captive nations of Eastern Europe, and I should like to commend it to the attention of my colleagues at this time:

Resolution of the Freedom Rally

Whereas, Captive Nations Week was established 14 years ago by Public Law 86–90 of the United States Congress, and

Whereas, at this year's 15th observance little has changed since last year, except for Russian attempts to finally abolish all resistance to Soviet terror, not only in the satellite colonies and the Soviet Union but also abroad, and

Whereas, on June 18, 1973, an open letter to visiting Party Chief Leonid I. Brezhnev was published in our capital by American organizations speaking for Americans of Czech, Slovak, Hungarian, and Polish descent, and

Whereas, stating the negation in East-Central Europe of almost all principles and rights contained in the Declaration of Human Rights, that letter called for removal of all Soviet troops and secret police from the Soviet-exploited countries; and end to their ecoonmic exploitation; and assurance of the right to emigrate to those Soviet citizens, residents, and political prisoners who desire to leave the Soviet Union, and

Whereas, said letter called on L. I. Brezhnev for the return of those oppressed countries to freedom from Soviet military and ideological domination, in liberty and justice;

Now, therefore, we, Americans for Freedom of Captive Nations, assembled in the Freedom Rally at the Hungarian Freedom Fighters' Monument, MacArthur Park, Los Angeles, California this fourteenth day of July, 1973,

Resolve, to join those just demands of the Baltic States, Cuba, and all formerly free nations of Europe and Asia, which have been enslaved by the Communist World Conspiracy, led by the Kremlin Mob.

We further call on all Americans who uphold the Bill of Rights, to never recognize the Soviet domination of the Baltic States, Cuba, East-Central Europe, Balkan, and Asian Countries.

We call on all Americans to never condone in words or even thoughts any summit meeting, treaty declaration, or tacit understanding which promotes or acknowledges the subjugation of our sisters and brothers.

We call on all Americans to promote universal refusal of the cruel pollution of human minds and of the brutal denial of personal and national human rights, as exemplified by the imperio-colonialist policies of Soviet Russia.

We call on all Americans to stand for an unbreakable peace through the cooperation of free states with equal rights. Such states may develop their own cultural and self-realizing lives to the benefit of all mankind, in contrast to their present oppression by an inhuman, genocidal, and ethnocidal Soviet system.

Mr. HUDNUT. Mr. Speaker, during this Captive Nations Week, I wish to join with my colleagues in the Congress in sending words of encouragement to all those in the captive nations of the world who have not abandoned their cherished and heroic dream of national independence and the right of self-determination.

This week is an extremely important time for the Soviet occupied peoples of the Baltic States of Lithuania, Latvia, and Estonia, as well as millions of others who are captives in their own nations. Since President Eisenhower first proclaimed Captive Nations Week in 1959, the third week of July has been set aside as a time for all Americans to rekindle their awareness of the plight of peoples living under unwanted Communist governments.

It is indeed most fitting that we in America pause in this way staunchly to reaffirm through all appropriate and official means the historic fact that the United States share with the people of the captive nations their aspirations for national and personal freedom. We remind ourselves, too, that in spite of the feeling on the part of some that circumstances have changed, any suggestion of détente or peaceful coexistence among nations remains a mockery and constitutes a barrier to the natural bonds of understanding and world peace as long as millions continue to be enslaved by Communist imperialism.

Only recently we in the United States celebrated our Independence Day, a time when each of us solemnly rededicated himself or herself to the great ideals of the Declaration of Independence, which declares that all men are created equal, that they are endowed by their Creator with certain inalienable rights of life, liberty, and the pursuit of happiness. During this Captive Nations Week, we should renew that responsibility to the magnificent ideals upon which this Nation was founded and resolve to work unstintingly for the freedom of the oppressed peoples of the world.

So, as we observe Captive Nations Week this year, let us renew our spiritual ties with the oppressed of these unfortunate and beleaguered lands and renew, also, our firm determination that one day they will again be free. We honor the patient, suffering, brave people in such captive nations as Lithuania, Estonia, Latvia, Poland, East Germany, Rumania, Hungary, Czechoslovakia, Bulgaria, and others. In spite of the shackles and terror, they still dream of liberty and individual dignity, of hard work and personal responsibility, in a world of free men. We share that dream, too.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DARK OIL CLOUDS ON ISRAELI SANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BIAGGI) is recognized for 5 minutes.

Mr. BIAGGI. Mr. Speaker, in recent months, the people of the United States have become actutely aware of a new threat to our way of life. This is the so-called energy crisis and the shortages of fuels vital to the continued growth of our economy and to the comfort and health of our citizenry. We remember all too well the stories in the press and the reports through the broadcast media of the fuel oil shortages in the Midwest that caused the closure of schools this past winter. We only have to ask our colleagues from the farm States about the problems which the gas shortage is causing in the harvesting of crops, and we only have to drive down America's highways to see the gasoline stations boarded up and closed to realize the dangers of this problem. What may not be so clear is the cause of this threat and the possible ramifications the threat may have on the continuation of one primary and inviolate tenet of American foreign policy. The threat of the energy crisis originates in the rising prices of oil in the Arab world, and the threat is directed at the American policy of support for the State of Israel.

The first real test of the Arab attempt to block oil deliveries to the West in general and to the United States in particular came during the 1967 war between the Arabs and the State of Israel. At that time, the Arabs agreed among themselves to stop shipments of oil to the United States and to several other Western nations. When that tactic proved unrealistic—unrealistic because when the oil stopped so did the money—the Arabs shifted to a new attack, raising prices and thereby forcing shortages of vital petroleum products in the West. The first of these price increases occurred in Libya in 1970 when the Libyan Government under Col. Maummar al-Qadhdhafi threatened the oil companies with nationalization unless they raised the revenues being paid to the Government. The companies complied with the demands, and the price of oil went up.

A second test occurred a few months later in the negotiations between several of the Persian Gulf States and the Western oil companies operating in those states. This time, there was an addded twist to the Arab tactic. They made little attempt to hide the fact that they were operating as a cartel, a collective bargaining unit as they called it; but the resemblance to what we would call collective bargaining as practiced by the American labor movement and the American business community was scanty indeed. Cartels do not bargain, they demand. Several Arab States demanded higher prices for their oil and threatened to stop oil shipments if their demands were not met.

A third test came on the heels of the Persian Gulf price increase of 1971. Again, the scene was Libya, and the primary actor was the mercurial Colonel al-Qadhdhafi. However, the Libya price increase of 1971 had another twist: greed. Libya claimed to be acting on behalf of several other Mediterranean Sea oil producers, so the element of cartel was present. But the Libyan Government openly said that its group was out to beat the price increase won by the Persian Gulf States a few months before. The Western nations which needed the oil were the victims of a competition among the Arab States to see which one could gain the highest price increase from the West.

We need not go through the other price increases that followed, such as the so-called negotiations in Geneva in 1972. We need not review what happened in Iraq when the companies refused to meet the outrageous demands of the Iraqi Government: Iraq nationalized the companies and sold their oil to the Soviet Union. What is important is that we fully understand that the Arab States deliberately are raising the price of oil and are using the fear of nationalism to gain those price increases.

Meanwhile, the Arabs are getting richer from their increased revenues from oil. The monetary reserves of Arab States are piling up in the banks of Europe. They are using these accumulations of capital to attack the world's monetary structure through runs on the dollar and through purchases of gold. It is their intention to so undermine the international monetary structure that the dollar will collapse; and with it, the Arabs hope, the United States will also collapse.

The absolute hypocrisy of the Arab attempt to use Arab wealth to attack the United States is demonstrated by the previous statements and actions of the Arabs themselves. For years, the Arab States have been coming to the United States to beg for assistance so that they could develop their nations. Now that they have the capital reserves to finance their own development, they prefer to use the funds to bring the dollar down and to corner the world's supply of gold. Those poor Arab States without oil deposits are left underdeveloped. Apparently, all the talk of Arab brotherhood and Arab unity ends at the bank vault. If the Arabs were sincere in their professions of development, independence, brotherhood, and the like, they would literally put their money where their mouths are and use their capital accumulations to aid their poorer Arab neighbors.

It has always been the Arab intention to destroy the State of Israel. We all are familiar with the statements of prominent Arab leaders about their desire to drive Israel into the sea. And we have been witnesses to the persecution campaigns against Jews in Syria, Iraq, and other Arab States. While the threats and taunts of Israel's destruction made by the Arab leaders have proven mere verbiage, it appears as though they have found a way to make good those threats. Unwilling to risk another war and another defeat, the Arabs have turned to oil as their weapon against Israel and the Jewish people. They hope to create in the Western World a fear of an oil shortage and to blame that shortage on Israel. Their reasoning continues that if the people of the United States believe that the gas shortage is the fault of the Israelis, we will abandon Israel in order to curry favor among the oil-rich Arabs. Israel will then be weakened, and the Arabs will wait for their chance to attack and destroy the Jewish State. This philosophy has created three innocent victims.

The first is the Arab people themselves: both those few leaders who are disillusioned into believing that the scheme will work and that they will rid themselves of Israel and those poor Arabs who are kept in the bondage of poverty and ignorance while their dictatorial leaders squander their money on foolish political plots. There are many honest and hard-working Arabs who do not begrudge the Jews their chance to create a homeland and who want only the opportunity to free themselves from the slavery of poverty and underdevelopment. Those few Arab leaders who are willing to bet their oil earnings on a greater gamble of destroying Israel commit two crimes, one against the Israelis and the second against their own people.

The second set of victims are the Israelis, who want nothing more than to live in peace within secure and recognized boundaries and to be left alone in their homeland. Israel is forced to commit its human and material resources to the ever upward spiraling costs of defense, when those resources could better be used in the development of the Israeli State. It is truly a miracle of the modern age that Israel exists at all, let alone having accomplished what it has in the face of 25 years of constant danger.

The third group of victims are the American people, who are being fed a propaganda line from the Arabs that it is Israel's fault that there are oil shortages in the world. The propaganda is not very subtle. In 1970, Colonel al-Qadhdhafi of Libya said that the United States would suffer for its support of Israel, and he warned that American interests in Middle Eastern oil would be nationalized in retribution for the continuing friendship between this Nation and the Nation of Israel. When Colonel al-Qadhdhafi nationalized the American-owned Hunt oil company in early June 1973, he said the action was a slap in the American face. He suggested that the nationalization was aimed not at American companies but at the American people. I am not here to defend American oil companies, but I want to point out that the American companies are being used by al-Qadhdhafi to get at the American Government and people. The same tactic was used in Iraq in 1972 and no doubt will be used again in other Arab countries.

Raising the price of oil and nationalizing American-owned companies are only two parts of the Arab plan. The third part is to reduce the amount of oil produced and therefore to make the world's supply of oil even tighter. Many people forget that one of the tactics used in Libya during the 1970 oil threat was to cut back the amount of oil that the American companies could export from Libya. At the time, many people thought the oil cutbacks were just an arm-twisting method employed by the Libyans. It now appears as though the Libyans and other Arabs, who have limited their oil production, were trying to create the shortages we are now experiencing.

It should be clear that the Arab leaders are using the higher prices, the nationalizations, and the production controls to create a false shortage of oil in the world. They hope that the American people—the parents in Denver whose children were forced out of school for lack of heating oil, the farmers in Iowa whose corn rots for lack of gas to dry it for market, the factory worker in New York who cannot get to work because his gas tank is empty—will believe that the oil shortage and the rising oil prices are the fault of the Irsaelis. The Arabs hope that the American people will ask their elected representatives to denounce Israel and abandon the Jewish state in order to allow the oil to flow again. We know the Arab plan is doomed to failure. There is no connection between Arab greed for money and American support for Israel. The United States supports the State of Israel because it is right, and we shall not be blinded by such false reasoning to abandon what we know is right. If there is indeed a worldwide oil shortage, it is because the Arabs wish it so. If the price of oil rises, it is because of Arab greed. If there is a challenge to the dollar, it is because the Arabs would rather speculate with their gold than use their oil revenues for the good of their own people.

Mr. Speaker, this is not the time for the United States to cower before the economic threats being issued by the Arab oil states. We must gage and evaluate these threats for what they are—attempts to break the vital link between this Nation and its Israel allies. We must resolve never to sacrifice the security and friendship of Israel for economic ends.

WE MUST RELEASE OUR COPPER STOCKPILE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. STEELE) is recognized for 5 minutes.

Mr. STEELE. Mr. Speaker, I rise today to introduce legislation that will help alleviate our critical shortage of copper by authorizing the prompt sale of all copper held in our national stockpiles.

American copper manufacturers have suddenly suffered drastic cutbacks in their copper shipments because of a combination of four factors.

First, the United States has had a longstanding need to import approximately 10 percent of its annual copper consumption.

Second, the total world copper supply has tightened greatly in response to recent strikes in several copper-producing countries, the present international monetary uncertainty, and steadily increasing business activity.

Third, freeze restrictions on the price of domestic copper have stimulated exportation of virtually all exportable copper from the United States to higher priced foreign markets.

And finally, the establishment of copper freeze prices at June 1–8 levels has forbidden domestic copper sales at previously negotiated higher prices.

Unless Congress takes prompt decisive action, U.S. industries dependent upon copper will soon be forced to cut back production and employment.

Anaconda Co., the third largest domestic copper producer, has already announced that unless relief comes quickly they must curtail production of brass wires, cables, and other fabricated objects by 10 percent during August.

American Metal Climax, Inc., has just announced that shortages in scrap copper require them to begin a slowdown and layoffs this month at their New Jersey plant which employs about 1,900 workers and produces some 10 percent of all U.S. refined copper.

Brand-Rex Co., a fabricator of insulated copper wires and cables with a plant in my district in Connecticut, has notified me that they will soon be compelled to reduce employment and production by one-quarter because of a 25 percent cutback in their copper supply.

Like the other copper manufacturers, Anaconda, Amax, and Brand-Rex will soon be severely restricted in their ability to supply major customers such as IBM, Pitney-Bowes, Whirlpool, Xerox, Western Electric, and thousands of other companies across the country. They in turn will be forced to reduce production and employment. This means fewer and higher priced products for the American consumer and less jobs for the American worker.

We cannot allow this to happen. The Congress has the ability to prevent this spiraling economic breakdown by releasing surplus copper supplies now.

My legislation will authorize the General Services Administration to sell roughly 258,000 short tons of copper currently held in national stockpiles.

Stockpiled copper represents more than 10 percent of the roughly 2,100,000 short tons of refined copper annually consumed in the United States. Immediate release of this copper would offer significant relief to our tight domestic copper market.

President Nixon delivered a message to Congress this April saying that a "careful and searching review of the current stockpile" showed that even if we sold certain stockpiled metals, the stockpile would still "contain the critical materials that we need in quantities fully adequate for our national security requirements." The omnibus stockpile bill, H.R. 7153, introduced at the administration's request by Chairman HÉBERT of the House Armed Services Committee, specifically authorizes the sale of roughly 258,000 tons of stockpiled copper.

I have removed the copper provision from this broader and more complex disposal bill so that Congress can consider it separately and more quickly, so as to alleviate our current copper shortages and avert imminent economic disruptions.

Government sale of stockpiled copper will bring an estimated $310 million to the National Treasury. This will help bridge our budget deficit and combat inflation.

In conclusion, my bill offers a simple way by which Congress can provide short-term relief for a critical and complex copper supply crisis that threatens the entire U.S. economy. Our surplus stockpiled copper is desperately needed now. Congress must quickly enact this legislation.

THE CONCERN OVER HIGH INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 5 minutes.

Mr. PATMAN. Mr. Speaker, there is a growing concern around the Nation about the rapid increases in all types of interest rates.

Nine times since the first of the year the prime rate has risen and a 10th increase is apparently on its way. Mortgage interest rates are rising and we are certain to see another credit crunch.

The Des Moines (Iowa) Register-Tribune, on July 9, analyzed the interest rate picture in an excellent editorial. I place in the RECORD a copy of this editorial which I believe reflects the growing concern about current monetary policy:

SKY-HIGH INTERESTS RATES

On July 5, four United States government agencies took decisions permitting boosting of interest rates on government-insured home loans and for savings accounts in banks and building and loan societies.

This action follows 17 months of rising interest rates on short-term loans, both treasury bills and prime commercial paper. It follows six months of rising interest rates on taxable government bonds. Interest rates on corporate bonds (Moody's Aaa bonds) have also been going up more slowly for six months, and have been generally on a high plateau since early 1971.

Representative Wright Patman (Dem., Tex.) says bluntly that the President and the Federal Reserve Board "are promoting higher and higher interest rates," and that "any economic policy which effectively places more than half of the American population out of the housing market is wrong by any standard."

Interest rates are getting too high. There is something to the old orthodoxy which contended that interest rates are set by impersonal forces of supply and demand and that there is nothing the government can do about them. The "points" people must pay above the maximum interest allowed on mortgages are an example. So are the failures of early Christians and Russian Communists to abolish interest.

There is something also to the more recent orthodoxy that the money supply and the whole economy can be controlled by judicious tinkering with the interest rates by the Federal Reserve Board.

But these old orthodoxies are far from the whole story. Controlling an economy is a complex and tricky business, and interest rates are far from the only control mechanism needed. Moreover, when interest rates get too high, they are one of the items which needs to be controlled. Failure to do so will cause worse trouble later on.

The current rise in interest rates could stifle the boom and lead to recession later on. Federal Reserve Board Chairman Arthur Burns himself has warned that too heavy reliance on monetary policy to restrain inflation would lead to unemployment and that tougher direct controls are needed.

Patman's point on the housing market is a good one. High interest rates also make it hard for young couples to get started in many other ways: furniture, appliances, cars, etc. Credit card credit costs close to 18 per cent. Watergate witness John Dean got a laugh when asked why he didn't use credit cards on his honeymoon instead of taking cash from funds of the Committee for the Re-election of the President. He said he didn't like to borrow money and he had the cash! There was no excuse for that, but consumer credit is high and getting higher.

"It makes negligible difference to the financing of the U.S. government whether our aid loans are for 25 years at 3 per cent or for 40 years at 1 per cent," wrote economist C. Fred Bergsten in Foreign Policy magazine. But it makes an enormous difference to the borrower. For some buyers inside the United States, the allowable interest rate is now 7.34 per cent (if Congress approves), plus "points," which may go down a bit but will not disappear.

A country which is indifferent to its young people is building up trouble for itself. High interest rates are one of the ways the United States is now doing this.

GASOLINE FOR THE CITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KOCH) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, the bill I am introducing today is simple in its purpose and direct in method. Its chief aim is to assure that the States, cities, and other political subdivisions of the country, as well as the U.S. Government itself, will be able to obtain a sufficient supply of gasoline and diesel fuel for their motor vehicles, so as to continue to provide their essential services to the people of the country. Trapped, as we now appear to be in the "energy crisis" whose origins are shrouded in mystery and vituperative recriminations, the bill now presented can only be a short term solution to make certain that the vital functions the instrumentalities of Government now perform, will not be forced to cease due to a lack of gasoline or diesel fuel. In no way will this bill solve, nor does it purport to solve, the energy crisis, which must be approached in a comprehensive and analytical way. The bill is a needed stopgap measure.

Imagine, if you will, the vital functions on which our cities especially depend, grinding to a halt because the fuel suppliers cannot or will not distribute adequate supplies of gasoline. People dying because ambulances were not able to be dispatched, property burning to the ground with fire engines stalled in firehouses, police unable to patrol against crime because of insufficient fuel to run the vehicles or because the demanded price of the suppliers is greater than the revenues and other obligations of the public authorities are able to meet. While such horrors may still seem unimaginable, the menace may be much nearer than we think. Consider the fact that the Maryland Mass Transit Authority, which serves Baltimore, has been forced to drastically curtail or even suspend both weekend and weekday service according to Passenger Transport of June 15, 1973, the newspaper of the American Transit Authority. The newspaper also reported that the Cleveland transit system is faced with massive cutbacks, and every day there are more such reports in the press all over the country.

Besides the catastrophic aspects of the crisis, consider the effects of even diminished fuel supplies for buses if more commuters are compelled to use cars. Not only will this worsen the fuel shortage by an inefficient use of existing supplies, it will worsen already terrible downtown inner city traffic congestion, and most awful, will create intolerable air pollution problems and make futile the urban plans to comply with the Clean Air Act of 1970. All this must be avoided.

The problem lies in a double flank attack by the fuel suppliers, whether willfully or not, against governmental motor vehicle fuel purchasing agents. On the one hand, suppliers are refusing to guarantee to deliver the amount of fuel purchasing agents of government divisions believe is necessary, and on the other, are jacking up prices of fuel precipitously. According to Mr. Stanley Zemanski, chief purchasing agent in the Motor Vehicle and Mechanical Division of the Bureau of General Services of the city of Baltimore, the per gallon price of gasoline at the transport level quoted by the city's regular supplier has risen from 11 cents in fiscal year 1973 to 19 cents in fiscal year 1974. Similarly, the price quoted at the tank-wagon level rose from 13.5 cents in fiscal year 1973 to 16.8 cents in fiscal year 1974. The same story, or even worse could be told of many cities. There are even cases where no supplier will bid on a contract, in effect telling organs of government to fill up at retail service stations at retail prices. Whatever the causes of the fuel shortage, this is an attempt to gouge sky-high prices by whiplashing municipal, State, and other governmental levels caught in a price-supply vise.

My bill will serve to guarantee that during this period of acute energy shortages, our public authorities will be assured of first priority in the sale and allocation of gasoline; it guarantees them adequate supplies at fair prices. The formulae used, while complicated-sounding, simply means that refiners must sell to public authorities no fewer gallons of gasoline or diesel fuel than was delivered to them during the base period cited so long as it continues to offer gasoline to any controlled marketer. The price that the refiner may demand of the public authority may be no higher than the average price that the refiner sold the petroleum product to the public authority increased, if at all, by the average percentage price increase of the product sold by the refiner during the period following the enactment of this bill to controlled marketers of the refiner. Hence the bill will not freeze the sale price of fuels at an unfairly low price, but equally, it will not permit public authorities to pay usurious prices or limit the activities of government's much essential functions. The base period was selected to cover the month preceding, the imposition of the original wage and price freeze of President Nixon through phase II of the freeze. It must be remembered that petroleum was held to a 1.5-percent annual permitted price increase after phase I was ended and that this limitation still remains, though superceded for the present by phase 3½.

Thus, if the prices obtained by the Big Eight vertically integrated refiners exceeded that level after June 30, 1972, they did so illegally and because no enforcement of the ceiling by the administration was initiated. So there should be no false sympathy for the oil industry as being unfairly singled out for what may appear to be a "rollback." If it is a "rollback", it is because the industry broke the ceiling. In addition, the legislation states that if during the base period more than 90 percent of the refiner's total sales went to controlled marketers, the refiner must offer to sell at least 10 percent of his current supply to one or more public authorities under the conditions of sale set out above. This will compel the big refining companies which in fact do most of their own marketing, to make available an adequate supply of petroleum from whatever stocks they are able to obtain. Thus, the public authorities will get an effective first priority on supplies, and independent marketers not controlled by the big companies will not have to compete with their scarce supplies if they do not choose to bid for public contracts.

I realize there are many difficulties with guaranteeing at least the supply of the base period at a nonexorbitant rate which is strongly related to the structure of the oil industry. Because the question of controled and uncontrolled suppliers who are essentially middlemen between the refiners and the public authority fuel buyers has not been adequately examined until recently, most notably during the hearings of the House Interstate and Foreign Commerce Committee, I reiterate the bill recognizes that where more than 90 percent of a refiner's total sales of petroleum products went to controlled marketers, the refiner must undertake to offer to sell not less than 10 percent of his current supply at a price determined by the formula as mentioned above. This can only be a temporary measure until the necessary studies on the structure of the oil industry can be completed.

The bill provides as penalty that a violation shall constitute an unfair or deceptive act under section 5(a)(1) of the Federal Trade Commission Act with its appropriate judicial enforcement for noncompliance.

As I have said, the bill will not solve the fuel crisis, will not by itself further the necessary investigation of the oil industry that the Federal Trade Commission and Federal Power Commission are finally beginning to undertake, in addition to the congressional investigation. Further, the methods public authorities have used for purchasing petroleum was based on a time of glut, methods that will now have to be sharply reexamined by these authorities, in particular the expectation of dirt-cheap wholesale prices of gasoline and diesel fuel that was heretofore available. But we cannot permit essential services to halt while accounting methods are changed. Our responsibility is clear.

This bill, which I urge swift passage, assures the States and their political subdivisions as well as the U.S. Government adequate fuel at fair prices until a more comprehensive long-range solution can be found.

HEARINGS ON PUBLIC SAFETY OFFICERS BENEFITS ACT AND POLICEMEN'S BILL OF RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Eilberg) is recognized for 5 minutes.

Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will hold 1 day of public hearings on Wednesday, July 25, to consider: First, H.R. 12 and related bills which would provide a $50,000 death benefit to the dependent survivors of public safety officers; and second, H.R. 163 and related bills which would provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States.

The hearing will be held in room 2226, Rayburn House Office Building, and will commence at 10 a.m.

As my colleagues will recall, a bill identical to H.R. 12 passed the House in the last Congress (H.R. 16932). A similar version passed the Senate and these differences were reconciled at a conference meeting; but since there was insufficient time remaining in the 92d Congress, the conference report was not considered by the House. However, a bill identical to the conference committee agreement passed the Senate earlier this year and is also pending before the subcommittee.

Testimony on these proposals will be received from Members of Congress who wish to appear and from representatives of the Department of Justice.

JEANNETTE RANKIN COMMEMORATIVE STAMP

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. Abzug) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, in memory of the late Jeannette Rankin, the first woman to be elected to the House of Representatives, I am introducing a bill today asking that the Postal Service issue a Jeannette Rankin stamp, to commemorate her long and useful life.

Ms. Rankin was a leader in the suffragist movement in the early 1900's and was highly responsible for the passage of the Montana suffrage law, a law giving women the right to vote 6 years before the constitutional amendment. She was the only Member of Congress to vote against U.S. involvement in both world wars. In 1917 she joined 56 other House Members in voting against U.S. entry into World War I. She declared:

> I want to stand by my country, but I cannot vote for war.

In 1941, in Congress for her second term, Ms. Rankin cast the sole vote against the U.S. declaration of war after the bombing of Pearl Harbor. Whether or not one agrees, one must respect the consistency of her lifelong conviction that violence has never solved human disagreements.

In 1968, when Ms. Rankin was in her late eighties, she led her "Jeannette Brigade" of 10,000, one for each American who had then died in Vietnam in a march on Capitol Hill to protest the war in Vietnam. She said:

> The people aren't really for war, they just go along. But war is evil and there is always an alternative.

Throughout her life she continued to work for that alternative, writing letters, making speeches, organizing citizens to work against war and discrimination. She dared to step outside of the "woman's place" and did what she felt was right. The former social worker said recently.

> If I had my life to live over again, I would do it all again, but this time I would be nastier.

Jeannette Rankin has been a source of strength and inspiration to all of us and will be sorely missed. In this year of rising awareness of women's contribution to society, I feel that it is particularly appropriate to honor this American woman's achievement and influence on a commemorative postage stamp. The text of the bill is attached:

H.R. 9359

A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of Jeannette Rankin

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General is authorized and directed to issue, during calendar year 1973, a special postage stamp in commemoration of the life and work of Jeannette Rankin, the first woman to be elected to the House of Representatives, and a long time advocate of peace.

CONSTRUCTION OF A TRANS-ALASKA OIL AND GAS PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. Dingell) is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, nine of my distinguished colleagues have joined with me in a letter of July 16, 1973, to the chairman, Representative John Melcher, of the Subcommittee on Public Lands of the Interior and Insular Affairs Committee in the House of Representatives in which we state our combined concerns with legislation pending, H.R. 9130, which would authorize construction of the trans-Alaska oil and gas pipeline.

The Senate passed such a bill Tuesday, July 17, 1973, and I believe it necessary that the Members of the House have knowledge of concerns we expressed in our letter regarding the House version of the trans-Alaska bill upon which committee action is nearing completion.

With permission previously granted, I insert the letter at this point with the noted cosigners:

Congress of the United States,
House of Representatives,
Washington, D.C., July 16, 1973.

Hon. John Melcher,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

Dear John: Thank you for this opportunity to comment on H.R. 9130 which is designed to permit the construction of the trans-Alaska pipeline.

Comments re: Title I of H.R. 9130:

Leaving aside for the moment the issue of the bill's adverse effect on the National Environmental Policy Act of 1969 and the issue of whether or not the special legislation is necessary or desirable, it is our opinion, that the bill is far broader than it need be to achieve what we understand to be the announced purpose, namely, to allow construction of the TAPS pipeline across Alaska.

First, the bill is not limited to the Alaska pipeline. Indeed, Title I amends section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185) which now applies to public lands and forest reserves wherever located in Alaska and the 17 western States. But the amendment only peripherally affects the pipeline.

If this bill is justified at all—and we doubt that it is—it is justified on the need to transport oil from the North Slope. No similar pipeline proposal exists, to our knowledge, in the 17 western States. Why then is the bill drafted to cover the public lands and forest reserves in the 17 western States, particularly when the public has not been told by anyone about its effect nationally?

This is a clear example of greediness by the oil industry and the Department of the Interior. They are using the Alaska pipeline issue which is emotionally charged by the so-called energy crisis as a vehicle to devastate the forests and public lands of the 17 western States. If similar legislation is needed for the lower 48 States, let's consider it separately and apart from the Alaska pipeline issue.

Second, in addition to granting authority to approve pipeline rights-of-way, Title I gives the Secretary of the Interior unfettered authority to grant, in Alaska and elsewhere in United States:

(a) Wide swaths of rights-of-way, without any meaningful limitation or guidelines, for O & M activities "after construction" or to "protect the environment or public safety," and

(b) Additional rights-of-way for so-called "related facilities."

This latter term "related facilities," encompasses airports, pump stations, storage tanks (above and below ground), terminals, roads, etc. The bill even provides that they need not necessarily be "connected or contiguous" to the pipeline. Indeed, they might be anywhere in Alaska or "the lower 48." The airports and roads would not be subject to the environmental requirements of the Federal Highway Act or the Airport Development Act.

This is a vast expansion of the present law for oil and gas pipeline purposes. Thousands of acres could be devoted for these facilities in relation to each pipeline.

Third, whatever one might say about having oil pipelines go through the wide open spaces of the unreserved public domain, it is a horse of a totally different color to permit such a result in regard to reserve public lands, including those set aside for the National Park System (e.g. Yellowstone and Glen Canyon), the National Wildlife Refuge System (e.g. the Desert Game Range and the Charles Sheldon Antelope Range), and the Wilderness System (e.g. Petrified Forest National Wilderness).

Section 28 of the 1920 law specifies in the third proviso that "no right-of-way shall hereafter be granted over" public lands and forest reserves "for the transportation of oil or natural gas, except under and subject to" section 28. This means that this Act and Interior's regulations, and no other law or regulation, govern rights-of-way for oil and gas pipelines.

The Interior Department's present regulations are set forth in 43 CFR 2881 and the related regulations entitled "Rights-Of-Way, Principles and Procedures" are set forth in 43 CFR 2800.0–1. 2800.0–5(h) and 2802.1. These regulations leave little doubt that section 28 now applies to these parks, wildlife refuges and other reserved areas. With the expansions contemplated by H.R. 9130, section 28 would enable grants of rights-of-way of huge dimensions for oil and gas purposes through the very areas that Congress particularly intended to protect from such broad intrusions, namely, national parks, recreation areas, monuments, refuges and wilderness areas.

We feel certain that the public would object to such a sweeping result if it was aware of it.

Fourth, all of the above rights-of-way are supplemented still further by temporary permits for use of the public lands "in the vicinity of the pipeline" and the granting of "additional rights-of-way or permits for compatible uses." What are these compatible uses?

Fifth, the bill contains no provision for public participation in the issuance of a permit or right-of-way. Public notice of an application for such a right-of-way or permit is not even required, let alone an opportunity for the public to object to such issuance in writing and at a public hearing.

While it may be argued that such public participation is not necessary or desirable in the case of the Alaska pipeline, such arguments are baseless in the case of applications for rights-of-way, etc., in the 17 western States.

Moreover, there is no citizen suit provision in Title I or provisions for judicial review of the Secretary's actions in carrying out the vastly expanded section 28 of the 1920 Act.

Sixth, the requirement that "the Secretary shall consider the environmental impact" of a pipeline application as required by NEPA is too limiting. It does not apply to the so-called "related facilities" (e.g. airports, storage tanks, etc.) or "temporary" rights-of-way, or "additional" rights-of-way. The impact of the "related facilities" may be far greater than the impact of the pipeline itself.

Seventh, the bill requires notice to the House and Senate Interior Committees (not Congress) where there is an application for a pipeline 24 inches or more in diameter. No provision is made for such notice in the case of the so-called "related facilities."

This provision is a meaningless gesture. If the Committee or any Member of Congress objects to the application, the Secretary can turn a deaf ear and grant the application anyway. Moreover, the Committee can, at any time, waive this notice provision for all such applications, for some such applications, or for one such application.

Such notice provisions are demeaning to Congress. No committee has the capability, time, or inclination to carry out effectively such administrative functions. If, after a right-of-way is granted, it is shown that it should never have been granted and that the Committee routinely allowed the notice period to pass without voicing any objection to it, then invariably the Committee and Congress will get a black eye in the public's view for not being vigilant.

In our opinion, Title I of H.R. 9130 is an open-ended invitation for the oil and gas industry, with the help of the industry-dominated Interior Department, to rape the reserved and unreserved public lands and forests, particularly our parks, recreation areas, monuments, and fish and wildlife lands. We hope that after you review it in light of our comments you will abandon it, or at least go no further than an Alaska-only bill regarding rights-of-way.

Comments re: Title II of H.R. 9130:

In regard to Title II of the bill, which applies only to the Alaska pipeline, we feel certain that you are aware of our views on it. But there are two very significant problems that deserve special consideration.

1. Section 203(c) requires that Interior "include" terms and conditions that will "mitigate any adverse environmental impact."

This provision is too narrow. The obligation should be on the Secretary to include provisions that are aimed at preventing adverse environmental impacts—not just mitigating those that have already occurred.

2. Moreover, we believe that at the very least the bill should include provisions now applicable to leasing on the Outer Continental Shelf concerning oil spills (see 30 CFR 250.43). Under OCS regulations, the lessee is absolutely liable to the United States for the costs of cleanup of any oil spill. Under section 311(f)(2) of Federal Water Pollution Control Act, the pipeline consortium can limit its liability to the United States to $8 million. In Alaska, the Government's cleanup costs could quickly exceed this limitation and the taxpayers would have to foot the bill for the consortium's negligence. This limitation in the FWPC Act was adopted without any consideration of its effect on the Alaska pipeline.

3. Section 206 of the bill would allow the oil companies to export Alaska oil pumped through the pipeline whenever the President finds "that such exports are in the national interest."

We find this wholly objectionable. The oil companies contend that the Alaskan oil is needed to combat the energy shortage. On July 10, 1973, Atlantic Richfield placed a full-page ad in the Washington Post which states:

"What stands between our nation's energy shortage and 10 billion barrels of Alaskan oil?"

Their obvious answer is the lack of approval of the pipeline.

Certainly witnesses appearing before the Committee on behalf of the bill made it clear the oil to be carried by the pipeline is not for export. Such comments by Representative Young from Alaska and Governor Egan, himself, are spread widely upon the hearing record.

If Congress approves the pipeline, then Congress should insist that the oil not be exported *unless* Congress, not the President, authorizes such exports by a later statute. Let's not give the President such a blank check.

We hope that our comments are of help to you.

With every good wish,

Sincerely yours,

List of signers of July 16, 1973, letter to Chairman John Melcher of the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs in regard to H.R. 9130:

Representative John D. Dingell.
Representative John P. Saylor.
Representative John E. Moss.
Representative Martha W. Griffiths.
Representative Joseph Karth.
Representative Silvio O. Conte.
Representative Henry S. Reuss.
Representative Ken Hechler.
Representative Les Aspin.
Representative William D. Ford.

PERSONAL FINANCIAL DISCLOSURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. Owens) is recognized for 5 minutes.

Mr. OWENS. Mr. Speaker, I pledged in the campaign to be open about my activities and finances, and said that I would use my resources to the limit to serve the people of my district. In addition to my personal financial disclosure, which I have already released and will continue to release annually so long as I am in office, I intend to release reports detailing the activities and expenses of my office every 6 months.

Categories reported on include my voting attendance record, bills sponsored, staff and office expenses, as well as such items as days spent in the district, town meetings held, mail and telephone calls handled, and volunteer assistance:

Semiannual Report on Office Activities and Expenses: January Through June 1973

SUMMARY OF ACTIVITY AND EXPENSES IN DISTRICT OFFICES—3

Activity

Personnel:	
Full time	3
Part time	3
Interns (non-salaried)	11
Total	17

Letters received (average week)	126
Letters sent (average week)	143
Telephone calls received (average week)	570
Telephone calls placed (average week)	604
Memos (inter-office) (average week)	14
Office visitors (average week)	53

Expenses

Equipment and furniture (includes present value of furniture and equipment left by predecessor):

Allowance: $15,000.

Utilized: $14,288.87.

Carpets and drapes (to replace original; installed 9 years ago):

Allowance: $4,500.

Utilized: $3,000.90.

In-State activities

Days working in Utah:
January 8 days.
February 7 days.
March 10 days.
April 11 days.
May 6 days.
June 5 days.

Town Meetings: Salt Lake County (14), Murray (2), Sugarhouse, Skyline, Judge Memorial, Brighton, University, Avenues, Rosepark, Magna (2), Sandy (2), and Kearns.

Beaver County, Millard County, Juab County, Washington County, Iron County, Tooele County, Wayne County, Piute County, Garfield County, and Kane County.

SUMMARY OF ACTIVITY AND EXPENSES IN WASHINGTON OFFICE

Activity

Personnel:	
Full time	10
Interns	5
Total	15

Letters received: 325 (average week).

Telephone Calls Received: 950 (average week).

Office Visitors (to Date): 19 average week.

Constituent Requests: 10 (average week) for government material.

Constituent Cases: 5 (average week).

71 bills sponsored or cosponsored.

13 Resolutions sponsored or cosponsored.

Expenses

Equipment:

Allowance: $5,500.

Utilized: $5,121.

Equipment (leased): Furniture, carpet, and drapes (provided):

Allowance: $350/month.

Utilized: $316/month.

Voting statistics

	Percent
Voting attendance record[1]	89
Attendance record	87

[1] No legislative vote missed was closer than 130 votes.

Total salary schedule

Allowance: $82,584

Utilized: $82,115.

RULES COMMITTEE MEETS ON BUDGET PROBLEM

(Mr. MADDEN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MADDEN. Mr. Speaker, tomorrow, Thursday, July 19, the Committee on Rules will meet for opening hearings on H.R. 7130, room H313, Capitol Building at 10 a.m.

The purpose is to start hearings on the "opening drive" to bring "control of the budget back to the Congress", as the Constitution intended.

Congressmen ULLMAN of Oregon and WHITTEN of Mississippi, cochairmen of the Joint Study Committee on Budget Control, will be the lead-off witnesses, followed by Co-Vice Chairman HERMAN T. SCHNEEBELI of Pennsylvania. The 32-member joint House and Senate committee, which held extensive study sessions over the past several months, reported H.R. 7130 without a dissenting vote.

Congressman MADDEN emphasized that the House Committee on Rules has "exclusive jurisdiction over such legislation pertaining to the proposed budget solutions and improvements" in the huge financial expenditures of the Federal Government.

Chairman MADDEN and Congressman MARTIN, the minority leader of the Rules Committee, are in agreement that the Rules Committee should hold "meaningful and extended hearings" to consider testimony from Members of both houses of Congress and from certain heads of the executive departments with the purpose of "utilizing all practical methods to curtail wasteful expenditures without handicapping the necessary and helpful activities" of Federal operations. Chairman MADDEN also stated that Members of the Rules Committee, the Ways and Means Committee, the Appropriations Committees, and other committees of the House and Senate are in favor of "restoring the budget control of the Federal Government to the Congress of the United States."

H.R. 7130 creates a standing Committee on the Budget in both the House and the Senate, and provides for a review by Congress of annual tax and expenditure policies on an overall basis.

THE HONORABLE JOHN A. HANNAH, ADMINISTRATOR, AGENCY FOR INTERNATIONAL DEVELOPMENT, ADDRESSES THE GRAND RAPIDS ROTARY CLUB

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, AID Administrator John Hannah recently was kind enough to speak to the Grand Rapids Rotary Club in my hometown of Grand Rapids, Mich. In that speech, Mr. Hannah eloquently told his audience what AID is all about and why assistance to the developing countries of the world is important. With the unanimous consent of the House, I would like to make Mr. Hannah's speech available to members of the House at this point in the RECORD. Mr. Hannah's speech follows:

ADDRESS BY THE HONORABLE JOHN A. HANNAH

Fellow Rotarians:

A few weeks ago as President Nixon forwarded to Congress his U.S. Foreign Assistance Program for next year he invited the joint leadership of both parties to meet with him at an early morning meeting in the White House. Your Congressman, Jerry Ford, as the Republican Leader of the House was among those that participated.

After the President, and Henry Kissinger, and Secretary Rogers spoke, the President asked me to capsulize what A.I.D. is all about, and why it continues to be of high priority in U.S. foreign policy.

After that meeting, Jerry Ford asked me as a native of Grand Rapids if I would agree to accept an invitation to speak on this subject to this Rotary Club. My response was sure—if I am invited.

I do not know how many times I have been before this Club—but it is many times talking about many things—about education, about M.S.U., about U.S. and Canadian Defense, about the U.S. Civil Rights Commission, about agriculture, and now today it is "our interest, yours and mine, in what happens to and in the poor countries of the world." President Truman called them the underdeveloped countries. Then for years they were called the less developed countries or the LDCs—now they are often referred to as the poor countries or the developing countries.

There are more than 100 of them. They contain 74 percent—almost three-fourths of the world's population. They occupy two-thirds of the earth's land. They control vast amounts of natural resources. They vary from countries with great potential like Brazil, and Zaire, and Nigeria to countries of almost unbelievable poverty like Haiti, and Chad, and Bangladesh.

Many of these countries have made significant progress in recent years.

In the last decade, the developing countries if averaged all together have progressed faster than the developed countries did at comparable time periods in their history. They have increased their manufacturing output by 92 percent. Their food production has increased by 36 percent. Average life expectancy has continued to improve and has now reached 57 years.

Commendable as this is, it is a silver lining within some very large clouds.

The common condition of the developing countries remains mass poverty. The benefits of growth have been offset by population increases and uneven development which has too often excluded those at the lower end of the economic ladder.

Because of population growth, per capita food production is barely higher today than it was ten years ago.

The developing countries have doubled and tripled the size of their school systems in the past ten years. But there are more children out of school today than there were ten years ago. There are no schools at all for more than 300 million of their children. Let me repeat that—300 million of their children will not go to school. For them there are no schools, no teachers, no books.

There is mass unemployment as young workers flood the job markets. The rates for unemployment and underemployment range up to more than 30 percent in many developing countries—higher than the United States experienced in the worst years of the depression.

Mass unemployment is perpetuating mass poverty which in turn perpetuates mass malnutrition, ill-health, illiteracy and the whole catalogue of human misery which comprises underdevelopment.

Some forty percent of the total population in all developing countries is caught in this cycle of poverty. Their numbers are growing.

Up to a billion and a half people in the less developed countries are generally hungry.

Half of all mankind receives no health care at all.

Some of the problems faced by the developing countries are problems which the developed countries did not confront in their early development.

The labor forces in many countries are growing at far faster rates than was ever experienced in the developed countries in their early development.

In education, it is impractical for the poorer countries to continue to emulate the education systems of America or Western Europe. For a country with per capita GNP of $200 per year or less, it is futile to attempt universal education in Western type schools with individual class rooms with 30 students per room, teachers with graduate degrees, visual aids, and all the rest. Their economies cannot support our kind of mass school system with its per pupil cost of $800 or $1000 or more per year. They require low-cost systems of education if those countries are to roll back the tide of illiteracy.

In health care, Western-style medical systems reach less than ten percent of the populations of the developing countries. Our high-cost, hospital based, curative medical system is not the answer to the needs and resources of the poor developing countries.

Major problems facing the poor countries have either not been duplicated in Western experience or are not solvable with existing Western technology and institutions. They are different problems. They require new types of public and private institutions, new policies for allocating resources, new means of delivering services, and new technologies.

On the other hand, twenty-five years of growth and coping with problems of development have made the developing countries increasingly competent. Across the globe in most of the less developed countries, cadres of bright, young, energetic, well-trained technicians and managers have moved into positions of responsibility. They have confidence in their abilities to plan their own country's future and manage its resources for the benefit of their own people.

There is a sense of distinctiveness, self-assertiveness and independence among the developing countries.

In summary, the developing nations today present: first, a record of progress; second, a continuation of massive problems, many of which require new solutions; and, third, a sense of self-assertiveness and independence as they face these problems.

Now what about the other side of the ledger? What about the developed countries? What about the role of the United States?

The United States began our development assistance programs for the LDCs as President Truman's Point 4 after the success of the Marshall Plan in Western Europe and our assistance help to Japan. Later, other developed countries were encouraged to join in this effort. Over the years, the others have continually increased their contributions. Measuring assistance as a percentage of each country's G.N.P., the United States now ranks twelfth among the sixteen major aid-giving countries. We are behind in order Portugal, France, The Netherlands, Australia, Belgium, Sweden, Denmark, the United Kingdom, Canada, West Germany, Norway, and then the United States followed by Japan, Italy, Switzerland and Austria.

New international institutions—the World Bank, the Inter-American Development Bank, the Asia Development Bank, the African Development Bank—are now enduring institutions. The UN agencies are all playing significant roles—including those particularly concerned with development—UNDP, FAO, WHO and UNFPA. About 25 percent of all aid from the developed countries to the LDCs flows through the international institutions.

Much of the machinery for a systematic attack by rich and poor countries on the problem of world poverty is in one place.

The key question is will this country give this problem the priority it deserves? What should we be doing?

We in this country really have no acceptable alternative other than to devote a modest portion of this country's resources and a modest part of our science, technology, management skills, and research competence to help them solve some of the basic human problems which afflict the poor countries. This effort must be in response to their requests and in coordination with the efforts of other developed countries and with the UN specialized agencies and the World Bank, and the Regional Development Banks.

U.S. A.I.D. is the agency of our government charged with the responsibility for handling the U.S. Government role in assisting the poor countries.

We are convinced that development assistance must be "people oriented." It is people that are of first importance in all of the less-developed countries of Africa, Asia and Latin America.

The developing countries must be responsible for their own development. We and other outsiders can assist—but the problems are theirs and must be solved by their people and largely with their own resources.

Our first emphasis is to deal first with the problem of adequate food and nutrition for all people.

At present population growth rates, world food production will have to double by the end of the century just to maintain the present inadequate level of diets, and if we are to have adequate diets, food production must increase by two and one-half times. The end of this century is just 26 years and 6 months ahead. Since availabilities of new cultivatable lands are limited, the increase will need to be achieved by breakthroughs in agricultural productivity and technology.

Providing adequate food is the first requirement in meeting the needs of people.

A dynamic agriculture is a prime requisite for energizing the whole of development.

In most developing countries agriculture must be looked to not only for food, but also for a major assist in providing jobs for the unemployed.

The second priority of our bilateral development assistance program continues to be dealing with the population problem and helping the developing countries achieve minimum standards of health.

The population of all the LDCs increases by about 1.3 million people each week. That means 1.3 million added human mouths to feed each week every month of every year. India alone adds one million more people to feed, clothe and house every 28 days. The developing countries account for about 85 percent of the annual world population growth. World population will climb from 3.7 billion people today to 6.3 billion by the end of this century. It will reach ten billion people in the next fifty years, almost three times the present total, unless both the developed and developing countries can lower their birth rates to an average of two children per family within the next decade.

The population boom is the most intractable problem facing the developing countries today. Curbing it is only partly a matter of increasing the availability of contraceptives and family planning information. High population growth is inextricably linked to the problem of health and the problem of poverty generally. Low levels of income and low levels of health do not act as incentives to limit families. This is particularly true where the only security for old age is the hope to have two sons to share the responsibility for caring for the aged parents. Half of all deaths in the developing world are accounted for by children under five. An effective population program must be concerned with the health and welfare of the whole family—the living children and the parents, particularly the mothers.

Another high priority effort will continue to be education and human resource development. These programs concentrate on helping to develop new means of low cost education. It is futile to encourage the poor countries of the world with per capita GNP of $100 per year or less to build U.S.-type elementary or secondary schools that will cost far more to operate than the resources of the country can provide.

We will continue training opportunities in this country or third countries for large numbers of middle-level technicians almost across the board in government and all areas of development.

A.I.D. traditionally supports approximately 13,000 trainees per year from the poor countries in training programs in this country or in third countries. This training has helped to identify and finance the training of technicians and administrators who are today the backbone of trained personnel in most of the LDCs. More than 160,000 of these former trainees are now working in their own countries. They are cabinet ministers, members of the legislative bodies, university presidents, and deans and faculty members, rural health officers, agricultural technicians, engineers, teachers, government officials, and all the rest.

The overall direction of U.S. A.I.D. assistance is toward a highly focused program dedicated to doing a better job of applying the scientific and technological resources of this country to a few of the major human problems in the LDCs.

With the end of the war in Vietnam a major task in the months and years ahead must be reconstruction, rehabilitation and humanitarian development in Vietnam, Laos, and Cambodia. Keeping our commitment to assist in reconstruction of the countries of Indochina—hopefully with the participation of many or all of the developed countries—is vital to maintaining peace.

We are planning four types of programs in South Vietnam, Cambodia, and Laos. These are: (1) humanitarian programs to resettle refugees; (2) reconstruction of transport, communications and other facilities damaged by the war; (3) capital transfers to stabilize the economy and reduce inflation; and (4) long-term development programs.

As you know, we have resumed discussions this week with the North Vietnamese on possible assistance to them as part of the joint agreement for preserving peace in Indochina. Assistance to the North Vietnamese will be proposed to the Congress only if the President is completely satisfied that the terms of the peace agreement are being kept.

Another major task in development assistance is to open up the international economic system in ways which permit the developing countries to expand their trade, increase private capital flows, and gain increased resources for development.

For the developing countries trade is more important than aid. Export earnings account for nearly four-fifths of their total foreign exchange earnings.

The President has proposed to the Congress that—in conjunction with other developed nations—we adopt specific tariff preferences for the countries. These preferences would allow developing countries to better compete in the developed world's markets.

There are other worthy proposals designed to increase the flows of resources to the developing countries. These include helping developing countries borrow on world capital markets, providing developing countries with special access to SDRs (Special Drawing Rights), the new money created by the IMF (International Monetary Fund).

Such mechanisms could provide additional resources for growth in the developing countries.

There is no question that the amount of resources which will be needed from the developed countries in this decade in order for the developing countries to make any real progress in solving their poverty problems is significantly higher than that now flowing through traditional aid channels.

This brings us to the fundamental question. Why should the United States persist with foreign assistance? At home we are involved with problems of our own development and the recurring questions of how to provide decent housing, better transportation, better social services, clean air, clean water and all of the other needs of our American society. Resources are scarce; worthwhile programs go unattended because of lack of funds. The advisability of diverting even a small fraction of our resources to development programs overseas will continue to be vigorously questioned by many.

It is my deeply held conviction that the future of this country cannot be separated from the future of the world. Meeting the challenge of underdevelopment is one of the requisites for building a stable international order and an expanding international economy.

With six percent of the world's population, the United States consumes nearly 40 percent of the world's annual output of raw materials and energy. Increasingly we depend on other countries for these supplies. U.S. imports of energy fuels and minerals are expected to increase from $8 billion in 1970 to more than $31 billion by 1985. The known reserves of many minerals are largely located in the developing countries. Chile, Peru, Zambia and Zaire supply most of the world's exportable copper. Malaysia, Bolivia, and Thailand account for 70 percent of the tin in international trade. By 1985 we may be importing half or more of all of our petroleum imports from a dozen countries, most of them until relatively recently very poor and undeveloped.

The LDCs are becoming increasingly important markets for U.S. exports. In 1970, 30 percent of all U.S. exports went to the developing countries. U.S. corporations have invested more than $30 billion in the developing countries. These investments are growing at about 10 percent a year.

The solution of such world problems as environment pollution, the development of a stable monetary system, narcotics control, and security of travel requires broad international cooperation, including the developing countries. For all of these political, economic, and moral reasons, a sustained U.S. response to the challenge of underdevelopment is as much in our own interest as it is in that of the developing nations.

Looking further ahead, the key question for all of us is: What will life in these United States be like for our children and grandchildren ten, twenty or thirty years from now?

That question cannot be answered without first answering a prior question: What will the world be like then?

Let's look for a moment at the world population problem.

It took thousands of years for the human population of the whole earth to reach the one billion mark. There were 1.6 billion people on the earth at the beginning of this century. As mentioned earlier, the world population will grow to 6.3 billion people by the year 2000 and to more than ten billion by 2020. This is an awesome strain to place on the earth's resources.

We cannot ignore this worldwide problem. It is unrealistic to think that thirty years from now the people in any developed country—including this one—can live comfortably while across the continents of Asia, Africa, and Latin America, some five billion other people struggle to eke out an existence.

If the poor nations of the world do not progress toward lives of better quality and at least have hope for better lives for all of their people, there is no way the developed world can immunize its citizens from the consequences of this failure.

We have no alternative but to join with the peoples of the other developed nations of the world in a common effort to do our fair share to help the peoples of those countries who want to help themselves harness their own resources, to move in the direction of improved quality of lives for all of their people.

Diseases ignore national boundaries.

Polluted air and polluted waters flow freely across national boundaries.

Human problems do not stay bottled up behind national borders.

The impact of uncontrolled human reproduction vitally affects the well-being of all nations.

The sense of injustice, frustration and bitterness which accrues when people in the less-developed world are unable to see progress toward a better life cannot be bottled up. It produces violence. Violence, too, flows across national borders.

Your children and grandchildren and mine must live in the same world with the children and grandchildren of the peoples of all the rest of the world, all continents, all races, all colors, and all religions.

Like it or not this is one world, and the only one we know.

This is one of the most important challenges that faces all of us as individual citizens—and that now faces our National Government, the Congress and President Nixon.

It should be a concern of high priority to every Rotary Club and every Rotarian. The fourth object of Rotary reads—"the advancement of international understanding, good will, and peace through a world fellowship of business and professional men united in the ideal of service."

That is what U.S. A.I.D. is all about.

"BAKE AND TAKE"

(Mr. BURLESON of Texas asked and was given permission to extend his remarks at this point in the RECORD and to include printed matter.)

Mr. BURLESON of Texas. Mr. Speaker, Mr. Dwight Hamilton, a constituent and friend in Olney, Tex., recently sent me the following, written by Mr. David Penn, editor of the Olney Enterprise.

It is so unusual, Mr. Speaker, that I think it deserves to be a part of the CONGRESSIONAL RECORD.

PENN POINT

(By DHP)

In our time when it seems that the world is being overrun by man's inhumanity to man, it is refreshing to read about some of the good things about man.

We received in the mail this week an announcement from the Texas Wheat Producers Board of a project called "Bake and Take" and set up April 27 and 28 for the observance. Object of Bake and Take is for women to bake their favorite bread, cake or cookie recipe and then take it to friends, shut-ins, nursing homes or neighbors.

The announcement said one purpose is to show a little extra love, thoughtfulness and remembrance. As a thought, perhaps a short visit will also add an extra dividend. Your reward would be immeasurable personal satisfaction for having shared your love and talent with others.

We think this is an excellent idea and maybe some of our readers will want to participate and receive the reward of sharing.

THE URGENT NEED TO PROVIDE RIGHTS AND PROTECTION FOR THE DAY LABORER

(Mr. BADILLO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BADILLO. Mr. Speaker, throughout all of the national debate and concern over the continuing unemployment crisis and the great need to create significantly expanded employment opportunities, one group has been virtually ignored by government, the labor movement, management, and it seems, by society itself. I refer to that sizable element of the American work force—numbering in the tens of thousands—who are hired by a variety of agencies which, in turn, send them out to work on the premises of and under the supervision of other employers.

These day laborers or dayworkers—the majority of whom are unemployed and underemployed men, frequently down on their luck and attempting to earn enough money to eke out a minimal existence—perform manual labor such as unloading freight cars, moving furniture, packing boxes, shoveling coal, or any other type of temporary work which an employer needs done and which is not performed by a permanent employee. They hire out 1 day at a time and although they may work 8 hours on a job, they actually spend 12 to 14 hours in waiting to be called for work, and traveling to and from the day's place of employment.

Day laborers have been characterized as being at the bottom of the economic barrel. Unemployed and, frequently, unemployable, they usually lack education or marketable skills; they may be in poor health and often face language barriers. Because they are desperate for any form of work, they are ripe for exploitation. I understand that only one State—New Jersey—regulates temporary help services to any meaningful degree, although a few additional States are apparently considering taking steps to extend some forms of protection to day laborers. In most cases, however, temporary help supply firms are not only unsupervised but are often specifically exempted from labor protection laws.

Studies reveal that temporary dayworkers often have no workmen's compensation protection, even though they frequently work in very unsafe circumstances. Evidence also exists that they may fail to receive the protection to which they are entitled under social security and similar statutes. Some of the temporary help supply firms—particularly the fly-by-night outfits and marginal operators—pay workers the bare minimum wage while receiving twice that amount and more from their customers for the worker's services.

It is clear that these and other abuses must not be permitted to continue and that affirmative action must be taken to provide meaningful and effective protection for day laborers. Accordingly, I am introducing legislation—the Day Laborer Protection Act—aimed at protecting the day laborers from the abuses and exploitation they are currently forced to endure.

One of the significant features of this measure is to make the minimum wage more meaningful to dayworkers by requiring that the worker be paid for travel time to and from the job after he has been hired as well as for the waiting time. Each hour spent waiting to be sent to a job would count as a half hour in computing the hours worked that day. This is not an unrealistic requirement as dayworkers must frequently wait for 2 or 3 hours or more before being hired for a job and must then contend with as much as an hour in travel time each way.

In addition, the Day Laborer Protection Act prohibits using dayworkers as strikebreakers, forbids discrimination in hiring, requires workmen's compensation coverage, affords day laborers the same rights other workers have to organize and bargain collectively, and extends the protections afforded by the Fair Labor Standards Act and the Occupational Safety and Health Act, among other provisions.

Mr. Speaker, the thrust of this legilation is to protect dayworkers from marginal operators who would tend to abuse them in order to cut costs and increase their profits. Frankly, some of these firms amount to nothing more than slave shops and firm regulations must be imposed.

We must not, however, stereotype all temporary help supply firms or allow their images to be tarnished by the unethical and discriminatory operations of a few. There are many fine, reputable agencies which pay above minimum wages and look after the welfare of their workers. It would seem that they, too, would benefit from legislation of this nature by rooting out the undesirables.

In the last Congress the Special Subcommittee on Labor held 2 days of hearings on legislation initiated by our former colleague, Abner Mikva of Illinois. Unfortunately no further action was taken and the issue died. I strongly believe, however, that we cannot continue to neglect these all-too-often exploited workers, particularly in view of the failure of the majority of States to take appropriate action in this area. In New York City alone there are estimated to be between 10,000 and 25,000 dayworkers, the greater majority of whom, I am afraid, do not employ even a modicum of protection from wage, occupational safety, or various other abuses. Far too many of these workers are the hapless victims of unscrupulous hiring agencies and, having no other possible source of employment, they are unable to object or secure their rights themselves.

A number of similar measures have already been offered by some of our colleagues and I am hopeful that this renewed interest will initiate further action on the part of the Congress to move to provide this urgently needed protection for the rights and working conditions of day laborers.

SOCIETY FAILING CHILD ABUSE VICTIMS

(Mrs. SCHROEDER asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, earlier this year I introduced the Child Development and Abuse Prevention Act (H.R. 6380) with 49 cosponsors. I am pleased to note that the Senate, under the vigorous leadership of Senator Mondale and his Subcommittee on Children and Youth, passed on July 14 the substantially similar bill, the Child Abuse Prevention and Treatment Act (S. 1191). This legislation, which will provide financial assistance for demonstration programs for the prevention, identification, and treatment of child abuse and neglect, will be moving soon for hearings and action in the House.

It has been estimated that 60,000 cases of child abuse are reported annually. The authorities agree that this figure represents only a fraction of the total number of cases of parental maltreatment. In a recent report to the American Medical Association, the head of New York City's special task force on child abuse estimated that 700 children in the United States will be murdered this year because of vicious beatings or other maltreatment by their parents, making child abuse one of the most common causes of death in children today.

Even in Colorado, which has a comprehensive reporting law and is the home of two of the most widely acclaimed national child abuse centers in the country—the National Center for Prevention of Child Abuse and Neglect at the University of Colorado Medical Center, and the children's division of the American Humane Association—cases still go undetected, or, even if reported, are not acted upon until it is too late. I am inserting in the Record at the end of these remarks an article from the Denver Post describing the tragic case of a severely abused Boulder child who eventually died from multiple beatings inflicted by his stepfather. Even though the proper authorities were notified, the steps that could have saved this boy's life were not taken in time.

This failure to meet the desperate need of an abused child, one of many horrifying stories reported recently by the press, underlines the urgent need for legislative action. The problem is national in scope, affecting equally urban and rural dwellers, the rich and the poor. For too long our society has repressed awareness of this brutal and shocking treatment of so many of its children. One of the most appalling aspects of the problem is that it could largely be prevented. Studies have shown that most abusing parents were themselves abused as children. This cyclical pattern of violence can be broken. The Denver center has found that it is able to return 90 percent of the abused children to their natural families within 8 months without any repetition of abuse.

Although there have been some good and innovative programs, most current efforts are unfocused and ineffective. Federal support has been limited to a $507,000 portion of the meager sum of $46 million available for child welfare and protective services through title IVA and IVB of the Social Security Act. The Child Development and Abuse Prevention Act would provide Federal moneys and resources to serve as a catalyst for the development of a more effective and comprehensive solution. First, it would establish a National Center on Child Abuse and Neglect to serve as a clearinghouse for the compilation and distribution of information on child abuse programs, research and training materials.

In addition, it would authorize grants for demonstration programs designed to prevent, identify, and treat child abuse and neglect. These grants, available to both public and private nonprofit organizations, could be used for training professional and paraprofessional personnel in the fields of medicine, law, and social work, the multidisciplinary approach found so rewarding in the Denver center. They could also be used to make trained personnel available as advisers to small communities which cannot support a full-time team of workers, and for other innovative programs. The bill also creates a National Commission on Child Abuse and Neglect to study the effectiveness of existing reporting laws and programs, and the proper role of the Federal Government in assisting State, local. and private efforts.

Suddenly, after bills calling for a strong Federal effort had been introduced in both the Senate and the House with a great deal of support, and after extensive hearings into the need for a Federal program had been held by the Subcommittee on Children and Youth, the Department of Health, Education, and Welfare announced in June a new $4 million initiative in child abuse. However, in response to inquiries, HEW could not specifically identify where these funds would come from—presumably from existing programs since no overall increase was budgeted—or precisely how the moneys would be used. Considering present needs, the HEW proposal, although a step in the right direction, is totally inadequate. And in view of current needs, the Child Development and Abuse Prevention Act's authorization of $90 million over a 5-year period is a modest yet realistic approach to resolving the problems of child abuse and neglect. As an investment in the future of thousands of our children, it must not be denied.

The above-mentioned newspaper article follows:

[From the Denver Post, July 2, 1973]

Society Failing Child Abuse Victims, Doctor Says

(By Jane Cracraft)

Boulder.—"Society failed Timmy Timko and I think I failed him, too," said Dr. Gilbert J. Kloster, who treated the 4-year-old Boulder boy for burns in October, 1971, and then, four months later, tried to save his life when he was dying from head injuries.

Timmy was a victim of child abuse.

On Wednesday, his stepfather, Michael Adrian, 31, pleaded guilty to voluntary manslaughter in Denver District Court. His case was moved from Boulder because of pretrial publicity. Midway through the trial, Adrian changed his plea.

Adrian has applied for probation.

MULTIPLE BLOWS

Dr. Kloster testified at the trial that the boy died of injuries caused by "multiple blows around the head."

With the trial over, Dr. Kloster consented to an interview about his involvement in the case.

"As a plastic surgeon, I didn't think I'd ever become involved in a child-abuse case," Dr. Kloster said. "I wasn't familiar with the law requiring the reporting of cases, and I didn't know how to pursue the case to find out what happened. But I've learned a lot since October, 1971."

He explained that he was called in on a case involving a badly burned child, who turned out to be Timmy Timko. He saw the child in the hospital and when he asked him how it happened, Timmy said, "He sent me to the shower."

STORY SUSPICIOUS

Dr. Kloster said that was consistent with Adrian's story that Timmy had been burned by hot water in a shower.

"But there was something strange about the way the child said it. It didn't sound quite like the typical story of turning on the water in the shower and getting burned. I should have pursued it further with him and said, "Now that's strange. How did it happen?"

Dr. Kloster said that while the boy was in the hospital he became aware of concern on the part of nurses and the child's natural father—who was living in the community at that time—that Timmy's injuries weren't accidental.

The physician said the case was reported to the Boulder County Welfare Department, and an investigation followed.

"They followed the family through January 1972, and then reported to me that everything seemed to be all right," the doctor said. He added that he was told there didn't seem to be enough evidence to take the case to court, at that time.

At one point, Dr. Kloster said, a welfare case worker asked him to go along on a visit to the family.

"We talked to the mother and stepfather for about an hour and a half," Dr. Kloster said.

By coincidence, on February 4, 1972, Dr. Kloster, who is chairman of Community Hospital's emergency room department was working with another patient in the emergency room when an ambulance call came in.

"It was a busy time of the evening and we had no space available for a critically injured child, but when we heard that one was coming, we moved another patient out of the emergency area," he said.

Dr. Kloster added that the child wasn't accompanied by a parent and they didn't know who he was.

RECOGNIZES SCARS

"I didn't recognize him. You don't look at a child on death's doorstep and think that you know him. But while another doctor and I were working on him, we turned him over, and the burn scars struck me. I know it was Timmy."

Doctors worked on the child through the night, but they were unable to save his life. At a coroner's inquest a few days later, a Boulder pathologist testified that the boy's brain was swollen to about twice its normal size because it was full of fluid resulting from blows to the eyes and head. The pathologist's report also described bruises on all parts of the boy's body.

At the inquest, the mother, Mrs. Elizabeth Timko Adrian, testified that when she left for her job with an airline at Denver's Stapleton International Airport the morning of Feb. 4, Timmy seemed "normal" to her. She left the child in the care of his stepfather, she said.

Mrs. Adrian was charged with child neglect in the case, but was acquitted by a judge in Golden District Court. Her trial, too, was moved from Boulder because of publicity.

The Adrians reportedly moved to California when they left Boulder, shortly after the tragedy. Adrian had been manager of the Evans Learning Center here.

Mrs. Timko's other child, a daughter a year older than Timmy, was removed from the home by welfare workers immediately after Timmy's death, and now lives with her natural father, who has remarried and moved to Kansas.

Looking back on the boy's death, Dr. Kloster said he can't get over the idea that there might have been something else he could have done to protect Timmy.

"In my stupidity, I may have overlooked something I could have done," he said.

"I don't suppose one doctor out of 10 or 15 in this community is familiar with the child abuse law or prepared to deal with one of these cases. We think of this as something a pediatrician has to handle. But any physician has the potential of coming across a child-abuse case—and no one can pass up the signs of abuse—because the same thing could happen as what happened to Timmy."

MOVING AHEAD WITH SOLAR ENERGY

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, as a former member of the Science and Astronautics Committee's task force—now subcommittee—on energy, it was my privilege to spend a year and a half of extremely enlightening study of the Nation's energy problem, which has now become critical. Conclusions of the task force were ably reported and summarized in its December 1972 report, which was printed this year as committee print 89–612.

Of all of the conclusions in the task force report, the one most strongly impressed on my mind is the importance of moving much faster to develop ways of using sunlight as a major source of energy. Solar energy is nonpolluting and inexhaustible. All we lack is commercially proven technology for concentrating it. With only a fraction of the expenditure the Government now makes to develop the liquid metal fast breeder reactor, a dangerous and polluting process at best, we could develop the technology for the practical use of solar energy. Already in Japan over a million homes are heated by solar energy.

In a recent editorial, inspired by the opening of the U.N.'s Conference on Solar Energy, the Akron Beacon Journal wrote an editorial which places the whole question of priorities in energy research in better perspective than any other journalistic statement I have seen. I include the editorial in the RECORD immediately following these remarks:

SUN IS AN ENERGY SOURCE WE NEED TO LEARN TO USE

In a UN-sponsored conference, scientists from three dozen nations are bumping heads in Paris this week over how to harness the sun to pull the earth out of its energy troubles.

It's about time, and we hope Washington is listening.

The "energy crisis" Americans are hearing so much about these days may be symptomatic of the real underlying trouble, or maybe no more than a momentary jolt from monumentally bad management of Earth's limited fossil fuel resources.

But presently—and at the rate at which energy consumption is rising the day is no longer far off—man is going to run out of mined fuels.

Gas and oil will be the first to go. Their practical exhaustion point could be within the lifetimes of many now alive.

Coal will last much longer, but involves troublesome difficulties in use. No effective clean way has been found to make use of most of it. Some day it too will be exhausted.

Nuclear energy, we keep hearing, could become man's energy salvation. But this, too, depends on limited resources.

The earth's supply of fissionable uranium, the starting fuel for all nuclear energy that has been harnessed for non-explosive use so far, is very small. Even the "fast breeder" process that will stretch the supply cannot stretch it without limit. At some point we'll run out.

Thermonuclear energy, still hardly more than a dream, would make use of more plentiful fuels, but even these are ultimately exhaustible.

Meanwhile all of these generate environmental problems.

Those involved with gas, oil and coal need no reviewing. Those involved with nuclear energy have been grossly exaggerated by the over-excitable—but they include at least one large and embarrassing problem: No satisfactory ways has been devised to get rid of the final radioactive waste.

The only permanent answer to both of these problems is direct use of solar energy.

The sun will be in business longer than Earth will; it is a steady energy source more permanent than the planet. And it is the only such source available.

Until mankind gets its "energy account" in balance, drawing its energy from new solar input, the account will always be in danger of bankruptcy—exhaustion of its reserves of old solar energy stored in fossil fuels.

Further, it should be possible to harness solar energy in such ways that the destructive effect on the environment is negligible. It need not generate wastes to contaminate air and water—and the heat balance, though different in detail, would be unchanged in sum.

Is there enough power from the sun? Indeed there is.

The sunlight falling on Lake Erie alone amounts to more than 300 times the total energy consumption of the U.S.; a harnessing process using no more than a 10,000th of the nation's surface would need to reach no more than 10 pct. efficiency to meet the nation's needs.

Year-round, a typical Akron home catches enough solar energy to supply from 10 to 30 times all its power needs.

So far the United States has paid very little attention to the possibilities—possibilities that admittedly call for new breakthroughs in technology before they can be realized. So far it has not been "practical."

Across the nation, only a few "cranks" are even using the sun for home-heating. The only common application is water-heating in the South and Southwest.

And here's how official Washington rates the priority of solar energy: The fiscal '74 Nixon budget asks $560 million for nuclear energy research—and $15 million for solar energy research.

It's time that the nation which is the world's biggest energy user—and which will feel the pain first and worst when the shortages become real—started taking solar energy seriously.

CUTTING OVERSEAS TROOP LEVELS

(Mr. DELLUMS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, as a member of the Armed Services Committee, I strongly feel that one of the great tasks confronting Congress, is to cut down on our swollen military presence overseas. We have about 600,000 military personnel stationed all over the world. For the most part, these men contribute neither to our own security nor to the security of the host country. Their presence in such huge numbers represents a squandering of taxpayers' money, and a waste of the men's time. I have offered the following amendment to the procurement bill which will be before the House soon:

ARMY

Page 4, line 1, strike 791,627 and insert in lieu thereof 681,306;

NAVY

Page 4, line 2, strike 565,912 and insert in lieu thereof 493,820;

MARINES

Page 4, line 3, strike 196,363 and insert in lieu thereof 176,219;

AIR FORCE

Page 4, line 4, strike 665,963 and insert in lieu thereof 556,357.

Page 5, after line 2, add following proviso: ": *Provided,* That no funds appropriated by Congress may be used after June 30, 1974 for the purpose of maintaining more than 300,000 military personnel assigned or homeported at overseas bases; or afloat on a regular basis in the Western Pacific or Mediterranean."

This amendment is a responsible approach which would cut our presence in half—and a step which would not decrease but increase national security.

This amendment will reassert congressional control over our overseas military presence. Because for years, Congress has approved these manpower levels without seriously questioning basic rationale for these levels.

Yet we must be aware that manpower levels requested by DOD were not arrived at by constitutional processes of congressional control; in fact they represent an abdication of our control—not only to the Executive, but to foreign countries.

The key point here is that there are no specific treaty obligations that force Congress to approve any level of troop commitment. Exact figures for each country are the result of Executive agreements, and are not submitted to Congress for approval. Furthermore, such figures are the result of political foreign-policy calculations—and are not based on military matters on which we may legitimately defer to military experts.

This last point is crucial. There is only one factor from which we are forced to rely on assurances of the Pentagon: whether a force level in a certain country is necessary or sufficient to repel the threat that is responsible for its presence overseas. Yet in almost no case is the Pentagon able to give us this assurance.

Either our forces are unnecessary or they are not sufficient. Let me give an example of each. The South Koreans have one of the most battle-hardened armies in the world. It has well over 600,000 people under arms, and many of these have had combat experience in Vietnam, where we all know of their reputation. The North Koreans have an army of less than half a million men who have done nothing beyond border sniping since 1953. We assume the South Koreans will have the advantage of a defensive posture.

In other words, if any nation is relatively secure, it is South Korea. Yet we have a top-heavy military establishment there of 38,000 troops which add a mere 7,000 fighting men in the combat division that we station there to provide ground combat support to the South Korean forces—although we must pay for all 38,000 men, when we count support and command troops. If the Nixon doctrine can be applied anywhere, it is in Korea. Given any sense of logic, there is no justification for the presence of these men, and we should bring them home.

Korea is a case where our troops are not necessary; Central Europe is a case where they are not sufficient. No military analyst has seriously claimed that U.S. troops stationed there could repeal any large-scale Soviet conventional attack. In this connection, I would like to quote General Lemnitzer—Commander of SHAPE—who said before the House Foreign Affairs Committee in 1970.

> One of the greatest problems that would confront NATO today would be a large conventional attack. Then we would be faced with a decision to use nuclear weapons or be defeated.

This is an astonishing admission. If these troops cannot prevent nuclear war, they are of no use to us or to Europe in providing a so-called flexible response. Or, if only the threat of nuclear weapons keeps the Soviet Union from grabbing Western Europe, then the troops are not necessary. We may be able to reassure ourselves that in the event of war we might keep the tactical nuclear weapons to an acceptable minimum, but such an acceptable minimum in this case would mean the complete destruction of Europe.

The military uselessness of our troops in Europe is an open secret. The Pentagon seeks to fill the absence of military justification by pointing to political considerations such as demonstrating "commitment." But first of all, such political judgments should and must be made by Congress—not by negotiations between our military bureaucracy and the military of other countries. The officials in the Pentagon are professionally trained to make military judgments, not political ones, and their political opinions should be given no more weight than the opinion of any other well-informed participant with a vital personal stake in the matter.

Second, I have yet to understand how this meaningless military commitment to Europe adds up to a meaningful political commitment. Perhaps it shows a commitment to solving European balance-of-payments problems at the expense of ours, but I, for one, do not feel justified in asking the American people to subsidize their West European economic competitors.

I also feel we cannot take the assurances of those who tell us that the mutual balanced force reduction talks will take care of the problem. Besides the fact that these extremely complicated talks promise to be even slower than the Vietnamese peace talks, we have to face up to the fact that we will probably be locked into the negotiated levels for a long time to come. I think we have a responsibility to our taxpayers and to our young men to act, to make sure our force levels in Europe are as low as possible.

We will definitely not be hurting our negotiators by acting on our own initiative. We have been assured time after time by the Pentagon that the Soviets want all our troops out. Since the Soviets have the advantage right now in strategic positioning for conventional warfare, the negotiations will revolve around multiples in any event—it will not be a one-to-one reduction in troops levels—unless our negotiators abandon the principle of balance in their haste to get an agreement before congressional action. Therefore, to substantially lower our level of troops—especially where they are no threat to the Soviets or to anyone else, such as SETAF—Southern European Task Force—would help our economic and moral strength without damaging our security in any way.

My amendment lowers the manpower authorizations of the services by a total of 322,000 men and women. Since these are all to come from overseas, a limit of 300,000 overseas military personnel, effective by June 30, 1974, is included in the amendment. In calculating the economic benefits of this reduction, we should remember that these men will be taking their dependents back with them also. An exact figure for the savings cannot be given, because I believe it is more responsible to leave the detailed decision on the exact location of the cuts to the Pentagon.

I have placed extensive and detailed background material on the general issue of overseas troops into the RECORD for June 15 beginning on page 19880. I have also inserted into the RECORD the Pentagon's response to a series of detailed questions on the military rationale for many of the various country missions. I found the Defense Department's answers to be very vague, and returned them to the Pentagon 2 weeks ago with requests for more precise explanations. My original questions, the answers of the Pentagon, and my counterquestions can be found in the RECORD for July 10 beginning on page 23130. The Pentagon has not yet responded to my second set of questions.

The American people expect some action from the Congress to cut down on the burden represented by a wartime military budget, to take substantial steps to ease our balance-of-payments deficits, and to ease the dislocation caused by military retrenchment at home. I believe my amendment does respond to these needs, and I urge my colleagues to give it their most serious consideration.

FORTHCOMING TRADE LEGISLATION

(Mr. CORMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CORMAN. Mr. Speaker, the Trade Reform Act of 1973, which is the administration's proposal to the Congress for changes in existing trade laws, is presently the subject of the executive sessions of the Ways and Means Committee. It is the committee's hope to finish the markup sessions and get a bill to the

House floor before the August recess begins.

Alfred Reifman, senior specialist in international economics at the Congressional Research Service, has written an excellent analysis of the administration's proposal. Since any suggestions for trade reform are very important considerations not only to the committee but to the Members of Congress, I respectfully ask permission to insert Mr. Reifman's overview herein in the RECORD and commend its reading to my colleagues.

THE TRADE REFORM ACT OF 1973—AN OVERVIEW

I. INTRODUCTION

The Administration's trade bill, the Trade Reform Act of 1973 (H.R. 6767), was introduced in the Congress on April 10, 1973. Though the bill deals with a variety of other issues—notably, trade with Communist countries and preferences for the less developed countries—its basic role is to give the President authority to negotiate the continued reduction of barriers to world trade.

The Administration bill reflects the philosophy that American interests—both economic and foreign policy objectives—are best served by the maintenance of an open world economy, an economy in which governmental barriers to trade and capital movements have been greatly reduced, if not eliminated. Implicit in the argumentation is that if we do not move forward to open channels to world trade, we shall surely slide backwards toward greater protection, more economic nationalism, and an inward-looking regionalism especially in Europe.

The bill is also designed to meet the major concerns of U.S. labor, and, thereby, deflect support from legislation, such as the Burke-Hartke bill, which would restrict imports.

Industries threatened by import competition would find it much easier to qualify for protection. The President would also have authority to restrict imports in order to assure "fair" treatment for U.S. exports. Finally, the bill would make it easy for workers to qualify for adjustment assistance, though the amount of assistance would be substantially less than is available under current law. Indeed, the Administration plans to eliminate special adjustment assistance for import injury.

Other provisions of the bill would permit the President to use trade measures to deal with the balance of payments and domestic inflation. The countervailing duty law and a variety of other trade measures would also be changed by the Administration bill.

Liberal traders object to the bill because it "tilts" traditional U.S. trade policy toward protectionism. The bill would greatly ease the requirements to qualify for import restriction while phasing out the one alternative—trade adjustment assistance. The bill would permit the President to impose import restrictions without limit to retaliate against "unfair" trade practices by foreign countries even though such practices are not proscribed by international law. The bill would grant trade preferences to poor countries under a number of special restraints so that the benefits, small enough in any event, would be even further diminished. Finally, Administration statements that foreign nations will have to make more trade concessions to the United States than they receive from us is being questioned by those who feel that such an approach is self-righteous and unjustified, and that it may prove unproductive, if not counterproductive, in the long run.

On the other hand, liberal traders look favorably on the intention of the Administration to launch a major assault on the remaining barriers to world trade.

The AFL-CIO objects that the bill does not protect the American economy from "the massive flow of imports . . . which are sweeping away jobs and industries in wholesale lots." There is no formula imposing quantitative limits on imports. Protection would not be granted unless the domestic industry can demonstrate that it is being injured, or threatened with injury, by imports.

It is not likely that opposition to the bill will focus on the principle of lowering barriers to trade. However, opposition can be expected to giving tariff-free treatment to imports of manufactures from poor countries.

Both protectionists and liberal traders are concerned about the apparent wide grant of power to the Executive. And there is objection to granting MFN treatment to the Soviet Union because of its treatment of Jews.

II. REDUCTION OF TRADE BARRIERS

A. *General*

The main thrust of the trade bill conforms to the liberal, open economic philosophy which has characterized U.S. foreign econmic policy since the Reciprocal Trade Act of 1934 and which has been supported by both Republican and Democratic administrations since that time.

The basic rationale behind this philosophy is clear. Reducing U.S. and foreign barriers to trade would:

Stimulate exports and create "better"—higher paying—jobs at home;

Stimulate imports, ease inflationary pressures and give consumers greater freedom of choice;

Raise U.S. productivity and, consequently, real income and wages in the United States;

Reduce sources for dispute with foreign nations and help to create a more congenial and cooperative world environment.

In addition, this trade bill is also based on the belief that further reductions in world barriers to trade would:

Improve the U.S. balance of payments; and,

Reduce, if not eliminate, the discriminatory effects on U.S. trade of the enlargement of the European Common Market.

The alternative philosophy, exemplified by the Burke-Hartke bill, is that imports take away American jobs and threaten large sectors of our industry with extinction.

The analysis behind this approach rests heavily on the fact that capital is exceedingly mobile as is the technology which goes with it. Thus, it is argued, special U.S. economic advantages are disappearing and job opportunities for Americans are being "exported" to countries with lower wages.

This analysis takes no account of the fact that some of these problems can be offset by changes in exchange rates. It does not deal with the secondary impact of import restrictions on U.S. prices, competition and wages. It takes no account of the argument that a cut in imports would lead to a cut in exports as foreign nations emulate us or retaliate. And, it takes no account of the fact that export industries pay higher wages than import-competing industries. It focuses exclusively on the very real costs to individuals and communities of increased foreign competition.

B. *Tariffs*

The bill asks for authority for the President to reduce and, indeed, to eliminate U.S. import duties. The authority requested would be limited to five years after which it would lapse.

Any reductions in tariffs would take place in five annual equal stages. However, if the tariff is low, as much as three percentage points could be cut in any one year. The purpose of the staging is to provide time for the American economy to adjust to the effects of the reduction of import duties. A similar staging provision was contained in the Trade Expansion Act of 1962 (TEA).

While the bill gives the President authority to eliminate duties, it does not set zero duties as a goal to be achieved. The Commission on International Trade and Investment Policy (the Williams Commission), which reported on its year-long study in June 1971, recommended that zero duties be the objective of the U.S. government in the next round of trade negotiations. Its reasoning was that only a bold idea of this sort could capture the support of the country, and, at the same time, achieve U.S. economic and political goals of opening channels to world trade and reducing the discrimination against American exporters which results from the formation of the European Common Market and its expansion from six to nine countries.

C. NONTARIFF BARRIERS AND DISTORTIONS

World tariffs have been cut by more than three-fourths since the end of World War II. For the major industrial countries the average tariff is now quite low, about 8 percent for the United States and European Common Market, and slightly over 10 percent for Japan.[1] As tariffs have declined in importance, other barriers—non-tariff barriers—have become a more obvious factor clogging the channels of world trade.

Non-tariff barriers are quite varied. They include import quotas—the most obvious form of restriction; government procurement policies, such as Buy American; subsidies and tax exemptions for domestic industry; technical, health and safety standards; special tax incentives and credit facilities to promote exports. Most serious from the point of view of America, is the Common Agricultural Policy of the European Community which limits our ability to use the full potential of our agriculture.

Some of the restrictions to trade are designed to meet domestic objectives and not affect foreign trade. Health standards are one example. Government policies to develop defense industry are another. Special help to areas of high unemployment or low income—such as tax incentives to attract industry to Appalachia—is also fairly common. The impact of such policies on foreign trade is real though incidental to the achievement of the government's primary objective in each case. Such barriers will be difficult to dismantle.

A number of barriers designed primarily for balance-of-payments purposes—particularly, special incentives for exports—ought to be relatively easy to eliminate when the international monetary system is reformed to facilitate the resolution of balance-of-payments problems by other means, notably by more responsive changes in exchange rates.

Many non-tariff barriers are already proscribed by GATT. However, in some cases the GATT rules are loosely drawn and could be tightened. This is difficult to do, since many countries, with conflicting interests, would be involved. Fortunately, a change in the GATT is unnecessary. The four major trading entities—the United States, Canada, Japan and the Common Market—could make a major contribution to world trade and economic welfare by negotiating codes of conduct or tighter rules in each field where non-tariff barriers are now significant. The new agreements would supplement GATT and be consistent with it. And, they should reduce the current level of restrictions on, or distortions to, world trade and, equally, important, arrest the proliferation of such measures.

Recognizing that non-tariff barriers are exceedingly varied and cannot be dealt with by a simple rule, as is the case with tariffs, the Administration asks for authority to negotiate agreements to deal with each of the major areas of non-tariff restriction. The results of each negotiation will be presented to the Congress and will become law if neither House of the Congress vetoes it by majority vote within 90 days after it is presented.

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[1] These are averages for tariffs on industrial goods, excluding duty-free items, weighted by world trade in each commodity.

Given the fact that each non-tariff barrier needs special treatment and that most such restrictions—for example, those which derive from the existence of Europe's Common Agricultural Policy—touch very sensitive economic and political interests at home and abroad, the Administration's proposal would seem to be a practical way to proceed.

The alternatives have drawbacks. It is not possible for the Congress to set meaningful guidelines which could cover all the various possible non-tariff barriers and the means of reducing them. And, the absence of a tentative commitment by the Congress would reduce the willingness of foreigners to negotiate seriously.

III. THE IMPACT OF THE BILL ON U.S. EMPLOYMENT

There is concern that the reduction of U.S. import duties and other trade barriers could injure particular sectors of the U.S. economy. Measures to deal with such injury are included in the bill and are discussed in part IV of this report.

The trade unions are also concerned that trade liberalization will create general unemployment. Yet, this question is not even treated in the supporting documents presented by the Administration. There are three reasons for this lack of attention:

(1) The possible adverse employment effects of increased imports are small, if not trivial, compared to the other factors affecting employment at home. The following considerations show this:

If U.S. tariff reductions were to induce a phenomenal $3 billion increase in imports, only some 200,000 jobs (out of almost 90,000,000 in the labor force) would be affected. And this estimate is a maximum. It is based on the unlikely assumption that there would be no offsetting increase in exports.

Yet, an increase in exports—probably at least equal to the increase in imports—would result from the reduction in foreign duties and other restrictions which would accompany any U.S. action.

And, any significant increase in U.S. imports would, *by itself*, induce increased demand abroad for U.S. goods—for example, cotton to make our textile imports and component parts for our automobile imports, as well as a higher general demand abroad for U.S. goods.

Thus, it is clear that the net impact on employment of the reduction in duties by U.S. and foreign countries would be much less than 200,000, and is more likely to be *completely* offset by increased U.S. exports.

Even the maximum impact of increased imports on U.S. unemployment would be considerably less than "normal" factors operating on the U.S. economy:

The cutback in defense expenditures from fiscal year 1970 to 1971 resulted in a loss of some 400,000 jobs in priviate industry, twice as many as the outside maximum we estimated would occur from a large increase in imports with no offseting increase in exports.

From March to June 1970, U.S. employment declined by more, by almost 900,000, as the result of a "normal" business cycle downturn.

Each year the U.S. economy has to generate 1.5 million new jobs merely to absorb the normal growth in the labor force. In addition, the annual growth in labor productivity could displace another 2 million workers.

Even in times of high demand and low unemployment, people move from job to job and are temporarily unemployed. In 1969, 10.6 million persons with work experience were unemployed for at least one week. Because of the high level of economic activity most of these people were readily absorbed into the ranks of the employed.[2]

These figures suggest that unemployment due to increased imports would, at the worst, be quite minor compared to other factors contributing to unemployment. And, more important, it is most unlikely that increased imports would result in any net increase in unemployment.

(2) We can achieve full employment at virtually any level of imports.

The experience of the post-war years generally verifies this proposition. The years in which our foreign trade flourished were years of unparalleled prosperity and rapidly expanding employment in America. Jobs in the United States grew from 58 million in 1949 to 89 million in 1972. Yet, imports were four times higher in 1972 than they were in 1949.

A sharp increase in imports can cause some temporary unemployment. But if the economy is expanding, temporary unemployment resulting from increased imports need not be a problem; indeed, it may not even arise. For example, in 1968 imports rose by a phenomenal 23 percent. If imports were destroying jobs this would have been the year to show it. Yet, the number of Americans at work rose by more than 1.5 million and unemployment fell in that year.

A variety of government policies—taxation, spending and various manpower programs—are sufficient to achieve full employment. This suggests that the Administration and professional economists are right when they argue that trade policies ought to be designed to improve productivity, to maintain competition and to keep prices stable, not to provide jobs.

Foreign trade has the same impact on our economy as investment in machinery or improvement in technology. Foreign trade raises U.S. productivity by permitting U.S. labor and capital to shift from industries with low returns to those with higher returns. We import those goods which can be produced more cheaply abroad, freeing our own capital and workers to produce goods we can make more efficiently. These we produce for ourselves and for export.

Because this increase in productivity may cause temporary distress and some unemployment—and this is true whether we install a new machine or permit increased imports—there is no valid reason to destroy the machine or, what is equivalent, to impose restrictions on imports.

(3) Finally, if imports do create distress for a particular industry or region, specific remedies are available to deal directly with the problem. In the present and proposed trade law there are two such remedies, the "escape clause" or "safeguard mechanism", and adjustment assistance:

The escape clause allows the imposition of temporary restraints on imports to prevent injury, or the threat of injury, to American producers.

Adjustment assistance provides financial and other help to firms and workers threatened by imports.

In addition, the requirement that tariffs and other restrictions be reduced gradually over time eases the pressure on American producers—workers and firms. These measures are discussed below.

IV. PROTECTION FOR AMERICAN INDUSTRY AND LABOR

The new trade bill, as previous trade measures, contains provisions to assure that no one sector of American society bears a disproportionate cost for a program from which the country as a whole benefits.

This is a matter of equity and recognition of the fact that real economic and human costs are involved for particular individuals who face possible loss of a particular job and the need to move to a new community as the result of increased competition. As noted above, there are three types of measures to protect American producers:

A. STAGING AND RECIPROCITY

The trade bill requires that the reduction in tariffs be made in five equal annual installments to avoid a sudden shock to established domestic industry. This device should effectively shield much of American industry. The average duty on industrial goods is about 8 percent. Thus, the average cut in duties would be less two percent per year if the duties were entirely eliminated.

An average 2 percentage point cut in price is less than American industry has faced from inflation recently and is dwarfed by the recent 10 percent devaluation of the dollar which has a similar impact to an increase in import duties. Thus, on the average, even the complete elimination of U.S. duties over a five-year period should not present American industry with problems much different in magnitude from those which it faces during the ordinary course of doing business in a dynamic, changing economic environment.

U.S. tariff reductions will not be unilateral. Any U.S. cuts will be accompanied by reciprocal cuts in the tariffs of our major trading partners. This will stimulate U.S. exports and offset some of the adverse costs of U.S. trade liberalization.

B. IMPORT RELIEF

The Administration bill would make it much easier for an American industry to get relief from import competition.

Under current law, the Trade Expansion Act of 1962 (TEA), it is very difficult to invoke the "escape clause" and impose restrictions on imports. Not only does the industry have to show that it is being injured, but that increased imports are the "major"—i.e. greater than all other factors combined—cause of the injury, and that this increase is the result of a tariff concession.

The difficulties involved in getting relief under this clause have been considerable as illustrated by the fact that escape-clause assistance was granted in only five cases in the decade the law has been in effect.

Under the proposed new "safeguard" system, the present criteria are to be greatly eased so that all an industry has to show is that it is being injured, that the "primary"—i.e. largest single—cause of the injury is increased imports. It would not have to show that increased imports are the "major" cause of the injury. Or, what has been virtually impossible to demonstrate, that the increase in imports was the result of a tariff reduction. This has been difficult to show because frequently the tariff reductions have been small or were made many years earlier.

The much greater ease in obtaining import relief should meet much of the criticism of trade union officials and critics of the government's trade program.

On the other hand, the bill set *a clear limit on the length of time import relief can be granted*. The limit is five years with one two-year renewal possible. Previous acts put the term of the restrictions at four years but there was no limit to the number of renewals.

This clearer time limit on the use of import restrictions is intended to create incentives for American industry to adjust to competitive conditions. Industry is put on notice that protection, which is equivalent to a subsidy by the overall American economy to the industry being protected, will not be available in perpetuity. While justified for a temporary period, over an extended period such subsidies become too costly to America as a whole.

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[2] "Foreign Trade and Employment," Bureau of Labor Statistics, published in the Report of the President's Commission on International Trade and Investment Policy, "United States International Economic Policy in an Interdependent World," Papers, v. I, pp. 497–506.

To put pressure on the industry to adjust and to avoid the shock of a sudden withdrawal of protection, the bill provides that extra protection shall be phased out over the period for which it is granted. The bill specifies that the initial reduction in protection shall begin no later than three years after the time the relief was initially granted.

From the point of view of liberal traders, one weak spot in the fixed time limit for import relief is the provision allowing an industry to petition for relief two years after the 5 or 7 year period of relief has expired. Some have proposed that repetitioning not be allowed, that it be rejected if the industry has not made a credible effort to become competitive, or that the time-period be lengthened to 10 years and no repetitioning allowed.

C. TRADE ADJUSTMENT ASSISTANCE

The provision of special assistance to firms and workers injured by imports was a major innovation of the Trade Expansion Act of 1962. The proposed Trade Reform Act of 1973 would continue the program but with four major changes:

The bill would make it much easier for workers to obtain trade adjustment assistance.

However, the benefits would be substantially reduced.

Firms would no longer be eligible for assistance.

Finally, in time, *trade* adjustment assistance would be largely phased out in favor of *general* adjustment assistance which would be available to all workers in trouble regardless of the cause of the trouble.

The prime argument for trade adjustment assistance is similar to the one on which import relief—or temporary protection—is granted: equity requires that no one sector of our society bear a disproportionate share of the cost of measures which benefit the entire society. But, there are other reasons for trade adjustment assistance:

If effective, adjustment assistance, particularly job search and job training facilities, would raise the employability and productivity of the workers involved, and, consequently, raise national output and income.

Adjustment assistance is a more specific remedy than import restriction. The latter would necessarily help an entire industry, raising prices and profits for firms in a strong position as well as weak firms. Adjustment assistance would help only those in need of help.

Adjustment assistance, unlike import restriction, would not shift the problem to foreign countries.

1. *Eligibility for assistance*. The trade bill proposes that workers would be eligible for adjustment assistance under the same liberalized criteria for granting import relief. Increased imports need not be linked to a tariff reduction. Increased imports need only have "contributed substantially" to, rather than having been the "major" cause of the loss of jobs. Petitions for assistance go straight to the Secretary of Labor for rapid action, eliminating the need for determinations by the Tariff Commission and the President.

In short, the bill greatly facilitates the receipt of adjustment assistance by workers.

2. *Benefits*. The benefits in the bill are primarily to provide adjustment assistance for workers pending enactment of minimum Federal standards of unemployment insurance. The new minimum standards are to be made available to trade-impacted workers immediately. Companion legislation has been introduced imposing such standards on all States effective July 1, 1975. When all States meet the new levels, no further Federal supplements would be available under the proposed Trade Reform Act. (Other provisions of the Act on job search, relocation allowances and training would, however, continue.)

The basic philosophy behind the Administration's proposal is that there is no reason to treat those thrown out of work by increased imports any more generously than those thrown out of work for other reasons—poor management, change in consumer taste, or a business recession.

The major response to this argument is a pragmatic one. Unless the President can give effective adjustment assistance to workers whose jobs are threatened by imports, his only alternative will be to impose import restrictions. The deficiencies of this course of action were noted earlier.

The benefits to most workers in the proposed bill are considerably less than those in the Trade Expansion Act of 1962. (There are no benefits for companies as there are in the current trade act.)

In the Trade Expansion Act of 1962, instead of unemployment insurance, eligible workers draw a weekly cash payment of 65 percent of the worker's normal wage, up to a ceiling of 65 percent of the average wage in manufacturing. This is available for 52 weeks; if in training an additional 26 weeks is available; if 60 years or older, he would get payments for 65 weeks.

The proposed Trade Reform Act of 1973 would replace this by unemployment insurance of 50 percent of worker's average weekly wage, up to two-thirds of average weekly wage in covered employment in State. The duration of the benefits would depend on the State but would generally run about 26 weeks. Except for highly paid workers in high-pay States these provisions are much less generous than the TEA; and, for all workers, the duration of the benefits are less than provided for in the TEA.

The manpower training program would not be greatly changed except that the import-displaced worker would receive priority under the proposed bill.

The relocation provisions are somewhat more generous in the proposed bill where the worker could get up to $500 to cover moving expenses for himself and family plus a "job search grant" equal to 80 percent of expenses up to a maximum of $500.

In short, for most workers the adjustment assistance provisions are sharply reduced from those of the TEA, less than recommended by the Williams Commission and the Foreign Economic Policy Subcommittee of the House Foreign Affairs Committee (the Culver Subcommittee), and much less than those available to railroad workers under the Amtrak agreement. No assistance is to be provided for firms in trouble. And, no special help is to be made available to communities which depend heavily on one industry, for example shoes, which is under heavy import pressure.

V. AUTHORITY TO RAISE DUTIES

The bill asks Congress to give the President authority to raise duties without limit. Such a grant of power would be unprecedented but, it is argued, it is needed for two purposes:

to give the Administration leverage to respond to "unjustifiable" and "unreasonable" foreign impediments to U.S. commerce. (The "unjustifiable" practices are those which are illegal or inconsistent with international obligations, primarily the General Agreement on Tariffs and Trade. "Unreasonable" practices are other restrictive practices which are not illegal.)

to provide another tool to deal with the U.S. balance of payments.

A. UNFAIR TRADE PRACTICES

The argument in favor of giving the President such authority is straightforward. The threat of retaliation against unfair foreign trade practices might be effective in altering such practices. While the President would decide when to retaliate against either unjustifiable or unreasonable foreign practices, he has made it clear that he would depart from U.S. international obligations "only in rare cases."

One could question whether such authority is needed or desirable:

It is not clear that the best way to negotiate with friendly countries—specifically, Western Europe and Japan—is to threaten them with retaliation.

It is clear that retaliation would hurt us economically—by raising costs and prices.

Retaliation could be readily offset by counter-actions of the affected foreign countries. For example, if we were to raise duties by 10 percent, as we did in August 1971, the impact could be offset by a change in foreign exchange rates with the dollar. Such a change in exchange rates might be fairly readily forthcoming in the present floating exchange rate system or in the more flexible exchange rate system proposed by the U.S.

Finally, one could question whether the President ought to have authority to decide what is a "reasonable" and what is an "unreasonable" foreign restraint for two reasons. One, the Special Representative for Trade Negotiations says that he will exercise this authority only in conformity with GATT rules in which case it would be an unnecessary grant of authority. Second, if other countries were to feel they could decide when non-illegal practices were unfair, we would move toward anarchy in international trade.

B. BALANCE OF PAYMENTS

Similarly, one could question whether the U.S. needs such authority as a tool to improve our balance of payments. In February 1973, we demonstrated that we could devalue the dollar. This should reduce our imports in exactly the same manner as increased tariffs would, but it would also increase our exports and strengthen our tourist and other balance-of-payments accounts. A temporary increase in tariffs might, in some special circumstances, be more desirable than the obvious alternative—devaluing the dollar—in strengthening our balance of payments. Yet, from most points of view, the latter course of action would seem to be the more effective, less disruptive to the world economy and our relations with friendly nations, and just as easy to impose.

On the other hand, giving the President authority to raise duties on imports from countries with persistent balance-of-payments surpluses would permit the U.S. to apply multilaterally-agreed sanctions. Such sanctions may well be called for in any reform of the world monetary system.

The authority to raise duties could be used for other purposes as well. For example, it could be used if the U.S. were to convert quantitative import restrictions on textiles or steel to tariff equivalents in order to let competition and the market play a greater role in these industries.

VI. PREFERENCES FOR IMPORTS OF MANUFACTURED GOODS FROM DEVELOPING COUNTRIES

The bill requests authority for the President to grant duty-free entry privileges to the exports of most manufactured and semi-manufactured goods from developing countries. This authority would last for a period of 10 years. It could include other goods but it is designed principally to encourage the production and export of manufactures and semi-manufactures by developing countries. Once this provision is law, the United States will join the European Common Market and Japan in living up to a commitment made in UNCTAD to grant such preferences to the exports of poor countries.

The purpose of these preferences is clear—to help the poor countries develop their economies and reduce their dependence on foreign aid. The poor countries depend heavily on exports for their foreign exchange. Indeed, exports provide some 75 percent of their foreign exchange, foreign aid supplies 15 percent, and foreign investment provides another 10 percent. Without a very large increase in foreign aid or foreign investment, the only way the poor countries can increase imports significantly is to increase their exports.

However, exports of the poor countries are heavily in primary products. Outside of oil, the market prospects for such goods are for a very slow rate of growth. The dynamic element in foreign trade is in manufactures. To help stimulate such trade, it has been proposed that the United States let the manufactured goods produced in the poor countries into our market duty-free. This would give exports of the poor countries an advantage over exports from Europe and Japan.

The preferences would last for 10 years. Indeed, if the U.S. is successful in having world barriers to trade reduced over the next five years, the advantage of the preferences will be reduced at the same time.

Preferences would not be given to countries which give preferences—called reverse preferences—to other developed countries, in particular the Common Market. And, the President would select those items on which preferences are to be given. He will leave "sensitive" items—such as textiles and shoes—off the list.

Increased imports into the United States which would result from the preferences would benefit the nation by providing competition, more goods at better prices, and by creating a market for U.S. exports. But, the amounts involved are likely to be small—less than one-half billion dollars a year.[3] Thus, the impact on the U.S. will be minimal though the economic benefits to some poor countries could be important.

The President has proposed that in addition to the normal safeguards protecting American industry from foreign competition there be an additional safeguard—preferential treatment would not apply to imports of an article from a poor country if that country supplies 50 percent of the total value of U.S. imports of the article to the United States, or if U.S. imports of that article exceed $25 million. This is the so-called "competitive need" clause. Presumably, if a country could supply the U.S. with 50 percent of our imports of that product, the country is a strong competitor in that product, and, therefore, should not be given a preference.

Yet, why is this formula needed? If an American industry were being hurt by imports it would be easy for it to obtain protection under the new liberalized import relief provision described earlier.

VII. TRADE WITH COMMUNIST COUNTRIES

The proposed trade bill would do much to normalize commercial relations between the United States and Communist countries. Most important, it would permit the President to extend most-favored-nation (MFN) treatment to Communist countries.

Such treatment would permit imports from these countries on the same basis—i.e. subject to the same tariffs and commercial regulations—as apply to all other countries in the world. At the moment, only Poland and Yugoslavia of all the Communist countries receive most-favored-nation treatment.

In 1972, when the lend-lease dispute with the Soviet Union was settled—providing a return of at least $722 million to the U.S.—a trade agreement was signed with the Soviet Union. This agreement states that the United States would provide most-favored-nation treatment for the Soviet Union in exchange for similar treatment in its market. The agreement calls for a tripling of trade during the three years that it covers and records the Soviet intent to place substantial orders for machinery, agricultural products and other industrial and consumer goods in the United States. The agreement also provides for arbitration and business facilities which will support expanded U.S. trade with the Soviet Union. In order for this agreement to be operative, Congress must authorize the President to extend most-favored-nation treatment to the Soviets.

The bill has a number of limitations on the President's freedom of action:

The bill limits the extension of most-favored-nation treatment to no more than 3 years and provides that it can be renewed for additional periods no one of which may exceed 3 years.

The agreement shall take effect only after the expiration of 90 days during which time the Senate and the House can veto it by majority vote.

The bill would also make it much easier for Americans to get relief from imports from Communist countries. First, if such imports are causing "material" injury, restrictions can be imposed by the President. Secondly, such restrictions need not apply to imports of the same good from all countries, as is normally the case, but can be limited to imports exclusively from the Communist country in question.

The bill would normalize our commercial relations with the Soviet Union and, in time, with other Communist countries. They would be treated more or less in the same manner as we treat other countries in our economic relations. And, we would be able to settle a variety of financial and commercial problems to the benefit of the country. The Soviets look on MFN, as does the Administration, as a major move toward improving our relations as well as an important economic measure.

VIII. EXPANSION OF PRESIDENTIAL AUTHORITY

The bill seems to call for Congress to give the President unprecedented authority in the trade field. The President would be given authority to cut and even eliminate all duties; there would be no limit to his ability to reduce duties. He would be given authority to negotiate reductions in non-tariff barriers subject only to a Congressional veto. And, he would be given authority to raise duties by an unlimited amount.

All trade legislation since the Reciprocal Trade Act of 1934 has provided considerable power to the President in conducting trade negotiations. All parties recognized that the national interest was best served if the Executive Branch could negotiate world-wide trade liberalization with Congress outlining the broad objectives. But the President's authority has generally been restricted to cuts in tariffs and even here the amount of the cuts has been limited. (For example, the Trade Expansion Act of 1962 gave the President the power to cut duties by 50 percent.) The major limitation on the President's tariff-making authority in the new bill is that it would lapse after five years.

The wide-ranging Presidential trade powers asked for is, however, not as radical a departure as it may appear:

First, while the authority requested to cut tariffs is unlimited in principle, the fact that the average tariff is now 8 percent limits the extent of the authority in fact. (In 1962, the President had authority to lower the average tariff by at least 6 percentage points.)

Second, the TEA gave the President authority to eliminate duties on most manufactured goods if Britain had joined the Common Market before the trade negotiations ended.

Third, the President would be given authority to conclude agreements on non-tariff barriers subject only to a Congressional veto. This, of course, limits the authority of the Congress. But, it recognizes that the key to making progress in this complex field is to give the negotiator flexibility to trade off one concession for another. And, the Congress would have 90 days after negotiations start to make its views felt, plus 90 days after the agreement is signed to reject it by a majority vote of either house.

The one new tariff-making authority would allow the President to raise duties without limit to deal with a balance-of-payments problem or unfair trade practices. The arguments for such authority leave many questions unanswered. Moreover, the need for unlimited authority has not been demonstrated. In the past, authority for the President to raise duties has been restricted by the Congress to 50 percent above the 1934 level.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. DANIELSON (at the request of Mr. O'NEILL), for today, on account of death in family.

Mr. LANDGREBE (at the request of Mr. GERALD R. FORD), indefinitely, on account of illness.

Mr. PRITCHARD (at the request of Mr. GERALD R. FORD), today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. UDALL, for 60 minutes, Wednesday, July 25, 1973, to revise and extend his remarks and include extraneous material.

(The following Members (at the request of Mr. BOWEN) and to revise and extend their remarks and include extraneous matter:)

Mr. PATMAN, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. KOCH, for 5 minutes, today.

Mr. EILBERG, for 5 minutes, today.

Ms. ABZUG, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. CULVER, for 60 minutes, on July 31.

Mr. BURTON, for 60 minutes, on July 31.

(The following Members (at the request of Mr. MARTIN of North Carolina) and to revise and extend their remarks and include extraneous matter:)

Mr. ROBISON of New York, for 5 minutes, today.

Mr. WHALEN, for 15 minutes, today.

Mr. STEELE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CORMAN and to include extraneous material, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $783.75.

Mr. MADDEN.

Mr. HECHLER of West Virginia, and to include extraneous matter, notwithstanding it exceeds two pages of the

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[3] And only half of this would be "new" imports. The other half would replace imports now coming from affluent countries.

Record and is estimated by the Public Printer to cost $940.

(The following Members (at the request of Mr. Martin of North Carolina) and to include extraneous matter:)

Mr. Symms.

Mr. Fish.

Mr. Mitchell of New York.

Mr. Goodling.

Mr. Young of Illinois in two instances.

Mr. Wyman in two instances.

Mr. Broyhill of Virginia.

Mr. Quillen.

Mr. Frenzel.

Mr. Esch.

Mr. Cohen.

Mr. Nelsen.

Mr. Railsback.

Mr. Young of Florida in five instances.

Mr. Peyser in five instances.

Mr. Del Clawson.

Mr. Veysey in five instances.

Mr. Thone.

Mr. Huber.

Mr. Kemp in two instances.

Mr. Hudnut.

Mr. Derwinski in two instances.

Mr. Steele.

Mr. McClory.

(The following Members (at the request of Mr. Bowen) and to include extraneous matter:)

Mr. Eilberg in 10 instances.

Mr. Rarick in three instances.

Mr. Gonzalez in three instances.

Mr. Andrews of North Carolina in three instances.

Mr. Edwards of California.

Mr. Hamilton

Mr. Riegle

Mr. Smith of Iowa.

Mr. Badillo in three instances.

Mr. Evins of Tennessee in two instances.

Miss Holtzman.

Mr. Dellums in 10 instances.

Mr. de Lugo in two instances.

Mr. Harrington in two instances.

Mr. Reid in two instances.

Mr. Vanik in two instances.

Mr. Litton.

Mr. Anderson of California in two instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1413. An act to increase the authorization for fiscal year 1974 for the Committee for Purchase of Products and Services of the Blind and other Severely Handicapped.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 6394. An act to suspend the duty on caprolactam monomer in water solution until the close of December 31, 1973;

H.R. 2324. An act to continue until the close of June 30, 1975, the existing suspension of duties for metal scrap; and

H.R. 2323. An act to continue until the close of June 30, 1974, the suspension of duties on certain forms of copper.

ADJOURNMENT

Mr. BOWEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 53 minutes p.m.) the House adjourned until tomorrow, Thursday, July 19, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1155. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize officers of flag rank to serve in the Medical Service Corps in the Navy, and for other purposes; to the Committee on Armed Services.

1156. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend sections 5202 and 5232 of title 10, United States Code, relating to the appointment to the grades of general and lieutenant general of Marine Corps officers designated for appropriate higher commands or for performance of duties of great importance and responsibility; to the Committee on Armed Services.

1157. A letter from the Assistant Secretary the Interior, transmitting descriptions of 25 projects selected for funding through grants, contracts, and matching and other arrangements with educational institutions, private foundations or other institutions, and with private firms, pursuant to section 200(b) of the Water Resources Research Act of 1964; to the Committee on Interior and Insular Affairs.

1158. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1159. A letter from the Secretary of Transportation, transmitting a report on a study of areas of conflict between the Department of Transportation and other agencies of the Government operating under the Ports and Waterways Safety Act of 1972, pursuant to section 105 of the act; to the Committee on Merchant Marine and Fisheries.

1160. A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide for additional positions in grades GS–16, 17, and 18; to the Committee on Post Office and Civil Service.

1161. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend sections 515 and 522 of the Foreign Service Act of 1946, as amended, relating to the appointment of Foreign Service officers and Foreign Service Reserve officers, and for other purposes; to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6576. A bill to authorize the Secretary of the Interior to engage in feasibility investigation of certain potential water resource developments; with amendment (Rept. No. 93–382). Referred to the Committee of the Whole House on the State of the Union.

Mr. HÉBERT: Committee on Armed Services. H.R. 9286. A bill to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes (Rept. No. 93–383). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG:

H.R. 9359. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of Jeannette Rankin; to the Committee on Post Office and Civil Service.

By Mr. MORGAN:

H.R. 9360. A bill to amend the Foreign Assistance Act of 1961, and for other purposes; to the Committee on Foreign Affairs.

By Mr. ADAMS (for himself, Ms. Abzug, Mr. Badillo, Mr. Boland, Mr. Clark, Mr. Cronin, Mr. Dent, Mr. Dulski, Mr. Gilman, Mr. Harrington, Mr. Macdonald, Mr. Pike, Mr. Rooney of Pennsylvania, Mr. Roy, Mr. St Germain, Mr. Studds, Mr. Thompson of New Jersey, Mr. Tiernan, and Mr. Ware):

H.R. 9361. A bill to provide for the preservation, improvement, and reorganization of rail service in the Northeast; to establish the Northeast Transportation Commission, the Federal National Railway Association, and the Northeast Rail Corp.; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BADILLO:

H.R. 9362. A bill to establish and protect the rights of day laborers; to the Committee on Education and Labor.

By Mrs. BURKE of California (for herself, Ms. Abzug, Mr. Addabbo, Mr. Badillo, Mr. Bingham, Ms. Boggs, Mr. Brasco, Mr. Breaux, Mr. Brown of California, Mr. Buchanan, Mr. Burgener, Mr. Burton, Mr. Carey of New York, Mr. Carney of Ohio, Ms. Chisholm, Mr. Clay, Ms. Collins of Illinois, Mr. Conyers, Mr. Cronin, Mr. Dellums, Mr. de Lugo, Mr. Edwards of California, Mr. Froehlich, Ms. Green of Oregon, and Mr. Harrington):

H.R. 9363. A bill to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to expand the definition of "development disability" to include autism; to the Committee on Interstate and Foreign Commerce.

By Mrs. BURKE of California (for herself, Mr. Hawkins, Mr. Hicks, Mr. Hogan, Mr. Meeds, Mr. Melcher, Mr. Metcalfe, Mr. Mitchell of Maryland, Mr. Mollohan, Mr. Moss, Mr. Owens, Mr. Rangel, Mr. Rees, Mr. Reuss, Mr. Roe, Mr. Rosenthal, Mr. Roybal, Mr. Sarbanes, Mr. Seiberling, Mr. Stark, Mr. Studds, Mr. Whitehurst, Mr. Charles H. Wilson of California, Mr. Won Pat, and Mr. Yatron):

H.R. 9364. A bill to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to expand the definition of "development disability" to include autism; to the Committee on Interstate and foreign Commerce.

By Mrs. BURKE of California (for herself, Mr. Kyros, Mr. Young of Georgia, Mrs. Grasso, Mr. Hansen of Idaho, and Mr. Drinan):

H.R. 9365. A bill to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to expand the definition of "development disability" to include autism; to the Committee on Interstate and Foreign Commerce.

By Mr. DON H. CLAUSEN:

H.R. 9366. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers; to the Committee on Education and Labor.

By Mr. DUNCAN:

H.R. 9367. A bill to amend the Federal Aviation Act of 1958 to provide a definition for inclusive tour charter, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GETTYS (by request):

H.R. 9368. A bill to establish additional land use criteria for comprehensive planning, revision of zoning regulations, improved economic opportunity, and an increased tax base in the redevelopment of the District of Columbia; to the Committee on the District of Columbia.

By Mr. GILMAN:

H.R. 9369. A bill to establish a national program of Federal insurance against catastrophic disasters; to the Committee on Banking and Currency.

By Mr. HARRINGTON (for himself, Ms. Abzug, and Mr. Rangel):

H.R. 9370. A bill to amend section 102 of the National Security Act of 1947 to prohibit certain activities by the Central Intelligence Agency and to limit certain other activities by such Agency; to the Committee on Armed Services.

By Mr. HENDERSON (for himself, Mr. Andrews of North Carolina, Mr. Broyhill of North Carolina, Mr. Fountain, Mr. Jones of North Carolina, Mr. Martin of North Carolina, Mr. Mizell, Mr. Preyer, Mr. Rose, Mr. Ruth, and Mr. Taylor of North Carolina):

H.R. 9371. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH:

H.R. 9372. A bill to provide for the continued sale of petroleum products to public authorities; to the Committee on Interstate and Foreign Commerce.

By Mr. KUYKENDALL:

H.R. 9373. A bill to amend the Federal Aviation Act of 1958 so as to limit the power of the Secretary of Transportation to delegate his authority to examine medical qualification of airmen; to the Committee on Interstate and Foreign Commerce.

By Mr. PATMAN (for himself, Mrs. Burke of California, Mr. Burton, Mr. Carney of Ohio, Mrs. Chisholm, Mr. Cronin, Mr. Dominick V. Daniels, Mr. Dorn, Mr. Eckhardt, Mr. Gilman, Mr. Harrington, Mrs. Holt, Mr. Koch, Mr. Kyros, Mr. Peyser, Mr. Rangel, Mr. Riegle, Mr. Rose, Mr. Roybal, Mr. Stokes, Mr. Tiernan, Mr. Walsh, Mr. Bob Wilson, Mr. Charles H. Wilson of California, and Mr. Wolff):

H.R. 9374. A bill to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes; to the Committee on Science and Astronautics.

By Mr. RARICK:

H.R. 9375. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. ROBISON of New York (for himself, Mr. Steiger of Wisconsin, Mr. Anderson of Illinois, Mr. J. William Stanton, and Mr. Wolff):

H.R. 9376. A bill to establish within the Peace Corps a special program to be known as the Vietnam assistance volunteers program; to the Committee on Foreign Affairs.

By Mr. STEIGER of Wisconsin (for himself, Mr. Robison of New York, Mr. Gude, Mr. Pettis, Mr. J. William Stanton, Mr. Wolff):

H.R. 9377. A bill to confer U.S. citizenship on certain Vietnam children and to provide for the adoption of such children by American families; to the Committee on the Judiciary.

By Mr. WHITEHURST:

H.R. 9378. A bill to amend the Merchant Marine Act of 1936, as amended; to the Committee on Merchant Marine and Fisheries.

By Mr. ANDERSON of California (for himself, Mr. Cronin and Mr. Riegle):

H.R. 9379. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

By Mr. CORMAN (for himself, Mr. Alexander, Mr. Anderson of California, Mr. Brown of California, Mr. Burgener, Mr. Burke of Massachusetts, Mr. Burton, Mrs. Collins of Illinois, Mr. Conyers, Mr. Davis of Georgia, Mr. de Lugo, Mr. Edwards of California, Mr. Fish, Mr. Fulton, Mr. Gubser, Mr. Gunter, Mr. Hawkins, Mr. Hinshaw, Mr. Hungate, Mr. Johnson of California, Mr. Keating, Mr. Leggett, Mr. McCloskey, Mr. McDade, and Mr. Melcher):

H.R. 9380. A bill to prohibit common carriers in interstate commerce from charging elderly people more than half fare for their transportation during nonpeak periods of travel, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself, Mrs. Mink, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Nix, Mr. Owens, Mr. Pepper, Mr. Pike, Mr. Rees, Mr. Reid, Mr. Rhodes, Mr. Riegle, Mr. Runnels, Mr. Sarbanes, Mr. Sebelius, Mr. Sisk, Mr. Stark, Mr. Veysey, Mr. White, Mr. Whitehurst, Mr. Charles H. Wilson of California, Mr. Winn, Mr. Won Pat, Mr. Wyatt, and Mr. Young of Alaska):

H.R. 9381. A bill to prohibit common carriers in interstate commerce from charging elderly people more than half fare for their transportation during nonpeak periods of travel, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON (for himself, Mr. Alexander, Mr. Moakley, Mr. Riegle, and Mr. Charles H. Wilson of California):

H.R. 9382. A bill to require the President to include in the budget transmitted to Congress additional information showing the regional impact of the budget proposals by State and congressional districts, and for other purposes; to the Committee on Government Operations.

By Mr. HARVEY:

H.R. 9383. A bill to provide for the restructuring of the rail system in the Northeast, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HOWARD (for himself, Mr. Baker, and Mr. Buchanan):

H.R. 9384. A bill to amend title 18 of the United States Code to prohibit the sale or purchase for slaughter of pregnant mares and mares with foals; to the Committee in the Judiciary.

By Mrs. MINK:

H.R. 9385. A bill to amend title 5, United States Code, to provide for travel and transportation expenses on the return of an employee who was a past resident of certain areas outside the continental United States from a post of duty in the continental United States; to the Committee on Post Office and Civil Service.

By Mr. PRICE of Illinois:

H.R. 9386. A bill to amend the Internal Revenue Code to encourage an increase in production of coal; to the Committee on Ways and Means.

H.R. 9387. A bill to amend the Internal Revenue Code to encourage development of processes to convert coal to low-pollutant synthetic fuels; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 9388. A bill to amend the Consumer Credit Protection Act to prohibit discrimination on the basis of sex or marital status in the granting of credit, and to make certain changes with respect to the civil liability provisions of such act; to the Committee on Banking and Currency.

By Mr. WAGGONNER:

H.R. 9389. A bill to amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil and gas pipeline, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS (for himself, Mr. Dent, Mr. Eshleman, Mr. Goodling, Mr. Hosmer, Mr. Nix, Mr. Schneebeli, Mr. Symms, Mr. Vigorito, Mr. Ware, Mr. Whitten, and Mr. Yatron):

H.R. 9390. A bill to authorize and direct the Administrator of the Environmental Protection Agency to accept certain applications for the registration of DDT as a pesticide to be used to eliminate the gypsy moth from forest lands; to the Committee on Agriculture.

By Mr. WILLIAMS (for himself, Mr. Dent, Mr. Eshleman, Mr. Goodling, Mr. Hosmer, Mr. Nix, Mr. Schneebeli, Mr. Symms, Mr. Vigorito, Mr. Ware, and Mr. Whitten):

H.R. 9391. A bill to permit the sale of DDT in order to eliminate the gypsy moth and certain other insects; to the Committtee on Agriculture.

By Mr. STEELE:

H.R. 9392. A bill to authorize the disposal of approximately 258,700 short tons of copper from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. FULTON:

H.J. Res. 669. Joint resolution proposing an amendment to the Constitution of the United States with respect to tenure of office for judges of the Supreme Court and inferior courts of the United States; to the Committee on the Judiciary.

By Mr. LEHMAN:

H.J. Res. 670. Joint resolution a national education policy; to the Committee on Education and Labor.

By Mr. MEZVINSKY:

H.J. Res. 671. Joint resolution a national education policy; to the Committee on Education and Labor.

By Mr. ROYBAL:

H.J. Res. 672. Joint resolution to authorize and request the President to proclaim October 1974 as "Hobby Month"; to the Committee on the Judiciary.

By Mr. THOMPSON of New Jersey:

H.J. Res. 673. Joint resolution, a national education policy; to the Committee on Education and Labor.

By Mr. ANDERSON of California (for himself, Mr. Brown of Michigan, Mr. Nix, Mr. Burton, Mr. Vander Jagt, and Mr. Steelman):

H. Res. 496. Resolution saluting Hank Aaron for his achievement both on and off the baseball field; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANLEY:

H.R. 9393. A bill for the relief of Mary Notarthomas; to the Committee on the Judiciary.

By Mr. MAYNE:

H.R. 9394. A bill for the relief of Vernon H. Fitchett, captain, U.S. Navy; to the Committee on Armed Services.

EXTENSIONS OF REMARKS

WELCOME TO THE CUTTER "EVERGREEN"

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 1973

Mr. STEELE. Mr. Speaker, last March I had the pleasant task of welcoming the Coast Guard oceanographic research vessel *Evergreen* to her new home port at New London, Conn.

The assignment of cutter *Evergreen* to New London marks the beginning of major Coast Guard research activities on the east coast and represents a significant addition to the pool of marine research, development and testing talent in southeastern Connecticut.

On Sunday, July 1, the Hartford Courant published a feature article by Patricia Barnes entitled "The Coast Guard's New Outlook." I am submitting a copy of Miss Barnes' piece for the Record in order to further call the attention of my colleagues to the rapidly expanding role of the U.S. Coast Guard:

THE COAST GUARD'S NEW OUTLOOK

Once a prosaic buoy tender, the 30-year-old U.S. Coast Guard cutter Evergreen has undergone what might be termed recycling. The sleek 80-foot cutter is now the first oceanographic research vessel of its type on the East Coast, and only the second in the Coast Guard.

At a period when similar buoy tenders are being decommissioned because of the development of self-maintained buoys which transmit information, the Evergreen's future is bright. The converted cutter arrived in her new home port at New London harbor in March, fresh from a $2 million, seven-month facelift at the Coast Guard shipyard in Baltimore, Md.

The Evergreen did not remain in port long; the vessel departed in April for a three-month tour of duty off the Grand Banks of Newfoundland. There scientists on board gather data based on water current and velocity studies to predict the movement and drift of massive icebergs. This data is used to forewarn freighters and shipping barges of the impending danger from floating bergs.

Following the annual spring iceberg patrol in July, the Evergreen is to perform a number of other research tasks from the arctic to the equator. Capt. Martin J. Moynihan, 35, the trim, red-haired commander of the Evergreen, reported the most notable feature of the renovated cutter is its "flexibility."

Moynihan, a 1960 Coast Guard Academy graduate, said the cutters is equipped to scour the ocean floor for mineral and core samples, gather and process all weather information data except upper air, or test nutrient and temperature levels of sea water to track the migration of fish.

Pointing to Long Island Sound, the skipper said the cutter is also able to collect environmental research data concerning oil or other forms of water pollution and its effect on the ecology of marine life. In the winter of 1972, he said, scientists on the Evergreen surveyed the East Coast to determine the extent of coastal pollution.

Jim Fleishell, Coast Guard group commander for Long Island Sound, said the Evergreen was reconfigured to be as versatile as possible and to accomplish a variety of functions. The buoy tender was reconverted when proposed funding for a new oceanographic research vessel did not survive Congress.

Among the facilities which were installed are chemical and oceanographic science laboratories and workshops with computers and modern testing equipment used by Coast Guard and civilian scientists who board the Evergreen each trip.

Modernizing the vessel included installation of a new evaporator for converting sea water to fresh water; a central sewage treatment system to avoid pollution; a new bow thruster for greater maneuverability; a new hydraulic system plus an emergency hydraulic generator. One of the cutter's two engines was overhauled and two new boilers were installed.

Fleishell said modernization was not limited to the interior of the cutter. The bridge deckhouse was removed and replaced by a larger deckhouse with an enclosed wheel room, a separate chart room, and an enlarged radio room complex to accommodate new satellite navigational equipment.

The 55 crew members and six officers are also getting a taste of modernization. Bunks which were formerly stacked three or four high to save space, are now stacked only two high, with individual lighting. Air conditioning was added, shower facilities expanded, and lounge areas repanelled. Also, contributing to high morale on long trips, Moynihan said, is the refurbished mess deck and galley. "We get better food and that's greatly appreciated," he said.

"Compared to the 30-year-old facilities we had, this may sound luxurious, but remember we spend months on end at sea," Moynihan explained.

The Evergreen was originally commissioned in 1943 as one of some 50 Coast Guard cutters built in the early 1940's mainly to service and maintain navigational buoys. All were named after flowers, trees and shrubs; hence the Mariposa and Owasco which were also based in New London before decommissioning.

The Evergreen has taken part in oceanographic research since 1947 when it was assigned to the international ice patrol. Briefly during World War II, however, the Evergreen served as a convoy carrying supplies to American and allied bases in Greenland. The cutter has also served as a buoy tender, ice breaker, search and rescue ship among other duties. In 1963 the Evergreen was designated primarily an ocean research vessel and a minimal amount of scientific equipment was installed on the buoy tender.

The emergence of the Evergreen, and the 213-foot converted Navy vessel the Acushnet based in Mississippi, as fully equipped oceanographic research vessel are signs of the beginning of a new era for the Coast Guard. Aside from policing the seas and facilitating "traffic" right-of-way. The Coast Guard in the past few years has opened up fields of research into marine life and ecology including the promise of extensive scientific research in the future.

When welcoming the Evergreen and crew to New London in March, U.S. Rep. Robert H. Steele, R-Vermont-2nd, noted that since Coast Guard research programs were initiated in 1969, federal funding has increased from $4 million to $18 million. Steele along with local officials hailed the coming of the cutter to New London as a "giant step" for both the Coast Guard and southeastern Connecticut.

The Evergreen, said New London Mayor Daniel D. Schwartz, is representative of a new and burgeoning marine research and development industry in southeastern Connecticut. He noted that although the Evergreen is temporarily berthed at the New London Naval Underwater Systems Center here, it will have a permanent berth opposite the new Coast Guard Research and Development center under construction north of the Coast Guard Academy on the Thames River.

SCIENCE

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. GOODLING. Mr. Speaker, today, more than any time in our history, we are concerned about the environment and the health of man. Unfortunately, the news media, along with several types of publications that are not completely factual, have been responsible for an overplay on this important subject. As a consequence, the pseudo-environmentalists are "coming out of the cracks," with the voices of reason falling deaf on their ears and with scientific facts in too many instances giving way to emotion.

It is also a misfortune that in recent years a few Government agencies have assumed a dominant role in determining what research should be conducted in this important field of pollution control as it is concerned with our environment. This raises the serious question of whether or not we are traveling on a one-way research street, with those private parties who have invested millions of dollars in research being confronted, through the simple issuance of a Government directive, with the loss of their entire investment.

I am inserting into the Congressional Record an editorial which appeared in the July 13, 1973, issue of Science, volume 181, No. 4095. It is a thought-provoking article which, if followed, could return us to a two-way research street that is both public and private. This dual approach to research should produce optimum results. I commend this editorial to the attention of everyone interested in a practical, rather than an emotional, approach to pollution control through effective research.

The editorial follows:

RESEARCH IMPACT STATEMENTS

There is little question that environmental impact statements should play an important role in technology assessment and social control. Would it not also be reasonable to ask that research impact statements be prepared by regulatory agencies? During the last few years, the Food and Drug Administration (FDA) and, more recently, the Environmental Protection Agency (EPA) have assumed—either indirectly or by actual legal mandate—in certain fields the dominant role in deciding what research could or could not be done and especially how long it would take to bring such work to a decision point. Should the effect of such actions on research also be evaluated? Research impact statements could be prepared either as internal agency documents or as part of an open dossier. My own recommendation is that these documents be used primarily within the agency at first, in order to permit it to determine for itself what information and policies could be derived from such statements. Even such limited use would impose upon the staffs of regulatory agencies a mental discipline that is sometimes lacking in the current decision-making process. Eventually, depending on the experience gained, the statements could become a regular feature, generally available and subject to refutation.

A typical research impact statement ought to include an evaluation (even if only a subjective one) of the research area that would be affected by given regulatory requirements. Major items that should be taken into consideration are the novelty of the research, the effects of the regulatory requirement on other areas, and, most important, a cost-benefit determination. For example, a given regulatory requirement might achieve a relatively minor gain in safety information at the expense of an important line of research. If so, what alternatives might provide such safety information without a substantial negative impact on research? What is the price in lost benefits that the public will pay through a considerable delay in the completion or total abandonment of a given project? The pharmaceutical field appears to be replete with such examples, and various people have claimed that the drastic reduction in the introduction of significant new drugs during the last decade is associated to a considerable extent with FDA-imposed requirements. If research impact statements had been required of the FDA during that decade, their review at this time and comparison with the actual research conducted would have been very useful in confirming or rejecting such claims.

Research impact statements would also be useful in the field of new insecticides. Before substantial field trials with new insecticides can be undertaken, the sponsor of such trials must receive from the EPA an "experimental permit." Refusal of such permits usually prevents further development and presumably is based on real or hypothetical environmental considerations. Would it not also be desirable for these considerations to be accompanied by a statement that would evaluate the potential damage (that is, failure to replace presently used, persistent insecticides) if such research were not done?

The impact of regulatory agencies on research is now so enormous that they should bear some of the responsibility for prospective research planning—especially if the effect can be felt on a national scale. The research impact statement may be a useful device in calling attention at an early stage to the need for modification or even elimination of counterproductive regulatory practices.—CARL DJERASSI, *Professor of Chemistry, Stanford University, Stanford, California 94305*

LOW U.S. COPPER PRICES DRAW BIG ORDERS

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. MITCHELL of New York. Mr. Speaker, today I am introducing two legislative proposals authorizing the release of strategic materials from our national stockpile.

At the outset, I wish to stress that the materials covered in my measures have been declared by the administration to be surplus to our national security needs. Consequently, it is my hope that we will be able to act with dispatch in advancing these bills to enactment.

I have introduced two separate measures, one an omnibus bill covering all of the more than 20 strategic materials the administration has determined to be surplus to our stockpile requirements, the other dealing exclusively with copper.

My particular interest in the copper situation is prompted by my familiarity with the problem facing the industry. I have had the opportunity to confer at length with industry spokesmen affiliated with copper consuming firms located in my district. They all relay the same basic story—unless some relief is forthcoming in the very near future, production will have to be reduced substantially or perhaps halted altogether. This involves jobs and the threat of further unemployment and simply cannot be tolerated.

The problem facing the copper consuming industry—its inability to get product at a reasonable price on the open market—is outlined in two Wall Street Journal articles that will be inserted in the RECORD for all to read following my remarks.

Before concluding I would like to point out that I introduced the separate measure dealing exclusively with copper with the thought that I might be able to accelerate the pace of its journey through the legislative chambers by dealing only with one product. I know that when a number of items are covered in an omnibus bill questions about one feature or another sometimes delay prompt action on the overall measure until answers can be found.

Mr. Speaker, it is my hope that we will accord this matter the degree of urgency it requires so that the stockpile release sought will be a reality in the very near future.

The articles follow:

LOW U.S. COPPER PRICES DRAW BIG ORDERS FROM FOREIGNERS AS WORLD SUPPLIES TIGHTEN

(By Stephen Josefik)

NEW YORK.—Foreign buyers are placing big orders for copper in the U.S. dealer market because the U.S. prices are the lowest they can find.

An importer of foreign ore who also handles copper re-refined from domestic scrap said the foreign buying last week involved hundreds of tons. Japanese, European and South American buyers are ordering "whatever cathode and electrolytic copper they can get their hands on," the dealer said.

The relatively low U.S. prices reflect the ceiling prices imposed by the Cost of Living Council on U.S. dealers. The ceilings, between 70 cents and 80 cents a pound, are the levels at which the dealers did domestic business from June 1 to June 8. But the ceilings don't apply to export sales, and the dealers therefore sold export supplies as high as 85 cents a pound last week. Handlers are "rushing to line up as much copper as they can at refineries to fill further export orders" one dealer said.

The London Metal Exchange price for electrolytic copper, the basis used for foreign producers' sales, was 83¾ cents a pound Friday. With duty, freight and other charges, the foreign metal would cost 86¾ cents if delivered to New York.

The copper futures market on the Commodities Exchange Inc. at New York came under the federal ceilings last week. The exchange immediately ordered all trading in July 1973 copper contracts to be confined to liquidation of outstanding positions and deliveries by new sellers. The exchange ordered all trading in the July 1973 copper delivery to end tomorrow, instead of July 20 as previously set by the exchange. Officials also set 76¼ cents a pound as the ceiling at which copper can be delivered through the exchange.

Last Friday copper for deliver this month sold as high as 81.75 cents, up 2¾ cents a pound from Thursday, before closing at 81.7 cents a pound.

Brokers said previous short sellers rushed to buy back contracts before tomorrow's trading deadline for the spot month. Dealers who actually held copper supplies which they intended to deliver if the price was attractive, for example, bought back their "short hedges," looking for more attractive sales areas, possibly the export market.

The tight copper supply throughout the world results from increased business activity, labor problems and the unsettled monetary situation.

A strike at Chile's El Teniente mine, the largest underground copper mine in the world, started April 19, and strikes at other mines in the country have followed. The El Teniente strike has already cost the country more than $50 million in copper exports. But last night workers there accepted in principle a government proposal for a settlement.

There have also been strikes at Peruvian copper mines. And Rhodesia closed its border, forcing Zambia to use long, slow routes to move its copper for export.

Major domestic copper producers had scheduled rises in copper selling prices from the present 60 cents to 60¼ cents a pound but were stopped by Phase 3½ controls. Now, they continue to allocate copper to regular customers. Fabricators that can't get enough copper from the large producers buy their remaining requirements in the U.S. dealer market, but the exports are causing this supply to tighten.

COPPER PRICE HITS RECORD $1.01 A POUND IN U.S. DEALER MARKET

Refined copper prices in the U.S. dealer market soared five cents a pound to a record $1.01 a pound, but, little, if any, export business took place because of the metal's scarcity.

"All the refined imported copper that was in U.S. bonded warehouses was cleared out, either for export or to domestic industries," leading metal handlers said.

"What's more," one said, "there is very little offered from foreign sellers. At the same time, there appears to be a reluctance to buy at the current high price levels."

In the New York futures market, copper prices for some contracts rose the daily two-cent-a-pound limit. This brought the four-day gain to 6⅞ cents. On the London Metal Exchange, copper for immediate delivery sold at the equivalent of 97¾ cents yesterday, up 6⅜ cents from Wednesday. The price on the

London exchange at the start of this month was around 81 cents a pound.

Reports circulated yesterday that Japanese buyers were interested in placing further contracts for copper in London, but the "forceful buying" by Chinese interests, evident since late last week, wasn't apparent yesterday.

Stocks of copper in warehouses, licensed by the London Metal Exchange, at the close of last week totaled 40,000 tons. The supply has been dropping steadily from a record of almost 200,000 tons at the end of 1972. Another drop is expected this week, as owners withdraw supplies for manufacturing needs.

A British copper dealer said the "terrific demand" for immediate-delivery copper is underscored by the substantial premium paid for copper in this position from the price for delivery within three months. The current premium is 5⅜ cents a pound, compared with only one cent about six weeks ago.

Expectations are increasing for the U.S. to place restrictions on exports of copper. One metal trader, however, said he didn't expect an imposition of an embargo on copper exports from the U.S. until the government eliminates an import duty of 0.8 cent a pound, or $16 a ton.

Another source commented that "at the present time, it doesn't matter if there is an import duty or not, because there isn't any copper around."

Up until several days ago, a U.S. dealer said he was able to buy copper imported from Canada and before that some from Mexico. These supplies are preferred because of the short haul, he added.

Meanwhile, major U.S. copper producers are taking orders for shipment next month from their regular domestic customers. The producers quoted prices at 60 cents to 60¼ cents a pound. Some sought to raise prices prior to the current freeze, but were prevented from doing so by that regulation.

If the producers should get relief from the current restrictions, the price on the latest sales will be based on the day of shipment. Copper sold for export is free from price limitations.

WILLIAM D. HASSETT, JR.—"MAN OF THE YEAR"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. KEMP. Mr. Speaker, western New York, where my 38th district is located, is fortunate in having one of the most active and creative business communities in our Nation. This has come about, I believe, because of the efforts of talented young businessmen like William D. Hassett, Jr., president of W. D. Hassett, Inc.

Bill heads the largest real estate servicing firm of its kind in western New York and employs over 600 area residents in both real estate and related services, such as maintenance, construction, and hotel service. Two of Buffalo's landmarks—the 29-story Rand Building and the Statler Hilton Hotel—have been acquired by him in the last 2 years.

A leader in community affairs, Bill served as general chairman of the 1972 United Fund Appeal which reported the largest amount of money ever raised in a community drive in western New York. He also is a trustee of both the State University of New York and Canisius College and is president of the United Way of Buffalo and Erie County.

His most recently received honor is the Niagara Frontier Businessman of the Year Award which was presented at the University of Buffalo School of Management Alumni Association's annual awards banquet at the Pellamwood House, West Seneca, N.Y.

I would like to join Bill's many other friends in saluting him for his outstanding achievements and leadership in the community and throughout western New York. Congratulations, Bill, for your well-deserved award.

$3.1 MILLION A DAY FOR DEATH IN INDOCHINA; $3.1 MILLION FOR A BETTER LIFE IN AMERICA

HON. ANDREW YOUNG

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. YOUNG of Georgia. Mr. Speaker, it is interesting to examine the cost of death and destruction brought by U.S. military operations in Indochina, and to compare this with the cost of preserving and improving life here at home.

In order to make such a comparison, I offer, first, the following testimony of Dennis J. Doolin, Deputy Assistant Secretary of Defense, International Security Affairs for East Asia and Pacific Affairs, before the House Committee on Armed Services on May 8, 1973. Mr. Doolin had been asked a series of questions on the cost of U.S. military operations in Cambodia and Laos, and in his testimony he repeated the questions and stated his answers as follows:

Mr. Doolin. Yes, sir.

One question we will not be able to provide the answer, unfortunately, for another 24 hours.

Question 1. The number of sorties flown by U.S. military airplanes, for bombing purposes, over Cambodia during the period January 27, 1973, through April 30, 1973. The answer is 12,136.

Question 2. The number of sorties flown by the U.S. military airplanes for bombing purposes, over Laos during the period January 27, 1973, through April 30, 1973.

Answer. 8,985. In addition, since the Laos cease-fire on February 22, 1973, 88 attack sorties have been flown in Laos in response to Royal Lao Government requests.

Question 3. The tonnage of bombs and shells fired or dropped on Cambodia by U.S. military forces during the period January 27, 1973, through April 30, 1973.

Answer. 82,837 short tons.

Question 4. The tonnage of bombs and shells fired or dropped on Laos by U.S. military forces during the period January 27, 1973, through April 30, 1973.

Answer. 63,082 short tons. Since the Laos cease-fire on February 22, 1973, 1,038 short tons have been expended in Laos.

Question 5. The number and nomenclature of airplanes lost by the United States over Cambodia or its territorial waters during the period January 27, 1973, through April 30, 1973.

Answer. One USAF OV-10; one USAF F-4.

In addition, on May 4, 1973, a U.S. Air Force A-7 was lost due to mechanical difficulty. The pilot was recovered in good condition.

Question 6. The number and nomenclature of airplanes lost by the United States over Laos during the period January 27, 1973, through April 30, 1973.

Answer. One EC-47.

Question 7. The number of Americans killed, wounded, captured, and missing in action while participating in flights over Cambodia and Laos during the period January 27, 1973, through April 30, 1973.

Answer. Killed in action, 9; missing in action, 2.

Question 8. The cost incurred by the United States as a result of all bombing and shelling carried on by the United States in or over Cambodia and Laos during the period January 27, 1973, through April 30, 1973, including the cost of bombs and shells, ships and airplanes employed during such period, salaries of U.S. military personnel during such period, involved in operating and maintaining such ships and airplanes, cost of equipment destroyed or damaged while participating in bombing missions over Cambodia and Laos, and all other expenses attributable to such bombing and shelling, during the period January 27, 1973, through April 30, 1973.

Answer. Based upon cost factors covering munitions, fuel, aircraft attrition, and certain amounts paid to crews while in flight status, the following costs were incurred by the United States January 27, 1973, through April 30, 1973, for bombing operations over Laos and Cambodia:

Cambodia	$159, 482, 375
Laos	99, 190, 719
Total	258, 673, 094

Question 9. The number of sorties flown by U.S. military airplanes, for purposes other than bombing, over Cambodia and Laos during the period January 27, 1973, through April 30, 1973.

Answer. Cambodia, 6,181; Laos, 5,439; total 11,620.

Question 10. The cost incurred by the United States as a result of all actions, other than bombing, carried on by the United States in or over Cambodia and Laos during the period January 27, 1973, through April 30, 1973, including the cost of airplanes employed during such period, salaries of U.S. military personnel, during such period, involved in operating and maintaining such airplanes, cost of equipment destroyed or damaged while participating in all activities, other than bombing, over Cambodia and Laos, during the period January 27, 1973, through April 30, 1973.

Answer. The cost incurred by the United States for air operations other than bombing over Cambodia and Laos during the period January 27, 1973, to April 30, 1973, is not readily available in the format requested. The response will be provided later for the record, and as I indicated, Mr. Chairman, we hope to have this to you within 24 hours.

[The following information was subsequently received for the record:]

The cost incurred by the United States for air operations other than bombing over Cambodia and Laos during the period January 27, 1973 to April 30, 1973 is as follows:

Cambodia	$18, 973, 000
Laos	14, 728, 000
Total	33, 701, 000

These costs do not cover most manpower costs, nor the cost of overseas base support, pipeline, and CONUS support, which would change little, if at all. Any attempt to break the figures down more precisely would require a great deal of time and effort, and would entail many arbitrary assumptions.

Over a 94-day period early this year, Mr. Speaker, the administration and the

Defense Department were spending—without any clear constitutional or legal authority that I am aware of—a total of at least $292,374,094 of the American people's money for these military operations which included the killing of civilians and destruction of villages. It is hardly necessary to remind anyone that the bombing continues, often at an accelerated pace.

For the sake of comparison, however, let us consider the hard figures available for the 94 days. The average daily cost of this savage operation was $3,107,065.

Now what could $3.1 million do in terms of human needs here in our country? I have made a random survey of programs needing Federal assistance in my district, and have compiled a list of 17 projects and what they can do over an extended period of time—usually for a whole year—with a combined total of $3.1 million. That is the same amount which has been drained away in Cambodia and Laos in a single day.

Here is a sampling of what $3.1 million can do in and around Atlanta, Ga.:

1. $473,872—loans to 1,053 needy students at Morris Brown College.

2. $28,059—training of teachers to educate handicapped children at the Georgia Retardation Center.

3. $60,251—treatment of 901 cancer patients at the St. Joseph's Infirmary cancer clinic.

4. $636,000—education of high school dropouts at the Atlanta Street Academy.

5. $14,917—nursing scholarships at Georgia State University.

6. $55,000—continuation of Georgia Tech's job and business development program.

7. $25,200—research on viral-induced bone tumors at Morehouse College.

8. $2,133—drug abuse education by the Atlanta Urban League.

9. $605,390—construction of 25 units of low-cost housing at Model Cities.

10. $35,035—Summer Head Start for the metropolitan area.

11. $35,219—nurses' training at Grady Memorial Hospital.

12. $222,600—expansion and improvement of studies in biology, chemistry, physics and mathematics at Clark College.

13. $229,000—continuation of Georgia Legal Services, Inc.

14. $236,803—continuation of the foster grandparents program for retarded children.

15. $257,808—the Atlanta Community Hypertension Program (screening, follow-up and treatment of hypertension in seven neighborhoods of Atlanta's West End).

16. $50,000—Atlanta Teacher Corps Training program.

17. $143,000—the city's summer recreation program for disadvantaged youth under the age of 14.

The total Federal commitment needed in these efforts, Mr. Speaker, is $3,110,-287—funds which are a sound investment of the people's money—in striking contrast to roughly the same amount that has been used for 1 day to blow up people and smash human aspirations in Indochina.

CAPTIVE NATIONS WEEK

HON. RAY J. MADDEN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. MADDEN. Mr. Speaker, this week in the month of July each year the Congress of the United States in following up the resolution adopted by the Congress observes "Captive Nations Week." I think it is well to remind the public that the Communist tyrants who have enslaved many nations adjacent to the Soviet Union have not changed their barbarous and tyrannical methods of government.

The Soviet propaganda machine has spent vast sums of money and Soviet manpower to mislead the world regarding their barbarous and inhuman methods of enforcing slavery upon nations under their domination. The Communist representatives of the United Nations have consistently voted against any action of that international body that would present for debate and discussion true facts regarding the inhuman methods used by Soviet leaders against their captive neighbor nations.

Today, in my remarks on Captive Nations Week, I think it is well to bring to the attention of the newer Members of Congress and the American younger generations who are unfamiliar with these methods used by the Soviet tyrants to subject innocent and free people these true facts. Forty-three years have passed since the Soviets committed probably the greatest international crime in world history when they massacred approximately 15,000 Polish leaders and intelligentsia of the then free Polish nation.

When some of the mass graves of those massacred citizens were discovered 2½ years after the crime, the Soviet propaganda machine immediately sent out volumes of propaganda disclaiming this crime and blaming Hitler and the Nazi storm troopers for the atrocities.

After Hitler's death the Soviet propaganda machine, without any global opposition, convinced millions throughout the world that they were innocent of this greatest of international crimes.

With the help of the Polish American Congress, resolutions filed by myself and a number of my colleagues, this Congress created a special investigating committee to hold hearings and settle for posterity and establish authentic guilt for this "crime of the ages." Hearings were held over a 2-year period in the United States, England, and Europe.

The U.S. Congress has made a step in the right direction by unanimously adopting House Concurrent Resolution 416 which calls for freedom of the Baltic States. It is my hope that all freedom-loving Americans will urge the President to implement this very important resolution by bringing the issue of the liberation of the Baltic States to the United Nations to request that the Soviets withdraw from Lithuania, Latvia, Slovakia, Estonia, and Hungary.

CAPTIVE NATIONS WEEK

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. PEYSER. Mr. Speaker, this week we again observe Captive Nations Week. Since 1959, the third week of July each year has been designated in this manner. This year as in the past we have the opportunity to show our solidarity with the people in East and Central Europe who have an overwhelming desire for liberty and independence.

The emerging détente between the United States and the Soviet Union should not obscure the fact that millions of people in the submerged nations of East and Central Europe are denied the right of self-determination and the holding of free elections, which were promised them decades ago. The past record is clear that these people are willing to risk their lives in order to obtain freedom. Poland, Czechoslovakia, the Balkans, and Lithuania have all experienced uprisings in support of self-determination, justice, and liberty.

This week, the Congress should help bring public attention to the continued denial of fundamental human rights in these countries. We, in the United States, have the good fortune to be the oldest continuous democratic government in the world. For years the United States has been looked upon as the defender of democracy and the fundamental human rights of man. We cannot now let up in our efforts to see that all peoples of the world have an opportunity to exercise those long recognized fundamental human rights.

JAMES V. SMITH: PUBLIC SERVANT AND FRIEND OF RURAL AMERICA

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 11, 1973

Mr. McFALL. Mr. Speaker, I know I speak for my constituents of the 15th District in California in paying tribute to a dedicated public servant, Jim Smith. I had the privilege, as did many of my colleagues, of serving with him during the 90th Congress, and subsequently working with him in his capacity as Administrator of the Farmers Home Administration.

Until he resigned from that position last January, his efforts at bettering the conditions of rural America could be described as almost unparalleled in the administration's history. Inasmuch as I represent a predominately rural area in California's 15th Congressional District, I had a number of opportunities to work with and receive assistance from Jim in the areas of water and sewer treatment facilities, self-help housing, migrant housing, and technical aid to farmers, not to mention disaster relief.

I would be accurate to say that without Jim Smith at the helm, many needed, important projects might not have received the attention they deserved. We cannot help but miss his presence, and I personally join my colleagues today in extending my deepest sympathies to his wife and family during this difficult time.

A BEEF ABOUT PHASE IV

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. LITTON. Mr. Speaker, I note the concern of the President for farmers and his fear that past freezes may have discouraged the farmer from increasing his production. Yet, I note the statement by the President includes a position of stopping or slowing down exports of farm products as well as increasing the imports of farm products into this country. These positions hardly serve to give the producer the confidence he needs to make long-range investments which will permit him to produce more, which ultimately will lead to a greater food supply in America for the consumer. I was especially surprised in view of present market conditions to see the President leave the existing freeze on beef.

It is inconceivable that our Government would make the same economically idiotic mistake three times in 111 days. On March 15, President Nixon by his own word said a freeze on food prices would not work and might lead to food shortages or the black market. A few days later Secretary Butz indicated that anyone who would favor a food price freeze would be a damn fool. On March 29, the President announced his food price freeze. What both the President and his chief agriculture adviser had indicated might happen did happen. The freeze discouraged production and talk of meat shortages became more prominent as more cows went to market. In the face of this, the President in his 60-day freeze statement in June froze meat prices along with almost all commodities. It was called by the President an effort to lower food prices when livestock kill figures across the country showed that just the opposite was going to take place—higher and not lower meat prices. Because of these mistakes, which were obvious to most with a simple background in high school economics, baby chicks were drowned and breeding stock in pork, beef, and dairy went to market in record numbers.

Poultry shortages are only weeks away and pork shortages are expected this fall. Due to the 2-year time span needed to produce beef, shortages in this commodity won't show up for some time, but today's phase IV—the third freeze on beef in 111 days—assures that such shortages will exist, and when prices do go up they will hit the consumer harder than ever.

When will the Government realize that in the face of beef shortages you do not encourage cattlemen to keep back more cows and breed more heifers by establishing freezes? Even the new minimum wages passed by the House will not be permitted to be passed on. The lifting of the freeze—permitting increases to be passed on—in poultry and pork is an admission that the freeze did not work on these commodities. It is being kept on beef only to mislead the consumer into thinking she is still being protected with the apparent thought that the Government will break the news to her later that it did not work when beef shortages show up and the freeze has to be lifted to stop black marketing. When you have a beef shortage, it is also going to be of longer duration than shortages of pork and poultry because of the longer generation interval in beef.

We have been told that beef was excluded from the new criteria for other foods and held at the 60-day freeze level because we do not now have beef shortages. Of course we do not have shortages now. We do not because of record numbers of cows and heifers which are now going to market. This props up present beef supplies, but it is a false reading because it will be quickly translated into even greater beef shortages in the future when the calves from these cows and heifers are not marketed.

As I have mentioned before, such freezes hurt the consumers more than the producers. I have pointed out repeatedly that cattlemen losing money on their cattle on feed are sending them to market at lighter weights rather than take losses. Cattle sold at 900 instead of 1,200 pounds represent 300 pounds of beef the consumer will never see. I visited this week with both the St. Joseph markets and those in Sioux City and found that cattle being slaughtered there are averaging from 30 to 32 pounds lighter per head than 2 or 3 weeks ago. With an average weekly kill in this country of 600,000 head, this figures out a net loss of 18 million pounds of beef a week. How much longer can the consumer afford to lose this kind of food supply? We know a 1-percent decrease in food supply results in a 3- to 4-percent increase in price. You can see from this how hard the consumer is going to be hit because of this politically slanted, but economically unwise move by the Government.

PHASE IV TO ADD BILLIONS TO FAMILY GROCERY BILLS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. ROSENTHAL. Mr. Speaker, with the announcement today of phase IV food price regulations, the President has guaranteed another round of severe inflation at the supermarket counter and has added billions of dollars to the American family's grocery bill.

Once again, he has dipped into the pockets of every consumer in order to cover up his administration's gross mismanagement of the Nation's food supply.

Instead of cracking down on speculation in the commodities market and the enormous profits of a handful of grain companies, the President took the "easy" route and simply removed food price ceilings.

American consumers have reached the breaking point insofar as food prices are concerned. Their pocketbooks are not bottomless pits and they must not be made to bear any longer the brunt of the Government's shortsighted food policies.

I believe that most American consumers would have preferred shortages of some food commodities for a few months rather than permanently higher prices costing them billions of dollars, which is what the President's action today means.

WHITE HOUSE ENEMIES LIST

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. REID. Mr. Speaker, the so-called White House enemies list which John Dean has described to the Senate Watergate Committee contains a large number of names which have not generally been published in press accounts.

One such group of names, submitted by Mr. Dean to the Senate Watergate Committee on a separate list, consists of persons associated with the McGovern-Shriver campaign.

Because I believe it important that the American people know the extent to which the current administration has gone in identifying and labeling its political enemies, I am herewith including this list in the RECORD. The list is verbatim as it was submitted in evidence to the Senate Watergate Committee.

The list follows:

MCGOVERN CAMPAIGN STAFF

Abzug, Rep. Bella, Co-chairwoman, McGovern-Shriver Women's National Advisory Committee.

Armstrong, Robert, Texas Land Commissioner who is expected to have large role in McGovern Texas campaign.

Brown, Willie L., California McGovern Co-chairman.

Caddell, Patrick, McGovern's private pollster.

Caplin, Mortimer, Economic Speech Advisor, Former head of IRS.

Chayes, Dr. Abram, Foreign Policy Professor, Harvard University.

Clifford, Clark, Vice Chairman—Policy Panel for National Security, Former Secretary of Defense.

Cohen, Dick, Jewish Affairs Section.

Cunningham, George, Deputy Campaign Manager.

Daniels, Harley, McGovern State Coordinator.

Davis, Lon, Youth.

DeWind, Adrian, Economic Speech Advisor, N.Y. Tax Attorney.

Dougherty, Richard, Press Secretary.

Duffey, Rev. Joe, Citizens for McGovern-Shriver.

Dutton, Frederick G., Senior Advisor.

Farenthold, Frances (Sissy), Co-chairwoman—National Citizens for McGovern-Shriver, Texas State Legislator—former candidate for state governor.

Gavin, Lt. Gen. James M. (Retired), Vice Chairman—Policy Panel for National Security.

Guggenheim, Charles, McGovern Media man—produces McGovern films.

Halstead, Tom, Disarmament and related matters.

Hart, Gary, Campaign Director and Western Coordinator.

Heller, Walter O., Economic Speech Advisor, Former Chairman of Council of Economic Advisors.

Himmelman, Harold, Campaign Aide for Northeast.

Holum, John D., Research Assistant and Speech Writer.

James, William S., Co-chairman—Maryland Citizens for McGovern-Shriver.

Jones, Kirby, Deputy Press Secretary.

Kimelman, Henry, Finance Chairman—campaign funds and contributions.

Kuh, Edwin, Economic Speech Advisor; Professor, MIT.

LaRocque, Rear Adm. Gene (Retired), Vice Chairman—Policy Panel for National Security.

Levett, Michael, Maryland McGovern Campaign Coordinator.

Lobell, Martin, Energy; Formerly Sen. Proxmire's Legislative Assistant.

MacLaine, Shirley, Co-chairwoman—McGovern-Shriver Women's National Advisory Committee.

Mankiewicz, Frank, National Political Director.

Martindell, Anne, Deputy Campaign Director, Chairwoman to New Jersey Convention Delegation.

McPherson, Mike, Shriver Traveling Staff, Former Aide to Rep. William Clay (D-Mo.)

Meyers, Henry, Scientific Affairs and Environment.

O'Brien, Lawrence, Campaign Chairman.

Okun, Arthur M., Economic Speech Advisor, Former Chairman of Council of Economic Advisors.

Patterson, Basil, Co-chairman, Dem. National Committee.

Pechman, Joseph A., Economic Speech Advisor, Economist, Brookings Institution.

Pokorny, Gene, Domestic Issues.

Proxmire, Senator William, Vice Chairman, Policy Panel for National Security.

Rapp, Stan, Ads for McGovern, Rapp & Collins, New York, Advertising firm.

Rubin, Miles, Fund Raiser, Los Angeles Industrialist.

Salinger, Pierre, Campaign Aide.

Schultze, Charles L., Vice Chairman, Policy Panel for National Security, Former Director, Bureau of the Budget.

Scoville, Herbert, Jr., Vice Chairman, Policy Panel for National Security, Former CIA Deputy Director.

Smith, Floyd, Vice Chairman—Policy Panel for National Security, President—Intl. Assn. of Machinists and Aerospace Workers.

Stearnes, Rick, Campaign strategy.

Surrey, Stanley S., Economic Speech Advisor, Professor, Harvard University.

Sylvester, Edward S., Jr., Director—Black Steering Committee for McGovern, Former Asst. Secretary of HEW.

Tobin, James, Economic Speech Advisor, Professor, Yale University.

Van Dyck, Ted, Handling of substantive issues.

Warnke, Paul C., Co-Chairman—Policy Panel for National Security.

Weil, Gordon, Substantive Issues, Legislative Assistant to McGovern.

Westwood, Jean, Co-chairwoman, Democratic National Committee.

Wexler, Anne, Executive Director—Voter Registration, Former Democratic Party Co-chairperson.

White, Cissy, Press Aide.

Willens, Harold, California Democratic Finance Chairman.

York, Herbert F., Co-chairman—Policy Panel for National Security, Former Defense Dept. Director of Research and Engineering.

FOOD PRICES VERSUS SCARCITY

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. DAVIS of Wisconsin. Mr. Speaker, this week Jones Dairy Farm of Fort Atkinson, Wis., suspended its operation. This successful, well-managed, family business, operating through three generations of the Jones family, has determined that it simply cannot continue in the meat processing business while the present freeze in processed food prices continues.

This was not a selfish decision. There is no more public spirited group of citizens than the members of the Jones family who operate Jones Dairy Farm. It was a realistic decision that had to be made in order to avoid the stark alternative of permanently discontinuing the business operation.

Within the next 48 hours we should receive some information with respect to phase 4 as it affects food prices. It ought to be obvious to everyone that the existing freeze on food prices must end and that phase 4 must include a pass-through of cost increases.

Some people will not like the prospect of increased food costs, but the alternative, unquestionably, will be bare shelves in grocery stores. We have all been spoiled by the quantities, varieties, and prices of our food. For generations Americans have paid relatively less for what they eat than have the people of other countries of the world. American food producers are simply not going to be able to produce sufficient quantity at reasonable prices if we continue to stifle that production through an arbitrary freeze on food prices.

Bob Angus of the Jefferson County Daily Union, published at Fort Atkinson, no doubt deeply affected by what he has seen happen to his good neighbors, the Joneses, has written a penetrating editorial which I insert here for the consideration of my colleagues.

CONTROLS STIFLE THE PROCESSORS

The other day a farmer sent the United States Agriculture Department 700 baby chicks. They were no longer profitable to raise.

Detailed government studies of the past tell us price controls inevitably cause greater shortages. These intensified scarcities force hidden price rises, shoddy merchandise, more fluff in what we buy.

Cheating, evasions, fraud, bribery. Corruption among enforcers. The consumer gets shortchanged. So do many honest farmers, processors, manufacturers.

The present go is no exception.

Confirmed reports show milk production is down and that sizable numbers of dairy cows are being culled, which bodes ill for future milk supplies. The number of pigs scheduled for market has slipped.

Some plants for processing oil and shortening have slowed output or closed. An unconfirmed report says that some fruit and vegetable processors have slowed operations (by what amount is not certain).

It is said that a chunk of U.S. corn milling capacity has ceased operations, at least temporarily. A number of soybean growers have said they were unable to sell their product to processors. A breakfast food manufacturer has indicated he is shutting a plant.

The problem in most cases: The processed price is fixed; the raw product price is not. Processing becomes unprofitable.

As time goes on, numbers of small honest firms will almost surely go out of business. Their sharper rivals who know how to cut legal corners will likely be able to hang on, or even prosper.

If controls continue for a considerable time, inevitably there is a strengthening of mammoth companies and a weakening of little firms. This will be true regardless of how carefully and how fairly controls are imposed.

The giant combines have more resources to fall back on. They have a greater ability to shift operations away from unprofitable lines into those areas less affected by price controls. They usually have better sources of supply and more skilled attorneys able to figure out ways to get by without breaking the law.

Almost certainly, too, the extension of controls will require, before the year is out, some restriction on exports, which will, in turn, hurt the U.S. balance of payments further.

Likewise, it will be most difficult for President Richard M. Nixon to avoid some controls over the use of a number of major products—notably petroleum. Perhaps even some foods.

There may be no political alternative to a considerable period of restrictions. But he should be aware of what we are getting into, and realize that controls, by intensifying the very difficulties they're expected to cure, become very difficult to phase out.

THE SERIOUS NEGLECT OF SOLAR ENERGY

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. VANIK. Mr. Speaker, as the days of energy shortage stretch into months, it is becoming increasingly clear that there are going to be no easy solutions to our dilemma. We are tremendously dependent on rapidly disappearing—and increasingly costly—fossil fuels. About 96 percent of all our energy comes from the burning of fossil fuel: coal—20 percent—natural gas—33 percent—and petroleum—43 percent. The remainder of our energy budget is supplied by hydropower and nuclear power.

Short term solutions, such as the Alaskan pipeline, increased imports and expanded drilling on the Outer Continental Shelf, while momentarily easing our plight, only postpone the inevitable day of reckoning. Nuclear power has been proposed as our energy alternative for the future. But despite its Buck Rogers appeal, nuclear fission technology carries many important questions that must be answered before we can have any confidence in its potential.

The U.S. Court of Appeals for the District of Columbia noted these many formidable obstacles when it decided that the Atomic Energy Commission must file an environmental impact statement for its entire liquid metal fast breeder reactor program. In its decision, the court underlined the importance of the decisions we make today to our energy needs of tomorrow:

> The manner in which we divide our limited research and development dollars today among various promising technologies in effect determines which technologies will be available, and what type and amount of environmental effects will have to be endured, in the future when we must apply some new technology to meet projected energy demands.

In this context our neglect of solar energy research is scandalous. Solar research—for both space and terrestrial applications—will reach only $12 million this year, while the LMFBR is being funded at a level over 10 times this amount. In view of this distortion in our energy research priorities I submit for the RECORD an excellent editorial which appeared in this morning's Washington Post, which describes the fantastic, pollution free, limitless energy potential of our Sun. It is vital that we begin, now, to harness the energy of our star for the betterment of all mankind.

U.S. scientists, according to report by Claire Sterling which was published on this page the other day, told a recent UNESCO conference in Paris that harnessing sunshine to reduce man's dependence on scarce and polluting fuels is no longer a matter of wishful thinking of solar energy enthusiasts. Ten years from now, representatives of a NASA-National Foundation panel reported, one out of every 10 new homes built in this country could be heated and cooled by solar rays. In less than 15 years, sun rays could produce commercial electric power. In 20 years a satellite could be in synchronous orbit beaming power down to earth by microwave. In 50 years, solar energy could supply at least 20 per cent of all the United States' energy needs. And there is no limit to where technology might advance from there if you consider the abundance of solar radiation: it is so plentiful that the energy arriving on 0.5 per cent of the land area of the United States is more than the total energy needs of this country projected for the year 2000.

Harnessing this energy, however, will require "an effort comparable in spirit and commitment to the one we put into the space program in the 1960s," according to former Rep. George P. Miller (D-Calif.), past chairman of the House Science and Astronautics Committee. So far, we have only made a hesitant beginning. The federal government, to be sure, has now at least recognized the potentials of solar energy and organized the NASA-National Science Foundation task force to explore it. Congress has appropriated $12 million for the purpose in the current fiscal year, an amount most experts consider totally insufficient. It is less than two per cent of the total amount of government research and development funds spent on conventional energy resources such as converting coal into gas and nuclear engineering.

What is needed, according to the NSF-NASA panel, is a federal investment of $3 billion in solar research and development over the next 15 years. And what is needed, most of all, as Mr. Miller has said, is a federal commitment that must be (1) focused, (2) integrated, (3) intense and (4) continuing. In other words, laboratory research grants and small scale experimentation are not sufficient to launch the "sun age." Before solar energy becomes a substantial source of clean energy, industrial ingenuity and productive know-how must be mobilized to produce the hardware and services necessary to make the conversion devices economical. Most companies look for short term projects for new enterprises that promise a return on their investment in two or three years. Long range projects present great risk and investment capital is scarce unless there is confidence that the government is really serious about it and ready to provide the direction and incentives. A firm assertion of a national priority for solar energy "R and D" is also needed to engender the public confidence essential to assure industry of public acceptance and a market.

There is little time to lose. Nuclear generating plants are as yet producing less than one per cent of our total energy needs and public apprehension about them seems to be mounting. Planning and construction of additional nuclear plants is years behind schedule. Uranium is in short supply. Liquid metal fast breeder reactors will not make a significant contribution for at least a decade. Fusion reactors seem even further off. Experts say that the first demonstration fusion reactor will probaby not be built before the year 2000. Energy consumption and energy cost, meanwhile, keep increasing rapidly. In 1970, school districts across the nation, for instance, spent an average of $26.70 per pupil per year for energy. The projections of the U.S. Interior Department, which may be conservative, indicate a tripling of energy cost by 1985 and a quadrupling by 1992. In the year 2000, then, we can expect to pay $106.80 per pupil per year.

Compared to such cost, the $3 billion required to advance solar energy energetically is a bargain. It would be folly to wait for a real scare to produce the crash program that clearly has become necessary.

WILLIAM RALPH MASON

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. HANNA. Mr. Speaker, I was saddened to learn of the death of my good friend, Mr. William Ralph Mason, of Newport Beach, Calif., on July 14, 1973. Mr. Mason was the president of the Irvine Co., one of this country's largest land development companies. Bill Mason joined the Irvine Co. in 1959 as a civil engineer, and was fond of recalling his first day on the job:

> I'll never forget that first morning. As I turned off the Santa Ana Freeway and headed toward the ranch, all I could see were cattle grazing on one side of the road and row crops on the other. And there, perched on a fence post, was a big old hoot owl. It didn't even blink as I drove past. And that is when I began wondering what in the world a ranch wanted a civil engineer for.

Bill Mason soon found out. The ranch has changed more than a little since 1959. In 1966, Bill became president of the company. On Irvine land today there is a campus of the University of California, a seaside shopping and financial center, a 200-acre wildlife preserve, a 3-mile long ocean marine preserve, an industrial park of more than 400 firms, a 350-acre regional park, a growing and prosperous farming and cattle-grazing operation, a dozen communities in three cities, and a totally new municipality, the city of Irvine. All of this was done under the leadership and direction of Bill Mason.

But Bill Mason was more than a businessman. He was deeply committed to civic causes. He was active in Boy Scouting, was deeply involved in education, serving on various college and university boards and committees. He was active in the Red Cross, City of Hope, YMCA, and United Fund Campaigns. The county and State have lost a valued and committed citizen.

Bill Mason worked hard all of the time, whatever he was doing. All of us will miss him.

I extend my sincere condolences to Bill's wife, Betty, son Mark, and daughters Wendy and Miriam.

REPRESENTATIVE ASHBROOK'S NEWSLETTER ON REPRESENTATIVE H. R. GROSS MERITS ATTENTION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. SYMMS. Mr. Speaker, in a recent "Washington Report," Representative JOHN M. ASHBROOK provides an invaluable illustration for constituents and other Congressmen of the legislative process at its best.

Most Members of Congress are aware of and respect the vital contribution of the revered Republican "watchdog," Representative H. R. GROSS of Iowa.

Using GROSS' efforts to break an important Post Office Department bill out of the legislative logjam as a backdrop, ASHBROOK explains in his weekly column how a thorough knowledge of parliamentary procedure can bring legislation before the House for debate and vote.

The House of Representatives all too frequently is given short shrift by the media and political scientists in favor of that more deliberative body on the other side of the Capitol. Too often the House is portrayed as a thorn in the side of an administration or a Chief Executive. It is unjustly accused of stalling, creating issues and controversy out of thin air.

Such men as H. R. GROSS and newsletters such as ASHBROOK's go a long way toward putting the important work of this legislative body in proper perspective.

Political scientists and students of government should read this newsletter as avidly as the criticism on which they seem to dote.

The newsletter follows:

CONGRESSMAN H. R. GROSS, "WATCHDOG" OF THE HOUSE

Parliamentary procedure can be very dull, but it becomes exciting to watch when it is used adroitly in the public's behalf by an expert.

Rep. H. R. Gross of Iowa is an acknowledged master of parliamentary arts. He is the Republican "watchdog" of the House of Representatives, the Congressman who keeps tabs on Democrat maneuvers to push through legislation. Gross uses his extensive knowledge of parliamentary procedure to block efforts to railroad bills and to obtain passage of legislation supported by Republicans. I have been privileged to work with Gross this session.

Worth describing is his successful effort to bring to a vote an important bill on U.S. Postal Service authorizations (H.R. 2990, sponsored by Rep. Gross). It is similar to a bill I submitted at about the same time.

H.R. 2990 cleared the House Post Office and Civil Service Committee in early April by a 22 to one vote. The powerful Democrat-controlled House Rules Committee refused to allow the bill to come to the House floor for a vote despite the Post Office Committee's overwhelming support.

Rep. Gross retired to his office to review the rules of parliamentary procedure governing the House.

Every Wednesday during a House session, each of the 21 standing House Committees is allowed to bring one bill before the House for debate and vote. This is known as the "calendar Wednesday" procedure. It has been used twice in the last twenty years. This method of reporting bills traditionally is waived by unanimous consent of the House because the members believe the Rules Committee is the appropriate channel for legislation.

After two weeks of waiting in vain for the Rules Committee to release the bill. Rep. Gross objected to the unanimous consent request. A two-thirds vote of the House is required to vote to suspend the rules to get around an objection to unanimous consent.

Gross had planned carefully and the House, voting along party lines, failed to support the rules suspension. The House was faced with the time-consuming and frustrating business of calling the roll of House Committees for bills, by alphabetical order, debating and voting on the bills every Wednesday until the roll call was complete.

The prospect of weeks of Wednesday waiting until the Post Office Committee would be called to present the authorizations bill forced the Rules Committee to agree to release the bill.

So in the next week or so, the House will vote on whether Postal Service authorizations should be made anually, to insure maximum legislative oversight and review, or in a lump sum for a period of years as is the present practice.

In addition to changing the authorization period, the bill also would require postal officials to keep Congress informed about their activities and answer congressional inquiries promptly.

Persuasive arguments were made by post office spokesmen that good management requires advance funding to insure adequate long-range planning and control. But the need to improve service, cut costs and eliminate waste in the U.S. Postal Service overrides such consideratitons at this time. Congress must be in position to examine postal operations closely until they improve. I would like to see private corporations authorized to test the effect of competition and free enterprise on mail service by ending the government's monopoly.

If H. R. Gross had not been wise in the ways of parliamentary maneuver, the public's elected representatives would not even have had a chance to vote on the proposed changes.

A FAMILY EXPRESSES APPRECIATION FOR KINDNESS OF NAVY PERSONNEL

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. FRENZEL. Mr. Speaker, a family in my district recently suffered the loss of its son, a Navy Seabee petty officer, in an accident at his overseas post. Since the death occurred at a remote location outside of the United States, there was difficulty in getting information back to the family and in arranging for transportation of the body home. The family was naturally grief-stricken, and family concern was particularly high when information was not immediately available.

However, various personnel within the Navy were especially helpful to the family at the time of its grief, and the family's reaction, as expressed in a letter to me, was so unusual that I am reproducing at this point, with some editing to preserve anonymity, a few paragraphs from a letter written by the mother:

> The Navy officers, chaplain and boys all deserve medals for their kindness shown to us during our great sorrow. They sent flowers, personal letters, gifts of money and had a beautiful memorial service for our son. I wish just once the news media would talk and write about great people like them, instead of writing about the marchers and protesters that try to tear down our country in every way they possibly can, those who burn our beautiful American flag and get by with it, those who run into Canada to avoid our draft. Just once I'd like to see in the newspaper praise given to all men and women who are willing to serve our country in the military services, to fight for the freedoms we have. The freedom of religion alone is worth fighting for. These great people are the ones who Americans should read about.
>
> We are not bitter toward the Navy or America because we lost a son in Service. He died for a great country, but we miss him so much. The hurt is almost too hard to bear, but with God's help, we will carry on—loving our country and doing whatever possible to protect it as our son would have done had he lived.
>
> We hope we haven't been too unreasonable toward the Navy Department, and if they feel we have, we certainly apologize for it. Please understand that the days seem so long when you are waiting for a loved one to return home. Each day seemed like a week, and we just hope they understand.
>
> To all the men in the US Naval Mobile Construction Battalion, we recommend the highest award possible for their great love and kindness shown to us. No one could have done more for us than these great men.

I join the family in congratulating all of the Navy personnel who helped to ease the grief and suffering of the family. Also, congratulations to the family for its extraordinary positive attitude at a time of deep personal sadness.

THE LATE JAMES V. SMITH

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. QUILLEN. Mr. Speaker, this country has suffered a great loss in the passing of James V. Smith, our former colleague.

Jim was a close, personal friend of mine, and it is with a heavy heart that I join in paying tribute to his memory.

Throughout his career as a public servant, Jim Smith worked hard to make our world a better place for others. As a Member of Congress, he demonstrated a genuine concern, not only for the people in his district, but for those throughout the country, and especially for the American farmer.

Later, as Director of the Farmers Home Administration, he made great strides in improving life in rural communities, and he achieved a remarkable record in this area.

He was an honest and honorable man who was highly respected and admired by his many friends. He was truly dedicated to our Nation and to our system of Government.

Jim Smith was able, hard working, and loyal, and I am proud to have known and served with him.

On this occasion, I extend my deepest sympathy to his family.

DECENCY: ONE MORE SHORTAGE IN WATERGATE HEARING

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. McCLORY. Mr. Speaker, in the pending hearings before the so-called Senate Watergate Committee, the principal criterion should be to seek the truth.

The following illuminating article by the distinguished columnist William Safire would suggest that a deputy counsel for the committee is more interested in confusing or tricking the witnesses than in eliciting honest answers.

This tactic should be denounced, and the reputation, impartiality and credibility of Assistant White House Counsel Richard Moore should have the respect of the committee and of the American people.

Mr. Safire's article, which appeared in today's Chicago Tribune, follows:

DECENCY: ONE MORE SHORTAGE

(By William Safire)

WASHINGTON.— A vicious attack by a 33-year-old Democratic lawyer, bedazzled by his moment in the limelight, upon the only witness to come before the Watergate committee with clean hands—an upright, respected, gentle human being of 59 named Richard Moore—is proof that the purpose of the Ervin committee is not to bring out the truth but to bring down the President.

Richard Moore, of all the men on the White House staff, comes closest to being a hero on the Watergate matter: When in March he had evidence that a crime was being covered up, he urged the man who knew most about it—John Dean—to go to the President and tell him all he knew.

One reason Dean then did so, after nine months of duplicity, was the knowledge that if he did not immediately spill all he knew to the President, that Richard Moore would go in with whatever he had.

So there was Moore, a man not "involved"; not seeking immunity; not the target of an investigation; a man of substance and lifelong good repute, and a witness to some crucial meetings between Dean and the President, coming before the Senate committee.

Moore had been told on Monday evening that he would be called to testify on the coming Thursday. He began preparing his testimony, but was interrupted the next day by Special Prosecutor Archibald Cox, who wanted his information first and took most of the next day. That left Moore all day Wednesday to get ready for the Ervin committee, and he concentrated on the period central to the whole investigation—"what the President knew and when he knew it."

After a few hours sleep Moore went to the committee. Briefly, at lunchtime, committee lawyers went over the area of testimony to be covered that day, centering on the crucial March meetings with the President and Dean.

Then came Moore's turn. His prepared statement refuted John Dean's central conclusion that the President was aware of the cover-up. Moore said no; the first the President had known was on March 21, 1973, when Dean came clean.

Then young Terry Lenzner tore into him—not into the blockbuster testimony Moore had just given, nor on the matters about which Moore had properly been concentrating, but on some meetings that had taken place on another subject over a year ago. The line of questioning was a non sequiter; it had nothing to do with the matter at hand; in the language of football he "blindsided" the witness.

Moore was taken aback; Lenzner bored in with demands for dates and facts on an extraneous matter, effectively confusing and thereby discrediting the witness—after all, had not John Dean come equipped with every fact and date at his fingertips?

Next day, under questioning by others who wanted to find out what evidence he could contribute, Moore answered with some wit and the kind of occasionally precise recall that has an honest ring, and contrasts sharply with the carefully rehearsed stories. of con men out to save their skins.

Because Moore did not lash into anybody, because his subsequent testimony showed he is a person not motivated by hatred, the unfairness of the attempted humiliation by Lenzner was underscored.

The thought must have occurred to many viewers: Of the two men in confrontation, who would be a better adviser to any President of the United States? Terry Lenzner, born to wealth, captain of the Harvard football team, protege of Ramsey Clark and lawyear to the Rev. Philip Berrigan, is the essence of radical chic. He is a man on the make who strikes the pose of stern guardian of civil liberties, but who has shown he has not the most rudimentary understanding of fairness and civility in human relationships.

Richard Moore, whom he sought to discredit, emerges from the hearings with dignity, good humor, and integrity intact. Viewers who do not automatically assume anybody connected with Nixon to be evil see Moore as the kind of man Presidents need to protect them from the gung-ho, ends-justify-the-means "team players" who flutter around the center of power.

The fury of the attack on a good man who did the right thing recalls the pivotal question asked by Joseph Welch, a man like Moore, at the Army-McCarthy hearings a generation ago: "Have you no decency left, sir?"

The Lenzner attack—which Sen. Sam Ervin made no effort to stop—is sure to be mentioned when the President confronts the senator, and with personal civility and all constitutional respect, tells him where to get off.

NERVE GAS AND THE NATIONAL INTEREST

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. RIEGLE. Mr. Speaker, I am alarmed by the remarks made by my distinguished colleague, Mr. Owens of Utah, on the floor last week that the U.S. Army has yet to comply with its own promise or with the 1969 recommendation of the National Academy of Sciences that certain nerve gas bombs stored in Colorado be destroyed.

Since 1968 when thousands of sheep in Utah were killed by accidental spraying with nerve gas, our citizens have been justifiably concerned by the presence in this country of stockpiles of deadly nerve gas and nerve agents. Some of this material is stored in tanks above ground and within a mile or so of heavily populated areas including airports.

In an age made dangerous enough by intercontinental nuclear weapons, at a time when U.S. troops by the hundreds of thousands occupy bases in Europe and elsewhere abroad, what possible marginal utility is afforded our defense by the continued presence in our midst of storage tanks filled with a substance so potent that leakage of a single drop could on contact kill 50 men?

I believe the American people deserve a better answer to this question than what we have thus far received. I commend the gentleman from Utah's efforts to obtain a committee hearing for the purpose of examining what national policy objectives could possibly justify such a dangerous practice.

CAPTIVE NATIONS WEEK

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. LANDBREBE. Mr. Speaker, I am pleased to join my colleagues this week in the 15th observance of Captive Nations Week. I have actively participated in the activities of this week in past years because I felt very strongly that the attention of the Congress and the Nation should be focused on the plight of the Eastern European countries that are now subjected to Soviet domination.

However, I feel that the commemoration of Captive Nations Week is especially significant this year and at this particular time.

Mr. Speaker, at a time when the President is making every effort to reach an understanding with the Soviet Union, it is important to keep this detente in perspective. I applaud the President's efforts to seek trade and exchange ideas and cultural ties with the Soviet Union, but at the same time I must point out the other face of this powerful Russian giant—the not-so human face of communism.

It is a fact that there are captive nations within the Soviet Union—Estonia, Latvia, Lithuania, Georgia, Byelorussia, and Armenia—to name but a few. These are not merely strange names, but countries where men and women live and wish to develop in their own way and under their own flags. They are not allowed to do so under the control of the Kremlin. Only last year a young Lithuanian burnt himself alive to protest the Soviet domination of his homeland.

It is a fact that the Russian Government dominates and overshadows the economies, the domestic life, and foreign affairs of the nations of Eastern Europe. Poland, Czechoslovakia, Hungary, Rumania, and Bulgaria feel the heavy head of Soviet oppression. They would like to be free to run their own affairs, trade with whatever nations they choose, and have the power to determine their own future. They are not allowed to do so under the tutelage of the Kremlin.

We dare not forget that only 5 years ago this August Soviet tanks spearheaded the invasion of Czechoslovakia. The short-lived attempt of that small nation to pursue a course independent of both the Soviet Union and Soviet communism ended in brutal suppression. Communism in Eastern Europe cannot have a human face; it can only have a Soviet face.

It is a fact that Cuba is controlled by a Communist regime which allows no opposition to it and still encourages subversion against its Latin neighbors. Cuba's economy is in ruins, and she is tied to Russia far more than she ever was to the United States. Cuba has paid a terrible price to receive the many "benefits" of Soviet "protection."

It is a fact that China is dominated by a Communist regime which, though independent of Moscow, is every bit as brutal and oppressive as the Soviet version. There is no free exchange of ideas or goods in China. Only those ideas approved by the party are allowed. Only the state-controlled economy exchanges goods.

It is a fact that the Communist Party of China has suppressed the attempts of the people of Tibet and Sinkiang to assert their national independence. The genocide aganist the Tibetan people is a reality which must be placed alongside our efforts to establish normal relations with the Chinese Government.

Mr. Speaker, we have been urged by Mr. Brezhnev not to be "bedeviled by the past." It is also true though that "those who forget the past are condemed to relive it." We must not turn our backs on the reality of Communist domination of many countries around the world, however unpleasant that may be. The 15th observance of Captive Nations Week gives us an opportunity to face reality and see the inhuman face of communism. We dare not do otherwise.

I have experienced for myself the unpleasant side of communism. During a trip to Russia I was detained by the Soviet police for the terrible crime of giving people copies of the Bible. I was protected because I was a U.S. citizen and a Congressman. The fact remains that an ordinary Russian would have been imprisoned for doing what I had done. This is a fact of life in the Soviet Union.

I welcome this observance of Captive Nations Week and urge that it be the occasion for us to dedicate ourselves not just to the construction of a detente with Russia and China, but more importantly, also to the eventual liberation of those captive nations who are now suffering under the Communist yoke.

THE PLIGHT OF MIDDLE EASTERN JEWS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Ms. ABZUG. Mr. Speaker, I rise to speak on the plight of the Jewish communities in the Middle East who continue to be subjected to repression and are being denied the most basic rights and freedom granted by international conventions. I have written a letter to the Honorable Secretary of State William Rogers, and I hope our Government can take effective action to deal with this diplorable situation.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 18, 1973.

Hon. WILLIAM ROGERS,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I am writing to express my concern, and the concern of my constituents, about the terrible plight of the Jewish communities in Iraq, Syria, and other Middle Eastern nations.

As you know, the dwindling Jewish communities in these nations are deprived of the most basic rights and freedoms granted by international conventions. In Iraq a reign of terror is being carried out against Jewish citizens, including the murder of the Reuven Kashkush family and the abduction and disappearance of 16 others, whose property was also confiscated. Iraq's tiny Jewish community lives in constant fear of sudden death or unexpected government reprisals.

The plight of Jews in Syria is also a cause for alarm. Leaders of the Jewish community there have been imprisoned, and Jews are forbidden to travel more than four miles from their homes.

I strongly hope that our government will find the means to speak out against this repression and deprivation of rights. I believe that our government could ask those nations friendly to our country which maintain diplomatic relations with Iraq and Syria to use their good offices to persuade these governments to end their persecution of Jewish citizens and to allow those who wish to leave to emigrate.

I look forward to hearing from you on this issue.

RESTRICTIONS ON SELLING U.S. SOYBEANS ABROAD ARE SERIOUS MISTAKE, CONGRESSMAN CHARLES THONE BELIEVES

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. THONE. Mr. Speaker, the administration made a serious error on June 27 in severely restricting the sale of U.S. soybeans to foreign nations.

I have requested the chairman of the House Agriculture Subcommittee on Livestock and Grains to hold hearings concerning the effects of these restrictions and those on 40 other agricultural products.

American farmers can produce soybeans in large enough quantities to feed the people of our Nation and much of the world's populace. The U.S. Department of Agriculture report last week estimated that this year's record crop of soybeans will be 24 percent larger than last year. Just the increase over last year's harvest of beans will amount to more than 300 million bushels.

Sale of American farm products abroad offers the best prospect for correcting our Nation's unbalanced trade situation. The recent U.S. Government action on soybeans may make other countries reluctant to deal with America in the future. The United States may be regarded as unreliable in keeping its word. Terms of the Federal action restricting sales of soybeans abroad required that where contracts existed for foreign sales of soybeans but delivery had not been made, the shipments were to be reduced by half.

In 1972, the United States had a balance-of-trade deficit of $6.8 billion. Our exports of farm goods last year amounted to $3.2 billion more than our imports of food. In other words, our trade imbalance would have amounted to $10 billion in 1972 if it were not for the sale of agricultural products.

Examination of our trade with Japan shows how disastrous is the U.S. policy of restricting the sale of soybeans abroad. Last year, we bought $4.2 billion more goods from the Japanese than they purchased from us. They were, however, our best customer for soybeans. We worked for years to establish that market. We ought to be trying to sell as many soybeans as possible to the Land of the Rising Sun. Instead, the recent restrictions on this trade will probably reduce our sales to Japan by $200 million.

In the 2½ years I have been a Congressman, I have worked hard to promote sales of farm produce abroad. I have pursued this work as a member of the Agriculture Committee and as a member of the Government Operations Special Studies Subcommittee which held hearings on exports in a number of locations in the Nation. I know how much money, effort and time has been invested to establish a market for our products abroad. It would be such a tragedy to destroy or seriously damage what it took years to create.

American farmers can provide plentiful food if they are encouraged. Restrictions on sale of soybeans abroad are apt to discourage farmers from planting as many acres to beans next year as they did this year. The Government may produce the same results with its meddling in soybeans as it did with its interference in producing poultry and livestock.

Plentiful food depends upon a likelihood of profit for the farmer. When Government action guarantees a poultryman that he has not a chance of profit, he will drown baby chicks rather than feed them to maturity at a loss. Similarly, the livestock producer will sell pregnant sows if he sees no prospects for raising hogs at a profit.

Unless the Government reverses its restrictions immediately, it may cause a like result in soybeans. We need another record bean crop in 1974. Foolish Government action, however, may cause it to shrink.

The President's latest report on "United States Foreign Policy for the 1970s" had this to say,

> The majority of the world's people, in all nations, will benefit from more open agricultural trade and the resulting lower cost and increased availibility of farm products. It is particularly important to the United States to remove the barriers which stand in the way of expanded agricultural trade.

I agree the administration must act at once to tear down the barriers it has raised as well as asking other nations to remove theirs.

STATE OF MAINE TAKES LEAD

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. COHEN. Mr. Speaker, in the past several months I have tried to call the attention of this body to the serious foreign threat to our New England fishing industry. Russian, German, and Japanese fleets, bristling with electronic equipment and heavy modernized boats, have been sweeping North Atlantic waters and severely depleting our coastal resources.

The sad story of foreign overfishing is best illustrated by the haddock which had traditionally been our most valuable groundfish. For years it supported a very consistent fishery on Georges Bank and gave promise of decades of a healthy and profitable fishing future. In 1965, however, the Russians moved onto the banks with their small mesh nets and took 283,000,000 pounds of mostly small haddock. This incredible abuse, coupled with a succession of poor spawning years, has so reduced the haddock population that some biologists fear that it may be headed for extinction. And not far behind are herring, cod, and lobster.

Yet, we have been reluctant to take the kind of action that would preserve and conserve these species. I am, of course, speaking of extending our fishing territorial waters to 200 miles, at least until we can insure the good and sincere intentions of other nations in protecting these valuable resources.

Recently, the Maine State Legislature passed a joint resolution imploring Congress to extend our territorial waters to 200 miles. They have wisely recognized that as long as fish and shellfish off the North Atlantic coast remain common—international—property, they will continue to diminish. I urge my colleagues to take a close and careful look at this resolution which I am inserting in the RECORD.

The resolution follows:

> We, your Memorialists, the House of Representatives and Senate of the State of Maine in the One Hundred and Sixth Legislature, now assembled, most respectfully present and petition your Honorable Body as follows:
>
> Whereas, Maine fishermen are currently losing the livelihood of generations through federal failure to control excessive foreign fishing off the coast; and
>
> Whereas, Federal negotiations at the "law of the sea" conference even if successful will take 6 to 10 years to ratify and implement leaving little or no protection during the interim; and
>
> Whereas, this inaction has prompted the Maine Legislature to declare Maine's fisheries management jurisdiction 200 miles seaward from its boundaries or to the edge of the continental shelf; and
>
> Whereas, the Congress of the United States must act now to extend United States fisheries management jurisdiction beyond 12

miles to the 200 mile limit before fishing stocks are exhausted; now, therefore, be it

Resolved: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to use every possible means at its command to extend the fisheries management jurisdiction of the United States without interfering with Canada 200 miles seaward or to the edge of the continental shelf and thus reduce the chances of certain depletion of fishing stocks by overfishing; and be it further

Resolved: That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to the President of the Senate and Speaker of the House of the Congress of the United States and to each Member of the Senate and House of Representatives in the Congress of the United States from this State.

AXEL SPRINGER INTERVIEW ON BERLIN BY L'EXPRESS—PART II

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. HUBER. Mr. Speaker, today I again wish to call attention to the very significant interview L'Express magazine held with Axel Springer, the West German publisher. If we are to fully appreciate the present day significance of Berlin, this interview should be read by everyone concerned with the future of Europe. Yesterday, I inserted part I of this interview in the CONGRESSIONAL RECORD. Part II follows herein:

AXEL SPRINGER INTERVIEWED ON BERLIN BY L'EXPRESS—PART II

L'EXPRESS. Are there many Germans in the East who want to cross the wall, that is, to come to the West?

AXEL SPRINGER. There are many who would like to come to the West, but very few succeed. Most of them are old people who receive a permit.

Some years ago, after the wall was built in 1961, an emissary of the East got in touch with me in Berlin to ask whether we would be prepared to pay for every German from the East who might be granted a permit to leave. He put the ransom money at DM 40,000 per head.

I informed the federal government immediately, and of course the offer was accepted. It was all strictly secret, of course. I had promised to keep it so.

One day I was disturbed when I read three lines on the subject in the "New York Times". I feared the whole system would now fail. But there were no bad consequences.

Now I can talk about it.

L'EXPRESS. As in many other places in Europe there is in Berlin a certain amount of agitation and demonstrations in which the young generation manifests its dissatisfaction with the present course of our society. You have often said that such expressions were not always spontaneous and that manipulation was behind it. You who believe in a free society, where do you draw the line between libertarian utterances and subversions?

AXEL SPRINGER. Our newspapers were the first in Germany to call for reform in the universities. We showed militant activity in this field. We were the first to propose reforming the old system of the professors. But our newspapers were also those which first called attention to the extremist groups such as the Baader-Meinhof gang or Mahler and his adherents.

I was for thirteen hours a witness in the Mahler trial. And there I saw faces which were the faces of fanatics. It was also highly significant that after the murder of the Israeli Olympic Games competitors in Munich was made known. Mahler, who was in prison in Berlin, praised the murderers as heroes of peace.

I am not an expert in university policy. But I do know that at present in Berlin demonstrations are held against the amendments to the law on universities, which is dubbed "reactionary". Whatever differences I have with the governing party in Berlin, the SPD, I would never go so far as to say they were reactionary. In fact, in Germany the radical core is a quite small minority which is very active, very specialized. They are fanatics, anti-democrats, anti-Zionists, anti-Semites and dupes. Those who place bombs in our Hamburg publishing house a year ago were among them.

There prevails among them an almost grotesque anti-Americanism. Communism they praise in the highest tones. But if one says to them, "Go and stay in the East," they do not want to at all.

On this very sofa two members of universities, scholars, sat here recently. They had left Germany as persecuted Jews after 1933. After the war they came back and now they were visiting me; they are being persecuted again, by the terrorists in the Berlin University, and they told me they were leaving Germany again. They no longer have the strength to face 400 militant extremists of the Spartakus League who are blocking the work of the university.

The rather liberal magazine, "Newsweek," recently described the Free University in Berlin as an "Incubator of Radicalism". And it is worse, if possible, at other Berlin colleges.

The present mayor of Berlin, Klaus Schuetz, a former assistant at the university, spent the main part of his early activity in skirmishing with the band of extremists in the universities. One cannot agree with Mr. Schuetz in certain points, but one cannot accuse him of being a reactionary.

L'EXPRESS. It is not a small group of extremists and then all the others; or else Berlin would be a country apart. The agitators of whom you speak interest us less than this whole protesting part of the young, those who question the form of society.

AXEL SPRINGER. If they respect the rights of freedom, the rules of the game of democracy, a basis for discussion, understanding and construction can be found.

Our whole history shows that we Germans easily incline to exaggeration in our convictions. My mother, who read a great deal of Goethe, always told me that the German can be as excellent as an individual as he is intolerable in the mass. But I am confident. . . .

L'EXPRESS. In an article in "Die Welt" you speak of the arms race in East Europe. Do you mean that actually a disequilibrium can be observed in central Europe?

AXEL SPRINGER. Yes. I have alluded to it and my allusion is based on precise information. I am not the only one who knows it. Herr Leber, the Defense Minister, has already spoken about it in public. Just as Joseph Luns, the Secretary General of NATO, has. And all the experts who deal with this problem know. Ask any leading NATO General.

This situation is one of the reasons why I am not happy about the course of Mr. Brezhnev's visit to Bonn. They should have talked openly to him about this. You can say anything to the Russians. I have experienced it myself. My tip to statesmen is: less so-called diplomacy, more morality, frankness and intrepidity.

L'EXPRESS. You have said a great deal about Israel. Why do you always link the fates of Berlin and Jerusalem?

AXEL SPRINGER. This building we are in does not just stand at Jerusalemer Strasse, it is in it. I am very unhappy that Germany has lost the entire Jewish intellectual contribution. We miss it in every field; in the universities, the press, the theatre, the cinema, the economy—in short, everywhere.

I have very friendly relations with the "Leo Baeck Institute" in New York, which I help support. Leo Baeck was the leading German Rabbi after 1933, a great man. When I see in what we call the "Victory Avenue" in this institute, the photographs of so many German Nobel prizewinners of Jewish origin, I am particularly struck at what we have lost.

So the first thing is this: the decisive contribution which Jews have made for Germany. And then there is the absolute will to make reparations for the crimes which the German people have committed against the Jews—as far as that is possible. I try tirelessly to keep awake this attitude toward the Jewish people in Germany.

There is also a third reason which I want to declare quite openly. I try to be a religious man, to behave like a man of faith. There is for me the love of Jewry that arises from religion.

I recently heard a remark by the evangelist, Billy Graham, which expressed the conviction that God has always maintained special relations with the Jewish people. The fact that 16 million Jews have survived as Jews, despite the diaspora, thanks to God's providence, is a great and significant mystery which is closely bound up with my faith.

When I talk to the Germans about Germany I often recall that the Jews have for 2,000 years prayed: "Next year in Jerusalem!" and in the end the prayer has been fulfilled. From all that the Jews have known how to bear so as to reach this goal, we must learn the lesson of steadfastness, which provides a true bond between Berlin and Jerusalem.

Incidentally: A pamphlet put out by the Neo-Nazi Party, the NPD, recently called me "The Zionist Springer". I like this kind of title.

L'EXPRESS. Let us assume that you were responsible for Berlin. What would you do?

AXEL SPRINGER. West Berlin absolutely must be filled with life. Of course I know that Bonn tirelessly contributes to the necessary financial support; that is the basis. Berlin, which no longer possesses its function as the capital, has lost substance enormously. That must be compensated for. Besides economic investments from West Germany and the United States in Berlin, all the countries of Western Europe must be harnessed to the task. We said before, Berlin's radiance is indispensable to all.

I have here various reports from the Berlin Chamber of Industry and Commerce from the Berlin Landesbank—reports coming from organizations of very different kinds, independent of each other. They show that the present situation is giving rise to concern, as it did in 1972 as well.

Free access to Berlin is a good thing but it has not enough effect on the life force of this city. The investment of the entire West is needed.

As I indicated before: As a test of sincerity, we should demand from the East readiness to include Berlin in all projects of economic collaboration. Berlin must cease to be a stake, or a hostage. I repeat: Berlin must be the test and, from the Western standpoint, the keystone for every possible development.

All Western projects wishing to participate in economic collaboration with the Soviet Union or other East Bloc States should actively support this keystone function of Berlin. That is a duty for every one of us. The world will always measure the life force of free, democratic Europe by the prosperity, the brilliance, the life of Berlin.

If I had to share in the responsibility for Berlin—that was your question—I would ask you and everyone to help so that every undertaking in the free world will realize that it must be in its foremost interest to help here in Berlin, to maintain the radiant strength of Berlin.

If we all wish it, Berlin will remain the moral capital of the world in which I believe and which alone enables survival in a framework worthy of humanity.

I would like to quote Jean-Jacques Rousseau. It is his "Volonte Generale" that we need for Berlin.

Berlin must also preserve its idealistic character, for it is first and foremost a city of youth, who would rather live here than in some lost corner of Germany. So homes must be built for these young people, homes in which they can feel at their ease. This applies particularly to the young workers. These plans for construction already exist in part, and other efforts are also being made, for example the creation of the Institute for Development, a National Foundation, Congresses of UN Organizations and the like.

We must reverse the trend which might shift the center of gravity to East Berlin. For instance there are to be a hundred embassies there. I would urge that there also be diplomatic missions in West Berlin. We have a—quite superfluous—Soviet Consulate General in West Berlin. I would try to get a consular mission from Peking here in our town, very soon, perhaps before any of the others.

L'Express. Have you a taste for power?

Axel Springer. No. Fundamentally I hate power. It promotes corruption. Power has to be used very cautiously. If it is there at all, it must be associated with morality.

L'Express. The rules of morality are not the same for everybody. They are even becoming less and less so. Are you an optimist?

Axel Springer. Yes. I hope I am a reasonable optimist. We will see. Now is the moment when everything is at stake.

The important thing for me is that life be brought into this city. It is wonderful to be a Berliner, but it is also very exhausting and demanding.

On this subject I would take the liberty of passing an opinion on France, although I do not know much of the country. In France everything is very strongly concentrated in Paris, whereas we have fallen into the opposite extreme in Germany. We simply have no capital city which exerts the function of convergence, of a synthesis of forces.

L'Express. Perhaps we can come to an arrangement.

Axel Springer. That's it. One must find the happy medium. I always say I am a "middle-of-the-road radical". Willy Brandt has also chosen the middle of the road. But do we both mean the same thing?

Germany, above all Germany, must beware of extremes. And Berlin's goal should not so much be to be the capital of the Reich again but to be a life center, a hope, the city of Europe in the best sense of the word. Then, having passed the test, it will one day be the heart of Europe.

LEGISLATION AND THE METRIC SYSTEM

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. ESCH. Mr. Speaker, as a member of the Science and Astronautics Committee, I have had an opportunity to be involved with the legislation proposing U.S. conversion to the metric system. One of the pieces of legislation our committee is considering is that of my colleague from Illinois, Mr. McClory. Mr. McClory has spent a great deal of time and energy on his proposal and is perhaps one of the most knowledgeable persons in this area. I would, therefore, like to take this opportunity to share with my colleagues his remarks on this subject at Metric Expo 1973.

Legislation and the Metric System

(Remarks of Congressman Robert McClory at Metric Expo '73)

This is not the first time that the Congress of the United States has considered conversion to the Metric System of weights and measures—but it could be the last time. In other words, the momentum for a metric conversion is greater today than at any earlier time in our history.

We may regret the inaction which occurred following the recommendation of John Quincy Adams in 1821—and the failure experienced by Congressman John A. Kasson of Iowa, Chairman of the House Committee on Coinage, Weights and Measures who urged adoption of the metric system in 1866.

Congressman Kasson urged expanded use of metric measurements and specified that his intention was not to make the metric system compulsory. This attitude is being expressed with vigor by various witnesses testifying on Capitol Hill—with a similar intention that perhaps the subject can again be laid to rest indefinitely.

The closest the Congress has come to enactment of a bill to convert our nation to the metric system occurred in 1896 when Congressman Dennis Hurley of Brooklyn introduced a bill providing that all government departments should "employ and use only the weights and measurements of the metric system" in transacting official business and that in 1899 metric would become "the only legal system recognized in the United States." Supported actively by the Committee on Coinage, Weights and Measures, the bill passed the House by a margin of 119 to 117. However, on a motion to reconsider, the measure was referred back to the Committee and there it died.

It should be recalled that the Metric Study Bill enacted in 1968 would never have received favorable action if there had been any representation at that time that the study would be followed immediately by a federally directed metric conversion program. Opponents of the Study Bill argued that everything that could be said for or against the metric system was already known and there was nothing further to study. Indeed, I can't find much disagreement with that charge. On the other hand the three-year study program and report were vital in order to give prestige and status, as well as orderly direction to the questions which we are considering today—of a federally authorized metric conversion program which will embrace virtually every segment of our society.

The Metric Study Report completed in July 1971 contained further recommendations. Indeed, it is vital to the pending legislation that the basic advice of the Study Commission should be adhered to if we are to have any federal program at all and if we are to recognize the wisdom of converting our present system to one of metric weights and measures. That report recommended that we change to the International Metric System "deliberately and carefully through a coordinated national program."

The Congress is directed to "assign responsibility for guiding the change" and to authorize the various sectors of our society to establish their own plans and time tables. Above all, the report recommends "a firm government commitment" to the goal of metric conversion with a target date 10 years hence.

Let me address myself for just a moment to that part of the recommendation which states that when the 10 year target date is reached, the United States will become "predominantly, though not exclusively, metric."

Obviously, land measurements, sporting events, and a number of other subjects, should not be subject to a metric conversion program—as there is no economic or social benefit which would be derived from such a change. Indeed, there may well be other exceptions where machinery or equipment has a life span far greater than 10 years or where international agreements may establish fasteners or other devices according to measurements other than those expressed in metric units. To my mind, these are "exceptions" which should be authorized in relation to a general and comprehensive conversion. These categories should be exempted or the target date for such subjects should be capable of extension.

If we truly want to convert our system of weights and measures to metric, it would seem to me unwise to lease such a wide loophole as the expression *predominantly metric* in any legislative measure or plan. This might mean that 51 percent of the nation should operate according to metric standards, and 49 percent should employ such other measures as desired.

Let me refer to another aspect of the legislative measures which are pending in the Congress. The bill in which some 25 members and I have joined, would establish a relatively small metric conversion coordinating commission with authority to develop and employ a comprehensive national program for conversion to the international metric system over a 10 year period.

This coordinating Commission would be capable of receiving the effective support and assistance voluntarily provided by every interested sector and group in the United States.

While I have suggested in my bill a nine-member Commission composed of representatives from (a) business, (b) labor, (c) education, (d) science, and (e) technology, it is possible that some essential group may have been omitted. On the other hand, I feel that a much larger Commission would be both unwieldy and undesirable. I see no reason whatever for selecting these persons on the basis of their political affiliation. Of all of the many persons whom I've met who appear to be most knowledgable on this subject—and who would make most valuable members of such a commission—I don't know the political preferences of a single one of them. And while I may have as broad or broader experience in the subject of conversion to the metric system as any other person in public life, I do not feel that I or any other Member of Congress should be burdened or made responsible for developing the kind of national coordinating program which is vital if we are to meet the objective of a 10 year conversion program.

The coordinating Commission should be assisted by a number of advisory commissions or separate groups drawn from the various segments of business, economic, and educational communities. It is my recollection that in the British Conversion Program, there were four broad categories working with the British Board of Trade and 69 separate product groups which are developing their own conversion programs. This general approach strikes me as consistent with a comprehensive and largely voluntary program.

Let me comment just a moment on the subject of a "voluntary" program.

"Voluntary" as interpreted by some would mean NO federal guidance, direction, or compulsion—whatever. Indeed, a great deal of the literature which has come to my attention in which there are strong expressions of support for conversion to the metric system contemplate a gradual, unplanned and unguided conversion which would take place when, and if, the parties involved decide to move in this direction.

Another provision which might result in indefinite or endless delay is that which would authorize the establishment of a commission to develop a comprehensive national plan to cover our entire society. In turn this plan would require approval by the President and thereafter approval by the Congress. The question I ask is this: Is it possible for one plan, however comprehensive, to embody every group and activity which will be subject to a coordinated metric conversion program? In the event all of these elements and segments are included, is there not a great risk that some part or all of the plan might not be acceptable to the President—or indeed might not be acceptable to the Congress? WHAT THEN?

What happens to the commitment to proceed carefully and deliberately toward a metric conversion program targeted 10 years hence?

In authorizing by legislation the establishment of a Commission to develop a plan which is subject to later approval or disapproval by both the President and the Congress—with all of the pressures which could and would be applied during this intervening period—when the plan is submitted, is fraught with the same risk which Congressman Dennis Hurley's bill experienced in 1896. My position is that if we are indeed to make a commitment in 1973 to convert our system of weights and measures to the metric system, let us embody that commitment in meaningful legislation. Let us establish in 1973 the mechanism by which a 10 year conversion program could be carried out. Let us embrace the entire system carefully and deliberately and unqualifiedly. Finally, let us provide the official governmental leadership and direction which a metric conversion program requires if it is to succeed.

EACH ONE TEACH ONE: BASKETBALL IN HARLEM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. RANGEL. Mr. Speaker, California has its surfing and swimming, Colorado has its mountain climbing—and Harlem has its basketball.

Each summer, professional and amateur basketball stars from across the country come together to compete in the famed Rucker Tournament held on the playgrounds in my home community of Harlem.

A recent article in the New York Daily News dealt with the tournament and the beautiful work that the athletes are doing with the youth of the community.

The newspaper article is now submitted for the attention of my colleagues in Congress:

HOW BASKETBALL PLAYERS SCORE 2 IN HARLEM PROGRAM

(By Wes Gaffer)

"I know you," said the youngster eyeing Charlie Scott of the Virginia Squires. "You used to live in my building. The elevator don't work."

"It never did work, even when I lived there," Scott replied. Then came the message. "I made it out of there."

"There" is a building on 127th St. between Madison and Park Aves. It's the heartland of the Each One Teach One Program, a program that brings together athletes, members of the professions, earnest parents and above all the kids of Harlem.

The program is an offshoot of the Holcombe Rucker League, named for a young man who worked tirelessly to bring meaning, through playground basketball, into the lives of kids rejected by others. Rucker died at 38, a victim of cancer, in 1965.

He left a widow, Mary, three children, Ramona, Philip and Dennis, and, among his disciples, Bob McCullough. McCullough, too, is Harlem all the way, Public School 89, Junior High School 139 and Haaren High. In junior high school, McCullough and Rucker came together in the playground tournament Rucker had put together for the Department of Parks, for which he worked while pursuing his master's degree.

HEADED A SUMMER LEAGUE

The friendship led to McCullough's gaining a scholarship to Benedict College in Columbia, S.C. There, among other achievements, Bob made small college All-America and was the first black athlete to be chosen for the All Southern Textile Basketball Tournament.

Graduate work led McCullough, commissioner of Harlem Professionals, Inc., a Harlem summer league of pro basketball players, to the Each One Teach One program. "I was working on my master's in health and recreation," says McCullough. "One of my courses was entitled Philosophical Foundations of Health, Recreation and Physical Education. My field was urban recreation and I had to write a paper for the course. I wrote it on Each One Teach One.

"That was Holcombe Rucker's philosophy. He believed that if a person was in a position to help another he should do so."

It's also the rationale for Harlem Professionals. "These are pro basketball players returning to their roots in Harlem," McCullough said. "They're visible examples for the kids, on a one-to-one basis, that they can have a purpose, a goal.

"Basketball is Harlem's game. What better way to get through to the kids?"

There are a dozen teams in the summer pro league, each staffed by future, present and past stars of both National Basketball Association and the American Basketball Association. The teams play a single game Friday evenings, doubleheaders Saturday afternoons and tripleheaders on Sunday afternoons. Adults are charged a modest fee, usually 50 cents, for the games. The packed gym in the Science Building at CCNY, financially aids the Each One Teach One and Rucker League programs.

Charlie Scott and Willis Reed are two major league players who devote their time to the kids in both the Each One Teach One and the Rucker Basketball League programs. Others are Dean Meminger, the Knicks' supersub, Nate (Tiny) Archibald of the Kansas City-Omaha Kings, and the inimitable Julius (Doctor J.) Erving of the Virginia Squires.

Most of all, it's Harlem's own pitching in to nurture something priceless—children. "That's what Each One Teach One's all about, the youth of America," explained the deeply involved Bert Brown, principal of . . . and director of the Each One program.

"We're using basketball to motivate kids to stay in school," Brown said. "We're trying to get through to them and I think we've got a few disciples. The thing that bugs us, the kids keep asking, "When are you going to start again?"

"The program lasts 14 weeks through each school term. It isn't all basketball—that's the way we hold the kids' attention. We use closed-circuit television dealing with drugs, programs on nutrition and hygiene, etc. But most of all we try to show the kids you don't have to be a ballplayer to be involved in basketball. They can be scorers, coaches, announcers and so on."

Ray Moore, an Urban League staff member, teacher of American History at the Harlem Street Academy, referee and public relations director of the program, picked up the theme. "Most of all we try to build incentive in a youngster, give him a better look at his alternatives. That's done in rap sessions with the pros.

"We have several games for the kids between 11 and 18 before the pro games. The players then talk to the kids, get at what's bugging them, show them those alternatives. "The players, and other blacks in the professions, also go into the schools to talk to the kids in the program. We get money from the Mobil Oil Company to pay these speakers, but not all of them take it. When we tried to pay Willis Reed (Knicks), he said, 'Hey, man This is what it's all about,' refusing the money and giving us scholarships to his basketball camp.

"The program is a link, one generation to another. As far as youngsters coming back—there are only 200 at a time—it takes money."

MANHATTAN'S AMATEUR SOFTBALL ASSOCIATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. RANGEL. Mr. Speaker, though the major league baseball season is already in full swing, another baseball league has yet to begin its own exciting season.

The Manhattan chapter of the Amateur Softball Association of America will begin its weekend softball competition on July 21. The winner of this tournament, which involves all five boroughs of New York City, may well advance to the National Championship Tournament in Seattle, Wash., late in August.

I would like to commend the Manhattan ASA for providing a summer of recreation and entertainment for our city. I wish the players the best of luck in the season ahead.

SENATE—*Thursday, July 19, 1973*

The Senate met at 9:45 a.m. and was called to order by Hon. JOHN V. TUNNEY, a Senator from the State of California.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, who hast made all work a divine vocation, bless all who are associated in the work of this place. Thanks be to Thee for work to do, for the will to work, and strength with which to work. Sustain those whose work in obscure places enables others to exercise the duties of their office with greater wisdom. Strengthen those whose study and research assist in preparing legislation and in making sound decisions.

O Lord, support those whose work beyond this Chamber guards our peace and safety, protects our health, prepares our food, maintains communications, whose combined efforts bring dignity and efficiency to the Government. Draw us all together in a comradeship of faithful service to the whole Nation.

We pray in the name of the Carpenter who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication tc the Senate from the President pro tempore (Mr. Eastland).

The second assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, D.C., July 19, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. John V. Tunney, a Senator from the State of California, to perform the duties of the Chair during my absence.

James O. Eastland,
President pro tempore.

Mr. TUNNEY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, July 18, 1973, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations placed on the Secretary's desk.

There being no objection, the Senate proceeded to the consideration of executive business.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

On request of Mr. Mansfield, by unanimous consent, the Senate resumed the consideration of legislative business.

TRIBUTE TO SENATOR HUGHES

Mr. MANSFIELD. Mr. President, I express my congratulations to the distinguished senior Senator from Iowa (Mr. Hughes) for his determination and doggedness in eliciting the facts relative to the war in Cambodia over a number of years—facts which were unreported, facts which have raised doubts and confusion and concern in the minds of the American people.

Mr. President, I ask unanimous consent that an article entitled "Laird and Wheeler Deny Knowing of False Bomb Reports," written by Seymour M. Hersh, and published in the New York Times of today, and that an editorial entitled "Cambodian Bombing Lies Demand a Full Accounting," published in the Philadelphia Inquirer of today, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, July 19, 1973]

LAIRD AND WHEELER DENY KNOWING OF FALSE BOMB REPORTS

(By Seymour M. Hersh)

Washington, July 19.—Former Secretary of Defense Melvin R. Laird and his retired top military adviser, Gen. Earle G. Wheeler, today criticized the falsification of official reports dealing with the secret bombing of Cambodia and disavowed knowledge of any such actions.

Mr. Laird, now a principal White House adviser on domestic affairs, emphatically disputed a Pentagon suggestion that he and other high Defense Department officials had authorized a "special security reporting procedure," involving falsification, to prevent disclosure of the bombing. It involved at least 3,500 raids on Communist supply lines over a 14-month period in 1969 and 1970.

The suggestion was made yesterday by Jerry W. Friedheim, the chief Pentagon spokesman, who told newsmen that the bombing operation itself "and the special security reporting procedures were fully authorized and directed by senior military and civilian officials here in Washington."

EXTRAORDINARY MEASURES

"It's true that there were extraordinary security measures," Mr. Laird said in a telephone interview, "but I did not at any time direct or authorize falsification of official records."

"At no time while I was in the Pentagon," he repeated heatedly, "did I direct or authorize the falsification of records."

The former Secretary of Defense, who rejoined the Administration in the midst of the Watergate scandal in June, said he was baffled by the fact that the Pentagon did not include the Cambodian statistics in classified documents sent earlier this year to the Senate Armed Services Committee at the request of Senator Harold E. Hughes, Democrat of Iowa.

Committee members have demanded an explanation from the Defense Department about that failure. They have also said they would seek to determine who had authorized the falsification.

"I don't understand why they didn't include them," Mr. Laird said of the statistics. After the invasion of Cambodia in May, 1970, he added, "we never denied the bombing."

Secretary of Defense James R. Schlesinger admitted Monday that Air Force B–52's had been bombing Cambodia while the United States was officially professing to respect her neutrality in the Vietnam war. He said the action was essential to protect American troops.

That revelation—and the subsequent controversy—was prompted by Senate testimony on Monday from Hal S. Knight, a former Air Force major, who said that he had falsified some records and burned others under the direct orders of his superiors in South Vietnam.

In a telephone interview from his farm near Martinsburg, W.Va., General Wheeler, who served as Chairman of the Joint Chiefs of Staff from 1964 to 1970, said, "I certainly did not authorize any falsification of records and I never heard of such things as burning reports."

The retired general, who was the highest-ranking military man at the time the bombing was authorized in March, 1969, added, "While I can understand the necessity for holding things closely, I cannot understand why files were burned or falsified."

Sources knowledgeable about the complex command structure in Southeast Asia at the time said that orders for the illegal falsification could have emanated from the headquarters of the Military Assistance Command, Vietnam, then headed by Gen. Creighton W. Abrams, now the Army Chief of Staff.

General Abrams, who was General Brown's direct superior in Vietnam, could not be reached for comment. One of his former associates, a two-star general, said he strongly doubted that General Abrams would have authorized falsification without a direct order.

Military sources also said that General Brown and General Abrams could have received authorization from Adm. John S. McCain, then commander of the United States Pacific forces, with headquarters in Hawaii. The retired admiral could not be reached for comment.

UNDERSTANDING REPORTED

Administration officials have justified the stringent security surrounding the secret bombing raids by contending that a delicate understanding permitting such raids had been negotiated with Prince Norodom Sihanouk, then the Cambodian Chief of State. One of the conditions of that agreement, officials said, was the Prince's insistence that no public announcements be made.

Senators Hughes and Symington, among others, had said in response that the Prince's demand for security could have been met without falsification of documents.

The Pentagon's success in hiding the raids from the American public and press has startled some Congressmen and Senators, who said that literally hundreds of B–52 pilots and crewmen—among others—obviously knew they were bombing Cambodia. Asked by Senator Hughes last week whether there were other, similarly secret, operations that should be revealed, General Brown replied, in effect, yes. "There were probably other operations in the course of the war unknown to me," he said in his letter to the Senate.

"The whole thing makes no sense," General Wheeler said. "The reporting system is a reporting system, and that's what we in the military go by—we can't have people tampering with it."

Similar disavowals were provided to The New York Times in interviews in the last two days with a number of high-ranking past and present military and governmental officials. Those interviewed included ranking officials of the National Security Council, former ranking generals and civilian officials of the Defense Department who were serving in early 1969. All requested anonymity.

The purport of the public and private comments was to contradict the official justification for the falsifications detailed by Mr. Friedheim, an Assistant Secretary of Defense, at his regular morning news briefing yesterday.

Asked about the falsifications, he acknowledged yesterday that the Cambodian raids were officially described in the military reporting system as having taken place in South Vietnam. He depicted that deception as part of the special procedures designed to prevent leaks.

"These records were deliberately not completely accurate in order to provide security," he said. "The operation itself and the special security reporting procedures were fully authorized and directed by senior military and civilian officials here in Washington."

Asked about the source for the special procedures, Mr. Friedheim said that "those sorts of things would normally be discussed in the National Security Council's various deliberative groups." He noted that Mr. Laird would have participated in the deliberations.

Told of the assertions challenging his account, Mr. Friedheim refused comment. Other Pentagon officials noted that—as one put it—"somebody somewhere had to know about this."

KNEW WHAT WAS DONE

Similarly, Gen. George S. Brown, commander of the Seventh Air Force in Saigon at the time of the secret raids, told the Senate Armed Services Committee in a letter this week that, in effect, the falsifications were not a legal or ethical issue because "the responsible higher authority knew in fact what was done and judged it to be done in accord with instructions."

No responsible official was willing to disclose the identity of the "responsible higher authority" who ordered the falsification. Senator Stuart Symington, acting chairman of the Armed Services Committee, and Senator Hughes, who initiated the raids, have said they will demand a complete accounting from the Pentagon.

In the interview, General Wheeler said that regular reports on the secret bombing were sent to him and other key officials on the Joint Chiefs of Staff, along with reconnaissance photographs.

However, he said he did not learn of the falsification until hearing of the Senate testimony presented by Mr. Knight, who served at a strategic air command radar site in Bien Hoa, South Vietnam.

[From the Philadelphia Inquirer, July 19, 1973]

CAMBODIAN BOMBING LIES DEMAND A FULL ACCOUNTING

To anyone who has had the stomach to follow the American adventures in Indochina, it has been obvious that—after the incalculable human destruction it has reaped—one of its most perturbing aspects has been that high officials of the U.S. government have been lying to the American Congress and people for a decade.

Thus it should come as small shock that officials of the Nixon Administration in 1971 and this year deliberately lied to at least one member of the Senate Armed Services Committee in reports on bombing operations in Cambodia, or the alleged lack of them.

The Pentagon's chief spokesman, Jerry W. Friedheim, Wednesday acknowledged that between March, 1969, and April, 1970, "hundreds of missions" a month were flown by B-52 superbombers over Cambodia. They were specifically authorized, he said, by President Nixon and then Secretary of Defense Melvin R. Laird, who has since been seconded as the new broom of candor on the White House staff.

Mr. Friedheim, who follows orders, still would not say how many raids there were. Amateur arithmetic puts the number of bombing missions over Cambodia for the period between 1,400 and 3,500.

There can be no doubt that the Cambodians knew they were being bombed, or at least those who were not killed outright did. There is no doubt that the Communists in Hanoi and those in Peking, Moscow or anywhere else with whom Cambodian or Vietnamese Communists had friendly contact knew. So any argument that disclosure would damage military security fails.

Yet, faced with new indications of false reporting and of destruction of bomb reports by Air Force officers, Sen. Harold E. Hughes Wednesday released reports. They were given Sen. Hughes, a member of the Armed Services Committee, in 1971 by Robert C. Seamans Jr., then Secretary of the Air Force, and last March by then Secretary of Defense Elliot L. Richardson, who is now the new broom of candor at the Justice Department.

In columns that were designated for bombing missions in Cambodia, both reports showed "zero" up until May, 1970, when Mr. Nixon's official incursion began.

As Sen. Hughes put it, with some dismay, they were flat zeroes, "not blanks indicating information was withheld, but zeros declaring that there were no B-52 strikes inside Cambodia."

"If Congress and the American people have been lied to in this instance," Sen. Hughes bemoaned, "how can we have any confidence in Pentagon spokesmen when they come before the committee in classified sessions and ask for billions of dollars?"

Mr. Friedheim provided a fair answer, and it is negative. The Cambodian raids were "deliberately not included," he said and it was a decision "determined by senior civilian and military officials here" in the Pentagon.

It is a nonpartisan pattern, or perhaps bipartisan is the way to put it. Apparently identical procedures were followed in lying about secret American bombing of Laos in 1966 under the Johnson Administration. That makes it more, not less, perfidious.

The fact that all up and down the chain of command officers and civilian officials argue that they were dutifully following orders is little solace. The Watergate crisis hearings are painting that canvas in dark hues: Everybody following orders and nobody giving them.

Someone was responsible, and must be held to that responsibility. It is the pressing responsibility of the Senate Armed Services Committee to put under oath, with as little delay as possible, those who can untangle the web. We do not believe officials who consciously lie to Congress and the people belong in public office.

PHASE IV

Mr. SCOTT of Pennsylvania. Mr. President, the President's announcement of Phase IV is a statement of a determination to seek to bring into balance supply and demand. It contains mandatory controls, as I recommended. It is a strict and tough program. In many respects, it is tougher than phase II and more resembles phase I.

It provides for what we hope to be an orderly passthrough of costs, in some cases on a dollar-for-dollar basis, which means that if raw materials go up a dollar, it is only the dollar which is added to the cost, and not the markup on the dollar at each stage of processing of the material. Later, of course, the passthrough will allow in most cases for these other costs.

Had the passthrough been immediate on all items, there would have been a marked increase in the price of food, and that is what the administration seeks to avoid. Obviously, when costs of producing farm products make the product more expensive than the freeze level on the product, something has to give, and that means that we will have to face some increases in food prices. The percentage of the housewife's dollar which goes to food has been steadily shrinking throughout the years, and yet people are demanding, not only in this country but throughout the world, the opportunity to live better and to eat better, and the general standard of living has been gradually rising.

The whole question of controlling the economy is a very difficult one. It is certainly one that most people do not understand, including, I suspect, some of the economists. It should, however, reassure people that the President has moved toward a strict control system for as long as it may be needed.

I believe it will work moderately well. I hope that he is given the legislative authority which he needs in order to implement some aspects of his suggested program. In any event, I do not think it is helpful for everyone to jump on the program within a half hour after it has been announced. They could not possibly understand it in that time. They do not understand it today, and they probably will not understand it a month from now; and I would put myself to some degree in that very category, because I am not a professional economist. But I was amused, last night, to see virtually everyone rushing to the tube in order to vent their fears, their suspicions, and their illogicalities. In other words, they did not know what they were talking about, and when you do not know what you are talking about, either in or outside of this body, it would be better to keep your mouth shut.

However, that is too much to hope for, because our franchise is so broad that it permits logorrhea and logomachy. It also permits other excesses, and I suppose the nonsense we hear sometimes is a proper reverberation when it is also expounded on the tube.

So I hope we can approach this program with good will, with good sense, and with an honest intent, first, to try to understand it; second, to help administer it; and third, to assist in every way we can to make it work. After all, the idea is to keep prices level and to enable the housewife to be able to afford what she has to have to put on the family table.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the conference report be delayed until the two 15-minute orders have run their course.

Mr. KENNEDY. Mr. President, reserving the right to object, I should like to get some information from the Chair, because there are other Members of the

Senate who have made plans in terms of committee assignments and hearings which they want to attend.

The ACTING PRESIDENT pro tempore. There would be need for an extension of 9 minutes beyond the hour of 10:15.

Mr. KENNEDY. I have no objection.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

THE FUTURE OF THE PANAMA CANAL

Mr. HARRY F. BYRD, JR. Mr. President, recent press reports indicate that President Nixon will name a new chief negotiator for the team conducting talks with Panama over the future of the Canal Zone—possibly Ellsworth Bunker, our former Ambassador to South Vietnam.

It is important that the United States be ably represented in these negotiations.

It is even more important that the United States maintain a firm position on the basic issue of sovereignty in the Canal Zone.

I do believe that the position of the United States on this crucial question has been sufficiently firm in the past.

Indeed, just the opposite—just the opposite.

The U.S. Ambassador to the United Nations, John Scali, told a meeting of the United Nations Security Council in Panama in March that our State Department supports the Panamanian Government's demand for an end to the 1903 Treaty under which the United States was granted the Panama Canal Zone in perpetuity.

It was the Johnson administration, in 1967, which put a head of steam behind Panama's resolve to wrest the canal away from undisputed American control. The draft treaties of 1967 made concessions to Panama which many Members of Congress felt were unwise and were indeed a submission to Panamanian political blackmail.

I spoke out against the Johnson administration proposals in November 11, 1967. I talked with many of my colleagues in the Congress, who agreed that the United States should not give up its control of the Panama Canal. So great was the opposition that President Johnson never put the proposed treaty changes to a test.

Now we come to 1973—and the same political blackmail is being attempted again, this time aided and abetted by the United Nations.

It is obvious, I feel, that the more we seek to appease, the more appeasing Panama will demand.

There can be no compromise of the basic issue: Will the United States voluntarily forfeit its sovereignty over the canal—sovereignty which has been recognized as a part of international law for 70 years?

The United States, by treaty, obtained the right to hold in perpetuity the Panama Canal; as a part of the treaty, the United States paid Panama an initial sum of $10 million; we indemnified neighboring Colombia to the tune of $25 million, and we agreed to pay Panama substantial annual rent, which figure has since been increased several times.

The total cost to the United States for 647 square miles of the Canal Zone far exceeds the price of many other American territorial acquisitions, including the Louisiana Purchase—that vast area stretching from the Mississippi River to the Rocky Mountains, and from the Gulf of Mexico to Canada—and such notable additions as Alaska and Florida.

I have visited the Canal Zone, and have looked into this matter firsthand. I see no justification for submission to threats by Panamanian political leaders.

The Congress was told in 1967 that there would be a series of anti-American riots in Panama if the American Government does not give the Panamanians what they want. We are being told the same thing today.

It is vitally important that the United States maintain its position of strength in Latin America, and the pivotal point in those defense arrangements is the Panama Canal and the Canal Zone.

I am persuaded that new treaties compromising our rights in the Canal Zone would weaken this country's defense posture in the Western Hemisphere. Could anyone seriously contend that Panama, with a population of 1,500,000—less than a third of Virginia's—could defend the canal by itself? Could the uninterrupted movement of commercial or military ships be guaranteed under any Panamanian regime of the moment? Is there assurance against some Castro-type government taking control of Panama?

Panama has been notoriously susceptible to political upheaval, with 44 Presidents having come and gone in 70 years.

It was only a few years ago that the President of Panama was assassinated; his First Vice President then assumed office, but was shortly deposed as having been involved in the assassination; the Second Vice President then became President; and he was thrown out the next year.

The Nixon administration should ignore the threats of Panamanian politicians. It should ignore the hypocritical howls from the United Nations.

But if it does not, the Senate of the United States will have the final word.

The United States obtained the Canal Zone in perpetuity as a result of the Hay-Varilla Treaty of 1903. That treaty cannot be abrogated except by a two-thirds vote of the U.S. Senate.

As to the attitude of my Senate colleagues, I do not know.

But at this time, so far as the senior Senator from Virginia is concerned, I shall fight long and hard against any change in the present treaty which would have the affect of giving up permanent U.S. control over the Panama Canal.

Through the years, the American taxpayers have invested billions of dollars in maintaining and improving the canal. The Panamanian economy has greatly benefited and, as a result, has one of the highest per capita incomes in Latin America.

I am not objecting to increasing the annual payments to Panama. This has been done several times.

In addition, the foreign aid we give Panama is substantial—$30 million for 1972, up sharply from $22 million the year before. In fact, U.S. dollars last year made up $167 million of Panama's $363 million in foreign-exchange earnings.

I do not want to see our country give up its sovereignty—nor do I regard such action as being in the best interest of Panama or other Latin American countries.

I deplore the assertion by the U.S. Ambassador to the United Nations that the State Department supports the Panamanian demand for an end to the 1903 treaty under which the United States was given sovereignty over the canal.

If the U.S. public becomes aroused, I believe that we can defeat the appeasement policies of the State Department and thus protect our vital interests in Latin America.

I say again that U.S. security over the canal is not negotiable.

Mr. THURMOND. Mr. President, in recent days the President of the United States has appointed a new Ambassador in charge of treaty negotiations with the Republic of Panama, Mr. Ellsworth Bunker. Mr. Bunker will not be the Ambassador to Panama itself, but the personal representative of the President for the purpose of the negotiating process.

Mr. Bunker has had a remarkable career in the Foreign Service, particularly with respect to his service in New Guinea and South Vietnam. Mr. Bunker's negotiations in New Guinea resulted in the transfer of the West Irian portion of New Guinea to Indonesia at a time when that country was under the regime of Achmed Sukarno, the pro-Communist dictator of that so-called guided democracy. As a result of the U.S. State Department policies in those negotiations, the people of West Irian were under a virtual Communist government until Indonesia was able to throw off the Communist yoke.

This is a page in U.S. history that is best forgotten, but not before we dispel any similarities between the Dutch rule in New Guinea and U.S. sovereignty in the Canal Zone. I am sure that Mr. Bunker will not confuse the two, since I am sure that Congress will not. Nevertheless, our negotiating stance in Panama up until Mr. Bunker's appointment has been based upon certain attitudes which, if carried forward, will almost certainly end in a disaster so far as U.S. interests in the Canal Zone are concerned.

I would like to take up these attitudes one by one and offer some constructive criticism on each. I realize that the State Department would not define its negotiating stance in exactly the same terms as I will use, but the terms are implicit in the negotiators actions.

First. The U.S. postion has been to give up sovereignty in the zone. It is said to be an anachronism in today's world, and an irritant to the Panamanians. We are reassured that a new treaty will give us the same right to control and defend the canal as we now have.

This position is the fundamental fallacy of the negotiations. We must retain sovereignty because only sovereignty can give us all the rights that we need to operate, maintain, and defend the canal. Under our sovereign rights we have the undisputed legal position in international law to do what is necessary. If we are reduced to a status-of-forces type of arrangement, we are there at the sufferance of the host country, and the agreement can be abrogated at will whatever our objections. Only a forthright refusal to negotiate sovereignty can establish our determination and credibility in negotiating on crucial points. The withdrawal of the United States from our legitimate pretensions to world power—a withdrawal so characteristic of the 1960's—should be considered as out of date.

Moreover, the giving up of sovereignty in the Canal Zone is as if we gave up sovereignty in Alaska, Louisiana, Florida, or other territories we obtained by purchase. The Canal Zone is the most expensive territorial purchase the United States ever made—$145 million. Overall, our investment in the canal is over $5 billion. The only right the Republic of Panama retains is the residual right if the United States ceases to use it for the purpose of operating and maintaining the canal. This is similar to a reversionary clause in a bequest if a legatee fails to meet certain conditions laid down.

Second. Another implicit argument in the U.S. position—an argument that is made privately—is that it is better for this administration to come to moderate terms now because some future administration might be unpredictable and give everything away in the middle of a crisis. Why not settle now on a peaceful basis?

The answer is that this is basically a defeatist strategy. Concessions will not pacify agitation; they will last only as long as it takes agitators to think up something new. Moreover, by making the basic concession on strategy we completely undermine our position, and some future administration will have to deal with the crisis anyway.

Third. The U.S. negotiators also point out that any treaty we initial will allow us to have troops on site to take care of any action against canal installations, and that other defense provisions will be spelled out.

I have not any doubt that we would hold out for such arrangements. Yet history shows us that there is a tendency for the U.S. Government, whoever is in power, not to act with decision when there is any doubt about the scope of action required. Without sovereign jurisdiction in the area. U.S. commanders would be faced with an intolerable responsibility in determining the force required. The Vietnam war has taught us the futility of controlled force escalation under civilian planners. No matter what level of action is taken, the United States would be criticized by the leftist propaganda machine, including the American left, and the Panamanian nationalists. It should be remembered that in the 1964 riots, the Panamanian rioters were shot in the back by Communist snipers in Panamanian territory. Because of such problems, U.S. jurisdiction must be unchallenged.

Fourth. It is argued that world opinion, even our allies, will not support us in our claims to sovereignty if we try to exercise absolute control in a crisis. However, they will suppport us if we have a new treaty which recognizes Panama's sovereignty in the Zone, according to this argument.

Yet this argument also falls. World opinion—whatever that may be—will not support us in any case. Those of our allies that have lost their empires will not be unhappy to see U.S. power humiliated. Those that have gained leading economic power will only be too glad to see the Canal come under the control of, say, an international entity. The so-called third world will always maintain that any U.S. presence in Panama is illegitimate.

Fifth. It is argued that the Canal Zone situation is like the Okinawa situation where agitation will ultimately make the U.S. position untenable psychologically and unworkable from the practical standpoint.

In my judgment, there is no parallel whatsoever between Okinawa and the Canal Zone. Okinawa was only one element in the strategic defense of the Pacific, and we held it by right of strength of arms. We never claimed sovereignty there, holding it instead as occupied territory. Moreover, by the time of revision, Japan had once more become a world power.

On the other hand, the canal is an irreplaceable element in our strategic defenses. It is a key element in our internal and economic security, linking our two coasts by vital sea lanes. Moreover, we have international treaty obligations with many nations which give us the responsibility for the canal. Panama, although it has a strong and growing economy, will never become one of the major powers. It is far better to work with the constructive elements in Panama and give Panama a long term interest in maintaining the historic grant of sovereignty to the United States. The most effective way to do this is through the major modernization of the canal through the Terminal Lake-Third Locks plan. The economic impact of such construction would be to raise the standard of living for every level of Panamanian society.

Sixth. We should increase our payments to Panama, it is said, to a "more reasonable" figure—say $25 million.

But there is no reason whatsoever why we should give up our sovereignty and then pay an indemnity on top of that. The original annual payment of $25,000 represented the U.S. assumption of the obligations of the Panama Railroad due to Colombia. This was raised to $430,000 in 1936, paid from tolls. In addition, the 1955 treaty added $1.5 million paid from the U.S. Treasury. The United States does not take 1 penny from tolls; it all goes back into capital improvements. Thus, the proposed $25 million annually would be paid either by the U.S. taxpayers—from the Treasury—or by U.S. consumers—from tolls. Instead of paying a bribe disguised as an indemnity, we should let Panama participate creatively in the major modernization. The economic impact generated in Panama by the modernization plan would far exceed the proposed indemnity.

Mr. President, I could discuss many other details about the negotiations we have been conducting in the past, but I think that I have pointed out that creative diplomacy could find many reasons for abandoning the unproductive attitudes of the negotiations in recent years. We must surrender not our sovereignty, but rather the implied notion that we are engaged in an illegitimate exercise of power in the Isthmus. This is a shameful notion which fails to give due credit to U.S. intentions, accomplishments, and aims in the Canal Zone. We have worked together with Panama in an honorable way, and we can continue to do so in the future. But we cannot expect to achieve stability by giving up the very basis of our presence in the zone. I hope that our new negotiator will take these sentiments to heart.

Mr. HOLLINGS. Mr. President, I rise today in defense of America's vital interests in the Panama Canal. Getting right to the point, I believe America's position should be one of complete sovereignty over the canal. This is exactly what was provided in the treaty of 1903, and I see no reason why the terms of that agreement should be altered at this late date.

We are obsessed with giving up and giving away these days. We give away our money. We give away our jobs. We give away our technology. We virtually give away our wheat to the Soviet Union, with all the resultant havoc that caused in the United States. We hear administration proposals to give aid to the North Vietnamese. And now we talk of giving up our control over a strategically-vital bastion of the Western Hemisphere.

For the past dozen years, American policy toward the canal area has been confused and counter-productive. It has contributed to tension. It has been the handmaiden of discord and rioting. Administrations of both our major political parties have been at fault. This is not a partisan issue.

It is time that we stake off a clearly stated and firm policy based foursquare on the best interests of the United States of America. That is what we did in the formulation of the original treaty 70 years ago, and that is exactly the type of policy we should be continuing today. Instead we find recent administrations giving in a little here and a little there and slowly eroding the very basis of our presence in this important area. The worst mistake came in 1967, when the Johnson administration gave encouragement to this erosion by proposing three draft treaties to replace the straightforward agreement of 1903. Today the error continues and compounds, as the present administration continues in the same general policy enunciated in 1967.

These 1967 treaty drafts envisioned the transfer of sovereignty over the "canal area" to Panama. They further envisioned replacement of the present Panama Canal Company—which is a U.S. Government corporation—by a joint Panamanian-American administration. And, finally, they envisioned giving exclusive possession of the canal itself to Panama before the end of the century.

Mr. President, the Panamanians know exactly what they want and they are not hesitant in admitting it. Listen to one of the members of their negotiating delegation in a speech given recently in Panama. I quote from the speech:

> Jurisdiction, then, means that the Canal Zone will revert to us, and regarding the canal treaty it means: how the canal will be run, how the fees will be charged, how the benefits will be distributed, and within what period we, the Panamanians, are going to assume full responsibility for the canal. This means a Panamanian canal, which is what Panama wants, a Panamanian canal, operated by Panamanians, for Panamanians, to benefit Panamanians.

Mr. President, I submit that we cannot afford such a giveaway. The most junior student of military strategy understands the critical importance of the Panama Canal to the safety and well-being of the United States. It is vital to our protection. And it is vital to our trade and commerce. To relinquish control over the canal area is to relinquish America's control over America's safety and America's commerce. It is to allow others to be the authors of our own destiny.

Further, Mr. President, I am tired of seeing the United States negotiate at gunpoint. As soon as a demonstration or a riot occurs in Panama, we rush in with another concession, another giveaway. What we fail to see is that each concession only leads to the other side upping the ante still more. The concessions themselves do not help. They cannot help unless we are prepared to get out lock, stock, and barrel.

The demagogs and firebrands in Panama will keep fueling the issue for their own partisan ends until the last ounce of America's presence is removed. So concessions short of outright capitulation do no good. And capitulation to Panama's demands would mean disaster for the United States.

I am not one of those who has a guilty conscience about defending America's self-interest abroad. On the contrary, what we need is leadership that will stand up in defense of what is good for the United States. For 30 years we have dedicated ourselves to helping the other fellow—to building up his factory, his farm, his country. We overextended. We gave away too much. Now we must preserve what is left. We must get on with the business of restoring America to its eminence in trade, its leadership in agriculture and in industry. And we must look more closely to keeping our military might second to none. Mr. President, continued American sovereignty in the canal area helps us on each of these fronts. It facilitates our trade, encourages our producers on both farm and factory, and it eases the defense burden from what it would be if we lost control over the canal.

For all these reasons, I believe that the United States must maintain and protect its jurisdiction and sovereign rights over the Panama Canal. It is in the worst interests of our Government to negotiate away the rights and the sovereignty which we have been exercising in this vital area of the globe.

A stand in defense of our treaties is in the best interests of our friends and in the best interests of the United States.

Mr. BUCKLEY. Mr. President, I am delighted to associate myself in this colloquy today with the Senator from Virginia, both Senators from South Carolina, the Senator from Wyoming (Mr. HANSEN), and the Senator from North Carolina (Mr. HELMS) in this expression of common concern over the increasing pressures to surrender our sovereign rights to the Panama Canal Zone.

Mr. President, one of the least frequently discussed foreign policy issues in the past decade has been the question of hemisphere security. For too many, the problem of protecting U.S. security interests in this hemisphere ended in October of 1962 when an American display of military strength forced a withdrawal of Soviet medium range ballistic missiles from Cuba. As a consequence, some of our vital security interests in the region tend to be overlooked. The time has come to emphasize once again, some of the fundamental dimensions of our national interest.

Historically, the United States has always found the occupation of opposite shores of adjacent oceans to be an unacceptable risk for our security. The occupation or threat of occupation of Western Europe by Germany and the Soviet Union or the occupation or threat of occupation of the nations of the Western Pacific by Communist China or Japan has brought a firm diplomatic and military response from this country. Similarly, The Monroe Doctrine, promulgated in 1823, established the importance of keeping this hemisphere free of hostile powers. Despite the apparent breach of the Monroe Doctrine in the case of the Soviet presence in Cuba, the United States has demanded—and received—concessions from the Soviet Union to limit the capacity of her Cuban ally to serve as a staging area to jeopardize the security of the Western Hemisphere. As recently as 1970, for example, despite the very formidable level of the Soviet's strategic nuclear forces at the time—more than 20 times the number they had available at the time of the Cuban missile crisis in 1962—the U.S. Government took decisive diplomatic action to prevent the Soviets from basing nuclear powered ballistic-missile-firing submarines in Cuba.

Perhaps the most compelling modern necessity for maintaining the diplomatic integrity of the Monroe Doctrine is the Panama Canal. The hard facts of geography require that the United States maintain a two-ocean naval force, not only for dealing with contingencies in the Western Hemisphere, but for dealing with worldwide contingencies. Implicit in the U.S. requirement for a two-ocean fleet is the ability to quickly redeploy naval forces from the Atlantic to the Pacific or the reverse in the shortest time possible. Extended transit times that would be required without uninhibited use of the Panama Canal would surely require either a diminution in our security or an augmentation in the naval forces stationed at both Atlantic and Pacific bases to retain an undiminished ability to respond to contingencies. Neither alternative, in my judgment, is preferable to our continued right to use the canal with sovereign jurisdiction over that strategic real estate.

Since the United Nations conference was held in Panama, there has been increasing discussion of the canal in some quarters with regard to the wisdom of surrendering sovereignty over the isthmus to the local Panamanian Government to religiously keep a solemn commitment—even when it is difficult as we have so painfully experienced with regard to Southeast Asia. For this reason, such commitments should not be made frivolously. I am persuaded that this Nation can be proud of its record of keeping commitments made to foreign governments.

For this reason, I believe we have a right to ask and expect a similar degree of fidelity from those nations with whom we have made an agreement—even when those nations may find it difficult for political or emotional reasons. This expectation on our part should not be excepted in the case of Panama. The United States has a valid and binding treaty respecting its sovereignty over the Panama Canal Zone. Any changes in the status of what is defined by treaty as sovereign U.S. territory rests in the policy in the hands of the Congress, not the executive branch.

The U.S. sovereignty over the Canal Zone should not be negotiable. No arrangement for use of the canal is preferable to absolute U.S. sovereignty over the territory. Establishing a new route at sea level, even if such a route were economically and environmentally viable, which I doubt, would leave the United States with something less than sovereignty. We need not dwell long on the economic and political damage done to the interests of world peace and economic security when the British surrendered control over the Suez Canal to Egypt.

The closure of the Suez Canal has imposed great economic and political costs on the nations of Western Europe. Despite the changes which have been wrought on international politics and military strategy, there remains a substantial role for geography to play. There is perhaps no single area under sovereign U.S. control that is as significant to our security as the Panama Canal, and I urge the Congress as well as the executive branch to take no action which would inhibit U.S. sovereignty.

Another issue which is important to address is the question of the modernization of the canal versus the construction of a new canal elsewhere. The costs of modernizing the canal to accommodate the higher transit rates expected over the next few decades can surely be accomplished at far less economic and political cost than could a new canal located elsewhere. Major preparatory work, which could be useful in modernization of the canal, has already been undertaken during the Second World War.

The history of modernization proposals is an important part of the discussion, and I ask unanimous consent to have printed at the conclusion of my remarks a copy of a letter from Representative DANIEL J. FLOOD of Pennsylvania to the chairman of the House Committee on Merchant Marine and Fisheries concerning the modernization of the canal. His statement provides a most useful review of the issue connected with the modernization of the canal, and I commend it to the attention of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUCKLEY. It seems clear to me, Mr. President, that on both economic and political grounds, there is no alternative course for the United States but to retain sovereignty over the Canal Zone and upgrade its capacity for continued service in the future.

Mr. President, I want to reaffirm the statement made by the Senator from Virginia (Mr. HARRY F. BYRD, JR.), that if we make it absolutely clear that we are not going to budge, then the politicians in Panama will adjust to this reality and those pressures will subside.

I, too, urge the Nixon administration to make clear that, whereas we will consider such matters as payment levels, we will not consider to be negotiable the basic fact of our sovereign rights.

EXHIBIT 1

HOUSE OF REPRESENTATIVES,
Washington, D.C., June 19, 1973.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAME CHAIRMAN: As you well know, I have shared, and still share, your deep concern for the security and operational efficiency of the Panama Canal. It was, therefore, with the greatest interest that I read in the 2 January, 1973 Report of Activities of your committee its summation of the major canal issues that remain to be resolved, which follows: "(a) Retention by the United States of its undiluted sovereign rights, power, and authority over the Canal Zone, which is the absolutely necessary protective frame of the Canal; and (b) Major modernization of the existing Canal within the present Canal Zone which means that we do not necessarily need a new treaty with Panama." (Ho. Rept. No. 92–1629, p. 36.)

It was especially gratifying to note that the committee followed the above with the very pertinent remark that "all other large Canal questions, however important, including the much discussed 'sea-level' proposal, are irrelevant and should not be allowed to confuse that of the Canal's major needs, i.e. its increase in capacity and operational improvement." These cited statements on interoceanic canal policy, I believe, are the best ever made by any Congressional committee since the Spooner Act of 1902.

As you well know there are only two major canal problems: (1) sovereignty, and (2) major modernization. In regard to the question of sovereignty, the indicated report emphasizes that under the U.S. Constitution the power to dispose of U.S. territory is vested in the Congress and not in the Executive (Ibid., p. 21.) Certainly U.S. sovereignty over the Canal Zone is not negotiable, despite all State Department sophistry; and your committee is in a strategic position to make the Executive realize this fact by following through on what the committee has already done. In viewing the problem of the future canal it cannot be too strongly stressed that, with the exception of the Madden Dam Project and the enlargement of Gaillard Cut from 300' to 500' in width, the Panama Canal is essentially what it was when opened to traffic in 1914. More than 50 years of operating experience have taught us what should be done to improve it; and this can be accomplished with every assurance of success.

The major modernization of the existing canal as provided in H.R. 1517, 93rd Congress, and other bills identical with it, consists of two closely related basic features: (1) increase of lock capacity, and (2) operational improvement.

The needed increase in lock capacity would be provided by the construction of one channel of larger locks (140'x1200'). The long demonstrated need for operational improvements would be brought about by the elimination of the bottleneck locks at Pedro Miguel and the re-construction of the Pacific end of the Canal to form a summit lake anchorage to match the arrangement of the Atlantic end, with all Pacific Locks in 3 lifts at Aguadulce as they are at Gatun. This proposal, developed in the Panama Canal organization as the result of World War II experience, was promptly hailed by experienced Panama Canal engineers as the greatest single contribution to the Canal since the decision in 1906 by Chief Engineer John F. Stevens to relocate the Atlantic locks and dam from Bohio to Gatun to form Gatun Lake. That war-derived conception, known as the Terminal Lake-Third Locks Plan, promptly won the support of important maritime interests and the approval of President Franklin D. Roosevelt as a post-war project. In addition, the plan was approved in principle by Governor Glen E. Edgerton of the Panama Canal who, on January 17, 1944, in a report to Secretary of War Stimson, recommended it for comprehensive investigation but warned the Secretary that advocates of a sea-level canal "would oppose unjustifiably" any major change in the existing canal. (*Cong. Record*, Vol. 102, Pt. 8, June 21, 1956, p. 10762, par. 70).

Later, on November 15, 1945, the Terminal Lake proposal was approved in general by Governor J. C. Mehaffey during Hearings before your committee on H.R. 4480, 79th Congress, as the preferred plan for modifying the original Third Locks Project (Executive Hearings on H.R. 4480, 79th Congress, p. 91.) More than $76,000,000 was spent on that project before work was suspended in May 1942; largely on huge lock site excavation at Gatun and Miraflores, a railroad-vehicular bridge across Miraflores Locks, and the roadbed for re-locating the Panama Railroad near Gatun, all of which are usable and will be needed when work is resumed.

With the $95,000,000 expended on the enlargement of Gaillard Cut added to that spent on the Third Locks Project, the expenditures toward the major modernization of the existing canal total more than $171,000,000. Regardless of what State Department officials may say, such modernization does not require the negotiation of a new canal treaty with Panama (*Cong. Record*, Vol. 84, Pt. 9, July 24, 1939, p. 9834.)

In line with the 1944 warning by Governor Edgerton, two subsequent canal studies, authorized on Executive requests and without adequate Congressional consideration, were directed not toward the solution of the problems of ship transit as revealed by years of operating experience but for justifying the long pre-determined objective of a small industrial-professional group to secure authorization for the construction of that "hardy perennial" known as the sea-level project.

The first of those studies, authorized in 1945 during the hysteria that followed the advent of the atomic bomb, was the investigation under Public Law 280, 79th Congress, which recommended the "conversion" of the existing canal to one of "sea-level" tidal lock design for alleged reasons of "security" and "national defense". In the vast propaganda campaign that accompanied the 1945–48 sea-level drive, the atomic bomb was used as the psychological lever with which to browbeat the Congress. Because of the leadership of Secretary of the Navy Forrestal and many others, including distinguished military and civilian engineers and atomic warfare experts, that effort failed.

Subsequently in 1957, your committee secured the services of an independent Board of Consultants to consider and report upon the canal question. Its final report on June 1, 1960, emphasized that a sea-level canal could not be justified economically in the near future and expressed doubt that any canal of sea-level design could be constructed in the Canal Zone without causing "slides of the first magnitude" and "without serious danger of a long interruption to traffic . . ." (Ho. Rept. No. 1960, 86th Congress, p. 5.)

The second attempt to secure the authorization of a sea-level project was the investigation under Public Law 88–609, as amended. Its 1970 report, which has not been formally transmitted to the Congress by the President, calls for the construction not in the Canal Zone as recommended in the 1947 Report but in the Republic of Panama of a new canal of so-called "sea-level" design with tidal locks, about 10 miles west of the existing canal. Such canal will require a new treaty with Panama and involve many costly elements, including acquisition of the right of way, construction of new terminals, and reimbursement to Panama for upsetting its economy, none of which are covered in the initial 1970 cost estimate of $2.88 billions.

In the diplomatic negotiations with Panama that have been conducted at the same time with the preparation of the 1970 report, I have noted that Panama has habitually used as its negotiators some of its ablest leaders and scholars, who have done their homework, and that they have succeeded in brainwashing our own officials. The Panamanians always bring up the 1903 Treaty and, so far as can be determined, the 1936 and 1955 Treaties are never discussed.

One of the proposals mentioned in both the 1947 and 1970 reports is the completion of the originally authorized Third Locks Project, which calls for the construction of a set of larger locks alongside each of the existing locks. Such listing of this inadequate project in these two reports only serves to confuse, for any plan for the major modernization of the existing canal that does not eliminate the bottleneck locks at Pedro Miguel is totally defective and should be summarily dismissed as unworthy of any serious consideration.

The attached Memorial to the Congress, representing strong professional support from various disciplines, is probably the most incisive yet brief clarification of the overall canal problem ever prepared and is commended for careful reading. From so doing, it will be clear that the purpose of those preparing it was not the determination of alternatives or the justification of some predetermined objectives but arriving at the best solution of the problem of trans-Isthmian transit (*Cong. Record*, May 31, 1973, pp. 17512–14.)

In studying the question of increased lock capacity, I have examined some of the back as well as recent reports. They reveal important facts as follows:

AUGUST 4, 1931

Governor Harry Burgess, in his report to the Secretary of War on August 4, 1931, stated that under normal conditions the capacity of the canal was 48 lockages per day, that when lockages at Gatun average 32 per day there would be "peak days" of around 48 lockages, and that a third set of larger locks would be "required about 1970" (Ho. Doc. No. 139, 72nd Congress, pp. 24–27.)

Comment

At 32 lockages per day the annual total (32 x 365) is 11,680; at 48, the annual total is 17,520. In the 1960 study by the Board of Consultants, Isthmian Canal Studies (Ho. Rept., No. 1960, 86th Congress, p. 24) there is this table:

	Transits
1959:	
Daily average	27.2
Peak	39.2
1976:	
Daily average (estimate)	32.7
Peak (estimate)	47.1
2000:	
Daily average (estimate)	43.0
Peak (estimate)	61.9

For the Fiscal Year 1972 there were 14,238 transits; and periodic "peak days" involving delays on those days to vessels in transit.

FEBRUARY 24, 1939

Governor C. S. Ridley, in his report to the Secretary of War on February 24, 1939, estimated that the capacity of the existing locks would be reached by 1961 and that additional locks would be needed by that date (Ho. Doc. No. 210, 76th Congress, p. 5.)

Comment

It was largely because of this recommendation that the Congress, without adequate prior investigations, authorized the Third Locks Project (Pub. Law No. 391, 76th Congress, approved Aug. 11, 1939.) It is significant that no treaty was involved in launching this project as it was "expansion and new construction." (*Cong. Record,* Vol. 84. Pt. 9, July 24, 1939, p. 9834.)

JUNE 1, 1940

Governor Glen E. Edgerton, when discussing the 1939 Third Locks Project in a Panama Canal pamphlet, repeated the August 4, 1931, recommendation of Governor Burgess that a third set of locks would not be needed until about 1970. (The Panama Canal, *The Third Locks Project,* June 1941, p. 2.)

Comment

Construction on this project was suspended in May 1942 because of more urgent war needs and this afforded an opportunity for it to be re-studied in the light of war operating experience. (Ho. Doc. No. 474, 89th Congress, pp. 177–92.) In the 1947 Report under Public Law 280, 79th Congress, the Governor of the Panama Canal recommended only a sea-level project in the Canal Zone, for major increase of canal capacity, which action served to exclude what well informed independent canal experts then considered and still consider the best solution when the problem is evaluated from all significant angles, thus arousing their strong opposition. (*Ibid.,* pp. 473–78.)

In lieu of the major modernization that was required to solve the canal's marine operational problems, the 1947 Report recommended a program of repairs and alterations. Experienced canal engineers criticized it as being makeshift in character and without sufficient merit (*Ibid.,* p. 475, par. 4.) They thus served to delay the basic and long overdue solution of the main problems of our long neglected tropical waterway.

While it is true that the repair and alteration programs since the 1947 Report have increased the number of vessels that can transit above the 1931–39 estimates they have not increased usable lock dimensions; and such dimensions are major factors in canal capacity.

As the Canal approaches capacity saturation, the magnitude and cost of essential, correlated improvements will increase. All of these will in one way or other be affected in the event of major modernization and in some cases such costs could be reduced or obviated. (Improvement Program for Panama Canal, 1969.)

In commenting on the advantages of the Terminal Lake-Third Locks Plan, Governor David S. Parker recently summarized its advantages from the engineering point of view:

"It would cost considerably less than a sea-level canal. Navigation through such a canal would be relatively simple because it would make use of the existing Gatun Lake, avoiding the currents and initially narrow channel of a sea-level canal. It would not alter materially the ecology of the area. Gatun Lake would be retained in its present form, and there would be a barrier to the movement of biota from one ocean to another."

It was noted that though Governor Parker discussed the "sea-level" proposal he did not oppose the Terminal Lake-Third Locks Plan as provided in the pending legislation.

The above quoted statement by Governor Parker will find strong support among navigation, conservation, economic, and ecological interests. So far as I can ascertain respected ecologists strongly oppose any canal of sea-level design, which they have condemned as the "conservation challenge of the 20th Century." Moreover, the biological hazards of the "sea-level" proposal at Panama were a major topic of discussion in September 1972 at the International Scientific Congress at Monaco. (*Defenders of Wild Life News,* January 1973, p. 60.) In addition, I would point out that the solution provided by H.R. 1517 would create the best operational canal for the transit of vessels practicable of achievement at least cost, preserve the economy of Panama, avoid the diplomatic hazards involved in upsetting long established treaty relationships with Great Britain and Colombia, complete the great work as originally envisioned under President Theodore Roosevelt, and prevent the opening of a Pandora Box of trouble, including the question of a new treaty with Panama. Most certainly, action on the pending modernization measures should not be delayed any longer because there is a vast amount of work to be accomplished: 2 years after authorization for planning and 8 years for construction. (Ho. Doc. No. 474, 89th Congress, p. 483.)

I trust that the above observations will be of value to you and your committee in the interest of promptly bringing about the long overdue major modernization of the Panama Canal, which, as previously stated, can be done with every assurance of success and should win the enthusiastic support of all mariners who transit the canal.

Sincerely yours,

DANIEL J. FLOOD,
Member of Congress.

Mr. HANSEN. Mr. President, I need say little more in addition to what already has been said about the need for absolute, unqualified sovereignty over the Canal Zone on the part of the United States. That point has been made very clear here today, and I hope that people everywhere, including Panamanians, will consider well what has been said.

I join my colleagues today in brief remarks reflecting my concern that preservation of U.S. control of the Panama Canal is crucial for proper defense of our Nation and the hemisphere, and to the free flow of international trade.

Earlier this year, I had occasion to view military installations and lock operations at the Canal Zone. Subsequent to that occasion, I expressed to the White House my concerns about the effect of the United Nations Security Council meeting upon the American position in the Canal Zone. I also supported a letter of February 19 to the President from the Committee on Armed Services, which expressed the committee's concern for what was called "the deteriorating situation in regard to the security of the U.S. Canal Zone."

The White House advised me March 17, 1973, that:

> Uncontrollable demonstrations directed against the Canal Zone, with a repetition of the events of January 1964, would indeed be most unfortunate. U.S. officials have been in close consultation with representatives of the Government of Panama regarding measures to avoid such a serious deterioration in our relations with that country. The Panamanian government appears to be taking appropriate measures to prevent disturbances and to provide a hospitable and secure environment for the (Security Council) meeting.

The White House advised me further that:

> Treaty negotiations were renewed with Panama in 1971, following a careful review of all aspects of the canal issue, particularly American interest in the continued availability of an efficiently operated and secure canal serving the needs of this Nation and world maritime commerce. The United States is seeking a new treaty which, while responsive to Panama's aspirations, will accord to the United States the necessary rights to operate and protect the canal. President Nixon shares your concerns about the importance of guaranteeing the future security of required installations in the Canal Zone.

It is my understanding that, including defense expenditures, the American investment in the Canal Zone since 1904 has been almost $6 billion. I am opposed to intervention by the United Nations into the American operation of the Canal Zone. The 1903 treaty with Panama gave the United States sovereignty over the Canal Zone "in perpetuity."

But some Panamanians have become resentful through the years of the existence of what they have termed "a government within a government." The flag riots in the zone in January 1964, in which four Americans and 22 Panamanians were killed, were followed in December of that same year by our late President Johnson's announcement of the U.S. decision to negotiate a new treaty with Panama to replace the 1903 Treaty.

As I understood President Johnson's proposal, Panamanian sovereignty in the area would have been recognized, but U.S. rights necessary for the effective operation and protection of the canal would have been retained. As we know, details of the Johnson proposal were opposed both in the Congress and among the Panamanians.

There is another adjunct to the operation of the canal by the United States that I think is important.

The canal is an indispensable lifeline in U.S. trade activities. It affords an economical and efficient transport route, and is especially significant at a time when this Nation is striving to improve its competitive position in the world market.

Approximately 70 percent of the total cargo tonnage transiting the canal annually represents exports from, or imports to, the United States, or commodities in U.S. intercoastal trade. The United States has kept tolls at a bargain rate for all nations throughout operation of the canal; and because of the 70-percent figure I have just cited, it would be unrealistic for the United States to give up jurisdiction of, or our commitment to protect the zone.

I hope we will heed the admonitions and strong advice of Senators who earlier have spoken and reflect well upon the contribution the United States can make toward world peace through its uninterrupted full sovereignty over the Panama Canal Zone, which resulted from a treaty made between this country and the nation of Panama in 1903.

I thank the Senator for yielding.

Mr. BUCKLEY. Mr. President, I yield the remainder of my time to the Senator from North Carolina.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the distinguished Senator from New York. I wish to commend all distinguished Senators for remarks they have made this morning. I wish to enthusiastically associate myself with them.

Although our Nation has been distracted by many other events recently, we must not lose sight of the fact that the Panama Canal plays a key role in our national defense and international commerce. I find it very distressing that recent negotiations—indeed, negotiations that were initiated by President Johnson—have as their basis the surrender of U.S. sovereignty in the zone.

The United States cannot continue to pull back from every area of the world. It is one thing to pull out of Southeast Asia, but it something else again to pull out of the Canal Zone. The canal is an historic American achievement, both in its construction and its operation. It is unique in history for a nation to have such an accomplishment. The Canal Zone is virtually territory of the United States. We have exercised jurisdiction there. We have set up U.S. law there. Congress has treated the Canal Zone as U.S. territory. Yet Congress has never been consulted about the negotiations giving up that sovereignty which Congress has exercised. Indeed, the negotiations are unauthorized.

I hope that our new negotiating team will review the situation and come up with guidelines which abandon the concept of surrender of U.S. territory and sovereignty.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

EMERGENCY MEDICAL SERVICES ACT OF 1973—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore (Mr. TUNNEY). The Chair lays before the Senate the conference report on S. 504, which will be stated by title.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 504) to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of July 10, 1973, at pages 23082–86.)

Mr. KENNEDY. Mr. President, as chairman on the Senate Health Subcommittee, I take great pleasure in presenting to the Senate the conference report on the emergency services systems act of 1973. The legislation which passed the House and the Senate was to a very considerable degree similar in concept and form. S. 504 passed the Senate by a vote of 79 to 13. And it passed the House by a vote of 261 to 96. The House has now adopted the conference report by a vote of 305 to 111 and with its approval in the Senate today legislation will go to the White House.

Mr. President, the Health Subcommittee's hearings on the need for additional Federal assistance for high quality EMS programs were overwhelming in terms of support for S. 504. The legislation the Senate has before it today represents a reasonable and equitable compromise with the other body. We now have a 3-year bill which authorizes a total of $185 million for these programs. Of the funds appropriated the conference report provides that no less that 25 percent of the funds shall be available for EMS programs in rural areas. Also the conference report authorizes $15 million for research into the most effective ways of reducing the tragic toll which the Nation bears as a result of inadequate emergency medical services.

Mr. President, the conference report also includes the so-called Magnuson amendment respecting the will of the Congress concerning the need to continue the operation of the public health service hospitals. In this regard there was virtually no substantive difference between the House and Senate bills.

Mr. President, as we all know this Nation is in the depths of a health care crisis. And unfortunately the lack of high quality emergency medical services is an important part of this crisis. The President has indicated that this crisis is real and that there is a deficit regarding emergency medical services. In that context, I am hopeful that the President will find it possible to quickly sign this measure into law and to adequately reflect his concern in this area in the 1974 HEW budget.

I urge my colleagues to support the conference report.

INTRODUCTION

Mr. CRANSTON. Mr. President, I would like to express my very deep satisfaction with the conference report on S. 504, the Emergency Medical Services Systems Act of 1973, of which I was the principal Senate sponsor.

The agreement between the two Houses on this measure was reached in a spirit of genuine cooperation and compromise. The conference report is the result of our mutual dedication to the principle of achieving the best means of improving the ability of the Nation's communities to provide emergency medical services to all those needing them when they need them and to the extent they need them to prevent the tragic statistics of deaths and disabilities due to inadequate treatment capability and response at the time of an emergency.

I would like to express my great appreciation for the keen attention given this legislation by the members of the Subcommittee on Health of the Labor and Public Welfare Committee, under the chairmanship of the distinguished Senator from Massachusetts (Mr. KENNEDY), and by the members of the House Interstate and Foreign Commerce Committee under the very able leadership of Chairman STAGGERS and of the chairman of the Subcommittee on Public Health and the Environment, Mr. ROGERS.

I would also like to express my special appreciation for the constructive suggestions made by other members of the two committees, in the development of this bipartisan legislation, particularly, on our side, in addition to Chairman KENNEDY, to the Senators from Colorado (Mr. DOMINICK) and Maryland (Mr. BEALL), who were both so interested and instrumental in this legislation, and to the ranking minority members of the subcommittee and full committee, respectively (Mr. JAVITS and Mr. SCHWEIKER).

I believe we together have produced a measure which will meet a need which is reiterated daily on the Nation's highways and in the Nation's emergency rooms. The legislation will help communities prevent the tragedies which affect, at one time or another, every individual, and in large part, the youth of the Nation.

HIGHLIGHTS

SYSTEMATIC APPROACH

The conference report is a blending of the legislation which passed the House and the legislation which passed the Senate.

In the conference report, the basic concept was adhered to that emergency medical services can only be provided adequately when there are coordinated and comprehensive communitywide systems for providing in emergencies health care services meeting appropriate quality standards and criteria.

ELIGIBLE APPLICANTS

Mr. President, to aid in planning, developing, or expanding these systems, the legislation in the conference report would make funds available to States, other governmental units, or combinations of governmental units, which cover an area of sufficient geographic and population size and economic diversity—or in exceptional circumstances to nonprofit entities serving such an area after notice and opportunity to comment given to the governmental units in question—to establish and maintain a comprehensive emergency medical services system.

QUALITY AND COMPREHENSIVENESS OF COMPONENTS OF THE SYSTEM

The conference report also retains the concept that all components of a system must meet standards and criteria established by the Secretary in regulations after consideration of relevant standards and criteria established by public agencies and nonprofit private organizations.

The conference report provides that the applicant must demonstrate that the system will meet each of the specified system requirements and must provide in the application a plan for meeting each requirement within the period of the grant. In exceptional cases, where the applicant has shown by clear and convincing evidence that his system cannot meet a specific requirement within this period, the Secretary may prescribe a specific longer period within which the applicant must meet the requirement in question. The conferees directed that this period be the shortest period feasible and that, in addition, where the Secretary prescribed a longer priod of time for compliance, he would provide technical assistance as necessary to insure that the system could meet the requirement within the prescribed period of time.

Because there was some concern expressed that in certain geographical areas, physical characteristics of the area, or other equally insurmountable obstacles, might make total compliance with each and every requirement of the act impossible, the Secretary was authorized to make an additional exception where the applicant presents clear and convincing evidence of the inability to meet a specific requirement in any particular time period. In such an instance, the Secretary may waive application of that particular requirement for the system in question; however, the conferees clearly expressed their views that such exceptions should be made only where full compliance was clearly shown not to be possible, and required, in such event, that the applicant must submit a plan showing an alternative method for dealing with the subject matter addressed by the requirement in question.

The conferees directed, in addition, that no more than 25 percent of the sums made available and obligated in any fiscal year is to be used for grants and contracts—both for establishment and initial operation under section 1203 and expansion and improvement under section 1204—for systems which cannot meet each of the system requirements within the period of the grant or contract.

NONDUPLICATION WITH OTHER FEDERAL ASSISTANCE PROGRAMS

Mr. President, the conferees also retained the concept that other existing Federal authorities available to support components of an emergency medical services system should be utilized first by the applicant and that in determining the amount of a grant under this act the Secretary is to take into consideration the adequacy of funds available to the grantee from other Federal programs. This is a provision which I believe will largely meet the administration's contention that this act unnecessarily duplicates existing authorities. I see this second-dollar funding provision as a means to get the applicant to assess his resources, determine his deficiencies, and then move to correct these deficiencies using specific authorities of existing law where available, filling in with funding under the authorities of this act where support under other Federal statutory authorities is inadequate.

LOCAL COORDINATING MECHANISMS AND METHODS

Mr. President, the Senate bill had been quite explicit on the need in the community for a broadly based and fully representative effort to develop a coordinated emergency medical services system. It called for a local EMS council and specified its composition in some detail. This provision was deleted in conference since the conferees felt the explicitness of the Senate provision might be too rigid for effective application at the community level. Instead, the conferees expressed their belief that each community in the normal course of developing an emergency medical services system would call upon the expertise and experience of all those in the service area playing a role relevant to the provision or receipt of emergency medical services—including Federal installations, such as VA hospitals. In addition, involvement of public safety agencies personnel and facilities as well as consumers—nonhealth care professional personnel—in the development and implementation of the system has been included in the conference report as an application requirement.

FEDERAL COORDINATING COMMITTEE

Mr. President, the two bills also differed in provisions for organizational structure for implementing the authorities of the act at the Federal level. Each bill had addressed the need for coordination of efforts at the Federal level through an Interagency Technical Committee and the Senate bill, in addition, had provided for a National Advisory Council in HEW which would have had representation from Federal agencies as well as experts from the general public who would have advised the Secretary on the implementation of the act and made recommendations on the awarding of grants and contracts involving in excess of $35,000. The conferees deleted the Senate bill's National Advisory Council, instead transferring many of its functions to the Interagency Committee on Emergency Medical Services, the provisions for which amalgamated the provision regarding the Interagency Technical Committee in each of the bills.

In addition, the peer review requirement for research grants or contracts from the Senate bill—just as is required for National Cancer or Heart and Lung Institute grants, or grants by the other National Institutes of Health, was retained in the conference report. Finally the House provision establishing an identifiable administrative unit in HEW to administer the program was retained, and it was agreed that this unit would be placed under the Assistant Secretary for Health.

DISCUSSION OF ADMINISTRATION'S OBJECTIONS TO EMS PROVISIONS

Mr. President, yesterday the distinguished Senator from Ohio (Mr. TAFT) inserted in the RECORD (p. 24075) a letter dated July 13, 1973, which he had received from the Department of Health, Education, and Welfare, expressing its objections to S. 504.

In summary, the administration expressed four objections to the emergency medical services provisions of this legislation. They were:

First. The administration felt it is "inappropriate for the Federal Government to create another categorical legislative program."

Second. The administration objects to the establishment of a new organizational structure to administer an emergency medical services program.

Third. Appropriations authorizations, the administration argues, are in excess of the amount of funds that could be soundly invested in a Federal demonstration program in "the forseeable future."

Fourth. Creation of the Interagency Committee on Emergency Medical Services is unnecessary and ineffective as a means of coordinating and planning complex programs.

THRUST OF BASIC OBJECTION

Mr. President, I think it is useful to isolate what appears to be the primary basis for the administration's objections to this legislation. The administration talks in terms of "demonstration initiatives." S. 504 deals with the development of comprehensive emergency medical services systems in local communities.

I believe, and testimony has shown clearly, that there is sufficient knowledge and experience available now, which can be employed effectively now, in the Nation's communities. We do not need demonstration projects to show us how to improve medical care in emergencies. We need emergency medical services systems with the capacity to utilize that knowledge and expertise.

The subcommittee received convincing testimony from a broad range of witnesses to exactly this effect. The excellent study undertaken by the National research Council of the National Academy of Sciences, entitled "Roles and Resources of Federal Agencies in Support of Comprehensive Emergency Medical Services," published in March 1972, recommended that Federal programs along the lines authorized by S. 504 be established.

With this basic difference in approach as a backdrop, I would like to discuss the administration's four objections to the legislation under consideration.

Within the committee and in conference, I worked very closely with my colleagues on a bipartisan basis to meet the administration's objections.

As I stated earlier, Mr. President, I believe we have developed a bill that meets the objections posed by the administration.

NONDUPLICATION OF EXISTING STATUTORY AUTHORITIES

Insofar as the first objection is concerned, the bill has been amended to make quite clear that it is not intended to duplicate existing legislative authorities. Specific direction to the Secretary is written into the statutory language to assure that in providing assistance to communities eligible for grants to establish or expand an emergency medical services system, the secretary must insure that any assistance under the provisions in S. 504 is provided only to the extent that assistance under other legislative authorities is insufficient to enable the qualitative and quantitative requirements established in the conference report to be met.

Our intention is, Mr. President, that when a community applies for help in developing a comprehensive emergency medical services system, the Secretary of Health, Education and Welfare shall first seek to provide such support from existing authorities in the Public Health Service Act—such as those for health personnel training or renovation of facilities—and, as appropriate, investigate the availability of support under authorities administered by other Federal agencies—such as the Department of Transportation for purchase of equipment and training of personnel—before providing funds under the provisions in S. 504 as reported.

To date, without legislative authority, the administration has committed $8 million in fiscal year 1972 to the development of five demonstration programs for emergency medical services systems to be carried out over a period of up to 3 years. The second year of continuation funding for these programs in fiscal year 1973 has been reduced from an initial proposed budget of $15 million to $1.8 million. The budget request is $15 million for fiscal year 1974. With statutory authority such as is contained in S. 504, there would have been far greater assurance of continued support of these programs for the duration of the period of the contract. Instead, there was an initial investment in 1972 in the development of programs which have not yet had a chance to become self-supporting, but which now are uncertain of the continued support necessary to build on the promising starts which have been made.

While some communities may utilize general revenue sharing for emergency medical services, as the administration suggests, there is no assurance that such an investment will result in meeting the basic need for the development of a coordinated system, utilizing, to the maximum extent, existing resources. There is no guarantee these funds would not be used for the purchase of hardware or equipment without an initial assessment of the real gaps in the community's emergency medical services.

ADMINISTRATIVE UNIT IN HEW

The second objection in the letter was to the designation in the conference report of an administrative unit for emergency medical services programs in HEW. The conference report states that the Secretary shall administer the program through an identifiable administrative unit within the Department of Health, Education, and Welfare.

The administration argues that establishment of such a unit will result in administrative delays, in unnecessary organizational development, and in increased administrative resource demands.

Currently, Mr. President, there is a unit in HEW which has been administering the emergency medical services demonstration programs. I cannot believe that there would be any insurmountable obstacles in changing the scope of the responsibilities of this unit to the administration of a grant and contract program. The unit currently has a small, competent professional staff and has recently drawn on the resources of its newly designated Advisory Committee which has as members outstanding experts in the field of emergency medical care.

It would seem quite feasible to me for the Department to build upon this nucleus in establishing a visible administrative unit. It is important to note that the conference report does not make any requirement as to the size or staffing of the unit, and the statement of managers indicates only that it should be under the Assistant Secretary for Health.

APPROPRIATIONS AUTHORIZATIONS

Mr. President, to move toward the administration's third objection, the funding levels have been considerably reduced in the conference report, despite very conclusive evidence presented to the Health Subcommittee in hearings in Washington and California that much higher levels of funding are badly needed and can be effectively used. The sums authorized to be appropriated in the reported bill—$185 million over the next 3 fiscal years—are considerably less than in the bill as introduced—$315 million in the Senate bill—and in the bill as it passed the Senate—$240 million—and far lower than in S. 654, the AMA bill introduced in both Houses, $630 million.

Dr. Peter Safar, president of the Society of Critical Care Medicine, who testified at Senate hearings on S. 504, gave us the following estimates of the costs of improving emergency medical services nationwide:

About 2,000 ambulances with defibrillators, plus ambulance-hospital-based telemetry equipment: $50 million.

Emergency communications equipment: $200 million.

Training 20,000 emergency medical technicians: $40 million.

Ten special critical care centers: $10 million.

It should be noted these figures do not include the upgrading of emergency rooms, the costs of ambulance transportation, or the costs of training of physicians for emergency departments.

At hearings held in California, Mr. President, I asked the director of health services for Los Angeles County, how much he estimated a coordinated emergency medical services system for that county would cost. He estimated about $7 million for Los Angeles County alone.

The director of health services for San Diego County in response to a similar question, estimated costs to be in the range of $400,000 per year alone to organize an emergency care program.

The director of health for San Francisco County planned to spend $1.4 million for upgrading ambulance equipment and communications alone.

The conference report authorizes the appropriation of $30 million in fiscal year 1974, of which 15 percent is to be made available only for feasibility and planning studies, 60 percent only for the establishment and initial operation of emergency medical services systems, and 25 percent only for the expansion and improvement of emergency medical services systems.

Mr. President, this is a very modest amount in comparison with the broad interest evidenced so far in communities throughout the Nation in applying for support under S. 504.

It is also very small by comparison to the $15 million which the administration has requested for fiscal year 1974 for continued support for only five demonstration projects and two subsystems they are currently supporting, as well as for those additional projects to support subsystems such as training, communications, transportation, of equipment, which are projected for fiscal year 1974.

COORDINATION AT THE FEDERAL LEVEL

The administration's fourth objection, Mr. President, is to the establishment of a Federal interagency committee to coordinate Federal programs.

During hearings on emergency medical services legislation in both Houses, there was much testimony presented about the need for the coordination of existing Federal programs which support various aspects of emergency medical services.

An outstanding example where coordination of several Federal agencies was successful in improving the provision of emergency medical services was the MAST program. MAST is an acronym for military assistance to safety and traffic, a program which has supplemented a community's emergency medical services by providing a military helicopter with its attendant skilled medical personnel in those medical emergencies where, because of topography or distance from critical care facilities, rapid transportation was crucial to the life of a patient.

MAST programs were developed through a joint committee of representatives of the Department of Defense, the Department of Transportation, and the Department of Health, Education, and Welfare.

The Interagency Committee on Emergency Medical Services is designed to fill a void in the Federal Government for a coordinating unit for all Federal programs which relate to the provision of emergency medical services. Such a committee was strongly recommended by the National Academy of Sciences' National Research Council's Committee on Emergency Medical Services in its 1972 report, which recommended that an "effective interdepartmental coordinating mechanism be established in the Executive Office of the President, for identification of the resources, and for integration of these resources with the overall health care program of the Department of Health, Education, and Welfare."

S. 504 modifies this recommendation with the establishment of the Interagency Committee, chaired by the secretary of Health, Education, and Welfare, not a committee placed in the executive office of the President.

CONCLUSION

With these several accommodations to the administration's viewpoints, Mr. President, and with the strong support received for this legislation, both from the general public and from professional organizations, I am hopeful the administration will now be able to accept this legislation as a realistic and workable approach to improving the Nation's emergency medical services capabilities in line with local needs and local priorities which are determined at the local level in accordance with national standards.

PUBLIC HEALTH SERVICE HOSPITALS

I am also concerned, Mr. President, with the administration's dogged efforts to close down the Public Health Service Hospitals without providing clear assurances that current beneficiaries will continue to receive competent and adequate care. The conference report deals with this situation squarely.

S. 504 proposes that the Public Health Service Hospitals remain in operation, provide services and conduct health-related activities at the same level as in effect in January of this year, and provides that the Secretary may close a hospital or reduce its activities, only if Congress by law specifically authorizes such an action.

Further, the conference report provides that any recommendation for legislative action to reduce or terminate Public Health Service Hospital activities must have the approval of the appropriate 314(a) and 314(b) agency to insure there is community support for a transfer of responsibility of care.

I believe these are not unreasonable conditions to place upon the Secretary if he contemplates closing any Public Health Service Hospital. These provisions will insure that there will not be an interruption in the provision of medical care to those individuals to whom the Secretary, through the Public Health Service, has a statutory obligation.

Until I am assured that the Public Health Service Hospital beneficiaries can count on receiving comprehensive health care when they need it through an alternative method, I cannot agree to any reduction in the services provided under the existing system.

CONCLUSION

Mr. President, these are a few of the major concepts and provisions included in the conference report and statement of managers, which were the subject of important differences between the two bills, and which I believe should be highlighted.

Other provisions, insuring the adequacy and comprehensiveness of emergency medical services systems and their components, were arrived at through a thoughtful and careful blending of both bills. The same careful process was devoted to the provisions on appropriations authorizations and to the purposes for which appropriations could be made.

I believe we have an excellent bill and would like to express my particular gratitude for the fine efforts made by the staff in both Houses—in the House, Dr. Lee Hyde, Steve Lawton, and, especially, Dave Meade of the House Legislative Counsel who provided such outstanding drafting and technical assistance, and Leroy Goldman and Jay Cutler, as well as Jon Steinberg and Louise Ringwalt, in the Senate—in assisting the conferees in developing the final report. The spirit of cooperation and understanding present throughout the many staff meetings and the conference has resulted in what I believe is an excellent bill.

I believe the Senate should be well pleased with the action of the conferees and urge acceptance of the conference report. I fervently hope the President will sign this bill.

Mr. BEALL. Mr. President, I rise in support of the conference report on the Emergency Medical Services Systems Development Act of 1973. This measure authorizes $185 million over a 3-year period to upgrade the emergency medical care and services throughout the United States.

I want to congratulate Senator CRANSTON for his leadership and diligence in this area. I have enjoyed working with him on this matter and I am certain that a real public service has been performed.

This has been the subject of considerable interest to me and I introduced my own proposal, S. 654. I also cosponsored the bill that passed the Senate and am pleased to strongly urge enactment of this measure by the Senate.

Mr. President, in some areas of health such as in our attack against cancer and heart diseases, we are looking for new discoveries or breakthroughs.

In the emergency medicine area the technology and know-how exist to dramatically reduce the tragic number of deaths. The statistics I cited in my earlier statement indicate the magnitude of the problem and the need for this legislation.

Mr. President, this legislation is going to be of utmost significance for my State, which is the pioneer in this area. If funded, it should enable Maryland to expand its program throughout the State. Dr. R. Adams Cowley, the director of the Maryland Institute for Emergency Medicine, predicted that accident deaths in the State could be cut in one-half in 2 years.

Mr. President, that is why this legislation is so important. It is truly a matter of life or death and I urge the States, counties, and the health community to get together and deliver to the American people the kind of emergency health care and services which we are capable of delivering now.

Mr. EAGLETON. Mr. President, I am very pleased to have had the opportunity to participate in the development of this vitally needed legislation to encourage the creation of areawide coordinated emergency medical services systems throughout the country.

Accidents are responsible for as many as 115,000 deaths each year. In addition, 40,000 accident victims are permanently disabled and 10-million persons are partially disabled annually. The Conference on Emergency Health Services estimated that 60,000 of these deaths occuring from accidents every year could be prevented if adequate emergency services were available. We know that the technical skills and the medical capacity to deal with accident victims do exist. However, efforts in this direction have been fragmented and uncoordinated. The single greatest deficiency has been a lack of coordinated planning at the national, regional, and local levels.

Urban and rural areas present different problems in this regard. Urban areas generally have adequate facilities but they are often separate and uncoordinated, resulting in a haphazard system for treatment. Rural areas are distant from the emergency resources of the cities, and in many cases do not have adequate local facilities to which accident victims can be directed.

The bill which is now before the Senate for final approval provides $185 million over the next 3 years for the improvement of almost every aspect of emergency medical service procedures. The funds are available on a 50-percent matching basis—except under unusual circumstances where the Federal share may be as high as 75 percent—to those States, units of local government, and public and nonprofit private entities which present a plan for a coordinated emergency medical services system for a geographic area.

These plants must include a number of basic provisions. Among them are a central communications system; provisions for training of sufficient numbers of professional and paraprofessional personnel in coordination with existing health manpower programs; access to emergency medical services without regard to ability to pay; provision for emergency medical services in the area during times of general emergency or natural disaster; and public education programs regarding medical self-help and first-aid treatment.

One aspect of this legislation which I believe to be of utmost importance is the emphasis placed on the development of emergency medical services systems in rural communities. Statistics on deaths and disabilities resulting from accidents show that a disproportionate number of these tragedies occur in rural isolated areas. This bill requires that a fixed percentage of the amounts appropriated for each year be set aside for planning, development, and implementation of emergency medical services systems in rural areas.

I regret that the Senate provision authorizing the Secretary of each military department to enter into agreements with emergency medical services systems to provide transportation was not included in this final version of the bill. I am hopeful that the Senate Armed Services Committee will take prompt action on a similar measure so that our Nation's resources may be fully utilized to meet the health needs of the country.

I urge all of my colleagues to support this conference report. If it is signed by the President and if adequate funds are appropriated, it will aid communities all across the Nation in planning for and meeting their emergency care needs.

The **ACTING PRESIDENT** pro tempore. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The Senator from Ohio (Mr. SAXBE) is detained on official business.

The result was announced—yeas 97, nays 0, as follows:

[No. 303 Leg.]

YEAS—97

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Brooke
Buckley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cotton
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—3

Saxbe
Stennis
Stevens

So the report was agreed to.

VETERANS HEALTH CARE EXPANSION ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 59.

The **ACTING PRESIDENT** pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 59) to amend title 38 of the United States Code to provide improved and expanded medical and nursing home care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to provide for improved structural safety of Veterans' Administration facilities; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery; and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Veterans Health Care Expansion Act of 1973".

TITLE I—HOSPITAL, DOMICILIARY, AND MEDICAL CARE BENEFITS

SEC. 101. (a) Subparagraph (C) of section 601(4) of title 38, United States Code, is amended to read as follows:

"(C) private facilities for which the Administrator contracts in order to provide (i) hospital care or medical services for persons suffering from service-connected disabilities or from disabilities for which such persons were discharged or released from the active military, naval, or air services; (ii) hospital care for women veterans; or (iii) hospital care for veterans in a State, territory, Commonwealth, or possession of the United States not contiguous to the forty-eight contiguous States, except that the annually determined average hospital patient load per thousand veteran population hospitalized at Veterans' Administration expense in Government and private facilities in each such noncontiguous State may not exceed the average patient load per thousand veteran population hospitalized by the Veterans' Administration within the forty-eight contiguous States; but authority under this clause (iii) shall expire on December 31, 1978.

(b) Section 601(5) of such title is amended to read as follows:

"(5) The term 'hospital care' includes—

"(A) (i) medical services rendered in the course of the hospitalization of any veteran, and (ii) transportation and incidental expenses for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation;

"(B) such mental health services, consultation, professional counseling, and training (including (i) necessary expenses for transportation if unable to defray such expenses; or (ii) necessary expenses of transportation and subsistence in the case of a veteran who is receiving care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, under the terms and conditions set forth in section 111 of this title) of the members of the immediate family (including legal guardians) of a veteran or such a dependent or survivor of a veteran, or, in the case of a veteran or such dependent or survivor of a veteran who has no immediate family members (or legal guardian), the person in whose household such veteran, or such a dependent or survivor certifies his intention to live, as may be necessary or appropriate to the effective treatment and rehabilitation of a veteran or such a dependent or a survivor of a veteran; and

"(C) (i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, and (ii) transportation and incidental expenses for such dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation.".

(c) Section 601(6) of such title is amended by inserting immediately after "treatment," the following: "such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title".

SEC. 102. Section 610 of title 38, United States Code, is amended by—

(1) inserting in subsection (a) "or nursing home care" immediately after "hospital care" where it first appears;

(2) striking out clause (1)(B) of subsection (a) and inserting in lieu thereof the following:

"(B) any veteran for a non-service-connected disability if he is unable to defray the expenses of necessary hospital care;";

(3) amending subsection (c) to read as follows:

"(c) While any veteran is receiving hospital care or nursing home care in any Veterans' Administration facility, the Administrator may, within the limits of Veterans' Administration facilities, furnish medcal services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which he is hospitalized, if the veteran is willing, and the Administrator finds such services to be reasonably necessary to protect the health of such veteran."; and

(4) adding at the end thereof the following new subsection:

"(d) In no case may nursing home care be furnished in a hospital not under the direct and exclusive jurisdiction of the Administrator except as provided in section 620 of this title.".

SEC. 103. (a) Subsection (f) of section 612 of title 38, United States Code, is amended to read as follows:

"(f) The Administrator may also furnish medical services for any disability on an outpatient or ambulatory basis—

"(1) to any veteran eligible for hospital care under section 610 of this title (A) where such services are reasonably necessary in preparation for, or to obviate the need of, hospital admission, or (B) where such a veteran has been granted hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care; and

"(2) to any veteran who has a service-connected disability rated at 80 per centum or more.".

(b) Strike out sections 613 and 614 in their entirety and insert in lieu thereof:

§ 613. Medical care for survivors and dependents of certain veterans

"(a) The Administrator is authorized to provide medical care, in accordance with the provisions of subsection (b) of this section, for—

"(1) the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and

"(2) the widow or child of a veteran who died as a result of a service-connected disability.

who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS).

"(b) In order to accomplish the purposes of subsection (a) of this section, the Administrator shall provide for medical care in the same or similar manner and subject to the same or similar limitations as medical care is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under chapter 55 of title 10 (CHAMPUS), by—

"(1) entering into an agreement with the Secretary of Defense under which the Secretary shall include coverage for such medical care under the contract, or contracts, he enters into to carry out such chapter 55, and under which the Administrator shall fully reimburse the Secretary for all costs and expenditures made for the purposes of affording the medical care authorized pursuant to this section; or

"(2) contracting in accordance with such regulations as he shall prescribe for such insurance, medical service, or health plans as he deems appropriate.

In cases in which Veterans' Administration medical facilities are particularly equipped to provide the most effective care and treatment, the Administrator is also authorized to carry out such purposes through the use of such facilities not being utilized for the care of eligible veterans.

"§ 614. Fitting and training in use of prosthetic appliances; seeing-eye dogs

"(a) Any veteran who is entitled to a prosthetic appliance shall be furnished such fitting and training, including institutional training, in the use of such appliance as may be necessary, whether in a Veterans' Administration facility or other training institution, or by outpatient treatment, including such service under contract, and including necessary travel expenses to and from his home to such hospital or training institution.

"(b) The Administrator may provide seeing-eye or guide dogs trained for the aid of the blind to veterans who are entitled to disability compensation, and he may pay all necessary travel expenses to and from their homes and incurred in becoming adjusted to such seeing-eye or guide dogs. The Administrator may also provide such veterans with mechanical or electronic equipment for aiding them in overcoming the handicap of blindness.".

(c) The table of sections at the beginning of chapter 17 of such title is amended by striking out

"613. Fitting and training in use of prosthetic appliances.
"614. Seeing-eye dogs."

and inserting

"613. Medical care for survivors and dependents of certain veterans.
"614. Fitting and training in use of prosthetic appliances; seeing-eye dogs.".

SEC. 104. (a) The first sentence of subsection (a) of section 620 of title 38, United States Code, is amended by redesignating clauses (1) and (2) as clauses (I) and (II), respectively; and by amending that portion preceding such clauses to read as follows:

"(a) Subject to subsection (b) of this section, the Administrator may transfer—

"(1) any veteran who has been furnished care by the Administrator in a hospital under the direct and exclusive jurisdiction of the Administrator, and

"(2) any person (A) who has been furnished care in any hospital of any of the Armed Forces, (B) who the appropriate Secretary concerned has determined has received maximum hospital benefits but requires a protracted period of nursing home care, and (C) who upon discharge therefrom will become a veteran to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care, for care at the expense of the United States, only if the Administrator determines that—".

(b) The second sentence of section 620(a) of such title is amended by striking out the designations (A) and (B) and inserting in lieu thereof (I) and (II).

(c) Section 620(b) of such title is amended (1) by adding "or admitted" after "transferred" and (2) by adding at the end thereof the following: "The standards prescribed and any report of inspection of institutions furnishing care to veterans under this section made by or for the Administrator shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.".

(d) Section 620 of such title is further amended by adding at the end thereof the following new subsection (d):

"(d) Subject to subsection (b) of this section, the Administrator may authorize for any veteran requiring nursing home care for a service-connected disability direct admission for such care at the expense of the United States to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care. Such admission may be authorized upon determination of need therefor by a physician employed by the Veterans' Administration or, in areas where no such physician is available, carrying out such function under contract or fee arrangement based on an examination by such physician. The amount which may be paid for such care and the length of care available under this subsection shall be the same as authorized under subsection (a) of this section.".

SEC. 105. (a) Section 626 of title 38, United States Code, is amended by striking out "fire" and inserting in lieu thereof "fire, earthquake, or other natural disaster".

(b) The catchline at the beginning of section 626 of such title is amended to read as follows:

"§ 626. Reimbursement for loss of personal effects by natural disaster".

SEC. 106. (a) Subchapter III of chapter 17 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 628. Reimbursement of certain medical expenses

"(a) The Administrator may, under such regulations as he shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including necessary travel), for which such veterans have made payment, from sources other than the Veterans' Administration, where—

"(1) such care or services were rendered in a medical emergency of such nature that they would have been hazardous to life or health;

"(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected disability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who is found to be (i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment to make possible his entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

"(3) Veterans' Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

"(b) In any case where reimbursement would be in order under subsection (a) of this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

"(1) to the hospital or other health facility furnishing the care or services; or

"(2) to the person or organization making such expenditure on behalf of such veteran.".

(b) The table of sections at the beginning of such chapter is amended by deleting

"626. Reimbursement for loss of personal effects by fire.
"627. Persons eligible under prior law."

and inserting in lieu thereof

"626. Reimbursement for loss of personal effects by natural disaster.
"627. Persons eligible under prior law.
"628. Reimbursement of certain medical expenses.".

SEC. 107. (a) Chapter 17 of title 38, United States Code, is amended by striking out sections 631 and 632 in their entirety and inserting in lieu thereof the following:

"§ 631. Assistance to the Republic of the Philippines

"The President is authorized to assist the Republic of the Philippines in providng medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and non-service-connected disabilities under certain conditions.

"§ 632. Contracts and grants to provide hospital care, medical services and nursing home care

"(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on July 1, 1973, and ending on June 30, 1978, under which the United States—

"(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided either in the Veterans Memorial Hospital, or by contract, or otherwise, by the Administrator in accordance with the conditions and limitations applicable generally to beneficiaries under section 612 of this title, for Commonwealth Army veterans and new Philippine Scouts determined by the Administrator to be in need of such hospital care or medical services for service-connected disabilities;

"(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans, and for new Philippine Scouts if they enlisted before July 4, 1946, determined by the Administrator to need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

"(3) may provide for the payment of travel expenses pursuant to section 111 of this title for Commonwealth Army veterans and new Philippine Scouts in connection with hospital care or medical services furnished them;

"(4) may provide for payments for nursing home care, on the same terms and conditions as set forth in section 620(a) of this title, for any Commonwealth Army veteran or new Philippine Scout determined to need such care at a per diem rate not to exceed 50 per centum of the hospital per diem rate established pursuant to clause (6) of this subsection;

"(5) may provide that payments for hospital care and for medical services provided to Commonwealth Army veterans and new Philippine Scouts or to United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator, who may furnish through the revolving supply fund, pursuant to section 5011 of this title, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefore, as applicable, appropriations available for such payments;

"(6) will provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

"(7) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

"(b) The total of the payments authorized by subsection (a) of this section shall not exceed $2,000,000 for any one fiscal year ending before July 1, 1978, which shall include an amount not to exceed $250,000 for any one such fiscal year for the purposes of clause (4) of such subsection.

"(c) The contract authorized by subsection (a) of this section may provide for the use by the Republic of the Philippines of beds, equipment, and other facilities of the Veterans Memorial Hospital at Manila, not required for hospital care of Commonwealth Army veterans or new Philippine Scouts for service-connected disabilities, for hospital care of other persons in the discretion of the Republic of the Philippines, except that (1) priority of admission and retention in such hospital shall be accorded Commonwealth Army veterans and new Philippine Scouts needing hospital care for service-connected disabilities, and (2) such use shall not preclude the use of available facilities in such hospital on a contract basis for hospital care or medical services for persons eligible therefor from the Veterans' Administration.

"(d) To further assure the effective care and treatment of patients in the Veterans Memorial Hospital, there is authorized to be appropriated for each fiscal year during the five years beginning July 1, 1973, and ending June 30, 1978—

"(1) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel who are assigned to such hospital; and

"(2) the sum of $50,000 to be used by the Administrator for making grants to the Veterans Memorial Hospital for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such hospital.

Such grants shall be made on such terms and conditions as prescribed by the Administrator, including approval by him of all education and training programs conducted by the hospital under such grants. Any appropriation made for carrying out the purposes of clause (2) of this subsection shall remain available until expended.".

(b) The table of sections at the beginning of such shapter 17 is amended by striking out

"631. Grants to the Republic of the Philippines.
"632. Modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948."

and inserting in lieu thereof

"631. Assistance of the Republic of the Philippines.
"632. Contracts and grants to provide hospital care, medical services and nursing home care.".

(c) Nothing in subsection (a) of this section shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Republic of the Philippines and the Government of the United States resulting from Public Law 89–612, which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 632 of title 38, United States Code, in effect on the day before the date of enactment of this section.

SEC. 108. (a) Section 624 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Administrator may furnish nursing home care, on the same terms and conditions set forth in section 620(a) of this title and at the same rate as specified in section 632(a)(4) of this title to any veteran who has been furnished hospital care in the Philippines pursuant to this section, but who requires a protracted period of nursing home care.".

(b) The catchline at the beginning of section 624 of such title is amended to read as follows:

"§ 624. Hospital care, medical services and nursing home care abroad".

SEC. 109. (a) Chapter 17 of title 38, United States Code, is further amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Sickle Cell Anemia

"§ 651. Screening, counseling, and medical treatment

"The Administrator is authorized to carry out a comprehensive program of providing sickle cell anemia screening, counseling, treatment, and information under the provisions of this chapter.

"§ 652. Research

"The Administrator is authorized to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter.

"§ 653. Voluntary participation; confidentiality

"(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program under this title.

"(b) The Administrator shall promulgate rules and regulations to insure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled without reference to patient names or other identifying characteristics.

"§ 654. Reports

"The Administrator shall include in the annual report to the Congress required by section 214 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Administrator deems necessary.".

(b) The analysis at the beginning of such chapter is amended by adding at the end thereof:

"SUBCHAPTER VI—SICKLE CELL ANEMIA

"651. Screening, counseling, and medical treatment.
"652. Research.
"653. Voluntary participation; confidentiality.
"654. Reports.".

TITLE II—AMENDMENTS TO CHAPTER 73 OF TITLE 38, UNITED STATES CODE, RELATING TO THE DEPARTMENT OF MEDICINE AND SURGERY

SEC. 201. Section 4101 of title 38, United States Code, is amended by amending subsection (b) to read as follows:

"(b) In order to carry out more effectively the primary function of the Department of Medicine and Surgery to provide a complete medical and hospital service for the medical care and treatment of veterans and in order to assist in providing an adequate supply of health manpower to the Nation, the Administrator shall, to the extent feasible without interfering with the medical care and treatment of veterans, develop and carry out a program of education and training of such health manpower (including the developing and evaluating of new health careers, interdisciplinary approaches and career advancement opportunities), and shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as physicians' assistants, dentists' assistants, and other medical technicians (including advising all such qualified veterans and servicemen about to be discharged or released from active duty of such employment opportunities), acting in cooperation with such schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions; other institutions of higher learning; medical centers; academic health centers; hospitals; and such other public or nonprofit agencies, institutions, or organizations as the Administrator deems appropriate.

"(c)(1) Within ninety days after enactment of this subsection, the Administrator, in consultation with the Chief Medical Director, is directed to conclude negotiations for an agreement with the National Academy of Sciences under which such Academy (utilizing its full resources and expertise) will conduct an extensive review and appraisal of personnel and other resource requirements in Veterans' Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to insure the provision to eligible veterans of high quality care in all hospital, medical, domiciliary, and nursing home facilities. Such agreement shall provide that (A) at the earliest feasible date interim reports and the final report will be submitted by the National Academy of Sciences to the Administrator, the President of the Senate, and the Speaker of the House of Representatives, and (B) the final report will be submitted no later than twenty-four months after the date of the agreement except that the Administrator, in consultation with the Chief Medical Director and after consultation with the House and Senate Committees on Veterans' Affairs, may permit an extension up to twelve additional months.

"(2) Within ninety days after the submission of the final report described in subsection (a) of this section, the Administrator shall submit to the Senate and House Committees on Veterans' Affairs a detailed report of his views on the National Academy of Sciences' findings and recommendations submitted in such report, including (A) the steps and timetable therefor (to be carried out in not less than three years) he proposes to take to implement such findings and recommendations and (B) any disagreements, and the reasons therefor, with respect to such findings and recommendations.

"(3) The Administrator shall cooperate fully with the National Academy of Sciences, and make available to the Academy all such staff, information, records, and other assistance, and shall set aside for such purposes such sums, as are necessary to insure the success of the study.".

SEC. 202. Section 4103(a) of title 38, United States Code, is amended—

(1) by amending paragraph (4) to read as follows:

"(4) Not to exceed eight Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendations of the Chief Medical Director. Not more than two Assistant Chief Medical Directors may be individuals qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicine. One Assistant Chief Medical Director shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Chief Medical Director for the operation of the Dental Service."; and

(2) by amending paragraph (7) to read as follows:

"(7) A Director of Pharmacy Service, a Director of Dietetic Service, and a Director of Optometry, appointed by the Administrator.".

SEC. 203. Section 4107 of title 38, United States Code, is amended by—

(1) amending subsections (a) and (b) to read as follows:

"(a) The per annum full-pay scale or ranges for positions provided in section 4103 of this title, other than Chief Medical Director and Deputy Chief Medical Director, shall be as follows:

"Section 4103 Schedule

"Associate Deputy Chief Medical Director, at the annual rate provided in section 5316 of title 5 for positions in level V of the Executive Schedule.

"Assistant Chief Medical Director, $41,734.

"Medical Director, $36,103 minimum to $40,915 maximum.

"Director of Nursing Service, $36,103 minimum to $40,915 maximum.

"Director of Chaplain Service, $31,203 minimum to $39,523 maximum.

"Director of Pharmacy Service, $31,203 minimum to $39,523 maximum.

"Director of Dietetic Service, $31,203 minimum to $39,523 maximum.

"Director of Optometry, $31,203 minimum to $39,523 maximum.

"(b)(1) The grades and per annum full-pay ranges for positions provided for in paragraph (1) of section 4104 of this title shall be as follows:

"Physician and Dentist Schedule

"Director grade, $31,203 minimum to $39,523 maximum.

"Executive grade, $28,996 minimum to $37,699 maximum.

"Chief grade, $26,898 minimum to $34,971 maximum.

"Senior grade, $23,088 minimum to $30,018 maximum.

"Intermediate grade, $19,700 minimum to $25,613 maximum.

"Full grade, $16,682 minimum to $21,686 maximum.

"Associate grade, $13,996 minimum to $18,190 maximum.

"Nurse Schedule

"Director grade, $26,898 minimum to $34,971 maximum.

"Assistant Director grade, $23,088 minimum to $30,018 maximum.

"Chief grade, $19,700 minimum to $25,613 maximum.

"Senior grade, $16,682 minimum to $21,686 maximum.

"Intermediate grade, $13,996 minimum to $18,190 maximum.

"Full grade, $11,614 minimum to $15,097 maximum.

"Associate grade, $10,012 minimum to $13,018 maximum.

"Junior grade, $8,572 minimum to $11,146 maximum.

"(2) No person may hold the director grade in the 'Physician and Dentist Schedule' unless he is serving as a director of a hospital, domiciliary, center, or outpatient clinic (independent). No person may hold the executive grade unless he holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position."; and

(2) adding at the end thereof the following new subsections:

"(d) The limitations in section 5308 of title 5 shall apply to pay under this section.

"(e)(1) In addition to the basic compensation provided for nurses in subsection (b) (1) of this section, a nurse shall receive additional compensation as provided by paragraphs (2) through (8) of this subsection.

"(2) A nurse performing service on a tour of duty, any part of which is within the period commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional compensation for each hour of service on such tour at a rate equal to 10 per centum of the employee's basic hourly rate, if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of work performed between those hours.

"(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday, shall receive additional compensation for each hour of service on such tour at a rate equal to 25 per centum of such nurse's basic hourly rate.

"(4) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive such nurse's regular rate of basic pay, plus additional pay at a rate equal to such regular rate of basic pay, for that holiday work, including overtime work. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

"(5) A nurse performing officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service; the overtime rates shall be one and one-half times such nurse's basic hourly rate, not to exceed one and one-half times the basic hourly rate for the minimum rate of Intermediate grade of the Nurse Schedule. For the purposes of this paragraph, overtime must be of at least fifteen minutes duration in a day to be creditable for overtime pay. Compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted. Any excess service performed under this paragraph on a day when service was not scheduled for such nurse, or for which such nurse is required to return to her place of employment, shall be deemed to be a minimum of two hours in duration.

"(6) For the purpose of computing the additional compensation provided by paragraph (2), (3), (4), or (5) of this subsection, a nurse's basic hourly rate shall be derived by dividing such nurse's annual rate of basic compensation by two thousand and eighty.

"(7) When a nurse is entitled to two or more forms of additional pay under paragraph (2), (3), (4), or (5) for the same period of duty, the amounts of such additional pay shall be computed separately on the basis of such nurse's basic hourly rate of pay, except that no overtime pay as provided in paragraph (5) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under paragraph (4) for such service.

"(8) A nurse who is officially scheduled to be on call outside such nurse's regular hours shall be compensated for each hour of such on-call duty, except for such time as such nurse may be called back to work, at a rate equal to 10 per centum of the hourly rate for excess service as provided in paragraph (5) of this subsection.

"(9) Any additional compensation paid pursuant to this subsection shall not be considered as basic compensation for the purposes of subchapter VI and section 5595 of subchapter IX of chapter 55, chapter 81, 83, or 87 of title 5, or other benefits based on basic compensation.".

SEC. 204. (a) Section 4108 of title 38, United States Code, is amended to read as follows:

"§ 4108. Personnel administration

"(a) Notwithstanding any law, Executive order, or regulation, the Administrator shall prescribe by regulation the hours and conditions of employment and leaves of absence of physicians, dentists, and nurses appointed to the Department of Medicine and Surgery, except that the hours of employment in carrying out responsibilities under this title of any physician, dentist (other than an intern or resident appointed pursuant to section 4114 of this title), or nurse appointed on a full-time basis who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title, shall consist of not less than eighty hours in a biweekly pay period (as that term is used in section 5504 of title 5), and no such person may—

"(1) assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Veterans' Administration facility, except in those cases where the individual, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed one hundred and eighty calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed one hundred and eighty calendar days each;

"(2) teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with his responsibilities under this title;

"(3) accept payment under any insurance or assistance program established under subchapter XVIII, or XIX of chapter 7 of title 42, or under chapter 55 of title 10 for professional services rendered by him while carrying out his responsibilities under this title;

"(4) accept from any source, with respect to any travel performed by him in the course of carrying out his responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5;

"(5) request or permit any individual or organization to pay, on his behalf, for insurance insuring him against malpractice claims arising in the course of carrying out his responsibilities under this title or for his dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of his remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title; and

"(6) perform, in the course of carrying out his responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for his personal benefit, or both, and in the case of any such fund or account established before the effective date of this subsection—

"(A) the affiliated institution shall submit semiannually an accounting to the Administrator and to the Comptroller General of the United States with respect to such fund or account, and thereafter shall maintain such fund or account subject to full public disclosure and audit by the Administrator and the Comptroller General for a period of three years or for such longer period as the Administrator shall prescribe, and

"(B) no physician, dentist, or nurse may receive, after the effective date of this subsection, any cash from amounts deposited in such fund or account derived from services performed prior to the effective date of this subsection.

"(b) As used in this section, the term 'affiliated institution' means any medical school or other institution of higher learning with which the Administrator has a contract or agreement pursuant to section 4112(b) of this title for the training or education of health manpower.

"(c) As used in this section, the term 'remuneration' means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.".

(b) The table of sections at the beginning of chapter 73 of such title is amended by striking out

"4108. Administration."

and inserting in lieu thereof

"4108. Personnel administration."

SEC. 205. (a) Section 4109 of title 38, United States Code, is amended by striking out "the Civil Service Retirement Act" and inserting in lieu thereof "chapter 83 of title 5".

(b) Subsection (b) of section 4112 of such title 38, is amended by striking out "service personnel" in the first sentence immediately after "health" and by inserting in lieu thereof "manpower".

SEC. 206. Section 4114 of title 38, United States Code, is amended as follows:

(1) by striking out the words "ninety days" in the last sentence of paragraph (3) (A) of subsection (a) and inserting in lieu thereof "one year";

(2) by inserting "(1)" immediately after "(b)" at the beginning of subsection (b) of such section and by adding at the end of such subsection the following new paragraphs:

"(2) For the purposes of this title, the term 'intern' shall include an internship or the equivalency thereof, as determined in accordance with regulations which the Administrator shall prescribe.

"(3) In order to carry out more efficiently the provisions of paragraph (1) of this subsection, the Administration may contract with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the Veterans' Administration in the training of interns or residents to provde for the central administration of stipend payments, provision of fringe benefits, and maintenance of records for such interns and residents by the designation of one institution to serve as a central administrative agency for this purpose. The Administrator may pay to such designated agency, without regard to any other law or regulation governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such intern or resident serves in a Veterans' Administration hospital of (A) stipends fixed by the Administrator pursuant to paragraph (1) of this subsection (B) hospitalization, medical care, and life insurance, and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Veterans' Administration hospital, (C) tax in employers pursuant to chapter 21 of the Internal Revenue Code of 1954, where applicable, and in addition, (D) an amount to cover a pro rata share of the cost of expense of such central administrative agency. Any amounts paid by the Administrator to such central administrative agency to cover the cost of hospitalization, medical care, or life insurance or other employee benefits shall be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim he might have to any payment of stipends or employee benefits to which he may be entitled under this title or title 5. Notwithstanding the foregoing, any period of service of any such intern or resident in a Veterans' Administration hospital shall be deemed creditable service for the purposes of section 8332 of title 5. The agreement may further provide that the designated central administrative agency shall make all appropriate deductions from the stipend of each intern and resident for local, State, and Federal taxes, maintain all records pertinent thereto and make proper deposits thereof, and shall maintain all records pertinent to the leave accrued by such intern and resident for the period during which he serves in a participating hospital, including a Veterans' Administration hospital. Such leave may be pooled, and the intern or resident may be afforded leave by the hospital in which he is serving at the time the leave is to be used to the extent of his total accumulated leave, whether or not earned at the hospital in which he is serving at the time the leave is to be afforded."; and

(3) by adding at the end thereof the following new subsection:

"(e) The program of training prescribed by the Administrator in order to qualify a person for the position of full-time physician's assistant or dentist's assistant shall be considered a full-time institutional program for purposes of chapter 34 of this title. The Administrator may consider training for such a position to be on a less than full-time basis for purposes of such chapter when the combined classroom (and other formal instruction) portion of the program and the on-the-job training portion of the program total less than 30 hours per week.".

SEC. 207. Section 4116 of title 38, United States Code, is amended—

(1) by amending subsection (a) to read as follows: "(a) The remedy—

"(1) against the United States provided by sections 1346(b) and 2672 of title 28, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28, for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of his duties in or for the Department of Medicine and Surgery shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, physicians' assistant, dentists' assistant, pharmacist, or paramedical or other supporting personnel (or his estate) whose act or omission gave rise to such claim.";

(2) by striking out the last sentence in subsection (c) and inserting in lieu thereof the following: "After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of his office or employment, the case shall be remanded to the State court."; and

(3) by adding at the end thereof the following new subsection:

"(e) The Administrator may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a) of this section), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of his duties in or for the Department of Medicine and Surgery, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury.".

SEC. 208. Section 4117 of title 38, United States Code, is amended to read as follows:

"The Administrator may enter into contracts with medical schools, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans' Administration facilities (including, but not limited to, services of physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel).".

TITLE III—AMENDMENTS TO CHAPTER 81 OF TITLE 38, UNITED STATES CODE—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SEC. 301. (a) Subsection (a) of section 5001 of title 38, United States Code, is amended by—

(1) striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the following: "and the Administrator shall staff and maintain, in such a manner as to insure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services. The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration medical facilties so as to insure the accessibility and availabilty of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of such care and of services pursuant to section 612 of this title. The Chief Medical Director shall periodically analyze agencywide admission policies and the rec-

ords of those eligible veterans who apply for hospital care and medical services but are rejected or not immediately admitted or provided such care or services, and the Administrator shall annually advise the House and Senate Committees on Veterans' Affairs of the results of such analysis and the number of any additional beds and treatment capacities and the appropriate staffing and funds therefore found necessary to meet the needs of such veterans for such necessary care and services"; and

(2) striking out in the first sentence of paragraph (3) "is authorized to" and inserting in lieu thereof "shall", and by striking out "four thousand beds" and inserting in lieu thereof "eight thousand beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter".

(b) Subsection (b) of section 5001 of such title is amended to read as follows:

"(b) Hospitals, domiciliaries, and other medical facilities provided by the Administrator (including nursing home facilities for which the Administrator contracts under section 620 of this title) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Administrator shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing plant is purchased, it shall be remodeled to comply with the requirements stated in the first sentence of this subsection. In order to carry out this subsection, the Administrator shall appoint an Advisory Committee on Structural Safety of Veterans' Administration Facilities, on which shall serve at least one architect and one structural engineer expert in fire, earthquake, and other natural disaster resistance who shall not be employees of the Federal Government, to advise him on all matters of structural safety in the construction and remodeling of Veterans' Administration facilities in acocrdance with the requirement of this subsection, and which shall approve regulations prescribed thereunder. The Associate Deputy Administrator, the Chief Medical Director, or his designee, and the Veterans' Administration official charged with the responsibility for construction shall be ex officio members of such committee.".

(c) Section 5001 of such title is further amended by adding the following new subsection:

"(g) The Administrator may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to Veterans' Administration medical facilities when deemed necessary for safe ingress or egress.".

SEC. 302. Chapter 81 of title 38, United States Code, is amended—

(1) by adding at the end of subchapter I the following new section:

"§ 5007. Partial relinquishment of legislative jurisdiction

"The Administrator, on behalf of the United States, may relinquish to the State in which any lands or interests therein under his supervision or control are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.";

(2) by inserting immediately after the first sentence in subsection (a) of section 5012 thereof the following: "Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 321 of the Act entitled 'An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b), or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Administrator shall give appropriate public notice of his intention to do so in the newspaper of the community in which the lands or buildings to be leased are located."; and

(3) by inserting in the table of sections at the beginning of such chapter

"5007. Partial relinquishment of legislative jurisdiction."

immediately after

"5006. Property formerly owned by the National Home for Disabled Volunteer Soldiers.".

SEC. 303. Section 5053(a) of title 38, United States Code, is amended by striking out "or medical schools" at the beginning of the material contained in parentheses, and by inserting immediately after the closed parenthesis the words "or medical schools or clinics".

TITLE IV—MISCELLANEOUS AMENDMENTS TO TITLE 38, UNITED STATES CODE

SEC. 401. Section 230(b) of title 38, United States Code, is amended by striking out "July 3, 1974" and inserting in lieu thereof "June 30, 1978".

SEC. 402. (a) Section 234 of title 38, United States Code, is amended by inserting immediately after the words "telephones for" the following: "nonmedical directors of centers, hospitals, independent clinics, domiciliaries, and."

(b) The table of sections at the beginning of chapter 3 of such title is amended by striking out

"234. Telephone service for medical officers."

and inserting in lieu thereof

"234. Telephone service for medical officers and facility directors.".

(c) The catchline at the beginning of section 234 of such title is amended by inserting immediately after the word "officers" the words "and facility directors".

SEC. 403. (a) Section 641 of title 38, United States Code, is amended by—

(1) striking out in clause (1) "$3.50" and inserting in lieu thereof "$4.50";

(2) striking out in clause (2) "$5" and inserting in lieu thereof "$6";

(3) striking out in clause (3) "$7.50" and inserting in lieu thereof "$10"; and

(4) inserting immediately after the words "veteran of any war" the following: "or of service after January 31, 1955".

(b) Section 644(b) of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

(c) Section 5033(a) of title 38, United States Code, is amended by striking out "nine" and inserting in lieu thereof "fourteen".

(d) Paragraph (1) of section 5034 of title 38, United States Code, is amended by striking out "one and one-half beds" and inserting in lieu thereof "two and one-half beds".

(e) Subsections (a)(1), (b)(2), and (d) of section 5035 of such title are amended by striking out "50 per centum" wherever it appears therein and inserting in lieu thereof "65 per centum".

(f) Section 5036 of such title is amended by striking out "50 per centum" and inserting in lieu thereof "65 per centum".

TITLE V—EFFECTIVE DATES

SEC. 501. The provisions of this Act shall become effective the first day of the first calendar month following the date of enactment, except that sections 105 and 106 shall be effective on January 1, 1971; section 107 shall be effective July 1, 1973; and section 203 shall become effective beginning the first pay period following thirty days after the date of enactment of this Act.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendment of the House.

Mr. JAVITS. Mr. President, may we know what it is all about?

Mr. MANSFIELD. This is a veterans' bill which meets all of the requirements of those interested.

A FAIR ACCOMMODATION WITH THE ADMINISTRATION: S. 59: THE VETERANS HEALTH CARE EXPANSION ACT OF 1973

Mr. CRANSTON. Mr. President, I am particularly pleased by the action taken in the House on S. 59, the Veterans Health Care Expansion Act of 1973. The bill as passed by the House, on July 18 by a 421 to 0 vote, with the text of H.R. 9048—a clean bill incorporating the text of H.R. 2900 as ordered reported by the House Committee—is very similar to legislation passed by the Senate in S. 59 on March 6 of this year by a vote of 86 to 2.

H.R. 2900 and S. 59 were identical when they were first introduced in the two Houses. As my colleagues will recall, Mr. President, a comparable bill, H.R. 10880—the Veterans Health Care Expansion Act of 1972—had been overwhelmingly passed by both Houses in the last Congress, only to be pocket-vetoed by the President after Congress had adjourned.

When the Senate acted on S. 59 this year, several changes were made to meet objections raised by the President in his veto message. The Senate changes were to reduce the mandated average daily patient census from 85,500 to 82,000 and to place responsibility for establishing appropriate VA hospital service staff-to-patient ratios in the GAO rather than the VA.

When the House Committee acted on H.R. 2900, these provisions were changed further after consultation with officials of the executive branch and in the closest consultation with the Senate principal sponsors of the measure. I understand that these changes—which were incorporated into H.R. 9048 and now in S. 59, as amended by the House—will meet the objection of the White House.

CHANGES MADE IN THE HOUSE AMENDMENT

Mr. President, in lieu of the two modifications I just described which we made in the Senate-passed bill, the House amendment includes the following:

First. A requirement—in section 201 of the amended bill—in lieu of a GAO or VA study of staff-to-patient ratios in VA hospitals to determine ratios which the VA must achieve within 3 years, that A. the Administrator negotiate a contract with the National Academy of Sciences under which the Academy will conduct—beginning 90 days after enactment—an in-depth study of the staffing in all VA medical facilities with a view toward recommending an improved staff-to-patient ratio in order to insure quality care for eligible veterans in all VA medical facilities; that B. interim reports—the first after 6 months—and the final report—after 24 to 36 months—be submitted to the Administrator, the President of the Senate, the Speaker of the House, and the two Veterans Affairs Committees; and C. that the VA Administrator, within 90 days after the final report, submit his views on the report to the House and Senate Veterans' Affairs Committees with his timetable for carrying out the Academy's recommendations.

Second. A requirement—in section 301 (a) of the amended bill—in lieu of a mandated minimum average daily patient census and operating bed capacity, that A, the Administrator maintain the level of bed and treatment capacities in all VA medical facilities necessary to ensure the accessibility and availability of such beds and capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of hospital care and medical services; and that B, the Chief Medical Director periodically anaylze agencywide admissions policies and the records of those eligible veterans who are rejected for care or who are not immediately admitted or provided care or services—this includes those "scheduled for admission"—and annually advise the House and Senate Committees, through the Administrator, of the results of his analysis and the number of added beds and treatment capacities, and the appropriate staffing and funding therefor, which his analysis has shown necessary to meet the needs of eligible veterans for necessary care and services.

In addition, Mr. President, there is one other substantive change in the House amendment compromise. That is the provision—in section 103(b) of the amended bill—in lieu of the Senate provision permitting VA and contract care paid for by the VA for the dependents of veterans with 100-percent service-connected disabilities or the survivors of veterans whose death is service-connected, authorizing the Administrator to provide CHAMPUS-type care, through the Defense Department CHAMPUS program with reimbursement by the VA, or otherwise by VA contract with health care providers or insurers, to those dependents and survivors who are not directly eligible under CHAMPUS, the medical program for certain dependents and survivors of active duty and retired members of the Armed Forces. This would mean, for example, that the hospital, medical, or nursing home care these non-CHAMPUS dependents could receive under this provision at VA expense would be the same type provided under CHAMPUS with the same co-payment and deductible provisions and other limitations and conditions applicable under CHAMPUS.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a table and narrative statement describing those benefits available to qualifying military families under CHAMPUS, also called the Uniformed Services Health Benefits program, which table and article appeared in the May 24, 1973 issue of Commanders Digest.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNIFORMED SERVICES HEALTH BENEFITS PROGRAM (USHBP)—A PROGRAM OF HEALTH BENEFITS FOR THE SERVICE FAMILY

[At Uniformed Services Facilities: These are facilities of the Army, Navy, Air Force (hospitals, dispensaries, etc.) and selected Public Health Service (PHS) facilities. Or under CHAMPUS, the Civilian Health and Medical Program of the Uniformed Services: This program will share the cost for treatment and other health benefits to authorized dependents and retired members at civilian hospitals and clinics, and for civilian doctor or specialist care]

Persons eligible	Uniformed services facilities; inpatient/outpatient benefits	CHAMPUS program utilizing civilian facilities		
		Basic program		
		Inpatient benefits	Outpatient benefits	Handicapped program
Active duty:[1]				
Spouse, dependent children residing with active duty member.	Yes[3]	Maybe*[4] [8]	Yes*	Yes.*[9]
Spouse, dependent children not residing with active duty member.	Yes[3]	Yes*[8]	Yes*	Yes.*[9]
Dependent parent or parent-in-law of active duty member.	Yes[3]	No	No	No.
Retired:[2]				
Retired member, currently entitled to retired, retainer or equivalent pay.	Yes[3]	Yes, until age 65—possibly after.*[5] [8]	Yes, until age 65—possibly after.*[5]	No.
Spouse, dependent children of retired member.	Yes[3]	Yes, until age 65—possibly after.*[5] [8]	Yes, until age 65—possibly after.*[5]	No.
Dependent parent or parent-in-law of retired member.	Yes[3]	No	No	No.
Survivors:				
Widow, widower, dependent child of deceased active duty or deceased retired member.	Yes[3]	Yes, until age 65—possibly after.*[5] [8]	Yes, until age 65—possibly after.*[5]	No.
Dependent parent or parent-in-law of deceased active duty or deceased retired member.	Yes[3]	No	No	No.

Cost to patient	Inpatient	Outpatient	Inpatient	Outpatient	Handicapped
Dependents of active duty members	$1.75 per day	No charge	Patient's share is $25, or $1.75 per day, whichever is greater.[7]	1st $50 incurred each fiscal year (not to exceed $100 per family) plus 20 percent of reasonable charges in excess of the deductible.[6]	Beneficiary's share per month varies according to pay grade from $25 for E–1 to $250 for O–10. Government pays remainder up to maximum of $350 per month.
Retired member:					
Enlisted	No charge	No charge	25 percent of facility charges and professional fees.[7]	1st $50 incurred each fiscal year (not to exceed $100 per family) plus 25 percent of reasonable charges in excess of the deductible.[6]	
Officer	Subsistence	No charge			
Dependents of member	$1.75 per day	No charge			
Survivors	$1.75 per day	No charge			

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[1] Active duty member—a person ordered to active duty (including training duty) for period not specified as 30 days or less.

[2] Retired member—a member or former member currently entitled to retired, retainer, or equivalent pay.

[3] Subject to availability of space and facilities and the capability of the professional staff.

[4] Inpatient benefits under CHAMPUS are not always authorized. There are situations when CHAMPUS is authorized, such as a medical emergency, the temporary absence of the dependent on a trip, the nonavailability of an appropriate Uniformed Service medical facility and other similar situations which constitute exceptions. Before obtaining care at a civilian facility or when pregnancy is involved, check with a Uniformed Service facility to see whether there will be CHAMPUS coverage.

[5] Most beneficiaries will become eligible for Social Security Medicare benefits at age 65 and lose their CHAMPUS eligibility. If not eligible for Medicare hospital benefits and evidence to this effect is submitted, beneficiary can retain CHAMPUS coverage.

[6] The fiscal year extends from July 1 thourgh June 30.

[7] When outpatient care is directly related to the condition for which patient is hospitalized, it will be considered inpatient care in determining cost-sharing in the following: (1) Pregnancy. All care except prescription drugs obtained by the patient related to the pregnancy, when the maternity patient is hospitalized for proper management of the pregnancy, including complications thereof. all hospital admissions for the pregnancy are considered 1 admission. (2) All other conditions. Outpatient care provided within 30 days before and 120 days after hospitalization. Also, successive admissions to a hospital for similarly recurring or same condition are considered 1 admission if no more than 30 days elapse between admissions.

[8] Beneficiaries who require continuous inpatient care in excess of 90 days must have a management plan approved by the appropriate office: OCHAMPUS (Denver); OCHAMPUSEUR for Europe, Africa, and the Middle East; or the proper major U.S. commander in other overseas areas.

[9] Seriously physically handicapped and moderately or severely retarded spouses and children only.

*Eligibility may be affected by new eligibility and benefits under Medicare effective July 1, 1973. This matter will be clarified through subsequent CHAMPUS information.

WHAT COMMANDERS SHOULD KNOW ABOUT CHAMPUS

The CHAMPUS program covers a host of medical services. Following is a brief description, for military commanders, of some important, sometimes little understood, services and policies.

COSMETIC AND PLASTIC SURGERY

Cosmetic and plastic surgery procedures (that are intended to or are incidental to other procedures that are intended to improve abnormal bodily functions or relieve pain) are authorized under CHAMPUS when performed by a qualified practitioner.

Cosmetic and plastic surgery procedures that are performed solely for the purpose of changing or improving the appearance or form of the individual will only be authorized when competent professional authority has determined that the accomplishment of the procedure is essential to the physical or mental health of the patient.

The latter procedures must be approved in writing by the State fiscal administrator prior to their accomplishment. However, requests for approval may be considered on a retroactive basis in order to avoid undue hardship in a particular case.

Increasingly, there are problems because sponsors and providers are either not aware of or disregard the requirements for prior approval for benefits under the Program for the Handicapped. An application for benefits should be submitted to OCHAMPUS in Denver or Europe or to the appropriate overseas commander. The approval (CHAMPUS Form 126) should be issued by the approving authority before arrangements are made by the sponsor to obtain services on the expectation that benefits will be available.

Failure to obtain the required approval in advance may result in serious financial hardship to the sponsor and the provider, if, for any reason, benefits cannot be approved.

DA FORM 1863–5

Beneficiaries are sometimes reluctant to sign the DA Form 1863–5, "Statment of Personal Injury—Possible Third Party Liability," when admitted to a civilian hospital following an accident or injury.

This is the form used to notify the appropriate claims officer of the facts:

Prosthetic devices other than artificial eyes, limbs, and some dental prostheses.

Dental care except as authorized below.

Remember the basic rule and these exceptions; they present a pretty good idea of what benefits are authorized. However, these additional facts concerning coverage which is authorized may add to sponsor and beneficiary understanding:

Benefits may be on an inpatient basis or outpatient basis almost anywhere.

Treatment may be for medical and surgical conditions, for nervous, mental, and emotional disorders, or for chronic conditions or contagious diseases.

Medical services may be provided by a civilian physician or by other medically related specialists (nurses, physical therapists, etc.) when ordered by a physician. Optometrists and psychologists may provide care within the scope of their licenses without being ordered by a physician. "Physician" includes doctors of medicine, osteopathy, dental surgery, dental medicine, and surgical chiropody.

All necessary supplies ordered by a physician are authorized, including orthopedic braces (but not orthopedic shoes), crutches, and artificial limbs and eyes.

Drugs are covered if administered by a civilian inpatient facility or physician or procured from a pharmacy on a physician's prescription. Insulin is covered without a prescription.

Non-Government ambulance service is authorized when medically warranted.

Family planning is authorized, including medical supplies, surgical procedures, sterilizations and abortions, counseling, prescription drugs, and prescribed supplies.

Dental care, including restorative dentistry and dental prosthetic devices, required as necessary adjunct to medical or surgical treatment of a primary condition other than dental is authorized.

Rental of durable equipment such as wheelchairs or hospital beds is authorized. But before rental of equipment, inquiry should be made of Service hospitals for loan without cost, or a CHAMPUS Advisor or Health Benefits Counselor may be asked about other non-cost availability.

There are also Christian Science benefits—in a certified Christian Science sanatorium, or outside from Christian Science approved practitioners and nurses.

Where to get more detailed information

1. The CHAMPUS Advisor or Health Benefits Counselor at any Uniformed Services medical facility.
2. The medical office or facility of any Uniformed Service installation, particularly the military activity nearest where the family resides.
3. The Surgeon General of the appropriate Military Service.
4. OCHAMPUS, Denver, Colorado 80240.
5. OCHAMPUSEUR, U.S. Army Medical Command, Europe, APO New York 09403 (for countries in Africa and the Middle East as well as those in US European Command).
6. A convenient major overseas commander, except in US European Command, Africa, or the Middle East.

CHAMPUS PROGRAM FOR THE HANDICAPPED

A CHAMPUS benefit not usually available through Uniformed Services facilities—and rarely available under other cost-sharing medical plans—is the CHAMPUS Program for the Handicapped.

The program provides a variety of specialized services for the treatment and care of active duty dependents who are moderately to severely mentally retarded or seriously physically handicapped.

Among services authorized when they are required are residential and institutional care, transportation, vocational and rehabilitative services, special education and special equipment.

Care under this program requires prior approval. Such approval comes from OCHAMPUS (Denver), OCHAMPUSEUR or the designated major overseas commander, depending on the locale in which the care is to be received. Any CHAMPUS Advisor or Health Benefits Counselor can provide detailed information about health conditions to which this program applies and can assist an active duty family in seeking approval needed.

The cost-sharing formula for the Program for the Handicapped is different from formulas for inpatient and outpatient care under the CHAMPUS basic program. Once approval for a program of care, treatment, or training has been received, the military sponsor shares in the costs on a monthly basis according to his pay grade.

The monthly share for pay grades E–1 through E–5 is $25. At the upper end of the scale, an O–10 pays $250 per month. The most any enlisted member has to pay is $45 per month.

The Government may then pay up to an additional $350 per month for authorized charges.

Mr. CRANSTON. Mr. President, in addition, this compromise provision provides authority to the VA itself to use its own facilities to provide such care directly when such facilities are not being utilized for the care of eligible veterans and are particularly equipped to provide the most effective care and treatment. Examples of this latter situation would be spinal cord injury centers, coronary care units, burn units, and other specialized medical services or other health care resources not available in the surrounding community.

Mr. President, I believe that in each of these three instances, we have reached acceptable accommodations which carry out the essential thrust of the Senate-passed bill. As to the first two provisions, regarding staff-to-patient ratios and hospital beds and capacities and patient censuses, I pledge that the Subcommittee on Health and Hospitals of the Committee on Veterans' Affairs will be vigilant in its oversight of their implementation.

We remain committed to the principle that staffing in VA facilities must be made comparable to community staffing ratios if we are truly to provide "care second to none"; and to the principle that eligible, ill veteran patients must be promptly admitted and treated where VA capacity exists, without regard to arbitrarily imposed patient census maximums. It is clearly understood that the Office of Management and Budget and the VA will cease and desist from their practice the last several years of imposing unreasoned census ceilings and personnel grade reduction requirements on the VA hospital system, just as we, by accepting the House amendment, are forebearing from setting a census minimum figure.

Regarding the dependents provision, I must confess that I have found the objections to the Senate-passed provision by the administration and certain others to be irrational. I should think it is well recognized that the United States, and especially the VA, has a clear obligation to the dependents or survivors of those severely disabled in the service of their country and that if VA facilities in a particular place—regardless of whether they have special capacities—are not being utilized for eligible veterans they should be used to provide care for these dependents and survivors. This makes economic as well as moral, common, and even, horse sense, since the cost of providing care directly in VA facilities is substantially less than the cost of comparable care in the average community facility—VA hospital care averages about $69 a day as compared to well over $100 in the average community facility.

But all this sense, which I continue to believe strongly supported the Senate provision, was unconvincing to the nonsense position of those downtown and elsewhere who feared to move into the 1970's and apply new concepts and thoughts to insure the most effective and economical utilization of the enormous VA medical resource.

OUTSTANDING EFFORT BY HOUSE COMMITTEE

Mr. President, I wish to state that my colleagues on the House committee have been the epitomes of reasonable, openminded men throughout our deliberations on this and the predecessor legislation. It is due to their enormous efforts, good offices, and persistence that this major piece of legislation is headed toward the statute books rather than the veto pile.

Specifically, Mr. President, I would like to express my very great admiration for the excellent work done to reach this accord by the House Members, under the leadership of Mr. WILLIAM JENNINGS, BRYAN DORN, chairman of the House Veterans Affairs' Committee, and of Mr. David Satterfield, chairman of the Subcommittee on Hospitals of the House Veterans Affairs' Committee. These two gentlemen—so ably assisted by Oliver Meadows, Gene Howard, and Don Knapp—have devoted a great deal of energy, time, and thought to developing the compromise proposals in this legislation in order to meet the objectives which both committees have sought to achieve in this legislation and at the same time satisfy the thrust of the White House's concerns.

Mr. President, I would also like to express my appreciation for the consistent and bipartisan support and interest given this legislation by members of the Senate Committee on Veterans' Affairs, under the leadership of the distinguished Senator from Indiana (Mr. HARTKE) and the ranking minority member of the full Committee (Mr. HANSEN), and of the Subcommittee on Health and Hospitals (Mr. THURMOND).

It is significant to note that this legislation was originally developed 2 years ago. Had the executive branch been willing to sit down and talk with the Congress then, or even this past fall when H.R. 10880 was passed, as they have done in the last month, I am sure we would have been able to iron out the differences at that time, as we have done now. We could have avoided the October pocket veto, and the 8 months delay in adoption of legislation which will substantially improve the VA health care system and its ability to provide care to our disabled veterans of all wars.

The change in legislative attitude by the White House, which is becoming more apparent each day, has enabled us to come to a reasoned exchange of views resulting in a good piece of legislation to improve the health care provided the Nation's veterans.

SUMMARY OF PROVISIONS OF S. 59 HOUSE AMENDMENTS

Mr. President, I would like to summarize briefly the provisions of H.R. 9048:

First. The bill permits the furnishing of medical services on an outpatient or ambulatory basis to any veteran eligible for hospital care under veterans laws, where such care is reasonably necessary to obviate the need for hospital admission. These services include, in addition to medical examination and treatment, home health services, optometrists' services, dental and surgical services, as are now available in the case of non-service-connected disabilities, for treatment after the veteran has been scheduled for admission for hospital treatment or, following hospitalization, in connection with treatment he received while hospitalized. The bill also authorizes mental health services, consultation, professional counseling and training of members of the immediate family of a disabled veteran, and such home health services as may be necessary or appropriate for the effective and economical treatment of VA beneficiaries. It also places peacetime veterans on the same basis as wartime veterans for hospital and medical benetfis. In the case of veterans who are disabled to a degree of 80 percent or more for a service-connected cause, the bill provides for outpatient care for any disability from which he suffers, whether or not service-connected.

Second. In addition, Mr. President, the bill provides for pay differentials for nurses—including temporary and intermittent nurses—performing duty between the hours of 6 p.m. and 6 a.m.; from midnight Saturday to midnight Sunday; or on Federal holidays. The bill further provides for overtime pay for hours of service in excess of 40 hours during the nurses' administrative workweek, or in excess of 8 hours a day; and for additional pay for nurses who are on call outside regular working hours.

Third. The bill directs the VA, to the extent feasible without interfering with medical care and treatment of veterans, to develop and carry out a program of training and education of health service personnel, acting in cooperation with schools of medicine and other health manpower institutions, and stressing the recruiting, training, and hiring of former military medics.

Fourth. Mr. President, the bill also provides for the furnishing of hospital and medical care—if such care is not otherwise provided under CHAMPUS, the medical program for certain dependents and survivors of active duty and retired members of the Armed Forces—for the wife or child of a totally and permanently disabled service-connected veteran and to the surviving widow and children of a veteran who dies as a result of a service-connected disability. This care is to be provided in the same or similar manner and be subject to the same limitations as presently apply to Armed Forces dependents previously mentioned. The Veterans' Administration is authorized to enter into contracts with the Department of Defense or with private insurors for this purpose. Care may be provided for the subject group of dependents in VA facilities in those cases where there are facilities particularly equipped to provide the most effective care which are not being utilized for care of eligible veterans.

Fifth. The bill further directs the Administrator of Veterans' Affairs, within 90 days after enactment, to conclude negotiations for an agreement with the National Academy of Sciences for the Academy to conduct a full review and appraisal of the personnel and other resource requirements in VA medical facilities in order to determine personnel and resource needs to insure high quality care in all VA medical facilities. The National Academy of Sciences will then render interim reports, at the earliest feasible date, to the Administrator, the President of the Senate, and the Speaker of the House of Representatives, with a final report to be submitted to them not later than 24 months after the date of the agreement. This date may be extended by not more than 12 additional months after consultation with the VA Chief Medical Director and in consultation with the House and Senate Committees on Veterans' Affairs. The Administrator, within 90 days after submission of that report, is required to submit to the House and Senate committees a detailed report of his views on the findings and recommendations of the National Academy of Sciences and the steps and timetable he proposes for implementing these recommendations.

Sixth. Mr. President, the bill authorizes the appointment of two additional Assistant Chief Medical Directors, who may be individuals qualified in the administration of health services, but who are not doctors of medicine, dental surgery, or dental medicine. The new designations of Director of the Pharmacy Service and Director of the Dietetic Service correspond to the other Director of Services titles, such as Chaplain and Nursing. It also establishes the position of Director of Optometry and prescribes compensation to be paid to individuals in all these new positions.

Seventh. The bill further prescribes the circumstances under which physicians, dentists, or nurses may perform professional services other than those performed as full-time employees of the Veterans' Administration, and prohibits outside payment for certain services.

Eighth. Mr. President, a cumbersome restriction on providing nursing home care to eligible veterans has been removed by a provision which permits the furnishing of nursing home care in the case of service-connected veterans requiring such care for their service-connected disabilities upon determination of need therefor by a Veterans' Administration doctor, thus removing the requirement that these persons be first hospitalized under VA auspices. Direct transfer of military personnel from military hospitals to VA nursing home care facilities is also authorized by the bill.

Ninth. Current law is clarified with regard to contracts with clinics and other groups or individuals (in addition to medical schools and clinics as now permitted) for securing certain specialized medical resources.

Tenth. The bill also provides additional authority for temporary full-time appointments of various types of medical personnel for a period of time not to exceed 1 year. Such appointments were previously authorized for a period of not more than 90 days.

Eleventh. In addition, Mr. President, the bill clarifies and extends protection in malpractice or negligence suits brought against VA medical personnel.

Twelfth. Further, the bill would permit reimbursement of veterans in VA hospitals and domiciliaries for loss of personal effects sustained by fire, earthquake, or natural disaster, while such effects were stored in those VA facilities. Previous law permitted reimbursement only in case of loss by fire.

Thirteenth. A provision is included in the bill which will permit the VA to lease buildings or lands to public or nonprofit organizations without advertising, and to consider maintenance, protection, or restoration, by the lessee, as all or part of the payment received under the lease. Prior to the execution of any such lease, the Administrator must give public notice of intention in the press of the community in which the lands or buildings to be leased are located.

Fourteenth. The bill authorizes reimbursement, under limited circumstances, of certain veterans who have service-connected disabilities for the reasonable value of hospital care or medical services, including necessary travel expenses, when services are furnished from sources other than the VA. Eligible veterans are those receiving treatment for a service-connected disability or a non-service-connected disability associated with a service-connected disability—or veterans in need of vocational rehabilitation because of a service-connected disability whose training would be interrupted or delayed because of the illness. Services must be rendered in a medical emergency and VA or other Federal facilities must not be feasibly available. In lieu of payment to the veteran, payment may also be made directly to the medical facility providing medical services, or to a person or organization making payments in behalf of the veteran.

Fifteenth. The installation of telephones in personal residences of nonmedical directors of VA hospitals, domiciliaries, centers and independent clinics is authorized by this legislation. Present law permits this only in the case of medical doctors.

Sixteenth. The bill also clarifies the term "Veterans' Administration activities" as it relates to provision of care in private facilities for VA beneficiaries.

Seventeenth. Mr. President, the bill also makes several changes in updating and improving the VA authority as it relates to medical care of veterans in the Republic of the Philippines. These provisions extend VA authority—until June 30, 1978—to continue grants for hospital and medical care of certain veterans in the Philippines. No more than $2 million is authorized to be expended for this purpose in any 1 fiscal year—including not more than $250,000 for nursing home care. Authority is also provided for expenditures in each fiscal year during the 5-year period beginning July 1, 1973 and ending June 30, 1978, for grants to the VA Memorial Hospital, Manila, for education and training of health service personnel assigned to that hospital, $50,000—and for replacement and upgrading of equipment and rehabilitation of the physical plant—$50,000. It authorizes assistance to the Republic of the Philippines in furnishing medical care—including nursing home care—for Commonwealth Army veterans and new Philippine Scouts who enlisted before July 4, 1946, under certain conditions, and extends the authority to operate the VA Regional Office in the Republic of the Philippines through June 30, 1978.

Eighteenth. Mr. President, specific authority is provided by this legislation for a VA program of screening, counseling, and treatment of sickle cell anemia.

Nineteenth. The bill further provides for relinquishment to States, in which VA facilities are located, of such legislative jurisdiction as is necessary to establish concurrent jurisdiction, between the Federal Government and the State concerned, over lands over which the VA has jurisdiction.

Twentieth. S. 59 also provides for contracts with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the VA in training interns and residents, to provide for the central administration of stipend payments, provision of fringe benefits, and maintenance of records, by designating one such institution to serve as the central administrative agency for this purpose.

Twenty-first. Mr. President, in addition, the bill directs the Administrator to staff and maintain sufficient beds and other facilities to insure admission and immediate care of patients found to be in need of hospital care and medical services, and makes provision for the continuing analysis of admission practices and policies and rejected cases and for the rendering of an annual report on admission policies, as well as the need for additional funds and facilities to meet the needs of veterans for necessary care and services, by the Chief Medical Director to the Administrator and to the House and Senate Committees on Veterans' Affairs. The Administrator is also directed, with the approval of the President, to operate not less than 8,000 nursing care beds in the fiscal year ending June 30, 1974, and in each fiscal year thereafter.

Twenty-second. The bill also provides for appointment by the Administrator of an Advisory Committee on Structural Safety of Veterans' Administration Facilities, to include at least one architect and one structural engineer who is an expert on fire, earthquake and other natural disasters, and who are not employees of the Federal Government, to advise him on matters relative to structural safety and remodeling of VA hospital and medical facilities for those purposes.

Twenty-third. S. 59 provides for VA's contribution to local authorities for construction of traffic controls and road improvements in locations adjacent to VA medical facilities when deemed necessary for safety puroses. This authority had been provided in several recent Appropriations Acts.

Twenty-fourth. Mr. President, the bill also includes authority to increase the per diem rate for reimbursements of State soldiers' homes which provide care for veterans who are eligible fo admission to VA medical and domiciliary facilities, from $3.50 to $4.50 where domiciliary care is provided; $5 to $6 where nursing home care is provided; and from $7.50 to $10 where hospital care is provided. Authority is also provided for reimbursement of such State home facilities where care is furnished veterans whose service occurred after January 31, 1955.

Twenty-fifth. In addition, the bill increases the percentage of the Federal Government's allowable contribution under the program of grants to States for construction, alteration, and renovation of State veterans' homes, from the present 50-percent maximum to 65 percent of the estimated cost of such projects.

Twenty-sixth. Finally, in connection with VA assistance to States in constructing State nursing home facilities for veterans, the appropriation authority is extended for an additional 5 years, that is, to June 30, 1979. The formula for determining adequate State nursing home beds is increased from a maximum of 1½ beds per 1,000 veterans in any State to 2½ beds. This is a new provision not previously included in the Senate bill, although it was discussed with committee members as a possible floor amendment last March by the distinguished Senators from Vermont and Rhode Island.

PROJECTED COSTS OF S. 59

Mr. President, the Veterans' Administration has estimated that the costs of S. 59, as amended, over a 5-year period will total $407.8 million. This is a substantial decrease from the costs which had been projected in March by the Veterans' Administration of $587.2 million.

A comparison of the estimates indicates that the lower estimate results from a reduction in the VA estimates of the costs of providing medical care to the wives, widows, and children of 100 percent disabled or deceased service-connected veterans, from $73 million to $60 million over this period and by the inability of the VA to estimate the costs of contract care for these dependents and the cost of providing mental health services and training to certain dependents when such services will aid in the treatment of the veteran. In March, the VA has estimated the costs for these latter two provisions at $111.5 million and at $55 million, respectively. These differences in estimates make up the $179.4 million disparity between the costs of these provisions in March and the costs in July.

CONCLUSION

In sum, Mr. President, this bill contains numerous provisions which will substantially improve the ability of the Veterans' Administration to provide quality care to the increasing number of veterans who are daily seeking treatment at VA medical facilities. Coupled with an adequate appropriation for the VA medical and hospital program—including retention of the $122.7 million we recently added to the VA appropriation on the Senate floor—we will be well on the road to insuring our Nation's veterans that the VA motto of "Care Second to None" will be a living reality.

Mr. President, I would like to include at the end of my remarks excerpts from the House committee report on S. 59, which our committee adopts as its own for the purposes of legislative history, and I ask unanimous consent, Mr. President, that these excerpts be set forth in the RECORD at the conclusion of my remarks. These excerpts explain the background which led us to develop this legislation and describe in more detail how the individual provisions will correct the rigidities and deficiencies in the existing statutes governing VA medical care.

I also ask unanimous consent, Mr. President, that letters received from the

Veterans' Administration and the Office of Management and Budget on the amendments made in the House after discussions with those agencies be printed in the RECORD following the excerpts from the committee report.

Mr. President, in closing I would like to make special mention of the excellent contributions made to the development of this legislation by the able staff of the House Veterans' Affairs Committee, Oliver Meadows, Don Knapp, and Gene Howard; as well as by Guy McMichael, Tyler Craig, Jon Steinberg, and Louise Ringwalt of the Senate staff. Their knowledge, experience, and ability was of tremendous value to the members of both the House and Senate committees in working together to develop this bill.

Mr. President, I believe the Senate should accept the bill as adopted by the House and urge the full support of the Members of this body in sending this excellent legislation on to the President for his signature.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM HOUSE REPORT NO. 93-368, VETERANS HEALTH CARE EXPANSION ACT OF 1973

INTRODUCTION

The predecessor bill to H.R. 9048 was H.R. 2900 which, as introduced, was virtually identical to H.R. 10880 as passed by the House and pocket vetoed by the President after the sine die adjournment of the 92nd Congress. Early in the 93rd Congress, S. 59, a bill very similar to H.R. 2900, was introduced in the Senate and with certain amendments passed that body on March 6, 1973. Our Subcommittee on Hospitals received testimony and written statements on both H.R. 2900 and S. 59 from the Veterans Administration, veterans' organizations, representatives of health professions, organizations and unions, and other concerned parties.

Since S. 59 and H.R. 2900 in their present forms contained certain provisions substantially the same as those to which the Administration objected so strenuously, the Committee has been engaged for some time in an informal but thorough manner attempting to work out a reasonable compromise version of a bill which will still retain the basic objectives of the Congress. In this connection, the Committee has had the utmost cooperation and contribution from the Senate Committee on Veterans Affairs and its staff. In addition, the Committee has received refreshing and effective cooperation from the Office of Management and Budget in reaching our mutual objective of securing effective legislation for disabled veterans and their dependents which will be acceptable to both the Legislative and Executive Branches.

On June 27th both the Subcommittee on Hospitals and the full Committee considered a Committee Print version of H.R. 2900 and ordered a clean bill (H.R. 9048) favorably reported, containing the text of the mentioned Committee Print version. The Committee is confident that following House passage of the reported measure it will receive rapid and favorable consideration by the other body in order that it may receive Presidential consideration prior to the August recess.

BASIC PURPOSE OF BILL

The basic purpose of H.R. 9048 as reported is to improve the ability of the Veterans' Administration to deliver quality medical care to its beneficiaries by removing certain legislative restrictions on the scope of treatment (particularly for ambulatory and nursing care); by expanding coverage for medical care and treatment by a CHAMPUS-type contract to certain dependents of veterans or deceased veterans; by providing for a voluntary, comprehensive sickle cell anemia screening and counselling program for requesting veterans and their spouses; by supplementing the primary function of the VA Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower in order to meet national needs in addition to meeting the hospital needs of veterans, to the extent feasible without interfering with the medical care and treatment of veterans; by improving the personnel system of the Department of Medicine and Surgery (DM&S) to provide for major emphasis on the recruitment, training and employment by the VA of recent veterans with medical military occupation specialties and to make DM&S more attractive to skilled health care personnel and thus more able to compete for scarce health care manpower; by authorizing an independent in-depth study aimed at improving the staff-to-patient ratio in VA medical facilities; by directing the Administrator to maintain the bed and treatment capacities of all VA facilities so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of medical care and services; by ensuring that VA facilities are structurally safe; and by other means.

PRESIDENTIAL VETO

As indicated in the "Introduction" supra, the comparable veterans' medical health bill, H.R. 10880, was vetoed last year by the President. On October 27, 1973, President Nixon issued the following Memorandum of Disapproval:

Veterans Health Care Expansion Act of 1972 (H.R. 10880)—

The liberalizing features of this bill would unnecessarily add hundreds of millions of dollars to the Federal budget. It would open the VA hospital system to nonveterans and would expand the type of direct medical services available from VA. By providing direct medical services to veterans' dependents, the bill runs counter to this Administration's national health strategy which would provide national financing mechanisms for health care and sharply reduce the Federal Government's role in the direct provision of services.

The bill also purports to set mandatory minimums on the number of patients treated in VA hospitals. In testimony on this bill, the Veterans Administration strongly objected to this provision on the grounds that it was totally unnecessary and could result in inefficient medical treatment and wasteful administrative practices. The tragic result would be a lower quality of medical care to all patients.

While I strongly support the VA health care system and will continue to encourage its improvement in the future, I cannot approve a bad bill.

RICHARD NIXON.

THE WHITE HOUSE, *October 27, 1973.*

DISCUSSION OF VETO

There were a number of provisions in H.R. 10880 which were strongly favored by the Veterans Administration and did not have the opposition of the Administration. There were, however, three basic areas which, in the eyes of the Administration, brought about the Presidential veto. In the first instance, that bill proposed to extend direct medical care and treatment in VA facilities to the wives, widows and children of certain veterans and deceased veterans. While the Committee did not, and does not at the present time, share the view taken on this provision nor does it fully understand the rationale therefor, it has attempted to arrive at a somewhat different approach and yet achieve most of the basic objective.

DEPENDENTS CARE

The present bill (Sec. 103(b)) authorizes the extension of medical care for the same group of survivors and veterans' dependents "who are not otherwise eligible for medical care under Chapter 55 of Title 10 (CHAMPUS)". This is the program sponsored by the military for certain dependents of active duty and retired personnel To achieve the objective, the Administrator is authorized to either (1) enter into an agreement with the Secretary of Defense to include the mentioned limited groups of dependents in the contract he enters into to carry out the CHAMPUS program, subject to full reimbursement by the Veterans Administration, or (2) enter into independent contracts (of a CHAMPUS-type) for such insurance, medical services, or health plans as he deems appropriate. In addition, in certain cases the Administrator would be authorized to use VA medical facilities for such care where they are found to be particularly equipped to provide the most effective care and treatment as long as such facilities are not being utilized for the care of eligible veterans.

The Nation has long recognized that the widow and children of a veteran who dies of service-connected disease or injury or of a veteran who has a service-connected total disability are in a special category and deserving of substantial compensation and assistance in return for the sacrifice the family has made. This recognition has been shown in title 38 programs which provide for death compensation benefits, home loans, and educational assistance benefits for wives, widows, and war orphans. Failure to provide for the medical care of such individuals is an oversight which should be corrected.

Although this provision is not intended in any way to alter the on-going CHAMPUS program in the military, assurance of such has been informally coordinated with the Committee on Armed Services which has raised no objection thereto. Further, our Committee wishes to emphasize that nothing in this provision is intended to affect in any way the existing authority in the Defense Department to utilize, on a space available basis, medical facilities within that department for the treatment of certain dependents of active duty and retired personnel.

MINIMUM HOSPITAL CENSUS

A second major objection of the Administration dealt with a provision of the bill which would have set mandatory minimums on the number of patients treated in VA hospitals. The present bill eliminates any mandatory numerical requirements and, in lieu thereof, provides that "the Administrator shall staff and maintain, in such a manner as to insure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services." The Chief Medical Director is required to periodically analyze agency wide admission policies, including full rejection data, and the Administrator is directed to advise the respective Committees on Veterans Affairs of the results of such analyses, and the number of additional beds, treatment capacities, and appropriate staffing and funds necessary to meet the needs of such veterans for such necessary care and service. As will be noted by its letter of June 27, 1973, *infra*, the Office of Management and Budget expresses no objection to the inclusion of the mentioned language.

STAFF-TO-PATIENT RATIOS

Finally, the Administration raised objection (although not in the veto memorandum) to a provision in H.R. 10880 directing certain action by the Administrator to attain comparability in the staff-to-patient ratio in the several services of VA hospitals with like services of other public and private hospitals.

The Veterans' Administration hospital system has long been considered among the best government operated medical facilities in America. This Nation has prided itself in its service to those who have borne the burden of battle, and Congress has always acted with the belief that the finest medical care should be made available in VA hospitals to those who served their country. Since 1969, Congress has increased the Administration's budget requests for VA medical care by many millions of dollars in an effort to keep pace with rising demands and increased costs of VA medical care. Congress has also consistently urged staff upgrading in VA medical facilities from an overall average ratio of less than 1.5 staff to patients to a ratio more comparable to the private sector hospital level ranging from about 3.0 to 4.7 staff to patients.

In April of 1970, the President also recognized a need for improving delivery of health care in VA hospitals when he issued the following statement on veterans medical care:

For a number of years the Veterans' Administration hospital system has been experiencing increasing difficulties in providing a full range of services for the care of sick and disabled veterans. As a result of past decisions, the ability of the VA hospital system to meet future needs has been seriously impaired. Action must be taken now to insure that eligible veterans will receive the medical care they require. To those who have been injured in the service of the United States, we owe a special obligation. We, as a people, have commitments to our veterans, and we shall fulfill them.

During the past five to six years there have been vast differences of opinions between Federal budget officials, policy-makers in the Executive branch of the government, Committees of Congress concerned with veterans' affairs, and national veterans groups as to the adequacy of VA hospital staffing and the quality of medical care available for America's veterans.

Based on information assembled by Congressional Committees and veterans organizations, it seemed abundantly clear that there was a serious need for immediate and substantial staffing and other resource increases. Surveys conducted by the House Veterans' Affairs Committee for several years among VA Hospital directors indicated that additional staffing was considered to be one of their most pressing problems in the delivery of health care for veterans. These surveys also disclosed that various arbitrary personnel ceilings and grade de-escalation policies imposed by Executive order were having serious adverse effects and impeding the proper care of hospitalized veterans.

Current Administration budgetary requests and predicted continuation of hardline personnel ceilings and grade de-escalation policies which will result in the reduction of over 2000 employees in the VA's Department of Medicine and Surgery in Fiscal 1974 indicate that no improvement can be expected during the next twelve months.

The Administrator of Veterans Affairs has presented testimony to the Congress predicting that for the most part, present staffing patterns in the VA medical program are adequate to meet current demands. However, when the Administrator transmitted his budget request for F.Y. 1974 to the Office of Management and Budget, before it was sent to Congress, it contained a request for increased medical care employment totaling about 5500 positions at a cost of $128 million in order to staff VA medical bed sections at a ratio of 1.65 staff to patients; surgical bed sections at 2.07 staff to patients, and psychiatric bed sections at 1.0 staff to patients. The Office of Management and Budget did not approve these levels and the overall 1974 budget request for VA medical care was reduced by over $173 million.

For many years questions have been raised as to why community hospitals appeared to be so much better staffed than VA hospitals. However, no conclusive program has been undertaken to establish the needed benchmarks for logical staffing and other resource requirements in VA medical facilities taking into consideration the similarities and differences between VA and community hospital staffing and their other comparative resource requirements. Available statistics showed larger numbers of people employed by community hospitals in relationship to operating beds. For the most part, in VA, the gross number of hospital employees providing care to hospital inpatients in relation to the average daily patient census has been used to compare the staffing of different hospitals.

Early in the 91st Congress in hearings before the Subcommittee on Hospitals of the Committee on Veterans' Affairs, it became apparent that community hospitals had a higher ratio of employees to average daily patient census than VA hospitals. The comparisons made at that time were based on statistics appearing in the Annual Guide Issue of Hospitals (Journal of the American Hospital Association). During these hearings, it was recognized that many variables were involved in staffing individual hospitals in the private sector and that many differences existed between VA hospitals in spite of their being joined into a system by standardized policies, rules, and regulations.

Although various staffing studies have been undertaken by the Veterans' Administration's Department of Medicine and Surgery, no policy guidelines have yet evolved to establish reasonable standards or guidelines to properly gauge actual staffing and other resource needs to provide reasonable standards for quality medical care to hospitalized veterans.

Staffing ratio and other resource requirements for VA hospitals have been debated for a number of years; however, little progress has been made to resolve the issue. Conflicting policies have been set by both the Executive and Legislative branches of the government. Funds for implementing legislative policies have been impounded by the Executive branch.

Both the Congress and the Executive Branch of government have made solemn pledges to America's veterans to provide quality care in VA medical facilities. The Committee believes that in order to provide proper guidelines for future legislative and administrative action for health care delivery in the VA medical system, an independent survey of these complex problem areas should be undertaken by the National Academy of Sciences utilizing its extensive scientific resources and expertise, including the National Institute of Medicine and National Research Council.

The new language now contained in Section 201(c) is expressly intended to determine the total staffing patterns and/or ratios required in the VA medical system, including inpatient, outpatient, domiciliary facilities; nursing care units; research and education programs; and any other services performed in order that veterans will receive quality medical care. It is further intended that this survey will be devoted, but not limited; to a review of the requirements of each hospital service unit and to all categories of employment, including professional, paraprofessional, technical, administrative and supporting personnel. It is further expected that this review will include, but not be limited to, resource requirements such as equipment, facilities, admitting and emergency services, as well as other 24 hour services deemed appropriate to the delivery of quality health care in the VA medical system.

It is the desire of the Committee that the National Academy of Sciences proceed immediately with this review. While it may not be possible to accomplish this in a few months, it is expected that an interim progress report be furnished to the Administrator of Veterans Affairs, the Chief Medical Director of the Veterans' Administration and the Congress six months after the contract for the survey is finalized, with additional further interim reports to be made at various intervals until the final report is delivered to the Veterans' Administration and appropriate officials and committees of the Congress. The Committee also notes that certain findings regarding specialized units, such as for spinal cord injuries, at a relatively few hospitals, probably can be made in the early stages of the study and separately transmitted. The Committee hopes that this will be done.

The Veterans' Administration medical system has undertaken many "firsts" since its reorganization after World War II, and through its vast system of hospitals and clinics which constitute the largest single hospital system in the world, the Committee believes that this pioneer step, in addition to providing extensive and highly valuable information for health care delivery in the Veterans' Administration, will be most beneficial to the Nation as a whole in attempting to help solve the so-called "medical care crisis", which is of great concern to all Americans.

A brief résumé concerning the National Academy of Sciences follows:

NATIONAL ACADEMY OF SCIENCES

Creation of authority

The National Academy of Sciences was established by an act of Congress approved by President Abraham Lincoln on March 3, 1863 (12 Stat. 806).

The National Academy of Sciences (NAS) is an organization of distinguished scientists and engineers dedicated to the furtherance of science and its use for the general welfare. Although not a governmental agency, the Academy has long enjoyed close relations with the Federal Government.

The Institute of Medicine was chartered by the National Academy of Sciences in 1970.

The Institute of Medicine was established in recognition of the important and complex problems posed in the provision of adequate health services to all sectors of society. The Institute will identify, for study and analysis, important issues and problems that relate to health and medicine; initiate and conduct studies of national policy and planning for health care and health-related education and research; respond to requests from the Federal Government and other agencies for studies and advice on matters relating to health and medicine; establish liaison with the major scientific and professional societies in the field; and disseminate information to the public and relevant professions.

SECTION-BY-SECTION ANALYSIS OF H.R. 9048 AS REPORTED

Section 1 establishes the title of the proposed Act as "The Veterans Health Care Expansion Act of 1973."

TITLE I—HOSPITAL, DOMICILIARY, AND MEDICAL CARE BENEFITS

Section 101.—Subsection (a) amends clause (C) of present section 601(4) of title 38, regarding the Administrator's contract authority for providing hospital care, along the lines recommended in the administration bill proposed in the 92d Congress to delete the qualification that contract care for persons suffering from service-connected disabilities or disabilities for which they were discharged or released from the service be provided "only in emergency cases." Deletion of this language confirms existing practice.

Subsection (b) of section 101 amends paragraph (5) of present section 601 of title 38, which defines "hospital care", to reflect the expanded eligibility for hospital care provided for in subsection (a) of section 101 and section 102(3) of the bill as reported. In addition, a new clause (B) is added in paragraph (5) in order to include within the definition of "hospital care" the provision of mental health services, counseling, training, and (on the terms set forth in present section 111 of title 38) necessary transportation and subsistence expenses for the members of the immediate family of VA patients when such services and expenses are necessary or appropriate to treat and rehabilitate the VA patient effectively.

Subsection (c) of section 101 amends paragraph (6) of present section 601 of title 38, which defines "medical services" (ambulatory and out-patient care), to provide specific authority for the provision of home health care services.

Section 102 makes a series of amendments to present section 610 of title 38, which specifies eligibility for hospital and domiciliary care.

Clause (1) amends present subsection (a) to make nursing home care an inherent part of VA hospital care, thereby authorizing direct admission to VA directly-run nursing homes for all section 610 (as amended by section 102(4) of the bill as reported) beneficiaries. The effect of this new clause and the new section 610(e), added by clause (4) of section 102 of the bill as reported, is to authorize direct admission to VA directly-run nursing homes, eliminating the requirement that admission to such nursing homes must be made only for patients hospitalized in VA facilities. This new language would not authorize such direct admission to community nursing homes. (See section 104 of the reported bill for amendments to community nursing home authority.)

Clause (2) amends present clause (1)(B) of subsection (a) to make any veteran, peacetime or war-time, eligible for hospital care for a non-service-connected disability if he is unable to defray the necessary, hospital expenses, rather than only war veterans at present. This provision would provide new eligibility for approximately 150,000 peacetime veterans (generally those whose service ended prior to April 6, 1917, and those who served between November 12, 1918 and December 6, 1941, and those who served between January 1, 1947 and June 27, 1950). The VA estimates the first-year cost of this provision as $7.9 million.

Clause (3) replaces the present subsection (c), regarding the provision of medical services to hospitalized veterans for non-service-connected disabilities for which they were *not* hospitalized. The revised subsection eliminates the requirements that the Administrator make a determination in each such instance that the instrument of the non-service-connected disability would be in the veteran's interest, would not prolong his hospitalization, and would not interfere with the furnishing of hospital services to other veterans. These conditions are needlessly restrictive on professional medical judgment or redundant of such judgment. The revised subsection, in accordance with what the VA advises is actual practice in most instances, premises the provision of such medical services only upon the willingness of the veteran and a finding that such services are reasonably necessary to preserve his or her health. No additional costs will result from this provision.

Clause (4) adds a new subsection (d) to present section 610 of title 38, as follows:

New Subsection (d) provides that in no event may nursing home care under chapter 17 of title 38 (as added to basic hospital care eligibility in present section 610 by clause (1) of section 102 of the bill as reported) be provided in other than VA directly-run nursing homes except insofar as community nursing home care under contract is expressly authorized under present section 620, as amended by section 105 of the bill as reported.

Section 103 amends present section 612 of title 38 by replacing present subsection (f), regarding the provision of medical services for the non-service-connected disabilities of certain veterans. Presently, such out-patient and ambulatory care for non-service-connected disabilities may be provided only on a pre-hospital or post-hospital care basis or to any war veteran with a total and permanent service-connected disability. The revised subsection (*f*) includes for the first time the language "on an outpatient or ambulatory basis" and makes the provision applicable to service-connected as well as non-service-connected disabilities (thus, a veteran unable to defray the necessary expenses of hospitalization who contended his condition was service-connected and did not then require hospitalization could be provided outpatient care if his condition met the "obviate" criterion described in item (1) below, without waiting for adjudication of his service-connected claim).

The revised subsection also makes the following changes with respect to this authority: (1) authorizes (along lines proposed in the administration bill proposed in the 92d Congress), outpatient care to such veterans "when necessary to obviate the need of . . . hospital admission"; (2) authorizes such outpatient care for any veteran, peacetime or war-time, with an 80% or more rated service-connected disability; and (3) authorizes such outpatient care for any person eligible for hospital care, which, under the hospital care eligibility provisions in the revised subsection 610, newly authorizes outpatient care under the terms of revised subsection (f) for peacetime veterans.

Under the new "necessary to obviate" hospital care standard, a veteran with a non-service-connected disability would still be required to complete an oath of inability to defray the necessary expenses of hospital care, pursuant to present section 622 of title 38. According to the VA report this provision would entail no additional expenditures.

Subsection (b) of Section 103 adds a new provision authorizing the Administrator to provide, under certain limited conditions, medical care for the wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability and for the widow or child of a veteran who died as a result of a service-connected disability provided that such a person is not otherwise eligible for medical care under Chapter 55 of Title 10 (CHAMP US). The Administrator may provide such care either by agreement with the Secretary of Defense to include coverage for such persons under the on-going CHAMPUS program or by contracting independently for such insurance, medical service or health plans as he deems apprepriate.

The Administrator would also be authorized to treat such dependents and survivors on an inpatient or outpatient basis in VA facilities in cases where those facilities are particularly equipped to provide the most effective care and treatment, such as, for example, hemodialysis, spinal cord injury units, open-heart surgery, and high-voltage x-ray and radio-isotope therapy, and other specialized medical services which are available on an inpatient or outpatient basis in some VA hospitals and which may not be available in many community medical facilities.

Section 104.—Subsection (a) amends subsection (a) of present section 620 of title 38, regarding transfer of VA hospital patients to community nursing homes, so as to authorize direct admission (without immediately prior VA hospitalization as is now required) to community nursing homes at VA expense of servicemen from military hospitals if the Service Secretary concerned determines and the Administrator agrees that the serviceman has received maximum hospital benefits and requires nursing home care. The VA estimates no material cost increase as a result of this provision.

Subsection (b) of section 104 is purely technical in order to achieve consistency of drafting style.

Subsection (c) of section 104 amends subsection (b) of present section 620 of title 38, requiring VA standards to be established for community nursing homes to which eligible veterans are transferred, by adding a new sentence to require the Administrator to make copies of VA prescribed standards and inspection reports available to all Federal, state, and local agencies charged with licensing or otherwise regulating or inspecting such institutions (this is done only sporadically now).

Subsection (d) of section 104 adds a new subsection (d) to present section 620 of title 38 to authorize direct admission of a veteran to community nursing homes at VA expense of veterans requiring nursing home care for service-connected disabilities after the need for such care is determined by a physician (employed by the VA or performing under contract or fee arrangement) based upon an examination of the veteran by such physician. A comparable provision was supported by the VA in 1972, except that the VA provision would have excluded (apparently inadvertently) application of this new procedure in Hawaii and Alaska where the VA does not maintain medical facilities or employ physicians. The revised provision also makes clear that in such states as well as in geographical areas where no VA physician employee is stationed, the examination and determination may be conducted on behalf of the VA by a physician under a contract or fee arrangement.

Section 105.—Subsection (a) amends present section 626 of title 38, regarding VA reimbursement to VA patients due to fire loss, so as to cover certain personal property loss by earthquake or other natural disaster (flood, windstorm). The VA has produced no cost estimate for this provision, which section of the bill as reported makes retroactive to January 1, 1971 in order to cover the San Fernando, California earthquake and the Fayetteville, North Carolina windstorm, both of which occurred in February, 1971, and occasioned considerable patient property loss.

Subsection (b) of section 106 amends the catchline for present section 626 to reflect the revision contained in subsection (a).

Section 106.—Subsection (a) amends present subchapter III (Miscellaneous Provisions) of chapter 17 of title 38 by adding a new section 628 to codify a VA regulation providing for reimbursement of the reasonable value of hospital care and medical services provided to veterans entitled to VA medical care for service-connected disabilities in an emergency when VA facilities are not readily available. No additional cost should be occasioned by this provision.

The bill as reported also included in the reimbursement provisions of the new section authority for reimbursement (without prior authorization) for emergency care provided for any disability (whether or not it could be demonstrated to be service-connected) of a veteran with a 100 percent permanent and total service-connected disability. Under present law, such veterans are entitled to full VA medical care, in- and out-patient for any disability, either directly in a VA facility or by fee or contract. However, it is not clear that the VA would interpret its contract authority (which itself is not crystal clear in present law—the bill as reported makes it explicit) to permit reimbursement after expenditures had been made in an emergency situation where no VA hospital or clinic is accessible. And the enactment of section 628, without inclusion of authority to make such reimbursement, might be interpreted to rule out such an expansive interpretation.

The amendment would close this small gap in coverage by the 100% service-connected disabled (it is retroactive to January 1, 1971, to cover any meritorious claims arising since the start of the 92nd Congress). It is not contemplated that appreciable additional expense would be entailed since such so severely disabled veterans tend to remain accessible to VA hospitals for treatment.

Subsection (b) of the new section makes clear the Administrator's authority to make payment directly to the provider of the services rather than to the veteran treated.

Section 107.—Subsection (a) amends sections 631 and 632 of title 38, effective July 1, 1973 regarding grants to and agreement with the Philippines, by striking out these sections and inserting in lieu thereof new sections 631 and 632. The VA estimates the first year cost as $2.1 million and the same for each of the next four fiscal years.

New section 631 authorizes the President to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans and certain new Philippine Scouts for service-connected disabilities and for non-service-connected disabilities under certain conditions.

New section 632 (a) provides that the President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital, with approval of the appropriate department of the Government of the Republic of the Philippines covering the period beginning on July 1, 1973, and ending on June 30, 1978, under which the United States—

(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided in the Veterans Memorial Hospital (or by contract or otherwise) in accordance with the conditions and limitations applicable generally to beneficiaries under present section 612 of title 38, for Commonwealth Army veterans and new Philippine Scouts the Administrator determines to need such hospital care or medical services for service-connected disabilities (presently there is no contract care authority for new Philippine Scouts);

(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans and new Philippine Scouts who enlisted before July 4, 1946, the Administrator determines need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

(3) may provide for the payment of travel expenses pursuant to present section 111 of title 38 for Commonwealth Army veterans and new Philippine Scouts in connection with hospital care or medical services furnished them;

(4) may provide for payments for nursing home care, on the same terms and conditions as set forth in section 620(a) of title 38, for any Commonwealth Army veteran or new Philippine Scout determined to need such care at a per diem rate not to exceed 50 percent of the hospital per diem rate established pursuant to the new clause (6) of section 632 (this is a new authority);

(5) may provide that payments for hospital care and medical services provided to Commonwealth Army veterans and new Philippine Scouts or to U.S. veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Administrator to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator; and also is authorized to furnish, through the revolving supply fund, pursuant to present section 5011 of title 38, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefor, as applicable, appropriations available for such payments;

(6) will provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

(7) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

Subsection (b) of the new section provides that the total payments under this modified agreement shall not exceed $2 million for any one fiscal year during such period, of which sum not to exceed $250,000 shall be for the purposes of payments under new clause (4).

Subsection (c) of the new section provides that available beds, equipment, and other facilities at the Veterans Memorial Hospital can be made available at the discretion of the Republic of the Philippines for other persons subject to (1) priority of admission and retention in the hospital of Commonwealth Army veterans or new Philippine Scouts needing hospital care for service-connected disabilities, and (2) the use of available facilities on a contract basis for hospital care or medical services for persons eligible therefor from the VA.

Subsection (d) of the new section provides for an authorization of appropriations each fiscal year during the six years beginning July 1, 1973, and ending June 30, 1978, of (1) $50,000 for VA grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel assigned to (as compared to present section 632(e)) the hospital and (2) $50,000 for VA assistance to the Republic of the Philippines in replacing and upgrading equipment and rehabilitating the hospital physical plant under terms and conditions prescribed by the Administrator. Appropriations for purposes of clause (2) are to remain available until expended. This provision would enable the VA to obtain equipment whose value may exceed $50,000 by allocating 2 or more years funding for such purchase.

Subsection (b) of section 107 amends the table of sections at the beginning of chapter 17 of title 38 to reflect changes made in present sections 631 and 632 of title 38 by subsection (a).

Subsection (c) of section 107 provides that nothing in this section shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Philippines and the Government of the United States resulting from Public Law 89-612, which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 612 of title 38, in effect on the day before the date of enactment of this section.

Section 108.—Subsection (a) amends present section 624 of title 38, regarding hospital care and medical services abroad, by adding a new subsection (d) making U.S. veterans residing in the Philippines eligible for the same per diem payment for nursing home care as would be made available to Filipino veterans in the Philippines by the amendment to present section 632 in section 107 of the bill as reported. This new eligibility should entail no appreciable cost.

Subsection (b) of section 108 amends the catchline for present section 624 to reflect the revision contained in subsection (a).

Section 109.—Subsection (a) adds to chapter 17 of title 38 a new subchapter VI, "Sickle Cell Anemia". This provision is similar to provisions in section 5 of S. 2676, the proposed "National Sickle Cell Anemia Act", which passed the Senate on December 8, 1972. This section was deleted from the version as it passed the House (incorporating the text of H.R. 13592) on March 22, 1972, and this deletion was agreed to by the Senate on April 17, 1972, in returning the bill to the House with an amendment. The Act is now P.L. 92-294.

Section 651 in the new subchapter authorizes the Administrator to carry out a comprehensive program of providing sickle cell anemia screening, counseling and treatment, and dissemination of information under the provisions of chapter 17. It is expected that under these provisions, the VA would offer to all veterans receiving hospital or domiciliary care or medical services, and those receiving benefit eligibility examinations, screening examinations to detect those persons with the sickle cell trait or with sickle cell anemia; ensure that all veterans' benefits recipients receive full information as soon as possible regarding sickle cell trait or anemia and where they may receive screening and treatment for such trait or disease; provide appropriate counseling on a voluntary basis to a spouse of an eligible veteran, who was found to have the sickle cell trait; and advise every black veteran receiving outpatient or inpatient VA care or undergoing a VA physical examination about the availability or voluntary sickle cell anemia screening under the new Subchapter. The VA estimates the cost of these programs over a five-year period to be $10 million.

Section 652 in the new subchapter authorizes the Administrator to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under the new subchapter.

Section 653 in the new subchapter.—Subsection (a) specifies that any person who participates in any of the sickle cell anemia programs under the new subchapter (including the research program by cross reference in new section 652) shall do so only on a voluntary basis, and that such participation shall not be a condition for receiving service or assistance from programs to which the participant may otherwise be entitled under title 38.

Subsection (b) of the new section directs the Administrator to ensure the confidentiality of all information and patient records obtained from sickle cell anemia programs conducted under the new subchapter.

Section 654 in the new subchapter directs the Administrator to include in the annual report to the Congress required by title 38, a comprehensive report on the administration of the new subchapter VI, including recommendations for additional legislation as the Administrator deems necessary.

TITLE II—AMENDMENTS TO CHAPTER 73 OF TITLE 38, UNITED STATES CODE, RELATING TO THE DEPARTMENT OF MEDICINE AND SURGERY

Section 201 amends present section 4101 of title 38, regarding functions of the Department of Medicine and Surgery (DM&S), by revising present subsection (b) to supplement the primary function of the VA Department of Medicine and Surgery to include assisting in providing an adequate supply of health care manpower in order to meet national needs in addition to meeting the hospital needs of veterans, to the extent feasible without interfering with the medical care and treatment of veterans. In carrying out this function, the Administrator is directed to develop and carry out a program of health manpower education and training, including the development and evaluation of new health careers, interdisciplinary approaches and career advancement opportunities, and to carry out a major program for the recruitment, training and employment of veterans with medical military occupation specialties (MOS) as physicians' assistants, dentists' assistants, and other medical technicians. The VA is directed to advise all veterans and servicemen about to be discharged with such MOS's of the opportunities for training and employment in the VA. In implementing these new programs, the VA is directed to act in cooperation with such health training institutions as the Administrator deems appropriate. The VA estimates no additional cost resulting from this provision.

Section 201 also adds a new subsection (c) to the present section 4101 to provide that—

(1) Within 90 days after enactment of the subsection, the Administrator, in consultation with the Chief Medical Director, is directed to conclude negotiations for an agreement with the National Academy of Sciences under which such Academy (utilizing its full resources and expertise) will conduct an extensive review and appraisal of personnel and other resource requirements in Veterans' Administration hospitals, clinics, and other medical facilities to determine a basis for the optimum numbers and categories of such personnel and other resources needed to ensure the provision to eligible veterans of high quality hospital, medical, domiciliary, and nursing home care in all such facilities. Such agreement shall provide that (A) at the earliest feasible date interim reports (the first six months after the contract is executed) and the final report will be submitted by the National Academy of Sciences to the Administrator, the President of the Senate and the Speaker of the House of Representatives, and (B) the final report will be submitted no later than 24 months after the date of the agreement except that the Administrator, in consultation with the Chief Medical Director and after consultation with the House and Senate Committees on Veterans' Affairs, may permit an extension up to twelve additional months.

(2) Within 90 days after the submission of the final report described in subsection (a) of this section, the Administrator shall submit to the Senate and House Committees on Veterans' Affairs a detailed report of his views on the National Academy of Sciences' findings and recommendations submitted in such report, including (A) the steps and timetable therefor (to be carried out in not less than three years) he proposes to take to implement such findings and recommendations and (B) any disagreements, and the reasons therefor, with respect to such findings and recommendations.

(3) The Administrator shall cooperate fully with the National Academy of Sciences, and make available to the Academy all such staff, information, records, and other assistance, and shall set aside for such purposes such sums, as are necessary to ensure the success of the study.

Section 202 amends present section 4103(a) of title 38, which specifies the personnel in the Office of the Chief Medical Director, to make changes included in the administration bill originally proposed in the 92nd Congress: providing in paragraph (4) of the present subsection authority for appointment of two additional (six authorized now) Assistant Chief Medical Directors (ACMD's) (VA estimated cost $89,000 per year) not more than two of whom may be lay administrators and in paragraph (7) of the present subsection, upgrading the Chief Pharmacist and Chief Dietitian to Directors of Services and adding a new position "Director of Optometry" under the Chief Medical Director. (Under the new Section 4103 Schedule in section 203 of the reported bill, all three positions would be compensated at the same level—$31,203 minimum to $39,523 maximum.)

Section 203.—Clause (1) revises subsections (a) and (b) of present sections 4107 of title 38, establishing title 38 DM&S grades and pay scales (for DM&S officers; physicians, dentists, and nurses), along the lines in the administration bill proposed in the 92nd Congress. Basically, the amendment reflects current practice under the three recent Federal pay increases. In addition, the Director of Nursing is upgraded to the level of Medical Director grade (GS–17)—the same as Directors of DM&S Services (such as Psychiatry); the Directors of the Chaplain, Pharmacy and Dietetic Services are upgraded from the equivalent of GS–15 to 16; and a new Nurse Schedule grade is established—Director grade comparable to the Chief Grade in the Physician and Dentist schedule, all recommended by the VA (at an annual cost estimate of $63,000). Establishment of the Director grade is intended to recognize the difficult managerial and professional responsibilities inherent in the position of Chief Nurse in the very largest and most complex VA hospitals, and in the position of the top program officials in the headquarters Nursing Service in the Department of Medicine and Surgery. Such responsibilities inherent in other chief nurse and managerial nurse positions can be similarly recognized, as appropriate, by use of existing grades in the Nurse Schedule.

The newly created position of Director of Optometry is paid on the same level as the Directors of the Pharmacy and Dietetic Services: and the prohibition in subsection (b)(2) of the present section 4107 on persons who are eligible to hold the director grade (directors of VA hospitals, domiciliaries, centers, or independent outpatient clinics) is made applicable only to the physician and Dentist Schedule so as to carry out the purpose of the new Director grade in the Nurse Schedule—for the Chief Nurse in large hospitals—as recommended by the Administration.

Clause 2 of section 202 adds at the end of present section 4107 of title 38, regarding grades and pay scales, new subsections as follows:

New subsection (d) specifically applies to title 38 salaries and limitations—salaries in excess of $36,000 limited to $36,000 until pay for level V of the Executive Schedule is raised—of 5 U.S.C. 5308. A comparable provision was included in the administration bill proposed in the 92d Congress.

New subsection (e) establishes overtime and premium pay benefits for VA nurses (and it is intended that this provision shall be applied to intermittent and part-time nurses) generally comparable to those now available to General Schedule and Wage Board employees. Similar provisions were included in the administration bill proposed in the 92d Congress. Variations are noted in the description that follows:

Paragraph (1) of the new subsection establishes the basic eligibility for specified pay in addition to basic compensation.

Paragraph (2) of the new Subsection (Night Duty): —10% of the employee's basic rate added for each hour between 6 p.m. and 6 a.m. except that if at least four hours of a tour (generally 8 hours of work per full tour) fall within those hours of the night tour (for example a 3:30 p.m. to 12 midnight tour), all hours of that tour would be paid at the extra 10% rate. (It should be noted that the administration proposal in the 92d Congress seemed to exclude the night nurse working overtime from the additional 10%—i.e., 150% instead of 160% by use of the language "for each hour of service not exceeding eight hours," whereas the provision in the reported bill would clearly provide for 160%, as do present GS authorities.)

Paragraph (3) of the new subsection (Sunday Duty):—25% of the employee's basic rate added for each hour worked on a tour any part of which falls between midnight Saturday and midnight Sunday. The administration proposal in the 92d Congress, apparently this time following G.S. precedent, would clearly preclude 175% for Sunday overtime, whereas the reported bill provision would allow it by deleting "which is not overtime work" and the same eight-hour tour limitation discussed in new paragraph (2) above.

Paragraph (4) of the new section (Holiday Duty):—100% of the employee's basic rate added for each hour worked on a Federally-declared holiday. For overtime work on a holiday, in conjunction with paragraph (7), the full 100% additional would be paid, rather than only 50% additional for holiday overtime, which is the incongruous and inequitable effect—reducing pay when the nurse goes on overtime on a holiday—proposed by the administration and paid under the G.S. A provision has been added to specify that a nurse required to perform any work on a holiday shall receive at least two hours double pay (not provided in 5 U.S.C. 5546(c) for GS employees).

Paragraph (5) of the new section (Overtime Duty):—150% of the employee's basic rate used for computation for each hour in excess of eight hours per day or forty hours per administrative workweek, but the basic rate cannot be above the minimum rate of Intermediate grade in the Nurse Schedule (equivalent of GS–11—although GS–10, Step 1, is the limiting salary base under the "General Schedule; overtime does not begin until at least 15 minutes is worked; compensatory time off is not permitted as it is under the GS system; and any new work on a nonwork day or callback shall be a minimum of time-and-a-half for two hours. This whole provision is identical to the original administration proposal in the 92nd Congress.

Paragraph (6) of the new subsection specifies the basis for computing the basic hourly rate (dividing annual salary by 2080). This is identical to the administration bill proposed in the 92nd Congress.

Paragraph (7) of the new subsection makes clear that the additional pay provisions of new paragraphs (2) through (5) are to be applied independently and consecutively, except that holiday overtime and holiday nonovertime work are both paid the same (200%). There was no comparable administration provision proposed last Congress.

Paragraph (8) of the new subsection (On Call):—10% of the employee's basic overtime rate (150% of the employee's basic rate not to exceed Intermediate grade, Step 1) added for each hour officially scheduled on call. There is no comparable provision in the administration bill or G.S. now, although serious consideration has been given to it. A survey of available data on large city hospital pay practices for on-call time indicates the proposed provision in the Committee substitute is in step with private and community practice in this area.

Paragraph (9) of the new subsection provides that additional pay under this new subsection will not count as basic compensation for lump-sum leave payments, severance pay, and other benefits relating to basic compensation. There was an identical provision in the administration bill as a paragraph (7) in a new subsection (d) to be added to present section 4107.

The VA estimate of the first-year cost for premium and differential pay is $26.7 million.

Section 204 amends present section 4108 of title 38 to clarify the hours and conditions of employment and leaves of absence for physicians, dentists, and nurses appointed on a full-time basis.

New subsection (a) directs the Administrator to prescribe, by regulation, such hours and conditions of employment and leaves of absence, and lists provisions regarding permissible outside employment by physicians, dentists and nurses appointed in the Department of Medicine and Surgery—

Clause (1) of the new subsection would prohibit such personnel from assuming reponsibility for the medical care of any patient other than a patient admitted for treatment at a VA facility, except where, with the approval of the Chief Medical Director, such responsibilities are assumed to assist communities or medical practice groups to meet medical needs which would otherwise not be available (for a period limited to 6 months, with extension for an additional six months approved specifically by the Chief Medical Director). The Chief Medical Director would delegate to the station director the responsibility for granting an exception so that consulting services for up to six months would be permissible when necessary to provide scarce expertise to help the non-VA community to provide otherwise unavailable services.

Clause (2) of the new subsection would prohibit such personnel from teaching or providing consultative services at affiliated institutes where such activities would, because of their nature or duration, conflict with responsibilities under title 38.

Clause (3) of the new subsection would prohibit such personnel from accepting payment under reimbursement programs established under subchapter XVIII (Medicare) or XIX (Medicaid) of chapter 7 of title 42, or under chapter 55 of title 10, for professional services rendered while actually carrying out responsibilities under title 38.

Clause (4) of the new subsection would prohibit such personnel from accepting any payment or per diem for travel performed in the course of carrying out responsibilities under title 38, other than as provided for in section 4111 of title 5.

Clause (5) of the new subsection would prohibit such personnel from requesting or permitting any payment on his behalf for insurance insuring him against malpractice claims arising in the course of carrying out responsibilities under title 38 or for dues or fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of his remuneration for professional responsibilities permitted under section 4108, other than those carried out under title 38.

Clause (6) of the new subsection would prohibit such personnel from performing any professional services, in the course of carrying out responsibilities under title 38, for the purpose of generating money for any fund or account maintained by an affiliated institution for the benefit of such institution, or for his personal benefit, or both. Where such funds or account may have been established prior to the effective date of the new subsection (a), certain requirements and limitations are specified.

Subsection (b) of section 204 amends the table of sections at the beginning of chapter 73 of title 38 to reflect the revisions contained in subsection (a).

Section 205. Subsection (a) amends present section 4109 of title 38, regarding retirement rights, to update the statutory reference in view of the codification of title 5, United States Code.

Section 205.—Subsection (b) is a technical clarifying amendment.

Section 206.—Clause (1) amends present section 4114(a) of title 38, regarding temporary, full-time appointments of health personnel, to raise the time limit of such appointments from 90 days to one year for health personnel generally (except trainees), just as it is for physicians, dentists, and nurses. This provision was included in the administration bill (proposed in the 92nd Congress).

Clause (2) of section 206 amends present section 4114(b) of title 38, regarding residency and internship appointments, by adding a new paragraph (2) defining the term "intern" and a new paragraph (3) providing for central administration of internships and residencies, in a form virtually identical to that which was first proposed by the administration and passed the House in H.R. 10879 in the 92nd Congress with a VA estimate of no additional cost.

Clause (3) of section 206 adds a new subsection (e) to present section 4114 of title 38 to require that full-time training programs for veterans to be physicians and dentists' assistants be treated as a full-time institutional program ($220 per month for a single veteran), the same as are internship and residency training programs (by virtue of an administrative ruling) under chapter 31, 34 or 35 for purposes of GI bill benefits. Measurement of such training program as less than full-time under the GI bill would be permissible only when the combined classroom (and other formal instruction) and OJT portions of the training program totalled less than 30 hours per week (a figure drawn from present section 1788(a)(5) in chapter 36 of title 38 regarding measurement of OJT full-time programs under the GI bill). This provision is designed to make physicians' assistant training more attractive to veterans with medical MOS's. No cost estimate has been provided by the VA, but it is unlikely to be appreciable.

Section 207 amends present section 4116 of title 38, regarding defense of certain malpractice and negligence suits against the U.S. arising out of actions of certain VA health care personnel. They were included in the administration bill (section 206 of S. 1924) proposed in the 92nd Congress at no additional estimated cost, to clarify and extend this protection to cases where Federal Tort claims actions would not lie, but actions could still be brought against the VA employee personally for actions arising in the exercise of his duties; to authorize the Administrator to provide insurance for these purposes; and to add specification of physician's and dentists' assistants. Virtually identical provisions were added to the Public Health Service Act by PL 91–623 in 1970 and were included.

Section 208 amends present section 4117 of title 38, authorizing contracts for scarce medical specialist services, to clarify that the authority extends to "any group or individual capable of furnishing" the necessary services. This provision was included in the administration bill proposed in the 92d Congress, with a VA estimate of no additional cost. Reference to physicians' and dentists' assistants is added.

TITLE III—AMENDMENTS TO CHAPTER 81 OF TITLE 38, UNITED STATES CODE—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

Clause 1 in subsection (a) of section 301 amends Section 5001 of Title 38 to provide that the Administrator shall staff and maintain, in such a manner as to ensure the immediate acceptance and timely and complete care of patients, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services. The Administrator shall maintain the bed and treatment capacities of all Veterans' Administration facilities so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States and to minimize delays in admissions and in the provision of such care and services. The Chief Medical Director shall periodically analyze agency-wide admission policies and the records of those veterans who apply for hospital care and medical services but are rejected or not immediately admitted or provided such care or services, and shall annually advise the Administrator and through him the House and Senate Committees on Veterans' Affairs of the number of any additional beds and treatment capacities and the appropriate staffing and funds therefor which are necessary to meet the needs of such veterans for such necessary care and services.

For several years, OMB and other Executive Branch officials have been engaged in a systematic attempt to reduce operating beds and the average daily patient census in VA hospitals. For the past two fiscal years, the Congress has established by law in appropriation acts minimum operating bed and average daily patient census levels in order to insure that all qualified veterans in need of hospital care would have the necessary VA hospital facilities to accommodate their medical needs. These statutory levels have been ignored each year by the Administrator of Veterans Affairs apparently due to lower arbitrary guidelines imposed upon the VA by OMB.

The Committee has amended the bill to remove previously established average daily patient census levels of 85,500 and operating bed levels of 97,500 which were legislated in FY 1972 and 1973. The Committee is taking this action in direct response to the President's request contained in his March 1 message to the Congress on Human Resources, and further amplified by the Administrator of Veterans Affairs in his report to this Committee on H.R. 2900, dated June 26, 1973.

The objective of this amendment is to support the Administration's stated objective in their report on this legislation that this new approach will expedite their efforts to organize facilities and budget resources to achieve the objective of caring for the medical needs of all eligible veterans. The Committee action to eliminate the numerical levels of average daily patient census and operating beds from this bill places a clear obligation on the OMB and the VA to likewise eliminate pre-conceived floors or ceilings of average daily patient census and other treatment indices which have been utilized during the past several fiscal years.

The Committee expects the VA to submit, in connection with budget requests, projections of annual average daily patient census loads; staffing needs, and budget recommendations, but recognizes that with the innovation of this new legislation, such projections will need to be continually reviewed and, where appropriate, revised later in the fiscal year and that such revisions may require commensurate additional funding.

Clause (2) in subsection (a) amends paragraph (3) to raise the nursing home care beds authorization from the present minimum (4,000) to a maximum of 8,000 by FY 1974 (6,568 presently in operation) to be maintained thereafter.

Subsection (b) of section 301 revises subsection (b) of the present section 5001 of title 38, requiring fireproof construction of VA hospitals and domiciliaries, to require the Administrator to make fire, earthquake, and other disaster resistance studies, to ensure that all new construction and new acquisitions must meet new safety standards he is directed to prescribe; and to provide for the appointment of an intra-agency Advisory Committee on Structural Safety in VA Facilities.

Subsection (c) of section 301 adds a new subsection (g) to section 5001 of title 38 to authorize the Administrator to make contributions to local authorities for the construction of traffic controls, road improvements or other devices adjacent to VA medical facilities when deemed necessary for safe access.

Section 302 amends present chapter 81 (Acquisition and Operation of Hospital and Domiciliary Facilities) of title 38, as follows:

Clause (1) of section 302 adds to chapter 81 of title 38 a new section 5007 (Partial relinquishment of legislative jurisdiction), which authorizes the Administrator to cede concurrent jurisdiction over VA lands and interests to the State where located. This provision is based on the administration bill (H.R. 481) in the 92d Congress which passed the House, but would not permit, as that bill would, total relinquishment of jurisdiction to a State. Rather, the bill as reported permits only the ceding of concurrent jurisdiction, as did P.L. 91-45 ceding concurrent jurisdiction over the Fort Harrison, Montana, VA Center real property, thereby maintaining a clear and continuing Federal control over VA land and buildings situated thereon. The VA estimates that this provision would entail no additional cost and concurs in its approach.

Clause (2) of section 302 amends present chapter 81 by amending subsection (a) of present section 5012 of title 38, regarding leasing for up to three years of lands or buildings under VA control, a new sentence exempting such leases from 5 U.S.C. 41, which requires advertising for leases above $500, and from the provisions of 40 U.S.C. 303b, which bar lease provisions calling for property maintenance as part of the consideration for the rental. These provisions were included in the administration bill proposed in the 92d Congress. An additional sentence is added in the bill as reported to require the Administrator, prior to execution of such a lease, to give appropriate public notice in local newspapers of his intention to execute such a lease.

Clause (3) of section 302 amends the table of sections at the beginning of present chapter 81 by inserting reference to the new section 5007 added by clause (1) of section 302 of the bill as reported.

Section 303 amends present section 5053 (a) of title 38, authorizing arrangements for the sharing of specialized medical resources between VA and community hospital facilities, by making clear that these arrangements may also be made with "medical schools or clinics". This provision is included in the administration bill proposed in the 92d Congress, and would, along with the other two clauses added, entail no additional costs, according to the VA estimate.

TITLE IV—MISCELLANEOUS AMENDMENTS TO TITLE 38, UNITED STATES CODE

Section 401 amends subsection (b) of section 230 of title 38, regarding VA central and regional offices, to extend the termination date of the Administrator's authority to maintain a regional office in the Republic of the Philippines from July 3, 1974, to June 30, 1978. The VA estimates the first-year cost as $975,000 and the same for each of the next four fiscal years.

Section 402.—Subsection (a) amends present section 234 of title 38, regarding telephone services for medical officers, to permit installation in private residences for official use of a telephone for nonmedical directors of VA centers, hospitals, independent clinics and domiciliaries; presently, such installation may be made only for physician directors.

This provision was included in the administration bill proposed in the 92d Congress, and the VA estimate of the annual cost is $3,000.

Subsections (b) and (c) of section 402 amend the table of sections at the beginning of present chapter 3 and the catchline at the beginning of present section 234 of title 38 to change the catchline of section 234 to reflect the amendment made in subsection (a)(1) of section 401 of the bill as reported.

Section 403 amends a number of sections of title 38—section 641, increasing the rates for VA payments to State veterans hospitals and nursing homes and making such payments in the case of veterans of the post-Korean conflict, with an estimated first-year cost of $5 million; section 644(b), authorizing appropriations for VA grants to states for remodeling and altering state veterans homes; section 5033, to extend the State home nursing facility program for an additional five years; sections 5035(a)(1), (b)(1), and (d), all regarding VA grants to states for construction of state home facilities providing nursing care to war veterans; and section 5036, regarding recapture of the VA-assisted portion of such homes which cease to be operated principally for the care of veterans—to raise from 50 percent to 65 percent the permissible VA share of the cost of the proposed state home project. This provision is identical to that requested by the administration in the 92d Congress.

Section 403 would also amend section 5034 of title 38, to increase the number of nursing home beds in each State for war veterans in need of nursing home care.

Originally, the number of such beds was limited to .5 beds per thousand war veteran population in the case of any one State. In October 1965 this was increased to 1.5 by Public Law 89-311. This provision of the reported bill would increase this to 2.5.

Sixteen States have received VA assistance in 25 construction projects involving 2,909 nursing care beds at a total cost of over $46 million with the Veterans Administration contributing about 46 percent or about $21 million. Only two States (Rhode Island and Vermont) have approached the maximum limit. Both have expressed interest in constructing more beds which would exceed the 1.5 bed limit.

Since other States have not raised the maximum number of beds as a problem, it is realistic to assume that a limited number of States would be affected; for example—

Rhode Island:	
Number of beds constructed	165
Current maximum (1½)	195
Proposed maximum (2½)	325
Vermont:	
Number of beds constructed	62
Current maximum (1½)	81
Proposed maximum (2½)	135

The proposed maximum beds projected here are based on Bureau of Census data published December 31, 1971.

Based on an average VA construction cost of approximately $7,300 per bed, the projected cost of this provision should, for the two States mentioned, be about $1.3 million (184×$7,300 per bed=$1.3 million) over a 5-year period.

TITLE V—EFFECTIVE DATES

Section 501 makes all provisions of the proposed act effective on the first of the month following enactment except for (1) section 105 (reimbursement for loss of personal effects in natural disaster) and 106 (reimbursement for certain emergency medical expenses), which are made retroactive to January 1, 1971; (2) section 203 (pay and grade schedules and new premium and overtime pay), the provisions of which become effective beginning with the first pay period following 30 days after enactment; and (3) section 107 relating to the Republic of the Philippines is effective July 1, 1973.

ESTIMATES OF COST

The Committee has carefully examined the following estimates of cost submitted by the Veterans Administration and has adopted them as its own.

SECTION-BY-SECTION COST CHART FOR H.R. 9048, 93D CONGRESS

Section number and provision	Cost (in millions) fiscal year				
	1974	1975	1976	1977	1978
101. (a) To reflect long-standing definition of "VA facility"	(1)	(1)	(1)	(1)	(1)
(b) Mental health services and training to certain dependents	(2)	(2)	(2)	(2)	(2)
(c) Home health services to veteran or dependent	(2)	(2)	(2)	(2)	(2)
102. Hospital or nursing home care for peacetime vets—for n/s/c	$7.9	$8.5	$9.0	$9.7	$10.4
103. (a) Outpatient care to obviate need for hospitalization	(1 3)	(1)	(1)	(1)	(1)
80 percent s/c disabled	1.6	1.7	1.8	1.9	2.0
(b) Wives, widows, and children	5.0	10.0	15.0	15.0	15.0
104. (a) Direct admission of military to community nursing home	(2)	(2)	(2)	(2)	(2)
(b) Technical amendments	(1)	(1)	(1)	(1)	(1)
(c) Nursing home standards	(1)	(1)	(1)	(1)	(1)
(d) Direct admission to community nursing home for s/c condition	[4] 11.2	12.7	13.5	13.9	14.2
105. Earthquake—loss of personal effects	(2)	(2)	(2)	(2)	(2)
106. Reimbursement for emergency medical care	(1)	(1)	(1)	(1)	(1)
107. Grants to Philippines	2.1	2.1	2.1	2.1	2.1
108. N/H care for U.S. veterans in Philippines	(2)	(2)	(2)	(2)	(2)
109. Sickle cell anemia	2.3	2.3	2.3	2.3	2.3
201. Expands D.M. & S. mission	(1)	(1)	(1)	(1)	(1)
Staff-patient ratio study	(2)	(2)	(2)	(2)	(2)
202. 2 additional assistant CMD's	.089	.094	.099	.104	.110
Change titles of service heads	(1)	(1)	(1)	(1)	(1)
203. Salary rate D.M. & S. Increase salary range for service heads	$0.063	$0.066	$0.070	$0.074	$0.078
Nurse premium pay	26.7	29.2	31.7	34.4	37.3
204. Personnel administration	(1)	(1)	(1)	(1)	(1)
205. Technical changes	(1)	(1)	(1)	(1)	(1)
206. Temporary full-time D.M. & S. appointments	(1)	(1)	(1)	(1)	(1)
Central administration of interns and residents	(1)	(1)	(1)	(1)	(1)
207. Malpractice protection for VA medical personnel	(1)	(1)	(1)	(1)	(1)
208. Clarifies authority to contract for scarce medical specialists	(1)	(1)	(1)	(1)	(1)
301. (a) Maintain adequate bed capacities; and 8,000 nursing beds	(2)	(2)	(2)	(2)	(2)
(b) Construction standards for fire and earthquake	(2)	(2)	(2)	(2)	(2)
(c) Contribute to local for traffic controls and roads	(2)	(2)	(2)	(2)	(2)
302. Relinquishment of legislative jurisdiction	(1)	(1)	(1)	(1)	(1)
Lease authority	(1)	(1)	(1)	(1)	(1)
303. Expand sharing authority	(1)	(1)	(1)	(1)	(1)
401. VA office in Manila	(1)	.975	.975	.975	.975
402. Telephones for nonmedical directors	.003	.003	.003	.003	.003
403. (a) Increase per diem rates to State homes	5.0	5.3	5.5	5.6	5.6
(b) Increase grants to State homes, and extend program	2.7	2.7	2.7	2.7	2.7
(c) Change State N/H formula	.26	.26	.26	.26	.26
Total	64.915	75.898	85.007	89.016	93.026

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[1] No cost.

[2] No estimate.

[3] This estimate is based upon a plan of implementation whereby any costs could be absorbed mostly through a utilization of funds which would otherwise be needed for the obviated hospitalization.

[4] This estimate represents refined data indicating a substantial increase in new admissions over those anticipated from in-VA-facility admissions.

VETERANS' ADMINISTRATION,
Washington, D.C., June 26, 1973.
Hon. WM. JENNINGS BRYAN DORN,
Chairman, Committee on Veterans' Affairs, House of Representatives

DEAR MR. CHAIRMAN: This will respond to your request for a report by the Veterans' Administration on a proposed amendment to S. 59 and H.R. 2900, similar purpose 93d Congress bills.

The proposed amendment is in the form of a substitute for the provision in subsection (a)(1) of section 301 of each of the subject bills. Currently that provision in each of the bills would prescribe that the VA provide for an average of 98,500 beds and a daily patient census of not less than 85,500. In its consideration of S. 59, the Senate Committee on Veterans' Affairs amended this provision to provide that such census not be maintained at less than 82,000. The proposed amendment would direct the Administrator to staff and maintain sufficient beds to immediately accommodate eligible veterans found to be in need of hospital care or medical services. Moreover, it would require that bed and treatment capacities in VA facilities be maintained so as to insure minimum delay in admission and provision of care. The Chief Medical Director would periodically analyze VA admission policies and records of veterans not immediately admitted or provided care. He would also advise the Administrator and the House and Senate Committees on Veterans' Affairs of the need for additional staff, funds, or facilities necessary to meet these objectives.

In referring to the progress which has been made in veterans medical care, the President in his message to the Congress on Human Resources, on March 1, 1973, which formed a part of his State of the Union Message, stated:

"Since 1969, there has also been a steady shortening of the average length of stay in VA hospitals, a highly desirable objective from every viewpoint. This means that VA hospitals have fewer patients in bed on an average day, with shorter waiting lists, even though the total number of patients treated has gone up.

"Misunderstanding these statistics, some have sought to establish by law a numerical minimum average daily patient census in VA hospitals. But such a fixed daily census would represent a backward step—it would force a sharply increased length-of-stay—an effect that is medically, economically, and socially undesirable. It is far better that our veterans be restored to their families and jobs as rapidly as feasible, consistent with good medical care. A fixed patient census would tie the hands of those seeking to serve veterans' health needs; I urge the Congress not to enact such a requirement."

As I pointed out in my report to your Committee on the subject bills on March 21, 1973:

"In our opinion, placing a specific minimum average daily patient census into law could result in inefficient medical treatment and wasteful administrative practices. Furthermore, this approach is totally unnecessary to meet its apparent intent to assure an adequate means of meeting veteran health care demands. The adequacy of medical care cannot be measured by the number of patients hospitalized daily. Better indicators are the expeditious placement of each patient in the most appropriate form of care for his condition and his ongoing progress through the health care system at a rate consistent with sound medical practice. As additional alternatives to inpatient care are being found, the concept of a flat minimum average patient census becomes obsolete. If we were to return to such a method of evaluating our medical care potential, it would only result in hospital beds becoming filled with individuals who could better be treated in an outpatient capacity. The tragic result would be a lower quality of medical care to all patients."

I summarized this position in language which was inserted in the record of the hearing before a Subcommittee of the House Appropriations Committee on March 6, 1973, as follows: "The VA agrees that it is obligated to provide the highest quality medical care possible to all eligible veterans. It does not believe however that this can best be achieved by the inclusion of a floor in the appropriation language on the average daily census for all VA hospitals. . . ."

We believe the proposed amendment would accomplish the Congressional purpose of assuring adequate facilities for the care and treatment of veterans, and that it would avoid the detrimental effects of the original provision. While we do not think that budgetary requirements should be based on preconceived floors or ceilings of average daily patient census or other treatment indices, we expect to continue to submit projections of annual patient load and staffing needs in connection with the VA budget, recognizing that such projections may need periodic revision and accompanying budgetary adjustments during the fiscal year. The Office of Management and Budget concurs with the objective of the amendment and will support VA's effort to organize its facilities and budget its resources to achieve that objective.

Therefore, the Veterans Administration favors the language contained in the proposed amendment.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DONALD E. JOHNSON,
Administrator.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 27, 1973.
Hon. WM. JENNINGS BRYAN DORN,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of June 22, 1973 for the views of this Office on a proposed amendment to S. 59 and H.R. 2900 which would direct the Veterans Administration to staff and maintain sufficient beds and other treatment capacities to accommodate and provide care to eligible veterans applying for admission and found to be in need of hospital care or medical services.

In its report to your Committee, the Veterans Administration states that the proposed amendment would accomplish the Congressional purpose of assuring adequate facilities for the care and treatment of veterans while avoiding the detrimental effects of imposing an arbitrary average daily patient census requirement. The Veterans Administration further states that it intends to continue its practice of submitting projections of annual patient load and staffing needs in connection with its anual budget and to make accompanying budgetary adjustments where required.

We concur with the views expressed by the Veterans Administration. Accordingly, the Office of Management and Budget would have no objection to the inclusion of the proposed language in S. 59 and H.R. 2900.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

Mr. HANSEN. Mr. President, I commend the Senate for concurring today to the House amendments to S. 59, the Veterans Medical Care Act of 1973.

As a cosponsor of this legislation, I can assure Members that this legislation received careful attention during our deliberations in the Committee on Veterans' Affairs.

This bill as passed will expand the medical program for the veteran, but it will require repeated review to assure that the U.S. veteran receives well-earned quality care.

It provides outpatient care for all veterans when they can be treated without hospitalization. This should alleviate the problem that has seen the rejection rate in the veterans' hospital system exceed the admission rate. For example, veterans have applied for treatment, but upon examination been advised they did not require inpatient treatment, but that the law did not provide for proper medication on an outpatient basis.

S. 59 also directs the VA Administrator to double the number of nursing beds operated by the Veterans' Administration. This will help assure the older veteran and the most seriously ill adequate care for their disability.

Other provisions of this bill provide for differential pay for medical personnel. This will enable the agency to recruit and retain qualified personnel to provide the care needed.

Another provision will allow care to dependents of veterans who died in service to the country and to dependents of veterans who are rated 100 percent for their service-connected conditions. This service will be provided on CHAMPUS-type programs as now provided by the Department of Defense.

In all, this is a multipurpose bill containing many provisions to upgrade treatment for veterans and it is my conviction that we should always provide the most complete and competent care for these citizens.

Mr. THURMOND. Mr. President, the proposed Veterans Health Care Expansion Act of 1973, S. 59, is an omnibus hospital and health care bill that is necessary in order to provide an expanded medical care program for our Nation's veterans.

The present program provided by the Veterans' Administration has resulted in more veterans being rejected for hospital care than being admitted. S. 59 provides for outpatient care to those veterans that do not require hospitalization. This will alleviate the need for inpatient care and result in a higher admission rate for those veterans that require hospitalization.

The present law does not provide health care to the dependents of those veterans that gave their lives in defense of this Nation or were 100 percent disabled due to their military service. This bill will provide these dependents with health care on the same basis as the CHAMPUS program presently operated by the Department of Defense for our active and retired military families.

S. 59 will also double the number of nursing beds presently operated by the Veterans' Administration. Also, the requirement that veterans be transferred from a veterans' hospital to a nursing bed would be abolished.

There is also a provision for differential pay for medical personnel. This will assist the Veterans' Administration in recruiting and retaining the qualified personnel needed to provide the veteran adequate medical care.

I fully support the provisions of this bill. The veterans of this Nation have given of themselves in the defense of this land. It is our duty to provide these veterans with the most adequate health care possible. This bill will greatly enhance the ability of the Veterans' Administration to provide adequate health care to our veterans.

Mr. President, I urge my colleagues to support S. 59.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

EXTENSION OF FREE IMPORTATION OF CERTAIN DYEING AND TANNING MATERIALS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily for 1 minute.

Mr. JAVITS. Mr. President, may we have order? I cannot hear the majority leader.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 303, H.R. 3630. This measure has been cleared all the way around.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 303 (H.R. 3630) a bill to extend for 3 years the period during which certain dyeing and tanning materials may be imported free of duty.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with amendments to strike out all after the enacting clause and insert:

That item 907.80 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by striking out "Canaigre," and inserting in lieu thereof "Logwood, canaigre,";

(2) by inserting "470.15," immediately before "470.23,"; and

(3) by striking out "9/30/72" and inserting in lieu thereof "9/30/75".

SEC. 2. (a) The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(b) Upon request therefor filed with the customs officer concerned on or before the sixtieth day after the date of the enactment of this Act, the entry or withdrawal of any article—

(1) which was made after September 30, 1972, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendments made by the first action of this Act applied to such entry or withdrawal, shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 3630) was read the third time and passed.

The title was amended, so as to read: "An Act to extend until September 30, 1975, the suspension of duty on certain dyeing and tanning products and to include logwood among such products."

ANTITRUST PROCEDURES AND PENALTIES ACT—MOTION TO RECONSIDER ENTERED

Mr. BAYH. Mr. President, I enter a motion to reconsider S. 782 and ask that the motion be placed on the calendar. I understand that the papers on the measure have not left for the House. I want an opportunity to discuss this with the Senators involved.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 280 (S. 782) a bill to amend the antitrust laws of the United States, and for other purposes.

The ACTING PRESIDENT pro tempore. The motion will be entered and placed on the calendar under Motions for Reconsideration.

FAIR LABOR STANDARDS ACT OF 1973

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of the unfinished business, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 282 (S. 1861), a bill to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. WILLIAMS. Mr. President, I know that the Senator from New York seeks recognition to offer an amendment. I wonder if he would just permit me to have a brief colloquy with the Senator from Hawaii.

Mr. BUCKLEY. Mr. President, I would be glad to do so.

Mr. JAVITS. Mr. President, would the Senators use their microphones. We cannot hear anything.

Mr. WILLIAMS. Mr. President, I yield to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I urge the Congress to pass S. 1861 which is, in my opinion, an excellent piece of legislation. This bill will allow 6.7 million Americans to gain some economic ground that has been lost to skyrocketing inflation and will extend minimum wage protection to an additional 8.4 million Americans, including Federal, State, and local government employees and domestic, retail, service, manufacturing and agricultural workers.

I have communicated my concern to the distinguished chairman of the Labor and Public Welfare Committee that the provisions of this bill may have a deleterious effect on the pineapple industry in Hawaii. I would like, for the record, to briefly discuss this concern.

The House of Representatives has agreed to a provision introduced by my distinguished colleague, Representative SPARK MATSUNAGA, that would extend the provisions of the present student differential to agricultural processing. I had considered bringing such an amendment before the Senate, but have decided against calling an amendment up because of the obvious sentiment that presently exists here. However, the Matsunaga amendment is very important to the pineapple industry in Hawaii.

The pineapple industry in Hawaii is presently struggling for its economic survival bacause of the disadvantages it faces in the world market. The firms enaged in this second most important agricultural industry in my State have announced a total closure of canning operations on three of the five islands now in pineapple production. This will constitute a one-third reduction in the domestic production of pineapple over the next three seasons and high domestic labor costs is the single most important fact forcing this cutback.

There is a real danger of losing this industry in Hawaii. If the increasing cost of production makes it impossible to successfully market Hawaiian pineapple, the jobs of adults and students in this industry will be ended. The net annual additional cost to the Hawaii pineapple industry under the provisions of S. 1861 without an extension of the youth differential is estimated at $1.2 million. With annual sales of $137 million, this is not an insignificant figure.

I would not support any legislation which would jeopardize the job security of adults for the benefit of students. I do not believe the House approved Matsunaga amendment would have this effect. The employment of students in no way displaces adults in pineapple processing. All available adult seasonals have been hired by the time students are available in June. There is no migrant labor force in Hawaii; students are the only alternative labor source. The pineapple harvest season builds up in April and May. Students are necessary to fulfill pineapple peak season labor requirements from June to September.

If the cost of hiring students is considered uneconomic by the pineapple producers, the students of Hawaii do not have the ability to easily find work in some adjoining state. If the costs of production forces further cutbacks in pineapple acreage and adult employment, all of the people of Hawaii will suffer.

I would request that the distinguished chairman give serious consideration to the problems of Hawaii when this legislation is reconciled with the House version in the Joint Conference Committee.

I wish to again commend the chairman and the members of the committee for the generally excellent legislation that is before us. I look forward to supporting final pasage of this bill.

Mr. WILLIAMS. Mr. President, I certainly applaud the Senator from Hawaii for his support of this legislation in its objectives. I know fully of his concern about this industry, a very prominent industry in his State. I share his concern.

I have had many occasions to learn from the Senator from Hawaii of the problems facing the agriculture of Hawaii, and particularly the pineapple industry. He has expressed this concern in many ways. He has expressed his hope that the student certification program can be extended to the processing of pineapples. I have discussed this with the Senator from Hawaii.

At this time it is my deep feeling that no exceptions should be made to permit student certificates in processing because we have made sufficient advances in the processing and canning of pineapples, as is true in so many other products of agriculture, that now it is almost analogous to manufacturing.

Mr. President, for all of these reasons, while we have the certification program for field work in agriculture, including pineapple harvesting and planting, I suppose, it will not apply under this bill to the processing itself.

I will say that I hope the Senator from Hawaii appreciates that I never have a closed mind to anything presented honestly by a Member of the Senate. I have directed a member of the staff to have all of the information that is necessary for the final judgment, and that final judgment will be when we go to conference with the House.

That is a pledge from me. And I am sure that the Senator from New York would make the same pledge, that our minds are always ready to receive the latest information.

That is where we stand at this point.

Mr. INOUYE. Mr. President, the assurance that the House-passed Matsunaga amendment will be given consideration is most appreciated. I thank the Senator very much.

AMENDMENT NO. 336

Mr. BUCKLEY. Mr. President, I call up my amendment No. 336.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BUCKLEY's amendment (No. 336) is as follows:

On page 22, strike out lines 12 through 24, and insert in lieu thereof the following:

EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTHS

SEC. 8. Section 14(b) of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

"(b) (1) Notwithstanding the minimum wage rate required by section 6(a) (1) or 6(b) any employer may, in compliance with applicable child labor laws, employ any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of eighteen or (ii) eighteen or nineteen years of age and either in his first six months of full-time employment or a full-time student,

at a wage rate which is not less than 85 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.60 per hour, whichever is higher.

"(2) Notwithstanding the minimum wage rates required by section 6(a) (5), any employer may, in compliance with applicable child labor laws, employ in agriculture any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of eighteen or (ii) eighteen or nineteen years of age and either in his first six months of full-time employment or a full-time student,

at a wage rate which is not less than 85 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.30 per hour, whichever is higher.

"(3) The special minimum wage for such employees in Puerto Rico, the Virgin Islands, and American Samoa shall be 85 per centum of the industry wage order rate otherwise applicable to them, except that in no case shall such special minimum wage be less than that provided for under a wage order issued prior to the effective date of the Fair Labor Standards Amendments of 1972.

"(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.".

Mr. BUCKLEY. Mr. President, my amendment is a youth differential amendment which would permit the employment of teenagers at 85 percent of prevailing minimum wage rates, but not less than $1.60 an hour. Eighteen- and nineteen-year-olds could be employed at this differential for a period of only 6 months.

It is designed to meet one of the great social problems we now face in this country—one which has been too long ignored. I am speaking of a prevailing unemployment rate of 15 percent for teenage Americans.

An unemployment rate of 15 percent. If that were the current general level, unemployment would be a national crisis. Fortunately, that rate is more a reminiscence of the 1930's than an accurate reflection of the contemporary general labor picture. But for an American youth, a 15-percent unemployment rate is a very serious reality. And if the youth happens to be nonwhite, 30 percent gives an even more accurate view of the unemployment situation. For America's young people, unemployment is at the crisis level, despite the slight improvement recorded for last month.

The youth unemployment situation is even more serious than these rates indicate. There is no doubt that these figures, bad as they are, understate the actual unemployment rates. Government unemployment statistics include only those who are actively looking for jobs. There are a large number of teenagers who are so discouraged that they do not even bother to look for employment. One study estimates that, in addition to those listed as officially unemployed, at least another 20 percent of the minority teenagers in large urban areas desire work but are not actively seeking employment.

Unfortunately, recent employment figures do not indicate an improving job picture for teenagers comparable to that for the population as a whole. Between 1971 and 1972, when the general unemployment rate decreased 15 percent, the rate for those 16 to 19 went down only 8 percent, and the rate for nonwhite teenagers decreased only 2.8 percent. In the first 5 months of 1973 the general unemployment rate was steady at 5 percent. Yet the general and nonwhite teen rates actually increased by a percentage point. And while the teenage unemployment rate dipped slightly for the month of June, this should be read not as a harbinger of full teenage employment, but as one of the temporary fluctuations in the 20-year trend of increasing teenage unemployment. The need of teenagers for new employment opportunities is greater than ever, and it is now obvious that the Congress cannot sit back and hope that time and national prosperity will solve the problem.

We are very fortunate when we are discussing the effects of the minimum wage on youth employment. For many issues, the actual effect of legislation, as well as the desirability of that effect, is in doubt. This is not the case with minimum wages. The effect of minimum wages on teenage employment has been so well documented by academic economists that it should not even be a subject of debate. This effect is unemployment, and the higher the wage and the more disadvantaged the teenager, the more unemployment. Two of the Nation's foremost economists forcefully concur on the minimum wage's impact on teen and minority employment. Milton Friedman said:

> The Fair Labor Standards Act of 1938 which is the basis of minimum wages, is the most anti-Negro law in our books. . . .

And Paul Samuelson stated:

> What good does it do a black youth to know that an employer must pay him $1.60 an hour if the fact that he must be paid that much keeps him from getting a job?

What are the economic forces that make the minimum wage cause unemployment? They are the same forces that enable the vast majority of American workers to earn wages far above the minimum wage. Employers will pay workers according to how productive they are. Most of the adults in the United States are quite productive and therefore are paid considerably more than the minimum wage. But a great many of our teenagers are not yet that productive, so the wage at which employers will hire them will be low.

If a person's work is valued at $1.60 an hour, an employer will not be willing to hire him at $2. This points out the indirect effect of the minimum wage. The law states that all those hired must be paid at least a certain amount. But it cannot assure that all who want to work will be hired. The minimum wage denies the low-productivity worker who would be willing to work for less than the minimum the ability to do so. Instead, it substitutes unemployment.

The phenomenon predicted in this economic analysis is conclusively found to occur in the United States. The lower the productivity of a group in society, the more unemployment minimum wages have produced in it. For instance, as the minimum wage has been increased, the divergence between the general and teenage rates has widened. Also, the gap between the rates of white and nonwhite teenagers has increased after every hike in the minimum wage. Until 1955 only a few points separated the rates of white and nonwhite teenagers. In 1956 the minimum wage was increased 33 percent from $0.75 to $1. By 1957 the unemployment rate of nonwhite teenagers was almost double that of white teenagers. Today that gap is even larger. Two economists have predicted, based on past reactions to minimum wage increases, that increasing the minimum 25 percent—from $1.60 to $2—would increase the unemployment rate for white teenagers 1.4 percent and for nonwhite teenagers 6.6 percent. Based on present unemployment rates, a $2 minimum would raise the unemployment rate of white teenagers to 12.5 percent and that of nonwhite teenagers to 35.4 percent.

Someone who understands how wages are determined will realize that when low-productivity teenagers are hired at their free-market wage, they are not simply replacing higher paid adult workers. Teenagers usually compete for different types of jobs than adults do. First, their low-skill level makes them unqualified for the jobs most adults hold. In addition, teenagers are often seeking part time or summer employment rather than full-time jobs. All of this means that, if teenagers are permitted to receive low wages, new jobs will be created for them. In other words, the father will not be fired to hire the son.

I have received many letters which provide firsthand evidence that the relevant economic theory continues to be applicable. Consider the following actual illustrations reflecting the correspondence which our office has received.

Mr. Charles Grigg of Grigg's Self-Service Department Store writes that—

> My company employs over 165 people. Many of them are just starting retail careers. During the summer months we employ over 35 students above our normal staff. A drastic jump in the minimum wage rate would result in our programming a drop in employment of 18%. Also, the number of part-time workers would be drastically cut. The increased cost of training students would mean discontinuing the student training programs in our store. We would also have to drop any programs in training handicapped or retarded people. For the sake of people who seek employment as secondary family income producers, I urge you to vote against increasing the minimum wage.

Mr. E. J. Beckers, Jr., who has a small machinery shop, wrote me:

> I am nearing 70 years old and I have been in this business since 1950. We employ seven or eight people. I still work every day in the week to keep things going. We can't employ the under-par individual or train young boys because of the minimum. During the summer we sometimes employ school boys, but frequently it's a waste of money.

Too many of our young people these days simply do not bring to their first jobs the skills and the work attitudes which are required for them to earn the minimum wage. These are skills and attitudes which can best be learned on the job and, when learned, will entitle the young worker to a far higher wage and a constructive, honorable participation in American life.

Minimum wage legislation both ignores and denies the needs of America's youth. Young people generally lack the skills which experienced workers have developed over time. And, most importantly, many teenagers have yet to acquire the disciplines that holding a steady job require. These disciplines include the motivation and ability to simply get to work on time every day, to take and follow instructions, and to adjust to the other workers and the routines of the business. To those who have been working for many years, these probably seem more like natural habits than acquired skills. But for a young person who has never worked, these are part of a work ethic that, if not acquired in the home, must be learned.

It goes without saying that the more deprived a teenager's background, the less likely is he to bring a work ethic to his first job. One's teens is the ideal time to start developing these skills, and this can best be done through on-the-job experience. High minimum wages mechanically applied to young people stunt the development of these skills because they prevent so many teenagers from gaining work experience.

I received a very interesting letter on this subject from David Moxley, board chairman of the Indianapolis Goodwill Industries. He likened the social disadvantages of young minority people who are seeking work to the physical disadvantages of those who the Fair Labor Standards Act recognizes as handicapped. Mr. Moxley wrote:

> Although this bill would present exemptions for "physically and mentally disabled" persons who meet the regulations definition of "client", it would discontinue to exempt disadvantaged or socially handicapped persons. I cannot see the logic for this, because the so-called "disadvantaged" are often as incapable of meeting industrial standards of productivity, and we could no longer afford to hire them. The typical socially or otherwise disadvantaged person is a sixteen-year-old dropout of average intelligence, from a disadvantaged home, with no good work habits, who must be taught to be productive so that we can move him out of our shop and into private employment. This bill would push him back onto welfare, and I was under the impression that our national goals included trimming the ranks of the unemployed and putting welfare people into gainful employment.

Congress has taken some actions in an attempt to deal with these problems. These efforts have concentrated on providing training programs and providing jobs for youth. Have these programs been effective in dealing with the youth unemployment problems? Does the existence of these programs make further efforts, like a youth differential, unnecessary? The answer to both of these questions must be an unequivocal "no."

Between 1965 and 1972 the expenditure on programs in which teenagers could be prepared for jobs, or given employment, has risen from $370,600,950 to $974,513,506. The number of youths who received assistance went from 241,660 to 1,308,847. But what about the teenage unemployment rate during this period? The general teenage rate went from 14.8 to 16.9 percent, and the nonwhite teenager rate went from 26.5 to 31.7 percent. Quite obviously, these are stopgap measures that do not meet the underlying needs of young Americans seeking entry into the labor market.

I submit, Mr. President, that the youth differential provided for in my amendment is by far the most effective means of bringing our youths into a full productive participation in American life.

The current minimum wage of $1.60 an hour, and even the proposed ones of $2 and $2.20 an hour provide a very low income for a family of four. But instead of being an argument against low minimum wages and youth differentials, this is the strongest argument for them. The financial needs of a person who is married and supporting a family necessitates that he be at least a moderately skilled worker. But at what stage in life is a person supposed to attain this level of skill? Ideally, when his financial burdens are light—when he is still going to school, living with his family, or supporting only himself; that is, when he is a teenager. The vast majority of those 16- to 19-year-olds are single, and many are still living with their families. For such a person, $1.60 an hour provides a yearly income of $3,200, or $1,091 above the poverty line for a single head of household living in an urban area. The teenager who earns approximately $1.60 is not living in abject poverty, and is not condemned to a low salary for the rest of his life. Instead, he is equipping himself to be able to earn a much larger income when he will need it. So precisely because a person trying to support a family of four on $1.60 or even $2 or $2.20 an hour has a very difficult time, no barriers should be placed before any young person trying to find his first job, which will give him the experience that will enable him to command a much higher wage later in life.

The serious lack of employment opportunities for our Nation's young people mandates that the Congress take no action that might worsen this situation. And yet it has been proven that increasing the minimum wage without providing special consideration for teenagers will worsen the present situation. The step that Congress can take to ease the unemployment problem for youth, and especially minority youth is clear. Enact a youth differential. Do not price teenagers out of the labor market. Give them the opportunity to work when they are young, to be worthy of a high income when they are older and free from Government handouts. Allow them to know that they can be successful, self-sufficient individuals.

How is it that the youth differential wage can generate so much opposition? What other legislation that was so certain to create employment for our Nation's teenagers could engender such animosity? What other legislation that promised to reverse the increase in the unemployment rates of our minority teenagers—at a time when that rate is over 30 percent—could arouse such opposition in this age of concern for the Nation's disadvantaged? I find this situation as baffling as it is unfortunate.

I do not find the arguments against a youth differential at all substantial, especially when weighed against the much-needed benefits that this legislation would bring. But, somehow, many have found them convincing so I will deal with them here.

An argument frequently given in opposition to a youth differential is that a young person doing the work of an adult should be paid the wage of an adult. This idea highlights the two major weaknesses in antiyouth differential thinking. The first fallacy is thinking that teenagers have a choice of working for higher or lower wages, and the youth differential would force them to work for lower wages. One has only to look at the teenage unemployment figures—13.7 percent for white teens and 30.3 percent for nonwhite teens—to see that that is not the choice confronting over 3,700,000 American teens. Unless we institute a youth differential these teenagers will not have a choice of whether to work or not. With a differential they will at least have the ability to decide for themselves whether they want to work for a low wage or remain unemployed. Either way, they cannot be worse off than they are now. An important study by economists Sar-Levitan and Robert Taggart showed that 47 percent of the unemployed teenagers between 16 and 17 were willing to work for less than $1.60, and 96 percent were willing to work for less than $2 an hour. This means that teenagers themselves have decided they would be better off with a youth differential wage than unployed. I feel we have no right to ignore this wish.

The second fallacy of the above idea is it assumes that teenagers can do a man's work. This is the point that we have been stressing over and over again. Teenagers usually do not have the work skills of an adult, and if they are not able to find employment, they may never get them. No law forces employers to pay skilled workers as much as they do. They are paid well because they are worth it. When those who are now teenagers reach the same skill level, they, too, will be well-paid. But do not deny them the opportunity to develop those skills because of some misdirected humanitarian impulse.

A fear has been expressed that adults would be thrown out of work by teenagers, if teens could be paid a lower wage. Of course, no one can guarantee that not a single adult worker would be displaced. But, the misleading implication of the statement, "the father would be fired to hire the son" is that no new jobs would be created as a result of a youth differential. This is, of course, totally false, for it denies the dynamic nature of our economy. How many new jobs for teenagers would be created by a youth differential? This is a difficult question to answer, but it does correctly show what effect a differential would have. The only place we can look to predict a youth-adult job tradeoff is the change in adult employment when youth employment dropped after increases in the minimum wage. If adult employment went up this could show adults filling jobs left by teens. From this the reverse might be predicted—increasing youth employment could lower adult employment. But this phenomenon is not found in the data. After the 33-percent increase in the minimum wage in 1956, when youth unemployment went from 11.1 to 15.9 percent, the general unemployment rate went up 2.7 points. The same results are found in looking at other times of minimum wage and teen unemployment increases. There is no pattern of overall employment staying the same or increasing, which would have meant a substantial adult-youth job tradeoff. This result should not be surprising. Teenagers usually look for part-time, summer, or very low-skill work. They are almost never competing for the permanent, high-skill jobs that adults have. Close examination of this idea prohibits me from seeing it as a real argument against a youth differential wage.

So, what is left to rationally oppose a youth differential minimum wage? Nothing. And, there is so very much that compels us to implement it. Maybe, sitting here in this Chamber it is difficult to realize what unemployment means to the teenagers who make up the statistics I have cited. But although we are removed from it here, the hurt, the frustration, and the anger is very real. We would be nothing less than irresponsible if we turned our backs on this opportunity.

Mr. President, I feel that the song, "Masterpiece" by the musical group "The Temptations" captures something of what life must be like for the unemployed:

Where I was born everything was dull and dingy.
I lived in a place called the inner city.
Getting ahead was strictly a no-no.
For no one cares about folks who live in the ghetto.

Thousands of lives wasting away—
People living from day to day.
It was a challenge just staying alive
For in the ghetto, only the strong survive.

Broken down homes, kids strung out,
They don't even know what live's all about.

Muggings, drugs, rat-infested
And no one's interested.

It's an everyday thing in the ghetto.
It's an everyday thing in the ghetto.

Mr. President, in the legislation now before us we have the choice of condemning millions of American teenagers to the type of existence described in that song, or of giving them the opportunity to make for themselves the type of life I know all of us want for America's young people. The choice is clear. Pass a youth differential minimum wage.

Mr. President, I ask unanimous consent that an article by Prof. Yale Brozen and a column by George Will in the Washington Post on the effect of statutory minimum wages on youth employment be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

ANOTHER MINIMUM WAGE HIKE?

(By George Will)

Acting in its traditional role of tireless protector of the strong, the Senate is about to follow the House of Representatives in voting to increase unemployment among the nation's vulnerable workers—especially black teenagers.

The Senate will do this in the name of humanitarianism as it votes another increase in the minimum wage. The Senate probably will adopt the House bill, as against the administration's proposals.

The main arguments between the House and the administration concern whether coverage should be extended; how fast the minimum should rise to $2.20 per hour; and whether there should be a "youth differential," whereby anyone under 18 and full-time students could be paid 15 per cent less than the regular minimum wage.

The House, reflecting the position of organized labor, wants to extend coverage to domestic and government workers. It wants to go to $2.20 one year quicker than the administration (by 1974) and rejects the "youth differential."

The administration's proposals are less toxic than those of the House. But the really striking and depressing thing in both wings of the Capitol is that so few politicians—Sens. Peter H. Dominick (R-Colo.) and Robert Taft Jr. (R-Ohio) being honorable exceptions—acknowledge that minimum wage legislation usually is harmful to many of the people who are supposed to benefit.

I suspect that one reason economics is known as the "dismal science" is that it, unlike other social sciences, is sufficiently rigorous to occasionally reach clear conclusions that can interfere with political desires. Certainly today there is a remarkable consensus among independent economists about five matters relevant to minimum wage legislation:

Blacks suffer more than whites, and teenagers more than adults from sluggish job markets.

Minimum wage legislation makes it harder for blacks and teenagers to find employment in good times, and harder to hold jobs when times are not good.

White adult males benefit most from the effect of minimum wage legislation on lost job opportunities and increased job instability among blacks and teenagers.

There are more poor people whose poverty derives from unemployment than from holding jobs that pay inadequate wages.

While it is true that some workers are paid so poorly they must also draw welfare, it is equally true that raising the minimum wage will cause some of these people to become unemployed people on welfare.

None of these points is surprising. Minimum wage laws hurt marginal workers because their skills are least productive and most easily dispensed with. That is why it does not pay to pay them much.

Minimum wage legislation has a regressive cost-benefit distribution. It puts marginal workers in jeopardy while helping—not surprisingly—those who push hardest for such legislation, organized labor.

Of course, not all economists acknowledge this. The economists who work for organized labor deploy a lot of methodological arguments designed to show that the state of the economist's art is such that we can not know for sure who will be affected how by minimum wage legislation.

There are a couple of things to say about these arguments.

First, if the science of economics is not able to predict dismal results from such legislation, then it cannot predict good results. So we should err on the side of caution and leave bad enough alone.

Second, there is something suspiciously selective about the epistemological scrupulousness of organized labor's economists. When labor is lobbying Congress for laws to protect the republic from Italian shoes, labor's economists are remarkably confident about their ability to say just how many shoemakers will be booted into poverty by a given number of Italian shoes.

Organized labor wants a steadily rising minimum wage in order to raise the general wage floor, thereby giving an upward thrust to the negotiating position of unions that, one would have thought, were already powerful enough.

In addition, organized labor wants a high minimum wage enforced nationwide so there will be less temptation for industry to locate in poorer, low-wage (often non-union) areas. The fact that minimum wage legislation causes unemployment in some areas and hinders the growth of employment opportunities in other areas, of no concern to organized labor.

The only amusing thing about minimum wage legislation is that it, like most other things in American economic life, confounds the Marxist prophecy.

Marx said capitalists will always act so as to create a reserve army of the unemployed to use in grinding the face of organized labor. But today it is organized labor, with its racial discrimination, its apprenticeship programs restricting access to professions, and now, again, minimum wage demands that is swelling the reserve army of the unemployed.

THE EFFECT OF STATUTORY MINIMUM WAGE INCREASES ON TEEN-AGE EMPLOYMENT*

(By Yale Brozen)

The effect of increases in statutory minimum wage rates on employment appears to be an unsettled question. Economic theory tells us that there are two possibilities. If labor markets for skills affected by minimum wage changes are competitive, the number of jobs decreases with an effective rise in the minimum which is not nullified by inflation. If, on the other hand, the labor markets for the affected categories are monopsonistic, no unemployment necessarily occurs. Employment may increase, provided that the rise in the minimum is not too drastic.[1]

Economic theory, therefore, gives no answer to the question of the employment effect of a minimum wage rise. However, we now have some experience with increases in statutory minima at the national level as well as changes in minima in a large number of states. Minimum rates were set by the Fair Labor Standards Act of 1938 at $0.25 an hour with provisions for further increases to $0.40 an hour. The Act was subsequently amended to raise rates to $0.75 in 1950, to $1.00 in 1956, to $1.15 in 1961 and to $1.25 in 1963 (with lower minima in newly covered occupations to reach $1.25 in 1965). The most recent amendment to the act raised minima to $1.40 in February, 1967, with a further increase to $1.60 in February, 1968 (with lower minima in newly covered occupations scheduled to reach $1.60 in 1971 except for agriculture where the minimum is scheduled to reach $1.30).

This experience should make it possible to offer some appraisal of the employment impact of this legislation. The appraisal is not easy. Many forces have been at work influencing wage rates and job opportunities at the same time that changes in national minima have occurred. Real wage rates have consistently increased in the American economy for at least a century, judging by the available data.[2] They have continued to rise since the passage of the 1938 Act and its successive amendments as well as before 1938. Money wage rates have increased even more than real rates.

Given this circumstance, increases in national statutory minima, to the extent they had any effect, may simply have hastened increases in some wage rates which would have occurred shortly anyway. In that case, the employment effects may be transitory. Increases in employment or in unemployment, depending on whether markets are monopsonistic or competitive, would result for short periods and fade away with the normal progression of economic development.

Aggregate employment effects may also be transitory or fail to occur even if the labor market is competitive because the coverage of the minimum wage law is not universal. Persons losing jobs or unable to find jobs in covered employment, if minimum wage rates reduce the number of jobs available in covered occupations, can turn to the non-covered occupations where wage rates are free to adjust the rate of demand to the supply of people seeking jobs. There is some evidence of this occurring.[3]

TIMING OF WAGE INCREASES

Examining patterns of change in average wage rates in industries where minimum wage rate changes have had an effect, we find that the timing of wage rate increases has been influenced by the Fair Labor Standards Act. Average hourly earnings in the seamless hosiery industry in 1949, for example, were only 10 cents an hour above the $0.75 minimum established in January, 1950. Given the usual dispersion in wage rates, a fairly large proportion of seamless hosiery workers were earning less than 75 cents an hour in 1949. A rise in wage rates was forced for those workers in the industry whose rate was more than 10 cents below the average. As a consequence, an 11 per cent jump in the average occurred between 1949 and 1950. In contrast, average hourly earnings in all manufacturing rose less than half as much (by 5.1 per cent).

In the following three years, average hourly earnings in seamless hosiery continued to rise, but at a much slower pace. They rose at a 4.1 per cent annual rate between 1950 and 1953 for a total rise of 12.8 per cent. In contrast, average hourly earnings in all manufacturing rose at a 6.5 per cent annual rate from 1950 to 1953 for a total rise of 20.8 per cent. Thus by 1953, average hourly earnings in seamless hosiery apparently were about the same as they would have been without any rise in the statutory minimum.

The same pattern occurred in other manufacturing industries affected by the 1950 minimum. Wage rates in the industries with low average hourly earnings (not more than 25 cents above the new minimum) increased more than the average for all manufacturing when the new minimum went into effect (Table 1). In the following years hourly earnings went up much less in these industries than elsewhere. By 1952, their average wage rates had again come into approximately the same relative position they occupied in 1949 before the minimum was increased.

TABLE 1.—CHANGE IN HOURLY EARNINGS

A. 1949–52

S.I.C. No. and industry [1]	Hourly earnings 1949 [2]	Percentage change		
		1949–50 [3]	1950–52 [4]	Sum
2252—Seamless hosiery	$0.854	11.1	9.6	20.7
212—Cigars	.885	10.3	9.6	19.9
232—Men's and boys' furnishings	.919	8.8	8.0	16.8
2341—Women's and children's underwear	$0.980	7.2	8.5	15.7
Average increase		9.4	8.9	18.3
All manufacturing	1.379	5.1	13.9	19.0

B. 1955–60

S.I.C. No. and industry [1]	Hourly earnings 1955 [5]	Percentage change		
		1955–56 [6]	1956–60 [7]	Sum
2252—Seamless hosiery	$1.13	10.6	12.8	23.4
232—Men's and boys' furnishings	1.13	11.5	5.8	17.3
212—Cigars	1.19	8.4	11.6	20.0
2341—Women's and children's underwear	1.20	10.0	5.7	15.7
2391,2—Housefurnishings	1.25	7.2	8.2	15.4
2254—Knit underwear	$1.25	7.2	9.0	16.2
Average increase		9.2	9.8	18.1
All manufacturing	1.87	5.4	14.7	20.1

[1] Industries were selected whose average hourly earnings were within 25 cents of the new minimum.

[2] February 1949–January 1950 average monthly hourly earnings.

[3] Change from February 1949–January 1950 average to February 1950–January 1951 average.

[4] Change from February 1950–January 1951 average to 1952 average.

[5] March 1955–February 1956 average of monthly hourly earnings.

[6] Change from March 1955–February 1956 average to March 1956–February 1957 average.

[7] Change from March 1956–February 1957 average to 1960 average of monthly earnings.

Source: U.S. Bureau of Labor Statistics, Department of Labor Bulletin No. 1312–1, Employment and Earnings Statistics for the United States, 1909–60, at 317, 305, 334, 345, 353, 320 (1961).

The timing of wage rate increases when the minimum was raised to $1.00 an hour in March 1956 shows the same pattern (Table 1). Average hourly earnings jumped more in the low wage industries, and in the following years rose more slowly, than the average in all manufacturing. Again, average wage rates a few years later were approximately where they would have been if no increase in the minimum had occurred.[4]

The more recent minimum wage increases have followed each other more quickly than the 1950, 1956, and 1961 increases. Consequently, the 1961 increase to $1.15 was not fully digested when the $1.25 minimum went into effect in 1963 and the 1963 increase was not fully digested before the 1967 increase became effective (Table 2).

Footnotes at end of article.

TABLE 2.—CHANGE IN HOURLY EARNINGS

A. 1961-63

S.I.C. No. and industry	Hourly earnings 1961[1]	Percentage change 1961-62[2]	Percentage change 1962-63[3]	Sum
2238—Work clothing	$1.27	8.0	1.2	9.3
2252—All other hosiery	1.30	7.2	2.2	9.3
232—Men's and boy's furnishings	1.34	5.6	1.1	6.7
2015—Poultry dressing and packing	1.38	3.6	.7	4.3
2341—Women's and children's underwear	$1.40	4.1	−2.0	2.1
Average increase		5.7	.6	6.3
All manufacturing	2.29	3.4	2.5	5.9

B. 1963-66

S.I.C. No. and industry	Hourly earnings 1963[4]	Percentage change 1963-64[5]	Percentage change 1964-66[6]	Sum
2328—Work clothing	$1.39	6.1	4.7	10.8
2321—Men's and boy's shirts and nightwear	1.41	6.1	5.3	11.4
2252—All other hosiery	1.42	5.4	8.0	13.4
2341—Women's and children's underwear	1.43	7.8	6.5	14.3
2015—Poultry dressing and packing	$1.44	6.3	9.1	15.4
2327—Men's and boy's separate trousers	1.44	4.7	5.3	10.0
Average increase		6.1	6.5	12.6
All manufacturing	2.43	3.2	8.0	11.2

[1] September 1960-August 1961 average of monthly average hourly earnings.

[2] Change from September 1960-August 1961 average to September 1961-August 1962 average.

[3] Change from September 1961-August 1962 average to September 1962-August 1963 average.

[4] September 1962-August 1963 average of monthly average hourly earnings.

[5] Change from September 1962-August 1963 average to September 1963-August 1964 average.

[6] Change from September 1963-August 1964 average to 1966 average.

Source: U.S. Bureau of Labor Statistics, Department of Labor, Bulletin No. 1312-5, Employment and Earnings Statistics for the United States, 1909-67,

With the 1950 and 1956 increases, we must look at the short interval following their imposition to see their effect since the impact on the wage structure apparently faded within a few years. Inflation and rising productivity lifted wage rates to where they would have been in any case without increases in the statutory minimum. This is less true in the 1960's when step-ups in the minimum followed each other more quickly.

However, because of the variations in the timing of cyclical forces in the 1960's as compared to the 1950's, and the necessity of disentangling these effects, it is no easier to analyze the 1960's despite the lack of full digestion of the increases which occurred in the latter period. Changes in state minimum wage laws also confuse the picture.

An employment effect does stand out as an apparent consequence of the bunching of national minimum wage increases in the 1960's and the widened coverage of the Act, in this period, leaving fewer alternative occupations for those unable to obtain jobs in covered employment. The relative incidence of non-white teen-age unemployment rose to an unprecedented level in 1966 (Table 5).

EMPLOYMENT EFFECTS (TEEN-AGERS)

Since the overwhelming majority of workers have always had pay rates exceeding the minimum, most pay rates and most workers have not been affected by changes in the statutory minima. The effects have appeared primarily in the pay rates and, consequently, the employment of low skill workers. Also, effects on workers in disadvantaged areas of the country suffering from remoteness from markets and sources of materials and ancillary services have occurred.[5]

The largest single category of predominantly unskilled workers for which employment data is available consists of teen-agers. An examination of unemployment rates among this group in the month before an increase in the statutory minimum and in the month the increase took effect (for a majority of the month) indicates that the market for teenagers' services is competitive. That is, each time an increase occurred, teen-age unemployment rose (Table 3).[6]

Footnotes at end of article.

TABLE 3.—SEASONALLY ADJUSTED UNEMPLOYMENT RATES, 16-19 YEAR OLDS

	Teenage unemployment rate		Minimum wage	
	Percent	Raw datum	Covered	Not covered
January 1950	15.2	[1] (17.7)	$0.40	
February 1950	[2] 15.2	(17.3)	.75	
February 1956	11.4	(12.6)	.75	
March 1956	11.5	(11.4)	1.00	
August 1961	17.1	(13.8)	1.00	
September 1961	18.0	(15.8)	[3] 1.15	($1.00)
August 1963	16.1	(12.6)	1.15	(1.00)
September 1963	17.4	(15.2)	1.25	(1.15)
August 1964	16.7	(12.9)		($1.00)
September 1964	15.7	(13.7)		(1.15)
August 1965	13.9	(10.6)		(1.15)
September 1965	14.8	(12.8)		(1.25)
January 1967	11.1	(11.7)	$1.25	
February 1967	12.6	(13.2)	1.40	(1.00)
January 1968	11.3	(11.8)	1.40	(1.00)
February 1968	12.6	(13.3)	1.60	(1.15)

[1] Unemployment rate figure in parentheses is the raw datum not adjusted for seasonal influences. U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 13, at 10 (March 1967).

[2] Although the seasonally adjusted unemployment rate shows no rise from January to February 1950, an adjustment of the raw unemployment rate by the seasonal factors used since 1964 would have shown a rise in the seasonally adjusted rate to a figure in excess of 17.4 percent. The February 1966 raw unemployment rate of 11.7 percent, for example, becomes a seasonally adjusted figure of 12.1 percent according to U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 13, at 21 (March 1967) or 12.3 percent according to U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 14, at 25 (March 1968).

[3] Minimum wage figures in parentheses for 1961-65 are for jobs not covered prior to September 1961. Minimum wage figures in parentheses for February 1967 and for 1968 are for jobs not covered prior to February 1967.

Source: U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 14, at 25, 63 (March 1968); A. Howard Myers, Labor Law and Legislation 774, 805.

If the unemployment rate among teenagers *always* went up from month to month, this tabulation would prove nothing. However, it does not. In the twenty years covered by this available data, the month to month change was downward more than half of the time (123 downward changes, 111 upward changes, six no change).[7] The upward change in the months in which minima were raised occurs too often to be accounted for by the most improbable chance of accident or coincidence.

In addition to these immediate increases in unemployment among teen-agers in the month when new minima became effective, we also find a long term upward trend in the relative amount of unemployment among teenagers. This occurred despite a rising average level of education in this group and a declining participation rate. In order to eliminate cyclical effects on teen-age unemployment, we can look at periods of comparable cyclical positions such as 1948 and 1967 when the general unemployment rate was the same. In 1967, the teen-age unemployment rate was 40 per cent greater than in 1948 (and the participation rate was lower).

If we remove cyclical effects on teen-age unemployment by using the ratio of teenage to general unemployment, the 75¢ minimum imposed January 25, 1950, apparently caused a rise in the relative amount of teenage unemployment. The ratio rose from 2.2 in the year preceding the increase to 2.3 in the year following (Table 4). The effect was slight, in the year immediately following the increase, apparently being blunted by draft calls with the outbreak of the Korean war,[8] a decline in the teen-age participation rate,[9] and the narrowing of the coverage of the minimum wage provisions of the Fair Labor Standards Act. The effect of the March, 1956, increase appeared to be equally slight on aggregate employment although its influence was strong in forcing a shift to lower wage, non-covered employment.[10]

TABLE 4.—RATIO OF TEENAGE UNEMPLOYMENT INCIDENCE TO GENERAL UNEMPLOYMENT INCIDENCE, 1949-68

[Averages of monthly seasonally adjusted data]

12 months	Unemployment rates (percent)		Ratio	Minimum wage	
	Ages 16–19	General		Covered	Not covered
February 1949 to January 1950	13.9	6.2	2.2	$0.40	----------
February 1950 to January 1951	11.6	5.0	2.3	.75	----------
March 1955 to February 1956	11.0	4.2	2.6	.75	----------
March 1956 to February 1957	11.0	4.1	2.7	1.00	----------
September 1960 to August 1961	16.4	6.6	2.5	1.00	----------
September 1961 to August 1962	15.4	5.8	2.7	1.15	[1] ($1.00)
September 1962 to August 1963	16.4	5.6	2.9	1.15	(1.00)
September 1963 to August 1964	16.6	5.4	3.1	$1.25	($1.00)
September 1964 to August 1965	15.6	4.8	3.3	----------	(1.15)
September 1965 to August 1966	13.2	3.8	3.5	----------	(1.25)
February 1966 to January 1967	12.6	3.8	3.3	1.25	----------
February 1967 to January 1968 [2]	12.9	3.8	3.4	1.40	(1.00)
February 1968 to December 1968	12.7	3.6	3.6	1.60	(1.15)

[1] Minimum wage figure in parentheses is for jobs not covered prior to September 1961 and February 1967.

[2] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 14, at 25 (March 1968); id., 13, at 21 (March 1967); id., 15 at 53 (January 1969); A. Howard Myers, Labor Law and Legislation 774, 805,

Large effects on teen-age employment appeared in the 1960's when the minimum went from $1.00 to $1.25 and the coverage of the Act was broadened. Unemployment among teen-agers was 2.5 times the rate of unemployment in the total work-seeking population before the $1.15 minimum went into effect in previously covered occupations and the $1.00 minimum in newly covered occupations in September, 1961. In 1961-62, the year following the increase, the teen-age unemployment rate jumped to 2.7 times the general incidence of unemployment. The teen-age unemployment rate rose farther to 3.1 times the general incidence of unemployment in 1963-64 after the $1.25 minimum went into effect in previously covered occupations. This was a jump to an unprecedented level for the period covered by the data (Table 4).

Over the last eighteen years, the relative level of teen-age unemployment has increased, despite a marked decline in the participation rate,[11] and despite the usual decline in the years following the unemployment jump occasioned by an increase in the statutory minimum wage. Increases in the minimum are following too closely on the heels of previous increases with the result that one increase is not fully digested before another is enacted. Consequently, since the enactment in 1949 of the $0.75 minimum, the incidence of teen-age unemployment has increased more than 50 per cent (in relation to the general incidence of unemployment). Evidently, the market for teen-agers is competitive or the rise in the minimum has been too drastic.

IMPACT ON NON-WHITE TEEN-AGE EMPLOYMENT

The minimum wage has affected employment opportunities more for non-white teen-agers than for teen-agers in general. While the ratio of the incidence of general teen-age unemployment to general unemployment rose by 55 per cent from 1949 to 1967, that for non-white teen-age unemployment rose by 145 per cent (Table 5).

Footnotes at end of article.

TABLE 5.—RATIO OF NONWHITE TEENAGE UNEMPLOYMENT INCIDENCE TO GENERAL UNEMPLOYMENT INCIDENCE, 1949-68

[Averages of monthly seasonally adjusted data]

12 months	Nonwhite unemployment (ages 16–19)	Unemployment (general)	Ratio	Minimum wage	
				Covered	Not covered
February 1949 to January 1950	17.4	6.2	2.8	$0.40	----------
February 1950 to January 1951	14.8	5.0	3.0	.75	----------
March 1955 to February 1956	15.8	4.2	3.8	.75	----------
March 1956 to February 1957	18.1	4.1	4.5	1.00	----------
September 1960 to August 1962	27.4	6.6	4.2	1.00	----------
September 1961 to August 1962	25.3	5.8	4.4	1.15	[1] ($1.00)
September 1962 to August 1963	29.2	5.6	5.2	1.15	(1.00)
September 1963 to August 1964	28.4	5.4	5.3	$1.25	($1.00)
September 1964 to August 1965	26.1	4.8	5.4	----------	(1.15)
September 1965 to August 1966	26.5	3.8	7.0	----------	(1.25)
February 1966 to January 1967	25.1	3.8	6.6	1.25	----------
February 1967 to January 1968 [2]	26.3	3.8	6.9	1.40	(1.00)
February 1968 to December 1968	25.4	3.6	7.1	1.60	(1.15)

[1] Minimum wage figure in parentheses is for jobs not covered prior to September 1961 and February 1967.

[2] Not comparable with earlier data because of the exclusion from the unemployment count of those seeking future jobs and not currently available for work.

Source: U.S. Bureau of Labor Statistics, Department of Labor, Employment and Earnings and Monthly Report on the Labor Force 14, at 23 (March 1968); id., 13, at 21 (March 1967); id., 15, at 51 (January 1969); A. Howard Myers, Labor Law and Legislation 774, 805.

Non-whites are an increasing proportion of unemployed teen-agers. The ratio of the non-white teen-age unemployment rate to the white teen-age unemployment rate has increased by seventy-five per cent since 1949, rising from 1.3 to 2.3 (Table 6).

TABLE 6.—TEEN-AGE UNEMPLOYMENT RATIOS: NONWHITE WHITE, BOTH SEXES, 16 TO 19—1949-68

	Unemployment rate (percent)		Ratio
	Non-white	White	
February 1949–January 1950	17.4	13.4	1.3
February 1950–January 1951	14.8	11.2	1.3
March 1955–February 1956	15.8	10.2	1.5
March 1956–February 1957	18.1	10.0	1.8
September 1960–August 1961	27.4	15.0	1.8
September 1961–August 1962	25.3	13.9	1.8
September 1962–August 1963	29.2	14.9	2.0
September 1963–August 1964	28.4	15.0	1.9
September 1964–August 1965	26.1	14.2	1.8
September 1965–August 1966	26.5	11.6	2.3
February 1966–January 1967	25.1	11.1	2.3
February 1967–January 1968 [1]	26.3	11.0	2.4
February 1968–December 1968	25.4	11.0	2.3

[1] Not comparable with earlier data because of the exclusion from the unemployment count of seeking future jobs and not currently available for work.

Source: U.S. Bureau of Labor Statistics, Department of Labor Employment and Earnings and Monthly Report on the Labor Force 13, at 14-16 (March 1967); id 15, at 51 (January 1969); Manpower Report of the President 225, 237 (April 1968).

Despite relatively larger hidden unemployment prevalent in the non-white population, reported unemployment rates for non-white teen-agers moved to levels 80 per cent higher than white rates after the 1956 minimum of $1.00 was established. Following the application of the 1961 amendments to the Fair Labor Standards Act, reported non-white unemployment rates went to levels 130 per cent higher (1966). The 1967 increase pushed reported non-white rates to a level 140 per cent higher than white rates. Before 1956, reported non-white and white unemployment rates differed much less than they have since. For male teen-agers, they never differed by more than 20 per cent (Table 7). They now differ by more than 120 per cent.

TABLE 7.—REPORTED AND PARTICIPATION ADJUSTED INCIDENCE OF NONWHITE AND WHITE TEEN-AGE (16 TO 19) MALE UNEMPLOYMENT, 1948-67

Year	Nonwhite (percent)			White (percent)			Ratio	
	Reported incidence	Participation rate	Adjusted incidence	Reported incidence	Participation rate	Adjusted incidence	Unadjusted	Adjusted
1948	10.0			9.7			1.0	
1949	16.5	70.6		13.8	62.5		1.2	
1950	15.4	67.8	19.6	12.4	63.1	11.5	1.2	1.7
1951	9.2			8.0			1.1	
1952	9.1			8.9			1.0	
1953	8.2			8.0			1.0	
1954	14.2			13.5			1.1	
1955	13.7	62.0		11.2	59.9		1.2	
1956	15.3	63.0	13.9	10.4	61.6	7.5	1.5	1.9
1957	18.4			11.5			1.6	
1958	26.9			15.7			1.7	
1959	25.2			14.0			1.8	
1960	24.1			14.0			1.7	
1961	26.7	56.5		15.7	55.2		1.7	
1962	21.8	54.5	26.4	13.7	54.6	14.7	1.6	1.9
1963	27.2	53.1		15.9	55.1		1.7	
1964	24.3	52.2	25.6	14.7	55.0	14.8	1.7	1.7
1965	23.2	53.0		12.9	55.2		1.8	
1966	21.4	52.4	22.2	10.5	56.2	8.8	2.0	2.5
1967	24.0	52.0	24.6	11.0	57.0	9.7	2.2	2.5

Source: Manpower Report of the President 225, 237 (April 1968).

Of all groups, the non-white teen-ager has suffered most from the minimum wage in terms of employment experience. While the employment of white 14–19 year olds rose by 49 per cent between 1956 and 1966, non-white employment in this age group increased by only 19 per cent. The explanation is a complex one in which employment discrimination plays only a minor role.[12]

First, we must recognize that the employment qualifications of the average non-white teen-ager are inferior to those of the *average* white teen-ager seeking a job. His educational level is lower and he is a more costly worker to employ in terms of the supervision required. At the same wage, an employer will prefer the average white teen-ager to the average non-white teen-ager. Without a minimum wage floor, the non-white teen-ager could offset his disadvantages by working for less than the white teen-ager.

We are still left with a puzzle. White teen-age unemployment fell from 1955 to 1956 when the minimum was raised to $1.00 while non-white teen-age unemployment rose. Why did we not get a rise in unemployment in both groups?

To explain this we must apply the economics of information to the field of job-search. What probably happened was this. Jobs at, let us say, $0.80 to $0.90 were being refused in 1955 by many white teen-agers who expected they could find better paying jobs. Because they were taking the time to search for these better paying jobs and foregoing poorer paying jobs, their unemployment rate averaged 10.2 per cent. The jobs refused by white teen-agers were accepted by non-white teen-agers.

With the rise in the minimum wage to $1.00 on March 1, 1965, employers who had been offering, let us say, $0.80 had to offer $1.00 to workers filling these jobs if they did not eliminate them. At $0.80, only non-white teen-agers, let us say, had been willing to accept these jobs, white teen-agers choosing to search further. At $1.00, white teen-agers found these jobs attractive as those they expected to find by searching further. Their decrease in time spent searching meant a decline in their average duration of unemployment and a decline in their unemployment rate. The unemployment rate among non-white teen-agers went up probably because many of the jobs formerly left to them by white teen-agers were now filled as well as jobs which they might have found being destroyed by the wage increase.

Another factor in a role in the differential experience of white and non-white teen-agers in August-September, 1965 (when non-white seasonally adjusted teen-age unemployment jumped from 21.9 per cent in August to 28.3 per cent in September while white teen-age unemployment dropped from 13.0 per cent to 12.8 per cent). The change in coverage occurring as a result of the 1961 Fair Labor Standards Act Amendment was probably the major cause of this differential experience. Prior to 1961, black teen-agers unable to find jobs in covered occupations had increasingly occupied non-covered jobs. When many of their jobs were newly covered by the 1961 amendments at $1.00 an hour (a $1.15 minimum being applied to previously covered jobs), the relatively low minimum had little effect at that time or in September 1964 when it went to $1.15. The increase in September 1965, however, to $1.25 for these newly covered jobs where black teen-agers had previously found an entry to the labor force [13] produced a sufficient impact on the number of jobs available to non-white teen-agers to markedly increase their relative unemployment rate. Instead of their employment rate averaging only 80 per cent more than that of white teen-agers, as it had from September 1964 through August 1965, it soared to a level 130 per cent more in the following year.

Although the reported unemployment rates show the greater impact of the minimum wage laws on non-white teen-agers than on white teen-agers, these figures understate the difference. Many non-white teen-agers have been discouraged from even looking for jobs by the decrease in employment opportunities. White teen-agers may also have been discouraged, but not so much if we judge by relative movements of participation rates. They have dropped more sharply for non-whites than for whites.

After the minimum wage increased in 1950, the participation rate for non-white male teen-agers fell while that for white male teen-agers rose (Table 7). If unemployment rates are adjusted for changes in participation rates from the preceding year, the relative unemployment rate of non-whites shows a 40 percent jump in 1950 compared to 1949 instead of no change.

The participation rate for both groups increased in 1956 over 1955, but more for whites than non-whites. Again, this makes for a sharper jump in the adjusted relative unemployment rate for non-whites than is shown by the unadjusted figures.

Following the September, 1961, increase in minimum wage rates, participation rates for both whites and non-whites declined. The non-white male teen-age rate fell more sharply than the white rate. For the first time, it fell below the white rate and has remained below it since. If adequate data were available for adjusting unemployment rates for changes in participation rates,[14] non-white unemployment rates would undoubtedly show a much sharper rise relative to white unemployment rates than they do. The reported unemployment figures understate the magnitude of the unemployment effect of minimum wage rates on the non-white population.

CONCLUSION

Minimum wage statutes have increased the incomes of a few workers at the time of their imposition. These increases would have come anyway, in most cases, within two to five years. The wage rates of low paid employees in noncovered occupations [15] have been rising four per cent per year since 1949 despite the depressing effect of additional workers looking for jobs in this sector who have been forced out of covered jobs.

What successive amendments to the minimum wage statute have done is to jump rates in the year of application. Very slow rates of increase then occur in the following years. The total increase differs little between the industries affected by minimum wage increases in 1950 and those not affected in the longer period within which the 1950 minimum wage increase occurred. This was repeated in the case of the 1956 increase.

If all that happened as a result of the minimum wage statute was a change in the timing of wage rate increases, there would be little to concern us. However, in the interval between the time that the minimum wage is raised and the time that productivity and inflation catch up wih the increase, thousands of people are jobless, many businesses fail which are never revived,[16] people are forced to migrate who would prefer not to, cities find their slums deteriorating and becoming over-populated, teen-agers are barred from obtaining the opportunity to learn skills which would make them more productive, and permanent damage is done to their attitudes and their ambitions. This is a large price to pay for impatience.

FOOTNOTES

*This paper was originally presented at the annual Mont Pelerin Society meeting, Aviemore, Scotland, September 3, 1968.

[1] George J. Stigler, The Economics of Minimum Wage Legislation, 36 Am. Econ. Rev. 358 (1946).

[2] A. Rees, Patterns of Wages, Prices, and Productivity, in Wages, Prices, Profits and Productivity (1959); W. S. Woytinsky and associates, Employment and Wages in the United States (1953).

[3] Yale Brozen, Minimum Rates and Household Workers, 5 J. Law & Econ. 103 (1962).

[4] David E. Kaun finds the effects on the structure of wage rates still apparent five years after the 1950 increase in the minimum wage to $0.75 despite the return of average wage rates to their old relative position. That

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Footnotes at end of article.

is, a "bunching" of employees in the lowest wage interval (minimum plus five cents) had not disappeared five years after the increase in the minimum occurred. Economics of the Minimum Wage: The Effects of the Fair Labor Standards Act, 1945–1964, at 36 (unpublished dissertation, Stanford University, 1964).

[5] See, for example, Marshall R. Colberg, Minimum Wage Effects on Florida's Economic Development, 3 J. Law & Econ. 106 (1960).

[6] It has been argued that unemployment increases in the month the minimum wage rises from the month preceding because inventories are built to abnormally high levels before the minimum wage increase in order to beat the cost increase. However, this argues that additional employees are available at the previous wage below the minimum and, therefore, the labor market for low wage skills is *not* monopsonistic or the wage increase is too large. To minimize this effect, and to eliminate the effect of uncertainty in the appropriate seasonal adjustment to use in comparing month to month changes, annual data are used in the rest of this analysis. Estimates of the seasonal factor in unemployment series indicate serious bias in the seasonal adjustment factors used by the Bureau of Labor Statistics. John A. Brittain, A Regression Model for Estimation of the Seasonal Component in Unemployment and Other Volatile Time Series, 44 Rev. Econ. & Stat. 24 (1962).

[7] If a rising proportion of teen-agers in the workforce accounted for the rising unemployment rate we should expect a larger number of upward changes in unemployment rates in all the month to month changes rather than the large proportion occurring in the month of increases in national minima.

[8] White male unemployment among 18–19 year olds (the group subject to draft calls) declined from 14.2% (1949) to 11.7% (1950) while 16–17 year old unemployment rates remained at 13.4%.

[9] Among male teen-agers, labor force participation rates (including armed forces) declined from 52.3% for 16–17 year olds and 79.5% for 18–19 year olds in 1949 to 52.0% and 79.0% in 1950. Among female teen-agers, participation rates declined from 31.2% for 16–17 year olds and 53.0% for 18–19 year olds in 1949 to 30.1% and 51.3% in 1950. These declines were evidently the effect of discouragement of job seekers since participation rates in these groups rose in 1951 as the effect of the minimum wage increase was increasingly nullified by inflation. (The consumer price index rose by 8% from 1950 to 1951.)

[10] Yale Brozen, *supra* note 3, at 104.

[11] U.S. Bureau of Labor Statistics, Dept. of Labor, Bull. No. 1511, The Negroes in the United States: Their Economic and Social Situation 27 (1966).

[12] While the ratio of non-white to white teen-age unemployment rose from 1.8 (1956) to 2.4 (1967), the ratio of non-white to white employment in other age groups little affected by minimum wage rates declined from 2.4 (1956) to 2.1 (1967) for men and 2.1 (1956) to 1.8 (1967) for women.

[13] In February, 1963, 53% of non-white, 16-21 year old high school graduates who were employed full-time earned less than $49 a week (and more than half of these earned less than $40 a week) in contrast to 22% of white, 16-21 year old high school graduates. Among school dropouts, 82% of non-white, 16-21 year olds employed full-time earned less than $49 a week (and more than three-fourths of these earned less than $40) in contrast to 35% of white, 16-21 year old youths. See U.S. Bureau of Labor Statistics Bull. *supra* note 11, at 129.

[14] See K. Strand and T. Dernburg, Cyclical Variation in Civilian Labor Force Participation, 46 Rev. Econ. & Stat. 378 (1964) for a discussion of some of the factors influencing participation rates.

[15] Private household workers and agricultural employees.

[16] David E. Kaun, Minimum Wages, Factor Substitution and the Marginal Producer 79 Q. J. Econ. 478 (1965).

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. GOLDWATER. Mr. President, what the distinguished junior Senator from New York has been saying is very true, and it should have become obvious to everyone in the country years ago, particularly those leaders of labor who are behind this bill.

During a large part of my life, I was in business, and I employed people. We had occasion to employ many women—in fact, mostly women—in my business, and we employed young people in the summertime. With the advent of the first minimum wage, it became necessary either to eliminate these fringe jobs or to automate.

I think that any investigation at all will show that the minimum wage law has never accomplished its purpose. It sounds good; it has a great deal of political sex appeal; but, actually, when this bill passes, within 2 months after its becoming law, I estimate that at least a half million women and younger people will lose jobs in the retail industry. They will lose them because the retail industry can now automate almost completely. In fact, the retail industry can in effect do away with the so-called clerk or sales person, and we are slowly forcing them to do that.

Instead of creating new jobs, instead of bringing in more income, the minimum wage actually, throughout history, has decreased jobs and has not had a salutary effect upon wages. The minimum wage only starts a chain of increases which sometimes—many times—cannot be afforded in the business.

We sometimes forget that it is the intent of the American economic structure to provide profit. Without profit, there can be no growth; without growth, there can be no jobs. Without growth, there can be no future, particularly for younger people.

I like the amendment offered by the Senator from New York. I hope it is agreed to, although I am realistic enough to realize that it does not have too good a chance. It is a good amendment.

I think we would be wise in this body and the other body if we would forget the whole subject of minimum wage. I do not think any economist I have run into, liberal or conservative, makes much of a case for it. In fact, one can make a great case against it. To me, it is another upsetting device to our economy, an economy that already is in very serious trouble and danger because of the constant meddling by Congress.

As I say, while I will vote for the Senator's amendment, I am not overly enthusiastic about its chances. I congratulate the Senator for bringing this subject before this body. I hope the Members would listen sometimes to a little experience, some of it gained in a tough way.

Mr. BUCKLEY. I thank the Senator from Arizona for his illuminating remarks based on his personal experience.

Mr. WILLIAMS. I yield myself 5 minutes.

Mr. President, this subject has been before the Senate for 2 years, and we have debated it here on several occasions. It has been fully considered in the committee. Notwithstanding that, the Senator has every right, of course, to offer this amendment. It was fully expected that it would be offered again this year, as it was last year.

In the intervening year, we at the committee have been there to receive all petitions for and against all parts of this minimum wage bill. This youth subminimum proposal is one of the best known of the provisions considered under this minimum wage bill. Everybody knows there is a controversy as to whether young people should be employable at substandard wages. We had the vote last year, and we have the amendment this year.

In the intervening year, I have waited, and then I have inquired of those who are most concerned in an institutional and active way with the employment of youth and the problems of unemployed youth—the YMCA, the National Alliance of Business, the Junior Achievement Organization, the educational institutions that are under contract to develop skills in people in manpower programs. I have had only one petition from anybody who in an institutional way is concerned with youth employment and working at job opportunities for young people. It was from the State of California, and it was a manpower group. Their petition was that we not—I underline "not"—eliminate the certificate program.

My colleagues should know that we do not eliminate the certificate program that is designed to insure that when youth are employed, they are not displacing an adult in that job. We know where the support for this amendment is. We heard it last year. Our committee offices received phone calls from the people. The pleas are from those enterprises that prosper and profit from substandard wages. I think the largest industry that we hear from and hear from and hear from ad nauseum is the fast-food service business. They really want—and we know they want—a substandard wage for 6 months for 16-year-olds, 17-year-olds, and—under this amendment—some 18-year-olds. Six months on the carhop and out. And if a fellow has not reached 19, over to another carhop, 6 months and out.

This does not promote solid, wholesome foundations for life, and I say it earnestly to the Senator.

We have been over this with the lobbyists time after time. We have yet to hear the lobbyists for youth come in and make this plea for a lower wage for young people.

Mr. President, we have filled the hearing record of two Congresses, and the CONGRESSIONAL RECORD on this bill already, with voluminous statements and data on the matter of youth subminimum wages.

It is a highly emotional and sensitive issue. In my judgment, a youth differential that goes beyond the precertification program of the Secretary of Labor is fundamentally wrong.

I believe the economists who favor such a differential are wrong—they are as wrong as the proponents of yesterday's amendment to raise the minimum only 15 cents an hour.

These scholars who came before our subcommittee to tell why we need a youth differential oppose completely any minimum wage laws or any child labor regulations which limit employment. They don't differentiate. They say these restraints limit teenage employment, but they have no information on whether the proposals offered here would help in the least.

As a matter of fact, in private conversation, they question whether a 6-month measure for 16- and 17-year-olds would not have further adverse impact on the employment of youth. For example, at the end of a 6-month or fixed period, the employer would have an incentive to fire the youth and hire another one.

In addition, all of these economists deal with econometric models that play havoc with any notion of the real world—and if there are any doubts, I suggest to my colleagues that they look at page 140 of the hearing record and see if they can comprehend the formula used to show youth unemployment.

Mr. President, there are several other points that should be discussed on this subminimum matter.

To fully understand youth employment problems, it is essential to recognize that the teenage unemployment rate has always been higher than the national average for all workers.

This is because teenagers are new jobseekers, who often seek only part-time jobs, preferably close to home.

Out-of-school teenagers tend to have relatively high quit rates.

The youth subminimum wage is put forth as a solution to the critical youth unemployment problem.

The situation for the 16–17-year age group was deemed most "critical" by the proponents of the youth subminimum because their unemployment rate was highest.

The situation for the 18–19-year age group was deemed to be only "slightly less critical" because their unemployment rate was somewhat lower.

First, it should be noted that unemployment rates do not indicate the number of persons seeking jobs and that comparisons of rates may be misleading unless these rates are related to the sizes of the groups being compared.

In addition, the number of persons seeking full-time jobs is a more significant measure of serious unemployment than is the total number of unemployed.

Unfortunately, a comparison of unemployment rates for various groups in the labor force does not indicate the relative seriousness of the problems confronting these groups.

Not only is it clear that a subminimum wage is not the solution to the teenage unemployment problem, there is considerable doubt as to whether the problem being discussed is teenage unemployment or discrimination in employment because of race.

A few figures will help to show that the color problem overshadows the age problem.

Between 1969 and 1971 there was a 12 percent increase in white teenage employment but a 7 percent drop in nonwhite teenage employment.

In 1972, the unemployment rate for nonwhite teenagers was 31.7 percent; for white teenagers, 14.2 percent.

For nonwhite adults the rate was 15.9 percent. As reflected in these figures color is more significant than age.

Particularly striking is the fact that the unemployment rate in 1971 for nonwhite high school graduates was 35.3 percent as compared with 23.2 percent for white high school dropouts.

Even these few figures demonstrate that combining unemployment statistics for nonwhite and white teenagers and labeling the result a teenage problem, tends to disguise the real problem—discrimination in employment because of color.

In 1971, there were more than 6 million employed teenagers aged 16 to 19. This was 2 million more than in 1961 and represented a 50-percent increase over the decade. Teenagers held almost 8 percent of all jobs in 1971 as compared with 6 percent in 1961.

The single most important reason for the relatively high unemployment rate for teenagers is the dramatic 41-percent increase in the teenage population during the decade of the 1960's.

As far as teenagers are concerned, the decade of the 1970's should ease the problem.

In contrast to a 41-percent population growth of teenagers in the 1960's, a modest 12 percent is the outlook of the 1970's.

Actually, the rate of teenage unemployment was substantially higher a decade ago.

In 1963 the rate was 17.2 percent while in 1973 the rate was 15 percent.

Also, the teenage unemployment rate vis-a-vis the adult rate was better in 1972 than in any year since 1962.

While overall employment of teenagers was significantly higher in 1969 than in 1968 and continued to increase in 1970, 1971, and 1972 nonwhite teenagers lost jobs in both 1970 and 1971 and the modest increase in 1972 still left them substantially below the employment level of 1969.

The 1970 Labor Department study entitled "Youth Unemployment and Minimum Wages" states that when variables besides the minimum wage are taken into account, the effect of changes in the minimum wage upon teenage unemployment becomes "obscure."

Some of the major findings in this report are as follows:

In general, the most important factor explaining changes in teenage employment and unemployment has been general business conditions as measured by adult unemployment rate.

Not one of the local offices of the Employment Service—ES—cited the recent hike in the minimum wage or the extension of coverage under the Federal Fair Labor Standards Act as responsible for the change between June 1966 and June 1969 in the total number of nonfarm job openings available to teenagers, or which specified a minimum age of 16–19 years of age or 20 years old or over.

In nearly all of the States covered by the study, differential minimum wage rates applicable to youth, including exemptions, appear to have little impact on the employment of youth in 1969.

On the basis of our examination—with respect to foreign experience—however, it appears reasonable to conclude that wage differentials are less important factors than rapid economic growth, structural and technological shifts, national full employment, relatively low mobility rates, and the relative shortage of young workers.

A similar confluence of these factors in the American economy might well have similar effects on youth employment regardless of the wage structure.

Furthermore, experience following previous raises in the minimum wage does not show any connection between minimum wage levels and youth unemployment.

The amendment adding a blanket subminimum wage for young people below the age of 18 and for full-time students violates the basic objective of the act to establish an irreducible minimum wage base.

The amendment would also contribute to, rather than ease, the critical problem of unemployment because it would encourage the displacement of older workers.

By establishing a subminimum wage rate for young workers unrelated to the work they perform, the proposal discriminates against young people.

The Senate should reject the amendment as it rejected a similar proposal last year by a vote of 54 to 36.

The Senate certainly wants no part in legislating discrimination.

I yield the floor.

Mr. **BUCKLEY**. Mr. President, my understanding of the certification to which the Chairman of the committee refers is that this is a program for students. My principal concern is for those who have dropped out of school, and want to get into the job market but are denied that opportunity by minimum wages set at a level above the productivity of these young people.

I do not know about the 6-month cycle to which the chairman has referred. Perhaps it exists in some types of services. But, surely, in those 6 months, that young person will learn something about the importance of: turning up on time, accountability, pleasing the customer, and of following instructions. He will be better suited at the end of those 6 months, when he has good work credentials, to approach another employer and be worthy of a higher wage.

I would certainly suggest that that young person is not beter off sitting in despair and frustration in the middle of a ghetto on a hot summer night, wondering what to do with his time and future, seething in slow rage at what American society is doing to him.

Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, first, to set the general framework of reference in which we are debating this issue it is known, and we might as well say it since it is known, the surest way to wreck a minimum wage bill is on the youth differential, and this bill, similarly as last year's, will be wrecked on this issue if this issue becomes a rock in the river past which this ship must sail. That does not make us say, "You have to turn down every youth differential amendment." What it does lead to is the question, "Is it worth it?" In other words, if we are going to pass the Buckley amendment, is it worth the price we have to pay? If it is, we will pay it; but it is not, and it is not for this reason: This differential will not make the decisive difference in respect of youth unemployment.

The decisive difference in respect to youth unemployment seems to be discrimination on grounds of color, even though it is unlawful, because black unemployment is twice that of white unemployment for teenagers. It is also because of the deficiencies in manpower training and the lack of skill, which is attributable to lack of training. But present law allows learners and apprentices to have special minimum rates.

Not only would we not do anything decisive by reducing the rate for youth generally, which is what the Buckley amendment seeks to do, we would also open the door to its abuse, because as union labor fears and has for years, there will be a revolving door for youth employment at 15 percent less than the minimum wage and we will be depriving adults of job opportunities without doing the youth any good, adequate to compensate for the harm we would be doing generally.

Interestingly enough, the Buckley amendment is even tougher on the youth differential than the Dominick-Taft substitute, which was turned down yesterday. For example, the Buckley amendment puts no time limit on jobs at subminimum rates for 16- and 17-year-olds, how long they may be employed at lower rates, nor does it restrict 18- and 19-year-old students to part-time work. This amendment would cover full-time work, and so it merely increases the very danger which organized labor fears from this amendment.

Secondly, we lawyers have a doctrine called the doctrine of de minimis. What we are talking about here is a 15-percent discount. The 15-percent discount, in my judgment, and I have represented many employers in my day, does not make an employer determine that he is going to hire a teenager, unless he is really anxious to cut down his wage bill by hiring youths instead of adults. Whether it is put on the basis of wasting material or not doing the job adequately, in my judgment no businessman is going to run that risk for a 15-percent discount. If he can pay him $1.70 and he is a good worker, he will pay him $2. If he needs training, the law provides a differential already. All the Buckley amendment would do, then, is to open the door to unlimited exploitation.

This is essentially an open door to those who want to get a discount on the minimum wage for general business purposes, and not particularly because they want to employ youth.

Finally, we have all the studies made for years, which bear out the statement that this has no decisive effect. First, I invite the attention of Senators to the book which is on the desk of each Senator. I invite them to look at the background material on fair labor standards on page 240, which is a chart and it shows the effect on teenage employment by increases in the minimum wage. If Senators will look at the years before 1969, when there were even greater percentage increases in terms of the absolute minimum wage than this bill provides, youth employment improved rather than failed to improve. In the years 1969–71 youth unemployment worsened, but in those years there were no general increases in the minimum wage and there was a recession. At the very least, the overall employment statistics neither prove or disprove the fundamental thesis upon which this amendment is based.

In addition, the Labor Department has made some very important studies with respect to this situation. For example, in the 1968 manpower report of the President, a complete section was devoted to the problem of "bridging the gap from school to work." The excerpt to which I refer is at page 53 of the committee report on this bill. The very tenor of the report, which I beg Senators to read, is very important as bearing on this subject factually. The tenor of that report is that, again, there is no decisive effect in the minimum wage regarding the inducement to the individual employer to employ youths. As a matter of fact, what the Senate did, and it forced its will, I am happy to say, in the summer youth corps program, and what we will do in respect of manpower and manpower training, is infinitely more vital.

I cannot say any more than Senator BUCKLEY said—quite characteristically of him—that he cannot guarantee that no adult would be displaced by a youth who is employed. I cannot say that no youth will get a job which he would not otherwise have gotten unless we allow the 15-percent differential. But our problem is not the individual case. Our problem is the whole fate of the bill, and whether it is worth it for what this amendment asks us to do. Definitely, in my judgment, I come down on the side that it is not.

Mr. President, another study to which I wish to refer, and I have it before me and I would be glad to let any Senator examine it, is entitled "Youth Employment and Minimum Wages." It is dated 1970. Incidentally, that was a time when George Shultz, now Secretary of the Treasury, was Secretary of Labor. So there was no pro-labor bias involved.

The key finding is—

> It was not possible to adequately separate out the effects of minimum wage changes from other developments.

This is in respect of youth unemployment.

> A demonstrable relationship exists between minimum wages and youth unemployment rates, if other variables are excluded from the analysis, but when other variables, such as population and school enrollment changes are taken into account, the effect of changes in the minimum wage upon teenage employment becomes obscure.

Mr. President, I also wish to include in the RECORD an excerpt from an article on this same subject by Michael C. Lovell, in the December 1972 Western Economic Journal entitled, "Minimum Wage, Teenage Employment, and the Business Cycle," which, in essence, comes to the same conclusion.

Mr. President, I ask unanimous consent to have that excerpt printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

> To sum up, the proposition that the minimum wage materially affects the level of unemployment receives support provided one is willing to assert as part of the maintained hypothesis that the substantial increase in the teenage population relative to the rest of the labor force has not materially influenced the teenage unemployment problem; but this is a dubious proposition. An optimist can hope that as additional observations accumulate it may eventually be possible with more sophisticated simultaneous equation techniques to segregate adequately the effects of such factors. Pending the results of further study, it seems more reasonable to accept, tentatively and reluctantly, the null hypotheses that the minimum wage has no impact on teenage unemployment.

Mr. JAVITS. Mr. President, in short, the facts are such that the case for this differential is not strong enough to warrant the risk which the adoption of this amendment entails of killing the whole bill. The Senator from New Jersey (Mr. WILLIAMS) has made that clear. He and I have suffered through this situation for a very long time. I urge the Senate to reject the amendment.

Mr. BUCKLEY. Mr. President, I yield to the Senator from Ohio (Mr. TAFT) such time as he may require.

Mr. TAFT. Mr. President, I have listened with interest to the discussion of the amendment by the distinguished junior Senator from New York (Mr. BUCKLEY) and to the comments against the amendment by the ranking Republican Member, the senior Senator from New York (Mr. JAVITS).

The problem certainly is one on which there are broad differences of opinion.

I would like to start by expressing a mild difference of opinion with the senior

Senator from New York (Mr. JAVITS) on the failure of the minimum wage bill to pass last year. The implication I draw from his remarks is that the bill failed last year because it contained the youth differential. I suggest the bill failed last year because there was an unwillingness to agree to the youth differential. It was on the youth differential issue that the House refused to go to conference and would not back down.

So I would like to suggest, as a practical situation, that the situation has not improved this year.

I indicated earlier that I have great doubt as to whether this particular piece of legislation, in the form in which it now stands, will be signed into law by the President. I think it is desirable that we have minimum wage legislation this year, but the youth differential issue must be satisfactorily considered.

The distinguished Senator from New Jersey (Mr. WILLIAMS) has said, "Nobody has come in and lobbied in favor of a youth differential." Of course they have not. The 16-, 17-, and 18-year-olds, especially black youth of this age group, are not represented by any lobby group and have little political clout in the Congress. The figures on youth unemployment, however, continue to climb and there is a need to do something about the problem.

There have been discussions on various studies and statistics. I would like to call to the attention of the Senate the article which I introduced into the RECORD yesterday, and some of the facts contained therein. The article, entitled "Youth Unemployment—Time To Do Something About It," was developed by the Department of Labor in 1971, after studies in 1968 and 1970 on youth employment. This article was an excellent appraisal of the problem of youth unemployment and contains a number of arguments for a youth minimum wage. Among them are the following:

The ratio of the unemployment rate of 16- and 17-year-olds to the rate for those 25 years and older has risen from 3.7: 1, or 3.5 times in 1956, to 5.2: 1, or just 5 times in 1970.

As to the precedents in this connection, there has been talk about what institutions are in favor of it. I have always thought that an institution that was relatively close to the people was a State legislature. The youth training concept has already been embodied in 35 States, as of 1970. Eleven of these States provide for a youth differential for those under 18, and six States exclude those under a certain age from all minimum wage coverage.

It has also been said that there might be an adverse impact upon adult employment. This is an argument used strongly against a youth differential. The data shows that the number of 16- and 17-year-old nonstudents are quite small, both in relation to 16- to 17-year-old students and on an absolute basis.

The **PRESIDING OFFICER**. The time of the Senator from New York has expired.

Mr. **WILLIAMS**. Mr. President, I yield to the Senator from Ohio such time as he may need.

Mr. **TAFT**. I thank the Senator for yielding.

There has been a steady upward trend in the number of 16- and 17-year-olds in school.

In 1955, 77 percent were in school; in 1960, 83 percent; in 1965, 87 percent; as of October 1971, 3,639,000 16- and 17-year-old males were enrolled in school. Only 238,000, or 8.3 percent, were not enrolled in school.

For 16- and 17-year-old females, the figures were 3,463,000 enrolled; 441,000, or 11.3 percent, not enrolled.

Taken together, there were only 769,000, or 9.8 percent, of all 16- and 17-year-olds who were not enrolled in school.

Since large numbers of these nonenrolled 16- and 17-year-olds are now working, the dimension of the unemployment problem for youth, while severe, would not, I think, cause any real displacement of adult job opportunity, particularly when there are other nonwage barriers to the employment of 16- and 17-year-olds.

Support for a youth minimum can, I think, also be found from data in the BLS publication "Youth Employment and Minimum Wage, 1970," based on a number of BLS surveys.

There has been some comment as to the wage expectation of teenagers. The BLS study of wage expectations of teenagers included in the foregoing study found that in 1967, 47.5 percent of all unemployed white male 15- to 17-year-olds would accept $1.40 an hour or less; 51.1 percent would accept $1.40 to $1.99 an hour; and only 1.4 percent would work for only $2 an hour or more.

For nonwhite unemployed males, the figures were: 62.8 percent would work for less than $1.40; 32 percent would work for $1.40 to $1.99; and only 5.2 percent required $2 an hour or more to work.

Wage expectations for 15- and 17-year-olds was significantly lower than for 18- to 19-year-olds. For white 15- to 17-year-old males, the mean pay required to work was $1.32 an hour. For 18- to 19-year-olds, it was $1.68 an hour. For nonwhite unemployed 15- to 17-year-olds, it was $1.23; for 18- and 19-year-olds, it was $1.50.

While these wage expectations have, of course, risen over the last 6 years, I think it is fair to say that unemployed 15- to 17-year-olds' wage expectations are significantly lower than unemployed 18- to 19-year-old wage expectations.

Arguments have also been advanced against a youth training concept because of adverse impact on family income. Paying 16- to 17-year-olds less than the minimum wage will have little or no effect on family income. The BLS survey of youth employment found that less than 6 percent of all teenagers from 16 to 19 years of age contributed a significant share—25 percent or more—to family income. Only 9 percent of 16- and 17-year-olds in low-income families contributed 25 percent or more of family income, while the comparable figure for 18- and 19-year-olds from low-income families was 26 percent.

The figures I have just recited are the most current available and fly in the face of some of the figures that have been cited in various past articles. But I do not think we all have to be experts or statisticians to observe the truth of the fact that enacting a differential is going to increase opportunity or availability of employment for youth. I think that commonsense confirms that this is an idea that has a considerable degree of merit.

I again wish to read from a letter, which is contained in the minority views, from Gov. Andrew F. Brimmer, of the Federal Reserve Board, on this subject. Mr. Brimmer states, and I quote:

> Moreover, there is little prospect of relief in the immediate future: although the number of white teenagers entering the labor market in the 1970's will be substantially lower than during the 1960's, the black teenage population will continue its growth at the same rapid rate which prevailed in the 1960's. The result will be severe job-finding problems for minority group youth unless positive steps are taken.
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> * * * * *
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> Several developments over the last decade have contributed to the youth unemployment problem including the substantial expansion of the youth population. However, in citing various reasons, I do not think one should overlook the possibility that past changes in F.L.S.A. may have had an adverse impact on job opportunities for young people. A number of studies by economists have shown that the progressive extension of minimum wage coverage to retail trade and service industries may have had an adverse impact on teenage employment.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD an article entitled "Teenage Unemployment and Real Federal Minimum Wages," written by Douglas K. Adie of Ohio University.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TEEN-AGE UNEMPLOYMENT AND REAL FEDERAL MINIMUM WAGES

(By Douglas K. Adie)

A federal minimum wage was first enacted under the Fair Labor Standards Act of 1938 to raise the minimum standard of living without curtailing employment. This note examines the impact of the federal minimum wage on teen-age unemployment to see whether the intentions of the legislators were realized.

Department of Labor studies have been criticized elsewhere for suggesting that minimum wages have not reduced employment or damaged the "marginal firm."[1] Peterson (1957), for instance, demonstrated an employment effect from state and federal minimum wages using cross-sectional analysis. Kaun (1965) also found that low-wage industries tended to substitute non-wage factors of production for labor in response to increases in the minimum wage. Brozen's (1969) investigation showed that teen-age unemployment increased each time the fed-

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Footnotes at end of article.

eral minimum wage was increased. Except for Moore's (1971) article, however, studies have not measured the extent to which variations in minimum wages are related to variations in unemployment rates.[2] To guide policy makers, it is helpful to have some idea of the magnitude of unemployment responses to changes in the minimum wage rate. The present study provides estimates of the strength of this relationship for teen-agers.

MODEL

Economic theory suggests that the quantity of labor demanded will decrease and the quantity of labor supplied increase if a minimum wage is set above the market clearing wage. The extent of these effects depends on the discrepancy between the minimum wage and the market clearing wage and on the size of the elasticities. Because of union age requirements, statutory age requirements, and low skill levels, the market wage for a large proportion of teen-agers, particularly nonwhite teen-agers, is likely to be below the minimum. Hence, teen-agers will be more severely affected by minimum wages. However, since unemployed teen-agers drop out of the labor force to continue their education, the unemployment effect of federal minimum wages may be understated in the statistics.

To construct the model, consider a nonlinear demand for labor function,

$$D=aI^bX^c, \qquad (1)$$

where D is the quantity of labor demanded expressed in number of workers, I is an index of industrial production, a, b, and c are parameters, and X is the real minimum wage. The equality

$$S=dX^f \qquad (2)$$

is a nonlinear supply of labor function, where S is the number of workers offering their labor services and d and f are parameters.

From (1) and (2),

$$(S-D)/S=1-(a/d)I^bX^{c-f}. \qquad (3)$$

Since the unemployment rate, U, is expressed in percentage terms, $U=(S-D)/S\times 100$ and (3) becomes

$$U=100-100\ (a/d)I^bX^{c-f}. \qquad (4)$$

For downward-sloping demand and upward-sloping supply functions, $c<0$ and $f>0$, so $c-f<0$ and $\partial U/\partial X<0$. Using new parameters, (4) can be approximated by the following expression in log form:

$$\ln U_t=\alpha+\beta\ln I+\gamma\ln X, \qquad (5)$$

which is the basic form of the model.[3]

THE EXTENT OF UNEMPLOYMENT EFFECTS

The unemployment elasticities for the period January 1954 to December 1965 are listed in column 1 of table 1 with the standard errors in parentheses.[4] The most striking feature of these elasticities is that they are all positive. This implies that increases in teen-age unemployment in every category are associated with increases in the real federal minimum wage. Except for male white teens, all unemployment elasticities are significant at the 5 percent level.

	January 1954–December 1965	Predicted unemployment rates under hypothetical increases in minimum wage as of December 1965		Lag months			January 1954–September 1961	January 1954–September 1963
		1 percent	10 percent	8	16	24		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
All teens	.362	12.95	13.37	.454	.517	.596	.081	.227
	(.109)			(.118)	(.115)	(.105)	(.166)	(.142)
White teens	.270	11.13	11.39	.394	.504	.525	−.031	.093
	(.109)			(.109)	(.112)	(.108)	(.157)	(.137)
Nonwhite teens	.914	27.85	30.12	.810	.708	.873	.602	.837
	(.156)			(.179)	(.176)	(.148)	(.273)	(.211)
Male white teens	.118	10.91	11.03	.258	.370	.429	−.135	−.013
	(.089)			(.092)	(.097)	(.099)	(.130)	(.121)
Female white teens	.569	11.67	12.26	.562	.672	.596	.187	.367
	(.167)			(.176)	(.186)	(.176)	(.264)	(.208)
Male nonwhite teens	.883	23.30	25.14	1.010	.788	.834	.820	.857
	(.198)			(.206)	(.177)	(.158)	(.366)	(.276)
Female nonwhite teens	1.040	34.86	38.09	.688	.920	1,456	.442	.890
	(.171)			(.219)	(.253)	(.208)	(.269)	(.229)

It is interesting to compare the size of the elasticities for the different classifications of teen-agers, since they are intuitively consistent with each other. For instance, the unemployment elasticity for all teens is 0.362, so it is reasonable that the elasticity for white teens would be lower, and the elasticity for nonwhite teens higher, than 0.362. This is the case, as column 1 of table 1 indicates. The unemployment elasticity for white teens is 0.270 in table 1 while that for nonwhite teens is 0.914. This implies that changes in the federal minimum wage affect nonwhite teens more than white teens, which is to be expected. In fact, the impact on nonwhite teens is more than twice that on white teens.

Also, it is reasonable that the unemployment elasticity for white teens would be between that for male white teens and female white teens, which it is. In fact, while the elasticity for white teens is 0.270, the elasticities for male and female white teens are 0.118 and 0.569, respectively. Similiarly, the elasticity for nonwhite teens is between that for male and female nonwhite teens; more precisely, the elasticity for nonwhite teens is 0.914 while the elasticities for male and female nonwhite teens are 0.883 and 1.040, respectively.

Another interesting feature of the estimates in column 1 of table 1 is that the unemployment elasticities for male white teens and male nonwhite teens are both lower than the elasticities for female white teens and female nonwhite teens, respectively. But the unemployment elasticities for male white teens and male nonwhite teens are closer to the aggregate unemployment coefficients than are the elasticities for female white teens and female nonwhite teens, because there are relatively more males than females in the teen-age labor force for whites and nonwhites. Besides the statistical tests already referred to, these descriptive features add considerable credence to the estimates.[5]

To gain an appreciation for the extent of the unemployment effect of changes in the real federal minimum wage, consider columns 2 and 3 of table 1. Based on the unemployment elasticities in column 1, the unemployment effects of increases in the federal real minimum wage as of December 1965 for each teen-age labor force classification have been calculated for 1 and 10 percent changes in the minimum. For instance, consider the unemployment elasticity for all teens in column 1, which is 0.362. This means that for a 10 percent increase in the federal real minimum wage, the unemployment rate for all teens would increase by 3.62 percent of the prevailing rate. In December 1965, the unemployment rate for all teens was 12.9, so if the minimum were raised 10 percent in this month, the unemployment rate would increase initially by 0.47 due to this increase in the minimum wage. The new unemployment rate would then be 13.37, which is given in column 3. The unemployment rates in columns 2 and 3 were computed similarly. These calculations assume no change in the price level. Increases in the price level tend to erode the unemployment effect of changes in the minimum wage.

THE LAG STRUCTURE OF UNEMPLOYMENT EFFECTS

In this section the unemployment effects are determined after 8, 16, and 24 months by lagging the minimum-wage variable in equation (5). All the elasticities are significant at the 5 percent level and are listed in columns 4, 5, and 6 of table 1.

The elasticities show the same direction of change as the lag is increased from 0 to 24 months. The elasticities for all teens, white teens, and male white teens increase steadily as the lag is increased from 0 to 24 months. The elasticity for female white teens increases as the lag is increased from 0 to 16 months, then decreases as the lag is increased to 24 months. The elasticity for nonwhite teens decreases as the lag is increased from 0 to 16 months, then increases as the lag is increased to 24 months. The elasticity for male nonwhite teens increases, decreases, then increases again as the lag is increased from 0 to 8, 8 to 16, and 16 to 24 months, respectively. The elasticity for female nonwhite teens decreases as the lag is increased from 0 to 8 months, then increases as the lag is increased from 8 to 24 months.[6]

The remarkable feature of the lagged estimates of the unemployment coefficients is that even after 2 years the unemployment effects of a change in the federal minimum wage are quite substantial and in most cases greater than the immediate effect. The unemployment elasticity is greater than the initial elasticity after 24 months for all teens, white teens, male white teens, and female nonwhite teens. The elasticities for nonwhite teens and male nonwhite teens are slightly less than the 0-month lag estimates.

The general tendency for the elasticities for all teens, white teens, and particularly male white teens to increase as the lag is increased indicates the delayed response pattern of employers in adjusting their factor proportions to a change in relative factors prices—particularly the quantity of male white teens hired. Although the 0-month lag elasticities for white teens, and in particular male white

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Footnotes at end of article.

teens, are low relative to other teenage classifications, they display the largest percentage increase as the length of the lag is increased. For nonwhite teens, with much higher initial lag unemployment elasticities, most of the adjustment takes place within 8 months.

Since price changes have been accounted for by using real minimum wages, the slight decrease in the elasticity for male nonwhite teens and female white teens from their peak values after 24 months reflects productivity increases relative to the productivity of other factors. However, the slow rate of decline in the elasticities indicates that even for these groups, productivity increases quite slowly and significant unemployment effects persist after 24 months. Since the 24-month lag elasticity for all other classifications of teen-age labor is the maximum calculated, the unemployment effects of a change in the minimum wage for all other classifications also persist for a considerable time after 24 months. Since these unemployment effects assume a zero rate of inflation, a high rate of inflation could substantially reduce the length of time of the unemployment effect.

THE UNEMPLOYMENT EFFECTS THROUGH TIME

In this section the unemployment elasticities are investigated over three time periods: (1) January 1954–September 1961, (2) January 1954–September 1963, and (3) January 1954–December 1965. January 1954 was chosen as the beginning date because it is the first month for which unemployment data are available for the classifications of teen-age labor used in this paper. The terminal dates of periods (1) and (2), September 1961 and September 1963, coincide with changes in the federal minimum wage to $1.15 and $1.25, respectively, while the last date, December 1965, represents the last month for which the data were available. The results are listed in columns (1), (7), and (8) of table 1 and indicate that the elasticities increase steadily from periods (1) to (3).[7] Increased coverage, stricter enforcement of laws, and the availability of cheap substitutes in production may account for this trend. More work needs to be done before assessing these causes.

CONCLUSION

The results of this study indicate that (1) increases in the federal minimum wage cause unemployment among teen-agers; (2) the effects tend to persist for considerable periods of time; and (3) the effects seem to be increasing through time. This result is not surprising, since one of the fundamental difficulties with legislative attempts to alter the economic structure of the economy arises from the apparent inability of legislators to see the full social and economic consequences of their interference.

In conclusion, it appears that the minimum wage is responsible for a considerable amount of teen-age unemployment. To the extent that a minimum wage creates unemployment among minority-group teen-agers, it inevitably will exacerbate the social unrest in urban ghettos. With this information in mind, serious consideration should be given to reducing, or removing, the federal minimum wage for teen-agers.

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FOOTNOTES

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[1] For a discussion of Department of Labor Studies, see U.S. Department of Labor (1970, pp. 30–33). For criticism of Department of Labor studies, see Stewart and Macesich (1960).

[2] There are difficulties with Moore's (1971) specification of the real minimum-wage variable. It is not the *nominal* minimum wage in time $t—m$ deflated by average hourly earnings in time t that affects the unemployment rate in time t, as Moore's model indicates, but the *real* minimum wage in time $t—m$, which is the nominal minimum wage in time $t—m$ deflated by the average hourly earnings in time $t—m$. Also, the weights associated with earlier changes in the nominal minimum wages are constrained by his model to be larger than those associated with recent changes. This weighing pattern requires some theoretical justification, since it is not the nominal decay pattern. However, despite the misspecification, Moore's results still show significant teen-age unemployment effects of changes in federal minimum wages.

[3] I have used seven classifications of teen-age monthly unemployment rates, seasonally adjusted, supplied by the Bureau of Labor Statistics for the time period January 1954–December 1965. They are for the following teen-age groups, age 16–19; (1) all teens, (2) all white teens, (3) all nonwhite teens, (4) male white teens, (5) female white teens, (6) male nonwhite teens, and (7) female nonwhite teens. The symbol U_i is used to designate the ith classification of teen-age unemployment. Also, I have used the monthly consumer price and wholesale price indices supplied by the Bureau of Labor Statistics for the same period, designated P_c and P_w respectively. The seasonally adjusted total, manufacturing, and final product indices of industrial production were taken from *Federal Reserve Bulletins*, converted to a common base period, and detrended so as to measure only business fluctuations. They are designated I_t, I_m, and I_f, respectively. The federal minimum wage designated W_m has been expressed as a monthly series with changes occurring only in the month the changes went into effect. The real minimum wage X is W_m divided by a price index.

[4] The unemployment elasticity measures the percentage changes in the unemployment rate when the real federal minimum wage changes by 1 percent and is expressed in (5) by γ. The model discussed in the text uses the total index of industrial production for I and the minimum wage divided by the wholesale price index for X.

[5] Other specifications of the model were used with different independent variables. For instance, instead of deflating the nominal minimum wage by the wholesale price index, it was deflated by the consumer price index. Also, instead of using the total index of industrial production to remove business fluctuations, the indices pertaining to manufacturing and final products were used. By using these variables, four models were generated. An inspection of the Durbin-Watson statistics showed the error terms to be serially correlated. An adjustment with partial first differences raised the Durbin-Watson statistics to acceptable levels. See Theil and Nagar (1961) for a description of the technique. Of the 28 unemployment elasticities for January 1954–December 1965, only five were not significant at the 5 percent level. Models which used the minimum wage deflated by the wholesale price index yielded slightly higher elasticities for white teens while models using the minimum wage deflated by the consumer price index yielded slightly higher elasticities for nonwhite teens. The complete results are available from the author on request.

[6] For the specifications mentioned in n. 5, all 84 lag estimates of 8 months or more are significant at the 5 percent level.

[7] The same relationships exist between the elasticities estimated with the other specifications of the model mentioned in n. 5.

Mr. JAVITS. Mr. President, will the Senator yield me 2 minutes?

Mr. WILLIAMS. Mr. President, I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, the Senator from Ohio (Mr. TAFT) is a member of the committee and a man for whom I have very high regard. He made the point about the conference with the House, that the House would not go to conference because we had no youth differential provision, and they had a strong provision that is very similar to that proposed in the Dominick-Taft substitute.

However, that is not the case this year. The House passed a bill with a student provision not so far from ours that we cannot and should not negotiate. The House provision is in strong opposition to the Buckley amendment.

The House provides a new plan respecting certification by the Secretary of Labor. It does not have the base-year concept. It exempts every employer of four or less students from the precertification requirement. It only applies to those employees with over four.

What they have done is not by any means the youth differential. It is considerably different. They do not totally disregard the certification process. They do not bring in the 18 and 19-year-olds on a full-time basis with a youth differential.

So we are doing this year what we were not able to do last year. And we may never do it if we accept the amendment of the junior Senator from New York.

That is an additional and a very strong reason why the amendment should be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

Mr. BUCKLEY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (putting the question).

The amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TOWER. Mr. President, I call up my amendment No. 376 and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to read the amendment.

Mr. TOWER. Mr. President, first let me call attention to a printing error in the printed version of the amendment. On page 2, line 9, it should read "(2)" instead of "(12)".

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 5, between lines 21 and 22, insert the following:

"(2) The first sentence of such section 3(s) is further amended by—

"(1) striking out the words 'and beginning' in paragraph (1) of such section and inserting in lieu thereof 'during the period';

"(2) inserting after 'February 1, 1969' in such paragraph the following: 'through the fifty-ninth day after the date of enactment of the Fair Labor Standards Amendments of 1973'; and

"(3) inserting before the semicolon at the end of such paragraph a comma and the following: 'and beginning on the effective date of the Fair Labor Standards Amendments of 1973, is an enterprise or a gasoline service establishment whose annual gross volume of sales made or business done is not less than $325,000 (exclusive of excise taxes at the retail level which are separately stated)'.".

On page 5, line 22, strike out "(2)" and insert in lieu thereof "(3)".

Mr. TOWER. Mr. President, this amendment would increase the small business exemption for retail and service establishments from $250,000 to $325,000.

It should be noted that prior to 1961 all retail and service firms were exempt from the minimum wage provisions of the Fair Labor Standards Act. In 1961 firms with $1 million or more in gross sales were brought under the law. In February 1967, the exemption was lowered to $500,000 and 2 years after that to $250,000.

In the 92d Congress, the Senate Labor and Public Welfare Committee attempted to reduce this figure to $150,000 but it was deleted from the committee bill by a vote of 91 to 0.

Mr. President, this amendment is very much needed by the small business community in the United States. More than any other sector in the economy it is the small business community that is hurt the most by S. 1861.

There has been a lot of rhetoric in the Congress in the past few years about the evil of "big business" and the need to assist the small businessman and the family farmer. I cannot overemphasize the problems the small business community will face if S. 1861 is enacted in its present form. I introduced my substitute partially because of the terrible effect such a large minimum wage increase would have on small business. S. 1861 will, if enacted, result in closings of many small businesses all over the country, especially in the Midwest, the South, and the Northwest.

The argument put forth for the passage of S. 1861 is that such a large minimum wage increase is needed to restore the purchasing power of employees covered by the Fair Labor Standards Act. The proponents of S. 1861 state that a $2.20 minimum wage is required due to the rises in the consumer price index since the act was last amended in 1966.

The amendment raising the small business exemption to $325,000 is offered on that same theory. Using the Consumer Price Index to calculate the rate of inflation between February 1, 1969, and May 1973, approximately $307,000 would be needed to provide retail and service firms with the same degree of assistance as $250,000 did in 1969. Projecting the rate of inflation for the first 5 months of 1973 over the remainder of the year, this figure would increase to $318,750.

This information is confirmed by the Department of Labor. I ask unanimous consent that a letter from Mr. Benjamin Brown, Deputy Under Secretary for Legislative Affairs to me in response to an inquiry on this matter made by a member of my staff be printed into the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
Washington, D.C., July 13, 1973.

Hon. JOHN TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: This is in response to a request from Gary Lieber of your staff concerning the $250,000 gross annual volume sales test for enterprise coverage under the Fair Labor Standards Act. Mr. Lieber requested that the $250,000 be inflated to reflect the increase in the Consumer Price Index between February 1969 and May 1973 with the projection ahead to December 1973.

The Consumer Price Index in February 1969 when the $250,000 enterprise test went into effect was 107.1 and in May 1973 was 131.5. Assuming that the rate of increase for the seven months from May 1973 to December 1973 will be the same as it was for the seven months from October 1972 to May 1973, the projected Consumer Price Index for December 1973 would be 136.6. This assumption does not take into account the current price freeze or the Phase IV control program.

The percentage increase in the Consumer Price Index of 22.8 from February 1969 to May 1973 and the estimated increase of 27.5 from February 1969 to December 1973 would result in an enterprise test adjusted for these increases of $307,000 in May 1973 and $318,750 in December 1973.

I hope this information will be helpful. If there is anything further you need please do not hesitate to call me.

Sincerely,

BENJAMIN L. BROWN,
Deputy Under Secretary for Legislative Affairs.

Mr. TOWER. Mr. President, this amendment therefore is totally consistent with the past action of Congress in establishing and maintaining a business exemption under the Fair Labor Standards Act. It offers to the Senate an opportunity to maintain some equity of treatment for the small businessman. Surely, failure to adopt this amendment will represent a clear message to the small business community that we do not care about them despite our rhetoric to the contrary.

THE EXEMPTION IS CONSISTENT WITH CONGRESSIONAL POLICY

Over the last few decades Congress has recognized that small independent business has distinct problems and faces some forms of competitive disadvantage vis-a-vis the large corporations in the country. This extends to areas such as financing, advertising, and access to specialized talent and expertise. The Small Business Administration, the Senate and House Select Committees on Small Business and special considerations and exemptions, like the one contained in the Fair Labor Standards Act, represent congressional recognition of and action to rectify these inequities.

Unless my amendment is approved, I fear that the disadvantages small businesses face in the economy vis-a-vis larger establishments will widen greatly, resulting in that type of economic concentration that many Members of Congress feel has already reached an intolerable level.

INCREASING THE EXEMPTION WILL MAINTAIN JOBS

I feel that increasing the exemption will maintain jobs. Most small retail and service firms are labor intensive, making the effect of an increase in the minimum wage relatively large. Economic theory suggests that small firms will use less of the factors of production that become relatively more expensive, indicating that it might become difficult for some workers, especially part-time and the unskilled, to hold their jobs.

In support of this point, witness the results of a survey conducted by the National Federation of Independent Businessmen which shows that almost half of the businesses between $200,000 and $400,000 would reduce their labor force or the man-hours of its employees if they were required to increase the minimum wage to $2 or $2.20 an hour. Significantly, the firms that indicated that they would react by reducing their work force, also reported that over 20 percent of their cutback would impact on heads of households.

INCREASING THE EXEMPTION WOULD EASE THE INFLATIONARY IMPACT OF A RAISE IN THE MINIMUM WAGE

The labor-intensive nature of most small retail and service firms, which are rarely in a position, because of a lack of capital, to take advantage of laborsaving techniques, suggest that they would either have to reduce their work force or raise their prices to compensate for an increase in the present minimum. In fact, most could be expected to raise their prices even if many of them were in a position to reduce their employee payrolls.

To appreciate the impact of this action on consumer prices, we must keep in mind that these small businesses are at the end of the production and marketing chain and must deal with their increased labor costs on their own. If they are forced to increase their prices proportionally, these increases will show up immediately in the Consumer Price Index, adding to inflation and wiping out gains made by those marginally and unskilled workers who directly benefited by the minimum wage increase.

Increasing the small business exemption would tend to ease this inflationary pressure. It would give these firms more time to search for alternative solutions and possibly enable them to actually absorb more of the increase.

IMPACT ON SMALL BUSINESSES IN RURAL AREAS

While I believe this amendment is a positive response to the economic difficulties which will affect small business in all areas of the country, I believe it has special significance for rural America. The committee bill is based on the premise that there exists no economic differences based upon geographical classification in the country. It is simply not true that the economies of New York City and south Texas are relatively of equal character, let alone that they have any similar qualities at all. I know for a fact that many small businesses in the rural parts of Texas will have no alternatives at all if S. 1861 is enacted. The amendment I now propose at least gives many of these retail and service firms a chance of survival.

In summary, Mr. President, this amendment is based upon last year's unanimous endorsement by the Senate of the small business exemption under section 3(s) of the Fair Labor Standards Act. All it does is update the exemption in accordance with the Consumer Price Index—the same theory utilized by the proponents of S. 1861 for increasing the minimum wage by 37 percent.

It is an amendment seeking only equity in treatment for small businesses and moderate in the sense that it is only based upon increases in the Consumer Price Index from 1969 to 1973, instead of making the amendment applicable to projected increases in the CPI in 1974 when the $2.20 minimum wage under S. 1861 would go into effect.

I hope that the Senate has considered what I have said and will approve the amendment. I think our failure to approve it, Mr. President, would be tantamount to reducing the small business exemption, because the exemption as it now stands is in reference to 1969 dollars. So to be completely equitable we must follow the same theory that we follow in raising the minimum wage 37 percent by allowing the same 37-percent increase in the exemption for small businesses. To fail to do so would be to actually endorse what the Senate unanimously rejected last year in the attempt to reduce the exemption to $150,000.

I urge the adoption of my amendment.

Mr. JAVITS. Mr. President, I yield myself such time as I may require in opposition.

Mr. President, there are two central themes to the amendment. One is the central theme that we are only maintaining the exemption at its parity in depreciated dollars, and the second theme is that it is a necessary acknowledgment of differences in economic circumstances between small business establishments in different parts of the country .

The Senator from Texas (Mr. TOWER), if I got his words exactly, said, "We have the mistaken idea that there exists no economic differences," were his words, "between New York and, for example, the rural parts of Texas."

To answer that, first, we understand very well that there are those economic differences. That is why this minimum is not $3 or $3.50.

Mr. TOWER. Mr. President, will the Senator yield for a point of clarification?

Mr. JAVITS. I yield.

Mr. TOWER. What I said was that the bill apparently proceeds on that premise. I am not saying anyone automatically makes that assumption.

Mr. JAVITS. I appreciate that, but the bill does not proceed on that premise. We have established a national minimum which is the limit of decency and humanity. That is really what it comes down to, as far as we can see. If we were establishing a minimum, I suppose, for New Jersey or the industrial areas of New York, Michigan, Pennsylvania, or any other major State of the kind mentioned in the argument, we would set the minimum at what would be a realistic minimum, to wit, $3 or maybe more, based upon the requirements of living in those areas. But we are setting a national minimum precisely because we are selling a standard of decency, and we are setting a standard below which we do not want competition among States or among establishments.

So it seems to me, Mr. President, that that answers that argument. Our minimum must be tested by the base floor on a national level, no matter where it applies, and we believe that there we have sustained the burden of proof, and that it measures up.

Now, as to the particular fears involving small businesses: There is a $250,000 limit in terms of the applicability of the Fair Labor Standards Act to small businesses. There was strong sentiment in our committee to bring that down. It has been brought down progressively in earlier years. It was $1 million; and it is now down to $250,000. Mind you, we started way up, which would easily have taken account of the inflation Senator TOWER speaks of, but we have been bringing it down and down and down, because we believe workers in small businesses are also entitled to protection, and there are millions of workers involved. This little old amendment of Senator TOWER's will, the Labor Department advised us this morning, take 750,000 people out of the protection of the minimum wage, if the amendment passes—not put new ones in, but take them out. I doubt very much that Congress wishes to go that route.

So as I say, there was a lot of sentiment in the committee, Mr. President, to bring this figure down farther. It had been progressively reduced, and there was strong sentiment to bring it down to $150,000 as the new limit for a small establishment which would not be subject to the act. But that was rejected on the very ground Senator TOWER speaks of, to wit, that inflation really meant we were accomplishing, in substance, about what we wanted to accomplish, by keeping the figure at $250,000. That will obviously be nullified, Mr. President, if we adopt this amendment.

Interestingly enough, I have examined the letter which Senator TOWER has submitted on which he bases his figures, and I must say I find one interesting point in it. That is, the letter says that the estimate of the Department of Labor of the increase in the consumer price index for February 1969, which is the last time for which they have the figures, to December 1973, will be something in the area of 27 percent. It was 22.8 percent from February 1969 to May 1973. But it is estimated to be 27 percent instead of 22 percent. In short, an absolute rise of 5 percent in the intervening 7-month period. That is strictly an extrapolation but it bears on the figures.

The $325,000, is something like $18,000 in excess of the last ascertained figures is, according to this letter, $307,000 as the translation in May 1973, terms of the $325,000 figure. I only mention that because, obviously, the amendment has been pitched in the utmost upper range—to wit, well in excess of the Department of Labor estimates of the increase in the Consumer Price Index for December 1973.

But, Mr. President, the objection to the amendment, as I say, goes deeper. In summary, one, it takes three-quarters of a million workers out of minimum wage rather than putting new ones in. I cannot conceive of the Senate's doing that. Second, it fails to take into account the fact that we intentionally did not reduce the $250,000 figure, because we were giving a discount, as it were, to inflation. Third, because the absolute minimum we are setting, which will bind the retailers, is the national minimum conditioned on the lowest rather than the highest order of magnitude of what is necessary for a human being to survive in the country. Therefore, the disparity in the relative cost of living in different areas of the country has already been taken fully into account in bringing out this bill.

Also, my assistant reminds me that as this is on workers first covered in 1966, the rate of increase of the minimum wage goes up more slowly for them. It is $1.80 immediately and then it is $2 and $2.20. There is a year's lag for those particular workers. We feel that every equity has already been recognized in the bill.

For those reasons, Mr. President, I hope that the amendment will be rejected.

Mr. DOMINICK. Mr. President, will the Senator from Texas yield me some time?

Mr. TOWER. I yield to the Senator from Colorado such time as he may need.

Mr. DOMINICK. Four minutes will be enough.

Mr. TOWER. I yield 4 minutes.

The PRESIDING OFFICER (Mr. Hollings). The Senator from Colorado is recognized for 4 minutes.

Mr. DOMINICK. Mr. President, I rise in support of the amendment of the Senator from Texas. We discussed this in committee, and I got the general impression that the distinguished Senator from New York and the distinguished Senator from New Jersey are really in favor of putting everyone under the minimum wage regardless of the size of the business involved. We retained the $250,000 enterprise test in committee, but that does not mean we have accomplished what the Senator from Texas wants.

Let me get into this a little bit.

Since almost any firm grossing less than $500,000 is eligible for assistance under Small Business Administration guidelines, there is little doubt that small businesses are, indeed, what we are talking about and what the Senator from Texas is talking about. The importance of this sector of the economy can hardly be overestimated.

There are approximately 5.4 million small businesses in this country, accounting for 95 percent of all businesses, close to 50 percent of all employment, and roughly 40 percent of the gross national product.

A reduction in 1966 of the enterprise sales test from $1 million to its present level of $250,000 per year extended minimum wage overtime coverage to about 649,000 smaller firms. The last minimum wage increase for employees of those newly covered firms—at $1.60 per hour—went into effect only on February 1, 1971. Under the committee bill, they would be required to pay their lowest paid employee $2.20 per hour a little more than 2 years after enactment.

This is an extraordinarily high increase in just 2 years.

Inflation alone has already extended coverage to firms actually considerably smaller than those to which coverage was initially extended by the 1966 amendments, even though we have kept the $250,000 phase-in program.

Since the Consumer Price Index has increased 31.5 percent since 1967, a firm which grossed $250,000 in 1967 would gross $328,750 in 1973, without any real growth in sales at all. To put it another way, a firm which grossed $250,000 in 1967 is equivalent in size to a firm which grosses $171,750 in 1973.

The point is that if Congress retains the present $250,000 test for coverage of small business employees, inflation itself would operate soon enough to extend the coverage clear down to the "mom and pop" size firms.

That is really what the Senator from Texas is talking about. It is also what I am talking about. I have a great deal of difficulty, for example, in saying that the $250,000 enterprise test does not apply where one manufactures or produces any of his own products. So that a firm which is making, we will say, $50,000 in sales making ice cream and sells it to kids outside an amusement park, or whatever, would have to go under the minimum wage.

This makes absolutely no sense to me at all. I just cannot understand it. It would seem to me that although the amendment of the Senator from Texas does not hit that particular problem, if we could reach the problem of inflation with his amendment, we could then go on and do something about that other provision in the bill which is highly unacceptable insofar as most Senators are concerned, particularly if they have listened to this debate which, because of their other work, they are unable to do.

There is one other thing which I think is of interest in the committee bill, and I am very glad that the Senator from New York brought it up, and that is that for the first time we have been able to get all classifications of workers on the same plane with the new bill as opposed to the substitute which we put in which was defeated yesterday. We are splitting them again and saying to those under the 1966 coverage that they are second-class citizens because it will be 2 years before they catch up again. That makes no sense to me at all. If we are going to have them on the same plane now, why raise one group more than the other because they happened to be covered earlier? That makes no sense at all to me. But that is what the bill does.

So, all I can say is, we continue to hit this piecemeal to try to correct some of the defects. One of the things that can be corrected equitably and well would be adoption of the amendment of the Senator from Texas.

Mr. TOWER. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I just yield myself whatever time I may need. On the point the Senator from Colorado (Mr. Dominick) just made, that the bill does not treat all employees, those covered before and after 1966, the same, I might say that that has been the whole concept of minimum wage. We have always given the opportunity to agricultural employers, who are still behind the parade and, also, we have done it with respect to Puerto Rico, and we have done it, obviously, to retail and service employers, who were brought under the Act as one of the big changes in 1966. So there has been a traditional phase-in to give an opportunity so that that progress could be made.

I may say, too, that though I do not worship consistency, it is hardly consistent to make an amendment to raise the small business exemption and then to complain about the fact that we are giving small business a break. Be that as it may, the rationale for our action is the fact that traditionally this is the way in which the minimum wage structure and minimum wage legislation are adopted.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. DOMINICK. It is true, is it not, that all people who are now covered by minimum wage, prior to this bill, are now on the same minimum wage rate?

Mr. JAVITS. Except for agriculture. That has not yet caught up. All others are at the same rate. We have not raised the minimum wage for a rather long period of time.

Mr. DOMINICK. But at the moment they are on the same wage rate.

Mr. JAVITS. That is correct.

Mr. DOMINICK. Under the committee bill, that is changed, and two classes are created again, not just the newly covered but also the ones who have been previously covered.

Mr. JAVITS. We do not believe that we violate the principle we have always followed, which is to give an opportunity for the catch-up, which we are doing in respect of these small business establishments.

Mr. DOMINICK. This is not a catch-up in that respect. One group is just being raised more than another. If we were applying the differential to the people who are newly covered under this bill, that might be one thing, but we are not doing it.

Mr. JAVITS. We believe that this gives the bill an attractiveness because it is in accordance with the policy we have followed. I realize that the Senator does not like what we have done, and naturally he would like us to do something perhaps a little less attractive; but in this respect, so far as Senator Williams and I are concerned, we will not.

Mr. WILLIAMS. Mr. President, the net effect of this amendment, unbelievably, would take out from coverage under the minimum wage provisions of the law 750,000 workers. Close to 1 million workers would lose the protection if this amendment should prevail. Certainly, that is not what the Senate should be doing at this date.

I yield back the remainder of my time.

Mr. TOWER. Would the Senator from New Jersey like to reserve the remainder of his time?

Mr. WILLIAMS. I have yielded it back.

Mr. TOWER. Mr. President, it should be noted that S. 1861 removes the exemption for retail and service establishments that have gross sales under $250,000, but which are part of a chainstore operation. The reasoning for this exemption is that these stores are vital to their individual communities and that the repeal of the exemption would have the effect of encouraging the chains to consolidate.

I do not support the repeal of this exemption. I think that it will further erode the position of small business in our economy. However, my amendment increasing the small business exemption does, not strike the chainstore repeal language in the bill. It affects only the gross sales enterprise exemption under section 3 of the act.

During last year's debate on the amendment to retain the $250,000 exemption by the Senator from Vermont, Mr. Stafford, the distinguished chairman of the Labor and Public Welfare Committee, Mr. Williams, made the important point that with the inflationary forces at work, the small business gross sales exemption was being reduced without Congress taking any affirmative action on it. On the small business exemption, he made the following point:

> We all know the struggles of small business, for a variety of compelling economic reasons. I have come to the point where I regret some employees will not be covered whom I would like to see covered but, on balance, this is, I believe, a wise answer and is in the best interests of the country.

I think those were words of great sagacity on the part of the Senator from New Jersey, and they are as true today as when he spoke them last.

The amendment I have proposed today is consistent with this responsible statement by the distinguished chairman. Taking inflation into mind, the small business gross sales exemption is equivalent to only $193,000 in May 1973 dollars and will be worth only $181,000 by the end of this year.

This amendment is designed to assist the mom-and-pop stores in our communities. Unless these small businessmen and businesswomen are given the relief called for in this amendment they will certainly not be able to compete with the much larger enterprises. I do not think the Senate wants to go on record as increasing economic concentration at the expense of the small business community.

Mr. President, the principal objections to the minimum wage bill do not come from big business. They come from small businesses. I have not had one big business or big businessman complain to me about the minimum wage. It has always been the small businessman. We are seeking to punish him now by in fact reducing his exemption from the effects of this bill.

We talk a great deal about small business; we have all sorts of legislation designed to help small business. We are now getting minorities into the mainstream of American business, through the Office of Minority Business Enterprise. We are punishing these ethnic minorities that are just coming into the mainstream of American business by making them liable to the provisions of this act.

So let us just note that in spite of all we are doing for small business, we are engaging in the hypocrisy of reducing their exemption so far as the applications of this minimum wage bill are concerned. Believe me, it is going to result in unemployment. I have already seen it happen with previous minimum wage legislation. Small businesses are going to close; more people are going to be unemployed.

There seems to be somewhat of a relationship between the minimum wage in various sections of the country and the unemployment rate. The minimum wage in New York is $1.85; in Texas, it is $1.40. We have 2 percent less unemployment in Texas than in New York.

Of course, the cost of living is much lower in Texas, and the people who make these lower wages probably live as well as the people who make higher wages in the more congested areas of the country.

But things are not similar, and I do not think we should paint small business with the broad brush of the $250,000 exemption, which is going to work an extensive hardship on small business in my State and in other States, and it is going to result in more unemployment.

I am glad the unemployment rate in my State is 2 percent below the national average, and I want to keep it there. Therefore, I believe this small business exemption should be raised in terms of 1973 dollars.

Mr. **WILLIAMS**. I yield myself a couple of seconds on the bill.

Mr. President, what I said last year was in response to an effort by the Senator from Vermont to amend the bill that was before us which had $150,000 as the test. The Senator from Vermont wanted to return it to the level of law, to amend the bill to bring it back to $250,000, which was the level of the law. My hope, as I introduced the bill last year, was that we would reach out and bring more under coverage. I recognized that that was not to be last year.

But the arguments then, about going back to $250,000, was quite different from the arguments now, when, by this amendment, we would reach out and say to almost a million people that we are going to take the protections of the law away from them.

I appreciate the reference to last year, but it certainly does not apply when you are taking coverage away, and that was not what we were doing last year.

Mr. **TOWER**. This expressed my thought, but I wanted to give credit to the author of the thought, the Senator from New Jersey, who has said many wise things on this floor. I think he enunciated what might be called an eternal verity when he made that statement. I have often followed his leadership, and I am glad to follow it in that particular instance.

I yield back the remainder of my time.

The **PRESIDING OFFICER**. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **ROBERT C. BYRD**. I announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. **GRIFFIN**. I announce that the Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The result was announced—yeas 37, nays 61, as follows:

[No. 304 Leg.]

YEAS—37

Baker
Bartlett
Bennett
Brock
Buckley
Byrd, Harry F., Jr.
Church
Cook
Cotton
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fulbright
Goldwater
Gurney
Hansen
Hatfield
Helms
Hollings
Hruska
Long
McClellan
McClure
McIntyre
Packwood
Roth
Saxbe
Scott, Pa.
Scott, Va.
Stafford
Thurmond
Tower
Young

NAYS—61

Abourezk
Aiken
Allen
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Clark
Cranston
Eagleton
Fong
Gravel
Griffin
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McGee
McGovern
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Sparkman
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NOT VOTING—2

Stennis
Stevens

So Mr. TOWER's amendment (No. 376) was rejected.

Mr. **JAVITS**. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. **WILLIAMS**. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT ON S. 372, RELATING TO THE EQUAL TIME REQUIREMENT OF THE COMMUNICATIONS ACT

Mr. **MANSFIELD**. Mr. President, the Senate is aware of the fact that we hope it will be possible to maintain the pace today and tomorrow of the first 3 days, and if we can achieve what has been outlined in the notices sent out by the whip, we would not anticipate a session this Saturday. However, after this week we have only 2 weeks remaining to consider a great deal of important legislation, not the least of which is Calendar 291, S. 372, a bill to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement, and so forth.

Mr. President, we would like to get to this measure early next week, and I would like at this time, with the approval of the Senate, to propound a unanimous-consent request.

I ask unanimous consent that when S. 372 is called up, there be a time limitation of 4 hours on the bill, 1 hour on amendments, one-half hour on amendments, motions, and so forth.

The **PRESIDING OFFICER** (Mr. McGEE). Is there objection?

Mr. **NELSON**. Mr. President, reserving the right to object, I have one amendment that is a consolidation of other amendments. It is quite detailed and has quite a few elements in it. I would like to reserve an hour and a half on a side for that amendment. Probably we will not use all of that time, but it has a lot of detail in it. It is not one simple amendment.

Mr. **KENNEDY**. Mr. President, reserving the right to object, there was an amendment which I had intended to call up with the distinguished minority leader (Mr. SCOTT) on questions of public financing of campaigns. I would hope we might have 2 hours on that amendment.

Mr. **SCOTT** of Pennsylvania. Mr. President, I would agree with that.

Mr. **KENNEDY**. Mr. President, continuing to reserve the right to object—and I shall not object—with respect to working this matter out, if the minority leader felt we needed additional time, I am reminded by a colleague that perhaps it is a matter which should take additional time. I have never been one to draw out the debate, but it is an extremely important and sensitive matter. Perhaps 3 hours——

Mr. MANSFIELD. Mr. President, I wish Senators would keep in mind that there are 4 hours on the bill, if this request is agreed to. If we start avalanching, we may as well have no time limitation at all. The purpose is to try to face up to our responsibilities on a limited-time basis in view of the fact that we will be in session only 2 more weeks before we go out for 4½ weeks.

Mr. KENNEDY. Mr. President, I do not want to object to an agreement, but I feel compelled to on a matter which I think is of such importance in regard to this legislation and I think generally to the Nation's good. I do not think asking for this kind of time, 2 hours, is unreasonable. I think it is absolutely essential.

Mr. President, I feel compelled to object to a time limitation.

Mr. MANSFIELD. Two hours?

Mr. SCOTT of Pennsylvania. Mr. President, I would agree to a 2-hour limitation, provided we could get some time on the bill

Mr. KENNEDY. That will be satisfactory to me if we could get 2 hours, and hopefully if we would need additional time, the manager of the bill and other Senators would feel that we could get some additional time.

I have one other amendment which may or may not be offered. It relates to the question of registration. I have not had the time to go over the matter with the distinguished chairman of the Post Office and Civil Service Committee, the Senator from Wyoming (Mr. MCGEE), now occupying the chair, who has been one of the most active Members on the question of registration. But I would also want a reasonable limitation on that amendment if it is offered. I would not want a unanimous-consent agreement which contains a provision on nongermane amendments to prevent the Senate from considering such an amendment.

Mr. MANSFIELD. Mr. President, it is my understanding that the distinguished Senator from Oklahoma (Mr. BELLMON), the distinguished Senator from Colorado (Mr. DOMINICK), the distinguished Senator from Alabama (Mr. ALLEN) and the distinguished Senator from Massachusetts all have amendments which may not be considered to be germane. I would include them in the request because we know of them at the present time.

Mr. JAVITS. Mr. President, would the distinguished majority leader put me on that list, too, for one amendment?

Mr. BAYH. Mr. President, if the Senator would yield, I would also want consideration in the unanimous-consent request.

Mr. KENNEDY. Mr. President, we would be protected by the request to permit the consideration of these amendments.

Mr. MANSFIELD. Yes, indeed, as long as we know of them ahead of time. That applies also to the distinguished Senator from New York (Mr. JAVITS).

Mr. SCOTT of Pennsylvania. Mr. President, I take it that the 1 hour limitation for amendments would include one which I will probably offer, Calendar No. 292, Senate Joint Resolution 110, to establish a nonpartisan commission on Federal election reform.

Mr. MANSFIELD. Yes, indeed.

Mr. SCOTT of Pennsylvania. Mr. President, I want the Senate to know that we might well try to dispose of that measure on this bill.

Mr. MANSFIELD. That would be included.

Mr. TUNNEY. Mr. President, I have a few amendments to the bill. I have not had the opportunity to check them as to their germaneness. If we enter into a unanimous-consent agreement, I would like to be protected on my amendments.

Mr. MANSFIELD. The distinguished Senator from California (Mr. TUNNEY), the distinguished Senator from Indiana (Mr. BAYH), the distinguished Senator from Wisconsin (Mr. PROXMIRE), the distinguished Senator from California (Mr. CRANSTON), and the distinguished Senator from Florida (Mr. CHILES) would also be included.

Mr. HUMPHREY. Mr. President, I will have at least one amendment that may not fall within the germaneness rule.

Mr. MANSFIELD. The distinguished Senator from Minnesota (Mr. HUMPHREY) would also be included.

Mr. HARRY F. BYRD, JR. Mr. President, I would also like to be considered.

Mr. MANSFIELD. The distinguished Senator from Virginia would also be included.

Mr. PASTORE. Mr. President, if the Senator will yield, I think we are getting overly excited. The real struggle will be in the conference. I have a premonition that this bill will hit a stone wall when it gets to conference. Let us not get too excited this afternoon. As far as I am concerned, the Senate can take all the time it wants. I think that we will be in conference until the next election.

Mr. SCOTT of Pennsylvania. Mr. President, the Senator from Rhode Island and I happened to be very patient in that conference.

Mr. PASTORE. The Senator from Pennsylvania will remember the time we spent and the agony we suffered.

Mr. SCOTT of Pennsylvania. I do, and I intend to be more insistent on certain relevant provisions this time than last.

Mr. PASTORE. That is correct. So we can come back with nothing.

Mr. SCOTT of Pennsylvania. I hope not. I hope with reason to convince the conferees from the other body.

Mr. PASTORE. I hope that all members of the conference will agree with the manager of the bill in conference and will stay there every minute that the bill is discussed, because this is an important bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Several Senators addressed the Chair.

Mr. CRANSTON. Mr. President, reserving the right to object, pursuant to the remarks of the distinguished Senator from Massachusetts regarding time on the bill for a discussion of public financing, a number of Senators are very interested in the concept of public financing and the need for public financing.

We recognize that there have not been hearings on the bill. It is a topic that involves a very important and very complicated matter that should go through the hearing process before there is an effort to legislate on the floor. Therefore, after talking with the Senator from Nevada (Mr. CANNON), chairman of the Committee on Rules and Administration—and I have also conferred with the Senator from West Virginia (Mr. ROBERT C. BYRD) on this matter—we do not propose to offer amendments in regard to this bill, and push them, on public financing; at the same time we do want adequate time to make plain that, good as the bill is, we hope that we can make it better before the Senate is done with it.

We do want to make it plain that this is not the answer to all problems. Probably there is no answer to campaign financing, but public financing is one serious aspect we should follow through. For these reasons, those who are interested feel we need somewhat more than 2 hours. I had thought in terms of 4 hours. I would be delighted to have 3, because I do think we need that much time to discuss the subject.

Mr. MANSFIELD. Why not make it 6 hours on the bill?

Mr. CRANSTON. If we could be assured of 3 hours, I would be satisfied.

Mr. PERCY. Mr. President, just so that there will not be any implication that all the amendments are going to be offered from one side of the aisle, I should like to notify the manager of the bill that the senior Senator from Illinois will have two amendments, and that a limitation of 1 hour, 30 minutes to a side, will be adequate.

The PRESIDING OFFICER. The Chair is not clear as to whether these are germane amendments.

Mr. MANSFIELD. With the exception of the amendments noted.

Mr. TAFT. It would seem to me that the unanimous-consent agreement should not be limited to germaneness. We now have about 20 Senators who will offer nongermane amendments.

Mr. MANSFIELD. No, I do not think so, because Senators have been notified. We do send out notices on the hotline.

Mr. TAFT. I appreciate that.

Mr. MANSFIELD. If the Senator will just indicate he has such an amendment, we will seek to give it consideration. I think we have gone along well in trying to work out an accommodation. I would hope that the Senate would be a little forebearing and help the leadership to achieve its objective at this time.

Mr. TAFT. I appreciate the majority leader's position and I will introduce an amendment.

Mr. MATHIAS. The Senator from Illinois (Mr. STEVENSON) and I have sponsored 10 amendments. We have another one in preparation. I would hope that the leadership would not propose a terminal date, in view of the very large interest in the matter.

Mr. MANSFIELD. The leadership has no such intention at this time. Certainly things would have to be shaken down a lot more before we even begin to consider that.

Mr. MATHIAS. The Senator from Illinois (Mr. STEVENSON) and I also have other amendments, not only those which are germane to political contributions. I ask that they be excepted from the rule of germaneness, as well.

Mr. STEVENSON. Mr. President, section 615 of S. 372 proposes limits on the amounts that may be contributed by individuals to campaigns.

It raises very important complications. The Senator from Maryland (Mr. MATHIAS) and I have one amendment to that section which would propose a lower amount for contributions. I wonder, because it is an extremely important, complex question, whether the leadership would be inclined to amend the unanimous-consent request to extend the time on section 116, dealing with personal contributions to committees. I wonder whether the leadership would amend that request to provide 2 hours.

Mr. COOK. Mr. President, reserving the right to object——

Mr. MANSFIELD. May I point out that there are 6 hours on the bill itself, and it would be my belief that the distinguished Senator, for that particular amendment, would be able to get the time needed, and I would hope we could reach some accommodation which could give us some hope of facing up to this most pressing problem and doing it in the context of the time period left.

Mr. HART. Mr. President, reserving the right to object, if I may add a comment to the majority leader's suggestion, as I understand the unanimous-consent request, the time would be limited to 1 hour on each amendment and 6 hours on the bill. The Senator from Illinois is expressing a concern a number of Senators have with respect to section 615, embodying a limit on individual contributions and the role to be permitted to political committees. That really, in the minds of some, will require a substantial period to develop.

The Senator says to take that out of the 6 hours; but there are others who want to have a very thorough discussion, and I think the country does, of publicly financing political campaigns.

Mr. MANSFIELD. If the Senator will yield there, may I say I happen to be a cosponsor of his proposal. May I say also that to the best of my knowledge in recent years the full time allocated on the consideration of the bill itself has never been used, and if we get down to a point where more time is needed, I can assure the Senator it will be forthcoming.

Mr. HART. Mr. President, I think we can anticipate, even now, that given the concern of some as to section 615, in spite of the majority leader's assurance—the Senator from Michigan, though interested in public financing, is not the one who has planned a rather full discussion on it; but we know now, given just those 2 hours, that the likelihood is very great that more than 6 hours will be needed on the bill. Might it not be better to either assign substantially more than 1 hour to these two subject areas or add now several hours to the bill?

Mr. MANSFIELD. Well, would the Senator consider this possibility: In order to provide more time for the bill under discussion, that the Senate come in Saturday, with the proviso that there would be no votes, but that all those who have comments to make would have the opportunity for 3, 4, 5, 6, or 7 hours to do so, and thereby set forth their various points of view for the Senate to consider?

Mr. HART. The Senator from Michigan is able to be here on Saturday, it just happens. But it is one thing to say that you anticipate the need for a very full discussion of the subject matter, and then to be told, "Be in there discussing it 18 hours from now." That is the reservation I have on that suggestion.

Mr. MANSFIELD. No, no. What we had hoped to do, if things went according to Hoyle, was make this the pending business for Monday next. So if we came in Saturday for 4, 5, 6, or 8 hours, the Senator could lay his foundation and we would have all this extra time.

Mr. HART. Let us assume we have something more than just some precise ideas, but have some very solid speeches. I doubt that between now and Saturday morning we would be ready.

Mr. MANSFIELD. There will be some of us here who will be prepared to listen. There will be no votes if we come in on Saturday.

Mr. HART. The Senator from Montana knows the dilemma we are in.

Mr. PASTORE. The managers of the bill do not have to come in Saturday.

Mr. COOK. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. COOK. Would it help the stance of the Senator from Michigan to suggest that the basic substance of the amendment to be offered by the Senator from Wisconsin (Mr. NELSON) also deals specifically with section 615, and he has 3 hours on that amendment? So there is an additional 3 hours you can basically add to the discussion relative to the subject matter in which both the Senator from Illinois and the Senator from Michigan are interested.

I only add that to remind Senators that that is 3 hours, and that is my understanding, from talking with the Senator from Wisconsin, that the basic substance of that major amendment deals with section 615.

Mr. BIBLE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. BIBLE. Did I understand the majority leader to say he was going to make this legislation the pending business on Monday?

Mr. MANSFIELD. We hope to, following the public works appropriation bill.

Mr. BIBLE. That was the qualification that I wanted to have, because we reported out the public works appropriation bill this morning, and should be able to bring it to the floor of the Senate on either Monday or Tuesday, and I would not want that to be sidetracked for all these other speeches that are apparently going to be made on the campaign and equal time measure.

Mr. MANSFIELD. No, because with the appropriation bill reported out today by the Appropriations Committee coming to the calendar tomorrow under the able leadership of the distinguished Senator from Nevada, I would not expect that there would be too much time spent on that bill, once we get around to it.

Mr. BIBLE. That is the problem; I mean when are we going to get around to it?

Mr. MANSFIELD. Preceding this one.

Mr. BIBLE. Monday or Tuesday?

Mr. MANSFIELD. Monday or Tuesday, and hopefully Monday.

Mr. President, I ask unanimous consent at this time that it be in order to take up the public works appropriation bill on Monday next.

The PRESIDING OFFICER. Is there objection?

Mr. BIBLE. We would be perfectly willing, with the leadership——

Mr. JAVITS. Mr. President, reserving the right to object, may I ask the majority leader if it is the intention to finish the war powers bill before we take that up?

Mr. MANSFIELD. Oh, yes, we have a time limitation on it, and I hope we will. And, of course, the Saturday session depends on whether or not we finish the schedule we have outlined.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there objection to the original request?

Mr. STEVENSON. Mr. President, reserving the right to object, the majority leader has amended his unanimous-consent request to permit the Senator from Wisconsin 3 hours on his amendment to section 615. Would the Senator permit Senator MATHIAS and me to do the same? If we could have 3 hours on that amendment, combined with the 3 hours on the amendment to be offered by the Senator from Wisconsin, I think we could have enough time for debate on section 615.

Mr. MANSFIELD. Well, it does not seem as though I have much choice.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. CANNON. As the manager of the bill, it is becoming more apparent to me all the time that we are not going to get this bill out this year. There are at least four amendments that I know of so far to the section in question. We have already permitted 3 hours on one of them, and if we have 3 hours each on the four amendments, plus the others that are unknown now and that will come in at an hour each, I can see that we will be on it long beyond the August recess. So may I respectfully suggest, why do we not proceed with the bill and forget about any time limitation at all? Because it is quite obvious that we will not be able to get this through expeditiously.

Mr. MANSFIELD. If the Senator will withhold that suggestion, which I can understand his making, and see if we can reach some accommodation——

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. PASTORE. I think we ought to have a unanimous-consent agreement, and I think we ought to give this notice: The bill will be comanaged on the floor by the Senator from Nevada and myself. He will be interested in the disclosure sections, and I in the ceiling sections of the bill.

We are going to be very amenable to accepting any amendment which will purify the elective process. I say to Senators, as far as time is concerned, they can have all the time they want, because frankly I will not take any time in rebuttal if the idea is a good one, because the shakedown is going to be in the conference.

Mr. MANSFIELD. May I say I am interested in the question itself, and not on the question of talking, because I know how I will vote on these matters. I do not expect to sway anyone, but I do have some pretty strong, tough views on what needs to be done and I do not need 3 hours to explain it.

The PRESIDING OFFICER (Mr. McGee). Is there objection?

Mr. CRANSTON. Mr. President, reserving the right to object, I simply rise to inquire of the distinguished majority leader as to the situation regarding time for discussion of public financing. We need 3 hours. If we can be assured of that, that will be fine, but we cannot be ready on Saturday.

Mr. MANSFIELD. There are 3 hours on the Nelson amendment, 3 hours on the Stevenson-Mathias amendment, 6 hours on the bill to draw from, so I do not know whether we can get any more time for this particular amendment.

Mr. SCOTT of Pennsylvania. Mr. President, we seem to have an embarrassment of vocal riches here. We have never used up all the time on a bill that I can remember, practically.

Mr. HART. Mr. President, may I inquire, what is the form of the unanimous-consent request at this stage?

Mr. MANSFIELD. Six hours on the bill, 3 hours on the Nelson amendment, 2 hours on the Kennedy-Scott amendment, 3 hours on the Stevenson-Mathias amendment, 1 hour on other amendments, including those not subject to germaneness. On the Percy amendments, of which there are two, one-half hour on each amendment, with the time to be equally divided.

Mr. ALLEN. Mr. President, the distinguished majority leader will not forget the hour and a half for the Allen amendment.

Mr. MANSFIELD. That is right, an hour and a half for the Allen amendment; and 30 minutes on amendments to amendments, debatable motions and appeals, and so forth.

Mr. CRANSTON. And the bill is to be taken up on Monday next?

Mr. MANSFIELD. Yes.

Mr. HART. Mr. President, may I obtain from the distinguished majority leader an addition to that unanimous-consent agreement on an amendment which I anticipate will be developed, which will be in the nature of a composite series, that we may have 3 hours on that?

Mr. MANSFIELD. Very well.

Mr. JAVITS. Mr. President, may I clarify one point. The Senator from Montana said a half hour on amendments; is that correct?

Mr. MANSFIELD. On amendments to amendments.

Mr. JAVITS. Yes, I understand. I thank the majority leader.

Mr. PASTORE. No objection, Mr. President.

The PRESIDING OFFICER (Mr. Johnston). Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. MANSFIELD. I suggest the absence of a quorum with no time taken out of anyone's time, just to give us time to catch our breath after all that. [Laughter.]

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCOTT of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 6717) to amend section 210 of the Flood Control Act of 1968.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H.R. 8949) to amend title 38 of the United States Code relating to basic provisions of the loan guaranty program for veterans.

The message further announced that the House had passed a joint resolution (H.J. Res. 542) concerning the war powers of Congress and the President, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 1413) to increase the authorization for fiscal year 1974 for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped.

The ACTING PRESIDENT pro tempore (Mr. Tunney) subsequently signed the enrolled bill.

HOUSE JOINT RESOLUTION PLACED ON CALENDAR

The joint resolution (H.J. Res. 542) concerning the war powers of Congress and the President was read twice by its title and placed on the calendar.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ON FEDERAL-STATE RELATIONS IN GAS PIPELINE SAFETY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Johnston) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce. The message is as follows:

To the Congress of the United States:

I herewith transmit a special report on Federal-State relations in the administration of the Natural Gas Pipeline Safety Act of 1968. This report has been prepared in accordance with section 5 of the act approved August 22, 1972, P.L. 92-401.

Richard Nixon.

The White House, *July 19, 1973.*

REPORT ON ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Johnston) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce. The message is as follows:

To the Congress of the United States:

I transmit herewith the 1972 annual report on the administration of the Radiation Control for Health and Safety Act of 1968 (Public Law 90-602), as prepared by the Secretary of Health, Education, and Welfare.

Richard Nixon.

The White House, *July 19, 1973.*

REPORT OF NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. Johnston) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

As required by the Adult Education Act of 1966 as amended (Public Law 91-230), I transmit herewith a report of Federal activities undertaken by the National Advisory Council on Adult Education during fiscal year 1973.

Richard Nixon.

The White House, *July 19, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. Johnston) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

LIMITATION OF TIME ON LEGISLATIVE AND PUBLIC WORKS APPROPRIATION BILLS

Mr. **ROBERT C. BYRD**. Mr. President, I have cleared the following requests with the distinguished managers on the two bills, the ranking minority members of the committees with respect to the two bills, and with the Republican leadership.

I ask unanimous consent that at such time as H.R. 6691, the legislative appropriation bill, and H.R. 8947, the public works appropriation bill, are brought before the Senate, there be the following time limitation on each:

Two hours on the bill; one-half hour on any amendment, debatable motion or appeal; with the division and control of time to be in the usual form.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **ROBERT C. BYRD**. Mr. President, has consent been granted on both bills?

The **PRESIDING OFFICER**. That is correct.

The text of the unanimous consent agreement is as follows:

Ordered, That, during the consideration of H.R. 8947, the Public Works for Water and Power Development and Atomic Energy Commission Appropriation Act, 1974, debate on any amendment, debatable motion or appeal shall be limited to ½ hour, to be equally divided and controlled by the mover of any such amendment or motion and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the majority and minority leaders, or their designees: *Provided*, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal.

QUORUM CALL

Mr. **JAVITS**. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being charged to either side.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **JAVITS**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HUGHES ON MONDAY, JULY 23, 1973

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent, on Monday next, after the two leaders have been recognized under the standing order, or their designees, that the distinguished Senator from Iowa (Mr. HUGHES) be recognized for not to exceed 15 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

Mr. **SCOTT** of Virginia. Mr. President, after the leadership has an opportunity to confer, I intend to offer amendment No. 372; at this time, I would like to ask for the yeas and nays on the amendment.

Mr. **JAVITS**. Mr. President, I ask unanimous consent that it may be in order to order the yeas and nays on the amendment which the Senator from Virginia is offering.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **JAVITS**. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum with the time being charged equally against both sides on the bill.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **ROBERT C. BYRD**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **SCOTT** of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

AMENDMENT NO. 374

Mr. **SCOTT** of Virginia. Mr. President, I call up my amendment 374.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. **SCOTT** of Virginia. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 22, after line 24, insert the following new section:

"EXPANDING EMPLOYMENT OPPORTUNITIES FOR OLDER AMERICANS

"SEC. 8. (a) Section 14 of the Fair Labor Standards Act of 1938, as amended, is amended by adding at the end thereof the following new subsection:

"'(e)(1) Notwithstanding the minimum wage rate required by section 6(a)(1) or (b) any employer may employ any employee—

"'(A) to whom such rate would apply but for this subsection; and

"'(B) who has attained sixty-five years of age or is older.

at a wage rate which is not less than 85 per centum of the otherwise applicable minimum wage rate prescribed by such section.

"'(2) Notwithstanding the minimum wage rates required by section 6(a)(5), any employer may in agriculture employ at a wage rate which is not less than 85 per centum of the otherwise applicable minimum wage rate prescribed by such section.

"'(3) The special minimum wage for such employees in Puerto Rico, the Virgin Islands, and American Samoa shall be 85 per centum of the industry wage order rate otherwise applicable to them, except that in no case shall such special minimum wage be less than that provided for under a wage order issued prior to the effective date of the Fair Labor Standards Amendments of 1972.

"'(4) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable.'."

Renumber the succeeding sections accordingly.

Mr. **SCOTT** of Virginia. Mr. President, this amendment relates to older Americans, and I believe it is an amendment that will help provide employment for our older citizens.

In effect, it provides that persons over 65 years of age can be employed at not less than 85 percent of the otherwise applicable minimum wage.

I believe we all would agree that one of the things the older Americans perhaps fear most is not being a part of society, not being useful, not participating—a feeling of loneliness. I believe that the older citizen does want to be a part of the activities that are going on in the country.

More than 20 million people in this country today are over 65 years of age, and a great number of these Americans are highly qualified, potential employees who would welcome the opportunity to have a satisfying and an appropriate job. Physically, or perhaps at times mentally, they might not be able to compete on an equal basis with those who are in their thirties or forties, at the peak of their physical and mental abilities.

I believe we should give special consideration in this bill to the older Americans. At the present time, their skills and their talents could well be ignored by what we might call a decidedly youth-oriented society if there is no differential in the minimum wages of the older citizens.

I understand that testimony before the Committee on Labor and Public Welfare as well as the Senate Special Committee on Aging indicates that older Americans cannot find even part-time work which makes good use of their experience and talents that would enable them to participate in a meaningful way in their communities or to use some of their work experience in helping to meet local needs. Many senior citizens find themselves phased out of the community around them, without a sense of belonging or appreciation.

One such older citizen testified before the committee:

> If only I could feel wanted and once again become part of that world outside.

There can be no doubt that older Americans benefit both financially and psychologically from the opportunity to work. Employment offers the senior citizens the opportunity for increased social contacts in the community that help to eliminate some of the terrible loneliness and sense of uselessness that can dominate their lives. I doubt if there is anything more frustrating in old age than the feeling of loneliness, the feeling of not being wanted, not being appreciated, and not being needed.

Increased employment opportunity for older Americans, moreover, will benefit society as a whole. Society faces an economic loss from failing to employ older citizens as well as the cost of supporting a nonworking population. Millions of older Americans now living in poverty or on the borderline of poverty are perfectly willing to work and are able to work. Yet, when they look for work, sometimes they are unable to find work because they have to compete with people who are younger and who may have greater vigor than they have; and they become financially dependent upon the community or upon their friends or upon their families.

The wage differential would offer an employer the necessary incentive to hire older Americans for positions that, because of economic conditions, might go unfilled.

So, Mr. President, as we are considering the minimum wage law on a national basis, I hope we will give due consideration to the needs of the older citizens of our country and permit a wage differential of 85 percent of the minimum wage, established for the people of the country as a whole, to those of our citizens who have reached or have passed the age of 65.

I reserve the remainder of my time.

Mr. JAVITS. I yield myself such time as I may require out of the time in opposition to the amendment.

Mr. President, this is one of those amendments which naturally evoke one's sympathy. As to its intention, there is no doubt. Senator SCOTT is doing his utmost to provide for what he considers to be in the highest interests of our older citizens.

However, on behalf of the managers of the bill, I must oppose the amendment, because it would be counterproductive in terms of its effect. We are dealing here with a group in the population—this being, as it were, the counterpart of the youth differential amendment—which generally has considerable responsibility: children, grandchildren, households, and so forth.

With all respect, I think an even lesser case can be made out here than can be made out for youth. In the first place, we do not want some new form of sweatshop labor, certainly not for older people. Second, the amounts involved are minimal in terms of employment of older people.

The argument I made in respect of youth is very applicable here; that is, the employer who is going to employ an older person is not going to refrain from employing him because of a differential which, in the case of the agricultural worker—and this amendment would apply to the agricultural worker—comes to 15 percent of $1.60, which is our first year minimum wage; something in the area of 24 cents, in round figures. No employer, we believe, is going to refrain from employing an older person because of that amount; and if he does, he should be ashamed of himself. I doubt very much that it will happen.

In addition, to establish this kind of differential might very well seriously prejudice our older citizens. We try to do a good deal for them in respect of taxation, in respect of social security, in respect of housing. Many States and many cities have even special rates for those over 65 when riding city buses. It seems to me that with this kind of exemption, the result could be highly counterproductive to the aged, with the idea that many of them could be exploited by some employers without too much conscience.

In short, it would break down the minimum wage structure. It is highly unlikely to be of any help to older people in getting gainful employment. The amount of differential would be very minimal and would hardly make the difference between giving an older person a job and not. It would threaten to merely play into the hands of those who would exploit older people as workers. It does not even have, by the way, a time limitation for the amount of time an older person would work at this 15 percent discount. He could just go on for the rest of his life.

I repeat that I understand perfectly the motives of the Senator from Virginia. It is a form of trying to help the aged, but I do not think it is going to help the aged. On the contrary, it would be damaging and counterproductive to them and the general structure of the minimum wage.

Mr. President, for all those reasons I hope the Senate rejects the amendment of the Senator from Virginia.

Mr. WILLIAMS. Mr. President, for some years I have served on the Special Committee on Aging, and for several years I was privileged to be the chairman of that committee.

This amendment provides a subminimum wage for workers 65 years of age or older based solely on age. Such workers will be required to be paid only 85 percent of the minimum wage regardless of their skill or productivity. This is discrimination on the basis of age and should be rejected.

Mr. SCOTT of Virginia. Mr. President, I shall not take much more time of the Senate. I believe this is a matter we can all understand without any extensive debate. It is a matter about which reasonable men may disagree.

I appreciate the comments of my colleague from New York. He spoke of the greater responsibility that the citizens of more than 65 years of age may well have. Of course, they oftentimes command very high salaries because of their expertise and perhaps sometimes because of their greater wisdom. But we are talking about a minimum wage and not a maximum age.

One of my colleagues in the Senate, who is over the age of 65, said to me, "Are you talking about those of us who are over 65 getting 85 percent of the congressional salary raise that other Members of Congress receive?" Well, of course, we are not talking about anything like that.

I remember that during the depression years, and I grew up during the depression, we had some elderly people, particularly ladies, who worked in the small town where I grew up. They were paid one dollar a day to work in the department stores. But they had nothing else to do and they were very grateful for the opportunity to put their time to good use.

Certainly, I hope we never return to a depression where people work for a dollar a day. But these ladies felt as they worked in the department stores and showed the various merchandise to their friends that they were a part of society and that they were doing something useful. It was much better for them than to stay at home.

So I would say that rather than exploiting the older Americans, it may be the difference between being gainfully employed and having no job at all because they will be competing with citizens of different ages who may have greater vigor than they have, and if an employer has the choice between paying the same salary to a man and a woman over the age of 65 for physical work, perhaps, he will choose the younger person, the person who is able to produce greater. It may be the difference between being employed and being a useful and gainfully employed member of society, and having no job at all.

I hope the Senate sees fit to agree to the amendment.

If the Senator from New York is willing to yield back his time, I am ready to yield back my time and have an immediate vote.

Mr. JAVITS. Mr. President, first, I yield myself 1 minute. I really would feel as a human being, apart from being a manager of the bill, depressed if I felt it were necessary to give a 15-percent discount to an employer to employ Americans over the age of 65. It would be demeaning. I know the Senator is sincere and I know he is anxious to be constructive, but I think it would be demeaning for us to adopt this amendment and give this kind of discount to older Americans.

Mr. President, I yield back the remainder of my time.

Mr. SCOTT of Virginia. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time has been yielded back. The question is on agreeing to the amendment of the Senator from Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Rhode Island (Mr. PELL) is absent on official business.

I also announce that the Senator from

Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The result was announced—yeas 23, nays 73, as follows:

[No. 305 Leg.]

YEAS—23

Baker
Bartlett
Bellmon
Bennett
Buckley
Chiles
Curtis
Dole
Eastland
Fannin
Goldwater
Gurney
Hansen
Hatfield
Helms
Hruska
McClellan
McClure
Packwood
Scott, Va.
Thurmond
Tower
Young

NAYS—73

Abourezk
Aiken
Allen
Bayh
Beall
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Church
Clark
Cook
Cranston
Domenici
Dominick
Eagleton
Ervin
Fong
Fulbright
Gravel
Griffin
Hart
Hartke
Haskell
Hathaway
Hollings
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Pastore
Pearson
Percy
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Sparkman
Stafford
Stevenson
Symington
Taft
Talmadge
Tunney
Weicker
Williams

NOT VOTING—4

Cotton
Pell
Stennis
Stevens

So Mr. SCOTT of Virginia's amendment (No. 374) was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. DOMINICK. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 2, line 10, beginning with the word, "including", strike through the word, "babysitter)", the second time it appears on line 11.
>
> On page 11, beginning with line 20, strike through line 3 on page 12.
>
> On page 20, strike lines 24 and 25; on page 21, line 1, strike, "(20)", and in lieu thereof insert, "(19)"; on line 8, strike, "(21)", and in lieu thereof insert, "(20)".

Mr. DOMINICK. Mr. President, I yield myself 10 minutes.

Mr. President, I can explain my amendment to the Senate very easily. What it is designed to do is to cut out of the committee bill the additional coverage that was put in there on the so-called domestics. What the amendment does is just to strike out "domestics" from being covered by the minimum overtime wage. I say that for a variety of reasons. However, I would like to go to probably the basic reason first.

The Fair Labor Standards Act is based on the commerce power. The commerce power has been interpreted by a number of people as being very broad. However, it certainly is not this broad. At least, it does not seem so to me.

I understand that we can regulate activity in Congress—Mr. President, can I have order?

The PRESIDING OFFICER. The Senate will be in order. The galleries will be in order as well.

The Senator may proceed.

Mr. DOMINICK. Mr. President, we can regulate activities which are entirely intrastate only so long as there is a rational basis for finding that the activity affects interstate commerce in a very substantial way.

Should the issue be tested in court, it is my own feeling that the proponents of this extension of coverage to domestics would be pretty hard pressed to find that interstate commerce is substantially affected by the employment of a domestic worker. The weakness of their position can probably be pointed out by quoting from the committee report their own argument in answer to my amendment. They say in the report:

> The additional question of the constitutionality of coverage of domestics was raised. The Committee found that domestics and the equipment that they use in their work are in interstate commerce. For example, vacuum cleaners are produced in only six states, and laundry equipment is produced in only seven states creating a tremendous flow in commerce of these items used daily by domestics. Also, it is common knowledge that every domestic handles such items as soap, wax and other household cleaners that have moved in interstate commerce. In addition, employment of domestics in households frees time for the members of the household to themselves engage in activities in interstate commerce.

All I can say is that if domestic workers are in interstate commerce by virtue of the fact that they use vacuum cleaners, then the commerce power indeed has no limits.

That is about as farfetched as anything that I have ever heard of. And how in the world we can possibly take a rational position along that line is beyond me.

I do not think we have the legal power to do this, and on the assumption that anyone has enough courage to carry this matter to court, once it is in effect—if I get defeated—I would suspect that the court would quite properly uphold the position I have discussed.

Webster defines a domestic as "Relating to the household or family: concerned with or employed in the management of a household or private place of residence; connected with the supply, service, and activities of households and private residences."

Mr. President, may I have quiet?

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard.

The Senator may proceed.

Mr. DOMINICK. Mr. President, the Labor Department has also been trying to figure out for other purposes what is a private household worker. And they define it in this way for purposes of what they have been doing today:

> The term "private household workers" includes all workers 14 years and older who work for wages, including pay-in-kind, in or about a private residence and are employed by: 1) a member of the household occupying that residence or 2) by a household service business whose services have been requested by a member of the household occupying that residence.

Then they go on to say:

> This includes such workers as maids, housekeepers, practical nurses, domestic workers, day workers, house cleaners, grass cutters, handymen, window washers, chauffeurs, yard workers, cooks, companions, gardeners, laundresses, caretakers, charwomen, butlers, waiters, kitchen workers and babysitters.

The only ones excluded from the definition of a domestic in the committee bill have been the babysitters. All other occupations would be covered by the minimum wage—not the overtime provision, but the minimum wage.

It just seems to me hard to conceive of a situation wherein someone has need for someone to cut his lawn. The neighborhood kid is 14 years old. He hires him to cut the lawn. He is then required not only to pay him the minimum wage, but to also make a report to the Department of Labor on the fact that he has paid him and the fact that he has withheld on that payment, or whatever other provision there may be that goes along with it.

This goes way beyond the situation we have with social security and other laws with regard to in-house workers. And that law is violated with such enormous regularity and with impunity, as far as I can see, that not anyone, not even the housewives, are for it. It has become laughable.

I suspect—and I do not know this for a fact, and anyone on the committee can deny it—that the members of our committee who from time to time employ a cook, a cleaning woman, or whatever it may be, pay them in cash. Otherwise there would have to be a deduction from the payment if they were to pay by check. They think nothing of it. Otherwise their wives would be in violation of the law. I think this is nothing unique. I believe that other Members of this body, whether members of the committee, or not, do the same thing.

If you do not do it that way, then you cannot get the person to be hired. They will not come to work.

Now, there are other things connected with this particular type of coverage. What do you do with the working person? Are they, all of a sudden, going to be required to pay a much greater increase in minimum wages than they are now, and still supply all the other attributes that one gets when he comes into a household?

For example, let us take the 14-year-old who is mowing your lawn, who all of a sudden has to be paid $2.20 an hour. Fourteen-year-olds are nice kids, but they are not dumb. If you have to pay them on an hourly basis, you do not pay them on getting completed with the lawn.

If they are very smart, they are going to take as long as they can to finish mowing that lawn, so that it will cost you a lot more money for the work.

What you obviously do is, you do not hire him. You go out and mow your lawn yourself, or if you do hire him, you do not tell anyone about it, you do not pay him the minimum wage, and you have breached the law all over again.

Here is another problem. I have here a letter to me dated June 14. I am happy to have the junior Senator from Louisiana (Mr. JOHNSTON) in the chair, because this letter comes to me from Louisiana.

> DEAR SENATOR DOMINICK: The new Fair Labor Standards legislation coming before the Senate, requiring that domestics be paid the statutory minimum, distresses me. Many of us find ourselves in situations not of our own making but which we, of necessity, must handle to the best of our economic ability. In my case, as a single lady employed as a secretary, I have the sole responsibility for taking care of my aged mother who, although not bedridden, must have someone in constant attendance *if I am to work* and care for her.
>
> As evidence from the response to my recent ad, a large number of these domestics are presently unemployed. Most of them were so vague about their references that verification of their ability, honesty, etc., could not be made.
>
> My employee makes a weekly salary (less FICA and Federal Income Tax)—

I might say that this lady is unique in doing that.

> plus getting two meals a day (only one was authorized), and drinking coffee, soft drinks, or milk all day long AT MY EXPENSE. She feels free to remove beef from my freezer (without my permission) to cook for her lunch, and she has even used my laundry equipment for her work clothes (also without my approval). Why do I keep her? Because I need her. The point I am making is that, even if the salary is not $2 an hour—

It is going to be $2.20.

> for the small amount of work required in my apartment, the leisure time spent there watching TV, reading, relaxing, visiting with my mother, using my telephone, eating me out of "house and home," plus the additional FICA tax I must pay quarterly, I consider that my domestic has a "good deal" going for her. Where can I get a job that gives me all of these "extras" that are tax-free and not included in my salary? With the price of food today, this is no small item.
>
> On my small salary, if I were compelled to abide by this new regulation, I would have to pay $100 a week, or over $400 a month, for this service. It wouldn't take a great deal of intelligence to see that the following would probably result:
>
> 1. My domestic would be out of a job. I couldn't afford to hire her.
> 2. I would have to quit my job and go home to take care of my mother.
> 3. All three of us would probably end up on welfare. Who wants that?
> 4. Reduced inflation would NOT result from this measure.
>
> I strongly urge you to vote against this amendment.
>
> Sincerely yours,
>
> HILDA R. POPPELL.

Mrs. Poppell has raised a very serious problem which will be caused by the committee bill.

I know there will be an argument made, "Well, this is for the benefit of the blacks who work in domestic service." But you can go anywhere through the Middle West, and there are not many blacks there.

We find stewards, window washers, and laundrymen. They are not black; they are white. When anybody tries to turn this into a civil rights argument, I cannot buy it. That is what a great many people have been trying to do. They are turning it into a civil rights argument.

This is basic: Do we want to try to pass a law which is not going to be abided by by the householder, either in terms of amount or in terms of reporting? Neither is it going to be abided by by the persons who are hired, because they will not come to work if they know that the employer is going to have to report it in this way.

Are we going to take the position that the Senate of the United States determines that hiring the neighbor's boy, aged 14, to mow the lawn is substantially affecting interstate commerce? I just think it is sheer nonsense from beginning to end.

What does the Department of Labor say about this? The Secretary of Labor testified on this subject.

He said:

> Proposals have been made that would extend coverage to domestics in household employment. Mr. Chairman, I cannot express too strongly my concern for the well being of this group of workers with their need for employment opportunities. This is a difficult problem, and the Department finds itself on the horns of a dilemma.
>
> For example, in large metropolitan areas such as Washington, New York, or Boston, domestics are already receiving more than the minimum wage we propose for other employees. There this amendment will have little, if any, effect.

Mr. President, I am reading from pages 243 and 244 of the hearing record.

> In other areas of smaller cities and towns, domestics receive considerably less than the present minimum. The problem with applying the minimum wage to them has, as analysis clearly shows, a severe disemployment effect. This would reduce the income of many families where a member was employed either full time or part time in household work. Domestic service is in some respects unique from other forms of employment. A household who hires a maid typically has just so much budgeted for that purpose with no more available. She also has no opportunity to pass on any higher wage cost. If it comes down to it, the housewife can substitute her labor and that of other family members for the domestic. Few employers in other fields can do so.
>
> Administration and enforcement of minimum wage and overtime coverage for domestics could also present other serious problems. It may be unrealistic to expect accurate recordkeeping.

If I may interpolate, that is the softest statement of the year. It is unrealistic to expect accurate recordkeeping. Nobody is going to keep any records. Let us not be blasé about this. No housewife is going to begin to do this kind of recordkeeping. I continue to read:

> Home makers are not engaged in business in the traditional sense with experience in maintaining business records. Effective enforcement will probably turn on a difference of opinion between home maker and maid over hours worked.
>
> It would be difficult, if not impossible, for the Secretary to make out a case. For these reasons, Mr. Chairman, the administration has opposed extension of FLSA coverage to domestics.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMINICK. I am happy to yield.

Mr. JAVITS. Mr. President, I have heard the Senator, both here and in committee, with the greatest of interest. I shall deal with the substance of his remarks later.

The Senator said that the housewife will pay no attention to the minimum, if we impose one. If the Senator will refer to the background book, page 219, he will find that 836,000 housewives in the country—and that is a pretty good representation when we break down the number of domestics who work full time—836,000 are actually filing social security returns. Could the Senator account for that with respect to his argument that the housewife would pay no attention?

Mr. DOMINICK. I can account for it very easily and would say that those are the exceptions to the number of people who are employed in household work. As a matter of fact, I even said that if anyone on the committee knows whether anyone in his family files it, I would be surprised. Second, I would say that, in this kind of case, we have a different situation. We can have a maid in the house but the Senator is talking about people cleaning windows, mowing the lawn, coming in to do the laundry, the cleaning woman—so you have every person who is hired either on a short-time or long-time basis for these purposes. It is necessary to keep separate records and report them. So if I may say so, I think the Senator is wrong and that my estimate of the fact that no one will pay the slightest attention to this is accurate from a practical point of view. It is not accurate from what they are supposed to do under the bill. But that is different from what they will do.

It strikes me that we are going way far afield in this area. We have great businesses out all over the country which are designed to come in and try to do something in the way of supplying these needs, either to wash the windows, to put the screens in during the summertime, the storm windows in the winter, to mow the lawns, and to do all the things which everyone likes to have if he lives in a private residence and can afford to pay for it.

You put this on with recordkeeping in addition, and you will lose a whale of a lot of domestic employees, or you are going to have people just hiring them anyhow but they will pay no attention to the law.

Now the cost of doing this, assuming that they did abide by it, is $833 million a year in the annual wage cost. That seems to me to be really high. We are already in enough problems with inflation without putting up $833 million a year in addition on a category of employee over whom we have no rules or regulations at all except under the Commerce Department.

As I say, if anyone can say that a 14-year-old kid mowing the lawn has got to be paid $2.20 an hour, and he will get more pay if he spends more time mowing the lawn, because this will substantially affect interstate commerce, I will eat my hat. It is an argument that does not make any sense at all to me.

Mr. JOHNSTON. Mr. President, will the Senator from Colorado yield?

The PRESIDING OFFICER (Mr. DOMENICI). Does the Senator from Colorado yield to the Senator from Louisiana?

Mr. DOMINICK. I yield.

Mr. JOHNSTON. In the letter from the lady who had the 81-year-old mother, and had not worked, she pointed out that if the minimum wage were invoked in her behalf, it would make her unable to work because it would make it economically unjustified for her to have to pay the full minimum wage to her domestic employee, because her salary was not high enough to do that, it seems to me the Senator makes a very good point in providing for an exemption in that situation. However, I would point out that for those people who do not work and for whom domestic service is a luxury rather than a necessity, Congress need not provide for an exemption in that kind of situation. So I have an amendment to the amendment which considerably restricts this and I would like the Senator to consider this and send the amendment to the desk at this time.

Mr. DOMINICK. I believe that we are under a time limitation and until such time as my hour has expired under the rules, I guess his amendment cannot be considered.

The PRESIDING OFFICER. The amendment is not in order until the time of the Senator from Colorado has been used up or yielded back.

Mr. DOMINICK. Mr. President, I am glad that the Senator from Louisiana brought it up and I can understand his desire to get some reaffirmation of some change in the committee bill along that line.

But let me say this, Mr. President, let us suppose that—well, I will take my own family and I will not embarrass anyone.

I am leaving the office somewhere between 7:30 and 9 p.m., if the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) lets us out that early. That is a reasonably long day to have to work. My wife is at home. At one point we had 4 kids at home. It is going to be very difficult, even though I am making a good salary—and am opposed to having any increase in it [laughter] even though I am making that good salary, my wife is taking care of the four kids and doing all the rest of it—taking care of mowing the lawn, putting the screens in, putting the storm windows in, and so forth. Even though I am the only one in the whole household who happens to be working, as I understand it from the Senator's theory, if there is someone in the household who is not working, then they have to pay the minimum wage for all this help that they may be hiring. Now it is better to do it for someone; in other words, to get the exemption for someone than not to have it for anyone. That I will agree with. But it still poses the type of problem we are talking about.

By the time I get home at 9:30 p.m. or so, I certainly am not going to mow the lawn. I am going to sit down and rest awhile, maybe have a cocktail, enjoy myself, and have some supper. I am not going to go out and mow the lawn. That is a fact of life. The fact that I am making a reasonably good salary and have a job to which I was elected, thus leaving my home State and living in Washington, does not seem to be the reason why we should be required to keep records. That is what I am objecting to, not the amount of money to pay for domestic help. It is the recordkeeping involved. Why in the world should the Government keep putting on the private individual the onus of keeping records after records and making reports after reports for some self-conceived social purpose which most of the people do not want?

I just cannot conceive why we go along this route time and again in the interest of the fact that we are going to do good for someone.

Another point, how are we going to compute it? Let us take my own case again. I get the neighborhood kid to mow the lawn. He is 14 years old, so that he is substantially affecting interstate commerce, so we say, and so therefore I have to pay him $2.20 an hour. He is going to be very flattered by that when he hears what he is going to be paid.

Over and beyond that, how am I going to figure out what I am going to pay him?

Let us say that he comes in and sits down and has lunch with the kids in the family. Do I deduct that from his wages?

So he takes a half hour off, or an hour off, and he watches a little television. What happens then?

He gets a coke in the afternoon when he is hot, thirsty, or tired. Do I deduct that? What do I do with the recordkeeping? What do I do in the wintertime with the storm windows on my house in Colorado? What do I do about the guys putting the windows up who get cold and want to come in and rest for awhile? They come in the house and we give them a beer. What do I do about deducting that?

I do not have the faintest idea what we will do or how anyone will ever figure this out. What do we do about the cleaning lady that comes in? She enjoys herself. She gets together with the family and has a coke or a glass of milk. She has business with the family. She cleans up and does a good job. We pay her a living wage but she is doing a lot for other people as well as for me. She has got a regular business going. In most cases, she is being paid far more than the minimum wage if she happens to be a cleaning woman, because they are very hard to get these days. So all I can say is, we are dealing with something here which is impractical or impossible to enforce. It is going to create problems throughout the country for everybody, whether it happens to be the employer or the employee, and it is going to create very severe disemployment problems.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. BUCKLEY. I wonder whether the Senator is aware of the report prepared for the American Economic Institute by Mr. Brozen. This report contains the estimate that if the 935,000 domestic employees who are not presently covered by minimum wages were to be paid $1.80 an hour, their employment would be reduced by approximately 340,000. This is almost half the people who are now earning a living on the basis of household work.

It is further estimated that on achievement of the $2 an hour minimum wage level in 1974, there will be a further drop of approximately 100,000 in the number of domestic jobs available; further, if that increase is lifted to $2.20 an hour in 1975, still another 100,000 domestic jobs will disappear.

Mr. DOMINICK. That is very interesting, because under the committee bill we are now considering, we go to $2 within 60 days of enactment and $2.20 within a year, which means that we are at $2.20 in 1974.

Mr. BUCKLEY. This is in H.R. 7935.

Mr. DOMINICK. The House bill.

Mr. BUCKLEY. Yes; it would be even more dramatic here.

Mr. DOMINICK. It would be even more dramatic in our situation.

Obviously, if the sponsors of this bill want to create unemployment of that kind, they are privileged to do so, because they have the votes, so far as I can see. I, for one, do not want to have any part of it.

(At this point, Mr. ALLEN assumed the chair.)

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. DOMENICI. I have a situation slightly different from that of the Senator from Colorado. Although we came to Washington from almost as far away, we brought eight children here.

Mr. DOMINICK. The Senator is my neighbor.

Mr. DOMENICI. That is right. We brought eight children with us.

I got a bid from a company to mow the lawn, and they said—

> We'll come every week, and we're going to charge you $22.50 to mow.

I got the children—the four who can run a machine—around the table and said,

> You will have a lucky summer. You don't have to work. You don't have to mow the lawn. You don't have to cut the hedges.

The oldest boy said,

> Gee, it sounds like we're not going to make any money.

I said,

> That's right. We're going to pay these other people.

They waited about an hour and called me to their room and said:

> How much are you paying those people to do all that work out there, Daddy?

I said,

> Well, how much will you all do it for?

They said:

> That's not the best way to do business. We'll do it for a little bit less than them.

I told them the amount was $22.50, and they made a proposal to split the work and do it for $18.50. One is 12, one is 11, one is 10, and the 9-year-old just does a little work, whatever he can do.

The bill does not exclude those members of my family from this, does it, technically?

Mr. DOMINICK. Technically, it does not, although I would suspect that anybody would have a really hard time to say that one has to pay the members of his family a minimum statutory wage.

Mr. DOMENICI. I raise this question not because I really think anybody is going to say I have to, although technically I suppose they could. I raise it because I think the principal problem is the reporting.

The PRESIDING OFFICER. The time of the Senator from Colorado has expired. The Senator from New Jersey has 30 minutes.

Mr. DOMINICK. Mr. President, will the Senator from New Jersey yield me 5 minutes?

Mr. WILLIAMS. I ask the Senator from New Mexico whether the youngsters are living at home.

Mr. DOMENICI. Does the Senator mean all year long?

Mr. WILLIAMS. The Senator's children.

Mr. DOMENICI. In the summer they are. Some are away at school in the winter.

Mr. WILLIAMS. The Senator does not have to pay them the minimum. He can even pay them less than $18.

Mr. DOMENICI. That is the Senator's legal opinion as to my children?

Mr. WILLIAMS. That is my bill and my opinion, and that is going to be the law.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield myself 5 minutes.

I know that we have been over this ground many times before. Let me just say that under the present law, there is not coverage. The Senator from Colorado feels that, with all the paperwork and all the reports, we will have a substantial reduction in the employment of domestics. But we have had just such a substantial reduction at this time, when there are no records and no reports. There is just a wage being paid that does not support the people who want to be domestics.

Mr. President, S. 1861 would extend minimum wage coverage of the Fair Labor Standards Act to approximately 5 million domestic service employees. Babysitters are exempt from this coverage, and all newly covered private household domestics will be exempt from overtime coverage. The term "domestic service" employees is not defined in the act.

The committee has referred to the regulations issued under the Social Security Act, and the generally accepted meaning of domestic service related to services of a household nature performed by an employee in or about a private home of the person by whom he or she is employed.

A dwelling used primarily as a boarding or lodging house for the purpose of supplying such services to the public, as a business enterprise, is not a private home.

In the case of live-in domestics, where it is difficult to determine the exact hours worked, any reasonable agreement of the parties which takes into consideration all of the pertinent facts will be accepted as a proper basis for determining hours worked.

This aspect of S. 1861 is very straightforward. It offers us an opportunity to assure a fair wage for Americans willing to work for a living, many of whom are forced to rely on welfare despite a full year's work.

It offers us a simple choice—a living wage or continued reliance upon public assistance for domestic service employees and their families.

In my judgment, coverage of domestics is needed as a reasonable alternative to the continuing blight of public assistance to thousands upon thousands of working Americans. During the past 13 years, the number of domestic service employees in the country has been reduced by half at a time when the demand for domestic services rose by 33 percent.

If these trends continue, a much-demanded occupation will have been reduced to near oblivion. In order to understand why household work is a dying occupation, all one needs is to consider the following:

The median income for a full-time domestic in 1969 was $1,926 per year.

The present median income is $1,800.

Eighty-one percent of all domestics reported total cash incomes under $2,000 per year.

As of March 1970, more than 200,000 women—and I should point out that 97 percent of all domestics are women—were the sole heads of families. More than half of all domestics were reported as working less than 15 hours a week and only a fifth worked a full work week—35 hours and over.

Almost three-fifths of the female heads of families who reported private household employment as the job held longest during 1969 had incomes below the federally established poverty level of $3,743 for a family of four.

In addition, roughly 74 percent of all domestics work in urban areas where high costs of living further undercut their already meager pay. Consider also that the fringe benefits taken for granted by most segments of the work force are almost totally lacking for domestics.

Most fail to receive vacations, holidays, or sick leave with pay. They have virtually no health insurance, unemployment benefits, or workmen's compensation.

Retirement plans are unheard of. In fact, the only significant legal protection afforded domestics is minimum wage coverage in five States—Wisconsin, New York, Massachusetts, Montana, and Maryland—and coverage under the Social Security Act.

The lack of nationally accepted standards of employment has also placed undue hardships on domestic employees. Workloads and the expectations of employers fluctuate greatly from job to job.

Compounding the workers' problems is the lack of a third party intermediary to whom the workers can appeal when treated unfairly. Faced with an employer who refuses to pay the full amount previously agreed to, or a family that forces her to accept a 3-week unpaid vacation because they have decided to take a trip to Europe, the only recourse the worker has is to quit unless, of course, as happens too often, the employer calls up suddenly in the morning and says, "We will not be needing you anymore."

Another factor of significance when talking about domestic employment is the dignity and respect that ought to come with honest work. Many domestics are treated just as they were 150 years ago—that is, as slaves. Two-thirds of all household workers are black and of the remaining one-third, many are Chicanos, American Indians, or members of other minority groups.

They are called "girl" and by their first names while they, themselves, must still address their employers and their employer's children as "ma'am" or "sir" or "Miss Jane."

In lieu of fair wages, they are often given secondhand clothing and leftover food. The lack of respect accorded domestics is in many ways an unfortunate reflection of the value we place on the traditional role of women in our society.

The housewife's job has always been considered of secondary importance, even though it is the housewife who is entrusted with our most valuable resources and our most valuable material possession, our children and our home. In hiring a domestic, most employers expect her to accept many of the responsibilities of the homemaker, thereby creating a situation in which a dollar value is being placed on her everyday duties.

Considering the current wage for domestics, it would mean that we are placing an $0.80 an hour value on the work done by every housewife in America. This hardly seems reasonable.

Also of significance is the fact that most household workers are blacks or members of other minority groups. In failing to cover domestics under our basic wage and hour law, we would be turning our backs on these people.

Many who watch our legislative activities view the coverage of domestics as an effort to remedy racial and sexual discrimination. I know that one can argue as a matter of law that these workers are not being discriminated against on a basis of sex, race, or national origin. But the plain fact is that private household domestic workers are overwhelmingly female and members of minority groups.

I hope the Senate will respond to their legitimately felt needs. Opponents of minimum wage coverage for these workers have presented a number of arguments. They claim that domestics in no way affect the flow of interstate commerce.

Yet, one has only to look at the buses leaving the District of Columbia for the Maryland and Virginia suburbs every morning to see a perfect example of the flow of interstate commerce. The Metropolitan Washington, D.C., area is in no way an exception.

Among other areas where domestics

regularly cross State lines in traveling to and from work are:

The city of New York-Connecticut-New Jersey areas; the Cincinnati-Kentucky locale; the St. Louis, Mo.-East St. Louis, Ill., area; and the Kansas City, Mo.-Kans., area. In addition to the workers crossing State lines, the equipment and supplies they use are regularly distributed in interstate commerce.

Vacuum cleaners, for instance, are manufactured in only six States. Laundry equipment is produced in only seven States, creating a tremendous flow in commerce of these items used daily by domestics. Also, it is common knowledge that every domestic handles such items as soap, wax, and other household cleaners which have moved in interstate commerce.

The employment of domestics in households also frees members of these households to engage in activities and businesses directly affecting the flow of interstate commerce.

The Supreme Court in *Wickard* v. *Filburn* (317 U.S. 11 (1942)), held that wheat grown wholly for home consumption was constitutionally within the scope of Federal regulations of wheat production because, though never marketed interstate, it supplied the need of the growers which otherwise would be satisfied by his purchases in the open market.

In short, we were persuaded that coverage of domestic employees is a vital step in the direction of insuring that all workers affecting interstate commerce are protected by the Fair Labor Standards Act. Another argument used by those who oppose coverage for domestics is that of difficulty of enforcement, citing in particular the failures under the Social Security Act's coverage of all currently employed domestics.

There is, however, a very basic difference between social security and minimum wage coverage. The concept of social security is one of deferring immediate gratification for later rewards. To a woman trying to raise a family on $2,000 a year, this is clearly an impossibility.

Thus, when presented by her employer with the choice of either having social security payments deducted from her paycheck or having a few extra dollars a week, the latter may be an understandably inevitable choice.

In large part, social security coverage of domestics has failed, because the wage scale is so low that the employee must operate outside of the law in order to provide for a family. Providing workers with minimum wage coverage, however, is tantamount to directly increasing their daily earnings.

Should the domestic employer be unwilling to voluntarily adhere to the FLSA, it is unlikely that the workers would not take the necessary measures, as set forth by the law and regulations, to obtain what is rightfully theirs. An additional reason for including domestics under FLSA coverage is that once their wages have risen, many of them will cease to need welfare payments to supplement their income. Raising the incomes of domestics will also have the salutory effect of increasing their buying power, thus helping to bolster the sagging economies of the inner cities where most of the workers reside.

One other factor bears noting because of its increasing importance—the fact that careers for women have become increasingly common and that this occurrence is bound to lead to an increased demand for domestic help in the homes of employed wives and mothers. If an effective and dignified domestic work force is to be developed, a living wage and respectable working conditions are vital.

Now that Congress has sent to the States the constitutional amendment guaranteeing equal rights to women, it would be hypocritical in the extreme to deny an appreciable segment of the female work force, earning low wages, an opportunity to share in the rewards of more meaningful employment under the protection of the Fair Labor Standards Act. Finally, the coverage of domestics involves the protection of poor women—often black—and their families.

To large numbers of these families, often fatherless, welfare, drugs, and crime have become sordid facts of life. A fair wage for a day's labor could go a long way toward building a life for these families that is free of welfare and above the poverty standard. There can be little doubt that the low wages now paid to domestics as a group have a substantial effect on the economy and the fiscal and tax policies of both the Federal Government and the State.

According to estimates of the Department of Labor, the minimum wage rates proposed for domestics in the committee bill will place in the hands of these low-income employees an additional $559 million during the first year after the effective date, $559 million plus an additional $134 million during the second year, and $559 plus $134 plus an additional $140 million during the third year and thereafter.

That will represent a substantial increase in purchasing power which is bound to have salutary effects on the national economy, as well as the economy of our central cities, where many domestic employees live. Furthermore, this additional income will serve to lessen welfare payments to this category of employees, and should also serve to upgrade the status and dignity of this type of work.

Over and above the direct impact on interstate commerce which results from the low wages received by this large group of employees, there can be little doubt that the deplorably low wages received by domestics contribute substantially to the vicious poverty cycle which has created such chaos in our central cities.

Of particular concern is the fact that nonwhite persons living in poverty increased by almost a half million between 1971 and 1972, according to a recently released report of the Department of Commerce. This increase occurred at the same time that the number of white persons living in poverty declined. Our inability to end poverty in America has already had a pervasive impact on the population characteristics of our cities, and this, in turn, has already resulted in profound changes in commercial, economic, social, and educational patterns throughout the country.

These changes, and the problems they have created, are not localized, and their solution demands Federal, not merely local action as Congress has already recognized in enacting a myriad of programs dealing with such matters as housing, welfare, education, transportation, manpower training, and public service employment.

Since domestic employment is one of the prime sources of jobs for poor and unskilled workers, it is clear that there is an important national interest at stake in insuring that the wages received for such work do not fall below a minimal standard of decency. In this vein, the committee took note of the expanded use of the interstate commerce clause by the Supreme Court in numerous recent cases to accord Federal protection to persons needing such protection.

The committee rejected an amendment to strike coverage of domestic employees by a vote of 13 to 3, recognizing that domestic workers in households are in need of this Federal protection. Connections with the flow of commerce are both tangible and direct, proving a rational basis for finding the requisite link to interstate commerce.

Mr. President, the coverage of domestics is one of the most important provisions in this bill.

It epitomizes the committee's concern for the working poor and most clearly demonstrates the relationship between the minimum wage and welfare. An annual salary of $2,000 to a head of a family is no incentive to work, in my judgment.

Furthermore, I believe that America would be outraged to realize that many working poor who are receiving welfare payments must live on public assistance because their employers are free to pay substandard wages. There is no valid reason for the American taxpayer to have to subsidize the payment of subminimum wages by an employer who can afford to hire a private household domestic employee.

Yet, that is the effect of failure to cover domestic employees under the Fair Labor Standards Act. The typical household domestic employee works and travels long hours for exceptionally low wages in order to raise her children to a life of decency, to provide them with the barest opportunity to escape the cycle of poverty.

Then, because she only earns $1,900 a year for a full year's work, she must turn to public assistance. We must not cheat these hardworking Americans. We must not deprive them of their opportunity to obtain by honest work the bare minimum necessary for a decent living.

So if one really is concerned about having enough people who want to be employed in this fashion, I say two basic things are needed: The people in that particular work have to feel a dignity in their work, and part of that dignity is a wage that will give them a minimum standard of living. That is what this minimum wage is all about. There are other elements that are discouraging factors for domestic employment.

I used the word "dignity." We cannot do anything by law to change attitudes of people about domestics, except that we can do the first thing, and that is to include them under the Fair Labor Standards Act. It is labor, and they should be treated fairly. They should have this minimum wage.

The constitutional questions have been answered in situations analogous since the 19th century. I ask unanimous consent to have a brief legal documentation printed at this point in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

CONSTITUTIONALITY OF EXTENDING THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE EMPLOYEES EMPLOYED IN HOUSEHOLDS

A congressional decision to bring "domestic service employees" within the protection of the Fair Labor Standards Act would clearly be a valid exercise of the constitutional power to regulate matters affecting interstate commerce. Certain basic factors of congressional authority under the Commerce Clause of the Constitution (Article I, § 8, clause 3), as specified by Supreme Court decisions, should be initially emphasized. Congressional power over interstate commerce is fundamental to the national union and "commensurate with the national needs," (*North American Co.* v. *S.E.C.*, 327 U.S. 686, 705 (1946)), "plenary" as to matters that may be addressed, (*NLRB* v. *Jones & Laughlin Steel Co.*, 301 U.S. 1, 37 (1937)), encompassing "all appropriate legislation" in any measure related to the "protection and advancement" of commerce, (The Daniel Ball, 10 Wall. 557, 564). Also, there is no question that congressional power under the Commerce Clause extends to wholly intrastate, or even local, activity that may not be regarded as commerce, if such activity "exerts a substantial economic effect on interstate commerce," *Wickard* v. *Filburn*, 317 U.S. 111, 125 (1942).[1]

A particular activity may have an effect that is trivial and still be subject to federal regulation so long as the combined effect of "many others similarly situated" is not trivial. *Wickard* v. *Filburn*, 317 U.S. 111, 127 (1942). In addition, the decisions have recognized that Congress possesses superior fact-finding machinery and greater expertise in matters of economic regulation, therefore is properly the primary arbiter of the effective scope of the Commerce Clause. The Court has repeatedly said that there need only be a "rational basis" to support a congressional finding that an activity affects interstate commerce.[2]

Certainly there is a "rational basis" for the congressional judgment that substandard wages paid to domestic service workers affect commerce in this country. Statistics and other data, such as those discussed in the Report of the House Committee on Education and Labor (CCH Lab. Rept. 38, June 1, 1973, pp. 31-32), lend support to the conclusion that substandard wages for domestic employment have a substantial—and detrimental—impact on the flow of commerce. (As passed by the House, H.R. 7935, the Domestic Service Employees provision of the Minimum Wage Bill finds that "the employment of persons in domestic service in households directly affects commerce because the provision of domestic services affects the employment opportunities of members of households and their purchasing activities.")

In *Maryland* v. *Wirtz*, 392 U.S. 183 (1968), the Supreme Court upheld an earlier extension of the FLSA to employees of schools and hospitals, themselves engaged in wholly intrastate activities. The Court emphasized that substandard wages carry grave potential for labor strife and withdrawal of services that might obstruct interstate transactions and burden the flow of commerce. The same danger is present in the case of domestic service employees, whether manifested in a host of individual decisions not to enter the occupation, or in concerted activity. Thus, the potential for widespread withdrawal of services exists, and such strikes and work stoppages obviously would interrupt and burden the flow of goods in commerce and have a detrimental effect on the nation's economic productivity. One direct and foreseeable impact of withdrawal of services is the removal of female workers and others from the commercial labor force, in order to maintain the household. The nationwide economic effect of such a cutback in the work force, compounding the loss of resources to domestic workers themselves and others in the domestic service industry, fully establish constitutional justification under the Commerce Clause for preventive congressional action.[3]

(At this point, Mr. DOMENICI assumed the chair.)

Mr. BURDICK. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. BURDICK. Mr. President, I invite the attention of the manager of the bill to page 22 of the committee report, which reads:

> It is not, however, the committee's intent to include within the terms "domestic service" such activities as babysitting and acting as a companion.

The questions that have been raised by the Senator from Colorado give me some concern. I am not concerned about the professional domestic who does this as a daily living. But we have situations in which young people, a widow, a divorcee, or a family of low income, of necessity, must have someone sit with their children while they are at work.

We have another category of people who might have an aged father, an aged mother, an infirm father, an infirm mother, and a neighbor comes in and sits with them.

This, of course, entails some work, such as perhaps making lunch for the children or making lunch for the infirm person, and may even require throwing some diapers in the automatic washing machine for the baby. This would be incidental to the main purpose of the employment.

The Senator has used the word "companion" in the exception. When the Senator uses the word "companion," the Senator does not mean that in the ordinarily accepted sense, that they are there to make them feel good. They are there to take care of them, he means, when he uses the word "companion." Is that correct?

Mr. WILLIAMS. We use the situation in which people are in a household not to do household work but are there, first, as babysitters. I think we all have the full meaning in mind of what a babysitter is there for—to watch the youngsters.

"Companion," as we mean it, is in the same role—to be there and to watch an older person, in a sense.

Mr. BURDICK. In other words, an elder sitter.

Mr. WILLIAMS. Exactly.

The PRESIDING OFFICER (Mr. Moss). The Senator's time has expired.

Mr. WILLIAMS. I yield 1 more minute. We will not be long.

Mr. BURDICK. I thank the Senator.

In either case, it is incidental work, such as making lunch or throwing a diaper into the washing machine, so the general provisions here would not apply.

Mr. WILLIAMS. Of course not; if the individual is there for the actual purpose of being a babysitter or a companion. Anything which is purely incidental would not change the category of the person being there in the household.

Mr. BURDICK. I thank the Senator.

Mr. JAVITS. Mr. President, the question just asked by the Senator from North Dakota is very pertinent, and it is a question of fact which depends on what the person who is in the household does. Yet another category, and we have had it in our family experience, is the student or the person with relatively little income who lives with the family, or comes to the home to look after the dog when the family goes away for a holiday, or to take care of small children.

I think it is a question of fact as to whether the person is actually employed rendering a domestic service. I am sure that on the one hand the Department of Labor would take the position that any person living in the home doing household work would then be an employee, but would not be silly about it and extend the definition to a person who does other work for a livelihood, but makes his home for a period of time in the residence. Also, I would like to call attention to a pertinent statement which appears in the Committee report on page 22: It is not, however, the committee's intent to include within the term "domestic service" such activities as babysitting and acting as a companion. On the other hand, the fact that persons employed as cooks, maids, housekeepers, et cetera may also have duties relating to the care of children does not remove them from the category of a domestic service employee.

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[1] This principle was announced by Chief Justice John Marshall in *Gibbons* v. *Ogden*, 9 Wheat. 1 (1824) and has been consistently reaffirmed by the Supreme Court since 1937. See, *United States* v. *Women's Sportswear Mfrs. Assn.*, 336 U.S. 460, 464 (1949) ("if it is interstate commerce that feels the pinch, it does not matter how local the operation that applies the squeeze.")

[2] *Katzenback* v. *McClung*, 379 U.S. 294, 303-304 (1964) ("where we find that the legislators . . . have a rational basis for finding a chosen regulatory scheme necessary to the protection of commerce, our investigation is at an end"); *Maryland* v. *Wirtz*, 392 U.S. 183 (1968).

[3] "If Congress can remove obstructions to commerce by requiring [employers] to bargain collectively with employees and refrain from interfering with their rights of self organization, matters closely related to eliminating low wages and long hours, Congress likewise may strike directly at those evils when they adversely affect commerce." *Oklahoma Press Publishing Co.* v. *Walling*, 327 U.S. 186, 193 (1946). In addition, "it cannot be maintained that the exertion of federal power must await the description of that commerce. Congress was entitled to provide reasonable preventive measures . . . " *Consolidated Edison Co.* v. *NLRB*, 305 U.S. 197, 222 (1938).

There is one thing I hope the Senate will note about the amendment of the Senator from Colorado. It seeks to strike from the bill one of its most important aspects. This is a whole social class of people committed to domestic work. This provision in the bill is an historic landmark, bringing a terribly exploited economic group under the protection of minimum wage for the first time. It is very important that this be done from the point of view of the dignity, as the Senator from New Jersey emphasized, which is involved. We have testimony of a former chief of the Women's Bureau of the Department of Labor, Alice Duncan Koontz, who, in a speech in 1970, said:

> Household employment needs a decent wage level, good working conditions, and fringe benefits.

She emphasized that "First in importance is coverage under minimum wage laws."

I am sure that members who are always concerned with immigration problems notice the difficulty in getting work permits for immigrants to work as domestics in the United States.

We all are familiar with the complaints we hear from our wives because they are running short of maids, cooks, and so forth, and how it is that the immigration authorities will not certify that this is employment of a nature where we have a material shortage.

The reason is that they cannot. There are many people who want these jobs but who are prevented because they do not pay enough and the conditions under which they have to work are not such as a dignified person would wish to undertake.

The proof is the argument that is made for the amendment. As the committee report states on page 21:

> 2.4 million persons were employed as private household workers in May 1971. Of these, about 600,000 were babysitters with no housekeeping duties. Hourly earnings of the 1.8 million household workers (exclusive of babysitters) averaged $1.34 an hour. Almost half of the group were paid less than $1.00 an hour and two-thirds less than $1.50 an hour.

Mr. President, no wonder we have a pool of people who do not want the jobs; they are not paid adequately. The argument is strong for this kind of measure in the elementary sense of restoring the pool of labor for the work.

The other point is the difficulty in recordkeeping. I asked my colleague to yield, which he did. But I do not think the point has been made. The fact is that housewives pay social security today for those workers. From the figures I have, almost 1 million households, some 836,000, filed social security returns. They have to keep a record of the wages of that person, so they have the record. When one breaks down the figures on the number of domestic employees, it is found that 836,000 is a very representative number of the households which have full-time domestics, because the breakdown shows that comes to 900,000.

Finally, on the law, which has been discussed here, there is a host of cases. We cite a list of cases at pages 23 and 24 of the committee report which justify this provision.

Finally, and really most important, domestic workers deserve to be on the level of a minimum wage. These are hard working people, and many of them are poor people from the minorities and they need the dignity and recognition which social security has given them and they should be covered by the minimum wage. I believe we will have more and better domestic workers with this kind of policy than otherwise.

Our committee handles manpower legislation, and one of the elements of manpower training has been domestic service. We should in all good faith, if we are going to put money into this matter, at least guarantee a decent job with decent pay at the end of the road, which we have not done yet unless we pass this bill, which at long last includes domestics in this field. It is one of the real injustices of our society that domestic service has not been regarded as service deserving to be rewarded without discrimination equally with any other kind of work. If there is any place where dignity of work should be the decisive answer, it is in this field.

The Senate will be a nobler body if it rejects the amendment and at long last gives recognition to this really depressed economic and social element in the community.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. AIKEN. I wish to ask one question. Is there a time limitation on the employment? For instance, if a person has a domestic helper for a single day, does she then have to make a complete report?

Mr. JAVITS. No. There is a $50 quarterly exemption, so if he or she does not earn more than $50, he or she would not be covered.

Mr. AIKEN. Twenty-five hours without overtime.

Mr. JAVITS. Yes, until the rate of $2.20 becomes applicable.

Mr. DOMINICK. Mr. President, I wish to ask a question. I have received information that if you get a 14-year-old kid to mow your lawn twice a month at $5, you would have to file monthly reports with the Department of Labor.

Mr. JAVITS. Twice a month would be $10 a month. Would it not?

Mr. DOMINICK. Yes.

Mr. JAVITS. That would be $30 a quarter. Perhaps a report has to be filed because he is 14 years old, but not certainly for the minimum wage.

Mr. DOMINICK. Not for the minimum wage.

Mr. JAVITS. It would not meet the money test.

Mr. DOMINICK. All right, say you have a boy mow your lawn once a week for $5. That is $20 a month, and $60 a quarter, which meets the $50 a quarter reporting test under the act. So you would have to file monthly reports with the Labor Department to comply with the minimum wage law. It doesn't make sense to me.

Mr. DOMENICI. Mr. President, will the Senator yield for 2 minutes?

Mr. JAVITS. I yield.

Mr. DOMENICI. I wanted to clarify this matter so the Senator from Colorado will understand my vote. I am not going to support his amendment for a very different reason than the facts I brought up about the complexity of filing reports and the like. I am truly of the opinion that there are many people who work hard as domestics and that the best way to raise their standard of living is to defeat this amendment, even if many people do not follow the recording laws and the reporting laws imposed on them. I think it must be recognized that if one is going to work in a house, and work hard for someone, he deserves the protection of the law, as others have it. I think the student exemption was different, because they are transitory workers and they are exceptions to a total livelihood. But I think that is not true with respect to domestics who are going to work full time, and I hope we will keep looking at this law where it does not apply because they are not truly full-time workers, but have a casual kind of relationship. I hope we will keep looking at that.

But, in my opinion, the best way to raise their standard is to say "Cheat if you like, but when you go to look for a job, the law applies. You have to pay at least that much."

Mr. JAVITS. I thank the Senator.

Mr. President, I yield back my time.

Mr. WILLIAMS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Colorado. [Putting the question.]

The amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGOVERN. Would the distinguished Senator from New Jersey (Mr. WILLIAMS) yield for a few questions on the affect of the committee's bill on small business? As the Senator knows over 90 percent of American enterprises are technically classified as small business. These are essentially the retail stores, gas stations and other enterprises which are the life blood of rural States such as the one I have the honor to represent. My question is, will the committee's proposed change in the small business exemption affect any concern which grosses less than $250,000 per year.

Mr. WILLIAMS. The committee bill does not extend coverage to any retail or service enterprise grossing less than $250,000 per year in gross volume of sales which is not already covered.

Mr. McGOVERN. Is my understanding correct that the only effect of the committee bill would be to remove the exemption for nationally owned chain stores which are not in any sense individual enterprises?

Mr. WILLIAMS. I would answer the

Senator from South Dakota that the bill would repeal the establishment exemption under which the individual establishments grossing under $250,000 have been exempt even if the enterprise of which they are a part is grossing more than $250,000 and is covered. Under the current law, you could have an individual establishment of a multimillion dollar chain on one side of Main Street grossing $249,000 a year but being exempt while its competitor across the street, an individual enterprise grossing $251,000 a year, was covered. We would repeal the chainstore's exemption.

Mr. McGOVERN. So, a store which is "nationally known but locally owned" would not be affected?

Mr. WILLIAMS. It would not be affected so long as it is not part of an enterprise grossing $250,000 or more per year in sales.

Mr. McGOVERN. In other words, a gas station or a Ben Franklin store for example would continue to have the exemption currently provided in the law?

Mr. WILLIAMS. I will say that whether a particular enterprise is covered or exempt will depend on the specific facts of each case. However, as a general statement, the effect of this bill is to continue to exclude from coverage retail or service enterprises which gross less than $250,000 annually regardless of whether the work of the enterprise is performed in one or more establishments. If that enterprise grosses less than $250,000, it is not covered.

Mr. McGOVERN. I thank the Senator for his clarifications. One of the problems we face in adopting legislation which is national in scope, such as the minimum wage bill, is to insure that the requirements we set will benefit all Americans, rural as well as urban areas, and small enterprise as well as big business. I think it would be a big mistake to extend the minimum wage law to business which are really small business. For if we did many smaller enterprises would clearly have to lay off some workers, and others would no longer find it possible to make a profit in their competition against giant rivals. And at a time when large firms increasingly dominate the market, we would be ill advised to adopt a measure which would hurt small businessmen.

So in light of the Senator's assurance that the exemption will be retained for enterprises which are truly "small business" and not merely a part of a big business, I will support the committee bill.

Mr. MOSS. Mr. President, I send to the desk an amendment in behalf of myself, Mr. CANNON, Mr. BIBLE, Mr. BUCKLEY, Mr. JAVITS, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be read.

The assistant legislative clerk proceeded to read the amendment.

Mr. MOSS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and I will attempt to explain it.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in full in the RECORD.

The amendment is as follows:

On page 22, line 14, insert "(a)" after "SEC. 7.".

On page 22, line 15, beginning with "(1)", strike out through "(2)" on line 19 and insert in lieu thereof "(1)".

On page 22, line 22, strike out "(3)" and insert in lieu thereof "(2)".

On page 22, line 22, strike out the word "and".

On page 22, line 24, before the period insert a comma and the following: "and (4) by inserting immediately after the first sentence the following: 'For the purposes of this subsection, the term "student hours of employment" means student hours worked at less than $1.00 an hour, except that such terms shall include, in states whose minimum wages were at or above $1.00 an hour in the base year, hours worked by students at the state minimum wage in the base year.' "

On page 22, after line 24, insert the following new subsection:

"(b) Section 14 of such Act, as amended, is amended by adding at the end thereof the following new subsection:

" '(e) (1) Notwithstanding the minimum wage rates required by section 6 (a) (1) or (b), any private institution of higher learning may, in compliance with the applicable child labor laws, employ any student attending such institution full time at a wage rate which is not less than 85 per centum of the otherwise applicable minimum wage rate prescribed by section 6(a); except that such special minimum wage rate for employees in Puerto Rico, the Virgin Islands, and American Samoa shall not be less than 85 per centum of the industry wage order rate otherwise applicable to such employees, but in no case shall such special minimum wage rate be less than that provided for under the most recent wage order issued prior to the effective date of the Fair Labor Standards Act of 1973.

" '(2) No institution referred to in paragraph (1) may employ any student referred to in such paragraph at the special minimum wage rate authorized by this subsection for longer than twenty hours per week, except that the limitation contained in this paragraph shall not apply in any workweek that is a vacation period as determined pursuant to regulations established by the Secretary.

" '(3) The Secretary shall by regulation prescribe certification standards and other requirements to insure that this subsection will not result in decreasing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable provided that any establishment found to have violated this requirement shall have to obtain certificates from the Secretary of Labor in advance of employing students at subminimum rates.' "

Mr. MOSS. Mr. President, the amendment is a relatively simple and noncontroversial one, I believe.

It was accepted by the House managers of the bill on the House floor during debate over the minimum wage bill on June 6. It was agreeable to both sides of the aisle, and I would hope that the same acceptance might take place in the Senate.

The purpose of the amendment is to help deal with a particular problem that occurs with the minimum wage in private educational institutions. This amendment simply eases some of the requirements that are placed on private educational institutions in the hiring of full-time students to fill part-time jobs on campus. Under the bill as reported by the Senate Labor and Public Welfare Committee, educational institutions may qualify to pay full-time students occupying part-time jobs a wage somewhat lower than the normal minimum wage. The purpose of this is obvious: It is to help students complete their education by working their way through school. In this day of relatively high costs in higher education, such assistance is very necessary.

Whenever possible, students should be given the opportunity to work rather than receive grants or loans while going to college. My amendment would help us reach this objective. Without its enactment, universities will have to follow burdensome procedures by filing a great deal of information about job market that were designed primarily to cover private employment practices in large retail organizations. The redtape involved may well bar many universities from this program. Students at those universities would end up losing job opportunities.

The result in all probability would be a decline in the number of part-time jobs for full-time students.

I hope we can all agree on the objectives of this amendment. It is simple and straightforward. The House accepted this amendment in a bipartisan manner, and I would hope that a similar pattern might be followed here in the Senate.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. BELLMON. I would like to ask a question of the distinguished Senator from Utah. Is this amendment limited to private universities?

Mr. MOSS. Yes, it is limited to private universities.

Mr. BELLMON. Is there some reason why it should be limited to private universities and not include public universities as well?

Mr. MOSS. There was considerable discussion of that at the staff level. Finally we agreed it was the private institutions that had the prime problem. For that reason, it was agreed we would limit it to them and not include public universities.

Mr. WILLIAMS. Mr. President, if I could also respond to that, we did the best we could, and have reached out to those who speak for the State and public universities. The problem the Senator from Utah is addressing himself to is not their problem. They have no interest in being included, from all the inquiries we put out.

Mr. BELLMON. We have received some correspondence from our State universities indicating they do have problems in the same area. Is there some reason why public universities cannot be covered?

Mr. MOSS. Of course there is no reason why public universities cannot be covered, but I would say we have not received from them—I have not, at least—the appeals that have been made by the private universities, and since they are the ones who claim they have the serious problem, we tried to meet them. I believe there is a willingness to accept this amendment if it is confined to private universities.

Mr. BELLMON. Would the Senator agree to modifying his amendment to cover public educational institutions as well as private? I can supply evidence that this is a problem for the public institutions.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BELLMON. I yield.

Mr. JAVITS. It sounds like an entirely reasonable proposal to me. I would hope the Senator from Utah would see fit to accept the amendment.

Mr. BELLMON. I would urge the Senator to modify his amendment accordingly.

Mr. WILLIAMS. Mr. President, this is the first information we have had that State colleges and universities are in the same situation. I would be willing to accept the amendment if the Senator from Utah is.

Mr. MOSS. Mr. President, I would be willing to modify my amendment by striking the word "private" before the words "institution of higher learning" wherever it occurs in the amendment. I think it occurs twice. I so modify my amendment.

Mr. BELLMON. I thank the Senator.

The PRESIDING OFFICER. The amendment is so modified.

Mr. WILLIAMS. Mr. President, this has been thoroughly discussed. This whole area has been discussed with the Senator from Utah and others. We thought much of the education situation was met with the bill we have brought here. There is this further part of the educational system that we did not meet. I think of all, the educational institutions deserve the greatest attention. I as manager, and I believe the Senator from New York feels the same way, will go along in accepting this amendment.

Mr. President, the proposed amendment modifies the student certificate program so as to allow a somewhat less restrictive employment program for students at educational institutions pursuant to section 14 of the Fair Labor Standards Act.

The employment of students at such institutions is a worthy program.

However, I am very much concerned about the impact of such a program on the employment situation for adult workers at such institutions.

I hope and expect that the Secretary of Labor will be extremely careful in administering this program to make sure that no adverse impact on adult jobs will result.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MOSS. I yield.

Mr. JAVITS. Mr. President, I thoroughly agree with the amendment which covers areas of employment in both public and private institutions. I would like to have the RECORD disclose clearly that there is another part of this amendment, so that the Senate knows exactly what it is voting on.

I would like to ask the Senator whether or not it is a fact that, at the behest of my colleague from New York (Mr. BUCKLEY), and myself, there was included in this amendment a provision which would take account of the fact that New York State, and other States—I am told it includes California, Nevada, and other States—do not qualify with respect to the so-called base year test in the employment of students under section 14(b) by virtue of the fact that they had a minimum wage of $1 an hour, or more, during the base years specified in that section. Hence, retail and service establishments are precluded, under Department of Labor regulations, from counting and student hours worked during those base years.

This amendment would relieve them of that artificiality and put them in the same class as other States, and they would not be penalized because they are ahead of other States in having a minimum wage.

Mr. MOSS. The Senator is entirely correct. The amendment does contain that provision. So those States which had a minimum wage of $1 an hour, or more, during the base periods are now treated like every other State.

Mr. JAVITS. The State figure was $1 or more. If they had $1 or more, they would be excluded under present regulations. Now they would no longer be discriminated against.

Mr. MOSS. The Senator is correct.

Mr. JAVITS. Mr. President, I am delighted to accept the amendment as modified.

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

Mr. MOSS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (putting the question).

The amendment was agreed to.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUCKLEY. Mr. President, I send to the desk my amendment No. 372.

The assistant legislative clerk read as follows:

On page 32, between lines 9 and 10, insert the following:

"SEC. 14. (a) (1) The Secretary shall contract for a study to determine the extent, if any, of the impact on employment of the increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by each of sections 3 (a), (b), (c), and (d) of this Act, and to develop statistical information and techniques designed to predict the probable impact, if any, on employment of future increases in minimum wages. Each such study shall contain statistical information with respect to such impact on categories of employment and unemployment including but not limited to age, sex, occupation, education, ethnic origin, size, and business of employer, and geographic area, including Puerto Rico, the Virgin Islands, and the Panama Canal Zone.

"(2) The Secretary shall prepare and furnish the Congress on an annual basis, beginning nine months after the effective date of the Fair Labor Standards amendments of 1973, with reports on the interim findings of each such study, and with a final report on the findings of each such study within twenty-one months after the highest minimum wage rate prescribed by each of said sections shall have become effective.

"(3) Ninety days prior to the effective date of each increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by sections 3 (a), (b), (c), and (d) of this Act subsequent to the increase which takes effect on the effective date of this Act, the Secretary shall provide the Congress with an employment impact statement establishing the probable impact on employment by category of employment of each such prospective increase, together with a summary of the basis for each statement.".

On page 32, line 14, strike out "(2)" and insert in lieu thereof "(B)".

On page 32, line 20, strike out "(1)" and insert in lieu thereof "(A)".

On page 32, line 21, strike out "(2)" and insert in lieu thereof "(B)".

On page 32, between lines 22 and 23, insert the following new subsection:

"(b) (1) There are authorized to be appropriated for the purpose of conducting the study required by subsection (a) of this section such sums as may be necessary.".

On page 32, line 23, strike out "(b)" and insert in lieu thereof "(2)".

On page 32, line 24, insert "subsection (b) of" after the word "by".

Mr. BUCKLEY. First I ask unanimous consent that the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Wyoming (Mr. HANSEN) be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, during the course of the debate, and especially during the debate on the youth differential and the exclusion of domestic employees, it became very apparent that there are conflicting opinions of what the impact of the minimum wage laws may be on various levels of employment. This is especially true for those with marginal skills, such as young people who are trying to get into the labor market.

Men of intelligence and good will have found themselves led to different conclusions in spite of the studies that have already been conducted. If Congress is to truly act in a responsible manner and to work on the basis of solid, academic economic evidence, we ought in the pending bill to require the Secretary of Labor to conduct a study of the impact of the increases in minimum wage mandated by S. 1861 on employment, and to develop the statistical information and techniques required to predict the impact of future increases on various categories of employment. This is what my amendment would accomplish.

It will further direct the Secretary of Labor to provide the Congress, at least 60 days before each scheduled increase in minimum wage levels, with an employment impact statement estimating the effect, if any, of the prospective increase on unemployment.

Mr. President, unless we have objective studies of this nature, we in the Congress are operating very much in the dark in our well-intentioned attempts to help the least privileged among us by legislating increases in the minimum wage levels. We simply can no longer afford to turn our backs on the ever-growing statistical evidence demonstrating the extent to which increases in minimum wages have forced marginal workers out of jobs.

Let me cite just a few of the studies that compel this conclusion. In the much-discussed area of youth employment, Ohio University economists Douglas K. Adie and Gene L. Chapin have estimated the response of teenage unemployment rates to increases in the minimum wage. Professor Adie states, "The results of this study indicate that, first, increases in the Federal minimum wage cause unemployment among teenagers; second, the effects tend to persist for considerable periods of time; and third, the effects seem to be increasing through time. The result is not surprising, since one of the fundamental difficulties with legislative attempts to alter the economic structure of the economy arises from the apparent inability of legislators to see the full social and economic consequences of their interference." Based on these studies, it can be predicted that a 25-percent increase in the minimum wage—from $1.60 to $2 an hour—would increase the white teenage unemployment by 1.4 percentage points to 13 percent, and the nonwhite teen rate by 6.6 percentage points to 34.7 percent.

University of Chicago Economist Yale Brozen has also extensively documented the impacts of increases in the minimum wage on teenage employment. Professor Brozen's research shows that after each increase in the minimum wage there has been a quantum jump in the ratio of teenage to general unemployment. Using this ratio allows us to separate out the minimum wage effects from the other influences in the economy. Isolating the minimum wage effects has clearly shown a causual effect on teenage unemployment. Professor Brozen has also examined the ratio of nonwhite teenage unemployment to both the general and white teen unemployment levels. These comparisons show that after increases in the minimum wage, nonwhite youth unemployment worsened in relation to the white teen rates and the general rates. This means that, while the employment position of teenagers worsened after each increase in the minimum wage, the nonwhite teenagers experienced an even worse impact.

Other studies have documented the adverse effects on the employment of individuals with the least marketable skills that have followed upon past extensions of coverage under Federal minimum wage laws. I cite, as example, the effects on employment by southern sawmills, the seamless hosiery, and men's cotton garment industries when these workers were first included under the Fair Labor Standards Act. In the light of past experience, we ought to provide ourselves with a basis for measuring the impact that the bill now under debate will have on the estimated 6,000,000 jobs that will be covered for the first time by Federal minimum wage laws.

S. 1861, for example, extends minimum wage coverage to household domestic workers for the first time. Because these workers would go from complete exemption to complete coverage, the estimates are that this area, which has become a haven for those who have been unable to find employment in jobs covered by the minimum wage, will experience very drastic reductions in number.

One estimate is that the initial wage of $2 an hour will decrease the present employment of approximately 935,000 household workers to about 475,000, which is about a 50-percent reduction in jobs. The increase in a year's time to $2.20 an hour is thought to mean a further reduction of 100,000.

These are not wild guesses, Mr. President, but serious predictions based on 25 years of cumulative experience that suggests a cause and effect relationship between minimum wage rates and job opportunities—job opportunities for the least skilled among us. It may well be that the social gains to be derived from increasing minimum wage levels outweigh the social costs indicated by these economic studies. This is the judgment that the Congress has the responsibility to make. I suggest, however, that the Congress cannot make a responsible judgment unless it is in possession of the facts. The facts we need to have will involve a careful study of the actual impact on existing employment of the minimum wage legislation we are about to enact.

We need to know what the impact is by age, sex, ethnic background, type of employment, educational background, geographical location, and in terms of size and business of the employer. We need to know who is deprived of the opportunity to enter the labor market through the denial of threshold jobs that provide training in elementary work skills and habits, and who is squeezed out of the labor market by virtue of age or disability or marginal productivity. It is no longer possible for anyone in good faith to argue that increases in minimum wages have no effect on the availability of jobs. The question now is to determine what that effect is and whether, on balance, the increases mandated by Congress will on balance benefit or harm our society.

I know, Mr. President, that economic predictions are never exact, but they can be useful. I know that many of the indications as to adverse effects of the legislation now under consideration can be discounted as self-serving. On the other hand, I do not believe that one can totally discount the March 1973 study on the "Minimum Wage Legislation and the Independent Business Community" published by the National Federation of Independent Business. The Federation has 335,000 members, and a recent polling indicated that 37 percent of these independent businesses will reduce the size and/or the hours worked by their labor force if the minimum wage is increased to $2 an hour. The study that my amendment would require would determine the extent to which this prediction is accurate, and the number of employees affected. Such a study would provide a basis for estimating the impact of further increases on employment, and identify the categories of workers affected.

Mr. President, the need for the studies and for the employment impact statements provided for in my amendment is self-evident.

Mr. President, I have discussed this briefly with the distinguished chairman of the committee. It is my understanding that he is prepared to accept the amendment. If that understanding is correct, I shall not ask for the yeas and nays.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BUCKLEY. Mr. President, I am glad to yield.

Mr. JAVITS. Mr. President, I have carefully examined the amendment. And, incidentally, this is on my time. I am sure that the Senator has also carefully examined the amendment which we already have included in the bill for study of economic effects, et cetera.

I am concerned that this may be a vast statistical enterprise and will involve very substantial expenditures.

I know that the committee chairman is sympathetic to the amendment. I would like to ask the Senator, if he feels it desirable to add my concurrence, as well, if he would not consent to allowing the Secretary to make the study or to contract for it.

I am deeply concerned that if we confine him to a contract, it will guarantee an enormous expenditure for econometrics.

I refer the Senator to the provision on page 1, line 8, reading:

> And to develop statistical information and techniques designed to predict the probable impact on employment, of future increases in minimum wages.

In other words, it is not just the information itself, but methods by which predictions may be made that the Senator wants to have contracted.

I would hope that the Senator would agree to insert the words on page 1, line 3:

> The Secretary shall conduct a study or studies or contract for a study or studies to determine the extent, if any, . . .

It would at least give him the option to do it inhouse or to contract it out. I am deeply concerned about the contracting out and the cost involved.

Mr. BUCKLEY. Mr. President, I very much appreciate the concern of my distinguished colleague. However, recently, in connection with the work of the Committee on Labor and Public Welfare, we went through a similar process of determining how best one could assemble information that would satisfy the public at large and would satisfy Members of the Senate as to its objectivity.

I have no reason to suspect that the Department of Labor has any bias in these matters. However, I think we would be less than candid if we did not recognize that some economists have challenged the figures compiled by the Department of Labor on the assertion that there is an inhouse bias.

It is for this reason that, after careful thought, I determined to have the Secretary contract with an outside firm that has to have a professional responsibility for its results in order to maintain its credentials in the contracting field. It would assure us of objectivity and would make it easier for the Members of the Senate to resolve their difficulties. I recognize that it will cost money. However, if we are wrong in this minimum wage legislation and if in fact the levels we set make a difference in employment or unemployment of hundreds of thousands and even millions of Americans, then I can think of no money better spent.

So, it is with great regret that I feel that I cannot accept the suggestion of my distinguished colleague.

Mr. JAVITS. Mr. President, may I make another suggestion, and that is that in view of the fact that we have just had a new Director of the Bureau of Labor Statistics appointed, the study be directed to be made by the Bureau of Labor Statistics. That is, that: "The Bureau of Labor Statistics shall conduct a study or studies or shall contract for a study or studies * * *" rather than the Secretary.

Mr. BUCKLEY. Mr. President, that would be totally acceptable.

The PRESIDING OFFICER. Does the Senator accept the modifications?

Mr. BUCKLEY. I accept the modification.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. JAVITS. Mr. President, I have one other question. Does not the Senator feel that instead of loading the measure with this imponderable of "techniques designed to predict the probable impact" which is really getting into an abstract field where we could have monographs 1,000 pages long, that if we said in line 8:

> To develop the necessary information . . .

And omit the words "statistical information and techniques designed to predict the probable impact," that it would be better.

Mr. BUCKLEY. I am sure that the RECORD of this debate will make the purpose of the amendment completely clear.

Mr. JAVITS. Mr. President, with those changes, which I understand are acceptable to the Senator from New Jersey (Mr. WILLIAMS), the amendment is acceptable to me.

Mr. WILLIAMS. Mr. President, it seems to me that the law and the bill before us combined would require the Secretary and the department to be in a continuing study of the economic effects of the entire law, and to do it each year; and also there are special studies mandated to the department, that they study all exemptions, both those that have been repealed and those that are to be retained.

On the face of it, Senate amendment No. 282 sounds reasonable and as though it would fill a gap which now exists in the statute on determining employment effects of changes in the minimum wage.

Actually the law now requires such effects studies and leaves it to the Department of Labor to determine how such effects should be measured.

Amendment No. 282 would require the Department of Labor to contract out effects studies even though the only real expertise in this field is right in the Department of Labor.

I do not really see the reason for a Government agency which employs a large number of outstanding statisticians and economists to let a contract for studies which the Department has been conducting on an interagency basis since 1950.

If the necessary planning and completion of the studies could be accomplished within the short time schedule provided for by the amendment—and I do not accept this premise—the cost of such studies could be astronomical.

Perhaps something supplemental to what is under law and will be under the bill as is can be added by this amendment. I will confess we have not had time to see what the budgetary impact of this additional work will be. I am willing to accept the amendment, but I certainly would hope that between now and conference we will know just how much more money the Department of Labor will need for this purpose and just what the dimensions will be.

Mr. JAVITS. Mr. President, I yield myself whatever time I may require. In order to give the proponent of the amendment an opportunity to look at the language, I ask unanimous consent that we may have a quorum call with the time charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I have had some discussions with my distinguished colleague and with the chairman. I had misunderstood the suggestion of my colleague with respect to an amendment in line 3 of my amendment. I thought it was his intention to substitute the Commissioner of Labor Statistics for the Secretary as the party to contract for the study I am requesing in my amendment. Based on that misunderstanding and after discussion with these two gentlemen, I ask unanimous consent that the original language of my amendment on line 3 be restored.

The PRESIDING OFFICER. The Senator has a right to modify his amendment, and it will be considered modified accordingly.

Mr. BUCKLEY. I want to reconfirm that the modifications I accepted in line 8 and 9 will be retained.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY), as modified.

Mr. WILLIAMS. Mr. President, to be sure I understand, is this going back to the original amendment?

The PRESIDING OFFICER. Perhaps it would be best if the clerk state the modification as understood by the junior Senator from New York, as he sent it to the desk.

Mr. JAVITS. I ask that that be done.

The ASSISTANT LEGISLATIVE CLERK. On page 1, line 8, strike the words "statistical" and "and techniques designed to predict the probable impact," so as to make the language on lines 8 and 9 read as follows:

> This Act, and to develop the necessary information on the probable impact, if any, on employment.

Mr. WILLIAMS. Mr. President, I earlier said that I had not had the opportunity to find out what the budget impact of this particular amendment will be. That will be necessary before we get to conference. The change makes it a little bit heavier to carry in conference, but I am agreeable to taking it to conference.

Mr. BUCKLEY. I thank the distinguished Senator. I yield back the remainder of my time.

Mr. WILLIAMS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. DOMENICI). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY), as amended.

The amendment (No. 372), as amended, was agreed to, as follows:

On page 32, between lines 9 and 10, insert the following:

"SEC. 14. (a) (1) The Secretary shall contract for a study to determine the extent, if any, of the impact on employment of the increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by each of sections 3(a), b), (c), and (d) of this Act, and to develop the necessary information on the probable impact, if any, on employment of future increases in minimum wages. Each such study shall contain statistical information with respect to such impact on categories of employment and unemployment including but not limited to age, sex, occupation, education, ethnic origin, size, and business of employer, and geographic area, including Puerto Rico, the Virgin Islands, and the Panama Canal Zone.

"(2) The Secretary shall prepare and furnish the Congress on an annual basis, beginning nine months after the effective date of the Fair Labor Standards amendments of 1973, with reports on the interim findings of each such study, and with a final report on the findings of each such study within twenty-one months after the highest minimum wage rate prescribed by each of said sections shall have become effective.

"(3) Ninety days prior to the effective date of each increase in minimum wages prescribed pursuant to the amendments made to the Fair Labor Standards Act of 1938 by sections 3 (a), (b), (c), and (d) of this Act subsequent to the increase which takes effect on the effective date of this Act, the Secretary shall provide the Congress with an employment impact statement establishing the probable impact on employment by category of employment of each such prospective increase, together with a summary of the basis for each statement.".

On page 32, line 14, strike out "(2)" and insert in lieu thereof "(B)".

On page 32, line 20, strike out "(1)" and insert in lieu thereof "(A)".

On page 32, line 21, strike out "(2)" and insert in lieu thereof "(B)".

On page 32, between lines 22 and 23, insert the following new subsection:

"(b) (1) There are authorized to be appropriated for the purpose of conducting the study required by subsection (a) of this section such sums as may be necessary.".

On page 32, line 23, strike out "(b)" and insert in lieu thereof "(2)".

On page 32, line 24, insert "subsection (b) of" after the word "by".

Mr. BUCKLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CHURCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. CHURCH's amendment is as follows:

On page 27, after line 2, insert the following:

SEC. 12. (a)(1) The first sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630 (b)) is amended by striking out "twenty-five" and inserting in lieu thereof "twenty".

On page 27, line 3, strike out "Sec. 12. (a)(1)" and insert in lieu thereof "(2)".

On page 27, line 4, strike out "the Age Discrimination in Employment Act of 1967" and insert in lieu thereof "such Act".

On page 27, line 12, strike out "(2)" and insert in lieu thereof "(3)".

On page 27, line 17, strike out "(3)" and insert in lieu thereof "(4)".

On page 28, line 7, strike out "(4)" and insert in lieu thereof "(5)".

Mr. CHURCH. Mr. President, briefly stated, my proposal would broaden the application of the Age Discrimination in Employment Act to cover employers with 20 or more employees in an industry affecting interstate commerce. Under present law, the act extends to employers with 25 or more employees.

In 1967 the Age Discrimination in Employment Act was enacted to protect older workers against job bias, because of advancing years. During the past 6 years much progress has been made in removing impediments for job opportunities for persons in their forties, fifties, and above. However, age bias is still a very real and serious problem today. This point was brought home very forcefully in the latest Department of Labor report concerning the Age Discrimination in Employment Act.

Recent amendments approved by the Senate Labor and Public Welfare Committee would help close some of the gaps in the present law. For example, extension of the law to persons employed by Federal, State, and local governments would provide valuable protection for an estimated 5.5 million employees aged 40 to 64. To my way of thinking, the same standards of conduct should be applicable to governmental units as are in effect for employers in private industry. Quite clearly, it is very difficult for government—whether it be at the Federal, State, or local level—to act as a model employer, when one set of rules applies to private industry and less stringent standards for itself.

For these reasons, I wish to congratulate the chairman of the Labor and Public Welfare Committee (Mr. WILLIAMS) and other members of this committee for extending the application of the age discrimination law to Federal, State, and local governmental employees. This is a measure which the Senate Committee on Aging—of which I am chairman—has long supported.

However, recent hearings and investigative work by the Senate Committee on Aging provide further compelling evidence that the application of the age discrimination law must be extended further if the act is to have real meaning for many middle-aged and older workers. But this extension must be achieved gradually and in a manner which will not create an administrative hardship for the small businessman, who is still the economic backbone of our society.

This is a major reason why I offer my amendment today to extend coverage of the law to employers in interstate commerce with 20 or more employees.

Other labor related statutes now have a much broader application than the Age Discrimination in Employment Act. The Equal Employment Opportunity legislation, for example applies to employers with 15 or more employees. And the age discrimination in employment law should also provide fuller protection against job bias because of age, since it is still a formidable and sometimes insuperable obstacle for far too many middle-aged and older workers.

This action is, of course, not a panacea. It is not going to eliminate age bias overnight. Other actions—such as educational efforts and more vigorous enforcement by the Department of Labor—will also be needed. But my proposal, in conjunction with the Labor and Public Welfare Committee's measure, would be an important step toward the goal of making one's year of birth irrelevant for employment opportunities.

Make no mistake about it, "ageism" in employment can be as pernicious as discrimination based on race, religion, national origin, or sex. More importantly though, it is cruel and self defeating for older workers, their families, and our Nation. It denies aging Americans a chance to participate in our society and to make valuable contributions. And, it also robs our Nation of some of our most experienced and talented personnel.

Mr. President, following is a brief description of the Age Discrimination in Employment Act:

The Age Discrimination in Employement Act (Public Law 90–202) was enacted in 1967 to promote the employment of persons aged 40 to 64 on the basis of ability, rather than chronological age. The Act prohibits discrimination in employment because of age in hiring, job retention, compensation, and other conditions of employment. Coverage under the law includes (1) employers of 25 or more employees in an industry affecting interstate commerce, (2) employment agencies serving such employers, and (3) unions with 25 or more members in an industry affecting interstate commerce.

Enforcement of the Act is within the Wage and Hour Division of the Employment Standards Administration of the Department of Labor.

The amendment, would not entail authorizing any additional funds. The committee has already acted to increase the authorized funding for the act from $3 to $5 million.

As I have previously stated, the bill was reported from the committee to include an additional 5½ million middle-aged workers within the coverage of the Age Discrimination in Employment Act. The committee recommends that Federal, State, and local employees be brought within the purview of the law, a position I heartily endorse.

At the present time, only about 50 percent of the middle-aged employees in this country have the protection of the law in connection with discrimination on the basis of age.

In terms of actual numbers, the coverage today is 18.5 million. If the Senate were to adopt this amendment, an additional 1.3 million employees would be brought within the coverage of the act. Taken together, the adoption of the committee's amendment and this amendment would mean that roughly two-thirds of all workers between the ages of 40 and 64 would be covered. I have difficulty continuing to exempt as many as one-third from coverage; but I think we would improve the picture considerably if we adopt this amendment.

Since the amendment does not entail any additional money, I hope that the distinguished chairman of the committee, who is managing the bill with such skill, might find it possible to accept the amendment.

Mr. WILLIAMS. Mr. President, I am happy to say to the most able and distinguished chairman of the Special Committee on Aging that this is what I would expect from the Senator from Idaho whose attention has been so complete in considering the needs of our older people. Discrimination in employment is one of its problems. This would broaden those that the law protects against discrimination. I certainly agree with the Senator from Idaho. I applaud him and I shall be happy to accept his amendment. The pending bill is an appropriate place for it.

Mr. CHURCH. I thank the distinguished Senator from New Jersey very much.

Mr. President, I yield back my time.

Mr. WILLIAMS. Mr. President, I yield back my time.

The PRESIDING OFFICER (Mr. HELMS). All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Idaho (Mr. CHURCH).

The amendment was agreed to.

AMENDMENT NO. 370

Mr. PACKWOOD. Mr. President, I call up my amendment No. 370 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 22, between lines 11 and 12, insert the following:

(d) Section 13(d) of such Act is amended to read as follows: "The provisions of sections 6, 7, and 12 shall not apply with respect to any employee engaged in the delivery of newspapers to the consumer, and the provisions of section 12 shall not apply with respect to any such employee when engaged in the delivery to households or consumers of shopping news (including shopping guides, handbills, or other type of advertising material) published by any weekly, semiweekly, or daily newspaper.".

Mr. PACKWOOD. Mr. President, under present law, newspaper delivery boys are exempt from the minimum wage, overtime, and the child labor provisions of the act. They are exempt whether they deliver a daily newspaper or a weekly or semiweekly newspaper, or whatever.

However, if a newspaper boy who works once a week to deliver a paper is asked by his employer to deliver a circular or supplement on another day, a circular which the employer prints and publishes, he is not permitted to do so because the exemption does not apply other than on the day he delivers the weekly newspaper, although the exemption does apply to the boy who delivers a newspaper 7 days a week.

My amendment would simply exempt from the child labor provision the same newspaper boy when he is delivering a circular on other than his working day for his employer who publishes a newspaper and a circular.

Mr. President, I have spoken with the Senator from New Jersey and the Senator from New York, and I believe the amendment is acceptable.

I think there is no controversy. This is identical to an amendment accepted by the Labor Committee last year, and approved by the Senate.

I am prepared to yield back the remainder of my time unless there are questions.

Mr. WILLIAMS. Mr. President, I had some concern that the amendment to be offered by the Senator from Oregon was going to be different, or in a different form, from the amendment that he offered the last time the bill was being considered, and which I accepted. What is the situation at this time?

Mr. PACKWOOD. It is the same as it was last year. It does not exempt the weekly delivery boy from minimum wage or overtime. Under present law, as a minor, he is not exempt and could not work on a day other than the day he delivers his newspapers. This amendment would exempt him on the day or days he delivers others, such as advertisers.

Mr. WILLIAMS. This amendment deals with the opportunity to be employed, not with the wage.

Mr. PACKWOOD. That is correct.

Mr. WILLIAMS. Mr. President, last year I accepted the amendment, so I am willing to accept this amendment, and I yield back the remainder of my time.

Mr. PACKWOOD. I yield back the rest of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. FONG. Mr. President, will the manager of the bill, the Senator from New Jersey (Mr. WILLIAMS), yield 10 minutes to me on the bill?

Mr. WILLIAMS. I yield 10 minutes to the Senator from Hawaii.

STUDENT WAGE DIFFERENTIAL NEEDED IN HAWAII PINEAPPLE PROCESSING

Mr. FONG. Mr. President, I rise to call attention to the plight of the pineapple industry in Hawaii and to the need for a student seasonal differential for pineapple processing in my State.

Since the turn of the century, pineapple has been a mainstay in Hawaii's economy. Today it is still my State's second largest agricultural industry, second only to sugar.

The processed value of Hawaiian pineapple last year was $137 million. The industry employs 5,500 year-round workers who earn $52 million in annual wages and another 12,345 seasonal workers who earn a total of $10 million a year. The bulk of these seasonals are students age 15 and older.

In addition to the $52,000,000 payroll which Hawaii's pineapple industry provides to the economy of my State, the industry spends $32,000,000 with local businesses for supplies and services. Our pineapple industry pays $7,600,000 in taxes to State and Federal Governments, not including the Federal corporate income tax, and generates $11,300,000 more in taxes withheld for State and Federal Government from employee payrolls. In addition, our pineapple industry maintains over 60,000 green acres as an environmental asset for Hawaii.

Hawaii's pineapplegrowers and processors have been very energetic and progressive, investing millions of dollars in research to improve pineapple quality and production. Our Hawaii pineapple industry is the most highly mechanized in the world and its fieldworkers are the highest paid in the world.

In recent years, Hawaii's pineapple industry has faced increasingly severe competition, both from foreign pineapple produced in very low cost areas and from other domestic fruits, many of which are well protected by U.S. tariffs and duties, while Hawaiian pineapple is not.

In the mid-1950's Hawaii had nine pineapple companies. Today there are only four and, after this year, there will be only three. As a result of the announced close-down of pineapple operations by one company on the island of Molokai in Hawaii and the phaseout of pineapple production there over the coming 2 years, more than 600 workers out of a total labor force of 1,800 on the island are facing unemployment.

One of the finest products in all America is the sweet, juicy, delectable pineapple grown in Hawaii. But if the alarming decline in pineapple operations in Hawaii continues, the industry may not be able to survive, and thousands of workers may lose their jobs and livelihood. This year, the Legislature of the State of Hawaii, in recognition of the plight of our pineapple industry in Hawaii, approved a number of measures to give the industry a shot in the arm. But more needs to be done, so that Hawaiian pineapple can better compete with low-cost foreign imports where wage scales are a tiny fraction of those paid in Hawaii.

With field laborers and cannery workers at 10 to 25 cents an hour in some Asian pineapple producing countries, while comparable Hawaii wages run more than $2.60 an hour, no wonder foreign pineapple can undersell Hawaii pineapple in U.S. markets, even with the longer distance the foreign pineapple must be shipped.

At stake are not only the jobs of 5,500 year-round employees in the pineapple industry in Hawaii, but also more than 12,300 student seasonal employees.

For years, the pineapple industry in Hawaii has provided summer jobs for thousands of Hawaii students. They have been able to earn money to continue their education. The students not only benefit themselves economically, but they benefit the industry and the economy of our State. If Hawaii's pineapple companies could not obtain extra help to harvest and process pineapple, the industry just could not survive.

I want to emphasize that employment of students does not—I repeat, does not—displace adults who are in Hawaii's labor market. All available adult workers and seasonals have been hired by the time students are available in June. Hawaii must even hire students from mainland United States, as there are not enough adult seasonals and students in Hawaii to handle pineapple harvesting and processing in the peak period that begins in April and ends in September.

All available nonstudent seasonals are employed. Last year these totaled 3,742, compared with 12,345 additional seasonals hired who were all students.

The need for employment of student seasonals on pineapple plantations and in canneries is recognized by the International Longshoremen's and Warehousemen's Union—ILWU—the union in Hawaii which represents all regular and intermittent pineapple labor under a collective bargaining agreement with the pineapple companies.

Student seasonal employees perform jobs on pineapple plantations and in canneries classified in the agreement with the ILWU under labor grade I appropriate to their respective ages in compliance with the higher standard of either the State or Federal child labor laws.

Seasonals, including students, become covered under the agreement with the ILWU upon completing 2 years employment for a cumulative total of 100 days.

In spite of the planned and announced cutback in pineapple acreage from 60,000 to 40,000 acres within the next 2½ years, student seasonal employment will continue to represent a major and absolutely necessary element in the pineapple labor force in Hawaii in the future. The demand for labor on three of the five pineapple islands—Oahu, Molokai, Kauai, Lanai, and Maui—cannot be met by the local labor force, including students. Offers of employment are extended to other islands and to mainland areas as well.

There is no migrant labor force in Hawaii.

Mr. President, I have taken a few moments to describe Hawaii's pineapple industry and its current plight. It is in this context that the impact of S. 1861, the pending minimum wage bill, becomes one of added burden to the already marginal pineapple industry in Hawaii.

The failure to include a student differential in S. 1861 will cost Hawaii's pineapple industry a net increase in payroll of $1,156,439 every year, once the $2.20 an hour for student seasonals goes into effect next year.

In addition, the Hawaii pineapple industry faces nearly $600,000 additional cost each year because S. 1861 in effect nullifies the present contract provision with the ILWU allowing certain exemptions from overtime pay for seasonal work.

While S. 1861 as reported by the Senate Committee on Labor and Public Welfare continues to allow an 85-percent student differential in agriculture field work, it does not provide for a student differential in agricultural processing.

Thus, Hawaii's pineapple companies could legally pay student seasonals in the pineapple fields a lower rate next year than the $2.20 minimum wage for regular employees. But they would have to pay the full $2.20 an hour next year to student seasonals in the pineapple canneries. Under such circumstances, no student would want to work in the pineapple fields. All would want jobs in the canneries.

While an agricultural student differential in the fields has been available to the pineapple industry under existing law, the pineapple industry has not exercised this lower pay scale. Instead the same rate of pay is paid to student seasonals working either in the field on the plantations or in the canneries.

This follows the pattern of uniformity established in the collective bargaining agreement with the ILWU—the same pay scale applies to jobs classified as comparable within the respective labor grades shown in the agreement. Jobs in labor grade I are performed by student seasonals both on the plantation and in the canneries.

In order to maintain the same pay scales for all student seasonals whether field workers or cannery employees, the pineapple industry in Hawaii urgently needs a student wage differential in the processing end of its operations.

Under the minimum wage bill passed by the House of Representatives on June 6, the pineapple industry would be able to pay student seasonals in the canneries 85 percent of the otherwise applicable minimum wage. When the nonagricultural minimum wage reaches $2.20 next year, this would mean they would receive $1.87 an hour, compared with their present $1.60 an hour. Student seasonals working in the pineapple fields would also receive $1.87 an hour, because of the uniform pay scale relationship I have previously outlined.

As the House provisions would allow a student seasonal differential wage in all agricultural processing operations, it is violently opposed by many groups outside of the pineapple industry.

I have, therefore, been searching for language that would narrow the student seasonal wage differential so that it would apply only to Hawaii's pineapple industry, which I believe is unique in the agricultural processing category.

Rather than risk defeat of my proposal on a roll call vote, however, I am now calling attention of the chairman of the Senate Labor Committee, the distinguished Senator from New Jersey (Mr. WILLIAMS), and the ranking minority member of the committee, the distinguished Senator from New York (Mr. JAVITS), to the very pressing problem that confronts Hawaii's pineapple industry under S. 1861 as it now stands. I would ask that, in their conference meetings with House conferees on this legislation, Senator WILLIAMS and Senator JAVITS do their best to find a way to alleviate the dilemma facing the Hawaii pineapple industry under S. 1861.

The jobs of more than 5,500 full-time, year-round workers in Hawaii and more than 12,000 student seasonals are at stake, as S. 1861 will increase production costs and make Hawaiian pineapple even less competitive in the marketplace. In a marginal profit industry such as Hawaii's pineapple industry, it is no exaggeration to say that this industry could face extinction, unless relief is obtained. The dreary record of the past 15 years shows how difficult it is for Hawaii pineapple, despite its mechanization and efficiency, to remain competitive in a world of increasing foreign competition, much of it as the result of pittance wages in other countries.

Again, I urge my colleagues to try to find some means of alleviating the unique problem confronting our Hawaiian pineapple industry. It is extremely difficult, if not impossible, to find a ready replacement industry of any kind for our pineapple industry and provide jobs for the thousands of Hawaii's workers who would be unemployed if the pineapple industry is driven to the wall.

In behalf of these workers, I plead with my colleagues to help us in the conference committee on minimum wage legislation.

I ask the distinguished chairman if he will exercise some effort in respect to this matter.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. FONG. I yield.

Mr. JAVITS. Mr. President, we appreciate the situation, based on the presentation of both Senators from Hawaii, and I am much impressed with the presentation of Senator FONG on this issue. We realize its seriousness.

As the Senator has said, there is a provision in the House bill, so that the matter will be in conference.

In addition, of course, agriculture, in terms of youth employment—that is, field agriculture—is dealt with as one of the areas in which there can be student involvement.

I can assure the Senator of the most earnest and thorough attention to his position and the most earnest and intensive effort to see what properly can be done to assist in this situation.

Mr. FONG. I thank the distinguished Senator from New York for his remarks. I know that he understands the plight of our pineapple industry, that without this differential, we would have a very hard time to survive. I hope we will exercise every effort in this respect.

Mr. WILLIAMS. I had a similar colloquy with Senator INOUYE and gave assurances to him earlier in the debate that we would consider this matter.

Mr. FONG. I thank the Senator.

Mr. TAFT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TAFT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 32, between lines 8 and 9, insert the following new section:

AMENDMENT TO THE ECONOMIC STABILIZATION ACT OF 1970

SEC. 14. Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) The authority conferred by this section shall not be exercised to preclude any person from increasing prices (and other similar charges) to the extent necessary to compensate for increased labor costs which result from any Amendments to the Fair Labor Standards Act of 1938."

On page 32, line 10, strike out "SEC. 14" and insert in lieu thereof "SEC. 15".

On page 33, line 4, strike out "SEC. 15" and insert in lieu thereof "SEC. 16".

Mr. TAFT. Mr. President, my amendment provides that any increase resulting from the passage of this legislation either by increase in the minimum rate or the application of the law to areas not previously covered would be an appropriate matter for consideration in setting prices under Phase IV of the economic stabilization program.

Yesterday afternoon at 4:30 p.m., Secretary Shultz announced the objectives and design of phase IV of the economic stabilization program. The text of most of the regulations were to be released at 11:30 this morning—a bit too late for a full study in relation to the pending minimum wage legislation.

However, the factsheet summary and stage A of the food sector regulations make it clear that if we increase the minimum wage, we must also simultaneously amend the Economic Stabilization Act to permit recovery of cost increases attributable to changes in the minimum wage rates and the ripple effect and also to changes in coverage of the Fair Labor Standards Act and also to make changes through the establishment of a new definition.

The factsheet summary lists as the first point describing the designs of phase IV.

> Phase 4 is mandatory, covers most sectors of the economy, requires pre-notification and restricts price increases to dollar-for-dollar pass-through of cost.
>
> Small businesses with under 60 employees are exempt.

This appears, on the surface, to permit adequate cost recovery, but a closer look reveals that retailers will be under a gross margin control with no pass-through for increased costs. The margin referred to is last year's margin applied to the cost of goods.

We have heard a good deal about the effect of the $2 minimum wage on modest-sized general merchandise stores in small, modest-sized communities throughout the Nation. We have heard, and by the Senators rejection of our substitute, have rejected the urgent plea that the $250,000 establishment exemption be continued.

These are the businesses which, beginning on August 12, will be permitted to adjust prices as the cost of goods purchased for resale increase. But the adjustment is limited to last year's margin. There is no provision for meeting increases in operating costs. There is no provision for meeting and covering the payroll increases which we are legislating.

Under the food regulations which we issued yesterday, food retailers are permitted to increase prices only to passthrough increased prices of agricultural products. There is no margin control and no provision for covering any increases in operating costs.

Obviously, some of the smaller store units of companies subject to price stabilization which are located in smaller towns will require relief to cover payroll cost increases.

This is obviously an intolerable situation. As a matter of simple fairness, the Senate must make sure that the increased payroll costs it legislates can be recovered. This will require the amendment to the Economic Stabilization Act which is now proposed.

This amendment would provide recovery under stabilization regulations of increases due to the minimum and to wage adjustments to employees whose wages have customarily been related to wages of employees directly affected by an increase in FLSA rates. It would permit employers to compensate those employees who are now above the minimum and to continue wage differentials based on service and merit. The Senate must make it possible to increase prices beyond customary margins to the extent that payroll increases due to the new minimum and the related ripple effect cannot be offset or otherwise covered.

My amendment, my fairness amendment, to the Economic Stabilization Act will provide the markup relief needed to cover increased costs related to S. 1861.

Mr. President, one of the goals stated for Phase IV is to continue expansion of U.S. economy to its full potential with further increases in the employment. I concur with this objective, but believe the passage of S. 1861 will hamper this goal.

My amendment would not affect during phase IV: First, small businesses with fewer than 60 employees per enterprise—not per location—which are exempt; second, industrial—manufacturers and service sector, which can pass through all costs dollar per dollar, subject only to the limitation that profit margins not exceed those of their best 2 of the past 5 years; and third, health and construction sectors, in which passthrough arrangements are allowable.

However, the amendment would affect during phase IV: Nonfood wholesale and retail establishments, which are subject to a gross margin limitation—sales minus the cost of goods sold, divided by sales—in addition to the profit margin and cost justification limitations. Thus price increases would only be justified if the cost of goods to the establishment is increased. This is not sufficient to cover increased operating costs, particularly in view of the increased payroll costs mandated by the minimum wage bill. In fact, this has been illustrated continually during phase II and phase III; during that time, these industries have had to absorb increases in operating costs. Payroll costs already comprise about one-half of the margin amounts for the retail industry. Forcing an absorption of the minimum wage increase will be a particularly crushing blow to small store retailers selling low-cost merchandise.

Similar conditions will also be present in the petroleum sector of the economy, because ceilings will be imposed on prices for gasoline, heating oil, and diesel fuel, with no exceptions allowed. The price at which a wholesaler or retailer in this field will be allowed to resell other products is his cost of product plus actual dollar-for-dollar markup applied to that product on January 10, 1973. Therefore, the minimum wage increase could present real problems with respect to all of his prices; there is no chance for him to recoup the new outlay through increased prices.

Mr. President, action in this area is absolutely necessary and I would hope that the Senator from New Jersey (Mr. WILLIAMS) would be responsive to this problem and be able to support this amendment.

Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, obviously this amendment reaches well beyond the jurisdiction of the committee that brought the bill to the floor. It is an amendment to the Economic Stabilization Act. We are now in a new phase in the area of economic stabilization. The most recent phase was announced last night. The Committee on Banking, Housing and Urban Affairs has this as its legislative jurisdiction. We began hearings this morning on phase IV. At this moment I am trying to see if the chairman of that committee, the Senator from Alabama (Mr. SPARKMAN), can leave his meeting and come to the Chamber. He is engaged in hearings but perhaps he can come here to make observations on the amendment offered by the Senator from Ohio.

Certainly I am in no position to agree to this amendment. I would think that classically this to be a situation where at the conclusion of all the time it would be most appropriate for this Senator as manager of the bill to move to table, as far from our field of responsibility as this measure is. I recall that the Senator from Ohio, when the unanimous-consent agreement was entered into, did reserve the opportunity to offer a nongermane amendment. Is this that nongermane amendment?

Mr. TAFT. The Senator from Ohio reserved two nongermane amendments. If the Senator desires to make a point of order——

Mr. WILLIAMS. No. It is not a point of order I am inquiring about. I wonder if this is one of the nongermane amendments.

Mr. TAFT. It is.

Mr. WILLIAMS. I was not making a point of order. I was thinking in terms of——

Mr. TAFT. Mr. President, if the Senator will yield, I want to make clear that while technically it is true that this amendment would not be nongermane if it were not for the unanimous-consent agreement, it is extremely important to this issue. It seems to me it is practically germane because of the small businesses which we are going to be adversely affected by the extended coverage of this bill. I think S. 1861 will seriously damage small businesses, and one way in which we could alleviate the damage which they might otherwise suffer would be to provide for passage of this amendment.

I call to the attention of the Senator the fact that last year a similar provision was introduced by the Senator from New Hampshire (Mr. MCINTYRE), S. 3955. This concept has been considered before. I think we are all familiar with it.

Mr. WILLIAMS. What was S. 3955?

Mr. TAFT. It was a bill to amend the Economic Stabilization Act, permitting passthrough of economic wage costs resulting from amendments to the Fair Labor Standards Act.

Mr. WILLIAMS. Here is the chairman of the Banking, Housing and Urban Affairs Committee. Let us fill in the Senator as to where we are in amending the Economic Stabilization Act. This is a proposal to provide for a passthrough for any change in the Minimum Wage Act which is reported by the Labor and Public Welfare Committee. I think that is within the jurisdiction of the Banking Committee, which is dealing with phase IV. I believe there were hearings this morning. Both of us are members of the committee.

Mr. SPARKMAN. Mr. President, if the Senator will yield to me, I have just come from the committee. We are working on that matter this afternoon. Dr. Dunlop was there, going over the whole thing.

Mr. DOMINICK. Mr. President, will the Senator use his microphone?

Mr. SPARKMAN. It is an informal discussion with the committee, but we are trying to come to an understanding and get as much out of it as we can as to what the proposal is and what we can count on.

Mr. WILLIAMS. Mr. President, this is on my time. The Senator has not had an opportunity to read the amendment that is pending now, and which has been offered by the Senator from Ohio (Mr. TAFT). I will say that we have been trying, through the day, since we learned this amendment might be offered, to get the opinion of Mr. Dunlop and others from the administration. We have no administration position on this amendment to the Economic Stabilization Act.

Mr. SPARKMAN. Well, may I say, if the Senator will yield to me——

Mr. WILLIAMS. I am happy to yield.

Mr. SPARKMAN. Of course, I had not been aware of the amendment until I just saw it here. Without necessarily analyzing the amendment and stating as to whether or not it is a good proposal, I do feel it would be much better to come in connection with legislation out of the Banking, Housing, and Urban Affairs Committee, rather than be put on this bill here. In other words, this is actually an effort to write into pending legislation something controlled by phase IV or any other program that will go in it, when we will have legislation regarding that come out of our committee. It seems to me it would be much better to wait and put it on there.

Mr. WILLIAMS. I certainly wanted the Senator, the chairman of the Banking, Housing and Urban Affairs Committee, to know about this. His committee is presently considering the whole area of stabilization. This comes in on phase 4. The announcement came last night. So it seemed to me it was premature and out of place.

Mr. SPARKMAN. I certainly join in that statement. I have great respect for the Senator from Ohio. He is a member of our committee, as we all know, and he is a very fine legislator and a very fine Senator. I just hate at any time to differ with him, but it seems to me it ought to wait until we report the legislation out of the committee. I have just come from the committee, and the economic stabilization program and phase 4 are what we are working on right now.

Mr. WILLIAMS. I would say to the Senator from Ohio that we are going to vote no later than 5 o'clock. If we should be fortunate enough to complete action on the bill before that, we will be over to join the chairman in the consideration of the phase IV hearings.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield. I am through.

Mr. TAFT. I have no great desire to move in on the jurisdiction of one of the committees on which I serve. I would just comment quickly that yesterday we did, as part of this bill, indeed by rollcall vote, adopt the McGovern amendment No. 367 to allow price adjustments in agricultural commodities if the supplies are reduced to unacceptably low levels as a result of the price freeze. That amendment had nothing to do with this bill. Yet the distinguished chairman of the Committee of the Labor and Public Welfare was here and made no objection to that amendment as being out of line, and voted for the amendment.

Mr. WILLIAMS. If I may respond to that, that was a measure which had passed the Senate. There was a parliamentary necessity to have it on another bill.

Mr. TAFT. I would point out to the chairman a section of the Economic Stabilization Act. Specifically in paragraph (f), which I believe the distinguished Senator from New Jersey, chairman of the committee, himself introduced, which reads as follows:

> (f) The authority conferred by this section shall not be exercised to preclude the payment of any increase in wages.
>
> (1) required under the Fair Labor Standards Act of 1938, as amended, or effected as a result of enforcement action under such Act:

Mr. WILLIAMS. Let us not confuse the record. The Senator knows that had nothing to do with the pass-through. Confusion is not going to win the case.

Mr. TAFT. The only point I make is the interrelationship of the two acts at this point are so close as to the effect upon small business in the bill presently being proposed here that, in all fairness, it seems to me we ought to at the same time consider the plight of small business. The Senator thought amendment of the act was necessary for exemptions as to wages. Surely he feels as a matter of equity similar provisions should be enacted for prices. We may find that phase 4 is going to have an adverse effect if S. 1861 becomes the law and amendments of the Economic Stabilization Act to prevent this effect should be enacted.

Perhaps it is true that action will come on the Economic Stabilization Act before amendments of the Fair Labor Standards Act. These circumstances were discussed yesterday on the floor. But I do not think we should not take the chance of not protecting small business. That is the reason why I brought up the amendment today.

I shall not ask for a rollcall vote, but I do hope prompt action is taken on this matter by the Senate Banking and Housing Committee and I hope that the Senator from New Jersey (Mr. WILLIAMS) will support this amendment at a future date.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, will the Senator yield to me for an inquiry?

Mr. WILLIAMS. I yield.

Mr. CANNON. I am concerned about a provision in the House-passed minimum wage bill which I note is different from a similar provision in the Senator's proposal, S. 1861. I am referring to proposed amendments to section 6(e) of the Fair Labor Standards Act, which has to do with employers subject to the Federal Service Contract Act.

Now under the Senator's bill, as I understand it, any employer operating under a service contract with the United States would be required to pay each of his employees not working on that contract minimum wage rates not less than $1.80 per hour as provided in section 6 (b). The House passed bill, however, requires that such employees be paid a minimum of $2 per hour as provided in section 6(a)(1).

In other words, under the House bill, if an employer has 1,000 restaurant employees and 50 of those employees work on a Government contract, that employer would have to pay the other 950 restaurant employees a $2 minimum wage instead of $1.80 per hour as required under the Senator's bill.

Last year, the Senate bill contained the same provision as this year's House bill, but I recall that the Senator agreed to an amendment offered by the distinguished Senator from Alabama (Mr. ALLEN) which corrected the problem which now arises in the House bill.

My concern over this provision in the House bill, Senator, is twofold. First, if an employer is required to pay a 20-cent-per-hour higher minimum wage to all his employees merely because he has some employees subject to the Federal Service Contract Act, it would seem such an employer would be placed at a serious competitive disadvantage with an employer not doing business with the Federal Government. Under those conditions, many employers will be unwilling to do business with the Federal Government and the Federal Government will be the loser.

Second, I think it is unfair to require an employer to forfeit the benefits of 6(b) rates for all his employees including both those working on a Government contract and those having nothing to do with a Government contract merely because the employer has a contract with the United States.

Therefore, I ask the Senator whether you will insist on the Senate version on this matter in a conference with the House. The House provision would appear to be an error anyhow since it appears in a section of the bill entitled "Conforming Amendments" which clearly it is not.

Mr. WILLIAMS. Mr. President, the Senator correctly states that this was taken up on the floor and offered as an amendment by the Senator from Alabama last year. He was persuasive then. The result was that we amended the bill on the floor to include this provision for service contracting, making it $1.80.

This year, the bill comes back with the Allen amendment in it. It is my intention to stay with the bill as the Senate now has it. If, by good fortune, we pass this bill this afternoon, that will be my position as we go to conference, when we go to conference.

Mr. CANNON. I thank the distinguished Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. Mr. President, I yield back the remainder of my time.

Mr. TAFT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMINICK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 2, line 13, after the word, "include", insert "(1)";
>
> On line 15, strike the period following the word, "family", and in lieu thereof insert the following:
>
> "or (2) any individual who is employed by an employer engaged in agriculture if such

individual (A) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (B) commutes daily from his permanent residence to the farm on which he is so employed, and (C) has been employed in agriculture less than thirteen weeks during the preceding calendar year."

On page 12, line 6, change the plural "subsections" to the singular, "subsection"; on line 7, beginning with the comma following "(a)", strike through "(d)".

On page 12, line 18, strike through line 3 on page 13.

On page 13, line 4, strike "(c)", and in lieu thereof insert "(b)".

On page 15, line 4, strike through "(11)" on page 20, line 22.

On page 21, strike lines 1 through 7; on line 8, strike "(21)", and in lieu thereof insert "(20)".

On page 21, between lines 20 and 21, insert the following new subsection 6(b):

"(b) The Secretary of Labor is hereby instructed to commence immediately a comprehensive review of all of the minimum wage and overtime exemptions under the Fair Labor Standards Act of 1938, as amended, and submit to the Congress not later than two years after the date of enactment of this Act a report containing: (1) an analysis of the reasons why each exemption was established; (2) an evaluation of the need for each exemption in light of current economic conditions, including an analysis of the economic impact its removal would have on the affected industry; and (3) recommendations with regard to whether each exemption should be continued, removed, or modified."

Mr. DOMINICK. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 10 minutes.

Mr. DOMINICK. Mr. President, I want to say to the manager of the bill, the distinguished chairman, and to my colleague, the Senator from New York, that this is similar to some of the things I talked about yesterday, namely, that this would strike out all of the provisions in the committee bill which added on different categories of employees to the minimum wage, either for the minimum wage or for the overtime by virtue of the bill's repealing of the existing exemptions.

Now, what I have done is to add that we have a study, which in the substitute I would have had them report back to us within 3 years. In this amendment I would have them report back to us within 2 years.

So we will have a study prior to the time when we change all of these existing exemptions.

Mr. President, for the purpose of the RECORD, I want to say that I want to have a rollcall vote on this amendment. We do not have enough people present at this time, so I will ask for the yeas and nays later.

Mr. President, I offer this amendment for the reason that it is my fundamental belief that the big issue before most of the Senators yesterday was the question of whether they would vote for our amendment as a substitute for the committee bill. A great many of our colleagues simply have not had time, with all of the other things going on, to study this bill in any depth.

How much of the exact wording of the bill has been funneled through the grassroots so that those who are affected could make it plain to us is very difficult to say.

We have had extensive hearings on the bill without any doubt. However, it is a complicated bill, and it is very hard for many people to read a bill of this kind and to understand what it does.

The committee bill, as now written, provides for the complete or partial repeal of exemptions for the following categories of employees.

First, all small retail and service establishments grossing less than $250,000, but which are part of "enterprise" grossing $50,000 annually will now be for the first time subject to minimum wage and overtime provisions.

Second, small retail establishments which "make or process" the goods they sell will now be subject to the minimum wage and overtime.

Mr. President, this could be a business which is grossing no more than $5,000 a year and employing two people. Yet, because they make their own ice cream or candy, or whatever it might be, they are subject to the minimum wage and overtime provisions.

We are really getting down to the mom-and-pop-type store, which I think is frankly the eventual purpose of those who are supporting the bill, that they would like to have the wages of the whole country, minimumwise, both minimum and overtime, determined by the Federal Government.

I submit that in this Nation, as large and as diverse as we are from one area of the country to another, to have a group of people aided and abetted by some of the larger unions and some of the larger businesses who just do not care, for a group of people to sit here and determine what the wages should or should not be around the country is just plain wrong.

Administrative and executive employees in retail-service industries—40 percent allowance for nonsupervisory work eliminated, would now be subject to the minimum wage and overtime provisions.

Local, seasonal, hand-harvest laborers would be subject to the minimum wage, but not to the overtime provisions of the law. This will be the first time that has happened. It may be time. It may be what we ought to be doing.

Agriculture processing is now going to be subject to the overtime provisions. They have been subject to the minimum wage provisions. This provision of the bill would now make them subject to the overtime provisions.

Mr. President, I have been sitting here and listening to the colloquy had with the Senator from Hawaii (Mr. FONG) on the problems with the agricultural situation in the pineapple industry in Hawaii and what this bill would do to them.

This bill may be all right or the House bill may be all right, or vice versa. However, one or the other is very difficult as far as the Hawaiian pineapple industry is concerned.

This is another instance in which they have gone into the agricultural processing on an overtime basis where we have foods of all kinds coming in at certain times to ripen. And they have to be handled very quickly. Sometimes they have different setups and different types of wages for that endeavor. They may work as many as 16 hours a day and then take off a day and a half in order to get the processing done in the necessary time.

Seafood processing will be made subject to the overtime provision of the minimum wage law. So, any Senator who lives in a State where seafood is part of the industrial life will find his staff will be very sharply affected by this provision.

Cotton ginning is going to be subject for the first time to the overtime provision of the minimum wage law.

In sugar processing, the overtime provision of the minimum wage law again will be required, in addition to the minimum wage which we are now required to pay.

Local transit companies are now going to be subject to the overtime provision of the minimum wage law. So, as we try to go forward in an effort to provide mass transit for more people, which is particularly important as this energy crunch is upon us, we find ourselves now saying, "OK, we are going to have mass transit, but those people who are involved in it are going to have to pay overtime in order to take care of their employees."

Hotels, motels, and restaurants throughout the country are going to have to pay overtime. We have enough problems in that area now, without having one more link, where they are very heavily employee-oriented, and we have intensity. We are going to be adding on overtime provisions of the minimum wage.

Nursing homes, overtime provisions.

Auto, aircraft, and truck and trailer dealerships are now going to have to pay overtime—and keep records on all this; do not forget that. We have got to keep records all the way through to determine what is going on.

Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. DOMINICK. As I said to my colleagues, I was going through the overtime and minimum wage exemptions which have been repealed by this bill, which will affect everyone, every Senator in this body, in his home State.

Auto, aircraft, and truck and trailer dealerships: Overtime—I do not know how many letters I have had from people in automobile dealerships, saying, "For heaven's sake, please do not do this; our business is different and we simply cannot take care of it on that kind of basis." This is particularly true in the rural areas of our country. Where are they going to find the labor, just to begin with?

Catering and food service, overtime provisions.

Bowling establishments, overtime provisions.

Motion picture theaters, minimum wage and overtime, for the first time on every movie house in the country.

Small loggers and sawmills, minimum

wage. They are not going to do overtime, but they will make them subject to the minimum wage.

Shade-grown tobacco growers: minimum wage and overtime.

An oil pipeline now will be subject to overtime provisions.

Small telegraph companies will now be under the minimum wage and overtime.

Mr. President, we had an argument on this subject in our debate on the Dominick-Taft substitute yesterday, but we were talking to ourselves, and I am afraid we are talking to ourselves again.

I am not going to try to persuade the Senator from New Jersey or the senior Senator from New York. I have high respect for both of them, and they are geared into this bill. But I had hoped that somehow I could bring this to the attention of other Members of the Senate, so they would know what they are faced with.

What we are saying is that we are going to repeal most of these exceptions which have been in the law for a specific purpose, in order to be of assistance in a particular area, without even studying them. The Senator from New York and the Senator from New Jersey will repeat, in answer to this, that we have been studying them for four and a half years, or something, and they have already been recommended.

They have not been recommended. Maybe one; maybe agricultural processing, in the hearings, was recommended as something where the technology had now changed, and they could go under the overtime provisions. But we are dealing with 19 separate businesses in which, without a study, without having done a thing, we are going to suddenly say, "You will now be under overtime, or under both the minimum wage and overtime." For the life of me, I can see no point in our going ahead and taking legislative action repealing these exemptions, which were put in for a specific purpose, and then studying the matter.

The PRESIDING OFFICER. The Senator's allotted time has expired.

Mr. DOMINICK. I yield myself another 5 minutes. That is what the bill says, "We will repeal them first, and then study to see whether we were right." For heaven's sake, that is the most backhanded way of legislating that I ever heard of. If we are going to do this on any kind of rational basis—and I do not know whether these are good or bad; I do not pretend to know—all I am saying is, let us study this and get some judgment value in here before we take these steps.

The Labor Department, as I say, has made some suggestions, but it would seem to me that no changes should be made until each of the 37 or 38 existing exemptions have been carefully reexamined to see whether the economic conditions which motivated Congress to establish it in the first place still exist. That certainly has not been done to date. I don't think the committee, or any of us has the slightest idea of what the economic impact will be on the affected industries.

If the committe's picking and choosing with regard to repeal or revision of exemptions has any underlying theme at all, it is simply the law of the jungle. To say it another way, each exemption is repealed unless the affected industry has enough political muscle to retain it.

I think it would be much fairer—not to mention simpler—to deal with these exemptions on an across-the-board basis after we have the results of a comprehensive study. I don't see how we can make intelligent decisions until we do.

Let me comment briefly on some of the exemptions that would be affected by the committee bill, and the impact these changes would have—particularly on small businesses and farms.

The committee bill would repeal a variety of minimum wage and overtime exemptions established by previous Congresses with the specific intent of protecting small businesses and small farms from the adverse economic effects of minimum wage increases. Minimum wage coverage would thus be extended to roughly 1 million employees of well over 100,000 small businesses and farms. Overtime coverage would be extended to 1.8 million employees in the private sector, many of whom are employed by small businesses.

Let me take up the $250,000 enterprise cutoff limit, which we talked about last year. The committee bill repeals this "establishment" exemption for small retail and service stores which gross less than $250,000 annually, but which are part of an "enterprise" which does exceed that figure. This would extend minimum wage and overtime coverage to 662,000 employees in small retail and service stores. In this connection, it should be noted that inflation since 1961, when this exemption was established, has already operated to extend coverage down to firms which would have grossed only $171,500 at that time. But when we approached it on that argument before, we could not get anywhere.

This change would affect only very small chainstores; none of the large, well-known chains would be affected, because each of their stores does annual business exceeding the $250,000 cut-off for the exemption. These small chainstores are located in small, rural communities primarily in the South and West. Elimination of this exemption will increase the existing pressures on such small chains to consolidate and shift location to larger urban areas. This will reduce job opportunities in, and damage the economies of many small rural communities. Given the current plight of rural America, I think the point that it would be a mistake for Congress to do what the committee bill proposes requires no further elaboration.

Apropos of that, I remember the Senator from New York saying yesterday, with great glee, "Do not take a total substitute; handle this on an individual basis, and we will make some changes on an individual basis." There has not been any change, as far as I can remember, except the committee's acceptance of Senator PACKWOOD's amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. DOMINICK. I am happy to yield.

Mr. JAVITS. I think if the Senator will check back on what I said, I did not say any such thing as "we will make some changes on a selective basis." I could have, because we have taken a number of amendments.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOMINICK. I yield myself such time as I may require.

Mr. JAVITS. What I did say, as I recollect, and I think my recollection is clear, is that Members will have an opportunity to work their will on individual amendments, which will in some cases be everything that the Senator is seeking by the substitute; and I think that is true. The same thing with this amendment: If the Senate decides that is the way it wishes to go, the Senator has given them a way to go. All I am saying is, you would not be cut off from substantive decisions by rejecting the substitute.

Mr. DOMINICK. I will accept the Senator's statement, but I definitely had the impression the theory was that if we took them up piecemeal we would get some changes made. We have taken them up piecemeal, and we have not had them.

By repealing section 13(a)(4) of the act, the committee bill would extend coverage to employees in small retail stores which make or process the goods they sell. Under the existing law, employees of small retail firms which are not part of an enterprise grossing more than $250,000 annually are exempt even though their work may be directly related to interstate commerce. Under the committee bill, small retail stores which make or process any of the goods they sell would be ineligible for the exemption.

Mr. WILLIAMS. Mr. President, will the Senator from Colorado yield?

Mr. DOMINICK. I yield, on the Senator's time.

Mr. WILLIAMS. Fine—on my time. Has the Senator conferred with the Senator from Kentucky on this particular area of the bill? I believe that if the time permits——

Mr. DOMINICK. On making or processing?

Mr. WILLIAMS. Yes. This is the area the Senator from Kentucky, if he has time, would like to introduce an amendment on and discuss it. If we run on and vote at 5 o'clock, there would be no chance for him to do so.

Mr. DOMINICK. I would be happy to support him, but he will not have to offer his amendment if the Senate adopts my amendment.

Mr. WILLIAMS. Well, I wondered whether the Senator knew that this was waiting upon the conclusion of consideration of this amendment—his consideration of the amendment.

Mr. DOMINICK. As I say, if we can get this amendment through, and carry it, the Senator from Kentucky will not have to——

Mr. WILLIAMS. If we debate until 5 p.m. and do not discuss it now, the Senator will not have a chance to have his amendment discussed.

Mr. DOMINICK. Well, Mr. President, giving myself such time as I may need, the impact of this particular committee amendment would be felt primarily by small bakeries, candy shops, ice cream parlors, drugstores, optometrist establishments, lumberyards, and other small businesses which are not part of a chain, and which happen to make or process the goods they sell. The impact of this change is potentially as broad as the Labor Department's definition of "making or processing." No one knows how much processing of goods would be necessary to disqualify a small store for the exemption. Arguably, anything more than moving merchandise from loading dock to store shelf could constitute processing.

This exemption was adopted by Congress in order to make it clear that small stores which are essentially retail in nature, would not be disqualified for the $250,000 small store exemption merely because they "make or process" some of the goods they sell. The committee did not state any substantive reason why this exemption is no longer justified.

I do not think this change can be justified on the merits. I just do not understand why a small neighborhood bakery which buys bread and other pastries wholesale and sells them retail should qualify for the exemption, while a store across the street which does the same thing, except that it happens to also sell a few donuts which were baked on the premises, should not. It would appear to be simply another case of small businesses not having enough "political muscle" to retain an exemption originally adopted by Congress to protect them from the adverse economic impact of minimum wage increases.

The overtime exemption under which supervisory personnel in retail and service industries can spend up to 40 percent of their time in nonsupervisory work would also be eliminated. This exemption was adopted in 1961, when coverage was first extended to retailing. It was based on the recognition that "nonsupervisory" work such as selling and handling stock is an integral part of the duties of "supervisory" personnel such as sales managers and executives in these industries.

Under the committee bill, supervisory personnel in retailing and manufacturing industries would be treated the same, even though they are inherently different. A machine shop foreman has different duties than a department store manager. Congress recognized this difference in 1961, and in the absence of evidence that it no longer exists, should recognize it now. Neither the hearing record nor discussions in committee have furnished such evidence.

In addition to complete or partial repeal of several broad exemptions affecting businesses of all sizes, the committee bill would repeal several exemptions which are applicable primarily to small firms. For example, the minimum wage exemptions for motion picture theaters, small loggers and sawmills with eight or fewer employees, and small telegraph companies grossing less than $500 a month, would be repealed.

Minimum wage coverage would be extended to some 150,000 farmworkers by repeal of the exemption for "local, seasonal, hand harvest laborers." This would have the further effect of reducing the size of farms to which minimum wage coverage extends, because such employees would be included for the first time in computing the "500 man-day test." At present, small farms using less than 500 "man-days" of labor during the peak quarter of the preceding calendar year are exempt from coverage. The impact of this change would fall heaviest on fruit and berry farms, which utilize large numbers of hand laborers during a short harvest season. It seems inequitable that a small berry farm should be covered for the entire year because it requires a large amount of labor during a brief harvest season, while a neighboring farm which utilizes the same amount of labor annually escapes coverage merely because of the different harvest conditions for the crop grown.

The committee bill would extend coverage to further agricultural employees by repealing the existing minimum wage and overtime exemption for shade-grown tobacco farms.

Mr. President, this is all part of the thing I am talking about, whereby we need some study on this before we go ahead and repeal the exemptions. I do not know whether it is legitimate or it is not legitimate, but I do know that my peach crop, my berry crop, and my apple crop in Colorado will go right through the wall. We have already had enough problems with OSHA telling us what to do about pesticides. Now the minimum wage is planned on a year-round basis. All I can say is, we will really have a whole group of people that will have to be hauled into court before they will comply.

Overtime coverage would be extended to about 1.3 million additional workers through total or partial repeal of overtime exemptions for the following categories of employees: agricultural processing; seafood processing; cotton ginning; sugar processing; local transit; hotels, motels, and restaurants; nursing homes; auto, aircraft, truck, and trailer dealerships; catering and food service; bowling establishments; and oil pipelines. It should be kept in mind that the proposed changes in these exemptions would be likely to drive up the costs of products as well as unemployment rates in the industries affected—especially in the retail-service industries, which employ the greatest portion of the workers to whom coverage would be extended.

Mr. President, the proposed changes in these exemptions are likely to drive up the cost of these products as fast as phase IV is changing them around. The Senator from Ohio is totally right that if we increase the costs all the way through, if a business is going to stay in business, and keep on providing employment, we have got to let this pass through the Senate. The Senate voted that down in its infinite wisdom, so I would say that we are compounding the problem by failure to adopt what the Senator from Ohio so aptly asked for, by going ahead with this type of repeal of exemptions which were placed in the law for definite economic reasons, and which should be studied further before we go ahead and try to repeal them.

I reserve the remainder of my time.

Mr. PACKWOOD. Mr. President, one of the most troubling aspects of the minimum wage bill as reported by the Labor Committee is the wholesale elimination of existing exemptions including overtime exemptions. My understanding is that certain members of the committee proposed the creation of a study commission to examine the exemptions—both minimum wage and overtime—one by one, to determine their purposes, necessity, and relevance at this point in time. Without doubt some of the exemptions have outlived their usefulness and should be eliminated. But, Mr. President, I am equally certain that some of these exemptions are still as legitimate today as they were when previous Congresses approved them. Only a detailed and thorough study and evaluation of the exemptions will provide us the information we need to make a decision on these provisions in law. Unfortunately, the committee failed to include such a study in the bill, and instead recommended the wholesale elimination of exemptions immediately.

Mr. President, one of the best examples of an exemption being fully founded on experience and the peculiarities of certain sectors of our economy, is the overtime exemption for seasonal industries, which in my State of Oregon includes agricultural processors. The current exemption provides for only a partial overtime exemption, to be available during harvest seasons, where perishability of food produce demands round-the-clock intense activity. Not one single argument put forth by the Senate Labor Committee holds water, when any careful examination is made of the unique needs and problems of agricultural processing. By way of further explanation, I ask unanimous consent to have printed for the review of my colleagues a letter I received from Stayton Canning Company—a cooperative—in Stayton, Oreg. This letter provides specifics, which should be of interest to all Senators, specifics dealing with the agricultural processing industry.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Stayton Canning Co., Cooperative,
Stayton, Oreg., September 2, 1972.
Senator Robert W. Packwood,
New Senate Office Building,
Washington, D.C.

Dear Senator Packwood: I would again like to thank you for the effort you made in sponsoring a substitute minimum wage bill which would have permitted food processors to retain the present exemptions from overtime payments contained in the Fair Labor Standards Act.

We hope you will continue your efforts to retain these agricultural exemptions which are so important to Oregon growers and food processors.

I recently met with Congresswoman Edith Green and told her I was writing this letter to you to explain the importance of these exemptions to our industry. After our conversation she asked if a similar letter could be sent to her to be used to explain the problems on the House side of Congress. I have also written to her.

Most of the reasons advanced in the report are shallow, and without explanation the report would appear to be reasonable. By simply stating a proposition without an explanation of what did or could have happened, the report has managed to paint a much brighter picture for the food processing industry and for agriculture than does actually exist.

The report indicated that the food processing industry is not fully utilizing the existing exemptions contained in the law. I cannot speak for the entire food processing industry, but I do know that our own company, Stayton Canning Company, Cooperative, uses every one of the permissible weeks of exemption. Despite the fact that we use the entire exempt period, we still do not have adequate time to process our products without placing additional costs for overtime on the sixth day of the week in which we must process, to prevent product deterioration. Our company badly needs increased, rather than decreased, exemptions. Our company begins processing fresh fruits and vegetables with strawberry pack in June and continues processing fresh products until late in December when our root crops, such as carrots and beets, are completed.

The second point cited was that many processing plants are already paying premium rates of pay for hours of work over forty hours per week. Again, the generalized statement is undoubtedly true, but the Secretary fails to point out what type of food processor is paying overtime for forty hours per week. Was it a dog food manufacturer, a potato chip manufacturer, a flour or sugar manufacturing outlet, or a reprocessing outlet? I seriously doubt that a majority, or even a large percentage of fresh fruit and vegetable processors are paying overtime after only forty hours a week. Nearly all food processors in the Pacific Northwest utilize the exempt period provided under 7(d) or 7(c) of the Act for the fresh fruit and vegetable processing seasons. As you know, the profits in the food processing industry, for the past few years, have been precariously low. Certainly part of this lost profit is directly attributed to the additional overtime payments that food processing industry has had to make since the removal of part of their exempt period in 1966. It should be noted that all food processing establishments are not processors of fresh fruits and vegetables. Fresh fruit and vegetable processors can ill afford additional increased labor costs.

Thirdly, the report indicated that a straight forty hour time standard would eliminate the inequities which currently exist between employers who voluntarily or because they are covered by collective bargaining agreements, pay overtime after 40 hours and those employers who avail themselves of the overtime exemption. The report makes no comment as to whether or not those industries who are "voluntarily" paying the additional overtime can afford to make such payments. Greater profits may be realized from reprocessing some products than there is in the orginal processing of the fresh fruits or vegetables.

Our company is covered by a union contract. That contract permits the same basic exemptions as the 7(c) and the 7(d) sections of the Act. The difference is that we pay overtime after eight hours a day and on Sunday, but we are permitted to work the sixth day of the week without overtime penalty payments. Despite the fact we are one of the companies who must pay a penalty rate by our union contract, we do not believe that things would be equalized by trying to force all food processors into the same basic mould. In some areas, it might be impossible to completely staff a plant operation with crews who could work only forty hours a week. There would not be enough people to have an additional crew as a relief, therefore, the company in this area would have to pay additional overtime payments to accomplish the work. In Oregon, food processing plants are generally located in rural areas where there is not sufficient labor supply even for our forty-eight hour workweek. If we had to seek additional employees, to limit the hours to forty, it would be impossible to do so. We would have to pay those additional penalty rates because there is no way that we could go about adding the necessary people to fill all of the available jobs.

The base pay rate for cannery labor in Oregon is $2.56 per hour and in the South and mid-west the rate is $1.75 per hour. If the exemptions are removed we would be at an even greater disadvantage because the overtime rates in these competing areas would barely equal our straight time rates. Our overtime rates would be half again higher than theirs.

The next point is the most ludicrous of all. They suggest additional jobs could be created by adding 2nd and 3rd shift operations in those industries where large shipments of raw materials are received in a relative short period of time. Our company receives several hundred ton of beans, and over a thousand ton of corn each day during the processing season. We are already working three shifts. There is no way that we can add a 4th, 5th, or 6th shift. We have neither the plant facilities nor the labor supply for such additions. For efficiency reasons our raw products are contracted to provide a capacity operation. During our fresh processing season all we can do is operate 24 hours a day, seven days a week, with three crews. There is no way that we can add further crews in order to process these products.

They state that technical advances in recent years have lengthened the storage life of perishable products. At least as far as the twelve products our company processes; such as Strawberries, Raspberries, Blackberries, Wax Beans, Green Bush Beans, Pole Beans, Corn, Carrots, Zucchini Squash, Broccoli, Cauliflower and Cherries, the products are still very perishable. There is a tendency to believe that because a product can be frozen that it can be processed later. The product still has to be treated rapidly once it is harvested. The product must either be canned or it must be frozen. In either case, the product must be prepared and processed before it can be stored any length of time. Strawberries still rot, corn still turns sour, beans wilt and shrivel, squash will become too large or too soft, in otherwords, a perishable product is still a perishable product until processed. There is no way of holding them prior to process, whether that processing be canning, freezing or dehydrating, without some type of deterioration. Fresh fruits and vegetables still must be processed, (either canning or freezing,) soon after it has been harvested, the better the product will be for the consumer, the better the grade will be for the grower, the better the product will be for the processor.

The Committee indicates that grower-processor contracts permit the processor to specify the time for planting, harvesting, and delivery, and thus makes possible better work scheduling. Of course in machine harvested crops this is absolutely true—*except for one very important thing*—there is absolutely nothing that the grower or the processor can do about scheduling the maturity date of those products. The maturity dates of contracted crops are dependent upon the weather during the period of time that crop is growing and maturing and there is no way to precisely determine the maturity date. It is not unusual in crops such as Bush Beans, Pole Beans, and Corn, to find that crops originally planted one or two weeks apart actually mature and need to be harvested on the very same day. It is true the processor can order when these crops are to be harvested, but if all of them are ripe and they cannot be harvested immediately, one grower or the other must lose that product.

In further support of the Senate passed version of HR7130, the Committee indicated that two things were of paramount importance. One was that there has been a sharp reduction in overtime hours during the periods when exemptions were likely to be claimed. This is not unusual, because many processors just did not continue to plant product that would have to be harvested outside the exempt period of time. In otherwords, any profit that might have been gained from the product would have been lost in overtime payments. Another thing that could have eliminated restrictive overtime payment would be a crop failure or a reduced crop plantings, due to natural causes and not because the food processor was able to "easily arrange to eliminate overtime payments."

The second issue of paramount importance to the Committee, according to the committee report, was the ease with which the processing industries adjusted to the partial cutback in overtime exemptions which were made in the previous amendment to the Act. In our company there was no ease in adjusting to the cutback. We planted less product for harvest after completion of the exempt weeks, and we only ran 40 hours a week for our employees. This stretched the season out much too long. The late harvest for that particular crop caused a great portion of it to be lost because we could not afford to process it on the overtime hours basis. It meant less earnings for employees and for growers.

To say that there were no adverse effects as a result of the first reduction in the exempt weeks is a gross exaggeration. The food processing industry over the last four years has suffered the worst profit loss in a great many years. In the Northwest many food processing concerns have failed, they have closed their doors and are no longer in operation. I would not indicate that the sole cause of their failure was the reduction in the overtime exemption, but this certainly was a contributing factor, due to increased costs to the struggling company.

The Committee Report is filled with so many half truths and assumptions that it is difficult to answer.

Ours is a successful grower-owned cooperative in the State of Oregon. The first reduction in the overtime exemption has very definitely had an adverse effect on our return to our growers. We are a successful company, but we are not large enough to afford a company representative in Washington, D.C. to explain the adverse effect of this bill. We can only tell you that the removals of the overtime exemption is a very, very severe blow to Oregon agriculture, and to the Oregon processors. As you know, food processors on the West Coast are heavily Unionized. We pay far greater wage rates than those food processing concerns in the South and in the Midwest who have not as yet been organized. We have an adverse freight rate, which further reduces the profitability of these coastal crops. We are greatly concerned about the further removal of these agricultural processing exemptions. It is becoming increasingly more difficult for Oregon food processors to competitively meet the challenge of those food processors who are blessed with much lower wage rates, more advantageous freight rates, and closer consumers.

The Senate passed version of H.R. 7130 will be a harsh blow to us. I hope you and the House Conferees can retain the agricultural exemptions.

If there is anything we can do to help you retain the 7(c) and 7(d) exemptions we would like to do so. Please do not hesitate to ask.

Very truly yours,

JERRY E. BUTLER,
Industrial-Public Relations.

Mr. PACKWOOD. Mr. President, the House has voted to retain this exemption in the law, and I wholeheartedly endorse that action. May I also urge my colleagues to take the time to examine the unique aspects of this situation, as I believe the facts speak for themselves.

Mr. WILLIAMS. The amendment, as I understand it, would accomplish this: It deals with a good part of the substitute earlier offered. It deals with overtime and minimum wage exemptions. It does not deal with rates.

Mr. DOMINICK. That is correct.

Mr. WILLIAMS. Or any coverage of domestics and government employees.

Mr. DOMINICK. The Senator is correct. Just deals with the minimum and overtime provisions, the exemptions of which were repealed.

Mr. WILLIAMS. It calls for the Secretary of Labor to commence immediately a comprehensive review of overtime.

For the life of me, I cannot understand why this is the approach of the Senator from Colorado. Believe me, since 1954, the Secretary of Labor has been under constant mandate by Congress to do exactly what this amendment proposes that he do now.

As I say, the beginning of the study was in 1954 and it has continued down to date. So as a result of the voluminous studies made by the Department of Labor at a cost of $15 million, the committee has come to the Senate with the provisions that are in this bill.

Certainly the Senator has every right to ask the Senate to vote on them again. The vote has been ordered. I know that there are other Senators who want to offer other amendments before we finish this bill at 5 p.m. today. So in the interests of finishing this bill within that time, I will just say that I find this amendment to be repetitious. It has been defeated before, and I call for its defeat again.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DOMINICK. I yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The result was announced—yeas 41, nays 56, as follows:

[No. 306 Leg.]

YEAS—41

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Brock
Buckley
Byrd,
Harry F., Jr.
Cook
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hollings
Hruska
Johnston
Mathias
McClellan
McClure
Nunn
Roth
Scott, Pa.
Scott, Va.
Sparkman
Taft
Talmadge
Thurmond
Tower
Young

NAYS—56

Abourezk
Aiken
Bayh
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Eagleton
Fulbright
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Stafford
Stevenson
Symington
Tunney
Weicker
Williams

NOT VOTING—3

Cotton
Stennis
Stevens

So Mr. DOMINICK's amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ROTH. Mr. President, would the Senator from New Jersey answer a question?

Mr. WILLIAMS. Yes.

Mr. ROTH. In a number of States, including the State of Delaware, we have a system of volunteer firemen. They get no basic compensation but they do get certain indirect benefits, commonly known as fringe benefits. In the case of Delaware, they have certain insurance coverage. I am not certain about other States, but it is my understanding that this legislation would in no way affect that arrangement. Would the Senator care to comment?

Mr. WILLIAMS. I have had an opportunity to discuss this with the Senator from Delaware. The volunteers are described as true volunteers and, as such, they would not be considered employees and, therefore, not covered under the law or under this bill.

The committee report did speak to this in an analogous area when we stated that the committee did not intend to extend the Fair Labor Standards Act coverage to those persons to whom tangible benefits are of secondary significance. We are dealing with programs in the Federal establishment where the basic reason for the activity is voluntary, such as the Peace Corps, and so forth.

Where the purpose is not employment but voluntary service, the incidentals will not necessarily carry these individuals from the volunteer service into employment. It would depend on the facts.

Mr. ROTH. I thank the Senator for his comments. In closing I wish to say that the system of volunteer firemen is an outstanding success and I would hate to see anything jeopardize it.

Mr. WILLIAMS. Yes, and I think of fire companies, rescue squads, and others. Many are volunteer services and we are grateful.

Mr. ROTH. I thank the Senator.

Mr. WILLIAMS. Mr. President, the idea of extending coverage of this act to government employees is not new nor is it novel.

In 1966 Congress extended the protection of the FLSA to employees of State and local government, elementary and secondary schools and hospitals, and in 1972, to preschools.

In 1972, Congress extended the protection of title VII of the Civil Rights Act to Federal, State, and local government employees.

In 1970, Congress included public employees within the ambit of the Economic Stabilization Act.

Mr. President, Congress will send more than $38 billion to the States this year. It seems to me that employees in those jurisdictions are entitled just like other workers, to realistic wages in the form of minimum wage and overtime protection.

S. 1861 extends FLSA coverage to almost 5 million nonsupervisory employees in the public sector not now covered by the act.

In 1966, some 3.3 million nonsupervisory government employees, primarily employees in State and local hospitals, schools, and other institutions, were covered.

With enactment of the amendments contained in S. 1861, virtually all nonsupervisory government employees will be covered.

It is intended that the FLSA be applicable to nonsupervisory government employees at all levels of government.

Let me review the minimum wage provision briefly. The bill sets a minimum wage for presently covered Federal employees—except in the Canal Zone—at $2.00 an hour on the effective date, and provides for an increase in the minimum to $2.20 at the end of 1 year.

For Federal employees newly covered by the proposed 1973 amendments, whether currently covered or newly covered, the bill applies a $1.80 rate on the effective date and provides for increases to $2.00 at the end of the second year.

Coverage of Federal employees is extended to most workers such as wage board employees, nonappropriated fund employees, employees in the Canal Zone and other civilian employees working for the armed services.

Excluded from coverage are military personnel.

I would comment here that we did not intend to extend FLSA coverage to those persons for whom the tangible benefits of government employment are of secondary significance; for example, Peace Corps and VISTA volunteers.

We want to cover all employees—except professional, executive, and administrative personnel who are exempted under section 13 of the law—in all civilian branches of the Federal Government because the Federal Government should be a model employer and must not be allowed to treat its workers any less decently than private employees, particularly where payment of overtime is concerned.

All Federal employees probably now receive the minimum wage, but many suffer from excessive hours with only compensatory time off, or straight-time pay.

The Secretary of Labor and the Civil Service Commission were concerned that extending FLSA coverage could confuse the administration of these provisions or could raise jurisdictional problems of administration with other Federal personnel statutes.

I believe this matter was resolved to the Commission's satisfaction charging the Civil Service Commission with responsibility for administration of the act so far as Federal employees—other than employees of the Postal Service, the Postal Rate Commission, or the Library of Congress—are concerned.

There are many reasons for covering employees of State and local governments.

It is in essence a moral argument that Government apply to itself the same standard it applies to private employers.

This principle was manifested last year when the Senate overwhelmingly voted to apply Federal equal employment opportunity standards to public sector employers.

Equity demands that a worker should not be asked to work for subminimum wages in order to subsidize his employer, whether that employer is engaged in private business or in Government business.

As I stated earlier, Congress has therefore, applied ceilings to the wages paid public employees under the Economic Stabilization Act.

I see no reason why these same employees should not be protected by the wage floor provided by the FLSA.

One provision in the bill provides for exception from coverage of employees who are elected officials, or their immediate advisors so long as they are not in a civil service system.

This exemption conforms to the Equal Employment Opportunity Amendments of 1972.

There is no doubt that the activities of public sector employers affect interstate commerce and therefore that the Congress may regulate them pursuant to its power to regulate interstate commerce. Without question the activities of government at all levels affect commerce.

Governments purchase goods and services on the open market, they collect taxes and spend money for a variety of purposes.

In addition, the salaries they pay their employees have an impact both on local economies and on the economy of the Nation as a whole.

The volume of wages paid to Government employees and the activities and magnitude of all levels of government have an effect on commerce as well.

It is anticipated that the financial impact on local government units will be minimal.

The Department of Labor has supplied figures on the impact of minimum wage coverage on State and local governments.

They indicate that the cost of increasing State and local employees covered in 1966 and those covered in this bill to $1.80 per hour will be 0.3 percent of the annual wage bill or $128 million.

The following year, there will be a 0.5 percent increase in the annual wage bill or $162 million.

An effort has been made to minimize any adverse effects of overtime requirements by providing for a phase-in of those public employees who are most frequently required to work more than 40 hours per week, the public safety and firefighting employees.

The bill includes a special overtime standard for law enforcement and fire protection employees including security personnel in correctional institutions.

For such workers, if there is an agreement or understanding with their employers the bill provides for a standard work period of 28 days instead of the basic standard of a 7-day week for purposes of determining overtime compensation.

Time and one-half the regular rate of pay is required for all hours over 192 in the 28-day period during the first year; over 184, during the second year; over 176, during the third year; over 168, during the fourth year; and over 160 hours at the beginning of the fifth year and thereafter.

The question of treatment of employees who work 24-hour shifts was also raised.

The matter of hours worked for such employees has been treated by the Secretary of Labor for many years with respect to 24-hour-shift operations of nonpublic workers such as telephone and power company employees and watchmen.

I include these in the Record:

Interpretative Bulletin on Hours Worked Sleeping Time and Certain Other Activities

Section 785.22 Duty of 24 Hours or more.

(a) General.—Where an employee is required to be on duty for 24 hours or more, the employer and the employee may agree to exclude bona fide meal periods and a bona fide regularly scheduled sleeping period of not more than 8 hours worked, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. If sleeping period is of more than 8 hours, only 8 hours will be credited. Where no expressed or implied agreement to the contrary is present, the 8 hours of sleeping time and lunch periods constitute hours worked. (*Armour* v. *Wantock*, 323 U.S. 126 (1944); *Skidmore* v. *Swift*, 323 U.S. 134 (1944); *General Electric Co.* v. *Porter*, 208 F. 2d. 805 (C.A. 9, 1953), cert. denied, 347 U.S. 951, 975 (1954); *Bowers* v. *Remington Rand*, 64 F. Supp. 620 (S.D. Ill. 1946), aff'd 159 F. 2d 114 (C.A. 7, 1946), cert. denied 330 U.S. 843 (1947); *Bell v. Porter*, 159 F. 2d 117 (C.A. 7, 1946), cert. denied 330 U.S. 813 (1947); *Bridegman* v. *Ford, Bacon & Davis*, 161 F. 2d 962 (C.A. 8, 1947); *Rokey* v. *Day & Zimmerman*, 157 F. 2d 736 (C.A. 8, 1946); *McLaughlin* v. *Todd & Brown, Inc.*, 7 W.H. Cases 1014; 15 Labor Cases para. 64, 606 (N.D. Ind. 1948); *Campbell* v. *Jones & Laughlin*, 70 F. Supp. 996 (W.D. Pa. 1947).)

(b) Interruptions of sleep.—If the sleeping period is interrupted by a call to duty, the interruption must be counted as hours worked. If the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep, the entire period must be counted. For enforcement purposes, the Divisions have adopted the rule that if the employee cannot get at least 5 hours' sleep during the scheduled period the entire time is working time. (See *Eustice* v. *Federal Cartridge Corp.*, 66 F. Supp. 55 (D. Minn. 1946).)

These regulations will apply to the numerous local firefighting units which work 24 hour shifts.

Mr. President, we have argued this coverage before.

In the 1972 Equal Opportunity Amendments public employees were included by solid vote margin.

Last year we debated the issue and public employees were in the bill as passed.

The committee voted to retain coverage again this year.

In my judgment, the extension of full coverage to public employees is long overdue and there is not basis for denying this benefit any longer.

Mr. President, I ask unanimous consent to include a recent study of the economic impact of purchases by State and local governments.

There being no objection, the study was ordered to be printed in the Record, as follows:

Manpower Impact of Purchases by State and Local Governments

State and local government purchases have grown substantially in the past decade, and in 1971 accounted for 13 percent of the Gross National Product in current dollar terms. In 1965, combined purchases of States and municipalities surpassed the total of Federal purchases, and they continued to do so every year except 1967, when Vietnam-related expenditures boosted the Federal sector. By 1971, State and local government purchases exceeded Federal defense and nondefense purchases combined by more than $37 billion.

As a result of this increased rate of spending, State and local governments were a major factor in the generation of jobs during the past decade. In the 1959–71 period, employment generated by State and local government purchases of goods and services accounted for nearly 35 percent of the increase in jobs,[1] with more than three-quarters of these directly on State and local government payrolls and the remainder primarily in the private sector. In 1971, State and local governments, directly or indirectly,[2] accounted for approximately 16 percent of the country's total civilian employment. This means that, on the average, each $1 billion of State and local government purchases that year generated almost 100,000 jobs. With the continued channeling of large amounts of Federal funds to States and localities, the spending of State and local governments will continue to create significant demand on the national job market.

This article[3] analyzes the manpower effect

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[1] The employment impacts discussed in this article are in terms of jobs. On the meaning of this concept, see footnote 1, table 2.

[2] Direct employment is the employment necessary to operate government programs, while indirect employment is that necessary to supply goods and services purchased by State and local governments.

[3] For a discussion of State and local govern-

Mr. PACKWOOD. Mr. President, the House has voted to retain this exemption in the law, and I wholeheartedly endorse that action. May I also urge my colleagues to take the time to examine the unique aspects of this situation, as I believe the facts speak for themselves.

Mr. WILLIAMS. The amendment, as I understand it, would accomplish this: It deals with a good part of the substitute earlier offered. It deals with overtime and minimum wage exemptions. It does not deal with rates.

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For the life of me, I cannot understand why this is the approach of the Senator from Colorado. Believe me, since 1954, the Secretary of Labor has been under constant mandate by Congress to do exactly what this amendment proposes that he do now.

As I say, the beginning of the study was in 1954 and it has continued down to date. So as a result of the voluminous studies made by the Department of Labor at a cost of $15 million, the committee has come to the Senate with the provisions that are in this bill.

Certainly the Senator has every right to ask the Senate to vote on them again. The vote has been ordered. I know that there are other Senators who want to offer other amendments before we finish this bill at 5 p.m. today. So in the interests of finishing this bill within that time, I will just say that I find this amendment to be repetitious. It has been defeated before, and I call for its defeat again.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DOMINICK. I yield back my time.

Mr. WILLIAMS. I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The result was announced—yeas 41, nays 56, as follows:

[No. 306 Leg.]

YEAS—41

Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Brock
Buckley
Byrd,
  Harry F., Jr.
Cook
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hollings
Hruska
Johnston
Mathias
McClellan
McClure
Nunn
Roth
Scott, Pa.
Scott, Va.
Sparkman
Taft
Talmadge
Thurmond
Tower
Young

NAYS—56

Abourezk
Aiken
Bayh
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Eagleton
Fulbright
Gravel
Hart
Hartke
Haskell
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Saxbe
Schweiker
Stafford
Stevenson
Symington
Tunney
Weicker
Williams

NOT VOTING—3

Cotton
Stennis
Stevens

So Mr. DOMINICK's amendment was rejected.

Mr. WILLIAMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCHWEIKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ROTH. Mr. President, would the Senator from New Jersey answer a question?

Mr. WILLIAMS. Yes.

Mr. ROTH. In a number of States, including the State of Delaware, we have a system of volunteer firemen. They get no basic compensation but they do get certain indirect benefits, commonly known as fringe benefits. In the case of Delaware, they have certain insurance coverage. I am not certain about other States, but it is my understanding that this legislation would in no way affect that arrangement. Would the Senator care to comment?

Mr. WILLIAMS. I have had an opportunity to discuss this with the Senator from Delaware. The volunteers are described as true volunteers and, as such, they would not be considered employees and, therefore, not covered under the law or under this bill.

The committee report did speak to this in an analogous area when we stated that the committee did not intend to extend the Fair Labor Standards Act coverage to those persons to whom tangible benefits are of secondary significance. We are dealing with programs in the Federal establishment where the basic reason for the activity is voluntary, such as the Peace Corps, and so forth.

Where the purpose is not employment but voluntary service, the incidentals will not necessarily carry these individuals from the volunteer service into employment. It would depend on the facts.

Mr. ROTH. I thank the Senator for his comments. In closing I wish to say that the system of volunteer firemen is an outstanding success and I would hate to see anything jeopardize it.

Mr. WILLIAMS. Yes, and I think of fire companies, rescue squads, and others. Many are volunteer services and we are grateful.

Mr. ROTH. I thank the Senator.

Mr. WILLIAMS. Mr. President, the idea of extending coverage of this act to government employees is not new nor is it novel.

In 1966 Congress extended the protection of the FLSA to employees of State and local government, elementary and secondary schools and hospitals, and in 1972, to preschools.

In 1972, Congress extended the protection of title VII of the Civil Rights Act to Federal, State, and local government employees.

In 1970, Congress included public employees within the ambit of the Economic Stabilization Act.

Mr. President, Congress will send more than $38 billion to the States this year. It seems to me that employees in those jurisdictions are entitled just like other workers, to realistic wages in the form of minimum wage and overtime protection.

S. 1861 extends FLSA coverage to almost 5 million nonsupervisory employees in the public sector not now covered by the act.

In 1966, some 3.3 million nonsupervisory government employees, primarily employees in State and local hospitals, schools, and other institutions, were covered.

With enactment of the amendments contained in S. 1861, virtually all nonsupervisory government employees will be covered.

It is intended that the FLSA be applicable to nonsupervisory government employees at all levels of government.

Let me review the minimum wage provision briefly. The bill sets a minimum wage for presently covered Federal employees—except in the Canal Zone—at $2.00 an hour on the effective date, and provides for an increase in the minimum to $2.20 at the end of 1 year.

For Federal employees newly covered by the proposed 1973 amendments, whether currently covered or newly covered, the bill applies a $1.80 rate on the effective date and provides for increases to $2.00 at the end of the second year.

Coverage of Federal employees is extended to most workers such as wage board employees, nonappropriated fund employees, employees in the Canal Zone and other civilian employees working for the armed services.

Excluded from coverage are military personnel.

I would comment here that we did not intend to extend FLSA coverage to those persons for whom the tangible benefits of government employment are of sec-

Public employment. The largest part of State and local government spending is for the compensation of teachers, policemen, firemen, clerks, administrators, sanitation workers, and related workers required to provide public services. This group of employees grew from somewhat over 5.5 million in 1959 to more than 7.2 million by 1965 and 8.9 million in 1969 (table 3). In the 2 succeeding years, 713,000 additional jobs were added to this total, so that by 1971 the number of State and local government employees was nearly 9.7 million.[7] As a proportion of total civilian employment, direct State and local government jobs increased from slightly over 8 percent in 1959 to 10.8 percent in 1969 and 11.6 percent in 1971.

TABLE 3.—EMPLOYMENT GENERATED BY STATE AND LOCAL GOVERNMENT PURCHASES, BY MAJOR SECTOR,[1] SELECTED YEARS

Sector and industry	1959	1965	1969	1970	1971
EMPLOYMENT [2] (in thousands)					
Total	8, 040	10, 232	12, 700	13, 038	13, 398
Public sector	5, 570	7, 305	9, 058	9, 433	9, 792
Federal Government	41	44	80	90	96
Government enterprises	41	44	80	90	96
State and local government	5, 529	7, 261	8, 978	9, 343	9, 696
Government, general	5, 512	7, 239	8, 944	9, 306	9, 657
Government enterprises	17	22	34	37	39
Private sector	2, 470	2, 927	3, 642	3, 605	3, 606
Agriculture	75	77	98	92	94
Mining	67	58	67	65	66
Construction	795	1, 050	1, 218	1, 162	1, 147
Manufacturing	873	1, 000	1, 236	1, 223	1, 193
Transportation, communication, and public utilities	242	235	347	356	352
Wholesale and retail trade	76	100	110	109	111
Finance, insurance, and real estate	87	101	135	143	151
Services	255	306	431	455	492
PERCENT DISTRIBUTION					
Total	100. 0	100. 0	100. 0	100. 0	100. 0
Public sector	69. 3	71. 4	71. 3	72. 4	73. 1
Federal Government	. 5	. 4	. 6	. 7	. 7
Government enterprises	. 5	. 4	. 6	. 7	. 7
State and local government	68. 8	71. 0	70. 7	71. 7	72. 4
Government, general	68. 6	70. 8	70. 4	71. 4	72. 1
Government enterprises	. 2	. 2	. 3	. 3	. 3
Private sector	30. 7	28. 6	28. 7	27. 6	26. 9
Agriculture	. 9	. 8	. 8	. 7	. 7
Mining	. 8	. 6	. 5	. 5	. 5
Construction	9. 9	10. 3	9. 6	8. 9	8. 6
Manufacturing	10. 9	9. 8	9. 7	9. 4	8. 9
Transportation, communication, and public utilities	3. 0	2. 3	2. 7	2. 7	2. 6
Wholesale and retail trade	. 9	1. 0	. 9	. 8	. 8
Finance, insurance, and real estate	1. 1	1. 0	1. 1	1. 1	1. 1
Services	3. 2	3. 0	3. 4	3. 5	3. 7

[1] Calculated in 80-sector detail, employment for each of the sectors is available upon request.

[2] The job impact here measures both jobs directly on State and local payrolls and those indirectly related to State and local purchases found in industries producing these goods and services. See also footnote 1, table 2.

Note: Government enterprises function much like private firms and are treated as such in the national income accounts. Only those employees of government enterprises are counted in these estimates who are engaged in the production of goods and services purchased by State and local governments, such as electric power generated by a government-owned plant. The employment of the remaining workers—although they are on public payrolls—depends upon purchases by other final users and is not considered generated by State and local government purchases of goods and services.

Source: Bureau of Labor Statistics.

Private employment. Jobs generated in the private sector by State and local government purchases did not expand as rapidly as did public sector employment during the sixties. In 1959, expenditures by States and localities provided almost 2.5 million such jobs; 10 years later, they provided approximately 3.7 million. By 1971, the number of such jobs had decreased to 3.6 million, but they still represented slightly less than one-quarter of all jobs attributable to State and local government expenditures. Indirect jobs generated in the private sector by State and local government purchases grew from 3.7 percent of total civilian employment in 1959 to 4.6 percent 10 years later, then declined to 4.5 percent of total employment in the 1969–71 period.

Historically, many of the jobs generated in the private economy by State and local governments have been in the construction industry; in the past decade, such jobs accounted for about one-fourth of all construction employment. In 1959, construction projects of States and localities created nearly 0.8 million jobs, and by 1965 that number was slightly over 1.0 million. In 1970 these jobs numbered almost 1.2 million, but declined to somewhat over 1.1 million in 1971.

This apparent leveling off in jobs generated in construction by States and localities in the 1965–71 period actually reflected a sharp peaking of State and local government construction in the late 1960's followed by a slowing of new construction commitments. There was a particularly sharp drop in the dollars expended on schools and highways, which in real terms have accounted for nearly two-thirds of the construction budgets of State and local governments. In 1971, the dollars allocated to construction of schools and other educational facilities were almost half the amount of the peak year 1967, while highway construction received approximately 20 percent fewer dollars than 4 years earlier.

State and municipal expenditures generate about as many jobs in manufacturing as in construction, but these are widely dispersed among many different industries so that the impact on each industry is generally small. And since manufacturing is a much larger employer than construction, the proportion of such jobs in manufacturing is much lower. It is highest among industries supplying materials to the construction sector, such as lumber and wood products, furniture, stone and clay products, heating and plumbing, and electrical lighting and wiring.

Among the other major sectors, services claim the largest number of jobs generated by State and local governments. In 1959, such jobs numbered approximately 255,000, or slightly more than 3 percent of all jobs attributed to expenditures of States and localities. This proportion increased steadily during the sixties and stood at 3.7 percent in 1971. Little significant change in terms of manpower requirements resulted in the remaining sectors from State and local expenditures during the 1959–71 period. Transportation, communications, utilities, trade, and finance combined added 209,000 jobs in the entire 1959–71 period. During that time, agricultural and mining jobs generated by State and local dollars grew by less than 20,000 jobs.

STATE AND LOCAL PURCHASES, BY FUNCTION

Underlying the strong uptrend in the purchases of State and local governments in the 1959–71 period were increases of activities in areas of education, the combined health, welfare, and sanitation, and all other functions. Their patterns of growth differed at various times. In 1971, as in 1959, education accounted for more than two-fifths of all State and local government purchases. Although its share of State and local dollars was slightly higher in 1971 than in 1959, education purchases as a proportion of the total had not changed appreciably during the 1965–71 period (table 4). The most rapid growth in education purchases occurred in the 1959–65 period, which was followed by an easing in the rate of growth from 1965 to 1969. In the 1969–71 years, however, the rate of growth in education purchases was roughly half that in the earlier 1959–65 period. The pattern of education purchases, as would be expected, reflected the upswing of enrollments at elementary and secondary schools in the early 1960's, and the subsequent easing of enrollment pressures.

TABLE 4.—PURCHASES OF GOODS AND SERVICES BY STATE AND LOCAL GOVERNMENTS, SELECTED FUNCTIONS AND YEARS

Year	Education	Health, welfare, and sanitation	All other functions
Billons of 1971 dollars:			
1959	30. 9	9. 2	36. 7
1965	44. 0	12. 9	45. 3
1969	55. 1	18. 9	53. 6
1970	56. 7	20. 1	53. 9
1971	58. 2	21. 7	55. 1
Percent distribution:			
1959	40. 2	12. 0	47. 8
1965	43. 1	12. 6	44. 3
1969	43. 2	14. 8	42. 0
1970	43. 4	15. 4	41. 2
1971	43. 1	16. 1	40. 8
Average annual rate of change:[1]			
1959–71	5. 4	7. 4	3. 4
1959–65	6. 1	5. 8	3. 6
1965–69	5. 8	10. 0	4. 3
1969–71	2. 8	7. 1	1. 4

[1] Compound interest rate between terminal years.

Source: Based on totals from the U.S. Department of Commerce, Bureau of Economic Analysis. Functional detail developed by the Bureau of Labor Statistics.

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[7] Public sector employment includes employees of government enterprises, Federal as well as State and municipal. They are in relatively small numbers, ranging from 58,000 in 1959 to 135,000 in 1971. Most of these are in the Federal sector. Government enterprises are agencies, with separate accounting records, which cover more than half of their current operating expenditures by the sale of goods and services to the general public. Under the national income accounting system, employee compensation and other current expenses are offset against income, and the resulting surplus or deficit is entered as a negative expenditure of State and local governments which has no impact on purchases of State and local governments. However, construction and other capital expenditures are included as purchases by the State and local governments. See also footnotes and accompanying note in table 3.

of State and local government purchases[4] in selected years of the 1959–71 period. Emphasis, however, is placed on the last 3 years of that span, with the intention of showing what may prove to be a structural shift that occurred during those years in the composition of such purchases and the resultant manpower impacts. These 3 years provide a different picture of purchases than that of the 1959–69 decade, primarily because of a sharp slowdown in spending for education and highways. For illustration, the employment effects of spending for education are contrasted to those of health, welfare, and sanitation expenditures, as well as of the combined category of "all other" outlays of State and local governments.

IN PERSPECTIVE

During the 1959–71 span, GNP more than doubled—from $483.7 billion to $1,050.0 billion, a growth at the average annual rate of 6.7 percent at current prices (table 1). At the same time, the total government component of GNP expanded at the rate of 7.6 percent annually, from $97.0 billion to more than $232 billion. The overall rate, however, masked the different patterns of growth for Federal defense and nondefense spending, as well as for State and local government purchases.

TABLE 1.—GOVERNMENT COMPONENTS OF GROSS NATIONAL PRODUCT, SELECTED YEARS, 1959–71

Year	Gross national product	Government purchases	Federal	Defense[1]	Nondefense[2]	State and local
Billions of current dollars:						
1959	$483.7	97.0	53.7	46.1	7.6	43.3
1965	684.9	137.0	66.9	50.1	16.8	70.1
1969	930.3	210.0	98.8	78.4	20.4	111.2
1970	976.4	219.0	96.5	75.0	21.5	122.5
1971	1,050.0	232.8	97.8	71.4	26.3	135.0
Percent distribution:						
1959	100.0	20.1	11.1	9.5	1.6	9.0
1965	100.0	20.0	9.8	7.3	2.5	10.2
1969	$100.0	22.6	10.6	8.4	2.2	12.0
1970	100.0	22.4	9.9	7.7	2.2	12.5
1971	100.0	22.2	9.3	6.8	2.5	12.9
Average annual rate of change:[3]						
1959–71	6.7	7.6	5.1	3.7	10.9	9.9
1959–65	6.0	5.9	3.7	1.4	14.1	8.4
1965–69	8.0	11.3	10.2	11.0	5.0	12.2
1969–71	6.2	3.5	—.5	—4.5	13.5	10.2

[1] Includes Atomic Energy Commission.
[2] Includes National Aeronautics and Space Administration.
[3] Compound interest rate between terminal years.

Source: U.S. Department of Commerce, Bureau of Economic Analysis.

Growth of purchases in the Federal sector has slowed recently, particularly in the defense area. After a rapid increase induced by the Vietnam-related buildup during the 1965–69 period, defense expenditures actually declined in the 1969–71 span. Defense dollars, which accounted for 9.5 percent of GNP in 1959, represented only 6.8 percent in 1971. Federal nondefense purchases, on the other hand, grew most rapidly when the defense spending was declining or showing very little growth, notably during the period 1959–65 and the years of 1969–71. Their share of GNP, however, has increased moderately—from 1.6 percent in 1959 to 2.5 percent in 1971, primarily because of heavy reliance on transfer payments to individuals and grants-in-aid to State and local governments by the Federal Government as a means of channeling funds to the Nation. In this article, much of the nondefense spending of the Federal Government is included in the purchases of consumers and the expenditures of State and local governments.

Hence, it is not surprising that State and local government purchases showed a larger increase in the 1959–71 period than did the Federal Government's purchases. They increased at an average annual rate of nearly 10 percent (based on current prices) in the 12-year period, reaching $135 billion in 1971. The most rapid growth occurred in the 1965–69 period, but the increase in the most recent few years still exceeded that of the earlier 1959–65 span. In the 1959–71 period, the share of State and local governments purchases of total GNP climbed from 9 percent to 12.9 percent.

COMPOSITION OF PURCHASES

The smallest change in share of total purchases of goods and services by States and localities over the period 1959–71 occurred in the spending for compensation of government employees. In constant 1971 dollars,[5] employee compensation claimed more than 59 percent of expenditures in 1959. It declined slowly during most of the sixties and in 1971 stood at approximately 57 percent of total spending.

The remaining roughly two-fifths of State and local government expenditures, however, shifted significantly from construction and purchases of all other goods and services. Purchases of structures[6] declined sharply from nearly 28 percent in 1959 to 19.4 percent by 1971, with nearly all of the decrease occurring since 1968. The rapid inflation of construction costs and a curb on financing of public projects in recent years probably forced the shelving of some construction for State and local governments in that period, but the underlying structural cause was the slowdown of new highway and school construction. Both roads and classrooms were built at an accelerated pace during the late 1950's through the mid-1960's, but now the Interstate Highway Program is well on its way to completion and enrollment pressures on the schools are subsiding, particularly at the elementary and secondary levels. All other purchases from the private sector, however, nearly doubled their share of State and local government dollars between 1959 and 1971, rising to 23.4 from 12.8 percent of the total. This spending includes everything from consulting services to computers to paper clips.

MANPOWER IMPACT

In terms of jobs, the impact of spending by State and local governments is even more pronounced. Approximately 1 out of every 3 of the 15.6 million new jobs in the civilian economy of the 1959–71 period was generated by State and local governments, by enlarging their payrolls or by purchasing goods and services in the private sector. The total employment generated by State and local governments grew about 2½ times as rapidly as total civilian employment during the 1959–71 span, or at an annual rate of 4.4 percent compared with 1.7 percent for employment of the total economy (table 2). The most rapid growth for both occurred during 1965–69, the slowest in the 1969–71 period. During most years of the 1959–71 period, State and local governments added to their own payrolls almost 3½ times as many jobs as they generated indirectly.

TABLE 2.—EMPLOYMENT GENERATED BY STATE AND LOCAL GOVERNMENT PURCHASES, SELECTED YEARS

Year	Total civilian employment	Employment[1] generated by State and local government purchases	Direct employment[2]	Indirect employment[3]
Employment (in thousands):				
1959	67,820	8,040	5,512	2,528
1965	74,552	10,232	7,239	2,993
1969	83,107	12,700	8,944	3,756
1970	83,270	13,038	9,306	3,732
1971	83,340	13,398	9,657	3,741
Percent distribution:				
1959	100.0	11.9	8.1	3.7
1965	100.0	13.7	9.7	4.0
1969	100.0	15.3	10.8	4.5
1970	100.0	15.7	11.2	4.5
1971	100.0	16.1	11.6	4.5
Average annual rate of change:				
1959–71	1.7	4.4	4.8	3.3
1959–65	1.6	4.1	4.7	2.8
1965–69	2.8	5.6	5.4	5.8
1969–71	.2	2.7	3.5	—.5

[1] These estimates cover both direct and indirect impact of State and local government purchases. The concept of employment refers to the number of jobs and is, therefore, higher than the number of persons employed as measured in labor force surveys because of dual jobholding and other statistical and coverage differences. Included in the definition of employment used here are wage and salary employees, self-employed persons, and unpaid family workers.

[2] Direct employment is the employment necessary to operate government programs. The direct employment shown here is in BLS figures for State and local government employment adjusted to exclude enterprise employment.

[3] Indirect employment is that necessary to supply goods and services purchased by State and local governments. The indirect employment shown here includes the private employment attributable to State and local purchases plus that part of government enterprise employment that is generated by State and local government purchases. While the remaining employees of enterprises are undeniably on public payrolls, they are treated in this analysis as attributable to other demand categories.

Source: Bureau of Labor Statistics.

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ment finances by function during the sixties, and for projections for 1975, see Thomas F. Fleming, Jr., "State and local government spending in 1975," *Monthly Labor Review*, August 1971, pp. 19–28. For a fuller treatment of the 1975 projections, see *Projection of the Post-Vietnam Economy 1975*, Bulletin 1733 (Bureau of Labor Statistics, 1972). See also Richard P. Oliver, "Employment effects of reduced defense spending," *Monthly Labor Review*, December 1971, pp. 3–11, and Richard Dempsey and Douglas Schmude, "Occupational impact of defense expenditures," *Monthly Labor Review*, December 1971, pp. 12–15.

[4] Purchases include only the goods and services bought by a government for its own account. Other expenditures such as grants-in-aid, transfer payments, and subsidies are not included as a purchase by the originating government office.

[5] Comparisons in this section are based on constant 1971 dollars.

[6] Structures in the national income accounting system is equal to new construction less force account construction compensation (labor supplied by State and local government employees) plus net purchases of used structures.

of Economic Growth, Bureau of Labor Statistics.[8] The employment tables were developed from input-output matrices, which shows what each industry in the economy purchases from every other industry, as well as from itself, in order to produce its own output in a particular year. The 1959 interindustry employment table, used in developing the 1959 manpower impacts, is based on the 1958 input-output matrix developed by the Bureau of Economic Analysis of the U.S. Department of Commerce[9] and on output-employment factors for 1959 prepared by the Division of Economic Growth. The 1965 and 1970 interindustry employment tables were prepared in the Division of Economic Growth, from updated input-output matrices developed for those years, with the 1958 matrix as the starting point. They also incorporate the appropriate output-employment factors for each year. The 1969 and 1971 data were prepared by estimating the employment in the private sector, taking into consideration changes in State and local purchases (exclusive of price changes) and productivity between these years and 1970.

The industry employment generated by State and local government purchases includes both the primary employment in the industries which provide the goods or services purchased and the indirect employment required in the supporting industries, back through basic mining, agriculture, and services. The employment impact, however, of the accelerator effect on investment or of the multiplier effect as income which is respent for consumer goods is not included in these estimates of generated employment. Moreover, the industry employment estimates in this article are based on the average product mix of the industry and may differ from those required to produce the goods actually purchased by State and local governments. Likewise, the estimates reflect the employment-output relationship for an entire industry and may differ from the unit labor requirements for a particular component of the industry. To develop estimates of manpower requirements, it was necessary to deflate State and local government purchases of goods and services by function and for each of three categories of purchases—construction, employee compensation, and all other purchases. Deflators for compensation were developed by using Bureau of Census data on employment while construction and all other purchases deflators were obtained from the Bureau of Economic Analysis, both in the Department of Commerce.

Mr. COOK. Mr. President, on behalf of myself and my colleague (Mr. HUDDLESTON) I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOK. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 15, strike lines 23 through 25 and insert the following: "section 13(a)(11) of such Act, relating to certain retail or service establishments engaged in handling telegraphic messages, is hereby repealed."

Mr. COOK. Mr. President, this amendment seeks to reestablish in the bill section 13(a)(4) of the present act, which was eliminated in the Senate version, but which is in the House version.

The effect of this amendment is to correct a serious discrimination and injustice to those small neighborhood retail establishments which make or process any part of the goods they sell.

They include, for example, neighborhood retail bakeries and candy and ice cream stores.

The committee bill would continue the exemption of other retail establishments in enterprises with annual sales under $250,000, including those which buy and resell bakery foods and other competing products.

By repealing section 13(a)(4) of the act, however, the committee bill would end the exemption of any retail establishment that makes or processes some or all of anything it sells.

Section 13(a)(4) was enacted in 1949, along with clarifying changes in section 13(a)(2), because of highly technical interpretations that would have largely defeated the exemption of small retail establishments. It had been generally assumed from the inception of the act that retail bakeries and similar neighborhood retail establishments were exempted on the same basis as any others. The Wage and Hour Division ruled they were not retail establishments because they made what they sold. The Congress reaffirmed the original intent of the act by saying in section 13(a)(4) that if they otherwise qualified as retail establishments, they are exempt notwithstanding that they make or process, on the premises, the goods they sell.

The late Senator Robert Taft, Sr., participated as a conferee in perfecting section 13(a)(4) to be sure that it exempted only small single-shop retailers.

These are very small establishments. According to the latest census of business, they have an average of fewer than seven employees and average annual sales of less than $81,000, even including larger, nonexempt establishments in the averages.

I do not understand the committee's intent in repealing this exemption. These retail establishments are still very small businesses, and merely because some or all of the goods are processed on the premises, it should not, in my opinion, serve as a reason to penalize these small bakeries, candy shops, ice cream parlors, tailors, optical stores, drugstores, boutiques, craft, and other specialty shops. For what purpose should they be discriminated against? How are they so different? Who else can provide their special services? Particularly with respect to handcrafted goods, I can assure you that such items cannot be replaced by machine-made goods, and why should these people be forced to make their handicrafts elsewhere? I might also add that these same retail establishments provide many a summer job for youths, not to mention part-time work during the school year.

I urge you to reconsider the committee's action and accept my amendment, which restores section 13(a)(4).

The small businessman represents the backbone of this country, the quality of independence upon which this Nation was found. I think we must not be hypocritical by working to protect some small businesses while totally ignoring the same difficulties experienced by others in the same category.

I am trying to make the point as clearly as I can. The retail store that grosses less than $250,000 is exempt. Yet the same retail store, if it is a bakeshop, where they bake in the back and sell out front, is not exempt.

Let us take many of the craft shops in the eastern part of my State of Kentucky. They will make brooms and rocking chairs. It is their sole source of production in the back. They bring them out front and sell them. Under the Senate version of the bill, they will not be exempt. Yet the same man can make the chairs, send them down to the furniture store that grosses less than $250,000, and that store is exempt.

This certainly takes away from him the ability to make his own and sell his own. By the provisions of the Senate bill we are allowing that distinction.

I would like to read the history of why this was done. The original conference report stated that the exemption would apply typically to bakery establishments which bake the breads and pastries which they sold, iceplants which manufacture the ice they sold, and ice cream parlors or candy kitchens which make their own ice cream or candy. One of the sponsors of the amendment stated that it was not his purpose to exempt employees of manufacturers engaged in interstate commerce, but only those of small retailers, who are strictly retailers, who fully meet the definitions of a retailer, but who make some of the products which they sell.

I would hope this amendment would be accepted. I would hope that we could realize and understand the significance of the repeal of the section in the Senate version. I might suggest that it is in the House version of the bill. It is retained in the House version I hope because of the arguments which the Senator from Kentucky is making today.

Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, I send an amendment to the desk in the nature of a substitute.

Mr. COOK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOK. Is there a time limitation under the terms of the agreement on the bill?

The PRESIDING OFFICER. There is a time limitation on the Senator's amendment of 1 hour, and until that time has expired no amendment is in order.

Mr. COOK. I will yield to my colleague from Kentucky.

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. We are under a time limitation on this bill and we will vote

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[8] For a description of the interindustry employment table, see Jack Alterman, "Interindustry Employment Requirements," *Monthly Labor Review*, July 1965, pp. 841–50.

[9] The 1958 input-output table was published in the *Survey of Current Business*, November 1964. An expanded input-output table for 1963 was published in the *Survey of Current Business*, November 1969.

Expenditures for health, welfare, and sanitation had the highest rate of growth in the 12-year period. In the early 1960's, combined purchases for these functions increased at an average annual rate slightly below that of education, but in the 1965–69 period it rose to 10 percent. This period of rapid growth coincided with the operation of the medicaid program introduced in 1965, which provides aid to State governments to make direct purchases of hospital or health facility care, physicians' services, and drugs for medical purposes.

The combined purchases of all other functions grew more slowly than the overall rate throughout the 1959–71 period, although the rate was accelerating through most of the sixties until it dropped sharply in the 1969–71 span. The rate of growth here is heavily influenced by spending on highway construction and maintenance, the second largest spending function of States and localities. With the shift away from new construction as the Interstate Highway Program matured, this important sector claimed a far smaller share of total expenditures.

EMPLOYMENT IMPACT

A three-way functional breakdown for 1969, 1970, and 1971 indicates the patterns of various State and local government purchases and the resulting employment requirements (table 5). In each of the 3 years studied, purchases of goods and services for education generated about 46 percent of all jobs attributed to State and municipal spending; health, welfare, and sanitation purchases combined contributed approximately 15 percent, and all other functions, 38 percent.

TABLE 5.—EMPLOYMENT ATTRIBUTABLE TO STATE AND LOCAL GOVERNMENT PURCHASES, BY FUNCTION, 1969–71

Year and function	Employment [1] (in thousands)	Percent distribution
1969, total	12,700	100.0
Education	5,847	46.0
Health, welfare, and sanitation	1,918	15.1
All other functions	4,938	38.9
1970, total	13,038	100.0
Education	6,017	46.2
Health, welfare, and sanitation	2,022	15.5
All other functions	4,997	38.3
1971, total	13,398	100.0
Education	6,217	46.4
Health, welfare, and sanitation	2,117	15.8
All other functions	5,064	37.8

[1] The job impact measures both jobs directly on State and local payrolls and those indirectly related to State and local purchases found in industries producing these goods and services. See footnote 1, table 2.

Note: Individual numbers may not add to totals because of rounding.

Source: Bureau of Labor Statistics.

Education. Jobs attributable to State and municipal governments' spending for education, their largest job-generating function, rose from 5.8 million in 1969 to 6.2 million in 1971 (table 6). This translates into almost 107,000 jobs per billion dollars spent on education in 1971, somewhat higher than the 100,000 average for all State and local activities. More than six times as many of these jobs were in the public sector as in the private. The education sector in recent years has provided approximately 55 percent of all State and local government jobs, compared with about 46 percent in 1959. In the 1959–69 period, its expenditures increased at the average annual rate of 6.8 percent. These included jobs in teaching and administration as well as clerical, library, food service, health, transportation, and custodial employment. Only in the most recent period, 1969–71, has the rate of growth decelerated in the education sector to 4.2 percent a year.

TABLE 6.—EMPLOYMENT ATTRIBUTABLE TO STATE AND LOCAL GOVERNMENT PURCHASES, BY MAJOR SECTOR [1] AND FUNCTION, 1969–71

Sector and industry	1969 Education	1969 Health, welfare, and sanitation	1969 All other functions	1970 Education	1970 Health, welfare, and sanitation	1970 All other functions	1971 Education	1971 Health, welfare, and sanitation	1971 All other functions
EMPLOYMENT [2] (in thousands)									
Total	5,847	1,918	4,938	6,017	2,022	4,997	6,217	2,117	5,064
Public sector	4,953	1,333	2,773	5,147	1,397	2,888	5,379	1,430	2,983
Federal Government	19	25	37	20	28	42	22	32	42
Government enterprises	19	25	37	20	28	42	22	32	42
State and local government	4,934	1,308	2,736	5,127	1,369	2,846	5,357	1,398	2,941
Government, general	4,916	1,304	2,724	5,108	1,365	2,833	5,337	1,393	2,927
Government enterprises	18	4	12	19	4	13	20	5	14
Private sector	894	585	2,165	870	625	2,109	838	687	2,081
Agriculture	23	35	40	21	35	36	21	38	35
Mining	24	9	35	23	9	33	23	10	32
Construction	271	44	902	256	46	860	238	48	861
Manufacturing	386	208	642	383	221	619	365	237	591
Transportation, communication, and public utilities	135	55	157	138	59	159	136	63	153
Whole and retail trade	16	20	75	14	21	73	15	24	72
Finance, insurance, and real estate	40	22	74	41	24	78	44	28	80
Services	−1	192	240	−6	210	251	−4	239	257
PERCENT DISTRIBUTION									
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Public sector	84.7	69.5	56.2	85.5	69.1	57.8	86.5	67.5	58.9
Federal Government	.3	1.3	.7	.3	1.4	.8	.4	1.5	.8
Government enterprises	.3	1.3	.7	.3	1.4	.8	.4	1.5	.8
State and local government	84.4	68.2	55.4	85.2	67.7	57.0	86.2	66.0	58.1
Government, general	84.1	68.0	55.2	84.9	67.5	56.7	85.8	65.8	57.8
Government enterprises	.3	.2	.2	.3	.2	.3	.3	.2	.3
Private sector	15.3	30.5	43.8	14.5	30.9	42.2	13.5	32.5	41.1
Agriculture	.4	1.8	.8	.3	1.7	.7	.3	1.8	.7
Mining	.4	.5	.7	.4	.4	.7	.4	.5	.6
Construction	4.6	2.3	18.3	4.3	2.3	17.2	3.8	2.3	17.0
Manufacturing	6.6	10.8	13.0	6.4	10.9	12.4	5.9	11.2	11.7
Transportation, communication, and public utilities	2.3	2.9	3.2	2.3	2.9	3.2	2.2	3.0	3.0
Wholesale and retail trade	.3	1.0	1.5	.2	1.0	1.5	.2	1.1	1.6
Finance, insurance, and real estate	.6	1.1	1.5	.7	1.2	1.6	.7	1.3	1.1
Services	(3)	10.0	4.9	−1.0	10.4	5.0	(3)	11.3	5.4

[1] See footnote 2 and note, table 3.

[2] See footnote 1, table 2.

[3] Less than 0.1.

Source: Bureau of Labor Statistics.

The principal factor in the showdown of growth of employment in education is the reversal of the post-World War II upward trend in school enrollment caused by a decline in the birth rate during the sixties. Education now contributes less to the expansion of job opportunities, but these have been enlarged in other areas, primarily in the areas of health, welfare, civilian safety, and activities such as the operation of the executive and judicial functions as well as for central staff services and agencies concerned with personnel administration, planning, and zoning.

Health, welfare, and sanitation. Job generated by State and municipal purchases of goods and services for health, welfare, and sanitation rose from 1.9 million in 1969 to more than 2.1 million in 1971, when the expenditure of $1 billion created about 98,000 jobs—a proportion close to the average for all activities but somewhat below the level for education. Approximately one-third of the jobs created by these functions during that period were in the private sector, about 70 percent of them divided equally between manufacturing and services. Expenditures for health, welfare, and sanitation created more jobs in services than any other function.

All other functions combined, including highways, natural resources, parks, civilian safety, general government services, and the capital expenditures of public enterprises, generated 4.9 million public and private jobs in 1969 and 5.1 million 2 years later. In 1971, this represented 92,000 jobs per $1 billion of expenditures, a proportion somewhat lower than for any other State and local activity.

METHODS AND LIMITATIONS

Estimates of State and local government employment requirements provided in this article resulted from the use of interindustry employment tables prepared by the Division store in the middle of New York City that is still making their own ice cream in the back of the store and selling it in the front is in competition with Howard Johnsons or is interfering with the Howard Johnson operation when that corporation claims that they are selling 72 flavors. The ice cream store makes only 3 flavors and sells them out front.

It defies my imagination and I think it defies the imagination of the little manufacturer who sells his product in the front of his store to believe that his product is in competition with the larger companies.

It defies my imagination to believe that the little tinsmith is in competition with Balfours, when Balfours runs them off the line by the thousands and hundreds of thousands.

That economic fact defies me, and I hope that it defies a majority of the Senators in this body.

Mr. President, I yield 1 minute to the junior Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, the senior Senator from Kentucky has covered the point that I had in mind. We speak of the very unique product, a product that is completely out of the realm of manufacturing plants.

Mr. COOK. Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS. Mr. President, I think that the substitute which we will offer in a moment would cover the employees of an establishment doing manufacturing and processing. We do not cover those who would otherwise not be covered in the retail part.

Mr. JAVITS. Mr. President, the question is answered by the fact that the rationale, whether the Senator from Kentucky agrees with it or not, is that the man makes his own; he does not buy, and so the effort to establish a minimum wage is to equalize that competition. It is very real competition. There are people who make all these things, and if a man makes it in his own shop, he is not buying it from people who make it and are subject to the minimum wage.

Mr. WILLIAMS. Mr. President, I have yielded back my time. I call up a substitute amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. WILLIAMS' substitute amendment is as follows:

On page 15, in lieu of the language proposed to be inserted by the Senator from Kentucky insert the following:

(3) Section 13(a)(4) of such Act is amended to read as follows:

(4) any employee employed by an establishment which qualifies as an exempt retail establishment under clause (2) of this subsection and is recognized as a retail establishment in the particular industry notwithstanding that such establishment makes or processes at the retail establishment the goods that it sells: *Provided,* That not less than 85 per centum of such establishment's annual dollar volume of sales of goods so made or processed is not for resale and is sold by the establishment and provided that nothing in this subsection shall exempt any employee of the establishment who is engaged in making, manufacturing or processing activities.

Section 13(a)(11) of such Act is hereby repealed.

Mr. COOK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. COOK. Mr. President, I yield myself 1 minute on the substitute. I think I have talked to it sufficiently. I do not think it corrects the situation.

As a matter of fact, this is what the law was before the amendment of 13(a)(4) went on the books in 1949. This is what the law was then. It did not work, it was not functioning, and that was what made it absolutely necessary for 13(a)(4) to be put into the act. It has been there ever since. It is in the House version.

What we are really doing now is reverting back to the law before 1949, because that is exactly what it was then. It was found to be unworkable. It was found to need a change, and that is why Congress took action in 1949 to put the section in that I wish to restore to the bill now.

So we are going back to the law before 1949. That is exactly what we are doing—going back to the law at the time when they found out it would not work and needed to be changed, and that is the reason for 13(a)(4) to be in the law as we find it today.

Mr. WILLIAMS. Mr. President, what this does is say that if an individual is in work that everybody else gets paid $2.20 an hour for, in manufacturing, he will, too.

I think there is a lot of history that we could deal with here. The Senator from New York knows a lot more of the history than I do. But we are at the point where we feel that people who are doing work for which everywhere else is covered ought to be covered also.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. JAVITS. It is a question of whether you are straining to get out from under the act, or stay within the act. I think the general thrust of the voting here has been to bring as many Americans as possible under the protection of the minimum wage. The reason the act was changed was exactly to try to make progress toward that end. Sure, the retailers' employees would get a reasonable compensation rate, like the other people of the country. This whole thing is full of exemptions—30-odd. We have cut them down and down and down. This is another unjustified one that ought to be cut down.

We cannot go the whole way, so we had to go part of the way. That is what it amounts to. It is a question of philosophy. If a fellow gets $72 a week, and that is all he is going to get as a fabricator, right now, that is not such a big deal. The question is, Is he going to be exempt, or should he have a minimum wage? I think the question is whether you want to have this minimal coverage, or want to strain to get the maximum number of exemptions.

I hope the Senate will vote again as it has on all its votes. This is a very reasonable approach to a practical situation.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS. I yield back the remainder of my time.

Mr. COOK. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HELMS). All remaining time having been yielded back, the question is on agreeing to the substitute amendment of the Senator from New Jersey (Mr. WILLIAMS) for the amendment of the Senator from Kentucky (Mr. COOK).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senator from Alaska (Mr. STEVENS) is absent by leave of the Senate on account of illness in his family.

The result was announced—yeas 40, nays 57, as follows:

[No. 307 Leg.]

YEAS—40

Abourezk
Bayh
Brooke
Case
Church
Clark
Cranston
Eagleton
Gravel
Hart
Hartke
Haskell
Hathaway
Hughes
Humphrey
Inouye
Jackson
Javits
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Pastore
Pell
Proxmire
Ribicoff
Schweiker
Stevenson
Tunney
Weicker
Williams

NAYS—57

Aiken
Allen
Baker
Bartlett
Beall
Bellmon
Bennett
Bentsen
Bible
Biden
Brock
Buckley
Burdick
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cook
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Fong
Fulbright
Goldwater
Griffin
Gurney
Hansen
Hatfield
Helms
Hollings
Hruska
Huddleston
Johnston
McClellan
McClure
McGovern
Nunn
Packwood
Pearson
Percy
Randolph
Roth
Saxbe
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Symington
Taft
Talmadge
Thurmond
Tower
Young

NOT VOTING—3

Cotton
Stennis
Stevens

So Mr. WILLIAMS' substitute was rejected.

The PRESIDING OFFICER (Mr. HASKELL). The question recurs on agreeing to the amendment of the Senator from Kentucky (Mr. COOK).

The amendment was agreed to.

Mr. COOK. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. PEARSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARTKE. Mr. President, I have

no later than 5 o'clock. Within that frame of time, when will this substitute be timely?

Mr. COOK. Mr. President, may I say to the chairman of the committee that I will yield back time more than sufficient for the Senator to offer his amendment. I will not run until 5 o'clock. I assure him I will not do that.

Mr. WILLIAMS. I will point out to my colleagues that there are other Senators who want to speak. There is another amendment. I find this substitute is necessary because I believe the main objective of the Senator from Kentucky will be met by the substitute. It will not go to all the employees in these establishments. It will go to those who are manufacturing and processing in the back room of the place where most of the business is retail. That is what the substitute is all about, if we could have a vote on that rapidly—

Mr. COOK. Mr. President, may I say—and I would like to speak to the merits of that amendment—we have been talkabout it and discussing it. My only objection is that if there is an establishment where one usually sells out front and also manufactures his goods or crafts in the back—a shoe store or a tailor shop—he is neither fish nor fowl. He cannot find himself within the provision of exempting the people up front, but finds himself included in the people who work in the back. I cannot find that this proposal will solve the problem. Unfortunately, the small operator of a shop will find that he cannot find himself within the framework of the exemption, because he finds he does not fit the exemption while he is in the back, and he does not find he fits in the front, and because of this it will do him no good.

In discussing this proposal with the Senator, at first blush it sounded like a good idea, but when we consider the small craft shops where a person is part of the manufacturing process and he sells—for example in a drug store a person may wait on customers and do things in the back—he cannot qualify under the former and he comes under the latter, and therefore he is not exempt at all.

Mr. WILLIAMS. There is a great body of department ruling on this matter. It is not a new subject matter. It really boils down to the reasonable man test, whether the major part of his activity is manufacturing or retailing. If he is manufacturing, he should be treated as an employee in manufacturing. If he is at the front retailing, he should be treated as an employee in retailing.

Mr. HUDDLESTON. Mr. President, will the Senator yield me a moment?

Mr. COOK. Mr. President, I yield to my colleague from Kentucky such time as he may require.

Mr. HUDDLESTON. Mr. President, I would like to associate myself with the remarks of my senior colleague from Kentucky (Mr. COOK) and say to the distinguished committee chairman that I think we are dealing here with a process of marketing in the United States that is rapidly disappearing from the scene. The amendment that the Senator from Kentucky has offered is one that will certainly help this type of operation survive.

I think it is a unique operation that we have, where some manufacturing and some processing is done in the small establishment in which the products are sold and made available to the general public.

I think that the fact that the exemption has been part of the law in the past indicates some recognition on the part of the Congress that this type of operation ought to be allowed to continue. It was put there for a good purpose. We have not yet heard any good arguments for taking it out.

I would hope that the amendment offered by the Senator from Kentucky will be accepted and that this type of operation that is so important to a lot of small business people and so important in the sale of products that are of a peculiar nature to a certain section of the country can go on and that we can continue an operation in which so very few people in this country are involved.

I would hope that the substitute will not be necessary and that the amendment offered by the Senator from Kentucky can be accepted.

Mr. COOK. Mr. President, I yield 2 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes.

Mr. TAFT. Mr. President, I commend the Senator for a very necessary amendment.

Yesterday in discussing the substitute amendment, I mentioned this as one of the areas that I thought we had inadvertently covered. The mom-and-pop store situation, even though they might be out from under the retail exemption, they do have some processing or manufacturing of goods in those stores.

Earlier in the year the Senator may recall, we repealed so far as the Senate is concerned the small bakers. One of the needs for that was the tremendous squeeze that small bakers have been going through. They have been going out of business by the handful in Ohio. And many more will go out of business unless some degree of relief is provided.

That type of baker depends, in effect, upon the fact that they do their own baking in their own establishment, even though they are small. There are other small businessmen similarly situated, and simply because they engage, as the Senator from Kentucky mentioned, in making doughnuts and nothing else on their premises, they become subject to the act.

It is not practical to take a breakdown as to whether these are manufacturing or processing businesses. The standard clearly should be the dollar sale standard. It seems particularly unfortunate to make an exception or change.

I hope that the amendment will be passed without substitute or in some way being watered down.

Mr. COOK. Mr. President, I thank the Senator from Ohio.

I reserve the remainder of my time.

Mr. WILLIAMS. Mr. President, I yield to the Senator from New York as much time as he needs.

Mr. JAVITS. Mr. President, this is an amendment which we knew was coming. We had worked out what we thought was a very fair disposition of it.

I cannot agree with the Senator from Kentucky that it is a difficult matter to handle. Every one of these matters has to have a sound economic basis. There is a very sound economic basis for separating the manufacturing and the retail employees. The basis is that if an individual shop is manufacturing a bakery product or a rocking chair, or whatever it does, it competes with other commercial manufacturers on the same item, and those who must pay minimum rate are disadvantaged. The retailer is in a rather unique situation, rendering a high degree of service, and so forth, and the volume is different. I am not talking about the retailer engaged in a strictly retail function that does not have that same competitive relationship. He would be exempt.

I believe the substitute which the Senator from New Jersey and I have proposed makes sense. This is a very fair solution of this matter. We want to respond to the economic reality of wishing to encourage the small producer. However, he should not be encouraged in a discriminatory way under a minimum wage bill.

In determining the status of a worker, the general rule is that it depends on the preponderant element of his work. If he spends most of his time in the manufacturing industry, he is a manufacturing employee. And if he sells most of the time, he is a selling employee. If he does very little except perhaps sew on a button, he is obviously a retail employee.

This matter can be made to sound complicated. It is not actually complicated. It can be separated out.

The Senate considered an amendment as to whether a person living in a household is a domestic. It is a question of fact. Many questions of fact have to be dealt with in this and in all other statutes.

In all fairness, and for a very sound economic reason, I hope that the Senate will not impair the strength of this bill by accepting the amendment as it is, but will rather accept the substitute which makes the discrimination far less.

Mr. COOK. Mr. President, I yield myself 1 minute. May I say that with respect to some things the Senator from New York said, I agree. However, on some I cannot conceivably agree. And that is with respect to the economic factors and saying that a small manufacturer is in competition with the larger manufacturers on the same item.

I wish that that gentleman in Kentucky who is making hand-fashioned brooms to go alongside the fireplace would realize that he is in major competition with the major companies in the United States who make brooms by the thousands. I do not have the faintest notion that a gentleman in Kentucky who is turning out one and one-half rocking chairs a day is in major competition with the larger companies who turn out 950 rocking chairs a day.

I cannot see how a little ice cream

tinuing to discriminate against employees on the basis of their age.

Just recently, an excellent report published by the Senate Special Committee on Aging, "Cancelled Careers", concludes that—

> There is very disturbing evidence to suggest that the Federal Government—which it seems clear, ought to be a model employer—may be a leading offender in applying pressure tactics to coerce older employees to retire at an early age.

Mr. President, we already have a law which covers private business, and my amendment would insure that units of Government adopt for themselves the same practices which they urge on private business.

We have had very meager funding of this act in the past, with enforcement in the hands of only a few officials in the Labor Department. As a consequence, the act has been without teeth. My amendment ups the funding of $5 million and sets up a procedure for Federal employees to file official complaints alleging age discrimination. We have found that without a proper procedure for filing complaints, many of the injured employees have been unable to pursue their rights.

The problems of age discrimination have become particularly acute as the administration seeks to cut back on the size of the Federal bureaucracy. I have no quarrel with cutting back on the number of government employees, because I feel the bureaucracy has become bloated and unmanageable, but if cuts are to be made, I do not believe that the burden of these policies should favor any particular group of workers over another. And our evidence is that the older worker is frequently the first to be dismissed.

It is my belief that rather than discouraging older workers we should concentrate our efforts on keeping people productive as long as they are willing and able to work. Rather than employment policies which discourage hiring and promotion of the elderly, we should work to build policies which have the opposite effect. The price the Nation pays for failure to maximize employment opportunities for older workers is increased dependency, and I do not see an increase in dependency as a good tool with which to fight inflation.

Mr. President, I am gratified that the Labor and Public Welfare Committee has included my amendment in S. 1861, and I am hopeful that the House Conferees on this measure will find it acceptable to carry back to the House membership for approval.

Mr. HATFIELD. Mr. President, I would like to take this opportunity to indicate my reasons for supporting the Taft-Dominick amendment to the minimum wage bill, and to further state some additional thoughts concerning S. 1861.

I voted for the Taft-Dominick amendment (S. 1725) because it represents a reasonable and equitable approach to minimum wage increases. We are considering S. 1861 under another threat of Presidential veto and during a time of great economic stress. It is with regard to these two unalterable facts that the Senate must be wary of quantum leaps in the minimum wage rate—and their effects on all aspects of the economic system.

Vast increases in the wage rate at any level constitutes added pressure on the inflationary spiral. Such massive and immediate additions to the minimum wage level, as proposed in S. 1861, have a direct effect on small businessmen particularly, who logically have greater difficulties in adjusting to rapid wage advancement. In an era of the giant corporate conglomerates it is important that small businesses across the country be given the chance to coexist in the open market. The gradual minimum wage increments proposed by S. 1725 minimize the already substantial difficulties of small enterprise.

In addition, and perhaps most importantly, the Congress, by legislating increases on a large scale, may well be doing a grave disservice to the very people we are trying to help—the poor, the young, and the handicapped. If the minimum wage increase is too great—and we are speaking now of the largest single increase in the history of the Fair Labor Standards Act—we run a frightening risk of legislating some of these people right out of work. This, of course, is precisely what these young, poor, and handicapped—who are anxious to become productive members of the economic culture, do not need.

It is my hope that through the 40-percent increase proposed by S. 1861, during the first year after enactment, we are not legislating the disadvantaged into an economic corner. If the minimum wage is too high, more people may be forced off pay rolls. And then the question may be legitimately asked, How is a black youth better off unemployed at $2 an hour than employed at $1.80? No hours a week at $2 an hour comes to nothing—and leads directly to disillusionment and, perhaps, despair. We must be sure that the economically less fortunate will not be forced into this economic vacuum simply because the increase in minimum wage was too sharp for the job market to remain open, and too inflationary for a struggling economy to absorb.

The Taft-Dominick amendment encompassed none of these negative aspects. I can only hope that the bill proposed by my distinguished colleagues, Senator JAVITS and Senator WILLIAMS will not ultimately mean that we have exceeded allowable economic bounds in permitting this quantum wage-rate increase. I can only hope further that we will not, therefore, have forced the economically disadvantaged to endure yet another additional year without certain badly needed wage hikes, and still another disappointment at the hands of a Congress that persists in giving the promise of minimum wage increases to these people with little hope of honoring that obligation.

Mr. KENNEDY. Mr. President, I am pleased to join in support of S. 1861 to expand the coverage of the minimum wage and to raise the national minimum wage to a more adequate and more just level.

A nation that prides itself on its commitment to end poverty can view this bill as a major step toward fulfilling that commitment. It provides minimum wage protection for some 7 million new workers, including many who are at the very bottom of the economic ladder in this Nation.

Also, for the more than 54 million workers who would be covered if this legislation became law, there would be a clear statement by the Congress that no one should be forced by the minimum wage to live in poverty. The bill recognizes that since the 1966 minimum wage amendments set the current level of $1.60 per hour, the cost of living has jumped by over 35 percent.

The head of a family of four who is working full-time at a minimum wage job must accept continual reliance on welfare. The income he earns on that pay scale still leaves him more than $1,000 below the poverty line which is now officially pegged at $4,300.

In 1966, the committee called the minimum wage amendments a means to carry the full-time worker out of the netherland of poverty by setting the minimum wage above the poverty level. This bill carries with it the same goal by raising the minimum wage to $2.20 an hour within a year.

Expanding its provisions to cover domestic workers and previously excluded workers in retail and other service industries, as well as Federal, State, and local government employment, this bill seeks to move the Nation closer to the 35-year-old goal of eliminating "labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficient, and general well-being of workers."

S. 1861 would raise the minimum wage for workers covered prior to 1966 to $2.20 per hour a year from now. For workers newly covered by the law in 1966 or by the current amendments, there would be an additional year prior to reaching the $2.20 per hour level.

For agricultural workers covered, parity with nonagricultural workers would be reached in 3 years with immediate increases to $1.80 per hour and then 20-cent-an-hour hikes in succeeding years.

Even the limited extension of coverage to adult, seasonal hand harvest workers contained within this year's legislation still means that over 90 percent of the Nation's farms will not be covered. The determination of the committee to cover farmworkers has been matched by a recognition of the needs of the family farm.

The bill also seeks to remedy the continued exploitation of children in the agricultural fields. The Department of Labor reported in 1970 an 18-percent increase in the number of minors found to be working illegally on farms. Fifteen percent of these violations involved children under 9 years of age.

Thirty-five years ago, Congress banned child labor in the factories and mills of America. Yet today, we still permit the same conditions in our agricultural fields. The Department of Agriculture estimated in 1970 that some 800,000 children an amendment at the desk which I ask be called up, and ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. There is no time for debate, but, without objection, reading of the amendment will be dispensed with, and the text of the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 22, between line 11 and 12, add the following new section:

(d) Section 4(d) of the Act is amended to add the following new sentence after the words "as he may find advisable":

"Such report shall include findings and recommendations on the domestic economic impact of trade policies with foreign nations which produce goods under labor conditions which are not comparable with labor conditions in similar industries in the United States."

Mr. WILLIAMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS. What is the situation on time, Mr. President?

The PRESIDING OFFICER. There is no time.

The question is on agreeing to the amendment.

Mr. WILLIAMS. I have discussed this matter. This amendment calls for a study that I think is appropriate.

Mr. GRIFFIN. Mr. President, I call for the regular order.

The PRESIDING OFFICER. There is no time for debate.

Mr. GRIFFIN. I am listening to debate. That is why I call for the regular order.

Mr. JACKSON. Mr. President, I ask that the amendment be read, in accordance with the Senate rules.

The PRESIDING OFFICER. The amendment will be read.

The amendment was read, as follows:

On page 22, between line 11 and 12, add the following new section:

(d) Section 4(d) of the Act is amended to add the following new sentence after the words "as he may find advisable":

"Such report shall include findings and recommendations on the domestic economic impact of trade policies with foreign nations which produce goods under labor conditions which are not comparable with labor conditions in similar industries in the United States."

Mr. JAVITS. Mr. President, I ask unanimous consent that there be 1 minute on a side in respect of this amendment, which no one has seen—at least, I have not—until now.

The PRESIDING OFFICER. Is there objection?

Mr. TAFT. Mr. President, I raise a point of order against the amendment.

The PRESIDING OFFICER. Will the Senator repeat his statement?

Mr. TAFT. I make a parliamentary inquiry as to whether it is appropriate at this time to raise a point of order against the amendment.

The PRESIDING OFFICER. It is appropriate at this point.

Mr. TAFT. I raise a point of order against the amendment as being nongermane.

The PRESIDING OFFICER. The Chair will take the matter under advisement while the amendment is studied.

The amendment introduces new subject matter dealing with domestic economic impacts of trade policies, and for that reason the Chair rules that the amendment is nongermane. The point of order is well taken.

SEVERAL MEMBERS. Third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. PELL. Mr. President, I strongly urge my colleagues to enact S. 1861, the Fair Labor Standards Amendments of 1973. Sixty days after enactment, this bill would raise the basic minimum wage to $2 per hour, and 1-year later to $2.20.

It would extend minimum wage and overtime coverage to practically all Federal, State, and local government employees, to retail and service establishment employees working in all stores in large chains, to domestic service employees, and to certain agricultural workers.

The bill also repeals or modifies certain statutory exemptions for those employed in motion picture theaters, retail manufacturing plants, logging and sawmill operations, agricultural processing, cotton ginning, sugarcane and beet processing, aircraft dealerships, local transit systems, hotels, motels, and restaurants, nursing home, catering and food service establishments, bowling alleys, and for mechanics and partsmen in auto, truck, and trailer dealerships.

This is a far reaching and important piece of legislation. Most of the millions of workers who would benefit from raising the minimum wage, and extending and enlarging this coverage are those at or near the bottom rungs of the economic ladder. I think that the issue here is a simple one. We must assure that every wage earner is paid a basic, living, minimum wage. In my opinion, one of the most compelling arguments for the enactment of S. 1861 is the statistic indicating that a present minimum rate of $2.16 is required merely to compensate for increases in the Consumer Price Index between 1966 and May 1973.

Based on a 40-hour workweek, a minimum-wage earner would be assured of a weekly gross pay of $88. With income and social security withholding taxes, and other payroll deductions, such a worker's take home pay would constitute little more than a bare subsistence minimum. I do not think there is any area of this country in which a wage earner should be asked to exist on a lesser sum. Indeed, in the more affluent regions, this minimum may be too low.

Reports from the Department of Labor do not indicate that increases in the minimum wage have a detrimental effect on employment, or on the economy in general.

I see no reason for delaying this much needed increase in the minimum wage, and again urge my colleagues to enact S. 1861.

Mr. ROTH. Mr. President, I would like to comment briefly on the minimum wage bill (S. 1861) as it now stands ready for a final vote. I do not feel that I can support the legislation in its present form because it offers another major stimulus to the dangerous inflation which still plagues our economy.

I was a strong supporter of the amendment offered as a substitute by the distinguished Senators from Colorado and Ohio (Mr. DOMINICK and Mr. TAFT) because I felt it was a reasonable compromise between a "do-nothing" stance and this bill. The enclosed table proves beyond question that the Dominick-Taft bill would have provided increased minimums greater than those offered in S. 1861, but over a longer period of time. I felt this to be a prudent approach to the problem which Congress now addresses.

But it seems illogical to me for the Congress with one hand to give the President authority to fight inflation, and then with the other hand to mandate wage increases which would provide an enormous economic ripple.

Congress apparently feels that the present wage guideline of 5.5 percent annual increases represents equitable treatment for workers. We did not mandate different levels in April when we thoroughly reviewed the stabilization program. Yet the committee bill would raise the level from $1.60 to $2.20 in 1 year and 2 months, or 37.5 percent, which is more than triple the permissible 11 percent over 2 years. Can we reasonably expect the American public to believe in our concern for the economy's health if we vote to require such a giant step?

Those critics who claim that the minimum wage has a negligible economic impact seem to forget that parity between wage classifications plays a great role in wage bargaining and determinations. If the lower levels receive more than a one-third increase, we can expect to see mobilization for commensurate jumps throughout the entire spectrum of wage earners.

The invitation to a strong cost-push inflation is one we should not be eager to accept. We should not neglect the issue of the minimum wage, and I am sincerely hopeful that a more moderate version would pass the Congress. It would certainly have my support.

Mr. BENTSEN. Mr. President, I wish to make a few comments about section 12 of this bill, which amends the Age Discrimination in Employment Act of 1967.

This is essentially the same measure that I have twice introduced in the Senate, first on March 9, 1972, as S. 3318, then later as an amendment to the minimum wage bill which failed to achieve final passage last year.

I believe this matter of age discrimination is of the utmost seriousness. Despite executive orders by three Presidents beginning with President Kennedy, strong evidence indicates that Federal, State, and local governments are conodically adjusted to reflect changes in the cost of living. Those receiving social security benefits will soon find their checks increased, periodically, to make up for the inroads of inflation into the purchasing power of their monthly checks.

I applaud this success in protecting our workers, and retired people, from the economic hardships of a constantly inflated economy. There is no good reason why today's or yesterday's workers should be penalized for the failure of American economic policy to hold down prices.

However, those workers on the lowest rung of the wage ladder; those workers whose families live well below the official poverty level; those workers who labor to better their economic position, as well as for their own self respect; those workers who often perform some of the most laborious tasks in our society; those workers who must spend a larger portion of their total income than virtually any other segment of our labor force on the two most inflationary products in our economy today—food and housing; those workers who see the "purchasing power" of their paychecks shrink not only week to week and month to month, but year to year; and those workers who can least afford to pay the cost of inflation.

It is these American workers who are being asked to absorb the full shock waves of dramatic price rises without protection. This is simply unfair. Certainly these workers require protection against inflation.

As has been thoroughly documented, the bill we are considering today is "catch up" legislation. Between 1966, when Congress increased the minimum wage to $1.60, and May 1973, the consumer price index rose 35.3 percent. Thus, a substantial increase in the minimum wage is needed simply to adjust to the inflation that has occurred. This bill simply permits these workers to make up the ground lost since the last increase.

Our debates over the years on minimum wage have always focused on catching up with the cost of living. While this is absolutely essential, I believe that the time has come to raise our legislative objectives to establish a national policy on the enhancement of minimum "purchasing power." After all, it is "purchasing power" that is the real return to the worker for his toil. This is what we must increase if people employed at these wage levels are to really improve their positions in our economy.

I believe that Congress should thoroughly review minimum wage legislation every 2 or 3 years to improve the relative purchasing power position of minimum wage workers, to expand coverage under minimum wage, and to adjust these wages for increases in the productivity of our labor force. It is imperative that Congress review all of these factors on a regular basis and make the changes that these factors demand. Focusing almost exclusively on a "catch up" minimum wage diverts attention from these more basic factors.

I urge the Senate to seriously consider providing a "cost of living" provision in future minimum wage bills. Such a provision might be similar to that provided in the recent social security legislation. Simultaneously with providing that such a catchup mechanism shall operate automatically on an annual basis, such legislation should reflect the new initiative to focus more sharply on the factors mentioned above.

Such a provision could also be expected to ease the burden of adjustment by small businesses to "catch up" increases that have been previously legislated at 5- to 7-year intervals. Furthermore, if a genuine work incentive is to be maintained, we must assure that the frustration workers experience with a paycheck that buys fewer groceries each week is eliminated.

Mr. President, minimum wage law originally was drafted on the basis of the best currently available estimates of a period of relative price stability. Under such conditions, it would serve extremely well. However, price stability has not been the norm in our Nation for many years and prospects are not good for a return to price stability in the near future. Given this change in basic economic conditions, I believe our approach to minimum wage legislation must be adapted, as soon as practicable, to the current economic facts of life.

II. HOTEL AND RESTAURANT EMPLOYEES

Mr. Preident, S. 1861 makes important revisions in current law to improve minimum wage protection for employees of hotels, motels, and restaurants. In addition to limiting the overtime exemption for these employees, the bill requires employer explanation to employees of FLSA tip credit provisions, and further requires that all tips received be paid out to tipped employees.

Currently, the law provides that an employer may determine the amount of tips received by a "tipped employee" and may credit that amount against the applicable minimum wage, but amounts so credited may not exceed 50 percent of the minimum rate—or $0.80 an hour.

As noted in the report on this legislation by the Senate Committee on Labor and Public Welfare, the committee concluded that the tip allowance should not be reduced at this time, but the tipped employee should have stronger protection to insure the fair operation of this provision.

The committee calls for full precautionary administrative measures to insure that an employee does in fact receive tips amounting to 50 percent of the applicable minimum wage before that amount is credited against the minimum wage. And the revised FLSA provision under this bill would place the burden of proof on the employer, rather than the employee, that the tip credit has been fairly applied.

Mr. Edward T. Hanley, general president of the Hotel and Restaurant Employees and Bartenders International Union, AFL–CIO, has called attention to problems associated with the application of the tip credit, where inequities can be worked upon these employees. There have also been disturbing reports of a significant overall decline in customer tips in recent years as a direct result of inflation.

I believe that with respect to future minimum wage legislation, careful consideration should be given to developments at the State level. Certain States, such as Nevada and Washington, have recognized the serious income problems confronting numerous hotel and restaurant employees, and have passed legislation eliminating the tip credit. New Jersey, New York, and California have changed the tip credit from a percentage to a fixed cents-per-hour figure so that tipped employees can in reality receive the same increases as other workers from minimum wage legislation.

It seems to me that sufficient statistical information should now be at hand, since the implementation of tip credit provisions in the FLSA Amendments of 1966, to permit informed deliberation on further changes in these provisions to assure equity to employees and to enable employers to make more exact labor cost projections and to have the benefit of simplified procedures in complying with the Fair Labor Standards Act.

III. DOMESTIC SERVICE EMPLOYEES IN PRIVATE HOUSEHOLDS

Mr. President, I support provisions in S. 1861 to extend minimum wage coverage to all employees in private household domestic service, as defined in the bill. There are compelling reasons for providing this protection.

In a recent letter to me, the Honorable SHIRLEY CHISHOLM, from New York, whose unremitting efforts to accomplish the enactment of this protection merit the highest commendation, provided important documentation in support of her statement that "the plight of the domestic is extreme."

If any group has ever deserved minimum wage protection, that group is domestic workers. Almost one-third of these workers are paid less than 70 cents an hour. Almost half of them are paid less than $1 an hour. Two-thirds get less than $1.50. Only 1 in 10 makes $2 an hour or more.

Even when a domestic is able to work full time, her pay is about half of what this country terms a poverty-level income. The median yearly income of domestics is $1,800. In my own State of Minnesota, women working 50 to 52 weeks a year have a median income of $1,250 a year. The comparable figures for Ohio, Colorado and Maryland are $1,603, $1,597, and $1,723.

This is not an adequate income for one person. But a large proportion of these women are heads of households. Let me give you some figures on that. Over 40 percent of our poverty families are headed by women. About 28 percent of all black families are headed by women, and over half of all the black families are classified as poor. And about one-half of the domestic workers in this country are black.

This legislation would not provide sick leave, retirement benefits other than social security, or the vacations with pay that most working people take for granted. All it would do would be to try to insure an income, at about the poverty level. This is hardly an extravagant action, nor a magnanimous gesture.

Now, as to the "disemployment" effect

under 16 worked in the fields, including 375,000 between the ages of 10 and 13.

At the same time, we have testimony from the migratory labor hearings to show that these children of migrants and seasonal farmworkers generally receive the least medical care as well as the fewest educational opportunities.

For these reasons, the committee bill establishes a fine of $1,000 for violations of the child labor provisions. The new provisions prohibit the employment in agriculture of all children under 12, except on farms owned or operated by their parents. Children 12 through 15 are permitted to work only during hours when school is not in session provided that all 12- and 13-year-olds receive written parental consent or work on farms where their parents are employed.

S. 1861 also carries with it a provision to fill a gap in our efforts over the years to protect the rights of the elderly. The Age Discrimination in Employment Act of 1967 prohibits employers from discriminating against elderly in hiring, job retention, pay, and working conditions.

Since then, substantial steps have been taken to prevent that discrimination in the private sector, although more remains to be done. However, when the law was passed it consciously excluded public employees because those employees to a large extent were not covered by the Fair Labor Standards Act.

Today, that situation has changed and the committee bill recognizes this change by extending the coverage of the Age Discrimination in Employment Act of 1967 to those workers 40 to 65 who are employed at State, local and Federal levels. The opposition of the administration to inclusion of Federal employees under the act's coverage cannot be justified. If anyone should be the leader in fairness in employment it should be the Federal Government. The bill before us will insure that workers will have the same protection whether their employer is a private company or a public agency, whether a local school district or the Department of Health, Education, and Welfare.

In its extension of minimum wage and overtime coverage to additional workers, in its augmenting of the minimum wage, and in its protection of the rights of young workers, this legislation carries the Nation forward on the path toward a more just society.

This legislation will mean fewer workers will have to turn to welfare to meet their family's needs. This legislation will carry new dignity to domestic workers, giving them what is their right, a decent wage for a day's work. This legislation will afford new protections to agricultural workers and to their children and will impose new penalties for attempts to evade those protections.

In all respects, the bill before the Senate is an eminently just and equitable measure and I urge its approval.

Mr. STEVENSON. Mr. President, as we consider legislation to extend the coverage and benefits of our Nation's minimum wage law, I am reminded of the words of President Franklin Delano Roosevelt in his second inaugural address:

> I see one-third of a nation ill-housed, ill-clad, ill-nourished . . . the test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.

Those words should be repeated until this Nation has met that "test of progress"—and we have responded to those who "have too little."

So far we have not done enough. There are still 24.5 million poor in this country. There are 5.1 million poor families, of which 2.7 million are headed by an individual who has been a member of the labor force at some point during the year and of which 1 million are headed by a full-time year-round worker. Twenty-five percent of the children in poor families come from families where the head has a full-time year-round job, and 61 percent of the children in poor families come from homes where the head has worked at some point during the year.

It is these working poor—those that are struggling to lead decent and dignified lives—that we will fail if this bill is not passed. This bill quite simply says that every wage-earning American deserves a living wage.

Those who complain that minimum wage increases are inflationary must know that inflation has already cost the worker a substantial part of his salary. Since the minimum wage increase was raised to $1.60 in February 1968, the Consumer Price Index has risen an incredible 39.2 percent. To deny workers a minimum wage increase to compensate for inflation because that increase is itself claimed to be inflationary is to operate with an almost perverse logic. The meager wages of the poor do not cause inflation—and they should not be compelled to bear the cost of fighting inflation.

Neither must we be sidetracked by the issue of unemployment. No Labor Department study has shown an increase in unemployment after a raise in the minimum wage. We cannot deny the working poor a living wage and then claim we deny it for their own good.

This bill raises the minimum hourly wage for nonagricultural workers to $2 immediately and to $2.20 in 1 year. For those nonagricultural workers first covered by the 1966 and 1972 amendments it would raise the minimum wage to $1.80 in the first year, $2 in the second year, and $2.20 thereafter. For those agricultural workers to be covered by the act, the minimum wage for the first year would be $1.60 but would rise to parity with nonagricultural workers in 3 years.

In addition, the coverage of the Fair Labor Standards Act would be extended to an additional 7 million employees. An estimated 75,000 to 150,000 new farmworkers—excluding those who work on small family farms—will be covered for the first time. Domestic employees other than babysitters would also receive their first minimum wage protection.

The 1966 legislation extended coverage to some 3.3 million nonsupervisory Federal, State, and local employees. This bill would extend that coverage further to the almost 5 million nonsupervisory employees in the public sector not now covered by the act. As the Senate Labor Committee's report indicates, this will have little effect on the budgets of States and local governments. The Department of Labor has indicated that in the first year of this bill's operation, State and local budgets would be raised by 0.3 percent, and in the following year there would be a further 0.5 percent increase—much of which would be incurred by the States and localities in the ordinary course without this bill.

The bill is not a final answer. It will not eliminate poverty, perhaps not even for the working poor. But it can help—and in President Roosevelt's words, at the very least, we shall be providing more "for those who have little."

FURTHER INITIATIVES IN MINIMUM WAGE PROTECTION

Mr. HUMPHREY. Mr. President, I support S. 1861, Fair Labor Standards Amendments of 1973. This legislation is needed today on behalf of millions of American workers who ask only for a fair minimum wage to meet the cost of living. I shall vote for the committee bill.

I wish to direct my remarks now to three areas of current and future legislative action.

First, the time has come for Congress to address the need to continually adjust the minimum wage to economic reality.

Second, future legislation to amend the Fair Labor Standards Act must take account of special problems inherent in the application of the tip credit for hotel and restaurant employees covered under the FLSA Amendments of 1966.

Third, full recognition must be given to the plight of the private household domestic worker, who would be brought under the minimum wage provision of the Fair Labor Standards Act by S. 1861.

I. COST-OF-LIVING ADJUSTMENT

At the conclusion of his excellent testimony before the Senate Subcommittee on Labor on June 8, 1973, with respect to S. 1861, George Meany, president of the AFL–CIO, stressed the importance of moving toward an ongoing adustment of the minimum wage:

> We are convinced that the FLSA must be updated on a continuing basis if it is to meet its basic objective—the elimination of labor conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency, and general well-being of workers. Only in this way will the term "working poor" and all it connotes become obsolete.

Mr. Meany also stressed, however, the simultaneous requirement of this regular adjustment process—greatly expanded coverage under the minimum wage law. It is wrong that a patchwork of exemptions under the present law means that almost 17 million workers are currently denied its modest wage and hour benefits, and that an additional 6.5 million workers are exempt from the overtime provisions of the act.

For years American workers have tried to insulate their pay checks from the eroding effect of continuous inflation. Many of our unions have succeeded in having "cost of living escalator clauses" written into their contracts. Government employees now have their incomes peri-

The Nation has, since that time, developed into the richest country the world has ever known. Yet, 12 percent of our population—24.5 million citizens—still live in poverty.

More than 16 million workers in this country who might be protected by minimum wage legislation are not so protected. For those who are covered by the Fair Labor Standards Act, inflation and the concomitant erosion in the purchasing power of the dollar has resulted in a situation in which the current minimum wage—$1.60 an hour—provides a working family breadwinner with three dependents an income nearly $1,000 lower than the poverty level. To meet the current poverty level income of about $4,300 that same worker needs an hourly wage of $2.07. The consumer price index has risen 29 percent since the $1.60 minimum wage took effect in 1968. Thus, even though the average manufacturing worker's wage has risen to $4.04 per hour, the untrained, unskilled recipient of the federally imposed minimum wage has seen the purchasing power of his marginal income dwindle before his very eyes. This $1.60 wage actually brings him less today than a $1.25 wage did in 1966.

The purpose and function of the Fair Labor Standards Act is to protect the lowest paid worker and to attempt to provide him with an income level which will enable him to survive and exist in this, the most affluent Nation in the world. The purpose of S. 1861 is to continue that protection, and to extend it to others who urgently need it.

Many people have expressed criticism of S. 1861, asserting that its provisions would fuel the fires of inflation, and would aggravate an already high level of unemployment. I cannot agree with this assessment.

To begin with, there is no substantial evidence to suggest that an increase in the minimum wage of the magnitude contemplated in S. 1861 would aggravate inflation. The Department of Labor, which has historically maintained careful scrutiny of national wage levels as they relate to the minimum wage law, has repeatedly found that increases in the minimum wage have not created a "ripple effect" of general upward movement of wages.

Inflation, moreover, is the result of many factors. As the report of the Committee on Labor and Public Welfare so cogently states:

> This Committee does not believe that a successful anti-inflation program depends upon keeping the income of millions of American workers below officially established poverty levels.

Certainly, the burdens of inflation should not be delivered to the backs of the poor in our Nation. The erosion of the dollar has a far greater impact on the poor, who have no discretionary income, than on those segments of our society who are more fortunate. The worker for the minimum wage has been faced with a 22.4-percent seasonally adjusted annual rate of increase in food prices in just the first 6 months of 1973. Surely the desperation and anguish of a father making $1.60 an hour, who is trying to feed his family under such conditions, must be recognized and understood by all of us.

As to the disemployment effect of increasing the minimum wage, Secretary of Labor Hodgson said in his 1972 report that—

> On balance, the wage increases granted to 1.6 million workers to meet the $1.60 minimum wage standard had no discernible adverse effect on overall employment levels, and relatively little impact on overall wage or price trends.

An historical assessment of the employment trends following statutory increases in the minimum wage demonstrates the accuracy of Secretary Hodgson's statement. In fact, minimum wage increases have never resulted in increased unemployment, and in several instances unemployment has actually decreased following statutory wage increases.

In conclusion, the fears and anxieties which have been expressed in relation to the impact of S. 1861 should be set aside. Direct payroll costs of the measure will be only one-half of 1 percent of the national wage bill in the first year, and even less in subsequent years. Unemployment will not be aggravated by S. 1861, according to historical analysis and reputable economic studies. On the contrary, the provisions of S. 1861 will be good for the economy of our Nation and will permit millions of inadequately compensated workers to hold their heads a little higher.

I commend the chairman of the Committee on Labor and Public Welfare (Mr. Williams) and the ranking minority member of the committee (Mr. Javits) for their leadership in bringing this measure to the Senate, and as ranking majority member of the committee, I support S. 1861 and urge its adoption.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 7935.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (H.R. 7935) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rates under that Act, to expand the coverage of the Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WILLIAMS. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. WILLIAMS. Mr. President, I move that all after the enacting clause of H.R. 7935 be stricken and that the language of S. 1861, as amended, be substituted therefor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Jersey.

The motion was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

THE PROGRAM TODAY

Mr. MANSFIELD. Mr. President, for the information of the Senate, instead of proceeding to consideration of the War Powers Act, as we had anticipated, because we thought we might have finished this bill some 2 hours ago, it is the intention of the joint leadership, immediately upon the disposition of this bill, to take up the legislative appropriation bill, and following that, to take up the District of Columbia appropriation bill, and then to lay before the Senate the War Powers Act.

The Senate will meet at 9 a.m. tomorrow. There will be no morning business. We will start immediately on the consideration of that bill, with the pending business at that time being the Eagleton amendment.

FAIR LABOR STANDARDS AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 1861) to amend the Fair Labor Standards Act of 1938, as amended, to extend its protection to additional employees, to raise the minimum wage to $2.20 an hour, and for other purposes.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Alaska (Mr. Stevens) is absent by leave of the Senate on account of illness in his family.

The result was announced—yeas 64, nays 33, as follows:

[No. 308 Leg.]

YEAS—64

Abourezk
Aiken
Baker
Bayh
Bentsen
Bible
Biden
Brooke
Burdick
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Eagleton
Fong
Fulbright
Gravel
Hart
Hartke
Haskell
Hatfield
Hathaway
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Percy
Proxmire
Randolph
Ribicoff
Schweiker
Scott, Pa.
Stafford
Stevenson
Symington
Talmadge
Tunney
Weicker
Williams

NAYS—33

Allen
Bartlett
Beall
Bellmon
Bennett
Brock
Buckley
Byrd,
  Harry F., Jr.
Curtis
Dole
Domenici
Dominick
Eastland
Ervin
Fannin
Goldwater
Griffin
Gurney
Hansen
Helms
Hollings
Hruska
McClellan
McClure
Nunn
Roth
Saxbe
Scott, Va.
Sparkman
Taft
Thurmond
Tower
Young

of which we have heard: Let me point out that in the last decade, over 70,000 persons have left domestic work precisely because the pay is so low. Household workers have found they could earn more at other jobs. And more than a few have discovered that they could secure a better income for their families if they went on welfare, instead of continuing to work as domestics.

In fact, there is a greater need for household help than ever before, because so many women are working. But we are not going to increase the number of domestic workers, unless and until the domestic can be assured some kind of fair compensation for her work. If we want to talk about the work ethic, it seems to me that we should try to insure that household workers can count on something more than sub-poverty-level wages.

As for the issue of inflation, it is precisely the workers who are not covered by minimum wage legislation who have suffered the most from the unending increase in the cost of living. We may complain about food prices, but we are going to have food on the table. For the working poor, inflation has already put even this most basic need, food to sustain life, almost out of reach.

Mr. President, I deeply believe that justice demands the enactment of minimum wage protection for domestic household employees.

ECONOMIC EFFECTS OF MINIMUM WAGE

Mr. DOLE. Mr. President, we have conducted extended debate on the merits of S. 1861, the Fair Labor Standards Amendments of 1973. The very same issues which have been discussed the past several days were also debated last year when this measure received Senate consideration. It seems in both periods of debate the issues which separate my colleagues and their vote on the bill is their interpretation of the economic impact of the bill rather than the propriety of the stated purpose.

I am sure that all my colleagues desire to see the elimination of substandard and exploitive wage practices. Everyone supports efforts to assure that the poor and the unskilled receive a livable wage. We all agree that our young people should be able to find jobs and enjoy the satisfaction of gainful employment and self-sufficiency. But the real question remains: Do the provisions of the act we are now considering accomplish these ultimate ends which we all favor?

SUPPORT SUBSTITUTE

Both the committee bill, S. 1865 and S. 1725, the substitute, are offered to the Senate to fulfill the findings, declarations, and purposes of the original Fair Labor Standards Act. Yesterday I voted for S. 1725, Senator DOMINICK's and Senator TAFT's substitute bill for the Fair Labor Standards Amendment of 1973. My vote today against S. 1861 is responsive to the original congressional declaration of policy—to correct and as rapidly as practicable to eliminate labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers, without substantially curtailing employment or earning power.

ECONOMIC DISPUTE

There remains a dispute over evidence supporting each side of the issue and, consequently, less than unanimous support of the bill exists in spite of the merits of its stated purpose. Certainly there is no consensus among the economists about the effects minimum wage legislation will have on the economy and its effects on inflation and unemployment. The potential adverse effects on the economy cannot be overemphasized at this time. Wage increases in the committee bill will seriously threaten the success of the economic stabilization program.

It may be said in regard to this bill that one's position is based on which economists one believes. Yet it will not take an economist to document the effect of S. 1861 on Kansas and other rural areas.

Numerous studies on economic impact have already been made, yet not all of the studies have reached the same conclusion. I feel, therefore, that it is important that we expand the scope of the study as well as the investigating body and require that specific issues which are important to our consideration, but which remain unresolved should be given special attention in further investigations.

IMPACT ON RURAL COMMUNITIES

I am especially concerned with the impact a national minimum wage has in rural areas where the cost of living and the standard of living is often below the national average. The impact of large increases at a rapid rate will fall hardest on farmers and small businessmen and rural communities. The minority report on S. 1861 mentions the fact that many rural and depressed areas may be disadvantaged by minimum wage increases and often the increase tends to block the opportunities for employment growth that might relieve these economically depressed areas. In effect, there seems to be more indication that the minimum wage, while benefiting the urban areas, tends to restrict development in some rural and sparsely populated areas. With the current efforts in the area of rural development and the need for a better dispersement for our Nation's population, I feel that we should look closely at any legislation which might discourage or detrimentally affect the rural development effort. Admittedly, the worker in rural areas has the same rights and deserves the same protections as the worker in other areas of the country. But at the same time we must also consider our commitment to rural development and consider ways of assuring employee protections and at the same time encourage rural economic and small business development. I feel that this issue remains unsettled and that a more detailed study of the matter is called for before present exemptions are swept aside.

EFFECT ON EMPLOYMENT

Another major area of concern is the impact of a national minimum wage on the availability of job opportunities for the poor, the young, the unskilled, and other citizens who are finding it difficult to enter the mainstream of the American economy. Does a higher payment level necessarily mean better pay for these individuals, or does it merely mean that employers can make less jobs of this type available? Do those workers who would receive a salary increase under a legislated minimum wage increase actually benefit in the long run in terms of real buying power? To what degree, if any, does the "ripple effect" resulting from minimum wage increases provide inflationary pressures and tend to wipe any real benefit possibly recorded by the lower salary employees? These are questions which go to the very heart of the issues which we have been debating. I feel that additional information and viewpoints would be most helpful in any future consideration of this matter.

EXTENDED COVERAGE

S. 1861 has expanded the coverage of the act so that virtually all the State and local government employees would be covered by the act, and additional local governmental employees would be covered by the overtime provisions. Although I agree that local and State employees have the same needs and rights as other employees, I have some concern as to whether it is the Federal Government's responsibility to mandate how State and local government should meet these requirements. City and county government and State government bodies in Kansas are currently under a tax lid in an effort to limit the tax burden on their residents. I have received reports from various Kansas municipalities stating that the added expenses created by the implementation of provisions of S. 1861 cannot be met immediately due to the budget restrictions and that the immediate result would be a reduction in the services currently supplied by these employees. I do not feel that this is the impact intended by Congress, but can see that situations such as these can arise where the Federal Government extends its provisions to cover the very heart of local and State government operations.

Congressional activities have far-reaching ramifications in every sector of our society and, therefore, our actions should be based on the fullest possible information available to us. In regard to the Fair Labor Standards Act, it is important to remember that it was basically small business legislation and an attempt to remake it could be fatal to our Nation's small employers and their employees.

SENATOR RANDOLPH SUPPORTS PASSAGE OF S. 1861

Mr. RANDOLPH. Mr. President, a vitally important measure is pending before the Senate. The Fair Labor Standards Amendments of 1973, S. 1861, would strengthen and continue the original goal of the 1938 Fair Labor Standards Act, to eliminate conditions which are "detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers."

As an active participant in the enactment of the 1938 act, I recall that controversy existed over the adoption of a minimum wage rate of 25 cents per hour.

estimate. The committee concurs with language which has been included in the bill by the House continuing the availability during fiscal year 1974 of not to exceed $135,000 of the unobligated balance of the appropriation made for fiscal year 1971 and previously continued available by the Congress through June 30, 1973.

For the Joint Committee on Printing, the committee recommends an appropriation of $300,620. This is an increase of $5,000 over the House bill. These additional funds are required for travel expenses.

For the inauguration of the President in January 1973, the Congress had provided an appropriation of $650,000. The authority to obligate the funds expired on June 30, 1973, and at that time a total of $217,000 was unexpended. The committee was advised that final obligations in connection with a motion picture have not been finalized and consequently not to exceed $10,000 has been provided for the 3-month period ending September 30, 1973, in order to resolve these matters.

The Committee recommends an appropriation of $619,019 for the Joint Committee on Congressional Operations. This is the full amount of the budget estimate and is an increase of $89,019 over the House bill.

For expenses necessary for official mail costs, the committee recommends an appropriation of $30,500,000. This is an increase of $4,394,000 over the amount contained in the House bill. These additional funds are necessary in order to reimburse the Postal Service for the fiscal year 1973 deficit.

For salaries and expenses of the Capitol Guide Service, the committee recommends an appropriation of $320,225. This is an increase of $19,040 over the amount contained in the House bill. The language in the bill has been amended to increase the number of employees who may be hired under this appropriation from 24 indiviuals to 28 individuals, an increase of four guides. The proposal of the Sergeant at Arms of the Senate to the committee was for four additional guides on a temporary basis at the rate of $9,520 per annum, prorated for the temporary period involved. It is understood that the period of employment would extend from approximately April 1 through September 15. Two of these positions would be filled by appointment of the Sergeant at Arms of the Senate and two by appointment of the Sergeant at Arms of the House of Representatives.

For this office, the committee has included an appropriation of $3,980,000. Public Law 92–484, dated October 13, 1972, established a Congressional Office of Technology Assessment to equip the Congress "with new and effective means for securing competent, unbiased information concerning the physical, biological, economic, social, and political effects" of technological applications and to serve as an aid "in the legislative assessment of matters pending before the Congress, particularly in those instances where the Federal Government may be called upon to consider support for, or management or regulation of, technological applications." The act authorized an appropriation of $5,000,000 for its initial operation through fiscal year 1974. Language proposed by the office authorizing the rental of space in the District of Columbia has been deleted by the committee. The office should secure its space from the appropriate officials of the House of Representatives and the Committee on Rules and Administration of the Senate. In addition, language has been provided in the bill prohibiting the payment of salaries in excess of the rate for level 5 of the Executive Schedule under Section 5316 of Title 5 of the United States Code.

The House included $58,000,000 in the bill for the extension of the West Central Front of the Capitol. The sum and language has been deleted by the committee. The estimated cost of the extension of the West Front is $60,000,000 and envisions that the westerly central front would be extended to the west approximately 44 feet at the center and approximately 88 feet at the westerly courts with the connecting wings brought forward approximately 56 feet. It would result in the addition of 269,528 gross square feet of space with a net usable area of 162,468 square feet. The project would result in the enclosure of the sole remaining exposed original wall of the Capitol.

The committee has included language and an appropriation of $18,000,000 in the bill to enable the Architect of the Capitol under the direction of the Senate and House Joint Office Building Commissions to restore the west central front of the U.S. Capitol without change of location or change to the present architectural appearance thereof. The Architect of the Capitol, under the direction of these Commissions, is authorized to enter into cost plus fixed fee contracts to carry out this restoration. The language provides that any cost plus fixed fee general construction contract would be awarded on competitive bidding upon the amount of the fixed fee to accrue from the performance of the contract The Praeger-Kavanagh-Waterbury report which was filed with the Architect of the Capitol in December 1970 concludes that the restoration of the west central front of the Capitol is feasible. The report reads as follows:

> Our studies indicate that while the Capitol is over 150 years old and has been exposed to many adverse conditions, it survives in relatively good condition, attesting to the excellence of its builders and to the concern of those responsible for maintaining this, the national monument to our Republic.
>
> Based upon a detailed investigation of the west front walls we conclude that under conditions indicated in the report, restoration of the west central front of the Capitol is feasible. Further, the restoration can be accomplished within the general guidelines set forth by Congress as a directive to the Commission for Extension of the Capitol.

The committee held extensive hearings on this subject over 4 different days. Testimony was received from only the Architect of the Capitol, and the National Society of Professional Engineers favoring the extension of the West Front, in response to the announcement of the committee that it would be taking testimony on this always controversial matter.

On the other hand, the committee heard 10 expert witnesses, including the American Institute of Architects, the National Trust for Historic Preservation, and various experts in the field of restoration that urged preservation of the west wall, the last remaining exposed wall of the original Capitol. Considerable testimony was heard regarding the feasibility of constructing the additional space required by the Congress underground so that the beauty of Capitol Hill would not be marred.

One key question that the committee probed throughout its deliberations, beginning with the testimony of Architect of the Capitol George M. White, was: Is the West Front falling, or is it in imminent danger of falling? It was clearly indicated by the Architect, and other witnesses that followed him that while there is a need to repair the wall, there is not an imminent danger, and that the wall can be strengthened by either internal means or by the external buttress of erecting an extension against it. In fact, the committee was informed by one witness that the shoring erected several years ago does not even reach to what it was supposed to support and, in his words, "the shoring was more theatrical than structural."

The Architect's statements and testimony have been of little value to this committee for the Architect is a moving target. Apparently, when he meets with the House Members he tells them one thing but when he meets with the Senate Members it is a different story. This is pointed up by his testimony when asked his recommendation between extension and restoration, his statement was: "For me it is a 55–45 decision." The Architect tells the House Members that the necessary support for the strengthening of the West Front wall must come from extension construction but when asked by the Senate: "What would you recommend the west front be extended for," the Architect replies, "For needs of the legislative process."

Accordingly, the committee has concluded that the support of the west wall should not be used as justification for providing additional space for the Congress, particularly when the additional 269,528 gross square feet of space that would be provided would cost more than $220 per square foot and the net usable square footage of 162,468 would cost in excess of $360 per square foot. Expert witnesses estimated that the construction of same amount of space underground in the area adjacent to the south end of the Capitol at $40 to $50 per square foot. Based on the higher estimate, the same 270,000 square feet of additional space could be acquired for $13,500,000; and with the $18,000,000 needed to restore the west wall, the entire project could be satisfactorily completed for little more than half the projected cost of extending the West Front.

The witnesses before the committee included Dr. Thomas C. Kavanagh, of the firm of Praeger, Kavanagh, and Waterbury who were directly responsible for the comprehensive and highly praised

NOT VOTING—3

Cotton Stennis Stevens

So the bill (H.R. 7935) was passed.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that S. 1861 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to the bill H.R. 7935, as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I shall take just half a minute to thank our staff, Gerry Feder, Don Elisburg, Jeff Dorantz, William Briggs, and Marcia Smith, on the part of the majority, and Eugene Mittelman, Peter Turza, and David Dunn, on the part of the minority, who I think did legendary work on this critically important bill. Many millions of Americans will be deeply grateful to them.

I wish also to thank the Senator from New Jersey (Mr. WILLIAMS) for his unfailing and wonderful cooperation.

Mr. WILLIAMS. Mr. President, this has been a long journey over 2 years—almost 3. I feel the same as does the Senator from New York. The cooperation has been complete on both sides of the aisle. Certainly the men and women on our respective staffs have been magnificent in their dedication to the hard, hard work which goes into the consideration and development of a bill as complicated as this.

LEGISLATIVE BRANCH APPROPRIATIONS, 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 304, H.R. 6691, making appropriations for the legislative branch for the fiscal year ending June 30, 1974, and for other purposes.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6691), making appropriations for the Legislative Branch for the fiscal year ending June 30, 1974, and for other purposes, reported with an amendment.

The PRESIDING OFFICER. There is a 2-hour limitation on the bill.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on final passage of the bill.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I yield such time as may be necessary. I first ask unanimous consent that my assistants, Michael Joy and James Feely, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, the pending business before the Senate is the Legislative Branch Appropriation Act for fiscal year 1974. Included in this bill are appropriation recommendations for the U.S. Senate, House of Representatives, joint items of the House and Senate, Office of Technology Assessment, Architect of the Capitol, Botanic Gardens, Library of Congress, Government Printing Office, the General Accounting Office, and the Cost Accounting Standards Board.

The committee recommends a total appropriation of $640,558,952 for these activities, which is $90,514,012 above the House allowance, $36,592,007 under the budget estimates, and $56,978,187 over appropriations approved for fiscal year 1973.

In accord with longstanding custom, the House did not consider budget estimates in the amount of $97,078,530 relating to the financing of Senate functions, including the Senate office buildings and Senate garage; hence, these estimates were not incorporated into the tabulations in the House report. This also accounts for the major increase over the House bill as recommended by the Senate committee.

The committee report is before each Member and tabulations are contained therein showing for each item the appropriations for fiscal year 1973, the budget estimates for fiscal year 1974, the House allowances, and the amounts recommended by the Senate committee.

For the Office of the Chaplain, the committee recommends an appropriation of $23,818. Language in the bill fixes the compensation of the Chaplain of the Senate at $15,232 per annum in lieu of $10,064 per annum, an increase of $5,168 per annum. In addition, funds have been included in the bill in the amount of $250 for stationery for the Chaplain and $100 for postage costs. The Sergeant at Arms of the Senate is directed to provide long-distance telephone service, as well as telegraph service, to the Chaplain.

For professional and clerical assistance to standing committees and the Select Committee on Small Business, the Committee recommends an appropriation of $7,745,665.

For administrative and clerical assistants to Senators, the committee recommends an appropriation of $39,210,700. Language has been included in the bill as well as appropriations increasing the administrative and clerical allowance for Senators. The increases as proposed by the committee are $25,024 per annum for Senators from States with a population of less than 2,000,000 to an increase of $90,032 for Senators from States with a population of 17,000,000 or more. I call to the attention of the Senate a tabulation which appears on page 5 of the report which gives a breakdown of the increases for the various population categories. The hearings before the committee on this bill are on the desks of the Senators and on page 679 of the hearing you will find a listing of the States with the population for each State. In addition to these increases for the office staffs of Senators, the committee is proposing that the clerk hire allowance be placed on a calendar year basis rather than a fiscal year basis and beginning January 1, 1974, accrual of funds will be permitted. In other words, those funds not utilized for clerk hire during 1 month may be used by a Senator for clerk hire during the following months.

The committee is proposing an appropriation of $9,577,985 for the office of the Sergeant at Arms and Doorkeeper. Upon the recommendations of the Sergeant at Arms and the Chief of the Capitol Police, language has been included in the bill relating to the Capitol Police, creating 2 additional inspectors, 3 additional captains, 3 additional lieutenants, 15 additional sergeants, and 4 detectives. These are not new positions for the number of privates has been reduced by the same number. This reorganization has already been approved by the House of Representatives for those police financed from appropriations to the other body, and the committee recommendation is in line with the House action.

The committee has approved the new computer program requested by the Sergeant at Arms following directions from the Committee on Rules and Administration. The accelerated operation entails a total of 58 new positions and additional costs of approximately $1,681,000. Nineteen of the additional positions would be in the computer division; 30 of the additional positions would be machine operators in the service department; and two new repairmen would be added, as well as seven new mail clerks. The increase in rental costs for the computer would be $297,000, and the recurring annual cost for telecommunications support equipment would be $400,000.

These additional costs result from a study made at the direction of the Committee on Rules and Administration in order to better serve the Members of the Senate in the accomplishment of their legislative duties and service to their constituents. Funds have been included in this bill under the Library of Congress in the amount of $349,000 to finance three new computerized information files at the request of the Senate Committee on Rules and Administration. These files would be utilized through video screen terminals and printers which are to be obtained by the Sergeant at Arms for installation in various Senate offices. The primary purpose of the three automated information systems are: First, to provide Senators, committees, and their staffs with ready access to up-to-date centralized files containing basic essential information on public policy areas; second, to provide Senatorial offices with brief abstracts of legislation pending before the Congress, current information on the status of that legislation, and indexes to that legislation; and third, to provide access to annotated bibliographic citations of current periodical literature, Government publications, congressional documents, CRS research reports, and related literature on public policy issues and other subjects of special interest to Congress, and to make these articles and monographs available upon request.

For the Joint Economic Committee an appropriation of $818,415 is recommended. This is the amount of the House bill and is $117,570 in excess of the budget

On page 3, after line 7, insert:

OFFICE OF THE SECRETARY

For office of the Secretary, $2,374,930, including $99,974 required for the purpose specified and authorized by section 74b of title 2, United States Code: *Provided*, That effective July 1, 1973, the Secretary may appoint and fix the compensation of a superintendent, public records office at not to exceed $25,568 per annum in lieu of a registration clerk at not to exceed $19,312 per annum; a clerk, public records office at not to exceed $12,240 per annum in lieu of a clerk at not to exceed $10,064 per annum; a chief auditor, public records office at not to exceed $13,872 per annum; an assistant superintendent, public records office at not to exceed $18,768 per annum; a secretary, public records office at not to exceed $13,872 per annum; and three technical assistants, public records office at not to exceed $11,152 per annum each: *Provided further*, That effective July 1, 1973, the allowance for clerical assistance and readjustment of salaries in the disbursing office is increased by $28,832.

On page 4, after line 2, insert:

COMMITTEE EMPLOYEES

For professional and clerical assistance to standing committees and the Select Committee on Small Business, $7,745,665, including herein, from and after July 1, 1973, an additional clerical assistant for the Committee on Armed Services made permanent by Public Law 92–136, approved October 11, 1971: *Provided*, That effective July 1, 1973, the Committee on Rules and Administration is authorized to employ an additional assistant chief clerk: *Provided further*, That the Committee on Rules and Administration may authorize its chairman to designate one committee employee to approve, in his behalf, all vouchers making payments from the contingent fund of the Senate, such approval to be deemed and held to be approval by the Committee on Rules and Administration for all intents and purposes.

On page 4, after line 17, insert:

CONFERENCE COMMITTEES

For clerical assistance to the Conference of the Majority, at rates of compensation to be fixed by the chairman of said committee, $153,070.

For clerical assistance to the Conference of the Minority, at rates of compensation to be fixed by the chairman of said committee, $153,070.

At the top of page 5, insert:

ADMINISTRATIVE AND CLERICAL ASSISTANTS TO SENATORS

For administrative and clerical assistants to Senators, $39,210,700.

On page 5, after line 4, insert:

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For office of the Sergeant at Arms and Doorkeeper, $9,577,985: *Provided*, That effective July 1, 1973, the Sergeant at Arms may appoint and fix the compensation of a chief video engineer at not to exceed $27,744 per annum in lieu of a video engineer at not to exceed $24,480 per annum; a computer center manager at not to exceed $26,656 per annum; four senior programer analysts at not to exceed $21,488 per annum each in lieu of two senior programer analysts at not to exceed such rate; two senior programer supervisors at not to exceed $25,568 per annum each; a lead analyst at not to exceed $22,032 per annum; a technical writer at not to exceed $16,048 per annum; a systems supervisor at not to exceed $23,936 per annum; three systems programers at not to exceed $19,856 per annum each in lieu of one systems programer at not to exceed such rate; four computer specialists at not to exceed $18,224 per annum each; three support operators at not to exceed $12,512 per annum each; a supervisor operator at not to exceed $15,232 per annum; a systems clerk at not to exceed $10,064 per annum; four printing press operators at not to exceed $12,512 per annum each; an assistant foreman, duplicating department at not to exceed $13,328 per annum; a senior pressman at not to exceed $12,512 per annum; a cameraman, duplicating department at not to exceed $12,512 per annum; eight folding machine operators at not to exceed $9,520 per annum each; eleven inserting machine operators at not to exceed $8,976 per annum each in lieu of ten inserting machine operators at not to exceed such rate; an assistant night foreman, duplicating department at not to exceed $9,792 per annum; eleven addressograph operators at not to exceed $9,520 per annum each in lieu of eight addressograph operators at not to exceed such rate; seventeen laborers, service department at not to exceed $7,888 per annum each in lieu of eight laborers at not to exceed such rate; a night foreman at not to exceed $10,064 per annum; six automatic typewriter repairmen at not to exceed $12,512 per annum each in lieu of four automatic typewriter repairmen at not to exceed such rate; fifty-seven mail carriers at not to exceed $9,520 per annum each in lieu of fifty-two mail carriers at not to exceed such rate; two mail specialists at not to exceed $10,336 per annum each; two inspectors, police force at not to exceed $22,304 per annum each, three additional captains, police force at not to exceed $19,312 per annum each, three additional lieutenants, police force at not to exceed $16,320 per annum each, fifteen additional sergeants, police force at not to exceed $13,600 per annum each, and four detectives, police force at not to exceed $11,968 per annum each in lieu of twenty-seven privates, police force at not to exceed $10,336 per annum each; and the Sergeant at Arms may fix the per annum compensation of the superintendent, service department at not to exceed $26,928 in lieu of $25,568, the per annum compensation of the assistant superintendent, service department at not to exceed $17,952 in lieu of $16,864, the per annum compensation of the night supervisor, service department at not to exceed $13,056 in lieu of $11,696, the per annum compensation of the chief machine operator at not to exceed $13,328 in lieu of $12,512, the per annum compensation of the assistant chief machine operator at not to exceed $11,968 in lieu of $11,152, the per annum compensation of the supervisor, addressograph section at not to exceed $12,512 in lieu of $11,696, the per annum compensation of the foreman, duplicating department at not to exceed $15,232 in lieu of $13,872, the per annum compensation of the night foreman, duplicating department at not to exceed $13,328 in lieu of $12,784, and the per annum compensation of the foreman of warehouse, service department at not to exceed $12,512 in lieu of $11,424.

On page 7, after line 21, insert:

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For offices of the Secretary for the Majority and the Secretary for the Minority, $248,120.

At the top of page 8, insert:

AGENCY CONTRIBUTIONS AND LONGEVITY COMPENSATION

For agency contributions for employee benefits and longevity compensation, as authorized by law, $3,000,000.

On page 8, after line 3, insert:

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the office of the Legislative Counsel of the Senate, $474,375.

On page 8, after line 7, insert:

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $310,215 for each such committee; in all, $620,430.

On page 8, after line 12, insert:

AUTOMOBILES AND MAINTENANCE

For purchase, lease, exchange, maintenance, and operation of vehicles, one for the Vice President, one for the President pro tempore, one for the Majority Leader, one for the Minority Leader, one for the Majority Whip, one for the Minority Whip, for carrying the mails, and for official use of the offices of the Secretary and Sergeant at Arms, $36,000.

On page 8, after line 19, insert:

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, including $511,710 for the Committee on Appropriations, to be available also for the purposes mentioned in Senate Resolution Numbered 193, agreed to October 14, 1943, $13,443,230, of which amount not to exceed $500,000 shall be available for obligations incurred in fiscal year 1973.

On page 9, after line 3, insert:

FOLDING DOCUMENTS

For the employment of personnel for folding speeches and pamphlets at a gross rate of not exceeding $3.51 per hour per person, $74,475.

On page 9, after line 7, insert:

MISCELLANEOUS ITEMS

For miscellaneous items, $8,310,850.

On page 9, after line 9, insert:

POSTAGE STAMPS

For postage stamps for the offices of the Secretaries for the Majority and Minority, $320; Chaplain, $100; and for air mail and special delivery stamps for the office of the Secretary, $610; office of the Sergeant at Arms, $240; and the President of the Senate, as authorized by law, $1,215; in all, $2,485.

On page 9, after line 16, insert:

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $3,600; for Senators under authority of section 506(f) of Public Law 92–607, approved October 31, 1972, $190; and for committees and officers of the Senate, $21,850; in all, $25,640.

On page 9, after line 22, insert:

ADMINISTRATIVE PROVISIONS

Effective July 1, 1973, (1) the provisos contained in the paragraph "Office of the President pro tempore" under the heading "SENATE" in the Legislative Branch Appropriation Act, 1971, and the second proviso contained in the paragraph "Office of the Secretary" under the heading "SENATE" in the Legislative Branch Appropriation Act, 1970, insofar as it relates to the positions of Comptroller and Secretary to the Comptroller, are repealed, and (2) section 6(c) of the District of Columbia Traffic Act, 1925 (D.C. Code, sec. 40–603(c)), is amended by striking out "Comptroller of the Senate."

The last full paragraph under the heading "Administrative Provisions" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1972, is amended by inserting immediately before "captains" the following: "inspectors,".

The Secretary of the Senate is hereafter authorized to designate, in writing, employ-professional feasibility report on the west front that was completed for the Congress in December of 1970. It is interesting to note that this is the first time that any member of the firm has actually testified before the Congress even though the Praeger report has been an oft-cited reference over the last several years. Dr. Kavanagh, as did many of the other witnesses, endorsed the basic finding of the report that the wall was not structurally deficient and could be permanently strengthened without the addition of an external buttress.

In view of this extensive testimony, much of it never heard before by individuals and groups interested in the extension of the west front, the committee recommends the appropriation of $18,000,000 for the restoration of the west wall of the Capitol. The testimony is replete with illustrations of new techniques and materials used in restoration work today that were not known at the time of the Praeger study and the committee is satisfied that the work can be performed within this amount. This committee makes this recommendation with the full assurance that everything necessary will be done to restore the permanent strength of the West Wall.

The committee recommends an appropriation of $1,337,000, which is an increase of $250,000 over the House bill for Capitol Grounds. These funds are to be available for modifications to and replacement of existing traffic signals and installation of additional traffic signals on the Capitol Grounds and also at street intersections in the vicinity of such grounds under the jurisdiction of the Architect of the Capitol.

The committee recommends an appropriation of $6,460,200 for maintenance, miscellaneous items and supplies, including furniture, and for labor and materials thereto and repairs thereof for the operation of the Russell Senate Office Building and the Dirksen Senate Office Building. In addition to the $6,308,500 requested by the Architect of the Capitol, the committee has provided $125,000 for remodeling of the computer and service areas in the Dirksen Building: $17,000 to improve the lighting and soundproofing of the automatic typewriter rooms, and $9,700 to furnish each Senator and the Senate gymnasium an additional signal clock. Language has been included in the bill which will authorize the continued availability of the unobligated balance of $174,000 on June 30, 1973 for the extension of the Senate Office Building site and to demolish buildings which are required for the extension of the Dirksen Senate Office Building. For the operation of the Senate garage, the committee has included $97,000.

The committee recommends an appropriation of $15 million for additional House office building facilities. The committee was advised by the Architect of the Capitol that the reason for extending the west central front of the Capitol was to provide additional office space. As has been described earlier in this report, rather than enclose the sole remaining wall of the original Capitol, the committee has deleted funds for extension, has included funds for restoration of the West Central Front and in this paragraph will provide $15 million for the House to construct an additional facility to provide it with office space. Witnesses before the committee testified that this sum would be sufficient to provide for an underground building between the south side of the Capitol and the House Office Buildings.

It should be noted that the extension of the Capitol is premised on a 55-percent efficiency with 269,528 square feet netting only 162,468 usable square feet. However, an appropriation of $15 million at $50 a square foot will provide a 300,000 square foot Capitol annex for the House with a usable 240,000 square feet or 80-percent efficiency. The record is replete that there is no underground water problem on Capitol Hill, that construction can be had, for example, going down three stories with 100,000 square feet per story or 300,000 square feet. The committee viewed the area involved. It could be that to save a couple of trees a small area at the south end would be utilized by the House. However, with the crush of need for space near the House floor, it appears that a 3-story construction would still leave ample space of a 5-foot coverage for trees and shrubbery extending further down the plaza if necessary. Underground construction should be of a high-ceiling type so as not to give a mole-in-the-hole effect. Thus 15 feet per floor has been suggested for a total of 45 feet plus the ground coverage of 5 feet for trees and shrubbery or a total depth of 50 feet. An aperture at the surface could provide daylight if desired but the Members must be reminded that both the Hall of the House of Representatives and the Senate Chambers are windowless. It should be up to the House Office Building Commission as to the design but, of course, it is contemplated that the designation of space for the House Capitol Annex will be a province of the House of Representatives. This plan does not contemplate east front underground construction. In a previous design, there is an apparent 1 million square feet of space available under the East Front plaza. However, the committee feels that before moving in this area, the overall Capitol complex plan should be submitted.

The committee has included in the bill an appropriation of $300,000 to enable the Architect of the Capitol to prepare studies and to develop a master plan for future development within the U.S. Capitol grounds. These funds would be available for a study of the feasibility of the future enlargement of the Capitol grounds and for studies with respect to future expansion, growth, and requirements of the legislative branch. The Architect of the Capitol advised the committee this study could be made and the plan completed within 1 year.

For the Library of Congress, the committee recommends an appropriation of $82,371,150. This is an increase of $614,500 over the amount recommended by the House of Representatives and, beginning on page 13 of the report, there is a full explanation of this increase.

For the Government Printing Office, the committee is recommending an appropriation of $112,471,000. This is an increase of $8,050,000 over the House bill and the entire increase is required to provide for the cost of postage for mailing copies of the CONGRESSIONAL RECORD and other Government documents.

For the General Accounting Office, the committee is proposing an appropriation of $103,850,000. These funds will provide financing for 5,080 permanent positions.

Mr. President, that concludes my explanation of the committee recommendations with respect to this bill. I will be glad to answer any questions which any Member of the Senate may have on the bill.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived by reason of agreement to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

At the top of page 2, insert:

SENATE

On page 2, after line 1, insert:

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND LEADERS OF THE SENATE

COMPENSATION AND MILEAGE OF THE VICE PRESIDENT AND SENATORS

For compensation and mileage of the Vice President and Senators of the United States, $4,781,505.

On page 2, after line 8, insert:

EXPENSE ALLOWANCES OF THE VICE PRESIDENT AND MAJORITY AND MINORITY LEADERS

For expense allowance of the Vice President, $10,000; majority leader of the Senate, $3,000; and minority leader of the Senate, $3,000; in all, $16,000.

On page 2, after line 13, insert:

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions and longevity compensation as authorized, which shall be paid from this appropriation without regard to the below limitations, as follows:

On page 2, after line 19, insert:

OFFICE OF THE VICE PRESIDENT

For clerical assistance to the Vice President, $430,200.

On page 2, after line 21, insert:

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For offices of the majority and minority leaders, $206,165.

At the top of page 3, insert:

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For offices of the majority and minority whips, $104,640.

On page 3, after line 3, insert:

OFFICE OF THE CHAPLAIN

For office of the Chaplain, $23,818: *Provided,* That effective July 1, 1973, the compensation of the Chaplain shall be $15,232 per annum in lieu of $10,064 per annum.

sary to carry out this paragraph: *Provided further,* That any cost-plus-a-fixed-fee general construction contract entered into under authority of this paragraph shall be awarded on competitive bidding among selected responsible general contractors approved by such Commissions upon the amount of the fixed fee to accrue from the performance of such contract: *Provided further,* That with the exception of any subcontract to be made by the general contractor for underpinning, foundation, and special restoration work and work incidental and appurtenant thereto, which may be a cost-plus-a-fixed-fee contract, all other subcontracts made by the general contractor shall be fixed price contracts awarded on competitive bids received from responsible subcontractors.

On page 33, line 22, after the word "amended", strike out "$1,087,000." and insert "$1,337,000 of which $250,000 shall be available for modifications to and replacement of existing traffic signals and installation of additional traffic signals and all items appurtenant thereto in the Capitol Grounds and also at street intersections in the vicinity of such grounds and buildings under the jurisdiction of the Architect of the Capitol deemed necessary for proper coordination of traffic control, conforming to similar installations planned by the District government for other areas of the District of Columbia designed in accordance with the 1971 edition of the Manual on Uniform Control Devices for Streets and Highways approved by the Federal Highway Administrator under title 23, United States Code."

On page 34, after line 10, insert:

SENATE OFFICE BUILDINGS

For maintenance, miscellaneous items and supplies, including furniture, furnishings, and equipment, and for labor and material incident thereto, and repairs thereof; for purchase of waterproof wearing apparel, and for personal and other services; for the care and operation of the Senate Office Buildings; including the subway and subway transportation systems connecting the Senate Office Buildings with the Capitol; uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902), prevention and eradication of insect and other pests without regard to section 3709 of the Revised Statutes as amended; to be expended under the control and supervision of the Architect of the Capitol in all, $6,460,200.

At the top of page 35, insert:

EXTENSION OF ADDITIONAL SENATE OFFICE BUILDING SITE

The unobligated balance of $174,000 on June 30, 1973, of the appropriation under this head in the Legislative Branch Appropriation Act, 1970, unavailable for obligation beyond such date under the provisions of the Legislative Branch Appropriation Act, 1973, is hereby continued available until expended.

On page 35, after line 8, insert:

SENATE GARAGE

For maintenance, repairs, alterations, personal and other services, and all other necessary expenses, $97,000.

On page 36, after line 4, insert:

ADDITIONAL HOUSE OFFICE BUILDING FACILITIES

To enable the Architect of the Capitol, under the direction of the House Office Building Commission, in accordance with plans to be prepared by or under direction of the Architect of the Capitol and to be submitted to, and approved by, such Commission, to provide for the construction and equipment of an additional office building or structure for the House of Representatives on a site owned by the United States of America in the vicinity of the House Office Buildings, approved by such Commission, including connections with the Capitol Power Plant and other utilities and connections with the existing House Office Buildings and the Capitol (over or under public streets as required), and including all other necessary or appurtenant items, $15,000,000, to remain available until expended: *Provided,* That the Architect of the Capitol, under the direction of the House Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph: *Provided further,* That any facilities constructed hereunder shall, upon completion, be deemed to be a part of the House Office Buildings and, as such, shall be subject to the laws, rules, and regulations applicable to those buildings.

On page 37, after line 4, insert:

MASTER PLAN FOR FUTURE DEVELOPMENT OF THE CAPITOL GROUNDS AND RELATED AREAS

Notwithstanding any other provision of law, to enable the Architect of the Capitol to prepare studies and develop a master plan for future developments within the United States Capitol Grounds, for the future enlargement of such Grounds through the acquisition and development of areas in the vicinity thereof, and for the future acquisition and development of other areas deemed appropriate by him to include in and incorporate as a part of such plan, in order to provide within such areas for future expansion, growth, and requirements of the legislative branch and such parts of the judiciary branch as deemed appropriate to include in such plan, after consultation with the leaders of the House and the Senate and the Chief Justice of the United States, and in order to project other anticipated growth in and adjacent to such areas, $300,000 to be expended without regard to section 3709 of the Revised Statutes of the United States as amended and to remain available until expended: *Provided,* That the Architect of the Capitol is authorized to enter into personal service and other contracts, employ personnel, confer with and accept services and assistance from the National Capital Planning Commission and other Government agencies and other interested parties to insure coordinated planning, and incur obligations and make expenditures for these and other items deemed necessary to carry out the purposes of this paragraph: *Provided further,* That upon completion of such plan, the Architect of the Capitol shall transmit to the Congress a report describing such plan, with illustrated drawings and other pertinent material.

On page 40, line 16, after the word "Board", strike out $39,213,000" and insert "$39,458,000."

On page 41, line 6, after "(2 U.S.C. 166)", strike out "10,960,000" and insert "$10,927,000".

On page 42, line 20, after the word "amended", strike out "$9,672,500" and insert "9,805,000".

On page 47, line 8, after the word "libraries", strike out "$28,421,000" and insert "$36,471,000".

Mr. HOLLINGS. Mr. President, before I yield to my distinguished colleague, the Senator from Pennsylvania (Mr. SCHWEIKER), I would note that throughout the entire consideration of this particular measure I have had at my side not only the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), but more particularly the ranking minority member of the subcommittee (Mr. COTTON), who, for good reasons, had to return to his home State this afternoon, actually not expecting the bill to be called up at this late hour. So we take up this bill with apologies to him, but certainly in the RECORD it should be stated categorically that no one has been of greater assistance or of greater guidance to the chairman of the subcommittee, and the entire subcommittee is indebted to the distinguished Senator from New Hampshire for his guidance and contribution in bringing this bill before the Senate.

I think this is one of the best legislative appropriation bills we have brought here to solve real problems with which we have been confronted. There is the problem of clerk hire and various other matters that have been gone into in detail. I do not know how many amendments are at the desk, if any at all, because we have tried to foresee amendments and to meet the problem areas. We have, in a sense, brought out a compromise bill.

With that much of a statement, I am ready to yield at this particular point to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I thank the distinguished chairman of our subcommittee for yielding. I would like to begin by saying that I fully associate myself with the remarks he has made with regard to the merits of the bill and also its broad support. This bill came out of our subcommittee with unanimous support, and the distinguished Senator from New Hampshire, the ranking colleague on my side of the aisle, did a great deal of work on this bill as well, and fully supports it, as does our full committee.

I think probably, just in a nutshell, we can point out the importance of this bill as it relates to a master plan for the Capitol. It is rather ironic that our monumental Capitol Building and Grounds has never had a master architectural plan. The distinguished chairman of the subcommittee, the Senator from South Carolina, has been a real innovator in getting a master plan for Capitol improvements and Capitol growth and expansion. I think it behooves us to use this precious space wisely, long range, and effectively. That is exactly what the master plan will do.

In addition, as the distinguished Senator from South Carolina has mentioned the bill as recommended by the committee attacks specifically and constructively, with a permanent view, the west front expansion program in a logical, rational way, for which I think he is also to be commended.

Third, it begins to modernize some of the offices of our colleagues by allowing computer printout terminals to be established in 60 offices in this coming fiscal year. This will provide a digest of bills that will be instantly available from a computer. A summarization of the key points of major legislative issues will be available by cueing the computer, and an updated bibliography will be instantly ees of the Disbursing Office of the Senate to administer oaths and affirmations, with respect to matters relating to that Office, authorized or required by law or rules or orders of the Senate (including the oath of office required by section 3331 of title 5, United States Code). During any period in which he is so designated, any such employee may administer such oaths and affirmations.

Subsection (c) of section 5533 of title 5, United States Code, is amended—

(1) by inserting in paragraph (1), immediately after "paragraph (2)", the following: "or (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) Paragraph (1) of this subsection does not apply to pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same day."

Effective January 1, 1973, and thereafter, section 506 of the Supplemental Appropriations Act, 1973, is amended (1) by inserting in subsection (a)(7), immediately after "subscriptions to", the following: "newspapers,", and (2) by inserting in subsection (h)(4), immediately before the semicolon at the end thereof, a comma and the following: "insofar as such section has application to Senators".

Section 105(e)(2)(B) of the Legislative Branch Appropriation Act, 1968, as amended, and as modified by the Orders of the President pro tempore of the Senate (2 U.S.C. 61–1(e)(2)(B)), is amended by striking out "$20,400" and inserting in lieu thereof "$18,224".

Effective July 1, 1973, (1) the table contained in section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended and modified, is amended to read as follows:

"$352,240 if the population of his State is less than 2,000,000;

"$362,848 if such population is 2,000,000 but less than 3,000,000;

"$388,416 if such population is 3,000,000 but less than 4,000,000;

"421,328 if such population is 4,000,000 but less than 5,000,000;

"$448,256 if such population is 5,000,000 but less than 7,000,000;

"476,544 if such population is 7,000,000 but less than 9,000,000;

"$507,280 if such population is 9,000,000 but less than 10,000,000;

"$530,944 if such population is 10,000,000 but less than 11,000,000;

"$561,952 if such population is 11,000,000 but less than 12,000,000;

"$585,616 if such population is 12,000,000 but less than 13,000,000;

"$615,808 if such population is 13,000,000 but less than 15,000,000;

"$646,000 if such population is 15,000,000 but less than 17,000,000;

"$676,192 if such population is 17,000,000 or more."

and (2) section 105(d)(2) of such Act is amended (A) by striking out clauses (i) and (ii), (B) by striking out "(iii)" and "two employees" in clause (iii) and inserting in lieu thereof "(i)" and "five employees", respectively, and (C) by striking out "(iv)" and inserting in lieu thereof "(ii)".

Effective January 1, 1974, section 105(d)(1) of the Legislative Branch Appropriation Act, 1968, as amended by the preceding paragraph, is amended to read as follows:

"(1)(A) Commencing January 1, 1974, the aggregate of gross compensation paid employees in the office of a Senator shall not exceed during each calendar year the following:

"$352,240 if the population of his State is less than 2,000,000;

"$362,848 if such population is 2,000,000 but less than 3,000,000;

"$388,416 if such population is 3,000,000 but less than 4,000,000;

"$421,328 if such population is 4,000,000 but less than 5,000,000;

"$448,256 if such population is 5,000,000 but less than 7,000,000;

"$476,544 if such population is 7,000,000 but less than 9,000,000;

"$507,280 if such population is 9,000,000 but less than 10,000,000;

"$530,944 if such population is 10,000,000 but less than 11,000,000;

"$561,952 if such population is 11,000,000 but less than 12,000,000;

"$585,616 if such population is 12,000,000 but less than 13,000,000;

"$615,808 if such population is 13,000,000 but less than 15,000,000;

"$646,000 if such population is 15,000,000 but less than 17,000,000;

"$676,192 if such population is 17,000,000 or more.

In any calendar year in which a Senator does not hold the office of Senator at least part of each month of that year, the aggregate amount available for gross compensation of employees in the office of that Senator shall be the applicable amount contained in the table included in this subparagraph, divided by 12, and multiplied by the number of months the Senator holds such office during that calendar year, counting any fraction of a month as a full month.

"(B) The aggregate of payments of gross compensation made to employees in the office of a Senator during each calendar year shall not exceed at any time during such calendar year one-twelfth of the applicable amount contained in the table included in subparagraph (A) of this paragraph multiplied by the number of months (counting a fraction of a month as a month) elapsing from the first month in that calendar year in which the Senator holds the office of Senator through the end of the current month for which the payment of gross compensation is to be made."

On page 15, after line 4, insert:

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Norma Lea Mills, widow of William O. Mills, late a Representative from the State of Maryland, $42,500.

On page 22, line 25, after the word "Printing", strike out "$295,620" and insert "$300,620".

At the top of page 23, insert:

JOINT COMMITTEE ON INAUGURAL CEREMONIES, 1973

For expenses of the Joint Committee on Inaugural Ceremonies, 1973, $10,000, to remain available through September 30, 1973.

On page 23, line 16, after the word "Management", strike out "$530,000" and insert "$619,019".

On page 25, line 24, after the word "directed", strike out "(1) to pay the deputy chief of police detailed under the authority of this paragraph and serving as Chief of the Capitol Police, the salary of the rank of deputy chief plus $4,000 and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent (2) to elevate and pay the two acting inspectors detailed under the authority of this paragraph and serving as assistants to the Chief of the Capitol Police, the rank and salary of inspector plus $1,625 and such increases in basic compensation as may be subsequently provided by law so long as these positions are held by the present incumbents, (3) to pay the captain detailed under the authority of this Act the salary of captain plus $1,625 and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent," and insert "(1) to elevate and pay the deputy chief detailed under the authority of this paragraph and serving as Chief of the Capitol Police, to the rank and salary of assistant chief plus $2,000 and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent, (2) to elevate and pay the two acting inspectors detailed under the authority of this paragraph and serving as assistants to the Chief of the Capitol Police to the rank and salary of deputy chief and such increases in basic compensation as may be subsequently provided by law so long as these positions are held by the present incumbents, (3) to elevate and pay the captain detailed under the authority of this paragraph to the rank and salary of inspector plus $1,625 and such increases in basic compensation as may be subsequently provided by law so long as this position is held by the present incumbent,".

On page 29, line 5, after "section 3216", strike out "$26,106,000" and insert "$30,500,000".

On page 29, at the beginning of line 11, strike out "$301,185" and insert "$320,225"; and, in line 13, after the word "than", strike out "twenty-four" and insert "twenty-eight".

At the top of page 30, insert:

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92–484), $3,980,000: *Provided,* That no employee of the Office of Technology Assessment shall be paid compensation from such amount at a rate in excess of the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code.

On page 31, line 18, after the word "Capitol", strike out "$4,519,600" and insert "$4,535,000".

On page 32, after line 2, strike out:

EXTENSION OF THE CAPITOL

For an amount, additional to amounts heretofore appropriated, for "Extension of the Capitol", in substantial accordance with plans for extension of the West Central front heretofore approved by the Commission for Extension of the United States Capitol, to be expended, as authorized by law, by the Architect of the Capitol under the direction of such Commission, $58,000,000, to remain available until expended.

And, in lieu thereof, insert:

RESTORATION OF WEST CENTRAL FRONT OF CAPITOL

Notwithstanding any other provision of law, the Architect of the Capitol, under the direction of the Senate and House Office Building Commissions acting jointly, is directed to restore the West Central Front of the United States Capitol (without change of location or change of the present architectural appearance thereof), $18,000,000, to remain available until expended: *Provided,* That the Architect of the Capitol, under the direction of such Commissions acting jointly, is authorized and directed to enter into such contracts, including cost-plus-a-fixed-fee contracts, incur such obligations, and make such expenditures for personal and other services and other expenses as may be neces-

Roembke, the No. 1 man in underground construction.

I emphasize at this point that Cornell University has its library underground and that the American University in Washington, with the height restriction, will place their library underground. The National Park Service is going underground with its tourist center at the foot of the Washington Monument. There are many opportunities here.

We had the Metro engineer who is doing the Metro project, and we found that it could be done for a figure of $50 a square foot, for 300,000 square feet, or $15 million, for the Capitol House annex to be determined by the House Building Commission. The allocation of the space would be under the province of the House of Representatives.

There was quite a rhubarb on the other side of the Capitol to the effect that we could not get the Capitol restoration. Mr. Eisenberg, the president of Universal Restoration, Inc., and member of the Rome Center for Preservation, a man who did the work on the Renwick Gallery of Art across from the White House, and on the row houses on the perimeter of Lafayette Park across from the White House, said that he would do it for $12 million in a year's time.

It would be preserved and restored architecturally, accurately, and as lastingly as it possibly could be done.

The marble exteriors on the East Front need restoration work. We went into the various stones and processes available. We did not take the lower figure of $12 million. We took the current figure of Prager-Kavanaugh of $18 million.

So your committee, then, bolstered by the full Appropriations Committee, submits now to the Senate the $15 million for the House Capitol Annex, the $18 million for restoration of the West Front, and, as emphasized by my distinguished colleague the minority handler of the bill (Mr. SCHWEIKER), we put in $300,000 for a master plan for the Capitol.

If you applied in your home town for a model city grant, the first thing they would tell you is "You have to send a master plan to Washington." Everyone in America has to send a master plan to Washington except the Congress. We are the only group that does not obey our own laws and policies that we require here in Washington. The architect testified that he could complete this within a year, for $300,000.

I am glad to yield at this point to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to ask just a couple of questions of the distinguished manager of the bill. First of all, I commend the Senator from South Carolina for the work that he has done and the time he has spent in considering how fast we must act to preserve what I think all Americans consider to be truly a national shrine, which is this Capitol Building that houses the Senate of the United States and the House of Representatives.

The distinguished Senator from South Carolina has, as is evident from listening to him this evening, spent an enormous amount of time to try to find some solution to this extremely perplexing problem, first, of attempting to preserve this great building, and also of trying to respond to some of the pressures which exist toward providing additional office space which, though needed by all Members of Congress, is perhaps most intensively needed by Members of the House of Representatives.

Since I have had an opportunity to appear before his committee on this matter and debate this question in times gone by, I know the very considerable knowledge that the Senator brings to it.

What I would like to ask the Senator from South Carolina is, in reaching these figures, whether he has considered the comparison figures prepared by the Architect of the Capitol, in terms of restoration.

Mr. HOLLINGS. Yes.

Mr. KENNEDY. I am just wondering, in relationship to making the RECORD complete, if the Senator from South Carolina would make whatever comment he will on the figures that have been prepared by the Architect of the Capitol himself, in terms of restoration.

As I understand it, the figures that were developed by the engineering company deal most precisely with the engineering costs, and a point is made by the architect of the Capitol that his figures provide more of a project cost, which in many respects would be more realistic as to what might actually be necessary in terms of appropriations.

Could the Senator from South Carolina make whatever comment he would in distinguishing between the figures that the committee placed on the appropriation, their estimates having been based primarily, as I understand it, upon the engineering study, and the figures which were developed by the architect of the Capitol strictly on the question of restoration rather than any new construction?

Mr. HOLLINGS. Responding to our distinguished colleague, as shown on page 738 of the hearings record, I asked the Architect of the Capitol:

> Senator HOLLINGS. Now, Mr. White, in your testimony you state the cost of the extension, including interior furnishing, is $60 million. The cost of the resolution is $30 million. Where did you get that $30 million?
>
> Mr. WHITE. I said it could easily amount to $30 million. I don't think anyone can say what it would amount to. I merely used it because it was half of 60.

Now, I say to the Senator from Massachusetts I am not trying to be cute or evasive or anything else of that kind. We never did. That figure has gone up to $34 million, by the way, in our recent correspondence. That is a part of our record that was brought in on the weekend, and did not get time to be put into the printed record, though it is a part of our record. But it is up to $34 million.

Obviously, in trying to appropriate a reasonable, sound, and reliable figure, the fact that the architect himself has put in almost double the amount concerned us no end, and I went into it as thoroughly as I could with the AIA, with the task force, with the American Institute of Architects, and with Praeger-Kavanaugh, who did the study that concluded that restoration was feasible. We asked those who were in restoration work again, the distinguished concern working on the capitol in Richmond, Va., and we got nearer the $18 million figure. We could not find anything else that would approximate $20 million, or even get into the ball park of that $34 million.

I emphasized in the testimony that the figure of Praeger-Kavanaugh is way, way high, including, for the cost of paint removal, for example, 10 times the cost in Washington today for a paint removal job.

But after all, Senators must understand that Praeger-Kavanaugh Associates were under the gun somewhat at the time they were asked about the feasibility of coming within that $15 million. They were asked about things that no one could really see and determine. But to the best of their engineering ability and architectural and contractor support testimony, they put a real good outside figure when they started with the $15 million.

I find nothing really to compare with the Architect's figure, as of now, of $34 million. I think it is way out, and not in line with the figures we have estimated in connection with the restoration work at all.

Mr. KENNEDY. So those figures have been analyzed by the committee, and testimony has been heard on those particular matters?

Mr. HOLLINGS. Yes.

Mr. KENNEDY. And it was on the basis of that that the figures which have been suggested here in this appropriation were delivered to the Senate.

Mr. HOLLINGS. Yes.

Mr. KENNEDY. I would like, if I could, to ask a further question.

I think the committee has very wisely included some $300,000 for a master plan for the future of this great building. I think that perhaps, if we had been wise enough to include figures even to a more modest extent in the past, we could have been able to avoid the particular dilemma that we have been faced with on this particular issue in recent times.

My question is, What assurances can the Senator from South Carolina give us as to the impact of the type of restoration which is outlined in this proposal that is recommended to the Senate as far as future expansion underneath the Capitol in the area which will be restored is concerned?

What I am really asking is, Will the restoration that has been outlined in the ways that have been suggested in the Appropriations Committee or will construction undertaken below in any way restrict future expansion underground of the Capitol, in the base itself?

Mr. HOLLINGS. No, it is not contemplated that it would. We have no fixed design for the annex for House space at the south end of the Capitol Building. I have seen various designs and various proposals, and none of them would interfere with the restoration or future extension, if we actually have to have it. We left that within the province of the House Office Building Commission.

Mr. KENNEDY. But, again from an architectural point of view, recognizing that we have no master plan or any real suggestions being made about the use of this building, the extension, or the grounds for the future, is the Senator able to give assurance that restorations or necessary new construction beneath will in no way restrict any future expansion, either on the west front or under the underground part of the building itself, from an architectural point of view.

Mr. HOLLINGS. From an architectural point of view, I do not want to mislead the distinguished Senator, but I hope this "buzzard is baled" once and for all. I hope I never hear any more talk about the extension of the west front.

Mr. KENNEDY. My question was more as to the underground part. The Senator knows my position with respect to the west front and I want to know whether any new construction or the restoration itself will include any opportunities, if a judgment is made in the future, for expansion?

Mr. HOLLINGS. It does include it. That is language which is in the committee report. It specifically refers, for example, to the east plaza. There were studies, investigations, and hearings on it. In 1957, a plan was made temporarily for an underground garage construction of a four-story nature on the east plaza that would provide approximately 1 million square feet. I hold up that particular plan for the Senator's view here.

We state in the committee report that the inclusion, if the House adopted the approach of a Capitol Annex at the south end which would not interfere with any future development of the East Plaza, or until a master plan had been submitted, because we wanted to do it in such a way so as not to interfere with future use of any portion underground, as the Senator's question would indicate.

Mr. KENNEDY. So we can be assured that the restoration itself or any necessary new construction in no way will affect any kind of future underground program that may be projected in the future?

Mr. HOLLINGS. No, sir. It does not.

Mr. KENNEDY. So far as the stability of the building itself is concerned?

Mr. HOLLINGS. That is right.

Mr. KENNEDY. The Senator has been reassured on those points?

Mr. HOLLINGS. I have been reassured, yes.

Mr. KENNEDY. I thank the Senator from South Carolina very much.

RESTORATION OF THE WEST FRONT OF THE U.S. CAPITOL BUILDING

Mr. HOLLINGS. Mr. President, much has already been said about the importance of preserving the West Front of the Capitol, containing the last visible portion of the original three-story edifice which uniquely symbolizes our Nation's heritage.

Perhaps too little has been said, however, about precisely what will be lost if the West Front is encased in marble. Most certainly, more will be lost than simply a panel of sculptured windowcases and Corinthian columns.

In addition to being one of the oldest remnants of public architecture in Washington, the west front is a continuing reminder of the permanence of the Nation. This section of the Capitol, completed in 1800, reflects more than the craftsmanship of professional architects. It also reflects the reasoned judgment and watchful concern of at least two of the finest minds our country has produced: George Washington and Thomas Jefferson.

The original building—the last portion of which we now have the opportunity to preserve or obscure forever—was as much a product of their work as of the architects who labored under their direction.

Of all the statesmen who have concerned themselves with the architectural design of our Nation's Capitol, Washington and Jefferson were surely among the most qualified. "An informal appreciation of architecture was, in their day, considered an essential part of the education of a Virginia gentleman."

Washington's understanding of the principles of architecture is echoed in his personal and public correspondence relating to the creation of the city which today bears his name. Although Washington felt that the design of buildings should "be governed by the rules which are laid down by the professors of the art," his personal and enthusiastic participation in the enlargement of his home at Mount Vernon belies his modesty.

For Jefferson, architecture was a passionate avocation to which he devoted continuous study throughout his life. The Virginia Capitol at Richmond, the University of Virginia campus, and Monticello are constant reminders of his achievements in the art. As Kenneth Clark has written:

> Monticello was the beginning of that simple, almost rustic, classicism that stretches right up the eastern seaboard of America, and lasted for one hundred years, producing a body of civilised, domestic architecture equal to any in the world.

It is fortunate that Washington and Jefferson understood and were personally interested in architecture. Periodically throughout the planning and initial stages of the construction of the Capitol they were called upon to "check the vagaries of tempermental architects and superintendents who, had they been left to carry out their own wills, and their regrettable desires to 'get even' with rivals, might very possibly have ruined the superb picture that the Capitol presents today." The creation of this masterpiece was indeed in the hands of leaders who saw to it that the new Republic's premier building became the symbolic proclamation of dignity and permanence for which they hoped.

A half century after the original building was completed, President Millard Fillmore was faced with a different set of architectural problems when Congress demanded more space. Rather than tamper with the original building, he approved a plan whereby the Senate and House wings were added.

President Lincoln likewise took keen interest in the Capitol as a symbol of the permanence of the Nation. Despite the great stress of the Civil War he ordered the expansion of the Capitol rushed to completion. Lincoln's judgment of the significance of this task was soon proven to be correct.

Among the first questions asked when representatives of the North and South met to negotiate the end of the Civil War on February 3, 1865, concerned the progress in the task of completing the building of the Capitol.

Essentially the Capitol had been finished 2 years earlier when the bronze Statue of Freedom was hoisted atop the great cast iron dome. Only Frederick Law Olmstead's magnificent west terrace and landscaping, and continuing interior improvements, remained as projects. Otherwise, the structure was complete.

In ending the long debate among the Members of Congress over their concern for additional space, President Fillmore argued that any changing of the original Capitol would—

> Mar the harmony and beauty of the present building which, as a specimen of architecture, is universally admired.

Yet proposals for extensions have continued. Fortunately Congress, supported by the vast majority of the country's architects and architectural historians, have with one exception resisted these intrusions upon the work with which our Founding Fathers so laboriously concerned themselves. Instead, Congress has wisely decided to accommodate the ever-growing need for additional space through the construction of new buildings on Capitol Hill. The lone exception, of course, as we all know, was the 1961 extension of the east front.

Today we are once again meeting to discuss an architectural attack upon the Capitol which is totally unjustifiable in terms of history, function, finance, and esthetics. It is, as the New York Times recently observed:

> Obstinate Vandalism on Capitol Hill, an . . . Arrogant maneuver of dubious legality . . . by the ruling Congressional establishment [and the Architect of the Capitol] . . . to bury the last remnant of the architecture that was once inspired by and expressive of the Jeffersonian concept of civilization, a concept that believed in gentle manners, the virtues of classical beauty and the pursuit of happiness.

It has been argued that the latest extension folly is justified by the growing needs of Congress for more space, and the dangerous condition of the "crumbling" west front. Restoration, in the opinion of many of the proponents of the extension, would not be an appropriate solution, because Congress would spend all that money and not get 1 square foot of additional space.

The valid esthetic and economic reasons that prompted the expert consultants hired by the Extension Committee, and a majority among this distinguished body, to oppose the extension of the west front have either not been understood or have not been heard.

In short, a spokesman for the American Institute of Architects says that—

> The symmetry, integrity and symbolism of the building [the Capitol] would be greatly impaired if not destroyed by the proposed extension.

A better answer, as the AIA sees it, would be to build a new complex under the parklike space on the south side of the building—the side nearest the House office building—connecting it by existing subways and pedestrian ways to both the office complexes and the Capitol itself, thus keeping it entirely out of sight.

The cost of such a complex would be considerably less than the proposed extension, according to the latest report by the AIA in the May issue of Progressive Architecture. As AIA first vice president, Archibald Rogers, so aptly remarked, the idea is one of great humility:

> Imagine architects proposing a building that will never be seen.

The serious consideration of this proposal or an appropriate alternative would allow the problem of the deterioration on the west front to be considered in its proper historical perspective.

But before this or any other plan is given serious consideration by Congress, we must first have an overall plan for the future development of the Capitol Hill complex to insure that the space currently available is being used wisely and that future construction will mesh with what now exists. As long as we continue to dismiss the benefits of a master plan for Capitol Hill construction, we shall continue to spend money unnecessarily.

As you are aware, neither the Fine Arts Commission nor the National Capital Planning Commission has authority over the architecture or the development of Capitol Hill. In 1965 a congressional inquiry brought out the fact that there had been no planning for Hill development during the previous 8 years. Ironically, a long-range master program still does not exist to guide the development of the Capitol Grounds and contiguous areas. Our sole official architectural opinion has consistently been in the hands of the Architect of the Capitol.

Congress in the past has considered legislation to establish a Commission on Architecture and Planning. Such a commission, to be composed of highly experienced professionals, would supervise the implementation of a master plan and would pass on the design of buildings on Capitol Hill. It should be in operation today.

We must avoid in the future a course of action, as has been proposed by the Commission for Extension of the U.S. Capitol, which would compromise the integrity of the west front, and would at the same time be a negation of national policy. In the Historic Site Act of 1935 (Public Law 74–292) Congress stated that—

> It is a national policy to preserve for public use historical sites, buildings and objects of national significance for the inspiration and benefit of the people of the United States.

Congress, in the National Historical Preservation Act of 1966 (Public Law 89–665), further enunciated this policy by declaring:

> That the historical and cultural foundations of the nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people.

Although the Capitol was specifically exempted from the provisions of this act. This exemption obviously was not intended to exclude from our concern the preservation of the heritage of one of our country's most historical landmarks and tangible symbols of our Government.

Who would dream of expanding St. Peter's in Rome, India's Taj Mahal, or Monticello? By the same token, who can justify the defacing of the U.S. Capitol, which likewise ranks as one of the world's most magnificent edifices? And as a recent editorial stated—

> The American people, after far too many years of destructive "progress" which bulldozed away some of our more cherished landmarks, are gaining a new and wholesome respect for our historical heritage. They like the Capitol as it stands.

Mr. MATHIAS. Mr. President, will the Senator from South Carolina yield?

Mr. HOLLINGS. I am glad to yield to my distinguished colleague from Maryland.

Mr. MATHIAS. Mr. President, I want to take a minute or two to say that I have followed the efforts of the distinguished Senator from South Carolina (Mr. Hollings) with respect to the west front of the Capitol over a long period of time, and I have associated myself with this effort. I want to thank him again for the leadership he has taken.

What he has managed to convey is that there are some qualities which are associated with this Capitol Building and some qualities which are associated with the form of government under which we live. They are closely related. To destroy those qualities in the building itself would be to destroy a very important part of the fabric and the spirit of our American Government.

The Capitol, as the Senator well knows, is the most frequently visited building in Washington. It is the building which, in a sense, symbolizes the U.S. Government.

If anyone were to ask an American school child, or any American citizen for that matter, what physical symbol first comes to his mind when he thinks about this Republic, or when he thinks about the Capital of the United States of America, it would be the Capitol Building.

Mr. HOLLINGS. If I may interject there, in our hearings regarding the Capitol Guide Service, which is also in this bill, and looking toward the Bicentennial, it is contemplated that Washington, D.C., in 1976 will have 34 million visitors coming to the city, and 95 percent of those 34 million visitors—based on past experience—will want to come to the Capitol Building itself.

Mr. MATHIAS. It is important that some part of the original fabric of this building not only be retained but also be visible. I understand that the outer surface will be a little different from the smooth marble that might be constructed and it will not be quite so harmonious as it could be. But that is the way the building grew. That is what happened. That is American history. As the country grew, so the building grew. We can see it before our eyes. There is a lesson in history to be learned right on the walls of the Capitol.

That is what the distinguished Senator from South Carolina (Mr. Hollings), I think, has intended to preserve and which under the proposition which he presents before us today, we will preserve.

Mr. FULBRIGHT. Mr. President, will the Senator yield to me briefly?

Mr. HOLLINGS. I am glad to yield to the distinguished Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, the distinguished Senator from South Carolina (Mr. Hollings) has played a constructive and very fine role in the preservation of the Capitol building. His views on the restoration of the East Plaza are entirely right and I applaud him for what he has done.

Mr. HOLLINGS. I thank the distinguished Senator from Arkansas.

The PRESIDING OFFICER (Mr. Hughes). The bill is open to further amendment.

Mr. BAYH. Mr. President, will the Senator from South Carolina yield briefly?

Mr. HOLLINGS. I am happy to yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I do not want to prolong this discussion, but as a member of the subcommittee and a Member of the Senate, long interested in the maintenance of the Capitol as an historic shrine as well as the practical seat of our legislative branch, I want to salute the subcommittee chairman, my friend, the Senator from South Carolina, for working a major miracle.

He not only was able to come up with a vehicle to restore the West Front and keep it as we all know it; he was not only able to provide a significant amount of additional floor space to our colleagues in the House, but he was able to do it for significantly less money than would otherwise have been the case.

That does not happen very often in this day and age, and I want to say to the Senator from South Carolina that I deeply appreciate his efforts.

Mr. HOLLINGS. Mr. President, I want to thank the Senator from Indiana, particularly for his assistance as a member of the subcommittee. He has given us invaluable leadership.

Mr. President, are there any further amendments?

Mr. SCHWEIKER. Mr. President, I want to say, if the Senator will yield me just 1 minute, that the distinguished Senator from New Hampshire (Mr. Cotton) had hoped to be here in the Chamber managing this bill in my place on this side of the aisle, but because of the illness of his wife, he is with her now in his home State. He regrets very much that he cannot be here.

I want to pay tribute to the very fine job that he and the distinguished Senator from North Dakota have done on this bill in the full committee and in the subcommittee, and also to my distinguished chairman from Arkansas who has been most receptive and responsive to some of the requests that some of us have made.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. If there be no amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent upon conclusion of the business at hand, after the final vote, that at that time it be in order to lay down the District of Columbia appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the District of Columbia appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President I ask for the yeas and nays.

The yeas and nays were ordered.

PROPOSED WEST FRONT EXTENSION

Mr. BAYH. Mr. President, perhaps the most important issue before the Subcommittee on Legislative Appropriations is the proposed $60 million extension of the west front of the Capitol. Like the distinguished chairman of this subcommittee, I have opposed the plan before and I oppose it again this year. In my view, the proposed extension of the west front is the wrong way to spend limited Federal moneys, is the wrong way to provide the space Congress needs to do its work, and is the wrong way to treat this historic, artistic, and irreplaceable portion of the original Capitol. I support instead plans to restore the west front—plans which would cost only a quarter as much as the extension and which would leave the Capitol the symbol of our Nation it has always been.

We are being asked to approve at least $60 million for the extension. That is an estimate, of course; it is an educated guess based on sketches. But there are no final plans so we cannot know the final cost. Based on previous experience, we can be sure only that $60 million is the minimum we will have to spend. I believe that this $60 million could be much better spent in dozens of areas where severe reductions in Federal programs are hurting the citizens of Indiana and other States. We are faced with cutbacks in library services, in hospital construction, in aid to the elderly, in rural development programs, and elsewhere. In light of these pressing needs. I do not see how we can justify $60 million for some extra offices in the Capitol.

In opening hearings before the Subcommittee on District of Columbia appropriations, I said that one of our goals was to approve "a budget which assures that human needs are fulfilled before luxury of extravagance are considered." By that test the proposed extension must be rejected.

Moreover, the proposed extension will not solve the office space problems which Members of Congress face. In fact, the extension is not even designed to meet this need. Since there have been no space allocations, we do not know exactly what need it will serve, other than providing extra offices near the Senate and House Chambers. But we do know that additional office space outside of the Capitol will be needed even if the west front is extended. An additional Senate Office Building has already been authorized, and the House has recently acquired the use of the Congressional Hotel on its side of the Capitol. Surely additional space, if needed, could be obtained for less than the estimated $222 per square foot which the extension will cost. And surely we can make some adjustments within the existing Capitol Building to assure that those who must have offices there can have them.

Finally, the west front is the only remaining exterior part of the original Capitol still visible. With its beautiful terraces and great columns it looks out over the Washington Mall, the White House, and the bulk of official Washington. The west front can be and should be restored as evidence of our respect for our heritage and our history. It should not be replaced by a five-story extension which, in the words of the president of the American Institute of Architects:

> Will destroy the delicate proportions that now exist between the Capitol dome and its supporting base.

For all these reasons I join the distinguished chairman of this subcommittee in opposing the provisions of the House bill and supporting those in the Senate version which relate to the extension of the west front. I hope and I believe that we will be successful this year as we have been in the past.

Mr. MANSFIELD. Mr. President, for the information of the Senate, certain difficulties have come up tonight relative to the vote on the District of Columbia appropration bill.

I, therefore, ask unanimous consent that the vote on the District of Columbia appropriation bill occur at 12 o'clock tomorrow, with the proviso that all deliberations, including third reading, will be reached tonight.

The PRESIDING OFFICER. Will rule XII be waived?

Mr. MANSFIELD. Yes, I ask unanimous consent that rule XII also be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO THOMAS J. SCOTT, CHIEF CLERK OF THE COMMITTEE ON APPROPRIATIONS

Mr. HOLLINGS. Mr. President, as we approach final action on this year's legislative appropriations, I would like to call attention to the contributions of one man in particular. Without his tireless efforts and gentlemanly demeanor, the quality of our committee's work over the years would be measurably lower and the pleasure of doing the work markedly diminished. He is soon to retire, and we are sorry to see him go. I refer, of course, to Mr. Thomas J. Scott, chief clerk of the Senate Committee on Appropriations.

Tom Scott has worked on Capitol Hill since 1943, when Senator Kenneth McKellar, then acting chairman of the Committee on Appropriations, requested the Federal Bureau of Investigation to supply one of its "best men" to assist in a committee project. The Director of the FBI, the late, distinguished J. Edgar Hoover, responded by loaning the committee one of his brightest agents and most promising administrators, Tom Scott. The new consultant quickly made his mark on the Hill. He liked his work, the committee was impressed with him, and in 1945 he resigned a promising career in the FBI in favor of permanent work with the Appropriations Committee.

It was undoubtedly a difficult decision for him to make, but since my coming here almost 7 years ago—and more directly since I joined the Committee on Appropriations at the beginning of the 92d Congress—I have had hundreds of occasions to applaud the choice he made.

Mr. President, it is difficult to summarize in so brief a time the many contributions this distinguished public servant has made. And it is equally difficult to put into few words the qualities of mind and spirit that Tom Scott brings to all his endeavors.

One of the distinguished chairmen of the Appropriations Committee, the late Carl Hayden, said it succinctly and straightforwardly—like he said everything:

> I have been fortunate to have the benefit of Mr. Scott's knowledge and judgment during my tenure as Chairman of the Committee on Appropriations.

Senator Hayden said:

> In my opinion, Mr. Scott's service to the Committee during this period constitutes the most outstanding performance by a member of any Congressional staff that I have observed during my fifty years of service in the Congress.

Mr. President, that kind of performance means knowing your job. Tom Scott knows his job, and he does it. That is especially refreshing in this age when too few people in positions of responsibility really master their jobs. He understands the makeup and the complexity of Government. He knows the executive branch and he knows how to get the information he needs from it. He knows the legislative branch and he knows how to avoid all the perils and pitfalls that can cripple or kill good legislation. And he knows the difference between good legislation and shoddy improvisation. He is a foremost expert on the Federal budget, and those who say his knowledge of this field is unparalleled speak the truth. All this he has put to the use of the successive chairmen of the Appropriations Committee and shared with its members. The quality of work produced by the committee has been much the better because of this mastery of process and substance.

Combined with these attributes of mind is that dedication of spirit which makes the difference between a good public servant and a great one. Tom Scott is dedicated—dedicated to his work, dedicated to leaving things better than he found them. He works with a diligence and energy that I have seldom seen, anywhere. Yet he goes about his labor calmly and patiently, never losing his willingness to explain and reexplain a matter. He is a cohesive force, bringing together men and information in such a way as to build a better tomorrow.

In my capacity as chairman of the Legislative Appropriations Subcommittee, I have benefited countless times and in countless ways from my association with Tom Scott. Fortunate is the Senator who has the day-to-day luxury of being able to call upon the talents of this able and good man. I have never seen a finer public servant.

As retirement comes closer, Tom will be able to spend more time with his wife, Mary, his four older children, and his young son. He will be able to get away for some bird hunting and fishing. We wish him well, because he deserves the best that retirement can bring.

Yet we serve notice now that his talents will be called on in the future. He is too knowledgeable, too valuable, to allow to get away. And so today we do not contemplate saying goodbye. There will be no farewells at the end of the session. Instead we look forward to continued association, although, to our loss, not on a full-time basis.

Mr. President, I take this opportunity to say "thank you" to Tom Scott for all that he has done for the Legislative Appropriations Subcommittee. His work there, as well as his labors on behalf of the entire committee, deserve the thanks and commendation of the entire Senate and, indeed, of all the country.

I am proud to have worked with him as an associate. And I am even prouder that he is my friend.

Mr. President, I wish the Senate were not under such pressure tonight so that I could stand here and wax by the hour about the tremendous contributions this gentleman has made to the Appropriations Committee, and specifically "yours truly" as the chairman of the Legislative Subcommittee.

Mr. Scott is retiring. I am going to try to get him back up here.

The **PRESIDING OFFICER**. The bill (H.R. 6691), having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **ROBERT C. BYRD**. I announce that the Senator from Louisiana (Mr. Long) is necessarily absent.

I also announce that the Senator from Mississippi (Mr. Stennis) is absent because of illness.

Mr. **GRIFFIN**. I announce that the Senator from New Hampshire (Mr. Cotton) is absent because of illness in his family.

The Senator from Alaska (Mr. Stevens) is absent by leave of the Senate on account of illness in his family.

The Senator from Utah (Mr. Bennett), the Senator from New York (Mr. Buckley), the Senator from Arizona (Mr. Goldwater), and the Senator from Illinois (Mr. Percy) are necessarily absent.

If present and voting, the Senator from Illinois (Mr. Percy) would vote "yea."

The result was announced—yeas 92, nays 0, as follows:

[No. 309 Leg.]

YEAS—92

Abourezk
Aiken
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Bentsen
Bible
Biden
Brock
Brooke
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cook
Cranston
Curtis
Dole
Domenici
Dominick
Eagleton
Eastland
Ervin
Fannin
Fong
Fulbright
Gravel
Griffin
Gurney
Hansen
Hart
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Hughes
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Moss
Muskie
Nelson
Nunn
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Saxbe
Schweiker
Scott, Pa.
Scott, Va.
Sparkman
Stafford
Stevenson
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

NAYS—0

NOT VOTING—8

Bennett
Buckley
Cotton
Goldwater
Long
Percy
Stennis
Stevens

So the bill (H.R. 6691) was passed.

Mr. **HOLLINGS**. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. Gravel) appointed Mr. Hollings, Mr. McClellan, Mr. Bayh, Mr. Eagleton, Mr. Cotton, Mr. Schweiker, Mr. Young, and Mr. Case conferees on the part of the Senate.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 19, 1973, he presented to the President of the United States the enrolled bill (S. 1413) to increase the authorization for fiscal year 1974 for the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1974

The **PRESIDING OFFICER**. Under the previous order, the Chair lays before the Senate Calendar No. 302, H.R. 8658, which the clerk will state by title.

The bill was stated by title, as follows:

A bill (H.R. 8658) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1974, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments.

Mr. **BAYH**. Mr. President, I suggest the absence of a quorum, on my time.

The **PRESIDING OFFICER**. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BAYH**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BAYH**. Mr. President, I yield myself such time as may be necessary to discuss for a few moments the fiscal year 1974 District of Columbia appropriation bill.

This is my first experience as chairman of an appropriations subcommittee, and it has indeed been an educational experience. It has not been without some significant effort, the effort and the burdens having been made easier by the cooperation and the contributions made by the distinguished ranking minority member of the committee, my good friend from Maryland (Mr. Mathias), and Mr. Terry Sauvain and other members of the staff, who have worked diligently to put this bill together.

I think it is a good bill. I hope Senators will share this feeling after they have had a chance to study it and to listen to the dialog.

The bill includes $417,717,000 in Federal funds, which is a decrease of $10 million from the amount allowed by the House and $15,281,000 below the budget estimates.

In terms of District of Columbia funds, the bill includes $958,659,500, which is a reduction of $5,519,500 below the House bill and $32,564,500 below the budget estimates.

The amount of the Federal payment is $187,450,000, which is the same amount as allowed by the House and $2,550,000 below the budget estimate.

Mr. President, I would add here that the committee felt it was necessary to keep this amount of the Federal payment in reserve and have it available in the event unexpected sums are required in supplemental requests. These dollars, in all probability, will be appropriated—at least they are available—for any supplemental request that may come along later this year.

Mr. President, the committee again presents a balanced budget for the District of Columbia for consideration by the Senate.

The House action on the District of Columbia bill resulted in the deletion of virtually all new and improved programs. The Senate's bill restores a number of those new and improved programs—and still maintains the same Federal payment level as approved by the House. By directing certain economies and adjustments the Senate bill was able to include a number of increases over the House allowance within the framework of a balanced budget. I would like to highlight some of these increases and matters of difference of opinion between us and the House for edification of our colleagues.

The bill includes increased funding for the budget, planning and audit functions of the District of Columbia. The intent here is to strengthen the planning and financial management capability of the District so that the city can better utilize the resources provided in this bill.

It seemed to the members of the committee that here was a good investment that would more than pay for itself by better management and better auditing and financial control.

The largest single increase over the House is for the public school system.

The amount provided in the bill together with $1.5 million in unanticipated impact aid funds received by the school system toward the close of the fiscal year will allow the public school system to proceed at the full budget request level for fiscal year 1974. The committee has also provided additional resources for the higher education institutions of the District.

There are those of us who feel that the education of our boys and girls, the young men and women of our communities and our country, is the most important priority. One can make a case for, and certainly, if possible, I would wish to find, more funds to expend in this important area in the District. In any case, we have done significantly better than the amounts provided by the House. As I said a moment ago, this funding level does meet the dual requirement of a full budget request level for schools in the District as well as the overall balanced budget for the entire budget of the city.

In the area of public assistance the committee has included funds to allow the District to implement that provision of its welfare reform effort which will provide a cost-of-living increase in public assistance payments.

This increase will be partially funded as a result of new moneys included in the Senate bill, and partially by requiring the District to do a better job of scrutinizing its budget and supervising those who are administering it—including paying closer attention to assure that only those who are eligible for public assistance receive such payments.

The Senate bill also includes $2 million above the amount requested by the District for day care programs. The committee has added these funds in anticipation that an expanded day care program will lead to a reduction in the public assistance caseload as more families are helped to achieve economic independence.

Looking at all the problems that exist in the District of Columbia, I realize that no one budget or no 10 budgets are going to solve all these problems. I do not know of a single area, however, where the return on investment, both in the savings of dollars and the prevention of severe human misery, is greater than increasing, even more, the investment of resources to provide preschool education, afterschool and day-care facilities, and day care for children who are now living in broken homes and in circumstances that almost defy description unless one has the chance to see them.

If I may offer a word of wisdom to the Mayor and the Director of the Human Resources Department, Mr. Yeldell, I wish they would begin to see what more can be done next year in the area of day care and preschool programs—including greater cooperation with the school system in this effort.

The committee has also recommended increases which will allow the District to strengthen its efforts to protect children from abuse and neglect and to provide new family shelter facilities.

The bill includes 100 new positions for increased care and treatment of the mentally retarded at the Forest Haven facility.

Additional funds are also provided in the area of alcoholism treatment and prevention.

In the capital outlay area of the budget the committee has included all those projects recommended by the House in the budget. In addition, the committee has provided the first installment for the construction of the Eisenhower Civic Center. Community support for this Center has been strong. It is the intent of the committee to move forward with a direct appropriation for this project rather than to rely on lease purchase in order to save the taxpayers of the District of Columbia a cash outlay of some $22 million over the life of the project. The committee believes that the previously stated intent of Congress, that is, that this project shall be constructed in time for the Bicentennial celebration, can be accomplished through the direct appropriations route at a considerable saving to the taxpayer and with no offsetting disadvantages. The funding for the Center can be accomplished by the redirection of previously appropriated funds that are no longer needed.

I should say in all honesty that, so far as I am aware, no one knows for certain whether this structure will be completed by July 4, 1976. I personally think it is touch and go. I say this in all honesty to the Senate because I think it does not make any difference from a time standpoint whether money is appropriated through direct financing or lease-purchase to complete this project. I am much more concerned about the total overall interest costs and the proper utilization of this structure over a 30-year period than I am for a fresh project and perhaps having it finished by the 4th or 5th of July 1976. I think that one financing vehicle has as much chance of success as another in terms of completing the project on time.

Mr. President, the committee believes wholeheartedly in these recommendations. They are sound recommendations, and they are reasonable. We can defend them in conference.

Mr. President, all of the programs funded in this bill are important to the citizens of the District of Columbia and the many tourists who visit our Nation's Capital every year. These programs are important to the well-being of the District's citizens. They assist those who are often unable to assist themselves, especially the young and the aged. They will help build much-needed schools and other public facilities. They will help reduce unemployment. Funds included in this bill together with Federal matching grants can enable the citizens of the District of Columbia and the National Capital area to take a strong stride toward a more healthy and wholesome life.

Mr. President, this concludes my formal statement on the bill.

Mr. President, I hope that the Senate will concur in the judgment of the committee.

Mr. MATHIAS. Mr. President, I want to thank the distinguished chairman of the District of Columbia Appropriations Subcommittee, the Senator from Indiana, who is managing the bill today. I think that the Senator from Indiana has done a remarkable job in presenting this bill to the Senate. It is a sort of thankless task.

The District of Columbia, although it is the National Capital, is the seat of the Federal Government. It is a sort of stepchild as far as Congress is concerned. It usually only gets what other Members of Congress have left over from their responsibility to Congress as a whole and to the interest of particular States.

I think that the Senator from Indiana has been unusual in the amount of time he has devoted to the problems of the District of Columbia. He has worked very long and very hard. He has been very patient and has gone into great detail into all the many functions of the city government.

The Senator from Indiana has been supported by Mr. Sauvain and Mr. Clark of the Appropriations Subcommittee staff, to whom very real thanks are due.

I share with the Senator from Indiana the wish and the hope that this onerous task and the very detailed job of controlling the appropriations for every minute expenditure of municipal government will not much longer be a function of the Congress as we move toward self-government and toward home rule in the Nation's Capital.

I would like to express my personal thanks to the Chairman for his cooperation during his conduct of these extensive hearings and the mark-ups on the bill.

The fiscal year 1974 appropriations requested for the District of Columbia as reported by the committee has my full and unqualified support. I support this because I believe that it is a sensible bill and because it responds to the needs of the people of the city of Washington.

I think it is sensitive to the needs of the city government and sensitive to the future of the city as the city moves toward its goal of home rule and continued economic and social vitality.

As to specifics, Mr. President, in human resources, the budget will allow the city to expand its day care services, thereby helping to decrease the number of families on public assistance.

Family services, services for the mentally retarded and for alcoholics will actually be increased, although the budget is observed. Necessary cost of living increases which are really mandatory as far as the Congress is concerned, will be provided for those on public assistance. All of these efforts, I think, will strengthen the basic social and economic structure of the city of Washington.

The budget for public education, which is a major concern, and which has been the subject of constant attention and very often criticism, as proposed in the bill will go a long way toward improving the quality of the education in the city, which is a most important thing, and also the quantity of the education which is available to the student population. Pupil-teacher ratios will be improved. That should have an effect not only on education itself, but also on the critical question of security. Programs and facilities will be upgraded.

Environmental services will be improved through new air pollution treatment programs, solid waste management, food inspections, and chemical and drug control activity. These will not only be important to the people living in Washington 365 days a year, but will also be important to every American who at least once in his lifetime wants to come and visit the National Capital.

The bill approves and provides for some additional staff positions to serve the needs of the city council. I think that Washington must have an improved legislative capacity as it acquires increasing authority to govern its own affairs. And if the city council is to gear itself up to a broader legislative responsibility which it will have with home rule, then it has to start now to train the staff members and establish the routines and the processes by which the legislative decisions will be reached.

The Capital construction budget is designed to infuse the city with new and improved facilities. The economic strength of the city and the stability of its neighborhoods are to no small degree dependent on the ability of the city to provide modern facilities for the delivery of services.

One example is that the Dwight D. Eisenhower Bicentennial Memorial Center is included in the budget and will be financed through appropriated funds rather than through a lease-purchase arrangement. The committee believes that would be more economical.

Mr. President, I have only very briefly outlined some of the specific aspects of the budget for the city of Washington. However, I believe that this is enough to indicate that the budget deserves the support of the Senate.

I conclude by again expressing my thanks to the distinguished chairman of the subcommittee for the great amount of time and effort he has invested in this bill and extend my appreciation for the job that he and members of the staff have done.

Mr. BAYH. Mr. President, I wish to express again my appreciation to the distinguished Senator from Maryland for his tireless effort. He, second only to the chairman of the subcommittee, has spent more hours on this matter than any other member of the subcommittee in dealing with the other awesome responsibilities he has. He has spent a significant amount of time and has been a good right arm, not only because he sat there and listened and made contributions, but because he is sensitive and concerned about the problems of the people of the District of Columbia. Those problems are not so different from the problems faced by the people in Maryland, New York, California, and elsewhere.

I thank the Senator and members of the staff, Mr. Jones, Mr. Alexander, Mr. Helfer and also Mr. Robert Clark of the subcommittee staff without whose work all of this might not have been accomplished.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text and that no point of order be considered as being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page, 1 line 4, after the word "appropriated", insert a comma and "and shall be made available for expenditure except as specifically provided by law,".

On page 2 line 14, after "(74 Stat. 210),", strike out "$236,184,000" and insert "$226,184,000"; and, at the beginning of line 18, strike out "$187,969,000" and insert "$177,969,000".

On page 3, line 4, after the word "expenses", strike out "$66,491,000 and insert "$68,564,000".

On page 4, line 14, after the word "limitation", strike out "$210,960,000" and insert "$205,558,700"; and, in line 22, after the word "replacement", insert a colon and *"Provided further,* That $6,821,700 shall be available for reimbursement to the United States for services provided to the District of Columbia by the offices of the United States attorney and the United States marshal for the District of Columbia."

On page 5, line 6, after the word "programs", strike out "$196,567,000" and after the word "fund.", strike out *"Provided,* That certificates of the following officials shall each be sufficient voucher for expenditures from this appropriation for such purposes as they may respectively deem necessary within the amounts specified: Superintendent of Schools, $1,000; President of the Federal City College, $1,000; President of the Washington Technical Institute, $1,000; and President of District of Columbia Teachers College, $1,000."

On page 6, line 2 after the word "Resources", strike out "$216,401,000" and insert "$220,493,600".

On page 7, line 4, after the word "including", strike out "$151,600" and insert "$162,000"; in line 10, after the word "only", strike out "$23,274,000" and insert "$23,460,200"; and, in line 11, after the word "which", strike out $17,041,100" and insert "$17,227,300".

On page 7, line 17, after the word "services", strike out "$44,593,000" and insert "$45,426,000"; in line 18, after the word "which", strike out "$11,878,400" and insert "$11,983,800"; and, in line 19, after the word "fund", strike out "$13,436,000" and insert "$13,823,000".

On page 9, line 6, after the word "expended", strike out "$138,178,000" and insert "$128,041,900"; and, in line 9, after the word "That", strike out "$9,211,100" and insert "$11,811,100".

On page 14, at the beginning of line 12, insert "(except temporary positions provided for the Department of Corrections in this Act)".

On page 14, line 18, after the word "exceed", strike out "$200,000" and insert "$210,000".

On page 15, line 5, after the word "year", insert a comma and "except temporary employees provided for the Department of Corrections in this Act".

On page 15, after line 13, insert a new section, as follows:

SEC. 18. Appropriations in this Act shall be available for services as authorized by 5 U.S.C. 3109.

Mr. BAYH. Mr. President, I yield back the remainder of my time.

Mr. MATHIAS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 8658) was read the third time.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. TUNNEY) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION FROM DEPARTMENT OF THE NAVY

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend sections 5202 and 5232 of title 10, United States Code, relating to the appointment to the grades of general and lieutenant general of Marine Corps officers designated for appropriate higher commands or for performance of duties of great importance and responsibility (with an accompanying paper). Referred to the Committee on Armed Services.

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize officers of flag rank to serve in the Medical Service Corps in the Navy, and for other purposes (with an accompanying paper). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION FROM DEPARTMENT OF STATE

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend sections 515 and 522 of the Foreign Service Act of 1946, as amended, relating to the appointment of Foreign Service officers and Foreign Service Reserve officers, and for other purposes (with an accompanying paper). Referred to the Committee on Foreign Relations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. TUNNEY):

A joint resolution of the Legislature of the State of California. Referred to the Committee on Appropriations:

"ASSEMBLY JOINT RESOLUTION NO. 39

Relative to water pollution control facilities

LEGISLATIVE COUNSEL'S DIGEST

"Whereas, The construction of new water pollution control facilities is urgently needed to protect and enhance the quality of California's waters; and

"Whereas, In order to permit the construction of such works at the earliest possible time and to effectively protect water quality in California, it is vital that funds appropriated for such purpose under the Federal Water Pollution Control Act be released for expenditure; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to release additional funds for the construction of water pollution control facilities under the Federal Water Pollution Control Act; and be it further

"Resolved, That the State Water Resources Control Board shall confer with the proper federal authorities on the need for the release of such additional funds in the State of California; and be it further

"Resolved, That the State Water Resources Control Board report to the Legislature the result of its conference with the proper federal authorities before August 1, 1973; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the State Water Resources Control Board."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 137. Resolution authorizing additional expenditures by the Committee on Interior and Insular Affairs for routine purposes (Rept. No. 93–326);

S. Res. 140. Resolution authorizing additional expenditures by the Committee on Interior and Insular Affairs for inquiries and investigations (Rept. No. 93–327).

H. Con. Res. 185. Concurrent resolution to provide for the printing of inaugural addresses from President George Washington to President Richard M. Nixon (Rept. No. 93–331);

H. Con. Res. 219. Concurrent resolution providing for additional copies of "The Federal Civilian Employee Loyalty Program," House report No. 92–1637, 92d Congress, second session (Rept. N. 93–332);

H. Con. Res. 233. Concurrent resolution providing for the printing of committee hearings establishing a National Institute of Education (Rept. No. 93–333);

H. Con. Res. 256. Concurrent resolution to provide for the printing as a House document, a revised edition of the House document, "Our American Government. What Is It? How Does It Work?" (Rept. No. 93–334);

H. Con. Res. 257. Concurrent resolution providing for the printing of additional copies of the House report entitled "Street Crime: Reduction Through Positive Criminal Justice Responses" (Rept. No. 93–335); and

H. Con. Res. 258. Concurrent resolution providing for the printing of additional copies of the House report entitled "Drugs in Our Schools" (Rept. No. 93–328).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. Res. 131. Resolution authorizing supplemental expenditures by the Committee on Government Operations for an inquiry and investigation relating to Government procurement practices, and for other purposes (Rept. No. 93–330).

By Mr. PASTORE, from the Commitee on Commerce, with an amendment:

S. 1816. A bill to amend the Wool Products Labeling Act of 1939 with respect to recycled wool (Rept. No. 93–329).

By Mr. HUDDLESTON, from the Committee on Agriculture and Forestry, without amendment:

H.R. 9172. An act to provide for emergency allotment lease and transfer of tobacco allotments or quotas for 1973 in certain disaster areas in Georgia and South Carolina (Rept. No. 93–336).

By Mr. EASTLAND, from the Committee on Agriculture and Forestry:

S.J. Res. 134. An original joint resolution to prohibit any reduction in the number of employees of the Forest Service during the current fiscal year (Rept. No. 93–337).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HARTKE:

S. 2199. A bill for the relief of George M. Worrell. Referred to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. Brock, Mr. Ervin, Mr. Gravel, Mr. Humphrey, Mr. Mathias, Mr. Packwood, and Mr. Tunney):

S. 2200. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JOHNSTON:

S. 2201. A bill to provide for the settlement of damage claims arising out of certain actions by the United States in opening certain spillways to avoid flooding populated areas. Referred to the Committee on Public Works.

By Mr. HATFIELD:

S. 2202. A bill to amend section 857 of title 10, United States Code, to require that pretrial confinement of members of the Armed Forces be deducted from the term of any sentence to confinement adjudged by a court-martial;

S. 2203. A bill to amend chapter 47 of title 10, United States Code, to authorize the military judge of any court-martial to suspend the sentence adjudged against an accused tried by such court-martial;

S. 2204. A bill to amend section 810 of title 10, United States Code, relating to the confinement of military personnel prior to trial by courts-martial;

S. 2205. A bill to improve the military justice system by establishing military judicial circuits, and for other purposes;

S. 2206. A bill to amend chapter 47 of title 10, United States Code, to provide that judges of the Courts of Military Review shall be appointed by the President, to confer authority on the Court of Military Appeals to issue orders and writs necessary to protect the rights of military personnel, and for other purposes;

S. 2207. A bill to amend chapter 47 of title 10, United States Code, so as to eliminate summary courts-martial from the military justice system;

S. 2208. A bill to confer jurisdiction in United States district courts to grant relief in certain cases involving military personnel where relief available to such personnel under military law or regulation is inadequate for the protection of the constitutional rights of such personnel, and for other purposes;

S. 2209. A bill to amend section 803 of title 10, United States Code, relating to jurisdiction for the trial of military personnel;

S. 2210. A bill to amend chapter 47 of title 10, United States Code, so as to prescribe certain requirements with respect to the physical arrangements of furniture and other facilities of rooms for which courts-martial trials are conducted, and for other purposes;

S. 2211. A bill to amend section 825, (article 25) of title 10, United States Code, relating to eligibility standards for service on courts-martial and the method of selecting military personnel for such service;

S. 2212. A bill to amend chapter 59 of title 10, United States Code, to prohibit the administrative discharge of enlisted members of the armed forces under conditions other than honorable;

S. 2213. A bill to amend chapter 47 of title 10, United States Code, to limit the jurisdiction of courts-martial, to eliminate the death penalty, to define certain additional offenses under such chapter, and for other purposes; and

S. 2214. A bill to amend chapter 47 of title 10, United Staes Code, to require that all requests to compel witnesses to appear and testify and to compel the production of other evidence before courts-martial trials be submitted to a military judge for approval, and to provide for the inadmissibility of certain evidence at courts-martial trials. Referred to the Committee on Armed Services.

By Mr. HELMS (for himself and Mr. Harry F. Byrd, Jr.):

S. 2215. A bill to restore the value of the dollar and restrain inflation by providing for a Federal budget in which expenditures shall not exceed Federal revenues. Referred to the Committee on Government Operations.

By Mr. EASTLAND, from the Committee on Agriculture and Forestry:

S.J. Res. 134. An original joint resolution to prohibit any reduction in the number of employees of the Forest Service during the current fiscal year. Placed on the calendar.

By Mr. FULBRIGHT:

S.J. Res. 135. Joint resolution terminating hostilities in Indochina on August 15, 1973. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (for himself, Mr. Brock, Mr. Ervin, Mr. Gravel, Mr. Humphrey, Mr. Mathias, Mr. Packwood, and Mr. Tunney):

S. 2200. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

FINANCIAL PRIVACY ACT OF 1973

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to insure that the disclosure by financial institutions of the details of their customers' bank accounts to Government officials and agencies will be governed by procedural safeguards. Senators Brock, Ervin, Gravel, Humphrey, Mathias, Tunney, and Packwood join me in cosponsoring this bill, the Right to Financial Privacy Act of 1973.

Similar legislation was the subject of hearings before the Subcommittee on Financial Institutions of the Senate Banking, Housing, and Urban Affairs Committee in the last Congress. The bill we are introducing today is a refinement of that legislation, taking into account the testimony and suggestions received at those hearings.

Its purpose is to grant to customers of banks procedural and constitutional rights with respect to demands for access to their financial records by Government agencies. These rights are the normal ones which every citizen now has with respect to documents in his personal possession. The only effect of this legislation is to make these rights applicable when the banks are merely custodians of records which contain information relating to the customers' activities. It becomes necessary to enact this legislation in part because banks often make duplicates of personal financial transactions of their customers, thus giving Government agents the ability to secure those copies without making direct demand on the customer. In these cases, the customer finds it difficult if not impossible to make his legal case to protect the privacy of his records. Sometimes, in fact, he never knows that the Government has invaded the privacy of his financial transactions. Bankers with whom we have talked are as dissatisfied with this situation as are their customers.

This new bill, in my judgment, strikes a reasonable balance between the needs of law enforcement and the interests of the individual in preserving his right to privacy.

It is important to note that the provisions of this bill do not deny law enforcement officials access to bank records. The purpose is to provide statutory guarantees for confidentiality of bank records while at the same time satisfying the needs of government for access. Financial records will still be available for legitimate investigatory purposes under judicial supervision. This requirement renders the bank's records no more inaccessible than if the information was in the customer's sole possession.

Financial records maintained by banks have always been a natural focal point for investigators. The information revealed by checks, withdrawals, deposits, or loans, mirror the activities of the account holder. From this information, the details of an individual's life can be reconstructed—the sources of his income, the purchases he makes, the debts he owes, his personal associations, the political and social causes he supports, the publications to which he subscribes. Admittedly, this is an important tool in certain investigations.

However, this same information, by its very nature, makes it imperative that procedural and constitutional rights be protected to avoid unwarranted governmental invasions of privacy. Although the controversy surrounding record access predates the Bank Secrecy Act, with the new recordkeeping and reporting functions mandated in the 1970 law, the problem has been exacerbated.

That law delegated to the Secretary of the Treasury broad authority to require financial institutions to keep complete records of their customers' financial life, make periodic reports of certain transactions directly to the Treasury Department, and upon request, turn these records over to Treasury.

Despite the fact that the Bank Secrecy Act has created a vast reservoir of confidential information, rich in details of an individual's personal and political life, the act does not deal with the subject of governmental access to these records.

It is evident from the legislative history that Congress assumed that the privacy and confidentiality of bank records would not be violated. The legislative intent was not to alter existing access requirements as demonstrated in the language of the House and Senate reports. Clearly Congress believed that Government access would continue to be limited to subpena or other legal process.

The Senate report is explicit that:

> Access by law enforcement officials to bank records required to be kept under this title would, of course, be only pursuant to a subpena or other lawful process as is presently the case. The legislation in no way authorizes unlimited fishing expeditions into a bank's records on the part of law enforcement officials. Senate Report No. 91–1139. 91st Cong. 2nd Sess. (1970).

Similarly, the House report asserted:

> It should be borne in mind that records to be maintained pursuant to regulations of the Secretary of the Treasury will not be automatically available for law enforcement purposes. They can only be obtained through existing legal processes. House Report No. 91–631. 91st Cong. 2nd Sess. (1970).

Furthermore, at the time the Bank Secrecy Act was being considered, the Treasury Department successfully fought to remove a broad access provision in the original House bill. Representatives from Treasury unequivocally announced that:

> We have kept firmly in view our traditional freedoms such as the constitutional prohibition against unreasonable searches and seizures and the right of our citizens to privacy. In strengthening enforcement we must not jeopardize these principles.

This commitment was reaffirmed when, on June 19, 1972, the Secretary of the Treasury published the implementing regulations for the bank secrecy law. At that time he stated:

> Governmental access to records of financial institutions is not changed by the statute of regulations but will continue to be subject to the requirements of existing subpena and other legal process.

However, in this, as in other areas of the law, there is a marked difference between how the system is supposed to work and how it actually does work. As a practical matter, informal arrangements have permitted law enforcement and other government agencies access to bank records without the cumbersome requirement of first going to court or obtaining administrative approval in order to proceed.

As indicated in the following exchange between Senator PROXMIRE and Eugene T. Rossides, Assistant Secretary of the Department of the Treasury, at last year's hearings to amend into the Bank Secrecy Act procedural safeguards, the Department's earlier commitment to basic constitutional requirements has apparently waned. Moreover, Treasury has taken the position that inasmuch as the law did not address access, it is without authority to prohibit banks from releasing information without a subpena. And Treasury does not want that power.

> Senator PROXMIRE. But I understood you to say, you do not have authority prohibiting the banks releasing it without subpena?
>
> Mr. ROSSIDES. Right, we do not want it.
>
> Senator PROXMIRE. Why not? Why not give that protection?
>
> Mr. ROSSIDES. Because many agencies do not have subpena power, enforcement agencies.
>
> Senator PROXMIRE. Then, they can go to the Justice Department?
>
> Mr. ROSSIDES. In effect, this would make it a very cumbersome procedure.
>
> Senator PROXMIRE. You are saying they are getting these records without court process, without showing a due cause?
>
> Mr. ROSSIDES. I cannot speak for all the agencies, Senator.

When pressed to identify under what circumstances an agency can secure financial records without a subpena, Mr. Rossides replied:

> It is up to the bank whether they force them to do it [obtain a subpena].

What is immediately apparent is that the privacy of customer records is dependent upon the discretion of the financial institution. Absent a subpena or other legal process, nothing requires a bank to comply with a request for information, and nothing prohibits a bank from complying. The customer's rights are never even considered when a bank releases personal information. The customer has no way of knowing his records are being examined, no opportunity to challenge disclosure or dissemination of the information, and no procedural safeguards to follow to assure confidentiality. Banks are not happy with the situation and would like to be relieved of the burden.

Obviously, the best way to preserve the privacy of financial records is to limit the discretion of the Government and the financial institutions. This can be accomplished by requiring adherence to existing procedural safeguards and permitting some level of participation by the individual bank customer whose records are being sought.

Banks are ill-equipped to assess a governmental request for information either in terms of usefulness to an investigation or consequence to the customer. As a consequence, abuse of financial information is encouraged.

The bill which we introduce today will establish a process to insure that Government agencies will continue to obtain the information they need for proper purposes, while insuring that individual rights and liberties will be protected.

That there is a right to privacy, protected by constitutional safeguards has long been established and recognized by the Supreme Court. However, as we have seen all too frequently in recent years, constitutional protections against unwarranted intrusions into individual privacy have been circumvented in the name of expediency.

Revelations of domestic surveillance,

illegal wiretaps, and unauthorized searches and seizures clearly demonstrate that governmental power can be abused.

In the case last year of United States against U.S. District Court, the Supreme Court considered a claim of unrestrained governmental power, similar to that claimed in the bank records controversy. A unanimous Court rejected the President's claim of an inherent right to wiretap without a court order in national security cases.

Writing for the Court, Mr. Justice Powell ruled as follows:

> These Fourth Amendment freedoms cannot properly be guaranteed if domestic security surveillances may be conducted solely within the discretion of the executive branch. The Fourth Amendment does not contemplate the executive officers of Government as neutral and disinterested magistrates. Their duty and responsibility is to enforce the laws, to investigate and to prosecute. *Katz* v. *United States, supra,* at 539–60 . . . But those charged with this investigative and prosecutorial duty should not be the sole judges of when to utilize constitutionally sensitive means in pursuing their tasks. The historical judgment, which the Fourth Amendment accepts, is that unreviewed executive discretion may yield too readily to pressures to obtain incriminating evidence and overlook potential invasions of privacy and protected speech. *U.S.* v. *U.S.D.C., E.D. Mich.* 407 U.S. 297 (1972).

In Katz against United States, the Court held invalid governmental eavesdropping of a person's conversation from a public phone booth:

> The Fourth Amendment protects people, not places. What a person knowingly exposes to the public, even in his own home or office is not a subject of Fourth Amendment protection . . . But what he seeks to preserve as private, even in an area accessible to the public may be constitutionally protected . . . No less than an individual in a business office, in a friend's apartment, or in a taxicab, a person in a telephone booth may rely on the protection of the Fourth Amendment. One who occupies it, shuts the door behind him, and pays the toll that permits him to place a call, is surely entitled to assume that the words he utters into the mouthpiece will not be broadcast to the world. To read the Constitution more narrowly is to ignore the vital role that the public telephone has come to play in private communications. *Katz* v. *U.S.* 389 U.S. 347 (1967).

At a minimum, the holding in the above cases indicates that the Supreme Court would not permit the Government to maintain surveillance of an individual's bank records without summons, subpena, warrant, or other legal process.

Dealing directly with the question of bank records, the United States District Court for the Northern District of California said:

> It would seem that . . . a bank customer does expect a degree of privacy in these matters and that such an expectation is one that the society has been prepared to recognize as "reasonable."
>
> As stated by the Supreme Court of California in *City of Carmel* v. *Young* . . . "In any event we are satisfied that the protection of one's personal financial affairs and those of his (or her) spouse and children against compulsory disclosure is an aspect of the zones of privacy which is protected by the Fourth Amendment and which also falls within that penumbra of constitutional rights into which government may not intrude absent a showing of compelling need and that the intrusion is not overly broad." *Stark* v. *Connally, et al.*

Concern about the virtually unlimited secret access that Government now has to personal financial records has grown since the passage of the Bank Secrecy Act and the Treasury regulations. Especially in California, there has been great public protest both against the recordkeeping regulations and against secret access.

The Stark case, filed in the District Court for the Northern District of California, challenged the Bank Secrecy Act and the Treasury regulations issued to implement the law. The court there ruled that the portion of the statute which required the virtually unlimited reporting of domestic financial transactions unconstitutional. The case is now on appeal to the Supreme Court.

At the same time, the California legislature has been considering legislation parallel to that which we are proposing. While there is a pressing need for States to reform their laws to insure that bank customers have adequate rights, there is also a need for uniform legislation at the Federal level. Such legislation should apply to all Federal agencies which request access to bank records, and to all banks subject to Federal regulation. But because this bill deals in large part with records which are kept by reason of the authority granted to the Secretary of Treasury in the Bank Secrecy Act, its scope must be broader. In fact, because we are dealing with rights of privacy protected by provisions of the Federal Court and Supreme Court decisions, and applicable to the States through the 14th amendment, the sponsors have written the bill to apply generally and uniformly.

It should be clear from the Senators who have sponsored the bill, and from the sponsors of the identical House measure, that the legislation is bipartisan in nature. Democrats and Republicans, conservatives and liberals, can join together in any effort to apply procedural rights to protect the privacy of all Americans. I certainly hope that other Members will join as cosponsors, and that the legislation will be speedily enacted.

I ask that the bill and a sectional analysis explaining its terms be printed in the RECORD at this point.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This title may be cited as the "Right to Financial Privacy Act of 1973".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) Procedures and policies governing the relationship between financial institutions and Government agencies have in some cases developed without due regard to citizens' constitutional rights;

(2) The confidential relationships between financial institutions and their customers are built on trust and must be preserved and protected; and

(3) Certain reporting and recordkeeping requirements imposed on financial institutions by Government agencies constitute a burden on interstate commerce.

(b) The purposes of this Act are to protect and preserve the confidential relationship between financial institutions and their customers and the constitutional rights of those customers and to promote commerce by prescribing policies and procedures to insure that customers have the same right to protect against unwarranted disclosure of customer records as if the records were in their possession.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "financial institution" means—

(1) a bank or trust company organized under the laws of any State or of the United States;

(2) a savings and loan association or building and loan association organized under the laws of any state or of the United States;

(3) a credit union organized under the laws of any State or of the United States;

(4) any other organization chartered under the banking laws of any State and subject to the supervision of the bank supervisory authorities of a State;

(b) The term "financial records" means any original or any copy of—

(1) any debit or credit to a customer's deposit or share account with a financial institution;

(2) any record held by a financial institution containing information pertaining to a customer's relationship with the financial institution.

(c) the term "person" means an individual, partnership, corporation, association, trust, or any other legal entity organized under the laws of a State or the United States.

(d) the term "customer" means any person patronizing a financial institution and utilizing service offered by that financial institution.

(e) the term "supervisory agency" means—

(1) the Federal Deposit Insurance Corporation;

(2) the Federal Savings and Loan Insurance Corporation;

(3) the Federal Home Loan Bank Board;

(4) the National Credit Union Administration;

(5) the Federal Reserve Board;

(6) the Comptroller of the Currency;

(7) any State department or agency which is required by law to perform periodic examination or audit of the financial records of non-federal financial institutions or;

(8) any authority of any State or local government which the Secretary of the Treasury determines by regulation exercises supervisory functions substantially similar to those exercised by the agencies referred to in clauses (1) through (7) of this paragraph.

CONFIDENTIALITY OF RECORDS—GOVERNMENT

SEC. 4. (a) Except as provided in Section 10, no officer, employee, or agent of the United States, or any agency or department thereof, or of state or local governments may obtain copies of, or the information contained in, the financial records of any customer from a financial institution unless the financial records are described with particularity and:

(1) such customer has authorized such disclosure in accordance with Section 6; or

(2) such financial records are disclosed in response to an administrative subpoena or summons which meet the requirements of Section 7; or

(3) such financial records are disclosed in response to a court order which meets the requirements of Section 8; or

(4) such financial records are disclosed in response to a judicial subpoena which meets the requirements of Section 9.

(b) In any proceeding relating to such subpoenas, summons, and court orders, the customer shall have the same rights as if the records were in his possession.

CONFIDENTIALITY OF RECORDS—FINANCIAL INSTITUTIONS

SEC. 5. (a) No financial institution, or any officer, employee or agent of a financial institution, may provide to any officer, employee or agent of the United States, or any agency or department thereof, or of state or local governments copies of, or the information contained in, the financial records of any customer except in accordance with the requirements of sections 6, 7, 8 and 9.

(b) This section shall not preclude a financial institution from notifying appropriate officials of federal, state or local governments of violations of the criminal law suspected of being committed against the financial institution itself; provided, however, that any access to customer records shall be governed by Section 4 and 5(a) of this law.

CUSTOMER AUTHORIZATION

SEC. 6. (a) A customer may authorize disclosure under section 4(a) (1) if he or those seeking disclosure furnish to the financial institution a signed and dated statement by which the customer

(1) authorizes such disclosure for a period not in excess of one year; and

(2) identifies the financial records which are authorized to be disclosed; and

(3) specifies the purposes for which, and the agencies to which, such records may be disclosed.

(b) No such authorization shall be required as a condition of doing business with such financial institution.

(c) The financial institution shall keep a record of all examinations of the customer's financial records, including the identity and purpose of the person examining the financial records, the governmental agency or department which he represents and a copy of the authorization. The financial institution shall notify the customer that he has the right at any time to revoke any authorization of disclosure and to obtain a copy of the aforementioned record of examinations.

ADMINISTRATIVE SUBPENAS AND SUMMONS

SEC. 7. (a) An officer, employee, or agent of the United States or any department or agency thereof or of state or local governments may obtain financial records under section 4(a) (2) pursuant to an administrative subpena or summons otherwise authorized by law only if: (1) Those serving such administrative summons or subpena have first served a copy of the subpena or summons on the customer in person or by certified mail, return receipt requested; and

(2) the subpena or summons includes the name of the intended recipient and, if applicable, the statutory purpose for which the information is to be obtained; and

(3) the customer directs the financial institution to comply, or

(4) the financial institution is served with a court order directing it to comply, issued after notice to and opportunity for the customer to challenge such subpoena or summons.

(c) Nothing in this Act shall preclude a financial institution from notifying a customer of the receipt of an administrative summons or subpoena.

SEARCH WARRANTS

SEC. 8. An officer, employee or agent of the United States or any agency or department thereof, or of state or local governments, may obtain financial records under Section 4(a) (3) only if he obtains a search warrant pursuant to the Federal Rules of Criminal Procedure or to applicable state law. The search warrants shall be served upon both the customer and the financial institution. Examination of financial records may occur as soon as the warrant is served on the financial institution and the customer.

JUDICIAL SUBPOENA

SEC. 9. An officer, employee or agent of the United States or any department or agency thereof or of state or local governments may obtain financial records under Section 4(a) (4) pursuant to a judicial subpoena only if:

(a) the subpoena specifies—

(1) that the subpoena is issued for good cause and is material to the inquiry pursuant to which the subpoena has been issued; and

(2) that a copy has been served on the customer, in person or by certified mail, return receipt requested; and

(b) ten days pass without notice to the financial institution that the customer has moved to quash the subpoena. Where so notified, the financial institution may comply with the subpoena only when it is served with a court order directing it to comply, issued after determination of the customer's motion.

ACCESS

SEC. 10. Copies of, or the information contained in, financial records obtained pursuant to Section 4 shall not be used or retained in any form for any purpose other than the specific statutory purpose for which the information was originally obtained, nor shall such information or records be provided to any other governmental department or agency or other person except where the transfer of such information is specifically authorized by statute.

EXCEPTIONS

SEC. 11. (a) Nothing in this title prohibits the dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

(b) Subject to the limitations in Section 10, nothing in this title prohibits examination by or disclosure to any supervisory agency of financial records solely in the exercise of its supervisory function or the making of reports or returns required under the Internal Revenue Code of 1954.

RECORDKEEPING AND REPORTING

SEC. 12. Notwithstanding any other provision of law, the Secretary of the Treasury may not require an institution to maintain any financial records or to transmit any reports relating to customers unless

(a) such records are required for use by a supervisory agency in the supervision of that institution; or

(b) such records are required to be maintained by the Internal Revenue Code of 1954.

JURISDICTION

SEC. 13. An action to enforce any provision of this Act may be brought in any appropriate United States District Court without regard to the amount in controversy or in any other court of competent jurisdiction within three years from the date on which the violation occurs or the date of discovery of such violation whichever is later.

CIVIL PENALTIES

SEC. 14. (a) Any person, financial institution, or any officer, employee or agent of a financial institution, of the United States or any agency or department thereof, or of state or local governments, who obtains or discloses one or more financial records in violation of this Act is liable to the customer to whom such records relate in an amount equal to the sum of—

(1) $100 for each violation,

(2) any actual damages sustained by the customer as a result of the disclosure,

(3) such punitive damages as the court may allow, where the violation is found to have been knowing or willful, and

(4) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorney's fees as determined by the court.

CRIMINAL PENALTIES

SEC. 15. (a) Any person, officer, employee, or agent of a financial institution, of the United States, or any agency or department thereof, or of state or local governments who willfully and knowingly participates in a violation of this title shall, upon conviction, be imprisoned for not more than one year, or fined not more than $5,000, or both.

(b) Any person, officer, employee, or agent of a financial institution, the United States or any agency or department thereof, or of state or local governments, who induces or attempts to induce a violation of this title shall, upon conviction, be imprisoned for not more than one year, or fined not more than $5,000 or both.

INJUNCTIVE RELIEF

SEC. 16. In addition to any other remedy contained in this chapter or otherwise available, injunctive relief shall be available to any person aggrieved by a violation or threatened violation of this title. In the event of any successful action, costs together with reasonable attorney's fees as determined by the court may be recovered.

WAIVER OF RIGHTS

SEC. 17. No waiver by of any right hereunder shall be valid, whether oral or written, and whether with or without consideration.

INCONSISTENT PROVISIONS OF LAW

SEC. 18. Should any other law of the United States or any other jurisdiction grant or appear to grant power or authority to any person to violate the provisions of this chapter, the provisions hereof shall supercede and protanto override and annul such law, except those statutes hereinafter enacted which specifically refer to this title.

SEPARABILITY

SEC. 19. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 20. The provisions of this title shall become effective upon the expiration of one hundred and eighty days following the date of enactment.

RIGHT TO FINANCIAL PRIVACY ACT OF 1973—SECTION-BY-SECTION ANALYSIS

SHORT TITLE

Section 1—This section states the title of the Act.

FINDINGS AND PURPOSE

Section 2—This section sets forth Congressional findings which demonstrate the need for the legislation. It recognizes that government officials have obtained information from individuals' bank records without their knowledge and in ways that preclude them from asserting their constitutional and procedural rights, that the customer has a right to expect that his relationship with his financial institution will be confidential, and that certain recordkeeping and reporting requirements of federal law are a burden on interstate commerce. It then sets forth the Congressional purpose of insuring that an individual who establishes this kind of confidential relationship with a financial institution will not lose those rights to control disclosure of financial information about him which he would have had if he had possession of the records.

DEFINITIONS

Section 3—This section defines five terms used in the Act: "financial institution," "financial records," "person," "customer," and "supervisory agency."

CONFIDENTIALITY OF RECORDS—GOVERNMENT

Section 4(a)—This section set out the basic requirements which must be met before federal, state and local government officials can have access to the records of customers of financial institutions. Access to the records is limited to four methods, each of which is governed by a subsequent section of the Act: customer consent, administrative subpoenas and summons, search warrants and judicial subpoenas.

Section 4(b)—In any proceeding relating to the above means of access, the customer is to have the same standing he would have if the records were in his possession. This recognizes that the real dispute is between the customer and the government, and that their respective rights should be determined before the bank discloses any information in response to government requests.

CONFIDENTIALITY OF RECORDS—FINANCIAL INSTITUTIONS

Section 5—This section places a corresponding obligation on financial institutions not to disclose information from customer records unless the Section 4(a) requirements have been met. The financial institution may, of course, continue to report crimes it suspects of being committed against itself. However, once the financial institution reports a suspected crime, any subsequent access to customer records will be governed by the requirements in Section 4 and 5(a).

CUSTOMER AUTHORIZATION

Section 6—This section provides that the customer may authorize disclosure. This procedure requires that he give the financial institution or the government official or agency wishing to inspect the records a signed and dated statement. The statement can only authorize disclosure for up to one year, must identify the records which may be disclosed and must specify the purposes for which and the agencies to which disclosure will be allowed. The section makes it clear that any such authorizations are voluntary and cannot be made a condition of doing business with the institution. It further obligates the financial institution to inform the customer, generally at the outset of the relationship between the financial institution and the customer, that he has a right at any time to revoke any such authorizations and to inspect the records which the financial institution must keep of each occasion on which the customers' records are examined.

ADMINISTRATIVE SUBPOENAS AND SUMMONS

Section 7—This section provides that the normal rules governing administrative subpoenas and summons shall be followed when a federal, state or local government official seeks to obtain financial records by means of an administrative subpoena or summons. Before serving a summons or subpoena on the institution, the government official must first serve a copy on the customer, either in person or by certified mail. Thereafter, the bank may comply with the subpoena only where the customer tells it to do so or where the bank thereafter receives a court order directing it to comply. This section makes it clear that the customer must get notice of both the subpoena and any subsequent governmental effort to enforce the subpoena by obtaining a court order so that the customer will have an opportunity to challenge the request before the financial institution has to make the information available.

SEARCH WARRANTS

Section 8—This section provides that federal, state or local government officials may obtain financial records by means of a search warrant where the traditional constitutional standard of probable cause has been met. Examination of the records may take place as soon as the warrant has been served on both the customer and the financial institution.

JUDICIAL SUBPOENAS

Section 9—This section provides that the judicial subpoenas presently used by federal, state and local officials may be used to obtain financial records in the normal course of criminal proceedings, including grand jury, pretrial and trial use. The subpoena must specify that there is good cause for its issuance, that the information requested is relevant, and that a copy has previously been served on the customer, either in person or by certified mail. The section then gives the customer time to challenge the subpoena. If ten days pass without the customer telling the financial institution that he has moved to quash the subpoena, the financial institution may go ahead and allow disclosure of the records. Where the customer tells the bank that he has moved to quash the subpoena, the financial institution may disclose the records only when ordered to do so by a court which has heard and determined the customer's motion.

ACCESS

Section 10—This section insures that information obtained by government officials will only be used for the specific purpose for which it was obtained in the first place, except where there is another statute which specifically authorizes the transfer of such information.

EXCEPTIONS

Section 11—This section makes it clear that the prohibitions are not intended to prevent the dissemination of financial information in statistical forms which does not identify individual customers. It further makes it clear that reports required by government agencies which supervise financial institutions or reports required under the Internal Revenue Code may continue, subject to the limitation in Section 10.

RECORDKEEPING AND REPORTING

Section 12—This section limits the Secretary of the Treasury's ability to require financial institutions to keep financial records or transmit reports on customers to two situations, where such reports are required by a supervisory agency or by the Internal Revenue Code. This section is intended to repeal contrary provisions of Titles I and II of P.L. 91-508 (the "Bank Secrecy" Act).

JURISDICTION

Section 13—This section provides that actions to enforce the act may be brought in any federal district court without regard to the amount in controversy or in any other court of competent jurisdiction within three years from the time the violation occurs or from the time it is discovered, whichever is later.

CIVIL PENALTIES

Section 14(a)—This section imposes civil penalties on anyone, including financial institutions, their officers or employees, or officials of state, federal and local government, who violates the Act. The penalties include $100 for each violation, actual damages, punative damages, and costs and attorney's fees.

CRIMINAL PENALTIES

Section 15—This section makes it a crime to violate this act or to induce or attempt to induce a violation of this act and establishes penalties of imprisonment for not more than one year or a fine of not more than $5000 or both.

INJUNCTIVE RELIEF

Section 16—This section provides that persons aggrieved by a violation of the act or a potential violation may seek and obtain injunctive relief.

WAIVER OF RIGHTS

Section 17—This section makes it clear that all waivers of rights under the act by customers are invalid.

INCONSISTENT PROVISIONS OF LAW

Section 18—This section makes it clear that if any law seems to contradict this statute, this statute shall prevail unless specifically referred to in any subsequent statutes.

SEPARABILITY

Section 19—This section contains the standard language which preserves portions of the act in the event other portions are held to be invalid.

EFFECTIVE DATE

Section 20—This section states that the law shall become effective one hundred and eighty days after it is enacted.

A CITIZEN'S RIGHT TO FINANCIAL PRIVACY

Mr. MATHIAS. Mr. President, I am pleased to join my distinguished colleagues, Senators CRANSTON, BROCK, ERVIN, and TUNNEY, in introducing today a bill to insure that disclosures by financial institutions to Government officials and agencies of the details of private bank accounts are made in accordance with reasonable procedural safeguards. These safeguards have long been needed to protect the constitutional rights of individual Americans and to prevent unwarranted invasions of privacy by overzealous or misguided Government personnel. They are needed also to guarantee that citizens may have confidence that these important papers are handled in accordance with reasonable legal and constitutional procedures, and so that all Government agencies and officials who have need for this information can secure it with the full cooperation and support of the courts, financial institutions, and the individual bank customer.

As all of us know, an individual's bank account is not just another collection of paper. It is extremely revealing as to details of the customer's personal and political life. The information revealed by checks, other withdrawals, or deposits, mirror the activities of the account holder—the political causes he supports, the publications to which he subscribes, the debts he owes, the purchases he makes, the source of his income, and so forth. It reflects with considerable accuracy the individual's exercise of his rights under our Constitution, and particularly his first amendment rights. The information is no less revealing or critical if the account holder is a political, social, or religious organization than if he is a private citizen.

Because information in even poor bank accounts is so rich in details, it is quite understandably sought after by various Government agencies and officials. But, just as in other areas such as telephone conversations or private records maintained in homes, the same characteristics which make information contained in bank accounts useful to Government agencies also mean that basic individual rights and liberties can be trampled by abuse of the information or of the process by which the information is obtained. And, just as we have prescribed procedures by which the Government can obtain information in those cases without violating fundamental rights, so should we in the Congress now insure similar procedural safeguards for these critical records.

Abuse of individual rights is now encouraged by the fact that Government personnel seek to and do, in fact, examine copy and retain information from financial institutions without any notice to or consent by any court or the individual bank customer. The Government admitted to this practice in testimony last August before the Senate Subcommittee on Financial Institutions. The practice was defended as being in pursuit of noble objectives. And, although there are some disturbing instances in which the objectives appear less than noble, one need not question the Government's statement of objectives. For the fact remains that procedures which involve no judicial review, no notice, no showing of cause, threaten to violate, and do violate, rights of privacy which are protected by the Constitution and should be ensured by specific acts of Congress.

The financial institutions are not in a position to staunchly defend the interests or rights of their customers against unwarranted invasions of such agencies—particularly when the Congress and the courts have thus far failed to spell out what the rights of these customers are. These institutions have recognized that they are not in a position to balance the needs of the Government with the rights of individuals, and I am pleased that the effort represented by this bill has the support of the bankers associations at the State as well as the Federal levels.

The bill which we will introduce establishes a process which will insure that Government agencies can obtain the information they need for proper purposes while ensuring that individual rights and liberties will be protected.

This legislation is a refinement of bills which were introduced last year—S. 3814 sponsored by Senators TUNNEY and BROCK and S. 3828 sponsored by Senator ERVIN and myself. These bills were the subjects of public hearings on August 11 and 14, 1972, before the Subcommittee on Financial Institutions of the Senate Committee on Banking, Housing and Urban Affairs. The legislation we propose today takes into account the testimony presented at those hearings.

The bill we are introducing—the right to Financial Privacy Act of 1973—is being introduced today as well in the other Chamber by a number of Congressmen including the Honorable WRIGHT PATMAN. The bill would prohibit Government agencies from obtaining records from financial institutions, and prohibit financial institutions from disclosing records to Government agencies and officials, except in accordance with four methods outlined by separate sections of the bill. These methods are customer consent, administrative summons, and subpenas, search warrants and judicial subpenas. The bill makes exceptions for information of such a general nature that it does not identify the individual customers, information required to be disclosed under the Internal Revenue Code, and information disclosed to Government agencies which supervise financial institutions providing that such information is solely for use in fulfilling such supervisory responsibilities.

The bill would limit the Government's power to require financial institutions to keep such records as are required by a supervisory agency or by the Internal Revenue Code. The bill provides civil and criminal penalties for violations of its sections.

Mr. BROCK. Mr. President, it is with great pleasure that I join with my distinguished colleagues, the Senator from Maryland (Mr. MATHIAS) and the Senator from California (Mr. TUNNEY) in introducing the Right to Financial Privacy Act of 1973.

The purpose of this legislation is to protect the constitutional rights of citizens of the United States against unwarranted invasions of privacy. The bill prescribes procedures and standards governing the disclosure of bank records and bank accounts.

In the last session of Congress the Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs conducted extensive hearings on regulations issued by the Department of Treasury to implement the Bank Secrecy Act and on amendments to assure the privacy of individual bank accounts.

The principal purpose of the Bank Secrecy Act is to enable law-enforcement authorities to obtain the evidence needed to prosecute white collar criminals. The act was designed to achieve these objectives by requiring financial institutions to maintain certain records which the Secretary of the Treasury determines to have a high degree of usefulness in tax, criminal, or regulatory proceedings. The subcommittee's hearings indicated that there have been invasions of an individual's privacy under this act and that additional legislation may be necessary to prohibit unlimited fishing expeditions into private financial records on the part of law-enforcement officials.

I fully support the principle contained in this bill that an individual bank account and confidential financial records should not be subject to arbitrary fishing expeditions by the Government.

Mr. TUNNEY. Mr. President, the daily headlines reveal in chilling detail the extent to which one of the most basic rights of Americans has been abused and flaunted in recent years—the right of citizens to be secure in their homes and in their privacy. From the time of the midnight sorties of Redcoats in colonial times to the midnight raids of the Watergate burglars in ours, Americans have resisted totalitarian assumptions of power by any authority or administration. In the Bill of Rights, they made their homes secure from unreasonable research and seizure.

Today they must regain the right of freedom from unwarranted snooping and surveillance—whether of their beliefs, their personal lives, their conversation with others, or their personal records.

While the law is designed to safeguard privacy in many aspects of our lives, there is presently inadequate protection from unwarranted snooping into such personal matters as bank accounts.

Any bank account can be an open hunting ground for Federal agents. The agents need no justification, no court order, no search warrant, and may be moved by nothing more than personal whim or suspicion. Such unbridled power may be appropriate to a police state, but certainly not to ours.

For these reasons, I am pleased to join with my colleague from California, Senator ALAN CRANSTON, and with Senators BROCK, ERVIN, and MATHIAS in sponsoring the Right of Financial Privacy Act of 1973. Assaults by the Government on the privacy of Americans have shocked and distressed many of us in Congress, as well as Americans generally. The privacy of financial records is one area too long left unregulated, and open to the whims of Government investigation.

Our bill will serve to restrict the vast data-recording activities of the Federal Government, a propensity which has serious implications for the privacy and civil rights of our citizens. Our bill also will lay out, for the first time, rules under which Government agencies may have access to the bank records of citizens and businesses, and end the widespread policy of secret examination of financial records without the knowledge of the person under surveillance.

Finally, the bill specifies that, when a Government agency seeks financial records from a bank or other institution, the customer whose records are sought—the real party in interest—has the right to challenge the Government for legal cause. I believe passage of this bill will be a major step in restoring the faith of the average American in the privacy and sanctity of his personal activities and records from governmental inquiry.

This bill is similar to legislation introduced separately last year by Senator MATHIAS and myself. Recent events have heightened the need for this legislation. The bill we introduce today represents the best elements of the bills presented last year.

I became alarmed last year at the extremely broad sweep of regulations issued by the Treasury Department, under the Banks Secrecy Act, to require banks and other financial institutions to maintain copies of and make reports of the financial records of citizens and businesses. Under the regulations, checks, loan applications, letters or other records coming through a financial institution would be microfilmed and kept for 5 years. Many of these records were to be forwarded automatically to the Treasury without the individual's knowledge. For these reasons, on July 20, 1972, I introduced S. 3814, a bill to amend the Bank Secrecy Act, which was substantially similar to the legislation introduced today.

The automatic reporting requirement was found unconstitutional and enjoined from being enforced by a Federal district court in San Francisco; that case has been appealed to the Supreme Court.

Nonetheless, vast recordkeeping of the private financial dealings of the great majority of Americans is now being carried out by the Federal Government. This practice goes far beyond the purposes of the Bank Secrecy Act, which were to reduce the incidence of white-collar crime and obtain more information about foreign financial transactions of American citizens and residents, particularly those with secret accounts overseas. The Government has no legitimate interest in the checks that pay the grocery bill or light bill of a citizen or business. For these financial records reveal some sensitive and personal aspects of an individual's life: the newspapers and magazines he subscribes to, the organizations or societies to which he belongs or contributes. Knowledge that the Government may learn about these private matters through financial records can have a chilling effect on the individual's constitutional rights of free association and free ideas and opinions. Add to this the big brother capability of big Government's computer hardware, and the danger becomes apparent.

Few Americans are aware that their financial records are open to indiscriminate examinations. They expect, and financial institutions also profess, that individual financial records are confidential. Yet a Government attorney, during arguments on the bank secrecy bill lawsuits, flatly declared that, in the Government's view, an individual has no right of privacy in his financial records. I think most Americans would be shocked to know of this callous and irresponsible position taken by its Government.

HEARINGS LAST YEAR

We learned in the hearings last year on my bill and Senator MATHIAS' bill just how fragile are an individual's rights in this regard. During those hearings, the Government witnesses indicated that there is widespread examination of individuals' financial records by Government agencies. This examination is carried out routinely by agreement between bank officials and investigators, without notice to the customer and without any legal process, such as a subpena or search warrant.

We also learned of some of the dimensions of abuses. A young man who lives in the suburbs of San Francisco, happened to espouse unpopular causes, discovered that the FBI had examined all his bank records with the assistance of his bank. An actress associated with points of view opposed to this administration, had a thick FBI dossier which contained voluminous detail about her financial records. In neither case was a legal subpoena obtained, nor was any criminal activity alleged or charged by the FBI.

These examples must then be added to other revelations which have come out in recent years and months—the use of military intelligence agents to delve into the lives of thousands of Americans, secret teams of "plumbers" who commit burglaries and compile psychiatric profiles, and the widespread use of wiretaps. When the highest levels of our Government fail to instill a sense of restraint and respect for the rights of individual citizens will justifiably worry about their privacy from all forms of Government intrusion.

In answer to questioning, the administration witnesses at the hearings last year admitted that legal process was rarely used in gaining access to financial records. We were told that the public should trust in the "conscience" of the investigating agency and in the "responsibility" of the bank officials. Unfortunately, recent events hardly give hope that citizens can trust in the wisdom and "conscience" of Government investigative bodies to protect their financial records from unjustified and secret examination.

THE RIGHT TO FINANCIAL PRIVACY ACT OF 1973

The bill introduced today will strengthen the rights of individuals in the privacy of their financial records. It sets forth a basic rule that no Federal, State or local agency, or any agent or employee of such an agency, may obtain financial records of a customer from any financial institution except pursuant to four specific methods. These methods are: first, prior written consent of the customer, second, administrative subpena served on the customer and financial institution, followed by the customer's consent or a court order directing disclosure of the records, third, search warrants issued for probable cause pursuant to law, which may be used without prior notice to the customer, and fourth, judicial subpena which gives a customer 10 days to object before the financial institution must disclose the required records. Under these rules, in all cases, the agency must identify with specificity the records required, and the statutory purpose for which they are sought.

Once obtained by any of these legal means, a Government agency must use them only for the statutory purpose for which they were originally obtained, and may not retransfer them to any other person or Government agency unless such retransfer is specifically authorized by law. The bill provides that, in any court proceeding on any subpoena, summons or order for disclosure, the customer, rather than the bank or financial institution, shall be the real party in interest and have the right to challenge the request for disclosure. This recognizes that the records really belong to the individual, and that it is his privacy and his rights which are at stake.

The bill provides for effective enforcement. Unlawful disclosure or receipt of financial records under the bill is a crime, subject to 1 year's imprisonment or $5,000 fine, or both. The customer whose records are wrongfully disclosed has a right to civil penalties of $100 per violation, actual damages if sustained, punitive damages if warranted, and attorney's fees and costs if the suit is successful. Injunctive relief also is authorized. Any of the civil suits may be brought in Federal court without regard to the amount in controversy.

There is another provision of the bill which is designed to lessen the temptation for Government snooping which is engendered by the existence of great masses of financial records. Certain aspects of the Bank Secrecy Act are repealed, through a provision barring the Secretary of the Treasury from ordering financial institutions to maintain any records other than those required by supervisory bodies or the Internal Revenue Code.

Whenever an attempt is made to protect individuals against government interference, a line is drawn between the rights of the individual, and the needs of society as a whole for certain powers. For the past two centuries, the courts and the other branches of government have debated the meanings of the first, fourth, and fifth amendments to the Constitution, and we have now clearly evolved doctrines to protect the individual from invasions of privacy and inhibitions on his freedoms to ameliorate and speak his mind. Unfortunately, access to financial records has not been as carefully circumscribed as, say, access to an individual's home or his telephone conversations. Yet financial records are history; they cannot be changed or lost, as can oral conversations or tangible evidence which may be in the hands of a suspected criminal. Certainly, access to them should not involve fewer procedural safeguards than interception of oral conversations or seizure of tangible evidence. The Right to Financial Privacy Act of 1973 would end politically motivated fishing expeditions through private financial records. While at the same time a variety of methods are allowed to law enforcement officials, some of which require notice to the customer and some of which do not. I am confident that Government officials will learn to live with these rules just as they did with rules that outlawed warrantless searches.

I recognize an area of legitimate debate with respect to the coverage of this legislation. Last year representatives of several local law enforcement agencies suggested that passage of this legislation would be unduly burdensome on their activities.

I recognize that there may be quite different considerations with respect to local law enforcement activities, primarily concerned with common crimes such as bad checks, and the activities of the Federal Government, with its vast resources and pervasive influence. Last year's hearings did not, unfortunately, bring out enough evidence on this issue. I feel that this question deserves fuller exploration, and I look forward to further hearings on this issue. It is interesting to note that my own State of California is presently considering legislation very similar to the bill which we introduce today. It will be interesting to see how the State legislature deals with coverage of local law enforcement agencies.

Whatever the ultimate decision of the Congress on the precise coverage of this bill, the policy and rules which it enacts are long overdue. I believe the Right to Financial Privacy Act of 1973 will be a significant milestone in the protection of individual liberties of the citizens of America.

By Mr. JOHNSTON:

S. 2201. A bill to provide for the settlement of damage claims arising out of certain actions by the United States in opening certain spillways to avoid flooding populated areas. Referred to the Committee on Public Works.

Mr. JOHNSTON. I introduce for appropriate reference a bill to provide for the settlement of damage claims suffered by oyster fishermen because of certain actions taken by the United States in connection with the opening of the Bonnet Carre and Morganza Spillways during the early part of 1973. None of the present flood assistance measures deals with this unique and serious problem. The oyster industry is over a century old.

Yet, despite the injuries caused to that industry during its long life, both by the natural elements, such as seasonal intrusions of salt water from the Gulf of Mexico and by manmade pollution from the land, the oyster industry has survived without assistance from either State or Federal governments. It has been characterized by a strong history of self-reliance, and for years has produced one of the Nation's most delightful and romantic foods. Now, however, that industry has suffered a serious blow, and the bill that I am introducing today will provide for the first time compensation to the hardworking members of that industry who have suffered so greatly as a result of the flood protection effort taken by the United States in the spring of this year.

Mr. President, as Members of the Senate are well aware, large areas of the State of Louisiana were threatened by flooding in the spring of this year as a result of the unusually high waters of the Mississippi River. To avert this, the Bonnet Carre and Morganza Spillways were opened, relieving highly-populated areas of the risk of massive flooding, but causing tremendous quantities of freshwater from the Mississippi River to intrude into oyster-growing areas. This freshwater, and accompanying silt, sand and other pollutants, killed a great percentage of the oysters growing in those areas, causing a serious crisis in the oyster industry.

In the absence of transplants, the affected oyster beds will produce no oysters until 1976 or later. Fresh water has brought an increase in the level of pollution. The Louisiana Department of Health has closed practically all of the oyster-growing areas since early May, bringing the industry to a virtual standstill. The obvious consequence is that the oyster fishermen will, for some considerable length of time, be deprived of expected and well-deserved income.

Because of this tragic situation, oyster fishermen are in need of immediate financial aid to help them through this period, and additional assistance will be needed by them in order to rebuild the oyster beds lost due to the opening of the spillways.

At present, there is no legal remedy available for this kind of damage. Title 33, section 702C of the United States Code specifically states that the United States is not liable in any way for any flood damage resulting from or by flood waters at any place. The courts have interpreted this to immunize the Federal Government from damages caused by the installation or operation of flood control projects. Therefore, if these oyster fishermen are to get the kind of relief they need, it must come from the Congress of the United States and it must come now.

A solution to the total problem of oyster fishermen would involve a long-range program of permanent or quasi-permanent assistance to help the oyster industry both to survive and to compete with other food industries in Louisiana. To do this would cost a tremendous amount of money and require the involvement over a period of time of a good deal of governmental machinery.

Mr. President, this bill does not involve a long-range relief program, nor does it involve an enormous cost to the Federal Government. It seeks merely to give an oyster fisherman who has suffered damage as a result of actions of the Federal Government a chance to prove his claim and to reestablish himself. I submit that this is a reasonable approach, and the only fair and just answer to the plight in which oyster fishermen find themselves, through no fault of their own, but because of actions taken by the Federal Government.

I ask unanimous consent that the bill be printed in the RECORD following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereinafter referred to as the "Secretary") or his designee, is authorized and directed to receive, investigate, settle, and pay all claims against the United States for losses incurred by oyster fishermen in the State of Louisiana in connection with the damage or destruction of oyster crops in such State as a result of certain action taken by the United States in the opening of the Bonnet Carre and Morganza Spillways in the State of Louisiana during 1973, including claims for reasonable expenses incurred as a result thereof, and interest on the principal amount of such claims computed at a rate of 6 per centum per annum from the date that the losses resulting in any such claim occurred.

(b) As used in this Act, the term "settle" means consider, ascertain, adjust, determine and dispose of a claim, whether by full or partial allowance or by disallowance.

SEC. 2. (a) The Secretary is authorized to issue such rules of procedure for the receipt, consideration, and disposition of claims filed under this Act as he deems appropriate.

(b) Claimants shall submit their claims in writing to the Secretary, under such rules as he may prescribe pursuant to subsection (a), within one year from the date of the enactment of this Act.

(c) The Secretary shall determine and pay the amount of awards, if any, in the case of each claim within twelve months from the date on which the claim was submitted.

SEC. 3. With respect to claims filed and awards paid pursuant to the provisions of this Act, the Secretary shall limit himself to the determination of—

(1) whether the losses sustained resulted from the action of the United States in opening the Bonnet Carre and Morganza Spillways during 1973;

(2) the amounts to be awarded as compensation for such losses; and

(3) the persons entitled to receive such awards.

SEC. 4. (a) The payment to any person of an award pursuant to a claim filed under the provisions of this Act shall be in full settlement and discharge of all claims of such person against the United States resulting from the damage or destruction described in the first section of this Act.

(b) No claim cognizable under the provisions of this Act shall be assigned or transferred, other than to the United States, except by operation of law.

SEC. 5. The Secretary shall, within two years after the date of the enactment of this Act, transmit to the Congress a report setting forth—

(1) each claim settled by him and paid pursuant to the provisions of this Act, with a brief statement concerning the character and equity of each such claim, the amount claimed, the amount approved and paid; and

(2) each claim submitted to him in accordance with the provisions of this Act which has not been settled by him, with supporting papers and a statement of his findings of facts and recommendations with respect to each such claim.

SEC. 6. There is authorized to be appropriated the sum of $5,000,000 for the purpose of carrying out the provisions of this Act.

By Mr. HATFIELD:

S. 2202. A bill to amend section 857 of title 10, United States Code, to require that pretrial confinement of members of the Armed Forces be deducted from the term of any sentence to confinement adjudged by a court-martial;

S. 2203. A bill to amend chapter 47 of title 10, United States Code, to authorize the military judge of any court-martial to suspend the sentence adjudged against an accused tried by such court-martial;

S. 2204. A bill to amend section 810 of title 10, United States Code, relating to the confinement of military personnel prior to trial by courts-martial;

S. 2205. A bill to improve the military justice system by establishing military judicial circuits, and for other purposes;

S. 2206. A bill to amend chapter 47 of title 10, United States Code, to provide that judges of the Courts of Military Review shall be appointed by the President, to confer authority on the Court of Military Appeals to issue orders and writs necessary to protect the rights of military personnel, and for other purposes;

S. 2207. A bill to amend chapter 47 of title 10, United States Code, so as to eliminate summary courts-martial from the military justice system;

S. 2208. A bill to confer jurisdiction on United States district courts to grant relief in certain cases involving military personnel where the relief available to such personnel under military law or regulation is inadequate for the protection of the constitutional rights of such personnel, and for other purposes;

S. 2209. A bill to amend section 803 of title 10, United States Code, relating to jurisdiction for the trial of military personnel;

S. 2210. A bill to amend chapter 47 of title 10, United States Code, so as to prescribe certain requirements with respect to the physical arrangements of furniture and other facilities of rooms for which courts-martial trials are conducted, and for other purposes;

S. 2211. A bill to amend section 825, (article 25) of title 10, United States Code, relating to eligibility standards for service on courts-martial and the method of selecting military personnel for such service;

S. 2212. A bill to amend chapter 59 of

title 10, United States Code, to prohibit the administrative discharge of enlisted members of the armed forces under conditions other than honorable;

S. 2213. A bill to amend chapter 47 of title 10, United States Code, to limit the jurisdiction of courts-martial, to eliminate the death penalty, to define certain additional offenses under such chapter, and for other purposes; and

S. 2214. A bill to amend chapter 47 of title 10, United States Code, to require that all requests to compel witnesses to appear and testify and to compel the production of other evidence before courts-martial trials be submitted to a military judge for approval, and to provide for the inadmissibility of certain evidence at courts-martial trials. Referred to the Committee on Armed Services.

Mr. HATFIELD. Mr. President, I am reintroducing today 13 bills relating to military justice which I originally introduced in the first session of the 92d Congress. I would also like to reiterate the remarks I made at that time, for while some of the references are a little dated, pertinent figures have been updated and the thrust of the remarks remains, I believe, most relevant to the current status of military justice. I ask unanimous consent that the text of the bills, and the remarks I made at their first introduction, be printed at this point in the Record.

There being no objection, the bills and remarks were ordered to be printed in the Record, as follows:

S. 2202

A bill to amend section 857 of title 10, United States Code, to require that pretrial confinement of members of the armed forces be deducted from the term of any sentence to confinement adjudged by a court-martial.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 857(b) (article 57(b)) is amended by adding at the end thereof a new sentence as follows: "Any period during which the accused is held in confinement before or during trial shall be deducted from any period of confinement to which he is sentenced, unless the confinement of the accused during such period was imposed pursuant to the sentence of a previous court-martial trial; but in no case shall any person be credited more than once for the same period of pretrial confinement."

Sec. 2. The amendment made by the first section of this Act shall be applicable to persons sentenced by courts-martial on and after the date of enactment of this Act.

S. 2203

A bill to amend chapter 47 of title 10, United States Code, to authorize the military judge of any court-martial to suspend the sentence adjudged against an accused tried by such court-martial.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That subchapter VIII of chapter 47 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ **858b. 58b. Sentences: authority of military judge to suspend**

"The military judge of any general or special court-martial may suspend the execution of any sentence or any part of any sentence, except a death sentence, adjudged against any accused by any court-martial at which such military judge presided as military judge."

Sec. 2. The table of sections at the beginning of subchapter VIII of chapter 47 of title 10, United States Code, is amended by adding at the end thereof the following:

"858b. 58b. Sentences: authority of military judges to suspend."

S. 2204

A bill to amend section 810 of title 10, United States Code, relating to the confinement of military personnel prior to trial by courts-martial.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 810 (article 10) of title 10, United States Code, is amended (1) by inserting "(a)" immediately before "Any" in the first sentence thereof, and (2) by adding at the end of such section a new subsection as follows:

"(b) Any person subject to this chapter charged with an offense under this chapter shall, upon his or his counsel's request, be released from confinement pending trial of the charges against him unless substantial and convincing evidence is presented to the appropriate Judge Advocate General, or to a military judge designated by the appropriate Judge Advocate General, that pretrial confinement is necessary to assure the presence of the accused for trial and the Judge Advocate General or law officer, as the case may be, issues an order authorizing the continued pretrial confinement of the accused."

Sec. 2. The provisions of this Act shall become effective on the first day of the sixth calendar month following the month in which this Act is enacted.

S. 2205

A bill to improve the military justice system by establishing military judicial circuits, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 47 of title 10, United States Code, is amended as follows:

(1) Subchapter I is amended by adding at the end thereof the following new sections:

"§ 806a. Art. 6a. Armed forces judicial circuits

"(a) The United States and all areas outside thereof shall be divided in judicial circuits. Such circuits shall be known as armed forces judicial circuits (hereinafter in this chapter referred to as 'judicial circuits') and each such circuit officer (hereinafter in this chapter referred to as a circuit) shall be in direct ratio to the personnel strength in Advocate General is a member.

"(b) The Judge Advocates General of the military departments are responsible for providing the personnel necessary to staff each judicial circuit. The number of personnel furnished by each Judge Advocate General to any judicial circuit shall be in direct ratio to the personnel strength in such circuit of the military department of which such Judge Advocate General is a member.

"(c) The officer assigned as the judicial circuit officer of any judicial circuit shall be selected in accordance with regulations issued by the Secretary of Defense but shall, whenever feasible, be an officer from the staff of the Judge Advocate General of the military department having the greatest personnel strength within such judicial circuit. All personnel assigned to a judicial circuit shall be under the command of the judicial circuit officer for that circuit; and the judicial circuit officer for any judicial circuit shall be under the command of the Judge Advocate General of the military department of which such judicial officer is a member.

"(d) The judicial circuit officer for each judicial circuit shall be responsible for the preparation of efficiency ratings for personnel under his command.

"§ 806b. Art. 6b. Division of armed forces judicial circuits

"(a) Each judicial circuit shall be divided into four sections as follows:

"(1) a field judiciary section;
"(2) a trial counsel section;
"(3) a defense counsel section; and
"(4) a trial review section.

Each section of a judicial circuit shall function as a separate office but the officer in command of each such section shall be under the command of the judicial circuit officer of that judicial circuit.

"(b) Under such regulations as the Secretary of Defense may prescribe, the commander of the field judiciary section of any judicial circuit shall, in appropriate cases, detail a military judge for the court-martial trial of any accused to be held within such judicial circuit, and shall detail or employ qualified court reporters to record the proceedings and testimony taken before any court-martial, military commission, or court of inquiry held within such judicial circuit. Under like regulations such commander may detail or employ interpreters to interpret for any such court or commission. The commander of the field judiciary section shall be responsible for making all arrangements necessary regarding the time and place for any court-martial trial to be conducted within the judicial circuit in which he is assigned and shall be responsible for notifying the accused, trial and defense counsel, the commanding officer of the accused, and other persons directly concerned with the trial.

"(c) The trial counsel section of any judicial circuit shall detail trial counsel and assistant trial counsel (when appropriate) for the court-martial trial of any accused to be held within such judicial circuit.

"(d) The defense counsel section of any judicial circuit shall detail defense counsel and assistant defense counsel (when appropirate) for the court-martial trial of any accused to be held within such judicial circuit.

"(e) The trial review section of any judicial circuit shall review all courts-martial cases held within such judicial circuit."

(2) The table of sections at the beginning of subchapter I is amended by adding at the end thereof the following:

"806a. 6a. Armed forces judicial circuits.
806b. 6b. Division of armed forces or judicial circuits."

(3) Subsection (a) of section 826 (article 26(a)) is amended to read as follows:

"(e) Military judges shall be assigned to judicial circuits by the Judge Advocate General of the military department of which such military judge is a member. When a military judge is assigned to a judicial circuit he shall serve in the field judiciary section of that judicial circuit. A military judge shall preside over each open session of the court-martial to which he has been detailed."

(4) Subsection (c) of section 826 (article 26(c)) is amended to read as follows:

"(c) The military judge of a general court-martial shall be designated by the Judge Advocate General, or his designee, of the armed force of which the military judge is a member for detail by the commander of the field judiciary section of the judicial circuit to which such military judge is assigned to duty. No person shall prepare or review any report concerning the effectiveness, fitness, or efficiency of a military judge other than a Judge Advocate. A commissioned officer who is certified to be qualified for duty as a military judge of a general court-martial may perform such duties only when he is assigned and directly responsible to the Judge Advocate General, or his designee, of the armed force of which the military judge is a member and may perform duties of a judicial or nonjudicial nature other than those relating to his primary duty as a military judge of a general court-martial when such duties are assigned to him by or with the approval of that Judge Advocate General or his designee."

(5) The first sentence of subsection (a) of section 827 (article 27 (a)) is amended to read as follows: "The commander of the trial counsel section and the commander of the defense counsel section of the judicial circuit concerned shall detail trial counsel and defense counsel, respectively, and such assistants as the commander of each such section considers appropriate."

(6) Section 827 (article 27) is further amended by adding at the end thereof new subsection as follows:

"(d) Defense counsel detailed to represent any accused may be a member of an armed force other than the armed force of which the accused is a member unless the accused requests that defense counsel detailed to represent him be a member of the same armed force as the accused."

(7) Section 828 (article 28) is repealed and the table of sections at the beginning of subchapter V is amended by striking out

"828. 28. Detail or employment of reporters and interpreters."

(8) Section 832(a) (article 32(a)) is amended by adding at the end thereof the following: "The appropriate judicial circuit officer shall, upon written request from the convening authority, detail an investigating officer to investigate the charges. Any person detailed to investigate charges against any accused shall be so detailed by reason of his impartiality, experience, education, and temperament, and shall not be under the command of the forwarding officer.

(9) The second sentence of subsection (b) of section 832 (article 32(b)) is amended to read as follows: "Upon his own request he shall be represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel is reasonably available, or by counsel detailed by the commander of the defense counsel section of the appropriate judicial circuit."

(10) The last sentence of section 832(b) (article 32(b)) is amended to read as follows: "Upon completion of the investigation, the investigating officer shall submit a report of his investigation to the appropriate judicial circuit officer for review. The judicial circuit officer may disagree with any recommendation made by the investigating officer with respect to the trial of any charge, but if the judicial circuit officer disagrees with the recommendations of the investigating officer that any charges not be referred to a general court-martial for trial, the judicial circuit officer shall make a written report on each issue of fact and law raised by the investigating officer and indicate his reasons for determining there is legally sufficient evidence for referring such charges to a general court-martial for trial.

(11) Section 834(a) (article 34(a)) is amended by adding at the end thereof the following: "If the investigating officer or the appropriate judicial circuit officer recommends against a trial of any charge by general court-martial, the convening authority shall, if he disagrees with such recommendation, promptly submit the charge to the Judge Advocate General of the armed force of which the convening authority is a member for review by such Judge Advocate General. The Judge Advocate General shall review the charge and determine whether it should or should not be tried by general court-martial. He shall, as soon as practicable after receiving the charge for review, notify the convening authority of his decision and his decision thereon shall be final."

(12) Subsection (b) of section 838 (article 38(b)) is amended by adding at the end thereof a new sentence as follows: "The commander of the defense counsel section of the appropriate judicial circuit is authorized, whenever he deems such action appropriate in the court-martial case of any accused, to detail to such case as defense counsel a judge advocate from the appellate defense counsel section of the Office of the Judge Advocate General of the military department of which such commander is a member; and such counsel shall be permitted to represent the accused through appellate review of the case."

(13) Section 854 (article 54) is amended by adding at the end thereof a new subsection as follows:

"(d) The commander of the field judiciary section of the judicial circuit concerned shall require that a verbatim record of the general or special court-martial trial of any accused be made if the accused requests that such a record be made and the commander determines that lengthy or complicated testimony is expected at the trial."

(14) Section 860 (article 60) is amended to read as follows:

"After a trial by court-martial the record shall be forwarded to the appropriate judicial circuit for review and action thereon by the review section of such circuit."

(15) Section 861 (article 61) and the catchline thereof are amended to read as follows:

"§ 861. Art. 61. Review by the judicial circuit

"The review section of each judicial circuit shall review the record of all court-martial trials conducted within such judicial circuit. If any part of a sentence imposed by a general or special court-martial trial remains after review by the judicial circuit, the record of such trial shall be forwarded by the judicial circuit to the Judge Advocate General of the armed force of which the judicial circuit officer of the judicial circuit concerned is a member."

(16) The table of sections at the beginning of subchapter IX is amended by striking out

"861. 61. Same—General court-martial records."

and inserting in lieu thereof

"861. 61. Review by judicial circuit."

(17) Subsections (a) and (b) of section 862 (article 62) are amended by striking out "convening authority" each time it appears and inserting in lieu thereof "judicial circuit officer of the judicial circuit concerned".

(18) Subsection (a) of section 863 (article 63) is amended by striking out "convening authority" and inserting in lieu thereof "judicial circuit officer of the judicial circuit concerned".

(19) The catchline of section 864 (article 64) is amended to read as follows:

"§ 864. **Art. 64.** Aproval by the judicial circuit officer"

(20) Section 864 (article 64) is amended by striking out "convening authority" and inserting in lieu thereof "judicial circuit officer of the judical circuit concerned".

(21) The table of sections at the beginning of subchapter IX is amended by striking out

"864. 64. Approval by the convening authority."

and inserting in lieu thereof

"864. 64. Approval by the judicial circuit officer."

(22) Section 865 (article 65) and the catchline thereof are amended to read as follows:

"§ 865. Art. 65. Disposition of records after review by the appropriate judicial circuit

"(a) When the judicial circuit officer of the judicial circuit concerned has taken final action in a general or special court-martial case, he shall send the entire record, including his action thereon, to the appropriate Judge Advocate General.

"(b) If the sentence of a special court-martial as approved by the judicial circuit officer includes a bad-conduct discharge, whether or not suspended, or confinement for four months or more, the record shall be sent to the appropriate Judge Advocate General to be reviewed by a court of military review.

"(c) All other special and summary court-martial records shall be reviewed by the review section of the appropriate judicial circuit and shall be transmitted and disposed of as the Secretary concerned may prescribe by regulations."

(23) The table of sections at the beginning of subchapter IX is amended by striking out

"865. 65. Disposition of records after review by the convening authority."

and inserting in lieu thereof

"865. 65. Disposition of records after review by the appropriate judicial circuit."

(24) Subsection (b) of section 866 (article 66(b)) is amended by striking out "one year or more" and inserting in lieu thereof "four months or more".

(25) The first sentence of subsection (c) of section 866 (article 66(c)) is amended by striking out "convening authority" and inserting in lieu thereof "judicial circuit officer".

(26) Subsection (d) of section 867 (article 67(d)) is amended

(A) by striking out "convening authority" in the first sentence and inserting in lieu thereof "judicial circuit officer"; and

(B) by striking out the last sentence and inserting in lieu thereof the following: "The Court of Military Appeals may take action in any case with respect to law or fact."

(27) Section 868 (article 68) is amended to read as follows:

"The Secretary concerned may direct the Judge Advocate General to establish a branch office within any judicial circuit. The branch office shall be under an Assistant Judge Advocate General who may perform for that judicial circuit, under the general supervision of the Judge Advocate General, the duties for that judicial circuit which the Judge Advocate General would otherwise be required to perform as to all cases involving sentences not requiring approval by the President."

(28) Section 873 (article 73) is amended by striking out "convening authority" in the first sentence and inserting in lieu thereof "judicial circuit officer".

SEC. 2. The provisions of this Act shall become effective on the first day of the sixth calendar month following the month in which this Act is enacted.

S. 2206

A bill to amend chapter 47 of title 10, United States Code, to provide that judges of the Courts of Military Review shall be appointed by the President, to confer authority on the Court of Military Appeals to issue orders and writs necessary to protect the rights of military personnel, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asembled, That (a) subsection (a) of section 866 (article 66(a)) of title 10, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following: "The President shall establish within each of the armed forces a Court of Military Review which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges. Judges of the Courts of Military Review shall be appointed by the President for terms of three years. The Court of Military Review established for each armed force shall be assigned for administrative purposes only to the office of the Judge Advocate General of that armed force. To be eligible for appointment to the Court of Military Review a person shall be experienced in military justice. No member of the armed forces below the grade of lieutenant colonel or commander shall be eligible for appointment to the Court of Military Review."

(b) Subsection (a) of section 866 (article 66(a)) is further amended by—

(A) striking out "assigned" in the third sentence and inserting in lieu thereof "appointed";

(B) striking out the fourth sentence and inserting in lieu thereof the following: "The President shall designate one of the appellate military judges of each Court of Military Review established by the President under this subsection to serve as chief judge of that Court of Military Review."; and

(C) adding at the end of such subsection a new sentence as follows: "The chief judge shall report only to the Judge Advocate General of the armed force concerned."

(c) Subsections (f) and (g) of section 866 (article 66 (c)) are amended to read as follows:

"(f) The President shall prescribe rules of procedure for Courts of Military Review established under this section.

"(g) A member of the armed forces serving as a member of the Court of Military Review, other than a chief judge, shall during his term on such court be rated on his performance of duty by the chief judge of such court. Whenever the chief judge of a Court of Military Review is a member of the armed forces, he shall be rated on his performance of duty by the Judge Advocate General of the armed force of which such chief judge is a member. Appellate military judges of the Military Courts of Review may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, for mental or physical disability, or for extreme military exigency, but for no other cause."

(d) Such section 866 (article 66) is further amended by adding at the end thereof a new subsection as follows:

"(i) The Judge Advocate General of each armed force shall appoint from the ranks of junior ranking judge advocates such number of officers to serve as law clerks to the Court of Military Review of that armed force as he deems appropriate. An officer assigned to duty as a law clerk under this subsection may not serve in such capacity for any period in excess of two years."

SEC. 2. (a) Section 867 (article 67) of title 10, United States Code, is amended by adding at the end thereof the following new subsections:

"(h) The Court of Military Appeals shall have authority to issue any order or writ necessary to protect any right under the Constitution, any law of the United States, or any military regulation of any person subject to the provisions of this chapter.

"(i) The Judge Advocate General of each armed force shall make available to the Court of Military Appeals from the ranks of junior ranking judge advocates such number of officers as the Chief Judge of that court may request to serve as law clerks to the Court of Military Appeals. At no time shall the number of officers assigned to duty as law clerks to such court exceed six. An officer assigned to duty as a law clerk under this subsection may not serve in such capacity for any period in excess of two years."

SEC. 3. The provisions of this Act shall become effective on the first day of the sixth calendar month following the month in which this Act is enacted.

S. 2207

A bill to amend chapter 47 of title 10, United States Code, so as to eliminate summary courts-martial from the military justice system

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 47 of title 10, United States Code, is amended as follows:

(1) The first sentence of section 810 (article 10) is amended by striking out "; but when charged only with an offense normally tried by a summary court-martial, he shall not ordinarily be placed in confinement".

(2) Section 816 (article 16) is amended by adding at the end of the clause (1)(B) the word "and"; by striking out "; and" at the end of clause 2(C) and inserting in lieu thereof a period; and by striking out clause (3).

(3) Section 820 (article 20) is repealed.

(4) Section 824 (article 24) is repealed.

(5) Subsections (b) and (c) of section 843 (article 43) are amended by striking out "summary" and inserting in lieu thereof "special".

(6) Section 865(c) (article 65(c)) is amended by striking out "and summary".

(7) Section 936(a) (article 36(a)) is amended by striking out clause (3) and redesignating clauses (4) through (7) as clauses (3) through (6), respectively.

(8) Section 4711 is amended—

(A) by striking out "summary court-martial" in subsection (a) and inserting in lieu thereof "court of inquiry or investigating officer"; and

(B) by striking out "summary court-martial" in subsections (b) and (c) and inserting in lieu thereof "court of inquiry or investigating officer, as the case may be,".

(9) Section 4712 is amended—

(A) by striking out "summary court-martial" in subsection (b) and inserting in lieu thereof "court of inquiry or investigating officer"; and

(B) by striking out "summary court-martial" each time it appears in subsections (c), (d), (e), (f), and (g) and inserting in lieu thereof "court of inquiry or investigating officer, as the case may be,".

(10) Section 9711 is amended—

(A) by striking out "summary court-martial" in subsection (a) and inserting in lieu thereof "court of inquiry or investigating officer"; and

(B) by striking out "summary court-martial" in subsections (b) and (c) and inserting in lieu thereof "court of inquiry or investigating officer, as the case may be,".

(11) Section 9712 is amended—

(A) by striking out "summary court-martial" in subsection (b) and inserting in lieu thereof "court of inquiry or investigating officer"; and

(B) by striking out "summary court-martial" each time it appears in subsections (c), (d), (e), (f), and (g) and inserting in lieu thereof "court of inquiry or investigating officer, as the case may be,".

SEC. 2. (a) Section 326 of title 32, United States Code, is amended by striking out "general, special, and summary" and inserting in lieu thereof "general and special".

(b) Section 329 of such title is repealed.

(c) Section 332 of such title is amended by striking out "or a summary court officer".

SEC. 3. The amendments made by this Act shall become effective on the first day of the sixth calendar month following the month in which this Act is enacted.

S. 2208

A bill to confer jurisdiction on United States district courts to grant relief in certain cases involving military personnel where the relief available to such personnel under military law or regulation is inadequate for the protection of the constitutional rights of such personnel, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter IX of chapter 47 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 876a. Art. 76a. Special jurisdiction of United States district courts

"Any United States district court shall have jurisdiction to hear and grant appropriate relief in any case in which any person subject to this chapter claims a denial of his constitutional rights where such claim is based upon the action of a court-martial or other military action and such person shows that the relief available to him under military law or regulation is inadequate to protect the constitutional rights to which he is entitled. Any such court shall also have jurisdiction to hear and grant appropriate relief to any such person where such person shows that relief by the court is necessary to prevent a chilling effect upon the rights of such person, or other persons similarly situated, under the first amendment of the Constitution of the United States."

SEC. 2. Subsection (c) of section 838 (article 38(c)) is amended by inserting "(1)" immediately after "(c)" and by adding at the end thereof a new paragraph as follows:

"(2) The defense counsel is authorized to file an action in any United States district court when he considers such action necessary to protect the constitutional rights of any accused he has been detailed to represent; and the costs of such action shall be paid for by the United States."

SEC. 3. The provisions of this Act shall become effective on the first day of the sixth calendar month following the month in which this Act is enacted.

S. 2209

A bill to amend section 803 of title 10, United States Code, relating to jurisdiction for the trial of military personnel

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 803 (article 3) of title 10, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(d) Where there is a disagreement between civil authorities and the military authorities with respect to which has jurisdiction to try an accused person subject to this chapter for any offense, the accused shall have a right to elect to be tried in a civil court or military court; but the foregoing shall not prevent a subsequent trial of the accused (1) by court-martial if it is judicially determined that the civil authorities did not have proper jurisdiction to try the accused for the offense or, (2) by a civil court if it is judicially determined that the accused was not subject to trial by court-martial for the offense."

SEC. 2. Section 814(a) (article 14(a)) of title 10, United States Code, is amended by striking out "Under" and inserting in lieu thereof "Subject to the provisions of section 803(d) (article 3(d)) and under".

SEC. 3. The provisions of this Act shall become effective on the first day of the sixth calendar month following the month in which this Act is enacted.

S. 2210

A bill to amend chapter 47 of title 10, United States Code, so as to prescribe certain requirements with respect to the physical arrangements of furniture and other facilities of rooms for which courts-martial trials are conducted, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter XI of chapter 47 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 941. Art. 141. Physical arrangement of court-martial room; seating arrangement of persons serving on courts-martial; judicial apparel

"(a) The physical arrangement of the furniture and other facilities of any room in which any court-martial trial is conducted shall be as nearly identical to the arrangement of such furniture and facilities in a Federal district courtroom as practicable.

"(b) There shall be no requirement, formal or informal, for the seating arrangement of persons serving as members of a court-martial to be seated according to rank or grade, except that the president of a general or special court-martial may be required to be seated in the center of the seating arrangement for members of the court or at the end of such seating arrangement which is nearest the military judge, if one has been detailed.

"(c) Military judges shall wear judicial robes while presiding at any general or special court-martial trial."

(48) The table of sections at the beginning of subchapter XI is amended by adding at the end thereof a new item as follows:

"941. 141. Physical arrangement of court-martial room; seating arrangement of persons serving on courts-martial; judicial apparel."

SEC. 2. The provisions of this Act shall become effective on the first day of the sixth calendar month following the month in which this Act is enacted.

S. 2211

A bill to amend section 825 (article 25) of title 10, United States Code, relating to eligibility standards for service on courts-martial and the method of selecting military personnel for such service

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 825 (article 25) of title 10, United States Code, and the catchline thereof are amended to read as follows:

"§ 825. Art. 25. Who may serve on general and special courts-martial; selection for service

"(a) Any commissioned officer on active duty is eligible to serve on all courts-martial for the trial of any person who may lawfully be brought before such courts for trial.

"(b) Any warrant officer on active duty is eligible to serve on general and special courts-martial for the trial of any person, other than a commissioned officer, who may lawfully be brought before such courts for trial.

"(c) (1) Any enlisted member of an armed force on active duty who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member of an armed force who may lawfully be brought before such courts for trial, but he shall serve as a member of a court only if, before the conclusion of a session called by the military judge under section 839(a) of this title (article 39(a)) prior to trial or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused personally or through counsel has requested in writing that enlisted members serve on it. After such a request, the accused may not be tried by a general or special court-martial the membership of which does not include enlisted members in a number comprising at least one-half of the total membership of the court.

"(2) In this article, the word 'unit' means any regularly organized body as defined by the Secretary concerned, but in no case may it be a body larger than a company, squadron, ship's crew, or body corresponding to one of them.

"Not less than one-half of the total membership of a general or special court-martial shall be composed of members of the same rank and grade as the accused if the accused, before the conclusion of a session called by the military judge under section 839(a) of this title (article 39(a)) prior to trial, or in the absence of such a session, before the court is assembled for his trial, personally or through counsel requests in writing that the court membership be so composed.

"(e) (1) The convening authority shall be responsible under regulations prescribed by the Secretary of Defense and in accordance with this subsection, for selection of persons to serve on general and special courts-martial for the trials of accused persons conducted within the command of such convening authority.

"(2) The name of every officer and warrant officer within the command of the convening authority who is eligible to serve as a member of a general or special court-martial shall be included on a court-martial master roll and the name of every enlisted man within such command who is eligible to serve as a member of a general or special court-martial shall be included on a separate court-martial master roll.

"(3) The selection of officers to serve as members of courts-martial trials shall be made by a random selection method from the court-martial master roll of officers and warrant officers. The names of enlisted personnel shall be selected by a random selection method from the court-martial master roll of names of enlisted members whenever an accrued has requested that the court-martial be composed in part of enlisted members. The random selection method shall be used for the selection of members of a court-martial for such separate trial.

"(4) No commissioned officer, warrant officer, or enlisted member shall be exempt from serving as a member of a general or special court-martial unless exempted by Presidential directive. The convening officer may relieve any officer or enlisted member from serving as a member of a court-martial upon presentation of evidence that such service would result in extreme personal hardship or materially interfere with the performance of urgent military duties.

"(5) When it can be avoided, no member of an armed force may be tried by a court-martial any member of which is junior to him in rank or grade.

"(6) No member of an armed force shall be eligible to serve as a member of a general or special court-martial when he is the accuser or a witness for the prosecution or has acted as investigating officer or as counsel in the same case."

SEC. 2. The provisions of this Act shall become effective on the first day of the sixth calendar month following the month in which this Act is enacted.

S. 2212

A bill to amend chapter 59 of title 10, United States Code, to prohibit the administrative discharge of enlisted members of the armed forces under conditions other than honorable

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 59 of title 10, United States Code, is amended by inserting immediately after section 1161 a new section as follows:

"§ 1161a. Enlisted members: limitations on administrative discharges

"(a) No enlisted member may be discharged from any armed force under conditions other than honorable except—

"(1) by sentence of a special or general court-martial;

"(2) in commutation of a sentence of a special or general court-martial; or

"(3) in time of war, by order of the Secretary concerned.

"(b) Notwithstanding the provisions of subsection (a), the Secretary concerned may drop from the rolls of any armed force any enlisted member (1) who has been absent without authority for at least thirty days, or (2) who is sentenced to confinement in a Federal or State penitentiary or correctional institution after having been found guilty of an offense by a court other than a court-martial or other military court, and whose sentence has become final."

SEC. 2. The table of sections at the beginning of chapter 59 of title 10, United States Code, is further amended by adding immediately below

"1161. Commissioned officers: limitations on dismissal."

the following:

"1161a. Enlisted members: limitations on administrative discharges."

S. 2213

A bill to amend chapter 47 of title 10, United States Code, to limit the jurisdiction of courts-martial, to eliminate the death penalty, to define certain additional offenses under such chapter, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 47 of title 10, United States Code, is amended as follows:

(1) The third sentence of section 804(a) (article 4(a)) is amended by striking out "or death".

(2) Section 818 (article 18) is amended by—

(A) striking out ", including the penalty of death when specifically authorized by this chapter" in the first sentence; and

(B) by striking out the second sentence.

(3) Section 819 (article 19) is amended by—

(A) striking out the first sentence and inserting in lieu thereof the following: "Subject to section 817 of this title (article 17), special courts-martial have jurisdiction to try persons subject to this chapter for any offense made punishable by this chapter."; and

(B) striking out "death," in the second sentence.

(4) Section 820 (article 20) is amended by—

(A) striking out "noncapital" in the first sentence; and

(B) striking out "death," in the last sentence thereof.

(5) Section 821 (article 21) is amended by—

(A) inserting "(b)" at the beginning of the present text of such section;

(B) inserting a subsection (a) immediately above the present text of such section as follows:

"(a) No person subject to this chapter may be tried by courts-martial for any offense committed within the United States or in any territory or possession of the United States except for an offense described in section 883 (article 83); 884 (article 84); 885 (article 85); 886 (article 86); 887 (article 87); 890 (article 90); 891 (article 91); 892 (article 92); 893 (article 93); 895 (article 95); 896 (article 96); 897 (article 97); 898 (article 98); 907 (article 107); 908 (article 108); 909 (article 109); 912 (article 112); 913 (article 113); 915 (article 115); 916 (article 116), to the extent that a riot or breach of the peace was committed on a military installation; 916b (article 116b), to the extent that the alleged offense under such section involved a court-martial case; 927a (article 127a), to the extent that the alleged offense under such section involved a court-martial case; or 931 (article 131), to the extent that the alleged offense under such section involved a court-martial case. All other offenses under this chapter committed within the United States or in any territory or possession of the United States by any person subject to this chapter shall be tried in the district court of the United States for the district in which the offense was committed or in which the accused is found; and jurisdiction is hereby conferred upon such courts for the trial of such offenses"; and

(C) striking out the catchline and inserting in lieu thereof the following:

"§ 821. Art. 21. Limitation on jurisdiction of courts-martial".

(6) The table of sections at the beginning of subchapter IV is amended by striking out

"821. 21. Jurisdiction of courts-martial not exclusive."

and inserting in lieu thereof

"821. 21. Limitation on jurisdiction of courts-martial."

(7) Section 845(b) (article 45(b)) is amended by striking out the first sentence thereof, and by striking out the word "other" in the second sentence thereof.

(8) Section 849 (article 49) is amended by—

(A) striking out "not capital" in subsection (d); and

(B) striking out subsections (e) and (f).

(9) Section 850(b) (article 50(b)) is amended by striking out "capital cases or".

(10) Section 852 (article 52) is amended by—

(A) striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) No person may be convicted of any offense under this chapter except by the concurrence of two-thirds of the members of the court-martial present at the time the vote is taken or except as provided in section 845(b) of this title (article 45(b)).

"(b) No person may be sentenced to life imprisonment or to confinement for more than ten years, except by the concurrence of three-fourths of the members present at the time the vote is taken. All other sentences shall be determined by the concurrence of two-thirds of the members present at the time the vote is taken.

(11) Section 856 (article 56) is amended to read as follows:

"§ 856. Art. 56. Maximum limits

"The punishment which a court-martial may direct for an offense may not exceed such limits as the President may prescribe for that offense. The President shall not have authority to modify or suspend punishment with respect to any particular geographical area or with respect to any particular offense."

(12) Section 866(b) (article 66(b)) is amended by striking out "to death,".

(13) Section 867(b)(1) (article 67(b)(1)) is amended by striking out "or extends to death".

(14) Section 871 (article 71) is amended by—

(A) striking out "extending to death or" in the first sentence of subsection (a);

(B) striking out ", except a death sentence" in the second sentence of subsection (a); and

(C) striking out ", except a death sentence" in the second sentence of subsection (d).

(15) Section 885(c) (article 85(c)) is amended to read as follows:

"(c) Any person found guilty of desertion or attempt to desert shall be punished as a court-martial may direct."

(16) Section 890 (article 90) is amended by striking out everything after the semicolon in clause (2) and inserting in lieu thereof the following: "shall be punished as a court-martial may direct."

(17) Section 894(b) (article 94(b)) is amended by striking out "by death or such other punishment".

(18) Section 899 (article 99) is amended by striking out in the material following clause (9) the following: "by death or such other punishment".

(19) Section 900 (article 100) is amended by striking out "by death or such other punishment".

(20) Section 901 (article 101) is amended by striking out "by death or such other punishment".

(21) Section 902 (article 102) is amended by striking out "suffer death or such other punishment" and inserting in lieu thereof "be punished".

(22) Section 904 (article 104) is amended by striking out "suffer death or such other punishment" and inserting in lieu thereof "be punished".

(23) Section 906 (article 106) is amended by striking out "by death" and inserting in lieu thereof "as the court-martial or military commission, as the case may be, may direct".

(24) Section 910(a) (article 110(a)) is amended by striking out "suffer death or such other punishment" and inserting in lieu thereof "be punished".

(25) The text of section 913 (article 113) is amended to read as follows:

"Any sentinel or lookout who is found drunk or sleeping upon his post, or leaves it before he is regularly relieved, shall be punished as a court-martial may direct."

(26) Section 918 (article 118) is amended by striking out "suffer death or imprisonment for life as a court-martial may direct" and inserting in lieu thereof "suffer imprisonment for life".

(27) Section 920 (article 120) is amended by striking out "by death or such other punshment".

(28) Subchapter X is amended by inserting after section 909 (article 109) a new section as follows:

"§ 909a. Art. 109a. Receiving stolen goods

"Any person subject to this chapter who with intent to defraud, receives, or buys anything of value which shall have been stolen or obtained by robbery, knowing or having cause to believe the same to have been stolen or so obtained by robbery, shall be punished as a court-martial may direct.

(29) The table of sections at the beginning of subchapter X is amended by inserting

"909a. 109a. Receiving stolen goods."

immediately below

"909. 109. Property other than military property of the United States—waste, spoilage, or destruction."

(30) Subchapter X is amended by inserting after section 912 (article 112) a new section as follows:

§ 912a. Art. 112a. Manufacture or possession of a narcotic drug

"Any person subject to this chapter who manufactures, possesses, has under his control, sells, prescribes, administers, dispenses, or compounds any narcotic drug, unless authorized by competent authority to do so, shall be punished as a court-martial may direct. As used in this section the term 'narcotic drug' shall have the same meaning ascribed to the term 'narcotic drugs' in the first section of the Uniform Narcotic Drug Act, approved June 30, 1938 (52 Stat. 785; D.C. Code, sec. 33–401)."

(31) The table of sections at the beginning of subchapter X is amended by inserting

"912a. 112a. Manufacture or possession of a narcotic drug."

immediately below

"912. 112. Drunk on duty."

(32) Chapter X is amended by inserting after section 914 (article 114) a new section as follows:

"§ 914a. Art. 114a. Carrying a concealed weapon

"Any person subject to this chapter who carries concealed on or about his person, except in his dwelling house or on other real property possessed by him, a pistol or other deadly or dangerous weapon capable of being concealed, without official authority to carry such weapon concealed, shall be guilty of carrying a concealed weapon and shall be punished as a court-martial may direct."

(33) The table of sections at the beginning of subchapter X is amended by inserting

"914a. 114a. Carrying a concealed weapon."

immediately below

"914. 114. Dueling."

(34) Section 916 (article 116) is amended to read as follows:

"§ 916. Art. 116. Riot or breach of peace

"(a) Any person subject to this chapter who causes or participates in any riot shall be punished as a court-martial may direct.

"(b) Any person subject to this chapter, who, with intent to provoke a breach of the peace, or under circumstances such that a breach of the peace may be occasioned thereby—

"(1) acts in such a manner as to annoy, disturb, interfere with, obstruct, or be offensive to others:

"(2) congregates with others on a public street and refuses to move on when ordered by a proper official;

"(3) shouts or makes a noise either outside or inside a building during the nighttime to the annoyance or disturbance of any considerable number of persons;

"(4) interferes with any person in any place by jostling against such person or unnecessarily crowding him or by placing a hand in the proximity of such person's pocketbook, or handbag; or

"(5) causes a disturbance in any public conveyance, by running through it, climbing through windows or upon the seats, or otherwise annoying other persons aboard such public conveyance.

shall be punished as a court-martial may direct."

"(c) Any person subject to this chapter who congregates or assembles in any street, avenue, alley, road, or highway, or in or around any public building or enclosure, or any park or reservation, or at the entrance of any private building or enclosure, and engages in loud and boisterous talking or other disorderly conduct, or insults or makes rude or obscene gestures or comments to or about persons passing by, or within their hearing, or crowds, obstructs, or incommodes, the free use of any such street, avenue, alley, road, highway, or any of the foot pavements thereof, or the free entrance into any public or private building or enclosure shall be punished as a court-martial may direct.

"§ 916b. Art. 116b. Obstructing justice

"Any person subject to this chapter who corruptly, by threats or force, endeavors to influence, intimidate, or impede any juror, witness, or officer of any court, or any member of a court-martial, including the trial or defense counsel or a military judge, or any witness of a court-martial, in the discharge of his duties, or, by threats or force, in any other way obstructs or impedes or endeavors to obstruct or impede the due administration of justice therein, shall be punished as a court-martial may direct."

(35) The table of sections at the beginning of subchapter X is amended by inserting

"916b. 116b. Obstructing justice."

immediately below

"916. 116. Riot or breach of peace."

(36) Section 919(b) (article 119(b)) is amended by redesignating clause (2) as clause (3) and by striking out clause (1) and inserting in lieu thereof the following:

"(1) by negligence;

"(2) by culpable negligence; or".

(37) Subchapter X is amended by inserting after section 920 (article 120) the following:

"§ 920a. Art. 120a. Adultery

"Any person subject to this chapter who commits adultery shall be punished as a court-martial may direct. When the act is committed between a married woman and a man who is unmarried both parties to such act shall be deemed guilty of adultery; and when such act is committed between a married man and a woman who is unmarried, the man only shall be deemed guilty of adultery."

"§ 920b. Art. 120b. Lewd, indecent, or obscene acts

"(a) Any person subject to this chapter who makes any obscene or indecent exposure of his or her person, or makes any lewd, or obscene, or indecent sexual proposal, or commits any other lewd, obscene, or indecent act shall be punished as a court-martial may direct for each and every such offense.

"(b) Any such person who commits an offense described in subsection (a), knowing he is in the presence of a child under the age of sixteen years, shall be punished as a court-martial may direct for each and every such offense."

"(c) Consent by a child to any indecent proposal or act prescribed by subsection (a) shall not be a defense, nor shall lack of knowledge of the child's age be a defense."

(38) The table of sections at the beginning of subchapter X is amended by inserting the following:

"920a. 120a. Adultery.

"920b. 120b. Lewd, indecent, or obscene acts."

immediately after

"920. 120. Rape and carnal knowledge."

(39) Subchapter X is amended by inserting after section 920 (article 120) the following:

"§ 921a. Art. 121a. False pretenses

"Any person subject to this chapter who, by any false pretense, with intent to defraud, obtains from any other person anything of value, or procures the execution and delivery of any instrument of writing or personal property, or the signature of any person, or maker, endorser, or guarantor, to or upon any bond, bill, receipt, promissory note, draft, or check, or any other evidence of indebtedness, and any person subject to this chapter who fraudulently sells, barters, or disposes of any bond, bill, receipt, promissory note, draft, or check, or other evidence of indebtedness, for value, knowing the same to be worthless, or knowing the signature of the maker, endorser, or guarantor thereof to have been obtained by any false pretense, shall be punished as a court-martial may direct."

(40) The table of sections at the beginning of subchapter X is amended by inserting

"921a. 121a. False pretenses."

immediately after

"921. 121. Larceny and wrongful appropriation."

(41) Subchapter X is amended by inserting after section 927 (article 127) a new section as follows:

"927a. Art. 127a. Bribery

"Any person subject to this chapter who—

"(1) promises, offers, or gives, or causes or procures to be promised, offered, or given, any money or other thing of value, or makes or tenders any contract, undertaking, obligation, credit, or security for the payment of money, or for the delivery or conveyance of anything of value, to any executive, judicial, or other officer or to any member of the Armed Forces, or to any person acting in any official function, or to any member of a court-martial, including trial counsel, defense counsel, or military judge, or any witness of a court-martial, with intent to influence the decision, action, verdict, or evidence of any such person on any question, matter, cause, or proceeding or with intent to influence him to commit or aid in committing, or to collude in or allow any fraud, or make any opportunity for the commission of any fraud; or

"(2) directly or indirectly takes, receives, or agrees to receive any money, property, or other valuable consideration whatever from any person (A) for giving, procuring, or aiding to give or procure any office, place, or promotion, or (B) for the purpose of influencing his decision, action, or verdict on any official question, matter, cause, or proceeding;

is guilty of bribery and shall be punished as a court-martial may direct."

(42) The table of sections at the beginning of subchapter X is amended by inserting

"927a. 127a. Bribery."

immediately below

"927. 127. Extortion."

(43) Section 928 (article 128) is amended to read as follows:

"(b) Any person subject to this chapter who—

"(1) commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm;

"(2) assaults another person with intent to kill or to commit rape or sodomy, or to commit robbery, or by mingling poison with food, drink, or medicine with intent to kill;

"(3) commits an assault and intentionally inflicts grievous bodily harm with or without a weapon;

is guilty of aggravated assault and shall be punished as a court-martial may direct."

(44) Section 931 (article 131) is amended by inserting "(a)" immediately before "Any", and by adding at the end of such section a new subsection as follows:

"(b) Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be punished as a court-martial may direct."

(45) The catchline of section 931 (article 131) is amended to read as follows:

"§ 931. Art. 131. Perjury and subornation of perjury."

(46) The table of sections at the beginning of subchapter X is amended by striking out

"931. 131. Perjury."

and inserting in lieu thereof

"931. 131. Perjury and subornation of perjury."

(47) Section 933 (article 133) is amended to read as follows:

"§ 933. Art. 133. Conduct unbecoming an officer and gentleman

"Any commissioned officer, cadet, or midshipman who is guilty of conduct unbecoming an officer and a gentleman shall be subject to punishment under section 815 (article 15) of this title."

(48) Section 934 (article 134) is repealed.

(49) The section analysis at the beginning of subchapter X is amended by striking out

"934. 134. General article."

S. 2214

A bill to amend chapter 47 of title 10, United States Code, to require that all requests to compel witnesses to appear and testify and to compel the production of other evidence before courts-martial trials be submitted to a military judge for approval, and to provide for the inadmissibility of certain evidence at courts-martial trials

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 846 (article 46) of title 10, United States Code, is amended by inserting after the first sentence a new sentence as follows: "All requests to compel witnesses to appear and testify and to compel the production of other evidence shall be submitted to the military judge if one has been detailed to the court-martial case or to a military judge designated for such purpose by the appropriate Judge Advocate General if a military judge has not been detailed to the case; and the military judge shall approve or disapprove such requests in accordance with the regulations prescribed by the President."

SEC. 2. (a) The catchline of section 850 (article 50) of title 10, United States Code, is amended by adding at the end thereof the following: "; inadmissibility of certain evidence".

(b) Section 850 (article 50) of such title is further amended by adding at the end thereof a new subsection as follows:

"(d) Any report or other material which cannot because of security or other reasons be made available for examination by the accused and his defense counsel shall be inadmissible as evidence in a court-martial."

(c) The table of sections at the beginning of subchapter VII of such title is amended by adding "; inadmissibility of certain evidence" immediately after "Admissibility of records of courts of inquiry."

SEC. 3. The provisions of this Act shall become effective on the first day of the sixth calendar month following the month in which this Act is enacted.

REINTRODUCTION OF BILLS RELATING TO MILITARY JUSTICE

Mr. HATFIELD. Mr. President, recent events have focused public attention on military justice: The mutiny courts-martial at the Presidio in San Francisco, the court-martial of Captain Levy, the *Pueblo* incident, alleged violations of law with regard to the PX system in Southeast Asia, and most notably the courts-martial surrounding the alleged crimes at Mylai. I think, however, Mr. President that it is most important to look at these events within the context of history so that we can better understand them and also gain further insight into our military justice system.

Over the two centuries since our country's founding, the formal codes of behavior which have governed our Armed Forces have undergone many significant changes. First adopted in 1775, the articles of war were a direct adaptation of the British articles of war which had evolved from the 17th century codes set down by Gustavus Adolphus. In each case these rules and regulations were separate from the civil codes, the theory being that it was the military commander's prerogative to maintain discipline through practical punishment in order to deal effectively with the demands of military life.

There were two separate justice systems, one for the Army—the articles of war, and one for the Navy—the articles of the government of the Navy. The three-level hierarchy, of the military courts—summary, special, and general courts-martial—has remained essentially the same for the last 200 years and has generally reflected the philosophy that the military commander should have control over the discipline of his men and should be the final judge as to how to best uphold the proper behavior of his troops. Until 1920 minor changes occurred in the two court systems of the Army and Navy, those revisions taking place in 1806, 1874, and 1916. Essentially the proceedings were nonjudicial in character. The commanding officer acted as the convening authority, appointed all members of the court-martial and reviewed the decision and sentence. The accused had no right to counsel, although an officer was generally assigned as defense counsel if the accused so requested.

Since World War I, the evolution of the military codes of justice has been marked by increasing influence of civilian common law, this process usually being referred to as "civilianization." It has been the case in our history that major wars in which we have participated have focused public attention on our military justice system. This was the case after World War I—1920; World War II—1950; and Korea and Vietnam—1968. And, it occurred due to the large number of men called into military service and the public outcry regarding reports of unduly harsh sentences and arbitrary and unfair proceedings. Gen. Samuel T. Ansell, the major proponent of reform immediately following World War I, in his 1919 testimony presented numerous examples of injustices which had occurred during his tour of duty with the office of the Judge Advocate General, for instance: a 20-year sentence for being 3 months absent without leave—AWOL—40 years at hard labor for 20 days AWOL; and the conviction and immediate execution of 13 men accused of mutiny at Fort Sam Houston, Tex., without their records being reviewed, nor without any of them having the opportunity to seek clemency.

In spite of revisions subsequent to our World War I experience, public furor again occurred in response to allegedly harsh sentences during World War II.

The revision of the articles of war in 1950 saw all of the armed services brought under one system of law, the Uniform Code of Military Justice—UCMJ. Enlisted men were allowed to serve on courts-martial, the accused was allowed the right to legally qualified military or civilian counsel, and the U.S. Court of Military Appeals was established, its jurisdiction extending to the review of all sentences of less than honorable discharge or confinement of more than 1 year. The commander, however, still determined whether or not to prosecute, appointed the investigating officer, the members of the court, the counsel for the defense and prosecution, the law officer, and the court personnel. He also retained the power to review the conviction and sentences.

The latest revision of the UCMJ, having taken place in 1968, made changes in four areas. First, a military judge with new powers and duties, similar to those of a civilian judge; independent of the commander convening authority replaced the law officer. Various changes in the post-trial proceedings were made, including a provision for deferring a convicted man's beginning to serve his sentence until his case had been completely reviewed, and the authorizing of the judge advocate general to modify or vacate a sentence on various grounds. The Military Justice Act of 1968, in an effort to further limit command influence in courts-martial—a long-standing criticism—provided that general lectures or information courses on military justice could not be used to influence a court-martial when the commander was preparing an efficiency, effectiveness of fitness report on that individual.

The 1968 act also implemented certain changes with respect to defense counsel. It extended, with certain qualifications, to the accused in a special court-martial the right to be represented by defense counsel who was a lawyer and provided certain criteria which had to be met when a primitive discharge was adjudged. All of these modifications were designed to bring a greater degree of impartiallity and provide more structural safeguards to protect the rights of the accused within the military, these reforms being adaptations of certain common law techniques and procedures.

Paralleling the civilization of our military justice system have been similar developments in other countries. Great Britain, Canada, France, New Zealand, Australia, and most particularly, West Germany, have experienced greater civilizing influences in many instances than we have in the United States and appear to have met with general success with no adverse effects on discipline. Great Britain, Canada, Australia, and New Zealand, for instance, have civilian tribunals reviewing military trials.

In Great Britain the military Judge Advocate General is a civilian officer under the Lord Chancellor, and in West Germany military personnel are subject to civilian courts for all specifically nonmilitary crimes.

Functionally and organizationally, the Armed Forces is analogous to a paramiltary group—such as a police or fire department. Its judicial system has been traditionally viewed like a State's, for example, independent of the Federal judiciary. According to article II, section 2, of the Constitution, the President is the Commander in Chief of the Armed Forces. The Congress, as stated in article I, section 8, of the Constitution, has the responsibility to determine the rules and regulations for military personnel. It is by virtue of the demands of fighting under combat and the training necessary to acquire proficiency for such a contingency that puts special requirements on certain military personnel.

In this regard, the maintenance of discipline is of paramount importance in accomplishing a combat mission; these men have to work efficiently and effectively as a team. It is this fact that separates military from most civilian groups. Beyond the rules and regulations governing the area of specific crimes of a particularly military nature, such as a.w.o.l. and desertion, are crimes generally punishable in any civilian court, such as murder, theft, and forgery. Yet, the distinction between these two types of crimes has not been made within our judicial systems, nor is the analogy between the military judicial system, and a State's judicial system proper.

The Armed Forces is an agency of the Federal Government, directly responsible to the President and Congress. It also comprises a great portion of our population, spends about 66 cents of each tax dollar, and does business with domestic and foreign companies, individuals, and governments. In other words, it has a great impact within our country, as well as around the world, and is a direct arm of the Government: A State does not have a commensurable impact, nor is it a Federal agency. Consequently, except in cases which are military by nature, or crimes of a civilian or military nature committed in a foreign country by military personnel, military courts should not have jurisdiction; Federal courts should. Furthermore, there is no reason why the individual's rights should not have the safeguards within the military structure that are present in our civilian sector.

There are three criteria which are helpful in determining the appropriate judicial jurisdiction for a crime committed within the territorial limits of the United States. First, is the act solely a function of military necessity? That is, does the particular act assume a criminal nature because it is committed within the military environment? For instance, a.w.o.l. and desertion are two such crimes. If a civilian employee leaves his job for a short time or leaves without returning, in both cases not notifying and asking permission of his boss, the consequences are not of the same magnitude as they are in the military.

The second criteria relates to cases involving the physical security of all or a portion of our society. If an act committed in the United States in a direct manner threatens the physical security of our country the jurisdiction for the crime would fall within the purview of the Federal court system. Mutiny and aiding the enemy are certainly acts which transcend the question of maintaining proper discipline and have direct consequences of more than an internal military nature.

The third criteria is the complement of the first, namely, is an act of such a nature that it would be viewed as criminal irrespective of one's role in society?

Murder and robbery are two such crimes and, consequently, would be within the jurisdiction of the Federal courts when the crime was committed by military personnel within the territory of the United States.

There is a definite positive correlation between the degree of civilization and the decreased problems of maintaining discipline. Not only do we have the experience of foreign countries to look to, but our experience reflects this as well. A good indicator is the frequency of a.w.o.l. and desertion cases. Court-martial cases in every branch of the armed services show a significant decline in those two areas over the past 18 years. In 1952, 1 year after article 15—nonjudicial punishment—was instituted, there were 28,827 convictions in the Air Force for a.w.o.l.—article 86—and 1574 in 1972. For the same time period the Air Force had 320 desertion convictions—article 85—in 1952, and 15 in 1972.

In the Army there were 4,107 a.w.o.l. general court-martial convictions in 1955, and 920 in 1972; for desertion conviction the Army in 1955 there were 1,943, and in 1972 there were 41.

In the Navy, in 1960, there were 3,213 convictions for a.w.o.l. and 72 in 1972. In 1953 the Navy had 1,191 desertion convictions, and 36 in 1972. When these figures are compared to manpower levels over the past 20 years, it is significant to note that not only does the rate of convictions generally decrease numerically, they decrease proportionately, as well. And, even more significantly, this is in spite of increased hostility, particularly among our youth—those most likely to be joining the Armed Forces—to our policy in Southeast Asia and to the draft.

Consequently, I am introducing today 13 bills which I believe will implement the necessary changes to effect a more equitable and effective justice system for military personnel. These revisions should fully eliminate command influence from courts-martial, structurally and procedurally adapt certain civilian techniques to the military judicial system, specifically delineate civilian and military crimes, and insure the maximum individual liberty to military personnel with military effectiveness.

By Mr. HELMS (for himself and Mr. HARRY F. BYRD, JR.):

S. 2215. A bill to restore the value of the dollar and restrain inflation by providing for a Federal budget in which expenditures shall not exceed Federal revenues. Referred to the Committee on Government Operations.

THE EMERGENCY ANTI-INFLATION ACT OF 1973

Mr. HELMS. Mr. President, I introduce today, in cosponsorship with the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Emergency Anti-inflation Act of 1973. This measure is identical to the amendment which I proposed on June 27 to H.R. 4810, the extension of the public debt ceiling. It would provide that the President of the United States be required to submit annually a balanced budget in which the nontrust fund expenditures would not exceed nontrust fund revenues for each fiscal year. The effective date of this bill would be the beginning of fiscal year 1975, or July 1, 1974. The next 6 months will be devoted to the compilation of that budget within the executive branch.

The President has assured me personally that his economic goal for this Nation is a balanced budget. Moreover, I am greatly encouraged by a statement by the President yesterday afternoon in establishing the phase IV economic guidelines. In that statement, President Nixon emphasized that monetary policy should not and cannot be expected to exercise the needed restraint alone. He emphasized that we will need budget control as well. He publicly endorsed the goal of a balanced budget for the present fiscal year, that is fiscal year 1974. Most encouraging of all, he was able to announce that his interim goal, set a year ago, to keep expenditures for fiscal year 1973 below $250 billion, had been met, and that expenditures were actually below $249 billion.

Although fiscal year 1973 was still a deficit year, the effects of discipline can establish good habits. The President's goal for fiscal year 1974 is to balance the actual budget, not the so-called "full employment budget." In taking this course, the President is acting courageously, I think, to fight inflation. This action will readily pave the way for the preparation of a balanced budget based on nontrust fund receipts and expenditures, as provided for in my bill.

But if the courageous course of the President is to be achieved, Congress will have to cooperate. Congress will have to cooperate not only in its action on individual authorization and appropriation bills, but also in setting the broad policy of Congress in economic matters. The Members of the Senate can do this by cosponsoring this bill with the distinguished Senior Senator from Virginia and myself. It is a great honor to have the Senator's support in this bill because of his diligent work on the Senate Finance Committee, and because of his remarkable reputation in fiscal matters, and I thank him for joining me.

At the time when I introduced this measure as an amendment to the debt ceiling bill, I did not really expect to bring it immediately to a vote at that time. I merely wanted to set it before my colleagues for their attention. At that time, nearly 20 Members of this body voluntarily came forward to tell me that they supported it personally and that they would work for its passage. So I withdrew it at that time. Now that it has been introduced as a separate bill, I invite them and other Senators to declare themselves as cosponsors so that the Senate can get behind this policy that has already been set by the Chief Executive within the options available to him. The people of this Nation are waiting for Congress to take decisive action to halt the rampage of inflation.

As I said when I first placed this matter before the Senate, if we are really serious about controlling inflation and eliminating the prospect of an increasing national debt in the future, then the Senate must face up to the facts regarding deficit spending in the last 4 fiscal years.

From the beginning of fiscal year 1970 through the end of the current fiscal year 1973, the Federal funds area of the unified budget has run a deficit during just these 4 fiscal years, of approximately $100 billion. Senators know that the unified budget procedure tends to obscure the real impact of deficit Federal spending by offsetting trust fund surpluses against nontrust fund deficits. This $100 billion deficit in the last 4 fiscal years has meant that the Federal Government was spending $100 billion more for the operation of Government than it was receiving in Federal taxes. Truly, no Senator can ignore the impact that this $100 billion in deficit Federal spending has had upon our economy in these past 4 years. It has been the primary stimulus for the inflation which has seriously eroded the purchasing power of the dollar both at home and abroad.

Mr. President, we have heard a good deal of rhetoric over the need to do something about inflation. We have heard the same rhetoric over the need to control and limit the national debt.

Well, Mr. President, here is an opportunity to take some action, to face up to the danger that reckless Federal spending has presented to our Nation's economic security, and to protect against future increases in the national debt.

Controls on wages and prices and every other element in our economy will never stop inflation because these controls are not directed at the cause of inflation. Not even phase IV can stop inflation. There is no question that it will be difficult for some Senators to commit themselves to a balanced Federal budget, because such a budget will necessitate cutting down substantially on Federal expenditures. But I am firmly convinced that an overwhelming majority of the American people would rather see the Government spend less, thereby stopping this inflation, than to see larger and larger Federal deficits being spent with money that inflation has made practically worthless.

I urge Senators to consider this bill seriously and to adopt it. I am convinced that it is the first step down the road toward eliminating inflation and establishing a firm foundation for a stable economy in this country.

Mr. HARRY F. BYRD, JR. Mr. President, I am pleased to join with the distinguished Senator from North Carolina (Mr. HELMS) in presenting this legislation. I think it is vitally important that the Nation return to the concept of a balanced budget.

This legislation would require the President of the United States, when he submits his budget each January, to submit a budget which is in balance between outgoes and revenues for the particular fiscal year involved.

It is a simple piece of legislation. The preamble shows the need for it, and the legislation itself would become effective, not immediately, not with the budget which is being considered now—I do not believe that would be realistic—but would become effective with the new budget which will be submitted next January for fiscal year 1975.

I ask unanimous consent to have printed in the RECORD at this point the text of the legislation introduced by Senator HELMS and myself.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Anti-Inflation Act of 1973."

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress of the United States hereby determines that—

(1) the Federal Government is now and has been expending funds during the fiscal year for non-trust-fund budget items in excess of revenues received from all non-trust sources,

(2) such fiscal policy by the Federal Government has resulted in substantial borrowing from both public and private sources,

(3) the aggregate of such borrowing has resulted in an exorbitant national debt totaling more than $450,000,000,000,

(4) this debt will continue to increase so long as the Federal Government spends more than it receives,

(5) the Federal Government is now paying annual interest on the national debt in excess of $20,000,000,000, and

(6) this interest payment is annually increasing as a fixed expenditure in the Federal budget.

(b) The Congress further determines that

(1) deficit spending by the Federal Government has resulted in inflation in the Nation's economy and a lessening in the value of the dollar in terms of its ability to purchase goods and services in foreign and domestic markets,

(2) unless this deficit spending on the part of the Federal Government is discontinued a severe economic depression will result.

(c) The purpose of this Act is to require the President to submit to the Congress a budget in which non-trust-fund expenditures do not exceed revenues received by the Government from nontrust sources, effective July 1, 1974.

SEC. 2. The non-trust-fund expenditures of the Government of the United States during each fiscal year shall not exceed its revenues from all nontrust sources for such year.

SEC. 3. (a) The President shall submit a budget pursuant to the Budget and Accounting Act of 1921, as amended, in which non-trust-fund expenditures do not exceed non-trust-fund revenues for each fiscal year.

(b) The provisions of this section may be adjusted to reflect any additional revenues of the Government received during a fiscal year resulting from tax legislation enacted after the submission of the budget for such fiscal year.

SEC. 4. This Act shall apply only in respect of fiscal years beginning after June 30, 1974.

Mr. HARRY F. BYRD, JR. Mr. President, sooner or later Congress must adopt legislation such as has just been presented. There is only one way, in my judgment, that we can end controls, return to the free market, and get inflation under control.

To do that, we must put the Government's financial house in order.

I am encouraged by President Nixon's statement yesterday that—

> The key to success of our anti-inflation effort is the budget. . . . I propose that we should now take a balanced budget as our goal. . . .

In the same statement, the President wisely threw overboard the foolish concept under which his administration has been working for nearly 3 years; namely spending all the money we wish based on the amount of revenues the government would obtain if—if—we have full employment, which we do not have and do not expect to have.

The Government's policy until yesterday was the so-called full employment budget, which is like saying I would not be broke if—if—my uncle had left me $1 million.

Be that as it may, I shall not quarrel about the past but will look to the future in the spirit of full cooperation with the President.

The President's statement yesterday was reasoned in tone and in substance.

He recognized and proclaimed that phase 3 and phase 3½ of his stabilization program was a disaster.

Said the President:

> There is no way, with or without controls, to prevent a substantial rise of food prices.
>
> Food has given the clearest evidence of the harm that controls do to supplies.
>
> We have seen baby chicks drowned, pregnant sows and cows, bearing next year's food, slaughtered, and packing plants closed down. This dilemma is not coincidence. It is because food prices were rising most rapidly that the freeze held prices most below their natural level and therefore had the worst effect on supplies.

The President stated squarely the dilemma:

> We have a freeze on prices which is holding back a surge of inflation that would break out if the controls were removed. . . . At the same time the freeze is holding down production and creating shortages which threaten to get worse, and cause still higher prices, as the freeze and controls continue.

To meet this situation, the President said he was offered two extreme kinds of advice.

> One suggestion is that we should accept price and wage controls as a permanent feature of the American economy. . . . The other suggestion is to make the move for freedom now, abolishing all controls immediately.

The President rejected both extremes and urged a policy of patience.

There is merit in the President's contention that we shall have to "work our way" out and "feel our way" out of controls.

I am inclined to agree with the President's call for patience and will give him the benefit of the doubt.

I must say, however, that Arch Booth, chief executive officer of the U.S. Chamber of Commerce has much merit in his comment on phase IV:

> It is another in a series of charades that prolongs the dangerous illusion that economic problems can be solved by government edict, rather than government responsibility.
>
> It is an improvement on the freeze, which has been a disaster. The folly of controls is that they delude the American public. They are used to cover up the failure of the government's fiscal and monetary policies and they delay the day when we can return to a free and balanced economy.

The President promises he will do everything possible to terminate controls by the end of 1973. This, perhaps, is the best we can hope for under today's conditions.

Seeking to control the economy out of Washington has been tried and found wanting. Phase I of the economic controls was necessary, I feel as a shock treatment if nothing else. But a controlled economy cannot be sustained under a long period of time without tremendous damage to the free enterprise system.

So having embarked on a deliberate program of deficit spending 3 years ago, having run up huge deficits, the largest in the nation's history, except World War II, having put on tight government economic controls—and loose government economic controls—and winding up with a current inflation rate higher than when all of this started, the Nixon administration has gone full cycle and says bluntly:

> The key to success of our anti-inflation effort is the budget . . . I propose that we should now take a balanced budget as our goal. . .

The distinguished Senator from North Carolina (Mr. HELMS) and the Senator from Virginia want to write that into law.

To that, I say "Amen." To that end, the President shall have my support.

Mr. President, the President's statement was remarkable in another respect. He said frankly—

> Confidence in our fiscal affairs is low at home and abroad.

I have been saying this for several times a week for several years. None of the men who surround the President would agree with my assertion and indeed have been pretending all along that everything is fine.

To me, it has been obvious—and to the President it has seemed to become obvious—that much of our present difficulty stems from lack of confidence "at home and abroad" in our management of our fiscal affairs. The President now recognizes and proclaims that a balanced budget is essential.

When I made the same point with the Secretary of the Treasury a few weeks ago, the distinguished Secretary indicated that he regarded that as an extremist position. I am glad to have some company, namely that of the President, in this extremist position.

I know that the distinguished Senator from North Carolina (Mr. HELMS) as well as the Senator from Virginia welcome President Nixon's statement of yesterday, that a balanced budget is essential if he is to remove the shackles of economic controls from the Nation.

By Mr. FULBRIGHT:

S.J. Res. 135. Joint resolution terminating hostilities in Indochina on August 15, 1973. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, I am introducing a joint resolution today which would legally terminate the state of hostilities between the United States and North Vietnam and its allies in Indochina. Recently I offered this proposal in the Foreign Relations Committee as an amendment to the foreign economic aid bill. However, a number of my colleagues felt that hearings should be held to develop additional information concerning the legal ramifications involved—on contracts, insurance, and the like—before acting on the matter.

There has been no political act officially terminating U.S. involvement in the Vietnam war. Until this is done there will continue to be uncertainty about the situation both in terms of domestic and international law. The cease-fire agreement in Vietnam is not sufficient. Congress did not approve the agreement and it covers only North and South Vietnam. The United States is not a party to the Laos cease-fire agreement and more has yet been reached in Cambodia.

The current prohibition on further U.S. military activities in Indochina does not constitute a formal congressional declaration that the war is legally over, as far as the United States is concerned. Since Congress did not declare war in Indochina it is all the more appropriate that Congress initiate action to formally end U.S. involvement. To do so will be but another step in Congress reassertion of its war powers.

Earlier this year the Library of Congress prepared a study for the Committee on Foreign Relations entitled "Congress and the Termination of the Vietnam War." A pertinent part of that study stated:

> Although an undeclared war can be terminated by virtue of a cessation of hostilities or a cease-fire or armistice agreement, the problem of legal uncertainty which this creates, and the delay resulting from the passage of time before the war can be said to be terminated, would seem to constitute reason for a political action officially terminating the Vietnam war. In addition, a political act of this nature would give authoritative sanction to the position of the United States that, for its part, the war has ended.

If Congress does not declare that the war is ended it will be left to the President to do it by proclamation at some point in the future, perhaps even years from now. There has been no formal action to date to end the Korean war. However, I point out that the status of the Korean war is different in that the war was fought under the flag of the United Nations and that flag still flies over the 40,000 U.S. forces still in Korea. Hopefully, the United Nations will act soon to end its formal involvement there. A special Senate committee, chaired by Senators Church and Mathias, is already studying how to terminate the extraordinary powers allowed the President as a result of the national emergency declared during that war.

But the Vietnam war is not in the same category as Korea. The current state of legal uncertainty about the Vietnam war should not be allowed to continue. This resolution will bring U.S. participation in the war to a final, legal end.

The committee will schedule hearings on the resolution as soon as possible.

I ask unanimous consent to have printed in the Record at this point the text of the resolution and the study prepared by the Library of Congress on this subject.

There being no objection, the joint resolution and study were ordered to be printed in the Record, as follows:

S.J. Res. 135

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of hostilities which has existed between the United States and the Democratic Republic of Vietnam and its allies in Indochina is terminated.

Congress and the Termination of the Vietnam War

FOREWORD BY SENATOR J. W. FULBRIGHT, CHAIRMAN, COMMITTEE ON FOREIGN RELATIONS

Some weeks ago the Committee on Foreign Relations asked the Library of Congress to undertake a study of the role of the Congress in the termination of wars. This inquiry was prompted by the realization that while much attention has been devoted to the question of the respective powers of the Executive and Legislative Branches in the making of war, relatively little thought has been devoted to the legal processes involved in the termination of wars.

This question now has taken on an added meaning as a result of the nature of the Vietnam cease-fire agreement and the subsequent Paris agreement and the manner in which they have been handled by the Executive Branch. It is not entirely clear whether, either as a practical or a legal matter, these agreements will mark the end of the Vietnam war any more than the Korean Armistice marked the end of that conflict. Although some twenty years have passed since the fighting stopped in Korea, confusion persists as to whether, in a legal sense, that war has ended. In the absence of some affirmative action by the Congress, the Executive Branch or both, a similar confusion may arise with regard to the Vietnam war.

As the study which the Library of Congress has prepared for the Committee on Foreign Relations points out, the Korean war "represented a break in the tradition of joint legislative-executive cooperation in the beginning and end of war." The Korean war was, as the study notes, "the first major war in U.S. history initiated without the explicit formal approval of Congress, and the first to be concluded without some kind of action by Congress." In considering the War Powers bill the Congress has already begun to address the problem of its proper role in the initiation of future wars. The apparent end of U.S. involvement in the fighting in Vietnam makes it timely to consider how the present war can be formally terminated.

Among the questions which the Committee asked the Libary of Congress to examine in its study were the domestic and international legal problems involved in allowing wars to "fade away," and whether Congressional action "to terminate" the Vietnam war is feasible and appropriate. The study which appears on the following pages responds to those questions. It suggests the desirability of action by the Congress both "to terminate" the Vietnam war in a legal sense, and to reexamine the status of outstanding grants of authority to the President attending to the existence of wartime emergencies. In the latter connection, it should be noted that the Senate has already created a special committee to study the question of the termination of the national emergency. I hope that the publication of this thoughtful study which was prepared by William C. Gibbons, Allan W. Farlow and Leneice N. Wu of the Library of Congress will stimulate and inform public and Congressional discussion of these neglected subjects.

On March 14, 1973, the Committee approved publication of this study.

Letter of Transmittal

Foreign Affairs Division,
Congressional Research Service,
March 9, 1973.

Hon. J. William Fulbright,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Chairman Fulbright: I am pleased to submit this study of the question of formal termination of the Vietnam War by Congress.

The study, prepared at your request by the Foreign Affairs Division of the Congressional Research Service, examines the power of Congress to terminate a war, and surveys the history of U.S. experience in the termination of involvement in both declared and undeclared wars. In addition, it describes legal aspects of the Korean and Vietnam wars, the issues raised with respect to the international legal consequences of the Vietnam armistice agreements, possible congressional action to terminate the Vietnam war, and the implications of such action for domestic law in the United States.

The study does not discuss the impact or lack of impact of any such action upon the position or role of the United States in Southeast Asia.

This study was prepared by William C. Gibbons, Specialist in U.S. Foreign Policy, and Allan W. Farlow, Analyst in National Defense, with the assistance of Leneice N. Wu, Analyst in International Relations, under the general direction of Charles R. Gellner, chief of the Foreign Affairs Division.

Sincerely,

Lester S. Jayson,
Director.

Congress and the Termination of the Vietnam War[1]

THE POWER OF CONGRESS TO TERMINATE A WAR AFTER A CESSATION OF HOSTILITIES

There are three standard ways in United States and international law in which wars, both declared and undeclared, can be definitely ended: by treaty, by legislation, or by presidential proclamation.[2] The choice of the method or combination of methods to be used depends on various factors. (See below for an account of the steps taken to end World Wars I and II.) Wars can also be ended by the suspension of hostilities or by a cease-fire or armistice—whether or not there is an armistice agreement—which can, after a reasonable period of time and the establishment of the necessary facts to support such a conclusion, be interpreted by the courts as representing the end of the war. Under U.S. law, however, a cessation of hostilities or armistice cannot terminate a declared war. In order for a declared war to be ended, and for statutes made operative by reason of the existence of an official state of war to be repealed or to revert to their peacetime status, appropriate action would have to be taken by the political branches of Government.

In the case of an undeclared de facto war, an armistice and related facts could be interpreted by the courts as representing a de facto termination of the war, even if, as in the case of the Korean war, there were no treaty or other international instrument, legislation, or presidential proclamation officially pronouncing the war to be at an end.

There can be no question about the power of Congress to terminate any war with respect to war-related grants of power to the President and the regulation of legal consequences within the legislative jurisdiction of Congress. But Congress cannot legislate for other countries, and although it can specify U.S. conditions for a political settlement of a war, Congress cannot negotiate or make

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international arrangements under which those terms would be carried out. When confronted with the problem, the delegates to the Constitutional Convention, a number of whom were inclined to give Congress the power to declare peace as a check against the possibility that an ambitious executive might attempt to continue a war without public approval, decided to rely upon the treaty power because of the importance of having joint legislative-executive action.

It is clear, however, that action by Congress to terminate a war can directly affect the international legal situation, and can become the instrument by which the war is officially ended by the United States from the standpoint of its own position with respect to a state of war—a unilateral formal declaration. After the failure of the Treaty of Versailles it was Congress which brought the war officially to an end, both domestically and in terms of the status of U.S. belligerency in international law, by first enacting a joint resolution terminating the war from the domestic legal standpoint, and then enacting a second joint resolution terminating it from the standpoint of U.S. belligerency. (For the texts of both laws see appendixes A and B.) To obviate all uncertainty, the President, after Congress acted, negotiated treaties which, in substance, gave effect to what Congress had done. He then proclaimed the war at an end *as of the date—July 2, 1921—the second joint resolution became effective,* thus making it clear that for purposes of international law the war ended for the United States when Congress with the concurrence of the President said it was ended. As will be noted below, however, some authorities took the position that for some international purposes the war might not be officially terminated until the President, after congressional action on the treaties, proclaimed the war to be over. Action by the courts was not uniform. In most cases the courts accepted the date of the joint resolutions as the end of the war, but in some cases the President's proclamation was considered the terminal point, and a few courts took the position that the war had not even ended at that juncture because a treaty of peace as such had not been signed.[3] (The treaties signed with Germany, and Austria-Hungary were not treaties of peace.)

Similarly, the legal state of war with Germany as well as with other associated European countries was ended by joint resolution after World War II, and although action by the courts again was not uniform the effective dates of these resolutions generally have been considered the terminal dates of the war with those countries. (For the text of the law ending the war with Germany see appendix C.)

Termination of an undeclared, de facto war by Congressional action, on the other hand, does not present an easy question in terms of predictable legal consequences. Authorities do not agree even today as to whether the Korean "war" has ended. Efforts are now underway in Congress and the executive branch to determine the consequences of a termination of the national emergency proclaimed during the Korean war by President Truman in 1950.

Since, by definition, a de facto war is dependent on the existence of certain facts, a determination of both its existence and its termination is one of fact, not laws. Consequently, legislation designed to terminate a de facto war, is, at best, an accurate appraisal and declaration of recent events. This being the case, legislation declaring an end to a de facto war without provision for intended legal consequences would not necessarily be dispositive of issues dependent on that determination, and, while such a declaration would undoubtedly be given great weight, other branches and the states could attack collaterally the accuracy of the declaration.

HISTORICAL EXPERIENCE PRIOR TO THE KOREAN WAR

Prior to the Korean war there were five declared *general* foreign wars in U.S. history; the War of 1812, the Mexican War, the Spanish-American War, and the two World Wars. There has been one undeclared *limited* war which Congress authorized in advance, and which the courts recognized as war from the political standpoint (i.e., authorized by Congress). This was the "war" with France 1798–1801.[4] All of these were concluded by joint action of the Congress and the President. The war with France, the War of 1812, the war with Mexico and the Spanish-American War were terminated by treaty. The First World War was terminated by an act of Congress followed by treaties with Germany and Austria-Hungary. The Second World War was terminated by an act of Congress in the case of Germany, and a treaty in the case of Japan.

There have been several other conflicts which some authorities refer to as "public wars" and which are generally considered to have constituted "states" of or "conditions" of war as a result of the existence of armed hostilities between the United States and other nations.[5] These were the First Barbary War, 1801–05, and the Second Barbary War, 1815, both of which Congress authorized in advance, and which were concluded by treaties; U.S. action in the Boxer Rebellion of 1900, which was not submitted to Congress for approval or authorized by Congress and which was concluded by an international executive agreement which was not submitted to Congress for approval; the war against the Filipino "insurgents" after the Spanish-American War, which was conducted by the President with support from Congress but without explicit approval or authorization, and was ended by surrender; and, finally, the hostilities with Mexico, 1914–17, which were authorized by Congress the day after President Wilson moved U.S. troops into Mexican territory and were terminated, when, following mediation of Argentina, Brazil, and Chile, U.S. troops were withdrawn from Mexico.

From the legal standpoint, domestic as well as international, the United States was in a general and officially designated state of war, that is, engaged in hostilities which were declared by Congress to be a "war," and in which U.S. participation was authorized by law, in each of the five declared wars. It is not as clear that the undeclared hostilities cited above constituted authorized, de jure states of war, although various aspects of each of these conflicts would appear to justify their classification as "public wars" in which there was a partial or limited state of war from a political and legal standopint, both domestically and internationally. This conclusion is further supported by the fact that in both Barbary Wars and in the Boxer Rebellion the opposing country declared war against the United States. (In the Barbary Wars Tripoli declared war; Algiers did not.)

The situation at the end of the First World War presented a new and unique situation from the standpoint of termination. Whereas all previous declared wars were ended by treaty, the impasse over the Treaty of Versailles left the United States in a state of war with Germany and Austria-Hungary. With the courts holding that the state of war continued in effect for judicial purposes, it was apparent that new steps had to be taken to bring the war legally to an end, both domestically and internationally. In 1920, Congress, which was then controlled by the Republicans, passed a joint resolution declaring the state of war terminated.[6]

There was a sharp and prolonged partisan debate in which the Republicans contended that Congress had the power to declare an end to the war and the Democrats, faced with the prospect of losing all hope of approval of the Treaty of Versailles, argued that Congress did not have the power to terminate the state of war except with respect to domestic law. Wilson vetoed the measure, saying that it would "place an ineffaceable stain upon the gallantry and honor of the United States" because it would establish peace "without exacting from the German government any action by way of setting right the infinite wrongs." [7] He did not object on constitutional grounds, and it would appear that he did not think Congress was acting unconstitutionally in attempting to end the state of war by joint resolution. The House did not override the veto.

In 1921, however, Harding, requested congressional action and Congress, after intense partisan debate, passed two joint resolutions ending the war. The first, which became law on March 3, 1921, provided that in the interpretation of provisions in acts of Congress and in certain presidential proclamations the date the resolution became effective would be regarded as the end of the war.[8] The Attorney General ruled that "What Congress has done is to declare a state or rather a condition of peace to exist as to the laws of and governing the United States." [9]

The second, which became law on July 2, 1921, terminated the state of war for the United States, and prescribed conditions for U.S. relations with Germany and the other enemy states.[10] Following this action the President negotiated treaties with Germany and Austria-Hungary embodying the terms which Congress had prescribed, which were quickly approved by the Senate, and on October 21, 1921, the President issued a proclamation declaring that the war was over.[11] The results of this complicated series of events has been summarized as follows:

"It would seem not improper to set July 14, 1919, as the date of the end of the war for purposes of trading between nationals of the two countries; to set March 3, 1921, as the date of the end of the war for the purpose of applying much of America's wartime legislation; and to set July 2, 1921, as the date of the end of the war for purposes of American municipal law and claims before the Mixed Claims Commission. But there may also be some international situations in which it would be improper to say that the war ended before November 11, 1921." [12]

The termination of World War II was also a complicated matter. Beginning in 1945 efforts were made in Congress to pass legislation dealing with termination. Truman, however, urged Congress not to take precipitous action on legal termination of the war, the hostilities, or the states of national emergency which had been declared by the President in 1939 and 1941. Hearings were held in the House and in 1946 a joint resolution was reported from committee providing for repealing only those statutes which the executive branch had testified should be repealed at that time. The House passed the bill, but Congress adjourned before any action by the Senate.[13]

Truman then proclaimed a "cessation of hostilities" as of December 31, 1946, which had the effect of rescinding 53 of some 500 laws pertaining to war or national emergency. He noted, however, that his proclamation did not terminate the state of war or the national emergencies which had been declared. It ended only the "period of hostilities." [14]

In 1947, Congress took up the matter again and passed a joint resolution terminating the state of war and the national emergencies of 1939 and 1941 with respect to certain statutes of the type which would have been covered by the legislation from the previous Congress.[15] In a great number of cases, however, the effect of this action was to terminate the effectiveness of the particular statutory authority but not to repeal it, thus leaving extant a large number of war-related or

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emergency statutes in the category of "permanent legislation." Some of these dated from the First World War, others from the 1920's and 1930's, and the largest number from the Second World War.[16]

The state of war with Germany finally was concluded in 1951 by joint resolution, and the state of war with Japan in 1952 by a peace treaty.[17] The national emergencies of 1939 and 1941 were rescinded by Truman on April 28, 1952,[18] after his 1950 proclamation of a state of national emergency in connection with the Korean war. For a period of almost 2 years there were three coexistent national emergencies.[19]

EXPERIENCE WITH THE KOREAN AND VIETNAM WARS

The political branches of government have not taken authoritative steps to cause either the Korean or the Vietnam wars to be considered a "state of war." Congress did not, in either war, see fit to make the judgment that the hostilities constituted states of war, and Presidents Truman, Kennedy, Johnson, and Nixon did not request such action. However, when we queried the Judge Advocate General's Office of the Air Force, which is responsible for these aspects of the legal work of the armed services, concerning whether any of the laws which become operative "in time of war" or during a "state of war," had been used during the Vietnam war, the answer was carefully phrased. It was that, so far as that office knew, there had been no use made of such statutes. We must assume, therefore, that there is a possibility some of the statutes have been used, or would be cited if the particular authority for various activities were required to be given. If such were the case it would, of course, raise the question as to whether, despite the absence of congressional action determining that a "state of war" existed, the executive branch acted in such a manner as to indicate a strong presumption in favor of the existence of a de jure war.

From the standpoint of the courts, both wars have been considered as being war, and as having been authorized or at least supported by Congress. (See below.) The executive branch also has taken the position that Congress has authorized the war by passing the Gulf of Tonkin resolution. Under Secretary of State and former Attorney General Katzenbach took the position that this was the "functional equivalent of . . . declaring war." [20] This, incidentally, raises an interesting question about the status of the war. He appears to have been suggesting that, from the standpoint of the executive branch, it was a de jur rather than merely a de facto war.

A principal reason for the absence of congressional action activating wartime statutes in the case of Korea and Vietnam was the existence of authority for a presidential declaration of a national emergency giving the President some of the power and legal authority needed to prosecute both wars, aided, of course, by congressional action on the necessary appropriations and use of selective service.

Thus, it can be seen that Congress has played a principal role in the legal termination of wars, both general and limited, and that until the Korean war all major foreign wars had been ended by treaty or by a combination of legislation and treaties. The Korean war was significant because it represented a break in the tradition of joint legislative-executive cooperation in the beginning and ending of war. It was the first major war in U.S. history to be initiated without the explicit formal approval of Congress, and the first to be concluded without some kind of action by Congress.

The problem of permitting a war to fade away rather than being finally ended through a political act of termination is illustrated by the complications resulting from the Korean war, in which the armistice agreement was not implemented domestically or internationally by conclusive political action. Twenty years have passed since the armistice was signed. The state of emergency is still in existence, and the grants of power extended by Congress are still residing in the executive branch. Soldiers who serve in the DMZ continue to receive combat pay. Hostilities, though infrequent, occasionally erupt.

Lack of a definite political act ending the Korean war also created uncertainty with respect to the legal definition of the situation in the several years after hostilities ended, and conceivably could still create legal uncertainty.[21] (Suppose, for example, that a U.S. soldier receiving combat pay were killed in a skirmish in the DMZ. Would this be considered a "state of war" for insurance purposes?)

An armistice is not regarded as an action which terminates a "state of war." If war is declared, it can be officially terminated only by a treaty, congressional joint resolution, presidential proclamation, or a combination of these. In a principal case on the subject, involving a determination by the Supreme Court as to whether certain of the President's war powers authorized by Congress had terminated after the cessation of hostilities with Germany at the end of World War II after the President had proclaimed the end of the war, but before implementing legislation and treaties, Justice Frankfurter stated: "War does not cease with a cease-fire order, and the war powers of the President are not exhausted when the shooting stops. . . . The powers of a President which depend on the existence of a state of war . . . terminate when the appropriate political agency makes a determination that the war has concluded. . . ." [22]

For undeclared limited wars, there are few legal precedents with respect to the question of termination. Unlike the termination of a declared war, for which action by Congress is required in order to restore a state of peace, Congress would not necessarily need to declare an undeclared war at an end if there were no statutes made operative during the war which required such action. A war which has been declared or otherwise determined by Congress to be a "state of war" triggers certain statutes which are operative only during periods described as "in time of war," in a "state of war," or by similar phases. In order for these to be restored to a peacetime status, Congress would have to declare the war or "state of war" at an end. But, in an undeclared war, unless Congress, during the war, were to enact legislation for the purpose of the war without establishing criteria or a date for automatic termination, no transfer of authority from Congress to the President would occur, and no termination of the legislation by Congress would be required.[23] In international law, moreover, it has long been established that wars do and can end merely by a cessation of hostilities or a cease-fire or armistice.[24]

Although an undeclared war can be terminated by virtue of a cessation of hostilities or a cease-fire or armistice agreement, the problem of legal uncertainty which this creates, and the delay resulting from the passage of time before the war can be said to be terminated, would seem to constitute reason for a political action officially terminating the Vietnam war. In addition, a political act of this nature would give authoritative sanction to the position of the United States that, for its part, the war has ended.

THE LEGAL STATUS OF THE VIETNAM WAR

In making a judicial determination of whether or not a "state of war" exists, courts have distinguished between a de facto war (sometimes referred to as war in the material or general sense) and de jure war (i.e. war in the technical or strictly legal sense).[25] The issue of whether the Korean hostilities constituted war has been litigated repeatedly. In nearly all cases, the existence of a war was found even though there was no express congressional declaration.[26] The courts reasoned that war, in fact, existed even though some of the requirements for "war" in the constiutional or legal sense were missing.[27]

This same issue has arisen in state and federal courts on numerous occasions since the outbreak of overt hostilities in Vietnam. Without significant exception, it has been determined that a "state of war" existed. In most of these cases, it was unnecessary to determine whether the war was de facto or de jure.[28]

Authorities do not agree, however, whether a "state of war" has existed in the constitutional sense (de jure). While it is generally agreed that legislative sanction is necessary to the technical existence of a war, the law is not settled as to what particular legislative acts are required to give this sanction. In the famous Prize cases, Justice Grier observed that "If it were necessary to the technical existence of war that it should have legislative sanction, we find it in almost every act passed at the extraordinary session of the legislature of 1861, which was wholly employed in enacting laws to enable the Government to prosecute the war with vigor and efficiency." [29] That decision held that the Civil War was, in fact and law, a "war" for the purposes of determining the ownership of a confiscated blockade runner. Other decisions of the courts have distinguished between "perfect" and "imperfect" or "general" and "partial" or "limited" wars, and have found that Congress authorized a "state of war" in certain cases, notably the "war" with France in 1798–1801, even though it did not declare war.[30] Some of the court cases dealing with the Vietnam war point out the similarity between these earlier situations and congressional approval of U.S. action in Vietnam.[31]

Court decisions since the commencement of the Vietnam conflict which require a determination of the statuts or nature of that war are, however, neither clear nor controlling. The Supreme Court has not considered this issue on its merits and is not likely to do so in the foreseeable future. Lower federal courts which have addressed the question—always peripherally—have generally found enough congressional action, participation, acquiescence, knowledge and support, or collaboration, depending on the semantic preference of the court, to meet the constitutional requirement of congressional sanction. In no case in which executive authority was challenged did the courts base a decision on the proposition that the Executive had the constitutional authority to carry on extended combat operations in Vietnam without the participation of Congress in some degree. While no court has expressly held that the congressional actions necessary to give sanction to the war constituted an implied declaration of war in the constitutional sense, it is difficult to avoid that inference.[32] For example, the Second Circuit Court of Apeals in deciding *Orlando* v. *Laird,* conceded that the Constitution, by vesting in Congress the power to declare war, required the exercise of congressional authority to legitimize U.S. war efforts in Vietnam.[33] It also found that Congress exercised also found that Congress exercised that that authority. It did not say, however, that a declaration of war could be implied from that exercise.

LEGAL EFFECTS OF THE VIETNAM ARMISTICE AND THE ACT OF THE PARIS CONFERENCE

On January 27, 1973, a four-power Vietnam cease-fire agreement, officially called "The Agreement on Ending the War and Restoring Peace in Vietnam," was signed in Paris.[34] It provides (Article 2) for a "complete cessation of hostilities . . . [which] shall be durable and

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without limit of time." It is not a treaty or agreement of peace. Nor does it "end" the war. According to its preamble, the signatories entered into the agreement "with a *view to ending* the war and restoring peace in Vietnam . . ." (Emphasis added.)

On March 2, 1973, pursuant to the agreement of January 27, twelve nations signed an "Act of the International Conference on Vietnam," approving and supporting the Vietnam armistice agreement.[35] This, too, is not a treaty or agreement of peace, nor does it "end" the war. It is a statement of intention of the parties, a binding international agreement, under which the parties accept certain international obligations.

In both the Vietnam cease-fire agreement and the 12-power Act the United States recognized and agreed to respect the neutrality and sovereignty of Laos and Cambodia, and agreed to end all military activities in both countries.[36]

All of these actions on the part of the United States Government have been taken by the President alone, presumably under his powers as Commander-in-Chief, or as Chief Executive, or both. There has been no explanation of the source of power in each instance.

The Department of State considers the Vietnam armistice agreement and the Act of the twelve powers to have been international agreements other than treaties, and therefore to constitute executive agreement under U.S. practice. Accordingly, both actions are governed by the provisions of P.L. 92–403, requiring international agreements other than treaties to be reported to Congress within 60 days, and both have now been transmitted to Congress.

It is interesting by comparison to note the situation in 1954, when French involvement in the war in Indochina ended with the international conference in Geneva. Even though there was no clear obligation to do so, the French Government submitted the Geneva conference declaration to the National Assembly for its consideration. The Assembly passed a resolution commending the Government and approving the declaration.[37]

It is also interesting to note that in his speech to the National Assembly, Prime Minister Mendes-France, while making it clear that all French forces were going to be removed from Indochina under the terms of the Geneva Accords, stated that if a violation of the Accords required the renewed use of force, he would consult in advance with the Assembly before sending French military units into combat again.[38]

Although the United States is formally committed to maintaining the cease-fire in Vietnam, and to respecting the cease-fire in Laos, there is no bar to resumption by the President of hostilities in either country, or against the Democratic Republic of Vietnam (North Vietnam). When asked about this possibility Administration spokesmen have stated that it would be "legally correct" under the Vietnam cease-fire agreement to use U.S. air power. Such use would depend, "on the extent of the challenge, on the nature of the threat, on the circumstances in which it arises." [39] They have not stated that the United States would or would not resume hostilities. Nor have they stated whether or not Congress would be asked to approve such a resumption, of whatever scale.

In both domestic and international law the Vietnam cease-fire agreement and the Act of the twelve powers in and of themselves do not constitute an end to the war or represent the termination of hostilities. In the absence of actions to this effect, such as a treaty or agreement of peace, the war cannot be said to be terminated until the necessary conditions exist for this to be considered to be a reasonable presumption. As was indicated earlier, this is a determination which could be made if, after a reasonable period of time, it could be established that hostilities have not only ceased but terminated, and that effective steps have been taken fully to implement the agreements.

THE QUESTION OF TERMINATION BY CONGRESS OF THE VIETNAM WAR

Although there is no precedent for termination of an undeclared war by a legislative act initiated by the legislature, there is also no apparent legal bar to the use of such a method for this purpose. The fact that the war was not declared would not appear to be preclusive. Several previous undeclared wars have been terminated by treaty approved by the Senate. Moreover, Congress has clearly recognized the "state of war" in Vietnam without expressly declaring its existence, and what it has approved and supported by legislative sanction it can terminate by a legislative act or actions which withdraw any or all of those sanctions.

There are some difficulties with this approach, however. As was indicated earlier, the declaration that a de facto war has terminated would constitute an interpretation of the facts which might not be considered conclusive. This particular problem would be obviated if the law were to be based on the assumption that the war was a de jure or legally authorized war. (This could be done on the basis of the Gulf of Tonkin resolution and other actions of Congress which supported the war.) There are clear precedents for termination of a de jure war by Congress. Moreover, congressional termination of a war which Congress has found to be de jure would have predictable legal consequences based on precedent. Even if congressional termination of the Vietnam War could be considered conclusive from the standpoint of the legal consequences within the legislative jurisdiction of Congress, however, it would not necessarily have any effect on the actions of the United States with respect to the war. Congress could declare the war to be over, but this in and of itself would not prevent a determined President from resuming hostilities.

In view of the fact that the executive branch has generally taken the position that the President did not need congressional authorization to become involved in the Vietnam war, action by Congress terminating the war might be rejected by the President, who, if he were to continue to get appropriations, could resume the war. (The existence of a volunteer Army might facilitate such action by obviating the necessity for congressional approval of the use of selective service.) In this event, one recourse for Congress could be a prohibition on the use of appropriations as a necessary means for implementing termination.

One possible approach to the question of termination would be a joint resolution terminating the war with respect to domestic law. The second would be a joint resolution terminating the U.S. "state of war," and stating the conditions for termination from the standpoint of U.S. international responsibilities and rights. Even if this latter action were to stand alone as an expression of the position of one or both of the political branches of government with respect to the status of U.S. belligerency, it could, as a unilateral formal declaration, constitute the instrument for international recognition of the existence, for the United States, of a state of peace, especially if it were promulgated internationally by a presidential proclamation.

THE DOMESTIC LEGAL CONSEQUENCES OF TERMINATION OF THE VIETNAM WAR BY CONGRESS

If Congress were to enact a statute terminating the Vietnam war, with respect to domestic law, certain legal consequences conceivably could flow from that action pertaining to various statutes and presidential proclamations, and in the area of individual rights.

Concerning war-related delegated presidential power, there may be a few relatively minor activities and programs which would be terminated by such an action unless specifically exempted or extended for stated periods of time. This matter presently is being examined by the American Law Division from a computer printout of relevant sections of the U.S. Code provided by the Justice Department.

Congressional action to terminate the war would not, of course, diminish the extraordinary powers residing in the executive branch which depend on the existence of the Korean emergency. In order to restore those powers to the Congress, it would be necessary to terminate the Korean emergency, either by presidential proclamation or by legislation.

With respect to rights of individuals, there are innumerable potential controversies involving private entities and governmental subdivisions which, in some degree, depend for their resolution on political determination of the end of the war. These controversies may be generally divided into three major categories:

1. Prosecution of "wartime" criminal offenses under the Uniform Code of Military Justice.[40]

2. Resolution of criminal and civil cases arising under wartime legislation governing the rights of private individuals and entities (e.g. rent control, State tax laws exempting certain wartime income).

3. The construction of contracts which provide for performance conditioned on the existence of war (e.g. insurance contracts with so-called war clauses).

These cases do not ordinarily involve constitutional separation of power issues; instead, the legislative intent of the enacting body or the intention of the contracting parties is controlling. In an overwhelming majority of these cases distinction between a war de facto and a war de jure is not relevant. Nevertheless, a political determination as to when the Vietnam war terminates would help to clarify the issues and might result in the avoidance altogether of some controversies. Such a determination containing a clear expression of congressional intent would erase many ambiguities which might otherwise be encountered in applying the wartime provisions of the Uniform Code of Military Justice and other federal laws.

With regard to the construction of contracts and the application of wartime legisltion enacted by the states, the official declaratory effect of such an act would constitute an authoritative guide in resolving such controversies. Of course, since the intention of the parties and the enacting bodies is controlling, the congressional declaration would not be conclusive in this general category.

CONCLUSION

The preceding comments can be summarized as follows: Congress has the power to terminate the war in Vietnam with respect to war-related statutory grants of power to the President and the regulation of legal consequences within the legislative jurisdiction of Congress. It also has the power to act in such a manner as to affect directly the international legal situation, and action by Congress can become the instrument by which a war is officially ended by the United States from the standpoint of terminating its own state of war. Moreover, action by Congress officially terminating the Vietnam war would help to obviate domestic and international legal ambiguities and uncertainties resulting from the lack of an agreement or treaty of peace.

FOOTNOTES

[1] This paper does not discuss the impact or lack of impact on the position or role of the United States in Southeast Asia which might or might not result from congressional action with respect to termination of the war.

[2] *Ludecke* v. *Watkins*, 335 U.S. 160, 168 (1948).

[3] On these points cf. W. Lewis Roberts, "Litigation Involving 'Termination of War,'" 43 Ky. L.J. 199 (1955); "Judicial Determination of the End of the War;" Note, 47 Col. L. Rev. 255 (1947); Edward S. Corwin, "The Power of Congress to Declare Peace," 18 Mich. L. Rev. 669 (1920).

[4] Cf *Bas* v. *Tingy*. ("The Eliza"), 4 Dall. 37 (1800); *Talbot* v. *Seeman* ("The Amelia"), 1 Cranch 1 (1801); *Little* v. *Barreme* ("The Flying Fish"), 2 Cranch 170 (1804). For a related decision which found that Indian wars also fell under the category of "imperfect" war authorized by Congress see *Montoya* v. *United States*, 180 U.S. 261 (1901).

[5] Cf. Clinton Rossiter. The Supreme Court and the Commander in Chief, Ithaca, Cornell University Press, 1951, p. 67. Relevant court cases are for the Boxer Rebellion, *Hamilton* v. *McClaughry* 136 Fed. 445 (C.C.F.D. Kan. 1905), in which the court held that although the existence of a state or condition of war is determined by the political department of the government, and although there had been no formal declaration of war by that department, such a declaration is not necessary in order for there to be a "condition of war." The court said that the question was whether the United States was "prosecuting its right in Chinese territory by force of arms." This being the case it found that a condition of war existed. For cases in which the Filipino insurrection was considered to be a "state of war" see *Warner, Barnes & Co.* v. *United States*, 40 Ct. Cl. 1 (1904), *Chauncey Thomas* v. *United States*, 39 Ct. C. 1 (1903) and *Le Rue* v. *Kansas Mutual Life Insurance Co.*, 68 Kans. 539, 75 Pac. 494 (1904). For the "condition of war" with Mexico, 1914–17, see *Arce* v. *State, Tex.*, 202 S.W. 951 (1918).

[6] See U.S. Congress. House. Committee on Foreign Affairs. Termination of State of War with Germany. Report, to accompany H.J. Res. 327, Apr. 6, 1920. 66th Cong., 2d sess. Washington, U.S. Government Printing Office, 1920. (H. Rept. 66–801, 2 parts). 3 p. and 19 p. and U.S. Congress. Senate. Committee on Foreign Relations. Terminating the State of War Existing between Germany and Austria-Hungary and the United States. Report, to accompany H.J. Res. 327. Apr. 30, 1920. 66th Cong., 2d sess. Washington, U.S. Government Printing Office, 1920 (S. Rept. 66–568) 2 p.

[7] U.S. Congress. House. Veto message relating to Peace Resolution. Message from the President of the United States returning to the House of Representatives without approval H.J. Res. 327 . . . May 28, 1920. 66th Cong., 2d sess. Washington, U.S. Government Printing Office, 1920. (H. Doc. 799). 2 p.

[8] 41 Stat. 1359 (1921).

[9] 32 Op. Attorney General 505, 510 (1921).

[10] 42 Stat. 105 (1921). See U.S. Congress. House. Committee on Foreign Affairs. Terminating State of War with Germany and Austria-Hungary. Report, to accompany S.J. Res. 16. June 7, 1921. 67th Cong. 1st sess. Washington, U.S. Government Printing Office, 1921. (H. Rept. 67–148, 2 parts). 7 p. and U.S. Congress, Senate. Committee on Foreign Relations. Peace with Germany. Report to accompany S.J. Res. 16. April 25, 1921. 67th Cong., 1st sess. Washington, U.S. Government Printing Office, 1921. (S. Rept. 67–2). 5 p.

[11] 42 Stat. 1944 (1921).

[12] The ratifications of the treaty were exchanged on November 11, 1921. Manley O. Hudson, "The Duration of the War Between the United States and Germany," 39 Harv. L. Rev. 1020, 1045 (1926).

[13] See U.S. Congress, House, Committee on the Judiciary, Subcommittee No. IV. Cessation of Hostilities, Termination of the War and Emergencies, Hearings . . . 79th Cong., 2d sess., May 27 and 28, 1946, Serial No. 17, part 2, Washington, U.S. Government Printing Office, 1946, 192 p. and U.S. Congress, House Committee on the Judiciary, Subcommittee No. IV. Cessation of Hostilities, Termination of the War and Emergencies, War and Emergency Statutes Classified by Termination Provisions. Based on a Compilation submitted by the Office of the Attorney General, November 30, 1945, 79th Cong. 1st sess., Serial No. 17, Washington, U.S. Government Printing Office, 1946, 92 p. See also U.S. Congress, House Committee on the Judiciary, Repealing Certain Statutes Relating to the War and Emergencies. Report to accompany H.R. 7147, July 26, 1946, 79th Cong., 2d sess., Washington, U.S. Government Printing Office, 1946, (House Rept. 79–2682), 16 p.

[14] Proc. No. 2714, 12 Fed. Reg. 1. There were nearly 1,000 war-related statutes enacted during the war, but many of them expired automatically. Compare this with 20–25 enacted during World War I.

[15] See U.S. Congress, House, Committee on the Judiciary. Terminating Certain Emergency and War Powers, Report, to accompany S.J. Res. 123, July 7, 1947, 80th Cong., 1st sess., Washington, U.S. Government Printing Office, 1947. (House Rept. 80–799). 40 p. and U.S. Congress, Senate, Committee on the Judiciary. Joint Resolution Declaring that in Interpreting Certain Acts of Congress, Joint Resolutions, and Proclamations, World War II, the Limited Emergency, and the Unlimited Emergency Shall be Construed as Terminated and Peace Established, Report, to accompany S.J. Res. 123, June 23, 1947, 80th Cong., 1st sess., Washington, U.S. Government Printing Office, 1947. (S. Rept. 80–339, 2 parts) 8 p. and 104 p. The hearings were not printed. In S. Rept. 80–339, part 2, there is a complete list of all war and national emergency statutes and the effect which the joint resolution would have on each one.

[16] For an up-to-date listing of all statutes which become effective in a state of war or national emergency, see Executive Office of the President, Office of Emergency Preparedness Guide to Emergency Powers Conferred by Laws in Effect on Jan. 1, 1969. This is the most recent compilation and OEP (which is being abolished) does not plan to reissue it. The Department of Defense publication on this subject is: Department of Defense, General Counsel, Digest of War and Emergency Legislation Affecting the Department of Defense. Revised as of 1973.

[17] 6 Stat. 451 (1951); TIAS 2490, 3 UST 3169.

[18] Proc. 2974. April 28, 1952. 17 Fed. Reg. 3815.

[19] Prog. 2914. December 16, 1950. 15 Fed. Reg. 9029.

[20] U.S. Congress. Senate, Committee on Foreign Relations. U.S. Commitments to Foreign Powers. Hearings . . . on S. Res. 151 relating to United States Commitments to Foreign Powers. August and September 1967. 90th Cong., 1st sess. Washington, U.S. Govt. Print. Off., 1967. p. 82.

[21] Cf. A. Kenneth Pye, "The Legal Status of the Korean Hostilities," 45 Georgetown L.J. 45 (1966).

[22] *Ludecke v. Watkins*, op, cit.

[23] Note 8 U.S.C. 1140 and 1140 E, which state that the President can terminate the period of entitlement by which aliens who serve in the armed forces during hostilities can gain citizenship. Presumably, Congress can repeal this provision and set its own terminal date.

[24] Cf. Charles C. Tansill, "Termination of War by Mere Cessation of Hostilities," 38 Law Q. R. 26 (1922).

[25] See definitions and discussion of these terms in 93 C. J. S. 6 and cases cited therein.

[26] Pye, "The Legal Status of the Korean Hostilities," op. cit., p. 45 et seq. The author concludes that "the hostilities which commenced in Korea in June 1959 did in fact constitute a "state of war" but he made no attempt to characterize it as de facto or de jure.

[27] Ibid., p. 47. See also *Western Reserve Life Ins. Co. v. Meadows*, 261 SW 2d 554 (1953). cert. den. 347 U.S. 928 (1954).

[28] A preponderance of the relevant litigation was for the purpose of determining contractual rights or criminal liability under the Uniform Code of Military Justice for offenses which involved conduct in "time of war." For these purposes, courts experience little difficulty in reaching a conclusion that war, in fact, was contemplated by the contracting parties or the Congress (in the case of the UCMJ). See D. B. Stevens, "Time of War and Vietnam," 8 AF JAG L. Rev. 23 (1966) and Roberts. "Litigation Involving Termination of the War," op. cit.

[29] Black 635, 670 (1862).

[30] Cf. citations in note 4. The distinction between "perfect" and "imperfect" war, and the existence of a "state of war" without a declaration of war are also recognized traditionally in international law. See, inter alia, the relevant material in the Department of State's various editions of Digest of International Law.

[31] Cf. *Berk v. Laird*, 317 F. Supp. 715 (E.D. N.Y. 1970), appealed and affirmed 249 F. 2d 302 (C.A. 2, 1970).

[32] A clear expression of the doctrine that a de jure war can exist without a formal declaration of war is contained in the dissenting opinion contained in *Beley* v. *Pa. Mut. Life Ins. Co.*, 95 A 2d 202 (1953): "Many courts throughout the land have held that war can exist between the United States and the armed forces of another nation de facto or de jure, without any formal declaration of war; . . ." The court cited a line of supporting cases going back to the Civil War.

[33] 443 F. 2d 1039 (C.A. 2, 1971).

[34] TIAS 7542.

[35] TIAS 7568.

[36] A cease-fire agreement in Laos was signed by the two opposing Laotion forces in February.

[37] Pauline A. Mian. The Role of the French National Assembly in Ending the First Indochinese War (1947–1954). Congressional Record vol. 117, pt. 13, pp. 17625–17631.

[38] Keesing's Contemporary Archives, July 24–31, 1954; 13691.

[39] Henry Kissinger. CBS Television Network. CBS News Special Report. "A Conversation with Henry Kissinger," as broadcast on Thursday, February 1, 1973, p. 5.

[40] Pye, "The Legal Status of the Korean Hostilities." op. cit.

Appendix A

(41 Stat. 1359 (1921) March 3, 1921
[H.J. Res. 382])

Chap. 136.—Joint Resolution Declaring that certain Acts of Congress, joint resolutions, and proclamations shall be construed as if the war had ended and the present or existing emergency expired.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in the interpretation of any provision relating to the duration or date of the termination of the present war or of the present or existing emergency, meaning thereby the war between the Imperial German Government and the Imperial and Royal Austro-Hungarian Government and the Government and people of the United States, in any Acts of Congress, joint resolutions, or proclamations of the President containing provisions contingent upon the duration or the date of the termination of such war or of such present or existing emergency, the date when this resolution becomes effective shall be construed and treated as the date of the termination of the war or of the present or existing emergency, notwithstanding any provision in any Act of Congress or joint resolution providing any other mode of determining the date of such termination. And any Act of Congress, or any provision of any such Act, that by its terms is in force only during the existence of a state of war, or during such state of war and a limited period of time thereafter, shall be construed and administered as if such war between the Governments and people aforesaid terminated on the date when this resolution becomes effective, any provision of such law to the contrary notwithstanding, excepting, however, from the operation and effect of this resolution the following Acts and proclamations, to wit: Title 2 of the Act entitled "The Food Control and District of Columbia Rents Act," approved October 22, 1919 (Forty-first Statutes, page 297), the Act known as the Trading with the Enemy Act, approved October 6, 1917 (Fortieth Statutes, page 411), and all amendments thereto, and the First, Second, Third, and Fourth Liberty Bond Acts, the Supplement to the Second Liberty Bond Act, and the Victory Liberty Loan Act; titles 1 and 3 of the War Finance Corporation Act (Fortieth Statutes, page 506) as amended by the Act approved March 3, 1919 (Fortieth Statutes, page 1313), and Public Resolution Numbered 55, Sixty-sixth Congress, entitled "Joint resolution directing the War Finance Corporation to take certain action for the relief of the present depression in the agricultural sections of the country, and for other purposes," passed January 4, 1921; also the proclamations issued under the authority conferred by the Acts herein excepted from the effect and operation of this resolution: *Provided, however,* That nothing herein contained shall be construed as effective to terminate the military status of any person now in desertion from the military or naval service of the United States, nor to terminate the liability to prosecution and punishment under the selective service law, approved May 28, 1917 (Fortieth Statutes, page 76), of any person who failed to comply with the provisions of said Act, or of Acts amendatory thereof: *Provided, further,* That the Act entitled "An Act to amend section 3, title 1, of the Act entitled 'An Act to punish acts of interference with foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes,' approved June 15, 1917 (Fortieth Statutes, page 217), and for other purposes," approved May 16, 1918 (Fortieth Statutes, page 553), be, and the same is hereby, repealed, and that said section 3 of said Act approved June 15, 1917, is hereby revived and restored with the same force and effect as originally enacted.

Nothing herein contained shall be held to exempt from prosecution or to relieve from punishment any offense heretofore committed in violation of any Act hereby repealed or which may be committed while it remains in force as herein provided.

Approved, March 3, 1921.

Appendix B

(42 Stat. 105 (1921) July 2, 1921 [S.J. Res. 16])

Chap. 40.—Joint Resolution Terminating the state of war between the Imperial German Government and the United States of America and between the Imperial and Royal Austro-Hungarian Government and the United States of America.

Resolved by the Senate and House of Repsentatives of the United States of America in Congress assembled, That the state of war declared to exist between the Imperial German Government and the United States of America by the joint resolution of Congress approved April 6, 1917, is hereby declared at an end.

Sec. 2. That in making the declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 11, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the treaty of Versailles, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any Act or Acts of Congress; or otherwise.

Sec. 3. That the state of war declared to exist between the Imperial and Royal Austro-Hungarian Government and the United States of America by the joint resolution of Congress approved December 7, 1917, is hereby declared at an end.

Sec. 4. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 3, 1918, or any extensions or modifications, thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the treaty of Saint Germain-en-Laye or the treaty of Trianon, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any Act or Acts of Congress; or otherwise.

Sec. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals which was, on April 6, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, and all property of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents, or employees, from any source or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively made suitable provision for the satisfaction of all claims against said Governments respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered, through the acts of the Imperial German Government, or its agents, or the Imperial and Royal Austro-Hungarian Government, or its agents, since July 31, 1914, loss, damage, or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities or of any operations of war, or otherwise, and also shall have granted to persons owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce and industrial property rights, and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively confirmed to the United States of America all fines, forfeitures, penalties, and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America.

Sec. 6. Nothing herein contained shall be construed to repeal, modify or amend the provisions of the joint resolution "declaring that certain Acts of Congress, joint resolutions and proclamations shall be construed as if the war had ended and the present or existing emergency expired," approved March 3, 1921; or the passport control provisions of an Act entitled "An act making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1922," approved March 2, 1921, nor to be effective to terminate the military status of any person now in desertion from the military or naval service of the United States, nor to terminate the liability to prosecution and punishment under the Selective Service law, approved May 18, 1917, of any person who failed to comply with the provisions of said Act, or of Acts amendatory thereof.

Approved, July 2, 1921.

Appendix C

(65 Stat. 451 (1951) October 19, 1951 [H.J. Res. 289])

(Public Law 181, Chapter 519)

Joint resolution to terminate the state of war between the United States and the Government of Germany.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war declared to exist between the United States and the Government of Germany by the joint resolution of Congress approved December 11, 1941, is hereby terminated and such termination shall take effect on the date of enactment of this resolution: *Provided, however,* That notwithstanding this resolution and any proclamation issued by the President pursuant thereto, any property or interest which prior to January 1, 1947, was subject to vesting or seizure under the provisions of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, or which has heretofore been vested or seized under that Act, including accruals to or proceeds of any such property or interest, shall continue to be subject to the provisions of that Act in the same manner and to the same extent as if this resolution had not been adopted and such proclamation had not been issued. Nothing herein and nothing in such proclamation shall alter the status, as it existed immediately prior hereto, under that Act, of Germany or of any person with respect to any such property or interest.

Approved October 19, 1951.

ADDITIONAL COSPONSORS OF BILLS

S. 578

At the request of Mr. Case, the Senator from South Dakota (Mr. Abourezk) was added as a cosponsor of S. 578, requiring congressional authorization for the reinvolvement of American forces in further hostilities in Indochina.

S. 796

At the request of Mr. Pell, the Senator from Massachusetts (Mr. Kennedy), and the senior Senator from Rhode Island (Mr. Pastore) were added as cosponsors of S. 796, to improve museum services.

S. 867

At the request of Mr. Williams, the Senator from New York (Mr. Javits) was added as a cosponsor of S. 867, to eliminate discrimination against women in extending credit.

S. 1871

At the request of Mr. JACKSON, the Senator from Utah (Mr. MOSS), the Senator from Wyoming (Mr. MCGEE), the Senator from Hawaii (Mr. INOUYE), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alaska (Mr. STEVENS), the Senator from Nevada (Mr. BIBLE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Idaho (Mr. CHURCH), and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of S. 1871, to amend the Youth Conservation Act of 1972.

S. 1914

At the request of Mr. PERCY, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 1914 to provide for the establishment of the Board for International Broadcasting and to authorize the continuation of assistance to Radio Free Europe and Radio Liberty.

S. 1983

At the request of Mr. WILLIAMS, the Senator from Nevada (Mr. BIBLE), the Senator from Illinois (Mr. PERCY), the Senator from New Jersey (Mr. CASE), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 1983, the Endangered Species Conservation Act of 1973.

S. 2029

At the request of Mr. WILLIAMS, the Senator from Colorado (Mr. HASKELL), and the Senator from Washington (Mr. MAGNUSON) were added as cosponsors of S. 2029, to provide assistance for Vietnamese children.

SENATE RESOLUTION 146—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO KATHERINE HILL

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 146

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Katherine Hill, widow of Thomas D. Hill, an employee of the Architect of the Capitol assigned to duty in the Senate Restaurant at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 147—ORIGINAL RESOLUTION REPORTED TO PAY GRATUITY TO WILMA F. McGINNIS

(Placed on the calendar.)

Mr. CANNON, from the Committee on Rules and Administration, reported the following original resolution:

S. RES. 147

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Wilma F. McGinnis, widow of Edward F. McGinnis, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 148—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FINANCE

(Referred to the Committee on Rules and Administration.)

Mr. LONG, from the Committee on Finance, reported the following original resolution:

S. RES. 148

Resolved, That the Committee on Finance is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $20,000 in addition to the amount, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946.

FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1973—AMENDMENTS

AMENDMENT NO. 384

(Ordered to be printed, and to lie on the table.)

Mr. NELSON. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (S. 372) to amend the Communications Act of 1934 to relieve broadcasters of the equal time requirement of section 315 with respect to presidential and vice presidential candidates and to amend the Campaign Communications Reform Act to provide a further limitation on expenditures in election campaigns for Federal elective office.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 14, strike out line 8 through 10, and substitute the following:

"(5) Striking out subparagraph (2) of paragraph (e) and redesignating subparagraphs (4) and (5) as (3) and (4), respectively;"

On page 15, strike out lines 13 through 18, and substitute the following:

"(j) 'identification' means the full name, full address of principal place of residence and in the case of contributions over $100, the occupation and principal place of business, if any;"

Strike everything between page 19, line 18, through page 20, line 3.

On page 20, in lines 16 and 17, strike out the words "of contributions of $5,000 or more".

On page 49, strike lines 7 through 10, and substitute the following:

"(3) The limitation on expenditures imposed by this section shall apply to the total campaign period from the initial qualification of an individual as a candidate as defined in section 301(b) to the general election in which the candidate participates."

On page 50, strike Section 17.

Strike everything from page 50, line 19, through page 52, line 5, and substitute the following:

"SEC. 18. (a) Chapter 29 of Title 18, United States Code, is amended by adding at the end thereof, the following new sections:

"§ 614. LIMITATION ON EXPENDITURES GENERALLY.

"(a)(1) Except to the extent that such amounts are increased under subsection (d)(2), no candidate (other than a candidate for nomination for election to the office of President) may make expenditures in connection with his primary or primary runoff campaign for nomination for election to Federal office in excess of the greater of—

"(A) 5 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election for such nomination is held, or

"(B)(i) $100,000 if the Federal Office sought is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative, or

"(ii) $75,000, if the Federal office sought is that of a Representative from a State which is entitled to more than one Representative.

"(2) Except to the extent that such amounts are increased under subsection (d)(2), no candidate (other than a candidate for election to the office of President) may make expenditures in connection with his general or special election campaign for election to Federal office, in excess of the greater of—

"(A) 10 cents multiplied by the voting age population (as certified under subsection (e)) of the geographical area in which the election is held, or

"(B)(i) $175,000 if the Federal office is that of Senator, Delegate, Resident Commissioner, or Representative from a State which is entitled to only one Representative, or

"(ii) $90,000, if the Federal office sought is that of Representative from a State which is entitled to more than one Representative."

Strike everything from Page 56, line 8 through page 57, line 19, and substitute the following:

"§ 615. LIMITATIONS ON CONTRIBUTIONS BY INDIVIDUALS AND ON EXPENDITURES BY CERTAIN OTHER PERSONS.

"(a)(1) No individual shall make any contribution during any calendar year to or for the benefit of any candidate which is in excess of the amount which, when added to the total amount of all other contributions made by that individual during that calendar year to or for the benefit of a particular candidate, would equal $500.

"(2) No individual shall make contributions during any calendar year to or for the benefit of any candidates or or any political committees which is in excess of the amount which, when added to the total amount of all contributions made by that individual and the members of his family or that person to or for the benefit of all candidates and all political committees during that calendar year, would equal $2,500.

"(b)(1) No person (other than an individual) shall make any expenditure during any calendar year for or on behalf of a particular candidate which is in excess of the amount which, when added to the total amount of all other expenditures made by that person for on on behalf of that candidate during that calendar year, would equal $500.

"(2) No person (other than an individual) shall make contributions during any calendar year for or on behalf of all candidates and all political committees which is in excess of the amount which, when added to the total amount of all contributions made by that person to or for the benefit of all candidates and all political committees during that calendar year, would equal $2,500.

At the end of the bill, add the following new section:

"SEC. —. Section 6096(a) of the Internal Revenue Code of 1954 is amended by striking out '$1' wherever it appears and inserting in lieu thereof '$2', and by striking out '$2' wherever it appears and inserting in lieu thereof '$4'."

At the end of the bill, add the following new section:

"SEC. —. Section 9006(a)(2) of the Internal Revenue Code of 1954 is amended by striking out the words 'as provided by appropriation Act'."

At the end of the bill, add the following new section:

"SEC. —. Section 41(b)(1) of Subpart A of Part IV of Chapter 1 of the Internal Revenue Code of 1954 is amended to read:

"'(b) LIMITATIONS—

"'(1) MAXIMUM CREDIT.—The credit allowed by subsection (a) for a taxable year shall be limited to $25,000 ($50.00 in the case of a joint return under section 6013).'"

AMENDMENT NO. 385

(Ordered to be printed, and to lie on the table.)

Mr. COOK. Mr. President, one of the major problems in recent national elections has been the proliferation of committees to raise and expend funds on behalf of the Presidential and Vice Presidential nominees of the respective political parties. The establishment of such an infinite number of campaign committees has made the enforcement of our existing campaign laws virtually impossible.

It was for this reason that I offered in the Commerce Committee an amendment to S. 372, the Federal Election Campaign Act of 1973, which provided that all expenditures of more than $100 made on behalf of a candidate for President or Vice President must be approved by the national committee of the candidate's respective political party. I was very pleased that the amendment was approved unanimously by the Commerce Committee and was included as section 314 of the bill S. 372 which was referred by the Commerce Committee to the Rules Committee.

During the deliberations of the Rules Committee this crucial provision was deleted. Mr. President, I send to the desk and ask to have printed an amendment to S. 372 which would return section 314 to the bill.

This amendment will require that regardless of how many political committees are set up to influence the election of a nominee for President or Vice President the party's national committee must approve all expenditures in excess of $100 regardless of which campaign committee seeks to make the expenditure. Mr. President, I believe that the final responsibility for how the campaign funds are spent must rest with one national committee rather than the many obscure campaign committees that are now created to receive and expend funds. It is my opinion that if the campaign spending restrictions and reporting requirements are ever to be truly effective there must be one and only one committee which is ultimately responsible for campaign expenditures. All of us have been living with a situation which was created last year when a requirement of this nature was nonexistent. Hopefully by adopting this amendment we can preclude the reoccurrence of such activities as those which evolved last year with regard to the Committee to Reelect the President.

WAR POWERS ACT—AMENDMENTS

AMENDMENT NO. 386

(Ordered to be printed, and to lie on the table.)

Mr. TOWER (for himself and Mr. GOLDWATER) submitted an amendment to the title, intended to be proposed by them, jointly, to the bill (S. 440) to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by the Congress.

AMENDMENT NO. 387

(Ordered to be printed, and to lie on the table.)

Mr. FULBRIGHT submitted amendments, intended to be proposed by him, to Senate bill 440, supra.

ANNOUNCEMENT OF HEARING ON STATE DEPARTMENT POSITION ON TRANS-CANADA OIL PIPELINE

Mr. FULBRIGHT. Mr. President, I wish to announce that the Committee on Foreign Relations has scheduled a public hearing on the alleged State Department misrepresentation of the Canadian Government's position on the construction of a trans-Canada petroleum pipeline.

The hearing is scheduled to begin at 10 a.m. on Monday, July 23, 1973, in room 4221, Dirksen Senate Office Building. The witnesses scheduled to testify are the senior Senator from Minnesota, WALTER F. MONDALE, and Rufus Z. Smith, Deputy Assistant Secretary of State for Canadian Affairs.

NOTICE OF HEARING ON GEOTHERMAL ENERGY DEVELOPMENT

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public that on August 11 at 9:30 a.m., the Subcommittee on Water and Power Resources of the Senate Committee on Interior and Insular Affairs has scheduled a field hearing in Klamath Falls, Oreg., to investigate further the regional potential for geothermal energy development in the West. The hearing will be held in the Commons Room of the Oregon Technical Institute, Klamath Falls, Oreg.

The hearing in Klamath Falls will be chaired by Senator MARK O. HATFIELD, ranking minority member of the subcommittee.

Any Member of the Senate or the general public who wishes to testify at this hearing should so advise the committee staff.

Those desiring additional information regarding the hearing or wishing to submit a statement for the record should notify Mr. Russell Brown of the committee staff at 225–4971.

The Klamath Falls hearing will be held the day after a similar hearing in Idaho Falls, Idaho, before the Water and Power Resources Subcommittee which will take testimony regarding geothermal energy development in the West. These field hearings are part of a series of hearings scheduled by the subcommittee to investigate geothermal resources.

NOTICE OF HEARING ON A NOMINATION

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, July 26, 1973, at 10:30 a.m., in room 2228, Dirksen Office Building, on the following nomination:

John A. Reed, Jr., of Florida, to be U.S. district judge for the Middle District of Florida, vice William A. McRae, Jr., deceased.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas (Mr. McCLELLAN), the Senator from Nebraska (Mr. HRUSKA), and myself as chairman.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Royal K. Buttars, of Utah, to be U.S. marshal for the district of Utah for the term of 4 years, reappointment.

Victor Cardosi, of New Hampshire, to be U.S. marshal for the district of New Hampshire for the term of 4 years, reappointment.

Harold M. Grindle, of Iowa, to be U.S. marshal for the southern district of Iowa for the term of 4 years (reappointment).

Doyle W. James, of Colorado, to be U.S. marshal for the district of Colorado for the term of 4 years, reappointment.

Bill Carnes Murray, of Georgia, to be U.S. marshal for the northern district of Georgia for the term of 4 years, reappointment.

George L. Tennyson, of South Dakota, to be U.S. marshal for the district of South Dakota for the term of 4 years, reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, July 26, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

NATIONAL UNION OF POLICE OFFICERS SUPPORTS BILL TO MAKE KILLING OF POLICEMEN AND FIREMEN A FEDERAL OFFENSE

Mr. HUMPHREY. Mr. President, I recently received a letter from the National Union of Police Officers, AFL–CIO, supporting my bill, S. 294, to make the killing or assault on a policeman, fireman, or prison guard a Federal offense.

The letter was sent by Mr. John J. Cassese, president of this outstanding organization. I am gratified to receive his support, for I believe strongly that my legislation is sorely needed and long overdue.

The problem of crime in America, which affects the lives of all of us, has created an intolerable situation with respect to the security of public safety officials. We are a nation founded on law. We can never have a lawful and just society when men charged with safeguarding the public welfare live in constant danger of physical attack. These people put their lives on the line for all of us every day. It is up to this Congress to assure that all that can be done, is indeed done, to assure their safety.

Mr. President, I first introduced such legislation on March 15, 1972, and it was adopted as an amendment to the Handgun Control Act in the closing days of the 92d Congress. The Handgun Control Act, however, failed to become law.

I reintroduced this legislation on January 11, and it is now pending before the Senate Judiciary Committee. I would hope that this committee will consider this legislation as promptly as possible. Each day that passes is a day that could be utilized to move such legislation forward.

Mr. President, I ask unanimous consent that a pertinent article in the National Union of Police Officers trade publication, NUPO News, be printed in the RECORD, along with the letter from Mr. Cassese.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follows:

NATIONAL UNION OF POLICE
OFFICERS, AFL–CIO,
Washington, D.C. July 5, 1973.

Senator HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: Your Bill, S–294, which would make an assault against a police officer or fireman (or the shooting and/or killing of either) a Federal offense, is a bill that the National Union of Police Officers, AFL–CIO, firmly supports.

The climate is such today all over the country that, unless such a law is enacted, hoods and violators of the law will not give a second thought to assaulting or killing a police officer.

We support your bill because we believe that this is a National problem and that there should be National legislation to cover these types of crimes to help protect—in some greater measure—the dedicated police and fire officers who risk their lives in the service of their communities.

To repeat: We support this legislation wholeheartedly and urge the speedy passage of this much needed law so that we may bring back some semblance of order in an otherwise chaotic society.

Respectfully yours,
JOHN J. CASSESE,
President.

NUPO LOCAL 109 PRESIDENT SHOT IN GUN FIGHT

Stephen Snyder, president of NUPO Local 109 in Denver, Colorado, was shot and critically wounded on March 17th last during a gun battle with an assailant in East Denver. Snyder, happily, is recovering.

NUPO News is indebted to Local 109's Editor and police officer Bill Almond for his colorful description of the entire event. Says Almond:

"What started as a routine police action in the early morning hours of March 17, 1973, became a startling set of events that nearly ended in tragedy for Local 109's President Steve Snyder and left a score of policemen injured.

"Steve and his partner, on that near fatal morning, were at an East Denver location to investigate a disturbance. After their arrival, several male parties converged upon the police cruiser. One of the group kicked in the door of the police vehicle and began to run. Snyder gave chase.

"He stayed close on the heels of the offender down the block, at which point the suspect made for an escape route through a dimly lit area between two large apartment houses.

"As officer Snyder was about to apprehend the man, the man turned and a struggle ensued. Then—suddenly—gunshots. Steve returned the fire. When it was over, the man lay dead and Steve had suffered critical wounds to the head and abdomen and a flesh wound in the leg as well.

"Though very seriously injured, Steve managed to make his way to his partner who had moved the police cruiser behind the buildings. Subsequently, officer Snyder was rushed to the hospital for emergency surgery. For several days, his condition was critical, but strength and a strong will led to recovery."

Editorializing on the occurrence, Almond said: "When Stephen Snyder took the oath of office as a classified officer of the Denver Police Department on Jan. 16, 1958, he did it with the full knowledge of the dangers, the risks and the everyday "sporadic incidents" that cement the argument that this is unlike any other profession.

"Like most other officers across the nation, he became increasingly aware that these dangers fermented with the ever-growing left-wing activities that policemen had to contend with; not to mention the sharp rise in all phases of criminal activity . . . coupled with a gradual but continual disrespect for police officers.

"What makes one man want to be a police officer is totally different from that of another man," says Almond later on. "And Stephen Snyder's reasons for making law enforcement his career are just as different. Whatever his personal reasons, perserverance, leadership and knowledge led to his appointment on April 16, 1972, as a Field Training Instructor.

"His popularity and his interest in the Denver Police Union led to his overwhelming selection as president of the Local in October, 1971. He has always believed in the individual rights of policemen and has fought for issues based on this tenet.

"For most of us throughout our tenure as police officers, we may recount events that almost were or could have been, but for Stephen Snyder it was the grim reality of an event that was. Happily, he has made a speedy recovery and we are thankful for that."

(NOTE.—To which the President of NUPO and every other police officer in America must add "Amen.")

CAPTIVE NATIONS WEEK

Mr. THURMOND. Mr. President, the people of the United States recently celebrated the 197th birthday of our country. The Fourth of July is a special day, because it symbolizes the unshackling of oppressive chains and the blossoming forth of the fruit of freedom, the sweet taste to which all of humanity is entitled.

Unfortunately, this fruit remains forbidden to much of the world's population. While past and present generations of Americans have fought and died to acquire and then to maintain freedom, peoples of other countries have fought and died only to have the chains of tyranny tightened.

Mr. President, this week marks the 15th anniversary of Captive Nations Week. When Congress authorized this observance in 1959, it did so with the recognition that a free country is a peaceful country. In part, the 1959 authorization stated:

> The desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace.

Since President Eisenhower first proclaimed Captive Nations Week, the third week of July has been set aside as a time for the free world to rekindle its commitment to freedom in every country. It is also a time to remember the Central Europeans who live as captives in their own land: Albania, Estonia, Czechoslovakia, Bulgaria, Hungary, Latvia, Lithuania, Poland, East Germany, and Rumania.

Mr. President, the people of these and other captive nations remain hungry for self-determination. No amount of force and oppression can fill this void. The body can be captured, but the mind remains free.

It is the obligation of free men to use every peaceful means at our disposal to plant the seeds of freedom and allow them to flourish. I trust the new East-West détente will in some way provide the fertile soil for this germination.

During Captive Nations Week, let us be thankful for our freedom while reaffirming the basic rights of freedom for our fellow human beings.

FAILURE OF FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM TO COVER PREVENTIVE CARE IN INFANCY

Mr. JACKSON. Mr. President, I wish today to express my deep disappointment at the failure of the Federal employees health benefit program—FEHBP—to cover the costs of examining newborn infants. By itself, this matter seems to be a small point, particularly in relation to the momentous health legislation that this body has been considering in the past months. An important principle is at stake, however, which I for one do not intend to let pass. That principle is our failure to provide more than lip service to the practice of preventive medicine.

The issue at hand can be briefly stated: The Federal employees health benefit program is the largest voluntary employer sponsored health insurance program in the world. It is notable, not only for its size, but because this program which serves Government workers has for many years been looked upon as a model in the health insurance field. I was, thus, more than a little surprised to learn that routine pediatric newborn care is an item excluded from the health insurance provided for the great majority of Government workers. The Federal employees health benefit program includes 40 plans, of which 26 provide preventive care, including newborn and well baby care. However, only about 7 percent of the Government employees insured under this program receive preventive care benefits, because they are only available in selected geographic areas where prepaid group practice plans are in existence. It escapes me why complete benefits should not be made available to all Federal employees throughout the United States.

A case in point is the care of new-born infants. Under the Government-wide service benefit program—Blue Shield, the physician's examination of a newborn infant in the hospital is not covered for the Federal employee. Yet the Blue Cross-Blue Shield plans for nongovernmental employees do provide this benefit.

Federal employees believe, with some justification, that they have the best, most comprehensive health insurance program available. Consider the dismay of the Federal employee family who has a newborn baby finding themselves with a medical bill which they thought their insurance covered. Worse is the Government employee on a marginal income who chooses to omit the important preventive newborn examination, because it is not covered in his insurance policy. Government employees have been rightfully indignant when they learn that their program contains fewer benefits than those health insurance programs made available to non-Government employees. For several years, physicians in the Washington, D.C., area who care for children have been urging the Civil Service Commission, the agency which negotiates the insurance contract for Federal employees, to include the newborn examination benefit. They have been told that the new born examination is a luxury and, thus, the Civil Service Commission would not push for its inclusion. It is hard to believe that the officials who use this term were ever parents themselves. How can the physician's careful examination of a new-born baby for any abnormality possibly be considered a luxury? How can the time he takes to reassure an anxious mother and instruct the mother on future care of the baby be considered a luxury? It is simply an absurb situation.

Mr. President, health care costs in the United States continue to rise partly, because we pay so little attention to preventing disease and treating it early. In my opinion, health insurance programs have contributed to this inflation by automatically paying for inpatient procedures but totally neglecting outpatient and preventive services.

I want to see the Federal employees health benefits program maintained as a model in the health insurance field. If the Civil Service Commission does not take the initiative to provide preventive benefits for the newborn infant, as chairman of the Permanent Investigations Subcommittee of the Government Operations Committee, I plan to explore this issue more fully before this forum. Government employees are first-class citizens. I urge the program administrators to exert the necessary leadership so that this insurance program will continue to be widely acclaimed during this period when innovative approaches are necessary to contain medical costs and keep our American people healthy.

CAPTIVE NATIONS WEEK

Mr. JAVITS. Mr. President, this week marks the 15th annual observance of Captive Nations Week. It is tragic, indeed, that our expressions of concern and solidarity for the unfulfilled aspirations of the people of Eastern Europe for fundamental human rights and national independence remain as unfulfilled today as they were upon the original passage of the Captive Nations resolution—Public Law 86–90—of which I had the honor to cosponsor. In fact, there is evidence to support the contention that in order to insulate themselves from the increased contact and communication with the West resulting from ongoing détente and "Ostpolitik" that the Soviet Union and Eastern European regimes are actually increasing their suppression of individual thought and expression: One need only point to the persecution of intellectuals and artists, the grave problems of Soviet Jewry, and the suppression of the "samizdat"—the Russian underground Chronicle of Current Events; and also the evidence of a similar tightening of the screws in Eastern Europe.

If the détente between East and West, now focused on the initial stages of the Conference on Security and Cooperation in Europe in Helsinki, in BFR, SALT, and East-West trade is to have any real meaning, a unified West will have to make it very clear that if the countries of the Warsaw Pact are to get the Western technology, agricultural products, and political, and diplomatic concessions they so much need and seem to want, there will have to be a concomitant recognition on their part of some of the basic principals of Western European tradition, such as the free flow of ideas and freedom of movement of people. This is not an effort to revive cold war propaganda, as some would like to characterize it, but is to enable the people of both East and West to participate in détente and to develop a true and meaningful mutual understanding.

We must not fail the peoples of Eastern Europe by muting our expressions of concern and solidarity with their unfulfilled aspirations for freedom as elements of any overall "bargain of convenience" with the Soviet Union and Eastern Europe. To do so would be a betrayal of ourselves and the freedom for which men and women have fought and sacrificed for centuries and which is the base of our own freedom.

BUREAU OF MINES AIDE GETS SAFETY POST AMID PROTEST

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Kentucky (Mr. Cook), I ask unanimous consent that a statement and article be printed at this point in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Cook

Last Thursday, July 12, the Senate by a 93–2 vote decided that the appointment of the Director of the Mine Enforcement and Safety Administration should be subject to Senate confirmation.

I was indeed surprised to read in the Washington Post of July 18 that Mr. Donald Schlick had been appointed as Acting Director of MESA. I would hope that the correct emphasis is being placed on the word "acting" and that the Secretary of the Interior and the President would take note of the Senate's recent action on this matter.

[From the Washington Post, July 18, 1973]

Bureau of Mines Aide Gets Safety Post Amid Protest

Assistant Interior Secretary Stephen Wakefield, overriding criticism by the United Mine Workers union and some congressional leaders, has appointed Donald P. Schlick as acting administrator of the new Mining Enforcement and Safety Administration, Interior officials confirmed yesterday.

Schlick's appointment came without public announcement in a memorandum dated last Friday from Wakefield to Interior Secretary Rogers C. B. Morton.

Wakefield's memorandum said Schlick would serve as acting administrator "until a permanent appointment can be made."

Last Thursday Morton said he expected a permanent administrator to be named within 30 days.

Assistant Senate majority leader Robert C. Byrd (D-W. Va.) has called for Schlick to resign from the Bureau of Mines, and authored a Senate-passed bill to require Senate confirmation of the permanent MESA administrator.

UMW President Arnold Miller called the appointment of Schlick "a disgrace."

"They have appointed the coal industry's man to the top safety position," Miller said. "Their actions show a complete contempt for the nation's coal miners as well as for their own ethical standards."

An aide to Miller said Schlick had been a "public apologist" for the coal industry while he was the No. 2 man in the Bureau of Mines. MESA is taking over the health and safety law enforcement from the bureau, under an Interior reorganization.

Schlick was officially reprimanded by the department at one point for accepting free plane rides from FMC corporation, a mining company which also has a $7.6 million research contract with the Bureau of Mines. Schlick reportedly also accepted other free plane rides from other firms in the industry but has not been disciplined for them.

Schlick also angered the UMW's Miller when he claimed that black lung disease would no longer be a problem for coal miners because of stricter safety precautions and when he claimed that coal mining now is safer than driving a car on the nation's highways.

DAVID PEARSON

Mr. THURMOND. Mr. President, Spartanburg, S.C., was the scene recently of a much deserved tribute to one of the city's finest sons, David Pearson. The people of Spartanburg, known for their warmth and hospitality, showed their affection and admiration for the champion sports car driver with "David Pearson Appreciation Day." It was a hero's honor for a true hero.

The hard statistics compiled during his career speak for themselves: He is about to become the second car driver in history to pass $1 million in career earnings. He has 74 Grand National victories and has won the Grand National point championship 3 times. His 4 straight wins—Carolina 500, Atlanta 500, Winston 500, and Rebel 400—tied a record.

But David Pearson's friends—both those who live in Spartanburg and those who traveled great distances for the occasion—know his impressive statistics tell only part of the story. The real story behind David Pearson the champion, is David Pearson the man.

He is the kind of man who transformed the dreams of childhood into the realities of adulthood. He is a man who refused to quit when winning did not come easy. He is a man who did not have life handed to him in a platter—he had to go out and work with his hands and his mind. Success did not go to him, he worked his way to success and he grabbed it.

It was a long drive from a 1936 Ford coupe for which he paid $40 to the astoundingly powerful machines he commands today. The years of sacrifice and work, however, were worth it.

Mr. President, David Pearson is an excellent example of success. He is the kind of man young people can admire and emulate. His story is truly an American story.

Therefore, Mr. President, I would like to share part of his story with my colleagues. I ask unanimous consent that several articles and editorials on David Pearson be printed in the RECORD at the conclusion of my remarks. They are as follows: "The David Pearson Admiration Society," Spartanburg Herald-Journal, Spartanburg, S.C., July 8, 1973: "A Proper Honor for Mr. Pearson," the Spartanburg Herald, Spartanburg, S.C., July 10, 1973; "Pearson: From 'Shade-Tree Special' to the Top," the State, Columbia, S.C., July 11, 1973; and "Race Fans Honor Pearson at Auditorium," Spartanburg Herald, Spartanburg, S.C., July 11, 1973.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Spartanburg (S.C.) Herald Journal, July 8, 1973]

THE DAVID PEARSON ADMIRATION SOCIETY

(By Gene Granger)

The late, great Glenn "Fireball" Roberts called him the greatest stock car driver to come down the pike.

Richard Petty, the acknowledged King of the Stock Cars, says he's the best he has ever raced against.

Frank Wylie, the public relations chief of Chrysler Corp., is emphatic when he says he's second to none.

Glen Wood of the famed Wood Brothers-Purolator team says, "We've never had a better driver. He's the best there is."

Hal Hamrick of the Universal Racing Network, who has been around racing for two decades, rates him the best, followed by Junior Johnson, the late Curtis Turner and Roberts.

David Gene Pearson, a quiet, unassuming product of a mill village, finds himself suddenly embarrassed when named in the same breath with the immortals of stock car racing. It's not that Pearson can't comprehend what they are saying but he doesn't feel he belongs with the illustrious group.

Pearson was recently inducted into the South Carolina Athletic Hall of Fame, thus becoming its first member from the world of motorsports. Upon learning of his enshrinement, Petty quipped: "I didn't think they let you into those things unless you were over-the-hill or retired." (Later this year Petty will be inducted into the North Carolina Hall of Fame.)

It was a year ago April that Pearson and Petty raced door-to-door around the famed one-groove Darlington Raceway. It was noted after the race. "You don't think I would have done that with anybody else, do you?" said Pearson, who won the Rebel 400.

There is mutual admiration and respect between Petty and Pearson, who rank 1-2 on NASCAR Grand National's all-time list of wins, super speedway wins and money earned. If one or the other doesn't own it, it probably isn't a record.

Neither Pearson nor Petty was involved in the 21-car, three-wave, terrifying crash in the recent Winson 500 at Alabama International Motor Speedway. They had dropped off the pace for fear of such an accident that reduced the 60-car field to normal size.

Petty trailed Pearson through the debris. Each cut a tire. On the second lap through the "$1 million junkyard," Petty ran over something that broke his oil pan and eventually put him out of the race. Pearson went on to win the Winston 500.

"If Pearson had taken a left and cut through the infield after seeing the wreck, I would have followed him. I would have figured he knew what he was doing," Petty said. It was a supreme compliment.

The auto racing fraternity has always held respect for Pearson. Since his sophomore year in 1961 when he won a then unprecedented three super speedway races, Pearson has been destined to rank among the all time greats. Even during the long drought of almost seven years (1961–68), when Pearson didn't win a super speedway race, he was still drawing the plaudits from the fraternity and fans.

Today Pearson has 74 Grand National victories, including a record 20 on the super speedways. He has won eight of his last nine starts, finishing second in the other by only 1.8 seconds. Pearson is $29,500 short of joining Petty as stock car racing's only millionaire driver.

Unlike Petty, Pearson did not grow up in a racing family. Richard's father, Hall of Famer Lee Petty, was a super star of the pre-track era. Petty not only knew what was expected of him, but how to do it. All Pearson had was a burning desire to be "just like Cotton Owens," who in the early Fifties was King of the Modifieds.

Little did Pearson know at the time that deceiving his mother, quitting school, building an engine under his house, preparing the body of a 1940 model Ford in his brother's garage and using the rails in the head of an old iron bed thrown away by his mother as a "fancy" set of rollbars would lead to anything more than punishment.

That was Pearson's second car. His first was a 1936 Ford coupe which he bought for $40. Upon seeing that wreck of a car, his mother offered him $30 to get rid of it. "I accepted her 30 bucks and sold the car for $70. I made enough money on the deal to buy a better car," Pearson recalls with a chuckle.

Enter the second car. The date was April 28, 1955, when Pearson took the '40 Ford to his first race at Woodruff. He finished third in the feature and took home $65.

The son of honest, hard-working parents was on his way in the South Carolina bull rings. His parents wanted more for him. They didn't want him to put his neck on the line for peanuts. Nor did they want him to follow in their footsteps and spend the rest of his life working at Whitney Mills, a skein of yarn or so from Spartanburg.

In the ensuing years Pearson became a nomad. He raced four and five nights a week. He worked at odd jobs to keep his car rolling. Pearson enjoyed it, but it wasn't living. He was merely existing, looking for a break that would catapult him into a NASCAR Grand National car.

By the end of the Fifties he had become a legend on Carolina dirt tracks. A fan club was started for Pearson during the winter of 1959. Several thousand dollars poured in, but it wasn't enough to buy a '59 Chevrolet owned by Grand National star Jack Smith. Pearson had to borrow an additional $2,000 from his father to purchase the car.

Pearson didn't win a race in 1960, but he showed enough savvy to be voted Rookie of the Year honors in the Grand National circuit. The following year Ray Fox tapped him to drive his Pontiac in the World 600. Pearson won. He went on to capture the Firecracker 250 and the Dixie 400 in 1961.

He was called the "Whitney Wonder" and "Li'l David the Giant Killer" in the early years of his Grand National career. The names followed him when he joined Cotton Owens' Dodge stable and gave Spartanburg a true hometown team. Owens took a racer and made a polished star of him.

It was with the factory-backed Owens that Pearson won his first Grand National point title, a rich and prestigious accolade he was to earn three times in four years. The first came in 1966; the others in '68 and '69. But he never won a super speedway race in an Owens car. When they parted in early 1967, Pearson had his eyes on something bigger and better.

Fred Lorenzen, the Golden Boy of stock car racing, was retiring because of stomach ulcers. He was leaving behind the famed Holman-Moody Ford team of Charlotte and Pearson was waiting in the wings to fasten himself in the seat. With H–M, Pearson ended his long super speedway drought by winning the 1968 Rebel 400 at Darlington Raceway.

His name became synonymous with winning under the H–M banner. The factories were big in the sport and Pearson had one of the best rides. But when the factories pulled out, Pearson quit H–M. He had been getting 50 per cent of the team's earnings and refused to take a cut. He pulled up stakes following the 1971 Rebel 400.

Pearson then signed a reported three-year contract for $100,000 per year to drive Pontiacs for Chris Vallo out of Ray Nichels' garage. It was a disaster and Pearson would rather forget about the fiasco.

Getting rides with Fox, Owens and Holman-Moody were important steps to stardom, but the super break came before the 1972 Rebel 400. The Wood Brothers, who had been interested in Pearson as a driver for several years, finally got his name on a contract, verbal at least.

Pearson won his first start in the Purolator Mercury, the '72 Rebel 400. He won another five super speedway events before the season ended. Pearson failed to finish his first two starts for the Woods this year, but of nine starts since, he has won seven super speedway races, one 250-miler and finished second in the World 600.

The seven supers in one season tied a record shared by LeRoy Yarborough (1969) and Bobby Allison (1971). And Pearson has almost half a season left to set a new standard. Since joining the Woods, he has won 13 of 21 super speedway starts, a streak unprecedented in NASCAR Grand National history.

Pearson today is 38 years old. There's a little gray in his hair to give a salt-and-pepper appearance. But don't let the age and hair distract you. He would be ideal for the commercial "you're not getting older, you're getting better."

He even improved on that line after a recent win. "I'm not getting older, I'm getting smarter," he said with a grin. After he won the Firecracker 400 Wednesday, they were calling Pearson the "Slick Fox."

He was shy in the beginning and only in recent years has warmed up to people, but he hasn't changed helmet sizes since those days at Woodruff. And he has a dry wit that isn't always appreciated.

Tuesday the people of Spartanburg County and his many racing friends are staging a David Pearson Appreciation Day. "You won't get 20 people to show up," Pearson said a month ago. He can't conceive of people paying $5 a head to honor him, a product of a mill family who found his place in society driving a stock car.

[From the Spartanburg Herald,
July 10, 1973]

A Proper Honor for Mr. Pearson

Today, a properly proud community pays tribute to David Pearson, a native son.

His phenomenal career as a stock-car race driver is well known across the country. His triumphs and disappointments have been recorded over the years on the sports pages of this newspaper and many others.

Mr. Pearson now is at the undisputed pinnacle for a stock car driver. Many of his friends and associates in the racing fraternity are in Spartanburg today to prove that by their presence.

During those many times of glory and numerous times of frustration, he has conducted himself with dignity and good humor. He wears success very well indeed.

It is truly "David Pearson Day" in Spartanburg. Congratulations to him and to those who represented the community in organizing the event.

[From the State, Columbia (S.C.)
July 11, 1973]

Pearson: From "Shade-Tree Special" to the Top

Spartanburg.—Even as a child, David Pearson knew there were better things in life than the workaday world of Whitney, a little mill village on the out-skirts of Spartanburg.

He chose auto racing as the vehicle to a better life, but his first ride didn't take him too far. The man who since has become a stock car racing legend didn't get out of his own back yard with his first racing car.

Pearson spent $40 for a 1936 Ford coupe but, upon seeing the ragged machine, his mother offered him $30 to get rid of the junker. "I took her $30 and sold the car for $70," Pearson laughed. "I made enough on the deal to buy a better car."

Pearson recalled his entry into auto racing here Tuesday as his hometown celebrated David Pearson Day in honor of the 38-year-old driver who currently is the hottest commodity on NASCAR's Grand National circuit.

After deceiving his mother, Pearson went to work on his second car. He quit school, built an engine in secrecy under his house, prepared the body of a 1940 Ford in his brother's garage, and used the rails and head of an old iron bed for a roll cage.

On Sept. 19, 1953, Pearson and his "shade-tree special" made their debut at Woodruff Speedway where he won the day's first heat race. The check he earned that day, for a paltry $5.22, was framed and presented to the famous driver Tuesday by Woodruff promotor Freeman Rhodes.

The quiet, unassuming Pearson now has climbed to the top of the stock car racing ladder. He has scored 74 Grand National victories, second only to Richard Petty, and has won the Grand National point championship three times. Driving the Wood Brothers Mercury, he has scored a remarkable eight victories in his last nine 1973 outings, and he appears destined before the end of the current season to become stock car racing's second million dollar winner.

Pearson hasn't always been a Grand National star, however. He spent years dominating the sportsman tracks of the Carolinas and Georgia, hoping for a chance to join the Grand National tour.

Joe Littlejohn was promoting races at Spartanburg Fairgrounds when he met Pearson in 1958. Littlejohn, himself a former driver and one of the founders of NASCAR, knew he'd found a diamond in the rough.

"I just watched him race and knew he'd be a great one," Littlejohn explained during a lull in Tuesday's festivities. "A man who knows cows can pick the best one in the herd just by looking. I knew Pearson was a race driver the first time I saw him.

"He was so relaxed at the wheel," Littlejohn continued. "He got such a big kick out of racing. Other drivers got out of their cars trembling, but Pearson got out laughing."

A NASCAR official, the late Pat Purcell, got wind of Pearson's sportsman successes in the late Fifties and telephoned Littlejohn to inquire about the budding young star. "Just wait and see," Littlejohn replied.

Purcell didn't have to wait long. At 5:30 on a cold February morning in 1960, Helen Pearson drove a pickup to Littlejohn's front door. Pearson jumped from the truck and announced to Littlejohn, "Let's go to Daytona."

Littlejohn took Pearson under his wing at Daytona, pleading with such famed car builders as Smokey Yunick and Ray Fox to give the youngster a chance. A Cleveland car owner whose name has long since been forgotten finally agreed to give Pearson a try, but the car didn't last long.

Shortly thereafter, with funds accumulated by a fan club, Pearson bought a Chevrolet formerly driven by Jack Smith. Pearson was running second two-thirds of the way through Charlotte's World 600 in 1960 when the tired old car quit.

"There's your rookie of the year," Littlejohn said to Purcell. John Holman commented that the cool Pearson "drove like he was taking his mother to church."

Fox was equally impressed, and the next year he named Pearson to drive his swift Pontiacs. Pearson won three superspeedway races in 1961, a record at that time, and the rest is history.

Today, the City of Spartanburg honored Pearson with a luncheon, a downtown parade and a banquet. He was applauded by Gov. John West, Spartanburg Mayor John Beahr, Chamber of Commerce President Fort Wolfe, and fellow driver Petty. He received gifts of crystal, a gold watch, a new television and a key to the city.

[From the Spartanburg (S.C.) Herald,
July 18, 1973]

Race Fans Honor Pearson at Auditorium

(By Luther Gaillard)

If there was anything at all that got "David Pearson Appreciation Day" off to a slow start, it was quickly dispelled when more than 1,200 friends and fans jammed into Memorial Auditorium Tuesday night to honor the man who has come to mean so much to this city.

The buffet-style dinner was a sellout to the extent that the people were poking noses out of every available nook and cranny to follow the evening's events.

The dinner wound up a day honoring the same man who said "you won't get 20 people to show up."

But the day was vastly different, however. Members of the racing fraternity as well as members of the press corps were on hand at noon "Roast Pearson" luncheon to officially open the day.

Several hours later hundreds of wellwishers lined main street to pay their respects to Pearson. And they showed up en masse despite the afternoon temperatures that soared well into the mid-90s.

Spartanburg Mayor John Baehr presented Pearson with a "long overdue" award. He gave the Whitney Mills native a key to the city.

"It's not often that a politician," Baehr said, using his hands to hang a quotation mark on the word politician, "is able to carry out a campaign promise so soon before so many people. David has been a special person for Spartanburg because every Sunday he races and carries a banner for Spartanburg." . . . Gov. John West presented Pearson with the "Palmetto Gentleman's" award, honoring him with one of the state's highest distinctions. "David has raced and has the victories, but even more important David has set an example of true sportsmanship both on an off the track," West remarked.

In addition to Baehr and West, South Carolina senior Senator Strom Thurmond was on hand for the festivities. "I'm pleased to be here on this auspicious occasion. I flew down from Washington to be here this afternoon. I wanted to be here because you people here have got the best automobile driver in the world. And he is one of the worthiest sons of the country and the state of South Carolina," Thurmond said.

Richard Petty, who trailed Pearson across the finish line by seconds at Daytona International Speedway July 4, was on hand along with drivers Bobby Isaac, Buck Baker, Joe Littlejohn and other drivers and mechanics showed up.

Country and western singer as well as NASCAR driver Marty Robbins added to the program. Robbins warmly stole the audience while adding his praise for Pearson. "This is about as close as I'll ever get to David going across the finish line," he said before entertaining the gathering with a few of the records he turned into national hits.

Pearson, who was honored for the incredible string of wins he has woven on NASCAR's super tracks, was touched by the evening. "I really appreciate this," he would say from time to time. "I don't know how to thank you folks."

But his thanks is quite normally written on Sundays when he sails the gold and maroon Mercury across the finish line to the tune of many thousands of fans on their feet, screaming their approval.

Pearson broke into the racing world following a run on local tracks in 1960. He didn't win a race that year but was voted Rookie of the Year honors.

The following year Pearson drove a Ray Fox Pontiac to a win in the World 600 and was on his way. What follows is an incredible career around the major racing ovals in the country.

But Pearson, despite tags as the "Whitney Wonder" and "Lil David The Giant Killer," didn't achieve his current status of superstar until fate teamed him with the Wood Brothers.

Since joining up with the Wood Brothers, Pearson has captured 13 super speedway wins. And his career total of 20 super speedway wins is in the NASCAR Grand National record book. His four straight wins—Carolina 500, Atlanta 500, Rebel 400 and Winston 500—earlier this year tie a GN record.

Before joining the Wood brothers, Pearson had recorded seven superspeedway events. Today he is unstoppable.

And the idea was born to honor the man who remains today as he was before he stormed to the top of the world of stock car racing.

He is still rather unassuming and shy and would have probably felt much more "at home" in the audience with those who came to show their respects.

Pearson was recently inducted into the state's athletic Hall of Fame and there were a number of fellow members on hand. Former Clemson Football Coach Frank Howard heads that group that included Lyles Alley, Dr. Claude Finney, Banks McFadden, Fred Cone, A. W. "Rock" Norman, Bob King and Weems Baskin.

County Commission Chairman Pete Blackmon and E. Fort Wolfe, president of the Chamber of Commerce also joined a contingent of other local personalities honoring Pearson.

Telegrams poured in all day long from various parts of the country. The Philadelphia Phillies, David Pearson fan clubs from various cities, and citizens of Stuart, Va., sent their blessings.

Senator Fritz Hollings, who was unable to attend, sent along his wishes. "David epitomizes the true spirit of America—he is a man who faces challenges and wins. David has a national following, a devoted group of fans who are proud of their man. I count mymyself as one of those," Hollings said in his message.

Probably as fitting an any tribute to come out of the night came when Joe Bennett introduced the song he recorded in honor of Spartanburg's latest hero.

"I'd like to explain to you, David, before I sing the song why I call you a crackerjack in it. A lot of people have asked me about that. Well, I'd like to say I call you a crackerjack—cause you are tuff, tuff, tuff."

And there's not much more that can be added to that.

TRIBUTE TO JERRY VERKLER

Mr. JACKSON. Mr. President, I want to call to the attention of my colleagues the outstanding vote of confidence which was recently given to Mr. Jerry Verkler, staff director of the Senate Interior Committee for his performance in the conservation and preservation of the natural resources of the United States.

I am very pleased and proud that Mr. Verkler has received what is one of the most coveted national conservation honors—the American Motors Conservation Award. The award which Mr. Verkler received is given to only 10 persons each year as a means of heralding their efforts in conservation, and it includes a $500 prize and a handsome bronze plaque. This honor is reserved for those whose work is not widely known, but who nevertheless contribute much to the conservation and environmental improvement efforts in America.

Mr. President, the accomplishments of most congressional staff members are normally unreported to the public, even though their role of quiet dedication, hard work and long hours is absolutely essential to the enactment of sound legislation. This is true of Mr. Jerry Verkler, whose contribution as staff director for the last 12 years has been marked by distinguished performance and true dedication.

Jerry first joined the Senate staff, while attending law school, as a member of the former senator from New Mexico, Clinton P. Anderson's staff where he acted as a legislative assistant. In 1961 he was appointed assistant chief clerk and later staff director to the Committee on Interior and Insular Affairs by Senator Anderson, the chairman at that time. Jerry has continued in his present position as staff director since I became chairman in 1963.

Mr. President, I am very proud of Mr. Verkler, and feel this is a most fitting tribute to his outstanding contribution as staff director of the committee.

TRIBUTE TO SENATOR TALMADGE

Mr. YOUNG. Mr. President, recently our colleague, the senior Senator of Georgia, HERMAN TALMADGE, chairman of the U.S. Senate Committee on Agriculture and Forestry, received the 1973 Distinguished Citizen of Agriculture Award from the National Milk Producers Federation. This was on the occasion of the Board of Directors meeting on Tuesday, July 17, 1973.

Over 200 dairy farmer leaders from every State, even as far away as Alaska, attended the meeting and gave a standing ovation to Senator TALMADGE on the presentation and acceptance of the plaque in recognition of his distinguished service and dedication to American agriculture and to the farmers of our great Nation.

The National Milk Producers Federation is to be commended on selecting Senator TALMADGE as the recipient of this award. No one has ever been more forceful and influential on important and necessary farm legislation than our friend, Senator TALMADGE.

I am very proud to have been the recipient of this award 2 years ago.

My congratulations to Senator TALMADGE on being selected for this Distinquished Citizen of Agriculture Award.

LITIGATION INSTITUTED TO DECLARE ILLEGAL THE BOMBING OF CAMBODIA

Mr. FULBRIGHT. Mr. President, it has come to my attention that the interpretation of the amendment adopted by the Senate on June 29 prohibiting the bombing of Cambodia or the involvement of U.S. military forces in hostilities anywhere in Indochina after August 15 has become an issue in litigation now pending in the U.S. District Court for the Northern District of California. The action in question—Stark against Schlesinger—was brought by Representative STARK of California in an effort to have the bombing of Cambodia declared illegal and to have the Secretary of Defense enjoined from further bombing. In opposing the plaintiff's motion for declaratory and injunctive relief the Government has argued that the war in Cambodia has been authorized by the Congress and that in passing the Cambodian amendment the Congress was consciously and knowingly approving the continuation of bombing until the August 15 cutoff date.

As one of the principal sponsors of the amendment in question I wish to state that the interpretation of this amendment as set forth in the Government's motion for dismissal of Stark against Schlesinger is wholly erroneous.

The Government's brief reads in part as follows:

> Recognizing the continued necessity for conduct of aerial combat missions in Cambodia in response to the President's veto the Senate on June 29, 1973, proposed an amendment. . . .

It further states:

> The Senate adopted the Fulbright Amendment with full knowledge of the past scale of aerial combat missions in Cambodia and the prospect of their continued conduct until August 15, 1973. Simply, it is the intention of Congress to permit the conduct of aerial combat missions in Cambodia until August 15, 1973.

The record of the Senate debate of June 29 does not bear out these statements—indeed it indicates quite clearly that the sponsors of the amendment considered the bombing of Cambodia to have been illegal in the past and that they did not intend by passing the amendment to legitimize it. I might add that the Congress had far from "full knowledge of the past scale of aerial combat missions in Cambodia." Only this week, in fact, did we learn that some 4,000 raids had been conducted in Cambodia prior to May 1970.

In introducing the Cambodian amendment, on behalf of the Committee on Foreign Relations on June 29, I made the following statement:

> The acceptance of an August 15 cutoff date should in no way be interpreted as recognition by the Committee of the President's authority to engage U.S. forces in hostilities until that date. The view of most members of the Committee has been and continues to be that the President does not have such authority in the absence of specific congressional approval.

That interpretation of the amendment represented not only the view of the committee, but also that of many other Senators who subsequently voted in favor of the amendment. Among these were the Senator from Illinois (Mr. STEVENSON) who said:

> By approving this amendment the Senate does not condone for one minute more the illegal and immoral bombing of Cambodia.

Another member who, although not a member of the committee, took a similar view was the Senator from New Hampshire (Mr. McINTYRE) who said:

> I want it clearly known that my vote is not a vote putting the stamp of approval on the bombing—it is not a vote that in any way declares the constitutionality of what has been done in Cambodia or what may occur in the next 45 days.

Another Member who reaffirmed this interpretation was the Senator from South Carolina (Mr. HOLLINGS):

> The principle, of course, is constitutional. There is no constitutional authority for the President to bomb in Cambodia. He has not come to the Congress and presented a request.

It should be noted that the committee's introductory statement from which I quoted was checked in advance, word for word, with the White House to insure that the committee's understanding of the legislative intent of the amendment was in accord with that of the President. In approving the committee's statement the White House did not take exception to the committee's assertion regarding the illegality of the current bombing and in the subsequent floor debate, administration supporters did not claim that the amendment would legitimatize the President's actions.

At the same time it is true that in the course of the June 29 debate some Senators who would have preferred an immediate halt to the bombing rather than the August 15 date specified in the amendment expressed concern that passage of the amendment could be construed as an authorization to bomb during the interval between the passage of the amendment and August 15. This strained interpretation, however, was strongly rejected by the proponents of the amendment. On one occasion during the debate, for example, the following exchange occurred;

> Mr. CASE. Is it not the Senators understanding that the adoption of this resolution would add not one bit to the President's authority in regard to bombing in Southeast Asia between now and August 15?
>
> Mr. FULBRIGHT. It is certainly my understanding that it does not give him any authority whatsoever. I do not believe he has any authority.

Elsewhere in the debate supporters of the amendment made it quite clear that its only effect would be to make it unlawful for the President to order bombing or other military action by U.S. forces anywhere in Southeast Asia after August 15. In view of this strong legislative history it should be evident that there is no basis for the Government's statement in the Stark case that in passing the Cambodian amendment the Senate was in any way "recognizing the necessity for conduct of aerial combat missions in Cambodia." Similarly, while we acknowledged that the bombing would continue between June 29 and August 15 we repeatedly asserted that the amendment in no way sanctioned such action. It is wholly misleading, therefore, for the Government to maintain that it was the intention of Congress "to permit the conduct of aerial combat missions in Cambodia until August 15, 1973." Our intention on June 29 was to take the maximum action politically feasible at that time, that is, to preclude further bombing after August 15.

The legality of the present bombing is a question which has not been addressed definitively either by the Congress or the courts. Presumably the purpose of Representative Stark's suit in the U.S. District Court is to obtain a judicial ruling on precisely this point. My own view is that the President does not have the power to engage the military forces of the United States in combat without the prior authorization of Congress. The executive branch has never sought such authority in the case of Cambodia and no legislation exists which grants him such authority. The language of the Cambodian amendment does not address the question of present authority and the legislative history makes it quite clear that the sponsors intended to convey no authority. In closing, I would hope that the courts will recognize that the Cambodian bombing amendment was designed solely to prohibit certain actions and that as such it cannot reasonably be construed as an affirmative authorization of action outside the scope of its language.

TRIBUTE TO KEN BELIEU

Mr. TOWER. Mr. President, on June 29, the Army paid tribute to Kenneth E. BeLieu—gallant soldier, esteemed public servant, and great American. Resigning as Under Secretary of the Army and retiring from public service after a distinguished career stretching over three wars and nearly 33 years, Ken achieved an illustrious record of service.

Ken began his service in the Army Reserve in 1937 and was commissioned a second lieutenant of Infantry in July 1940. From the beaches of Normandy through the Battle of the Bulge and ensuing campaigns across Germany and Czechoslovakia, Ken compiled an enviable combat record with the 2d Infantry Division and in General Patton's 3d Army Headquarters. He was awarded the Silver Star, Legion of Merit, Bronze Star, Purple Heart, and Croix de Guerre, and for a young officer had before him a bright future.

Ken held a number of key assignments on the Army staff following World War II, and soon after the outbreak of hostilities in June of 1950 went to Korea. In combat operations there he received a disabling wound that resulted in the loss of his lower left leg and a setback to his promising career as a soldier. Yet Ken's spirit never wavered. His subsequent record of service in positions of great responsibility and trust with both the legislative and executive branches of Government is an inspiring example of perserverance and of single-minded dedication to the welfare of the Nation. During the period from 1955 to 1961 he served as a professional staff member in the Senate and subsequently became staff director of both the Senate Aeronautical and Space Sciences Committee and the Preparedness Investigating Subcommittee of the Senate Armed Services Committee. Ken's diligence and his dedication to quality gained him a reputation admired and respected by his peers and superiors alike. He was a man who could rise to meet challenges and whose counsel was widely sought.

In 1961 Ken accepted an appointment as Assistant Secretary of the Navy for Installations and Logistics where he pioneered in new programs and concepts that increased the effectiveness of Navy logistics systems. Appointed Under Secretary of the Navy in 1965, Ken's intimate knowledge and appreciation of both the legislative equation and the needs of the Navy enabled him to provide the impetus for new and modern programs to improve our naval air and sea power.

In 1969, following a return to private life, Ken was named Deputy Assistant to the President for congressional liaison where his great dedication and high competence as a public servant contributed in large measure to the legislative program.

For these past 21 months, Ken has served with singular distinction as Under Secretary of the Army. His extensive and diversified experience and his great love and concern for the soldier and the Army uniquely equipped him to play a major role in the Army's rapid adjustment from active combat to a peacetime posture and a commitment to an all volunteer force. A skilled top-level manager, yet a man who always retained that essential human touch, Ken BeLieu leaves behind an Army that has benefited immeasurably from his competent, untiring efforts in its behalf.

Seldom in our Nation's history has a man served his country with such distinction in so many ways over so many years. In addition to the many high awards Ken has received from his own grateful country, the Republic of Korea presented him with the Order of National Security Medal. His has been a unique success story. A true patriot and the epitome of a soldier and a public servant, Ken BeLieu is a man about whom legends are written.

We in the Senate shall be forever grateful for Ken's friendship, his wise and unassuming counsel, and his humaneness. As he returns now to private life, we offer him and to his family our sincere best wishes for all continuing success in the future.

U.S. INTELLECTUALS PROTEST SOVIET IMPRISONMENT OF AMALRIK

Mr. JACKSON. Mr. President, the Soviet Government has reactivated its cowardly campaign to extinguish the great liberal writer, Andrei Amalrik, whose "Unwilling Journey to Siberia" and "Will the Soviet Union Survive Until 1984?" won wide acclaim outside the Soviet Union—and a prison sentence in the Soviet Union for the author in 1970.

Mr. Amalrik, who received a 3-year sentence for the so-called dissemination of falsehoods derogatory to the Soviet state and social system, was scheduled for release in May 1973. But he survived his term at hard labor in a Siberian camp—and a bout with meningitis, which he had contracted in the camp—only to be confronted with a new trial and a new 3-year sentence for the same "crime." Just days before his sudden rearrest, the 35-year-old writer had sent word to his wife from Siberia to confirm his expected return home.

Mr. President, the continued incarceration of this leading Soviet intellectual has aroused deep concern in the West, particularly among American counterparts who have long admired his work and his valiant struggle for freedom of expression, and have anxiously awaited his further contributions to the exchange of ideas between East and West. Mr. Amalrik had been invited by both Harvard and George Washington University to lecture beginning this fall.

The Association of American Publishers, Inc., representing some 260 publishing houses who account for more than three-fourths of the books and educational material published in the United States, protested Mr. Amalrik's detention in a telegram to Soviet Ambassador to the United States Anatoly F. Dobrynin on June 1.

Furthermore, a committee in defense of Andrei Amalrik has been established by 11 prominent American writers and publishers. The committee sent a strong declaration to Ambassador Dobrynin on June 11, with copies for General Secretary Leonid Brezhnev, Chairman Aleksei Kosygin, and President Nikolai Podgorny, and followup telegrams to President Podgorny on June 9, the eve of Mr. Amalrik's trial, and on July 18, after the sentencing.

Mr. Robert Bernstein, the president of Random House, Inc., has provided me with the texts of these appeals, which I would like to share with the Members of this body.

In a letter to me expressing alarm on behalf of his colleagues in the Association of American Publishers and the committee in defense of Andrei Amalrik over Mr. Amalrik's worsening plight, Mr. Bernstein pointed out that "while, unlike the Jewish problem, this appeal is made for one man, there are many others suffering just as he is" and stressed that "it will be extremely difficult for any publisher or author—with a shred of moral fiber—to trade in ideas if this continues." I know that the cosponsors of our amendment on East-West Trade and freedom of emigration will appreciate the intensity of these feelings in the American literary community and its strong stand on this issue of individual liberty.

I ask unanimous consent to have these appeals printed in the RECORD.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

JUNE 1, 1973.

His Excellency ANATOLY DOBRYNIN,
Ambassador of the Union of Soviet Socialist Republics, Washington, D.C.

DEAR MR. AMBASSADOR: On the eve of Chairman Brezhnev's visit, American publishers are deeply concerned by reports of the continued imprisonment of author Andrei Amalrik—New York Times, May 23, 1973. As publishers committed to defending the intellectual freedom of the international community of authors, we strongly protest this action and intend to advise approprite government agencies and the Congress of this matter. We sincerely hope that you will inform your government of our concern and that Mr. Amalrik's case will be given prompt reconsideration.

Sincerely yours,

ROSS D. SACKETT,
Chairman, Association of American Publishers, Inc.

COMMITTEE IN DEFENSE OF
ANDREI AMALRIK,
New York, N.Y., June 5, 1973.

DECLARATION BY THE COMMITTEE IN DEFENSE OF ANDREI AMALRIK

We are writers and publishers who are deeply concerned that the Moscow writer, Andrei Amalrik, has not been freed from prison camp at the conclusion of a harsh term. We now establish the Committee in Defense of Andrei Amalrik for the purpose of appealing to the government of the U.S.S.R. for clemency.

Andrei Amalrik has been punished for openly expressing his thoughts; he has suffered impaired health; and he now faces a new and arbitrary indictment. We urge that the responsible authorities act to effect his prompt liberation and the restoration of his rights under law, including the right to expression and, should he so desire, to travel abroad.

We esteem Andrei Amalrik. We ask that clemency be shown toward him in the spirit of improving relations between the U.S.S.R. and the U.S.A.

AUTHORS

Henry Carlisle, John Hersey, Arthur Miller, Harrison Salisbury, John Updike, and Robert Penn Warren.

PUBLISHERS

Robert L. Bernstein, President, Random House, Inc.

Simon Michael Bessie, President, Atheneum Publishers.

William Jovanovich, Chairman, Harcourt Brace Jovanovich, Inc.

Winthrop Knowlton, President, Harper & Row, Publishers.

W. Bradford Wiley, Chairman, John Wiley & Sons, Inc.

JULY 9, 1973.

Hon. NIKOLAI PODGORNY,
Chairman of Presidium of the Supreme Soviet of U.S.S.R., Moscow, U.S.S.R.

We learn that the Moscow writer Andrei Amalrik is to be tried on July 10 in a remote village of Siberia for expressing his opinions and that his lawyer Shveisky has been barred from representing him. In this year of improving Russian-American relations we urge that he be amnestied.

COMMITTEE IN DEFENSE OF
ANDRE AMALARIK.

JULY 18, 1973.

Hon. NIKOLAI PODGORNY,
Chairman of Presidium of the Supreme Soviet of U.S.S.R., Moscow, U.S.S.R.

Today we learned that the writer, Andrei Amalrik, has received an additional sentence of three years in prison camp for expressing his opinions.

We deeply regret that despite our plea for amnesty and the pleas of other organizations and individuals no humanitarian intervention has been made in Amalrik's case. Our concern with this writer's fate, a concern now being shared by a growing number of U.S. Congressmen, will not diminish as long as Amalrik is unjustly imprisoned and denied his rights as a citizen.

We urge you once again to show clemency.

COMMITTEE IN DEFENSE OF
ANDREI AMALRIK.

THE AMERICAN FORESTRY ACT

Mr. HATFIELD. Mr. President, on June 14 I introduced S. 1996, the American Forestry Act of 1973. I ask unanimous consent that a section-by-section analysis of this bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION BY SECTION ANALYSIS OF THE AMERICAN FORESTRY ACT OF 1973

A bill to authorize programs to restore the quality and productivity of the Nation's forest lands; to provide forestry incentives to encourage better forest resource management by non-Federal forest landowners; to expand and strengthen forest related research, education, and technical assistance; to establish a special receipts account as the source of additional investment capital needed to improve forest resource management on Federal lands; to establish an advisory board to provide advice and counsel on forestry; to enhance the quality of environmental resources; and for other purposes.

Section 1. This is a short title provision which identifies the legislation as the "American Forestry Act of 1973."

Section 2. Defines the terms used in the Act.

(a) "Ecology" is defined as the biological relationship of plants and animals to their environment.

(b) "Environment". This represents the sum of conditions and influences which affect plants and animals and, in turn, the affect these may have upon the health and social welfare of people.

(c) "Forestry incentives". Defines a method of cost-sharing to motivate non-Federal landholders to participate in programs to restore and improve the condition of forest lands, thereby obtaining greater public benefits.

(d) "Forest land" includes those rural lands that are or can be occupied by trees.

(e) "Forest related resources" includes those resources associated with forests. Multiple use management is generally the means employed to make these resources available.

(f) "Industrial lands" includes those forest lands owned by individuals and companies who are in the business of growing crops of timber and manufacturing wood products.

(g) "Multiple use". This definition is in consonance with the Multiple Use and Sustained Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528) relating to national forest lands.

(h) "National domain lands" includes Federal forest lands and interest in lands which never left Government ownership and are presently administered by the Bureau of Land Management, Department of the Interior. Formerly called "public domain lands", the new terminology resolves past definitional ambiguities.

(i) "National Forest" includes all lands and interest in lands which are administered by the Forest Service, Department of Agriculture.

(j) "Non-Federal land" includes both State and private forest lands.

(k) "Private non-industrial woodlands". This is a new definition of a specific segment of private land ownership and, in part, includes "Farm" and "Miscellaneous Private" forest land classifications used in the national forest survey. It includes small nonindustrial property whose owners are not in the business of growing commercial crops of timber nor in the business of manufacturing wood products.

(l) "Reforestation" is defined as the establisment of trees on forest land.

(m) "Stand improvement" is defined as intermediate cutting of trees made to improve the composition, condition and growth of a stand of trees.

(n) "State" includes all States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or posession of the United States.

(o) "State agency" is defined as those state officials authorized to administer forest resources.

(p) "State land" includes those forest lands which are owned or controlled by state, county or municipal governments.

(q) "Sustained yield". This definition is in consonance with the Multiple Use and Sustained Yield Act of June 12, 1960 (74 Stat 215; 16 USC 528) relating to national forest lands.

(r) "Woodlands" is defined as an area of private non-industrial forest land.

Section 3. Sets forth a Congressional statement of findings and declaration of policy.

TITLE I—INCENTIVE FORESTRY FOR NON-FEDERAL LANDS

Section 101. Authorizes and directs the Secretary of Agriculture to carry out a forestry incentive program, to allot funds for the payment of the federal share of the costs, to issue operating guidelines, and to act on State prepared program plans.

Section 102. Specifies the requirements for State Agency participation in the forestry incentive program. These include compliance with the policies and purposes of the Act, fiscal procedures to augment the level and quality of forest management, payment of non-Federal share of project costs, accounting method and controls over Federal funds, establishing action priorities, interdisciplinary program review, reporting procedures, and the supervision and administration of program operations. (NOTE: State Agency's administration directly influences some three-fourths of the Nation's forest land.)

Authorizes the Secretary to approve forestry incentive programs which meet the specified requirements and limits Secretarial disapproval to those situations where the State's plan fails to meet such requirements.

Section 103. Directs the Secretary to make program allotments to the several States, but limits the sum to the non-Federal amount expended within the State during the past year. Provides for reallotment of funds remaining unobligated at the end of a fiscal year to other states.

Limits Federal funds to approved projects.

Authorizes the State Agency to make payments from Federal funds upon certification that the project has been satisfactorily complete. Permits installment payments for partial project performance.

Section 104. Directs the State Agency to non-Federal lands. Specifies eligibility criteria for participation which include acreage limitations and performance guarantees. Permits project operations on State land.

Establishes treatment measures for the improvement and development of forest land. Specifies that these may include reforestation, stand improvement, environmental measures, and balanced development of forest related resources.

Establishes a graduated schedule of Federal payments for land treatment. The purpose of the schedule is to induce and motivate participation in the program recognizing that the amount of interest varies directly in proportion to the forest acreage owned. For example, strong incentives are needed to secure participation by the very small woodland owner, whereas none are needed by industrial forest land owners.

Authorizes recreational leasing of woodlands by the State Agency. Permits up to 100% financing for the construction of recreational facilities. Limits expenditure for facilities to those lands which are open to the public, suitable public access to provided, and are located reasonably close to urban population centers. The locational restriction is to obtain forest recreational facilities in close proximity to large numbers of people. In this sense it avoids duplicating other recreational programs.

Authorizes development or expansion of forest tree nurseries on a 50:50 cost sharing basis upon a finding that present facilities are inadequate to cope with the expanding requirements resulting from this program.

Under guidelines to be issued by the Secretary of Agriculture within one year following enactment of this Act, the State Agency is authorized to make annual payments for publicly needed non-timber benefits. These are listed as environmental and aesthetic values, recreational use, public access, and wildlife habitat. "Publicly needed" carrys the meaning of an extraordinary resource condition that serves an essential public purpose. Although limited in scope to publicly important situations, this annual assistance can be quite helpful to the owner in offsetting rising costs of land ownership and in protecting public values in private lands.

TITLE II—FORESTRY RESEARCH, EDUCATION, AND TECHNICAL ASSISTANCE

Section 201. Recognizes the compelling need for a strengthened and expanded program in forestry research, education and technical assistance and allots up to 25% of the total funds which may be annually appropriated.

Section 202. Authorizes the Secretary of Agriculture to step up forestry research efforts through cooperative university research, including the improved utilization of logging and sawmill wastes, under the McIntire-Stennis Cooperative Forestry Research Act of 1962 (76 Stat. 806; 16 USC 582). Recognizes that there are over sixty institutions throughout the United States capable of performing high quality research and that the McIntire-Stennis Act is the most appropriate vehicle for strengthened and expanded research program action.

Authorizes the Secretary to utilize State Agencies, universities or private consultants to increase technical assistance to woodland owners with respect to growing, harvesting and marketing forest products as well as multiple-use management and environmental protection techniques. In addition, authorizes the Secretary to expand extension service programs to create better public understanding of forest management, multiple use, and environmental protection. Provides for teaching and training at appropriate grade and group levels.

TITLE III—FEDERAL FOREST LAND

Section 301. Recognizes the need to improve the quality and intensity level of forest management on Federal lands. Acknowledges that improvements in the Federal program can be done in accordance with dictates of the Multiple Use and Sustained Yield Act (74 Stat. 215; 16 USC 528) and the National Environmental Policy Act (83 Stat. 852; 42 USC 4321).

Provides for the establishment of a "Forest Land Management Fund" for the improvement of national domain and national forest lands. This working capital fund would augment present appropriations to funding levels which would enable the Federal agencies to improve and upgrade present quality levels of management to better meet national needs for forest products. In addition it would provide a more stable, assured and flexible source of working capital which is an essential requirement of sustained yield management; it would raise rudimentary management to a high order management. This proposal is patterned after the outstanding example of O&C management in Western Oregon, where the O&C counties have voluntarily contributed one-third of their receipts entitlement for forest resource investment purposes.

Directs the deposits of receipts from the sale of timber and other forest products from national domain and national forest lands be placed in the Forest Land Management Fund, beginning on July 1 following the effective date of the Act, but excepts those receipts which are directed by law to be used for a specific purpose.

Authorizes the Secretaries of Agriculture and Interior, for lands under their respective jurisdictions, to expend Forest Land Management Funds upon appropriation in amounts proportional to receipt deposits. Keeps status of receipt funds "out in the open" by going through Congressional appropriation processes. Receipts not appropriated within 2 years are transferred to miscellaneous receipts of the Treasury of the United States.

Specifies that the amounts in the Fund are in addition to all appropriated and other funds. Excludes use of money from the Fund for the construction and maintenance of roads and trails.

Section 302. Directs the respective Secretaries of Agriculture and Interior to expend Forest Land Management Funds to improve the intensity level and quality of forest management in terms of sustained yield management, development and protection of forest resources; the restoration, maintenance and enhancement of the quality of the forest environment; the multiple-use balancing of forest related resources; and, expanded forestry and wood utilization research.

Establishes *reforestation as first priority* in the use of Forest Land Management Funds; *second* priority is for *sustained yield management, multiple use* and *environmental protection.*

Directs that program actions are to maintain relative program balance in sustained yield forest management, multiple use, and environmental protection, insofar as this is possible and practical.

Section 303. Authorizes and directs the respective Secretaries of Agriculture and Interior to require contractors and permittees to provide environmental safeguards and measures which may be needed to mitigate unfavorable impacts. Specifies that the costs of safeguards and measures will be taken into account in determining appraised value of the product or the amount of permit fee.

TITLE IV—NATIONAL ADVISORY BOARD

Section 401. Establishes a "National Forestry Policy Board" for the purpose of providing an outside source of professional forestry advice and counsel to the Secretaries of Interior and Agriculture.

Directs Presidential appointment of not less than fifteen nor more than nineteen members, to serve at his pleasure. The Chairman of the Board is designated by the President. Members are selected for appointment to the board on the basis of their professional qualifications as well as representation of interest groups. The Secretaries serve as ex-officio members of the Board and provide staff services.

Authorizes Board members while serving on board business, to receive compensation and expenses.

Directs the Chairman of the Board to call an organizational meeting of the Board within three months of enactment of this Act and to hold meetings at least twice annually thereafter.

TITLE V—POLICY GOALS INVOLVING FOREST LANDS AND RESOURCES

Sec. 501. Directs the President to establish a fifty year forest policy, considering present and future demand for forest resources, balance between commodity and non-commodity purposes, and the biologic and ecologic ability and potential to supply present and future needs for forest resources and services on public and private forest lands. This policy shall cover the period commencing with the fiscal year ending June 30, 1976, and ending with the fiscal year ending June 30, 2025.

Within one year of the enactment of this Act, the President shall submit this national policy. Any revision must also be reported to Congress.

At the beginning of January, 1975, and for each ten year period following, the President, on the basis of his policy developed pursuant to this section, shall submit budget estimates covering these ten year periods.

For each of these ten year budget estimates, the Congress shall conduct public hearings, and within one year of their submission to the Congress, the Congress shall establish a statement of policy which shall be the guide of the President in framing a fiscal budget covering forest lands and their resources during each of the ten fiscal years covered.

Within 90 days after the commencement of each Congress, the appropriate Committees shall review that part of the policy which they have adopted covering the two fiscal years of that Congress. The Committees shall take into account any new factors or conditions which might be sufficient to amend the policy for either or both fiscal years.

On and after January 1, 1977, each annual fiscal budget presented to the Congress by the President shall express in quantitative and qualitative terms the extent to which the programs and policies projected under that budget meets the goals and policies established by Congress. Whenever the budget does not meet the goals established, the President must specifically state the reasons for recommending less.

Each year, the President must provide the Congress with a report on operations involving or affecting forest lands and their resources in the United States, setting forth the successes or failures during that year in meeting the goals established and including any new recommendations of the President.

TITLE VI—GENERAL PROVISIONS

Section 601. Authorizes and directs the Secretaries of Agriculture and Interior to issue appropriate rules and regulations to carry out the purposes of this Act.

Section 602. Repeals the Roads and Trails Act of March 4, 1913 (37 Stat 843; 16 USC 501).

Amends the Materials Act of July 13, 1947 (61 Stat 681; 30 USC 601) to provide for the deposit of receipts for the sale of timber and forest products, into the Forest Land Management Fund.

Provides that this Act shall not be construed as repealing or amending any law not listed in Section 502.

Section 603. Authorizes appropriations for making grants and payments under this Act for improvements on non-Federal forest lands, except Title III expenditures, of $100,000,000 for FY 1974 and $150,000,000 for FY 1975 and so much thereafter as Congress may determine necessary to carry out the purpose of the Act.

Authorizes $150,000,000 in Title III receipts for FY 1974 and the full amount credited to the Forest Land Management Fund thereafter, to be expended for investments needed to increase the quality and intensity level of Federal forest management, including multiple use and environmental protection.

Sec. 604. Amends the McIntire-Stennis Act to insure that funds available through that Act are not tied to the forest research budget of the Forest Service or the amounts budgeted by colleges or universities involved.

SETTING NATIONAL PRIORITIES

Mr. McGOVERN. Mr. President, in its fourth annual report on the national budget, the Brookings Institution has underscored once again the fundamental preconditions to any meaningful progress on the domestic challenges of the 1970's. We must first find the money, by reforming our outrageous tax structure and by reducing our overground Military Establishment.

The authors of the Brookings publication, "Setting National Priorities: The 1974 Budget," conclude that we could cut back arms outlays by some $25 billion below projected levels, if we do no more than make modest adjustments in our forces oriented toward Asia and Europe, use our manpower more wisely, and simplify the design of our weapons. On taxes, they point out that a rate increase is far from the only option we have if we want to increase Federal revenues. There is ample room for tax reform, as an additional source of the revenues we need to restore economic balance and to renew the pace of social progress.

While their major emphasis is on the question of national priorities, I think the Brookings study addresses a broader issue as well.

As the sordid Watergate tale comes out, we may be too prone to think that it is solely responsible for the lack of confidence so many Americans feel about their Government and about people in public life.

But while that may be a convenient conclusion, it is simply not true. Through public opinion surveys, by staying away from the polls in hordes, and through other expressions, the American people have for years been signaling their lack of faith in government and in many of our most basic institutions.

That should come as no surprise. When they see a tax structure so loaded in favor of the rich and powerful, despite all our tinkering and talk about reform over the years, I think they are justified in concluding that American Government has become the preserve of the privileged few, at the expense of ordinary people.

Then they see us voting billions of dollars more every year for expensive military hardware and excessive military brass. They see the arms budget leap up again this year, as if the war in Vietnam had not wound down at all, and as if we had never heard of SALT and détente. Yet they know their town cannot get the money to supply clean water, or a decent waste disposal system, or low-cost housing; they know we cannot provide jobs for people who desperately need work, and that we will not provide a dignified life for those who cannot. And surely they cannot escape the conclusion that whoever their Government serves, it does not serve them.

We cannot blame Watergate for that. And we cannot repair it even if we now enforce the criminal laws of this country all the way to the top of official Washington.

We will not rekindle the faith of the American people until we make government serve them once again—until we find the money and apply it not to enrich corporate treasuries but to enrich the lives and replenish the hopes of ordinary people.

So I hope the Brookings study will receive special attention this year. I urge my colleagues to think of it not as another outline for academic reference, but as a blueprint for responsible action by the Congress.

Mr. President, the highlights of the new Brookings document are described in two brief articles in this morning's Washington Post. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BROOKINGS SUGGESTS POLICY SHIFT TO CUT DEFENSE BY $25 BILLION

(By Murrey Marder)

Major shifts in American defense strategy that could cut spiraling military costs by $10 billion to $25 billion a year in this decade were suggested yesterday in a study by the Brookings Institution.

One projected alternative would overturn existing strategy for the defense of Europe by reshaping U.S. forces "for a short, intense conflict in Europe rather than for a replay of World War II." In addition, in Asia, the United States would limit its security interests to Japan and disengage from commitments to the defense of Southeast Asia."

These and other bold ideas for revising nuclear and conventional forces and strategies are likely to affect present congressional hearings on American force levels in Europe.

The proposals published by the independent research institution come at a time when the Nixon administration is mounting a major campaign in Congress to beat back drives to cut the numbers of U.S. troops based in Western Europe.

Although the administration prides itself on reductions it has made in numbers of U.S. forces around the world under the Nixon Doctrine, the Brookings report states:

"Less attention has been paid to devising ways of using manpower more efficiently or simplifying the design of weapons systems. And for the most part, no changes have been made in the assessment of U.S. interests abroad, and of the forces necessary to protect them."

With the soaring costs of manpower and equipment, the study said, "the fact remains that a year of major progress in the President's quest for international peace has been followed by a substantial increase in the defense budget.

"In effect," the report noted, "this year's peace dividend is to be used for military rather than civilian purposes."

For 1974 the cost of the "baseline force" for U.S. defense is listed at $82.1 billion with $85 billion in total obligational authority. Projecting these costs, the report said that "by 1978 the current dollar defense budget could reach $104 billion, or almost 25 percent more than in Fiscal 1974."

Two types of alternatives were given special emphasis in the report.

One is a slowdown of the pace of modernizing nuclear strategic forces and economizing on spending generally, with projected savings of $3 billion in Fiscal 1974, "nearly $6 billion in 1975, and $10 billion in 1978."

A bolder option, given special emphasis for achieving savings of $25 billion by 1978, would require the previously noted changes in U.S. doctrine in Europe and Asia.

This departure, based on fighting "a short war" rather than a protracted conflict in Europe, would include the following changes:

Strategic weapons: nuclear land-based intercontinental ballistic missiles would be gradually phased out. Instead of the nuclear "triad" of American land, sea and air power, there would be just two kinds of nuclear forces—"a dyad composed of bombers and submarine-launched missiles, on the assumption that two kinds of offensive forces would provide an invulnerable, flexible and powerful strategic retaliatory capacity indefinitely."

Conventional forces: "total conventional forces would be cut by roughly one-third. Army and Marine Corps divisions would be reduced from 16 to the equivalent of 11, carrier task forces from 15 to 9. Air Force tactical fighter wings would decline from 21 to 16.

Europe: The approximately 250,000 U.S. ground troops in Europe would be reduced about 50,000 by reorganizing the basis for retaining in the United States portions of units based in Europe. Troops would be rotated in relatively short tours in order to reduce numbers of U.S. dependents living abroad, with cutbacks of forces earmarked for protracted war missions.

Asia: A "lower military profile in Asia" would include the recall of about 50,000 U.S. men and four tactical fighter wings from Thailand; sharply reducing the American military presence in Japan, Okinawa, Taiwan, South Korea, the Philippines, and relying primarily on U.S. naval forces in the Pacific for the defense of Japan.

In examining the consequences of such fundamental shifts in U.S. strategy, the study acknowledged that a major question is whether the Soviet Union would interpret them as "a basic weakening of U.S. resolve" that would encourage the Kremlin to press the United States in areas of * * *.

For the Soviet leaders, the report noted, this would mean abandoning the opportunities they now perceive in economic and political cooperation with the United States.

"On the other hand," the report stated, "in the areas of major interest to the United States—Western Europe and Japan—the U.S.S.R. would see little evidence of a change in the U.S. security commitment.

BROOKINGS GRIM ON DOMESTIC BUDGET

(By Peter Milius)

The grim arithmetic of this year's federal budget isn't going to go away, a new study indicated yesterday.

The federal government isn't going to have much extra money for domestic programs any time in President Nixon's second term unless there is a cutback in defense expenditures or some extensive tinkering with taxes, it adds.

The study, published by the Brookings Institution, is entitled, "Setting National Priorities: The 1974 Budget." It is the fourth year in a row that the same four authors—Edward R. Fried, Alice M. Rivilin, Charles L. Schultze and Nancy H. Teeters, all of them alumni of the Kennedy and Johnson administrations—have done such a book.

A year ago their basic point was that federal expenditures were fast outstripping revenues, and that the President would probably be forced to seek a tax increase to keep from running an inflationary deficit.

Instead, the President cut back domestic spending.

The book's point this year is that those domestic spending cutbacks were not the only alternative the President had, and that a big, across-the-board tax increase was not the only alternative, either.

The study points out that, even though the war in Vietnam is over, the President proposed an increase in defense spending this fiscal year, and that his budget contemplates further increases throughout his second term.

The Pentagon, the authors say, may not need all that money.

The study also points out that a big, across-the-board tax increase is not the only way to raise more tax revenue; there is also tax reform.

The book notes that, partly because of loopholes in the income tax laws, and partly because Social Security taxes have risen so fast in recent years, federal tax rates taken as a whole are not as progressive as they are often made out to be.

The flat Social Security tax is regressive; that is, it hits the poor relatively harder than it hits the rich. In fiscal 1960, the Social Security tax brought in only about 16 per cent of federal revenue; this fiscal year it will bring in 30 per cent.

One result, the new book notes, is that the total federal taxes of a family of four with one wage-earner are "actually a smaller percentage of income if the family earns $25,000 than if it earns $10,000. While the affluent family pays a higher percentage in income tax, this is more than offset by the lower percentage of its income that it pays in payroll tax."

Tax reform, the authors say, could deal with things like this as well as increase federal revenues.

The President has indicated he does not want to do much tinkering with the tax code.

The key conclusion in the Brookings book is that, "without changes in tax structure or defense spending," there will be "little room for initiative in the domestic budget until (fiscal) 1977."

"Even then," the study says, "the leeway is modest."

The authors say, however, that the amount of free money the President will have to spend on new or expanded domestic programs could be made a great deal larger by only "moderate" cutbacks in defense spending and tax reforms.

The book also argues that the President's budget does not exhaust the alternatives on how money is to be spent. There are, it says, at least four major roles for the government. It can give money to state and local governments without many strings attached, as in revenue sharing, or for categorical programs. It can help individuals "buy essentials," as through Medicaid and housing programs. Or it can simply redistribute income, through the tax code, Social Security payments and the federal welfare programs.

The book suggests that fresh attention be paid to all four roles. Revenue sharing, for example, has had the headlines in the last year or so—yet it is only a tiny percentage of the domestic budget.

"Measured by budget outlays," the book notes, "the most important thing the federal government does is to redistribute income by writing checks to individuals," mostly under Social Security.

Those checks will total $81 billion this fiscal year. By comparison, revenue-sharing checks will total $6.6 billion.

SMALL BUSINESS AND RURAL DEVELOPMENT

Mr. PEARSON. Mr. President, I recently had an opportunity to read a speech by Mr. Derrill L. Pierce which he gave for the 18th Annual Conference of the National Council for Small Business Management Development.

Mr. Pierce addresses his comments to the future of small business, particularly the growth of small business in rural areas. I thought his assessment of the situation was very good and I was particularly interested in the stress he placed on the need for national policy for rural development.

In the last year or two we have made some progress in this direction and the Rural Development Act of 1972 was a positive step forward. Of course, a great deal more remains to be done. I find that there is a continuing, growing interest in the general cause of rural development as evidenced by the statement by Mr. Pierce.

Mr. President, I ask unanimous consent that Mr. Pierce's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WHAT'S AHEAD FOR SMALL BUSINESS IN A RURAL SETTING?

(By Derrill L. Pierce)

The topic which I have been assigned for discussion is, What's Ahead for Small Business In A Rural Setting? In order to provide a perspective for dealing with a question of that complexity, I should like to consider first what's ahead for rural America; then what's ahead for small business; in order to finally consider the question assigned.

What's ahead for rural America? The President's Commission on Population and the American Future said in 1972 that by the year 2000, 5/6 of the American population will be living on 1/6 of our land area. The 1970 Census simply confirmed what many had long suspected; that is, that the process of urbanization is continuing on an uninterrupted basis. Americans from rural areas continue to move in massive numbers to the urban places of the nation.

It seems almost as though we are determined to learn whether the same principles which apply in nuclear physics likewise apply to human society. That is, is there a "critical mass" at which point social explosions are likely to occur?

Desmond Morris explored that question for us in the *Naked Ape*, didn't he? Morris pointed out that in the world of a variety of animals overcrowding and confinement within close quarters tended to result in a breakdown of social structures; generation of hostility, and outbreaks of violence.

One might assume that the same principles are applicable to the human animal. I recently had the opportunity of hearing Jim Rouse, Chairman of the Board of the Rouse Company, comment on the American city. Rouse, of course, had both the vision and the courage to launch the venture which we know as the new town of Columbia, Maryland. In his commentary, Rouse maintained that in this century, we have proved beyond a doubt that the American City does not work very well. In the last third of the twentieth century, we shall determine if it can continue to work at all. Rouse went further to observe that most major urban places in America today are the centers of social, political, economic, and physical disintegration. Some may be beyond the point of possible reclamation. Rouse indicated that Detroit, Chicago, Los Angeles and New York may prove to be simply too big to manage; and may become unfit for human habitation.

Listening to the commentary of Jim Rouse, I could not avoid remembering the commentary of Frank Lloyd Wright many years ago. You may remember with me that Wright commented that, "Your children may live to see the day when grass will grow in the streets of Manhattan." Wright long maintained that such major urban centers had indeed become unfit for human habitation, and that some day we will recognize that fact, and create alternatives that could support rather than deny the human spirit.

Yet, still the stream of migrants come. The process of urbanization continues across America. For too long we have tended to equate bigness with goodness, and to boast of the growth rates of our new urban centers.

Several new major urban places have emerged during the post-war period; springing from relative obscurity to national prominence as major centers of population growth. Surely among the forefront of such new metropolitan areas would be Atlanta, Georgia. Opie Shelton, for many years the Executive Vice President of the Atlanta Chamber of Commerce, was always a part of that driving force that helped create the Atlanta we know today. Nearing retirement, Opie paused to reflect on the course of previous years, and the accomplishments of Atlanta. He concluded that, "You can't attract as many new dogs to town as we have, and not pick up a lot of fleas along the way."

In spite of the great new downtown centers, outlying residential and commercial area, beautifully planned industrial parks, and all of the other elements that have made Atlanta the city it is today, Atlanta is facing many of the same social and related problems which have become symptomatic of the major urban place. Atlanta today shares many of the problems of her older cousins who have found it impossible to cope with the growing throngs who have deserted the rural areas to seek a new life in a major urban place.

The question of critical mass appears to be a relevant one for consideration of the American future as it applies to both the rural and the urban setting. The American society endured and survived the first great transition from an agrarian to an industrial society; giving birth to great cities in the process. I would suggest that we are in the midst of a second major economic transition as we move from an industrial economic base to a service oriented economy. I would further suggest that this second transition may serve to add more fuel to the fire, and generate new pressures on the processes of urbanization.

In March of 1972, the United States Department of Labor predicted that agricultural employment would continue its decline. The farms of America provided employment for 2,300,000 people in 1972. By 1980, employment is projected to diminish to the level of 1,000,000. Further, the Appalachian Regional Commission has recently released a study of employment in mining. ARC projects that continual declines will be in evidence through 1980, with a resultant decrease in mining employment of 45% by that date.

These declines in the employment base of rural America, coupled with the transition to a service oriented economy, could well lead one to the conclusion that the prospects for population stabilization or growth in rural areas are dismal indeed.

It would seem to me that the time has come for a re-evaluation of the American life style. I believe that if you asked most Americans to describe the kind of place in which they would like to live, the majority would inevitably describe that place in terms of tranquility. It could well be that underlying the current wave of national nostalgia is a desire for a simpler style of life; one most often found in the American "small town".

The environmentalists would tell us, of course, that we have ruined the world, and that there is no fit place left for human activity. This dismal conclusion has led to the insistent demands for zero population growth; zero economic growth; zero emissions; and apparently, zero everything else.

The bumper sticker mania continues across the country. I saw a bumper sticker in Charleston the other day which I thought you might enjoy. The white letters on a green background bore the message, "The Environmentalists: May the S.O.B.'s Freeze to Death in the Dark."

Apparently not everyone shares the pessimistic point of view of the more radical environmentalists. Nor do I. I'm a Southwesterner, having been born and reared in Oklahoma. My father is a Texan. His father came from Tennessee. I have lived in Arkansas, Kansas, and now in West Virginia. I know, for I have seen, the vast and largely unspoiled heartland of the nation. There is still an unspoiled America in the "vacant states" of the mid-continent which can provide a more adequate quality of life for the American people. I would maintain that in this nation we are not over-populated; we are simply under-distributed.

I believe that the time has come in America for a conscious policy of rural development; with a public investment policy that will support a determination to create new centers of urban growth in rural areas.

President Nixon is the first President, in my memory, who has called for a reversal of the traditional migration trends in the nation. Such a reversal is a worthy national goal. The Rural Job Development Act of 1972 is a first feeble step in the right direction.

I'm very much aware that Americans tend to resist planning of all kinds, and governmental intervention in private affairs at every point. For several years I worked with a development group in a rural area of Kansas. I shall never forget one occasion on which the Governor of Kansas, Bill Avery, was to address our annual dinner meeting for that development organization. Ed McNally, a Pittsburgh industrialist, introduced the Governor by saying, "It's always a pleasure and a privilege to have the chief executive of the state come to our area, and to share with us the plans of government for the future, so that we, in turn, may plot our course 180 degrees away."

In spite of this resistance to governmental planning, the time has come for the enunciation of a growth center policy in support of rural development. That policy must, of course, be backed by significant public investment which will generate the private response necessary to insure success.

Parenthetically, as a Southerner, I would likewise call for an end to the "Reconstruction Period" in the South. An enlightened public investment policy at the federal level can be of enormous assistance to the South in overcoming many of its traditional social economic, and political problems.

What's ahead for rural America? The answer, in large measure, will be dependent upon the ultimate decision of the American people regarding population distribution.

With that in mind, what is ahead for small business? In March of 1971, Joseph Martin, Jr., General Counsel for the Federal Trade Commission, said that, "Inexorable economic forces . . . may eliminate future small and medium-sized business in the near future."

I do not take quite such a pessimistic view of the future of small business. According to the Small Business Administration, the group of businesses whom we choose to classify as small contribute 37% of the gross national product; or 50% of the gross business product.

Small business constitutes 95% of the nation's business population. In 1970, there were approximately 5,200,000 small businesses of the total business population of 5,480,000. By 1977 the projections call for a growth of small business to a total of 5,900,000; or over 97% of the business population.

Small business takes the lion's share of business receipts in America. While they get only 30% of the total dollar volume in manufacturing, small business takes 85% of the construction dollars; 82% of those generated by services; 72% of the retail business; and 70% of the wholesale trades.

New business ventures are generated with astounding regularity. The 1977 forecast called for the formation of 561,000 new ventures. Discontinuances for that same year are projected at 498,000; or a net gain of some 63,000 new business entities.

We know of course that of every ten (10) new starts in the business field, three (3) will quit during the first year of operation; two (2) will throw in the towel during the second year; and two (2) more will have discontinued operation by year five (5). Of the original 10, only 3 will survive beyond the first five-year period. Reportedly, about ½ will discontinue operations to minimize or avoid losses.

Dun & Bradstreet reports a general improvement in the failure rate in 1970 as contrasted with 1960. In 1970 44 businesses per 10,000 failed; while in 1960 the rate was 57 per 10,000.

Undoubtedly, the reduction in the failure rate is largely attributable to a strengthening trend in the national economy. Small business is sensitive to national trends, and the failure rate increases dramatically during periods of recession. Unchecked inflation, and a continued high rate of unemployment will take its toll in the small business population.

As Louise Allen of the Chase Manhattan Bank told this convention in 1970, "The largest disadvantage of small size in business is the inability to absorb error." Therefore, it seems to me to be essential that management in small business be keenly aware of national trends; not only in the general economy, but in their specific industry area. Additionally, it is even more essential that they have the ability to interpret those trends, and to project the impact upon their own operation.

With those thoughts in mind, it seems logical to consider what is ahead for the national economy. The strong trend continues in growth of the service segment of the economy, where small business is the most effective. The U.S. Department of Labor, as reported in *Nation's Business* (March, 1972) forecasts employment to 1980 to include an increase in blue-collar employment of 2,500,000 jobs; while white-collar employment is projected to increase by 3,600,000. These increases must be weighed against the projected decline in agriculture and mining as previously cited.

According to the Department of Labor the primary growth areas affecting small business would include the following:

The trades, transportation services, communications, utilities, finance, insurance, profession, health services, and social services.

By 1980, it is estimated that services will contribute 7 out of 10 jobs available to Americans.

If the greatest growth in the American economy is anticipated in the services sector where small business demonstrates its greatest ability for success, the question becomes what does small business need to take advantage of the opportunities presented by the trend? The President's Task Force on Improving the Prospects for Small Business said in 1970 that 3 basic elements are essential:

1. Sound management counseling
2. Capital availability
3. Trained personnel

Of the three, sound management counseling is by far the most important. The Office of Business Development and Government Services at the University of Kentucky conducted a survey of 200 small businesses of its 500 business client group. The purpose of the survey was to identify the top 10 problems of small business. The findings established those major problem areas as:

1. Financial planning
2. Accounting
3. Marketing
4. Plant layout
5. Inventory control
6. Credit
7. Collections
8. Personnel
9. Technical processes
10. Taxes

The University of Kentucky concluded that the great need of small business in America today is "not more money, but better management."

If better sound business management counseling is a prerequisite to growth and expansion of small business, where can that counseling most readily be found? I would suggest that for far too long we in America have had a tendency to turn to Washington, fully expecting to find magic on the banks of the Potomac. Yet that magic has not been forthcoming. The Catalogue of Federal Domestic Assistance lists 20 functional areas; 112 sub-categories; and 1,018 programs designed by the federal government to assist in the social and economic development of the American people. The 1,018 programs listed are administered by 12 departments; 82 offices, agencies, services; and 41 commissions, bureaus, committees, authorities, boards, and administrations.

Now how in Heaven's name can we expect the typical small businessman in America to even begin to work his way through that maze to find the assistance which he so badly needs? The management counseling assistance, so fundamental to success, must be provided at the local level. Therein lies our challenge for the years ahead.

This brings us to consideration of the topic for today's discussion, What's Ahead for Small Business in a Rural Setting?

This is an era of unprecedented economic expansion. The American economy is booming; with strong projections for the period of the immediate future. The greatest sector of growth is in the services industry, wherein small business captures the lion's share of the market. Projections call for significant increases in the population of small business entities into the 1980's.

Therefore, I would suggest that there is great opportunity for small business in a rural setting, *if:*

1. The strong national economic trends continue through the months and years ahead.

2. A conscious and conscientious national policy of population distribution is adopted and implemented; with adequate public investment to spur the response of the private sector in creating new communities in rural areas, and thereby yielding a higher quality of life for all Americans.

3. Sound professional management counseling assistance is made available to small business on a continuing basis. Additionally, that the local communities provide support for the entrepreneur, and work continually for the creation of an environment conducive to economic expansion.

4. Capital can be made available in the rural areas. Al Shapiro, formerly of Stanford Research Institute, currently with the Graduate School of Business, University of Texas, has conducted significant research in establishing a parallel between expansion in rural areas and what he terms, "a proclivity to lend", among rural bankers. Surely schools of business and management consulting groups can, and must, influence the attitudes of rural bankers to encourage this proclivity to lend to the entrepreneur.

5. More positive attitudes toward the nation's business can be generated.

To amplify on that final point, let me say that in my judgment, the challenge of development of small business in America lies not only with management counseling groups from schools of business and higher education; but also with schools of education in colleges and universities across the land. For far too long we have continued to produce an annual crop of young people who are alienated from the business community, disenchanted with the "system", and perfectly willing to join the anti-business forces wherever they may be found. Surely the time has come for the schools of education to accept the responsibility for including in their curriculum an understanding of the basic fundamentals of the American economy. Those fundamentals, in turn, should be incorporated into the public education system of the nation.

We must get the message across that the business of this country is business; and that the time has come for us to tend to our business.

CAPTIVE NATIONS WEEK

Mr. BUCKLEY. Mr. President, Nadezhda Mandelstam, in her moving tribute to her husband, "Hope Against Hope," recalled that she had once stated to her friend, the Russian literary giant Anna Akmatova, that "Poetry is a law unto itself; it is impossible to bury it alive and even a powerful propaganda machine such as ours cannot prevent it from living on." Her friend replied, "I am easy of mind now. We have seen how durable poetry is." Although the propaganda machine she referred to was Stalin's, conditions have not improved much in the Soviet Europe for the peoples of captive nations we honor this week. Just as poetry has proven to be durable, so has the movement to provide these peoples their essential freedoms, even under the most difficult of circumstances.

Times have changed, however, since the first observance of Captive Nations Week in 1959, and our efforts to recognize the plight of the captive peoples of the world must be viewed against a background of ongoing efforts to achieve detente between the Communist world and ours. These efforts should not lessen the intensity of our commitment to provide truth and hope for these peoples—it merely means that, in this new climate, the methods we employ must be different. In these great power negotiations that are designed to lessen the chances of war, let us never lose sight of the fact that in the Soviet view, the historic struggle between our systems continues, though on a different plane.

Last December, Yuri Galanskov died in the Soviet Union. His death was not unexpected as he had spent nearly the last 5 years of his life in prison. Obituary columns around the world recorded the death notice. I cannot help but wonder how many more deaths there have been which never reached the outside world. Robert G. Kaiser reported in the Washington Post just this week that Andrei Amalrik had been tried once again on trumped up charges and sentenced to 3 more years in prison. Again, I cannot help but wonder how many trials are conducted that are never even reported. Valery Chaldize tells us that Yury Shikhanovich and Leonid Plyusch, two brilliant mathematicians, were recently declared insane. This gives us some inkling of the number of brilliant and sensitive minds that have been destroyed by the Communist state.

Repression of all kinds has been a constant in the Soviet experience. As the leadership changes, the degrees vary as does the sophistication of the techniques employed in the cause of repression. For repression has been found essential to solidify the control Communist regimes need to retain their power. The 1968 invasion of Czechoslovakia demonstrated the extent to which the Soviets feel compelled to go in order to maintain control over their East European empire.

These are the cold realities, Mr. President, with which the peoples of the captive nations must live. They must live with the fact of Soviet determination and not the illusory hopes bred of the spirit of detente. Brezhnev defined the infamous doctrine that bears his name to justify the armed invasion of a country seeking to free itself from dogmatic Marxism. It is a doctrine that was reaffirmed in unmistakable terms by Soviet Foreign Minister Gromyko at the Helsinki meetings following the recent Nixon-Brezhnev summit.

But there is another current reality, one that explains why Soviet leaders are scurrying around the globe ingratiating themselves with the "imperialist" powers. They need our agricultural goods and our consumer technology to make up for their own massive failures. They need to make the lot of their own people more tolerable. They need to alleviate the austerity imposed by the failures of Communist economic doctrine. These needs are real, and they provide us with a lever with which we can pry some holes in the Iron Curtain and let the breath of freedom in, and people out.

Some Members of the Senate have suggested that we abandon or reduce our commitment to Radio Free Europe, Radio Liberty, and the Voice of America. Their intentions greatly disturb me. Already these vital voices have been stripped of some of their potential. It would appear that the voice of Alexander Solzhenitsyn fell on deaf ears when he said in an interview that:

> If we ever hear about events in this country, it is through them (Radio Liberty).

Just last week, the Senator from Arkansas (Mr. FULBRIGHT) in a speech to the American Bankers Association assailed as a "renewal of the cold war" the moves on Capitol Hill to block trade concessions to the Soviet Union until its citizens are allowed to emigrate freely. I respectfully disagree. I submit that we cannot allow our commitment to the captive nations of the world to falter. Our methods, yes, must be different. We must insist—as we have in the case of the Jackson amendment—that the Soviet Government loosen up their system, allow emigration, as a condition for any trade concessions. I believe we ought to add another condition, and that is a halt to the jamming of our radio broadcasts.

Let us have peace; let us have detente; but let us not, in our concern, forget the plight of those who are forbidden the blessings of liberty we take for granted. Through Radio Free Europe, Radio Liberty, and the Voice of America we can tell them they are not forgotten; by our firm stand on basic human rights in our dealings with the Soviet Union we can let them know they have not suffered in vain. In our prayers and by our actions let us show the world that we have not forgotten and will never forget.

Mr. MOSS. Mr. President, in announcing phase IV of President Nixon's economic policy yesterday, Secretary Shultz stated that he felt a real sense of "humility". This is a welcome admission, for, up until now, humility has not been one of the cardinal virtues of this administration.

I do not wish to go overboard in my praise, however, because in all fairness, it should be noted that Mr. Shultz and the other practitioners of Nixonomics have a great deal to be humble about. In fact, Mr. Shultz's description of his own humility may be the first accurate assessment he has made in the past 6 months.

Back in January the administration informed us that inflation was well in hand and that henceforth market forces along with a modicum of voluntary restraint would keep the economy on an even keel. What followed was the worst inflationary spiral in 22 years. Walter Heller later referred to the lifting of Phase II controls in January as the summum boner of the Nixon economic policy.

In February, President Nixon assured the American consumer that the sharp rise in food prices would level out within 2 or 3 months. Food prices were still rising 3 months later, but Mr. Stein of the Council of Economic Advisers doggedly stuck by the official prediction despite all evidence to the contrary.

Now we are told by the administration that food prices will continue to rise through the remainder of the year. I wish this pessimistic forecast were as inaccurate as the earlier optimistic assurances, but I am afraid that for once the administration is speaking the truth. It is a tragedy that stronger action was not taken months ago when it was apparent to everyone outside the White House that the talk of leveling off was only so much whistling in the dark.

At this point, there unfortunately is no easy way out of what one of my constituents has called our economic quagmire. I believe we might make a good start, however, by eliminating the word "phase" from our economic vocabulary.

This word never added very much. In fact, one could make a good case that we would be much better off had it never been employed in the first place. And certainly after all that has transpired under earlier "phases", continued use of the word is clearly harmful.

The main problem with an endless series of phases is that as soon as the latest phase is introduced, everybody begins to anticipate the next one. In a relatively uncontrolled market such as phase III, for example, a businessman will tend to raise his prices more quickly if he belives that stiffer controls are just down the road.

When there are strong controls, a consumer will tend to spend more if it appears that controls will soon be lifted and prices will rise.

Another problem with managing the economy through an endless series of phases is that the illusion is created in the minds of the economic managers that substantive action is actually being taken. It is time we realized that our economic problems do not lend themselves to solution by mere Government edict.

A succession of frantic emergency measures is no substitute for coherent, long-term policy. The sooner this fundamental truth is perceived by the Nixon administration the better off we will be. A careful examination of the Nixonomics of the past several years leads inevitably to the conclusion that the administration has really had no consistent overall policy at all.

Last summer the Agriculture Department concluded a deal with the Soviet Union that sent one quarter of our wheat crop to the Soviet Union. Now, less than a year later, grain shortages have become so acute that the President has found it necessary to impose severe limitations on our imports. The blame for our skyrocketing food prices has been placed on the shortage in supply in the agricultural sector. Yet, just 7 months ago, the administration was pursuing a policy designed to limit agricultural output. The basic error that the President and his economic advisors have made again and again has been to think only in terms of the short run.

A final problem with economic management by means of phases is the utter confusion in terminology that results. For example, it is not clear now whether we are in phase 3½, freeze II, or in some undefined state of limbo. The situation has been made totally ludicrous by the introduction yesterday of stage A and stage B into the parlance of Nixonomics.

I recently commented that if prices continued to soar any further into the stratosphere, the whole matter would come under the jurisdiction of my Space Committee. If we do decide to hold Space Committee hearings on the subject of prices, it is obvious that Secretary Shultz will feel right at home. All this talk of phases and stages really has much more to do with an Apollo flight than it does with a coherent monetary and fiscal policy.

WATERGATE

Mr. GOLDWATER. Mr. President, although President Nixon has declined to testify before the Senate Watergate Committee, he has agreed to confer with Chairman ERVIN of that committee and his press spokesman has promised he would break his silence on Watergate after the present phase of the investigation is over.

While I have remarked on several occasions this is not the way I would handle things, the fact remains that the President deserves an opportunity to handle the Watergate charges in whatever manner he chooses.

This whole situation was summed up very intelligently in a recent editorial published in the Arizona Republic. That editorial, which appeard on July 13, reminded us that President Johnson refused to appear before a congressional committee investigating charges against his close friend and staff assistant, Bobby Baker. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Arizona Republic, July 13, 1973]

SUPPORT FOR THE PRESIDENT

President Nixon has refused to testify before the Senate Select Committee investigating the Watergate scandal, although he has agreed to confer with Sen. Ervin regarding the possible release of some White House documents.

In addition, his public relations spokesman, Ron Ziegler, has said the President would break his current silence on Watergate after the present phase of the investigation is over, possibly some time in August.

Although this will not satisfy his political foes, the President's decision will protect the institution of the presidency. And at some future date, we are confident, all Americans will be grateful for that fact. His action has many precedents.

President Johnson refused to appear before a congressional committee investigating the Bobby Baker case, a case that was finally disposed of when Baker, a very close friend and staff assistant to President Johnson, went to jail.

President Johnson was right in maintaining the authority of the presidency, and President Nixon is right in doing the same thing. It would be a sorry day for this country if the President were forced to submit to the extrajudicial processes that are used in congressional committee hearings.

If the President's political foes want to get him out of office, there are two ways to go: 1. Force him to resign; 2. Impeach him, through charges brought in the House and tried in the Senate.

It is interesting to note, in this respect, that a Washington Post survey of Congress showed:

1. Only 6 per cent of the Republican representatives thought he should resign, and only 2 per cent thought he should be impeached.

2. Only 9 per cent of the Republican senators thought he should resign and only 5 per cent thought he should be impeached.

3. Among Democratic members of the House of Representatives 26 per cent thought the President should resign and 26 per cent thought he should be impeached.

4. Among Democratic senators, 37 per cent thought the President should resign and 19 per cent thought he should be impeached.

Since the Post's survey was taken before former Attorney General John Mitchell went on the stand, the results probably represent a high mark in the somewhat less than overwhelming demand that the President should quit or be fired.

But a decent respect for the opinions of his fellow Americans will require the President to make a full statement on Watergate and its attendant evils. Needless to say, the statement should be made in the form and on occasion of the President's choosing—which is exactly what Ziegler has promised.

THE ADMINISTRATION'S ECONOMIC QUANDRY

Mr. HARTKE. Mr. President, the Nixon administration and Secretary of Agriculture Earl Butz have given the consumer a farm policy that offers us the highest food prices in history and the promise that they will go even higher in phase IV. This on top of putting the farmer in an economic squeeze that forces him to drown his chicks. The President's next move was to slap an embargo on exports of soybean and cottonseed products, the staples of livestock feed around the world. He cut off deliveries of these goods which had already been sold to various foreign nations which we had, just previous to the President's speech, been pressuring heavily to buy more agricultural products from us.

What this means, Mr. President, is that all those overseas holders of dollars can no longer use them to buy two valuable products which they desperately need. The dollar has also been inconvertable into U.S. reserves since August 1971. The value of the dollar to foreigners has thus dwindled even further. The result is that the dollar continues to fall on the international market and with good reason. It follows that the dollar will buy less and less in the world marketplace which in turn adds to those very inflation pressures the administration is trying to contain.

In agriculture as in the rest of its economic management, we move from one emergency to another, with the administration desperately preoccupied elsewhere. Multiple crisis management has forced the administration to propose only stop-gap solutions to grave economic disorders. Each response tends to be whatever the administration said most recently with vehemence it would under no circumstances ever do or consider doing.

The freeze has backfired and phase IV promises no relief. Stability cannot be regained until fundamental factors of U.S. domestic economic management are brought back under control. We are now stumbling, faltering, groping in the vortex of economic chaos with no signs that the administration will be able to steer us into calmer waters.

PRESERVATION OF INDIAN LORE IN OREGON

Mr. HATFIELD. Mr. President, my own State of Oregon is rich in folklore. Deep pioneer roots and an ancient Indian culture combine to produce a uniquely indigenous atmosphere. The need to preserve this heritage, in Oregon, and elsewhere led me to cosponsor S. 1844, to establish a folklore office in the Library of Congress.

I have just received an excellent letter from Mr. Dell Hymes, president of the American Folklore Society, professor at University of Pennsylvania, and Oregon resident, about the need to preserve Indian lore in Oregon. I am sure that the situation he describes so well exists in many other parts of this country.

Because this letter is such an eloquent statement in behalf of S. 1844, Mr. President, I ask unanimous consent that Professor Hymes' letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

THE AMERICAN FOLKLORE
SOCIETY, INC.,
Rhododendron, Oreg., July 6, 1973.

Senator MARK HATFIELD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: I write in appreciation of your sponsorship of Senate Bill 1844—The American Folklife Preservation Act.

This is a new step for our country—but it is really shameful that it has taken so long to take it. Much smaller and poorer countries, such as Finland and Ireland, have for years provided national support for the preservation of folklife. I believe the bill is long overdue, and hope very much that you will do everything you can to secure its enactment, and to see to the appropriation of the necessary funds.

The provisions of this Bill are of importance to me, personally, not just as the President of a scholarly society concerned with the study of folklife. For many years I have worked with the traditions and languages of some of the Native American peoples of Oregon. (Although currently Professor of Folklore and Linguistics at the University of Pennsylvania, I was born and raised in Oregon, as were my parents, and lived here until graduated from Reed; and come back each summer). Trained as a linguist, anthropologist and folklorist, first at Reed, then elsewhere, I have been able to do something to help preserve knowledge of Indian traditions and languages—as I thought, at first, for the "world" and scholarship, but as I have learned, for the descendants of American Indians themselves. My own involvement has been most with the Wasco people at Warm Springs, and I am now writing a practical grammar of Wasco for some of the people there to use themselves in maintaining and learning about their traditional language.

I am editing and analyzing texts of traditional myths, collected years ago, which turn out, on close scrutiny, to contain verse-structures, to be really a special kind of oral poetry—belying the rambling appearance of the pages of scholarly monographs. A young printer in Portland and I hope to be able to manage to publish a few of these myths, in poetic format, in both languages, to show their true nature. From this scholarly and practical side, one realizes how much more there is to be done, and learned, with regard to what already exists.

But in all this one feels the crushing waste of knowledge and insight year after year, as people die without what they know being passed on or recorded. One sees a young man, invited to learn the repertoire of an aged woman, her traditional songs, but unable to do so because he must earn $800 during the summer for school the next year; and no one seemingly able to find $800 to maintain that portion of tradition for use in the community itself in future years. One feels the shame of knowledge that has been recorded, but lies far from the communities from which it came, communities which now want it but cannot get it. One notices the frequent lack of knowledge of the existence of such material, or of its location, on their part.

A national center, able to obtain and coordinate information, and to meet often modest but crucial needs for preservation of materials, could go far to remedying such situations. The needs of work in this area often are small financially, compared to many fields of endeavour, and compared, of course, to the cost of a bomber or bomb. But these sums can mean a very great deal to people in our country.

I shoud not pretend that this effort is an entirely innocent and "safe" one. This is more than a matter of decorating national life. If I thought that the only purpose of such a bill and center was to adorn ceremonial occasions for sentiment, I would not support it. I would attack it as offensive to the true situation and needs of many people.

The truth of the matter is that folkloristic research not only preserves traditional ways of life, their artifacts, languages, and the like, but also enters as a factor into what we take our present way of life to be. We can admit into folklife only those things which seem safe to us, and which add charm; or we can recognize that there are interests in the preservation of traditional ways of life, of parts of them at least, that are uncomfortable. I am speaking for the uncomfortable part.

It is really something to remark that the best of what we can know of many American Indian traditions in Oregon is through the work of Franz Boas, and his students, Edward Sapir, Leo Frachtenberg, and Melville Jacobs—men trained in painstaking, accurate recording of native tradition, wherever possible in the native language—men whose concern came not from being from Oregon, but from the scientific concern of a great German-born and trained scholar, who themselves came from Germany and New York City. Today to a very large extent our museums along the Columbia and elsewhere in Oregon preserve in visibility only the memory of pioneer culture (one can tell some amusing, some bitter stories from the Indian side about this). So far as I know, only one Oregon State Highway marker speaks favorably about Indians—the one on the Columbia for Memaloose Island (/mimalúš/ in the original Wasco). By the Dalles Dam a sign speaks of "Ancient Indian Fishing Grounds". Ancient? They were not ancient when I was there in 1951, fishing from scaffolds with Indian friends. They became "ancient" when the dam was built, destroying them.

Therein, I think, lies a clue to much of the present situation. We—Oregonians and anthropologists, folklorists, linguists as well—have tended to think of what is Indian only as what is safely gone—the romantic, or romanticizable remote past; no embarrassment, no sense of guilt there, in what cannot be changed. What living Indians remember as highpoints of their lives—the salmon fishing at Celilo, lost now—is transmuted by a highway marker into a safely ancient past. For the current problems, efforts, struggles of Indian people—people confusingly partly traditional, partly modern, partly exotic, partly like us—are an uncomfortable reminder, a 'social problem', not a romantic idea.

But these people are in fact partly traditional, partly modern; and part of their 'social problem' is exactly in their relation to tradition. Many of them, increasing numbers of them, are concerned to preserve, maintain, restore, recreate, revitalize traditions, often in new viable forms within a contemporary context. They wish neither to return to the lost past or to become just like non-Indians; they wish to maintain what they find to be the best of both cultures.

There is a tremendous outpouring of desire for this today, in many very young people as well as in others more fully part of traditional communities. It is a matter of an inescapable question of the meaning of their lifes, of their senses of personal identity. Young Native Americans find themselves to be Indian, willy-nilly, however much they may have for a time forgotten or dismissed the fact. As one young man I know said, when at his high school he was chided for wearing nothing Indian to an Indian day, "I brought my skin." That one is Indian cannot be forgotten, even if one tries to forget. One meets a young man who was a model student, a college graduate, a graduate student, headed into the orbit of a profession (and professions seem always to teach people in ways that require them to leave their communities, rather than permitting them to return to them), who suddenly becomes as traditional as he can. One finds dances long lapsed being revived by young people, and everywhere a desire to learn as students a language that was not learned as children. One finds a desire to accumulate information, from whatever source, about one's own people and culture—to learn not just about the famous tribes in school, but one's own community.

There is a tremendous outpouring of desire for such things. There is a clear breakdown in the traditional mode of transmission. Pressures from without and within have disrupted the contexts of learning and identification that in the past insured the continuity of traditional ways and understandings. Indians themselves turn to scholarly skills for help in bridging the gap, scholarly resources, where they have the chance to know of them and to acquire them. Such skills and resources can indeed help to create what is wanted, a basis for what is distinctively valued in traditional ways to remain part of a more complex contemporary way of life, and to inform new creative activities. And there are non-Indians who are eager and willing to help, and in many individual cases, are helping. But there is great lack of information from one effort to another, and within the communities themselves. And there is great lack of effective support for what is needed.

One hears again and again of desire for a museum, of help in building one, of help in training local people to handle one. One meets a brilliant high school student who has begun trying to write and analyze his traditional language on his own. There is concern that so many artifacts perish in fires, or remain where sold and bought in stores. One finds local people wishing to tape and transcribe what is valuable to them from older people, but without skills to do so. One also finds people and money coming from the outside, especially in connection with efforts in education and curriculum development, where, despite good intentions, the role of collectors and scholars is taken on in ignorance of what is already known, and how one goes about learning and handling such knowledge. Local people may even be mis-trained and given quite false experiences as to what such work is like, because training in curriculum, say, leaves one ignorant as to writing languages or interviewing about traditions. (I am experiencing such a situation now. In this case, the outcome will probably be all right, at least with regard to what is done about the native languages in the schools, because my wife and I (she is expert in the other main language of the community) happen to be here this year and able to help; but that is chance, so far as the educational project is concerned).

What particularly is not happening in more than a few cases in the country is the training of Indian people themselves in skills for dealing with their traditions, dealing with them in the partly scholarly, partly analytic way that is necessary today.

It may seem odd and wrong to talk about preserving and maintaining something that needs emergency efforts, special expertise, for its maintenance. If the Indians have not managed by themselves, why interfere 'artificially'? But Indians do want to manage, and the reasons for not doing so in the past have a great deal to do with forces from outside the Indian communities. And the situation is not so foreign to our own experience as one might first think.

We do not have immediate access to the life of the community around Jesus in Palestine, nor a direct continuity of its way of life in any simple or obvious sense. We don't dress like Palestinians then or eat like tnem in normal meals, any more than many Indians dress or eat normally like their forebears of a century ago. We depend mightily on scholarship, on skills in archeology, philology, history and the like, to maintain and enhance what we can know and consistently believe about a tradition we value. We do not think that it invalidates Christianity to have it pointed out that Christians no longer live as did the community around Jesus. We think that there are truths and values and practices that survive even quite drastic changes in the content and circumstances of civilization.

There is an exact parallel for members of communities such as those of Native Americans, and especially Native Americans, where a religious element (not necessarily in conflict with Christianity) is so often important. There is no question of returning to the aboriginal ways of life as such. There is very much in question the survival of truths and values and practices that are meaningful, to them, and ultimately, I think, to all of us, through them. There is a great surge of the wish and will to do this, but too little in the way of means and opportunity to accomplish it. A bill such as this, if it takes into account the active participation of members of the communities whose folklife is of concern, can do a great deal to provide means and opportunity.

I have stressed that it is a question, not only of objects and traditions themselves, but of meaning in personal and community lives, of senses of identity. The identities of non-Indians are ultimately involved as well. It will be a much healthier state of Oregon, and United States, when we can bridge the gap between legitimate "white" history and Indian history, white cultural tradition and Indian. When we can accept the *continuation* of aspects of Indian tradition and values in contemporary society—not manifested perhaps in a Plains Indian headdress or war dance—but perhaps in a distinctive way of recounting personal experience in English (one of the most moving experiences in my life was to hear Larry George, a Yakima, recount in Portland the meaning of growing up and being expected to war dance at white occasions—a long intricate story, circling perfectly upon itself at the end with the repetition of the phrase, "But I don't want to war dance"). The continuation will be a selective preservation of feelings for land and ceremonies that express it, of modes of mutual support, expressed in certain rituals of exchange, of use of traditional languages in certain contexts; and in a creative vitality, manifested in forms of course not part of Indian aboriginal life—film strips, videotape, drawings, etchings, paintings, poetry—but all expressions not possible out of other than an Indian experience. We will all be the richer for these things, and understand our own places, Oregon in this case, better.

This letter is not the letter one would write solely as President of a concerned scholarly society. Folklorists take in the full range of American traditions and ways of life, the native American being just one of those. I am writing to you now, about this, because of my involvement and concern with native American traditions within Oregon. In the Folklore Preservation Act, I see hope for a help in meeting a great and pressing human need.

Sincerely yours,

Dell Hymes.

PENTAGON CONTEMPT FOR CONGRESS

Mr. PROXMIRE. Mr. President, the deliberate withholding of defense information from the Armed Services Committee has demonstrated more clearly than ever the contempt that the Pentagon holds for the democratic process. Let us put it bluntly. Senior officials in the Defense Department have not hesitated to lie to Congress.

Think of this for a minute. The Armed Services Committee is charged with the responsibility of overseeing the defense establishment. No job may be more important. The Defense Department is charged with keeping the Congress fully informed about pertinent defense matters. And yet when a member of the Armed Services Committee makes a routine request for information, he is deliberately provided with misleading and incomplete data to the extent that it is a lie. I say deliberate because that is the term that the Defense Department has used.

We have come down to that cynical attitude of having to question the legitimacy of everything the Pentagon says. If they will lie to the Senate Armed Services Committee, then on what other issues will they fabricate answers to fit their own needs?

Mr. President, the Senate should not allow this to stand. We should press for the names of those officials that determined that Senator Hughes would be deliberately lied to and unless those officials come up with a good defense, as unlikely as they might be, they should resign, no matter how high their rank or esteemed their stature.

A government built on lies is not fit to govern.

Mr. President, the distinguished Senator from Iowa (Mr. Hughes) should be commended for the energy and skill he has put into his membership on the Armed Services Committee. The very able acting chairman of the committee (Mr. Symington), has stated that the committee will get to the bottom of this matter. I, for one, will do everything possible to support the chairman in this and I hope that others in the Senate would similarly voice assistance.

It is unbelievable that the Defense Department did not even tell the ranking majority member and now acting chairman of the Armed Services Committee about this secret bombing. The chairman (Mr. Symington) has stated that he was not provided pertinent information in this case until last week.

The Pentagon hid this data from the Armed Services Committee for 4 years and it still would be hidden today if it were not for recent testimony exposing this secret extension of the war. In fact the record is even worse than it appears because more may have been involved than simply failure to answer honestly. The Pentagon may be guilty of subtlety dispensing a cover story that the B–52's were only defending Special Forces Camps.

WHO STANDS RESPONSIBLE?

What we are faced with is no less than the continuing perversion of the military code of honor. When will the military leaders of this country understand that they have a responsibility to Congress and to the people based on truth and honesty before all else? When will they stop saying "yes sir" to requests for illegal and immoral activities. Their uniform stands for more than obedience. It also stands for the ideals this country was founded on—the same concepts so readily corrupted by the present military system.

On the other hand, if these orders came from civilians in the Pentagon then there is a real question about military duty and honor. Then those civilians should resign. At present we do not know. But I am sure that the Armed Services Committee will soon find out.

If the information in question were judged to be extremely sensitive then there were means available to convey that fact to Senator Hughes and the full committee. The Pentagon could have provided the answers on a highly classified basis with the request that it not be released until the reasons for its classification were no longer present. That would have been respected.

But the choice was made to deliberately withhold this information and that is not only dishonest but an affront to the democratic process of congressional review.

Mr. President, I ask unanimous consent that two recent articles from the New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SECRET RAIDS ON CAMBODIA BEFORE 1970 TOTALED 3,500

(By Seymour M. Hersh)

WASHINGTON, July 17.—United States B–52 bombers made at least 3,500 secret bombing raids over Cambodia in a 14-month period beginning in March, 1969, Defense Department sources disclosed today.

In addition, a Pentagon spokesman, Jerry W. Friedheim, acknowledged at a news briefing that falsified reports were officially ordered and made after the strikes in an effort to prevent disclosure of the raids, which he said were fully authorized by President Nixon and Melvin R. Laird, who was Secretary of Defense at the time

Mr. Friedheim also said that "hundreds of missions" were flown monthly, but refused to provide a more specific total. Other sources said, however, that as many as 400 missions were flown in some months and that the number of such flights, when officially tabulated, could exceed 4,000.

20 PERCENT GO UNREPORTED

At the time, the sources said the total number of B–52 missions in all of Southeast Asia were running at the rate of 1,500 to 1,800 monthly, meaning that as much as 20 per cent of the over-all operations were officially going unreported to the public.

The B–52 bombers usually attack in units, or "cells," of three, but statistically the missions are tabulated on a basis of one flight by one B–52. The first official announcements of the secret raids was made yesterday by Secretary of Defense James R. Schlesinger, who defended them as being necessary for the protection of the lives of American soldiers.

Today, meanwhile, Senator Harold E. Hughes, Democrat of Iowa, issued previously classified Pentagon statistics that he said showed that the Defense Department deliberately lied to the Senate Armed Services Committee in 1971 and 1973 reports on the bombing operations in Cambodia.

During a committee hearing yesterday into the falsification of records in connection with the bombing, Mr. Hughes had complained that an unclassified report made available to him by the Defense Department had not listed any B–52 raids in Cambodia until the May, 1970, invasion.

At the Pentagon news briefing today, however, Mr. Friedheim asserted that some members of the Armed Services Committee had been fully briefed on the Cambodian operation. Other Senators, he said, specifically mentioning Mr. Hughes by name, were not so informed.

"DELIBERATELY NOT INCLUDED"

Asked why Pentagon statistics supplied to Mr. Hughes did not list the 1969 and 1970 bombing raids in Cambodia, Mr. Friedheim said they were "deliberately not included," and said that the decision to do so had been "determined by senior civilian and military officials here." He would not elaborate.

The subsequent release of the classified reports by Mr. Hughes was made in direct response to the Friedheim statement. Those reports, the Senator said in a statement, show that the Nixon Administration deliberately "deceived the committee," and his personal office, by not showing any B–52 bombing missions before May, 1970, in Cambodia.

Both classified responses, he said, issued in 1971 by the former Secretary of the Air Force, Robert C. Seamans Jr., and last March by the former Secretary of Defense, Elliot L. Richardson, contain zeros declaring that there were no B–52 strikes inside Cambodia."

"And today," he added, "we learn that in fact there were more than 100 sorties each month for 14 months."

"If Congress and the American people have been lied to in this instance," Senator Hughes asked, "how can we have any confidence in Pentagon spokesmen when they come before the committee in classified closed session and ask for billions of dollars?"

TO EXPAND INQUIRY

The Senator, who was instrumental in promoting last year's hearings into the unauthorized bombing of North Vietnam by former Gen. John D. Lavelle as well as the current hearings into the Cambodian air operations, also announced that the Armed Services Committee would expand its investigation to determine how and why the Pentagon submitted the false statistics.

He quoted Senator Stuart Symington, the acting chairman of the committee, as having "expressed his personal indignation" over today's Pentagon statements and said that the Missouri Democrat had agreed to summon high officials "under oath to tell us precisely what happened in these bombing operations and falsification of reports."

"Although I am the one who has requested this investigation," Senator Hughes said with obvious anger, "I am not the only member of the committee who has been kept in the dark."

In a brief telephone interview, Senator Symington confirmed Mr. Hughes' remarks. "I want to go to the bottom of this," Mr. Symington said. "I don't like people destroying evidence."

In interviews today, a number of present and former high-ranking Government officials expressed concern over the Pentagon's admissions that it had deliberately falsified official bombing reports after the strikes in an effort to disguise the raids.

NO EVIDENCE OF ORDERS

In a statement yesterday to the Armed Services Committee, Gen. George S. Brown, the newly approved Air Force Chief of Staff who headed Southeast Asian air operations in 1969 and 1970, acknowledged the false reporting but described it as being "in accord with instructions."

Interviews today with high-ranking officials of the White House, National Security Council and the Pentagon produced no evidence that any such high-level orders were issued.

Military sources did confirm, however, that information about the Cambodian raids was directly provided to President Nixon and his top national security advisers, including Henry A. Kissinger.

The sources said that the unusual method of reporting—which bypassed the normal set up to avoid public disclosure of the raids. The system was not changed, sources said, although The New York Times published in dispatch about the B–52 raids in Cambodia on May 9, 1969—about two months after they began.

MAJOR TOLD STORY

The current dispute arose Sunday in an interview by The Times with a former Air Force major, Hal M. Knight of Memphis, who told of falsification of reports and destruction of documents dealing with the B–52 operations.

In public testimony before the Senate Armed Services Committee yesterday, the former officer said he decided to inform the Senate about his experiences after reading newspaper accounts of the Lavelle hearings last fall.

"It became obvious to me," Mr. Knight testified, "that the committee was unaware of what had taken place while I was out there. General Lavelle apparently was disciplined for doing the same thing on a small scale that I was doing on a big scale."

Pentagon officers agreed today that General Lavelle was ousted in 1972 for doing the same thing—falsifying records—that apparently had been authorized by some responsible Government official three years earlier.

[From the New York Times, July 18, 1973]

THE NEED TO KNOW

Although reports of deception by United States military and civilian officials concerning American military activities in Indochina are by no means new, a Senate investigation of secret bombings in Cambodia is particularly pertinent at a time when Congress is moving to reassert its role in the war-making process.

Charges that documents concerning the unreported air raids in 1969 and early 1970 were deliberately falsified and destroyed by Air Force officers have already been confirmed by Gen. George S. Brown, the new Air Force Chief of Staff who was then commander of the Seventh Air Force in Saigon. The Pentagon has acknowledged that this "very major campaign" was "fully authorized" by senior military and civilian officials in Washington.

Although there may have been marginal diplomatic reasons for wanting to keep the raids secret in order to avoid embarrassment to Prince Sihanouk, the then Cambodian chief of state who is said to have given his tacit approval, such considerations cannot justify concealing a major escalation of the war from the public and Congress. Congress must know the full, ungarnished truth about United States military activities abroad in order to exercise its constitutional responsibilities in determining where and when this country should go to war.

It is particularly appalling that civilian officials apparently encouraged military men to falsify records in clear violation of their code of honor, if not of the Uniform Code of Military Justice. Once such a dishonorable precedent has been set, how can a commander in chief be sure his own orders will be strictly followed. How can the subordination of the military to civilian authority be assured?

A Congress that is determined to preserve its prerogatives and the right of all Americans to self-government cannot tolerate secrecy and deceit, by the military or the Executive or both.

CAPTIVE NATIONS WEEK

Mr. PERCY. Mr. President, in this era of improving relations between the United States and the Soviet Union, I believe it is important that we continue to be vigilant for the legitimate interests of the peoples of the nations of Eastern Europe and the Soviet Union who still seek to maintain their heritage and to promote their freedom.

We all welcome the agreements achieved by President Nixon in his dealings with the Soviet Union and the nations of Eastern Europe. But we should emphasize at this time our continuing concern for human rights and freedom—the right of every people to free expression, free emigration, and free institutions.

In pursuance of this concern, I am doing my utmost to assure continued assistance to Radio Free Europe and Radio Liberty which broadcast objective news to Eastern Europe and the Soviet Union.

I am deeply committed to achieving greater freedom of information and more human contact between East and West. In European security negotiations, we must advance this objective with dedication and persistence.

Let the peoples we remember this week know of our continuing concern for them.

THE GENOCIDE CONVENTION AND THE INTERNATIONAL COMMUNITY

Mr. PROXMIRE. Mr. President, one of the arguments raised against the Genocide Convention is that genocide is not a subject of international concern.

But, mass horror affects everyone and every country, no matter where it takes place. Acts defined as being genocidal nearly always have the potential for disrupting international peace and security.

Article II states the meaning of genocide:

> In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
>
> (a) Killing members of the group;
>
> (b) Causing serious bodily or mental harm to members of the group;
>
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
>
> (d) Imposing measures intended to prevent births within the group; and
>
> (e) Forcibly transferring children of the group to another group.

Keeping this in mind, then, it is easy to understand how ethnical, racial, and national hatreds are intertwined with world peace. Witness, for example recent disputes between Nigeria and Biafra, between Arab and Jew in the Middle East, and between black and white in South Africa.

Granted, no one document will completely restrain the actions of a country. But the relevance of genocide to the international community cannot be denied. In terms of being a threat to international peace and security, genocide is undoubtedly a matter of international concern. Rightfully so, it is the subject of an international treaty that the United States must no longer delay in ratifying.

URBAN WASTELANDS

Mr. CRANSTON. Mr. President, last Sunday, July 15, the Los Angeles Times featured a story entitled "Urban Wastelands—Isles of Hopelessness," which is a powerful reminder that the crisis of the cities has not passed.

The Times story describes neighborhoods in New York, Washington, D.C., and Chicago that are scarred by abandoned and burned-out buildings, neighborhoods which are a no man's land for the poor who are victimized by crime, drugs, and neglect.

The Times story is timely for it coincides with hearings by the Senate Housing Subcommittee to develop housing and community development legislation. Among the bills being considered is S. 971, the Home Preservation Act of 1973, which I introduced with Senator Taft. This bill provides an approach to the very complex problem of how to check neighborhood decline before it gains momentum.

What it means to let neighborhoods hit rockbottom, what it means to the people trapped in those neighborhoods, is the subject of the Los Angeles Times story. It is a story that claims our attention.

Mr. President, I ask unanimous consent that the story, "Urban Wastelands—Isles of Hopelessness," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, July 15, 1973]

URBAN WASTELANDS—ISLES OF HOPELESSNESS

When George Ramos walks the streets at night he takes Baby with him.

Ramos is a resident of Brownsville, a Brooklyn slum where life is cheap. Ramos is 23, he looks 40, and he probably will survive. He will not sell his life cheaply.

"You can't trust nobody," said Ramos, puffing a cigaret at the counter of a greasy luncheonette on Saratoga Ave. "I got two locks on my door, plus a nice little dog."

The nice little dog is Baby, his German shepherd.

"There are two people that dog trusts," Ramos said. "Me and my wife. He's a mean dog. You kick him around and beat him up in training. You feed him gunpowder so his nervous system reacts. He won't stay still.

POOR PEOPLE'S LAND

"He'll do anything you tell him to do."

Brownsville, a city social worker said, is poor people's land. Ramos is one of its people. He is luckier, though, than most. He has a business—and Baby.

For others the slum—the place every big city has for its poor—can be a state of terminal despair.

Billions have been spent on federal programs to aid the slums. In the worst, a decade later, the effects would have been roughly the same had the money been dropped in small bills from the Goodyear blimp.

Existing programs of the Department of Housing and Urban Development were halted last January by a moratorium imposed by President Nixon. The entire structure of aid to the cities is being changed.

James T. Lynn, new secretary of housing and urban development, wants to turn the responsibility for the cities over to the state and local governments. "It is time," he says, "to dispel the myth that there is somebody in Washington, D.C., who knows better than the people themselves what is needed in their cities."

Just what is needed in the cities? A tour of some of the worst slums would suggest that whatever has been tried has been less than successful.

In places with names like Brownsville, the South Bronx, Woodlawn, Shaw, Yeatman and Hunters Point, reporters of The Times' national bureaus surveyed the problem.

And while they found some hope, they often found islands of hopeless lives and physical devastation—the worst of the slums, those called wastelands. There, the disintegration of society has reached the point of self-destruction.

Places like Cardozo, two miles northeast of the White House:

Mrs. Evelyn Perry, a registered nurse, makes house calls from a Cardozo clinic—including one with a family on Columbia Rd.

The reporter went with Mrs. Perry to see how the family was doing.

Mrs. B. has nine children, is pregnant, has high blood pressure and weighs 237 pounds. She sits on a tattered couch which is one of the few pieces of furniture in the family's three-story row house on Columbia Rd., scarcely aware of the chaos surrounding her.

BROKEN WINDOWS UP GAS BILL

One son, Delmon, 5, is frantically hyperactive, racing swiftly from mischief to mischief. He plays with matches every chance he gets. He recently took an older sister's clothes outside and burned them.

Kids run back and forth, shouting, quarreling. One of her older daughters, who has had two children out of wedlock, has moved in with her. "We're paying $150 a month," Mrs. B. said. "But in the winter it costs us another $175 for gas, because all the heat goes out the broken windows."

Paint and plaster are coming off the walls and the wooden floors are bare and dirty. A little girl wants to sleep on her grandmother's lap. "I can't get in my bed," she says "cause the rats'il get me."

Children and grandchildren ebb and flow around Mrs. B. as she sits, heavy and embarrassed, on the couch.

As the children come near her, she may play with them, or shake an old belt at them, depending on her mood, and the circumstances. She couldn't catch them if she wanted. She has only limited contact with what is going on. The kids across the room are as far beyond her reach or ken as the maneuvering of city officials downtown.

Mrs. B. came to Washington from a North Carolina farm. Her husband has sickle cell anemia and can't work. It was a nutritionist at the clinic who told her about welfare; she hadn't known it existed. Said Mrs. Perry:

"She thinks it's better than North Carolina."

Mrs. Perry also visits the two-room attic apartment of a young woman who lives with her husband, a two-year-old daughter and a new infant in another part of the Washington ghetto. The apartment is spotlessly clean, partitioned with curtains into tiny areas which serve as bedrooms.

She is lucky to have her apartment. Her building is on its way to abandonment. And once abandoned, it begins the process that ends in an empty, rubble-strewn lot.

Abandonment is the curse of the wastelands. It forces slumdwellers into a compaction of even greater density. The official population of the slum dwindles, but people with no place else to go, and unable to leave, crowd into ever tinier quarters, hidden from sight and ineligible to become even a statistic.

Abandonment has left gaping holes in the slums of America. Driving through a slum is like touring a European city in 1945, after the bombing. The lots are paved with broken bricks, the bricks agleam with shattered bottles, and garbage, strewn across the top, festers in the sun.

New York Mayor John Lindsay calls Brownsville—a sprawling slum in mid-Brooklyn—"bombsville." It has 500 abandoned buildings, 432 vacant lots and hundreds of empty stores, some awaiting a long-distant urban renewal, some merely dead-ended to oblivion.

More than 300 buildings have been abandoned in Chicago's Woodlawn in the past five years, most of them apartment houses. A third are still standing. It is difficult to find a block in the area without a hulk or two on it.

Are all the nation's slums headed for the slow oblivion of the worst wastelands?

There seems little that can be done for places like the South Bronx, Brownsville, and the worst of the Shaw-Cardozo area of Washington. By every indicator of blight, these areas are districts in a state of terminal decay.

But there is hope on the urban scene. In places where home ownership has remained high, and there are community agencies working to save the neighborhoods, blight has been slowed and improvements noted.

Bedford-Stuyvesant is a slum with a chance.

It is a 653-block area of Brooklyn with 450,000 residents, 90% of them black and Puerto Rican—a community the size of Cincinnati, with the second largest black population in the country (Chicago's South Side is first).

Bed-Stuy, as its residents call it, is no longer self-destructing.

The major distinguishing factor between Bed-Stuy and nearby Brownsville is that a great many more Bed-Stuy people own their own homes. There is a large block of residents with a share in the future.

In 1966, Sen. Robert F. Kennedy (D-N.Y.) toured the area, then brought about the creation of the Bedford-Stuyvesant Restoration Corp., a community-based group, and the Development and Services Corps., an entity headed by prominent New York businessmen.

Combining the community's manpower and the white business community's financial know-how, the two groups have set up programs which are as varied and interlocking as the forces which combined to turn Bed-stuy into a slum in the first place.

Homeowners who had been forced to turn row houses into rooming houses to pay two or three mortgages, at speculator's rates of up to 15%, were provided with loans arranged through the organizations. A total of 840 mortgages totalling $15.8 million have been written. Monthly payments have been reduced—from $354 to $182 for example—at lower interest rates.

Tenant-aid programs help tenants whose landlords refuse to make needed repairs, assist those conducting rent strikes, help residents seeking to buy properties as cooperatives, relocate those from homes too blighted to repair and train local workmen to restore the fronts of row houses.

The restoration agency also established community service centers which perform services from getting abandoned cars towed away to sponsoring health tests.

A Ford Foundaiton report on conditions necessary for success in curing slum ills found that the Bed-Stuy experience shows the need for:

1—A local institution "with credibility and authority in its community as well as with governmental agencies and financial institutions."

2—Property available and suitable for rehabilitation.

3—The same kind of professional, technical assistance available on the open market for conventional developer-entrepreneurs.

4—A broad spectrum of financing, from grants to mortgages.

5—Finally, an anchor or node for development, a strength on which to build, such as a stable, working class population . . ."

In the wasteland slums, typically, home ownership is small and the populace largely unemployed and itinerant and that anchor is missing.

Take, for instance, Yeatman, the blighted home of 50,000 persons—about 95% of them black—on the north side of St. Louis. Of the 16,200 occupied units there, 10,800 were occupied by renters.

A survey of a key area of Yeatman found 72% of the housing stock deteriorated.

Los Angeles and San Francisco, with larger percentages of home ownership, have no slums comparable to those of the East. Even in areas of absentee landlords, slums in the West lack the doomsday quality of those of the East because the density is less.

Every depressed, central-city area with high rate of blight, crime and unemployment has been the scene of vast expenditures of government funds.

But the problems remain, and the new, lower-echelon bureaucracy envisioned by HUD will find them waiting—in, for instance, the crowded, steaming streets of the South Bronx.

It is probably the worst slum in New York, and, just possibly, the worst in the United States. It covers four square miles just north of Manhattan. By every yardstick of distress, it is the "urb" least likely to succeed.

It has 136 kid gangs, with 10,000 members; 20,000 addicts (on Fox St., for instance, police say 50% of the residents are on hard drugs); 40% of the population gets welfare; it has the highest crime rate of all New York.

The train clatters along, itself covered in huge scrawls of graffiti, over dark streets where blood has been shed on every block. Those who know will point out the bullet holes of locally famous battles. Nearly every family has a gun.

Men stand, unsmiling, in knots outside liquor stores—"waiting for their pusher," a local policeman explains—and prostitutes patrol in front of shops guady with cheap goods or heavy with the smell of frying grease.

"See that apartment?" An off-duty New York patrolman who works the side streets of the South Bronx points to a six-story apartment. "It was rehabilitated and reopened a year ago, like new inside. Junkies moved in, everyone else moved out, and vandals came in and stripped it."

The concrete blocks placed over the doors and windows to replace shattered wood and glass have themselves been smashed, and squatters furtively slip deeper into ruined interiors which smell of urine and feces.

People live here scarcely better than men did in caves at the dawn of civilization, or, perhaps, as they may in its twilight. People dying a little each day, on heroin, exist in ruins like the doomed troglodyte survivors of some science fiction holocaust.

Between structures still standing are vacant lots covered with rubble, where structures were vandalized, burned, then destroyed as dangerous. The sound of walking is a crunch. Broken bottles spread a glittering layer of shards everywhere.

Violence is waiting to happen at every corner. An argument which would mean harsh words elsewhere means the letting of blood here. Police found one hired assassin who worked for $30 a victim. One storeowner was robbed or burglarized 100 times in 15 years. A liquor store sells its products through a slot in bulletproof glass.

The South Bronx is 65% Puerto Rican, 35% black. The population is dwindling, as buildings are abandoned, but those who remain suffer even greater overcrowding, meaning less space, more tension, less chance to get the garbage picked up, more rats, more cockroaches, more disease.

"Sal si puedes," they say in the South Bronx, "leave if you can." Those who can have. The people who are there are there because there is no place else for them. And yet, amid the agony, life persists.

A young mother waves to the policeman who delivered her baby in her tiny apartment. Boys surround a passing car, halting it, one crawls beneath it, and emerges, smiling, a reddish pigeon from his loft safe in his hand. "This is Strawberry Ranger," he says.

And on a wall, where The Blade, Kendo and the Boys, Mr. Phibes and Lil Taft I have spraypainted their names, the graffiti says:

"The city must find its meaning in its people."

People in wastelands such as the South Bronx complain of malign neglect.

Bulldozer urban renewal was halted in the 60s as the poor found a political voice. "Urban renewal is Negro removal," the saying went. The clearing of entire districts by governmental agencies is rare, now.

But the residents of blighted blocks see gaps appearing in the house fronts, year by year, and realize that attrition is achieving the same ends as the dozer blade and the wrecking ball.

Because of abandonment and demolition, slum populations statistically dwindle as overcrowding grows. Those who stay because they can't leave see those who can departing.

Take Chicago's East Woodlawn, for instance; the census showed 60,030 residents in 1960, 35,300 in 1970. The most dramatic exodus was among people from 20 to 44. Sal si puedes applies in the black community, too.

The children of welfare flee when they are old enough to do so—if they can. Darwinism in reverse rules the slums. The least able remain, the fittest depart.

Angry spokesmen for the slum dwellers charge that society warehouses the poor in its wastelands, letting them prey upon one another, providing them just enough care to keep the ghetto functioning.

Those who stay behind see themselves the victims of a loss of city services they interpret as part of a conspiracy against them. Sam Smith, editor of a community paper in Washington, feels that the power structure is purposefully slow about doing anything in Shaw, letting the population dwindle and housing decline so the poor will somehow fade away.

HAND OF BUREAUCRACY

Some areas obviously suffer not because of malign neglect but because efforts to do anything for the slums have resulted in a barely penetrable superstructure of bureaucracy.

It has sometimes taken 12 years from acquisition through financing, bureaucratic approvals and construction of a project in a slum area subject to city, state and federal red tape. New HUD director Lynn shows a 30-inch-long diagram of approval steps for slum projects under grant-in-aid programs now suspended.

"It looks like an electronic diagram for Apollo 17," he said.

Chicago demographer Pierre de Vise has estimated that $35 million in public funds has been spent on Woodlawn in the past decade. Says de Vise:

"Probably no other neighborhood in the nation has had as much money and manpower lavished on it in the past 10 years."

Leon D. Finney, executive director of The Woodlawn Organization, (TWO) a community group which has been fighting a battle to save Woodlawn since the early 1960's said:

"The war on poverty, the Model Cities Program, they have been gross failures. These programs have not alleviated conditions here."

Look at Woodlawn today, and consider what $35 million has accomplished:

"When I go down 63rd St., from Stony Island, it brings tears to my eyes," said Wynetta Frazier, a vigorous young black woman who has lived in Woodlawn for a long time. "Some times I actually broke down and cried."

"It's home, but it's the most demoralizing thing in the world to see that destruction."

Two major arteries, 63rd and Stony Island, cross in East Woodlawn. It should be the center of a thriving commercial district. The

Parkside Hotel stands at the corner, abandoned. The windows and doors are gone. Stores and taverns on the first floor have been long deserted. There is nothing inside the shell but debris.

A few years ago the sidewalks here were crowded. Now there are few pedestrians in the daytime, virtually none at night. Thieves emerge from the ruins to rob passersby, and women heve been dragged into them by rapists.

The owner of a 63rd St. restaurant sends a car to pick up one of his women employes, day or night. She lives two blocks away.

Along the side streets properties abandoned but not yet demolished are poised in a state of near callapse, with bricks, stone and timber scattered in a dangerous disarray. Fires are frequent. "Would you feel like keeping your place neat if you had buildings falling down one very side?" asks one angry homeowner.

Woodlawn is the home of the Blackstone Rangers, now called the Black P. Stone Nation, possibly the nation's best-known street gang. In 1967 the group was given an OEO grant for a job training project to assist gang members. some leaders went to Washington for President Nixon's inauguration in 1969.

At the height of their power in 1969 there were about 3,000 members of the Rangers in Woodlawn. A rival group, the Eastside Disciples, had about 1,000 members. But after a policeman was killed in a gunfight with Rangers in 1970, the law cracked down hard on the gang, breaking its power.

It doesn't mean Woodlawn is any safer. On Woodlawn Ave. there is an apartment building which seems doomed for abandonment. When the landlord went there twice to collect rent he was beaten up by the tenants. Now he is afraid to go back.

Yet Woodlawn lies in an excellent location: only eight miles (20 minutes' train ride) from Chicago's downtown Loop, bounded on the east by the spacious lawns of Jackson Park, which fronts on Lake Michigan.

HOME OF PROFESSORS

To the west is West Woodlawn, a black working-class area where many more of the housing units are owner-occupied, there are fewer abandonments, and the quality of life is infinitely better. A middle-to-upper-income integrated area lies south, and to the north, across a grassy mall, is the University of Chicago and Hyde Park.

In Hyde Park, college professors and professional people live on pleasant streets, trying to forget how easily those responsible for Woodlawn's high crime rate can cross the grassy mall of the Midway Plaisance.

TWO, the old-line neighborhood group, still fights for Woodlawn. City Hall is said to be getting to be slightly more responsive to the area's needs. A Model Cities grant is helping clean up some of the garbage.

And fires are growing less frequent. Everything which can burn easily has already burned, and in many hulks only ashes remain. "Let's face it," said Wynetta Frazier, who sometimes cries, looking at 63rd St., "the community has died."

If the adults feel frustrated, what does it do to the kinds?

Listen to a veteran teacher in a high school in a ghetto area of Washington:

"The kids feel the reason they are ignorant is the fault of the teachers. They feel that if they had good schools and good teachers they would be brilliant.

"They constantly tell me that they don't learn anything. They feel insulated by so much of the teaching, and don't realize they are incapable of so many things.

"The worst thing is that they are so unsophisticated in the ways of the world—as distinct from the ghetto street. I had one boy who was 17 and had never been more than a mile away from school in any direction. He had never seen the Capitol or any of the monuments."

One of the worst verities of the slums is that the land of the poor is also the land of the young.

Statistically, it is the young who commit the most crimes, the most vandalism. Police can see the crime rate soar when school is out and young people wander the hot, glass-littered streets, looking for something to do.

In each city, the experts point to the same basic problem: there is no one answer to the curse of the slums. Junkies' thievery and kids' vandalism can destroy good housing on a bad street. The best hospital can only treat crisis problems, not prevent the illnesses brought about by poverty, malnutrition, and frustration.

Attempts to attract industry to the very worst slums, where jobs are most desperately needed, has proven nearly impossible.

The problems of the Brownsvilles, the Cardozos, the Yeatmans must be considered as a total package. And this grim package of interlocking disasters must, somehow, be considered in the context of their relation to the big cities, the suburbs, and the nation as a whole.

As previous governmental techniques are phased out or reappraised, and new ones conceived, the people in the wastelands of America feel little hope. Quincy, a Cardozo alcoholic, viewed the future this way:

"If you had problems like mine, you'd want to stay drunk all the time."

But, as the graffiti said on the South Bronx wall, the city must find its meaning in its people. And, in Cardozo, amid the waste and destruction, Anna Richards is working to help people like Quincy.

A young doctor told her last week that it was only a matter of time until the people she helps as a social worker for alcoholics will die or get killed, no matter what she does. Mrs. Richards, who is from the community, was trained at the clinic where she works, and supports her seven children on $127 a week take home pay.

She told the young doctor:

"You can say 'It's just a matter of time' about anything. Not me. I don't believe in that. I believe in right now. With me it's a pride in myself.

"Maybe it's because I've been through the system, too, and I know what it can do to people, I figure I'm gonna get the bastards."

[From the Los Angeles Times, July 15, 1973]

DETERIORATION OF A NEIGHBORHOOD: STEP BY STEP

How does a viable neighborhood become a wasteland, vacant lots heaped with garbage?

The process of abandonment is much the same in every inner city. It follows a similar course in Detroit, Brownsville or Cardoza:

1—The first step. The arrival of the minority—black or, perhaps, Puerto Rican—who have the color or language difference to mark what white homeowners consider an incursion. The new arrivals are frequently themselves middle class.

Often the newcomers are employed, upwardly mobile blacks, seeking to escape the worst slums. A study of the Bagley section of Detroit found that black families in the first wave had median incomes $1,000 a year greater than the median incomes for Bagley whites.

2—White flight. The exodus of whites from a neighborhood, says an official of the Department of Housing and Urban Development, is the "front end" of the process that leads to abandonment. Whites tend to disregard the caliber of the newcomers, considering their presence as an indication the neighborhood is about to become a slum.

Panic selling has often been noted, but research indicates the change from white to black may be mostly based on failure of white families to replace the whites departing in the usual 20% turnover normal in all U.S. neighborhoods.

3—Vacancies mount. Historically, whites, with their suburbs, have had more options open to them than blacks for a place of residence. Soon the number of vacancies left by whites in the changing neighborhoods exceeded the number of striving blacks wishing to move in.

4—Landlords compromise. Trying to keep units filled and cash flow up, landlords become less particular about renters. They accept welfare families, those with large numbers of children and those of lower-income level and job stability.

Since buildings in the changing neighborhoods tend to be older, the normal wear and tear of large numbers of children adds to maintenance costs at a time when income to the owner is slipping. Maintenance that was adequate for smaller families won't suffice any more.

5—Deterioration. Vandalism and damage mounts. The better-off tenants move to units not yet so badly off. Even less desirable tenants must be accepted. The first family of junkies slips in, financing expensive habits by stealing from their neighbors.

6—Landlord's dilemma. "The combination of less income and higher costs begins to whipsaw the landlord," a HUD expert said. "And his taxes never go down." First comes psychological abandonment—the landlord no longer cares. He may "dead-end" the property by paying no taxes, doing no upkeep and collecting what he can in rents as long as he can.

7—Services decline. In some cities, building inspectors called to an apartment because of needed repairs can be bribed; where the landlord is deadending; he may be ignored. (Courts are clogged and punishment for safety infractions unlikely.)

As density increases, police are unable to cope with rising crime, fire hazards mount and city garbage services adequate for smaller families can't handle the refuse generated in crowded tenements. When plumbing breaks, and the landlord won't fix it, halls and elevator shafts become latrines.

8—Abandonment. "The landlord starts asking himself if it's really worth it," the expert said. "Finally, he just walks away and lets the building go for taxes." Squatters may stay behind, many of them junkies.

9—Destruction. Fires set accidentally or on purpose may gut the building, or teams of looters may smash walls to get at pipes and wiring, which can be sold for salvage. Pockets of abandoned buildings doom a whole block.

"The threshold for an avalanche can be as little as 5% abandonment in a neighborhood. The streetwise people move out as soon as they see it start. They know crime, fires, rats and all will follow," the HUD official said. Eventually the wreck is bulldozed.

Bigger apartments, 50 units and up, last longer, because they have professional management. Two-and-three-unit apartments, owner-occupied, resist abandonment to the limit of the owners' finances. The 10-to-30-unit apartments are the first to go.

MONOPSONY

Mr. GOLDWATER. Mr. President, all of us are well acquainted with the word "monopoly" and all that it means in terms of corporate control of markets and legal restraints of trade. However, I would venture to say that very few of my colleagues are acquainted with the word "monopsony."

For the information of the Members, "monopsony" is the opposite of monopoly. And it is a term that economists use to describe the domination of a market by a single buyer.

I bring this matter up, Mr. President, because monopsony is becoming a fundamental problem in the area of Government procurement; in fact, the condition is dealt with rather thoroughly in the latest report released by the Aerospace Research Center of the Aerospace Industries Association. The report zeroes in on the lop-sided character of government-industry relationship as the central flaw in the procurement process and recommends ways of bringing it into better balance for the benefit of government, industry, and the country.

Because of its extreme importance, I ask unanimous consent that an article on monopsony published in the June issue of "Aerospace," the official publication of AIA, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

MONOPSONY—A FUNDAMENTAL PROBLEM IN GOVERNMENT PROCUREMENT

"Monopsony" may never become a household word, but it is gaining currency in discussions of Government-industry relationships as a result of the latest report released by the Aerospace Research Center of the Aerospace Industries Association.

"Monopsony" is the opposite of monopoly. It is the term economists use to describe the domination of the market by a single buyer.

The new report, "Monopsony—A Fundamental Problem in Government Procurement," zeros in on the lopsided character of the Government-industry relationship as the central flaw in the procurement process, and recommends ways of bringing it into better balance for the benefit of Government, industry and the country.

The report was prepared for the research arm of AIA by The Orkand Corporation, headed by Dr. Donald S. Orkand, well-known economist, specialist in operations research and in the design of planning and management systems.

"The Government can, by virtue of its monopsony power, force industry to accept terms and conditions that differ significantly from those that would result in a free market in which the powers of the buyer and seller were more evenly balanced." That, the report concludes, is the central problem that underlies the various issues and abuses involved in the present procurement process. The remedy recommended by the Research Center is that Congress establish an independent Government Procurement Practices Board charged with the mission of overhauling and overseeing the procurement process on the basis of one overriding criterion: *that the conditions and outcomes of the procurement process should, to the fullest extent feasible, be those that would result in a free market in which the powers of the buyer and seller were more evenly balanced.*

The importance—and the urgency—of reform, the report emphasizes, is underscored by the fact that the government as a buyer of goods and services is moving more and more into the domestic market and beginning to exert its monopsony power in such areas as mass transit, health, education and environmental protection according to the patterns and precedents set in the Defense and Space fields.

The report points out that those patterns and precedents have served nobody well.

There seem to be more and more complaints from experts and non-experts alike in government about schedule slippages, technical failures and cost overruns. These complaints are matched by industry complaints about changing requirements, excessive regulation, inequitable procurement practices and unacceptably low profits. And while government and industry have pointed accusatory fingers at each other, the reaction of a confused and generally unsophisticated public has been a "plague on both their houses," reflecting a suspicion that somehow government officials and private industry are misallocating and mismanaging scarce public resources.

But the problem is that neither party is the villain. Rather, both are, in different ways, victims of the procurement process itself. This process often, and almost inevitably, results in bad bargains for everybody concerned. The process is characterized by:

A product line determined by the Government customer and subject to severe and sudden shifts in requirements and program levels.

A product line continually pressing upon the frontiers of technology and thus entailing an unusually high degree of uncertainty and risk.

Single programs of high funding levels, high unit value items and relatively small production runs.

Exceptionally long lead-times in bringing products and programs to eventual completion.

Lack of a commercial market for most of the industry's products.

A procurement process that has developed in piecemeal fashion without regard to its overall impact.

After briefly describing the theoretical workings of the free market mechanisms under "pure" or "perfect" competitive conditions, and the familiar deviation of monopoly, the report examines in some detail the unfamiliar condition of monopsony and, in particular, the role of the Federal Government as monopsonist. It traces the monopsonistic power of government to three complementary sources:

1. The government's ability to dominate the market through the sheer volume of its purchases and the uniqueness of the products and services it seeks.

2. Its ability to dominate the market through procedural and regulatory powers that the industries involved do not possess.

3. The inability of government-oriented firms to leave the government market for freer and more profitable ones.

Since the start of the Sixties, government purchases in aerospace have ranged from 20 to 30 percent of total national defense and space expenditures and have constituted as much as 92 percent of industry sales in the case of some individual firms. This power that the government exerts in the economy as a whole, and in the defense and space sectors in particular, is reinforced by the vast regulatory and procedural powers that the government exclusively possesses. The Armed Services Procurement Act of 1947 and the Federal Property and Administrative Service Act of 1949 are the two basic statutes that set out, in broad terms, the policies and principles governing federal contracts. These overall policies and principles have, over the years, been implemented and supplemented by an ever-growing collection of regulations and provisions, many of which have the force of law when cited in a contract. Government procurement contracts are literally filled with "boilerplate"—a variety of standard provisions that are required by statute or regulation to be included in public contracts and which impose terms that other parties would be unlikely to accept under more normal market conditions.

The standard "changes" clause that permits the government to order certain unilateral changes within the scope of the contract, and the "termination for convenience" provision that lets the government cancel the contract through no fault of the contractor and thus deny him expected profits, are two examples of government power to unilaterally alter or end a contract, not by virtue of the provisions of basic statutes, but by employing regulations and procedural rules that purport to carry out the purposes and principles expressed in those statutes.

The ultimate monopsonistic advantage that the government exerts upon government-oriented firms is the fact that if these firms cannot love the government market, they cannot freely have it. In fact, the very characteristics of these firms that constitute strengths in the government marketplace—their extreme specialization of both technical and productive resources, as well as marketing and managerial skills—render it difficult for them to compete in other markets. In the words of the report:

"Firms cannot . . . leave government markets without dissipating the human and physical resources that will be needed to re-enter the market. Further, it is doubtful that the dissipation of these resources is consistent with long-term national interests. The solution, therefore, must lie in reducing the negative impacts arising from the government exercise of monopsony power."

Industry, as a result, accepts contracts whose terms are almost entirely dictated by the government. Neither industry nor government benefits from this process, whose adverse consequences are extensive and severe.

The procedures, for example, by which the government selects major systems contractors customarily require enormous detail and extensive revisions of proposals at considerable cost in time and money to both government and industry.

Under these conditions, it is no surprise that there should arise such practices as: the *"reverse auction,"* in which the procuring agency conducts successive rounds of negotiations with contractors who are all considered as within competitive range; and *"buying-in,"* in which a firm seeks to secure a contract by knowingly offering a price less than anticipated costs in the expectation of either:

(1) increasing a contract price or estimated cost during the period of performance through change orders or other means or,

(2) receiving future follow-on contracts at prices high enough to recover any losses on the original "buy-in" contract. This latter practice may well be forced upon a firm if it cannot expect to maintain its work force and survive over the short term unless it receives the particular contract.

Through such practices as forced cost sharing, cost disallowance and renegotiation the government cuts prices and profits and inhibits industry's ability fully and effectively to employ its innovative and technological resources on behalf of government programs. Current government statutes, practices and regulations arbitrarily designate certain necessary costs of doing business as unallowable or non-recoverable in government contracts—including such normal business expenses as interest, charitable contributions and most types of advertising.

The renegotiation principles now in effect originated early in World War II as a move to prevent profiteers from taking advantage of the national emergency to make excessive profits on government contracts. In the years since, significant changes have occurred in procurement policies—including the statutory requirements imposed by the "Truth in Negotiations" Act (PL 87-653)—that in large measure preclude the possibility of unwarranted or excessive profits. Yet the Renegotiation Board continues to require the return of profits it deems "unreasonable" on grounds contractors often regard as vague, subjective and inconsistent. It may even recapture profits earned on fixed price and incentive contracts despite the fact that these contracts are expressly designed to reward superior performance.

Finally, government contracts entail such excessive reporting requirements and restrictions on management decision-making that management finds itself without the freedom and flexibility it must have to allocate and employ its resources most effectively and efficiently.

These are simply some of the restrictions and requirements regularly included in government contracts. These provisions have no counterpart in the private sector, and no contractor would agree to them were government contracts negotiated under normal market conditions.

These practices have, inevitably, affected the health of the aerospace industry, whose level of profits in the government market consistently is considerably lower than in the commercial market. A GAO study of the profits of 74 large DOD contractors during the 1966–69 period showed that, as a percent of sales after taxes, their average profits for DOD work were *less than half* the average profits for comparable commercial work—and that, as a percent of total capital investment, their average DOD profits were almost 3 percent less than their average commercial gains. These low-profit levels are reflected in the significantly greater difficulties experienced by the aerospace industry, as compared to other manufacturing industries, in attracting equity capital investments.

In less obvious, but equally serious ways, the government also suffers under the present procurement process.

In both the long and the short run, its costs are increased and the effectiveness of its program is impaired by excessive proposal requirements, unnecessary management systems, restrictions on management flexibility, and by the prevalence of low profit rates in government markets that—while they may appear to produce short-term savings—have the effect, over time, of dissipating the technical managerial capability required to help meet increasingly complex and critical national needs.

In short, government, through the abuse of its monopsony power:

Denies management the flexibility it needs to use its technical resources effectively,

Fails to provide the profit levels required to support a strong technological capability,

Offers little incentive for the allocation of private technological resources to public sector problems.

The report concludes that only a fundamental reform of current policies and practices in government-dominated markets can assure that public problems and needs will continue to call forth from the private sector the essential managerial, technical and productive resources. It offers a five-point program for such reform:

1. Congress should act to establish a Government Procurement Practices Board (GPPB) charged with the responsibility for limiting the use of governmental power through the implementation of the functions and principles defined in this program.

2. The GPPB should conduct a continuing review of current and proposed procurement policies, regulations and practices on its own initiative and on appeal from industry.

3. The basic criterion that should govern the procurement process, and the actions and approvals of the GPPB should be the conditions and outcomes that would result under balanced free market conditions.

4. Exceptions to the "free market test" criterion should be minimal and should require extraordinary justification.

5. The GPPB should formulate a set of procurement principles, in support of the above concepts, that can be submitted to Congress and enacted into the law.

The program recommended by this report is deliberately broad in scope.

The particular mechanism it recommends is not nearly as important as are the essential basic principles—principles that must underlie any effective reform of a procurement process that now does not serve Government, or industry or the country well.

FEDERAL OUTLAYS FOR SELECTED FUNCTIONS AND FOR AEROSPACE PRODUCTS AND SERVICES, FISCAL YEARS, 1948 TO DATE

[Dollar amounts in millions]

Year ending June 30	Total National Defense	Total NASA	Federal outlays for Aerospace products and services	Aerospace as percent of total National Defense and NASA
1948	$11,983	(1)	$891	7.4
1949	13,988	(1)	1,474	10.5
1950	13,009	(1)	2,130	16.4
1951	22,444	(1)	2,878	12.8
1952	45,963	(1)	6,075	13.2
1953	50,442	$79	9,204	18.2
1954	46,986	90	11,194	23.8
1955	40,696	74	10,470	26.7
1956	40,723	71	10,544	25.8
1957	43,368	76	12,506	28.8
1958	44,234	89	13,160	29.7
1959	46,483	145	13,330	28.6
1960	45,691	401	13,269	28.8
1961	47,494	744	13,866	28.7
1962	51,103	1,257	15,295	29.2
1963	52,755	2,552	16,214	29.3
1964	54,181	4,171	17,940	30.7
1965	50,163	5,093	15,697	28.4
1966	57,718	5,933	17,771	27.9
1967	70,095	5,426	20,193	26.7
1968	80,516	4,724	21,353	25.1
1969	81,240	4,251	20,472	23.9
1970	80,295	3,753	18,747	22.3
1971	77,661	3,382	17,335	21.4
1972	78,336	3,421	17,061	20.9
1973 [2]	76,435	3,061	16,156	20.3
1974 [2]	81,074	3,135	16,410	19.5

[1] Not available.

[2] Estimate.

THE FEDERAL COMMITMENT TO MEDICAL RESEARCH

Mr. CRANSTON. Mr. President, on July 14, my distinguished colleague from Maine, Senator Edmund S. Muskie, addressed the convention of the City of Hope Hospital, in Los Angeles, about the need for continued strong Federal support for health research. He said that the administration's proposed budget would cut actual support for new medical research, even in the field of cancer; but that Congress instead should increase our research commitment.

Senator Muskie also mentioned some of the other important health care issues which Congress is addressing: the administration's proposed medicare cutbacks, the expansion of home health care, and the proposal for national health insurance. He suggested that on issues such as these, Congress must not only decide the proper allocation of our Nation's resources to our Nation's health needs, but also the proper balance between public and private initiative in the health care field.

Mr. President, I commend Senator Muskie for his remarks on the Federal commitment to health, and I ask unanimous consent that his speech be printed in the Record.

There being no objection, the speech was ordered to be printed in the Record, as follows:

Speech by Senator Edmund S. Muskie

Your convention is a tribute to the force of an idea and an ideal. Both were summarized by Albert Einstein when he wrote: "Man is here for the sake of other men . . . for those upon whose smile and well-being our own happiness depends, and also for the countless unknown souls with whose fate we are connected by a bond of sympathy."

Your work has made that abstraction into a reality. You have built in the City of Hope a family of science in service to the family of man.

I do not need to recite its medical accomplishments, its achievements in helping the needy and the suffering or its remarkable success in joining men and women all over America together to bring it support. You would not be here tonight if you did not already know and take justifiable pride in that story.

This occasion, instead, offers me a chance to try to connect what Americans do as private individuals for the health of others and what they do as a society for the health of the nation. America is unique in the tradition of private philanthropy it has created. Nowhere else do so many individuals volunteer their help in money and time and imagination to the aid of their neighbors.

But we have always recognized the link between private benevolence and public policy. Back in 1751 Benjamin Franklin devised what may well have been the first matching grant—in order to build a free hospital in Philadelphia for the poor.

Franklin drafted and won enactment for a hospital charter that provided for a contribution from the Province of Pennsylvania to the hospital's endowment if its founders could raise the same amount privately. "Since every man's donation would be doubled," he later wrote, "subscriptions soon exceeded the requisite sum, and we claimed and received the public gift. . . . I do not remember any of my political maneuvers the success of which gave me at the time more pleasure or, wherein, after thinking of it, I more easily excused myself for having made some use of cunning."

That early example from our colonial history helped to set the pattern for government action in many social fields. Where private initiative identified a community problem and formulated a response to it, government tried to assist—to make up some or all of the gap between individual or local resources and the overall need.

The basis for public policy, however, was passive. Government gave little leadership in the health field. It responded to private energies with incentives to encourage them and to shape their direction. But the primary role—that of initiator—in this vital social concern was left to the operation of enlightened private action.

That pattern has long governed our activities in the field of health care. And in too many ways it has not proved adequate to our needs.

Although we spend more than $83 billion a year on medical care, we trail many other nations in preventing and curing illness. Every year 75,000 newborn babies die in the United States, giving us the 18th highest infant mortality rate in the world. We take 22nd place in male life expectancy and tenth place in female life expectancy, while the number of our workers forced to retire because of illness climbs from 18 million in 1966 to an expected 21 million in 1980. And the number of doctors we have is still at least 50,000 below what we need.

Millions of Americans today go without

adequate medical care. They cannot afford it. They are afraid it will break them. Or they cannot find a doctor.

Some die; others are left destitute. Too many undergo needless pain and hurt. Policies of medical care become practices of medical neglect, and our whole society suffers in consequence.

These facts force us to ask two very basic questions about the way we finance medicine and health programs in America. First, are we properly allocating our nation's resources to our nation's health needs? And, second, to balance resources against needs, must we also reorganize the way private and public contributions to health care are administered?

Both questions are before the Congress now—presented in many different legislative proposals. And on both questions experts in the Congress and the Administration have offered conflicting answers.

According to the Administration, the government's expenditures for health this fiscal year were to be three billion dollars higher than last year. In fact, the increased budget request was due almost entirely to the expansion of the Medicare and Medicaid programs Congress enacted in 1972.

The higher overall figure camouflaged dangerous cutbacks in many areas. The budget request for all HEW health programs other than Medicare and Medicaid amounted to a decrease of $800 million—over 16 percent—from the level of appropriations in fiscal 1973.

The House of Representatives has now passed its appropriations bill for the Department of Health, Education and Welfare, the key measure of Congressional choices in the health care field. A few figures will show you the difference between the Administration's assessment of our needs and the Congressional response.

The Hill-Burton hospital construction program which was to have been terminated has been voted $197 milion with which to continue operation.

Health manpower training programs—grants and scholarships for doctors, nurses, researchers and others—were to have been cut from a funding level of $623 million in fiscal 1972 to $382 million this year. But the House voted to spend $707 million on this vital activity, an increase over two years ago, which, because of inflation, really amounts to standing still.

Finally, while the Administration had proposed small increases for research funds for cancer and heart and lung disease, all other grant programs of the National Institutes of Health were to be severely reduced so that the total government funding for research and training would actually have been far below last year's level. Actual support for new research activities would have been cut, even in the field of cancer. The House has given its answer to these reductions by voting to appropriate 209 million additional dollars for the health research budget, for the fight against cancer, heart and lung disease, arthritis, neurological diseases and strokes. I am hopeful that the Senate will improve on that figure. The House increases actually do nothing more than bring spending for research back to the level of 1972. In my view we must go forward, not stand pat.

Let me pause right here to talk about research and training activities for just a minute. We are all accustomed to the phrase "medical miracles," and we all know that there are no such things. The breakthroughs in diagnosis and treatment—including the many developed by you at the City of Hope—are not miraculous. They are the result of hard work, enormous patience, steady application and great insight.

These "miracles" cannot occur without study and experimentation. Both are expensive and time consuming, and neither, necessarily, brings great financial rewards. Without outside support, for instance, the NIH has estimated that American students would graduate from medical school with an average of $16,000 in debts and would complete the post-doctoral training that prepares them for biomedical research owing an average of $27,000.

But a career in research is probably the least lucrative of medical activities. Starting salaries average $11,000 a year, and the overall median for all research scientists in 1970 was $16,500—less than half the average earnings of a private practitioner.

So if we were to let the private decisions of the marketplace govern our search for new methods of understanding and treating illnes, we would make medical science a crippled stepchild in our affluent family. At the City of Hope, where NIH grants run between $2.2 and $2.5 million a year, your pioneering research and educational activities would dwindle, and the pilot light you cast for others to follow would flicker out.

The Secretary of Health, Education and Welfare maintains that America is producing too many research scientists. How can that be when his own agency forecasts a growth in demand for research in this decade from 30,000 man-years to 50,000?

One of his subordinates says that direct support for training biomedical researchers is now "an unnecessary and unproductive expenditure of public funds." How can that be when the health of America is necessary to its progress, and when scientific inquiry into disease is the only guarantee of productive health?

Fortunately, there are signs that the Administration may be coming to understand, as you do, that continuing Federal support for biomedical research is an essential part of the public commitment to better health care. This week Secretary Weinberger reversed his previous stand and promised $30 million in new grants for training fellowships to young scientists.

But that promise to continue an essential training program is not enough. We cannot give those research activities—our hope for a future where man's knowledge catches up with man's weaknesses—anything less than maximum support. And we cannot expect private institutions, such as the City of Hope, to carry alone the twin load of expanding physical facilities and expanding the horizons of science.

Similarly, we cannot congratulate ourselves simply because the Congress has recognized the need for research and training funds and committed the government to continue a decent level of Federal support in those areas. We must go beyond that passive role of support to see how the government can take positive action to put quality health care within the physical and the financial reach of all Americans.

Testimony which I have heard this year as Chairman of the Subcommittee on Health of the Elderly, of the Special Senate Committee on Aging, indicates to me some of the directions for helpful government action. One obvious direction is the search for alternatives to hospitalization.

Here we must reverse Medicare policies which have restricted the role of home health care to such an extent that the number of agencies in the field is dropping rapidly and the dollar amounts of Medicare reimbursements for such care shrank from $80 million in 1969 to $69 million last year.

This decline went hand in hand with the rapid increase in Medicare outlays for expensive hospital care. It is senseless for government policy to shut the door on home health care and push old people into costly and often impersonal hospitals. It is senseless to discourage people from using less expensive and more dignified means of medical treatment by forcing the elderly into institutions.

And it is brutal to couple that policy with an attempt to make hospitalization under Medicare more expensive. The Administration has argued that old people go to hospitals too much. It says they can only be discouraged from such so-called "overutilization" by forcing them to pay a higher share of the costs of short hosiptal stays.

But government policy must be one of expanding alternatives, not restricting them. Just as we must give support to the scientific search for new weapons against disease and pain, we must give leadership to the humane search for the most suitable, most diverse and most accessible ways of preventing and treating illness and suffering.

That search must eventually lead us to a comprehensive system of national health insurance. Along the way we must stimulate private and public innovations in health care—regional facilities where those seem feasible, experimental arrangements for communities or for groups of physicians to improve health care delivery.

At the City of Hope you have made an inspiring contribution to the American search for better medical care. Concerned with research, with treatment, with compassion for those who suffer, you have opened the way for others.

Your private energies and contributions have lighted the path for public action. Together—bound by common sympathy for the sick, by common concern for the healthy and by a common hope that our nation can care for both—we will continue our search for the finest medical treatment systems private and public action can produce.

PHASE IV

Mr. ROBERT C. BYRD. Mr. President, in the phase IV economic program which has now been announced it seems apparent that consumers will continue to pay the price for the administration's imprudence in prematurely lifting the phase II controls last winter and for its 6 months of dawdling before coming up with a new program.

There appear to be some good features in the phase IV plan. Among them are those in the industrial and service sector requiring big companies to give the Cost of Living Council 30 days prenotification before price increases may go into effect, and permitting costs to be passed on to the consumer on a dollar-for-dollar basis only. These features are similar to the phase II controls, which in the main were effective.

But in the areas of food prices, health care, interest, and rents, the consumer now faces the probability of being caught in a real crunch. Food prices are almost certainly going to go up again, and the administration's economic fumbling and uncertainty can be blamed. The long inaction during the disastrous phase III period, the killing of baby chicks, and the specter of food shortages are bound to be reflected in higher retail food costs.

The failure of the administration in this vital area is especially regrettable in view of the restraint which organized labor has exhibited in this year's wage negotiations. With wage guidelines remaining at the same level they have been, and with the cost of living going up, wage earners and housewives face the prospect of being hurt the most by the administration's economic mistakes.

I am glad, of course, that the President wishes to return to "that old basic religion: balance the budget." Government spending has contributed as much to inflation as any other factor. I, too, am for a balanced budget and for a reduction in Federal expenditures wherever possible. But sacrifices and economic belt-tightening should affect all segments of our economy, not just those persons at its middle or lower levels.

I can only express the hope at this point that phase IV may help the country to regain its economic balance. But I do not view the prospects as especially bright. The kind of economic expediency that has been practiced is far from reassuring. If unfrozen and uncontrolled food prices now go through the roof, as seems likely, the American consumer will not have to look far for the cause.

Controlling and decontrolling, freezing and unfreezing, and the perpetuation of instability and uncertainty can never become a satisfactory substitute for sound economic policy.

EFFORT NEEDED TO BRING SOLAR ENERGY DOWN TO EARTH

Mr. HUMPHREY. Mr. President, on July 17, I had printed in the Record—S13656—an article entitled "The Threshold of the Sun Age." At that time, I noted my conviction that our effort to date to tap this greatest and cleanest source of energy has been woefully inadequate.

Yesterday, the Washington Post published an editorial commenting on this article and discussing the prospects for solar energy. The editorial points to the urgent need to move, as rapidly as possibe, to expand our research and development on this important energy source. It also highlights the NASA-National Science Foundation task force recommendations, including its call for a 15-year, $3 billion program to develop the potential of solar energy. The editorial also provides the views on this subject of the past chairman of the House Science and Astronautics Committee, former Congressman from California, George P. Miller.

I ask unanimous consent that this important editorial from the Washington Post, entitled "Solar Energy," be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Washington Post, July 18, 1973]

Solar Energy

U.S. scientists, according to a report by Claire Sterling which was published on this page the other day, told a recent UNESCO conference in Paris that harnessing sunshine to reduce man's dependence on scarce and polluting fuels is no longer a matter of wishful thinking of solar energy enthusiasts. Ten years from now, representatives of a NASA-National Foundation panel reported, one out of every 10 new homes built in this country could be heated and cooled by solar rays. In less than 15 years, sun rays could produce commercial electric power. In 20 years a satellite could be in synchronous orbit beaming power down to earth by microwave. In 50 years, solar energy could supply at least 20 per cent of all the United States' energy needs. And there is no limit to where technology might advance from there if you consider the abundance of solar radiation: it is so plentiful that the energy arriving on 0.5 per cent of the land area of the United States is more than the total energy needs of this country projected for the year 2000.

Harnessing this energy, however, will require "an effort comparable in spirit and commitment to the one we put into the space program in the 1960s," according to former Rep. George P. Miller (D-Calif.), past chairman of the House Science and Astronautics Committee. So far, we have only made a hesitant beginning. The federal government, to be sure, has now at last recognized the potentials of solar energy and organized the NASA-National Science Foundation task force to explore it. Congress has appropriated $12 million for the purpose in the current fiscal year, an amount most experts consider totally insufficient. It is less than two per cent of the total amount of government research and development funds spent on conventional energy resources such as converting coal into gas and nuclear engineering.

What is needed, according to the NSF-NASA panel, is a federal investment of $3 billion in solar research and development over the next 15 years. And what is needed, most of all, as Mr. Miller has said, is a federal commitment that must be 1) focused, 2) integrated, 3) intense and 4) continuing. In other words, laboratory research grants and small scale experimentation are not sufficient to launch the "sun age." Before solar energy becomes a substantial source of clean energy, industrial ingenuity and productive know-how must be mobilized to produce the hardware and services necessary to make the conversion devices economical. Most companies look for short term projects for new enterprises that promise a return on their investment in two or three years. Long range projects present great risk and investment capital is scarce unless there is confidence that the government is really serious about it and ready to provide the direction and incentives. A firm assertion of a national priority for solar energy "R and D" is also needed to engender the public confidence essential to assure industry of public acceptance and a market.

There is little time to lose. Nuclear generating plants are as yet producing less than one per cent of our total energy needs and public apprehension about them seems to be mounting. Planning and construction of additional nuclear plants is years behind schedule. Uranium is in short supply. Liquid metal fast breeder reactors will not make a significant contribution for at least a decade. Fusion reactors seem even further off. Experts say that the first demonstration fusion reactor will probably not be built before the year 2000. Energy consumption and energy cost, meanwhile, keep increasing rapidly. In 1970, school districts across the nation, for instance, spent an average of $26.70 per pupil per year for energy. The projections of the U.S. Interior Department, which may be conservative, indicate a tripling of energy cost by 1985 and a quadrupling by 1992. In the year 2000, then, we can expect to pay $106.80 per pupil per year.

Compared to such cost, the $3 billion required to advance solar energy energetically is a bargain. It would be folly to wait for a real scare to produce the crash program that clearly has become necessary.

SECRETARY WEINBERGER PLEDGES EXPENDITURE OF FULL 1973 REHABILITATION APPROPRIATION IN LETTER TO SENATOR RANDOLPH

Mr. RANDOLPH. Mr. President, yesterday I received a most heartening letter from Secretary of Health, Education, and Welfare Weinberger concerning the Department's intention to secure the full expenditure of funds appropriated for the vocational rehabilitation program for fiscal year 1973 under the Second Supplemental Appropriations Act.

Although the administration had, in negotiations on S. 1875, the Rehabilitation Act, agreed to a basic services funding level of $590 million for fiscal year 1973 rather than the 1972 amount of $560 million maintained in the 1973 fiscal year by continuing resolution, I was concerned that the additional money might not be spent. My concern stemmed from the fact that the second supplemental for fiscal 1973 had actually been signed on July 1, the day after the end of the fiscal year. With this in mind, I wrote a letter on July 11 to Secretary Weinberger, asking for his commitment to the expenditure of rehabilitation funds at the $590 million level.

Secretary Weinberger, I am gratified to say, has agreed to seek every available means to make expenditures at the higher level, including legislation if that is determined to be necessary.

Mr. President, I ask unanimous consent to insert in the Record at this point my letter to Secretary Weinberger of July 11, and his response dated July 18.

There being no objection, the letters were ordered to be printed in the Record, as follows:

JULY 11, 1973.

Hon. CASPAR WEINBERGER,
Secretary of Health, Education, and Welfare,
Washington, D.C.

DEAR MR. SECRETARY: As you know, the Second Supplemental Appropriations Act, 1973, was recently signed into law. Included in that measure is a provision which has the effect of increasing funds for the Vocational Rehabilitation Act from the fiscal year 1972 level of $560 million to a level of $590 million for fiscal year 1973.

You will recall that the first 1973 Supplemental Appropriations Act (Public Law 92-607) included $610 million for vocational rehabilitation. Since the authorizing legislation referred to in the supplemental was the "Rehabilitation Act of 1972", which subsequently was vetoed, your Department construed that provision of funds for vocational rehabilitation to be null and void, and that rehabilitation funding would be governed by continuing resolution, at a level of $560 million. (This position was maintained even though the President's 1973 budget requested $610 million, and Congress clearly intended to appropriate $610 million for the vocational rehabilitation programs, regardless of which Act of Congress might govern the disbursement of funds.)

The $590 million appropriation level was a compromise figure adopted in the Second Supplemental Appropriations Act in correction of the technical objection interposed by your Department. That level is the same as that agreed to by you through Assistant Secretary Kurzman in negotiation on a new rehabilitation measure, which negotiation resulted in the introduction and reporting of S. 1875.

In view of the above, I urge you in the strongest terms to release for expenditure the total amount of funds appropriated for vocational rehabilitation under the Second Supplemental. The need is urgent, and the intent of Congress is clear.

With best wishes, I am.

Truly,

JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., July 18, 1973.

Hon. JENNINGS RANDOLPH,
Chairman, Subcommittee on the Handicapped, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN RANDOLPH: This responds to your letter of July 11 on the release of funds for vocational rehabilitation contained in the Second Supplemental Appropriations Act of 1973.

This Department is taking all steps necessary to carry out the intent of both the President's budget request and the Congress to allocate $590 million to the States. There is currently a technical problem with respect to the availability of funds which we are working on with the Government Accounting Office, Office of Management and Budget and the Justice Department. If necessary, we will ask the Congress to take further action to make these funds available if it is determined that no other course of action is possible.

We are confident that we will ultimately be able to make the allocation at the $590 million level.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

PHASE IV

Mr. ROTH. Mr. President, nearly 2 years ago, this country and the world reacted with generally favorable surprise to phase I of a program of wage and price controls, designed to take the sting out of the Nation's most serious domestic problem—rampant inflation. We all have had many opportunities to comment—and vote—on amendatory languages to the President's plan, and to watch the sensitive economic barometers respond to increasing or decreasing wage-price pressure.

Yesterday, we were presented with the fourth phase of the stabilization program—a thaw in the present freeze, but a return to stiff, mandatory controls on all but the smallest firms. It is extremely difficult to predict at this point in time the exact impact of these new decisions. Secretary Shultz has declined to make quantitative predictions, and it seems unwarranted to speculate now on the program's ultimate achievements. I would urge the administration to carry on a thorough and comprehensive review of all industry price or wage actions—for any program is only as believable to the American public as its enforcement.

But let me underscore one aspect of phase IV which needs no speculation or second guessing. We in Congress have lived for too long with the problems of excess spending. Every year we acknowledge the reported deficit as an economic fact of life. But I, for one, have opposed this practice of profligate spending, and have worked consistently to impose new discipline on our annual process of budget considerations.

The President's message had harkened to this philosophy by calling for a truly balanced budget in fiscal year 1974. He has promised the American people a program which will not require higher taxes—a promise that we in Congress should be anxious to support. While our current tangle of tax laws certainly needs review and simplification, let us not kid ourselves. Major new sources of revenue will only come from "across the board" upward revisions. We can only sustain our present spending pace—without dangerous deficits—if every American is penalized with higher taxes.

Mr. President, I am delighted that the administration has come out once more for a responsible level of spending. It can hardly be considered stingy—it is already some $18 billion more than we spent last year. We have been promised that this year's income will be adequate to cover this year's expenses—a situation many people would herald as a long overdue measure of commonsense.

I hope that Congress will take note of the President's resolve, and continue to press for meaningful institutional reforms within its own walls. The Subcommittee on Budgeting, Management, and Expenditures, on which I have the privilege to serve, is right in the middle of a markup on the budget control legislation. This is truly a unique opportunity for the Congress to take hold of the reigns once more. We should exercise the initiative and responsibility which are constitutionally ours, to reassure the American public that our will is as strong as the Executive's.

I commend to my colleagues' attention the following article from this morning's Washington Post. Its message is clear, and should be a stimulus for Congress not to lose its current momentum toward effective budget reform.

Mr. President, I ask unanimous consent that Mr. Hobart Rowen's article be printed in the RECORD .

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET A TARGET ONCE AGAIN

(By Hobart Rowen)

The Nixon administration yesterday announced that it is returning "to that old basic religion: balance the budget" in order to give its newly announced Phase IV of wage-price controls a chance to work.

Treasury Secretary George P. Shultz, who used the "basic religion" phrase, told reporters that President Nixon is determined to cut "several billion dollars" from the probable expenditure total for fiscal 1974 in order to arrive at a real balance of $263.7 billion.

That figure is the original spending estimate for fiscal 1974, but both the President and Shultz said this is now out of date because of inflation and new legislation adding to expenditures.

To cut spending by a large amount, Shultz conceded, "will be very tough. You can't do it just by creaming the defense budget." But, pointing to the successful imposition of a $250 billion ceiling for fiscal 1973 expenditures, Shultz insisted that budget austerity can be achieved.

A return to an actual budget-balanced concept is a shift from the guideline the President had set out for the last few years—the concept of a "full employment" balance. That means an expenditure goal no higher than the revenues that would be collected if the economy were at full employment. But President Nixon yesterday suggested that "in today's circumstances," this is not a sufficiently right standard for fiscal prudence.

"When inflationary pressure is strong," Mr. Nixon said, "when we are forced to emergency controls to resist that pressure, when confidence in our management of our fiscal affairs is low, at home and abroad, we cannot afford to live by that minimum standard. We must take as our goal the more ambitious one of balancing the actual budget."

But the President once again rejected any tax increase proposal, although he reportedly was urged by both White House assistant Melvin R. Laird and Federal Reserve Chairman Arthur F. Burns to include one.

Asked yesterday why higher taxes were not included in a program stressing fiscal prudence, Shultz said: "We don't feel we have to come to the question because we can hold [government] outlays under control."

Burns, in particular, had urged some form of higher taxes to relieve monetary policy—reducing the amount of money available for both business and individuals—of the sole burden of restraining inflation.

The President's statement said that "monetary policy should not, and cannot, be expected to exercise the needed restraint alone." But the President opted for "a further contribution from the budget," rather than higher taxes, which he has promised several times to avoid.

The latest available budget arithmetic is as follows: for fiscal 1973, which ended June 30, Shultz said that actual spending was about $249 billion, creating a deficit of about $17 billion according to June 1 figures. (Final data will probably slightly decrease that deficit figure.)

For fiscal 1974, the latest official spending estimate is $268.7 billion, with receipts $266 billion—leaving a deficit of $2.7 billion.

But Shultz was saying yesterday that the increase in spending in fiscal 1974 was outrunning the probability of higher receipts, and that to get a balance would require "several billions" in further spending cuts. He cited as one example of the potential problem a congressional mark-up of the HEW appropriation bill that was $1.8 billion over the President's budget.

The latest "full employment budget" estimates put out by the government showed fiscal 1974 receipts at $273 billion and outlays at $267.7 billion (slightly less than the real figure) for a full employment surplus of $5.3 billion.

The implication of a tougher budget policy is that a balance in the real budget would produce an even bigger surplus in the full employment budget—a development that many economists would consider deflationary, and a potential contributor to a recession.

But the administration clearly feels that the time has come for strong fiscal medicine to control inflation, and as a backup for controls.

Shultz said that the White House planned "to work cooperatively with Congress on how to do this job," and called attention to the President's own commitment to take whatever administrative steps he could to reach a balanced budget in fiscal 1974.

The President said, "I shall start" by ordering that the number of federal civilian personnel at the end of fiscal 1974 "be below the number now budgeted."

CAPTIVE NATIONS WEEK

Mr. WILLIAMS. Mr. President, this week is the 15th annual observance of Captive Nations Week.

Two weeks ago we celebrated the 197th anniversary of the independence of this country. Our revolution was a battle for national independence that was based on the desire, and need, for every man in all nations to be free. Perhaps at this time, more than ever before since achieving our independence, Americans are engaged in a great struggle to reaffirm and maintain the democratic ideals and individual liberties that were guaranteed us with the signing of the Constitution. This places an even greater emphasis on a continued American commitment to neither ignore nor accept the fact that millions of people are still living under governments that impose all-encompassing restrictions and controls on their day-to-day lives.

As Americans are beginning to realize the seriousness of allegations of invasion of privacy and loss of personal liberties, our observance of Captives Nations Week allows us the opportunity to strongly voice our disapproval of governments that continue to deny their citizens the right to personal freedom.

The growth of a very minimum of self-determination that those individuals living under totalitarian governments have begun to experience over the past several years is not the result of any liberalization in policy on the part of the government. Rather, this demonstrates the continued resistance, both in spirit and action, by these oppressed individuals. Those are people who aggressively refuse to deny or relinquish their national and personal freedoms, their cultural heritage, and reject any thought of giving up their hopes for eventual liberation and freedom.

As citizens of this country fight to reassert their rights of freedom and privacy, let us take the national observance of Captive Nations Week as an opportunity to express our great respect for their life-long commitment to freedom and our own commitment, as free Americans, to support their struggle.

GRAIN RESERVE NEEDED TO HEDGE UNCERTAIN FUTURE

Mr. HUMPHREY. Mr. President, on July 16, an editorial appeared in the Duluth News-Tribune entitled "HHH's Grain Reserve." This article describes by proposal in S. 2005 for the establishment of strategic reserves of wheat, corn, and soybeans. The author notes that—

> A grain reserve system would be a rational hedge against those future dates when some nation does not grow the food it needs, or when our own harvests drop because of droughts or other natural events.

Mr. President, the continuing threat of a food shortage which results in high food costs argues for prompt action on my grain reserve proposal. Had these reserves been established and maintained, we would have had soybeans for our beef, pork, and poultry industry, thereby helping to assure an adequate supply of meat, poultry, and eggs at reasonable prices. We would have been better able to fulfill our commitments for exports of American agricultural products without undue pressure upon food prices here at home.

I ask unanimous consent that the Duluth News-Tribune editorial of July 16 be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HHH'S GRAIN RESERVE

Minnesota Sen. Hubert H. Humphrey passed on more than a few grains of wisdom Wednesday when he recommended that the Nixon administration develop a system of strategic reserves of soybeans and other grain.

As reported in a column by Sam Jameson elsewhere on this page, the recent American cutback in sales of soybeans to Japan is causing considerable discomfort there. The cutback was invited, of course, to reduce some inflationary discomfort here—particularly the rise in food prices.

Inadequate planning by the Nixon administration, Humphrey said, is responsible for these present food problems, here and abroad.

"The administration has been warned countless times in the past that the very tight food supply situation called for a buffer stock of basic agricultural commodities," Humphrey said.

"Our choice is between rational planning directed toward the orderly expansion of world trade and domestic growth, or on the other hand, a continuation of patchwork solutions in recurring domestic and international crises," he continued, speaking as chairman of the Senate Agricultural Committee's subcommittee on foreign agricultural policy.

Presently there are severe famines in India, and even worse shortages in Africa. The days are gone apparently when American grain surpluses will sit too long in elevators, or in open fields under tarpaulins where they serve as food only for the birds.

Today, there are more people who need food. Also, some of our erstwhile, large enemies are now turning to us for food, rather than simply sweating it out every time they have food shortages. In short, it would seem that today the United States can sell every bit of the grain it can grow.

Under such circumstances, a grain reserve system would be a rational hedge against those future dates when some nation doesn't grow the food it needs, or when our own harvests drop because of droughts or other natural events. There's no reason anymore to be shy about the way we grow food. If we get a large reserve put away, then reductions might be in order.

But until then, developing a grain reserve would be like putting money in a savings account—you know, saving it rather than spend it . . Now if Humphrey and a few other powerful Democrats could only develop the same feeling toward our tax dollars as they have toward our grain . . .

SENATOR PERCY'S VOTES ON S. 1081, ALASKA PIPELINE BILL

Mr. PERCY. Mr. President, there is no doubt that we as a Nation need North Slope oil at the earliest possible date consistent with a respect for the environment of the Alaskan area. Because of this need, I voted for final passage of S. 1081, which would allow a widened right-of-way to be granted along the proposed route of the trans-Alaska pipeline.

I voted against the Gravel-Stevens amendment because it overrides the National Environmental Policy Act. While expediting the delivery of North Slope oil, the Gravel-Stevens amendment denies citizens the right to challenge the judgment of the Interior Department on environmental ground. I felt that right was too important to give up.

I voted for the Mondale-Bayh and Eagleton amendments because I strongly believe that a thorough, objective comparative study of the alternative trans-Alaska and trans-Canada pipeline routes should have been made before the Nation committed itself to such an important project. Such a study, which would have been limited to 8 months by these amendments, could have assured that all the facts were known about both routes, and that the right pipeline decision was made from both an economic and ecological viewpoint.

My concern was that until an objective feasibility study of a Canadian pipeline route and some realistic negotiations with the Canadian Government had been accomplished, the Interior Department's environmental impact statement for the trans-Alaska pipeline would continue to be vulnerable to court challenge. The grounds for that challenge in the pending environmental suit are precisely that an alternative Canadian route has not been examined thoroughly.

It was generally acknowledged that litigation in the pending suit over the Alaska pipeline was likely to take at least a year. By the end of that year, the comparative study and negotiations with Canada required by the Mondale-Bayh and Eagleton amendments could have been completed and Congress, rather than the courts, could have made the final pipeline decision.

Perhaps the results of the negotiations and feasibility study would have shown a clear preference for the Alaska pipeline. In that case, the grounds for court challenge would have been largely eliminated.

Perhaps a Canadian pipeline would have proven to be a preferable alternative. Or perhaps the study would have demonstrated the feasibility and necessity of both pipelines. In any case, we would have had the facts and possibly several opinions.

Whichever pipeline route or routes proved superior on economic and environmental grounds could have been quickly approved by the Congress early next year, and construction could have begun immediately afterward.

These are the reasons I voted as I did on this very important legislation.

EAST-WEST DÉTENTE

Mr. PELL. Mr. President, at a time when commendable progress is being made in reducing tensions and increasing cooperation in East-West relations, we still must not overlook the fact that the people of Eastern Europe continue to live in closed societies dominated by the Soviet Union. We were made sadly aware of this fact of international life in 1968, when the infectious exuberance of the Prague Spring threatened that domination. Should there be another such threat, we have little reason to believe that similarly harsh measures would not be employed against it.

I do not make this reminder in the

spirit of cold war rhetoric. I do so in the interest of genuine East-West détente—détente based on a realistic understanding of the nature and ideology of the Eastern countries. That fundamental differences still exist between the systems of the East and West is undeniable. These differences were brought into focus by the speeches of the foreign Ministers of both sides at the recent Conference on European Security and Cooperation in Helsinki. They have been demonstrated by emigration restrictions that hamper the exit of Soviet Jews. They have been reflected in the East's action at the United Nations to censor international satellite broadcasting and to restrict the reception of outside broadcasting in general.

Fortunately, both worlds realize that military measures for dealing with these differences are out of the question. The United States is deeply committed to cope with them by peaceful measures only. But that does not mean that in order to arrive at surface agreements, we must accept terms that would help tighten the totalitarian grip on the peoples of the East. It does not mean that we should forget or ignore the voice of dissent in the East of brave people willing to risk speaking out for human rights and freedom—the voice, for instance, of the eminent Soviet physicist, Andrei Sakharnov, who in a recent Swedish TV interview, decried the violation of civil rights in his country and the heavy weight of the Soviet system on the human spirit—the voice of Alexander Solzhenitsyn, the great Soviet writer, who in accepting a Nobel literary prize, made a stirring appeal on behalf of the freedom of communication as a means for healing the tragic divisions of mankind. To a large extent, I have based my support of Radio Liberty on his remark in a New York Times interview that—

> If we ever hear anything about events in this country (U.S.S.R.) it's through them (Radio Liberty broadcasts).

Yet we can and must continue to work to eliminate barriers dividing peoples of the East and West, to stimulate exchanges of persons, information and ideas, to expand mutually beneficial commerce, to identify areas for cooperation, especially in dealing with global problems demanding global solutions. The series of agreements and understandings we have reached within the last year with Moscow and Peking are illustrative of the constructive things that can be done. The dialogs they have established in a variety of fields should help to dispel mutual suspicion and hopefully thereby generate a freer, more open climate in the societies of the East—an atmosphere where the liberating spirit of the Solzhenitsyns and Sakharnovs can burn more brightly.

In peaceful competition between the Communist and free worlds, between open and closed societies, the Western world can be confident of success. Its larger and more efficient productive capacity is combined with minimum constraint on human rights and democratic freedom. Because, in most instances, the allegiance of its people is freely given, the Western world can welcome dissent and respond more rapidly to creative change. By concentrating on the perfection of our system and way of life, we can, without the firing of a shot or angry polemics, set up a magnetic force that in the long run will assure the freedom of peoples everywhere.

ADDRESS OF SENATOR TALMADGE BEFORE THE GEORGIA BANKERS ASSOCIATION

Mr. HANSEN. Mr. President, I would like to call to the attention of my colleagues an address given by my good friend, the distinguished senior Senator from Georgia (Mr. TALMADGE), before the Georgia Bankers Association several weeks ago. This speech focuses on "boom-bust economic policies" which seem to have become the rule of fiscal policy and the fuel of inflation.

Many of my constituents have been writing and asking me what can be done to curb inflation. I tell them that inflation started many years ago, when the Federal Government began spending more each year than it collected in revenues. It will now take a joint effort on the part of Congress and the administration to get our fiscal house in order. We cannot rely solely on monetary policy to make up for the problems caused by deficit spending.

Along these same lines I would like to reemphasize my position concerning economic controls. While these controls may be a means of providing immediate but temporary results, the various phases of controls which we have thus far experienced have not provided an adequate means of getting to the root of the problem at hand.

The fact that these controls are not working is demonstrated by the ceiling on oil and gas prices. These prices should not be controlled; they should be allowed to rise as demand dictates. Basic economics demonstrates that when prices increase, there is a corresponding stimulation to increase the production and/or exploration of those products being sought by consumers. Present controls on oil and gas prices, however, are stifling this much-needed exploration and production. Consequently, we are becoming more and more dependent on foreign sources for our oil; and those countries, not subject to our economic controls, are free to charge us whatever prices they want for their products.

The same problems are becoming apparent with the production of food supplies. Here economic controls have made the production of certain food items unprofitable. As a result, shortages are becoming more and more apparent each day. When poultry producers have to destroy baby chicks because feed grain costs are higher than the profit they are allowed under the freeze program, something is wrong with that system. If this situation continues, we could find ourselves trapped in an even more desperate situation than the one which stimulated controls in the first place.

Therefore, economic controls, no matter what their parameters, will not get us out of our present inflationary spiral. We cannot "doctor" the symptoms without trying to remove the cause of the illness. In this case, deficit spending has been, in my estimate, the largest single contributor to the fires of inflation. Until we do something about the type of fiscal policy practiced by politicians and government alike, no relief from inflation is in sight no matter what type of controls we place on the economy.

Last Wednesday the Joint Committee on the Reduction of Federal Expenditures published a compilation of figures showing what effect the appropriations authorized so far by Congress will have on the total budget figures. As of June 30, 1973, Congress had already passed appropriations measures at least $1 billion in excess of the $268.7 billion budget ceiling proposed by President Nixon for this fiscal year. As a qualifying note, however, I would like to add that these figures are based on the assumption that Congress will, with the remaining budget proposals, adopt at least the level requested by the administration.

Many of these budgetary increases came in the last days before the July 4 recess. These items include such things as the suspension of the proposed HEW regulations for Social Services—approximately $300 million—an increase in allowable earnings for social security recipients, $100 million; extension of certain unemployment benefits, $115.7 million; new program of national cemeteries for veterans, $110 million; and the continuation of previous appropriations not requested by the administration, $342.7 million.

I am not by any means implying that these appropriations decisions were wrong, but the fact that we have made the above additional appropriations must be kept in mind as we consider other appropriations matters in the near future. This body has twice voted to impose a spending ceiling of $268 billion, $700 million less than the administration's recommended ceiling. I hope we can stick to our position on this matter and thereby show the American people that Congress is acting in a fiscally responsible manner. We can only do so by keeping tabs on the totals we have already appropriated; and, after establishing our priorities, consider what other appropriations should be made. This means that there might even be occasions when we will have to vote down worthwhile appropriations which would benefit our own States. But in these times of rampant inflation at home and the dollar instability abroad, our prime consideration should be getting back to a balanced budget.

When I use the term "balanced budget," I am speaking of a Federal Funds budget, in which the revenues coming in at least equal the expenditures being made. On this point I would like to join the distinguished Senator from Georgia (Mr. TALMADGE) in his criticism of the mythical concept purported by the full employment budget. At the same time, I am also opposed to the unified budget concept adopted during the Johnson administration.

The Federal funds budget was used by

the Government prior to 1969, and includes those funds which the Government administers as owner, as distinguished from those it administers in a trustee or fiduciary capacity—such as the trust funds. Expenditures for such things as national defense, veterans benefits, the Departments of Commerce, Labor, and Agriculture, and interest on the public debt are all paid from Federal Funds. Income taxes—both individual and corporate, most excise taxes, estate and gift taxes, customs' duties, and miscellaneous receipts are paid into the Federal Funds accounts. Trust funds, on the other hand, are specifically earmarked funds. The surpluses in these trust fund accounts are borrowed by the Federal Government—for which Government securities are issued—and are placed in its Federal Fund account for use in paying general obligations. The unified budget includes the receipts and outlays for both Federal Funds and trust funds. But since the change in the level of the national debt is directly related to the surplus or deficit in the Federal Funds. I think the Federal Funds budget rather than either the unified budget or the full employment budget most accurately depicts our Government's financial picture and gets to the heart of the issue—are our incoming revenues sufficient to meet the necessary expenditures? It seems to me that we have spent too much time in the past attempting to come up with a budget concept which minimizes the huge deficits we are compiling. No matter how one looks at a budget, however, the fact still remains that deficits lead to inflation and a composite of international monetary and trade problems. We must balance the budget—the Federal Funds budget. As Senator TALMADGE so aptly puts it:

> The first priority in ending the inflationary trauma is to establish a Federal budget which is in balance with traditional concepts.

Mr. President, I ask unanimous consent that the speech of the Senator from Georgia be printed at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HERMAN E. TALMADGE

As bankers, you are aware that the misuse of money is very much in the news these days in Washington. The devastating political scandal that has resulted may lead some to conclude that it would be better for political parties to observe the teaching from the Sermon On The Mount—"Blessed Be The Poor For They Shall Inherit The Earth," than to be tempted to use surplus funds to achieve illicit objectives.

I did not come to talk about the Watergate. As a member of the Ervin Subcommittee, I will soon be knee-deep in that subject. I choose to discuss a more mundane, but no less important, topic—our inflationary traumas.

The United States is currently experiencing the most serious inflation during the postwar period. During February and March, prices moved up at an annual rate of 10 per cent—the highest rate of inflation in 22 years.

It is almost frightening to reflect that great nations such as Germany experienced runaway inflation in this century which lead to a desire for dictatorial leadership. Inflation in Germany after World War I was so severe that it literally took a wheelbarrow full of deutchemarks to purchase a loaf of bread in 1923. Governments fell because they could not contain inflation, and by 1933, Germany was so desperate the people succumbed to a fascist dictatorship to bring them out of economic chaos.

I am confident that we will not reach that stage, but it is significant that major segments of our body politic—in academic, business, labor, and even banking circles—are calling for government controls over virtually everything in order to stem the inflationary tide. There seems to be widespread panic that "something must be done," and controls are an easy answer.

I agree that "something must be done," but we must turn to fundamentals.

Before getting into policy prescriptions, however, let us review where we stand today and examine our recent history of boom-bust economic policies. The economy is racing at breakneck speed with output, measured in terms of the gross national product, increasing by 14.3 per cent or $40.6 billion in the first quarter. Consumer spending is skyrocketing.

As the inflationary psychology takes hold of people's spending habits, the consumer is saving less and spending more. The rate of personal savings plummeted in the first quarter from 7.6 per cent to 6.7 per cent of personal disposable income.

I did not come here to bore you with statistics, but to suggest that the boom-bust economy policies reflect a dismal state of economic affairs. We don't seem to be able to learn anything from our past mistakes.

Government policies seem to fluctuate between stepping on the gas when the automobile is racing down the road, to jamming on the brakes while the foot is still on the accelerator. We went through several boom-bust cycles in the 1960's and early 1970's. Back in 1964, when the economy was growing at a steady and stable rate without serious signs of inflation, we passed a massive tax reduction bill. On top of that reduction in Federal revenues, we increased expenditures on "Great Society" programs and on the war in Vietnam.

From 1965 on, we pursued our guns and butter policies as if we were so powerful a nation that we could defy the laws of economics. The main burden of restraining inflation fell on monetary policy, and it simply was unable to do the job. You will recall the credit crunch in 1966 and 1967. Then in 1968, the President asked for and received a temporary income surcharge of 10 per cent along with temporary reductions in Federal expenditures, and the Federal budget was under control for one year.

In 1969, came the Tax Reform Act, and we again reduced personal income taxes and eliminated the investment tax credit completely after having turned it off and on again several times. This "on again–off again" tax policy did little to engender confidence in the minds of our investors and financial community, not to mention foreign bankers holding enormous quantities of our dollars, who, all during the 1960's, grew increasingly more apprehensive about our profligate spending programs.

After the Tax Reform Act of 1969, reducing the incentives to invest in the United States, monetary authorities really turned on the screws. Interest rates went up to well over 8 per cent for prime customers. The result was a recession in 1970 and 1971, with the unemployment rate exceeding 6 per cent, while the inflationary psychology continued.

Unemployment, however, appeared to be more unacceptable politically than inflation, and under economic theories developed in the 1930's, the Nixon Administration turned to large deficits to get the economy moving again.

The budget deficits during the last four years have exceeded $100 billion. Contrary to popular belief, these budget deficits were actually recommended for the most part in the President's January budget submissions to the Congress. He adopted a new phraseology, however, to disguise the budget deficits. While condemning the Johnsonian deficits, the Republican President now began to speak of the "full employment" balanced budget.

Under the full employment budget concept, we count revenues we *would have received* if we had full employment. Since we have had unemployment between 5½ and 6 per cent, the difference between actual revenues received and mythical revenues we might have received had we been in full employment, has been greater than $20 billion. Thus, under the euphemism of "full employment budgets," we continued to run actual large budget deficits to the point of where our dollar has been devalued twice in the last 18 months.

With actual budget deficits running between $25 and $30 billion, on the average, for the past four years, and the monetary base which has had to finance those deficits increasing at a rapid rate, the inflation which ensued priced our goods out of the international marketplace.

As a result, we began to run increasingly larger trade deficits. By 1972, our trade deficit including the cost of insurance and freight on our imports, but excluding foreign aid financed exports, exceeded $14 billion. It is no wonder that foreign countries have lost confidence in the American dollar.

After all the rhetoric coming from the White House on Congressional spending, and the fights over expenditure ceilings, I was surprised when the President submitted a budget for fiscal 1974 calling for a unified budget deficit (that is, including trust funds) of over $12 billion, and a Federal funds budget deficit (which excludes trust fund accounts) of $27.8 billion. But the President tells us the mythical "full employment" budget will be in balance for 1974.

I think we have to take the budget out of politics for a change. We need to do away with the euphemism of "full employment budgets," and get back to fundamentals. Price controls will not work in the face of large deficits. You bankers know that excessive money creation caused by massive budget deficits, will spill over into price increases, and no artificial controls are going to prevent that.

For example, if, because Federal budget deficits are running at $28 billion a year, monetary authorities have to sell short-term government obligations to finance those deficits, thus expanding the money supply—would it make sense under these circumstances to impose a ceiling on the prime interest rate? It seems to me it is like trying to put a band-aid on top of an open artery.

I don't believe the fundamental cause of our inflationary problems relates to the demise of price controls. That may be a temporary, transitory cause. But, the fundamental cause of our continued inflation is the irresponsible fiscal and monetary policies pursued, not only by this Administration, but also by previous ones as well. At some point we are just going to have to say, "the deficits stop here."

I feel so strongly about this that I think it should become unconstitutional for the Federal Government to run these deficits year after year, just as it is unconstitutional for many states, including Georgia, to run state deficits. I have introduced a constitutional amendment to accomplish that result.

The first priority in ending the inflationary trauma is to establish a Federal budget which is in balance with traditional concepts. The mythical full employment budget concept should be buried and allowed to rest in peace.

I would make one other recommendation—the 7 per cent investment tax credit has proven to be a real stimulus to investment. It is tremendously important in the battle to improve productivity and hold down unit labor costs. However, it does tend to add fuel to the fire of inflation during a boom period, which inevitably leads to a bust. Therefore, some flexibility in the size of the credit may be warranted.

Criteria could be developed under which the investment tax credit could remain at the 7 per cent level, or go even higher during periods of recession, but, when the economy is racing ahead, the tax credit could be lowered to a 3 to 5 per cent level.

It also might be a useful device to allow for a higher tax credit for investment in depressed areas and for investment in critically short resources, such as energy. I feel the investment tax credit should become a permanent part of our tax structure. But it should be tailored in such a way that it will counter cyclical pressures in our economy and not be a blunt instrument for breakaway growth and inflation.

In summary, while economics has not proven to be anything more than a dismal science, its application by political economists has proven to be disastrous. The boom-bust cycle has been due to the unwarranted budgetary deficits over the past 8 years, particularly over the last four. Unless we can act decisively to end these dificits, I see little grounds for improvement—no matter what is done in the monetary or price control areas.

The Congress and the President share this responsibility, but the President must take the lead. When he proposes a federal deficit of $28 billion for fiscal 1974, it comes with ill grace to blame the Congress for irresponsibility.

In the past four fiscal years, the President has recommended budget deficits of $94.4 billion. In 6 previous fiscal years, President Johnson recommended total budget deficits of $38.7 billion. President Nixon's average budget deficit has been 360 per cent of Johnson's. The President has been badly served by his economic advisers who have apparently become politicized into praising "full employment balanced budgets" of the President, while condemning actual budget deficits enacted by Congress.

I expect the President may now adopt the policy of asking the Congress for a tax increase because the Congress was "irresponsible" with its spending programs. I am afraid this line of argumentation will wear thin with lawmakers in Washington. But, it has stimulated the Congress to reform its budgetary processes. The Congress is going to adopt its own legislative budgets and a mechanism for insuring fiscal responsibility. This is quite a task for 535 independent legislators, each with strong views on national priorities.

But we will do it because the rhetoric about fiscal irresponsibility has created the political climate for such an action. It would greatly help the cause, however, if we got some real balanced budgets out of 1600 Pennsylvania Avenue, instead of mythical full employment budgets.

I am afraid that my remarks may be interpreted by some as being political. They are not. I have supported many of President Nixon's policies. But, I do feel it is so important at this time to raise the level of discussion regarding our economic situation away from the political arena to the level of facts. If the Executive and Legislative branches of government can agree upon one set of facts concerning *where we are*, perhaps we can come to an agreement on a proper policy as to *where we ought to go.*

ILLINOIS IS FIRST STATE TO ACCEPT INTERNATIONAL ACCESSIBILITY SYMBOL

Mr. PERCY. Mr. President, I am pleased to report that the 78th Illinois General Assembly passed a house joint resolution adopting the International Accessibility Symbol as the official State symbol of accessibility, making Illinois the first State in the Union to do so. The symbol will be displayed on all public property, buildings, and facilities within the State which provide access to the physically handicapped.

As the original sponsor of a provision incorporated into the recently passed Rehabilitation Act of 1972 which would promote the use of the International Accessibility Symbol in all public facilities accessible to the handicapped, I am particularly pleased that my home State is the first State officially to adopt the symbol. It is my hope that the legislatures of other States will follow Illinois' example, encourage the use of the International Accessibility Symbol within their borders, and thus further the cause of making all public buildings and facilities in the country accessible to our handicapped and elderly citizens.

I ask that the text of the Illinois resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE JOINT RESOLUTION 2

Whereas, The State of Illinois has continuously demonstrated a sense of pride and concern for all of its citizens regardless of race, color, creed, national origin or any ethnic, social, religious or political characteristic; and

Whereas, The State of Illinois seeks to maintain its posture as a fundamental, livable, and progressive political entity where social problems are addressed in their infancy on a rational and equitable basis; and

Whereas, The State of Illinois recognizes a need to act with diligence and forbearance with respect to the needs of the handicapped citizenry of the State; and

Whereas, The State of Illinois has been a national leader in providing for the civil liberties and equitable treatment of the handicapped; and

Whereas, There is an urgent need to adopt an internationally accepted symbol to indicate that buildings and facilities are accessible to the physically handicapped; and

Whereas, An accessibility symbol has been adopted for use worldwide by the Rehabilitation International's 11th World Congress; and

Whereas, No such standard symbol has been officially adopted by the State of Illinois; now, therefore, be it

Resolved, By the House of Representatives of the Seventy-eighth General Assembly of the State of Illinois, the Senate concurring herein, that the State of Illinois adopts the Rehabilitation International's 11th World Congress accessibility symbol, which is white on a blue background as its symbol of access which shall be prominently displayed at all entrances to public property, buildings and facilities which provide the access and use by the physically handicapped; and be it further

Resolved, That the Illinois Governor's Committee on Employment of the Handicapped be designated as the agency to administer the issuance and regulation of the access symbol; and be it further

Resolved, That the private use of this symbol shall be encouraged; and be it further

Resolved, That a copy of this preamble and resolution be forwarded by the Office of the Secretary of State, to the Governor's Committee on Employment of the Handicapped, the Director of the Department of General Services, the Chairman or President of each County Board and the Mayor of each city and municipality located within the State.

RESOLUTION BY CONNECTICUT ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Mr. RIBICOFF. The Connecticut Advisory Council on Vocational Education recently wrote me expressing its concern over the failure of the Government to adequately fund certain vocational education programs.

I ask unanimous consent that a resolution adopted by the council regarding this problem be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the growth and development of vocational education during the past half century has contributed to the economic self-sufficiency of millions of people and has given this Nation the greatest productive system known to man, and

Whereas, advances in technology have increased the need for more vocational-technical and occupational education and have identified new areas not accommodated by vocational education. These changing requirements have brought about increasing variety of needs. This has led to a duplication of effort, waste, inefficiency, and confusion with resulting social and economic damage to this Nation, and

Whereas, the educational systems of this Nation are given limited financial resources but are faced with the enormous task of coordinating and providing for our Nation's human resource development:

Therefore, be it resolved that the Connecticut Advisory Council on Vocational and Career Education request the United States Congress, the President of the United States, and the Secretary of the Department of Health, Education, and Welfare be urged to fully support with adequate funding Public Law 90-576 (the Vocational Education Amendments of 1968), and support with adequate funding the over-all planning provisions of Public Law 92-318 as contained in Title 12 and Title 10 of the Higher Education Act of 1965, as amended, in timely manner so that as soon as such plans have been developed in collaboration with the state advisory councils on vocational education, and approved by the U.S. Commissioner of Education and the Congress of the United States, the Congress may then appropriate funds on the basis of priorities and national concern to support elements of approved state plans as recommended by the State advisory councils on vocational education.

On behalf of all Council members, unanimously voted,

DOUGLAS M. FELLOWS,
Chairman, Connecticuit Advisory Council on Vocational and Career Education.

THE MYTHS AND REALITIES OF WALL STREET

Mr. WILLIAMS. Mr. President, Mr. Frank A. Weil, a prominent and forward-looking industry leader has recently circulated a provocative article he has written entitled "The Securities Industry: Myth Versus Reality—And a Proposal." Mr. Weil's article makes clear that the securities industry is at the crossroads. He proceeds, in a direct and forthright manner, to separate the myths that have been perpetuated about the industry and the markets from the hard truths in order to address realistically the serious challenges ahead. He addresses some of the fundamental regulatory and economic questions—institutionally membership, commission rates, and the central market system—which must be resolved if the securities markets are to be responsive to existing pressures and freed of historic impediments.

Mr. Weil is particularly instructive in his insights into the divisiveness and fractionalized structure which have characterized the industry's attempt to formulate policy and implement necessary reforms. He observes that—

> The securities industry . . . is in effect at a standstill amidst aimless chaos and confusion among competing bureaucratic regulators and industry members alike; at the same time, individual segments of the industry still are proposing and believing in piecemeal fixes. If there is a solution, it lies in both a better understanding of the industry's myths by more people and a substantially new industry attitude towards regulation.

Mr. Weil proposes an entirely new four-part Federal regulatory system embracing the securities industry, as well as the banking business and investment communities. He envisions first, the creation of a new Federal Securities Commission with responsibilities for utility-type economic regulation of the industry; second, the creation of a federally chartered, but privately owned corporation to perform the clearing and depository functions in the central market; third, the continuation of the Securities Investor Protection Corporation; and finally, the active performance by the securities industry of its primary function of raising and directing capital.

Mr. President, I recommend this article to all Senators concerned with developments in our Nation's securities markets and ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SECURITIES INDUSTRY: MYTH VERSUS REALITY—AND A PROPOSAL

(By Frank A. Weil)

There is perhaps no other major American industry which directly touches the lives of so many people that is also so badly understood by so many people as the securities industry.

That general inability to penetrate the seeming web of mystery, terminology and apparent intrigue and power is shared not only by the general public and politicians, but, unbelievably, by a portion of the securities industry itself. Taking stock of some of the myths that abound helps to identify some of the realities. It also points inevitably to the conclusion that the securities industry today is drifting almost rudderless to an unknown time and condition that will require the complete intervention of the Federal government to effect a major reorganization and restructuring even more fundamental than that of the 1930's.

Accordingly, the securities industry should seize the initiative now and formulate its own practical and politically feasible reorganization plan which should be based upon the premise that greater Federal government involvement in commission and rate regulation, control and related policy matters is not only inevitable but can be made desirable. The securities industry is in effect at a standstill amidst aimless chaos and confusion among competing bureaucratic regulators and industry members alike; at the same time, individual segments of the industry still are proposing and believing in piecemeal fixes. If there is a solution, it lies in both a better understanding of the industry's myths by more people and a substantially new industry attitude towards regulation.

Myth No. 1 is that there is an homogenous securities industry.

A brief and limited review of certain stages in the development of the securities industry over the past century helps to put the present state of the industry into some perspective.

The middle of the 19th century saw the spread of ownership of government bonds. By the end of the 1800's, there was enormous growth in ownership and trading in corporate bonds and preferred stocks. The development of the great corporate combinations in the early 20th century saw the first significant and wide distribution of common stocks; theretofore equities were regarded as too risky, or too cherished, for the unsuspecting public. From World War I until 1929, common stocks had a great sleigh ride. Then during the 1930's investors reached back again for earlier standards, while new rules were being written to form a foundation for a new wave of super confidence after World War II.

The first great institutional investors were insurance companies which took important shape at the end of the 19th century. Next, banks and trust companies began to be a significant source of investment funds. It wasn't until the late 1920's that mutual funds were invented. And, the enormous growth in pension funds didn't start until after World War II.

Each phase in this development reached out to a greater proportion of the population; each phase tended to peak out in popularity when the various misuses of the public's confidence were overcorrected through placing too much reliance in the refuge of that moment's acceptable form of concentrated responsibility. Each phase began pluralistically (participation by many investors directly), and matured into an institutional state (participation by fewer investors). Each phase mainly started within the auction (or agency) market and ended with much of its business done in dealer markets. Each phase saw a new level in the financial hierarchy becoming widely popular; but, except for common stocks and an interval of 30 years, the wide popularity of a single level was never again quite repeated.

The main focus of this analysis then is what has happened to listed common stocks and what can be done about it. The current markets for debt and unlisted equity securities have not been discussed separately because, though they represent significant problems in a number of important respects, the fundamental problem today is with the substantial amount of assets represented by listed common stocks.

The listed stock market today is overwhelmingly dominated by institutional investors—perhaps as much as ⅔ of all share turnover vs. ⅓ just ten years ago; and, the market system once against is veering sharply away from the auction system to a dealer system with the historically predictable loss of liquidity and loss of investor confidence.

Now, a more detailed description of what constitutes the modern securities industry may form the basis of a better understanding of the functional problems. To begin with, the securities industry should be carefully distinguished from investment management as well as banking and insurance. The distinctions have been allowed to become blurred in recent years, partly because some securities firms are also in the investment management business, and some securities firms are now owned by insurance companies, and banks manage money in trust departments; but, more importantly, the line between the fundamental function of facilitating the transfer of capital and the holding out of promises of making money has gotten very wavy. The process of choosing from and dealing in thousands of different securities is a kaleidoscopic intangible, even though the ultimate expectation is to make a net profit denominated in dollars. It should be borne in mind that banks, insurance companies and mutual funds differ from securities firms in at least one vital and fundamental respect: their products tend to be uniform—for example, banks deal mainly in money, insurance companies in risk protection and mutual funds in an aggregate dollar investment result. On the other hand, the only uniform product a securities firm can offer is the skilled transfer of the myriad forms of securities which are about as related as all the different animal and bird species in Africa. Hence, we should also try to remember that the net dollar result of securities profits or losses really should be regarded more a part of investment management than of the securities industry.

A securities transaction consists of a series of events including at least four major, distinct and, in some ways, competitive elements—which may account for the evident inability of the securities industry to arrive at a unified, simple solution to its problems.

(1) There are stock exchange *specalists* who are men that specialize in making markets in a few stocks on an exclusive or semi-exclusive basis. They conduct and participate in the auction through which all transactions must flow on the exchange. In theory a clerk-auctioneer with no capital could stand amidst the crowd of bidders and askers and talk them into meetings of the mind. But, because there isn't time in a busy market to negotiate a change in price for every 100 shares, specialists developed a short-hand way of telling bidders and askers what their revised price objective should be by simply buying and/or selling for their own account at prices between the bidders and askers. The specialist isn't supposed to support the price of his stocks, but by rolling with the punches, he keeps the market alive and moving. This is called an orderly market. Specialists' activities are carefully supervised by the stock exchange, but since the specialists have a strong voice in controlling their exchanges, they largely control that bureaucratic process which oversees their conduct. Their main objective is to ensure that substantially all the volume of their stocks flows through their hands on their exchanges.

(2) There are *dealers* who include the so-called third market, over-the-counter and block trading operations. A person or firm is a dealer because he deals for his own account (buys or sells) in contrast to a broker who is an agent who buys or sells for someone else's account. Specialists are both agents and dealers, but they mainly do business only with brokers. Dealers deal in the securities they want, when they want and with whomever they want at net prices (no commissions). Though this might seem on the surface to offer a bargain to the investor, the investor has to independently assure himself that he has obtained fair terms. Except for over-the-counter securities, dealers tend to deal primarily in large numbers of shares at

The contribution limits presently in the bill are so high as to be virtually meaningless in curbing past political giving practices.

Common Cause strongly supports the Hart amendment which would substantially reduce the permissible amounts as set forth in S. 372. The Hart amendment is supported by a broad coalition of groups including Common Cause, Ralph Nader's Congress Watch, the National Committee for an Effective Congress, the AFL–CIO, the UAW, and the Center for Public Financing of Elections.

Under the Hart proposal, individuals could give no more than $1,000 and political committees no more than $3,000 on behalf of any single candidate's election. In addition, there would be an overall aggregate limit of $15,000 on the amount that an individual and the members of that individual's family, including spouse and minor children, could give to all candidates and all political committees in an election year.

The most far reaching improvement presently contained in S. 372 is the creation of an independent elections commission. Common Cause believes this Commission is of critical importance to the future enforcement of campaign finance laws. We strongly urge opposition to any amendments designed to weaken the Commission and the broad criminal and civil enforcement powers provided for it.

Common Cause also urges support for the following important amendments to be offered:

(1) The Proxmire-Stafford amendment to stop the repeal, in effect, of Section 611 which presently bars government contractors from channeling campaign contributions to candidates through controlled political action funds. Common Cause sent a separate letter on this amendment on July 19, 1973.

(2) The Mondale, Mathias, and Stevenson amendments to retain the key disclosure provision contained in the 1971 law that the occupation and principal place of business be listed for each contributor over $100, while eliminating the need for this information with regard to contributions of $100 or less.

(3) The Bentsen amendment to make the Comptroller General, as the head of GAO, a statutory member of the Federal Elections Commission and thereby provide a nonpartisan seventh member of the Commission along with no more than three from each party. This would also assure that the Commission has available the experience and expertise of the GAO in this area.

(4) The Byrd (W. Va.) amendment which would make it a crime to embezzle or otherwise convert for personal or private use funds which have been raised for political campaign purposes.

(5) The Cranston amendment to provide that the limits set forth in the 1971 law on the amount that a candidate can give to his own campaign apply over the full course of an election and not separately for a primary and general election.

(6) The Tunney amendment to provide candidates with a right of adoption for damages for violations of the campaign finance laws by their opponents which materially affected the election.

(7) The Stevenson-Mathias package of amendments to strengthen and improve various provisions of the Federal Election Campaign Act of 1971.

Common Cause believes that the adoption of the amendments we have set forth would substantially improve S. 372 and represent an important step forward in reforming our campaign finance laws.

Sincerely,

JOHN W. GARDNER.

AMENDMENT NO. 420

(Ordered to be printed, and to lie on the table.)

Mr. JACKSON submitted an amendment, intended to be proposed by him, to Senate bill 372, supra.

AMENDMENTS NOS. 421 AND 422

(Ordered to be printed, and to lie on the table.)

Mr. MATHIAS submitted two amendments, intended to be proposed by him, to Senate bill 372, supra.

AMENDMENT OF EXPORT ADMINISTRATION ACT OF 1969—AMENDMENT

AMENDMENT NO. 418

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. BENTSEN. Mr. President, I am submitting an amendment to S. 2053, a bill designed to amend the Export Administration Act of 1969. This amendment provides that exporters of feed grains and the major oilseed commodities are required to report to the U.S. Department of Agriculture any and all firm export contracts. The exporters will be required to report by commodity, class of that commodity, quantity, market year in which the export is to occur, and destination of that export.

The report shall be filed with the Secretary by noon of the 2d business day of each week. In turn, the Secretary of Agriculture shall compile the individual reports and make the compilation available to the general public during that same week. No individual report shall be made public in order to protect the individual exporter in his efforts to open new foreign markets. In addition, the Department is not required to make public the destinations of any export sales. This is an important provision, Mr. President, because there are those importing countries who prefer to keep their purchases secret, and I in no way intend this provision to cause our country to lose any foreign markets.

Mr. President, I urge my colleagues support of this measure because if this country is serious about moving its agricultural sector to export reliance, then this country must have a firm ability to always assess our available supplies. In past years we have been exporting carelessly from a surplus position, but the recent Russian grain sale rudely forced this country to realize that we are not fully informed on many of the important facts which should be second nature if we are to be skillful and wise traders.

During the recent sale, the Russians treated our traders the way the fairway barkers handled the city slicker at the county fair. And when questioned as to why this was possible, the USDA has responded that it was because they simply did not have adequate information of the sale. This amendment seeks to solve that problem—we cannot afford the foolishness of another blind sale.

This amendment, Mr. President, is important to our farmers. American farmers have been asked, and encouraged, to expand production this year in response to the growth in demand both at home and abroad.

Farmers have responded by increasing plantings by some 25 million acres—despite a great deal of bad weather at planting time. Most of this expansion is in major export commodities that depend on foreign sales. As a result, farmers are relying more on foreign sales this year, and they must have, and deserve to have, the best possible knowledge of all export sales. Farmers must not be bilked this year the way our early harvest wheat farmers were bilked by the Russian sale. The great majority of our Texas and Oklahoma wheat farmers sold their wheat for around $1.30 a bushel when the Russian sale was unfolding. Within a very short period of time, the market, forced upward by the Russian purchases, soared to over $2.

Were our farmers foolhardy in selling early? No, they were advised to sell early by the USDA. When asked, why this short-sighted advice was given, the USDA responded that it was because of lack of the proper machinery to fully assess the Russian sale. This amendment seeks to correct this inadequacy in the USDA information collection system.

Mr. President, this amendment is important to consumers. The American consumer must be guaranteed a plentiful supply of feed grains and oilseed products. This plentiful supply is mandatory if we are to have the economical supplies of cereal and meat we have grown accustomed to. Because we no longer trade from large surplus stocks, and because worldwide demand is up dramatically, over-exportation is easily possible unless we arm ourselves with the proper informational tools. This amendment will provide us with just such a tool.

Mr. President, this amendment is important to the efficiency of our Government. The recent GAO study of the Russian grain sale estimates that lack of information cost the Government $300 million in excess export subsidies.

This Government cannot afford to repeat this type of mistake. This amendment seeks to provide the Government with the ability to avoid such mistakes in the future.

I am aware that presently this administration is operating a mandatory reporting requirement for exporters of feed grains and oilseeds. However, the administration has repeatedly indicated to me that they intend this requirement to be temporary. This is unacceptable. We must have statutory language to guarantee a continuous reporting service. On again, off again reporting requirements create a hysteria in our commodity markets which is unacceptable. A temporary reporting requirement indicates that export controls are being contemplated. This indication forces the commodity market into unstable conditions which serve to severly frustrate the orderly marketing of our agriculture commodities. These unstable conditions force the small farmer and small investor away from the markets, and this is unhealthy tipping away from broad, open and supple markets. Careful thought will need to be given in implementing a centralized electronic market system to the need for the natural grouping of different types of securities, perhaps into specialized and localized markets within the central market.

It is not surprising in a way that many people are confused by the securities industry's functions because there is a truly baffling maze of (i) electronic, technological change which will enable a central market system to be created by computers perhaps (but not necessarily) without the need for stock exchange meeting places as such, (ii) new depository and clearance systems that will help to eliminate and reduce paper handling in general and stock and bond certificates in particular, and (iii) the delicate, subtle pricing and spread process which is at the heart of creating and bringing buy and sell orders together.

Within this maze lies the real substance of the problems. They are manifested in various forms:

(a) A distortion of the investment responsibility itself has occurred, brought about by the securities industry's competitive greed for large block orders, in which institutional investors have managed to shift a significant part of their burden to market makers by encouraging them to buy (and/or find buyers for), often in only a few minutes, large investment positions the investor may have taken weeks or months to accumulate.

(b) A diversion from the present central market systems (the various stock exchanges) of enough volume in many securities to have reduced the willingness and ability of the specialists to commit their capital and effectively and consistently perform their smoothing functions in down markets as well as rising markets.

(c) The evolution towards competitively established negotiated commissions has already led to more dealer transactions and will, because of the function of the dealer process, further fractionate the market-making apparatus by drawing business away from central exchanges. In simple words, market-making capital will be deployed only on a fair weather basis, because the requirement of continuous market presence can only be supported by granting at least some degree of exclusivity to the market makers.

(d) Fiduciaries of managed money range from being very uncomfortable to being almost paralyzed with fear in working with a negotiated-rate dealer system, since they may be accused at any time of having failed to obtain the best possible terms. Hence, although many of them well understand the workings of the marketplace and its real need for a good profit margin, they have tended to press their case in negotiating commissions even further than they would like or deem desirable.

Thus, *Reality #3* is that while the securities industry has fought over the generally less than 1% commission, the other 99+% (the value of the security) has declined by as much as 25–75%. No serious person is likely to lay all the blame for the big decline on the changes taking place in the market system; on the other hand, it is hard not to conclude that those changes have had a significant bearing on the problem.

Those people who have advocated fully negotiated rates as the ultimate solution, presumably by freeing the industry and themselves from outside regulation, may have overlooked the fact that the proposed legislation (and presumably any proposed legislation) dealing with this subject has retained for the SEC oversight as to the fairness and reasonableness of all commissions and rates. Hence, and this should be strongly emphasized, at best there might be a brief fool's paradise until there is a new round of misunderstanding. Similarly, the idea of repackaging and repricing all of the separate securities services—execution, clearance and custodianship, just for starters—would be also subject to rate oversight.

What all this seems to point to is the need for an entirely new attitude by the securities industry toward regulation and a new regulatory system which would be designed to harmonize the many conflicting, substantive requirements. But unfortunately, like all the Kings horses and men and poor Humpty-Dumpty, even that won't independently be a cure for the generally prevailing low level of values in today's stock markets.

Myth No. 4 is that stocks are today grossly undervalued because of (you choose it) inflation, recession, Watergate, high interest rates and tight money, gold, devaluations of the dollar, too many economic controls, too few controls, etc. But these phenomena are immediate causes of intermediate fluctuations rather than the basic reasons for the overall downward trend. Most stocks are cascading down today because of the negative synergism between two distinct fundamentals—one, securities markets now are not working, and the other, and perhaps even more significant, because certain structural economic - financial - government changes have occurred over the past 20-odd years.

At first these changes made stocks more valuable and then the process began to reverse itself. In 1950 a typical prudent investor had perhaps half his money in stocks and the other half in bonds of some sort. By 1970 that same typical prudent investor (and there were a whole lot more of them, too) had 80 or 90% of his money in stocks and 10 or 20% in bonds. That upward change in ratios was due to a combination of a rise in the relative value of long-held stocks, and an absolute increase in new cash investment in all stocks by old and new investors. But somewhere in the late 1960's that tide began to change and the ratio is today definitely headed back towards 50/50, both because relative stock values are down and new, fresh cash tends not to go into stocks. How far down the ratio will go and how long it will stay down is, of course, impossible to say.

We should not confuse symptoms of investor disaffection such as net redemptions of mutual fund shares with other fundamental changes such as how Americans perceive themselves in relation to the rest of the world. We shouldn't discount the importance of the changes in the United States position in the world economy as par of the revaluation of our own mirrored sense of grandeur, which in turn has surely been at the heart of at least two decades of investor confidence.

However, there are four basic and specific reasons for this downward change:

(a) *Taxes*—when there was a significant gap between tax rates on capital gains and on ordinary income, people simply tried to avoid dividends and sought retained earnings that would be reflected in the market prices of stocks; today with capital gains rates rapidly approaching ordinary income rates, the good old dividend looks much more attractive as well as dependable;

(b) *Interest rates* adjusted themselves upwards to compensate for inflation and to attract savings so that in the past eight or nine years bond yields have fluctuated between 5 and 9% whereas in the prior period it was 2 to 5%. Hence, debt instruments that assure an investor of a certain return of, say, an average of 7% look comparatively attractive against most stocks from a tax and dependability point of view;

(c) *Less urgent demand for corporate equity*—the great concentrated post-war expansion of American business in the 50's and early 60's required a lot of equity investment; though the demand for capital continues enormous and will grow, today's capital needs are somewhat more mature and surely less pent up than after World War II, thus, in the aggregate, the pressure to compete to get capital that induced fat selling margins that simulated salesmen to promote equities has abated;

(d) The stock game was a *multiple of earnings* or a present discounted value of the expected future years' profits—and then the accounting profession began to change the definition of those earnings and horror stories began to surface of outright fraud and other lesser excesses; so that professional investors and the public alike began to lose confidence in their sources of information, their advisors and their own hopes and expectations.

All this adds up to a more sober, balanced picture in which equities of most companies will resume their classical position in the financial hierarchy; that is, at the position of greatest risk with a yield commensurate with that risk. Hence, we may see a protracted period in which most companies' shares will be selling for low multiples and high yields, except for those very few companies that have demonstrated over a long period of time such a steady high rate of growth that investors will be willing to continue to anticipate in the present for future earnings. So *Reality #4* is that we should not count on any solution to the securities industry's problems as a general panacea to restore lost stock values.

Nevertheless, by all reasonable, historic standards, stock values in general are realistic today and investors should be on guard against panicky pessimism. Moreover, the maintenance of fluid secondary markets in securities (continuous sale and resale of already outstanding securities) is a vital part of the process of ensuring large, healthy and reasonably priced primary markets (original sale of securities.) The reason for this is simple enough—you are likely to pay more for something (anything, in fact) that, if you change your mind overnight, you can sell quickly and freely, than if you cannot sell it at all or only under limited circumstances. This is why the securities industry is performing a real, useful and vital economic function.

Remember, too, that banks, insurance companies and mutual funds do not perform the switching center functions of the securities industry; in a few cases, insurance companies and/or mutual funds have become related to securities firms by acquisition. The securities industry is in effect the neck of the hourglass between capital investors and capital spenders. The nexus helps to flow funds and establish values, but should be carefully distinguished from the assets that flow through it.

Myth No. 5 is that the securities industry must submit to competitive setting of commission rates as the price of limiting access to the market functions, and that self-regulation can survive. The symptoms are easily confused with the problems. The theory behind this myth is that if an institutional investor can negotiate his commission, he doesn't need access to the market place to obtain the best possible terms. But, practice has shown us that while the institutional investor may have saved on his commission, he lost on his investments, in part at least because the market system collapsed under his weight.

It is surely unclear how the experiments with a completely competitive dealer system would unfold, except it is clear that functionally it leads to elimination of the agency relationship and will tend to fractionate (as distinguished from pluralizing) markets. The agency fixed commission, auction-specialist system is almost a form of art that has evolved out of 200 years of Byzantine-like struggles and experience. It is unlike most foreign systems and until very recently has engendered more confidence from abroad than any other system in the history of the world's financial markets. The auction system could be regarded as the cornerstone of the United States' extraordinary financial markets. The intangibles of this art form should not be minimized as people try to understand and cope with what makes the market-process work.

Indeed the factual evidence of the market performance over the past five years suggests that what really needs protection is the exclusivity of the market-making function in individual securities and a predetermined commission, not just the reduction of the cost of making a transaction. This is (a) because the specialist must be exposed to enough of the volume in a security he is responsible for in up as well as down markets to warrant staying at his post all the time and to enable him to perform the combind function of mechanically sorting out the public orrders and using his own capital to smooth out that process and (b) to permit brokers to act for their principals in dealing with specialists on a clearly defined basis in which everybody knows where everybody stands.

Reality #5 then is that the securities industry needs to return to the time-tested market system and, the industry must therefore give up the historic concept of self-regulation in exchange for full scale regulation and suitable commission and rate control and regulation in order to justify such a step from a public policy point of view. Self-regulation is almost by definition a deception because it is obviously flawed by self-interest and has ceased to be a defensible device in our modern society.

There are several well-established public-policy precedents for proceeding along this track to the creation of a national securities utility which is both rate regulated and protected. The regulation of the transportation and power source industries of this country is grounded on the premise that to draw and keep capital in place in those capital intensive activities, which involve the national interest, standards are set and prices are administered pursuant to known and understandable yardsticks. Or, put more simply, the people of the country through government agencies have been given, or have taken, the responsibility of ensuring that certain socially necessary processes are available, and have balanced functionally necessary exclusivity with supervision and control. In most, but not all cases, the reduction of fractionated markets and counter-productive competition has effectively permitted independent companies to earn a steady, reasonable and ever growing profit base.

If the securities industry is to agree in a politically feasible fashion for such functionally necessary exclusivity as well as an economically realistic rate structure, it has to accept for the first time an entirely independent rate administration which would have the responsibility to ensure that the industry is healthy, not just a responsibility to see to it that the industry doesn't get away with murder. The Congressional mandate in effect should be reversed, something like switching the burden of proof in a trial. Instead of directing that the regulators should in effect "keep the lid on and profits down," the instructions might be informally summarized, "keep the industry healthy and markets pluralistic." Moreover, such regulation should encompass the concept of organized markets, recognizing the fundamental need to avoid atomization and preserve the clarity and discipline of the agency-principal relationship. Such concepts of regulation could meet the test of today's consumeristic and populist political standards.

A new regulatory approach also should make it possible to have big investors partially subsidize small investors' costs on the theory that the small investors' participation is vital in providing pluralism in the marketing process. One of today's most basic problems is similar to one of the main problems in the 1920's: a serious concentration of buying and selling in a few hands—called "speculators" in the 20's and "gun-slingers" in the 60's. In both cases it was loss of pluralism.

We have precedent for encouraging pluralism through the regulatory process in other environments too. The Justice Department and Federal Trade Commission have been vitally concerned with maintaining pluralism, for example, in retailing of many consumer products. Indeed, the Justice Department is even on record in the case of the securities industry to ensure against undue concentration and to give the small investor a choice. In this respect it is important to keep as many independent firms in the securities business as possible by quickly restoring health to the industry; once firms have been absorbed or dissolved, it may be very difficult to recreate the broad base of firms serving the public. Perhaps the over-simplified attraction of lower commission costs by stimulating competition has distracted the serious public policy thinkers' attention away from the greater problem caused by that competition—loss of pluralism.

A continuation of our present trends is likely to lead to only a few securities firms serving a few large money management institutions—or a form of private marketplace; current developments have already given rise to a so-called two-tiered grouping of investments. (Those few companies institutional investors want to own and are willing to pay almost any price for, and those many companies they don't want to own and which are almost blindly bought and sold at any price.) There are grave fundamental policy choices that will arise in this area: what are the social and economic effects of a private market system to which access would tend to be limited to proven and recognized talents? One of the great advantages that historically has grown out of our existing system has been the opportunity for unknown newcomers to get started. True, the system has in some ways been sloppy and excesses and fraud have developed. But, we should try to remember that like democracy a market system isn't and shouldn't be expected to be always a neat and orderly process. Public policy seems to cry out for all forms of pluralism in the market process—many firms serving many public and institutional investors.

In this same vein, thought is happily already being given to a set of rules governing how much money any one institution should (i) be able to invest in any one security, (ii) place under any one independent manager at one time, and (iii) demand that the marketplace absorb within certain periods of time. These questions serve to illustrate how complex and interrelated the investment process is with the market-making process and how necessary it is to have skilled, disinterested, non-bureaucratically competitive regulators apply their best efforts to evolutionary problem solving. Our present system of roughly $\frac{1}{3}$ self-regulation, $\frac{1}{3}$ government regulation and $\frac{1}{3}$ no-regulation has unfortunately given rise to an unmanageable hodgepodge.

Now, before going on to a concrete proposal, a brief recapitulation of the five Myth-Realities that form the base for a better understanding will help point toward a solution:

I—The securities industry is not homogenous, but is really at least four distinct, competitive processes.

II—The securities industry is no longer a magnificent mystery land with lush profits, but the mysteries have become grave misunderstandings and the profits are a real myth.

III—The central problem of the securities industry is neither fixed vs. negotiated commissions nor who can be members of stock exchanges, but is the fundamental malfunction of the present marketplace system initiated by the squabble over the 1% commission.

IV—Stocks are not undervalued today primarily because of economic events, etc., but because their place in the financial hierarchy is changing again and even proper corrective action in a central market system of the securities industry will not altogether restore the nation's recently lost equity values.

V—Competitive commission rates, as the price for limiting access to protected securities markets governed by self-regulation, will only lead to further fractionation and deterioration of those markets. Hence the inescapable conclusion is independent regulation, including commission and rate control, as the only practical and politically feasible route to regaining the right to utilize the time-tested market processes.

A proposal: The securities industry and the banking, business and investment communities could theoretically get together behind one broad, all-encompassing concept—Federal regulation in which the responsibilities and authority are matched in such a way as to avoid overlap and endless confusion and infighting.

The result would be a four-part system as follows:

1. *A Federal Securities Commission* (FSC), which presumably could spring out of today's SEC and could co-opt appropriate and related personnel, experience and functions from the New York, American and other regional stock exchanges and the National Association of Security Dealers (NASD); it would be granted broad new powers under the Commerce Clause to cut across state lines and

(i) be responsible for administering commission and price schedules for the various component parts of the securities industry on a basis designed to continue an economically healthy securities industry;

(ii) be responsible for coordinating the impact of all investing institutions' assets on the market process;

(iii) maintain, extend, supervise and enforce all standards of service within the industry; and

(iv) govern all use of a MARDEP (for central MARket and DEPository) system.

Presumably, enabling legislation should stipulate that as a matter of public policy, the FSC should encourage and enhance pluralism in all markets and should permit all qualified persons to use MARDEP, but only for the purpose of serving public needs and not to reduce their own cost of investing.

2. A *MARDEP* should be created, which would be a Federally created corporation like Comsat. It should be owned by the securities industry and the investing public; it should be operated as a utility for profit under FSC regulation. It could spring out of the New York Stock Exchange and its market, depository and clearing functions as they exist and it could acquire the related personnel, experience and functions of the American and other exchanges and the NASD. Like the NYSE today, it should enforce the honoring of the transactions of its authorized users. All users of its facilities should be charged on a transaction basis for its use. In short, it should be a central switching service, like the post office, that would not replace any of the marketing or other service functions that deal directly with investors. It should serve as a spine and nerve center to be used only by the securities industry for the benefit of all investors.

It should (i) create, coordinate and operate a central electronic market system, (ii) uniformly, to each appropriate user level, transmit and display all bids and offers and transactions according to Brandeis' maxim that the best of all disinfectants is sunlight, (ii) take over and further develop existing central depository and clearance operations in such a way as to virtually eliminate all redundant paper, including most certificates of ownership.

3. The *Securities Investors' Protection Corporation* (SIPC), which theoretically protects all accounts of public investors with member firms of SIPC, should be continued in existence and should be carefully coordinated by the FSC with the MARDEP. Although SIPC is only two years old, its flaws have become apparent and need corrections. This is a technical subject beyond the scope of this analysis, except to note that adequate, workable protection is necessary for public confidence.

4. Then there is *the securities industry* itself with its many different competing functions and entities which should be able to return full time in its present pluralistic form to the socially and economically necessary task of directing capital, energy and skill back to the time-tested market processes. If the FSC and MARDEP even begin to do their job properly, the independent, enterepreneurial forces of the securities industry will resume sorting out making the nation's capital available to our society.

There are several crucial observations and obvious criticisms to be made about this plan. While it is simple in format, it naturally would be extremely complex to implement. However, the prospect of implementation itself could restore confidence (a) within the securities industry itself (b) to the investing public, (c) to institutional investors, and (d) perhaps most important at this point in time, to the guardians of the public trust, the members of the United States Congress, who will make the crucial policy judgments that will determine the path the industry will take in the next few years.

The human and economic forces implied in this proposal should balance out reasonably well for all the competing and potentially conflicting processes—particularly if the regulators are independent, fairminded people, who are pointed to one goal—reliable, visible, and well-organized markets within which all forms of securities can find their own proper level of value.

The creation of an FSC could have the salutory effect of largely eliminating the maze of conflicting rules and competing bureaucracies that exist today and currently stand in the way of much rational problem solving.

The task of commission and rate control and regulation for the securities industry is one at the prospect of which a Job would shudder. In other industries libraries have been filled by scholars, lawyers and economists on rate-making problems. The securities industry poses whole new questions and problems because so much of its capital is human and so much of its service is purely intellectual. There is a giant sorting out, adjusting, normalizing and rationalizing task to perform. But it has to be done whether internally by the industry or externally by someone else; it will take time whoever does it and mistakes will surely be made. The rate system should in all events promote and reward efficiency and not be geared to the lowest common denominator. It seems clear in advance, too, that the different functions of the process will have to be carefully separated in order to establish proper commissions and rates for each different type of business. There are many ways to study and set rates, not all based on capital and not all bad. Moreover, we should not assume that regulators have not learned anything useful over the past fifty years of rate-making experience.

Great thought should be given, in creating a central electronic market, to whether or not a meeting place or places (like stock exchange floors) should be retained in order to continue the physical interaction among agents of buyers and sellers and specialists; the effect of this intangible called "the crowd" cannot be quantified but may be more important to the overall market result than most statisticians or economists would be willing to admit or predict.

The central depository and clearing functions of MARDEP could accelerate the progress towards the goals of eliminating paper that everyone agrees is necessary but which is currently caught up in a new bureaucratic competition. The achievement of that goal would sooner enable MARDEP and the securities industry, pursuant to FSC supervision, to pass on savings in cost to all levels of investors. In this connection, the commercial banking industry must be encouraged to be statesmanlike. There are signs already that banks eye the MARDEP type of scheme warily as possibly being to their disadvantage. They should be assured of a proper role in MARDEP so as to participate in its advantages.

How would this new four part system affect the main competing elements of the securities industry and how would it relate to investment management?

(1) *Today's Specialists* likely would become the initial cadre of market makers. Their role would be much the same as it is today, but they will be governed and regulated by people they have no part in selecting or managing. Careful thought should be given to having selective competition among specialists, particularly in actively traded stocks. They should be permitted to deal only with agents of investing principals; they should be required to maintain orderly markets and be permitted to make a fair return on the use of their own capital in helping to smooth the flow of orders and prices. Additional market makers should be organized on an official standby basis much as today's block-houses and third market houses perform—but their participation, which depends so much on the basic auction market system, should be harmonized within the system to avoid fractionation particularly during up markets when it doesn't take a genius to make money and the volume of business has tended to flow away from the central system to its overall detriment.

(2) *General Market Dealers* would do much of what they do today, though they might become in many cases principal market makers and officially organized additional market makers. Their skills and capital would be just as vital as they are today, but instead of performing in an uncontrolled competitive arena which hasn't worked consistently for the public interest, the when, where, how and with whom they should deal should be regulated so that they can be depended upon to do their job more regularly.

(3) *Underwriters* will still perform essentially as they do today. Their relationship to the actual distribution of securities should be carefully re-examined. They obviously cannot sell a security issue without the help of large numbers of institutional and retail salesmen and the amount and prices of what they sell depends on the workings of the marketplace. It is functonally unrealistic to separate underwriting from sales; however, rules can be created to avert and minimize abuses resulting from too close a connection between the buying (underwriting) and selling (distribution) functions.

(4) Today's *Brokers* will continue to be the troops of the process. They will act as the selling agents in dealing directly with all investing principals and their counterparts will continue to act in dealing with market makers. Given the complexity of their product (or services) line they will be assured of an administered schedule of rates that will enable them to deal as agents with integrity and consistency on behalf of their principals. Careful regulatory thought should be given to modifications in the method of paying sales brokers who deal directly with the investing public; the present generally used system of variable payments does create some practical and theoretical conflicts of interest between the representative and his client. Those people who argue to make the commission negotiable (and therefore competitive may have overlooked the need to insure that relationship between the broker and client is as free of conflict as possible and is based on sound concepts and not false economies. The *quality* of the fiduciary relationship between an agent and his principal in the long run is more important than the *quantity* of the commission; long experience in many areas of human conduct has borne out that reality. Moreover, a more stable method of payment might in time help to reduce the inescapable conflict that springs out of a payment method geared primarily to activity.

Indeed, the sum total—whether plus or minus—of the dollar value of securities transactions is an investment result. Accordingly, a broker and investment banker (underwriter) is inextricably wound up in the investment management process whenever he suggests any purchase or sale of a security. But the distinction between the overall net result and the result on individual transactions should be remembered; it forms the real and continuing basis to differentiate between the investment management industry and the securities industry.

Within all of this system, the real premium is still going to be paid for intelligence, integrity, imagination, selling ability, shrewdness, service, tender-loving-care and all of the other distinguishing and competitive attributes that attract and hold clients to agents. There should be far less competition over who does what and where; and there will not be the distraction of who gets how much of the commission. The system that has allowed, even promoted, bargain rates has tended to encourage corner cutting and other more qualitative counterproductive attributes. Everyone in the system will know the rules and will be able to address themselves full time to the real issue of transferring securities at realistic values.

There no doubt are many people who may say that the well-known experience of those industries which deal with the FCC, ICC, CAB and other regulatory agencies should be enough guide to avoid full-scale regulation at all costs for as long as possible. But those critics, particularly if they live with regulation by one of those agencies, when cross-examined almost always end up admitting that they couldn't survive without their regulation.

Let there be no doubt that we are at a new level and type of crisis in the securities industry, not unlike the early 1930's when the specific concern was with earlier forms of conflict and disclosure. This time the securities industry is at the point of having to be regarded as a national utility which should be federally harnessed for the nation's welfare.

Finally, we are faced with a Hobson's choice. Either, we must choose to explore the entirely unknown world of a fully competitive system and face a series of changes that will lead us we know not where. Or, we can seek refuge in the confidence of the proven system in exchange for the political reality of Federal rate regulation, which itself creates another set of unknowns. Neither choice is easy or clear. The latter seems sounder and safer.

THE FOUNDING FATHERS AND WAR POWERS

Mr. GOLDWATER. Mr. President, on December 23, 1777, George Washington wrote to the President of the Continental Congress from his headquarters at the bleak and frost-covered camp of the Continental troops at Valley Forge. General Washington began his letter with these words:

> Sir: Full as I was in my representation of matters in the commissary department yesterday, fresh, and more powerful reasons

> oblige me to add, that I am now convinced, beyond a doubt that unless some great and capital change suddenly takes place in that line, this Army must inevitably be reduced to one or another of these three things. Starve, dissolve, or disperse, in order to obtain subsistence in the best manner they can; rest assured sir this is not an exaggerated picture, but that I have abundant reason to support what I say.

As proof of the total failure of supplies and of the inability of the Army under the circumstances to take advantage of opportunities for obstructing the British forces, Washington revealed in the same letter that he had "... by a field return this day made no less than 2,898 Men now in Camp unfit for duty because they are barefoot and otherwise naked ... "; and by the same inspection had learned that "... our Numbers fit for duty from the hardships and exposures they have undergone ... have decreased near 2,000 Men. Since the Month of July, we have had, no assistance from the Quarter Master General. ..."

It was in the month following July that Congress, then charged with the powers of an Executive, had overruled Washington and had discarded the commissary system run under his command. Congress threw out of office the Commissary General whom Washington had selected and itself assumed complete charge of the commissariat. It is small wonder that immediately upon this change in the department, which Washington wrote "took place contrary to my judgment," the system suffered a total breakdown. As we know, the error of Congress grew into tragedy as cold weather came on.

A prominent military historian writes:

> The amount of harm, caused by the unwise military control usurped by Congress, can only be measured in terms of the appalling suffering of the American soldiers at Valley Forge, which Washington was powerless to prevent. T. Frothingham, *Washington Commander in Chief* 234 (1930).

This is not the only disaster Congress must be held accountable for by reason of its interference and meddling with Washington's military operations. It was the Continental Congress whose direct orders that Washington's men, opposed by over four times their strength, defend Manhattan and Long Island to the last, resulted in the useless surrender of over 3,000 American troops in the summer of 1776. It was Congress who appointed as commander for the southern department, a general who had recently been exposed for plotting against Washington and who in his first battle after this appointment lost the entire American army in the south. And it is Congress, whose orders made it impossible for Washington to get the reinforcements, during the fall of 1777, with which he could have saved the forts along the Delaware which had prevented the British from using that river for the supply of their armies.

Mr. President, these and other directives of Congress very nearly lost the War of Independence. And yet, it is exactly this system of government to which the sponsors of the war powers bill would have us revert today. The bill proceeds on the principle that it is Congress who should dictate the sole circumstances in which the United States can wage military operations and for how long those operations may continue. The Senator from New York, Senator JAVITS, has argued that the President is the mere "executive arm of Congress" who must follow the "policy directives" of the legislative branch.

But, Mr. President, this is exactly the system which so nearly led to disaster during the Revolutionary War. It is for this very reason that it was repudiated by the Constitutional Convention of 1787. The Founding Fathers at that Convention had witnessed at first hand the terrible inefficiency of the legislature interfering with military decisions and strategies. The Framers had made up their minds that the new government which they were then forming would have at its head a commander in chief who would have an undivided power over the direction of war.

This conclusion is reflected in the decision of the Constitutional Convention to reject a clause giving Congress the power "to make war," which it had possessed at the time of the American Revolution and under the Articles of Confederation, and to substitute for this only the power "to declare war." From the historical setting in which this decision was made and judging from the difference in meanings which these words were given in the 18th century, it is clear that the Framers intended to leave the "making of war" with the President.

Mr. President, I have already described the weakness which prevailed under the arrangement of all military power into the Congress throughout the lengthy period of the War of Independence and which prompted the Founding Fathers to place all the military command powers into a single hand. I might also mention that the Framers of the Constitution were greatly influenced to centralize the national defense powers in the Office of the President by the writings of Locke, Montesquieu, and Blackstone, then looked upon as the foremost political philosophers of the age and all of whom viewed the making of war as a prerogative of the Executive. These writers each viewed it to be among the fundamental laws of nature and government that the Executive should possess an unrestricted discretion to act when the safety of society was to be preserved.

Thus, in creating a new form of government in which the Executive power was removed from the Congress itself and vested in the new Office of the Presidency, the Framers had well understood in their own minds, without further definition, that the power to make and go to war was properly the function of the Executive.

Proof that the Founding Fathers acted in accordance with this understanding lies in the historical truth that Congress was left only with the power "to declare war" and that the declaration had already fallen into disuse in the 18th century. In the period from 1700 to 1787, the year of the Constitutional Convention, for example, 38 wars were held in the Western World and 37 of them began without any declaration of war.

Thus, the idea that the only way nations can enter into war is through a declaration was already a myth by the time of the Constitutional Convention. Alexander Hamilton's comment in the Federalist No. 25 that declarations of war had fallen into disuse in the 18th century proves that the Founders themselves knew of this development. If the Constitutional Convention intended for the Nation to go to war only when Congress had declared it, as is argued by the sponsors of S. 440, I must ask why the Founders used a method to vest this power which was already then known to be in disuse and which had been used only once out of 38 occasions of war during the decades of the 18th century preceding that Convention?

Another question I must ask, if the Framers are supposed to have meant for Congress to be vested with the primary decisionmaking power over the making of war, is why they chose a word "declare" which meant in the custom of the time something far different? Samuel Johnson's Dictionary of the English Language, which was the standard dictionary used by learned Americans during the time of the Constitutional Convention, defines "declare" as meaning no more than "to make known" or "to proclaim." On the other hand, "to make," a power which was removed from Congress by the Constitutional Convention, was given a definition of substance. "Make" meant "to create" or "to bring into any state or condition." Thus, when the Constitutional Convention struck out "to make" from the draft of the Constitution on which it was working and substituted "declare", it removed from Congress the power to bring this country into the state of war and left with it, in effect, only the power to proclaim its purpose of bringing the total resources of the Nation in support of an existing war.

The declaration probably also was conceived of as the method by which the United States might enter into "offensive war" as distinguished from situations where the President has discretion to use force, on his own authority, to repel or head off dangers against the United States and its citizens.

For example, if President Washington had chosen to put naval forces in the French islands off the Caribbean in 1793 and to repel British attacks against those islands, pursuant to the French treaty, the Nation may have been viewed as acting offensively in support of an ally in circumstances where there was no real danger to the position of the United States itself. In these circumstances, where the President does not perceive a threat to our own national security, the Founding Fathers may well have intended for the declaration of war clause to apply.

The trouble is, the authors of S. 440 have confused the limited circumstances in which the framers meant for the declaration to be used with the far more extensive situations in which the President may bring to bear his independent authority to use force when he perceives a foreign threat to the security of the United States or its citizens. I respectfully suggest that the sponsors of the war powers bill have not given sufficient study to the true meaning of the declaration of war clause and have based their legislation upon assumptions about this clause which have no historical foundation.

Mr. President, in continuing with the theme of my remarks at this time, which I shall limit to an analysis of the true purpose of the Founding Fathers, there is much evidence in the writings of the Federalist Papers that the Founding Fathers were quite concerned about remedying the weakness which the Colonies had suffered under the Continental Congress and the Articles of Confederation. The truth is the Founding Fathers were much occupied with preserving the safety of the new Nation. For example, Jay wrote in the Federalist No. 3 that

> Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first.

Hamilton indicates the overridding importance of this purpose by observing in the Federalist No. 23 that:

> The circumstances that endanger the safety of nations are infinite; and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed.

Though it is true these passages may be taken to refer in part to the weaknesses of the earlier confederation, they logically stand for the proposition that nothing must be allowed to tie the ability of the Nation to respond to threats against the national security. In keeping with the principles laid down by Locke, Montesquieu, and Blackstone, these writings of Jay and Hamilton meant that when the public safety called for it, not even legislative limitations could be allowed to interfere with the ability of the Executive to act for the public safety.

To these writings, there is added the specific admonishment of Alexander Hamilton, in the Federalist No. 73, that:

> Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength forms a usual and essential part in the definition of executive authority.

This definition is consistent with the purpose of the Founders, as I read it, to vest with the President as Chief Executive and Commander in Chief, the supreme power of direction over the armed forces in the defense of American rights and freedoms.

Moreover, I would ask those who argue that Congress was given control of the war powers to read the Federalist No. 19, which was written by Madison and Hamilton jointly. Here they clearly state that the Constitutional Convention had expressly rejected as a political model, because of its inherent weakness, the example of a then current form of government in which the Diet, or legislative body, was vested with the power to commence war.

> Military preparation must be preceded by so many tedious discussions . . . that before the Diet can settle the arrangements the enemy are in the field.

Further evidence that Congress was not given the power of defining the rules by which the country can go to war is found in the Federalist No. 38, where Madison reveals that the Framers had intentionally removed the direction of war from Congress, where it had been placed under the Articles of Confederation, because it is "particularly dangerous to give the keys of the Treasury and the command of the army into the same hands." Thus, Mr. President, we should observe that the Founding Fathers openly expressed their concern about the possibility of congressional usurpation of the military command powers, which is precisely what the war powers bill is intended to bring about.

Mr. President, I could go much deeper into the constitutional question and I plan to discuss it from a different standpoint later on, but for now, I believe this analysis of the words of the Founding Fathers themselves and the historical setting in which they lived and worked is quite sufficient to prove that the war powers bill clashes with the true division of powers arranged by the Constitutional Convention. The truth is the Founding Fathers intended for the President to be charged with primary responsibility for the Nation's safety. The notion that the President is subject to the military policy directives of Congress is totally wrong and I say again, as I shall throughout this debate, that if the Congress should decide to change this historical function of the President, we should turn to a constitutional amendment to do it.

Mr. President, I ask unanimous consent to have inserted in the RECORD at the end of my remarks a law review article treating the constitutional issue in a comprehensive way which I wrote for the Arizona State Law Journal. The article is entitled "The President's Ability To Protect America's Freedoms—The Warmaking Power."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S ABILITY TO PROTECT AMERICA'S FREEDOMS—THE WARMAKING POWER

(By Barry M. Goldwater)

(NOTE.—The Senate Foreign Relations Committee has ordered favorably reported Senate Bill 2956, which lays down rigid rules to govern the President's use of the Armed Forces in the absence of a congressional declaration of war. With this bill in the background, Senator Goldwater discusses the historical military actions taken by American Presidents and Congress' responses to these actions. He then examines the constitutionality of congressional limitations on the President's warmaking power and concludes that, while Congress holds control over the size and strength of the country's military machinery, the President's power to use that machinery when he feels the country is in danger cannot be restrained by congressional policy directives.)

I. CONTEMPORARY SETTING

On November 17, 1971, President Nixon signed a $21.3 billion military procurement bill,[1] but emphasized in doing so that he would ignore a so-called end-the-war rider as being "without binding force or effect" and failing to "reflect my judgment about the way in which the war should be brought to a conclusion."[2] Hours later, the House of Representatives rejected, for the fourth time in 1971, a proposal to set a specific deadline for ending the United States military involvement in Indochina.[3]

Not to be deterred by two setbacks in one day, Senator Mike Mansfield, the distinguished Majority Leader of the Senate and author of the troop withdrawal amendment just torpedoed by President Nixon, promptly opened a new attack on the Executive's military authority. The next day another Mansfield amendment was reported to the Senate—a prohibition on spending attached to the 1972 Department of Defense Appropriation Act which sought to force the withdrawal of 60,000 American troops from NATO.[4] This time the President needed no aid from the other Chamber, since the Senate voted on November 23 to reject the limitation by 39 yeas to 54 nays.[5]

The senior Senator from Montana had yet one more challenge waiting in his campaign against Executive discretion, however, for only a week earlier the Senate had passed his third amendment of the year aimed at terminating all United States military operations in Indochina.[6] The amendment set a final date for the withdrawal of all United States forces within 6 months, and was coupled to the Special Foreign Military and Related Assistance Act.[7] The first session of the 92d Congress might still be deadlocked over this issue had not the House of Representatives voted against the proposal a week before Christmas.[8]

However, the most sweeping challenge of 1971 to the President's foreign policy prerogatives stayed alive. I refer to Senate Bill 2956, a bill to codify the rules governing the use of the Armed Forces in the absence of a declaration of war.[9] This legislation, awesome in its implications, was ordered reported favorably on December 7, 1971, by a unanimous vote of the Senate Committee on Foreign Relations.[10]

Thus closed the legislative year 1971, the second succeeding year in which Congress had undertaken a massive effort to reverse what many members of congress call the erosion of the legislative branch by Presidential usurpation.[11] Many lawmakers and constitutional writers treat the current moves by Congress as a momentous occasion, precipitated by what they allege to be a completely unpredecented example of Presidential warmaking during the past quarter century.[12] But is the experience of Executive initiative in the use of military force truly a modern phenomenon—a departure from longstanding tradition? Is the recent struggle in Congress to impose controls over the waging of war an historical first, unknown until now in view of the general self-restraint by earlier Presidents? Or are the present maneuverings between the two political branches of our government merely a sign of recurring ripples in the stream of history? Who, if anyone, possesses the dominant powers to wage war; to authorize the initiative of war; to deploy men, equipment, and supplies? What checks and balances are there on war powers? What control does Congress or the President have over the other in regard to making war? What kind of hostilities, if any, can our nation legally engage in without a formal declaration of war? All these questions, and more, are interwoven in the current effort by Congress to restrict the President's ability to wage war. It is my hope that this Article will help illuminate these issues.

II. HISTORICAL OVERVIEW

A. Presidential initiatives

It may come as a shock to many Americans that the United States has been involved in at least 197 foreign military hostilities in its

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Footnotes at end of article.

history,[13] only five of which have been declared wars.[14] These incidents took place all over the world.[15] Nearly half involved actual fighting.[16] and no less than 111 actions were undertaken solely on Executive authority without the initial support of any related statute or treaty, let alone a declaration of war.[17]

A few commentators have brushed aside these precedents as being "shortlived," [18] or "minor undertakings," [19] or almost exclusively "confined to the Western Hemisphere." [20] But it is a fact that 93 actions lasted more than 30 days,[21] a considerable number involved the landing of many thousands of American troops on foreign soil,[22] and exactly 100 occurred outside the Western Hemisphere.[23] These operations include the capture of 90 French ships during the period from 1798 to 1800, the sinking or capture of 65 pirate vessels in the Caribbean prior to 1825, several landings and punitive actions abroad to defend or evacuate United States citizens and their property, the dispatch of 2,000 sailors and marines to force open commercial trade with Japan in the 1850's, the use of 126,468 troops to suppress the Philippine Insurrection after the 1898 treaty of peace with Spain was concluded, the deployment of several thousands of troops ashore in China from 1900 to 1941, the Pershing Expedition into Mexico with 12,000 men, the commitment of 14,000 men to Allied expeditions in Russia a year and a half after Armistice Day, the Korean Conflict of the 1950's, the occupation of parts of Lebanon in 1958 by 14,000 American soldiers and marines, the super-power confrontation between the United States and the Soviet Union during the Cuban missile crisis of 1962, and the Vietnam hostilities, among many others.[24]

B. Early Congressional Response

Obviously, little wars are not a "phenomen [on] new to the national experience." [25] Nor have past Presidents been immune from congressional sniping at their military policies.[26] Throughout the early years of this century, there were dozens of attempts in Congress to Shackle the President's right to use military power. In 1912, Senator Bacon proposed an amendment to the Army Appropriation Bill which would have prohibited the use of any money provided by that law—

> "For the pay or supplies of any part of the Army of the United States employed, stationed, or on duty in any country or territory beyond the jurisdiction of the laws of the United States or in going to or returning from points within the same." [27]

This amendment, which would have restricted all United States troops to the United States or its possessions, was defeated without a record vote.[28] In 1919, several Members of Congress introduced measures aimed at ordering American soldiers home from Europe and challenging the presence of our troops in Siberia as unconstitutional.[29] The only one that passed, however, was a watered-down resolution by Senator Hiram Johnson, simply requesting the President to provide Congress with information on the Siberian Expedition.[30] Then in 1922, a major effort was made in Congress to control the geographical deployment of American forces. The House Committee on Appropriations reported the War Department funding bill with a provision specifying:

> "No part of the appropriations made herein for pay of the Army shall be used, except in time of emergency, for the payment of troops garrisoned in China, or for payment of more than 500 officers and enlisted men on the Continent of Europe; nor shall such appropriations be used, except in time of emergency, for the payment of more than 5,000 enlisted men in the Panama Canal Zone, or more than 5,000 enlisted men in the Hawaiian Islands." [31]

After a vigorous debate squarely on the constitutional allotment of the war powers between the Executive and Congress,[32] the House agreed, on March 24, to Representative Rogers' motion to strike out the committee restriction. John Rogers, a law graduate from Harvard and a seven-term Republican Congressman, presented an illuminating and scholarly discussion of the constitutional issues involved, which stands to this day as one of the greatest expositions ever made during a legislative attempt to run the details of the Armed Forces.[33]

The Senate made its move later in the year. On December 27, 1922, Senator Reed offered an amendment to the Naval Appropriation Bill designed to "at once cause the return to the United States of all American troops now stationed in Germany." [34] The amendment was debated, but never accepted. On December 30, 1922, Senator King called up an amendment to the same appropriation measure providing:

> "That no part of said amount shall be used for the purpose of maintaining or employing marines, either officers or enlisted men, in the Republic of Haiti or the Dominican Republic after June 30, 1923.[35]

Senator King's amendment was rejected the same day.[36] In 1925, he was again disturbed by the use of American troops in the Caribbean and again introduced an amendment to the Naval Appropriations Bill. It stated that "no part of . . . any amount carried in this bill shall be used to keep or maintain any marines in the Republic of Haiti." [37] Once more, Senator King's amendhent was rejected.[38]

Three years later, the Senate engaged in one of the most full-aired debates ever conducted on the question of congressional authority to restrict the power of the President to employ troops abroad—a discussion that would put to shame contemporary exchanges in that body which wander far afield of the true inquiries at the heart of the war powers issue. In 1928, the Senate focused its attention on an effort by Senator Blaine to prevent American forces from being used for intervention in the affairs of any foreign nation "unless war has been declared by Congress or unless a state of war actually exists under recognized principles of international law." [39] The proposal was initiated in view of the feeling of several Senators that the United States military occupation of Nicaragua was not in accordance with the Constitution.[40] Senator Blaine's broad amendment, and a more limited one by Senator McKellar which was confined to Nicaragua alone,[41] would have directed the withdrawal of troops and marines from Nicaragua within 9 months, presaging the format of the first Mansfield amendment of 1971.[42] Only the geographical area was different. Both the Blaine and McKellar amendments [43] failed after a week of debate, by a vote of 22 yeas to 52 nays on the Blaine proposal and 20 yeas to 53 nays on the McKellar amendment.[44]

By 1940, Congress did succeed in enacting a geographical limitation on the emplacement of United States units abroad. Section 3(e) of the Selective Service Act of 1940 expressly required that no draftees were to be employed beyond the Western Hemisphere, except in territories and possessions of the United States.[45] Congressional debate on the provision confirms beyond doubt that it was the intent of its sponsors to limit the meaning of "Western Hemisphere" narrowly to the area of the Americas which "we have long engaged to protect under the Monroe Doctrine." [46]

And yet, 1 year later President Franklin Roosevelt deployed our forces, including draftees, to hold Iceland and Greenland, months before the United States formally entered World War II.[47] President Roosevelt's action in sending troops more than 2,000 miles away from home bore out Senator Lodge's admission, as author of the restriction, that "[t]his is a pious hope." [48]

A year before, Roosevelt had violated at least two of the post-World War I neutrality laws when he handed over 50 reconditioned destroyers to Great Britain in exchange for a series of military bases in the British West Atlantic.[49] President Roosevelt further moved this nation from a neutral into a belligerent status before the repeal of the neutrality laws by ordering the United States Navy to convoy military supplies meant for Britain and Russia as far as Iceland and to attack Axis submarines in the process.[50]

III. CONGRESS REASSERTS ITSELF

A. Indochina amendments

This historical sketch, while not exhaustive, demonstrates that individual Members of Congress have often criticized Presidential conduct of foreign hostilities, but seldom, and perhaps never, has the Legislative Branch as a unit directly challenged the President's decision with statutes unequivocally ordering the Executive to withdraw troops from a specific geographic area, or prohibiting him from employing forces in certain situations.[51] Even recent highly-publicized endeavors by Congress to restrict Executive actions, fall far short of being outright shackles on his conduct.

For example, the Cooper-Church amendment, purportedly barring the introduction of new forces into Laos and Thailand, actually attempts to translate into law President Nixon's own pledges not to involve American ground combat troops in these countries.[52] This amendment, as enacted in the Department of Defense Appropriation Act of 1970, reads:

> "In line with the expressed intention of the President of the United States, none of the funds appropriated by this act shall be used to finance the introduction of American ground combat troops into Laos or Thailand.[53]

Nothing is said about barring the sending of advisors to these two countries, or requiring the removal of any American forces already there. Nor is there any mention of stopping the bombing, or how the provision is to be construed in the event its language no longer represents the President's position.

An identical provision was also enacted as part of the defense appropriations laws for 1971 [54] and 1972.[55] Indeed, President Nixon included the language of the 1970 provision in his own proposed budgets for these years.[56]

Another quasi-restriction on the employment of United States forces, which cleared Congress in 1970, is a ban against the introduction of both United States ground combat troops and advisors into Cambodia. This provision, incorporated into the Supplemental Foreign Assistance Authorization Act for 1971,[57] states:

> "In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for Cambodian military forces in Cambodia.[58]

Again, the Administration posed no objection to the proposal. Secretary of State William P. Rogers testified that it "carries out the President's intention." [59] In fact, Secretary Rogers may have facilitated passage of the amendment when he later wrote to Senator Church: "I should like to reaffirm that the Administration's program, policies, and intentions in Cambodia in no way conflict with" the proposal.[60] It should be noted that the amendment does not purport to cover the use of air and sea power. Nor, according to the conference report on the provision, does it—

> "Prevent the use of United States troops in border sanctuary operations designed to protect the lives of American soldiers [or of]

Footnotes at end of article.

United States military personnel to supervise the distribution and care of United States military supplies and deliveries to Cambodia, and . . . the training of Cambodian soldiers in South Vietnam."[61]

Given such broad exceptions, I believe these provisions are no precedent at all for strict congressional supervision over the Executive's warmaking ability. In truth, they are no more than exercises in restating, with Presidential acquiescence, policy decisions which he had previously announced his intention to follow. Should the President, in viewing the world situation, feel compelled to alter his position, I further believe he could constitutionally avoid any of the above kinds of quasi-limitations on the basis of his independent powers, which I shall discuss in a later part of this Article.[62]

In 1971, the House of Representatives rejected, on five occasions,[63] specific deadlines for ending the hostilities in Southeast Asia, beating back, by the greatest majorities (158 to 254 and 163 to 238), two proposals which sought to cut off funds for the war.[64] The Senate turned down its own version of the fund cut-off when it defeated the Hatfield-McGovern amendment by a 42 to 55 vote.[65]

The Senate subsequently approved the first of three Mansfield amendments.[66] The original provision, added to the Military Selective Service Act Amendments,[67] declared it—

> "To be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina and to provide for the prompt and orderly withdrawal of all United States military forces not later than nine months after the date of enactment of this section. . . ."[68]

Senator Mansfield's amendment further "urges and requests the President to implement the above-expressed policy by initiating immediately" three described actions.[69] But nowhere in this or in either of his other two proposals is there a tie to the congressional appropriation power, nor is there any suggestion that the policy expressed therein be binding on the President.

Even so, Congress, watered down the first provision before enacting it, changing "the policy of the United States" to "the sense of Congress" and dropping the 9-month termination date entirely.[70] When Congress subsequently did adopt a second Mansfield amendment as a declaration of "the policy of the United States,"[71] President Nixon emphatically announced his intention to ignore the policy,[72] even though Congress had once again excised any specific timetable from the amendment.[73] As mentioned above, the third Mansfield amendment was dropped in conference, after the House voted against it.[74]

B. Codification of war powers

In 1971, the Senate Foreign Relations Committee closed out the book on Congress' efforts to reassert itself vis-a-vis the President by ordering Senate Bill 2956 favorably reported. This bill was introduced by the senior Senator from New York, Jacob Javits, to codify the war powers.[75] S. 2956 is a redraft of a concept first proposed by Senator Javits in 1970.[76] It has been taken up in varying form by 18 other Senators, who individually or jointly introduced five different proposals designed to define the sole conditions under which the Armed Forces of the United States shall be used in hostilities.[77]

S. 2956 represents a compromise of all these approaches.[78] Section 1 of the bill sets out the short title, "The War Powers Act of 1971." Section 2 contains a statement of purpose and policy. The primary thrust of S. 2956 is conveyed by section 3, which relates to the emergency use of the Armed Forces. The provision dictates that, in the absence of a declaration of war by Congress, the military power of the United States "shall be introduced in hostilities, or in situations where involvement in hostilities is clearly indicated by the circumstances" only in four limited situations. The instances to which the President is restricted in using the Armed Forces are (1) to repel an attack upon the United States, take necessary and appropriate retaliatory actions in the event of such an attack, and forestall the direct and imminent threat of such an attack; (2) to repel an attack against our military forces located outside the United States, and forestall the direct and imminent threat of such an attack; (3) to evacuate endangered citizens of the United States located in foreign countries; and (4) to carry out a specific statutory authorization, which shall never be *inferred* from any treaty or provision of law, including any appropriation act.

Section 4 of the bill provides for prompt reports by the President to Congress whenever troops are committed pursuant to section 3, and section 5 mandates that no hostility initiated under section 3 shall be sustained beyond 30 days without further congressional authorization. Moreover, section 6 states that hostilities commenced pursuant to section 3 may be terminated prior to 30 days by statute or joint resolution of Congress.

Section 7 establishes a legislative procedure under which congressional consideration of legislation authorizing the continuation of hostilities, or the termination of hostilities, shall be given priority treatment to guide such legislation through Congress in no more than 8 days from the date of its introduction, if sponsored or cosponsored by one-third of the Members of the House in which it is introduced. Section 8 sets the effective date of the law as the day of its enactment, but expressly excludes from its application, hostilities in which United States forces are involved on that date.

In short, the bill lays down rigid rules which are supposed to govern the nature and duration of the only situations in which the President may use United States military forces in hostile action. The term "hostilities" is not defined, and thus it is unclear whether our forces are to be so limited only in situations involving actual battles and the imminent threat thereof, or also in situations involving deployments of men and equipment stationed in a state of readiness or alert, for possible response to a developing emergency.[79] In either event, the bill represents the most sweeping attempt to govern Presidential use of America's military machinery that this country has ever witnessed.

IV. CONSTITUTIONALITY OF CONGRESSIONAL LIMITATIONS

A. Textual Allotments to Congress

The major role of upholding the constitutionality of legislation restricting the President's command over the use of the Armed Forces has been assumed by Senator Jacob Javits,[80] with a significant helping hand from Senator William B. Spong of Virginia,[81] a learned scholar of international law in his own right. In addition, such respected and nationally-known authorities as Professor Henry Steele Commager, Professor Richard B. Morris, Professor Alfred H. Kelly, Dean McGeorge Bundy, and Professor Alexander Bickel have testified that the Javits bill is in direct pursuance of the congressional war power.[82]

In essence, the advocates of war powers legislation contend that the major war powers are expressly granted to Congress by article I, section 8, of the Constitution.[83] Here are found the powers to "provide for the common Defense"; "regulate Commerce with foreign Nations"; "define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations"; "declare War . . . and make Rules concerning Captures on Land and Water"; "raise and support Armies"; "provide and maintain a Navy"; "make Rules for the Government and Regulation of the land and naval Forces"; "provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrection and repel Invasions"; "provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States"; and "make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof."[84]

In particular, it is argued that the Constitutional Convention intended, by reserving to Congress the power "to declare war," to leave with Congress the power "to authorize war."[85] The constitutional concept of the President's role in the scheme of prosecuting war, is claimed to be built upon the experience of the Founding Fathers with the commission given to General George Washington by the Continental Congress when it appointed him to head the colonial forces.[86] The last clause of the commission provided that General Washington was "punctually to observe and follow such orders and directions"[87] as he should receive from the Congress. Also, heavy reliance is placed on the specific power of Congress to carry into execution, not only its own powers, but also all other powers vested by the Constitution in any *officer* of the Government.[88] My distinguished and highly respected Chairman of the Senate Armed Services Committee, Senator John Stennis, commented upon the matter at the time of the introduction of the redraft, of which he is a cosponsor. He said that this clause is considered to grant Congress the power not only to carry "into execution" the powers vested in the President, but also to restrict and control those powers.[89]

B. Textual allotments to the President

Notwithstanding the current voices of astonishment over claims by the Executive that he may employ military forces on his own authority, many leading writers throughout the greater part of our history have recognized that this power is vested by the Constitution in the President. One major source of this power, of course, is his designation as Commander in Chief.[90] Professor Quincy Wright, one of the nation's foremost commentators on international law, wrote some 50 years ago:

> "The powers of the Commander in Chief extend to the conduct of all military operations in time of peace and of war, thus embracing control of the disposition of troops, the direction of vessels of war and the planning and execution of campaigns, and are exclusive and independent of Congressional power."[91]

Just why the Founding Fathers saw fit to confer this title on the President and to invest him with these powers, I have never quite been able to understand, but I have a growing feeling that with the recognized and infinite wisdom of the Founding Fathers they realized that a single man with these powers, who would not be disturbed by the politics of the moment, would use them more wisely than a Congress which is constantly looking toward the political results. Though I first came to this thought without the benefit of supporting writings, I have recently learned of other places where a similar view is recorded.

In speaking of this grant of power, Hamilton wrote:

> "Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of direct-

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Footnotes at end of article.

ing and employing the common strength forms a usual and essential part in the definition of executive authority.[92]

Contrary to the position taken by my Senate colleague from New York, Senator Jacob Javits, the Constitutional Convention was probably appalled at the difficulties Washington had encountered at the hands of the Continental Congress.[93] Rather than desiring to perpetuate the experience of weakness and division which the country had suffered under the early Congresses and Articles of Confederation,[94] I believe the Framers intended to infuse national strength through this provision, so as to effectively "secure the Blessings of Liberty to ourselves and our Posterity." [95]

In 1910, Dr. David Watson wrote, in his two-volume work on the Constitution, that of all of the explanations of why the Constitution should make its President Commander in Chief of the military and naval forces of the country,

"None seems more reasonable than the fact that during the Revolution Washington experienced great trouble and embarrassment resulting from the failure of Congress to support him with firmness and dispatch. There was a want of directness in the management of affairs during that period which was attributable to the absence of centralized authority to command. The members of the Convention knew this and probably thought they could prevent its recurrence by making the President Commander-in-Chief of the Army and Navy. Doubtless, also, the Convention was influenced by precedents, of which there were many, running back for a long period." [96]

Professor Clarence Berdahl, upon writing in 1922 his outstanding thesis on war powers of the Executive, observed:

"The members of the Convention probably had not forgotten the trouble and embarrassment caused during the Revolution by congressional interference and the lack of a centralized control over the army. They were very likely influenced also by the precedents in the practice of European states, in former plans of union for the colonies, and in the recently established state constitutions." [97]

Thus, not only did the Framers plan "a union which could fight with the strength of one people, under one government intrusted with the common defense," [98] but in so doing they were undoubtedly influenced by political traditions known to them.[99]

Nor does the conferral of a broad power to wage a defensive war conflict with the design of the Founding Fathers to avoid establishing a "despicable monarch," Charles Evans Hughes wrote:

"The prosecution of war demands in the highest degree the promptness, directness, and unity of action in military operations which alone can proceed from the executive. This exclusive power to command the army and navy and thus direct and control campaigns exhibits not autocracy but democracy fighting effectively through its chosen instruments and in accordance with the established organic law.[100]

This recognized emphasis by the Framers on unity and single-mindedness of purpose in the new Government logically means the President must deploy and direct military forces free of control by Congress, and it has been so interpreted by several authorities. As early as 1862, William Whiting, one of the great lawyers of his time,[101] compiled a work on the war powers of the President in which he declared:

"Congress may effectually control the military power, by refusing to vote supplies, or to raise troops, and by impeachment of the President; but for the military movements and measures essential to overcome the enemy—for the general conduct of the war—the President is responsible to and controlled by no other department of government." [102]

Whiting's foresight [103] led him to add that the Constitution "does not prescribe any territorial limits, within the United States, to which his military operations shall be restricted." [104]

Dean Pomeroy,[105] a contemporary of Whiting, wrote in the 1870 edition of his textbook on constitutional law that he, too, rejected the idea that "the disposition and management of the land and naval forces would be in the hands of Congress . . . ." "The policy of the Constitution is very different," Pomeroy instructs. "It was felt that active hostilities, under the control of a large deliberative body, would be feebly carried on, with uniform disastrous results." [106] He said that the Legislature may "furnish the requisite supplies of money and materials" and "authorize the raising of men," but "all direct management of warlike operations, all planning and organizing of campaigns, all establishing of blockades, all direction of marches, sieges, battles, and the like, are as much beyond the jurisdiction of the legislature, as they are beyond that of any assemblage of private citizens." [107] What of congressional authority to pass laws for executing all powers vested by the Constitution in the Government of the United States, or in any department or officer thereof? "But these measures," declares Pomeroy, "must be supplementary to, and in aid of, the separate and independent functions of the President as commander-in-chief; they cannot interfere with, much less limit, his discretion in the exercise of those functions." [108] Pomeroy expands on his view by telling us Congress may determine how many men shall be enlisted in each branch of the service, or what and how many armed vessels shall be constructed." As Congress makes all appropriations, it may decide "what forts shall be erected, and their cost; what ships built, their character and cost; what kind of arms purchased or manufactured, and the cost." The President, on the other hand, "may make all dispositions of troops and officers, stationing them now at this post, now at that; he may send out naval vessels to such parts of the world as he pleases; he may distribute the arms, ammunition, and supplies in such quantities and at such arsenals and depositories as he deems best . . . ." [109] When actual hostilities have commenced, the President "wages war, Congress does not." He "possesses the sole authority and is clothed with the sole responsibility" of conducting all warlike movements, whether at home or abroad.[110]

This untrammeled view of the President's freedom to deploy troops and equipment wherever and whenever he chooses is a consistent theme in commentaries from both the colleges and the courts.[111] Berdahl squarely takes up the issue:

"Altho there has been some contention that Congress, by virtue of its power to declare war and to provide for the support of the armed forces, is a superior body, and the President, as Commander-in-Chief, is "but the Executive arm, . . . in every detail and particular, subject to the commands of the lawmaking power," practically all authorities agree that the President, as Commander-in-Chief, occupies an entirely independent position, having powers that are exclusively his, subject to no restriction or control by either the legislative or judicial departments." [112]

Anticipating legislative proposals of the kind embodied in today's end-the-war amendments, Berdahl concludes:

"Just as the President decides when and where troops shall be employed in time of war, so he alone likewise determines how the forces shall be used, for what purposes, the manner and extent of their participation in campaigns, and the time of their withdrawal.[113]

The position of these writers has been forfeited by judicial opinion. Thus, in explaining that it is for the President, as Commander in Chief, to direct the campaigns of the army "wherever he may think they should be carried on," [114] Charles Evans Hughes cited *Fleming* v. *Page*,[115] where the Supreme Court said:

"As Commander in Chief, he is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy.[116]

Likewise, in 1866, four concurring members of the Supreme Court declared that "Congress cannot direct the conduct of campaigns . . . ." [117] Later, the Supreme Court affirmed a holding in which the Court of Claims had said that "Congress cannot in the disguise of 'rules for the government' of the Army impair the authority of the President as commander in chief." [118] And in *United States* v. *Sweeney*, the Court said the Constitution has conferred upon the President "such supreme and undivided command as would be necessary to the prosecution of successful war." [119]

But, as broad and unrestricted as is the President's role of Commander in Chief, it does not exhaust his authority in the field of national defense. Another great power vested in the President is his conduct of the nation's foreign policy. The Constitution provides that the President shall make treaties and appoint ambassadors with the advice and consent of the Senate.[120] But the Constitution provides that the President alone receives ambassadors,[121] and holds all the Executive power of a sovereign nation.[122] From this, it is clear the President bears "primary responsibility for the conduct of our foreign affairs." [123] It was Alexander Hamilton who first argued that the President's role in international affairs is a dynamic one, which "may, in its consequences, affect the exercise of the power of the Legislature to declare war." [124]

The President's power to initiate and formulate the foreign policies of our government entirely on his own authority, has been conclusively established by the Supreme Court.[125] The Court's holding is squarely aligned with the accepted tradition under which the President can effectively commit Congress and the country to the course he has set. Pomeroy says:

"The President may, without any possibility of hindrance from the legislature, so conduct the foreign intercourse, the diplomatic negotiations with other governments, as to force a war, as to compel another nation to take the initiative, and that step once taken, the challenge cannot be refused." [126]

Berdahl in his famed thesis, summarizes the authorities in 1920 as agreeing that—

"The President, through his control of diplomatic intercourse, holds in his keeping the peace and safety of the United States, that he may initiate such diplomatic policies and so conduct diplomatic negotiations as to force the country into a war, 'without any possibility of hindrance from Congress or the Senate.' " [127]

Professor Westel Willoughby has also observed that the President's control over foreign relations—

"Makes it possible for him to bring about a situation in which, as a practical proposition, there is little option left to Congress as to whether it will or will not declare war or recognize a state of war as existing."[128]

Willoughby did not mean to imply that this result was improper and could be checked by Congress. He wrote that the power of the President to send troops outside the country "as a means of preserving or advancing the foreign interests or relations of the

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Footnotes at end of article.

United States" is a "discretionary right constitutionally vested in him, and, therefore, not subject to congressional control." [129]

An additional source of power bearing on this inquiry lies in the President's duty, and right, to execute the laws. The Supreme Court has announced that this power includes enforcement of—

"The rights, duties and obligations growing out of the constitution itself, our international relations, and all the protection implied by the nature of the government under the constitution . . . ." [130]

The reach of this power, too, continues even as it touches other grants made by the Constitution. Corwin asserts that, by virtue of his power to base action directly on his own reading of international law (which today includes some 42 mutual defense treaties).[131]

"The President has been able to gather to himself powers with respect to warmaking that ill accord with the specific delegation in the Constitution of the war-declaring power to Congress." [132]

Corwin thereby acknowledges that this power is vested in the President, notwithstanding its impact upon the separate war power of Congress.[133]

The courts have upheld the power of the President to begin and continue hostilities without a declaration of war. In approving President Lincoln's blockade of the Confederacy, the Supreme Court held that when—

"A war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority." [134]

From this, Professor Schwartz believes:

"The language of the high Court in the *Prize Cases* is broad enough to empower the President to do much more than merely parry a blow already struck against the nation. Properly construed, in truth, it constitutes juristic justification of the many instances in our history (ranging from Jefferson's dispatch of a naval squadron to the Barbary Coast to the 1962 blockade of Cuba) in which the President has ordered belligerent measures abroad without a state of war having been declared by Congress." [135]

The principle of national self-defense thus ratifies each of the 192 undeclared wars which I have cited above.[136] The power of the President to wage these actions without a formal declaration, and generally without any prior approval of Congress, is not only supported by the doctrine of *The Prize Cases*,[137] but is the natural extension of the concept of defensive wars contemplated by the Founding Fathers. When the Constitutional Convention altered a clause giving Congress the power "to make war" by replacing it with the power "to declare war," [138] there was unquestionably a purpose of "leaving to the Executive the power to repel sudden attacks." [139] How much else the Framers meant to leave with the President is not as definite, but it is at least significant that they had a difference in mind between the two terms and left the making of war with the President.

It is my strong belief that the Framers intentionally painted with a broad brush.[140] For the Founding Fathers clearly understood that "it is impossible to foresee or define the extent and variety of national exigencies, of the correspondent extent and variety of the means which may be necessary to satisfy them." [141] From this I conclude that, should the Fathers be set down by the Divine Hand in our modern world, they would not tolerate rigid legislative policy restrictions on the authority needed by the Executive in defending our nation and our people against all possible foreign threats.[142]

Other judicial precedents bear out the power of the Executive to use such force as is necessary for defensive purposes. Justice Nelson, sitting as a circuit justice, held that the President's duty to execute the laws includes a duty to protect citizens abroad.[143] The Supreme Court has carried this concept even further by declaring that a citizen abroad is entitled "to demand the care and protection of the Federal government over his life, liberty, and property." [144] The right of intervention for the protection of "the lives, liberty, and property" of citizens abroad is firmly established by international law as well.[145] Of course, the right of a state to secure its own self-preservation is also cemented under international law.[146]

V. CONCLUSIONS

The forging of a lengthy chain of historical ventures by Presidents,[147] set against a backdrop of national weakness that the Framers, as practical men, were determined to reverse, persuades me that Presidents have acted constitutionally, and in accordance with a great American tradition, when they have deployed forces outside the United States in defense of our national interests.[148] I further believe the right of the President to take military action at any time he feels danger for the country or its freedoms or, stretching a point, its position in the world, cannot be restrained by policy directives from Congress.[149].

Congress indeed holds an impressive share of the national war powers. Congress can set the size of the various branches of the Armed Services, a step which the 92d Congress has already taken.[150] It can end the draft, a move I have advocated since 1964.[151] It can deny or cut appropriations for tanks, aircraft, submarines, carriers, ABM's, and all the other military-related hardware that constitutes the country's defense arsenal.[152] It can turn down an Administration's request for funds to equip and train the military units of allied foreign countries.[153] Congress can choose not to increase taxes, thereby placing tremendous political pressure on a President whose own instincts for international adventurism must be weighed against the risks of bucking a public that wants butter, not guns, and of assuming the stigma of a grossly unbalanced budget. Congress also can repeal or limit the numerous delegations of emergency powers that have been granted the President over wages and prices,[154] the exportation, manufacture, or distribution of vital or rare materials,[155] the licensing of trade with foreign countries,[156] and the multitude of other economic elements that bear on the defense strength of the United States.[157] In addition, Members of Congress enjoy a prominent public forum from which they can go directly to the American people with their criticisms of executive policies.[158]

In short, Congress has control over the size and strength of the military and economic machinery which the President may use for making war.[159] A President leading a nation with three million men under arms can, if he chooses, involve the country in considerably more commitments than a Commander in Chief who heads an armed force of two million members. A President strengthened by a $90 billion defense budget can deploy vastly more arms and vessels around the world than a President who must carefully ration out the means available under a $60 billion defense appropriation.

But once Congress establishes the military forces and provides them with equipment and supplies, it is the President who determines the policies under which those forces shall be stationed, transported, and committed in furtherance of the national defense. Once Congress has created a military of, for example, 2½ million members, Congress possesses no power to tell the President how many of those servicemen shall be stationed in Europe, or how many in Indochina, or when these troops shall be withdrawn from certain areas overseas, or for how long they can be employed in hostilities. These are policy decisions which have been vested by the Constitution in the President, free of the direct supervision and control of the legislature. I repeat, Congress cannot dictate these kinds of military policy rules to the President and, in full accordance with the Constitution, he need not follow such rules should Congress pass them.

The uniform refusal by Congress, as a collective body, ever to block or limit even one of the nearly 200 Presidentially-initiated hostilities which have occurred to date,[160] strongly suggests the construction which the Founding Fathers intended for the constitutional provisions allotting the war powers. For some legislators to say that this long-continued practice may now be overturned by a sudden change of interpretation, demands that the sponsors of legislative command centers should bear the burden of proving their case by the most clear and cogent evidence.

The mere repetition of statements that the power to declare war carries with it the sole power to commence war, does not make it so. The fact that "[n]o Supreme Court decision has restrained the conduct of presidentially-authorized hostilities," [161] holds far more meaning for me than all of the anguished pleas in the world that Congress must prevent another Vietnam.[162]

In the first place, Congress was involved up to its ears each step of the way throughout the expansion of our participation in Indochina.[163] Time and again Congress put its votes on the side of more troops and more funds.[164] Secondly, the Constitution cannot be changed out of emotional whims, no matter how morally pious they may be. Thirdly, the proposals to define when, where, and for how long the President can employ United States forces abroad are shot through with terrible problems that are even more ominous than the ones they seek to forestall.[165]

It is not easy for me to assert that the President has this terrific power, but I must. I wish it were possible for me to join those dreamers who think we have no problems in this world. But I am old enough to have lived through this same thing before. It is not difficult at all for me to transport myself back in time to the 1920's and the 1930's when, as a young man, I can remember this country as an isolated country and a country being called a "Fortress America." I can remember when our troops drilled with wooden guns and paper tanks, when we did not have enough airplanes in our Air Corps even to hold maneuvers, and when our Navy was weak—all because we were going through the very same kind of emotional trauma we see expressed throughout our country today.

We have an understandable desire to be at peace. Lord knows, I do not want another war. I do not want my grandchildren to suffer war, but neither do I want my children or grandchildren, or the children of any American, to be subjected to the dangerous, serious threat that our country was faced with in the late 1930's when we knew we were going to have to go to war and we knew that we were not equipped.[166]

When I rise in the Senate to support a new defensive weapons system or when I uphold in this Article the concept of sufficient flexibility in Executive powers to defend America's freedoms, I do not have any degree of satisfaction, unless that satisfaction might come to me in my older years as I sit on my hill in the desert and think that possibly the warning a few of us are trying to give the American people was heeded and that I could sit in peace on that hill and talk with my grandchildren because of it.

FOOTNOTES

[1] Act of Nov. 17, 1971, Pub. L. No. 91–156, 85 Stat. 423.

[2] 29 Cong. Q. Weekly Rep. 2371 (1971). (The Act was signed Nov. 17, 1971.) President Nixon's comments were directed at section 601 of the Act, the "Mansfield Amendment." *Id.*

[3] The proposal was in the form of an amendment to the 1972 Department of Defense Appropriations Act, H.R. 11,731, 92d Cong., 1st Sess. (1971), calling for a halt in funding for any military support by United States forces in or over Indochina after June 1, 1972. It was rejected by a vote of 163 to 238. *See* text of amendment at 117 Cong. Rec. p. 41807 and vote, *id.* at pp. 11834–5.

[4] H.R. 11,731, § 744 (Star Print), 92d Cong., 1st Sess. (1971), as reported by The Senate Committee on Appropriations, S. Rep. No. 92–498, 92d Cong., 1st Sess. 48–49 (1971).

[5] 117 Cong. Rec. p. 42918.

[6] *See* S. 2819, § 9, 92d Cong., 1st Sess., 117 Cong. Rec. p. 40786.

[7] *Id.*

[8] 117 Cong. Rec. p. 47432.

[9] S. 2956, 92d Cong., 1st Sess. (1971), was introduced by Senator Javits for himself and Senators Stennis, Eagleton, and Spong. *See* text of bill, 117 Cong. Rec. p. 44794–5.

[10] Daily Digest, 117 Cong. Rec. D686.

[11] *See* pages 429–31 *infra.*

[12] *See, e.g.,* statements of Senators Javits and Eagleton, 117 Cong. Rec. pp. 44794–5, and the testimony of Professors Commager, Morris, and Kelly, *Hearings on S. 731, S.J. Res. 18 & 59, Before the Senate Comm. on Foreign Relations,* 92d Cong., 1st Sess. (1971), *reprinted in* 117 Cong. Rec. pp. 6718–27 [hereinafter cited as *Senate War Powers Hearings*].

[13] *See generally* Emerson, *War Powers Legislation,* 74 W. Va. L. Rev. 53 (1972).

[14] The five declared wars are the War of 1812, the War with Mexico, the Spanish-American War, and World Wars I and II.

[15] *See generally,* Emerson, *supra* note 13, app. A (chronological list of 192 United States military hostilities abroad without a declaration of war, prepared at my request).

[16] At least 81 hostilities were accompanied by fighting or ultimatums. *Id.* app. D.

[17] See the list of 81 hostilities which may arguably have been initiated pursuant to prior legislative authority, *id.* app G. But it should be observed that 51 of these possible collaborations by Congress took the form of a treaty. Thus, if a full-blown congressional declaration of war would be required to commit United States forces to hostilities, the fact that 51 activities may have been authorized by treaty and therefore by one House of Congress alone, would not serve as a precedent for the requirement of declarations of war in other circumstances.

[18] Malawer, *The Vietnam War Under the Constitution: Legal Issues Involved in the United States Military Involvement in Vietnam,* 31 U. Pitt. L. Rev. 213 (1969).

[19] Reveley, *Presidential War-Making: Constitutional Prerogative or Usurpation?,* 55 Va. L. Rev. 1243, 1258 (1969).

[20] *See* testimony of Professor Henry Steele Commager, who claims the precedents are confined to the Western Hemisphere and contiguous territory up to "the last twenty years or so," with one exception. *Senate War Powers Hearings,* supra note 12, at p. 6720.

[21] *See* Emerson, *supra* note 13, app. E.

[22] *Id.* app. A.

[23] *Id.* app. F.

[24] *Id.* app. A.

[25] *See* R. Dupuy & W. Baumer, The Little Wars of the United States, at preface (1968).

[26] President Tyler was denounced in Congress and threatened with impeachment because he deployed military funds to protect Texas against Mexico in 1844. C. Berdahl, War Powers of the Executive in the United States 47–49, 70–74 (1921).

President Polk was rebuked in a resolution passed by the House of Representatives declaring that the war with Mexico, which his military maneuvers had precipitated, "was by the President of the United States." *Id.*

In 1871, President Grant was severely condemned on the floor of the Senate because of his action in sending a strong naval force to Santo Domingo to protect it from invasion and internal disorder. In fact, a resolution introduced by Senator Sumner would have condemned the use of the Navy without the authority of Congress as "an infraction of the Constitution of the United States and a usurpation of power not conferred upon the President." But the resolution was tabled by a large majority (38 to 16). *Id.*

[27] 48 Cong. Rec. 10,927 (1912).

[28] *Id.* at 10,930.

[29] *See* H.R. Res. 251 (Representative Rhodes), H.R. Res. 266 (Representative Wood), H.R. Con. Res. 8 (Representative Mason), S. Res. 181 (Senator McCormick), S.J. Res. 60 (Senator Edge), S.J. Res. 111 (Senator Sherman), 66th Cong., 1st Sess. (1919).

[30] S. Res. 13, 66th Cong., 1st Sess. (1919). *See* 58 Cong. Rec. 1864 (1919).

[31] 62 Cong. Rec. 4109 (1922).

[32] *Id.* at 4510.

[33] *See id.* at 4109–10, 4295–98.

[34] *See* 64 Cong. Rec. 934 (1922).

[35] *Id.* at 1117.

[36] *Id.* at 1131.

[37] 66 Cong. Rec. 2191 (1925).

[38] *Id.* at 2215.

[39] 69 Cong. Rec. 6991 (1928).

[40] *See, e.g.,* 69 Cong. Rec. 6982–92 (1928).

[41] *Id.* at 6986.

[42] *See* 117 Cong. Rec. p. 21307.

[43] 69 Cong. Rec. 7192 (1928).

[44] *Id.*

[45] 54 Stat. 885, 886 (940).

[46] 86 Cong. Rec. 10,295 (1940). *See id.* at 10,092, 10,103–05, 10,116, 10129, 10,391, 10742, 10794–98, 10895–914.

[47] *See* Emerson, *supra* note 13, app. A.

[48] 86 Cong. Rec. 10,897 (1940). The 1940 provision is a poor precedent for war powers legislation. Not only was it flouted by President Roosevelt, but it was openly admitted during Senate debate that Congress could not constitutionally restrain the President from commanding troops wherever he wishes. *Id.* at 10,895–914.

[49] *See,* E. Corwin, The President: Office and Powers 238–39 (4th rev. ed. 1957).

[50] *Id.* at 203. Schwartz concludes:

> The President's action in this respect is of particular legal interest because of an express provision in the Lend Lease Act of 1941, that "Nothing in this Act shall be construed to authorize or permit the authorization of convoying vessels by naval vessels of the United States."

2 B. Schwartz, The Powers of Government 202 (1963).

[51] The 1940 law, which apparently barred the sending of troops outside the Western Hemisphere, was treated by both Congress and the President as merely a "hope" of Congress, not an actual limitation on Executive authority. *See* note 48 *supra.*

[52] Congressional Research Service, Legislation Enacted by the 91st Congress to Limit United States Military Involvement in Southeast Asia 9–10 (Mar. 30, 1971) [hereinafter cited as C.R.S.].

[53] Act of Dec. 29, 1969, Pub. L. No. 91–171, § 643, 83 Stat. 469, 487.

[54] Act of Jan. 11, 1971, Pub. L. No. 91–688, § 843, 84 Stat. 2020.

[55] Act of Dec. 18, 1971, Pub. L. No. 92–204, § 742.

[56] C.R.S., *supra* note 52, at 28.

[57] Act of Jan. 5, 1971, Pub. L. No. 91–652, § 7(a), 84 Stat. 1942.

[58] *Id.*

[59] C.R.S., *supra* note 52, at 18.

[60] *Id.*

[61] H.R. Rep. No. 1791, 91st Cong., 2d Sess. (1970).

[62] *See* pages 435–43 *infra.*

[63] These votes were taken on June 17, June 28, Oct. 19, Nov. 17, and Dec. 16, 1971. 29 Cong. Q. Weekly Rep. 2371 (1971); 117 Cong. Rec. pp. 47432–33.

[64] Nedzi-Whalen amendment, 117 Cong. Rec. p. 20578 (text and vote); Boland amendment, 117 Cong. Rec. p. 41807 (ext), and *id.* at p. 41834.

[65] 117 Cong. Rec. pp. 20188, 20216. Also, an effort to deny funds for use by our forces in Indochina for any purpose other than withdrawing such troops, was defeated when the Senate struck the Cooper-Church amendment from the Foreign Aid Authorization bill by a vote of 47 to 44. 117 Cong. Rec. pp. 37991, 38006.

[66] Amend, no. 214, 117 Cong. Rec. 21307–8; amend. no. 437, 117 Cong. Rec. 36165 (daily ed. Sept. 17, 1971) (proposal), 117 Cong. Rec. 36636 (daily ed. Sept. 30, 1971) (vote); and S. 2819. § 9, 92d Cong., 1st Sess., 117 Cong. Rec. p. 40786–7.

[67] H.R. 6531, 92d Cong., 1st Sess. (1971).

[68] Amend. no. 214, note 66 *supra.*

[69] *Id.* The Amendment would require the President to (1) establish a final date for the withdrawal from Indochina of all United State military forces within 9 months, contingent upon the release of all American prisoners of war; (2) negotiate for an immediate cease-fire in Indochina; and (3) negotiate for phased and rapid withdrawals of United States forces in exchange for phased releases of American prisoners of war. *Id.*

[70] *See* Act of Sept. 28, 1971, Pub. L. No. 92–129, § 401.

[71] *See* Act of Nov. 17, 1971, Pub. L. 92–156, § 601.

[72] *See* note 2 *supra.*

[73] *See* Act of Nov. 17, 1971, Pub. L. 92–156, § 601.

[74] See note 8 *supra.*

[75] *See* note 9 *supra.*

[76] S. 3964, 91st Cong., 2d Sess. (1970).

[77] S. 731, 92d Cong., 1st Sess. (1971) (Senators Javits, Bayh, Mathias, Packwood, Pell, Spong, Weicker, and Williams); S. 1880, 92d Cong., 1st Sess. (1971) (Senators Bentsen and Byrd of W. Va.): S.J. Res. 18, 92d Cong., 1st Sess. (1971) (Senator Taft); S.J. Res. 59, 92d Con., 1st Sess. (1971) (Senators Eagleton, Inoyue, McGovern, Montoya, and Stevenson); and S.J. Res. 95, 92d Cong., 1st Sess. (1971) (Senators Stennis, Mansfield, and Roth).

[78] *See* 117 Cong. Rec. p. 44794 (remarks of Senator Javits upon introducing S. 2956).

[79] One of the bills sponsors, Senator Stennis, has warned that "the Congress should not restrain the President's powers, as Commander in Chief, to deploy forces to crisis areas and, for example, 'show the flag' by sending a carrier to stand offshore." 117 Cong. Rec. p. 44795. Nevertheless, absent a definition of "hostilities," there is no guarantee on the face of the bill that American forces can be introduced without a devisive confrontation between Congress and the President, unless Congress agrees with the President in advance of each deployment. For example, if the Soviet Union invaded Rumania, it is doubtful the Uniited States could build up its forces in certain areas of NATO. If it is "clearly indicated" (an undefined term) that American troops may be drawn into action, the limitations of S. 2956 would be triggered. In this case, our forces could not be shifted into position unless one of the four emergency conditions of the bill existed. This could mean the President must assure Congress, for examle, that United States forces were directly and imminently threatened by the Soviet attack, a difficult burden of proof in such a volatile and unpredictable situation. But even should a redeployment or increase of American forces be permissible, the President would be required to withdraw our forces from the trouble spot after 30 days should Congress fail to extend

his authority. Whether such a pullout would inflame the crisis rather than calm it, is a judgment the bill would thereby transfer from the President to Congress.

[80] *See A Brief on S. 731, to Make Rules Respecting Military Hostilities in the Absence of a Declaration of War*, 117 CONG. REC. S p. 5247; Javits, *Congress and the President: A Modern Delineation of the War Powers*, 35 ALBANY L. REV. 632 (1971).

[81] *See* Spong. *Can Balance Be Restored in the Constitutional War Powers of the President and Congress*, 6 U. RICHMOND L. REV. 1 (1971).

[82] *See* testimony of Professors Commager, Morris, and Kelly, *Senate War Powers Hearings, supra* note 12, at 3353–62 (daily ed. Mar. 16, 1971); testimony of Dean McGeorge Bundy, *Senate War Powers Hearings, supra* note 12, at p. 11906; testimony of Professor Bickel, *Senate War Powers Hearings, supra* note 12, at p. 27653.

It may be recalled that in 1951, when President Truman was under attack for deploying American land forces to Korea and Europe without congressional authorization, Professor Commager lambasted Truman's critics as "unregenerate isolationists." He then insisted "that the overwhelming weight of authority supports Presidential discretion in this field." Proposals calling for congressional approval before any American soldiers can be sent out of the country "have no support in law or in history," he said. Commager, *Presidential Power: The Issue Analyzed*, N.Y. Times, Jan. 14, 1951, § 6 (Magazine), at 11; *id*, Apr. 1, 1951, § 6 (Magazine), at 31.

Also, it should be noted that Professor Bickel qualified his support of the legislation by saying:

> I don't think the President can be deprived of his power to respond to an imminent threat of attack (as well as to the attack itself); or of his power to respond to attacks and threats against our troops wherever they may be, as well as against our territory; or of the power to continue to see to the safety of our troops once they are engaged, *even if a statutory 30-day period has expired.*

117 CONG. REC. p. 27657 (emphasis added).

[83] *See* 117 CONG. REC. p. 5247.

[84] U.S. CONST., art. I, § 8.

[85] Javits, *supra* note 80, at 632, 634.

[86] *See* 117 CONG. REC. p. 5248.

[87] *Quoted in id.* at S 2528–29.

[88] *See* S. 2956, 92d Cong., 1st Sess., § 2 (1971).

[89] *See* 117 CONG. REC. p. 44795.

[90] U.S. CONST. art. II, § 2.

[91] Wright, *Validity of the Proposed Reservations to the Peace Treaty*, 20 COLUM. L. REV. 121, 134 (1920).

[92] THE FEDERALIST, No. 73, at 409 (rev. ed. 1901) (with special introduction by Goldwyn-Smith).

[93] Professor John Norton Moore testified at the War Powers Hearings that he believes "reliance on the experience under the Articles of Confederation seems a frail reed for interpreting a Constitution promulgated in large measure as a result of dissatisfaction with the experience under the Articles." *Senate War Powers Hearings, supra* note 12, at S 6469. The Articles were operative during at least 5 of the 8 years covered by George Washington's commission.

[94] According to J. H. McIlvaine, writing in the *Princeton Review* for October 1861:

> It was the extreme weakness of the Confederation which caused the war of independence to drag its slow length along through seven dreary years. . . . The treaties which the Confederation had made with foreign powers, it was forced to see violated and treated with contempt by its members; which brought upon it distrust from its friends, and scorn from its enemies. It had no standing among the nations of the world, because it had no power to secure the faith of its national obligations.

Quoted in J. POMEROY, AN INTRODUCTION TO THE CONSTITUTIONAL LAW OF THE UNITED STATES 51–52 (1870).

[95] U.S. CONST. preamble. It is instructive that Hamilton and Madison expressly rejected as too weak the political model of the Germanic Empire in which the Diet possessed the general power of making war. In any emergency, they warned, "military preparations must be preceded by so many tedious discussions . . . that before the Diet can settle the arrangements the enemy are in the field . . ." THE FEDERALIST, No. 19, *supra* note 92, at 97–98.

[96] 2 D. WATSON, THE CONSTITUTION OF THE UNITED STATES 912 (1910).

[97] C. BERDAHL, *supra* note 26, at 115.

[98] Hughes, *War Powers Under the Constitution*, 85 CENT. L.J. 206, 209 (1917).

[99] During the great debate of 1922 over the effort by Congress to control and move the Army and Navy, Representative Newton of Minnesota argued:

> The fathers who sat in the constitutional convention had some very definite ideas about government . . . . They had but emerged from the War of Independence and were trying to avoid the anarchy and chaos following that war. Its members included Washington, Hamilton, and others who had witnessed during the days of the Revolutionary War the inefficiency of the legislative body attempting to function as an executive, which resulted in interference with military operations and caused great trouble and embarrassment and added materially to the increasing of the cost of the military operations. Washington had had to put up with congressional interference and knew its evils. Hamilton had been on Washington's staff and was thoroughly familiar with all of the troubles and embarrassments that Washington had been subjected to by the Continental Congress, which was clothed with the powers of an executive. There is no question but what they and their colleagues made up their minds that the new Government would have an Executive that was clothed with real power. Furthermore, the governors of several of the 13 States were clothed with power, making them commander in chief of the military forces of their State. Therefore, with experience and precedent to guide and direct them, the Chief Executive was made the Commander in Chief of the Army and the Navy, both in time of war and peace.

62 CONG. REG. 4298–99 (1922).

[100] Hughes, *supra* note 98, at 206.

[101] It is said of Whiting that "[a]s a lawyer, he proved to be so thorough, industrious, and adroit in analysis of mastered cases that the old Common Pleas [in Massachusetts] was often termed 'Whiting's court.'" He was appointed special counselor of the United States War Department in November 1862, and became its solicitor from February 1863, until he resigned in April 1865. 21 H. STARR, DICTIONARY OF AMERICAN BIOGRAPHY, 703 (1944).

[102] W. WHITING, THE WAR POWERS OF THE PRESIDENT AND THE LEGISLATIVE POWERS OF CONGRESS IN RELATION TO REBELLION, TREASON, AND SLAVERY 82 (2d ed. 1862).

[103] Months before Lincoln's Emancipation Proclamation, Whiting argued that the President, as Commander in Chief, may emancipate the slaves of any belligerent section of the country, if such an act is necessary to weaken the enemy. *Id.* at 66–82.

[104] *Id.* at 83.

[105] Dr. John Norton Pomeroy was Dean of the University of New York Law School.

[106] J. POMEROY, *supra* note 94, at 288–89. On other grounds, Madison indicates the Constitution intentionally removed the direction of the military forces from Congress because it is "particularly dangerous to give the keys of the Treasury and the command of the army into the same hands . . . ." THE FEDERALIST, No. 37, *supra* note 92, at 202.

[107] J. POMEROY, *supra* note 94, at 289.

[108] *Id.*

[109] *Id.* at 472.

[110] *Id.* at 473.

[111] Watson believed:

> The power is vested in the President to dispose of or arrange the component-parts of the Army and Navy at his pleasure. . . . While Congress can make rules for the Army and Navy, it cannot interfere with the President's power as commander of such forces.

D. WATSON, *supra* note 96, at 914. Speaking of the President's duties for the protection of our citizens and national interests, Wright declares:

> By reduction of the army and navy or refusal of supplies, Congress might seriously impair the *de facto* power of the President to perform these duties, but it can not limit his legal power as Commander-in-Chief to employ the means at his disposal for these purposes.

Q. WRIGHT, THE CONTROL OF AMERICAN FOREIGN RELATIONS 307 n.93 (1922). Also of interest is the remark by former President William H. Taft that it "is clear that Congress may not usurp the functions of the Executive . . . by forbidding or directing the movements of the army and navy." Taft, *The Boundaries Between the Executive, the Legislative and the Judicial Branches of the Government*, 25 YALE L.J. 600, 606 (1916).

[112] C. BERDAHL, *supra* note 26, at 116–17.

[113] *Id.* at 122.

[114] Hughes, *supra* note 98, at 209.

[115] 50 U.S. (9 How.) 603 (1850).

[116] *Id.* at 615.

[117] *Ex parte* Milligan, 71 U.S. (4 Wall.) 2, 139 (1866).

[118] Swaim v. United States, 28 Ct. Cl. 173, 221 (1893), *aff'd*, 165 U.S. 553 (1897).

[119] 157 U.S. 281, 284 (1895).

[120] U.S. CONST. art. II, § 2.

[121] *Id.* § 3.

[122] *Id.* § 1. Also see remark by Solicitor General Erwin Griswold that the grant of Executive power "is not a merely passive grant." 117 CONG. REC. S 12,968 (daily ed. Aug. 3, 1971).

[123] New York Times Co. v. United States, 403 U.S. 713, 741 (1971) (Marshall, J., concurring). Three other Justices of the Supreme Court also recently acknowledged the President's "constitutional primacy in the field of foreign affairs." *Id.* at 756 (Harlan, J., dissenting, with whom Burger, C.J., and Blackmun, J., joined).

[124] E. CORWIN, *supra* note 49, at 178–79. In other words, says Corwin, the President "is consequently able to confront the other departments, and Congress in particular, with *fait accomplis* [*sic*] at will . . ." *Id.* at 180.

[125] United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 319–20 (1936), in which the Supreme Court held that the power of the President in the field of international relations is "delicate, plenary and exclusive" and "does not require as a basis for its exercise an act of Congress. . . ." Pertinent here are comments by then Professor Woodrow Wilson about the Chief Executive's "control, which is very absolute, of the foreign relations of the nation." According to Wilson, "The initiative in foreign affairs, which the President possesses without any restriction whatever, is virtually the power to control them absolutely." W. WILSON, CONSTITUTIONAL GOVERNMENT IN THE UNITED STATES 77 (1961) (lectures first printed in 1911).

[126] J. POMEROY, *supra* note 94, at 447.

[127] C. BERDAHL, *supra* note 26, at 31.

[128] W. WILLOUGHBY, THE CONGRESSIONAL LAW OF THE UNITED STATES 1558 (2d ed. 1929). Even the practice of recognition, an exclusive act of the President, can, if premature, be treated as cause for war under international law. *See* Berdahl supra note 26, at 32.

Justice Joseph Story refers to the authority of the President to receive foreign envoys, with its implicit power of recognition, as "pregnant with consequences, often involving the question of peace and war." 3 J. Story, Commentaries on the Constitution of the United States § 1561, at 418 (1883).

[129] W. Willoughby, *supra* note 128, at 1567.

[130] *In re* Neagle, 135 U.S. 1, 64 (1890). *See also* Wright, *supra* note 91, at 134–35. See the comment by Professor Corwin that "the President may also make himself the direct administrator of the international rights and duties of the United States, or of what are adjudged by him to be such, without awaiting action either by the treaty-making power or by Congress, or by the courts." E. Corwin, *supra* note 49, at 196.

[131] U.S. Dep't of State, United States Collective Defense Arrangements (1966).

[132] E. Corwin, *supra* note 49, at 197–98.

[133] *Id.*

[134] The Prize Cases, 67 U.S. (2 Black) 635, 668 (1862).

[135] B. Schwartz, The Reins of Power 98 (1963).

[136] *See* page 425 *supra.*

[137] 67 U.S. (2 Black) 635 (1862).

[138] Madison, *Notes of the Debates in the Federal Convention of 1787,* in 3 U.S. Dep't of State, Documentary History of the Constitution 554 (1900).

[139] "Mr. Madison and Mr. Gerry moved to insert 'declare,' striking out 'make' war; leaving to the Executive the power to repel sudden attacks." *Id.* at 553.

[140] But compare the view of my distinguished friend from Virginia that "the President's only role in the war-making process was, as Commander-in-Chief, to direct operations as the executive arm of the Congress." Spong, *supra* note 81, at 4–5.

[141] The Federalist, No. 23, *supra* note 92, at 119.

[142] In the words of Hamilton, "The circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed." *Id.* at 119–20.

[143] Durand v. Hollins, 8 F. Case 111 (No. 4186) (C.C.S.D.N.Y., 1860) (Justice Nelson had been on the Supreme Court since 1845).

[144] The Slaughterhouse Cases, 83 U.S. (16 Wall.) 36, 79 (1872).

[145] *See* J. Clark, Right to Protect Citizens in Foreign Countries by Landing Forces 25 (3d rev. ed. 1934).

[146] *See* Q. Wright, *supra* note 111, at 307; Spong, *supra* note 81, at 24; B. Schwartz, *supra* note 135, at 175; C. Berdahl, *supra* note 26, at 59; U.S. Dep't of State, *The Legality of United States Participation in the Defense of Viet-Nam,* in The Vietnam War and International Law 583 (R. Falk, ed. 1968).

[147] In the words of Professor Henry Monaghan, "A practice so deeply embedded in our governmental structure should be treated as decisive of the Constitutional issue." Monaghan, *Presidential War-Making,* 50 Boston U.L. Rev. 31 (1970).

In contrast is the view of Francis D. Wormuth, who makes the guess that of all these military hostilities "eighty-two were undertaken by a subordinate officer on the spot and without orders from superiors." From this, he ridicules the significance of the entire list by claiming the argument must be that these 82 precedents "hold that every naval and army captain also has the legal right to initiate war without the authorization of either Congress or the President." Saturday Review, Oct. 2, 1971, at 28.

Nonsense! All of the precedents set forth herein were undertaken pursuant to known Executive policies. No incidents are cited which were later repudiated or disavowed. The military officers "on the spot" were acting in each of the 192 hostilities to carry out a clear Presidential policy, whether it be a design to suppress piracy or the slave trade, or a commitment to protect United States citizens and property abroad, or an avowed Presidential foreign policy objective, such as the Monroe Doctrine or an executive interpretation of our treaty rights.

In illustration of how routine this practice is, I might refer to a letter by Secretary of State Cass in August 1858, in which he advised the Secretary of Navy, "I have the honor also to suggest the importance of our squadron being directed to traverse the whole of the Levant, showing itself along the coasts of Egypt, Palestine, Syria, and of Asia Minor for the purpose of affording all possible protection to the persons and property of our citizens." 69 Cong. Rec. 6930 (1928). Another example is the letter by Secretary of State Charles E. Hughes, on March 15, 1922, in which he informed the Chairman of the House Military Affairs Committee that the practice of landing troops in China for over 20 years was conceded to the United States by the final protocol for the settlement of the disturbances in China of 1900. 62 Cong. Rec. 4300 (1922).

Finally, since it is the President who is Commander in Chief and bearer of all the Executive power under the Constitution, it is the President who is thereby immediately responsible for the command of forces and the conduct of campaigns. In practice, the President acts through the Executive departments of Government and they, in turn, act through subordinate officers. But their acts are in legal contemplation the acts of the President himself, unless disavowed. *See* United States v. Eliason, 41 U.S. (16 Pet.) 291, 301–02 (1842); Wilcox v. Jackson, 38 U.S. (13 Pet.) 498, 512 (1839); C. Berdahl, *supra* note 26, at 21; D. Watson, *supra* note 96, at 914.

[148] Summarizing his position after more than 50 years of study, Professor Quincy Wright declared:

"I conclude that the Constitution and practice under it have given the President, as Commander-in-Chief and conductor of foreign policy, legal authority to send the armed forces abroad; to recognize foreign states, governments, belligerency, and aggression against the United States or a foreign state; to conduct foreign policy in a way to invite foreign hostilities; and even to make commitments which may require the future use of force. By the exercise of these powers he may nullify the theoretically exclusive power of Congress to declare war." Wright, *The Power of the Executive to Use Military Forces Abroad,* 10 Va. J. Int'l. L. 43, 54 (1969).

Another eminent authority summed up his own half-century of study by finding that the practice of the President to use military power at his own will "had developed into an undefined power—almost unchallenged from the first and occasionally sanctified judicially—to employ without Congressional authorization the armed forces in the protection of American rights and interests abroad whenever necessary." Corwin, *Who Has the Power to Make War?,* N.Y. Times, July 31, 1949, at 14. *See also* pages 425–26 *supra.*

[149] *See* pages 435–43 *supra.* The 100th Justice of the Supreme Court has said that (1) there is no prohibition in the Constitution which keeps the President from initiating war without the declaration of Congress, and (2) no statute could "prevent the President from exercising his traditional powers as Commander in Chief, which do include under certain circumstances the commitment of armed forces to hostilities." Testimony of William H. Rehnquist, *Hearings on Congress, the President, and the War Powers Before the Subcomm. on National Security Policy and Scientific Developments of the House Comm. on Foreign Affairs,* 91st Cong., 2d Sess., 228–29, 232 (1970).

My personal view is strengthened by the almost unanimous advice from some 40 authorities, of all political shadings, whom I have consulted on this subject. For example, Dean Acheson wrote to me about legislation which would limit the President's use of forces to 30 days in emergency situations unless Congress specifically extends his authority. He said:

"Any attempt to spell out procedural requirements and limitations on executive power will tend to make rigid that which must be flexible. If the President and the Congress are to assume attitudes of hostility, the nation in this modern world will be subject to grave perils. The separation of powers is not based upon the premise of their fundamental hostility. Criticism and restraint are contemplated in the workings of the system, and can be accomplished. The present legislative proposals do not seem to me to provide for this, but, instead, by setting up a series of rigid rules, to limit the powers of the President beyond safety and to give the Congress, by inaction, what the Constitution never contemplated, a veto upon executive action."

Letter from Dean Acheson to Barry M. Goldwater, May 18, 1971 (unpublished letter in author's files). Another former Secretary of State said:

"[W]e should not clutter up our Constitution with detailed directives to the President and to the Congress where we cannot know the future circumstances in which such directives will have to be followed."

Letter from Dean Rusk to Barry M. Goldwater, May 11, 1971 (unpublished letter in author's personal files). Thus, Dean Rusk writes of his opposition to war powers controls either in the form of legislation or an amendment to the Constitution.

[150] *See* Congressional Reference Service, *Regulating the Size of the Armed Force Under Selective Service Law,* 117 Cong. Rec. S 9590–91 (daily ed. June 21, 1971). According to Senator Stennis, 1971 is the first time Congress has ever set numerical strength levels on the total size of the regular forces, including both volunteers and inductees, in the Selective Service Act. *See id.* at S 9589 (remarks of Senator Stennis).

[151] Prompt repeal of the compulsory draft and its replacement with an all-volunteer military were among the pledges included in my 1964 platform as the presidential candidate of the Republican Party.

[152] It is a little-noticed fact that the 1972 defense budget is the smallest relative military budget in a quarter century. Defense spending dropped to 34% of the total federal spending in 1972, falling below human resource spending (42%) for the first time in over 20 years. Office of Management & Budget, Executive Office of the President, The U.S. Budget in Brief, Fiscal Year 1972, at 5 (1971).

[153] For example, in mid-1964 President Johnson sought $125 million in military aid funds, much of it earmarked for a larger air force for South Vietnam. 1 L. Johnson, *Special Message to the Congress Transmitting Request for Additional Funds for Viet-Nam,* in Public Papers of the Presidents of the United States, Lyndon B. Johnson, 1963–64, at 692–93 (1965). Congress turned down this early opportunity to prevent an escalation of our Indochina activity and approved all the funds which the President had requested. Act of Oct. 7, 1964, Pub. L. No. 88–633, § 607, 78 Stat. 1010; Act of Oct. 7, 1964, Pub. L. No. 88–634, 78 Stat. 1015.

[154] *See, e.g.,* Economic Stabilization Act Amendments of 1971, Pub. L. No. 92–210 (Dec. 22, 1971).

[155] *See, e.g.,* The Export Administration Act

of 1969, 50 U.S.C. App. §§ 2401–13 (1970) (export controls). Also of interest is The Defense Production Act of 1950, *id.* §§ 2061–166, relative to the diversion of certain materials from civilian use to military purposes and controls on the distribution of critical and strategic materials.

[156] *See, e.g.*, Trading With the Enemy Act of 1917, *id.* §§ 1–44, relative to the licensing of transactions with foreign enemies or allies of enemies during any period of national emergency declared by the President; The Export Administration Act of 1969, *id.* §§ 2401–13.

[157] *See* U.S. News & World Report, Oct. 25, 1971, at 31.

[158] We can probably see the effect of a changing public mood in the Vietnamization policy of the current Administration, under which 480,000 troops will have been withdrawn from Indochina in three years. The State of the Union Address, President Richard M. Nixon, 118 Cong Rec. H 145 H 149 (daily ed. Jan. 20, 1972).

[159] The active role outlined for Congress in the preceding paragraph would, I believe, conform foursquare with the doctrine announced by the United States Court of Appeals for the Second Circuit in Orlando v. Laird, 443 F.2d 1039 (2d Cir. 1971), *cert. denied*, 92 S. Ct. 94 (1971). The court held that the power of Congress to declare war calls for "some mutual participation between the Congress and the President . . . with action by the Congress sufficient to authorize or ratify the military activity at issue . . . ." 443 F.2d at 1043 (emphasis original). The court expressly indicated that congressional collaboration can follow the initiation of a hostility, rather than precede it, and can take the form of military appropriations as well as extensions of the draft. In addition, the court suggests that area resolutions and treaties, such as the Tonkin Gulf Resolution, Pub. L. No. 88-408, 78 Stat. 384 (1964), *terminated*, Foreign Military Sales Act of 1971, Pub. L. No. 91-672, § 12, 84 Stat. 2053, and the SEATO Treaty, Southeast Asia Collective Defense Treaty, Sept. 8, 1954, [1955] 1 U.S.T. 81, T.I.A.S. No. 3170, are sufficient in authorizing the prosecution of war even though expressed in broad language.

Needless to say, there is probably some resolution or treaty around which would fit almost any military contingency. And no fighting is going to continue for long without a President including funds in his annual or supplemental budget request for its support, at which point Congress will either collaborate by voting the money or force a change in policy by cutting or denying defense-oriented funds.

[160] See pages 426–32 *supra*.

[161] Ratner, *The Coordinated Warmaking Power—Legislative, Executive, and Judicial Roles,* 44 S. Cal. L. Rev. 461, 486 (1971).

Though three early cases touching the French naval war are heavily relied upon by the advocates of war powers controls, these cases were decided after hostilities had ended. Thus, the issue of curbing the President's conduct of war during actual fighting was not presented. *See* Bas v. Tingy, 4 U.S. (4 Dall.) 37 (1800); Talbot v. Seeman, 5 U.S. (1 Cranch) 1 (1801); Little v. Barreme, 6 U.S. (2 Cranch) 170 (1804). Furthermore, the cases involved "an issue squarely within a specific grant of authority to Congress. That is, the power 'to make Rules concerning Captures on Land and Water.'" Testimony of Prof. J. Moore, 117 Cong. Rec. S 6469 (daily ed. May 10, 1971). See U.S. Const. art. I, § 8.

Although Schwartz at one point indicates *Little* may have broad implications, he sharply qualifies his position elsewhere by adding: "A Constitution which did not permit the Commander in Chief to order belligerent acts whenever they are deemed necessary to defend the interests of the nation, would be less an instrument intended to endure through the ages, than a suicide pact." He also writes: "If one thing is clear under the Constitution, it is that the actual use of the armed forces by the Commander in Chief is not subject to any legal control." B. Schwartz, *supra* note 50, at 168, 205, 217.

[162] A prime conception motivating the introduction of war powers, legislation seems to be an assumption that it is the President who has, on his own, drawn this nation into an escalation of the Vietnam hostilities. For example, Senator Javits comments that this legislation "may, in retrospect, be viewed as the most constructive legislative by-product of our Nation's tragic Vietnam experience." 117 Cong. Rec. S 20,627 (daily ed. Dec. 6, 1971) (remarks of Senator Javits).

[163] I have identified at least 24 statutes in which Congress has supported an expansion of the Indochina hostilities. Goldwater, *Congress: Accessory to Vietnam*, 117 Cong. Rec. S 12,446 (daily ed. July 29, 1971).

In the words of the United States Court of Appeals for the Second Circuit: "The Congress and the Executive have taken mutual and joint action in the prosecution and support of military operations in Southeast Asia from the beginning of those operations." Orlando v. Laird, 443 F.2d 1039 (2d Cir. 1971), *cert. denied*, 92 S. Ct. 94 (1971).

[164] For example, in 1966, Congress approved a $13.1 billion supplemental appropriations request meant chiefly to fund military operations in Southeast Asia. Although the bills implementing this request were the focus for televised hearings by the Senate during which our Indochina policy was thoroughly examined, Congress responded by granting every penny sought. Act of Mar. 16, 1966, Pub. L. No. 89-367, 80 Stat. 36, 37; Act of Mar. 25, 1966, Pub. L. No. 89-374, 80 Stat. 79, 82; 1966 Cong. Q. Almanac 153. One year later, Congress appropriated an additional $12.2 billion tagged for the support of military operations in Southeast Asia. Act of Mar. 16, 1967, Pub. L. No. 90-5, 81 Stat. 5, 6; Act of Apr. 4, 1967, Pub. L. No. 90-8, 81 Stat. 8; 1967 Cong. Q. Almanac 209.

[165] For example, Secretary of State William P. Rogers cautions:

"To circumscribe presidential ability to act in emergency situations—or even to appear to weaken it—would run the grave risk of miscalculation by a potential enemy regarding the ability of the United States to act in a crisis. This might embolden such a nation to provoke crises or take other actions which undermine international peace and security."

Testimony of Secretary of State William P. Rogers, *Senate War Powers Hearings, supra* note 12, at S 7199 (daily ed. May 18, 1971). Professor James MacGregory Burns agrees. He has testified that artificial restrictions on Executive discretion "may not lead to peace but to war, as foreign adversaries estimate that the United States will not respond to a threat to world peace because of legislative restrictions on the executive." *Hearings on Congress, the President, and the War Powers, Before the Subcomm. on National Security Policy and Scientific Developments of the House Comm. on Foreign Affairs*, 91st Cong., 2d Sess. 81–82 (1970) (testimony of Dr. Burns).

"I have spoken of my own fears about war powers legislation on the grounds it will place all our treaty obligations in a state of permanent doubt; prevent the United States from responding in even a limited way to protect the existence of friendly and strategically important countries such as Israel, with which we have no defense commitment specifically authorized by statute; and conceivably might drag the President into an unwanted expansion of hostilities, the presumption of the legislation being that the President has no power to contravene congressional directives. See my testimony before *Senate War Powers Hearings, supra* note 12, at S 5637–47 (daily ed. Apr. 26, 1971).

On the latter point, it must be remembered that historians generally concur that it "was the War Hawks—members of Congress all—who aggressively sought the War of 1812," and that in 1898 it was "the press and Congress" who pressured President McKinley into requesting a declaration of war. Nanes, *Congress and Military Commitments: An Overview*, Current History, Aug. 1969, at 116. In this connection, it is also important to recall how congressional leaders sought in 1962 to talk President Kennedy into a military attack or invasion of Cuba, rather than a blockade. *See* R. Kennedy, Thirteen Days 53–54 (1969).

[166] Mr. George Ball, who has served his country well on five separate occasions in the executive branch, testified during the war powers hearings that he has been around long enough to have seen other legislation which was supposed to assure that the United States would not be drawn into another major conflict. He recalls that by passing a series of neutrality laws in the 1930's, Congress believed it would forestall a repetition of World War I. And yet, Mr. Ball points out that this very legislation might have been instrumental in leading to war:

"We all remember the somber history of these Congressional acts, and what an impediment they imposed to participation by the United States in the timorous politics of Europe which paved the way for Hitler's conquests and another world catastrophe—a catastrophe which, as recent disclosures have made quite clear, could have very probably been averted if the United States had lent a steadying hand to reinforce the will of the flatulent statesmen then guiding European destinies."

Testimony of the Honorable George S. Ball, *Senate War Powers Hearings, supra* note 12, at S 12,621 (daily ed. July 30, 1971).

SENATOR ED BROOKE SPEAKS ON S. 1929

Mr. HANSEN. Mr. President, as the ranking Republican on the Parks and Recreation Subcommittee of the Committee on Interior and Insular Affairs, I wish to call my colleagues' attention to the testimony of Senator Brooke presented on his behalf to the subcommittee July 16 at Tisbury on Martha's Vineyard, Mass.

While Senator Brooke's statement is directed specifically at S. 1929, the Nantucket Sound Island trust bill, he raises many points that merit the consideration of the Interior Committee and the Senate in assessing the merits of Federal intervention to preserve populated areas of environmental significance. Senator Brooke, a long time summer resident of Martha's Vineyard, argues persuasively that the rights of residents to govern themselves cannot be readily dismissed in the consideration of preservation measures. I commend Senator Brooke's statement to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

TESTIMONY OF SENATOR EDWARD W. BROOKE

Mr. Chairman, I am pleased to welcome you and Senator Johnston to Martha's Vineyard, and I hope that your stay will allow you to not only hear from our people, but see the beauties of our islands and explore her moors and dunes, marshes and beaches.

All of us are honored that your Subcommittee regards our islands so highly that it is here today to consider their future.

I welcome you as a colleague and a resident of the Vineyard as well. And my testimony is at once that of a United States Senator representing the Island and Commonwealth of Massachusetts and that of a Vineyard resident for almost three decades.

In summary, my testimony is simple. In your consideration of S. 1929, the Nantucket Sound Island Trust bill, I urge the Subcommittee to exercise every caution to avoid the possible deprivation of the rights of our people as the price to pay for the preservation of our islands.

Philosophically, I am opposed to the basic presumption of this measure, which is that greater knowledge and capabilities in controlling the destiny of our islands dwell beyond our people and the governmental processes of our islands. I view the measure we are considering too harsh a remedy for our island ailments both diagnosed and prognosticated. I am not yet convinced that it is necessary for the Federal Government to intrude so pervasively in the lives of my fellow islanders.

And while I am not yet fully convinced that the islands' residents, both permanent and seasonal, are willing to make all the sacrifices necessary to effectively curb growth and check the lemming-like course of development, I am encouraged by a new environmental awareness and a growing determination to curb development and preserve our delicate ecology. Two years ago, Edgartown was the only town with a conservation commission charged with administering Massachusetts Wetlands Protective Act. Now, all six towns of the Vineyard have such commissions. In the past two years, Chilmark, Gay Head, Tisbury and West Tisbury have followed the lead of Edgartown and Oak Bluffs in adopting zoning bylaws. Edgartown has toughened its bylaws and Gay Head's new bylaws are considered among the most innovative and effective in the nation.

Four of our six towns (Edgartown, Oak Bluffs, Tisbury and West Tisbury) now have subdivision regulations limiting the breaking down of existing parcels of land where before land holdings could be indiscriminately divided. These regulations set strict water, drainage and utility requirements for subdivision.

Beginning in 1971, we have seen the Dukes County Planning and Economic Development Commission, established by the Massachusetts Legislature in 1966, become a forceful mechanism for coordination and planning with a full-time Planning Director and a staff of four. I wish to call the Subcommittee's attention to the Commission's testimony, presented by its Planning Director, Alex Fittinghoff. I support the comments and concerns of the Commission and commend their thoughtful analysis of the effect of this legislation on Martha's Vineyard.

I suggest that these recent and encouraging developments stem in large measure from the concern, energies and legislation of my senior colleague. I commend Senator Kennedy for his catalytic effect on our islands. Clearly such a stimulus as he provided was necessary to reinforce the repeated warnings that our islands could not continue to absorb more buildings and people.

Though our islands are unique in many ways, our problems are not unlike those of many other scenic areas of our country that beckon more seasonal residents and visitors than they can properly handle. Though we are not uniquely threatened by the forces of development, S. 1929 seeks to respond to the perils of development with a unique untested mechanism that, in effect, severely diminishes the rights and responsibilities of the citizens of our islands.

I believe the permanent and seasonal residents of Martha's Vineyard, Nantucket and the Elizabeth Islands have the desire and the ability to check effectively the growth of our islands. To be sure, they need some assistance. Obviously, our governmental systems need to be streamlined to deal with modern day threats and problems.

On Martha's Vineyard, we need an Island-wide authority to control and check growth. Our six independent towns cannot effectively deal with island-wide problems. And on an island of 100 square miles, almost every problem is now an island-wide problem. As necessary as an island-wide authority or commission may be, the creation of such a body is not the responsibility of the United States Congress, but rather within the jurisdiction of the Massachusetts Legislature. Hopefully, the legislature will act promptly to enable the creation of an island-wide council. Such legislation is now being prepared by Governor Francis Sargent and will be introduced in the General Court in the next few weeks.

The authority and responsibilities of such a commission must be carefully structured and defined to achieve our common purpose. In this regard, I commend to the Subcommittee the paper entitled "A Report to the People of Martha's Vineyard on the Development of the Island," which is appended to the testimony of the Dukes County Planning and Development Commission, presented by Mr. Fittinghoff. This report sets out in detail the line of responsibility and authorities for an island-wide commission.

I have not had the opportunity to review, in detail, Governor Sargent's legislative proposals, but I shall ask the Governor to forward them to me and to the Subcommittee as soon as they are introduced in the General Court. I believe it is imperative for us all to review the proposals of the Commonwealth before acceding to federal action in this regard.

Realistically, the Commonwealth of Massachusetts cannot be expected to provide the sums that would be authorized to be appropriated under S. 1929 to purchase lands for preservation. Indeed, I doubt the sums included in this measure are adequate to accomplish the mammoth tasks set forth in the measure. The provision in Section 8(g) for compensation for restrictions on land use alone could absorb the entire $20 million authorized for land purchase. Money is indeed a problem. And there are those on the islands that view S. 1929 as turning on a limitless federal spigot. Mr. Chairman, as we all very well know this is not the case. The funds that would be authorized to be appropriated by the measure are indeed limited and seemingly inadequate to the task proposed by this legislation. Whatever the sum, the funds would be taxpayers' dollars and their expenditure would require careful safeguards.

We are caught in a dilemma. The people of the islands clearly desire a minimum federal intervention in their affairs. But in considering legislation to provide large amounts of federal funds to enhance and protect the islands, we, in Congress, must insure that adequate safeguards remain as to the expenditure of such funds. I do not believe S. 1929 satisfactorily resolves this dilemma. It neither allays the islanders' fears of federal intervention, nor guarantees sufficiently that the national interest will be upheld.

This inability to satisfy both demands rests in large measure on the basic and unique thrust of this bill, which proposes that the Federal Government should seek to resolve a local zoning problem.

I am not sure that we, in Congress, want to take such a specific step in the area of land use.

We have recently moved to provide equitable mechanisms for control of our coastal zones in particular and our lands in general.

Under the provision of the Coastal Zones Management Act of 1972, Massachusetts and the other states should receive by next January federal funds to assist them in developing management programs for their coastal land and water resources. After completion of this development program, two-thirds of the cost of which will be borne by the Federal Government, the states will be eligible for grants on a similar cost-sharing basis to implement the plans developed. While there may be some difficulties encountered in raising the states' one-third requirement, there is great benefit to be derived from a comprehensive, well-coordinated plan for the utilization of the entire Massachusetts coastal zone and the islands in particular. Indeed, the islands should play an essential role in Masachusetts' efforts pursuant to the Coastal Zone Management Act.

As members of the Interior Committee are particularly aware, the Land Use Planning Act holds great promise of responsible state action in developing land use programs. This measure, which passed the Senate, June 21st, is now pending before the House Committee on Interior and Insular Affairs. It requires the states to exercise state's rights and state's responsibilities over those land use and policy decisions which are of "more than local concern." I believe it was the intent of the authors of the legislation that areas such as Nantucket, Martha's Vineyard and the Elizabeth Islands would fit the definition of "more than local concern." This measure would also provide states the federal resources necessary to carry out their increased planning and administrative responsibilities.

We, in Congress, as most Americans, have been late in realizing the limited nature of our resources and the fragility of our scenic lands and coasts.

We are now moving promptly and inexorably toward responsible land management and environmental protection and restoration.

I believe that in the formulation of these policies, Congress must not favor any area or group, but rather create and provide the proper levels of government, the criteria and assistance necessary to preserve our lands and protect and cleanse our environment.

I believe the people of these islands can, by themselves, with the aid of the Commonwealth and the Federal Government, take the action necessary to prevent the spoilage of Nantucket, Martha's Vineyard and the Elizabeth Islands. But the corrective mechanisms should not be forced upon the islanders by the Congress at a time when island residents seem willing and able to responsibly shape their own destiny. With the imminent introduction of the Governor's legislative proposals for the islands, I suggest the Subcommittee defer consideration of this measure until adequate time is provided the islanders and the Massachusetts General Court to uphold their responsibilities to insure the careful and controlled development of these islands.

Mr. Chairman, the people of these islands continue to be sharply divided on this measure. As I am sure you are aware, last November's referendum in Dukes County resulted in a 2,469 to 1,570 vote instructing our state representative to vote for a resolution memorializing the Congress in opposition to the provisions of an earlier version of the measure before us.

To be sure, those who expressed opposition to the then proposed federal land use controls did so for a variety of motives, some of which are certainly less than noble. Sadly, many opponents of this and previous measures are concerned only with their rights of property, not their rights as citizens. Many people, residents and non-residents alike have profited greatly by the diminishing supply of land on our islands and wish to continue this pillage unchecked by any authority. I do not condone their actions, past or contemplated. I cannot ally myself with greed. The rights of property clearly must be subordinated to the rights of present and future island inhabitants to a sound environment. But the other rights of our citizens cannot be so readily trammeled. And in urging the deferral of further action on this measure, I ally myself with, what I believe to be, a majority of the islanders, who feel that they themselves have the will and ability to effect those changes in law and governmental organization necessary to preserve their islands. They have no lesser interest in conservation than those who support this measure.

Support or opposition to S. 1929 cannot be seen as "conservation—yes or no?" It is more a matter of how. Few on the islands are oblivious to the peril of burgeoning development. There is little doubt that we are running out of time. But in asking for more time we are touching a philosophical point that may be the keystone of environmental debate for years to come—that is, which rights of individuals may be sacrificed for the rights of the community of people to a purer environment? And as an adjunct—at which point in time and the movement of events should the various levels of government intervene to deny such rights?

I have already suggested that the rights of property cannot be considered paramount. State and federal laws affirm this contention. But today we are considering legislation, which would, in effect, deny the rights of governance heretofore held by the citizens.

In the name of conservation, we cannot with haste impair these rights. It is, therefore, my hope that the Subcommittee will take no further action on this measure until such time as it can be proven without a doubt that the citizens of the islands and the government of the Commonwealth of Massachusetts have failed to take the steps necessary to preserve the islands. Such proof is not now apparent to me.

If such a plea is inadequate to defer further consideration of this measure, I suggest that deficiencies in the legislation merit the most careful review of its provisions.

Section 3(a) provides that the commissions shall have "principle management authority" for the Nantucket Sound Islands Trust. But what does this section mean? Nowhere in the bill is there an explanation of this authority. A myriad number of questions can be asked as to the scope of this provision. To what extent can the commissions establish covenants and restrictions on building? What is the relationship of the commission to the Secretary of Interior, the State, the county, and the towns? The bill is silent on all these questions.

Section 7(b) states that upon acquisition of any land or interests therein, the Secretary will transfer one-half interest in such land or interest to the commission within whose jurisdiction the land or interest lies. However, after dividing the land equally between two governmental units, the bill does not designate which unit is to be responsible for the provision of normal and expected governmental services. Who is to be responsible for police protection or even garbage collection? Which unit will be responsible for tort liability? Such governmental services are indispensable, but we lack the slightest indication as to how they shall be provided.

In Section 7(c) the State of Massachusetts and any political subdivision are granted authority to continue taxing all lands within the trust. Since the Federal Government would have a one-half interest in these lands, this section, in effect, authorizes the state to tax the Federal Government. State taxation of the Federal Government is normally constitutionally prohibited. The Federal Government can waiver its immunity by legislative enactment, but such a course of action would be highly unusual.

I do not believe there is one instance where a state has taxed the Federal Government. In establishing the Grand Teton National Park, Congress did provide some measure of compensation to the State of Wyoming. However, in that case, Congress authorized a direct payment to Wyoming, "in lieu of tax payments."

Section 8(g) provides that the Secretary of Interior shall issue compensable land use regulations applicable to the trust. However, the bill does not give the Interior Department any guidance on how to administer this section. Compensable land use regulations have never been used before by the Federal Government. Interior has absolutely no experience in this area. Difficult problems will surely arise. How does the Department determine how to pay the individual? Congressional guidance is obviously needed.

Section 16 prohibits the construction of improvements after April 11, 1972, unless specific approval is given by the commission. In the case of any hardship caused by this provision, the commissions and the Secretary may award fair recompense to any individual for whom hardship is demonstrated. However, the April 11, 1972 date has long since passed, rendering this particular section void. Thus, we cannot recompense individuals as the government cannot incur obligations without legislation authorizing it. In addition, even if the provision was operative, it would still be ineffective as there is no sanction for the violation of the section's requirements.

Section 18 allows the Secretary to buy lands others sell to qualified residents at less than fair market value. Again, we have a severe administrative problem. The Department of Interior has no experience in such areas. Congressional guidelines are definitely needed. Presently there are no provisions as to who would be a "qualified resident" or what a "fair purchase price" would be.

Section 20 authorizes a $25,000,000 appropriation. If we were to attempt to carry out this act, I seriously doubt that this appropriation would be adequate.

Mr. Chairman, I am sure the Subcommittee can remedy these defects in the bill, but no amount of drafting could alter its basic premise. And I see it is a question of confidence in the people of these islands—have they been so remiss in upholding their trust in the land that they must now forfeit it forever?

Let me answer this question in a personal way. When I first came to Martha's Vineyard in 1945, it was remote, sparsely-populated and exceedingly tranquil. Quite frankly, I wish Martha's Vineyard had remained unchanged from then. There must be others who wish it had remained unchanged from Bartholomew Gosnold's time. I have watched three decades of growth here—new buildings, new people—and I know it must not continue unchecked. I love these islands. I love the people who inhabit them.

And, Mr. Chairman, I ask the Subcommittee to have faith in the wisdom of the islanders to shape our islands' destiny. I believe this faith will be sustained.

Thank you.

The PRESIDING OFFICER. Is there further morning business?

PROTOCOL TO CONVENTION RELATING TO INTERNATIONAL EXPOSITIONS—REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Protocol amending the 1928 convention concerning international expositions, signed at Paris on November 30, 1972 (Executive N, 93d Congress, first session), transmitted to the Senate today by the President of the United States, and that the Protocol with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The message is as follows:

To the Senate of the United States:

I transmit herewith the Protocol amending the Convention signed at Paris on November 22, 1928, concerning international expositions with a view to receiving the advice and consent of the Senate to its ratification. The Protocol was signed at Paris on November 30, 1972 by the United States and 22 other nations party to the 1928 Convention.

The Paris Convention of 1928 created the Bureau of International Expositions, the purpose of which is to provide basic rules regarding international expositions. The United States joined the Bureau in 1968 with the advice and consent of the Senate, after it had become apparent that it would be in the national interest to coordinate planning of United States expositions with planning in other countries. One of the objectives of membership in the Bureau was to give the United States a voice in modernizing the Convention.

The United States participated in the drafting of the 1972 Protocol, which incorporates a completely revised text of the Convention. The purpose of the revision is to amend the rules and procedures governing international expositions in line with current techniques and to modernize the provisions concerning the activities of the Bureau. By limiting the frequency of expositions, the new Protocol should reduce the financial demands on participating governments.

I commend the purposes of the Protocol and request that the Senate advise and consent to its ratification, subject to the reservation recommended in the report of the Department of State.

RICHARD NIXON.

THE WHITE HOUSE, *July 19, 1973.*

SALEM COLLEGE HONORS SENATOR JENNINGS RANDOLPH FOR 50 YEARS SERVICE AS TRUSTEE

Mr. ROBERT C. BYRD. Mr. President, no man has ever been truly honored for what he has received. Honor is the reward for what he has given. On July 2, 1973, the Salem College Board of Trustees, college officials, and more than 300 friends, gathered on the campus of this fine West Virginia institution to commemorate the 50th year of service as trustee to the college by my distinguished colleague, Senator JENNINGS RANDOLPH. On this occasion, the trustees proclaimed 1973–74 "The Senator Jennings Randolph Year." It is a fitting tribute to his half century of service to the college where he was graduated magna cum laude. To be recognized in such a manner by the devoted citizens of his own home is an honor reserved for few men in public life.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. MANSFIELD. Mr. President, this testimonial commemorated 50 years of service as a trustee of Salem College by our distinguished colleague who, incidentally, happens to be a graduate of that outstanding seat of learning.

The whole day was set aside to honor our colleague. Personally, I can think of no better way to give a Member of this body an honor of this sort. Because what JENNINGS RANDOLPH has turned out to be is not only a prophet in his own country, but in his own lifetime. No one has done more as a Member of Congress—and JENNINGS RANDOLPH has served with distinction in both House and Senate for more decades than I think he cares to remember—no one has done more in the field of aiding the blind, the handicapped, the young people, and the poor than has JENNINGS RANDOLPH. His record in Congress stands as living testimony to his devotion and his interest in the cause of people as a whole.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader for his warm and well-chosen words. West Virginia's senior Senator is, indeed a prophet with honor in his own country. He has earned that approbation, because the people of our great Nation have benefited immeasurably through his service in the U.S. Senate, and Salem College has been exceedingly fortunate over these many years to be the recipient of his wisdom and guidance.

Mr. President, I ask unanimous consent that the text of that program, together with minutes of the Salem College Board of Trustees' meetings of July 2, 1923, and July 2, 1973, be placed in the RECORD. I ask also that my remarks at the testimonial banquet, along with Senator RANDOLPH's response to the trustees at an evening meeting, as well as newspaper articles relating to the events, be printed in the RECORD at this point:

THE SENATOR JENNINGS RANDOLPH TESTIMONIAL, 50 YEARS OF SERVICE, 1923–73, SALEM COLLEGE, CAMPUS LIFE CENTER, MONDAY, JULY 2, 1973

The Board of Trustees of Salem College, West Virginia, announces the Senator Jennings Randolph Year 1973–74, commemorating 50 years as trustee of Salem College, July 2, 1923–July 2, 1973.

This Special Event in the life of Salem College honors one who has served his country, his state, his community, and his college for half a century. This date, July 2, 1973, marks his Fiftieth Anniversary as Trustee of Salem College. It is in his honor that Salem College dedicates the School Year 1973–1974, in recognition of his extraordinary service to the college. With great pride, Salem College pays tribute to its distinguished alumnus and trustee, the Honorable Jennings Randolph, United States Senate, State of West Virginia.

THE SENATOR JENNINGS RANDOLPH TESTIMONIAL

Salem College Campus Life Center, Monday, July 2, 1973:

Reception—Lounge, 4:30 p.m.

Dinner—Dining Hall, 5:00 p.m.

Call To Order, Toastmaster, the Honorable Cecil H. Underwood, former Governor of the State of West Virginia, President, Bethany College.

Invocation, The Reverend Paul Green, Seventh Day Baptist Church, Salem.

Introductions.

Special Music, The Reverend Mr. and Mrs. Paul Green.

Remarks, The Honorable Robert C. Byrd, U.S. Senate, State of West Virginia; S. Lee Braxton, Chairman of the Board of Regents, Oral Roberts University; and Jennings (Jay) Randolph, Jr., Director of Sports, KSD-TV, St. Louis, Missouri.

The convening of the Board of Trustees of Salem College and reading of the official proclamation of "The Senator Jennings Randolph Year," Rodney L. Curtis, Chairman of The Board of Trustees, Salem College.

Remarks, Dr. K. Duane Hurley, President, Salem College.

Response, The Honorable Jennings Randolph, U.S. Senate, State of West Virginia, Member of The Board of Trustees, Salem College.

Benediction.

The Board of Trustees of Salem College, West Virginia, 1923–24:

S. Orestes Bond, President of the College.

C. A. F. Randolph, Chairman of the Board.

Ernest O. Davis, Flavius J. Ehret, George H. Trainer, M. Wardner Davis, S. Orlando Davis, J. Alexander Randolph, Lucian D. Lowther, T. Edward Davis, M. H. Van Horn, Rev. H. C. Van Horn, Dr. Edward Davis, and Jennings Randolph.

Rev. A. J. C. Bond, Thomas M. Bond, Dr. Elsworth Childers, Owen T. Davis, Hon. Jesse F. Randolph, Roy F. Randolph, Edward B. Robinson, Glenn L. Ford, Ottis F. Swiger, Earl L. Ford, and Clete Randolph.

1973–74:

Dr. K. Duane Hurley, President of the College.

Rodney L. Curtis, Chairman of the Board.

Leland W. Bond, Dr. Richard Bond, Rex Bowen, Col. James Brewster, Jr., John D. Catalano, John B. Christie, Alfred L. Davis, Charles Erikson, E. R. Gateman, James S. Gladwell, Bernard Gottlieb, John G. Hanner, C. Glen Harman, Dr. M. S. Harvey, Rw Howard, Frank N. Ikard, Robert Johnson, and O. G. Kennedy.

John S. Kimbell, G. William Knepshield, Daniel L. Louchery, John D. Lough, Dr. Ward S. Maxson, William B. Maxwell, Jr., William D. McKain, Donald G. Michels, Dr. Corma A. Mowrey, Dr. Charles H. Patterson, The Hon. Jennings Randolph, Sanford F. Randolph, Crosby U. Rogers, Donald P. Saxton, Ronald Schramm, Paul W. Sturm, H. Clark Underwood, Jr., and H. Lyle Wolverton.

Honorary trustee: Clyde Digman and Mrs. Chester Carlson.

Life members (trustees emeriti): O. B. Bond, T. Edward Davis, Dr. Earl D. Ford, Dennis L. McElroy, Will H. Melet, Dr. John F. Nelson, Mrs. Oscar Nelson, Glen L. Post, and Paul M. Lowther.

Michael Greer, Faculty Representative.

Rocco J. Longo, Salem College Community Congress President.

Edith Stewart, Salem College Alumni Association President.

Leonard Kaplan, Salem College Parents' Association President.

Oscar Andre, Legal Counsel to the Board.

JULY 2, 1923.

STOCKHOLDERS MEETING

The Stockholders of The College met in the Director's room of the college at 7:30; as per the adjournment of June 26th, and the taking of a roll of stock showed 464 shares present in person, and 460 by proxy making a total of 924 shares present, thus making a majority of the stock present.

The meeting was led in prayer by pastor Geo. B. Shaw, and proceeded to organize by the election of Charles A. Randolph, chairman, W. Wardner Davis, secretary.

The following named men were reelected to the board: S. O. Davis, Edward Davis, Roy F. Randolph, Ernest O. Davis and M. Wardner Davis, Jennings Randolph was also elected to membership on the Board, taking the place of his father, whose term of office expired at this time, and who declined to accept reappointment.

The Stockholders by vote expressed their regret that Mr. Ernest Randolph felt that it was best for him to retire from the Board of Trustees of the College, and all joined in an expression of appreciation of his faithful services for these many years.

The secretary was by vote instructed to stamp the proxies of this meeting.

The minutes of this meeting were referred to the incoming board for correction and approval. The meeting then adjourned.

M. WARDNER DAVIS,
Secretary.

SPECIAL MEETING OF THE SALEM COLLEGE BOARD OF TRUSTEES

The meeting was called to order at 7:30 by Chairman Rodney L. Curtis. He indicated that the purpose was to highlight and reaffirm the official action taken by the original Stockholders of the College exactly 50 years before in electing Senator Jennings Randolph to the Board of Directors.

Present for today's meeting were the following Board members: Leland W. Bond, O. B. Bond, Col. James Brewster, Jr., John D. Catalano, John B. Christie, Rodney L. Curtis, T. Edward Davis, Clyde Digman, Charles Erikson, Bernard Gottlieb, Dr. M. S. Harvey, R. W. Howard, Robert Johnson, O. G. Kennedy, John S. Kimbell, Daniel L. Louchery, Paul M. Lowther, John D. Lough, Dr. Ward, C. Maxson, William B. Maxwell, Jr., William D. McKain, Will H. Melet, Donald Michels, Glen L. Post, The Honorable Jennings Randolph, Sandford F. Randolph, Crosby U. Rogers, Ronald Schramm, H. Clark Underwood, Jr., H. Lyle Wolverton, and Legal Counsel for the Board, Oscar Andre.

Also in attendance were many representatives of the College faculty and staff, holders of shares of stock, descendents of previous Board members, as well as more than 300 friends of Senator Randolph including special guests from throughout the State and Nation.

Chairman Curtis read the minutes of the 1923 meeting from the official record book, brought from the archives especially for this occasion. The record showed that Senator Randolph had become a full and active member of the Board when he was still a student, taking the place of his father, Ernest Randolph, who had resigned after an extended tenure. His grandfather, Jesse F. Randolph, one of the "founding fathers" of the College had also served as a member and Chairman of the Board. So there have been unbroken Randolph family membership on the Board and continuity of service to the College since its establishment in 1888.

It was moved by O. Glen Kennedy, seconded by John D. Catalano, and unanimously passed that the resolution be adopted and spread on the permanent records of the College. . . It reads as follows.

TO YOU THE HONORABLE JENNINGS RANDOLPH

We, the Salem College Board of Trustees, assembled on the second day of July 1973, gratefully recognize the tremendous contributions you have made to Salem College during your fifty years of unselfish and devoted service on this Board and we hereby declare that the academic year beginning on this day and ending the first day of July, 1974, be designated and named "The Jennings Randolph Year of Salem College."

Your achievements have brought great honor to Salem College but you, Jennings Randolph, have done much more for the College. During your fifty years' tenure on the Board you have contributed lavishly of your time and substance; have given to the college your constant, devoted, and unselfish service; have pulled a strong oar in the large growth of the college, both the physical campus and the student body; and have been of incalculable help to the Board.

We look back and we congratulate you, a member of the United States Senate from West Virginia on the continuous fifty years you have served as a member of the governing board of Salem College. You were elected while still a student at college, on July 2, 1923 to fill the vacancy created by the retirement of your father, Ernest Randolph. You are the only board member in the history of the college who has been at the same time an undergraduate student.

While attending Salem College you achieved distinction not only as a student and a gentleman, but also as an outstanding orator, debater, and athlete. Almost singlehandedly, you founded the "Green and White", the college newspaper, and served as its editor. You are one of the founders of the West Virginia Intercollegiate Press Association and the West Virginia Intercollegiate Forensic Association.

Following your graduation you have had an enviable and most successful career achieving national and international recognition during your many years of service in the United States Congress, first in the House of Representatives and subsequently in the Senate. Your work in the field of aviation has been outstanding, both in the legislative halls and as an executive of one of our large air carriers.

We salute you, Jennings Randolph and thank you most sincerely for giving of yourself to the college, wholly and unselfishly these many years.

Salem College Boards of Trustees, 1923–1973.

Copies of the resolution were provided for all the people attending the special Board meeting and Testimonial program which preceeded the Board meeting and the original copy appropriately framed was presented to the Senator.

President of the College, K. Duane Hurley, reviewed the fifty years of Senator Randolph's tenure on the Board as "golden years:"

(1) Golden years—for the Senator, because he has had the opportunity to be known and to know many people in all parts of the world. He has become one of the most sought-after platform personalities of our day. He has obviously found life exciting and exhilarating (else he could not sustain the pace of work and travel he does.) He has been witness to and participant in many changes in society (and the College).

(2) Golden years—for the State and Nation, because he has brought favorable attention to his home State and has rightfully been granted many honors. He had a major hand in establishing the Appalachian Regional Commission. He has relentlessly worked to improve communications among people. He was instrumental in achieving voting franchise for 18 year-olds.

(3) Golden years—for the College, because he has always been deeply interested in young people. His membership gives unbroken continuation of family participation in College affairs, taking the place of his father, Ernest Randolph, on the Board, and before that Jesse F. Randolph, his grandfather, who was a founding father of the College. Truly *golden* family performance.

President Hurley praised Senator Randolph as "an ideal Board member," because of his knowledge of the institution; because he is a living example of the College's ideals—dedication to his church, with strong family ties, exemplary personal habits of speech and living, and high educational standards. He has critical concern for the welfare of the College, being willing to criticize but quick to be sympathetic. He is supportive of the College financially, with his personal gifts and by opening doors to others. In addition, he takes time to attend meetings, both regular sessions as well as special committee meetings. Most important of all, he has *enthusiam* for the Cause!

In concluding his comments, President Hurley expressed the thought that all of these characteristics give evidence of a truly *big* man. The caliber and character of his bigness are demonstrated by the fact that, in addition to the devotion for his Alma Mater, he has given sincere and wholehearted support to other causes: the Benedum Foundation, other colleges and many, many worthwhile projects and organizations from coast to coast.

"So, it is entirely fitting and proper," President Hurley declared, "that today we officially begin the Senator Jennings Randolph Year at Salem College. We anticipate several major events during the College year, culminating with special celebrations at Commencement time—May 11–12, 1974.

"Together, we lift our voices: All hail, Senator Jennings Randolph!"

Senator Randolph responded with warm and personal reflections about his happy associations with the people connected with Salem College through the years.

He repeated, with great feeling: "Thank you, thank you, thank you"—referring to everyone present as well as the host of friends and well wishers who had sent congratulatory letters and telegrams . . .

(NOTE.—A recording was made of the full evening's program and is being preserved as a part of the record of this historic occasion along with copies of news reports and all communications coming to the College about the event.)

RODNEY L. CURTIS,
Chairman.
K. DUANE HURLEY,
Secretary.

SENATOR RANDOLPH'S 50TH ANNIVERSARY AT SALEM COLLEGE

(By ROBERT C. BYRD, U.S. Senator from West Virginia)

Mr. Curtis, President Hurley, Senator Randolph, Ladies and Gentlemen:

Approximately one hundred years ago, Alfred, Lord Tennyson, wrote in his Idylls of the King, the lines:

"To love one maiden only, cleave to her,
And worship her by years of golden deeds."

Jennings Randolph has gone Lord Tennyson one better—he has loved two maidens, and worshipped both by years of golden deeds. Those deeds have been shared by his charming and devoted wife, Mary Katherine, and by his other love, Salem College. Unlike some cases where a man has two loves, this sharing of affections has caused no jealousy. Instead, it has been the source of pride and much joy to all concerned.

While I have not researched the possibility beyond all fear of contradiction, it would be my opinion that when the authorities of Salem College elected Jennings Randolph to the Board of Trustees in his senior year as a student, they conferred on him an honor which was at that time unique in the annals of academia, in America.

The Boards of Trustees, the faculties, the student bodies, and the friends of Salem College have known Jennings Randolph for fifty years as an alumnus, and as a devoted friend and supporter. His wisdom, experience, and counsel have for many years been readily available to his alma mater, and it is most fitting that those years of selfless service be recognized by the dedication to Jennings Randolph of all activities at Salem College during the academic year of 1973 up to Commencement in 1974.

In recognition of his distinguished service as a Member of the United States House of Representatives, and of the Senate of the United States, Jennings has been the recipient of numerous honorary degrees from many colleges. Proud as he must be of these expressions of respect, I venture to think that none is held in higher value than the degree he earned from this college in the year that the only West Virginian ever to run for the Presidency of the United States was beaten by Calvin Coolidge.

Perhaps the most difficult decision with which I am faced today is to find things to say about Jennings Randolph that have not already been said ad infinitum. When a man has served his State and his nation for over a quarter-century with the diligence that characterizes our senior Senator, reiteration of his qualities would seem to be unnecessary. But today, when speaking ill of men seems to be more popular than speaking well of them, it is a pleasure to praise a man who well deserves the accolades.

That a man should be one of only 100 men who are elected to represent 210,000,000 people is honor indeed. There are few careers in American public life that parallel service as a United States Senator. And when a man is also the Chairman of an important committee, and the ranking majority member on two other standing committees, his prestige and standing in the eyes of his senatorial colleagues are beyond question.

When a man represents the people, as Jennings has done for so long for the people of West Virginia, a well-rounded life experience is invaluable. As most of you know, Jennings Randolph has been a newspaper and magazine editor, a college professor, a university dean, and a business executive. The excellence he achieved in these diverse fields has stood him in good stead during his distinguished service as a Representative and Senator from West Virginia.

But there is something more in this man which transcends the purely legislative service. Perhaps what I mean is best illustrated by words written in the 30th Chapter of the Apocrypha of Ecclesiasticus: "Gladness of the heart is the life of a man, and the joyfulness of a man prolongeth his days."

I believe it is true to say that Jennings has always been a happy man, with a very real feeling for the hopes and aspirations, the joys and the sorrows of men and women for whom life may have held days and years of circumstances in which happiness and joy were at a premium. This is particularly true in his very real concern for the betterment of handicapped and disabled Americans. On the national scene, he has been an untiring champion of the blind and the crippled. The Randolph-Sheppard Act established the nationwide system of vending stands in public buildings which have provided prideful employment for thousands of blind persons who might otherwise have become burdens on relatives, friends, or the sponsors of charity.

The award which Jennings received from the New York State Department of Social Work sums up the thrust of the total appreciation of his work for the less fortunate over the years. The Award stated "For his constant devotion to the general welfare, which has so enriched the lives of all Americans."

There is little that could be said of any man—especially a man who has spent so much of his life in public service—that could be a greater compliment. Jennings, you can be very proud of the words on that award.

The well of humanitarianism in Jennings Randolph is deep. His capacity for selfless service is wide and its limits have not been reached. His accomplishments on behalf of his fellow-men are many and his potential is still unlimited. The years in the Senate from 1958 until now have been years of pleasantness and of productiveness for both Jennings and myself. Our association has been one of mutual respect, with a common aim of doing all in our power to fulfill the mandate given us by the people of West Virginia.

The next year will be known at Salem College as "The Senator Jennings Randolph Year at Salem College." This recognition of one of the College's most distinguished alumnae is well and truly deserved. I am proud to be a part of West Virginia's team in the Senate of the United States. I am proud to have as my senior colleague on that team, the outstanding gentleman you honor tonight. We look to the future with faith in our State and in our country. With men of Jennings Randolph's caliber in the forefront of that future, we have nothing to fear.

Jennings:

"The hours are like a string of pearls,
The days like diamonds rare;
The moments are the threads of gold
That binds them for our wear.
So may the years that come to you,
Such health and good contain,
That all the moments, hours, and days,
Be like a golden chain."

TAKE THE FIRE . . . NOT THE ASHES . . .

(Excerpts of Response by Jennings Randolph)

Mary and Jay and Frank and Ernestine (my sister) join in heartfelt thanks for your kindness and friendship.

Let us pledge a renewed stirring of love for our college. I am hopeful that tonight's coming together can bring a rebirth of our desire and determination to serve the cause of Salem.

We shall use this testimony—not so much as an hour to call attention to a half-century of trusteeship, but as a testimony in this generation, our own, to build a better institution for the next and succeeding generations.

We have a truly worthwhile and rewarding heritage. But we must understand, in the words of a philosopher, to "take from the altars of the past the fire, not the ashes." Surely we can draw on the experience of 50 years—yes, the inspiration. But education must be truth and truth must be education.

Now we must emphasize the truth of imagination, the truth of initiative, the truth of the beauty and the glory of living.

Our Salem can and must, in my conviction, broaden and strengthen its career education programs. This need not lessen the values of the arts and sciences degrees—or the closely-knit values of professor and student.

The continuing goals for which we labor are a Salem where young women and young men will be challenged—to work with unusual diligence—to impose self-discipline—to walk side by side with their fellow students—to keep their heads high—to possess a kindness of heart.

The mind—the body—the spirit—these shall be nurtured for the tomorrows.

We will be needing these qualifications more and more—if our college is to live and prosper, as indeed our country is to stand strong and to conquer this era of misdeeds and divisiveness—so prevalent.

We, however, must not go to the wailing wall—we must not be buried in the shifting sands of doom and gloom.

But we shall be realists—we have a great, and in many ways, a new task.

Today must be not just another day—but happily a new day—a day of truth—

A day of challenge.
A day of action.
A day of achievement.
A day of cooperation.
A day of mutual respect (not just tolerance but understanding).
A day of love.

[From the Clarksburg (W. Va.) Exponent, July 3, 1973]

"JENNINGS RANDOLPH YEAR" OPENS AT SALEM COLLEGE

Many persons were on hand Monday evening at Salem College to give testimony as to the hard work and dedication shown to the college by U.S. Sen. Jennings Randolph.

The reception and dinner honored Randolph for his 50 years of service on the board of trustees at Salem College. There were approximately 300 persons attending, including many distinguished guests such as U.S. Senator and Majority Whip Robert C. Byrd, former governor of West Virginia Cecil H. Underwood, and members of his family.

Salem College has proclaimed the coming year as "Senator Jennings Randolph Year" and the testimonial dinner served as a kick-off for the event.

"Jennings loves two maidens and worships both by golden deeds," Byrd told those attending the dinner. He named the two as Mary Katherine, Randolph's wife, and Salem College. "This sharing of affection has caused no jealousy but has been a source of pride for the family," Byrd continued.

Byrd stated that during Randolph's years in the House of Representatives and the Senate that he had been bestowed with many honorary degrees from many colleges "but none has been held in higher esteem than the one from Salem."

"His capacity for self-service is wide—and his limits, have not been reached," the Majority Whip continued. "The years in the Senate have been ones of pleasantness and productiveness for Jennings Randolph and myself."

"I am proud to have as my senior colleague in the Senate the outstanding gentleman we are honoring tonight," Byrd stated. "It is a pleasure to praise a man who well deserves accolades."

"Jennings, I salute you for the great service you have performed for Salem, the state and the country," the younger senator added.

Also attending the dinner to honor Randolph was S. Lee Braxton, chairman of the Board of Regents at Oral Roberts University, Tulsa, Okla.

"The real true art of giving" is an outstanding trait of Jennings Randolph, Braxton said. "His projects for the blind and handicapped show he is a man of compassion.

Braxton also stated that, "the Senator is a teamman and has been a dear friend of mine for many years.

"I have never looked at him as a politician but as a statesman," Braxton continued.

Among the surprise speakers for Randolph on the program was one of his sons, Jennings (Jay) Randolph Jr., a nationally known sportscaster.

"I am honored to say a few words about my Dad," Jay said. "He deserves the honor," he added when speaking of the dinner.

"For the past 50 years Dad hasn't forgotten the college and he has done so much for so many," the announcer stated.

"He is a remarkable man and at age 71 he believes in a better tomorrow," Jay continued. "Faith is with this man but he is a realist."

The younger Randolph also addressed his Father by saying, "Today is certainly your day at Salem and the start of your year but I think every year has been your year."

Also giving testimony for Randolph was Dr. John B. Ottina, U.S. Commissioner of Education, who flew here for the event. Ottina stressed the various pieces of legislation and other accomplishments made by Randolph during his years as a senator.

Ottina reminded the dinner guests that Randolph was one of the persons instrumental in the passing of the Elementary and Secondary School Education Act which was called "the largest single piece of educational legislation."

Dr. K. Duane Hurley, president of Salem College, and Cecil Underwood, who served as toastmaster for the event, also made brief statements on behalf of the Senator.

Read during the evening were the minutes from a board of trustee meeting of Salem College that were taken on July 2, 1923, when Jennings Randolph was appointed a trustee. The honor was given to Randolph while he was still a student at the college.

Jennings Randolph's appointment to the board of trustees came after his father declined reappointment to the board.

Randolph made brief remarks, spending much of the time reminiscing of when he was a student and some of the activities in which he participated.

The real feeling of the dinner came from the senator's eyes and voice as he said "I thank you, I thank you very much—each and every person."

Other distinguished guests at the dinner were Frank Randolph, a second son of the Senator who is an interior designer in Washington, D.C.; Mrs. Ernestine Carr, a sister of Randolph from Washington; Mrs. Randolph; Rodney L. Curtis, chairman of the Salem College Board of Trustees; David Johnson, Henry Bergstrom and Byron Randolph, on the board of directors of the Benedum Foundation, and Leslie O. Barnes, president of Allegheny Airlines.

Also present were members of the present Salem College Board of Trustees, presidents from many of the state colleges, members of the news media and numerous friends of the Randolphs.

Providing the invocation, benediction and special music was Rev. Paul Green of the Seventh Day Baptist Church at Salem.

[From the Elkins (W. Va.), Inter-Mountain July 3, 1973]

SALEM COLLEGE PAYS TRIBUTE TO TRUSTEE FOR 50 YEARS—RANDOLPH'S "EFFORTS IN BEHALF OF EDUCATION UNPARALLELED"—TRIBUTE BY SENATOR ROBERT C. BYRD, DR. OTTINA

"His capacity for service is wide; and his limit is not yet reached," Senator Majority Whip Robert C. Byrd said. "His potential is unlimited."

"His efforts in behalf of education in the United States Senate are unparalleled," Dr. John Ottina, U.S. Commissioner of Education, said.

They were speaking about U.S. Senator Jennings Randolph, one of the first persons in the country to become a college trustee while still a student—fifty years ago.

Randolph was asked to join the Board of Trustees at Salem College in 1923 when his father, Ernest Randolph, stepped down from the board.

At 7:30 p.m. Monday, Senator Randolph completed 50 years of service on the Salem College Board of Trustees and officially began the "Jennings Randolph Year at Salem College."

"I won't forget tonight. I'll remember it most because all of you are here," the Elkins Senator said. "I am going to walk alongside you and work with you. There will be tomorrows and we're going to live in them".

Randolph was honored at a dinner held at the Salem College Campus Life Center Monday night, attended by about 300 friends, relatives and associates.

"Jennings Randolph became a trustee here while he was a student, between his junior and senior years. He has always been deeply interested in young people," Dr. K. Duane Hurley, president of Salem College, said.

Senator Randolph's roots in Salem College run deep. His grandfather, Jesse Randolph, was one of the leaders in the establishment of the school. He worked to secure a location for the school and helped to start the project with a $1,000 contribution.

Byrd said that Randolph, in his years in the House of Representatives and the Senate, has received many honorary degrees from numerous colleges "but none is held in higher value than the degree he received from Salem College in the year the only West Virginian ever to run for President was defeated by Calvin Coolidge."

Byrd discussed Senator Randolph's work for the betterment of handicapped and disabled Americans. "He has been an untiring champion of the blind and the crippled," he said.

The Senator described his admiration for Randolph. "I am proud to have as my colleague in the United States Senate the outstanding gentleman whom you honor tonight," Byrd said. "When we have a man of Jennings Randolph's caliber in the forefront of the future, we have nothing to fear."

"He is remarkable," Jennings (Jay) Randolph, Jr., director of sports at KSD–TV in St. Louis, Mo., said in tribute to his father.

"At the age of 71 he believes in a better tomorrow," Randolph continued. "He says our youth needs an inquiring mind to search for the truth. He tells me that there are no longer just two sides to a question."

The senator's son said, "He walks with dignity and determination but he doesn't kid himself. Dad, today is your day; it starts your year at Salem College. As your son, the highest compliment I can give you is to say sincerely, Dad, I'm proud of you."

S. Lee Braxton, chairman of the Board of Regents of Oral Roberts University, paid tribute to the senator. "I have never looked at him as a politician but as a statesman. I wish there were more men in Washington of this order," Braxton said.

"My own life has been enriched by the friendship of this man," Braxton continued. "He symbolizes the true art of giving. He thinks of others many times before he thinks of himself. The project he sponsored for the blind and handicapped demonstrates his compassion."

Dr. Ottina described the senator's contributions in the field of education. "He has worked for numerous acts in higher education, adult education, education for the handicapped, and library services," he said.

"He is also known as a leader in working for small colleges and universities," Ottina continued. "He is working through experience gained here at this institution."

Dr. Hurley describes the senator as "one of the most sought after platform personalities of our day. He has been witness to and participant in many changes of our society and our college."

Dr. Hurley outlined some of the senator's contributions. "He had a major hand in the establishment of the Appalachian Regional Commission. He worked to establish the voting age at 18," he said.

"Jennings Randolph is an ideal board member," Dr. Hurley continued. "He has a knowledge of the institution. "He has a critical concern for the welfare of the college, always willing to criticize constructively. He supports the college financially with personal gifts and always takes time to attend meetings."

Leading a parade of tributes to the senator was Cecil H. Underwood, former governor of West Virginia and current president of Bethany College, who served as toastmaster.

Rodney L. Curtis, chairman of the Board of Trustees, called Randolph "Mr. Salem."

"The blood of Jennings Randolph started this college," Curtis said, referring to the senator's relatives who were instrumental in founding Salem College.

The senator recognized relatives, friends, and colleagues attending the dinner. "I don't want to talk too much of the past tonight; but I feel this is what you want me to do on a night like this because so many of you are a part of that past," Randolph said.

"I'm especially happy to be here with the Board of Trustees tonight because this is a trustee night, a time of stewardship of the past and present but more importantly of the future. We must show a renewed feeling of love for our college," he continued.

"We must take from the altars of the past the fire and not the ashes," the senator said. "We must draw on the experience of the past 50 years. Education must be truth and truth must be education. Now we must employ the truth of the imagination."

Senator Randolph discussed the progress of the college. "Our Salem College can and must broaden its career education program, but we must not weaken the arts and sciences. Young men and women attending this school must be challenged; they must impose self-discipline and walk side by side with their fellow students. But they must learn to possess kindness of heart," Randolph said.

"We will need these qualities more and more if our college is to move forward as we want it to," he continued. "We must not go to the wailing wall . . . we must be realists. We have a new and wondrous task. Today must not be just another day but a happy new day."

Over 25 members of the Board of Trustees attended Monday night's tribute, prompting Dr. Hurley to describe the event as "the largest board meeting at Salem College since 1888."

Senator Randolph's wife Mary Katherine and his younger son Frank Randolph, an interior designer in Washington, D.C., also attended the dinner.

O. G. Kennedy, member of the Board of Trustees, presented Randolph with a resolution on behalf of the board, officially declaring July 2, 1973–July 2, 1974 as the "Jennings Randolph Year at Salem College."

Mr. ROBERT C. BYRD. Mr. President, the test of any performance is best judged by peers. Both in the House of Representatives and, for nearly 15 years, in the Senate, Jennings Randolph has earned the respect and admiration of his colleagues. The Senate majority leader, members of committees on which he serves, and others, have joined in written tribute to this remarkable man. I ask that a sampling of letters from present and former colleagues be placed in the Record at this point:

Senator Mike Mansfield: "To pay tribute to Senator Jennings Randolph is to recognize his virtues as an outstanding American, an accomplished legislator, and a decent human being. Having served with him for fourteen years in the United States Senate, and having watched his stature grow, I can attest to qualities as a lawmaker and a humanitarian.

Senator Randolph has an outstanding record in the fields of the handicapped, crippled children, the blind and aged just to mention a few. But the real mark of greatness of Jennings Randolph is not so much in the legislative milestones of his career—and they are many—but rather in his unswerving devotion to the cause of the less fortunate among us. For all those things, the people of West Virginia and of the Nation owe Jennings Randolph a great debt of gratitude.

It is an honor and a privilege for me to have the opportunity to serve with Jennings Randolph and along side him in the Senate and to speak personally of my extremely high regard for him as a man and as a legislator. Senator Randolph is a great American, and I want to extend to him, through you and his friends, my best wishes, and to assure all of you that it has been a distinct pleasure and privilege to work with him in the Senate in the service of the Nation. To Jennings, I extend a deep appreciation for his countless contributions in the Senate and to the people of the United States."

Senator Edmund S. Muskie: "I know Salem College has benefited richly from the same wisdom and leadership you have demonstrated in carrying out your Senate duties. These qualities, coupled with your propensity for hard work and tenacity in pursuing your goals, have earned you the respect of your associates at the College, as they have of your colleagues in the Senate."

Senator Howard H. Baker, Jr.: "The example which you have set has taught me, and every other public servant, much about the honored craft of statesmanship. It can be stated with certainty that Jennings Randolph is a man of the people who truly represents his constituents. This is an accolade which, in my opinion, is without parallel . . ."

Senator Joseph M. Montoya: "It would be an accomplishment if only for the half-century involved, but in your case, I'm sure your services on this board are as outstanding, dedicated and filled with contributions as has been your service in Congress on behalf of education."

Senator James L. Buckley: "Your many years of dedicated and immensely productive service have earned you a special place of honor and distinction."

Senator Mike Gravel: "I know, from first-hand experience, the depth of Jennings' compassion and his dedication to the needs of humankind. Every Senator has seen his unique abilities at work in the Senate, in the Public Works Committee and in our personal relationships with him."

Senator Robert T. Stafford: "During the two years I have had the privilege of serving under your leadership on the Public Works Committee and, similarly, on the Committee on Labor and Public Welfare, I have become well-acquainted with your outstanding qualities of tact, patience and forceful leadership."

Senator Lloyd Bentsen: "My relationship with Jennings Randolph, which goes back several years, has given me the opportunity to know and admire this remarkable public servant. He is a strong and compassionate legislator, a pragmatic, hard-driving, and extraordinarily fair Senator. It has been my privilege to serve with him these past years, and I look forward to our cooperative efforts and our friendship in the years to come."

Senator William L. Scott: "The honor you will be tendering Senator Randolph marks one more milestone on a career full of public service and achievement."

Senator Quentin N. Burdick: "I am sure that Jennings himself would be the first to say that the groundwork for his future successes was laid in the years he spent at Salem."

Senator Dick Clark: "He is truly a leader. In transportation, the environment, the handicapped, Jennings Randolph is one of the most respected and knowledgeable members of the Senate."

Senator James A. McClure: "The esteem in which he is held by Salem College, as evidenced by the tribute being paid him on the fiftieth year as a Member of the Board of Trustees of the College, is a sentiment shared by those of us who have the privilege of serving with him in the U.S. Senate."

Senator Joseph R. Biden, Jr.: "The Chairman works quietly and effectively in an effort to develop solutions to major legislative issues in order that a substantial majority of the Public Works Committee can be mustered. This is a time-tested recipe for effective legislative leadership."

Senator Pete V. Domenici: "Senator Randolph has generously contributed his time and effort to our Nation as I am sure he has to your college. Such diversified devotion to causes for human benefit reflect the true character of this great public servant."

Former Senator John Sherman Cooper: "I need not tell those who will be meeting to honor him of his devoted and successful work for the people of West Virginia, whether for roads, river development, highway safety, mine safety, or for the stabilization of, and increased research for, the coal industry. The chief environmental and pollution control bills concerning water, air and solid wastes came from his Committee. It was his initial and consistent sponsorship of legislation that gave those who become 18 years of age the right to vote. All of this legislation, which bears his name, is a record of his devotion to West Virginia."

Former Senator B. Everett Jordan: "Because I so fully share his interest and involvement in the cause of education, I can understand perhaps better than most his willingness to devote a half-century of his time and talents to the Salem College program, but that understanding does not lessen the magnitude of the service he has performed."

Senator Harrison A. Williams, Jr.: "His efforts have demonstrated many qualities. One is that he cares—he cares deeply about the need to improve the quality of life in this country for all people . . . Greatness results when caring is combined with the ability and dedication to accomplish, the knowledge of problems and their solutions, and the wisdom to select the best possible course of action. And Senator Randolph has been, and is, a great Senator."

Senator Claiborne Pell: "Those of us who have served with you on the Subcommittee on Education of the Committee on Labor and Public Welfare know well of your diligent work in molding education legislation designed to ensure that all American children have equal educational opportunities."

Senator Gale McGee: "No Senator in this body is held in higher esteem nor produced more positive, constructive acts in humanitarian fields, including education, than Senator Jennings Randolph."

Senator Vance Hartke: "During this past half-century, the name Jennings Randolph has become synonymous with dedication to service, devotion to duty, and above all a keen and abiding interest in people."

Senator Mark O. Hatfield: "Nearly half a century of service to a college is a remarkable achievement in itself. When that service is rendered with great warmth of spirit and excellence of performance, the search begins for suitable words to express the appreciation we feel in our hearts."

Senator Birch Bayh: "During the nearly three decades of his service in the Congress of the United States, Senator Randolph has achieved an enviable legislative record and has earned the esteem not only of other Members but also of many important leaders of government, industry, education and the arts."

Representative Harley O. Staggers: "It is good to know that Salem College and the Randolph family have grown up together. When we tear aside the veil of antiquity and peer down the corridors of time, we seem to find a Randolph watching over the destinies of the College and serving the interests of his Nation and his State with skill and devotion, from one generation to the next."

Mr. ROBERT C. BYRD. Mr. President, these expressions of affection and esteem for the senior Senator from West Virginia are but a few among the vast reservoir of good wishes flowing from the Jennings Randolph testimonial at Salem College. It was thoughtful and kind of the distinguished majority leader, Mr. Mansfield, to join me in this colloquy regarding the tributes of Jennings Randolph's friends and admirers. One indication of the broad generational span of close friendships he holds is found in the list of those attending the testimonial dinner. Senator Randolph recognized and greeted Mr. Simeon Bond of Salem, whose father was a brother to the Senator's grandmother, and Mr. Orla Davis, one of the Senator's teachers at Salem College.

Of all the many warm and sincere words spoken on behalf of Jennings Randolph that memorable day at Salem College, I feel the finest tribute to this great man was paid by his own son, the nationally known broadcaster, Jennings "Jay" Randolph, Jr., who said:

> He walks with dignity and determination but he doesn't kid himself. Dad, today is your day; it starts your year at Salem College. As your son, the highest compliment I can give you is to say, sincerely, Dad, I'm proud of you.

WAR POWERS ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of Calendar No. 209, S. 440.

The PRESIDING OFFICER. The bill will be stated.

The legislative clerk read as follows:

> S. 440, to make rules governing the use of the Armed Forces of the United States in the absence of a declaration of war by Congress.

The Senate resumed the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 5 minutes and ask unanimous consent that the time be equally charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered and the Senator from West Virginia is recognized for 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Missouri (Mr. Eagleton), I ask that the clerk state Mr. Eagleton's amendment No. 364 and that it be made the pending question.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> On page 5, line 2, strike out "Armed Forces" and insert in lieu thereof "military forces".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon disposition of amendment No. 364 tomorrow, the Senate proceed to the consideration of amendment No. 365 by the Senator from Missouri (Mr. Eagleton); and that upon disposition of amendment No. 365 tomorrow, the Senate then proceed to the consideration of amendment No. 366 by the Senator from Missouri (Mr. Eagleton).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, by way of explanation, my understanding, based on the conversation I have had with the able Senator from Missouri (Mr. Eagleton), is that both amendments, Nos. 364 and 365, will be disposed of within a matter of a few minutes tomorrow, and that it is on Senator Eagleton's amendment No. 366 that the 2-hour limitation will apply.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SENATE TO PROCEED TO THE CONSIDERATION OF S. 440, THE WAR POWERS BILL, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders or their designees on tomorrow, the Senate resume immediately, without any morning business, its consideration of S. 440, the war powers bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 9 a.m. There will be no morning business, at least during the early part of the day.

After the two leaders or their designees have been recognized under the standing order, the Senate will resume consideration of S. 440, the war powers bill, which will be the unfinished business.

The pending question at the time of convening of the Senate tomorrow will be on an amendment by Mr. Eagleton. Three amendments by Mr. Eagleton have been ordered for consideration, in succession, one after another. On the first two, little debate is expected; but on the third, it is anticipated that there will be some debate, in view of the fact that, under the order previously entered, the Senator has 2 hours, to be equally divided, on that amendment. Undoubtedly, a yea-and-nay vote will occur on that amendment.

The first vote, then, could come as early as 10:30 or 11 a.m., unless the Senate, by unanimous consent, orders the vote on that amendment to come at a later hour during the day.

The leadership hopes to dispose of the war powers bill by early or midafternoon. I would anticipate yea-and-nay votes on at least three or four amendments and, of course, there will be a yea-and-nay vote on final passage of that bill.

Upon the disposition of the war powers bill, the Senate will proceed to the consideration of House Joint Resolution 512, which deals with insured housing loans. There is a time limitation also on that bill. There will be yea-and-nay votes on amendments therto. It is hoped that action can be completed on the bill, with a yea-and-nay vote on final passage, at a reasonably early hour tomorrow evening.

The session on tomorrow could go into the evening, in view of the fact there will be no Saturday session.

At the hour of 12 o'clock noon on tomorrow, a yea-and-nay vote will occur—the yeas and nays having already been ordered—on final passage of the District of Columbia appropriations bill, H.R. 8658. That bill has already been advanced to third reading. No further debate will occur thereon. The Senate will proceed at that hour to vote, as I have stated, on the passage of the bill.

As a reminder, there will be several yea and nay votes tomorrow, and Senators will want to be prepared for a session that could last into the evening.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 7:18 p.m. the Senate adjourned until tomorrow, Friday, July 20, 1973, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 19, 1973:

ATOMIC ENERGY COMMISSION

William A. Anders, of Virginia, to be a member of the Atomic Energy Commission for a term of 5 years expiring June 30, 1978, vice James T. Ramey, term expired.

THE JUDICIARY

Leonard I. Garth, of New Jersey, to be a U.S. circuit judge, Third Circuit vice James Rosen, deceased.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 19, 1973:

IN THE COAST GUARD

Coast Guard nominations beginning Bruce C. Skinner, to be commander, and ending Michael J. Goodwin, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 16, 1973.

HOUSE OF REPRESENTATIVES—*Thursday, July 19, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D. D., offered the following prayer:

He that abideth in Me and I in him, the same bringeth forth much fruit.—John 15: 5.

O God, unfailing source of wisdom, power, and love, we come to Thee seeking light upon our way, strength for our way, and love in our way that we may walk humbly with Thee, dwell harmoniously with our neighbors, and live happily with ourselves.

As we face the tasks of this day may it be with courage and with faith keeping our minds clear, our hearts confident, and our hands clean, that we may work diligently for a stronger Nation and a better world.

Kindle in our hearts and in the hearts of all nations a true love for peace and for freedom that in a real sense Thy kingdom of good will may move forward and the people on our planet may learn to live together in deed and in truth: to the glory of Thy holy name and the good of all humanity. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On July 9, 1973:

H.R. 7445. An act to extend the Renegotiation Act of 1951 for 1 year, and for other purposes.

On July 10, 1973:

H.R. 5452. An act to extend and make technical corrections to the National Sea Grant College and Program Act of 1966, as amended;

H.R. 6187. An act to amend section 502(a) of the Merchant Marine Act, 1936;

H.R. 6330. An act to amend section 8 of the Public Buildings Act of 1959, relating to the District of Columbia;

H.R. 7200. An act to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise certain eligibility conditions for annuities; to change the railroad retirement tax rates; and to amend the Interstate Commerce Act in order to improve the procedures pertaining to certain rate adjustments for carriers subject to part I of the act, and for other purposes; and

H.R. 7670. An act to authorize appropriations for the fiscal year 1974 for certain maritime programs of the Department of Commerce.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8949. An act to amend title 38 of the United States Code relating to basic provision of the loan guaranty program for veterans.

The message also announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1081. An act to authorize the Secretary of the Interior to grant rights-of-way across Federal lands where the use of such rights-of-way is in the public interest and the applicant for the right-of-way demonstrates the financial and technical capability to use the right-of-way in a manner which will protect the environment; and

S.J. Res. 118. Joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make a statement.

The Chair has been advised that the electronic voting system, which has not been functioning for the past 3 days, is now in order.

Technicians thoroughly tested the system this morning and have assured the Chair that it is fully operable.

The Chair will therefore direct that its use be resumed as of today.

ANNOUNCEMENT OF HEARINGS ON FLIGHT-PAY LEGISLATION

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, today I am announcing that the Military Compensation Subcommittee of the Armed Services Committee will commence hearings on flight-pay legislation on Thursday, July 26, specifically to take testimony from Members of Congress.

Because of the considerable congressional interest in this subject the subcommittee is setting aside the first 2 days of its hearings, July 26 and 27, for Members. Hearings will commence at 10 a.m. in the Carl Vinson Room, 2118 Rayburn House Office Building.

Members who wish to testify are asked to notify the staff by calling extension 56703. Committee rules require statements to be submitted 48 hours in advance.

Section 715 of Public Law 92–570 terminated, as of May 31, flight pay for officers in the grade of colonel, or Navy captain, and above, in assignments which do not require the maintenance of basic flying skills. On June 28 the House, in the course of instructing its conferees on H.R. 8537, rejected—by a vote of 238 to 175—a 6-month extension of the May 31 termination date.

The Defense Department has submitted legislation for a general revision of the flight-pay laws. It is contained in H.R. 8593, and I hope Members who testify before the subcommittee, in addition to providing their general views, also address themselves to the philosophy and provisions of H.R. 8593, which was introduced by request, incidentally, and at this point is simply a vehicle on which to commence the hearings.

Elsewhere in this RECORD I shall include a section-by-section analysis of H.R. 8593.

THE EFFECT OF THE FROEHLICH AMENDMENT TO THE AGRICULTURE BILL

(Mr. ROSENTHAL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSENTHAL. Mr. Speaker, on Wednesday I wrote to my colleagues regarding my intention to request a record vote on the Froehlich amendment to the agriculture bill. In my view, this amendment will give the Secretary of Agriculture, Earl Butz, unwarranted and dangerous powers over the price of every food item found in the supermarket.

Today, Members received a letter from Mr. Froehlich, stating that his amendment does not give Secretary Butz "absolute discretion" to make "unilateral" decisions regarding food prices and that "weather," not the Agriculture Secretary, is responsible for the high cost of food.

I strongly disagree, for the following reasons:

The amendment does give Butz absolute discretion to raise food prices:

The language of the amendment is clear—it states that when the Secretary certifies to the President that the supply of an agricultural product will be reduced unacceptably as a result of economic stabilization controls and no alternative means for increasing supply are available "the President shall make appropriate adjustments in the maximum price which may be charged."

Although weather conditions have affected fruit and vegetable prices, the enormously high cost of feed grains is responsible for the huge increases in the price of meat, poultry, eggs, milk, cereals and bakery products—and, Secretary Butz is responsible in the main for the high cost of feed grains: It is incontestable that the high cost of many major food items, dependent for their production on feed grains, is directly attributable to the cost of those grains. I believe it is equally incontestable that the major reasons for the high price of feed grains are: First, the United States-Soviet grain deal and other grain sales abroad; second, the failure to impose controls on the price of key feed grains before their cost threatened poultry, hog, and other animal producers; and third, the failure to recognize in 1971 and 1972 that the U.S. and world food supply and demand situation should have resulted in an increase in available acreage for production.

Secretary Butz was the chief architect of these policies of mismanagement and neglect. Phase 4 regulations on food prices are not to my personal liking, but giving Secretary Butz total authority to raise prices beyond what the Cost of Living Council has authorized, would be unthinkable.

I agree with Mr. FROEHLICH that food prices and availability are "the most crucial and compelling issue of our time." However, Secretary Butz' policies have failed, time and time again, the test of fairness and effectiveness.

I regard the vote this afternoon as being of dubious value to small family farmers but as crucial to the American consumer. I also think it is fair to view the vote today as a test of confidence in Mr. Butz' stewardship of the Agriculture Department.

FLEXIBLE GI INTEREST RATE AUTHORITY IN VETERANS' ADMINISTRATION

Mr. DORN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8949) to amend title 38 of the United States Code relating to basic provisions of the loan guarantee program for veterans, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That section 1803(c)(1) of title 38, United States Code, is amended by striking out the semicolon and all that follows thereafter and inserting in lieu thereof the following: ", except that in establishing the rate of interest that shall be applicable to such loans, the Administrator shall consult with the Secretary of Housing and Urban Development regarding the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter."

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object—and I do not intend to object—I take this time so that the distinguished chairman, the gentleman from South Carolina (Mr. DORN), may make an explanation of the Senate amendment to the bill.

Mr. DORN. Mr. Speaker, at the outset, I wish to report to the House that the Senate amendment is germane to the bill and we have ascertained that there is no additional cost involved in such an amendment.

As the Members will recall, H.R. 8949 passed the House on July 17 by a vote of 411 to 3. This is urgent legislation restoring authority, which expired June 30, 1973, to the Administrator of Veterans' Affairs to set interest rates on GI loans consonant with current mortgage market conditions. Since June 30 the allowable interest rate reverted to 6 percent which, of course, has dried up the program inasmuch as lenders are completely unable to participate on the basis of such a low yield.

H.R. 8949, as passed by the House, specifically amended title 38, the Veterans Code of Laws, to extend flexible GI interest rate authority in the VA on a permanent basis. As amended by the Senate in the form now before the House the basic objective of the bill is retained but language is added to provide that "the Administrator shall consult with the Secretary of Housing and Urban Development regarding the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured" under title 38 United States Code and the mentioned section of the National Housing Act.

I note in the Senate proceedings of yesterday that the chairman of the Veterans' Affairs Committee took cognizance of the House view that even under its version existing practices and procedures would probably insure that FHA and VA rates would be in normal tandem despite the grant of legally independent authority. The Senate amendment therefore merely spells out this desirable policy. Accordingly, we feel that the basic objectives will be accomplished under the bill as amended, and in view of the extreme urgency of the situation I urge that the House concur in the Senate amendment and thus clear the bill for action by the President.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman. I say to my distinguished friend that I think it is a clarifying and needed addition, and I would concur in it and accept the explanation for the addition by the other body.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

AMENDING FLOOD CONTROL ACT OF 1968

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6717) to amend section 210 of the Flood Control Act of 1968, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert: That the first paragraph of section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 897; 16 U.S.C. 4601–5), is amended to read as follows:

"(b) SPECIAL RECREATION USE FEES.—Each Federal agency developing, administering, or providing specialized sites, facilities, equipment, or services related to outdoor recreation shall provide for the collection of special recreation use fees for the use of sites, facilities, equipment, or services furnished at Federal expense: Provided, That in no event shall there be a charge for the day use or recreational use of those facilities or combination of those facilities or areas which virtually all visitors might reasonably be expected to utilize, such as, but not limited to picnic areas, boat ramps where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors' centers, scenic drives, and toilet facilities. No fee may be charged for access to or use of any campground not having the following—flush restrooms, showers reasonably available, access and circulatory roads, sanitary disposal stations reasonably available, visitor protection control, designated tent or trailer spaces, refuse containers and potable water."

SEC. 2. Section 4(a)(2) of the Land and Water Conservation Fund Act of 1965, as amended (78 Stat. 879; 16 U.S.C. 4601–5), is amended to read as follows:

"Reasonable admission fees for a single visit at any designated area shall be established by the administering Secretary for persons who choose not to purchase the annual permit or who enter such an area by means other than by private, noncommercial vehicle. A 'single visit' means that length of time a visitor remains within the exterior boundary of a designated fee area beginning from the day he first enters the area until he leaves, except that on the same day such admission fee is paid, the visitor may leave and reenter without the payment of an additional admission fee to the same area."

Amend the title so as to read: "An Act to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes."

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object—and I do not intend to object—I would like to yield to the distinguished chairman of the subcommittee, the gentleman from Texas (Mr. Roberts) who is handling this legislation, to give the House an explanation of the changes made by the other body.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, H.R. 6717 as it passed the House provided that there could be no fees collected for day use and no fees for use of campgrounds at Corps of Engineers projects unless those campgrounds are highly developed and have those facilities mentioned in the bill; namely, flush restrooms, showers, access roads, sanitary disposal stations, visitor protection, tent or trailer spaces, scenic drives, picnic tables, refuse containers, and potable water.

The reason for the bill was that the Corps of Engineers and other Federal agencies were interpreting last year's user fee legislation as allowing them to charge fees for day use and for use of campgrounds which were not highly developed.

H.R. 6717 as passed by the House was an amendment to section 210 of the Flood Control Act of 1968 which provided that user fees could be collected at corps projects only for highly developed facilities. The purpose of H.R. 6717 was to describe just what we meant by highly developed facilities.

As amended by the Senate, the bill amends the user fee provision of the Land and Water Conservation Funds Act and applies to all Federal agencies. The amended bill does for all agencies what H.R. 6717 did for the corps. It prohibits the charging of fees for day use and it provides that no fees may be charged for use of campgrounds unless they have flush restrooms, showers reasonably available, access and circulatory roads, sanitary disposal stations reasonably available, visitor protection control, designated tent and trailer spaces, refuse containers, and potable water.

Accordingly, I urge passage of the bill as amended by the Senate.

Mr. HAMMERSCHMIDT. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

REPUBLICAN CONGRESSIONAL BASEBALL TEAM

(Mr. CONTE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CONTE. Mr. Speaker, for the past several mornings the anxious athletes of the Republican Congressional Baseball Team have been holding our annual early-bird workouts at a local ballfield in preparation for the July 30 congressional game.

My purpose today, as manager of the all-winning GOP club, is to serve notice to my colleagues from across the aisle that our team has successfully completed phase I of our baseball policy. Phase I was devoted to conditioning, and I am happy to report today that, after a tough week on the practice field, my athletes are now slim, trim, and ready.

We are now moving boldly into phase II, which emphasizes the honing of those particular—or I might say peculiar—skills that have made us the idols of baseball fans from the sandlots to the major league parks across this great land.

Phase III, of course, will be the game itself, and that will be the phase in which we once again break the back of the inflationary rhetoric which usually flows from the Democratic baseball camp around this time of year.

My team will impose another 1-year freeze on the Democratic team, when we meet July 30 in Baltimore's Memorial Stadium.

Mr. Speaker, I urge you and all the Members of this House to come out to the park that evening to watch the well-conditioned, heavy-hitting, slick-fielding, hard-running, victory-hungry Republican team win its 10th consecutive congressional baseball game.

Mr. FLOWERS. Will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. FLOWERS. I understand from this morning's activity you are also developing some special expertise in stealing signals this year. Is there any truth to this report?

Mr. CONTE. I have a special investigation team working, for as we were practicing this morning I found the Democrats spying on us.

Mr. TEAGUE of California. Will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. TEAGUE of California. I might comment that I think my good friend from Massachusetts (Mr. Conte) is not a very good stealer of signals, because we all missed the big signal when they knocked out the cotton section from the farm bill the other day.

Mr. CONTE. I never said I was very good in winning that battle, but I say I am a good baseball manager.

CALL OF THE HOUSE

Mr. FLOWERS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 353]

Ashley
Badillo
Blatnik
Burke, Calif.
Carey, N.Y.
Chisholm
Clark
Collins, Ill.
Conyers
Danielson
Dellums
Diggs
Dorn
Downing
Esch
Fisher
Frenzel
Giaimo
Ginn
Gray
Guyer
Hanna
Harsha
Hébert
Kemp
Landgrebe
McEwen
Mailliard
Maraziti
Melcher
Milford
Mills, Ark.
Murphy, N.Y.
Nelsen
O'Neill
Owens
Patman
Reid
St Germain
Seiberling
Stokes
Talcott
Teague, Tex.
Young, Ill.

The SPEAKER. On this rollcall 389 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

Mr. FOLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8860) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices.

The SPEAKER. The question is on the motion offered by the gentleman from Washington.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8860, with Mr. Natcher in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose on Monday, July 16, 1973, it had agreed that section 4, ending on page 59, line 12 of the bill, be considered as read and open to amendment at any point.

Are there amendments to be proposed to section 4?

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Foley: Beginning on Page 54, Line 7, strike out line 7 through page 59, line 12 and insert the following:

Sec. 4. The Food Stamp Act of 1964, as amended, is amended—

(a) by inserting after the sentence which would be added to subsection (e) of section 3, effective January 1, 1974, by section 411 of the Act of October 30, 1972, the following: "Notwithstanding any other provision of law, households in which members are included, or upon application would be eligibile to be included, in a federally aided public assistance program pursuant to title

XVI of the Social Security Act shall be eligible to participate in the food stamp program or the program of distribution of federally donated foods if they satisfy the eligibility criteria applied to other households."

(b) That (a) the second sentence of section 3(e) of the Food Stamp Act of 1964 (7 U.S.C. 2012(e)) is amended—

(1) by striking out "or"; and

(2) by inserting before the period at the end thereof the following: ", or (3) any narcotics addict or alcoholic who lives under the supervision of a private nonprofit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program."

(c) Section 3 of the Food Stamp Act of 1964 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(n) The term 'drug addiction or alcoholic treatment and rehabilitation program' means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization for institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91–616 'Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act' and Public Law 92–255 'Drug Abuse Office and Treatment Act of 1972' as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics."

(d) Section 5 of the Food Stamp Act of 1964 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall establish uniform national standards of eligibility for households described in section 3(e)(3) of this Act."

(e) Section 5(c) of the Food Stamp Act of 1964 (7 U.S.C. 2014(c)) is amended by adding at the end thereof the following: "For the purposes of this section, the term 'able-bodied adult person' shall not include any narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in any drug addiction, or alcoholic treatment and rehabilitation program."

(f) Section 10 of the Food Stamp Act of 1964 (7 U.S.C. 2019) is amended by inserting at the end thereof the following new subsection:

"(i) Subject to such terms and conditions as may be prescribed by the Secretary in the regulations pursuant to this Act, members of an eligible household who are narcotic addicts or alcoholics and regularly participate in a drug addiction or alcoholic treatment and rehabilitation program may use coupons issued to them to purchase food prepared for or served to them during the course of such program by a private nonprofit organization or institution which meets requirements (1), (2), and (3) of subsection (h) above. Meals served pursuant to this subsection shall be deemed 'food' for the purposes of this Act."

(g) By amending subsection (a) of section 7 of the Food Stamp Act of 1964 (7 U.S.C. 2016(a)) to read as follows:

"The face value of the coupon allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be in such amount as the Secretary determines to be the cost of a nutritionally adequate diet, adjusted semi-annually by the nearest dollar increment that is a multiple of two to reflect changes in the price of food published by the Bureau of Labor Statistics in the Department of Labor, to be implemented commencing with the allotments of January 1, 1974, incorporating the changes in the prices of food through August 31, 1973, but in no event shall such adjustment be made for households of a given size unless the increase in the face value of the coupon allotment for such households, as calculated above, is a minimum of $2.00.

(h) By adding at the end of subsection (h) of section 10, the following: "Subject to such terms and conditions as may be prescribed by the Secretary, in the regulations issued pursuant to this Act, members of an eligible household who are sixty years of age or over or elderly persons and their spouses may also use coupons issued to them to purchase meals prepared by senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or nonprofit private eating establishment which prepares meals especially for elderly persons during special hours, and any other public or nonprofit private establishment approved for such purpose by the Secretary."

(i) By striking out "June 30, 1972, and June 30, 1973" in the first sentence of subsection (a) of section 16, and substituting "June 30, 1972, through June 30, 1977."

(j) Section 3(b) of the Food Stamp Act of 1964 (7 U.S.C. 2012(b) is amended to read as follows: "The term 'food' means any food or food product for home consumption except alcoholic beverages and tobacco and shall also include seeds and plants for use in gardens to produce food for the personal consumption of the eligible household."

(k) Section 3(f) of the Food Stamp Act of 1964 (7 U.S.C. 2012(f)) is amended by striking the second sentence and inserting in lieu thereof the following new sentence: "It shall also mean a political subdivision or a private nonprofit organization or institution that meets the requirements of sections 10(h) or 10(i) of this Act."

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. FOLEY. Mr. Chairman, the purpose of this amendment, and it is an amendment in the nature of a substitute, is to substitute for the committee section 4 on food stamps a new section.

I hope I can succinctly explain to the members of the committee the nature of this amendment. First of all, the amendment I have offered eliminates from the bill four paragraphs. One of those paragraphs deals with the determination of resources in order to establish eligibility.

The committee bill would have altered current regulations that have been working satisfactorily for the last 2 years. In particular, the committee bill would require the cash value of life insurance policies to be included as a liquid asset.

Mr. Chairman, we have many elderly citizens and others who are recipients of the food stamp program, or potential recipients, who under this committee version would be required to cash in or to borrow against their life insurance, their small life insurance policies, in order to utilize this resource before they can receive food stamps.

This is a particularly harsh provision in the committe bill. It is one that militates against frugality and the efforts by our citizens to try to provide some security for themselves to take care of their old age. I believe this section should be removed from the bill, to allow the Department to establish, as it has in the past, proper eligibility and asset requirements.

The second feature of my amendment would eliminate from the committee bill a prohibition of temporary certification for food stamp recipients in certain cases. The committee bill purports not to alter departmental practice in this regard. The change in language could provoke unnecessary problems.

A third feature my amendment would eliminate from the committee bill—a well-intentioned but I believe unfortunate amendment which would require the Secretary to make a determination as to which foods were nonnutritious, in the sense that those foods would not be eligible for purchase by food stamp recipients. The Department is opposed to this particular section of the bill. The National Retail Food Industry is opposed to it, because it would force clerks at the checkout stands to be pawing over every item of food that a food stamp recipient would want to purchase to determine whether it was on some list of nonnutritious or inadequately nutritious food. It runs against the whole theory of the food stamp program, that people should be able to make judgments about their diets and food needs as other citizens do. My substitute amendment would take care of that.

My amendment would also eliminate a provision in the present law which says a food stamp recipient cannot be sold imported foods or imported meat with food stamps. I come from a livestock raising area, but this is a provision of existing law that should be removed. We hear complaints sometimes that food stamp recipients are buying steak while the nonrecipient is buying hamburger. Few Members know that in many parts of the country hamburger has been a proscribed food and could not be purchased with food stamps because it contained a portion of imported meat. I believe the time has come to get rid of this section.

The most important feature of my amendment is a provision which would require the Department to compute the bonus value of food stamps semiannually. They currently compute this bonus value annually.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. Foley was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. This, simply stated, is a cost-of-living adjustment to determine the value of the food stamp bonus value twice a year instead of once a year. As it is now, there is a considerable lag before the adjustment is made. This would shorten the lag by 6 months. If we adjusted the value next January instead of July, we would be dealing with food prices current as of August 31 of this year. I believe this is a fair and equitable provision. It would provide that the adjustment could go up or down. In the happy but perhaps unlikely event that food prices went down, the food stamp recipient would have the bonus value adjusted downward.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Chairman, I do not find fault with all of the proposals in this really far-reaching amendment, but I am advised by the Department of Agriculture that this semiannual adjustment or, rather, annual adjustment would bear or carry an estimated cost of $344 million.

Would the gentleman concur with that?

Mr. FOLEY. Mr. Chairman, I will estimate that the cost would be in the nature of $250 million. There is substantial cost, there is no question about that. We must realize that there are 12.5 million recipients of the food stamp program. The cost would be much lower in any but a period of fast rising food prices. In an average year less than $100 million.

Mr. TEAGUE of California. Mr. Chairman, I suggest that whether it is $250 million or $330 million, that is a lot of money, and I hope that the Members in this Chamber who really want a farm bill will bear that in mind.

This might be another one of those "nails in the coffin," and we ought to be completely aware of what we are doing if we vote for this amendment.

The CHAIRMAN. The time of the gentleman from Washington (Mr. Foley) has expired.

(By unanimous consent, Mr. Foley was allowed to proceed for 2 additional minutes.)

Mr. FOLEY. Mr. Chairman, another feature of my substitute is that it removes from the committee bill the prohibition against recipients who are students in institutions of higher learning. The committee bill provides that such students must be married and have a child or children in order to be eligible for food stamps.

I understand that many Members have felt somewhat hostile to students receiving food stamps, but they must meet, under the present law, exactly the same income criteria as any other person. We have veterans coming back from Vietnam who are attending school; we have others who are attending school who do meet eligibility requirements and should not be discriminated against solely because they are students.

That would include for example an AFDC mother who wants to upgrade her skills and goes to school to become employed; she has children, but she is not married perhaps. The result would be that the committee bill would bar such a person from receiving foodstamps.

Even the committee bill says that if the student has received foodstamps before going to school, the student can continue to receive foodstamps during school attendance. I might suggest that this is going to lead to students registering for foodstamps in the summertime and just continuing on during the school year.

It is an amendment that, I believe, lacks any real justification.

Mr. Chairman, there is no serious problem of any kind in the administration of this program with respect to students and I suggest that students should be held to the same eligibility requirements as any other citizens.

Mr. Chairman, I hope the committee will adopt this amendment in the nature of a substitute.

To recapitulate briefly, the amendment entails the following changes to the committee bill:

It strikes section 4 in its entirety and replaces it with a new provision which:

Preserves provisions in the committee bill which:

Allow food stamp aid to certain alcoholics and drug addicts;

Continue food stamp benefits for SSI recipients;

Allow elderly people to use food stamps for prepared meals at certain facilities; and

Allow food stamps to be used to purchase garden seeds.

Deletes from the committee bill provisions which:

Ban food stamp aid to certain college students;

Apply a stricter resource test on assets of food stamp beneficiaries;

Require prior certification except in cases of natural disaster; and

Authorize the Secretary to prohibit use of food stamps to purchase foods of "low or insignificant nutritional value."

Adds to the committee bill provisions which:

Require semiannual adjustments in the face value of food stamps to reflect changes in the cost of living index;

Require uniform national standards of eligibility; and

Permit the use of food stamps to purchase imported foods.

AMENDMENT OFFERED BY MR. CONABLE TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. CONABLE. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Conable to the amendment offered by Mr. Foley: Page 1, strike out all of subsection (a) through line 18; redesignate all subsequent subsections accordingly.

Mr. CONABLE. Mr. Chairman, my amendment to the Foley amendment involves some historical and legislative complexity, so I hope that I may have the close attention of the members of the committee. One must, to start with, have some basic understanding of our welfare system.

We have, as you know, a number of categories of welfare in this country. An effort was made to reform welfare last year and in the previous Congress, and a proposal was made whereby most of the complex systems of welfare were combined into one comprehensive proposal. The other body did not go along with the family assistance plan produced by the Committee on Ways and Means of the House. As a result, the extent of welfare reform was limited in the last Congress to Federalization of the adult categories of welfare. These adult categories of welfare relate to the aged, the blind, and the disabled, and the provision that was included in the truncated H.R. 1, the bill to which violence was done by the other body, provided for payment of a totally federalized contribution to the aged, the blind, and the disabled of $130 a month for an individual and $195 for a couple. Included in that figure was a cash-out of the bonus value of food stamps.

The food stamp provision, after all, is a welfare type of provision. The Renegotiation Act, which we passed 2 weeks ago, raised one monthly figure as of July 1, 1974, to $140 for individuals and $210 for couples. The Renegotiation Act extension also mandated the States must supplement aid to the aged, the blind, and the disabled at least at the level they were paying existing recipients in December of 1973.

The effect of the agricultural bill we are considering today is, among other things, to provide that the food stamp program will be put back into effect with respect to those eligible recipients in the adult categories of welfare. In other words, to make a reimposition of food stamp programs on top of the cash-out for adult welfare recipients followed the enactment of H.R. 1.

Our hope in the Committee on Ways and Means and I believe the hope of the Congress as a whole was that we could move toward some simplification of our welfare system, and that was the reason for the original cash-out.

There is, of course, some disappointment that the cash-out was not higher, and there are those who will oppose my amendment on that basis hoping to reimpose food stamps and cash them out again and then reimpose them and cash them out again until they achieve the level for adult categories that they would like to see.

It is a complex situation, but I would call the attention of the members of this committee to the fact that adult categories of welfare do no use food stamps to the degree that perhaps they should. Roughly 28 percent of the adult categories claim the food stamps to which they are entitled, and those that do not claim them get no benefit from them at all, while the cash-out benefits them automatically through inclaim in their check.

Mr. BURTON. Will the gentleman yield?

Mr. CONABLE. I will when I finish my statement, if I may. I suspect that we will have a good deal of discussion on this amendment.

Mr. BURTON. I think it might help all of the Members to get the benefit of your important view on this question if we could ad seriatim make our insertions and let the Members decide at each stage of discussion where the facts lie.

Mr. CONABLE. Maybe that is the tactic you would like, but I would like to finish my statement.

Now, with respect to the adult categories generally, then, it is our hope that we can have one check sent out from the Social Security Administration, which, after all, participates in much of the money made available to the recipients of this adult category money, while the effect of this particular proposal essentially will be to put a new food stamp layer back.

Food stamps require a different phase-out than cash welfare and thus requires double administration. The States do not want to be responsible for the administration of a dual system if they can avoid it.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. CONABLE was allowed to proceed for 5 additional minutes.)

Mr. CONABLE. Mr. Chairman, the States are quite reluctant to continue the administration of the program with respect to the adult categories if they could in fact move to a purely cash type of welfare for these particular people.

Mr. Chairman, I will now yield to the gentleman from California (Mr. BURTON) for whatever first assertion the gentleman would like to make.

Mr. BURTON. Mr. Chairman, first of all, would the gentleman repeat his last sentence, please? I did not quite hear it.

Mr. CONABLE. I said the States would prefer not to have to administer a food stamp program with regard to the adult categories. There is expense to them in that. There is a complication also in the welfare system which otherwise they would like to see handled as one federalized program.

Mr. BURTON. Mr. Chairman, I would say to the gentleman that I agree with the gentleman on that assertion. Of course, there is nothing to preclude, with appropriate authority, having the new administration of the SSI program to, also, federally distribute the food stamp.

Mr. CONABLE. The SSI program, for the benefit of the members is the federalized adult category program established by last year's H.R. 1 as it finally passed.

Mr. BURTON. I thank the gentleman for the information. As the gentleman may know, I have spent some time on the genesis and development and outline of the 19 different versions of this landmark legislation.

If I may highlight the difference between my view of this question and that of the gentleman in the well. I have no quarrel of any kind whatsoever with the cashing out of food stamps and the rendering ineligible those aged, blind, and disabled that receive cash assistance provided it is mandated that they receive cash to replace the loss of the bonus value.

As the gentleman is fully aware, there is no requirement under H.R. 1 or any amendments thereto, up to this moment, that requires that in the process of cashing out the food stamps these elderly and blind poor will not lose that bonus value.

The States are permitted to implement a cashout value. Some of the States, depending upon the economic circumstances of a State, are going to find that this in effect reduces some of the savings that otherwise would accrue to them; or, putting it differently, because of other sections of H.R. 1, will increase their expenses that they will not have increased if the Foley amendment is adopted.

Mr. CONABLE. Mr. Chairman, I decline to yield further at this time.

I should like to say that the States are held harmless on a cashout at this point. They are mandated to maintain the level of adult assistance that is in effect as of December 1973, and the great bulk of the States will be receiving under the SSI program, the new program, more money than they were required to contribute previously.

Most of the State legislatures have adjourned for the year—and I am unaware that any of them implemented the cash out. Few, if any, will meet again until after January 1, 1974, the date the SSI and the food stamp ineligibility take effect.

This means, as a practical matter that the SSI recipients in many States will lose out.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. TEAGUE of California, and by unanimous consent, Mr. CONABLE was allowed to proceed for 5 additional minutes.)

Mr. CONABLE. Mr. Chairman, I would suggest that the gentleman speak on his own time.

Mr. BURTON. I think the membership is entitled to have the facts before them. The fact is that by rearranging the method and the form under which the adult programs for the aged, blind, and disabled are to be financed, in the absence of caseload increases, the Federal Government is going to be spending less money under SSI than they would have spent if SSI had not been enacted at all. This is because, under the new funding mechanism, all of the social security income is deducted entirely from the Federal portion of the payment.

In a State like California, just by way of illustration, our State under any version of H.R. 1 except that finally adopted would have saved some $200 or $300 million, but the SSI program, as adopted—and I supported it, and I do not quarrel with its result—our State is going to lose a couple of hundred million dollars they would otherwise have gotten if there had been no change in the adult program.

So our particular State was significantly disadvantaged economically, in the interest of constructing a rational national program.

Mr. CONABLE. I thank the gentleman for his contribution. I trust he will have further to say as this debate progresses.

Mr. Chairman, there are several points I want to make in closing. First, this is a modest step toward welfare reform if we can preserve a cash-out and keep some new layer of food stamps from being imposed on top of the cash-out the Congress has already achieved. There will be, I suspect, considerable support in several States for this, since most of the welfare people are not anxious to continue both a food stamp program on top of adult categories of welfare which have now been federalized, except to the extent of the supplementation which is mandate to maintain the present levels of adult assistance in those States which have higher levels than $130 or $140 per month that the SSI program provides.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

Mr. BURGENER. I thank the gentleman for yielding.

I should like to associate myself with the remarks of the gentleman in the well. The director of social welfare in our State tells me by telegram that if we fail to adopt the amendment that Mr. CONABLE proposes, our recipients will lose both the food stamps and the $10 cash out amount—which it is in our State—so I think it is entirely in the interest of the States that give supplement grants higher than the minimum, to adopt such an amendment, and I certainly support that.

Mr. CONABLE. I thank the gentleman for his contribution.

Mr. Chairman, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is indeed a sad commentary that we should be arguing here today about food stamps for America's poor and elderly, while we authorize millions in subsidies for the giants of agribusiness.

The House Agriculture Committee has approved provisions that severely restrict eligibility for food stamps. The implications of the stamp restrictions for the elderly are particularly cruel in terms of their special nutritional and health needs. I am very concerned about the impact of these changes on this segment of our population who must live on a fixed income and for whom food is the most essential prerequisite next to housing. For this reason I urge your support today for continuing the current agricultural regulations and for the food stamp amendments offered by my distinguished colleague from the State of Washington.

The existing regulations as set by the Secretary of Agriculture have worked effectively for several years without problems. It is essential that they remain in effect rather than instituting new and severely restrictive provisions that would eliminate tens of thousands of elderly households from food stamp eligibility.

It is at our Nation's elderly that changes proposed by the committee would strike the hardest.

First, these changes strike at the elderly by reducing the assets limit for households of two or more persons with one elderly member from $3,000 to $1,500. The committee bill would allow the $3,000 limit only for households with two or more persons over 60.

Imagine, if you will, the consequences to a household of five with assets of $1,600 denied food stamps because only one of its members is over 60. Under the current regulations this same family would be permitted assets up to $3,000 to qualify for food stamps. There is no question but that many older persons desperately need these additional assets for protection against the vicissitudes of serious illness and to cover funeral and burial costs.

Here is another illustration of a hardship situation created by the committee version. Imagine, if you will, a household with an elderly man whose wife is in her mid or late fifties. They would now find the amount of assets they could have and still qualify for food stamps reduced from $3,000 to $1,500.

There is yet another area of particular harshness to our older Americans.

The committee bill has significantly narrowed those items which may be excluded by a household when calculating its assets for food stamp eligibility.

The most critical item exempted by the Agriculture Department, but now included in the present bill for calculating resources, is the cash value of life insurance. Failure to exempt this item would make thousands of elderly poor ineligible for food stamps.

Too often the life insurance policies held by elderly poor are merely sufficient to cover the cost of their funeral or burial expenses, or to help provide for an ailing spouse after they die. To deprive older Americans of food stamps simply because they own a modest life insurance policy is both harsh and punitive. In effect the committee is asking our elderly poor in many cases, either to give up their life insurance or to give up food stamps. This, after years of sacrifice to provide some measure of security for their loved ones. What a tragic injustice to subject America's grandparents to a choice between losing their policies or forfeiting their food stamps.

A study by the Institute for Life Insurance conducted in 1969 found 62 percent of all persons over 65 holding life insurance policies. Since 45 percent of the elderly live at or below the poverty line, clearly a significant number of poor do own life insurance policies and would therefore suffer unnecessarily because of this callous provision.

The loss of food stamp benefits would work a double hardship on the elderly by reason of the physical infirmities associated with old age.

Item: 300,000 elderly suffer from diabetes.

Item: 1.6 million elderly suffer from hypertension.

Item: 2 million elderly suffer from serious dental problems.

All of these conditions may require special types of diet. They are usually more costly, and therefore, any assistance the elderly can obtain for providing nutritionally adequate diets through the food stamp program is absolutely crucial.

Surely the Members of Congress will agree that the Agriculture Department is anything but lax in setting requirements for food stamp eligibility.

Yet the Secretary of Agriculture has ruled that the cash value of life insurance policies and income-producing property, for another, be included among exemptions when calculating assets for the food stamp program. It seems that the committee bill would in effect eliminate any family that owns a small piece of property or holds an insurance policy from receiving food stamps—no matter how low their income level.

We are a generous nation. But, regrettably, we have lagged behind other societies in the care of our elderly. We have simply failed to provide our senior citizens with the necessities and benefits they so richly deserve. I believe we will, over the next few years, have to make major readjustments in our treatment of those to whom we owe so much. Eliminating the discriminatory food stamp provisions of the committee bill is only a small step—but an important one—toward our goal of providing a more human tomorrow for America's older citizens.

Mr. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I stated during the time generously yielded to me by our distinguished colleague, the gentleman from New York, I strongly support the fundamental notion of the SSI program. I would even like to think I had some modest role in suggesting to the then Under Secretary Jack Veneman in HEW how this program might be constructed to achieve maximum efficiency at minimum administrative overhead.

I do not quarrel with the stated objective of the gentleman from New York but his amendment does not achieve that stated objective.

If this Conable amendment is approved, hundreds of thousands of elderly, blind, and disabled poor in this country will be $10 per month worse off than would be the case if the amendment was defeated.

If the gentleman from New York wanted to delete this SSI portion of the Foley proposal and substitute language that would state that while being rendered ineligible for food stamps any aged, blind, and disabled person shall have that amount which they lose by way of eligibility for this food stamp bonus replaced by a cash payment, I would fully support it.

We have got a problem between the Ways and Means jurisdiction and the Department of Agriculture jurisdiction.

I might give one little footnote that is perhaps of some interest. It was at the behest of the distinguished majority leader, the late Mr. Boggs, that I met with him and Senator Long and Mr. Moynihan and Mr. Veneman and another man from HEW, and Mr. Hymel was there.

It was I who advanced the thought of wiping out the food stamp bonus value and assuring all recipients either that the recipient by virtue of the operation of the new Federal minimum would get a $10 increase or if they would get no increase or some increase less than $10 as a result of the new minimum, they would get the corresponding difference and at the same time be rendered ineligible for food stamps. There was accord on that count.

If we take a look at the Senate bill proposed the last 3 or 4 days at the end of the 91st Congress we will see a supplemental requirement of adding $10 for every recipient in the proposal that also wiped out their food stamp eligibility. But when H.R. 1 finally ran its course this critical savings clause was lost.

(By unanimous consent, Mr. Burton was allowed to proceed for 2 additional minutes.)

Mr. BURTON. Last month we passed a provision that requires all States to maintain all benefits for every elderly blind or disabled person in this country that is on board this December, which is the month immediately preceding the moving into this new SSI program.

Also, as the gentleman from New York stated, yes, there is some technical hold harmless for a State theoretically to cash out food stamps but we have got a real hooker, the unresolved problem.

Were is where the proposal of the gentleman from New York flies in the teeth of reality and fact. The States are required under SSI, those that make supplemental payments, to set up a modified payment level, but that level cannot exceed payments other than those that were taking place in January 1972.

Now, if we take that requirement and we take the mandated requirement—States like California literally cannot provide that food stamp cash without it coming out entirely on stateside.

I hope every person in this Chamber who is concerned about the plight of the elderly, the blind, and the poor will reject the Conable amendment and support the Foley amendment. I, for one, state my assurance that at any time we want to eliminate the food stamp bonus amount for those receiving SSI payments and those old people and those crippled people—130 bucks a month, what a pittance, what an inordinate luxury—if we will agree to replace this loss to them in cash, I will then support the Conable amendment.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. BURTON. I yield to my friend from California (Mr. Burgener).

Mr. BURGENER. Mr. Burton, is it not a fact that in the discussions on H.R. 1, that an agreement was reached that a certain amount of cash money would be substituted for food stamps?

Mr. BURTON. Yes.

Mr. BURGENER. And now, if this bill is not changed, in addition to that cash supplement, food stamps will be added on top, is that not true?

Mr. BURTON. Yes.

Mr. BURGENER. Well, I would then like to vote the other way, in favor of the Conable amendment. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. Burton was allowed to proceed for 1 additional minute.)

Mr. BURTON. Mr. Chairman, the gentleman simply did not ask the right question. It was anticipated and stated, at least to me, that in the process of cashing out the food stamps, and I will give the Members the exact quote, Moynihan and Veneman said to me: "How are we going to get McGovern, who is head of the Senate's Food Nutrition Committee and others to agree to cash out food stamps when the minimum payments cannot be higher than the amounts paid in a number of States. How do we get them to buy it?"

They wanted me to talk to the distinguished chairman of the Committee on Agriculture, Mr. Poage. I did, some three times on this question.

We agreed to cash out the food

stamps—with a clear understanding that no one would suffer a net loss.

Mrs. GRIFFITHS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Conable amendment. I would like to point out to the Committee that the real problem which we have before this Congress is to change the welfare system.

If the Members have read any of the reports which have come from the subcommittee of the Joint Economic Committee which I chaired, they must be aware by now that a family of four in New York City getting all of the welfare programs available to them would have to earn $11,500 a year to equal that.

The median wage in New York City is $90 a week, $90.

We brought before the House 2 years in succession a bill to amend the total welfare package, and 2 years in succession the House passed it and it was turned down over in the other body.

The last time we asked for a payment of $2,400 nationwide, guaranteed by the Federal Government and paid by the Federal Government for a family of four. One of the suggested improvements in the other body was an additional $400. But those who made that suggestion did not look at the results. If we had given that additional $400, and if the person would then have gone to work, he would have ended up with less money than he would have had with the $2,400 the House offered. The other body has not gone along with us.

This is a modest effort to begin to correct the welfare system. The truth is that 50 percent of all the people who are entitled to food stamps under the aged categories never get them. They do not apply for them. It costs some money to get them. They have to go downtown, or they have to do something or other, and they end up not getting food stamps.

The truth is that we did cash out the food stamps. For a lot of people in the United States this is a real godsend.

Now we have somebody from a State which is paying in one county to a family of two aged $440 come in and object to the fact that they might not get as much, they are not mandated. That is nonsense. That State still is going to get the amount of money to give those people food stamps, if they want to do so.

I urge the Members in the name of commonsense and human reason to try to stop these vast inequities. Let us begin to correct this welfare system before it destroys this country. Please support the Conable amendment.

Mr. CONABLE. Mr. Chairman, will the gentlewoman yield?

Mrs. GRIFFITHS. I yield to the gentleman from New York.

Mr. CONABLE. I should like to compliment the gentlewoman on the study she has been making and the contribution she has given us all in our understanding of the welfare system. The joint Economic Committee is doing a good job on its welfare study, largely because of the gentlewoman's efforts.

I should like to ask the gentlewoman also if it is not true there is a major problem in the welfare system because of multiple programs?

Mrs. GRIFFITHS. Of course.

Mr. CONABLE. And duplicating phaseout?

Mrs. GRIFFITHS. Of course.

Mr. CONABLE. And overlapping administration?

Mrs. GRIFFITHS. Of course.

What we need to set up in this House is a staff who can advise us all on the effects of every welfare program generated by any committee. Food stamps are a part of the welfare program.

Mr. KOCH. Mr. Chairman, will the gentlewoman yield?

Mrs. GRIFFITHS. I yield to the gentleman from New York.

(On request of Mr. Koch, and by unanimous consent, Mrs. Griffiths was allowed to proceed for 2 additional minutes.)

Mr. KOCH. I am a great admirer of the gentlewoman. I was very interested in the report she released.

Before this figure of $11,500 becomes embedded in the rhetoric of this House, that every family of four on welfare in New York City is receiving that amount, I want to make the situation clear. My office called the author of that basic report and asked how many people were in fact receiving the equivalent of $11,500. I was told very few and we have to understand that the reference is only to those who are getting every conceivable benefit under the existing law.

Mrs. GRIFFITHS. Yes.

Mr. KOCH. To illustrate a family of four with two children, and if they were going to day care centers, approximately $3,000 for each child would be figured into the amount; is that not so?

Mrs. GRIFFITHS. Yes.

Mr. KOCH. So if a welfare family has two children, so that the woman can go to work, she is accountable for $6,000; is that not right?

Mrs. GRIFFITHS. That is right, if $3,000 were the amount per child, but it is not. But let me point out the inequities in the total system are unbelievable. A woman under welfare is far better off than a man.

Mr. KOCH. I understand.

Mrs. GRIFFITHS. There are all these inequities.

Mr. Chairman, if the gentleman would point out to me that he had made objections that we are treating SSI persons differently than we are treating those on social security, I would be glad to talk about that.

Mr. KOCH. Mr. Chairman, will the gentlewoman yield further?

Mrs. GRIFFITHS. I yield to the gentleman.

Mr. KOCH. Mr. Chairman, first of all, we are not talking about welfare families, is that not a fact? This has no real relevancy to the welfare program?

Mrs. GRIFFITHS. Mr. Chairman, I do not understand what the gentleman is talking about. SSI is welfare. So is the food stamp program welfare. What is the gentleman talking about now?

Mr. KOCH. We are talking about the SSI program. Those are basically the elderly and the disabled. They are not basically welfare families.

Mrs. GRIFFITHS. Well, Mr. Chairman, it is a welfare program. Food stamps is welfare. Whether one is from Grosse Pointe and is going to the University of Michigan and getting them or not, it is welfare.

Mr. KOCH. Mr. Chairman, the point I want to make, if the gentlewoman will bear with me, is this:

By referring to the report which the gentlewoman has brought to our attention in this debate and by talking about the families on welfare, does the gentlewoman not believe that she is clouding this particular subject?

Mrs. GRIFFITHS. No; I am not.

Mr. KOCH. Mr. Chairman, is the gentlewoman not clouding the subject with extraneous factors which have no relevance to the issue at hand?

Mrs. GRIFFITHS. No. Mr. Chairman, if the gentleman had paid attention from the beginning to what I said, he would have known my position.

The CHAIRMAN. The time of the gentlewoman from Michigan (Mrs. Griffiths) has expired.

(By unanimous consent, Mrs. Griffiths was allowed to proceed for 3 additional minutes.)

Mrs. GRIFFITHS. Mr. Chairman, I certainly am not trying to cloud over anything. I tried to point out that we originally tried to cure the entire welfare program at one time, and the House passed this measure. We made a sincere and honest effort. Now we cannot do it because the other body got into the act.

We have tried to cure the problem on a piecemeal basis, and I urge that the Members accept the amendment offered by the gentleman from New York, Mr. Conable. If we do not do this, in my judgment, we are going to destroy America.

We cannot have every committee of this Congress passing out welfare without any regard to what it does to our system, and it is not just every committee in the Congress; it is every town, every county, every State.

Mr. Chairman, just to keep up with these welfare changes is an almost incredible job. What is available in one State or in one county is vastly different from what is available in other places. It really is not fair to the American taxpayer.

Mr. BURTON. Mr. Chairman, will the gentlewoman yield?

Mrs. GRIFFITHS. I yield to the gentleman from California.

Mr. BURTON. Mr. Chairman, we all share great respect for the gentlewoman's concern and commitment, both to the poor people of this country and to the taxpayers. I have been impressed with some of the information which the gentlewoman gave us in her presentation.

A good deal of that which was stated, I am sure the gentlewoman will agree with me, is confusing the issue. The gentlewoman knows and I know that there are not technically any welfare children involved in this in any way. The gentlewoman was discussing that merely to point out the problem, since there are not any welfare families with children involved in this. I know the gentlewoman knows this.

Mrs. GRIFFITHS. Mr. Chairman, is the gentleman telling me that the blind do not have children?

Mr. BURTON. Over two-thirds of the blind aid recipients are over 60 years of age.

Mrs. GRIFFITHS. That might be the average, I do not know, but certainly there are blind people with children.

Mr. BURTON. There are about 7,400 blind persons in this country who are——

Mrs. GRIFFITHS. I do not yield any further.

Let me explain once again: We are not trying to confuse the issue in any way. I want to explain we tried to correct welfare, and you have gone with us on that.

Mr. BURTON. I want you to know this only affects the aged, blind, and disabled. There are only some 78,000 blind recipients in the country and two-thirds of them are over the age of 60 and about 20 percent are married, and if you compute it down, we have about 2,800 blind families that have kids that are in this amendment. However, by and large, we are not talking about what people traditionally think of as welfare families but old and crippled and blind people, and we should not take this food stamp bonus away from them.

The CHAIRMAN. The time of the gentlewoman has again expired.

(By unanimous consent, Mrs. GRIFFITHS was allowed to proceed for 1 additional minute.)

Mrs. GRIFFITHS. That is not the point at all and has nothing to do with it. The point of it is we are now trying to reform welfare, and if we reform it in our committee and then it goes to another committee and all of these things that are taken out are put back in, then we will never get it reformed.

No one is trying to be unkind to these people. For many of them there is a tremendous increase, despite all of the statistics that you stated.

Mr. BURTON. Seventy-five percent.

Mrs. GRIFFITHS. Mr. Chairman, I have thought about this problem until I am sick of it. I urge you to vote with Mr. CONABLE on his amendment and then vote for the Foley amendment.

Mr. GIBBONS. Mr. Chairman, I rise in support of the Conable amendment.

Mr. Chairman, I think I have supported the food stamps ever since I have been in Congress, and I hope I am a friend of the aged, the blind, and disabled and of dependent children and of all these people. I have tried to conduct myself in such a way as to demonstrate that.

But let me refresh your recollection for a few moments and the memory of the House on what has transpired in the Congress.

Last year or the year before last we passed H.R. 1. At that time we cashed out food stamps. I worked with the food stamp people, both the lobbyists promoting them and with the Department of Agriculture administering the program, and we turned the food stamps into cash, that is, the House of Representatives did. We did not get all that some of us wanted, but we got 99 percent of it, which is pretty darned good, and we passed that bill and sent it over to the Senate.

It languished in the other body for about a year. When it came back they left the cashout of food stamps for the aged, blind, and disabled in the bill, but they had taken out the cashout of food stamps for children and their parents for some reason.

We understand—and I am not going back through the litany of the problems that Mrs. GRIFFITHS outlined here, although what she says is true. We have so many welfare programs in this country that you cannot unscramble them all and every committee in the Congress has its own share. I feel that the Ways and Means Committee will continue to improve the benefits for the aged, blind, and disabled.

As proof of that, just 2 weeks ago the Congress, the House and the Senate together, increased the benefits of the aged, blind, and disabled. We increased it over what we had done just a year ago, because of the inflation that has taken place.

I think the Committee on Ways and Means and the rest of us are going to be as liberal as we should be in that area, but we made a deal and we cashed out these food stamps, and we are now being asked to buy them and start distributing them again. I do not think that is good.

I will tell you, food stamps are better than commodities and commodities are better than hunger, but cash is better than any of them, and I think we ought to stick to the same kind of cash proposal that this House almost unanimously agreed to 2 years ago and ratified again last year and reratified again 2 weeks ago.

We should support the Conable amendment. It makes good sense.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have heard two Members of the distinguished Committee on Ways and Means emphasizing that it is time we began to deal with the welfare problem, and that if we let all these programs proliferate it will be a bad thing. Can the gentleman give us any idea as to when the gentleman's committee will deal with the welfare problem?

Mr. GIBBONS. Let me say to the gentleman from Michigan that I thought we had dealt with it 2 years ago in H.R. 1.

But the Senate did not agree. The Senate struck out of H.R. 1 the family assistance program that the House has passed twice.

Mr. CONYERS. Is the gentleman's committee giving any consideration to this problem?

Mr. GIBBONS. If the gentleman will permit me to finish my statement: It is not a matter of what the Committee on Ways and Means does, and it is not a matter of what the House of Representatives does, it is a matter of what the Senate has done. We can pass all the bills we want to, and when they get over there if the Senate kills them, there is no way to resurrect them.

Mr. CONYERS. I understand that.

But are there any prospective plans for dealing with the problem?

Mr. GIBBONS. We have the same Members in the Senate, by and large.

Mr. CONYERS. Does the gentleman or members on his committee talk with them?

Mr. GIBBONS. I cannot precisely respond to the question asked by the gentleman from Michigan, because I do not know. I can say that I think it is high on our agenda, and I can say that I know it is high on my personal agenda. I want to do right for the people who are disadvantaged, and I have tried to do this by my support for social welfare programs since I have been in the Congress.

I just think the amendment offered by the gentleman from New York (Mr. CONABLE) makes good sense.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. BURTON, and by unanimous consent, Mr. GIBBONS was allowed to proceed for 1 additional minute.)

Mr. BURTON. Mr. Chairman, will the gentleman yield to me?

Mr. GIBBONS. Yes. I always hesitate to yield to the gentleman from California because I know that the gentleman has made a professional study of this, of welfare, and that the gentleman can outtalk anybody on the floor on this thing.

I think that I understand it as well as the gentleman does, but I am not positive that I do. I understand the big picture, I think; but go ahead.

Mr. BURTON. Does the gentleman know how many States have implemented the $10?

Mr. GIBBONS. I know they will never implement it if we keep——

Mr. BURTON. How many States?

Mr. GIBBONS. We have given them the money, but they will not spend it.

Mr. BURTON. No, we have not given them the money. That is a misstatement.

Mr. GIBBONS. There was $31 billion we gave them last year.

Mr. BURTON. The gentleman has made one statement that I fully concur with, we ought to stop the phoney money, and give them cash.

Mr. GIBBONS. That is right.

Mr. BURTON. But we are taking away the food stamp bonus, and we are not giving them the cash. That is the problem with the amendment.

Mr. GIBBONS. The gentleman is wrong; the gentleman is wrong.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. CONABLE) to the amendment offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 238, noes 173, not voting 22, as follows:

[Roll No. 354]

AYES—238

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bell
Bennett
Bevill
Blackburn
Bray
Breaux
Breckinridge
Brinkley

Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Collier
Collins, Tex.
Conable
Conlan
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dorn
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Fascell
Findley
Fish
Flynt
Ford, Gerald R.
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gettys
Gibbons
Gilman
Ginn
Goldwater
Goodling
Griffiths
Gross
Grover
Gubser
Gunter
Guyer
Haley
Hamilton
Hanrahan
Hansen, Idaho
Harvey
Hastings
Hébert
Henderson
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, Okla.
Keating
Ketchum
King
Kuykendall
Landrum
Latta
Lent
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McKinney
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Mollohan
Montgomery
Moorhead, Calif.
Mosher
Myers
Natcher
Nelsen
Nichols
O'Brien
Parris
Patten
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Rarick
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Ryan
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Stark
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Udall
Ullman
Vander Jagt
Veysey
Waggonner
Wampler
Ware
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, S.C.
Zion
Zwach

NOES—173

Abzug
Adams
Addabbo
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bergland
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carney, Ohio
Chisholm
Clark
Clay
Cohen
Conte
Conyers
Corman
Cotter
Cronin
Culver
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fraser
Fulton
Gaydos
Giaimo
Gonzalez
Grasso
Green, Pa.
Gude
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Holifield
Howard
Hungate
Johnson, Calif.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, Md.
McCormack
McDade
McFall
McKay
McSpadden
Macdonald
Madden
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Hara
O'Neill
Passman
Pepper
Perkins
Podell
Preyer
Price, Ill.
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rodino
Roe
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rose
Rosenthal
Rostenkowski
Roybal
St Germain
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Smith, Iowa
Staggers
Stanton, James V.
Steele
Studds
Symington
Thompson, N.J.
Tiernan
Van Deerlin
Vanik
Vigorito
Waldie
Walsh
Whalen
White
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—22

Blatnik
Carey, N.Y.
Chamberlain
Collins, Ill.
Danielson
Downing
Fisher
Gray
Green, Oreg.
Holtzman
Jones, N.C.
Kemp
Landgrebe
McEwen
Matsunaga
Milford
Mills, Ark.
Owens
Patman
Stokes
Talcott
Young, Ill.

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DICKINSON TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. DICKINSON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKINSON to the amendment offered by Mr. FOLEY: Page 4, line 18, insert the following:

(l) Notwithstanding any other provision of law, a household shall not participate in the food stamp program while its principal wage earner is, on account of a labor dispute to which he is a party or to which a labor organization of which he is a member is a party, on strike: *Provided*, That such ineligibility shall not apply to any household that was eligible for and participating in the food stamp program immediately prior to the start of such strike, dispute, or other similar action in which any member of such household engages: *Provided further*, That such ineligibility shall not apply to any household if any of its members is subject to an employer's lockout.

"(m) Section 3 of such Act is further amended by adding at the end thereof the following new subsections:

"(o) The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or condition of work.

"(p) The term 'strike' includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement)."

Mr. DICKINSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. DICKINSON. Mr. Chairman, this is the amendment, so-called, to prohibit the issuance of food stamps to strikers.

Mr. Chairman, I do not offer this because I am opposed to organized labor, but, to the contrary, because I believe in the precepts and principles of collective bargaining. I believe that the issuance of food stamps to strikers strikes at the very heart of free and collective bargaining.

This is not, and I repeat not, an anti-organized labor amendment, but rather it is a pro-poor-people amendment. Every dollar that is taken away from those who are in need to help subsidize someone on strike, who is not in need, to that extent it is a perversion of the intent of the original passage of the law.

Mr. Chairman, I support free enterprise. I support the principle of collective bargaining.

There is free enterprise, as well as some ills, in the food stamp program in general. The Governor of Kentucky, for instance, told the story about the farmer in his State, who went to town in his bib overalls with a great big ham on his shoulder. It was a pretty Kentucky smoked ham. A tourist passed by and asked him if he wanted to sell the ham. He said, "No," he did not believe he did. The tourist said, "I will give you $30 for it." He told him it was not for sale. Then the tourist said, "I will give you $40 for it." It was a beautiful smoked ham. He said, "No, it is not for sale at any price."

The farmer went on down to the grocery store, down the street, and he sold the ham to the grocer for $35. He took that $35, and he put $15 in his bib pocket, up here, for spending money. He took the remaining $20, and he went down to the bank, and with that $20 he bought $100 worth of food stamps.

He takes the $100 and goes back to the same grocer, gives $40 worth of food stamps for the same ham he had sold him, buys $60 worth of groceries. So he goes home with $15 in his pocket, $60 worth of groceries and the same ham he started with. Now, that is free enterprise.

Mr. Chairman, I am not trying to get at that part of the food stamp program, but I am trying to get at what I think is an injustice to those in need and an injustice to those who deserve the food stamp program.

There are three reasons why I think this is wrong. First, it destroys the balance necessary to maintain a true collective bargaining system; second, it limits the amount of food stamps which can be issued to the low-income families which the program was designed to aid; and third, it is an illegal use of severely limited tax dollars.

Mr. Chairman, how can there be a true collective bargaining when we take the taxpayers' dollars and use them in preference to one side over another and give one side an advantage over another in a manner directly affecting the consumer and the public? In so doing, we are abandoning our principles of fairplay and free enterprise.

The collective bargaining system depends on pressure on both sides to negotiate a settlement. When the strikers are receiving enough public assistance, a great part of which is in food stamps, to keep them from needing to work, there is obviously not the same amount of pressure on the strikers as there is on management.

If the Government through its intervention, eliminates the pressure on either side, then it eliminates the incentive to negotiate in good faith, and this in turn prolongs strikes, and prolonged strikes mean higher wages at settlement, and eventually higher prices to the consumer, and higher taxes.

Therefore, we destroy the economic function of the collective bargaining system and in this way we throw our system out of whack.

Mr. Chairman, I had a complaint from one person who said he was irate at the thought that we would eliminate food stamps for strikers, and he said that he was entitled to his food stamps while on strike because he paid taxes.

Well, that is fine on the surface, but if we look beneath the surface, we will find out General Motors and United States Steel pay taxes too. I wonder if we would contend that they, too, are entitled to government assistance to help them during a strike.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. Dickinson) has expired.

(By unanimous consent, Mr. Dickinson was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. Mr. Chairman, I do not believe there is a Member on the floor today or in Congress who believes that it is right for the Federal Government to go in and subsidize business and subsidize management during a strike to enable them to prolong a strike, rather than to come to some reasonable agreement. And the converse is true; the opposite side of the coin is true. Neither is it right for the Federal Government to go in and subsidize the striker.

The use of food stamps for strikers is a perversion of the purpose of the Food Stamp Act. Food stamps to strikers is an unintended consequence of a program designed to help low-income families to exist and live better. If the food stamp program is maintained through vigorous political efforts, and if this practice is continued food stamps for those intended to benefit from the program must be reduced or the cost of the program will continue to accelerate rapidly. According to the letters I have received, there are many of our working poor who really need help, but who cannot qualify because of the way in which the law is written, while strikers who are less deserving at the same time are getting food stamps.

The cost of the food stamp program, like so many Federal programs, increased greatly in the last decade, from $14 million to more than $1.9 billion. It is proposed to be $2.4 billion by this bill. At a time when we are struggling to reduce Federal spending, we should recognize an estimate $240 million went last year to subsidize strikers. That is more than 10 percent of the program.

I base my statistics on a very comprehensive study. Here is a bound volume entitled "Welfare and Strikes—The Use of Public Funds to Support Strikes" by Mr. Armand Thieblot, and associate professor at the University of Pennsylvania.

His study shows conclusively that by using the public Treasury we prolonged and induced or encouraged strikes. The result of all this is to cost the consumer and everyone more.

The purpose of this amendment is to keep people from being eligible for food stamps simply because they are on strike. My amendment says if you are already entitled to the food stamps and you go on strike, then you are still entitled to the food stamps. We know as a matter of practice, when you go in to sign up for food stamps and declare, if they ask you, what your net worth is, all you have to do is make a representation and they do not have the time, with an influx of thousands of people, to look behind the statement and find out if you do in fact qualify. There is no follow up.

As an extreme example, but this is true, a person can go on strike and have two Cadillac automobiles and a cabin cruiser and go down and qualify for food stamps immediately, but the working poor person who does deserve them but has a small income from his job cannot qualify.

Now, where is the justice in that? Is that what we wanted and intended to do, or is it a perversion of the program? There is no doubt in my mind that the program has been perverted from its original intent. It was never intended by the Congress or those who envisioned aid to the needy initially that this program would be taken to subsidize strikers and that 10 percent, approximately, would be taken off the top—and it is growing—to go to those who do not really need it and really are not qualified and really prefer one party over another in a collective bargaining situation and thereby destroy the whole collective bargaining system.

Mr. YOUNG of Florida. Will the gentleman yield?

Mr. DICKINSON. I am happy to yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of the gentleman's amendment.

Mr. Chairman, I rise in support of the gentleman's amendment to prohibit the issuance of food stamps to strikers.

On January 11 of this year, I introduced H.R. 1940, to amend the Food Stamp Act of 1964 to exclude striking households from coverage. My bill is identical in thrust with the amendment offered here today, and I am delighted that the House will have an opportunity to vote on this matter.

The Food Stamp Act of 1964 was enacted to implement a program of Government food subsidies for destitute persons: the unemployed; the unemployable; families on welfare; mothers with dependent children; the aged; the blind, and the disabled.

By no stretch of the imagination can able-bodied strikers be placed into these categories. By no stretch of the imagination can skilled individuals who choose not to work be called destitute.

The right to strike is basic. But financial support from taxpayers' funds during a strike is an intolerable breach of Federal neutrality in a labor-management dispute.

It is a perversion of the original intent of the Food Stamp Act—to help feed the truly needy.

An able-bodied man who elects to stop working—and in some cases, deprives others of the right to work—should not be discouraged or encouraged in his actions by the Federal Government.

The unions exist to represent labor and look after labor's interests. Unions maintain "strike funds" to support their members during contract disputes involving strikes. By providing a virtually unlimited "strike fund supplement" in the form of food stamps, the Government is effectively subsidizing a strike with public money. It supports one side in a dispute to the loss of private enterprise, the taxpayer, and the consumer.

The food stamps issued to strikers do not go to feed starving children or malnourished senior citizens. They are used in households which may have a gross annual income of up to $20,000 per year. The head of the household not only has access to union financial resources, he has the assurance of a salable skill and a job in his future.

But for every food stamp dollar provided to these households—an estimated $238 million in fiscal 1972 alone—there is one less dollar for someone genuinely in need.

The squeeze on Federal resources grows more intense with each passing month. The Congress has approved programs which are worthwhile—but which we literally cannot afford to fund.

Why, then, should we agree to the annual diversion of $238 million from the truly needy to able-bodied employables?

I urge my colleagues to vote "yea" on this amendment. The present system is a compendium of abuses:

The taxpayers' dollars go to support extended strikes which serve to inconvenience the public and raise the price of consumer goods.

The Federal Government abandons its neutrality in labor-management relations in favor of financing strikes.

And those who legitimately qualify for welfare are cheated of funds and benefits which are rightfully theirs.

Mr. REID. Will the gentleman yield?

Mr. DICKINSON. In just a moment. So, Mr. Chairman, without belaboring—and I think we all pretty well understand what is involved—if you really want to do the job that this program is designed to do and if you want to help the needy and if you want to stop preferring one side over another in a collective bargaining situation and if you want to do what is right and what is just, not with an anti-labor vote but with a pro-poor-person vote, then support my amendment. I think it is fair, I think it is just, and I think it is needed.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we are to some extent back at an old stand. On several occasions in the past the House rejected an amendment similar to the amendment offered by the gentleman from Alabama

(Mr. Dickinson). I think the House acted wisely in rejecting the amendment in the past. I hope it will do so again.

The present draft of this proposal goes a little further than others in the past, because it says not only do you take away food stamps from the household if a member of the household is on strike, but if he just happens to belong to a labor organization that is on strike, you take away his food stamps.

What that means, I do not know, but if it is meant to mean that all members of an international union are ineligible for food stamps if one of its local unions is on strike, I do not know what possible equity there could be in that.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield at that point?

Mr. FOLEY. I would prefer that the gentleman permit me to finish my statement, and then I will be glad to yield to the gentleman if I can secure additional time.

Mr. Chairman, the suggestion of this amendment by Mr. Dickinson is that if a labor union member or other person is on strike, he is somehow engaged in an improper if not illegal activity.

I would remind the Members that our labor laws protect the right to strike, and the courts have to recognize, when strikes are called in the appropriate manner, after an unfortunate breakdown in collective bargaining, the right to strike is not illegal and not subject to injunction or other legal restraint.

I might suggest that obviously when a breakdown in collective bargaining occurs it is not always the fault of the union, it sometimes is the fault of the employer. No one can say that every strike is a result of a breakdown in collective bargaining attributable to excessive demands by unions.

In many cases the failure of collective bargaining lies with the employer.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. Not at this time. I allowed the gentleman from Alabama to complete a 10-minute address without asking the gentleman to yield. I would like to complete my remarks, and then I will yield.

The first assumption is wrong. Much as we regret strikes, they are legal. Much as we regret them, they are sometimes the fault of the unions, and they are sometimes the fault of the companies.

The basic argument behind this proposal is that we ought to be fair and equitable, and the Government ought not to come in and help break a strike, or win a strike for the union. That might be all right if we were going to be perfectly equitable, if we were going to say that absolute neutrality is the rule. But there is no law that says that a small business loan cannot be made to a company during a strike. There is no law that says a Government contract cannot be let to a company during a strike. In fact, the tax laws say that any losses occurring as the result of a strike not only can be claimed in that tax year, but they can be carried back for 5 years, and carried forward for 3 years, thus insuring the maximum tax deductibility for strike losses. Is that not a little cushioning of the strike impact on the employer through the tax laws?

As far as I know there is not a single expense to an employer due to a strike that cannot be written off, and cannot be written off if the company wants to do it.

So the real purpose of this amendment is not to restore some Government neutrality allegedly lost because strikers are eligible for food stamps but on the contrary to use a denial of food stamps as a pressure on the worker—or more accurately on his family—to help break a strike. Remember everyone in the household, mother, father, daughter, son, even infant child—are denied participation. Not just the worker himself.

Now, the gentleman from Alabama says that no one has the right to food stamps, and I might agree, but you know, most all know, the complaint one hears, that some people who are receiving food stamps are professional loafers who will not work. If there is one thing a striker is, he is by definition a worker. He is someone who holds down a job, who contributes to the economy of his country, and his community, and who does indeed pay taxes, to support this and other Government programs.

Mr. ALBERT. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I am delighted to yield to our distinguished Speaker, the gentleman from Oklahoma (Mr. Albert).

Mr. ALBERT. Mr. Chairman, I would ask the gentleman from Washington if we would not have this sort of a situation if this amendment were to carry, that the families of the strikers, no matter what other circumstances, would be the only ones in the United States that could not qualify, if they otherwise qualified?

Mr. FOLEY. The distinguished Speaker is exactly correct.

I just want to point out something else. Perhaps some accuse me of being demagogic or overly sentimental, but I wish to point out to the House, as I have before, that under our present laws if a man or other head of the household is convicted of a felony, whether it be murder, robbery, rape, or treason, and is incarcerated in a penitentiary for that offense, his family is still eligible for food stamps. But supporters of this amendment would urge notwithstanding that fact, that if a man is out on strike, his family should not be eligible.

What standard of social values can justify such discrimination against not our worst but against some of our best—our hardest working—our most responsible citizens.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Foley was allowed to proceed for 5 additional minutes.)

Mr. REID. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. REID. I commend the gentleman in the well for his statement on particularly, in my judgment, the gentleman from Alabama's amendment.

Mr. Foley has clearly pointed out we penalize children, and what we are saying here today is that we could penalize 10 million children, because that is roughly the number who do not have adequate nutrition. I commend the gentleman for making that point, because the heart of this amendment is penalizing children.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

I should like to discuss with the gentleman a couple of points he made: First of all, that this amendment as introduced by the gentleman from Alabama is discriminatory against union members. That is certainly not true, and I think if the gentleman has read the amendment, he would know that it states:

> *Provided*, That such ineligibility shall not apply to any household that was eligible for and participating in the food stamp program immediately prior to the start of such strike, . . .

So I want to make it clear that the gentleman's point and the Speaker's point, that it would discriminate against union members, if they were eligible for food stamps before, is not true.

Mr. Chairman, as I have stated in my testimony before the Agriculture Committee during its consideration of this legislation, the existence of a food stamp program without safeguards designed to prevent the abuse of the program by persons such as strikers, who are voluntarily unemployed, offers nothing but trouble for the taxpayers of this country. According to the comprehensive Wharton study, which I cited in my testimony, the availability of food stamps for strikers tends to increase the frequency, length, and ultimate costs of strikes by reducing the economic pressure which might otherwise encourage striking unions to work out their differences with management without resorting to costly strikes. This is not to deny that unions should exercise the right to strike where strikes are lawful and are peacefully conducted, but the decision to strike should be made with due regard for all of the consequences. It makes no more sense to permit food stamps to be made available to strikers than it would make sense to enact legislation for the relief of employers who suffer loss of revenues and profits because of strikes.

To add insult to injury, the same taxpayer who, as a consumer, suffers the hardship of lengthy strikes and inflationary settlements is then asked to bear the increased cost of providing these benefits to strikers. For example, according to the Wharton report, the cost of providing food stamps to striking General Motors employees in Michigan during the 1970 strike was more than $10 million, and that is just the cost of one strike in one State for one of several taxpayer-supported programs, such as the AFDC program, under which benefits have been made available to strikers.

It must be obvious to my colleagues that there is absolutely no way to budget for the provision of these benefits to strikers since there is no way of estimating how long a strike may last or how many strikers may apply for assistance and since the very fact that the benefits may be made available is likely, according to the Wharton report, to affect the frequency and cost of strikes. This is a time of great concern, which all of us share, for the future of the dollar and for the health of our economy. I believe we all recognize that our ability to deal with these problems is directly related to the success of our effort to find some way to gain effective control over the growth of the Federal budget. Many Members are undoubtedly aware, as well, of a study which has just been released by the Joint Economic Committee which indicates that we have reached the point where a family of four can conceivably obtain benefits equivalent to a gross earned income as high as $11,500 without working, so that there seems to be little reason for many persons, including many present taxpayers, to work, unless for some reason they happen to feel restless or feel compelled out of habit to continue working.

My reason for discussing the findings of the Wharton and Joint Economic Committee studies at this time is that I simply cannot understand how, in light of our concern over the unchecked growth of the Federal budget and the destruction of the economic incentives which are the foundation of our productive economy, we can proceed with "business as usual" and permit the provision of unlimited benefits to individuals who voluntarily choose not to work.

For these reasons I believe that it is essential that this House enact the Dickinson amendment to prohibit food stamps for strikers.

Mr. FOLEY. I will yield for a question, but not for a speech. Obviously, people on strike are people who have jobs. Thank God they usually do not have to depend on the food stamp program and are not eligible, because of their wages. To argue that workers who are on strike should only be eligible for food stamps if they were eligible before the strike is either foolish or deceptive. Before the strike they were receiving wages and obviously ineligible because of employment. In any case the proponents argue that a worker on strike has only himself to blame. It is his own fault he is on strike; right? Not necessarily. Not necessarily.

In the first place, as I have said, it may be the company's fault that collective bargaining failed. Second, unions vote on strikes. They have to vote on strikes. A member who votes against a strike who is opposed to going on strike is prohibited, with his household, from participating in food stamps, exactly as is the member who gets to go on strike. They are both in the same situation. A member who wants to go back to work and votes to end the strike does not then become eligible. His ineligibility continues if he is a member of the union on strike. He is not eligible as long as the union to which he belongs is on strike.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Just to advise the Members of our legislative history, my amendment says only those members who are on strike are ineligible, not everybody who belongs to a union. If a local union of AFL–CIO goes on strike with 20 members, that does not mean all members of the AFL–CIO are covered.

As to the other point in the gentleman's debate, this is not directed at children. This is not to deprive those who were eligible before the strike. This is directed at charity for people not deserving charity.

I appreciate the gentleman's yielding.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from California.

Mr. HOLIFIELD. I was very much interested in the gentleman from Alabama's proclaiming his thesis that we should not subsidize strikers because we do not subsidize private enterprise. I have not found that to be the situation. There is hardly a major corporation in America that is not, indeed, subsidized one way or the other. And all we have got to do is look at the Pennsylvania Railroad and Lockheed and a few others.

I also wanted to comment on the gentleman's very lucid explanation that felons of different types and their families and their children can get food stamps but here is a man who is not a felon but who is exercising a legal right which this Congress has legislated for him to participate in, striking in order to obtain results in collective bargaining which the Congress has legislated, a man performing a completely lawful act under all the laws of the United States, and yet it is his family that suffers, his children, and his wife.

Mr. FOLEY. I thank the gentleman.

I would like to point out when the gentleman from Alabama says we are not trying to reach the children, he could have provided an amendment that stated where a household has a member on strike they would lose a proportionate value of the food stamps as the striker bears to the household but he chose to take out every child, every adult including possibly aged and infirm—the whole family.

This amendment is punitive, antilabor, antiunion, unfair, and discriminatory.

It will not bring labor or industrial peace. It will contribute only a legacy of bitterness and rancor toward the worker's employer and toward the worker's Government as well.

Mr. GOODLING. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, before addressing myself to the business before the House today I would like to correct an ugly rumor that apparently is making its rounds in the House. It has been said by some of my friends or probably my enemies that when I voted "aye" the other day the electronic rollcall broke down. But it was not that at all, I can assure the Members. The electronic rollcall suffered so much through this bad agricultural bill that it simply could not take any more of it, and I want to predict that unless we get to a final vote in a hurry it will probably break down again.

Mr. Chairman, this is not the first time that the emotional strings of the Congress have been played upon by the food-stamps-for-strikers issue.

No other subject brings out the crying towels in greater quantities. Tears flow copiously down the cheeks of the emotion-engendering pros as their hearts bleed profusely for the poor, innocent children who supposedly will starve if food stamps are denied their striking parents. Interestingly enough, however, I do not recall seeing these same Members shedding such crocodile tears for the poor, overworked taxpayer, the one who inevitably is required to pick up the tab for this food-stamps-for-strikers program.

Even a cursory glance will show that we are traveling down the food stamp road at an alarming rate of speed. The skids are well greased. The program started originally in 1961 with five $1 million pilot programs, I would like to point out that in the early history of the program, food stamps for strikers, college students, hippies, and commune residents never entered into the minds of food stamp proponents. The food stamp program was designed for the poor and needy who desperately needed assistance and who did not drive high-priced autos to pick up stamps and groceries.

Things are different today, however, with an "open door" policy on food stamps. The cost of the program has orbited to $2.5 billion, which is the projected figure for fiscal 1974. Is there not a song that says, "We have come a long way, baby"? Where food stamp costs are concerned we sure have!

I would like to point out that denial of food stamps to strikers is not a violation of the right-to-strike doctrine. The right-to-strike is a basic right of labor, and I want to see it preserved and maintained. However, if the Federal Government subsidizes the striker, we, in a sense, go from "collective bargaining" to "protective bargaining." Those who go out on strike do so to obtain certain benefits and advantages. If they do this, they should also be willing to accept certain disadvantages that might occur. What they want, however, is to eat their cake and have it, too.

In one of the strikes, during which strikers were getting food stamps, one striker was heard to remark:

> They can't starve us out now that we are getting food stamps. We can go on forever.

Such an atmosphere hardly appears to be ideal for serious negotiation.

Today our dollar is being devalued and our inflation spiral is ever upward. Let us recognize that it is this type of irresponsible food-stamps-for-strikers legislation that is causing such economic woes. There are, of course, those who would give away the capitol dome, failing to give serious thought to the balance of the structure until it is too late and a capitol in ruins comes tumbling down and, inevitably it will unless we reverse present trends.

Let us give the overworked taxpayer a

real break and support the amendment designed to prohibit the issuance of food stamps to strikers.

Mr. STEIGER of Arizona. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Chairman, I would just like to congratulate the gentleman from Pennsylvania on his well reasoned and logical response to what has to be described by anybody with obvious embarrassment as a resort to rhetoric on the part of the gentleman from Washington.

I can appreciate that embarrassment, and would only like to advise the opponents of this amendment that it is because they do not have the votes that they stall and engage in rhetoric and subject themselves to embarrassment. It is already out of this amendment when we proceed to finish the rest of this legislative work.

Mr. TEAGUE of California. Mr. Chairman, I rise in support of the amendment.

There is no purpose in going over all the arguments pro and con on this subject. I think every one of us has made up our minds. I would like to point out something which the gentleman from Alabama (Mr. DICKINSON) did not.

The amendment which he has offered is modified somewhat from the bill he and many other Members of this House introduced. We offered in the committee an amendment which lost twice on an 18-to-17 vote and won once when we did not have a quorum.

However, it applies only to the principal wage earner and the family. This means that if there is a large family, and one of the girls is working as a telephone operator and goes out on strike, then it does not make the whole family ineligible. Also, in contrast to the original bill introduced by Mr. DICKINSON, it does not apply to walkouts.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from Washington, even though he did not yield to me.

Mr. FOLEY. Mr. Chairman, I am glad to yield to the gentleman anytime. I regret I did not have time to yield to the gentleman earlier and still complete my statement. I assume the gentleman has concluded his remarks and can yield to me now.

Mr. Chairman, it is true, it is not that if the principal wage earner in the family, the head of the household, is on strike, the entire family loses eligibility?

Mr. TEAGUE of California. Yes; that is certainly right.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I yield to my colleague from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, is it not also true that the overwhelming majority of the unions today have substantial strike funds, so that the argument that the unions are depleted and without ability to help support their strikers while they are on strike is no longer true; and whereas the need for food stamps to strikers is nowhere near as pressing now as it was perhaps in previous times, because they are usually able to finance and able to support their own workers, and if the food stamp program as we originally enacted it was for the poor people in this country, and not people who are basically working, is that not correct?

Mr. TEAGUE of California. Yes, in my opinion.

Mr. ROUSSELOT. Was it not brought out in the Committee—and this is why there were perhaps 17 votes for this amendment—that the overwhelming majority of unions have a way of supporting their people when they are on strike, so that it is not necessary today to make use of the food stamps?

Mr. TEAGUE of California. Yes, I made that argument in committee.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. VIGORITO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I definitely am against the amendment of the gentleman from Alabama.

It is legal to be on strike. It has been legal for almost 40 years.

Last year one of the lower Federal courts, and I am not sure exactly which one, stated that a striker cannot be denied Federal benefits merely because he is on strike. Unfortunately, they did not mention food stamps, but if I interpret correctly the meaning of "Federal benefits" then food stamps would be included.

To reenforce my argument and to second the statement of one of the lower Federal courts, 2 weeks ago the Supreme Court stated that hippies have a right to food stamps. Now it seems that some are in favor of food stamps for hippies but not for strikers, who have a legal right to be on strike.

I should like to ask the gentleman from Alabama a question, if he will permit me to do so.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. VIGORITO. Before I continue, I would like to remind the gentleman that I am one of three certified public accountants in the House. Does the gentleman still wish that I ask the question?

As the gentleman knows, in one of his statements he mentioned the taxpayers would be stuck with the bill to give food to strikers, not only to strikers, but also to their families, including children, and milk for the babies.

Does the gentleman believe in lockouts? No. He does not believe in strikes, I am sure.

Mr. DICKINSON. Is that a question, or is the gentleman answering for me?

Mr. VIGORITO. I am just making a statement.

Mr. DICKINSON. If the gentleman is just rambling, go ahead, but when he gets to the question, let me know.

Mr. VIGORITO. I am leading up to the question, and I will state the question right now.

Can General Motors, assuming the negotiations presently going are not satisfactory, decide to lock up its plant for 2 months, and can it deduct the cost of the lockout for 2 months, including depreciation, overhead costs, executive salaries, and so forth and so on, which would be untold millions of dollars That is the question.

Mr. DICKINSON. Is that the gentleman's question?

Mr. VIGORITO. That is the question.

Mr. DICKINSON. I thank the gentleman. If he will read the amendment he will see it says:

> *Provided further*, That such ineligibility shall not apply to any household if any of its members is subject to an employer's lockout.

I believe the question is moot.

Mr. VIGORITO. That does not answer my question. Suppose a company has a lockout. Is the company entitled to deduct the expenses of overhead, depreciation, and executive salaries during the period of the lockout?

Mr. DICKINSON. Perhaps that is true, but that is really not at issue here.

Mr. VIGORITO. That is the question.

Mr. DICKINSON. The employees are not prohibited. The gentleman talks about the children. The point is that if we take from those who deserve this, the really hungry children, to give to the children of strikers, whom are we hurting? We are hurting those who really need it.

Mr. VIGORITO. I disagree with the gentleman very much, because there is no limit to how much we can pay out in food stamps.

I thank the gentleman from Alabama.

The point is, Mr. Chairman, under the Internal Revenue Code each corporation which has a lockout and suffers say $100 million in expenses during such a 2-month period can deduct that on the tax return, and the taxpayers will pick up about half of the cost, or approximately $50 million.

I oppose the amendment. I would appreciate it very much if the Members would vote down the amendment.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. VIGORITO. I yield to my good friend from Ohio.

Mr. VANIK. So far as the tax question is concerned, the distinguished gentleman from Pennsylvania is absolutely correct. All the business expenses during a period of lockout, including salaries and so forth, are deductible as business expenses.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(On request of Mr. TEAGUE of California, and by unanimous consent, Mr. VIGORITO was allowed to proceed for 1 additional minute.)

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. VIGORITO. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Chairman, I am sure that my friend from Pennsylvania, who is, as I know, a fine CPA, is correct. But I think that he probably also knows that the law specifically provides that the recipients of food stamps do not pay income tax on the value of those food stamps.

Mr. VIGORITO. The gentleman is correct. There are a lot of Federal benefits that a lot of people do not pay income taxes. In fact, there are a lot of benefits that go to the upper echelons of our business world. They get fringe benefits, and they do not pay any income tax.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have listened to this debate with a great deal of concern. I oppose the amendment.

I believe that people are eligible for foodstamps in whatever category their eligibility permits them to be eligible. Obviously they do not pay taxes on foodstamps, because that is not income.

It is interesting to me that we have had a discussion on forbidding food stamps to strikers in connection with this particular bill. There has been a great deal of discussion describing foodstamps to strikers of food stamps as subsidies. Some of the Members who have spoken in opposition to this amendment depriving strikers of foodstamps argued in return of the many subsidies of one kind or another to large corporations. I agree with this observation.

I believe that this proposed amendment does undermine the hard-won right of strikers to collective bargaining, as others have noted. But it does something else which is more fundamental. That is this: It discriminates against people who are workers, and it says that it doesn't matter that they continue to be workers.

We do not do that same thing in this very bill with respect to any other group, least of all the farmers. We go to great lengths here in this bill to provide for the ways in which farmers can continue to be farmers. We go to great lengths here in this bill to say that there are serious economic problems affecting the farmers in this country and we, therefore, have to subsidize them in order for them to continue to be farmers.

Mr. Chairman, I say to all of the Members in this House that this is the fundamental proposition in this bill. Those of us from all over this country who are not farmers, who constitute 98 percent of the people in this country, who are supporting many, if not all, aspects of this bill, because we recognize the need of people to be able to continue with their work, as farmers have the right to ask every single Member in this House to support the right of workers to continue to be workers. We must not discriminate against workers and say that they and their families can go hungry because they happen to be out on strike, at the same time that we ask help for farmers and their families.

Mr. Chairman, I ask the Members to oppose this amendment

Mr. WHALEN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would like to address my remarks to the argument that the Government, by providing food stamps, would be subsidizing strikers.

What is a strike? A strike is an agreement on the part of two parties to a contract, management and labor, to disagree. A strike can be averted in one of two ways: Labor can accept the lesser offer of management, or management can accept the higher request of labor. A strike ensues because both parties feel that it is in their long-term interest, economically, to stop work.

Now, what is the effect of a strike? First, with respect to the worker, quite obviously by going out on strike, his income declines.

Therefore, his tax liability declines correspondingly. However, his personal expenses continue; he has to pay for his utilities.

The worker may have to pay for the education of his children; certainly he has to pay for the food that he cousumes and perhaps has to pay rent. There is no Federal relief to help the worker with the exception of food stamps, for which the worker, of course, has to pay.

Now, what about the company? The company's sales decline, unless the company, of course, prior to the time of the strike, builds up its inventories. In the event of a sales decline, the company's income and profit decline. The company's tax liability declines correspondingly. But the company, too, has continuing expenses. The company is confronted with the cost of depreciation, and it, too, must pay for utilities—heat, light, and power—pay for insurance and pay for plant maintenance, and it also pays certain key executives' salaries. The Federal Government allows these expenses to be deducted as a cost of doing business, despite the fact that the company voluntarily has decided to stop doing business. As a consequence, this will further reduce the profit of the company and will further reduce the tax liability of the company.

Let me give you an illustration. For example, if a strike goes over a 2-month period the company's allowable costs are $1 million, this would reduce the company's tax liability by $500,000. This, of course, represents a subsidy by the Federal Government at a time when the company has, by its own choice, closed operation.

As the gentleman from Washington (Mr. FOLEY) pointed out, the company has another tax advantage. If the strike goes on long enough and the company sustains an operating loss, it can go back for 5 years or forward for 3 years and obtain tax credits. For example, if the company had lost $1 million in that particular year, it could claim approximately $500,000 in taxes previously paid.

Mr. RAILSBACK. Will the gentleman yield?

Mr. WHALEN. I yield to the gentleman.

Mr. RAILSBACK. I think this particular point is most important. You are talking about a net operating loss, which if it is large enough, can be used to offset taxes paid for the 5 preceding years and can also be carried forward for 3 years. I favor giving business this tax benefit, but I do think it is unfair to imply that strikers are the only ones to receive benefits because of the food-stamp payment. I do not think enough has been made of that.

Mr. WHALEN. That is exactly correct. And it is certainly a tax subsidy on the part of the Federal Government plus allowing expenses at a time when the company decided voluntarily to stop business.

I would simply conclude by saying that you have to look at both sides of the ledger. In my opinion, the Federal Government subsidizes the company far more than it does the striker in terms of providing food stamps. Therefore, until the subsidization of the company ceases on the part of the Federal Government, I will certainly oppose any effort to deny strikers food stamps. Therefore, I urge my colleagues to oppose the amendment.

Mr. CASEY of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the first time this proposal to prohibit strikers from qualifying for food stamps was brought up 2 years ago I supported it, because of the abuses that had been occurring. One of the proponents of this amendent today quoted one of the union leaders, stating that we can last indefinitely on account of the fact that we have food stamps. That statement originated about 3 years ago before the regulations were tightened up.

I shall ask permission to insert the regulations when we go back into the House.

I see no reason why we should discriminate against some section of our society when they are engaged in something that is legal if they qualify otherwise. We tightened up the qualifications for stamps.

The gentleman from Alabama who proposed the amendment was quite enthusiastic and waxed quite eloquent, but he also got his statistics wrong and clear out of the realm of fact in some regard.

He said a man can have two Cadillacs and have a cabin cruiser, and qualify for food stamps. He cannot. He absolutely cannot. If that man is getting food stamps, then he is getting them illegally. And if a man like that is getting food stamps in a Member's State, then that Member had better jump on those State officials who administer the program and force them to adhere to the law.

The way the discussion has been going on today, if a person goes out on strike then they automatically qualify for stamps. They do not. We have tightened the law. In one strike that occurred in my area, there were 3,300 on strike, and I think 700 of them qualified.

One would also think that we were going to fatten them up real well on food stamps. What do they get if they qualify? If they have no income whatever, a family of two would get $60 worth of food stamps a month. I do not know what the other Members spend on their grocery bills, but I guarantee they will not get very fat on $60 a month with the price of groceries as they are now.

A family of four would receive $108. Now, then, if they are getting a union supplement from the union funds then that supplement has to be taken into consideration, so they start paying something for their stamps. We are not giving them to them.

I know that some of the Members will think it rather unusual and a bit out of character for me to be up here because I have opposed a lot of things that the unions have advocated, but this is just plain and sound do unto others as you want done unto yourself. They are fully within the law. There is no reason why we should try to discriminate against people who are giving up their paychecks in order to try to make their point, whether they are right or wrong, and to say that they cannot qualify for this very program that they have helped to finance.

Another thing that I would like to point out to the Members is this: I think it would be unconstitutional, in my opinion, for us to say that we can cut out a segment of our society just because they are doing something that some other segment of our society does not like, even though it is legal. If strikes should be illegal then make them illegal.

As the gentleman from Washington, in opposition to this amendment pointed out, here we are giving food stamps to families of murderers, rapists, treasonists, you name them. Are we going to say that we are not going to give stamps to someone who gives up their paycheck for a principle, whether they are right or wrong, give up their regular paycheck and say no, they cannot qualify whatsoever.

Mr. Chairman, eligibility for the food stamp program will be determined according to uniform national income and resources standards set by the Secretary of Agriculture. Standards for Alaska and Hawaii are adjusted in accordance with the separate poverty guidelines and other factors peculiar to the States.

Monthly maximum income eligibility levels are:

Household size	48 States and District of Columbia	Alaska	Hawaii
1-person	$170	$208	$193
2-person	222	272	254
3-person	293	400	373
4-person	360	480	467
5-person	427	573	560
6-person	493	667	640
7-person	547	733	707
8-person	600	800	773
Each additional person, add	53	67	67

The standards apply to all households, except those in which all members were receiving public assistance.

Income to be measured in determining household eligibility and in arriving at the amount the household is to pay—purchase requirement—for its food stamp allotment is, in general, any cash or payments to members of the household from any source, including all types of public assistance, scholarships and educational grants. However, 10 percent of income from earned wages or from a training allowance, up to a maximum of $30 per month per household, is to be deducted to cover such items as transportation and other expenses necessary to securing the income. Not counted as income to the household are earnings of a child under 18 who is still in school, benefits which do not involve a cash transaction such as free use of living quarters, certain nonrecurring lump-sum payments such as insurance settlements, inheritances, income tax refunds, and all loans except educational loans on which repayment is not due until completion of the recipient's education.

Other allowances: Mandatory deductions from earnings in amounts which are not elective by the recipients, such as any income tax, social security tax, and required union dues, are considered as a "household expense" in arriving at the household income figure for program purposes. The regulations also permit deductions for educational tuition and fees, shelter costs that exceed 30 percent of income, medical payments in excess of $10 per month for the household, child care costs necessary for a household member to accept or continue employment, and unusual expenses resulting from disaster or casualty losses.

Resources such as savings accounts, negotiable securities and certain property, are limited to $1,500 per household, plus an additional $1,500 for households of two or more containing at least one person 60 years of age or over.

Not counted as resources are the value of such items as a home, household goods, car, personal effects, cash value of life insurance policies, income-producing property, and tools and machinery essential to employment or self-support. However, resources do include such non-liquid assets as non-income-producing buildings, land, or other real or personal property, at fair market value.

Household definition: All members of a household under 60 years of age must be related by blood, affinity, or through a legal relationship sanctioned by State law, for the household to be eligible for food stamps. A man and woman, living as husband and wife, if accepted as married by the community in which they live, are defined by the regulations as related. Foster, adopted and other children under 18 years old for whom an adult member has assumed a parental role are also considered related members of a food stamp household. An unrelated roomer or boarder is not deemed a part of the household, and will not disqualify the household from the food stamp program. "Affinity" is defined as the relationship which one spouse has to the blood relatives of the other, and is not destroyed for food stamp program purposes by divorce or death of a spouse.

Tax dependents: No household can be eligible if it has a member over 18 who is claimed as a dependent for Federal income tax purposes by a parent or guardian in another household which itself is not eligible for either food stamps or USDA-donated foods.

Work registration: The law sets work registration as an eligibility requirement for food stamps, for any household containing an able-bodied member between ages 18 and 65, unless that member is, first, responsible for the care of dependent children under 18 or of incapacitated adults; second, a student enrolled at least halftime in any school or training program recognized by any Federal, State, or local government agency; third, working at least 30 hours per week. The work registration form is to be forwarded by the food stamp certification office to the State or Federal employment office for the area. For the household to be eligible for stamps, the registered member or members of the household must cooperate in seeking, and accepting employment of a type and in a location reasonably consistent with physical and mental fitness, with consideration of transportation costs and commuting time, and at wages, including piece-rate basis, that are the highest of applicable Federal and State minimums or other authorized Federal regulations, but in no case less than $1.30 per hour. The registrant cannot be required to join, resign from, or refrain from joining any recognized labor organization as a condition of employment, nor accept work offered at a site which is undergoing a strike or lockout.

Food stamp allotment: Allotments of food stamps are geared to cost of the USDA economy diet, with the amount of money paid by households not to exceed 30 percent of income. Stamps will be issued free to one- and two-person households with incomes under $20 per month and to all other households with incomes under $30.

Under the new law public assistance households may elect to have payment for their full allotment of food stamps deducted regularly from money they get under any federally aided assistance program. All households may elect, at time of issuance, to buy all, three-quarters, one-half, or one-quarter of their monthly food stamp allotment, with their payment adjusted accordingly.

Examples of monthly allotments and amounts to be paid by recipients in the 48 contiguous States and District of Columbia:

	For a household of—			
	1 person	2 persons	4 persons	6 persons
Food stamp allotment	$32	$60	$108	$173
PURCHASE REQUIREMENT				
Net income:				
$0 to $19.99	Free	Free	Free	Free
$20 to $29.99	1	1	Free	Free
$100 to $109.99	18	23	25	27
$150 to $169.99	26	36	41	43
$190 to $209.99		48	53	55
$210 to $229.99		54	59	61
$250 to $269.99			71	73
$290 to $309.99			83	85
$330 to $359.99			95	97
$360 to $389.99			99	106
$450 to $479.99				133
$480 to $509.99				139

Note: Because food costs are determined to be significantly higher in Alaska and Hawaii, food stamp allotments are greater than those of other States shown above. Separate issuance tables for Alaska and Hawaii will be published in the Federal Register with the regulations.

Meal service: Elderly participants who are disabled or feeble so that they cannot adequately prepare all of their meals, may use food stamps to pay for meals delivered to them by a non-profit meal delivery service, if available. Such delivery services will be authorized to redeem stamps by USDA's Food and Nutrition Service similarly to retailers and wholesalers.

Dual food assistance: When a food stamp program opens in a county or city that has been distributing USDA donated foods, both programs will be permitted at the State's request for a transaction period up to 3 months. Both programs may be operated permanently provided that funds are available and the national eligibility standards are used for both programs, together with controls to prevent double participation by the same household. "Operating expense funds" which are available to the States from USDA for family food donations cannot be used for such permanent dual operations, however. Temporary emergency distribution of donated foods may be made in food stamp areas when FNS determines that commercial food distribution channels have been disrupted.

The new regulations also:

Contain provisions aimed at eliminating abuses of the program. Mandatory "quality control" plans are to be part of each State's food stamp plan of operation. Misuse of "authorization to purchase" cards—the document households get when certified for participation, commonly termed ATP cards—is subject to the same penalties as unauthorized issuance and use of the food stamp coupons themselves.

Spell out fair housing procedures under which any participant aggrieved by an action of the State agency or its local counterpart affecting participation can ask for a fair hearing. Each household is to be informed of its right to a hearing at the time of application. Reasonable time to enter a request for a hearing, reasonable advance notice of the date of the hearing, the right to examine documents and confront witnesses, and prompt decisions are required.

Provide that public assistance households electing to have their payments for food stamps deducted from their welfare check may return properly issued food stamps to the State agency for a refund of the purchase requirement.

Permit transfer of eligibility of certified households—except those certified under disaster or emergency provisions—for 60 days following a move from one food stamp area to another, provided the household circumstances remain the same.

Require States to develop an "outreach" program within 180 days of publication of the regulations, to be approved by FNS and to become part of the State food stamp plan of operation.

Add the stipulation that authorized food retailers and nonprofit meal delivery services must not knowingly enter into any food stamp transaction in which the main purpose of the customer is to obtain cash change. Otherwise, rules and procedures for accepting and redeeming food stamp coupons by retailers, wholesalers, and banks are unchanged, as are the provisions covering disqualification proceedings against authorized firms.

Mr. Chairman, I advocate the defeat of this amendment.

Mr. GOLDWATER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Alabama.

There are a number of points to keep in mind as we discuss this amendment, but each of us should seriously consider the question of whether the issuance of food stamps to strikers interferes with the collective bargaining process. I submit that the issuance of food stamps to strikers does irreparable harm to collective bargaining, and unless we stop this practice, collective bargaining will be relegated to simply a theory.

Briefly, I want to share with the Members of the House a specific example in this regard that occurred in Los Angeles. During the auto strike about 2 years ago, a United Auto Worker in Los Angeles actually made more money from nontaxable Government benefits while on strike than when he was working. This was possible because of food stamps and other nontaxable welfare benefits.

A UAW member in Los Angeles County earning $2.75 per hour before the strike had a weekly gross of $110. The average weekly deductions totaled $18.65, leaving a net pay of $91.35. Nontaxable UAW strike benefits paid him $40 weekly. He could buy $106 worth of food stamps for $42 per month. In addition, the California Welfare Department paid $282 in emergency relief per month or $70 per week for which strikers are eligible.

The sum of all this provided the striker—who was not working voluntarily—$34.65 more per week in disposable income per week than before he went on strike. He would have needed a raise of about $.90 per hour just to stay even with his strike income. In my judgment this gives the striking union an inequitable advantage at the bargaining table.

Everyone is hurt when a strike is allowed to continue over an inordinate amount of time. Food stamps do play a key role in perpetuating the strike, and its time for the House to stand up and say no to this disgraceful practice.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Alabama (Mr. DICKINSON).

Mr. Chairman, we do not shut the water off or stop taxpayer supported water supplies for the farmer when the farmer withholds produce from the market, or when the farmer refuses to produce.

We do not call a taxpayers-subsidized loan on farm property, the house, the utilities service, or the telephone, when the farmer decides not to produce. A farmer can strike. The farmer does strike, and today many farmers are striking. Yet we keep flowing to the farm a steady stream of taxpayer-supported subsidies.

Are the children of strikers, are the families of strikers who work and pay income taxes while working, to be treated differently than other unfortunate people who have not worked at all? What kind of discrimination is called for in this amendment? How can we discriminate against those who have a legitimate grievance and argument, a dispute? How can we take it out on the family because the worker has such a legitimate dispute?

We let the farmer hold off production. We let him withhold the flow of goods to the marketplace. Indeed, we have paid him liberally and very generously throughout history in this country for not producing at all.

When we talk about starving a family into submission on a legitimate strike issue, I think we are suggesting one of the the meanest kind of unhumanities to come on the American scene.

Mr. MIZELL. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from North Carolina.

Mr. MIZELL. I thank the gentleman for yielding.

I ask him to yield because to my knowledge I know of no farmer who is on strike today, at least not in my district. He is working from sunup to sundown. He is even working at nights and on weekends.

Mr. VANIK. A farmer goes on strike when he destroys baby chickens and when he destroys milk or produce, and when he keeps products off the market.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. First of all, I think the gentleman mentioned that when the farmer goes on strike or refuses to produce in the marketplace, the Federal Government does not "shut off" his water, I think the gentleman said. First of all, thank goodness the Federal Government is not wholly in the water business.

Mr. VANIK. Taxpayer subsidized projects supply a considerable portion of the water, forests and grazing land used by American agriculture—particularly in California.

Mr. ROUSSELOT. The main point is that the Federal Government does not have a program of providing the water as it does food stamps. The general taxpayers do not supply that water. In this case we are asking all the taxpayers of the country to provide a food stamp program that is supposed to be for the poor. Thank goodness, the general taxpayers of this country are not asked to provide the water for the farmer. The point is that the suggested similarity, I think, is an incorrect analogy. I do not think that the water of this country is in any way similar to the federally subsidized food stamp program.

Mr. VANIK. I want to say in response to the gentleman that that just does not stack up with my understanding of farm programs, because a good part of the water that has been developed for American agriculture has been developed through taxpayers subsidies in the building of dams on rivers and in capturing water throughout the country in order to increase the productivity of the land. The General Accounting Office has recently documented the tremendous cost of this subsidy. We have subsidies for rural telephone service, subsidies for the development of rural electrification, and farm loan programs with a subsidized interest rate for the building of farm properties. These things are not suspended, terminated or withheld if the farmer refuses to produce.

Mr. ROUSSELOT. The gentleman and I do not vote for those subsidy programs.

Mr. VANIK. I have. We have.

Mr. ROUSSELOT. I have not.

Mr. VANIK. I have.

Mr. ROUSSELOT. My point is I do not think it is right to ask the general taxpayers to pay for a group of people who on a voluntary basis have decided to go on strike, and especially because this group of workers are not generally classified as "the needy poor."

Mr. VANIK. I contend that the farmer has, does, and is on strike in many parts of America today.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from California.

Mr. TEAGUE of California. I thank the gentleman for yielding.

I just want to ask the gentleman a question. Would the gentleman agree with me that the subject of the food stamps program, which I have always supported, and the general farm programs, which I have not supported, should not be put together in one package? Would it not be much better to keep them separate?

Mr. VANIK. I would heartily agree that we would be better off with a separate consideration of these issues.

Mr. YOUNG of Illinois. Mr. Chairman, I rise not to try to persuade any of the Members that they should vote for or against the amendment with respect to food stamps, but I would like to try to persuade some of my colleagues, who I know are very able and very learned, or perhaps to dissuade them from using the term "subsidy" so loosely as it has been used in this Chamber today and particularly by a person who is a CPA and a very well informed person.

I want to point out that one may not agree with the argument that food stamps for strikers is a subsidy, and if that is a bad argument, we should not accept it, but we should not reply to a bad argument with another bad argument.

The other bad argument I would like to address myself to is this idea that because we have deductions we are getting subsidies from the Government. If we believe in the free enterprise system we should accept the fact that if we earn money we are entitled to it, and if we get a deduction it is not a subsidy from the Federal Government.

I have seen too much in the last year in articles on tax loopholes and I have heard arguments as used here today that because we are getting deductions for depreciation we are getting subsidies from the Federal Government. Depreciation is simply a return of capital. We do not get to deduct all of the expenditure in 1 year as we do with ordinary business expense, instead it is taken out over a period of time. That is not a subsidy.

The fact that we have a net operating loss provision also does not amount to a subsidy.

I think it is important that we recognize that the arguments we are using today are not apropos of what the issue is. They are irrelevant.

As I say, if one wants to vote for or against food stamps, that is one's prerogative, but I do not think the arguments that are being used here today for and against are apropos.

Mr. WHALEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Illinois. I yield to my colleague, the gentleman from Ohio.

Mr. WHALEN. Mr. Chairman, the argument I advanced was not that depreciation should not be allowed as a deductible expense. Certainly it should. All other expenses should also be allowed while the company is doing business. The thrust of my argument simply was that the company, along with labor, has agreed to stop doing business. I do not believe, therefore, that the company should be allowed to deduct expenses of doing business when voluntarily it has ceased doing business.

Mr. YOUNG of Illinois. But I point out that to say they are subsidies by allowing taxpayers deductions is not sound thinking, since it implies the Federal Government owns all one's income and whatever the Federal Government lets one keep is at the sufferance of the Government. That is fallacious thinking, as I think the gentleman will agree.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise really to ask two or three questions if I may. There are parts of this debate that bother me. A few moments ago I heard one of our colleagues for whom I have a great deal of respect say that a union person on strike might receive $60 in food stamps or a family of four might receive $108. The food stamp program was started when there was a surplus of certain foods. Press reports in the last few months would indicate this is no longer true. Food stamps are cash. My first question is if we did not have the food stamp program—I am wondering if this House and this Congress would really vote $60 cash for a person on strike. I must say this troubles me. I believe the Government should maintain a position of neutrality in any labor dispute. If we translate the bonus in purchase of food stamps, would Congress really approve a program to pay a person on strike $30 or $50 or $75 a month cash?

The second part, and I would like to address the question either to the manager for the minority or the majority side, has there ever been a study made of the effect that the food stamp program, or receiving of food stamps, has had on the strikers' benefit funds? We all know that these funds are kept for the purpose of giving money to the strikers so that they can maintain their homes and their livelihood—feed themselves, their children. What I am really wondering is, before the food stamps were given to members on strike and after the food stamps were made available, has there been any study or is there any evidence at all that the unions might be inclined to shift the burden of supporting families from the funds, that is the striker benefit funds to the food stamp program?

It would seem to me there would be that possibility, and I would like some assurance that there is not, and I understand the eligibility requirements. However, if a union could save a very substantial amount of money by saying that the benefits will be reduced by x number of dollars, and therefore the people would become eligible for food stamps, we really are shifting the burden from one party in a strike to the Government.

Could the gentleman respond?

Mr. FOLEY. If the gentlewoman will yield to me, as far as I know, I do not think there is any study of any kind on this subject. I would like to point out that I think, as the gentlewoman knows that in order to be eligible for food stamps there are resource tests which include savings accounts, negotiable securities, certain property limited to $1,500 per household; one's income from whatever source, including a strike fund which must be included to determine whether one is eligible. I might point out that food stamps are not given to every recipient free of cost.

In fact, if a person is at the top end of the eligibility scale, the value of the food stamp over what it cost him to buy it might be $10 or $7.50. This completely negates the value of the stamp as a practical matter when a person has to go through all the registration in order to get it. If a person comes to the eligibility limit, the cost goes up for the stamps as the income goes up.

Mrs. GREEN of Oregon. I understand that, but it also can be considerably more than what the gentleman has suggested.

The other part; My understanding is that unless the legislature in my State changed the rules this year, a person on welfare cannot own his home or cars or boats and so forth, and go on welfare and, therefore automatically be eligible for food stamps unless they are willing to agree to a claim against the estate. Therefore, I think I am correct that in this bill we place the individual on strike in a much better position to get food stamps than those on welfare or others who are of very low income. The union member on strike can have his home free and clear and own a car, a boat—plus having $1,499 in liquid assets. Or a couple may have their home free and clear and have $2,999 in liquid assets and still be eligible for food stamps. I would venture that Oregon is more liberal than most States—but as I said, to be eligible for welfare and, therefore, food stamps, a family must be willing to agree to a claim against their estate.

A family of low income, eligible for food stamps in Oregon, cannot have liquid assets of more than 1,500—whether there is one member or four—and the value of the boat or trailer would be considered as a part of the liquid assets.

So—as I understand this bill—a union member on strike would be better off than the family on welfare—as the low-income family—as far as receiving food stamps is concerned. Is this what we intend, to be more generous with food stamps to the person on strike than to the family on welfare?

One other question, if I may, and then I will yield to either the manager on the majority or the minority side. Could either gentleman advise me what the cost would be in connection with the value of the food stamps? Does either gentleman have any idea what the total amount would be in any given year?

Mr. FOLEY. For what period of time?

Mrs. GREEN of Oregon. In a year; in a given year's period of time—1970? 1971? 1972?

Mr. FOLEY. Mr. Chairman, it would be almost impossible to give the gentlewoman that figure. If she is dealing with a question of how much it cost to provide food stamps to families on strike, it depends upon how many strikes there are in a given year and how many workers are involved, and their eligibility.

The studies made and cited are the Armand Thieblot study, which was just a finance study and indicated as the average of all strikes they studied, only 29 percent of the workers on strike received food stamps.

Mr. TEAGUE of California. Will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from California (Mr. Teague).

Mr. TEAGUE of California. That totals $240 million in the value of the food stamps.

Mrs. GREEN of Oregon. In 1 year's time?

Mr. TEAGUE of California. That is my understanding.

Mr. FOLEY. I do not think that is correct.

Mr. HUBER. Mr. Chairman, I move to strike the requisite numbers of words.

Mr. Chairman, this is a real loser whatever we do. The thing that bothers me and I am speaking as having at one time run five plants in five States, and never had a strike, but I think the thing which concerned me the most during the time around these plants was the fear of strikes.

It is very difficult to build up customers and it is very difficult to build up an organization, and nothing jeopardizes these important factors as seriously as a strike. Just a couple of days ago we had a serious debate here about productivity, and we were going to spend $5 million to find someone to tell us how we could improve productivity in the United States.

If we could solve the strike problem, we would really increase our productivity. We would not have to spend $5 million to find that out. Therefore, perhaps we ought to concentrate on productivity. What can we do to try to eliminate strikes? I suppose we could say the same thing about lockouts; what should we do about lockouts?

If we can solve those problems we will certainly improve the gross national product, and there will be more for everybody.

I believe we ought to make it as difficult as we possibly can to have people locked out, or to go on strike, without interfering with their rights. We should not make it easy for a plant to lock out employees, and we should not make it easy for employees to go on strike.

We know, for instance, in Japan, that when there is a strike in Japan the strikers wear black armbands but they continue to work. Japan, we were told today in one of our meetings, will soon be the second major country in the world, productivitywise. It has come that far since World War II.

In other words, the people who can solve the strike and lockout problems will improve their productivity and take over more and more of the productivity of this world.

How can we increase our share of the total gross national product of the world? We are sitting here trying to find out how to make it easier to put management and labor at each other's throat. We ought to try to make it tougher for labor and management to fight, not easier, and we should not encourage either one of them to take advantage of the law. The laws are there to protect them, but I do not believe the laws are put there by the Congress to make it easier for them to fight one another.

I believe we have missed out this year because of pressure either from management or labor to take care of their own special interests.

I am opposed to the idea of food stamps because I do believe it makes it easier to have a strike.

I am sure the learned CPA would tell us that one cannot make money on a strike. And one must have years and years of history of profits even to get anything back if recovery of previous profits is attempted.

Those arguments do not interest me. What interests me is to try to make management and labor work together, so that we can increase the productivity of this country so that we will have a bigger pie to share among us all.

Therefore, I would oppose anything that makes it easier to have a strike or to have a lockout.

Mr. MICHEL. Mr. Chairman, first may I take this opportunity to commend my colleague, Mr. Dickinson, for offering this amendment. On two prior occasions I offered the amendment to Agriculture appropriations bills and 2 years ago we lost by some 50 votes. Last year, the margin was narrowed to 18 or 19 votes, and I have a hunch this year that it could prevail, depending how strong that unholy alliance hangs together—and I do not think I need explain any further to Members of this House what I am talking about.

Now, for those of you with large concentrations of laboring people in your district, let me cite my own personal experience, for this is the kind of district I have.

When I first offered this amendment the largest distillery in the world, which is located in my district, was on strike. It was a prolonged one, and there were food stamps being distributed to the workers. That obviously dramatized the issue in my home community, but I will tell you quite frankly that after having sponsored the amendment I had no reservation about going right back to that same union hall and defending my position. Obviously, I did not suffer too badly, for I am still here.

Second, may I say that the legality of striking is not at issue here today. I agree with the gentleman from Alabama that this is not an antilabor vote, but a pro-poor-people vote. We all recognize the legality of a strike and what an economic force it is in the collective bargaining process. The gentleman from Michigan (Mr. Huber) pointed that out in his very excellent presentation. What he said here today probably made more sense than anyone else, and I would not have taken this time after hearing what he had to say except that I feel honor-bound to support my colleague, Mr. Dickinson.

Third, the tax laws of the country are not at issue in this amendment, and it is rather silly to listen to some of the arguments that have been advanced on that score here this afternoon. Mr. Young of Illinois addressed himself very well to this during the course of his remarks, and I commend him for taking the time to set the record straight.

Mr. Chairman, the purpose of the food stamp program is clearly to provide assistance to the involuntarily poor. And those who are temporarily unemployed because they have voted to strike against their employer simply do not belong in the same category.

The food stamp program was not intended to be bargaining legislation in the collective bargaining process. If it were, it seems to me we would be amending the Taft-Hartley Act to make the accommodation. I will say quite frankly, however, that I have the same concern that Mrs. Green expressed here when she raised the question as to whether we were not substituting the union strike fund with food stamps. That is exactly what is taking place for the value received by way of food stamps in this kind of situation can more than match those traditional strike benefits paid by a good many unions. Now, if this amendment should fail, it seems to me that we would be signaling the business and industrial community that there is no way to change course and that from here on in, the possibility of food stamps being distributed to striking workers should be taken into account in the collective bargaining process.

I wonder what some might say if we then proposed an amendment to the Taft-Hartley Act to ban the deductions from workers' pay for the purpose of raising a strike fund by the union. I suspect there would be a good many workers who would like to see that practice eliminated and spend those dollar deductions as they see fit.

Mr. Chairman, in conclusion, I want to emphasize again that I fully support the right to strike, but that right does not mean that those on strike have a right to an extra benefit paid for by the Federal Government in the form of food stamps.

Now is the time to make this very clear by writing it into this authorizing piece of legislation.

Mr. KAZEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to ask the distinguished gentleman from Washington a question. In his presentation he spoke about the tightening up of the requirements in order for people to receive food stamps, and particularly these people who would be on strike.

Do I correctly understand there is a

provision somewhere in the law that if a person is out on strike he must register for work and if work is offered, he must take it even though he is on strike, before he is eligible to receive food stamps?

Mr. FOLEY. The gentleman is precisely correct. In addition to the requirements of asset limitation and income, limitations which we have already discussed, it is required that any person over the age of 18 years, unless he is caring for certain infirm persons, must register and accept work. The only two exceptions are that he cannot be required to report for work to a struck plant or site, and he cannot be required as a condition of accepting the job to join or refuse to join or resign from a union organization. If he is able bodied and there is a job, he must accept it. It does not have to be even the present Federal minimum wage. The law says it cannot be under $1.30. He has to accept that and go to work.

Mr. KAZEN. And if he does not, he is not eligible to receive food stamps?

Mr. FOLEY. He is not eligible.

Mr. KAZEN. I thank the gentleman.

Mr. HENDERSON. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Alabama.

It is one thing for the taxpayers of this Nation to provide a subsidy to persons who, through no fault of their own, lack sufficient income to maintain a decent standard of living. Providing a subsidy to persons who are able to work, have work available, but have chosen not to work, is quite another thing.

It is the function of union welfare funds to provide for assisting union members to feed their families and to help them to subsist during strikes. If union members are willing to set aside a portion of their own dues to accumulate a war chest to tide them over the period of a strike, that is their business.

But when the taxpayers of the United States are called upon to subsidize strikers during the period of a strike, that is something else.

I think we might well apply to food stamps the same test given to applicants for unemployment compensation. As we all know, to be eligible, such applicant must first, be unemployed without fault on his part; second, be physically able to work; third, be available for work; and fourth, be actively seeking employment.

Where able-bodied adults are concerned, I believe that the same criteria should be applied to food stamps.

Mr. GAYDOS. Mr. Chairman, I rise in opposition to this amendment.

Basically, the proponents of the amendment make three contentions. One, that the issuance of food stamps to strikers increased the number of strikes in the period after 1964. Two, that the duration of strikes in this period increased as a result of the issuance of food stamps to strikers, and three, that when strikers receive food stamps, the Federal Government becomes involved in the collective bargaining process.

Let us analyze these contentions.

At the outset, it is clear that there was an increase in the number of strikes during the 1960's, but it is fallacious to attribute this increase to the issuance of food stamps to strikers. The BLS statistics for the period 1950–71 show a mixed pattern, with an overall increase in the number of strikes. There were 4,843 strikes in 1950 and 5,183 strikes in 1971. But in 1952 there were 5,117 strikes, or only 21 less than in 1971. When we review the BLS statistics on union membership we find that while there was an increase of 578,000 in the 1950's, the increase in the 1960's was much greater, namely, 3,372,000. Certainly, the tremendous increase in union membership in the 1960's would mean an increase in the number of strikes. This is particularly true when it is realized that the trade union movement is entering heretofore unorganized industries and companies. Municipal employees and farmworkers immediately come to mind as areas where strike activity has increased substantially in recent years.

In addition, when we review labor-management relations in the background of the activities of the NLRB we find that there has been a steady increase in the number of unfair labor practice charges filed against employers during the period of 1950 through 1972. In 1950, there were 4,472 such charges; in 1960, 7,723; and in 1972, 17,736. When we confine our attention to section 8(a)5 of the NLRA, the section of the act which requires employers to bargain collectively with representatives of their employees, we find there were 1,309 charges filed in 1950; 1,753 in 1960 and 4,489 in 1970. While all unfair labor practice charges against employers increased 72 percent in the 1950's and 76 percent for the 1960's, the section 8(a)5 charges increased at a rate of 33.9 percent in the 1950's but at a rate of 156 percent in the 1960's.

This inordinate increase in the 1960's certainly establishes an increased proclivity on the part of management to refuse to bargain with representatives of their employees. The only alternative for the workers in this situation is to use the ultimate weapon of a strike.

I submit that these figures clearly show that the increase in the number of strikes in the 1960's was attributable to both the substantial increase in union membership as well as the intensified attitude of management in refusing to bargain with representatives of their employees, and not because some of the workers who went on strike received food stamps.

When we turn to the contention that the issuance of food stamps to strikers increased the duration of strikes, we find that the BLS statistics do not establish that there was any such increase in the duration of strikes. The BLS statistics for the period 1956–72 establish a rather erratic pattern with the highest annual average length of strikes being 36.7 days for 1959, and the average of 15.3 days for 1972 comparing most favorably with 17.1 days for 1963, the year before the inception of the food stamp program.

Furthermore, the average length of strikes for the 8 year period prior to the Food Stamp Act of 1964 was 16.95 days whereas the average for the 8 year period subsequent to 1964 was 16.04 days.

To go one step further and consider strikes in excess of 30 days, we find that in 1960, 23.1 percent of the workers on strike were engaged in strikes over 30 days, while in 1971, the percentage was smaller, namely 22.1 percent.

Since there has been no perceptible increase in the duration of strikes during the period from 1956 to 1972, obviously, it cannot be maintained that the issuance of food stamps to strikers caused an increase in the duration of strikes.

I would like for just a moment to comment on the Thieblot-Cowin study, which has frequently been referred to by the supporters of this amendment. While this study was published by the Wharton School of Finance of the University of Pennsylvania, the fact remains that it was completely financed by a fund set up by 4 anonymous industrial foundations and 13 equally anonymous independent companies. Clearly, the funding of the study alone should cast great doubt on its objectivity. But, additionally, the completely biased nature of the study is demonstrated by the fact that the very skillfully selected strikes analyzed by the study represent only thirteen-hundredths of 1 percent of the strikes which occurred in the period studied. Such a woefully deficient sampling technique grossly misrepresents the true picture.

There are many who contend that in issuing food stamps to strikers, the Federal Government is involving itself in the collective-bargaining process, implying that otherwise the Federal Government remains neutral in the management-worker relationship.

I submit that this is a grand illusion. The Federal Government has been involved in the collective bargaining process for many years. Just for example, the Wagner Act and the Norris-La Guardia Act are instances where the Federal Government intervened on behalf of the worker. The Taft-Hartley and Landrum-Griffin Acts are instances of Federal Government intervention on behalf of management. These latter acts have been the authority for the Federal Government to obtain injunctive relief curtailing strikes on many occasions.

Additionally, there are various ways by which the Federal Government intervenes on behalf of management to minimize the effect of strikes. If a company is performing work pursuant to a Federal Government contract, it has the advantage of a "force majeure" clause which excuses any delay in completion of the contract due to a strike. It may well be that a company has the benefit of a "price escalation" clause which allows the company to collect additional costs resulting from a wage increase to its employees.

When employers object to workers on strike receiving food stamps, they really want the Federal Government to penalize workers for engaging in lawful activity. Even worse, is the fact that this is an insidious attempt by employers to enmesh the families of strikers in the collective-bargaining process on the side of management, yes management, so that the decision to strike would not depend on the merits of the strikers' requests but rather on the ability of the strikers' families to resist hunger and starvation.

Mr. WILLIAM D. FORD. Mr. Chairman, I rise in opposition to the Dickinson amendment to prohibit American workingmen and women from being eligible to receive food stamps during a strike. This amendment is an insult to the American worker who pays taxes to support the food stamp program. In addition to being unfair, it would be just plain cruel to enact legislation to deny needy workers the right to obtain food stamps to feed their children during a temporary time of need.

Every time this issue comes before Congress, we hear the same old arguments and they just do not hold up. For instance, we hear the argument that the striking worker has made a voluntary decision to put himself in economic need. This simply is not true. First of all, not every striking worker is voluntarily on strike. There are certainly many workers who voted against the strike who nevertheless are out of work during the duration of a strike for which a majority of the members of the union voted. Second, not every striking worker is in economic need. In fact, as you will see in a moment, it is only a small fraction of workers who can demonstrate the need to qualify for food stamps.

We hear the argument that the availability of food stamps will help prolong the strike by providing additional economic assistance to the workers. What the proponents of this amendment do not point out is that an overwhelming majority of the strikers do not benefit from food stamps because they are not eligible to receive them. According to the legislation passed by Congress and the regulations promulgated by the Federal and State governments, only strikers who can establish an actual need for food stamps for their families are eligible to obtain them, and only a very small portion of striking workers actually qualify. For instance, according to the Wall Street Journal, during the General Motors strike of 1970, only 12 percent of the 200,000 workers on strike qualified for food stamps. In other words, almost 90 percent of the workers in the major General Motors strike of 1970 did not qualify and therefore did not use food stamps.

Furthermore, we must keep in mind that, although a strike is a function of an economic relationship between the employer and the employee, there is little evidence that the intent of the employer is to starve the workers' children during the temporary period of disagreement between the employer and employee. To the contrary, there is at least some evidence which indicates that the employer recognizes that the strike is merely a legitimate weapon based upon the American collective bargaining system, and that the employer has a continued interest in the welfare of the striker's family during the temporary period of the strike. For instance, during the General Motors strike, General Motors voluntarily continued making payments on the workers' hospitalization premums. There has also been a quote attributed to Henry Ford II which indicates his belief that we ought to have full welfare benefits made available to the striking worker's family during the period of the strike in order to maintain the stability in a working community. This is very similar to the system now in effect in Great Britain.

Mr. Chairman, we also hear the continued argument that the availability of food stamps and other welfare benefits to strikers during the time of the strike is detrimental to our economy. I certainly cannot disagree with the proposition that the more people there are on welfare, the larger the drain on our Nation's resources will be. But let us not forget that when workers on strike go on welfare or receive food stamps, it is only about 10 percent of the relatively small portion of the American working force participating in the strike and it is only on a temporary basis. This is very miniscule compared to the disastrous welfare situation which has occurred since the Nixon administration took over the reins of our Nation's economy in 1969. Since that time, the rate of inflation has skyrocketed, the rate of unemployment has continued to hover between 5 and 6 percent, and the number of people on welfare has more than doubled. It is the disastrous economic policies and the inept leadership and management of the Nixon administration which have been so detrimental to our economy—not the temporary availability of food stamps to the families of needy workers.

Mr. Chairman, let us not forget the basic purpose of the food stamp program is to feed people during a time of need. The program is supported by the tax dollars paid by the American worker. If we adopt this amendment, we will be telling the American worker that he can pay for programs for the needy but he cannot participate in them during his time of need. I would hope that my colleagues on both sides of the aisle will not turn their backs on the American worker and will vote against the adoption of this amendment.

Mr. BURKE of Florida. Mr. Chairman, I rise in support of the amendment offered by my colleague Mr. WILLIAM L. DICKINSON of Alabama to prohibit food stamps for strikers.

I am opposed to this program because I feel that such practices severely hurt our economy and, in the long run, are detrimental to all U.S. citizens including the strikers and the company management, and particularly affects the collective bargaining since strikers are, in effect, encouraged to strike for longer periods than would be necessary by this subsidy.

This distortion of the collective bargaining process should concern all of us since the resultant cost-push inflationary pressures drive the costs of food, shelter and clothing sky-high. The present situation of the American dollar in European money markets, and the forced devaluation earlier, should cause us to pause and reflect on some of our Federal programs that have brought about this decline. In my opinion, food stamps for strikers contribute to our present economic problems and should be eliminated because such a policy was never intended or even contemplated originally.

While wage rates for the private nonunion sector for the years 1968 to 1970 reflected the economic slowdown by declining slightly—7.6, 7.3, 7.1 percents—during these years, the wages for the unionized sector moved in the opposite direction registering increases of—7.2, 8.0 and 10.0 percents—for the same years.

Our declining posture as the preeminent world trader has been brought about by our reluctance to face up to the fact that cheaper labor abroad, coupled with equal technological competence, has closed many U.S. businesses and threatens whole industries. How long can we keep blinders on by refusing to see the damage that programs such as the food stamps for strikers are doing to the cost of living for most of our citizens?

Strikes are a form of economic warfare, testing strength of employer against strength of employees. By permitting strikers to receive food stamp benefits, the Federal Government is subsidizing strikers in their contest with employers, and thereby upsetting the marketplace and the balance of power to benefit, often, just a sector of organized labor to the detriment of others.

Such subsidies are manifestly wrong for strikers, who are taking away from those truly in need. Unions normally have ample funds to assist needy strikers. For example, the Steelworkers Union admitted having approximately $74 million in funds which could be used to provide strike relief. Other unions also have large funds for such emergencies.

Strikers not only receive financial assistance from such funds, but they are also supported by donations from other local unions, individuals, and unaffiliated groups and organizations and have, in addition, other means of raising funds. Unions often also assist members in obtaining interim employment. Such sources of support are the proper means to assist those members when a union has called a strike. This form of assistance is not, however, available to others who are food stamp recipients.

Why then should the American taxpayer be burdened with a program that subsidizes and, in fact, encourages strikes? Particularly why, when such strikes are likely to result in settlements which generally cause inflation and reduce the purchasing power of the U.S. dollar for everyone.

Union resources are ample and have been used for more than 30 years to subsidize strike activity. There seems little reason to take money needed for the poor and for those who cannot work, and, thereby, spread our resources even more thinly for the purpose of giving this kind of governmental subsidies to strikers.

Let us pause to reflect that maybe labor is even pricing our workingman out of a job and perhaps even out of the market by demanding too much. I believe that if we are going to be fair to all of America's workers, union and nonunion, then we must vote in support of the Dickinson amendment.

Mr. KOCH. Mr. Chairman, I rise in opposition to the amendment which would bar food stamps for strikers and their families who would otherwise be eligible for food stamps based on their income and other resources. I have received mail from some constituents who denounce the existing law which permits States to determine whether or not such benefits should be paid. Those writing to me take the position that for strikers to be eligible for food stamps gives them an unfair advantage over the businessmen in the conduct of the strike. Frankly, I do not believe that to be true. I do not believe that strikers will extend their strike simply because food stamps are available to them. And in any event it seems to me cruel to deprive children in a family where the parent is on strike to have to suffer malnutrition.

In response to these demands that I support the amendment which would prohibit food stamps for strikers I have posed the following question: Would you at the same time deny to the owners of the business involved in the strike the various governmental supports which that business and its owners receive through the year for the duration of the strike? A businessman continues during a strike to gain the benefits both of regular and accelerated depreciation allowances. He is able during a strike to continue to deduct as allowable expenses his business luncheons and first class flight fares on the airlines to cite a few examples of governmental support for the businessman which would continue, while under the proposed amendment, the striker and his family is to be denied minimum food assistance, for that is all that food stamps provide.

I would ask those who support this amendment, would they suggest—even if they did not agree with the arguments that I have given showing the inequity of this amendment—that a businessman who is being struck not be granted a tax deduction if he had a luncheon with one of the strikers? While the argument may seem absurd, it has the exact logic of the amendment. In any case, to be fair it is clear that Government, by providing food stamps to strikers, is no more extending the strike than it does when it continues to provide business expense deductions to businessmen during the same strike.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. Dickinson) to the amendment offered by the gentleman from Washington (Mr. Foley).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DICKINSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 213, noes 203, not voting 17, as follows:

[Roll No. 355]

AYES—213

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bennett
Blackburn
Bowen
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, S.C.
Davis, Wis.
de la Garza
Dennis
Derwinski
Devine
Dickinson
Dorn
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evins, Tenn.
Findley
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fuqua
Gettys
Gibbons
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hammerschmidt
Hanrahan
Harsha
Harvey
Hastings
Hébert
Henderson
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Keating
Ketchum
King
Kuykendall
Landrum
Latta
Lent
Lujan
McClory
McCollister
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Natcher
Nelsen
Nichols
O'Brien
Parris
Pettis
Poage
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Rarick
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rose
Rousselot
Ruth
Ryan
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Towell, Nev.
Vander Jagt
Veysey
Waggonner
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

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Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Breaux
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carney, Ohio
Casey, Tex.
Chisholm
Clark
Clay
Cleveland
Collins, Ill.
Conyers
Corman
Cotter
Culver
Daniels, Dominick V.
Davis, Ga.
Delaney
Dellenback
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Fish
Flood
Flowers
Foley
Ford, William D.
Fraser
Fulton
Gaydos
Giaimo
Gilman
Gonzalez
Grasso
Green, Pa.
Griffiths
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Holifield
Holtzman
Horton
Howard
Hungate
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCloskey
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mailliard
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Price, Ill.
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rinaldo
Rodino
Roe
Roncalio, Wyo.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
St Germain
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Steele
Stratton
Studds
Sullivan
Symington
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Walsh
Whalen
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—17

Blatnik
Carey, N.Y.
Danielson
Downing
Fisher
Gray
Kemp
Landgrebe
Lott
McEwen
Mills, Ark.
Owens
Patman
Rooney, N.Y.
Stokes
Talcott
Treen

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ICHORD TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. ICHORD. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Washington (Mr. Foley).

The Clerk read as follows:

> Amendment offered by Mr. Ichord to the amendment offered by Mr. Foley: amend the Foley amendment page 2, line 15 by striking the period and inserting the following: "*Provided*, that, the standards established by the Secretary shall take into account payments in kind received from an employer by members of a household, if such payments are in lieu of or supplemental to household income.

Mr. ICHORD. Mr. Chairman, this is not an earth-shaking amendment. It does not change the food stamp program very drastically. It is very simple, but at the same time I think it is important. It does not change the standards of eligibility for food stamps. It merely directs that the Secretary in setting the standards of eligibility shall take into consideration payment in kind from an employer.

I have discussed this amendment with the distinguished chairman of the committee and also the ranking minority member, the gentleman from California. Each of those gentlemen has no objection. I understand that the gentleman from Washington (Mr. Foley) at first did not have an objection but apparently he does at this time and he can explain his objections to the Members.

Theoretically this is the situation prevailing in the food stamp program. It is possible theoretically for an employee to receive up to $20,000 in real income and still be eligible for food stamps. In fact in my own district I had called to my attention a farm employee who was receiving $2,000 in real income over the maximum amount he could receive and still be eligible for food stamps, but still he qualified. The maximum amount in his case was in the neighborhood of $5,200. He was making $5,000 cash and at the same time he was receiving at least $2,000 payments in kind in the form of a home provided, in the form of fuel, in the form of electricity, in the form of all his meat, as I remember, and all his milk, the payment in kind amounting to at least $2,000. The employee, therefore, was making at least $2,000 in excess of the maximum, but he still qualified because the Secretary does not take into account payments in kind.

As I stated previously, I submitted this amendment to the Member, the gentleman from Washington. He objected to the amendment on the ground it would get into the problem of other welfare supplements received by the applicant, but I have changed the amendment to apply only to payments in kind received from an employer.

As I stated before, this is not an earthshaking amendment but it does strike at one of the many deficiencies in the food stamp program. It is a multitude of deficiencies similar to this that results in the welfare program being a big mess.

I agree with the gentlewoman from Michigan. If we do not start looking into these deficiencies and take steps to cure them, we are going to destroy the United States of America.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Chairman, the gentleman from Missouri has discussed this amendment with me. As he said it is not earth shaking but it does cure a possible and probable bad situation which exists. I can speak only for myself and I will accept it and will support it.

Mr. ICHORD. I thank the gentleman and hope the committee cures the deficiency by adopting the amendment.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the problem with this amendment is that it enters into the calculations of food stamp eligibility an enormously complicated subject. I can accept the gentleman's amendment if he substitutes for the word "shall" the word "may" and let the Secretary attempt to try to make some sense out of it in the administration of the program, I am concerned about the amendment in mandatory terms. Some companies provide transportation to and from the job site for their workers. Is that an in-kind payment?

In the absence of that, I suppose a worker would have to pay to go to the site and back home again.

I have always been amused, when occasionally the Congressional Quarterly or other sources print a list of the so-called benefits received by Members of Congress. The implication is that these benefits are supposed to be some kind of income to Members. The list includes one or more offices, we get heat, light and water; staff assistance equipment and supplies, telephone, telegraph, and travel allowances, et cetera.

We know these items are not income, but merely the tools of doing the job. Trying to distinguish what is a tool of doing the job and what is an in-kind income benefit is an enormously complicated and difficult matter when applied to hundreds of occupations. I am afraid that to try to impose this new standard on a program which now has 12½ million recipients is going to raise a good deal of administrative confusion and complexity.

I suggest that a better course is to leave appropriate regulations to the Secretary and accordingly reject this amendment.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. The gentleman has stated that he would accept the amendment if it were permissive, that the Secretary "may" instead of "shall".

I would point out that I am not by this amendment directing the Secretary how to take into account, but stating positively that he shall take into account, and I think he should. Otherwise, as I stated before, it would be theoretically possible for an employee to receive $20,000, and I am sure some of them are doing it, and still be eligible for food stamps.

Mr. FOLEY. I have to respectfully disagree that anyone is making the misuse of it as the gentleman suggests. I would be glad, if we do not have this amendment accepted to consult with the Department so that they can consider the proposal and give us a report on it and we will try to see what could be done about it.

Mr. ICHORD. Let me say to the gentleman from Washington that I see no necessity of consulting with the Secretary. What is right is right, and what is wrong is wrong. I do not think we should set up a program permitting a person to receive up to $20,000 and still receive welfare.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD) to the amendment offered by the gentleman from Washington (Mr. FOLEY).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. TEAGUE OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. TEAGUE of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. TEAGUE of California to the amendment offered by Mr. FOLEY: Page 4, line 18, insert the following:

(m) Section 5(b) of such Act is amended by inserting after the third sentence thereof the following: "No person who has reached his eighteenth birthday and who is a student at an institution of higher learning shall be eligible to participate in the food stamp program established pursuant to the provisions of this Act: *Provided*, That such ineligibility shall not apply to any member of a household that is otherwise eligible for or is participating in the food stamp program—nor shall it apply to married persons with one or more children and who are otherwise eligible."

Mr. TEAGUE of California. Mr. Chairman, this is a very simple amendment which would restore to the bill a section which was taken out by the gentleman from Washington (Mr. FOLEY) in his rather far-reaching amendment to the food stamp section. It has to do with students.

I want to make it very clear that the amendment does not bar food stamps for all students. It only provides first that no student who has reached his 18th birthday and who is a student at an institution of higher learning shall be furnished food stamps and second that such ineligibility shall not apply to any member of a household that is otherwise eligible for or is participating in the food stamp program, nor shall it apply to married persons with one or more children who are otherwise eligible.

I am sure we have all had reports of the cases where the young people from well-to-do homes go off to college or university and collect food stamps. The food stamp program is not intended as a Federal aid to education program.

That is all this amendment is designed to do. If they come from a household, from a family which is eligible, then they are eligible for their share. If they are married and have one or more children, and are otherwise eligible because of income limitations, they are still eligible and will not be disqualified.

This simply restores to the bill the section which was overwhelmingly adopted in the committee.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentlewoman from New York.

Ms. ABZUG. Could the gentleman tell me how this would affect the young woman who might be divorced, or separated, or not even married, and going to school? Would she under this amendment be eligible for food stamps?

Mr. TEAGUE of California. She is divorced?

Ms. ABZUG. Or separated, or perhaps not married.

Mr. TEAGUE of California. I would not construe this language as disqualifying her. Such ineligibility shall not apply to any member of a household that is otherwise eligible.

Ms. ABZUG. She is not married.

Mr. TEAGUE of California. But she would have a household. She does not have to be married to have a household, if she has children.

Ms. ABZUG. If she did not have a child she would be ineligible; is that correct?

Mr. TEAGUE of California. Not if she came from a family which wes eligible.

Ms. ABZUG. How would this affect the young veteran, the Vietnam war veteran, who was not married but who perhaps had earned a high school equivalency degree in the Armed Forces and now was attending school as a student? He would not be eligible? Even if he had other eligibility requirements, under this amendment he would not be eligible?

Mr. TEAGUE of California. I believe he would not be eligible in any event, because of the veterans' GI benefits to which he could be entitled.

Ms. ABZUG. I do not agree that he would not be eligible because of GI benefits. I just wanted the Members to get an idea as to how far an extent this amendment would go.

Mr. TEAGUE of California. Yes. It does not go very far.

Ms. ABZUG. There are a lot of women in this country who are not in households, who are eligible for food stamps, who might themselves on their own be eligible for food stamps.

Mr. TEAGUE of California. I believe they would not be disqualified.

Ms. ABZUG. The gentleman does not want those unmarried women or veterans to have that opportunity to study and become self-sufficient?

Mr. TEAGUE of California. If they are eligible because of income limitations they would not be disqualified here.

Let us make this a part of the legislative history. All I am trying to do here is to get after the problem of the situation where young people from wealthy or well-to-do families are collecting food stamps, which deprives those really in need of them of that portion of the overall program.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding.

I believe the amendment is a good one, because it does not prevent anyone, as I understand it, who is normally eligible from receiving food stamps. All it does is prevent those who normally would not get them from getting them.

Mr. TEAGUE of California. It is as simple as that.

Mr. ROUSSELOT. It certainly would cover the veteran which the gentlewoman from New York brought up, if otherwise eligible. It would allow the veteran who is otherwise eligible to receive food stamps, if he were properly qualified.

Mr. TEAGUE of California. Certainly, although I believe there would be very few such cases, because of the GI benefits.

The CHAIRMAN. The time of the gentleman from California has expired.

(On request of Mr. Vanik, and by unanimous consent, Mr. Teague of California was allowed to proceed for 2 additional minutes.)

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I should like to inquire whether this amendment would deny foodstamps to a person who has reached his 18th birthday and who is either partially or totally disabled.

Mr. TEAGUE of California. Mr. Chairman, it does not specifically cover that situation.

Mr. VANIK. Well, as I read this language, it says no person who is over 18 is eligible. Thereby the partially or totally disabled person who is attending an institution of higher learning is considered to have attained a position of self-sufficiency.

Mr. TEAGUE of California. I would assume it would necessarily follow. It may well be that he comes from a household or a family which is eligible.

Mr. VANIK. Mr. Chairman, the gentleman's amendment locks him out regardless of what kind of family level he comes from.

Mr. TEAGUE of California. Well, it is not intended that way. I will point out that it does not follow as a part of the legislative history.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, the last colloquy between the distinguished gentleman from California (Mr. Teague) the sponsor of this amendment to the amendment, and the gentleman from Ohio (Mr. Vanik) is illustrative of what happens when we attempt to use this sort of legislation as a means of punishing groups we do not currently like very much.

Now, it certainly was not the intention of the gentleman from California, he says, to eliminate the disabled or partially disabled. But the amendment does not say that. The amendment says that any persons attending an institution of higher learning, unless they are married with a child or children, and unless they were previously on foodstamps, are not going to get any foodstamps.

Let us say a student is disabled because he is a Vietnam veteran; he is disabled from combat. As a student without children, he has no eligibility. Now, of course, if he leaves college, he is eligible. What is the sense of such an amendment?

In the work requirements of the law which was passed in 1970, we said that an 18-year-old has to work unless he is caring for aged or infirm relatives or unless he is attending a school or training program. Why do we let him escape the work requirement if he is attending school or a training program? For the same reason we are providing Federal benefits for students and institutions. We want to encourage education. But this amendment discriminates against students and discourages education. It is clearly inconsistent with every education act passed by this Congress.

There are, of course, people who have children who are not married. That is an unfortunate circumstance, but it is a common circumstance. Many mothers on aid to dependent children are not married, but they have the children. We want to encourage them to go to college, if they are able to do so, to improve themselves and become self-supporting. They are not eligible under this amendment.

Mr. Chairman, this is another example of trying to attack an unpopular group, by legislative discrimination which is not only improper but usually misaimed as well.

In the first copy of this amendment offered in the Committee on Agriculture, the gentleman from California totally barred by the amendment all students in higher educational institutions. Then as a result of criticism he added "married with children." Now, I suggest the gentleman is about to change it and say, "If they are disabled."

The simplest process is to vote down the amendment and make students, whether they are students in higher education or not, whether they are married or not, whether they have children or not, meet exactly the same requirements for this program that anybody else must meet. No less and no more.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Teague) to the amendment offered by the gentleman from Washington (Mr. Foley).

The question was taken; and on a division (demanded by Mr. Teague of California) there were—ayes 50, noes 81.

So the amendment to the amendment was rejected.

AMENDMENT OFFERED BY MR. MIZELL TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. MIZELL. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Washington (Mr. Foley).

The Clerk read as follows:

Amendment offered by Mr. Mizell to the amendment offered by Mr. Foley: Page 4, line 18, at the end thereof insert the following:

(n) By striking the second sentence of section 5(b) and inserting in lieu thereof the following:

"The standards established by the Secretary, at a minimum, shall prescribe the amounts of household income and other financial resources, including both liquid and nonliquid assets to be used as a criteria of eligibility. The maximum allowable resources, including both liquid and the equity in nonliquid assets, of all members of each household shall not exceed $1,500 for each household, except, for households including two or more persons age sixty or over the resources shall not exceed $3,000: *Provided*, That the home, one automobile, household goods and clothing; the tools of a tradesman or the machinery of a farmer; total resources of a roomer or boarder, or of a member of the household (other than the head of the household or spouse) who has a commitment to contribute only a portion of his income to pay for services including food and lodging; and Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs, shall be excluded in determining the value of the other financial resources."

(o) By adding at the end of section 6(a) the following new sentence: "Such certification shall be made prior to the issuance of any food stamps under this program: *Provided, however*, That in the event of a natural disaster some or all of the requirements for certification may be waived by the Secretary."

Mr. MIZELL. Mr. Chairman, I would direct the attention of the Members of the House to the committee bill on pages 56 and 57, which is where the language of my amendment is found.

This language was the Bergland language added in the committee and accepted by it and the Denholm language which was also offered and accepted in the committee.

It sets up the criteria and the requirements for those who are to receive food stamps. It further requires the Secretary to certify that potential recipients meet these criteria before they are able to receive the food stamps.

I think it is of the utmost importance that we take the necessary steps to set the criteria and in doing so to eliminate as many of the abuses of the food stamp program as we possible can.

I am one who has supported the food stamp program and I have supported it because it is one of only two programs that really puts food on the table for the needy in this country. That is exactly what the food stamp program does.

I think the Members of the House and the American people want to do what they can for those who are in need. I think unless we do set strict criteria there is a great possibility that the abuses in this program will ultimately bring about the elimination of what I think is a very worthwhile program.

These criteria were discussed and debated in the committee and were adopted. I would certainly urge my colleagues to reinstate them now in the Foley amendment which struck the language when it was offered.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment.

I would like to ask the gentleman from North Carolina a question. Does the amendment offered by the gentleman from North Carolina require life insurance to be considered as an asset?

Mr. MIZELL. It does not specify, it says liquid and nonliquid assets, and if that is it, then of course the interpretation would be up to the Secretary.

Mr. FOLEY. Mr. Chairman, it just seems to me that this is where we get into the problem of requiring applicants to almost impoverish themselves totally before they can be eligible, when citizens have sought to be frugal, and have attempted to save something to provide some support, for their later years we are wrong to demand that they spend every single dime that they might have, including the cash value of a life insurance policy before they can come into the program, while people who have not saved anything can come into the program immediately.

I think the regulations have worked fairly well in the past 2 years, and I believe that the amendment should be defeated.

Mr. MIZELL. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from North Carolina.

Mr. MIZELL. Mr. Chairman, I have asked the gentleman from Washington to yield to me so that I might once again call the attention of the Members to the language of the criteria that is set forth. It is not nearly as rigid as my colleague, the gentleman from Washington, says it is. It provides that each household shall not exceed $1,500 for each household, except, for households including two or more persons age 60 or over, the resources shall not exceed $3,000. But mainly it is directed at those who have an automobile. And so that, at least, I think that these are areas that we should direct some attention to. And while we give this discretion to the Secretary I think we have the right to put it into the law and say that we require him to certify that they meet the standards in this amendment. If we do, then I think we shall have really done the food stamp program a very good service.

Mr. FOLEY. I repeat, Mr. Chairman, that the regulations have worked very well as the Secretary has administered them in the last 2 years, it will not do any good, or serve any purpose in this legislation, to attempt to put them into law and make them inflexible, irremovable, and unchangeable. I think the Secretary has the competence to handle the matter, and that the regulations should be left to the department.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to have the attention of my good friend, the gentleman from North Carolina (Mr. MIZELL) for a moment or two so that I might ask the gentleman some questions.

Mr. Chairman, of the last things a person should give of, particularly a person of low income, is their life insurance. I certainly do not believe that we, in Congress, could want to pass legislation that would force a person to surrender their life insurance in order to be eligible for food stamps. I take the floor on this measure because, as the Members know, I had been in the life insurance business for many years. One thing I learned is that when people—particularly low-income people—have worked to maintain a small policy for many, many years—and in many instances these policies would be used to try to educate their children or to provide something for their widow at the time of their death—it would be very disturbing to me if there was any indication that people would have to surrender their life insurance in order to qualify for food stamps, even though they qualified in all other ways.

I wonder what the interpretation of the gentleman is on this.

Mr. MIZELL. Mr. Chairman, if the gentleman from New York would yield to me, I would direct the attention of the gentleman to the language in the amendment that I am proposing, which was adopted in the committee, and which, I might point out, that my friend, the gentleman from Washington (Mr. FOLEY) if I remember correctly, enthusiastically supported this amendment in the committee when it was proposed——

Mr. FOLEY. Mr. Chairman, if the gentleman will yield, the gentleman from North Carolina is not correct on that. I hope the gentleman does not let the RECORD indicate that I supported this.

Mr. MIZELL. Mr. Chairman, I stand corrected by the gentleman from Washington that he did not support it.

But it says:

> The maximum allowable resources, including both liquid and the equity in nonliquid assets, of all members of each household shall not exceed $1,500 for each household, except, for households including two or more persons age sixty or over the resources shall not exceed $3,000.

So, Mr. Chairman, I think it would have to be an interpretation of whether the insurance policy the gentleman from New York describes would be covered.

Mr. PEYSER. I do not think the committee considered that cash values in life insurance are considered as an asset or a liquid asset. It is for this reason that I would certainly have to oppose anything that would bring about this type of action.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

I want to make this clear to the Members. I think my distinguished colleague (Mr. MIZELL) will concede this, that the effect of his amendment is to limit it to $1,500, or to $3,000 in the case of a married couple over 60, except that certain things are removed from the definition of "liquid" and "nonliquid" assets: tools of the trade, and so on. The cash value of life insurance or the loan value of life insurance is nowhere mentioned in his amendment or in the language which is before us now, and Mr. PEYSER is precisely correct in his fear that this amendment, if adopted, will require life insurance policies maintained by a couple or an individual to be cashed in and to be considered part of the liquid assets. The gentleman knows very clearly that they are considered liquid assets, and, therefore, to adopt the Mizell amendment is to require people to cash in life insurance in order to be eligible.

Mr. PEYSER. I am sure that is not the intent of the gentleman from North Carolina, but I think if the language remains this way, I would have to oppose this amendment.

Mr. MIZELL. I think for large insurance policies what the gentleman is saying is absolutely true. We all know the value of that life insurance policy, unless collected, is based upon the cash value of that life insurance policy, which means you have to carry an insurance policy of pretty good size before developing a great deal of asset.

Mr. PEYSER. I would say to the gentleman that one could have a $5,000 straight life policy, and if one has that policy for 20 to 25 years, he would have sufficient equity in it to meet the amount of money the gentleman is talking about. If somebody had purchased a small endowment policy for a college education, say, a $2,000 or $3,000 policy, at the end of the 20-year period, he would have that cash equity, which means he would have to in effect surrender it and give it up. If this amendment were to pass, I feel that it would discourage many young from acquiring life insurance and would encourage many other people to surrender their life insurance.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not use anywhere near the 5 minutes, but I do want to take a minute of the committee's time to reiterate what the gentleman from Washington has so eloquently pointed out, that the Mizell amendment does not do anything about insurance. The insurance portion is included in the gentleman from Washington's amendment, and if it is adopted, the cash value of a life insurance policy will remain as part of the law as being exempt from consideration as part of the household assets for purposes of determining eligibility.

As the gentleman from New York has mentioned—and I believe he has experience in insurance matters—the cash value of these life insurance policies on the average is not very large. I have information supplied to me that they are relatively small. I am told that on the average the cash value is $500 to $750. If we do not adopt the Foley amendment here, I shall offer an amendment to the committee's bill to again exempt from figuring the cash value of life insurance policies. I think it is a crucial blow and an unjust blow to take away the small pittance that an elderly couple might have, and force them to spend it before they would be eligible for food stamps.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from California.

Mr. TEAGUE of California. I thank the gentleman for yielding.

Mr. Chairman, I did not rise to discuss the merits of the pending amendment, but merely to point out that the language in the committee bill was offered by a member on the Democratic side of the House Committee on Agriculture as a substitute to my amendment proposing to ban food stamps for strikers.

It seemed like a great idea to the Democrats on the committee at that time, but it is obvious their attitude toward the restrictions has changed.

Mr. MELCHER. I thank the gentleman from California for his observation. I would hope that in a bipartisan spirit he feels like supporting the amendment of the gentleman from Washington, and if that fails I hope he will support my amendment which will be later offered to make sure the value of life insurance is not used as a prohibition of a household from receiving food stamps.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman from California.

Mr. SISK. I appreciate the gentleman yielding. I appreciate the comments of my good friend, the gentleman from California (Mr. TEAGUE), and of course as he recognized there was a little matter of strategy in connection with the substitute which I offered to his amendment, which was to strike the amendment. I am sure my friend understands.

Mr. TEAGUE of California. Certainly. I thank the gentleman. I think it was a very good strategy at that time.

Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I yield to the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Chairman, I thank the distinguished minority leader of our committee for yielding.

Mr. Chairman, I asked the gentleman to yield at this time for the purpose of clearing up what seems to be a question as to what the language of the bill covers. Will cash assets in insurance be considered liquid assets.

Because of the apprehension that has been raised with regard to this amendment. I ask unanimous consent that my amendment be modified to read:

The maximum allowable resources, including both liquid and the equity in nonliquid assets, except insurance of all members of each household shall not exceed $1,500 for each household, except, for households including two or more persons age 60 or over the resources shall not exceed $3,000.

Mr. Chairman, I think this will clear up the question raised by my friend from New York. A person in a situation described would not have to cash in her insurance before she would be eligible for the food stamps.

Ms. ABZUG. Mr. Chairman, I reserve the right to object. What is the gentleman's request?

Mr. MIZELL. Mr. Chairman, because of the apprehension raised by my colleagues as to what would be considered as liquid assets, I have asked unanimous consent that the language of my amendment be modified to read:

The maximum allowable resources, including both liquid and the equity in nonliquid assets, except insurance of all members of each household shall not exceed $1,500 for each household, except, . . .

Mr. Chairman, certainly the intent of this language is not to persecute the widow or the widower or the couple who might have some equity built up in an insurance policy.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Ms. ABZUG. Mr. Chairman, reserving the right to object, will the gentleman please read the language of the amendment, please read the amendment as amended?

Mr. MIZELL. Mr. Chairman, I will be glad to accommodate the gentlewoman from New York. The language in the bill with my amendment will read:

The maximum allowable resources, including both liquid and the equity in nonliquid assets, except insurance of all members of each household shall not exceed $1,500 for each household, except, for households including two or more persons age sixty or over the resources shall not exceed $3,000.

Of course the language goes on to set other criteria, but the question was raised as to whether my amendment would apply to an insurance policy that an elderly couple or a widow, or a widower, might have where they had built up some equity. The question was asked whether they would have to cash in their insurance before qualifying for foodstamps. This is not the intention of the gentleman from North Carolina.

Ms. ABZUG. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The Clerk will rereport the amendment as modified.

The Clerk read as follows:

Amendment offered by Mr. MIZELL to the amendment offered by Mr. FOLEY, as modified: at the end thereof insert the following:

(n) By striking the second sentence of section 5(b) and inserting in lieu thereof the following:

"The standards established by the Secretary, at a minimum, shall prescribe the amounts of household income and other financial resources, including both liquid and nonliquid assets to be used as a criteria of eligibility. The maximum allowable resources, including both liquid and the equity in nonliquid assets, except insurance of all members of each household shall not exceed $1,500 for each household, except, for households including two or more persons age sixty or over the resources shall not exceed $3,000: *Provided*, That the home, one automobile, household goods and clothing; the tools of a tradesman or the machinery of a farmer; total resources of a roomer or boarder, or of a member of the household (other than the head of the household or spouse) who has a commitment to contribute only a portion of his income to pay for services including food and lodging; and Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs, shall be excluded in determining the value of the other financial resources."

(o) By adding at the end of section 6(a) the following new sentence: "Such certification shall be made prior to the issuance of any food stamps under this program: *Provided, however*, That in the event of a natural disaster some or all of the requirements for certification may be waived by the Secretary."

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. MIZELL), as modified, to the amendment offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and on a division (demanded by Mr. MIZELL) there were—ayes 39; noes 66.

So the amendment, as modified, was rejected.

AMENDMENT OFFERED BY MR. PRICE OF TEXAS TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. PRICE of Texas. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE of Texas to the amendment offered by Mr. FOLEY:

Page 4, line 9, strike out all of subsection (j) and redesignate subsequent subsections accordingly.

Mr. PRICE of Texas. Mr. Chairman, I am sure that this was an oversight by the gentleman who is now handling this part of the bill, but the amendment offered by Mr. FOLEY of Washington removes from the present law the prohibition on using food stamps for purchasing imported meats.

I think this is another blow to the American cattlemen after the phase 4 announcement of yesterday, which keeps beef frozen at the present time. My amendment would strike from the Foley amendment the language which rewrites the definition of "food."

In other words, my amendment would leave present law alone, and it would retain the language in section 3(b), as I read the following:

The term "food" means any food or food product for human consumption except alcoholic beverages, tobacco, those foods which are identified on the package as being imported, and meat and meat products which are imported.

There is no problem with garden seeds, because the authority to use food stamps for garden seeds is contained in the Senate bill and will be before the conferees.

I notice further that the gentleman's amendment makes the escalator clause available in the food stamp section of this bill.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

The gentleman from Texas (Mr. PRICE) is a distinguished member of the Committee on Agriculture and comes from an area which raises and feeds many cattle.

I have some livestock producers in my area, too.

The amendment that the gentleman would strike from my amendment is one which seeks to address itself to what is really now, I believe, a silly provision in the existing law. The present law say now that a food stamp recipient cannot buy any product that is imported or contains imported meat. A great amount of the hamburger in this country is made with imported Australian and other imported meat, which is mixed with fat and used to make hamburger and imported meat is also used to make processed meats.

These are generally low-cost meat products. Does it make any sense in a program for low income families to prevent them from buying hamburger? I do not believe it makes very much sense. But that is the effect of the present law, and that is what the gentleman from Texas wants to retain.

I do not have any apology to make to the cattlemen of this country. The food stamp program has put $2 billion a year into the purchasing power of almost 13 million Americans who are receiving its benefits. That is a pretty healthy addition to the food budgets of those American families, and to the food manufacturing, processing and retailing elements of this country.

If a food stamp family spends about 25 to 30 percent of its income on meat, as most families do, we can figure it out. It comes out to about $500 to $600 million a year, out of the food stamp program that goes for meat products. I am pleased that this is so because it helps family nutrition and agriculture as well.

Mr. PRICE of Texas. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas.

Mr. PRICE of Texas. The gentleman makes an eloquent argument, but I am afraid he is incorrect, in that there are imported meats in weiners and sausages and also hamburger meat. The language presently in the law does not prevent food stamps from being used to purchase these products. That is commingled. There is nothing in the bill to prevent it in any way or form.

Mr. FOLEY. I am sorry, but the gentleman is not exactly correct. It has been in some cases ignored, but it has also been enforced in some cases where there have been elements of imported meat commingled with American meat products, such as hamburger.

Mr. PRICE of Texas. Can the gentleman cite any specific instance?

Mr. FOLEY. It has happened. I do not see any reason why we should get involved in barring imported meat at all. If somebody wants to buy Icelandic lamb with food stamps I see no reason why he should not be permited to do so with food stamps.

I think this is an old, archaic section of the law designed to appeal to cattlemen, and it has no justification and should be repealed.

Mr. FROEHLICH. Mr. Chairman, I rise in support of the amendment to the amendment.

Mr. Chairman and Members of the House, this amendment does not deal entirely with meat; it deals with all food products. Those of us who support the food stamp program must also answer the criticisms of the people who are against these programs, and part of the criticism comes from people who are paying taxes and who see their taxes go to buy foreign cheeses, foreign meats, other imported foods, or gourmet foods.

Those are the things that bring criticism in this type of a program. So if we are going to preserve the program, if we are going to improve the program, if we are going to have the program operate effectively, we are going to have to address ourselves to those things which constitute dire criticisms of the program.

If we adopt the Foley amendment without the amendment offered by the gentleman from Texas we will bring added criticism upon this body and this program.

Mr. Chairman, this is a very good amendment, and it should be adopted. The farmers and taxpayers of this Nation will then feel much better about the food stamp program.

Mr. FOLEY. Mr. Chairman, if the farmers of this country do not feel good about the food stamp program, they do not know what is in their own interest. If this program has any immediate economic impact outside of the recipients, it is on the farmer, the livestock raiser, the dairyman, and the grocery store owner, who receive the benefits of this additional $2 billion pumped into the system.

I think frankly that most of the people I hear criticizing food stamp purchases are more inclined to criticize the T-bone steaks which they think the food stamp recipient is buying, T-bone steaks which are raised in this country, than they are to criticize the purchase of a can of Norwegian sardines or Italian olives.

Mr. FROEHLICH. Mr. Chairman, they have not been able to get the question of the imported foods and the gourmet counter yet. Without this amendment, they will get to that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. Price) to the amendment offered by the gentleman from Washington (Mr. Foley).

The question was taken; and on a division (demanded by Mr. Price of Texas) there were—ayes 36, noes 51.

Mr. PRICE of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment to the amendment was rejected.

AMENDMENT OFFERED BY MR. CONLAN TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. CONLAN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Conlan to the amendment offered by Mr. Foley: Page 1, line 4, immediately after "(a)" insert "(1)", and on line 12, at the end thereof insert "; and" and immediately after line 12; insert the following new paragraph:

(2) by inserting at the end of subsection (e) of section 3 the following: "*Provided*, That the Secretary is authorized, by rule, to establish procedures, including a fair hearing, by which a claimant may obtain a waiver of the restrictions of this subsection if he can establish to the satisfaction of the Secretary or his delegate that mitigating circumstances exist which would justify such a waiver. Such mitigating circumstances would include those in which there is demonstrable proof that such claimant is, through no fault of his own, substantially unable to satisfy his reasonable needs, as defined by the applicable income standard established for otherwise eligible households, by living with members of his family or by otherwise availing himself of the support or assistance which such family would ordinarily be expected to provide."

And on page 4, insert as a new resolution the following:

(n)(1) Section 5(b) of the Food Stamp Act of 1964 is amended by inserting in the third sentence thereof after "who is" the first time it appears therein "properly", and by striking out the period at the end of such sentence and inserting in lieu thereof the following: ", except that the Secretary is authorized, by rule, to establish procedures, including a fair hearing, by which a claimant may obtain a waiver of the restrictions of this subsection if he can establish to the satisfaction of the Secretary or his delegate that mitigating circumstances exist which would justify such a waiver. Such mitigating circumstances would include those in which there is demonstrable proof that such claimant is, through no fault of his own, substantially unable to satisfy his reasonable needs, as defined by the applicable income standard established for otherwise eligible households, by living with members of his family or by otherwise availing himself of the support or assistance which such family would ordinarily be expected to provide."

Mr. CONLAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. CONLAN. Mr. Chairman, the amendment which I am proposing concerns provisions of the Food Stamp Act which were enacted by this House in 1971 in an effort to curb some of the abuses of the program which had become evident at that time.

What this amendment will do is to follow the guidelines of the Supreme Court in the Moreno and Murray cases decided on June 25 of this year, to correct what the Supreme Court felt were inadequacies in the drafting of the original amendments of 1971.

I am seeking to do nothing more than to reinsert the policy provisions closing some of the loopholes that you thought were leading to abuse and fraud at that time.

The Supreme Court found nothing of substance from the legislative history to indicate that this body wanted to make any mitigating exceptions.

If I might explain what these amendments do, in two of your 1971 amendments, which amended sections 3(e) and 5(b) of the act, they were clearly designed to prevent food stamps from going to persons who were voluntarily poor. The thinking of Congress must have been that while there is no objection to providing assistance to those who truly need it and have made every reasonable effort to take care of their own needs, Congress felt it has an obligation to the working taxpayers to prevent their generosity from being abused by those who consciously sought to siphon off their funds from others. Someone called it the anticommune or antihippie amendment.

Despite the fact that the legislative purpose of that amendment seemed practically self-evident to you and to me, the Supreme Court, in two closely split decisions, ruled that sections 3(e) and 5(b) of the act were violative of the due process clause of the Constitution.

The purpose of my amendment is to confirm the Congress' original substantive intent and to give effect to the 1971 amendments by acknowledging the Supreme Court's concern as to the legislative purpose of these sections and to meet their objections to the Congress drafting wherein the Congress failed to provide a hearing process which could authorize the Department of Agriculture to waive general rules in cases of mitigating circumstances. The amendment that I offer is to provide that hearing process.

The amendment attempts to address itself to the issue decided in the Court in the case of USDA against Mareno and in the companion case of USDA against Murry.

In the case of Mareno, the Court held that section 3(e) was unconstitutional on the ground that it violated the due process clause. That section defines the term "household" in such a manner as to render ineligible any households whose members are not all related to each other. You know what you were getting at at that time. However, the Court found that section created a distinction between those households which did and those which did not contain unrelated members and the distinction was not rationally related to any permissible legislative purpose, such as the prevention of abuse.

You have an error in drafting, and that is what this amendment is designed to correct.

The Court noted in some cases unrelated persons were living together in order to cut housekeeping expenses, which is not abusive in and of itself and would not be denied benefits if they lived alone. They were entitled to benefits if they lived alone, such as an elderly widow who was taken in by another family was eligible to receive benefits.

My amendment would offer the unrelated household member an opportunity to demonstrate in a second hearing he cannot reasonably obtain support from his family.

Mr. Justice Brennan, in his majority opinion, lamented the fact that "there is little legislative history to illuminate the purposes of the 1971 amendment of section 3(a)." He speculated, along with the Government in the district court, that the legislative purpose might have been "to foster morality," a purpose which would very likely raise serious first amendment questions. It was noted that the amendment seemed to be aimed primarily at "hippies," and the Court opined that if the constitutional conception of "equal protection" means anything, it must at the very least mean that a bare congressional desire to harm a politically unpopular group cannot constitute a legitimate governmental interest. There had to be some independent considerations in the public interest to justify the amendment.

And I agree with the Supreme Court's decision.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. CONLAN was allowed to proceed for 2 additional minutes.)

Mr. CONLAN. So, Mr. Chairman, I should like to point out that we are not attempting here to legislate morality or legislate against anybody by the length of their hair or the unpopularity of their views. That is not my concern.

My sole concern is to prevent the unwarranted expenditure of public funds to provide for the support of persons, who have recourse to parents and other family members to provide the necessities of life but who, for reasons of their own, choose to impose the burden of their support upon the contributing members of society, namely, the taxpayers. I simply believe that the amendments of 1971 show that the majority of the colleagues in this body felt they had an obligation to the taxpayers, whose taxes make it possible to support humanitarian programs and purposes, to utilize traditional sources of personal support and to dip into the public Treasury only as a last resort.

All I am doing by this amendment is establishing a way to institute a hearing procedure for a person who can show mitigating circumstances, and thus meet the Supreme Court requirements, so that the amendment that was passed in 1971 to prevent abuse and fraud may be a part of the law once again.

I am just trying to reinstate the law by correcting the deficiency pointed out by the Court decision.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arizona (Mr. CONLAN).

Mr. Chairman, this is an attempt to get back into a dispute which has been resolved by the Supreme Court. The Court dealt recently with two of the least well-considered, and in my judgment, the least useful amendment in the 1970 act. We had decided in 1970 that we were going to get the hippies out of the food stamp bill. And we provided in 1970 that every member of the household except for certain exceptions had to be related to every other member. Aside from the fact that there are very legitimate situations in which families live together, particularly poor families who are trying to save on rent and other expenses, we created a requirement of mutual relationship aimed at communes. In the Supreme Court's opinion, this section of the 1970 statute had to be struck down as unconstitutional under the 15th amendment.

I urge my colleagues on the committee to let that section have a decent burial. It has been buried. It did not serve any useful purpose when alive. The Supreme Court has decided it is unconstitutional.

I would hope that we would not encourage the gentleman from Arizona (Mr. CONLAN) to tinker with the section. The result, I am sure, would only be more litigation all to no useful purpose.

We cannot properly or constitutionally punish hippies as a class of people. There has to be some rational legislative standard in the excluding individuals and groups from the benefits of this program. So I am afraid that the statement made by the gentleman from Arizona that they are not after people with long hair does not change the fact that there has never been any legislative history to establish justification for the 1970 amendment, except for that purpose.

I would also add that the gentleman from Arizona also complicates it by confusing an entirely different 1970 amendment. And the author of that amendment is in the Chamber, the gentleman from Iowa (Mr. MAYNE) and his amendment was designed and directed at something entirely different, it was designed to prevent a person who has been claimed as a dependent by a parent that is not himself eligible for food stamps, from receiving food stamps or being in a household receiving food stamps.

The Supreme Court declared that this particular 1970 act amendment was also unconstitutional.

The gentleman has offered this amendment which would give the Secretary authority to hold a hearing and give a waiver of these subsections, if one can find to the satisfaction of the Secretary's delegate that mitigating circumstances exist which would justify such a waiver. I suggest that is not a tight enough legislative standard to give any guidance to the Secretary about what such mitigating circumstances would be. Paragraph I suggests it serves no purpose to attempt to resurrect this ill-starred effort of the 1970 act.

Mr. CONLAN. The gentleman is in effect saying the Mayne amendment as a general policy that the Congress adopted was wrong, then, as far as he is concerned?

Mr. FOLEY. Yes; I was opposed to it.

Mr. CONLAN. We understand it. The Mayne amendment was concerning a man who was taking as a tax deduction a son and providing support to him, and that son was receiving support. The father was taking a full deduction. The son went off somewhere else, moved in with another household on a floating situation, which household put in for food stamps. I am just saying this is what it does, and the gentleman is saying that policy is wrong. This Congress adopted it.

Mr. FOLEY. I will tell the gentleman what else it does. Take the case of a woman who is married and has a child, and is later divorced, and remarried having several children by the second marriage and perhaps she then is deserted or divorced by her second husband. Under the Mayne amendment she and her family are ineligible if the first husband claims a deduction for the eldest child on the basis of either support for that child or only claimed support. Note that all the household is ineligible even though support only reaches the child of the first marriage. This did not have anything to do with the practical effect of cutting of students alone. It hit all kinds of families that have been separated and divorced.

What the Mayne amendment attempted to do was to say that no household shall be eligible for food stamps that contains in that household a dependent who is being claimed as an income tax deduction by a person, a taxpayer not himself a member of an eligible household for the year in which the deduction is claimed and for a year thereafter. I am sure that is very clear to everybody here and that they understand perfectly exactly what I said. That is the kind of tortuous language that was used in an attempt to exclude university students.

Unfortunately it has reached more than the students. The Supreme Court has let its judgment stand.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. Conlan) to the amendment offered by the gentleman from Washington (Mr. Foley).

The amendment to the amendment was rejected.

AMENDMENT OFFERED BY MR. STEELE TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. STEELE. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Washington (Mr. Foley).

The Clerk read as follows:

Amendment offered by Mr. Steele to the amendment offered by Mr. Foley: by adding the following new section at the end thereof:

(1) by inserting at the end of section 3(e) of the Food Stamp Act of 1964 the following new sentence: "Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), or section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall not be considered residents of an institution or boarding house for purposes of eligibility for food stamps under this Act."

Mr. STEELE. Mr. Chairman, my amendment would correct an inequity that now exists for some residents of section 202 and 236 federally subsidized housing for the elderly. Under the present standards promulgated by the Department of Agriculture, residents of some of these buildings are denied food stamps because they receive six meals per week as part of their monthly rent.

In one such building in Connecticut, all of the residents are required to pay for an evening meal 6 days each week but are denied food stamps for their other meals. This situation exists because the Department of Agriculture has ruled that their housing is classified as a boarding house or institution. Since these residents must prepare their own meals twice each day and three times on Sunday, I believe that the Department of Agriculture has shown an unbelievable lack of sensitivity in its ruling.

In the case I am citing, a tenant cannot pay for or receive more than six dinner meals each week. The tenant must prepare breakfast and lunch each day and all his meals on Sunday in his own apartment, in his own kitchen, with his own money. These residents are not institutionalized.

Patients in institutions or residents of boarding houses do not have to buy their own food nor do they have to prepare it in their own apartments. Many section 202 and 236 residents would qualify for food stamps under the existing requirements, but the Department of Agriculture has denied certification to their households because of an arbitrary ruling. My amendment would erase the only barrier to the eligibility of these persons.

The mandatory meal requirement in some section 202 and 236 elderly housing is a substantial part of the specialized dietary needs of the residents. Additionally, the required dinner meals help to overcome two of the major problems of old age—malnutrition and isolation. In Connecticut, the Department of Agriculture stated that the mandatory nature of the meals was blocking food stamp eligibility. I believe that the residents both need congregate meals and deserve the same access to food stamps we have provided for other older Americans.

I cannot believe that Congress intended to exclude these older Americans from the benefits of the food stamp program. They deserve—and it is our obligation—to provide them with the benefits of programs designed to help all needy Americans.

If accepted this amendment would correct a serious situation that exists for some of the residents of section 202 and 236 housing for the elderly. The cost of the amendment, according to Deputy Assistant Secretary of Agriculture James H. Lake, would be too small to accurately estimate. The benefits to the residents and the common sense of the idea, however, are overwhelming.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield, perhaps to shorten the debate, I think the amendment is worthwhile and reasonable and will be acceptable on this side.

Mr. TEAGUE of California. Mr. Chairman, if the gentleman will yield, we do not have any objections on this side to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. Steele) to the amendment offered by the gentleman from Washington (Mr. Foley).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. FROEHLICH TO THE AMENDMENT OFFERED BY MR. FOLEY

Mr. FROEHLICH. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Froehlich to the amendment offered by Mr. Foley: On page 4 of the Foley amendment line 11 after "alcoholic beverage" insert: ", those foods which are identified on the package as being imported, such food and food products as may be determined by the Secretary to be of low or insignificant nutritional value,".

Mr. FROEHLICH. Mr. Chairman, the effect of this section of the Foley amendment is to remove all barriers in the Food Stamp Act to the purchase of foreign food imports. In other words, if this amendment were adopted, the Government would be taxing citizens, including farmers, in order to raise money to purchase foreign food products that are in direct competition with American food.

I can't imagine a greater insult to American farmers, nor can I imagine anything that is more likely to undermine the strength of American agriculture.

It is well known, Mr. Chairman, that American farmers are required to meet higher standards of production than farmers in many countries across the globe. I have been particularly concerned about the unsanitary conditions under which a good deal of imported cheese is produced.

Now, there is a serious effort to use American tax dollars to buy foreign cheese and other products produced under these substandard conditions.

This, of course, comes at a time when the United States is suffering a serious balance-of-payments deficit.

Mr. Chairman, my amendment amends the Foley amendment to correct this problem.

Second, my amendment picks up the wording of the committee proposal which says that food cannot be purchased that the Secretary determines is of low or insignificant food value.

These two portions of the amendment in my opinion are offered to alleviate some of the criticism of those who are opposing the program. I think it is necessary to make these corrections to soften the criticism in this area.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I think if the gentleman from Wisconsin had offered the second part of his amendment alone it would clearly have been subject to a point of order. We have already considered and rejected the Price amendment which was designed to restore the imported food ban and now the gentleman from Wisconsin (Mr. Froehlich) wants to go over it once again.

He is adding another section, and wants to go back and pick up the language which says the Secretary shall determine what is nutritious and what is nonnutritious. Again, I hope the committee, for the sake not of food stamp recipients, but for the sake of the people who are not food stamp recipients and who have to stand at check-out counters, will not open this Pandora's box.

If we adopt this amendment clerks at the check-out counter will be saying, "Well, sorry, you cannot buy this diet food because that is not nutritious," or, "You cannot buy this product because it is not on the nutritious list." The whole concept of the food stamp program, when it came into existence, was to help the families in need of nutrition assistance through food purchased in the normal channels of trade rather than food distributed from surplus commodities. We allowed people to buy stamps depending on their income level and go to the supermarket just as any other person does.

Now, we want to set up a whole new standard in non-nutritious food. I think that is asking for much difficulty and inconvenience for everyone in order to ban candy bars and pop. It is going to complicate the food stores' operations immensely. The Department is opposed. The retail food industry is opposed.

Mr. Chairman, I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. Froehlich) to the amendment offered by the gentleman from Washington (Mr. FOLEY).

The amendment to the amendment was rejected.

Mr. FROEHLICH. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred thirty-two Members are present, a quorum.

Mr. FOLEY. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, this is going to be a short speech, which I am sure the Members will be glad to hear. I think, unfortunately, that the effort that was made originally on my substitute amendment has now been largely vitiated by the amendments which have been added to it.

I hope that anyone who would have voted for my substitute in its original form will now vote against it. I, as the sponsor of the amendment, because of the amendments which have been attached to it, ask that the committee now reject the Foley substitute amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. FOLEY), as amended.

The question was taken; and on a division, demanded by Mr. TEAGUE of California) there were—ayes 57, noes 66.

RECORDED VOTE

Mr. TEAGUE of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 207, not voting 16, as follows:

[Roll No. 356]

AYES—210

Abdnor
Anderson, Ill.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bennett
Blackburn
Bowen
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collins, Tex.
Collier
Conable
Conlan
Conte
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dennis
Derwinski
Devine
Dickinson
Dorn
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Findley
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Gettys
Gibbons
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gubser
Gunter
Guyer
Haley
Hammerschmidt
Hanrahan
Hansen, Idaho
Harvey
Hastings
Hébert
Heinz
Henderson
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Keating
Ketchum
Kuykendall
Landrum
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McEwen
McKinney
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Miller
Minshall, Ohio
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Natcher
Nelsen
Nichols
O'Brien
Parris
Pettis
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Rarick
Regula
Rhodes
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rose
Rousselot
Runnels
Ruth
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shoup
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Vander Jagt
Veysey
Wampler
Ware
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NOES—207

Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Breaux
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton
Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chisholm
Clark
Clay
Cleveland
Collins, Ill.
Conyers
Corman
Cotter
Culver
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Foley
Ford, William D.
Fraser
Froehlich
Fulton
Gaydos
Giaimo
Gilman
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Gude
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks
Hillis
Holifield
Holtzman
Howard
Hungate
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCormack
McDade
McFall
McKay
McSpadden
Macdonald
Madden
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Podell
Price, Ill.
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rodino
Roe
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Steele
Stratton
Studds
Sullivan
Symington
Teague, Tex.
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Walsh
Whalen
White
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—16

Blatnik
Danielson
Downing
Fisher
Fuqua
Kemp
King
Landgrebe
Mills, Ark.
Mollohan
Owens
Patman
Roybal
Ruppe
Stokes
Talcott

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

SEC. 5. The Consolidated Farm and Rural Development Act is amended as follows:

(a) Section 306(a) of such Act is amended by adding at the end thereof the following:

"(13)(A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

"(B) For the purposes of this subsection, the term 'eligible volunteer fire department' means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thouand but greater than two hundred, as reasonably determined by the Secretary."

(b) Section 310B(d) of subtitle A of such Act is amended by adding at the end thereof the following:

"(4) No grant or loan authorized to be made under this section, section 304, or section 312 shall require or be subject to the prior approval of any officer, employee, or agency of any State."

AMENDMENT OFFERED BY MR. PRICE OF TEXAS

Mr. PRICE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE of Texas: Page 60, line 14, strike out the quotation marks and insert the following:

"(5) No certificates issued by the Secretary or any private entity evidencing beneficial ownership in a block of notes insured or guaranteed under this title shall be subject to laws administered by the Securities and Exchange Commission: *Provided*, That the Secretary shall require any private entity offering such certificates to place the insured or guaranteed notes in the custody of an institution chartered by a Federal or State agency to act as trustee and shall require periodic reports as to the sale of such certificates: *Provided further*, That any sale by the Secretary of such certificates shall be treated as a sale of assets for the purpose of the Budget and Accounting Act of 1921."

Mr. PRICE of Texas. Mr. Chairman. I will be very brief. This should be a noncontroversial amendment which I hope the distinguished manager of the bill will accept.

During that committee's consideration of this legislation, certain amendments to the Rural Development Act of 1972 were included because of the need that had become evident since passage of the act last August.

One additional shortcoming has been brought to my attention since the Committee on Agriculture reported the bill now before us. As my colleagues will recall, one of the major thrusts of the Rural Development Act was to create new credit in rural America for business expansion through a system of Government guarantees of loans—and I say again loans—made by private financial institutions.

The President of the Independent

Bankers Association, an organization composed of most rural bankers in the Nation, has indicated that a secondary market for guaranteed loans must be found if there is to be a continuing flow of capital to rural areas for business and industrial development. It is my understanding that if the individual guaranteed notes are sold to investors, they are exempt from Securities and Exchange Commission regulations. However, if these guaranteed notes are pooled and certificates of beneficial ownership are sold in the pool, they would not be exempt from SEC regulation.

My amendment would merely extend this exemption to certificates evidencing ownership in a pool or block of notes guaranteed by the Secretary of Agriculture through the Farmers Home Administration which has indicated their support of this amendment. I would add that the rights of investors would be safeguarded with the requirement that any private entity offering such certificates would be required to place the guaranteed notes in the custody of a trustee approved by the Secretary.

Mr. Chairman, I hope this amendment will be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PRICE).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read:

The Clerk read as follows:

RURAL DEVELOPMENT ACT AMENDMENTS

SEC. 6. The Rural Development Act of 1972 is amended as follows:

(a) Section 401 of such Act is amended by substituting the words "fire" and "fires" for the words "wildfire" and "wildfires", respectively, wherever such words appear.

(b) Section 404 of such Act is amended to read as follows:

"SEC. 404. APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this title $7,000,000 for each of three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this title."

AMENDMENT OFFERED BY MR. O'HARA

Mr. O'HARA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'HARA: Page 61, line 3, after the period, insert:

GENERAL PROVISIONS

"SEC. 7. No payment shall be made, directly or indirectly, to any producer of agricultural commodities by any agency or instrumentality of the United States with respect to any crop which was planted, cultivated, or harvested during a labor dispute involving such producer and persons who have been in his employ."

And redesignate the succeeding section.

Mr. O'HARA. Mr. Chairman, this is a simple conforming amendment. The House earlier this afternoon made it clear that it did not want to be in the position, at least not in this bill, of subsidizing either side of a labor dispute, and pursuant to that expressed intention we voted not to permit the families of strikers to receive food stamps. What this amendment does is simply make that an evenhanded proposition. It says that no payment shall be given to any agricultural producer with respect to any crop that was planted, cultivated, or harvested while a labor dispute between that agricultural producer and persons who have been employed by him was in progress.

That seems to me to be simple equity. If the House does not want to take one side or the other in these labor disputes, so be it. I did not think that was a wise decision, but now I think we ought to make this decision an equitable one. I ask for adoption of the amendment.

Mr. SISK. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from California.

Mr. SISK. Mr. Chairman, of course I myself am on the same side as the gentleman from Michigan in connection with the strikers, and as the gentleman knows I voted against the Dickinson amendment.

Let me say I do not know of any other area outside of California where his amendment could possibly be an item since I do not know of any other labor problems going on. I am not entirely sure what the application would be but on the other hand I agree with my colleague from Michigan that we should be evenhanded and I therefore support his amendment.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from California.

Mr. TEAGUE of California. Mr. Chairman, I think the gentleman explained his amendment very clearly although we do not have a copy of it at the table.

Mr. O'HARA. I apologize to the gentleman from California. I scribbled the amendment, after the adoption of the Dickinson amendment, on this amendment form. My only copy is on the back of this report. If the gentleman has any questions I will be happy to respond.

Mr. TEAGUE of California. No, but I have a statement. I think the gentleman must be offering this as a joke. My district fortunately for me and for them is not involved in these programs so it would not affect me personally at all but I think any Members who do come from districts that are receiving farm subsidies cannot support the O'Hara amendment.

Mr. O'HARA. I do not offer it as a joke. I opposed the Dickinson amendment, but now that we have gone into that area I think we must be even-handed about it.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to my colleague from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Chairman, I am inclined to think the gentleman has gone a bit further than he has stated, because the amendment covers planting, cultivating, or harvesting of crops, which is the full calendar year. I presume what we should do in the food stamp area if we are to be even handed as the gentleman suggests is that no one shall be eligible for food stamps if they have ever participated in a strike.

Mr. O'HARA. Mr. Chairman, I think the gentleman is splitting hairs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. O'HARA).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. O'HARA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 85, noes 326, not voting 22, as follows:

[Roll No. 357]

AYES—85

Abzug
Adams
Addabbo
Anderson, Calif.
Badillo
Barrett
Bennett
Biaggi
Bingham
Bolling
Brademas
Brasco
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burton
Carey, N.Y.
Carney, Ohio
Chisholm
Clay
Conte
Conyers
Corman
Cronin
Dellums
Diggs
Dingell
Drinan
Edwards, Calif.
Eilberg
Fascell
Flood
Ford, William D.
Fraser
Gaydos
Gude
Hansen, Wash.
Harrington
Hawkins
Hicks
Holifield
Holtzman
Howard
Karth
Kluczynski
Koch
Kyros
Long, Md.
Madden
Meeds
Metcalfe
Mink
Mitchell, Md.
Moorhead, Pa.
Morgan
Moss
Nix
O'Hara
Pepper
Podell
Rangel
Rees
Reuss
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roybal
Ryan
St Germain
Sarbanes
Saylor
Schroeder
Seiberling
Sisk
Stark
Thompson, N.J.
Tiernan
Udall
Vanik
Waldie
White
Wilson, Charles H., Calif.
Wolff
Wyatt

NOES—326

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Archer
Arends
Armstrong
Ashbrook
Ashley
Aspin
Bafalis
Baker
Beard
Bell
Bergland
Bevill
Biester
Blackburn
Boggs
Boland
Bowen
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conable
Conlan
Cotter
Coughlin
Crane
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Donohue
Dorn
Dulski
Duncan
du Pont
Eckhardt
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fish
Flowers
Flynt
Foley
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Gettys
Giaimo
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Gross
Grover
Gubser
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanley
Hanrahan
Hansen, Idaho
Harsha
Harvey
Hastings
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Henderson
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keating
Ketchum
Kuykendall
Landrum
Latta
Leggett
Lehman

Litton
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McKinney
McSpadden
Macdonald
Madigan
Mahon
Mailliard
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Melcher
Mezvinsky
Michel
Milford
Miller
Minish
Minshall, Ohio
Mitchell, N.Y.
Mizell
Moakley
Montgomery
Moorhead, Calif.
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Brien
O'Neill
Parris
Passman
Patten
Perkins
Pettis
Peyser
Pickle
Pike
Poage
Powell, Ohio
Preyer
Price, Ill.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Regula
Rhodes
Riegle
Rinaldo
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rose
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruppe
Ruth
Sandman
Sarasin
Satterfield
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Ullman
Van Deerlin
Vander Jagt
Veysey
Vigorito
Waggonner
Walsh
Wampler
Ware
Whalen
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles, Tex.
Winn
Wright
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—22

Blatnik
Danielson
Downing
Fisher
Fuqua
Gibbons
Griffiths
Hanna
Hébert
Helstoski
Kemp
King
Landgrebe
Lent
Mills, Ark.
Mollohan
Owens
Patman
Price, Tex.
Reid
Stokes
Talcott

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ARMSTRONG

Mr. ARMSTRONG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ARMSTRONG: Page 61, immediately after line 3, insert the following new section:

"SEC. 7. The authority to issue and enforce orders and regulations under the Economic Stabilization Act of 1970 to stabilize products expires on the date of enactment of this Act."

Page 61, line 4, strike out "SEC. 7." and insert in lieu thereof "SEC. 8.".

Mr. FOLEY. Mr. Chairman, I suggest a point of order would lie against this amendment. I believe we have gone past this section of the bill, and I reserve a point of order.

Mr. ARMSTRONG. Mr. Chairman, I will ask the gentleman to restate his point of order. I believe he misunderstands the intent of the amendment before us.

The **CHAIRMAN.** The Chair would like to advise the gentleman from Washington that we have not passed the section. The gentleman from Colorado is recognized for 5 minutes.

Mr. ARMSTRONG. Mr. Chairman, the purpose of this amendment is simple; it is to exempt from price controls all raw and processed agricultural products.

Clearly the futility of such controls has been amply demonstrated during the last several months. Any homemaker can tell you prices have not been controlled at the supermarket level. But while the controls have failed in their intended purpose, they have nonetheless succeeded conspicuously in creating shortages, causing product quality deterioration as well as other distortions in the agricultural and consumer market economy.

It is clear, I am sure, to all of us that still worse shortages, rationing, black markets, and further product quality deterioration will be ahead as well as the potential of permanent damage to the agricultural base of this country unless these trends are reversed.

There is a very real danger of food shortages in this country if we persist in the present economic policies.

Even at this late date I am sure there are those among us who find it hard to think of food shortages in this land of plenty. But, may I cite for a moment the grim statistics to indicate what is ahead.

Beef production in the United States is down sharply. Total production is off 4 percent from January to May. In the most recent statistics available, which are only for the federally inspected portion of the beef production, show an even more ominous trend: Production is off 7.5 percent for the 5 weeks ending July 7 as compared with a similar period last year.

As a result, meat packing plants are curtailing production. Since the price freeze plants have closed in Alabama, Arkansas, Colorado, Connecticut, Florida, Kansas, Kentucky, Iowa, Maryland, Michigan, Missouri, Nebraska, and Oklahoma, according to a partial list furnished to me recently.

In addition, plants have curtailed production in several other States including Illinois, Indiana, Texas, Virginia, and Wisconsin.

All over the country feedlots are in trouble. Caught in the crunch between rising costs and frozen prices, it is no wonder that the number of cattle being put into our feedlots is dropping.

Hog slaughter is also down 9 percent according to the latest USDA figures for the first 5 months of the year.

Per capita meat consumption of red meat—beef, pork, veal, lamb and mutton—is expected to drop by 7 pounds per person this year, bringing us to the lowest level in 6 years, one of the sharpest year-to-year drops ever recorded. Total beef production in 1973 will be about 5.5 percent less than what was expected, according to the American Meat Institute.

Nor is it simply meat that is suffering. Dairymen are cutting back on their herds. USDA figures show there are 152,000 fewer dairy animals in production today than on January 1.

Mr. Chairman, in summary, let me say this: Clearly we are violating basic economic laws, and the longer we delay in returning to a responsible economic policy the worse the consequences will become.

Mr. Chairman, when I left this amendment at the desk 3 days ago, I did not know what action would be taken by the Cost of Living Council. I had no way to know that the price freeze on agricultural products would be partially suspended by the time we reached this point in the bill. But let me say this; the partial relief which we have received in no way lessens the necessity for Congress to declare itself, and act to protect the American consumer from these shortages, and to give a square deal to the people in agriculture for their production.

Administrative remedy is insufficient to meet this problem. This is a problem for which Congress will bear the responsibility if we do not act now.

Mr. Chairman, I ask that my amendment be adopted.

Mr. BLACKBURN. Mr. Chairman, will the gentleman yield?

Mr. ARMSTRONG. I yield to the gentleman from Georgia.

Mr. BLACKBURN. Mr. Chairman, I appreciate the gentleman from Colorado yielding to me.

Mr. Chairman, I congratulate the gentleman from Colorado on offering his amendment. I think he has done the House a genuine service by bringing his amendment before us today.

It appears to me that what we are trying to do in this country is insulate ourselves from the inclement world markets, and in order to do that we need to have what the gentleman is suggesting that will give us an opportunity to free up our incentives to produce on the farm.

So again, Mr. Chairman, I congratulate the gentleman from Colorado on offering his amendment, and I urge my colleagues to support the amendment.

The **CHAIRMAN.** The time of the gentleman from Colorado has expired.

The **CHAIRMAN.** The Chair would ask the gentleman from Washington (Mr. FOLEY) whether the gentleman insists upon his point of order?

Mr. **FOLEY.** Mr. Chairman, I do.

POINT OF ORDER

The **CHAIRMAN.** The gentleman will state his point of order.

Mr. FOLEY. Mr. Chairman, I must insist upon my point of order, because the amendment offered by the gentleman from Colorado is not germane to the bill.

H.R. 8860 is an agriculture and farm program and deals only with a program specified under the jurisdiction of the Department of Agriculture. This amendment offered by the gentleman from Colorado, which amends the Economic Stabilization Act, was not before the Committee on Agriculture for its consideration and jurisdiction. Accordingly I suggest the amendment is not germane to the bill.

The **CHAIRMAN.** Does the gentleman from Colorado desire to be heard on the point of order?

Mr. ARMSTRONG. Mr. Chairman, I do. I would respectfully point out that this is not the point of order which the gentleman from Washington earlier reserved, and I would, therefore, inquire of the Chair at this point if such a point of order is timely.

The CHAIRMAN. The Chair would like to advise the gentleman from Colorado that the gentleman from Washington was heard on a point of order, and at that time he did not have to state the basis for his reservation. His point of order is now in order.

Mr. SAYLOR. Mr. Chairman, I think if the Chair will read the Record, he will find that the gentleman from Washington raised a point of order, and it was said it was out of order, because we had not come to that point in the Record.

Mr. FOLEY. Mr. Chairman, I reserved a point of order.

The CHAIRMAN. The Chair would like to advise the gentleman from Pennsylvania (Mr. Saylor) and the gentleman from Colorado (Mr. Armstrong) and the committee that the gentleman from Washington reserved a point of order. Do the gentlemen desire to be heard further on the point of order?

Mr. ARMSTRONG. Yes, Mr. Chairman, I do. I call the attention of the Chair and of the Members of the body to the purpose of the bill which is expressed in the title:

> To extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices.

The elements of this bill are supply and price, and, indeed, these are the matters which are addressed in, I believe, a very meaningful and important way by the amendment which I have offered. I think this amendment clearly is germane.

The CHAIRMAN (Mr. Natcher). The Chair is ready to rule.

The amendment offered by the gentleman from Colorado (Mr. Armstrong) pertains to the Economic Stabilization Act of 1970. This amendment goes to the authority of the President of the United States under the Economic Stabilization Act as reported to the House by the Committee on Banking and Currency and is not germane to this bill. The Chair, therefore, sustains the point of order.

Are there further amendments to section 6?

If not, the Clerk will read.

The Clerk read as follows:

> Sec. 7. This Act may be cited as the "Agriculture and Consumer Protection Act of 1973".

Mr. FOLEY. Mr. Chairman, I ask unanimous consent that all debate on any amendments and the bill conclude at 6 o'clock.

Mr. PRICE of Texas. Mr. Chairman, I object.

MOTION OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I move that all debate on the bill and all amendments thereto conclude at 6 o'clock.

The CHAIRMAN. The question is on the motion offered by the gentleman from Washington.

The motion was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Foley: Strike out all after the enacting clause and substitute the following:

That the Agricultural Act of 1970 is amended as follows:

Payment Limitation

(1) Section 101 is amended by—

(A) amending subsection (1), effective beginning with the 1974 crop, to read as follows:

"(1) The total amount of payments which a person shall be entitled to receive under each of the annual programs established by titles IV and V, of this Act for the 1974 through 1977 crops of the commodities shall not exceed $20,000."

(B) amending subsection (2) effective beginning with the 1974 crop, to read as follows:

"(2) The term 'payments' as used in this section shall not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for resource adjustment or public access for recreation."

DAIRY PROGRAM

Milk Marketing Orders

(2) Section 201 is amended by—

(A) amending section 201(e) by striking out "1973" and inserting "1977", and by striking out "1976" and inserting "1980", and

(B) adding at the end thereof the following:

"(f) The Agricultural Adjustment Act as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended by:

"(1) striking the period at the end of subsection 8c(17) and adding in lieu thereof the following: ': *Provided further*, That if one-third or more of the producers as defined in a milk order apply in writing for a hearing on a proposed amendment of such order, the Secretary shall call such a hearing if the proposed amendment is one that may legally be made to such order Subsection (12) of this section shall not be construed to permit any cooperative to act for its members in an application for a hearing under the foregoing proviso and nothing in such proviso shall be construed to preclude the Secretary from calling an amendment hearing as provided in subsection (3) of this section. The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.'

"(2) inserting after the phrase 'pure and wholesome milk' in section 8c(18) the phrase 'to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs'."

Milk Price Support, Butterfat Price Support Suspension

(3) Section 202 is amended by—

(A) striking the introductory clause which precedes subsection (a);

(B) effective April 1, 1974, inserting in subsection (b) before the period at the end of the first sentence in the quotation the following: "of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs"; and

(C) inserting in subsection (b) in the first sentence "80 per centum" in lieu of "75 per centum".

Veterans Hospitals

(4) Section 203 is amended by striking out "1973" and inserting "1977".

Dairy Indemnity Program

(5) Section 204 is amended by—

(A) striking out "1973" and inserting "1977"; and

(B) striking subsection (b) and substituting therefor the following:

"(b) Section 1 of said Act is amended to read as follows:

" 'Section 1. The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since the date of enactment of the Agriculture Act of 1973 in the case of indemnity payments not authorized prior to such date of enactment), to remove their milk, and to make indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since the date of enactment of the Agricultural Act of 1970 to remove their dairy products from commercial markets because of residues of chemicals registered and approved for use by the Federal Government at the time of such use. Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets.' "

(6) Title II is amended by adding at the end thereof the following:

"Dairy Import Licenses

"Sec. 205. Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) is amended by adding at the end thereof the following:

" '(g) The President is authorized to provide that dairy products may be imported only by or for the account of a person or firm to whom a license has been issued by the Secretary of Agriculture. In issuing a license for dairy products not currently being imported but sought to be imported under this section during any period after the enactment of the Agriculture Act of 1973, the Secretary shall make licenses available for a thirty-day period before issuing licenses to other applicants to domestic producers and processors who agree to import such dairy products: *Provided, however*, That such licenses shall not be sold, transferred or assigned. For purposes of this subsection, dairy products include (1) all forms of milk and dairy products, butterfat, milk solids-not-fat, and any combination or mixture thereof; (2) any article, compound, or mixture containing 5 per centum or more of butterfat, or milk solids-not-fat, or any combinations of the two; and (3) lactose, and other derivatives of milk, butterfat, or milk solids-not-fat, if imported commercially for any food use. Dairy products do not include (1) casein, caseinates, industrial casein, industrial caseinates, or any other industrial products, not to be used in any form for any food use, or an ingredient of food; or (2) articles not normally considered to be dairy products, such as candy, bakery goods, and other similar articles: *Provided*, That dairy products in any form, in any such article are not commercially extractable or capable of being used commercially as a replacement or substitute for such ingredients in the manufacture of any food product.'

"PRODUCER HANDLERS

"Sec. 206. The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by the Agriculture Act of 1973 as it was prior thereto."

WOOL PROGRAM

(7) Section 301 is amended by—

(A) striking out "1973" each place it occurs and inserting "1977", and by striking out the word "three" each place it occurs; and

(B) adding at the end thereof the following:

"(6) Strike out the first sentence of section 708 and insert the following: 'The Secretary of Agriculture is authorized to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats or the products thereof for the purpose of developing and conducting on a national, State, or regional basis advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement, for wool, mohair, sheep, or goats or the products thereof. Advertising and sales promotion programs may be conducted outside of the United States for the purpose of maintaining and expanding foreign markets and uses for mohair or goats or the products thereof produced in the United States.'."

WHEAT PROGRAM

Wheat Production Incentives

(8) Effective beginning with the 1974 crop section 401 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977" and section 107 of the Agricultural Act of 1949, as it appears therein, is amended by—

(A) amending section 107(a) to read as follows:

"(a) Loans and purchases on each crop of wheat shall be made available at such level as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains: *Provided*, That in no event shall such level be in excess of the parity price for wheat or less than $1.49 per bushel."

(B) substituting the word "payments" for the word "certificates" in section 107(b);

(C) striking the quotation mark at the end of section 107(b); and

(D) adding at the end of the section the following:

"(c) Payments shall be made for each crop of wheat to the producers on each farm in an amount determined by multiplying (i) the amount by which the higher of—

"(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(2) the loan level determined under subsection (a) for such crop

is less than the established price of $2.05 per bushel, adjusted for each of the 1975 through 1977 crops to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates, times (ii) the allotment for the farm for such crop, times (iii) the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of wheat for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of wheat for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers are prevented from planting, or if planted, prevented from harvesting any portion of the farm average allotment to wheat or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis."

Termination of Wheat Certificate Program, Farm Acreage Allotments

(9) Section 402 is amended by inserting "(a)" after the section designation and adding the following at the end of the section:

"(b)(A) Section 379b of the Agricultural Adjustment Act of 1938 (which provides for a wheat marketing certificate program) shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection.

"(B) Section 379b(c) of the Agricultural Adjustment Act of 1938, as amended by subsection (a) of this section (which provides for a set-aside program), shall be effective with respect to the 1974 through 1977 crops of wheat with the following changes:

"(i) The phrase 'payments authorized by section 107(c) of the Agricultural Act of 1949' shall be substituted for the word 'certificates' and the phrases 'certificates authorized in subsection (b)' and 'marketing certificates' each place they occur.

"(ii) The word 'domestic' shall be stricken each place it occurs.

"(iii) The second sentence of section 379b (c) (1) is amended to read as follows: 'If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments authorized by section 107(c) of the Agricultural Act of 1949, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the wheat allotment for the farm as may be specified by the Secretary and will be estimated by the Secretary to result in a set-aside not in excess of thirteen and three-tenths million acres in the case of the 1971 crop; plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary.'

"(iv) The third sentence in 379b(c) (1) is amended to read as follows: 'The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to wheat on the farm to a percentage of the acreage allotment.'

"(v) '1971 through 1977' shall be substituted for '1971, 1972, and 1973' each place it occurs other than in the third sentence of section 379b(c)(1).

"(vi) After the second sentence of section 379b(c) (3) the following shall be inserted: 'The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences.'

"(C) Sections 379b (d), (e), (g), and (i) of the Agricultural Adjustment Act of 1938, as amended by subsection (a) of this section, shall be effective for the 1974 through 1977 crops amended to read as follows:

" '(d) The Secretary shall provide for the sharing of payments made under this section for any farm among producers on the farm on a fair and equitable basis.

" '(e) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as he determines to be equitable in relation to the seriousness of the default.

" '(g) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this title.

" '(i) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.'

"(D) Section 379c of the Agricultural Adjustment Act of 1938, effective only with respect to the 1974 through 1977 crops of wheat, is amended to read as follows:

" 'SEC. 379c. (a)(1) The farm acreage allotment for each crop of wheat shall be determined as provided in this section. The Secretary shall proclaim the national acreage allotment not later than April 15 of each calendar year for the crop harvested in the next succeeding calendar year. Such national allotment shall be the number of acres he determines on the basis of the estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. The national acreage allotment for any crop of wheat shall be apportioned by the Secretary among the States on the basis of the apportionment to each State of the national acreage allotment for the preceding crop (1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment) adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State, taking into consideration established crop rotation practices, the estimated decrease in farm acreage allotments, and other relevant factors.

" '(2) The State acreage allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection, shall be apportioned by the Secretary among the counties in the State, on the basis of the apportionment to each such county of the wheat allotment for the preceding crop, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county taking into consideration established crop-rotation practices, the estimated decrease in farm allotments, and other relevant factors.

" '(3) The farm allotment for each crop of wheat shall be determined by apportioning the county wheat allotment among farms in the county which had a wheat allotment for the preceding crop on the basis of such allotment, adjusted to reflect established crop-rotation practices and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment. Notwithstanding any other provision of this subsection, the farm allotment shall be adjusted downward to the extent required by subsection (b).

" '(4) Not to exceed 1 per centum of the State allotment for any crop may be apportioned to farms for which there was no allotment for the preceding crop on the basis of the following factors: suitability of the land for production of wheat, the past experience of the farm operator in the production of wheat, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of wheat on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable farm allotments. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after the date of enactment of the set-aside program for wheat.

"'(5) The planting on a farm of wheat or any crop for which no farm allotment was established shall not make the farm eligible for an allotment under subsection (a)(3) nor shall such farm by reason of such planting be considered ineligible for an allotment under subsection (a)(4).

"'(6) The Secretary may make such adjustments in acreage under this Act as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop rotation practices, types of soil, soil and water conservation measures, and topography, and in addition, in the case of conserving use acreages, to such other factors as he deems necessary in order to establish a fair and equitable covering use acreage for the farm.

"'(b)(1) If for any crop the total acreage of wheat planted on a farm is less than the farm allotment, the farm allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm allotment, but such reduction shall not exceed 20 per centum of the farm allotment for the preceding crop. If no acreage has been planted to wheat for three consecutive crop years on any farm which has an allotment, such farm shall lose its allotment. Producers on any farm who have planted to wheat not less than 90 per centum of the allotment for the farm shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to wheat because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of wheat planted for harvest. For the purpose of this subsection, the Secretary may permit producers of wheat to have acreage devoted to soybeans, feed grains for which there is a set-aside program in effect, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate considered as devoted to the production of wheat to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.

"'(2) Notwithstanding the provisions of subsection (b)(1), no farm allotment shall be reduced or lost through failure to plant the farm allotment, if the producer elects not to receive payments for the portion of the farm allotment not planted, to which he would otherwise be entitled under the provisions of section 107(c) of the Agricultural Act of 1949.'"

Repeal of Processor Certificate Requirement

(10) Section 403 is amended by inserting "(a)" after the section designation and by inserting at the end thereof the following:

"(b) Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978; and section 379g is amended by adding the following new subsection (c):

"(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 379d to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.'."

Suspension of Wheat Marketing Quotas

(11) Section 404 is amended by striking "1971, 1972, and 1973" wherever it appears and inserting "1971 through 1977", and by striking "1972 and 1973" and inserting "1972 through 1977".

State Agency Allotments, Yield Calculations

(12)(a) Section 405 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977"; and by repealing paragraph (2) effective with the 1974 crop; by inserting "(a)" after the section designation; by changing the period and quotation mark at the end of the section to a semicolon; and by adding at the end of the section the following:

"(b) Effective with respect to the 1974 through 1977 crops section 301(b)(13)(K) of the Agricultural Adjustment Act of 1938 is amended by adding after 'three calendar years' the following: '(five calendar years in the case of wheat)', and section 708 of Public Law 89–321 is amended by inserting in the second sentence after 'determining the projected yield' the following '(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period)'."

Suspension of Quota Provisions

(13) Section 406 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Reduction in Wheat Stored To Avoid Penalty

(14) Section 407 of the Agricultural Act of 1970 is amended by adding at the end thereof the following: "Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended, prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants.".

Application of the Agricultural Act of 1949

(15) Section 408 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Commodity Credit Corporation Sales Price Restrictions

(16) Section 409 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Set-Aside on Summer Fallow Farms

(17) Section 410 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

FEED GRAIN PROGRAM

(18) Effective only with respect to the 1974 through 1977 crops of feed grains, section 501 is amended by—

(A) striking out that portion through the first colon and section 105(a) of the Agricultural Act of 1949, as it appears therein, and inserting the following:

"SEC. 501. (a) Effective only with respect to the 1971 through 1977 crops of feed grains, section 105(a) of the Agricultural Act of 1949, as amended, is further amended to read as follows:

"'SEC. 105. Notwithstanding any other provision of law—

"'(a)(1) The Secretary shall make available to producers loans and purchases on each crop of corn at such level, not less than $1.19 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States.

"'(2) The Secretary shall make available to producers loans and purchases on each crop of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and the other factors specified in section 401(b), and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.'."

(B) adding at the end thereof the following:

"(b) Effective only with respect to the 1974 through 1977 crops of feed grains, section 105(b) of the Agricultural Act of 1949, as amended, is further amended to read as follows:

"'(b)(1) In addition, the Secretary shall make available to producers payments for each crop of corn, grain sorghums, and, if designated by the Secretary, barley, computed by multiplying (1) the payment rate, times (2) the allotment for the farm for such crop, times (3) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. The payment rate for corn shall be the amount by which the higher of—

"'(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"'(2) the loan level determined under subsection (a) for such crop

is less than the established price of $1.38 per bushel, adjusted for each of the 1975 through 1977 crops to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of feed grains for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of feed grains for the three calendar years preceding the year previous to the one for which the determination is made. The payment rate for grain sorghums and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. If the Secretary determines that the producers on a farm are prevented from planting or if planted, prevented from harvesting any portion of the farm acreage allotment to feed grains or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price.

"'(2) The Secretary shall, prior to January 1 of each calendar year, determine and proclaim for the crop produced in such calendar year a national acreage allotment for feed grains, which shall be the number of acres he determines on the basis of the estimated national average yield of the feed grains included in the program for the crop for which the determination is being made will produce the quantity (less imports) of such feed grains that he estimates will be utilized domestically and for export during that marketing year for such crop. If the Secretary determines that carryover stocks of any of the feed gains are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the feed grain allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. State, county, and farm feed grain allotments shall be established on the basis of the feed grain allotments established for the preceding crop (for 1974 on the basis of the feed grain bases established for 1973), adjusted to the extent deemed necessary to establish a fair and equitable apportionment base for each State, county, and farm. Not to exceed 1 per centum of the State feed grain allotment may be reserved for apportionment to new feed grain farms on the basis of the following factors: suitability of the land for production of feed grains, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of feed grains on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable feed grain allotments.

" '(3) If for any crop the total acreage on a farm planted to feed grains included in the program formulated under this subsection is less than the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 per centum of the feed grain allotment. If no acreage has been planted to such feed grains for three consecutive crop years on any farm which has a feed grain allotment, such farm shall lose its feed grain allotment: *Provided*, That no farm feed grain allotment shall be reduced or lost through failure to plant, if the producer elects not to receive payment for such portion of the farm feed grain allotment not planted, to which he would otherwise be entitled under the provisions of this Act. Any such acres eliminated from any farm shall be assigned to a national pool for the adjustment of feed grain allotments as provided for in subsection (e)(2). Producers on any farm who have planted to such feed grains not less than 90 per centum of the feed grain allotment shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to such feed grains because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of feed grains planted for harvest. For the purpose of this paragraph, the Secretary may permit producers of feed grains to have acreage devoted to soybeans, wheat, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, considered as devoted to the production of such feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the feed grain or soybean program.'."

(C) striking out "1971, 1972, 1973" where it appears in that part which amends section 105(c)(1) of the Agricultural Act of 1949 and inserting "1971 through 1977", and by amending the second sentence of section 105 (c)(1) to read as follows: "If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments on corn, grain sorghums, and, if designated by the Secretary, barley, respectively, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the feed grain allotment for the farm as may be specified by the Secretary, plus, if required by the Secretary (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary."

(D) amending the third sentence of section 105(c)(1) to read as follows: "The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment.",

(E) striking out paragraphs (1) and (3) of subsection (e) and striking out all of subsection (g),

(F) inserting after the second sentence of section 105(c)(3) the following: "The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences."

PUBLIC LAW 480

(26) Title VII is amended—

(A) by striking out "1973" and inserting "1977" in section 701; and

(B) by adding a new section 703 as follows:

"Sec. 703. Title IV of such Act is amended by adding at the end thereof the following:

"Sec. 411. No agricultural commodities shall be sold under title I or title III or donated under title II of this Act to North Vietnam, unless by an Act of Congress enacted subsequent to July 1, 1973, assistance to North Vietnam is specifically authorized."

MISCELLANEOUS PROVISIONS

(27) Title VIII is amended as follows:

Beekeeper Indemnities

(A) Section 804 is amended by striking out "December 31, 1973" and inserting "December 31, 1977".

Export Sales Reporting

(B) By adding the following new sections:

"Sec. 807. All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may suspend the requirement for publishing data with respect to any commodity or type or class thereof during any period in which he determines that there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports will not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales. Such suspension shall not remain in effect for more than sixty days unless extended by the Secretary. Extensions of such suspension, if any, shall also be limited to sixty days each and shall only be promulgated if the Secretary determines that the circumstances at the time of the commencement of any extension meet the conditions described herein.

"Wheat and feed grains research

"Sec. 808. In order to reduce fertilizer and herbicide usage in excess of production needs, to develop wheat and feed grain varieties more susceptible to complete fertilizer utilization, to improve the resistance of wheat and feed grain plants to disease and to enhance their conservation and environmental qualities, the Secretary of Agriculture is authorized and directed to carry out regional and national research programs.

"In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $1,000,000 in any fiscal year."

"Emergency reserve

"Sec. 809. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall under the provisions of this Act establish, maintain, and dispose of a separate reserve of inventories of wheat, feed grains, and soybeans for the purpose of alleviating distress caused by a natural disaster.

"Such reserve inventories shall include such quantities of grain that the Secretary deems needed to provide for the alleviation of distress as the result of a natural disaster.

"(b) The Secretary shall acquire such commodities through the price support program.

"(c) Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should be disposed of, the Secretary shall not offer any commodity in the reserve for sale or disposition.

"(d) The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855 et seq.), or (2) for use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297).

"(e) The Secretary may sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

"(f) The Secretary may use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this section; and to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

"(g) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this section.

"(h) There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"Imported Commodities

"Sec. 810. Notwithstanding any other provisions of this Act, the Secretary shall encourage the production of any crop of which the United States is a net importer and for which a price support program is not in effect by permitting the planting of such **crop** on set-aside acreage and with no reduction in the rate of payment for the commodity."

"Emergency Supply of Agriculture Products

"Sec. 811(a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, under the provisions of this Act, assist farmers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.

"(b) The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive Order for any agricultural products (at any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the product will be reduced to unacceptably low levels as a result of the freeze or subsequent modification thereof and that alternative means for increasing the supply are not available.

"(c) Under this section, the term 'agricultural products' shall include meat, poultry, vegetables, fruits and all other agriculture commodities."

(28) By adding the following new title X:

"TITLE X—RURAL ENVIRONMENTAL CONSERVATION

"Sec. 1001. Notwithstanding any other provision of law, the Secretary shall carry out the purposes specified in clauses (1), (2), (3), (4), and (6) of section 7(a) of the Soil Conservation and Domestic Allotment Act, as amended section 16(b) of such Act, and in the Water Bank Act (16 U.S.C. 1301 et seq.) by entering into contracts of three, five, ten, or twenty-five years with and at the option of, eligible owners and operators of land as determined by the Secretary and having such control as the Secretary determines to be needed on the farms, ranches, wetlands, forests, or other lands covered thereby. In addition, the Secretary is hereby authorized to purchase perpetual easements to promote said purposes of this title, including the sound use and management of flood plains, shore lands, and aquatic areas of the Nation. Such contracts shall be designed to assist farm, ranch, wetland, and nonindustrial private forest owners and operators, or other owners or operators, to make, in orderly progression over a period of years, such changes, if any, as are needed to effectuate any of the purposes specified in clauses (1), (2), (3), (4), and (6) of section 7(a) of the Soil Conservation and Domestic Allotment Act, as amended; section 16(b) of such Act; the Water Bank Act (16 U.S.C. 1301 et. seq.); in enlarging fish and wildlife and recreation sources; improving the level of management of nonindustrial private forest lands; and in providing long-term wildlife and upland game cover. In carrying out the provisions of this title, due regard shall be given to the maintenance of a continuing and stable supply of agricultural commodities and forest products adequate to meet consumer demand at prices fair to both producers and consumers.

"Sec. 1002. Eligible landowners and operators for contracts under this title shall furnish to the Secretary a plan of farming operations or land use which incorporates such practices and principles as may be determined by him to be practicable and which outlines a schedule of proposed changes, if any, in cropping systems or land use and of the conservation measures which are to be carried out on the farm, ranch, wetland, forests, or other land during the contract period to protect the farm, ranch, wetland, forests or other land and surrounding areas, its wildlife, and nearby populace and communities from erosion, deterioration, pollution by natural and manmade causes or to insure an adequate supply of timber and related forest products. Said plans may also, in important migratory waterfowl nesting and breeding areas which are identified in a conservation plan developed in cooperation with a soil and water conservation district in which the lands are located, and under such rules and regulations as the Secretary may provide, include a schedule of proposed changes, if any, to conserve surface waters and preserve and improve habitat for migratory waterfowl and other wildlife resources and improve subsurface moisture, including subject to the provisions of section 1001 of this title, the reduction of areas of new land coming into production, the enhancement of the natural beauty of the landscape, and the promotion of comprehensive and total water management study.

"Sec. 1003. (a) Approved conservation plans of eligible landowners and operators developed in cooperation with the soil and water conservation district or the State forester or other appropriate State official in which their lands are situated shall form a basis for contracts under this title. Under the contract the landowner or operator shall agree—

"(1) to effectuate the plan for his farm, ranch, forest, wetland, or other land substantially in accordance with the schedule outlined therein;

"(2) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the Soil and Water Conservation District Board, or the State forester or other appropriate official in a contract entered into under the provisions of section 1009 of this title, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

"(3) upon transfer of his right and interest, the farm, ranch, forest wetland, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

"(4) not to adopt any practice specified by the Secretary in the contract as a practice which would tend to defeat the purposes of the contract;

"(5) to comply with all applicable Federal, State, or local laws, and regulations, including those governing environmental protection and noxious weed abatement; and

"(6) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program: *Provided*, That all contracts entered into to effectuate the purposes of the Water Bank Act for wetlands shall contain the further agreement of the owner or operator that he shall not drain, burn, fill, or otherwise destroy the wetland character of such areas, nor use such areas for agricultural purposes: *And provided further*, That contracts entered into for the protection of wetlands to effectuate the purposes of the Water bank Act may include wetlands covered by Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary.

"(b) In return for such agreement by the landowner or operator the Secretary shall agree to make payments in appropriate circumstances for the use of land maintained for conservation purposes as set forth in this title, and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost-sharing is appropriate and in the public interest. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the physical installation of the conservation practices and measures under the contract, but, in the case of a contract not entered into under and advertising and bid procedure under the provisions of section 1009(d) of this title, not less than 50 per centum or more than 75 per centum of the actual costs incurred by the owner or operator.

"(c) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other similar conservation, land use, or commodity programs administered by the Secretary.

"Sec. 1004. The Secretary is authorized to make available to eligible owners and operators conservation materials including seeds, seed inoculants, soil conditioning materials, trees, plants, and, if he determines it is appropriate to the purposes of this title, fertilizer and liming materials.

"Sec. 1005. (a) Notwithstanding the provisions of any other title, the Secretary may establish multiyear set-aside contracts for a period not to extend beyond the 1977 crop. Producers agreeing to a multiyear set-aside agreement shall be required to devote this acreage to vegitative cover capable of maintaining itself throughout such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited. Producers entering into agreements under this section shall also agree to comply with all applicable State and local law and regulation governing noxious weed control.

"(b) The Secretary shall provide cost- sharing incentives to farm operators for such cover establishment, whenever a multiyear contract is entered into on all or a portion of the set-aside acreage.

"Sec. 1006. The Secretary shall issue such regulations as he determines necessary to carry out the provisions of this title. The total acreage placed under agreements which result in their retirement from production in any county or local community shall in addition to the limitations elsewhere in this title be limited to a percentage of the total eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community. In determining such percentage the Secretary shall give appropriate consideration to the productivity of the acreage being retired, if any, as compared to the average productivity of eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community.

"Sec. 1007. (a) The Secretary of Agriculture shall appoint an advisory board in each State to advise the State committee of that State (established under section 8(b) of the Soil Conservation and Domestic Allotment Act) regarding the types of conservation measures that should be approved to effectuate the purposes of this title. The Secretary shall appoint at least six individuals to the advisory boards of each State who are especially qualified by reason of education, training, and experience in the fields of agriculture, soil, water, wildlife, fish, and forest management. Said appointed members shall include, but not be limited to, the State soil conservationist, the State forester, the State administrator of the water quality programs, and the State wildlife administrator or their designees: *Provided*, That such board shall limit its advice to the State committees to the types of conservation measures that should be approved affecting the water bank program; the authorization to purchase perpetual easements to promote the purposes of this title, as described in section 1001 of this title; the providing of long-term upland game cover; and the establishment and management of approved practices on multiyear set-aside contracts as provided in section 1005 of this title.

"(b) The Secretary of Agriculture, through the establishment of a national advisory board to be named in consultation with the Secretary of the Interior, shall seek the advice and assistance of the appropriate officials of the several States in developing the programs under this title, especially in developing guidelines for (1) providing technical assistance for wildlife habitat improvement practices, (2) evaluating effects on surrounding areas, (3) considering aesthetic values, (4) checking compliance by cooperators, and (5) carrying out programs of wildlife management authorized under this title: *Provided*, That such board shall limit its advice to subjects which cover the types of conservation measures that should be approved regarding the water bank program; the authorization to purchase perpetual easements to promote the purposes of this Act, as described in section 1001 of this title; the providing of long-term upland game cover; and the establishment and management of approved practices on multiyear set-aside contracts as provided in section 1005 of this title.

"SEC. 1008. In carrying out the programs authorized under sections 1001 through 1006 of this title, the Secretary shall, in addition to appropriate coordination with other interested Federal, State, and local agencies, utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended. The Secretary is also authorized to utilize the facilities and services of the Commodity Credit Corporation in discharging his functions and responsibilities under this program. The Secretary shall also utilize the technical services of the Soil Conservation Service, the Forest Service, State forestry organizations, soil and water conservation districts, and other State, and Federal agencies, as appropriate, in development and installation of approved conservation plans under this title.

"SEC. 1009. (a) In furtherance of the purposes of this title, the Secretary of Agriculture is authorized and directed to develop and carry out a pilot forestry incentives program to encourage the development, management, and protection of nonindustrial private forest lands. The purposes of such a program shall be to encourage landowners to apply practices which will provide for the afforestation of suitable open lands and reforestation of cutover and other nonstocked and understocked forest lands and intensive multiple-purpose management and protection of forest resources so as to provide for production of timber and related benefits.

"(b) For the purposes of this section, the term 'non-industrial private forest lands' means lands capable of producing crops of industrial wood and owned by any private individual, group, association, corporation, or other legal entity. Such term does not include private entities which regularly engage in the business of manufacturing forest products or providing public utilities services of any type, or the subsidiaries of such entities.

"(c) The Secretary shall consult with the State forester or other appropriate official of the respective States in the conduct of the forestry incentives program under this section, and Federal assistance shall be extended in accordance with section 1003(b) of this title. The Secretary shall for the purposes of this section distribute funds available for cost sharing among and within the States only after assessing the public benefit incident thereto, and after giving appropriate consideration to the number and acreage of commercial forest lands, number of eligible ownerships in the State, and counties to be served by such cost sharing; the potential productivity of such lands; and the need for reforestation, timber stand improvement, or other forestry investments on such land. No forest incentives contract shall be approved under this section on a tract greater than five hundred acres, unless the Secretary finds that significant public benefit will be incident to such approval.

"(d) The Secretary may, if he determines that such action will contribute to the effective and equitable administration of the program established by this section, use an advertising and bid procedure in determining the lands in any area to be covered by agreements.

"(e) In implementing the program under this section, the Secretary will cause it to be coordinated with other related programs in such a manner as to encourage the utilization of private agencies, firms, and individuals furnishing services and materials needed in the application of practices included in the forestry incentives improvement program. The Secretary shall periodically report to the appropriate congressional committees of the progress and conduct of the program established under this section.

"SEC. 1010. There are hereby authorized to be appropriated annually such sums as may be necessary to carry out the provisions of this title. The programs, contracts, and authority authorized under this title shall be in addition to, and not in substitution of, other programs in such areas authorized by this or any other title or Act, and shall not expire with the termination of any other title or Act: *Provided*, That not more than $25,000,000 annually shall be authorized to be appropriated for the programs authorized under section 1009 of this Act."

SEC. 2 Section 301 of the Act of August 14, 1946 (Public Law 79-733), as amended (7 U.S.C. 1628), is hereby repealed.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

SEC. 3. The Consolidated Farm and Rural Development Act is amended as follows:

(a) Section 306(a) of such Act is amended by adding at the end thereof the following:

"(13) (A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

"(B) For the purposes of this subsection, the term 'eligible volunteer fire department' means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thousand but greater than two hundred, as reasonably determined by the Secretary."

(b) Section 310B(d) of subtitle A of such Act is amended by adding at the end thereof the following:

"(4) No grant or loan authorized to be made under this section, section 304, or section 312 shall require or be subject to the prior approval of any officer, employee, or agency of any State.

"(5) No certificates issued by the Secretary or any private entity evidencing beneficial ownership in a block of notes insured or guaranteed under this title shall be subject to laws administered by the Securities and Exchange Commission: *Provided*, That the Secretary shall require any private entity offering such certificates to place the insured or guaranteed notes in the custody of an institution chartered by a Federal or State agency to act as trustee and shall require periodic reports as to the sale of such certificates: *Provided further*, That any sale by the Secretary of such certificates shall be treated as a sale of assets for the purpose of the Budget and Accounting Act of 1921."

RURAL DEVELOPMENT ACT AMENDMENTS

SEC. 4. The Rural Development Act of 1972 is amended as follows:

(a) Section 401 of such act is amended by substituting the words "fire" and "fires" for the words "wildfire" and "wildfires", respectively, wherever such words appear.

(b) Section 404 of such act is amended to read as follows:

"SEC. 404. APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this title $7,000,000 for each of three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this title."

SEC. 5. The Secretary shall, within sixty (60) days from the enactment of this act, submit to the Congress a detailed report indicating what steps are being taken to implement the recommendations of the Controller General of the United States in his Report to the Congress dated July 9, 1973, entitled "Russian Wheat Sales and Weaknesses In Agriculture's Management of Wheat Export Subsidy Program (B 176943)."

SEC. 6. This Act may be cited as the "Agriculture Act of 1973".

Mr. FOLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment may be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

PARLIAMENTARY INQUIRY

Mr. TEAGUE of California. Mr. Chairman, reserving the right to object, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TEAGUE of California. Mr. Chairman, is not the offering of this amendment premature at this time? As I understand, the gentleman from Washington has offered an entirely new bill. Perhaps I misunderstood him. As I understand, he offered a substitute for the present bill.

The question is, is it not premature and should not we wait until section 7 has been read?

The CHAIRMAN. The Chair would like to advise the gentleman from California that the Clerk has read the final section of the bill, section 7. The amendment offered by the gentleman from Washington is in order.

Mr. TEAGUE of California. Mr. Chairman, I withdraw my reservation of objection.

PARLIAMENTARY INQUIRY

Mr. MYERS. Mr. Chairman, has there not been a limitation of time and is there not a limitation of time? Has that been announced?

The CHAIRMAN. The limitation of time will be announced following the reading of the amendment. The gentleman is correct.

PARLIAMENTARY INQUIRY

Mrs. SULLIVAN. Mr. Chairman, a parliamentary inquiry. In the original bill there was an amendment that carried or passed deleting the words "and consumer protection." Now, is this affected by the offering of the amendment of a new bill?

The CHAIRMAN. The Chair would like to advise the gentlewoman from Missouri that it depends upon the contents of the amendment which is now being reported.

Mr. WYDLER. Mr. Chairman, reserving the right to object, may we have some explanation of what this substitute is going to be? I would like to have it before we have the reading of it.

Mr. FOLEY. Mr. Chairman, if the gentleman will yield I will say to the gentleman that the purpose of this is to offer a substitute for the entire bill incorporating all of the changes adopted by the House with two major exceptions. The bill would eliminate all amendments to and the sections dealing with cotton and food stamps.

Mr. WYDLER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. GERALD R. FORD. Mr. Chairman, further reserving the right to object, will the gentleman from Washington repeat what he said?

Mr. FOLEY. The substitute bill is the language of the original bill with those changes adopted by the House in the Committee of the Whole with two exceptions. The substitute does not have a section on cotton nor any amendments adopted to the cotton section and it does not have a food stamp section nor any amendments adopted to the food stamp section.

Mr. GERALD R. FORD. One further question. When the gentleman says no food stamp section, does that mean he knocked out the committee food stamp section?

Mr. FOLEY. Yes.

Mr. GERALD R. FORD. And the Foley food stamp section?

Mr. FOLEY. Yes.

Mr. GERALD R. FORD. As the gentleman offered it and as the committee approved it?

Mr. FOLEY. Yes.

Mr. GERALD R. FORD. There is no food stamp section?

Mr. FOLEY. The bill would be absent any reference to the food stamp section.

Mr. GERALD R. FORD. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, if I might I would ask the gentleman from Washington does that mean there is no food stamp program?

Mr. FOLEY. That would mean as far as this bill is concerned there would be no food stamp program in this bill.

Mr. ROUSSELOT. Could the conference committee put it in?

Mr. FOLEY. Yes.

Mr. ROUSSELOT. I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. MAYNE. Mr. Chairman, reserving the right to object, I would like to ask the gentleman from Washington, is the effect of his amendment to nullify the Dickinson amendment which omits food stamps for strikers?

Mr. FOLEY. It would remove from the bill, as I just stated to the gentleman, all references to food stamps, so all limitations would be removed as well.

Mr. MAYNE. Including the Dickinson amendment?

Mr. FOLEY. Yes.

Mr. MAYNE. I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington that the amendment be considered as read?

There was no objection.

The CHAIRMAN. Members standing at the time the motion was made will be recognized for 1 minute each.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, the purpose of offering this substitute is to attempt to bring some orderly conclusion to the very long and difficult consideration of this bill. I do not think I can recall a more difficult bill than this—at least not recently.

The substitute eliminates from the bill, at least for the action of this body at this time, the two sections upon which there is the most disagreement. Much agreement exists on this bill. Many of us, I think, are in agreement that we need a viable agricultural program, particularly in times when there is a need, as never before, for increased production of food and fiber.

Most of us are concerned that we have a food stamp program. The food stamp program has already expired. If this bill does not pass, we will not have a program and 12.5 million citizens will be disadvantaged. I ask the Members to support the substitute bill as the best means to move a bill to conference.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Chairman, I originally had an amendment at the desk relating to section 8 of the bill. Given the parliamentary situation as it presently stands, I will withdraw that and try to get something through the conference.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding. Mr. Chairman, we could ask the gentleman from Washington this question: If there is no legislation, does that mean the food stamp program expires September 30?

Mr. FOLEY. Mr. Chairman, if the gentleman will yield to me, if there is no legislation and no further continuing resolution under the appropriations act, the food stamp program will expire on September 30. The gentleman is correct.

Mr. ROUSSELOT. So, if we were to pass this bill and nothing happened in the conference, which I suppose is at least a possibility, there would be no food stamp program after September 30?

Mr. FOLEY. Correct.

Mr. ROUSSELOT. Then, the gentleman evidently is willing to jeopardize that program with his motion?

Mr. FOLEY. I think the gentleman knows that I am a very strong supporter of the food stamp program. I personally cannot imagine this Congress failing to act and thus killing the food stamp program on September 30. But we are not going to have a food stamp program if we cannot agree to some form of this bill.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, this country needs a farm bill. We have a surplus in our trading posture only in the area of agriculture. We have got to improve even that position. Now, it has come time to be practical or impractical.

If the Members want a farm bill, regardless of what their opinions are on cotton, regardless of what their opinions are on food stamps, and we have all stated them today on every side of the fence, then let us vote for this substitute and let us send this bill to conference and let us write a farm bill and see whether or not we like it and then we can vote it up or down. There are no provisions in the substitute bill pertaining to either cotton or food stamps. Do not amend the substitute. Do not add cotton or food stamps.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Chairman, is the gentleman saying that we should beat the Foley substitute?

Mr. WAGGONNER. No, I am saying we should vote for the Foley substitute without amendment.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CONTE) is recognized.

Mr. CONTE. Mr. Chairman, I hope that the Foley substitute is not adopted. I have worked very hard with Mr. Foley on food stamps, and I am 100 percent in favor of them, but I certainly resent the fact that his substitute deletes the cotton section.

Everything we did here last week, the $20,000 limitation, plugging the loopholes, is down the drain. The $10 million we cut out of here for that cotton slush fund in New York City is down the drain. Everything will be put back in over in the Senate, so I hope the Foley substitute will be defeated. Then, when we get back into the House, I will ask for a separate vote on the Bergland amendment which knocks out the cotton section, without the $10 million for Cotton, Inc., and send the bill over to the Senate in that fashion.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

(By unanimous consent, Mr. ROUSSELOT yielded his time to Mr. MAYNE).

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I should like to associate myself with the remarks of the gentleman from Massachusetts (Mr. CONTE) and to remind the Members of the House it is not too late to put back into the bill the $20,000 per person payment limitations on Big Cotton and other progressive measures eliminating the sale and lease of cotton allotments and the $10 million payment to Cotton, Inc., which were stricken by the Bergland amendment on Monday of this week. The House can still put some effective limitations on the big cotton interests, although on last Monday where by a parliamentary maneuver which came up very unexpectedly placed in a position where we temporarily lost all the good work done last week. We have an opportunity to retrieve it now. Let us again pass the $20,000 per person limitation, plug up the loopholes of leasing and selling allotments and stop the $10 million subsidy to Cotton, Inc. By defeating the Foley amendment we can win back what we lost earlier this week.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. PRICE).

(By unanimous consent, Mr. PRICE of Texas yielded his time to Mr. DICKINSON.)

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. DICKINSON).

AMENDMENT OFFERED BY MR. DICKINSON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. DICKINSON. Mr. Chairman, I offer an amendment to the Foley substitute amendment.

Mr. Chairman, very simply stated, this is putting us back where we were.

The Clerk read as follows:

Amendment offered by Mr. DICKINSON to the amendment in the nature of a substitute offered by Mr. FOLEY: At page 54, line 7, insert the following:

SEC. 4. (a) The Food Stamp Act of 1964, as amended is amended by inserting in Section 5 thereof the following:

"(e) Notwithstanding any other provision of law, a household shall not participate in the food stamp program while its principal wage-earner is, on account of a labor dispute to which he is a party or to which a labor organization of which he is a member is a party, on strike: *Provided*, That such ineligibility shall not apply to any household that was eligible for and participating in the food stamp program immediately prior to the start of such strike, dispute, or other similar action in which any member of such household engages: *Provided further*, That such ineligibility shall not apply to any household if any of its members is subject to an employer's lockout."

(b) Section 3 of such Act is further amended by adding at the end thereof the following new subsections:

"(o) The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or condition of work.

"(p) The term 'strike' includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement)."

Mr. DICKINSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. FOLEY. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Washington reserves a point of order.

Mr. DICKINSON. Mr. Chairman, we have been up this hill twice this afternoon. I believe we all understand what is involved. The House has spoken twice.

What we are faced with now is an end run, it seems, rather than a frontal assault.

I believe my amendment is a good amendment. It simply restores us to where we were, eliminating the food stamps for those who are on strike, unless they are already qualified, and not for the people who are locked out.

I urge support of the amendment and ask that every Member vote "aye."

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Washington insist on his point of order?

Mr. FOLEY. Mr. Chairman, I do.

The amendment deals with the food stamp program, and amends a bill which does not contain any section referring to the food stamp program and which does not authorize any food stamp program. The amendment is in the nature of a limitation on the authority which is not authorized or described in the substitute amendment.

Mr. GERALD R. FORD. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. GERALD R. FORD. Mr. Chairman, the bill which came from the committee had a food stamp section. The gentleman from Washington seeks to strike from the committee bill the food stamp section. The attempt of the gentleman from Alabama is to provide a provision in the committee bill. Therefore, in my opinion the gentleman's point of order does not lie.

The CHAIRMAN (Mr. NATCHER). The Chair is ready to rule.

In the opinion of the Chair, the point of order must be overruled. The amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY) would amend a number of agricultural acts within the jurisdiction of the Committee on Agriculture, including agricultural programs under the Agricultural Act of 1970.

In the opinion of the Chair, the amendment in the nature of a substitute is broad enough in its scope to permit the offering of the amendment at this time, and it is germane.

The Chair, therefore, overrules the point of order.

The question is on the amendment offered by the gentleman from Alabama (Mr. DICKINSON) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Chairman announced that the Chair was in doubt.

RECORDED VOTE

Mr. DICKINSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 207, not voting 19, as follows:

[Roll No. 358]

AYES—208

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Baker
Beard
Bennett
Blackburn
Bowen
Bray
Breckinridge
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Byron
Camp
Carter
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collier
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Wis.
Dennis
Derwinski
Devine
Dickinson
Dorn
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Findley
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Froehlich
Gettys
Gibbons
Ginn
Goldwater
Goodling
Green, Oreg.
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hammerschmidt
Hanrahan
Harsha
Harvey
Hastings
Hébert
Henderson
Hinshaw
Hogan
Holt
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Ichord
Jarman
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Tenn.
Keating
Ketchum
Kuykendall
Landrum
Latta
Lott
Lujan
McClory
McCollister
McEwen
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Milford
Miller
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Calif.
Myers
Natcher
Nelsen
Nichols
O'Brien
Parris
Pettis
Poage
Powell, Ohio
Preyer
Price, Tex.
Pritchard
Quie
Quillen
Regula
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncallo, N.Y.
Rose
Rousselot
Runnels
Ruth
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Skubitz
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Thone
Towell, Nev.
Treen
Vander Jagt
Veysey
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion
Zwach

NOES—207

Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Barrett
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Boggs
Boland
Bolling
Brademas
Brasco
Breaux
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton

Carey, N.Y.
Carney, Ohio
Casey, Tex.
Chisholm
Clark
Clay
Cleveland
Collins, Ill.
Conyers
Corman
Cotter
Culver
Daniels, Dominick V.
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm
Dent
Dingell
Donohue
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Foley
Ford, William D.
Fraser
Fulton
Gaydos
Giaimo
Gilman
Gonzalez
Grasso
Gray
Green, Pa.
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hillis
Holifield
Holtzman
Horton
Howard
Hungate
Johnson, Calif.
Jones, Ala.
Jones, Okla.
Jordan
Karth
Kastenmeier
Kazen
Kluczynski
Koch
Kyros
Leggett
Lehman
Litton
Long, La.
Long, Md.
McCloskey
McCormack
McDade
McFall
McKay
McKinney
McSpadden
Macdonald
Madden
Mailliard
Maraziti
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mezvinsky
Minish
Mink
Mitchell, Md.
Moakley
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Pike
Podell
Price, Ill.
Railsback
Randall
Rangel
Rarick
Rees
Reuss
Riegle
Rinaldo
Rodino
Roe
Roncalio, Wyo.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ruppe
Ryan
St Germain
Sarbanes
Schroeder
Seiberling
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Steele
Stratton
Studds
Sullivan
Symington
Thompson, N.J.
Thornton
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waggonner
Waldie
Walsh
Whalen
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Wyatt
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki

NOT VOTING—19

Blatnik
Danielson
Diggs
Downing
Fisher
Fuqua
Griffiths
Kemp
King
Landgrebe
Lent
Mills, Ark.
Minshall, Ohio
Mollohan
Owens
Patman
Reid
Stokes
Talcott

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BURKE OF MASSACHUSETTS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. BURKE of Massachusetts. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Washington.

The Clerk read as follows:

Amendment offered by Mr. BURKE of Massachusetts to the amendment in the nature of a substitute offered by Mr. FOLEY: Page 61, after line 5, add the following new section:

"SEC. 8. Notwithstanding any other provision of law, the Secretary of Agriculture is hereby authorized to distribute, upon request and without cost, under such conditions as the Secretary determines to be appropriated, seeds and plants for use in home gardens to produce food for the personal consumption of the household. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section."

The CHAIRMAN. All time has expired on the amendment and on the bill.

The question is on the amendment offered by the gentleman from Massachusetts (Mr. BURKE) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and on a division (demanded by Mr. BURKE of Massachusetts) there were—ayes 132, noes 151.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. ROSENTHAL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The Clerk read as follows:

Amendment offered by Mr. ROSENTHAL to the amendment in the nature of a substitute offered by Mr. FOLEY: in title I of the Foley amendment strike out paragraph 811 dealing with the Emergency Supply of Agricultural Products.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ROSENTHAL) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

Mr. ROSENTHAL. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

PARLIAMENTARY INQUIRY

Mr. SCHERLE. Mr. Chairman, a parliamentary inquiry. Did not the gentleman from Washington move that all amendments to the bill and all amendments to the amendments be shut off at 6 o'clock?

The CHAIRMAN. The Chair would like to inform the distinguished gentleman from Iowa that all time on the bill has expired. All debate on the bill and on the amendments thereto has expired. Amendments are in order to be voted upon with no time given.

PARLIAMENTARY INQUIRY

Mr. ICHORD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ICHORD. Mr. Chairman, I understand that the gentleman from Washington has offered a substitute amendment and that he stated that all amendments are included that were accepted on this bill except the Dickinson amendment, and amendments except that were incorporated into the substitute. I would like to inquire of the Chair whether my amendment adopted to the Foley amendment is in the substitute.

The CHAIRMAN. The Chair would like to suggest that that inquiry be directed to the gentleman from Washington (Mr. FOLEY) but all time has expired. The gentleman will have to do that privately.

Mr. ICHORD. I thank the Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ROSENTHAL) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. CONTE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. CONTE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The Clerk read as follows:

Amendment offered by Mr. CONTE to the amendment in the nature of a substitute offered by Mr. FOLEY: On page 27, line 5, insert the following:

COTTON PROGRAM

Suspension of Marketing Quotas for Cotton, Minimum Base Acreage Allotment

(19) Section 601 is amended by—

(A) striking out "1971, 1972, and 1973" wherever it appears therein and inserting "1971 through 1977",

(B) striking "1970, 1971, and 1972" from paragraph (2) and inserting "1970 through 1976",

(C) effective beginning with the 1974 crop, striking out the following from section 344a (a) in section 601 "for which a farm base acreage allotment is established (other than pursuant to section 350(e) (1) (A))",

(D) striking "1974" from paragraph (3) (1) and inserting "1978", and by striking "1972 and 1973" from paragraph (4) and inserting "1972 through 1977",

(E) effective beginning with the 1974 crop, adding at the end of section 350(a) in paragraph (4) of section 601 the following: "The national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.",

(F) effective beginning with the 1974 crop, striking "soybeans, wheat or feed grains" from the last sentence of section 350(e) (2) in paragraph (4) of section 601 and inserting "soybeans, wheat, feed grains, guar, castor beans, or such other crops as the Secretary may deem appropriate".

(G) effective beginning with the 1974 crop, striking the words "an adjoining" in the first sentence of section 350(h) as found in paragraph (4) of section 601, and inserting in lieu thereof "any other nearby",

(H) effective beginning with the 1974 crop, striking subsection 350(g) in paragraph (4) of section 601 and redesignating subsection (h) as subsection (g).

Cotton Production Incentives

(20) Section 602 is amended by—

(A) striking "1971, 1972, and 1973" wherever it appears therein and inserting "1971 through 1977", by striking "the 1972 or 1973 crop" where it appears in that part amending section 103(e) (1) of the Agricultural Act of 1949 and inserting "any of the 1972 through 1977 crops", and by striking out "acreage world price" in that part amending section 103(e) (1) of the Agricultural Act of 1949, and substituting "average price of American cotton in world markets";

(B) in that part amending section 103(e) (1) of the Agricultural Act of 1949 striking out "two-year period" whenever it appears therein and substituting "three-year period"; and by striking out that part beginning with "except that" in the first sentence and substituting "except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price.";

(C) effective, beginning with the 1974 crop, amending section 103(e) (2) of the Agricultural Act of 1949, as it appears in such section 602 to read as follows:

"(2) Payments shall be made for each crop of cotton to the producers on each farm at a rate equal to the amount by which the higher of—

"(1) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

"(2) the loan level determined under paragraph (1) for such crop

is less than the established price of 38 cents per pound adjusted for each of the 1975 through 1977 crops to reflect any changes in the index of prices paid by farmers for production items, interests, taxes, and wage rates: *Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (1) the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers on a farm are prevented from planting, or if planted, prevented from harvesting any portion of the allotment to cotton, because of drought, flood, or other natural disaster, or condition beyond the control of the producer, the rate of payment for such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The payment rate with respect to the producer who (i) is on a small farm (that is, a farm on which the base acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 350(a)), (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased by 30 per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3)."

(D) effective beginning with the 1974 crop, section 103(e)(3) of the Agriculture Act of 1949 is amended (A) by srtiking out all of the first sentence after the word "multiplying" and substituting "the farm base acreage allotment for the farm for the crop by the average yield established for the farmer." and (b) by striking out the second sentence,

(E) the fourth sentence of section 103(e)(4)(A) of the Agricultural Act of 1949 as found in section 602 is amended to read as follows: "The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income."

(F) inserting after the second sentence of section 103(e)(5) of the Agricultural Act of 1949 as it appears in such section 602 the following: "The Secretary may in the case of programs for the 1974 through 1975 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences."

Commodity Credit Corporation sales price restrictions for cotton

(21) Section 603 is amended by striking out "1974" and inserting "1978", and by deleting "110 per centum" and inserting in lieu thereof "115 per centum".

Miscellaneous cotton provisions

(22) Sections 604, 605, 606, and 607 are each amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Cotton insect eradication

(23) Title VI is amended by adding at the end thereof the following:

"SEC. 611. Section 104 of the Agricultural Act of 1949, as amended, is amended by adding a new subsection (d) as follows:

"'(d) In order to reduce cotton production costs, to prevent the movement of certain cotton plant insects to areas not now infected, and to enhance the quality of the environment, the Secretary is authorized and directed to carry out programs to destroy and eliminate cotton boll weevils in infested areas of the United States as provided herein and to carry out similar programs with respect to pink bollworms or any other major cotton insect if the Secretary determines that methods and systems have been developed to the point that success in eradication of such insects is assured. The Secretary shall carry out the eradication programs authorized by this subsection through the Commodity Credit Corporation. In carrying out insect eradication projects, the Secretary shall utilize the technical and related services of appropriate Federal, State, private agencies, and cotton organizations. Producers and landowners in an eradication zone, as established by the Secretary, and who are receiving benefits from any program administered by the United States Department of Agriculture, shall, as a condition of receiving or continuing any such benefits, participate in and cooperate with the eradication project, as specified in regulations of the Secretary.

"'The Secretary may issue such regulations as he deems necessary to enforce the provisions of this section with respect to achieving the compliance of producers and landowners who are not receiving benefits from any program administered by the United States Department of Agriculture. Any person who knowingly violates any such regulation promulgated by the Secretary under this subsection may be assessed a civil penalty of not to exceed $5,000 for each offense. No civil penalty shall be assessed unless the person shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Where special measures deemed essential to achievement of the eradication objective are taken by the project and result in a loss of production and income to the producer, the Secretary shall provide reasonable and equitable indemnification from funds available for the project, and also provide for appropriate protection of the allotment, acreage history, and average yield for the farm. The cost of the program in each eradication zone shall be determined, and cotton producers in the zone shall be required to pay up to one-half thereof, with the exact share in each zone area to be specified by the Secretary upon his finding that such share is reasonable and equitable based on population levels of the target insect and the degree of control measures normally required. Each producer's pro rata share shall be deducted from his cotton payment under this Act or otherwise collected, as provided in regulations of the Secretary. Insofar as practicable, cotton producers and other persons engaged in cotton production in the eradication zone shall be employed to participate in the work of the project in such zone. Funding of the program shall be terminated at such time as the Secretary determines and reports to the Congress that complete eradication of the insects for which programs are undertaken pursuant to this subsection has been accomplished. Funds in custody of agencies carrying out the program shall, upon termination of such program, be accounted for to the Secretary for appropriate disposition.

"'The Secretary is authorized to cooperate with the Government of Mexico in carrying out operations or measures in Mexico which he deems necessary and feasible to prevent the movement into the United States from Mexico of any insects eradicated under the provisions of this subsection. The measure and character of cooperation carried out under this subsection on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds made available by the Secretary under this subsection, shall be such as may be prescribed by the Secretary. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State. There are hereby authorized to be appropriated to the Commodity Credit Corporation such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this subsection.'."

(24) Section 374(a) of the Agriculture Adjustment Act of 1938, as amended, is hereby amended by adding the following new sentence: "Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1977 crops."

Mr. CONTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 165, not voting 18, as follows:

[Roll No. 359]

AYES—250

Abzug
Adams
Addabbo
Anderson,
Calif.
Anderson, Ill.
Annunzio
Archer
Armstrong
Ashbrook
Ashley
Aspin
Badillo
Bafalis
Barrett
Bell
Bennett
Bergland
Biaggi
Biester
Bingham
Boland
Brademas
Brasco
Bray
Broomfield
Brotzman
Brown, Mich.
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Carey, N.Y.
Carney, Ohio
Cederberg
Chamberlain
Chisholm
Clancy
Clark
Clausen,
Don H.
Clawson, Del
Clay

Cleveland
Cohen
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Cronin
Culver
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Wis.
Delaney
Dellenback
Dellums
Dennis
Derwinski
Dingell
Donohue
Drinan
Dulski
du Pont
Edwards, Calif.
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Fascell
Findley
Fish
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Gaydos
Giaimo
Gibbons
Gilman
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Gross
Grover
Gubser
Gude
Gunter
Guyer
Hamilton
Hanley
Hanrahan
Hansen, Idaho
Harrington
Harsha
Harvey
Hastings
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hinshaw
Holt
Holtzman
Horton
Hosmer
Howard
Huber
Hudnut
Hutchinson
Johnson, Colo.
Johnson, Pa.
Karth
Keating
Kluczynski
Koch
Kyros
Latta
Lehman
Long, Md.
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McKay
McKinney
Macdonald
Madden
Mailliard
Mallary
Maraziti
Martin, N.C.
Mayne
Mazzoli
Metcalfe
Mezvinsky
Michel
Miller
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moorhead, Calif.
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Nedzi
Nix
Obey
O'Brien
O'Hara
Patten
Pepper
Pettis
Peyser
Pike
Podell
Powell, Ohio
Price, Ill.
Pritchard
Railsback
Rangel
Rees
Regula
Reuss
Riegle
Rinaldo
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Ruppe
Ryan
St Germain
Sarasin
Sarbanes
Scherle
Schneebeli
Schroeder
Seiberling
Shipley
Shuster
Smith, Iowa
Smith, N.Y.
Snyder
Stanton, J. William
Stanton, James V.
Steele
Steelman
Steiger, Wis.
Stratton
Stuckey
Studds
Sullivan
Symington
Symms
Taylor, Mo.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Van Deerlin
Vander Jagt
Vanik
Waldie
Walsh
Wampler
Ware
Whalen
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Zablocki
Zion

NOES—165

Abdnor
Alexander
Andrews, N.C.
Andrews, N. Dak.
Arends
Baker
Beard
Bevill
Blackburn
Boggs
Bolling
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carter
Casey, Tex.
Chappell
Cochran
Collier
Collins, Tex.
Conlan
Daniel, Dan
Davis, Ga.
Davis, S.C.
de la Garza
Denholm
Dent
Devine
Dickinson
Dorn
Downing
Duncan
Eckhardt
Edwards, Ala.
Evins, Tenn.
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Fountain
Gettys
Ginn
Goldwater
Gonzalez
Haley
Hammerschmidt
Hanna
Hansen, Wash.
Hays
Hébert
Henderson
Hicks
Hillis
Hogan
Holifield
Hungate
Hunt
Ichord
Jarman
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Ketchum
Kuykendall
Landrum
Leggett
Litton
Long, La.
Lott
McCormack
McFall
McSpadden
Madigan
Mahon
Mann
Martin, Nebr.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Meeds
Melcher
Milford
Mink
Mizell
Montgomery
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
O'Neill
Parris
Passman
Perkins
Pickle
Poage
Preyer
Price, Tex.
Quie
Quillen
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Roncalio, Wyo.
Rose
Rousselot
Roybal
Runnels
Ruth
Sandman
Satterfield
Saylor
Sebelius
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Spence
Staggers
Stark
Steed
Steiger, Ariz.
Stephens
Stubblefield
Taylor, N.C.
Teague, Tex.
Thornton
Towell, Nev.
Treen
Udall
Ullman
Veysey
Vigorito
Waggonner
White
Whitehurst
Whitten
Wiggins
Wilson, Charles, Tex.
Winn
Wright
Young, S.C.
Young, Tex.
Zwach

NOT VOTING—18

Blatnik
Danielson
Diggs
Fisher
Fuqua
Griffiths
Kemp
King
Landgrebe
Lent
Mills, Ark.
Minshall, Ohio
Mollohan
Owens
Patman
Reid
Stokes
Talcott

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. FINDLEY. Mr. Chairman, a parliamentary inquiry. I would like to determine, if I can, if the payment limitation language of the Foley substitute is exactly the same as the payment limitation language approved by this committee in this Chamber last week.

POINT OF ORDER

Mr. ALBERT. Mr. Chairman, I make the point of order that that is not a proper inquiry. That is within the language of the legislation as passed.

The CHAIRMAN. The Chair will advise the gentleman from Illinois that the first part of the Foley amendment was read. The Chair is not in a position to advise the gentleman as to his question.

PREFERENTIAL MOTION OFFERED BY MR. GERALD R. FORD

Mr. GERALD R. FORD. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. GERALD R. FORD moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The question is on the motion offered by the gentleman from Michigan.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Mr. Chairman, a parliamentary inquiry. On a preferential motion, Mr. Chairman, do not I get 5 minutes?

The CHAIRMAN. The Chair would like to inform the distinguished minority leader that all of the time has expired on the bill and amendments. There is no time left, and the Chair will put the question on the motion.

RECORDED VOTE

Mr. HOSMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 73, noes 338, not voting 22, as follows:

[Roll No. 360]

AYES—73

Abzug
Adams
Addabbo
Anderson, Calif.
Archer
Ashley
Badillo
Bingham
Buchanan
Burke, Mass.
Carey, N.Y.
Chisholm
Clark
Clay
Cleveland
Conable
Conlan
Conyers
Cotter
Dellums
Derwinski
Downing
du Pont
Eckhardt
Eshleman
Findley
Gaydos
Giaimo
Grasso
Grover
Hanley
Harrington
Hébert
Heckler, Mass.
Helstoski
Holtzman
Hosmer
Howard
Karth
Koch
Kyros
Long, Md.
McKinney
Macdonald
Mailliard
Mazzoli
Minish
Moakley
Pettis
Pike
Rangel
Riegle
Rinaldo
Roe
Rosenthal
St Germain
Sandman
Schneebeli
Snyder
Steele
Steiger, Wis.
Studds
Teague, Calif.
Tiernan
Veysey
Waldie
Whalen
Wiggins
Wolff
Wyatt
Wylie
Yates
Zion

NOES—338

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Ashbrook
Aspin
Bafalis
Baker
Barrett
Beard
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Blackburn
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Bray
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brotzman
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton
Butler
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cochran
Cohen
Collier
Collins, Ill.
Collins, Tex.
Conte
Corman
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Dellenback
Denholm
Dennis
Dent
Devine
Dickinson
Dingell
Donohue
Dorn
Drinan
Dulski
Duncan
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Froehlich
Fulton
Gettys
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gray
Green, Oreg.
Green, Pa.
Gross
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hammerschmidt
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hastings
Hawkins
Hays
Hechler, W. Va.
Heinz
Henderson
Hicks
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Huber
Hudnut
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keating
Ketchum
Kluczynski
Kuykendall
Landrum
Latta
Leggett
Lehman
Litton
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McFall
McKay
McSpadden
Madden
Madigan
Mahon
Mallary
Mann
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne

Meeds
Melcher
Metcalfe
Mezvinsky
Michel
Milford
Miller
Mink
Mitchell, Md.
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Pa.
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Brien
O'Hara
O'Neill
Parris
Passman
Patten
Pepper
Perkins
Peyser
Pickle
Poage
Podell
Powell, Ohio
Preyer
Price, Ill.
Price, Tex.
Pritchard
Quie
Quillen
Railsback
Randall
Rarick
Rees
Regula

Reuss
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rodino
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rooney, N.Y.
Rooney, Pa.
Rose
Rostenkowski
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
Sarasin
Sarbanes
Satterfield
Saylor
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Stanton,
  J. William
Stanton,
  James V.
Stark
Steed
Steelman
Steiger, Ariz.

Stephens
Stratton
Stubblefield
Stuckey
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Treen
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Walsh
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Williams
Wilson, Bob
Wilson,
  Charles H.,
  Calif.
Wilson,
  Charles, Tex.
Winn
Wydler
Wyman
Yatron
Young, Alaska
Young, Fla.
Young, Ga.
Young, Ill.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NOT VOTING—22

Blatnik
Daniels,
  Dominick V.
Danielson
Diggs
Fisher
Fuqua
Griffiths

Hanna
Kemp
King
Landgrebe
Lent
Mills, Ark.
Minshall, Ohio
Mollohan

Moorhead,
  Calif.
Owens
Patman
Reid
Stokes
Talcott
Wright

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. FINDLEY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FINDLEY. Mr. Chairman, under the rules of the House, is there a way that I can secure the reading from the record of the words of the gentleman from Washington (Mr. FOLEY), in regard to the nature of the limitation language in his substitute?

The CHAIRMAN. The Chair would advise the gentleman from Illinois that he may do so by a unanimous-consent request.

If the words are available, such a request is in order.

Mr. FINDLEY. Mr. Chairman, I ask unanimous consent that the words of the gentleman from Washington (Mr. FOLEY) be reread to the House; the words which give explanation as to the effect of his substitute.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. KUYKENDALL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. FINDLEY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. FINDLEY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Findley to the amendment in the nature of a substitute offered by Mr. Foley:

Title I is amended to read as follows:

"TITLE 1—PAYMENT LIMITATION

"SEC. 101. Notwithstanding any other provision of law—

"(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1978 crops of the commodities shall not exceed $20,000.

"(2) The term 'payments' as used in this section includes all price support payments, set-aside payments, diversion payments, and resource adjustment payments but does not include loans or purchases, or any part of any payment which is determined by the Secretary to represent compensation for public access for recreation.

"(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

"(4)(a) In any case in which the owner or operator of a farm leases any portion of the farm to one or more persons, the payment limitation applicable to such person as prescribed by this section, shall be reduced in the same proportion as the allotment remaining on the farm bears to the total allotment prior to such lease: *Provided*, That the payment limitation shall also be reduced on the leased portion of the farm in proportion to the allotment accredited to such portion if the lessee is a member of the lessor's family or is a corporation in which the lessor or member of his family is a stockholder, or a partnership in which the lessor or a member of his family is a partner.

"(b) In any case in which the owner or operator of a farm sells or leases any portion of the acreage allotment for the farm to one or more persons, the payment limitation prescribed by this section shall apply in the same manner as if the lessor or seller had not leased or sold the acreage allotment.

"(5) The Secretary shall issue regulations defining the term 'person' and prescribing such rules as he determines necessary to assure an effective and economical application of such limitation: *Provided*, That the provisions of this Act which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. FINDLEY) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ICHORD TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. ICHORD. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ICHORD to the amendment in the nature of a substitute offered by Mr. FOLEY: Page 54, line 7, insert the following:

Section 5B of the Food Stamps Act of 1964 (7 U.S.C. 2014) is amended by inserting immediately following the second sentence thereof the following: "The standards established by the Secretary shall take into account payments in kind received from an employer by members of a household, if such payments are in lieu of or supplemental to household income."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. MIZELL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. MIZELL. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. MIZELL to the amendment in the nature of a substitute offered by Mr. FOLEY: On page 53, line 3, insert the following:

SEC. 2. (a) Notwithstanding section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(c)) or any other provision of law, the Secretary of Agriculture shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard prohibiting agricultural workers from entering areas where crops are produced or grown (such emergency standard to take immediate effect upon publication in the Federal Register) if he determines (1) that such agricultural workers are exposed to grave danger from exposure to pesticide chemicals, as defined in section 201(q) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(q)), and (2) that such emergency standard is necessary to protect such agricultural workers from such danger.

(b) Such temporary standard shall be effective until superseded by a standard prescribed by the Secretary of Agriculture by rule, no later than six months after publication of such temporary standard.

(c) As of the date of enactment of the Agriculture and Consumer Protection Act of 1973, the regulations issued by the Secretary of Labor under section 6(c) of the Occupational Safety and Health Act of 1970, which appear on pages 10715–10717 of number 83 of volume 38 of the Federal Register of May 1, 1973, shall be null and void with respect to agricultural workers.

POINT OF ORDER

Mr. ECKHARDT. Mr. Chairman, I raise a point of order against the amendment in that it is not germane because it would have the effect of amending the Occupational Safety and Health Act which is under the jurisdiction of the Education and Labor Committee.

The CHAIRMAN. Does the gentleman from North Carolina, (Mr. MIZELL) desire to be heard on the point of order?

Mr. MIZELL. Mr. Chairman, I submit that the gentleman from Texas raises his point of order too late.

The CHAIRMAN. The Chair advises

the gentleman that the point of order was in time.

Does the gentleman from North Carolina desire to be heard on the point of order?

Mr. MIZELL. Mr. Chairman, this language was in the committee bill that was reported to the House, and the Foley substitute eliminated this section of the bill, and so for that reason, I offer the amendment at this time, and I think it is germane to the bill since this bill does cover a number of subjects.

Mr. STEIGER of Wisconsin. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. STEIGER of Wisconsin. Mr. Chairman, the rule under which this legislation came to us precluded a point of order being raised against the Mizell amendment, the one that was contained in the original Agriculture Committee bill since this bill was a clean bill reported by the Committee on Agriculture.

What we are now dealing with is a situation in which this is an amendment to a substitute.

The subject matter covered by the amendment is clearly not germane to the jurisdiction of the Committee on Agriculture, since it is covered by the Committee on Education and Labor, and thus I believe the point of order ought to be sustained by the Chair.

Mr. MIZELL. Mr. Chairman, may I be heard further on the point of order?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. MIZELL. Mr. Chairman, I believe the rule which we were operating under still applied to this amendment, and if that is the case, then I believe this amendment would clearly be in order to this substitute.

The CHAIRMAN (Mr. NATCHER). The Chair is ready to rule.

The Chair advises the gentleman from North Carolina (Mr. MIZELL) that as far as the rule is concerned, it has no relevance concerning the point of order at this time. It is true that the content is the amendment as offered by the gentleman from North Carolina (Mr. MIZELL) on the original bill, but the amendment before the House at this time is in the nature of a substitute.

Therefore, the Chair rules that the point of order must be sustained.

AMENDMENT OFFERED BY MR. STEELE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FOLEY

Mr. STEELE. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. STEELE to the amendment in the nature of a substitute offered by Mr. FOLEY: Page 54, line 7, insert the following:
>
> (c) Insert at the end of section 3(e) of the Food Stamp Act of 1964 the following new sentence: "Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), or section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall not be considered residents of an institution or boarding house for purposes of eligibility for food stamps under this Act."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. STEELE) to the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY).

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Washington (Mr. FOLEY) as amended.

The amendment in the nature of a substitute, as amended, was rejected.

Mr. ANDERSON of California. Mr. Chairman, the Agriculture Act of 1973, H.R. 8860, is going to cost the public enormous sums—either as consumers or as taxpayers.

This proposal establishes record guaranteed prices which, if not received by the farmer in the marketplace, will be paid by the taxpayer.

As a result, the public will be faced with either an enormous grocery bill, or an outrageous tax bill.

How does this work?

First, under the bill, milk producers are guaranteed $5.61 per hundredweight of milk. Currently, they are guaranteed $5.29 per hundredweight, and the market price—what the processor is willing to pay—was $5.49 per hundredweight as late as April 15, 1973.

Thus, to insure that the dairy farmer receives $5.61 for his milk, the taxpayer will have to pay the difference. And since approximately 120 billion pounds of milk are produced annually, we are talking about huge subsidies.

Wheat, another staple in a nutritious diet, is also controlled under this proposal, and a price of $2.05 per bushel is guaranteed wheat producers—a 24-percent increase over 1972, when the average annual price received by farmers was $1.67 per bushel.

While the Agriculture Department predicts that wheat prices in the market will remain high—at $2.15 per bushel—if they are wrong and prices drop, the taxpayer will pay $15 million for every drop in price of a penny below $2.05.

Under this bill, corn producers are guaranteed $1.38 per bushel. The present price in the marketplace is $1.43 per bushel, but only last year the average price was $1.29 per bushel. And in 1971, it was $1.08 per bushel.

Thus, if the price of corn drops below the guarantee—down to $1.37 per bushel—the taxpayer will make up the difference, to the tune of a penny a bushel on each of the 6 billion bushels of corn, or $60 million.

To summarize, the American people will be forced to pay. The only question is, out of which pocket—the grocery pocket or the tax pocket?

According to the Department of Agriculture, under the committee recommendation, the taxpayer will pay in 1974, $812 million to wheat growers; $520 million to corn and feed grain producers; and $166 million to the dairy farmers.

Surely there is a better way to encourage farmers to produce food and fiber, allowing for a reasonable profit, and at prices that Americans can afford to pay.

The place to start is by eliminating the "set aside" requirements which keep valuable land out of production. This practice, which is required for eligibility under several of the subsidy programs, permitted the Agriculture Department to pay farmers to idle a chunk of real estate nearly the size of the State of Colorado last year.

Requiring farmers to idle land can only result in a limited supply of food for the table, and cloth for the mills. This is unconscionable, especially at a time when people in our country are denied adequate nourishment, when grocery prices are sky high, and when a hungry world is vying to buy all we can produce.

Second, the one ray of hope in this proposal is the provision which we adopted prohibiting any farm operator from collecting more than $20,000 in Government subsidies. Last year, 18,585 operations received subsidies totaling $655.8 million in excess of $20,000. And for what? According to Secretary of Agriculture Earl Butz—

> The payment is almost entirely, if not entirely, an income supplement because you get it without really doing anything to earn it.

However, that ray of hope grows much dimmer when we examine the "cotton loophole" which is big enough to drive a combine through. The bill before us today eliminates the subsidy limitation affecting the cotton growers. The 1970 law which limited Government payments to $55,000 per person does not even apply. In fact, there would be no limitation whatever.

In other words, agribusinesses, such as the California firm which collected $4.4 million in cotton subsidies in 1970, would be permitted to return to their old practice of collecting huge Government subsidies.

In addition, this proposal establishes a minimum Government loan rate of 41.5 cents per pound of cotton. In 1972, market prices were not even close to that—the producers received less than 27 cents a pound. In effect, if that price remained, the taxpayer would chip in 14.5 cents for every pound of cotton produced.

Since expected production for 1973-74 is almost 12,000,000 bales—at 480 pounds per bale—simple arithmetic shows that the cotton program could cost the taxpayer an estimated $826.5 million annually if prices leveled at the 1972 prices.

According to the Department of Agriculture, in 1972 it cost a cotton producer approximately 28 cents to produce 1 pound of cotton. Thus, he may be assured of a 13-cent-a-pound profit on every pound of cotton grown. That amounts to a $62 profit per bale of cotton.

At these rates, why grow corn, or why raise cattle? For that matter, why drive a cab or work in a factory?

Mr. Chairman, the small farmer works hard and receives little monetary reward for his efforts. He should be encouraged to stay on the land and continue to work the fields. But, this program really benefits the rich and allows them to grab up even more land and, thus, drive the marginal farmer off the land.

This kind of welfare for the rich must be ended.

Mr. Chairman, the taxpayer is tired of paying his hard earned dollars to the Government to use in an easy-come easy-go manner.

The consumers do not mind paying a fair price for a good product but they do mind paying artificially inflated prices caused by Government stupidity.

Let us defeat this proposal, end the waste of tax dollars, and come back with an agriculture bill that allows the farmer to produce, and receive a fair profit for his efforts, and at the same time, keeps the small farmer in business.

Mr. BEARD. Mr. Chairman, as a cosponsor of the pending amendment, I want to take just a moment to commend the gentleman from Alabama (Mr. DICKINSON) and others who have worked so hard to promote the adoption of this measure prohibiting issuance of food stamps for strikers.

To those who say there is another side to this coin—that say in some cases there is some justification to providing food stamps to voluntary strikers, I would agree. There are two sides to every coin. However, there are no two sides to the argument that if this amendment is not adopted, an estimated $240 million dollars will go to finance food stamps to individuals who could be working. This is $240 million dollars that will not go to aid the involuntary poor—mothers with dependent children, welfare families, the aged, the blind, and the disabled.

We are being given a choice today. Do we continue a system which has been misdirected to divert aid to those who have temporarily given up their earning power for the promise of greater future returns or do we seek reform of that system to aid those who really need its assistance?

I urge that we make this reform.

Mr. MAHON. Mr. Chairman, before the final vote is taken on the pending farm bill I want to place in the RECORD some views in regard to agriculture which I consider to be of importance to the Nation and which I feel should be included in the debate on the bill today.

NEED FOR BETTER FARM LEGISLATION

Mr. Chairman, last week and early this week the Poage bill providing for a new farm program was before the House. Today we resume consideration of this vitally important measure. Out of the lengthy debate that we have heard, one clear point should have emerged. This nation totally depends on a strong and healthy agricultural base, and indeed has an evergrowing need for a greater abundance of all agricultural products. Indeed, the President on yesterday stated:

> The stability of the American economy in the months and years ahead demands maximum farm output. I call upon the American farmer to produce as much as he can.

Our best hope for saving the dollar, our best hope for fighting world hunger, our best hope for keeping our Nation economically strong and physically healthy is American agriculture. This is a broad statement but it is positively correct.

There is nothing that we, as Americans, do better than grow food and fiber—and regretfully there is nothing that Americans generally seem to understand less.

IMPORTANCE OF AGRICULTURE TO UNITED STATES

When one lives in certain nonagriculture sections of the Nation it is understandable that he would not have a thorough appreciation of what is involved in getting breakfast to the table or clothes on the back and the tremendously positive effect that agriculture has on our Nation's economy.

And one of the real dangers this Congress faces is to act precipitously on amendments, as the House did last week and as the House has done today that substantively destroy basic farm programs on which our Nation depends.

We need to stand back and gain some perspective about the role and problems of agriculture in our country.

Farming in America is a big business—the biggest, in fact—and like it or not, it is based on incentives. Farm production costs go up year after year, and sooner or later farm prices also must inevitably rise. There is no other way the farmer can continue to pump billions into our economy, providing such a substantial chunk of the paycheck of American factory workers.

Through farm programs we have, in the past, cushioned consumers against and even protected them completely from the brunt of cost increases. But farm programs have gotten a black eye because they have been inaccurately seen solely as a means of withholding production. There has been widespread distortion and misunderstanding of the facts.

This Nation has long been the leading agricultural nation of the world. Today, more than ever before, the United States is called on to help feed and clothe a large proportion of the entire world. Indeed, if we fail, millions throughout the world will suffer and perhaps even perish. In fact, if the United States fails there is absolutely no other nation that has the capability to feed and clothe a large portion of the entire world.

AGRICULTURE'S IMPACT ON THE ECONOMY

Today in the United States, 3 jobs out of every 10 are directly or indirectly related to agriculture. Besides this direct contribution, the farmer is also one of the best customers that American industry has—from basic industries like steel, chemicals, to machinery, trucks, petroleum, and fertilizer—for a total of 20 percent of basic industry products.

The report of the 1974 agriculture appropriation bill clearly shows the magnitude of the impact of agriculture on our economy and hence its importance to us all—

> Farmers' investment in land and equipment necessary to farm totals over $355 billion, equal to roughly one-half of the market value of all corporate stocks on the New York Stock Exchange; or to about three-fifths of the value of the capital assets of all corporations in the United States. Every time the farmer plants a crop, he risks all these assets accumulated through many years. His return on his equity was only about 2.8 percent in 1971.

$12 BILLION CONTRIBUTION TO BALANCE OF TRADE

Americans have in the past few months become painfully aware of the problems of the dollar around the world. In 1972 we had a trade deficit of $6.8 billion, the first since the industrial revolution evolved. Another damaging trade deficit is anticipated in 1973.

But imagine how our problems would have been magnified if we had not exported some $12 billion of U.S. agricultural products in the fiscal year that just ended.

Without a doubt, agricultural products offer the brightest promise to save the dollar. Many people think it will be possible to export $20 billion of our agricultural products in 1974, if we can produce enough. This is the only thing that can make a major contribution toward balancing the enormous cost of oil that we will have to import and the net trade drain on manufacturing products that is likely to occur. Mr. Chairman, it may be hard for some Members to realize, but agriculture is now the only part of the American economy that offers the hope of correcting our intolerable international trade imbalance. The situation has deteriorated to the point that agriculture is the only hope, Mr. Chairman.

DANGEROUS AMENDMENTS TO THE FARM BILL

Thus, rather than adopting amendments which make it more difficult for the farmer to operate and produce and for research to be conducted on food and natural fibers, we should be adopting amendments which do just the opposite.

OPPOSITION TO PAYMENT LIMITATION

In fact, Mr. Chairman, it seems to me that the amendment the House adopted which drastically limits farm payments is a movement totally in the wrong direction. I would hope that the Congress would have the wisdom to correct this mistake. This amendment, in my opinion, is confiscatory and totally disruptive to the great cotton industry and the feed grain industry of our Nation. I thoroughly deplore it and will continue working against it, although I realize that many Members are totally committed to it.

Agriculture—more than any other industry—is singled out as an example of one that is heavily subsidized and frequently as one that is subsidized without merit. The word subsidy has become so ingrained in the typical nonfarmer's view of agriculture that rational discussion of the issue has become almost impossible. Sweeping statements—and indictments—are uttered with breathtaking ease, and counterarguments find all too few who will listen.

The idea that because the Government does provide farm programs many farmers are getting rich from farm programs simply does not hold up. Why are not more people going into farming? Why are these charges almost without exception unspecific and generally stated? Are those who make these charges adequately informed on the subject? I really believe they are not.

Even so, farm payments—worse, those who receive them—are singled out for increasing criticism and abuse. The familiar theme, expressed over and over again, is that farm payments are handouts, something-for-nothing, a means of getting rich at taxpayer expense. This is an unacceptable distortion. When the farmer adds up his income receipts he finds that he has a dollar return to investment that is lower than any major industry would tolerate.

Existing law provides for a $55,000 payment limitation. There should be no further discrimination against larger farmers simply because they are large, discrimination which takes away from small farmers the opportunity to get larger and become more efficient and be more meaningful contributors to the agricultural engine of the Nation.

Has anyone ever suggested placing a limit on the size of defense contracts?

Should we put an arbitrary limit on the size of subsidies to the maritime industry?

What about the railroads and airlines? If the principle applies well in agriculture, then why should it not be applied to others who receive subsidies from the Federal Government?

It is a sad commentary that the performance of American agriculture is coveted all over the world, and yet too often is discounted as virtually insignificant here at home.

Agriculture and the farmer remain as the cornerstone of our economy.

Farm efficiency has freed and will continue to free millions from the farm to work in factories and churn out thousands of consumer goods that make the living in America easier than anywhere else in the world. Yet, agriculture, it seems, has become the whipping boy.

IMPORTANCE OF COTTON

Mr. Chairman, I would now like to speak about the importance of cotton to the United States and to the entire world. Last week, it seemed some Members were trying to make it national anticotton week in the House.

Hurtful amendments relating to farm subsidy payments and Cotton Incorporated should not have been adopted. It is urgently necessary that these amendments be sharply modified or abandoned.

Let me briefly list some of the vast contributions that cotton makes to the American people.

Last year, cotton produced 1.6 billion pounds of protein for a protein-starved world and 1.4 billion pounds of cottonseed oil were also produced which greatly added to the diets of people throughout the world. In fact, next month in Lubbock, Tex., a plant will begin producing a high-protein food concentrate from cottonseed. This development holds great promise as an important new source of low-cost protein to help meet the world's critical food needs.

Last year, cottonseed provided 3.6 billion pounds of feed for livestock, which was 15 percent of all protein concentrates fed to livestock.

Over 10 billion square yards of textile materials were produced from cotton. Cotton textile fibers accounted for 35 percent of the apparel market, 32 percent of the home furnishings, and 26 percent of the industrial fabrics market.

In past years cotton exports totaled $400 to $500 million. This year these exports may reach or exceed $750 million. The contribution of this to our balance of trade is enormous.

In addition, Mr. Chairman, cotton accounts for direct employment of more than 5.2 million persons and for another 12.8 million employees and dependents who are tied closely to the cotton industry. These jobs are scattered throughout the Nation and not just in the cotton producing areas themselves.

COTTON HELPS MODIFY ENERGY CRISIS

There is another very important point that all Members should be aware of. Cotton and other natural agricultural products, unlike synthetic fibers and food supplements, do not require the use of irreplaceable energy resources, such as petroleum products, for their development. Water and sunlight are the basic energy sources for cotton and are not irreplaceable like the energy sources used in synthetic fibers. This is tremendously significant in view of our critical energy needs.

Mr. Chairman, in view of these impressive facts and the current food needs of the world, it just does not make sense for Congress to pass amendments that will make it more difficult for the farmer to grow his crops.

CONTRIBUTIONS OF COTTON, INC.

As indicated, the House adopted an amendment last week which removes Government funds from Cotton, Inc. This was a mistake.

Cotton, Inc., has been making a vital contribution in research on cotton fiber and textile and cotton food products which are so essential to a protein-hungry world. To attempt to hinder this research makes no sense, in my judgment.

I hope, Mr. Chairman, that greater wisdom will prevail in the House and Senate and that the final version of the new farm bill will be made more acceptable.

I take note of a recent column in the New York Times by the well-known economist, Eliot Janeway, which very accurately sums up the importance of American agriculture. It states:

> Agriculture has long been the perennial orphan of the American economy. But as the world economy is structured today, no country can manage, no government can survive, no economy can stabilize itself without continuous access to American agricultural products—especially American feed crops.

Mr. Chairman, it must be agreed that this Congress should develop a strong farm program. The urgency is very great. I am stating these views with the hope that they may be helpful toward the solution of our problems.

The bill before us contains many unacceptable amendments and provisions. But, if we are to have a farm bill, it seems appropriate to send this measure to conference between the House and Senate and strive for modifications and changes. We must find a way to achieve a reasonably adequate program.

Mr. ALEXANDER. Mr. Chairman, I rise at this time to make some remarks in support of one of the provisions of this bill before us today which I believe is of major importance to all our citizens. The provision to which I refer is title X and the programs authorized under it to encourage and promote improved fish and wildlife enhancement and conservation practices among our Nation's private, agricultural landowners.

As members of the Committee on Agriculture, we worked closely with many wildlife conservationists in formulating these provisions. Why do I favor such a program? Residents of the countryside live daily with the game and fish and know the wonders of the animal kingdom. They have a natural interest in seeing that the game and fish populations prosper. Many of them have expressed concern to me and others of my colleagues about the need for encouraging the expansion of fish and wildlife populations.

The problems they face are the same as many others face in attempting to work for the general interest of our Nation—a shortage of the cash with which to carry on their efforts. What title X does, is make it possible for the Secretary of Agriculture to carry on a realistic, practical and workable program involving our farm families in expanding their activities on behalf of fish and wildlife.

This program provides the Secretary with the authority to enter into long range contracts—up to 25 years—with eligible landowners and operators to engage in a cost sharing and grant assistance program to carry-out programs to increase our supplies of deer, squirrels, doves, turkeys, bass, trout, and other such wildlife and fish.

The resources and management capabilities of our public agencies are geared to working with the big picture and the big tract of land. The services that they perform are vital to our efforts in this field. But, they can do only so much with the limited resources at their hand.

It is very easy to see that the programs which are authorized under title X can have a dramatic effect on the future of our efforts in fish and wildlife enhancement.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill (H.R. 8860) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices, pursuant to House Resolution 478, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. ROSENTHAL. Mr. Speaker, I demand a separate vote on the so-called Froehlich amendment, dealing with page 41, line 10.

The SPEAKER. Is a separate vote demanded on any other amendment?

Mr. MIZELL. Mr. Speaker, I demand a separate vote on the Bergland amendment, which struck section 2 of the bill, the emergency standards.

The SPEAKER. Is a separate vote demanded on any other amendment?

Mr. CONTE. Mr. Speaker, I demand a separate vote on the Bergland amendment, dealing with page 27, line 4 through page 36, line 15.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The Clerk will report the first amendment appearing in the bill on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 27, line 4, strike out on page 27 all of line 4 and the remainder through page 36 line 15 and renumber the succeeding paragraphs of section 1 of the bill accordingly.

The amendment was rejected.

The SPEAKER. The Clerk will report the next amendment appearing in the bill on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: On page 41 after line 10, insert the following:

EMERGENCY SUPPLY OF AGRICULTURE PRODUCTS

SEC 811(a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, under the provisions of this Act, assist farmers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.

(b) The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive Order for any agricultural products (at any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the product will be reduced to unacceptably low levels as a result of the freeze or subsequent modification thereof and that alternative means for increasing the supply are not available.

(c) Under this section, the term "agricultural products" shall include meat, poultry, vegetables, fruits and all other agriculture commodities.

The SPEAKER. The question is on the amendment.

PARLIAMENTARY INQUIRIES

Mr. GERALD R. FORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. GERALD R. FORD. Mr. Speaker, my parliamentary inquiry is this: Is my understanding correct that this is the so-called Froehlich amendment?

The SPEAKER. The Chair will state that the gentleman from Michigan is correct.

Mr. GERALD R. FORD. Mr. Speaker, one further parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. GERALD R. FORD. My parliamentary inquiry is this, Mr. Speaker: The previous amendment that was voted on, what amendment was that? Which one of the so-called Bergland amendments was it?

The SPEAKER. The Chair will state to the gentleman from Michigan that the Chair is endeavoring to put the amendments in the order in which they appear in the bill.

PARLIAMENTARY INQUIRY

Mr. O'HARA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. O'HARA. Mr. Speaker, my parliamentary inquiry is whether there is any way that we can now determine what the first amendment was that we voted on, and ask for a division on that amendment, or for a recorded vote on that amendment.

The SPEAKER. The Chair will state to the gentleman from Michigan that that request comes too late.

The question is on the so-called Froehlich amendment.

The question was taken; and on a division (demanded by Mr. ROSENTHAL) there were—ayes 217, noes, 189.

So the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 53, line 3, strike section 2 of the bill, H.R. 8860, in its entirety, and renumber the following sections accordingly.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

PARLIAMENTARY INQUIRIES

Mr. MIZELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. MIZELL. Mr. Speaker, my parliamentary inquiry is would the Chair restate the vote on the previous Bergland amendment?

The SPEAKER. The Chair will state that the Chair announced that the ayes had it.

PARLIAMENTARY INQUIRY

Mr. MIZELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MIZELL. This means that the Bergland amendment carried; is that correct?

The SPEAKER. That is correct.

Mr. MIZELL. On that, Mr. Speaker, I demand a recorded vote.

The SPEAKER. The gentleman waited much too long.

Mr. MIZELL. Mr. Speaker, I was on my feet. Mr. Speaker, I demand a recorded vote. I was on my feet.

The SPEAKER. The Chair has put the question on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. TEAGUE OF CALIFORNIA

Mr. TEAGUE of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. TEAGUE of California. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. TEAGUE of California moves to recommit the bill H.R. 8860 to the Committee on Agriculture with instructions to report the same back forthwith with the following amendments: On page 9, line 5, after "bushel", strike out down through "rates" in line 8; and in line 12, change the colon to a period and strike out the remainder of the sentence.

On page 22, line 12, change the comma to a period, and strike out the remainder of the sentence.

The SPEAKER. Under the rule the gentleman from California is recognized for 5 minutes.

Mr. TEAGUE of California. Mr. Speaker, this is a motion to recommit with instructions to delete the escalator clause.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. TEAGUE of California. I yield to the minority leader, the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Speaker, this is an effort to make the bill legislation which will be veto-proof. This in effect is the Sisk amendment which on July 11 unfortunately lost by 239 to 174. I supported the Sisk amendment then, and I support this version now. It is even more important, in my judgment, that the motion to recommit prevail because in the interim I believe we have stricken from the bill the cotton section, which means that as far as this bill is concerned, there is no escalator clause for cotton.

To do equity, in my opinion, we ought to do the same for the other two major crops.

No. 2, I say to my big city Democrats and Republicans that if we take the escalator clause out, then we in effect are giving the city housewife a better opportunity to get better prices for the foodstuffs that she buys.

I repeat my conclusion. As far as I am concerned, Mr. Speaker, if we want a new farm law we must adopt the motion to recommit. Otherwise there is no hope because I suspect it is going to be vetoed and there are obviously enough votes to sustain a veto.

Mr. TEAGUE of California. Mr. Speaker, I yield to the gentleman from California (Mr. SISK).

Mr. SISK. I thank the gentleman for yielding. As I understand it this is the idea of the amendment I offered a long time ago, whenever it was we started this discussion, which reduces what the Department feels is the overall cost of the bill over the years and therefore I do support the motion to recommit.

I thank the gentleman for yielding.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. TEAGUE of California. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Speaker, there is more confusion than we can solve here in the next moment or two, but the committee chairman handling the bill, and the minority leader, and both sides are under the impression that on the separate vote cotton is still out of the bill. We need a decision as to whether or not cotton is in the bill, Mr. Speaker.

The SPEAKER. Of course, the parliamentary situation is that the amendment on which the first vote was taken was to strike the cotton section from the bill. That amendment was rejected.

Mr. WAGGONNER. I thank the Speaker.

The SPEAKER. Does the gentleman from Texas desire to rise in opposition to the motion to recommit?

Mr. POAGE. I do, Mr. Speaker.

Mr. Speaker and my friends in the House, I want to suggest that we are almost at the end of several long days and that I hope we will be able to bring this to a conclusion and be able to get a bill. I am just as interested as the minority leader is in getting one that becomes law because I have no interest in having something that will not become law, but neither do I have any interest in suggesting that farmers as a group should be treated with far less consideration than any other group in the United States. We have just provided in the food stamp section of this very bill for escalation of the grants to the recipients of food stamps in event the cost of living goes up. We have recently provided increases in the salaries of Federal employees. We have increased the benefits of recipients of social security benefits when the cost of living goes up. I know of no reason why we should make an exception of farmers and frankly I do not believe that the President of the United States is going to say that he is going to make such an exception.

Of course, he would like to have the cheapest bill he can get. But a cheap bill that does not do justice is not the kind of bill we want. I would therefore hope that we would do justice to the farmers and treat them at least as well as we treat other groups of our society, treat them on the same basis that we treat other groups of our society. To do that we will have to vote down this motion to recommit. I do not believe it will be dangerous. I do not believe it will destroy the bill.

Mr. PRICE of Texas. Mr. Speaker, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Texas (Mr. PRICE).

Mr. PRICE of Texas. Mr. Speaker, I thank the chairman for yielding. I agree with him wholeheartedly. I cannot believe this body would deny the food and fiber producers of this country an even share. Even though I happen to disagree with the administration and leaders, my chairman of the committee, and the minority leader, I think it is definitely unfair that we have less than 3 million farmers in this country and we are talking about removing the escalator clause which prognosticators predict could cost $900 million. The food stamp section that passed is going to cost at least $3 to $4 billion and serve 9 to 12 million people. With many other programs providing escalator clauses, surely the American farmer is entitled to at least 70 percent of the average received by all other segments.

Mr. POAGE. Mr. Speaker, will the gentleman yield for a comment?

Mr. PRICE of Texas. I yield to the distinguished chairman of the committee (Mr. POAGE).

Mr. POAGE. Mr. Speaker, the present law has been costing about $3½ billion a year. We will be saving $3½ billion a year by passing this bill, and if it did cost $900 million a year, it would still be saving of $2½ billion.

Mr. PRICE of Texas. Mr. Speaker, that is certainly correct. I do not see how in the world we can give 30 million people an escalator clause, we can give all Federal employees an escalator, and we say no to the American farmer.

Mr. GERALD R. FORD. Mr. Speaker, will the distinguished chairman of the committee yield for an amendment to the motion to recommit?

Mr. POAGE. Certainly, I will yield, but I would like to hear the amendment.

The SPEAKER. The gentleman is not in order. The gentleman from California (Mr. TEAGUE) has control of the motion to recommit and can yield for that purpose if he desires to do so.

The gentleman from Texas now has the floor.

Mr. POAGE. Mr. Speaker, I will not yield for a pig in a poke. I want to know what the gentleman is proposing.

The SPEAKER. The gentleman cannot yield for that purpose. The gentleman from California can yield for that purpose.

Mr. GERALD R. FORD. Mr. Speaker, I will explain to my friend from Texas. Because of the confusion as to the Bergland amendment when the Committee of the Whole got back into the House—and I think I was not the only one who was confused—in order to treat the three commodities the same, corn, wheat, and cotton, we would have to amend the motion to recommit to include cotton now that the cotton section is back in the bill. That is the only purpose.

Mr. HAYS. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. POAGE. No, I will let the gentleman get his own time on that.

I want to thank the minority leader for about 2 weeks of most courteous and cooperative effort on trying to get this bill passed. I have not agreed with him on some of these items and have not agreed with the ranking minority member on the commttee, but I want to thank them both as having made a serious effort in trying to see this thing through.

The SPEAKER. The time of the gentleman from Texas has expired.

POINT OF ORDER

Mr. HAYS. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. HAYS. Mr. Speaker, my point of order is that I do not believe the gentleman from California can yield for this purpose without getting unanimous consent.

The SPEAKER. The gentleman can yield for the purpose of an amendment, since he has the floor.

Mr. TEAGUE of California. Mr. Speaker, I yield to the distinguished minority leader for the purpose of offering an amendment.

AMENDMENT OFFERED BY MR. GERALD R. FORD TO THE MOTION TO RECOMMIT OFFERED BY MR. TEAGUE OF CALIFORNIA

Mr. GERALD R. FORD. Mr. Speaker, I offer an amendment to the motion to recommit.

POINT OF ORDER

Mr. MOSS. Mr. Speaker, a point of order.

The SPEAKER. The gentleman will state it.

Mr. MOSS. Mr. Speaker, my point of order is that the time of the gentleman from California had expired.

The SPEAKER. That does not keep him from yielding.

Mr. MOSS. He has not got the floor.

The SPEAKER. The gentleman from California has the right to yield for an amendment, since he still has the floor as the previous question has not been ordered on the motion to recommit.

Mr. MOSS. The previous question has not been ordered.

The SPEAKER. That is the rule.

The Clerk read as follows:

> Amendment offered by Mr. GERALD R. FORD to the motion to recommit offered by Mr. TEAGUE of California: On page 30, beginning with line 1, strike out down through the word "made" in line 11.

The SPEAKER. The question is on the amendment offered by the gentleman from Michigan (Mr. GERALD R. FORD) to the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. GERALD R. FORD. Mr. Speaker, on that I demand a recorded vote.

PARLIAMENTARY INQUIRIES

Mr. PRICE of Texas. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. PRICE of Texas. Will the Chair explain exactly what the vote will be on?

The SPEAKER. The question is on the amendment offered by the gentleman from Michigan to the motion to recommit offered by the gentleman from California.

Mr. PRICE of Texas. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. PRICE of Texas. Will the Speaker please explain what we are voting on?

The SPEAKER. The question is on the amendment offered by the gentleman from Michigan (Mr. GERALD R. FORD) to the motion to recommit offered by the gentleman from California (Mr. TEAGUE).

Mr. PRICE of Texas. This would have the effect of striking the escalator clause from the cotton section?

The SPEAKER. The Chair cannot pass on the effect of the amendment.

The gentleman from Michigan (Mr. GERALD R. FORD) has demanded a recorded vote.

A recorded vote was ordered.

RECORDED VOTE

The vote was taken by electronic device, and there were—ayes 248, noes 165, not voting 20, as follows:

[Roll No. 361]

AYES—248

Abzug
Anderson, Calif.
Anderson, Ill.
Andrews, N. Dak.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Bennett
Bergland
Biester
Blackburn
Boland
Bolling
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Butler
Byron
Camp
Carey, N.Y.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cohen
Collier
Collins, Tex.
Conable
Conte
Corman
Coughlin
Crane
Cronin
Culver
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Ga.
Davis, Wis.
Dellenback
Denholm
Dennis
Derwinski
Devine
Donohue
Downing
Drinan
Dulski
Duncan
du Pont
Eilberg
Erlenborn
Esch
Eshleman
Evans, Colo.
Findley
Fish
Ford, Gerald R.
Forsythe
Frelinghuysen
Frenzel
Frey
Froehlich
Gibbons
Gilman
Goldwater
Goodling
Gray
Green, Oreg.
Green, Pa.
Gross
Grover
Gubser
Gude
Gunter
Guyer
Haley
Hamilton
Hanna
Hanrahan
Hansen, Idaho
Hansen, Wash.
Harrington
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holifield
Holt
Horton
Hosmer
Howard
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Pa.
Jones, Okla.
Karth
Keating
Ketchum
Kluczynski
Koch
Latta
Litton
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McEwen
McKay
McKinney
Macdonald
Madden
Madigan
Mailliard
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mayne
Mezvinsky
Michel
Milford
Miller
Minish
Mink
Mitchell, N.Y.
Moakley
Mosher
Moss
Murphy, Ill.
Myers
Nedzi
Nelsen
Obey
O'Brien
O'Hara
O'Neill
Parris
Pettis
Peyser
Pike
Powell, Ohio
Price, Ill.
Quie
Quillen
Railsback
Rees
Regula
Reuss
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio, Wyo.
Roncallo, N.Y.
Rosenthal
Rostenkowski
Roush
Rousselot
Roy
Ruppe
Ryan
Sandman
Sarasin
Satterfield
Saylor
Scherle
Schneebeli
Schroeder
Sebelius
Seiberling
Shoup
Shriver
Shuster
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Stanton, James V.
Steele
Steelman
Steiger, Wis.
Stratton
Studds
Symms
Taylor, Mo.
Teague, Calif.
Thompson, N.J.
Thomson, Wis.
Thone
Towell, Nev.
Van Deerlin
Vander Jagt
Vanik
Veysey
Waldie
Walsh
Wampler
Ware
Whalen
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Winn
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zablocki
Zion
Zwach

NOES—165

Abdnor
Adams
Addabbo
Alexander
Andrews, N.C.
Annunzio
Ashley
Aspin
Badillo
Baker
Barrett
Beard
Bevill
Biaggi
Bingham
Boggs
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Broyhill, N.C.
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Burton
Carney, Ohio
Carter
Casey, Tex.
Chisholm
Clark
Clay
Cochran
Collins, Ill.
Conlan
Conyers
Cotter
Davis, S.C.
Delaney
Dellums
Dent
Dickinson
Diggs
Dingell
Dorn
Eckhardt
Edwards, Ala.
Edwards, Calif.
Evins, Tenn.
Fascell
Flood
Flowers
Flynt
Foley
Ford, William D.
Fountain
Fraser
Fulton
Gaydos
Gettys
Giaimo
Ginn
Gonzalez
Grasso
Hammerschmidt
Hanley
Harsha
Hawkins
Hays
Hébert
Henderson
Hicks
Holtzman
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kuykendall
Kyros
Landrum
Leggett
Lehman
Long, La.
Long, Md.
Lott
McFall
McSpadden
Mahon
Mann
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mitchell, Md.
Mizell
Montgomery
Moorhead, Pa.
Morgan
Murphy, N.Y.
Natcher
Nichols
Nix
Passman
Patten
Pepper
Perkins
Pickle
Poage
Podell
Preyer
Price, Tex.
Pritchard
Randall
Rangel
Rarick
Rhodes
Roberts
Rooney, N.Y.
Rooney, Pa.
Rose
Roybal
Runnels
Ruth
St Germain
Sarbanes
Shipley
Sikes
Slack
Staggers
Stark
Steed
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Sullivan
Symington
Taylor, N.C.
Teague, Tex.
Thornton
Tiernan
Treen
Udall
Ullman
Vigorito
Waggonner
White
Whitten
Wilson, Charles, Tex.
Wolff
Wright
Yatron
Young, Ga.
Young, Tex.

NOT VOTING—20

Bell
Blatnik
Danielson
de la Garza
Fisher
Fuqua
Griffiths
Kemp
King
Landgrebe
Lent
Mills, Ark.
Minshall, Ohio
Mollohan
Moorhead, Calif.
Owens
Patman
Reid
Stokes
Talcott

So the amendment to the motion to recommit was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Kemp for, with Mr. Blatnik against.

Mr. Landgrebe for, with Mr. Mollohan against.

Mr. King for, with Mr. Fuqua against.

Mr. Lent for, with Mr. Stokes against.

Until further notice:

Mr. Fisher with Mr. Danielson.

Mrs. Griffiths with Mr. Minshall of Ohio.

Mr. Mills of Arkansas with Mr. Bell.

Mr. Owens with Mr. Moorhead of California.

Mr. Reid with Mr. Talcott.

Mr. Patman with Mr. de la Garza.

The result of the vote was announced as above recorded.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit, as amended.

There was no objection.

The SPEAKER. The question is on the motion to recommit, as amended.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. GERALD R. FORD. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 182, noes 225, not voting 26, as follows:

[Roll No. 362]

AYES—182

Abzug
Adams
Anderson, Calif.
Anderson, Ill.
Archer
Arends
Armstrong
Ashbrook
Bafalis
Bennett
Biester
Blackburn
Bray
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Butler
Carey, N.Y.
Cederberg
Chamberlain
Clancy
Clawson, Del
Cleveland
Cohen
Collier
Collins, Tex.
Conable
Conte
Cotter
Coughlin
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Wis.
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Drinan
Dulski
du Pont
Edwards, Ala.
Erlenborn
Esch
Eshleman
Findley
Fish
Ford, Gerald R.
Forsythe
Frenzel
Frey
Gilman
Goldwater
Goodling
Grasso
Green, Oreg.
Grover
Gude
Gunter
Guyer
Haley
Hanley
Hanna
Hanrahan
Harvey
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hinshaw
Hogan
Holt
Horton
Hosmer
Huber
Hudnut
Hunt
Hutchinson
Jarman
Johnson, Pa.
Jones, N.C.
Keating
Koch
Latta
Leggett
Long, Md.
McClory
McDade
McEwen
McKinney
Macdonald
Madigan
Mailliard
Mallary
Maraziti
Martin, Nebr.
Martin, N.C.
Mazzoli
Michel
Milford
Minish
Mitchell, N.Y.
Mizell
Mosher
Moss
O'Brien
Parris
Pettis
Peyser
Pike
Powell, Ohio
Pritchard
Quillen
Railsback
Rangel
Rees
Regula
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rosenthal
Rousselot
Ruppe
St Germain
Sandman
Sarasin
Satterfield
Schneebeli
Shuster
Sisk
Smith, N.Y.
Snyder
Spence
Stanton, J. William
Steele
Steelman
Steiger, Wis.
Stratton
Studds
Teague, Calif.
Tiernan
Towell, Nev.
Treen
Vander Jagt
Vanik
Veysey
Walsh
Ware
Whalen
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Alaska
Young, Fla.
Young, Ill.
Young, S.C.
Zion

NOES—225

Abdnor
Addabbo
Alexander
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Ashley
Aspin
Badillo
Baker
Barrett
Beard
Bergland
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Bowen
Brademas
Brasco
Breaux
Breckinridge
Brinkley
Brooks
Brown, Calif.
Broyhill, N.C.
Burke, Calif.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Chappell
Chisholm
Clark
Clausen, Don H.
Clay
Cochran
Collins, Ill.
Conlan
Conyers
Corman
Culver
Davis, Ga.
Davis, S.C.
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Duncan
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Flood
Flowers
Flynt
Foley
Ford, William D.
Fountain
Fraser
Froehlich
Fulton
Gettys
Giaimo
Gibbons
Ginn
Gonzalez
Gray
Green, Pa.
Gross
Hamilton
Hammerschmidt
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Hawkins
Hays
Hébert
Henderson
Hicks
Holifield
Holtzman
Howard
Hungate
Ichord
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Ketchum
Kluczynski
Kuykendall
Kyros
Landrum
Lehman
Litton
Long, La.
Lott
Lujan
McCloskey
McCollister
McCormack
McFall
McKay
McSpadden
Madden
Mahon
Mann
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Mink
Mitchell, Md.
Moakley
Montgomery
Moorhead, Pa.
Morgan

Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Neill
Passman
Patten
Pepper
Perkins
Pickle
Poage
Podell
Preyer
Price, Ill.
Price, Tex.
Quie
Randall
Rarick
Reuss
Riegle
Roberts
Roncalio, Wyo.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruth
Ryan
Sarbanes
Saylor
Scherle
Schroeder
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Skubitz
Slack
Smith, Iowa
Staggers
Stanton, James V.
Stark
Steed
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Sullivan
Symington
Symms
Taylor, Mo.
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Udall
Ullman
Van Deerlin
Vigorito
Waggonner
Waldie
Wampler
White
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Winn
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zwach

NOT VOTING—26

Bell
Blatnik
Danielson
de la Garza
Fisher
Frelinghuysen
Fuqua
Gaydos
Griffiths
Gubser
Kemp
King
Landgrebe
Lent
Mills, Ark.
Minshall, Ohio
Mollohan
Moorhead, Calif.
Owens
Patman
Reid
Rhodes
Rooney, N.Y.
Stokes
Talcott
Wright

So the motion to recommit, as amended, was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Kemp for, with Mr. Rooney of New York against.

Mr. King for, with Mr. Fuqua against.

Mr. Lent for, with Mr. Gaydos against.

Mr. Frelinghuysen for, with Mr. Danielson against.

Mr. Landgrebe for, with Mr. Reid against.

Until further notice:

Mr. Fisher with Mr. Blatnik.

Mrs. Griffiths with Mr. Rhodes.

Mr. Patman with Mr. Gubser.

Mr. Mills of Arkansas with Mr. Bell.

Mr. Talcott with Mr. Minshall of Ohio.

Mr. Owens with Mr. Moorhead of California.

Mr. Wright with Mr. de la Garza.

Mr. Mollohan with Mr. Stokes.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

RECORDED VOTE

Mr. GERALD R. FORD. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device; and there were—ayes 226, noes 182, not voting 25, as follows:

[Roll No. 363]

AYES—226

Abdnor
Alexander
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Arends
Armstrong
Aspin
Baker
Beard
Bergland
Bevill
Biaggi
Bingham
Boggs
Boland
Bolling
Bowen
Breaux
Breckinridge
Brinkley
Brooks
Brotzman
Brown, Calif.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Burton
Byron
Camp
Carney, Ohio
Carter
Casey, Tex.
Cederberg
Chappell
Clausen, Don H.
Cochran
Collier
Collins, Ill.
Coughlin
Culver
Davis, Ga.
Davis, S.C.
Delaney
Denholm
Dent
Dickinson
Diggs
Dingell
Donohue
Dorn
Downing
Duncan
Edwards, Calif.
Esch
Evans, Colo.
Evins, Tenn.
Flood
Flynt
Foley
Fountain
Frenzel
Froehlich
Fulton
Gettys
Gibbons
Ginn
Gonzalez
Gray
Gross
Gunter
Guyer
Hamilton
Hammerschmidt
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hawkins
Hays
Hébert
Henderson
Hillis
Hogan
Holifield
Holt
Huber
Hudnut
Hungate
Ichord
Jarman
Johnson, Calif.
Johnson, Colo.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Keating
Ketchum
Kluczynski
Kuykendall
Landrum
Latta
Leggett
Lehman
Litton
Long, La.
Lott
Lujan
McClory
McCloskey
McCollister
McCormack
McDade
McFall
McKay
McSpadden
Madden
Madigan
Mahon
Mallary
Mann
Martin, Nebr.
Martin, N.C.
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Meeds
Melcher
Metcalfe
Mezvinsky
Miller
Mink
Mitchell, N.Y.
Mizell
Montgomery
Moorhead, Pa.
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nelsen
Obey
O'Brien
O'Neill
Passman
Pepper
Perkins
Pickle
Poage
Podell
Preyer
Price, Ill.
Price, Tex.
Quie
Quillen
Railsback
Randall
Rarick
Reuss
Roberts
Roncalio, Wyo.
Rooney, Pa.
Rose
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
Ruth
Scherle
Sebelius
Shipley
Shoup
Shriver
Shuster
Sikes
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Spence
Stark
Steed
Steelman
Steiger, Wis.
Stephens
Stubblefield
Stuckey
Symington
Taylor, Mo.
Taylor, N.C.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Thornton
Towell, Nev.
Ullman
Vander Jagt
Vigorito
Waggonner
Walsh
Wampler
White
Whitten
Wilson, Charles, Tex.
Winn
Yatron
Young, Alaska
Young, Ga.
Young, S.C.
Young, Tex.
Zablocki
Zwach

NOES—182

Abzug
Adams
Addabbo
Anderson, Calif.
Archer
Ashbrook
Ashley
Badillo
Bafalis
Barrett
Bennett
Biester
Blackburn
Brademas
Brasco
Bray
Broomfield
Brown, Mich.
Broyhill, Va.
Burgener
Burke, Calif.
Burke, Mass.
Butler
Carey, N.Y.
Chamberlain
Chisholm
Clancy
Clark
Clawson, Del
Clay
Cleveland
Cohen
Collins, Tex.
Conable
Conlan
Conte
Conyers
Corman
Cotter
Crane
Cronin
Daniel, Dan
Daniel, Robert W., Jr.
Daniels, Dominick V.
Davis, Wis.
Dellenback
Dellums
Dennis
Derwinski
Devine
Drinan
Dulski
du Pont
Eckhardt
Edwards, Ala.
Eilberg
Erlenborn
Eshleman
Fascell
Findley
Fish
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frey
Gaydos
Giaimo
Gilman
Goldwater
Goodling
Grasso
Green, Oreg.
Green, Pa.
Grover
Gubser
Gude
Haley
Hanley
Hanna
Hanrahan
Harrington
Hastings
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks
Hinshaw
Holtzman
Horton
Hosmer
Howard
Hunt
Hutchinson
Johnson, Pa.
Jordan
Karth
Koch
Kyros
Long, Md.
McEwen
McKinney
Macdonald
Mailliard
Maraziti
Mazzoli
Michel
Milford
Minish
Mitchell, Md.
Moakley
Moss
Nedzi
Nichols
Nix
O'Hara
Parris
Patten
Pettis
Peyser
Pike
Powell, Ohio
Pritchard
Rangel
Rees
Regula
Riegle
Rinaldo
Robinson, Va.
Robison, N.Y.
Rodino
Roe
Rogers
Roncallo, N.Y.
Rosenthal
Rousselot
Ryan
St Germain
Sandman
Sarasin
Sarbanes
Satterfield
Saylor
Schneebeli
Schroeder
Seiberling
Slack
Staggers
Stanton, J. William
Stanton, James V.
Steele
Steiger, Ariz.
Stratton
Studds
Sullivan
Symms
Teague, Calif.
Tiernan
Treen
Udall
Van Deerlin
Vanik
Veysey
Waldie
Ware
Whalen
Whitehurst
Widnall
Williams
Wilson, Bob
Wilson, Charles H., Calif.
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Young, Fla.
Young, Ill.
Zion

NOT VOTING—25

Bell
Blatnik
Danielson
de la Garza
Fisher
Flowers
Fuqua
Griffiths
Kemp
King
Landgrebe
Lent
Mills, Ark.
Minshall, Ohio
Mollohan
Moorhead, Calif.
Owens
Patman
Reid
Rhodes
Rooney, N.Y.
Stokes
Talcott
Wiggins
Wright

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Fuqua for, Mr. Kemp against.

Mr. Danielson for, Mr. Rooney of New York against.

Mr. Fisher for, Mr. Stokes against.

Mr. Wright for, Mr. Talcott against.

Mr. Blatnik for, Mr. Landgrebe against.

Mr. Patman for, Mr. Lent against.

Mr. de la Garza for, Mr. Mollohan against.

Until further notice:

Mrs. Griffiths with Mr. Bell.

Mr. Reid with Mr. Minshall of Ohio.

Mr. Owens with Mr. Moorhead of California.

Mr. Mills of Arkansas with Mr. King.

Mr. Flowers with Mr. Wiggins.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 478, the Committee on Agriculture is discharged from the further consideration of the bill S. 1888.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. POAGE

Mr. POAGE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Poage moves to strike out all after the enacting clause of the bill S. 1888, and to insert in lieu thereof the provisions of H.R. 8860, as passed, as follows:

That the Agricultural Act of 1970 is amended as follows:

Title I is amended to read as follows:

"TITLE I—PAYMENT LIMITATION

"Sec. 101. Notwithstanding any other provision of law—

"(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs established by titles IV, V, and VI of this Act for the 1974 through 1978 crops of the commodities shall not exceed $20,000.

"(2) The term 'payments' as used in this section includes all price support payments, set-aside payments, diversion payments, and resource adjustment payments but does not include loans or purchases, or any part of any payment which is determined by the

Secretary to represent compensation for public access for recreation.

"(3) If the Secretary determines that the total amount of payments which will be earned by any person under the program in effect for any crop will be reduced under this section, the set-aside acreage for the farm or farms on which such person will be sharing in payments earned under such program shall be reduced to such extent and in such manner as the Secretary determines will be fair and reasonable in relation to the amount of the payment reduction.

"(4)(a) In any case in which the owner or operator of a farm leases any portion of the farm to one or more persons, the payment limitation applicable to such person as prescribed by this section, shall be reduced in the same proportion as the allotment remaining on the farm bears to the total allotment prior to such lease: *Provided,* That the payment limitation shall also be reduced on the leased portion of the farm in proportion to the allotment accredited to such portion if the lessee is a member of the lessor's family or is a corporation in which the lessor or member of his family is a stockholder, or a partnership in which the lessor or a member of his family is a partner.

"(b) In any case which the owner or operator of a farm sells or leases any portion of the acreage allotment for the farm to one or more persons, the payment limitation prescribed by this section shall apply in the same manner as if the lessor or seller had not leased or sold the acreage allotment.

"(5) The Secretary shall issue regulations defining the term 'person' and prescribing such rules as he determines necessary to assure an effective and economical application of such limitation: *Provided,* That the provisions of this Act which limit payments to any person shall not be applicable to lands owned by States, political subdivisions, or agencies thereof, so long as such lands are farmed primarily in the direct furtherance of a public function, as determined by the Secretary."

DAIRY PROGRAM

Milk Marketing Orders

(2) Section 201 is amended by—

(A) amending section 201(e) by striking out "1973" and inserting "1977", and by striking out "1976" and inserting "1980", and

(B) adding at the end thereof the following:

"(f) The Agricultural Adjustment Act as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended by:

"(1) striking the period at the end of subsection 8c(17) and adding in lieu thereof the following: ': *Provided further,* That if one-third or more of the producers as defined in a milk order apply in writing for a hearing on a proposed amendment of such order, the Secretary shall call such a hearing if the proposed amendment is one that may legally be made to such order. Subsection (12) of this section shall not be construed to permit any cooperative to act for its members in an application for a hearing under the foregoing proviso and nothing in such proviso shall be construed to preclude the Secretary from calling an amendment hearing as provided in subsection (3) of this section. The Secretary shall not be required to call a hearing on any proposed amendment to an order in response to an application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within ninety days after the date on which the Secretary has announced his decision on a previously proposed amendment to such order and the two proposed amendments are essentially the same.'

"(2) inserting after the phrase 'pure and wholesome milk' in section 8c(18) the phrase 'to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs'."

Milk Price Support, Butterfat Price Support Suspension

(3) Section 202 is amended by—

(A) striking the introductory clause which precedes subsection (a);

(B) effective April 1, 1974, inserting in subsection (b) before the period at the end of the first sentence in the quotation the following: "of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs"; and

(C) inserting in subsection (b) in the first sentence "80 per centum" in lieu of "75 per centum".

Veterans Hospitals

(4) Section 203 is amended by striking out "1973" and inserting "1977".

Dairy Indemnity Program

(5) Section 204 is amended by—

(A) striking out "1973" and inserting "1977"; and

(B) striking subsection (b) and substituting therefor the following:

"(b) Section 1 of said Act is amended to read as follows:

"'SECTION 1. The Secretary of Agriculture is authorized to make indemnity payments for milk or cows producing such milk at a fair market value, to dairy farmers who have been directed since January 1, 1964 (but only since the date of enactment of the Agriculture Act of 1973 in the case of indemnity payments not authorized prior to such date of enactment), to remove their milk, and to make indemnity payments for dairy products at fair market value to manufacturers of dairy products who have been directed since the date of enactment of the Agricultural Act of 1970 to remove their dairy products from commercial markets because of residues of chemicals registered and approved for use by the Federal Government at the time of such use. Any indemnity payment to any farmer shall continue until he has been reinstated and is again allowed to dispose of his milk on commercial markets.'"

(6) Title II is amended by adding at the end thereof the following:

"Dairy Import Licenses

"SEC. 205. Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) is amended by adding at the end thereof the following:

"'(g) The President is authorized to provide that dairy products may be imported only by or for the account of a person or firm to whom a license has been issued by the Secretary of Agriculture. In issuing a license for dairy products not currently being imported but sought to be imported under this section during any period after the enactment of the Agriculture Act of 1973, the Secretary shall make licenses available for a thirty-day period before issuing licenses to other applicants to domestic producers and processors who agree to import such dairy products: *Provided however,* That such licenses shall not be sold, transferred or assigned. For purposes of this subsection, dairy products include (1) all forms of milk and dairy products, butterfat, milk solids-not-fat, and any combination or mixture thereof: (2) any article, compound, or mixture containing 5 per centum or more of butterfat, or milk solids-not-fat, or any combinations of the two; and (3) lactose, and other derivatives of milk, butterfat, or milk solids-not-fat, if imported commercially for any food use. Dairy products do not include (1) casein, caseinates, industrial casein, industrial caseinates, or any other industrial products, not to be used in any form for any food use, or an ingredient of food; or (2) articles not normally considered to be dairy products, such as candy, bakery goods, and other similar articles: *Provided,* That dairy products in any form, in any such article are not commercially extractable or capable of being used commercially as a replacement or substitute for such ingredients in the manufacture of any food product.'

"PRODUCER HANDLERS"

"SEC. 206. The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by the Agriculture Act of 1973 as it was prior thereto."

WOOL PROGRAM

(7) Section 301 is amended by—

(A) striking out "1973" each place it occurs and inserting "1977", and by striking out the word "three" each place it occurs; and

(B) adding at the end thereof the following:

"(6) Strike out the first sentence of section 708 and insert the following: 'The Secretary of Agriculture is authorized to enter into agreements with, or to approve agreements entered into between, marketing cooperatives, trade associations, or others engaged or whose members are engaged in the handling of wool, mohair, sheep, or goats or the products thereof for the purpose of developing and conducting on a national, State, or regional basis advertising and sales promotion programs and programs for the development and dissemination of information on product quality, production management, and marketing improvement, for wool, mohair, sheep, or goats or the products thereof. Advertising and sales promotion programs may be conducted outside of the United States for the purpose of maintaining and expanding foreign markets and uses for mohair or goats or the products thereof produced in the United States.'."

WHEAT PROGRAM

Wheat Production Incentives

(8) Effective beginning with the 1974 crop section 401 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977" and section 107 of the Agricultural Act of 1949, as it appears therein, is amended by—

(A) amending section 107(a) to read as follows:

"(a) Loans and purchases on each crop of wheat shall be made available at such level as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains: *Provided,* That in no event shall such level be in excess of the parity price for wheat or less than \$1.49 per bushel."

(B) substituting the word "payments" for the word "certificates" in section 107(b);

(C) striking the quotation mark at the end of section 107(b); and

(D) adding at the end of the section the following:

"(c) Payments shall be made for each crop of wheat to the producers on each farm in an amount determined by multiplying (i) the amount by which the higher of—

"(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"(2) the loan level determined under subsection (a) for such crop

is less than the established price of \$2.05 per bushel, adjusted for each of the 1975 through 1977 crops to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates, times (ii) the allotment for the farm for such crop, times (iii) the projected yield established for the farm with such adjustments as the Secretary determines necessary to provide a fair and equitable yield: *Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of wheat for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of wheat for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers are prevented from planting, or if planted, prevented from harvesting any portion of the farm acreage allotment to wheat or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The Secretary shall provide for the sharing of payments made under this subsection for any farm among the producers on the farm on a fair and equitable basis."

Termination of Wheat Certificate Program, Farm Acreage Allotments

(9) Section 402 is amended by inserting "(a)" after the section designation and adding the following at the end of the section:

"(b) (A) Section 379b of the Agricultural Adjustment Act of 1938 (which provides for a wheat marketing certificate program) shall not be applicable to the 1974 through 1977 crops of wheat, except as provided in paragraphs (B) and (C) of this subsection.

"(B) Section 379b(c) of the Agricultural Adjustment Act of 1938, as amended by subsection (a) of this section (which provides for a set-aside program), shall be effective with respect to the 1974 through 1977 crops of wheat with the following changes:

"(i) The phrase 'payments authorized by section 107(c) of the Agricultural Act of 1949' shall be substituted for the word 'certificates' and the phrases 'certificates authorized in subsection (b)' and 'marketing certificates' each place they occur.

"(ii) The word 'domestic' shall be stricken each place it occurs.

"(iii) The second sentence of section 379b (c) (1) is amended to read as follows: 'If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments authorized by section 107(c) of the Agricultural Act of 1949, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the wheat allotment for the farm as may be specified by the Secretary and will be estimated by the Secretary to result in a set-aside not in excess of thirteen and three-tenths million acres in the case of the 1971 crop; plus, if required by the Secretary, (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary.'

"(iv) The third sentence in 379b(c) (1) is amended to read as follows: 'The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to wheat on the farm to a percentage of the acreage allotment.'

"(v) '1971 through 1977' shall be substituted for '1971, 1972, and 1973' each place it occurs other than in the third sentence of section 379b(c) (1).

"(vi) After the second sentence of section 379b(c) (3) the following shall be inserted: "The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences.'

"(C) Sections 379b (d), (e), (g), and (i) of the Agricultural Adjustment Act of 1938, as amended by subsection (a) of this section, shall be effective for the 1974 through 1977 crops amended to read as follows:

" '(d) The Secretary shall provide for the sharing of payments made under this section for any farm among producers on the farm on a fair and equitable basis.

" '(e) In any case in which the failure of a producer to comply fully with the terms and conditions of the program formulated under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payment in such amounts as he determines to be equitable in relation to the seriousness of the default.

" '(g) The Secretary is authorized to issue such regulations as he determines necessary to carry out the provisions of this title.

" '(i) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.'

"(D) Section 379c of the Agricultural Adjustment Act of 1938, effective only with respect to the 1974 through 1977 crops of wheat, is amended to read as follows:

" 'SEC. 379c. (a) (1) The farm acreage allotment for each crop of wheat shall be determined as provided in this section. The Secretary shall proclaim the national acreage allotment not later than April 15 of each calendar year for the crop harvested in the next succeeding calendar year. Such national allotment shall be the number of acres he determines on the basis of the estimated national average yield for the crop for which the determination is being made will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. The national acreage allotment for any crop of wheat shall be apportioned by the Secretary among the States on the basis of the apportionment to each State of the national acreage allotment for the preceding crop (1973 national domestic allotment in the case of apportionment of the 1974 national acreage allotment) adjusted to the extent deemed necessary by the Secretary to establish a fair and equitable apportionment base for each State taking into consideration established crop rotation practices, the estimated decrease in farm acreage allotments, and other relevant factors.

" '(2) The State acreage allotment for wheat, less a reserve of not to exceed 1 per centum thereof for apportionment as provided in this subsection, shall be apportioned by the Secretary among the counties in the State, on the basis of the apportionment to each such county of the wheat allotment for the preceding crop, adjusted to the extent deemed necessary by the Secretary in order to establish a fair and equitable apportionment base for each county taking into consideration established crop-rotation practices, the estimated decrease in farm allotments, and other relevant factors.

" '(3) The farm allotment for each crop of wheat shall be determined by apportioning the county wheat allotment among farms in the county which had a wheat allotment for the preceding crop on the basis of such allotment, adjusted to reflect established crop-rotation practices and such other factors as the Secretary determines should be considered for the purpose of establishing a fair and equitable allotment. Notwithstanding any other provision of this subsection, the farm allotment shall be adjusted downward to the extent required by subsection (b).

" '(4) Not to exceed 1 per centum of the State allotment for any crop may be apportioned to farms for which there was no allotment for the preceding crop on the basis of the following factors: suitability of the land for production of wheat, the past experience of the farm operator in the production of wheat, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of wheat on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable farm allotments. No part of such reserve shall be apportioned to a farm to reflect new cropland brought into production after the date of enactment of the set-aside program for wheat.

" '(5) The planting on a farm of wheat or any crop for which no farm allotment was established shall not make the farm eligible for an allotment under subsection (a) (3) nor shall such farm by reason of such planting be considered ineligible for an allotment under subsection (a) (4).

" '(6) The Secretary may make such adjustments in acreage under this Act as he determines necessary to correct for abnormal factors affecting production, and to give due consideration to tillable acreage, crop rotation practices, types of soil, soil and water conservation measures, and topography, and in addition, in the case of conserving use acreages, to such other factors as he deems necessary in order to establish a fair and equitable conserving use acreage for the farm.

" '(b) (1) If for any crop the total acreage of wheat planted on a farm is less than the farm allotment, the farm allotment used as a base for the succeeding crop shall be reduced by the percentage by which such planted acreage was less than such farm allotment, but such reduction shall not exceed 20 percentum of the farm allotment for the preceding crop. If no acreage has been planted to wheat for three consecutive crop years on any farm which has an allotment, such farm shall lose its allotment. Producers on any farm who have planted to wheat not less than 90 per centum of the allotment for the farm shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to wheat because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of wheat planted for harvest. For the purpose of this subsection, the Secretary may permit producers of wheat to have acreage devoted to soybeans, feed grains for which there is a set-aside program in effect, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate considered as devoted to the production of wheat to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.

" '(2) Notwithstanding the provisions of subsection (b) (1), no farm allotment shall be reduced or lost through failure to plant the farm allotment, if the producer elects not to receive payments for the portion of the farm allotment not planted, to which he would otherwise be entitled under the provisions of section 107(c) of the Agricultural Act of 1949.' "

Repeal of Processor Certificate Requirement

(10) Section 403 is amended by inserting "(a)" after the section designation and by inserting at the end thereof the following:

"(b) Sections 379d, 379e, 379f, 379g, 379h, 379i, and 379j of the Agricultural Adjustment Act of 1938 (which deal with marketing certificate requirements for processors and exporters) shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978; and section 379g is amended by adding the following new subsection (c):

"(c) The Secretary is authorized to take such action as he determines to be necessary to facilitate the transition from the certificate program provided for under section 379d to a program under which no certificates are required. Notwithstanding any other provision of law, such authority shall include, but shall not be limited to the authority to exempt all or a portion of wheat or food products made therefrom in the channels of trade on July 1, 1973, from the marketing restrictions in subsection (b) of section 379d, or to sell certificates to persons owning such wheat or food products made therefrom at such price and under such terms and conditions as the Secretary may determine. Any such certificate shall be issued by the Commodity Credit Corporation. Nothing herein shall authorize the Secretary to require certificates on wheat processed after June 30, 1973.'."

Suspension of Wheat Marketing Quotas

(11) Section 404 is amended by striking "1971, 1972, and 1973" wherever it appears and inserting "1971 through 1977", and by striking "1972 and 1973" and inserting "1972 through 1977".

State Agency Allotments, Yield Calculations

(12) (a) Section 405 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977"; and by repealing paragraph (2) effective with the 1974 crop; by inserting "(a)" after the section designation; by changing the period and quotation mark at the end of the section to a semicolon; and by adding at the end of the section the following:

"(b) Effective with respect to the 1974 through 1977 crops section 301(b)(13)(K) of the Agricultural Adjustment Act of 1938 is amended by adding after 'three calendar years' the following: '(five calendar years in the case of wheat)', and section 708 of Public Law 89-321 is amended by inserting in the second sentence after 'determining the projected yield' the following '(except that in the case of wheat, if the yield is abnormally low in any one of the calendar years of the base period because of drought, flood, or other natural disaster, the Secretary shall take into account the actual yield proved by the producer in the other four years of such base period)'."

Suspension of Quota Provisions

(13) Section 406 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Reduction in Wheat Stored To Avoid Penalty

(14) Section 407 of the Agricultural Act of 1970 is amended by adding at the end thereof the following: "Notwithstanding the foregoing, the Secretary may authorize release of wheat stored by a producer under section 379c(b) of the Agricultural Adjustment Act of 1938, as amended, prior to the 1971 crop, whenever he determines such release will not significantly affect market prices for wheat. As a condition of release, the Secretary may require a refund of such portion of the value of certificates received in the crop year the excess wheat was produced as he deems appropriate considering the period of time the excess wheat has been in storage and the need to provide fair and equitable treatment among all wheat program participants.".

Application of the Agricultural Act of 1949

(15) Section 408 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Commodity Credit Corporation Sales Price Restrictions

(16) Section 409 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Set-Aside on Summer Fallow Farms

(17) Section 410 is amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

FEED GRAIN PROGRAM

(18) Effectivee only with respect to the 1974 through 1977 crops of feed grains, section 501 is amended by—

(A) striking out that portion through the first colon and section 105(a) of the Agricultural Act of 1949, as it appears therein, and inserting the following:

"SEC. 501. (a) Effective only with respect to the 1971 through 1977 crops of feed grains, section 105(a) of the Agricultural Act of 1949, as amended, is further amended to read as follows:

"'SEC. 105. Notwithstanding any other provision of law—

"'(a)(1) The Secretary shall make available to producers loans and purchases on each crop of corn at such level, not less than $1.19 per bushel nor in excess of 90 per centum of the parity price therefor, as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains in the United States.

"'(2) The Secretary shall make available to producers loans and purchases on each crop of barley, oats, and rye, respectively, at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of such commodity in relation to corn and the other factors specified in section 401(b), and on each crop of grain sorghums at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn.'."

(B) adding at the end thereof the following:

"(b) Effective only with respect to the 1974 through 1977 crops of feed grains, section 105(b) of the Agricultural Act of 1949, as amended, is further amended to read as follows:

"'(b)(1) In addition, the Secretary shall make available to producers payments for each crop of corn, grain sorghums, and, if designated by the Secretary, barley, computed by multiplying (1) the payment rate, times (2) the allotment for the farm for such crop, times (3) the yield established for the farm for the preceding crop with such adjustments as the Secretary determines necessary to provide a fair and equitable yield. The payment rate for corn shall be the amount by which the higher of—

"'(1) the national weighted average market price received by farmers during the first five months of the marketing year for such crop, as determined by the Secretary, or

"'(2) the loan level determined under subsection (a) for such crop

is less than the established price of $1.38 per bushel, adjusted for each of the 1975 through 1977 crops to reflect any changes in the index of prices paid by farmers for production items interest, taxes, and wage rates: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of feed grains for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of feed grains for the three calendar years preceding the year previous to the one for which the determination is made. The payment rate for grain sorghums and, if designated by the Secretary, barley, shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. If the Secretary determines that the producers on a farm are prevented from planting or if planted, prevented from harvesting any portion of the farm acreage allotment to feed grains or other nonconserving crop, because of drought, flood, or other natural disaster or condition beyond the control of the producer, the rate of payment on such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price.

"'(2) The Secretary shall, prior to January 1 of each calendar year, determine and proclaim for the crop produced in such calendar year a national acreage allotment for feed grains, which shall be the number of acres he determines on the basis of the estimated national average yield of the feed grains included in the program for the crop for which the determination is being made will produce the quantity (less imports) of such feed grains that he estimates will be utilized domestically and for export during that marketing year for such crop. If the Secretary determines that carryover stocks of any of the feed grains are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the feed grain allotment by the amount he determines will accomplish the desired decrease or increase in carryover stocks. State, county, and farm feed grain allotments shall be established on the basis of the feed grain allotments established for the preceding crop (for 1974 on the basis of the feed grain bases established for 1973), adjusted to the extent deemed necessary to establish a fair and equitable apportionment base for each State, county, and farm. Not to exceed 1 per centum of the State feed grain allotment may be reserved for apportionment to new feed grain farms on the basis of the following factors: suitability of the land for production of feed grains, the extent to which the farm operator is dependent on income from farming for his livelihood, the production of feed grains on other farms owned, operated, or controlled by the farm operator, and such other factors as the Secretary determines should be considered for the purpose of establishing fair and equitable feed grain allotments.

"'(3) If for any crop the total acreage on a farm planted to feed grains included in the program formulated under this subsection is less than the feed grain allotment for the farm, the feed grain allotment for the farm for the succeeding crops shall be reduced by the percentage by which the planted acreage is less than the feed grain allotment for the farm, but such reduction shall not exceed 20 percentum of the feed grain allotment. If no acreage has been planted to such feed grains for three consecutive crop years on any farm which has a feed grain allotment, such farm shall lose its feed grain allotment: *Provided*, That no farm feed grain allotment shall be reduced or lost through failure to plant, if the producer elects not to receive payment for such portion of the farm feed grain allotment not planted, to which he would otherwise be entitled under the provisions of this Act. Any such acres eliminated from any farm shall be assigned to a national pool for the adjustment of feed grain allotments as provided for in subsection (e)(2). Producers on any farm who have planted to such feed grains not less than 90 per centum of the feed grain allotment shall be considered to have planted an acreage equal to 100 per centum of such allotment. An acreage on the farm which the Secretary determines was not planted to such feed grain because of drought, flood, or other natural disaster or condition beyond the control of the producer shall be considered to be an acreage of feed grains planted for harvest. For the purpose of this paragraph, the Secretary may permit producers of feed grains to have acreage devoted to soybeans, wheat, guar, castor beans, cotton, triticale, oats, rye, or such other crops as the Secretary may deem appropriate, considered as devoted to the production of such feed grains to such extent and subject to such terms and conditions as the Secretary determines will not impair the effective operation of the program.'."

(C) striking out "1971, 1972, 1973" where it appears in that part which amends section 105(c)(1) of the Agricultural Act of 1949 and inserting "1971 through 1977", and by amending the second sentence of section 105(c)(1) to read as follows: "If a set-aside of cropland is in effect under this subsection (c), then as a condition of eligibility for loans, purchases, and payments on corn, grain sorghums, and, if designated by the Secretary, barley, respectively, the producers on a farm must set aside and devote to approved conservation uses an acreage of cropland equal to (i) such percentage of the feed grain allotment for the farm as may be specified by the Secretary, plus, if required by the Secretary (ii) the acreage of cropland on the farm devoted in preceding years to soil conserving uses, as determined by the Secretary."

(D) amending the third sentence of section 105(c)(1) to read as follows: "The Secretary is authorized for the 1974 through 1977 crops to limit the acreage planted to feed grains on the farm to a percentage of the farm acreage allotment.",

(E) striking out paragraphs (1) and (3) of subsection (e), and striking out all of subsection (g),

(F) inserting after the second sentence of section 105(c)(3) the following: "The Secretary may, in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences."

COTTON PROGRAM

Suspension of Marketing Quotas for Cotton, Minimum Base Acreage Allotment

(19) Section 601 is amended by—

(A) striking out "1971, 1972, and 1973" wherever it appears therein and inserting "1971 through 1977",

(B) striking "1970, 1971, and 1972" from paragraph (2) and inserting "1970 through 1976",

(C) effective beginning with the 1974 crop, striking out the following from section 344a (a) in section 601 "for which a farm base acreage allotment is established (other than pursuant to section 350(e)(1)(A))",

(D) striking "1974" from paragraph (3)(1) and inserting "1978", and by striking "1972 and 1973" from paragraph (4) and inserting "1972 through 1977",

(E) effective beginning with the 1974 crop, adding at the end of section 350(a) in paragraph (4) of section 601 the following: "The national base acreage allotment for the 1974 through 1977 crops shall not be less than eleven million acres.",

(F) effective beginning with the 1974 crop, striking "soybeans, wheat or feed grains" from the last sentence of section 350(e)(2) in paragraph (4) of section 601 and inserting "soybeans, wheat, feed grains, guar, castor beans, triticale, oats, and rye, or such other crops as the Secretary may deem appropriate".

(G) effective beginning with the 1974 crop, striking the words "an adjoining" in the first sentence of section 350(h) as found in paragraph (4) of section 601, and inserting in lieu thereof "any other nearby",

(H) effective beginning with the 1974 crop, striking subsection 350(g) in paragraph (4) of section 601 and redesignating subsection (h) as subsection (g).

Cotton Production Incentives

(20) Section 602 is amended by—

(A) striking "1971, 1972, and 1973" wherever it appears therein and inserting "1971 through 1977", by striking "the 1972 or 1973 crop" where it appears in that part amending section 103(e)(1) of the Agricultural Act of 1949 and inserting "any of the 1972 through 1977 crops", and by striking out "acreage world price" in that part amending section 103(e)(1) of the Agricultural Act of 1949, and substituting "average price of American cotton in world markets";

(B) in that part amending section 103(e)(1) of the Agricultural Act of 1949 striking out "two-year period" whenever it appears therein and substituting "three-year period"; and by striking out that part beginning with "except that" in the first sentence and substituting "except that if the loan rate so calculated is higher than the then current level of average world prices for American cotton of such quality, the Secretary is authorized to adjust the current calculated loan rate for cotton to 90 per centum of the then current average world price.";

(C) effective, beginning with the 1974 crop, amending section 103(e)(2) of the Agricultural Act of 1949, as it appears in such section 602 to read as follows:

"(2) Payments shall be made for each crop of cotton to the producers on each farm at a rate equal to the amount by which the higher of—

"(1) the average market price received by farmers for upland cotton during the calendar year which includes the first five months of the marketing year for such crop, as determined by the Secretary, or

"(2) the loan level determined under paragraph (1) for such crop

is less than the established price of 38 cents per pound adjusted for each of the 1975 through 1977 crops to reflect any changes in the index of prices paid by farmers for production items, interest, taxes, and wage rates: *Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of cotton for the three calendar years preceding the year for which the determination is made, over (ii) the national average yield per acre of cotton for the three calendar years preceding the year previous to the one for which the determination is made. If the Secretary determines that the producers on a farm are prevented from planting, or if planted, prevented from harvesting any portion of the allotment to cotton, because of drought, flood, or other natural disaster, or condition beyond the control of the producer, the rate of payment for such portion shall be the larger of (A) the foregoing rate, or (B) one-third of the established price. The payment rate with respect to any producer who (i) is on a small farm (that is, a farm on which the base acreage allotment is ten acres or less, or on which the yield used in making payments times the farm base acreage allotment is five thousand pounds or less, and for which the base acreage allotment has not been reduced under section 350(f)), (ii) resides on such farm, and (iii) derives his principal income from cotton produced on such farm, shall be increased by 30 per centum; but, notwithstanding paragraph (3), such increase shall be made only with respect to his share of cotton actually harvested on such farm within the quantity specified in paragraph (3)."

(D) effective beginning with the 1974 crop, section 103(e)(3) of the Agricultural Act of 1949 is amended (A) by striking out all of the first sentence after the word "multiplying" and substituting "the farm base acreage allotment for the farm for the crop by the average yield established for the farm," and (b) by striking out the second sentence,

(E) the fourth sentence of section 103(e)(4)(A) of the Agricultural Act of 1949 as found in section 602 is amended to read as follows: "The Secretary shall permit producers to plant and graze on set-aside acreage sweet sorghum, and the Secretary may permit, subject to such terms and conditions as he may prescribe, all or any of the set-aside acreage to be devoted to hay and grazing or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago, ovato, flaxseed, triticale, oats, rye, or other commodity, if he determines that such production is needed to provide an adequate supply, is not likely to increase the cost of the price-support program, and will not adversely affect farm income."

(F) inserting after the second sentence of section 103(e)(5) of the Agricultural Act of 1949 as it appears in such section 602 the following: "The Secretary may in the case of programs for the 1974 through 1977 crops, pay an appropriate share of the cost of practices designed to carry out the purposes of the foregoing sentences."

Commodity Credit Corporation Sales Price Restrictions for Cotton

(21) Section 603 is amended by striking out "1974" and inserting "1978", and by deleting "110 per centum" and inserting in lieu thereof "115 per centum".

Miscellaneous Cotton Provisions

(22) Sections 604, 605, 606, and 607 are each amended by striking out "1971, 1972, and 1973" and inserting "1971 through 1977".

Cotton Insect Eradication

(24) Title VI is amended by adding at the end thereof the following:

"Sec. 611. Section 104 of the Agricultural Act of 1949, as amended, is amended by adding a new subsection (d) as follows:

"'(d) In order to reduce cotton production costs, to prevent the movement of certain cotton plant insects to areas not now infected, and to enhance the quality of the environment, the Secretary is authorized and directed to carry out programs to destroy and eliminate cotton boll weevils in infested areas of the United States as provided herein and to carry out similar programs with respect to pink bollworms or any other major cotton insect if the Secretary determines that methods and systems have been developed to the point that success in eradication of such insects is assured. The Secretary shall carry out the eradication programs authorized by this subsection through the Commodity Credit Corporation. In carrying out insect eradication projects, the Secretary shall utilize the technical and related services of appropriate Federal, State, private agencies, and cotton organizations. Producers and landowners in an eradication zone, as established by the Secretary, and who are receiving benefits from any program administered by the United States Department of Agriculture, shall, as a condition of receiving or continuing any such benefits, participate in and cooperate with the eradication project, as specified in regulations of the Secretary.

"The Secretary may issue such regulations as he deems necessary to enforce the provisions of this subsection with respect to achieving the compliance of producers and landowners who are not receiving benefits from any program administered by the United States Department of Agriculture. Any person who knowingly violates any such regulation promulgated by the Secretary under this subsection may be assessed a civil penalty of not to exceed $5,000 for each offense. No civil penalty shall be assessed unless the person shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Secretary shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Where special measures deemed essential to achievement of the eradication objective are taken by the project and result in a loss of production and income to the producer, the Secretary shall provide reasonable and equitable indemnification from funds available for the project, and also provide for appropriate protection of the allotment, acreage history, and average yield for the farm. The cost of the program in each eradication zone shall be determined, and cotton producers in the zone shall be required to pay up to one-half thereof, with the exact share in each zone area to be specified by the Secretary upon his finding that such share is reasonable and equitable based on population levels of the target insect and the degree of control measures normally required. Each producer's pro rata share shall be deducted from his cotton payment under this Act or otherwise collected, as provided in regulations of the Secretary. Insofar as practicable, cotton producers and other persons engaged in cotton production in the eradication zone shall be employed to participate in the work of the project in such zone. Funding of the program shall be terminated at such time as the Secretary determines and reports to the Congress that complete eradication of the insects for which programs are undertaken pursuant to this subsection has been accomplished. Funds in custody of agencies carrying out the program shall, upon termination of such program, be accounted for to the Secretary for appropriate disposition.

"The Secretary is authorized to cooperate with the Government of Mexico in carrying out operations or measures in Mexico which he deems necessary and feasible to prevent the movement into the United States from Mexico of any insects eradicated under the provisions of this subsection. The measure and character of cooperation carried out under this subsection on the part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds made available by the Secretary under this subsection, shall be such as may be prescribed by the Secretary. Arrangements for the cooperation authorized by this subsection shall be made through and in consultation with the Secretary of State. The Commodity Credit Corporation shall not make any expenditures for carrying out the purposes of this subsection unless the Corporation has received funds to cover such expenditures from appropriations made to carry out the purposes of this subsection. There are hereby authorized to be appropriated to the Commodity Credit Corporation such sums as the Congress may from time to time determine to be necessary to carry out the purposes of this subsection.'."

(25) Title VI is further amended by adding the following new section: Section 612. Section 374(a) of the Agricultural Adjustment Act of 1938, as amended, is hereby amended by adding the following new sentence: "Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1977 crops."

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(26) Title VII is amended—

(A) by striking out "1973" and inserting "1977" in section 701; and

(B) by adding a new section 703 as follows:

"SEC. 703. Title IV of such Act is amended by adding at the end thereof the following:

" 'SEC. 411. No agricultural commodities shall be sold under title I or title III or donated under title II of this Act to North Vietnam, unless by an Act of Congress enacted subsequent to July 1, 1973, assistance to North Vietnam is specifically authorized."

MISCELLANEOUS PROVISIONS

(27) Title VIII is amended as follows:

BEEKEEPER INDEMNITIES

(A) Section 804 is amended by striking out "December 31, 1973" and inserting "December 31, 1977".

EXPORT SALES REPORTING

(B) By adding the following new sections:

"SEC. 807. All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may suspend the requirement for publishing data with respect to any commodity or type of class thereof during any period in which he determines that there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports will not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales. Such suspension shall not remain in effect for more than sixty days unless extended by the Secretary. Extensions of such suspension, if any, shall also be limited to sixty days each and shall only be promulgated if the Secretary determines that the circumstances at the time of the commencement of any extension meet the conditions described herein.

"Sec. 808. The Secretary shall, within sixty (60) days from the enactment of this Act, submit to the Congress a detailed report indicating what steps are being taken to implement the recommendations of the Controller General of the United States in his Report to the Congress dated July 9, 1973, entitled Russian Wheat Sales and Weaknesses in Agriculture's Management of Wheat Export Subsidy Program (B 176943).

"Wheat and Feed Grains Research

"Sec. 809. In order to reduce fertilizer and herbicide usage in excess of production needs, to develop wheat and feed grain varieties more susceptible to complete fertilizer utilization, to improve the resistance of wheat and feed grain plants to disease and to enhance their conservation and environmental qualities, the Secretary of Agriculture is authorized and directed to carry out regional and national research programs.

"In carrying out such research, the Secretary shall utilize the technical and related services of the appropriate Federal, State, and private agencies.

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not more than $1,000,000 in any fiscal year.

"Emergency Reserve

"Sec. 810. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall under the provisions of this Act establish, maintain, and dispose of a separate reserve of inventories of wheat, feed grains, and soybeans for the purpose of alleviating distress caused by a natural disaster.

"Such reserve inventories shall include such quantities of grain that the Secretary deems needed to provide for the alleviation of distress as the result of a natural disaster.

"(b) The Secretary shall acquire such commodities through the price support program.

"(c) Except when a state of emergency has been proclaimed by the President or by concurrent resolution of Congress declaring that such reserves should be disposed of, the Secretary shall not offer any commodity in the reserve for sale or disposition.

"(d) The Secretary is also authorized to dispose of such commodities only for (1) use in relieving distress (a) in any State, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands and (b) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855 et seq.), or (2) for use in connection with a state of civil defense emergency as proclaimed by the President or by concurrent resolution of the Congress in accordance with the provisions of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251–2297).

"(e) The Secretary may sell at an equivalent price, allowing for the customary location and grade price differentials, substantially equivalent quantities in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate such reserve.

"(f) The Secretary may use the Commodity Credit Corporation to the extent feasible to fulfill the purposes of this section; and to the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

"(g) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions of this section.

"(h) There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"Imported Commodities

"SEC. 811. Notwithstanding any other provisions of this Act, the Secretary shall encourage the production of any crop of which the United States is a net importer and for which a price support program is not in effect by permitting the planting of such crop on set-aside acreage and with no reduction in the rate of payment for the commodity.

"Emergency Supply of Agriculture Products

"Sec. 812(a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, under the provisions of this Act, assist farmers, processors, and distributors in obtaining such prices for agricultural products that an orderly, adequate and steady supply of such products will exist for the consumers of this nation.

"(b) The President shall make appropriate adjustments in the maximum price which may be charged under the provisions of Executive Order 11723 (dated June 13, 1973) or any subsequent Executive Order for any agricultural products (at any point in the distribution chain) as to which the Secretary of Agriculture certifies to the President that the supply of the product will be reduced to unacceptably low levels as a result of the freeze or subsequent modification thereof and that alternative means for increasing the supply are not available.

"(c) Under this section, the term "agricultural products" shall include meat, poultry, vegetables, fruits and all other agriculture commodities."

(28) By adding the following new title X:

"TITLE X—RURAL ENVIRONMENTAL CONSERVATION

"Sec. 1001. Notwithstanding any other provision of law, the Secretary shall carry out the purposes specified in clauses (1), (2), (3), (4), and (6) of section 7(a) of the Soil Conservation and Domestic Allotment Act, as amended, section 16(b) of such Act, and in the Water Bank Act (16 U.S.C. 1301 et seq.) by entering into contracts of three, five, ten, or twenty-five years with, and at the option of, eligible owners and operators of land as determined by the Secretary and having such control as the Secretary determines to be needed on the farms, ranches, wetlands, forests, or other lands covered thereby. In addition, the Secretary is hereby authorized to purchase perpetual easements to promote said purposes of this Title, including the sound use and management of flood plains, shore lands, and aquatic areas of the Nation. Such contracts shall be designed to assist farm, ranch, wetland, and nonindustrial private forest owners and operators, or other owners or operators, to make, in orderly progression over a period of years, such changes, if any, as are needed to effectuate any of the purposes specified in clauses (1), (2), (3), (4), and (6) of section 7(a) of the Soil Conservation and Domestic Allotment Act, as amended; section 16(b) of such Act; the Water Bank Act (16 U.S.C. 1301 et seq.); in enlarging fish and wildlife and recreation sources; improving the level of management of nonindustrial private forest lands; and in providing long-term wildlife and upland game cover. In carrying out the provisions of this title, due regard shall be given to the maintenance of a continuing and stable supply of agricultural commodities and forest products adequate to meet consumer demand at prices fair to both producers and consumers.

"Sec. 1002. Eligible landowners and operators for contracts under this title shall furnish to the Secretary a plan of farming operations or land use which incorporates such practices and principles as may be determined by him to be practicable and which outlines a schedule of proposed changes, if any, in cropping systems or land use and of the conservation measures which are to be carried out on the farm, ranch, wetland, forests, or other land during the contract period to protect the farm, ranch, wetland, forests, or other land and surrounding areas, its wildlife, and nearby populace and communities from erosion, deterioration, pollution by natural and manmade causes or to insure an adequate supply of timber and related forest products. Said plans may also, in important migratory waterfowl nesting and breeding areas which are identified in a conservation plan developed in cooperation with a soil and water conservation district in which the lands are located, and under such rules and regulations as the Secretary may provide, include a schedule of proposed changes, if any, to conserve surface waters and preserve and improve habitat for migratory waterfowl and other wildlife resources and improve subsurface moisture, including, subject to the provisions of section 1001 of this title, the reduction of areas of new land coming into production, the enhancement of the natural beauty of the landscape, and the promotion of comprehensive and total water management study.

"Sec. 1003. (a) Approved conservation plans of eligible landowners and operators developed in cooperation with the soil and water conservation district or the State forester or other appropriate State official in which their lands are situated shall form a basis for contracts under this title. Under the contract the landowner or operator shall agree—

"(1) to effectuate the plan for his farm, ranch, forest, wetland, or other land substantially in accordance with the schedule outlined therein;

"(2) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the Soil and Water Conservation District Board, or the State forester or other appropriate official in a contract entered into under the provisions of section 1009 of this title, determines that such violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

"(3) upon transfer of his right and interest in the farm, ranch, forest, wetland, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

"(4) not to adopt any practice specified by the Secretary in the contract as a practice which would tend to defeat the purposes of the contract;

"(5) to comply with all applicable Federal, State, or local laws, and regulations, including those governing environmental protection and noxious weed abatement; and

"(6) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program: *Provided*, That all contracts entered into to effectuate the purposes of the Water Bank Act for wetlands shall contain the further agreement of the owner or operator that he shall not drain, burn, fill, or otherwise destroy the wetland character of such areas, nor use such areas for agricultural purposes: *And provided further*, That contracts entered into for the protection of wetlands to effectuate the purposes of the Water Bank Act may include wetlands covered by Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary.

"(b) In return for such agreement by the landowner or operator the Secretary shall agree to make payments in appropriate circumstances for the use of land maintained for conservation purposes as set forth in this title, and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost-sharing is appropriate and in the public interest. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the physical installation of the conservation practices and measures under the contract, but, in the case of a contract not entered into under an advertising and bid procedure under the provisions of section 1009(d) of this title, not less than 50 per centum or more than 75 per centum of the actual costs incurred by the owner or operator.

"(c) The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other similar conservation, land use, or commodity programs administered by the Secretary.

"Sec. 1004. The Secretary is authorized to make available to eligible owners and operators conservation materials including seeds, seed inoculants, soil conditioning materials, trees, plants, and, if he determines it is appropriate to the purposes of this title, fertilizer and liming materials.

"Sec. 1005. (a) Notwithstanding the provisions of any other title, the Secretary may establish multiyear set-aside contracts for a period not to extend beyond the 1977 crop. Producers agreeing to a multiyear set-aside agreement shall be required to devote this acreage to vegetative cover capable of maintaining itself throughout such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited. Producers entering into agreements under this section shall also agree to comply with all applicable State and local law and regulation governing noxious weed control.

"(b) The Secretary shall provide cost-sharing incentives to farm operators for such cover establishment, whenever a multiyear contract is entered into on all or a portion of the set-aside acreage.

"Sec. 1006. The Secretary shall issue such regulations as he determines necessary to carry out the provisions of this title. The total acreage placed under agreements which result in their retirement from production in any county or local community shall in addition to the limitations elsewhere in this title be limited to a percentage of the total eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community. In determining such percentage the Secretary shall give appropriate consideration to the productivity of the acreage being retired, if any, as compared to the average productivity of eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community.

"Sec. 1007. (a) The Secretary of Agriculture shall appoint an advisory board in each State to advise the State committee of that State (established under section 8(b) of the Soil Conservation and Domestic Allotment Act) regarding the types of conservation measures that should be approved to effectuate the purposes of this title. The Secretary shall appoint at least six individuals to the advisory boards of each State who are especially qualified by reason of education, training, and experience in the fields of agriculture, soil, water, wildlife, fish, and forest management. Said appointed members shall include, but not be limited to, the State soil conservationist, the State forester, the State administrator of the water quality programs, and the State wildlife administrator or their designees: *Provided*, That such board shall limit its advice to the State committees to the types of conservation measures that should be approved affecting the water bank program; the authorization to purchase perpetual easements to promote the purposes of this title, as described in section 1001 of this title; the providing of long-term upland game cover; and the establishment and management of approved practices on multiyear set-aside contracts as provided in section 1005 of this title.

"(b) The Secretary of Agriculture, through the establishment of a national advisory board to be named in consultation with the Secretary of the Interior, shall seek the advice and assistance of the appropriate officials of the several States in developing the programs under this title, especially in developing guidelines for (1) providing technical assistance for wildlife habitat improvement practices, (2) evaluating effects on surrounding areas, (3) considering aesthetic values, (4) checking compliance by cooperators, and (5) carrying out programs of wildlife management authorized under this title: *Provided,* That such board shall limit its advice to subjects which cover the types of conservation measures that should be approved regarding the water bank program; the authorization to purchase perpetual easements to promote the purposes of this Act, as described in section 1001 of this title; the providing of longterm upland game cover; and the establishment and management of approved practices on multiyear set-aside contracts as provided in section 1005 of this title.

"Sec. 1008. In carrying out the programs authorized under sections 1001 through 1006 of this title, the Secretary shall in addition to appropriate coordination with other interested Federal, State, and local agencies, utilize the services of local, county, and State committees established under section 8 of the Soil Conservation and Domestic Allotment Act, as amended. The Secretary is also authorized to utilize the facilities and services of the Commodity Credit Corporation in discharging his functons and responsbilities under this program. The Secretary shall also utilize the technical services of the Soil Conservation, the Forest Service, State forestry organizations, soil and water conservation districts, and other State, and Federal agencies, as appropriate, in development and installation of approved conservation plans under this title.

"Sec. 1009. (a) In furtherance of the purposes of this title, the Secretary of Agriculture is authorized and directed to develop and carry out a pilot forestry incentives program to encourage the development, management, and protection of nonindustrial private forest lands. The purposes of such a program shall be to encourage landowners to apply practices which will provide for the afforestation of suitable open lands and reforestation of cutover and other nonstocked and understocked forest lands and intensive multiple-purpose management and protection of forest resources so as to provide for production of timber and related benefits.

"(b) For the purposes of this section, the term 'non-industrial private forest lands' means lands capable of producing crops of industrial wood and owned by any private individual, group, association, corporation, or other legal entity. Such term does not include private entities which regularly engage in the business of manufacturing forest products or providing public utilities services of any type, or the subsidiaries of such entities.

"(c) The Secretary shall consult with the State forester or other appropriate official of the respective States in the conduct of the forestry incentives program under this section, and Federal assistance shall be extended in accordance with section 1003(b) of this title. The Secretary shall for the purposes of this section distribute funds available for cost sharing among and within the States only after assessing the public benefit incident thereto, and after giving appropriate consideration to the number and acreage of commercial forest lands, number of eligible ownerships in the State, and counties to be served by such cost sharing; the potential productivity of such lands; and the need for reforestation, timber stand improvement, or other forestry investments on such land. No forest incentives contract shall be approved under this section on a tract greater than five hundred acres, unless the Secretary finds that significant public benefit will be incident to such approval.

"(d) The Secretary may, if he determines that such action will contribute to the effective and equitable administration of the program established by this section, use an advertising and bid procedure in determining the lands in any area to be covered by agreements.

"(e) In implementing the program under this section, the Secretary will cause it to be coordinated with other related programs in such a manner as to encourage the utilization of private agencies, firms, and individuals furnishing services and materials needed in the application of practices included in the forestry incentives improvement program. The Secretary shall periodically report to the appropriate congressional committees of the progress and conduct of the program established under this section.

"Sec. 1010. There are hereby authorized to be appropriated annually such sums as may be necessary to carry out the provisions of this title. The programs, contracts, and authority authorized under this title shall be in addition to, and not in substitution of, other programs in such areas authorized by this or any other title or Act, and shall not expire with the termination of any other title or Act: *Provided,* That not more than $25,000,000 annually shall be authorized to be appropriated for the programs authorized under section 1009 of this Act."

Sec. 2. Section 301 of the Act of August 14, 1946 (Public Law 79–733), as amended (7 U.S.C. 1628), is hereby repealed.

FOOD STAMPS

Sec. 3. The Food Stamp Act of 1964, as amended, is amended—

(a) That (a) the second sentence of section 3(e) of the Food Stamp Act of 1964 (7 U.S.C. 2012(e) is amended—

(1) by striking out "or"; and

(2) by inserting before the period at the end thereof of the following: ", or (3) any narcotics addict or alcoholic who lives under the supervision of a private nonprofit organization or institution for the purpose of regular participation in a drug or alcoholic treatment and rehabilitation program."

(b) Section 3 of the Food Stamp Act of 1964 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(n) The term 'drug addition or alcoholic treatment and rehabilitation program' means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Public Law 91–616 'Comprehensive Alcohol Abuse and Alcohol Prevention, Treatment, and Rehabilitation Act' and Public Law 92–255 'Drug Abuse Office and Treatment Act of 1972' as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics."

(c) Section 5 of the Food Stamp Act of 1964 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary shall establish uniform national standards of eligibility for households described in section 3(e)(3) of this act: *Provided,* That the standards established by the Secretary shall take into account payments in kind received from an employer by members of a household, if such payments are in lieu of or supplemental to household income."

(d) Section 5(c) of the Food Stamp Act of 1964 (7 U.S.C. 2014(c)) is amended by adding at the end thereof the following: "For the purposes of this section, the term 'able-bodied adult person' shall not include any narcotics addict or alcoholic who regularly participates, as a resident or nonresident, in any drug addiction or alcoholic treatment and rehabilitation program."

(e) Section 10 of the Food Stamp Act of 1964 (7 U.S.C. 2019) is amended by inserting at the end thereof the following new subsection:

"(i) Subject to such terms and conditions as may be prescribed by the Secretary in the regulations pursuant to this Act, members of an eligible household who are narcotics addicts or alcoholics and regularly participate in a drug addiction or alcoholic treatment and rehabilitation program may use coupons issued to them to purchase food prepared for or served to them during the course of such program by a private nonprofit organization or institution which meets requirements (1), (2), and (3) of subsection (h) above. Meals served pursuant to this subsection shall be deemed 'food' for the purposes of this Act."

(f) By amending subsection (a) of section 7 of the Food Stamp Act of 1964 (7 U.S.C. 2016(a)) to read as follows:

"The face value of the coupon allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be in such amount as the Secretary determines to be the cost of a nutritionally adequate diet, adjusted semi-annually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics in the Department of Labor, to be implemented commencing with the allotments of January 1, 1974, incorporating the changes in the prices of food through August 31, 1973, but in no event shall such adjustment be made for households of a given size unless the increase in the face value of the coupon allotment for such households, as calculated above, is a minimum of $2.00.

(g) By adding at the end of subsection (h) of section 10, the following: "Subject to such terms and conditions as may be prescribed by the Secretary, in the regulations issued pursuant to this Act, members of an eligible household who are sixty years of age or over or elderly persons and their spouses may also use coupons issued to them to purchase meals prepared by senior citizens' centers, apartment buildings occupied primarily by elderly persons, any public or nonprofit private school which prepares meals especially for elderly persons, any public or nonprofit private eating establishment which prepares meals especially for elderly persons during special hours, and any other public nonprofit private establishment approved for such purpose by the Secretary."

(h) By striking out "June 30, 1972, and June 30, 1973" in the first sentence of subsection (a) of section 16, and substituting "June 30, 1972, through June 30, 1977."

(i) Section 3(b) of the Food Stamp Act of 1964 (7 U.S.C. 2012(b)) is amended to read as follows: "The term 'food' means any food or food product for home consumption except alcoholic beverages and tobacco and shall also include seeds and plants for use in gardens to produce food for the personal consumption of the eligible household."

(j) Section 3(f) of the Food Stamp Act of 1964 (7 U.S.C. 2012(f) is amended by striking the second sentence and inserting in lieu thereof the following new sentence: "It shall also mean a political subdivision or a private nonprofit organization or institution that meets the requirements of sections 10(h) or 10(i) of this Act."

(k) Notwithstanding any other provision of law, a household shall not participate in the food stamp program while its principal wage-earner is, on account of a labor dispute to which he is a party or to which a labor organization of which he is a member is a party, on strike: *Provided*, That such ineligibility shall not apply to any household that was eligible for and participating in the food stamp program immediately prior to the start of such strike, dispute, or other similar action in which any member of such household engages: *Provided further*, That such ineligibility shall not apply to any household if any of its members is subject to an employer's lockout.

(l) Section 3 of such Act is further amended by adding at the end thereof the following new subsections:

"(o) The term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or condition of work.

"(p) The term 'strike' includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement)."

(m) By inserting at the end of section 3(e) of the Food Stamp Act of 1964 the following new sentence: "Residents of federally subsidized housing for the elderly, built under either section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), or section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall not be considered residents of an institution or boarding house for purposes of eligibility for food stamps under this Act."

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

SEC. 4. The Consolidated Farm and Rural Development Act is amended as follows:

(a) Section 306(a) of such Act is amended by adding at the end thereof the following:

"(13)(A) The Secretary, under such reasonable rules and conditions as he shall establish, shall make grants to eligible volunteer fire departments for up to 50 per centum of the cost of firefighting equipment needed by such departments but which such departments are unable to purchase through the resources otherwise available to them, and for the cost of the training necessary to enable such departments to use such equipment efficiently.

"(B) For the purposes of this subsection, the term 'eligible volunteer fire department' means any established volunteer fire department in a rural town, village, or unincorporated area where the population is less than two thousand but greater than two hundred, as reasonably determined by the Secretary."

(b) Section 310B(d) of subtitle A of such Act is amended by adding at the end thereof the following:

"(4) No grant or loan authorized to be made under this section, section 304, or section 312 shall require or be subject to the prior approval of any officer, employee, or agency of any State.

"(5) No certificates issued by the Secretary or any private entity evidencing beneficial ownership in a block of notes insured or guaranteed under this title shall be subject to laws administered by the Securities and Exchange Commission: *Provided*, That the Secretary shall require any private entity offering such certificates to place the insured or guaranteed notes in the custody of an institution chartered by a Federal or State agency to act as trustee and shall require periodic reports as to the sale of such certificates: *Provided further*, That any sale by the Secretary of such certificates shall be treated as a sale of assets for the purpose of the Budget and Accounting Act of 1921."

RURAL DEVELOPMENT ACT AMENDMENTS

SEC. 5. The Rural Development Act of 1972 is amended as follows:

(a) Section 401 of such Act is amended by substituting the words "fire" and "fires" for the words "wildfire" and "wildfires", respectively, wherever such words appear.

(b) Section 404 of such Act is amended to read as follows:

"SEC. 404. APPROPRIATIONS.—There is authorized to be appropriated to carry out the provisions of this title $7,000,000 for each of three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this title."

SEC. 6. This Act may be cited as the "Agriculture Act of 1973".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 8860) was laid to the table.

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 1888

Mr. POAGE. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to the Senate bill S. 1888 that the Clerk be authorized to make corrections in section numbers, punctuation, and cross references to reflect the actions of the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. POAGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 8860.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST TO PRINT H.R. 8860

Mr. POAGE. Mr. Speaker, if it is in order, I would ask that the bill as just passed by the House, H.R. 8860, be printed in the RECORD of today so that we may all see just what has been done when the RECORD appears tomorrow morning.

The SPEAKER. The Chair will state to the gentleman from Texas that the House amendment to the Senate bill will be printed.

Mr. POAGE. I thank the Speaker.

ANNUAL REPORT ON RADIATION CONTROL FOR HEALTH AND SAFETY ACT OF 1968 (PUBLIC LAW 90–602)—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–132)

The SPEAKER laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce, and ordered to be printed:

To the Congress of the United States:

I transmit herewith the 1972 annual report on the administration of the Radiation Control for Health and Safety Act of 1968 (Public Law 90–602), as prepared by the Secretary of Health, Education, and Welfare.

RICHARD NIXON.

THE WHITE HOUSE, *July 19, 1973.*

SPECIAL REPORT ON FEDERAL-STATE RELATIONS IN THE ADMINISTRATION OF THE NATURAL GAS PIPELINE SAFETY ACT OF 1968—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I herewith transmit a special report on Federal-State relations in the administration of the Natural Gas Pipeline Safety Act of 1968. This report has been prepared in accordance with section 5 of the act approved August 22, 1972, P.L. 92–401.

RICHARD NIXON.

THE WHITE HOUSE, *July 19, 1973.*

REPORT OF FEDERAL ACTIVITIES UNDERTAKEN BY THE NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION DURING FISCAL YEAR 1973—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 93–133)

The SPEAKER laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Education and Labor and ordered to be printed with illustrations:

To the Congress of the United States:

As required by the Adult Education Act of 1966 as amended (Public Law 91–230), I transmit herewith a report of Federal activities undertaken by the National Advisory Council on Adult Education during fiscal year 1973.

RICHARD NIXON.

THE WHITE HOUSE, *July 19, 1973.*

EPA HEARING IN HOUSTON, DALLAS, AND SAN ANTONIO, TEX.

(Mr. CASEY of Texas asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. CASEY of Texas. Mr. Speaker, the Environmental Protection Agency flexed its muscles during the last 3 days in hearings held at Houston, Dallas, and San Antonio, Tex.

The rules that they propose shock and stun the citizens of these areas and should alert this Congress. We must take immediate action to bring within reason the power of this agency which we have created.

I wish to call my colleagues' attention

to these proposals for I am sure you will soon be hearing from your own areas about EPA's activities.

Mr. Speaker, would you believe that EPA is going to assume authority for land-use control—a topic that is under intense debate in one of the committees of this House.

Would you believe that EPA is going to take on gasoline rationing—a matter that was under consideration by the executive department within the last few weeks.

Would you believe that EPA is going to take on traffic control—a matter which is under study by the Department of Transportation as well as the State highway departments of the various States.

Mr. Speaker, I wish to point out and protest in the strongest voice possible that, in my opinion, this agency is assuming too much authority.

In their proposals, as outlined in the hearings, EPA would have the authority to determine whether or not a shopping center may be built; whether or not a parking garage or parking lot may be built or expanded. I dare say this rule would apply also to any large office building which proposes to have parking facilities for its employees and customers.

These proposed regulations would limit the amount of gasoline available to a particular area to the amount of gasoline consumed in that area during the 1971–72 period. This limitation, Mr. Speaker, if applied to a fast growing area such as the Houston-Galveston, Dallas-San Antonio areas would mean no growth.

EPA proposes that 25 percent of all available streets and highway lanes be restricted to buses and car pools.

Mr. Speaker, Congress debated intensely the subject of automobile emission control devices and what year these devices would be effective. EPA now states that all pre-1968 model cars must have emission control devices installed and be inspected at 6-month intervals. Believe it or not, EPA also adds that 20 percent of these cars tested must fail in the first inspection cycle.

If this agency is allowed to continue its march on the freedoms of this country and assume more control, I can readily see where this Congress could close shop and go home, as far as many of the topics we are now debating are concerned.

EPA's power grab could easily spread to other activities: population control, complete regulation of all business activities, designation of public housing cities, and yes, even movement of vast segments of our population from one end of our country to another.

Mr. Speaker, the main point I want to make to my colleagues is that EPA justifies this power grab stating that we, the Congress, told them to do this.

I have initiated a thorough research of our air quality laws, Mr. Speaker. If Congress, in its haste to clean up the environment, created a monster, it is up to Congress to trim its claws and to reduce it to the helpful watchdog which we intended, not a wild animal that is about to devour us.

Mr. Speaker, I attach a brief résumé of EPA's proposals:

TRANSPORTATION CONTROL MEASURES

JUNE 14, 1973.

TEXAS—Austin-Waco; Corpus Christi-Victoria; Dallas-Ft. Worth; El Paso; Houston-Galveston; San Antonio.

The EPA proposal for Texas covers six regions: Austin, Corpus Christi, Dallas-Fort Worth, El Paso, Houston-Galveston, and San Antonio.* Two of these—Houston and San Antonio—will require significant VMT reduction measures, and it is proposed to apply them. Even so, these will not be enough to achieve the standards by May 31, 1975, and accordingly it is also proposed to give a one year extension for achieving the standards in San Antonio and a one or two year extension for achieving them in Houston. The air quality baseline for these regions is as follows:

Air quality baseline

(Percent of rollback required)

AQCR:	HC *ppm*	*Percent*
Austin-Waco	.109	27
Corpus Christi-Victoria	.184	56
Dallas-Ft. Worth	.125	36
El Paso	.120	34
Houston-Galveston	.320	75
San Antonio	.145	45

It is expected that all other areas will achieve the standards by the original deadline. Some VMT reduction measures may be necessary to do this in Dallas, but they will probably not be necessary in other regions for which a plan is being proposed today.

In Houston and San Antonio, it is proposed to convert selected lanes of major streets and freeways to the exclusive use of buses and carpools, to limit growth in the number of parking spaces, and to limit the growth in gasoline consumption above 1972–73 levels. Only the first two of these measures are being proposed for Dallas. Although these are the only proposals for which regulatory language is included, other means of reducing VMT will also be considered.

In Houston and San Antonio, a ban on the future construction of new stationary sources of reactive organic compounds is also being proposed.

In all areas increased controls on stationary sources of hydrocarbons are proposed. In particular, controls on evaporative emissions of gasoline are proposed for Houston, San Antonio, and Dallas.

In Houston, Dallas, San Antonio, and El Paso, it is proposed to require all automobiles to undergo an annual emissions test and for those that fail to receive maintenance until they can pass. In Houston, San Antonio, and possibly Dallas, it is proposed to require pre-1968 automobiles to be fitted with relatively inexpensive emissions control devices.

These measures will result in achieving the standards for all Texas air quality control regions no later than 1977. However, to maintain air quality after that date in the spread out and rapidly growing cities of Texas may require significant changes in land-use and increased reliance on mass transit.

SPEECH BEFORE UNITED NATIONS COMMITTEE ON DECOLONIZATION

(Mr. WON PAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WON PAT. Mr. Speaker, recently I had the privilege of addressing the United Nations Committee on Decolonization with regard to the U.S. Territory of Guam's political status with this country.

The committee, to which our State Department yearly sends a report on the political and economic progress of Guam, the Virgin Islands, and American Samoa, has repeatedly called for the U.S. removal of its military bases from Guam and its assistance to the territorial residents in moving toward independence.

As one who was born, raised, and educated on Guam, and as our island's first Delegate to the Congress of the United States, I have often protested the rash statements of the United Nations as being false. Despite my prior demands for a prompt retraction, however, the U.N. has continued to openly state that Guam's relations with Washington are not in the best interests of the territory.

I can assure you, Mr. Speaker, that such charges are totally without substance, and do not represent the will of the American citizens of Guam. The residents of the territory are proud to be Americans and would have it no other way.

In my letter last year to Mr. Kurt Waldheim, United Nations Secretary General, I again denied the committee's allegations about Guam and requested the opportunity to personally appear before the world body to provide them with the political and economic realities of Guam. The U.N., I am pleased to say, accepted my offer.

I appeared before the committee on July 11. Although the committee members evidenced considerable interest in my statement, especially that portion explaining why the people of Guam desire more meaningful political relations with America, I can only hope that future United Nations utterances about Guam will henceforth be more enlightened.

For the information of my colleagues, I now insert into the RECORD the text of my U.N. statement:

STATEMENT BEFORE THE UNITED NATIONS COMMITTEE ON DECOLONIZATION, JULY 11, 1973

(By Antonio B. Won Pat)

Mr. Chairman and members of the United Nations Committee on Decolonization, my name is Antonio Borja Won Pat, a life-long resident of the Territory of Guam in the Mariana Islands, an American citizen, and our Island's first elected Delegate to the United States Congress. As one who was born, raised and educated on Guam, I take great pleasure in greeting each of you with "Hafa Adai," which is "good day" in our native language.

The United Nations is well-known as the principal world forum which consistently assures less influential ethnic and political entities of speaking with a voice equal in status to that of the larger nations. You are to be commended for your continued interest in the dependent territories of the world, and for the progress you have made to reduce colonialism throughout the world.

I appreciate having this opportunity today to reaffirm the position taken in my letter written to the United Nations last year, in which I protested charges made by this Committee that America is hampering Guam's economic and political development. By my comments now, and by the future actions of the Guamanian people themselves, we hope to remove any doubts this Committee may have about the political aspirations of Guam. We also trust that the world community will hence forth appreciate that Guam's present association with the United States is now a unique union which is desired by all parties concerned, including the indigenous population of the Territory.

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* The Texas portion of the Southern Texas-Southeast Louisiana Interstate Region will also require additional measures. Due to time pressures, a complete plan for this region is not being proposed. It is proposed however, to require additional reductions in hydrocarbon emissions from stationary sources located there.

It is predicated on friendship and a common belief in the democratic system of government, and it is sufficiently fluid to withstand the changes inherent in a development society such as Guam.

Since Guam's present-day political goals are inextricably intertwined with our past, let me begin by reviewing our 75-year history with the United States.

As this Subcommittee well knows, Guam was ceded to the United States as a result of the Treaty of Paris of December 10, 1898, which ended the Spanish-American War. Our future was quickly resolved on the basis of our strategic importance, and for the next 52 years Guam was governed almost solely by officers of the United States Navy.

As we progressed within the American political system, so did our desire for greater internal self-government. By the early 1930's we attained a semblance of representative government by the creation of a bi-cameral Guam Congress, which was actually little more than an advisory body. Our power was quite limited as any "laws" we promulgated were subject to approval by the Naval Commander.

While our political awareness was increasing, so, to, were our interrelations with the Americans. Guamanians were increasingly exposed to great segments of American life. In the mid-1930's we sent our first delegation to Washington in an unsuccessful effort to gain American citizenship.

In 1941 Guam was invaded and occupied by the Imperial Japanese Forces. For the next three years the people suffered the ravages of war and the tyranny of the enemy. Our love and loyalty to America and the tragedy of that time became a catalyst to firmly fix in our minds that the American way of life was really what we wanted after the war was over.

After the liberation of Guam in 1944, we renewed our efforts to convince Washington of our aspiration and desire for self-government. The military re-established the advisory Guam Congress, and over the years we continued to petition Washington for a civil government and for citizenship.

In 1950 the Guam Congress sent a delegation to Washington to seek legislation towards this end. I was one of the two-man delegation that was elected to go to Washington to participate in the successful effort to secure an Organic Act for Guam from the U.S. Congress.

With this unprecedented victory we not only gained the cherished right to be Americans, but the Organic Act established Guam as an unincorporated territory of the United States. It created a civil government with a 21-member uni-cameral Legislature, elected at large every two years, and vested with true legislative powers, and an independent judiciary. The Act also set forth a "Bill of Rights" based on the first ten Amendments to the United States Constitution, and further provided that Guam would retain all of the Federal income taxes and other taxes originating on the Island.

As a member of the original Legislature, and as Speaker for six terms, I can testify to the increased importance which the newly formed civil government gave to Guam. No longer did we lack an "official" voice, and our status as American citizens certainly aided us in our dealings with the Federal Government.

The need for additional political development did not end with the passage of the Organic Act. As time passed, it became evident that this Act did not meet all of the needs of our people and their government. The Act inevitably required constant interpretation and amendment. Many new social programs were also being launched in Washington, and, although we felt that Guam should have been part of them, all too often we were inadvertently left out.

What we really needed, of course, was representation in the United States Congress. Unfortunately, the political climate in Washington was not ripe for that step until 1972. As Americans, we appreciated our proud heritage of representative government, and in 1964 we authorized the election of a Washington Representative, who was charged with the responsibility of representing Guam's interests on a full-time basis before Congress and the Federal agencies. In effect, Guam's Washington Representative was our own Congressman, without Congressional sanction. I was fortunate to be the only person elected to this position, and was elected at that time to the first of two four-year terms.

Despite the many hurdles an unofficial lobbyist has to overcome in political circles, I believe that my record of legislative victories won during the past eight years shows that the concept was an eminently successful one. One major victory of which we are extremely proud was the passage of legislation enabling the Guamanian people to elect, for the first time, our own Governor and Lieutenant-Governor in 1970. This was a tremendous step forward for Guam, and one which dramatically increased our degree of local autonomy. The 1970 Gubernatorial election also provided an excellent opportunity to demonstrate the existence of a healthy two-party system on Guam. I say this because the people elected a Republican Governor while retaining a Democrat-controlled Legislature.

We are equally proud of other measures authorizing the Guam Legislature to set its own salaries and providing them with the option of legislative apportionment. A great deal of effort was also devoted to including Guam in Federal programs. By the end of 1972 Congress had extended over 100 additional programs to the Territory, with our total aid in direct Federal grants rising to $14.3 million. This latter figure, of course, does not include the millions of dollars the Federal Government spends on Guam each year for salaries and construction.

The passage last year of a bill granting Guam and the Virgin Islands the right to elect our first Delegates to the United States House of Representatives was also another significant milestone in our political development.

This was a step for which we had long waited and hoped, and one which, hopefully, will cement the bonds between Guam and Washington even closer in the years to come.

In summation, then, Guam has obviously come a long way in our relations with the United States. We have a spokesman in Congress, we have our own elected Governor, we have an elected Legislature. The number of Federal programs in which we participate has increased tenfold in the past eight years. And, perhaps most significant in the long run, we are American citizens who are now assured of sharing in the great American heritage and bounty. These are victories we have sought, and victories we have struggled for within the context of the American system.

I am confident that the future will be equally bright for Guam. With our representation in Congress now a matter of record, we have opened the door for even greater political advancement for our people. Although Delegates are not allowed to vote for the final passage of measures on the Floor of the House, I can vote in Committee.

As a Delegate to Congress, I share in all other privileges granted to Members of Congress. I can introduce bills and amendments, and debate measures awaiting a vote on the Floor. As a member of the majority party in the House of Representatives, I am a full voting participant in the House Democratic Caucus, which chooses the Speaker and the Democratic Majority Leader.

In the six months since I have held this office, I have introduced many bills which specifically address themselves to the needs of the Territory. Of particular interest is my measure authorizing the people of Guam to vote in Presidential elections. As Americans, we believe that we should share with our fellow Americans in the fifty States the fundamental right to participate in the election of our Chief Executive. Under the existing system, Americans living on Guam may not exercise their franchise; should they move to one of the States, however, they may then vote in Presidential elections. Since Guam already has three votes in our national conventions where Presidential candidates are chosen, to deny us the opportunity to choose between the final two candidates is a political paradox I aim to resolve.

In addition, I have introduced legislation to extend the Government of Guam's administrative control over our offshore areas; to authorize the Federal Court on Guam to review property transactions which took place between local residents and the U.S. Navy during the immediate post-World War II period; and to permit the Government of Guam to increase its public debt limitation.

My activities are not restricted solely to Guam's interests, but to the whole spectrum of national affairs.

As each step of our political development must necessarily be followed by another to maintain our momentum, Guam is now beginning to review our overall political status.

An impetus to this action has been, of course, the present Status Talks between the United States and the Northern Marianas of the Trust Territory of the Pacific Islands.

Statehood is generally agreed to be our final goal; however, in view of our limited population and income, Statehood would now not be a practical endeavor. An alternative, which I have personally endorsed before the Legislature in 1970, is Commonwealth Status for Guam. As a Commonwealth, the people of Guam would have the power to draft their own constitution, and thus would close any remaining gaps in our internal control. Also, we would retain control of our taxes and representation in Congress. In keeping with our desire for closer ties with the American democratic tradition, any constitution drafted would necessarily be based on the principles of mutual consent and complete local self-determination, not inconsistent with the Federal Constitution.

Several steps have already been taken towards this end by Guam. The Governor has recently formed an advisory council on our political status. And the Legislature has passed legislation creating a political Status Commission. The two bodies will work together to review all factors that may have bearing on the present and future relationships with the Federal Government. In 1969, Guam held a Constitutional Convention.

The results of that exercise, however, were not conclusive, and time has changed our perspective and our short-range goals. Since any status change Guam proposes must be ratified by our fellow Americans in Congress, I intend to introduce legislation in the near future which will give the official sanction of the Congress to preliminary efforts in this matter.

Whatever our future, one fact stands out clearly: We are American citizens now and we are justly proud of this achievement. Our relationship is not static, however, and in the years to come many changes will take place, changes which I believe will be designed to give the American citizens of Guam an ever greater voice in our Island's affairs.

Thus we have arrived at a stage in our relations which, while not always perfect, does provide us with far more advantages than we ever hoped possible 75 years ago, and one which certainly offers Guam a tremendous improvement over the status we enjoyed during three-hundred years of Spanish rule.

Thank you.

THE OVAL OFFICE TAPES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROBISON) is recognized for 15 minutes.

Mr. ROBISON of New York. Mr. Speaker, like everyone else I have given a good deal of thought to the implications of the automatically tape-recorded conversations at the White House since their surprising disclosure, last Monday, by former presidential assistant, Alexander P. Butterfield.

Two of my own local, daily newspapers immediately called me to ask if I had been "taped" in this fashion in recent years. This was an easy question to answer since my White House visits have been infrequent during the tenure of the present administration—consisting of one or two social visits with large numbers of other guests, two trips to the famed Oval Office for picture-taking sessions with the President at campaign time, and since I have never spoken to President Nixon directly by telephone. As for the fact of the taping, I offered the observation—for what it was worth—that this is, after all, an "electronic age" and we might as well take advantage of it, including its use for historical-reporting purposes at the highest level of government. To this I added the thought that, if people really wanted an "open" Presidency—as many say they do—what better way of assuring it than through keeping a recorded transcript of what was said to or by a President, either in person or over the telephone? If this were to become the practice, however, clearly then it should be made known—as from now on it will be known or, at least, suspected—to all parties to such conversations. It was, I noted, the clandestine nature of the administration's recourse to such a device or technique that gave me—and many others—pause.

In any event, the tapes were made—and, supposedly, presently are available for properly limited and controlled public access.

Mr. Speaker, I understand—and fully appreciate—the new dilemma the already-beleaguered President faces in this regard. But the essential fact—it seems to me as the editorial to which I will shortly have reference points out—is that these tapes—

> Finally offer some way the truth might be established and the Watergate affair put behind us.

If, Mr. Speaker—and I recognize the degree of speculation involved—controlled access to the pertinent "Watergate" tapes would allow us to get, sooner than anyone has hoped, to the bottom of this so-unfortunate affair then I, for one, strongly feel the President ought to make them available. The Watergate hearings—in the other body—bid otherwise to go on, almost forever, as the Nation's newest, if not most popular, daytime soap opera on television. As they go on, to be followed in turn by whatever it is that the almost-forgotten Special Prosecutor and his staff people are working on, our Federal Government will continue to "mark time" at a moment in history when, on so many, many fronts the order ought to be "forward march."

The doctrine of separation of powers—the concept of Executive privilege—the problems involved by the existence of possible as well as pending criminal indictments and trials of some of Watergate's participants—all these things are, in the ordinary course of events, of substantial importance. But we are in an extraordinary, and unprecedented, situation; a situation in which the national interest, insofar as it can be perceived, should be given precedence.

The editorial to which I earlier had reference appeared in yesterday's edition of the Wall Street Journal. It sums up in better words than I could summon my own current belief that—in its own concluding sentence—

> The overwhelming duty that Richard Nixon owes the Nation is to get this singular evidence before the public and end the turmoil one way or another.

I am sending a copy of these remarks to the White House, and now submit the full editorial for my colleagues' consideration:

THE OVAL OFFICE TAPES

The important thing about the newly disclosed tapes of presidential conversations is that they finally offer some way the truth might be established and the Watergate affair put behind us. Other issues are subsidiary, and should not be allowed to obscure the central point.

Chief among the obscuring lesser issues, of course, is the doctrine of separation of powers, which the White House evoked yesterday in indicating it will not release the tapes. Assuming the administration is serious about this point and not merely finding excuses to perpetuate the cover-up, it is allowing niceties to take precedence over the welfare of the nation.

Another subsidiary issue concerns the propriety of making the tapes in the first place, a question we find puzzling. We recognize certain troublesome implications, but are disturbed at the alacrity with which this latest disclosure has been incorporated into the "police state" theme popular with some politicians and commentators. This is another of the exaggerations that have become particularly pronounced in recent weeks.

The Senators are putting themselves into a queasy position when on one hand they complain about secret recordings of their own private conversations and on the other hand demand release of his private conversations with his aides. For that matter, we wonder how many Senate investigators or newspapers have never clandestinely recorded a conversation themselves?

Despite all that, there are, as we said, certain troublesome implications. It is less than perfectly honest to record a conversation without telling the other party, and seems to us quite difficult to justify in the absence of strong extenuating circumstances. The routine recordings, also, show a carelessness about the rather scary potential implications of electronic technology.

But against that, again, there is something touching about presidential willingness to have every conversation recorded for posterity, or at least to put himself voluntarily in the position of having to sneak about the White House if he wants to say something he doesn't want recorded. One would almost think that a President who knew his Oval Office talks were recorded for eventual release would not do anything like participate in covering up crimes. So with due apologies to the reader who expects clear-cut declarations, our feelings on the ethics of the matter are confused.

We are quite sure, though, that in the circumstances of this particular case release of the recordings would serve the public interest. One of the most troublesome things about the Watergate scandal has been the difficulty in conceiving how it ever might be brought to an end. It seemed likely to go on forever, perpetuating paralysis in government and hysteria among editorial writers. Now for the first time there is, er, light at the end of the tunnel.

We are in no position to guess, of course, what the tapes might show. Conceivably they will be ambiguous, or suggest that the President was neither deeply involved nor completely innocent. But even if they are not clearcut, and whether they suggest innocence or guilt, they ought to go far toward resolving the matter in one way or another.

This point, not executive privilege ought to be central to the decision of whether the recordings should be made public. Obviously the President cannot allow the Ervin Committee to rummage through all his conversations, but surely this problem is not beyond compromise. The separation of powers is a sound constitutional doctrine, but it is a general guide to be interpreted in the circumstances and requirements of the present, not an iron wall.

If the President does not reconsider his initial instinct to withhold the tapes he will only prolong the Watergate agony, and intensify the never-quite-resolvable impression of his own guilt. It would obviously be better for him and the nation if he could establish his own innocence. Even if the tapes show him guilty, he needs to recognize that the alternative to disclosure is continued doubt and increasingly ill-tempered national discourse.

It would seem clear to us that at this point the overwhelming duty that Richard Nixon owes the nation is to get this singular evidence before the public and end the turmoil one way or another.

THE OFFENDER EMPLOYMENT AND TRAINING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 10 minutes.

Mr. RAILSBACK. Mr. Speaker, I am today introducing with Mr. ANDERSON of Illinois, Mr. COHEN, and Mr. HORTON the Offender Employment and Training Act, a bill designed as a step forward in meeting and reversing a crisis in our corrections system. The distinguished senior Senator from Illinois, Mr. PERCY, has recently introduced identical legislation in the other body.

We know—and I emphasize know—that present correctional systems and their programs have two fundamental deficiencies: They do not work and they cost too much. Recidivism rates make a mockery out of the traditional methods of crime prevention and incarceration. Some States and some Federal programs are making efforts to develop a more effective structure and they are to be commended. Overall, however, too little in the way of money, resources and, more importantly, additional and policy change have characterized the response to conditions in the prisons and the increased crime and recidivism rates.

There are now more than 400,000 persons in jail or prison and another million on parole or probation. Many of the hundreds of thousands now under arrest and awaiting trial will be entering the corrections system and many, having served their sentences, have recently been released back into the community.

These offenders are diverse in their background and their problems are complex. They differ in the seriousness of their offenses, legal status, and the degree of public control over their activities. One key common denominator is that they often have difficulties after their incarceration obtaining and holding jobs. Despite tremendous differences in the labor potental and, generally, their amenability to assistance, most criminal offenders have employment problems and need help.

In part—and experience and studies indicate it is only a minor part—the problem is related to a reluctance on the part of the private sector to hire ex-offenders. The more important reason is the inability of the particular individual to function in a positive and independent manner in the "free society." The ex-offender is neither mentally or technically equipped for reintegration into society. He does not have the skills or desire to be a productive member of the work force. Rehabilitation in terms of the employability of ex-offenders has been a dismal failure.

Society has a right to be protected from those who would violate its laws. However, it is in the best interests of society to rehabilitate these individuals so that society does not continue to bear the burden of supporting them indefinitely. Because temporary protective separation and rehabilitation must be the principal objectives of any correctional program, a system which provides for the greatest likelihood of successful and constructive reentry into society will be least expensive in the long run. An offender must, therefore, leave the prison setting with those economic skills which will permit him to be a productive member of society.

In order to achieve this end, a correctional system must at a minimum set standards and organize programs to achieve the following goals: first, develop in each inmate a set of attitudes favorable toward work and the work situation; second, develop in each inmate the minimum qualifications necessary to obtain and maintain a job; and third, develop in each inmate attitudes favorable to leading a law-abiding life. Employability—that is, marketable job skills—of ex-offenders would be a certainty if these goals were being achieved—unfortunately they are not.

In the first place, not all inmates are engaged in work or training programs while in prison. Of those working, many perform the menial tasks necessary to maintain the prison community. Those who work in such "housekeeping" positions as well as those involved in training and work production programs often do not get paid. Thus, based on a yearlong study conducted at my request by the Library of Congress, a survey of State and Federal correctional institutions revealed the following facts: The average percentage of men in State prisons who were engaged in paid labor was 50 percent of the total prisoner population, while the percentage for women in women's institutions, was 84 percent. The average percentage of men employed in paid labor in Federal institutions was 27 percent while the average percentage for women was 25 percent.

The same survey also reveals the inadequacy of wages as an incentive for participation—where there is a choice—or effort in those programs which do pay inmates. Hourly wage rates for inmates in State correctional institutions varied from State to State, ranging from a low of 1 cent an hour in some States to a high of $1.10. On average, across the entire spectrum of State prisons, hourly wage scales in the State correctional institutions ranged from 4 to 17 cents an hour for men's prisons and from 6 to 13 cents an hour for women in women's correctional institutions.

On average, hourly wage scales for prisoners engaged in paid labor in Federal institutions were much higher than their State counterparts, ranging from 21 to 51 cents an hour for work done in the Federal Prison Industries. Women and men are paid equally. In some cases, prisoners employed in the industries can earn more than 51 cents an hour—from 67 to 72 cents an hour—for unusually high productivity or longevity—for example, at the U.S. Penitentiaries in Marion and Lewisburg.

The types of training and work programs available are usually unrelated to labor market needs and thus we have ex-offenders trained for positions which do not exist or where there is an oversupply of labor. And those engaged in "housekeeping" functions or who do not work at all have almost no prospect for employment at a decent wage and usually find their way to the end of the welfare line. From the above facts, it is not difficult to understand how the failure to provide employment and training opportunities while in prison or on parole or probation leads the offender back through the front door of the prison he so recently left.

A great deal of the responsibility for the failure to provide meaningful training and work programs must lie at the door of the State legislatures and Congress. While legislative and administrative actions in recent years have corrected abuses which saw inmate labor exploited for profit and punishment, they have at the same time created certain barriers to an effective correctional employment program.

Federal legislation has had a direct impact on State as well as Federal prison employment programs. In 1929 Congress passed the Hawes-Cooper Act which divested prison-made goods of their interstate character, thus making them subject to local law upon delivery within a State. Subsequent acts prohibited the interstate transportation or importation of convict-made goods for any purpose but excepted commodities made by Federal prisoners and those made in State prisons for use by other States. The Federal Government so far as its own prisoners are concerned has adhered to the same policy that has characterized State systems: prisoners should be employed exclusively in the manufacture of supplies or the performance of services for the Government or its political subdivisions. The contracting out of prison labor and the sale of prison-made goods to the public are strictly prohibited.

As a conseqence of these legislative restrictions, employment programs in prisons have been forced to operate under at least the following constraints: First, limited markets since products are only for governmental agencies, second, industries requiring little training, third, payment of token wages to inmates, fourth, operating so as to minimize competition with free labor and business, fifth, lack of capital for modernization, and sixth, high employee turnover coupled with competition for inmate time with other institutional programs. These restraints have made it extremely difficult for correctional training and employment programs to fulfill the rehabilitative goal of employability.

To correct this situation it will be necessary to remove these restrictions and initiate a positive program whereby work programs can realistically achieve attitude change and raise the work potential of inmates. A recognition of several factors has led to the legislation that is being introduced today.

Too frequently lip service is given to the goal of rehabilitation while other goals—custody, institutional convenience, profit—are in fact given priority.

If correctional training and employment programs are to be successful in terms of employability and earning potential, modern production methods and a competitive market situation are necessary to create a realistic work situation and assure reasonable wages and profits.

Private capital involvement is one means for upgrading the prison industries programs.

Increasing the level of inmate participation and remuneration will increase the probability of postrelease success by reducing inmate financial pressures and providing powerful motivation for the development of employment skills.

Many decisions regarding correctional employment programs are made as a reaction to falsely perceived views of business and labor. There is no reason to be lieve that these groups would not accept change in prison industries and they can expect to support such change if it would be to their advantage.

In order to give new meaning and direction to the training and employment of prisoners in State and Federal correctional systems, the bill introduced today would authorize grants and loans to, and contracts with, private organizations including corporations, labor unions, and private nonprofit groups and Federal agencies responsible for the operation of correctional institutions, for the purpose of establishing or expanding projects, within or outside Federal and State penal institutions, to train or employ criminal offenders. Products produced and services performed would be available for sale to the public and could be sold for interstate commerce. By removing the restrictions against interstate commerce, contracting out prison labor and sale to other than governmental agencies, the legislation would establish a positive program for the benefit of the prisoner, private employers and organizations, and the public.

Title I of the Offender Employment and Training Act applies to Federal correctional institutions. It provides authorization for the Federal Prison Industries, the Department of Justice corporation responsible for offering Federal prisoners training and work experience, to make grants or loans to, or contract with, private organizations for the construction or operation of projects designed to train and employ Federal offenders. Such projects may also provide supportive services including education and counseling. The private organizations would be the employers of the prisoners and the project may operate within the prison facility itself or outside of it.

In order to be eligible an applicant must meet the following conditions:

First, prisoners would receive wages at a rate not less than that paid for work or training of a similar nature in the locality in which the work or training is to be performed.

Second, the work or training performed must be of such a nature as to make it likely that they will find employment upon release.

Third, wages will be subject to State and Federal laws requiring deductions for money to support dependents and costs incident to confinement such as room and board. In addition, up to 10 percent of wages could go to a fund which might be established for the purpose of compensating victims of crime.

The program would be supported by a Federal Employment and Training Fund whose moneys would be derived from repayments of loans and proceeds from sales where the employer is a Federal agency, such as the Federal Bureau of Prisons. The fund would also be supported by such annual congressional appropriations as would be necessary to make the fund not less than $10 million.

Title II of the Offender Employment and Training Act gives to the Attorney General the same powers given the Federal Prison Industries in title I for carrying out similar projects in State correctional institutions. The State program would be funded by a $10 million authorization for each of the next 5 years.

THE OFFENDER EMPLOYMENT AND TRAINING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 5 minutes.

Mr. COHEN. Mr. Speaker, every generation throughout the history of the world has been faced with the problems of crime and violence. From the moment the first social contract was formed and men agreed to live together in an organized society, there has been the inevitable problem of those who would violate the laws or rules of that society.

Yet, in modern day America, the scope of crime and violence and the corresponding fear and paranoia that is felt by the citizenry have reached unprecedented levels. Crime in the streets continues to plague us as one of the greatest concerns of the American people and public officials.

To be sure, during the past few years we have made some tremendous progress in law enforcement, particularly from the perspective of improving the skills of our law enforcement officials and providing them with greater resources to do their job. There is ample evidence to demonstrate that these efforts are now starting to have a relative impact on the reduction of crime.

Yet, the work of our police forces and law enforcement officials is only part of the solution to this important problem facing all Americans. The time has come to give equal attention to our system of corrections and to the criminal himself, particularly his motivations and the forces behind his criminal activities.

The startling fact is that 80 percent of all crimes in this country are committed by people who have previously been convicted of another crime. Obviously, we are failing in our obligation to rehabilitate the criminal. Likewise, we are failing to provide the proper kind of environment where a criminal has incentive to become a productive member of society rather than a destructive one.

Given our current correctional programs, the typical criminal offender may finish his term of imprisonment and return to society and possibly his family only to be confronted with an environment that leaves him little choice but to return to a life of crime. Upon being released from prison, the ex-offenders rarely can find jobs either because they lack work skills or because of the high risk perceived by employers to be involved in training someone with a past criminal record. Of course, he lacks skills because there have never been adequate opportunities for vocational training.

So, upon his release from prison, the ex-offender soon discovers that he cannot get a job and, therefore, cannot meet his responsibilities for providing for his family. This is a tremendous psychological burden for the head of any household and it is a particularly difficult one too for those returning from prison. Faced with these pressures and the absence of even the opportunity to even try to lead a normal, productive life, the ex-offender then is often forced to turn to crime to obtain the money he needs. If caught and convicted, he is once again trapped in this vicious cycle where little assistance is offered him to develop marketable skills or to acquire tools that would enable him to reenter society on an equal footing with others.

The tragedy of this situation has been recognized by many. Since 1967, four Presidential Commissions, dozens of legislative reports, and more than 500 books and articles have recommended reform of our correctional system. During the first National Conference on Corrections held at Williamsburg, Va., in 1971, this Nation's leading legal and law enforcement authorities resoundingly supported the need for reform. As President Nixon has stated—

> The time has come to repudiate once and for all the idea that prisons are warehouses for human rubbish; our correctional systems must be changed to make them places that will correct and educate.

Mr. Speaker, the bill my colleagues and I are introducing today would be a major step toward making our penal institutions an integral and viable part of an effective crime combatting program rather than places that actually work against the concept of a crimeless and more productive society. Instead of compounding the problems of the criminal and actually contributing to the pressures that lead to a life of crime, our correctional institutions can and should provide opportunities for the offender to learn marketable skills, to acquire the tools that will enable him to take advantage of the opportunities available to the rest of society, and to teach him, through practical experience, the responsibilities that go along with living a normal and productive life.

This legislation, which is, in effect, a "work your way out of prison plan," would enable private industry to lease prison property on a long-term basis, and to provide work facilities within the prisons. In these facilities the employers would hire prison inmates at prevailing wages to produce regularly marketable products, just as if they were employed in an industry on the outside.

Any participation by the inmates would be voluntary. And, the employer would be expected to provide such supportive services as training, education, counseling, and so forth.

Because he is able to earn prevailing wages, the inmate participating in the program could pay the Government for his room, board, and maintenance. He could also pay for support of his family, taxes, and social security payments. In addition, he would be required to contribute up to 10 percent of his wages to any Federal fund established by law to compensate victims of crime.

Moreover, Mr. Speaker, this legislation would create a program that would enable someone to emerge from prison with new skills and work experience, as well as a sense of productivity and dignity in being able to care for his family and to contribute to his community. Upon being released from prison, he would find the transition a far easier and natural one than what faces him today.

In conclusion, this legislation would not only be a net savings, in dollars, to the Government, but it would be a tremendous investment in the human productivity and dignity which all Americans so highly value. We would at once contribute to a more effective and progressive crime fighting strategy as well as a more meaningful life for many of our citizens who have been victims of the vicious cycle of our current penal system.

INTRODUCTION OF TWO BILLS RELATING TO CRIMINAL JUSTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 10 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, I am today introducing for appropriate reference with my colleague from New York (Mr. HORTON) the Federal Criminal Justice System Reorganization Act. This is the same legislation introduced in the other body by the gentleman from Illinois (Mr. PERCY) with the gentleman from Tennessee (Mr. BROCK), and the gentleman from New York (Mr. JAVITS). The gentleman from New York (Mr. HORTON) and I are also joining with our colleague from Illinois (Mr. RAILSBACK) and our colleague from Maine (Mr. COHEN) in the introduction of the Offender Employment and Training Act, often referred to as the "work your way out of prison bill." Identical legislation was introduced in the other body on July 12, by the gentleman from Illinois (Mr. PERCY) with the gentleman from Tennessee (Mr. BROCK), from Maryland (Mr. MATHIAS), and the gentleman from Ohio (Mr. TAFT).

At the outset I want to congratulate the senior Senator from Illinois, Mr. PERCY, on his initiative in authorizing these two important pieces of legislation. And I am proud to introduce companion bills in this body.

REDUCTION OF RECIDIVISM

Mr. Speaker, in bureaucracies the process a person goes through after being arrested for a crime in the United States is called the criminal justice system. Not all, but many of those persons spend some time in a prison, and one criminologist with experience in running prisons has said—

> The genius of American penology lies in the fact that we have demonstrated that 18th and 19th century methods can be forced to work in the middle of the 20th century.

A great deal of evidence suggests, however, that we are not making it work, and in fact, a disturbing amount of crime is being committed by persons who have been in and out of the criminal justice system and the prisons which comprise a major part of it. The purpose of the legislation I introduce today is to help reduce this recidivism by improving as much as we can the entire criminal justice system.

Reduction of any kind of crime requires in part the ability to understand, even to predict, what causes crime and what can be done to reduce it. You may recall that capital punishment for pickpocketing in England was abolished when it was observed that most pickpocketing occurred during public hangings. Our ability today to predict what will prevent crime or retard its growth is still extremely tentative and inexact. As an example, some experts believe that, contrary to popular belief, there is little evidence to indicate that the volume or rate of crime recidivism is so related to penal policy that they vary with changes in correctional programs or practices.

There is considerable evidence, in fact, to buttress the argument that the incidence of crime is most closely related to conditions largely beyond the control of the criminal justice system. The list of such factors includes age and sex, the race composition of the community, the economic status and stability of the community, and the strength and efficiency of the police force. Even such unrelated considerations as the weather have an effect on crime.

Thus, we have a polarity developing. On the one hand, there are those who think that attributing an increase in crime to the criminal justice system is like holding an umbrella responsible for the rain. On the other hand, we have some reformers who tell us that we must conclude that our prisons, for example, have failed because two-thirds of all crime is committed by recidivists. There is a middle ground between these two exaggerations, however, where I believe we can find the foundation for sound, new penal policy.

Consider for a moment that the corrections process provides an opportunity that many of the other crime related factors do not. We cannot, for example, change the age, sex, or race of an offender. We cannot, even in a matter of years, change the nature of his community, his family, or his educational background. But from the time we arrest an offender until years after he is released, we have the opportunity to touch his life directly. Equally changes in penal policy can be made and administered in relatively short order.

In other words, while we must make the time-consuming, broad attack on the underlying social and economic conditions which produce crime, and while we must work to insure that the law is firmly enforced, we must at the same time find better ways of treating an apprehended offender so he does not offend again. Treatment of the offender while he is in public custody—from arrest, to trial, to sentencing, while on probation, in prison or on parole—is one of the best ways within our grasp of achieving what must be our number one goal—protecting society from crime.

PROTECTING SOCIETY

Protecting society from crime, let me emphasize, in the most efficient and economical way possible, should be our overriding consideration. As the following will indicate, it just so happens that the most efficient and most economical way possible probably involves the most humane treatment of offenders.

Of the 21,000 inmates now in Federal prisons, 98 percent will ultimately be released. Based on past performance, Federal officials estimate that 68 percent of those will return for the commission of another crime. I am convinced that we could reduce that number if we were to institute some procedural changes.

Consider the effect of our present parole procedures on the outlook of an inmate. Eight members of the Federal Parole Board, assisted by eight hearing examiners, decide more than 17,500 parole requests each year. Because each decision requires the concurrence of at least two members, at least 35,000 individual decisions are made each year. That requires each individual Board member to make over 4,300 decisions each year.

It might be argued that because many requests can be easily rejected or granted, that the burden is not as overbearing as it first seems. But experts agree that even those which can be dismissed quickly should be accompanied by an explanation to the inmate, including among other things, the Board's opinion of what goals the prisoner should set in order to win parole. Perhaps it would have to do with his attitude, behavior, vocational training or the like.

If the present Board attempted such a task, paralysis would result. In its absence, many prisoners sit and stew, fuming with anger and frustration. When they finally get out, the present system provides a wholly inadequate apparatus to deal with the resulting resentment, let alone all the other problems faced by returning prisoners. Today, 640 U.S. probation officers supervise 45,000 probationers and parolees. That averages out to 71 cases per officer, or more than twice the recommended caseload of 35.

FEDERAL JUSTICE SYSTEM REORGANIZATION ACT

A key element of the Federal Justice System Reorganization Act is the replacement of the present eight-member Parole Board with a local criminal justice office located in each Federal district, and staffed by at least three members appointed by the Attorney General. These local offices would serve as the grassroots administration agencies of our Federal courts and criminal justice system, responsible for all criminal cases filed in their jurisdictions.

Each would swing into action at the time of arrest. Immediately the local office would be assigned the case and would begin to develop information necessary to make a wise decision regarding bail, pretrial release, or incarceration. It would make a recommendation to the court.

Recommendations on these matters would then be the basis of discussion between the U.S. attorney and the counsel for the defendant at a precharge conference. At the conference, the wisdom of diverting the defendant from the criminal justice system would be considered factoring in the offense, the safety of the community and the probability that such diversion would assist the defendant in rejoining the community as a law-abiding citizen. For example, it might be decided in the case of an alcoholic or a drug addict that hospitalization or even outpatient treatment would be a wiser course than jail.

If a defendant were tried and convicted, the local office would recommend what type of sentence for the court to impose, stating its reasons for the sentence, and the goals that the incarcerated offender should shoot for in order to be released. The court could accept, modify, or reject this recommendation stating its own reasons and goals. The local office would also hold annual parole hearings and decide, on the basis of the progress of the offender in meeting the goals set at the time of sentencing, when the individual should be released into the community. If parole were denied, the local office would provide written reasons, explaining what goals had been met and what goals remain to be met.

If the individual were released either on parole, probation, pretrial diversion, or other authorized form of release, the local office would be responsible for the individual's supervison.

Mr. Speaker, I want to emphasize that this is a summary of only one of a number of reorganization provisions in the bill. I would direct the attention of my colleagues to the remarks submitted by Senator Percy in the other body on July 12, for a discussion of the other provisions and a copy of the bill. They begin on page 23488 of the Congressional Record of that date.

In describing the bill in total the Senator from Illinois concludes the following in those remarks:

> By replacing the present potpourri of services and harried professionals, and conflicting lines of authority, with a single coordinated body, the criminal justice system will become more efficient. And with the added advantage of national guidelines and standards, current regional inequities in the criminal justice system would be diminished and hopefully eliminated. The by-product of this total reorganization would be better criminal justice and, therefore, a lower level of crime. Presently 80 percent of all crimes are committed by people who have previously been through our criminal justice processes. This new system would help to reduce the number of recidivists, and thus lower the level of crime.

Mr. Speaker, I wholeheartedly agree.

THE OFFENDER EMPLOYMENT AND TRAINING ACT

Mr. Speaker, there is mounting evidence to suggest that the principal determinant of post-release behavior is the economic situation a person finds himself in after getting out of prison. For most prisoners that entails finding a job.

But most cannot find jobs because they lack work skills. Many lack work skills because while in prison they never received adequate vocational training. Time in prison is too often squandered with useless tasks in an environment of indolence and lethargy. There are two primary reasons for this: It has long been thought that it would cost the Government too much money to become involved in effective vocational training for each inmate; and second, a number of laws stand in the way of innovative projects that could increase the inmate's job potential.

The costs of keeping a person in prison without preparing him to make his way on the outside may be higher, I believe, than it would cost to train him. Consider present costs. The Government spends an average of $11.55 per day to keep an inmate locked up in a cell that may have cost up to $30,000 to construct. In addition, some 55,000 families receive welfare payments because the family wage earner is in prison and unable to support them.

The legislation we introduce today, the Offender Employment and Training Act, would authorize the Federal Government to implement projects with the private sector to provide vocational training and jobs within prison walls. This "work your way out of prison plan" would call on private industry to lease prison property on a long-term basis, and to provide work facilities within the prisons. In these facilities, the employer would hire prison inmates at prevailing wages to produce regularly marketable items.

Participation in this program by a prisoner would be completely voluntary. Out of the wages paid to those who participate, prisoners would pay the Government for room and board. They would also help support their families, pay taxes, and make social security payments. In addition, they would be required to contribute up to 10 percent of their wages to a fund to compensate victims of crime.

The Federal Bureau of Prisons has given its full support to this measure. And in Illinois, for example, a new unified code of corrections, signed by Governor Ogilvie, provides that prison-made products can be sold to nonprofit organizations, such as church groups and universities. The opening up of potential markets, which we will continue to promote, has been accompanied by growing support by leaders in both the business and labor community.

Mr. Speaker, I believe that these kinds of innovations are essential to the development of an anticrime system that can adequately protect our citizens. They are the product of commonsense, decency and the desire to do whatever is possible to stop crime.

LEGISLATION TO RESTRUCTURE THE FEDERAL CRIMINAL JUSTICE SYSTEM AND TO UPGRADE OFFENDER EMPLOYMENT AND TRAINING PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Horton) is recognized for 10 minutes.

Mr. HORTON. Mr. Speaker, I call to the attention of my colleagues two bills I am introducing today to improve the Federal criminal justice system. Both measures are identical to bills introduced in the other body by Senator Charles Percy. As my colleagues well know, Senator Percy has been among those in the forefront of efforts to reevaluate our present procedures for dealings with criminal offenders. I have been pleased to work with Senator Percy in offering two proposals which we believe will give meaning to the words "criminal justice system" and thereby reduce the threat of crime in our society.

Mr. Speaker, I doubt that many experts or laymen would quarrel with the belief that our country is failing to solve the crime problem. Granted, we can point to statistics which show that the crime rate is lower than it was a few years ago and that certain types of crimes are being committed with less frequency. Violent crimes, however, are increasing and while many of our cities have made demonstrable progress, crime in the suburbs is growing dramatically.

What is this failure costing us? The House Select Committee on Crime recently noted that $1.5 billion was spent in 1971 to keep 400,000 inmates in Federal, State, and local prisons. The Bureau of Prisons tells me that the average per capita cost of confining a Federal inmate was $13.42 a day during fiscal year 1972. Currently, the total inmate population in Federal facilities is about 23,404. These figures are disturbing alone but they do not begin to reflect the full cost to our society. They do not include the billions of dollars spent for police protection, the losses suffered by the victims of crime, or the intangible element of fear.

Statistics on the rate of criminal repeaters further demonstrate the fundamental failure of our criminal justice machinery. The Select Committee on Crime stated that even though $1.5 billion was spent in 1971 to confine 400,000 prisoners, "taxpayers were the victims of more and more felonies, 80 percent of which were committed by former offenders." In response to my request to the Bureau of Prisons for the rate of recidivism in Federal facilities alone, I was given the results of a study conducted in June of 1972. At that time, there were 20,729 inmates in the Federal systems, of whom 17,756 were surveyed. The results were as follows:

Number of prisoners and number of prior commitments of any kind in a Federal, State, or local facility

6,672	0
3,115	1
2,353	2
5,616	3 or more

This and other studies of recidivism offer conclusive evidence that our criminal justice procedures are in fact part of the problem.

REORGANIZATION

Through my service on the Government Operations Committee, I have participated in countless hours of reviewing the workings of government and reorganization proposals designed to bring about greater efficiency. I am convinced that we can ill afford to cast about for piecemeal improvements to a criminal justice system which is so uncoordinated that it is no system at all. We need to institute a fundamental overhaul and establish coordinated machinery to deal with an individual from the moment he is arrested.

To accomplish this goal, I am sponsoring together with John Anderson of Illinois the Federal Criminal Justice Reorganization Act. This legislation would establish within the Department of Justice a new Criminal Justice Services Administration with overall responsibility for coordinating Federal activities in the area of criminal justice. Several ongoing functions would be transferred into the new Administration. The Bureau of Prisons and the Law Enforcement Assistance Administration, for example, would be transferred into the Administration with their internal organizations remaining intact. In addition, a Bureau of Juvenile Justice would be established to assume all functions now carried out by HEW relating to juvenile delinquency.

Among the new entities created within the Administration would be a National Criminal Justice Board. The National Board would be composed of 11 members, one from each judicial circuit, appointed by the President and confirmed by the Senate. Its duties would include the formulation of sentencing guidelines for U.S. courts, as well as national standards for bail setting, pretrial release, probation and parole. In addition, the National Board would serve as an appellate body to hear appeals from offenders who believe their parole denial deviated from established national guidelines.

The heart of the proposed reorganization lies within the local Criminal Justice Office established in each Federal district and functioning under the National Board. The District Offices would thus become the basic administrative units for the Federal courts and the criminal justice system. Immediately after the arrest of an individual, for example, the District Office would investigate the case and report its recommendations for the setting of bail to the appropriate judicial office. The local office could also recommend medical treatment if problems such as drug addiction or alcoholism are evident. These findings and recommendations then become the basis for discussion between the U.S. attorney and the defendant's counsel at a formal precharge conference. At this point, the possibility of diverting the suspect from the criminal justice system is considered. If diversion is agreed upon, the charges are suspended for up to 12 months, with the progress of the defendant monitored by the U.S. attorney.

If the defendant is prosecuted and convicted, the case is again referred to the district office prior to sentencing. The office would recommend the sentence to be imposed, its reasons therefor, and the goals which the offender should attain to entitle him to parole. The court, of course, may accept or reject the recommendation but in doing so, must set forth its reasons for the sentence and the goals for the offender.

Annual hearings would be held by the local office to assess the progress of the offender in meeting the goals established at the time of sentencing. Its evaluation would determine when the individual would be released into the community. If parole is denied, the defendant would be told why. Once the individual is released, the local office would have supervision over him.

Another important unit established by this legislation is the office of ombudsman. It would have two primary functions. First, any petition for collateral review filed by a State or Federal prisoner could be referred to the ombudsman by the court or upon request by the prisoner. Within 90 days, the ombudsman would consider the petition and, if possible, resolve the matter. If the problem is not resolved, the petition and an accompanying report would be forwarded to the court. This procedure could substantially reduce the burden now placed on the courts by prisoner petitions. In addition, the ombudsman would review and attempt to resolve nonjudicial petitions and other communications referred to it by an offender or by the Bureau of Prisons.

OFFENDER EMPLOYMENT AND TRAINING ACT

Mr. Speaker, I am also joining my colleagues, TOM RAILSBACK and JOHN ANDERSON, in introducing the Offender Employment and Training Act. Its purpose is to equip the Federal offender with a vocational skill so that when he leaves prison, he can get a job rather than return to crime.

The futility of our current training efforts is clearly evident in the observations of a former inmate of a Federal facility:

> They still release prisoners the way they used to in the old Jimmy Cagney movies. They give you about 50 dollars and a shiny suit, with which you are supposed to start life over again after years or decades behind the walls . . . You can't live forever on 50 dollars. You can't find work on the streets making license plates or using whatever other skills you learned on obsolete equipment working in the prison factory. If you go into prison undereducated and underskilled, that is the way you will probably come out, with the added stigma of having done time.

The Offender Employment and Training Act would authorize the Federal Prison Industries to enter into contracts with the private sector—businesses or other groups—to establish factories on the prison grounds. The prisoners who volunteer for the program would be trained to produce items for sale on the open market. Current prohibition against selling prison-made goods in interstate commerce would be lifted.

For his work, the prisoner would be paid the prevailing wage in the prison's locale. From that wage, normal deductions for taxes and social security would be withheld. Additional deductions would be made to reimburse the Government for the costs of the prisoner's room and board in the Federal facility. Finally, up to 10 percent of the wage could be diverted to a fund for compensating victims of crime.

Mr. Speaker, a program in my congressional district has successfully demonstrated the ability to reduce recidivism by equipping offenders with job skills. The program, sponsored by the Education Systems of the Singer Education Division, has expanded to include not only probationers but those still in confinement. I include at this point a letter I received from Mr. G. C. Whitaker which relates the progress being made under this innovative program:

> SINGER EDUCATION DIVISION,
> *Rochester, N.Y., July 13, 1973.*
>
> Hon. FRANK HORTON,
> *U.S. House of Representatives, Rayburn Building, Washington, D.C.*
>
> DEAR FRANK: Your interest in sponsoring a Bill to help make self-supporting citizens of prison inmates is gratifying.
>
> We at Education Systems (formerly Graflex, Inc.) of the Singer Education Division, have had considerable success dealing with 453 "probationers" since December 1, 1970, and 289 "jail inmates" since April 3, 1972.
>
> As borne out by an evaluation conducted by the National Council on Crime and Delinquency, after the first year of the Probationer Project, the recidivist rate dropped to 6.9 percent. Of the probationers completing the program, 85 percent were placed on jobs and nearly 90 percent of these retained them.
>
> Of the 289 inmates enrolled in the "Jail" program, 266 had completed the course as of May 2, 1973, and 147 were available for placement. Of these, approximately 75 percent were placed on jobs, with more than 90 percent retaining them when followed up in two months.
>
> As you know from the data forwarded you, it is important to guide the clients in assessing their own vocational aptitudes and interests, and in developing their own work objectives.
>
> This, coupled with remedial training, job placement, and job coaching, has produced excellent results with existing manpower sources in the Rochester/Monroe County area.
>
> It seems reasonable to assume that the projects pay for themselves in approximately one year—transforming social liabilities into self-supporting citizens.
>
> The underlying concept is so promising that, apart from the moral uplift, the economics of the situation appear to justify the broader application which you seek.
>
> Best wishes for the success of your undertaking.
>
> Sincerely,
>
> G. C. WHITAKER.

INTRODUCTION OF THE ENERGY EFFICIENCY LABELING ACT OF 1973

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. HARRINGTON) is recognized for 5 minutes.

Mr. HARRINGTON. Mr. Speaker, in his energy message last month, President Nixon stated the need for "energy conservation-mindedness." This recognition of the need for energy conservation differs markedly from his first energy message in which energy conservation was practically dismissed as a national policy. But energy conservation cannot be dismissed. In order to harness the potential of the earth's resources to do work for man we strip-mine mountains, flood wilderness areas, send poisonous oxides of nitrogen, sulfur, and carbon into our air, and thermally pollute 10 percent of America's fresh water flow.

The environmental problems created by the production of energy resources have been further exacerbated by the emergence of the so-called energy crisis. In large part, these shortages have been artificially created by an industry structure which is monopolistic in nature and out of touch with market forces. In part, the energy shortage is a result of our burgeoning demand for additional energy.

The oil industry, until a few short weeks ago, vigorously opposed any programs designed to encourage energy conservation. The National Petroleum Council, the policy arm of the oil industry stated:

> Restrictions on energy demand growth could prove expensive and undesirable. Among other things, they would alter lifestyles and adversely affect employment, economic growth and consumer choice.

Consequently, conservation was left off the NPC's recommendations for dealing with the energy crisis.

Now, faced with growing public and official pressure, the oil industry has changed its tune, if not stripes, and the airwaves are full of ways to conserve gasoline and other energy resources. President Nixon has now announced a national goal of a 5-percent reduction in energy demand. Unfortunately, he failed to provide us with mechanisms for reducing that demand.

President Nixon has suggested that consumers buy more energy-efficient goods. Yet, it would be nearly impossible to do that today. Consumers cannot make choices between goods on the basis of efficiency and energy costs because the necessary information is simply not available, and in many cases, does not exist. If consumers knew how greatly their own interests would be served by buying efficient goods, and knew which goods were efficient, their buying patterns would change.

An efficient air conditioner can provide as much cooling as an inefficient one at one-third the energy cost. In dollars and cents, this means a savings of $40 per year on a single air conditioner for families in many parts of the country. Also, as the President's message points out, an efficient car can travel 10,000 miles for $400 less in gasoline costs than an inefficient car.

Price tags for energy in intensive goods are misleading. They only show the purchase cost and ignore the cost of operation of the good. In many cases the operation costs far exceed the purchase cost of the good.

The simplest way to promote conservation-mindedness is to show the consumer that buying efficient goods benefits him directly, in terms of decreased electric and heating bills as well as indirectly by reducing pollution, and resource depletion. For this reason, I am today introducing the Energy Efficiency Labeling Act of 1973.

The bill will require producers to inform consumers of the energy costs involved in operating the many energy-intensive products which they buy. More technically, the bill states that the producers and retailers of cars, homes, and energy-intensive appliances be required to make clear the energy costs involved in the operation of these goods to an average user in the relevant geographical region of the country. Packages, contracts, and price tags would bear labels informing consumers of the full price of the goods under consideration, not just the purchase price.

In addition, the Federal Trade Commission, which will administer the law, is empowered to require labels on any type of good which yields substantial differentials in energy costs to consumers. Goods not meeting a minimum efficiency standard, as determined by the FTC, would be required to bear a second label. This label would clearly state that the good is inefficient and would remind the consumer to view the annual average cost label.

The bill also places requirements on advertising. Any advertisement which includes a price for a labelled good would also have to state the average annual energy cost of the good in each region in which the advertisement is placed. All advertisements for goods falling below the minimum efficiency standard set by the FTC would also have to clearly bear the second, warning label.

The Federal Trade Commission would be required to define the geographical regions of the country in which the energy costs of appliances are similar. Obviously, the energy costs of a house heater in Florida differs greatly from the average energy cost of that same heater in Minnesota. Retailers in each region would be required to post these average energy costs near the goods.

In addition to promoting conservation, energy labeling will also protect the consumer from overpaying for an appliance. Today, when a consumer goes into a store to buy an appliance, he has little or no information with which to judge the relative value of competing brands. Usually he is forced to trust a brand name, but this trust is hardly objective, and is often judged on the sophistication of that company's advertising campaign.

This lack of information leads inevitably to a misallocation of resources, especially energy resources. A marketplace economy can function correctly only when consumers have the information they need to make rational decisions. Today, they do not have this information.

The bill I am introducing today does not burden down industry with regulation and restrictions. It does not prevent companies from making inefficient goods. However, it does permit consumers to be able to distinguish between efficient and inefficient goods.

This is admittedly, a small step. Consumer buying habits take time to change. More drastic approaches to limiting energy overuse will have to be considered. But, in terms of translating the President's call for energy conservation-mindedness into a workable program, I feel this bill serves a useful purpose.

Mr. Speaker, I include the text of the bill to be reprinted below:

A bill to require the labeling of energy-intensive consumer goods with respect to the annual energy costs of operating these goods for an average owner

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Efficiency Labeling Act of 1973".

DEFINITIONS

Sec. 2. As used in this Act, the term—

(1) "Commission" means the Federal Trade Commission;

(2) "energy intensive consumer good" or "consumer good" means any one- or two-family dwelling, appliance powered by any source including any house heater, water heater, air conditioner, refrigerator, stove, television, food freezer, clothes dryer, dishwasher, washing machine, and any other appliance which the Commission determines yields substantial differentials in energy costs depending upon the efficiency of such good; and

(3) "communications medium" means radio, television, cinema, or periodical publication or other printed medium of communication.

LABELING; ADVERTISING

Sec. 3. (a) No person may sell or offer for sale in, or in any manner affecting, interstate commerce any consumer good after a date prescribed, by rule, by the Commission unless such good bears a clearly discernible and understandable label describing the annual average energy costs for the operation of such good by an average owner in the relevant geographical region as determined by the Commission. Any price tag shall have such label included on it.

(b) Any consumer good which does not meet a minimum standard prescribed by the Commission in accordance with section 4 of this Act shall bear a second label clearly stating that such good is inefficient and may cause the consumer unduly great costs, and reminding the consumer to view the annual average energy cost label. Such second label shall appear in all places where the annual average energy cost label appears.

(c) No manufacturer, distributor, wholesaler, or retailer of consumer goods may advertise or cause to be advertised a price for any such good through any communication medium unless such advertisement contains a statement of the annual average energy costs for the operation of such good for each region in which the advertisement is presented.

(d) No manufacturer, distributor, wholesaler, or retailer may advertise or cause to be advertised any consumer good which does not meet the Commission's minimum efficiency standard unless such advertisement clearly presents the warning label specified in subsection (b) of this section.

PROMULGATION OF STANDARDS

Sec. 4. (a) The Commission shall, by rule, promulgate standards for labeling consumer goods with respect to the annual average energy costs for the operation of consumer goods. In promulgating such rules, the Commission may consult with the Environmental Protection Agency, the Council on Environmental Quality, or any other appropriate agency of the United States.

(b) The Commission shall, by rule, define annual average usage rates for each class of goods which are used for roughly the same purpose and average energy prices (including electricity) for each of the several regions of the United States. The Commission shall set out clearly defined cycles of usage for each class of consumer goods except houses. These cycles shall include usages through different levels of output, maintenance, and age. The Commission shall promulgate testing procedures by which manufacturers may test consumer goods in order to determine the contents of any label which may be required under section 3 of this Act, and shall supply the manufacturers with the relevant data as to the average usage rates, energy costs, cycles of usage, and minimum standards, upon request.

(c) The Commission shall supply retailers, upon request, with data on average usage rates and energy prices for specific consumer goods defined for the geographical region in which the retailer is located. Retailers shall post this information for each type of consumer good in a clearly visible and understandable manner near the relevant consumer goods.

SPOT CHECKS

Sec. 5. The Commission shall spot check the labels which manufacturers put on consumer goods subject to the provisions of this Act.

PUBLIC EDUCATION PROGRAM

Sec. 6. The Commission shall undertake a program of public education explaining the reasons necessitating the labels, the nature of the labels, and the usefulness of the labels, making use of the communications media.

CIVIL PENALTIES

Sec. 7. (a) Any person who violates section 3 or 4(c) of this Act shall be fined not more than $2,000 for each such violation. A violation of such section shall constitute a separate offense with respect to each consumer product involved, except that the maximum civil penalty shall not exceed $1,000,000 for any related series of violations.

(b) In determining the amount of such penalty, or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business of the person charged and the gravvity of the violation shall be considered.

CRIMINAL PENALTIES

Sec. 8. (a) Any person who knowingly violates section 3 of this Act shall be fined not more than $50,000 or be imprisoned for not more than one year, or both.

(b) Any individual officer, director, or agent of a corporation who knowingly authorizes, orders, or performs any act constituting a violation of section 3 of this Act shall be subject to penalties under this section without regard to any penalties to which that corporation may be subject under subsection (a) of this section.

INJUNCTIVE ENFORCEMENT

Sec. 9. The United States district courts shall have jurisdiction to restrain any violation of section 3, or to restrain any person from advertising or distributing in commerce a consumer good which does not comply with the requirements of any applicable standard promulgated by the Commission under section 4 of this Act. Such actions may be brought by the Commission in its own name by any of its attorneys designated by it for such purpose or by the Attorney General in any United States district court for a district wherein any act, omission, or transaction constituting the violation occurred, or in such court for the district wherein the defendant is found or transacts business. In any action under this section process may be served on a defendant in any other district in which the defendant resides or may be found.

ENFORCEMENT POWERS

Sec. 10. In carrying out its duties under this Act, the Commission may utilize the provisions of sections 9 and 10 of the Federal Trade Commission Act, and such sections are hereby made applicable to the enforcement of the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

Sec. 11. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

CITIZEN SUIT

Sec. 12. (a) Any person may commence a civil action on his own behalf—

(1) against any manufacturer, distributor, wholesaler, or retailer of consumer goods or other person who is alleged to be in violation of the provisions of this Act, or

(2) against any Federal agency, where there is an alleged failure of the appropriate agency to perform any act or duty under this Act which is not discretionary. The district courts shall have jurisdiction without regard to the amount of controversy or the citizenship of the parties to enforce the provisions of this Act with regard to any manufacturer, distributor, wholesaler, or retailer of consumer goods or other person or to order the appropriate Federal agency to perform such act or duty, as the case may be.

(b) No action may be commenced under subsection (a) of this section prior to sixty days after the plaintiff has given notice of the violation by registered mail to the appropriate Federal agency or to the appropriate manufacturer, distributor, wholesaler, or retailer of consumer goods or other person and to the Commission. Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law.

(c) In any action under this section, the party bringing such action may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of the suit, including a reasonable attorney's fee, to such party if such party prevails in such action.

ARMY JUGGLING BOOKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 5 minutes.

Mr. ASPIN. Mr. Speaker, an internal Army audit which I am publicly releasing today accuses the Army of improperly juggling its books to cover up spending of hundreds of millions of dollars more than appropriated by the Congress.

The overspending involves $115 million in personnel funds during 1970 and raises the possibility of at least $50 million in overspending in operations and maintenance funds for 1971.

The army audit report says:

> Had obligations for pay and allowances been properly stated and other accounts appropriately adjusted Appropriations Accounts for FY70 would have shown an apparent overobligation of about $115 million.

But, Mr. Speaker, in fairness to the Army I must report that the findings of the Army report have been disputed by senior officials in the service. According to the Deputy Secretary of the Army for Fiscal Management, Mr. Saintsing, "after careful review of the report it is still my conclusion that no overobligation of appropriations has occurred."

Senior Department of Defense officials are awaiting the results of an ongoing General Accounting Office investigation which I originally requested to determine if illegal overspending has occurred or not.

Top Army officials consider the numerous transfers of funds to avoid so-called overobligations to be perfectly proper. However, if the GAO finds that overspending has occurred and it is considered willful, then some senior Army officials should be punished.

According to Federal law, any so-called willful overspending can be punished by a $5,000 fine and 2 years in jail. Even if the overspending is not considered willful the law requires that any department submit a full report to Congress explaining the causes of any overobligation.

The Army audit report also says that:

> Fund availability for operations and maintenance for FY 71 was increased by transfer from other appropriations and other reimbursement actions. We question the propriety of $60 million of such transfers.

Book juggling, overspending and mismanagement seem to be becoming the rule rather than the exception. Neither Congress nor the public can tolerate any more book juggling or overspending by the military—its got to stop and its got to stop now.

OPPOSES APPOINTMENT OF WILLIAM COLBY TO HEAD CIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, I would like to share with my colleagues the testimony I intend to deliver before the U.S. Senate Committee on Armed Services on Friday, July 20, 1973 at 10 a.m. in opposition to the appointment of Mr. William E. Colby as the Director of the Central Intelligence Agency:

I have come to testify against the appointment of Mr. Colby as the Director of the CIA because I have been almost compelled by the voice of my conscience to raise my voice to prevent the confirmation of a man whose activities in Vietnam and whose testimony before this Committee on July 2, 1973 indicate that almost certainly he will continue within the CIA those activities of this intelligence agency which have brought disgrace to the Federal government and to the American people.

On Sunday June 1, 1969 I and seven other Americans talked with William E. Colby in Saigon from 4:30 p.m. to 6:45 p.m. I was in South Vietnam as a member of the privately financed U.S. Study Team on Religious and Political Freedom from May 29 to June 10, 1969. The extensive report of that study team is printed in full in the Congressional Record of June 17, 1969 on page E5018.

When I read that Mr. William Colby had been appointed as the Director of the CIA I reviewed very carefully the notes which I took during and after the two hours that I and my associates spent with Mr. Colby more than four years ago. Mr. Colby at that time was, or course, in charge of the Phoenix Program or CORDS. The precise purpose of the study team of which I was a member was to determine the number of political prisoners and the extent to which, if any, the United States was contributing to the supression of political freedom in South Vietnam.

Mr. Colby did his best to prevent us from acquiring any hard information from him or from his associates. For the first 26 minutes of the interview Mr. Colby explained several obvious matters about South Vietnam all of which were thoroughly known to the eight members of the U.S. study team. Mr. Colby also went out of his way to explain that President Johnson had given him the personal rank of Ambassador when he left the CIA and agreed to run the Phoenix Program for the State Department.

At no time did Mr. Colby even concede the possibility that the pacification program was assisting the government of President Thieu to put in jail all of the political activists who alone could form a political party or a political coalition capable of running a candidate in a genuine election against President Thieu.

Mr. Colby conceded that the number of political prisoners increased as the pacification program became more widespread in South Vietnam. Mr. Colby also conceded that many of the political prisoners did not receive a trial and that many of them remained for months and years in prison merely because of the suspicion of some local official. Mr. Colby stated "I know brutality exists" and added without much proof that "we try to do something about it." He never made clear however what he tried to do about the widespread existence of brutality in prisons,—a phenomenon which I and my associates heard everywhere in South Vietnam.

Mr. Colby offered no assistance whatsoever and in fact professed total ignorance about the "tiger cages" in the prison on Con Son Island. We were unable to discover these dungeons which were eventually discovered a year later by a U.S. Congressional team, members of which almost stumbled by accident upon the existence of these hideous dungeons.

In fact Mr. Colby indicated that he knew little about the conditions in the prisons most of which were built with American money and designed by American engineers. I and the other members of the U.S. Study Team of Political Freedom in South Vietnam felt indignation at the way that Mr. Colby evaded our questions and out talked us as a form of "brush off".

I did not learn until 1971 that during Mr.

Colby's period with the pacification program 20,587 South Vietnamese people were killed! During that same period (1968 to May 1971) 28,978 persons were captured or jailed.

One had the impression of Mr. Colby on that Sunday afternoon in June, 1969 of an individual who would do what he was told, carry out orders as they were given and always seek by misleading or deceptive statements to deny that anything was wrong in the program which he was implementing.

This impression was deepened by a conversation which I had with an American prison official, present during our entire interview with Mr. Colby, who spoke to me as I was leaving Mr. Colby's office. This individual who had come to Saigon from the United States because he was an expert in building prisons had denied in the presence of all of us that there was any brutality against the political prisoners that were literally rounded up by the Phoenix program and herded into prisons. He confessed privately to me, however, as I was leaving that he knew of extensive brutality and he hoped that the U.S. study team would expose it to the entire world. He concluded by stating that he would deny what he had said if I ever attributed it to him!

On the basis of what we saw in South Vietnam the study team recommended that the Nixon Administration and the Congress have a complete investigation of the extent to which American officials in the pacification program have turned over innocent South Vietnamese citizens to military field tribunals, the equivalent of a kangaroo court, and thus have contributed to the disappearance of all political opposition to President Thieu.

The study team predicted that the total number of political prisoners would increase as long as the pacification program continued. This has of course happened so that now there are some 200,000 political prisoners in South Vietnam—a situation which makes it virtually impossible for any political opposition to arise against President Thieu.

Mr. Colby seemed incapable of comprehending the fact that the United States government and particularly the pacification program was making a mockery of the constitution of South Vietnam. He kept insisting that war conditions existed in South Vietnam and that therefore the violations were understandable. Mr. Colby seemed actually unwilling to listen when John Pemberton, the Executive Director of the American Civil Liberties Union and Methodist Bishop James Armstrong, members of the team, pointed out to him that the South Vietnamese Constitution provides:

"Any restriction upon the basic rights of the citizens must be prescribed by law and the time and place within which such a restriction is enforced must be clearly specified. In any event the essence of all basic freedoms cannot be violated."

We found of course other American officials in South Vietnam who were just as insensitive to the complicity of the United States in lawlessness as Mr. Colby appeared to be.

I feel obliged by my convictions and by my conscience to state that a man who displayed the attitudes which Mr. Colby did when he operated the Phoenix program should not be confirmed by the Congress of the United States to be the Director of the CIA.

I want also to raise other questions about the unsatisfactory nature of the testimony which Mr. Colby gave on July 2, 1973 before this committee. I also want to state my shock and indignation that one hour and 40 minutes has been the total time spent, with one Senator present, in hearings on the crucial question of who will be the next Director of the CIA. This is the agency which has brought disgrace to itself by its involvement with the ITT in Chile, shock and anger to everyone by its involvement in the bugging of the office of the psychiatrist of Dr. Daniel Ellsberg and universal horror by its involvement in the Watergate scandal.

I also want to express my protest that the Senate Committee on Armed Services has given a totally inadequate explanation of why it held the one hearing on Mr. Colby on July 2 when the Congress was not in session. The only explanation is the words of the chairman who opened the hearing by stating: "We regret that most of the members are absent because of the recess but in as much as Director Schlesinger has now become Secretary of Defense we thought it would be advisable to have Mr. Colby here at the earliest opportunity in order to consider his confirmation as the new Director of the CIA." I personally would hope that the chairman would send a personal letter to every single member of the House and of the Senate inviting them to testify if they so desire about the nature and the future of the CIA.

The chairman of this committee also stated in his opening remarks that the hearing on Mr. Colby will "also review a number of policies relating to the CIA itself". The chairman went on to note that "we are going to take this opportunity to try to get a better understanding for ourselves and for the people as to just what the CIA is and what it is supposed to do."

I want to state, with all due respect, that it has been the Senate Armed Services Committee which, more than any other agency in Congress, has prevented the Congress and the people of this country from knowing anything about the CIA. In the last two decades more than 200 bills aimed at making the CIA accountable to Congress have been introduced. None has been enacted. The most recent attempt to make the CIA accountable came on July 17, 1972 when the Senate Foreign Relations Committee reported out a bill requiring the CIA to submit regular reports to Congressional committees. That bill died in the Senate Armed Services Committee.

In all candor, Mr. Chairman, the record of the Senate with regard to oversight of the CIA has been disgraceful. On November 23, 1971 Senator John Stennis and Senator Allen Ellender—then the Chairmen of the Armed Services and the Appropriations Committee as well as of their CIA oversight Subcommittee, said that they knew nothing about the CIA-financed war in Laos, surely CIA's biggest operation (Congressional Record, vol. 117, pt. 33, pp. 42923–32).

I hope therefore that these hearings which, as the chairman has noted, are designed to bring about a "better understanding for ourselves and for the people" (and I underline for the people!) will remain open as long as any member of the Congress desires to address himself to this question.

I congratulate the chairman for having an open hearing for the first time on the confirmation of a director since the CIA was established in 1947.

I find the testimony of Mr. Colby very ambiguous, equivocal and unsatisfactory. His justification of the Phoenix program added little to the unsatisfactory evidence which he gave on that matter before the Senate and House Congressional committees in 1970 and 1971. He made absolutely no response then or on July 2, 1973 to the vehement criticisms made of the basic injustices in that program of which he was practically the architect.

No where has Mr. Colby responded to the criticism that he and the Phoenix program have brought about the virtual dictatorship of President Thieu because the United States has put all of the potential political opponents of President Thieu in jail! Mr. Colby stated on July 2 (on page 15) that he directed any Americans in South Vietnam to report any illegal abuses to higher authority. Mr. Colby states that he did receive some reports of misbehavior, that he took them up with the South Vietnamese government and that he "saw action taken against the individual doing it". This may have been in some individual cases but the awful fact remains that Mr. Colby presided over a pattern of total lawlessness and absolute violation of the basic and fundamental norms of constitutional government in South Vietnam during the entire life of the Phoenix program.

I and my associates told this to Mr. Colby on June 1, 1969 in Saigon. He states in his testimony on July 2, 1973 that it was not until 1971 that a South Vietnamese citizen was able to receive a copy of the charges made against him and to have a hearing on those charges at which he could actually appear.

I do not want to have a director of the CIA who for whatever reason by his own admission was unable or unwilling to guarantee to South Vietnamese citizens the basic provisions of due process.

Mr. Chairman, I wish to set forth another reason why in my judgment the confirmation of Mr. Colby should be postponed. On July 2, 1973 Mr. Colby was asked by the chairman if he would allow members of the Congress to "see at least the general amount which is spent for intelligence functions annually". Mr. Colby answered by stating "I would propose to leave that question, Mr. Chairman, in the hands of the Congress to decide".

In response to a similar question as to whether the Congress should be able to decide on the budget for the intelligence community each year as for all other Federal agencies Mr. Colby responded: "That would be up to the Congress again, Mr. Chairman."

As a member of Congress I want to assert in the clearest and most vigorous way available to me that I think that the Congress should take Mr. Colby at his word and decide right now that the Congress has a right and a duty to know what money is spent by the CIA and how it is spent. Mr. Colby has made no objection and the least that the Congress could do if it is to confirm Mr. Colby is to assert the right which Mr. Colby has conceded is that of the Congress; namely the right to set the budget each year for the CIA just as it does for every other agency of the Federal government.

If Mr. Colby is confirmed and the CIA continues to become involved in activities which bring disgrace to it and shame to the American people the citizens of this nation can blame the Congress and the Congress alone. At this particular time of substantial change in our foreign policy it would be reckless and irresponsible for the Congress to refuse to take Mr. Colby at his word and to decline to say that from this day forward the Congress will, as Mr. Colby concedes it can, establish the budget of the CIA.

I object to Mr. Colby's confirmation because in the testimony on July 2 he made no firm commitment that the CIA under his direction would not become involved in another operation such as the CIA conducted in Laos. Mr. Colby only stated that "it is very unlikely that we will be involved in such an activity". Mr. Colby, furthermore, does not want the Congress to change the 1947 act that created the CIA. Mr. Colby conceded that the adventure in Laos "undoubtedly went beyond what Congress intended" when it stated that the CIA should perform other functions as designated by the National Security Council. Even so Mr. Colby felt that the 1947 act should not be changed "because I think that the agency might be fettered in some respects which would be of importance to the United States. . . ."

Mr. Colby is also less than clear or satisfactory when he states that he would not preclude the CIA from assisting other Federal agencies even though the CIA should restrict all of its activities to foreign intelligence operations. Mr. Colby says, for example, that he can "envisage a situation in which it would be appropriate for the agency to help not Mr. Howard Hunt but a White House official to meet somebody without coming to public notice". Similarly Mr. Colby approves of a secret FBI–CIA arrangement by which both of these agencies agree to help each other. Mr. Chairman, as a member of the House Judiciary Committee with direct oversight of the Department of Justice and the FBI I feel that I have a right to see that document and to question those who wrote it and those who operate by it. On page 56 of his testimony Mr. Colby states that he has not had a chance to review this matter in detail. I feel strongly that the Congress of the United States should review the agreement between the CIA and the FBI which, Mr. Colby tells us, was "drawn up some years ago".

I feel, Mr. Chairman, that the time has long since passed when the Congress of the United States should review completely and openly the nature and purpose of the CIA. It is frightening to me to consider the implications of one of Mr. Colby's statements on July 2. On page 64 he states that "certain structures are necessary in this country (America) to give our people abroad perhaps a reason for operating abroad in some respects so that they can appear not as CIA employees but as representatives of some other entity. . . ." If the American people and the Congress are going to finance James Bond types like Mr. Colby suggests I think that the elected members of the Congress have a right to know about it. Up to now the CIA has pretended that they inform a handful of members of the House Appropriations Committee and a few members of the Senate Armed Services Committee. That is not informing the Congress. That is cheating me as a member of the Congress and the people that I represent of the knowledge and the information to which the citizens of this country are entitled.

Mr. Chairman, the CIA for the first time in the history of this nation has introduced a secret agency into our government. It may have been necessary in 1947. You, Mr. Chairman, stated on July 2 that "everybody realizes the way the world is today we need an agency like the Central Intelligence Agency." That is your conviction honestly arrived at but I as a member of Congress also have the right to have the basic information so that I can make some judgment as to whether we do in fact need a CIA today.

The senior members of the House and of the Senate have conspired to prevent the younger members of the House and of the Senate knowing anything about the CIA. I think that the younger members of the House and of the Senate have a right to resent that type of treatment. Their constituents also have a right to deplore the arrogance of senior members of Congress alleging or pretending that the CIA has adequately informed them of the budget and the activities of the CIA.

Mr. Chairman, Mr. Colby would not even disclose on July 2 the nature and the makeup of the so-called 40 Committee, a secret group accountable to the National Security Council. Dr. Kissinger is the chairman of the 40 Committee. Is it not incongruous that the Senate has the right to confirm the appointment of Mr. Colby, the Director of the CIA, but has no right to confirm Dr. Kissinger or even to compel him to come and testify? Similarly the Congress knows virtually nothing of the super-secret clandestine 40 Committee—a group which over the past 10 years or more has involved this nation, without its advice or consent, in ill-advised wars, known and unknown, all around the world.

Mr. Chairman, Mr. Colby has done "intelligence" work for most of his adult life. He believes in the apparatus set up by the 40 Committee. He believed in the Phoenix program in South Vietnam. He believes in sending American citizens to other nations who will pretend that they are not employees of the CIA.

Mr. Chairman, I hope fervently that the world of secrecy in government that created all of these horrendous things in which Mr. Colby has been involved for so many years is coming to an end.

I would therefore urgently plead that the confirmation of Mr. Colby be delayed until the members of Congress can review the National Security Act of 1947, can question Mr. Colby extensively, can establish Congressional review of the budget of the CIA and, in short, raise and resolve this basic question: Does the United States in 1973 want or need a clandestine CIA headed by an individual who carried out the most despicable part of the war which most Americans feel was the greatest mistake the United States ever made?

FARMERS HOME ADMINISTRATION CUTS STAFF IN NEW MEXICO BY ALMOST 40 PERCENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. RUNNELS) is recognized for 5 minutes.

Mr. RUNNELS. Mr. Speaker, the Farmers Home Administration seeks to reduce its staff in New Mexico from 83 employees to 51 employees, a reduction of almost 40 percent.

It is possible that Frank B. Elliott, the Acting Director of FHA, is carrying out these actions unlawfully. It is certain that these actions will adversely affect many people in New Mexico.

I have written to Secretary Butz protesting these actions. I think some of my colleagues will be interested in my letter. It reads as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 17, 1973.

Hon. EARL L. BUTZ,
Secretary, Department of Agriculture,
Washington, D.C.

DEAR SECRETARY BUTZ: I write to express my deep concern about proposed Farmers Home Administration staff cuts in New Mexico.

I have been informed that the Farmers Home Administration seeks to reduce its staff in New Mexico from 83 employees to 51, a reduction of almost 40%. Similar reductions to a somewhat lesser degree are being made in other Western states. I seek a full explanation of the reduction, and in particular, the discrepancy between nationwide staff reductions and the reduction for New Mexico.

To clarify the point, I refer to page 150 of Part 3 of the FY 1974 Hearings before the Agriculture-Environmental and Consumer Protection Subcommittee of the House Appropriations Committee. Mr. Darrell Dunn, the Associate Administrator of Farmers Home Administration, stated:

"The full-time permanent employment ceiling for Farmers Home Administration is being reduced by 747 employees between July 1, 1973, and June 30, 1974. This is in keeping with the reduction in number of loans to be made by field offices and, therefore, will be made in field offices."

On the same page, it is stated that there are 6,718 field employees. Thus, a 747-person cut would represent an 11% reduction of all field employees. This is in comparison to the proposed 38.6% staff cut for the State of New Mexico.

Furthermore, this is in the face of a Farmers Home Administration budget for this year that will be approximately the same last year. There is no budget cut, or loss of funding to explain F.H.A. actions. The Budget Office for the Farmers Home Administration told me that last year F.H.A. worked from a budget of around four billion dollars. Although the Appropriation Bill funding F.H.A. has not yet passed Congress, we are aware that the Senate has approved a measure calling for four and one-third billion dollars for the coming year and the House bill provides approximately three and one-half billion dollars. It is clear that a compromise bill will be worked out in conference that will provide essentially the same funding for Farmers Home Administration programs as last year.

In addition, Frank B. Elliott, the Acting Administrator of Farmers Home Administration, may be carrying out these actions unlawfully. It can be contended that the failure of the President to nominate Mr. Elliott and to submit his name to the Senate for confirmation means that he has been acting unlawfully and illegally in his role as Administrator of the Farmers Home Administration. The issues involved in this case closely parallel the issues in *William et al v. Phillips.*

On June 11, 1973 in the United States District Court for the District of Columbia, four United States Senators filed suit against the "acting" director of the O.E.O., Howard Phillips, seeking an injunction to enjoin him from taking any action as Acting Director of the Office of Economic Opportunity. Judge Jones' court held that Phillips was serving unlawfully and illegally in his position as acting director of the O.E.O. in that he has not been appointed Director by the President and confirmed by the Senate as required by the authorizing statute. *William et al. v. Phillips.*

The Consolidated Farmers Home Administration Act of 1961, the substantive legislation creating the Farmers Home Administration, requires the F.H.A. "to be headed by an Administrator, appointed by the President, by and with the advice and consent of the Senate." 7 U.S.C. § 1981.

Furthermore, there are no provisions in the legislation vesting a temporary power of appointment in the President, and therefore, the constitutional process of nomination and Senate confirmation must be followed. Article II, section 2 of the United States Constitution provides that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . all other officers of the United States."

Under the Vacancies Act of 1868, 5 U.S.C. § 3345–49, the President is authorized to fill vacancies. However, the Act limits the term of appointments under it to 30 days. U.S.C. § 3348. Therefore, Mr. Elliott has been serving unlawfully in office since April 19, 1973, 30 days after his March 20, 1973 appointment as Acting Administrator.

The court in *Williams et al. v. Phillips* wrote, "A Presidential power to appoint officers temporarily in the face of statutes requiring their appointment to be confirmed by the Senate, would avoid the nomination and confirmation process of officers in its entirety."

On June 22, 1973, the United States Court of Appeals for the District of Columbia Circuit entered an Order refusing to stay the June 11, 1973 decision in *Williams et al. v. Phillips* that declared Phillips was serving illegally as Acting Director of the O.E.O. and enjoining him from taking any action as Acting Director.

The Farmers Home Administration proposal that would reduce the F.H.A. staff in New Mexico by almost 40% could be unlawful in that Mr. Elliott has not been nominated by the President nor confirmed by the Senate for the position of Administrator in compliance with Constitutional and statutory requirements.

I am sure you are well aware of the importance of the Farmers Home Administration to the people of New Mexico and the proposed reduction would be a severe blow to my state.

New Mexico is overwhelmingly rural with only 8.4 people per square mile. Because of its size, 121,412 square miles, and its divergent, rural population, the need for the services of F.H.A. is particularly acute. I am greatly concerned about this matter and hope that the Farmers Home Administration will reassess its position because it is clearly inequitable and unwise in light of the needs of the people of New Mexico.

Sincerely,

HAROLD RUNNELS,
Member of Congress.

PHASE IV

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 5 minutes.

Mr. WOLFF. Mr. Speaker, yesterday, the administration gave us phase IV. Their answer to stemming inflation seems to be a severe, long-term economic recession. In short, that is where phase IV will lead us, down the path to recession, certainly the least desirable method one can think of for controlling an inflationary economy. The gist of phase IV is that the administration is not going to rely on tough economic controls to stop inflation, but will wait for the economy to slow down on its own; in the meantime, the American consumer continues to have to battle the war of inflation on his own.

Phase IV cannot hope to "stabilize the economy, reduce inflation, and minimize unemployment," as the administration claims, while it ignores the need to control the basic commodities of life. The President has lifted the freeze on foods and admits that we will again experience, and continue to feel, a "bulge" in food costs. Instead of imposing a freeze on food prices at every level, on the farm as well as on the supermarket shelves, which really would have been a "tough" effective program of controls, they are instead demanding that the American consumer continue to absorb the increases passed on from farmer to processor. I shudder to think of the food prices that will face us in the fall when the ceiling on beef will be lifted as well. It is unconscionable that the administration, which was largely responsible for the exorbitant increase in food prices to begin with, through such disastrous policies as the Russian wheat deal, phase III, and continuing farm subsidies programs cannot now take a strong stance to repair the economic damage it created.

Phase IV will also exempt from controls public utility rates, rents, and interest rates. With the existent housing shortage, where does the administration expect people to live when they cannot afford ever-increasing rents or the costs of utilities, and cannot borrow at reasonable rates money needed to buy a home even if they could find one? Precisely because a housing shortage exists, more and more Americans are turning to apartment living as their only alternative. With the absence of rent controls in phase III, however, even this alternative has become a burden. It is deplorable that after seeing rapidly rising rents imposed on tenants during phase III, the administration has not seen fit to reinstate a program of rent controls in phase IV. The administration's economic policies are literally eating Americans out of house and home.

Public utilities is another sore spot. Not only does their exemption from controls affect the cost of basic necessities like heating, light, and hot water, but areas of transportation as well. The Long Island Railroad in my district, for instance, is considered by the Cost of Living Council to be in the category of a public utility. New Yorkers have already been taxed to the extreme by strikes and fare hikes, and it is patently unfair to them that further increases will be allowed without controls of any kind. I might also add that this is a sure way to aggravate the unemployment problem—let rates go up and you cut down on the mobility of people to get to jobs or consider the possibility of new job opportunities.

Of course, the average American, just like he did in phase II, III, and 3½ will tighten his belt and make do while the administration makes one more stab at achieving price stability. The point is, though, that one would think by this time the administration would realize the futility of half-measure economic controls and the full measure of awaiting an economic recession to slow things down. The President simply must admit, to himself and to the American people, that for this year at least, he will not be able to achieve the goal of an "uncontrolled economy"; the Congress has given him broad authority to control inflation; it is time he exercised that authority to its fullest extent.

WILL INVESTIGATE STATE DEPARTMENT'S FAILURE TO PROVIDE PROMPTLY COMPLETE OR ACCURATE INFORMATION ON PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. MELCHER) is recognized for 10 minutes.

Mr. MELCHER. Mr. Speaker, the State Department's inexcusable delays in providing the Subcommitte on Public Lands with accurate and complete replies to my questions concerning a trans-Canadian pipeline make it necessary to call upon Secretary of State Rogers to explain the charges made by opponents of the all-Alaska line valid information available to his Department from Canadian Government officials was deliberately withheld and delayed in transmittal to this subcommittee.

From information provided me by State Department official Marshall Wright in letters dated June 22, June 27, July 6, July 16, and July 17—which have all or are being made part of the subcommittee's record and provided for the CONGRESSIONAL RECORD—I understand that while no application is pending in Canada for an oil or gas pipeline, that if one were received from an oil company or a group of oil companies, the application would begin to be processed sometime later this year.

The Canadian Government had no detailed information on what might be the environmental damage in Canada if a pipeline was built.

The Canadian Government does not feel that the Canadian native claims would be a deterrent to processing such an application.

The procedure for processing such an application would require approximately 2 years for various Canadian Government and Provincial Government actions.

This amount of time—2 years—is not the total time necessary for Canadian governmental sanction of the permit because of the lack of solid and detailed environmental study by government officials.

The Canadian Government is not maintaining that the private study made by the Mackenzie Valley group would be adequate upon which to make an environmental judgment, but it would have to be augmented by further study which would not be undertaken until an application for a pipeline, either oil or gas, is made.

Finally, it is my understanding that the Canadian Government is not in the position to say definitely if and when a trans-Canadian pipeline could be built, but they would discourage concurrent construction of an oil and gas pipeline and would want a 3-year space between either one to stretch out the economic benefits that construction of such pipelines would bring to Canada.

The point on which the State Department delayed supplying this committee with the Canadian Government position was whether or not Canada would insist on 51 percent ownership of a gas or oil pipeline built across Canada. While it had been stated previously that majority ownership by Canadians of such a pipeline would be required and that at least half of the oil flow would need to be their own oil, the Canadian Government this month asserts that such requirement need not be the case.

In conclusion, the time lag between the trans-Alaskan pipeline and a pipeline in Canada, based on information supplied us, would be 3 years or more and even that must be conditioned upon two happenings: First, an application would have to be filed by an oil company or a consortium of oil companies to build along a specific trans-Canadian route. Second, before approval of such an application by the Canadian Government it would be necessary for a thorough study of the proposed route as acceptable on environmental conditions which are yet to be studied, evaluated, and determined.

There is no certainty that the Canadian Government would approve such an application. But, as evidenced by their clearly stated interest in the economic advantages of such a pipeline or pipelines, they are interested.

Yet, there is another consideration also in regard to the trans-Canadian route. That is the lack of study of the Alaskan portion of such a route. This would need to be done to prepare an environmental impact statement for the route if such an application were filed.

The Canadian Government's statement that Canadian natives claims need not be settled before a pipeline could transverse the lands claimed by natives is disputed. Congressman Meeds has summarized those disputes and a copy of his summary is in the committee record.

I am deeply concerned by the State Department's withholding or delaying information about the Canadian position which I sought for the subcommittee. We are going to look into it promptly.

While I am sympathetic to the Canadian route and would prefer it, if it could be built now the fact remains that it will take years longer to build a trans-Canada pipeline than a trans-Alaska line.

My letter of July 16 to the State Department follows and their letters of that date and the following are also presented here for the House's understanding:

Congress of the United States,
House of Representatives,
Washington, D.C., July 16, 1973.
Hon. William P. Rogers,
Secretary, Department of State,
Washington, D.C.

Dear Mr. Secretary: I am enclosing a letter I have received from three environmental groups in which they made very serious charges that the State Department did not accurately represent the Canadian position on a Mackenzie Valley pipeline, in some important respects, in your Department's June 22 and June 27 communications to me on the subject.

The charge is contained in the fourth paragraph of the letter. Subsequent material deals with specifics.

There is attached to the letter a document which is represented to originate from Canada which repeats the statement that Canada would not require majority ownership of a "land bridge" pipeline.

The Canadian position on throughput is allegedly stated in the first paragraph on Page 5.

The Subcommittee is now marking up the pipeline bill. I would appreciate the earliest possible statement from the Department as to the accuracy of the charges in the letter, the claim that is made that the Canadian position as reported in the letter sent me by the Wilderness Society, the Friends of the Earth and the Environmental Defense Fund.

Sincerely,
John Melcher.

Department of State,
Washington, D.C., July 16, 1973.
Hon. John Melcher,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: On July 7 I sent you detailed written responses to questions posed by our Embassy in Ottawa to Canadian officials on a possible Canadian alternative to the proposed Trans-Alaska oil pipeline route.

We have just today received from our Embassy in Ottawa a revision which the Canadian Government wishes to make in its earlier answer to the question on pipeline ownership and control which appeared at the bottom of page 2 of the report attached to my letter of July 7.

Sincerely,
Marshall Wright,
Assistant Secretary for Congressional Relations.

Questions and Answers

Q. What is the Canadian Government position likely to be with regard to ownership and control?

A. Speaking to this point in connection with a gas pipeline in the House of Commons on May 22, 1973, Minister Macdonald said:

"Mr. Speaker, I have indicated that the objective of the government would be to give an opportunity to Canadians to acquire 51% ownership in any such pipeline and the expectation that it would remain under Canadian control."

In connection with an oil pipeline which might take US oil to US markets using Canada as a "land bridge", it would not be its policy to require majority Canadian ownership. However, as Canadian oil becomes available it would be expected that the pipeline would be expanded to accept such oil.

In addition, all interprovincial and international pipelines are under National Energy Board control.

Department of State,
Washington, D.C., July 17, 1973.
Hon. John Melcher,
Chairman, Subcommittee on Public Lands Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

Dear Mr. Chairman: The Department has received your letter of July 16 which in turn enclosed correspondence from three environmental groups in which it is charged that the Department did not accurately represent the Canadian position on a possible Mackenzie Valley pipeline in its communications with you.

The allegations, I believe, are based on misinformation, and I wish to assure you that the Department has sought to be thorough, accurate, and prompt in providing you with its reports on the views of the Canadian Government in this matter.

Upon receipt of your letter we have reviewed the Department's records and trust you will find the following information reassuring in this regard. The facts are as set forth below.

Late on the afternoon of July 5 the Department received from the American Embassy in Ottawa the texts of responses given the Embassy by the Canadian Government to questions the Department had instructed the Embassy to discuss with Canadian authorities.

These responses were being studied in the Department when, on July 6, the Canadian Embassy in Washington asked the Department to forward them to the appropriate committees of the Congress. During the discussion it became clear that the response to one of the questions, as supplied our Embassy in Ottawa by the Canadian Government, was different from the version the Canadian Government had supplied its own Embassy in Washington.

On the afternoon of July 6 the Department checked by telephone with our Embassy in Ottawa to make certain that there had not been a clerical error and confirmed that we had the version actually provided the Embassy by the Canadian Government. Subsequently the same day, the Department informed the Canadian Embassy in Washington that it was transmitting this text to the appropriate committees of the Congress. The Department also suggested to the Canadian Embassy that if the Canadian Government wished to revise the answer to one of the questions it should promptly inform our Embassy in Ottawa. At the same time we alerted our Embassy in Ottawa that it might be approached by the Canadian Government with a revised version and we instructed the Embassy to report the details promptly if such an approach were made.

On the morning of July 7 the Department forwarded to the Congress the version of the responses which had been given to the Embassy in Ottawa.

Having heard nothing further on the matter from our Embassy in Ottawa, the Department checked by telephone on July 16 and was informed that indeed a revised version of the answer to one question had been given to the Embassy, under cover of a letter dated July 10, and that it was enroute to the Department by diplomatic pouch. Because of the urgency of the matter, the Department had the revised version dictated over the telephone. We supplied the text of the new version to your office late that afternoon, July 16, under cover of a letter which apparently crossed with your letter of the same date to which I am now responding.

In short, we believe we have promptly and accurately conveyed to the Congress all the information supplied us by the Canadian Government. If you require anything further, however, please do not hesitate to let me know.

Sincerely,
Marshall Wright,
Assistant Secretary for Congressional Relations.

LEGISLATION TO REQUIRE FULL AUDITS OF IRS, FEDERAL RESERVE SYSTEM, COMPTROLLER OF THE CURRENCY, AND OFFICE OF ALIEN PROPERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Gibbons) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, it has come to my attention that there are a number of agencies of the Federal Government that are not now subject to a complete audit by the General Accounting Office. I have therefore introduced H.R. 9285 to require the General Accounting Office to conduct complete audits of the Internal Revenue Service—which is now subject only to a partial audit—the Federal Reserve System, the Comptroller of the Currency, and the Office of Alien Property.

A study by the Banking and Currency Committee showed that the Internal Revenue Service with a budget of $945,983,000 had the highest expenditures of an unaudited agency, followed by the Federal Reserve System with the second highest of more than $300,000,000.

I make no accusation that the expenditures of the unaudited agencies are wrong, but I feel that these governmental agencies should be accountable to the public and Congress as other Federal agencies are.

A copy of H.R. 9285 follows:

H.R. 9285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 117 of the Accounting and Auditing Act of 1950 (31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Comptroller General shall make, under such rules and regulations as he shall prescribe, an audit for each fiscal year of the Federal Reserve Board and the Federal Reserve banks and their branches, the Internal Revenue Service, the Comptroller of the Currency, and the Office of Alien Property.

"(2) In making the audit required by paragraph (1) of this subsection, representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the entities being audited, including reports of examinations of member banks of the Federal Reserve System, and they shall be afforded full facilities for verifying transactions with balances or securities held by depositaries, fiscal agents, and custodians of the Federal Reserve Board and the Federal Reserve banks and their branches.

"(3) The Comptroller General shall, at the end of six months after the end of the year, or as soon thereafter as may be practicable, make a report to the Congress on the results of the audit required by paragraph (1) of this subsection, and he shall make any special or preliminary reports he deems desirable for the information of the Congress.".

A RESPONSE TO MOBIL OIL CORP.'S VIEWS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, Mobil Oil Corp. has recently placed in newspapers around the country, an open letter to each Member of Congress on the subject of the energy shortage. In the interest of an open debate on the critical issue, I would like to respond to their views.

Oil companies have long exerted undue influence in the halls of government and the present public relations campaign represents another step in the historical pattern of attempting to manipulate Government policy in their own self-interest. The giant vertically integrated oligopolistic oil companies find themselves in a dilemma. The gasoline shortage has proved enormously profitable—the earnings of the five largest oil companies have leaped more than 25 percent in the last year. At the same time, they find themselves increasingly the subject of court suits and investigations with regard to violations of the antitrust laws. The State of Florida recently brought a suit against six major oil companies asking that the court order divestiture of their crude oil operations. At the same time, a Federal grand jury in Los Angeles has subpenaed the major oil companies' pricing, supply, and marketing files as a part of their investigation. Additionally, the Federal Trade Commission is undertaking antitrust action against the major oil companies in an attempt to force divestiture of one or more of their integrated operations—crude oil production, transportation, refining, and marketing.

This is an alarming development from the oil companies' point of view. Their operations are not inherently profitable. The independent companies which are presently being forced out of the market have demonstrated a capacity to operate much more efficiently—and hence profitably—than the major companies. The giant conglomerates are immensely profitable because their integrated operations allow them to manipulate the tax laws to their own advantage. This is false profit, resulting not from efficient operation, but from political power which allows self-aggrandizement at the expense of consumers and taxpayers.

The advertisements to which I refer characterize allegations by responsible public officials and private citizens that oil companies have either caused the current energy shortage or at the very least manipulated it to their own advantage as "absolute nonsense, totally unsupportable charges and outright lies being spread around by a variety of people."

This is the oil companies side of the story, one in which they have a substantial economic interest. Another side was recently provided by the Federal Trade Commission in a report to Senate Interior Commitee Chairman HENRY JACKSON. Following is a summary of the report's major points:

First, the oil companies' claim that inadequate refinery capacity is due to environmental constraints and the uncertainty surrounding the Alaskan Pipeline is unsatisfactory as an explanation of the shortage. The report points out that once the oil companies decided refinery construction was sufficiently lucrative, "environmental constraints" were no longer a limiting factor;

Second, "the major integrated oil companies are, however, taking advantage of the present shortage to drive the only viable long-term source of price competition out of the market."

Third, "the major firms seek to consolidate market power by various exclusionary tactics. An elaborate system of devices to deny independents access to product has been erected. The resulting system endangers existing independents, makes new entry difficult or impossible, and yields serious economic losses to American consumers."

Fourth, independent marketers have been exceptionally innovative in their marketing styles. Therefore, in restricting their access to gasoline, the majors have created major misallocations of resources. This is particularly true in view of the majors' failure to innovate and meaningfully compete among themselves at the retail level. In fact, it appears that the majors have tacitly agreed not to compete with respect to retail prices.

The oil companies' version of truth is remarkably different from that of the independent investigator, the FTC, which found that the major oil companies have used their market power to exploit consumers and drive their competition out of the market.

Mobil's assertion that "political decisions have produced the shortage," is in part correct. But these political decisions were the direct result of oil company pressure. Having lobbied intensively for years on behalf of the oil import quota system, whose only purpose was to artificially inflate the domestic producers' profits, the oil companies now do an about face and blame the current shortage on past Government policies.

Government policies of the past have been ill-advised precisely because they were designed to benefit the oil companies. A good example of this perversion of public power to private ends is the oil depletion allowance and other so-called tax incentives for oil production. The oil depletion allowance permits an oil company to subtract from its gross income before taxes an amount equal to 22 percent of its revenues from crude production. The most direct effect of this subsidy is that oil companies pay taxes at a ridiculously low rate. For 1969 and 1970 the tax rates of some major oil companies were:

[In percent]

	1969	1970
Standard (Indiana)	15.6	13.4
Texaco	.8	8.0
Shell	1.6	11.2
Standard (California)	5.1	16.0
Mobil	7.2	16.8
Gulf	.6	1.9
ARCO	1.8	5.0

By way of comparison the average effective tax rate for all corporations during this period was 37 percent.

That the major oil companies should receive such favorable treatment from Government is bad enough. But this is not all. The oil depletion allowances emerges also as the means by which major oil companies maintain a stranglehold on the market. Since the transportation, refining, and marketing aspects of their operations do not enjoy the same tax status as crude production under the depletion allowance, the oil companies have an incentive to raise crude oil prices at the expense of refinery and marketing profits. For the integrated firm, artificially-raised crude oil prices allow substantial tax benefits and no liabilities for the company as a whole. The refinery and marketing operations are subsidized from the windfall profits of the crude production operation. But for the independent oil company, these artificially-high crude oil prices present a nearly insurmountable barrier. Crude oil supplies are monopolized by the major companies. The top 20 integrated firms control 94 percent of domestic crude reserves. Consequently, the independent refiner, with little or no independent access to crude supplies, must pay a prohibitively high price for crude oil so that effective competition is impossible.

The oil depletion allowance amounts to a unique "double duty" government policy designed to protect the major oil companies. At one and the same time, it provides windfall profits for the integrated oligopolists and removes the possibility of any meaningful competition. Once again the oil companies win while consumers and taxpayers lose.

In the oil depletion allowance, there is also an explanation of the present shortage of refinery capacity. Because of the artificially high crude prices at the expense of refinery profits which it produces, there is no incentive for either the major companies or the independent firms to build new refineries.

In my view, the foregoing suggests the most plausible relationship of the oil companies to the present petroleum shortage. It is not so much that the major companies "caused" the shortage as that they saw it coming and allowed it to happen because it was not in their economic self-interest to do otherwise. As Mobil correctly points out, it is the growth of demand, rather than an absolute decline in supply that has caused the shortage. In this situation, all the major oil companies had to do was refrain from building new refinery capacity in time to meet the increased demand. And, as I have shown, the oil depletion allowance made the construction of new refineries unattractive anyway. Additionally, the increasing concern over environmental degradation provided a convenient scapegoat for the oil companies to use in masking the real causes of the shortage of refinery capacity.

Circumstances, however, are changing. Oil producing nations are demanding larger roles in crude oil production within their boundaries and higher prices for their scarce resource. This trend, coupled with President Nixon's belated decision to abolish the oil import quota system, has put a pinch on the majors' profit margin from crude production, causing them to put greater emphasis on refining and marketing operations. In these changed circumstances, the companies have been able to proceed quite expeditiously with plans for the construction of new refineries.

I would not want to leave the impression that the major oil companies are solely responsible for the current energy crisis. Certainly the profligate use of energy by the United States during the past half century was insane and could not have continued in any case. A nation with only 7 percent of the world's population cannot consume 33 percent of its energy and still be a responsible global citizen, economically and ecologically.

Therefore, Mobil is to be highly commended for their recent advertising campaign promoting energy conservation and their avowed intention "to try to elicit from you and your constituents a national effort, such as our country has not seen since World War II, to use wisely the energy resources available to us and to establish new policies to alleviate energy problems in the years just ahead." But I think it is wise to remember that the interests of the Nation will not always coincide with those of the major oil companies.

In many cases the public interest is in harmony with the proposals of oil companies, and in these cases they should be vigorously supported. Mobil mentions both the Alaskan pipeline and the need for a "superport" both of which I support with some reservations. The two million barrels of oil which will flow through the Alaskan pipeline daily are desperately needed. However this should not require total neglect of environmental protection. When the House of Representatives acts on the pipeline bill, I intend to offer an amendment which would establish a trust fund in the Department of Interior financed by a per barrel levy on North Slope oil, which would cover the cost of cleanup resulting from environmental damage caused by the pipeline, should the pipeline company prove unable or unwilling to do so.

Similar safeguards should be adopted with respect to any plan for the construction of a "superport."

MR. BURKE OF MASSACHUSETTS' AMENDMENT DEFEATED—WOULD HAVE PROVIDED SEEDS AND PLANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I just wish to take a few minutes of my time to explain to the House the amendment I offered here this afternoon that was defeated by a vote of 151 to 132 on a division vote. The amendment was a permissive amendment that would have authorized the Secretary of Agriculture to supply seeds and plants upon request by families for home gardens throughout the Nation.

I was rather surprised and shocked to see the 151 Members of the Congress who stood up against this bill, because today we are facing a real shortage in food products, and food prices are rising to astronomical heights. In fact, it is not beyond the possibility that within a year the families of this Nation will be paying as high as $1 a head for lettuce or as high as $1 for a pound of onions.

This amendment of mine would have just allowed this great and affluent Nation of ours to authorize the Secretary of Agriculture to provide seeds upon request to people throughout the country, and particularly in the urban areas.

I remember when I was a little boy the Department of Agriculture supplied seeds to the persons in the teeming tenement districts of this Nation. I remember during those days, because they were difficult days, there were many families that never had any fresh vegetables to eat other than what they could grow in a little plot of land in their back yard.

Yes, during World War I the victory gardens were very successful. During World War II they were successful. If we could get a back-to-the-soil movement in this country, it would be a good thing for the families, it would be a good thing for the youngsters to go out in the city areas of this country where they have maybe 50 square feet of land or 100 square feet of land and learn about the soil and learn about plants and learn about seeds which are planted and see the fruits of their efforts.

But, no, this Congress of ours turned a deaf ear to that. They turned it down at a time when we are facing the highest prices in the history of the Nation.

The President's freeze on beef prices alone is not enough. During the next few weeks we are going to see a further escalation of prices of food. I wish some of the Members of this House would take the time to walk into the markets around this country in their own neighborhoods and see the looks upon the faces of the mothers and housewives trying to buy food for their own families. It is an almost impossible task especially for the people living on fixed incomes.

It seems every time we try to do something to help the little people in this country it fails. I regret, Mr. Speaker, that this afternoon 151 Members of this House took the time to oppose this bill that would have provided a whole new healthful activity on the part of the American people living in the urban areas of America.

Mr. SAYLOR. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I am happy to yield to my friend, the gentleman from Pennsylvania.

Mr. SAYLOR. I would like to say to my colleague I think the reason his amendment failed is that he went beyond what has ever been done before and he included plants. I think a number of the people I heard on the floor commented that if it had been limited to seeds alone the gentleman would have had absolutely no difficulty in having his amendment adopted. It is a physical impossibility to raise the plants and send them out. I think that was the one shortcoming the gentleman had in his amendment.

Mr. BURKE of Massachusetts. The motion was permissive. It did not require that the Secretary do it. It was not mandatory for the Secretary to give the plants.

However, the gentleman is incorrect. In 1923 this great Nation of ours supplied not only seeds but plants upon request of the American people.

Mr. SAYLOR. Of course I am not as old as the gentleman and I could not recall anything back that far, but I can remember when the Congressmen all sent out seeds, but I never recall that they sent out plants.

Mr. BURKE of Massachusetts. I want to say this about my youthful colleague, that this would have been a great opportunity for America if the Congressmen had demonstrated their concern about the high prices the American people are facing and particularly in the cost of nourishing foods.

It is a shame when a family cannot get any green vegetables and a shame when an American family has to pay 69 cents for a head of lettuce and a shame when it has to pay as high as 89 cents for a head of lettuce, as they have, and 69 cents for a pound of onions.

What has happened in this great country of ours? Have we lost our heart? Have we lost our concern about the plight of people? Or are we more interested in the big fat cat tycoons of this Nation who enjoy all kinds of tax breaks and benefits, and great corporations who operate internationally who can get a $4 billion tax break on their investment? Everything can be done for them, but when it comes to providing food for the poor family who happens to be struggling, the answer is "No."

Mr. Speaker, as I sat and listened attentively to the debate concerning this important farm legislation, it occurred to me that the advocates of the consumer's interests and the advocates of farming interests found little in the way of middle ground where their respective interests were both equally protected. The net effect of rampant inflation on food prices is unparalleled in our history and behooves us to proceed with every caution when examining any legislation which will bear substantial weight upon farm controls and food prices for the future. On the other hand, it is important for the economy that the proper rewards and incentives in terms of livable wages be extended to the farmers of this Nation. I wanted to amend this bill then in order that the interests of the small home gardener receive appropriate attention.

The small home gardener is the synthesis of the consumer and the producer. The prospect of the planting of many more small vegetable gardens in urban and suburban areas looms with increasing importance in the face of high food prices and numerous shortages. The small plot gardener, who embodies all the virtues of initiative and self-reliance, will greatly benefit by the authority extended to the Secretary through this amendment. This "back to the soil" amendment has a number of important side effects that will be nationally beneficial. The cultivation of these small plots, whose success during World Wars I and II when they were known as victory gardens was so acclaimed, will instill many suburban and urban dwellers with a much more realistic understanding of the problems and special needs of rural farmers. Furthermore, such small projects as vegetable gardens provide healthy exercise and produce many nutritious varieties of vegetables such as tomatoes, onions, lettuce, carrots, beans, and squash. The "harvest" of these home gardens, small as they might be, would be of special significance in assisting the poorer families in urban areas meet rising prices in the supermarkets.

This amendment would not require elaborate bureaucratic management within the Department of Agriculture and I offered this amendment today with the express desire that its provisions be implemented at once, making the benefits of this program available to all small gardeners for the spring planting season of 1974.

AMBASSADOR G. McMURTRIE GODLEY

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, I want to join with many others who have spoken out in expressing my shock, dismay, and horror at the recent action of the Senate Foreign Relations Committee in rejecting the nomination of Ambassador G. McMurtrie Godley to be Assistant Secretary of State for Far Eastern Affairs.

To reject the promotion of a Foreign Service officer on the ground that he has carried out the established policy of his government "with too much enthusiasm" puts the Senate and the Congress in a kind of never-never land. What do we do? Only promote those who sabotage their country's policy? Or only those who drag their feet in carrying out orders?

Was it not this same majority of the Senate committee, or at least most of them, who a couple of decades ago were loudly deploring the permanent damage done to our Foreign Service, especially to those in positions of expertise on Far Eastern matters, by an identical effort on the part of many Senators and Congressmen to "get" foreign service officers who had carried out their assignments conscientiously with respect to the status of the revolutionary movements then underway in China?

If so, how can we deplore such a policy then and enshrine it today? Or is it not so much a matter of procedure as a matter of what policy currently appeals to a majority of the members of the Foreign Relations Committee? And if that be the ultimate standard we are to follow, if indeed the committee rather than the President and the Department of State are to take over the day-to-day operations of our Foreign Service, what happens to the historic separation-of-powers doctrine?

Mr. Speaker, I have known Ambassador Godley for many years. He is a friend of mine and for 12 years was also a constituent. He is one of the brightest, ablest, most energetic, most courageous members of the Foreign Service. He served with great distinction in an extremely difficult and dangerous post as Ambassador to the Congo—now Zaire—a few years ago. From there, without hardly a chance to catch his breath, he was sent to Vientiane to deal with an equally complex and hazardous assignment in Laos.

His only sin, apparently, is that he did his job there successfully and without complaint. After all, Mr. Speaker, we have achieved a cease-fire in Laos and it still seems to be working in contrast to both Vietnam and Cambodia. Second, we have prevented the Communist rebels from taking over control of the entire country. In addition, we have so conducted ourselves in Laos that this shockingly open sieve for North Vietnamese infiltration into South Vietnam was still not able to prevent a reasonably satisfactory settlement of the Vietnamese war.

And this also happened to be our Nation's basic policy. This was the policy that the Congress as a whole—as distinct from a majority of the Committee on Foreign Relations—had overwhelmingly supported. This is the policy that Mac Godley carried out successfully. Do we fault him for these results simply because he "whistled while he worked?"

Mr. Speaker, the people of America owe a debt of gratitude to Mac Godley. That debt has been ill-paid by the ill-tempered action of the Foreign Relations Committee majority. This country has meanly dealt with a brave and courageous public servant, whose continued services to his flag we can ill afford to do without.

I sincerely hope that the Senate will act quickly to right this wrong and will move to confirm the nomination of G. McMurtrie Godley to be Assistant Secretary of State, the views of the Senate Foreign Relations Committee to the contrary notwithstanding.

ANNOUNCEMENT OF HEARINGS ON FLIGHT PAY LEGISLATION

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, earlier I advised the House that on Thursday and Friday, July 26 and July 27 the Military Compensation Subcommittee of the House Armed Services Committee, will commence hearings on the controversial subject of flight pay legislation. The hearings these first 2 days will be devoted exclusively to Members of Congress.

Mr. Speaker, we are all aware that section 715 of Public Law 92–570, the Defense Department appropriation act for fiscal year 1973, terminated, as of May 31 of this year, flight pay for officers in the grade of colonel, or Navy captain, and above, in assignments which do not require the maintenance of basic flying skills. On June 28 of this year the House, in the course of instructing its conferees on H.R. 8537, rejected—by a vote of 238–175—a 6-month extension of the May 31 termination date.

The Defense Department has submitted legislation for a general revision of the flight-pay laws. The Defense proposal is contained in H.R. 8593, introduced by the chairman of our committee, Mr. HÉBERT, and the ranking minority member, Mr. BRAY, on June 12. I hope Members of Congress who testify before our subcommittee on July 26 and July 27 in addition to presenting their general views as to the proper basis for receipt of hazardous-duty pay for aviation duty, will acquaint themselves with H.R. 8593 and address the philosophy and provisions of H.R. 8593 in their testimony.

As an aid to Members on the subject, I am including with this statement the text of H.R. 8593, a sectional analysis of H.R. 8593, and the Speaker's letter of May 17, 1973, from the Department of Defense requesting both the 6-month extension and the permanent legislative changes incorporated in H.R. 8593.

It should be understood that H.R. 8593 was introduced by request and is at this point simply a vehicle on which to commence hearings.

But we also say that it will not be possible to complete further hearings by the subcommittee prior to the congressional recess commencing August 3. However, I would like to announce that the subcommittee will resume its hearings on flight pay promptly when the Congress returns in September and at that time will hear witnesses from the Department of Defense and the individual services as well as such organizational witnesses who wish to testify.

H.R. 8593

A bill to amend section 301 of title 37, United States Code, relating to incentive pay, to attract and retain volunteers for aviation crewmember duties, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301(b) of title 37, United States Code, is amended to read as follows:

"(b) A member who satisfies the requirements for a hazardous duty described in subsection (a)(1) of this section is entitled to monthly incentive pay as follows:

"(1) For an officer in pay grades 0–1 through 0–6 who is qualified under subsection (a)(1) of this section:

"Phase I.—Years of aviation service (including flight training) as an officer

"Monthly rate	
$100	2 or less.
$125	Over 2.
$150	Over 3.
$165	Over 4.
$245	Over 6.

"Phase II.—Years of active service as an officer

"Monthly rate	
$225	Over 18.
$205	Over 20.
$185	Over 22.
$165	Over 24 but not over 25.

An officer is entitled to the rates in phase I of this table until he has completed 18 years of active service as an officer, after which his entitlement is as prescribed by the rates in phase II, except that an officer does not become entitled to the rates in phase II of this table until he has first completed at least 6 years of aviation service as an officer. An officer in a pay grade above 0-6 is entitled, until he completes 25 years of active service as an officer, to be paid at the rate set forth in this table, except that an officer in pay grade 0-7 may not be paid at a rate greater than $160 a month, and an officer in pay grade 0-8, or above, may not be paid at a rate greater than $165 a month.

"(2) For a warrant officer who is qualified under subsection (a)(1) of this section:

Years of aviation service as an officer

"Monthly rate	
$100	2 or less.
$110	Over 2.
$165	Over 6.

"(3) For an enlisted member who is qualified under subsection (a)(1), and a member who is qualified under subsection (a)(2) or (3) of this section:

"COMMISSIONED OFFICERS

"Pay grade	Years of service computed under section 205													
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
0-10	$165	$165	$165	$165	$165	$165	$165	$165	$165	$165	$165	$165	$165	$165
0-9	165	165	165	165	165	165	165	165	165	165	165	165	165	165
0-8	155	155	165	165	165	165	165	165	165	165	165	165	165	165
0-7	150	150	160	160	160	160	160	160	160	160	160	160	160	160
0-6	200	200	215	215	215	215	215	215	215	220	245	245	245	245
0-5	190	190	205	205	205	205	205	210	225	230	245	245	245	245
0-4	170	170	185	185	185	195	210	215	220	230	240	240	240	240
0-3	145	145	155	165	180	185	190	200	205	205	205	205	205	205
0-2	115	125	150	150	160	165	170	180	185	185	185	185	185	185
0-1	100	105	135	135	140	145	155	160	170	170	170	170	170	170

"WARRANT OFFICERS

"Pay grade	Years of service computed under section 205													
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
W-4	$115	$115	$115	$115	$120	$125	$135	$145	$155	$160	$165	$165	$165	$165
W-3	110	115	115	115	120	120	125	135	140	140	140	140	140	140
W-2	105	110	110	110	115	120	125	130	135	135	135	135	135	135
W-1	100	105	105	105	110	120	125	130	130	130	130	130	130	130

"ENLISTED MEMBERS

"Pay grade	Years of service computed under section 205													
	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 22	Over 26	Over 30
E-9	$105	$105	$105	$105	$105	$105	$105	$105	$105	$105	$105	$105	$105	$105
E-8	105	105	105	105	105	105	105	105	105	105	105	105	105	105
E-7	80	85	85	85	90	95	100	105	105	105	105	105	105	105
E-6	70	75	75	80	85	90	95	95	100	100	100	100	100	100
E-5	60	70	70	80	80	85	90	95	95	95	95	95	95	95
E-4	55	65	65	70	75	80	80	80	80	80	80	80	80	80
E-3	55	60	60	60	60	60	60	60	60	60	60	60	60	60
E-2	50	60	60	60	60	60	60	60	60	60	60	60	60	60
E-1	50	55	55	55	55	55	55	55	55	55	55	55	55	55
E-1 (under 4 months)	50													
Aviation cadets	50													

For the purposes of clauses (1) and (2) of this subsection, the years of aviation service are computed beginning with the effective date of the initial order to perform flying duties as an officer."

SEC. 2. The last sentence of section 715 of the Department of Defense Appropriation Act, 1973 (86 Stat. 1199), is amended by striking out "except, after May 31, 1973, those of the rank of colonel or equivalent or above (0-6) in noncombat assignments."

SEC. 3. Notwithstanding the amendments made by this act, an officer who was entitled to incentive pay under section 301(a)(1) of title 37, United States Code, on the day before the effective date of this act, if otherwise qualified, is entitled to either of the following:

(1) If credited with less than 7 years of aviation service as an officer and with less than 15 years of active service as an officer, he is entitled to monthly incentive pay at either—

(A) the amount he was receiving under section 301(b) of that title on the day before the effective date of this act with no entitlement after the effective date of this act to any longevity pay increases or to increases as a result of promotion to a higher grade, until such time as the rate to which he is entitled under section 301(b) of that title as amended by this act is equal to or greater than the amount he was receiving under that section on the day before the effective date of this Act, after which his entitlement shall be as prescribed by that section as amended by this Act; or

(B) the rate prescribed by that section as amended by this act;

whichever is higher. However, an officer described in clause (1) of this section who has 12 or more years of active service as an officer may continue to receive the amount he was receiving under that section prior to the effective date of this act only for a period of 36 months after the effective date of this Act, after which his entitlement to monthly incentive pay shall be as prescribed by that section as amended by this Act. However, no officer who is promoted to a pay grade of 0-7 or above during that 36-month period may receive more than the rate which existed for that pay grade prior to the effective date of this Act. Once an officer described in clause (1) of this section has received any monthly incentive pay under section 301(a)(1) and 301(b) of title 37, United States Code, as amended by this Act, he is no longer entitled to receive any payment under that section as it existed on the day before the effective date of this Act; or

(2) If credited with 7 or more years of aviation service as an officer and with 15 or more years of active service as an officer, he is entitled to elect whether to receive monthly incentive pay at either—

(A) the amount he was receiving under that section on the day before the effective date of this Act, with no entitlement after the effective date of this Act to any longevity pay increases or to increases as a result of promotion to a higher grade, for a period of 36 months after the effective date of this Act after which his entitlement to monthly incentive pay shall be as prescribed by that section as amended by this Act; or

(B) the rate prescribed by that section as amended by this act.

An election once made may not be revoked. However, no officer who is promoted to a pay grade of 0-7 or above during the 36-month period described in clause (2)(A) of this section may receive more than the rate which existed for that pay grade prior to the effective date of this Act.

However, there may not be any termination or reduction of monthly incentive pay under this section for warrant officers on active duty.

SEC. 4. This Act is effective on January 1, 1974.

SECTIONAL ANALYSIS

Section by section analysis of HR 8593, to amend section 301 of title 37, United States Code, relating to incentive pay, to attract and retain volunteers for aviation crewmember duties, and for other purposes.

Section 1 of the bill restates current subsection (b) of section 301 (Incentive pay: hazardous duty) of title 37, United States Code, and restructures it to include revised incentive pay rate tables for officer aviation crew members while retaining present incentive pay tables for all other categories of hazardous duty.

Proposed new subsection (b)(1) prescribes revised incentive pay tables authorizing monthly rates of incentive pay ranging from $100 to $245 for members with not more than 18 years of aviation service as officers in pay grades O–1—O–6. After the completion of 18 years of active service as an officer, the monthly rate of incentive pay would be reduced after each 2-year period by $20 until the rate reaches $165 for those with more than 24 years of active service as officers. Under new clause (1), all aviation incentive pay would be terminated at the completion of 25 years of active service as an officer. The aviation incentive pay authorized is divided into two phases. Phase I is based on years of aviation service as an officer while phase II is based only on years of active service as an officer. Before becoming entitled to a rate of pay under phase II, an officer must complete six years of service under phase I. An officer in a pay grade above O–6 would be entitled, until he completes 25 years of active service as an officer, to be paid at the rates set forth in the table, except that an officer in pay grade O–7 could not be paid at a rate greater than $160 a month, and an officer in pay grade O–8, or above, could not be paid at a rate greater than $165 a month.

Proposed new subsection (b)(2) covers warrant officers and provides that those who are qualified under current section 301(a)(1) would receive monthly aviation incentive pay ranging from $100, for those with less than two years of aviation service as an officer, to $165, for those with over six years of that service. The 25-year limitation prescribed in proposed new subsection (b)(1) for other officers does not apply to warrant officers.

Proposed new subsection (b)(3) sets forth, without change, the existing table in current 37 U.S.C. 301(b) and provides that it would continue to apply to enlisted members qualified under current 37 U.S.C. 301 (a)(1), and to officers and enlisted members qualified under current 37 U.S.C. 301(a) (2) or (3). It also provides that, for the purposes of proposed new subsection (b) (1) and (2), the years of aviation service are computed beginning with the effective date of the initial order to perform flying duties as an officer.

Section 2 of the bill amend section 715, Department of Defense Appropriation Act, 1973, by deleting provisions denying flight pay to certain rated colonels, or equivalent, or above, in noncombat assignments.

Section 3. This section authorizes saved-pay for aviation crewmembers who would lose pay under the revised incentive pay rates.

Clause (1) entitles an officer with less than seven years of aviation service as an officer and with less than 15 years of total active service as an officer to receive either the amount he was receiving under 37 U.S.C. 301 (b) on the day before the effective date of the bill, or the new rate prescribed by that section as amended by the bill, whichever is higher. An officer whose pay is saved at the old rates must switch over to the new rates whenever his entitlement under the new rates becomes equal to or greater than his entitlement under the old rates, except that an officer who has 12 or more years of active service as an officer may have his pay saved under the old rates only for a period of 36 months after the effective date of the bill. Once an officer switches over to the new rates, he remains under them permanently and may not receive any further payments under the old rates.

Clause (2) entitles an officer with seven or more years of aviation service as an officer and with 15 or more years of active service as an officer to elect whether to receive monthly incentive pay at either the amount he was receiving under that section on the day before the effective date of the bill, or at the new rate prescribed by that section as amended by the bill. An election once made may not be revoked. An officer under clause (2) who elects to receive the old rates may receive them only for a period of 36 months after the effective date of the bill, after which his entitlement shall be as prescribed by 37 U.S.C. 301(a)(1) and 301(b) as amended by the bill.

Any officer under this section whose pay is saved at the old rates is not entitled after the effective date of the bill to any pay increases for longevity or for promotion to a higher grade. However, no officer under this section who is promoted to a pay grade of O–7 or above during the 36-month period his pay is being saved may receive more than the rate which existed for that pay grade prior to the effective date of the bill. Further, there may not be any termination or reduction of monthly incentive pay under this section for warrant officers on active duty.

Section 4 of the bill provides an effective date of January 1, 1974.

GENERAL COUNSEL OF
THE DEPARTMENT OF DEFENSE,
Washington, D.C., May 17, 1973.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There are forwarded herewith drafts of proposed legislation "To amend section 715 of the Department of Defense Appropriation Act, 1973, to extend until December 31, 1973, the date after which members in the rank of colonel or equivalent or above (O–6) in noncombat assignments are no longer entitled to flight pay prescribed under section 301 of title 37, United States Code", and "To amend section 301 of title 37, United States Code, relating to incentive pay, to attract and retain volunteers for aviation crewmember duties, and for other purposes."

These proposals are part of the Department of Defense legislative program for the 93rd Congress. The Office of Management and Budget advises that, from the standpoint of the Administration program, there is no objection to the presentation of these proposals for the consideration of the Congress. It is recommended that these proposals be enacted.

PURPOSE OF THE LEGISLATION

The purpose of the legislation is to extend from May 31, 1973 until December 31, 1973, the effective date for terminating flight pay for colonels and equivalent (O–6) and above in noncombat assignments and to restructure the present flight pay system in order to make it more effective in today's environment. The proposed legislation also responds to Congressional criticism of the existing flight pay system as expressed in section 715 of the Department of Defense Appropriation Act, 1973 (P.L. 92–570).

The Senate Report on H.R. 16593 stated, with respect to section 715, "It is the view of the committee that the Department of Defense should review the entire area of incentive pay, the performance requirements for receiving such pay, and the inequities resulting under the existing statutory provisions, and early in the next session, submit to the Congress a proposal to correct these inequities." (Senate Report No. 92–1243, page 7.)

The topic of special and incentive pays was the subject of the 1971 Quadrennial Review of Military Compensation. These 1971 studies, including the *Study of Flight Pay (Crewmember) and Submarine Duty Pay,* were transmitted to the Congress on January 25, 1972. Pursuant to the Senate Report on section 715, the Department of Defense completed a careful review of flight pay for aviation crewmembers.

The recent review confirmed that retention shortfalls after the completion of the first obligated tour of duty and manning deficiencies in the critical mid-career years of service, identified and documented in the Quadrennial Review, continue to exist. The recent review, as well as the Quadrennial Review, reaffirms the need to restructure the incentive pay rates to address these deficiencies. It should be noted that the retention and manning shortfalls are concentrated in the Department of the Navy and the Department of the Air Force. The Department of the Army does not at this time have a similar problem.

The particularly arduous pressures for aviation personnel that existed over the past ten years are expected to be eased somewhat now that United States involvement in Southeast Asia is expected to be phased out since the United States has withdrawn its ground combat forces from Vietnam. The expected improvement in duty assignments and other measures to improve the attractiveness of military service in an all-volunteer environment might, together with the restructured flight pay rates, produce an improvement in aviation personnel retention greater than can be expected from the adjustment of rates only. This combination of measures might prove adequate for the immediate future. However, should all of these measures in combination still prove inadequate, the Department of Defense has recommended the enactment of the proposed Uniformed Services Special Pay Act which would provide for additional monetary incentives (i.e., the Officer Variable Incentive Pay) to address inadequate retention in any critical skill area, including aviation. Should the Department of Defense be required to use the latter authority, it would be used only in such amount as might be required to alleviate the retention problem.

The attached interim legislation would extend from May 31, 1973, until December 31, 1973, the effective date for terminating flight pay for colonels and equivalent (O–6) and above in noncombat assignments.

This interim legislation is urgently required for reasons of equity. Unless new legislation is enacted prior to June 1, 1973, the effect will be to reduce the monthly pay of the officers affected (O–6 and above) by denying them flight pay after May 31, without adequate consideration; a result characterized in Senate Report No. 92–1243 as unfair. By acting on the interim proposal before May 31, the Congress would avoid this inequitable result and prevent a premature loss of flight pay by several thousand officers. It would also provide adequate time for orderly consideration by the Congress during the remainder of 1973 of the proposed substantive revision of the flight pay system.

The substantive Bill, therefore, carries an effective date of January 1, 1974. Its principal features, particularly those that differ from existing law are:

Payment of flight pay (crewmember) on the basis of years of aviation service (rather than service by grade and longevity computed for pay purposes by section 205, title 37) until 18 years of active officer service.

For both commissioned and warrant officers, the highest rates of incentive pay begin after 6 years of aviation service rather than at about 18 years of service for pay purposes, as is the case today. The six years of aviation service point generally coincides with the expiration of the first obligated tour of duty, and the higher rates address the inadequate retention issue at that point.

A gradual decline of pay rates from 18 years of active officer service on the basis of years of active officer service, rather than remaining on the higher rates.

Termination of all flight pay (crewmember) after the completion of 25 years of active officer service, rather than payment for a full military career of 30 years or more.

No increases in the flight pay rates of general and flag officers over the existing rates, although some of these officers could receive lower rates of pay.

A warrant officer flight pay scale adjusted proportionately to the pay changes of commissioned officers. However, since warrant officer aviators remain in operational aviation duties throughout their careers, no 25 year flight pay cut-off is made. Warrant officer aviators will continue to be paid for their full flying careers on the basis of aviation service rather than service for pay purposes (section 205, title 37, United States Code).

The proposed legislation would provide for a three-year transition period with save-pay provisions for those officers faced with pay reductions or denial of pay. This equity provision provides sufficient lead time for the affected officers to adjust financially and should coincide with the expiration of the current tour of duty of the majority of the officers affected.

The proposed legislation would eliminate the existing language terminating entitlement to flight pay of officers of the grade 0–6 (colonels or equivalent) and above as unneeded because of the changes proposed by this legislation.

The Department of Defense recognizes that the proposed legislation might not be the final answer to the aviation manning problem. The Department will continue to monitor closely the aviation crewmember retention experience of the separate services. Should retention decline and the circumstances warrant, the Department of Defense would take the additional steps including, if necessary, appropriate legislative recommendations to the Congress. Conversely, if the retention experience improves as anticipated, then the Department of Defense will lower the initial pilot training rate as appropriate. Any improved retention in the aviation community is highly cost effective compared to increased training of pilots. The training investment in a Navy jet fighter pilot, for example, is $799,000; this is more than ten times the cost of a full lifetime flight pay earnings of that pilot. Clearly, financial incentives that improve retention and avoid such high training costs will be a more efficient way to man adequately the aviation force.

COST AND BUDGET

The proposed legislation can be accommodated within the authorized amounts of the President's budget for FY 1974. The FY 1974 budget estimate includes $227.5 million of the estimated total DoD cost. The balance of $4.8 million will be absorbed within the FY 1974 funds available to the military departments.

5-YEAR COST ESTIMATE

[In millions of dollars]

	Fiscal year—				
	1974	1975	1976	1977	1978
Proposal	215.3	215.7	209.4	206.1	200.2
Saved pay	17.0	19.5	19.4	10.4	2.5
Total DOD cost	232.3	235.2	228.8	216.5	202.7
Net cost change	−4.8	−13.0	−12.4	−4.4	+4.1

In addition, savings from potential retention improvements have not been included in the estimate above; thus, savings may appear sooner and be more significant than shown here.

Sincerely,

J. FRED BUZHARDT.

THE FAMOUS RANDALL REPORT ON AMERICA'S MILITARY COMMITMENT TO NATO

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, in view of the current interest in both the House and the Senate in our military commitment to NATO, and especially in view of some of the efforts being made in the House Democratic caucus and in the other body to force a unilateral reduction of American forces assigned to NATO and stationed in Europe, I believe it would be of great assistance to all Members to be able to read the very excellent report on this whole NATO subject prepared and submitted in July 1971 by a subcommittee of the Armed Services Committee headed by our distinguished colleague from Missouri (Mr. RANDALL). Accordingly, I am including the text of this excellent report in the RECORD as a part of my remarks.

Mr. Speaker, it has been universally agreed that the Randall report is the most thorough and penetrating analysis of our NATO commitment ever made by a committee of Congress. Its conclusions deserve to be very carefully considered in connection with any proposals to effect unilateral force reductions on our part.

I especially invite the attention of Members to the subcommittee's recommendation for the creation of a common NATO fund to meet the admittedly serious problems of balance of payments deficits arising out of our stationing of American troops in Europe. This proposal, made 2 years ago, is now being put forward with great enthusiasm by the administration, as well as by others, and I believe it is another idea whose time has finally come. Here is that idea, Mr. Speaker, as first proposed to Congress, in the Randall report.

Mr. Speaker, let me just point out one other thing and that is that the text which follows actually represents an updating of the July 1971 report in terms of the relevant statistics. The committee staff has done this up-dating, based on figures that are current as of July 1, 1973.

The report follows:

LETTER OF TRANSMITTAL

WASHINGTON, D.C.,
August 15, 1972.

Hon. F. EDWARD HÉBERT,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have the honor to transmit herewith the report of the Special Subcommittee on NATO Commitments, entitled "The American Commitment to NATO."

The members of the Subcommittee appreciate the opportunity to have been of service to the Committee in this undertaking.

Sincerely,

WILLIAM J. RANDALL,
Chairman, Special Subcommittee on NATO Commitments.

THE AMERICAN COMMITMENT TO NATO

(Report of the Special Subcommittee on North Atlantic Treaty Organization Commitments)

I. INTRODUCTION

"Much of the intense difficulty of our time is in nature conceptual, and it arises from a massive misstatement of our problem."—Daniel Patrick Moynihan

The desire for change is frequently accompanied by the compulsion to simplify. The desire for fundamental changes in the U.S. position in the world, growing out of national anxieties not generated by our NATO involvement, has brought about considerable questioning and debate over the U.S. military presence on the European Continent and the U.S. contribution to NATO. It is perhaps not surprising that, since the questioning is often inspired by an objective independent of the future of NATO, the problem is poorly stated and the situation grossly oversimplified.

Thus the question is usually put simply: How much can we reduce the number of our troops in NATO? Statements are made to the effect that various numbers of support forces could be withdrawn without weakening NATO or that large numbers of combat and support forces—up to half—could be withdrawn and the Europeans could easily and effectively replace them. The question is frequently posed in the form of a non sequitur: Why do we need 310,000 troops in Europe 25 years after the end of World War II?

The subcommittee notes that the problem is almost always stated in terms of number of troops in Europe.

The subcommittee certainly does not discourage questions being raised about the American commitment to the North Atlantic Treaty Organization. The subcommittee recognizes that as the times change, the commitment and the situation which engendered it must be reviewed and reexamined. Since the subject has been somewhat neglected in national councils in the past, present debate is engendering more than normal difficulties. Some of the restudying being done in regard to NATO should have been done years ago, and some of the revisions being made are being started much later than they should have.

The existence of this special subcommittee is evidence of the urgency to reexamine our NATO commitment. The work of the subcommittee represents the first major effort to reexamine the military side of the commitment in the House in many years, and the subcommittee is aware of no other study by a House subcommittee that has gone into the subject in such depth at any time since NATO was organized 24 years ago. Indeed the subcommittee believes that certain problems in NATO are caused by continuing neglect at high executive branch levels, as will be discussed later on in this report.

The questions before the Congress

The subcommittee does not believe that the Congress can properly discharge its national-policy function in regard to Europe by simply debating a supposedly desirable level of troops in Europe.

The U.S. commitment to NATO cannot be expressed simply in terms of numbers of ground troops. It is expressed also in terms of naval forces, air forces, the strategic nuclear umbrella, dollar commitments, and last, but certainly not least, a spiritual commitment—a commitment of national will. The questions the Congress must address are:

Is the NATO military alliance still needed and still justified?

If it is, what should be the level of U.S. commitment to that alliance?

If changes should be made, how should they be made?

And what advantages and what risks are involved in changes?

The subcommittee wishes to say at the

outset that in making its recommendations it eschews the temptation to opt for cosmetic change that would presumably appease political sentiment in the United States. The possibility of withdrawing something on the order of 10,000 to 20,000 men from Europe is one of those ideas that have a surface attractiveness and that grow more intoxicating in political seasons. But on close examination such a move could have results that might weaken the Alliance out of proportion to the number of men withdrawn; and the savings, if any, would be extremely modest.

The subcommittee does believe that the United States is carrying a disproportionate share of the NATO cost and that some burden-shifting must take place. However, troop replacement is neither the most feasible method nor the most beneficial to our own interests. The subcommittee will make recommendations in the course of this report for fundamental changes in the way of financing the Alliance's military deployments which could relieve the most burdensome aspect of the commitment for the United States.

Scope of the inquiry

The Special Subcommittee on North Atlantic Treaty Organization Commitments was appointed on July 27, 1971, and was directed by the chairman of the Committee on Armed Services "to inquire into the commitments of the United States in support of the North Atlantic Treaty Organization, including troop commitments and the ability to meet such commitments." The subcommittee interpreted its charter in the broadest sense, giving primary emphasis to major policies in regard to the level of U.S. commitment to the Alliance and the comparative burden-sharing among the Allies. The subcommittee also reviewed the capability of U.S. forces and other NATO forces to fulfill their missions.

The subcommittee held its initial public hearing on October 14, 1971, following an extensive series of background briefings. The study included 17 hearings in the United States, 9 of them open hearings; and 17 hearings held in the course of two visits to American bases and NATO installations in Europe. In the course of the inquiry the subcommittee visited 9 European countries; visited every major U.S. commander in Europe as well as NATO's major commander in the United States, Supreme Allied Commander, Atlantic, located at Norfolk, Virginia; and visited with U.S. troops in the field in Europe.

The subcommittee listened to 34 major witnesses. In addition to senior officials from the Department of State and the Department of Defense, it heard from such distinguished former Government leaders as the Honorable George W. Ball, former Under Secretary of State; the Honorable John J. McCloy, Chairman of the General Advisory Committee on Arms Control and Disarmament and former U.S. Military Governor and High Commissioner for Germany; and Gen Lauris Norstad, former Supreme Allied Commander, Europe. The subcommittee also received testimony from academic leaders such as Dr. Timothy W. Stanley, Executive Vice President, International Economic Policy Association; Dr. Morton H. Halperin, Senior Fellow, The Brookings Institution; and Dr. David P. Calleo, Professor and Director of European Studies and Research Associate, Washington Center of Foreign Policy Research. A complete list of witnesses appears in the appendix of this report.

From the Defense Intelligence Agency and from commanders in Europe the subcommittee received extensive classified material concerning Warsaw Pact forces as well as the capabilities of U.S. and other NATO forces.

The printed hearings, which cover 1,095 pages, will prove a valuable source of detailed information for those who truly wish a better understanding of the problems facing the Alliance.

To the extent feasible, the subcommittee reviewed problems within the U.S. forces in Europe which might have an impact on the readiness of those forces; however, the subcommittee wishes to make clear that because of the importance of its primary objective there was not time to make an exhaustive study of all of the areas where problems have arisen.

The subcommittee will, in the course of this report, however, have some brief recommendations to make regarding improved living conditions for U.S. forces in Europe. Some problems not peculiar to Europe, but which have surfaced there, have been studied by other subcommittees of this committee or the Congress; i.e., drugs.

At the meeting where the subcommittee report was adopted, the vote was 4 to 0. However, the remaining member of the subcommittee has submitted minority views which are included in this report.

II. THE NEED FOR NATO

"The many acting together can achieve a result which if they acted separately would be beyond the reach of any or of all."—President Dwight D. Eisenhower

The value of the North Atlantic Treaty Organization would appear to be self-evident and its continuation beyond question. But perhaps the lack of reiteration of the necessity and value of the Alliance and the importance of the American contribution to the Alliance has led to its being widely questioned, often in irrational terms. Proposals are sometimes made based on assumptions which seem to ignore some simple, elemental truths about NATO's existence.

NATO has been, to a certain extent, a victim of its own success. NATO has been the longest, the most important and the most successful military alliance in our history. It has kept pace in Western Europe; the NATO area has had 25 years without a war. Under the protection provided by NATO most of the countries of the Alliance have achieved not only economic recovery from World War II, but a high level of prosperity in recent years. The nations of Western Europe have achieved an economic and political unity previously unrealized in European history. More important, NATO provides the environment for moving toward a greater unity in the future which is the best long-range hope of providing Western European security without extensive U.S. participation.

The nations of Western Europe are protected from Soviet pressure in a way that would simply be impossible if they were not united militarily.

The need for NATO then is a paradox, as any successful deterrent is a paradox—its existence eliminates the necessity for its use.

As General Goodpaster told the subcommittee:

"It is a little hard to understand. People ask me, 'Do you think there is going to be a war in Europe?' And I say that really, I don't think there is going to be a war in Europe, because I think we are going to have sense enough to keep up the strength of our forces here; and as long as we do, I think the chances are very, very low that we will have a war, either a deliberate one or one the Soviets will stumble into. They are not interested in stumbling into something that would risk their devastation.

"But 'so long as we maintain our forces,' that is the key to the thing. And what we are telling people, then, is to maintain forces for a war that probably won't occur. And the paradox is, as I put it sometimes, if you have got the strength, you don't need it; but if you haven't got it, you need it."

The dangers of Finlandization

One only has to look at the map to realize that war alone is not the only thing that NATO prevents. Equally, it forestalls the loss of freedom through Soviet pressure without having to resort to war. Many of the smaller nations of Western Europe, no matter how brave, no matter how determined, could not stand up to Soviet pressure if they were left alone. The gradual Finlandization of many of these countries, the slow absorption into the Soviet hegemony, would be virtually inevitable without collective defense.

The value of a free Western Europe to the United States would appear to be equally self-evident. Without the independence and security that NATO provides, the U.S. position in the world, strategically and economically, would be seriously reduced.

After consideration of the freedom of the citizens of Western Europe themselves, it should not be forgotten that the nations of the NATO Alliance constitute the principal world market for U.S. industry outside the United States. And no other area of the world could replace that market.

The long-term U.S. industrial investment in Western Europe is estimated at $30 billion. In cooperating to ensure the success of NATO, we are, among other things, providing a security for critically important American economic interests.

As will be shown later in this report, the Western European nations provide the major portion of the men, the airplanes and the naval forces of the Alliance. If the Alliance did not exist, the cost to the United States to keep up its strategic position would increase in some areas, most notably in the maintenance of naval forces. And regardless of how much the expenditure for U.S. forces were increased, the strategic position of the United States would be inevitably weakened.

It is without question, therefore, that the Alliance must continue. It is equally apparent that at the present time the Alliance cannot continue without a substantial U.S. contribution.

The subcommittee must point out that no responsible person from whom it has heard, no witness, or no published critic of America's role in Europe, has proposed dismantling the Alliance. The proposals of some critics might result in the dissolution of the Alliance, but such is not the stated intention of any of those making proposals.

The question is what should the U.S. contribution be to the continuation of the Alliance. And each proposal for change must be examined in the light of the risk involved for the permanence of the structure. The subcommittee, therefore, has attempted to take the long view. It *may* be that some of the proposals for reductions in U.S. forces in Western Europe would work. But the subcommittee has repeatedly asked itself: What are the risks involved in taking such actions compared to alternate actions which may be taken at lesser risk and which would prove of equal or greater benefit to the United States in terms of the burden it carries? It is for this reason the subcommittee has emphasized, as stated earlier, that the commitment must not be looked at just in terms of troop levels, but in terms of all forces, and of monetary and intangible contributions.

III. THE NATURE OF THE THREAT

"None of us are opposed to a détente, but it ought to be a true détente. And how do you get a true détente? That means the other fellow gives up his aim of acting against you and he reduces the capability that he has to act against you. When he has done that, then we can hear him talking."—Gen. Andrew J. Goodpaster.

It has been said that a "threat" is the product of capabilities joined to intentions. The present tendency is to judge the threat basically in terms of intentions and not of capabilities. In what is said to be the new environment of détente, where hopeful signs of more stable relations in Europe have appeared, there is the tendency on the part of many intelligent people to assume that the Soviet Union is entirely reconciled to the status quo and no longer retains any long-range hunger for hegemony over Western Europe. In some quarters détente is viewed not as a result that grew out of strength, but as a reason for beginning the dismantling of that strength. Such a view grows, as the Honorable George W. Ball told the subcommittee, out of "the normal desire of people to achieve that state of grace which is vaguely thought of as 'normality'—as though there could be anything normal in a world where one-third of the world's population is still locked behind an Iron Curtain and the wall still stands in Berlin."

The question, "Why do we need 300,000 troops in Western Europe a quarter century after the close of World War II?" is a non sequitur. The American forces are in Europe not to fight an old war, but to prevent a new one.

The subcommittee sought to determine whether the threat to NATO has decreased or whether proposals for reductions in our NATO forces have been based on the supposition that the danger of war has decreased because Soviet intentions have changed.

There has been no evidence, in fact no claims made, that Soviet capabilities have decreased. The evidence from our hearings both in this country and in Europe, and indeed from outside witnesses as well, has been that Soviet capabilities have increased. Soviet and Warsaw Pact forces in the central region have not decreased in strength, and over the years their equipment has been considerably modernized to substantially improve their fighting power. Soviet naval forces on the southern and northern flanks have been dramatically strengthened, both in numbers and quality, and are ever more active.

The subcommittee studied the Warsaw Pact forces and the development of those forces both in hearings in this country and in meetings with military commanders in Europe. The great bulk of the information gathered by the subcommittee must necessarily remain classified. The following is a brief, unclassified rundown of Warsaw Pact forces.

Dimension of the threat

The threat the Pact forces pose spans the spectrum of modern warfare—from the strategic to the tactical—from air warfare to the under-the-sea variety.

Soviet forces make up approximately 45 percent of the total Warsaw Pact forces in peacetime and would make up 75 percent in wartime. It is important to note, however, that all Warsaw Pact forces have the advantage of standardization—in military doctrine, operational procedures and equipment—imposed by Soviet commanders and instructors.

Nuclear forces

The Soviet strategic rocket forces and navy would support Warsaw Pact operations in Europe. At the nuclear strategic force level, the Soviets have available for targeting in Western Europe over 600 intercontinental, intermediate- and medium-range ballistic missiles, submarine-launched missiles, as well as equally impressive numbers of medium bombers stationed in the western U.S.S.R. At the tactical nuclear level the Soviets have increased their delivery capability and number of weapons that would be available to support a conventional offensive.

Central Europe

In the area of East Germany, Poland, Czechoslovakia, and Hungary the Soviets have stationed about 15 tank divisions with an equivalent number of mechanized divisions. This present total of about 30 divisions represents a net increase in the last 10 years by a total of 5 divisions (those now stationed in Czechoslovakia). These ground forces are supported by about 4 Soviet tactical air armies as well as an array of artillery and other combat-support units.

In this central and perhaps most important area of Soviet interest (at least in terms of forces earmarked for operations in a specific area), the Eastern European countries of East Germany, Poland, Czechoslovakia, and Hungary add about 25 high-readiness divisions and at least 10 more of reduced manning and equipment. After a relatively short period of time the Soviets with their Eastern European allies could amass in this area more than 80 divisions, with well over a million men, supported by more than 19,000 tanks and well over 2,500 tactical aircraft.

To provide tactical nuclear support for this force in the central European area, there would be an augmentation of the present complement of tactical nuclear launchers to bring their total number up to well over 500. Artillery pieces in this central area would number about 10,000 (number includes launchers—multiple tube and heavy mortars). This concentration, generally opposite West Germany, has necessitated stationing in the Federal Republic of Germany the forces of 6 Allies (Britain, France, Belgium, Canada, the Netherlands, and the United States) to bolster the West German Armed Forces.

Northern sector

In the North, as part of an offensive against NATO, the Soviets would probably move against the northern province of Norway. There are approximately 10 Soviet divisions in varying degrees of readiness located in the Leningrad military district which would be available for an operation against NATO. These forces would be supported by a small tactical air force and have supporting forces similar to those in the central region. Two of these divisions are stationed normally in an area opposite northern Norway; the remaining ground forces could be in position ready for an attack on Northern Norway well within the time limit required by their counterparts in the central region. The total force would probably number well over 150,000 men.

In the waters off the northern tip of Norway the Soviet Northern Fleet has year-round access to the ice-free Barents and Norwegian Seas. This fleet numbers well over 150 large surface warships and general-purpose submarines and over 200 aircraft. The fleet, operating from this base area, would provide the main Soviet threat to NATO shipping in the Atlantic and could attack NATO naval and amphibious forces committed to European operations. Norway would be strategically important to the Soviets in an attack against NATO as a secure land base for this fleet; the Allies would then be denied a base of operation to interdict the Soviet fleet close to its home.

The Soviet Baltic Fleet has the mission of controlling the Baltic Sea and its approaches. This fleet numbers over 70 large surface warships and submarines and over 150 aircraft.

Southern sector

The Warsaw Pact operations against NATO's southern region may include forces from Bulgaria and possibly Romania, as well as the Soviet Union. The Bulgarian and Romanian ground forces number over 15 divisions. The Soviets could reinforce their Eastern European satellites in this area with more than 5 divisions for operations against Greece and Turkish Thrace. The key strategic areas would, of course, be the Bosporus and Dardanelles. Additionally, the Soviets could launch an attack in Eastern Turkey with more than 15 divisions.

Soviet frontal aviation with their Bulgarian counterparts (Romanians have only national air defense forces) could support the attack with several hundred aircraft. The Black Sea Fleet and the Soviet Mediterranean Squadron provide the naval contingent of the Warsaw Pact threat against the southern flank of NATO. The Black Sea Fleet numbers over 80 large surface warships and submarines. The Black Sea Fleet air force has over 200 combat-ready aircraft including a number of antiship-missile-equipped Badgers. This fleet provides some of the logistic support for the Soviet Mediterranean Squadron.

The Soviet Mediterranean Squadron has numbered between 45 and 55 ships of various types with peaks up to nearly 70. The typical composition of this squadron is: 16–19 surface combatants including 1 or 2 cruisers, guided-missile frigates and destroyer types; minesweepers and tank landing ships; about 10 submarines; and a group of logistic support units. The surface-to-surface missiles on Soviet ships and submarines provide a particularly serious threat to the 6th Fleet. Amphibious units could carry a naval infantry battalion landing team. Support for the squadron is primarily derived from the effective use of fleet anchorages and secondarily through the use of facilities in the UAR and Syria.

The Soviets maintain more than 20 divisions in the interior areas of the U.S.S.R. west of the Ural Mountains as a strategic ground-force reserve. This force would add more than 200,000 troops, over 5,000 tanks and hundreds of combat aircraft to the battle area if committed.

Summary

The Warsaw Pact maintains over 55 divisions in Germany, Poland, and Czechoslovakia, most of which could be combat ready in less than 2 days. On the NATO flanks there are almost 10 divisions that could be available for combat operations against NATO in the same time frame. After several weeks of preparation an additional 65 or more divisions could be available for operations against NATO, supported by tactical equipment and large formations of artillery and rocket forces. The Soviet forces are being modernized. The Soviet tactical nuclear capability continues to improve.

The Warsaw Pact force does have weaknesses primarily in its maintenance and support area. About half of the Warsaw Pact divisions need extensive filler personnel and equipment to bring these formations to combat readiness. Additionally, some question the reliability of the Eastern European armed forces which may not necessarily and wholeheartedly support Soviet forces in an active military confrontation with the West.

The Warsaw Pact force is offensive-oriented; its size and posture go beyond any reasonable and conservative estimate based on Western military judgment of what would be required to defend Eastern Europe and the U.S.S.R.

The military capacity of the Warsaw Pact poses the historical kind of threat that large standing military forces have always posed for their weaker neighbors. Smaller nations have been more inclined, historically, to accommodate the political and economic policies of nations with impressive military standing forces. An exception to this historical accommodation process has been allowed by the peacetime alliance of NATO.

One other point is worth noting. Although NATO's capability has increased in the last few years, the military risk to the Alliance is greater now that it was 5 or 10 years ago. The improvement in the political atmosphere has already been taken into account in determining the minimum level of forces required to meet the threat. Any reasonable interpretation of conditions, therefore, would suggest that the strength of NATO as a whole should not be independently reduced.

IV. NATO'S MILITARY STRUCTURE AND THE RELATIVE BALANCE OF FORCES

The extensive public debate on American forces in Europe has sometimes led to the impression that the United States makes the main contribution of strength to the NATO Alliance. Such is not the case. The Allies contribute 90 percent of the manpower, 80 percent of the naval power (in terms of numbers of vessels) and 75 percent of the airpower of NATO.

The subcommittee examined in great detail the relative effort made by the European members of NATO and talked extensively with military commanders about the readiness and capability of European NATO forces. The following table provides in unclassified form a rundown of NATO forces:

MAJOR FORCES—NATO[1]

GROUND FORMATIONS

	Northern and Central Europe	Southern Europe
Ground forces available to commanders in peacetime (in division equivalents):		
Armored	9	6
Infantry, mechanized and airborne	15	31
Tanks: Main battle tanks in operational service—Peacetime	6,000	2,100
Aircraft—Tactical aircraft in operational service:		
Light bombers	64	
Fighter/ground attack	1,200	450
Interceptors	400	250
Reconnaissance	400	150

NAVAL FORCES

Category:	
Attack carriers	8
ASW carriers	4
Surface attack: Cruisers/destroyers	10
Antisubmarine: Destroyers, frigates, escorts	280
Motor torpedo gunboats	136
Attack submarines:	
Nuclear	35
Diesel:	
Long/medium range	90
Short range	60

[1] Figures exclude France.

Relative balance of forces

There have been widely differing public interpretations of the relative balance of forces between the Warsaw Pact and NATO, varying from those who say, on the one extreme, that NATO forces are superior to Warsaw Pact forces (and hence, U.S. troops could safely be withdrawn) to, on the other extreme, those who say that the Warsaw Pact advantage is so great that the NATO conventional strategy is not viable even with the present substantial U.S. forces in Europe (and hence, U.S. forces might just as well be withdrawn).

The subcommittee discussed with military commanders the relative balance of forces in terms of manpower and, more importantly, of relative firepower. Much of this discussion concerns sensitive military information and must remain classified. The sum and substance, however, is that the Warsaw Pact has superior forces but the margin is not so great that it prevents the NATO forces from presenting a very real deterrent to aggressive action. In terms of pure numbers, in many areas of comparison the forces confronting NATO are two or three times greater than NATO in-place forces. In tanks, for example, the Pact has a 3-to-1 advantage, which is only partially offset by superior NATO antitank capability. In numbers of aircraft the advantage is about 3 to 2. In some instances qualitative advantages on the part of NATO forces make up for lack of numbers, but this should not be overstated. In addition, there are also some areas where NATO forces would be at a disadvantage because of the use of older equipment.

For the general reader the following unclassified comparisons, taken from material issued by the Institute for Strategic Studies in London, should prove of interest.

FORCE COMPARISONS

Type of division	NATO[1] approximate figures	Warsaw Pact approximate figures	Number of divisions: NATO[2]	Number of divisions: Warsaw Pact
Armored:				
Men	14,500	8,250	14	61
Tanks[3]	300	325		
Mechanized/motorized infantry:				
Men	15,500	10,000	21⅔	94
Tanks[3]	250	175		
Light infantry:				
Men	17,000		23	
Tanks	50			
Airborne: Men	10,000	7,000	1⅔	8

[1] The divisional formation varies from country to country in numbers of men and firepower, but by and large they are modeled on a structure of 3 brigades.

[2] French land forces in Federal Republic of Germany and in Metropolitan France are excluded.

[3] In global terms, the ratio of main battle tanks between NATO and the Warsaw Pact stands at about 1:3.

Note: As regards conventional artillery, the Warsaw Pact have a definite margin of superiority in firepower.

Categories	NATO approximate figures	Warsaw Pact	(Of which U.S.S.R.[1])
Tactical aircraft in operational service: Light bombers	64	280	230
Fighter/ground attack	1,650	1,520	1,150
Interceptors	650	3,050	1,550
Reconnaissance	550	540	340
Total	2,914	5,390	3,270

[1] There are also large number of aircraft stationed in western U.S.S.R., under national command, which have not been included in these tables. Aircraft of the U.S. Air Forces, stationed in the United States and programed to reinforce NATO forces, are also excluded from the tables.

The present NATO forces could be expected to deny the enemy—to use Winston Churchill's words—"the fruits of war without the cost of war." In essence NATO presents the other side with the sobering prospect that he faces the high probability that he will gain nothing without suffering the heavy cost of war and the longer the struggle, the greater the punishment, including the eventual devastating power of nuclear weapons if that is what it takes.

Flexible-response strategy

Prior to 1967 the strategy of the Alliance was based on so-called limited nuclear warfare. The strategy acknowledged that NATO forces would go immediately to the use of tactical nuclear weapons as necessary. The viability of such a strategy was always open to question. It must be remembered that the difference between a tactical nuclear weapon and a strategic nuclear weapon depends a little bit on where you are standing when the mushroom cloud forms. What might be a tactical nuclear weapon for someone in the United States or Great Britain would be a strategic nuclear weapon for a European in the forward area.

Thus far in every cold-war crisis American Presidents have found that almost any alternative is preferable to the use of nuclear weapons.

Since 1967 NATO strategy has been based on a theory of flexible response, sometimes referred to as "the pause strategy." The theory intends that NATO will have the flexibilty to respond with a level of power necessary to check the enemy; and part and parcel of the strategy is that adequate conventional forces can hold the enemy for at least a limited period of time and give the leadership time in which to determine whether nuclear weapons have to be used, or more desirably, during which the enemy will be presented with the emphatic demand to remove his forces or face nuclear attack.

It should be understood that while the flexible-response theory calls for using conventional forces as long as appropriate, the theory is not to be confused with that of gradual escalation, which has proven to be illusionary. The subcommittee satisfied itself very clearly on this point in discussion with the Supreme Allied Commander, General Goodpaster.

It is also important to note that the flexible-response theory allows appropriate forces for stopping the kinds of incursions that might occur short of a general assault. The prospects of war are generally viewed in terms of a massive attack across the German border by all of the Warsaw Pact forces. If there were not strong, united NATO forces prepared to respond, a more likely action would be movement by a small force against one country or one section of a country, following some real or trumped-up provocation, with the hope that forces could move in quickly to take over a certain amount of territory and then present Western leadership with a *fait accompli* and thus the awful choice of surrendering the territory already lost or resorting to nuclear weapons which threaten far greater destruction there and elsewhere.

It has to be conceded that we have no assurance that conventional forces will hold out indefinitely. It may be that after a period of time in a general attack the only way to stop advancing Warsaw Pact forces would be with the use of tactical nuclear weapons.

NATO planning recognizes this, and it is important that the leaders in the Kremlin recognize it.

It is for this reason that the subcommittee stressed in the beginning that the NATO commitment is, as much as anything, a commitment of national will. Although there would be strong reasons to restrain the Soviet leadership from escalating the war to a strategic nuclear exchange—among other reasons, because of the foreseeable destruction of the Russian homeland—nobody can say with any certainty what stability could be assured once nuclear weapons were used.

But the subcommittee is persuaded that this strategy is the most logical in terms of defending and preserving Western Europe. Anything that adds to the possibility of preventing nuclear warfare, anything that gives to the President a better alternative, that gives to him some additional measure of time in that terrible moment when the decision on nuclear response must be made, is worth the price.

V. U.S. TROOPS IN EUROPE

Two points should be understood at the outset in discussing the frequently asked question, "why do we have 300,000 U.S. troops in Western Europe":

(1) There is nothing sacrosanct about the present number of U.S. combat forces committed to NATO.

(2) We do not have 300,000 combat troops in Western Europe; we have about 260,000 in the combat and combat support roles committed to NATO.

There are about 310,000 American military personnel in Europe, but some 50,000 are personnel in a variety of assignment and billets not directly tied to NATO. The 50,000 is made up, generally speaking, of small numbers assigned to a variety of tasks, the major categories being communications and security.

In determining whether the number of forces maintained in Europe can be reduced, the subcommittee realized that the answer is inextricably tied to the question of whether the total number of U.S. forces oriented toward NATO and therefore the total number of active-duty U.S. forces could be reduced.

Total ground forces committed to NATO

The United States presently has 4⅓ Army divisions in Europe plus 2⅔ divisions in this country for which equipment is prepositioned in Europe and airlift is available for immediate deployment in time of crisis. In addition, the United States is committed to provide additional numbers of divisions within 30 days, additional numbers beyond that in 60 days and further numbers in 90 days in line with agreed-upon NATO strategy.

The forces that are committed to NATO include 9 of a total of 13 Army divisions.

Thus the NATO-oriented forces take up a substantial part of the U.S. active-duty Army. For example, some of the forces committed in principle towards NATO are actually now stationed in the Pacific; and some of the forces would have to come out of our Reserve and National Guard divisions.

Our international treaty commitments require us to maintain certain forces to be available in times of emergency in those parts of the world where we have such commitments. There is a real question of whether there would simply be enough forces to meet contingencies that could arise simultaneously; that is, both in a NATO area and in another part of the world where a crisis might be related to a NATO crisis.

By the end of fiscal year 1973 the U.S. Armed Forces had been reduced by more than 1.2 million men below what they were at the end of fiscal year 1968. The reduction in the U.S. Armed Forces will be equal to more than twice the total number of men that were in Vietnam at the high point of our military involvement.

The U.S. Army now numbers below 850,000 men, less than half the size of the Soviet Army. As it began fiscal year 1973, the U.S. Army numbered 13 divisions. In recent testimony before the full Committee on Armed Services, the Chief of Staff of the Army said that 1½ of these divisions were undermanned. By contrast, the Russians maintain about 40 divisions on the Chinese border alone.

In considering our worldwide treaty commitments and in the absence of any marked revision in those treaties, it does not seem to the subcommittee the facts justify a substantial reduction of the total number of active-duty Army personnel below what is presently planned for fiscal year 1973. The subcommittee notes that Subcommittee No. 2 of the Committee on Armed Services, after extensive review earlier this year, determined that no reduction should be made beyond the manpower levels requested in the fiscal year 1973 budget.

It would seem, therefore, that no persuasive argument can be made for both bringing forces back from Europe and demobilizing them. Such an unwarranted cut would leave the Army unable to carry out its strategic commitment for active forces.

Maintaining NATO forces in the United States

In this regard the subcommittee notes that most of the critics of our position in Europe advocate withdrawing troops from the Continent. But the subcommittee has seen no valid, documented argument maintaining that the total number of U.S. forces available for a NATO conflict in time of actual war can or should be reduced.

In determining whether to maintain the troops in Europe or to maintain them in the United States—since it is evident that withdrawal does not mean demobilization—three things have to be considered:

(1) the military advantage of having the troops stationed in Europe;

(2) the psychological impact of withdrawal upon the NATO partners; and

(3) the effect or cost if troops are withdrawn.

The subcommittee has examined many statistics relating to the costs involved in bringing back and maintaining various gross numbers of troops in the United States as compared to maintaining them in Europe. The Defense Department generally estimates that the cost of maintaining the troops in the United States would be higher than the cost of maintaining them in Western Europe. A large element of this is the cost of housing, since housing is provided free in Western Germany—and Defense states new housing would have to be constructed in the United States and the cost of maintaining additional prepositioned equipment in Europe or maintaining additional airlift or sealift.

The subcommittee has seen some estimates which conclude that the cost would be roughly comparable or slightly higher to maintain the troops in the United States. The subcommittee has seen no estimates which would indicate that a substantial total budget saving would be gained by maintaining troops in the United States as compared to maintaining them in Europe.

The subcommittee does not believe it is necessary to go through the kind of dazzling statistical footwork to which it was treated at various points in its hearings. While it questions some of the costs included in the Defense Department estimates, the subcommittee is satisfied that essentially the budgetary impact would be, in all probability, a slight increase by having the troops in the United States or, at the very best, an equal cost in terms of the total budget.

The subcommittee is satisfied that no significant amount of saving could be shown by simply bringing back the troops to the United States and keeping them on active duty here.

In straight-dollar terms therefore, removing the troops to the United States is not justified.

There is one substantial cost, however, related to having those troops in Europe which would, of course, be obviated if they were not there: This is the balance-of-payments deficit which ensues which is roughly $1.5 billion a year. In a later part of this report the subcommittee discusses how it believes this problem should be attacked since, as the ensuing discussion will show, removal of troops from Europe is not one of the most desirable means of solving this problem when all of the factors involved are considered.

The psychic epoxy

It is apparent to anyone who reads the newspapers that this is a time of uncertainty and reassessment in Western Europe, both in terms of its own future and in terms of its judgment of the long-range intentions of the United States.

The Presidential missions to Moscow and Peking; the great publicity attending proposed cuts in NATO forces in the Senate; the revaluation of the dollar and the suspension of redemption of dollars with gold, which left some European countries with a great store of U.S. dollars; the German Ostpolitik; and the general mood of and great desire for detente and for future trade with the East; and other developments taken together make this the worst of times for a unilateral reduction of U.S. forces.

Everywhere that it traveled the subcommittee was impressed by the deep concern felt by European leaders as to the continuing viability of the American commitment. Subcommittee members were informed repeatedly, both by Europeans and by U.S. leaders in the field, that the Europeans would consider a substantial U.S. withdrawal at the present time as a sign that the Americans had decided to pull out of Europe and this was the beginning of the process of disengagement.

All of the American commanders and diplomatic personnel in Europe reiterated how closely the Europeans follow developments on the NATO debate in the United States. As one commander put it, "They count the votes." From the European point of view, the direct U.S. negotiations with the Soviets concerning strategic armament raise some doubt as to the continued protection of the interests of Western Europe. In strictly military terms the conventional defense of Western Europe becomes more important in an atmosphere of strategic parity where the parity has the imprimatur of a treaty. However, the Europeans need to be reassured that in a political sense the importance of Western Europe is not downgraded in U.S. planning.

It must also be remembered that the policy has been stated by the President that the United States will maintain and improve its forces in Western Europe and not reduce them without reciprocal reductions on the part of the Warsaw Pact, given a similar effort by our allies. The President, in his February 1972 report to Congress, noted: "With such mutual reductions now on the agenda of East-West diplomacy, this is precisely the moment not to make unilateral cuts in our strength." The "existing strategic balance" which the President gave as one of the reasons for our policy has now been, to some extent, solidified. The President's statement of policy was also reaffirmed by the Secretary of State at the NATO Ministerial Conference in December 1971.

As is acknowledged hereinafter, the NATO Allies in the past have neglected to meet their NATO commitments and are still, in the opinion of the subcommittee, not doing all that they should do. At the same time it must be acknowledged that over the last 2½ years the Allies have taken significant steps to enhance the level of their participation, particularly through actions taken at the ministerial meeting in December 1971. This increased effort can significantly improve NATO's military power and deterrent capability. A substantial withdrawal by the United States, especially if precipitately carried out, could encourage an abandonment of these planned improvements by our allies and an irresponsible weakening of the Alliance.

Over and over the subcommittee was told that even small reductions, if made precipitately and unilaterally, would damage U.S. credibility with our allies and lead to the inevitable conclusion that larger cuts would follow. It is an unfortunate fact that the kind of modest reductions which, at certain times, would be feasible and which were made at various times in the 1960's would have an adverse psychological impact in the present environment out of all proportion to the actual military effect of such reductions.

It must be remembered that U.S. strategic forces are the bedrock which gives NATO conventional forces viability; and European leaders are quite candid in their statement that U.S. forces in place in Europe are an earnest of the U.S. commitment to defend NATO, whatever level of defense is required. It must be conceded that without U.S. forces in Western Europe, any action against the Alliance nations that would require a strategic nuclear response by the United States would create enormous pressure to withhold such a response. With U.S. forces of substantial numbers involved in the engagement from the beginning, the assurance of a nuclear response is much less in doubt.

In short, U.S. forces in place in Europe are the psychological epoxy of the Alliance, the glue that holds NATO together.

All of the above is not to say that the subcommittee is unalterably opposed to any change in our force levels in Europe. Quite the contrary is true. The subcommittee discusses further on in this report the prospects of mutual and balanced force reductions and of other steps which might eventually lead to reduction in European forces.

Trend in troop deployment

A study of U.S. troops in Europe will show that the trend has been downward. The U.S. military personnel in Europe have been reduced by over 100,000 from the peak force during the Berlin crisis of 1961 to slightly over 300,000 now. Current U.S. Army Europe strength is about 22 percent below the level 8 years ago.

After the 1961 Berlin crisis, a phasedown eliminated 15 percent of military and civilian spaces (reduction completed by the end of June 1964). In 1965 the Secretary of Defense reduced line-of-communication units, eliminating another 4,000 spaces.

With the withdrawal of France from the military arm of NATO, the U.S. logistics element was cut by another 16,000 men.

The U.S. dual-basing concept grew out of the 1967 trilateral negotiations with the United Kingdom and the Federal Republic of Germany. The United States and the United Kingdom were experiencing unacceptable balance-of-payments problems and were seeking means of reducing the imbalances without a commensurate reduction in their commitments to NATO. The three nations agreed that the United States and the United Kingdom would redeploy selected units to the United States and the United Kingdom, with the understanding that the units would remain committed to NATO and available for prompt return in the case of need. The United States also agreed that no further redeployments were justified at that time.

NATO in-place forces were further reduced when Canada, in 1969, cut its land and air forces in Europe from 10,000 to 5,000.

Both the United States and the United Kingdom recognized that there were no military advantages to the dual-basing concept. However, the redeployment of some troops, along with other balance-of-payments measures, such as the Federal Republic of Germany's efforts to increase offset payments, were deemed necessary from an economic standpoint.

The return of units agreed upon in 1967 was completed during the late summer of 1968. The code name Reforger was assigned to redeploying Army units and Crested Cap to redeploying Air Force units. Major Reforger units (consisting of approximately 28,000 troops spaces) include the following:

Unit	*Stationed*
1st Infantry Division (Mechanized) less 1 brigade in Federal Republic of Germany	Ft. Riley, Kansas
3d Armd. Cavalry Regiment	Ft. Bliss, Texas
3 artillery battalions	Ft. Sill, Oklahoma
1 artillery battalion	Ft. Knox, Kentucky

Crested Cap forces consist of the 49th Tactical Fighter Wing which includes 4 tactical squadrons (96 F-4 aircraft and 3,400 personnel) normally based at Holloman Air Force Base, New Mexico.

The 1967 trilateral agreement stipulated that selected elements of the Reforger/Crested Cap forces would return to Western Europe once a year to conduct exercises. Since then 4 exercises (1969, 1970, 1971 and 1973) have been conducted and a fifth exercise is planned during fiscal year 1974. The costs to implement the previous exercises ranged from $14 to $19 million.

The costs for the 1973 exercises were Reforger, $12.9 million, and Crested Cap, $4.9 million. Overseas personal spending avoided *annually* from dual-basing Reforger/Crested Cap forces total $93.2 million.

In spite of the estimated $93.2 million foreign-exchange savings, there are definite economic setbacks. For example, it is more expensive to maintain dual-based forces in the United States than if they had remained in Europe. It is necessary to maintain two sets of heavy equipment (tanks, armored personnel carriers, artillery, etc.) for dual-based ground forces. One set for day-to-day training is kept in CONUS and a second set is prepositioned in Europe for use in times of crisis.

This practice is less costly than acquiring and maintaining the additional transport that would be needed to move one set of equipment across the Atlantic each time Reforger/Crested Cap exercises are conducted.

Witnesses in Europe testified that the dual-basing has "degraded" the overall in-place defense capability in Europe. General Burchinal summed up the feeling expressed by most U.S. commanders in Europe:

"Dual-based forces are no substitute for in-place forces in or near their combat positions on a daily basis. And there is always the possibility that there could be political objection to their return to Europe during a period of tension on the grounds that this in itself would be a provocative or escalating act."

In 1968 and 1969 the Defense Department launched a program called Redcoste (for reduction of costs, Europe) which took another 16,000 personnel out of Europe.

It is against the background of this kind of continual chipping away in numbers that commanders in Europe have resisted further cuts. General Davison, the U.S. Army commander in Europe, said that his combat forces are at the minimum required to defend the sector of the front for which he is responsible.

The Reforger/Crested Cap effect has created a situation where all of the U.S. troops in Europe are on the line. The command is not able to have one division in reserve in place in Europe, but rather that reserve is held back in the United States.

The enduring attraction of rapid redeployment

Nothing seems to hold such enduring attractiveness for would-be defense planners as the idea of rapid redeployment of forces to "hot spots" around the world. The continuing reference in the literature of those who advocate NATO troop withdrawals to "light mobile forces" and "rapid reinforcement" gives evidence of the superficial manner in which realities of such operations have been studied.

The deterrent value of in-place forces just simply cannot be duplicated with any manners of plans for strategic augmentation. A potential enemy is always less likely to attack a standing force of several divisions than he is to attack a lightly defended area which has a promise of forces at some time in the future.

All of the experts who have had experience in operations to rapidly redeploy large forces of a divisional level or higher across the oceans when questioned by the subcommittee expressed considerable skepticism about the feasibility of such operations as the basis for a sizable part of defense forces.

To begin with, it must be understood that a substantial part of our force committed to Europe is already based in the United States on the premise of rapid redeployment, as explained above.

While it is true that the U.S. forces have improved their capacity for redeployment substantially in recent years, most notably with the addition of the C-5A, the idea that even greater numbers of forces could be rapidly redeveloped beyond what is now planned for is seriously questioned by the subcommittee.

In its own on-the-spot investigations the subcommittee has been struck by a variety of factors which would affect the feasibility of future large-scale redeployments. Some of these are factors over which military planners would have no control; they are geographic and demographic. The area of Western Europe where redeployment is to take place is relatively small and densely populated. West Germany is about the size of Oregon. With France presently not part of the military alliance of NATO, virtually all planning for rapid redeployment, in the central region, must contemplate the use of airfields in West Germany. There are insufficient numbers of airfields, and they are insufficiently dispersed. And because of the intractability of the French, the line of communication (that is, the line of resupply) runs parallel rather than perpendicular to what would be the front lines.

A number of existing military factors would further complicate the problems. One is the presence of substantial Russian advantage in airpower, which would be of a particular advantage with the supply line and the augmentation points so close to the front lines. Another is the lack of adequate shelters at airfields which are vital to the survivability of our aircraft. The NATO countries are just beginning a substantial program of building shelters and are at least a year behind the Warsaw Pact nations in this regard. The Soviets learned well the lesson of the Arab-Israeli six-day war and have a substantial aircraft-shelter program going throughout Eastern Europe.

The subcommittee is deeply concerned that our antiaircraft defense capability is deficient generally throughout Europe and particularly deficient in defense of rear-area airfields. One primary reason for this deficiency is delay in getting the Improved Hawk and other surface-to-air defense systems developed and deployed to Europe. Because of the great numbers of aircraft in possession of the Warsaw Pact, improvement in the type and number of antiaircraft systems must be pursued to prevent those systems from being overwhelmed and to provide adequate defense of our forces, their airfields and their supply depots.

Another unfavorable impact that the demography of West Germany entails is the shortage of areas for dispersal of supplies and prepositioned equipment, and more of these are in large central depots than desirable. The danger of these depots coming under attack, with the consequent destruction of equipment designed for augmentation forces would appear to be obvious. There is a limit to how much more prepositioned equipment could be placed in Western Europe as long as France remains outside of the military alliance and, therefore, a severe limit on the additional numbers of forces that could be held in the United States for rapid redeployment.

Even with our present redeployment schedule, significant improvements are required. To greatly expand the augmentation requirement does not appear feasible.

Ratio of combat to support troops

Almost as alluring and enduring as the idea of rapid redeployment to armchair strategists is the belief that vast reductions could be made in our forces, in Europe and elsewhere, by cutting out "support" troops without any loss of combat capability. It must be admitted that the subcommittee flew off to Europe with visions of such vast support reductions.

This is another area where the facts are easily oversimplified and thus unknowingly distorted. The armed services do not help the situation a great deal by their description of various activities, as will be shown below.

It is generally stated that we have a higher support-to-combat ratio than our NATO Allies and a much higher ratio than the Warsaw Pact forces. It is also alleged that out of 260,000 troops in Europe, we only have about 70,000 in combat divisions and, therefore, a great many more in unnecessary support activities.

The subcommittee does not want to be in the position of saying that reductions could not be made in support areas not directly related to combat activities. For example, it would clearly not hurt our combat potential if some reduction were made in the large establishment which supports commissaries and exchanges in Europe—though under present economic conditions we would not want to see these privileges lost to military personnel on the Continent.

It is also frequently alleged that wholesale reductions could be made in what is called "sustaining support" without any loss of fighting power. This is based on the thought that every division has one man in combat support and one man in sustaining support for every combat trooper and that among the combat troopers a high percentage are what are called complementary support troops.

A close examination of the European forces shows that a much higher percentage than generally realized are engaged in essential combat-related jobs, whether they are referred to by a support title or not.

Approximately 41 percent of the Army's strength in Europe is in what are called combat units. It would be a mistake, however, to refer to the remaining 59 percent as being in noncombat jobs and therefore expendable as far as readiness is concerned.

The U.S. Army forces in Europe are broken down into combat, combat support, and combat service support. After the "combat" troops, who make up only 41 percent of the forces, combat support troops account for 27 percent. This latter category includes artillery personnel, air-defense units which fire the Nike and the Hawk—who, in point of fact, would probably be the first troops to direct fire at the enemy in an engagement—and helicopter and other gunship crews. So the troops in this category are called "combat support," but they are in the fundamental sense combat troops—they are putting fire on the enemy and they contribute substantially to firepower of the division. When these two categories are taken together, combat and combat support, that means more than two-thirds of the personnel are actually involved in combat activities related to delivering firepower at the enemy.

The next category, combat service support, sounds even further removed from the battle than combat support. But it involves many of what are essentially logistic units such as engineers, troops that move ammunition forward, transportation units, and equipment maintenance personnel. In other words many of these people are crucial to the successful maneuvering of the combat forces. Other personnel in the combat service support category include personnel manning rear-area depots, hospital personnel, those responsible for mortuary service and so on. While many of these people may well be in rear areas, the service they perform is essential.

General Burchinal, Deputy Commander in Chief of the U.S. European Command, told the subcommittee, "I could pretty well claim over two-thirds of our forces are right in the line of fire and a large portion of the remaining forces operate in the battle area."

The subcommittee must say that the manner in which the Army identifies its personnel adds to the confusion on the ratio of support to combat troops and does not appear very desirable in terms of the personnel themselves. Surely it does not do much for the morale of a soldier to be told that he is a part of the support element rather than a combat element when he is firing guns at the enemy and they are firing guns at him.

The subcommittee was impressed by the fact that virtually all the commanders in Europe, when questioned on this point, indicated they believed they had absorbed all the reductions that could be taken in support forces and that if further cuts were made in their forces, they would have to make them in frontline-division troops.

"We have to build forces for sustained combat, initially in a defensive role, and this requires support," General Burchinal told the subcommittee.

Most of the reductions that have been made to date in forces in Europe were the result of efforts to reduce the support superstructure. It should also be remembered that a higher percentage of support forces are going to be required for U.S. troops in Europe than for Soviet troops in Europe for two very good reasons:

One is the length of the logistic train. U.S. forces have to be resupplied and reinforced across an ocean, which requires more personnel to handle the transportation of equipment and supplies and requires a high percentage of in-place equipment and supplies with, in turn, the necessity for personnel management and control of these items.

The second very simple reason is that U.S. forces have a much higher standard of living and much higher expectations in the matter of facilities and support than Soviet troops; and this, in turn, is going to require a higher percentage of personnel running support activities.

Efforts along the line of Redcoste are continuing. The subcommittee believes that these efforts should continue and that additional savings on a regular basis can be made if constant management attention is given to the program. However, the subcommittee must conclude that wholesale withdrawal of many thousands of support troops *from the forces committed to NATO* would inevitably have some adverse impact on the combat capability of our NATO forces.

Headquarters personnel and complexity of command structure

The subcommittee was concerned about what it believed was the high percentage of personnel in headquarters assignments in a number of locations in Europe. Also, the subcommittee was concerned about what appeared to be inflated rank structure in headquarters. While the total manpower savings would be relatively small in terms of the forces as a whole, reduction and improved management should be pursued wherever possible.

The subcommittee was informed during its visit to Wiesbaden of the reorganization of the Air Force headquarters structure which allowed the elimination of over 400 slots. The reorganization is complete and has accounted for a saving of over 600 slots. In this case the saving in military personnel is not a net saving in total number of people in Europe but is a reduction in higher-level headquarters with the additional billets being distributed to units in the field allowing for improved readiness without any net increase in the total personnel authorization.

The subcommittee applauded the move and expressed to commanders throughout Europe its belief that similar efforts should be made in other headquarters.

Since the completion of its travels and its hearings, the subcommittee has been pleased to learn that more than 3,000 positions have been identified in U.S. Army Europe which can be taken out of support assignments and used to improve the combat capability of the forces.

In May of last year the Secretary of Defense announced measures which will strengthen the combat capability of our forces in Europe without any increase in the total strength of U.S. Army Europe. An airborne battalion combat team of over 1,000 men has been activated and is being filled; and, in addition, 2 tank battalions, 2 attack helicopter companies and 1 Chaparral-Vulcan air-defense battalion have been formed. The personnel slots for these units will come from a streamlining of command, control, and logistics organizations. Scheduled for elimination are the Combat Support Command for U.S. Army Europe, the U.S. Army Materiel Command for Europe, the Advanced Weapons Support Command, and the Management Information Systems Support Agency.

By providing the billets to local commanders to increase their combat forces, a real incentive is provided for improved management in the staff and headquarters area.

The subcommittee is pleased with this reorganization, which is along the lines of the views expressed by the subcommittee during its European visit.

The subcommittee did not have time to review all of the intermediate-level headquarters as thoroughly as it would like, but it believes that further effort by the Department of Defense would find other areas where personnel and dollars could be saved by streamlining.

Such moves improve readiness not only by providing more manpower to the combat units, but, in some cases, by providing a needed simplification of command lines.

The subcommittee is concerned about the complexity of the command structure in NATO and the necessity for communicating quick decisions through many layers of command. Some of the complexity is inevitably because of the nature of the situation. That is to say, there is one line of command for U.S. forces for a non-NATO crisis which would be inevitably somewhat different from what would be faced in a NATO crisis. The subcommittee recognizes that separate structural lines have to be maintained and in some cases staff work has to be performed both for a NATO headquarters and for a solely U.S. headquarters.

However, the subcommittee continues to believe that the complexity of command structure could be a potential source of danger in times of crisis and could hinder rather than enhance the rapidity of NATO's response. When it is remembered that NATO is a community of nations with officers from many different armed forces and with different languages, there is a special requirement for the clearest command lines possible.

The subcommittee urges the Department of Defense to restudy the command setup in Europe with a view to eliminating those senior command positions which are duplicative and which involve the employment of nonessential staff personnel.

Irreplaceable deterrent

American forces, while providing 10 percent of ground forces overall for NATO, provides about 25 percent of NATO strength in the central region, the area perceived as the most likely arena of combat and the area where American combat troops are concentrated. The American troops there simply could not be replaced by a like number of European troops and still provide the deterrent value now possessed. The European troops, even if they were as well trained and as strong in firepower as American troops, would not be accepted as a deterrent by the Russians to the degree that American troops would and, therefore, would not be so accepted by the Western Europeans. The incentive would thus not exist for the Europeans to go to the expense, fiscal and political, that providing such a replacement entails.

Admittedly, after all that the United States has done for the preservation of Western Europe over three generations and two wars, it is somewhat galling to be told that our European friends will believe that a partial reduction is necessarily the beginning of the end of our commitment and that we will not be there in a crisis.

But to attempt to give an ironclad commitment without adequate forces continuously available, in an age where the commitment carries the possible necessity of using nuclear weapons, is simply unrealistic.

Short of reductions on the other side, the forces must be there in the beginning—and a considerable portion of them must be American.

VI. EUROPEAN COMMITMENTS AND OBLIGATIONS

"Unless the countries of Western Europe use the years or months—between now and a possible American reduction of strength or withdrawal—they may find themselves in a desperate position.

"It is ridiculous to pretend that countries which spend no more than an average of 4.1 percent of their Gross National Product on defense cannot provide more formidable defense forces—the forces on which all their democratic institutions, social benefits and modern luxuries, which they prize so much, depend in the final count. We may conceivably see the day again when, as in 1940, the people of Western Europe will curse the names of the men who failed to provide for a proper defense of their homelands."—Brig. Gen. C. N. Barclay, British Army.

The United States, by most measurements, makes a greater effort for defense than any of its NATO Allies except Portugal. The United States spends a greater percentage of its gross national product on national defense worldwide; it spends a significantly greater amount per capita than the other 14 partners; it has more men under arms per 100,000 citizens than most of the NATO partners. Central-region Allies, at last check, had approximately 8 men under arms per 1,000 population The United States had 12. The minimum term of enlistment for a U.S. serviceman is longer than the term of service for many Euopean Allies. Allied forces have terms of service for 12 to 60 months.

As everyone knows, NATO has provided the framework under which Europe has achieved remarkable economic recovery; and in the last decade, in particular, most of the countries of the Alliance have achieved great prosperity. The NATO European partners now have a combined GNP in excess of $700 billion per year for a combined population which exceeds 310 million.

The question is naturally asked, therefore, why Europe—with a greater population than ours and a GNP close to ours—cannot provide a higher level of the military forces for the Alliance.

The subcommittee concludes that the European partners could do more and should do more in terms of total contribution to the Alliance.

The contribution of the European partners, however, must be looked at in perspective. The lack of equal burden-sharing by the Europeans comes about as a result of past neglect. During the 1960's, as the economies of many European countries improved markedly, no effort was made to increase their NATO contribution. This was particularly true during the time the Alliance operated on the theory of nuclear retaliation; that is, up to 1967. With no great weight given to conventional response there was not a great deal of incentive for the European partners to increase their forces.

With the introduction of flexible response in 1967, greater emphasis has been placed on conventional forces. Initially, some of the NATO partners did not fully accept the flexible-response theory, or at least did not exert the effort required to make it work.

There is no question that some of the European partners felt comfortable with the assurance of American nuclear backup and were content with a situation which allowed the United States to carry a heavy share of the load, particularly the financial burden. The withdrawal of France from the military wing of the Alliance complicated the planning and the supply lines of the NATO forces and for a time shifted attention away from the relative efforts of the partners.

It is also clear that American policy planners did not expend the effort they should have during the 1960's to impress upon European partners the urgency of carrying their full share of the burden.

The obligation of the European partners

A review of the 23-year history of NATO is a sorry record of American Presidents calling for greater efforts by the European nations and having the call fall on deaf ears. Every President since Harry S. Truman has issued statements to the effect that we would carry out certain commitments to NATO, contingent upon relative effort by the European nations. The United States has carried out the commitments promised. European nations frequently did not do so.

America simply does not have the financial capability to spend a greater percentage of its resources on the security of Western Europe than Western Europe spends, nor are its citizens willing to demand more service from its young men in the defense of NATO than other nations demand.

It must be understood by the European partners of the Alliance that the time of unequal burden-sharing is past.

The European partners have fallen short in maintaining levels of war-readiness materiel (WRM) called for by NATO strategy. This has led many to question whether they sincerely support the theory of flexible response. The subcommittee was shocked to find a few instances where a lack of reserve war materiel would make some units of the armed forces of some nations unable to carry out their missions for even a brief period. These deficiencies simply have to be corrected if the United States is to continue its contribution at the present level.

Almost all of the experts the subcommittee talked to—commanders in Europe, former Government officials, officials in Washington, and academic experts—agreed that the European partners were not doing as much as they could, and should do more. However, no clear prescription as to how to bring about the desired level of effort was forthcoming.

The NATO treaty is unique and does not give to the NATO Council or to the Military Committee any authority to force contributions from members. Each member of the Alliance pledges itself to consider an attack on one member an attack on all and to make its contribution to the joint defense. However, the level of that contribution is essentially self-determined and the Military Committee of NATO can encourage but it cannot demand.

Levels of effort

The subcommittee was struck with the great variations in the levels of effort made towards national defense by the European partners. In some cases, the percentage of GNP spent on national defense is as high as that of the United States. It was particularly interesting to the subcommittee that the countries of Turkey, Greece, and Portugal, which are the poorest of the Alliance, spend the greatest share of their resources on national defense, except for the U.K., in each case about 6 percent of their GNP. It seems to the subcommittee that their far more prosperous northern allies could make an equal sacrifice of resources. Turkey, in particular, maintains a large standing army although that places great strain on its resources.

It was not lost on the subcommittee that when military assistance to the Greek Government was reduced, the Greeks voluntarily increased their own spending for National defense to more than make up for the amount they had lost—evidence that the partners can make a greater effort when they have to.

NATO NATIONS—DEFENSE EXPENDITURES

	Total defense expenditures (millions of U.S. dollars) 1972 (forecast)	Defense expenditures as percent of GNP [1]	Percent of GNP related to NATO missions [2]
Belgium	999.0	3.3	(3)
Canada	2,138.0	2.5	(3)
Denmark	460.0	2.6	(3)
France [4]	7,194.0	4.2	(3)
Federal Republic of Germany	8,995.0	4.0	(3)
Greece	557.0	5.3	(3)
Iceland [5]			(3)
Italy	3,349.0	3.1	(3)
Luxembourg	11.6	1.1	(3)
Netherlands	1,516.0	3.8	(3)
Norway	499.0	3.8	(3)
Portugal	608.0	8.3	(3)
Turkey	691.0	5.0	(3)
United Kingdom	8,022.0	5.8	(3)
United States	79,528.6	7.5	(3)

[1] GNP is based on the "factor cost" concept which differs from the "market value" concept normally used to calculate U.S. GNP. The factor cost approach attempts to net out from GNP certain components of market cost which, strictly speaking, have not added to the actual value of the good or service, but which are nevertheless included in its selling price (e.g., indirect business and/or manufacturing taxes). GNP is calculated on the factor cost basis in order to eliminate the effects of differences in tax rates, which vary from country to country.

[2] Data on defense expenditures is provided by NATO nations and collated and analyzed by international staff and OECD. Nations do not break out defense cost data to show percentages related to NATO commitments. National defense is considered by European nations as defense as part of NATO.

[3] No data available.

[4] Not in NATO integrated military organization.

[5] Possesses no defense forces.

Having said all the above, the subcommittee emphasizes that it does not wish to downgrade the effort of the European partners. The defensive effort of European NATO nations is substantial, as outlined earlier. There is burden-sharing now, but the subcommittee believes there has to be some shifting of the burden to achieve greater equity. Without such burden-shifting, the U.S. NATO commitment could be in danger of losing the public support in this country that it requires. The subcommittee believes the most desirable way of doing this is by a change of the financing of the military forces of the Alliance as described further on in this report.

Factors inhibiting greater contribution

It is recognized that there are factors which limit the level of NATO efforts by European partners.

For one thing, the level of German forces has been restricted by treaty.

The subcommittee also concedes that a simple comparison on the basis of GNP is not always fair because one cannot simply make a comparison of the total GNP of the United States and the total GNP of Western Europe.

For all the strides towards unity, Europe is still a collection of independent nations with great variations in size, economic capability, rate of economic growth, traditions, and attitudes towards each other. A nation with a far smaller economy than the United States could not be expected to spend even the same relative percentage of its GNP on defense.

Eight of the 15 member nations of NATO have populations smaller than New York City.

But there has been over the last 18 months, spurred partly perhaps by awakening criticism in the United States, a new attitude towards their NATO commitment emerging on the part of the European Allies. It has brought about a series of dramatic increases in spending for defense programs. If carried forward, it bids fair to substantially enhance the conventional capability of NATO. And, together with adjustments in the financing of forces, could right the balance in NATO burdensharing.

EDIP

At the start of its hearings, the subcommittee was informed of the adoption by the 10 European Alliance partners of the special

European Defense Improvement Program (EDIP) which was to add approximately $1 billion to their defense outlay over a 5-year period.

EDIP was designed to improve capabilities in problem areas identified in the NATO AD–70's study. That study defined major problem areas of the Alliance and identified those places where the conventional capability of NATO was seriously deficient in relation to the Warsaw Pact.

The AD–70's study (for Alliance Defense in the 1970's) was issued in conjunction with the communique of the North Atlantic Council in 1970 and signified a reversal of the trend among European partners in meeting their commitments. The study included this statement concerning the American commitment and the related efforts of European partners:

"The commitment of substantial North American forces deployed in Europe is essential both politically and militarily for effective deterrence and defense and to demonstrate the solidarity of NATO. Their replacement by European forces would be no substitute. At the same time, their significance is closely related to an effective and improved European defense effort."

The EDIP was explained to the subcommittee with much fanfare by representatives of the Department of State and the Department of Defense as justification that the Allies were indeed ready to take over their fair share of the burden. While the subcommittee appreciates that the EDIP was a step in the right direction, it continued to be somewhat skeptical since the program is spread over a 5-year period.

The Allies currently spend a total of approximately $33 billion annually on defense. On analysis, the EDIP additions amount to only three-quarters of 1 percent a year on the combined defense budgets of NATO partners. When the effects of inflation are taken into account it will be seen that three-quarters of 1 percent will be hardly enough to keep spending levels constant.

However, the commencement of EDIP was, although only a small percentage increase in total budgets, important for what it said about the change in attitude of the European partners towards their commitment. The initiative for the program was largely European though admittedly encouraged by the United States.

The EDIP has three elements:

(1) A special equipment contribution of $420 million to the NATO common infrastructure fund to accelerate work on aircraft survivor measures and NATO Integrated Communications System.

(2) Additions and improvements to various European forces costing between $450 and $500 million. These are all forces to be committed to NATO.

(3) Improvements to collective defense capability costing $79 million.

The subcommittee found that, in general, NATO Allies live up to their quantitative force commitments. However, there are qualitative weaknesses and deficiencies; and while these deficiencies are a long way from being corrected, many of the Allies had included in their annual defense budgets programs unrelated to the EDIP add-ons to bring about improvements of the problems identified by AD–70's.

Ministerial meeting of December 1971

At the annual meeting of the NATO Council of Ministers in Brussels in December of 1971 significant steps were taken to increase the level of effort of European partners which have received inadequate attention in the United States. The Eurogroup agreed to increase their defense budgets to provide a total net increase of approximately $1 billion per year. As indicated earlier, the EDIP was spread over 5 years. However, the latest effort by the Eurogroup, coming in 1 year, is a substantial increase by the Allies.

It amounts to a 5- to 6-percent increase in previously planned defense budgets on the average; and even after the effects of inflation are taken into account, it amounts to an increase of 3 to 4 percent in real dollars.

Even more encouraging than the EDIP program is this sign that a new spirit is taking hold in the Alliance.

The subcommittee is particularly pleased about the spending on the aircraft-shelter program. By 1975 the major portion of NATO tactical aircraft will be protected by shelters.

This is one of those areas where the subcomittee believes qualitative improvements are clearly more advantageous than improvements in numbers. The cost of sheltering aircraft is roughly 5 percent of the cost of the equipment protected.

Our NATO Allies have increased their defense expenditures by 30 percent in the period 1970–1973. Great Britain plans an increase in defense spending of more than 5.5 percent in real terms this year. Germany also expects to increase its defense expenditures in real terms this year. These are significant additions to the allied defense effort. The extensive equipment improvement programs of our Allies continue on schedule. The Eurogroup of 10 NATO nations continues to improve cooperation among its members. While much remains to be done, almost all the Allies are taking their responsibilities very seriously indeed.

Ministerial meeting of June 1973

Dr. James R. Schlesinger, Secretary of Defense Designate, and special representative to the semiannual NATO defense minister's meeting, spurred allied interest by saying that the United States would find it difficult to maintain its commitment if some of its partners were whittling down the effectiveness of their own conventional forces. Each must continue to pull his own appropriate part of the load. According to Dr. Schlesinger, conventional defense is within NATO capabilities and, further NATO has an adequate deterrent today. He also proposed that the Allies develop a multilateral program to compensate the United States for the heavy expenses of its NATO burden. The NATO defense ministers undertook to concentrate on AD–70 force improvements and to allocate more resources for the modernization and reequipment of NATO forces, and agreed that specific proposals by the United States be studied within the framework of AD–70.

Offset agreement

The West German Government has made a valuable contribution to the cost of maintaining U.S. forces in West Germany through provision of what is commonly referred to as the German Offset Agreement. The previous agreement expired June 30, 1971. After extended negotiations a new agreement was signed in December 1971 covering the period of July 1, 1971 through June 30, 1973. Total U.S. benefits under the agreement come to slightly over $2 billion.

Prior to the readjustment in the exchange rate between the dollar and the German mark, it was estimated that a gross balance-of-payments outflow of approximately $2.5 billion would be experienced in the 2-year period July 1, 1971, to June 30, 1973 for maintaining U.S. forces in Germany, including personal spending by U.S. military personnel and their dependents.

As of March 1, 1973, it was estimated this figure could well approach $2.9 billion for the 2-year period without considering other changes.

Under the fiscal years 1972–73 offset agreement total funds involved amounted to approximately $2,065 million (at exchange rate of 3.22 DM per $1). Provisions of this agreement are:

Military procurement.—$1,227 million; part of this procurement to be financed from funds on deposit at present with the U.S. Treasury in the name of the Federal Republic of Germany. Remainder of procurement to be financed by new funds transferred by the Federal Republic of Germany directly to suppliers or to the U.S. Treasury. Included is the purchase of roughly $730 million worth of F–4's.

Bundesbank credit.—$621 million; credit to be in the form of purchase by Deutsche Bundesbank of special 4½-year U.S. Government Securities which will carry a 2½-percent interest rate. While the subcommittee appreciates the effort the German Government makes, it is recognized that a low-interest loan is only a temporary relief in balance of payments and will eventually, when repaid, contribute to the balance-of-payments deficit.

Payment of interest.—$31 million; the Federal Republic of Germany will turn over to the U.S. Government funds equivalent to the amount of interest due on the securities purchased by the Deutsche Bundesbank.

Barracks rehabilitation.—$186 million; specific projects will be agreed between the Federal Republic of Germany and the United States. Disbursement of funds will be by the Federal Republic of Germany in portions related to progress of projects.

Condition of U.S. troop barracks

The subcommittee is particularly pleased by the German commitment of direct funds for rehabilitation of barracks used by U.S. troops in Germany. The subcommittee examined troop-housing facilities both of the large kaserne type and for small units in the field.

The facilities for single personnel in many areas are simply deplorable.

The subcommittee believes it is inexcusable that this condition has been allowed to continue for so long. It makes no sense to spend billions of dollars on improved pay and fringe benefits to increase retention only to have troopers living in intolerable barracks.

The subcommittee wishes to stress that it is important that all of the money provided by the German Government be used for capital improvement and that it not be used as an excuse to divert funds from the day-to-day operation and maintenance budget for troop housing. The subcommittee has brought its views on this subject to the attention of Subcommittee No. 2, which drafted the military-construction authorization bill, and is pleased that that subcommittee recognizes the importance of the barracks-improvement program.

The subcommittee would also point out that there will be requirements for additional funding beyond the amount pledged by the German Government to complete all of the rehabilitation badly needed. The subcommittee strongly urges that such additional funding be pursued by the Defense Department through follow-on authorization requests.

VII. BURDEN-SHIFTING NEED: A NATO COMMON FUND

" 'Budgetary' costs can and must be clearly distinguished from the balance-of-payments costs of our NATO deployments. The former are not out of line with the comparative economic strength of the United States and should continue to be borne exclusively by the United States, so long as the European allies maintain and continue to improve their own forces. The balance-of-payments costs, however, are an inequitable and intolerable burden on the United States during a period of chronic and growing deficits in our overall balance of payments. They can and must be eliminated as a main contributing factor in the international financial crisis."—Dr. Timothy W. Stanley.

As indicated earlier, the subcommittee believes that an area where burden-shifting should take place which would most desirably benefit the United States and at the same time give the greatest assurance of protecting the deterrent capabilities of the Alliance is in the area of the economic contribution.

It has been pointed out that in terms of percentage of ground, naval and air forces, the Allies make a relatively greater contribution.

In terms of their national budgets, the total defense expenditures of NATO nations less that of the United States amounts to $32,900 million. This is 4.2 percent of their total gross national product.

The United States, by contrast, spends about 6 percent of its GNP on defense and less than 2 percent of its GNP in support of the NATO Alliance.

COST OF U.S. FORCES

The overall cost of the U.S. commitment to NATO is approximately $17 billion.[2] This includes all costs for U.S. general-purpose forces and support programs for NATO except for a proportionate share of the development cost of weapons systems, since these systems are not developed for NATO alone. Included in this figure is the cost of those forces held in the United States including Reserve Forces in the United States which would be called to active duty and committed to NATO in a crisis.

The actual cost of the forces in Europe and their U.S.-based support—including purchase of equipment and a proportionate share of U.S. training and logistic support—is approximately $7.7 billion, including all naval forces in the Mediterranean.

The direct cost of U.S. forces stationed in Germany and elsewhere in Western Europe is approximately $4 billion. This covers pay and allowances, and operations and maintenance costs for forces in Europe, including the 6th Fleet.

It should not be assumed that bringing back the 310,000 personnel to the U.S. would save $4 billion annually. Keeping these forces on active duty in the U.S. *without the ability to carry out the NATO commitment* would require roughly 90 percent of the $4 billion annually. To maintain these forces in the U.S. and maintain the capability to carry out the commitment—that is, maintaining additional prepositioned unit equipment in Europe or additional airlift and sealift—would require expenditure at least equal to and probably greater than the $4 billion. Even then, as pointed out elsewhere in this report, the capability and deterrent value of the forces would never be equal to in-place forces in Europe.

As the subcommittee stated earlier, in terms of our total defense budget the cost of NATO is not in itself seriously out of line. However, of the U.S. defense expenditures in Europe, approximately $1.5 billion represents a deficit in the U.S. balance of payments. This deficit has been absorbed by the United States for many years, and the combined effect of our overseas deployments in Europe and elsewhere and our foreign aid programs have consistently created a substantial deficit as the following table shows:

Net annual balance-of-payments deficits, 1960–1972

(Net liquidity balance)

CY	*Billion*
1960	—$3.403
1961	—2.251
1962	—2.864
1963	—2.713
1964	—2.696
1965	—2.477
1966	—2.151
1967	—4.683
1968	—1.610
1969	—6.122
1970	—3.851
1971	—22.002
1972[1]	—13.974

[1] Projected.

For many years the United States paid insufficient attention to the effect of this deficit because it was more than offset by a favorable trade balance. In 1971, however, the United States suffered a deficit in its balance of payments in relation to commercial trade for the first time since 1894. It is the opinion of the subcommittee that our balance-of-payments deficit due to Government operations received insufficient attention over the years from international policy planners.

The subcommittee is aware that the long-term investment of U.S. business in Europe, while presently contributing to a deficit, will eventually contribute to a favorable return to the United States.

This fact notwithstanding, however, the subcommittee believes it is intolerable that the United States should annually suffer a balance-of-payments deficit of over a billion dollars for the purpose of stationing our forces in Western Europe primarily for the defense of Western Europe when European members of the Alliance suffer no adverse economic impact or possibly enjoy a balance-of-payments windfall as a result of this deployment.

Working of the fund

The subcommittee believes the answer to the problem would be to change the financial arrangements of the Alliance and to establish a common NATO fund which would assure that no nation suffers a deficit or enjoys a surplus in its balance of payments because of military deployments which benefit all of the members of the Alliance jointly.[3]

Those with a balance-of-payments surplus as a result of such deployments should contribute the surplus to the fund, and those with a deficit should be able to draw from the fund to recover the cost of the deficit. In some cases, there might be two types of payments. For example, Great Britain would be reimbursed for the deficit suffered by its commitment to station troops in Western Europe but at the same time would be charged for the surplus it enjoyed as a result of the U.S. forces stationed in Great Britain.

The subcommittee also believes that factors should be built into the arrangement of the fund so that some financial contribution is made by those members which do not have forces stationed on their soil but enjoy substantial protection because troops are stationed in neighboring, more forward countries. In other words, the subcommittee believes that some arrangement should be worked out so that all of the partners pay something and the burden should not fall entirely on the nations where the troops happen to be stationed. For example, Norway, as a matter of policy, allows no stationing of foreign troops on its soil and hence enjoys no surplus in the balance of payments as a result of U.S. forces being stationed in Europe. At the same time, Norway benefits to a great extent by having U.S. forces stationed in Germany; and Norwegian leaders are most anxious that U.S. forces not leave Western Europe. It is only fair, therefore, that they should also make a contribution to equalizing the balance-of-payments burden.

In the case of France—which has excluded NATO forces from its soil but which, by the fortunes of geography, enjoys the protection that NATO provides—the subcommittee believes that if she is going to have the privilege of continuing to take part in the decision-making of the Alliance, France should make its financial contribution to equalizing the balance-of-payments burden.

Similarly, the subcommittee believes that strenuous efforts must be pursued to get the French to pay the cost of facilities left in France for which they owe substantial funds to the United States and to the overall NATO Alliance.

What the subcommittee has in mind here is a supranational fund established under the auspices of the NATO Council of Ministers. There would be somewhat of a precedent for the procedure in the NATO infrastructure arrangement which finances the construction of facilities. Financing the deployment of troops is equally justified.

The subcommittee does not think it would be appropriate at this time to attempt a detailed statistical analysis of how the fund would operate. It is recognized that implementation of the fund would have to be in conjunction with the settlement of related economic problems of the Alliance. But the subcommittee believes the idea must be pursued and should be on the agenda for the next Ministerial meeting of the Alliance.

One of the most lasting impressions of the subcommittee's long study is that the seriousness of the U.S. economic burdens is not sufficiently appreciated, not only by European leaders, but by sometimes myopic U.S. representatives abroad. The common fund would be of great value in easing these economic burdens. It would be surely more politically palatable in European than straight payments on a nation-to-nation basis. It would be an important aid in making acceptable to the American people the continued value of NATO commitments. But most importantly, it is an economic necessity for the United States.

VIII. PROBLEMS OF THE PERIPHERY

Almost anywhere that one looks on the periphery of NATO's European territory one finds problems or potential problems which stress the imprudence or reducing NATO forces on the central front. The subcommittee would just like to briefly review some of those here.

THE MEDITERRANEAN

The Soviet Union has made a frantic buildup in its naval forces in the Mediterranean in recent years, a buildup which has received considerable publicity. While the Soviet forces still do not match the awesome power of the U.S. 6th Fleet, it is at a point where it presents a considerable challenge to that fleet and could divert some of the support the 6th Fleet might otherwise give to forces in the central region in an engagement. The Soviets on any given day have a greater number of ships in the Mediterranean than the United States; and while the balance of naval power is still in NATO hands, the Soviets' relative position has been substantially strengthened over the past few years.

Not only the numbers, but the quality of their forces has improved markedly. Their command and control is better than it was, and more effective ships are appearing in their Mediterranean fleet. They include both nuclear-and conventional-powered attack submarines (some with cruise missiles); modern cruisers and destroyers equipped with surface-to-surface and surface-to-air missiles; modern ASW forces combining subsurface, surface and air elements; and landing ships with embarked naval infantry. The Soviet employ naval auxiliaries and merchant ships to support the fleet.

We should not underestimate our own power—and above all, we should not lead the Soviets to underestimate it. The 6th Fleet is an incredibly strong fighting machine.

However, it must be recognized that the Soviets are making a subtle and concerted effort to establish a line of bases along the African littoral; and if they are successful in setting up these support bases, it would give the Soviets the capacity to extend tactical airpower over Mediterranean waters—a capacity they greatly desire to offset U.S. carrier aviation. At the same time such a development inevitably increases the power that the Soviets could bring to bear and, therefore, the influence they would have in the Middle East.

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[2] Does not include strategic nuclear forces.

[3] The subcommittee is indebted to Dr. Timothy W. Stanley, executive vice president of the International Economic Policy Association, for first making the suggestion on which this recommendation is based. His detailed discussion will be found in the printed hearings.

At the time of the subcommittee's visit, Soviet-built reconnaissance Badgers and ASM-equipped aircraft were at Egyptian bases, considerably enhancing fleet capability. Several thousand Soviet advisors were in the area, primarily in Egypt, but also in Iraq, Syria and Algeria. It is too early to tell what the effect on Soviet Mediterranean forces will be as a result of recent Egyptian expulsion of Soviet advisors.

The ocean environment of the Mediterranean compounds the always complex problem of submarine detection. Consequently, Soviet submarines there, which regularly follow the 6th Fleet, are a particularly serious threat; and a greater effort must be made to checkmate these undersea forces. The nuclear-powered attack submarine is our most effective means for the long-range detection, localization, and destruction of enemy submarines in the Mediterranean environment. Additional submarines, therefore, is the Number 1 requirement of the 6th Fleet.

NORTHERN FLANK

While much publicity attends the Soviet developments in the Mediterranean, the subcommittee wishes to call attention again, as it did earlier in this report, to the extensive Soviet naval developments on NATO's northern flank. In this northern area of the Norwegian Sea and the Barents Sea there is no standing NATO naval force prepared to counteract the considerable naval presence that the Soviets could bring into the area in a crisis. Due to the effect of ocean currents, Soviet entrance to the Norwegian Sea is open year round. The possibility of this considerable force moving to outflank NATO from the north is always present. The subcommittee is especially concerned that the contingency forces which would be called upon in an emergency to reinforce the northern flank area might not be adequate and might be sorely needed in another critical area.

YUGOSLAVIA

Yugoslavia is a nation of different ethnic groups which, throughout history, have been more in conflict than in harmony. There have already been some signs of unrest in the country, and the West should be concerned about what might develop when Marshal Tito dies. Now 81 years old, Tito has set up a 23-man executive committee to run the country after he is gone. Whether the group can hold the federal system together after he departs the scene is uncertain.

In this regard the subcommittee shares the concern expressed by the Honorable George W. Ball and shares his belief that this is still one more reason that militates against reduction of deterrent NATO forces. The following excerpt from Mr. Ball's testimony before the subcommittee is worthy of special attention:

"Now what we do know is that the KGB has been working actively, particularly with the rightwing refugee extremist groups, and that the Soviet Union has done something it hasn't always done before; it has conscripted some agents from Eastern European countries to assist in this process. We have already seen the beginnings of hostility and fragmentation within the past few months.

"Now the government was able to suppress some trouble in Croatia. The people who had been involved have been largely removed from the party in Croatia but I question whether there is going to be permanent stability. There is more rivalry between the Croats and the Serbs than we have seen in many, many years and without the strong guidance of this really remarkable leader, I don't know what is going to happen. What has disturbed me—and it is not a scenario of my own invention—is that when Tito dies, there is a breakdown of the structure of the elaborate 23-man committee. A separatist group starts an uprising, let's say, in Croatia or wherever. The fighting actually starts and then some separatist leader under inspiration from the KGB asks the Red Army to come and help them out. We could then find a situation that the Russians would welcome more than anybody could imagine; it could mean the realization of their fondest dreams and they could invoke the Brezhnev doctrine to justify what they were doing.

". . . I am told that there was a speech that Brezhnev made in a factory in Belgrade which made it pretty clear that he wouldn't hesitate to invoke the Brezhnev doctrine. Having watched the situation in Czechoslovakia in the summer of 1968, I could, therefore, see history repeating itself in a way that would pose terrible questions for the West. Almost certainly the Yugoslavians would fight if the Red Army came in; I think they'd take to the hills. How long they could hold out, I don't know.

"But then what could NATO do? It isn't within the NATO area.

"What would the United States do? And what would happen if the Red Army did take over the country?

"Particularly, what would happen to the politics of Italy if the Red Army were only a few miles away across the Adriatic in view of the deterioration of the political center in Italy and the fact that they are in political disarray already.

"I am not saying all this is going to happen, but I think it is something that we should be prepared for. And anything that suggests diminution of our troops in Europe would only encourage the Soviet Union."

MIDDLE EAST

It is a curious fact that some of those who are most vocal for troop withdrawal from Europe are most insistent that we commit ourselves to support of Israel in a Middle East crisis. It would seem to be obvious that bringing forces back from Europe takes them further away from Israel.

But more important—and independent of our precise national commitment, if any, to Israel—a weakening of NATO forces, particularly U.S.-deployed forces, inevitably reacts to give the Soviets a freer hand for adventures in the Middle East. It should be remembered that the 6th Fleet is part of our NATO commitment, and any reduction that includes the 6th Fleet weakens the friendly forces—the Western sea forces—on Israel's open flank.

IX. PURSUIT OF CHANGE

The subcommittee believes that U.S. troop strength in Europe should be maintained subject to the burden-shifting in regard to the cost of the deployment as proposed through a common NATO fund. The subcommittee here is speaking principally of the basic combat forces committed to NATO. This recommendation does not mean that the subcommittee is opposed to any force reductions or that the subcommittee believes such reductions should not be pursued. There are circumstances under which reductions would be acceptable and some under which they would be desirable. The benchmark in determining the desirability of reductions is the caveat that they be made in such a way as to not reduce the fighting power of the Alliance or at least in such a way as to not reduce the relative balance and therefore the deterrent value of NATO's present military structure. This section discusses some ideas as to how a change might be pursued under such a framework and outlines some of the factors that must be kept in mind in pursuing any change.

MUTUAL AND BALANCED FORCE REDUCTIONS (MBFR)

The NATO Alliance advanced the concept of mutual and balanced force reductions in the Declaration of Reykjavik in 1968 and reaffirmed its support of the concept in the 1970 Rome Ministerial Communique which invited interested states to hold exploratory talks on MBFR in Europe, with special reference to the Central Region.

Initially the proposal received no response from the Warsaw Pact. However, in April 1971 Leonid Brezhnev indicated that the Soviets were prepared for discussions on troop reductions. His remarks were greeted with euphoria by some NATO leaders. The Soviets meanwhile had previously advanced the idea of a European Security Conference; and while the purpose and framework of the conference was left somewhat vague, it is the view of the subcommittee that the Soviets were hoping to gain from such a conference an arrangement with Europe which would further detach Western European nations from their association with the United States and which would therefore weaken the NATO Alliance. In the fall of 1971 the NATO ministers went so far as to designate their former Secretary General Manlio Brosio as explorer to discuss procedures with Moscow. The Soviets ignored him.

Subsequently, in May 1972, the President, in concluding his visit to Moscow, participated in a joint statement with Soviet leaders indicating both sides were prepared to work towards mutual force reductions in Europe and to take part in a Conference on Security and Cooperation in Europe (CSCE).

The joint communique said:

"Europe

"In the course of the discussions on the international situation, both Sides took note of favorable developments in the relaxation of tensions in Europe.

"Recognizing the importance to world peace of developments in Europe, where both World Wars originated, and mindful of the responsibilities and commitments which they share with other powers under appropriate agreements, the USA and the USSR intend to make further efforts to ensure a peaceful future for Europe, free of tensions, crises and conflicts.

"They agree that the territorial integrity of all states in Europe should be respected.

"Both Sides view the September 3, 1971 Quadripartite Agreement relating to the Western Sectors of Berlin as a good example of fruitful cooperation between the states concerned, including the USA and the USSR. The two Sides believe that the implementation of that agreement in the near future, along with other steps, will further improve the European situation and contribute to the necessary trust among states.

"Both Sides welcomed the treaty between the USSR and the Federal Republic of Germany signed on August 12, 1970. They noted the significance of the provisions of this treaty as well as of other recent agreements in contributing to confidence and cooperation among the European states.

"The USA and the USSR are prepared to make appropriate contributions to the positive trends on the European continent toward a genuine détente and the development of relations of peaceful cooperation among states in Europe on the basis of the principles of territorial integrity and inviolability of frontiers, non-interference in internal affairs, sovereign equality, independence and renunciation of the use or threat of force.

"The US and the USSR are in accord that multilateral consultations looking toward a Conference on Security and Cooperation in Europe could begin after the signature of the Final Quadripartite Protocol of the Agreement of September 3, 1971. The two governments agree that the conference should be carefully prepared in order that it may concretely consider specific problems of security and cooperation and thus contribute to the progressive reduction of the underlying causes of tension in Europe. This conference should be convened at a time to be agreed by the countries concerned, but without undue delay.

"Both Sides believe that the goal of ensuring stability and security in Europe would be served by a reciprocal reduction of armed forces and armaments, first of all in Central Europe. Any agreement on this question should not diminish the security of any of the Sides. Appropriate agreement should be reached as soon as practicable between the states concerned on the procedures for negotiations on this subject in a special forum."

The successful negotiations in Moscow created an atmosphere which made MBFR negotiations and a CSCE more likely than at any time in the past. In the fall of 1972 arrangements were worked out for a general scenario for separate talks on both MBFR and CSCE. Initial or exploratory talks on CSCE began in November in Helsinki, and MBFR exploratory talks began in Vienna in late January 1973. These two sets of talks are to move into the full conference or negotiation stage later this year, assuming satisfactory progress in the initial discussions.

The subcommittee acknowledges the difficulty involved in the MBFR concept. It involves the most intricate and complex kind of negotiations—far more difficult, for example, than the SALT negotiations. To begin with, it is difficult to get a handle on general-purpose forces, and there is the previously mentioned wide variation in estimates as to the existing balance of forces. Some general agreement on the relative balance would be required—at least on our side, or at least in our own Government—before one could assess the impact of possible reductions.

There would also be great difficulty in determining what would be a mutual reduction. For one thing, any reductions on the part of the United States would mean bringing troops back 3,000 miles across the ocean, whereas the Soviets would be withdrawing troops several hundred miles across land (the very line to which the Soviet troops would withdraw might well be a matter of contention). It would therefore seem that more Soviet forces in numbers would have to be removed to get an equivalent reduction. For example, if you moved one Soviet tank back 400 miles and one American tank 3,000 miles back across the ocean, you would be handing the Soviets an advantage.

The number of personnel in U.S. and Soviet divisions varies substantially (roughly 16,000 for a U.S. division and roughly 9,000 for a Soviet division). In addition, the firepower varies and the relative capability of various kinds of weapons systems varies widely.

While considerable strides have been made in the areas of verification, there could still be some difficulty resolving numbers and movements of troops; and there could still be some uncertainty because of the capability of Warsaw Pact forces to move rapidly back into East Germany.

The subcommittee was amazed to learn that in discussions of MBFR other NATO nations have considered various reductions in their own forces and that U.S. representatives had been something less than adamant in opposing such an idea in the initial phase of negotiations. In view of the relatively greater cost of the burden borne by the United States and in view of the more desirable impact of lessening tension, the subcommittee strongly believes that any initial reductions of an MBFR agreement should involve the withdrawal of American and Soviet forces. It is Soviet forces and not East European indigenous forces that are the greatest threat to NATO. What would contribute most to the lessening of tension is the reduction of Soviet and U.S. forces.

For all the difficulty, however, the subcommittee believes that the possibility of mutual reductions should be pursued and that the hand of NATO should not be weakened while negotiations are going on, or during the time when negotiations are likely getting underway.

The importance of not reducing forces at such a time applies not only to MBFR, but to various other negotiations which are being conducted by the West German Government and by the United States. Reducing the balance of power at such a time would weaken our hand and reduce the benefits that might flow to the West from such negotiations.

A strong and certain U.S. contribution to NATO is the best incentive that can be given to the Soviets to take part in mutual and balanced force reductions. While there is a good deal of skepticism about the success of MBFR, two years ago there was a great deal of skepticism about the success of SALT. If a possibility of improving the atmosphere for world peace without endangering the stability of Western Europe through negotiations exists, then we have a moral obligation to pursue it.

Atlantic Conference

The subcommittee believes that planning should begin now for possible long-range changes in NATO that can be expected to come about following the present period of intense negotiations. Such planning should include possible changes that could be agreed upon by the Alliance in the absence of MBFR or other agreements.

The subcommittee was surprised to find that as far as it could learn no such planning is currently going on in our Government, either in the Department of Defense or in the Department of State. The subcommittee could find no instances in the past where representatives of our State Department or our Defense Department had specifically put forward to NATO councils proposed increases in ground troops of NATO European partners or where they had proposed original reductions in U.S. forces in NATO. Such reductions in the past decade in U.S. forces in Europe have been instigated by higher-level officials and have not been proposed by those representatives responsible for initial recommendations on NATO policy.

At the June DPC Ministerial meeting Dr. Schlesinger asked the allies to consider the possibility of a multilateral solution aimed at alleviating the added costs to the United States of stationing U.S. forces in Europe. The NATO ministers subsequently directed the NATO Permanent Representatives to study the issue and to offer whatever recommendations they thought appropriate to the DPC.

There are two other important purposes that could be served as a consequence of such planning:

To assure—and to assure that citizens of Western Europe know—that NATO is given the priority it deserves in U.S. policy.

To make certain that any change in long-range U.S. commitments would be made only after full consultation and joint planning with our allies and in such a manner that they would have ample time to adjust their own plans.

The subcommittee is somewhat concerned that, up until the past year at least, the executive branch has given a higher priority to other areas of the world than to NATO. The executive branch, in the subcommittee's view, has also been deficient in explaining and reemphasizings to the American people the continued importance to the United States of our NATO commitment.

A meeting of heads of NATO nations, a so-called Atlantic Conference was proposed to the subcommittee by the Honorable John J. McCloy, former High Commissioner for Germany, as one desirable means of bringing NATO planning back into sharper focus. In such a conference the medium, so to speak, would be the message. The act of initiating the conference would signal the importance placed on the Alliance.

Even if a full-membership conference is not considered desirable at this time, the subcommittee can see merit in the outward manifestation of our priority assigned to Europe that a Presidential visit to NATO would provide.

BUILDING BLOCKS TO FORCE REDUCTIONS

In his appearance before the subcommittee, Gen. Lauris Norstad, USAF (Ret.), former Supreme Allied Commander, Europe, disclosed that he had once proposed the idea of "deep inspection" as a means of easing tension along the border between NATO and the Warsaw Pact. The deep inspection would involve numbers of officers from NATO inspecting the forces in place for several hundred miles beyond the border and officers from the Warsaw Pact inspecting equally deep into NATO area. This would be an extension of the present limited inspection procedure under which four-man liaison teams from each side visit the other side on a regular basis.

The purpose of the deep inspections is to be aware of force location and troop movements to provide an additional assurance against surprise attack. Cutting out the chances of surprise attack would be the equivalent of having additional forces. You could safely keep more of your forces removed from the forward lines.

The strategy of flexible response assumes some warning time before an attack could be mounted; and present verification methods give assurance that we would have at least some warning, if not all the warning the strategy considers desirable.

The deep inspection would provide what General Goodpaster refers to as a confidence-building measure and would be a useful building block towards an eventual mutual and balanced force reduction.

While present national means of verification—which the Soviets accept as justified in relation to strategic weapons in the SALT agreements—may obviate the need for some deep inspection, the psychological advantage of having inspectors physically present on the ground would be of considerable advantage. It is the recommendation of the subcommittee, therefore, that the idea be pursued in more detail.

Similar steps which may be taken prior to the start of MBFR negotiations should be sought. An agreement to give notice of prior movement of sizable troop units would be one example. Hopefully there are others which could contribute to reduced tension.

TEMPORARY WITHDRAWAL

The subcommittee considered, but rejected, a proposal of making a temporary percentage withdrawal of our NATO forces as a device for compelling Western European partners to do more. The subcommittee does not believe that this is a wise and mature way of dealing with allies or improving mutual confidence in the Alliance. It might well encourage the opposite of its intention; that is, a decreased effort on the part of the Allies. And it would be particularly undesirable at the present time because it would be a weakening of our forces and, therefore, a weakening of the hand of NATO during negotiations.

THE METHOD OF CHANGE

One of the deepest impressions retained from a thorough study of NATO is the interdependence of NATO countries—particularly their economic interdependence—and the interrelationship of policies. It is very easy to make neat and clean-looking recommendations concerning this aspect or that aspect of the military alliance. But it is simply unrealistic to plan on actions being taken without taking account of the ripple effect on other policies.

As an example, under other circumstances the subcommittee might have recommendations concerning a change in the extensive commissary and exchange organization in Western Europe. But with the fluctuations in dollar and deutschmark values, a curtailing of these facilities at the present time would have a severe and unfair effect on the income of military families in Europe and would also encourage the spending of more dollars on the foreign economy with an attendant adverse balance-of-payments effect.

Similarly, the subcommittee is not recommending any large reductions in the number of dependents in Europe. Looked at in the context of the European deployment alone, at first blush it would appear that recalling many of the more than 200,000 dependents in Europe would reduce the cost of our NATO deployment and would create a significant saving in balance of payments. It would also appear to simplify the tactical military requirements, since the removal of the dependents would be a serious task in a time of crisis, and the subcommittee is not convinced that adequate planning has been done for this eventuality. However, the Congress has tremendously increased personnel costs in recent years by increasing military pay and allowances in order to achieve an all-volunteer force. Particularly, in 1971 military pay and allowances were increased some $2.4 billion. Many of the troops stationed in Europe are assigned there after an unaccompanied tour in Vietnam or Korea; and to ask them to spend another two or three years in an unaccompanied tour would have an adverse impact on retention and would be, in simple terms, unfair to career men. It makes no sense to spend billions of dollars to create an all-volunteer force and then impose the kind of restrictions on family life that encourage men to get out of the service. While it may be that in some instances in some billets shorter unaccompanied tours would be desirable and could result in the reduction of some dependents in Europe, in the main our forces stationed there are best accompanied by their families.

After forces have been withdrawn from Vietnam and reduced in Korea, accompanied-tour policies can be reviewed again.

Information given to the subcommittee indicates that some of the problems that were occurring in Western Europe in terms of drug use, racial tension, disciplinary problems generally and related morale matters are on the way to improvement. Statistics presented to the subcommittee by Gen. Michael S. Davison, Commander, Central Army Group, and Commander in Chief, U.S. Army Europe, and 7th Army, which will be found in the hearings, indicate that the crime rate over the last year has been substantially reduced and the retention rate has improved. The retention rate in U.S. Air Force, Europe, has remarkably improved.

In the view of the subcommittee, however, serious problems still exist in the area of motivation and assignment of personnel. Assignment of personnel out of the field for which they are trained is one of the worst contributors to bad morale, and the subcommittee was distressed to find this still happening in the European Command.

One of the most important things General Davison has done which has brought about morale improvement, while at the same time improving the readiness of our Army in Europe, is to get increased training time in the field. The observation of the subcommittee members over the years is that General Davison is right in his statement that soldiers like to soldier and that discipline and morale problems do not occur nearly as often when the troops in the field are doing a soldier's job. Problems occur in the barracks or when troops are inadequately occupied and do not feel they are doing useful work.

As an example, the subcommittee was singularly impressed by the high morale of U.S. personnel at Dyiabakir, Turkey, who—though stationed in an outpost most young Americans would consider a God forsaken corner of the world—were sustained by an awareness of the importance of the mission they were performing.

One change which has contributed to a generally improved picture in Europe is the greater stability of assignments, both in terms of officers and enlisted personnel, but particularly as regards senior noncommissioned officers and company-grade officers. In the past the turbulence in assignments created by the Vietnam requirements has often resulted in company and battalion leadership changing every few months; officers would not get to know their men like they should and there was no time to provide the continuing leadership required.

SUMMARY

We have previously mentioned the profound changes now taking place in Western Europe with the prospects of a European Security Conference and MBFR negotiations; the Berlin Accords; the West German treaty with Poland; the entry of England, and Denmark into the Common Market; and with the economic impact of the devaluations of the dollar and the earlier evaluation of the mark.

It is no secret that the long-range dream of American policy planners has always been for greater political unity for Western Europe, for such holds the best guarantee both of greater security for Europe and a lessening of the need for an American contribution to that security. The expansion of the Common Market must certainly be seen as an important step towards building that greater political unity, for the Common Market is not meant, as one observer put it, to create merely a federation of grocers. NATO continues to provide the necessary framework in which that greater political unity and greater self-ensured security can come about.

But those who would try to build the economy and the political unity of Western Europe without the military foundation of NATO are like the character in *Gulliver's Travels* who was attempting to build a house from the roof down.

As General Norstad told the subcommittee, "The greatest assets of NATO are faith, hope, and charity. NATO is a movement, and the most important thing is the spirit of that movement. But something built up over the years can be destroyed very quickly."

Unilateral actions not taken in consort with our allies which could lead to the unraveling of the Alliance are the kind of destructive actions which should be avoided. Even if all negotiations failed, even if it eventually became necessary to make changes in deployment, such changes would need to be made very gradually over an extended period and only after joint planning.

The method of change is, to a large extent as important as the change itself. And the measuring device of the desirability of change should always be what contributes most to the stable deterrent value of the Alliance and to the political stability of Western Europe.

X. MINORITY VIEWS OF HON. LES ASPIN

Senator Hickenlooper. In other words (Mr. Secretary) are we going to be expected to send substantial numbers of troops over there as a more or less permanent contribution to the development of these countries' capacity to resist?

Secretary Acheson. The answer to that question, Senator, is a clear and absolute "No".—Hearings before the Senate Foreign Relations Committee on the NATO Alliance, April 27, 1949.

Twenty-five years after the end of World War II, American forces are still in Europe. Why? That question is legitimate because it calls attention to a situation which was not foreseen when NATO was established. U.S. Forces may have been necessary in 1949 when Europe was weak. But now Europe is strong, economically and industrially, stronger in some respects than the United States, with almost as large a GNP and more population. Yet we are told it is still necessary for American troops to help defend Europe. Why?

There is no doubt that the European allies can do more for their own defense. When they talk about the difficulties of doing more, it is political barriers, not economic or population barriers that they are talking about.

NATO COUNTRY COMPARISONS

	Percent of GNP going to defense	Length of compulsory service in armed forces (in months)	Percent of population in armed forces
Belgium	3.3	12–15	1.1
Canada	2.5	(1)	.4
Denmark	2.6	12	.9
France	4.2	12	1.1
Germany	4.0	15	.7
Greece	5.3	24	2.1
Iceland			
Italy	3.1	15–24	1.0
Luxembourg	1.1	(1)	.3
Netherlands	3.8	16–21	.9
Norway	3.8	12–15	.9
Portugal	8.3	24–48	2.7
Turkey	5.0	18–20	1.5
United Kingdom	5.8	(1)	.7
United States	7.5	(1)	1.1

[1] Voluntary service.

As the above table shows every one of our NATO allies except Portugal spends a smaller percentage of GNP on defense than does the United States, and only three of the NATO allies have a larger percentage of the population serving in the armed forces. The principal European powers, France, Germany, and Britain, are considerably behind the United States in the former category. In fact, it would take only marginal increases in resources devoted to defense for the European allies to replace all U.S. troops stationed in Europe.

What is more, the allies can replace U.S. troops at roughly half the cost to the United States. The Germans alone could replace half our divisions and half our air wings and still keep defense expenditures to under 6 percent of the GNP. That figure would still be less than the United States is spending on defense and, more significantly, less than the Germans themselves were spending in 1963.

With all of the pressure that our NATO allies have put on the United States to maintain her commitment, they themselves have reduced their own contribution. France pulled out of the alliance in 1966. Canada, in 1969, cut its European forces in half saying in effect, "we are not pulling out of the alliance, but Europe should do more." Germany has reduced the length of conscription in her armed forces and cut her defense budget. The Danes have cut the length of conscription in their armed forces and are contemplating further reduction. Norway does not allow any foreign soldiers on her soil even to help defend Norway. Other countries (Malta and Iceland, for example) take actions directly counter to the interests of the NATO alliance.

Yet we are constantly told of the "deep concern felt by European leaders to the continuing viability of the American commitment." We are told that "the Europeans would consider a substantial U.S. withdrawal at the present time as a sign that the Americans had decided to pull out of Europe and this was the beginning of the process of disengagement."

We are told that if we reduce our forces, our allies will reduce theirs and ultimately it will break up the alliance. There is the danger of Finlandization—where every country will make its own terms with the U.S.S.R. and gradually be absorbed into the Soviet hegemony.

The situation appears to be this: because we are maintaining our defense commitment we are unable to convince our allies of the necessity of increasing their share of the burden. But we cannot withdraw our forces because such an action will trigger our allies to reduce their forces and come to terms with the Soviet Union. All of this sounds like our troops are not only helping to protect our allies, but are protecting our allies from themselves. If this is all true, perhaps it is better that we find out now rather than later.

The fix that we have gotten ourselves into is simply this: it appears that we are more committed to the defense of Europe than the Europeans themselves. Resisting the temptation to draw parallels with Vietnam, it is nonetheless clear that we have gotten into this fix partly or largely because of our own doing.

In the first place, we have made the mistake of keeping a disproportionate number of the NATO high command positions in U.S. hands. How can we expect the allies to look on NATO as their defense when SACEUR has always been an American?

Second, incredible as it may sound, apparently the United States has never taken the position that the allies should increase the quantity of their forces. All U.S. pressure apparently has been directed toward getting the allies to improve their forces qualitatively.

But third, and perhaps most important, we have become so committed to European defense largely because for years we have been arguing with our allies—successfully—against cutting troops in Europe for the wrong reasons. It was the United States that first insisted that it was not only possible to defend Europe with conventional weapons in a conventional war, but it was highly desirable to do so.

It was the United States who first argued that the Warsaw Pact did not have overwhelming superiority in conventional arms. If NATO was heavily outnumbered, we could cut our forces to a small contingent and save a good deal of money. But if we look at manpower on both sides we see that there is a rough balance. The Warsaw Pact has many more divisions than NATO but they are smaller in size than NATO divisions and in manpower there is rough equality. This is not to say that there are no imbalances. The Warsaw Pact has more tanks, for example, but the measurable differences are slight and if war were to break out the immeasurable differences—morale, training leadership, et cetera would be the deciding factors.

Second, it was the United States who also first argued against the proposition that the NATO forces can rely on nuclear weapons (tactical nuclear weapons) if war comes and so can cut manpower requirements. A nuclear deterrent by itself, it was recognized, is not a credible deterrent. As has been said repeatedly, when a crisis comes almost any alternative will look better to a decisionmaker than the nuclear alternative. Because the distinction between tactical and strategic nuclear weapons is so blurred the use of tactical nuclear weapons is likely to lead to total destruction on all sides. As both sides are aware of this, nuclear weapons alone are not a credible deterrent.

During the sixties the United States took up these arguments with the NATO allies saying (a) that it was possible to have a conventional capability to defend Europe (indeed we had such a capability all along) and (b) because of the limitations of nuclear weapons it was indeed highly desirable to have this capability. In 1967 the allies finally agreed and the doctrine of "flexible response" became the NATO doctrine at least on paper.

But such a victory was not clear cut nor was it without its costs. The low stocks of ammunition and other supplies which the allies have on hand gives some indication that whatever they may have agreed to on paper the allies have not fully accepted the flexible response doctrine in practice. Also, and more significant, the United States having argued for so long and so hard in favor of a flexible response doctrine is in a very poor position to withdraw even some of its forces and jeopardize the conventional capability at just the time when the allies were beginning to accept it.

But in spite of this dilemma that we now find ourselves facing there are still some very good arguments for developing now a long-run strategy for diminishing our presence in Europe. These arguments are of course in part related to Europe's capability to do more for herself and are certainly in part related to a growing sentiment within the United States for our troops to come home.

But one of the other factors that should be important in encouraging us to redefine our European presence is that right now a war in Europe is a very unlikely war. No one can argue that tensions in Europe have been reduced—the Berlin accords, the Moscow summit, the SALT agreements, West Germany's Ostpolitik all attest to that. In speculating about where war is going to break out, Europe is now about last on the list. There is a war going on in Southeast Asia, there has been trouble and could be more trouble in the Mideast and the Indian Subcontinent, but it is almost impossible today to concoct a scenario for war breaking out in Europe. This could of course change, but it can be argued that we should take advantage of this situation while it is here.

Not everyone will agree. First it will be argued correctly that the Warsaw Pact maintains a formidable warmaking capability. As long as this warmaking capability exists we cannot reduce our forces. But it has also been pointed out correctly that "threat" involves not only "capability" but also "intent." The Warsaw Pact's war capability exists only in part as a counter to NATO forces. The Soviets also keep forces in East Europe to maintain a European presence and as a police function over Eastern European countries. While the Soviets are facing a formidable challenge on their Chinese border and are maintaining control over restive European allies—for example, Czechoslovakia—the threat of a Soviet invasion of West Europe is not very great.

Second, it will be argued that NATO is the reason why the threat in Europe has diminished and this reduction in threat proves that NATO is working. Therefore we cannot now reduce our forces. If this argument is true it is going to be very difficult to reduce our forces any place at any time. Certainly we cannot reduce our forces if the threat is increasing. According to this argument we cannot reduce our forces when the threat is diminishing. It seems then that neither can we reduce our forces when the threat stays the same. When can we reduce forces? Apparently never. This argument is sometimes called the "heads I win tails you lose" argument.

However, it is possible to recognize that NATO is an important contributing factor to the stabilization in Europe without arguing that it should go on forever unchanged. Taking advantage of the détente by reducing our forces can, if it is done in the right way, actually encourage the détente and lead to further accords and agreements.

The third argument against force reduction says that to reduce our forces unilaterally will jeopardize the chances for mutual and balanced force reductions (MBFR). As negotiations on MBFR are now underway to reduce forces now would be a very bad thing. But the possibility of MBFR has been dredged up every time. Congress has considered cutting troops in Europe and nothing has ever come of it. The problem is that MBFR is so complicated. A soldier from one country may not be an equal fighting force to a soldier from another country—how do you establish ratios between all the countries? Moving a Soviet soldier several hundred miles to Russia is not the same as moving an American soldier several thousand miles to the United States—how do you establish distance ratios? These kinds of questions we have not yet settled among our NATO allies. It seems unlikely that we will settle them with the Warsaw Pact in the very near future.

What the United States should do is take advantage of the current détente with Russia and begin planning now for a phased withdrawal of forces from Europe. Some forces should remain as a commitment to NATO defense but not more than half of those there now. To give the NATO allies the chance to make up the deficit by increasing their own forces the withdrawal should be done by stages and perhaps scheduled to begin at some date in the future. Negotiations with the allies should determine the timing, but the planning should begin now. The phasing down should be flexible enough to react to and encourage the proper responses from the Soviet Union. If the Soviets increase the pressure the withdrawal should be reversed but if there are affirmative responses this procedure may be able to avoid the tangled problems of MBFR. All of this flexibility is important and therefore preferable that it be done by the executive than by the legislative branch.

Whether the forces taken out of Europe should be disbanded or earmarked for another contingency depends on what needs there are for other contingencies. We have a tremendous commitment of resources to the European contingency—nine out of 13 active Army divisions, six out of nine reserve divisions. Proper defense planning should lead to allocation of resources based upon probable need. If there is a 90-percent probability that we will have to fight war A and a 10-percent probability that we will have to fight war B we should allocate roughly 90 percent of our resources to A and 10 percent to B. But our conventional forces now are overwhelmingly earmarked for Europe a low probability contingency.

This is the point of the controversy over the question of troops in Europe. The main point is not just the 310,000 U.S. troops on European soil but the whole question of what amount of resources should we buy and allocate to the European contingency. To raise that question strikes at the heart of a great deal of vested interest

For instance the Defense Department has a very large stake in the European contingency. Planning for general purpose forces is much more primitive than planning for strategic forces. Trying to determine "how much is enough" in numbers of divisions, tactical air wings and aircraft carrier task forces is far from an exact science. Right now most of the Army's active and reserve divisions are justified in the budget by being earmarked for Europe. If we accept that view that war in Europe is not just around the corner, it may be pretty hard to justify all those divisions.

The Army has an additional stake in the European contingency. Planning for wars in Europe is more comfortable. Wars in Europe are more "normal" and not aberrations like the horror that was and is Vietnam. Battle plans are practiced and weapons are designed with a war in Europe in mind.

The State Department too is not free from this kind of attitude. The presence of U.S. troops in Europe gives the State Department leverage in bargaining in international economics as well as a whole range of other issues.

The question then of troops in Europe is not just a question of a few thousand men on European soil. But to argue for a reduction of those few thousand men leads inevitably to questions being raised about a whole host of vested interests. That is what makes the reduction of troops in Europe so difficult and so important.

APPENDIX

Major witnesses

Ball, Hon. George W., Former Under Secretary of State.

Bray, Maj. Gen. Leslie W., Jr., USAF, Director of Doctrine, Concepts and Objectives, Office of the Deputy Chief of Staff for Plans and Operations.

Bringle, Adm. W. F., Commander in Chief, U.S. Naval Forces, Europe.

Burchinal, Gen. David A., Deputy Commander in Chief of the U.S. European Command.

Burke, Maj. Gen. William A., USA, Director of Systems, Office of the Assistant Chief of Staff of Force Development.

Calleo, Dr. David P., Professor and Director of European Studies and Research Associate, Washington Center of Foreign Policy Research.

Cobb, Maj. Gen. William W., Commander, U.S. Forces, Berlin.

Davison, Gen. Michael S., Commander, Central Army Group, and Commander in Chief, U.S. Army, Europe, and Seventh Army.

Downey, Rear Adm. Denis-James J., Deputy Director of Strategic Plans and Policy Division, Office of Chief of Naval Operations.

Duncan, Adm. Charles K., Commander in Chief Atlantic and Commander in Chief, U.S. Atlantic Fleet.

Earle, Hon. Ralph, II, Defense Advisor to the U.S. Mission to NATO.

Fluckey, Rear Adm. Eugene B., Commander, Iberian Atlantic Area.

Goodpaster, Gen. Andrew J., Supreme Allied Commander, Europe, and U.S. Commander in Chief, Europe.

Halperin, Dr. Morton H., Senior Fellow, The Brookings Institution.

Hightower, Maj. Gen. John M., USA, Chief, Joint U.S. Military Aid Group to Greece.

Hillenbrand, Hon. Martin, Assistant Secretary of State for European Affairs.

Jones, Gen. David C., Commander in Chief, U.S. Air Forces, Europe.

Klein, Hon. David, Assistant Chief of Mission, U.S. Mission to Berlin.

McCloy, Hon. John J., Chairman, General Advisory Committee on Arms Control and Disarmament.

McGough, Maj. Gen. Edward A., III, Commander, 16th Air Force.

McQuilken, Capt. William Reginald, Commander, U.S. Naval Activities, U.S. Naval Station, Rota, Spain.

Miller, Vice Adm. G. E., Commander 6th Fleet, and Commander, Striking and Support Forces Southern Europe.

Milton, Gen. T. R., USAF, U.S. Military Representative, NATO Military Committee.

Morse, Hon. John H., Deputy Assistant Secretary of Defense for European and NATO Affairs.

Norstad, Gen. Lauris, USAF (retired), Former Supreme Allied Commander, Europe, and Former Chief, U.S., European Command.

Rivero, Adm. Horacio, Commander in Chief, Allied Forces Southern Europe.

Roberts, Brig. Gen. Francis J., Chief, European Division, Plans and Policy Directorate, Organization of the Joint Chiefs of Staff.

Scherrer, Maj. Gen. Edward C. D., USA, Chief, Joint U.S. Military Mission for Aid to Turkey.

St. John, Maj. Gen. Adrian, USA, Director of Plans, Office of the Deputy Chief of Staff for Military Operations.

Stanley, Dr. Timothy W., Executive Vice President, International Economic Policy Association.

Starry, Brig. Gen. D. A., USA, Director of Manpower and Forces, Office of the Assistant Chief of Staff for Force Development.

Stewart, Maj. Gen. Richard R., USAF, Deputy Director for Intelligence, Defense Intelligence Agency.

Tasca, Hon. Henry J., U.S. Ambassador to Greece.

Vest, Hon. George S., Deputy Chief of Mission at USNATO, Brussels.

COMMUNIST PARTY, U.S.A.

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, recently the National Broadcasting Co. presented a special 1-hour television program in which it examined the activities of the Communist Party, U.S.A., an organization which is under firm control and direction of the Soviet Union. This is the first time in recent years the media have placed the spotlight on the activities of the Communist Party.

One of the salient points made in the NBC presentation was the fact that while the New Left flashed onto the American scene and then quickly vanished, the Communist Party, the epitome of the Old Left, has endured. From a low point in the 1950's, the Communist Party was described as staging a comeback with its members actively carrying on efforts to infiltrate virtually every phase of our society. The party hopes to disarm Americans ideologically, to make them feel that communism does not represent a danger to our democratic institutions.

Perhaps the most significant revelation in the television program was the statement of Communist Party national leader, General Secretary Gus Hall, as to whether the Communist Party anticipates using violence in connection with its coming into power in the United States. Although the Communist Party in recent years has steadfastly maintained an official position that it will come into power through nonviolent means, Gus Hall, when asked by NBC commentator Frank McGee if there is a strong possibility that a Communist takeover would be violent, answered:

> I think so. I think there's strong possibilities that there will be violence. We do not rule out nonviolence, but, I think if you take history in the United States and the nature of capitalism and monopoly capitalism, that one has to say that there'd be a strong possibility of violence.

In my capacity as chairman of the House Committee on Internal Security, I was privileged to make a brief appearance on the NBC program. I pointed out the financial assistance CPUSA has received from its Kremlin masters. In addition, I called attention to the fact that the Communists have achieved some success in their efforts to infiltrate the Federal Government. This particular fact has been a matter of grave concern to me and the Committee on Internal Security has made a comprehensive study of this situation. Following extensive committee hearings over a 2-year period, I, along with committee member RICHARDSON PREYER, introduced two bills, H.R. 6241 and H.R. 8865, which are designed to remedy weaknesses and deficiencies in the Federal civilian employee loyalty-security program.

The NBC television commentator, in mentioning the efforts of the House Committee on Internal Security to cope with the Communist menace, probably left a misunderstanding in regard to the committee's public source files which I would like to correct. It was stated that the committee is said to maintain files on three-quarters of a million Americans. The fact of the matter is that the public source material in the committee's files is maintained on organizations within its mandate. The committee only develops information on individuals insofar as they are involved in the activities of such organizations. It has been estimated that the committee's index cards to public source material may number close to 750,000. However, this does not represent 750,000 different names. Many names might have dozens or more index cards so that the total number of different names would be far less than 750,000.

It was most interesting to note during the television program that a recent poll taken by a research concern showed that an overwhelming percentage of the American public contacted felt that Communist Party members should not hold Federal jobs, should not hold defense jobs, should not be employed as schoolteachers, and should not be allowed to be candidates for public office. In addition, a majority of Americans contacted felt that Communist Party members should be registered with the Attorney General and that the Communist Party should be outlawed.

It would be difficult to single out any period since the Communist Party was organized in which the optimism of the party has surpassed that of the present time. Gus Hall has declared that the party is experiencing its greatest upsurge. It means for the first time the Communist Party has discarded its defensive posture and is working openly and defiantly to destroy our system of free enterprise. It means that those who choose to downgrade the internal threat of the Communist Party are sadly underestimating the zeal and dedication of party leaders.

Mr. Speaker, I feel that it is important that all Americans inform themselves about the nature of the Communist Party in this country in order to develop a greater understanding of its goals and methods of operation. The NBC television program presents much factual data which will help enable citizens to comprehend the true nature of the Communist Party and thus help to alert them to the necessity of preventing the Communist menace from making further inroads into our society.

I include at this point a transcript of the NBC television program on the Communist Party. Where necessary for accuracy I have inserted my observations concerning the commentator's statements.

COMMUNIST PARTY U.S.A.—TELEVISION PROGRAM

ANNOUNCER. Tonight Frank McGee reports on the Communist Party, U.S.A.

MCGEE. Tim Wheeler is a communist, an Amherst graduate, a newspaper reporter. He's accredited to Congress and to the White House.

Albert Lima is a commuter. He lives in Oakland, works in San Francisco. He's a Communist Party organizer.

Patricia Bell is on the way to meet with copper miners. She's a Communist Party recruiter in Tucson, Arizona.

At a demonstration in Birmingham a policeman argues with Jim Baines, Communist organizer for Alabama. That is part of the American Communist Party from 1971 to 1973. For more than two years we've been filming this tightly disciplined band of professional revolutionaries, officially known as the Communist Party, U.S.A. It has survived the tough laws, the social ostracism and the internal battles of the 1950's. It's outlasted the young radicals of the 1960's. The new left looked on the old left as bureaucratic, stodgy and irrelevant and hoped for spontaneous revolution without organization, without leadership and with hardly an ideology. The new left made its mark then vanished. The epitome of the old left, the Communist Party has endured. Its leadership and institutions are intact. Its press is in high gear. The Daily World in New York and the weekly People's World in California. The party supports two publishing houses which issue an avalanche of books and pamphlets on the theory and practice of communism. It runs or supports 14 bookstores in cities across the country, many of them near urban campuses.

There are about 30 state and district offices of the Communist Party and these are connected to hundreds of sub-groups in cities and towns. These days the communists are visible once again (unintelligible chants from demonstrators.)

Their events are no longer hidden in dark urban corners. This was a birthday party for national chairman, Henry Winston, held in the grand ballroom of the New York Hilton.

From Massachusetts to California and from Minnesota to Texas, the Communist Party is stirring itself out of 20 years in the shadows. Once more it's trying to shape American history and to do it without severing the umbilical cord that unites it with the Communist Party of the Soviet Union. In a decade when other radicals are organizing into special interest groups the communist policy remains. If the cause fits, join it. Demonstrations against the Vietnam War, against the government of Greece, Wounded Knee. This one called for Civil Rights in Northern Ireland. The demonstrators were non-communist Irish-Americans, all but one, Jack Brady, who, when this was filmed was treasurer of the group. He is not Irish, he is a communist.

By themselves the communists are too few to make a show of power but they are growing and they work hard. Some put in up to 70 hours a week on Communist Party work. This is 26th Street in Manhattan. It's between Broadway and the Avenue of the Americas. It's a seedy old neighborhood of offices and shops and a few apartments. It's just down where the garment district mixes in with the green plaid wholesalers, and it's here at 23 West 26th Street that the Communist Party, U.S.A. maintains its national headquarters. It is said that the F.B.I. or somebody kept watch from across the street but for the most part hardly anyone pays any attention. There are exceptions as when members of a Jewish organization demonstrated and held an impromptu debate with the communists. (Unintelligible shouts back and forth).

And there was the time during the last national election campaign somebody set off dynamite in front of the building. There have been several such incidents, but on any normal day outsiders remain unaware of the building's significance. Non-communist traffic in and out of the building is infrequent. It's no Madison Square Garden. There are some security precautions but not quite as stringent as those practiced by the average local telephone company. The inside could be called working-class functional. Cubicles serve as offices for some of the staff, commission chairman, administrators and secretaries. For a national headquarters there is a noticeable lack of files. The reason, danger of disclosure but this creates problems. The national office can't communicate with local branches because it doesn't have their addresses.

[Comment by Mr. Ichord. The Party's national office is known to be in frequent communication with its district and state offices, which are the arteries used to pump the Party line to the far-flung membership.]

In the third floor conference room an educational subcommittee meeting was underway. The building used to belong to the Vanderbilts. It has a basement and four floors. The top floor, the attic, is occupied by the Party's chief administrator, General Secretary Gus Hall. Hall rules the Party but technically he's not at the top. The National Convention and the Central Committee are the highest policy-making levels but a small powerful political committee makes day-to-day decisions. The chain of command continues downward from the National Secretariat to the Regional offices and at the grassroots there are about a thousand clubs. Once they were called cells.

[Comment by Mr. Ichord. This is an exaggeration. The Party has about half that number.]

The Communist Party had at one time assigned this member to a club in the Bronx. He was also an F.B.I. undercover man. He was and still is an elementary school principal. Charles Fitzpatrick performed his three roles for eleven years, then he testified before a Congressional committee. His Party club was at a low income housing area called Claremont Village. There was a church nearby. The Party instructed him to contact the minister, to use the church for a communist-sponsored event but his long-term assignment, five years, was to talk to thousands of families in the housing project. It was a patient door-to-door soft-sell effort to make friends for the Communist Party.

Fitzpatrick. Two main purposes were to introduce ourselves into the community and at the same time we—there was formed within the Claremont Village houses a—what is known as a concentration club. The second major aspect was begun to make contacts. Contacts were made through the Daily World, by knocking on door bells (sic). That was done on a weekly basis for over five years. Teams of comrades would go in, knock on doors, at that time we were doing it on Thursday evenings, knock on an apartment door, introduce ourselves as neighbors, Bronx neighbors, and interest them in reading the party's paper. The word communist, the Communist Party was never used by—in our contacts.

Then the next level of our activity would be that well as we knocked on the door and we found, we tried to ascertain what the individual did for a living, did they belong to a trade union, where did they work, what sized family? Any personal things, the youngsters that go to school, so that—I mean we made notations on cards. (1) Did they accept our paper? Yes, it would say—accepting our paper—we had a code for that. For the next thing to follow up. How was Tom feeling? He might have been sick. How's everything going in the union? And we would give the paper twice for free. The third time we tried to sell it. If they didn't have the money, then we would come back and collect and people always paid. The hope there was to get them to subscribe to the party's paper.

McGee. The party's major newspaper is The Daily World published in New York since 1968. It's the successor to the Daily Worker which stopped publishing in 1958. That was after an argument broke out within the party over the Soviet intervention in Hungary.

The newspaper, the printed press, is central to the work of the Communist Party, from the national office on down to the individual clubs. In fact, the party's constitution requires that all members take part in circulating the newspaper. To communist parties in other countries, their own press is vital. Pravda, for example, is published by the Communist Party of the Soviet Union and its daily circulation is 7 or 8 million copies.

In America, the party's west coast paper, the People's World, was edited in San Francisco. It recently moved to Berkeley. The editor is Carl Bloice of the party's Central Committee. He was away during the filming. In his absence Associate Editor Judy Basten headed the staff. The daily staff conference sets editorial policy but guidance also comes from the party leadership, including national headquarters.

Basten. For example, Gus Hall who is the General Secretary of the Communist Party is the only other United States political leader, other than President Nixon, to have spent time with Brezhnev from the Soviet Union, you know, so this fact makes you realize that in addition to wanting political guidance, to help in developing the policy that will be reflected in this paper, Gus Hall is the man who probably has information that is exclusive and essential in developing a political analysis which is gonna help us and we will be calling the national Communist Party headquarters for help and guidance in developing our policy.

McGee. This is the Daily World newsroom in New York. The staff includes a Marxist sports editor, and an active member of the communist youth group. The cartoonist, Bill Andrews is a communist from Arizona. He is supervised by Carl Winter, the co-editor. Winter, a member of the party political committee, was among the top eleven communists convicted under the Smith Act in 1949. Winter has a news staff of about 30 people including one in Moscow. Two news agencies service the paper; one is TASS from Moscow. The paper loses ¾ of a million dollars a year. It claims a daily circulation of 30,000, but it averages closer to 10,000 of which 1,000 copies a day go to Moscow.

[Comment by Mr. Ichord. This is misleading in that it conveys the impression that only 1,000 copies are sent abroad. It is known that in the past other communist-bloc countries took thousands of copies and there is every reason to believe that this practice continues today.]

Chairman Richard Ichord says the American party gets Russian subsidies. He was [sic] Chairman of the House Committee on Internal Security.

Ichord. Several committees in Congress have taken testimony from former members of the Communist Party, U.S.A. to the effect that money has been passed from the Soviet Union to the Communist Party, U.S.A. and we have every reason to believe that this continues to be the practice. I do have specific information that the Soviet Union is indirectly financing the propaganda activities of the Communist Party, U.S.A. For example, I have here a receipt signed by a representative of the "Daily Worker" receipting the amount of $20,000 from the Soviet Union.

McGee. Whatever subsidies the Party may receive from abroad the American Party comes close to paying its own way and that represents no little sacrifice on the part of its members since there are so few of them.

[Comment by Mr. Ichord. This is grossly inaccurate. The Party over the years has scarcely been able to raise some 25% of its total expenditures. The commentator previously noted that the "Daily World" loses some three-quarters of a million dollars a year.]

Publicly, the Party claims a membership of 15,000, a figure which the F.B.I. also cites.

[Comment by Mr. Ichord: This membership figure is a highly inflated one. Party leaders have admitted that there have been no registrations conducted of Party membership in the past fifteen years and that they really don't know what the membership is at present.]

We estimate that the dues-paying, club-attending, membership is much smaller, fewer than half the claimed total. In recent years no one probably knew the exact membership total at any given time. The Party is still clandestine; it keeps few records. This is likely to change. Membership cards are being issued for the first time in a quarter century.

The Party today is surfacing. Mail is said to be increasing. Some people ask about joining and others send money.

[Comment by Mr. Ichord. One of the paradoxes at the Party's national convention last year was the fact that it was held behind closed doors and was not open to the press. This was done in spite of publicity alleging that the CP is a legitimate political party operating in the open. The exclusion of the press is a tacit admission that the CP is still a clandestine, conspiratorial organization and that freedom of the press has no place in the communist world.]

Voice I. And this letter that has these three dollars, it comes from Mason City, Iowa.

McGee. The national party also gets its share of the dues which are routed through the Regional offices. Official dues are $6.00 to $24.00 a year. That accounts for only a small percentage of the party needs.

Voice I. Publicly came out in support of the Communist Party candidates.

Hall. The party budget, of course, is not simply the national organization, it involves the papers, the daily paper here and the weekly paper on the west coast; it involves the theoretical magazine, Political Affairs, and Youth Movement and so on. And when you put it all together, you know, all these budgets, you know, related to the party, that it's really a sizable amount, and it sometimes surprises me actually because I think if put all together it would most likely be about a million and a half, or maybe two million, I'm not so sure. And that's a big budget and it takes a lot of effort to raise that much money.

McGee. Members are always involved in fund raising events. This is a communist luau. The host is Archie Brown, a communist labor leader in San Francisco. The luau raised money for the People's World. Once the party ran night clubs and other businesses. Today it relies on socials, contributions, dues and the generosity of friends who remember the party in their will.

In Chicago there was an evangelical flair to fund raising which took place at the convention of the communist youth arm the Young Workers Liberation League. Jay Schaffner, one of the leaders of the league drew contributions from local YWLL chapters, trade unions, a group of Russians and from his own parents.

Schaffner. . . . let's hold em up. Let's hold these cards so (unintelligible) . . . let's hold em up. If I hold a ten that's ten ones so let's hold em up. The faster these come in the more you gotta dig. That's ten dollars from the Glinchy Sisters Branch of the YWLL in Illinois.

McGee. This Angela Davis rally in New York raised money in two days. There was an admission charge and later donations were collected from communists and non-communists alike. The Angela Davis Campaign was interesting for more than just fund raising alone. It marked the continuation of an old tradition, that of the Communist Party successfully winning wide support for a dramatic cause. A personified cause. There was for example the celebrated espionage case with Julius Rosenberg and his wife Ethel who were sentenced to die for passing atomic secrets to the Russians. The campaign to save the Rosenbergs had broad appeal. It filled stadiums and halls. Many years earlier there would be mass demonstrations for Sacco and Vanzetti, when the foreign born element was strong in the Communist Party, and anti-foreign feelings were strong in the country. These feelings equated Marxism with foreignism and with the feared event in 1917 that shook the world, the Boleshevik Revolution.

In 1919 it had inspired a minor event in Chicago, the birth of the Communist Party in America. Throughout the day it organized, the Communists were under pressure from the Federal government which considered them subversives. They went underground. Communist citizens were arrested and aliens were deported. Since then the Communist Party ruled that only American citizens may become members of the Communist Party of the United States. The 30s were the high point for the Communist Party. It helped organize the unemployed, was instrumental in creating a new industrial unionism and enlisted important intellectuals. The Communist Party inserted itself into the mainstream of radical and liberal life in the country including the New Deal.

Young American communists went abroad to fight in the Spanish Civil War, becoming a major component of the Abraham Lincoln Brigade. During the 30s the Communist Party, helped by fear of Fascism dominated the American left. The honeymoon came to an abrupt halt in August 1939 when Stalin and Hitler signed a non-aggression pact. For some American communists, saturated with years of anti-fascism, the signing was hard to swallow. But the leader of the party, Earl Browder, shifted with the Soviet move. Years later he recalled that a coded radio message from Moscow guided him in explaining the new line. He received the message as soon as the pact was signed. A new policy was against war and foreign entanglements, putting the party in league with American isolationists. That proved only temporary. When Germany invaded Russia the party threw out its talk of non-intervention. After Pearl Harbor American communists enlisted in the Armed Forces by the thousands. At that time there were no greater patriots.

Gates. I volunteered for the American Armed Forces on December 16, 1941 and I enlisted on this day, the 16th and it so happened that after I was sworn in that they let you go home for a few days. And that same evening that I was sworn in there was a meeting of Communist Party officials—a rather large meeting in New York City with some 1500–2000 people there. And I announced to this meeting that I had just joined the American Armed Forces and I then asked everyone to rise and I saluted the flag and I led the audience in reciting the Pledge of Allegiance to the American Flag. There's an amusing sidelight to this; I repeated this story when I testified at the trial of communist leaders in 1949 and sometime after that Congressman Broyhill introduced a bill to the Congress changing the Pledge of Allegiance by having the phrase "Under God".

If you will read the Committee testimony, Congressman Broyhill stated at that time that the main reason that he was adding—proposed adding—this phrase to the Pledge of Allegiance was because of the use that communists like John Gates, and he named me specifically, were making of the Pledge of Allegiance, and in order to insure that communists couldn't any longer recite the Pledge of Allegiance, they added the words "Under God."

McGee: So you're responsible.

In the 1940's the Communist Party had interests which went beyond the war. They extended them to organized baseball. Communists were part of a widespread effort to integrate major league teams. The campaign ended with the hiring of Jackie Robinson.

[Comment by Mr. Ichord. The CPUSA, like its Soviet masters, attempts to take credit for social improvements. The Party exploited this issue to its advantage. However, the breaking of the color barrier in major league baseball has been attributed primarily to the efforts of Branch Rickey and Jackie Robinson, neither of whom had any connection whatsoever with the CP.]

The communists organized demonstrations and "Daily Worker" writers pursued an aggressive integration policy. A petition campaign produced tens of thousands of signatures. A leader of the petition drive was a New York City Councilman, Peter Cacchiones, a communist. He and another communist City Councilman, Ben Davis, introduced resolutions demanding integrated baseball.

By the mid-40's Earl Browder headed what appeared to be an Americanized party. He's the man who called communism "20th century Americanism." In fact, he put an end to the Communist Party which was transformed into a more congenial sounding group called the Communist Political Association.

Browder is still alive in New Jersey but when he dissolved the Communist Party in 1944, he sealed his fate as a communist. In 1945, the French communist leader, Jacque Duclos wrote a magazine article criticizing Browder. It was viewed as representing the top authority, Moscow. The impact on the American Communist Party was enormous. The Duclos article ran counter to Browder's view of the post-war world predicting harmony between the United States and the Soviet Union. It moved the American communists to reinstate the Party and to throw out Browder as their leader. The article anticipated the cold war which in a short time dominated world politics along with the hot one in Korea. These produced shock waves at home leading to McCarthyism, growing anti-communist ideology and the expulsion by the labor federation of left-wing trade unions.

[Comment by Mr. Ichord. The CIO in 1950 expelled nine labor unions because they were held to be directed toward the achievement of the programs and purposes of the CPUSA, not because they were "left-wing".]

Feeling the pressure, the Communist Party once more began seeking refuge underground. They stopped issuing Party membership cards after 1948. Since then and until 1973, there have been no card-carrying communists. In 1948, eleven members of the Communist Party's national board were indicted. It resulted from their action to re-establish the Party three years before. The charge, under the Smith Act, was that they conspired to organize a group that advocated the violent overthrow of the United States. They were found guilty and sentenced to prison terms. Four of them, including Gus Hall, jumped bail. He was later captured in Mexico. A Smith Act defendant, John Gates, recently told how the Party, nervous and suspicious, turned on one of its leaders, John Lautner.

Gates. I'm talking about the year 1950 and what happened with this particular man was that we had gotten a message from the head of the Communist Party, Hungary—Rakosi—a great hero in the World Communist pantheon. This Rakosi sent back word that this man, John Lautner was a stool pigeon, an agent of the F.B.I. This John Lautner in later years testified at various communist trials in which he told the story of a lurid incident where he was lured into a basement of a house in Cleveland, Ohio and stripped of his clothing and a gun put to his head and threatened with execution unless he immediately divulged who he was working for and how long he had been working for them and how much he was being paid, etc.

When he testified at these trials this was always denied by the communist defendants at these trials. However, I can say that every word of what this man testified to about this incident is the absolute truth. I can say that because I helped to organize the whole incident. I was the one who arranged for him to be transferred to Cleveland for this purpose and helped to devise this tactic of threatening him with his life unless he would tell us the truth. When he didn't admit to the guilt we then expelled him, forthwith, from the Communist Party.

McGee. What happened to the Communist Party during the McCarthy years was serious enough, what happened just afterward almost finished off the party.

First there was Khrushchev's denunciation of Stalin causing deep disillusionment among American party intellectuals. Next, the Soviet armed invasion of Hungary produced further agonies among the party faithful. The hard-core which survived the harshest of the McCarthy years now became badly split. Novelist Howard Fast and Daily Worker editor John Gates, and many others left the party. The Daily Worker, the focal point of the dissent, stopped publication, and the party appeared to be on its death bed at the end of the 50s. Those years created a new lexicon of invectives making rational talk of communism difficult with witch hunt, red-baiting, better dead than red, pinko, comsent, fellow traveler. That period voiced a negative ideology in America that has hung on to the present. A whole set of beliefs and attitudes and reflexes concerning the communist threat domestic and foreign. That period institutionalized the low appeal and gave new dimensions to the security check.

These are current reports of the House Committee on Internal Security which replaced the House Committee on Un-American Activities. The Internal Security Committee is one of the more generously financed committees of Congress. Most of the reports result from hearings on a number of groups considered subversive. These include the Communist Party, the Trotskyist communists and the Maoist communists. The Committee has six full-time investigators. The Committee maintains an impressive array of files. We are told that we were the first newsmen allowed into the Committee's file room but our cameras were not permitted. These sketches are based on what our staff people saw. The files are said to hold information on ¾ of a million Americans; data from magazine articles, newspaper clippings, pamphlets, documents and so on. Each file is keyed to an index card in one of two enormous power-operated rotating drum files. More than 20 executive offices use the cards as reference. Committee staff members said the F.B.I. and the Civil Service Commission keep full-time representatives there. People seeking federal jobs are among those checked.

Ichord. There is a need for screening applicants for federal employment. We've been advised that there are Communist Party members who are presently employed by the federal government. For example, the Post Office Department admitted that it did have present Communist Party members, present Trotskyite communists and members of other revolutionary groups among its employees. Bear in mind that 85% of the employees of the United States are in what is called non-sensitive positions, they really are not subjected to any kind of an extensive screening process.

Voice II. Are we talking about dozens of people or hundreds or thousands?

Ichord. We're talking about dozens of people that are known to be—by the agencies—to be communists. Many of the heads of the agencies will admit that they do not know how many members they have, and this is understandable because they just do not have the machinery to so determine.

McGee. In the late 40s and early 50s Americans held strong opinions against communists in federal jobs. In fact, they were against communists almost anywhere. A nation-wide poll was conducted for us several weeks ago by Opinion Research Corporation of Princeton, New Jersey. It was our intent to find out what Americans think of communists today. We asked whether communists should be prohibited from holding federal jobs or jobs in defense industries. 83% replied that communists should be prohibited. On the question of communists teaching in public schools—79% said they should be barred. We asked whether the Communist Party should be outlawed—61% said that the party should be outlawed. Should communists be required to register with the Justice Department? 82% said that they should be required. Should communists be prohibited from running for public office? 74% believed they should be prohibited. Do Americans consider the communist threat greater from abroad or from within? 20% said the foreign threat is greater; 32% said the domestic communist threat is greater.

The poll shows that the American attitude changed little in 20 years. It is still a firm anticommunist attitude. It is true that communism has faded into the background of consciousness so there is less of it as a political issue. The enforcement of anti-communist laws has all but vanished, the emotionalism has subsided. What we have is tolerance, what we do not have is acceptance. For example, communists trying to qualify candidates for the 1972 elections gathered hundreds of thousands of petition signatures, yet in the presidential election Gus Hall's national vote total was only 25,000.

Among steel workers communist pamphleteers were tolerated. In organizing these workers, however, the party made hardly a dent. There's only a handful of Communist Party members in the entire state of Texas but it can operate in the open even in front of a shrine, the Alamo. Communists are acting as if there is greater acceptance. New Communist schools are planned, old ones are adding courses. Communist schools are also used as social centers. They are places where Communists and non-Communists can meet for fun and politics.

(Song).

In recent years there were two mass activities in which the small Communist Party exerted considerable influence. One was the campaign against the Vietnam War. The Communists did not initiate the anti-war movement and they never controlled it, however the Party was an important voice in one of the two major branches of the movement, the People's Coalition for Peace and Justice. Party members were on its top policy-making committee. The second major anti-war federation was the National Peace Action Coalition. In this group another Communist organization, the Socialist Workers Party, played a major role. The SWP is a Trotskyist organization. In the anti-war movement and in almost everything else it's a rival of the Communist Party. But where the rival factions were able to effect a temporary truce the resulting demonstration was likely to be massive. The other arena in which the Communist Party showed impressive organizational ability was the Angela Davis campaign. In this case the Party started it, attracted large numbers of non-Party people, and guided the campaign on a national and international scale. The Party had a hand in writing her speech. (Angela Davis and applause). But there was the problem of security. It showed in the form of this bullet-proof shield for Angela Davis in New York.

In Detroit, metal detectors checked for weapons at entrances. The Communist Party has been living with security problems for the past fifty years. Gus Hall says he operates on the assumption that informers are present. One dramatic event was recently described in Party Affairs, a publication for Communists only. It told about an assassination attempt on Gus Hall's life in St. Louis. But there's another kind of security concern that's more pervasive, whether a Party member should reveal himself as a Communist to his neighbors, fellow workers, and the public. The old red-baiting fears persist, and not without reason. The one group that the Party wants to attract is the working class, but trade unions make up a strong line of resistance to the Communists. Many unions have prohibitions against Communist members or officers, or both.

There are Communist teachers who were not admitted. There are Communist shop-workers afraid to distribute the Daily World. There's an officer of a large mid-Western union in heavy industry who is also a member of the Communist Party central committee and the Party is fearful about revealing it. Among the basic industries, the Communist Party has singled out steel as its most important organizing target. Mike Bayer is the Communist organizer in the mill areas of Indiana. He said there are Communist shop clubs in his area, but he would not give details. Chicago is the traditional center for the Party's labor activity. Communists were instrumental in forming a national rank and file group called Trade Unions for Action and Democracy or TUAD. But it's difficult for TUAD and the Party to publicly admit that the two groups are interrelated. To do so presumably TUAD might suffer the same handicaps the Party has in dealing with workers.

Yet the ties do exist as exemplified by Hall's companion, Fred Gaboury, the head of TUAD. That meeting, a Communist youth convention, was held at this hotel in Chicago. Congressional investigators tried to listen in electronically, but the attempt was stopped by the hotel management. Electronic tapping is an old concern for the Party.

Arnold Johnson (CP Official). There are, I gather, about five different outfits that have the tap on the phone. People have said that, people in general, even you can get sometimes somebody's complaining about it. Even telephone people that say, "Well there's so damn many taps on your phone," that it creates a problem. Sometimes you can pick up a phone and you see a little bit more truth in your house where you do see, you can hear when the record starts playing and when it goes off and then sometimes my record goes off and also the phone goes off and you can't get service.

McGee. But we're not on the phone now. You are talking about another kind of——

Johnson. Oh, you can, you can tap this, this can be closed. There's no problem for them on that. They can tap without an open phone.

McGee. Electronic surveillance and infiltration, whether real or imagined have produced a detached kind of cynicism within the Party. But another problem, internal discipline, produces a tough and ready response. The Party was born fractured, it grew up arguing and splitting. Tens of thousands of members defected. Some became loudly critical of the Party. The Party in turn heaped heavy abuse on them. Criticism of Communist policies from inside the Party has continued and the Party's been dealing with it rather quietly. When Soviet troops invaded Czechoslovakia in 1968, some members of the Party criticized the action.

A book recently published written by Al Richmond, a communist newspaperman, recalls his opposition to that invasion. It also recalls a visit by Gus Hall to the People's World where Richmond was the editor. Subsequently, Richmond resigned as editor. He left quietly, without an angry blast. Gilbert Green has been a leader of the Communist movement since the thirties. He is popular, respected for his abilities. He, too, criticized the Soviet moves in Czechoslovakia and also was taken to task by Hall. Green remained active in the Party, although he left his post as chairman of the New York State Communist Party after that episode. Gus Hall shortly afterward became an international spokesman or a semi-official apologist for the Soviet adventure in Czechoslovakia with his booklet called "Czechoslovakia at the Crossroads". It's been translated into several langauges.

Paul Novick has been a member of the Party since 1921. He is editor of the Yiddish language daily, The Morning Freiheit, which used to be closely allied with the Party. In 1968 the paper interpreted the six-day war as a defensive move for Israel. That went against Soviet policy. So Novick has been under constant attack from the Party for his policy and for other divergent views. He was removed from the Party's national committee. In his letter to the Party, Novick refused to back down. He also defended his credentials as a Communist. He was ordered to resign or be expelled. The order came from a three-man Communist tribunal. Novick refused to resign. The Party has not announced his expulsion. When these pictures were taken he said he didn't know his status. He no longer attends Party meetings. He no longer pays Party dues. Serious discipline problems do not seem to exist among the young Party members, where the Party is having its greatest gains. But there's a generation missing.

There are basically two kinds of Communists in America, old ones and young ones. For about twenty years, few new members entered the Party so today there are few in their middle years, those who could be expected to take over the top leadership jobs. Because of the age crisis, young Communists are drafted to take over high positions in the Party. Unlike the older members who came up during the labor struggle of the thirties, the younger members joined for other reasons. One example, Alva Buxenbaum, born in Louisiana, president of her PTA in Brooklyn, chairman of the Communist Party's women's commission.

ALVA BUXENBAUM. You know the first thing that the Southerner, you know, racists said was, you know, Communist conspiracy when you objected to being discriminated against, when you stood up for your rights as a black person, you know, you were immediately called a Communist. Well, I figured then maybe they're not so bad. (Laughter) You know, if they're fighting for my rights and for my equality, you know, there must be something there and if, if my enemies who were the Southern racists, didn't like Communists, well why didn't they? (Laughter) Must be something there that maybe I, you know, I think I must have come from a family that, you know, has been, you know, my father who was socially active and who, in fact was killed by racists and because he was involved in civil rights movement and struggling for what is right and that made a tremendous impression on me as a child. That he, you know, should be murdered changing the conditions for my people.

MCGEE. People inside and outside the Party have grappled with the question of violence as it relates to Communism. Earlier in the report we made reference to bomb attacks on Party officers. In recent months there've been physical beatings involving members of the Communist youth movement. In Philadelphia, their group was attacked by representatives of a rival Marxist organization. At a college campus in New York a member of the Young Socialist Alliance, a Trotskyist group, said he was assaulted by an official of the Communist youth group. Because fighting among rival Marxist groups is increasing, physical defense is becoming a topic of growing importance. There is also an official Communist idea of violence in America. General Secretary Gus Hall spoke of it when he outlined his scenario for a Communist revolution in America.

GUS HALL. I think what we're going to have and we are already having is a continuous development of people's movements and an upsurge in specific areas but they kind of unite against the monopoly power in the United States. They kind of unite against the big monopoly grip, you know, that's on the United States and therefore what will happen is a, is a coalescence of an anti-monopoly kind of a, a, a, movement. I think it will result in a new party and ah, and ah. Now when that coalition develops, and I'm convinced that it will, it will be a challenge for big business. They're going to resist and, and that will, that will sharpen the contradiction between this people's coalition.

The communists will be a part of that and hopefully in the leadership of that coalition, that's our aim, and, and it will sharpen and sharpen and depending on how sharp the resistance to this type of an anti-monopoly actions will be, I think the revolutionary situation will develop and as a result of that, it will either be the election of that type of a Congress and Senate and President. And in other words there will be a logic to this development that will finally kind of force the majority to say that, that the whole idea of the economy being run for the profits of corporations is out of date, it's old-fashioned, and you have to socialize the industry and nationalize it, and therefore the idea of socialism will take firm hold of the majority of the people, and whether it be violent or non-violent, will really depend on how the monopoly forces resist this process.

If they go in to violence, there'll be violence, but if not, it can be relatively, you know, peaceful and, of course we say that, that we will seek the most peaceful way possible and what that really means is that we will try to organize and mobilize the maximum number of people behind this idea and the more behind it, the more peaceful it will be. That's just a kind of a logic to a thing. I think that's the path toward socialism in the United States.

MCGEE: Do you think it will be non-violent?

HALL: Oh, absolutely——

MCGEE: Non-violent?

HALL: It's hard to say. That's very difficult.

MCGEE: Is there a strong possibility that it would be violent?

HALL: I think so. I think there's strong possibilities that there will be violence, and ah, we don't rule out, you know, non-violence, but, but I think if you take history in the United States and the nature of capitalism and monopoly capitalism, that one has to say that there'd be strong possibilities of violence.

MCGEE: Since Communism is commonly seen as a foreign plot, two points should be made. The Communists here are rooted in the American experience, the older ones in the labor movement and the younger ones in the civil rights, new left and black power movements. Their day-to-day activities are with domestic projects such as working in neighborhood tenants' councils. However, on another level the Party is cemented to the Soviet Union. In moments of crises, the view from Moscow prevails. In normal times, the American communists are tied voluntarily to the Soviet Union. It seems a marvel, an ideal that anti-Sovietism is translated into anti-Communism.

The bond is emotional and tangible as when funerals are held in Moscow for American Party leaders such as Elizabeth Gurley Flynn. When Angela Davis of the American Party's central committee visits the Soviet Union, when the leader of the American Party extravagantly hails Russian advances, when in New York a Russian delegate gives warm greetings to another leader of the American Party. The American Party draws spiritual strength from the international Communist movement and the Soviet Union in turn has ideological representatives in the most powerful capitalistic country in the world, and if for no other reasons than those alone, the Communist Party, USA is not likely to go away.

IMMIGRATION REVISION BILL

(Mr. HUTCHINSON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HUTCHINSON. Mr. Speaker, at the request of the Department of State, I have today introduced an immigration revision bill. Mr. KEATING joins me in the introduction.

Since the enactment of the 1965 Immigration amendments, experience has made clear the necessity for certain modifications, particularly with reference to the Western Hemisphere. The imposition of a numerical ceiling upon the Western Hemisphere for the first time resulted from Senate amendments in 1965 to the legislation originating in the House of Representatives to phase out the most favored nation immigration policy. As a consequence, no preference system was established for immigrants from the Western Hemisphere.

The administration proposal would make some revisions in the existing preference system applicable to the Eastern Hemisphere and make it effective for the Western Hemisphere also.

Some refinements and changes in our immigration law are urgently needed. The Immigration, Citizenship and International Law Subcommittee of the Committee on the Judiciary has completed hearings upon the subject of Western Hemisphere immigration and is ready to propose specific legislation. I am confident these suggestions from the Department of State will receive prompt and careful consideration.

I am inserting in the RECORD at this point a copy of the transmittal from the Department of State, a brief summary of the bill and a tabulation of highlights of the bill.

DEPARTMENT OF STATE,
Washington, D.C., July 6, 1973.

The Honorable CARL ALBERT,
Speaker of the House of Representatives

DEAR MR. SPEAKER: I have the honor to transmit a bill designed to make certain needed changes in the present system of immigrant selection and of numerical limitations, as well as in the provisions for admission of alien refugees and in the operation of the provision of law designed to protect American labor from possible adverse effects of the admission of alien workers. These proposals comprise those changes which we consider to be the most urgently required, although not necessarily all possible changes which might be desirable.

Experience since the amendment of the Immigration and Nationality Act in 1965 has shown that the implementation of section 212(a)(14) of the Act, which is designed to protect the American labor market, is unduly burdensome to the government, to employers seeking the services of alien workers and to alien workers seeking to immigrate to the United States. We propose to amend this section so as to simplify and expedite its implementation in individual cases while preserving the same degree of protection for the interests of American labor.

Several considerations have influenced our proposal to make new provision for the admission of refugees. The accession of the United States to the Protocol Relating to the Status of Refugees and continuing changes in world conditions have rendered anachronistic the existing geographic and ideological requirements for classification of aliens as refugees for immigration purposes. Experience with the law as amended has demonstrated that the numerical limitation on the admission of refugees should be separately established outside the regular immigration system so that the admission of refugees neither affects, nor is affected by, regular immigration and that there should be clarification of the Attorney General's authority to parole into the United States groups or classes of alien refugees. We propose to accomplish both of these objectives by appropriate amendments and to increase the limitation on the admission of refugees from 10,200 to 25,000 (15,000 from the Eastern Hemisphere; 10,000 from the Western Hemisphere) annually in view of the broader nature of the definition and of its applicability in the Western Hemisphere.

We propose to reduce the over-all limitation on Eastern Hemisphere immigration from 170,000 to 155,000 because of the separate allocation of 15,000 visa numbers for the admission of Eastern Hemisphere refugees.

We propose to make more equitable provision for immigration of aliens born in dependent areas of the world by increasing the limitation of their immigration from 200 per area to 600.

We have also concluded that certain changes in the preference system are desirable to make it reflect more completely the goals of the 1965 amendments—reunification of families and response to needs of the American labor market. We, therefore, propose certain modifications in the definitions of the preference classes and in the allocation of percentages among the preference classes to bring about these changes as well as certain other adjustments necessitated by the proposals to amend section 212(a)(14) and to remove refugees from the competition with other prospective immigrants.

With respect to immigration from the Western Hemisphere, we have found that since the imposition of the 120,000 numerical limitation effective July 1, 1968, the demand for immigration has consistently exceeded the limitation. One of the results of this has been a drastic reduction in immigration by natives of Canada because of the unavailability of visa numbers.

We propose that Canada and Mexico, our two closest neighbors, be removed from the general limitation on Western Hemisphere immigration and that a separate limitation of 35,000 per year be established for each. For the rest of the Western Hemisphere, we propose a numerical limitation of 70,000 and establishment of foreign state limitations identical with those for countries of the Eastern Hemisphere.

Finally, we propose to remove the outstanding remaining inequity in our immigration system by applying the modified preference system to the Western Hemisphere as well as to the Eastern Hemisphere.

The Department of Justice and Labor participated in the drafting of this proposed legislation and concur in its submission for the consideration of the Congress.

The Office of Management and Budget advises that enactment of this legislation would be consistent with the objectives of the Administration.

Sincerely yours,

MARSHALL WRIGHT,
Assistant Secretary for Congressional Relations.

BRIEF SUMMARY OF ADMINISTRATION'S IMMIGRATION BILL

Section 1—Eliminates the designation of Western Hemisphere natives as "special immigrants" and replaces this group with "immediate relatives" as presently defined in section 212(b) of the Immigration and Nationality Act.

Section 2—Defines the term "refugee" in accordance with the U.N. Protocol thereby eliminating any geographical and ideological qualifications refugees are presently limited to those fleeing communism and certain areas of the Middle East and it also only applies to individuals from the Eastern Hemisphere.

Section 3—Establishes separate numerical ceilings on immigration from the Eastern and Western Hemisphere. Establishes a 170,000 ceiling for the Eastern Hemisphere (155,000 immigrants plus 15,000 refugees) which is comparable to the present ceiling for this hemisphere.

Establishes a 70,000 ceiling on Western Hemisphere immigation exclusive of Canada and Mexico which would each be allotted 35,000 visas per year. Applies the preference system to the Western Hemisphere. Provides for the admission of 10,000 refugees from the Western Hemisphere each year. This results in a grand total of 150,000 admissions each year from the Western Hemisphere.

Dependent areas would no longer be charged against the foreign state limitation of the governing country and instead would be charged only against the numerical limitation of the hemisphere in which the dependent area is located.

Section 4—Increases the numerical limitation on immigration from dependent areas from 200 to 600 per area.

Section 5—Revises the preference system in the following manner:

(1) reduces the percentage for 1st preference from 20% to 10% (unmarried sons and daughters of U.S. citizens);

(2) increases the 2nd preference (spouses and unmarried sons and daughters of permanent residents) from 20% to 24% and includes parents of permanent residents over 21 in this category;

(3) increases the percentage of 3rd preference from 10% to 12% and restricts this category to members of the professions, allows a fall down of unused 1st and 2nd preference visa numbers;

(4) increases the percentage for 4th preference (married sons and daughters of U.S. citizens) from 10% to 12%;

(5) reduces the percentage for 5th preference from 24% to 20% and restricts this category to unmarried brothers and sisters of U.S. citizens;

(6) increases the percentage for 6th preference from 10% to 12% and restricts this category to skilled workers, allows a fall down of unused visa numbers to the 6th preference;

(7) eliminates the present 7th preference and replaces it with: a) non-workers, investors, self-employed professionals, and artists; provides that 6% of the appropriate hemispheric limitations shall be reserved for this category;

(8) eliminates the nonpreference category and establishes a new 8th preference for unskilled workers and provides remaining 4% of visas for this category; and

(9) provides that unused visas from the above categories shall be made available to those in oversubscribed preference categories based solely on the filing date of the petition and without regard to the preference class.

Section 6—Makes various changes in the petition procedures and eliminates the requirement that a petitioner take an oath.

Section 7—Establishes a new refugee section independent of the preference system. Provides for 25,000 refugee numbers—15,000 for natives of the Eastern Hemisphere and 10,000 for natives of the Western Hemisphere. Provides that refugees shall be initially admitted as permanent residents.

Section 8—Revises the labor certification procedure by requiring the Secretary of Labor to make an affirmative finding that there is not a shortage of workers in the alien's occupation in order to exclude such alien (although not specifically required, it is contemplated that the Secretary's findings would be contained in lists of non-certifiable occupations which would be published periodically).

Provides specific authority for the parole of alien refugees by the Attorney General. Such parole authority would include "individual" as well as "class" parole of refugees. Requires consultation with the Congress prior to the exercise of such parole authority. Provides for the adjustment of status of parole "refugees" after a period of two years presence in the United States.

Section 9—General Savings Clause.

Section 10—Establishes a 90-day delayed effective date.

HIGHLIGHTS

1. The Eastern Hemisphere ceiling is left at 170,000 (155,000 under the preferences plus 15,000 refugees).

2. The Western Hemisphere proposed ceiling is 150,000 (70,000 plus 35,000 each for Canada and Mexico under the same preference system as the Eastern Hemisphere plus 10,000 refugees).

3. The preference system percentages are reshuffled:

a. First preference is cut from 20% to 10%.

b. Second preference is increased from 20% to 24% with parents of adult permanent residents added.

c. The third preference is increased from 10% to 12% plus falldown and a specific requirement that the professionals have an employment offer.

d. The fourth preference is increased from 10% to 12%.

e. The fifth preference is cut from 24% to 20% and limited to married brothers and sisters.

f. The sixth preference is increased from 10% to 12% plus falldown and limited to skilled workers.

g. The seventh preference (no longer for refugees) provides 6% for aliens not to be employed, investors, employed professionals and highly skilled artists.

h. The non-preference is abolished and 4% is allotted for unskilled job workers with job offers.

i. Any unused numbers go to the oversubscribed preferences in the order that petitions are filed.

4. Refugees are redefined in accordance with the Convention and are to be admitted as permanent residents and not conditional entrants. Group refugee movements under parole are authorized after appropriate consultation with the Congress.

5. The labor certification section is rewritten as recommended by the Labor Department so that those requiring certification are ineligible only if the Secretary of Labor finds that there is not a shortage or the aliens admission would be inconsistent with manpower policies and programs.

REHABILITATION PROGRAMS ARE NEEDED FOR ALCOHOLISM—CHRONIC MILITARY PROBLEM

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, alcoholism is one of the most pervasive and untreated diseases afflicting this Nation. Our Nation's military veterans represent a large part of the population afflicted with this disease and often it began during military service. Alcoholism has been determined to be the No. 1 chronic problem within the military. The tremendous growth in drug rehabilitation facilities far exceeds the effort on behalf of alcoholism, probably because drug addiction is more in the headlines and seems more sinister.

Currently, the Veterans' Administration offers only residence-oriented detoxification programs to our veterans. While these programs are worthwhile, efforts should not terminate here. There remains a large number of veterans suffering from alcohol abuse who are not ready to be thrust back into society as productive and self-sufficient citizens because they need additional guidance in the forms of halfway houses, therapeutic communities, and outpatient clinics.

Furthermore, there are vast numbers of veterans who are not eligible for, or who do not require, residence-oriented rehabilitation programs, but who desperately need other, less intense treatment.

While no such programs are now in existence, S. 284 would require the availability of such services and programs. The bill was passed by the Senate in March of this year, and was forwarded to the House Veterans' Affairs Committee where it awaits hearings. Because the problem is of such a crucial nature, I urge the support of my colleagues in expediting action on this bill.

ELIGIBILITY OF DEPENDENT CHILDREN FOR FEDERAL ASSISTANCE

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, today I am introducing legislation which will reaffirm the intent of Congress to determine eligibility for Federal assistance to dependent children exclusively on the basis of need. It will prevent Federal funds from being used by industry as a means of blackmail during labor disputes.

On July 12, Secretary of Health, Education, and Welfare, Caspar Weinberger, announced new regulations allowing individual States to deny aid to families with dependent children benefits to the children of strikers. These regulations are a total perversion of congressional intent, and I informed Secretary Weinberger of my objections in a letter dated July 17. Of the over 10,000 comments which the Secretary received on this matter, almost two-thirds were in favor of continued benefits to strikers. The new regulations ignore this expression of public sentiment.

If the new regulations are permitted to go into effect, children of strikers in many States will be denied the same assistance which is offered to the children of convicted criminals. It is inconceivable that the Federal Government should punish a child whose parents are lawfully exercising their right to strike while assisting one whose parents have broken the law.

Secretary Weinberger's decision is just one more example of the executive branch establishing policy in opposition to the will and intent of the Congress. It is our responsibility to stand up to this action and see to it that the best interests of the people are adhered to.

My bill would make it clear that participation in a strike or other labor dispute is not proper grounds upon which to exclude someone from the aid to families with dependent children program. It will not change the intent of present law, just clarify it.

I ask immediate action on this legislation. Only quick and decisive action can prevent the new regulations from unjustly harming our Nation's children. I am sure we all can agree that children are the innocent victims of all labor disputes. We cannot permit their exploitation as management hostages.

Government aid to hungry children should not be suspended during a strike while Government aid to industry remains in effect. Let us be both humane and just.

PHASE IV OF THE ECONOMIC STABILIZATION PROGRAM

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, yesterday the President announced details of what is popularly known as phase IV of the economic stabilization program. Because of the widespread interest of Members in this matter and in order to make it a part of the RECORD, I insert at this point four documents issued by the White House as follows: First, a statement by the President; second, the text of an Executive order further providing for the stabilization of the economy; third, a Presidential proclamation regarding agricultural imports; and fourth, a fact sheet summarizing the phase IV program:

STATEMENT BY THE PRESIDENT

The American people now face a profoundly important decision. We have a freeze on prices which is holding back a surge of inflation that would break out if the controls were removed. At the same time the freeze is holding down production and creating shortages which threaten to get worse, and cause still higher prices, as the freeze and controls continue.

In this situation we are offered two extreme kinds of advice.

One suggestion is that we should accept price and wage controls as a permanent feature of the American economy. We are told to forget the idea of regaining a free economy and set about developing the regulations and bureaucracy for a permanent system of controls.

The other suggestion is to make the move for freedom now, abolishing all controls immediately.

While these suggestions are well meant, and in many cases reflect deep conviction, neither can be accepted. Our wise course today is not to choose one of these extremes but to seek the best possible reconciliation of our interests in slowing down the rate of inflation on the one hand, and preserving American production and efficiency on the other.

The main elements in the policy we need are these:

First, the control system must be *tough*. It has to hold back and phase in gradually a large part of the built-in pressure for higher prices which already exists in the economy.

Second, the system must be *selective*. It must permit relaxation of those restraints which interfere most with production, and it must not waste effort on sectors of the economy where stability of prices exists. The control system should also be designed to accommodate the special problems of various sectors of the economy under the strains of high use of capacity.

Third, the system must contain sufficient assurance of its *termination* at an appropriate time to preserve incentives for investment and production and guard against tendencies for controls to be perpetuated.

Fourth, the control system must be backed up by firm steps to *balance the budget*, so that excess demand does not regenerate inflationary pressures which make it difficult either to live with the controls or to live without them.

We have had in 1973 an extraordinary combination of circumstances making for rapid inflation. There was a decline of domestic food supplies. The domestic economy boomed at an exceptional pace, generating powerful demand for goods and services. The boom in other countries and the devaluation of the dollar, while desirable from most points of view, raised the prices of things we export and import.

These forces caused a sharp rise of prices in early 1973. The index of consumer prices rose at an annual rate of about 8 percent from December 1972 to May 1973. The freeze imposed on June 13 put a halt to this rapid rise of prices. But many of the cost increases and demand pressures working to raise prices in the early part of the year had not yet resulted in higher prices by the time the freeze was imposed. Thus a certain built-in pressure for a bulge of price increases awaits the end of the freeze. Moreover, aside from this undigested bulge left over by the freeze, the circumstances causing the sharp increase in early 1973 will still be present, although not on so large a scale. The demand for goods and services will be rising less rapidly than in the first of the year. The supply of food will be rising, although not fast enough. Our position in international trade is improving and this will lend strength to the dollar.

All in all, the tendency for prices to rise in the remainder of 1973, a tendency which will either come out in higher prices or be repressed by controls, will be less than in the first half of the year but greater than anyone would like. Particularly, there is no way, with or without controls to prevent a substantial rise of food prices. However, by 1974, we should be able to achieve a much more moderate rate of inflation. By that time, the good feed crops in prospect for this year should have produced a much larger supply of food, and total demand should be rising less rapidly than in 1973.

This more satisfactory situation on the inflation front will be reached if three conditions are met:

First, we do not allow the temporary inflationary forces now confronting us to generate a new wage-price spiral which will continue to run after these temporary forces have passed. To do this we must hold down the expression of those forces in prices and wages.

Second, we do not allow the present controls to damp down 1974 production excessively, a program that is most obvious in the case of meats and poultry.

Third, we do not permit a continuation or revival of excess demand that will generate new inflationary forces. That is why control of the Federal budget is an essential part of the whole effort.

The steps I am announcing or recommending today are designed to create these conditions.

THE PHASE IV CONTROLS PROGRAM

Our decisions about the new control program have been reached after consulting with all sectors of the American society in over 30 meetings and after studying hundreds of written communications. The advice we received was most helpful and I want to thank all those who provided it.

The Cost of Living Council will describe the Phase IV controls program in detail in statements and regulations. These will take effect at various times between now and September 12. They will include special regulations dealing with the petroleum industry, published for comment. Here I will only review the general features of the program, to indicate its basic firmness and the efforts that have been made to assure that production continues and shortages are avoided.

The controls will be mandatory. The success of the program, however, will depend upon a high degree of voluntary compliance. We have had that in the past. Study of the reports on business behavior during Phase III shows that voluntary compliance was almost universal. Nevertheless, the rules we are now proposing are stricter, and it is only fair to those who will comply voluntarily to assure that there is compulsion for the others.

Except for foods, the freeze on prices will remain in effect until August 12. However, modifications of the freeze rules will be made to relieve its most serious inequities.

The fundamental pricing rule of Phase IV is that prices are permitted to rise as much as costs rise, in dollars per unit of output, without any profit margin on the additional costs. Cost increases will be counted from the end of 1972; cost increases which occurred earlier but had not been reflected in prices may not be passed on. In addition to the cost rule, there remains the previous limitation on profit margins.

Large firms, those with annual sales in excess of $100,000,000, will be required to notify the Cost of Living Council of intended price increases and may not put them into effect for 30 days. During that period, the Council may deny or suspend the proposed increase.

The wage standards of Phase II and Phase III will remain in force. Notification of wage increases will continue to be required for large employment units.

These are, we recognize, tough rules, in some respects tougher than during Phase II. But the situation is also in many ways more difficult than during Phase II. So long as the system is regarded as temporary, however, we believe that business can continue to prosper, industrial peace can be maintained, and production continue to expand under these rules. Machinery will be established in the Cost of Living Council to consider the need for exceptions from these rules where they may be causing serious injury to the economy. And we will be prepared to consider modifications of the rules themselves when that seems necessary or possible.

THE SPECIAL CASE OF FOOD

Nowhere have the dilemmas of price control been clearer than in the case of food. In the early part of this year, rising food prices were the largest part of the inflation problem, statistically and psychologically. If price restraint was needed anywhere, it was needed for food. But since the ceilings were placed on meat prices on March 29, and especially since the freeze was imposed on June 13, food has given the clearest evidence of the harm that controls do to supplies. We have seen baby chicks drowned, pregnant sows and cows, bearing next year's food, slaughtered, and packing plants closed down. This dilemma is no coincidence. It is because food prices were rising most rapidly that the freeze held prices most below their natural level and therefore had the worst effect on supplies.

We must pick our way carefully between a food price policy so rigid as to cut production sharply and to make shortages inevitable within a few months and a food price policy so loose as to give us an unnecessary and intolerable bulge. On this basis we have decided on the following special rules for food:

1. Effective immediately processors and distributors of food, except beef, may increase their prices, on a cents-per-unit basis, to the extent of the increase of costs of raw agricultural products since the freeze base period (June 1–8).

2. Beef prices remain under present ceilings.

3. The foregoing special rules expire on September 12, after which time the same rules that apply to other products will apply to foods.

4. Raw agricultural products remain exempt from price control.

To relieve the extreme high prices of feeds, which have an important effect on prices of meat, poultry, eggs, and dairy products, we have placed limitations on the export of soybeans and related products until the new crop comes into the market. These limitations will remain in effect for that period. But permanent control of exports is not the policy of this Government, and we do not intend at this time to broaden the controls beyond those now in force. To a considerable degree, export controls are self-defeating as an anti-inflation measure. Limiting our exports reduces our foreign earnings, depresses the value of the dollar, and increases the cost of things we import, which also enter into the cost of living of the American family. Moreover, limiting our agricultural exports runs counter to our basic policy of building up our agricultural markets abroad. Unless present crop expectations are seriously disappointed, or foreign demands are extremely large, export controls will not be needed. However, reports of export orders for agricultural commodities will continue to be required. Our policy must always be guided by the fundamental importance of maintaining adequate supplies of food at home.

The stability of the American economy in the months and years ahead demands maximum farm output. I call upon the American farmer to produce as much as he can. There have been reports that farmers have been reluctant to raise livestock because they are uncertain whether Government regulations will permit them a fair return on their investment, and perhaps also because they resent the imposition of ceilings on food prices. I hope that these reports are untrue. In the past year real net income per farm increased 14 percent, a truly remarkable rise. I can assure the American farmer that there is no intention of the Government to discriminate against him. The rules we are setting forth today should give the farmer confidence that the Government will not keep him from earning a fair return on his investment in providing food.

The Secretary of Agriculture will be offering more specific advice on increasing food production and will be taking several steps to assist, in particular he has decided that there will be no Government set-aside of land in 1974 for feed grains, wheat and cotton.

I am today initiating steps to increase the import of dried skim milk.

When I announced the freeze, I said that special attention would be given, in the post-freeze period, to stabilizing the price of food. That remains a primary objective. But stabilizing the price of food would not be accomplished by low price ceilings and empty shelves, even if the ceilings could be enforced when the shelves are empty. Neither can stabilization be concerned only with a week or a month. The evidence is becoming overwhelming that only if a rise of food prices is permitted now we can avoid shortages and still higher prices later. I hope that the American people will understand this and not be deluded by the idea that we can produce low-priced food out of Acts of Congress or Executive Orders. The American people will continue to be well-fed, at prices which are reasonable relative to their incomes. But they cannot now escape a period in which food prices are higher relative to incomes than we have been accustomed to.

THE PROCESS OF DECONTROL

There is no need for me to reiterate my desire to end controls and return to the free market. I believe that a large proportion of the American people, when faced with a rounded picture of the options, share that desire. Our experience with the freeze has dramatized the essential difficulties of a controlled system—its interference with production, its inequities, its distortions, its evasions, and the obstacles it places in the way of good international relations.

And yet, I must urge a policy of patience. The move to freedom now would most likely turn into a detour, back into a swamp of even more lasting controls. I am impressed by the unanimous recommendation of the leaders of labor and business who constitute the Labor-Management Advisory Committee that the controls should be terminated by the end of 1973. I hope it will be possible to do so and I will do everything in my power to achieve that goal. However, I do not consider it wise to commit ourselves to a specific date for ending all controls at this time.

We shall have to work our way and feel our way out of controls. That is, we shall have to create conditions in which the controls can be terminated without disrupting the economy, and we shall have to move in successive stages to withdraw the controls in parts of the economy where that can be safely done or where the controls are most harmful.

To work our way out of controls means basically to eliminate the excessive growth of total demand which pulls prices up faster and faster. The main lesson of that is to control the budget, and I shall return to that critical subject below.

But while we are working our way to that ultimate condition in which controls are no longer useful, we must be alert to identify those parts of the economy that can be safely decontrolled. Removing the controls in those sectors will not only be a step towards efficiency and freedom there. It will also reduce the burden of administration, permit administrative resources to be concentrated where most needed, and provide an incentive for other firms and industries to reach a similar condition.

During Phase II firms with 60 employees or fewer were exempt from controls. That exemption is now repeated. We are today exempting most regulated public utilities, the lumber industry (where prices are falling), and the price of coal sold under long-term contract. The Cost of Living Council will be studying other sectors for possible decontrol. It will also receive applications from firms or industries that can give assurance of reasonably non-inflationary behavior without controls. In all cases, of course, the Cost of Living Council will retain authority to reimpose controls.

BALANCING THE BUDGET

The key to success of our anti-inflation effort is the budget. If Federal spending soars and the deficit mounts, the control system will not be able to resist the pressure of demand. The most common cause of the breakdown of control systems has been failure to keep fiscal and monetary policy under restraint. We must not let that happen to us.

I am assured that the Federal Reserve will cooperate in the anti-inflation effort by slowing down the expansion of money and credit. But monetary policy should not, and cannot, be expected to exercise the needed restraint alone. A further contribution from the budget is needed.

I propose that we should now take a balanced budget as our goal for the present fiscal year. In the past I have suggested as a standard for the Federal budget that expenditures should not exceed the revenues that would be collected at full employment. We are meeting that standard. But in today's circumstances, that is only a minimum standard of fiscal prudence. When inflationary pressure is strong, when we are forced to emergency controls to resist that pressure, when confidence in our management of our fiscal affairs is low, at home and abroad, we cannot afford to live by that minimum standard. We must take as our goal the more ambitious one of balancing the actual budget.

Achieving that goal will be difficult, more difficult than it seems at first. My original expenditure budget for fiscal 1974 was $268.7 billion. Since that budget was submitted economic expansion, inflation and other factors have raised the estimated revenues to about the level of the original expenditure estimate. However, while that was happening the probable expenditures have also been rising as a result of higher interest rates, new legislation enacted, failure of Congress to act on some of my recommendations, and Congressional action already far advanced but not completed.

It is clear that several billion dollars will have to be cut from the expenditures that are already probable if we are to balance the budget. That will be hard, because my original budget was tight. However, I regard it as essential and pledge myself to work for it.

We should remember that a little over a year ago I set as a goal for fiscal year 1973 to hold expenditures within a total of $250 billion. There was much skepticism about that at the time, and suggestions that the number was for political consumption only, to be forgotten after the election. But I meant it, the people endorsed it and the Congress cooperated. I am able to report today that the goal was achieved, and total expenditures for Fiscal Year 1973 were below $249 billion.

I will take those steps that I can take administratively to reach the goal of a balanced budget for Fiscal Year 1974. I shall start by ordering that the number of Federal civilian personnel at the end of Fiscal Year 1974 total below the number now budgeted. The Office of Management and Budget will work with the agencies on this and other reductions. I urge the Congress to assist in this effort. Without its cooperation achievement of the goal cannot be realistically expected.

Despite the difficult conditions and choices we now confront, the American economy is stronger. Total production is about 6½ percent above a year ago, employment has risen by 3 million, real incomes are higher than ever. There is every prospect for further increases of output, employment and incomes. Even in the field of inflation our performance is better than in most of the world. So we should not despair of our plight. But we have problems, and they are serious in part because we and the rest of the world expect the highest performance from the American economy. We can do better. And we will, with mutual understanding and the support of the American people.

Executive Order—Further Providing for the Stabilization of the Economy

On June 13, 1973, I ordered a freeze for a maximum period of 60 days on the prices of all commodities and services offered for sale except the prices charged for raw agricultural products. At that time, I stated that the freeze period would be used to develop a new and more effective system of controls to follow the freeze. Planning for the Phase IV program has proceeded rapidly and I have, therefore, decided that the freeze on food, except for beef, should be removed and more flexible controls submitted in a two-stage process in the food industry. The first stage will be effective at 4:00 p.m. e.s.t., July 18, 1973. The freeze in other sectors of the economy will continue through August 12, 1973. I am also directing the Cost of Living Council to publish for comment now, proposed plans for Phase IV controls in other sectors of the economy. I have determined that this action is necessary to stabilize the economy, reduce inflation, minimize unemployment, improve the Nation's competitive position in world trade and protect the purchasing power of the dollar, all in the context of sound fiscal management and effective monetary policies.

Now, therefore, by virtue of the authority vested in me by the Constitution and statutes of the United States, particularly the Economic Stabilization Act of 1970, as amended, it is hereby ordered as follows:

Section 1. Executive Order 11723 establishing a freeze on prices effective 9:00 p.m., e.s.t., June 13, 1973, for a maximum period of 60 days is hereby superseded except as hereinafter provided. Under the provisions of Executive Order 11695, the freeze regulations issued by the Cost of Living Council, pursuant to the authority of Executive Order 11723 remain in effect except as the Chairman of the Cost of Living Council may modify them. The price freeze established by Executive Order 11723 remains in effect until 11:59 p.m., e.s.t., August 12, 1973, except to the extent the Chairman of the Cost of Living Council may modify it.

Section 2. All orders, regulations, circulars, rulings, notices or other directives issued and all other actions taken by any agency pursuant to Executive Order 11723, and in effect on the date of this order are hereby confirmed and ratified, and shall remain in full force and effect unless or until altered, amended, or revoked by the Chairman of the Cost of Living Council.

Section 3. This order shall not operate to defeat any suit, action, prosecution, or administrative proceeding, whether heretofore or hereafter commenced, with respect to any right possessed, liability incurred, or offense committed prior to this date.

Section 4. Executive Order 11695 continues to remain in full force and effect.

RICHARD NIXON,

THE WHITE HOUSE, *July 18, 1973.*

Proclamation Amending Part 3 of the Appendix to the Tariff Schedules of the United States With Respect to the Importation of Agricultural Commodities

(By the President of the United States of America)

A PROCLAMATION

Whereas, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), limitations have been imposed by Presidential proclamations on the quantities of certain dairy products which may be imported into the United States in any quota year; and

Whereas the import restrictions proclaimed pursuant to said section 22 are set forth in part 3 of the Appendix to the Tariff Schedules of the United States; and

Whereas the Secretary of Agriculture has reported to me that he believes that additional quantities of dried milk provided for in item 950.02 of the Tariff Schedules of the United States (hereinafter referred to as "nonfat dry milk") may be entered for a temporary period without rendering or tending to render ineffective, or materially interfering with, the price support program now conducted by the Department of Agriculture for milk or reducing substantialy the amount of products processed in the United States from domestic milk; and

Whereas, under the authority of section 22, I have requested the United States Tariff Commission to make an investigation with respect to this matter; and

Whereas the Secretary of Agriculture has determined and reported to me that a condition exists with respect to nonfat dry milk which requires emergency treatment and that the quantitative limitation imposed on nonfat dry milk should be increased during the period ending August 31, 1973, without awaiting the recommendations of the United States Tariff Commission with respect to such action; and

Whereas I find and declare that the entry during the period ending August 31, 1973, of an additional quantity of 80,000,000 pounds of nonfat dry milk will not render or tend to render ineffective, or materially interfere with, the price support program which is being undertaken by the Department of Agriculture for milk and will not reduce substantially the amount of products processed in the United States from domestic milk; and that a condition exists which requires emergency treatment and that the quantitative limitation imposed on nonfat dry milk should be increased during such period without awaiting the recommendations of the United States Tariff Commission with respect to such action;

Now, therefore, I, Richard Nixon, President of the United States of America, acting under and by virtue of the authority vested in me as President, and in conformity with the provisions of section 22 of the Agricultural Adjustment Act, as amended, and the Tariff Classification Act of 1962, do hereby proclaim that subdivision (vi) of headnote 3(a) of part 3 of the Appendix to the Tariff Schedules of the United States is amended to read as follows:

"(vi) Notwithstanding any other provision of this part, 25,000,000 pounds of dried milk described in item 115.50 may be entered during the period beginning December 30, 1972, and ending February 15, 1973, 60,000,000 pounds of such milk may be entered during the period beginning May 11, 1973, and ending June 30, 1973, and 80,000,000 pounds of such milk may be entered during the period beginning July 19, 1973, and ending August 31, 1973, in addition to the annual quota quantity specified for such article under item 950.02, and import licenses shall not be required for entering such additional quantities. No individual, partnership, firm, corporation, association, or other legal entity (including its affiliates or subsidiaries) may during each such period enter pursuant to this provision quantities of such additional dried milk totaling in excess of 2,500,000 pounds."

The 80,000,000 pound additional quota quantity provided for herein shall continue in effect pending Presidential action upon receipt of the report and recommendations of the Tariff Commission with respect thereto.

In witness whereof, I have hereunto set my hand this eighteenth day of July in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

RICHARD NIXON.

Fact Sheet—Economic Stabilization Program—Phase IV

BACKGROUND

On June 13th, the President announced a freeze on prices to last a maximum of sixty days. At that time, he indicated that the freeze period would be used to develop a new and more effective system of controls to follow the freeze. He specifically directed the Cost of Living Council to develop a Phase IV that would stabilize retail prices of both food and gasoline.

The President cautioned, however, that Phase IV would not be designed to get the U.S. permanently into a controlled economy. He promised to avoid action that would lead to rationing, black markets or a recession that would mean more unemployment. Finally, he emphasized that the real key to curbing food prices lies in increasing supplies rather than controls.

During the last month, Secretary Shultz Chairman of the Cost of Living Council, other members of the council, and Senior Staff officials of the Cost of Living Council have engaged in extensive consultations with consumers, businessmen, farmers, Congressional leaders, and government officials in all parts of the country. More than 30 meetings with over 400 individuals were conducted. In addition, the Cost of Living Council made available a list of 34 specific questions about the design of Phase IV. Businessmen, farmers and consumers were invited to submit written recommendations to the Cost of Living Council on the nature of Phase IV. More than 200 such proposals were received and fully reviewed. The recommendations ranged from complete elimination of controls to establishment of a permanent system of ceiling prices, rationing and a 250,000 man enforcement agency.

Although the freeze was keeping prices stable at the retail levels, it was causing business shut-downs and unemployment, resulting in supply shortages in some sectors.

Among the problems created by the freeze were situations where the cost of producing or distributing goods was above the freeze price. Confectioners, processed grain millers, poultry and egg producers, margarine and vegetable oil processors, and potato chip manufacturers faced costs greater than the price they could charge for their products. In some cases, low market prices prevailing during the base period, and in other cases freeze prices based on last year's crop, caused fresh fruit and vegetable farmers to incur losses and to change their normal patterns of distribution of items such as tomatoes, potatoes and celery.

OBJECTIVES OF ECONOMIC STABILIZATION PROGRAM

To moderate the rate of inflation which has existed in the United States during the first six months of 1973 and to do so with a minimum adverse effect on supply.

To continue expansion of U.S. economy to fulfill its potential with further increases in employment.

To strengthen the international position of the dollar.

To build confidence of business, industry, agriculture, the Congress, and consumers necessary to promote an increase in capacity and supply and to reduce long run inflationary forces.

To work with business, industry, agriculture, and the public to terminate controls as soon as possible in a manner which will avoid unacceptable rates of inflation after Phase IV.

FEATURES OF PHASE IV

A sector-by-sector approach with controls tailored around particular economic conditions of each sector.

Phased implementation of the program between now and September 12. (Implementation calendar attached.)

Publication of major parts of the program for public comment before their effective date of August 12, 1973 so that the constructive national dialogue begun during the consultations may be continued. In particular, proposed regulations for the industrial and service, retail and wholesale, petroleum and insurance sectors to be published on July 19.

More flexible exceptions policy to permit relief in cases of real hardship or to permit necessary supply increases.

Establishment of a senior committee of government officials to hear appeals and to continually assess exceptions and exemptions policy.

A request that Congress expedite action on anti-inflation legislative proposals, including authority for temporary export controls, authority to reduce tariffs temporarily in selected cases, authority for disposal of excess materials from the National Stockpile, authority for construction of the Alaska Pipeline, and farm legislation to permit farmers to earn higher income through greater production rather than higher prices.

FOOD

"Stage A" of the regulations for food become effective immediately.

The system of ceilings on beef prices established on March 29, will continue until September 12.

Price ceilings on all other agricultural products have been lifted to permit pass-through of only raw agricultural product cost increases incurred since June 8th by processors, distributors and retailers on a dollar-for-dollar basis. No cost other than raw material cost increases may be passed through. Decreases in raw agricultural costs must also be passed through. This system of controls on food products except beef will continue until September 12th at which time Stage B of the food controls go into effect.

"Stage B" of the food controls program will terminate the meat ceilings and permit pass-through of other cost increases in a dollar-for-dollar basis. This second stage of the food controls program will place the food sector under control rules similar to the rules for the industrial service, retail and wholesale sectors.

The Tariff Commission has been asked to review temporary suspension of import quotas on non-fat dry milk. In the meantime, an immediate increase of 80 million pounds for non-fat dry milk has been ordered on an emergency basis.

All remaining set aside acres are to be brought back into production in 1974.

Limitations on the export of soybeans and related products will be continued through the remainder of the current crop year. An export reporting system for agricultural commodities will be continued to provide information on the volume of planned export shipments.

INDUSTRIAL AND SERVICE SECTOR

Prices in the industrial and service sector will continue to be frozen until August 12th at which time the Phase IV regulations for this sector go into effect.

Mandatory regulations to take effect on August 12th will be issued tomorrow by the Cost of Living Council for public comment. These proposed regulations will:

Require prenotification by all firms with annual sales of more than $100 million, quarterly reporting by firms with annual sales or revenues of over $50 million, and annual reporting by nonexempt firms with annual sales less than $50 million and over 60 employees.

Establish a new base period for both prices and costs of the last fiscal quarter before January 11, 1973. The base price has already been calculated for CLC–2 forms used in Phase III.

Prohibit use of costs incurred prior to the new Phase IV base period as justification for price increases.

Permit costs to be passed-through only on a dollar-for-dollar basis.

Permit prices raised legally during Phase III to remain in effect; however, further price increases may be made only to cover cost increases incurred since the new base period.

Continue profit margin restraints in addition to other requirements to provide that profit margins may not be increased above the average for the best two out of a firm's last five fiscal years.

Reinstate the Phase II small business exemption (60 employees or fewer).

Permit price increases, which are prenotified to the Cost of Living Council after August 12, to be placed into effect after thirty days if the Cost of Living Council has taken no action to suspend, deny or cut back the price increase. The thirty-day period can be extended by the Cost of Living Council if necessary to obtain additional data justifying the proposed increase. The right is reserved to re-examine price increases after they are placed into effect.

Provide for exceptions to the new regulations only when necessary to relieve gross hardship or inequity or to provide for increased supplies and capacity.

NONFOOD WHOLESALE AND RETAIL SECTOR

Prices remain frozen until August 12 at which time Phase IV regulations become effective.

Regulations to be issued July 19 for public comment. These regulations will require:

Preapproval by the Cost of Living Council of pricing plans based on merchandise categories for companies with sales over $50 million.

Gross realized margin controls on these categories (sales minus cost of goods sold divided by sales).

Continuation of profit margin limitation.

GASOLINE AND PETROLEUM PRODUCTS

Proposed mandatory regulations controlling petroleum prices will be issued Thursday, July 19 by the Cost of Living Council for comment. These regulations, taking into account public comment, will go into effect on August 12.

The proposed regulations will provide two price ceilings: one on prices for gasoline, heating oil and diesel fuel; and, one on prices for domestic crude oil. Both ceilings will be reviewed and adjusted as appropriate.

Ceiling prices and octane ratings must be posted on each gasoline pump.

Increased crude production (new crude petroleum beyond corresponding 1972 levels) from each producing property and an equal amount of current production (old crude petroleum) will be exempt from the ceiling.

The price at which a wholesaler or retailer will be allowed to resell products (other than gasoline, heating oil and diesel fuel) is his cost of product plus his actual dollar-for-dollar markup applied to that product on January 10, 1973.

A manufacturer may not charge a price which exceeds his May 15, 1973 price without prenotification, except to reflect increased cost of imports subsequent to May 15, 1973 and to reflect increased costs of domestic crude petroleum excepted from the ceiling.

Lease agreements between a gasoline manufacturer and gasoline retailer will be held to the terms and conditions as of May, 1973.

HEALTH

On July 19, providers of health services will be removed from the freeze, although they continue to be subject to the mandatory Phase III controls.

This action is effective retroactively to July 1, 1973 for the purpose of determining price increases under cost reimbursement contracts.

The Health Industry Advisory Committee has been directed to develop detailed recommendations to the Cost of Living Council so that revised controls for hospitals and nursing homes can become effective no later than October 1st. The objectives of the modifications in the control rules in this sector are:

To reduce the inflationary rate of increase in the cost of hospital stay.

To moderate the proliferation of new services and selectively control capital expenditures.

To provide economic incentives for the substitution of less expensive ambulatory care in place of inpatient hospital care where possible.

To provide for the development of state—not Federal—administration of health care controls.

To maximize internal flexibility and incentives for health care managers to improve productivity.

To be responsive to cost saving innovations, such as health maintenance organizations and prospective reimbursement plans.

The Cost of Living Council will also consider revisions in the controls for doctors, dentists and other non-institutional providers of health care.

INSURANCE

Proposed mandatory regulations for the insurance industry will be published by the Cost of Living Council for public comment on July 19. These regulations will become effective, taking into account public comment, on August 12th.

Health, property-liability, and credit life insurance will be subject to mandatory controls on premium increases. Prenotification of significant rate increases by the largest insurers will be required, and smaller insurers will be required to report periodically to the Cost of Living Council.

Formulas for calculating rate changes used in Phase II will be modified to reflect experience gained during the controls program.

As in Phase II, state insurance commissioners will be called on to make determinations as to whether the Cost of Living Council should approve proposed rate changes.

CONSTRUCTION

On July 19, mandatory regulations for prices in the construction industry will be issued, to become effective on August 12. These regulations will be similar to those issued near the end of Phase III.

The regulations will establish special rules applicable to prices charged for construction operations, reaffirm profit margin limitations and provide a procedure for renegotiation of fixed price construction contracts where wages have been reduced.

WAGES

The general wage and benefit standards of Phase II and Phase III will be retained. More detailed information for reporting wage and benefit increases will be required.

Notification of wage and benefit increases by the largest bargaining units will be continued to be required. Prenotification will be regulated in individual cases.

A new organizational component of the Cost of Living Council has been established to review wage and salary and benefit increases in the state and local government sector.

ENFORCEMENT AND PENALTIES FOR VIOLATION

The staff of the Cost of Living Council and the IRS is being substantially augmented to administer and enforce the new Phase IV controls.

Administrative sanctions will be imposed for violation of the price or wage standards and for failure to comply with prenotification and reporting requirements. In addition, judicially imposed civil penalties will be sought where appropriate.

PHASE OUT OF CONTROLS

The Labor-Management Advisory Committee of the Cost of Living Council will be requested to advise further on the orderly phase out of mandatory controls.

The Cost of Living Council will work directly with representatives of special economic sectors to develop plans and commitments for sufficient supply expansion to ensure reasonable prices, as part of a plan to terminate mandatory controls for those sectors.

Rate increases by public utilities, as defined during Phase III, have been exempted from direct Phase IV controls although the Cost of Living Council reserves the right to reimpose mandatory controls on this sector if necessary to achieve the objectives of the program. Almost all public utility rates are already controlled by federal, state or local regulatory bodies. Duplication of price controls on this sector would be unnecessary to ensure that utility rate increases are non-inflationary and provide for adequate service, necessary expansion and minimum rates of return.

Wages and prices in the lumber and plywood industry have also been exempted from Phase IV controls. Price decreases in this sector have been common in recent months, and competitive forces are expected to exert continued restraint on price levels throughout the remainder of the year.

Long-term contracts for production coal mines have also been exempted to provide an incentive for increased supplies of coal to mitigate the energy crisis.

CALENDAR OF PHASE IV ACTIONS

Program Announcement, July 18.
Stage I of Food Regulations:
Ceilings on Beef Continued.
Dollar-for-Dollar Passthrough of other raw agricultural costs permitted.
Freeze on Industrial Prices continued
Proposed Non-Food Regulations Issued for Comment:
Industrial Regulations, July 19.
Insurance Regulations, July 19.
Petroleum Regulations, July 19.
Non-Food Regulations Become Effective:
Health Regulations, July 19.
Construction Regulations, August 12.
Industrial Regulations, August 12.
Petroleum Regulations, August 12.
Insurance Regulations, August 12.
Stage II of Food Regulations, August 12.
Beef Ceilings Terminated; All Food Prices Subject to Cost-Pass-Through Regulations, September 12.

AWARDS PRESENTATIONS, THE ETHEL PERCY ANDRUS GERONTOLOGY CENTER, UNIVERSITY OF SOUTHERN CALIFORNIA, FEBRUARY 13, 1973

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PERKINS. Mr. Speaker, in February of this year, the Ethel Percy Andrus Gerontology Center of the University of Southern California instituted a new series of awards for distinguished contributions in the field of aging.

The first of these awards were presented in conjunction with the dedication of the center's impressive new facilities.

Mr. Speaker, the recipient of the award for Outstanding Public Service in the Field of Aging was our distinguished colleague from Indiana, Mr. BRADEMAS.

Joining the gentleman from Indiana in accepting awards were: Dr. Nathan W. Shock, chief of the gerontology research center at Baltimore City Hospital, Md., who received the Kesten Memorial Award for his contributions to biomedical sciences and aging; and Dr. Bernice L. Neugarten of the University of Chicago for her outstanding contributions to social science and aging.

Dr. Arthur S. Flemming, the distinguished Chairman of the 1971 White House Conference on Aging, who has recently been named Commissioner on Aging in the Department of Health, Education, and Welfare, accepted a special award presented to the 1971 White House Conference.

Mr. Speaker, I ask unanimous consent to insert the proceedings of the award ceremony at this point in the RECORD.

PRESENTATION OF AWARDS FOR DISTINGUISHED CONTRIBUTIONS IN THE FIELD OF GERONTOLOGY, ETHEL PERCY ANDRUS GERONTOLOGY CENTER, UNIVERSITY OF SOUTHERN CALIFORNIA, FEBRUARY 13, 1973

(By James E. Birren, Ph. D., Director, Ethel Percy Andrus Gerontology Center)

I am pleased to inaugurate a presentation of awards for distinguished contributions in the field of gerontology. The purpose of these awards is to recognize the efforts of those individuals who by their talents, courage and enterprise have made contributions of such merit to the field of aging that we wish to take a moment to accord to them public acclaim for their efforts. This has to be done with obvious humility—for how can one contrive a suitable acknowledgement for someone who has devoted years of constructive effort in their career.

I hope that this is but the first such annual awards presentation, to give evidence that efforts of individual leadership in the field of aging are not going unnoticed or unappreciated.

This past year the faculty staff and students of the Gerontology Center concurred in their desire to give recognition for outstanding contributions in the field of aging. Nominations were invited from all members of the Center for distinguished contributions in biomedical research, social science research, and public service. Following the nominations a long ballot was submitted to all members of the Center for their vote. Those persons who receive awards this evening were judged by their peers and admirers to have made notable contributions in the field of gerontology during this past decade.

The Gerontology Center was fortunate to receive an endowment for an annual lectureship in gerontology. This endowment was set up by Mr. and Mrs. Alan Davis in the memory of their grandparents, Isador and Esther Kesten. To honor our first awardee and Kesten lecturer will be the Chancellor of the University, Dr. Norman Topping. It is particularly suitable for Dr. Topping to make this award in biomedical research since his own career has been, among many other accomplishments, intimately associated with biomedical research.

Those of you who are recent friends of the University may not be aware of the fact that our Chancellor had a distinguished career in medical science and published articles based upon his research in typhus, Q fever, spotted fever, and public health. It is also appropriate that in one of his previous positions as assistant surgeon general of the Public Health Service he was associate director of the National Institutes of Health in Bethesda, Maryland. In this capacity he was our awardee's chief. The Gerontology Center is one of the functions of the University of Southern California that Dr. Topping has helped so intimately. It gives me particular pleasure to ask our former president and now Chancellor of the University to present the Kesten award.

COMMENTS BY DR. TOPPING ABOUT DR. NATHAN W. SHOCK

The name of our Kesten awardee, Dr. Nathan Shock, is familiar to anyone involved in research on aging. He has had since 1941 a full-time career in leading the development of research on aging. In 1941 Dr. Shock went to Baltimore, Maryland to organize a research unit on aging for the U.S. Public Health Service. At that time it had only two men employed. Now it is perhaps the largest single facility devoted exclusively to research on aging in the Western Hemisphere.

Dr. Shock is now in the process of summarizing important information from a longitudinal study of human aging. He initiated a long term physiological study of community residing men that now extends over six hundred subjects from ages 15 to 96 years.

His publications include more than 200 original research articles including those on changes in kidney function, age changes in cardiovascular and respiratory function, and the effects of physical activity on the processes of aging.

As the immediate past president of the International Association of Gerontology, he was deeply involved in the planning of the International Congress of Gerontology held in Kiev, Russia in July 1972. We are pleased to honor you Dr. Shock with the Kesten award to recognize the pioneering and sustained basic contributions to biomedical research in aging.

Mr. BIRREN. The next award to be given for distinguished contribution in social science research on aging will be presented by Dr. Vern L. Bengtson, associate professor of sociology of the University of Southern California. His personal research in dealing with social changes in aging includes the responsibilities for a large study of generational differences in mental health. He received his doctorate from the University of Chicago where he was a student of the next awardee. For both professional and personal reasons it is highly appropriate that we ask Dr. Bengtson to present the next award.

COMMENTS OF DR. BENGTSON ABOUT DR. BERNICE L. NEUGARTEN

As Dr. Birren has just indicated I was a student of Dr. Bernice L. Neugarten who will receive this award for outstanding contribution to Social Science and Aging.

Bernice Neugarten is a luminary in the field of gerontology. As a researcher, she has successfully bridged two disciplines—psychology and sociology—in making discoveries concerning the aging process. Her work on the sociology of age-grading, age norms, and the social structure of the urban community has attracted wide attention; she is probably even better known for her research on personality and patterns of aging. She has pioneered in research on menopausal women; in cross-cultural and inter-generational research; and in investigations on successful career patterns in middle age.

Equally important is her contribution as a teacher. Several generations of students—now productive young scholars in the field of gerontology—have prospered from her direction and inspiration. The most popular of teachers, she can infuse enthusiasm into gerontological topics and strip bare the essential ideas of the most vaguely-stated premise.

Third, her mastery as an administrator and leader has strengthened the field. She has enhanced and developed institutions linked to the study of the life-cycle—the Committee of Human Development of the University of Chicago, of which she has served two terms as chairman; the Gerontological Society, of which she has been president; and the many study sections and committees of the National Institutes of Health in which she has participated.

Most of all, in the light of this list of productive contributions, is her depth and warmth as a human being. A whirlwind of energy and productivity, she makes people feel better for having been touched by her. She has beautifully combined careers of wife and mother with that of teacher and scholar. For many of us, she is friend as well as mentor, giver as well as taker.

I first met Bernice Neugarten in 1963 when I was a senior in a college. At that time I was looking desperately for a way to stay in the Chicago area for graduate school. Bernice interviewed me for a possible fellowship in adult development and aging. I've never felt so much in awe before or since of this tiny dynamo of words and questions which laid bare my motivations and capacities within a matter of minutes. If my inducements to begin study in the field of aging were personal and financial, the reasons for staying in the area were in large part due to the intellectual excitement generated by Bernice Neugarten. She can infuse enthusiasm in the most abstract of analyses and tear apart sloppy thinking. She has also provided me and many others with boundless quantities of support and encouragement.

Mr. BIRREN. To present the next award for public service is Mr. Uranus Appel, Vice Chairman of the Board of Councillors of the Gerontology Center. Mr. Appel has been a close friend and major donor of the Gerontology Center and is president of American Medical Enterprises. With personal appreciation I would like to turn to Bob Appel to have him introduce our next awardee.

REMARKS OF MR. APPEL ABOUT THE HONORABLE JOHN BRADEMAS

The person to receive our award for outstanding public service in aging is a scholar, a public figure, and a gentleman in the full sense of the word. John Brademas was elected to the United States House of Representatives in 1958 when he was but 31 years of age. Now in his eighth term in Congress, he has been appointed Chief Deputy Whip for the Majority, by Speaker Albert and the new Majority Leader, Thomas O'Neill. As a scholar John Brademas was a graduate of Harvard, Magna Cum Laude, in 1949. In 1950 he entered studies as a Rhodes scholar at Oxford University, England, receiving a Ph.D. in social studies in 1954. In 1972 he was elected an honorary fellow of his old college in Oxford, Brasenose College. This background, plus his activities in legislation, has certainly earned for him the title that a national magazine described "Mr. Education" in Congress. He was a co-sponsor of the Nutrition for the Elderly Act, Older Americans Amendments of 1969, and has supported and introduced other important legislation in the field of aging.

His list of awards is long and detailed. None, however, I trust, are given with as much appreciation for his career in public service as this award. With it are expressed our expectations and hopes for a long and constructive future in legislation to improve the quality of life for the elderly of America.

Mr. BIRREN. It is appropriate at a time of awards to represent the students who are our hope for the future. To present the next award is the President of the Graduate Student Council of the Gerontology Center, Mrs. Eleanore Lisa Pomeroy. She came to the University of Southern California as a graduate student in psychology from the University of Texas with masters degree in 1970. Her native enthusiasm and constructive outlook on life is apparent to all who work with her and makes it entirely appropriate that she represent the coming generation of scholars, researchers and professionals who will soon provide the leadership in the field of gerontology.

REMARKS OF MRS. POMEROY ABOUT DR. ARTHUR S. FLEMMING

As a graduate student still facing examinations, and dissertation writing, you can understand that I might be a little apprehensive in presenting our next award since Dr. Arthur S. Flemming has been president of three institutions of higher learning, Ohio Weslyan University, University of Oregon, and Macalester College.

In December 1971 a notable event was held for those of us gathered here this evening. It was the White House Conference on Aging. It culminated ten years of thinking, hopes and activities. We wish to make an award on behalf of the accomplishment of the White House organization before, during and after. The activities of thousands of persons, government and private, professional and lay, old and young went into that activity. No one epitomizes it more than the man who was chairman of the National Planning Board of the 1971 White House Conference on Aging. Few men in public life have the opportunity to serve as many public and educational roles as Dr. Flemming. To give you a few indications he was Secretary of the Department of Health, Education and Welfare. He is a member of the President's Advisory Committee on Government Organization, he is a Vice President of the National Council of Churches of Christ in America and has served as a member or chairman of many committees and commissions. For example: the War Manpower Commission, and more recently he is serving as a special consultant to the President of the United States on aging.

I am very pleased to speak for my fellow students and to present this award, on behalf of the 1971 White House Conference on Aging, to Dr. Arthur Flemming a public figure who impresses many of us as being a personal professional career model.

Mr. BIRREN. We have now concluded the formal awards ceremony. You will note that we did not make an award in the Humanities this year. I hope that there will be another awards banquet next year and that we will have an opportunity to make an award, along with those of other fields, to some person whose contributions in humanities have dignified and enlarged life in the later years. Before leaving this part of the program I wanted to take the opportunity to thank all the faculty, staff and students of the Gerontology Staff for their efforts in bringing a sense of community to the building that we have just dedicated. I cannot this evening in any way detail their contribution but without their loyalty and efforts there would not now be a building or a Center.

A successful awards banquet, like the completion of the building we have just dedicated, requires the cooperation of many persons. Were it not for the generous gifts of the members of the American Association of Retired Persons and the National Retired Teachers Association we would not have today a building whose activities are directed to the future. The individual donors and corporate contributors were many. I cannot name them all this evening but this should not belie the fact that we are deeply grateful for the generosity.

PROPOSAL TO HOLD EXPOCUBA IN NEW YORK CITY

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ICHORD. Mr. Speaker, plans are being made by supporters of Cuban Communist dictator, Fidel Castro, here in the United States to celebrate the 20th anniversary of Castro's July 26 movement by holding a so-called ExpoCuba in New York City July 26–29, 1973.

The 26th of July, 1953, was the date when Castro and a band of his Communist rebel followers attacked the Moncada Garrison in Cuba during the period when Fulgencia Batista was still President of that island country. The attack failed and most of the participants were killed. However, Fidel Castro escaped and announced that this event marked the launching of guerrilla warfare aimed at the destruction of the Batista government and the installation of a Communist regime.

Of course, in those days, Castro said nothing about communism, per se, because he well understood that to reveal his real intentions and political philosophy would be to destroy any opportunity for taking over Cuba and its people.

But 6 years later he did take over and he promptly doffed his mantle as a democratic liberator to put on his real grab as a Communist determined to impose a Marxist-Leninist tyranny over the Cuban people.

Now, after 14 years of Castro's iron rule and his continued exportation of subversion and terrorism throughout the Western Hemisphere and even to the shores of Africa, we find Americans ready to extol the virtues of communism in Cuba while publicly denouncing the U.S. Government and its policy of opposing the spread of Castro communism both to ourselves and to our neighbors in Latin America.

ExpoCuba appears to enjoy widespread support from those extremists among our own citizens who traveled to Cuba over recent years as members of what is known as the Venceremos Brigade.

The exhibition, hailed by its promoters as a "festival of revolutionary change," will be held in the Martin Luther King Labor Center, Local 1199, 310 West 43d Street, New York City. It will feature films, books, posters, records, and a photographic display allegedly demonstrating the progress Cuba has made under Castro and communism.

Mr. Speaker, I think the Members of this House will also be interested in noting that a series of panel discussions, lectures, and presentations will be made at ExpoCuba on why the United States must give up the Panama Canal, why Puerto Rico should be independent, and a number of related subjects designed to assault and embarrass the people and Government of the United States.

Also justifiably angered by the announced plans for ExpoCuba are the thousands of Cuban exiles who have regained the fresh air of a freedom they once knew but lost in Cuba by risking their life's possessions and even their lives to settle in the United States. They are especially bitter, I am advised, that the city of New York, or any other U.S. city for that matter, should be used as a site for heaping praise on Cuba's tyrant while heaping abuse on our own American Government.

Just what the Cuban community in our country plans to do to protest ExpoCuba this month I am not presently prepared to say but I certainly want to offer this as my personal protest against the holding of this obviously pro-Communist exhibition in New York.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Messrs. ROE, MILFORD, GUNTER, WINN, CAMP, and HANNA (at the request of Mr. HANNA), on account of official business.

Mr. BLATNIK (at the request of Mr. O'NEILL), for today and July 20, on account of official business.

Mr. DANIELSON (at the request of Mr. O'NEILL), for today, on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARTIN of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. ROBISON of New York, for 15 minutes, today.

Mr. RAILSBACK, for 10 minutes, today.

Mr. COHEN, for 5 minutes, today.

Mr. ANDERSON of Illinois, for 10 minutes, today.

Mr. HORTON, for 10 minutes, today.

(The following Members (at the request of Mr. JONES of Oklahoma), to revise and extend their remarks, and to include extraneous matter:)

Mr. HARRINGTON, for 5 minutes, today.

Mr. ASPIN, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. DRINAN, for 10 minutes, today.

Mr. RUNNELS, for 5 minutes, today.

Mr. WOLFF, for 5 minutes, today.

Mr. MELCHER, for 10 minutes, today.

Mr. GIBBONS, for 5 minutes, today.

Mr. TIERNAN, for 5 minutes, today.

Mr. BURKE of Massachusetts, for 10 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, on July 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. STRATTON, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $627.

Mr. STRATTON, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,560.35.

Mr. ICHORD, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $888.25.

Mr. ROBERTS.

Mr. MICHEL to follow the remarks of Mr. HUBER during consideration of the farm bill today.

Mr. SEIBERLING, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $627.

(The following Members (at the request of Mr. MARTIN of North Carolina), and to include extraneous material:)

Mr. FREY.

Mr. DERWINSKI.

Mr. FORSYTHE.

Mr. ANDERSON of Illinois in two instances.

Mr. SYMMS in two instances.

Mr. MCCLOSKEY.

Mr. HOSMER in two instances.

Mr. BELL in two instances.

Mr. KEMP in three instances.

Mr. QUIE.

Mr. RAILSBACK in three instances.

Mr. WYATT.

Mr. LENT.

Mr. GOLDWATER.

Mr. FRENZEL.

Mr. DICKINSON.

Mr. HOGAN.

Mr. HINSHAW.

Mr. BRAY in four instances.

Mr. NELSEN.

Mr. FINDLEY.

Mr. SHOUP.

Mr. DU PONT.

Mr. WYMAN.

(The following Members (at the request of Mr. JONES of Oklahoma), and to include extraneous matter:)

Mr. EVINS of Tennessee in two instances.

Mr. ROGERS in 10 instances.

Mr. GONZALEZ, in three instances.

Mr. RARICK in three instances.

Mr. EVANS of Colorado.

Mr. MOAKLEY in five instances.

Mr. CARNEY of Ohio in two instances.

Mr. ASPIN in 10 instances.

Mr. HARRINGTON in three instances.

Mr. GAYDOS in 10 instances.

Mr. WALDIE in two instances.

Mrs. GRIFFITHS.

Mr. HAWKINS.

Mr. TEAGUE of Texas in six instances.

Mr. OBEY in three instances.

Mr. FUQUA.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 118. Joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States; to the Committee on Education and Labor.

ADJOURNMENT

Mr. JONES of Oklahoma. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Friday, July 20, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1162. A letter from the Assistant Secretary of Agriculture, transmitting a report on activities under the Horse Protection Act of 1970 (Public Law 91-540), pursuant to section 11 of the act; to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

1163. A letter from the Comptroller General of the United States, transmitting a report on actions needed to provide greater insurance protection to flood-prone communities, under the Federal Insurance Administration of the Department of Housing and Urban Development; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DULSKI: Committee on Post Office and Civil Service. Report on Improved Manpower Management in the Federal Government—Examples for the period July through December 1972. (Rept. No. 93–384). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE of Illinois: Joint Committee on Atomic Energy. H.R. 8867. A bill to amend the EURATOM Cooperation Act of 1958, as amended; (Rept. No. 93–385). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R. 9395. A bill to provide for the enforcement of support orders in certain State and Federal courts, and to make it a crime to move or travel in interstate and foreign commerce to avoid compliance with such orders; to the Committee on the Judiciary.

By Mr. ANDERSON of Illinois (for himself and Mr. Horton):

H.R. 9396. A bill to reorganize and consolidate certain functions of several Federal agencies and departments in a new Criminal Justice Services Administration in the Department of Justice to promote more effective operations and management of the federal system of criminal justice; to the Committee on the Judiciary.

By Mr. BELL (for himself, Mr. Burgener, Mr. Cleveland, Mr. Hastings, Mr. Horton, Mr. Ichord, Mr. Parris, Mr. Robinson of Virginia, Mr. Whitehurst, and Mr. Won Pat):

H.R. 9397. A bill to reform the budgetary process of the Congress to improve congressional control over the budget and national priorities, to provide for a legislative budget director and staff, and for other purposes; to the Committee on Rules.

By Mr. BIAGGI:

H.R. 9398. A bill to prohibit the imposition by the States of discriminatory burdens upon interstate commerce in wine, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM:

H.R. 9399. A bill to improve the conduct and regulation of Federal election campaign activities and to provide public financing for such campaigns; to the Committee on House Administration.

H.R. 9400. A bill to establish an arbitration board to settle disputes between supervisory organizations and the U.S. Postal Service; to the Committee on Post Office and Civil Service.

By Mr. BROYHILL of Virginia:

H.R. 9401. A bill to amend the act entitled "An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system"; to the Committee on the District of Columbia.

By Mr. CAMP:

H.R. 9402. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER:

H.R. 9403. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. DON H. CLAUSEN:

H.R. 9404. A bill to protect, enhance, and improve fishery and wildlife resources in the construction and operation of Federal public works projects; to the Committee on Interior and Insular Affairs.

By Mr. EDWARDS of California:

H.R. 9405. A bill to amend the Immigration and Nationality Act to reduce to 1 year the period of residence and physical presence required for the naturalization of children adopted by U.S. citizens; to the Committee on the Judiciary.

By Mr. FREY:

H.R. 9406. A bill to amend the guaranteed student loan provisions of the Higher Education Act of 1963 relating to eligibility for interest subsidy; to the Committee on Education and Labor.

H.R. 9407. A bill establishing a Council on Energy Policy; to the Committee on Interstate and Foreign Commerce.

By Mr. HANNA:

H.R. 9408. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of certain financial institutions to governmental agencies, and for other purposes; to the Committee on Banking and Currency.

By Mr. HUTCHINSON (for himself and Mr. Keating):

H.R. 9409. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. JARMAN:

H.R. 9410. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. KING:

H.R. 9411. A bill to amend title II of the Social Security Act to provide that illegitimate children of old age insurance beneficiaries may become entitled to child's insurance benefits in certain additional cases; to the Committee on Ways and Means.

By Mr. MATHIS of Georgia:

H.R. 9412. A bill to amend chapter 34 of title 38, United States Code, to extend the time period within which veterans may be entitled to educational assistance under such chapter after their discharge or release from active duty; to the Committee on Veterans' Affairs.

By Mr. MATSUNAGA:

H.R. 9413. A bill to amend the Tariff Act of 1930 so as to exempt commercial aircraft entering or departing from the United States at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees, and for other purposes; to the Committee on Ways and Means.

By Mr. MELCHER (for himself, Mr. Ashley, Mr. Blackburn, Mr. Butler, Mr. Dan Daniel, Mr. Dickinson, Mr. Dorn, Mr. Hinshaw, Mr. Lott, Mr. McCormack, Mr. Milford, Mr. Shuster, Mr. Treen, Mr. Veysey, Mr. Walsh, Mr. Charles Wilson of Texas, Mr. Wyatt, and Mr. Young of South Carolina):

H.R. 9414. A bill to amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil and gas pipeline, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MOAKLEY:

H.R. 9415. A bill to provide a remedy for sex discrimination by the insurance business with respect to the availability and scope of insurance coverage for women; to the Committee on Interstate and Foreign Commerce.

H.R. 9416. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act so as to amend certain labeling provisions of the food, drug, and cosmetic chapters to assure adequate information for consumers, including cautionary labeling of articles where needed to prevent accidental injury; expand the coverage of the Delaney Clause to apply to mutagenic and teratogenic agents; eliminate the Grandfather's Clause for pre-1958 chemical additives used in food; require nutritional labeling of foods; require labeling of all ingredients in foods, listed in order of predominance; prohibit worthless ingredients in special dietary foods; authorize the establishment of standards for medical devices; require medical devices to be shown safe and efficacious before they are marketed commercially; require all antibiotics to be certified; provide for the certification of certain other drugs; require records and reports bearing on drug safety; limit the distribution of sample drugs; require cosmetics to be shown safe before they are marketed commercially; clarify and strengthen existing inspection authority; make additional provisions of the act applicable to carriers; provide for administrative subpenas; provide for strengthening and facilitating mutual cooperation and assistance, including training of personnel, in the administration of that act and of related State and local laws; prohibit the use of carcinogenic color additives in animal feeds; safeguard the health of children by banning sweetened or flavored aspirin from commerce; authorize a system of coding for prescription drugs; establish a U.S. Drug Compendium; provide additional authority to insure the wholesomeness of fish and fishery products; and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 9417. A bill to carry out the recommendations of the Presidential Task Force on Women's Rights and Responsibilities, and for other purposes; to the Committee on the Judiciary.

By Mr. MOLLOHAN:

H.R. 9418. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. OBEY:

H.R. 9419. A bill to protect the public health and welfare by providing for the inspection of imported dairy products and by requiring that such products comply with certain minimum standards for quality and wholesomeness and that the dairy farms on which milk is produced and the plants in which such products are produced meet certain minimum standards of sanitation; to the Committee on Agriculture.

By Mr. PARRIS:

H.R. 9420. A bill to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams; to the Committee on Interstate and Foreign Commerce.

By Mr. PERKINS:

H.R. 9421. A bill to amend the Federal Trade Commission Act (15 U.S.C. 44, 45) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

By Mr. PODELL:

H.R. 9422. A bill to amend title IV of the Social Security Act to make it clear that an individual who is not working because of a strike or other labor dispute will be considered unemployed for purposes of aid with respect to dependent children of unemployed fathers; to the Committee on Ways and Means.

By Mr. ROE:

H.R. 9423. A bill to authorize the appropriation of such funds as may be necessary to effectuate the transfer of all naval weapons range activities from the island of Culebra to the islands of Desecheo and Monito not later than July 1, 1975; to the Committee on Armed Services.

By Mr. STARK:

H.R. 9424. A bill to govern the disclosure of certain financial information by financial institutions to governmental agencies, to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing disclosure of such information, and for other purposes; to the Committee in Banking and Currency.

By Mrs. BURKE of California:

H.R. 9425. A bill to require that funds be made available for replacement housing in connection with certain highway programs; to the Committee on Public Works.

By Mr. GINN:

H.R. 9426. A bill to amend the Anti-Smuggling Act to provide that a vessel may be prohibited from entering or remaining in the United States, or may be required to post a bond, if any person who owns, controls, or has a monetary interest in such vessel has participated in illegal importation of narcotics; to the Committee on Ways and Means.

By Mr. HARRINGTON:

H.R. 9427. A bill to require the labeling of energy-intensive consumer goods with respect to the annual energy costs of operating these goods for an average owner; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRINGTON (for himself and Mr. Helstoski):

H.R. 9428. A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers; to the Committee on Post Office and Civil Service.

By Mr. HÉBERT (by request):

H.R. 9429. A bill to authorize the disposal of opium from the national stockpile; to the Committee on Armed Services.

By Mr. HÉBERT (for himself, Mr. Passman, Mr. Waggonner, Mr. Rarick, Mr. Breaux, Mr. Long of Louisiana, Mr. Treen, Mr. Gray, Mr. O'Neill, Mr. McFall, Mr. Blatnik, Mr. Harsha, Mr. Grover, and Mr. Price of Illinois):

H.R. 9430. A bill to name the U.S. courthouse and Federal office building under construction in New Orleans, La., as the Hale Boggs Federal Building, and for other purposes; to the Committee on Public Works.

By Mr. McCLOSKEY:

H.R. 9431. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MORGAN (for himself, Mr. Gaydos, Mr. Moorhead of Pennsylvania, Mr. Dominick V. Daniels, Mr. Nix, Mr. Rooney of Pennsylvania, Mr. Barrett, Mr. Clark, Mr. Vigorito, and Mr. Eilberg):

H.R. 9432. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; to the Committee on Education and Labor.

By Mr. RAILSBACK (for himself, Mr. Anderson of Illinois, Mr. Cohen, and Mr. Horton):

H.R. 9433. A bill relating to the employment and training of criminal offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 9434. A bill to encourage consideration of nonstructural alternatives to flood damage prevention; to the Committee on Public Works.

H.R. 9435. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for depreciation on capital expenditures incurred in connecting residential sewerlines to municipal sewage systems; to the Committee on Ways and Means.

By Mr. ROONEY of Pennsylvania (for himself, Mr. Charles H. Wilson of California, Mr. Podell, Mr. Ware, Mr. Nix, Mr. Brown of California, Mr. Forsythe, Mr. Corman, Mr. McDade, Mr. Hechler of West Virginia, Mr. Won Pat, Mr. Roe, Ms. Abzug, Mr. Carey of New York, Mr. Kyros, Mr. Harrington, Mr. Moss, Mr. Gaydos, and Mr. Eckhardt):

H.R. 9436. A bill to amend section 402 of title 23, United States Code, to extend certain deadlines relating to apportionment of highway safety funds, and for other purposes; to the Committee on Public Works.

By Mr. STAGGERS:

H.R. 9437. A bill to amend the International Travel Act of 1961 to authorize appropriations for fiscal years 1974, 1975, and 1976; to the Committee on Interstate and Foreign Commerce.

By Mr. STEIGER of Wisconsin (for himself, Mr. Robison of New York, Mr. Anderson of Illinois, and Mr. Esch):

H.R. 9438. A bill to confer U.S. citizenship on certain Vienamese children and to provide for the adoption of such children by American families; to the Committee on the Judiciary.

By Mr. SYMINGTON:

H.R. 9439. A bill to establish a national flood plain policy and to authorize the Secretary of the Interior, in cooperation with Federal agencies and the States, to encourage the dedication of the Nation's flood plains as natural floodways, to protect, conserve, and restore their natural functions and resources, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WALDIE:

H.R. 9440. A bill to provide for access to all duly licensed psychologists and optometrists without prior referral in the Federal employee health benefits program; to the Committee on Post Office and Civil Service.

By Mr. GONZALEZ:

H.J. Res. 674. Joint resolution to designate February 10 to 16, 1974, as "National Vocational Education and National Vocational Industrial Clubs of America (VICA) Week"; to the Committee on the Judiciary.

By Mr. ROE:

H.J. Res. 675. Joint resolution to provide for the issuance of a special postage stamp in commemoration of Guglielmo Marconi; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY:

H. Con. Res. 269. Concurrent resolution requesting the President to proclaim August 26, 1973, as "National Women's Suffrage Day"; to the Committee on the Judiciary.

By Mr. WINN:

H. Con. Res. 270. Concurrent resolution expressing the sense of the Congress that no person should be considered for appointment as ambassador or minister if such person or members of his immediate family have contributed more than $5,000 to a candidate for President in the last election; to the Committee on Foreign Affairs.

By Mr. GUDE (for himself, Mr. Fraser, Mr. Brown of California, Mr. Burton, Mr. Corman, Mr. Coughlin, Mr. Davis of Georgia, Mr. Drinan, Mr. Forsythe, Mr. Harrington, Mr. Metcalfe, Mr. Mitchell of Maryland, Mr. Nix, Mr. Obey, Ms. Schroeder, Mr. Seiberling, Mr. Vanik, and Mr. Won Pat):

H. Res. 497. Resolution expressing the sense of the House that the U.S. Government should seek agreement with other members of the United Nations on prohibition of weather modification activity as a weapon of war; to the Committee on Foreign Affairs.

By Mr. GUDE (for himself, Mr. Fraser, Ms. Abzug, Mr. Bingham, Mr. Cohen, Mr. Conyers, Mr. Dellums, Mr. Eckhardt, Mr. Edwards of California, Mr. Eilberg, Mr. Frenzel, Ms. Holtzman, Mr. Howard, Mr. McCloskey, Mr. McDade, Mr. Moss, Mr. Rodino, Mr. Rosenthal, Mr. Sarbanes, Mr. Stark, Mr. Stokes, Mr. Studds, Mr. Thompson of New Jersey):

H. Res. 498. Resolution expressing the sense of the House that the U.S. Government should seek agreement with other members of the United Nations on prohibition of weather modification activity as a weapon of war; to the Committee on Foreign Affairs.

By Mr. UDALL (for himself, Mr. Young of Texas, and Mr. Long of Louisiana):

H. Res. 499. Resolution to amend the Rules of the House of Representatives with respect to the time of putting the question on motions to suspend the rules and pass bills and resolutions; to the Committee on Rules.

MEMORIALS

Under clause of rule XXII, memorials were presented and referred as follows:

282. By Mr. DICKINSON: Memorial of the State of Alabama requesting that the President and Congress do all in their power to secure the release and information concerning the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

283. By the SPEAKER: A memorial of Legislature of the State of California, relative to the New Melones Dam project; to the Committee on Public Works.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WALDIE introduced a bill (H.R. 9441) for the relief of Lt. Col. Harold E. Gladstone and Elsie Gladstone, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

AN ELOQUENT TRIBUTE

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. DEL CLAWSON. Mr. Speaker, family devotion and honest affection are so frequently ignored in favor of "the roar of the crowd" and the harsher realities of human existence that it is with particular appreciation I insert at this point in the Record an article by Jesse L. Robinson, sports editor of the Metropolitan Gazette of Compton, Calif. It is an eloquent tribute which speaks for itself of the richness of emotion between a mother and son. I feel honored that it was sent to me by a friend of many years. The column appeared in the March 15, 1973, issue of the newspaper:

OLYMPIANS AND CHAMPIONS

(By Jesse L. Robinson)

I want to be there when the saints go marching in.

What happened to me last week, has happened or will happen to everyone in due time. When it happened to me, it caused me to do a whole lot of thinking.

My mind went back as far as it could and scenes play flashbacks. Flashbacks of when I was good and when I was bad. But as far as I can remember, whether I was good or bad mama was always there

I remember when I was really small, my mother, when she told the story, said I was only two years old, mama was up in a tree getting a switch to tan my hide. She said, I yelled to her from the ground "get out of that tree you bow-legged devil."

I remember her being in the tree, however I was always embarrassed when she told the story. I believed she knew that to this day she could shame me. This was her way of getting even when I talked about her Dodgers.

Last week I realized that I knew my mother when she was a girl, because if I was only two my mother was only nineteen. Until last week I thought of my mother as always being a full grown woman, not a young athletic girl who would climb a tree to switch a kid. Now I realize that I would have called her a tom-boy when I was a teenager.

I loved my mother, we were as close as two Capricorns could be. I lived with her the first twenty-five years of my life and she lived with me the last twenty-four years of hers. When my daughter Pearl was born, another Capricorn, people didn't know how my wife a Libra could live in a house with three "Capricorns."

While I was making the funeral arrangements last Friday my mind flashed back to when I was five years old. It was in my home town of Hattiesburg, Mississippi. I woke up one morning and there was a strange man in my bed. My aunt did the honors, she introduced me to the man who had married my mother and left mom and me sometime before I was two.

My entire memory of my father was less than four hours long. He was pleasant, we had breakfast together—he left before noon and I never saw him again, but before he left he gave me a quarter. That wasn't much to give a son—a name and a quarter—that's why mama and I were close. Like all mothers she was always ready to give her life if necessary.

Last week, even the quarter took on a new perspective. Last week I realized that in Mississippi my mother was working for a dollar a day. She cooked, washed clothes and scrubbed Mrs. Oliver's house. It was a ten hour day. That figures to be 10 cents an hour. My father left me with his name and 2½ hours of pay, not too much to say "Right on" about.

When Lazarus died, Jesus wept—Jesus wept for Mary who had lost her brother. Last week I too wept and part of my weeping was for the Dodgers. The Dodgers never had a more loyal fan than Ms. Pearlie, my mother. When I referred to the Dodgers she was always Ms. Pearlie to me. I never saw anyone get hooked as she was on the Dodgers. I tried hard to explain to her that the Dodgers were one of the best capitalistic enterprises in the Country. The Dodgers were what the Russians meant when they thought they would bury us—They would send the Muscovite nine and run up a score 11 to 2.

Some examples of her faith and loyalty in the Dodgers: In 1960 Charlie Neal was the pride and joy of black L.A. He was a second baseman Par—excellence—Neal made one mistake—he used profanity at Leo—the Lip. Next season Neal was gone. Ms. Pearlie loved Neal but she loved the Dodgers more, there were no tears for Neal.

In 1966 when the Dodgers traded Tommy Davis, and the next year traded Johnny Roseboro, these guys were neighbors, but Compton lost two of their top taxpayers.

The same year the Dodgers traded Maury Wills who was batting .329 and stole 38 bases. The Dodgers went from 1st place in 1966 to 8th place in 1967. Ms. Pearlie, my mama, cried for the Dodgers but not a tear for Davis or Wills.

Remember '71 the Dodgers could have had Richey Allen, Frank Robinson and Willie Davis. They had Allen and Davis, the next year they got Robinson and got rid of Allen. Now anybody would see through the Dodgers. But not Mama.

Last week I realized how fortunate I was, I rated higher than the Dodgers in Ms. Pearlie's life—And that's saying something. I cried a lot last week but I wasn't crying for Ms. Pearlie. Ms. Pearlie is so much better off. I believe in God, I believe that there is a heaven. Heaven needs people like Ms. Pearlie—she's loyal, true and trusts everyone.

Ms. Pearlie didn't die of a heart attack. If she had, I know I wouldn't have been prepared to face her death. But for five years I saw her suffering greatly, slowly leaving me. So last Friday Myrtle gave her morning coffee at 7:30 and at 8:30 she quietly slipped away. We are happy for her—no longer will she have to suffer as all people of cancer must. Cancer must be conquered. We should all give to defeat cancer.

All my tears were for those Ms. Pearlie left behind, those of us, and me in particular, who are not sure of our place in the future. In death my mom would be proud of me because for the first time I have given some serious thoughts about life after death—that time, when the Saints go Marching in. I now know if I'm to see her again, I must be in the number.

CAPTIVE NATIONS WEEK

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. FISH. Mr. Speaker, in 1959, President Eisenhower issued the first Captive Nations Week proclamation to demonstrate American support for the cause of freedom in Central and Eastern Europe. Today, some 14 years later, the hope of self-determination for the peoples of Poland, Hungary, Albania, Estonia, Latvia, Lithuania, Czechoslovakia, Bulgaria, Rumania, and the Ukraine, still remain unrealized.

This week, the third week in July, we again observe Captive Nations Week and reassert our commitment to the cause of liberty in these courageous countries. In this era of attempted detente with the Soviet Union, we cannot be permitted to forget that Communist colonialism and repression is still very much with us. One need only recall events in Czechoslovakia, in the summer of 1968, to graphically demonstrate this fact.

So, it is most appropriate for those of us in Congress to observe Captive Nations Week, and to express the hope that those nations may soon be fully free.

Finally, Mr. Speaker, I want to include the text of a poem written by Mr. Paul Nedwell, a 28-year-old Ukrainian American who resides in my congressional district. The spirit and the hope expressed by Mr. Nedwell in his poem "Until Ukraine is Free," is fully applicable to all the captive nations we honor this week:

Until Ukraine Is Free

(By Paul Nedwell)

To all who trample down the wheat fields of
Ukraine, to all who into the death camps cast
Ukraine's best sons and daughters, to all who dare
To steal from her own people their glorious past,
To all who hope to level to the ground
All ancient structures bearing witness to
Her people's individuality
And strength of spirit, to all who would dare to view
Ukraine merely as a land to be conquered and robbed of all
Her riches, to all who would hope to grind her soul
Into the dust, and to all who brutally
Oppress her people here and now, yet whole
In dedication to right and justice and
Their restoration in Ukraine, we say
To you: The time for fear is past; and we
Intend to strive unceasingly towards that day
When Ukraine shall seize her rightful freedom and,
With God's good help, stand tall and proud 'mongst all
The nations of this world. To such an end
We dedicate our labors. Can you forestall
Forever our yearning to see once more a
Ukraine in the hands of the Ukrainian
People!? We children of the Kozaks brave will rest
Not from our labors until Ukraine is free.

WAR POWERS BILL

HON. IKE F. ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. ANDREWS of North Carolina. Mr. Speaker, I am pleased to point out that the following statement in support of the war powers bill was prepared by two of my summer interns, Deborough Blalock—a rising senior and an English major at Duke University, and Thomas Anderson Langford III—a rising junior and a religion major at Davidson College. Both are from Durham, N.C.

I concur with the sentiment expressed in their statement, and I am proud to commend it today to the attention of my colleagues:

Statement of Deborough Blalock and Thomas Anderson Langford III

"If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary."

In these words in the 51st Federalist Paper, Alexander Hamilton eloquently pointed out the problem facing our government today.

Men are not angels, nor should we anticipate that an angelic host will reign. Yet, the function of government must be continued. Hamilton maintained that "the interest of the man must be connected with the constitutional rights of the place."

Today, I reaffirm my support of the War Powers Bill. Two Congressional sessions have come and gone since the War Powers Resolution was first introduced. The constitutional questions have been debated.

Now is the time to assert that the Congress questions have been argued. The political should have a will of its own. Now is the time to act on this bill. Now is the time for the Congress to assert its leadership ability. Now is the time to look back to what our forefathers did and to continue the tradition of democratic government they bequeathed to us.

The War Powers Bill is not an attack on a man or on another branch of the government. Earlier, it's an effort to affirm our constitutional duties. Article One, Section Eight, of the Constitution gives Congress the sole power to declare war. Our course is clearly marked, and we must acccept the obligations delegated to us—the people's representatives. We have sworn an oath to uphold the Constitution, and to do this we must vote in favor of the War Powers Bill.

In the Federalist Papers, Hamilton went on to say, "a dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions."

The bill is such a precaution. It is a reaffirmation of our constitutional rights and responsibilities.

I urge adoption of H.R. 542.

RECOMMENDATIONS FOR ENERGY CONSERVATION

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. SMITH of Iowa. Mr. Speaker, two constituents from my district, Shari Easley, of Altoona, and her faculty adviser, Mr. Kirk Brill, of Des Moines, were recently honored by the Ecology Council of America for placing second in the council's nationwide competition for efforts and activities to help preserve the environment.

During their visit to my office, they discussed their meetings with other delegates to the Ecology Council Conference. I think it would be of value to other Members and those who read the CONGRESSIONAL RECORD to know what these young people are thinking and, therefore, I am placing this summary of their ideas in the RECORD:

RECOMMENDATIONS FOR ENERGY CONSERVATION

1. Limit size of car and engine horsepower.
2. Place taxes on cars according to their horsepower.
3. Provide more funds for mass transit.
4. Push for the Canadian pipeline instead of the Trans-Alaska pipeline so that fuel can be supplied to the Midwest and East.

OTHER SUGGESTIONS

1. Make cuts in immigration quotas to reduce population growth.
2. Expand the Environmental Education program and the Youth Conservation Corps.
3. Ban all non-returnable containers to save resources and energy as well as to eliminate litter.
4. Select someone to head EPA who has an environmental background and qualifications.
5. Allocate funds for research into the fields of recycling and alternative sources of energy.
6. Establish a strict land-use policy for the entire country.

MURDER BY HANDGUN: A CASE FOR GUN CONTROL

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. HARRINGTON. Mr. Speaker, today's edition of the Boston Globe carried an article about a man who was murdered. The article was one paragraph long, and it said only that Marion B. Shirley of Boston was shot twice in the head and once in the stomach and was found dead near the tennis courts at a public housing project.

We know almost nothing about Marion Shirley. We do not know where he worked, or what his life was like. We do not know if he had a wife or children. We do not know who shot him, and we do not know why he was shot. We know only his name, his age, his address, and the weapon which killed him—a gun.

The brevity of the article is in itself a sad commentary. Gun murders happen so often in our society that they are not news anymore. They have become so commonplace, such an accepted part of daily life, that they receive only one paragraph under the heading of "Crime Roundup."

Gun murders have doubled nationwide since 1964, and the prime reason that guns are involved in so many acts of violence is that there are so many guns in so many hands. There are now more than 90 million guns in civilian hands, and the supply is increasing at a rate of about 25 million guns a year—half of them handguns, the most widely used murder weapon.

The only way we can reduce the number of gun murders is to reduce the number of guns in circulation. Stringent gun control laws do have an effect: New York City, which has the strictest gun law in the country, has a murder rate of 10.5 per 100,000 inhabitants, a rate well below that of Atlanta—20.4; Dallas—18.4; or Houston—16.9, where gun control laws are very lax.

Gun violence has become so prevalent that we are in danger of becoming desensitized to the fact that human lives are involved. Perhaps we can pause for a moment to remember Marion Shirley, and to reflect upon the reasons for his death.

The article from the Boston Globe of July 18 follows:

[From the Boston Globe, July 18, 1973]

CRIME ROUNDUP: ROXBURY MAN MURDERED

A 43-year-old Roxbury man was found murdered yesterday near the tennis courts at the Columbia Point Housing project, Boston's 67th homicide this year. Police said Marion B. Shirley, of Nightingale street, was found shot twice in the head and once in the stomach.

REPORT FROM WASHINGTON

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. ROYBAL. Mr. Speaker, I am pleased to include in the RECORD my July 1973 Report From Washington to the residents of California's 30th District. The report highlights some of the major legislative and national issues being considered by the 93d Congress.

The report follows:

CONGRESSMAN ED ROYBAL'S WASHINGTON REPORT

PROTECTING THE CONSUMER

Under our current law, private investigating agencies are able to produce millions of credit reports a year with virtual immunity from libel or slander suits, even though many of these reports contain serious errors damaging to the individual.

All of us at one time or another have been investigated by one of these credit companies, even without our knowledge. It may have happened when we applied for a particular job, a recent insurance policy or an apartment rental. Adding insult to injury, the law even permits the investigating agency to resell these reports over and over again.

These practices constitute a very dangerous threat to our right to privacy and free speech. This year I developed and introduced a bill amending the Fair Credit Reporting Act passed in 1970 to protect a person's right to privacy. This bill would set up stricter procedures for both "investigative consumer reports" and "consumer reports". (The "investigative consumer report" deals with a person's moral character, personality and reputation. The "consumer report" is a simple credit check of one's financial situation and credit rating.)

First of all, my proposal would require that a company requesting an investigative or credit report inform the consumer in writing that a report may be made.

In the case of the investigative report, the company would be barred from receiving this file until it obtained the consumer's written consent. In other words, the individual has the last word. The report is then sent at the same time to both the company and the individual. On a simple credit check the consumer has the option to ask for a copy of the report. For both types of report, the individual has the right to correct any error or misrepresentation he or she may find.

The credit reform bill would also give the consumer the right to sue any reporting firm that negligently as well as maliciously publishes any untrue statement.

I have already received assurances from the chairman of the House Consumer Affairs Subcommittee that hearings will be held on my bill and on the issue of fair credit reporting. I believe that the credit reform bill will effectively stop the release of reports that brand a person as immoral or irresponsible on the basis of hearsay, or some personal grudge against an individual.

HIGHER PRICES

President Nixon recently acknowledged that his five month old Phase III policy had failed to hold down soaring prices on food and services. Retail costs, for instance, rose at an annual rate of 9.2 percent over the first four months of this year. Wholesale prices, which foreshadow consumer prices, soared during the same period, at an annual rate of 24 percent. Corporate profits—already bolstered by an administration-supported 7 percent tax credit and rapid depreciation provision—remained without restraints.

In an effort to bring some sanity to our economy, I joined several other members of Congress in urging the President to roll back all food prices, interest rates and rents to price levels prevailing on January 10, the day before he relaxed economic controls under Phase III. In reply, the administration decided first to impose a limited ceiling on meat prices, but this action left prices at their highest peak in the last 22 years.

Last month the administration again adopted a limited approach by ordering a 60-day freeze on all goods and services, except raw farm products. While I believe that even this temporary action will prevent further increases, it fails to roll back prices to their January 10 level. The fact is workers are taking home less today in real wages than they were six months ago.

I intend to keep pushing for tighter controls which will prevent price increases on food and services, interest rates and rent hikes, and roll back prices to their January levels. An essential part of this economic control policy is mandatory compliance procedures.

OPINION POLL

As a member of the Appropriations Subcommittee on Postal Service, I am initiating an opinion poll on mail service. Your response will be useful to me when Congress considers funding for postal delivery and services later this year.

Questionnaire

1. Have you noted any change in the quality of postal service in the past two years?

2. If so, has the service improved or deteriorated?

3. Would you approve of cuts in postal service in exchange for deficit-free postal system?

4. Would you prefer increased services at the price of higher postal rates?

NOTE.—Questions 1, 3, and 4 should be answered with "Yes," "No," or "Undecided." Question 2 should be answered with "Improved" or "deteriorated."

Comments ______________________________

Please check your choice, clip out this section and send it to me at 2404 Rayburn House Office Bldg., Washington, D.C. 20515.

A LIVING WAGE

Lately we have heard a great deal about the principles of the work ethic while a policy of tax breaks for big business continues. Little, however, has been said about the seven million workers who try to support themselves and their families on poverty level wages. Unbelievable as it may seem, a person who works full time at today's minimum wage and supports a family of four earns nearly $1,000 under the poverty level.

In June of this year the House of Representatives acted to set higher wage standards for American workers as the first step in ending poverty wages. It amended the Fair Labor Standards Act of 1938 by raising the $1.60 hourly minimum for most covered workers to $2.20 after one year and extending its coverage to 6 million more workers.

The basic purpose of the minimum wage law was to insure a living wage for every worker. The Fair Labor Standards Act set as its goal the elimination of "labor conditions detrimental to the . . . health, efficiency and general well-being of workers."

The $2.20 ceiling was desperately needed to counter the high inflation we have been experiencing since 1968, the year of the last minimum wage increase. Although we have all witnessed how much less our dollar is worth, one of the hardest hit groups has been those earning the minimum wage. For them the $1.60 minimum has suddenly shunk in real value to $1.19.

The House-passed version increases the minimum wage for forty five million workers and more than half a million agricultural laborers. It extends minimum wage coverage for the first time to almost one million household domestic and to some five million federal, state and local employees.

By a vote of 287 to 130, the bill was approved and sent to the Senate where similar action is expected. By a closer vote of 218 to 199, in which I voted with the majority, the House defeated an administration-backed substitute which would have delayed the increase for two to three years and restricted coverage to currently covered workers.

I consider the House wage bill a strong and equitable measure—one that reaffirms our commitment to economic justice for the working men and women of America.

1973 POLL RESULTS

On February's mail questionnaire I received a total of 6,624 responses. The results are given in percentages:

NOTE.—The figures—in percent—at the end of each question indicate as answered with "Yes," 'No," and "Undecided" (in that order).

1. Do you think that the federal government should establish a comprehensive health insurance program covering most medical expenses and financed from federal revenues?—64, 28, and 8.

2. Do you think that the federal government should establish a system of no-fault auto insurance requiring prompt payment to all accident victims regardless of who or what caused the accident?—63, 25, and 12.

3. Do you think that the President should have the power to withhold all or part of any funds that have been approved by Congress and passed into law?—28, 63, and 9.

4. Suppose that a news reporter has written an article based on information from a person who asks that his name be withheld. Do you think that a reporter should be required to reveal the name of his news source if he is taken to court to testify about the information in his article?—21, 70, 9.

5. The administration has proposed to close down the Office of Economic Opportunity which was created to assist low-income communities. Do you approve of this action?—41, 47, and 12.

6. Do you think that the President should seek Congressional approval to send U.S. armed forces to other countries?—74, 19, and 7.

7. Do you think that the federal government should provide tuition tax credits to parents of children attending non-public schools?—42, 52, and 6.

8. Do you think that the draft should be terminated and replaced by an all-voluntary army?—54, 34, and 12.

9. Do you think that Congress should extend authority to the President to impose wage and price controls?—54, 35, and 11.

10. It is likely that Congress will consider the issue of amnesty during this year. Which of the following statements best represents your viewpoint at this time? (Choose one)

a. No condition should be placed on amnesty granted to persons who refused to be drafted because of their opposition to the Vietnam War: 19 percent.

b. Conditional amnesty requiring two or more years of public service should be granted: 31 percent.

c. No amnesty of any kind should be granted: 5 percent.

11. It is likely that Congress will consider a bill increasing the minimum wage level. Which of the following proposals would you approve? (Choose one)

a. A gradual minimum wage increase from $1.60 to $1.80 an hour, increasing to $2.00 an hour a year later: 33 percent.

b. A wage increase to $2.00 an hour immediately: 43 percent.

c. No change in the minimum wage level: 24 percent.

FEDERAL BUDGET

The following programs under the Federal Budget are ranked according to priority, using "1" to show first choice. The results of the 1973 questionnaire are as follows:

1. Health Care.
2. Crime Control.
3. Educational & Manpower Training.
4. Transportation (includes mass transit).
5. Defense.
6. Environmental Programs.
7. Veterans.
8. Community Development and Housing.
9. Public Assistance and Welfare.
10. Farm and Rural Programs.
11. Space Programs.
12. Foreign Aid.

CAPTIVE NATIONS AND U.S. TRADE WITH THE COMMUNISTS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. RARICK. Mr. Speaker, in his proclamation declaring the week of July 15-21 as Captive Nations Week, President Nixon said:

> As we make progress toward world peace and security, let us continue to show our sympathies for others who aspire to liberty and self-determination.

It has been 14 years since Congress authorized and requested the President to set aside the third week of July each year as Captive Nations Week. With new directions in foreign policy being forged by internationalists in our Federal Government, "sympathies" are about all the captive peoples of the world can count on from the United States. The "spiritual and economic merger" between the United States and the Soviet Union even further diminished those sympathies, as many U.S. enterpreneurs rush headlong into profit-seeking trade agreements with the Communists.

Aspirations of liberty and self-determination take a back seat to possibility of making a profit from exploiting the labors of captive people behind the Iron Curtain.

It is fitting during this week, when we stop to reflect on the responsibility we have to the millions of people in the world held captive by Communist regimes, to remember that we must bear some of the guilt for having forsaken these people through ill-advised military and political decisions made to divide the world nearly 30 years ago in the name of peace. We sold them out in the days following World War II, and now we intend to sell them out again with subsidized trade with their Communist captors.

We have indeed come a long way from the days when Congress requested the declaration of Captive Nations Week because the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples.

Congress also was clear as to the reasons such recognition was needed: The imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to the security of the United States and of all the free peoples of the world.

I request that the full text of the captive nations resolution follow my remarks.

Have we so progressed so far "toward world peace and security" that all we can now offer the peoples of the world submerged in communism is a mere sympathy card from the President?

A list of those U.S.-based companies engaged in trade with the two Communist giants, Russia and Red China, is not published by agencies of the Government for reasons of "national security." But because the American people have the right to know which companies in this country are seeking a capitalist profit from a captive labor force, the following list is submitted.

The June 1973 Mindszenty report, published by the Cardinal Mindszenty Foundation of St. Louis, carried the names of those corporations currently engaged in trade dealings or negotiations with the Soviets and Red China.

To paraphrase the words of President Lincoln, a world cannot long exist half slave and half free. Communism is not the wave of the future; it is the recurring nightmare of the past—as the people living in the captive nations of the world can attest.

I ask that the related report follow, with gratitude to the Cardinal Mindszenty Foundation for extending permission to publish it here for our colleagues:

WHO'S WHO IN U.S. RED TRADE?

(Supplement to June 1973 Mindszenty Report)

Under the U.S. Department of Commerce's Export Administration Act, Section 7(c), the names of companies involved in trade with the Communists are to be kept in strict secrecy for "national security" reasons. The only way anyone can find out which companies are involved is by carefully studying the financial columns and business publications.

The following list was compiled from such publications as the New York Times, Barron's Newsweek, Time, Washington Post, Chicago Tribune, Wall Street Journal and Moody's Industrials, and the Communist publications, the Daily World and Political Affairs.

I. UNITED STATES-SOVIET TRADE

(NOTE.—companies identified with asterisks (*) are major suppliers of raw material, equipment and technology for the world's largest truck manufacturing plant on the Russian Kama River.)

Texas Eastern Transmission Corp. Houston.
Brown & Root Engineers, San Francisco.
Tenneco, Inc. Houston 77001.
*C. E. Cast Equipment, Cleveland.
El Paso Natural Gas Co. El Paso.
Bechtel Corp. Engineers, San Francisco.
Eastern Airlines, New York 10020.
Graphic Sciences Co. Danberry, Conn.
Bendix Corp. Southfield, Mich.
*Gleason Co., Rochester, N.Y.
American Can Co., Greenwich, Conn.
Atchison, Topeka & Santa Fe Railway.
Caterpillar Tractor, Peoria, Ill.
Honeywell Inc., Minneapolis.
I.T. & T., New York 10022.
*Swindell-Dressler (Pullman Inc.) Chicago.
Brown & Sharpe, New Kensington, R.I.
IBM, Armonk, New York 10504.
DuPont, Wilmington, Delaware 19898.
Monsanto, St. Louis, Mo. 63166.
Borg-Warner, Chicago, Ill. 60604.
Atlantic Richfield Co., New York 10022.
International Harvester, Chicago 60611.
Leasco Co.
Sheraton International.
Firestone Tire & Rubber, Akron 44317.
Cook Industries.
Hewlett-Packard Co.
The Hartford Ins. Group, New York 10022.
Alliance Tool & Die Corp., Rochester, N.Y.
Atlas Fabricators, Inc., Los Angeles.
TWA, New York 10016.
NBC, New York 10020.
Avon Products Inc., New York 10019.
Occidental Petroleum Co., Los Angeles 90024.
Holiday Inns, Memphis, Tennessee 38118.
Allen Group, Long Island, N.Y.
Chrysler Corp., Detroit, Michigan 48231.
Corning Glass Works, New York 14830.

II U.S.-RED CHINA TRADE

E-Systems Inc., Waltham, Mass.
Bloomingdale's, New York.
Wallace Brown Co., White Plain, N.Y.
Seabrook Foods, Great Neck, N.Y.
Westinghouse Electric Corp., Pittsburgh.
Manufacturers Trust Co., New York 10022.
Deere & Co., Moline, Ill. 61265.
Pepsico, Purchase, New York 10577.
Landis Tool Co.
South Bend Lathe.
Cincinnati Milacron, Inc.
*Holecraft, Livona, Mich.
Carlton Machine Tool Co.
*Kearney & Trecher Corp.
Bryant Grinder Corp.
Danly Machine Corp.
DeVlieg Machine Co.
*Warner-Swasey, Cleveland.
Pan American Airlines, New York 10017.
American Express, New York 10006.
*Ingersoll-Rand, Rockford, Ill.
Monsieur Henri Wines (Pepsico) N.Y. 10577.
Universal Sporting Goods (Universal Container.
American Magnesium Co., Tulsa.
Terraspace Inc., Rockville, Mo.
Carpenter Technology Corp., San Diego.
Wolverine Tube (Universal Oil).
Union Commerce Bank, Cleveland.
Indiana National Bank, Indianapolis.
City National Bank, Detroit.
Republic National Bank, Dallas.
Hartford National Bank, Hartford.
First National Bank, Memphis.
Industrial National Bank, Providence.
Andco Co., Buffalo.
Reynolds Metal Co., Richmond, Va. 23218.
Aluminum & Chemical Co., Oakland.
Control Data Co., Minneapolis 55440.
Arthur D. Little Co.
Hilton Hotels, Chicago 60605.
*National Engineering, Chicago.
Chase Manhattan Bank, New York.
Pepsi Cola Inc., Purchase, New York 10572.
General Electric, New York 10020.
Singer Co., New York 10020.
Sobin Chemicals, Boston.
Naicto Ltd., New York.
National Cash Register Co., Dayton 45409.
General Motors, Detroit, Mich. 48202.
Standard Oil of New Jersey, New York 10020.
Xerox Corp., Stamford, Conn. 06904.
W. R. Grace and Co.
May Department Stores, St. Louis 63101.
International Systems & Controls Corp.
Marcona Corp.
Chase Manhattan Bank of New York.
Cargill Corp., Minneapolis 55402.
First National City Bank of New York.
Cook Industries.
Monsanto Co. St. Louis, Mo. 63166.
FMC Corp.
Hewlett-Packard Co.
Macy's.
Interstate Oil Transport Co.
B. Altman Co. New York,
R. H. Macy & Co.
Pan Am Airlines, New York 10017.
Boeing Co. Seattle, Wash., 98124.
Weyerhauser Corp. Tacoma, Wash. 98401.
Wyeth Pharmaceuticals.
DuPont, Wilmington, Delaware 19898.
Bulova Watch Co. New York 10020.
Exxon Corp. New York 10020.
EDO Commercial Corp. Long Island, N.Y.
May-Lee Import-Export Corp.
Industrial Chemical & Dye Co.
RCA, New York 10020.
Whole World Enterprises.
U.S. China Trade Corp.
Sears-Roebuck, Chicago 60607.
Huntington & Rice Importers, Chefoo Wine.
Cameron Iron Works.
Ford Motor Corp. Dearborn, Michigan 48121.
Canada Dry, New York 10017.
Norton Simon Inc. New York 10017.
Somerset Importers (Mao-Tai Liquor) N.Y.
Neiman-Marcus.
Transworld Airlines, New York 10016.
Hilton International, New York 10016.
Seagrams, New York 10022.
Cities Service Co. New York 10005.

III. OTHER COMPANIES REPORTEDLY NEGOTIATING U.S.-RED DEALS

Abbott Glass Co.
Arthur J. Brandt Co.
Associated Cattle Producers.
Diners Club, New York 10038.
Dow Chemical Co., Midland, Mich 48640.
Helix Milling Co.
International Barnsdall Corp.
Petroleum Helicopters, Inc.
Stuart James & Cooke, Inc.
Technology Associates of Boston.
U.S. Wheel Track Layer Corp.
Westinghouse Electric, Pittsburgh 15230.
Royal Crown Cola, Columbus, Ga. 31902.
Mack Trucks.
Bunge Corp., New York 10005.
Gleason Works.
Hollis Engineering.
Joy Manufacturing Co., Pittsburgh 15222.
Kerr Grain, Portland, Oregon.
Johnson & Johnson, New Brunswick, N.H.
General Dynamics, St. Louis 63105.
La Salle Machine Tool Co.
Fairbanks Morse.
Kaiser Aluminum & Chemical Corp., Oakland.
National Acme.
Coca-Cola, New York 10022.
Crown Cork & Seal.
Quaker Oats, Chicago 60654.

NOTE.—Repetitions indicate several sources for listing some companies.

PUBLIC LAW 86-90: PROVIDING FOR THE DESIGNATION OF THE THIRD WEEK OF JULY AS "CAPTIVE NATIONS WEEK"; ADOPTED BY THE 86TH CONGRESS OF THE UNITED STATES OF AMERICA IN JULY 1959

Whereas the greatness of the United States is in large part attributable to its having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to the security of the United States and of all the free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led, through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaian, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations is one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence:

Now, therefore, be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, that the President is authorized and requested to issue a Proclamation designating the third week of July, 1959, as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

THE POLISH-AMERICAN PRESS IN BUFFALO, N.Y.

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. KEMP. Mr. Speaker, the people of Poland and Americans of Polish heritage have throughout their history been noted for their indominable and freedom-loving spirit. This heritage of freedom has been well-represented by the Polish press.

The Polish Americans of my district and throughout western New York can depend on receiving frank and independent news coverage from the many publications devoted to supplying information to the more than 350,000 members of the Polish community. The Am-Pol Eagle, for example, is an outstanding newspaper, published by M. W. Pelczynski, which for more than 11 years has supplied the Polonia of Buffalo with the latest business, political and social news.

Mr. Speaker, I would like to bring to the attention of my colleagues an article from the Am-Pol Eagle by Sister Donata, CSSF, which describes the accomplishments of the Polish-American press in Buffalo:

POLISH-AMERICAN PRESS IN BUFFALO

(By Sister Mary Donata)

The world today is dominated by the printed word. Books, pamphlets, newspapers, magazines, leaflets, paperbacks—all these add to the attitudes and ideologies which are being formulated from day to day. The Polish people in Buffalo also had their flood of periodicals, most of which were short-lived especially between 1887 and 1898 when the Polish immigration was heavy and views were clashing.

An important chapter in "Ksiega Pamiatkowa Zlotego Jubileusz Osady Polskiej i Parafii sw. Stanislawa", 1923, is devoted to the Polish press in Buffalo, from where we draw most of this information.

The first Polish paper published in Buffalo was "Ojczyzna" (Fatherland) in 1885. It was a weekly, then came out twice a week. It was started by a group of concerned citizens with Joseph Bork offering a helping hand. Stanislaw Slisz, recent immigrant from Poland, became the editor and through long years of devoted service to the press merits our gratitude.

After two years of existence, the publishing group was changed and the name of the paper also. Rev. John Pitass assumed responsibility and started "Polak w Ameryce" (The Pole in America). After several people tried their abilities as editors, Stanislaw Slisz returned from his several-year stay in Chicago and resumed editor's duties under the direction of Rev. John Pitass. In 1895, "Polak w Ameryce" became a daily. After World War I and the death of its protector, after thirty three years of difficult service, the paper changed hands again and in 1920 became the "Telegram". As such was published till 1927 under several editors and trying circumstances.

The health of Stanislaw Slisz was failing quite rapidly. His sight was almost gone, he was partly paralyzed but retained the sharp faculties of his mind. Father Pitass wanted to keep him in consulting capacity and pass on the responsibilities of editorship to younger hands but Slisz refused to step aside.

It was in 1908 that Santislaw Slisz started "Polak Amerykanski" as a daily paper. After a year and a half the publication became "Dziennik dla Wszystkich" with Frank Ruszkiewicz as publisher. "Dziennik" continued as a daily until 1957 when it was discontinued because of financial difficulties.

"Ameryka" started in Toledo in 1889, combined with "Echo" in 1904 to form "Ameryka-Echo", later transferred to Chicago, where it continued till May 1971. A special section was devoted to Buffalo Polonia.

Between 1908 and 1927 Buffalo had two Polish dailies that often clashed in their viewpoints but at the same time offered room for airing differences.

In 1960 the "Am-Pol Eagle" made its appearance through the strenuous efforts of Matthew Pelcyznski, one of the former editors of "Dziennik". It is a weekly in the English language that continues the traditions of the Polish dailies. It is mainly concerned with local news about the Polonia of the Niagara Frontier. At present it is putting stress on the importance of ethnic pride and ethnic studies especially for the Americans of Polish descent. Stanley Turkiewicz, a long time editor of "Dziennik", is serving in the capacity of managing editor, while David Rutecki is City editor. The "Am-Pol Eagle" employs a large staff of feature writers and columnists and is published every Thursday by the Buffalo Standard Printing Corp., 1335 E. Delavan in Buffalo.

"Ave Maria", the religious publication of the Felician Sisters, is in its fiftieth year of continuous publication. It was started in 1924 to spread devotion to the Blessed Mother. The first editor was Mother Mary Alexander Kurcharska. Many years of devoted service to "Ave Maria" were rendered by Sister Mary Pauline Pawlowska and Sister Mary Amandine Faber. Since 1951, the editor is Sister Mary Donata Slominska who tries to present the Church of today in the Polish language. The Ave Maria circulates not only locally but is sent to thirty states and eighteen foreign countries.

The St. Stanislaus 50 Jubilee Book mentions 23 periodicals existing in Buffalo between 1885 and 1923. Note is made of three humoristic works: "Bocian", (Stork), "Kukuryku", and "Osa" (Wasp). The Polish Independent Church in Buffalo voiced its views in "Reforma", "Glos Ludu" (The Voice of the People), and "Warta" (Sentinel). There was another group of periodicals that underscored socialistic views especially under the leadeship of Jozef Kawisza. These were: "Glos woiny" (Free Voive), "Echo", "Sia" (Strength), "Sowo" (Word), "Sojaista"—all between 1887 and 1897.

Other periodicals of brief, even very brief duration, with a definite or general aim were: "Djabel" (The Devil), "Gwiazda" (Star), "Boiuletyn", "Dzwon" (Bell), "Dzwonek" (The Small Bell) "Kurier codzienny" (Daily Courier). "Slonce" (Sun), "Przeglad tygodniowy" (Weekly Review), "Harmonia", "Kurier buffaloski", "Poslaniec szkolny (School Messenger), "Monitor" "Redaktor", "Wedrowiec" (The Wanderer), "Wiek" (Age), "Gazeta Buffaloska".

At present the Polonia of Buffalo depends on "Am-Pol Eagle" for its social, political, business concern and on "Ave Maria" for its Church and spiritual views. Almost every parish publishes a weekly parish bulletin. Many organizations have their own house organs. To mention just two: the recently transformed PUA Parade (Polish Union of America) and the monthly bulletin of the Polish Arts Club of Buffalo.

As everything else the Polish press is undergoing a change and is being converted into an American press, expounding on the problems of Polonia in the English language.

THE WATERGATE SYNDROME

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. ROGERS. Mr. Speaker, during the past year we have all been inundated almost daily with the latest "Watergate" scandal. Because of this inundation it has often been difficult to place the significance of these events in proper perspective.

I recently had the opportunity to read an article by Mr. Earl B. Hadlow, president of the Florida Bar. This article, titled the "Watergate Syndrome," appeared in the June 1973 issue of the Florida Bar Journal and has particular significance to the legal profession. Because of the insights in this timely article, I would like to insert it in the RECORD at this point for the benefit of my colleagues:

The Watergate Syndrome

(By Earl B. Hadlow)

The Watergate affair and the spate of related political scandals have fixed the eye of the nation as never before upon our government, our political system and upon the people who run them. The result is a growing sense of national discomfiture, of embarrassment, and perhaps even a feeling of revulsion. This negative feeling runs not only to the political leaders directly involved, but, in my opinion, borders on a sense of shame for the national character.

Newspapers have editorialized regularly that the man in the street is sick and tired of reading about Watergate because it only proves what has long been generally suspected—that politicians are crooked by nature and design. Well, if that is true, then Watergate was inevitable and perhaps even necessary for the purgative effect. But of course it is not true. We have fine and inspiring leaders in every branch of government and every field of politics.

What seems as odious and dangerous as Watergate itself is the widespread impression that the bulk of political and governmental figures are devious, dishonest, underhanded and greedy. That view, widely held, kills respect for the system—for the government itself, and thus for the country. It goes without saying that the honest, capable leaders are tarred by the same stick and even the next generation of political leaders must come on the scene handicapped and crippled. Furthermore, this cynical impression creates the atmosphere that breeds the Watergate plotters—men who are convinced that the end justifies the means; that everybody else is doing it; and that the public expects it—so it can't actually be all that bad.

It seems to me that there are two solid reasons why all of this is a fit subject for my first President's Page. First, the legal profession is vitally affected by the Watergate syndrome and, second, we are in the best position to do something about it. In perspective, the two reasons merge into one—the problem of integrity and public confidence in government and politics is the legal profession's problem. It may be our largest problem. And the simple fact is that we haven't done a very good job of handling this problem.

The time to act is now—while the entire public is sensitive to the problem, perhaps feeling a little vicarious guilt, certainly wishing for simpler, more direct and honest ways and means. The legal profession must establish the tone and lead the way back to absolute integrity in public life. Our profession is the group who can exert the maximum effect on government and political life in this country. Because we have the most effect, we bear the most responsibility. Put more bluntly, the legal profession bears the largest part of the blame when the system fails. This is as it should be and I don't believe that we should deny that responsibility. On the contrary, we should be honored by it and we should act forcefully and promptly whenever impropriety is observed.

Of course, if we even consider this role of the national conscience, we must redouble our efforts to keep our own ranks clean. We must rededicate ourselves to the highest ethical standards and apply them in every reach of our lives. We must enforce these standards tirelessly and aggressively within our own profession to avoid the damage inflicted on each one of us by the unethical, parasitical practitioner. To do this we need the strongest and most effective disciplinary procedures possible. We need to take this role and do these things not only for the obvious and immediate benefit of our own profession, but in addition, so that we can stand tall and exercise moral leadership on every occasion without blushing. We need to make it fashionable to be honest and to be hardnosed about it and proud of it.

We must not be satisfied with the Watergate mentality, and our profession cannot be thought to tolerate it, much less condone it. We must be outraged at judicial dishonesty and indiscretion, wherever it may exist, and we must bend every effort to condemn it and eliminate it. We must let every branch of government, executive, legislative and judicial, know that we expect absolute integrity and service of the highest quality from them at all times—and that every time they fail us, we will challenge them, we will call them to the attention of the public and we will seek to have them replaced.

Finally, we must readily acknowledge and reward integrity and excellence in public service. Encourage and help honest and solid politicians and public servants. Particularly encourage good lawyers to run for public office, to bring their skill, training and integrity onto the public scene. We cannot become pessimists about integrity or apologists for our profession or our political system. We must be as quick to defend innocence as we are to speak out against immorality.

RESPONDING TO WATERGATE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. HARRINGTON. Mr. Speaker, there has been some debate in this Chamber in recent weeks concerning the possibility of impeaching the President. With every new disclosure of official misconduct relating to the Watergate scandal, the talk of taking such a step has intensified.

Most of this discussion has been quite reasonably conducted, in keeping with the seriousness of the suggested endeavor. While I feel that Members of the House should not undertake precipitous action in this regard which might hinder the efforts of the Senate Select Committee, it is important that we fully explore the historical and legal context of impeachment. Uninformed debate on this important matter may cause irreparable damage to our system of government.

Several of my colleagues have placed in the RECORD articles that are relevant to this issue. One of the most well-documented and informative pieces of historical research on this topic I have seen was written by that respected commentator on political affairs, I. F. Stone. In the June 28, 1973, edition of "The New York Review of Books," Mr. Stone examined the historical basis for the Constitution's impeachment clause, the confrontation in 1807 over the subpena of President Thomas Jefferson, and the impeachment of President Andrew Johnson. He relates these events to the current controversy over the Watergate and its coverup, the Government's handling of the trial of Dr. Daniel Ellsberg, and the refusal of the President to testify or turn over documents to the Senate Select Committee.

While I do not agree with some of Mr. Stone's conclusions regarding action to deal with these matters, the high level of scholarship that went into the article deserves the attention of every Member of Congress who has considered how to respond to the crisis of Watergate.

Because the entire article is too long for insertion, I am placing before my colleagues the first section, which deals with President Jefferson and the trial of Aaron Burr. Because that was the only instance in which a subpena was issued for a President, it is of pressing interest today.

The first part of the article follows:

A Special Supplement: Impeachment

(By I. F. Stone)

(Impeachment: The Constitutional Problems, by Raoul Berger. Harvard, 345 pp., $14.95.

(The Impeachment and Trial of Andrew Johnson, by Michael Les Benedict. Norton, 212 pp., $6.95; $2.45 (paper).)

I

The Federalist Papers explained that the new Constitution allowed for an exception to the doctrine of separation of powers. It provided for "a partial intermixture" in certain special cases. This was defended as "necessary to the mutual defense of the several members of the government against each other." So the President was given a veto over the legislature and the Congress the judicial power of impeachment as "an essential check . . . upon the encroachments of the executive." Impeachment was to be a "method of National Inquest into the conduct of public men," a way to try "the abuse or violation of some public trust."[1]

There are two reasons for seriously considering the impeachment of Richard Nixon. One is that this may prove the only kind of legal proceeding in which the President's complicity in the unfolding Watergate and related scandals may be fully and fairly determined. The other is that only so grave a step may deter a future President from the abuses charged against the Nixon White House. Presidential power has grown so enormously, especially since the Korean War in 1950, and the temptations this offers an incumbent and his associates are now so great that impeachment and removal from office if convicted may be the only constitutional sanction to stem the trend toward Caesarism in the White House. And Caesarism, Gibbon may remind us, was the establishment of one-man rule *without outward disturbance to the constitutional forms of the old Republic.*

The first reason for considering trial by impeachment arises from the difficulty of ensuring a President's appearance as a witness in any ordinary court of law, much less before a grand jury. Even as the special prosecutor Cox takes over, there are already half a dozen criminal proceedings under way at different stages in various parts of the country, as outgrowths of Watergate and the related affair of the Pentagon Papers. The President, if he were a private person, would normally be sought as a witness in several or all of them; they take on more and more the aspect of a far-flung conspiracy; the filaments lead unquestionably into the White House, and to the Oval Office door. It may not be possible to arrive at a judgment of Nixon's responsibility without a chance to question him under oath, either as a witness or by interrogatories. Indeed it is possible that some indicted officials may go free when tried for lack of Presidential testimony, or because the White House, on the blanket ground of national security, has withheld documents subpoenaed in their defense.

As this is being written the White House

Footnotes at end of article.

has burst into fury because an unnamed "Justice Department source" and "another knowledgeable source" dared to say aloud to the *Washington Post*[2] what is obvious to anyone following the news at all: first, that "there is an evidentiary pattern" which raises questions about the President's role in the whole affair, and second, that "the President should be given an opportunity to explain himself."

The *Post* reported that the prosecutors have therefore told the Justice Department there is justification for calling the President before the Watergate grand jury, but they are baffled about how and whether they can do it. Next day Ziegler said that Mr. Nixon would answer the questions of the prosecution neither orally nor in writing. This seems to bar not only submission to a subpoena but a voluntary appearance, or even a voluntary deposition. When asked why, Ziegler said it would be "constitutionally inappropriate." This seems to make impeachment the only way to get at the truth.

There is nothing in the Constitution, in the debates on its framing and ratification, or in its exposition in the Federalist Papers, that puts the President above the law, nor is there anything that says that serving him with a subpoena would be "constitutionally inappropriate" or that exempts him in any way from normal legal processes. There is much that suggests otherwise. The Framers of the Constitution encountered a widespread fear that the President might become a king; the impeachment power was intended to block the way. In England it could be used only against the King's ministers, never the King; here its chief object was the President himself.

The Federalist Papers said that while in England the King "is unaccountable for his administration, and his person sacred," the American President would be in no such untouchable category. They explained that a single instead of a plural executive was decided upon in order to make the Executive more accountable to public opinion and to make it easier to determine misconduct in order to remove him from office or to impose "actual punishment in cases which admit of it."[3]

But short of impeachment, can the President be compelled to appear in a court of law for misconduct in or out of office, or to testify in regard to the misconduct of his aides? This old constitutional controversy was freshly ventilated by a footnote to the Supreme Court's decision in the Earl Caldwell case last year. That footnote is being cited by lawyers who think the President can be made subject to court proceedings and that the impeachment process is not necessary to get at the whole truth of all the dubious activities which come under the general heading of "Watergate."

The footnote is in Mr. Justice White's opinion for the court. It is appended to his reiteration of the "long standing principle that 'the public has a right to every man's evidence,' except for those persons protected by a constitutional, common law or statutory privilege." The footnote seems to imply that even the President has no such privilege for it says:

"In US v. Burr, 25 F. Cas. 30, 34 (Cir. Ct. D. Va. 1807) (No. 14,692d), Chief Justice Marshall, sitting on Circuit, opined that in proper circumstances a subpoena could be issued to the President of the United States."[4]

The Burr trial in 1807 was the only occasion on which a subpoena to a President was ever issued. Chief Justice Marshall's opinion in that case—where he presided over the trial on circuit, as Supreme Court justices did in those days—is the only "law" bearing directly and precisely on the question. Aaron Burr was on trial for treason. A scant few months earlier the President of the United States, Thomas Jefferson, in a special message to Congress had declared Burr's guilt "placed beyond question." This message was based on a letter to Jefferson from a most unsavory character, General James Wilkinson,[5] who had turned informer. Burr's lawyers asked that the President and the letter be subpoenaed.

It is hard to imagine circumstances that could more overwhelmingly justify a subpoena. Jefferson and Burr were old party rivals and bitter enemies; a tie vote between them in the electoral college in 1800 threw the election into the House of Representatives and almost cost Jefferson the Presidency. To declare Burr guilty in advance of trial was a gross abuse of power. The President, according to Leonard W. Levy's *Jefferson and Civil Liberties: The Darker Side* (Belknap Press, Harvard, 1963), "acted himself as prosecutor, superintending the gathering of evidence, locating witnesses, taking depositions, directing trial tactics, and shaping public opinions as if judge and juror for the nation." There is ample evidence for that harsh verdict.

The trial of Burr was not only a struggle between him and Jefferson, but between Jefferson and Marshall, the radical Democrat and the conservative Federalist. The Chief Justice, in deciding that a "*subpoena duces tecum*" could be issued—requiring Jefferson to appear with documents based his reasoning on a principle which had been dear to the Jeffersonian Democrats. It was they who always insisted that the President was no king, and had constantly accused the Federalists of trying to make him an uncrowned monarch. In the unsuccessful impeachment of Supreme Court Justice Chase in 1804–1805 for his intemperate conduct in the Alien and Sedition Law cases in 1798–1800, one of their complaints was his refusal to subpoena President John Adams in the trial of Jefferson's friend, Thomas Cooper, for seditious libel.

It had always been the Federalists who argued that the President was answerable to no judicial process but impeachment. Now in the Burr trial Chief Justice Marshall ruled that the law of evidence, i.e., the law as it was developed in the mother country, allowed for only one exception to the persons who might be summoned for the defense in criminal trials, and that was the King. "It is a principle of the English constitution," he said, "that the King can do no wrong," and "although he may, perhaps, give testimony, it is said to be incompatible with his dignity to appear under the process of the court." But the Chief Justice said one of the differences between a president and a king was that the former "may be impeached, and may be removed from office on high crimes and misdemeanors." He also said the first magistrate of the Union was no different, insofar as judicial process is concerned, from the chief magistrates of the States under the Articles of Confederation, and they were all subject to subpoena.[6]

This was good Jeffersonian doctrine and no doubt explains why counsel for the government at least twice admitted this during the trials—for there were actually two trials of Burr, one for treason and then, after his acquittal, another for misdemeanor. "A subpoena may issue for him [the President]," Alexander MacRae of the government's staff admitted, "as against any other man." But he argued that the President was not bound to disclose "confidential communications."[7] The prosecutors of Burr agreed on two occasions that the President was subject to a general subpoena, i.e., an order to appear and to testify. But they insisted that he was not subject to a *subpoena duces tecum*, i.e., an order not only to appear but to bring with him documents he considered confidential.

Marshall ruled to the contrary. The real obstacle he confronted was not in the realm of constitutional theory but in that of power. What was the Chief Justice to do if the President declined to obey? Have federal marshals arrest the President for contempt? Put him in jail until he agreed to testify?

Both Marshall and Jefferson backed away from a confrontation. In this, as in other instances, Marshall was careful not to push assertions of judicial power so far as to undermine the principles he was trying to establish. For his part, Jefferson was not anxious publicly to put himself in a position where he would be flouting his own democratic principles; in this case, in putting the Presidency above the law, Marshall issued the *subpoena duces tecum* but it was never served on Jefferson.[8] Even had it been served, Marshall's opinion left Jefferson a face-saving way out. The loophole was pointed out by the late Supreme Court Justice Burton, in an essay on Marshall's conduct at the trial of Burr.[9] "The Chief Justice," he wrote, "stated that, while this [the issuance of the subpoena at the request of the defense] was the court's inescapable duty, it remained for the President to indicate in the return whether his executive duties would constitute a sufficient reason for not obeying it."

Jefferson for his part was prepared to use just such a loophole. Before receiving Marshall's decision on the subpoena, Jefferson pointed out in a letter to Burr's prosecutor that Burr was the central figure in an alleged conspiracy. Other trials linked with Burr's were being held "in St. Louis and other places on the western waters." To comply with calls for personal appearance at these various trials "would leave the nation without an executive branch," while the executive "is so constantly necessary, that it is the sole branch which the Constitution requires to be always in function." Jefferson said the Constitution "could not then mean that it [the executive] should be withdrawn from its station by any coordinate authority." But he did offer to give testimony by deposition, an offer which was never taken up by the defense.

In a second letter to the prosecutor two days later, after seeing Marshall's opinion, Jefferson took a stronger line, though only in this private letter and not in a public declaration to the court. "The leading principle" of the Constitution, he insisted, was the independence from each other of the three branches of government. "But would the executive be independent of the judiciary," he went on, "if he were subject to the *commands* [italics in original] of the latter, and to imprisonment for disobedience; if the several courts could bandy him from pillar to post, keep him constantly trudging from north to south and east to west, and withdraw him entirely from his constitutional duties?" This was hyperbole of Nixonian proportions. Marshall was certainly not trying to "bandy him from pillar to post."

Jefferson indicated that he was prepared to resist a subpoena for his personal appearance by force, and that the Constitution had given him more force than the Chief Justice with this very purpose in mind! "The intention of the Constitution," as Jefferson put it, in stately but fallacious language, "that each branch should be independent of the others, is further manifested by the means it has furnished to each, to protect itself from enterprises of force attempted on them by the others, and to none has it given more effectual or diversified means than to the executive."[10] Jefferson had an army and navy, the Chief Justice only a handful of marshals. The corollary would be that the President could override the Supreme Court because he had more battalions than the Chief Justice. This was on a par with Jefferson's conduct generally in the Burr case, which remains a blemish on his libertarian record.

But after all these bold, though private,

Footnotes at end of article.

affirmations of defiant power, Jefferson hedged by supplying the desired document to the prosecutor. The prosecutor—to quote Mr. Justice Burton's account again—"later announced that he had the requested letter in his possession and was ready to produce it." The submission of the letter by the President was thus voluntary—in form at least. But with it Jefferson made sweeping claims of executive privilege which Nixon can also use. "All nations," Jefferson wrote the prosecutor, forgetting that most of the nations he referred to were hardly models of freedom for our young Republic, "have found it necessary for the advantageous conduct of their affairs, [that] some of these executive proceedings, at least, should remain known to their executive functionary only. He, of course, from the nature of his case, must be the sole judge of which of them the public interests will permit publication." [11] Such was the heady effect of the presidency even on Jefferson when he set out to wreak vengeance on a hated rival.

But the battle between Jefferson and Marshall was like one of those bouts in which the antagonists make the most devastating faces at each other, emitting blood-curdling screams, yet somehow never come to blows. Jefferson's sweeping assertions of executive privilege were confined to private correspondence. Attorney General Rogers in 1958, during the Eisenhower Administration, nonetheless cited them as precedents in a memorandum which asserted—in more sweeping fashion than ever before—the President's power to withhold information from Congress. They will undoubtedly be cited again as precedents for withholding information from the courts should Nixon's testimony be sought, or White House documents subpoenaed, in prosecutions growing out of the Watergate scandal.[12]

The Rogers memorandum, in defense of the White House claim to "uncontrolled discretion" to withhold information, said Marshall ruled in the Burr case that "the President was free to keep from view such portions of the letter which the President deemed confidential in the public interest. The President alone was judge of what was confidential." A painstaking study by Raoul Berger for a forthcoming book on executive privilege has demonstrated that this completely overstates the case and the circumstances.[13]

Actually, on the document subpoenaed, as on the personal appearance of Jefferson, a confrontation was avoided. The prosecutor, George Hay, had objected that it was improper to subpoena the document because it was a private letter to Jefferson and "might contain state secrets, which could not be divulged without endangering the national safety." Jefferson nonetheless furnished it "voluntarily," so to speak, and left it to Hay "to withhold communication of any parts of the letter which are not *directly material* for the purposes of justice." [14] He made no claim that it contained state secrets.

Jefferson neither tried to exercise the absolute privilege he had claimed nor delegated it to Hay. On the contrary, as Berger points out, Hay emphasized that "he was willing to show the entire letter to the court to suppress so much of the letter as was not material to the case." Far from asserting absolute privilege, Berger shows, "the government was perfectly willing to leave it to the court to determine whether portions of the letter were in fact privileged. It insisted only that the portions so adjudged should be withheld from the defendant." More will be heard of this argument in the Burr case as similar issues arise in the trial of the Watergate cases.

The issue in the Burr trials was complicated because the defense objected, as Berger relates, "that the court could not judge whether the confidential portions were relevant to the defense until that defense was fully disclosed, and that defendants were not required to make such disclosure until they had put in their case." [15] The issue was never resolved. Though Marshall issued at least one subpoena to Jefferson, and perhaps a second,[16] neither was actually served on the President and he succeeded in avoiding an appearance. As for the Wilkinson letter to Jefferson, it was never introduced into evidence, though Jefferson—as we have seen—supplied a copy to the prosecutor. A *subpoena duces tecum* was finally served on Hay.[17] But for some reason the defense never pressed the issue to a conclusion.[18] The battle ended in a draw; Marshall laid down the law, but was unable to enforce it against a recalcitrant President. That has been the pattern ever since.

What history shows is that any President who chooses to defy a subpoena, as Nixon has said he will, can get away with it, though the defiance may bring dismissals in criminal cases and lost verdicts by default in civil cases. But the President himself can go scot free. That leaves only impeachment. Even on impeachment a President cannot be compelled to testify before the Senate when the charges against him are tried, or even to answer by deposition if he chooses not to. But not to answer those charges would be to abandon a full defense and make his acquittal less likely.

FOOTNOTES

[1] Nos. LXIV and LXVI, Everyman's Library, pp. 333, 337, and 338.

[2] The May 29 story was by the redoubtable team of Carl Bernstein and Bob Woodward, who have made journalistic history in the Watergate affair.

[3] No. LXX, Everyman's Library, p. 362.

[4] *Branzburg* v. *Hayes* (June 29, 1972), Footnote 26 to the majority opinion.

[5] Described in Samuel Eliot Morison and Henry Steele Commager, *Growth of the American Republic* (Oxford, 1962). vol. 1, pp. 389–390, as a man "still in Spanish pay while Governor of Louisiana Territory and ranking General of the US Army" who had already discussed with Burr a wild scheme to "liberate" Mexico from Spain. He then decided Burr was "worth more to betray than to befriend" and sent Jefferson "a lurid letter" denouncing what he termed a "conspiracy to dismember the Union."

[6] *US* v. *Burr* (Case No. 14,692d) 25 Fed. Cas., p. 34.

[7] Albert J. Beveridge, *Marshall* (Houghton, Mifflin, 1919), vol. 3, p. 438. Chief Prosecutor Hay also made the same admission and argued the same distinction when motion for the subpoena was first argued.

[8] For this bit of information in a murky situation I am indebted to Professor Julian P. Boyd of Princeton who is now editing what will be the definitive edition of Jefferson's works.

[9] See his *Occasional Papers* (Bowdoin College, 1969), p. 52.

[10] The letters may be found in Randall's *Life of Jefferson* (New York, 1858), vol. 3, pp. 210–212.

[11] Ibid., p. 211.

[12] The memorandum may be found at pp. 551–566 of Hearings by the Subcommittee on Separation of Powers, of the Senate Judiciary Committee, 92nd Congress, 1st Session, on Executive Privilege: The Withholding of Information by the Executive, and S1125, July 27 to August 5, 1971, over which Senator Ervin presided.

[13] The preliminary results of his researches drawn upon here were published in "Executive Privilege v. Congressional Inquiry," *UCLA Law Review*, vol. 12, No. 5, August, 1965. The memo is quoted on pp. 1109–1110.

[14] Ibid., pp. 1107–1108. The italics seem to be Berger's.

[15] Ibid., p. 1108.

[16] Beveridge's surmise in his biography of Marshall, vol. 3, p. 522, based on a reference in a letter by Jefferson to the prosecutor.

[17] This, the most elusive fact amid all the complexities which bedeviled me in preparing this article, I finally pinned down on p. 520, vol. 1 of Beveridge's *Marshall*. Beveridge gives as his authority David Robertson (*Trials of Aaron Burr*, vol. 2, pp. 513–514). the reporter who covered Burr's trials and who published his account in 1808. I was unable to locate a copy.

[18] Beveridge's *Marshall*, vol. 3, p. 512.

TRADE REFORM ACT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. DERWINSKI. Mr. Speaker, this week we commemorate Captive Nations Week, recognizing that the adjustment in the world diplomatic and trade contacts requires positive reevaluation of this annual program.

I insert into the RECORD, testimony by Dr. Lev E. Dobriansky, president of the Ukrainian Congress Committee of America, directed at the Trade Reform Act now being processed by the Ways and Means Committee.

The comments of Dr. Dobriansky are quite pertinent to this week as we place emphasis on the plight of captive nations:

UNITED STATES-U.S.S.R. TRADE: AT WHAT POLITICO-ECONOMIC PRICE

(Testimony on the Trade Reform Act of 1973 by UCCA President Dr. Lev E. Dobriansky before the Committee on Ways and Means, U.S. House of Representatives, on June 1, 1973)

Mr. Chairman and Members, I am grateful for this opportunity to present the views of the two national organizations it is my privilege to head and for myself as concern Titles I and IV in the Trade Reform Act of 1973. As longtime advocates of a realistic poltrade policy toward the Soviet Union and other totalitarian communist states, we maintain that with regard to Title I, strong authority be vested in the Presidency for new negotiations and, in connection with Title V, that the most-favored-nation treatment be denied at this time to the Soviet Union. Within the time allowed and concentrating this testimony on the latter, it will emphatically be shown that the provisions of the two Titles in the Act are inextricably woven with the poltrade concept and, significantly, unchanged structural essentials that I elaborated to this Committee back in 1955. For, substantially, while we're considering more liberalized trade with the Soviet Union almost two decades after, nothing really has changed in the broad politico-economic context except our increasing comparative disadvantage in this context, and quite modestly I would appreciate to be shown evidence provided by Government or private sources that this is to the contrary.

INDISPENSABLE LESSONS

In very concise terms, there are several indispensable background lessons of history which appear to be overlooked in this whole current discussion of liberalized trade with the USSR. Just as in the cases of persons, if a nation cannot profit from the lessons of its past experiences, it may well be destined for some disaster, particularly for one that is an open society, highly resourceful, and known worldwide for its standards of freedom and human rights. One indisputable lesson is that our trade with totalitarian powers, such as Japan, Nazi Germany, and

Fascist Italy, did not serve the interests of world peace but rather contributed by the real aid given to the furtherance of their aggressive designs which led to World War II. If acute caution is not exercised today, this lesson can well apply to the militaristic USSR whose bid for global supremacy remains undiminished. To support this generalization with essentialist documentation gathered in a study I made in 1965 at the Department of Commerce, which after almost 30 years still held such data in classified wrap, I respectfully request that the short chapter on "The Russian Trade Trap" in my recent book be printed as part of this testimony.

The second essential lesson of trade with totalitarian powers is the prime politico-economic utility of trade for the entrenchment of the regime, the suppression of internal pressures, and assisted implementation of its ultimate political goals. Anastas Mikoyan, whose trade mission here during World War II succeeded in pilfering our atomic secrets, eloquently expressed the essence of this when he said, "A modern Communist is one who has the zeal of a Bolshevik and the practicality of a capitalist." Purely economic factors of comparative advantage, relative costs, demand elasticity and the like are of subordinate importance in this politico-economic mould of fixed thought. The fixity of this thought applies to Brezhnev's policy as it did to Khrushchev's and Stalin's, with trade as a sieve to technologically bolster the USSR economy, overcome its planned deficiencies, and indirectly facilitate its top priorities of expensive military strength, a deepened dependence of the other COMECON economies, and the progressive flexing of political muscle in targeted areas of the Free World.

Viewed in this easily, emprically substantiated light, what is trade really becomes aid to the most tyrannical regime, taken in all its successions, in this century. Current illusions about a growing economic interdependence with the USSR indicate a shallow grasp of both the nature of the USSR economy and the empire texture of the state as a whole. The major and dominant economic trends in the USSR, with continued heavy emphasis on capital goods production and the military, the repressive consolidating process dictated and engineered by Moscow among the numerous non-Russian nations in this imperial complex, and the unrelenting push for some forms of "integration" of the satellite economies with that of the USSR point toward a relative self-sufficiency that leaves little room for any meaningful interdependence with the West. To obtain grains when needed, to acquire the best of technology free of R&D costs, and for some period have all this paid with loans guaranteed by taxpayers of adversary states is a neat formula for the operation of the trade sieve, especially when strategicity, as reflected in the Kama River truck works, becomes increasingly blurred.

POLTRADE CONCEPT

Perfectly consistent with this necessary overall view is the poltrade concept which I advocated several years ago in hearings before the Senate Foreign Relations Committee and which Senator Dirksen later advanced. Briefly, the concept calls for trade in return for political concessions. As an expression of this, the President in his latest state-of-the-world message to Congress emphasizes the point on linking "the expansion of economic relations with improved political relations." When one reduces all this to basic perspectives and analysis, the question of how much Moscow, our chief enemy, will gain in technological and economic returns to strengthen both its empire reins and bid for global supremacy becomes a very fundamental one. It is almost self-evident that the real price for Moscow's acquisition of much-needed grains and initial technology was our honorable ground withdrawal from Vietnam.

The further question is how tall a price will we be caused to pay as Moscow bolsters its sagging economy at little cost to its continued military buildup, now the largest in the world, and all sorts of intrigues and entanglements in the Free World? This real politico-economic price can be measured by having its economy shored up, indirectly facilitating its current consolidation process within, inadvertently discouraging opposition forces of freedom within its empire, and providing for greater access for its operatives in our environment than we could possibly have in its totalitarianized arena.

On the basis of this holistic outline the following conclusions and recommendations can be drawn:

(1) Except for certain swift-buck operators, to view trade with the USSR in terms of exchanges of what they possess in return for what we have is the acme of simplism. In the pattern of totalitarian power, both of the past and present, trade is a politico-economic instrumentality with broad societal impact and ramifications for that power;

(2) In what is really a period of the confrontation of negotiations—a diplomatic tool of cold warfare long known to totalitarian powers—a pol-trade policy constantly linking economic and political factors and considerations is imperative, particularly in relation to the empire within an empire, the Soviet Union;

(3) For this area as well as others, it is strongly recommended that Title I and its authority for new negotiations be supported, but not without structural provision for a congressional watchdog committee to oversee the execution of this centralized power. The episode last year on grain deals with the USSR was example enough of the lag in governmental surveillance over private initiatives;

(4) In this context of "U.S.-USSR Trade, At What Politico-Economic Price?", it cannot be too strongly emphasized that, even by its own admissions, the USSR is not like any other state. Contrary to the ugliness already shown by the ignorance of several of our businessmen, the USSR is definitely not a nation-state, and on rational grounds of accurate terminology the MFN classification is itself scarcely applicable. The USSR is made up of many compact nations, such as Lithuania, Ukraine, Georgia, Azerbaijan and so forth, and fundamental issues of human and national rights are as applicable to them, not as so-called "minorities" but real national entities, as they are to Soviet Jewry. And the determining and important fact that the USSR, the Ukrainian SSR, and the Byelorussian SSR are signatories to the 1948 U.N. Universal Declaration of Human Rights, which conveys specific international obligations, offers no justification for Moscow's use of the traditional and specious argument of "non-interference in the internal affairs" of its inner empire. Article 13 of the Declaration underwrites the right of everyone to leave his country; and

(5) In view of this basic fact and cognate matters of violation and injustices on the "international" plane, it is strongly urged that the MFN status (better a separately established Most-Favored-Multinational State status) be denied at this time to the USSR. There are scores of human rights violations in the despotic state of the USSR, but just taking those of "international" import as based in the Declaration itself and to which the USSR is a party—such as emigration, the reunion of families, and the elimination of extortionate Soviet duty taxes on relief packages sent by Americans to the USSR—sufficient cause exists for this denial at this time. Promises and even statutory abolition of such devices as the exit tax are not enough for granting this status to a totalitarian state that has at its disposal multiple alternative means of human repression. To demonstrate the "freedom" of this state, Khrushchev and others have called for freer emigration. An element of this feeling exists in the USSR and should be tapped. Moreover, it should be pointed out that in terms of market potentiality for Soviet products here, far more essential factors are determining than a MFN status. The demand appears to be more honorific on the part of arch-discriminators than economic in substance. We gave them an unjustified political parity in Moscow last year; there is no reason to donate an economic one this year without reciprocal concessions.

Mr. Chairman and Members, forty years ago while a man-made famine raged in Ukraine and elsewhere in southern USSR, costing the lives of at least seven million people, we, in our ignorance then, were pressing for more trade and negotiations with this despotic state. Now, forty years later, we are following the same routes but not in ignorance of the oppression of Soviet Jews, the mass arrests of Ukrainian intellectuals, the widespread Russification and cultural repressions in the Baltic states, Ukraine, Turkestan and elsewhere in the USSR. We, too, have come to know the instrumentalism of trade in the broader politico-economic framework that involves funtamental issues of national security, human rights and freedom. The occasion now is to act positively on this knowledge in behalf of these goals.

GASOLINE AND THE ENERGY GAP

HON. STANFORD E. PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. PARRIS. Mr. Speaker, since I took office in January, it has been my privilege as a member of the House Energy Subcommittee to listen to extensive testimony in regard to the energy shortage which is facing this Nation. I have become especially concerned about the situation and have attempted, by reading available reports and discussing the problem with recognized experts in the areas of energy and fuel supplies, to learn as much as possible about the current crisis especially as it concerns gasoline.

I do not believe that the overall situation which now exists has been created by an "unholy alliance" of some sort concocted by the major oil companies. I do believe, however, that the major oil companies must share with others a portion of the responsibility for permitting the current situation to develop and must help in the effort to find an adequate, economical, and reasonable solution to the problem.

Without attempting to respond to all of the points at issue in this very complex situation, please permit me to make several general observations.

I firmly believe that this Nation must soon make a massive commitment to the development of all of our available domestic reserves, and immediately begin projects to increase our domestic refining capacity including offshore drilling operations and the full use of Alaskan reserves consistent with reasonable and effective environmental considerations.

In my opinion, shortsighted and unrealistic governmental policies and intervention in the activities of a free international and domestic market have seriously aggravated the shortage of natural gas and restricted the available supplies of imported petroleum fuels. These policies must be amended and improved.

I cannot support any proposal which would establish government controlled mandatory allocation programs for independent marketers or gas rationing for consumers. Such a program would represent an unwarranted intervention in the free enterprise system, is repugnant to a free economy and a free society, and in my belief will inevitably lead to larger problems of greater magnitude.

I believe a much better solution is an immediate research and development program with full government support which would explore the utilization of solar, geothermal and nuclear energy sources and could be combined with a maximum utilization of our most abundant domestic resources.

Although these efforts must begin immediately, the goal we seek—economical and abundant energy supplies—will be obtained neither quickly nor easily and will require dedication and compromises, not only on the part of American business, but on that of the American public as well.

BLOOD TRANSFUSIONS—DEATH BY THE PINT

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. VEYSEY. Mr. Speaker, during the past 21 months I have taken the floor here no fewer than 25 times to present new facts and make renewed appeals for action to end the American tragedy of "death by the pint"—the previously unheeded, often purposely concealed loss of life in the country due to serum hepatitis from diseased blood transfusions.

During that time more than 125 Members of Congress have joined me in this effort, and this year we already have more than 80 cosponsors on our National Blood Bank Act.

During the past year and a half, we have seen the lumbering Federal bureaucracy show signs of awakening to this problem, which has grown so serious that the Communicable Disease Center in Atlanta estimated last year that at least 50,000 Americans are afflicted annually by serum hepatitis.

Mr. Speaker, as we pursue the legislation so vitally needed to end this problem, I believe it is worthwhile to note recent action by the Department of Health, Education, and Welfare. Through the leadership of Dr. Ian Mitchell, a nationally reknowned hematologist who has been assigned to spearhead HEW's effort to clean up the national blood supply, and at the direction of HEW's new Secretary, Casper W. Weinberger, in my opinion, one of the most competent and most dedicated public servants and Cabinet Members ever, the Department has launched a National Blood Policy.

The premises, the direction, and the ultimate goals of the National Blood Policy are virtually identical with those which we have outlined in the National Blood Bank Act. And we have been assured by Dr. Mitchell, Secretary Weinberger, and other principals of total cooperation from the Department in solving this problem.

Thus, for the first time, we can proceed knowing that congressional efforts to bring an end to serum hepatitis, by ending commercial blood enterprises, will be welcomed by the executive branch of the Government as well as the American public. This, to me, is an especially important breakthrough.

I believe that it is a necessary, and a pivotal step in providing the Congress the tools with which to pound out the most effective possible legislation.

I enclose a well-written analysis of the National Blood Policy as it appeared in the Washington Post a few days ago. I commend it to all of my colleagues, and appeal once again for intensified congressional attention to the tragedy of serum heptatitis.

It is especially important that we welcome the participation of HEW, and seize this opportunity to work hand in hand with that Department to end "death by the pint" with no further delay.

The article follows:

[From the Washington Post, July 11, 1973]

United States Warns Bloodbanks To Reject Skid Row Donors

(By Stuart Auerbach)

The federal government warned the nation's bloodbanks yesterday to develop a system to provide enough safe blood for all Americans without buying it from skid row bums, a major source of disease in blood transfusions.

If a safe system is not devised, federal officials told a White House health seminar, the administration will seek legislation setting up a nationalized blood supply system.

"For too long we have endured our present haphazard nonsystem of blood supply, with its sporadic shortages across the country," said Dr. Henry E. Simmons, deputy assistant secretary of health in the Department of Health, Education and Welfare.

"There is no overall shortage of blood, just widespread mismanagement of this vital national resource," he continued.

The new national blood policy was revealed yesterday by HEW secretary Caspar W. Weinberger, who said it is aimed at creating "an all-voluntary system of blood . . . (which) would go far toward eliminating the threat of hepatitis transmitted by blood from unhealthy donors."

About 16 per cent of the nearly 9 million pints of blood collected each year is bought from commercial donors, many of whom are unhealthy and who came from low income slum and skid row groups.

"This blood," an HEW report said, "accounts for about 25 to 40 per cent of post-transfusion hepatitis because commercial donors present a relatively high risk of transmitting hepatitis."

HEW estimated that 17,000 cases of hepatitis are caused each year by transfusions, and 850 of them result in death. In addition another 100,000 cases never show up clinically.

This costs the nation, HEW said, an estimated $86 million a year.

"Transition to an all-voluntary system should produce savings of at least $18 million to $29 million annually in reduced illnesses and death from post-transfusion hepatitis alone," HEW said.

The government also wants the blood banks to set up regional systems to exchange blood between hospitals and supply stations in an effort to avoid wastage. Simmons estimated that one-fourth of all the blood collected for transfusion is wasted through outdating; blood has 21 days shelf life before it can no longer be used for transfusions.

Simmons explained that the government decided not to nationalize the blood system until the four-pronged blood banking complex—the Red Cross (collecting 40 per cent of the blood), community blood banks (29 per cent), hospitals (18 per cent) and commercial blood banks (11 per cent)—had five months to come up with a program of its own.

To reinforce the government's carrot and stick approach, Secretary Weinberger said he will call a meeting of blood banking interests next month "to hammer out the specific steps we must take to insure an adequate supply of high quality blood, blood products and services."

This will entail getting the different parts of the blood banking complex, who are often at odds with each other, to begin working together for the first time.

Earlier, the White House's chief domestic adviser, Melvin Laird, told the health seminar he would recommend that President Nixon veto the appropriations bill for HEW and the Labor Department if the Senate version goes as high as the House's, which was $1.3 billion above the President's budget request.

Laird said an increase that high would be so inflationary as to negate the effects of the upcoming Phase IV controls on the economy.

Last year President Nixon twice vetoed Labor-HEW appropriations bills because they were far above his requests. Both times the President said the amounts would be inflationary.

Weinberger opened the conference, for health writers from all over the country, with a strong defense of the administration's health programs.

"I hope we succeed in conveying to you some sense of our absolute total commitment to do whatever is necessary to assure that quality health care—constantly improved with the findings of the most advanced research and development—is readily and equally available to all," Weinberger said.

ANNOUNCEMENT OF HEARINGS ON H.R. 188, SECURITY AND PRIVACY OF CRIMINAL ARREST RECORDS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. EDWARDS of California. Mr. Speaker, I would like to announce that the Subcommittee on Civil Rights and Constitutional Rights of the House Committee on the Judiciary will be holding hearings on H.R. 188, to amend title 28 of the United States Code to provide for the dissemination and use of criminal arrest records in a manner that insures their security and privacy.

The hearings will be held on Monday, Wednesday, and Thursday, July 23, 25, and 26, 1973, at 10:00 a.m., room 2237, Rayburn House Office Building.

Those wishing to testify or to submit statements for the record should address their requests to the Committee on the Judiciary, U.S. House of Representatives, Washington, D.C. 20515.

THE URGENT NEED TO PROVIDE RIGHTS AND PROTECTION FOR THE DAY LABORER

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. BADILLO. Mr. Speaker, throughout all of the national debate and concern over the continuing unemployment crisis and the great need to create significantly expanded employment opportunities, one group has been virtually ignored by Government, the labor movement, management and, it seems, by society itself. I refer to that sizable element of the American work force—numbering in the tens of thousands—who are hired by a variety of agencies which, in turn, send them out to work on the premises of and under the supervision of other employers.

These day laborers or day workers—the majority of whom are unemployed and underemployed men, frequently down on their luck and attempting to earn enough money to eke out a minimal existence—perform manual labor such as unloading freight cars, moving furniture, packing boxes, shoveling coal or any other type of temporary work which an employer needs done and which is not performed by a permanent employee. They hire out 1 day at a time and, although they may work 8 hours on a job, they actually spend 12 to 14 hours in waiting to be called for work, and traveling to and from the day's place of employment.

Day laborers have been characterized as being at the "bottom of the economic barrel." Unemployed and, frequently, unemployable, they usually lack education or marketable skills; they may be in poor health and often face language barriers. Because they are desperate for any form of work, they are ripe for exploitation. I understand that only one State—New Jersey—regulates temporary help services to any meaningful degree, although a few additional States are apparently considering taking steps to extend some forms of protection to day laborers. In most cases, however, temporary help supply firms are not only unsupervised but are often specifically exempted from labor protection laws.

Studies reveal that temporary dayworkers often have no workmen's compensation protection, even though they frequently work in very unsafe circumstances. Evidence also exists that they may fail to receive the protection to which they are entitled under social security and similar statutes. Some of the temporary help supply firms—particularly the fly-by-night outfits and marginal operators—pay workers the bare minimum wage while receiving twice that amount and more from their customers for the workers' services.

It is clear that these and other abuses must not be permitted to continue and that affirmative action must be taken to provide meaningful and effective protection for day laborers. Accordingly, I am introducing legislation—the Day Laborers Protection Act—aimed at protecting day laborers from the abuses and exploitation they are currently forced to endure.

One of the significant features of this measure is to make the minimum wage more meaningful to dayworkers by requiring that the worker be paid for traveltime to and from the job after he has been hired as well as for the waiting time. Each hour spent waiting to be sent to a job would count as a half hour in computing the hours worked that day. This is not an unrealistic requirement as dayworkers must frequently wait for 2 or 3 hours or more before being hired for a job and must then contend with as much as an hour in traveltime each way.

In addition, the Day Laborer Protection Act prohibits using dayworkers as strikebreakers, forbids discrimination in hiring, requires workmen's compensation coverage, affords day laborers the same rights other workers have to organize and bargain collectively and extends the protections afforded by the Fair Labor Standards Act and the Occupational Safety and Health Act, among other provisions.

Mr. Speaker, the thrust of this legislation is to protect dayworkers from marginal operations who would tend to abuse them in order to cut costs and increase their profits. Frankly, some of these firms amount to nothing more than slave shops and firm regulations must be imposed.

We must not, however, stereotype all temporary help supply firms or allow their images to be tarnished by the unethical and discriminatory operations of a few. There are many fine, reputable agencies which pay above minimum wages and look after the welfare of their workers. It would seem that they, too, would benefit from legislation of this nature by rooting out the undesirables.

In the last Congress the Special Subcommittee on Labor held 2 days of hearings on legislation initiated by our former colleague, Abner Mikva of Illinois. Unfortunately no further action was taken and the issue died. I strongly believe, however, that we cannot continue to neglect these all-too-often exploited workers, particularly in view of the failure of the majority of States to take appropriate action in this area. In New York City alone there are estimated to be between 10,000 to 25,000 dayworkers, the greater majority of whom, I am afraid, do not enjoy even a modicum of protection from wage, occupational safety, or various other abuses. Far too many of these workers are the hapless victims of unscrupulous hiring agencies and, having no other possible source of employment, they are unable to object or secure their rights themselves.

A number of similar measures have already been offered by some of our colleagues and I am hopeful that this renewed interest will initiate further action on the part of the Congress to move to provide this urgently needed protection for the rights and working conditions of day laborers.

MISS ENID BAA, A NAME THAT MEANS LIBRARY

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. de LUGO. Mr. Speaker, 1 week ago I introduced into the Record a newspaper profile of Miss Enid Baa. I prefaced the article with a few of my own words of tribute to the woman whose name has become synonymous with the word library in the Virgin Islands.

Miss Baa, Director of Libraries, Museums and Archives in the territory, was appointed Supervising Librarian of the Virgin Islands 40 years ago. During that time she has virtually created our library system. Additionally, she has made noteworthy contributions to scholarship with her preservation and cataloging of historic documents in the important Von Scholten Collection.

The accomplishments of this distinguished Virgin Islander have been recognized internationally as well as locally. I am now pleased to include in the Record another profile of Miss Baa which appeared in the Daily News on July 14:

ENID BAA'S PHILOSOPHY OF PROGRESS

(By Benita Cannon)

Enid Baa is the Caribbean's own Madam Librarian, and her story has been told many times. Her outstanding scholarship, her remarkable contributions to better understanding, and her concern for easier access to knowledge, have earned her recognition from the academic world as a whole and from the most distinguished leaders in her own field. Her innovative approach to the librarian's role and her tireless dedication have brought her accolades at home and abroad.

But Enid Baa has little time for looking back over past accomplishments. She is too busy doing today's work and making plans for the future.

You can find her by making your way into the Public Library on St. Thomas and winding around to the back through a passage between crowded book-shelves. You'll look in vain for anything resembling an office. There is nothing but a desk, a couple of chairs, and the dusty, musty smell of old books. And there is Enid Baa, who isn't dry-as-dust at all.

Gentle and soft-spoken, she conforms outwardly to the image of the traditional librarian, but her enthusiasm for her work is infectious and, just beneath the surface of her quiet manner, there is strength, determination and courage. She is not a traditionalist, but a daring pioneer, hacking away at the tough, old brush that has long obstructed the road to knowledge.

Miss Baa's lifelong involvement with books has afforded her even broader experience because of her abilities as a linguist. She has served as head of the Serial Cataloging Section at the United Nations, working in English, Spanish, Portuguese and French, and she has been Specialist in Cataloging of Spanish or Portuguese materials at the New York Public Library—a post she dreamed of, walking down New York's Fifth Avenue shortly after receiving her degree. "Some day I'll work there," she told herself—and she did.

Throughout her years of study, during most of which she was also a working librarian acquiring an extensive background in applied library science, she knew that her destiny lay in the Caribbean, not merely because St. Thomas is her home, but because she saw a more pressing need for excellent library services in the Caribbean area than in most other places.

She stresses the word "Caribbean," because of her conviction that cooperation among all the islands is necessary to create the most extensive research facilities and to allow for the broadest utilization of the materials gathered.

When she undertook her first library assignment in the Caribbean in 1933, she found that existing libraries were a sort of intellectual "no man's land," whose librarians were the "forgotten ladies" of their societies, passed and overlooked.

Today there are professional librarians in almost every island of the Caribbean, and there are active, well-established library associations affiliated with distinguished universities and colleges. There is unlimited exchange of information and research materials, with scholars from many parts of the world making use of the rich resources available through the libraries of the Caribbean.

In the Virgin Islands all of the public schools now have libraries, something unheard of in earlier years. "We always had some avid young readers," says Miss Baa. "Today we have more of them and they are making greater use of library facilities than ever before."

The climate of the Caribbean makes preservation of old documents difficult, but microfilming has made it possible to preserve and store, for present students and for generations yet to come, the earliest written records of the area. "For example," said Enid Baa, "we have microfilmed copies of newspapers issued in the Virgin Islands since 1770, when the very first local newspaper appeared.

She is enthusiastic about the possibilities of applying computer and other electronic techniques to libraries. She foresees a time when all the existing knowledge on a given subject can be obtained by pushing a button or using teletype. Steps are already being taken to bring the Computer Age to the islands of the Caribbean and their libraries. Many islands now have the basic electronic equipment and Miss Baa believes that within the next five years the computerized library will become a standard feature of local life.

She also has high hopes for closed-circuit television as a tool for dissemination of knowledge. She acknowledges that this could be an expensive project, but says it is something governments could do.

Miss Baa is disappointed that so few young Virgin Islanders are entering the library field. She thinks one reason may be the time needed to prepare for a career as a librarian. When many young people are finding remunerative employment with just a high school diploma, or with only a year or two of higher education, they are less interested in a profession that requires college, then graduate school.

It would be hard to imagine Enid Baa in any other profession. She is at home in the world of books, and she labors diligently to make others feel equally at home in that world.

Her name appears in a number of influential publications, including "Who's Who in America" and "The Two Thousand Women of Achievement." She has been the recipient of a John Hay Whitney Foundation Fellowship, and of an honorary Ph. D. from Colorado State Christian College. A gold medal was struck in her honor by the Royal Mint, London, when "International Who's Who in Community Service" named her recipient of the community service award in 1972. She has been honored by the Centro Studie Scambi Internazionali, and by the Association of Caribbean Universities and Research Institutes & Libraries. That is by no means a complete list of the honors accorded her. She has been recognized for her scholarship and cited for her contributions to library science by organizations in many parts of the world.

She is an articulate speaker and has participated in many national and international conferences. She has authored a number of works covering a wide range of subjects and providing, among other benefits research sources for scholars working on Caribbean themes.

Miss Baa's title is Director of Libraries, Museums and Archives for the Virgin Islands, a post she has held since 1933. As to her own career, she offers one plaintive note: "I never wanted to be an administrator," she says. "I've always wanted to be a cataloger!"

After forty years of service, Miss Baa says she is looking forward to retirement. She believes younger people should be given a chance to take over and bring new thinking and fresh ideas to the field.

"And when do you plan to retire, Miss Baa?"

"Oh, I haven't set any date yet. Or maybe I just don't want to tell you!"

A pause, then she laughed. "I guess I'd be willing to continue until we get the computer system in full operation . . ."

Her eyes sparkle and you can see she's looking towards that bright, promising future for which she has done so much to prepare the way.

MIDDLE-AGED AND OLDER PERSONS IN THE LABOR FORCE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Ms. ABZUG. Mr. Speaker, I would like to draw to the attention of my colleagues a portion of a series recently published by the Institute of Industrial Gerontology of the National Council on the Aging entitled "The Impact of Middle-Aged and Older Persons in the Population and in the Labor Force." I am submitting the first two parts which include the Northeastern States, Puerto Rico, and the Virgin Islands.

This series was compiled from the 1970 census and details general population information and labor force data by age and sex for each State and Federal region throughout the country. While demographic data on middle-aged and older persons is often sparse, this group constitutes approximately one-third of our population and almost one-half of our civilian labor force. Surely these statistics are essential to careful and accurate consideration of employment and retirement problems of this large percentage of workers. I hope they will be useful to my colleagues in the future.

The material follows:

MIDDLE-AGED AND OLDER PERSONS IN THE LABOR FORCE

The Institute of Industrial Gerontology of the National Council on the Aging is concerned with the employment and retirement problems of middle-aged and older workers. In connection with the study of these problems, we have had many requests for state and regional statistics on the proportions of persons age 40–64 in both the population and the labor force. This information has recently become available from the 1970 census published by the U.S. Bureau of the Census. The statistics which follow have been compiled from the census data in order to provide, in convenient form, a national, regional and state-wide picture of middle-aged and older persons and their labor force activity.

The general population information has been broken down into two specific age groups, those 40–64 years of age and those 65 years and over, for each state, the District of Columbia, the territories of Puerto Rico and the Virgin Islands, and for each of the ten federal regions throughout the country. The labor force data has been further broken down with specific designations for men and women as well as specific age breakdowns within the broader categories. All percentages have been rounded to the nearest tenth.

As can be seen from the data, those age 40 and over are a large and essential part of the work force and, although the statistics are not cited, a very large proportion of those in the labor force are employed full time. Unemployment rates are not given because the 1970 figures do not reflect current conditions. Furthermore, unemployment rates in general are not a true indicator of the problems of older workers—long-term unemployment, underemployment, and dropping out of the labor force.

This information is particularly useful to state employment agencies and planning bodies in the public and private sector concerned with the dynamics of the labor force within their states. The data present some criteria on which planning decisions can be made, resources allocated and programs initiated to meet the needs of a growing proportion of the labor force.

The regional and state data on "The Impact of Middle-Aged and Older Persons in the Population and in the Labor Force" is available in five parts from the National Council on the Aging, 1828 L Street, N.W., Washington, D.C. 20036.

Part I: The Northeast (Federal Regions I, II).

Part II: Mid-Atlantic and Southeast (Federal Regions III, IV).

Part III: Great Lakes and North Central (Federal Regions V, VII).

Part IV: Southwest and Rocky Mountains Federal Regions VI, VIII.

Part V: The West (Federal Regions IX, X).

REGION I—NORTHEASTERN STATES (NEW ENGLAND): SELECTED STATISTICS

Population, Table 1

Over one-third (38 percent) of the 1970 population of region I were persons age 40 and over. Eleven percent of that group was over 65. The six New England states comprise this region.

The proportion of persons age 40–64 ranged from a high of 28 percent in Connecticut and Rhode Island to a low of 25 percent in Vermont. In Massachusetts, 27 percent of the population was in this age group and 26 percent in Maine and New Hampshire. Connecticut, however, had the smallest proportion of persons age 65 and over with 10 percent of the population in this age group and Maine had the highest proportion with 12 percent. Massachusetts, New Hampshire, Rhode Island and Vermont each had approximately 11 percent of their populations age 65 and over.

In keeping with a national trend toward urbanization, five of the six states in region I had a greater number of middle-aged and older persons living in urban areas than in farm and rural nonfarm areas. Only Vermont had more persons in these age groups living in rural areas than in cities. However, persons age 40–64 living on farms made up a higher proportion of the population in rural farm areas than in urban places throughout the region. For instance, in Massachusetts 35 percent of the rural farm population was age 40–64 compared to 27 percent of its urban population while in Vermont 28 percent of the rural farm population was age 40–64 compared to 25 percent of its urban population. In Connecticut 34 percent of the rural farm population was age 40–64 compared to 33 percent in New

Hampshire and Rhode Island and 30 percent in Maine.

Labor force, table 2

In region I, middle-aged and older workers made up over half of the civilian labor force. Men and women age 40 and over comprised approximately 52 percent of the labor force. Rhode Island had the highest proportion of middle-aged and older workers in the region with 54 percent of both the male and female work force in this age group. The lowest proportions were found in Vermont and New Hampshire. In Vermont 49 percent of the male and female work force was age 40 and over and in New Hampshire 49 percent of the male labor force and 51 percent of the female labor force and 51 percent of the female labor force were in this category. In Connecticut 53 percent of the male and female labor force was age 40 and over, compared to 52 percent in Massachusetts. Fifty-two percent of the male labor force in Maine was in this age category and 53 percent of the female work force.

In absolute numbers, there were 2.5 million men and women workers age 40 and over in the region. Of these 230,037 were age 65 and over.

There was a regional total of approximately 3.2 million persons age 16 and over who were not in the labor force. More than half (59 percent) were age 40 and over; 74 percent of this group were women.

SUMMARY TABLE—MIDDLE-AGED AND OLDER PERSONS IN THE POPULATION AND LABOR FORCE (1970)

REGION I—NORTHEASTERN STATES (NEW ENGLAND)

	Connecticut	Maine	Massachusetts	New Hampshire	Rhode Island	Vermont	Regional total
Total population	3,031,705	993,663	5,688,903	737,681	948,844	444,330	11,845,126
Percent 40 to 64	28.2	26.2	27.2	25.6	27.9	24.6	27.2
Percent 65 and over	9.6	11.5	11.2	10.6	11.0	10.7	10.7
Civilian labor force:							
Men, 16 and over	791,948	234,073	1,424,666	185,290	229,011	108,538	2,973,526
Women, 16 and over	506,535	147,641	964,753	119,423	158,991	66,264	1,963,607
Percent men 40 to 64 years	48.4	47.0	46.7	44.6	49.0	43.8	47.1
Percent women 40 to 64 years	48.6	48.2	47.2	46.1	49.7	43.8	47.7
Percent men 65 and over	4.2	4.8	4.9	4.5	4.8	4.8	4.7
Percent women 65 and over	4.0	5.1	4.9	4.7	4.2	4.9	4.6
Not in labor force:							
Men, 16 and over	197,909	82,864	409,790	54,274	68,859	35,892	849,588
Women, 16 and over	605,569	210,886	1,181,549	146,097	192,658	92,821	2,429,580
Percent men 40 to 64 years	14.5	17.7	15.3	15.2	16.4	15.9	15.4
Percent women 40 to 64 years	32.1	30.4	30.4	29.3	31.4	29.3	30.8
Percent men 65 and over	42.5	44.0	42.7	43.6	44.1	39.4	42.8
Percent women 65 and over	25.1	28.2	29.1	27.9	29.2	26.7	27.9

REGION II—NORTHEASTERN STATES, PUERTO RICO, VIRGIN ISLANDS: SELECTED STATISTICS

Population, table 1

Over one-third (38 percent) of the 1970 population of region II were persons age 40 and over. Ten percent of that group were over 65. This region includes New York and New Jersey, as well as the United States territories of Puerto Rico and the Virgin Islands.

New Jersey and New York had a similar proportion of persons aged 40–64 and 65+. In New Jersey, 29 percent of the population was 40–64; in New York the figure was 28 percent. Persons aged 65 and over comprised 10 percent of the population in New Jersey and 11 percent in New York. However, the proportion of persons in these age groups in both Puerto Rico and the Virgin Islands was far lower. In Puerto Rico 20 percent of the total population was 40–64 and 7 percent was 65 and over, whereas in the Virgin Islands 18 percent of the population was 40–64 and only 4 percent was over 65.

In keeping with a national trend toward urbanization, both New Jersey and New York had a greater number of middle-aged and older persons living in urban areas than in farm and rural nonfarm areas. However, persons age 40–64 made up a higher *proportion* of the population in rural farm areas than in urban places. In New Jersey, those age 40–64 comprised 34 percent of the farm population compared to 29 percent of the urban population, whereas in New York the difference was much less, with those age 40–64 comprising 30 percent of the farm population and 29 percent of the urban population.

Puerto Rico, however, had not only a greater number of persons age 40–64 living in urban areas but also a greater proportion of this age group living in these areas. Persons age 40–64 comprised 21 percent of the urban population and 19 percent of the farm population. In the Virgin Islands, a far greater number of persons aged 40–64 lived in rural areas but proportionately this age group comprised approximately 18 percent of both the urban and rural populations.

Labor force, table 2

In New Jersey and New York, middle-aged and older workers made up over half of the work force. Men and women aged 40 and over in these two states comprised approximately 53 percent of the civilian labor force.

In absolute numbers, there were 5.5 million men and women workers age 40 and over in New Jersey and New York. Of these, 473,739 were age 65 and over.

Approximately 7.5 million persons age 16 and over were not in the labor force in these two states. More than half (58 percent) were age 40 and over; 75 percent of this group were women.

Due to different age breakdowns for Puerto Rico and the Virgin Islands by the Census Bureau, the data for these two territories includes workers 45–64 instead of 40–64, as in the states. Puerto Rico is further distinguished since the data on the labor force includes men and women 14 and over instead of 16 and over.

In Puerto Rico, men age 45 and over comprise 33 percent of the civilian labor force, whereas women comprise only 19 percent. In absolute numbers there were 193,494 men and women workers age 45 and over in Puerto Rico. Of these, 20,298 were age 65 and over. No age breakdown was available for those 1,104,602 men and women age 14 and over not in the labor force.

In the Virgin Islands, men age 45 and over comprise 24 percent of the civilian labor force and women make up 21 percent. In absolute numbers there were 5,846 men and women workers age 45 and over in the Virgin Islands and of these 373 were 65 years and over. As in Puerto Rico, no age breakdown was available for the 13,310 men and women age 16 and over who were not in the labor force.

SUMMARY TABLE—MIDDLE-AGED AND OLDER PERSONS IN THE POPULATION AND LABOR FORCE (1970)

REGION II—NORTHEASTERN STATES

	New Jersey	New York	Puerto Rico[1]	Virgin Islands[1]	Regional total
Total population	7,168,143	18,236,882	2,712,033	62,468	28,179,526
Percent 40 to 64	29.0	28.3	19.6	17.9	27.6
Percent 65 and over	9.7	10.8	6.6	3.8	10.1
Civilian labor force:					
Men, 16 and over	1,843,957	4,543,552			6,387,509
Women, 16 and over	1,128,604	2,878,027			4,006,631
Percent men 40 to 64 years	49.9	48.1			48.7
Percent women 40 to 64 years	49.1	48.1			48.4
Percent men 65 and over	4.3	4.9			4.8
Percent women 65 and over	3.7	4.4			4.2
Not in labor force:					
Men, 16 and over	485,497	1,467,676			1,953,173
Women, 16 and over	1,526,857	4,084,049			5,610,906
Percent men 40 to 64 years	15.6	16.6			16.4
Percent women 40 to 64 years	34.3	32.9			33.3
Percent men 65 and over	42.6	39.9			40.6
Percent women 65 and over	24.2	25.2			24.9

[1] Labor force data not included due to different age breakdowns.

PLANNING FOR THE DISTRICT OF COLUMBIA

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. NELSEN. Mr. Speaker, on July 11, 1973, I introduced H.R. 9215 with Congressman DON FUQUA of Florida as a cosponsor. The bill is designed to amend the National Capital Planning Act of 1952, as amended, and is for other purposes. The bill is intended, with some modification, to implement the Nelsen Commission recommendation's concerning planning for the District of Columbia.

I have recently received two letters endorsing H.R. 9215 dealing with the National Capital Planning Commission. The Chairman of the National Capital Planning Commission, Ben Reifel, former Member of this body, addressed to the chairman of the House District Committee, endorses this bill wholeheartedly, and the Washington Avenue Corridor Committee, in a letter dated July 17, 1973, has endorsed H.R. 9215. I understand the Washington Avenue Corridor Committee represents some 40,000 citizens who are members of the citizen associations affiliated with the Corridor Committee.

I am inserting a copy of these letters in the RECORD, because I believe that this is an important piece of legislation, and I think it is important that the Congress know that H.R. 9215 is receiving strong support in the community:

NATIONAL CAPITAL PLANNING COMMISSION,
Washington, D.C., July 16, 1973.

Hon. CHARLES C. DIGGS, Jr.
Chairman, Committee on the District of Columbia, U.S. House of Representatives, Washington, D.C.

DEAR CHARLES: Thank you for your letter of July 6 enclosing a copy of H.R. 9056 and requesting my recommendations thereon.

I have reviewed carefully those sections of the bill dealing with the National Capital Planning Commission and related matters, as well as H.R. 9215, introduced by Congressman Nelsen, relating to the same subject.

H.R. 9215 is entirely consistent with the views in my statement of June 8 to the Government Operations Subcommittee and I strongly recommend that it be substituted for Section 203 of H.R. 9056 in any bill on this subject reported out by the Committee or separately enacted by the Congress.

Sincerely yours,

BEN REIFEL,
Chairman.

WISCONSIN AVENUE
CORRIDOR COMMITTEE,
July 17, 1973.

Hon. ANCHER NELSEN,
Member, The District of Columbia Committee, The House of Representatives.

DEAR CONGRESSMAN NELSEN: The Wisconsin Avenue Corridor Committee (WACC) at its meeting of July 16th, unanimously reaffirmed its previously stated position that Sections 203 and 423 be deleted from H.R. 9056.

Upon consideration of the just released H.R. 9215 "A Bill to amend the National Capital Planning Act of 1952, as amended . . ." introduced by yourself and Congressman Fuqua, WACC recommends that this bill be favorably considered by the D.C. Committee. The constituent organizations of WACC reserve the right to separately propose only minor changes in the language of some of the sections of H.R. 9215.

WACC further approved the specific proposal that H.R. 9215 be amended as follows: Section 4, paragraph (d), lines 19 thru 21, on page 11 should be changed from ". . . , and may, in consultation with the Commissioner of the District of Columbia, encourage the formation of one or more citizen advisory councils." to read ". . ., and shall, in consultation with the Commissioner of the District of Columbia, establish one or more citizen advisory councils."

The position and recommendation, as stated above, has been endorsed by all the citizen organizations of Northwest Washington, and at this meeting was further approved by the Northeast Citizens Coordinating Committee (representing over 15 associations in Northeast Washington) and by the Capitol Hill Restoration Society.

The Wisconsin Avenue Corridor Committee urges all members of The District of Columbia Committee to seriously consider these proposals while they are in the process of "marking up" Title II and Title IV of H.R. 9056.

Yours truly,

JOHN P. BARRY, *Chairman.*

PLEDGES TO THE U.N. ENVIRONMENT FUND

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. FRASER. Mr. Speaker, one of the most promising and most significant of the new activities of the United Nations is the U.N. environment program. This program is now getting underway after being launched at the Stockholm Environment Conference last year. The special voluntary fund for the program has a target of $100 million. Full subscription to the fund looks very promising as a number of countries have made firm pledges to contribute. As of June 26, 30 countries other than the United States have made pledges to the U.N. Environment Fund totaling more than $55 million for the 4-year period, 1973–77. Together with the $40 million contribution expected from the United States, the fund is near full subscription.

During the floor debate in the House on May 15, on the U.N. Environment Program Participation Act, some of our colleagues expressed concern that other countries were not contributing their fair share to the Environment Fund. However, as the information below shows, other U.N. members are, indeed, doing their part to make the U.N. environment program a success.

The list of pledges and contributions as of June 26, 1973 made by other nations is as follows:

CONTRIBUTIONS OR PLEDGES MADE BY OTHER NATIONS TO THE U.N. ENVIRONMENT FUND

Country	Total pledged for 1973–77	1973	1974	Actual cash transferred
Austria	$200,000		$200,000	
Australia	2,500,000	$500,000	500,000	
Belgium	500,000	250,000	250,000	
Botswana	2,834	1,417	1,417	
Canada	[1] 5,000,000	900,000	1,625,000	$100,000
China	220,000	[2] 220,000		
Cuba	24,540	[3] 24,540		
Denmark	1,600,000		400,000	
Finland	[4] 750,000	150,000	150,000	150,000
FRG	10,600,000		2,120,000	31,446
France	6,500,000	1,324,500	1,324,500	
Iceland	4,000	2,000	2,000	
Indonesia	10,000		10,000	
Iran	40,000	40,000		
Italy	2,000,000	400,000	400,000	
Japan	10,000,000	1,000,000	2,250,000	
Jordan	$1,000	$1,000		
Kenya	[5] 20,000	20,000		
Liberia	1,500	1,500		
Malta	2,700	1,350	$1,350	
Mexico	[6] 200,000	200,000		
Netherlands	1,500,000	50,000	300,000	$250,000
New Zealand	320,000	64,000	64,000	
Norway	2,000,000	402,700	402,700	
Philippines	10,000		10,000	
Sweden	5,000,000	1,000,000	1,000,000	
Sudan	1,000	1,000		
Swaziland	2,900	2,900		
Switzerland	1,500,000		309,600	
United Kingdom [7]	4,800,000	980,000	980,000	46,900
Total	55,310,474	7,536,907	12,300,567	

[1] Canadian contribution reportedly may go as high as $7,500,000.

[2] Half in convertible currency.

[3] Equivalent of $20,000 Cuban pesos.

[4] Finland recently announced a contribution of $150,000 for 1973 and informed the Governing Council that it hoped to keep its annual pledge at the same level in the future.

[5] Described as 1st installment.

[6] 2,500,000 pesos.

[7] At the recent meeting of the Governing Council the United Kingdom also announced its intentions to contribute 5 percent of the total pledged in any 1 year.

Note: In addition to the above, the following countries have expressed an intent to contribute to the Fund without specifying the amount or when: India, Iraq, Lebanon, Sierra Leone, Spain Turkey, and Yugoslavia. The U.S.S.R. and Ghana also publicly stated at the recent Governing Council meeting that the possibility of their each making a contribution was under consideration in their respective capitals.

PRISONERS IN SOUTH VIETNAM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 18, 1973

Mr. HAMILTON. Mr. Speaker, I have just received a very disturbing report on the treatment of civilian and political prisoners in South Vietnam since the ceasefire agreement of January 27, 1973.

The report, dated June 18, 1973, was prepared by David and Jane Barton, a dedicated young couple that spent 2 years of service in Quang Ngai, South Vietnam, as field directors of the American Friends Service Committee's rehabilitation project.

Their report makes for unpleasant, but enlightening, reading and I would urge my colleagues to give it their attention.

The report follows:

REPORT ON QUANG NGAI PROVINCE SINCE THE JANUARY CEASE-FIRE

(By Jane and David Barton)

JUNE 18, 1973.

Since the ceasefire accords the Saigon government has continued to detain, arrest, interrogate, torture, and imprison a large number of civilians in Quang Ngai Province. There are approximately 2,500 civilians currently imprisoned for political reasons in Quang Ngai Province. At the Province Interrogation Center there are over 1,000 people, at the Quang Ngai Prison another 1,000 people, and at the eight districts detention centers several hundred more. During our two years of work in Quang Ngai we met and spoke with several hundred prisoners at these various prison facilities. Not once did we ever meet a prisoner who had been arrested for criminal reasons. The prisoners in Quang Ngai wore tags which gave their name, number, and frequently had the words "political prisoner" written underneath. A conservative estimate would be that ninety percent of these people were clearly political prisoners and not prisoners of war, not people arrested committing an act of war.

Since the January accords the Quang Ngai prisoner population has remained constant. Most of the prisoners who were in prison at the time of the accords were not released. In our daily contact with prisoners we continued to see the same prisoners after the ceasefire agreement who were held before the accords. One particular example is that of a 67 year old woman prisoner, Phan thi Thi. She was picked up on November 17th, 1972 in Mo Duc district of Quang Ngai Province while she was carrying two pounds of rice on a road that was considered "insecure". She was brought to the police headquarters in Mo Duc where she was interrogated, beaten and tortured. During the beating she suffered injuries to her brain which caused her to be paralyzed on one side of her body.

When we first saw her in the prison ward of the hospital she was lying on cardboard with a hole cut in it through which she defecated and she wore no clothes. Besides being paralyzed she was in such an emaciated and weakened state, weighing about 70 pounds, that she was unable to care for herself and the other prisoners had to feed her. After the signing of the ceasefire accords, the police brought the women back to Mo Duc district for further interrogating. Even though the paralysis prevented Phan thi Thi from walking and even speaking audibly the Mo Duc police continued to question her and hold her as a prisoner. After repeated requests we were able to have the woman "temporarily transferred" to the Quang Ngai hospital, but even on April 14th when Phan thi Thi's health was in such a critical state that she had to be transferred into the intensive care ward of the hospital, the police refused to release her so that her family might bring her home to die. Phan thi Thi still remains a prisoner.

Other prisoners who have been held much longer than Phan thi Thi have also not been released, such as in the case of Huynh thi Tuyet, a 36 year old woman who was imprisoned in March, 1967. Huynh thi Tuyet said she was rounded up with other villagers during military operations near her village in Son Tinh district. Many of the other villagers were released when the soldiers became tired of watching their groups of "prisoners", but Huynh thi Tuyet claims she and eighteen other villagers ranging from a seven year old boy to a 59 year old man were brought to the Quang Ngai Prison where she has been held since that time without a trial or knowing exactly of what she is being accused. An American doctor, Margory Nelson, examined this prisoner on several occasions in 1968 yet on May 5, 1973 we gave medical treatment to Huynh thi Tuyet she is still jailed in the Quang Ngai Prison. Huynh thi Tuyet feels she was mistakenly imprisoned and continues to be a forgotten prisoner for she still has never been told how much longer she will remain a prisoner.

Some of the more then two thousand political prisoners who are still being held in Quang Ngai at the present time include: Ho thi Nhung, a 32 year old mother with a seven week old baby suffering from a respiratory problem, Phan Suong, a 49 year old man with an advanced case of tuberculosis and pneumonia, Trinh thi Cung, an 18 year old girl who has venereal disease after being raped six times when she was picked up by ARVN soldiers, and Nguyen thi Nuoi, a 42 year old woman with cancer of the lymph glands. All of these people are labeled as "suspects" but although they have remained in prison for periods ranging from six years to four months none of them have had a trial and still remain in prison in spite of the accords.

The routine practice by the Saigon government of bringing "suspects" being held in the Quang Ngai Detention Center to the Interrogation Center, a building in the middle of the Detention Center complex, where they are questioned and often tortured, continued without abatement after the ceasefire accords. We were able to gather evidence of torturing both before and after the ceasefire accords through the physical examination of those people tortured, interviews and personal accounts by the prisoners themselves, and from X-rays and photographs. Phan Thi Nguyet, a 19 year old woman, had been in the Quang Ngai Interrogation Center and Prison for six months before the ceasefire accords. The police were trying to find out if Nguyet's father, who had gone to North Vietnam when Nguyet was only 9 years old, had any communication with Nguyet recently since it was rumored that her father had returned to the Quang Ngai area.

Before the ceasefire accords Nguyet was tortured 8 times and then after the accords she was brought from the Prison back to the Interrogation Center where she was given electrical shocks, forced to drink soapy water, and was beaten with clubs on four different occasions between February 2d and March 23rd. As a result, she had severe nerve damage and had paralysis of her left leg. In addition, she now suffers from as many as five convulsive seizures a day. These seizures are a phenomenon which we have witnessed with at least 25 other prisoners. American doctors who have observed these seizures have found it difficult to determine if such seizures are a result of medical causes or psychiatric disorders, but the doctors are certain there is a direct link between those people who are the most severely tortured and those who suffer the most severe seizures.

Another example of torturing since the ceasefire is that of a Montagnard man who was put in a oil drum filled with water which was then beaten on the sides. When an American Medical Association doctor examined this man the doctor stated that the prisoner had "internal injuries and bleeding as a result of his being tortured". Four days later the patient prisoner died.

We met several prisoners who had been arrested since the ceasefire and they related their stories. One woman named Nguyen thi Sanh we first met at the prison ward of the Quang Ngai Hospital on March 6th. Her body was swollen all over with huge black and blue welts; she lay immobile in her bed, her eyes almost swollen shut. Nguyen Thi Sanh explained to us that she was 36 years old and from Duc My village in Mo Duc district. Four days ago she had left her home early in the morning to work in the fields. The village chief saw her walking alone early in the morning and arrested her, accusing her of planning to communicate with local PRG soldiers. She replied that she, her four small children, and her husband who was a lieutenant in the ARVN had refugeed six times to escape from communists, but the village chief ordered the police to interrogate and beat Nguyen Thi Sanh anyway.

After being severely beaten at the district detention center, she was then sent to the Province Interrogation Center but arrived in such a bad condition that she was transferred to the prison ward of the hospital. At the present time she is still being held at the Quang Ngai Province Interrogation Center.

Another person we knew, Huynh thi Gia, a former patient at the hospital was also arrested after the ceasefire. She was living in an insecure area in Binh Son district. Before the ceasefire the PRG controlled the area in which she lived. After the ceasefire the ARVNs launched operations and regained control around her home and arrested her for "collaborating" with the PRG. She explained that because she was an amputee she was unable to flee and transport her sewing machine, her only means of livelihood, when the PRG gained control of her village several months ago. She was arrested and sent to the Interrogation Center on February 16th.

A twelve year old boy named Lam was also arrested after the ceasefire and sent to the Interrogation Center. The police arrested this young boy because he had two vials of penicillin in his pocket and they accused him of carrying medicine for the PRG. This boy remains in the Province Interrogation center at the present time despite the fact that the authorities know his father is a nurse at the Quang Ngai Hospital; the father has told the police that his son was taking the medicine to a sick aunt.

A seventeen year old student named Loc was arrested by the Military Police and jailed in the Province Interrogation Center even though his identification papers are in order and he is under-age for military service. The police have given him the choice of enlisting in the ARVN now or remaining in the Province Interrogation Center for a year until he is legally eligible for the Army. All this occurred after the ceasefire.

Since the ceasefire accords were signed in January there has been little if any evidence in Quang Ngai of any spirit of reconciliation on the part of the Saigon government. The traditional Tet holidays followed soon after the accords. The Saigon government authorities in Quang Ngai were quite clear in their instructions to the people concerning family reunions over the holidays. Propaganda trucks with loudspeakers announced to the people that if relatives who had gone off to work for the PRG or for the North Vietnamese should try to return during the Tet holidays to visit their families the neighbors had a responsibility to beat these people to death.

Strict measures have been taken by the police and military in order to tightly control and limit the movement of people in Quang Ngai Province. Loudspeaker trucks again instructed the tens of thousands of refugees in and around the province capital not to try to return to their ancestral lands and homes, if they did try they would be shot to death. Since the accords the Saigon government in Quang Ngai has not allowed people to move freely between areas under their control and areas under the control of the PRG.

On March 1st Nguyen Quy, a 74 year old grandfather who is hard of hearing and partially blind, was arrested and imprisoned in the Son Tinh district detention center. We learned of this old man's arrest because he was related to a hospital worker we knew. Nguyen Quy's home was in the My Lai area and nearly one year ago there was fighting nearby so he sought refuge with his 10 year old granddaughter on Ly Son Island. After one year there he decided to come back to the mainland and visit friends at the refugee camp for people from the My Lai area. The refugee camp consists of tents on a sandspit of the Tra Khuc River just outside Quang Ngai city. Upon arriving at the camp he was arrested by the police who would not believe his story. The police took him away leaving the granddaughter alone and crying in the refugee camp. Friends came to us for help. The commander of the Son Tinh district special police said that this old man was potentially dangerous since he may have remained in an area which had come under the control of the PRG, and that even though this old man had the proper identification papers and had in fact been an official for the Saigon government in the past they would have to hold him for questioning. After four weeks of constant effort we were able to secure his release.

Another example is that of a 50 year old woman who was arrested while returning from market. This woman lived in a hamlet controlled by the PRG and on March 27th she had gone to a market in a Saigon government controlled area west of the Quang Ngai airport to buy fish. Major Hoang van Kiem had her arrested and brought in for questioning. Major Kiem wanted information about North Vietnamese soldiers in her hamlet. When she answered that she was simply a peasant farmer and knew nothing, the Major confiscated her fish, had her beaten, and ordered his men to shave her "communist head".

At the Rehabilitation Center on the grounds of the Quang Ngai Province Hospital there have been more patients arriving who have been injured since the ceasefire than during the same period last year. Most of these injuries have been attributed to ARVN artillery, gunfire, and mines. Almost every evening since the ceasefire we heard the sound of "out-going" artillery. An American Embassy official commented to us that in Hue the ARVNs were firing off thousands of artillery shells per week because "the more they shoot the more the Americans will replace".

Two young paraplegic patients, Liem, a 12 year old girl from Mo Duc, and Phuong, a 10 year old boy from Son Tinh, were both injured in the spine by shrapnel from artillery shells which landed near their homes at night during the month of February. A 50 year old man named Le Nam had to have his right leg amputated above the knee because of gunshot wounds. On February 24th he was working in his ricefields several hundred yards away from a PRG flag when an ARVN helicopter swooped down over him and shot him several times. On the fifth day of TET, February 7th, a 60 year old man named Vinh set out early from his refugee camp in Binh Son district to work in the sweet potatoe fields. He had both his legs blown off by an ARVN mine which had not yet been deactivated from the night before. A fourteen year old boy, Buoi, lost his left leg below the knee due to a grenade injury suffered on February 15th. He was walking with his family and several other families to Mo Duc from Bo To in order to escape the fighting there. They had been walking all evening and it was four o'clock in the morning. They were passing an ARVN outpost when the soldiers shouted, asking them who they were and where they were going. As they answered that they were civilians, a grenade exploded. Buai's father and sister were killed and his mother was severely injured.

We have also heard first-hand accounts from people out on the Satangan Peninsula who were forced at gunpoint by ARVN soldiers to take down a PRG flag. Fortunately, in this case, the field around the flag was not mined but the ARVN soldiers had clearly indicated to the people that they were using them as human mine-sweepers. This story was related to us by Tran Lam a 57 year old man from Phu Quy. He said that the incident occurred on March 27th as he was on his way to the Binh Son market from Binh Duc. He didn't want to die, but the soldiers laughed, told the soldiers that he was old and that he saying that they were young and he would have to die for them.

The United States must assume responsibility for these post ceasefire injuries, for these prisoners, and for the repressive refugee system since for many years now the United States has been financing and advising the Vietnamese institutions and personnel, running the prison and refugee systems for the Saigon government. It is our hope that a true ceasefire will soon take effect, that all prisoners will be released soon, and that the Vietnamese people will be allowed to move freely back to their ancestral lands and homes. We feel that when the killing and maiming ceases, when prisoners are released, and when people return to their homes, the Vietnamese will then have the freedom to decide for themselves the future of their own country.

NATO AID EYED

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, July 19, 1973

Mr. HARRY F. BYRD, JR. Mr. President, the June 25 edition of the McKeesport, Pa., News included an interesting editorial on the subject of the contributions by the United States and her NATO allies to the costs of the alliance.

I feel that the United States has long carried a very heavy burden, both in cost and in number of troops, to sustain the strength of NATO in Western Europe.

This is a most difficult issue for the Congress. On the one hand, the United States cannot indefinitely carry so heavy a burden as it has in the past; but on the other hand, we must avoid handing the Russians a major advantage or shattering the morale of our NATO allies.

I ask unanimous consent that the text of the editorial, "NATO Aid Eyed," be included in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NATO AID EYED

The United States in recent years has been pleading with its NATO allies to share a larger burden of the alliance's defense costs.

And each year the result is virtually the same—a token increase by some of our partners, but not enough to seriously change our balance of payments deficit.

There was a time during the dark days of the Cold War that a need for a large and strong NATO force was apparent. But with the United States' new rapport with the Soviet Union, plus a huge nuclear deterrent, there is a growing school of thought in this country that the time has arrived to cut back on our forces in Europe.

There were reports circulating that President Nixon and Soviet Chief Leniod I. Brezhnev would discuss cutbacks during their current summit meeting and this apparently caused some concern among our European allies who are suspicious of a possible bilateral agreement between these two superpowers.

Much of Secretary of State William P. Rogers' time at the recently-concluded NATO Foreign Ministers' conference in Copenhagen was taken in assuring our allies that the U.S. will never make any separate deals with the Soviets but instead will promote talks between NATO and Warsaw Pact nations on mutual and balanced force reduction.

One of the most influential lawmakers in Congress on troops strength is Sen. Harry F. Byrd, Jr., of Virginia, a member of the Armed Services Committee who recently returned from a tour of NATO installations in Europe.

He pointed out the merits of a defensive alliance in Europe, saying a free and peaceful Europe is vital to America, but questioned the need for 200,000 ground troops 28 years after the end of World War II. Byrd pointed out that we now have 300,000 military personnel in Europe, including the Sixth Fleet. In addition, there are 225,000 dependents, plus 25,000 U.S. civilian employees. Thus, the U.S. government has 550,000 Americans in Europe and the drain on our balance of payments, he said, is substantial. The Senator reported that during the first three months of this year our total balance of payments deficit was a smashing $10 billion. "The U.S. cannot indefinitely carry so heavy a European burden," he added.

Such alarm soundings undoubtedly ring out in European capitals and perhaps have had some effect on leaders of allied nations. At least their ministers went further than they usually do in saying that the wealthier West European nations will pitch in soon and help pay for keeping the 300,000 soldiers, sailors and airmen in Europe.

NATO Secretary-General Joseph Luns said the matter is under intense discussion in NATO's Permanent Council, and a West German source in the 15-nation alliance said something concrete is expected "this summer."

Secretary Rogers was so enthusiastic over the results of the NATO conference that he described it "as the best we've had" in the almost five years he has been Secretary of State.

He described the results as "a very positive response to President Nixon's initiative on the "Year of Europe," and said he thought it would result in "our getting to a statement of common views as the basis for negotiations on the specific problems confronting us."

The patience of many Americans, including lawmakers, is growing thin on the issue of troops in Europe. President Nixon will visit Europe this Fall and unless there is some concrete evidence that our allies are more considerate of American efforts there might be a drastic change in official American attitude toward the western alliance.

STATEMENT OF RICHARD CARLSON

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. FRENZEL. Mr. Speaker, one of the witnesses appearing before the Elections Subcommittee of the House Administration Committee today in its hearings on post card registration was Mr. Richard Carlson, director of the election systems project of the National Municipal League.

Mr. Carlson's testimony was unusual in that it was critical of the post card registration concept not on the usual bases of, first, fraud potential; second, cost effectiveness; or third, devastation of State system. Instead, his testimony indicated that the post office registration bill will not help the disadvantaged people who its authors claim will be benefited.

Mr. Carlson indicated that his group's research showed that the beneficiaries of a post card registration system would be the highly educated, affluent suburban types rather than the new citizens, the very poor, the illiterate, or students. Even worse, he pointed out that the bill might be counterproductive and prevent these kinds of people who are now registered from casting votes in local elections.

Because this testimony challenges the whole concept of post card registration, I thought it might be of particular interest to the Members of the House. Mr. Carlson's testimony follows:

STATEMENT OF RICHARD CARLSON

My name is Richard Carlson. I am Director of the Election Systems Project of the National Municipal League, a non-partisan nonprofit citizens organization concerned with effective self-government at the state and local levels. Since its founding in 1894, the League's program has been based on the proposition that informed citizens, actively participating in public affairs in their own communities, are the key to good government. The League promotes its goals through conferences, research reports, a monthly magazine, the National Civic Review, and the publication of model laws and systems such as the Model State Constitution, the Model City Charter and the Model County Charter.

The League's interest in elections goes back to 1920 when it first published a model election system. We subsequently published a Model Voter Registration System in 1927 and a Model Election Administration System in 1930. Both models have undergone various revisions since then. In 1971 the League began an intensive evaluation of its earlier proposals on election reform under a grant from The Ford Foundation. This Election Systems Project developed out of our concern for the consistently poor rate of turnout in American elections. During the course of the project, we were fortunate in having as advisers a distinguished committee of election administrator, political leaders, civic reformers and others with a long experience in electoral problems.

The recommendations of the Election Systems Project will be published this fall as a Model Election System. The provision of the Model will cover state administration of elections and the conduct of voter registration. Mr. Chairman, with your permission, I would like to submit a pre-publication copy of the Model to the committee for inclusion in the record.

Today I would like to share with you some of our experiences over the past two years that have particular relevance to the national system of mail registration now being considered by the committee.

Since 1971 we have had the opportunity to examine closely the systems of permanent personal registration now used in all but one of the 50 states, as well as the government-initiated registration systems of six foreign countries. As you know, in other democracies an agency of government has responsibility for locating and identifying eligible voters and then making up the voters list, whereas in this country it is the responsibility of each individual citizen to track down the local registrar and enter his or her claim to vote. The difference between the two approaches is more than philosophical. It is the difference between registering about 95 percent of the population eligible to vote, as in Canada and Great Britain, or 65–70 percent, as in the United States. In our case, the percentage translates into 42 million unregistered voters in 1972, or about two-thirds of the people who failed to vote last year.

We concluded very early in the project that registration had to be initiated by state and local governments in this country if registration were to be eliminated as an obstacle to voting. Our research revealed only two practical ways to do this that were compatible with our political traditions. First, government could distribute registration forms through the mail to each household, or, second, it could send people around to canvass door to door. After a careful examination of the practical application of these two techniques in Canada and Great Britain, and after an extensive analysis of the cost of voter registration in this country conducted by Richard Smolka of the Institute for Election Administration at the American University, we came to the firm conclusion that door-to-door canvassing, when properly conducted, is by far the most effective and economical way to register voters. This is the central recommendation of the voter registration section of our Model Election System.

With these remarks in mind, I would like to comment directly on H.R. 8053.

Although we agree completely with the intentions behind this bill, we seriously doubt that in its present form it will be a significant reform. The reasons for this conclusion relate to the inherent limitations of the mail registration technique and the current structure of election administration among the 50 states.

(1) H.R. 8053 may appear to be an improvement over present practices, but it will not significantly increase registration levels. This bill would mandate mail registration for federal elections to the unfortunate exclusion of more effective methods of registration. Our analysis of registration practices has shown that door-to-door canvassing is consistently more successful in registering voters than mail registration. The experience in Great Britain is illustrative. There, the town clerks in 630 parliamentary constituencies mail registration forms to every household each year for the purpose of creating an annual list of eligible voters. Invariably the clerks must supplement this mailing with door-to-door canvassing because of poor response rates. Another problem is illegible or incomplete forms which must then be corrected. In fact, in some areas the clerks may not mail them out initially, but instead have them delivered by hand, in effect, making a door-to-door canvass. The British experience indicates, at least to us, the limited returns that could reasonably be expected from a mail registration effort alone.

We feel that the primary benefit of a mail system will accrue to the mobile and educated sectors of our society who have the social skills necessary to make full use of mail registration opportunities. We doubt that a significant proportion of presently unregistered population—the poor, minority groups and those with limited educational backgrounds—will benefit from the system outlined in H.R. 8053. In short, it mandates a procedure that should not have great impact among habitually unregistered voters and should not, by itself, significantly increase registration and voting.

I might also add that a mail system will require more processing steps than a door-to-door canvassing system, thereby increasing both costs and the possibility of administrative error. The distribution and receipt of a mail form is only the beginning of the administrator's responsibility. Many returned forms will be illegible, incorrect or incomplete, and this information must be subsequently obtained from the prospective registrant. Each registration must also be sorted by election district and precinct at a central office, another administrative step that could be avoided if a trained canvasser obtained complete information at the point of contact.

(2) We seriously question whether or not a federally coordinated registration system could be effectively implemented throughout the nation at the present time. I doubt if the drafters of H.R. 8053 fully appreciate the problems of administering a national registration system.

Although the 50 states are regarded at the units of government with responsibility for administering elections, few have established agencies at the state level with effective control over the conduct of elections. As a practical matter, control now rests with units of local government. Even states that have made formal provision for strong state administration often defer to local officials. Under these circumstances a national voter registration agency would not only have to deal with 50 state agencies, it would also need to exercise some degree of control over the more than 7,000 cities, counties and other units of local government that now conduct federal elections. We feel that the effort required at the federal level to make a national system work is clearly out of proportion to the limited gains that might be achieved. Moreover, a poorly coordinated program would mean that any additional registration opportunities created might, not be uniformly available to the public. Indeed, it is possible that administrative confusion would negate any benefits of the mail system.

(3) H.R. 8053 would allow for a confusing system of dual registration. A national mail registration system, operative only for federal elections, may encourage states to separate registration for state and local elections from that for federal elections. The existence of a dual registration system will add more complexity to the 50 election systems that are already the most complicated in the free world. Voters could register by mail for federal elections and later find to their surprise that they are ineligible to vote in state and local elections.

Election administrators would have to process a large number of federal registration forms every two years. A majority of the people returning the forms will already be registered to vote in state and local elections. Nevertheless, each form will have to be processed locally and a notification sent to the voter. This seems to be an unnecessary duplication of effort at the local level.

An even more unfortunate situation may develop if a state takes full advantage of H.R. 8053 and accepts federal post card forms for registration in state and local elections. It is quite possible that a state would then abandon other registration techniques and rely primarily on a federally subsidized mail registration system that produces a list that is current only once every two years. If some states do rely only on a mail canvas every two years, with limited central registration in between canvasses, we feel that the registration opportunities open to a highly mobile society would be even more limited than they are now.

In conclusion let me emphasize that my remarks this morning should not be taken as a general opposition to congressional involvement in the conduct of elections. Quite the contrary. We feel the Congress has a positive responsibility to cooperate with the states in creating an election system that allows citizens the greatest opportunity to participate in the making of meaningful decisions at the polls. We do feel that this responsibility could be most effectively discharged at this point in time by providing states with voluntary grants in aid for the improvement of registration and voting, along the lines of the bill introduced in the Senate by Senator Kennedy. We feel that real registration reform can come only as part of a general upgrading of state election administration, and we also feel that many states would be quite receptive to the idea of financial assistance from the federal government.

SUPPORT FOR AUDIOVISUAL LEGISLATION

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. GOLDWATER. Mr. Speaker, just recently former Los Angeles Mayor Sam Yorty issued an outstanding statement in behalf of a bill I introduced with my colleagues, Mr. BELL and Mr. CORMAN. The bill is H.R. 2675. Entitled the Federal Audio-Visual Act of 1973, it is designed to eliminate unnecessary Government competition with private industry in the production of audiovisual materials. I welcome this support from the distinguished former mayor of Los Angeles. His statement deserves to be read by everyone who subscribes to our free enterprise system, and I commend it to the attention of my colleagues as follows:

STATEMENT BY SAM YORTY IN SUPPORT OF H.R. 2675

On behalf of the City of Los Angeles, within whose boundaries the film industry was initially developed to a high art and grew to enjoy worldwide acceptance, I wish to register my strong support of H.R. 2675.

As you know, this measure, known as the Federal Audio-Visual Act of 1973, would take steps to eliminate tax-financed and unnecessary government competition with private industry. Nobody can say, with any degree of exactness, as to how many millions of dollars are being spent by the United States Government throughout its 45 major departments and agencies for audio-visual materials, too often in senseless duplication of effort and rarely achieving professional results.

We do know in fiscal year 1972, the Department of Defense spent $27.8 million for the salaries of 1,530 audio-visual employees. This averages out to $18,122.16 per person, much mort than far too many skilled film technicians in Hollywood have seen as an annual salary for a long time through no fault of their own. Here we have the government preempting a private industry sector while unemployment rates of Hollywood film unions soar, and untold millions of dollars of private equipment and valuable sound stages stand empty and unused.

A gross example of government intrusion is the Department of Health, Education, and Welfare, where six of the seven major agencies within the Department maintain their own film-making facilities and equipment. It is little wonder the Federal Government's film-making activities have mushroomed out of control, until today the government is the nation's single largest producer.

In the Los Angeles area, we have more than 30,000 of the finest union working craftsmen and technicians in the world. One of their unions has a current unemployment factor of about 80 percent.

If the Administration would cut unessential expenditures to the bone, I strongly suggest the government should get out of the film production business. Such audio-visual materials, as may be essential, can be produced far less expensively and far more professionally by private industry.

Congressman Barry Goldwater, Jr., is to be commended for his detailed study of government filming activities and such disclosures as a Labor Department film with music for the film recorded in London, England. I assure you, the production "runaway" problem is serious enough without being aggravated by federal tax money financing.

I would also like to make an observation about HR 1090, the provisions of which I feel should have been enacted into law years ago. As you know, HR 1090 specifically, would correct a glaring omission in the pattern of prevailing wage statutes administered by the United States Department of Labor, pertaining to employees working on government contracts, by extending similiar protection to workers engaged in the production and processing of motion picture films by private contractors for federal departments and agencies.

Let me at this point reiterate my basic position, which is that our City opposes Federal Government's film-making activities of any sort in competition with private industry. My primary concern is the continued erosion and decline of the Hollywood film industry, once but no longer, one of California's ten most important industries. As long as federal agencies do make films, however, and as an essential measure to protect the private sector film industry employees, I feel HR 1090 should become a part of permanent Federal law.

The American motion picture industry, impaired as it has been by various discriminatory practices working to the serious disadvantage of domestic production, still represents an important segment of the national economy in the United States, employing several hundred thousand workers in its various branches. There are nearly 45,000 well-trained, highly skilled and specialized craftsmen, technicians, professional employees (including actors, extras, writers, musicians, etc.) and related or supporting personnel directly involved in film production activities in the Los Angeles area alone.

With the exception of the United States, almost every significant film-producing country in the world subsidizes the domestic production of motion pictures within its borders in one way or another. The superior wage rates and favorable conditions of employment that prevail for American film production employees have been successfully achieved without government subsidies through many decades of strike-free, good faith collective bargaining.

In recent years, the economic stability of our domestic motion picture industry has been jeopardized because of so-called "runaway" foreign film production by American producers in other countries overseas where the advantages of cheaper labor costs and cash subsidies, or other forms of state aid, are available. At the same time, the leverage of the Federal Government's immense purchasing power to affect film production and processing locally has created an additional handicap to the maintenance of fair labor standards in this field. Millions of dollars are spent annually in this country to make films for departments and agencies of the United States with contractors who compete unfairly for such government business by paying substandard wages and denying the usual fringe benefits such as health, welfare and pensions to their employees.

Ever since the 1930's, the passage of laws discouraging sub-standard labor conditions as an element in competition among business enterprises seeking to obtain government contracts has been an integral part of our national economic policy. The first major prevailing wage legislation for government contractors was initiated back in 1931 when the Congress adopted the Davis-Bacon Act. That legislation provided prevailing wage protection for the Public Works employees whose hours of labor had long been regulated by the so-called Eight-Hour Law made up of statutes enacted in 1892 and 1912, and amended in 1913 and 1917. The Davis-Bacon Act, itself, was amended in 1964 to prescribe fringe benefits also for laborers and mechanics employed on federal Public Works construction contracts.

The Walsh-Healey Public Contracts Act, enacted five years after the Davis-Bacon Act on June 30, 1936, represents the broadest exercise of Congressional power in this field. Walsh-Healey prescribed prevailing wages, overtime pay and other labor standards for employees working on all government contracts in excess of $10,000 for manufacturing or furnishing of materials, supplies, articles, or equipment.

Following the development of appropriate machinery and procedures within the United States Department of Labor to make reasonable determinations of prevailing minimum wage rates for specific classes of work in given localities, and to enforce these and other labor standards prescribed by Davis-Bacon and Walsh-Healey, various other federal laws regulating employment conditions for employees working on projects performed for, or financed by, the United States government were adopted during the 1960's.

The Contract Work Hours Standards Act, as Title I of the Work Hours Act of 1962 is known, established weekly, as well as daily, overtime pay requirements for laborers and mechanics on federal Public Works, and on work financed in whole or in part by the Federal government.

The McNamara-O'Hara Service Contract Act of 1965 fixed prevailing minimum wage rate and fringe benefit requirements for craftsmen, manual laborers, guards, watchmen and supervisors in positions having predominantly trade, craft, or laboring experience who are engaged in work under government contracts to furnish services to federal agencies.

The National Foundation of the Arts and the Humanities Act of 1965 applied this same prevailing wage principle to projects or productions assisted by grants from the National Endowment for the Arts. *Under Section 5 (k) of that Act, the Secretary of Labor is empowered to establish minimum compensation and other specified labor standards for professional performers and related or supporting professional personnel employed on such assisted projects or productions.* Laborers and mechanics employed on assisted construction projects are afforded the protection of Davis-Bacon prevailing minimum rates and fringe benefits under Section 5 (i) of that Act.

This Bill, to repeat, would provide that prevailing minimum wage rates and fringe benefits for workers employed in the performance of any contract or subcontract entered into with the Federal government for the production or processing of motion picture films shall be determined and enforced by the Labor Department in the same manner as for service employees under the McNamara-O'Hara Service Contract Act of 1965.

I urge its adoption.

LEGISLATIVE STATUS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. DELLUMS. Mr. Speaker, in the 92d Congress, I made a practice of reprinting for the benefit of my constituents, and other interested persons, a detailed legislative status report on the measures I have introduced or cosponsored in the House.

Continuing this practice, I now want to place in the RECORD my first such status report for the 93d Congress:

LEGISLATIVE STATUS

AGRICULTURE

H.R. 5683. (Denholm): Funds REA Emergency Loan Program (Enacted as PL 93-32).

H.R. 3077 (Dellums): Limits procurement of lettuce by the Department of Defense.

ANTITRUST

H.R. 5234 (Kastenmeier): Prevents coal companies from owning all energy sources.

ARTS AND HUMANITIES

H.R. 8770 (Nedzi): Establish Folklife Center in Library of Congress.

ASIAN-AMERICAN AFFAIRS

H.R. 3086 (Dellums): Japanese-American Friendship Act.

BUDGET

H.R. 8897 (Rangel): Make full appropriations for OEO.

CHILD WELFARE

H.R. 3081 (Dellums): Comprehensive Child Care Services.

H.R. 2573 (Dellums): Requires child-care facilities in low rent housing projects.

H.R. 6379 (6818) (Schroeder): Establish National Center on Child Development and abuse prevention within HEW.

H.R. 8270 (Daniels): Youth Camp Safety Act.

CIVIL LIBERTIES

H.R. 1263 (Waldie): Protects confidential sources of news media similar bill H.R. 5928 to be reported in lieu by Judic. Sub. No. 3.

H.R. 2572 (Dellums): Defines the authority of armed forces to gather intelligence.

H.R. 2577 (Dellums): Government must notify individuals of records kept by government agencies.

H.R. 2578 (Dellums): Limits the sale of mailing lists by federal agencies.

H.R. 2579 (Dellums): Amends the Hatch Act.

H.R. 2581 (Dellums): Lowers juror age from 21 to 18 in federal courts/Legal Services.

H.R. 2582 (Dellums): Gun control.

H. R. 2584 (Dellums): Newsmen privilege (Similar bill, H.R. 5928 to be reported in lieu).

H.R. 3100 (Dellums) Amnesty.

H.R. 3520 (Waldie) Protects confidential sources of news media—Smiliar bill H.R. 5928 to be reported in lieu.

H.R. 4209 (Diggs) Safeguards Americans abroad from discrimination.

H.R. 5592 (Drinan) Abolishes capital punishment.

H.R. 7796 (Dellums) Better Voting Act (Postcard registration passed Senate, pending in House).

H.J. Res. 217 (Dellums) Lowers age requirement for membership in Congress.

H.J. Res. 242 (Brown) Gives Members of Congress the right to sue for impoundment of funds.

H.J. Res. 291 (Delugo) Allow citizens of Guam and Virgin Islands to vote for President and Vice-President.

H. Res. 556 (Dellums) Constitutional amendment giving Congress power to change election laws.

COMMERCE

H.R. 8288 (Stark) Allow coops to receive SBA assistance.

CONGRESSIONAL REFORM

H.R. 3385 (Dellums) All Congressional and agency meetings open to public.

CONSUMER AFFAIRS

H.R. 2412 (Rosenthal) Establishes Office of Consumer Affairs.

H.R. 2580 (Dellums) Requires licensing of food manufacturers and processors.

H.R. 3093 (Dellums) Consumers class action rights.

H.R. 3096 (Dellums) Bans war toys.

H.R. 4879 (Udall): Full disclosure on land sales (Included in Senate bill now pending in House).

H.R. 8436 (O'Hara): Prohibit weaker State meat inspection standards.

DISASTER ASSISTANCE

H.R. 6316 (Danielson): Create Federal Disaster Insurance Corporation.

H.R. 7545 (Dellums): Eucalyptus tree fire danger assistance. (Reported by Agriculture Committee).

H.R. 7926 (Stark): Disaster Relief Act Assistance for Seventh District.

DRUGS

H.R. 3103 (Dellums): Prohibits the mailing of unsolicited sample drug products.

H.R. 3382 (Dellums): Regulates interstate sale and trafficking of hypodermic needles.

H.R. 7051 (Dellums): Prohibits aid to foreign countries who produce drugs.

DISTRICT OF COLUMBIA

H.R. 2574 (Dellums): Statehood—Similar bill—H.R. 9056 reported in lieu by the District of Columbia Committee—Subcommittee on Government Operations.

H.R. 5598 (Fauntroy): Rent control for the District of Columbia. (Passed House).

ECONOMY

H.R. 8068 (Aspin): Continued gas sales to independent retailers.

H.R. 8802 (Burton): Percentage of oil imports must carried on U.S. ships.

EDUCATION

H.R. 3082 (Dellums): Grants to Deganwidah-Quetzalcotal University.

H.R. 3085 (Dellums): Encourages States to increase proportion of expenditures to public education.

H.R. 3378 (Dellums): Provides instructional services for homebound children.

EMPLOYMENT

H.R. 1490 (Eckhardt): Amends Longshoremen's and Harbor Workers' Compensation Act.

H.R. 2585 (Dellums): Unemployment insurance for agricultural workers.

H.R. 2586 (Dellums): Extends unemployment insurance for agricultural workers.

H.R. 3083 (Dellums): Day laborer's rights.

H.R. 3110 (Dellums): Assigns unused lab space to unemployed scientists.

H.R. 3112 (Dellums): Pension Rights.

H.R. 3986 (Hawkins): Public Service employment programs.

H.R. 5401 (Corman): Unemployment insurance for agricultural workers.

H.R. 5706 (Hawkins): Aid for OIC programs.

H.R. 6161 (McFall): Establishes price wage board and guidelines.

H.R. 7224 (Harrington): Federal Security of Employment Benefits.

H.R. 7225 (Harrington): Improve extended unemployment and compensation program.

H.R. 7964 (Mink): Equalize compensation of overseas teachers.

H.R. 8372 (Heniz): Reallocation of vocational rehabilitation funds.

H.R. 8420 (Harrington): Public Service Employment Act.

H.J. Res. 243 (Harrington): Increases House intern programs.

ENVIRONMENT

H.R. 2677 (Hechler): Strip Mining Act (Subcommittee mark up underway).

H.R. 3076 (Dellums): Safe Pesticide Act.

H.R. 3092 (Dellums): Smogless Vehicles Development Act.

H.R. 3095 (Dellums): Emissions Control Act.

H.R. 3097 (Dellums): Amends National Emission Standards Act to require most stringent standards.

H.R. 3101 (Dellums): Regulates dumping in oceans and other waters.

H.R. 3102 (Dellums): Provides for environmental action suits.

H.R. 3104 (Dellums): Increases penalties under 1899 Refuse Act.

H.R. 3105 (Dellums): Amends Refuse Act of 1899 relating to issuance of certain permits.

H.R. 3106 (Dellums): Provides for assistance in enforcing clean air and water standards.

H.R. 3107 (Dellums): Synthetic Detergent Study.

H.R. 3388 (Dellums): Establishes Desert Pupfish National Monument.

H.R. 5325 (Dellums): Establishes a National Environmental Trust Fund.

H.R. 8530 (Udall): Alaskan Petroleum Transportation Act. (Similar bill H.R. 9130 reported in lieu.)

H.R. 8889 (Koch): Spaying and neutering clinics.

FOOD STAMPS

H.R. 2571 (Dellums): Allows food stamps to be used for purchase of imported meats. (Similar bill H.R. 8860 reported in lieu by Agriculture Committee.)

FOREIGN AFFAIRS

H.R. 179 (Dellums): Halt bombing and withdraw from Vietnam.

H.R. 3911 (Mills): Prohibits most-favored nation treatment for denial of right to emigrate. (Included in trade bill now pending in Ways and Means Committee.)

H.R. 4987 (Roybal). Increases immigration.

H.R. 5741 (Roybal): Increases immigration from western hemisphere.

H.R. 8005 (Fraser): Re-institution of Rhodesian chrome ore boycott sanctions. (Pending before Foreign Affairs Committee.)

H.R. 8177 (Harrington): Cut off war in Cambodia/Laos.

H.R. 8573 (Rangel): Herbicide Export Control Act.

H.R. 8574 (Rangel): Prohibit exports of herbicide to Portugal and S. Africa.

H. Res. 441 (Harrington): Test Ban Treaty Negotiations.

H.J. Res. 516 (Bingham): End war in Indo-China. (Mark up session schedule by for Affairs Subcommittee on Asian and Pacific Affairs.)

H. Res. 522 (Diggs): Fair employment in S. Africa.

H.J. Res. 268 (Diggs): Fair employment in S. African enterprises.

H.R. 8965 (Steiger): Citizenship and adoption for S. Vietnamese children.

H.R. 9214 (Kastenmeier): Accountability and liability for government officials involved in national security policy.

GOVERNMENT OPERATION

H.R. 2576 (Dellums): Amends Age Discrimination Act to include state employees.

H.R. 3296 (Pickle): Impoundment limits (similar bill, H.R. 8480, reported in lieu by Rules Com.).

H.R. 3379 (Dellums): Expands the Advisory Committee on Intergovernment Relations to include school board officials.

H.R. 5398 (Conyers): Prevent dismantling of OEO.

H.R. 5587 (Conyers): Prevent dismantling of OEO.

H.R. 5626 (Reid): Eliminates restrictions on social service regulations.

H.R. 5722 (Melcher): Consent needed for OMB director (vetoed by President).

H.R. 6223 (Dellums): Bureaucratic Accountability Act.

H.R. 6261 (Mink): Amends Freedom of Information Act.

H.R. 7266 (Mitchell): Put protective police under GSA.

H.R. 7696 (Dellums): Federal Employee benefits/retirement amendments.

H.R. 7697 (Dellums): Postal Reorganization Act Amendments.

H.R. 7698 (Dellums): Postal Service Labor relations amendment.

H. Res. 148 (Dellums): Abolishes Committee on Internal Security.

H.J. Res. 432 (Reid): Social Service program regulations.

HEALTH

H.R. 6041 (Hastings): Health Programs Extension (signed) into laws as PL 93-45).

H.R. 6622 (Waldie): Extension of Migrant Health Act.

H.R. 8539 (Murphy): Continuation of Public Health Service Hospitals.

HOLIDAYS

H.R. 2265 (Conyers): Designates Martin Luther King's birthday as legal holiday.

HOUSING

H.R. 3080 (Dellums): Authorizes loans to pay mortgages of persons temporarily unemployed.

LEGAL SERVICES/COURT REFORMS

H.R. 3099 (Dellums): Provides compensation for victims of violent crimes.

H.R. 4263 (Meeds): Establishes the National Legal Services Corporation (weaker bill passed House).

H.R. 8349 (Roybal): Provide bi-lingual court proceedings.

MILITARY AFFAIRS

H.R. 3111 (Dellums): Increases servicemen's group life insurance coverage.

H.R. 3224 (Benitez): Terminates weapons range activities near Culebra.

H.R. 3386 (Dellums): Provides veterans with up to nine months of educational assistance and refresher courses (subcommittee hearings held).

H.R. 4751 (Danielson): Social Security benefit increases disregard for purposes of determining eligibility for veterans benefits.

H.R. 7695 (Dellums): Establishes Assistant Secretary of Defense for Equal Opportunity.

H.R. 7794 (Dellums) Bans bounties paid civilian police forces.

H.R. 8490 (Koch): Changes in military discharge information released to public.

H.R. 8491 (Koch): Independent Review Boards for discharges.

H.R. 8492 (Koch): Increased veterans educational benefits.

H.R. 8494 (Koch): Additional educational benefits for Vietnam vets.

H.R. 8496 (Koch): Establishes Vietnam era veterans task force.

H.R. 8687 (Leggett): Special pay incentives for physicians, dentists, veterinarians and optometrists.

H.R. 8719 (Dellums): Overseas troop reduction limitation.

H. Res. 220 (Kyros): Troop reduction in western Europe.

H. Con. Res. 253 (Dellums): Overseas troop reduction limitation.

H.J. Res. 267 (Dellums): Clarifies presidential powers relating to the use of nuclear weapons in declared or undeclared wars. Similar H.J. Res. 542 to be reported in lieu For. Affairs Subc. Ntl. Sec. Policy and Scientific Development.

H.R. 8960 (Robinson): Establish within Peace Corps Vietnam Assistance Volunteers Program.

MOTOR VEHICLES

H.R. 3091 (Dellums): Bans the use of internal combustion engines in motor vehicles after Jan. 1, 1975.

H.R. 3094 (Dellums): Speed Controls in cars.

H.R. 3108 (Dellums): Color coded traffic signs and signals.

NATIVE AMERICANS

H.R. 3090 (Dellums): Enforces Treaty of Guadalupe-Hidalgo.

H. Con. Res. 115 (Meeds): American and Alaskan Native Act.

PENAL REFORM

H.R. 2583 (Dellums): Omnibus Penal Reform Act.

H.R. 5202 (Badillo): Provides rules for treatment of prisoners in federal prisons.

H.R. 6852 (Dellums): Prohibits psychosurgery in federal facilities.

POPULATION POLICY

H.R. 3381 (Dellums): Expands family planning services and population research.

H.R. 6021 (Dellums): Extension of Family Planning Act.

H.R. 8114 (Brown): Establish National Institute of Population Sciences.

PUBLIC LANDS

H.R. 3087 (Dellums): 160 acre limit enactment.

H.R. 7458 (Dellums): Channel Islands National Park.

H.R. 3088 (Dellums): Open Beach Act.

H.R. 3089 (Dellums): Mineral King: enlarges Sequoia National Park.

H.R. 4012 (Leggett): Snow Mountain Wilderness Bill.

H.R. 4568 (Waldie): San Joaquin Wilderness and Sierra and Inyo National Forests.

H.R. 5288 (Mathias): Establishes California Desert National Conservation Area.

H.J. Res. 204 (Dingell): Establishes Tule Elk Wildlife Refuge.

SENIOR CITIZENS

H.R. 3084 (Dellums): Establishes older worker community service program.

H.R. 3098 (Dellums): Free or reduced rail transportation to handicapped or 65 and over.

H.R. 3377 (Dellums): Strengthens Older Americans Act (Enacted as P.L. 93-17).

H.R. 3388 (Dellums): Widow, Widower benefits bill.

H.R. 7052 (Dellums): Tax credit for senior citizen homeowners and renters.

H.R. 8595 (Lehman): Experimental program of elderly home care.

SOCIAL SECURITY

H.R. 3116 (Dellums): Include qualified drugs under Hospital Insurance Program.

H.R. 3117 (Dellums): Individuals may qualify regardless of quarters when earned.

H.R. 3118 (Dellums): Liberalizes eligibility for blind persons.

H.R. 5258 (Stokes): Disability insurance benefits.

H.R. 8546 (Abzug): Minimum annual incomes.

SPORTS

H.R. 2575 (Dellums): Athletic Safety Act.

H.R. 7083 (Badillo): Roberto Clemente Memorial Foundation.

H.R. 7795 (Dellums): Athletic Care Act.

TAXES

H.R. 3113 (Dellums): Expenses for care of certain dependents.

H.R. 3114 (Dellums): Excise tax on fuels containing sulphur.

H.R. 3115 (Dellums): Increases personal exemptions after 1974.

H.A. 1041 (Corman): Tax equity.

H.R. 3120 (Dellums): Extends to unmarried persons tax benefits of splitting income.

H.R. 3387 (Dellums): Residents of Philippines can be claimed as tax-deductible dependents.

H.R. 6030 (Fraser): Puts $1 campaign tax check-off on front page of tax form.

H.R. 7053 (Dellums): World Peace Tax Fund.

TRANSPORTATION

H.R. 3078 (Dellums): Urban mass transit fund.

H.R. 3079 (Dellums): Oakland-Chinatown project.

H.R. 8570 (Moss): Defining inclusive tour air charters.

URBAN AFFAIRS

H.R. 3109 (Dellums): Construction of bicycle lanes.

H.R. 3985 (Hawkins): Year round recreational program for youth.

H.R. 4820 (McFall): Extends Public Works Act authorization for one year (similar bill H.R. 2246 to be reported in lieu Com. Public Works.)

WOMEN'S RIGHTS

H.R. 3374 (Dellums): Prohibits discrimination by sex or marital status for extension of credit (Enacted by Senate; House action pending.)

H.R. 3375 (Dellums): Prohibits discrimination by sex or marital status for any dealings with any federally insured banks.

H.R. 3376 (Dellums): Prohibits discrimination by sex or marital status regarding federally related mortgage transactions.

H.R. 3383 (Dellums): Prohibits discrimination on the basis of sex.

H.R. 3384 (Dellums): The Ms. prefix bill.

IMPORTED DAIRY PRODUCTS SHOULD MEET MINIMUM QUALITY STANDARDS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. OBEY. Mr. Speaker, I am introducing a bill in the House today which will provide for the inspection of imported dairy products, require that such products meet certain minimum standards for quality and wholesomeness and require that the establishments in which these products are manufactured meet certain minimum standards of sanitation.

I am doing so both to protect the consumer from foreign food products which have not been manufactured with the same care as that taken by American producers of similar products, and to make foreign producers share the burden of American dairy producers who must comply with tough domestic sanitation standards.

Mr. Speaker, the introduction of this legislation is not meant as a swipe at windmills. The problems addressed by this legislation are real.

Figures from the Food and Drug Administration indicate that of the 15 percent of all imported dairy products that are examined by American inspectors, about 10 percent are rejected because they are contaminated or otherwise unfit for consumption. What is even more disturbing is the fact that 85 percent of all imported dairy products enter this country without any inspection whatsoever, and represent a great quantity of potentially inferior or dangerous products which are available to the American consumer.

As the following table shows, this pattern has been clear and fairly constant over the past 7 years:

Fiscal year	Number of lots entered	Number of lots inspected	Percent of lots inspected	Number of lots rejected	Percent of inspected lots rejected
1966	12,415	468	3.8	38	8.1
1967	14,401	549	3.8	52	9.5
1968	12,814	451	3.5	58	13.0
1969	13,417	800	6.0	144	18.0
1970	15,486	2,198	14.0	527	24.0
1971	16,313	2,685	16.5	212	8.0
1972	11,045	1,659	14.4	133	8.1

These figures clearly reveal the magnitude of the problem: At no time in the last 7 years have less than 8 percent of the inspected dairy products been rejected because it is moldy or contaminated with insect larvae, unsafe chemical substances such as dieldrin or benzine hexachloride and other assorted junk.

I am sure that none of us relish the thought of finding such unappetizing products on our dinner table, yet the figures which I have just cited show that this is a disturbingly real possibility. What it all means is that unless this country imposes sanitation standards on imported dairy products that are at least as stringent as those imposed on American products, the American consumer can have no assurance that the imported dairy products he buys are safe and free of contamination.

The wholesomeness of American produced dairy products is insured by a two-stage inspection process: First, the farms and plants in which dairy products are produced must meet strict State and local sanitation standards. Second, the final products are subject to inspection by the Food and Drug Administration. The first phase of this two-part guarantee is necessary because it simply is not practical to inspect all finished dairy products.

Since only a small portion of all products can be examined directly, the only effective guarantee that the uninspected products also will be pure and wholesome is the knowledge that strict standards of sanitation have been observed on the farms and in every phase of their production.

The bill I am proposing today will establish this same two-part inspection system for foreign dairy products entering the United States. These products will be subject to random inspection upon entry into the United States, as they are today. In addition, the plants where these dairy products are manufactured and the farms on which the milk for these products is produced will be required to meet the same strict sanitation standards required of American farmers and processors. Without these new standards we cannot protect the health of the American people from the threat of contaminated and otherwise unacceptable dairy products from abroad, a threat which has grown and will continue to grow as increased amounts of imported dairy products enter this country.

Mr. Speaker, it is also important that we enact legislation to alleviate the unfair competitive burden now on our farmers and processors because they are required to spend and invest many thousands of dollars for equipment and buildings in order to meet the rigid requirements of Federal, State and local health standards.

Dairy farmers, for example, make investments worth thousands of dollars in pipeline milkers, bulk tanks, coolers, and milkhouses. In addition to this large investment in their milking systems, farmers and processors pay thousands of dollars annually for inspections of these systems to make sure they meet State, local and Federal sanitation standards. In fact, the American inspection system is so thorough that American dairy producers are often regularly inspected by several Government agencies. The U.S. Department of Agriculture estimated a few years ago that the extra cost to the dairy industry of these multiple inspections is over $700,000 a year.

If this tremendous investment of time and money is needed to insure the purity and wholesomeness of American products, it is certainly just as important that foreign farmers and processors observe the same precautions. Clearly, maintenance of the present double standard not only poses a potentially serious threat to the health of the American consumer, but also places an unfair competitive burden on the American dairy industry.

Under the provisions of this bill imported dairy products will be required to meet all existing Federal standards, and the Secretary of Agriculture will have the power to set standards for imported products for which no Federal standards have been established. Primary responsibility for enforcing these regulations will fall on the health officials of the countries in which the dairy products are produced. Each country exporting dairy products to the United States will be expected to set up its own system for farm and plant inspections, and these systems will in turn be monitored by American officials to insure compliance with American regulations. A similar inspection program for imported meats, administered by the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, has been operating successfully for a number of years and provides an effective working model for the dairy inspection system proposed in this bill.

Mr. Speaker, I think it is time for this country to strengthen its protection of the American consumer and the American dairy producer by strengthening its regulations on foreign dairy products. This action is not unreasonable in light of stringent sanitation requirements for domestic manufacturers, and it will become even more important if we are going to have substantially increased dairy imports as the Flanigan report recommends.

In addition to regulations for domestic trade, our country has kept stringent quality control programs for all American dairy products, designated for export under governmental supported export programs. This Nation then, in its various food aid programs, has been protecting the health of the Nation to which these products have been sent. Unfortunately, other countries have not been applying the same safeguards to the products which they send to this country. And this has to change.

I submit a copy of the bill to be placed in the Record which I am introducing:

A bill to protect the public health and welfare by providing for the inspection of imported dairy products and by requiring that such products comply with certain minimum standards for quality and wholesomeness and that the dairy farms on which milk is produced and the plants in which such products are produced meet certain minimum standards of sanitation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Dairy Quality Act of 1973".

Sec. 2. For the purposes of this Act:

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(2) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(3) The terms "dairy products" and "milk products" mean those food products derived from milk, including milk, such as butter; cheese (whether natural or processed); dry, evaporated, stabilized, condensed, or otherwise processed milk, cream, whey, and buttermilk; edible casein; frozen desserts; and any other food product which is prepared in whole or in part from any of the aforesaid products as the Secretary may hereafter designate.

(4) The term "wholesome" means sound, healthful, clean, and otherwise fit for human food.

(5) The term "labeling" means labels and other written, printed, or graphic matter on or attached to the container of any dairy product.

(6) The term "purity" means free from poisonous or deleterious substances which may render the product injurious to health.

(7) The term "quality" means the minimum quality standards defined by the Secretary in accordance with this Act.

(8) The term "administration and supervision" means the administrative review of foreign country laws, regulations, and enforcement procedures offered as being comparable to United States laws, regulations, and enforcement procedures, under the provisions of this Act, and the supervision of inspection personnel both here and abroad.

(9) The term "inspection" means the official service rendered by the Department of Health, Education, and Welfare, under the administration and supervision of the Secretary, for the purposes of carrying out the provisions of this Act.

Sec. 3. (a) No dairy product shall be imported into the United States unless it has been inspected and found to be wholesome and unless the foreign farms and plants in which such products were produced, manufactured, or processed comply with all the inspection, grading, and other standards prescribed by the Secretary pursuant to the provisions of this Act. The standards prescribed by the Secretary shall include standards for sanitation procedures in the production, cooling, storage, transportation, and handling of milk, and in the manufacture of dairy products, as well as standards concerning the quality and purity of the final product.

(b) The standards established by the Secretary for any imported dairy product, for the farms on which the milk used in such product is produced, and for the establishments in which such imported dairy product is produced, manufactured, or processed shall be comparable to those standards prescribed by the Secretary for the same kind of dairy product produced, manufactured, or processed in the United States and for establishments in the United States in which the same kind of product is produced, manufactured, or processed whenever the Secretary, in connection with any dairy product program carried out by the Department of Health, Education, and Welfare has established standards for such product and for the establishments in which such product is produced, manufactured, or processed. The Secretary shall establish standards with respect to those kinds of imported dairy products (and the establishments in which they are produced, manufactured, or processed) for which no Federal standards have been established, and such standards shall be equivalent to those standards heretofore established for other kinds of dairy products and the establishments in which such other kinds of dairy products are produced, manufactured, or processed.

(c) The labeling of imported dairy products shall comply with the requirements of the Fair Packaging and Labeling Act and shall be otherwise marked as the Secretary may require.

SEC. 4. (a) For the purpose of establishing comparable inspection requirements and preventing the importation of dairy products produced, manufactured, or processed in foreign dairy farms or plants not meeting the minimum standards prescribed by the Secretary pursuant to the provisions of this Act, the Secretary shall, where and to the extent necessary, require such products to be accompanied by a certificate of compliance issued by the exporting country in accordance with rules and regulations prescribed by the Secretary establishing minimum standards as to the quality of the milk, farm and plant facilities, equipment, and procedures used in the production and transportation of milk, and the production, manufacture, and processing of such imported dairy products. Further, the Secretary shall, where and to the extent necessary, establish inspection procedures to insure that the certificates of compliance issued by foreign governments signify full compliance with the provisions of this Act.

(b) The Secretary shall cause to be inspected, in accordance with such rules and regulations as he may prescribe, all dairy products imported into the United States.

SEC. 5. (a) All imported dairy products shall, after entry into the United States, be subject to the Federal Food, Drug, and Cosmetic Act, and other Acts providing for the inspection, testing, or grading of dairy products to insure their purity and to insure that they are wholesome in the same manner and to the same extent as if such products were produced in the United States.

(b) The Secretary is authorized to prescribe rules and regulations to carry out the purposes of this Act, and such rules and regulations shall provide for the destruction of dairy products offered for entry and refused admission into the United States, unless such dairy products are reexported or brought into compliance within the time fixed therefor in such rules and regulations.

(c) All charges for storage, cartage, and labor with respect to any article which is imported contrary to this Act shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such article and any other article thereafter imported under this Act by or for such owner or consignee.

SEC. 6. In carrying out the provisions of this Act, the Secretary may cooperate with foreign governments, other departments and agencies of the Federal Government, and with appropriate State agencies, and may conduct such examinations, investigations, and inspections as he determines necessary or appropriate through any officer or employee of the United States, of any State, or of any foreign government, who is licensed by the Secretary for such purpose.

SEC. 7. (a) The Secretary may prescribe such assessments and collect such fees as he determines necessary to cover the cost of the inspection services rendered under the provisions of this Act.

(b) Except as provided in subsection (a) of this section, the cost of administering and supervising the provisions of this Act shall be borne by the United States.

SEC. 8. There is hereby authorized to be appropriated such sums as are necessary to carry out the administration and supervision of the provisions of this Act.

SEC. 9. Any person who knowingly violates the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 and imprisoned not more than one year, or both.

SEC. 10. If any provisions of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 11. This Act shall take effect one hundred and eighty days after enactment.

PROGRAMING FREEDOM FOR THE PUBLIC BROADCASTING SERVICE

HON. FRANK E. EVANS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. EVANS of Colorado. Mr. Speaker, since its inception, the Public Broadcasting Service has made an invaluable contribution by offering a wide variety of high quality programs to the American people. These have run the gamut from educational entertainment for children to lessons in French cooking, from political forums to the finest in theater productions. It is critical that both adequate funding and unhampered freedom of choice in programing enable PBS to maintain its high standards.

As one who believes so firmly that public television must be free from governmental interference in its range and choice of programs, I should like to share with my colleagues an excellent editorial which appeared in the Colorado Springs Sun of June 25. I believe the views set forth in this editorial reflect the hope of all Americans that we have witnessed the last of the unwarranted pressures to which PBS has been subject and that innovation and diversity will continue to be the hallmarks of public television. I am pleased to insert this article in the RECORD at this time:

CEASE-FIRE IN PUBLIC TV WAR

It was a bitter internal conflict that many Americans found hard to understand, but at last the battle over control of the nation's public television network has ended with a negotiated settlement. If the peace holds, the network will have won significant safeguards against undue interference from the White House in decisions about which programs should be shown to the tax-paying, sponsoring public.

PBS, the Public Broadcasting Service network of 234 stations, has preserved its authority to air whatever privately-funded programs it may select—a practice that had been seriously challenged by the presidentially appointed Corporation for Public Broadcasting board. Under the agreement, viewers won't be denied "controversial" public affairs programs merely because the government doesn't like them.

For months, the CPB board had been fighting to take over all programming and scheduling duties from PBS, in the wake of loud White House displeasure at the way public television had been run, and at the content of the network's public affairs programs. Through various spokesmen, the Nixon administration had lashed into PBS, claiming that it wasn't "local" enough to satisfy network affiliates and that its programming had a left-wing slant.

If the White House message wasn't perfectly clear at first, it got across last year when President Nixon vetoed a bill that would have authorized $155 million for CPB over a two-year period. The President called for more program emphasis on "localism" and urged only a one-year, $45-million authorization. Meanwhile, changes in the makeup of the bipartisan CPB board eventually gave the President a majority—and the CPB attempt to take over the public television network went into high gear.

While stoutly asserting its independence from the administration, the CPB board refused federal funding to continue a number of public affairs programs that had been approved by PBS for the coming season. As it turned out, however, the "localism" argument boomeranged on CPB and the White House: PBS is run by 234 local station managers who were determined to preserve their control of programs underwritten by means other than congressional appropriations, such as foundations, corporations and individual contributors—which finance 80 per cent of what is shown in the first place.

Dallas industrialist Ralph Rogers, board chairman of PBS, went to bat for the network and, together with certain members of the CPB board, hammered out a plan for a partnership, with procedures for settling policy disputes. PBS accepted it and Republican Thomas Curtis, who was the CPB board chairman, said he had the votes to win approval from his group.

But CPB voted down the compromise and Mr. Curtis quit—charging that political pressure from the Nixon administration had turned his members around. CPB members claimed that the White House had nothing to do with the vote, that they just didn't like the way Mr. Curtis was taking credit for the compromise. At any rate, Mr. Curtis was replaced by Dr. James R. Killian, Jr.—former president of MIT, one-time science adviser at the White House, political independent, and a leader in the creation of public broadcasting in the United States.

Pressures increased on both groups to reach a settlement quickly, and to keep public TV independent from White House interference. There was Watergate to keep the administration preoccupied, and to give CPB plenty of reason to show some independence from the White House. There was Dr. Killian's personal interest in a prompt end to the dispute. Finally, there was the dilapidated state of public television itself—only months from the fall season, with incomplete financing and only a handful of programs to feed to the network.

In support of PBS, the Ford Foundation was withholding more than $8 million in grants; and Rep. Torbert H. Macdonald

(D-Mass.), chairman of the House Subcommittee on Communications and Power, warned that unless there were quick assurances against administration control of public TV, Congress might well cut off all federal money for the industry.

The settlement, finally reached last week (and resembling the plan rejected in April), should go a long way in shielding public broadcasting from attempts at control by any administration. CPB will underwrite whatever programs it chooses with federal funds, and will consult PBS in the process; if PBS disapproves of a program, appeals may be made first to the chief executives of the two groups and then to the two board chairmen. If there is still no agreement, the chairmen will choose a third person from outside the two organizations.

In turn, all other programs selected by PBS or its stations for national airing will have access to the network. Questions of "balance" or "objectivity" of any program can be appealed to a monitoring committee consisting of three trustees from each group, and it will take a 4-to-2 vote to keep a program off the network.

To be sure, none of this guarantees viewers a fall season of high quality, stimulating, controversial and innovative programming on their local PBS stations. That is a challenge still facing public broadcasting—one that will require talented, imaginative professionals, more equipment for local stations and enough money to allow for long-range planning. Now that the political fighting for control has been suspended, Congress should approve a Senate-passed bill authorizing $140 million for public broadcasting over the next two fiscal years. At this point, there is no time to lose: the fiscal year begins July 1, and the television "year" is not that many weeks beyond.

WILLIAM R. MASON, HUMANITARIAN—SCHOLAR—LEADER

HON. ANDREW J. HINSHAW

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. HINSHAW. Mr. Speaker, last Saturday, July 14, 1973, was a sad day in my home district in Orange County, Calif.

On that day William R. Mason, one of the most respected, genial, and accomplished business leaders in the country died prematurely at the age of 53 at his home in Newport Beach.

William Ralph Mason stood at the peak of a distinguished career of service. He was a big man, six-foot-three, a solid 230 pounds. His hair silver-gray. His heavy, dark brows, arched. His eyes, steel blue. As chief executive of one of the Nation's biggest land development companies and one of California's oldest and most productive ranches, Bill Mason's responsibilities were immense: 82,000 acres wide and then some. He was a city builder, a newsmaker, a dreamer and doer of things on a vast scale.

He was a youth leader: Chairman of the long-range planning committee of the Boy Scouts of America and a founder of Orange County's junior achievement program.

He was a lay leader in education: Member of the Chapman College President's Council, the Claremont College Board of Fellows and other college and university boards and committees.

He was a humanitarian: Chairman of the Orange County Red Cross fund drive and active participant in City of Hope, YMCA, and United Fund campaigns.

William Ralph Mason had a deep and effective commitment to civic causes, social responsibility, and the practical solution of man's needs.

A civil engineer, Mason was graduated from the University of Washington. He received his master's degree from M.I.T. He returned to the University of Washington in Seattle to teach engineering. He also worked with civilian engineering firms and held posts at Government facilities such as Point Hueneme, where he assisted in the design and construction of amphibious equipment for the Navy.

In December of 1959, Mason was asked to join the Irvine Co. With his wife and friends waiting in unabashed curiosity to learn what in the world a civil engineer would be asked to do on a ranch. Bill Mason soon found out. He was one of the first nonagriculturalists to be hired by the century-old ranch company, which had realized it had better begin preparing for the urbanization then sloshing up against its gates. Mason became deeply involved in helping build a new organization out of planners, engineers, architects, and builders.

In 1965, William Ralph Mason was named persident of the Irvine Co. He followed a distinguished line: Charles S. Thomas, Arthur J. McFadden, Myford Irvine, and James Irvine II, who succeeded James Irvine I, founder of what is now known simply as Irvine.

It is no secret that Mason guided the Irvine ship on a hazardous course between the rocks and shoals of opposing public opinion on many issues. The list is a long one: freeways, Upper Bay use, airports, ecology, low-income housing, conservation, coastal development, incorporation, agricultural preserves. In fact, just about everything in the alphabet from annexation to zoning. When asked for his reaction to all the controversy, Mason once said:

> Running a candy shop would be easier; but it comes with the job.

He explained:

> It's the business we're in, the time, the place and the circumstances. There are many larger companies, with bigger expenditures, bigger payrolls, right here in Orange County. But most people could name but a few of them, and they seldom read about them in the newspapers. It's because these other companies aren't involved in a business that touches people's lives as directly as ours does. If we owned a candy company, the business would survive or fall based on the quality of the product. With our product—land and the way we plan its use—it's different. People look at our hills, our shoreline properties, our orange groves, our bayfront and island properties, with a special proprietary interest. I appreciate, I understand that interest.

When once asked what pleases him the most about his company accomplishments, Mason responded:

> I think we're proving that man can make a better living environment for himself. Planning on a broad scale can work. I'm proud of the management team we've put together, the team that's proving it. And I'm proud of the way the people who live here are participating in what we're trying to do. That's probably the most important aspect of it all—the people; not the houses, the greenbelts, the parks or any of the visible things on the land. Not them alone. It's how all of them together, the environment, in other words, has motivated the people. In any case, and in the end, the best in man will triumph. I'm convinced of that.

Mr. Speaker, I think Bill Mason's own words as quoted above are now a tribute to the man himself. Those of us who knew and loved Bill for the person and inspiration he was will sorely miss him in our own personal ways.

And yet, Mr. Speaker, the loss is truly one that will be felt by the entire country.

His accomplishments, both inspirational and real in the sense that he was a builder of cities, will continue to live and to influence the lives of untold thousands of persons for decades to come.

Bill Mason was a man for the time—and for the future.

ZAUBER ON WATERGATE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. COLLINS of Texas. Mr. Speaker, Ray Zauber, editor of the Oak Cliff Tribune, wrote about Watergate in the issue of July 12. Oak Cliff Tribune is probably the largest and best read suburban newspaper in the South.

With everyone giving their viewpoint on Watergate, you will be interested in the way it read to Ray Zauber. Here is Zauber's story in the Oak Cliff Tribune.

ZAUBER ON WATERGATE

Almost lost in the tide of words on Watergate is a point which obviously the Eastern liberal press prefers to overlook.

Daniel Ellsberg, who was being tried for an offense which bordered on treason, has been turned scot free. Seven men whose biggest crime was incredible stupidity have drawn long prison terms for burglarizing Democrat headquarters at Watergate during the last national election. Many others will probably be sentenced for perjury and coverup, reaching the highest echelons of executive government.

Those Watergate burglars did not kill anyone, they didn't rob anyone, they didn't threaten anyone, they didn't rape anyone and they didn't intimidate anyone. They weren't even seeking money or goods for gain in their crime.

This newspaper does not condone burglary for any reason whatsoever, even if it is only a clumsy attempt at political eavesdropping and espionage.

However, we deplore Ellsberg's arrogance and breach of faith. Answering only his own conscience, the former Rand Corporation "thinker" copied secrets of the United States government which he was sworn to keep.

Still on his own initiative, Ellsberg released copies of the Pentagon papers to certain powerful news media because Ellsberg had a change in heart about the morality of the Indochinese war.

There has even been some speculation that Russian sources obtained unedited copies of the military documents. The Soviets are very clever about taking small bits of information from widely disparate sources and developing accurate intelligence from this painstaking, never-ending effort.

When investigators found that the files of a psychiatrist had been rifled in attempt to find Ellsberg's case history, the judge dismissed the charges against Ellsberg and codefendant Anthony Russo.

There are newspaper columnists and radio commentators who advocate the elimination of all government secrecy in the United States, even that which affects national security. Ellsberg has become a new hero of the radical liberals.

They preach that Communism has sufficiently mellowed to allow peaceful coexistence. Especially since both sides have enough nuclear armament deployed to eliminate one another.

Still at this newspaper we cannot trust the leaderships of those great classless societies. First-strike nuclear capability concerns us deeply because the Communist manifesto demands enslaving the entire world.

In being objective as possible about Watergate, we do feel that there will be some positive legislation which will result from the findings. We also would acknowledge that executive arrogance and privilege will be almost impossible to justify in the future.

Congress will certainly reassert some of its authority and perhaps curb the excesses from executive decrees. Presidential authority, growing profusely with each new Chief Executive since F. D. Roosevelt, will be under constant legislative scrutiny. President Nixon is already mending fences with key legislative leaders in both parties.

We think Watergate has been blown all out of proportion although the overkill investigation may result in some justifiable reform.

Politics has always been a tough game in any kind of government. In a democracy many tactics are taboo which are taken for granted within totalitarian societies.

That is why neither the Russians nor Chinese seem to be disturbed by the administration's dirty linen advertised on the front pages of all the leading liberal news media and hawked zealously on television.

THE TERRIBLE TOILET

HON. WENDELL WYATT

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. WYATT. Mr. Speaker, the water supply problem in the United States, and indeed in the world, has long been of primary concern to me. As the world population continues to increase, the problem comes closer and closer to the critical stage.

While the water supply is of great concern, another problem has been developing which has the potential of almost as much concern. It involves the disposition of the solids left now as byproducts from our sewage disposal efforts.

The latter problem is staggering even now because of the costs projected for completing the jobs just in our country. It appears that even if we spend these astronomical sums, we may be creating more problems than we solve, and that we may not even be solving what we set out to undertake.

One of the most penetrating analyses of these and related problems was made by Harold H. Leich, who has retired as chief of Policy Development Division, U.S. Civil Service Commission, and who served last year as chairman of a water protection workshop at the Environment Forum in Stockholm. This article appeared in last Sunday's Washington Post. I am calling it to the serious attention of my colleagues. Because of its length, I have divided it into two parts, and will offer the last half in tomorrow's RECORD.

The article follows:

THE TERRIBLE TOILET

(By Harold H. Leich)

The environmental movement in this country devotes much effort to campaigns for picking up old bottles and putting bricks in toilet tanks to save a little water, yet neglects a festering environmental problem of modern society—the fact that we flush our body wastes into the public water supply and then spend billions in futile attempts to restore the water to its original condition.

The antiquated Victorian "water closet" in modern dress—there it sits, still gurgling, hissing and polluting almost a century after immortalizing its British creator, Thomas Crapper. In its day the very symbol of modern sanitation and progress, today it accounts for some 45 per cent of domestic water use and its output befouls waterways from the muddy Potomac to the blue Mediterranean.

In the United States as a whole, a task force headed by Ralph Nader found that after $3.5 billion were spent over the last 15 years, the level of filth has not been reduced in a single major body of water.

Furthermore, even though a large number of U.S. communities have sewer systems and treatment plants, their water still is not being purified as it should.

It is scientifically possible but just not practical to restore drinking water to its original condition once it has been used to transport body wastes.

Even well-managed treatment plants are subject to power failures, equipment breakdowns,. employee strikes, and bypassing during high water, any of which may send millions of gallons of raw sewage downstream.

Sludge disposal from sewage treatment plants is becoming an almost unmanageable problem, since rural residents near large cities do not look with favor on receiving this growing waste load. (The Blue Plains plant in Washington produces one million pounds of sludge each day.)

The construction of homes, office buildings and factories is coming to a halt in the Washington area and elsewhere because sanitation authorities are refusing to extend sewer lines that drain into already over-burdened treatment plants

The cost of water cleanup for all U.S. communities is estimated by a top Environmental Protection Agency official at $38 billion and even then the eutrophication problem will remain, not to stress the esthetic point of quaffing water that has already passed through three or four toilets upstream.

Water works, with present technology, successfully kill the *bacteria* that flow into their intakes from cities higher on the watershed but have less certainty in killing *viruses*, and so the danger of hepatitis and other waterborne diseases will remain after the billions are spent. And with recent discoveries of a connection between viruses and human cancers, the implications of a small amount of sewage in our water supply may be more ominous than anyone had suspected.

Most toilet flushes use from 5 to 7 gallons of drinking water, and flushing thus adds up to nearly half of domestic water consumption. Unlike the use of water for sprinkling lawns and washing clothes and cars, this part of domestic water use cannot be reduced much in time of severe drought. (During the New York City water shortage of the mid-1960s, authorities posted signs with the discreet message: "You don't have to flush for *everything*"—but after all you do, once in a while, have to flush for *something*.)

A widespread drought of several years duration, if it occurred now, would be far more serious than the great drought of the 1930s which restricted domestic water consumption in the Southwest, because of our increased population and greater per capita water use.

ALTERNATIVE APPROACHES

All these factors clearly point to a conclusion that present methods of human waste disposal are approaching a dead end. Yet, some professionals claim there is no insurmountable water shortage and there is no substitute for the convenient and relatively inexpensive system of gravity sewers which transport body wastes.

But more sewers for more people, more billions for more treatment plants, more expensive treatment methods do not prevent the effluent from damaging water quality downstream. And with waste loads from municipal systems expected to nearly quadruple over the next 50 years, there is an immediate need to examine alternative approaches to pollution control.

The basic question before us is: Can modern technology devise a better method of sewage disposal than using scarce and expensive drinking water to transport human waste from the bathroom to the river or the treatment plant?

The answer is "yes."

LaMere Industries of Walworth, Wis., makes and sells the "Destroilet" dry toilet for about $400. A combined toilet and incinerator fired by gas—either piped in or bottled—some 30,000 have already been installed in summer cottages, houseboats and other places where sewer connections are not possible. (Unusual examples are the watch tower of a penitentiary and a basement rumpus room where the sewer line is above floor level.) But this is not just a vacationtime device; an increasing number are being installed in year-round dwellings, especially in Australia and Japan.

The "Destroilet" incinerators are adjusted to burn the wastes to an inorganic ash, and inevitably there is some release of gas to the air, but not so much as to reduce water pollution at the expense of increased air pollution. As air pollution regulation becomes more stringent, further technical progress may result; LaMere is working on a unit that will discharge nothing but carbon dioxide and water vapor to the air.

Another unit, this one self-contained and called "Aqua-Sans," has been developed by the Space Division of Chrysler Corporation in New Orleans and is designed to dispose of body wastes from a ship's crew of 200 men, without dumping anything overboard.

"AQUA-SANS"

The "Aqua-Sans" device is a closed-loop system which operates by using a light oil as a flushing fluid instead of water. A central unit provides for gravity separation of the body wastes from the oil, purifies the oil, and recirculates it to the flush toilets. Wastes are burned in a special two-stage incinerator that is smokeless and odorless, and only a sterile ash remains. One advantage of the system is that it uses existing toilet equipment. Four models are now available to serve the daily requirements of from 12 to 400 people, and one project in Florida is designed to serve 1,000 men during the three-year construction period of a power plant.

Another EPA grant provides for a coordinated approach to water supply and waste disposal in an Eskimo village. (The contractor is Bionomic Control Corporation of Washington, D.C.) Because of sanitation problems resulting from frozen soil and streams, the Alaskan village—Emmonak, population 432, situated on a branch of the Yukon—offers a unique laboratory for developing new approaches that might later prove useful in a milder climate.

The contract calls for design and construction of a central building in the village to house water purification, laundry, toilet, bathing, and waste disposal facilities for the entire population. Trash as well as human wastes will be burned in an oil-fired catalytic incinerator, which will contribute to the heating of the building and the hot water supply, and will not cause air pollution.

The Bionomic firm also has plans for a series of modular sanitation units to serve populations of different sizes, from a cluster of about 10 dwellings down to a single-household unit, that would remove body wastes from the toilet lines and incinerate them without the need for a sewer connection.

THE "MULTRUM" UNIT

Finally, one of the most promising devices for waterless disposal of human wastes comes from Sweden. Rikard Lindstrom installed a self-designed composting unit about 20 years ago, to prevent sewage from draining onto his bathing beach on the Baltic Sea. When the unit proved successful, neighbors asked to have the devices installed and then more units were made until about 1,000 are now in use in Scandinavia, chiefly in vacation homes.

Lindstrom and his son Carl have arranged for a concern in Oslo, the Andstor Company, to make and sell the units. A thousand units will be installed this year under the name of "Multrum" and plans are going forward for larger-scale manufacture.

The Multrum unit consists of a large fiberglass container, about 10 feet long, which is installed on a slant in the basement of a single-family dwelling. From the floor above, two vertical chutes go down into the container. One of these, in the bathroom, holds the toilet seat and lid; the second chute, in the kitchen, is for garbage. At the time of installation a layer of garden soil and grass clippings is placed on the slanting floor of the container. As the wastes accumulate under the two chutes composting begins and a temperature of body heat is attained. This moderate warmth causes water in the material to evaporate and to rise into a vent pipe which goes up through the roof or into a chimney.

The unit needs no attention for the first two years while the composting wastes are slowly drying out and moving down the slanting bottom. Then the householder opens a hatch at the lower end and finds a pile of dry, black, odorless humus which represents only 5 per cent by volume of the wastes that were deposited many months before. Tests by health authorities have found no harmful bacteria or viruses in the humus, which is safe to use as a garden fertilizer. Humus output is about 70 pounds per person per year.

To combat odors in a house keeping an accumulation of wastes in its basement, Multrum employs a natural ventilation system, without fans. Air is introduced into the container at several points to insure a composting process which operates only on oxygen, thus avoiding the generation of foul-smelling gas which occurs in a septic tank. The vent leads the water vapor and carbon dioxide—the only gaseous products coming from the unit—up above the roof into the atmosphere.

For cold climates an electrical heating unit is placed under the container to keep the composting going during the winter, and when a unit is required to serve many people an electric fan is used to speed up the natural ventilation. Carl Lindstrom is adapting the unit for multiple-family dwellings and this may require special flush toilets using only a fraction of a gallon of water per flush.

ST. ELIZABETHS HOSPITAL SHOULD BE TRANSFERRED TO THE DISTRICT OF COLUMBIA

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 19, 1973

Mr. QUIE. Mr. Speaker, today I have introduced a bill that would authorize the transfer of St. Elizabeths Hospital to the District of Columbia.

This hospital's long and commendable history stretches back to 1855 when it was established, by act of Congress, as the Government Hospital for the Insane. Its mission then was to provide care and treatment for the insane of the Army and Navy and of the populace of the District of Columbia. Throughout the years its essential purpose of providing therapeutic services for the mentally and emotionally disturbed has remained the same, even though it has undergone a change of name and transfers between Federal departments.

Because of the shift in the patient population over the course of its 118-year history, St. Elizabeths Hospital no longer retains its unique character as a facility primarily for Federal beneficiaries. More than 85 percent of its inpatients and virtually all of its outpatients are now residents of the District of Columbia, and their care and treatment is supported in part by the District of Columbia government. The District should, rightfully, assume direction and control of the hospital, which represents their principal resource for the mentally ill. This legislation would effectuate this purpose.

The bill also contains adequate assurances that the hospital would be reimbursed for costs incurred in providing continuing care to the small number of Federal beneficiaries who would remain there.

In addition, this legislation would continue the support provided the hospital by the Department of Health, Education, and Welfare, subject to certain limitations, for a transitional period of 10 years. After the initial 5-year period, HEW support would gradually decrease for the remainder of the transitional period. Thereafter, the hospital would be operated and financed completely by the District.

This bill would enable the District of Columbia to assume rightful control of a health care facility which provides invaluable services to the District's mentally ill. I urge my colleagues to join in helping make this possible.